UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 100th CONGRESS

SECOND SESSION

VOLUME 134—PART 19

SEPTEMBER 30, 1988 TO OCTOBER 4, 1988

(PAGES 26857 TO 28283)

GENERAL SERVICES ADMINISTRATION
LAW
LIBRARY
CENTRAL OFFICE

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1988

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Congressional Record

United States of America

PROCEEDINGS AND DEBATES OF THE 100th CONGRESS, SECOND SESSION

SENATE—*Friday, September 30, 1988*

(Legislative day of Monday, September 26, 1988)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable BROCK ADAMS, a Senator from the State of Washington.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Almighty God, You have reminded us in Your Word that "* * * there is no power but of God: the powers that be are ordained of God."—Romans 13:1.

When the 100th Congress adjourns next month, one whom You ordained to public service will be leaving the Senate. We thank You for the long and distinguished career of the Honorable ROBERT STAFFORD, Senator from Vermont, who has spent most of his adult life in public office.

Thank You for this quiet, gentle, compassionate humanitarian who has been such an effective voice for the aging, for education, especially of retarded and disadvantaged children, for the Nation's handicapped and for the environment. In these closing hours as he reminds us so graphically of our compounding abuse of natural resources, encourage him in the assurances that he has been heard and that his strong influence will continue even though his presence will no longer be here. Surround him and Mrs. Stafford with Your love and grace and prosper them in their continuing service to all people.

In the name of Jesus, compassionate servant. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 30, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BROCK ADAMS, a Senator from the State of Washington, to perform the duties of the chair.

JOHN C. STENNIS,
President pro tempore.

Mr. ADAMS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

RESERVATION OF THE MAJORITY LEADER'S TIME

Mr. BYRD. Mr. President, I ask unanimous consent that my time be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF THE REPUBLICAN LEADER'S TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the able Republican leader, Mr. DOLE, be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10:30 a.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. STAFFORD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Vermont is recognized.

ATMOSPHERIC CONTAMINATION—XIV

Mr. STAFFORD. Mr. President, this is the 14th in a series of short talks by the Senator from Vermont on atmospheric contamination. There are two still to go after today.

Mr. President, scientists are convinced that some very nasty times lie ahead for this old planet because of the way we have contaminated our atmosphere.

A workshop of the National Academy of Sciences concluded 2 years ago that the following series of happenings are either probable or very probable:

The Earth's temperature will increase;

The stratosphere will cool;

The number of monsoons and hurricanes will multiply;

Sea ice will melt;

Oceans will expand and their levels will rise;

The icecaps will shrink; and

Dustbowls will overtake the world's breadbaskets.

The scientists also warned that we are pushing our climate and our environment into a realm that we literally have never experienced since the beginning of time.

There is literally nothing that can be done to avert these changes, for the forces that are creating them were set into motion by our actions in the decades of the 1940's, 1950's, 1960's, and 1970's.

So, it is no longer a question of whether there will be changes, but one of whether there will be sacrifices.

If we wish to minimize the damages that will surely accompany these changes, we must begin to plan for them now. We must take stock of the resources of our Nation—indeed, of the world—ranging from highways to wilderness preserves. And, we must

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

begin to decide how we should act to preserve them.

Adjustments will have to be made in the way we farm to provide ourselves with food. We may not be able to count on the continued fertility of the great breadbasket of this Nation—or of the Great Plains of Europe and Asia.

Global warming, scientists tell us, could upset the natural equation that powers the great energy pump of the oceans which move massive quantities of food and water from one end of this planet to the other.

None of this is certain, of course. Even those scientists who are most concerned over the possibilities of massive disruptions of the climate on this planet are quick to say no one can predict this kind of future with any certainty.

But, that lack of certainty adds to their concern. As it should add to ours. For these scientists are agreed that our ignorance in these matters is so great that we are, in effect, conducting a dangerous global experiment without any idea of how things are going to turn out.

But, we probably can be certain of one thing—that we are in for some surprises.

The hole in the ozone layer over the Antarctic should teach us that. It was completely unexpected, even by those scientists who understood how the ozone layer was being destroyed by the releases of chlorofluorocarbons into the atmosphere.

So far, we have survived the ozone hole and the general depletion of the ozone layer that protects us from the deadly radiation of the Sun. But, with each passing year—even each passing month—we invite damages from what we already know has happened.

And, we may be inviting even more disastrous consequences from the next surprise.

We do not have to do that. We don't have to continue to gamble with the lives of our children and their children.

It is not too late to turn back from the course that we have been following. We can take a different road toward a better and more certain future.

Tomorrow, with your permission, I would like to discuss some of the ways we can do that.

Mr. President, I yield the floor.

Mr. PROXMIRE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin is recognized.

HOW AND WHERE TO CUT FEDERAL SPENDING—AN EXAMPLE

Mr. PROXMIRE. Mr. President, the Congress has provided $10.8 billion for the National Aeronautics and Space Administration for 1989. The appropriation includes $900 million as a downpayment on a space station that, in this Senator's judgment, will cost $30 billion over the next 10 years or so if the Congress proceeds with it. This is $30 billion we do not have. It is $30 billion that will increase the interest on the national debt from $2½ to $3 billion each and every year in perpetuity—or at least until we run a series of surpluses that eliminates the national debt which is the same thing as perpetuity. Worst of all it is $30 billion for "prestige" and show, not for substance. The Federal Government could save 90 percent of the cost of this station while achieving almost 100 percent of the real scientific benefits with a far smaller man-tended station instead of the $30 billion big-as-the-Nation's-Capitol station the Congress has started to fund.

On Sunday, September 11, this Senator was one of five guests who appeared on the regular ABC Sunday Brinkley show. The other four guests were, unlike this Senator, all established experts on the space program. These were experts who are now or recently had been devoting their careers to the American space program. They were an impressive, intelligent, thoughtful group. But this Senator was shocked when, in response to the question of what purpose should the NASA space program serve, the answers of some of the Nation's outstanding experts and proponents of the civilian space program were so vague. For example, the director of the Space Policy Institute at George Washington University, when asked about the case for a space station responded:

> We are doing it for vision, for a sense of the future, for motivating excellence in the science and engineering in this country, for the kind of things that bring people into the Air and Space Museum. And that is not little microgravity experiments in a private facility tended once in awhile by astronauts.

Mr. President, this explanation for what the New York Times accurately calls the $30 billion "space palace" is like the argument of the teenage son whose heavily indebted family is going steadily into debt on a $30,000 annual income. The son tells his parents that "what this family needs is a new $40,000 Ferrari. Sure it will add a fat debt, imposing a new, additional $4,000 annual interest burden on the family. So what? That is only half of what we pay on our mortgage. But think of it folks, when that sleek $40,000 beauty streaks through the neighborhood with me behind the wheel, just think what a message of success and class that Ferrari will convey. I will have a whole new life, not to mention a number of new girl friends. The family will have a new status as leaders of the neighborhood. We'll be the biggest debtor in the neighborhood, maybe in the whole town." Why not? At least we are No. 1. After all, our country, the United States today has become the biggest debtor in the world. The family's response to junior should be: "Forget it Junior, go out, get a job. When you can afford to buy a Ferrari on your own, 30 years from now, on your credit, not ours, buy it. Meanwhile if you need a cheap, secondhand car to get to work, we'll help you buy it. But you pay the interest on the financing. That way you'll learn what debt means." Congress and the administration are acting on the big new space station like the teenage son on the new Ferrari.

The point is, those microgravity experiments on a small, man-tended space station, which the space experts spurned, are exactly what will determine whether and when a larger space station some time in the future will make sense and whether it will make enough sense for us to increase taxes on the American people to pay for it. Or at least enough to pay for the additional interest it will impose on our Federal Government.

This Senator has sat through years of hearings on space stations, from the time we funded sky lab, a small but successful space station 16 years ago. When sky lab was destroyed in space, the Congress forgot space stations for a decade. We opted instead for NASA's new rage for a space shuttle. The space shuttle has been an unmitigated scientific and fiscal disaster. It has cost twice as much as we were told it would cost. Its mission was to provide transportation in space. But it has delivered less than one-quarter of the pay load into space that the Congress was promised. And the outlook for the shuttle in the future continues to be just as poor.

Mr. President, come May, 7 months from now, the next President of the United States, Mr. Dukakis or Mr. Bush will determine whether the $30 billion space station will go ahead. The Independent Offices Subcommittee of the Appropriations Committee which I chair has provided—over my strong objections—$900 million for the $30 billion megaspace station. Only $385 million of that sum will be available for NASA to spend in the next 7 months. The remaining $515 million will be held in escrow for a Presidential decision in May 1989. In the NASA appropriation bill that has now become law, the new President will be free to release these funds to NASA for the space station or to withhold the half billion dollars, call for a much smaller, lower cost space station, and save 90 percent of the $30 billion for deficit reduction. This is exactly what the next President should do.

ORDER OF PROCEDURE

Mr. KERRY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. KERRY. I yield.

Mr. BYRD. Mr. President, I yield 5 minutes of my leader time to the distinguished Senator. That will give him 10 minutes.

Mr. KERRY. I thank the distinguished majority leader for his courtesy.

THE HUMILIATION OF THE UNITED STATES

Mr. KERRY. Mr. President, in yesterday's New York Times, an article appeared which should upset everybody in the U.S. Senate, everybody in this country. The headline of the article reads, "U.S. Says Panama is Harassing GI's." I ask unanimous consent that the full text of this article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SAYS PANAMA IS HARASSING GI'S

(By Elaine Sciolino)

American military documents describe nearly 300 reports of harassment of American servicemen in Panama in the six months after the United States indicted Gen. Manuel Antonio Noriega on drug charges. The documents indicate that repeated American protests have had no effect.

The documents, in the form of "fact sheets" and memos compiled by the Southern Command, the American military headquarters for Latin America, read like entries on a police blotter, describing accounts of American officers who were beaten, kicked and sometimes shot by members of the Defense Forces, the country's military and police.

The documents were made available to The New York Times and authenticated by the Pentagon. They show that repeated official protests of the incidents to Panamanian officials through the Joint Committee, a United States-Panamanian group that oversees the Panama Canal Treaty, have largely been ignored.

PANAMA IGNORES MOST CASES

Only a few of the incidents have been addressed by the Panamanian authorities, and in none of the cases have the authorities acknowledged wrongdoing by Panama's military or police officers, according to the documents.

Although the number of incidents has decreased somewhat since reports of harassment of servicemen surfaced last month, a disinformation campaign against American servicemen has intensified and the issue of harassment continues to provide considerable debate within the Southern Command and among various government agencies in Washington.

Southern Command officials contend that they are doing all they can to protect American servicemen, saying the incidents illustrate how little leverage they have with their Panamanian counterparts in the current hostile atmosphere between the two nations.

"Sending letters back and forth may be pro forma, but at least it puts us on record on the way that business should be conducted," said Col. Ron Sconiers, spokesman for the Southern Command. "The incidents are very concerning, and every day we review at the highest level here what incidents have taken place and what action should be taken. Short of other kinds of military actions, there is little we can do."

LITTLE CAN BE DONE

Pentagon officials said there was little the United States could do, as the provisions of the Panama Canal Treaty never assumed that relations with Panama would turn hostile. "I don't think any of this as anticipated under the treaty," one Pentagon official said, calling the current situation "appalling."

Several Administration officials, particularly in the State Department, and mid-ranking officers in the Southern Command maintain that the command's leadership is more intent on carrying out business as usual with the Noriega regime than on vigorously protesting harassment of servicemen.

"We've heard from colonels and majors that they're fed up, that their troops are being abused, but that the orders are not to tell the Defense Forces to cut it out," an Administration official said. "Southcom wants to keep things just as they were, to go on and keep its little island of stability."

After the collapse of American led negotiations to remove General Noriega from power last summer, the White House made clear to other agencies that negative publicity about the Panama policy should be kept to a minimum, especially as the Presidential campaign intensified, although the existing policy and financial sanctions would remain in place, according to several Administration officials.

TREND STARTED FEB. 6

Southern Command officials said the trend of harassment and intrusions into United States military areas dated from Feb. 6, the day after General Noriega was indicted by two Federal grant juries in Florida on drug-trafficking and corruption charges.

Among the alleged incidents, according to the documents and interviews with Southern Command officials, are these:

On Feb. 6, a first lieutenant who failed to stop immediately on orders from a Panamanian officer, was kicked and beaten and a revolver was placed to his head before he was charged with "fleeing" and released. The Southern Command protested "the use of excessive force" but received no response.

On Feb. 17, an enlisted man and his pregnant wife got into an argument with an off-duty Panamanian officer who had been drinking. The officer hit the serviceman and his wife with a night stick, and the serviceman was subsequently charged by the Panamanian authorities with disrespect.

On May 8, an enlisted man arrested for drunken and disorderly conduct was handcuffed and taken to a police station, where he was questioned about cargo arriving at Howard Air Force Base. He was beaten on the head, back and face with a rubber club before being released without charges, and had to be hospitalized. After an official United States protest, the Defense Forces replied that he was not beaten at the station.

On June 18, the Defense Forces "attempted to interfere with the U.S. Air Force's air operations by disapproving the refueling of a U.S. Air Force AC-130 aircraft."

On Aug. 9, David Ford, a civilian working on temporary duty for the Pentagon, was ordered out of his rental car by four uniformed officers with their guns drawn. When Mr. Ford told them he was a civilian, not a military officer, the officers accused him of working for the Central Intelligence Agency, which he denied. He was repeatedly kicked and beaten until he lost consciousness. When he regained consciousness, his passport, a wallet with $350 and his identification were gone. The Southern Command officially protested the incident, but received no response.

PRIVATE'S WIFE RAPED

One particularly sensitive incident involved allegations of the rape of the 18-year-old wife of a private first class. On June 16, the serviceman and his wife were assaulted by a man in military fatigues believed to be a Defense Forces official. After the private was beaten and locked in the trunk of his car, his wife was raped and beaten, according to the Southern Command documents.

The only Panamanian response to a United States protest of the incident was that it was under investigation, the documents show. The documents detail other incidents of beatings of Americans while in custody of the Defense Forces; strip searches; baggage inspections in violation of the Canal Treaty; confiscation of United States military equipment, weapons, clothing and personal property; extortion of money; illegal detentions and questioning; high-speed chases; isolated bans on travel outside Panama City; fondling of American wives and American military personnel; interference with the unloading of American equipment from ships, and sightings of armed intruders at United States military installations.

To reduce the vulnerability of American servicemen in Panama, the United States since April has moved about 1,400 of the 2,450 families of military personnel and Defense Department civilians to safer locations in Panama or back to the United States, a process that is continuing. This month, the Defense Department ordered a six-to-nine-month cut in the required tour length for all military personnel stationed in panama.

Mr. KERRY. Mr. President, in this article, which was written by Elaine Sciolino, details are provided of beatings and harassment of American soldiers who are stationed in Panama.

The article states that the information regarding these meetings was taken from Pentagon documents, and the documents were provided by the Pentagon and by the New York Times prior to printing. They detail some 300 incidents of beatings which, according to the lead paragraph of the article:

> * * * read like entries on a police blotter, describing accounts of American officers who were beaten, kicked, and sometimes shot by members of the Defense Forces, the country's military and police.
>
> The documents were made available to the New York Times and authenticated by the Pentagon. They show that repeated official protests of the incidents to Panamanian officials through the Joint Committee, the United States-Panamanian group that oversees the Panama Canal Treaty, have largely been ignored.

Mr. President, not only have our servicemen been beaten and harassed, but also, we find out in one of the incidents how a young serviceman, at night, with his wife, in their automobile, were taken out of the car. The serviceman was beaten and was locked in the trunk of his car; and while he was locked in the trunk of his car, his 18-year-old wife was raped by a member of the Panamanian Defense Forces.

Mr. President, I want to ask why it is that our Government is allowing American troops to have to tolerate this kind of behavior in a place like Panama, when the people who are perpetrating this behavior are the goons of a drug thug like General Noriega. How can our Government permit this kind of humiliation of American troops at the same time it runs around this country talking tough and pretending that they are the proud owners of all the veneer of patriotism?

Mr. President, this is its own form of trampling on the flag of the United States of America. The true pledge of allegiance is a pledge that is not made on the political stump but is a pledge of allegiance that is allegiance to the troops of this country.

I think it is a disgrace that we are permitting these troops to undergo this kind of behavior and to have to sit there and tolerate it. Why are they tolerating it? Why is this administration silent on this issue? Let me read from the article in the New York Times:

> After the collapse of the American-led negotiations to remove General Noriega from power last summer, the White House made clear to other agencies that negative publicity about the Panama policy should be kept to a minimum, especially as the Presidential campaign intensified * * *.

Mr. President, that is a disgrace. For Presidential election purposes, American troops are having to suffer the rape of their wives, beatings and shootings, and this administration is willing to stand by and do nothing.

As the article points out—and I quote an administration official:

> We've heard from colonels and majors that they're fed up, that their troops are being abused, but that the orders are not to tell the Defense Forces to cut it out * * * Southcom—that is the American Southern Military Command—"wants to keep things just as they were, to go on and keep its little island of stability."

Mr. President, these incidents have been going on since February 6 of this year, the day after General Noriega was indicted by two grand juries in Florida on drug trafficking and corruption charges.

What has happened to our servicemen is fundamentally without any excuse whatsoever. This administration seems content to sit back while General Noriega and his goons beat up our soldiers and even trample on the American flag.

This is not new, because this administration, which turns its back on its own soldiers, is the same administration that was willing to turn its back on those who traffic in narcotics, which is part of what created this problem in the first place.

At a minimum, we should be removing all our dependents from Panama. We should, in fact, be beefing up that military presence. We should be making it clear that this Nation will assert the prerogative of our treaties and will assert the rights of Americans, and that we are going to do more than talk tough in debates, talk tough on the stump, and appear at flag factories around this country, but that we are really going to defend the rights of Americans, and particularly the rights of servicemen in Panama who represent our flag in circumstances of difficulty and danger abroad.

I am not sure one needs to say more about this, it is such an extraordinary turn of events. It is my hope that in the days ahead, our servicemen are not going to be deserted in Panama as they were deserted in Vietnam and other venues.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

CAMPAIGN REFORM

Mr. REID. Mr. President, approximately 2 years ago, I was elected to this body. After coming here, this Senator and other Senators talked about the expense of that senatorial election. In a small State like Nevada, I spent $2 million, my opponent significantly more. All over the country, Senate races cost millions and millions of dollars.

As this legislative session draws to a close, I think it is important that we remind ourselves that things have not gotten better; they have gotten worse.

In my State, the State of Nevada, whereas I spent $2 million last year, the two people running for the Senate in the State of Nevada this year, some 2 years later, will spend $1 million more. That race will cost $6 million. It is the same all over the country.

The escalation of the cost for running for the U.S. Senate is out of hand, and we have not done anything about it.

Mr. President, some people ask why do we not spend more time talking about issues. One reason we do not spend more time talking about issues is that we spend our time raising money. We have to. We have to start worrying about raising money for an election that is going to come 4 years from now, 2 years from now, because it is such a tremendous job to raise the amount of money necessary to run for the U.S. Senate. It must stop.

There are a number of things that we have to do. We have to enforce the present law. We are not enforcing the present law.

The Federal Election Commission is understaffed, undermanned. Complaints were filed in the U.S. Senate race in Nevada 2½ years ago. There is still no resolution of those complaints, over 2½ years ago.

S. 2 was the campaign reform bill. S. 2 holds the record of the U.S. Senate for cloture motions having been filed against it. There was filibuster after filibuster after filibuster to stop this body from adopting some reasonable campaign reform. We must do something. We must look at access to media.

I repeat, Mr. President, the problem is with the process. Campaigns are too expensive. The total cost for elections this year will approach $3 billion, nearly a billion dollars more than in the last Presidential election cycle.

These costs continue to rise at an astronomical rate.

This year the majority leader, Senator BOREN, and others led a gallant effort to pass S. 2, a comprehensive measure which I believe addressed most of the serious problems that plague our electoral system.

Unfortunately, these efforts were stalled, stalled and stalled again. We cannot let the failure, though, of S. 2 prevent us from addressing these problems. We must continue to recognize that a cancer to the electoral process is the high cost of campaigning. We must do something about it. And just because this legislative session is drawing to a close does not mean that it is not still a problem. We have not addressed it. We must continue to recognize that it is a problem.

TAXPAYER BILL OF RIGHTS

Mr. REID. Mr. President, I know that we are in the "silly season" for lack of a better word because it is a political election year and we probably should not be surprised by anything we see or hear during the closing weeks of the campaigns, but I have to admit that Vice President BUSH's discovery in Boston a couple days ago of the taxpayer's bill of rights leads me to question what is going on in this election campaign.

The September 29 issue of the Boston Globe carries a story that says that "Vice President GEORGE BUSH yesterday announced a 'taxpayer bill of rights'." The story goes on to say that the Vice President was "borrowing an ideas from the 1984 Ronald Reagan Presidential campaign."

Mr. President, I do not think that I have to point out to anyone in this body that there is already a taxpayer bill of rights.

It has over 70 cosponsors in this body alone and about 230 in the other body. It is pending. It is a bipartisan bill.

When I was elected to the Senate, the first speech I gave on this floor, my maiden speech, was on the taxpayer's bill of rights. Senators PRYOR and GRASSLEY joined in a bipartisan effort. And that matter has been reported favorably by the Finance Committee unanimously.

I am glad that the President has finally discovered the taxpayer's bill of rights, but he cannot take credit for the taxpayer's bill of rights. It is a bipartisan effort that is moving steadily out of this body and hopefully out of the other body.

But given the fact that it has been moving through the Senate for almost 2 years now, perhaps, Mr. President, I should repeat a question that has been asked before. Where was GEORGE?

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I would like to speak on the need for an international agricultural agreement to eventually lay the groundwork to eliminate agricultural subsidies.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. PRESSLER. I yield.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended for a period of 30 minutes so that Senators may continue to speak on morning business and that Senators be permitted to speak for not to exceed 10 minutes each.

THE ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from South Dakota.

AGRICULTURE SUBSIDIES

Mr. PRESSLER. Mr. President, I would like to speak on the need for an international agricultural agreement. The various industrialized nations of the world subsidize agricultural production in one form or another. Our agricultural subsidies are designed to control production. The European's agricutural subsidies are designed to enhance exports. Other countries, such as Canada, subsidize the transportation of agricultural products.

A great competition has arisen among the nations of the world in protecting subsidizing agricultural products. In our case American farmers have not gotten a fair deal in international trade so subsidies have been necessary.

I opposed the Soviet grain embargo and I oppose any future grain embargo. Indeed, if a grain embargo should be placed on American crops by the next President, be he a Democrat or a Republican, I would bring a motion on this floor, as I did in 1980 to strike that embargo down.

All that being said, there is a need for the nations of the world to have an international agreement to begin to phase out subsidies, to begin to treat each other equally.

Now, for example, our farm program encourages farmers to set-aside cropland. The conservation reserve program pays farmers to take highly erodible land out of production to preserve our top soil. But, by virtue of taking land out of production, we are actually helping our competitors. The Canadians, the Australians, and the Argentineans take advantage of our reduced production in the world market. That is not fair to us.

I had an amendment in the trade bill that made the negotiation of an international agricultural agreement a goal of the current GATT negotiations. That would include an international agriculture agreement, regarding land set-aside so that if one country sets aside land and takes it out of production, other countries would do the same.

Taxpayers of this world are locked in a competition of agricultural subsidies which is very expensive and would not be necessary if there were such an international agriculture treaty or agreement.

Now this may take many forms. Vice President BUSH has said that one of the first things he will do after being elected is to call an international agriculture conference to discuss such a treaty. I think Governor Dukakis has made similar statements in terms of trying to develop international arrangements favorable to agriculture.

But the point of the whole matter is that many agriculture products do not fall under a GATT classification, under the General Agreement on Tariffs and Trade. Another problem is that agriculture products are usually the first to be retaliated against in terms of our country's trade.

What we need to work out is an agreement between probably 12 to 15 major producing countries. Not a cartel, but an agreement that would also have a Food for Peace section.

Presently, many Food for Peace or food aid programs are regarded as disrupting markets by some. For example, our Food for Peace projects in Bangladesh have been very positive. But some have said they have disrupted local farmers' efforts in producing their own food by depressing local farm prices in that country. That is something that must be considered. Food aid programs must be a part of this international agricultural treaty.

I have talked about this for a number of years. I think its time will come. It may take 5 or 10 years. I hope it comes sooner. It will have to be a treaty that will be phased in over a several-year period, maybe a 5- or 10-year period.

But if we do not do this, I think we are going to face a serious problem when it is time to write the 1990 farm bill, which will be 1989. If we do not have such a general intention or if we do not have an international agricultural treaty or agreement, we are going to find that there might be some tough sledding in regard to the cost of the farm program. This is something we have to think about. I think the farm organizations, the farm communities, and all those who are interested in agriculture have to think about this.

Surveys show that the American farmer is very popular in New York City and other cities. The people there want to help the farmer. They want him to survive. But there is a limit, in terms of our budgetary deficits, on what can be done.

I hope that Clayton Yeutter and all the folks at the trade office are thinking about this and planning. I know that both parties' candidates for President have talked about taking some action in this international agricultural trade area right after the election. The candidate I am supporting, Vice President BUSH, has pledged that he will hold an international agricultural conference shortly after being elected. I think that would be a very positive thing whichever candidate is elected.

The ACTING PRESIDENT pro tempore. Does the Senator yield the floor?

Mr. PRESSLER. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. BOND. Mr President, I see the distinguished chairman of the Foreign Relations Committee. If he is seeking the floor, I am happy to yield to him.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. PELL. I thank the Senator from Missouri.

(The remarks of Mr. PELL pertaining to the introduction of legislation are located in today's RECORD under Statements on Introduced Bills and Joint Resolutions.)

U.N. PEACEKEEPING FORCES WIN NOBEL PEACE PRIZE

Mr. PELL. Mr. President, there was good news for the United Nations and even better news for the world with the announcement from Oslo that the 1988 Nobel Prize has been awarded to the United Nations Peacekeeping Forces.

The award could not be more timely. U.N. Peacekeeping Forces in their characteristic blue helmets have gone on station in recent months as part of the settlement arrangements in Afghanistan and the Iran-Iraq war. They continue a distinguished tradition that extends and fulfills the peacekeeping promises of the U.N. Charter.

I was a member of the Secretariat in San Francisco when the U.N. Charter was drafted. My personal role was to collect and count the ballots as the charter was unanimously approved. I well remember our high hopes for the United Nations as the force for peace that would replace traditional resort to national armed forces.

The record through the years has not always been encouraging. In recent years it appeared the United Nations was losing ground. The United States actions in withholding vital financial support was widely regarded as an American vote of "no confidence" in the United Nations.

Well, this Senator did not lose confidence in the United Nations' potential as a force for good. Over the years the United Nations separate bodies and independent agencies—among them UNICEF and the United Nations High Commissioner for Refugees—were honored with the Nobel Peace Prize. One Secretary General, Dag Hammarskjold, lost his life during the U.N. peacekeeping effort in the Congo. Through thick and thin the United Nations perserved. And now its peacekeeping forces—in a sense the most fundamental expression of the United Nations role—have been awarded the Nobel Peace Prize.

This honor should remind us of our embarrassment at the United States deadbeat status in failing to meet our financial obligations to the United Nations. I was heartened at the President's willingness at last to own up to our responsibility to pay.

The Nobel Prize is a well-deserved honor for the United Nations. Now let's pay our dues.

I yield the floor. I thank my colleague.

THE ACTING PRESIDENT pro tempore. The Senator from Missouri.

(The remarks of Mr. BOND pertaining to the introduction of legislation are located in today's RECORD under Statements on Introduced Bills and Joint Resolutions.)

Mr. BOND. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Illinois.

WHY LET KOREA MAKE AMERICAN PLANES?

Mr. DIXON. Mr. President, every now and then our Government bumbles and fumbles its way into a big mess that ends up doing nothing but haunting us and costing us for years and years. Right now we are headed in that direction over a deal involving an offer by Korea to buy 120 American fighter planes.

It sounds simple enough—and straight forward enough—does it not? The Koreans want to buy 120 planes. Let us sell them 120 planes.

Well Mr. President, I am here to alert my colleagues and my fellow citizens to a situation where the United States is about to get bamboozled once again in the production and sale of military equipment. Korea has taken us for a ride on this merry-go-round before, and we are about to climb on again.

A brief but intriguing article in the September 12, 1988, Defense News caught my attention. It is entitled "U.S., Koreans Remain Split on Fighter Deal." That headlines an immediate tipoff to me, Mr. President, that a bad deal is in the making. We have already jumped on the merry-go-round and the rest of the country does not know it.

The gist of the small story item—it is only seven paragraphs long—is that the Republic of Korea is still demanding "directed buybacks" as a prior condition to their selection of an American military contractor willing to sell them 120 fighter planes. The story points out also that the administration thus far is not agreeing to this demand by the Koreans. Mr. President, I hope we continue to resist—strenuously resist—this demand.

What does this military jargon about contract buybacks mean, Mr. President? It means something scary, because what we are discussing with the Koreans is the possibility of building American fighter planes in Korea. Let me repeat that, Mr. President, for anyone who did not catch what I said the first time: We are negotiating in such a way that Koreans will end up building American fighter planes in Korea.

How can such a thing be happening? Let me lay out for my listeners what is going on.

The Korean Government wants to replace its older fighter planes with either the F-16 or the F/A 18. They want 120 planes.

Here is how the Koreans are approaching the scheme. The Koreans want to buy three planes outright as a foreign military sale. That is 3 planes out of the 120 sold directly over the counter, Mr. President.

Now the hooker begins. The Koreans want to buy another 20 planes, but they want the planes sent to them as kits for assembly in Korea.

But the real hooker is a gem, Mr. President. The Koreans want to learn how to build the other 97 planes in Korea.

I will have to hand it to the Korean negotiators, Mr. President. However we add the figures up, they come out to 120 planes; 3 and 20 and 97 add up to 120—no doubt at all about that.

Now, in answer to this proposal, the administration, as I am told, has said that Korea could buy 12 planes through foreign military sales system, 36 planes assembled in Korea from kits and 72 planes built in Korea under license by the American contractor.

Amazingly enough, the figures in the administration's proposal add up to 120 planes; 12 and 36 and 72 do indeed add up to 120.

But by concentrating on the magic figure of 120, our negotiators are missing the whole point in this situation. The juggling of these proposals boggle my mind. It is true that the total adds up to 120 planes each time. But the total result is really a disaster.

If there is an olympic contest for hollering, then I would like to shout some questions across the oceans to our negotiators in Korea or across the Potomac to our negotiators at the Pentagon—wherever they are juggling these figures: Have not the Americans involved in these neogtiations with the Koreans ever heard of bait and switch? Can they not see what the Koreans are up to?

Let me put before you the key question, Mr. President: Why are we on the verge of putting the Koreans in the fighter plane business—and the American fighter plane business to boot?

Has the administration forgotten that we have been through this bait and switch before—with the M-16 rifle.

Korea told us their military needed M-16 rifles. They said let us buy some, let us make some from kits, and then let us copy some and make them ourselves for our own military.

What did we do? We agreed. Unfortunately, we forced an American company to show the Koreans how to make the rifle. Then, a few short years later, we discovered to our horror and dismay that the Koreans have gone back on their word. The Koreans are now selling their version of the M-16 rifle in direct competition with the American company which showed them how to make the rifle. Worse than that, the Koreans are peddling the M-16 finished product at a cost much less than what our company can buy the materials for in the United States of America.

Another example comes to mind on our misplaced trust in the Republic of Korea. The United States Government directed a United States company to provide the Koreans with the technical data to produce 20-millimeter ammunition—which again was to be used only for the Korean military. Well, by now, Mr. President, everyone can guess the result. The United States company found itself bidding against the Koreans on the sale of 20-millimeter ammunition.

We have been on this merry-go-round too many times. We've put the Koreans into the 20-millimeter ammunition business. Do we really want to put Korea into the business of making United States fighter planes?

How soon we forget. We should have learned our lesson from the Government Accounting Office report on the sale of the F-15's to Japan. The GAO warned that the:

> Key objectives of Japan and other purchasing countries when entering into military co-production arrangements are obtaining advanced technology, enhancing their high technology employment base, developing future export industries * * *

In other words, Mr. President, what these countries want to do is rent our know-how long enough to start building a product and then go into business in direct competition against our American companies.

In the instance at hand, the cost to Korea of producing a fighter plane will be at least two to three times as much as purchasing the equipment from United States production lines. The Koreans are more than willing to ignore that problem, however, because they are looking at the long run.

Let us go to the same General Accounting report that I just cited. The country the report talks about is Japan, but all we need to do is substitute the word Korea:

> * * * Military co-production programs, as well as international commercial joint ventures, contribute to Japan's achievement of its goal by enhancing its aircraft production and technology base with proven U.S. aircraft research and development and production know-how * * * for example composites, avionics, instrumentation, and propulsion technologies transferred through the F-15 program can be applied to civil aircraft production.

Mr. President, I ask my fellow citizens to replace Japan with Korea in this scenario described by GAO. When we get involved in this coproduction process, it is obvious to me that our Government and some of our shortsighted, high-level Government personnel do not look at how a sale like this damages our American economy. What about those Americans who work on the F-16 in Texas or those Americans who build the F/A18 in California and Missouri? What happens to all of the American employees of subcontractors throughout the United States? Are we not selling these Americans out of their jobs and these companies out of their business?

The transfer of American technology has led to increased foreign competition, an unfavorable balance of trade, a loss of jobs for American workers and an increase in the cost of military systems and their subcomponents. A number of our friends and allies are competing against us using technology that was developed in America. We have given it away, or traded it away.

Well, this Senator is serving notice here and now that he is not going to allow that to happen with this sale to Korea.

Mr. President, whether it is the Dukakis or the Bush administration which sends this sale proposal over to the Senate for approval, if the plan includes the production of any American fighter planes in Korea, I will oppose it. I am not against the sale of kits produced in this country, but I will oppose any thought of production in Korea.

It just makes no sense for the United States to put Korea in the fighter production business. That is one big job we had better keep at home right here in America.

Mr. President, I yield the floor.

Mr. BYRD addressed the Chair.

The ACTING PRESIDENT pro tempore. The majority leader.

FAREWELL TO SENATOR PAUL TRIBLE

Mr. BYRD. Mr. President, at the age of 41, Senator Paul Trible has already had a career that would have satisfied most public officials.

With a law degree from Washington and Lee Law School, he is a lawyer who has served as assistant Federal prosecutor in the U.S. Attorney's office in Alexandria, and as the Commonwealth's Attorney for Essex County.

In 1976, Paul Trible became the first Republican Congressman from the First District of Virginia in this century. He served three terms in the House—1976-82.

In 1982, he was elected to the Senate. During his brief, one-term tenure in this Chamber, he has served on the Small Business Committee, Commerce, Science, and Transportation Committee, Foreign Relations Committee, Government Affairs Committee, and the Select Committee on Secret Military Assistance to Iran and Nicaraguan Opposition. He gained a well-earned reputation as a hard worker who is meticulously organized and gives meticulous attention to detail.

Although he sits on the other side of the aisle, I can appreciate the reputation that he has established as a "team player" and a loyal supporter of President Reagan and the administration's policies.

I can also appreciate the integrity and independence he showed when, as a member of the Iran-Contra Committee, he courageously assailed the administration for "privatizing" foreign policy and ignoring Congress.

And I can appreciate the fact that he has been a trustworthy and honorable adversary and a staunch promoter of interests of his State. As a Senator from the Old Dominion, he helped secure improvements in the facilities at the two Washington airports, National and Dulles. He has fought to protect and promote the textile industry. Ever mindful of the broad range of interests and needs of his constituents, he helped ease the car-pool restrictions on commuter routes into Washington—no small blessing to congressional staffers and others who live in the Virginia suburbs and must drive into the District of Columbia.

The Senate will miss his talents and his commitment to the causes in which he believes. My wife Erma and I wish Paul and Rosemary and his family happiness and success in whatever paths they take.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, the distinguished Republican leader is here. I ask unanimous consent that morning business be extended for 10 minutes under the same conditions as heretofore prevailing today.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

KIDCARE

Mr. KARNES. Mr. President, I intend to introduce shortly the Karnes infants' deductible care bill—kidcare, if you will. This bill addresses the growing need facing American families to find affordable quality care for their young children. As a husband and father of four young daughters, I am concerned about the same economic and social problems confronting young Nebraska families. As a U.S. Senator I find myself often away from my home and my family on official business for long periods of time, and my wife is a career woman, active in education and civic organizations. So I understand the plight of young working parents who wish to provide child care for their children.

Many Nebraska families are faced with the difficult problem of finding and paying for quality child care.

Mr. President, I ask unanimous consent that an article from the Lincoln Sunday Journal-Star, which discusses the child-care dilemma of many Nebraskans, be inserted into the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. KARNES. Mr. President, we need a policy which will provide relief to all families with young children, especially those families with low incomes. In my opinion, a sound profamily child care policy should rest on these major premises:

First, all children are important and are primarily the responsibility of their parents, and they deserve quality care. One-half of the children under the age of 5 in America have mothers who are not employed, and fewer than 1 child in 3 has a mother employed full time. These offspring can be looked after by their mothers in the home. Seventy-five percent of young children with working mothers are cared for by adult family members, relatives, or nonprofessional day-care providers in the home or a home-like environment.

Former Secretary of Education William Bennett, addressing this matter, put it well:

> Does the policy or program strengthen or weaken, over the long run, the vital social institutions—especially the family—that bear primary responsibility for the nurture and protection of our children? In our society, families have the basic responsibility for the care of our children, finally and fundamentally, child care is a family issue.

Second, the policy should provide meaningful choices for traditional families—a choice in the careers, professional or homemaking, the parents wish to follow, and a choice in the provision of child care they use.

The policy must not discriminate against traditional families where one parent, usually the mother, makes a financial sacrifice to remain at home to care for the children. Neither should the policy operate to restrict the child care options available to families.

There is a wide diversity in the kind of quality child care providers available in our society. Child care is provided by relatives, by neighbors, by churches, by community day care centers, by private employers, by registered public facilities, by nonprofit agencies, by licensed and unlicensed providers. Parents should be able to choose the type of care provider that is more appropriate to their family needs.

Government policy must recognize the requirements and concerns of traditional families and should not discriminate against those families who choose child care with relatives or neighbors or churches rather than regulated institutionalized care provided by social service professionals, in fact, parents, especially from low-income families, are more likely to seek care with a grandparent or another adult relative or a neighbor, rather than a professional provider. Not surprisingly, as many as 95 percent of the Nation's 1.75 million neighborhood providers are unlicensed and unregulated.

Third, the policy should be to provide assistance in the form of tax relief to all families with young children. This is especially important to families with low incomes who must spend a greater portion of their earnings on child care expenses.

In Nebraska as elsewhere, mothers of young children are often required to take a job outside the home to help pay for the erosion in family income due to taxes, inflation, and higher standard-of-living costs. What Nebraska mothers tell me they want most is a little assistance from their Government which will allow both parents to be employed so they can bring in the extra income, knowing they can find suitable care for their children and knowing they won't be penalized for choosing a career outside the home. They do not want to be forced to send their children to a designated child care center not to their liking. They don't want to see their hard-earned savings used as taxes to subsidize a nationwide system of licensed, regulated child care centers. They do not need or want a Federal child care bureaucracy to watch over their children. They would like some form of tax relief, in the form of a credit, to help them make ends meet and provide for child care.

Fourth, the policy should recognize the importance of religious and moral values to society, especially to young children. Government should not discriminate against church-run child care centers by forcing them to operate without aid in competition with subsidized secular providers or to sacrifice their religious teachings or ties as a condition of receiving funds.

Mr. President, the kidcare bill which I shall be offering is based on these profamily principles.

My bill reforms the provision in current tax law—the child and dependent care credit—which has proved inadequate for today's child care needs, and it eliminates the bias in that law against traditional family life, by substituting the kidcare tax credit.

It provides a tax credit for businesses that establish onsite child care facilities for their employees or allow them to choose outside child care services for their young children and include child care as an option in their cafeteria benefit plans.

It makes reforms in tort law as it relates to child care providers. It also authorizes Federal assistance to the States to enable them to establish liability insurance pools for child care providers.

Under current tax law the dependent care credit is applied against the family's income tax liability and covers costs incurred by families of as much as $2,400 per child—up to 14 years of age. The amount of the credit depends on family income, with a sliding scale starting at 30 percent of covered child care expenses for families making $10,000 or less and declining to 20 percent of these expenses for families making $29,000 or more. The credit is nonrefundable—it is worthless unless the taxpayer has some income tax liability.

In 1985, 8.5 million families applied for the credit and received a total of $3.2 billion in credits. This represented an increase of 574 percent in the value of the credit since it was enacted in 1976.

The major problems of the credit are twofold. First, it allows families to claim the credit for expenses for two children only, and both parents must be employed. Second, it is restrictive and unfair since it has primarily benefited upper income families, and those families most in need cannot avail themselves of the credit.

This year it is estimated that about 43 percent of the credit will go to families earning more than $50,000 a year, while only 23 percent will go to families making under $20,000. Single parent households with income less than $20,000, where the adult provides the only means of support, will receive an average credit of $361, while couples making $100,000 to $200,000 will receive an average credit of $405.

The kidcare bill would provide families a greater range of choices with regard to the provision of child care. It would remove the two-child limitation, thereby enabling larger families to claim as many children as necessary. It would lower the age of eligible dependents to 6 years of age, so that assistance is provided for young children who need care the most. It would allow the credit to families where one parent stays at home to care for the young children. Thus, parents could choose between home and work, and if one parent decides to remain at home with the children and thereby sacrifice additional income, the family would not be penalized.

The bill would make the credit refundable. This change will benefit low-income families, at an estimated cost of $360 million in 1988. Of this sum 77 percent would benefit single—parent households and 91 percent households earning under $20,000.

The bill would increase the amount of the credit, especially for low- and moderate-income families. The kidcare credit would start at 50 percent—instead of 30 percent—for families with incomes of $10,000 or less, and phase down to 20 percent for families with incomes of $40,000 or more—instead of $29,000 or more. This change will cost about $810 million in 1988, of which 84 percent would go to families making under $30,000.

This bill would provide an additional 15-percent credit for single-parent families, for whom child care is a necessity. These are the people who must work to support their families or go on welfare.

The bill would also limit the amount of child care expenses eligible for the credit to one-third of the wages of the lower earning spouse. Under current law parents can claim child care expenses up to the full amount of earnings of the lower earning spouse. Thus, a part-time worker can qualify for a credit for full-time child care so long as his or her wage is high enough. The Government should not be in the business of assisting families with their child care needs during periods when the parents are not working. This change will result in considerable savings to the Government.

The result of these changes is that Federal child care assistance will be distributed more equitably, to those families most in need of the credit. According to one estimate, 93 percent of the benefits of the kidcare program will reach families earning under $30,000 and 89 percent will go to single-parent families. This is in sharp contrast to the effects of the current dependent credit.

The bill would also make the following tort law reforms. It provides that a licensed child care provider found liable for a nonintentional tort owes only those damages directly attributable to the provider's share of fault. It eliminates double payment of damages so that damages awarded against a licensed child care provided are reduced by any past or future payment which has already been received. It limits the assessment of punitive damages to cases where their justification is proved through clear and convincing evidence. In addition, the bill would authorize $100 million to assist the States in establishing insurance pools in which any accredited child care provider may be a member. It removes liability barriers for nonprofit providers to participate.

These provisions are identical to those found in child care bills introduced by Senator ORRIN HATCH and others. They will ease the liability problems faced by all child care providers, large and small, profit and nonprofit, and will go a long way toward making affordable child care more available to families.

Finally, the bill provides a tax credit for businesses that: First, establish onsite child care facilities or offer vouchers or credits to their employees to be used for offsite child care for their youngsters; and second, include child care as an option in the cafeteria plan of benefits they offer their workers.

Currently some 2,500 corporations employing 100 or more workers have some form of child care benefit, including in-house child care, voucher systems, referral services and other similar programs. This tax credit will encourage other businesses to offer such benefits, as the process of women entering the work force is accelerated. At the same time, the employee-parent is afforded the choice of the kind of child care best suited to family needs—either the child care facilities furnished at the employee's workplace or facilities with another provider, for which the employer provides a credit voucher to pay for off-site care.

Mr. President, the Kidcare bill is straightforward and simple. It responds directly to the need for making affordable child care available to those families who need it most of all. It provides an equitable solution to a growing social problem without creating a costly, unwieldy Federal program or requiring a Federal child care bureaucracy. The program's administrative costs are low.

Kidcare provides maximum choice for parents seeking child care—choice in the kind of child care tailored to their needs, and choice on the part of the mother or father who prefers to stay home to look after the couple's young children.

The Kidcare credit will be available to all families, regardless of whether both parents are employed or whether one parent remains at home, as in traditional households.

Kidcare will help the working poor since the credit will be refundable. It will help those most in need of assistance, especially single-parent families, for whom child care is a necessity.

Kidcare will make quality child care more readily available, by encouraging employers to provide a child care option for working parents and by easing tort liability problems and providing less costly liability insurance for providers.

Kidcare will make child care more affordable, by lowering the cost and ensuring competition among child care providers.

Mr. President, child care is an important issue demanding our serious attention. But we must not rush into another ill-conceived Government panacea. I believe that my Kidcare proposal offers a reasonable approach to the problem facing America's middle- and low-income families of providing affordable, quality care for their young children. I shall work to see that it receives early consideration.

EXHIBIT 1

[From the Lincoln Journal Star, Sept. 25, 1988]

CHILD-CARE DILEMMA IS BIG ONE IN LINCOLN

(By Fred Knapp)

For Tracy Macke of Lincoln, finding safe, affordable care for Tia, her 16-month-old daughter, is a nightmare.

Finding someone to trust is probably the scariest part, but "I've got to take that chance because I've got to work," says Macke, a single parent.

Trying to live on $233-a-month welfare payments "wasn't doing it," either financially or psychologically, Macke said. Now that she is working in a convenience store for just more than minimum wage, a girlfriend has been taking care of her daughter.

But her friend likes her freedom and Macke is looking for a paid baby sitter. Paying $1 to $2 an hour means paying more than half of her wages to a sitter, she said.

Such situations are common, says Becky Beane, child-care program specialist at the Lincoln-Lancaster County Health Department. Although some Lincoln parents say they have had no problem finding suitable care, Beane said, the Health Department gets about 20 calls a day from people looking for it. In Lincoln there are about 6,000 licensed child-care slots available, while there are an estimated 36,000 children between birth and 13 years old.

$55 TO $75 A WEEK

The cost of care in Lincoln averages about $55 a week in homes, $75 a week in centers, and is especially difficult to find for people who work nights and weekends or have infants or sick or special-needs children, Beane said. Even with families paying that cost, top pay for Lincoln child-care workers is about $6 an hour.

Improving child care has become a hot topic in Washington. But should such an intense personal matter as caring for children be a political issue?

At some level, men believe that family policy is women's problem, corporate folk believe it is a labor problem and older parents believe it is a problem of younger parents," said Alice Ilchman, president of Sarah Lawrence College in Bronxville, N.Y.

Or, as the writer of a recent letter to the Lincoln Journal newspaper put it, "My advice is, if you can't afford them (children), don't have them."

But child care has become an issue in the wake of vast social changes, primarily the entry of women into the work force, according to a study by the Bureau of National Affairs, an independent publishers in Washington, D.C.

65 PERCENT IN WORK FORCE

In 1940, 8.6 percent of mothers with children younger than 18 were in the work force, according to a study cited by the Bureau. By March 1988 the figure had reached 65 percent, according to the U.S. Department of Labor.

Many of those working mothers have children below school age. In 1987, 56.7 percent of working women had children under 6, according to the Labor Department. That equals 10.5 million preschoolers with mothers in the work force, a number that is expected to reach 15 million by 1965, according to the Children's Defense Fund.

A majority of mothers with infants are working, as well. In 1987, for the first time, more than half of all mothers with children younger than 1 were in the job market, up from 31 percent in 1976, according to the Census Bureau.

"The family structure has changed over even the last 10 years," said Beane. "Donna Reed is dead."

TV FAMILY RARE

Indeed, according to the Bureau of National Affairs, less than 10 percent of the U.S. population lives in the kind of family portrayed in that popular television series, which featured a stay-at-home mother and a father as the sole breadwinner.

Nevertheless, "there's still this perception that if you have kids, you should stay home," said Linda Robinson-Rutz, chairman of the City-County Child Care Advisory Committee. "A lot of people don't have a choice. Those who do want to work."

Those statements obviously do not apply to parents who still can and do choose to stay at home with their children. But it appears to reflect the situation of people like Jan Dial-Jones, an archaeologist in the National Park Service office in Lincoln, who has a young daughter.

"You're very much pulled when you have a child," she said. "You still feel from time to time that you wish you were home with your child. At the same time, you don't want to compromise either your career security or your financial security."

Dial-Jones and co-worker Carrier Herbel-Brandenburgh helped establish the recently opened day-care center in Lincoln's Denney Federal Building.

"This is the best thing I think has happened to me," Herbel-Brandenburgh said. "I can go down and see my kid and go on with my career at the same time."

IN BETWEEN

Most contemporary families appear to face a situation somewhere in between Donna Reed's and Macke's.

"The vast majority of working mothers do not fit the stereotype of the low-income woman who works long hours and still has trouble making ends meet," Douglas Besharov of the American Enterprise Institute wrote in The Washington Post.

He says the median income of two-earner families was $38,346 in 1986, half again higher than the $25,803 income of two-parent, one-earner families."

But Sue Ellen Wall, director of Lincoln-Lancaster Commission on the Status of Women, notes that 20 percent of all households with children are headed by single women and about half of them live in poverty.

NECESSITY, NOT LUXURY

And Beane dispels the notion that in two-income families "people are working just because they want that second or third car or they want that family vacation. That's simply not true. For the most part, it takes two incomes to raise a family these days. The women are not going to go back and stay in the home."

With more women working and a more mobile society, "child care has become the extended family," Beane said. In the old days, working parents could leave a child to be cared for by a relative, such as a grandmother. Nowadays, "Grandma is also working or has gone to Las Vegas for the weekend."

Mr. COHEN. Mr. President, yesterday the Senate approved the Family Support Act by a resounding 96-to-1 vote. This measure will establish assisting welfare recipients toward self-sufficiency as a priority of Federal welfare policy, thereby making our welfare system much more equal to the social, demographic, and economic realities we hope for it to ameliorate. I congratulate Senator MOYNIHAN, who was certainly a driving force behind welfare reform, and all those who worked so hard and so well to bring this effort to fruition.

Despite the best of intentions and vast expenditures, our current welfare system too often hinders rather than helps the least fortunate in our society. The system hinders its beneficiaries by trapping them into dependence on Government assistance rather than encouraging them and empowering them to work toward self-sufficiency. The thrust of the Family Support Act is to make efforts to help welfare recipients help themselves a central feature of the Nation's welfare system.

The Nation's basic welfare program for families with children, Aid to Families with Dependent Children [AFDC], was established in 1935 to meet circumstances much different than those we face today. AFDC was designed as a program to help widows, who were expected to stay home rather than work, to raise their children. It was hoped that, with the passing of time, Social Security and unemployment insurance coverage would eliminate the need for AFDC.

After the passage of more than 50 years, AFDC is still with us, but social, demographic, and economic forces that bear upon family poverty are much changed. It is much more common today for children to grow up in a female-headed household. The number of such households rose from 4.5 million in 1960 to 10.1 million in 1985. Poverty is much more prevalent among female-headed households and tends to persist longer. In female-headed households more than 50 percent of all children are poor.

Our society no longer assumes that women will stay home with their children. Currently, about half of American women with children under the age of 1 work. Accordingly, the recent public debate on the reform of the Nation's welfare system has been characterized by a consensus that welfare mothers should be encouraged to support themselves and their children through work.

SUMMARY OF THE FAMILY SUPPORT ACT OF 1988

CHILD SUPPORT ENFORCEMENT

According to the Census Bureau, of the nearly 9 million mothers with children whose fathers were not living at home in early 1986, nearly 40 percent had never been awarded child support. Of those who were entitled to child support in 1986, only half received the full amount due.

The Family Support Act reasserts the appropriate expectation and requirement that both parents share in the responsibility for the support of their children. The bill strengthens the child support enforcement system by encouraging and helping States to establish paternity for purposes of awarding appropriate child support and by taking further steps to ensure that children enjoy the financial support of an absent parent.

EDUCATION, EMPLOYMENT, AND TRAINING

The Family Support Act will begin to transform our welfare system from a system that helps its beneficiaries to do little more than subsist to a system that strives, first and foremost, to provide opportunities for education, training, and gainful employment. This measure establishes a new program, the Job Opportunities and Basic Skills [JOBS] Program, under which the States will provide work, training, and education activities to help welfare recipients move from welfare to gainful employment.

TRANSITIONAL ASSISTANCE

Welfare recipients who want to work often cannot do so because they cannot find or afford appropriate care for their children. Another obstacle to moving from welfare to work is the loss of Medicaid coverage. Those who would be unable to afford health care or health insurance on their starting wages are understandably fearful of losing Medicaid protection.

In order to help welfare recipients make the transition from welfare to work, the Family Support Act provides for child care assistance and for continued Medicaid coverage for up to 12 months as a mother enters the work force.

ASSISTANCE TO TWO-PARENT FAMILIES

This welfare reform measure requires all the States to provide welfare assistance to needy families in which both parents are present, but in which the principal earner is unemployed. Currently, about half the States—including the State of Maine—provide such support. This requirement is intended to prevent the exclusion of two-parent families from welfare assistance from driving the men in low-income households away from their spouses and children.

PAYING FOR WELFARE REFORM

The entire cost of this legislation—an estimated $3.4 billion over the next 5 years—is offset by other provisions of the bill. This legislation extends the current authority of the Internal Revenue Service to deduct from tax refunds debts owed the Federal Government. The remainder of the revenue necessary to cover the new costs of the welfare reform bill comes from modifications in the child care tax credit and from a change in the tax treatment of certain business expenses.

WELFARE REFORM IN MAINE: THE ASPIRE INITIATIVE

The success of welfare reform will require well-coordinated cooperation between the States and the Federal Government. I am particularly pleased to be able to say that the State of Maine is in an excellent position to bear its share of the work of reducing welfare dependency. Thanks to Governor John McKernan's Additional Support for People in Retraining and Education Programs [ASPIRE] initiative, Maine is well on its way to putting in place the training and support services that will make welfare reform work.

ASPIRE, which is already being implemented, coordinates the resources and expertise of the excellent Welfare Employment, Education and Training [WEET] Program, the Job Training Partnership Act [JTPA], and Maine's community-based organizations in order to make training, education, and support services available throughout Maine. I expect that Maine's ASPIRE initiative will serve as a model for other States as they strive to carry out welfare reform.

Mr. President, I am pleased to have been a cosponsor and supporter of the Family Support Act. This legislation offers hope through greater efforts to break the grip of poverty that holds so many American families.

TRIBUTE TO WILLIAM KOIKOS

Mr. HEFLIN. Mr. President, during the recent recess, I was filled with sadness to learn of the passing of Mr. William Koikos of Bessemer, AL. Mr. Koikos, who was 94, came to America from Greece in 1920 searching for the American Dream. Like so many before him and so many after him, William Koikos found that dream through hard work and devotion.

William Koikos, Mr. Bill as his friends called him, owned the famous Bright Star Restaurant in Bessemer and worked there almost every day for over 60 years. Mr. Bill was made of the fiber that makes America great. After immigrating, he worked his way up from busboy to waiter before finally buying the restaurant with his brother, Peter, and two other men. Mr. Bill's constant presence at the Bright Star helped make the restaurant into a Bessemer landmark. He continued to work well into his nineties, not content to leave things to others. His smiling face was always behind the counter to greet regulars as well as visitors. I have no doubt that his cheerful demeanor and hard work are largely responsible for the success and reputation the Bright Star has attained.

Mr. Bill made the Bright Star into one of the foremost restaurants of America. The food is superb, the service is unsurpassed, and the price is right. While the restaurant will continue its success, things just will not be quite the same without Mr. Bill behind the counter. Bessemer and Alabama lost a kind, compassionate man, a great American, and a wonderful chef.

Mr. President, I ask unanimous consent that the following articles telling of Mr. William D. Koikos' accomplishments be reprinted in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Birmingham (AL) Post-Herald, July 26, 1988]

A BRIGHT STAR FALLS

Even as a famous son of Greek immigrants was fulfilling a part of the American dream in Atlanta last week, a Greek who also fulfilled that dream was dying in Birmingham.

William D. Koikos, owner of the famous Bright Star restaurant in Bessemer, died at age 94, on the day Michael Dukakis accepted the Democratic nomination. Koikos had been involved with the restaurant for more than 60 years, working his way up from busboy to owner.

Koikos emigrated from Greece in 1920, coming to work at the Bright Star where his brother, Peter, already was employed. In 1925 Koikos and three partners bought the place. Koikos later became the sole owner, and passed the business on to his sons, James and Nicholas.

It is obvious from the Bright Star's reputation and success that Koikos developed the establishment into one of the most beloved restaurants in Alabama. He lived the dream and gave the Birmingham area one of its brightest stars. Our condolences to the Koikos family, and our best wishes for their continued success.

[From the Birmingham (AL) News, July 21, 1988]

WILLIAM KOIKOS OF BRIGHT STAR DIES AT AGE 94

William D. "Mister Bill" Koikos, 94, a prominent Bessemer restaurateur for more than 68 years died today.

Born in Teleta, Greece, in 1894, Mr. Koikos arrived in Bessemer on May 29, 1920 and went to work as a bus boy at the city's Bright Star Restaurant the next day. His brother, Pete Koikos, also a Bessemer resident, brought him to the United States.

In less than five years William Koikos bought part-ownership in the Bright Star and helped establish it as one of the premier restaurants of the state.

Bessemer, he recalled in recent years, was booming because of mining and iron and steel making. Anyone who wanted to work could find a job.

"The pay wasn't very much," he said. "Nothing at all like it is today. I was working for $40 a month, and I sent all the money to my mother in Greece. My father was dead and there were six brothers and four sisters to support."

Through Mr. Koikos' tenure at the Bright Star, many well-known people stopped by for a meal. These included Gov. James E. "Big Jim" Folsom, U.S. Sen. John Sparkman, U.S. Sen. Lister Hill, Vice President Alban Barkley and Govs. George Wallace and Fob James. There were other celebrities, too—University of Alabama football coach Paul "Bear" Bryant often dropped in to eat. Several times the coach brought a television set with him to watch Monday Night Football while he ate.

One evening, world famous pianist Van Cliburn was having dinner with a friend at the Bright Star when race driver Bobby Allison walked in, fresh from winning a major stock car race.

"They shook hands with each other and seemed to become very friendly," Mr. Koikos told friends over coffee the next day.

THE CALENDAR

Mr. BYRD. Mr. President, I inquire of the Republican leader if Calendar Orders Nos. 979 and 980 have been cleared on his side?

Mr. DOLE. Each have been cleared on this side, yes.

CARRYOVER OF IMPEACHMENT PROCEEDINGS TO THE 101ST CONGRESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 980.

The PRESIDING OFFICER (Mr. EXON). The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 480) to carry the impeachment proceedings against Judge Alcee L. Hastings over to the 101st Congress.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BYRD. Mr. President, on August 9, 1988, the House of Representatives exhibited before the Senate articles of impeachment against U.S. District Judge Alcee L. Hastings. After the administration of the oath, the Senate took several actions. By Senate Resolution 456, the Senate directed the issuance of a summons to Judge Hastings to direct him to answer the articles of impeachment. Senate Resolution 456 also permitted the House to file a replication to the answer. Judge Hastings and the House have filed these pleadings, and the parties to the impeachment have thus joined issue before the Senate.

By unanimous consent, the Senate on August 9, 1988, also directed the Committee on Rules and Administration to report on three matters: First, the authority of the Senate to continue in the next Congress proceedings on the impeachment of Judge Alcee L. Hastings; second, the appropriate use, in the pending impeachment, of Senate Impeachment Rule XI; and third, any other matter which may assist the Senate in a fair trial of the pending impeachment. The committee received written submissions from the parties and filed Senate Report No. 100-542 on September 22, 1988. The committee's recommendations are set forth in Senate Resolution 480.

First, the committee concluded that the Senate has constitutional authority to continue these impeachment proceedings into the next Congress, and that it would be advisable to exercise that authority in this case. Section 1 of the resolution carries that recommendation into effect.

Second, the committee affirmed the constitutional authority of the Senate to appoint a committee to receive evidence, and to report the evidentiary record to the Senate. However, the committee also concluded that it should hold a hearing on the appropriate use of an evidentiary committee in this particular impeachment. At that hearing the parties will be able to address any other matter that may assist the Senate in a fair trial of the impeachment. Section 2 of the resolution provides that the Committee on Rules and Administration shall conduct a hearing during the week of January 23, 1989, and report its recommendations to the Senate on or about February 1, 1989.

Third, the committee recognized the importance of Senate action on the articles of impeachment as promptly as the Senate may justly do so in the next Congress. After receiving the recommendations of the committee under section 2 of the resolution, the Senate will be able to determine whether a committee should be appointed to receive evidence. Section 3 of the resolution directs the parties to be prepared by March 1, 1989, or as soon after as the Senate determines testimony should be heard, to present their evidence in the forum that shall be designated by the Senate.

Fourth, the committee recommends that the Senate call upon the parties to work over the next several months to stipulate to matters, including documents, that are not in dispute. The ability of the parties to agree to uncontested matters will enable them, and the Senate, to focus on issues that are truly in dispute. Section 4 of the resolution implements this recommendation and directs the parties to report their stipulations by February 20, 1989.

Fifth, section 5 of the resolution directs the Senate legal counsel to work with the parties to assist them in resolving amicably questions about stipulations and other matters of trial preparation.

Upon agreement to Senate Resolution 480, the Senate will have concluded its consideration of the articles of impeachment in the 100th Congress and will have laid the groundwork for a seasonable disposition of them in the 101st Congress.

Mr. STEVENS. Mr. President, on August 9, 1988, the Senate adopted an order which required the Committee on Rules and Administration to advise the Senate regarding several procedural matters in the pending impeachment trial of U.S. District Judge Alcee L. Hastings. On September 20, 1988, the committee met and it was the unanimous recommendation of the committee that a resolution be reported to the Senate which contains two specific findings regarding the impeachment trial. The Senate resolution before us today embodies the unanimous recommendation of the members of the Rules Committee.

Before addressing the specifics of the committee's recommendation, I would like to share some preliminary views with my colleagues regarding the role of the Senate in the impeachment trial of a Federal official.

Mr. President, there can be no more important decision required of a Senator than to sit in judgment of a senior official of the Federal Government who has been accused by the House of Representatives of conduct which warrants impeachment and removal from office. Having participated in the impeachment trial of Judge Harry E. Claiborne in 1986 and having prepared for a similar exercise in 1974, I say with assurance that fundamental fairness to the accused, both actual and perceived, is the single most important consideration for the Senate as this process begins. Knowing the Senate as I do, I am convinced that fairness will be the hallmark of this undertaking.

Because of legislative time constraints, the Senate faces two challenging questions which must be answered before the trial of Judge Hastings can begin. These two questions were at the heart of the order which the Senate adopted on August 9, and they are the central questions which are answered in the resolution before us today. It is important to note, Mr. President, that in answering these questions, the Rules Committee was unanimous in its conclusions.

Based upon a thorough review of both legal and parliamentary precedents, the committee has concluded that: One, the Senate has clear authority to continue in the 101st Congress all proceedings on the impeachment of Judge Hastings, and two, the Senate has clear authority to appoint, pursuant to rule XI of the Senate's Rules on Impeachment Procedures, a committee to perform the duties and to exercise the powers provided for in the rule.

As a consequence of these conclusions, the Rules Committee unanimously recommends to the Senate that: First, any further proceedings in the matter of the impeachment trial of Judge Hastings be deferred until the 101st Congress, second, during the week of January 24, 1989, the Rules Committee hold a hearing to receive testimony from Senators and interested parties on the issue of the appropriateness of utilizing a rule XI committee in this matter, with a report being issued on this question on or about February 1, 1989, and third, the Senate advise all parties that they be prepared to commence this trial by March 1, 1989, or as soon as thereafter as the Senate determines.

In closing, Mr. President, let me take a brief moment to commend Chairman FORD and all other members of the Rules Committee for their diligence and attention to these issues. An impeachment trial is certainly one of the most sensitive and solemn responsibilities which can be undertaken by a Senator. In that regard, I commend our chairman for the tone which he has established in this proceeding.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 480) was agreed to.

The resolution is as follows:

Resolved, That proceedings in the impeachment of Judge Alcee L. Hastings, as Judge of the United States District Court for the Southern District of Florida, shall be continued into the 101st Congress and resumed at a date in that Congress that shall be designated by the Senate.

SEC. 2. The Committee on Rules and Administration shall conduct, during the week of January 23, 1989, a hearing on—

(1) the appropriate use of Rule XI of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials in the impeachment of Judge Alcee L. Hastings; and

(2) any other matter which may assist the Senate in a fair trial of the pending impeachment, and shall report its recommendation to the Senate on or about February 1, 1989.

SEC. 3. Counsel to the parties to the impeachment shall be prepared by March 1, 1989, or as soon thereafter as the Senate determines testimony should be heard, to present their evidence in the forum to be designated by the Senate after receiving the recommendation of the Committee on Rules and Administration.

SEC. 4. Counsel to the parties to the impeachment are requested to work together to stipulate to evidentiary matters that are not in dispute, including stipluations as to documents, and shall jointly report, by February 20, 1989, on the stipulations to which such counsel have agreed, and on any other matter which such counsel agree may facilitate the resolution of this impeachment.

SEC. 5. The Senate Legal Counsel shall work with counsel to the parties to the impeachment to assist the counsel in resolving amicably issues that relate to stipulations about evidence and other matters concerning preparation for the trial of this impeachment.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COLORADO RIVER STORAGE PROJECT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3408 to increase the amounts authorized for the Colorado River Storage Project now being held at the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3408) to increase the amounts authorized for the Colorado River Storage Project.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. GARN. Mr. President, I rise in support of H.R. 3408, legislation to raise the authorization ceiling of the Colorado River storage project [CRSP] by $45 million. This modest increase in legislative authority will allow construction of the Municipal and Industrial [M&I] water supply features of the Bonneville Unit of the Central Utah project [CUP] to continue during fiscal year 1990.

This is a 1-year reauthorization bill which contains no funding for irrigation and drainage [I&D] features, a situation I deeply regret. Needless to say, this is not the bill I had hoped the Senate would be considering today. Last year at this time, the five members of the Utah congressional delegation introduced a $754 million CRSP reauthorization bill. So, at a minimal $45 million, I am at least grateful that actual construction of the Bonneville Unit [CUP] M&I features will be able to continue.

Nevertheless, I am deeply disappointed that disagreements by representatives of Public Power groups, the Upper Colorado River Basin States and at times by our own Utah delegation prevented the larger bill from passing this year. Arguments over methods of financing the I&D components and environmental features are largely to blame for this situation.

Mr. President, over the past year I've learned that the days of successfully asking the Congress to appropriate funds for large irrigation projects are over. Historically, under Reclamation law and the 1956 CRSP Act, the Congress has acted as the appropriator for the up-front construction of the projects. Farmers have repaid those costs, based on their ability to repay, while the balance of the repayment obligations have been paid from power revenues generated at the Bureau of Reclamation's dams on the Colorado River. This method of paying for irrigation projects is by deliberate design. When former Congressman Wayne Aspenall of Colorado sponsored the original 1956 CRSP Act, he envisioned the use of the large dams—Flaming Gorge, Glen Canyon et. al—as cash registers to be used to repay the costs of irrigation projects in the four Upper Colorado River Basin States. The 1956 CRSP Act is very clear in pointing out that the generation of hydroelectric power is incidental to the primary purpose of comprehensive development of arid and semiarid lands in the Upper Colorado River Basin. Recently, Public Power representatives have made statements which would have us believe that water projects are incidental beneficiaries to hydroelectric power. Well, that may be the way things have turned out over the last 32 years, but Mr. President, that was not, I repeat, was not the original intent of the Congress in 1956.

Mr. President, I ask unanimous consent that the entire text of Public Law 84-485, the CRSP Act, be printed at this point in the Record to verify my point.

There being no objection, the material was ordered to be printed in the Record, as follows:

United States Statutes at Large Containing the Laws and Concurrent Resolutions Enacted During the Second Session of the Eighty-fourth Congress of the United States of America—1956 and Proclamations

PUBLIC LAW 483, CHAPTER 186

(An act to amend section 8(b) of the Soil Conservation and Domestic Allotment Act with respect to water conservation practices.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second sentence of section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended (16 U.S.C., sec. 590h(b)), is amended by striking out of said sentence "In arid or semiarid sections," and inserting in lieu thereof "Clauses".

Approved April 6, 1956.

PUBLIC LAW 484, CHAPTER 187

(An act to authorize the loan of two submarines to the Government of Brazil.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized to lend two submarines to the Government of Brazil for a period of not more than five years and may, in his discretion, extend the loan for an additional period of not more than five years. The President shall, prior to the delivery of the submarines to the Government of Brazil, conclude an agreement with the Government providing for the return of the submarines in accordance with the provisions of this Act and in substantially the same condition as when loaned. All expenses involved in the activation of the submarines, including repairs, alterations, outfitting, and logistic support shall be charged to funds programmed for the Brazilian Government under the Mutual Security Act.

Approved April 6, 1956.

PUBLIC LAW 485, CHAPTER 203

(An act to authorize the Secretary of the Interior to construct, operate, and maintain the Colorado River storage project and participating projects, and for other purposes.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to initiate the comprehensive development of the water resources of the Upper Colorado River Basin, for the purposes, among others, of regulating the flow of the Colorado River, storing water for beneficial consumptive use, making it possible for the States of the Upper Basin to utilize, consistently with the provisions of the Colorado River Compact, the apportionments made to and among them in the Colorado River Compact and the Upper Colorado River Basin Compact, respectively, providing for the reclamation of arid and semiarid land, for the control of floods, and for the generation of hydroelectric power, as an incident of the foregoing purposes, the Secretary of the Interior is hereby authorized (1) to construct, operate, and maintain the following initial units of the Colorado River storage project, consisting of dams, reservoirs, powerplants, transmission facilities and appurtenant works: Curecanti, Flaming Gorge, Navajo (dam and reservoir only), and Glen Canyon: *Provided,* That the Curecanti Dam shall be constructed to a height which will impound not less than nine hundred and forty thousand acre-feet of water or will create a reservoir of such greater capacity as can be obtained by a high waterline located at seven thousand five hundred and twenty feet above mean sea level, and that construction thereof shall not be undertaken until the Secretary has, on the basis of further engineering and economic investigations, reexamined the economic justification of such unit and, accompanied by appropriate documentation in the form of a supplemental report, has certified to the Congress and to the President that, in his judgment, the benefits of such unit will exceed its costs; and (2) to construct, operate, and maintain the following additional reclamation projects (including power-generating and transmission facilities related thereto), hereinafter referred to as participating projects: Central Utah (initial phase); Emery County, Florida, Hammond, La Barge, Lyman, Paonia (including the Minnesota unit, a dam and reservoir on Muddy Creek just above its confluence with the North Fork of the Gunnison River, and other necessary works), Pine River Extension, Seedskadee, Silt and Smith Fork: *Provided further,* That as part of the Glen Canyon Unit the Secretary of the Interior shall take adequate protective measures to preclude impairment of the Rainbow Bridge National Monument.

Sec. 2. In carrying out further investigations of projects under the Federal reclamation laws in the Upper Colorado River Basin, the Secretary shall give priority to completion of planning reports on the Gooseberry, San Juan-Choma, Navajo, Parshall, Troublesome, Rabbit Ear, Eagle Divide, San Miguel, West Divide, Bluestone, Battlement Mesa, Tomichi Creek, East River, Ohio Creek, Fruitland Mesa, Bostwick Park, Grand Mesa, Dallas Creek, Savery-Pot Hook, Dolores, Fruit Growers Extension, Animas-La Plata, Yellow Jacket, and Sublette participating projects. Said reports shall be completed as expeditiously as funds are made available therefor and shall be submitted promptly to the affected States, which in the case of the San Juan-Chama project shall include the State of Texas, and thereafter to the President and the Congress: *Provided,* That with reference to the plans and specifications for the San Juan-Chama project, the storage for control and regulation of water imported from the San Juan River shall (1) be limited to a single offstream dam and reservoir on a tributary of the Chama River, (2) be used solely for control and regulation and no power facilities shall be established, installed or operated thereat, and (3) be operated at all times by the Bureau of Reclamation of the Department of the Interior in strict compliance with the Rio Grande Compact as administered by the Rio Grande Compact Commission. The preparation of detailed designs and specifications for the works proposed to be constructed in connection with projects shall be carried as far forward as the investigations thereof indicate is reasonable in the circumstances.

The Secretary, concurrently with the investigations directed by the preceding paragraph, shall also give priority to completion of a planning report on the Juniper project.

SEC. 3. It is not the intention of Congress, in authorizing only those projects designated in section 1 of this Act, and in authorizing priority in planning only those additional project designated in section 2 of this Act, to limit, restrict, or otherwise interfere with such comprehensive development as will provide for the consumptive use by States of the Upper Colorado River Basin of waters, the use of which is apportioned to the Upper Colorado River Basin by the Colorado River Compact and to each State thereof by the Upper Colorado River Basin Compact, nor to preclude consideration and authorization by the Congress of additional projects under the allocations in the compacts as additional needs are indicated. It is the intention of Congress that no dam or reservoir constructed under the authorization of this Act shall be within any national park or monument.

SEC. 4. Except as otherwise provided in this Act, in constructing, operating, and maintaining the units of the Colorado River storage project and the participating projects listed in section 1 of this Act, the Secretary shall be governed by the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto): *Provided*, That (a) irrigation repayment contracts shall be entered into which, except as otherwise provided for the Paonia and Eden projects, provide for repayment of the obligation assumed thereunder with respect to any project contract unit over a period of not more than fifty years exclusive of any development period authorized by law; (b) prior to construction of irrigation distribution facilities, repayment contracts shall be made with an "organization" as defined in paragraph 2(g) of the Reclamation Project Act of 1939 (53 Stat. 1187) which has the capacity to levy assessments upon all taxable real property located within its boundaries to assist in making repayments, except where a substantial proportion of the lands to be served are owned by the United States; (c) contracts relating to municipal water supply may be made without regard to the limitations of the last sentence of section 9 (c) of the Reclamation Project Act of 1939; and (d), as to Indian lands within, under or served by any participating project, payment of construction costs within the capability of the land to repay shall be subject to the Act of July 1, 1932 (47 Stat. 564): *Provided further*, That for a period of ten years from the date of enactment of this Act, no water from any participating project authorized by this Act shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949, or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301(b)((10) of the Agricultural Adjustment Act of 1938, as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security. All units and participating projects shall be subject to the apportionments of the use of water between the Upper and Lower Basins of the Colorado River and among the States of the Upper Basin fixed in the Colorado River Compact and the Upper Colorado River Basin Compact, respectively, and to the terms of the treaty with the United Mexican States (Treaty Series 994).

SEC. 5. (a) There is hereby authorized a separate fund in the Treasury of the United States to be known as the Upper Colorado River Basin Fund (hereinafter referred to as the Basin Fund), which shall remain available until expended, as hereafter provided, for carrying out provisions of this Act other than section 8.

(b) All appropriations made for the purpose of carrying out the provisions of this Act, other than section 8, shall be credited to the Basin Fund as advances from the general fund of the Treasury.

(c) All revenues collected in connection with the operation of the Colorado River storage project and participating projects shall be credited to the Basin Fund, and shall be available, without further appropriation, for (1) defraying the costs of operation, maintenance, and replacements of, and emergency expenditures for, all facilities of the Colorado River storage project and participating projects, within such separate limitations as may be included in annual appropriation acts: *Provided*, That with respect to each participating project, such costs shall be paid from revenues received from each such project; (2) payment is required by subsection (d) of this section; and (3) payment as required by subsection (e) of this section. Revenues credited to the Basin Fund shall not be available for appropriation for construction of the units and participating projects authorized by or pursuant to this Act.

(d) Revenues in the Basin Fund in excess of operating needs shall be paid annually to the general fund of the Treasury to return—

(1) the costs of each unit, participating project, or any separable feature thereof which are allocated to power pursuant to section 6 of this Act, within a period not exceeding fifty years from the date of completion of such unit, participating project, or separable feature thereof;

(2) the costs of each unit, participating project, or any separable feature thereof which are allocated to municipal water supply pursuant to section 6 of this Act, within a period not exceeding fifty years from the date of completion of such unit, participating project, or separable feature thereof;

(3) interest on the unamortized balance of the investment (including interest during construction) in the power and municipal water supply features of each unit, participating project, or any separable feature thereof, at a rate determined by the Secretary of the Treasury as provided in subsection (f), and interest due shall be a first charge; and

(4) the costs of each storage unit which are allocated to irrigation pursuant to section 6 of this Act within a period not exceeding fifty years.

(e) Revenues in the Basin Fund in excess of the amounts needed to meet the requirements of clause (1) of subsection (c) of this section, and to return to the general fund of the Treasury the costs set out in subsection (d) of this section, shall be apportioned among the States of the Upper Division in the following percentages: Colorado, 46 per centum; Utah, 21.5 per centum; Wyoming, 15.5 per centum; and New Mexico, 17 per centum: *Provided*, That prior to the application of such percentages, all revenues remaining in the Basin Fund from each participating project (or part thereof), herein or hereinafter authorized, after payments, where applicable, with respect to such projects, to the general fund of the Treasury under subparagraphs (1), (2), and (3) of subsection (d) of this section shall be apportioned to the State in which such participating project, or part thereof, is located.

Revenues so apportioned to each State shall be used only for the repayment of construction costs of participating projects or parts of such projects in the State to which such revenues are apportioned and shall not be used for such purpose in any other State without the consent, as expressed through its legally constituted authority, of the State to which such revenues are apportioned. Subject to such requirement, there shall be paid annually into the general fund of the Treasury from the revenues apportioned to each State (1) the costs of each participating project herein authorized (except Paonia) or any separable feature thereof, which are allocated to irrigation pursuant to section 6 of this Act, within a period not exceeding fifty years, in addition to any development period authorized by law, from the date of completion of such participating project or separable feature thereof, or, in the case of Indian lands, payment in accordance with section 4 of this Act; (2) costs of the Paonia project, which are beyond the ability of the water users to repay, within a period prescribed in the Act of June 25, 1947 (61 Stat. 181); and (3) costs in connection with the irrigation features of the Eden project as specified in the Act of June 28, 1949 (63 Stat. 277).

(f) The interest rate applicable to each unit of the storage project and each participating project shall be determined by the Secretary of the Treasury as of the time the first advance is made for initiating construction of said unit or project. Such interest rate shall be determined by calculating the average yield to maturity on the basis of daily closing market bid quotations during the month of June next preceding the fiscal year in which said advance is made, on all interest-bearing marketable public debt obligations of the United States having a maturity date of fifteen or more years from the first day of said month, and by adjusting such average annual yield to the nearest one-eighth of 1 per centum.

(g) Business-type budgets shall be submitted to the Congress annually for all operations financed by the Basin Fund.

SEC. 6. Upon completion of each unit, participating project or separable feature thereof, the Secretary shall allocate the total costs (excluding any expenditures authorized by section 8 of this Act) of constructing said unit, project or feature to power, irrigation, municipal water supply, flood control, navigation, or any other purposes authorized under reclamation law. Allocations of construction, operation and maintenance costs to authorized nonreimbursable purposes shall be nonreturnable under the provisions of this Act. In the event that the Navajo participating project is authorized, the costs allocated to irrigation of Indian-owned tribal or restricted lands within, under, or served by such project, and beyond the capability of such lands to repay, shall be determined, and, in recognition of the fact that assistance to the Navajo Indians is the responsibility of the entire nation, such costs shall be nonreimbursable. On January 1 of each year the Secretary shall report to the Congress for the previous fiscal year, beginning with the fiscal year 1957, upon the status of the revenues from, and the cost of, constructing, operating, and maintaining the Colorado River storage project and the participating projects. The Secretary's report shall be prepared to reflect accurately the Federal investment allocated at that time to power, to irrigation, and to other purposes, the progress of return and repayment thereon, and the estimated rate of progress, year by year, in accomplishing full repayment.

SEC. 7. The hydroelectric powerplants and transmission lines authorized by this Act to be constructed, operated, and maintained by the Secretary shall be operated in conjunction with other Federal powerplants, present and potential, so as to produce the greatest practicable amount of power and energy that can be sold at firm power and energy rates, but in the exercise of the authority hereby granted he shall not affect or interfere with the operation of the provisions of the Colorado River Compact, the Upper Colorado River Basin Compact, the Boulder Canyon Project Act, the Boulder Canyon Project Adjustment Act and any contract lawfully entered unto under said Compacts and Acts. Subject to the provisions of the Colorado River Compact, neither the impounding nor the use of water for the generation of power and energy at the plants of the Colorado River storage project shall preclude or impair the appropriation of water for domestic or agricultural purposes pursuant to applicable State law.

SEC. 8. In connection with the development of the Colorado River storage project and of the participating projects, the Secretary is authorized and directed to investigate, plan, construct, operate, and maintain (1) public recreational facilities on lands withdrawn or acquired for the development of said project or of said participating projects, to conserve the scenery, the natural, historic, and archeologic objects, and the wildlife on said lands, and to provide for public use and enjoyment of the same and of the water areas created by these projects by such means as are consistent with the primary purposes of said projects; and (2) facilities to mitigate losses of, and improve conditions for, the propagation of fish and wildlife. The Secretary is authorized to acquire lands and to withdraw public lands from entry or other disposition under the public land laws necessary for the construction, operation, and maintenance of the facilities herein provided, and to dispose of them to Federal, State, and local governmental agencies by lease, transfer, exchange, or conveyance upon such terms and conditions as will best promote their development and operation in the public interest. All costs incurred pursuant to this section shall be nonreimbursable and nonreturnable.

SEC. 9. Nothing contained in this Act shall be construed to alter, amend, repeal, construe, interpret, modify, or be in conflict with the provisions of the Boulder Canyon Project Act (45 Stat. 1057), the Boulder Canyon Project Adjustment Act (54 Stat. 774), the Colorado River Compact, the Upper Colorado River Basin Compact, the Rio Grande Compact of 1938, or the Treaty with the United Mexican States (Treaty Series 994).

SEC. 10. Expenditures for the Flaming Gorge, Glen Canyon, Curecanti, and Navajo initial units of the Colorado River storage project may be made without regard to the soil survey and land classification requirements of the Interior Department Appropriation Act, 1954.

SEC. 11. The Final Judgment, Final Decree and stipulations incorporated therein in the consolidated cases of United States of America v. Northern Colorado Water Conservancy District, et al., Civil Nos. 2782, 5016 and 5017, in the United States District Court for the District of Colorado, are approved, shall become effective immediately, and the proper agencies of the United States shall act in accordance therewith.

SEC. 12. There are hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be required to carry out the purposes of this Act, but not to exceed $760,000,000.

SEC. 13. In planning the use of, and in using credits from, net power revenues available for the purpose of assisting in the pay-out of costs of participating projects herein and hereafter authorized in the States of Colorado, New Mexico, Utah, and Wyoming, the Secretary shall have regard for the achievement within each of said States of the fullest practicable use of the waters of the Upper Colorado River system, consistent with the apportionment thereof among such States.

SEC. 14. In the operation and maintenance of all facilities, authorized by Federal law and under the jurisdiction and supervision of the Secretary of the Interior, in the basin of the Colorado River, the Secretary of the Interior is directed to comply with the applicable provisions of the Colorado River Compact, the Upper Colorado River Basin Compact, the Boulder Canyon Project Act, the Boulder Canyon Project Adjustment Act, and the Treaty with the United Mexican States, in the storage and release of water from reservoirs in the Colorado River Basin. In the event of the failure of the Secretary of the Interior to so comply, any State of the Colorado River Basin may maintain an action in the Supreme Court of the United States to enforce the provisions of this section, and consent is given to the joinder of the United States as a party in such suit or suits, as a defendant or otherwise.

SEC. 15. The Secretary of the Interior is directed to continue studies and to make a report to the Congress and to the States of the Colorado River Basin on the quality of water of the Colorado River.

SEC. 16. As used in this Act—

The terms "Colorado River Basin", "Colorado River Compact", "Colorado River System", "Lee Ferry", "States of the Upper Division", "Upper Basin", and "domestic use" shall have the meaning ascribed to them in article II of the Upper Colorado River Basin Compact;

The term "States of the Upper Colorado River Basin" shall mean the States of Arizona, Colorado, New Mexico, Utah, and Wyoming;

The term "Upper Colorado River Basin" shall have the same meaning as the term "Upper Basin";

The term "Upper Colorado River Basin Compact" shall mean that certain compact executed on October 11, 1948 by commissioners representing the States of Arizona, Colorado, New Mexico, Utah, and Wyoming, and consented to by the Congress of the United States of America by Act of April 6, 1949 (63 Stat. 31);

The term "Rio Grande Compact" shall mean that certain compact executed on March 18, 1938, by commissioners representing the States of Colorado, New Mexico, and Texas and consented to by the Congress of the United States of America by Act of May 31, 1939 (53 Stat. 785);

The term "Treaty with the United Mexican States" shall mean that certain treaty between the United States of America and the United Mexican States, signed at Washington, District of Columbia, February 3, 1944, relating to the utilization of the waters of the Colorado River and other rivers, as amended and supplemented by the protocol dated November 14, 1944, and the understandings recited in the Senate resolution of April 18, 1945, advising and consenting to ratification thereof.

Approved April 11, 1956.

Mr. GARN. Mr. President, the issue is not whether power revenues will or should be used to repay the construction costs of irrigation projects because the fact is power revenues will be used. The issue is whether the Congress will appropriate the funds upfront to build these systems. Every indication I have is that today's budget deficits have made the up-front funding of such projects by Congress infeasible.

Given this reality, earlier this year I asked the local project sponsor, the central Utah water conservancy district to develop new financing methods, in lieu of congressional appropriations. The district responded with a proposal to cut the cost of the CUP Bonneville Unit I&D system from $404 million to $280 million.

It proposes to accomplish this in two ways: First, replace the Bureau of Reclamation with a private contractor in order to cut costs and improve administrative and construction efficiencies. Second, utilize CRSP power revenues to issue bonds necessary to finance the construction of the I&D system. This means the Congress will not have to spend one dime on non-Indian irrigation features of the CUP. The Congress would, continue in its historic role of funding the recreation, fish & wildlife mitigation features of the project.

Mr. President, the district's proposal is essentially the bill Senator HATCH and I offered to the Senate Energy and Natural Resources Committee last June. The proposal emphasizes the entire delegation's commitment to complete the CUP irrigation system for those farmers who have paid ad valorem taxes to the project sponsor for the past 24 years. It also emphasizes finishing the environmental mitigation requirements of the CUP by keeping those requirements linked to progress on the construction of the project itself. I should point out that the alternative which Senator HATCH and I offered will delete over $100 million in unnecessary components which had been allocated to irrigation or environmental mitigation by the Bureau of Reclamation. These were features neither farmers nor environmentalists think are necessary or useful.

Mr. President, all of these new ideas are on hold for the next 3 months. The reason for this is that Chairman

Morris Udall of the House Interior Committee asked the Utah delegation to work together with public power, the Upper Colorado River Basin States, and environmentalists to formulate an overall CRSP reauthorization bill that is acceptable to all parties.

Mr. President, we hold Chairman Udall in high esteem and have heeded his advise. Currently, talks are underway between the public power groups and the States to develop long-term solutions to outstanding issues. Among others, these include: First, which irrigation projects are to be constructed; second, what method of non-Federal financing will be used; third, what impacts will the construction of such projects have on the CRSP power rate base; and fourth, how will the historic allocations of water and power between the Upper Basin States be maintained.

These are important issues which go beyond the limited scope of the CUP. As the largest participating project in the CRSP, however, Utahns are concerned that these issues be resolved equitably and with dispatch. I for one am convinced that if all the parties will negotiate in good faith, solutions to these tough questions can be found and workable solutions reached so that a large CRSP bill will be ready to pass during the 101st Congress. I am committed to see that these negotiations succeed and that a bill passes the Congress next year.

I also wish to reemphasize my commitment to the people of the Uinta Basin, including members of the Ute Indian Tribe that I will be looking for ways to satisfy the obligations which the Government has to them under the 1965 deferral agreement. This, I believe, can best be achieved through a comprehensive piece of legislation next year.

Mr. HATCH. Mr. President, I am pleased to join with my senior colleague, the distinguished Senator from Utah, Senator Garn today, to urge passage of H.R. 3408, to increase the amount authorized for the Colorado River Storage Project Act.

Mr. President, as everyone involved with the central Utah project knows, this past year has been a constructive yet difficult one for the central Utah project.

The central Utah project, which has suffered many setbacks since its inception, due to funding delays, changing administrations, and management problems, is only 6½ years away from final completion.

Only one major hurdle remains. That is an increase in the authorization of the Colorado River Storage Act ceiling. This increase must occur in order to allow completion of the central Utah project.

In September of last year, Senator Garn and I introduced legislation to raise the ceiling of the Colorado River Storage Project Act by $754 million. This bill was cosponsored by 20 of our colleagues and would have federally financed both the municipal and industrial as well as the irrigation portions of the central Utah project.

Since that time, however, we have taken the position that an increase of the ceiling, which would finance the irrigation and drainage features of this proposal, was unrealistic, and that the likelihood of Congress approving an increase in the Federal authorization levels for the irrigation features of this project was remote.

Consequently, a substitute bill was introduced in June of this year, reducing the total request by more than $300 million, by changing the method of financing the construction of the irrigation components of this project. The bill does so by authorizing the use of non-Federal funds, which would be acquired by the local project sponsor, the central Utah water conservancy district, and would be repaid through the use of electrical power revenues generated from Colorado River hydroelectric dams. This project would also benefit the irrigators.

Because of the break with tradition that this new proposal offers, a great deal of discussion has been generated within the water and power community as to the precedent-setting nature of the proposal and its long-term impact on the Upper Colorado River Basin. Unfortunately, due to a variety of factors, a consensus has not yet been reached as to the complete implementation of this financing package.

In the absence of agreement on this provision, the House Interior Committee passed a $45 million ceiling increase for the central Utah project's unfinished municipal and industrial features to allow construction and funding to continue through fiscal year 1990.

In the meantime, with the support of both the chairman and subcommittee chairman of the House Interior Committee, we continue to work with the Public Power Association and Upper Colorado River Basin States to come up with a long-term solution for all the States, including concerns over the environment.

When this has been accomplished, we anticipate, and have been assured, that we will have the support necessary to complete the full funding for the remainder of the central Utah project.

Mr. President, I know of no issue which has received quite so much discussion and negotiation as the central Utah project package this year. I anticipate that it can be rapidly approved next year, when we have finished negotiations on the package.

However, in the interim, I urge the Senate to accept the $45 million bill which the House has sent over to us.

Mr. President, I also ask that the Senate accept the amendment offered by Senator Garn and myself regarding the management of lands surrounding the Strawberry Reservoir.

The Strawberry water users currently manage 30,880 acres surrounding the Strawberry Reservoir.

Under this legislation, the water users will surrender all surface rights to 30,786 acres to the Forest Service. They will also receive title to 94 acres, where they own several buildings; 35,990 acres of recreation lands associated with the Bonneville unit of the central Utah project, which are currently managed by the Bureau of Reclamation, will also be turned over to the National Forest System, expanding the boundary of the Uintah National Forest by approximately 56,775 acres.

Because the Strawberry water users are relinquishing all of their contractual surface rights and interest, including sand and gravel in the 56,775 acres of project lands, they will receive compensation in the amount of $15 million, which will be paid out of environmental funds allocated for the central Utah project. An additional $3 million will be spent for the long-term rehabilitation of the area.

Mr. President, this provision has the widespread support of environmental groups in Utah and will offer numerous individuals throughout the State a new opportunity for additional recreation and enjoyment in the State of Utah.

I, therefore, urge the Senate to support this provision, and I would like to thank Senator Garn for his work on this amendment, as well as the central Utah project reauthorization and the Strawberry lands bill. His contributions to this project over the past 14 years have been invaluable.

I would also like to express my appreciation to other Members of the Utah delegation who have spent a great deal of time on the House side working on this proposal, as well as the committees with jurisdiction over this proposal.

I believe this is a reasonable provision and one which the Senate can comfortably support. And I hope to be back here early next year with a complete financing package to allow for the completion of the central Utah project in 1995.

AMENDMENT NO. 3317

Mr. GARN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah, Mr. Garn, for himself and Mr. Hatch, proposes an amendment numbered 3317.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end add:

SECTION 1

(a) PURPOSES.—The purposes of this section are—

(1) to modify the boundary of the Uinta National Forest to include certain Strawberry Valley Project lands currently administered by the Bureau of Reclamation, in order to provide more efficient management for public benefit;

(2) to transfer certain lands, and to compensate the Association for the loss of certain contractual surface rights and interests; and

(3) to provide for rehabilitation of certain of those lands to be administered by the Forest Service for public benefit.

(b) DEFINITIONS.—For the purposes of this section—

(1) the term "Association" means the Strawberry Water Users Association,

(2) the term "Secretary" means the Secretary of the Interior, and

(3) the term "Project Lands" means approximately 56,870 acres of Strawberry Valley Project Lands and includes 95 acres to be transferred to the Association, 25,990 acres of recreation lands associated with the Bonneville Unit of the Central Utah Project, and 30,785 acres of remaining Strawberry Valley Project Lands.

(c) BOUNDARY MODIFICATION OF UINTA NATIONAL FOREST.—

(1) The exterior boundary of the Uinta National Forest shall be modified to include 56,775 acres of the original 56,870 acres of Strawberry Valley Project lands as generally depicted on a map entitled "Boundary Modification, Uinta National Forest", and dated May 1988. The effective date of such modification shall be the date upon which administrative jurisdiction is transferred to the Secretary of Agriculture in accordance with subsection (e)(1)(B). Those lands encompassed by the modified boundary include 25,990 acres of recreation lands associated with the Bonneville Unit of the Central Utah Project and 30,785 acres of remaining Project Lands. Such lands shall be administered by the Forest Service in accordance with applicable laws except that the 25,990 acres shall continue to be managed by the Forest Service as recreation lands in accordance with the purposes set forth in the Memorandum of Agreement between the Department of the Interior, Bureau of Reclamation, Upper Colorado Region, and the U.S. Forest Service (Contract No. 2-07-40-L3016) dated February 2, 1982.

(2) A map depicting the modified boundary of the Uinta National Forest shall be on file and available for public inspection in the office on the Chief of the Forest Service and appropriate field offices and the House Interior and Insular Affairs Committee and the Senate Energy and Natural Resources Committee.

(d) VALID EXISTING RIGHTS.—

(1) Notwithstanding any other provision of this section, the administration by the Forest Service of the lands described in subsection (c) shall not—

(A) affect or interfere with the authority of the Bureau of Reclamation to construct, operate, maintain, replace, or improve, as necessary, project facilities and access thereto associated with the Strawberry Valley Reclamation Project and Bonneville Unit of the Central Utah Project; or

(B) diminish any other authorized uses of the lands for water resource and power development under Federal law.

(2) The Association shall relinquish all of its contractual surface rights and interests, including sand and gravel, in the 56,775 acres of the Project Lands in accordance with subsection (e)(2). Notwithstanding any other provision of this section, all other contractual rights and interests of the Association in the Strawberry Valley Reclamation Project shall remain unchanged. The Association shall be exempt from fees or charges for licenses or permits, other than grazing fees, for project related facilities on Project Lands.

(e) STRAWBERRY VALLEY LAND TRANSFERS, AND OTHER CONSIDERATIONS.—

(1)(A) The Secretary is hereby authorized and directed to convey to the Association 95 acres in fee title of Project Lands, together with all improvements, as shown on a plat appended to the map referred to in subsection (c)(1). This action is consistent with the intent of the Act of April 4, 1910 (chapter 140, 35 Stat. 269).

(B) Within 15 days of payment of compensation to the Association in accordance with subsection (e)(2), the Secretary shall transfer administrative jurisdiction to the Secretary of Agriculture over the 30,785 acres of remaining Project Lands and the 25,990 acres of recreation lands. Management of the surface shall be subject to applicable law.

(C) Notwithstanding any other provision of this section, the Association shall retain its contractual rights to issue oil, gas, coal and mineral leases, excluding sand and gravel, on the Project Lands. The authority of the Association to issue such leases and to utilize revenues therefrom as set forth in Interior Solicitor's Opinion M-36863 dated August 8, 1972 (79 I.D. 513) is hereby confirmed. All such revenues shall be used and applied to Strawberry Valley Reclamation Project purposes.

(2) COMPENSATION—There is authorized to be appropriated under Section 8, of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620g), $15,000,000 as compensation to the Association which shall be available only for such compensation and must be used for Strawberry Valley Reclamation Project purposes. Of the amounts appropriated hereafter under Section 8 of such Act, the first $15,000,000 shall be paid to the Association. Upon receipt of such compensation, the Association shall relinquish all of its contractual surface rights and interests, including sand and gravel, in the 56,775 acres of Project Lands.

(3) OTHER CONSIDERATIONS—The Association shall be entitled to retain the first right of refusal to grazing privileges on the 30,785 acres of remaining Project Lands, and if permitted under the grazing rehabilitation plan pursuant to subsection (f), on the 25,990 acres of recreation lands.

(f) REHABILITATION OF LANDS.—The Forest Service shall, in coordination with the State of Utah and other appropriate agencies begin long-term rehabilitation of Project Lands. Such rehabilitation shall be five years in duration and shall permit continued grazing uses consistent with such rehabilitation. There is authorized to be appropriated under Section 8 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620g), $3,000,000 which shall be available only for such rehabilitation. The Association shall be held harmless for any costs associated with rehabilitation.

(g) INTERIM RECREATIONAL MANAGEMENT BY FOREST SERVICE

Until administrative jurisdiction of the 25,990 acres of recreation lands is transferred to the Secretary of Agriculture in accordance with subsection (e)(1)(B), the Congress authorizes and directs the Secretary of Agriculture to expend National Forest System appropriated funds in lieu of Department of Interior, Bureau of Reclamation funds to manage the 25,990 acres of recreation lands for the Strawberry Reservoir adjacent to the Uinta National Forest in Utah. Such expenditures shall be in accordance with the provisions of the Memorandum of Agreement (Contract No. 2-07-40-L3016) dated February 2, 1982.

(h) LAND EXCHANGE.—

(1) AUTHORIZATION—The Secretary of Agriculture may exchange or sell the National Forest System lands, including any administrative sites and improvements thereon, described in subsection (h)(2). Disposal or exchange of these properties is intended to facilitate the acquisition of administrative sites and offices together with improvements thereon at either Provo, Utah County, Utah or near Heber City, Wasatch County, Utah, as specified by the Secretary of Agriculture. If the sale option is exercised, moneys collected shall be held in a special account intended for this purpose and are hereby authorized for expenditure without further appropriation.

(2) LANDS—The lands referred to in subsection (h)(1) are those lands which are depicted on a plat, entitled Heber City, Utah, dated April 17, 1978, and May 7, 1978. The plat shall be on file and available for public inspection in the office of the Chief of the Forest Service and appropriate field offices.

(3) REQUIREMENT OF EQUAL VALUE—If the lands are exchanged, the values, as determined by the Secretary of Agriculture, of the lands and building to be exchanged under this section shall be equal, or if not equal, shall be equalized by the payment of money to the grantor or the Secretary of Agriculture as the circumstances require so long as the payment does not exceed 25 percent of the total value of the land (including any improvements thereon) transferred out of Federal ownership. The Secretary of Agriculture shall make every reasonable effort to keep any such payment to the minimum amount necessary to equalize the values involved.

Mr. GARN. Mr. President, the amendment I am offering today with my colleague, Senator HATCH, is the result of 2 years of negotiation and hard work. It has virtual unanimous support in Utah among environmentalists, sportsmen, public land users, and the Strawberry Water Users Association. Strawberry is a group of 1,500 Utah County water users, including five small cities collectively composing some 42,000 people, who have operated a water project including grazing lands in Wasatch County, UT since the early 1900's.

I particularly want to commend our colleague in the House of Representatives, HOWARD NIELSON, for his herculean efforts to bring about this compromise. He has fought hard for this change in management in the Strawberry Valley for many, many years.

Simply stated, this amendment will compensate the Strawberry Water Users Association for its contractual surface rights to 56,775 acres in the Strawberry Valley of Utah. 25,990 acres of Strawberry Valley Project Lands surrounding Strawberry Reservoir are already being managed for recreational purposes by the U.S. Forest Service. Upon full compensation, the management of these prime grazing, recreation, and wildlife lands will be transferred from Strawberry to the U..S Forest Service except for 95 acres which will be held in fee by Strawberry. The amendment will also transfer administrative jurisdiction over these lands from the Bureau of Reclamation, Department of the Interior to the U.S. Forest Service, Department of Agriculture.

All told 56,775 acres will be added to the Uinta National Forest.

I should point out that the amount of compensation ($15 million) equates to $9.15 million after Federal and State taxes are paid by Strawberry. More importantly, both the 1924 Fact Finders Act and Strawberry's Articles of Incorporation require Strawberry to spend such compensatory funds and all revenues developed from project lands on rehabiliations and maintenance of the Strawberry Valley Project facilities. This money will assist Strawberry to maintain their water project, which having been built between 1906-15, is one of the Nation's oldest, and in constant need of repair.

The amendment assures that compensation to Strawberry will be the Bureau of Reclamation's first priority.

The amendment will also authorize $3 million for pasture rehabilitation of Strawberry Valley lands which is widely supported by user groups at home. The total cost of this amendment is $18 million using section 8 Fish and Wildlife Funds under the CRSP Act.

Mr. President, I must emphasize that my staff and I have spent 2 years working to put this solution together. The amendment codifies an agreement reached last February by a diverse set of interest groups who have historically opposed one another. The Compromise is good for Utah and is no small achievement!

Mr. President, I urge the adoption of the amendment.

Mr. President, I ask unanimous consent that an editorial from an article from the Salt Lake Tribune be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Salt Lake Tribune, Feb. 9, 1988]

AT ITS WORKABLE BEST

Offhand, it is impossible to think of another body of water, along with its surrounding lands, that has generated more debate and discussion, over a longer period of time, than Strawberry Reservoir.

That debate and discussion was unquestionably the result of the multiplicity of managements, representing an equally diverse set of interests, involved in what is one of Utah's most popular trout fishing areas.

Now those debates are likely to be quieted, if not ended completely, because of the management agreement worked out between the U.S. Forest Service, U.S. Bureau of Reclamation, the Strawberry Water Users Association, the Utah Division of Wildlife Resources and the Utah Wildlife Leadership Coalition, with the not inconsiderable help of Utah's congressional delegation.

With that many cooks stirring the soup it is readily understandable why it has taken so many years to develop the management agreement.

Essentially, under that agreement the Forest Service will assume the surface management of land surrounding the reservoir from the Reclamation Bureau and the water users' group.

Strawberry Water Users will, however, retain oil, gas and mineral rights to the land, have the right of first refusal on grazing privileges on land under Forest Service management and outright fee title to 94.6 acres of land.

The Bureau of Reclamation will still manage the waters of the lake and Soldier Creek Dam.

And the Division of Wildlife Resources will pretty much continue what it has been doing for a long time; managing the fishery resource of the reservoir, along with that of its tributaries.

All in all, the agreement has a lot of Solomon-like aspects, involving a fair and equitable distribution of responsibilities and privileges. It promises to be the map to effective multiple-use management of an area that includes a prime fishery, a vital agricultural water resource, an important big game habitat and significant livestock grazing lands.

A comprehensive planning document, the agreement will help enhance the recreational and scenic values of one of Utah's most popular outdoor areas, and at the same time maintain the livestock grazing so vital to a number of Utahns. It is compromise at its workable best.

[From the Lake Tribune, Feb. 8, 1988]

SPORTSMEN TO BENEFIT FROM NEW STRAWBERRY MANAGEMENT

(By Tom Wharton)

It has been a long and difficult process, but it appears as though modern land management practices may finally be coming to the Strawberry Valley.

An announcement from Utah's Congressional delegation in Washington, DC, last week said an agreement has been reached between government agencies, environmental groups and the Strawberry Water Users Association to transfer ownership of 56,870 acres of land surrounding Strawberry to the U.S. Forest Service for management.

That's good news for fishermen. Strawberry Reservoir is one of Utah's most important fisheries, if not the most important. Without the agreement, the water users' outdated grazing practices would have likely continued. With the agreement, there is a good chance that tributaries to the reservoir can be both protected and rehabilitated.

Largely due to poor outdated grazing practices, these tributaries have become prime habitat for the Utah chub and sucker which threaten the future of Strawberry as a fishery. By getting the cows out of the river, the whole ecosystem of the valley will be improved.

This of course, will be dependent on an end to the nasty feud between the Uinta National Forest and the Division of Wildlife Resources on the best method to rehabilitate those tributaries.

Hunters should also benefit from the tentative agreement, which still must pass Congress. Much of the Strawberry Valley has been closed to hunting in the past. It will now be opened up. And, under multiple use principles, wildlife theoretically will have equal footing with domestic livestock in management decisions. The range should be improved greatly.

"The bottom line is that, for a long time, the resource hasn't had the care it needed to have," said Bob Nelson, the former chairman of the Utah Wildlife Leadership Coalition who played a key role in the negotiations. "It wasn't managed for the good of the public before. Wildlife will fare better under this new management program. Fishermen and hunters all benefit."

The Strawberry Water Users Association, which has been held in contempt by sportsmen for years, deserves a pat on the back for making the compromises needed to work out the agreement. The water users do retain almost 100 acres of land, the right of first refusal to grazing privileges and gas, coal and mineral rights to the land. But, without the group's willingness to negotiate, the squabbling would have continued.

The important thing now is to get the legislation through Congress and the rehabilitation process started.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3317) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So, the bill (H.R. 3408), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TWO-YEAR AUTHORIZING RESOLUTION FOR COMMITTEE EXPENSES

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order 979, Senate Resolution 479.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. No objection.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 479), to amend Rule XXVI of the Standing Rules of the Senate to authorize the Committee on Rules and Administration to direct Senate committees to report 2-year authorizing resolutions and to permit the Committee on Rules and Administration to report one authorization resolution containing more than one committee authorization resolution.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 479) was agreed to, as follows:

S. RES. 479

Resolved, That paragraph 9 of rule XXVI of the Standing Rules of the Senate is amended by—

(1) in the first sentence by striking "Each" and inserting "(a) Except as provided in subparagraph (b), each; and

(2) adding at the end thereof the following new subparagraph:

"(b) In lieu of the procedure provided in subparagraph (a), the Committee on Rules and Administration may—

"(1) direct each committee to report an authorization resolution for a two year budget period beginning on March 1 of the first session of a Congress; and

"(2) report one authorization resolution containing more than one committee authorization resolution for a one year or two year budget period.".

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PINELANDS NATIONAL RESERVE VISITOR AND INFORMATION ACT

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1165.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1165) entitled "An Act to authorize the Secretary of the Interior to provide for the development and operation of a visitor and environmental education center in the Pinelands National Reserve, in the State of New Jersey", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. PINELANDS INTERPRETATIVE AND EDUCATIONAL PROGRAM; INTERIOR DEPARTMENT STUDY AND RECOMMENDATIONS.

Section 502 of the National Parks and Recreation Act of 1978 (Public Law 95-625; 16 U.S.C. 471i) is amended by adding at the end the following new subsection:

"(l) PINELANDS INTERPRETATIVE AND EDUCATIONAL PROGRAM; INTERIOR DEPARTMENT STUDY AND RECOMMENDATIONS.—

"(1) STUDY AND RECOMMENDATIONS FOR INTERPRETATIVE AND EDUCATIONAL PROGRAM.—For the purpose of enhancing public understanding, awareness, and appreciation with respect to the natural and cultural resources of the Pine Barrens area of New Jersey, the Secretary shall, within 9 months after the enactment of this subsection, study and recommend appropriate initiatives to prive an educational and interpretative program for the Reserve. The Secretary shall conduct such study in consultation with the planning entity and the appropriate departments and agencies of the State of New Jersey.

"(2) ITEMS INCLUDED.—The study and recommendations required by this subsection shall include, but not be limited to each of the following:

"(A) Interpretative and informational materials, exhibits, films, lectures, and other devices and educational methods.

"(B) A plan to provide for educational and interpretative programs for the Reserve, considering among other things the improvement of existing facilities and interpretative programs in the Reserve, including the possible use of existing facilities such as Whitesbog, Batsto, Double Trouble State Park and Stockton State College.

"(C) The use and enhancement of existing fire towers in the Reserve to serve as observation platforms.

"(D) The appropriate role for departments and agencies of the State of New Jersey and the Federal Government in implementing the program.

"(3) STUDY OF DEVELOPMENT CREDIT BANK AND DEVELOPMENT CREDIT SYSTEM.—The Secretary is authorized and directed to study the State of New Jersey Pinelands Development Credit Bank and Pinelands Development Credit System, and to submit to the Congress within 9 months after enactment of this subsection such recommendations as the Secretary determines appropriate for improvements of the operation of the State Pinelands Development Credit Bank and the overall Pinelands Development Credit Program.

"(4) STUDY OF MUNICIPAL COUNCIL.—The Secretary shall study the Pinelands Municipal Council, and submit to the Congress within 9 months after enactment of this subsection such recommendations as the Secretary determines appropriate for improvements of the operation of the council.

"(5) CONTRACTS AND AGREEMENTS.—The Secretary may enter into such contracts and agreements with the State of New Jersey and other public and private entities as may be necessary and appropriate to carry out the authorities and responsibilities of the Secretary under this subsection. For purposes of this subsection, there is authorized to be appropriated not more than $500,000 to prepare and complete the study pursuant to paragraph (1) and $3,000,000 to implement the recommendations of such study upon its approval by the Congress, the Federal share of which may not exceed 75 percent of the total cost."

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 502(k) of the National Parks and Recreation Act of 1978 is amended by inserting "(1)" before the first full sentence thereof, and adding at the end thereof the following new paragraph:

"(2) In addition to other funds authorized pursuant to this subsection, there are hereby authorized to be appropriated not to exceed $14,500,000 for land acquisition, the Federal share of which may not exceed 50 percent of the total cost. Land acquisition pursuant to this subsection shall be carried out in accordance with the requirements of subsection (h) of this section insofar as such requirements are not inconsistent with this paragraph. Such acquisitions shall also be carried out in a manner consistent with the management plan and shall include—

"(A) lands located within the preservation area of the National Reserve which is designated in the management plan;

"(B) lands that are within the areas protected by the management plan and that are threatened by adverse development or have critical ecological values; or

"(C) lands that have limited practical use because of their location in the Reserve and that are held by landowners who both own less than 50 acres in the Reserve and have exhausted existing remedies to secure relief.

Additional funds contributed by the State to the Pinelands Development Bank after enactment of this Act, not to exceed $5,000,000, may be counted as part of the State share of land acquisition funds.".

Mr. BYRD. Mr. President, I move to concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion to concur was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DESIGNATION OF COASTAL HERITAGE TRAIL IN NEW JERSEY

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2057.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives.

Resolved, That the bill from the Senate (S. 2057) entitled "An Act to provide for the establishment of the Coastal Heritage Trail in the State of New Jersey, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. DESIGNATION OF NEW JERSEY COASTAL HERITAGE ROUTE.

In order to provide for public appreciation, education, understanding, and enjoyment, through a coordinated interpretive program of certain nationally significant natural and cultural sites associated with the coastal area of the State of New Jersey that are accessible generally by public road, the Secretary of the Interior (hereinafter referred to as the "Secretary"), acting through the Director of the National Park Service, with the concurrence of the agency having jurisdiction over such roads, is authorized to designate, by publication of a map or other description thereof in the Federal Register, a vehicular tour route along existing public roads linking such natural and cultural sites in New Jersey. Such route shall be known as the New Jersey Coastal

Heritage Route (hereinafter referred to as the "route").

SEC. 2. LOCATION; ADDITIONAL SEGMENTS.

The route shall follow public roads, which are generally located to the east of the Garden State Parkway, linking the New Jersey portion of Gateway National Recreation Area, known generally as the Sandy Hook Unit, with the national historic landmark in Cape May and that area north and west of Cape May in the vicinity of Deepwater, New Jersey. The Secretary may, in the manner set forth in section 1, designate additional segments of the route from time to time as appropriate to link the foregoing sites with other natural and cultural sites when such sites are designated and protected by Federal, State, or local governments, or other public or private entities.

SEC. 3. INVENTORY AND PLAN.

(a) PREPARATION.—Within one year after the date of availability of funds, the Secretary shall prepare a comprehensive inventory of sites along the route and general plan which shall include but not be limited to the location and description of each of the following:

(1) Significant fish and wildlife habitat and other natural areas.

(2) Unique geographic or geologic features and significant landforms.

(3) Important cultural resources, including historic and archeological resources.

(4) Migration routes for raptors and other migratory birds, marine mammals, and other wildlife.

(b) INTERPRETIVE PROGRAM.—The general plan shall include proposals for a comprehensive interpretive program of the area and it shall identify alternatives for appropriate levels of protection of significant resources.

(c) TRANSMISSION TO CONGRESS.—The Secretary shall transmit the comprehensive inventory and the general plan to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives.

(d) CONSULTATION; PUBLIC PARTICIPATION.—The inventory and plan shall be prepared in consultation with other Federal agencies, the State of New Jersey, units of local government, and public and private entities. In addition, the Secretary shall ensure that there are ample opportunities for public involvement and participation in the preparation of the inventory and plan.

SEC. 4. PUBLIC APPRECIATION.

With respect to sites linked by segments of the route which are administered by other Federal, State, local nonprofit or private entities, the Secretary is authorized, pursuant to cooperative agreements with such entities, to provide technical assistance in the development of interpretive devices and materials and conservation methods regarding the resources enumerated in section 3 in order to contribute to public appreciation, understanding and conservation of the natural and cultural resources of the sites along the route. The Secretary, in cooperation with State and local governments, and other public and private entities, shall prepare and distribute informational material for the public appreciation of sites along the route.

SEC. 5. MARKERS.

The route is to be marked with appropriate markers to guide the public. With the concurrence and assistance of the State or local entity having jurisdiction over the roads designated as part of the route, the Secretary may erect thereon signs and other informational devices displaying the New Jersey Coastal Heritage Route marker. The Secretary is authorized to accept the donation of suitable signs and other informational devices for placement at appropriate locations.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary not more than $250,000 to carry out the purposes of this Act. No funds made available under this Act shall be used for the operation, maintenance, or repair of any road or related structure.

Amend the title so as to read: "An Act to provide for the establishment of a Coastal Heritage Route in the State of New Jersey, and for other purposes.".

AMENDMENT NO. 3318

(Purpose: To designate the Coastal Heritage Trail Route and to further the utilization and rehabilitation of the area known as Officers Row located within the Sandy Hook Unit of the Gateway National Recreation Area, NJ, by permitting the State of New Jersey to construct a marine sciences laboratory)

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendments with a further amendment on behalf of Mr. BRADLEY, which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. BRADLEY, proposes an amendment numbered 3318.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amend the House engrossed amendments as follows:

On page 1, line 2, before "Route" insert "Trail".

On page 1, line 16, before "Route" insert "Trail".

On page 4, line 15, before "Route" insert "Trail".

At the end of the bill, add the following new section:

SEC. . REVITALIZATION OF OFFICERS ROW, SANDY HOOK, NEW JERSEY.

(a) AGREEMENT WITH STATE.—To further the revitalization, rehabilitation, and utilization of the area known as "Officers Row" located within the Sandy Hook Unit of the Gateway National Recreation Area, the Secretary of the Interior, or his designee, shall enter into an agreement to permit the State of New Jersey to use and occupy the property depicted on the map numbered 646/80,003, entitled "Marine Science Laboratory Land Assignment", dated September 1988, for the express purpose of constructing, developing, and operating, without cost to the National Park Service, a marine sciences laboratory to be known as the "James J. Howard Marine Sciences Laboratory". The design of the new facility, the rehabilitation of Building 74, the design and location of landscaping modifications thereto, shall be reviewed by, and subject to the approval of, the Director of the National Park Service or his designee using the standards for rehabilitation and National Park Service guidelines and policies approved by the Secretary of the Interior.

(b) REVERSION.—If the improvements described in subsection (a) are not used as a marine sciences laboratory by the State of New Jersey, all use of the property and the improvements thereon shall revert, without consideration, to the National Park Service.

Amend the title so as to read: "To provide for the establishment of the Coastal Heritage Trail Route in the State of New Jersey, and for other purposes".

The motion was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

H.R. 4362—THE RECREATION AND PUBLIC PURPOSES ACT, PLACED ON THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be discharged from further consideration of H.R. 4362, the Recreation and Public Purposes Act, and that it be placed on the calendar.

H.R. 4529—EXTENSION OF PERMISSION TO THE PRESIDENT'S COMMISSION ON WHITE HOUSE FELLOWS TO ACCEPT CERTAIN DONATIONS PLACED ON THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 4529, a bill to extend permission to the President's Commission on White House Fellows To Accept Certain Donations be placed on the calendar when it arrives from the other body.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

H.R. 5232—CONSENT OF CONGRESS TO THE SOUTHWESTERN LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT, PLACED ON THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 5232, a bill to grant the consent of Congress to the Southwestern low-level radioactive waste disposal compact, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 5334—CERTAIN TECHNICAL AND CONFORMING AMENDMENTS TO THE HANDICAPPED AND REHABILITATION ACT OF 1973 PLACED ON THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 5334, a bill to make certain technical and conforming amendments to the Handicapped and Rehabilitation Act of 1973, which is now at the desk, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL PARALYSIS AWARENESS WEEK

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 364, to designate the week of October 2 through October 8, 1988, as "National Paralysis Awareness Week," and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 364) to designate the week of October 2 through October 8, 1988, as "National Paralysis Awareness Week."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The joint resolution (S.J. Res. 364) was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. Res. 364

Whereas between 250,000 and 500,000 men, women, and children are currently victims of paralysis;

Whereas 10,000 to 12,000 Americans experience traumatic injuries to the spinal cord each year;

Whereas scientists and physicians worldwide are joining in the fight to find a cure for paralysis;

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 2 through October 8, 1988, is designated as "National Paralysis Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 1596) was ordered to a third reading, was read the third time, and passed.

CREATION OF TWO DIVISIONS IN THE JUDICIAL DISTRICT OF MARYLAND

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1596, a bill to create two divisions in the judicial district of Maryland.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1596) to amend title XXVIII of the United States Code to create two divisions in the Judicial District of Maryland.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider the bill.

Mr. SARBANES. Mr. President, the Senate is today considering H.R. 1596 which would establish two divisions for the Federal judicial district of Maryland.

I support H.R. 1596 and urge the Senate to approve this important measure. This legislation would create a new southern division of the U.S. District Court for Maryland consisting of the counties of Montgomery, Prince Georges, Calvert, Charles, and St. Marys. It responds to the need for an additional division in Maryland to serve the growing population in this region and will provide better access to the Federal courts for the many citizens of Maryland who live and work in the Washington suburbs and southern Maryland.

H.R. 1596 was introduced by Congressman STENY HOYER and is based on the unanimous 1986 recommendations of the Maryland Bar Association's task force on the organization of the U.S. District Court for the District of Maryland. I want to particularly recognize and commend Congressman HOYER for his leadership and hard work on this important legislation.

Maryland is the only State within the fourth judicial circuit without either multiple divisions or districts. All other States in this circuit, some of which are smaller in population and more compact geographically than Maryland, have multiple divisions or districts. Every other State in the circuit has at least 2 divisions and 1 with a population smaller than Maryland has 11 divisions. The area that will be served by the new southern division is one of the fastest growing areas of Maryland and, as pointed out by the Bar Association task force, a substantial portion of legal business brought before the Federal court in Maryland originates in this region.

Mr. President, I commend the Senate for moving swiftly to pass this important legislation.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTIONS IN THE ENROLLMENT OF H.R. 1467, THE ENDANGERED SPECIES REAUTHORIZATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 373, a concurrent resolution making corrections in the enrollment of H.R. 1467, the endangered species reauthorization.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 373) correcting technical errors in the enrollment of the bill, H.R. 1467.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution (H. Con. Res. 373).

The concurrent resolution (H. Con. Res. 373) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REFERRAL OF S. 10, EMERGENCY MEDICAL SERVICES AND TRAUMA CARE IMPROVEMENT ACT

Mr. BYRD. Mr. President, I ask unanimous consent that Calendar No. 928, S. 10, relating to the Emergency Medical Services and Trauma Care Improvement Act, be referred to the Committee on Commerce, Science, and Transportation for a period not to extend past the close of business on Monday, October 3.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. BYRD. Mr. President, I inquire of the able Republican leader as to whether Calendar No. 990 and Calendar No. 991 have been cleared on his side of the aisle.

Mr. DOLE. Each has been cleared on this side of the aisle.

Mr. BYRD. I thank the Senator.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the foregoing calendar orders seriatim.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREST WILDFIRE EMERGENCY PAY EQUITY ACT

The Senate proceeded to consider the bill (S. 1911) to amend title 5, United States Code, to allow all forest firefighting employees to be paid overtime without limitation while serving on forest fire emergencies, which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

That this Act may be cited as the "Forest Wildfire Emergency Pay Equity Act of 1988".

SEC. 2. Section 5547 of title 5, United States Code, is amended to read as follows:

"§ 5547. Limitation on premium pay

"(a) An employee may be paid premium pay under sections 5542, 5545 (a), (b), and (c), and 5546 (a) and (b) of this title only to the extent that the payment does not cause his aggregate rate of pay for any pay period to exceed the maximum rate for GS-15. The first sentence of this subsection shall not apply to any employee of the Federal Aviation Administration or the Department of Defense who is paid premium pay under section 5546a of this title.

"(b)(1) The provisions of subsection (a) shall not apply to the pay of any forest firefighter for any pay period in which such firefighter is assigned to work on, or in support of, forest wildfire emergencies.

"(2) Notwithstanding the provisions of paragraph (1), no forest firefighter employee may be paid premium pay to the extent that the aggregate rate of pay of such employee for the aggregate of all pay periods in any calendar year exceeds the maximum rate for GS-15 as provided under the General Schedule pursuant to subchapter III of chapter 53 of title 5, United States Code.

"(3) For purposes of this subsection, the term—

"(A) 'forest firefighter' means any employee of the Department of Agriculture or the Department of the Interior who is assigned to work on, or in support of, forest wildfire emergencies; and

"(B) 'in support of' means duties performed during a temporary assignment to work on a wildland fire suppression for which the salary costs of employees shall be paid from funds provided to the Forest Service, Bureau of Land Management, National Park Service, United States Fish and Wildlife Service or the Bureau of Indian Affairs for fire fighting.".

Mr. PRYOR. Mr. President, today we are considering S. 1911, the Forest Wildfire Emergency Pay Equity Act of 1988. This bill ensures that Federal forest firefighters will receive full compensation for their overtime work.

Mr. President, before the enactment of the continuing resolution for fiscal year 1988, a firefighter's overtime pay was capped at the maximum rate payable to a GS-15 for any single pay period. Last year's continuing resolution lifted this cap for fiscal year 1988. S. 1911 will remove the cap permanently.

This bill will benefit the thousands of firefighters who have been battling the fires raging throughout the Western United States, including several hundred Arkansans. Arkansas has sent employees from the Ozark and Ouachita National Forests, the State forestry commission, and the National Parks Service to help combat the fires in Wyoming, Utah, Montana, and California.

These people are working hard to save hundreds of thousands of acres from being destroyed, in what has been called the worst fire season ever. They deserve to receive all that they earn in overtime pay. This bill very simply ensures that they will.

Mr. President, as the chairman of the Subcommittee on Federal Services, I had the responsibility of moving this bill through the Governmental Affairs Committee. I believe this bill takes good care of people who are performing a valuable service. I would ask unanimous consent that I be added as a cosponsor to S. 1911 at this point.

Mr. President, I urge my colleagues to add their support to S. 1911 and approve this legislation today.

Mr. DOMENICI. Mr. President, I rise today to support S. 1911, the Forest Wildlife Emergency Pay Equity Act of 1988. My good friend, the distinguished senior Senator from Oregon [Mr. HATFIELD], and I introduced this bill to provide full compensation to the men and women who are assigned to fight forest fires.

Until this year, a number of Federal employees battling forest fires worked long hours of overtime yet failed to be compensated for those hard and dangerous hours.

Although most firefighters do receive all the pay to which they are entitled, under current law, the total pay of certain firefighters in any 2-week period cannot exceed the GS-15 level.

These firefighters are those at the GS-7 level or higher who hold exempt status. They are covered by section 5547 of title 5 of the United States Code, which states that an exempt employee may receive overtime pay only to the extent that the payment does not cause his or her total pay for the pay period to exceed the maximum rate for the pay period for a GS-15.

Under this policy, the typical GS-11 fire supervisor, working a 16-hour shift, reaches the overtime limit in 10 days. Any hours that the firefighter works after that time are unpaid, and in effect are contributed by the firefighter to the Federal Government.

In 1986, firefighters from the Forest Service contributed 8,340 hours of uncompensated overtime—hours of work with a total value of $144,000. Last year, a year with an unusually high number of fires, Forest Service employees contributed 54,891 hours with a total value of $978,063. Firefighters from the Department of the Interior contributed an additional $320,000 in uncompensated overtime in 1987.

These Federal employees risked their lives, worked long, dangerous shifts, suffered the heat and smoke, and in the process quickly exceeded the maximum pay rate permitted under the law.

Applying standard work-week principles to emergency firefighting situations doesn't make sense. Firefighting is not a 9-to-5 job. It takes long hours of arduous and hazardous work to save our Nation's forests. The fires need to be fought, and personnel cannot leave the fire line beause we are concerned about how much money they are making.

Mr. President, we expect these people to spend long periods away from their families, enduring difficult living conditions, working in the heat and smoke, subjecting themselves to life-threatening hazards for 12 to 16 hours a day. Shall we also expect them to work for free?

So far this year, eight Federal forest firefighters have been killed in fire-related accidents. In 1987, one firefighter lost his life when a burning tree fell on him.

And, Mr. President, that accident occurred after that man had exceeded the overtime pay limit, so he was fighting the fire for free when he was killed.

This year, there have been almost 300 major wildland fires, which are grass, brush, or forest fires of 300 acres or more. More than 40,000 firefighters have been mobilized. At the peak of the fires, there were 30,000 Federal employees involved in the effort to extinguish these blazes. Because of the size, intensity, and duration of this year's fires, many of these firefighters worked 12- to 16-hour days for a month, with only an occasional rest day.

This problem was brought to my attention last year by Ron Bahm of Albuquerque, NM. Ron wrote to me and told me the situation that he experienced:

> I just returned from 3 weeks in California where I was helping on two of their forest fires as a Ground Support Unit Leader (in charge of all ground transportation). During the first 2 week pay priod I worked 111 hours of overtime and can only be paid for 68 hours. * * * What other agency or company expects their employees to work for

> nothing when there is a real need for their services?

Another firefighter said:

> So here I am, 500 miles from my family, sleeping in the dirt on my 40th birthday, catching poison oak and risking my life for 4 days for free. I believe that's wrong.

Mr. President, I, too, believe that is wrong. It is now time for us to correct this unfairness.

Last year, I sponsored an amendment to the continuing resolution that removed the pay cap for forest firefighters for 1 year.

It was fortunate that the pay cap was lifted for this year, as this year has seen some of the largest, longest-burning fires in memory. This summer, large uncontrolled forest fires burned across the Western United States. An estimated 1.6 million acres were burned in the Greater Yellowstone area alone.

Had the Congress failed to enact my amendment last year, there would be many firefighters who would have toiled to extinguish the Yellowstone fires and other blazes without adequate pay. Fortunately, all the Federal employees who joined in the effort to bring this year's cataclysmic fires under control will be fully paid for their work.

However, the pay cap suspension that I sponsored last year expires this week, on September 30. A 1-year extension has been approved, but we need to provide a permanent solution to this problem.

S. 1911 will remove the cap on a permanent basis. By lifting the GS-15 cap for an individual pay period, the bill simply ensures that employees of the Department of Agriculture or the Department of the Interior required to fight a forest fire will receive full compensation for the hours spent working on that blaze.

The firefighters will still be subject to a cap on the annual amount of overtime pay that they can receive as a result of fighting forest fires. The firefighters' total annual pay cannot exceed the GS-15 level. The annual cap means that, while for any pay period a firefighter may receive more than the maximum amount payable to a GS-15 for that pay period, the firefighter cannot receive annually more than is payable to a GS-15 annually. This annual pay limit, currently $72,000, is sufficient to ensure that no firefighters work without pay.

This is not an expensive measure. The Congressional Budget Office estimates that it will cost the Federal Government only $100,000 to $200,000 in most years. Of course, in very dry years, with intense forest fires, like this year, the cost will be more.

However, the cost of this bill is not the issue. It is a matter of equity. It is simply not fair to expect the men and women who place their lives on the line fighting forest fires to work for free. Federal firefighters who work overtime should be paid overtime.

Mr. President, this bill is very simple and very fair. I hope that the Senate will support this measure and rectify the unjust treatment of the Federal Government's firefighters.

Mr. HATFIELD. Mr. President, last year, this country experienced the worst loss of forest resources due to fire since 1910. Already, this year, more than twice the acreage lost last yeat has been destroyed by forest fires. As most of the fires were ignited by a quick strike of lightening, the force required to bring them under control required thousands of determined individuals risking their lives, fighting in the worst conditions, in hope of returning order to the once quiet forests.

In 1987, forest fires consumed the resources of over 1 million acres in the Western United States alone. This devastation was halted by the heroic actions of thousands of firefighters working day and night. Most of the fire locations are remote, the work is rigorous, and the fire fighters seldom are able to stray beyond the base camps. Once these Federal firefighters have reached their overtime pay limitation, their options are few, but to keep fighting the fire. Because of a limitation on overtime pay for Federal workers, more than 2,000 of those who battled fires in the United States were paid substantially less than their State and local coworkers. We have paid our debt poorly to some of these men and women. It is inexcusable that bureaucratic technicalities actually force some firefighters to work for free.

Last year, Senator DOMENICI and I included a provision on the continuing resolution to provide overtime pay for Federal firefighters working in emergency situations. However, the provision covered only the 1987 fire season. Legislation was necessary to correct the situation permanently. I am happy to see the passage of S. 1911, The Forest Wildfire Emergency Pay Equity Act, which will amend title 5 of the U.S. Code to correct this problem permanently.

Although we cannot predict the future budgetary impact of this legislation, we do know that it is relatively small compared to the grandeur of the services performed. In the long term, this may have a positive impact and contribute to greater effectiveness and efficiency by reducing the number of staff shifts due to "maxed-out" Federal firefighters. This bill affects a very small number of employees of the U.S. Departments of Agriculture and Interior and applies only to emergency wildfire situations.

Mr. President, I wish to thank Senator GLENN and Senator PRYOR for their assistance in moving this bill through the Governmental Affairs Committee and I look forward to seeing this bill become public law.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FORMATION OF NEGOTIATED RULEMAKING COMMITTEES

The Senate proceeded to consider the bill (S. 1504) to provide for an alternative to the present adversarial rulemaking procedure by establishing a process to facilitate the formation of negotiated rulemaking committees, which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

That this Act may be cited as the "Negotiated Rulemaking Act of 1988".

FINDINGS

SEC. 2. The Congress finds that—

(1) Government regulation has increased substantially since the enactment of the Administrative Procedure Act.

(2) Agencies currently use rulemaking procedures that may discourage the affected parties from meeting and communicating with each other, and may cause parties with different interests to assume conflicting and antagonistic positions and to engage in expensive and time consuming litigation over agency rules.

(3) Adversarial rulemaking deprives the affected parties and the public of the benefits of face-to-face negotiations and cooperation in developing and reaching agreement on a rule. It also deprives them of the benefits of shared information, knowledge, expertise, and technical abilities possessed by the affected parties.

(4) Negotiated rulemaking, in which the parties who will be significantly affected by a rule participate in the development of the rule, can provide significant advantages over adversarial rulemaking.

(5) Negotiated rulemaking can increase the acceptability and improve the substance of rules, making it less likely that the affected interests will resist enforcement or challenge such rules in court. It may also shorten the amount of time needed to issue final rules.

(6) Agencies have the authority to establish negotiated rulemaking committees under the laws establishing such agencies and their activities and under the Federal Advisory Committee Act (5 U.S.C. App. 2). Several agencies have successfully used negotiated rulemaking. The process has not been widely used by other agencies, however, in part because such agencies are unfamiliar with the process or uncertain as to the authority for such rulemaking.

PURPOSE

SEC. 3. The purpose of this Act is to establish a framework for the conduct of negotiated rulemaking, consistent with the Administrative Procedure Act, to encourage agen-

cies to use the process when it enhances the informal rulemaking process. Nothing in this Act should be construed as an attempt to limit innovation and experimentation with the negotiated rulemaking process or with other innovative rulemaking procedures otherwise authorized by law.

DEFINITIONS

SEC. 4. For the purpose of this Act the term—

(1) "agency" has the same meaning as in section 551(1) of title 5, United States Code;

(2) "consensus" means unanimous concurrence among the interests represented on a negotiated rulemaking committee under this Act, unless such committee—

(A) agrees to define such term to mean a general but not unanimous concurrence; or

(B) agrees upon another specified definition;

(3) "convenor" means a person who impartially assists an agency in determining whether establishment of a negotiated rulemaking committee is feasible and appropriate in a particular rulemaking;

(4) "facilitator" means a person who impartially aids in the discussions and negotiations among the members of a negotiated rulemaking committee to develop and negotiate a proposed rule;

(5) "interest" means, with respect to an issue or matter, multiple parties which have a similar point of view or which are likely to be affected in a similar manner;

(6) "party" has the same meaning as in section 551(3) of title 5, United States Code;

(7) "person" has the same meaning as in section 551(2) of title 5, United States Code;

(8) "negotiated rulemaking committee" or "committee" means an advisory committee established by an agency in accordance with this Act and the Federal Advisory Committee Act to consider and discuss issues for the purpose of reaching a consensus in the development of a proposed rule;

(9) "rule" has the same meaning as in section 551(4) of title 5, United States Code; and

(10) "rulemaking" has the same meaning as in section 551(5) of title 5, United States Code.

DETERMINATION OF NEED FOR NEGOTIATED RULEMAKING COMMITTEE

SEC. 5. (a) An agency may establish a negotiated rulemaking committee to develop and negotiate a proposed rule, if the head of the agency determines that the use of the negotiated rulemaking procedure is in the public interest. In making such a determination, the head of the agency shall consider whether—

(1) there is a need for a rule;

(2) there are a limited number of identifiable interests that will be significantly affected by the rule;

(3) there is a reasonable likelihood that a committee can be convened with a balanced representation of persons who—

(A) can adequately represent the interests identified under paragraph (2); and

(B) are willing to negotiate in good faith to reach a consensus on the proposed rule;

(4) there is a reasonable likelihood that a committee will reach a consensus on the proposed rule within a fixed period of time;

(5) the negotiated rulemaking procedure will not unreasonably delay the notice of proposed rulemaking and the issuance of the final rule;

(6) the agency has adequate resources and is willing to commit such resources, including technical assistance, to the committee; and

(7) the agency, to the maximum extent possible consistent with the legal obligations of the agency, will use the consensus of the committee with respect to the proposed rule as the basis for the rule proposed by the agency for notice and comment.

(b)(1) An agency may use the services of a convenor to assist the agency in—

(A) identifying persons that will be significantly affected by a proposed rule; and

(B) conducting discussions with such persons to identify the issues of concern to such persons, and to ascertain whether the establishment of a negotiated rulemaking committee is feasible and appropriate in the particular rulemaking.

(2) The convenor shall report findings and may make recommendations to the agency. Upon request of the agency, the convenor shall ascertain the names of persons who are willing and qualified to represent interests that will be significantly affected by the proposed rule. The report of the convenor and any recommendations shall be made available to the public upon request.

PUBLICATION OF NOTICE

SEC. 6. (a) If, after considering a report of a convenor or conducting an assessment, an agency decides to establish a negotiated rulemaking committee, the agency shall publish in the Federal Register a notice which shall include—

(1) an announcement that the agency intends to establish a negotiated rulemaking committee to develop and negotiate a proposed rule;

(2) a description of the subject and scope of the rule to be developed, and the issues to be considered;

(3) a list of interests which are likely to be significantly affected by the rule;

(4) a list of the persons proposed to represent such interests and the person or persons proposed to represent the agency;

(5) a proposed agenda and schedule for completing the work of the committee, including a target date for publication by the agency of a proposed rule for notice and comment;

(6) a description of administrative support for the committee to be provided by the agency, including technical assistance; and

(7) a solicitation for comments on the proposal to establish the committee, and the proposed membership of the negotiated rulemaking committee.

(b) Persons who will be significantly affected by a proposed rule and who believe that their interests will not be adequately represented by any person specified in a notice under subsection (a)(4) may apply for, or nominate another person for, membership on the negotiated rulemaking committee to represent such interests with respect to the proposed rule. Each application or nomination shall include—

(1) the name of the applicant or nominee and a description of the interests such person shall represent;

(2) evidence that the applicant or nominee is authorized to represent parties related to the interests the person proposes to represent;

(3) a written commitment that the applicant or nominee shall actively participate in good faith in the development of the rule under consideration; and

(4) the reasons that the persons specified in the notice under subsection (a)(4) do not adequately represent the interests of the person submitting the application or nomination.

ESTABLISHMENT OF NEGOTIATED RULEMAKING COMMITTEES

SEC. 7. (a) The agency shall provide for a period of at least 30 calendar days for the submission of comments and applications under section 6.

(b)(1) If after considering comments and applications submitted under section 6, the agency determines that a negotiated rulemaking committee can adequately represent the interests that will be significantly affected by a proposed rule and that it is feasible and appropriate in the particular rulemaking, the agency may establish a negotiated rulemaking committee as an advisory committee pursuant to section 9 of the Federal Advisory Committee Act.

(2) If the agency decides not to establish a committee after considering such comments and applications, the agency shall promptly publish notice of such decision and the reasons therefor in the Federal Register.

(c) The agency shall limit membership on a negotiated rulemaking committee to 25 members, unless the agency head determines that a greater number of members is necessary for the functioning of the committee or to achieve balanced membership. Each committee shall include at least one individual representing the agency.

(d) The agency shall provide appropriate administrative support to the negotiated rulemaking committee, including technical assistance.

CONSIDERATION OF PROPOSALS AND CONDUCT OF NEGOTIATIONS

SEC. 8. (a) Each negotiated rulemaking committee established under this Act shall consider the matter proposed by the agency for consideration and shall attempt to reach a consensus concerning a proposed rule with respect to such matter and any other matter the committee agrees is relevant to the proposed rule.

(b) The person or persons representing the agency on a negotiated rulemaking committee shall participate in the deliberations and activities of such committee with the same rights and responsibilities as other members of such committee, and shall be authorized to fully represent the agency in the discussions and negotiations of the committee.

(c)(1) Notwithstanding section 10(e) of the Federal Advisory Committee Act (5 U.S.C. App. 2), an agency may nominate either a person from the Federal Government or a person from outside the Federal Government to serve as a facilitator for the negotiations of the committee, subject to the approval by consensus of the committee. If the committee does not approve the nominee of the agency for facilitator, the agency shall submit a substitute nomination. If a committee does not approve any nominee of the agency for facilitator, the committee shall select by consensus a person to serve as facilitator. A person designated to represent the agency in substantive issues may not serve as facilitator or chair the committee.

(d) A facilitator approved or selected by a negotiated rulemaking committee shall—

(1) chair the meetings of the committee in an impartial manner;

(2) impartially assist the members of the committee in conducting discussions and negotiations; and

(3) manage the keeping of minutes and records as required under section 10 (b) and (c) of the Federal Advisory Committee Act (5 U.S.C. App. 2), except that any personal notes and materials of the facilitator or of the members of a committee shall not be subject to section 552 of title 5, United States Code.

(e) A negotiated rulemaking committee established under this Act may adopt procedures for the operation of the committee. No

provision of section 553 of title 5, United States Code, shall be applicable to the procedures of a committee.

(f) If a committee reaches a consensus on a proposed rule, at the conclusion of negotiations the committee shall transmit to the agency that established the committee a report containing the proposed rule. If the committee does not reach a consensus on a proposed rule, such committee shall transmit to the agency a report specifying any areas in which the committee reached a consensus. The committee may include in a report any other information, recommendations, or materials that the committee considers appropriate. Any committee member may include as an addendum to the report additional information, recommendations, or materials.

(g) In addition to the report specified by subsection (f), a committee shall submit to the agency the records required under section 10 (b) and (c) of the Federal Advisory Committee Act (5 U.S.C. App. 2).

TERMINATION OF COMMITTEES

SEC. 9. A negotiated rulemaking committee shall terminate upon promulgation of the final rule under consideration, unless the committee's charter contains an earlier termination date or the agency, after consulting the committee, or the committee itself specifies an alternate termination date.

EMPLOYMENT OF CONVENORS AND FACILITATORS

SEC. 10. (a)(1) An agency may employ or enter into contracts for the services of an individual or organization to serve as a convenor or facilitator for a committee under this Act, or may use the services of a government employee to act as a convenor or a facilitator for a committee.

(2) An agency shall determine whether a person under consideration to serve as a convenor or facilitator of a committee under paragraph (1) has any financial or other interest that would preclude such person from serving in an impartial and independent manner.

(b) For purposes of this Act, an agency may use the services and facilities of other Federal agencies and public and private agencies and instrumentalities with the consent of such agencies and instrumentalities, and with or without reimbursement to such agencies, and may accept voluntary and uncompensated services without regard to the provisions of section 1342 of title 31, United States Code.

COMPLIANCE WITH FEDERAL ADVISORY COMMITTEE ACT

SEC. 11. (a) Each agency establishing a negotiated rulemaking committee under this Act shall comply with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2) with respect to such committee, except—

(1) that meetings of individuals for the purpose of considering and advising an agency on the feasibility of establishing a negotiated rulemaking committee shall not be subject to the requirement to charter an advisory committee under section 9(c) of the Federal Advisory Committee Act (5 U.S.C. App. 2); or

(2) as otherwise provided by the provisions of this Act.

(b) Meetings of subgroups or caucuses of a negotiated rulemaking committee may be in closed session for the purpose of determining negotiating positions, alternative proposals, or other items, for presentation to the full committee in open session.

(c) Members of a negotiated rulemaking committee shall be responsible for their own expenses of participation in such committee, except that an agency may, under section 7(d) of the Federal Advisory Committee Act (5 U.S.C. App. 2), pay for a member's reasonable travel and per diem expenses, expenses to obtain technical assistance, and a reasonable rate of compensation, if—

(1) such member certifies a lack of adequate financial resources to participate in the committee; and

(2) the agency determines that such member's participation on the committee is necessary to assure an adequate representation of the member's interest.

(d) A member's receipt of funds under this section or section 12 shall not conclusively determine for purposes of sections 202 through 209 of title 18, United States Code, whether that member is an employee of the United States Government.

ROLE OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

SEC. 12. (a) An agency may consult with the Administrative Conference of the United States or other public or private individuals or organizations for information and assistance in forming a negotiated rulemaking committee and conducting negotiations on a proposed rule.

(b) The Administrative Conference of the United States, in consultation with the Federal Mediation and Conciliation Service, shall maintain a roster of individuals who have acted as or are interested in serving as convenors or facilitators in negotiated rulemaking proceedings. The roster shall include individuals from both government agencies and private groups, and shall be made available upon request. Agencies may also use rosters maintained by other public or private individuals or organizations.

(c)(1) The Administrative Conference of the United States is authorized to—

(A) enter into contracts for the services of convenors and facilitators which may be used by government agencies, on an elective basis, in negotiated rulemaking proceedings; and

(B) develop procedures which permit agencies to obtain the services of such convenors and facilitators on an expedited basis.

(2) Payment for convenor or facilitator services shall be made by the agency using the services, unless the Chairman of the Administrative Conference agrees to pay for such services under subsection (f).

(d)(1) The Administrative Conference of the United States shall compile and maintain data related to negotiated rulemaking and shall act as a clearinghouse to assist agencies and parties in participating in negotiated rulemaking procedures.

(2) Each agency engaged in negotiated rulemaking shall provide to the Administrative Conference of the United States a copy of any reports submitted to the agency by negotiated rulemaking committees under section 8 and such additional information as necessary to enable the Administrative Conference of the United States to comply with this subsection.

(3) The Administrative Conference of the United States shall review and analyze the reports and information received under this subsection and shall transmit a biennial report to the Governmental Affairs Committee of the Senate and the appropriate committees of the House of Representatives that—

(A) provides recommendations for effective agency use of negotiated rulemaking; and

(B) describes the nature and amounts of expenditures made by the Administrative Conference of the United States to accomplish the purposes of this Act.

(e) The Administrative Conference of the United States is authorized to provide training in negotiated rulemaking techniques and procedures for Federal personnel either on a reimbursable or nonreimbursable basis. Such training may be extended to private individuals on a reimbursable basis.

(f) The Chairman of the Administrative Conference of the United States is authorized to pay, upon request of an agency head, all or part of the expenses of convening a committee and conducting a negotiated rulemaking. Such expenses may include, but are not limited to—

(1) the costs of convenors and facilitators;

(2) certain costs of committee members determined by the agency to be eligible for assistance under section 11(c); and

(3) training costs.

The determinations with respect to payments under this section shall be at the discretion of such Chairman in furthering the use of negotiated rulemaking by Federal agencies. The Administrative Conference of the United States may apply funds received under section 575(c)(12) of title 5, United States Code, to carry out the purposes of this Act.

JUDICIAL REVIEW

SEC. 13. Any agency action relating to convening, assisting, or terminating a negotiated rulemaking committee under this Act shall not be subject to judicial review. Nothing in this section shall bar judicial review of a rule which is otherwise provided by law.

AUTHORIZATION OF APPROPRIATIONS

SEC. 14. To carry out this Act, there are authorized to be appropriated to the Administrative Conference of the United States not in excess of $500,000 for each of the fiscal years 1989, 1990, and 1991.

SUNSET PROVISION

SEC. 15. This Act shall cease to be effective 6 years after the date of its enactment, except that this Act shall continue in effect with respect to then pending negotiated rulemaking proceedings which, in the judgment of the agencies which are convening or have convened such proceedings, require such continuation until such negotiated rulemakings terminate pursuant to this Act.

Amend the title so as to read: "A bill to provide an alternative to adversarial rulemaking by facilitating the appropriate use of negotiated rulemaking committees.".

Mr. LEVIN. Mr. President, the matter now before the Senate is S. 1504, the Negotiated Rulemaking Act of 1988. S. 1504 is a bill which I introduced last year and which is cosponsored by my colleagues, Senators COHEN, GRASSLEY, RIEGLE, and DECONCINI. The bill has been reported by the Governmental Affairs Committee, under the chairmanship of Senator JOHN GLENN, and I want to thank him for his assistance and support.

REG NEG WORKS

Today, more than 100 Federal agencies issue regulations on all aspects of American life. The Federal Register publishes over 5,000 regulatory documents each year. Given the breadth and impact of these administrative rules, it is crucial that the Federal regulatory process be made as efficient and effective as possible.

S. 1504's purpose is to improve the Federal regulatory process by encouraging agencies to use negotiated rulemaking where appropriate. Negotiated rulemaking is a process which uses negotiation to develop Federal regulations. The basic approach is straightforward. An agency that has decided to develop or revise a Federal regulation can invite those who will be affected by this action to join the agency in forming an ad hoc committee to devise a mutually acceptable draft regulation. If the affected parties agree to participate and the committee is able to reach a consensus, the committee presents a draft regulation to the agency. The agency reviews the draft, makes any needed adjustments, and then publishes it in the Federal Register as a proposed rule for public notice and comment under existing rulemaking procedures.

This process, called reg neg by veteran users, has been around for some time. The Senate first held joint hearings on the matter in 1980, and several bills were introduced to encourage agencies to try the process. Congress responded then with caution, reasoning that the process was too new and untried to warrant legislation. The suggestion was to let agencies try the process on their own, to experiment with it, and to develop a track record which Congress could then evaluate.

Eight years later we have that track record. A number of agencies, including the Environmental Protection Agency, the Labor Department, and the Transportation Department, have used negotiated rulemaking to develop regulations on such varied issues as wood burning stoves, pesticides, MDA exposure limits, and working hours for airline pilots. Numerous parties have participated in the process—industry, labor, environmental groups, consumers, and others. These parties and agencies have worked together not only to develop the regulations in question, but also to learn when negotiated rulemaking should be used and how it works best.

In a May hearing before the Governmental Affairs Committee, testimony was provided about the Government's negotiated rulemaking experiences to date. The committee heard from agencies, rulemaking participants, mediators and scholars. The witnesses agreed, without exception, that negotiated rulemaking has proven itself to be not only viable, but a very effective process when properly employed. Praise for the process included statements that, when used in the proper circumstances, negotiated rulemaking resulted in agency rules that were more effective, less costly, fairer in impact, quicker in achieving final status, and less subject to challenge in court. That's quite a track record.

And word is getting around in Congress. Provisions are beginning to appear on an ad hoc basis in various bills directing agencies to use reg neg procedures when developing regulations in certain areas. Two examples are H.R. 5, the Elementary and Secondary School Improvement Act, now Public Law 100-297, which directs the Education Secretary to use reg neg to develop regulations required by the act; and H.R. 1414, the Price-Anderson Amendments Act, which has passed both Houses and which directs the Nuclear Regulatory Commission to use reg neg to resolve certain indemnification issues involving radiopharmaceuticals.

WHY A STATUTE IS NEEDED

Some may wonder, if agencies are already successfully using reg neg and Congress is already incorporating it into legislation, why a statute is needed at all. There are a number of compelling reasons. First, some agencies have decided, despite what other agencies are doing, that they lack the authority to try negotiated rulemaking. A statute is needed to remove any doubt about these agencies' authority to use the process and to serve as Congress' endorsement of negotiated rulemaking activities.

Second, agencies which have never tried reg neg need guidance on how to proceed. It is not obvious, for example, how any agency should conduct a negotiated rulemaking so that it is consistent with other laws governing Federal administrative practice, such as the Administrative Procedure Act and the Federal Advisory Committee Act. Deciding whom to include on a rulemaking committee, how to handle requests for additional members, how to notify the public of the committee's existence and activities, and other procedural issues are equally difficult. Agencies without reg neg experience currently face a daunting task in designing their first project—they must individually search the literature, locate the experts, identify the issues, and develop their own reg neg program. A statute is needed to ease the initial learning curve and the procedural complexities by gathering key information in one place, resolving the major procedural issues in ways proven effective, and providing specific means to obtain additional expert advice. Legislation that takes these steps will make it easier for agencies to try reg neg for the first time and make it more likely that they will do so.

A third reason for enacting a statute is that even experienced agencies would benefit from a document which collects the wisdom of reg neg experts and presents general rules on how to conduct a negotiated rulemaking fairly and effectively. For example, while most agencies recognize that their rulemaking committees must comply with the Federal Advisory Committee Act, they may not realize that such compliance means their committees should represent all the interests that will be significantly affected by the regulation under consideration. There are also, for example, committee termination rules that are appropriate for reg neg committees but not other advisory committees, and those rules should be articulated and made applicable. A reg neg statute which spells out the most appropriate ways to establish, operate and terminate rulemaking committees is needed to ensure that agencies handle the key matters uniformly in the most fair and effective ways yet devised.

Finally, given that Congress is beginning to employ reg neg in legislation, a statute reflecting the collected wisdom on how best to use this process is needed to serve as a common reference.

S. 1504 BALANCES FLEXIBILITY WITH EXPERT GUIDANCE

Negotiated rulemaking, in essence, consists of people voluntarily meeting together to hammer out their differences on a Federal regulation. It is a rulemaking process whose hallmark has been an ability to respond with flexibility to the dynamics of the people involved and the regulation under consideration in each situation. To bind the process too tightly, with too many procedural rules, would be to destroy its best features. That means that any statute establishing a framework for negotiated rulemaking must walk a fine line, providing needed guidance to agencies while avoiding inflexible provisions and unnecessary redtape.

S. 1504 was designed to balance those concerns. It provides a framework of general rules for conducting a negotiated rulemaking and establishes mechanisms for agencies to obtain expert advice on particular points. It does not impose a set of rigid and detailed procedural requirements, nor does it prohibit further experimentation with the process. The bill has undergone many refinements over the years from the time its predecessors were introduced in 1980. S. 1504 itself has undergone intense scrutiny by the reg neg community which, during and after the May hearing before the Governmental Affairs Committee, offered detailed suggestions for further improvements.

A committee substitute has been developed which incorporates the suggestions offered to refine S. 1504 as introduced. It is this substitute that we will be offering today, and I ask unanimous consent that its text be printed in full after my remarks. The committee substitute enjoys the general approval of the reg neg community, because it strikes the necessary balance between providing guidance and flexibility.

Here are some of the highlights of S. 1504 as amended by the committee substitute. First, the bill makes it clear that negotiated rulemaking is a voluntary process. No agency is forced to use it in any particular circumstances; no person who would be affected by a rule is required to participate on a rulemaking committee. The bill thus preserves reg neg's consensual nature.

Second, the bill provides guidance on when to use the negotiated rulemaking process. For example, an agency which is deciding whether to use reg neg in a particular setting is required to consider certain specific factors, such as whether there is a limited number of readily identifiable interests, whether a consensus is likely to be reached, and whether the agency is willing to consider using the consensus position as the basis for a proposed agency rule. Experience has shown that careful analysis of when to use the process is vital to the success of a negotiated rulemaking, and the bill provides tested standards and procedures for making that decision. The bill also requires agencies to publish plans to use reg neg in the Federal Register and to solicit public comments on their proposal and on the proposed membership of a rulemaking committee. It is only after these comments are reviewed that the agency may make the decision on whether to use reg neg. The bill also authorizes an agency to hire a convenor, with expertise in evaluating rulemaking situations, to determine whether reg neg would work.

If an agency decides it wants to use reg neg, the bill provides basic procedures on how to establish, operate and terminate a rulemaking committee. The bill explains, for example, how to form a rulemaking committee in compliance with the Federal Advisory Committee Act, how to determine reimbursement of committee expenses, and how to use negotiated rulemaking in a manner that is consistent with the Administrative Procedure Act's requirements for informal rulemaking. The bill explicitly authorizes agencies to hire facilitators to help rulemaking committees conduct their deliberations and keep required records. At the conclusion of a committee's work, the bill requires a written report to the agency on any areas in which consensus was reached.

Fourth, the bill contains a number of provisions to make reg neg expertise accessible to agencies. For example, it explicitly authorizes agencies to consult with convenors to determine whether reg neg will work in a particular setting and facilitators to help conduct committee business. The bill also assigns the Administrative Conference of the United States the responsibility to act as a clearinghouse for information and assistance on reg neg issues, to develop reg neg training courses, and to maintain rosters of available convenors and facilitators.

Fifth, the bill authorizes agencies to pay for the expenses of committee members who would be otherwise financially unable to participate in a proposed negotiated rulemaking. Many reg negs require the participation of public interest groups with limited funds. By targeting agency funds to such committee members, the bill seeks to ensure that agencies are able to conduct rulemakings which require the participation of representatives with limited financial resources. The bill also authorizes the administrative conference to provide funds to agencies to pay for such committee members. This provision is designed not only to encourage agencies to try the process for the first time, but also to encourage them to try reg neg in novel areas, where an agency with limited resources might be otherwise reluctant to experiment.

Sixth, the bill resolves issues involving the proper role of Federal courts in the negotiated rulemaking process. In essence, the bill precludes judicial review of agency actions taken to convene, administer or terminate rulemaking committees, while permitting judicial review otherwise authorized by law of any resulting agency rules. That means, for example, that persons cannot sue to stop agencies from using reg neg, but can challenge any resulting regulations. The purpose of this provision is to allow agencies to use negotiated rulemaking without the delays and procedural problems that might arise if judicial review of intermediate agency actions were available, while also continuing the tradition in Federal administrative law of permitting judicial review of agency rules at the time those rules are promulgated.

Finally, the bill authorizes the appropriation of $500,000 annually for expenses incurred by the Administrative Conference in serving as a reg neg clearinghouse. The bill also contains a sunset provision to ensure a comprehensive review after 6 years.

CONCLUSION

The potential benefits of the negotiated rulemaking process are clear. Instead of affected parties spending their time and resources litigating a regulation drafted and imposed by an agency, the affected parties and the agency spend their time and energies constructively developing a proposed rule together. The potential result is not only a rule which will become effective in less time, but also a rule which will be better substantively, since it will reflect the involvement of all the interests who will be significantly affected by it.

Eight years ago, there was insufficient evidence that the potential benefits of negotiated rulemaking would actually accrue. Now, we have a track record of success. Congress needs to extend that record of success by encouraging more agencies to try negotiated rulemaking under procedures which will guide but not inhibit the process. S. 1504 will accomplish that goal. I ask my colleagues to demonstrate their approval of negotiated rulemaking by voting today in favor of S. 1504, as amended.

I yield to the Senator from Iowa.

Mr. GRASSLEY. Mr. President, I want to commend the Senator from Michigan for his tireless and skillful efforts to promote regulatory negotiations in our Federal agencies.

Rulemaking is one of the most basic functions performed by Federal agencies. Since the passage of the Administrative Procedure Act in 1946, agency rulemaking has changed dramatically. Today, rulemaking is highly formalized, and tends to mimic the courts with its trial-like procedures to resolve disputes.

These formal procedures provide some safeguards against arbitrary agency actions, but they do it at great cost. Today's rulemaking process too often encourages interested parties to dig in and take some extreme positions. The agency's proceedings are delayed by this adversarial relationship. Ultimately, the losing party seeks resort in the Federal courts, causing further delay. As a result, important congressional and public policies are frustrated.

Regulatory negotiations, or reg neg, is one of a number of alternative dispute resolution initiatives we should promote. That is why I am pleased to be a cosponsor of the Negotiated Rulemaking Act.

The reg neg process allows agencies to organize negotiations, identify and bring together representatives of affected interests to negotiate the text of proposed rules. The goal of the negotiation is to reach a consensus on at least the major provisions of the proposed regulation. Reg neg offers the promise of a better reasoned rulemaking, without resort to costly, and time consuming, litigation challenging the final product.

As the Senator from Michigan knows, I am very interested in encouraging agencies to seek out all types of alternative dispute resolution. Earlier this year, I introduced S. 2274, the Administrative Dispute Resolution Act of 1988, which would assist the development of prompt, informal, inexpensive and more satisfying resolution of administrative disputes involving Federal agencies.

Hearing on my bill were held in both the Senate and House Judiciary Committees, with virtually all witnesses in support of the act's goals and method. After long discussion, the administration has indicated it can support the bill, with some modest changes.

Also significant is the strong resolution of support for agency alternative dispute resolution, just adopted by the American Bar Association at their annual meeting in August. Mr. President, I ask unanimous consent that the text of the ABA resolution be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REPORT 103A

Be it resolved, That the American Bar Association supports the increased use of the alternative means of dispute resolution by Federal administrative agencies consistent with the following:

A. GENERAL

1. Administrative agencies should adopt alternative methods of dispute resolution for resolving a broad range of issues. These techniques include arbitration, factfinding, minitrials, and mediation,. The issues for which they may be employed include matters that arise in formal or informal adjudication, in rulemaking, in issuing or revoking permits, and in settling disputes, including litigation brought by or against the government.

2. Congress and the courts should not inhibit agency uses of the ADR techniques by requiring formality where it is appropriate.

B. VOLUNTARY ARBITRATION

3. Congress should act to permit executive branch officials to agree to binding arbitration to resolve controversies. This legislation should authorize any executive official who has authority to settle a matter on behalf of the government to agree to arbitration, either prior to the time a dispute may arise or after a controversy has matured, subject to whatever may be the statutory authority of the Comptroller General to determine whether payment of public funds is warranted by applicable law and available appropriations.

4. Congress should authorize agencies to adopt arbitration procedures to resolve matters that would otherwise be decided by the agency pursuant to the Administrative Procedure Act ("APA") or other formal procedures. These procedures should provide that:

(a) All parties to the dispute must knowingly consent to use the arbitration procedures, either before or after a dispute has arisen.

(b) The parties have some role in the selection of arbitrators, whether by actual selection, by ranking those on a list of qualified arbitrators, or by striking individuals from such a list.

(c) Arbitrators need not be permanent government employees, but may be individuals retained by the parties or the government for the purpose of arbitrating the matter.

(d) Agency review of the arbitral award be pursuant to the standards for vacating awards under the U.S. Arbitration Act, 9 U.S.C. §10, unless the award does not become an agency order or the agency does not have any right of review.

(e) The award includes a brief, informal discussion of its factual and legal basis, but neither formal findings of fact nor conclusions of law.

(f) Any judicial review is pursuant to the limited scope-of-review provisions of the U.S. Arbitration Act, rather than the broader standards of the APA.

(g) The arbitral award is enforced pursuant to the U.S. Arbitration Act but is without precedential effect for any purpose.

5. Factors bearing on agency use of arbitration are:

(a) Arbitration is likely to be appropriate where—

(1) The benefits that are likely to be gained from such a proceeding outweigh the probable delay or costs required by a full trial-type hearing.

(2) The norms which will be used to resolve the issues raised have already been established by statute, precedent, or rule, or the parties explicitly desire the arbitrator to make a decision based on some general standard, such as "justice under the circumstances," without regard to a prevailing norm.

(3) Having a decisionmaker with technical expertise would facilitate the resolution of the matter.

(4) The parties desire privacy, and agency records subject to disclosure under the Freedom of Information Act are not involved.

(b) Arbitration is likely to be inappropriate where—

(1) A definitive or authoritative resolution of the matter is required or desired for its precedential value.

(2) Maintaining established norms or policies is of special importance.

(3) The case significantly affects persons who are not parties to the proceeding.

(4) A full public record of the proceeding is important.

(5) The case involves significant decisions as the government policy.

C. MANDATORY ARBITRATION

6. Arbitration is not in all instances an adequate substitute for a trial-type hearing pursuant to the APA or for civil litigation. Hence, Congress should consider mandatory arbitration only where the advantages of such a proceeding are clearly outweighed by the need to (a) save the time or transaction costs involved or (b) have a technical expert resolve the issues.

7. Mandatory arbitration is likely to be appropriate only where the matters to be resolved—

(a) Are not intended to have precedential effect other than the resolution of the specific dispute, except that the awards may be published or indexed as informal guidance;

(b) May be resolved through reference to an ascertainable norm such as statute, rule or custom;

(c) Involve disputes between private parties; and

(d) Do not involve the establishment or implementation of major new policies or precedents.

8. Where Congress mandates arbitration as the exclusive means to resolve a dispute, it should provide the same procedures as in Paragraph 4 (b)-(g) above, except that judicial review should be pursuant to the Administrative Procedure Act, but with the courts' bearing in mind the purposes to be gained by arbitration.

Mr. LEVIN. Mr. President, I thank the Senator from Iowa for his support and commend him for his efforts to promote alternative dispute resolution. At first glance, the Administrative Dispute Resolution Act appears to be a comprehensive and creative approach to settling disputes brought by or against the Federal Government.

Unfortunately, the press of business did not permit the Government Affairs Subcommittee on Oversight of Government Management, which I chair, to carefully consider the bill this year. But I know of your strong interest, and can confidently pledge that we will take up this initiative at the first available time in the 101st Congress.

Mr. GRASSLEY. I appreciate the Senator's support and welcome his commitment to make agencywide alternative dispute resolution a priority item in his committee early in the next Congress.

Mr. GLENN. Mr. President, the Committee on Governmental Affairs recommends Senate passage of the Negotiated Rulemaking Act of 1988, a bill to facilitate the use of negotiated rulemaking committees. This bill represents the excellent work of Senator LEVIN of our committee. He has long advocated negotiated rulemaking as an alternative to the adversarial process that, at present, characterizes much of agency rulemaking. I commend him for his sustained support for this vital issue of good governance.

Negotiated rulemaking, sometimes called regulatory negotiation or reg neg, is a process by which an agency develops a rule through convening a committee comprised of representatives of the affected interests. These representatives sit down together and make a commitment to find areas of agreement. In this way, regulations can be fashioned which are less susceptible to challenge because the affected parties have participated in their development and have a stake in their success.

This approach presents an alternative to the conventional rulemaking procedure which, under some circumstances, may encourage the affected groups, as well as the involved agency, to adopt extreme positions and adversarial relationships. Thus, where it is better suited than conventional rulemaking, negotiated rulemaking holds out the promise that excessive litigation and its attendant administrative and social costs can be reduced. The Negotiated Rulemaking Act of 1988 develops a basic framework for implementation of negotiated rulemaking in line with the strictures of the Federal Advisory Committee Act [FACA] and facilitates agency use of the procedure.

The full Governmental Affairs Committee held a hearing earlier this year on the Negotiated Rulemaking Act of 1988. At that time, we heard the comments of administration, nonprofit, and other private sector witnesses. Their input was incorporated into the act which is in front of the Senate today.

Again, I strongly urge my colleagues to support the Negotiated Rulemaking Act of 1988. It presents a considered and effective alternative to the litigable and contentious rulemaking which unfortunately characterizes too much of our regulatory agencies' work.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I inquire of the able Republican leader as to whether or not the nominations on the Executive Calendar under "New Reports" on page 5, continuing through pages 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17—those on pages 16 and 17 being "Nominations Placed on the Secretary's Desk" in the Air Force, Army, Foreign Service, Marine Corps, Navy—have been cleared on his side.

Mr. DOLE. All those, with two exceptions on page 17, Foreign Service nominations beginning Shirley Elizabeth Barnes, and Foreign Service nominations beginning Everett Ellis Briggs.

Mr. BYRD. Mr. President, with those two exceptions, I ask unanimous consent that the Senate go into executive session to consider the aforementioned nominations, that they be considered en bloc, confirmed en bloc, the motion to reconsider en bloc be laid on the table, the President be immediately notified of the confirmation of the nominations, and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to the consideration of executive business.

The nominations considered and confirmed en bloc are as follows:

[NEW REPORTS]

FEDERAL AGRICULTURAL MORTGAGE CORPORTION

The following-named person to be a Member of the Board of Directors of the Federal Agricultural Mortage Corporation:

John R. Dahl, of North Dakota. (New position)

The following-named person to be a Member of the Board of Directors of the Federal Agricultural Mortage Corporation:

Derryl McLaren, of Iowa. (New position)

The following-named person to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation:

Gordon Clyde Southern, of Missouri. (New position)

The following-named person to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corportion:

Edward Charles Williamson, Jr., of Georgia (New position.)

Department of Defense

Milton L. Lohr, of California, to be Deputy Under Secretary of Defense for Acquisition (New position.)

Air Force

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Leonard H. Perroots [redacted]FR, U.S. Air Force.

The following-named officer, under the provisions of Title 10, United States Code, Section 601, to be assigned to a position of importance and responsbility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Charles McCausland. [redacted]FR, U.S. Air Force.

The following-named officer, under the provisions of title 10, United States Code. section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Robert P. McCoy, [redacted]FR, U.S. Air Force.

The following-named officer, under the provisions of Title 10, United States Code, section 601, to be assigned to a position of importance and responsbility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Hansford T. Johnson. [redacted]FR, U.S. Air Force.

IN THE ARMY

The following-named officer for appointment in the Regular Army of the United States to the grade indicated, under the provisions of title 10, United States Code, section 611(a) and 624:

To be permanent brigadier general

Col. Robert Everett Via, Jr. [redacted], U.S. Army.

The U.S. Army National Guard officers named herein for appointment in the grades indicated below, under the provisions of Title 10, United States Code, sections 593(a), 3385 and 3392:

MAJOR GENERAL OF THE LINE

Brig. Gen. Robert H. Appleby, [redacted]

MAJOR GENERAL. ADJUTANT GENERALS CORPS

Brig. Gen. Robert C. Thrasher, [redacted]
Brig. Gen. Julius L. Berthold, [redacted].
Brig. Gen. Larry E. Lee, [redacted].
Brig. Gen. Donald W. Lynn, [redacted].
Brig. Gen. Robert W. Wilson, [redacted].
Col. Charles R. Adams, [redacted].
Col. Shelby K. Brantley, [redacted].
Col. Jerry N. Gurley, [redacted].
Col. Stanley J. Haransky, [redacted].
Col. Paul W. Husby, [redacted].
Col. Nathaniel James, [redacted].
Col. Vito Morgano, [redacted].
Col. James M. Morris, [redacted].
Col. Nathaniel H. Robb, [redacted].
Col. Robert R. Rose, [redacted].
Col. Michael W. Ryan, [redacted].

FOR CERTIFICATE OF ELIGIBILITY—BRIGADIER GENERAL OF THE LINE

Col. Benny P. Anderson, [redacted].
Col. Richard G. Capps, [redacted].
Col. Arvid Flanum, [redacted].
Col. Rodney R. Hannula, [redacted].
Col. Willie F. Jones, [redacted].
Col. David H. McNinch, [redacted].
Col. Louis C. Michaud, [redacted].
Col. William E. Murphy, [redacted].
Col. Gary J. Tellier, [redacted].
Col. Harold M. Thompson, [redacted].

BRIGADIER GENERAL, ADJUTANT GENERALS CORPS

Col. Thomas B. Baker, [redacted].
Col. James R. Daniel, [redacted].
Col. Arthur J. Farmer, [redacted].
Col. James H. Malloy, [redacted].
Col. Carroll Thackston, [redacted].

The U.S. Army National Guard officer named herein for appointment in the grade indicated below under the provisions of Title 10, United States Code, sections 593(a), 3385 and 3392:

FOR CERTIFICATE OF ELIGIBILITY—BRIGADIER GENERAL OF THE LINE

Col. James C. Rinaman, Jr., [redacted].

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with assignment to a position of importance and responsibility designated by the President under title 10, United States Code, section 601(a):

To be general

Lt. Gen. H. Norman Schwarzkopf, [redacted] U.S. Army.

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with assignment to a position of importance and responsibility designated by the President under title 10, United States Code, section 601(a):

To be lieutenant general

The following-named officer for appointment to the grade indicated, in conjunction with assignment to a position of importance and responsibility designated by the President under title 10, United States Code, section 601(a) and to be appointed as senior Army member of the Military Staff Committee of the United Nations under the provisions of title 10, United States Code, section 711.

To be lieutenant general and senior Army member of the military Staff Committee of the United Nations

Lt. Gen. John W. Foss, [redacted], U.S. Army.

The following-named officers for appointment in the Regular Army of the United States to the grade indicated under the provisions of title 10, United States Code, sections 611(a) and 624:

To be brigadier general

Col. Richard W. Potter, Jr. [redacted], U.S. Army.

Col. Dewitt T. Irby, Jr., [redacted], U.S. Army.

Col. Michael M. Schneider, [redacted], U.S. Army.

Col. Gerald C. Brown, [redacted], U.S. Army.

Col. Joseph S. Stringham [redacted], U.S. Army.

Col. Huba Wass De Czege, [redacted], U.S. Army.

Col. Thomas L. Prather, Jr. [redacted], U.S. Army.

Col. Creighton W. Abrams, Jr., [redacted] U.S. Army.

Col. John G. Coburn [redacted] U.S. Army.

Col. Leonard D. Miller, [redacted], U.S. Army.

Col. John H. Little [redacted] U.S. Army.

Col. Paul Y. Chinen [redacted] U.S. Army.

Col. Otto J. Guenther [redacted], U.S. Army.

Col. Stanley Kwieciak, Jr. [redacted], U.S. Army.

Col. Mary C. Willis, [redacted], U.S. Army.

Col. Richard W. Wharton, Jr., [redacted], U.S. Army.

To be brigadier general

Col. Roger F. Yankoupe, [redacted], U.S. Army.

Col. William G. Carter, III [redacted], U.S. Army.

Col. James E. Mace, [redacted], U.S. Army.

Col. Robert P. McFarlin, [redacted], U.S. Army.

Col. Wesley K. Clark, [redacted], U.S. Army.

Col. Pat M. Stevens, IV, [redacted], U.S. Army.

Col. Walter H. Yates, Jr. [redacted], U.S. Army.

Col. Robert A. Drolet, [redacted], U.S. Army.

Col. Thomas P. Barret, [redacted], U.S. Army.

Col. Jude W.P. Patin [redacted], U.S. Army.

Col. Hubert G. Smith [redacted], U.S. Army.

Col. Charles W. McClain, Jr., [redacted], U.S. Army.

Col. Michael S. Davison, Jr., [redacted], U.S. Army.

Col. Richard E. Beale, Jr. [redacted], U.S. Army.

Col. Paul E. Blackwell, [redacted], U.S. Army.

Col. Richard W. Tragemann, [redacted], U.S. Army.

Col. Robert E. Gray [redacted] U.S. Army.

Col. Jared L. Bates [redacted], U.S. Army.

Col. Henry A. Kievenaar [redacted], U.S. Army.

Col. Richard F. Timmons [redacted], U.S. Army.

Col. Frank L. Miller, Jr., [redacted], U.S. Army.

Col. Alfonso E. Lenhardt [redacted], U.S. Army.

To be brigadier general

Col. Josue Robles, Jr., [redacted], U.S. Army.

Col. Thomas E. White, Jr. [redacted], U.S. Army.

Col. Robert C. Goetz, [redacted], U.S. Army.

Col. Jarrett J. Robertson [redacted], U.S. Army.

Col. Joseph W. Kinzer, [redacted], U.S. Army.

Col. John S. Cowings, [redacted], U.S. Army.

Col. William M. Steele, [redacted], U.S. Army.

Col. David J. Kelley, [redacted], U.S. Army.

Col. Gregory G. Govan, [redacted], U.S. Army.

Col. Wesley B. Taylor, Jr. [redacted], U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be general

Gen. Arthur E. Brown, Jr. [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 3034:

To be Vice Chief of Staff of the Army

Lt. Gen. Robert W. RisCassi, [redacted], U.S. Army.

The following-named officer for appointment in the Regular Army of the United States to the grade indicated, under the provisions of title 10, United States Code, section 611(a) and 624:

To be permanent brigadier general

Col. Bruce T. Miketinac, [redacted], U.S. Army.

IN THE NAVY

The following named rear admirals (lower half) of the Reserve of the U.S. Navy for permanent promotion to the grade of rear admiral in the line and staff corps, as indicated, pursuant to the provisions of title 10, United States Code, section 5912:

UNRESTRICTED LINE OFFICER

Samuel Edward McWilliams.

MEDICAL CORPS OFFICER

Robert Layman Summitt.

SUPPLY CORPS OFFICER

Henry Culberson Amos, Jr.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be admiral

Adm. Ronald J. Hays [redacted]/1310, U.S. Navy.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be admiral

Adm. Lee Baggett, Jr., [redacted]/1110, U.S. Navy.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be admiral

Adm. Kinnaird R. McKee, [redacted]/1120, U.S. Navy.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be vice admiral

Vice Adm. Nils R. Thunman, [redacted]/1120, U.S. Navy.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. Daniel L. Cooper, [redacted]/1120, U.S. Navy.

The following-named rear admiral (lower half) in the staff corps of the U.S. Navy for promotion to the permanent grade of rear admiral, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

CIVIL ENGINEER CORPS (5104)

David Elliott Bottorff.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be admiral

Vice Adm. Bruce Demars, [redacted]/1120, U.S. Navy.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be vice admiral

Vice Adm. Henry C. Mustin, [redacted]/1110, U.S. Navy.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be vice admiral

Vice Adm. George W. Davis, Jr., [redacted]/1110, U.S. Navy.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, FOREIGN SERVICE, MARINE CORPS, NAVY

Air Force nominations beginning Marvin R. Bennett, and ending Frederick L. Weiland, which nominations were received by the Senate and appeared in the Congressional Record of July 13, 1988.

Air Force nominations beginning Thomas J. Conage, and ending Richard. R. Lee, which nominations were received by the Senate and appeared in the Congressional Record of July 28, 1988.

Air Force nominations beginning Jimmie L. Benton, and ending Roger F. Ellis, which nominations were received by the Senate and appeared in the Congressional Record of July 28, 1988.

Air Force nominations beginning Candace C. Abbott, and ending Rodney Y. H. Wong, which nominations were received by the Senate and appeared in the Congressional Record of July 28, 1988.

Air Force nominations beginning William P. Bagley, and ending Rick W. Wilson, which nominations were received by the Senate and appeared in the Congressional Record of August 1, 1988.

Air Force nomination of Thomas R. Blair, which was received by the Senate and appeared in the Congressional Record of August 5, 1988.

Air Force nominations beginning Major Michael H. Abel, [redacted] and ending Major Paul Y. Neskow, [redacted] which nominations were received by the Senate and appeared in the Congressional Record of August 5, 1988.

Air Force nominations beginning Major Jack S. Arnold, [redacted] and ending Major Patricia S. Sanchez [redacted], which nominations were received by the Senate and appeared in the Congressional Record of September 8, 1988.

Air Force nominations beginning Linda R. Beson, and ending Bruce W. Ebert, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 1988.

Air Force nominations beginning Lex A. Abadie, and ending Louis V. Zuccarello, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 1988.

Air Force nomination of Douglas G. Malloy, [redacted] which was received by the Senate and appeared in the Congressional Record of September 20, 1988.

Air Force nominations beginning David Abramson, and ending Dennis E. Sweet, which nominations were received by the Senate and appeared in the Congressional Record of September 20, 1988.

Army nominations beginning Lindel Anderson, and ending George B. Young, which nominations were received by the Senate and appeared in the Congressional Record of July 13, 1988.

Army nominations beginning William A. Aileo, and ending Daniel L. Rothlisberger, which nominations were received by the

Senate and appeared in the Congressional Record of July 28, 1988.

Army nominations beginning Morris H. Moses, and ending *david R. Schuckenbrock, which nominations were received by the Senate and appeared in the Congressional Record of July 28, 1988.

Army nominations beginning *robert E. Williams, and ending *patricia C. Nossov, which nominations were received by the Senate and appeared in the Congressional Record of July 28, 1988.

Army nominations beginning Orlando T. Hines, and ending Aristeo E. Villasenor, which nominations were received by the Senate and appeared in the Congressional Record of August 5, 1988.

Army nominations beginning Willie L. Basler, Jr., and ending Gary R. Zeluff, which nominations were received by the Senate and appeared in the Congressional Record of August 5, 1988.

Army nominations beginning Leon D. Anderson, and ending Calvin E. Mein, which nominations were received by the Senate and appeared in the Congressional Record of September 20, 1988.

Marine Corps nominations beginning James R. Acreback, and ending Lawrence R. Zinser, which nominations were received by the Senate and appeared in the Congressional Record of May 25, 1988.

(List confirmed minus one name not reported.)

Marine Corps nominations beginning Michael E. Corsey, and ending Nancy L. Rogers, which nominations were received by the Senate and appeared in the Congressional Record of July 13, 1988.

Marine Corps nominations beginning James C. Adamson, and ending Walter R. Young, which nominations were received by the Senate and appeared in the Congressional Record of July 13, 1988.

Marine Corps nominations beginning Carl T. Amodio, and ending Clarke M. Woodsin, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 1988.

Marine Corps nominations beginning Larry D. Adams, and ending Thomas C. Yancey, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 1988.

Navy nominations beginning Scott Anthony Abbott, and ending Floyd A. Walker, which nominations were received by the Senate and appeared in the Congressional Record of July 13, 1988.

Navy nominations beginning Jonathan C. Underwood, and ending Robert David Lee, which nominations were received by the Senate and appeared in the Congressional Record of July 28, 1988.

Navy nominations beginning Christopher R. Accetta, and ending Thomas Nicholas Tichy, which nominations were received by the Senate and appeared in the Congressional Record of July 28, 1988.

Navy nominations beginning Albert M. Passy, and ending David M. Smith, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 1988.

Navy nominations beginning Mack Bonner, and ending David G. Piepgras, which nominations were received by the Senate and appeared in the Congressional Record of September 20, 1988.

LEGISLATIVE SESSION

The Senate resumed the consideration of legislative business.

The PRESIDING OFFICER. The majority leader.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended 10 minutes, under the same conditions as heretofore.

The PRESIDING OFFICER. Without objection, it is so ordered.

BICENTENNIAL MINUTE

SEPTEMBER 30, 1788: FIRST SENATORS ELECTED

Mr. DOLE. Mr. President, 200 years ago today, on September 30, 1788, the first two Members of the U.S. Senate were elected. The Pennsylvania State Assembly, under the provisions of the newly ratified U.S. Constitution, chose Robert Morris and William Maclay.

Planning for Senate elections began in earnest after June 21, 1788, when New Hampshire's ratification of the Constitution provided the necessary margin to put that charter into effect. When New York ratified the following month, the existing Congress under the Articles of Confederation set to work on an election ordinance, which it issued in mid-September.

The ordinance provided that Presidential electors would be chosen, within the States that had ratified the Constitution, on the first Wednesday in January 1789. The electors would convene in their respective States on the first Wednesday in February to cast their ballots for President and Vice President. Finally, the new Congress would meet to count the electoral ballots on the first Wednesday in March—March 4, 1789.

A half-dozen prominent Pennsylvanians were mentioned as candidates for the two Senate seats in the 6 months preceding the legislature's action. On September 29, a large contingent of assembly members adjourned to a nearby tavern and agreed to support Morris and Maclay, whom the assembly elected the following day. The unsuccessful contenders then shifted their attention to the forthcoming popular elections for Pennsylvania's eight seats in the House of Representatives.

Both Morris and Maclay had worked actively for the adoption of the Constitution. A Philadelphia merchant and signer of the Declaration of Independence, Morris had served as the Nation's Superintendent of Finance from 1781 to 1784. Well regarded within the State, Maclay provided a western and agrarian balance to Morris who identified clearly with Philadelphia's eastern and commercial orientation.

TOWARD A BETTER RELATIONSHIP WITH JAPAN

Mr. BYRD. Mr. President, I have long been concerned that United States relations with Japan have become increasingly acrimonious as our trade deficit with Japan has zoomed in the past few years. Clearly, we have trade problems with Japan.

One impetus for the omnibus trade bill was trade friction between the United States and Japan. Another was a concern that the administration's approach to trade has been both ineffective and wrongheaded—a case of too little, too late. In the case of Japan, the administration has both underestimated the extent of concern about our enormous deficit with Japan and has been weakened in its response to it. At the same time, in following a product-by-product, sector-by-sector approach to resolving trade problems, the administration has aggravated feelings on both sides. I have long felt there has to be a better way to handle our economic relationship with Japan.

One such way has been advocated by our Ambassador to Japan, our distinguished former colleague, Mike Mansfield. He believes it is time we consider a free trade agreement between the United States and Japan.

Last January, when I met with Japanese Prime Minister Takeshita, I suggested to him that the United States and Japan conduct separate studies, within a short time frame, on the advantages and disadvantages of initating negotiations toward a free trade area agreement between our two countries. I quickly learned that the administration did not wish to undertake such a study. Consequently, through the Finance Committee, I asked the International Trade Commission, an independent, bipartisan agency, to study the matter.

Recently, I received the results of their investigation, an excellent report which summarizes the views of recognized authorities on United States-Japan relations and the pros and cons of entering into negotiations with Japan to explore the possibility of establishing a United States-Japan free trade area agreement.

Many of the 122 officials and outside experts interviewed made it clear that the time had come for a comprehensive reassessment of the United States-Japan trade and economic relationship. A free trade area agreement was one mechanism by which that reassessment could take place; a variety of other methods was suggested by participants. Many of those interviewed noted that an alternative to the current piecemeal approach to negotiations with Japan could take the form of an agreement that would not be a traditional free trade agreement dealing strictly with tariffs, quotas, and other formal border barriers to trade.

Clearly, a more comprehensive approach would be desirable after many years of a sector-by-sector approach characterized by a great deal of friction.

It is apparent that Japan, too, is worried about our relationship. In response to my proposal, the Japanese Government has undertaken several preliminary analyses of a bilateral FTA. In recent months, there have been numerous press reports about Japanese concerns about its economic future. Even the administration is concerned: Reportedly former Treasury Secretary James Baker undertook a secret effort in his final months to forge a new Pacific Rim economic policy coordination group.

The time has come for the next step. Our relationship with Japan is too important to be left to drift.

To that end, I have written to Japanese Prime Minister Takeshita to propose that the United States and Japan explore over the next 6 months possible frameworks for enhanced cooperation between our two countries.

Such a mutual exploration should also address an element traditionally not considered a part of United States-Japanese economic relations, mutual defense and burdensharing. Such a framework should also be GATT consistent, should avoid harm to other countries, should not supplant ongoing sectoral bilateral negotiations or affect issue-specific negotiations, and should hold out the possibility of extension to other countries, especially those in the Pacific Rim.

It would not be the intention of this initiative to override or undercut current law embodied in the omnibus trade bill, but serve as a much-needed catalyst to develop a new, less confrontational, more productive, and comprehensive approach to United States-Japanese relations. Let us hope it bears fruit.

I have sent as well a copy of the ITC study to Prime Minister Takeshita. The ITC has provided a fruitful basis for further discussion between our two Governments.

I congratulate the ITC for undertaking this study and for conducting it in a highly professional, competent, and efficient manner.

Mr. President, I ask unanimous consent that the executive summary and overview sections of the ITC study, titled "Pros and Cons of Initiating Negotiations With Japan To Explore the Possibility of a United States-Japan Free Trade Area Agreement," and a copy of my letter to Japanese Prime Minister Takeshita be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROS AND CONS OF INITIATING NEGOTIATIONS WITH JAPAN TO EXPLORE THE POSSIBILITY OF A U.S.-JAPAN FREE TRADE AREA AGREEMENT

(Investigation No. TA-332-255)

EXECUTIVE SUMMARY

The genesis of the concept of a Free Trade Agreement between the United States and Japan, as enunciated by U.S. Ambassador to Japan Mike Mansfield, was a perception that a history of bilateral trade disputes has had a corrosive effect on the overall U.S.-Japan relationship. Pointing to generally good political and security relations and growing economic interdependence, in the fall of 1987, Ambassador Mansfield offered the FTA concept as an alternative to the present piecemeal approach to negotiations with Japan. He suggested that it could serve as a possible mechanism for more productive, less highly charged negotiations on bilateral trade issues. Many participants in the Commission's study noted that such an agreement might not be in the form of a traditional FTA dealing strictly with tariffs, quotas, and other formal border barriers to trade.

Relatively few participants in the Commission's investigation viewed the possibility of entering into FTA negotiations with Japan as a totally negative and unworthwhile exercise or, on the other hand, a totally positive and useful approach. The watchword was "caution." The vast majority of participants adopted one position or the other as a starting point, but noted their concerns or reservations about the viewpoint they were taking as well as conditions that might cause it to change. Moreover, no clearcut differences of opinion could be distinguished based upon participants' professional vantage points—U.S. Government officials, academics, and business persons voiced similar ideas and concerns on many of the same issues.

Nearly all of the people whose views were obtained in this investigation shared Mansfield's belief that the present methods of handling trade disputes engender some degree of bitterness and frustration on both sides of the Pacific. However, few in the United States were optimistic that alternative negotiating approaches, including an FTA, would produce better market-opening results. Many of the remaining barriers are embedded in the Japanese economic system and culture, they believed, and are not easy to address via a single comprehensive agreement such as an FTA. Furthermore, many U.S. participants believed that differences in industrial structure, business practices, legal systems, languages, and social customs would make it very difficult, if not impossible, to realize the goal of truly free trade between the United States and Japan. Some participants believed that the United States' present approach to trade negotiations with Japan is appropriate and successful, particularly in resolving specific problems. However, a number of these individuals pointed to a need for improving the U.S. trade policy decisionmaking apparatus and for employing negotiating resources more effectively.

Participants also expressed concern about the effects of a bilateral FTA agreement with Japan on the multilateral framework of the GATT and on third countries. Most recommended that the United States first take stock of its goals in negotiations with Japan, see how recent changes in exchange rates and Japanese domestic policies play out, and have a better idea of the prospects for the Uruguay Round before undertaking a major trade policy initiative such as an FTA. A few participants offered specific alternatives to an FTA such as managed trade, bilateral trade commissions, or a limited agreement on issues such as financial matters, services, and intellectual property.

Other participants believed it is both possible and desirable to develop a better way of resolving U.S.-Japan trade disputes, and thought that an FTA or similar type agreement could accomplish this aim. These individuals often claimed that the present confrontational, ad hoc approach has contributed to a deterioration of overall U.S.-Japan relations. They suggested that a more coherent, systematic, and regular means of handling trade issues might be the outgrowth of exploring and concluding a bilateral FTA. Advocates of this position seemed to have in mind a comprehensive and ambitious agreement, something that would go beyond a traditional FTA, such as the U.S.-Canada FTA, to include domestic policies that adversely affect trade.

Supporters of the FTA approach often admitted that it might be difficult to remove all of the remaining barriers in the Japanese market through FTA negotiations alone, but argued that even exploring the idea could lead the two countries to a better understanding of the problems and potential of the U.S.-Japan economic relationship. Many supporters of the FTA approach counseled for taking great pains to ensure that any potential agreement is GATT consistent. A number also called for leaving the door open to participation by other countries at some future date.

ADVANTAGES OF THE FTA APPROACH

Some participants in the Commission's investigation said that the FTA approach offers certain advantages. It could enhance the ability of the United States to achieve its market-opening objectives with Japan by improving the negotiating climate and providing a better sense of direction to U.S.-Japan trade negotiations. It might also give a needed stimulus to the Uruguay Round and encourage other countries to be more forthcoming in opening their markets to U.S. firms. A number believed "exploring the possibility" could provide an opportunity for a reassessment of and improvement in the domestic policymaking process with respect to Japan.

Among the most commonly cited benefits are that it could:

Improve the political atmosphere for negotiations with Japan

Give formal recognition to the already substantial economic relationship between the United States and Japan.

Elevate U.S.-Japan trade policy to a status equal to military and political concerns.

Improve the atmosphere of negotiations because the forum, goals, and timetable would be mutually agreed upon.

Create a less confrontational and regular dispute settlement mechanism to resolve problems prior to resort to Section 301 or the GATT.

Enhance U.S. ability to achieve trade objectives

Compel a reassessment of U.S. goals in trade with Japan and the establishment of U.S. negotiating priorities.

Provide a better mechanism for identifying and addressing remaining systemic barriers in Japan—such as the distribution system—than the current product-by-product approach.

Enhance U.S. leverage by providing a "big carrot" to offer Japan.

Provide a vehicle for developing rules in "new areas," such as services, investment, and intellectual property.

Be a more appropriate means for dealing with Japanese domestic policies that have an impact on trade—such as enforcement of antimonopoly laws, industrial policy, and financial market regulation—than the present "fair" trade approach.

Help focus and shift Japanese government and public thinking about imports and open access.

Confer economic benefits

Compel removal of remaining formal barriers to trade, such as those affecting agriculture in Japan and autos in the United States, as well as force an evaluation of all existing informal barriers against a yardstick of "free trade."

Provide economic benefits in the form of trade creation, greater economic efficiency, more competition, and lower consumer prices.

Encourage U.S. firms to take greater advantage of opportunities in the Japanese market.

Support other U.S. trade objectives

Stimulate action in the Uruguay Round by signalling U.S. willingness to pursue bilateral options unless there are meaningful results in areas like services and intellectual property.

Be a ready "second best" alternative if GATT talks fail.

Stimulate market-opening overtures by other nations, such as Taiwan and Korea, seeking to ensure continuing access to the U.S. market.

Provide leverage to deal with potential damage to U.S. commercial interests arising out of the European Community's integration efforts (1992).

DISADVANTAGES OF THE FTA APPROACH

A number of participants thought the FTA approach could detract from the United States' ability to secure opening of the Japanese market, exacerbate present bilateral tensions, undermine the multilateral trading system, and damage relations with third countries.

Among the most commonly voiced opinions against an FTA are that it could:

Worsen the political climate for negotiations with Japan

Result in false expectations, raise the political stakes, and set in train a process that could compel negotiators to reach a deal even if it is not in the United States' best interests.

Have adverse consequences for the overall relationship between the United States and Japan if the approach failed, or if an agreement were concluded but did not work.

Not eliminate the need for resort to pressure tactics, since it is virtually impossible to resolve thorny trade issues, such as agriculture and construction, without raising them to Japan's highest political levels.

Not produce meaningful improvement in market access in Japan

Not produce real market opening, since:

Japan's tariffs on manufactured goods are already among the world's lowest and Japan retains few quotas or other official barriers to imports.

A single agreement is unlikely to be adequate to secure change of formal barriers which are imbedded in Japan's economic system and culture, such as industrial targeting, the distribution system, and agriculture.

The less formal problems of doing business with Japan—such as a "Buy Japan" mentality, the close knit relationships among Japanese business and government, and restrictive business practices—are difficult or impossible to remedy through an FTA.

Negotiations on an FTA would result in stalling by Japan and district limited U.S. negotiating resources from important, specific trade problems.

Impose economic costs

Result in adjustment difficulties for major manufacturing industries in the United States, such as steel, autos, machine tools, and textiles.

Cause a worsening of the U.S. bilateral trade deficit with Japan, given the United States' well developed distribution and marketing channels for imports and its consumer-driven economy.

Result in trade diversion. Consumers would buy some products from Japan instead of lower cost foreign suppliers, because the difference in their cost is smaller than the preferentially waived duty. Since the Japanese goods cost more to the United States as a whole (because no duties would be collected), trade diversion is a loss to the U.S. economy.

Frustrate realization of overall U.S. trade objectives

Have an adverse impact on the multilateral framework on the GATT because the United States is viewed as the linchpin of the global trading system.

Derail the Uruguay Round by calling into question the commitment of the round's two leading proponents. Such a failure may further diminish the GATT's relevance to present commercial realities, thus encouraging tit-for-tat, unilateral measures and the formation of regional blocs to address pressing commercial concerns.

Have an adverse impact on U.S. relations with countries such as the European Community, Asian countries, Australia, New Zealand, and others:

Encourage the EC to develop a "fortress Europe" mentality, by reinforcing those who are willing to disadvantage U.S. and Japanese interests in the EC's efforts to complete the internal market by 1992.

Reduce U.S. credibility to obtain redress for the adverse effects of other countries' bilateral or regional arrangements.

Damage commercial and foreign policy relations with other Asian nations, an area of growing importance to both the United States and Japan.

Force the United States and other countries into bilateral relationships with Japan, limiting opportunities to bring multilateral pressure to bear on "the Japan problem."

ALTERNATIVE APPROACHES

Some participants offered one of four general alternative approaches to pursuing discussions about trade issues with Japan other than an FTA: (1) developing a series of broad economic understandings with Japan; (2) managing the bilateral relationship through numerical goals; (3) developing new institutions to handle bilateral or regional issues; or (4) trying other methods of negotiation or using certain goals in trade talks. Other ideas suggested instead of a U.S.-Japanese FTA included limiting negotiations to tariff elimination and creating a dispute-settlement mechanism, negotiating trade liberalization with like-minded countires if the Uruguay Round fails, or concluding an agreement with Japan covering financial matters, services, or intellectual property.

SUMMARY OF VIEWS

This section summarizes the views of the experts interviewed by Commission staff, making formal submissions, or participating in the Commission's hearng on the possible advantages and disadvantages of the FTA approach, as well as their suggestions for alternative approaches to U.S.-Japan trade relations.[1] Views on the present negotiating approach, market access in the United States and Japan, and the implications of FTA negotiations for third countries and the GATT are also presented.

Several points should be kept in mind in reviewing the material. Although the Senate Finance Committee's request was for a summary of the pros and cons of "entering into negotiations with Japan to explore the possibility of establishing a U.S.-Japan free trade area," persons presenting their views to the Commission generally found it difficult, if not impossible, to separate their views on "exploring the possibility" from their views on the advisability of actually concluding a free trade area agreement. Therefore, most of the comments that follow should be interpreted as covering both. A number of individuals did raise special concerns about the exploratory process itself, or felt that it offered special advantages; these are specifically identified as such. Participants also offered observations about problems in access to the Japanese market, the present U.S. negotiating approach towards Japan, and U.S. trade policy generally, in an effort to explain why, relative to the present situation, an FTA might or might not be an appropriate apprach. However, because these components did not always fit neatly into "pros" and "cons" of a U.S.-Japanese FTA, they are reported separately in sections that follow.

The majority of participants did not have in mind a precise definition of a U.S.-Japan FTA. Most agreed that, at a minimum, an FTA should fit the GATT article XXIV definition that entails elimination of "duties and other restrictive regulations" on "substantially all the trade" between countries. Some participants saw an FTA as an agreement that mainly (or most successfully) addresses tariffs and quotas while others viewed it as a vehicle that could cover a broad range of trade restrictive measures. A few participants viewed the term FTA as referring, in general, to a comprehensive bilateral economic relationship, yet others insisted that FTA is not the correct term or type of agreement to cover a broad economic agenda. The majority referred to an agreement that would be more comprehensive than a traditional FTA covering mainly tariffs and quotas. Some participants envisioned an agreement that would cover services, investment, the distribution system, intellectual property, and a dispute settlement mechanism.

Judgments about the wisdom of pursuing FTA negotiations with Japan appeared to reflect a number of underlying assumptions. Views on the importance of trade policy relative to political and strategic considerations, U.S. goals in trade negotiations, the effectiveness of the present negotiating approach, the openness of the Japanese market, the difficulty of removing remaining Japanese barriers, and the issues that would be on the table in any FTA negotiations had significant bearing on each individual's judgment on the advisability of entering into FTA negotiations with Japan. Perceptions about the usefulness of the GATT generally, and as a means of redressing U.S. concerns about Japanese trading practices, also affected their views on the FTA approach. Finally, the sense of importance individuals placed on managing the U.S.-Japan trade relationship, relative to overall U.S. trade policy and to U.S. relations with other countries, was an important consideration.

---

[1] Comments in quotation marks are most often drawn from formal submissions and interview notes. In the case of interviews, the Commission endeavored to ensurte that the quote accurately reflects the statements of the participant, although verbatim transcriptions were not made.

OVERVIEW

Relatively few participants viewed the possibility of entering into FTA negotiations with Japan as a totally negative and unworthwhile exercise or, on the other hand, a totally positive and useful approach. The watchword was "caution." The vast majority of participants adopted one position or the other as a starting point, but noted their concerns or reservations about the viewpoint they were taking as well as conditions that might cause it to change. Moreover, no clearcut differences of opinion could be distinguished based upon participants' professional vantage points. U.S. government officials, academics, and business persons voiced similar ideas and concerns on many of the same issues. From an overall perspective, therefore, it would be misleading to portray the views received by the Commission in strictly black and white terms. Rather, the picture that was presented by most individuals was a mixture of optimism, pessimism, skepticism, and hopefulness.

A majority of participants cautioned against entering into negotiations on an FTA on the grounds that it would not provide significantly improved market access or substantial economic benefits for the United States. Many believed that FTA negotiations with Japan would tend to focus primarily on formal barriers to trade, not on what they saw as the more important but less visible remaining barriers to U.S. sales, such as the distribution system. Moreover, they did not think such issues could be successfully addressed in the context of FTA negotiations. Most U.S. participants believed that differences in industrial structure, business practices, legal systems, languages, and social customs would make it very difficult, if not impossible, to realize the goal of truly free trade between the United States and Japan. Many cautioned that FTA negotiations carried with them substantial risks and feared that what Japan wants most out of negotiations is to avoid U.S. trade laws, particularly retaliatory action under Section 301.

Nevertheless, these individuals often acknowledged that the current aggressive U.S. negotiating strategy may have contributed to an overall deterioration of the bilateral relationship, and thought there might be some benefit to tackling issues more systematically and dispassionately. In certain areas, such as intellectual property, it was widely recognized that a more cooperative approach might be appropriate. Indeed, a number of individuals within and outside the Government believed that the growing interdependence of the two economies has fundamentally altered the negotiating environment. U.S. and Japanese participants, whether or not they favored the FTA approach, recognized Japan's importance as a supplier to the United States, its growing direct investment in U.S. facilities, increasing U.S. dependence on Japanese technology in areas such as electronics and telecommunications, and its growing role in U.S financial markets. A number of present and former U.S. negotiators believed that these linkages have major implications for U.S. policy formulation. At the same time, many U.S. officials warned that competition in high technology—particularly in areas such as superconductivity, biotechnology, and new materials—is intensifying and could lead to bilateral tensions in the future.

A large number of participants, including negotiators and private sector representatives, were concerned about the effects of a bilateral FTA agreement with Japan on the multilateral framework of the GATT and on third countries. They feared retaliatory protectionist moves, trade diversion, and a weakening of the multilateral trading system. However, a number of these individuals stated that if an FTA were GATT consistent, outward looking in avoiding harm to other countries, or inclusive of other countries, they might favor negotiations. Many who were adamantly or partially opposed to FTA for a host of other reasons indicated that they might favor such an approach sometimes in the future if the Uruguay Round stalled, if the EC's program to "complete the EC internal market" by 1992 turned out to be, in fact, a protectionist "Fortress Europe," or if there was a movement towards creation of other trading blocs.

Nearly all stated that U.S.-Japan relations would benefit from a more coherent and prioritized U.S. trade policy. A number also felt that movement away from the present mode of intense U.S. pressure, into a situation in which Japan begins to see liberalizing steps as in its own self-interest, would substantially improve the negotiating environment. Although Japanese movement in the direction of liberalization was widely recognized, many participants seemed to think that continued confrontations on the trade front were likely and healthy, given the fact that the United States and Japan are intense economic competitors as well as staunch political allies. Present negotiating forums and approaches were seen by a number of individuals, particularly current U.S. negotiators, as being sufficient and appropriate vehicles for tackling such issues as they arise.

Other participants, both in the United States and Japan, felt it is time to consider a new approach, believed it is both possible and desirable to develop a better way of resolving trade disputes, and thought an FTA or similar type agreement could accomplish this aim. Many of those who favor the FTA approach tended to believe that confrontational U.S. tactics have contributed to a deterioration of overall U.S.-Japan relations, without necessarily resolving some of the underlying barriers to U.S. market access in Japan. These individuals argued that an FTA would force the United States to develop a more coherent and prioritized approach to U.S.-Japan trade relations and yield an improved atmosphere for trade negotiations. They suggested that an FTA would strengthen the already substantial economic and political ties between the United States and Japan. FTA negotiations might also result in the creation of a more regular and systematic mechanism for resolving specific problems and a long-term vehicle for tackling difficult issues remaining on the bilateral agenda.

Advocates of this position seemed to have in mind a comprehensive and ambitious agreement, something that would go beyond a traditional FTA to cover a range of domestic policies that adversely affect trade, such as the distibution system and antitrust enforcement. Some compared their goal to the European Community's present integration effort, whereas others envisioned a U.S.-Japan FTA that entailed stronger commitments than those expected from the Uruguay Round in areas such as services and intellectual property. Supporters of the FTA approach often admitted that it might be difficult to remove all of the remaining barriers in the Japanese market through FTA negotiations alone, but argued that even exploring the idea could lead the two countries to a better understanding of the problems and potential of the U.S.-Japan economic relationship.

It was generally held that an FTA would need to include some type of dispute settlement mechanism. However, many U.S. participants suggested that the United States should retain its ability to use Section 301, as it did under the U.S.-Canada FTA. Because they recognized that the United States and Japan both have a substantial stake in the maintenance of the multilateral trade system and in fostering good relations with third countries, many supporters of the FTA approach counseled for taking great pains to ensure that any potential agreement is GATT consistent. Some also called for leaving the door open to participation by other countries at some future date.

U.S. SENATE,
OFFICE OF THE MAJORITY LEADER,
Washington, DC, September 30, 1988.
Hon. NOBORU TAKESHITA,
Prime Minister of Japan, The Government of Japan, Tokyo, Japan.

DEAR MR. PRIME MINISTER: During our meeting in Washington last January 14, I suggested that the United States and Japan undertake separate studies to assess the advantages and disadvantages of undertaking negotiations toward a free trade area agreement between our two countries. As a follow up to that discussion, I am enclosing a copy of a recently completed study conducted by the United States International Trade Commission, Pros and Cons of Initiating Negotiations with Japan to Explore the Possibility of a U.S.-Japan Free Trade Area Agreement. I think this is an excellent study which can provide a fruitful basis for further discussion between our two governments.

I understand that several of your Ministries have undertaken preliminary studies of this matter and would be most interested in learning of any conclusions they have or might reach.

Mr. Prime Minister, I have long been concerned about the increasingly volatile nature of the relationship between our two countries. We need to establish a better working understanding of our mutual roles and responsibilities from both the economic and security viewpoints so that we can build into the relationship a certain amount of shock-absorptive buffer which any alliance needs.

With certain caveats, the weight of argument contained in the International Trade Commission report suggests that it would be beneficial to pursue a broad-gauged economic agreement between our two countries which possibly could include, or be open to inclusion of other Pacific Rim countries.

Prior to getting to that point, however, I think further exploration of possible frameworks for such an agreement could profitably be undertaken by U.S. and Japanese officials, if such work were done over the next four to six months. That time frame would allow proposals to be in a mature enough stage for consideration by the next U.S. Administration. I would envision a completion date for an interim report to the Congress of March 1, 1989.

To that end, I propose a United States-Japanese dialogue to examine and evaluate possible frameworks for enhanced cooperation between our two countries. A framework for such a comprehensive economic relationships should address not only the traditional components of a free trade area agreement such as tariffs and quotas, but also cover trade in services and direct foreign investment, coordination of monetary and fiscal policies including currency exchange rate policies, domestic policies related to savings, consumption, and investment rates, government procurement policies, systems of distributing goods, anticompetitive practices and enforcement of antitrust laws, intellectual property protection, foreign development assistance, access to research and development activities and opportunities in both public and private sectors, targeting and strategic industries, technology transfers and high technology targeting, and dispute settlement procedures.

It should also address an element traditionally not considered a part of U.S.-Japanese economic relations, mutual defense and burden-sharing. Such a framework should also be GATT consistent, should avoid harm to other countries, should not supplant ongoing sectoral bilateral negotiations or affect issue-specific negotiations, and should hold out the possibility of extension to other countries, especially those in the Pacific Rim.

It would not be the intention of this initiative to override or undercut current law embodied in the recently passed Omnibus Trade Bill, but serve as a catalyst to develop a new, less confrontational, more productive, and comprehensive approach to U.S.-Japanese economic relations.

I have long felt there has to be a better way to handle economic relations between our countries. Let us hope that together we may find a way.

I look forward to hearing from you on this matter.

Sincerely,

Robert C. Byrd.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the period for morning business be extended 10 minutes under the same conditions as heretofore prevailing.

The PRESIDING OFFICER (Mr. DeConcini). Without objection, it is so ordered.

Mr. BYRD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask that morning business be closed.

The PRESIDING OFFICER. Morning business is closed.

PARENTAL AND TEMPORARY MEDICAL LEAVE

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 2488) to grant employees parental and temporary medical leave under certain circumstances, and for other purposes.

The Senate resumed consideration of the bill.

Mr. DOLE. Mr. President, I move to postpone the pending bill, S. 2488, until Thursday next, October 6, at 4 p.m.

Mr. President, let me indicate that the majority leader stated he did not want a vote on this until later this afternoon, but I think we could reach an agreement. I would be prepared to agree to 30 minutes on a side whenever the majority leader wanted to call it up.

I would just say briefly at this point that it seems to me, as I view the realities—when we may or may not leave this place may not be paramount, whether it is the 8th or the 15th—we still have a number of major pieces of legislation, including a number of conference reports, which we hope to complete action on today. And if we do that, the majority leader is going to deserve a great deal of credit. It has not been done for a long, long time.

But if that is done today, that will still leave the drug bill. I think if you ask the American people, if you listed all of these issues and said, Which is more important?, I am certain that the drug bill would be on almost everyone's priority list.

So what I am suggesting is that we postpone any more action on this parental leave bill, which includes child care, until sometime later next week. That might give us time to complete action on a drug bill and also there is another very important bill—one that is not as well understood; it has different meanings to different people—the technical corrections bill, with a lot of tax changes, correcting a lot of errors, mostly technical corrections and a few policy changes that affect many, many thousands and millions of Americans and companies around America, that we need to pass. That needs to go to conference and, generally, tax bills take some time in conference.-

I have spoken to the chairman of the House Ways and Means Committee. He tells me that the House bill is perfect; no need to change it. We are told by the President he would veto the House bill, but the Senate bill is pretty good. So that is another measure.

So I just suggest that, not in the interest of partisanship, but hopefully if we could make some agreements that we could just voluntarily set aside the pending measure, take up the drug legislation, take up technical corrections, and then, if we have additional time and if there are not other measures to come before the Senate, then we would be back on parental leave and day care and minimum wage and other issues that are important to many, many people around the country, millions of Americans.

But all of these issues, too, I might add, are a part of the national debate being conducted now by Vice President George Bush and Gov. Michael Dukakis as they make the run for the White House. They are issues yet to be defined by the candidates in very specific terms.

It would also seem to me that these are issues that we ought to look at in the cold light of day in 1989 when Congress is going to have a lot of time or more time and we have a new administration and we have input from the new administration, whether it is Republican or Democrat.

So I respectfully urge my colleagues on both sides of the aisle to let us move on to the drug bill. That has to be a priority for America and for its children and for all those who seek relief and seek help. Then, if we complete that and the technical corrections, we could come back and there may be something on the acid rain issue. I do not know that, but that is another very important measure.

So, at a later time, I would be happy to discuss this in more detail, as will the distinguished Senator from Mississippi, Senator Cochran, and others on this side, why we believe we should postpone further action on this particular measure now, S. 2488.

In the meantime, I would be pleased to enter into a time agreement of 30 minutes on a side and the debate could start anytime the majority leader wanted it to start later this afternoon.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. DOLE. Yes.

Mr. BYRD. Mr. President, I am in full agreement with the distinguished Republican leader that the drug bill is exceedingly important and that Congress should act upon it before adjourning sine die. I also agree that the tax corrections amendment bill is very important and that the Congress should act upon it before adjourning sine die. And I agree also that both of these measures will undoubtedly have to go to conference with the other body.

And let me say, too, that I am fully committed to doing everything I can do to bring about final action on both the drug bill and the tax corrections bill before the Senate and House adjourn.

The staffs of both Republican and Democratic Members are reviewing the final version of the bipartisan drug bill today. They have been working for 4 months, and I believe that the final product will be worthy of support of all our colleagues.

However, this bill cannot be introduced until we know how much revenue will be received from the IRS initiative contained in the bill. The Office of Management and Budget had promised us that figure on Wednesday. Today is Friday and we have not yet received that figure.

So if there is delay in getting to the drug bill, let the message be heard around the world, but particularly down at the OMB. Let us have the information that the OMB assured that we would get as to how much revenues will be received from the IRS initiative contained in the bill.

Now, the drug bill is a high priority item on the legislative agenda for the remainder of the year. Since the receipt of the information from OMB is essential before that bill can be acted upon, I hope that my very good friend, the Republican leader, of whom I am exceedingly fond and for whom I have the utmost respect and high regard, will use his not inconsiderable influence to expedite the OMB response.

On the tax measure, as I indicated yesterday, I hope that the distinguished leader on the other side of the aisle and I, working with our colleagues, will be able to bring to a bare minimum—if I may use the term "bare bone", remembering that there was once a Parliament in England called the Bare-Bone Parliament after the nickname of one of its members, "Praise God Bare-Bone."

But if we could have amendments reduced to a bare-bones minimum, we could expedite action on that bill so that it does not become a Christmas tree for various and sundry amendments, many of which would probably not be germane nor relevant.

Now, as to the importance of those two bills, the leader and I are in agreement. And we are both in agreement that we are going to press for action on those two bills before the Congress adjourns.

The tax bill is very important to me, as a Senator from the State of West Virginia. There are items in that bill that are beneficial to my State and I very much want to see that bill acted upon and the conference report agreed to, before we adjourn sine die and I intend, as I have said repeatedly, to do everything I can to bring that about.

However, we have before the Senate some other very important legislation—the parental leave and child care legislation—which we should act upon before a sine die adjournment, and which also will have to have House action.

I understand the House will probably act next week on the measure. Certainly, if the Senate passes it, I have been told by the majority leader on the other side of the Hill that the House will take up that bill and that the chances for passage over there will be good if the Senate goes ahead to act first. If the Senate goes ahead, well, there would be conference action, probably in that event, too. So, we have to give time for the conferences, certainly for the House and Senate to act upon messages exchanged between the two bodies on that exceedingly important piece of legislation; day care, parental leave, and child pornography. They are all included in my recommittal motion and this Congress ought not to adjourn until it has acted on those measures.

The Vice President of the United States, the Presidential nominee of the other party, has said that he favors these profamily measures. They are all profamily issues; parental leave, child pornography, day care—child care. What is more important than these profamily issues? Why should we wait until next Thursday to act upon them?

We are not ready to bring up the drug bill yet for reasons that I have stated. The Senate needs to do some preliminary work on reducing the number of amendments on the tax bill in the interest of expediting that bill. So, now is the time to act upon these profamily issues. They can be acted upon within 30 minutes or less. Let's have a rollcall vote on final passage. Of course, we have to dispose of the able Republican leader's motion one way or another first.

But I say that all of these are important. I do not know of any one bill that is more important than the other two. They are equally important.

These three measures are all very important. Let us not listen to the siren call that these profamily issues should be put off until next Thursday. Next Thursday, there would be a great cry for adjournment. Go home. Let's go home and do the profamily issues next year.

It is true that these are areas that are involved in the national debate. But let us remove them from the national debate. Let us enact them now. Let us enact them this year so that the candidates can concentrate on debating other important issues.

We Senators need to deal with the task at hand. The responsibility is ours, here and now. We have the measure before the Senate. Why hold it off, so that the Presidential candidates and Vice Presidential candidates can vie with one another as to who is most profamily? Let the Senate live up to its responsibility now. Not next Thursday. Not the week after next. Not next year. But now.

Mr. President, I respect the leader for his motion. He certainly has a perfect right to enter that motion. I seriously question that he can tie into a motion to postpone, a date and hour for a vote. If a point of order were raised, I doubt not that it would be sustained. On a motion to postpone to a date certain, I seriously doubt that tied into that motion can be a time, a set hour for a vote.

If that is the case, I will have an amendment to that motion and I would be very happy to offer an amendment to that motion—which would set the time for a vote this afternoon at 4 o'clock, or Monday at 11 o'clock. But I seriously doubt that.

Let me ask for an opinion from the Chair. Can, on a motion to postpone action on a bill, an hour, a specific hour be included in that motion?

Is there a precedent upholding such a motion?

The **PRESIDING OFFICER**. There are instances where motions to time certain have been made and have carried and it is appropriate.

Mr. **BYRD**. I may have a little more to say about that later. I want to review some precedents also. But that is perfectly all right with me. If the precedents sustain that motion, I will have an amendment to the motion.

For now, the distinguished leader has indicated that he would be agreeable to entering into a time agreement.

Mr. President, let me add further that I do not believe that a time can be set, a specific hour for a vote, included in that motion. I think that has to be done by unanimous consent.

I will be happy to see the precedents, and I could be in error, but I would say to the distinguished Republican leader that he may not wish to proceed with that motion to set a specific hour for a vote because if the Chair were to uphold that as being in order, then I would offer a motion to set the hour earlier. So, that might be something for all of us to ponder.

At the moment, I would like to indicate to all Senators that it is my intention to go to the conference report on the foreign operations appropriations bill at around noon. That bill has to go back to the House and there has to be further action between the Houses and I do not want action on that to be delayed, because we are all striving to meet the deadline of midnight tonight on appropriations bills.

If the distinguished leader would be agreeable, if we could have, say, 2 hours—not to exceed 2 hours on the motion to postpone, this would, I think, allow us to do our voting sometime between 3 and 4 o'clock today. And considering the fact that we will have these appropriations conference reports and other matters in between, would that be agreeable?

Mr. DOLE. If the majority leader will yield, I certainly would have no objection. We can work it in and out around the conference reports. We need to do those today.

I am advised that the figures you asked for are now available. They have been available since late last evening. I have asked to get them up here in writing so we can at least get the information we need on the drug bill. I guess OMB has the numbers. I will try to have those early afternoon for the majority leader.

Mr. BYRD. Well, as I indicated, if the distinguished Republican leader uses his influence, we will see quick results from OMB.

Again, as we said we would hope to do yesterday, we should reduce the number of amendments on the drug bill. That is a bipartisan bill and it is a good bill and there is no reason why we should have a spate of amendments to that bill. So, let us continue to see if we can narrow down the number of amendments to that bill so that when we do take it up we will not spend a lot of time on amendments.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. So, Mr. President, I ask unanimous consent that the time on the motion to postpone be limited to not to exceed 2 hours, 1 hour to be under the control of the distinguished Republican leader or his designee and 1 hour under the control of the majority leader or his designee.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I have alerted the principals who are involved in the foreign operations appropriations bill to be on the floor at or around noon. So, if we could—if the distinguished leader would like to say anything further on his motion or any other matter, I will yield the floor.

Otherwise, I will put the Senate into morning business until we can get that conference report up.

Mr. DOLE. I would just say to the majority leader, I do believe, I think we are on more or less the same focus, that is trying to establish priorities. I know there are a number of priorities.

I guess once we determine—or our colleagues determine how it is all going to end, we can only cram so many things into so many days. My view is if we do not have more than 5 or 10 days, certain things should have a priority. If we are going to have more then I think we could expand the list.

But we have been meeting and I appreciate meeting with the majority leader. We may be able to resolve some of these problems in the next 6 or 7 hours.

Mr. BYRD. I certainly will hope so and will be happy to work with the Republican leader to that end.

UNANIMOUS-CONSENT REQUEST—H.R. 4784

Mr. BYRD. Mr. President, I have a proposed unanimous-consent agreement on the agriculture appropriations bill, if I may present it now.

I ask unanimous consent that when the Senate considers the report of the committee of conference on H.R. 4784 making appropriations for the Rural Development, Agriculture, and Related Agencies Program for the fiscal year ending September 30, 1989, and for other purposes, it be immediately in order for the Senator from North Dakota to move that the Senate concur en bloc—it would not only be in order, but that he be recognized to move that the Senate concur en bloc and the amendments of the House to the amendment of the Senate in disagreement, except for amendments numbered 110 and 134, with no further amendments in order; and that upon disposition of those amendments of the House to the amendments of the Senate—Mr. President, I withdraw my request. I have heard that we have an objection for now to the request.

The PRESIDING OFFICER. The request is withdrawn.

Mr. BYRD. Mr. President, let it be clear on the record that there is no objection from the other side. The objection is from this side. I hope we will be able to resolve it soon, but we, the Senate, will go on the conference report. We do not need unanimous consent to do that. There will be a motion to proceed if there is an objection.

Mr. President, I am talking about the foreign operations conference report, is what we are going to take up first.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask, unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

PARENTAL AND TEMPORARY MEDICAL LEAVE

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Rhode Island.

S. 2488, THE PARENTAL AND MEDICAL LEAVE ACT OF 1988

Mr. PELL. Mr. President, I am most pleased to be here today to address the very important and timely legislation we have before us—the "Parental and Medical Leave Act of 1988." As an original cosponsor of this compromise bill, and as a member of the Subcommittee on Children, Family, Drugs and Alcoholism, I would like to extend my congratulations to the Senator from Connecticut and chairman of our subcommittee, Senator DODD, for bringing this issue, which is so important to so many American families, before the Senate. As a result of Senator DODD's careful crafting of this legislation, and willingness to listen to the reasonable suggestions of his colleagues, we have before us for consideration today legislation which addresses not only the changing needs of our population, but also the continued success and vitality of the American business community.

Today is the day that we are asked to decide if we will answer a call for help from the American family, if we will acknowledge a sick child's need for its parents, and if we will respond to hard-working Americans who are sick, who must care for a desperately ill loved one, who adopt an unwanted child, or who give birth to a child. My own State of Rhode Island was one of the first States in the country to recognize this critical and growing need, and to enact legislation, similar to this bill, to foster stronger family relationships by addressing these basic family needs.

Mr. President, this bill is quite simple. It provides only that working parents who must take time out of work for the birth, adoption, or illness of a child, or for personal illness, will not lose their jobs. This legislation does not, contrary to the claims of a number of my colleagues here today, "mandate" employee "benefits." This legislation is instead a recognition by responsible leaders of this Nation that times have changed, and that the time is now to demonstrate our commitment to the future. Mr. President, the numbers demand our attention and action: Fewer than 1 in 10 American families now have a mother at home with her children, and more than half of all mothers with children under 1 year of age work outside the home. With a majority of American women now in the work force, and with a large majority of these women in their prime childbearing years, we must act now to ensure that young women, and young families, can provide for and care for the next generation.

As amended today, the bill applies only to businesses of more than 50 employees, excluding from coverage an overwhelming majority—95 percent—of American businesses. But it ensures that about 40 percent of American workers need not fear that a devastating illness, or the birth of a child, means that the critical second salary, needed by the majority of American families merely to make ends meet, will be lost.

This legislation also provides a number of safeguards for those 5 percent of employers who are affected by the bill. At least one study has shown that the cost to the employer will be negligible because the leave is unpaid. In fact, the employer will benefit from more productive workers, reduced worker turnover, and reduced worker absenteeism. Other provisions address minimum employee eligibility requirements, medical certification of illness, employee notice of intent to take leave, and the scheduling of leave.

As amended today, the "Parental and Medical Leave Act of 1988" provides for a national minimum of 10 weeks of unpaid leave every 2 years for parental leave, and 10 weeks each year for medical leave. State laws, or provisions of laws, which are more favorable to the employee will not be preempted under this bill. But the existence of a minimum policy, in every State in this Nation, ensures not only competitiveness between States, but also that all of America, and not just Rhode Island and the few other States which have enacted such laws, is a profamily place to live.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BYRD. Mr. President, will the distinguished Senator yield without losing his right to the floor?

Mr. HELMS. Absolutely; yes, sir.

Mr. BYRD. I ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from North Carolina.

KINSTON, NC—AN ALL-AMERICA CITY

Mr. HELMS. Mr. President, I beg the Senate's indulgence while I brag a bit about one of my favorite cities—Kinston, NC—for its two most recent and significant accomplishments. I should add, however, Dizzy Dean's immortal words known to all: Braggin' ain't bragging'—if it's so.

On September 27, the city of Kinston dedicated its public service complex. This building represents an investment of 2 years and $2 million for renovations and equipment. It is just one of many examples of the progress and development taking place in eastern North Carolina, one of the fastest growing areas of my State.

Mr. President, Kinston is in eastern Lenoir County, 80 miles southeast of my home in Raleigh. Next month, the city will be honored by the National Civil League as an All-America City.

This honor is the culmination of efforts by the civic-minded people in Kinston who set out 2 years ago with the specific objective of earning this honor for their city. Kinston is 1 of 10 cities receiving the honor this year. All-America Cities are chosen for having demonstrated the ability to solve local problems through joint actions by citizens, business, and government.

Kinston was recognized for its development of alternative housing and support programs for its elderly citizens. I have a list of these projects as outlined in a recent article from the Raleigh News and Observer, and I ask unanimous consent that this information be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. Mr. President, I commend Kinston Mayor Buddy Ritch, George G. Harper, chairman of Kinston's All-America City Committee, Robert L. Jones, and countless other Kinston citizens who have worked for this well-deserved recognition for this lovely Tar Heel city.

EXHIBIT 1

ONGOING PROJECTS FOR THE ELDERLY IN KINSTON

Kinston Towers. Eleven stories with 148 apartments, funded by the U.S. Department of Housing and Urban Development in 1978. Rents based on sliding scale for tenants with maximum annual incomes of $9,000 for one person to $11,000 for two people.

Six Churches Plaza. Eight stories with 110 apartments built with HUD funding in 1982, backed with $10,000 "good faith" deposit contributed by group of three white and three black churches that will gain title to the building in 2022.

Roland L. Paylor Jr. Apartments for the Elderly. Three stories with 40 apartments, also built with HUD funds in connection with the Six Churches project.

Hotel Kinston Apartments. Ten stories with 42 apartments. An old hotel bought and renovated by a private developer to be used for elderly tenants, who will be chosen by the Kinston Housing Authority.

George T. Skinner Center for the Elderly. A one-story recreational and dining facility composed of two houses that were moved from the construction site for Six Churches Plaza. Relocation and reconstruction of the Skinner Center, now valued in excess of $300,000, was funded by the Kinston Housing Authority, the City of Kinston and HUD.

Council on Aging. Funded with a combination of state, county, federal and private contributions and the United Way. Operates the Skinner Center, sponsors support programs for elderly in the areas of health care, education and employment.

Meals On Wheels. An all-volunteer organization funded by private contributions. Annually provides almost 13,000 meals and visits to home-bound elderly in the community.

InterChurch OutReach (ICOR). A nonprofit, private organization of 25 churches that provides emergency assistance when private or government agencies cannot assist. Acts as a liaison in assisting elderly with Social Security or housing problems.

Eastside Neighborhood Improvement Club. A 35-member group active in renovating the poorer areas of East Kinston through revised building and housing codes. Now renovating Adkin High School building for a community center for all ages.

Mr. President, I suggest the absence of a quorum.

Mr. BYRD. Mr. President, will the Senator withdraw the request?

Mr. HELMS. I withhold.

Mr. BYRD. I did not want the quorum to be charged to each side.

Mr. SPECTER. Mr. President, I have just asked the distinguished majority leader if this might be an appropriate time to speak for 5 or 6 minutes on some of the issues which have been pending. There is consideration of postponing consideration of the parental leave bill. While I understand and respect the control of the calendar by the distinguished majority leader, it had seemed, at least to this Senator, that we might have proceeded with the parental leave bill——

The PRESIDING OFFICER. If the Senator from Pennsylvania would suspend, we are under controlled time. It would be necessary for the Senator from Pennsylvania to secure a time allotment from one of those who is in control.

Mr. SPECTER. I ask unanimous consent that I might proceed for 6 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. I thank the Chair.

SENATE SCHEDULE

Mr. SPECTER. Mr. President, it seems to this Senator that it would be in the interest of expeditious treatment of the parental leave bill if we were to continue the consideration of that bill at this time. There has been an amendment offered in the nature of an entire bill on pornography, a matter which this Senator feels ought to be the subject of some additional amendments. On Wednesday afternoon, I raised a number of constitutional concerns as to procedures on proof beyond a reasonable doubt in a jury trial and the issue as to whether or not there was an appropriate obscenity standard governing adults. And yesterday, on Thursday, I was prepared to offer those amendments but found that procedural posture of the parental leave bill did not allow that.

When we are considering sending back the parental leave bill to committee to add the day care bill, it seems to this Senator that while I favor legislation on both parental leave and on day care—and there has been a widespread agreement by many parties, including Vice President BUSH, on the necessity for a day care bill—those issues are complicated. They are going to require considerable discussion; that to take up a day care bill in the context of the pending parental leave bill and the complex questions on the obscenity bill is to virtually guarantee that nothing will be accomplished, that we will not really focus on parental leave and get the matter resolved.

Perhaps day care is more important than parental leave and, if so, perhaps it would have been appropriate to take up day care in advance of parental leave. But this Senator is concerned about a couple of items. One is that a tremendous amount of valuable time is not being utilized by the Senate to consider very important measures, and this Senator is concerned about a procedural posture which is really looking to the Presidential election as opposed to finishing what is the Senate's business.

When we had the minimum wage bill on the floor last week, the matter was taken off the calendar allegedly because the Republicans had successfully mounted a filibuster. I continue to read again in this morning's Washington Post that Republicans obstructed the minimum wage bill. I submit, Mr. President, that that is factually incorrect; that last Friday when the final vote was taken on the motion for cloture there were 56 Senators in favor of cloture, including some Republican Senators, including this Senator. Following the vote, it was announced on the floor I believe by the distinguished Senator from Massachusetts, Mr. KENNEDY, that there were three absent Democrats and they were on the verge of succeeding in obtaining cloture. I believe it is a certainty, perhaps a virtual certainty, that had there been an additional cloture vote on minimum wage 60 votes would have been obtained and we would have proceeded on that issue.

So I think the fact that it has not been Republican obstructionism, but that there has been a decision to put minimum wage back on the calendar and to blame the Republicans for that conclusion. I think that is most unfortunate because I believe we should have continued to debate and resolve the minimum wage bill.

Last week on minimum wage we had a number of issues pending. We had the amendment by Senator KENNEDY which would expand the range of exemptions for students, and we had the amendment of Senator HATCH to that which looked to the issue of a subminimum wage, and for some reason we could not get a vote. Each side blamed the other as to why there was no vote. The tree was filled. There ought to have been some way to have broken that impasse, or at least to have gone ahead with the cloture vote and consider the minimum wage bill, which is very important. Again there is general agreement that there ought to be a minimum wage bill in this country. That is what the distinguished majority leader has said. That is what the distinguished Republican leader has said. That is what Senator KENNEDY has said. That is what Vice President BUSH has said. And yet we are not considering it. What it ought to be, we have not agreed upon, and whether there ought to be some component for additional training or subminimum wage we do not agree upon, but we did not resolve that issue by taking down the bill, especially when we are within one vote of getting cloture and getting the matter resolved.

This week we have had lengthy periods of recess. This week we have concluded early. This week we have come in late. This week we have been beset by quorum calls, and we have pending a very important drug bill. A great deal of work has gone into that bill by many, many Senators, including this Senator, and many, many staffs. For some reason we are not taking up the drug bill. What is the reason? The distinguished leader refers to the fact that the Office of Management and Budget has not given us a dollar figure. Well, Mr. President, I wonder why we cannot proceed with the drug bill on many other issues which could be debated without getting to the issue of a dollar amount.

We have two issues on the drug bill which do not involve dollars and cents which are going to require a lot of time by this body. One is the death penalty and the other is search and seizure.

I only use these, Mr. President, as illustrative issues. What may well happen on the drug bill, if precedents are followed, is that along about next Wednesday night at midnight or next Thursday night a midnight or the middle of the night we are going to be debating the death penalty and there is not going to be any time for discussion and we are going to wrap down on some time limit or some pressure in this body at that juncture. We have plenty of time today, this morning, now, to debate the issue of the death penalty. It is very important issue. This Senator feels strongly that there is an appropriate place in our penal system for the death penalty on certain egregious crimes, certain outrageous crimes. I would like to have an opportunity to discuss the experience I have had as district attorney of Philadelphia where the death penalty was imposed, the experience this Senator has seen of the death penalty as a deterrent, where individuals refrain from taking weapons on robberies because of the concern of the death penalty, and there are many deeply felt views on the other side.

That is an issue which this body could take up now and very appropriately consider. Search and seizure is a very involved subject. The House of Representatives has undertaken an approach on search and seizure which is highly questionable, to use the good faith standard where you do not have a warrant, totally different from a good faith standard where there is a warrant and you go before a judge, an attached judicial official to consider probable cause and a mistake is made and the issue then turns on good faith, contrasted with a warrantless search where any set of facts can be portrayed or more accurately concocted after the fact. This is an issue which this Senator would suggest we could take up very profitably and move ahead with some very enlightening debate and analysis.

I make these remarks, Mr. President, out of great deference and respect to the distinguished majority leader. This Senator after having been here for a relatively brief period of time, some 8 years now, is concerned about our addressing and resolving minimum wage, parental leave, the obscenity issue and day care.

The talk in the corridors and the talk on the subway and the talk in the lunchroom by many Senators, if not a majority of Senators, is to the same effect.

I rode up the elevator with a colleague of mine this morning, and the comment was: "Why only one vote yesterday? Why not take up the business?"

It is 12:21, and there has not been any substantial business taken up today. The next time that clock reads 12:21 will be 12:21 a.m., and we will probably still be here. It is fine to be here after midnight if there is a necessity to be here, but this Senator wonders why we do not take up these issues and proceed with them at this time, when there is so much work to be done.

If, as, and when the motion to recommit the parental leave bill comes up—and that was the start of my decision to comment—I will oppose it, not because this Senator opposes day care but because if we recommit the bill and bring it back in a more complex form, given the scheduling at hand, nothing is going to be accomplished.

So I would urge consideration at this time, that we take a look at the drug bill and start to address these issues where we have time, in a detached manner, because when we deal with an issue like search and seizure or with the death penalty, we are dealing with some of the most complex issues this body can undertake. I believe it would benefit the Senate and the country if we took them up as early as possible and at a time when due deliberation and due consideration be given to those issues.

Mr. BYRD. Mr. President, as soon as the managers are here on the foreign ops appropriations bill, the Senate will take up that conference report.

Mr. President, while the distinguished Senator is on the floor—he referred to the majority leader a number of times. I regret that he did not see fit to vote for cloture on the minimum wage bill. We had two cloture votes.

Mr. SPECTER. Mr. President, will the Senator yield?

Mr. BYRD. I yield.

Mr. SPECTER. The majority leader is incorrect. This Senator did vote for cloture.

Mr. BYRD. On both?

Mr. SPECTER. No.

Mr. BYRD. I said on both.

Mr. SPECTER. I understood you to say on either.

Mr. BYRD. I will correct my statement. I stand corrected.

The distinguished Senator did not vote for cloture the first time. Is that correct?

Mr. SPECTER. Yes, and for a very good reason.

Mr. BYRD. One good reason, I suppose, is that the Republicans have on their side a kind of tacit understanding that they will not vote for cloture, generally speaking, on the first go around.

So there was one wasted opportunity that the Senator had to vote for cloture, and he elected not to do it. That is his business, for whatever reason he elected not to do it.

That is one of the understandings, as I have heard from my friends on the other side, that they kind of have an understanding or agreement that they will not go for cloture, generally, on the first time around.

So I hope that the Senator will vote for cloture on the first time around, when we have a cloture vote on Monday on these profamily issues—child care, parental leave, child pornography. So he will have an opportunity to vote for cloture at that time.

What he is really talking about with respect to minimum wage is a subminimum wage. That is really what it is. It is not minimum wage. He had ample opportunity to vote for cloture on minimum wage, and there were those on the other side who wanted a subminimum wage. That is all Vice President Bush wants, a subminimum wage, not the minimum wage. He does not want the minimum wage bill; he wants the subminimum wage.

Mr. President, if the Senator wishes to yield to him, I will be happy to.

Mr. SPECTER. I seek recognition, Mr. President.

Mr. BYRD. Mr. President, I have not yielded the floor yet, but I would be happy to yield.

I yield the floor, so that my friend may have the last word.

Mr. SPECTER. I do not think it is possible for this Senator to have the last word in a discussion with the distinguished majority leader.

I sought the floor in my own right because, as I understand the rules of the Senate, as I have heard Senator Byrd expostulate them, a Senator who has the floor does not have the right to yield the floor to another Senator.

Mr. BYRD. If there is an objection. As long as there is no objection, a Senator may yield for a statement. If there is an objection, he can only yield for a question.

Mr. SPECTER. I recollect having heard the rule described differently, Senator Byrd. I recall having the rule described that you could yield the floor for a purpose other than a question only with unanimous consent and that there is a critical difference between yielding the floor without objection or yielding the floor with unanimous consent.

Mr. BYRD. Only if another Senator raises an objection. The Senator can yield to me as many times as he wishes right now, for a statement as long as nobody objects. If somebody objects, then he can only yield to me for a question, except by unanimous consent.

Mr. SPECTER. I believe that is not an accurate statement of the rule. I believe an accurate statement of the rule is that a Senator does not have the right to yield to another Senator unless it is for a question; and if no one objects, the two Senators may proceed in that way, which is at variance with the rules or will not be enforced if that is not the rule.

I heard the majority leader declare on many occasions when one Senator seeks to yield to another that it is not permissible to do that without unanimous consent because of the rule, and that yielding may obtain only for the purpose of asking a question.

At any rate, I believe I have the floor, Mr. President, in my own right, and I would like to respond to what the distinguished majority leader has said.

I flatly contradict him where he says that there is an understanding among Republicans not to vote for cloture on the first occasion. There is no such understanding.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. SPECTER. I do, for a question.

Mr. BYRD. I will seek the floor in my own right. I thank the Senator.

Mr. SPECTER. There is no such understanding among Republicans, Mr. President.

I have heard on many occasions that many Senators adopt the practice of not voting for cloture on any occasion the first time it is sought to be invoked; perhaps not on the second time. Republicans have no policy on this.

I regularly attend our Republican caucuses and our policy meetings, and we do not have a policy on that. I have voted on occasion for cloture the first time. Most frequently, I do not vote for cloture on the first occasion.

My own view of cloture was substantially shaped this year when we had the Hazardous Substance Act, and the majority leader filed a motion for cloture before there was any debate on the subject. I do believe that debate in the U.S. Senate is very important and consideration is very important and that probably, as a matter of principle, cloture ought not to be invoked on the first time the motion is filed; but that depends on how long the debate has occurred beforehand.

When it came to the issue of a minimum wage—I believe I am correct on this—I did not hear it directly from the majority leader, but I heard it represented as his view that he was moving for cloture not because the debate had been too extensive, but he was moving for cloture because he wanted to remove nongermane issues from consideration on the minimum wage bill.

This Senator, as the record will show, had filed a nongermane amendment which related to a very troublesome problem in Pennsylvania involving Pittsburgh-Wheeling Steel Co., where there was about to be a bankruptcy sale to a foreign buyer, which had very substantial problems for my constituents. Had cloture been invoked, that amendment would not have been presentable, because it would not have been germane. That was the reason, the specific reason, why I voted against cloture on the first occasion.

But last Friday when the cloture issue came up, it seemed to this Senator in the light of the pending amendments by Senator Kennedy and Senator Hatch that the matter had not been moved and that I wanted to see cloture. I wanted to see the minimum wage bill move ahead. When the distinguished majority leader makes a comment about subminimum wage or what the Republicans want, this Senator has already been on record as being opposed to the subminimum wage.

But the issue is not really whether the Republicans want the subminimum wage or some Senators do and some Senators do not. The issue is: let us get on with the debate and let us decide it. Let us have the Senate work its will. It is not a matter of what Senator Byrd, Senator Specter, Senator

WARNER, Vice President BUSH, or Senator KENNEDY, or Senator HATCH, wants. Let us go ahead and get the votes, and get it decided. If there is to be a subminimum wage, let there be a subminimum wage, and if not, let there not be one. We are supposed to decide these questions, and not engage in parliamentary wrangling for one reason or another interminably, and the issue should be for voting and decision. That is what concerns this Senator.

I have not heard the distinguished majority leader comment on my contention that we were virtually certain to have cloture invoked, and I do not intend to ask him that question. It is up to him as to whether he wants to address it. But this Senator feels very strongly that, had another cloture vote occurred, we would have had cloture, we could have moved ahead on the minimum wage, and we would have decided the matter.

I yield the floor.

Mr. BYRD. Mr. President, I am not interested in engaging in parliamentary wrangling or wrangling on any other subject. The Senator from Pennsylvania apparently enjoys it. I do not particularly enjoy it. He had his chance to vote for cloture twice. He voted for cloture on the second time around.

So, if he wishes to shed crocodile tears about the fact that there was not a third cloture vote, let him weep.

Just briefly I want to point out what the precedents say on page 634 of the book entitled "Senate Procedure." Let us see what the precedents say about yielding to other Senators.

I do not question the distinguished Senator very often on many things although he enjoys questioning the majority leader on most everything, which is all right. That is his right. He enjoys wrangling. I do not. But he has been a distinguished prosecutor. I have never been a prosecutor. I do not wish to enter into wrangling discussions, rambling discussions, or anything else. I do not challenge him on prosecutorial matters. I am not questioning his great ability, his experience, and his expertise in that field. But I am coming to understand that he is not only an expert in that field but he is an expert on Senate rules and on Senate procedures. That is quite all right. I am glad to see other Senators acquiring that kind of expertise as well.

I will not be the majority leader after this year. I hope that a good many Senators will learn more than some of them know at this time about Senate rules and procedures. I do not enjoy wrangling about that either, but the Senator cannot expect to be an expert on everything. And I do not even challenge his expertise on Senate rules and procedures. I will simply turn to the book and read for him the following.

Mr. SPECTER. Which page?

Mr. BYRD. 634, the book on "Senate Procedure."

The title of the chapter is "Debate." It is not a small task to read this book. I have read it many times. It has 1,325 pages in it including the index. Aside from the index, there are 1,287 pages.

So that might make good reading for the Senator if he wishes to become an expert on the rules and procedures. He will have ample opportunity next year to demonstrate his prowess, his skill, his expertise, and his understanding of the Senate rules and procedures.

So, on page 634 under the caption "Yield for Question Only":

> Under Rule XIX, a Senator in debate, if the regular order is insisted on or called for, can yield only for a question;

If nobody calls for the regular order, if nobody insists on the regular order, the Senator can yield as many times as he wishes to another Senator for a statement. He cannot yield to another Senator for that Senator to make a motion. He must protect his own right to the floor. He has to be careful about that. If there is a situation that is very controversial and Senators are acting under the strict rules of debate, and if they want to raise a point of order against the Senator's yielding to other Senators for statements, they will do so and he may lose the floor.

If I were yielding to the Senator for a statement, and another Senator made a point of it, saying, "Mr. President, the Senator can only yield for a question," then I could not yield further except by unanimous consent. But as long as nobody insists on sticking strictly to the rule, I can yield to another Senator for a statement, and the Senator from Pennsylvania can yield to another Senator for a statement.

Let me read it again:

> Under Rule XIX, a Senator in debate, if the regular order is insisted on or called for, can yield only for a question; he has a right to yield to another Senator to propound a question; he cannot yield for a statement, nor to another for the purpose of withdrawing an amendment.
>
> A Senator may yield to another Senator for a question, without unanimous consent, without losing the floor, but he may yield only for a question on objection, when the regular order is requested, or an enforcement of the rules called for, and not for a statement, argument, or speech in the guise of a question.

So as long as nobody challenges a Senator's yielding to another Senator for a statement, he can yield.

So I hope that will, for the record, put to rest that issue.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The majority leader yielded the floor.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I do wish to discuss the rule. I have a copy of the text and have some comments to make on it. But I want to respond very briefly to what the majority leader said earlier.

When I had made the comment about a political wrangling, it was in the context of what has gone on on this floor for the past several days, perhaps several weeks. And when the majority leader makes a comment that the Senator from Pennsylvania enjoys wrangling, I would have to sharply disagree with that and object to it. This Senator makes relatively few appearances on the floor, and on the occasions when I do, they are for substantive matters. They are not wrangling. The majority leader raises an issue about this Senator challenging him. Again I sharply disagree.

The records of the Senate show that it has been months since we had a very heated debate on the arrest of Senator PACKWOOD where I gave in detail my reasons for saying the majority leader was wrong. Later, we had an issue on the INF Treaty where the majority leader had objected to the President's proceeding because of the Senate's rights and I disagreed.

Aside from those two instances, I have not challenged the majority leader on any issue, although I might say that I have been tempted to on a number of occasions.

I feel very strongly that the posture of the Senate at the present time—an I express my views as one Senator, as I said earlier, recognizing the majority leader's control of the calendar—has left many major issues unresolved, contrary to the interest of the American people. This Senator has not shed any crocodile tears about any subject at any time, and I would take issue with the propriety of the majority leader's characterization "crocodile tears," or "wrangling" or "rambling."

The majority leader says he does not challenge the Senator from Pennsylvania on prosecutorial matters. I do not know what he is talking about. We do not have any prosecutorial matters in the Senate. We are on the Nation's business. But this Senator has not challenged the majority leader inordinately.

Perhaps this Senator has failed to challenge the majority leader when he should have and perhaps other Senators have, too.

But I am on the substantive matters here. I took up this question about yielding only because I have seen the majority leader, I can go back and document it in the CONGRESSIONAL RECORD, object when one Senator yields to another. It is true in that context he raises an objection. But my point, as I read the rules, and I am going to specify in just a moment from the same text the majority leader called, the appropriate rule is to yield only for a question. It is true that the rule will not be enforced as most rules are not enforced in the absence of an objection. But if the appropriate rule is to yield only for a question, then I think that rule ought to be observed and Senators ought not to violate that rule and proceed in an inappropriate way simply because there is no objection.

Many things go on where rules are violated and if no one raises the issue or objects or complains, violations of rules go on all the time in all walks of life. People go through red lights. People violate the antitrust laws. People violate contracts. And if no objection is raised then they get away with it. But that does not mean it is right and that does not mean it is in conformity with the rules.

I read page 634, and I will quote it, at the bottom paragraph, "Under Rule XIX, a Senator in debate, if the regular order is insisted on or called for, can yield only for a question; he has a right to yield to another Senator to propound a question; he cannot yield for a statement, nor to another for the purpose of withdrawing an amendment."

Where the text says, it is "Under Rule XIX, a Senator in debate, if the regular order is insisted on or called for, can yield only for a question," there is a semicolon there and the statement "he has a right to yield to another Senator to propound a question," and still another semicolon, and then an independent statement in the rule-book, "he cannot yield for a statement, nor to another for the purpose of withdrawing an amendment."

So the language that "he cannot yield for a statement" stands on its own without any qualifying phrase, only if there is an objection.

As this rule is amplified on page 636, it is pointed out that if a Senator yields for other than a question, but if he yields for a statement, then he loses his right to the floor, and that text does not have any qualifications about someone raising an objection.

So I believe that the rules are clear, Mr. President, that you may yield for a question and not for a statement, but if no one raises an issue on it then it is not enforced.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania has yielded the floor.

FOREIGN OPERATIONS APPROPRIATIONS, FISCAL YEAR 1989—CONFERENCE REPORT

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a conference report on H.R. 4637.

The PRESIDING OFFICER. The clerk will report.

Mr. SYMMS. Mr. President, is this the unanimous consent——

The PRESIDING OFFICER. The clerk will report the conference report.

Mr. BYRD. This is the foreign operations appropriations.

Mr. SYMMS. Is this a unanimous-consent request?

Mr. BYRD. No, I do not need unanimous consent. The Senator may object if he wishes. Then I will move.

Mr. SYMMS. Mr. President, could I ask the distinguished majority leader a question?

Mr. BYRD. Yes.

Mr. SYMMS. Before we move forward, I just want to protect my rights.

I note that on page 36 of the conference report there is language there that says "That H.R. 4645 as reported on September 22, 1988, by the Committee on Banking, Finance, and Urban Affairs of the House of Representatives is hereby enacted into law."

The only language that makes reference to that says "Provided further that none of these funds shall be made available until S. 2524 or another act authorizing the appropriation of such funds is enacted into law."

My understanding is that a conference is not supposed to include language that has not been acted on by either body. The Senate did not act on that. That was Senate language in our bill. The House never acted on it. The fact is they have not passed the authorizing language.

What this does is deny Senators the opportunity to have debated some $14 billion of funds that are infused into the World Bank and there are many environmental questions that our Environment and Public Works Committee have addressed on that about what this money is used for and what the environmental impact on the rain forests is.

We have spoken to that in our committee but we have had no opportunity to debate it.

What I am asking the majority leader is other than just offering an amendment to strike that from the conference report, what other protections do we have and at what point do we have to offer those amendments to protect a Senator's rights?

Mr. BYRD. Mr. President, the motion I made is not debatable.

I would suggest that the distinguished Senator address his question to the two managers of the conference report and they are both here.

Mr. SYMMS. Will there be an opportunity for amendments to the conference report?

Mr. INOUYE. Mr. President, will the Senator yield?

Mr. SYMMS. I am happy to yield.

The majority leader has the floor.

Mr. BYRD. Mr. President, I submit a report of the committee of conference on H.R. 4637 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4637) making appropriations for foreign operations, export financing, and relating programs for the fiscal year ending September 30, 1989, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

Mr. INOUYE. Mr. President, I move adoption of the conference report.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the conference report?

Mr. METZENBAUM. Mr. President, reserving the right to object, and I have no intention to object.

The PRESIDING OFFICER. Reservation is heard.

Mr. METZENBAUM. Mr. President, this is more in the nature of an inquiry.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. As I understand what the distinguished Senator from Hawaii is proposing is the adoption of the conference report, but there are still some amendments that are open and available for debate.

Mr. INOUYE. Yes, I will make a motion at this time to do exactly that.

Mr. METZENBAUM. I am happy to accept the word of my colleague from Hawaii. I just want to be certain. I thank the Senator very much.

The PRESIDING OFFICER. Is there objection?

Mr. SYMMS. Further reserving the right to object, Mr. President, and the question I pose also is pertinent to what the Senator from Ohio just asked and I will ask the distinguished Senator from Hawaii if then there will be an opportunity to offer amendments to strike certain portions of the bill because this Senator is very distressed about what I find in amendment No. 119 with respect to World Bank funding.

Mr. INOUYE. I will specifically move that 119 be set aside so that amendments such as you describe can be taken up.

Mr. SYMMS. I withdraw my objection.

I thank the distinguished Senator.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, will the Chair be good enough to advise if unanimous agreement is accepted or adopted whether or not a Member would be precluded to raise points of order with respect to issues such as legislation on an appropriations bill or other matters of a parliamentary nature regarding an amendment in disagreement?

The PRESIDING OFFICER. The question which is before the Senate is to immediately proceed to the consideration of the conference report. That would not affect any Senator's rights to raise other issues at a later point.

Mr. METZENBAUM. So that the Senator from Ohio would not be precluded from raising parliamentary questions concerning amendments in disagreement or the underlying conference report?

The PRESIDING OFFICER. The Senator from Ohio is correct.

Mr. METZENBAUM. I thank the Chair.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the conference report?

Mr. HELMS. Mr. President, I regret that I must reserve the right to object, and I do not think I will.

The distinguished Senator from Hawaii has already offered to set aside the amendment in disagreement with respect to the World Bank, which was raised by the distinguished Senator from Idaho.

What is he going to do about the other amendments in disagreement?

Mr. INOUYE. If the Senator from North Carolina will permit me, I will propound a unanimous consent request which will cover that at this time.

Mr. HELMS. Fine. I have no objection.

The PRESIDING OFFICER. Are there objections? Without objection, the Senate will proceed to the immediate consideration of the conference report on foreign operations.

(The conference report is printed in the House proceedings of the RECORD of September 26, 1988.)

Mr. CHILES. Mr. President, the Senate Budget Committee scoring of the foreign assistance appropriation bill conference report for fiscal year 1989 shows that the bill is within its revised 302(b) allocation for budget authority, but $30 million above its 302(b) allocation in outlays. I have a table from the Budget Committee showing the official scoring of the foreign operations appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

Before leaving this bill, I want to note that this is expected to be Senator INOUYE's last year as chairman of the Foreign Operations Subcommittee. Senator INOUYE has been chairman of this subcommittee almost the full time that I have been a Member of the Senate. Over the years, he has made numerous efforts to improve America's policies and programs abroad. He and I have worked together on many occasions, and I have found him to be not only a skilled legislator, but also a man who has his heart in the right place. I wish him well.

I would also like to express my appreciation to Richard Collins, staff director of the subcommittee. Richard has not only been most helpful to me personally, but has been a good friend as well. One of my great pleasures has been to have an opportunity to travel with Richard several times. These trips have not only proven to be extremely useful, but exhilarating as well. I have seen him under all kinds of fire and know him to be a steady hand. I wish him well in his future endeavors.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 4637

FOREIGN OPERATIONS—SPENDING TOTALS (CONFERENCE REPORT)

[In billions of dollars]

	Fiscal year 1989—	
	Budget authority	Outlays
302(B) BILL SUMMARY		
H.R. 4637, Conference Report (new BA and outlays)	13.4	5.2
Enacted to date	0.9	7.0
Adjustment to conform mandatory programs to resolution assumptions	+(1)	+(1)
Scorekeeping adjustments		
Bill total	14.3	12.2
Subcommittee 302(b) allocation	14.3	12.2
Difference	0.0	+(1)
Bill total above (+) or below (−):		
President's request	−(1)	+(1)
House-passed bill	−(1)	−0.1
Senate-passed bill	−(1)	+(1)
SUMMIT CAP SUMMARY		
International affairs spending in bill	13.3	11.2
Allocation under international affairs cap	13.3	11.2
Difference	0.0	+(1)

[1] Less than $50 million.

Note.—Details may not add to totals due to rounding. Prepared by Senate Budget Committee Staff.

Mr. DOMENICI. Mr. President, I commend the remarkable team who have managed this bill for the past 8 years, the distinguished chairman, the Senator from Hawaii, and the ranking Republican Member, my friend from Wisconsin.

I appreciate the managers' continuing support for the struggling democracies in Costa Rica, El Salvador, Honduras, and Guatemala along the lines recommended by the National Bipartisan Commission on Central America back in 1984. I know personally how many hours of their time it has taken to keep this program on track. While others worked for and against Contra aid, a few of us remembered that jobs, better health, and literacy are equally vital to security.

The people of New Mexico value the endorsement of our Hispanic heritage on page 17 of the conference report. I hope the agencies take heed of the warning relating to continuing discrimination against Hispanic American areas.

Senators INOUYE and KASTEN, working with Congressmen OBEY and EDWARDS, have produced a consensus bill that is acceptable to both the legislative and executive branches of Government. The conferees have brought some order to the chaos we call foreign aid. A lot more remains to be done.

THE CARIBBEAN BASIN PROMOTION CENTER OF THE CHICAGO ASSOCIATION OF COMMERCE AND INDUSTRY

Mr. DIXON. Mr. President, I want to take this opportunity to bring to my colleagues' attention a very important program—the Caribbean Basin Promotion Center.

The Caribbean Basin Promotion Center is a program that has been funded by the Agency for International Development and operated by the Chicago Association of Commerce and Industry since 1982. In fiscal year 1988, the Foreign Operations Appropriations Committee Report included language that recommended that AID provide for the continuation and expansion of the center.

Unfortunately, AID has yet to release a single penny of fiscal year 1988 funds—even though we are almost in the next fiscal year. Congress' intent was clear, and AID chose to ignore it.

Since its beginning in 1982, the Center has been successful in developing over $100 million in new trade and investments for countries in the basin by putting Caribbean businesses in touch with interested companies in the United States.

This new trade has not only proven beneficial to the Caribbean, it has also enhanced the economy of the United States. As the Caribbean Basin countries begin to expand and improve their facilities, they come to us for the technology, raw materials, packaging and other distribution services. These countries are looking to the U.S. market to upgrade their plants so their products will be more competitive, which means that our country is getting a bigger return on our dollar.

My good friend, the distinguished Senator from Hawaii and Chairman of the Appropriations Subcommitte on Foreign Operations, again recognized the importance of this program and included language in the fiscal year 1989 conference report last week for the Caribbean Basin Promotion Center.

The language the conferees included provides $1.5 million for a 2-year continuation and expansion of the Caribbean Basin Promotion Center program, funded by the Agency for International Development.

Let me take a moment to share with my colleagues one of AID's objectives in its development assistance private enterprise program, as stated in the

Federal Register's United States Government Manual:

> To assist, both directly and in collaboration with the U.S. private sector, those developing countries that want to support a private sector, market-oriented, developmental strategy. U.S. and developing country private sector resources can be an important supplement and complement to existing bilateral and multilateral aid programs; and private investment can make a vital contribution to development through job creation, increased productivity, transferred technology, and management know-how and the generation of additional and diversified products to meet internal demand and expand export capacity.

The record clearly shows that the Caribbean Basin Promotion Center operated by the Chicago Association of Commerce and Industry has been successful in meeting the agency for international development's main objective to help developing countries help themselves.

I want to commend the distinguished Senator from Hawaii for providing for this very worthwhile economic assistance program.

Let me ask my good friend, since your subcommittee has included language for the continuation and expansion of the center in fiscal years 1988 and 1989, is it fair to say this is a program which you consider a priority for AID in its quest to promote economic stability in developing countries?

Mr. INOUYE. My good friend from Illinois, I do, indeed, believe that the Caribbean Basin Promotion Center is a fine program and the Chicago Association of Commerce and Industry has done an outstanding job operating it.

It is obvious that the Caribbean Basin Promotion Center is in line with the agency for international development's objectives. I see no reason why AID would not recognize the importance of this program.

Given the success of the Caribbean Basin Promotion Center, AID should provide the $1.5 million for the 2-year continuation and expansion of the center as stated in the fiscal year 1989 foreign operations appropriations conference report.

Mr. President, I am pleased to report to the Senate the agreement reached by the Senate-House conference on appropriations for fiscal year 1989 funding of foreign operations, export financing and other programs. I believe the conference agreement represents a thoughtful, balanced approach to the foreign policy needs of the United States and to the needs of our allies around the world. The conference agreement also is responsive to the domestic needs of American taxpayers by providing support for our country's exports and new opportunities for investment abroad.

Mr. President, the foreign operations bill for fiscal year 1989 provides for new budget authority of $14,290,032,000. It is $699,285,259 above the fiscal year 1988 enacted level and $17,937,987 below the President's request. It is within the 2-percent growth ceiling permitted under the November, 1987, budget summit agreement and $9,810,666 below the recommended House level for fiscal year 1989. Mr. President, the funding level recommended by the conference sends a strong signal to our allies that the United States is prepared to sustain its prior year funding commitments, and where necessary, to respond positively to new challenge worldwide. I firmly believe that although we now are living at a time of fiscal austerity, it is vital we find the resources necessary to strengthen our overseas presence and reenforce the image of the United States as a compassionate, steadfast leader—a proponent of democratic ideals.

Under title I of the bill, the conferees continue their strong support for the multilateral development banks and international organizations. As a demonstration of U.S. leadership, the conferees are recommending an appropriation of $50,000,795 to fund the general capital increase of the International Bank for Reconstruction and Development. This recapitalization will allow the Bank to continue its development initiatives in the Third World. It also will permit the United States to continue to exercise its traditional veto over any changes in the Bank's charter which it believes would adversely affect the objectives it has set for international development and environmental protection.

If our contribution to the GCI is not approved, then, I fear, we will earn the shame and ridicule of our allies, as well as suffer a profound decline in our influence around the globe. Other member countries of the World Bank which have failed to fund their share of the general, capital increase are Vietnam, Yemen Peoples Democratic Republic, Libya, and Cambodia—countries with whom the United States shares little common ground.

Mr. President, today the World Bank is an indispensible instrument of macroeconomic change in the fight against poverty, hunger, and illiteracy around the world. It is an institution with which we, as Americans, have a special and unique relationship. It deserves our support. It requires our leadership. I recommend, for the approval of my colleagues, full funding for the World Bank's general capital increase as contained in the conference committee bill.

Under title II of the bill, the conferees have allocated resources sufficient to meet or exceed most of the initiatives funded under our Bilateral Foreign Assistance Program through the Agency for International Development. These initiatives include increases over the President's request for agriculture, rural development and nutrition assistance; population planning assistance; health assistance; international AIDS prevention and control; and funding for child survival programs. Increases to the fiscal 1988 funding level are recommended for the operating expenses of the Agency for International Development, as well as the Office of the AID Inspector General. The funding level for International Disaster Assistance would remain constant at $25,000,000.

The conferees do, however, recommend the earmarking of an additional $35 million in reconstruction and rehabilitation assistance for Jamaica, in direct response to the destruction and devastation of Hurricane Gilbert.

Mr. President, the concern felt by the American people over the worsening economic conditions on the continent of Africa also is reflected in the conference agreement. Continuing with the work we began last year, the conferees recommend that an additional $500,000,000 be appropriated for sub-Saharan Africa Development Assistance and that an increase in funding be provided to the African Development Foundation. In addition, we ask that the President's decision to zero-out funds for the Southern Africa Development Coordination Council be reversed and that $50,000,000 be provided to the countries of SADCC.

Elsewhere, the conferee's longstanding concern for the disadvantaged remains strong and undaunted. Responding to the sharp increase in the number of displaced persons worldwide, the conference recommends a $21,950,000 increase in the funding for refugee assistance. The conference committee has provided specific funds within this account for Afghan refugees, Southeast Asian refugees and those granted permission to emigrate from the Soviet bloc. In addition, we propose that $50,000,000 be added to the United States Emergency Refugee and Migration Assistance Fund with $23 million specifically dedicated to provide assistance for the repatriation of Afghan refugees. These funds are to be provided through the ongoing Cross-Border Humanitarian Assistance Program.

The conferees recommend additional increase over fiscal 1988 funding for the Inter-American Foundation and the Peace Corps. We also have agreed to the higher funding levels requested by the administration for the Department of State's programs in international narcotics control, and anti-terrorism assistance.

Under title III of the bill, the conferees recommend important changes in the way in which the United States disburses military assistance. For the first time, the conferees are recommending the creation of a Foreign Military Financing Program [FMFP] in lieu of the existing foreign military sales and military assistance programs. I believe that the new FMEP Program will improve substantially the ability of recipient States to budget their defense requirements, while providing the United States with the chance to meet its responsibilities to its allies in a more cost effective and administratively efficient manner.

Mr. President, of the total $4.7 million in military aid recommended by the conferees, $3.8 billion is recommended for foreign military sales financing program grants and $410 million is recommended for FMS credits provided at concessional rates. The conferees recommend that the Military Assistance Program, composed of all grant aid, be funded at $467 million. Of the total military assistance package, $876 million is to be set aside for government-to-government arms sales where, the conferees believe, it can be more closely controlled.

Mr. President, I am also confident that the new arrangement will serve the United States both as a means of controlling the unrestrained transfer of armaments wouldwide, as well as a means for curbing waste, abuse and corruption in the military sales field. The system proposed by the conferees will encourage government-to-government sales and thereby increase the opportunities Congress will have to review the consequences of each transfer. I believe that under a three-tiered system, scarce military assistance funds will be maximized, and recipient countries will be able to receive the full benefit of the available funds.

Under title III, the conferees also are recommending an appropriation of $47,400,000 for the program in International Military Education and Training. This represents a $5,100,000 reduction in the President's request, but is equal to the amount provided in the current fiscal year. The legislation incorporates a $2,349 ceiling on per capita GNP to limit the eligibility of richer countries for grant military education and training. Countries such as Austria, Finland, and Luxembourg could still participate in the IMET Program, but they would have to pay the transportation and per diem costs of their participants.

Mr. President, under title IV, export financing, the conferees have demonstrated, once again, their sensitivity to the problems faced by American business overseas. The conference allocated $695,000,000 in new budget authority for the Export-Import Bank. This amount is slightly below the President's request, but, nevertheless, represents an important step in reversing the worsening trade deficit of the United States. The conferees also recommend the appropriation of funds for fiscal year 1989 to continue operation of what has come to be known as the "warchest."

The conferees are acutely aware of the importance of trade to the economic health of our country. Where there is no prosperity, there can be little prospect of increased levels of foreign assistance. If our country is to remain a leader in world affairs, it must first cultivate overseas markets and then compete effectively. It is for this reason that the conferees also heartily endorse the work of the Trade and Development Program of the Agency for International Development and recommend the appropriation of $25,000,000 for this important program.

Mr. President, this, in summary, is the foreign operations bill reported by the committee of conference. It is a good bill, one which I believe meets all the essential requirements of the Nation's foreign policy. It is a humanitarian bill, which exhibits both the quality and generous quantity of support for the poor which the world has come to expect of the United States. It is a fiscally responsible bill, which reflects the terms of the bipartisan budget agreement reached between Congress and the Executive last November. It is an open bill, responsive to the will of the American taxpayer and sensitive to the needs of the country. Lastly, it is a bill which promotes peace and, I believe, makes the world a safer place for ourselves and our children because it embodies the values of compassion and justice which we, as Americans, cherish. It is against this measure that I believe the true worth and potential of this bill should be judged.

Mr. President, in response to the world's problems, $14.2 billion in foreign assistance is insufficient. Yet, for individuals whose lives are touched by the generosity of the American spirit, it can mean the difference between hunger and hope, between poverty and prosperity. During my 15 years as a member of the Foreign Operations Subcommittee, I have come to know, as well as any one charged with the many tasks of a U.S. Senator possibly could, the programs funded in this bill. I have seen the wondrous things which American dollars have brought to the far reaches of our planet, and the goodwill which has been engendered because this powerful country reached out to the powerless and promised hope.

Mr. President, it is a privilege to recommend this bill for the consideration of the Senate. I urge my colleagues to support our work and to approve funding for foreign operations for fiscal year 1989.

Mr. DECONCINI. Mr. President, I rise to address the Foreign Operations conference report and specifically the arms proliferation-issue in the Middle East. We have seen over the past 10 years a huge increase in total expenditure on military arms in this region. This trend only promises to increase if we do not address the arms race and draw the line on selling our most advanced weapons into this region.

Total cumulative military expenditures for the Middle East reached an all-time high in spending between 1977-88, with a sum totaling $450 billion. Moreover, $140.26 billion was spent on arms imports from other countries. This total accounts for an alarming trend in sales in Middle Eastern countries.

It can be shown from past experience that proliferation of weapons in any arena can become a dangerous and costly game. From experiences during the cold war and the arms buildup of the 1960's it can be seen that arms competition, if not dealt with properly, can turn into an unstemmable tide.

With regards to the passage of the Foreign Operations conference report, I supported an amendment in the bill which prohibited the transfer of Maverick G and D missiles to Kuwait. This amendment was originally incorporated into the bill. Last week, Chairman INOUYE attempted to remove the provision and failed. This week, in a close and contentious vote, the provision was removed. I am interested not in blocking an arms package to one specific Middle Eastern country, but am instead eager to discuss the tidal wave of arms directed unto this region of the world.

Many countries in the world today are attempting to exert their political independence and military power. Twenty years ago countries were politically allied. Today countries are making more and more decisions on their own. In addition, defense concerns are greater today than they have been in the past, and Middle Eastern countries are eager to expand their military capability. If we continue to allow the unrestricted sale of all arms into the region, the balance of power will shift in the region and peace will be threatened.

At present we are witnessing arms sales into the Middle East which are originating from at least 10 different countries throughout the world. This is at a time when we are seeking a cease-fire between Iran and Iraq. These countries are receiving arms from every corner of the Earth, and the crucial fact is that if the United States does not take a leadership position in controlling this practice, we will soon see tragic consequences.

We have, in recent times, made great strides with the Soviet Union in decreasing arms proliferation, but the Soviet Union is no longer the main antagonist. Many Western European countries are selling weapons systems eagerly. Not merely weapons systems, the technology and means to construct them. France, in an effort to keep its arms market alive, has been selling numerous Gulf nations arms and various weapons. Italy and Portugal sell these same countries tanks, casings, and various components needed to construct larger weapons.

Italy, approved limited arms sales to Iran after the United States embargo, including shipment of 27,000 fuses, 92 antiaircraft guns, and 10 naval guns. Even Britain recently sold $50 million in tank parts to Iran explaining that it was not connected to lethal systems. Britain has recently sold over 20 billion dollars' worth of arms to Saudi Arabia. I have written to Prime Minister Thatcher about this and have received a reply.

To further enhance the problem, the People's Republic of China has recently entered the arms arena. Selling anything from medium-range ballistic missiles to the small but lethal Silkworms, the Chinese are eager to make their share of the profits. Many other developing countries are active in the arms market as well. Brazil, North Korea, Indonesia, and Argentina are selling spare parts and "copy-cat" weapons—similar to those made in more established countries—for cut-rate prices. Only by direct pressure from the United States will these countries be discouraged from these otherwise lucrative sales.

I implore my colleagues to consider the gravity of the situation. This sense-of-the-Senate resolution, proposed by Senator SPECTOR and myself, is a start in resisting the growth of arms in the Middle East. If we do not begin to take action now, tomorrow it will be too late. It is the United States who needs to set the example for the rest of the world. We will not be cavalier in our arms sales policies, and we should not let other countries infringe on our moral leadership.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I urge the adoption of the conference report.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the conference report.

The conference report was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, I ask unanimous consent that it be in order to consider and agree en bloc to the amendments of the House to the amendments of the Senate, with the exception that amendments numbered 119, 134, and 176 shall not be considered as part of this unanimous-consent request.

Mr. HELMS. Mr. President, if the Senator will yield, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quroum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I have no objection.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

The amendments in disagreement agreed to en bloc are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 1 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

CONTRIBUTIONS FOR ARREARAGES

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $43,333,334, for the United States contribution to the replenishments, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position of level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $4,891,528 for the United States share of the increase in subscriptions to capital stock, to remain available until expended.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increase in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89-369), $100,000,000, to remain available until expended: *Provided,* That no such payment may be made while the United States Director of the Bank is compensated by the Bank at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to the Bank is compensated by the Bank in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

ANNUAL CONTRIBUTIONS TO INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increases in capital stock, for the General Capital Increase, $50,000,795, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in capital stock in an amount not to exceed $2,292,972,540.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 5 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert a period.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 7 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "$226,115,000, of which $2,650,334 shall be made available for the Organization of American States which amount shall be in addition to funds earmarked elsewhere under this heading for that organization".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 10 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ": of which $3,000,000 shall be made available to UNICEF as funds in trust for the activities of Childhope or similar organizations to help homeless or street children".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 11 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ": *Provided further,* That if the previous proviso has not been complied with, none of the funds appropriated by this Act remaining unobligated or unexpended at that time shall be obligated or expended until funds appropriated under this heading are made available to UNICEF (less amounts withheld pursuant to the previous proviso)".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 23 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ": *Provided further,* That the Department of State shall provide a report to the Committee on Appropriations, not later than June 1, 1989, analyzing the effectiveness of the United Nations Environment Program (UNEP) and detailing how UNEP has spent or intends to spend the funds appropriated under this heading. The State Department shall make this report immediately available to the Appropriations Committees".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 31 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ": *Provided further,* That not less than $64,770,500 of the funds appropriated under this heading and under the heading "Sub-Saharan Aftica, Development Assistance" shall be available only for programs in basic primary and secondary education: *Provided further,* That in fiscal year 1989, the Agency for International Development shall initiate two new bilateral projects, in basic primary and secondary education, at least one of which shall be initiated in countries in Sub-Saharan Africa: *Provided further,* That in each fiscal year 1990 and 1991, such agency shall initiate three new bilateral projects in basic primary and secondary education, at least two of which in each fiscal year shall be initiated in Sub-Saharan Africa".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 33 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ": *Provided further,* That not less than $1,200,000 of the funds appropriated under this heading shall be made available for the Leadership Center for the Americas program".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 35 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

"ASSISTANCE FOR JAMAICA

"Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $35,000,000 shall be made available, notwithstanding any other provision of law, for relief, rehabilitation and reconstruction assistance, which amount shall be in addition to funds otherwise made available for Jamaica to carry out the provisions of part I of such Act".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 44 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert ": *Provided,* That not less than $500,000 of the funds appropriated under this heading may be made available for assistance for children who have become orphans as a result of natural disasters".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 47 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert ": *Provided,* That up to three percent of the amount made available under the heading 'Operating Expenses of the Agency for International Development' may be transferred to and merged and consolidated with amounts made available under this heading: *Provided further,* That except as may be required by an emergency evacuation affecting the United States diplomatic missions of which they are a component element, none of the funds in this Act, or any other Act, may be used to relocate the overseas Regional Offices of the Inspector General to a location within the United States without the express approval of the Inspector General: *Provided further,* That the total number of positions authorized for the Office of Inspector General in Washington and overseas shall be not less than 240 at September 30, 1989: *Provided further,* That section 103(b) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 is amended by (1) striking out subsection (b)(3); (2) inserting, in subsection (b)(2), 'or regional inspector general offices under the jurisdiction of the Inspector General, Agency for International Development' after 'commander'; and (3) striking out '; and' at the end of subsection (b)(2) and inserting in lieu thereof a period".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 53 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert ": *Provided further,* That not less than $2,500,000 of the funds appropriated under this heading shall be available for Thailand".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 55 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert ": *Provided further,* That not less than $60,000,000 of the funds appropriated under this heading shall be available for Turkey".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 62 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert "$15,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 64 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken by said amendment:

Strike out all of the House engrossed bill language beginning on Page 23, line 19 following the word "Jordan" through Page 23, line 24 ending with the words "regional program", and insert in lieu thereof the following: : *Provided further,* That not less than $15,000,000 of the funds appropriated under this heading shall be made available for the West Bank and Gaza Program through the Asia and Near East regional program

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 70 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ": *Provided further,* That $1,000,000 of the funds appropraited under this heading shall be made available, notwithstanding any other provision of law, for the provision of medical supplies and hospital equipment for Poland through private and voluntary organizations, including the expenses of purchasing, transporting, and distributing such supplies and equipment".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 84 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ": *Provided further,* That the provisions of subsection (c) of section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as contained in section 101(e) of Public Law 100-202, shall apply to an individual who (1) departs from Vietnam after the date of the enactment of this Act and before the end of the two-year period described in subsection (a)(1)(B) of such section, and (2) is described in subsection (b) of such section, but who is issued an immigrant visa under section 201(b) or 203(a) of the Immigration and Nationality Act (rather than under subsection (a) of such section), or would be described in subsection (b) of such section if such section also applied to principal aliens who were citizens of the United States (rather than merely to aliens".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 86 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ": *Provided,* That of the funds appropriated under this heading not less than $23,000,000 shall be made available only for Afghan refugees to be administered by the cross-border humanitarian assistance program: *Provided further,* That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 which would limit the amount of funds which could be appropriated for this purpose: *Provided further,* That funds appropriated under this heading shall be available for obligation and expenditure for Afghan refugees only after funds appropriated or otherwise earmarked for assistance for the Afghan people under section 537 of this Act and under the heading "Migration and Refugee Assistance" have been obligated".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 87 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"MILITARY ASSISTANCE

"For necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, including administrative expenses and purchase of passenger motor vehicles for replacement only for use outside of the United States, $467,000,000: *Provided,* That of the funds appropriated under this heading not less than $125,000,000 shall be made available only for the Philippines: *Provided further,* That not less than $9,000,000 shall be available for non-lethal military assistance for Guatemala, of which not less than $2,000,000 shall be available only for civic action programs and for the construction of military barracks: *Provided further,* That not less than $15,000,000 shall be available for Kenya: *Provided further,* That if any of the funds appropriated under this heading are made available for Turkey, then not less than $30,000,000 of such funds shall be available for Greece: *Provided further,* That of the funds appropriated under this heading not more than $40,000,000 shall be used for general costs of administering the Military Assistance program: *Provided further,* That any material assistance provided with funds appropriated under this heading for Haiti shall be available only through the regular notification procedures of the Committees on Appropriations: *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That the proviso under this heading in the Foreign Operations, Export Financing, and Related Programs Appropriatons Act, 1988, prohibiting the use of military assistance funds after September 30, 1989, for the purpose of section 503(a)(3) of the Foreign Assistance Act of 1961, is repealed: *Provided further,* That any military assistance funds appropriated by this Act that have not been committed for the payment of any sale under the Arms Export Control Act during the period ending at the end of the second fiscal year after the fiscal year for which such funds were appropriated shall not be committed for such purpose thereafter unless the Committees on Appropriations are given a fifteen day prior notification of the amount of funds involved, the reasons why no commitment was made thereof and the proposed sales to be financed with such funds: *Provided further,* That any military assistance funds appropriated by this or any other Act that have been expended into the account designated in section 503(a)(3) of the Foreign Assistance Act of 1961 to finance particular sales shall be available, subject to all applicable reprogramming provisions, reductions, excess funds at case closeout, or other reasons relating to the implementation of sales programs: *Provided further,* That the Committee on Appropriations shall be furnished on March 1 of each year a complete report of the status of military assistance funds appropriated by this or any future Act committed for the payment of any sales under the Arms Export Control Act as regards the individual sale, item description, and estimated sales price."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 89 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ": *Provided,* That none of the funds appropriated under this heading shall be made available for grant financed military education and training for any country whose annual per capita GNP exceeds $2,349 unless that country agrees to fund from its own resources the transportation cost and living allowances of its student."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 90 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out all of the Senate engrossed amendment that follows "page 34," and insert in lieu thereof the following: strike out line 1 and all that follows through line 18 on page 35, and insert in lieu thereof the following:

FOREIGN MILITARY FINANCING PROGRAM

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $3,862,750,000: *Provided,* That of the funds appropriated by this paragraph not less than $1,800,000,000 shall be available for grants only for Israel, not less than $1,300,000,000 shall be available for grants only for Egypt, not less than $230,000,000 shall be available for grants only for Pakistan, not less than $52,000,000 shall be available for grants only for Morocco, and not less than $30,000,000 shall be available for grants only for Tunisia: *Provided further,* That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced fighter aircraft programs or for other advanced weapons systems, as follows: (1) up to $150,000,000 shall be available for research and development in the United States: and (2) not less than $400,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further,* That grants shall be provided with the funds appropriated by this paragraph notwithstanding any requirements in section 23 of the Arms Export Control Act for repayment and shall be implemented by grant documents which do not include a requirement to repay the United States Government with respect to any funds provided under this paragraph.

For expenses necessary for loans to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $410,000,000: *Provided,* That any funds made available by this paragraph except as otherwise specified, may be made available at concessional rates of interest: *Provided further,* That the concessional rate of interest on foreign military credit sales loans shall be not less than 5 percent per year: *Provided futher,* That all country and funding level changes in requested concessional financing allocations shall be submitted through the regular notification precedures of the Committees on Appropriations: *Provided further,* That during fiscal year 1989, gross obligations for the principal amount of direct loans under this heading, exclusive of loan guarantee defaults, shall not exceed $410,000,000.

Of the funds appropriated under both the "Military Assistance" heading and this heading $500,000,000 only shall be available for Turkey and $350,000,000 only shall be available for Greece: *Provided,* That funds previously obligated for the Philippines under the heading "Foreign Military Credit Sales" but uncommitted on the date of enactment of this Act shall be used only to finance sales made under the Arms Export Control Act: *Provided further,* That of the funds appropriated under this heading, not less than $409,750,000 shall be available only for use in financing the procurement of defense articles, defense services, or design and construction services that are sold by the United States Government under the Arms Export Control Act to countries other than Israel and Egypt: *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That the Department of Defense shall conduct during the current fiscal year nonreimbursable audits of private firms whose contracts are made directly with foreign governments and are financed with funds made available under this heading (as well as subcontractors thereunder) as requested by the Defense Security Assistance Agency: *Provided further,* That any reference in Title V of this Act to "Foreign Military Credit Sales" shall be deemed to be a reference to grants and loans pursuant to the Foreign Military Finance Program under this heading.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 101 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ": *Provided,* That notwithstanding any other provision of law, any funds contained in any previously enacted Act appropriating funds for foreign operations, export financing, and related programs which are transferred or otherwise made available to carry out the purposes of section 661 of the Foreign Assistance Act of 1961 may be deobligated and thereafter reobligated for the purposes for which such funds were originally appropriated: *Provided further,* That of the amounts appropriated under this heading up to $5,000,000 may be used for joint financing with individual State trade promotion organizations of activities directed at the expansion of trade with developing and middle income countries, including such activities as trade fairs, seminars, targeting and feasibility studies, and activities directed at enhancing the use of exports from the United States in bilateral and multilateral projects".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 103 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ": *Provided further,* That the authority of this section may be used to continue the availability of any of the funds deobligated under any of such headings in order to provide relief, rehabilitation, and reconstruction assistance for Jamaica and Bangladesh: *Provided further,* That any such funds reobligated for Jamaica and Bangladesh shall be made available in accordance with the general authorities contained in section 491 of the Foreign Assistance Act of 1961: *Provided further,* That the authority of this section may not be exercised to deobligate and reobligate funds previously obligated for the 'Economic Support Fund'.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 111 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "BURUNDI, LIBERIA, UGANDA,".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 112 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "BURUNDI, LIBERIA, UGANDA,".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 115 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "Except for programs under section 534(b) (4) or (6) of the Foreign Assistance Act of 1961 to support the efforts of private groups and individuals seeking to develop a national consensus on the importance of an independent judiciary and the administration of justice generally in a democratic society, assistance for which programs may be made available notwithstanding section 726 of the International Security and Development Cooperation Act of 1981, none".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 124 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "or, with respect to a country with which the United States has an agreement providing the United States with base rights or base access in that country, if the President determines that the recipient for which funds are earmarked has significantly reduced its military or economic cooperation with the United States since enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988; however, before exercising the authority of this section with regard to a base rights or base access country which has significantly reduced its military or economic cooperation with the United States, the President shall consult with, and shall provide a written policy justification to the Committees on Appropriations".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 133 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "programs, projects, or activities which assist or lend support for the Noriega regime, ministries of government under the control of the Noriega regime, or any successor regime that does not meet the criteria specified in subsection (a) of this section".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 135 to the aforesaid bill, and concur therein with an amendment as follows:

In Lieu of the matter inserted by said amendment, insert: "or at any time after September 30, 1989, the President may, if he determines it is in the national interest to do so, use the authority of those paragraphs with respect to such aggregate amounts of outstanding principal and interest payable at any time after that date as the President may determine. The authority provided in this section may be exercised with respect to any country described in the last sentence of this section and may be exercised notwithstanding section 124(c)(2) of that Act. In exercising the authority provided in this section, the President may waive the requirement that equivalent amounts of local currencies be deposited into local currency accounts in accordance with paragraph (A) of section 124(c)(1) of that Act, to the extent that the President determines that sufficient local currencies are otherwise available to achieve development objectives. This section applies with respect to any relatively least developed country, or any country in Sub-Saharan Africa (without regard to whether that country is a relatively least developed country within the meaning of section 124(a) of that Act), if".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 141 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

"SOUTH AFRICA—SCHOLARSHIPS

"SEC. 576. Of the funds made available by this Act under the heading "Economic Support Fund", not less than $10,000,000 shall be made available for scholarships for disadvantaged South Africans: *Provided*, That these funds shall be in addition to funds earmarked under such heading for Sub-Saharan Africa."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 144 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"(1) in paragraph (2)(A), by striking out 'law' and inserting in lieu of thereof 'joint resolution, as provided for in sections 36(b)(2) and 36(b)(3) of this Act'; and

"(2) in paragraph (3), by adding at the end thereof 'Such consent shall become effective then only if the Congress does not enact, within a 30-day period, a joint resolution, as provided for in sections 36(c)(2) and 36(c)(3) of this Act prohibiting the proposed transfer'".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 169 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section designation in said amendment, insert: "583".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 170 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section designation in said amendment, insert: "584".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 171 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section designation in said amendment, insert: "585".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 172 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

FAIR PRICING

SEC. 586. (a) The last sentence of paragraph (3) of section 503(a) of the Foreign Assistance Act of 1961 is amended by inserting immediately after the phrase "under paragraph (3)" the phrase "or from funds made available on a non-repayable basis under section 23 of the Arms Export Control Act", and by inserting after "Armed Forces of the United States" the phrase "(other than the Coast Guard)".

(b) The Secretary of Defense shall waive collection of the following amounts of surcharges otherwise due on the letter of offer and acceptance (without amendment) for the sale to Israel of aircraft known as Peace Marble III and on the letter of offer and acceptance (without amendment) for the sale to Egypt of aircraft known as Peace Vector III:

(1) $20,000,000 of administrative surchages under section 21(e)(1)(A) of the Arms Export Control Act for the letter of offer and acceptance with Israel and $11,700,000 of administrative surcharges under that section for the letter of offer and acceptance with Egypt: *Provided*, That the Secretary shall reimburse the fund established to carry out section 43(b) of the Arms Export Control Act in the amount of the surcharges waived pursuant to this paragraph from any funds available to the Department of Defense, as he determines; and

(2) $70,000,000 of nonrecurring cost recoupment surcharges under section 21(e)(1)(C) of the Arms Export Control Act for the letter of offer and acceptance with Israel and $38,000,000 of nonrecurring cost recoupment surcharges under that section for the letter of offer and acceptance with Egypt.

(c) This section shall be effective on October 1, 1989.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 173 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

IRELAND

SEC. 587. It is the sense of the Congress that of the funds appropriated or otherwise made available for the International Fund for Ireland, the Board of the International Fund for Ireland should give great weight in the allocation of such funds to projects which will create permanent, full time jobs in the areas that have suffered most severly from the consequences of the instability of recent years. Areas that have suffered most severely from the consequences of the instability of recent years shall be defined as areas that have high rates of unemployment.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 175 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

NOTICE TO CONGRESS REGARDING POSSIBLE MISSILES SALES

SEC. 588. (a) PRICE AND AVAILABILITY REPORTS.—Section 28 of the Arms Export Control Act is amended—

(1) in the first sentence of subsection (a)—

(A) by striking out "or" after "$7,000,000 or more" and inserting in lieu thereof a comma, and

(B) by inserting ", or of any Air-to-Ground or Ground-to-Air missiles, or associated launchers (without regard to the amount of the possible sale)," after "$25,000,000 or more"; and

(2) in clause (2) of of subsection (b)—

(A) by striking out "or" after "$7,000,000 or more" and inserting in lieu thereof a comma, and

(B) by inserting ", or of any Air-to-Ground or Ground-to-Air missiles or associated launchers (without regard to the amount of the possible sale)," after "$25,000,000 or more".

(b) NOTIFICATIONS IN THE ABSENCE OF RECENT PRICE AND AVAILABILITY REPORT LISTING.—

(1) SALES SUBJECT TO NOTIFICATION REQUIREMENT.—Paragraph (2) of this subsection applies with respect to any letter or offer to sell any Air-to-Ground or Ground-to-Air missiles, or associated launchers (without regard to the amount of the sale) if, within the preceding 6 months, a listing has not been transmitted to the Congress pursuant to section 28 of the Arms Export Control Act with respect to that sale and if section 36(b) of that Act does not apply.

(2) REQUIREMENT FOR NOTIFICATION.—Before issuing any letter of offer described in paragraph (1), the President shall notify

the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate. Any such notification shall contain the information required in a certification under section 36(b) of the Arms Export Control Act.

(3) Time for Notification.—The notification required by paragraph (2) shall be submitted not less than 30 days before the letter of offer is issued, unless the President states in the notification that an emergency exists which requires the proposed sale in the national security interests of the United States. If the President states that such an emergency exists, he shall include a detailed justification for his determination, including a description of the emergency circumstances which necessitate the immediate issuance of the letter of offer and a discussion of the national security issues involved.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 177 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

Old Executive Office Building

Sec. 590. (a) Acceptance of Gifts of Money and Property.—The Director of the Office of Administration is authorized to—

(1) accept, hold, administer, utilize and sell gifts and bequests of property, both real and personal, and loans of personal property other than money; and

(2) accept and utilize voluntary and uncompensated services; for the purpose of aiding, benefiting, or facilitating the work of preservation, restoration, renovation, rehabilitation, or historic furnishing of the Old Exectuive Office Building and the grounds thereof.

(b) Establishment of Fund.—There is established in the Treasury a fund for use in accordance with the provisions of this section. Amounts of money and proceeds from the sale of property accepted under subsection (a) shall be deposited in the fund, which shall be available to the Director of the Office of Administration. Such funds shall be held in trust by the Secretary of the Treasury.

(c) Use of Fund.—Property accepted pursuant to this section or the proceeds from the sale thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest. Any use or sale of property accepted pursuant to this section, and any use of proceeds from such sale, shall be subject to the disapproval of the Administrator of General Services within 30 days after the Administrator receives notice of such use or sale. The Director of the Office of Administration shall not accept any gift under this section that is expressly conditioned on any expenditure not to be met from the gift itself unless such expenditure has been approved by an Act of Congress.

(d) Taxes.—For the purpose of the Federal income, estate, and gift tax laws, property accepted under this section shall be considered as a gift, bequest, or device to the United States.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 179 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section designation in said amendment, insert: "591".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 180 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"ASSISTANCE TO AFGHANISTAN

"Sec. 592. Funds appropriated by this Act may not be made available, directly or for the United States proportionate share of programs funded under the heading "International Organizations and Programs", for assistance to be provided inside Afghanistan if that assistance would be provided through the Soviet-controlled government of Afghanistan. This section shall not be construed as limiting the United States contributions to international organizations for humanitarian assistance.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 182 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"COSTA RICA

"Sec. 594. The Department of State shall select an independent factfinder to investigate the legal and financial issues related to the case involving the Government of Costa Rica and an American citizen concerning property and businesses in the vicinity of Limon Province, Costa Rica. The Department of State shall report, no later than March 1, 1989, the findings made by the factfinder to the parties involved and to the Committees on Appropriations and the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The costs of the factfinder shall be paid from unearmarked funds provided under the heading "Economic Support Fund."

Mr. INOUYE. Mr. President, I ask unanimous consent that the vote on the amendments agreed to en bloc be reconsidered en bloc and that a motion to reconsider be tabled en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOUSE AMENDMENT TO SENATE AMENDMENT NO. 119 IN DISAGREEMENT

The PRESIDING OFFICER. The clerk will report the first amendment in disagreement.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 119 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: Funds appropriated by this Act may be obligated and expended notwithstanding section 10 of Public Law 91-672 and section 15 of the State Department Basic Authorities Act of 1956: *Provided,* That section 514 of the Foreign Assistance Act of 1961 is amended by amending subsection (b)(2) to read as follows:

"(2) The value of such additions to stockpiles in foreign countries shall not exceed $77,000,000 for fiscal year 1989.": *Provided further,* That the amendment in the nature of a substitute to the text of H.R. 4645, as ordered reported from the Committee on Banking, Finance and Urban Affairs on September 22, 1988, is hereby enacted into law: *Provided further,* That title I of H.R. 5263 as passed by the House of Representatives on September 20, 1988 is hereby enacted into law: *Provided further,* That purchases, investments or other acquisitions of equity by the fund created by section 104 of H.R. 5263 as hereby enacted are limited to such amounts as may be provided in advance in appropriations Acts.

GENERAL CAPITAL INCREASE OF THE WORLD BANK

Mr. SIMPSON. Mr. President, I rise today to express my strong support for the authorization of the general capital increase [GCI] of the World Bank included in Senate amendment 119 to the foreign operations appropriations bill conference report.

The general capital increase of the World Bank has been approved by its board and ratified by enough of its shareholders that it has gone into effect. The issue is now whether the United States is going to participate in its share, or is going to lose its leadership position in the Bank.

I have spoken with my fine friend, Treasury Secretary Nick Brady, and he tells me that there is no doubt that other nations are perfectly willing to step in and take over our share, taking over leadership of the World Bank at the same time. I submit that it would not be in the best interests of the United States, our businesses, our workers, or our foreign relations across the board if that were to happen.

The United States is one of a very few countries that have not approved the GCI, and that list is not a distinguished one. The countries that have not approved the increase are—in addition to the United States—Kampuchea, Libya, Romania, United Arab Emirates, Vietnam, and the Peoples' Democratic Republic of Yemen. U.S. voting power in the Bank will certainly decline if we fail to approve and participate in the general capital increase.

The United States has obtained agreements from the Board of the Bank that certain issues of importance to the United States will be addressed. For instance, environmental protection will become a permanent priority, and the Bank will promote policy measures conducive to private investment and private enterprise development. Other sources of financing are to be used to ensure that the GCI will not be a substitute for commercial bank lending.

Participation in the World Bank furthers our interests abroad by providing development assistance at levels far higher than we could accomplish if acting on our own.

In addition, Mr. President, the World Bank GCI accounts for a very small proportion of U.S. spending for foreign affairs—$70 million out of $16.5 billion, or six thousandths of 1 percent—and a much smaller percentage of the overall budget. The benefits of our participation are much larger, and far outweigh the amount of money that we contribute. U.S. businesses benefit from World Bank lending. In fiscal year 1987, U.S. companies received 22 percent of World Bank disbursements for foreign procurement. That's $1.6 billion. That amount is greater than U.S. paid-in capital to the Bank over its entire history.

The GCI will provide new development funding for countries strategically and economically important to the United States at a level far beyond what we would accomplish bilaterally.

It would be short-sighted for us to fail to authorize U.S. participation in the general capital increase.

AMENDMENT NO. 3319

(Purpose: To strike the 6-year authorization for additional U.S. contributions to the World Bank)

Mr. SYMMS. Mr. President, I have an amendment to amendment No. 119, which I send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Idaho [Mr. SYMMS] proposes an amendment numbered 3319.
>
> In amendment 119, strike "*Provided further*, that H.R. 4645 as reported on September 22, 1988, by the Committee on Banking, Finance and Urban Affairs of the House of Representatives is hereby enacted into law:".

Mr. SYMMS. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WIRTH). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, my amendment that is now pending, is very simple, very easy to understand.

Senators here are well aware of what is going on with the World Bank and at this point in time. I am not going to tie up the Senate discussing the pros and cons of the World Bank. The distinguished occupant of the chair and I are on the Environment and Public Works Committee. We passed legislation that we have not had the opportunity to address and debate in the Senate to the effect of whether the World Bank is, No. 1 doing the environment of the world a favor; what the environmental assessment is. We just continue to infuse capital into the World Bank, the United States of America does, for all kinds of projects around the world.

There is a large school of thought that believes that the World Bank is helping Third World governments cripple their economies, not help them; maul their environments, suppress their people.

Although the Bank did start with high ideals some 40 years ago, it now consistently does more harm than it does good for the world's poorest. I think this Senator could make that case, but rather than make it a case I just want Senators to realize what has happened. I want to read rule XIX—rule XXVIII, excuse me—to the Senate. It says:

> Conferees shall not insert in their report matter not committed to them by either House nor shall they strike from the bill matter agreed to by both Houses. If new matter is inserted in the report, or if the matter which was agreed to by both Houses is stricken from the bill, a point of order may be made against the report, and if the point of order is sustained, the report is rejected or shall be recommitted to the committee of conference if the House of Representatives has not already acted.

That is the rule.

I think the potential, I would say, Mr. President, is we might make a point of order and it is possible, I think, that the Chair would rule that this conference report is actually out of order. I state that because, from the Senate report on this bill in reference to amendment 119, it said:

> Provided further, that none of these funds shall be made available until S. 2524, or another act authorizing the appropriation of such funds, is enacted into law.

We get the conference report back. The House did not act on this. It is my understanding that the House bill, H.R. 4645 has not passed the House. As a matter of fact the recent version is not even available at the printers.

If you read this amendment 119, I call the attention of my colleague, this was thrown together in a hurry. I realize it is important and I do not fault my colleagues for rushing.

But if you look right at starting on paragraph 2 of the value of such additions to stockpiles in foreign countries—"countries" is misspelled. Obviously someone did that in a hurry.

If you look further, the word "amendment" is misspelled. Obviously this is a rush job.

But the guts of this, Mr. President, is we are going to infuse some $14 billion of capital into the World Bank. There was no authorization of it in the Senate. No authorization of it in the House. It was authorized only by language in a conference report, "that H.R. 4645 as reported on September 22, 1988 by the Committee on Banking, Finance and Urban Affairs of the House of Representatives is hereby enacted into law."

That, Mr. President, is the language that I wish to strike and that is what the Symms amendment does.

It would remove the infusion of new capital into the World Bank until the House and Senate act on it and debate out these important issues. We should, I think, debate whether or not the World Bank is actually helping these Third World countries and helping the poor.

What really happens is the World Bank goes in, lends money to a poor country and in many cases props up the bureaucracy or some socialistic state-owned enterprise at the expense of the people. They do not increase production.

Then they impose rules on those countries to require them, in order to make their interest payments, to produce products oftentimes below the cost of production. So the miners have to be paid lower wages, if it happens to be minerals that they are producing. They sell into a market to get the foreign exchange capital to pay the interest on the loans instead of allowing normal market reaction to work and take place.

Another thing that happens, then we require them in a situation to produce all of their own food. In many cases they cannot produce the food at a cost that is as low as they could import the food and then they could produce something else.

So it denies American farmers access to some of those markets; it denies people the opportunity to do things that they are most efficiently able to do; it burdens the country unnecessarily with more and more debt; and one of the most drastic things that is happening, Mr. President, is the World Bank is financing a great deal of the clearing of the Amazon jungle, the rain forests.

We have seen what is happening in the world climates, the change that seems to be taking place. They are clearcutting an area in the Amazon rain forests that equals about the size of the State of Oregon on an annual basis. That does not come back. It does not grow back, the rain forest. It is having a substantial impact on the watershed of the Amazon basin and the Amazon basin, as most Senators know, provides over 20 percent of the fresh water supply in the world. Twenty percent of it. It has a substantial impact on the environment.

Yet we are financing this. There is no environmental assessment done. Our Treasury gets no reports back. I think it is high time that the Senate debate this issue out. I think that basically is my case.

I would hope that Senators would support the Symms amendment which would simply strike that section from the bill.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I wonder if I could ask a few questions of either or both of the managers of the bill.

Is it correct that H.R. 4645, which is referenced in amendment 119—but I do not have a copy of H.R. 4645, I understand it has not even been printed—is it correct that H.R. 4645 provides a 6-year authorization for U.S. contributions to a general capital increase in the World Bank; is that correct?

Mr. INOUYE. The Senator is correct.

Mr. HELMS. I thank the Senator.

Now, do I recall correctly that this provision was not in the foreign aid appropriations bill as passed by the House?

Mr. INOUYE. The Senator is correct.

Mr. HELMS. Nor was it in the Senate bill? This provision was not in the Senate bill?

Mr. INOUYE. No. It was not in the Senate bill, so the Senator is correct.

Mr. HELMS. I thank the Senator.

Now, as a matter of fact the appropriations in the Senate bill of $50 million for fiscal year 1989 was specifically contingent on the enactment of authorization legislation; is that correct?

Mr. INOUYE. The Senate foreign operations bill specifically said that, unless S. 2524 or another act authorizing appropriation of such funds is enacted that these funds cannot be made available.

We receded on that and the House substituted by adopting a rule that incorporated by reference H.R. 4645.

Mr. HELMS. Correct.

Mr. INOUYE. Which authorizes the 6-year extensions of the GCI. If this measure is adopted and the President signs it, then the authorization gets into effect and the appropriations will be processed.

Mr. HELMS. So the Senator, and he knows of my friendship for him, is acknowledging that this is beyond the scope of either the House or Senate bill.

Mr. INOUYE. I believe it is in the scope. It is also germane.

Mr. HELMS. I am sorry. I cannot hear.

Mr. INOUYE. I believe it is within the scope of the Congress—the House and Senate—to adopt this.

Mr. HELMS. Nevertheless, the conference report includes a provision not in either bill, as the Senator has already said, and one that is substantially more expensive than anything in the two bills sent to conference.

Mr. INOUYE. On page 6 of the Senate bill that passed the Senate, it says: "Provided that none of these funds shall be made available until S. 2524 or another act authorizing the appropriation of such funds is enacted into law."

So the other act is this one here. It is germane, and it is within the scope of the conference report.

Mr. HELMS. I thank the Senator.

Mr. President, the appropriations now before us is the result of an attempted raid on the American taxpayers' pocketbook. We can foil that heist, Mr. President. We can if we vote to prevent this waste of taxpayers' money on socialist schemes in exotic foreign lands. That is the purpose of the pending Symms amendment, and I salute the able Senator from Idaho for offering it.

Mr. President, Senators will recall that the version of this bill that was passed by the Senate not long ago insisted that the $50 million general capital increase for fiscal year 1989 not be disbursed until authorizing legislation was passed. Well, Mr. President, neither the House nor the Senate authorized the appropriation, but the conference committee chose to do so. In fact, it has tried to insert a 6-year authorization for this boondoggle, even though neither the Senate nor the House agreed to do so when considering the bill.

Mr. President, in last Sunday's debate, Vice President BUSH said he did not want, and I quote, "to let the banks off the hook" in addressing the Third World debt. Mr. President, I agree with the Vice President. I do not think the U.S. taxpayer should pay for the folly of many bank loan officers and loan committees from all over the free world who made unwise loans because they thought they could make a quick buck, and stick the American taxpayers with the bill. Yet that is just what this general capital increase does, Mr. President.

And this bill attempts to do it even though the Senate has not authorized it, even though the Senate Foreign Relations Committee, on which I serve as ranking member, has not discussed this issue one bit. I hope other members of the committee will see the wisdom of discussing this legislation, of debating the wisdom of making the World Bank even larger, before we throw more money at that institution.

Mr. President, one thing should be clear: the World Bank will not be hampered in any way in its present activities. They will continue at their present level, if we do not proceed with this additional appropriation. In fact, Mr. President, the World Bank is already operating at an astronomical level of lending. In 1983, the level of World Bank loans had reached $10.3 billion. In 1987, that level had soared to over $14 billion. And the World Bank wants to continue to expand its loans, to double them over the next 6 years, even though many of them go to the most heavily indebted countries in the world. For instance, Mr. President, Argentina, Brazil, and Mexico received $3.9 billion from the World Bank in 1987 alone. Wouldn't it be wise, Mr. President, if we want to direct such massive funds to such countries, that we consider the wisdom of such funding with real debate and deliberation in committee and on the Senate floor?

Mr. President, there are many questions that the taxpayers want answered before they are asked to finance more of this activity. For instance, just how will this lending affect the relationship of indebted nations to their private creditors? Will this actually encourage banks—including U.S. banks—to set aside loan loss reserves and the like for the bad loans they made in the 1970's? Or will this appropriation just encourage those banks to continue on their merry way while the taxpayer pays the bill?

And how will the World Bank's investments be used, Mr. President? Will they encourage production of commodities that are already in oversupply on the world market? Will U.S. funds be used to subsidize socialized economies abroad in their production of products that compete directly with the production of our own farmers?

And what ever happened to the original purpose of the World Bank? As I recall, that purpose, laid down in the charter of the institution, was to promote private foreign investment. Yet, Mr. President, the World Bank is increasingly inclined to make loans to nationalized industries in socialist countries, based on mere promises of reform. Mr. President, why should we encourage countries to continue in their socialist, corrupt, and unproductive economies by giving them fresh injections of U.S. taxpayers' money? Why not make them reform before we give them the money? Better yet, why do we not give them to Americans who need the money?

Mr. President, let's face it: The World Bank is not working. In terms of its original charter, it is a failure. The World Bank often serves as an impediment, not a catalyst to Third World growth and market-oriented development. Yet, in spite of its history of bad loans to socialist governments, the World Bank wants the American taxpayer backing in making another $14 billion in funding obligations over the next 6 years.

The United States clearly should use another vehicle for encouraging development worldwide. That vehicle already exists in the private banking industry and the private capital markets. When investment comes from the private sector, the private investor has ample information to warn him that socialist schemes will not pay off; why should the U.S. taxpayer be forced to back him then?

In fact, neither the American taxpayer nor the Congress has any power whatever to control the World Bank and its activities. Moreover, Mr. President, the employees of the World Bank live in luxury, hundreds of them making more than the U.S. Secretary of State. And their income is tax-free income, Mr. President, because, as international civil servants, they seem to think they shouldn't be burdened by domestic taxes. Why should the World Bank's employees live in luxury while the American taxpayer foots the bill?

Oh yes, Mr. President; the World Bank made a big deal out of letting a few dozen employees go not long ago. They called it belt tightening. But let us not pull that belt too tightly just yet because the average golden handshake these bureaucrats got, the average severance pay, was a quarter of a million dollars, per employee, some belt tightening.

Mr. President, I think I know where the American taxpayer would like to put that belt.

Let us be frank. The $420 million that the World Bank wants us to appropriate over the next 6 years is not the total liability the U.S. taxpayer will have to bear. No, this demand is coupled with another demand for $13.8 billion for a new line of credit to the Bank, a guarantee by the U.S. taxpayer that the U.S. Treasury will pay up to $13.8 billion of any shortfall in the World Bank's loan portfolios.

Well, Mr. President, in the lexicon of the World Bank, that is named callable capital; but can you imagine what the American taxpayer would call it?

Let us face it: we do not have the money; if we go deeper in debt to get the money, it will be thrown at Socialist regimes, nationalized industries, corrupt foreign officials, and overpaid bureaucracies.

This is no time to commit such a huge sum to such a questionable enterprise, Mr. President. I hope this unauthorized appropriation will not be foisted upon this body, and upon the American people who will be paying the bill.

I yield the floor.

Mr. INOUYE. What is the pending business, Mr. President?

The PRESIDING OFFICER. The pending business is the amendment offered by the Senator from Idaho.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I have been advised that the amendment submitted by my distinguished friend, Senator SYMMS, does not conform with the language in the House bill. I ask unanimous consent that it be made to conform.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment, as modified, is as follows:

In amendment 119, strike "*Provided further,* That the amendment in the nature of a substitute to the text of H.R. 4645, as ordered reported from the Committee on Banking, Finance and Urban Affairs on September 22, 1988, is hereby enacted into law:"

Mr. INOUYE. Mr. President, I move to table the amendment.

Mr. HELMS. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SYMMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. May we now proceed with the rollcall.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment offered by the Senator from Idaho.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Arkansas [Mr. BUMPERS], the Senator from Ohio [Mr. GLENN], the Senator from Florida [Mr. GRAHAM], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from New York [Mr. MOYNIHAN] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Washington [Mr. EVANS] and the Senator from Indiana [Mr. QUAYLE] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 57, nays 34, as follows:

[Rollcall Vote No. 342 Leg.]

YEAS—57

Adams
Baucus
Biden
Bingaman
Bond
Boren
Boschwitz
Breaux
Burdick
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
Danforth
Daschle
Dixon
Dodd
Dole
Domenici
Exon
Gore
Harkin
Hatfield
Inouye
Johnston
Kassebaum
Kasten
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
Melcher
Mikulski
Mitchell
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Simon
Simpson
Specter
Stafford
Stennis
Warner
Weicker
Wirth

NAYS—34

Armstrong
Byrd
D'Amato
DeConcini
Durenberger
Ford
Fowler
Garn
Gramm
Grassley
Hatch
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Karnes
McCain
McClure
McConnell
Metzenbaum
Murkowski
Nickles
Pressler
Proxmire
Roth
Shelby
Stevens
Symms
Thurmond
Trible
Wallop
Wilson

NOT VOTING—9

Bentsen
Bradley
Bumpers
Evans
Glenn
Graham
Kennedy
Moynihan
Quayle

So, the motion to lay on the table amendment No. 3319, as modified, was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their seats.

ANNOUNCEMENT OF POSITION ON A VOTE

Mr. GRAHAM. Mr. President, I was unavoidably out of the Chamber when the vote to table the amendment of the Senator from Idaho [Mr. SYMMS] occurred. I should like the record to show that if I had been here, I would have voted "yea," in favor of the motion to table.

AMENDMENT NO. 3320

Mr. PELL. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. PELL) proposes amendment numbered 3320.

Mr. PELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the pending amendment insert the following: *Provided further,* That notwithstanding any other provision of this act, Titles I, III, and V of S. 2757 as reported by the Senate Committee on Foreign Relations on September 7, 1988 are hereby enacted into law: *Provided further,* That purchases, investments or other acquisitions of equity by the fund created by section 104 of S. 2757 as hereby enacted are limited to such amounts as may be provided in advance in appropriations Acts: *Provided further* that Section 901(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (8 U.S.C. 1182 note) is amended to read as follows:

(a) IN GENERAL.—Notwithstanding any other provision of law, no nonimmigrant alien may be denied a visa or excluded from admission into the United States, or subject to deportation because of any past, current or expected beliefs, statements or associations which, if engaged in by a United States citizen in the United States, would be protected under the Constitution of the United States.

Provided further, That subsection (b) of section 901 of such Act is amended—

(1) by inserting "to deny adjustment of status of," after "deny issuance of a visa to,";

(2) by inserting in paragraph (1) before the semi-colon, ", unless such alien is seeking issuance of a visa, adjustment of status, or admission to the United States as an immigrant."

Provided further, That subsection (d) of section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (8 U.S.C. 1182 note) is amended to read as follows:

'(d) EFFECTIVE PERIOD.—Subsection (a) shall only apply to—

(1) applications for non-immigrant visas submitted before January 1, 1991;

(2) admissions sought before March 1, 1991;

(3) deportations based on activities occurring before January 1, 1991, or for which deportation proceedings (including judicial review with respect to such a proceeding) are pending at any time between December 31, 1987 and January 1, 1991.':

Provided further, That the amendment made in the preceding sentence shall not require the deportation of aliens admitted for permanent resident status under Section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, as in effect before the date of enactment of this act:"

Mr. PELL. Mr. President, what this amendment does is to replace the authorizing language inserted during the conference on H.R. 3637 with language that was unanimously reported by the Committee on Foreign Relations on September 7, 1988.

Let me briefly describe each title of S. 2757 being enacted into law. "Title I—The Overseas Private Investment Corporation Amendments Act of 1988"—extends the authority of the Overseas Private Investment Corporation [OPIC] to issue political risk insurance and guarantees until September 30, 1992. It also makes certain modifications in OPIC's existing programs and authorities. Without this legislation OPIC's authority to operate expires at the end of this month, tomorrow.

Title III of the bill simply continues unchanged a current cultural exchange program sponsored by the U.S. Information Agency. Through this program, young men and women have been permitted to visit the United States for 1 year in order to work as au pairs and to study part time.

Title IV of the bill has been modified to incorporate suggestions of our colleagues on the Judiciary Committee. As originally reported by the committee this title would have amended existing law in order to make permanent a provision contained in the Foreign Relations Act of fiscal year 1988 and fiscal 1989 to prohibit the exclusion from entry into the United States or the deportation of any individual solely because of his or her expressed beliefs. Senator MOYNIHAN, the sponsor of this title, will explain the modification.

Finally, title V of the bill would address an issue of major concern to the American public in areas where there is a large diplomatic presence; namely, the abuse of the protection of diplomatic immunity in shielding criminals from prosecution. The Diplomatic Immunity Abuse Prevention Act, as this title is named, provides the necessary assurances that foreign diplomats accused of violent crimes in the United States will be prosecuted under applicable U.S. law or required to leave the U.S. permanently.

Mr. President, this concludes this brief summary of the contents of this amendment. These provisions are matters that the Committee on Foreign Relations believes should be approved expeditiously by the Senate. Given the shortness of time remaining in this Congress, I believe that this is the only manner by which we can accomplish that goal.

The PRESIDING OFFICER (Mr. FORD). The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I support fully the proposal of the Senator from Rhode Island. Pursuant to an understanding I have had with him earlier, I have a second-degree amendment that I am about to send to the desk. Since his original amendment has been modified, I am about to put in a quorum call only for the purpose of being able to draft my amendment to comport with that.

I, therefore, suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3321

Mr. METZENBAUM. Mr. President, I send an amendment to the desk on behalf of myself and Senator HELMS and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM), for himself and Mr. HELMS, proposes an amendment numbered 3321 to amendment number 3320.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. SANFORD. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. SANFORD. How long is the amendment?

Mr. METZENBAUM. It is pretty long, because it repeats all of the language of the Pell amendment, plus our amendment. But I will see to it that my colleague immediately gets a copy of the amendment.

Mr. SANFORD. And you are going to now explain it?

Mr. METZENBAUM. Yes.

Mr. SANFORD. May I ask if the Senator changed it when we had a quorum call?

Mr. METZENBAUM. Did I change the original thrust of my amendment?

Mr. SANFORD. Yes.

Mr. METZENBAUM. No; I did not.

Mr. SANFORD. I withdraw my objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike everything after "*Provided further*" the first time it occurs and insert in lieu thereof the following: That notwithstanding any other provision of this act, Titles I, III, and V of S. 2757 as reported by the Senate Committee on Foreign Relations on September 7, 1988 are hereby enacted into law: *Provided further,* That purchases, investments or other acquisitions of equity by the fund created by section 104 of S. 2757 as hereby enacted are limited to such amounts as may be provided in advance in appropriations Acts: *Provided further,* That Section 901(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (8 U.S.C. 1182 note) is amended to read as follows:

(a) IN GENERAL.—Notwithstanding any other provision of law, no nonimmigrant alien may be denied a visa or excluded from admission into the United States, or subject to deportation because of any past, current or expected beliefs, statements or associations which, if engaged in by a United States citizen in the United States, would be protected under the Constitution of the United States.

Provided further that subsection (b) of section 901 of such Act is amended—

(1) by inserting "to deny adjustment of status of," after "deny issuance of a visa to,";

(2) by inserting in paragraph (1) before the semi-colon, ", unless such alien is seeking issuance of a visa, adjustment of status, or admission to the United States as an immigrant."

Provided further, That subsection (d) of section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (8 USC 1182 note) is amended to read as follows:

'(d) EFFECTIVE PERIOD.—Subsection (a) shall only apply to—

'(1) applications for non-immigrant visas submitted before January 1, 1991;

'(2) admissions sought before March 1, 1991;

'(3) deportations based on activities occurring before January 1, 1991, or for which deportation proceedings (including judicial review with respect to such a proceeding) are pending at any time between December 31, 1987 and January 1, 1991.':

Provided further, That the amendment made in the preceding sentence shall not require the deportation of aliens admitted for permanent resident status under Section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, as in effect before the date of enactment of this act: *Provided further*, That the following section is hereby enacted into law as part of S. 2757:

SEC. . PROHIBITION ON ASSISTANCE FOR FOREIGN INVESTMENTS COMPETING WITH UNITED STATES GOODS.

(a) IN GENERAL.—Section 237 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(n)(1) No insurance, reinsurance, or guarantees may be issued or remain in effect under this title with respect to a project which produces exports to the United States of goods directly competitive at the time of such issuance with goods manufactured in the United States, except in such cases where the location of the proposed project is in a country whose annual per capita income is $984 or less in 1986 United States dollars, and where the Corporation notifies the Committee on Foreign Relations of the Senate and Committee on Foreign Affairs of the House of Representatives three months prior to such issuance.

"(2) For purposes of paragraph (1), exports to the United States of more than 10 percent of the total output of a project during any 12-month period shall be considered to be exports within the meaning of paragraph (1).".

"(3) Notwithstanding any other provision of law—

"(A) no insurance, reinsurance, or guarantees shall be issued under this title with respect to any petroleum producing or hotel project; and

"(B) no insurance, reinsurance, or guarantees shall be issued under this title to financial institutions whose proposed projects are not located in countries included in the United States General System of Preferences.

"(4) The Corporation shall report, six months after the date of enactment of this subsection, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on the status of implementation of all recommendations contained within the General Accounting Office report on operations of the Corporation issued in May 1987 and shall report every three months thereafter until such recommendations have been fully implemented.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to any insurance, reinsurance, or guarantees issued after the date of enactment of this Act.

Mr. METZENBAUM. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator will suspend. He asked for order and I will attempt to give it to him.

Mr. METZENBAUM. I thank the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, this is a jobs amendment. Pure and simple, it is a matter of saving American jobs.

Our amendment would require the Overseas Private Investment Corporation to stop insuring, reinsuring or guaranteeing projects overseas when these projects move American jobs abroad.

It would also prevent OPIC from supporting petroleum and hotel projects, and banking projects in all but the most capital-starved nations. Finally, the amendment will require OPIC to periodically report to Congress about its efforts to implement more accurate techniques for assisting the impact of OPIC's overseas projects on domestic U.S. employment.

The Overseas Private Investment Corporation—a semiprivate Federal agency—insures U.S. multinational companies and banks on their investments amount the world against the risks of war, expropriation, currency inconvertibility, and civil strife.

By doing so without using proper criteria, OPIC encourages the export of U.S. jobs, technology, and capital overseas. Our amendment will ensure that OPIC backs only those projects that promote development without exporting U.S. jobs.

Why should the Federal Government be involved in the business of encouraging U.S. companies to move overseas to take advantage of cheap labor?

For anyone who doubts that this is precisely what OPIC does, let me read an excerpt from OPIC's own 1987 catalog highlighting investment opportunities in developing countries. It refers to Haiti, and although Haiti would still be exempt and they would still be permitted to provide assistance to Haiti and to manufacturing in that country, I point it out to show the thrust of the so-called opportunity bank put out by OPIC. In that book it states:

> Haiti: reputable firm involved in the assembling of electronic products for U.S. markets as well as apparel, seeks joint venture with U.S. manufacturers who wish to expand or relocate existing production facilities at cheaper manufacturing cost.

"Seeking U.S. manufacturers who wish to relocate at cheaper costs."?

Mr. SANFORD. Would the Senator yield?

Mr. METZENBAUM. If my colleague would be good enough just to let me finish my opening statement?

Mr. SANFORD. I wanted to ask a question on that particular illustration.

Mr. METZENBAUM. I would be happy to yield to my colleague.

Mr. SANFORD. Would your statement prohibit that particular offer being carried on by OPIC?

Mr. METZENBAUM. No, it did not. I made that clear. I said although my amendment would not prohibit that. Because Haiti is one of the countries where the annual income is less than $964, we do not affect that.

Mr. SANFORD. This illustration was in one of those countries?

Mr. METZENBAUM. I use the illustration in order to show that OPIC, which I think was a very legitimate, responsible operation and organization at its inception, and still is, I might say, I think has gone beyond the bounds. And I do find difficulty in their advertising in their book about going somewhere else to get cheaper labor. I do not think that is appropriate even though they would have the right to provide that funding.

Mr. SANFORD. Even though it is in a country that your amendment would not affect and needs these developing funds?

Mr. METZENBAUM. That is correct. My amendment would not affect Haiti.

Mr. SANFORD. Thank you.

Mr. METZENBAUM. The book is full of such "wonderful" opportunities. What kind of foolhardy public policy is this? It's a disgrace.

Let me say this about OPIC's original mandate, we do not believe it is wrong for the United States to promote economic and social development in less developed countries. It is a humane policy. It helps feed and clothe the less fortunate in other nations. It promotes international stability. It furthers U.S. foreign policy objectives abroad.

But we do object to a policy which cares not one iota about the "true needs" of a foreign nation, a policy which merely paves the way for some U.S. companies to set up production overseas so that these new facilities can turn around and compete with those firms who have stayed put here in the United States.

OPIC-insured projects over the years have made this problem worse.

Let's look at recent statistics. The Nation suffered a net loss of 1.6 million manufacturing jobs since 1979. Last year, only one in seven new jobs in the United States was in manufacturing.

The fact is that many manufacturing facilities are moving off shore. And OPIC is helping them do so.

Twelve out of twenty-nine OPIC-sponsored projects—or more than 40 percent of all new projects in 1986—were in manufacturing. According to OPIC's own fiscal year 1987 annual report, OPIC supported projects to produce catalytic converters, automobile radiators and tooling systems in Korea; air conditioning components in the Peoples' Republic of China; computer components in Thailand; spark plugs in India; and garment assembly in Haiti.

OPIC insured the building of a Hilton Hotel in China, backed numerous banking projects for Citibank, and helped with an oil drilling project in Yemen.

Our domestic oil producers are suffering. Oil industry workers have lost their jobs. Why should the Federal Government—through OPIC—be involved in helping to drill for oil in the Mid-East?

OPIC, when screening overseas investments, is supposed to ensure that there will not be any significant adverse impact on U.S. employment.

Mr. President, OPIC has been doing a bad job on that score for too long.

Three years ago, I offered an amendment to OPIC's reauthorization which called for a GAO study on the impact of OPIC's activities on employment here in the United States.

GAO came back with some disturbing findings.

GAO found that 20 of the 33 OPIC projects it examined were expected to have negative consequences on U.S. employment.

GAO criticized OPIC's method for assisting this impact. Let me quote from this May, 1987 GAO report:

> It is prudent for OPIC—in its analyses of proposed overseas projects—to make certain assumptions concerning the possible effects of a project. However, when OPIC uses these assumptions to mathematically compute the effects on U.S. trade and employment of a proposed project, it obscures the direct adverse effects of a project. . . . The Congress and other interested parties may be misled concerning the magnitude of U.S. economic benefits from OPIC-assisted projects.

The amendment we are offering today will stop OPIC from misleading Congress and the public about the true effect of their projects on U.S. employment. It will make OPIC adopt the recommendations set forth by GAO, to assess the true impact that OPIC projects will have on U.S. employment.

Our amendment will stop OPIC from insuring manufacturing projects overseas when they move U.S. jobs abroad. Under our amendment, OPIC can't insure, reinsure or guarantee a project, if it believes that imports into the United States from that project will exceed 10 percent of the total output of the project. Also, should a project be financed by OPIC and then wind up shipping more than 10 percent of its products to the United States OPIC would have to terminate its support. However, this section would not apply to projects planned for least developed countries, provided that Congress is appropriately notified in advance.

And, finally, our amendment would stop OPIC from insuring, reinsuring, or guaranteeing oil drilling and hotel projects, or from insuring banking projects in all but those economically weak nations included in the U.S. general system of preferences. There is no reason why OPIC should back projects for such well-heeled firms as Hilton hotels and Hunt oil. It makes no sense for OPIC to provide the economic incentive necessary to drill for foreign oil when our own domestic oil industry is in such dire straits.

Mr. President, our amendment cuts the fat out of OPIC's operations. It will help save jobs here at home, while encouraging development projects in areas where they really count.

I urge the amendment's adoption.

It is my understanding the Senator, chairman of the Foreign Relations Committee, is prepared to accept this amendment. It is my understanding that the manager of the bill is also prepared to accept the amendment.

The PRESIDING OFFICER (Mr. DASCHLE). Is there further debate?

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, I rise in opposition to the amendment. I think it is wrong for us to consider restricting OPIC's activities in any way right now.

This agency, which was the brainchild of Senator Javits of New York, has been enormously successful. Before I describe OPIC's programs, or the proposal of the Senator from Ohio, I want to point out that this may be the only Federal agency that actually operates at a profit. They make money. Last year, for example, it earned over $100 million, and has reserves in excess of $1 billion. So, we are not talking about a drain on U.S. taxpayers.

In fact, we are talking about an agency which is making a profit.

I think most Senators are familiar with OPIC. The corporation operates on a self-sustaining and businesslike basis the Government's political risk insurance and private enterprise finance programs. These programs, which have been reauthorized by the Congress many times, encourage U.S. companies to consider Third World countries in their overseas investment plans. Over the years, OPIC has enjoyed bipartisan support with people like Bill Brock, Hubert Humphrey and a number of former and present Senators, Congressmen, Cabinet members, and others. We have strong bipartisan, bicameral support. Private U.S.-supported projects in the Third World do three very important things:

No. 1, they bring to the Third World the economic benefits of the greatest engine of progress in the world, and that is U.S. private enterprise; U.S.-style private enterprise.

No. 2, they help create new markets for U.S. goods and services, and

No. 3, these projects make it possible for U.S. businesses, including many small businesses in the United States, to compete in those markets.

I think it is important to point out before we move forward and start to restrict OPIC to recognize what our competitors are doing with these kinds of activities throughout the world today.

Our competitors in Japan and Western Europe are not sitting around trying to find ways to restrict their programs supporting their investors in Third World markets. They are not even debating the issue. Instead, they are and have been for many years expanding their OPIC-type programs. For example, the Japanese counterpart of OPIC has a finance portfolio that is 10 times the size of OPIC's; its insurance portfolio is twice the size; it is constantly seeking ways to expand its support of Japanese investment in the Third World. Here we are with the only agency involved in this business about to expire, and at this late date, and, I should point out, without any action by the committee who desire to speak—and without any study, a proposal is made to drastically limit its authority.

The Senator from Ohio proposes to terminate OPIC support of U.S. investment in Third World hotels, Third World petroleum-producing projects, and many financial institutions related investments. The amendment also prohibits manufacturing projects that make goods competing with U.S.-produced products if more than 10 percent of their output is exported to the United States. With respect to manufacturing, it is astounding to me how we think we can improve the economies of the Third World, if we constantly seek ways to restrict our markets to their goods. Although the Senator's amendment as it relates to manufacturing would not apply to a number of the higher income LDC's, it will still affect 70 percent of the countries in the CBI Region. Nearly every economist agrees that selling into the markets of the Third World is absolutely essential to an improvement in our balance of payments.

I am told by OPIC that if the proposal had been law in fiscal year 1986 and 1987, nearly one-half of the approximately 300 projects supported by OPIC in that period could not have received its assistance. These projects, many of which are in the Caribbean Basin and the Philippines, and 71 of the world's least developed countries, will create $216 million in net foreign exchange. That is foreign exchange, by the way, that can be used by Third World countries to buy U.S. goods and services. That is why it is so important to help economies—particularly through private sector investment—the exact job OPIC has been doing successfully for nearly 20 years. This is not a complex theory. Countries without foreign exchange do not import.

Equally important is the fact that the projects that OPIC could not have supported under the proposal will produce direct U.S. exports of $698 million and 4,000 person-years of net U.S. employment. Again, this is not a complex notion. U.S. overseas investors are significant buyers of U.S. equipment and services. In fact, according to the Commerce Department, more than 30 percent of all U.S. exports go to subsidiaries of U.S. companies. And, this is not guess work. This is actually what is happening.

The PRESIDING OFFICER. Is there further debate?

Mr. SANFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. SANFORD. Mr. President, I rise to oppose the amendment offered by my distinguished colleague from Ohio on two grounds. The first is that this has been an agency now for 20 years that has worked to establish a stronger economic base in developing countries; by definition, developing countries. It has done a tremendous amount of good. It has been an agency that has paid for himself. It has been an agency that helped developing countries bring in the kind of industry that would add to the chance for jobs and opportunities in those developing countries, a very important foreign relations objective of this country.

Furthermore, it has given our manufacturing firms and our businesses greater opportunity and flexibility in investing abroad, something we ought to have been doing, something we must continue to encourage because we need to reach out into the rest of the world if we are going to be competitive across the board. We have seen in our trade bill efforts to promote just this kind of an expansion. We have seen in our need to have a trade bill far greater exportation of jobs by OPIC than any stretch of the imagination has caused.

So OPIC has done a good job; OPIC continues to do a good job. I would be the first to admit that there are some changes needed, some tighter administration, some screening of loans, and that is what the GAO report that the distinguished Senator from Ohio had made 3 years ago said, but that report, in pointing out some of the difficulties, did not by any means urge that we curtail the capacity of the agency to operate. It had a great many recommendations, and the distinguished Senator from Ohio has had 3 years, or at least since that report was made, a year or more ago, to bring forward those recommendations to OPIC and not be here reduced to bringing up at the last moment, the last day an amendment which would severely curtail the right of this agency to continue its assignment in developing countries.

That leads me to my second and, I think, most compelling reason for opposing this amendment. This is no way to do business. If, indeed, as I would admit, we need to tighten up on the screening procedures within OPIC, this is not the way to do it. We held hearings; we sent forward a bill authorizing and reauthorizing OPIC. At that time, we very well could have considered these changes. This is not the way to alter the course of a major agency. We ought to follow the committee procedure. We yet have time to oversee OPIC. The Foreign Relations Committee has this responsibility.

This concept of vastly curtailing the authority of this important agency has not been submitted to the Foreign Relations Committee, and it would make drastic changes without going through the careful process that our committee system is designed to accommodate.

Then I have a provincial reason for wanting to oppose this amendment. I have spent a lot of time since I have been here worrying about losing domestic jobs by our trade policy or by our lack of a trade policy. I supported strongly the omnibus trade bill that would get at the proposition of having a trade policy that made other countries treat us like we treat them.

I spent a great deal of time on the textile bill, a bill that would protect 300,000 North Carolina jobs, a bill that we need because it is so easy for textiles and apparel to be manufactured and sent in.

We have a very good piece of legislation that would affect more jobs in one State than improper OPIC practices could affect all over the Nation in 5 year's time and still we see that veto and textile workers in North Carolina damaged. This would not do anything to help textile workers.

This would, indeed, encourage, OPIC to turn with greater emphasis to nations with very low per capita income where a great deal of the textile invasion of this country has come from. It is so far from helping textile workers. I would guess in the final showdown that the Metzenbaum amendment would, indeed, harm textile workers in North Carolina. I have three good reasons:

One, this is an agency that is doing great work in developing nations in keeping with our foreign policy.

Second, the proper procedures for careful consideration have not been followed.

And third, I think this actually damages textile workers in America.

Therefore, Mr. President, I move to table the amendment.

The PRESIDING OFFICER. Is there further debate? The Senator from Florida.

Mr. SANFORD. I withdraw that motion.

The PRESIDING OFFICER. The Chair apologizes. He did not hear the Senator. Does the Senator withdraw his motion?

Mr. SANFORD. I do, indeed.

Mr. GRAHAM. I believe the Senator from North Carolina has withdrawn his motion to table.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, first of all, let me commend my colleague from North Carolina for his comments on this amendment. The Senator from Ohio has raised some very worthwhile concerns about the OPIC agency, but my concerns are the same as my colleague from North Carolina, that while there are some legitimate questions raised about where OPIC is doing business, in what countries, and some of these nations clearly get beyond the Third World or developing nations status, and that issue should be addressed, I am not entirely confident that the amendment of the Senator from Ohio is accomplishing that specific goal. There is clearly a problem in the Third World with debt-to-equity conversions that affect us in terms of the Federal trade deficit. Clearly, while we want to be conscious of our jobs in this country, you also have to do whatever is possible to strengthen the economies of these developing countries so that in fact there are markets for American-produced goods. One of the things that OPIC was designed to do was to assist these countries to become more solvent, to become stronger economically so that they would be in a situation economically to be able to absorb American-produced goods. That is the point. That is what OPIC is designed to do.

Now, obviously, the best laid plans do not always occur and there have been occasions where we have insured industries that are questionable in terms of contributing to the economic growth of some of these nations. My concern with the amendment of my distinguished colleague and friend is that while his intention is to reach those nations which do not fall into the category that OPIC was designed to reach, in fact it goes beyond that. At a time when we are trying to do everything possible to alleviate tremendous debt problems we face, this amendment may actually be counterproductive.

So my point, Mr. President, is that this is an issue which should be reviewed further to see if we can design proper legislative language that would accomplish the goals the Senator from Ohio has raised. But my fear is that if we adopt his amendment, we will go beyond that; we will create a serious problem that will take us several years, if not more, to correct.

Let me also suggest, Mr. President, that if it were adopted, this amendment would reach into many of the Caribbean Basin countries. Not all of them, but some of them, would be excluded. At a time when we are trying to encourage development under the Caribbean Basin Initiative, some of these nations would be exempt or excluded. That is another concern I have. It is not the overriding one but it is a major concern.

So, Mr. President, I reluctantly rise to oppose this amendment and to join with my colleague from North Carolina and at an appropriate time will support the motion of the distinguished Senator from North Carolina after this debate has been exhausted.

At this particular juncture I feel this amendment is apt to have a far greater effect than the Senator from Ohio intends, so I urge its rejection.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I wonder if I might pose a few questions to my friend from Ohio about his amendment. I have a great deal in various newspapers describing the amendment, and the Senator's descriptions of the amendment do not fit what I read and understand to be the case.

So let me ask the Senator two or three questions.

To what percent of exports from OPIC projects would the Senator's amendment limit OPIC?

Mr. METZENBAUM. I am sorry; I did not get the question of the Senator from North Carolina.

Mr. HELMS. To what percentage of exports would OPIC projects be limited?

Mr. METZENBAUM. If I understand the question, projects that we would be limiting would have to do with energy, setting up oil companies overseas. It would have to do with financial institutions that become a part of the general preference position, would have to do with manufacturing but in the manufacturing area it would only be applicable if more than 10 percent of the overseas company was coming back to the United States. If there were less than 10 percent, OPIC would not be restrained at all.

Mr. HELMS. I think it is very clear from the Senator's amendment that that is the case and yet contrasting impressions have been published in various newspapers. Now, the industries that will be affected would be oil, financial institutions, and hotels in the main. Is that correct.

Mr. METZENBAUM. Would be?

Mr. HELMS. Oil and financial institutions and hotels?

Mr. METZENBAUM. That is correct. That is absolutely correct. And I might say that manufacturing is only 15 percent of all the OPIC projects.

Mr. HELMS. Right. Now, will the Senator state for the record which countries would be affected?

Mr. METZENBAUM. Which would be affected?

Mr. HELMS. Yes.

Mr. METZENBAUM. I can off the top of my hat say South Korea would be affected where OPIC has a number of insured projects. China would be affected where they some time ago insured a hotel. I would say that many of the other nations throughout the world would be affected where they are economically strong enough to stand on their own and where American companies have an economic interest in making their investments in those countries and where we think there is some question as to why we ought to be insuring Citibank, for example, or Hilton Hotels Corp.

Mr. HELMS. One final question. I cannot tell the Senator when I read it, but is it not a fact that the General Accounting Office found OPIC projects were indeed costing U.S. jobs? Is the Senator familiar with the report from the General Accounting Office [GAO] on that?

Mr. METZENBAUM. According to the GAO, OPIC-insured projects had cost 2,100 man years of jobs.

Mr. HELMS. Two thousands one hundred?

Mr. METZENBAUM. Man-years, which has to do obviously with the whole year employment. The General Accounting Office was very critical of the failure of OPIC to distinguish between those projects which should be supported and those which should not. The Senator from Ohio has no real fault to find with its overall general thrust. What I am concerned about is the fact that too many of these insured loans have been in areas where the net result has been to cost this country jobs or has been to insure corporations that are really not in need of the financial support of OPIC.

Mr. HELMS. I thank the Senator.

Mr. METZENBAUM. I thank the Senator.

Mr. SARBANES. Will the Senator yield for a further question?

Mr. METZENBAUM. Surely.

Mr. SARBANES. Is it not the case that a large proportion of the OPIC loans, at least in value, have gone into countries that do not even begin to be the least developed countries? In other words, they are insuring loans in countries that are really in the middle or upper developed range of the developing world?

Mr. METZENBAUM. The answer to the Senator, to the best of my knowledge, is yes, but the further answer is that I would do nothing with respect to those loans.

Mr. SARBANES. As I understand the amendment of the Senator with respect to producing exports directly competitive with manufacturing, if it is in a country with an annual per capita income of $984 or less, the amendment of the Senator would not apply in that instance; is that correct?

Mr. METZENBAUM. With proper notification to the Congress, the notice before such OPIC loan could go forward, there would have to be notice given to the Committee on Foreign Relations, and the Committee on Foreign Affairs of the House.

Mr. SARBANES. But for those really least developed countries, this amendment does not preclude OPIC insurance, even in manufacturing?

Mr. METZENBAUM. That is correct.

Mr. SARBANES. It precludes in a certain number of very limited activities, broadly speaking, petroleum, hotels, and financial institutions.

I think one other thing that is being lost sight of here is the point that the Senator from Ohio made earlier, One of the initial rationales of OPIC was to help encourage American jobs. The fact of the matter is one of the consequences of it has been to the contrary. That is what this GAO study has indicated.

On the other hand, if it is not going to actually encourage American jobs, you can make an argument that you are trying to help the least developed countries. But once again, OPIC has departed from that path as well because their insurance has been running into the more highly developed countries so that in effect they are providing insurance, it can be argued, in places where it is not really necessary or needed, and they are doing it in a way that undercuts, American jobs rather than contributes to them.

Mr. METZENBAUM. The Senator from Maryland, as usual, is again correct.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, will the Senator yield for a further question?

Mr. METZENBAUM. Certainly.

The PRESIDING OFFICER. Just to clarify, the Senator from Florida is recognized. So he retains the floor.

Mr. GRAHAM. I ask the Senator from Ohio: On section (N), which relates to manufacturing of product, the phrase is no insurance, reinsurance, or guarantees may be issued or "remain in effect" under this title with respect to a project. Does that indicate that where in the past OPIC has for instance extended a loan guarantee that they would have to terminate that guarantee?

Mr. METZENBAUM. No. Absolutely no.

Mr. GRAHAM. What does the phrase "remain in effect" mean?

Mr. METZENBAUM. There is no intention in my amendment to terminate any guarantee that is presently in effect. But if you read the balance of that paragraph, it is applicable. It relates to the percentage of exports. So if a company had a guarantee but then exported in excess of 10 percent to the United States thus costing American jobs, then it would click into effect. In other words, unless the manufacturer is exporting more than 10 percent to the United States, it would not impact upon the guarantee.

Mr. GRAHAM. But if in 1985 OPIC had extended a loan guarantee to a firm which met the percentage export standard, this language would appear to say that that insurance, reinsurance or guarantee may not remain in effect.

Mr. METZENBAUM. I will say to my colleague from Florida that that is not the intention. I understand the thrust of his question. The staff points out to me that, at the very end on the effective date, it provides that the amendment made by subsection A apply to any insurance, reinsurance, or guarantees issued after the date of enactment of this act.

But if the Senator from Florida would feel more comfortable in making it clear that the intent of this amendment is not to affect any existing guarantees, the Senator from Ohio would have no problem about that.

Mr. GRAHAM. Mr. President, I would suggest that phrase remain in effect, it clearly raises the implication that it is intended to have a retroactive effect, and that some modification of that would be appropriate.

Mr. SARBANES. Will the Senator yield on that point?

Mr. METZENBAUM. I yield.

Mr. SARBANES. It seems to me that the paragraph cited by the Senator from Ohio at the end of his amendment takes care of the problem of any insurance, reinsurance, or guarantee that already may be outstanding because obviously subsection (a) would not apply to any such insurance, reinsurance, or guarantee. It says the amendment made by subsection (a) applies to any insurance, reinsurance, or guarantees issued after the date of enactment of this act. Therefore, the hypotheticals that are being put would not apply to it.

Mr. GRAHAM. Then we have an internal conflict between the language of subsection (n), which clearly is retroactive, and the language of subsection (b) relative to subsection (a), which speaks prospectively. I just suggest that if it is the intention that it be prospective, it ought to be consistent in both places.

Mr. SARBANES. Except I think what the language does is it does in the future. I mean, the Senator from Ohio—if I could have his attention—as I understand what he is trying to deal with, it seems to me reasonable, and certainly internally consistent. Maybe the Senator from Florida disagrees with it because I sense he disagrees with the entire amendment. But what it seeks to do is in the future. If you gave a guarantee in which a company was exporting only 3 percent of their product, then after they got the guarantee, the company says, "Aha, now we have the guarantee, and next year we are going to export 98 percent of our product." They would then fall within the strictures of the bill. That is in the future. That is not now.

But you could not in effect say, "ah, ha, I fooled you, or I tricked you, I got the guarantee on the basis of a 3-percent export market, and once I got it, bammo. I transformed it into a 97-percent export market." You may disagree with the whole concept. But that at least is internally consistent and the last paragraph certainly guards against any notion that this would apply in any way to any guarantee that already has been done, since it makes it clear that it would only affect guarantees after the effective date of this act.

Mr. METZENBAUM. I would like to add to my distinguished colleague from Florida that we have been in discussions with OPIC and their lawyers. I am not prepared to stand here and say OPIC supports this amendment. They do not. But the fact is their lawyers have not been concerned about that aspect of it because we all agree we are not trying to affect presently existing contracts except when the manufacturing exports exceed 10 percent.

Mr. GRAHAM. The second question, and this may be a typographical error. But on page 2, line 4, which describes the output of a project, my statement says "Exports to the United States of more than 1 percent of the total output of project during any 12-month period."

Mr. METZENBAUM. I understand the point of the Senator from Florida. In my own copy they zero in, and the 10 is not clear. And I will ask the staff at the desk, if I may have the attention, to make certain that in paragraph 2 where it reads "for purposes of paragraph (1), exports to the United States of more than 10 percent"—the 10 is there, but the typing is not very clear.

The PRESIDING OFFICER. The Chair will verify that the bill at the desk reads 10 percent.

Mr. METZENBAUM. It has 10 percent in it?

The PRESIDING OFFICER. That is correct.

Mr. METZENBAUM. I thank the Chair.

Mr. GRAHAM. Mr. President, that concludes my questions of the Senator from Ohio. I would like to make a statement at this point.

Mr. President, it has been less than a month since Hurricane Gilbert ravaged the Caribbean and Mexico. Gilbert left 320 dead in its wake. Two of our good friends, Jamaica and the Dominican Republic, were hit hard—Jamaica particularly so.

The country suffered $1 billion in damage, according to Prime Minister Seaga. An estimated $150 and $200 million in revenue will be lost this year.

Repair work has barely begun. Nevertheless, we are now debating an amendment that would further add to the burden of these and other countries in the region that are part of the Caribbean Basin Initiative.

This amendment would do so by prohibiting the Overseas Private Investment Corporation [OPIC] from supporting projects if more than 10 percent of the output from those projects is exported to the United States. Countries with per capita incomes under $984 per year would be exempted.

The amendment also would prohibit OPIC from supporting any hotel or petroleum-producing projects.

Mr. President, as this amendment is proposed:

Yet another natural disaster has befallen our friends in the Caribbean;

We are trying to bring peace to Central America and promote economic development and foster democratic pluralism through the CBI;

Countries in the region are still reeling from damaging reductions in the U.S. sugar quota over the last several years;

We are asking our neighbors in the region to join us in efforts to stop the narcotics trade.

Some of the countries in this region are among the most heavily indebted countries to the United States and other international lenders. We are asking that they pay their debts.

I submit that this is not the time to be taking this damaging action against our friends in this region.

Mr. President, if this amendment is adopted, OPIC will be able to operate in only 6 of 23 eligible CBI countries without restriction. Such good friends as Antigua, Belize, Costa Rica, Grenada, St, Lucia, and Dominica would be affected.

If this amendment had been law during the last 4 years, OPIC would have been barred from doing 43 percent of the projects it undertook in the Caribbean. The cost would have been 62 projects, 7,500 jobs, and a net loss of foreign exchange earnings of $82 million.

More important, under this amendment, OPIC would be prohibited from funding hotel projects. Tourism has become an important part of the efforts of the Caribbean Basin countries to diversify the economies.

In 1986, tourism accounted for $5.6 billion in foreign exchange earnings—about 40 percent of all foreign exchange earnings in most Caribbean islands—and provided 100,000 jobs directly and 300,000 jobs indirectly.

Since the issue is American jobs, I point out that nearly half of each tourist dollar—or pound, mark, or yen—spent in the Caribbean is used to buy food, supplies and services in the United States. Some of our highest per-capita purchasers of American agricultural products are in this region, and a substantial amount of that purchase of agricultural products goes to support the tourism industry.

In the last 4 years, OPIC has insured or financed 12 hotel projects that generated more than 660 jobs directly and earned almost $12 million in foreign exchange.

Mr. President, I sympathize with the concerns of the Senator from Ohio. None of us wants to support projects that will cost U.S. workers jobs. A recent GAO study recommended that OPIC make a number of changes in its employment-screening methodology and procedures.

I believe OPIC should comply with those recommendations. But Mr. President, we need to make up our minds about the importance of the Caribbean Basin to the economic and national security interests of the United States.

We must adopt consistent and sustainable policies. We cannot continue to give with one hand while we take away with the other.

CBI countries are our good friends. It is in our interest to see their economies stabilize and grow. It is in our interest to cooperate with them in stopping the drug trade. In short, Mr. President, it is in our interest to be good neighbors. I encourage my colleagues to oppose this amendment.

Mrs. KASSEBAUM. Mr. President, I rise to associate myself with those who have spoken in opposition to the amendment. I should like to mention two reasons that I think are important.

The amendment of the Senator from Ohio [Mr. METZENBAUM] would be a drastic change in the OPIC operation. One of the ways I got to know OPIC was through their work in Africa.

If we remove the ability to insure American business investment from the more prosperous investments and to assure markets, it seems to me that there will not be the ability to offer that insurance in countries where the risks are far greater and the uncertainties will be such that American businesses will simply not seek to participate. It is to the interests of the United States as well as to the African nations and the other nations of the world to have us engage in a successful and constructive manner.

I do not see that this amendment answers the question of the loss of American jobs. I fail to see how, if we remove ourselves from American business abroad, those are dollars that are necessarily going to be invested in enterprises in this country.

If, for example, we do not provide insurance for hotel development in Seoul, South Korea, will that be money that will be invested in the United States? Would it be creating jobs in the United States? I fail to understand how that could be so.

Instead, we really lose the opportunity, as the Senator from Florida [Mr. GRAHAM] pointed out, to open up markets and provide capital abroad that can then in turn, and will in turn, buy our products in this country.

I think it is a serious mistake. It really does damage to our efforts in nations such as there are on the African subcontinent, which we are trying to encourage to develop sounder economic policies, and to remove ourselves as a participant, by removing the ability to insure American business investment. I think this is the wrong way to go.

Mr. METZENBAUM. Mr. President, I think we are confusing the issue.

We are not talking about having a negative impact on those small nations that need help. That is not the thrust of this amendment at all. We are talking about places like South Korea, which certainly do need help, and we are providing guarantees there, and they are taking the jobs away from workers in Texas, Wisconsin, and Ohio. That is what the issue is all about in this bill.

We are talking about whether or not you are going to insure oil-producing operations in Yemen and take jobs away from Texas oilworkers. We are talking about whether or not we are going to keep a country limited as to the amount of exports back to this country. That, I believe, is not what the American people think OPIC is all about.

We have an exemption for those countries that earn less than $964, and that would be applicable to almost all the African nations, with the obvious exception of several. But that is not

We are trying to keep OPIC doing the job that Congress originally intended it to do. That was not to export American jobs but to help developing countries. With this amendment adopted, OPIC will still be able to go forward in the same way that it has in the past helping developing countries, helping American companies locate in those other countries.

But let us not kid ourselves. Some of those guaranteed loans are taking jobs from American workers in this country. If you want to do it, go ahead and to it. But, I say to you, it does not make good sense for us to stand here in Congress and support a Government-supported agency. I know it makes money. That is not the issue. The fact is we created OPIC, and the fact is it is going to take jobs away from American workers and it is doing that at this very minute.

Mrs. KASSEBAUM. Mr. President, I wish to respond to the Senator from Ohio. I recognize the intent of the amendment of Senator METZENBAUM and I understand fully what it does do. That was the thrust of my question.

Removing the ability to insure investment where there is probably less risk and there is a more prosperous return on that investment will mean that indeed, though, there will not be the moneys available in the insurance pool to help in other countries where the risks are greater. It seems to me that is the consequence. I realize it does not address this specifically, but I think in the long run that will be the result.

Will that not be a concern of the Senator from Ohio?

Mr. METZENBAUM. Is the Senator asking me a question?

Mrs. KASSEBAUM. Yes. Will that not be a concern if you remove that pool?

Mr. METZENBAUM. No, I do not think it is a concern at all. I think the Senator's point is that the revenues that OPIC picks up from those healthy projects make it possible for them to do projects in other countries. I do not think that is the issue. I do not think even OPIC has made that argument to us. I think that is a nonfactor because OPIC is not short of money. They have better than $1 billion in reserves. They made $120 million last year.

So I do not think the question is whether they have adequate funds. I think the question is, How are they going to use those funds?

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I rise in opposition to the amendment which has been proposed by the Senator from Ohio. I think it is a bad provision. I was pleased to see that the House passed this bill without the provision in it; and I certainly hope we in the Senate will do the same.

The proposal before us essentially would destroy the work of the Overseas Private Investment Corporation. OPIC provides insurance to investors against financial risks caused by war, limits on the movement of capital, and expropriation. OPIC also provides loan guarantees, loans and services to businesses investing in third world countries.

The services that OPIC provides play an important role in our effort to promote investment in developing countries. If the amendment before us is enacted, many American businesses will no longer be able to compete effectively against companies from other nations. As we see other nations making investments, getting a foothold in the country, we will have a foreseeable impact on our future trade. As they move in and take our place, there is a negative impact on our efforts to expand American exports but also on our efforts to help developing nations in their goal to expand their economies.

Supporters of this amendment argue that it is needed to ensure that American jobs are not exported overseas. That is not the case, however. Current law provides that OPIC cannot insure or finance projects that will cost U.S. jobs. That will continue to be the case under reauthorization.

The General Accounting Office has indeed offered criticism and suggestions for reform. I am advised five out of the six suggestions are in the process of implementation already.

Mr. President, earlier this year we passed the omnibus trade bill which was aimed at opening markets overseas and at making it easier for American companies to compete in the world marketplace. I believe it would be a serious mistake now to adopt this amendment which would be a step backward in our efforts to expand exports and to provide for opportunities for investment abroad.

I certainly share the desire of every Senator in this Chamber to retain the jobs that we have in the United States and to add new ones. The projects that OPIC is pursuing throughout the world are consistent with that goal. Investment in developing countries will mean economic growth in those countries which will, in turn, create new markets for our exporters and new jobs here in the United States.

I urge my colleages to oppose this amendment; and I hope that if it is approved it is removed by the conference committee.

I yield the floor.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from Rhode Island.

AMENDMENT NO. 3320, AS MODIFIED

Mr. PELL. Mr. President, I ask that my underlying pending amendment No. 3320 be modified at the end thereof.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The clerk will so report.

The amendment as modified is as follows:

At the end of the pending amendment insert the following:

Provided further, That notwithstanding any other provision of this act, Titles I, III, and V of S. 2757 as reported by the Senate Committee on Foreign Relations on September 7, 1988 are hereby enacted into law: *Provided further,* That purchases, investments or other acquisitions of equity by the fund created by section 104 of S. 2757 as hereby enacted are limited to such amounts as may be provided in advance in appropriations Acts: *Provided further,* That Section 901(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (8 USC 1182 note) is amended to read as follows:

(a) IN GENERAL.—Notwithstanding any other provision of law, no nonimmigrant alien may be denied a visa or excluded from admission into the United States, or subject to deportation because of any past, current or expected beliefs, statements or associations which, if engaged in by a United States citizen in the United States, would be protected under the Constitution of the United States.

Provided further, That subsection (b) of section 901 of such Act is amended—

(1) by inserting "to deny adjustment of status of," after "deny issuance of a visa to,";

(2) by inserting in paragraph (1) before the semi-colon, ", unless such alien is seeking issuance of a visa, adjustment of status, or admission to the United States as an immigrant."

Provided further, That subsection (d) of section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (8 USC 1182 note) is amended to read as follows:

"(d) EFFECTIVE PERIOD.—Subsection (a) shall only apply to—

"(1) applications for non-immigrant visas submitted before January 1, 1991;

"(2) admission sought before March 1, 1991;

"(3) deportations based on activities occurring before January 1, 1991, or for which deportation proceedings (including judicial review with respect to such a proceeding) are pending at any time between December 31, 1987 and January 1, 1991.":

Provided further, That the amendment made in the preceding sentence shall not require the deportation of aliens admitted for permanent resident status under Section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, as in effect before the date of enactment of this act:"

"Provided further, That Title III of S. 2757 shall be in effect for Fiscal Years 1989 and 1990: *Provided further,* That the Comptroller General of the United States shall examine the use of nonimmigrant visas section 101(a)(15)(J) of the Immigration and Nationality Act for current programs of educational and cultural exchange and shall, not later than 30 days before the end of fiscal year 1989, submit to the Committees on the Judiciary of the Senate and House of Representatives, a report on whether the participants in programs of cultural exchange receiving visas under that section are performing activities consistent with the congressional intent for the implementation of that section."

Mr. PELL. Mr. President, what this does is it reduces to 2 years the permanent authorization for the au pair program. It is an agreement that was arrived at with Senators SIMPSON and MOYNIHAN.

The PRESIDING OFFICER. The amendment will be modified.

Mr. ADAMS. Mr. President, I must oppose the amendment of my good friend Mr. METZENBAUM. This amendment is not in the economic self-interest of the United States, and if enacted, will also do great harm to economic development efforts around the world.

The Commerce Department has found a close connection between overseas U.S. investment and exports. One-third of all U.S. exports are shipped to U.S. affiliates overseas.

It is very unwise to place unreasonable restrictions on OPIC operations. The result will be lost U.S. markets and jobs.

We are living in an intensely competitive international economy. It is not just a coincidence that most of our major international trading partners have more comprehensive and aggressive international insurance and finance programs in the areas of political risk insurance, project finance, and auxiliary services. Our trading partners know that such an effort is often the difference between winning and losing expanded market shares in developing countries.

The amendment before us will place several new restrictions on OPIC operations. It says that no insurance, reinsurance, or guarantees may be issued to a project which produces exports that are competitive with goods manufactured in the United States.

This restriction makes no economic sense. It would have impacted 15 percent of OPIC projects financed in 1986 and 1987 that generated $493 million in U.S. exports and created over 2,000 new U.S. jobs. The overall impact of these projects was positive on the U.S. balance of trade. With the U.S. trade deficit at an historic high, we cannot afford to pursue policies which limit our export opportunities.

This proposal fails to take into account the very nature of economic development. Let me illustrate. Suppose OPIC were being asked to insure an investment in a project in a developing country for the production of chairs. These chairs would be produced for the developing country—but also could be exported abroad. Certainly chairs are manufactured in the United States, but so too is the equipment and tools used in the manufacture of these particular chairs. Having a new chair production facility in this developing country will not only mean possible increased U.S. exports of U.S. machinery and tools to make the chairs, but also the employment from the chair manufacturing facility will help raise the standard of living of that country. This will increase the demand in that country for other U.S. consumer goods, including agricultural commodities.

This amendment is not in our Nation's best economic interest. It is based on economic stagnation. Rather, we need to embrace a dynamism if U.S. standard of living is to continue to increase. Our goal should not be to protect low value added products, but rather to sell higher value added products to the world.

The second section of this amendment is equally ill-advised. It says that no insurance, reinsurance, or guarantees shall be issued by OPIC for any financial institution, petroleum project or hotel project.

This prohibition would have impacted another 33 percent of OPIC projects financed in 1986 and 1987. We would have lost another $205 million in U.S. exports and 1,825 U.S. jobs if this prohibition had been in effect.

In addition to the counterproductive impact this proposal will have on the U.S. economy, we must also consider the impact on developing countries where financial markets are generally not very well developed and where tourism is an important means of earning foreign exchange to finance development. An example of the kind of activity which would be prohibited under this amendment is assistance to facilitate debt-to-equity swaps in countries struggling with large foreign debts. OPIC has played an important role in many of these efforts to bring an innovative approach to the Third World debt crisis.

In conclusion, if the United States is to continue to be the economic leader of the free world, we cannot approach these issues with our heads in the sand. This amendment can do serious harm to our own economic self-interest and force developing countries to look elsewhere for international economic leadership. It should be defeated, and I urge its rejection.

Mr. LEVIN. Mr. President, I would like to direct a question to the distinguished chairman of the Foreign Relations Committee, Senator Pell. On August 9, 1988, I introduced legislation, together with Senators Dixon, Mikulski, Murkowski, and Simon, to allow the Overseas Private Investment Corporation [OPIC] to assist United States businesses wishing to invest in the Polish private sector. I considered offering this bill, S. 2702, as an amendment to the OPIC reauthorization bill. However, given the current situation in Poland, and the fact that this proposal was introduced only 2 months ago, I have decided not to offer it on this bill. I want my colleagues to have a longer opportunity to scrutinize this proposal before bringing it up for a vote. I believe that when they have had a proper chance to study it, we will approve it because it will help bring about positive democratic change in Poland.

S. 2702 is a limited and carefully conditioned proposal to allow OPIC involvement in Poland in a way that will foster economic and political freedom in that country. At a time when the United States is moving toward improved relations with the Soviet Union and Eastern Europe, this proposal can serve as a model for how we should go about expanding economic ties with these nations. In those countries where a private sector exists, even on a limited basis, we ought to be looking for ways to encourage its growth and its independence from State control.

Poland is the right country to try such an experiment, and OPIC is the right agency to carry it out. Unlike other Communist bloc countries, Poland has a substantial private sector. Private employment in Poland accounts for more than 5 million out of a working population of 17 million, or roughly 30 percent. Most of these private businesses are small, employing less than 10 people. When I was in Poland earlier this year, I received a strong message from members of the opposition, including Solidarity, that United States involvement in Polands's economy should concentrate on small-scale, private enterprise. Reform in Poland, I was told, has to come "from the bottom up." The United States should encourage independent, nongovernmental activity in the economic, as well as the cultural and political spheres.

Recent events in Poland do not change this reality: despite signs that the Polish Government might be willing to make some concessions, it would not be realistic to expect them to accept far-reaching political and economic reforms. Long-term change in Poland is far more likely to result from a gradual expansion of independent activity in all areas of life. The OPIC proposal, because it is aimed at low-level private enterprise, is consistent with this long-term reform process.

Why OPIC? Because OPIC has considerable experience in dealing with investment in small private sector businesses. OPIC's authorizing statute instructs the Agency "to foster private initiative" and "to give preferential consideration * * * to investment projects sponsored by or involving U.S. small business."

I should also add that S. 2702 has important provisions relating to the protection of workers' rights, including the right of workers in the private enterprises who get OPIC assistance to be represented by the union of their own choice, including Solidarity.

Although I will not offer S. 2702 as an amendment to this OPIC bill, I hope that it will be promptly considered by the Foreign Relations Committee. Can the chairman of the Foreign Relations Committee comment on this?

Mr. PELL. Mr. President, I can assure my colleague from Michigan, Senator Levin, that his bill will indeed receive consideration by the Foreign Relations Committee.

AMENDMENT NO. 3321

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. SANFORD. Mr. President, I think this discussion has illustrated so well the point that I made in the beginning that this is far too serious a matter, the future of this 20-year-old successful agency, to be decided by a method that is not in keeping with the deliberative process that marks the Senate.

I have tried for the last year, as chairman of the Foreign Relations Subcommittee on International Economic Policy, to modify the procedures and practices of OPIC. We have made some progress, and we will continue to make progress.

But to cripple the agency in order to improve it is simply not the way to go. To take action without careful thought and deliberation through the committee process, I suggest is not the way to go.

So, Mr. President, on behalf of myself, Senator Kasten, Senator Kassebaum, Senator Bond, Senator Dodd, and Senator Graham, I move to table the amendment.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Carolina to lay on the table the amendment of the Senator from Ohio.

On this question the yeas and nays were ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. Bentsen] and the Senator from Massachusetts [Mr. Kennedy] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Washington [Mr. Evans], the Senator from Indiana [Mr. Quayle], and the Senator from Wyoming [Mr. Wallop], are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. Wallop] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 72, nays 23, as follows:

[Rollcall Vote No. 343 Leg.]

YEAS—72

Adams
Armstrong
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Bumpers
Chafee
Chiles
Cochran
Cohen
D'Amato
Danforth
Daschle
Dixon
Dodd
Dole
Domenici
Durenberger
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heinz
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kerry
Leahy
Lugar
Matsunaga
McCain
McClure
McConnell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pryor
Riegle
Rockefeller
Roth
Rudman
Sanford
Sasser
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Warner
Weicker
Wilson
Wirth

NAYS—23

Baucus
Breaux
Burdick
Byrd
Conrad
Cranston
DeConcini
Exon
Heflin
Helms
Hollings
Lautenberg

Levin
Melcher
Metzenbaum
Mikulski
Mitchell
Pell
Pressler
Proxmire
Reid
Sarbanes
Shelby

NOT VOTING—5

Bentsen
Evans
Kennedy
Quayle
Wallop

So the motion to lay on the table amendment 3321 was agreed to.

AMENDMENT NO. 3337 TO AMENDMENT 3320, AS MODIFIED

(Purpose: To permit release of USIA film "Land of Enchantment" to the National Archives so it can be used in the production of an educational film on the history of art in New Mexico)

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

The Senate will come to order. Those Members engaged in audible conversation will please retire.

The Senate is not in order. Those Senators engaged in audible conversation will please retire to the Cloakroom in order that the Senate may conduct business.

Mr. DOMENICI. Thank you, Mr. President.

Mr. President, very shortly I am going to send a brief amendment to the desk. I am having one of the clerks produce an extra copy for me but I will send it to the desk and ask for its consideration.

I just want to take a minute to explain it and to tell the Senate, and those who are managing this bill, why I am doing this.

I am fully aware that it is not good practice, but others have chosen to modify this hard-won conference report and I do have a very simple amendment that is relevant and germane to the Pell amendment which is on this bill. I urge that the distinguished chairman of the Foreign Relations Committee and his staff look at this amendment. I think it is innocuous enough to be accepted. Senator BINGAMAN joins me in offering it.

It does nothing more than what we regularly do around here, directing the USIA Director to release a film entitled "The Land of Enchantment," which is New Mexico, which currently can only be released overseas. This says release it here so that we can use it for our 75th statehood anniversary and for qualifying for our national endowment funds.

That is all it does. I understand we have done that before. If you look at the underlying amendment that Senator PELL has introduced, this is relevant. I would have introduced it as an amendment to that authorization bill had it come before us free-standing. That did not occur but has occurred as an amendment to the Appropriations Committee and therefore I offer my amendment to be included as language at the end of the Pell amendment which is pending.

Mr. STENNIS. Mr. President, will the Senate be in order?

The PRESIDING OFFICER. The Senator from Mississippi is correct. The Senate will not engage in business until Members retire to the Cloakroom. The Senate is not in order. The Senator will suspend

Mr. DOMENICI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself and Mr. BINGAMAN, proposes an amendment numbered 3337.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is as follows:

At the end of the pending amendment, add the following:

Provided further, That notwithstanding section 208 of the United States Information Agency Authorization Act, FY 1986 and 1987 and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 USC 1461)—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the film entitled "Land of Enchantment"; and

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall reimburse the Director for any expenses of the Agency in making that master copy available, shall deposit that film in the National Archives of the United States, and shall make copies of that film available for purchase and public viewing within the United States.

Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from New Mexico?

The Senator from Hawaii.

Mr. INOUYE. Mr. President, I am advised the chairman of the Foreign Relations Committee will accept the amendment. I find no objection.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (No. 3337) was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I now urge the adoption of the underlying amendment.

Mr. INOUYE. As amended.

Mr. PELL. As amended.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from Rhode Island?

Mr. DOMENICI. Mr. President, may I thank the Senators who are managing the bill and the chairman of the committee for accepting the amendment.

Mr. KASTEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, time is running and we are marching on to that midnight deadline which marks the close of the old fiscal year and the beginning of the new one.

We have five appropriations conference reports that need to be sent to the President before that midnight deadline expires.

The DOD appropriations conference report is here. I wonder if we could set aside this conference report, if it is going to take much longer, and proceed on that conference report while perhaps discussions are going on with respect to some of the contentious items that are related to this conference report so we could be making headway.

That conference report, whatever the action the House and the Senate does on that conference report, is going to require further House action. And the same is true with respect to the foreign operations conference report. The sooner we can get these measures moved in this body so they can go on back to the other body, we will expedite final action, hopefully, and make that midnight deadline. Otherwise, these messages between Houses are going to foil our attempts to meet the deadline.

Let me ask the distinguished Senator from Hawaii and others if they would be willing to set aside this conference report temporarily so we can go on the DOD conference report or we can get a time limitation to do that?

Mr. STEVENS. Mr. President, I cannot hear the majority leader.

The PRESIDING OFFICER. The Senate will be in order.

Mr. STEVENS. I would like to do so.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. Would the distinguished Senator like for me to repeat?

Mr. STEVENS. Mr. President, the distinguished majority leader mentioned the defense bill at this time.

Mr. BYRD. Yes. I was suggesting that in lieu of the long quorums which we are having while discussions are going on in the effort to resolve the questions that are being raised in connection with the foreign operations appropriations conference report, if we could go to the DOD conference report and move it along, and get it back over to the House because both of these conference reports and perhaps others of the appropriations conference reports, are going to have to go back to the House, and there will be messages back and forth, and there may have to be other conferences. In the effort to meet that deadline, I am just suggesting that if we are going to be much longer on this conference report, perhaps we could move to another one and come back to this one.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I am convinced that this matter can be resolved by the hour of 4 p.m. As my distinguished leader is well aware, what the Foreign Operations Subcommittee is trying to do is to accommodate the Foreign Relations Committee.

Mr. BYRD. Yes.

Mr. INOUYE. I gather an agreement has been reached on the Pell amendment and with that we should be able to move ahead expeditiously.

Mr. BYRD. Very well. I thank my good friend, the distinguished Senator from Hawaii, and I yield the floor.

The PRESIDING OFFICER. The Senator has yielded the floor.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. I believe the chairman of the Foreign Relations Committee, the author of the Pell amendment, wishes to modify his amendment to delete title V.

Mr. STEVENS. Mr. President, will the distinguished Senator from Hawaii yield to me once more for a statement pertaining to the statement of the majority leader.

Mr. INOUYE. I will be happy to yield.

Mr. STEVENS. Mr. President, when the defense bill arrives, it will be my intention to ask all Republican members of the Appropriations Committee to now sign the conference report. There has been a significant amendment in the House which eliminates the objections we had concerning the limits that were imposed upon us by the summit agreement. I think everyone ought to know that so far as this Senator is concerned there is no objection to moving as the Senator from West Virginia, the distinguished leader, said. I see every reason to cooperate, as a matter of fact, to try to get this bill to the President today.

Mr. BYRD. Mr. President, I thank the Senator.

The PRESIDING OFFICER. The Senator from Hawaii has the floor.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, my understanding is that the Senator from North Carolina has acquiesced in the deletion of title V from my amendment with the understanding that it will be voted on, inserted, and voted on at some other point in the bill. In accordance with that understanding, I now ask unanimous consent to modify my amendment by having title V removed.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? Without objection, it is so ordered. The amendment is so modified.

The amendment, as further modified, is as follows:

At the end of the pending amendment, insert the following:

Provided further, That notwithstanding any other provision of this act, Titles I and III of S. 2757 as reported by the Senate Committee on Foreign Relations on September 7, 1988 are hereby enacted into law: *Provided further,* That purchases, investments or other acquisitions of equity by the fund created by section 104 of S. 2757 as hereby enacted are limited to such amounts as may be provided in advance in appropriations Acts: *Provided further,* That Section 901(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (8 U.S.C. 1182 note) is amended to read as follows:

(a) IN GENERAL.—Notwithstanding any other provision of law, no nonimmigrant alien may be denied a visa or excluded from admission into the United States, or subject to deportation because of any past, current or expected beliefs, statements or associations which, if engaged in by a United States citizen in the United States, would be protected under the Constitution of the United States.

Provided further, That subsection (b) of section 901 of such Act is amended—

(1) by inserting "to deny adjustment of status of," after "deny issuance of a visa to,";

(2) by inserting in paragraph (1) before the semi-colon, ", unless such alien is seeking issuance of a visa, adjustment of status, or admission to the Untied States as an immigrant."

Provided further, That subsection (d) of section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (8 U.S.C. 1182 note) is amended to read as follows:

"(d) EFFECTIVE PERIOD.—Subsection (a) shall only apply to—

"(1) applications for non-immigrant visas submitted before January 1, 1991;

"(2) admissions sought before March 1, 1991;

"(3) deportations based on activities occurring before January 1, 1991, or for which deportation proceedings (including judicial review with respect to such a proceeding) are pending at any time between December 31, 1987 and January 1, 1991.":

Provided further, That the amendment made in the preceeding sentence shall not require the deportation of aliens admitted for permanent resident status under Section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, as in effect before the date of enactment of this act:"

"*Provided further,* That Title III of S. 2757 shall be in effect for Fiscal Years 1989 and 1990: *Provided further,* That the Comptroller General of the United States shall examine the use of nonimmigrant visas under section 101(a)(15)(J) of the Immigration and Nationality Act for current programs of educational and cultural exchange and shall, not later than 30 days before the end of fiscal year 1989, submit to the Committees on the Judiciary of the Senate and House of Representatives, a report on whether the participants in programs of cultural exchange receiving visas under that section are performing activities consistent with the congressional intent for the implementation of that section."

Mr. SIMPSON. Mr. President, I rise to support the compromise amendment proposed by the Senator from Rhode Island as it applies to ideological exclusions under the Immigration and Nationality Act, and to the use of the J visa to admit young foreigners as au pairs to perform child care work in this country.

Under the Immigration and Nationality Act, aliens can be excluded from admission to the United States because of political affiliation and other ideological considerations. Although the law provides for a waiver of the exclusion if it is in the national interest, the provision has caused needless inconvenience at best, and national embarrassment at worst, as tens of thousands of alien visitors apply for and receive waivers before entering the United States as nonimmigrants. I fully agree that we should not restrict the entry of visitors because of their beliefs, except when important foreign policy interests or national security interests are at stake.

However, permanent immigrants, those who can become citizens, should receive closer scrutiny.

Mr. President, the modified amendment will address those concerns that I have, and will provide the Judiciary Committee with 2 years to complete the hearing and amendment process on an overall exclusions bill which I have prepared in consultation with Senator TED KENNEDY, Congressman BARNEY FRANK, the State Department, and the Justice Department. This bill will revise, and bring into the 21st century, all 33 exclusions in present law.

Mr. President, I am concerned that the au pair program administered by the USIA as a cultural and educational exchange program, has in fact, become a work program. Youngsters from abroad come to the United States under this program to live with an American family and learn something of our country—learn about its institutions and its culture. However, these au pairs can be required, under current regulations, to work up to 45 hours a week. This is more than any full-time employment in our country, and the Labor Department has quite correctly suggested that it is a work program and that it should be under the jurisdiction of the Labor Department.

The modified amendment will continue the current au pair program under present regulations for 2 more years, and it will require the Comptroller General to study the use of the J visa in this and other cultural exchange programs and then report to the Congress on whether the participants in these exchange programs are performing activities that are truly consistent with congressional intent.

Mr. President, I am aware that there is a great demand in the United States for child-care workers, "nannies," and au pairs. The question is not whether we should admit persons temporarily to perform this needed work, but whether they should be admitted under the guise of a cultural and educational exchange program, or should they be admitted under a temporary worker program, if indeed they are performing full time work.

Mr. President, I am indeed pleased that we were able to reach a satisfactory compromise on these two amendments, but I must tell my colleagues that this was a negotiation made much more difficult by the array of committees, staff, and Members working on these immigration issues. We had two provisions that were quite clearly under the jurisdiction of the Judiciary Committee, but proposed by the Foreign Relations Committee, to a bill reported by the Appropriations Committee. I do not spend much time tending my turf, Mr. President, but these issues are better handled by the appropriate committees, and I am certain we would get a much more appropriate result if we were to follow the proper jurisdictional channels. We must do that next session. We are not well served by this procedure we have just witnessed.

● Mr. KENNEDY. Mr. President, I want to join my distinguished colleague on the Judiciary Immigration Subcommittee, Senator SIMPSON in promoting this compromise on amending for another 2 years our immigration law's out-dated and "cold war" exclusions toward visitors coming to the United States.

As Senator SIMPSON has indicated, our Subcommittee on Immigration and Refugee Affairs has been working over the past 2 years with the Department of State, Department of Justice, and our colleagues on the House side, to fashion a permanent revision of our immigration exclusion laws. We came close to reaching that compromise, but time has obviously run-out.

Therefore, I welcome the initiative of the Senator from New York [Mr. MOYNIHAN] and Congressman BARNEY FRANK in proposing a temporary compromise to extend the existing prohibition of applying ideological exclusion provisions to nonimmigrant visitors to the United States—allowing us in the next Congress to revisit this issue and to pick-up from the compromise bill reported from the House Judiciary Committee this year. I regret we need this extra time—even as I regret we apparently need it for more general immigration reform—but the calendar tells us we do.

I will look forward as chairman of the Immigration Subcommittee to working with our ranking member, Senator SIMPSON, and our colleagues on the House Immigration Subcommittee—particularly BARNEY FRANK—in fashioning a long-term and permanent revision of our immigration exclusion laws. There is wide-spread and general agreement this reform is long over-due—beginning with the important recommendations in 1981 of Father Hesburgh's Select Commission on Immigration and Refugee Policy, upon which both Senator SIMPSON and I served. It is time for us to reform our immigration laws as the Select Commission recommended—both on ideological exclusions, but on general legal immigration reform as well.

The Senate attempted to do that this year, but the House is apparently not going to act. This is the minimum we can expect on the exclusion reforms, so I join Senator SIMPSON in urging the Senate to adopt this compromise—temporary as it is.●

Mr. MOYNIHAN. Mr. President, we have before us the opportunity to eliminate an unnecessary, and most damaging, legacy of the McCarthy era: The denial of visas to aliens on the basis of their political beliefs. For 35 years after enactment of the Immigration and Nationality Act of 1952—widely referred to as the McCarran-Walter Act—ideology was used to deny aliens entry into the United States. Colombian novelist Gabriel Garcia Marquez was excluded, as were Graham Greene, Pierre Trudeau, Primo Levi, and dozens of other prominent foreign citizens.

On October 8, 1987, the Senate passed the Foreign Relations Authorization Act of 1988 and 1989, which included a permanent bar to such ideologically based visa denials. The legislation as enacted was straightforward: No alien can be excluded from the United States "because of any past, current or expected beliefs, statements, or associations which, if enaged in by a U.S. citizen, would be protected under the Constitution of the United States." However, a House-Senate conference decided that this bar should remain in effect for only 1 year, pending the enactment of comprehensive legislation to amend other elements of McCarran-Walter. Such broader legislation has not come before the Senate. Unless we act today to extend the bar against ideologically motivated visa denials, such denials could begin again on March 1, 1988.

The exclusion of aliens on the basis of their political beliefs was made possible in part by section 212(A)28 of the Immigration and Nationality Act. That section allows the exclusion of aliens who are members of anarchist, Communist, or other proscribed organizations, or who advocate such proscribed beliefs. No evidence was required that an alien would engage in activities endangering U.S. security, or that admitting the alien would undermine U.S. foreign policy. And by excluding aliens whose only threats to us were their ideas, we exposed our Nation to needless ridicule and undermined the respect for free speech we hope to promote around the world.

The legislation enacted last year to bar such visa denials preserved the President's authority to exclude aliens for reasons of national security. If an alien is a terrorist or a member of a terrorist organization, that alien can—and should—be excluded. And if the administration determined that an individual's admission were to prejudice the foreign policy of the United States, this law permits his exclusion.

In the past year, this law has had precisely the effect we intended. In some instances, the executive branch has reversed its position on visa cases in recognition of this legislation.

In cases where the administration has continued to deny visas on ideological grounds, courts have used this legislation as the basis for overturning such denials. The administration has persisted in denying visas to Hortensia de Allende, widow of the former Chilean President, in part because she "spoke on women's issues and the need for nuclear disarmament" at an international conference—according to a decision issued on April 13, by the U.S. Court of Appeals for the First Circuit. That same court decision took note of the legislation enacted last year, and after concluding that Allende was being excluded because of her beliefs, said that "we need go no further." The court orderd Allende admitted.

But the legislative basis for such court decisions will soon expire. In proposing this amendment, we have amended the original Foreign Relations Committee language to respond to the concerns of my good friend the junion Senator from Wyoming [Mr. SIMPSON], the ranking minority member of the Immigration and Refugee Affairs Subcommitte of the Judiciary Committee. In so doing, we have limited the law's scope to those seeking nonimmigrant visas, the vast bulk of those affected by the McCarran-

Walter Act. The provision before the Senate today will also only extend the McCarran-Walter revision for 2 years, so that revising the act now will not prejudice efforts to enact a broader revision of the underlying law.

Let us act again as we did last year to bar the denial of visas on the basis of ideology. And in so doing, let us reaffirm our Nation's commitment to free speech and the unfettered competition of ideas.

The PRESIDING OFFICER. Is there further debate? Is there further debate on the amendment, as modified? If not, the question is on agreeing to the adoption of the amendment.

The amendment (No. 3320), as further modified and amended, was agreed to.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. the Senator from Hawaii.

Mr. INOUYE. I now move that the Senate concur in the House amendment to amendment No. 134.

The PRESIDING OFFICER. The Chair will state that the Senator from Hawaii will still have to dispose of the House amendment to amendment No. 119.

Mr. INOUYE. Mr. President, I move that the Senate concur in the House amendment to Senate amendment No. 119, as amended, be adopted.

The PRESIDING OFFICER. The question is on the motion to concur.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. the absence of a quorum is noted. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unaimous consent that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. If there is no further debate, the question is on the motion to concur in the House amendment to the Senate amendment No. 119, as amended.

The motion was agreed to.

The House amendment to Senate amendment No. 134 is as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 134 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of their matter inserted by said amendment, insert:

"(d) ILLEGAL ACQUISITION.—Effective April 1, 1989, before issuing any letter of offer to sell any defense article or defense service to Qatar, Qatar shall have returned all Stinger antiaircraft missiles illegally acquired or purchased. The President shall notify the Committees on Appropriations and the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate when all such missiles have been returned.".

Mr. HELMS. I move to reconsider the vote by which the motion was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will report the next committee amendment.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. I move that the Senator concur in the House amendment to the Senate Amendment No. 134 and that we reopen Amendment No. 182, in disagreement.

The PRESIDING OFFICER. If there is no further debate the question is on the motion to concur in the House amendment to Senate amendment No. 134.

The motion was agreed to.

Mr. INOUYE. I ask unanimous consent that we reopen the House amendment No. 182.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

HOUSE AMENDMENT TO SENATE AMENDMENT NO. 176

The PRESIDING OFFICER. The clerk will report amendment No. 176.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 176 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

FUNDING ADJUSTMENTS

SEC. 589. Notwithstanding any other provision of this Act, the following amount is hereby appropriated in lieu of the amount contained previously herein for payment to the African Development Bank, $7,345,371: *Provided*, That notwithstanding any other provision of this Act, during fiscal year 1989, total commitments by the Overseas Private Investment Corporation to guarantee loans shall not exceed $175,000,000 of contingent liability for loan principal: *Provided further*, That section 514 of this Act is amended to read as follows:

TRANSFERS BETWEEN ACCOUNTS

SEC. 514. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated.

AMENDMENT NO. 3338

(Purpose: To provide for enactment of sanctions on Iraq to deter Iraq's use of chemical weapons.)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask it be stated.

Mr. INOUYE. Mr. President, if I may.

Mr. HELMS. Certainly.

Mr. INOUYE. This is the House amendment to Senate amendment 176 and this is the amendment which will be amended by the Iran-Iraq amendment.

Mr. HELMS. That is correct.

Mr. INOUYE. When we take up amendment No. 182 we will bring up the other one.

Mr. HELMS. Correct. That is my understanding.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from North Carolina.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for himself, Mr. PELL, and Mr. DECONCINI proposes an amendment numbered 3338.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the pending amendment, insert the following: ": *Provided further*, that S. 2763, as passed by the United States Senate on September 9, 1988 is enacted."

Mr. HELMS. Mr. President, this amendment is identifical to the emergency Iraqi sanctions bill passed by the Senate on September 9. Because of the lateness of the session, it appears that this will be the only realistic vehicle by which the Senate will be able to take action against Iraq's use of chemical weapons against its own citizens.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, I would like to express my strong support for the amendment of the Senator from North Carolina.

This amendment is identical to the text of S. 2763, "The Prevention of Genocide Act of 1988" which passed the Senate unanimously on Friday, September 9, 1988.

The Prevention of Genocide Act imposes extensive sanctions of Iraq in response to Iraq's massive use of chemical weapons on Kurdish civilians. It is an appropriate response to an action so inhumane that the term genocide does seem to apply.

The Senate's action on September 9 was a timely and forceful response to a crime against humanity. It was a moral act applauded widely in many countries. The House of Representatives has now acted on a sanctions bill of its own. Unfortunately, for parliamentary reasons, the House did not act on the Senate bill. This makes it difficult to complete action on the Iraq sanctions legislation in the short time remaining in the session.

If sanctions legislation is not now enacted, Iraq will receive the message that the United States is unwilling to match its words with deeds. Other countries may be inspired to follow

Iraq's example because they will see no concrete penalty for the use of chemical weapons.

We must send the message that the use of chemical weapons cannot be tolerated by civilized nations. This amendment accomplishes that purpose.

AMENDMENT NO. 3339

Mr. PELL. Mr. President, I send to the desk an amendment to the pending amendment of the Senator from North Carolian. It is cosponsored by Senator HELMS.

This amendment represents a compromise between the House and the Senate positions on Iraq's chemical weapons use.

It imposes two sanctions immediately on Iraq. These are: First, the prohibition of export of certain sensitive technology, and second, a requirement that the U.S. vote against loans to Iraq in the international financial institutions. In addition, the President must impose at least one additional sanction on Iraq within 60 days unless he obtains verifiable assurances that Iran will not use chemical weapons. The list from which the additional sanction is to be selected from includes: First, additional export restrictions, second, a ban on the importation of Iraqi oil, third, a ban on export-import credit guarantees to Iraq, and fourth, a ban on agricultural credit guarantees to Iraq.

This amendment permits, but does not require, the suspension of the agricultural credit guarantees to Iraq.

I believe this a good compromise between the House and Senate provisions and sends a strong message to Iraq that chemical weapons use will not be tolerated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. PELL], for himself, Mr. HELMS and Mr. DECONCINI proposes an amendment numbered 3339 to amendment No. 3338.

Stike all after the colon and insert the following:

"Provided further, that S. 2848, as introduced on Septembe 30, 1988 is enacted."

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I support this compromise. I applaud my two colleagues, the Senator from Rhode Island and the Senator from North Carolina, on their effort.

Mr. President, I believe that all of us in both houses condemn Iraq's use of poison gas. I strongly believe that we should adopt sanctions against any country that acquires such gas for anything other than deterrent purposes, which uses gas, and which opposes a treaty on chemical weapons. Futher, I stongly believe that we should apply every possible sanction against any company that sells equipment that can be used for chemical warfare.

THE NEED TO BROADEN THE COVERAGE OF CONGRESSIONAL ACTION TO COVER IRAN, IRAQ, AND SYRIA

I am deeply concerned, however, with several aspects of the bill that we are now about to vote on. The first is that it singles out Iraq without including other nations like Iran, Syria, and Libya, and does so in a way that might do more to provide Iraq than restrain it.

There is good evidence that Libya used mustard gas during the final phases of the fighting in Chad, and that it has set up a production plant in a large industrial park that is almost ready to produce agents like nerve gas and mustard gas. There is firm evidence that Iran has used both nerve gas and mustard agents, and has used it carelessly enough to kill Kurds and other civilians. There is evidence that Syria is producing nerve agents, and there are unconfirmed reports that Syria has deployed surface-to-surface missiles with nerve gas agents in sheltered facilities.

If we single out Iraq, without paying equal attention to Iran, Libya, and Syria, I believe that the end result may simply be to provoke Iraq to ignore what we are doing, and to feel we have somehow single it out without regard to the actions of other nations in the region. In fact, we may end in reviving all the latent fears that we are somehow tilting back toward Iran, and that motive for our actions is based on narrow political grounds and not on the moral issues involved, or the risks to every nation of proliferating weapons of mass destruction.

I believe that we should include all four of the countries in the Middle East which are now deeply involved in gas warfare by name in any legislation which attempts to put an end to the proliferation of this weapon of mass destruction. I believe that we should make it clear that we are not attacking Iraq, but intend to act firmly and decisively to take sanctions against any Third World state that creates a gas warfare capability and any company that sells Third World states such equipment.

AMERICA'S STRATEGIC INTERESTS IN CONDEMNING THE USE OF POISON GAS AND THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

Even more importantly, we need to recognize that the issue this bill touches upon is not simply one of gas warfare, but one of much broader changes in the proliferation of weapons of mass destruction.

We have already seen some of our closest friends in the Middle East become involved in acquiring or developing intermediate range missiles quite similar to those the United States and Soviet Union are abolishing as part of the INF Treaty. We know that Iraq did not initiate the missile war on cities. Iran simply lost the race to develop and use its own long-range missiles in time to use them against Iraqi civilians.

Further, as a recent report by my staff indicates, we know that Iran is actively seeking to revive its nuclear weapons development program, and that West German and Argentine firms are providing it with support. I am asking that that report be included for the record because it provides a grim warning that we cannot ignore all of the weapons of mass destruction and concentrate on the horrors of gas warfare alone.

THE NEED TO FIGHT THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION WHILE WE STILL CAN

There is a grim global interaction between events like Iran and Iraq's use of poison gas, the Soviet use of gas and biological agents like the Mycotoxins in Afghanistan, the production and acquisition of long-range missiles, and India and Pakistan's development of nuclear weapons.

Iraq's use of poison gas will almost certainly accelerate the efforts of other nations to create major stockpiles of such weapons. But, the problem scarcely began with Iraq and will scarcely end with it. Many nations throughout the Third World have reactivated research efforts in this area, and many are moving toward the production and stockpiling of such weapons.

COMPREHENSIVE REPORTING ON THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

The first step should be the kind of report on the proliferation of such weapons that goes far beyond the kind of summary report that is common in the U.S. Government. To be specific, the President should be required to issue an annual report on each country in the world that is deliberately designed to embarrass the buyers and sellers of mass destruction in detail.

In the case of the buyers, it should require that the President report on the current activities of each Third World country in trying to develop or acquire chemical weapons, nuclear weapons, biological weapons, and missiles or other delivery systems suited for the use of such weapons. This legislation should require the disclosure of any holding and stockpiles of such weapons, and that the United States name the responsible officials in each country. It should cut through the vagueness and hypocrisy in most such reports, and deliberately shame the nations involved in the eyes of world opinion.

Further, the President should be required to notify the Congress in unclassified form of any major development in acquiring weapons of mass destruction by any country in the world within 30 days of the confirmation of such developments.

In the case of the sellers, the President should be required to provide a similar report any country, company, or individual selling weapons or technology which can be, or is, used to develop weapons of mass destruction. Once again, this report should name names. It should name the responsible official or officials in any seller country, the firms involved, and the individuals involved. Further, the President should be required to provide notification to the Congress of such sales within 30 days.

SANCTIONS AGAINST NATIONS ACQUIRING WEAPONS OF MASS DESTRUCTION

The second step should be to take more tangible steps to act on this report. In the case of any Third World nation that is acquiring weapons of mass destruction, we should make it firmly clear that the United States will not extend any form of credit, aid, or technology transfer in any form to a nation that is acquiring such weapons for the first time, or adding to its present stockpile, for a period of 5 years after the most recent Presidential notification of such action, and will halt support to any international institution that will provide such aid.

Further, we should maintain a public international blacklist of the officials and individuals in a country that are involved in acquiring weapons of mass destruction, and permanently deny them visas to the United States. This would brand those responsible for life, and end the kind of personal secrecy that is an essential part of today's efforts to proliferation.

There can be no question that the use of poison gas interacts with the fact that it is now becoming far far easier to develop low cost biological weapons, and is interacting with efforts at nuclear proliferation.

We have already seen a friendly state like Saudi Arabia turn to the PRC for the kind of IRBM whose only military merit lies in the eventual acquisition of chemical, biological, and/or nuclear warheads. We have seen Israel, Egypt, and Syria all renew their own search for long-range missiles, and this is only the tip of the iceberg. For all its ritual denials, the PRC has become actively involved in selling long-range missiles and it has been joined by nations like Brazil.

Admittedly, we ourselves are still dependent on nuclear and chemical weapons for deterrence, and cannot ignore the need for research in biological warfare. We also, however, are beginning to make real progress in moving toward the reduction or elimination of these weapons and we have a quarter of a century's experience in guiding us to avoid their use. The proliferation of weapons of mass destruction is not a sane form of nationalism in the Third World, and it may ultimately destroy the validity of our own efforts at arms control.

TAKING ACTION TO HALT THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

I support strong actions on sanctions, but I would have preferred broader coverage contained in the bill I have cosponsored with Senator DOLE and other Senators which would be more effective.

I also believe we must act immediately after the coming recess to adopt a much broader program to halting the weapons of mass destruction. As I have already suggested to this House, we need to adopt a three-point program that does not single out Iraq, but which attacks the problem on a global basis and which addresses the proliferation of all the elements of weapons of mass destruction: chemical weapons, nuclear weapons, biological weapons, and advanced delivery systems.

SANCTIONS AGAINST NATIONS SELLING WEAPONS OF MASS DESTRUCTION

Finally, we must take equally firm action against the seller. We cannot shut off all trade with other nations for selling such weapons and technology, but we can target several key aspects of our relations. One is to deny technology transfer for all military technology. Another is to deny all forms of aid and credits, including both civil and military.

We also can target the selling firms to force them to divest any holdings in the United States and to prevent any goods containing any component they manufacture from being imported to the United States. We can demand that they be blacklisted from any overseas contracts involving U.S. aid or international aid to which we contribute, and we can demand that this blacklisting be so broadly defined that it include the parent company, any company with any holding of any kind in the selling company, and any company with agreements for technical or financial cooperation on an international level.

We also should expand the international blacklist on entry to the United States to include sellers, and establish much harsher criminal penalties to any Americans that may violate U.S. law in these areas.

THE NEED TO BE FIRM WITH OUR FRIENDS AS WELL AS OUR ENEMIES

These three measures may not prevent the proliferation of weapons of mass destruction, but they will make it far more difficult and put far more pressure on other nations to halt the new arms race towards weapons of mass destruction.

If we are quick to adopt them, and rigorous in how we apply them, they will establish a firm basis for seeking support for similar policies from our NATO allies, the PRC, and the Soviet bloc. They will greatly strengthen the many people in the Third World who fully recognize the dangers of such action, and that the Third World does not need to repeat the mistakes of the West and East.

We must, however, recognize that we cannot play favorites. We cannot condemn Iraq or the PRC and ignore the actions of Pakistan, Saudi Arabia, or Israel. We cannot deal in cliches or half truths, or excuse our own firms or the actions of our major Western allies. We must act firmly and decisively, and leave no ambiguity or uncertainty on the part of other nations as to the firmness of our response. We cannot hope to be successful in safeguarding our most vital long-term interests if we are willing to take short-term advantage of failing to be honest about what friendly nations are doing.

At this point, I wish to insert a statement concerning the Iran-Iraq war.

THE IRAN-IRAQ WAR: GAS WARFARE AND THE PROSPECTS FOR THE USE OF NUCLEAR WEAPONS

The Iran-Iraq War has cost over one million lives. It is the bloodiest war in modern history, and it has set precedents that may haunt the world for generations to come. Although it may now be ending in lasting ceasefire or peace settlement, both Iran and Iraq began to make extensive use of gas warfare towards the the end of the conflict. They engaged in a missile war against civilians and cities, and both have revitalized their effort to develop nuclear systems.

As a result, the Iran-Iraq War provides important insights both into the impact of gas warfare and the prospects for the proliferation of weapons of mass destruction.

IRAQI AND IRANIAN PRODUCTION OF CHEMICAL/BIOLOGICAL WEAPONS

Both Iraq and Iran have used poisoned gas in the Iran-Iraq War. While this never had a decisive impact on the fighting, it provides an important lesson in the risks inherent in the proliferation of weapons of mass destruction.

The only detailed data on the history of each side's effort to produce chemical weapons are those available on Iraq, although Iran is known to have followed a path somewhat similar to that of Iraq.[1] It is not possible to precisely date Iraq's chemical warfare effort, but it seems to have begun in the late 1960's. Iraq paid close attention to the Egyptian use of poison gas during the civil war in North Yemen, and seems to have developed preliminary plans to process mustard gas and other agents.

These plans took on more definite shape after the October, 1973, fighting between Israel, Egypt, and Syria. This may have partly been in response to the fact that it became clear after the fighting that Egyptian and Syrian forces were extensively equipped with Soviet-made chemical defense gear, including the antidote for nerve gas. It is still unclear whether this equipment was intended for defensive or offensive use, or was simply provided because it was part of standard Soviet military equipment for land force units.

The main reason for the Iraqi action, however, seems to have been the scale of Israel's military victory, and press reports that Israel had at one point begun to arm nuclear weapons in response to inital Egyptian

---

Footnotes are at end of article.

and Syrian gains. Iraq almost unquestionably saw poison gas as a potential equalizer to Israel's military superiority and as a deterrent against Israeli use of nuclear weapons. It also probably saw chemical weapons as a potential counter to the Shah of Iran's access to superior Western military technology.

One of Iraq's first steps was to turn to the Pfaudler Company of Rochester, New York, for assistance in creating a major "pesticide" blending complex.[2] Pfaudler is a large producer of corrosion resistant, glass line steel vessels, of the kind suitable for producing large amounts of toxic chemicals. Iraq approached the Pfaudler Company in 1975, and asked about purchasing a relatively small production facility.

Once the company's representatives reached Baghdad, however, it became clear that Iraq sought to create a massive facility. It rejected the safety concerns of the Pfaudler experts, and asked for plans that meant rushing ahead without a pilot plant. It also became clear that Iraq wanted to "blend" organophosphate pesticides with very uncertain value for agricultural purposes, and which are commonly recognized as "precursors" for the production of nerve gas.[3]

The Iraqi production goals called for the handling of 600 metric tons per year of Amiton, 300 metric tons of Demiton, 150 tons of Paraoxon, and 150 tons of Parathion. All of these agents are extremely toxic.[4] Amiton and Paraoxon are the most toxic agents, followed by Parathion and then Demeton. Even in 1974, all four were relatively outdated agents for agricultural purposes, and had been largely abandoned for safety reasons.[5]

During 1975-1976, Pfaudler sought to persuade the Iraqis to proceed on a pilot plant basis. Iraq finally rejected this approach in mid-1976, and insisted on completion of a massive plant. The Iraqi negotiators also changed from the Ministry of Agriculture to the Ministry of Industry. The resulting impasse gradually led Iraq to break off negotiations.

Iraq then turned to Imperial Chemical Industries, PLC (ICI), with virtually the same proposal. Unlike Pfaudler, ICI was familiar with a British government list of items whose export was controlled because they could be used to produce gas weapons, and immediately recognized that Iraq was seeking the precursors for nerve gas. ICI refused to negotiate further.

This refusal did not discourage Iraq, however, which turned to West German, Swiss, Dutch, Belgian, and Italian firms, and seems to have obtained most of the components it needed. While the precise source of its equipment is unclear, Iraq may have received enough support to build a special "pesticide" plant from Pilot Plant, a unit of Karl Kolb, which is a major West German laboratory equipment supplier. The Kolb plant had some of the special equipment necessary to make Sarin, but not special pumps. Iraq also received heavy duty pumps and chemicals from W.E.T.G.m.b.H of Hamburg.[6]

In any case, at least one major pesticide plant was being operated by the Iraqi "State Ministry of Pesticide Production" in 1980-1981. Iraq may also seems to have obtained additional production equipment for the manufacture of plastics which could produce massive amounts of hydrogen cyanide as a byproduct. this equipment seems to have been modified for the production of cyanide gas.

While Iraq could produce and employ poison gas by the early 1980's, it does not seem to have actively acquired the massive amounts of feedstock it needs for large scale use of gas in warfare until 1983-1984. It was only after the Iran-Iraq war began, and Iraq suffered major defeats in the spring of 1983, that the State Ministry of Pesticide Production turned to a unit of Phillips Petroleum Company in Tessenderloo, Belgium, to obtain 500 metric tons of a chemical called thiodiglycol.[7]

Thiodiglycol is not suited for the production of nerve agents, but is can be easily combined with hydrochloric acid to produce mustard gas.[8] Mustard gas also offered Iraq certain military advantages. While mustard gas is 10 to 100 times less lethal than the simpler nerve agents, it is more persistent and consumes large amounts of medical services and support. This offered Iraq advantages in dealing with Iranian infantry which often spent considerable time in static exposed locations, and which had relatively poor rear area medical facilities.

Phillips claims it did not react to the order because it was placed by KBS Holland BV., a Dutch trading firm. It was only after the trading firm began to ship its initial order in July, 1983, that Phillips learned that the actual customer was in Iraq, and then paid little attention because it was said to be a large "agricultural" organization. Phillips also claims it did not react to the order for thiodiglycol because such orders were routine. A number of experts, disagree, however, and feel that only limited amounts are used in printing, textiles, and automotive manufacturing.

It was only in early 1984, when the State Ministry of Pesticide Production placed a second order for 500 tons that Phillips states it grew suspicious and cancelled the order. Phillips then notified the Belgian government, which reacted by cancelling Phillips' license to produce the chemical.[9]

By sheer coincidence, U.S. customs stopped another State Ministry of Pesticide Production order in February, 1984, for 74 barrels of potassium fluoride, another precursor of Sarin nerve gas. The order was placed by Al-Haddad Enterprises Incorporated, owned by Sahib al-Haddad, a naturalized Iraqi citizen. The shipment was not then illegal, because it was not yet controlled, and there is no clear way of determining how many other shipments occurred in the U.S. or other countries. However, at least one Dutch firm—Mechemie Holland B.V.—has been convicted of export violations for selling phosphorous oxychloride, another precursor of nerve gas.[10]

Iran began to use the nerve gas Tabun in 1984, shortly after it used mustard gas. It began to use Sarin a few years later. Iraq has produced mustard gas, hydrogen cyanide or cyanogen chloride, and Lewisite. In early 1988, it could produce up to 60 tons of mustard gas a month and six tons each of Tabun and Sarin. Iraq now seems to be working on producing a variant of VX, a persistent nerve gas agent.[11]

While the evidence as to the exact size of Iraq's current gas warfare production facilities is uncertain, it is clear that Iraq built up an extensive nerve and mustard gas production facility at Samarra by late 1987. This complex, much of which is sheltered, occupies 26 square kilometers, and is about 100 kilometers north of Baghdad. It is defended by troops and SA-2 missiles. There is another gas warfare complex at Fallujah, 65 kilometers west of Baghdad, and another plant may be under construction.[12]

Iraq now has a total of up to five major plants for chemical agent production.[13] The first Tabun nerve agents used by the Iraqis are believed to have been made at Iraq's Samarra chemical complex, at one of the insecticide plants obtained from the West. This facility is heavily sheltered, and is far more of a military facility than a civilian one. A further confirmation of the site may have been provided by a broadcast over Baghdad's Voice of the Masses Radio. In reference to the Iranians, Baghdad announced that there was "a certain insecticide for every kind of insect." [14]

It is also Iraq has purchased technical assistance from a number of firms. One is believed to be a West German firm called Fritz Werner.[15] The Iraqi research center for chemical and biological weapons seems to be at Salman Pak. This center includes underground and heavily sheltered facilities, and is known to work on nerve gas research. It is unclear whether it is to be the center of Iraq's biotoxin effort.

IRAQI AND IRANIAN USE OF GAS WARFARE

In terms of actual military use of gas agents, there is no evidence of large-scale use of lethal chemical synthetics and/or biological agents during the initial stages of the Gulf War, although Iran claimed such Iraq used chemical weapons in the Susangard area during the first six weeks of the war.[16] These Iranian claims are uncertain, and may reflect Iranian propaganda or a botched Iraqi attempt to use lethal chemical or biological agents.

Iraq first began to make extensive use of chemical warfare against Iran when Iraq was put on the defensive. Beginning in 1982, Iraq began to use tear gas and non-lethal agents. Iraq made extensive use of lethal chemical weapons in July (Val Fajr 2) and October, 1983 (Panjwin offensive).[17] In December, 1982, Iraq seems to have begun to use mustard gas to deal with human wave and night attacks. Iraqi agents also bought large amounts of equipment from a West German manufacturer of equipment to make organophosphate fertilizer. The firm, located in Drereich, claims that it did not know that the Iraqis were buying extensive amounts of feedstock for nerve gas in other countries.

Fully credible accounts of Iraq's use of lethal chemical weapons emerged during the July 1983 Iran Val Fajr 2 offensive, and the Iranian offensive at Panjwin in October 1983. Chemical warfare seems to have been used extensively on August 9 near Piranshar, and in late October, and early November 1983, around Panjwin.[18] Two Iranian soldiers wounded by mustard agents during this campaign were sent to Vienna where they died. Two members of a second group of wounded soldiers were sent to Stockholm for medical treatment and also died.

Further Iranian charges were made of Iraqi use of chemical weapons during the March, 1984 offensive which led to the Iranian seizure of Majnoon Island.[19] These charges stated Iraq had killed some 1,700 Iranian troops and used GD and GB nerve agents, as well as mustard gas. Many of the Iranian allegations about the Iraqi use of lethal synthetic gases during the following months also related directly to the fighting on the Islands.[20]

Iraq does not seem to have made extensive use of chemical agents between March, 1984 and Iran's Faw offensive of early 1986. It did, however, sporadically use such agents when its forces have come under intense military pressure. Reports also surfaced in

November, 1986, that Iraq had obtained Soviet nerve gas bombs, although the source was indicated to be Libya and such an arms transfer seems doubtful. What is clear is that Iraq could deliver gas using artillery shells, helicopter dispenser, multiple rocket launcher rounds, and aircraft bombs from at least 1982 onwards.

Iran first attempted to deal with this situation by mobilizing world opinion. After Iran's protests failed to arouse a significant world reaction, it flew chemical warfare casualties to London. A UN team then flew to Iran and found several bombs for dispersing chemical agents with Spanish markings. These weapons were later found to have contained mustard gas. Other investigations after the 1984 attacks confirmed a high probability that Iraq was using a nerve gas agent called Tabun.[21] These conclusions were validated by a second UN investigation in 1986, and it later became apparent that Iraq also had Chlorine gas agents, and that Iraq had a major chemical weapons production complex.

Iran's efforts to make a propaganda issue out of Iraq's use of gas may have had some temporary success. Iraq made little use of chemical agents between 1984 and the new Iranian offensive in Faw in 1986. While this may have been because of the hostile reaction in the West and Third World, it may also have been because Iraq lacked the organization and dispensers to be effective. There are indicators that unfavorable winds caused Iraqi deaths at Majnoon, and that Iran became steadily more cautious after the U.S. formally condemned Iraqi use of chemical weapons in March 1984.

Whatever the reason, Iraq resumed extensive use of gas warfare in its defense of Faw in 1986, and made limited use of gas in its defense of Basra in 1987. Iraq seems to have used chemical weapons during its recapture of Faw in early 1988, and in some phases of its attacks on Meheran.

More controversially, anti-Iraqi Kurdish factions have charged that Iraq used gas against Kurdish villages and areas some fifteen times between April 15, 1987 and February 16, 1988. Three of these attacks are claimed to have produced 100 or more casualties: An attack on Arbil, Kanibard, Zeenau, Balookawa, Shaikwassan, the Derasheer mountains, and the Sawseewaken area on April 16, 1987; the Dahok/Amadia area on May 6, 1987, and the Sulaymania/Sergaloo, Yakhsamar, Haledan, Gweezeela area on February 25, 1987.[22]

There is no way to confirm the details of such reports. It is clear, however, that Iraq used mustard and nerve gas extensively in defending against attacking Iranian troops in the north during their attacks on Iraq in 1987 and early 1988. In each of these cases, gas offered a potential solution to the problem of mountain or rough terrain warfare, and in many cases, it allowed Iraq to "secure" an area with relatively few troops. This was particularly true when Iraq used gas against hostile Iraqi Kurds, a group which the government regarded as nothing but traitors.

The worst single instance in which gas was used during the war seems to have occurred when both Iraq and Iran used gas during in Iranian attack on the Kurdish town of Halabja on February 26, 1988. Up to 5,000 Kurdish civilians were killed after Iran had already seized the area. Iraq first seems to have bombed the town with a mustard gas agent that produced a burning white cloud. There also are indications that Iraq also shot the gas victims that fled toward Iraq, rather than Iran. Iran then fired hydrogen cyanide agents into the town with artillery shells. Ironically, the cyanide agents may have done most of the killing, and have accounted for most of the "Iraqi" caused casualties that Iran later showed on its state television network.[23]

These attacks were followed up with a number of additional Iranian and Iraqi gas attacks. These exchanges seemed to have paused after February, 1988, when the world reaction to Halabja reached a point where both countries felt further use of such weapons would be counterproductive. Nevertheless, Iraq began a major new offensive against its own Kurds on August 25, 1988, and seems to have made considerable use of gas warfare as part of an effort to depopulate hostile areas. While the exact scale of Iraq's use of gas is uncertain, some 65,000 Kurds fled to Turkey, and many of the refugees gave convincing reports of the use of gas warfare.[24]

As for Iran, it also actively developed its own chemical agents, and has purchased stocks of chemical defense gear. While rumors surfaced in November, 1986, that Iran had bought nerve gas bombs and warheads from Libya—which had obtained such weapons from the USSR—these reports seem false. Iran launched a crash gas weapons production effort in 1983-1984. It began limited production in 1985, and created a significant capacity to produce mustard, cyanide, and nerve agents by mid-1987.[25]

Iran made its first confirmed use of chemical weapons in 1985, using mortars and artillery to deliver gas rounds. Some of these rounds may initially have been captured from Iraq, but Iran established a significant chemical weapons production capability of its own, and began to obtain and manufacture surface-to-surface missiles that could be used for conventional, chemical, and nuclear strikes. The exact nature of all the chemical agents Iran has produced is unknown. In early 1988, however, Iran was actively producing phosgene gas and cyanotic agents and was at least on the edge of producing of nerve gas. According to some reports, Iran was also actively working on mycotoxins—a simple biological agent that can be highly lethal, but which requires only limited laboratory facilities.

If the Iran-Iraq War resumes or Iraq's war against the Kurds continues at its present level of intensity, it is virtually certain that there will be further use of gas, and possibly of biological agents as well. It is important to note, however, that the use of chemical agents has so far had limited military impact in terms of direct casualties, even if one takes Iranian claims at face value. While gas attacks have been used successfully as a "horror weapon", this was because gas had a critical effect on morale. Too little is known about the conditions involved to talk about the impact of given agents or delivery means, but it is unclear whether either side consistently gained as much in ordinary warfare from the use of gas as it would have gained from devoting the same resources to more conventional weapons.

THE MOVE TO ACQUIRE NUCLEAR WEAPONS

Both Iran and Iraq are actively trying to acquire nuclear weapons. The Osiraq reactor that Iraq purchased from France in 1976 was unusually large. It had special features for irradiating Uranium which allowed it to be used to produce significant amounts of Plutonium—enough to produce a bomb over a several year period. In 1981, when Israel attacked and destroyed the reactor, Iraq was negotiating to buy a heavy water power reactor from Italy and a sizable reprocessing facility whose purpose was almost certainly Plutonium production.

Earlier, in 1980 and 1981, Iraq had brought large amounts of natural uranium from Brazil, Portugal, Niger, and Italy. Iraq also placed an order in early 1980 for 25,000 depleted uranium fuel pins from a West German firm called NUKEM. The pins were sized for irradiation in the Osiraq reactor, and had no other real purpose than to produce about ten to twelve kilograms of weapons grade plutonium. While the reactor was under IEA inspection, and French technicians were to remain until 1981, Iraq seemed to be following the bomb development plan Sweden had used in the early 1960s. It was openly developing an ability to handle Plutonium technology while seeking to stockpile weapons grade material for weapons purposes. Iraq also seems to have tried to buy Plutonium illegally from Italian sources after the Israeli raid on Osirak.

Iraq seems to have had little success since 1981 in either obtaining aid in building new reactors suitable for weapons purposes, or obtaining fissile materials. It seems highly likely, however, that it will continue to try to find a replacement for Osirak, and try to expand its facility at Tuwaitha to create some capability to process Uranium or Plutonium. Iraq still has a 10 megawatt reactor built by the Soviet Union operating at Tuwaitha, but this is under tight Soviet control. Tuwaitha has also acquired massive new surface-to-air missile defenses since the Israeli attack.[26]

In the longer run, Iraq may be able to use larger power reactors. It is seeking to provide 10 percent of its power needs with nuclear power, and contracted with the Soviet Union in 1984, to build at 440 megawatt plant at a cost of $2 billion. The plan will be built by the Soviet Atomenrgo group. Iraq is also evidently seeking Latin American support in building an uncontrolled reactor somewhere in Northern Iraq. In the long run, Iraq is likely to succeed in obtaining at least some fissile material and in becoming a nuclear power.[27]

Like Iraq, Iran has an extensive nuclear effort, and for all its rhetoric about popular warfare, the Khomeini regime seems to have revived the nuclear weapons program begun under the Shah. The Shah established the Atomic Energy Organization of Iran in 1974, and rapidly began to negotiate for nuclear power plants. By the time he fell in January, 1979, he was attempting to purchase some 12 nuclear power plants from the FRG, France, and U.S. Two 1,300 megawatt German plants at Bushehr were 60 percent and 75 pecent completed, and work had begun on two 935 megawatt French plants at Darkhouin. Thousands of Iranians were training in nuclear technology in France, the FRG, India, the U.K., and U.S. In addition, Iran has negotiated for long term supplies of enriched fuel with France, the U.K. and U.S., had bought a 10 percent share of EURODIF in 1975, and was negotiating to buy a share of COREDIF.[28]

Far less publicly, the Shah began a nuclear weapons research program. This included a laser enrichment program which began in 1975, and led to a complex and highly illegal effort to obtain laser separation technology from the U.S. This effort continued from 1976 until the Shah's fall, and three lasers operating in the critical 16 micron band were shipped to Iran in October, 1978. At the same time, Iran worked on ways to obtain Plutonium. It created a secret reprocessing nuclear effort to use enriched uranium, and set up a small nuclear weapons design team. In 1976, Iran also began to try to purchase 26.2 kilograms of highly enriched uranium. The application to the U.S. was still pending when the Shah fell.

The Khomeini government initially let the Shah's program slide, but revived it in 1981. It kept a small 5 megawatt reactor working under IAEA safeguards at Tehran University. Iran revitalized its laser separation program in 1983, and held several conference on the subject, including an international conference in September, 1987. It opened a new nuclear research center in Isfahan in 1984, and sought French and Pakistani help for a new research reactor for this center.

The government began to restart work at the Bushehr in 1984, althought the FRG officially refused to support the effort until the war ended. Iran got around this by obtaining Argentine support in completing the Busehr 1 reactor, which is 75 percent finished. Reports surfaced in April,1987 that the Argentine nuclear power agency, CNEA, had signed an agreement with Iran. CNEA works closely with West Germany's Kraftwerke Union (KWU), which had the original contract for the reactor. The Spanish firm Impressarios Agupados may also be part of the consortium.[29] While the FRG firm Kraftwerk Union pulled out of the Bushehr project in September, 1980, it was working on the reactor when Iraqi aircraft bombed it on November 17, 1987. Several Kraftwerk technicians were injured and one was killed.

Argentina also sold Iran enriched uranium for its small Tehran university reactor in May, 1987. The five megawatt university reactor uses a core with 93% enriched uranium, which is suitable for some forms of nuclear weapon. A CENA team visited Iran in late 1987 and early 1988. Argentina has not ratified the nuclear non-proliferation treaty, and there are significant uranium deposits in the Sarghand region of Iran's Yazd Province.[30]

FOOTNOTES

[1] Iran retained Lurgi G.m.B.H. of West Germany to build a large pesticide plant in October, 1987, of the kind necessary to produce nerve gas. Lurgi claims the plant will only produce agricultural insecticides. Iran has adapted plastics plants built under the Shah to help produce hydrogen cyanide gas.

[2] For a good discussion of the early Iraqi effort to acquire chemical weapons, see David Ignatius, "Iraq's 13-year Search for Deadly Chemicals," Washington Post, Outlook section, September 25, 1988.

[3] The building block at the base of the organophosphorus industry is elemental phosphorus. Thus, at a minimum, a supply of phosphorus would be needed to make nerve agents such as the G agents, Tabun (GA), Sarin (GB) and Soman (GD), and the V agents, such as VX and Edemo (VM).

There is a very wide range of possible chemical precursors to the production of gas warfare. Ones which may have been sent to Iran and Iraq include Thiodiglycol and chloroethanol (mustard gas); dimethalmine, dimethalmine hydrochloride, and phosphorus oxychloride (Tabun or GA nerve gas); and dimethyl methylphosphonate, difluoro or methylphosphony, and potassium fluoride (Sarin or GB nerve gas). For a good description of the technology of proliferation see Lois R. Ember, "Worldwide Spread of Chemical Arms Receiving Increased Attention," C&EN, April 14, 1988, pp. 8–16.

[4] All are useful in the production of Tabun nerve gas. The corrosion resistant reactors, pipes, and pumps needed for processing these pesticides can be rapidly converted to nerve gas production. See Ignatius, "Iraq's 13-Year Search for Deadly Chemicals," Washington Post, Outlook section, September 25, 1988.

[5] Tabun and the more lethal Sarin nerve gases were discovered in Germany in 1936, as part of an effort to develop more advanced pesticides. They could not be used for this purpose because they proved to be as effective in killing people as insects. The Nazis produced some 12,000 tons of nerve gas in World War II, but never used it because they believed that Britain and U.S. were also aware of the technology. See John J. Fialka, "Fighting Dirty", Wall Street Journal, September 15, 1988, p. 1.

[6] Some thirteen West German firms are now under investigation by the West German government. W.E.T.

[7] John J. Fialka, "Fighting Dirty", Wall Street Journal, September 16, 1988, p. 1.

[8] Mustard gas can be made by three easy routes. The first is the reaction of vinyl chloride (readily available or which can be made from ethylene or acetylene) and hydrogen sulfide. The second is the reaction of ethylene and sulfur monochloride. The third is reacting thiodiglycol with hydrogen chloride after making the thiodiglycol from ethylene oxide (from ethylene) and hydrogen sulfide. The sulfur and ethylene feedstocks can be drawn from a typical refinery and hydrogen chloride or chlorine gas are simple to make from a source of chlorine, such as salt, seawater, or produced brines from petroleum operations.

[9] John J. Fialka, "Fighting Dirty", Wall Street Journal, September 16, 1988, p. 1.

[10] Ibid.

[11] "Iraq's Scare Tactic," Newsweek, August 2, 1982; Washington Post, April 5, 1988, p. A–1.

[12] Jane's Defense Weekly, January 9, 1988, p. 3; February 27, 1988, p. 336.

[13] Peter Dunn, "The Chemical War: Journey to Iran", NBC Defense & Technology International, pp. 28–37 and "Iran Keeps Chemical Options Open", pp. 12–14.

[14] "Iraq's Scare Tactic," Newsweek, August 2, 1982.

[15] Christian Science Monitor, April 13, 1988, p. 32.

[16] Loren Jenkins, "Iraqis Press Major Battle in Gulf War," Washington Post (November 17, 1980), p. 1, and Taylor and Francis, SIPRI Yearbook, 1985 (Philadelphia, 1985), pp. 206–219. W. Andrew Terrill, "Chemical Weapons in the Gulf War," Strategic Review (Spring 1986), pp. 51–58.

[17] Loren Jenkins, "Iraqis Press Major Battle in Gulf War," Washington Post, November 17, 1980, p. 1; Taylor and Francis, SIPRI Yearbook, 1985, pp. 206–219; W. Andrew Terrill, "Chemical Weapons in the Gulf War," Strategic Review, Spring, 1986, pp. 51–58.

[18] "In the Pipeline," The Middle East (December 1981), p. 72; "Iraqis Trained for Chemical Warfare," Washington Post (November 3, 1980), p. 313. The Iraqis may also have been favorably impressed by the effectiveness of tear gas in instilling panic in Iranian troops. An August 1982 report in Newsweek stated an entire Iranian division fled in panic when they were exposed to Iraqi tear gas. The Iranians had no idea as to what type of agent they were being exposed to, and had no defenses against any kind of chemical agent.

[19] "In the Pipeline", The Middle East, December, 1981; "Iraqis Trained for Chemical Warfare", p. 72; Washington Post, November 3, 1980.

[20] Beginning in 1982, Iraqi agents bought extensive amounts of equipment from a West German manufacturer of equipment to make organophosphate pesticides. The manufacturer, located in Drereich, claims it had no way to know the Iraqis were buying extensive feedstock for nerve gas in other countries, including the U.S. There may now be five major chemical agent production plants in Iraq. See Gustav Anderson, "Analysis of Two Chemical Weapons Samples from the Iran-Iraq War," NBC Defense and Technology International (April 1986), pp. 62–66; Peter Dunn, "The Chemical War, Journey to Iran," Ibid., pp. 28–37; and "Iran Keeps Chemical Options Open," Ibid., pp. 12–14.

[21] "Report of the Specialists Appointed to the Secretary General to Investigate the Allegations of the Islamic Republic of Iran Concerning the Use of Chemical Weapons, United Nations Security Council, Document S 16433, March 26, 1984. Also see the April, 1986, edition of NBC Defense & Technology International.

[22] Congressional Record, U.S. Senate, September 9, 1988, p. S12135.

[23] Washington Times, March 23, 1988, p. 1; Toronto Globe and Mail, March 24, 1988, p. 1; Washington Post, March 24, 1988, p. 1 and April 4, 1988, p. 24; Wall Street Journal, September 16, 1988, p. 1.

[24] See Peter W. Galbraith and Christopher Van Hollen Jr., "Chemical Weapons Use in Kurdistan: Iraq's Final Offensive", a Staff Report to the Senate Committee on Foreign Relations, September 21, 1988.

[25] Washington Times, October 29, 1986, p. 9–A.

[26] James Bruce, "Iraq and Iran: Running the Nuclear Technology Race," Jane's Defense Weekly, December 5, 1988, p. 1307.

[27] This analysis is based on the work of Leonard Spector of the Carnegie Endowment, and Steve Weissman and Herbert Krosney, The Islamic Bomb, New York, New York Times Books, 1981, pp. 94, 100, and 266–268; Jed C. Snyder, "The Road to Osiraq: Baghdad's Quest for the Bomb", The Middle East Journal, Autumn, 1983; and Richard Burt, "U.S. Says Italy Sells Iraq Atomic Bomb Technology", New York Times, March 18, 1980, p. 1.

[28] The bulk of this analysis is based on research by Leonard Spector of the Carnegie Endowment.

[29] Washington Times, April 22, 1987, page 6; Economist, Foreign Report, April 2, 1987, p. 7.

[30] Washington Post, April 12, 1987, p. D–1; James Bruce, "Iraq and Iran: Running the Nuclear Technology Race," Jane's Defense Weekly, December 5, 1988, p. 1307.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment (No. 3339) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now occurs on the amendment of the Senator from North Carolina, as amended.

The amendment (No. 3338), as amended, was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there further debate?

Mr. INOUYE. Mr. President, I move that the Senate concur in the House amendment to the Senate amendment No. 176, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

HOUSE AMENDMENT TO THE SENATE AMENDMENT NUMBERED 182

The PRESIDING OFFICER. The clerk will report the next amendment in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 182 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

COSTA RICA

SEC. 594. The Department of State shall select an independent factfinder to investigate the legal and financial issues related to the case involving the Government of Costa Rica and an American citizen concerning property and businesses in the vicinity of Limon Province, Costa Rica. The Department of State shall report, no later than March 1, 1989, the findings made by the factfinder to the parties involved and to the Committees on Appropriations and the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The costs of the factfinder shall be paid from unearmarked funds provided under the heading "Economic Support Fund".

AMENDMENT NO. 3340

(Purpose: To stem the proliferation of missiles in the Middle East)

Mr. HELMS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 3340.

Before the period at the end of the House amendment to Senate amendment No. 182, add: ": *Provided further,* That the United States Government shall not assist the missile program of the People's Republic of China in any manner, including approving of the export of satellites employing U.S. technology for launch by Chinese missiles, until the President certifies to the Congress that China is not supplying missiles to Iran, Iraq, Syria, Libya, or Saudi Arabia, and has provided reliable assurances that no future sales of missiles to such countries are planned.".

Mr. HELMS. Mr. President, this amendment poses a very simple clear-cut question. Are we going to sit back and watch the United States assist the Chinese missile program at a time when the Chinese are supplying—or are preparing to supply—missiles to Iran, Iraq, Libya, Syria, and Saudi Arabia?

In recent months, the People's Republic of China has engaged in blatantly reckless behavior in the Middle East, the effect of which has been to threaten America's interests in a stable Middle East and a secure Israel.

Communist China has fueled the Iran-Iraq war with their arms-for-profit business. They have provided Silkworm missiles to the Ayatollah. They have posed new and deadly threats to the safety of Israel by providing Saudi Arabia with the CSS-2 missile. And, as news reports suggest, they might well be preparing to provide missiles to such radical anti-American, rabidly anti-Israel regimes as Syria and Libya.

Now, as incredible as it might seem, the State Department wants to assist the Chinese missile program by permitting the export of satellites utilizing United States technology for launch by the Chinese Long-March missile.

For the United States to consent to export satellites for launch by the Chinese would provide the Chinese missile program with valuable new technology, additional funds and newfound credibility. It would send the wrong signal to the Chinese about their missile sales. It will help the Chinese build better, more advanced, more accurate, and more deadly missiles for sale to the Ayatollah, or to Qadhafi, or to Iraq, Syria, or Saudi Arabia, so that these countries will have better missiles to fire at Israel.

Senators have watched as the Chinese have singlehandedly ignited a missile race in the tinderbox of the Middle East. We have come to the floor one after another to denounce the Chinese for this practice. We have passed resolutions condemning the Chinese.

But despite of all our protests, now the State Department wants to help the Chinese missile program. They want to help the Chinese build better missiles, without receiving any reliable assurances that these or other Chinese missiles will not go to countries like Iran or Libya.

Mr. President, this amendment will stop the lunacy proposed by the State Department. Specifically, it would prohibit the United States Government from assisting the missile program of the People's Republic of China in any manner, including approving the export of satellites employing United States technology for launch by Chinese missiles, until the President certifies to the Congress that China is not supplying missiles to Iran, Iraq, Syria, Libya, or Saudi Arabia, and has provided reliable assurances that no future sales of missiles to such countries are planned.

Until China can provide us with this simple assurance that it will not send missiles to these countries still at war with Israel, we should not assist their missile program.

So, Mr. President, this amendment poses a very simple question. Are we going to sit back and allow the United States to assist the Chinese missile program at a time when the Chinese are continuing to supply—or are reportedly preparing to supply—missiles to Iran, Iraq, Libya, Syria, and Saudi Arabia?

Or, are we going to take a firm stand for peace and stability in the Middle East and the security of Israel by approving this amendment to prohibit United States assistance to the Chinese missile program?

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. FOWLER). Is there a sufficient second?

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair states that there is not a sufficient second.

Mr. HELMS. I am sorry.

The PRESIDING OFFICER. On the request for the yeas and nays, there is not a sufficient second.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

Mr. HELMS. I believe the manager of the bill will accept the amendment. I see no point in taking the time for a rollcall vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (No. 3340) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3341

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. Specter] proposes an amendment numbered 3341.

At the end of the pending amendment, add the following: no funds may be appropriated, obligated or expended if after October 1, 1988, any Maverick G missiles are sold to Kuwait.

Mr. SPECTER. Mr. President, I have proposed this amendment for the express purpose of setting the stage, after the withdrawal of this amendment, to submit a different amendment calling for a sense-of-the-Senate.

This is an amendment which this Senator would like to have pressed through to a vote, because I believe strongly in the merit of the amendment. But I have decided not to do so because of problems with the House and because of the time delay and because pressing this amendment might cause this foreign operations bill to fail.

I think it important to outline briefly the chronology of this issue which originated when Senator DeConcini, with the concurrence of myself and other Senators, offered an amendment on the foreign operations bill to prohibit the sale of Maverick D's and G's and there was a voice vote and it was accepted and it became the will of the U.S. Senate.

The House of Representatives did not agree with this position, and there was an extensive conference on this issue lasting until after midnight last Thursday. On a motion among the Senate members to shift our position and to recede to the House position there was a tie vote and the Senate position maintained that there should not be the sale of Maverick G air-to-ground missiles to Kuwait.

This caused considerable concern with the administration because of the arrival of the Emir of Kuwait on Monday of this week, and considerable concern for a variety of reasons which I shall not detail now.

But any event, in a subsequent meeting of the Senate Subcommittee on Foreign Operations, it was decided that the Senate would recede to the House position and not seek to block the sale of the Maverick G missiles.

In consultation with my distinguished colleague from Arizona, Senator DeConcini, we thought it would be appropriate to raise the issue before the full Senate for a rollcall vote and press the matter in the House because of the importance of the issue. Then after conferring with the distinguished chairman, Senator Inouye, and the distinguished ranking member, Senator Kasten, it was decided that the amendment would not be pursued because it would likely defeat the entire foreign operations bill, but instead to submit a sense-of-the-Senate resolution.

Mr. President, I now ask that the pending amendment be withdrawn.

The PRESIDING OFFICER. The Senator has that right.

The amendment was withdrawn.

AMENDMENT NO. 3342

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. Specter], proposes an amendment numbered 3342. At the end of the pending amendment, add the following: "It is the sense of the Senate that the President be urged to undertake discussions and negotiations with other nations, which are principal suppliers of arms in the Mid-East, to limit to the maximum extent possible. The sale of arms to nations in the Mid-East."

Mr. SPECTER. Mr. President, I have conferred with the distinguished chirman and the distinguished ranking member and have conferred with my colleague, Senator DeConcini. They are prepared to accept this sense-of-the-Senate amendment. I would like to speak very briefly to this issue which establishes I think a key principle on which there is I think unanimous agreement on the subcommittee.

When Senator DeConcini and I drafted Senator DeConcini's amendment we did so because of the tremendous impact of the Maverick G missile. I will not elaborate now on the reasons that it was such an important missile.

We did so because we thought it might bring down the entire sale of the entire arms package to Kuwait. We did so because of our concern that there was a proliferation of weapons in the Middle East and for that matter a proliferation of weapons in the world.

When Secretary of State Shultz appeared before the Foreign Operations Subcommittee last June this Senator asked questions as to why the United States did not demand, as a matter of basic policy, that before we considered the sale of arms to any Arab nation, that nation recognize the right of Israel to exist.

The Secretary responded that although the United States certainly wanted Israel's right to exist recognized by all nations, it was not deemed appropriate to put that condition on.

There was further discussion about the sale of the arms package to Kuwait. The response has always been that if the United States does not sell arms to Kuwait, then somebody else will sell arms to Kuwait.

It seems to this Senator, and others concur, that if such a position is taken, then we will always sell arms because there is always someone waiting in the wings and that what should be done is that the United States should take a leadership role with Great Britain, France, and the Soviet Union, because there is some indication that the Soviets are interested in stopping the sale of arms in the Mideast and elsewhere, but that we should not continually sell arms on the bland assertion that if we do not sell arms somebody else will and we should sell the arms to have the limitations.

That attitude simply results in sale after sale after sale.

We discussed this matter on Monday when we reconsidered the overall issue of the sale of Maverick G's to Kuwait. There was support not only by Senator DeConcini but by Senator Inouye and Senator Kasten, and it is the feeling of this Senator—I do not want to say quite the sense because it is called a sense of the Senate—it is the feeling of this Senator that this resolution at least be step one, we will have our toe in the door, the Senate saying to the administration and to the world there has to be a leadership role to put an end to the proliferation of arms sales and we should not continue to sell arms simply because someone else will sell the arms if we do not. The adoption of this resolution I feel will be a significant step forward.

Therefore, I have decided not to press the amendment prohibiting the entire sale of Maverick G's because of the reasons I have outlined, but I want to say, in conclusion, that in the future this Senator intends to press the issue, and I think in the future this Senator may have support from others who felt it was necessary to take a contrary position at this time.

Mr. INOUYE. Mr. President, will the Senator yield?

Mr. SPECTER. I yield.

Mr. INOUYE. Mr. President, I wish to commend and applaud my distinguished friend from Pennsylvania for the leadership he has demonstrated in this very important area of foreign policy.

If I may I would like to have his permission to join him as a cosponsor of this amendment.

Mr. SPECTER. Permission granted, and I am very grateful to the distinguished chairman joining as a cosponsor.

The PRESIDING OFFICER. The Senator from Wisconsin, Mr. Kasten.

Mr. KASTEN. Mr. President, I, too, commend the Senator from Pennsylvania and also ask unanimous consent to be named a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KASTEN. As the Senator from Pennsylvania has so ably outlined this is a very, very difficult area. This is not the end of the discussions in this area. This instead may be the beginning of discussions in terms of the proliferation of weapons.

We were able to work our way through this important problem in the committee. I believe we have now reached the best resolution of this set of problems for the time being.

I commend the Senator for his interest, but more importantly for his leadership in this very, very important area.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that I be named a cosponsor of the amendment of the Senator from Pennsylvania.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DeCONCINI. Mr. President, I thank the Senator from Pennsylvania and also join in complimenting him for putting something together to keep this issue alive.

As the Senator from Pennsylvania pointed out, we hassled around with it for some time, only to make a very slight correction. The original amendment that we offered here prohibited the sale of Maverick G's and D's to Kuwait. I think it is important to note that that only amounts up to roughly $30 million out of the $1.9 billion package had that amendment come through the conference. As the Senator from Pennsylvania points out, it did not.

Very reluctantly he and I offered a compromise which was to permit that sale to go through with G missiles to Kuwait.

There was an arrangement that the administration had made dropping the class D missile but increasing the G's to 300.

The Senator from Pennsylvania and I though that we were not interested in killing this sale, per se, but we wanted to make the issue, this is the most sophisticated weapon that we know of. The Maverick G is highly sophisticated. It has very advanced avionics, and it has a 270-pound warhead. It is most destructive and very accurate. It was first tested and launched just last November, not even a year ago. The Air Force does not even have them in their inventory at the present time and yet we are going to sell them to Kuwait. Kuwait may have them before our Air Force.

We offered a compromise and that was to prohibit D's and G's being sold in the Persian Gulf but to let the sale go on to Kuwait.

As the distinguished chairman of the subcommittee knows so well, we lost that in conference. I am very disappointed, but that is the way it goes here. You cannot win them all.

Now, the Senator from Pennsylvania has offered a sense of the Senate which, I think needs to be underscored, Mr. President—the importance for this Nation and this body and the other body, the executive branch, and really that we have to come to grips with a policy as to where are we going to slow down or stop the proliferation of highly sophisticated weapons that we are pumping into the Middle East at astronomical amounts.

Just to point out, Mr. President, between 1978 and 1987, a period of 9 years, $450 billion worth of arms has been sold and received in the Middle East. That does not even count the $46 billion in arms to Egypt and the $50 billion of arms to the United States.

We are sitting on a tinderbox, we are asking for that explosion to happen, and we are doing all we can to escalate those arms sales and the proliferation. It is time, Mr. President, that this country do something about it.

I am not suggesting that we stop competing or that we do not sell any arms to our friends in the Persian Gulf, but we should be careful. We should not sell them the most sophisticated weapons. They do not need them. There are other maverick missiles that would fit on the F-18 and do very well and give them the protection they need from Iran and other hostile countries without moving to this most advanced weapon.

We have gone through this same argument, Mr. President, on the stinger missile, a very sophisticated shoulder weapon. The effort of the administration is to sell, sell, sell—anybody who wants them, you can have them for the asking, almost; just like tissue paper or Kleenex, just hand them out as almost a freebie.

Mr. President, this is not a good policy for this country, and we have to move away from it. That is why I support the Senator from Pennsylvania's amendment.

Mr. President, there are many here. Mr. President, long before this Senator came to the Senate, including the distinguished chairman of this committee and the senior Senator from Oregon and others, who have fought for a policy on a bipartisan basis from one administration to another to stop proliferation of highly sophisticated mammoth weapons systems such as we are doing right in this bill and the agreement that is made with Kuwait. I think it is time, as the Senator from Pennsylvania pointed out, that we not just forget it. We lost this one. We are not pretending we won anything. But I hope what we did win is the attention of enough Members here.

The issue is not going to go away. It should not go away. We have to address it. Somebody in the executive branch has to have the courage to say, "Enough is enough. We will sell you plenty of weapons to defend yourselves, but we are not going to proliferate the most sophisticated weapons that this Nation makes."

Mr. INOUYE. Will the Senator yield?

Mr. SPECTER. I yield.

Mr. INOUYE. Mr. President, I take this occasion to commend my colleague from Arizona for forcing Senators and Members of the House to focus their attention on this crucial area.

As the distingushed Senator from Arizona is well aware, he has forced the highest circles of this administration to look into this matter. During the past week, as he has, we have had several conversations with the Director of the National Security Council and also with the Secretary of State. I can assure my friend from Arizona that, as a result of his leadership, this Government will no longer look upon this area with the nonchalance that it has in the past. We will have serious attention paid to this crucial element of our foreign policy primarily as the result of the leadership shown by the Senator from Arizona.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Pennsylvania, Mr. SPECTER.

The amendment (No. 3342) was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. First, let me express my deepest appreciation to the chairman and ranking member of the Foreign Operations Appropriations Committee for their efforts on my amendment regarding the J. Royal Parker case.

Second, I must express my disappointment with the substitute amendment that was proposed by the conference. The compromise that was agreed to on the Senate floor provided that $20 million of the $90 million in economic support funds earmarked for Costa Rica would be withheld until that government agreed to submit the claim to binding international arbitration.

I was under the impression the Members of the Senate approved of that compromise. For example, the junior Senator from Massachusetts said,

> I thank the distinguished chairman and the ranking member for their openness and willingness to try to reach a compromise. I think it is a very fair one. I think it will have the effect of serving the needs of the U.S. citizens while at the same time not handicapping our policy.

The amendment proposed by the conference, however, does nothing more than require the State Department to first select an independent factfinder to investigate the legal and financial issues related to the case, and, second report the findings to the parties and various congressional committees no later than March 1, 1989.

Mr. President, the distinguished chairman, Mr. INOUYE, the distinguished ranking member, Mr. KASTEN, and I will take a moment to clarify that it is the intent of this amendment that the State Department shall select the Foreign Claims Settlement Commission as the independent factfinder to investigate the legal and financial issues related to the case.

Mr. INOUYE. Mr. President, I concur with the statement of the Senator from North Carolina. The Foreign Claims Settlement Commission is a quasijudicial Federal agency under the administrative jurisdiction of the Department of Justice. I am informed that the Chairman of the Commission is vested with sole administrative authority, while the Department of Justice is directed to provide certain administrative support. They have extensive expertise in investigating and adjudicating claims of U.S. citizens against foreign countries. They are clearly the best qualified body to conduct a truly independent investigation of this troublesome issue.

Mr. KASTEN. Mr. President, I, too, concur with the distinguished chairman and my distinguished colleague from North Carolina. There has been quite a bit of controversy regarding this matter and while I'm disappointed that the original Senate amendment was not agreed to in conference, I am confident that the Foreign Claims Settlement Commission will conduct a thorough investigation, resolve many of the factual issues in the case, and provide us with the groundwork to address this claim early in the next Congress. Let me emphasize however, that we strongly encourage the parties involved to attempt to reach a settlement.

Mr. HELMS. Mr. President, I thank my distinguished colleagues. The amendment directs the independent factfinder to investigate "the legal and financial issues" related to this case. I ask the distinguished Senator from Hawaii and the distinguished Senator from Wisconsin whether that phrase encompasses the factual issues.

Mr. INOUYE. Mr. President, it is understood that in order for the Commission to investigate the "legal and financial issues," they must first investigate the facts of the case.

Mr. KASTEN. Mr. President, that is clearly the case. Obviously the Commission must thoroughly investigate the facts surrounding this case before they can determine the "legal and financial" issues.

Mr. President, in order for Congress to make the most fair decision on this matter, it is also our intent that after the Department of State reports the findings of the Commission to the parties involved and to the appropriate congressional committees, the parties should have 30 days to submit their own comments to Congress regarding the report.

Mr. HELMS. Mr. President, I thank my colleagues.

Mr. President, let me briefly review the background of the case. In December 1987, I offered an amendment to the continuing resolution which would have withheld economic assistance to the Government of Costa Rica until they resolve an outstanding expropriation claim of an American company, J. Royal Parker & Associates. I withdrew the amendment at the request of my distinguished colleague from Hawaii with the understanding that the Department of State would prepare and submit a report on the Parker case.

In light of the substantial level of United States foreign assistance that goes to the Government of Costa Rica each year, I fully expected that the Department of State and the Government of Costa Rica would take immediate action to resolve this very troubling claim. Unfortunately, that was not the case. The State Department didn't even issue their report until days before the Senate considered the fiscal year 1989 Foreign Operations Appropriations bill, and the Costa Ricans continued to insist first, there was never a contract, second, even if there was, they didn't breach it; and third, even if they did, Costa Rican law prohibits them from settling it. This is contrary to the promises they have repeatedly made to high-level U.S. officials in our Government.

Perhaps I should qualify that. When it became apparent that Congress was seriously reviewing this case, the Costa Ricans did take prompt action: They made sure that all of their friends in Congress and the State Department did all they could to gut the amendment—and they have been pretty successful.

Because of the lack of any good faith action on the part of the Costa Rican Government after I withdrew my amendment in December, Senators INOUYE, KASTEN, and I agreed to offer an amendment to the fiscal year 1989 Foreign Operations Appropriations bill to withhold $20 million of the $90 million earmarked for Costa Rica under the economic support fund until that Government and the American citizens settle the outstanding claim.

To facilitate the settlement process, the amendment would have required the State Department to appoint a factfinder to investigate the facts surrounding the claim. If no settlement was reached within approximately 5 months, then the State Department was to request that the parties submit the disagreement to binding international arbitration. This process was virtually identical to the process used in the Ramirez case with Honduras.

When Senator INOUYE offered this amendment while I was "laid up" following surgery, several Senators objected to it. A compromise was finally reached under which we would drop the provision requiring the State Department to appoint a factfinder. After all, it was the State Department who thought the case should go to international arbitration.

It was also agreed to modify the amendment to withhold $20 million only until the Government of Costa Rica agrees to binding international arbitration. I'm informed that the proposal to require binding international arbitration was suitable to all Senators involved in the debate. As I mentioned before, the Senator from Massachusetts expressed his opinion that the amendment, as rewritten, was fair to both sides.

Even the Senator from Connecticut, another vocal opponent of Congress taking any action in this case, stated in a January 15, 1987, letter to Mr. Parker:

> I am quite disturbed to learn of the status of your claims against the Costa Rican government. The commitment of the Costa Rican government to enter into negotiations in good faith was made quite explicitly upon their designation as a beneficiary of the Caribbean Basin Initiative, and it ought to be fulfilled.

The Senator from Massachusetts also stated that he had talked to the Costa Rican Embassy and relayed their position that "if Mr. Parker has any grounds for a complaint, No. 1, he should be willing to pursue those within the framework of Costa Rican law, which he agreed to do in his original proposal and arrangement with them. That is No. 1. No. 2, failing this, the Government is willing to go into binding international arbitration as an act of friendship, trust and good will toward the United States."

Mr. President, Mr. Parker did pursue his remedies within Costa Rican law. He filed two lawsuits in Costa Rica and was preparing a third when he entered into a "Gentlemen's Agreement" with a Costa Rican official that if Parker would withdraw his suits, the Government of Costa Rica would authorize and sponsor certain business projects which would substitute in lieu of a cash settlement.

Mr. Parker lived up to his part of the agreement, but Costa Rica did not. Consequently, the Statute of Limitations ran, and Mr. Parker's claims were barred.

At a meeting on June 24 between six individuals from the State Department, Mr. Parker's attorney, and members of Senator INOUYE'S, Senator KASTEN'S, and my staff, the State Department representatives were adamant that this case should go to binding international arbitration.

Furthermore, Mr. President, the U.S. Trade Representative has taken the position that this case should go to arbitration. In a letter to Mr. Parker dated January 27, 1988, Jon Rosenbaum, the Assistant U.S. Trade Representative, stated,

> [w]e continue to work with the Costa Rican government to seek a prompt and eq-

> uitable resolution to your investment dispute. At this stage, submitting the case to arbitration by a third party seems to us the best way to proceed. . . . We hope you will agree that arbitration is the most constructive way to get both sides talking again. We believe it will move the process toward what we hope will be a just resoluton of your claim.

Mr. President, I was convinced that his was a reasonable solution. Now I find out that when the conference committee met, the State Department and the parties who had objected to my amendment and insisted on the compromise language made a 180-degree turn. In their position paper, which was submitted to the conferees, the State Department said, "It is premature to require the GOCR to agree to lengthy and expensive arbitration when the avenue of negotiation remains open to Mr. Parker".

In a letter to the conferees, Senators KERRY, SANFORD, and DODD stated their opposition to the compromise language. In that letter, they mention that "the most recent development was a settlement offer extended by Costa Rica in May of this year. Mr. Parker rejected the offer and has not submitted a counterproposal. Mr. Parker's attorney travelled to Costa Rica in June, at the expense of the Costa Rican Government, to discuss settlement further."

Mr. President, this is exactly the game Costa Rica has been playing for 10 years. When the Costa Ricans are on the verge of having to finally address this case in good faith, they will make a meaningless gesture so the State Department can scream, "They are negotiating. Let's not do anything to jeopardize the negotiations."

In December 1986, Mr. Parker received a call from the Costa Rican Minister of Public Works and Transport—Guillermo Constenla—who informed Mr. Parker that they were anxious to settle his claim. Mr. Parker and his attorney flew to Miami the next day to put forth a proposal for a cash settlement plus future business projects for a total value of approximately $32 million. The Costa Rican official indicated that he believed his Government would accept the proposed and that it could be completed by Christmas 1986.

Coincidently, President Arias was meeting with President Reagan later that month and was able to report to U.S. officials that a settlement was near in the Parker case. Of course, nothing ever came of the settlement offer.

By the way, Mr. President, Mr. Parker's attorney, in order to avoid any suggestion that they aren't ready and willing to negotiate in good faith, went to Costa Rica on a day's notice to meet with Mr. Constenla—supposedly at the expense of the Costa Rican Government. During that meeting, Mr. Constenla continued to insist that Costa Rica had no obligation to Mr. Parker, and even if they did, Costa Rican law prohibits them from settling it.

Mr. Parker's attorney wrote to Minister Constenla asking that he be reimbursed for the $790.65 for the expenses of his trip. To add further insult to this matter, Minister Constenla responded on August 22, that,

> When we offered to pay for the plane tickets we did so with the understanding that you would ask us for said tickets and we would send them to you in advance, from out of the government quota, just as we did in the round-trip Miami-San Jose flight. Regrettably we cannot reimburse you for the expenses you incurred because we do not have legal authorization to do so. You would have had to request the tickets from us in advance.

Mr. President, what has been most disturbing about this case is that the United States Government has urged the Government of Costa Rica repeatedly to settle this dispute. Our Government has received continued assurances from the Costa Rican Government that they desire to settle the claim. Yet no action is ever taken in a good faith effort to address the damages that Mr. Parker has suffered. This has gone on for far too long, and it is now time for Congress to step in and require that genuine efforts be pursued to settle this dispute.

Let me take a moment to review some of the efforts the United States Government has made to encourage the Government of Costa Rica to settle this case. In a letter to Mr. J. Royal Parker dated December 2, 1983, Mr. Jon Rosenbaum, then Assistant United States Trade Representative, wrote:

> We have discussed your case with the Costa Rican Government and have reached an understanding with them that true negotiations with your corporation must proceed if the Government of Costa Rica is to remain in conformance with the requirements of the [Caribbean Basin Economic Recovery Act].

In a leter to Senator BILL BRADLEY dated January 20, 1984, the United States Trade Representative, William Brock, wrote:

> An understanding was reached between the Governments that true negotiations with J. Royal Parker must proceed if the Government of Costa Rica is to remain in conformance with the mandatory requirements of the [Caribbean Basin Economic Recovery Act]. Costa Rican officials were made fully aware that more concerted attention to the J. Royal Parker case was required immediately.

In a letter to the Costa Rican Minister of Foreign Commerce, Her Excellency Muni Figueres, dated July 28, 1986, the United States Trade Representative, Clayton Yeutter, wrote:

> I would like to call your attention to . . . the J. Royal Parker case, which has long remained unresolved despite your Government's pledge and repeated assurances of expeditious settlement. This has now become a matter of high-level interest in the U.S. Government. . . . In 1983, the Government of Costa Rica (GOCR) was designated as a beneficiary nation under our Caribbean Basin Initiative (CBI) on the condition that this case would be resolved quickly. . . . A number of provisions of U.S. law exist which require that various economic benefits (including Costa Rica's CBI eligibility) be terminated or withheld if any country fails to take appropriate steps to settle expropriation claims by providing prompt, adequate, and effective compensation.

Mr. President, I thank my colleagues for the clarification today. We encourage all parties to cooperate fully with the Foreign Claims Settlement Commission, and we look forward to receiving their report along with any comments from the parties.

AMENDMENT NO. 3343

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 3343 to the House amendment to the Senate amendment numbered 182.
>
> Before the period at the end of amendment , insert the following:
>
> *Provided further*, That title V of S. 2757 as reported by the Senate Committee on Foreign Relations on September 7, 1988 is hereby enacted into law".

Mr. HELMS. Mr. President, before I proceed to discuss the amendment, I want to pay my respects to the distinguished managers of the bill. This must be a frustrating experience—it is to me—to deal with amendments in disagreement and be sure that we have every horse in the right stall. But the Senator from Hawaii, as always, has been most patient and understanding, and I appreciate that.

Mr. President, as to the pending amendment, let me say at the outset that I am pleased that title V of the pending legislation corrects the worst abuses of diplomatic immunity that have allowed the family and support staff of foreign diplomats to commit crimes that would warrant serious punishment if committed by U.S. citizens. The escalation in the number of so-called diplomatic personnel in our country to the present level of 37,000 has obviously exacerbated this problem. In practice, these 37,000 foreigners are free, under current law, to commit any crime—no matter how serious. how violent, or how heinous—and remain free from prosecution.

As a matter of fact, in hearings before the Foreign Relations Committee, we had testimony from law enforcement officers that some of these 37,000 people committed unspeakable crimes, including the rape of a young woman, and laughed at her and said: "You can report it to the police if you want to, but they won't be able to do a thing. We have diplomatic immunity."

Now, obviously, the problems experienced by our citizens are greater than in other countries because of the large foreign delegations to the United States as well as the delegations which also enjoy diplomatic immunity at the United Nations, and other international organizations physically located in the United States.

Title V emphasizes a change in the treatment of diplomatic immunity for family and support staff of foreign diplomats when the families or staff traffic in drugs, drive while intoxicated or commit other reckless driving offenses, or commit violent crimes against U.S. citizens.

But title V does not do enough. It is with the support of the chairman of the Foreign Relations Committee, not the original provision I offered last year. This provision represents the consensus provision adopted by the Senate conferees during consideration of the State Department authorization bill last December. At that time, it was supported by the distinguished chairman and myself, as well as a majority of the Senate conferees. The conferees representing the House Judiciary Committee opposed the provision, but promised hearings for early 1988. In the absence of any House action, however, the Senate Foreign Relations Committee felt it appropriate to renew the effort to pass this legislation to provide a remedy for Americans abused by foreign diplomats.

Mr. President, title V of the bill is, as I say, a first step in the direction of curtailing the abuses of diplomatic immunity that have been tolerated by the Department of State.

I have had telephone calls from people in the administration, almost pleading that I do not offer this amendment. I tell them I am sorry. I am going to offer it.

The point is that many of these abuses could have been addressed administratively by the State Department but the State Department did not do its job. This provision will require the State Department to act appropriately in this area of great concern and importance.

The thrust of the proposal is that foreign diplomats charged with serious crimes will continue to be eligible to have diplomatic immunity invoked on their behalf. However, this immunity will be available only if and when invoked by the Foreign Minister of the sending country and that tightens the grip a little bit. The cheese begins to bind. These people will not feel free to rape and pillage and rob and deal in drugs and all the rest of the things that are just unconscionable.

Under the pending amendment, which I have just sent to the desk, the Secretary of State is required to request of the sending country that diplomatic immunity be waived in the case of serious crime in order to permit the prosecution of the individual. If that immunity is waived by the Foreign Minister, the individual will be subject to normal prosecution procedures in the various jurisdictions where such crimes are committed.

However, if the sending country does not waive the immunity, the Secretary of State, under this amendment at the desk, will be required to declare the person non grata, persona non grata, and require that individual to get the dickens out of the United States. We do not want him here, or her.

Individuals who are required to leave under such circumstances will be personally excluded from the United States under the immigration revision also included in the amendment.

The provision also addresses the abuses of the diplomatic pouches. Oh, what goes on with these pouches. These pouches are intended to carry messages to and from the sending country. The provision requires the President to take such steps as may be necessary to prevent the use of diplomatic pouches for the transportation of illicit narcotics, explosives, weapons, or any material used to foster terrorism into the United States of America.

I contend that this amendment is badly needed. I wish all Senators could have heard the testimony that Senator Pell and I heard by law enforcement officers and victims.

A multitude of people came to plead with the Foreign Relations Committee to do something about the atrocities that are occurring day after day in the United States by people who are the guests of the United States.

Mr. President, the date this provision is enacted these diplomatic personnel and their families no longer will be able to walk away from their crimes. Either the foreign minister of the sending country will waive diplomatic immunity and permit these people to be prosecuted, or the individual will be expelled from the United States and never, never be permitted to return.

Mr. President, I ask unanimous consent that a description of the provisions of title V be printed in the Record.

There being no objection, the provisions were ordered to be printed in the Record, as follows:

Description of Provisions

TITLE V—DIPLOMATIC IMMUNITY ABUSE PREVENTION ACT

Section 501—Short title

Section 501 provides a short title of "Diplomatic Immunity Abuse Prevention Act."

Section 502—Crimes committed by diplomats

Section 502(a) amends the Foreign Mission Act, Title II of the State Department Basic Authorities Act of 1956, to require the Director of the Office of Foreign Missions to keep records on each incident in which an individual entitled to immunity is believed to have committed a serious crime.

Section 502(b) amends Section 5 of the Diplomatic Relations Act by adding a new subsection (b) to require the Secretary of State (1) to make an annual report to Congress on the incidents involving serious crimes believed to have been committed by individuals entitled to immunity, and on any undisputed debt owed by individuals entitled to immunity and (2) to work with law enforcement agencies to educate their officials on the extent of immunity from criminal jurisdiction to which members of the diplomatic community are entitled under international law and to assure that law enforcement officials fully investigate, charge, and prosecute individuals who commit serious crimes in the United States to the extent such action is consistent with such individual's immunity. In addition, this subsection prohibits any State Department employee from discouraging the investigation, charging, or prosecution of an alien, who is a member of a mission or any member of his family or any other alien not entitled to immunity. The Secretary may waive the prohibition with respect to a specific individual if the Secretary determines that significant foreign policy considerations or the national security so requires. Finally, this subsection requires that the Secretary notify each diplomatic mission in the United States of U.S. policy with respect to serious crimes committed by its members.

Section 503—Registration and departure procedures for individuals with diplomatic immunity

Section 503 amends Section 3 of the Diplomatic Relations Act to require the Secretary to develop and implement registration and departure procedures for members of diplomatic missions and their families. Section 503 further states that no individual may be accredited as a diplomat if there is pending against such individual allegations of criminal conduct in any jurisdiction of the United States, except that the Secretary may waive this requirement if he determines that accreditation is required by significant foreign policy considerations or the national security and so reports to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate within 30 days after such accreditation.

Section 504—Waiver of diplomatic immunity or removal when charged with a serious crime

Section 504(a) amends the Foreign Missions Act to set up new procedures for requesting a waiver of diplomatic immunity for any individual entitled to immunity believed to have committed serious crimes. Under these procedures, the Secretary must (1) request the foreign ministry in the offender's country to waive immunity from criminal jurisdiction; (2) inform the foreign ministry in the offender's country that the United States intends to pursue compensation for damages resulting from the crime; and (3) if a waiver of immunity is denied, declare the individual non grata or ensure the individual's removal from the United States. The Secretary of State is directed to notify the Attorney General of each individual who leaves the United States because of that individual's alleged involvement in a serious crime to assure that such individual is permanently barred reentry into the United States.

Section 504(b) amends Section 212(a) of the Immigration and Nationality Act to conform it to the amendments to the Foreign Missions Act in subsection (a), adding a new category of aliens excluded from admission to the United States; any alien who left the United States because of that alien's alleged involvement in a serious crime. An exception to exclusion is authorized to allow entry into the United States for the purpose of any proceeding regarding the crime or if the Attorney General, in consultation with the Secretary of State, determines that allowing entry into the United States is in the national interest.

Section 505—Authority to institute and maintain criminal prosecutions

Section 505 further amends Section 5 of the Diplomatic Relations Act to authorize an exception to current law's requirement that any action or proceeding brought against an individual entitled to immunity be dismissed. That exception states that, in the case of a criminal proceeding, prosecution may be instituted and maintained so long as no action is taken to violate any immunities to which such individual is entitled.

Section 506—Review of U.S. policy on diplomatic immunity

Section 506 requires the Secretary of State to review U.S. policy on diplomatic immunity and report to the Congress within 180 days of enactment on recommendations for necessary changes in U.S. policy.

Section 507—Review of procedures for issuing visas to diplomats to the United States and the United Nations

Section 507 requires the Secretary of State, in consultation with the Attorney General, to review U.S. procedures for issuing visas to diplomats and report to Congress within one year on the results of this review.

Section 508—Liability insurance to be carried by diplomatic missions

Section 508 amends Section 6 of the Diplomatic Relations Act by adding a new subsection requiring the Director of the Office of Foreign Missions to establish a victims compensation insurance plan.

Section 509—Diplomatic pouches

Section 509 directs the President to take "necessary steps" to assure that diplomatic pouches are not used for illicit transportation of narcotics, explosives, and weapons and any materials used to foster terrorism.

Secton 510—Definitions

Section 510(a) and 510(b) amend the Foreign Missions Act and the Diplomatic Relations Act to include definitions of the terms "serious criminal offense" and "individual entitled to immunity from the criminal jurisdiction of the United States". Section 510(c) further amends Section 2 of the Diplomatic Relations Act to conform the definition of "family" of individuals entitled to immunity to the definition promulgated by the Department of State in its regulations.

The PRESIDING OFFICER. The Senator from Rhode Island [Mr. PELL].

Mr. PELL. Mr. President, the principles of diplomatic immunity and the inviolability of the person of the diplomat are over 2,000 years old and have been part of international law and our law since the beginning of the Republic. The reason for diplomatic immunity is simple and basic: it is to assure that diplomatic representatives are able to carry out the official business of their governments without undue influence or interference from the host country. I emphasize that title V of S. 2757 in no way changes the fundamental rules concerning subjection of diplomatic and consular personnel to criminal jurisdiction or personal inviolability of diplomats. I am very glad indeed to support this measure of the Senator from North Carolina. I think it is a good measure.

Speaking as a former Foreign Service officer and one who was in charge of a post overseas in a Communist country, albeit a very small post, I can see no harm from reciprocity being invoked because of this measure. All that is required is that the sending country either submit its diplomat to local criminal processes or our country will expel him and her.

So, under that rubric, I do not see how there could be any harm to a U.S. diplomat because this country could always withdraw him.

Incidentally, while I have the floor I would like to thank the Senator from Hawaii and the Senator from Wisconsin for their kindness and courtesy in considering our amendments and again I apologize for the delay this afternoon.

Mr. HELMS. I thank the Senator.

The PRESIDING OFFICER. Is there further debate? If there be no further debate, the question is on agreeing to the amendment offered by the Senator from North Carolina [Mr. HELMS].

The amendment (No. 3343) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, I move that the Senate concur in the House amendment to Senate amendment 182, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. KASTEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, that is it.

Mr. KASTEN. Mr. President, we are about to conclude the foreign operations conference report and this will be the final act of the Senator from Hawaii, who has acted so ably as the chairman of this committee.

He is moving on to the Defense Subcommittee, and I, for one, am going to miss him and I just want to thank him for the privilege and the opportunity of serving with him on this committee.

We have had a wonderful relationship. I think of him as a true friend.

We have also been able to establish a bipartisan approach to the important issues of foreign policy in the United States of America. So I commend and salute the Senator from Hawaii. I also thank our staffs, Richard Collins, Jim Bond, and the others. We have had a very strong and I think a positive working relationship. But it is due in most part to the leadership of the able Senator from the State of Hawaii and I thank him.

Mr. INOUYE. Mr. President, I thank my dear friend for his kind words. I intend to be an active member of the Foreign Operations Subcommittee, although I will not have the privilege of serving as chairman. I wish him well. I wish Mr. Bond well. However, I am taking Mr. Collins with me to the Defense Subcommittee, but we will be seeing you. Have fun. Thank you very much.

PARENTAL AND TEMPORARY MEDICAL LEAVE

The Senate continued with the consideration of S. 2488.

Mr. BYRD. Mr. President, what is the pending matter now before the Senate?

The PRESIDING OFFICER. Action has just been concluded on the conference report. Technically speaking, the pending business is S. 2488, the parental leave bill.

Mr. BYRD. I discussed with the distinguished Republican leader the possible reduction of time on his motion and he indicated that he would be willing to reduce that time. It seems to me right at this point would be a good moment in which to have a vote; possibly 5 minutes to the Republican leader and 5 minutes to this side.

Mr. STENNIS. Mr. President, may I make a parliamentary inquiry?

Mr. BYRD. I yield for that purpose.

The PRESIDING OFFICER. The Senator from Mississippi [Mr. STENNIS].

Mr. STENNIS. Well, I thank the leader, Mr. President.

Mr. President, it appears to me, now that we have gotten on to the point, having disposed of the foreign operations appropriations bill that was before us, that we should go to the largest thing by far in this group, as the Senator doubtless knows already, the defense bill. It covers all the military and related matters and it is perhaps the largest single bill we ever had. I ask now that the Senate take that up next.

Mr. BYRD. Yes, I intend to take that up very quickly. We will get the managers on both sides.

In the meantime I was hoping we might dispose of Senator DOLE's motion to postpone action on the parental leave bill until next Thursday.

Mr. STENNIS. I am not trying to get ahead of anything as the leader knows, but it is an extensive bill. I do not believe it will take a great deal of time. The House has completed action already. There has never been a more thorough examination of a bill than this one has been. They really got into it. The House itself approved it. I believe it will not take a great deal of time, but it is highly important. I would appreciate it if it could be next.

I thank the Chair.

Mr. BYRD. Yes, I will certainly ask that that conference report be laid before the Senate shortly as soon as the managers are on the floor. We will need the managers of the appropriations conference report and we will also need the managers on the defense authorization bill here.

Mr. President, I will proceed with my statement on the parental leave bill. The distinguished Republican leader may wish to have equal time, and then we could vote in relation to that motion. I intend to move to table the motion.

Mr. President, will the distinguished Republican leader be willing to reduce the time to, say, 10 minutes per side, or 15 minutes equally divided?

Mr. DOLE. I have two requests for short time here. So we can make it 10 minutes each side.

Mr. BYRD. Mr. President, I make that request.

The PRESIDING OFFICER. The request is for 10 minutes each. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I think Senators should be alerted there will be a rollcall vote within 1 minute. In the meantime, if Senators are working out difficulties and thorny issues in relation to the appropriations conference reports, we can proceed with the conference reports as soon as the vote is over in relation to the motion to postpone.

Mr. President, I have sent to the desk a package of legislation for the families of America. It includes the parental leave legislation, the child care legislation, and the child pornography legislation.

With this package, we will help America's families in a number of important ways. First, we will help families maintain stability and peace of mind during the critical periods of childbirth, adoption, and medical crisis, with the parental leave legislation.

Second, the child care legislation will give families access to quality child care nationwide—child care that they must have in order to leave the home and earn a living for their loved ones—quality child care that will bestow the peace of mind that comes with the knowledge that their beloved little ones will be cared for in safe conditions.

Third, the child pornography legislation will protect America's children from the pernicious horror of sexual abuse and exploitation.

Mr. President, I hope that all my colleagues, on both sides of the aisle, will see the merit of this vital package. The distinguished Republican leader has offered a motion to delay consideration of this legislation until next Thursday. That motion means we will never get back to this important legislation. That motion makes it clear which party is the party that cares about the future of the American family. Democracts are the party of the family.

Now, Mr. President, I should point out that there will be a cloture vote on Monday of next week, and if the motion to carry this measure over until next Thursday should carry, it is my opinion that does not dispose of the legislation and that, therefore, the vote on cloture will nevertheless still occur on Monday; am I correct?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BYRD. Democrats believe that a woman should not be fired because she must take time off from work to have a child, or because she brings a child into her family through adoption and must stay at home with her new charge for a period of time. And, Mr. President, in those heartrending situations, where a child is stricken with cancer or some other catostrophic illness, Democrats believe parents should be able to be at their bedside without the threat of losing their jobs.

That is why we support the Parental and Medical Leave Act. It will give these parents the assurance that they will not lose their jobs in these critical periods. Today's working families must have this assurance if the stability of the family is to be maintained. We want to give that stability to them. The bill we have offered is a balanced approach—it provides this guarantee, but it also recognizes the legitimate needs of business, especially small business. Only businesses with over 50 employees will be covered by the bill. Thus, small businesses, who cannot now afford to hold open jobs will be excluded. This is fair and reasonable.

So let us be clear about who we will help with this legislation. We are helping the working poor and the middle class who have little or no leverage with their employers. No one needs a job guarantee more than these workers.

We Democrats believe that we must do all we can to give America's families access to quality child care. That is why we support the act for better child care, the ABC bill. It will help States, and I underscore the word "States," Mr. President, it will help States—and I underscore the word "States"—to make child care more affordable for lower-income working parents.

It will increase the number of child care facilities and the number of qualified child care staff available to all families.

It will improve the quality of child care available to all families, and it will coordinate child care resources to ensure their efficient use and help make a wide range of child care options available to parents, enabling them to make the most suitable arrangements for their children. It is time that this country addresses the increasingly desperate situation facing many American families with respect to the availability of safe and affordable child care.

In my State of West Virginia, 46 percent of women with children between the ages of 6 and 17, and 32 percent of women with children under the age of 6, are currently working outside the home.

These West Virginia working mothers are not yuppies, out earning money for their second Porsche. Two-thirds of the mothers in West Virgnia who work outside the home are either the sole wage earner for the family, or are married to men who make less than $15,000 a year. Stated another way, an estimated 122,000 West Virginia children live in families with incomes below the poverty line. They represent 23.6 percent, or one in four of all children in the State. Most of West Virginia's working mothers have no choice about working and they need child care assistance.

Availability and affordability of adequate child care in this country is abysmally low. In West Virginia, there are approximately 111,000 children under the age of 13 whose mothers are in the work force. The number of licensed or Department of Human Services-approved facilities is totally inadequate to meet West Virginia's needs. Only 15,000 of these children, or 13.9 percent, are in licensed day care situations, leaving 95,500 children under the age of 13 who are in unregulated care. Fourteen of West Virginia's fifty-five counties have no day care center at all.

The major source of Federal funding which can be used to help States with child care, the title XX program, has been shrinking under the Reagan administration. Between 1981 and 1986, the number of children receiving child care under the title XX program in West Virginia decreased by 13.5 percent. Currently, the State is only helping 4,800 children, or 4 percent of all the children in need of day care in the State.

Help is needed and this amendment, which includes the ABC bill, would provide it. It has been estimated that if this amendment were funded at $2.5

billion, West Virginia would receive about $22.5 million. This would go a long way in helping my State provide the kind of child care which is so badly needed.

The third part of this amendment, the child pornography legislation, will go a long way in protecting American children because of its sanctions against the manufacture and sale of child pornography.

Some families have actually suffered the tragedy of learning that their own little children have been used in the production of pornography. One can only imagine the incredible emotional damage to those children, and to the families that they will raise in the future.

In addition, the availability of child pornography poisons those who observe it, and cheapens the value of children and the family. We cannot continue to permit this outrage.

It is time to get tougher against this assault on our children, on our families and on our values. This proposal will make it a Federal crime for a guardian to sell a child's services in the production of pornography, and will prohibit the use of computers to traffic in this obnoxious industry. It will give prosecutors additional tools in combatting the spread of child pornography, and its effect on our children and family values.

America's families need a child pornography prevention bill. We hope to give them one.

Mr. President, this is a good, sound package. There may be those who want to amend portions of it.

I say they will have that opportunity if and when the bill is before the Senate for amendment, and that would certainly be by Monday, if not later on today. But we have several appropriations bills which may take the rest of the afternoon.

Mr. President, Mr. DOLE's motion would delay action on this measure until next Thursday but for the cloture motion. Senators should know that. There will be a vote on cloture notwithstanding the outcome of the vote on this motion. It would be my intention to move to table the motion because I do not believe that we should signal to the rest of the country that the Senate wants to delay action on this bill until next Thursday. We already have a glut of legislation and there will probably be an even greater glut at that time as we continue to race against time.

Let us not get involved in other issues which have no bearing on the package before us. The issue is very clear and time is short. America's families are watching, and they are waiting. Mr. President, I reserve the remainder of my time.

Mr. DOLE. Mr. President, I yield 3 minutes to the Senator from Mississippi [Mr. COCHRAN] and then 3 minutes to the Senator from Oklahoma [Mr. NICKLES].

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I thank the distinguished leader on our side for yielding me this time.

Mr. President, as I was listening to the distinguished Democratic leader speaking on this issue, I could not help but think back to our debate on campaign reform in the early part of the 100th Congress. You may recall that the Democrats reported out a bill on campaign reform and made it the so-called highest priority of this Congress. They proceeded to bring the Senate to a number of cloture votes on the subject—I think seven, maybe eight—which would have cut off the right of those on this side of the aisle to offer alternative proposals on that subject.

That is similar to what is happening here. The only difference is that we are being told that the Republicans are delaying consideration on these important family issues, and that is just not true. We are here at the 11th hour of the 100th Congress and it is the Democrats who now bring out these issues for the Senate to debate and pass—not with time to consider alternatives suggested by this side of the aisle but under rules and procedures that will cut off amendments that are related to the subject which may not be strictly germane, which inevitably will put the majority side in the position of having the Senate adopt their suggestions or none at all on these issues.

I hope everybody who is listening realizes what is happening. We are not in a situation where an effort is being made to derail these issues. There have been Republican Senators offering suggestions for tax credits. This Senator filed an amendment just the other day on the parental leave bill suggesting it would be more appropriate to have a tax credit to encourage employers to make available paid parental leave rather than the unpaid leave called for in the Democratic bill.

I am convinced, Mr. President, there are probably better suggestions than we see in the bills that are described by the Democratic leader, but under the procedure that we are brought today, that is going to be our choice—rubber stamp what the committees under the control of the other side have recommended or get nothing at all. That is the issue. The motion by the leader on this side will simply be to recognize the realistic demand on the Senate's time of the appropriations conference reports, and other legislation that must be dealt with today or tomorrow. That is what we are saying. Let us set this aside temporarily while the Senate does what it has to do. It does not have to listen to political speeches today. That is what we are being asked to do. This is not a meeting of the Democratic National Committee, Mr. President. This is a meeting of the Senate. I think the leader's motion to postpone ought to be agreed to.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma, Mr. NICKLES, is recognized for 3 minutes.

Mr. NICKLES. Mr. President, I wish to compliment my good friend and colleague, Senator COCHRAN, from Mississippi, because I think he made some very valid points. I hope not only our colleagues but other people will realize what is happening. It is really politics. I do not think the issue is who can do the most for parents, or maternity leave or, last week, minimum wage. I really think it is politics. I was chairman of the Labor Subcommittee for 6 years. We never had legislation during that period of time that I can remember to increase the minimum wage or to mandate parental leave, but right now, here we are, a week or two before we get out of session, right before the elections in 1988 and here comes this big agenda. I really happen to think it is more of an agenda to try to influence elections rather than to try to change legislation. The content of the legislation I think leaves a lot to be desired. At least in this Senator's opinion it should be refused by the majority in this body.

I heard the distinguished leader say that Democrats want to help young mothers, Democrats want to help those who have sick children. There is almost an implication that Republicans do not. I somewhat resent that. I do not think that is the case. There are a lot of people on this side of the aisle, Republicans—and I would say there are some Democrats, too—who do not want to have the Federal Government trying to mandate every little fringe benefit, every wage between every employer and every employee in the country. Some of us happen to have a little faith in employers and employees negotiating what is mutually beneficial. Many times I think they can do a better job than what we could do in coming down with a Federal mandate. I think most all of us are in favor of maternity leave. We would like to see most all employers do it. The company which I managed before coming to the Senate provided it. It was paid leave, as the Senator from Mississippi said, which is better than this proposal. It was paid maternity leave. But I would also go so far as to say that I doubt 1 percent, if that, of the businesses in the United States offer the benefit that is in the legislation pending before us today, so-called parental leave. And yet we are going to mandate it on all businesses in this country that have 50 or more employees? I think that would be a mistake. I see that our time is waning so I will yield the floor.

Mr. CRANSTON. Mr. President, I join the majority leader and my colleagues on this side of the aisle in urging the Members of the Senate who want to move ahead in addressing the child care crisis in America to vote to table that Dole motion. We should not delay consideration of both the Act for Better Child Care Services [ABC] bill and the parental leave legislation. After we win—as we will—and table the Dole proposal, I urge my colleagues to vote for cloture on Monday.

Mr. President, the child care situation in this country is a crisis. It needs to be addressed in a comprehensive and meaningful fashion. The ABC was carefully designed to achieve that purpose.

The parental leave legislation is also vitally important to America's families.

Mr. President, no one should mistake this for a simple procedural vote. It is a vote on whether we are going to take some real action to deal with the needs of America's families.

There is a lot of rhetoric about families; let's do something important.

The PRESIDING OFFICER. The Republican leader, Mr. Dole, is recognized for the remaining time.

Mr. DOLE. Mr. President, we are supposed to vote today on this 157-page document that was flopped down yesterday afternoon. It does contain one section I know the parents of America will be pleased to read which is that "Nothing in this act shall be construed or implied in any manner to infringe upon or usurp the moral and legal rights and responsibilities of parents or legal guardians." That is an indication of how far this legislation goes. They have had to include that section to protect parents from the Federal Government. We are going to have regulations telling you how the children should be cared for, all coming from the Federal Government. We will be about as successful doing that as we are delivering the mail.

I think we are doing a disservice to our children. The Senator from Mississippi is exactly correct. This would have been a great speech at the Democratic National Convention in Atlanta but nobody thought of it. It has been organized. Labor marched in, the labor leaders got together, and we want this agenda brought up before Congress adjourns. So this is an obedience to their demands.

We are being told between now and next week or the next that we are going to do all of these things. Nobdoy believes that. Of, a few of the liberal writers that write for the Washington Post say Repubicans are frustrating the Democrats. We ought to frustrate the Democrats in this instance. There are 157 pages, and nobody knows what is in it.

How much does it cost? There are $2.5 billion for grants, and $2.5 billion for something else. That is just in one section. What we are saying is we have a lot of important matters to do in a very few days—5 legislative days, 10 legislative days, 15 legislative days. Why are we not out here, all of us, saying "Why aren't we bringing up the drug bill?" That is important to America, and to America's children. The drug bill—where is it?

Let us have the death penalty for kingpins; let us have some teeth in the drug bill; let us repeal the exclusionary rule; and, let us do a lot of things the House did.

We may have a chance to vote on the House bill before we leave this year. We have the House bill cleaned up on this side. We are ready to offer it at the first opportunity—the House drug bill, which is tough. That is important to America.

I might say that the so-called technical corrections are important to the American business community. That has to be done. That is going to take 2 or 3 days with all the cooperation we can muster on both sides of the aisle.

I am saying let us be realistic. This bill is not going to pass by next Thursday at 4 o'clock. It is not going anywhere next Thursday at 4 o'clock. Everybody knows it. Let us be realistic. I think everyone knows it. We know it.

It would not have gone anywhere in the first place. Now we are trying to get this child pornography section to carry those other two sections with it. We can attach that to something else.

So what I am suggesting is we just ought to postpone this, and be realistic, try to go to the drug bill, try to do technical corrections, and if we have any time left next week or in the next week then we can come back to some of these legislative issues.

But if you look at it, if you look at the summary of this bill—Mr. President, I ask unanimous consent to proceed for 1 additional minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE. Mr. President, just to give you a few little ideas, there is the Federal requirement for child care training. Boy, I bet that is going to be well received by America's mothers and grandmothers. It is federal administration, and everything is Federal. What happened to the parents? What happened to schools and churches? What happened to the religious institutions? What rights do they have under this bill?

We are about to create all these new Federal bureaucracies that take care of children. I do not think anybody really intends that. That is what is going to happen.

Why do we not go ahead and do the drug bill? That is killing our young people every day. That is important. This may be important. Child care is important. All of the candidates have a position on it. None of them are very specific, I might add in either party. But it will wait, and so will parental leave, and so will some of the other issues on the labor agenda.

So I hope we can postpone. I do not have any doubt that the majority leader is going to move to table, and he will prevail. But it is more than a procedural vote, I say to my friends on the other side. If you do not want to proceed with all of these things, there is an opportunity to delay until next Thursday at 4 o'clock.

The PRESIDING OFFICER. The time of the leader has expired. There are 6 seconds remaining to the majority leader.

Mr. DODD addressed the Chair.

Mr. BYRD. Mr. President, I ask unanimous consent that there be 3 additional minutes to the side, and I yield to Mr. Dodd.

Mr. DODD. I thank the majority leader.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, let me make it clear. I have listened with great interest to the comments of my colleagues on the other side.

I hope this vote is not for partisan reasons. The parental leave bill, and the child care bill, were introduced 2 years ago—both of those pieces of legislation. Both those bills went through extensive hearings. I personally conducted seven of them on parental leave. Five were conducted on child care all across this country. We had markups in our committees months ago on both the parental leave, and the child care legislation.

So to suggest somehow that two of the three bills that we are considering here appeared out of nowhere is to totally misconstrue the facts on those two pieces of legislation.

With regard to child care, my distinguished colleague from Utah, Senator Hatch, and I have spent dozens of hours personally—he and I together—and many more hours between our staffs reaching the compromise that is at the desk.

That is not the bill of the Senator from Connecticut. That is not the bill of the Senator from Utah or the Senator from Connecticut.

The third part of this bill is the antipornography legislation offered by the distinguished Senator from South Carolina that passed this body 97 to 0. This vote to postpone, I say with all due respect, should be construed in no other way but a vote to kill. This package represents the work of the Senator from South Carolina, the Senator from Utah, the Senator from Connecticut, the Senator from Pennsylvania who I see on the floor, Senator SPECTER, who has put hours in as well, and I am honored to say is a cosponsor of this legislation or parts of this legislation. So we have worked long and hard.

I know the people would like to get the technical amendments of the tax bill. I have some provisions in there which will help businesses in my State. But I think the children of my State are just as important as any corporation, and to hear people suggest that we ought to deal with corporate America first before we deal with children—I know the hour is late. I know we are running out of time. A lot of kids are running out of time too. We will have a drug bill. Everyone knows that, as long as it does not turn into a quagmire. But we can do something about children in these next few days.

We can do something about pornography in this country. We can do something about parents who have sick kids, and do not want to lose their jobs.

This is well crafted, and well thought out. I know there are amendments on parental leave. I know as a practical matter that bill will probably be amended. I am prepared to engage in that debate. But we were not given the opportunity.

We spent a day and a half trying to work out the problems on the antipornography legislation. But can we not please get to this? This 100th Congress has spent a great deal of time in committee. I thought that was the way we did things.

Senator HATCH was the ranking minority member of the Labor Committee. With whom am I supposed to work if not with the ranking minority member of the committee? And, if the ranking minority member of the committee is resolved, and the child care legislation is acceptable, is that not how this process is supposed to work, and then present a proposition to our full membership? That is what the majority leader is trying to do.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BYRD. Mr. President, I yield the Senator another minute.

The PRESIDING OFFICER. The time of the majority leader has expired.

Mr. DODD. Mr. President, I ask unanimous consent to proceed for 1 additional minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DODD. Mr. President, all the majority leader is trying to do is get us to a point where we can deal with this. I know there are appropriations bills we have to deal with. The distinguished Senator from Mississippi has worked long and hard on that. I want to see them get to that tonight. My hope is that we can take a few hours, work over the weekend, and see if we cannot resolve some differences, and send this package to the House; and, also, the antipornography legislation, the child care, and parental leave. We can deal with corporate America and their taxes. We can deal with children in this country.

There are almost 9 million mothers who are raising 16 million kids alone. Child care is important. Parental leave is important. And antipornography legislation is important.

So I urge my colleagues in a nonpartisan way with all due respect for the minority leader, who I have a greatest degree of affection—and I sincerely say that—with respect to this motion to postpone, and let us come to terms with these bills. Let us pass them, or reject them. We can reject them, if the intentions of this body are to do that. But at least let us consider them and vote on them. We can get that chance if the motion to postpone is defeated.

I thank the majority leader.

The PRESIDING OFFICER (Mr. GORE). The time of the majority leader has expired.

The Republican leader has 3 minutes remaining.

Mr. DOLE. Mr. President, I will just take another minute.

I do not quarrel with the concept here of voluntary parental leave, or child care. I have a child care bill in too, only I pay for mine. But it seems to me that the best example of this last-minute activity here is let us take a look at welfare reform.

Let us assume that they brought up welfare reform a couple of days ago. It would not be passed. But because welfare reform was brought up months ago and because Republicans and Democrats were able to resolve their differences over a series of not weeks but months, we passed a bill in this body by a vote of 96 to 1, bipartisan. I assume that these issues are going to be addressed in that fashion next year. But they are not going to be addressed in that fashion in a week, notwithstanding all the good work the committee did. There are differences of opinion.

So it seems to me that notwithstanding the lofty goals of all this legislation, I think many American mothers and fathers and taxpayers would like to know how much it is going to cost, what we mean by Federal administration, what we mean by Federal requirements for child care training. It states:

> States must, within 2 years, require all persons, self-employed as well as employed, who provide licensed or regulated child care to complete annually at least 15 hours of training.

All these Federal regulations—where does it end? I think it is a serious proposition.

There are no tax provisions in this, as I understand. The Ways and Means Committee and the Finance Committee have jurisdiction, too. I do not know where their representatives are. They have not been heard from. I do not think the chairman of the Finance Committee, Mr. BENTSEN, would subscribe to this legislation, not knowing how it is going to be funded or paid for.

Is this a tax increase bill? That part was left out.

So it seems to me, notwithstanding the good intentions—and the Senator from Connecticut has worked long and hard on this, as has the Senator from Utah [Mr. HATCH], and we have no quarrel with their efforts—let us be honest and realistic.

We are in the last few days of this session. We have had a good year in many respects. We are going to finish all the appropriations bills, hopefully, by the time the clock strikes midnight tonight.

Maybe we are not going to be in tomorrow. We are not going to work Sunday. We will have a cloture vote on Monday. Postponing it until Thursday will give us an opportunity to take up the number one priority in America with 80 percent of the American people, which is drugs. We ought to be on that Monday, Tuesday, Wednesday, and Thursday of next week.

The PRESIDING OFFICER. All time has expired.

Mr. BYRD. Mr. President, I ask for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I cannot see the purpose of this motion.

Under the rules, the vote on cloture will occur unless the matter to be clotured is disposed of. The only way to dispose of that matter is to indefinitely postpone or to act on it up or down. A motion to postpone until a day certain is not a disposition of the matter. Therefore, the cloture vote will occur on Monday, no matter what happens here.

So I will move to table the motion, because it will be a matter that is in vain even if I fail and the Senator's motion carries.

I believe that the majority should determine dates on which matters are to be scheduled, and we do that after consulting with the minority. There are times in situations like this where I have to oppose the minority's effort to put this matter over until Thursday, even though it will not be put over until Thursday if the minority leader's motion is carried.

The drug bill is a 900-page bill. We will have to find the money for that. I am told that the House bill is a shell, in fact, that there are no moneys provided for that.

Mr. President, I move to table the motion by the distinguished minority leader. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to postpone. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from Delaware [Mr. BIDEN], and the Senator from Massachusetts [Mr. KENNEDY] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Washington [Mr. EVANS], the Senator from Indiana [Mr. QUAYLE], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 52, nays 42, as follows:

[Rollcall Vote 344 Leg.]

YEAS—52

Adams
Baucus
Bingaman
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hollings
Inouye
Johnston
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Stennis
Weicker
Wirth

NAYS—42

Armstrong
Bond
Boschwitz
Cochran
Cohen
D'Amato
Danforth
Dole
Domenici
Garn
Gramm
Grassley
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Humphrey
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Rudman
Shelby
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Warner
Wilson

NOT VOTING—6

Bentsen
Biden
Evans
Kennedy
Quayle
Wallop

So the motion to table the motion of the Senator from Kansas was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS CONSENT AGREEMENT—H.R. 4784 CONFERENCE REPORT

Mr. BYRD. Mr. President, I ask unanimous consent that upon the aodption of the conference report on H.R. 4784, the agriculture appropriations bill, that the Senator from North Dakota be recognized to move that the Senate concur en bloc to the amendments of the House to the amendments of the Senate in disagreement, except for amendments Nos. 110 and 134, with no further amendments in order; and provided further, that upon the disposition of those amendments of the House to the amendments of the Senate, that the Senator from North Dakota be recognized to move that the Senate recede en bloc from the Senate amendments numbered 110 and 134.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

WINDING STAIR MOUNTAIN NATIONAL RECREATION AND WILDERNESS AREA ACT

Mr. BYRD. Mr. President, at the request of Mr. BOREN, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2571, the Winding Stair Mountain National Recreation and Wilderness Area Act, reported today from the Agriculture Committee.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2571) to designate certain National Forest System lands in the State of Oklahoma for inclusion in the National Wilderness Preservation System, create the Winding Stair Mountain National Recreation and Wilderness Area, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture, Nutrition, and Forestry, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Winding Stair Mountain National Recreation and Wilderness Area Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) select areas of undeveloped National Forest System lands in the State of Oklahoma possess outstanding natural characteristics which give them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) the Department of Agriculture's second roadless area review and evaluation (RARE II) and other studies of National Forest System lands in the State of Oklahoma and the related congressional review of such lands have identified areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the National Forest System's share of a quality National Wilderness Preservation System;

(3) the Department of Agriculture's second roadless area review and evaluation, of National Forest System lands in the State of Oklahoma and the related congressional review of such lands have also identified areas which do not possess outstanding wilderness attributes or which possess outstanding energy, mineral, timber, grazing, dispersed recreation and other values, and which should not be designated as components of the National Wilderness Preservation System but should be available for nonwilderness multiple uses under the land management planning process and other applicable laws;

(4) many areas of the Ouachita National Forest possess qualities that can only be expressed and utilized in such a manner that designation of such areas as a national recreation area is appropriate for the maximum potential and enjoyment of the area by the American people;

(5) select areas possess unique plant and tree species and plant communities that are significant in their occurrence, variety and location and warrant designation as botanical areas; and

(6) select areas possess unique scenic and wildlife qualities that designation of such areas as a national scenic area and a national scenic and wildlife area is appropriate for the preservation of the natural beauty and wildlife habitat for the enjoyment of the American people.

(b) PURPOSES.—The purposes of this Act are to—

(1) designate certain National Forest System lands in the State of Oklahoma as components of the National Wilderness Preservation System, in order to promote, perpetuate, and preserve the wilderness character of the lands, protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people, to a greater extent than is possible in the absence of wilderness designation; and to ensure that certain other National Forest System lands in the State of Oklahoma be available for nonwilderness multiple uses; and

(2) designate certain National Forest System lands in the State of Oklahoma as a national recreation area, 2 botanical areas, a national scenic area, and a national scenic and wildlife area in order to enhance and further certain natural resources characteristics.

SEC. 3. ADDITIONS TO NATIONAL WILDERNESS PRESERVATION SYSTEM.

In furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890, 16 U.S.C. 1131 et seq.) the following lands in the State of Oklahoma are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately 4,583 acres, as generally depicted on a map entitled "Black Fork Mountain Wilderness—Proposed", dated March 1988, and which shall be known as the Black Fork Mountain Wilderness.

(2) Certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately 9,371 acres, as generally depicted on a map entitled "Upper Kiamichi River Wilderness—Proposed", dated March 1988, and which shall be known as the Upper Kiamichi River Wilderness.

SEC. 4. MAPS AND DESCRIPTIONS.

As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file the maps referred to in section 3 of this Act and legal descriptions of each wilderness area designated by section 3 of this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and legal description shall have the same force and effect as if included in this Act; except that correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

SEC. 5. ADMINISTRATION.

Subject to valid existing rights, each wilderness area designated by section 3 of this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 governing areas designated by that Act as wilderness areas, except that with respect to any area designated in section 3 of this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

SEC. 6. WILDERNESS REVIEW.

(a) FINDINGS.—The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in Oklahoma and of the environmental impacts associated with alternative allocations of such areas.

(b) CONGRESSIONAL DETERMINATION AND DIRECTION.—On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the questions of the legal and factual sufficiency of the RARE II Final Environmental Impact Statement (dated January 1979) with respect to National Forest System lands in States other than Oklahoma, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Oklahoma;

(2) with respect to the National Forest System lands in the State of Oklahoma which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Oklahoma reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, except that such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Oklahoma are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of the National Forest System lands in the State of Oklahoma for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) USE OF TERM.—As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) APPLICATION OF PROVISIONS.—The provisions of this section shall also apply to:

(1) those National Forest System roadless lands in the State of Oklahoma in the Ouachita National Forest which were evaluated in the Rich Mountain and Beech Creek unit plans; and

(2) National Forest System roadless lands in the State of Oklahoma which are less than five thousand acres in size.

SEC. 7. ADJACENT MANAGEMENT.

Congress does not intend that designation of wilderness areas in the State of Oklahoma lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

SEC. 8. WINDING STAIR MOUNTAIN NATIONAL RECREATION AREA.

(a) ESTABLISHMENT.—In order to ensure the conservation and protection of certain natural, scenic, historic, pastoral, and fish and wildlife values and to provide for the enhancement of the recreational values associated therewith, there is hereby established the Winding Stair Mountain National Recreation Area located in the Ouachita National Forest, Oklahoma.

(b) AREA INCLUDED.—The Winding Stair Mountain National Recreation Area (hereafter in this Act referred to as the "recreation area") shall comprise approximately 26,445 acres as generally depicted on the map entitled "Winding Stair Mountain National Recreation Area—Proposed", dated March 1988, which shall be on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture.

(c) MAPS AND DESCRIPTION.—The Secretary of Agriculture (hereinafter in this section referred to as the "Secretary") shall, as soon as practicable after the date of enactment of this Act, file a map and a legal description of the recreation area with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate and each such map and legal description shall have the same force and effect as if included in this Act; except that correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(d) ADMINISTRATION.—The Secretary shall administer the recreation area in accordance with the laws, rules and regulations applicable to the national forests in such manner as will best further the purposes of this section, as set forth in subsection (a). Management and utilization of natural resources within the recreation area shall be permitted to the extent such management and utilization is compatible with and does not impair the purposes for which the recreation area is established.

(e) TIMBER MANAGEMENT.—Any sales of timber from within the recreation area shall be designed so as to not detract from the scenic values of the recreation area. Management practices that would detract from the scenic quality and natural beauty within view from the Talimena Drive or the Holson Valley Road shall not be conducted in the recreation area. Unevenaged timber management shall be the timber management practice in the recreation area, except that the Secretary may use evenaged management practices in order to promote public safety, mitigate the effects of fire, insects, and disease, or allow scenic vistas and recreational development or if such practices result in irregular cuts behind geographic barriers blocking the view from the Talimena Drive and the Holson Valley Road.

SEC. 9. BOTANICAL AREAS.

(a) DESIGNATION.—In order to protect and interpret to the public area within the Ouachita National Forest which contain unique plant species and unique plant communities that are significant in their occurrence, variety and location, the following lands are hereby designated as botanical areas:

(1) Certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately eight thousand and twenty-six acres as generally depicted on a map entitled "Robert S. Kerr Memorial Arboretum, Nature Center and Botanical Area—Proposed", dated March 1988, which shall be known as the "Robert S. Kerr Memorial Arboretum, Nature Center and Botanical Area".

(2) Certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately four hundred acres as generally depicted on a map entitled "Beech Creek Botanical Area—Proposed", dated March 1988,

which shall be known as the "Beech Creek Botanical Area".

(b) Map and Description.—The Secretary of Agriculture shall, as soon as practicable after the date of enactment of this Act, file a map and a legal description of the botanical areas with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and legal description shall have the same force and effect as if included in this Act; except that correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(c) Administration.—The Secretary shall administer the botanical areas in accordance with the laws, rules and regulations applicable to the national forests in such manner as will best further the purposes of this section, as set forth in subsection (a). Except as provided in section 16 of this Act, vegetative manipulation, including the cutting of trees, shall be permitted in such areas only when necessary for the protection and interpretation of the unique plant species and unique plant communities within the area. The Secretary may permit expansion of roads, improvements, and other facilities in the vicinity of the Robert S. Kerr Nature Center.

SEC. 10. INDIAN NATIONS NATIONAL SCENIC AND WILDLIFE AREA.

(a) Designation.—In order to protect and enhance certain scenery and wildlife within the Ouachita National Forest, Oklahoma, certain lands within such national forest, as generally depicted on a map entitled "Indian Nations National Scenic and Wildlife Area—Proposed", dated March 1988, are hereby designated as the "Indian Nations National Scenic and Wildlife Area" (hereinafter in this Act referred to as the "national scenic and wildlife area").

(b) Map and Description.—The Secretary of Agriculture (hereinafter in this section referred to as the 'Secretary') shall, as soon as practicable after the enactment of this Act, file a map and a legal description of the national scenic and wildlife area with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and legal description shall have the same force and effect as if included in this Act; except that correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(c) Administration.—The Secretary shall administer the national scenic and wildlife area in accordance with the laws, rules and regulations applicable to the national forests in such manner as will best further the purposes of this section, as set forth in subsection (a). Management practices within the national scenic and wildlife area that would detract from the scenic quality and natural beauty of the Talimena Drive and Holson Valley Road viewsheds shall be prohibited. Timber management practices within the national scenic and wildlife area shall promote a mixed hardwood and conifer forest with species and age class diversity approximating natural succession and with significant mast production and den trees for wildlife. Unevenaged timber management shall be the timber management practice in the national scenic and wildlife area, except that the Secretary may use evenaged management practices in order to promote public safety, mitigate the effects of fire, insects, and disease, or if such practices result in irregular cuts behind geographic barriers blocking the view from the Talimena Drive and the Holson Valley Road.

SEC. 11. BEECH CREEK NATIONAL SCENIC AREA.

(a) Designation.—In order to protect and enhance certain scenery and wildlife within the Ouachita National Forest, Oklahoma, certain lands within such national forest, as generally depicted on a map entitled "Beech Creek National Scenic Area—Proposed", dated March 1988, are hereby designated as the "Beech Creek National Scenic Area" (hereinafter in this Act referred to as the "national scenic area").

(b) Map and Description.—The Secretary of Agriculture (hereinafter in this section referred to as the "Secretary") shall, as soon as practicable after the enactment of this Act, file a map and a legal description of the national scenic area with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and legal description shall have the same force and effect as if included in this Act; except that correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(c) Administration.—The Secretary shall administer the national scenic area in accordance with the laws, rules, and regulations applicable to the national forests in such manner as will best further the purposes of this section, as set forth in subsection (a). Timber management practices within the area shall promote a mixed hardwood and conifer forest with species and age class diversity approximating natural succession and with significant mast production and den trees for wildlife. Unevenaged management shall be the timber management practice in the area, except that the Secretary is authorized to use evenaged management practices in order to promote public safety or to mitigate the effects of fire, insects, and disease.

SEC. 12. NOMENCLATURE.

The wilderness areas, the national recreation area, the national scenic and wildlife area, the national scenic area, and the botanical areas designated in this Act shall be referred to as the "Winding Stair Mountain National Recreation and Wilderness Area".

SEC. 13. TIMBER MANAGEMENT REPORT.

The Secretary of Agriculture shall submit to the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate a report on the timber management program on those lands of the Ouachita National Forest located in Le Flore County, Oklahoma, each year after the enactment of this Act for a period of 20 years. Each such report shall include information on timber management practices, sale preparation, harvest levels, reforestation, forest pest and damage problems, multiple use mitigation practices, including wildlife enhancement, recreation, protection of scenery, vegetation conversion, roads, and vegetative cover along streams, roads and trails. The report shall also include an economic impact statement of the Ouachita National Forest in LeFlore County, Oklahoma, on the timber industry and the tourism and recreation industry.

SEC. 14. ADVISORY COMMITTEE.

Pursuant to the Federal Advisory Committee Act (Public Law 92-463), no later than 90 days after the date of enactment of this Act, the Secretary is directed to establish an advisory committee for Ouachita National Forest lands in LeFlore County, Oklahoma. The Committee's purpose shall be advisory in nature and the Committee shall provide information and recommendations to the Secretary regarding the operation of the Ouachita National Forest in LeFlore County. The Committee shall be composed of representatives from the local area in which the Ouachita National Forest is located equally divided among conservation, timber, fish and wildlife, tourism and recreation, and economic development interests.

SEC. 15. PLANNING.

(a) Forest Management Plan.—The Secretary shall amend the Ouachita National Forest land and resource management plan to include provisions regarding the wilderness areas, the botanical areas, the national recreation area, the national scenic and wildlife area, and the national scenic area designated by this Act. The amendment shall further the purposes for these areas as specified in this Act and shall be developed in accordance with the provisions of the National Forest Management Act, including provisions for public involvement. The Secretary shall consult with the local advisory committee established under section 14 of this Act regarding the development and implementation of the amendment required under this subsection.

(b) Tourism and Recreation.—The plan shall include a section with provisions to promote tourism and recreation in ways consistent with the purposes for which the wilderness areas, the botanical areas, the national recreation area, the national scenic and wildlife area and the national scenic area are designated.

(c) Local Advisory Group.—No later than 90 days after the date of enactment of this Act the Secretary shall designate a special advisory group from the local area in which the Ouachita National Forest is located to assist in the preparation of the tourism and recreation section of the amendment as required under subsection (b). The Secretary shall request the group to submit to the Secretary, within 12 months after its designation as an advisory group, a draft for such section. No later than 90 days after receiving such draft, the Secretary shall make any revisions and provide them to the group for review. The Secretary shall allow at least 60 days for the group to submit to the Secretary its comments on the revisions. The Secretary shall attempt to resolve any differences prior to his approval or disapproval of the amendment to the forest plan.

(d) Authorization.—There are hereby authorized to be appropriated not to exceed $15,000,000 for tourism and recreation improvements related to the Winding Stair Mountain National Recreation and Wilderness Area in Ouachita National Forest in LeFlore County, Oklahoma.

(e) IMPLEMENTATION.—The Secretary is authorized and encouraged to seek local nonprofit entities and the private sector for development of tourism and recreation initiatives in implementing the tourism and recreation section of the plan.

SEC. 16. FIRE, INSECT, AND DISEASE.

Nothing in this Act shall preclude the Secretary of Agriculture from carrying out such measures in the recreation area, the national scenic and wildlife area, the national scenic area, or in the botanical areas established by this Act as the Secretary, in his discretion, deems necessary in the event of fire, or infestation of insects or disease or for public health and safety. As provided in section 4(d)(1) of the Wilderness Act, the Secretary may take such measures as may be necessary to control fire, insects, and diseases within the wilderness areas designated by this Act.

SEC. 17. GRAZING.

Subject to such limitations, conditions, or regulations as he may prescribe, the Secretary of Agriculture shall permit grazing on lands within the Ouachita National Forest, Le Flore County, Oklahoma.

SEC. 18. FISHING AND WILDLIFE.

Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State with respect to wildlife and fish in the areas designated by this Act.

SEC. 19. PERMITS.

The Secretary shall cooperate with other Federal agencies, with State and local public agencies and bodies, and with private individuals and organizations in the issuance of permits for facilities, services, and recreational facilities in the Winding Stair Mountain National Recreation and Wilderness Area. In issuing such permits, the Secretary is authorized and encouraged to consider local nonprofit entities and the private sector.

SEC. 20. LAND ACQUISITION.

(a) AUTHORITY.—The Secretary of Agriculture is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, any lands or interests therein, which the Secretary determines are needed to establish and manage the Winding Stair Mountain National Recreation and Wilderness Area.

(b) OFFERS.—In exercising the authority conferred by this section to acquire lands, the Secretary of Agriculture shall give prompt and careful consideration to any offer made by an individual owning any land, or interest in land, within the Winding Stair Mountain National Recreation and Wilderness Area. In considering any such offer, the Secretary shall take into consideration any hardship to the owner which might result from any undue delay in acquiring the property.

(c) ADDITIONAL FACILITIES.—The Secretary of Agriculture may acquire sites at locations outside such boundaries of the Winding Stair Mountain National Recreation and Wilderness Area, as he determines necessary, for visitor orientation and the establishment of a lodge and additional facilities to enhance the quality of the area.

(d) ADDITIONAL LANDS.—Notwithstanding the limitations contained in section 7(a)(1) of the Land and Water Conservation Fund Act of 1965, the Secretary of Agriculture may acquire by purchase, exchange, donation or otherwise any right, title, and interest in lands in Le Flore County, Oklahoma, which are outside the boundaries of the Ouachita National Forest. No such right, title or interest may be acquired without the consent of the owner thereof. All lands and interests therein acquired under this subsection shall be administered by the Secretary of Agriculture in accordance with the Act of March 1, 1911, commonly referred to as the Weeks Act (36 Stat. 961) and in accordance with the laws, rules, and regulations generally applicable to units of the national forest system. The Secretary of Agriculture shall extend the boundaries of the Ouachita National Forest to include such lands.

SEC. 21. ACREAGES.

The acreage specified in this Act is approximate and in the event of discrepancies between cited acreage and the lands depicted on reference maps, the maps shall control.

Mr. BOREN. Mr. President, I am very pleased that the Senate will today approve passage of the Winding Stair Mountain National Recreation and Wilderness Area Act. I am proud to be a cosponsor of this bill with Senator NICKLES. This legislation is the result of over 2 years of hard work and compromise between the interested parties.

This bill makes several different designations within the Ouachita National Forest to set aside some of Oklahoma's natural gifts for the enjoyment of future generations. We have attempted to do so while still allowing for a wide variety of land usage in certain parts of the forest without ignoring the interests or rights of the many parties involved. The Ouachita Forest consists of over 1.5 million acres; nearly a quarter of a million of these acres are in Oklahoma. The designations made in this bill total less that 100,000 acres and are entirely within Le Flore County, OK.

Specifically, the bill designates: the Black Fork Mountain Wilderness Area; the Upper Kiamichi River Wilderness Area; the Winding Stair Mountain National Recreation Area; the Indian Nations National Scenic and Wildlife Area; the Robert S. Kerr Memorial Arboretum, Nature Center, and Botanical Area; the Beech Creek Botanical Area; and the Beech Creek National Scenic Area.

Mr. President, these areas in southeast Oklahoma are truly natural jewels. Oklahomans are proud of our State we are happy to be able to share its beauty with the rest of the Nation. I truly believe the Black Fork Mountain and Upper Kiamichi River areas would be excellent additions to the National Wilderness Preservation System.

The establishment of the Indian Nations National Scenic and Wildlife Area is a very important feature of the bill. This provision would protect the view along the Talimena Drive from the scars of clear-cutting. The local citizens have specifically asked for this protection.

The Beech Creek Area is also very unique. This watershed area contains one of the westernmost existing stands of beech trees and deserves to be preserved forever.

Mr. President, some people have said that the Forest Service brought this legislation upon itself. Whether or not that is true, it is a fact that for years the local citizens have been asking for relief from the Forest Service's practice of clear-cutting. Senator NICKLES and I introduced this legislation to ensure that the Ouachita is managed for the interests, of conservation, fish and wildlife, tourism and recreation, and economic development in addition to those of the timber industry.

Finally, Mr. President, I would like to commend Congressman WES WATKINS, who represents southeast Oklahoma, for his leadership in this effort. His tasks began in January 1986, with the field hearings he conducted in Poteau, OK, the county seat of Le Flore County. He has worked to forge a bill that serves the local citizens and the varying interests in the best possible manner. Thanks to Congressman WATKINS' work and the action about to be taken by the Senate today, these special areas will be preserved for many generations.

Mr. NICKLES. Mr. President, I appreciate this opportunity to speak on S. 2571, a bill to establish the Winding Stair Mountain National Recreation and Wilderness Area in Le Flore County, OK. As the Senate considers this bill I urge my colleagues to lend their support and pass S. 2571.

The Senate's final consideration of this legislation marks the culmination of a great deal of compromise and work by my Oklahoma colleagues Senator DAVID BOREN, Representative WES WATKINS, and myself. The original legislation was introduced in the House on March 31, 1988 by Representative WATKINS, and Senator BOREN and I followed with a similar Senate bill on June 27. The Senate Agriculture Committee proceeded to mark up an amended version of the House-passed language which we have before us now. We have come a long way since the original draft, and I believe what we have finally produced is a solid piece of legislation.

Basically, Mr. President, this final version of the legislation is a combination of the strong provisions of both the House and the Senate bills, including changes supported by the local citizens. S. 2571 will designate the Winding Stair Mountain National Recreation Area, two botanical areas, the Beech Creek Scenic Area, and the Indian Nations Scenic and Wildlife Area, which encompasses areas along Talimena Drive and Holson Valley Road. It also designates two portions of the Ouachita National Forest as national wilderness areas: The Black Fork Mountain Wilderness Area and the Upper Kiamichi River Wilderness Area.

One of the most important provisions of this bill, Mr. President, involves the establishment of an advisory committee to be equally divided between local representatives of conservation, timber, fish and wildlife, tourism and recreation, and economic development interests. This committee will work with the Forest Service to develop fire, insect, and disease management plans and will provide the Secretary with information and recommendations regarding the development and implementation of changes brought about by this legislation.

The Senate report on the bill provides for the protection of the Ouachita National Trail from commercial clearcutting by establishing a visual corridor with the input of the advisory committee. The report also provides that current activities such as oil and gas development and hunting, fishing, and trapping to continue under existing regulation. Additionally, both bill and report language were added to authorize and encourage the Forest Service to seek out the private sector for future tourism and recreation development in the area.

An important issue we addressed in working with the committee on this legislation was the ability of the Forest Service to combat natural disasters such as fire, insect infestation, and disease from occurring in the wilderness areas. Under current law, the authority of the Secretary to deal with these problems in the wilderness areas is dictated by the Wilderness Act of 1964 which set forth the original guidelines for the management of wilderness areas. Past experiences indicate that the Secretary's authority to utilize some control methods may be limited under the wilderness act language due to interference by environmental groups.

I have included language in the Senate report which recommends that the small size and shape of the wilderness areas in this bill, and the private holdings within and surrounding the wilderness areas dictate the Forest Service's immediate attention to fire, insects, or disease. This language, combined with additional language which provides the framework for the development of fire, insect, and disease management plans with input from the local advisory committee, should strengthen the Forest Service's authority on this issue.

Mr. President, I again thank my colleagues from Oklahoma and the respective committees for their work on this legislation. I also thank the majority and minority leaders for their cooperation, and I urge my colleagues to approve S. 2571.

The PRESIDING OFFICER. The question is on agreeing to the committee substitute.

The committee substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be discharged from further consideration of the House companion measure, H.R. 4354; that the Senate proceed immediately to the consideration of H.R. 4354; that all after the enacting clause be stricken and the text of S. 2571, as amended, be inserted in lieu thereof; that the bill, as amended, be read for the third time and passed, the motion to reconsider laid on the table, and that S. 2571 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1989—CONFERENCE REPORT

Mr. BYRD. Mr. President, I submit a report of the committee of conference on H.R. 4784 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4784) making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 28, 1988.)

Mr. BYRD. Mr. President, I have been asked by a Senator to have the yeas and nays ordered on this conference report. So the Senators will know that is going to occur, I ask for the yeas and nays on the conference report.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BURDICK. Mr. President, I would like to give a brief summary of the bill and highlight some of the changes made in conference to the Senate version of the bill.

First of all, I would like to point out that the House allocation for discretionary spending in this bill was $627 million less than the Senate. As a result, when we split the difference between the two allocations, the Senate had to cut more than $300 million from its bill. We had a similar situation last year, and the result has been to cut agriculture spending because of the lower House allocation.

Regarding the amount funded, the bill is $46.6 billion in budget authority and $26.9 billion in outlays.

In summary, we have a bill that provides the proper amount of emphasis on agriculture and rural development. The bill restores the cuts proposed by the President in the Extension Service and in the research programs.

In the pest control programs, the bill restores cuts proposed by the President for boll weevils, grasshoppers, fire ants, animal welfare, and pseudorabies, and we have increased the Animal Damage Control Program over 1988 in order to restore the predator control program and to provide necessary improvements in the program.

For the Commodity Credit Corporation, the bill provides such sums as may be necessary, but not to exceed $8,828,286,000 to reimburse the corporation for net realized losses.

For the Farmers Home Administration, the bill restores the rural housing grants and loans programs which were proposed to be eliminated by the President. Both farm ownership and farm operating loans are funded roughly at the 1988 level. The bill maintains 1988 levels for rural development grants and loans, and provides full reimbursements to the various revolving funds within the Farmers Home Administration.

For the Rural Electrification Administration, the bill restores all loan programs which were proposed to be eliminated by the President. In addition, it sets up a rural economic development subaccount which will assist REA borrowers in promoting rural development.

Under conservation, the bill also restores the cost-share programs which were proposed for elimination. The Conservation Reserve Program is funded at the full $1.9 billion requested by the Administration.

The nutrition programs are funded based on current estimates. The WIC program is funded at $1.9 billion—an increase of $127 million over last year's level, and a significant increase is given to FDA for AIDS research and education. The bill also funds the recently enacted Hunger Prevention Act of 1988.

Finally, the bill contains a slight increase for the Foreign Agricultural Service, and funds the Public Law 480 Food For Peace Program to maintain the 1988 program level.

Mr. President, I would like to say a special thank you to Senator COCHRAN from Mississippi, who is the ranking member of the subcommittee. As always, he was very helpful to me in taking the bill through the conference committee. His support is crucial and certainly did not go unnoticed.

For now, Mr. President, this concludes my comments on the agricultural appropriations bill. I hope the Senate can act on it expeditiously.

Mr. COCHRAN. Mr. President, we have before us the conference report on H.R. 4784, the Rural Development, Agriculture, and Related Agencies Appropriations for fiscal year 1989. This agreement was reached on Tuesday, September 27. The House passed this conference report yesterday by a vote of 353 to 35.

H.R. 4784 makes funds available for the many programs administered by the Department of Agriculture, such as research and extension; conservation—including the Conservation Reserve Program—rural housing and farm loans and farm income and price support programs.

Total obligational authority in this conference agreement is $46.6 billion. Of that total, $42.5 billion is new budget authority. The difference of $4.1 billion represents funds transferred from Customs receipts for use in various nutrition programs. The budget authority total of $46.6 billion is below the President's budget request by $27.2 million and below last year's level by $9.6 billion.

For the Commodity Credit Corporation [CCC] which is the funding source for our farm programs, a reimbursement for net realized losses of $8.9 billion—nearly 20 percent of the bill's total—is provided. The good news is that the CCC level of spending for price support and related activities is down from a record level spent in 1986. Undoubtedly, this reduction resulted from certain provisions implemented after enactment of the 1985 farm bill.

A large portion of this bill—over 35 percent—consists of the various nutrition programs administered by USDA, including the Food Stamp Program; the child nutrition programs—School Lunch, School Breakfast, Child and Adult Day Care, et cetera—and the feeding program for Women, Infants and Children [WIC]. I believe that adequate funding levels are provided for these on-going nutrition programs.

Mr. President, I am pleased to report that this conference report places increased emphasis on rural development. In fact, over one-fourth of the bill total is available for programs to assist rural areas. Specifically, the agreement restores the rural housing programs to current levels; provides funding for rural water and waste disposal loans and grants, as well as funding for industrial development loans and community facility loans for rural towns and villages; and supports REA program levels that will make adequate and affordable electric and telephone service available in rural areas.

The report also provides adequate funding for the Food and Drug Administration, the Commodity Futures Trading Commission, the Department of the Treasury for interest expenses incurred by the Farm Credit System Financial Assistance Corporation, and establishes limitations on the administrative expenses of the Farm Credit Administration and the Farm Credit System Assistance Board.

The Committee of Conference on H.R. 4784 considered 146 amendments in disagreement between the two Houses. Although the conferees were faced with some major challenges, I believe they met those challenges and did everything possible to resolve these differences and to make this agreement fiscally responsible, reflective of true needs, and acceptable to both Houses of Congress, as well as to the administration. And, I have received positive indications that the President will sign this appropriations bill.

I urge my colleagues to support this important appropriations measure. The American farmer, rural Americans in every State, and participants in our vital nutrition programs are all depending on it.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. BURDICK. I ask unanimous consent that the Chair lay before the Senate certain amendments which are in disagreement and we move to them at this time.

The PRESIDING OFFICER. Is there objection to first proceeding on the amendments in disagreement?

Without objection, it is so ordered.

The amendments are as follows:

Resolved, That the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4784) entitled "An Act making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes.".

Resolved, That the House recede from its disagreement to the amendments of the Senate numbered 20, 60, 71, 78, 115, 116, 117, 118, and 119 to the aforesaid bill, and concur therein.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 1 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

OFFICE OF THE ASSISTANT TO THE SECRETARY FOR SPECIAL SERVICES

For necessary salaries and expenses to continue the Office of the Assistant to the Secretary for purposes of providing special services to the Department, $150,000: *Provided,* That none of these funds shall be available for the supervision or management of Natural Resources and Environmental activities, the Soil Conservation Service, or the Forest Service, or any other activities or functions associated therewith.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 12 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$561,581,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 22 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment insert: $41,886,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i)

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 43 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$9,083,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 46 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$331,207,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 56 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert: *but not to exceed $8,828,286,000,*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 68 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: $3,000,000 and from funds transferred from the Rural Development Insurance Fund, $11,000,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 75 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: : *Provided further,* That notwithstanding any other provision of law, $2,000,000 of this appropriation shall be available solely to carry out H.R. 5378 and S. 2836, the Lower Mississippi Delta Development Act, as introduced in the House of Representatives on September 26, 1988, and in the Senate on September 27, 1988, and the provisions of such bills are hereby incorporated by reference and made a part of this Act.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 82 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

CONSERVATION

OFFICE OF THE ASSISTANT TO THE SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Assistant to the Secretary for Natural Resources and Environment, to administer the laws enacted by the Congress for the Forest Service and the Soil Conservation Service, $266,000: *Provided*, That the position of the Assistant to the Secretary for Natural Resources and Environment, for maximum results, should be filled by an experienced employee of the Soil Conservation Service or the Forest Service.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 90 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: , but not to exceed $651,461,000, shall be available for payment to technicians of the Soil Conservation Service for services

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 91 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert: : *Provided further*, That not to exceed $385,000,000 of the funds in this Act, or otherwise made available by this Act, shall be available to provide cost share assistance on crop year 1989 acreage during fiscal year 1989; for the purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119, September 29, 1987), to the extent that this proviso has the effect of transferring an outlay of the United States from one fiscal year to an adjacent fiscal year, such transfer is a necessary (but secondary) result of a significant policy change

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 109 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: without regard to chapter 51 and subchapter III of chapter 53, and section 2105(a) of chapter 21 of title 5, United States Code.

For purposes of establishing and implementing a demonstration project that authorizes the Secretary to use the facilities of any public or private cooperative, with the permission of any such cooperative, up to $3,000,000 may be made available

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 120 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: Also, none of the funds in this Act, or otherwise made available by this Act, shall be used to sell or offer for borrower prepayment more loans from the Rural Development Insurance Fund than needed to realize net proceeds of $584,000,000, the total level authorized by the Omnibus Reconciliation Act of 1986, Public Law 99-509, and the Continuing Appropriations Act of 1987, Public Law 99-591. Further, Rural Development Insurance Fund loans offered for sale in fiscal year 1989 shall be first offered to the borrowers for prepayment. Borrowers who rejected prepayment offers in fiscal year 1988 shall remain eligible for prepayment in fiscal year 1989.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 121 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

SEC. 634. (a) Effective beginning with the 1989 crop year for honey, section 405 of the Agricultural Act of 1949 (7 U.S.C. 1425) is amended, in the text of subsection (a) (as so designated by section 1004(1) of the Food Security Act of 1985 effective for the 1986 through 1990 crops), by striking out "No producer" and inserting in lieu thereof "Except as otherwise provided in section 405A, no producer".

(b) The Agricultural Act of 1949 is amended by inserting after section 405 the following new section:

"SEC. 405A. (a) A producer of honey may satisfy the producer's obligation to repay a loan, or a portion of a loan, made to the producer under section 201(b) of this Act by forfeiting the collateral for the loan, or portion of the loan, only if the value of the collateral forfeited, when taken together with the value of the collateral forfeited on any other loan or loans of the producer for such crop of honey under section 201(b), does not exceed $250,000: *Provided, however*, That the loan forfeiture limitation provided by this section shall not be applicable for any crop year for which the Secretary does not permit producers of honey to repay the price support loans at a level determined under section 201(b)(2)(B).

"(b) The producer of honey shall be personally liable for the repayment of a loan or loans made to the producer under the program for the crop of honey involved, with respect to that portion of the loan or loans for which satisfaction of the loan by forfeiture, as provided in subsection (a), is prohibited.

"(c) The loan contracts of the Commodity Credit Corporation entered into with producers of honey shall clearly indicate the extent to which a producer of honey may be personally liable for repayment of a loan under this section.

"(d) The Commodity Credit Corporation may issue such regulations as the Corporation deems necessary to carry out this section.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 122 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

SEC. 635. None of the funds appropriated or otherwise made available by the Act shall be used to pay the salaries of personnel who carry out a targeted export assistance program under section 1124 of the Food Security Act of 1985 if the aggregate amount of funds and/or commodities under such program exceeds $200,000,000: *Provided*, That $30,000,000 shall be held in reserve to be released by the Secretary of Agriculture only if required.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 126 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section designation in said amendment, insert: *637*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 127 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 638. None of the funds in the Act, or otherwise made available by this Act, shall be used to regulate the order or sequence of advances of funds to a borrower under any combination of approved telephone loans from the Rural Electrification Administration, the Rural Telephone Bank or the Federal Financing Bank.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 128 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 639. In fiscal years 1989 and 1990, $20,000,000 of section 32 funds shall be used to purchase sunflower and cottonseed oil, as authorized by law, such purchases to facilitate additional sales of such oils in world markets at competitives prices, so as to compete with other countries: *Provided*, That these funds shall be in addition to funds made available for this purpose by the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1988 (Public Law 100-202).

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 129 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section designation in said amendment, insert: *640*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 130 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section designation in said amendment, insert: *641*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 131 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section designation in said amendment, insert: *642*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 140 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section designation in said amendment, insert: *644*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 141 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 645. Effective August 30, 1989, none of the funds available in this Act for the Special Supplemental Food Program for Women, Infants, and Children (WIC) may be used by a state if that state has not examined the feasibility of implementing cost containment procedures described in section 3 of the Commodity Distribution Reform Act and WIC Amendments of 1988 (7 U.S.C. 612c note) (including infant formula rebates) for acquiring infant formula and, where practicable, other foods that are necessary to carry out such program, and if the state has determined that such a procedure would lower costs and enable more eligible persons to be served (without interference with the delivery of nutritious foods to recipients) and has not initiated action to implement such procedures. The Secretary may extend the effective date of implementation on a case-by-case basis where necessary.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 142 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 646. Effective October 1, 1989, section 6.29 of the Farm Credit Act of 1971 (12 U.S.C. 2278b-9) is amended by—

(1) in subsection (a)(1), striking out "Except as provided in paragraph (2)," and inserting in lieu thereof "Except as provided in paragraphs (2) and (3),",

(2) adding at the end of subsection (a) the following new paragraph:

"(3) PERIODIC PURCHASES.—(A) Notwithstanding any other provision of this section, the Financial Assistance Corporation shall establish a program under which System institutions shall purchase, as debt obligations are issued under section 6.26(a), stock of the Corporation in amounts described in this paragraph.

"(B) The program shall provide, with respect to each issuance of debt obligations under section 6.26(a), that each System institution originally required to purchase stock under paragraph (1), or the successor thereto, shall purchase Corporation stock in an amount determined by multiplying the amount of stock such institution was originally required to purchase under that paragraph by a percentage equal to the percentage which the amount of the issuance bears to $4,000,000,000.

"(C) The Financial Assistance Corporation shall promptly rescind purchases of stock of the Corporation made under paragraph (1) or (2) by System institutions and refund to such institutions, or their successors, the purchase price for the stock, except that, with respect to each issuance of debt obligations that occurs before October 1, 1988, the Corporation shall deduct from any refund due any System institution, and retain, the amount payable by such institution.

(3) in subsection (c)—

(a) striking out "Within" and inserting in lieu thereof "(1) Within",

(b) striking out "(1) the" and inserting in lieu thereof "(A) the", and

(c) striking out "(2) in the case" and inserting in lieu thereof "(B) in the case", and

(4) adding at the end thereof the following new paragraph:

"(2) Not later than 15 days before each issuance of debt obligations under section 6.26(a) occurring after September 30, 1988, the Financial Assistance Corporation shall notify each System institution required to purchase Corporation stock under subsection (a)(3) of the amount of the stock it is required to purchase.".

Resolved, That the House insist upon its disagreement to the amendments of the Senate bill numbered 110 and 134 to the aforesaid bill.

Mr. BURDICK. Mr. President, I move that the Senate concur in the amendment of the House to the amendments of the Senate.

The PRESIDING OFFICER. Pursuant to the previous order, the question is on the motion on the amendments en bloc.

Without objection, they are agreed to.

Mr. BURDICK. Mr. President, I move to consider en bloc amendments Nos. 110 and 134.

The PRESIDING OFFICER. Under the previous agreement, the motion is in order.

The question is on the motion. Without objection, the motion is agreed to.

Mr. BURDICK. Mr. President, I move that the Senate recede from its amendments 110 and 134.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

Mr. HELMS. Mr. President, I would like to ask the Senator from Mississippi and the Senator from North Dakota, if they are willing, to comment on what transpired with respect to the Assistant Secretary of Agriculture, John Dunlop. What is their understanding?

Mr. COCHRAN. Mr. President, if the Senator will yield, I will be glad to respond. My recollection is that the Senate struck language that was included in the House bill that would have disestablished, in effect, the Office of Assistant Secretary for Special Services and added language that restored the Office of Assistant Secretary for Natural Resources and Environment.

Because there was a disagreement between the two bodies, that was an issue in conference. We had a difficult time, but we discussed alternative language and ended up agreeing to, very reluctantly on the part of the Senate conferees, language that created two new positions—Assistant to the Secretary for Natural Resources and Environment and Assistant to the Secretary for Special Services. That is the job that he basically has at this time, as I understand it.

We are not happy with the language as compromised, but we do not think we could have done any better under the circumstances. The House was, in effect, trying to do away with his job and, in effect, do away with him.

We think that we worked it out so that the job is still in existence. Another job has been created. Funds are available to continue the funding of a position that could be occupied by Mr. Dunlop.

That is the understanding that I have of what we actually agreed to. I know the Secretary of Agriculture is not happy with it. I am not happy with it.

Mr. BURDICK. Agreed. We are not too happy with it.

Mr. COCHRAN. Senator BURDICK says he is not too happy with it. That is the only response I know to give you.

Mr. HELMS. I thank the Senator.

Mr. President, the point is this: The House language, in my judgment, does an unconstitutional thing. Here you have an Assistant Secretary of Agriculture who was nominated by the President and confirmed by the Senate. A Member of the House of Representatives who was not happy with the amount of money that he got for his district took some issue with Mr. Dunlop. Of course, Mr. Dunlop is hemmed in by budget restraints. But let me read into the RECORD a letter I have received from the distinguished Secretary of Agriculture, Mr. Lyng. It says:

DEAR SENATOR HELMS: As the Senate moves to consideration of the conference report on FY 1989 appropriations for the Department of Agriculture, I want to bring to your attention one very serious issue which arises in the context of this bill.

As was the case last year, this year's House version of the appropriations bill deleted funding for the Assistant Secretary for Natural Resources and Environment. This is a position which is authorized by law. The incumbent is appointed by the President and approved by the Senate. The House bill is simply an attempt to use the appropriations process as a vehicle to overturn the normal process for the establishment of subcabinet positions and the appointment of individuals to those positions. The Senate bill in Senate amendments 1 and 82 agrees with the Administration on this issue and restored funding for this position. However, the conference agreement includes a cumbersome compromise which provides funding for an Assistant to the Secretary for Natural Resources and Environment and includes advisory bill language as to the type of individual who should fill this position.

We view the conference agreement as unsatisfactory. Our concern goes beyond the narrow question of a particular office or a particular individual. This is a dangerous precedent which establishes the use of the appropriations process to overturn the normal advice and consent system for the appointment of high level officials. Senators should be concerned about the creation of such a precedent and particularly about the use of the appropriations process for such a matter.

We know how difficult it is to delay appropriations for functions as important as those carried out by the Department of Agriculture, and we have been at the forefront of those who have urged the Congress to enact appropriations bills on time. However, we view this matter as so serious that we would urge the Senate to insist on its position and return to conference.

Sincerely,

RICHARD E. LYNG,
Secretary.

I say again, I do not see how, by statute, appropriations bill, or otherwise, that an officer of this Government, duly nominated by the Senate, can be stripped of his authority, much less have his position abolished.

In the strongest sort of terms, I want to do two things. One is to deplore what the Congressman in question did and the reasons he did it.

And second, to say he did it to one of the finest young men I have ever known, a very competent public servant and a very dedicated American. I thank the distinguished Senator.

I ask unanimous consent that an article from the Washington Post of October 27, "Panel Kicks Up Some Dust at Agriculture Department," be printed in the RECORD, along with other items and information about the subject at hand.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 27, 1987]

PANEL KICKS UP SOME DUST AT AGRICULTURE DEPARTMENT

(By Ward Sinclair)

Piqued by years of Reagan administration efforts to cut soil-conservation spending, the House Appropriations Committee has retaliated by eliminating the job of George S. Dunlop, the assistant secretary of agriculture who oversees the programs.

And, for good measure, the committee cut in half the fiscal 1988 budget of the office of Vance L. Clark, head of the Farmers Home Administration (FmHA), on the theory that if he won't do his job as the panel sees it, he doesn't need the money.

This back-and-forth has become a yearly exercise between the department and the committee, which is chaired by Rep. Jamie L. Whitten (D-Miss.), who does not mind expressing his definite ideas about how the Agriculture Department should function. The department and Whitten have been at odds since 1981 over conservation and FmHA programs.

But the odds have never been quite so bluntly expressed as this time.

Under Whitten's direction, the committee restored $456.7 million in soil conservation funds that the White House wanted killed, and it refused to go along with the $3.2 billion in cuts sought on FmHA rural development, rural housing and farmers' loan programs.

To frost the cake, the committee then ordered that the account of the assistant secretary for natural resources and environment (Dunlop, that is) be eliminated and that duties of the office be transferred to Secretary Richard E. Lyng.

"After several years of continued rejection by the people and the Congress, the department continues to submit conservation budget proposals that are simply out of touch with the public interest," the committee report said. "Once again, the committee must face the task of restoring funds for the Soil Conservation Service."

Dunlop, a former staff director of the Senate Agriculture Committee and longtime associate of Sen. Jesse Helms (R-N.C.), was taking the slap in stride yesterday. "We have read the report. . . . Mr. Whitten has wanted to get our attention," he said, "and we are the kind of people who want to have our attention gotten. We believe in having good relations with Congress."

Dunlop said that the committee report caught the department off guard and that Deputy Secretary Peter Myers has been delegated to "engage" Whitten in talks to learn more about the chairman's unhappiness with the department.

As for FmHA, the committee said that Clark had shown a "repeated failure" to help farmers and rural residents and that he had ignored congressional intent by setting up policies designed to foreclose on troubled farmers.

The committee also said that Clark's office was overstaffed and ordered the administrator's budget halved to $394,000.

While ordering Clark to spend more money on rural housing, the committee took another swipe at FmHA by ordering the agency's administrative budget in New York state reduced $250,000 below the White House request.

That seeming contradiction was engineered by Rep. Matthew F. McHugh (D-N.Y.), who was angry that the New York arm of FmHA was obligating rural housing loan funds at a rate about 20 percent lower than the national average. McHugh attributed the lag to "foot dragging and poor management . . . it's time to let the FmHA know that it can't continue to thwart the intent of Congress."

In the end, the committee's harsh treatment of the Agriculture Department could turn out to be more symbolic than real, although the message is unmistakable: Chairman Whitten and his Appropriations colleagues have had it up to here with departmental intransigence.

The Senate Appropriations Committee version of the 1988 spending bill ignored the department's budget proposal and put money back into the FmHA and soil conservation programs. But it also left the budgets of Dunlop and Clark intact, with no criticism.

Assuming that the bills pass the House and Senate without change, the differences in the two measures would become the subject for negotiation in a House-Senate conference. The House could prevail, or not.

[From the Washington Post, Dec. 19, 1987]

FARM SPENDING TO BE SLASHED—CUTS SMALLER THAN GRAMM-RUDMAN LAW WOULD HAVE REQUIRED

(By Ward Sinclair)

Under pressure from congressional leaders, House and Senate conferees put the final touches on a deficit-reduction package yesterday that is expected to cut farm spending by $2.5 billion over the next two years.

The agreement will cut farm subsidies in fiscal 1988 and 1989, but they will be smaller than the 8.5 percent reduction that otherwise would have occurred under a Gramm-Rudman-Hollings budget-reduction sequester.

Meanwhile yesterday, Appropriations conferees reached tentative agreement on most provisions of the agriculture section of the catch-all continuing resolution to finance fiscal 1988 federal programs.

The agreement included an unprecedented stripping of power from George S. Dunlop, the assistant secretary of agriculture for natural resources and environment who oversees about 50,000 soil conservation and forestry workers.

At the behest of Chairman Jamie L. Whitten (D-Miss.), the House abolished Dunlop's job and assigned soil and forestry work to Secretary Richard E. Lyng. Whitten complained that Dunlop—whose name was not mentioned during the debate—had undermined congressional directives on conservation spending.

The compromise created a new assistant secretary for special services, a spot to which Lyng presumably could transfer Dunlop, but it put the Soil Conservation Service and the U.S. Forest Service directly under Lyng's command.

Whitten insisted that he has "nothing personal" against Dunlop, a former close aide to Sen. Jesse Helms (R-N.C.). He said that Dunlop had ignored orders from Congress to maintain soil-conservation spending.

The budget conferees, divided by hours of wrangling over proposed cuts and major program changes, came to terms late Thursday after they received an old-fashioned tongue-lashing from House Majority Leader Thomas S. Foley (D-Wash.).

Foley, a former Agriculture Committee chairman, accused the lawmakers of attempting to "snooker" Congress by using the budget process to establish new programs and avoid hard decisions. He warned of a taxpayer backlash if the cuts were not made promptly.

With that, the conferees danced away from the more controversial items and worked out a package that would achieve the bulk of the cuts by lowering direct subsidies and price-support loan rates.

The "target prices" that determine direct subsidy payments on major crops would be cut 1.4 percent in each of the two fiscal years. Price support loan rates would drop 3 percent this year and as much as 5 percent in 1989 if needed to achieve more savings.

Among the controversial items dropped were a new loan program for soybeans and oil seeds and a requirement promoted by the dairy lobby to more clearly label imitation cheese on frozen pizzas.

The labeling issue, which proponents claimed would save at least $14 million by reducing surplus cheese purchases, was dropped after conferees worried openly about adverse news coverage and editorials.

Another key element of the package was a new limit on individual subsidy payments drawn up by Rep. Thomas J. (Jerry) Huckaby (D-La.). The provision was aimed at barring farmers from collecting multiple payments by dividing up their farms and qualifying repeatedly for the direct payments. The Huckaby cap would limit an individual to $100,000 in payments.

The Huckaby plan also would prohibit aliens from receiving payments or federal farm aid unless they are engaged in the operation, a step taken to end controversial payments to nonresidents such as the crown prince of Liechtenstein.

In another farm-related matter, the House late yesterday approved a conference agreement that would allow the Farm Credit System to issue up to $4 billion of federally backed bonds. The Senate is expected to add its quick approval to the rescue package and send it to President Reagan for signing.

[From the Washington Post, Nov. 10, 1987]

HILL CLOUT REAPS RESEARCH PROGRAMS, FROM CATFISH TO CHERNOBYL—WITH WELL-POSITIONED LAWMAKERS, NORTH DAKOTA AND MISSISSIPPI IN LINE FOR PROJECTS AT AGRICULTURE'S CUTTING EDGE

(By Ward Sinclair)

North Dakota. Peace Garden State. Endless rolling prairie, land of farmers and rippling fields of grain. Rural, sparsely populated. So sparse that it is allocated only one congressman. So small that it is bereft of political clout in Fat City.

Wrong, wrong, wrong and wrong again.

Like every other state, North Dakota has two U.S. Senators and one of them, Quentin N. Burdick (D), happens to be chairman of the appropriations subcommittee that holds the purse strings of agriculture. That is ipso facto clout.

A Martian thumbing through the subcommittee's recently released report on agricultural appropriations for fiscal 1988 understandably might get the idea that North Dakota is a center of the universe, the main-source of our food and a principal locus of intellectual inquiry.

That's how generous the subcommittee has been to North Dakota, deluging it with *beaucoup* dollars for every imaginable agriculture program. A few examples: $75,000 for dry bean research; $370,000 to study ethanol fuel use; $69,000 for biological control of grasshoppers; unspecified amounts to create a regional rural development center; $500,000 for sunflower and sugar beet research, and on and on.

The best—or the most—may have been reserved for the University of North Dakota. If Burdick has his way, scholars there will get $600,000 to study the impact of the nuclear accident last year at the Chernobyl power station in the Soviet Union.

The subcommittee report said the study would cover the effect on soil, water, vegetation, food supply, crops and livestock, food contamination and "other aspects of the disaster". The study is supposed to bring together the best U.S. academic specialists, who will write an "environmental and spatial impact statement".

If impressed with North Dakota, that same interplanetary visitor might get a similar impression about Mississippi as he perused the report of the House agriculture appropriations subcommittee. That panel is chaired by Rep. Jamie L. Whitten (D-Miss.), who also heads the full Appropriations Committee.

Under the House version of the spending bill, Mississippi would make out extraordinarily well. Among other items, there would be $1 million for a new polymer institute at the University of Southern Mississippi; $100,000 for redfish research at Mississippi State University; $500,000 for curriculum improvement at Mississippi Valley State University; $300,000 for pesticide research at the Stoneville experiment station, and $500,000 for research at a physical acoustics laboratory at the University of Mississippi.

The cryptic entry in the subcommitee report about acoustical research becomes a bit clearer in the Senate version. It turns out that the work involves developing and testing an acoustics system to count and size the commercially grown catfish that churn around farm ponds in the Mississippi Delta.

The committee said that since it believes acoustics research can be a big help to agriculture, it expects the laboratory to move into other areas such as detection and repelling of insects, and testing of farm products from cotton fiber to wood laminates.

But one thing leads to another. The Senate noted that the rapidly burgeoning catfish industry has problems other than counting. The creation of about 80,000 acres of catfish ponds has led to a "dramatic" invasion of fisheating cormorants. Thus, $100,000 was appropriated to battle cormorants.

The congressional seniority system gives Mississippi a special place in the agricultural appropriations lottery. Whitten who has been in the House longer than any other member, is widely regarded around Washington as the "shadow" secretary of agriculture, given his clout and interest in the subject.

Behind Burdick on the Senate subcommittee, the ranking Democrat is John C. Stennis of Mississippi. The ranking Republican is Thad Cochran of Mississippi. Before democrats took control of the Senate this year, Cochran had been chairman of the panel.

For almost every designated expenditure in the agricultural appropriations reports, there is an interested member sitting on the subcommittees. It even extends to an ex officio member such as Rep. Silvio O. Conte (R-Mass.), who, as ranking Republican on House Appropriations, has a seat on every subcommittee.

It's not a lot of money by catfish-counting standards, but right there in the House bill's fine print is $60,000 for research on Belgian endive, just as there was last year.

Could it possibly be the work of Conte, who has nurtured a reputation as an enemy of pork-barrel spending and excessive outlays for agriculture? The House report doesn't say, but the Congressman's office confirmed that, yes, he is very, very interested in the one-of-a-kind Belgian endive studies at the University of Massachusetts in Amherst.

Conte, by the way, got the project into the appropriations pipeline with a $60,000 grant for fiscal 1987.

ASSISTANT SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

One of the most important tasks of this Assistant Secretary is to assure that the interests and perspective of production agriculture, ranching, and forestry are represented and advocated at the policy making levels within the executive branch.

The Cabinet structure of this Administration makes it imperative that USDA be represented in the policy making process. Individual Agencies are not participants in the executive policy process, except to the extent that their input is provided through the Subcabinet Assistant Secretaries.

Without the active participation of the Assistant Secretary, NRE, policy decisions that directly affect farmers would advance on the input of other Cabinet Departments. A number of other executive Departments and Offices are regularly and actively involved in a wide range of issues and matters that have substantial direct consequence to farmers, ranchers, and foresters.

In particular the Environmental Protection Agency and the Department of Interior, would regain the dominance and exclusivity they formerly held in such things in the absence of a vigorous effort by USDA.

Some of the more recent advantages gained for farmers and ranchers by an active Assistant Secretary for Natural Resources and Environment are as follows:

1. *Endangered Species Labeling Proposal.*—EPA initiative now includes substantial USDA—not just Interior—input. Major modification of original proposal has been the result.

2. *Groundwater and Pesticides.*—Initiative by EPA on which USDA now seems to have the lead in assuring a policy of continued prudent use of important agricultural chemicals.

3. *Administration Groundwater Policy.*—Active effort by the Administration to establish Executive Branch policy. USDA has been a key player in advocating agricultural needs and interests.

4. *Non-Point Source Water Pollution.*—In spite of strong efforts by environmentalists to halt the effort, USDA worked closely with EPA in developing non-point source guidelines which result in significantly reduced liability of farmers under the Clean Water Act.

5. *SCS Water Projects.*—The Asst Secty, NRE has strongly advocated Administration funding of the SCS water programs at a level that recognizes their importance, and which is consistent with highest priorities (in contrast to past OMB policy of "zeroing-out" these accounts).

Mr. HELMS. I thank the Chair. I again thank the distinguished Senator from Mississippi and the distinguished Senator from North Dakota.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I think the point has been very eloquently made that this is not a precedent for future action by our congressional branch of Government; that once confirmed by the Senate, an official of the administration should serve under the terms and conditions of his appointment and his confirmation; and that it is not appropriate to legislate away that authority or that office.

I think the record is clear, and I express my appreciation to the distinguished Senators from North Carolina for clarifying the fact that this is not going to be considered precedent in the U.S. Senate. We are going to continue to guard the prerogatives and the Constitutional responsibilities that the Senate has and enjoys under the Constitution.

The PRESIDING OFFICER. Is there further debate on the conference report?

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I want to take just a brief moment to talk about the spending provisions that were included in the appropriations bill and to praise the leadership of the Appropriations Subcommittee and its chairman, my senior colleague from North Dakota, Senator BURDICK, and the ranking member, Senator COCHRAN, from Mississippi. Senator BURDICK has been a special friend of agriculture and a leader of funding programs of benefit, not only to my State, but to the Nation.

Let me just take a few minutes, Mr. President, to cite some of the more important ones.

Rural community and nutrition assistance. Mr. President, Senator BURDICK was able to increase the funding for a number of national programs which will improve the quality of life in the Nation and in my State. Among those programs is the WIC Program, which will receive $1.9 billion for its special supplemental food program. The WIC Program has proven to be one of the most cost effective and humanitarian programs ever enacted by Congress. Not only does it save Federal spending on health care in the long run, but more important, it meets a real need for nutritional aid to pregnant and nursing mothers and infants.

The funding provided in this appropriations bill should enable the WIC Program to maintain its excellent record of assistance to a population in great need.

Also in the area of nutrition, Mr. President, $40 million will be provided for the purchase of additional commodities for soup kitchens and food banks to help many Americans who are hungry.

In the area of health, $845,000 will be appropriated for a pilot rural health project to address the shortage of health professionals in rural areas.

On and on it goes, Mr. President, a long litany of things that are included in this bill that will help not only rural America across the country, but my State in particular.

Again, I want to salute my chairman, the distinguished senior Senator from North Dakota, Senator BURDICK, and the ranking member, Senator COCHRAN of Mississippi, who, once again, have performed a real service to all of rural America and especially those parts of rural America that have been so hard hit by the drought of 1988.

For those farmers who have lost their land and livelihood, $3,350,000 will be available for grants for financially stressed farmers and dislocated farmers through pilot projects underway in eight States, including North Dakota.

To help farmers in severe financial difficulties because of the farm recession of the 1980's, $3 million will be appropriated for matching grants to State mediation programs. North Dakota is 1 of 12 States which will receive a portion of the funding. These mediation programs help financially stressed farmers resolve their credit problems not only with FmHA, but with all rural lenders. This initiative is critical to the restructuring of agricultural debt in rural areas, and will help farmers and our rural economy adjust to the huge decline in farm income and farmland values in the 1980's.

Of special importance to me and to my State of North Dakota are projects that will help North Dakota recover from the severe economic recession of the 1980's. All of my colleagues know of the severe agricultural recession of the 1980's. Just as many farmers in my State were beginning to get back on their feet, North Dakota and much of rural America was devastated by the worst drought in over half a century. On top of this, the other major industry in North Dakota—the energy industry—has been hit with a severe drop in prices.

My State is still in an economic recession; our young people are leaving to find decent jobs. But the people of my State are not discouraged: they are willing to work hard and to come up with innovative ways to restore the economy. Some of the projects funded in this appropriations bill are of critical importance in that effort. In addition, these projects will benefit the Nation as a whole.

The $12.7 million in special projects for North Dakota would not have been possible without the powerful leadership of Senator QUENTIN BURDICK, and I would like to thank him for his tireless efforts. Our State is fortunate to have such a senior member on the Senate Appropriations Committee.

In 1988, America suffered the worst drought since the 1930's. Many scientists attribute this in part to a global warming trend. It is critical that we develop the technology and data to thoroughly investigate this problem. The conference agreement on agricultural appropriations includes $4.2 million for a new Earth Systems Science Institute at the University of North Dakota. This Institute will combine the sophisticated technology of satellites and computers to gather complete weather and climate information. This information will be used to forecast long-range rainfall and climate patterns, monitor crop pests and disease, analyze ground water supplies and qualities, and provide other information valuable to our scientists, farmers, commodity specialists, and hydrologists.

The quality of our ground water is rapidly becoming one of the most environmentally significant agricultural issues in the Nation. The University of North Dakota's Energy and Mineral Research Center will receive $1 million to conduct a ground water quality study. This project will examine possible agricultural chemical contamination of shallow ground water.

Many of us have realized that agriculture in America must develop new markets for our raw agricultural products and develop new crops to meet new needs. North Dakota State University's Industrial Agriculture and Communications Center will receive $535,000 for research on new industrial uses for farm commodities. In addition, NDSU will receive $500,000 to continue its research on alternative oilseeds crops, including uses for crambe, canola, and sunflower seeds. The need to develop new crops and new uses for agricultural crops is absolutely vital to the success of North Dakota's farmers and agricultural industries in the future.

MARKETING ASSISTANCE

North Dakota is the top sunflower producing State in the Nation. The $10 million funding of the sunflower oil assistance project, devised by Senator BURDICK last year, boosts oilseed sales by providing a bonus to buyers of our sunflower oil in nations which unfairly subsidize their oil exports. Let me give you an idea of the level of subsidization in the European Common Market. Under the Common Agricultural Policy, sunflower prices are held at a level of 25 cents per pound—more than twice the current world market price and more than three times the price farmers were receiving last year.

PEST MANAGEMENT

Also of benefit to sunflower growers from Texas through Kansas to North Dakota is the $368,000 appropriated for the control of blackbirds. These birds cause extensive damage to our sunflower fields each summer.

Droughts bring many things, one of which is a scourge of grasshoppers. My colleague succeeded in getting $3 million to fund the third year of research on grasshopper control through an integrated pest management project being jointly conducted by North Dakota and Idaho. The damage caused by grasshoppers during this past summer of drought in the United States and North Africa underscores the need to fund effective methods to control these insects.

As part of its centennial project, North Dakota has set a goal of planting 100 million trees in shelter belts over 10 years. In addition to enhancing the beauty of our State, addressing the critical need to reduce soil erosion, and providing wildlife habitat, this program will be used for a wind break demonstration project. This bill appropriates $322,000 to help ensure the success of this centennial trees project in North Dakota.

In closing, let me repeat how important Senator BURDICK's leadership has been to agriculture, nutrition, rural health care, rural economic development, and to the overall economic well-being of people in my State.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from North Dakota for his kind remarks about this Senator and the work of our subcommittee. We have worked as a group in a spirit of bipartisanship. I think it sets a good example for the U.S. Senate. For that I am grateful to my distinguished colleague, the senior Senator from North Dakota, for his assistance and to the chairman of the full committee, Senator STENNIS, who has, of course, set one of the finest examples through his career and by his service on the Appropriations Committee that we have seen in the history of the Senate. It is an honor to be on the committee and a pleasure to serve with these distinguished Senators.

Mr. BURDICK addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. BURDICK. I want the Senate to know we have worked as a team in this committee. I think we brought out a good product. We had cooperation with Senator COCHRAN. I also want to thank the staff on both sides of the aisle who worked on this tirelessly. I think we have a good product.

Mr. PRYOR. Mr. President, I commend the conferees for agreeing to maintain the amendment Senator BUMPERS and I offered which addresses a flaw in the one-time assessment under the Agricultural Credit Act of 1987. The adoption of this amendment will be of significant help to farmers who own farm credit associations in Arkansas an in many other States throughout the Nation.

The intent of the Agricultural Credit Act of 1987 was to help farmers and preserve Farm Credit System institutions, yet the original assessment procedure would have placed an unnecessary financial burden on farmers and would have rendered nonviable several small, well managed, and otherwise healthy farm credit associations.

In the case of the Delta Production Credit Association in my home State of Arkansas, farmers were required to pay more than $2.5 million even though its projected loan volume is only slightly more than $6 million. To meet this assessment, it is estimated that Delta would have to increase the interest rates charged by farmers by some 326 basis points or by some 3.6 percentage points if it were to maintain the same level of earnings this year as they would have without the assessment. In other words, if farmers were paying 9 percent today, their rates would have to be raised to 12.6 percent. Clearly such an approach will benefit neither farmers nor the lending association that serves them.

Mr. President, some have contended that the adoption of this amendment might result in a change in the budget scoring of the debt issued by the Financial Assistance Corporation [FAC]. I firmly believe that this should not be the case. Really there is no basis in fact for any change to be made in the budget scoring of System financial assistance.

Under the original language of the 1987 act the FAC was a non-Federal entity. Under this amendment, the FAC remains a non-Federal entity. Under the original 1987 act, the assessment was determined based on the amount of financial assistance the System was ultimately to receive. Under this amendment, if the FAC issues the entire $4 billion it is authorized to issue, the assessment against System institutions will be exactly the same as it was under the 1987 act. There is no reason for the budget scoring of the financial assistance to the System to be any different under the amendment as adopted by the conferees as it was under the original language of the 1987 act.

Mr. President, it is especially significant to note that the Congressional Budget Office concurs with the position I just stated. I ask that a letter from the Congressional Budget Office regarding this matter be made a part of the RECORD at this point.

Again, I commend the conferees for accepting our amendment. It will be a substantial help toward assuring a viable Farm Credit System in my State, as well as many others across the country.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 28, 1988.

Hon. QUENTIN N. BURDICK,
Chairman, Subcommittee on Agriculture, Rural Development and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you requested, the Congressional Budget Office has reviewed an amendment to the Farm Credit Act of 1971 as proposed by Senator Dale Bumpers for inclusion in the Agriculture Appropriations bill. The proposed amendment would change requirements for Farm Credit System (FCS) institutions' purchases of stock in the FCS Financial Assistance Corporation. CBO estimates that enacting the proposed amendment would have no impact on the federal budget.

During fiscal year 1988, FCS institutions purchased $177 million in Financial Assistance Corporation stock through one-time assessments required by the Agricultural Credit Act of 1987. The Bumpers amendment would require the corporation to refund these assessments, and to replace the one-time assessments with stock purchases proportional to the amount of debt issued by the corporation. The proportion would be established so that if the corporation were to issue the statutory limit of $4 billion in debt obligations, the amount of stock owned by FCS institutions would be the same as under current law ($177 million). If less debt is issued, the required stock purchases would be less. For example, if the corporation issues $2 billion in debt for FCS assistance—one-half of the assistance limit—then stock purchases would equal one-half of the current stock purchases, or about $89 million.

Financial Assistance Corporation receipts from the issuance of debt obligations and from the sale of stock are not currently included in the federal budget. CBO does not anticipate any change in this budget treatment as a result of enacting the proposed amendment. The budget would continue to include payments from the U.S. Treasury to the corporation for interest expenses.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Peter Fontaine, who can be reached at 226-2860.

Sincerely,

JAMES L. BLUM,
Acting Director.

Mr. DOMENICI. Mr. President, I rise in support of the conference report on H.R. 4784, the agriculture and rural development appropriations bill for fiscal year 1989.

This bill provides some $43.6 billion in budget authority and $26.1 billion in new outlays for Department of Agriculture farm income stabilization programs, agricultural production, processing, and marketing programs, rural development assistance programs, conservation programs, domestic food programs, international assistance programs, as well as farm credit and related agencies programs.

I commend the subcommittee chairman, the Senator from North Dakota, and the ranking minority member, my good friend from Mississippi, for producing a bill within the subcommittee's section 302(b) allocation.

However, I would advise them, and the entire Senate, that this bill breaches the discretionary cap totals for international affairs and domestic spending agreed to last fall in the bipartisan budget summit.

The subcommittee manages to stay within their allocation by making substantive reductions in entitlement programs to offset increased discretionary spending.

These entitlement cuts also count in our efforts to avoid a sequester. That is why today I am only offering a warning that we ought to be more vigilant in our effort to restrain discretionary spending.

In addition, I would like to register my disappointment, that the Senate conferees retained the Bumpers farm credit language that substantially lessens the self-help elements of the Agricultural Act of 1987.

Specifically, the language reduces the so-called one-time assessment of healthy production credit associations and Federal land bank associations. This language breaks the compromise struck last year and increases taxpayers' exposure to potential costs of the 1987 act. Further, this language will force all borrowings of the Farm Credit Assistance Corporation to be on-budget in 1990 and therefore makes future deficit reduction even harder to achieve.

I hope the Senate will reject the Bumpers farm credit language and send a conference report over that the House will accept.

I appreciate the subcommittee's support for a number of ongoing projects and programs important to my home State of New Mexico as it has worked to keep spending within the budget.

Mr. HATCH. Mr. President, I rise in support of the contact lens provision in the Agriculture appropriations bill. I am sorry this provision will be dropped because the issue before us, the reclassification of certain contact lenses, is one that warrants our attention today. However, I commend Senator BUMPERS for his hard efforts and diligence.

Mr. President, contact lenses should not be maintained as class III medical devices as regulated through the Food, Drug and Cosmetic Act. Class III is the highest, and most expensive, level of regulation under this act. Its primary purpose is to ensure that new medical devices are entirely safe and effective before they can be marketed. Its use is for only the most sophisticated life-supporting devices, like heart valves, pacemakers, and anesthesia machines, or for those which presented unreasonable risk.

Since the enactment of this law, contact lenses have been trapped in a regulatory maze, unable to break through the administrative burden imposed by being a class III medical device. In 1982, when the Food and Drug Administration proposed to reclassify nonhydrophilic contact lenses as a class II device, the proposal had to be dropped. This proposal was not dropped because FDA feared the safety of contact lenses. Rather, the proposal was dropped because of quirks in our Federal law. Our law would not allow the FDA to put forward the data demonstrating the safety of the nonhydrophilic contact lenses.

Mr. President, the amendment included in this bill doesn't end FDA's authority to ensure that contact lenses are safe. As a matter of fact, it merely proposes that if the Secretary of HHS decides that they should be a class I, II, or III device, within 1 year, then they will be automatically classified as a class II device.

Now, I want to assure my colleagues that class II still requires FDA oversight. In fact, the class II regulation embodied in current law under section 513(a)(1)(B) requires that "a device which cannot be classified as a class I device because the controls * * * by themselves * * * is (sic) insufficient to provide reasonable assurance of the safety and effectiveness of the device, for which there is sufficient information to establish a performance standard to provide such assurance, and for which it is therefore necessary to establish for the device a performance standard * * * to provide reasonable assurance of its safety and effectiveness."

There are many class II devices that must still show they are safe and effective. Just recently the FDA has determined that devices such as the extraocular orbital implant should be in class II. This device is a nonabsorbable device intended to be implanted during scleral surgery for buckling or building up the floor of the eye, usually in conjunction with retinal reattachment. Another class II device, the ophthalmic laser, is an AC-powered device used to coagulate or cut tissues of the eye orbit by laser beam.

Mr. President, the real issue before us is not the safety of these lenses. Rather, this is a small business problem. I am pleased to join my colleague from Arkansas, and chairman of the Small Business Committee on this issue. He agrees that this regulatory trap created for contact lenses is an unnatural marketplace barrier which is forcing small manufacturers out of the marketplace. We need to encourage competition, develop more jobs, and decrease costs. There is no scientific proof that contact lenses cause harm; many million are worn every day without adverse effects.

I will revisit this issue in the future and hope my colleagues will support this initiative.

Mr. BURDICK. Mr. President, I would like to clarify a portion of the Statement of the Managers regarding Amendment No. 113. The statement refers to the Farm Credit System Financial Assistance Corporation. That is an error and the statement should reference the Farm Credit System Assistance Board so that any mention of the Corporation is really meant for the Board.

Is that the understanding of the Senator from Mississippi

Mr. COCHRAN. Mr. President, that is correct. There was simply a mistake made in the drafting of the language.

THE BARD FUND

Mr. MELCHER. Mr. President, agricultural research is a very vital part of the U.S. Department of Agriculture's work. It protects soil and water resources and improves food production. I have noted that this conference report does not provide $2.5 million in funding for the binational agricultural research and development [BARD] fund. The Senate earlier agreed during consideration of H.R. 4784 to my amendment for this funding, but subsequently dropped it in conference. I believe that was very unfortunate and will deprive this important program of needed funds. However, I intend to try again next year to obtain funding for the BARD fund, and it is my hope that my good friend from North Dakota, the chairman of the Agricultural Appropriations Subcommittee, will join me in that effort.

When I first offered this amendment during Senate consideration of H.R. 4784, I spoke at some length about my reasons for doing so. At that time, I pointed out the fact that BARD has served as a model of binational cooperation and as a source of many valuable agricultural research breakthroughs for farmers in this country, Israel, and the rest of the world. I continue to believe this funding is essential to the continued success of this highly cost-effective program, and I would like to take this opportunity to again draw attention to the merits of BARD.

As my colleagues may recall, the BARD fund was established in 1978 to enable agricultural scientists from the United States and Israel to work together in increasing agricultural know-how and productivity. At that time, the two founding nations contributed equal amounts to create the fund.

Since its establishment, BARD-sponsored research has produced important findings in a wide range of areas, from agricultural engineering to animal production, from soil science to field crops, and from irrigation to pest control. Under BARD, each agricultural research project has been and continues to be carried out jointly in the United States and in Israel.

Recently, a team of independent economists looked at the value of just a few BARD-sponsored projects. The results speak for themselves. The top 5 out of a total of 435 BARD projects—relating to cotton management, salinity in pecans, solarization of vegetables, storage of ornamentals, and pecan aphid control—have yielded $517 million and $100 million in benefits to our Nation and to Israel, respectively. Although this study only focused on these two nations, the knowledge gained under BARD is available to farmers worldwide.

As an endowment, only the interest on the principle in the BARD fund is used in support agricultural research projects. Unfortunately, over the last decade the devaluation of the dollar, declining interest rates, and rising research costs have cut back BARD's funding power.

To restore BARD's funding power, on July 29, 1988, I offered an amendment to H.R. 4784, the fiscal year 1989 rural development, Agriculture, and related agencies appropriations bill, to provide $2.5 million for BARD. The Senate accepted that amendment. The Israeli Government has indicated that it would match this appropriation, the result being to increase the BARD fund from its current level of $110 million to $115 million.

Mr. President, that requested funding for BARD represented only about one-half percent of the ARS' proposed fiscal year 1989 appropriation. I want to also emphasize that half of this appropriation would have funded agricultural research efforts in the United States carried out under BARD.

Mr. President, I regret that this important provision was dropped in conference. However, I understand that very recently there have been some promising signals from the Department of Agriculture and that funding for BARD may, in fact, be included in the President's proposed budget for fiscal year 1990. I hope to work closely with Senator BURDICK on developing funding for BARD as part of the fiscal year 1990 agricultural appropriations bill. Also, the distinguished chairman of the House Appropriations Committee has told me that he would like to work with me over the next fiscal year to determine if there would be a way to accommodate this modest increase in the BARD fund.

BARD

Mr. BURDICK. Mr. President, I want to applaud the Senator from Montana for his diligent efforts on behalf of BARD. He has pursued this issue to the maximum extent possible.

As the Senator knows, I was very supportive of him in this effort. Unfortunately, due to fiscal year constraints, we simply were not able to include funding for this program at this time. It is my hope, and I will work with the Senator from Montana, on funding for this program next year. In fact, it is my hope that the President will include this funding in his budget request for 1990. I know that BARD representatives have been meeting with members of the administration, and it is my understanding from discussions between my staff and USDA, a budget request for BARD in 1990 is a likely possibility.

I recently visited Israel, and saw firsthand the benefits of advanced research on agriculture in that country. I know that the research under the BARD program will go a long way to improving this industry in both Israel and the United States.

Again, I thank the Senator for his perseverance on the BARD program.

THE ARKANSAS ELECTRIC COOPERATIVE CORPORATION

Mr. BUMPERS. Mr. President, during the full committee markup of the agriculture appropriations bill, I had included language which would allow the Arkansas Electric Cooperative Corp. to prepay nearly $120 million in FFB loans without the payment of over $13 million in prepayment penalties. This amendment was reported out of the just-completed House-Senate conference in true disagreement, and although it will not ultimately be adopted on this bill, I urge my colleagues to work with Senator PRYOR and myself in finding another suitable vehicle.

Recently, the Arkansas Electric Cooperative corp. [AECC] constructed a hydroelectric dam near Fort Smith, AR, at the cost of $75 million. The AECC borrowed no funds to build this facility; the AECC used internal funds. The AECC now has the ability to sell this facility to an outside financier and to lease it back for 40 years. Under this sale/leaseback arrangement, the AECC would receive proceeds of nearly $120 million.

The AECC wishes to use all of these proceeds to retire a like amount of FFB debt. However, because the REA has a mortgage against the facility, it is requiring that the AECC pay an outrageous penalty before the AECC can repay its loans early.

I can understand this position if the AECC was going to turn around and refinance these loans at a lower interest rate with a new REA guarantee. But the AECC only wants to retire debt. No refinancing is needed and certainly no Federal guarantee is required. Not only would the Government receive the full face value of its loans, including accrued interest, the Government would be relieved of its 100 percent guarantee on nearly $120 million in loans—a double return to the Government.

This case is the classic case of privatization. Not only does the Government benefit, and we don't have to debate long the benefit of receiving nearly $120 million, rural ratepayers in Arkansas were going to benefit for years to come.

A waiver of the punitive penalty was adopted on the Senate version of the agriculture appropriations bill, and I want to thank Senators BURDICK, COCHRAN, and McCLURE for their support. Unfortunately, the House Subcommittee on Agriculture Appropriations refused to accept the amendment in conference, and yesterday the House failed to approve the provision.

Although I am disappointed in the House action, the blame for the defeat rests squarely with the White House. The administration circulated misleading information about the amendment, it refused to consider the measure in the absence of a larger reform of the REA Program, and it threatened to veto the entire agriculture spending bill, thereby inflicting unnecessary harm on the Nation's farmers, solely because of this one provision.

This heartless act also inflicted unnecessary costs on the rural ratepayers in Arkansas, and is just one more example of this administration sticking rural citizens in the neck. There was no reason to oppose this amendment. I intend to continue to work to redress this inequity. I ask that a copy of the information being circulated by the administration be inserted in the RECORD following my remarks, with the AECC response included.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF ADMINISTRATION OBJECTIONS TO THE AECC AMENDMENT AND AECC RESPONSE

(1) Senator Bumpers' amendment allows the AECC to prepay at less than full value outstanding FFB debt. At recent Treasury long-term borrowing rates, Arkansas would be able to prepay about $180 million without paying over $25 million in premiums owed to Treasury.

AECC RESPONSE

AECC is in fact asking to prepay FFB debt at its full value plus accumulated interest. Any value assumed in excess of full face value cannot be recognized under generally accepted accounting principles.

Second, the AECC is only requesting to prepay up to $120 million to the FFB, not $180 million. The penalty associated with this amount is $13.5 million.

The use of Treasury long-term borrowing rates assumes that the AECC will utilize a governmental funding source for replacement capital. This is in error. The AECC will utilize proceeds from a sale/leaseback transaction to pay off the FFB debt. No new debt, with or without government guarantees, will be sought.

(2) In the joint letter dated April 19, 1988, from Secretary Baker, Secretary Lying, and Director Miller, the Administration stated that if Congress passes legislation implementing any further premium-free prepayments without the reform proposed by the Administration, they will recommend veto. This amendment provides additional prepayments and includes none of the reforms proposed by the Administration.

AECC RESPONSE

Looking at the Administration proposal, the AECC amendment meets or exceeds the suggested reforms. The joint letter specifies that the President will be advised to veto any legislation providing for premium-free prepayments if it contains REA guarantees exceeding 80%. The AECC amendment adheres to this proposal in that no REA guarantee is requested or provided.

(3) In FY 1987 and 1988, the Congress authorized prepayment without the required premiums for all financially troubled REA borrowers in an effort to assist those borrowers in achieving financial health. Prepayments under this program totalled $2.6 billion, and lost premiums cost the taxpayers $630 million. AECC was not eligible under this program since it is already financially healthy.

AECC RESPONSE

Congress did indeed authorize repayment without premiums for several financially troubled REA borrowers. However, a key distinction is that the REA received no money nor was it relieved of any guarantee responsibility in the above situation. In the case of the AECC amendment, the government will receive payments in excess of $100 million and will be relieved of guarantee responsibility for this same amount. The reduction of the guarantee resonsibility provides an additional value to the government, over and above the receipt of the prepayment. As to the financial health of the AECC, the co-op has incurred operating losses in five out of the last seven years.

(4) AECC is a generation and transmission cooperative that serves 17 affiliated member electric distribution cooperatives in Arkansas. Alone, the AECC has total assets in excess of $640 million and annual sales of almost $200 million. The total assets of the AECC and its affiliated distribution cooperatives exceed the asset levels of over 50 percent of the investor owned utilities in the United States. When combined with its affiliated cooperatives, assets exceed $1 billion, serving 290,00 customers. Further, AECC has been given an extremely high quality debt rating of A1 by Moody's on a recent $60 million pollution control bond issue. Arkansas is a very large, financially healthy utility.

AECC RESPONSE

Although the statistics for the AECC appear average, there is no correlation between asset base and financial health. AECC serves on the average five customers per mile of line while investor owned utilities average 20 or more. The smaller customer per mile average for the AECC necessitiates a large asset base.

(5) AECC has been heavily subsidized by REA over the years. It has over $350 million in FFB loans outstanding, which were provided at below market interest rates and an additional $37 million in 2% interest and 5% interest REA loans outstanding. In addition, AECC's affiliated distribution cooperatives have over $280 million in 2% and 5% loans. At current Treasury interest rates, the subsidy value of each new 5% interest REA loan to AECC or its affiliates is 35 cents for each $1 loaned.

AECC RESPONSE

AECC, at present, has $346.5 million in FFB loans and $34 million in REA 2% and 5% loans outstanding. AECC is paying the government a higher rate of interest than they would have had AECC financed with short-term funding.

Example: Advance #310.

Outstanding on 1-1-88, $13,805,212.

Interest rate (long-term), 10.731%.

Interest rate (short-term), 9.101%.

If AECC had, in fact, financed the above advance short term for 7 years and rolled the debt over to long term, the 9.101% would be less than the current 9.267%. Therefore, AECC is in effect supplying a subsidy to the government because it could be in a prepayment discount situation. The last REA loan for AECC was a 5% loan approved in 1977.

(6) If AECC is authorized to prepay FFB loans without the required premiums and without the proposed reforms to the REA programs, all other cooperatives with FFB debt will demand similar treatment. At current Treasury rates, an estimated $5.3 billion in FFB loans could be advantageously prepaid costing the Treasury nearly $1 billion in lost premiums.

AECC RESPONSE

It must be made clear that there is no required penalty (premium) associated with the debt that the AECC wishes to prepay. REA Bulletin 20-9 sets out the calculation of penalties for prepayment of short-term debt and for long-term debt prepaid after a 12 year expiration time frame. This bulletin does not address a penalty for long-term debt paid off prior to the lapse of 12 years.

The argument that allowing the AECC to prepay without paying a penalty will encourage other borrowers to do the same is a deliberate obfuscation that ignores the fact that the AECC amendment will not allow the AECC to seek replacement debt with government guarantees on the $100+ million prepaid. The AECC simply wishes to pay off debt free and clear while the vast majority of other borrowers require a REA guarantee or accommodation to re-finance debt. This is a major difference. The AECC will be retiring debt at the exact amount, including accumulated interest, as it is being shown on the books at Treasury.

(7) In summary, AECC and its affiliated distribution cooperatives have already received very large subsidies from the REA. AECC is a very large, financially healthy utility and able to repay loans under the terms of its FFb loan agreements. Further taxpayer subsidies to this large healthy utility are not appropriate nor warranted at a time when the budget deficit needs to be decreased.

AECC RESPONSE

Without question, the budget deficit must be reduced, and the AECC amendment will help accommodate this end by paying off debt early. $100+ million will be repaid to the government, the full value of the debt, and the Administration position in this matter is very questionable.

CONTACT LENS AMENDMENT

Mr. BUMPERS. Mr. President, after winning approval in the Senate Agriculture Appropriations Committee and on the Senate floor, my amendment on contact lenses was disapproved by the House and the Senate.

This amendment simply provided that the Secretary of Health and Human Services make the affirmative determination that contact lenses meet the statutory definition of a class III device or else place them in class II.

Class III devices are those that support human life or offer unreasonable risk of life or health. Among these devices are artificial heart valves and cardiac pacemakers. Class II devices include heart defibrillators, ophthalmic lasers and implantable hip joints.

What was behind the defeat of this provisions? I want to make clear that this amendment, which after a dozen years would provide for the rational classification of contact lens, did not fail on its merits.

Unfortunately, it was being used as leverage to force Senate consideration of a bill to which there is apparently some opposition in this body.

And if that were not enough, it has long been opposed by the giants in the industry who apparently feel their profits would be threatened if more small manufacturers could enter the market and prosper. These small business cannot afford the $300,000 to $1.5 million it takes to get class III devices to the marketplace.

On the House floor it was called inappropriate and said to undermine year of effort by House. This amendment was not inappropriate. It sought to remedy a longstanding problem faced by manufacturers of RGP contact lenses and by the FDA which must devote an inordinate amount of its scarce resources to devices that it considers safe and effective enough for reclassification. The FDA needlessly expends around 1,200 manhours each time class III premarket approval application comes in.

Even the small plastic carrying cases used to store these lenses are considered class III items. So are the cleaning solutions.

With all our talk about competitiveness and our work in this Congress to ensure the health of American businesses, we have allowed these small contact lens companies to continue to suffer. Our current law should be amended in spite of opposition from industry giants that apparently think they stand to lose profits if the little guys increase their market share of contact lenses. This was an opportunity to encourage competitiveness in the contact lens market rather than to discourage growth with unnecessarily stringent and expensive regulations.

The Secretary of Health and Human Services has informed the chairman of the Labor Committee that this approach is acceptable. The FDA has been unable to reclassify certain medical devices because of a glitch in the law. The Secretary says that my freestanding bill on contact lenses and other transitional devices, S. 1808, "could make it easier for FDA to 'down-classify' some devices that may be inappropriately, and therefore wastefully, regulated as class III devices."

He acknowledges that this measure offers the potential for freeing agency resources for the review of applications involving newly emerging technologies and devices that post significant potential public health risks, thus permitting faster product reviews for devices with potentially greater public health benefit.

Congress should heed the recommendation of the FDA's own ophthalmic device panel. These experts unanimously recommended reclassification of contact lenses. We have missed an opportunity to do the FDA, the manufacturers, and the public a favor by passing this amendment.

LOWER MISSISSIPPI DELTA DEVELOPMENT COMMISSION

Mr. BUMPERS. Mr. President, I rise in support of the amendment of the House to Senate amendment No. 75, a provision which enacts and funds the Lower Mississippi Delta Development Commission. I want especially to thank the senior Senator from North Dakota [Mr. Burdick] for his assistance in enacting this measure into law, and the two distinguished Senators from Mississippi [Mr. Stennis and Mr. Cochran] both of whom are original cosponsors of the delta legislation.

This amendment references and enacts into law the provisions of two identical bills, S. 2836 and H.R. 5378. The text of S. 2836 and the statement I made upon its introduction appear in the September 27, 1988 Congressional Record at pages 25689-93. It is a successor to S. 2246, which I introduced on March 31, and which was reported from the Committee on Environment and Public Works. It is the product of negotiations among the appropriate House and Senate committees. I am pleased we were able to reach this important compromise and that the text of S. 2836 will become law as a part of H.R. 4784, the agriculture appropriations bill for fiscal year 1989.

Mr. KASTEN. Mr. President, I rise in support of the conference report on H.R. 4784, the Agriculture, Rural Development and Related Agencies Appropriation for fiscal year 1989.

Passage of this bill today would mark the first time in several years that an agriculture appropriation has been passed separately prior to the end of the fiscal year. It is regretable that what should be routine procedure appears this year as a major achievement.

Timely passage of this appropriation means that farm program payments, including purchases made under the dairy price support program, will not be interrupted. This represents a small but important step in restoring the confidence of our Nation's farmers that Congress can be depended upon to do its work on time. I commend the chairman of the Agriculture Subcommittee, Senator Burdick, and also the distinguished Senator from Mississippi who serves as the subcommittee's ranking Republican, THAD COCHRAN, for their work on this important piece of legislation.

The conference report on H.R. 4784 contains a number of important provisions that will be helpful in promoting high-quality agricultural research. Perhaps the most important of these involves the competitive research grant program in the Cooperative State Research Service.

The conference report funds this program at $39,716,000, a level lower than I would have liked. However, the report eliminates the earmarks and other restrictions in the original House-passed bill—restrictions that would have rendered this program all but worthless to most of American agriculture.

In recent years we have seen a growing and unfortunate tendency for Congress to move away from allowing research grants to be made on a basis of peer review and toward making these grants itself. If not reversed, this trend will inevitably lead to lower quality research and outright waste of the taxpayers' money. We in Congress do not have either the time for the expertise to allocate research dollars efficiently; we should not try to do so at all.

The conference report contains only the traditional divisions between plant and animal science, human nutrition, and biotechnology, plus $3.7 million set aside for study of the impact of ozone depletion in the stratosphere. Money for such projects as the Midwest Biotechnology Consortium was placed where it belongs—in the CSRS special grants program account.

I was impressed by the reaction of agricultural researchers across the country to earlier House proposals to virtually eliminate competitive research grants. I have received dozens of letters from scientists and university officials, all condemning the House's attempt to gut the competitive grants program. For me, these letters provided further evidence of the folly of parceling out research money based on clout in Congress.

I was pleased to see the conference report include an increase from $3.9 to $4.45 million in research grants pursuant to the Agricultural Productivity Act. This is the research program for low input or, as it is more appropriately called in Wisconsin, sustainable agriculture. The $4.45 figure represents a split between the $5 million appropriated by the Senate for this program and $3.9 million, the House figure and the amount appropriated in fiscal year 1988.

I am persuaded of the worth of research in this area, though I have never believed that agricultural chemicals are bad in and of themselves. These chemicals are expensive, and now more than ever farmers need ways to reduce their input costs.

In my State of Wisconsin, a growing number of farmers have become interested in pursuing sustainable agriculture techniques. Surveys have indicated that their biggest obstacle is simple lack of information. In view of the interest of farmers in sustainable agriculture, as well as the threat posed by farm chemicals to groundwater, wildlife and other aspects of the environment, I believe that the Department of Agriculture ought to be thinking in terms of allocating many more resources to sustainable agriculture than it is now. For its part, Congress must be prepared to appropriate much larger amounts of money for sustainable agriculture research next year. Despite this year's increase, we are well behind the curve in this area as far as our farmers are concerned.

Third, I was very pleased that the conference report includes my proposal to appropriate $50,000 for a feasibility study of a new biotechnology and genetics building at the University of Wisconsin at Madison. UW-M has long had one of the Nation's leading biotechnology and genetics research programs, but has in recent years developed a serious shortage of space.

I will be interested in the results of the feasibility study, and thank my colleagues for their help in securing funds for this important task.

Finally, I wanted to make note of the allocation of $250,000 of Soil Conservation Service money to the land records information project at the University of Wisconsin. This represents the third and final year of a Federal commitment to the LRI, also known as the CONSOIL project, which I helped initiate in the fiscal year 1987 agriculture appropriation.

The point of CONSOIL is to coordinate data on land characteristics, ownership, and use, so as to facilitate the implementation of Federal and State farm programs. The computerized land mapping being done at UW through this project has many other potential applications, ranging from aiding implementation of Federal environmental protection laws to helping local governments accurately property taxes. The devotion of a modest slice of the SCS budget to this project will eventually have positive repercussions across the country.

This is not a perfect bill; Congress rarely passes perfect legislation. The fact that we have been able to produce this bill at all is due to several factors, not the least of which has been the exertions of the Agriculture Subcommittee staff. Rocky Kuhn, Deborah Dawson, and Koni Gleason for the majority side have worked countless hours in very difficult circumstances on this year's appropriation. Irma Hanneman, who knows more about the USDA budget than almost anyone at USDA, has ably protected the interests of our subcommittee's Republican members for many years. All of them deserve the commendation and thanks of the Senate.

Mr. President, I urge my colleagues to support this conference report.

Mr. BUMPERS. Mr. President, during Senate consideration of the Agriculture appropriations bill, my distinguished colleague from Arkansas, Senator PRYOR, and I offered an amendment which revised the one-time assessment formula under the Agricultural Credit Act of 1987. I am pleased that the Senate adopted the amendment, and that the language as modified is part of this conference report.

The amendment is really quite simple. Under the 1987 act, System institutions were assessed to provide capital for a trust fund that serves to protect the Federal Treasury against a default by the System on the payment of principal and interest under the financial assistance mechanism. The assessment against the System was pegged to the amount of assistance authorized, or $4 billion. Under the original act, System institutions were required to pay the full assessment regardless of the amount of assistance the System received or when it was received.

The amendment revises the assessment to make it more equitable. Now, rather than forcing System institutions to pay the entire assessment up front, payment only comes due as debt is issued. If all $4 billion in assistance is not used, then the amount of the assessment is reduced accordingly.

Mr. President, I do not object to the assessment in principle. I concur that strong System institutions should be expected to contribute a fair share of their resources to the rescue of the System as a whole. I also concur that the Government's risk exposure should be kept to a minimum. However, I believe that the assessment language of the 1987 act imposed an unnecessary and unmanageable burden on various farm credit associations throughout the Nation.

It is important to point out that the associations assessed were not always the most financially viable in the System. Indeed, some of those assessed are experiencing extreme financial difficulties associated with a precipitous drop in their loan volume. These associations were subject to the assessment because the assessment formula is determined by the surplus in proportion to loan volume and, when loan volume declines, there is a corresponding inflation in the proportion of the surplus. Associations in many farm credit districts were severely weakened by the one-time payment of the full amount assessed under the 1987 legislation.

This will provide a significant benefit to the farmers who borrow from the Farm Credit System in my State and elsewhere while maintaining the basic commitment of the System to contribute to the assistance mechanism. Being cooperatively organized institutions, the cost of the assessment is borne by the owners of the System, farmers.

We cannot ask them to contribute any more than what is reasonable. That is what this amendment accomplished.

Mr. President, the administration, which had vehemently opposed the amendment from the beginning, had threatened to use the discretionary authority of the OMB to place the Financial Assistance Corporation [FAC] on budget. According to OMB, the amendment would change the "truly private" character of the FAC and substantially reduce, if not eliminate, the self-help contribution of the system to its own recovery. They took this position despite the fact that the Financial Assistance Corporation is a 100 percent privately owned system institution and the system continues to be required to make a substantial contribution to the financial assistance program. We strongly disagree with OMB's theory, but we accommodated OMB by delaying the effective date of the amendment for 1 year. However, this in no way will impact on the off-budget nature of the system financial assistance mechanism.

Mr. President, I want especially to thank Senator PRYOR and Senator BURDICK for their assistance on this issue, and Congressman WHITTEN for his willingness to accommodate the Senate position. I think that this amendment provides simple justice for system institutions, and I am pleased that it will become law as part of this agriculture appropriations bill for fiscal year 1989.

Mr. DASCHLE. Mr. President, I rise today in support of the conference report on the fiscal year 1989 Agriculture, Rural Development and related appropriations. This legislation provides funding for a broad range of programs and activities important to both the Nation and South Dakota. The bill provides funding for essential programs in both agriculture and rural development. These include farm income and commodity price supports, export assistance, credit for farmers, ranchers and rural communities, agricultural research and extension, conservation, nutrition programs, and funding for FmHA and REA. I commend my colleagues for restoring funding for programs that were proposed for elimination or severe cuts by the administration.

This legislation contains a research project very important to the future of agriculture in the Great Plains. The initial funds for establishing a Bio-Stress Laboratory at South Dakota State University will help in the effort to develop plants and crops resistant to weather extremes. Stability in agricultural production, which suffered tremendously as a result of this summer's drought, could be enhanced by minimizing the impact of droughts and floods on production. Congressman JOHNSON and I worked closely with the committee to make certain that this project will become a reality.

I am also pleased with the direction the committee has taken over funding rural development. This bill rejects the administration's housing voucher proposal and restores most rural housing programs to current levels. Continued emphasis on improving the rural electric and telephone systems through direct Federal funding enables rural areas to modernize and compete in our growing global economy.

Over the years, we have heard that the administration is working to revitalize rural America. However, when it comes to backing flourishing news releases with a financial commitment, the administration continually falls short.

As part of the 1987 Agricultural Credit Act, Congress authorized agricultural credit mediation programs through cooperative Federal and State funding. This program is critical to carrying out the intent of the act by bringing both borrowers and lenders together in search of a solution to credit problems. As a result of the $3 million contained in this appropriations bill, Congress will provide funds for certified State programs and continues the farm credit bill's commitment to ease the agricultural credit situation. South Dakota's State mediation program has already considered 60 loans to date. Through Federal funds, more loans could be mediated.

Various agriculture programs provide significant contributions to South Dakota's economy. As a result of this conference agreement, many of these progams have at least maintained last year's funding levels. Given the current strain on the budget and the tempation to cut discretionary spending, this is a victory for common sense and our rural communities.

Specifically, over the Reagan administration's objection, I am pleased that funding for the Water Bank Program has been increased. This should encourage greater participation in the program. Additional resources will be added to predator control through the Animal Damage Control Program which is a Federal-State program critical to South Dakota.

Steps are taken under this bill to continue funding for nutrition programs to alleviate hunger in rural areas. By providing an invesment in one of the most cost-effective programs, the WIC, women infants and children program, we bring at least an adequate, minimum nutritional balance to hungry people throughout the Nation.

In bringing this bill to the floor the Senate can be grateful for the leadership of the distinguished Senator from North Dakota. Senator BURDICK, as chairman of the subcommittee, brought his considerable agricultural experience to bear on this important legislation, to successfully bring it through conference.

In summary, this appropriations bill continues the commitment Congress has made to the rural economy. By maintaining funding for important programs and providing for the initiation of many new rural projects this bill demonstrates that the Congress has kept faith with the critical financial needs of rural America. I urge my colleagues to support the bill.

Mr. LEVIN. Mr. President, I am pleased that the conference report on the fiscal year 1989 agricultural appropriations legislation contains important funding for many vital agriculture research projects in Michigan. Michigan produces a wide variety of agricultural crops, and the appropriations bill includes research funds for a number of those diverse crops. The measure includes funding for blueberry shoestring virus; asparagus yield decline; and stone fruit decline, to name but a few.

The work that will be done with this money will help ensure the continuance of the abundant high quality agricultural production that Michigan is known for. I appreciate the work of Senator BURDICK, chairman of the Agriculture Appropriations Subcommittee, and the staff of the subcommittee for their assistance.

Mr. SIMPSON. Mr. President, as a member of the Environment and Public Works Committee, I am appalled by the crude and wholly inappropriate manner in which funding was acquired for the Lower Mississippi Delta Development Act.

The original appropriations bill provided that "* * * notwithstanding any other provision of the law, $2,000,000 of this appropriation shall be available solely to carry out Senator BUMPER's bill, S. 2246, the Lower Mississippi Delta Development Commission, as reported by the Committee on Environment and Public Works * * *." I was quite alarmed by an appropriation process which would allocate funding merely by its reference to a bill. However, that alarm has now turned into disgust as I witness the final outcome of this provision.

On August 10, 1988, Senator BREAUX introduced to the full EPW Committee an amendment in the nature of a substitute to S. 2246. In addition, Senator CHAFEE offered an amendment which required 30 percent cost sharing by the affected States. This amendment was then accepted by a vote of 8 to 7.

I now find that just 3 days ago, on September 27, Senator BUMPERS introduced S. 2836, a bill to establish the Lower Mississippi Delta Development Commission—but without the limiting amendments as previously agreed to by the EPW Committee. And now the final language as included in the Agriculture Appropriations Committee provides:

> * * * notwithstanding any other provision of law, $2,000,000 of this appropriation shall be available solely to carry out H.R. 5378 and S. 2836, the Lower Mississippi Delta Development Act, as introduced in the House of Representatives on September 27, 1988, and in the Senate on September 27, 1988 * * *.

This is a complete and dangerous usurpation of the rights and judgements of the Environment and Public Works Committee members. And such an effort—if successful without any comment or pause in the day's pursuit—will surely now be used by other committees and away she goes. An awful precedent—the very committee system is undermined. A member can "reference" in an appropriations bill a bill from the authorizing committee and regardless of the judgments or decisions of the authorizing committee members, the appropriating committee can march blindly forward.

This, Mr. President, is a travesty. I am including in this statement a copy of my previous letter of September 22, 1988, to the Honorable Senator QUENTIN BURDICK, chairman of the Environment and Public Works Committee and of the Appropriations Subcommittee on Agriculture, Rural Development, and Related Agencies—vigorously condemning this contemptible process, and ask unanimous consent that it be printed in the RECORD. A good many us will be on the lookout the next time around.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, September 22, 1988.

Hon. QUENTIN N. BURDICK,
U.S. Senate, Washington, DC.

DEAR QUENTIN: I want to express my deep concern to you about language contained in the fiscal year 1989 appropriations bill for Rural Development, Agriculture, and Related Agencies. I refer to change (75), wherein "notwithstanding any other provision of law, $2,000,000 of this appropriation shall be available solely to carry out S. 2246, the Lower Mississippi Delta Development Commission, as reported by the Committee on Environment and Public Works, and the provisions of such reported bill are hereby incorporated by reference and made a part of this Act."

Quentin, I am very disturbed by the example set by "automatically" incorporating into an appropriations bill a controversial provision that the entire Senate has not even had an opportunity to review. It is a very poor precedent. As a member, I am not comfortable at all with the role that the Committee on Environment and Public Works is playing in this matter. You will recall that a cost-sharing amendment introduced by Senator Chafee was ultimately accepted by the full EPW Committee by a very close proxy vote, but debate over the commission itself was far from joined or settled. And now, upon final passage of the appropriations bill from your Agriculture Appropriations Subcommittee, this Mississippi Delta Development Commission will go into effect with many of our fellow Senators wholly unaware of this dangerous, "backdoor" inclusion.

I have been informed by your staff that after some debate—if you can imagine the issue even had to be debated at all—the final language in the Agriculture appropriations bill will continue to incorporate S. 2246 "as reported" by the EPW Committee. That is instead of being changed to "as introduced"—language which would nullify the Chafee amendment. I do heartily commend your efforts to see that this change was not made.

I will continue to pay close attention to this matter. I know you will proceed with this bill in a most prudent and responsible manner.

With best personal regards,
Most sincerely,

ALAN K. SIMPSON,
U.S. Senator.

The PRESIDING OFFICER. Is there further debate on the conference report? If not, the question is on agreeing to the conference report.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from Delaware [Mr. BIDEN], and the Senator from Massachusetts [Mr. KENNEDY] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Washington [Mr. EVANS], the Senator from Indiana [Mr. QUAYLE], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "yea".

The PRESIDING OFFICER (Mr. CONRAD). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 90, nays 4, as follows:

[Rollcall Vote No. 345 Leg.]

YEAS—90

Adams
Armstrong
Baucus
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Warner
Weicker
Wilson
Wirth

NAYS—4

Humphrey
Proxmire
Roth
Rudman

NOT VOTING—6

Bentsen
Biden
Evans
Kennedy
Quayle
Wallop

So the conference report was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, FISCAL YEAR 1989—CONFERENCE REPORT

Mr. BYRD. Mr. President, I submit a report of the committee of conference on H.R. 4781 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4781) making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conferenced report.

(The conference report is printed in the House proceedings of the RECORD of September 28, 1988.)

Mr. STENNIS addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, this is an unusual bill in many ways. It is the largest single appropriation bill that has ever been passed by this body.

It has been examined and reexamined, and exhaustively studied and prepared. It has been gone over by highly competent people, beyond I believe any other measure of this kind. It is amazing to me—the quality and the amount of real hard, exhaustive work that has gone into the preparation of this bill.

First, we have the staff. We have highly competent people at the right place with reference to planning, and carrying out those plans to take care of this enormous amount that runs very close to $300 billion.

We have unusually highly competent men and women, who prepare these bills, prepare the facts that go to make the story about the measure, and others to be alert on the legal side of the items.

Then we have a very fine and highly competent group of members that constitute this committee. This bill is not just a military bill, although it includes most all the military. It has other matters that go to make up these totals, and the preparation of these measures for intelligent consideration by the House and the Senate; and the examination by the membership, the people who are under oath to carry out that duty, and responsibility. It has been enormous for this bill. It is back and forth, and back and forth through experienced and highly able members who are well educated, well trained, and well versed in this field.

We then pass on to another group that has the benefit of those to who I have already related the House of Representatives. There you find a lot of experts. They know what the subject is, and they know how to stick to it. They know how to contribute constructively. This measure particularly has been through all of those examinations, additions, reconsiderations, measuring one against the other, and comparing with prior years.

So it makes me even prouder to be a Member of this great body. I am going to call some names now, and I do not mean to leave out anyone. But the Senator from Louisiana Senator JOHNSTON, with his fine mind that can hold the facts and compare, and he has a great memory. He has done a tremendous job. He is always on the alert, appears to be never tired. But he is bound to be tired to a degree. But he is determined, willing, and ready to work.

I see my friend here from Alaska Senator STEVENS. He and I have been together on the majority or minority measures, with the designations one or the other, for 20 years, I am sure. And I am still looking to him, asking him a lot of questions, and learning a lot about the subject matter.

I have benefited myself by the former chairman of this committee, our friend from the great Northwest Senator HATFIELD, who never gets tired and is never too busy to help a fellow out if he gets stuck on a matter. I especially recognize him, and want to thank him first and congratulate him on his splendid record here. Over and over are the times that he comes to the rescue, and finds a way out.

I hope that these Senators, and other Members, address this subject matter before we finish this bill and give us the benefit, directly, of their knowledge and their judgment.

So I do not want to take a lot of time.

Frank Sullivan of Washington has done a splendid and valuable job while serving as director of the entire budget and program of the Armed Services Committee for the past 4 years. His contribution has been splendid and entirely outstanding.

Time is short for this day. It is after 6 o'clock now.

I thank the Senator from Louisiana again for the work he has done over and over on this bill—not just this year but other years, too; but particularly this year.

The conference is always good with the House, but it seems to me that it was outstanding in a great way, by both groups, this year. It gives me even more faith.

I have always believed in our system of Government, of course. I believe in our Constitution and I believe in this system about as much as I do in the Constitution, if it has the right type of people, with the right type of background and determination and capacity.

The Senator from Louisiana and I have talked this over, and I hope he addresses the Chair.

Mr. JOHNSTON. Mr. President, first of all, I thank Senator STENNIS for his kind words about me.

Forty years ago, Harry Truman was President of the United States. The boys had only a few years before returning from overseas. Life was a lot different. The budget was much smaller. But a very important event occured some 40 years ago.

It was the last time in which the Senate and the House of Representatives reported all 13 appropriations bills to the President, had them on his desk and signed by the end of the fiscal year—the last time that happened.

Something else important happened some 40 years ago. JOHN CORNELIUS STENNIS was elected to the U.S. Senate from Mississippi and assumed his seat in this body. That service, over those 40 years, has been one of the most spectacular of any Senator in the history of this country, not just in length of service but also in the quality of that service and the contribution he has made in so many fields, but most especially in national defense—the bill we are to consider tonight.

Mr. President, Senator STENNIS has held many positions: subcommittee chairmanships, chairmanships, he was chairman of the Armed Services Committee for years, and now he is chairman of the full Appropriations Committee.

It has been under his leadership that we are about to accomplish this year what we have not done in 40 years—at least, we believe that this goal is within reach—and that is to have all 13 appropriations bills on the President's desk by midnight tonight, which is the end of the fiscal year.

If we can do that—and we can; it is within our power to do so—it will be done under the leadership of a man who came here 40 years ago. Is it not interesting, and is it not a wonderful coincidence, that he began his career in the Senate when Congress had made that accomplishment, and that we cap off his career in this bill, the last bill that the Defense Appropriations Subcommittee will report under his leadership—that we are able to accomplish that this year?

Mr. President, it is a tribute to Senator STENNIS, his leadership, his guidance of the committee. In many ways, as the Senator from Alaska [Mr. STEVENS] is wont to say, we are all his boys. He has trained us all—not only in matters legislative, but also, he is the role model for character that I think all Senators aspire to. None of us lives up to that example and that goal, but we all aspire to it. It is not too much to say that it is doubtful that any of us in this body now or to come may ever reach the levels and the standards of sheer strength of character which he represents.

Mr. President, the President of the United States had a press conference several days ago in which he noted the importance of the possibility of being able to get all 13 appropriations bills out before the end of the fiscal year. Many Members of this body frequently disagree with the President on a whole range of issues, but the words of the President of the United States, made in that press conference just a few days ago, can be endorsed by all of us. With the indulgence of my colleagues, I will read these words. Here is what the President said:

"And when I sign the last of these—fiscal year 1989 appropriations—bills, I expect that my thoughts will turn to a special American. Forty-one years ago—just before the Government started down the path of never getting its business quite done—a man came to Washington who was destined to become one of our great Senators. Today, on the eve of his retirement, he is chairman of the Senate Appropriations Committee, and second ranking majority member of the Armed Services Committee. He has been a supporter of our drive to restore America's strength. He's working with us as we fight to restore the integrity of the budget process."

Mr. President, it is difficult to improve on these words. I join the President in congratulating Senator STENNIS for his leadership, and especially for this, the last defense appropriations bill that he will handle.

I should like to join my colleagues in a standing ovation for Senator STENNIS.

[Applause, Senators rising.]

Mr. STEVENS. Mr. President, first, let me state that although the conference report as reported to the House and Senate does not contain the endorsement of the Republican members of our committee, the version of the bill amended by the House is entirely acceptable to me and I believe to all the members of our committee on our side of the aisle.

We did not sign that conference report because of our firm feeling that the conference report did not, before amended by the House, comply with the budget summit agreement and the allocations that were made to us under that agreement as a subcommittee.

The amendment that the House has adopted, amendment No. 277, eliminates any further need by Congress to authorize the funds that are in this bill. Had that amendment not been adopted we would have been some $1 billion below the summit agreement, an agreement which I think we all intended to honor and I am pleased now that we have honored it.

Mr. President, let me say a few words about my good friend, the Senator from Mississippi, and then yield back to the manager of the bill on the majority side, and I will complete my remarks later about the bill itself.

As Senator JOHNSTON has indicated, I think all of us who have served on the Appropriations Committee and particularly the Defense Subcommittee have been students of JOHN STENNIS. He has shown us a dedication for the armed services of the United States and for the Constitution itself that is rare.

But I think that I shall remember some of the battles that we have gone through, and I will remember in particular those from the days when we were in the great dialog on Vietnam.

Senator STENNIS, I think, at that time and through that period demonstrated his deep commitment to the Constitution in his support for the Presidency. The Presidency was under deep attack in those times. Had it not been for JOHN STENNIS' insisting that we had to separate out the issues in the political realm from the issues related to the future of our defenses and the necessity to maintain our defenses worldwide at that time, I think we well could have gone astray.

There are not many here now who were in that battle. They included at the time an intense debate with a man that both Senator STENNIS and I have great admiration for, former Senator Mansfield, the majority leader at that time. The Mansfield amendment would have reduced NATO troop strength, would have committed us to a course that would have been destabilizing and could well have led to a period of indecision as far as our country was concerned to the point that we might not have had the courage to go ahead with deployments such as the Pershing missiles.

I think many of us ought to think back, and I intend to do so. We will all have our chance to make comments at length about the retirement of the senior Senator from Mississippi. But as we do that, I think each of us and each American ought to realize what one man who is dedicated to a principle can contribute to our Government. Senator STENNIS embodies really the height that a man can attain if he maintains a steadfast commitment, as he himself says, if he really plows a straight furrow to his objective, he has the possibility of really making a mark on our Government, and I think JOHN STENNIS has done that.

I yield to my good friend from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I thank my friend from Alaska who has been a stalwart in this bill, last year and for many years before and a great contributor himself to national defense.

Just very briefly, let me give a few highlights of this bill. I will put in the RECORD a more fully written description of the bill. This bill is consistent with a summit agreement. My colleagues will recall that the summit agreement provided for $299.5 billion in budget authority, $294 billion in outlays; this bill is consistent with that. It does not include all of the outlays in budget authority, $294 billion in outlays; agreement. Part of that is in the Department of Energy. But this provides for $282.4 billion in appropriations, $278.3 in outlays. So most of that is in this bill.

While being consistent with the summit agreement, which was both a floor and a ceiling for national defense, this bill actually provides more tanks, more airplanes, more ships, you might say more tooth than does the President's budget request. And I think it is a tribute to the staff, to the House, and to the Senate that we working together were able to make savings in other areas so as to be able to put more teeth into this bill.

Mr. President, I see the Senator from Virginia. I know he had a great interest in the pay raise. As he well knows we have the 4.1-percent pay raise for military personnel provided in this bill. That also is a great accomplishment.

With respect to SDI, we fully funded SDI at the authorized level. That was less than what the President wanted but it was exactly at the level provided in the authorized bill which passed the Congress and was previously vetoed.

Since that time we have taken out what we call the fences, that is, the minimum requirement of funding for SDI in the various phases like BSTS and HEDI and the other individual technologies within SDI. In return we have gotten an assurance from the Secretary of Defense that he does not intend any disproportionate reduction in the various technologies that make up defenses which were provided in the Senate version of this bill.

With respect to the MX and Midgetman, my colleagues will recall that the Pentagon wanted to stop funding completely on the Midgetman and go completely with the rail-mobile MX.

What we have done here is provided $600 million for the rail-mobile MX, some $250 million for the Midgetman, but with a provision that $350 million of the MX money is fenced until February 15, which will be under the next administration and it may not be spent, in effect, or obligated until the next administration. At that point, if the President wishes to go with the full $600 million for rail-mobile MX then this appropriation will be available to him, or if he wishes not to go with it, then he can reprogram that $350 million either to Midgetman or to other functions in the Department of Defense subject of course to the requirements of reprogramming.

Mr. President, one of our chief accomplishments in this bill was, frankly, to work in close concert with the Armed Services Committee. We were able to achieve agreement in most areas and that was quite an accomplishment. The reason is that there is a natural conflict or overlapping in jurisdictions between the Armed Services Committee and the Defense Appropriations Committee.

As my colleagues well know, there is no area where feelings can be more frayed, where conflicts legislatively can be more rampant than in areas which are in conflict between two jurisdictions. Over a period of years, the Armed Services Committee and our committee have worked out a written agreement with respect to these areas of conflict. The operative clause of the latest agreement, if I recall it correctly, stated that in effect the Appropriations Committee would seek not to appropriate more than was authorized unless it was specifically authorized.

That was a good point of beginning, but it left many questions unanswered. Did that mean overall authorization, that is the whole Department of Defense level? Did it mean only by activity? Or did it mean, as some members of the Armed Services Committee contend, authorization on the line-item basis?

Well, Mr. President, what we did during the year was to stay in close contact with one another, with one committee and the other. And when we in the Appropriations Committee, for example, saw some areas where we were going to exceed the authorization, we did as we had planned to do in oral discussions, we went to the Armed

Services Committee and informed them specifically about the Aegis destroyers, about the TAO's, about special operations funding because we had made some savings and had money that could be applied in other areas.

I do not mean to put too good a face on it, Mr. President. The agreement was not complete. But I can tell you that the attitude of the two committees has been an amicable one and the desire for cooperation has been intense on both sides. And we ended up, Mr. President, exceeding the authorization in three account levels. So in order to seek to live up to our end of the agreement, we made those three account levels subject to authorization.

We really had no huge disagreement on those. In fact, there was no disagreement on those account levels. The question was the sensibilities of the two committees and the conflicting questions of their rights, whether or not the Appropriations Committee had the right to appropriate without an authorization.

While we did not resolve all those questions, we did, I think, Mr. President, come to a modus vivendi, at least for this bill, which I think was satisfactory to both sides.

While we made those three accounts subject to authorization, then the Armed Services Committee on the House side just earlier today when this bill was being considered, that committee put in an amendment to an amendment in disagreement which specifically authorized these three account levels, as well as some other areas which they were of the opinion that we had exceeded.

So really what we did, Mr. President, was preserve, I think, the best of all worlds. First and most important, we amicably put together a bill. Second, we upheld our end of the agreement as we saw it. Third, the Armed Services Committee then came in and said,

> Well, we really did not disagree with what you did and we appreciate the fact that you said it was subject to authorization and here we will authorize it.

So I think, Mr. President, in that respect, all interests were well served.

I think it is appropriate to recognize two things for future reference with respect to the overlapping jurisdictions. First of all, these issues are not resolved. As a matter of fact, they are probably not resolvable. That agreement which was confected between Senator STENNIS and Senator STEVENS and the chairman and ranking member of the Armed Services Committee applies, obviously, only to those who signed it. And Senator STENNIS, unfortunately, will not be here next year, so his successor as chairman of the subcommittee and his successor as chairman of the full committee will have to confect their own agreement. Even if that was a binding agreement valid from year to year, it leaves many questions unanswered. In fact, it only asks questions; it does not answer the questions.

But I think the second thing we, therefore, must observe is that these matters can be resolved only by an ongoing process of, first, communication. The chairmen of the Appropriations Committee and of the Subcommittee on Defense and their counterparts on the Armed Services Committee and ranking members must stay in close and constant contact. I think that, with the new year, they must begin to have extensive discussions about these very problems.

I think if they spent 2 months in discussions, they could probably not get a contract, if they could agree to one, that would cover all the contingencies. Because there are so many questions and variations and permutations of questions that come up between the two committees, it would be impossible to foresee them all. So it is going to be an ongoing process where we are going to simply have to sit down and work it out.

As my distinguished friend from Georgia, Mr. NUNN, observed earlier today, there is plenty to do in the area of defense and we need to work it out so that we do not duplicate effort and we do not seek to cancel out one another in those areas.

Mr. WARNER. Mr. President, at an appropriate time, will the Senator yield for some questions?

Mr. JOHNSTON. Yes, I am glad to yield for a question.

Mr. WARNER. Mr. President, first I ask unanimous consent to have printed in the RECORD an agreement entitled "Compromise Between Armed Services Committee and Appropriations Subcommittee."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPROMISE BETWEEN ARMED SERVICES COMMITTEE AND APPROPRIATIONS SUBCOMMITTEE

1. The Armed Services Committee agrees to modify Section 903.
2. The Armed Services Committee agrees to drop Section 904.
3. The Appropriations Committee agrees not to appropriate more than is authorized unless the amount so appropriated is explicitly made subject to authorization.
4. Both Committees pledge to try to avoid reversing the policy directions of the other committee.
5. The attached Memorandum of Agreement between the Armed Services Committee and the Appropriations Committee shall be extended through the 101st Congress. (The leadership of each committee shall be considered ex officio members on the respective committee, etc.)
6. The staffs of the Armed Services Committee and the Defense Appropriations Committee shall jointly develop alternatives for removing duplication in the existing authorization-appropriation process and limiting areas of controversy.

SAM NUNN,
Chairman,
JOHN WARNER,
Ranking Member,
Armed Services Committee.
JOHN STENNIS,
Chairman,
MARK HATFIELD,
Ranking Member,
Appropriations Committee.
TED STEVENS,
Subcommittee ranking member.

Mr. WARNER. Mr. President, in listening very carefully to the distinguished Senator from Louisiana, it appeared to this Senator that he is indicating that this agreement is no longer in effect; is that correct?

Mr. JOHNSTON. I would not put it that way. I would say that that is an agreement signed by the parties who are there listed and the next chairman of the Appropriations Committee and the next chairman of this subcommittee will have to make their own determinations about the effect of that agreement. Even if they consider it binding, it still does not answer all the questions.

So I do not mean to say that it is no longer after this day in effect. I say somebody else will have to make that determination.

Mr. WARNER. Well there is a phrase that says in paragraph 5:

> The attached memorandum of agreement between the Armed Services Committee and the Appropriations Committee shall extend through the 101st Congress.

At a minimum, I think you are saying that paragraph is now vitiated by virtue of the fact that there is going to be a change in signatories.

Mr. JOHNSTON. Frankly, I did not realize that it said the 101st Congress, and perhaps it should be reaffirmed.

But whether or not that agreement is binding, it is only a starting point and it will have to be expanded upon and continually discussed and continually monitored, as I think we did this year. And I think we had a very good relationship this year. We tried to keep your committee, and you and Senator NUNN, specifically, well advised. We probably fell down on the job a time or two.

Mr. WARNER. Mr. President, I do not question that. I think I would like to, as an old lawyer, just go to the agreement and find out if there is anything left.

Let us look, if I may direct the attention of the Senator to paragraph 3, which reads:

> The Appropriations Committee agrees not to appropriate more than is authorized unless the amount so appropriated is explicitly made subject to authorization.

Is that paragraph still in effect?

Mr. JOHNSTON. Well, that is the paragraph which we attempted to live up to, what we considered to be at least your interpretation of it, by making those three accounts subject to authorization.

Mr. WARNER. Putting aside momentarily, Mr. President, the subject of the three accounts, which I corroborate the distinguished Senator's representations now have been resolved, but I would like to know what the Senator's understanding of the meaning of that paragraph is. Implicit therein, it seems to me, you are reciting your understanding of the role of the Appropriations Committee, vice the role of the authorizing committee. I think it would be helpful to our colleagues if you stated what you feel is the role of the Appropriations Committee and what this paragraph means and, likewise, the role of the authorization committee.

Mr. JOHNSTON. May I say to my friend from Virginia that I have opinions as to what that language means, but I think it would not be constructive, frankly, for me to give my opinions of those.

I do not want to try to bind the new chairman, of either the full committee or the subcommittee, as to what my interpretation might be. Nor do I wish to be confrontational with the Armed Services Committee.

I think it would be impossible for me to go into a real discussion of that without being either on the one hand confrontational or on the other hand binding those Members.

I think the crowning achievement this year is that we worked out this bill for this piece of legislation. I think we probably ought to leave well enough alone and leave those very interesting discussions about whether it is line items or account levels and who has the right to set account levels or whether it is the overall spending amount.

Believe me, if we started that debate here that debate alone would probably take a long time, maybe hours, because some statement I would make would be countervailed by somebody on your side, and when I say somebody on your side, I mean not only your side being the Armed Services Committee but even between the parties.

As the Senator knows, we had a difference of opinion about that very question between the minority and the majority party.

So I think we ought to simply celebrate the fact that we agreed this year and carry forward that mood of conciliation and hope that that mood permeates the new chairman and the new relationship, and I expect it will.

Mr. WARNER. Mr. President, I thank the distinguished Senator. I am not sure I share the word "celebrate," but I think in summary, this Senator, speaking for my view of what has transpired, is that this document which purported to be an agreement of understanding between the seniors of the two committees—I disagree with you. I think it was binding not only on the seniors but all members of the committee. Because this member consulted with all members under this jurisdiction as ranking, before affixing the signature. And I spoke for all. So we in good faith entered into this agreement, all Members of the Republican minority on the Armed Services Committee. My distinguished chairman can speak for himself.

But I judge this agreement, while it may have had some force and effect prior to this round of negotiations, it now is just relegated to history and perhaps as a guidepost for the future.

Mr. JOHNSTON. If the Senator would yield at that point, it is not being relegated to history nor embraced by me. Either one. It is simply referred to as something that was lived up to for this bill this year. Believe me, if you do not think that is worthy of celebrating, just consider what would have happened had we not adopted that language and how incendiary the feeling would be on the floor of this Senate and how long it would take us to plow through this bill.

That, believe me, is something to celebrate.

Mr. WARNER. Mr. President, I am not here to confront my good friend. The facts speak for themselves. I just conclude my own observations that we are back in a state of—as you said, I think, perhaps the roles of the two committees do not lend themselves to be defined and we simply have to rely on the principals and the members of the committees to work henceforth.

I, myself, think it would be helpful to clarify them, definitize them in a document. I thought this was a good faith effort but it apparently did not work.

Nevertheless as you say we have resolved this particular bill within, should we say, the spirit, the framework of this agreement. At this point, I will have no further comment on this matter.

Mr. JOHNSTON. Mr. President, I thank my friend for his comments and I appreciate the spirit with which he said them.

Mr. President, If I may cover two or three areas which are important, I think, to cover here and I will put the rest in writing.

Mr. NUNN. Will the Senator from Louisiana—I can do this any time he chooses—but while we are on the subject of the respective roles of our committees, I would like to make a little statement. It does not have to be dialog. I think the Senator will agree with most of what I have to say but I will defer until he thinks it is appropriate.

Mr. JOHNSTON. I ask unanimous consent that I be able to yield without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. I thank my friend from Louisiana and I would like to echo and join with my friend from Virginia. I share his sentiments on this subject. We discussed it many times.

Of course, we have discussed it over about a 3-year period. We have had a lot of rather heated discussions from time to time but in a friendly and usually in conclusion a constructive way.

There has been progress made. This year, between our two committees, our staffs have worked together sharing information most of the time and that is an improvement. The leaders have participated in the respective committees' markups and conferences and although we always note the attendance of an appropriator when one walks in the room, we recognize them and have a great deal of respect for them. In fact, we are in awe of them. When they drop in on one of our meetings—the Senator from Alaska has done that on occasions—we welcome them and he has participated very constructively several times in Armed Services Committee meetings and indeed we have had him in conference between the Senate and House committees.

I think that we have been always welcomed in the appropriations conference, most of the time, and our staff has been welcomed most of the time by most of the members. So that is progress.

I think that we have to acknowledge that that progress has taken place.

The appropriations conference report this year that we have before us contained a provision requiring subsequent authorization of unauthorized appropriations and that is in keeping with the agreement that Senator WARNER from Virginia has just read. I considered that very substantial progress in our relationship and in sorting out these responsibilities and authorities.

I had discussed this matter with Congressman ASPIN; we agreed on this procedure between the two authorizing committees between both Democrats and Republicans on the authorizing committees. They offered an amendment to this conference report which authorized the excess at the account level, the excess over the authorized amount that was in the appropriation bill at the account level. Appropriation conferees had put three accounts in this category.

Our own examination of the bill indicated there were five accounts that were over the authorized level. But whatever the number, we are now authorizing in this amendment No. 277 in disagreement, the five accounts. So there is no doubt about the fact that these accounts are authorized.

The Armed Services Committee is reviewing the conference report. We have never reached an agreement with the appropriators, in fairness to both points of view, on the line item matters as opposed to the account matters. We have reached agreement with them on the account matters and that is reflected here in their own language which we are dealing with in this amendment in disagreement 277.

On the line item level, in the past our Armed Services Committees have tried to act prudently on the Department of Defense's requests to obligate funds for programs in this category. We usually get a request from the Department of Defense on line items that are not authorized, asking our view on those. This year we will continue that practice. We will review these matters. We already started that review. And we will let the Department of Defense know and our friends on the Appropriations Committee know exactly what our view is on all of these items.

We have not had a chance for the comprehensive review that this matter requires. Our committee met twice yesterday to review these programs. At this time the committee cannot give our authority or our approval to those line items we have been able to identify for which funds were provided in the appropriations conference report statement of managers in excess of the amounts provided in the authorization conference report statement of managers. But we have already indicated, and I talked to the Senator from Louisiana yesterday about this, that our cursory review, and that is what it has been so far, indicates that at least 90 percent that we can agree to right off the bat and we are still reviewing the others.

So I do not think we are going to have a major problem. There may be some items we do not agree with and on those we will certainly have discussions with our friends from the Appropriations Committee, just as we also discuss them with the Pentagon. We will continue to work on that. We have got the base closing bill next week. We are going to do everything we can to get that bill passed.

During the course of that we are going to continue to work on our review of these line items that are in the report and it is our hope that we will be able to complete our review and give the appropriators our view on these before we adjourn sine die.

I urge the adoption of the House amendment to the Senate amendment, No. 277, which I believe reflects a working out of this process as envisioned in the agreement entered into between the respective chairman of the committees, appropriations and on authorization on this side.

The amendment goes to the very heart of the issue governing the Defense Department's authority to operate and the relationship between the authorization and appropriation processes in the Congress. Put simply, this defense appropriations conference report as originally filed appropriated funds in several accounts that exceed the levels authorized in the fiscal year 1989 Defense Authorization Act. It also included a provision that would have required that these amounts appropriated in excess of authorization could not be obligated until a separate authorization was enacted. This amendment amends our Authorization Act to provide the necessary authorization for these appropriations.

The requirement for Congress to enact annual authorizations of defense programs dates back to the legislation passed in 1959 which required annual congressional authorization of appropriations for the procurement of aircraft, missiles and naval vessels. This requirement for annual authorization of national defense appropriations has been amended and expanded since 1959, so that now virtually the entire defense budget requires annual authorization. This requirement has been codifed in section 114 of title 10 of the United States Code. As a result, Congress has enacted a defense authorization bill every year since 1959.

I want to briefly summarize the requirment in the United States Code for the annual authorization of defense appropriations.

Section 114 of Title 10 says that:

> No funds may be appropriated for any fiscal year to or for the use of any armed force or obligated or expended for procurement * * * research, development, test or evaluation * * * military construction * * * the operation and maintenance of any armed force or of the activities and agencies of the Department of Defense * * * unless funds therefor have been specifically authorized by law.

This section of title 10 clearly requires authorization of defense appropriations separate and distinct from the Annual Defense Appropriations Act.

In recent years, defense appropriations bills have included substantial funds appropriated in excess of amounts authorized in various accounts. The Armed Services and Appropriations Committees have been working for several years to reach a satisfactory solution to deal with this problem.

Last May, when we reported out the fiscal year 1989 defense authorization bill, we included a provision that our committee believed would have provided a long-term solution to this problem. This provision would have established a procedure for identifying appropriations in excess of authorization and either approving or disapproving obligation of these funds.

The Appropriations Committee strongly objected to this provision. As a result, our two committees worked out a compromise solution which built on the agreement developed between the Appropriations and Armed Services Committee 2 years ago. That compromise solution was signed by the leadership of the Armed Services and Appropriations Committees in May, and stipulated among other things that "the Appropriations Committee agrees not to appropriate more than is authorized unless the amount so appropriated is explicitly made subject to authorization."

Pursuant to this agreement, the conference report originally reported by the Appropriations Committee included a provision specifying that those amounts appropriated in excess of the authorized level could not be obligated until a separate authorization is enacted. That is the essence of the requirement for authorization in section 114 of title 10, and that is exactly what the agreement signed by the leadership of the Armed Services and Appropriations Committees last May requires. I want to congratulate Senator JOHNSTON, Senator STENNIS, and Congressman CHAPPELL for their strong support for adherence to this agreement.

As the defense appropriations conference concluded its deliberations, the Armed Services Committee began to review the agreements that had been reached. In the brief period of time available for our review to date, we focused primarily on the account levels, and we found five accounts where the amount appropriated exceeded the amount authorized. Our committee was able to complete our review of these five accounts in time to recommend that the necessary authorizing legislation be adopted as an amendment to this conference report.

We have not had the opportunity to complete our review of the relationship between the appropriations conference report and the statutory subdivisions in the Authorization Act. Once that review is completed, we will promptly act to provide any supplemental authorization legislation that might be necessary.

The committee has also initiated a review of those instances where line items in the appropriations conference report statement of managers exceed the level contained in the authorization conference report statement of managers. In past years, the Defense Department's practice has been not to obligate funds for programs in this category without the approval of the Armed Services Committees. The Department's approach to this problem is the correct one, and I hope and expect the Department to continue this practice again this year.

In the past the Armed Services Committees have tried to act promptly on the Department's requests to obligate funds for programs in this category, and this year will be no exception. As I said, our committee met twice yesterday to review these programs. At this time the committee cannot give its approval to those line items we have been able to identify for which funds were provided in the appropriations conference report statement of managers in excess of the amounts provided in the authorization conference report statement of managers. The committee has indicated its support for over 90 percent of the items in this category that we have reviewed to date, but our review is not completed. The staff is identifying and gathering information on the remaining items. It is our hope to complete our review of these items before sine die adjournment.

Mr. President, I hope my colleagues will join me in supporting this amendment in technical disagreement. It reaffirms the authorizing role that Congress intended when it enacted section 114 of title 10. It also demonstrates our committee's willingness and commitment to make the authorization process flexible and responsive to the changing requirements of the appropriations process.

Mr. WARNER. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I thank the Chair.

Mr. NUNN. I do not have the floor.

Mr. WARNER. I am posing a question.

Mr. NUNN. The Senator from Louisiana was kind enough to yield to me.

Mr. JOHNSTON. I yield to the Senator from Virginia for a question.

Mr. WARNER. I pose a question to both Senators. The Senator from Louisiana said there are three accounts which are the subject of an agreement. If I heard the Senator from Georgia correctly, he said there are five accounts. It seems to me we ought to reconcile those two figures.

Mr. NUNN. If the Senator from Louisiana will yield so I can respond, the appropriators believe there are three; we believe there are five. The question is somewhat moot as far as this bill is concerned because we are authorizing the account overages in all five accounts.

Mr. WARNER. Mr. President, if I might put a second question to the distinguished chairman of the Armed Services Committee. If the chairman does not have it, I ask unanimous consent that the chairman be given the right to print in the RECORD the agreement of understanding between the House Authorization Committee and the House Appropriations Committee so that those reflecting on this RECORD can see how one Chamber is approaching the resolution of the differences between the two committees and how we in this Chamber have approached the resolution of the differences between the two Chambers.

As I understand it, there is a document that exists between the two committees of the House. I am sure it is a matter of public record or can be and, if appropriate, I would hope the chairman of our committee would print that in the RECORD for purposes, I suppose, only of scholars who might take the time to look at this colloquy.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Louisiana retains the floor.

Mr. JOHNSTON. Mr. President, I thank my colleagues for dealing so constructively with this issue, and it is also a matter of constructiveness that we did not try to resolve the issue because as I say, in all its permutations and vastness, it is not resolvable, at least certainly tonight. So we appreciate the fact that we would describe that which we do agree on.

Mr. WARNER. Mr. President, if the distinguished Senator will yield, I now have in my possession the CONGRESSIONAL RECORD of April 26, 1988, which refers therein to a "Memorandum for the Record—Agreement with Respect to Unauthorized Appropriations" between the House Appropriations and Authorization Committees. I ask unanimous consent to print it in the RECORD.

There being no objection, the agreement was ordered to be printed in the RECORD, as follows:

Mr. ASPIN. We will make the request when the Committee rises, but I would like when we request it in the Whole House for it to go into the RECORD at this point.

The agreement is in outline what the gentleman from Alabama said about the three points. What I would just like to do is insert this one-page verbal text, the actual text of the agreement, so that it will be on record.

Mr. Chairman, the memorandum of agreement is as follows:

MEMORANDUM FOR THE RECORD—AGREEMENT WITH RESPECT TO UNAUTHORIZED APPROPRIATIONS, APRIL 20, 1988

As a result of today's meeting with the Speaker, the Majority Leader, the Chairman of the Appropriations Committee, the Defense Subcommittee, and the Chairman of the Armed Services Committee, the following agreement was reached with respect to section 902 in the reported Defense Authorization bill.

The Armed Services Committee will agree to drop section 902 from the bill. The Appropriations Committee will agree not to appropriate more than is authorized unless the amount so appropriated is explicitly made subject to authorization. If appropriations are provided in excess of authorization and they are not made subject to authorization or if legislation is included in the appropriation bill, the Speaker will not support waiving points of order of such matters.

In conference, the chairman and Ranking Member of the Armed Services Committee and the Defense Subcommittee shall be non-voting participants in the others conference. They will be treated as conferees except that they will not be formally appointed as conferees and have the right to vote, but will be entitled to speak in the conference meetings. These members so designated as non-voting informal conferees shall be entitled to designate one staff representative to attend all conference activities related to defense matters with that Member.

Mr. JOHNSTON. If I may refer to two other items before I put the rest of the description in the RECORD, the first has to do with burden sharing. Mr. President, we had quite a debate here and quite an exposition on the question of burden sharing when this bill was originally up for consideration. I am happy to say that both on the floor and in the conference committee, the major thrust of what we have done on burden sharing has survived.

What we have done, Mr. President, is set the scene for this question of burden sharing for the next President. What we have said in the Congress of the United States in unmistakable terms is that the present share of the defense burden sharing being borne by our allies in the Pacific Rim, particularly Japan and Korea and by our allies in Europe, is simply not sufficient.

The United States allocates 6.8 percent of its GNP going to defense with each and every American paying $1,154 for defense, that is much too much when you consider that the Japanese pay only 1 percent of GNP and less than $200 per capita for defense.

Mr. President, we did not say exactly how that burden should be redistributed. We did call for the President to appoint an Ambassador at Large with duties to negotiate with all of our allies worldwide with a view to a more equitable sharing of that burden, not only as it relates to more defense being provided for those members, but also for a bigger share of paying for the cost of stationing American troops overseas, and also to consider the cost of foreign aid as part of that burden. Indeed, sharing the cost of foreign aid to Third World countries is thought by many to be the best way for our friend and ally, Japan, to help share the burden.

We do not dictate how that burden should be shared, Mr. President, but we put it as a matter of highest priority. In the meantime, we have put caps on both the dollar amounts and the end strength amounts for our troops and the costs thereof in both Europe and the Far East, and we provide that the Pentagon shall furnish us an accounting as to what the costs of those troops are.

Strange as it may seem, the Pentagon tells us that it is not possible now to identify the precise costs of our troops and our dependents overseas. We have over half a million dependents overseas, and we really do not know what they cost. Oh, we have various estimates, but we do not know by appropriation account what the actual cost is, nor, indeed, what the costs of our troops in Europe is.

So with the identification of those costs, we can build future policy.

There are a number of very specific things that we could identify that should be done with respect to burden sharing. Just to give one example, the aircraft carrier U.S.S. *Midway* stationed in Yokosuka, Japan, is in need of repairs, and we have specified that either the Government of Japan pay the cost for the repair of the ship, which patrols the sealanes around Japan, or make an equivalent contribution to support United States forces in Japan. If they are not able to pay an amount equivalent to that cost, that it be brought to the United States for repair. A small thing in terms of a $300 billion defense budget. We think it would probably cost in the neighborhood of $40 million to repair, but this is an important first step.

There are a number of other steps of similar import which are taken in this bill. But, Mr. President, let the next President of the United States be on notice that this Congress will not accept the disproportionate share of the burden of defense paid by the United States. The American taxpayer can no longer afford $1,154 per capita to pay for defense when our allies are paying only a fraction of that amount. We mean that that burden be shifted and changed and made more fair and made more even. The next President cannot ignore that question, and I hope he will not.

Mr. President, I refer to another item, and that has to do with the two weapons systems called Seek Spinner and Tacit Rainbow. These two glorified names are the names of two weapons systems which are designed to knock out enemy radar.

It used to be in the old days, Mr. President, that a radar was simply turned on and that it emitted its electrical energy constantly as it searched for airplanes in the sky.

In order to deal with the new and ever-changing and dynamic threat posed by enemy radar, particularly those that turn on and off, the United States is engaged in two antiradiation missile research and development projects called Seek-Spinner and Tacit Rainbow.

The Seek Spinner is a ground-launched antiradiation missile that flies around, in effect tours the area while waiting for the radar to be turned on, and when the radar is turned on its homing mechanism can be turned on and fly to it. Tacit Rainbow performs the same function but, is capable of being air and ground launched, and flies at considerably higher speeds.

I will not go into the explanation of them except to say that the Pentagon, after millions of dollars invested in each program, decided the Tacit Rainbow Program is superior and the Department has decided to proceed with the Tacit Rainbow Program and has decided to simply complete the testing on the Seek Spinner Program and to terminate that program.

As we went to the conference with the House, Mr. President, there was a different approach by the Senate and the House. The House wanted to go ahead and fund the Tacit Rainbow Program and also fund the Seek Spinner Program. They had funds in their bill for research and development. They also had funds in their bill for procurement. The Senate bill funded only the Tacit Rainbow Program. As we got to the conference, there were statements made in the conference to the effect that people in the Air Force wanted both programs that they thought the Seek Spinner Program was a very promising program and should be funded.

In order to resolve that question, Mr. President, we made contact with the Secretary of Defense. The Secretary of Defense was very clear that he wanted to terminate the Seek Spinner Program after the current testing program. The Secretary of the Air Force, Pete Aldridge, actually called me in the conference, and I talked to him in the conference and relayed to the conference word by word what he said, which again was very clear—he wanted to terminate the Seek Spinner Program after completing the testing program. The testing program could be completed with $38 million in fiscal year 1988 funds which remain unexpended. He did not want further R&D appropriations. He did not want any procurement funds for Seek Spinner. I thereupon gave the phone to other members of the committee to verify what he said and all became satisfied that that is what the Air Force wanted.

The position of the House then became one of saying, well, if the Air Force does not want it, the Air Force should want it, and there are probably some members in the Air Force who would want it if you could talk to them. And if they would, they might not want to contradict the Secretary. They said this, in effect, is a congressional priority and the Congress has the sense and ability to fund a congressional priority. The House then became as is the word we use in the conference, very "hard over" on the program, that is, very determined in their desire to have the Seek Spinner Program funded as well as the Tacit Rainbow Program.

The compromise we reached was this, Mr. President, keeping in mind what the Senate wanted to do was cancel the funds in fiscal year 1988 for Seek Spinner, have no funds for R&D and no funds for procurement and to be silent on the question of what the Armed Services bill had said about Seek Spinner, which was that the Armed Services Committee said that nothing could be spent for Seek Spinner. Specifically, section 218 of that authorization bill states as follows:

> Funds appropriated or otherwise made available to the Department of Defense pursuant to this act, or any act enacted after the date of enactment of this act, may not be obligated or expended for the Seek Spinner missile program in any configuration.

The House wanted to throw that language out. The Senate wanted to not touch the language.

The compromise we came up with was this, Mr. President. First, the $38 million in fiscal year 1988 funds not expended would be available to the Air Force to complete the testing. We though that made sense, first, because the Air Force wanted to complete the testing and, second, because much of the testing of the Seek Spinner involved parts that were to be used in both Seek Spinner and Tacit Rainbow, so that to complete that testing would support Tacit Rainbow as well. Third, the amount requested by the House for R&D was $50 million, and we reduced that amount to $20 million. Fourth, we took out all procurement funds for Seek Spinner and, fifth, we refused to mention the language just read which was in the Armed Services bill which says in effect that no funds may be spent on Seek Spinner.

Now, what limitations that will make upon this later appropriations bill is a question that the lawyers, the Pentagon, and the courts will have to determine. My own view—and I am not speaking for the conference now because the conference was silent upon that—is that that Armed Services language would probably take priority since it was specific and the appropriations was general, and while we had every power in the world to overrule that language, we chose to be silent on it. I know there are countervailing arguments and I will not attempt to answer that whole question; that is for the lawyers and the courts, but the record should reflect that both the House and the Senate were aware of that language contained in the authorization bill and being aware of it did not choose to put in any language which voided that language.

Mr. President, I mention this in some detail because the Seek Spinner program has been characterized in the press, totally inaccurately, as being the Pentagon-desired program and that the Tacit Rainbow program was the program being sought only by the Congress. In fact, the opposite is true, the Tacit Rainbow program is the program which the Pentagon, which the Secretary of Defense, and the Secretary of the Air Force wish to pursue. As I say, it is the Seek Spinner program that they wish to terminate.

The majority of the Senate strongly felt that the Air Force was correct, that the Secretary of Defense was correct, but we entered into this compromise, as we do many, seeking a halfway point between the House and the Senate.

Now, Mr. President, finally, if I may speak about some language in the bill with respect to TAO's. TAO's are a class of oilers. We ended up with language, Mr. President, that funded in the case of TAO's $689.9 million, leaving blank the number of ships that that would procure.

Originally the Navy had planned to have all of the TAO's built by one yard. There are seven ships remaining to be built in the program. Later the Navy changed its strategy to have two yards—seeking what we call a mobilization base: that is, 2 yards to be healthy and economically viable. After they pursued the two-yard strategy for some time the second yard became unable to build a ship. I think they had serious problems. I do not know whether those were financial problems or what. But, in any event, they could not build those ships. It would have cost a tremendous amount of extra money for the shipyard to finish that ship if they could have finished it at all.

The Navy then went back to a strategy of having all ships built by one yard; that is, the Avondale Shipyard—so that as we went into the conference the Navy strategy was to have seven TAO's built by the Avondale Shipyard.

Mr. President, there are not enough ships to go around the country to keep all shipyards healthy. So there were a number of interested Members, particularly on the House side, some on the Senate side, who wanted a chance to bid on those ships. And even though the cost, by the estimate of the Navy, was some $30 million plus extra to have the ships built by a yard other than Avondale, they think that should be done, and it is worth it for the country to do it.

Well, on the Senate side, we thought that was absolutely unacceptable for the country—in effect the taxpayers would get one less ship. The country would get four ships, using the two-yard strategy, but five ships using a one-yard strategy; and this for a program that was to phase out at the end of seven ships.

A mobilization base particularly does not make sense when you are coming to the end of a program, and there will not be any more of that class of ships built.

In any event, Mr. President, we ended up with language which stated that we were going to fund $689.9 million which is sufficient using the Avondale unit cost for five ships, but we did not mention the number of ships. But we directed that the Navy reexamine and report on its acquisition strategy; that they submit that strategy for approval to the respective committee in the House.

The question is what does the phrase "for approval" mean? Well, it is susceptible to meaning, and some would hope—those who wish their shipyards to get part of the action—that meant particularly the House Appropriations Committee would have to approve the strategy before the Navy could proceed. Literally, what the language says is that the strategy would have to be submitted to the appropriate committees, not submitted for approval but that you would not have to wait for approval before the funds could be spent.

Mr. President, it is clear that the latter interpretation is the correct interpretation. And the reason for that is this: The conferees were aware of the so-called Chadha decision—that is, *INS* v. *Chadha*, 462 U.S. 919, a 1983 decision which stated that a one-House congressional veto is unconstitutional. As applied to this case, a veto of appropriated funds by a committee or two committees upon later consideration would clearly violate Chadha. And in the conference we discussed the question of Chadha.

While we did not come to a firm conclusion, I believe that it is fair to say that the conferees recognized that you simply cannot write around Chadha, that you cannot have an approval by the committees under any other name, and indeed many of us did not want to make it subject to approval.

There is a well-known principle of statutory construction which is that if a statute is susceptible to two interpretations, one of which is constitutional and one of which is not constitutional, the courts must prefer the constitutional interpretation. Considering that the members of the committee were aware of the Chadha question, the Chadha decision as involved in this, I think it is clear that it means the Navy must submit a new strategy to the committees before they can spend the money, but they do not need to wait for any kind of ratification or any kind of approval by those committees before they can spend that money.

Mr. President, one final point on consultant registration. The distinguished Senator from Arkansas, Mr. PRYOR, had an initiative which we passed here on this floor providing for a detailed statutory scheme for consultant registration, and for limitation of the amount to be spent on defense consultants.

We carried forward the essential thrust of Senator PRYOR's amendment but knowing the complication and the difficulty of trying to draw up rules and regulations in statutory form to cover this complicated situation, we decided that the best way to do it would be to require the Secretary of Defense, the Director of the Office of Federal Procurement Policy and the Director of General Services Administration to perfect systemwide rules within the time limits stated.

However, if the President of the United States determined after those rules were perfected that they were not in the national interest, then he would have to submit his reasons with specificity as to why they were not workable, and then the requirement for those regulations would be voided.

In effect, we require regulations to be written to provide a failsafe clause, and therefore, I think we are most likely to get regulations which are both reasonable and tailored to achieve the end.

Mr. President, I ask unanimous consent that a more full explanation of this bill be placed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FISCAL YEAR 1989 DEFENSE APPROPRIATIONS CONFERENCE AGREEMENT

Conference agreement appropriates $282.4 billion, with outlays of $278.3 billion.

Funding levels comply with Budget Act and budget summit agreement.

BILL HIGHLIGHTS

Military personnel: Funds military end strength of 2.1 million active duty personnel and 1.2 million for Guard and Reserve; fully funds Guard and Reserve Forces; provides 4.1 percent pay raise for military personnel; and funds pilot bonus for Air Force and Navy aviators.

Operation and maintenance ($85.3 billion): Increases Operation and Maintenance funding by $5 billion over 1988 appropriations; amount funded is $340M below budget request; $300M provided for drug interdiction efforts; increases budget by $600M for depot maintenance for ships, aircraft and other equipment; and adds $150 million to increase Navy flying hours.

Procurement ($79.3 billion): Funds increases for F/A-18, and C-130 aircraft, search and rescue helicopters, M-1 tanks, and destroyers, landing craft and oilers; maintains economic production rates on most acquisition programs; and provides $1.1 billion for National Guard and Reserve equipment.

Research and development ($37.7 billion): Funds SDI at $3.7 billion, the authorized level; provides $600M for MX/Rail garrison basing and $250M for small ICBM; fully funds Navy ATA and provides $692M for ATF; provides $100M for sematech; and includes $271M for Army helicopter development efforts.

Special operations ($286 million): Conference provides $286M for patrol boats, miscellaneous equipment and O&M for special operations forces above the budget request.

Burdensharing: Agreement retains most of the Senate position on increasing allies contributions for burdensharing.

CONFERENCE ACTION ON BURDENSHARING

Conference agreement is very similar to package that passed Senate.

Overseas cost cap and Foreign National Pay limitations have been amended to make them into reporting/reprogramming requirements.

—Foreign national pay raises can be provided above the rate given U.S. civilians—but when these pay raises are above the rate given to U.S. civilians or the rate given by the host nation to its own employees—then the Secretary of Defense must notify the Appropriations and Armed Services Committees.

—The overseas cost cap did not survive in the bill's final form. However, the Defense budget (starting with the FY 1991 budget) will have to describe where it is over the amount spent overseas in FY 1989 (with the exception of pay raises and normal inflation). And if the Department intends to spend more than the level enacted for overseas, such amounts require a reprogramming.

Minor changes made in the Special Negotiator (now an Ambassador at Large, with some responsibilities for the use of U.S. coal overseas) and the NATO roles and missions study (now performed by Secretary of Defense instead of by NATO Military Representative).

Requirement for Japanese Government to finance USS MIDWAY repairs if ship is repaired in Japan—remains. It was modified to allow Japanese to make an additional $40 million payment to support U.S. forces in Japan in lieu of directly financing MIDWAY repair.

Senate provisions that remain unchanged:

—End Strength Cap on Japan/Korea at fiscal year 1987 End Strength.

—Long-term study on U.S. commitments overseas/burdensharing.

—Requirement to display overseas budget for Milpers, O&M & Milcon.

—Study of overseas dependent costs.

SUMMARY

—Conference agreement takes strong action on burdensharing.

—This is a concern of both the House and Senate—and is a bipartisan concern.

—It represents a good start—more needs to be done in the future.

SDI FUNDING COMPROMISE

Conference agreement appropriates same amount for SDI as provided in DoD authorization conference report—$3.717 billion.

Agreement provides $534 million above the Houses position of $3.183 billion and $250 million less than the Senate position of $3.967 billion.

Agreement eliminates all earmarks in bill and report language for use of SDI funds with only one exception—for Advanced Launch System (ALS) heavy lift rocket program.

ALS is joint Air Force and NASA program to develop a new heavy lift space booster for national purposes—not just for SDI. Importance of maintaining progress in program convinced conferees to retain ALS earmark.

Conferees retained the Senate recommended transfer of $96.5 milion of ALS funds to NASA for ALS propulsion activities.

Agreement also retains Senate language governing use of ALS funds in compliance with previous legislation (fiscal year 87 Supplemental Appropriation) and ALS technical plan.

Prior legislation ensures meaningful role for NASA, minimizes duplication of effort and facilities between Air Force and NASA, and ensures ALS launch cost reduction goal not compromised by SDI early deployment pressures.

Congress and President twice before have approved similar funding and legislative earmarks for ALS for exactly same purposes—$3.8 million in fiscal year 87 Supplemental and $70 million in fiscal year 88 DoD Appropriation Act.

SDI funds always in original budget request for joint, Air Force-NASA ALS program, so conference earmark just ensures most effective administration of these funds.

Conference agreed to drop nine Senate-proposed earmarks, so DoD has more than enough flexibility to adjust SDI project funding to accommodate overall budget reduction.

For example, antitactical ballistic missile (ATBM) programs funded originally in SDI remain in SDI and funding is not transferred to Army, as Senate recommended.

Mr. JOHNSTON. With thanks to my friend from Alaska for his patience, I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, we have spoken about the great service of Senator STENNIS in regard to defense.

Let me turn to another aspect of this bill. This is the last bill that will come before the Congress presented by President Reagan that affects defense. Prior to President Reagan's coming into office, we had a whole series of problems in defense. I remember the problem of the vessels at Norfolk that could not pull away from the dock because they did not have enough manpower. We had aircraft in many places throughout the world that could not fly because they did not have spare parts. We had a declining support for the military and our defense establishment in the United States.

One of the great accomplishments of this administration has been its restoration of the defenses of this country, and I think it is timely that we reflect on that.

I do not mean to take a great deal of time. I know that other people have amendments and they are waiting.

My good friend from Louisiana has spoken at length about this bill and what it means. I would like to reflect upon the whole 8 years of the Reagan administration for just a moment and the role that the Appropriations Committee has played in the fulfillment of President Reagan's desire to restore our Nation's defense.

I remember the first time, in 1981, when we went down to meet with the President. I was both the assisant leader and the chairman of the subcommittee. The President made very clear what he had in mind. He had two goals, really: One was to restore our Nation's defenses, and the second was to pursue the possibility that we may be able to have a nonnuclear defense to nuclear attack. That has turned into SDI.

The bill now before us, together with the other bill in the energy field, contains $4 billion for SDI, to continue that initiative. That is an extremely important initiative, in my judgment. It is one that pursues that dream of the President's, that we might have that nonnuclear response to nuclear attack. But he went further.

He said he wanted to restore the Navy, a 600-ship Navy. We talked about the Stealth bomber. We talked about the necessity to restore the Air Force fighter strength, to modernize the Army. We have done that.

Every year, Senator STENNIS and I, working together, have insisted that we transfer at least a billion dollars—more than was requested, usually more than what was authorized—for the Guard and the Reserve. We have a new emphasis on the citizen soldier in this country, and it has primarily been brought about in these last 8 years working in partnership with my good friend from Mississippi.

We faced the disastrous problem of the shuttle orbiter *Challenger*. After January 1986, many people said: "How can we get money to replace the *Challenger*, to replace the shuttle, with this tight budget environment we are in?" It was our committee, the Defense Appropriations Committee, with no authorization, with no budget request, that shifted money from defense to NASA; and we witnessed yesterday morning the tangible results of that initiative. The shuttle program is back in business 2 years earlier than it would have been because the Defense Appropriations subcommittee in the Senate going contrary to everything that has been said here so far about authorization, about budget request. We mandated the shifting of that budget authority to NASA, to complete that program ahead of schedule, at a time when the administration was in a quandary over how to fund the replacement orbiter.

We also insisted upon accelerating the expendable launch vehicle program, the Titan IV's. There are people who thought perhaps we could rely exclusively on the shuttle and need not continue the line of production of Titan IV's. It was this committee that insisted, notwithstanding the lack of authorization and the lack of budget request, that we keep the Titan IV's, and we have done that.

I have not gone into the other argument, and this is probably not the time to get into that, although I am prepared to argue the relationship between the Appropriations Committee and the authorization committee at any time. We have 29 Members of the Senate on this committee. We meet with Members of the House who have been serving for years with us on appropriations matters.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. JOHNSTON. The Senator is prepared to debate that at another time?

Mr. STEVENS. But I am not ready to yield yet.

I want the Senate to know, and those people who are listening to us to know, that the reason why we have the readiness we have in this country today is that we do have two committees reviewing these matters. We have the judgment of 19 people on the Armed Services Committee and 29 people on the Appropriations Committee who review our defense needs. Defense levels are not dictated by one committee or the other. They are dictated by the Senate and by the House and then by a conference report like the one we have before us now.

I, for one, am anxious to continue the concept of trying to work out our differences, but let us keep in mind that at least half of the last 10 years we have not had an authorization bill by the time we have reached this point. The appropriations process has gone forward anyway, as it had to do.

Mr. President, this process of working out the relationships in the future will be worked out by those who serve as the chairman of this subcommittee, the defense subcommittee, as chairman of the full Committee on Appropriations, and whoever is chairman of the Armed Services Committee. Being on this side of that divide, I hope I am the chairman of that subcommittee, and I wish the distinguished Senator from Virginia is chairman of the full committee. My friends on the other side of the aisle have every reason to believe that they should have the same prerogative. That is our political system.

It is not time now to make a decision as to what is the commitment of the future as to the relationship between these two committees. The future will take care of itself.

This bill does not contain any arms control provisions, for the first time in a long time. This bill does not contain matters that are unacceptable to the President, for the first time in a long time. It represents an awareness, I think, of the feeling in Congress that this retiring President has entered into an agreement in good faith with us, the budget summit agreement. He has kept his part of the bargain with us, and we are keeping our part of the bargain with this bill. We could not have done that with the bill that came out of the conference committee, and I refused to sign it.

As amended by the House, I urge all Members on my side of the aisle to support the bill. I reported to our distinguished leader when we entered the conference that I could not support the bill and we would be here a long time if this matter was not resolved, because if we had not resolved it, there would be $1 billion less for the incoming President, whoever might be elected.

I feel that this bill justifies the review that the Senate and the House give to matters pertaining to defense. I do not want to get to the point where, as distinguished as they may be, the Senator from Georgia or the Senator from Virginia and their 19 members can dictate to Congress what can be spent for defense and get to the point where 29 of us in the Senate who serve on the Appropriations Committee would have to rubberstamp whatever they say.

We are elected in our own right, and we are going to recommend to the Senate what we think is right. No agreement that anyone signs is going to bind us on that. Each Congress has its own powers. Every day, this Congress has another power, and that is to undo what it did the day before, even in the same Congress, and we are doing that to some extent in this bill; and, thank God, the members of the Armed Services Committee in both the House and the Senate have seen fit to allow us to proceed with the recommendations we have made. They are good recommendations. They put us over the budget request, over the authorization request, in Guard and Reserve. They give us money to pursue objectives we want to pursue.

Almost every year, we put over $250 million into the Coast Guard from the Defense Department. This year it is $140 million in one account and $60 million as a direct transfer—$200 million this year. In the past, it has been roughly $250 million.

We have built the Coast Guard up so that it is a legitimate partner in the defense of our country. In time of war, it is a member of the armed services. In time of peace, it is a peace agency. It is the Coast Guard. But it had to have a portion of this military money in order to have the ability to carry out its duties, should that ever come about in time or war.

I, for one, am proud of this committee and what it has done in insisting on it.

We had to take on the Director of the Office of Management and Budget at times, the Secretary of Defense, and our colleagues on the authorization committee. So far as this Senator is concerned, I am going to continue to do it, if I believe that the Coast Guard needs money to maintain its operations.

This year we have a good bill in many ways. It is a bill that is made easier now because we do in fact have an authorization bill.

I commend the Armed Services members of this House and of the other House for their willingness to sit down with Secretary Carlucci and work out an agreement.

It gave us the ability to pass an appropriations bill that does fulfill the needs of the Department of Defense.

I thank them all for offering the amendment adopted by the House to clear up any confusion between our bills.

I call particular attention to that amendment because it is an amendment to an appropriations bill. It is not an amendment to an authorization bill. You know what it says? It says "These sums are authorized." I say to the members of the Armed Services Committee, they ought to think that over. It is not an authorization bill. We have the ability as a Congress to meet the needs of our defense without having restrictions of an agreement that is subject to misinterpretation unfortunately.

I signed that agreement, and I thought it meant what it says. We will not appropriate moneys that are not authorized—to the extent authorized.

At the time we came out of the committee, there was no authorization bill in the first place, and it does not say account levels. It does not say line items. It says authorized.

Under the circumstances, I think that agreement ought to be reviewed by the next chairman and the members of each committee, and I hope they will participate in that.

Mr. WARNER. Mr. President, will the Senator from Alaska yield?

Mr. STEVENS. I will when I am finished.

Mr. WARNER. I wish to correct the Senator.

Mr. STEVENS. I will when I am finished. I am not finished.

I want to get onto one other item that I think is important. I do not want to forget to do it.

I commend the Senator from Louisiana for his persistent efforts on the burden sharing initiative. He and I both went to Japan to look into the cost of our troops stationed there. We have both been to Europe now to look into the increasing cost of commitments there. We have not said to the Congress that we do not believe in that commitment. We have said we have to find some way to share the burden of that commitment with those who can afford to do it.

Mr. President, in 1987 the cost of our military personnel in Japan, just their pay alone, was $175 million. Now, that is equated to a 40-percent increase over 1986. There has been a substantial increase again in 1988.

We have gotten to the point now where it cost 150 percent more for the American taxpayer to station a military family in Tokyo than it does to station them in San Antonio, TX, and that is just their pay and allowances. It has nothing to do with the bases that we have to build and maintain, bases that now contain hairdressing facilities, theaters, gyms, dental clinics, medical clinics, hospitals.

You ought to go on those bases to understand what they are. They are small American cities overseas, and our people in the armed services have a right to demand that. We have sent them there and they represent us and in many places such as Iceland where we were earlier this year the people of Iceland have asked us to move our military families on base; they needed the space that was being uses off base.

Those costs are not what I have talked about. But think of that, 150 percent more just in pay and allowance to keep a soldier and his military family or her military family in Tokyo.

Those are constantly increasing and we are for this initiative that this committee is pursuing saying there must be burden-sharing. There must be more forthcoming burden-sharing or we are going to face real financial problems in keeping our commitments. We would have to be before this Senate today with another Mansfield amendment.

I think everybody has to understand that. If we do not find some way to meet those costs of these commitments we will have to face the question of reducing the commitments.

It is a sobering thought, but in my judgment, as the Senator from Louisiana said, this is not a partisan matter. This is a matter between those of us who have spent a great deal of time traveling to look at these facilities, traveling to talk to our military people, trying to understand why it is these costs are constantly going up.

From my point of view, they are primarily going up because more and more the host countries are shifting to us the burdens they used to bear and they are unwilling to come forward and take on some of the burdens that the Senator from Louisiana and I have suggested to the Congress that they take on.

This conference report now carries on a substantial portion of the recommendations that came out of the Senate Appropriations Defense Subcommittee at the first stage of the markup of this bill and it has been a long, tortuous path.

I think that the Senator from Louisiana, who has helped the distinguished Senator from Mississippi this year, deserves a great deal of credit for what he has done. He has had to argue with me, and God knows that is bad for anybody. He had to argue with our colleagues in the House, and I saw one of them here a minute ago, and he is no easy customer. It is a difficult job to be a chairman of this subcommittee in any event, but to be the person who represents the chairman, and particularly a distinguished chairman like the chairman has been, it is even more of a difficult job.

So I want to tell the Senate, Senator JOHNSTON deserves a portion of the praise we are giving to Senator STENNIS, and I think Senator STENNIS would join me in saying that. He also deserves the thanks of all of us who are interested in maintaining those commitments in NATO and our commitments in Japan and Korea for the time he spent trying to figure out how can it be done affordably.

Many of us get criticism for our travels abroad, for our junkets as the press is wont to call them, but you see before you now the results of many junkets, and I think it is in the best interest of the taxpayers to have taken those junkets if that is what they are to be called.

The Senate should know that in this instance we dealt with the chairman of the House subcommittee, Mr. BILL CHAPPELL, from Florida, and his Republican counterpart Congressman JOE MCDADE. They have worked long and hard with us this year in trying to fashion this bill.

I defend these recommendations. We are going to have some amendments here in disagreement. We are going to have some additional arguments as we should. As Senator STENNIS has taught us we not only should, we are going to have it whether we like it or not. We are going to have these arguments, and they are going to be good for the country to resolve them and we are going to continue to have the arguments in disagreement that I have with my good friend from Virginia to whom I am going to yield if he wants to continue to ask me a question because I am going to yield the floor in a moment.

Mr. WARNER. Mr. President, just a question to clarify, because I know how my distinguished friend from Alaska wants to be technically accurate. He stood in almost contempt and said, "This is an amendment to the appropriations bill." That is correct. The other half of it is an amendment to the section of the appropriations bill which is specifically the authorization bill. It reads, "Title I of the National Defense Authorization Act, fiscal year 1989, is amended as follows," and that happens to be title X of the defense authorization of the Senator's bill.

So he should have added the fact that while it is an amendment to the appropriations bill, it is an amendment to the authorization section of that bill which in fact is the authorization bill.

Am I not correct?

Mr. STEVENS. It is an amendment to the authorization bill explicitly. We had made a great many amendments to the authorization bill implicitly.

I am pleased to make explicit what we had already done implicitly and I defend our right to be implicit or explicit as we so desire.

Mr. WARNER. Mr. President, it is the implicit decisions which cause trouble when we get out here and try to be explicit with our amendments.

Mr. STEVENS. I do not think that the Senate or the Senator from Virginia will ever accuse this Senator of being unwilling to express himself whether it is implicit or explicit.

I thank the Chair.

Mr. JOHNSTON. I will shortly move to adopt the conference report on H.R. 4781. That is what we call amendments inside the conference and we will have a record vote on that.

I thought someone was going to ask for one.

Mr. STEVENS. Just one second.

Mr. JOHNSTON. Does anyone desire a record vote on that?

Mr. STEVENS. I do not think we have a request for one.

Mr. JOHNSTON. I do not have a request. I frankly thought there would be a request on the other side of the aisle.

Mr. HEINZ. Mr. President, I would like to ask the distinguished manager of the fiscal year 1989 Department of Defense Appropriation if he would help me clarify provisions of the bill, dealing with the Department's energy policies.

An arrangement is under development for the Kaiserslautern Military Community which will enhance the utilization of coal produced in the United States. This is a combined agreement worked out over the last few years between the Government of Germany, various German utility interests, and coal producers from this country. The entire Kaiserslautern Military Community would benefit from the agreement, including Ramstein Air Base, Landsthul, Kaiserslautern East, and Kaiserslautern West, and also all local municipalities. I would like to see more agreements of this type, and an overall increase in the consumption of coal at our military facilities in Europe. I am, however, concerned about the impact of the pending measure on these arrangements and the overall increase in the use of coal in Germany.

It is imperative that the Department of Defense closely comply with the provisions of this act, which are carefully drafted to protect domestic interests. In effect, they prohibit any further conversions from taking place unless very specific requirements are met. If the Secretary of Defense believes any further conversions are necessary he must meet the requirements of this act. Furthermore, these provisions require a very specific study of proposed conversions of heating facilities at our military installations in Germany to district heat. I believe this was the intent all the way through the appropriations process.

The study is intended to find out what benefits are derived by the Soviet Union from the use of natural gas supplied by them at district heating facilities. Of course, we are also tying this study into our request for a greater burden sharing of defense cost by host countries. Senator JOHNSTON, our coal industry has decided to participate in the heating system upgrade plan for the Kaiserslautern Military Community. They visualize this as an opportunity to sustain a production base. The Kaiserslautern upgrade is now in a master plan phase of development and I wouldn't want any unplanned conversions to deliberately break up this process.

I believe it is the conferees intent, Mr. Chairman, that the study mandated by the pending legislation is required to review this plan and the proposed usage of coal produced in the United States. During the conference with the House, the directive to review this project was taken from the Senate report and made part of the legislative language in the measure to give more emphasis to our concern for the need to implement these kind of projects. The host nation communities involved in this demonstration project, along with American companies, are jointly endeavoring to provide modernized consolidated heating systems to the Kaiserslautern region. It is my hope, Senator JOHNSTON, that we will not see any United States Army-Europe attempts to frustrate host nation energy modernization which will benefit the United States economy, by attempting to rush through conversions to Soviet-fueled gas systems. In fact, the intent of the conferees in structuring these general provisions was to prevent this from taking place.

Mr. JOHNSTON. I understand the concerns of the Senator from Pennsylvania for the joint American-West German cooperation in the Kaiserslautern Military Community.

The issue of conversion of heating systems at American military installations in Europe away from American coal has been before us for many years, and it seems to me that the studies directed by the Congress in this bill may be the most productive approach we have yet undertaken. When these studies are completed—both the one to be done by the Departments of Defense, State and Commerce and the economic analysis to be undertaken by the Ambassador at Large for burdensharing negotiations—we will at last have some facts, some foundation, upon which to base a decision. I share the interest of the distinguished Senator from Pennsylvania that we reach some agreement which will be of benefit to the Nation's security and to domestic energy production.

Mr. HEINZ. I thank the Senator for his assistance in clarifying this matter, and congratulate him on his great success in gaining final passage of this measure.

Mr. WILSON. Mr. President, I would like to draw the attention of the Senate to a provision in the report of the Senate defense appropriations bill that requests the Office of the Strategic Defense Initiative to appropriate funds, from the total allocated, for the purpose of funding the construction of research facilities that relate to medical uses of excimer lasers. This language appears on page 274 of the report on the Senate bill and page 26084 of the CONGRESSIONAL RECORD of September 28, 1988, which repeats the conference report on the defense appropriations bill and which is under the heading, "Medical Technologies." The conferees, however, agreed that all language similar to this be stricken so as not to unduely restrict SDIO. I understand that the Senator from Alaska did contact General Abrahamson concerning our strong support for continued SDI funding of medical research which is directly related to SDI and specifically urged SDIO to continue such research now underway. Such a project, costing a one-time $9 million, is to be found in California at Cedars-Sinai Medical Center.

I am appreciative to the senior Senator from Alaska in that he was instrumental in seeking this understanding with General Abrahamson at the time of the conference.

Mr. STEVENS. The Senator from California is correct. It is important to acknowledge that substantial benefits to medical research and other similar pursuits may result from the application of SDI techniques to areas other than the military. Many Members of the House and Senate have spoken of their expectation that such civilian benefits may be obtained. This research at the Cedars-Sinai Medical Center is a prime example of such potential. I did speak to General Abrahamson and urged continuation of SDI-financed medical research projects—one of which I have a continued interest in at UCLA for proton accelerator research efforts.

Mr. WILSON. I thank the Senator from Alaska for his assistance and his support.

Mr. McCAIN. Mr. President, during the last week, the United States quietly announced that it was ending its convoy activity in the gulf, and reducing its role to one of accompanying ships to Kuwait. This announcement is worth noting for several reasons.

First, the end of the convoy effort is a tribute to the ultimate success of our policy in protecting the flow of oil and the rights of neutral shipping. Whatever the problems may have been in our original agreement to reflag Kuwait tankers, we have shown that we have the political and military capability to defend our national interests.

Second, we are now able to reduce our role in the gulf under conditions where we have clearly helped bring an end to the Iran-Iraq war. Our presence in the gulf, and that of our NATO allies, was clearly one of the major catalysts that persuaded Iran's leadership to give up its ambition to conquer or dominate Iraq.

Third, we have shown the importance of giving the President of the United States sufficient freedom of action to achieve his policy goals. There is no question that the efforts to try to enforce an extreme interpretation of the War Powers Act could have robbed our policy of its success if the majority of the members of this body had not acted with the proper care and balance. There also is no question that these efforts, and the provisions of the War Powers Act which act as a "negative veto" also made the United States appear to be vulnerable to Iranian pressure, and encouraged Iranian action and escalation.

Fourth, we have shown that if we are to be effective, we cannot insist on perfection—only on success. The history of U.S. action in the gulf is one of trying to match the U.S. military presence and response to an extremely uncertain and difficult set of conditions that changed rapidly over time. It is clear that many of the problems we faced were not predictable, it is clear that we have to perservere under difficult conditions, and it is clear that we sometimes made mistakes. It is also clear that this mix of uncertainty and mistakes was the inevitable price of being a world power, and of taking any action to defend the right of navigation and our own national interests.

Fifth, we have again seen an obvious demonstration of the fact that every military action is not a "war." Now that the smoke has cleared, it is important to point out that the United States Navy had to use limited and demonstrative amounts of force on only five occasions, although the number of Iranian attacks on shipping rose from 17 in 1984 and 14 in 1985, to 41 in 1986, 89 in 1987, and 39 during the first 6 months of 1988.

Only one of these five encounters between the United States Navy and the Iranian Navy—the United States attack on Iranian oil platforms on April 18, 1988, involved a serious military exchange and the total United States losses amounted to one AH-1 helicopter—although Iran lost the guided missile frigate *Shahand* and the guided missile patrol boat *Joshan*, and the guided missile patrol boat *Sabalan* suffered severe damage.

In fact, there were no United States Navy losses in any of the other clashes with Iranian military forces during the United States intervention in the gulf. The only other United States losses came on April 14, 1988, when the U.S.S. *Samuel B. Robert* struck an Iranian mine while it was moving through international waters.

Sixth, in spite of the occasional complaints about the efficiency and effectiveness of our military forces, they demonstrated great skill in adapting to the problems one of the most difficult low intensity conflicts in recent memory.

It certainly would have been preferable to have avoided any losses and any fighting, it would have been desirable to avoid the tragic loss of an Iranian airliner. We cannot avoid the fact, however, that all use of military force involves some miscalculations and lessons that can only be learned through bitter experience. I believe that our overall performance deserves considerable praise, and that every man and woman who served in the gulf deserves that praise from their country.

Finally, I do not believe that we should ignore the fact that our success in the gulf is part of a long history of military action short of war where the President has not sought the approval of Congress, and where firm Presidential action has been critical to our success.

We need to consider this history, as well as our current success, in revising the War Powers Act and before we indulge in any more efforts to micromanage the way in which the President enforces freedom of navigation. I have asked both the U.S. Navy and the Congressional Research Service to prepare such histories, and I ask that they be included in the record. I would hope that they will be carefully consulted in the future when we consider any congressional restraints on Presidential action.

I ask unanimous consent that "The Protection of Neutral Shipping" prepared by the Office of Legislative Affairs of the Navy, with its appendix and a Congressional Research Service paper from the American Law Division be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Office of Legislative Affairs, U.S. Navy]

THE PROTECTION OF NEUTRAL COMMERCE—A SHORT LEGAL AND HISTORICAL OVERVIEW

The permissible parameters within which a neutral nation may protect its commerce and the commerce of other nonbelligerent nations from interference by a belligerent are reflected in the law of neutrality. These laws developed during the eighteenth and nineteenth centuries sought to limit the expansion of the conflict and to protect nonbelligerents, including neutral commerce. The principal right of a neutral nation is its inviolability; its principal duties are those of abstention and impartiality. Conversely, it is the duty of the belligerent to respect the former and its right to insist upon the latter. The laws and practices which have evolved over the years have sought to balance these often conflicting interests.

A principal component of the law of neutrality is the protection of neutral commerce. Neutral commerce refers to all trade between one neutral nation and another not involving materials of war destined for one of the belligerents; it also includes trade between neutral nations and belligerents that does not involve contraband or otherwise sustain the war-making capabilities of the belligerent.

Under traditional rules of international law, neutral vessels are generally subject to visit and search by a belligerent, but not capture or destruction. Attacks on neutral shipping are allowed only when resisting visit and search, when engaged in unneutral service or running a blockade.

Since all nations have the right to abstain from conflict and assert their neutrality, it necessarily follows that they have the inherent right under traditional notions of self-defense to preserve and protect their interests from unlawful interference by a belligerent. Such protection may include the use of necessary and proportional force to repel and prevent unlawful hostilities against its territory or interests, i.e., its nationals and ships under its flag. The right of self-defense is reflected today in Article 51 of the UN Charter and may be implemented either individually or through collective self-defense arrangements.

Maritime nations have, through the years, demonstrated a willingness to protect their commerce and nationals against unlawful acts by belligerents. The First Armed Neutrality arose in 1780. While Britain was at war with her American colonies, Spain, and France, Russia proclaimed a set of principles reflecting the rights of neutrals to engage in commerce among themselves and with the belligerents (except for contraband). Russia then entered into treaties with Denmark and Sweden for the purpose of enforcing those principles by equipping their men-of-war. Later, Prussia, Austria and Portugal subsequently joined this league. While this arrangement had little direct consequence in the context of the Britain's war with France, the principles of neutrality survived and were later reflected in the Declaration of Paris of 1856.

The Second Armed Neutrality occurred during the French Revolution and Napoleonic Wars. Again, Russia was the declarant of neutral rights in the face of Britain's refusal to concede immunity from visit and search of merchant vessels under convoy. Russia entered into agreements with Sweden, Denmark, and Prussia to protect these rights.

In modern times, neutrals have continued to assert their rights vis-a-vis a belligerent, and have also demonstrated their willingness to provide mutual or collective protection. One example grew out of the Spanish Civil War. The Republicans had declared a war zone around certain Nationalist-held ports. The Nationalists, on the other hand, attempted a blockade of Republican ports. During the conflict, Nationalist submarines were suspected of attacking neutral ships in international waters. To counter this menace, in 1937, Great Britain and eight other nations entered into the Nyon Agreement. It established a neutral zone off the Spanish coast and provided for a multinational naval patrol which had authority to engage any submarine found within the neutral zone. The Nyon Agreement was effective—attacks on neutral shipping ceased.

The United States has also employed its naval forces for the protection of its shipping. An early example was the undeclared war with France (1798-1800) in which President Adams was faced with the problem of France seizing American merchantmen. It was during this time that Congress created a Navy Department and voted appropriations for new warships. The American Navy engaged French warships and privateers (in the end capturing some ninety French warships) for the defense of American commerce.

Similarly, Congress authorized the use of armed vessels to protect American commerce in the Atlantic and Mediterranean Sea during the Second Barbary War (1815). This was in response to an Algerian naval squadron which operated against American merchantmen. In 1858, in a context short of war, President Buchanan responded to British boardings of American merchant vessels in the Gulf of Mexico. American warships were sent to Cuban waters to protect U.S. vessels on the high seas to prevent such detentions.

In 1894, the U.S. Navy engaged in a show of force to protect American shipping threatened near Rio de Janeiro during a military revolt in Brazil. And in a more familiar context, President Roosevelt announced in September of 1941 a policy of protecting all merchant ships—not just American—engaged in neutral commerce in defensive waters. This active naval protection was proclaimed in the face of the Axis Powers demonstrated hostility toward nonbelligerent shipping.

These examples illustrate the historical use of seapower to defend neutral rights on the high seas. The legitimate use of force is not limited to nations engaged in a declared or protracted belligerency; the right of self-defense may be employed in the context of a neutral nation which is unlawfully made the object of hostile actions by a belligerent. Under such circumstances, nations have the right to use necessary and proportionate force to defend their nationals and ships flying their flag. Nations may invoke this right of self-defense either individually or through collective self-defense arrangements, such as the current U.S. policy in the Persian Gulf.

The defense of neutral rights on the high seas is also consistent with the historical tradition of assisting those in distress at sea. While this tradition typically applies in situations other than armed conflict, the values which underlie this time-honored practice are also relevant in the context of defending merchantmen from unlawful belligerent activity. Whether by force of nature or at the hands of a belligerent, merchantmen are rendered helpless, and humanitarian values compel those in a position to render assistance to do so.

APPENDIX A—CHRONOLOGICAL LIST OF U.S. MILITARY HOSTILITIES[1] ABROAD UNDERTAKEN WHOLLY OR IN PART TO PROTECT U.S. COMMERCE OR INTERESTS

1798–1800: *Naval-War with France:*

---

[1] The list includes only actual battles, landings, or evacuations in foreign territory or waters. Deployments to maintain an American presence, or alerts bringing an advance state of readiness, are not included, except for a few incidents when the risk of war was unusually grave. No military operations known to have been subsequently disavowed or repudiated have been included.

When John Adams became President in 1797, he faced the serious problem of strained relations between France and the United States, in which France had made it a practice to seize American merchant ships and to manhandle their crews. Adams first attempted to negotiate a settlement, but when the French demanded exorbitant bribes and loans, his envoys rejected the proposals and departed.

Adams, thereupon, asked Congress for the power to arm merchant ships and take other defensive measures. Congress responded by creating a Navy Department, voting appropriations for new warships, and authorizing the enlistment of a "Provisional Army" for the duration of the emergency. In July, 1798, the French treaties and consular conventions were abrogated.

The result was a "quasi-war," during which neither country declared war. The American Navy attacked only French warships and privateers and fought primarily for the protection of commerce. Some ninety French ships were captured during this naval war. In September, 1800, a convention was agreed to and peace was achieved. State, 2.

1814–1825: *Caribbean Area:*

There were repeated engagements between American ships and pirates both ashore and off shore about Cuba, Puerto Rico, Santo Domingo, and Yucatan. In 1822, Commodore James Biddle employed a squadron of two frigates, four sloops of war, two brigs, four schooners, and two gunboats in the West Indies. The United States sunk or captured 65 vessels. Marine detachments participated in at least 14 of these actions. State, 16.

1815: *Second Barbary War (Algiers):*

In 1812 an Algerian naval squadron operated against American shipping in the Mediterranean. In one attack an American merchantman was captured and its crew imprisoned. In March, 1815, Congress passed an act that authorized the use of armed vessels "as may be judged requisite by the President" to provide effective protection to American commerce in the Atlantic and the Mediterranean. A naval squadron of 10 vessels under Commodore Stephen Decatur attacked Algiers, compelling the Dey to negotiate a treaty. Decatur also demonstrated at Tunis and Tripoli. All three states were forced to pay for losses to American shipping, and the threats and tribute terminated. State, 3.

1817: *Amelia Island (Spanish Territory):*

Under orders from President Monroe, U.S. forces landed and expelled a group of smugglers and pirates. Moor, 406–408.

1820–1822: *West Coast of South America:*

Marines were aboard three of the U.S. ships stationed off the west coast of South America from 1820 until May, 1822, to protect American commerce during the revolt against Spain. USMC, I, 65.

1822: *Cuba (Spanish Territory):*

U.S. naval forces landed on the northwestern coast of Cuba and burned a pirate station. State, 17.

1823: *Cuba (Spanish Territory):*

Between April and October naval forces made a number of landings in pursuit of pirates, apparently incident to Congressional authorization which became operative in 1822. State, 17.

1824: *Cuba (Spanish Territory):*

In October, the *U.S.S Porpoise* landed sailers to pursue pirates during a cruise authorized by Congress. State, 17.

1825: *Cuba (Spanish Territory):*

In March, British and American forces landed on two offshore Cuban islands to capture pirates who were based there. The action appears to be incident to Congressional authority. State, 17.

Greece:

Apparently acting pursuant to legislation, in October and November, United States forces from the *U.S.S. Warren* and the U.S. schooner *Porpoise* engaged in seven actions against pirate vessels off Greece and made landings on three Greek Islands. State 17.

West Indies:

In December, incident to legislation, Marines participated in the capture of the Argentinean privateer *Federal* by the U.S. sloop *Eric* at St. Bartholomew Island, W.I. USMC, I, 67.

1832: *Falkland Islands (Argentina):*

American forces under Captain Duncan of the *U.S.S Lexington* landed to investigate the capture of three American sailing vessels. The Americans succeeded in releasing the vessels and their crews and dispersed the Argentine colonists. State, 17.

Sumatra:

A force of 250 men from the *U.S.S. Potomac* landed to storm a fort and punish natives of a town for an attack on American shipping and the murder of crew members. State, 18.

1837: *Mexico:*

On April 16, marines joined in the capture of a Mexican brig-of-war by the *U.S.S. Natchez* off Brasos de Santiago for illegal seizure to two American merchantmen. USMC, I, 70.

1839: *Sumatra:*

In January, American forces from the U.S. sloop *John Adams* and the U.S. frigate *Columbia* landed at Muckie, Sumatra, to protect American lives and property and to punish natives of two towns for attacking American ships. USMC, I, 70.

1841: *Samoan Islands:*

On February 25, an American force of 70 marines and seamen from the *U.S.S. Peacock* landed to avenge the murder of a seaman. They burned three native villages. USMC, I, 71.

1841: *Drummond Island (Kingsmill Group, Pacific Ocean):*

On April 6, marines from the *U.S.S. Peacock* landed and burned two towns to avenge the murder of a seaman by natives. State, 18.

1843: *West Africa:*

In November and December, four U.S. vessels from Commodore Perry's squadron demonstrated and landed various parties (one of 200 marines and sailors) to discourage piracy and the slave trade along the Ivory Coast and to punish attacks made by the natives on American seamen and shipping. In the process, they burned villages and killed a local ruler. The actions appear to have been pursuant to the Treaty of August 9, 1842, with Great Britain relative to the suppression of the slave trade. State, 18.

1851: *Johanna Island (East of Africa):*

The *U.S.S. Dale* delivered an ultimatum, bombarded the island, and landed a force to punish the local chieftain for this unlawful imprisonment of the captain of an American whaler, State, 19.

1853: *Nicaragua:*

American forces under Captain Hollings of the *U.S.S. Cyane* landed at Greytown about March 10 to protect American lives and interests during political disturbances. His activities were approved by the Secretary of the Navy. Moor, 414.415.

1853–1854: *Japan:*

Commodore Matthew C. Perry led an expedition consisting of four men-of-war to Japan to negotiate a commercial treaty. Four hundred armed men accompanied Perry on his initial landing at Edo Bay in July, 1853, where he stayed for ten days after refusing to leave when ordered. He then sailed south, landing a force at the Bonin Islands, where they took possessions, and at the Ryukyus, where he established a coaling station. In March, 1854, he returned to Edo Bay with ten ships and 2,000 men, landed with an escort of 500 men, and after six weeks signed a treaty with Japanese authorities at Kanagawa. The whole campaign was on executive authority. State, 19.

1855: *China:*

There were two brief actions by U.S. warships, the first a landing in May at Shanghai to protect American interests there, the second an attack in August at Hong Kong against pirates. State, 20.

1855: *Uraguay:*

In August and November, U.S. naval forces put sailors ashore to protect American interests in Montevideo. State, 20.

1856: *Panama, Republic of New Granada:*

U.S. forces landed and stayed two days to protect American interests, including the Isthmian railroad, during an insurrection. (By the treaty of 1846 with New Granada, the United States had acquired the right to protect the Isthmus and to keep it open, in return for guaranteeing its neutrality.) State, 20.

1856: *China:*

In October and November, the U.S. warships *Portsmouth* and *Levant* landed 280 officers and men to protect American interests at Canton during hostilities between the British and the Chinese and in response to an unprovoked assault upon an unarmed boat displaying the U.S. flag. The Americans took and destroyed four Chinese forts. The attack by U.S. war vessels without authority of Congress was approved by President Buchanan. Berdahl, 51.

1858: *Uruguay:*

Forces from two U.S. warships landed in January to protect American lives and property during a revolt in Montevideo. The action was taken in conjunction with the forces of other powers at the request of the local government. State, 20.

1858: *Cuban waters:*

After repeated acts of British cruisers in boarding and searching our merchant vessels in the Gulf of Mexico and adjacent seas, President Buchanan addressed remonstrances to the British Government against these searches and, without authority from Congress, ordered a naval force to the Cuban waters with directions "to protect all vessels of the United States on the high seas from search or detention by the vessels of war of any other nation." A conflict with Great Britain was avoided only by its abandonment of her claim to the right of visit and search in time of peace. Berdahl, 51; Richardson, 3038.

1859: *China:*

On July 31, forces from the U.S.S. *Mississippi* fended at Woosung and Shanghai, where they remained until August 2, to protect American interests and restore order. The American consul had called on the ship for assistance. State, 21.

1860: *Colombia (State of Panama):*

On September 27, the Marine guard from the sloop U.S.S. *St. Mary's* landed to protect American interests during a revolt. This may have been authorized pursuant to the Treaty of 1846. State, 21.

1863: *Japan:*

On July 16, when Japanese shore batteries at Shimonoseki fired on a U.S. merchant ship, the U.S.S. *Wyoming* retaliated by firing on three Japanese vessels lying at anchor. The shots were returned, and, by the time the action was over, there were casualties on both sides. The American Minister had demanded redress.

1864: *Japan:*

Between September 4 and 8, naval forces of the United States, Great Britain, France, and the Netherlands jointly forced open the Straits of Shimonoseki, which had been closed in violation of commercial agreements. Shore batteries were destroyed and 70 cannon seized. State, 21.

1865: *Panama:*

American forces from the U.S.S. *St. Mary's* landed to protect American interests during a revolt. This was apparently implied by the Treaty of 1846. State, 22.

1867: *Formosa:*

On June 13, 181 Marines and seamen from the U.S.S. *Harford* and U.S.S. *Wyoming* landed to punish natives who had murdered the crew of a wrecked American merchantman. Several huts were burned. USMC, I, 91.

1870: *Mexico:*

On June 17, the U.S.C. *Mohican* pursued a pirate ship up the Tecapan River near Mazatian, landed a party of Marines and seamen, and destroyed it during a pitched battle. State, 22.

1873: *Colombia:*

In May and September, nearly 200 American forces landed at the Bay of Panama to protect American lives and interests during local hostilities. The actions were impliedly allowed by the Treaty of 1846. State, 22.

1873: *Cuban waters:*

On October 31, the steamer *Virginius*, flying the American flag, was captured some 18 miles from Jamaica by the Spanish steamer *Torado*, her actual destination having been to make a landing of men and arms in Cuba. In violation of treaty stipulations with the U.S. regarding counsel and trial before a proper court, a summary court-martial was convened and with circumstances of the utmost barbarity, a total of 53 of the crew and passengers were executed, including a considerable number of Americans. Large meetings were held in this country demanding violent action against Spain and President Grant authorized the Secretary of the Navy to put our navy on a war footing. Every available ship was commissioned or recalled from foreign stations and war looked imminent. Spain yielded and the *Virginius* with her surviving crew and passengers were returned in late December. Also, by an agreement concluded February 27, 1875, Spain admitted the illegality of the capture and the wrongfulness of the summary execution and paid an indemnity of $80,000 to the United States. Chadwick, 314-351.

1873-1882: *Mexico:*

U.S. troops repeatedly crossed the Mexican border to pursue cattle thieves and Indian marauders. Mexico occasionally reciprocated. Such incursions were finally recognized as legitimate by agreements concluded in 1882 and subsequent years. Moore, 418-425.

1882: *Egypt:*

On July 14, over 100 forces from the *U.S.C. Lancaster, U.S.S. Quinnebaug, and U.S.S. Nipsic* landed at Alexandria, when the city was being bombarded by the British navy, in order to protect American interests there, including the American consulate. State, 23.

1885: *Columbia (State of Panama):*

On January 18, March 16, March 31, April 8, April 11, April 12, and April 25, American forces landed to protect American property and guard valuables in transit over the Isthmus during local revolutionary activity, an action authorized under the Treaty of 1846. USMC, I, 96.

1888: *Haiti:*

In December, American warships made a display of force to obtain the release of an American merchant vessel captured by a Haitian warship. The Haitian Government surrendered the ship and paid an indemnity after Admiral Luce gave an ultimatum ordering its release before sunset. State, 24.

1894: *Brazil:*

The U.S. Navy engaged in Gunfire and a show of force in January to protect American shipping at Rio de Janeiro during a revolt of the Brazilian navy. President Cleveland stated our action "was clearly justified by public law." State. 24.

1894: *Nicaragua:*

In July, American forces landed at Bluefields to protect American interests during a revolt. State. 24.

1895: *Columiba (State of Panama):*

Marines from the *U.S.S. Atlanta* landed in March to protect American interests during a revolt. This appears to have been authorized by treaty. State. 24.

1896: *Nicaragua:*

On May 2, marines were put ashore at Corinto by the *U.S. Alert* during revolutionary disorders to protect American interests. USMC, I, 99.

1902: *Colombia (State of Panama):*

Marine guards landed in April to protect American lives and the railroad across the Isthmus during civil disorders. They continued to land at various times between April and November. This appears to have been authorized by the Treaty of 1846. State. 25.

1903: *Honduras:*

American forces disembarked at Puerto Cortez in March to protect the American Consulate and port facilities during a period of revolutionary activity. State, 25.

1903: *Dominican Republic:*

In April, 29 Marines landed at Santo Domingo, where they remained for three weeks to protect American interests during a period of political disturbances. State, 25.

1903: *Panama:*

A revolution leading to the independence of Panama from Colombia broke out in November. Marine landed from the *U.S.S. Dixie* to prevent Colombian troops from carrying out a threat to kill American citizens, after Commander Hubbard had refused to allow the Colombians to transport their troops across the Isthmus. Marine guards remained on the Isthmus from the date of Panamanian independence (November 4, 1903) until January, 1914, to protect American interests during the construction of the Canal. This was allowed under the Hay-Bunau-Varilla Treaty State. 25-26.

1906-1909: *Cuba:*

An American squadron demonstrated off Havana, and, in September, marines landed to protect American interests during a revolution. In October, marine and army units landed and took up quarters in many Cuban towns in connection with the temporary occupation of the country under a provisional governor appointed by the United States. This occupation was within the scope of the provision of the 1903 Treaty of Relations between the two countries, which gave the United States the right to intervene to preserve order. The occupation lasted until January 1909. State, 26.

1911: *Honduras:*

Sixty men from the *U.S.S Tacoma* and *Marietta* went ashore at Puerto Cortez during a revolt to protect American interests. The American commander threatened to use force if necessary. State. 26.

1911-1912: *China:*

American forces made six landings to protect American interests during the initial stages of a revolution. They were stationed at Foochow, Chinking, Peking, Hankow, Nanking, Shanghai, and Taku. This may have occurred pursuant to treaty rights acquired during the "Boxer" Rebellion. State, 27.

1912: *Cuba:*

In May, American troops landed in eastern Cuba during a revolt and remained for three months to protect American interests. This appears to have been authorized by the Treaty of 1903. President Taft telegraphed the President of Cuba that the action was for protection only. Hackworth, 329-329.

1913: *China:*

U.S. forces landed in July at Chapei and Shanghai to protect American interests. Rogers reports there were many demonstrations and landing parties by United States forces for protection in China continuously from 1912 to 1941. He writes: "In 1927, for example, this country had 5,670 troops ashore in China and 44 naval vessels in its waters. In 1933 we had 3,037 armed men ashore. All this protective action was in general terms based on treaties with China ranging from 1858 to 1901. Rogers, 117.

1917: *Armed Atlantic Merchant Ships:*

In February, President Wilson asked Congress for authority to arm U.S. merchant vessels with defensive guns, but Congress refused to pass such a law. Thereupon President Wilson acted, on his own authority, to equip American vessels with guns and gunners assigned to them from the Navy. His action occurred prior to the declaration of war on Germany which did not take place until April 6, 1917. Willoughby, III, 1568.

1917: *Cuba:*

American troops landed in February at Manzanilla to protect American interests during a revolt. Various other landings were made, and, though the revolt ended in April, 1917, troops remained until 1922 because of continued unsettled political conditions. This was authorized by the Treaty of 1903. State, 28.

1922: *Turkey:*

In September forces from several American warships went ashore with the consent of both Greek and Turkish authorities to protect American interests when the Turkish forces were advancing on the city of Smyrna. Hackworth, 333.

1926: *China:*

American forces landed at Hankow in August and September and at Chingwangtao in November to protect American interests. This appears to have been authorized by treaty. State, 29.

1932: *China:*

In February, American forces landed at Shanghai to protect American interests during the Japanese occupation of the city, apparently under treaty. State, 30.

1937-1938: *China:*

Beginning on August 12, 1937, several marine landings were made at Shanghai to protect American interests during Sino-Japanese International Defense Scheme, reached 2,536 men by September 19.

1958: *Venezuela:*

In January, when mob violence erupted in Caracas, a company of marines embarked on board the *U.S.S. Des Moines* and remained on station off Venezuela ready to protect American interests. USMC, III, 36.

1958: *Indonesia:*

In March, a Marine Company, attack squadron, and helicopter squadron were deployed with elements of the Seventh Fleet off Indonesia prepared to protect U.S. citizens and interests. USMC, III, 3a.

Eight military engagements which were subsequently disavowed or repudiated have been omitted from the above list of precedents. These are:

1812: Amelia Island, Spanish territory. United States disavowed General Matthews' occupation of the area when he made himself the head of a revolutionary party. State, 16.

1824: Puerto Rico, Spanish territory. Commodore Porter was later courtmartialed for exceeding his powers when he forced an apology from a group of pirates who had insulted American naval officers. State, 17.

1842: Mexico. Commodore T.A.C. Jones occupied Monterey in the mistaken belief that war had started between the United States and Mexico. He withdrew and saluted, thereby disavowing his action. State, 18.

1857: Nicaragua. An American naval commander compelled the leader of a rebel group who was trying to seize Nicaragua to leave the country. The American commander's action was tacitly disavowed by the Secretary of State and apparently repudiated by President Buchanan. State, 20.

1866: Mexico. After General Sedgwich obtained the surrender of the Mexican border town of Matamoras, he was ordered to withdraw and his act was repudiated by the President. State, 22.

Late 1880's" Bering Sea. The United States paid nearly $500,000 to Britain in damages resulting from the seizure of British sealers by United States patrol boats outsise the three mile limit. U.S., 586.

1893: Hawaii. On January 16, Marines from the schooner *U.S.S. Boston* landed at Honolulu and were dispatched until April 1 to protect American lives and property, after the deposition of Queen Liliuokalani. The action was later disavowed by the United States. LRS, III, 53.

1912: Honduras. A small naval force landed at Puerto Cortez to protect an American-owned railroad there. Apparently Washington disapproved and the men were withdrawn in a day or two. State, 27.

[From the Congressional Research Service, The Library of Congress, Washington, DC, June 23, 1988]

To: Honorable John McCain. Attention: Anthony Cordesman.

From: American Law Division.

Subject: Historical and Legal Precedents Involving U.S. Protection of Neutral Shipping.

This is in response to your request for historical and legal precedents involving U.S. action to protect neutral shipping from depredations by belligerents. The following provides a brief review of such precedents since the founding of the nation.

The right of neutrals to continue to trade with belligerents, within certain limitations, appears to have gained fairly wide although not universal recognition by the middle of the 18th century.[1] No multilateral document articulated that right. But numerous bilateral treaties accorded the contracting States the right to continue to trade with other States with which one or the other of the parties might be at war, limited only by the doctrines of blockade and contraband. Under the first doctrine neutral ships were precluded from entering a port that was blockaded by a belligerent; under the second neutrals were precluded from transporting to a belligerent goods useful to the war effort. As a corollary of the doctrine of contraband, it was generally conceded that belligerents had a right to stop and search a neutral ship in order to determine whether it was carrying contraband.[2]

As noted, these rights and obligations were not universally accepted at that time, and their scope was in many respects ambiguous. The common law of Europe, for instance, seemed to provide that whether noncontraband goods were subject to seizure depended on the belligerent or neutral character of the owner rather than of the ships on which they were carried, but some treaties and maritime ordinances provided instead that the goods of an enemy should be free from confiscation when carried on a neutral ship (the "free ships, free goods" principle), and some even argued that neutral goods on board enemy ships ought to be free from seizure. Disagreements over what constituted contraband, moreover, were not uncommon,[3] as were disputes over what constituted a blockade. In addition, these uncertainties often became entangled in related questions of trade preferences and colonial monopolies.

Not surprisingly, then, the repeated conflicts among the European powers in the late 18th and early 19th centuries frequently put neutral rights at issue. A particularly onerous restriction was Britain's "rule of 1756." That rule stemmed from France's efforts to evade British interdiction of its trade with its colonies during their war of that period. In peacetime France maintained a monopoly on its colonial trade, but British control of the seas and consequent strangling of that trade early in the war led it to license neutral Dutch vessels to assume the trade. Britain in response enunciated the rule that neutrals would not be permitted to engage in time of war in trade from which they were excluded during time of peace and enforced that rule in its prize courts.[4] During the American Revolution and the associated broader war between Great Britain, France, and Spain, Great Britain as the dominant maritime power again attempted to impose the rule of 1756 on nuetral shipping and in addition attempted to broaden the scope of forbidden contraband to include shipbuilding timber and naval stores, notwithstanding that some of its treaties excluded these items. The measures were again directed primarily against France, but threatened to impact the commerce of such avowedly neutral nations as Russia, the Netherlands, Denmark, and Sweden. To assert their rights the latter States, at Russia's initiative, joined together in what came to be called the Armed Neutrality of 1780. The basic document of the alliance articulated the following expansive principles regarding neutral rights:

First. Neutral vessels may freely sail from port to port, and on the coasts of the nations parties to the war (a direct rebuff to the rule of 1756).

Second. The goods belonging to the subjects of the said nations at war are, with the exception of contraband articles, free on board neutral vessles (the free ships, free goods principle).

Third. With respect to the definition of contraband articles, the Empress adheres to the provisions of the 10th and 11th articles of her treaty of commerce with Great Britain, and extends the obligations therein contained to all the nations at war (the list did not include shipbuilding timbers or naval stores).

Fourth. To determine what constitutes a blockaded port, this denomination is confined to those the entrance into which is manifestly rendered dangerous in consequence of the dispositions made by the attacking power with ships stationed and sufficiently near.

Fifth. These principles are to serve as a rule in proceedings and judgments with respect to the legality of prizes.[5]

The Armed Neutrality was not itself particularly effective—Great Britain cut off most shipments of the cited items to France by compelling particular States to adhere to their bilateral treaties with Britain which included them in the list of contraband items and by maneuvering the Netherlands into war and seizing virtually all of its ships. But it did evidence the willingness of some neutral States to act jointly to promote expansive notions of neutral rights. In 1800 Russia, Sweden, Denmark, and Prussia joined in a second Armed Neutrality in an attempt to protect their commerce from the depredations of the wars that followed the French Revolution.[6] (It might be noted that even though the United States was a belligerent in the conflict, it sought to join the first Armed Neutrality as a tactic to gain recognition from the other participating nations, but that effort was rebuffed.)[7]

From its inception the United States, as a militarily weak but commercial nation, was generally an advocate of the maritime rights of neutrals. The Continental Congress in its so-called "Plan of 1776" adopted broad statements of neutral rights, including the principle of "free ships free goods," as the principles that should guide the fledging nation's negotiation of treaties of amity and commerce with other States,[8] and these principles were in fact included in the first such treaty concluded by the newly independent colonies, the Franco-American treaty of 1778.[9] (But it should be noted that that treaty also provided that neutral goods on board an enemy ship were subject to seizure by a belligerent—the "enemy ships, enemy goods" principle.)

But as U.S. trade increased, it frequently was beset by the continuing wars of Europe. When France and England again went to war in 1793 after the French Revolution, both nations preyed on American shipping. Britain, in particular, attempted to limit neutral shipping to France in 1793 by renewing the rule of 1756 that commerce not open in time of peace could not be opened to neutrals in time of war. Britain also authorized the seizure of all foodstuffs bound for France on neutral ships and the seizure of all neutral ships carrying French colonial goods of any kind, contrary to the "free ships, free goods" principle embodied in the American "Plan of 1776." These measures struck particularly at the newly profitable American trade with the French colonies in the West Indies, which before the war had been restricted to French shippers. More than 300 American ships were seized and their crews either imprisoned or impressed into British service. The French retaliated for the British measures by seizing American ships carrying supplies to England, although Britain's control of the seas limited the effectiveness of this tactic.[10] War with Britain was averted because the U.S. was militarily weak, because Britain moderated its orders in early 1794 and offered to pay for many of the confiscated American cargoes, and because the Jay Treaty of 1795, though widely unpopular, provided the Unieted States with some long-sought commercial privileges. The Treaty undermined the principles of neutral maritime rights which the U.S. had previously supported, however, by permitting Britain to seize foodstuffs bound for France so long as the goods were paid for and to confiscate all French property on American ships regardless of whether it was contraband.[11]

Continued French depredations on American shipping led the U.S. in 1798 to expand its navy and to authorize the capture of French armed vessels (but not merchantmen), and in the next two years more than 80 such ships, largely privateers in the West Indies, were captured. War with France for a time seemed likely. But eventually the two nations concluded the Convention of 1800, under which the United States assumed responsibility for paying the claims of its own merchantmen whose ships and cargoes had been seized by France in return for the termination of the commercial treaty and Franco-American treaty of alliance of 1778.[12] The Convention provided for renewed commercial relations on a most-favored-nation basis and incorporated the maritime provisions of the Plan of 1776—free ships, free goods (other than contraband), freedom for neutral ships to trade in non-contraband items with a belligerent, and a listing of contraband items that did not include foodstuffs and naval stores.[13]

The renewal of the Napoleonic Wars in 1803 proved to be a boon to American shipping as U.S. ships were permitted to engage in the lucrative trade between the mother countries and their colonies, which had again been closed to the U.S. during peacetime. But the belligerents again attempted to restrict neutral shipping that proved beneficial to their enemies. Britain, in particular, renewed its claim that trade not open in time of peace could not be opened in time of war. U.S. shippers found a way around that restriction by employing a subterfuge known as the "broken voyage" in which they would interrupt a voyage between a colony and the mother country by docking at a U.S. port, paying duty on the cargo and perhaps even unloading it, reloading the cargo, and completing the voyage. Britian, in response, adopted the principle of the "continuous voyage" and began to refuse to accept proof of payment of duty in the U.S. as sufficient to establish compliance with the Rule of 1756. As a result Britian seized scores of American merchantmen, oftentimes as soon as they left American ports and while still in American territorial waters. Added to this grievance was the British practice of impressment, in which American (and other) ships would be stopped and allegedly British members of their crews or passengers taken for service aboard British vessels. Moreover, both France and Britain declared a blockade of each other's coasts; American ships thus were subject to seizure by French privateers (the French navy had been destroyed at Trafalgar) whenever they sailed into a British port and by the British navy whenever they sailed into a French port without having obtained (and paid for) a British license.[14]

The U.S. response was to enact an embargo prohibiting the export of virtually all goods from the U.S. Because the U.S. was the primary supplier of foodstuffs and other commodities such as cotton, it was thought the embargo might wring concessions from the European powers, and particularly from Britain, on their maritime policies. But in the short term the U.S. suffered more than did the British, the embargo was widely evaded, and in retaliation Napoleon confiscated all American ships in the ports of France and its allies. Subsequently, the U.S. substituted less stringent measures for the embargo. But after a number of diplomatic intrigues and missteps exacerbated public feeling against Britain, the U.S. eventually stumbled into war against Britain in June of 1812. Although nominally a war to protect neutral rights, the vote in Congress was opposed by the maritime states and supported largely by western and southern interests with territorial ambitions.[15] The war accomplished little, and neither the Treaty of Ghent that brought the war to a close nor the commercial treaty between the U.S. and Britain concluded immediately thereafter made any mention whatsoever of neutral rights.[16] In practice, however, Britain never again had occasion to impress an American seaman.[17]

The exhaustion of the European nations by the Napoleonic Wars provided several decades of respite for American shipping. Indeed, U.S. shipping rights as a neutral were little tested during the rest of the nineteenth century.[18] But the expansive notions of the rights of neutrals favored by the U.S. gained considerable ground during this time. As the Latin American States gained their independence, for instance, the U.S. concluded a series of treaties of amity and commerce with them, and these unfailingly included the maritime principles favored by the U.S. since 1776—freedom for a neutral to trade in non-contraband goods with a belligerent; free ships free goods except contraband; and restriction of contraband to itemized instruments of war. The treaties also prohibited seizure of neutral goods on boared enemy ships but only to the extent that the nations whose ships were involved all recognized that principle, a limitation made necessary by the refusal of some of the European nations to accept that principle until the Declaration of Paris in 1856.[19] Moreover, claims against France and its subjugated allies for their seizures of American vessels during the Napoleonic Wars were satisfactorily settled in the early 1830's.[20]

Nonetheless, U.S. rights as a neutral were occasionally put in question during these decades, although never to the same extent as in the Napoleonic Wars. In 1825 the new Republic of Peru declared that "all vessels which may be found with Spanish property of any kind shall be declared lawful prize by the competent tribunals," but the U.S. gave notice that its naval commanders would forcibly resist any effort to enforce that decree on U.S. vessels and were authorized to recapture any U.S. vessel seized under the decree.[21] In 1880 Peru declared during a war with Chile that the transport by neutral vessels of nitrate deposits from territory that had been seized from Peru would expose the vessels to seizure, but the U.S. gave notice that such capture would violate the free ships, free goods provision of the 1870 U.S.-Peru commercial treaty and that Peru therefore would be held accountable for any loss suffered by a U.S. vessel.[22]

The Declaration of Paris of 1856 codified several of the principles of neutral shipping rights long advocated by the U.S. Britain, in particular, had long resisted an expansive understanding of such rights. But at the beginning of the Crimean War that country, along with France and Russia, stipulated that its treatment of neutral commerce would guided by the principle of free ships, free goods (contraband expected).[23] At the end of the war the major powers proved willing to include that principle, along with others, in the Declaration of Paris, which provided as follows:

> 1. Privateering is, and remains abolished.
>
> 2. The neutral flag covers enemy's goods, with the exception of contraband.
>
> 3. Neutral goods, with the exception of contraband of war, are not liable to capture under enemy's flag.
>
> 4. Blockades, in order to be binding, must be effective; that is to say, maintained by a force sufficient really to prevent access to the coast of the enemy.[24]

The U.S. did not adhere to the Declaration because it did not agree to the prohibition on privateering, but most of the other leading maritime nations did accede to it, and thus lent support to the notion that it crystallized international law on the rights of neutrals.[25]

Nonetheless, during the Civil War U.S. commitment to an expansive understanding of the rights of neutrals was at time sorely tested. Early in the conflict a U.S. naval commander forcibly removed two Confederate envoys from a British vessel instead of taking the ship into a prize court for violating its declared neutrality by carrying Confederate dispatches, as he would have been legally entitled to do. Despite the popularity of the action, British outrage and second thoughts about what looked like a matter of impressment eventually led the U.S. to concede the illegality of the action and to return the two men to British jurisdiction.[26] More significantly, the North also declared a blockade of all of the ports of the South that to some extent failed to meet the requirements of the Declaration of Paris, *i.e.*, the U.S. navy was not sufficient to make the blockade effective in fact outside every port. To stay within the requirements of the Declaration, therefore, and to avoid criticism that the blockade was an illegal paper blockade, the U.S. announced that it would seize no vessel for violating a blockade until after it has once been warned away. That the blockade was fairly effective, however, was due not entirely to the efforts of the U.S. navy. Britain accepted the blockade as legally sufficient, despite its porosity, because of the belief that it might itself one day want to be able to employ a similar kind of coastal blockade and wanted the U.S. to be bound by its own precedent.[27] Finally, the U.S., despite its resistance to the concept during the Napoleonic Wars, employed the doctrine of continuous voyage in order to stem the indirect flow of goods to the Confederacy, and as a consequence seized neutral vessels carrying contraband items even though ostensibly heading for a neutral port.[28]

Further efforts to codify the mutual rights and obligations of neutrals and belligerents were made late in the 19th and early in the 20th century. The Second Hague Peace Conference of 1907 succeeded in producing a number of conventions concerning the conduct of war, including a Convention Relative to Certain Restrictions with Regard to the Exercise of the Right of Capture in Naval War[29] and a Convention Concerning the Rights and Duties of Neutral Powers in Naval War.[30] But these Conventions were largely silent on the matter of neutral trading rights. Additional efforts were made at the London Naval Conference of 1908, which produced a Declaration Concerning the Laws of Naval Warfare.[31] The Declaration contained seventy articles covering the relations of neutrals and belligerants, including such subjects as blockades, contraband, prizes, resistance to search, and compensation. But Great Britain refused to ratify the Declaration, and no other country was willing to do so without that nation's adherence to the document.

Consequently, when World War I broke out, the U.S. refused its accustomed role as beleaguered defender of neutral shipping rights that for the most part still were not codified in any multilateral document. Britain, as the dominant naval power, attempted again to impose severe limitation on what were considered the traditional rights of neutral traders. It substantially expanded the definition of what would be considered contraband and subject to seizure if found on neutral ships on the grounds that most items, including foodstuffs, could be of aid to its enemy's war effort. It began hauling neutral vessels into port and examining their contents there instead of on the high seas on the grounds that modern vessels were too large to examine on the high seas and that the threat of submarine attack required alteration in the traditional mode of exercising the right of visit and search. It employed the doctrine of continuous voyage to interdict American shipping to neutral countries adjacent to Germany. It enforced a blockade against German ports not by stationing warships just outside the ports, as had been the past practice, but on shipping routes on the high seas, citing as justification the threat of long-range artillery and submarines to the traditional mode of effecting a blockade. Finally, it declared the North Sea as a whole to be a military area and mined it so thoroughly that neutral shipping dared not sail into it without explicit guidance from the British.[32]

The U.S. protested most of these measures (although not the last, until 1917), but perhaps because of sympathy for the Allied cause neither sought to convoy its merchant vessels nor to restrict its own mushrooming exports to the Allies as a means of compelling more respect for its rights. Indeed, U.S. bankers soon began financing the export of munitions to the Allies, over Germany's protests.[33]

Germany was heavily impacted by the British measures and protested in particular the U.S.' acquiescence in the British inclusion of foodstuffs as contraband and consequent attempt to starve Germany into submission. Moreover, in early 1915 it announced that in response to the British measures it was establishing a war area around the British Isles and that its submarines would attempt to sink or destroy all enemy merchant ships found within the area, without warning. It further stated that because British ships sometimes employed neutral flags as a subterfuge, there was a danger that neutral ships might unintentionally be torpedoed and they therefore had best avoid the area. The U.S. vigorously protested this limitation on its shipping rights and the disregard for the traditional requirement that even an enemy merchantman be given warning and its crew and passengers taken to safety before the ship was sunk, but it took no measures to prevent Americans from sailing into the war zone. When in march, 1915, the unarmed British passenger vessel *Lusitania* was sunk, with 197 Americans aboard, the U.S. demanded that Germany disavow the act and pay reparations. Germany claimed the ship was carrying munitions to Britain and that the torpedoing of the ship was a legitimate act of self-defense. But eventually an aroused public opinion and diplomatic representations led Germany to agree to pay a suitable indemnity, and concern about bringing the U.S. into the war led it to issue as well instructions to its submarine commanders not to attack unarmed passenger liners.[34] When in 1916 another passenger liner with Americans aboard was mistakenly torpedoed, public condemnation and diplomatic protests secured from Germany a pledge not to attack not only passenger liners but also unarmed merchant vessels.[35] But that pledge was conditioned on the U.S. taking action to force Britain to abide by traditional maritime law and relax its starvation blockade. The U.S. did continue its protests to Britain, but without success.[36]

Consequently, on February 1, 1917, Germany announced a policy of sinking all ships going to and from England and France, including neutral vessels. In April, 1917, American neutrality came to an end.[37]

The limitations imposed on neutral commerce during World War I were so extensive that, in the words of a subsequent Secretary of State, "nearly all of what had theretofore been the ordinary rules of neutrality and neutral rights were more or less set aside, so that when the war ended there was in several respects virtual chaos so far as neutral rights were concerned." [38] Following the war there were three efforts to restore and preserve neutral shipping rights in the face of the unsettling consequences of submarine warfare. In 1922 the U.S., Britain, France, Italy, and Japan signed a treaty which would have prohibited submarine warfare altogether "to the end that the prohibition of the use of submarines as commerce destroyers shall be universally accepted as a part of the law of nations," but the treaty never took effect as France failed to ratify it.[39] In 1928 the U.S. and several Caribbean and Latin American nations concluded a convention on maritime neutrality that laid down the following rules regarding visit and search and submarine warfare:

"If the merchant ship does not heed the signal to stop, it may be pursued by the warship and stopped by force; outside of such a case the ship cannot be attacked unless, after being hailed, it fails to observe the instructions given it.

"The ship shall not be rendered incapable of navigation before the crew and passengers have been placed in safety.

"Belligerent submarines are subject to the foregoing rules. If the submarine cannot capture the ship while observing these rules, it shall not have the right to continue to attack or destroy the ship."

This convention was not widely ratified, however.[40] Finally, the London Naval Treaty of 1930 provided that—

"* * * except in the case of persistent refusal to stop on being duly summoned, or of active resistance to visit or search, a warship, whether surface vessel or submarine, may not sink or render incapable of navigation a merchant vessel without having first placed passengers, crew and ship's papers in a place of safety."

This treaty was ratified by all of the major naval powers—the U.S., Britain, Japan, France, Italy, Germany, and the Soviet Union—and thus the principle seemed to state international law on the matter.[41] But events soon proved it to be of little effect.

As war clouds gathered in Europe and Asia during the 1930's, the U.S. chose to shed its role of defender of neutral trading rights and adopted instead a self-imposed policy of commercial noninvolvement with belligerents. The Neutrality Acts of 1935-1937 mandated an embargo on the sale or transportation of munitions and the extension of credits to all of the belligerents in a given conflict (other than a Latin American state at war with a non-Latin American state), initially empowered the President to warn Americans that they travelled on belligerent ships at their own risk and then declared it unlawful, empowered him as well to forbid American ships from transporting other articles of commerce to the belligerents, provided that certain raw materials could be sold to a belligerent only for cash and if transport was on the buyer's ships, and barred the arming of American merchant vessels.[42] But President Roosevelt opposed the rigidity of these statutes and consequently refused to make the finding that a war existed necessary to trigger their provisions. Moreover, he spoke repeatedly of the need to punish and discourage aggression, suggesting that the even-handedness of traditional neutrality was also not enticing.[43]

Thus, for a time U.S. munitions and raw materials continued to flow to such actual and potential belligerents as Japan, China, and Britain. In 1939 President Roosevelt sought changes in the Neutrality Acts to permit flexibility in their application, but was rebuffed by isolationists in the Senate. Consequently, two days after Britain and France declared war on Germany on September 3, 1939, President Roosevelt was unable to avoid declaring U.S. neutrality in the conflict and invoking the mandatory embargo provisions of the Neutrality Acts.[44] But continuing concern that an embargo on the shipment of munitions to all belligerents aided only Hitler led him to summon Congress into special session and to obtain passage of the Neutrality Act of 1939. That Act retained most of the provisions of the earlier Acts but did permit the sale of munitions to belligerents on a cash basis and if transported on the buyer's ships. It also authorized the President to designate certain areas as "combat zones" into which American ships would be forbidden from sailing. In effect, the U.S. opened its arsenals to the democracies of Europe while continuing to give up its rights as a neutral to the freedom of the seas.[45]

Nonetheless, both sides in the European conflict imposed limitations on navigation inimical to traditional notions of neutral trading rights. Germany declared a blockade of the Allied coasts, resumed the unrestricted submarine warfare of World War I on all shipping going to or from Allied ports, and seeded large areas of the oceans with floating magnetic mines. The Allies adopted a sweeping definition of contraband (the same one employed by the U.S. after it entered World War I),[46] employed the continuous voyage doctrine to restrict shipping to neutral ports in Europe, barred all neutral ships from sailing to Europe without inspection and clearance either at their home port before sailing or at an Allied port after sailing, and proclaimed that all property of German origin would be detained wherever found and regardless of ownership. The U.S. protested some of these measures, but its own actions in earlier conflicts foreclosed objection to such devices as the expansive definition of contraband, the continuous voyage doctrine, and minelaying. Moreover, the Neutrality Act of 1939 to a great extent prevented American ships from sailing into areas where their rights might be put in jeopardy. Germany did sink an American merchant ship in the south Atlantic without adequately providing for the safety of the passengers and crew in May of 1941 and incidents multiplied rapidly once the U.S.

began convoying the transport of lend-lease goods to Iceland later that year. But U.S. pretensions of neutrality dissolved for reasons other than violations of its commercial rights as a neutral.[47]

In sum, then, it appears clear that the U.S. has during much of its history found itself in the position of advocating expansive trading rights for neutrals. It has not always been consistent in doing so, and its advocacy in some situations has not possessed the cloak of impartiality toward a given conflict that neutrality properly requires. Moreover, international law on the matter has frequently been ambiguous and in the twentieth century in particular has often faltered in the face of technological changes in the means of waging war. But it seems fair to say that U.S. actions have generally supported broad protections of the right of neutrals to continue to trade under conditions of belligerency.

I hope the above is responsive to your request. If we may be of additional assistance, please call on us.

FOOTNOTES

---

[1] von Glahn, *Law Among Nations* (1981), at 721.

[2] Moore, *A Digest of International Law*, Vol. VII (1906), at 558-561.

[3] *Id.*, at 434.

[4] *Id.*, at 383.

[5] *Id.*, at 559.

[6] *Id.*, at 559-561.

[7] Bemis, *A Diplomatic History of the United States* (1965), at 36-45.

[8] *Id.*, at 25-26.

[9] *Id.*, at 29.

[10] Bailey, *A Diplomatic History of the American People* (1969), at 70-74.

[11] *Id.*, at 76-80.

[12] *Id.*, at 94-99.

[13] Bemis, *supra*, at 124.

[14] Bailey, *supra*, at 116-124.

[15] Bemis, *supra*, at 151-56.

[16] Bailey, *supra*, at 154-55; Bemis, *supra*, at 169-70.

[17] Bemis, *supra*, at 169.

[18] *Id.*, at 202.

[19] *Id.*, at 201-202.

[20] *Id.*, at 284-291.

[21] Moore, *supra*, at 445-46.

[22] *Id.*, at 452.

[23] *Id.*, at 447.

[24] *Id.*, at 562.

[25] Bemis, *supra*, at 335-36.

[26] *Id.*, at 369-72; Moore, *supra*, at 768-773.

[27] Bemis, *supra*, at 375-76.

[28] *Id.*, at 377. *See, e.g., The Bermuda*, 70 U.S. (3 Wall.) 514 (1865) (British vessel and cargo held to be rightly seized and condemned for violating the blockade despite ostensible neutral destination).

[29] 36 Stat. 2396.

[30] 36 Stat. 2415.

[31] Von Glahn, *supra*, at 701.

[32] Bailey, *supra*, at 568-571.

[33] *Id.*, at 571-574.

[34] *Id.*, at 575-581.

[35] Germany pledged as follows: In accordance with the general principles of visit and search and destruction of merchant vessels recognized by international law, such vessels, both within and without the area declared as a naval war zone, shall not be sunk without warning and without saving human lives, unless these ships attempt to escape or to offer resistance.

*Bemis, *supra*, at 608.

[36] Bailey, *supra*, at 584-85.

[37] Bemis, *supra*, at 614.

[38] Hackworth, *Digest of International Law*, Vol. VII (1943), at 17-18 (quoting testimony by Secretary of State Hull before the Senate Committee on Foreign Relations, given Jan. 10, 1936).

[39] Bemis, *supra*, at 671.

[40] Bemis, *supra*, at 672. The Convention remains in force and between the nations that ratified it—Bolivia, Colombia, Dominican Republic, Ecuador, Haiti, Nicaragua, Panama, and the United States—but carries little weight because of the absence of the major naval powers other than the U.S. *See*, U.S. Department of State, *Treaties in Force: A List of Treaties and Other International Agreements of the United States in Force on January 1, 1986*, at 295.

[41] Bemis, *supra*, at 672-73.

[42] Hackworth, *supra*, at 632-640.

[43] Bailey, *supra*, at 700-707; Bemis, *supra*, at 828-834.

[44] Bailey, *supra*, at 707-710; Bemis, *supra*, at 838-843.

[45] Bailey, *supra*, at 711-715; Bemis, *supra*, at 840-848. The U.S. denied that it was abandoning its rights as a neutral as a result of the Neutrality Acts. Secretary of State Hull expressed the U.S. position as follows on September 14, 1939:

"The Government of the United States has not abandoned any of its rights as a neutral under international law. It has, however, for the time being prescribed, by domestic legislation, certain restrictions for its nationals which but for such legislation they would have the right to exercise under international law.

"The principles of international law as regards neutrals and belligerents have been evolved through the centuries. While belligerents have frequently departed from these principles on one pretext or another, and have endeavored to justify their action on various grounds, the principles still exist.

"This Government, adhering as it does to these principles, reserves all rights of the United States and its nationals under international law and will adopt such measures as may seem most practical and prudent when those rights are violated by any of the belligerents."

Hackworth, *supra*, at 648.

[46] Hackworth, *supra*, at 24-25.

[47] Bailey, *supra*, at 716-720; Bemis, *supra*, at 849-860.

Mr. PRYOR. Mr. President, I would like to take a few minutes to comment on the conference report on the Department of Defense appropriations bill. In August, my friends on the Defense Appropriations Subcommittee accepted two amendments, both of which concerned the use of consultants by DOD.

The first amendment would have reduced DOD spending on consultant services by 15 percent based on fiscal year 1987 spending levels, which would have reduced spending by roughly $430 million. That amendment met resistance from the House, was modified in conference, and as such will now cut DOD consultant spending by $150 million. While this is far less than would have been cut under my amendment, I believe that it is a major victory in our efforts. This reduction will require DOD to prioritize its consultant spending and make some of the tough decisions that are going to be necessary to control the growth of consultant use at DOD.

My second amendment required consultants to DOD to register. The purpose of this amendment was simple: to allow the Government to know who its consultants are, how many there are, and who else they work for. This information would then allow the contracting officer to make a decision, before letting a contract, as to whether the consultant had any conflicts of interest that would harm the national security.

This amendment met with even greater opposition in conference. The provision now requires the Office of Federal Procurement Policy [OFPP] to issue a Government-wide policy on consultant registration within 90 days and regulations within 180 days.

I am disappointed by the conference agreement on this amendment. I can best be described as half a loaf and leaves the question of registering consultants up in the air.

In short, the conference agreement gives the administration, which has refused to support registration, the responsibility for determining whether there should be registration and, if so, which consultants should register and what information they should disclose.

Mr. President, that means our work is cut out for us. Congress will need to monitor OFPP and DOD very closely to ensure that registration does result and that such registration is effective and thorough.

This issue was highly controversial in the conference and I would like to applaud the very fine efforts of Senator STENNIS and Senator JOHNSTON, both of whom, along with their staffs, carried my amendments to conference and represented the Senate's position effectively and forthrightly.

I would also like to thank Congressman BENNETT and Congresswoman BOXER for their efforts on the House side.

I assure my colleagues that I am going to watch OFPP and DOD like a hawk and I will continue my work in this area to make sure that the Government knows how much money it is spending and who the Government is spending it on.

AN EFFICIENT DEPOT MAINTENANCE CAPACITY IS A REQUIRED FOLLOW-ON TO THE INF TREATY

Mr. HATCH. Mr. President, I rise to remind my colleagues that the support of many for the INF Treaty was conditioned to the maintenance of a high state of readiness in our conventional forces.

In examining the DOD Appropriations bill, fiscal year 1989, I find evidence that we are keeping our commitment to our modernization and equipment replacement efforts, but I am disappointed to find some deficits in the operations and maintenance accounts, especially for the Army. Let me say, Mr. President, that I do believe that we have finally turned the corner in convincing most Members of Congress of the relationship of O&M to readiness; this is readily evident in the fiscal year 1989 increase, in real terms, of 2 percent over fiscal year 1988.

However, I am very troubled over the reductions in the Army Industrial Fund, and let me explain why. The inability of the Army to return equipment to the field that has undergone depot-level maintenance can make a great difference between success and failure on the battlefield in wartime, and on unit and individual training for war during peacetime conditions.

The Army's Depot System Command at Letterkenny Army Depot in Pennsylvania manages the industrial fund, from which modern depot equipment is replaced through moneys apportioned to the asset capitalization fund. Descom has accountability for the efficient fielding of serviced equipment. Since much of this equipment goes to United States forces in NATO and Korea, we are endangering their mission accomplishment by slowing down the overhaul or the repair and return process. In times of crisis the reduced ability of Descom to respond is obviously more serious. I must say, Mr. President, that congressionally created obstacles to this process recklessly endanger U.S. lives on the battlefield. I am not trying to be dramatic, I am being constructive, and I want to point out the inherent dangers that accrue from our actions. Incidentally, I have been in touch with the Descom commander, Maj. Gen. Bill McGrath. General McGrath is one of our finest, most professional general officers—he is no idle bellyacher. He is performing his mission under formidable odds; Mr. President, we must do more.

ACP provides the key to productivity. Modern equipment replaces aging—and, I add, fully depreciated from an accounting standpoint. In some cases older equipment is slower, more prone to breakdown, and more manpower intensive.

In Utah, at the Tooele Army Depot, my staff has learned that the workforce—among the very best anywhere in this country, at any civilian or military facility—is actually experiencing a morale problem. This is because of aging equipment that keeps them from meeting production goals. This problem is coupled with other elements of a certain formula for deficiency in any industrial setting. In Descom, manpower levels from 1985–89 decreased 14 percent. The net productive capacity of the depot system has been cut 48 percent, and yet the number of line items to be managed in, for example, the supply distribution system rose 46 percent.

By way of analogy, Mr. President, imagine ourselves faced with population increases in our States, and with that growth more constituent needs, while we are compelled to cut our staffs.

The problem is not isolated to Utah, as I have implied. Other depots in the States of Alabama, Texas, Pennsylvania, Kentucky, California, and New York are accomplishing only 75 percent of their workload objectives. What troubles me is that some of these cutbacks affect the very depots that must efficiently make supply distributions to Europe and Korea. One of these centers is actually operating at a level of 52 percent efficiency because of manning and other issues cited here. And, let me add, reduced efficiency means higher prices for the work done.

I have discussed this problem with my colleagues in Congress, Mr. President, and, to be honest, I have not entirely agreed with the justifications for the cuts. For example, I am told that the Navy's poor management of ACP was a benchmark for looking more closely at other services' ACP demands. However, when I analyzed the GAO report on which these replies were founded, I found a different story. The GAO report was premised on the review of draft instructions from the Navy Department to the field. Now we all know that we test regulations much like we insist on the full testing of equipment before it is fielded.

The report then criticized the slowness of the Navy in getting the items on contract—yet, I remind my colleagues, that the instructions therefore were in draft. They were not fully suitable for finalized procurement actions! When the Navy volunteered, for reasons of integrity, a $170 million cut in ACP to provide for time to remedy the early, startup management problems, they were criticized.

Mr. President, I suggest that it is wrong to punish all of the services because of a misinterpretation of the management problems of one. That, however, is exactly what we did in the case of the Army. Then we aggravated even that service's management of ACP. Please allow me to explain.

Now, I have been told that the Army was needlessly shifting moneys from the Industrial Fund into ACP, rather than using these moneys for reducing maintenance backlogs or avoiding furloughs. Talk about catch-22 situations: without efficient equipment, backlogs will rise and grow faster where there is less, not more, manpower needed to offset the loss of efficiency that could be derived from modernized equipment.

To make matters worse, in 1979 we mandated that the services stop using O&M moneys to buy new equipment and to fund such purchases from the procurement appropriations. ACP could not effect this fund transfer until 1983, creating a 4-year shortage of new equipment needs. In the meantime, surcharges for depot services by the Army, and paid into the AIF, along with the growing set-asides for rapidly depreciating equipment, were transferrred to ACP. Such transfers have, however, never made up the $123 million equipment needs for ACP placed in jeopardy by the 4-year transition period to procurement funding for ACP equipment. In other words, Mr. President, the transfer of moneys to the ACP from the AIF, by the Army, is an attempt at restoration. It was made infinitely more complex and unworkable by ACP reductions, made this year by Congress, on the incorrect assumption that a slush fund was being created.

Let me bring these remarks to a close: Mr. President, I urge this Chamber, if not here then in conference, to underwrite the meaningful attempts being made by Descom to increase productivity. There is only one set of solutions that has any feasibility: Restore the ACP moneys, and slow the manpower erosion process.

Mr. President, this has been a long treatise, but I thank my colleagues for their attentiveness, their interest and, I know, the seriousness of their commitment to doing what is right for the members of our Armed Forces, from whom we expect so much.

Mr. CHILES. Mr. President, the U.S. shipbuilding industry is in steep decline. Of the 110 shipyards identified as recently as 1982 as being essential for our shipyard mobilization base, 41 have already closed. No commercial ships are being built in our shipyards. Until there is a change in our national policy and in the international economic environment, Navy shipbuilding is the only work available to sustain some U.S. shipyards.

Several years ago the Navy identified a need for 18 TAO fleet oilers. Four of these ships have now been delivered to the Navy with seven more in the pipeline.

Earlier this year the Navy Sea Systems Command issued a request for proposals for the design and construction of the remaining seven TAO's. The Navy's procurement strategy was to split the buy between two shipyards to sustain the mobilization base. The winner of the first segment of four ships would be precluded from competing for the remaining three ships. I applaud this decision as the right way to proceed and one which recognizes the urgency of maintaining the shipyard mobilization base as a means of helping enhance our national security.

Unfortunately, because of what the Navy believes are budgetary restrictions, they modified the terms of the TAO solicitation to permit the winner of the first award to also participate in the competition for the final three ships. While I applaud Secretary Pyatt for trying to get the most ships he can for the money, I believe the effect of the change could very well mean that 16 of the 18 oilers would be built on one single shipyard. The effect no doubt will reduce further our shipyard mobilization base, and reverse the nature of competition resulting in a potentially costly shipbuilding program in the future.

Mr. President, I am pleased that the conferees recommended that the decision on the final TAO buy should be delayed until after a new President takes office. TAO procurement presents a unique opportunity for the Navy to expand its shipyard mobilization base in connection with the modernization of the fleet's mobile logistics support forces.

We now urge the Navy to support competition in this case and put the highest priority on protecting the industrial and mobilization base.

Mr. SASSER. Mr. President, the conferees have requested the Department of the Navy to submit a detailed strategy on the effectiveness of second source procurement in Navy shipbuilding.

Members of the Defense Subcommittee should have a full analysis of the impact of second source procurement in the Navy's Shipbuilding Program.

When the report is submitted, members of the subcommittee will carefully review it and discuss the findings with officials of the Department of the Navy.

NATIONAL DEFENSE SCIENCE AND ENGINEERING GRADUATE FELLOWSHIPS

Mr. HATFIELD. Mr. President, our Defense Establishment and strategy is predicated on the development and incorporation of superior technology in our weapon systems and in our communications and intelligence capabilities. Our technology advantage, in turn, is critically dependent on the number and quality of scientists and engineers.

Since 1976, employment of scientists and engineers is up 85 percent, and this trend is expected to continue. However, while our need for such highly trained individuals is increasing, demographic trends show the number of 22 year olds—the near-term source of future Ph.D's—to be declining.

Not only is the demographic pool of candidates declining, but competition from other fields—law, medicine, business, et cetera—continues and the number of Ph.D's in science and engineering is declining, while awards of Ph.D's to foreign nationals are increasing rapidly.

Our educational system's failure to provide high quality science and mathematics curricula, and to motivate a larger proportion of our students to pursue science and engineering careers is compounded at the graduate level because of the intense demand in industry for bright bachelors and masters degree holders.

Too often, promising Ph.D candidates, confronting the cost and financial sacrifice of pursuing their education, find the lure of an industry job irresistible.

Unfortunately, industry activities are focused on the application of existing technology, and rarely on the research necessary for the development of new technology. In addition, higher education institutions are dependent on Ph.D's to prepare succeeding generations of scientists and engineers.

Science and engineering fellowships will help reverse the decline in the number of American students seeking graduate degrees in these critical disciplines. The Department of Defense Program will focus on those particular fields which have the greatest payoff for national security requirements and will complement the more broadly directed graduate and postdoctoral fellowship programs of the National Science Foundation.

Unlike the research assistantships supported indirectly through research grants and contracts, graduate fellowships will be awarded on the basis of nationwide competition assuring the selection of the most promising students. Furthermore, this program will permit recipients to pursue research opportunities in institutions of their own choosing.

Mr. President, for these reasons I proposed an amendment to the fiscal year 1989 Department of Defense appropriations bill to initiate a new National Defense Science and Engineering Graduate Fellowship Program—amendment No. 273. Since adoption of my amendment on the Senate floor nearly 2 months ago, I have heard concern expressed over the impact of earmarking funding for the graduate fellowship program out of the University Research Initiative [URI] Program. Specifically, the research community was concerned that diverting sums needed for the graduate fellowship program from that provided for the URI Program would leave less than current funding levels for that important center-based research grant activity. This would adversely impact anticipated support for research organizations which were given multiyear commitments for funding. It would also make difficult, if not impossible, to institute a proposed $5 million effort to provide grants to States and institutions which traditionally have not competed well for research funds.

Mr. President, I appreciate and fully share these concerns of the research community. While I believe it to be of utmost importance for the Department of Defense to shoulder a greater share of the compelling need to train our Nation's future scientists and engineers, this responsibility should not be at the expense of direct support for the conduct of basic research, especially when denial of such support would be disruptive of ongoing planned research activities.

Originally, I had sought funding for the new graduate fellowship program as purely an increase over the levels already recommended for the URI Program. Unfortunately, budgetary constraints made such funding impossible, so I agreed to take my initiative to conference in the form of an earmark out of the URI Program.

There, I again urged additional funding for the National Defense Science and Engineering Fellowship Program. While such action was resisted, on budgetary grounds, by the committee of conference, agreement was reached on the alternative to permit the graduate fellowship program to be partially funded out of the much larger defense research sciences [DRS] funding pool. This account totals nearly $900 million and is not only nine times larger than the URI account, but is also composed of individual research grants, a substantial fraction of which expire upon their completion each year. Redirecting these funds toward graduate fellowships, therefore, would not raise the problem of disrupting on-going research activities for which the DOD made prior year commitments as might be the case in the URI Program.

The conference compromise also provides a floor of $10 million on the level of funding for this new fellowship program, rather than the target of $12 million contained in the original Senate amendment. I am hopeful that these changes will permit the initiation of this new Fellowship Program without any adverse impact on important Department of Defense basic research activities.

Mr. President, I am pleased that the conferees agreed to report language which recognizes the incredible disparity in the proportion of doctoral degrees conferred on members of racial minorities, and directs the Secretary to consider implementing this new program in a manner which will promote awards of these fellowships to members of these groups. I believe that the Department should adopt the approach of the National Science Foundation in providing a specific set-aside for minorities underrepresented in science and technology, in addition to considering a consolidated application and review process to permit the selection of the most qualified candidates with a minimum of cost and administrative delay.

Mr. President, in sum, the conference agreement on the National Defense Science and Engineering Graduate Fellowship Program is an important first step toward more adequately providing for our Nation's security, both military and economic, through the stimulation of the education of our future scientists and engineers. I am especially grateful for the support and assistance of the distinguished Senator from Georgia, Mr. NUNN. He has provided real leadership and insight in recognizing this critical need, and in helping formulate this new program.

I hope that as this program grows and expands over the next few years, we will see a reversal of the erosion in the performance of our education system, at all levels, in encouraging students to pursue careers in the sciences and to provide the highest quality curriculum. Our Nation's future security and prosperity depends on this, and I am encouraged that we are taking this step today toward that goal.

Mr. DOMENICI. Mr. President, I rise in support of the Defense appropriations conference report now under consideration by the Senate.

I hope that even though we have a disagreement, we will complete the bill. I think the Senate ought to know that if we do get a freestanding defense appropriation bill, it will be the first time since 1977. We have not had a freestanding appropriation bill since 1977 for the defense of the United States.

Mr. President, I think the economic summit conference taught us something. It gave us 2-year mandatory ceilings in defense, foreign assistance, and the rest of domestic appropriations. I believe that gave us the ability this year to achieve what we hope this evening will be historic—both Houses delivering to the President 13 freestanding appropriations bills that meet the targets set by the economic summit and the budget process of the United States.

I would like to make special note of the fact that this will be the final Defense appropriations measure which Senator STENNIS will bring to this Chamber.

We shall not see the likes of Senator STENNIS again in the Senate. His skill and diplomacy will be sorely missed by his many friends and colleagues in this Chamber and by the institution of the Senate.

I thank him for the efforts he has made over many years to provide for our national defense, while treating all Members of the Senate with courtesy and consideration.

Mr. President, I would like to make several observations about the unprecedented events that bring us to the consideration of this appropriations conference report today.

The bill now before us provides funding levels for defense that were agreed upon at last fall's bipartisan budget summit.

At the summit, the Congress and the administration agreed to provide $299.5 billion in budget authority and $294.0 billion in outlays for defense in fiscal year 1989.

The administration submitted a fiscal year 1989 defense budget this last February that met that target.

The fiscal year 1989 budget resolution passed by the Congress hit that target.

The authorization bill, both before and after the President's veto, hit that target.

And, finally, the Defense appropriations bill has come in on target. This bill provides the majority of funding for national defense, and, in combination with other appropriations bills which fund national security programs, will keep defense spending at the summit level.

Mr. President, with this bill we have completed the second year of an unprecedented 2-year agreement for defense spending.

Last year's bipartisan budget agreement represented an agreement between the Congress and the administration to fix levels of defense spending for fiscal year 1988 and fiscal year 1989.

We have followed through on this agreement, and while the levels of funding which we have provided for defense have not been as high as I would prefer, we have given the Department of Defense a small measure of stability.

I urge my colleagues to consider the value of this kind of stability for defense planning and as a means of allowing the Department of Defense to capture savings in their procurement process. If the Congress can make and keep promises of stable funding for defense, the Pentagon can design and purchase the weapons it needs at big savings.

Even though we essentially "backed into" a stable budget for defense these past 2 years, I believe the summit agreement has been a successful undertaking. This year the budget and appropriations processes worked, and for the first time since 1977, the Congress will send the President a separate Defense appropriations bill.

I strongly recommend that we look ahead and work with the Department of Defense to provide stable budgets in the future so the Congress can complete its work before the beginning of the fiscal year.

Finally, Mr. President, I commend the conferees for accommodating a 4.1-percent pay raise for our men and women in uniform. This pay raise fulfills the commitment enacted in the Defense authorization bill and will help narrow the gap in wages paid to our military personnel for comparable jobs in the civilian sector.

Mr. President, I believe this Defense appropriations conference agreement does a good job of addressing our national defense needs.

I believe this bill is a tribute to the hard work of the distinguished subcommittee chairman, JOHN STENNIS, whose long and dedicated service to the Senate will long be remembered.

I urge my colleagues to adopt this conference report.

Mr. CHILES. Mr. President, this Defense appropriations bill is the last one of my tenure in the U.S. Senate. It is also a historic piece of legislation for a number of reasons. It is the second year of last year's precedent setting, 2-year budget agreement. This is especially gratifying for me because I believe the one essential element of a strong defense posture is stability. Stability encourages thoughtful, long-range planning and good detailed execution. More importantly, it is reflective of a level of bipartisan consensus on national security requirements.

Unfortunately, this much discussed bipartisan consensus has been very elusive in the post-Vietnam era. Again the tone and tenor of the Presidential debate would indicate that national security will remain part of the one note demagoguery of recent years. One can only hope that passage of this bill might signal a new era. The next President will need all the help he can get to balance urgent and overdo investments in national infrastructure with genuine national security requirements.

This bill is also the last bill for my friend and mentor, the senior Senator from Mississippi. Senator STENNIS has served as a towering figure of wisdom, good judgment, dignity, and immense integrity in the Senate for 40 years. He will leave a void which, if it is possible to fill at all, can only be done so by a man with many years of dedicated service, experience, and insight. My colleagues will need to work very hard to accomplish this. I will personally miss him very much.

I know my friend Senator STENNIS recognizes that much of what we ultimately accomplish in this body is the result of talented and dedicated staff. The Appropriations Committee staff is no exception. Frank Sullivan veteran staff director of the committee is thoroughly knowledgeable, cool, wise, and thoughtful. Charlie Houy is the best defense budget technician in the business. Jay Kimmitt and Jane McMullan are smart and capable analysts. Scott Gudes and Steve Cortese are extraordinarily capable staff who insure that our readiness accounts are well scrutinized and well balanced. Similarly, Peter Lennon has deftly and proficiently overseen the Pentagon's research and development account. Finally, and sadly, we are losing Ed Swoboda this year. We will miss his insight and experience.

I also know my friend has benefited from his relationship with his exceptional ranking minority member, the former chairman of the Defense Subcommittee, the senior Senator from Alaska [Mr. STEVENS]. Senator STEVENS served with Claire Chennault's Flying Tigers in China and he earned the name. He is a tiger in a fight. Never was there a stauncher ally when you are with him or a more worthy opponent when you are not. That is how it should be in this body. He has been my friend for nearly 20 years and I know of no one who loves our country more. He is a fierce patriot.

Senator STEVEN's right hand man through the past several years has been Sean O'Keefe. As staff director of the subcommittee a few years ago, Sean established a record of competence and excellence which will be difficult to duplicate. His teammate Penny German not only makes the trains run on time but she also makes you glad you didn't take the bus.

Mr. President, I do hope we can resolve the difficulties that exist between our subcommittee and the Armed Services Committee. A few years ago barely half of the defense budget was authorized. Today the authorizing committee is demanding even more detailed control. This is unwise. It disturbs the delicate balance of comity and understanding which must exist between these committees. It is also unnecessary. We on the Appropriations Committee defer to our brethren on the authorizing committee on major policy issues like SDI, the ABM Treaty, and defense reorganization. They should not and cannot assume as well the bean counting, bookkeeping, and budget balancing functions normally reserved for the Appropriations Committee. I hope we come to our senses on this issue. It is most unfortunate.

Finally, Mr. President, I want to thank my friends and their staff. They have served their country well. I am proud to have served with them.

Mr. HARKIN. Mr. President, the veto of the original defense authorization bill by President Reagan on August 3 was clearly motivated by political considerations: his chief military advisers, the Secretary of Defense, the National Security Adviser, the JCS, and even the ranking member of the Senate Armed Services Committee counseled against a veto. He vetoed the original bill even though, for the first time in 8 years, Congress authorized the full dollar amount requested by the President.

Despite the political nature of this veto, the President's tactic did succeed in watering down what was already a weak set of arms control measures in the bill. I was one of two Senators who voted against the Senate version of the defense authorization bill on August 10, because it lacked adequate restrictions on nuclear weapons programs. I did support the House/Senate conference report which included modest arms control provisions. However, this latest maneuver by the President has removed some of those modest arms limits, and I therefore voted against this latest bill.

While the President bemoans the arms control measures in the original defense bill, in fact the arms control provisions included in that bill were quite modest. Consider the star wars project. Most knowledgeable observers agree that this controversial program has been vastly oversold, and will have to be scaled back significantly no matter who wins the Presidential election. The push for early deployment of a 16-percent effective space-based defense consumes approximately half of the SDI budget. By any reasonable standard of prudent spending of taxpayer dollars, this part of the program should be eliminated. The Pentagon's own Defense Science Board has recommended that the space-based interceptor program should be postponed in favor of less ambitious but feasible ground-based systems. On this basis, the program should be cut to less than $2 billion.

Despite the evolving consensus that the space-based early deployment is dead, Congress continues to fund the full program at the $4.1 billion level. The only legitimate purpose for SDI research, to provide the United States with options should the Soviet Union ever deploy a nationwide defense, would require less than $2 billion. Given our tight budgets and obscene national deficits, the only responsible action by Congress would be to cut SDI to $2 billion or less.

The Congress did cut the Space-Based Interceptor Program, the heart of the early deployment scheme, from $320 million back to $85 million in the original, vetoed bill. This was a prudent measure, signaling the Pentagon that the Congress will not condone plans to deploy a partial, space-based defense that would undermine stability and give strong incentive to the side striking first in some future crisis. Unfortunately, this restriction on space-based interceptors was removed from the new defense bill, contributing to my negative vote.

The new version of the defense bill also shifts $100 million from research to the MX. This shift to the destabilizing MX is troubling. The rail-mobile version of the MX purports to solve one destabilizing aspect of the MX: its vulnerability. However, during peacetime, the rail-garrison MX sitting on military reservations would be much more vulnerable than the silo-based MX. It would take 3 to 4 hours to move these deadly trains into the Nation's civilian rail lines, encouraging the Soviets to strike early in some future crisis. In any case, the accuracy of the 10 nuclear warheads carried by each MX missile would still threaten Soviet land-based missiles and command and control bunkers, giving them additional incentive to strike first, to "use them or lose them" in a crisis.

The new version of the bill also removes the ban on depressed trajectory missile flight tests, a proposal originally introduced by my colleague from Iowa, Dave Nagle. The Congress had decided that it would be in our national security interests to prevent both superpowers from developing depressed trajectory missiles. If perfected, depressed trajectory missiles fired from Soviet submarines off our coasts could destroy our command and control facilities and our bombers on the ground, completely circumventing any future star wars defense. By linking U.S. development of depressed trajectory missiles to Soviet restraint, the congressional ban effectively would have inhibited Soviet developments in this area. Eliminating this ban will have no effect on the United States, since we had no plans for such tests. The bill does still require the Defense Department to carefully define the depressed trajectory flight regime, so that it will exclude any past tests by either superpower, a useful step in implementing a ban in the future.

The new bill, like its predecessor, requires the dismantling of 2 Poseidon submarines, to slow our growth of nuclear delivery vehicles above the SALT II numerical sublimits of 1,320 launchers. It does not return us to the January 1988 violations level—we were then about 24 launchers over the limit—let alone return us to the sublimit as passed by the House.

Finally, the bill accepts the conference requirement that the Department of Energy prepare for a possible ban on nuclear weapons by developing warheads that do not require nuclear explosive testing. This is a useful step, but we should agree to stop all nuclear explosion tests.

In summary, the new defense authorization bill has watered down what was a very meager effort to curtail destabilizing, costly, and unnecessary nuclear weapons developments. I voted against this bill because the arms control provisions were too weak. The star wars budget should be cut back to less than $2 billion, and the development of destabilizing space-based interceptors should be stopped. We should return to the SALT II numerical sublimits, as along as the Soviets abide by these limits, and we should stop all nuclear explosions. Finally, our long-term national security interests would be best served by banning the development and testing of depressed trajectory missiles.

Mr. JOHNSTON. Mr. President, if I may, may I explain to my colleagues what the next move will be and what the rest of the bill will be?

In any event, Mr. President, after that is adopted, either by voice vote or record vote, we will then move to the amendments in disagreement and I will move to adopt all of those, save three.

Mr. President, we have no request for that, so, I move that the Senate adopt the conference report on H.R. 4781.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Will the Senator from Louisiana yield just for a question?

Mr. JOHNSTON. Yes.

Mr. NUNN. I have an amendment to the amendment in disagreement No. 89. I assume the Senator is going to adopt the amendments in disagreement that he does not have any other amendments to; is that correct?

Mr. JOHNSTON. That is correct. I intend to, except amendment No. 89.

Mr. STEVENS. Mr. President, I would like to protect amendments numbered 78 and 252.

Mr. JOHNSTON. Yes; those were the other two.

Mr. NUNN. Mr. President, I inquire of the Senator from Alaska, if he would yield, would that include the amendment the Senator from Maine, Senator Cohen, would like to discuss?

Mr. STEVENS. Yes; it does. Amendment No. 252 is the one that Senator Cohen would like to discuss; 89 is the one the Senator from Missouri [Mr. Danforth] would like to discuss; and 78 is the one the Senator from North Carolina [Mr. Helms] would like to discuss.

Mr. NUNN. And 89?

Mr. STEVENS. And 89 is the one the Senator from Georgia would like to discuss.

Mr. NUNN. That is correct.

Mr. STEVENS. I believe that is all that have been mentioned to me, and I do my best to protect everyone on both sides on this. Those four are the only ones that have been mentioned to me, I say to my good friend.

Mr. JOHNSTON. Mr. President, I ask the Chair to lay before the Senate certain amendments which are in disagreement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I will shortly ask unanimous consent to consider the amendments en bloc, except for amendments numbered 78, 89, and 252. No. 78 is the amendment to which Senator Helms wishes to put his Poseidon amendment on; No. 89 is the university amendment; and amendment No. 252 is the amendment that Senator Cohen has an interest in.

Mr. STEVENS. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. STEVENS. Mr. President, I made an error. I have just discovered that the amendment the Senator from Georgia mentioned and the amendment the Senator from Missouri has mentioned are identical. So there are only three that are excepted from the unanimous consent request, as far as I know.

Mr. JOHNSTON. The Senator is correct.

Mr. President, I ask unanimous consent that it be in order to consider and agree to en bloc the amendments in disagreement, except for amendments numbered 78, 89, and 252.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Reserving the right to object, amendment No. 252 is the one the Senator from Maine referred to as the MARV amendment?

Mr. JOHNSTON. That is correct.

Mr. WARNER. I wanted to make that clear.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc, with the exception of amendments numbered 78, 89, and 252.

The amendments agreed to en bloc are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 1 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: "$24,484,745,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 19 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "$24,852,100,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 21 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ": *Provided further,* That of the amount appropriated, $40,000,000 shall be available after August 15, 1989, for repair of blister modification of the USS *Midway: Provided further,* That blister modification of the USS *Midway* may be accomplished at a shipyard in Japan only if such costs are assumed by the Government of Japan, or if the Government of Japan agrees to increase its share of U.S. labor costs or operational costs in the Japanese fiscal year by an amount equal to or greater than $40,000,000, and that such increase will be in addition to any increase already agreed to by the Governments of the United States and Japan at the time of enactment of this Act: *Provided further,* Notwithstanding section 2805 of title 10, of the funds appropriated herein, $3,500,000 shall be available for a grant to the Naval Undersea Museum Foundation for the completion of the Naval Undersea Museum at Keyport, Washington. These funds shall be available solely for project costs and none of the funds are for remuneration of any entity or individual associated with fund raising for the project: *Provided further,* That of the funds appropriated herein, not to exceed $980,000 shall be available to pay Ukpeavic Inupiat Corporation for expenses related to the conveyance of the Navy Arctic Research Laboratory: *Provided further,* That, notwithstanding any other provision of law, the lease of the U.S. Navy repair ship *Hector* is hereby authorized in accordance with Chapter 6 of the Arms Export Control Act and subject to the reporting requirements of Section 62 of the Arms Export Control Act, as provided for in Executive Communication 4362, subject to a separate authorization bill being enacted on or after October 18, 1988, whichever comes first".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 23 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "$21,721,673,000 of which $1,500,000 shall be available only for repair and maintenance of Decker Field, Utah: *Provided,* That $26,000,000 shall be available only for the operation of the SR-71 Base in the Pacific area and, these funds shall be available for obligation and expenditure for this purpose".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 35 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: "$2,602,800,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 36 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert: "*Provided,* That funds may be obligated and expended for procurement and advance procurement of the Forward Area Air Defense System, Line-of-Sight Forward-Heavy system without regard to the restrictions contained in section 111(d) of the National Defense Authorization Act for fiscal year 1988 and 1989 (Public Law 100-180): *Provided further,* That notwithstanding section 138 and 2366 of title 10 U.S.C., the Secretary of the Army may obligate advance procurement funds provided for the Forward Area Air Defense System, Line-of-Sight Forward-Heavy system."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 42 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: "$9,415,311,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 45 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ", as follows:

"Ballistic Missile Programs, $1,872,538,000;
"Other Missile Programs, $3,245,154,000;
"Mark-48 ADCAP Torpedo, $485,000,000;
"Mark-50 Torpedo, $198,547,000;
"Vertical Launched ASROC, $105,000,000;
"Modification of Torpedoes, $3,289,000;
"Torpedo Support Programs, $48,652,000;
"Other Weapons, $108,440,000;
"Spares and Repair Parts, $87,412,000;
In all: $6,154,032,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 49 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: "$2,062,200,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 50 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "$689,900,000: *Provided,* That the Navy shall first execute the remaining options for the low bidder's current contract: *Provided further,* That the remaining funds may not be obligated or expended until the Secretary of the Navy conducts an independent assessment of the shipbuilding mobilization base and determines whether or not the remaining three T-AO fleet oilers should be awarded to a second source shipyard and submits for approval to the Committees on Appropriations its T-AO fleet oiler procurement strategy".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 60 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: "$7,219,683,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 61 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "$8,188,638,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 71 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: "$5,130,166,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 72 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ": *Provided,* That $7,300,000 shall be available only for type classification and operational testing of the 120 millimeter mortar system and development of a family of enhanced 120 millimeter ammunition: *Provided further,* That $2,500,000 shall be available only for the vehicular intercommunications system: *Provided further,* That $5,000,000 shall be available only for development of fluidtronics technology for use in ground combat or support vehicles: *Provided further,* That $2,000,000 shall be made available until expended, as a grant, only for continued development of a medical research institute directed at basic and clinical research in immunology, for associated facilities, and for related purposes".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 73 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: "$9,382,312,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 77 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: "$14,502,347,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 80 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: "$8,427,908,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 81 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert: ": *Provided,* That $95,000,000 shall be made available only for the Advanced Submarine Technology Program as described in section 241 of the National Defense Authorization Act for Fiscal Year 1989 (H.R. 4264), as provided in the conference agreement included in House Report 100-753: *Provided further,* That the Secretary of Defense shall award the funds made available in this Act for the University Research Initiative Program on the basis of competition; and, that none of the funds may be obligated or expended until the Appropriations and Armed Services Committees of the House and Senate approve a plan submitted by the Secretary of Defense to provide for broader geographic distribution of funds under such program in comparison to the distribution of such funds during fiscal year 1986 and 1987; and set aside a portion of the funds available for such program for fiscal year 1989 to implement such a plan: *Provided further,* That section 215(c) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180) is repealed".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 83 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ": *Provided further,* That of funds made available for the Experimental Evaluation of Major Innovative Technologies program, $34,000,000 is available only for the purposes of research, development, launch, and on-orbit functional demonstrations with military forces of LIGHTSAT systems and their required low-cost transportable space launch vehicles".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 87 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ": *Provided further,* That of the total amount available for obligation for the Strategic Technology Program, $20,000,000 shall be made available only for the Defense Advanced Research Projects Agency Initiative in Concurrent Engineering".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 102 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"DRUG INTERDICTION, DEFENSE

"(INCLUDING TRANSFER OF FUNDS)

"For the Department of Defense, $210,000,000 and by transfer, from Aircraft Procurement, Navy, 1987/89, $90,000,000 for transfer, to 'Military Personnel' and 'Operation and Maintenance' appropriations for operating costs of the Department of Defense related to the detection and monitoring of aerial and maritime transit of illegal drugs into the United States. Not less than $40,000,000 of such amount shall be available only for drug interdiction activities of the Army National Guard and the Air National Guard. Funds appropriated by this paragraph in excess of $30,000,000 may not be obligated or expended until—

"(1) the Secretary submits to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report on how the funds are proposed to be used; and

"(2) a period of 30 days has elapsed after the date on which the report is received by such committees.

"Such report shall be submitted not later than 60 days after the date of the enactment of this Act and should set forth in detail the plans of the Secretary for the obligation of such funds, including a statement of the following:

"(A) The appropriation account or accounts to which the funds are proposed to be transferred.

"(B) The activities proposed to be undertaken using those funds.

"(C) The relationship between those activities and the drug interdiction strategy of the United States.

Funds appropriated by this paragraph shall be available for obligation for the same period, and for the same purpose, as the appropriation to which transferred. The transfer authority provided in this paragraph is in addition to any transfer authority contained elsewhere in this Act. The restrictions contained in the third sentence of this paragraph shall not apply to the obligation of any amount not in excess of $30,000,000 which is obligated for drug interdiction activities.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 103 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"SPECIAL OPERATIONS FORCES FUND

"(INCLUDING TRANSFER OF FUNDS)

"For expenses, not otherwise provided for, necessary for equipping and operating Special Operations Forces; $286,000,000, of which $108,000,000 shall be transferred to and merged with Other Procurement, Army; $35,000,000 shall be transferred to and merged with Operation and Maintenance, Navy; $100,000,000 shall be transferred to and merged with Shipbuilding and Conversion, Navy; $25,000,000 shall be transferred to and merged with Other Procurement, Navy; and $18,000,000 shall be transferred to and merged with Operation and Maintenance, Army.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 104 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

"That except as provided in 10 U.S.C. 2690, the foregoing authority shall not be available for the conversion of heating plants from coal to oil or coal to natural gas at defense facilities in Europe: *Provided further,*",

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 106 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "No appropriation contained in this Act may be used to pay for the cost of legislative liaison activities of the Department of Defense in excess of $15,000,000: *Provided,* That costs for military retired pay accrual shall be included within this limitation.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 108 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

"SEC. 8016. Except as provided in 10 U.S.C. 2690, none of the funds available to the Department of Defense in this Act shall be utilized for the conversion of heating plants from coal to oil or coal to natural gas at defense facilities in Europe.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 128 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "UHF follow-on satellite system; Defense Meteorological Satellite;";

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 131 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert: "TOW 2 Missile: *Provided*, That any requirement that a multiyear contract may not be entered into unless the anticipated cost over the period of the contract is not more than 88 percent of the average cost incurred for the same system procured under an annual contract shall not apply to multiyear contracts for TOW 2.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 138 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, strike out "46,622" in said amendment, and insert: "47,292".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 179 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

"SEC. 8072. Except where specifically increased or decreased elsewhere in this Act, the restrictions contained within appropriations, or provisions affecting appropriations or other funds, available during fiscal year 1989, limiting the amount which may be expended for personnel services, and including pay and allowances of military personnel and civilian employees, or for purposes involving personal services are hereby increased to the extent necessary to meet increased costs authorized by or pursuant to law.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 186 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"(a) None of the funds in this Act may be used to execute a contract for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) Reform Initiative that exceeds the total fiscal year 1987 costs for CHAMPUS care provided in California and Hawaii, plus normal and reasonable adjustments for price and program growth.

"(b) Notwithstanding section 725 of Public Law 100-180, the preemption provisions of title 10, United States Code, chapter 55, section 1103, shall not be limited to contractual provisions relating to coverage of benefits, but shall apply to any and all contracts entered into pursuant to Solicitation Number MDA-903-87-R-0047 and shall preempt any and all State and local laws or regulations which relate to health insurance or to prepaid health care plans".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 192 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ": *Provided further*, That of the funds appropriated for "Other Procurement, Army" for fiscal year 1988, those funds provided for a supercomputer may only be obligated to purchase a system to be installed at a competitively selected independent academic institution: *Provided further*, That of the funds appropriated for "Other Procurement, Army" in fiscal year 1989, $27,400,000 shall be obligated to purchase a supercomputer system to be installed at the United States Army Engineer Waterways Experiment Station.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 195 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert: "(c) None of the funds appropriated in this Act are available for procurement of mini- and micro-computers for the Army Reserve Component which duplicate functions to be included in the RCAS contract.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 206 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"(a) None of the funds available to the Department of Defense shall be used to enter into any agreement or contract to convert a heating facility at military installations in Europe to district heat, direct natural gas, or other sources of fuel until ninety days after study by the United States Departments of Defense, State, and Commerce on the economic benefits of using United States coal at defense installations in Europe is completed and forwarded to Members of Congress: *Provided*, That this study should determine the extent of, and justification for, the economic benefits accruing to the Soviet Union from all prior and anticipated conversions of United States military installations in Europe to district heat and direct natural gas systems which utilize Soviet-supplied natural gas: *Provided further*, That this study should also address the issues raised by the economic analysis prepared by the Ambassador at Large on burdensharing negotiations to be appointed by the President as delineated by subsection (c) of section 8125 of this Act: *Provided further*, That the study also include a review of the modernization plan for the needed updating of the heating systems in the Kaiserslautern military community and the usage of United States produced coal: *Provided further*, That this study should be completed no later than July 1, 1989.

"(b) Nothwithstanding subsection (a) funds available to the Department of Defense may be used to enter into an agreement or contract to convert a heating facility at military installations in Europe to district heat, direct natural gas, or other sources of fuel if the Secretary of Defense certifies in writing and provides a copy to the Committees on Appropriations of the House and Senate that such conversion is in the best interest of the Nation.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 208 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ". The Department of Defense may include the hospital and neonatal services identified in subsections (a) and (b) in diagnosis related group regulations during fiscal year 1989 when the Department of Defense has adopted special measures to assure equitable and adequate payment for such services, such special measures including: (1) a "children's hospital differential" adjustment for each discharge of a CHAMPUS patient from a children's hospital that will assure that had the regulations been in effect for fiscal year 1988 they would have resulted in estimated aggregate CHAMPUS payments to children's hospitals not less than estimated aggregate CHAMPUS payments to such hospitals for discharges occurring during that fiscal year under the regulations in effect during fiscal year 1988 (recognizing that payments in subsequent years will vary based on volume, case mix intensity, and other factors); for a transitional period of three years the children's hospital differential will be computed on a hospital specific basis for children's hospitals with 50 or more CHAMPUS discharges in fiscal year 1988 and will be computed in aggregate for children's hospitals with less than 50 discharges in a year; (2) a children's hospital differential hold harmless provision, providing for retrospective and prospective corrections; (3) a special outlier policy for children's hospitals and neonatal services that combines the thresholds in effect under CHAMPUS DRG regulations for fiscal year 1988 with the higher marginal cost factors proposed by 53 Fed. Reg. 20580 (June 3, 1988); (4) a refinement to the DRGs for neonatal services to account for birthweight, surgery, and the presence of multiple, major, and other neonatal problems; (5) incorporation of annual updates to the classification features included in the regulation for neonatal services; (6) a provision for making interim payments for cases that are especially lengthy or expensive; and, (7) a commitment to examine possible further uses of Pediatric Modified DRGs in the future.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 209 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

"SEC. 8092. PROHIBITION ON PURCHASE OF TOSHIBA PRODUCT FOR RESALE IN MILITARY EXCHANGE STORES

"(a) PROHIBITION.—During the three-year period beginning on the date of the enactment of this Act, no product manufactured or assembled by Toshiba America, Incorporated, or Toshiba Corporation (or any of its affiliates or subsidiaries) may be purchased by the Department of Defense for the purpose of resale of such product in a military exchange store or in any other morale, welfare, recreation, or resale activity operated by the Department of Defense (either directly or by concessionaire).

(b) EXCEPTION.—The prohibition in subsection (a) shall not apply to microwave ovens manufactured or assembled in the United States."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 127 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert.

"SEC. 8093. Notwithstanding any other provision of law, the Secretary of the Air Force shall, from existing prior year funds, make available $18,000,000 for the next generation trainer (F-109) engine over the next three year period: *Provided*, That none of the funds may be obligated or expended until the Secretary of the Air Force submits a certification to the Committee on Appropriations which identifies a specific United States military requirement for the F-109 engine or which demonstrates that these funds can be fully recouped under a contractual arrangement with the manufacturer through commerical sales of the engine."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 220 to the aforesaid bill, and concur therein with an amendment as follows:

"SEC. 8101. The designs of the Army LHX helicopter, the Navy Advanced Tactical Aircraft, the Air Force Advanced Tactical Fighter, and any variants of these aircraft, must incorporate Joint Integrated Avionics Working Group standard avionics specifications no later than 1988.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 227 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert.

SEC. 8105 ALLOWABILITY OF COST TO PROMOTE THE EXPORT OF DEFENSE PRODUCTS

"(a) IN GENERAL.—Section 2324(f) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) The regulations shall provide that cost to promote the export of products of the United States defense industry, including cost of exhibiting or demonstrating products, shall be allowable to the extent that such costs—

"(A) are allocable, reasonable, and not otherwise unallowable;

"(B) with respect to the activities of the business segment to which such costs are being allocated are determined by the Secretary of Defense to be likely to result in future cost advantages to the United States; and

"(C) with respect to a business segment which allocates to Department of Defense contracts $2,500,000 or more of such costs in any fiscal year of such business segment, are not in excess of the amount equal to 110 percent of such costs incurred by such business segment in the previous fiscal year."

"(b) REGULATIONS.—The Secretary of Defense shall prescribe final regulations under paragraph (5) of section 2324 of title 10, United States Code (as added by subsection (a)), not later than 90 days after the date of the enactment of this Act. Such regulations shall apply with respect to costs referred to in such paragraph that are incurred by a Department of Defense contractor (or a subcontractor of such a contractor) on or after the first day of the contractor's (or subcontractor's) first fiscal year that begins on or after the date on which such final regulations are prescribed.

"(c) REPORT.—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States and the Inspector General of the Department of Defense shall each submit to the Committees on Armed Services and Appropriations of the Senate and House of Representatives a report that includes the following:

"(1) An assessment of whether the regulations required by section 2324(f)(5) of title 10, United States Code (as added by subsection (a)), provide the appropriate incentives to stimulate exports by the United States defense industry and provide cost savings to the United States.

"(2) An assessment of whether such regulations provide appropriate criteria to ensure that costs allowed are reasonably likely to provide future cost savings to the United States.

"(d) TERMINATION.—Section 2324(f)(5) of title 10, United States Code (as added by subsection (a)), shall cease to be effective three years after the date of the enactment of this Act."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 228 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"SEC. 8106. (a) Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

"(b) Sums appropriated in Title I of this Act, Military Personnel are reduced by $150,000,000 which will be realized by absorbing a portion of the pay raise requirements.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 229 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section designation in said amendment, insert: "8107".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 230 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section designation in said amendment, insert: "8108".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 232 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section designation in said amendment, insert: "8109".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 233 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"(TRANSFER OF FUNDS)

"SEC. 8110. Notwithstanding any other provision of law, during fiscal year 1989, the Secretary of Defense shall make available to the United States Coast Guard without reimbursement not less than $140,000,000 in supplies, fuel, training assistance, medical support, and other operational support, exclusive of administrative costs; and from funds made available in this Act, $60,000,000 shall be transferred to Coast Guard "Operating Expenses".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 234 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"SEC. 8111. Of the funds appropriated by this Act, not more than $1,163,200,000 may be obligated for moral, welfare, and recreation activities: *Provided*, That nonappropriated funds may be used to reimburse appropriated funds for expenses of civilian employees employed on January 1, 1987, by revenue-generating recreation activities and such reimbursed expenses shall not be included in the dollar limitation of this section.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 235 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section designation in said amendment, insert: "8112".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 236 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section designation in said amendment, insert: "8113".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 237 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"SEC. 8114. During the current fiscal year and thereafter, the Secretary of Defense shall notify the House and Senate Committees on Appropriations when salary increases granted to direct and indirect hire foreign national employees are at a rate in excess of the percentage pay increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code or at a rate in excess of the percentage increase provided to National Government employees of the host nation, whichever is higher.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 238 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section designation in said amendment, insert: "8115".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 239 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"SEC. 8116. During the current fiscal year, the Secretary of Defense may exempt a patient from paying an amount required by section 1079(b)(1) or 1086(b)(3) of title 10, United States Code, if the hospital to which the patient is admitted does not impose a legal obligation on any of its patients to pay for inpatient care: *Provided*, That the Secretary of Defense may, upon request, make payments under section 1079 or 1086 of title 10, United States Code, for a charge for services (which shall not exceed the average amount paid for comparable services in the geographic area in which the hospital is located, or if no comparable services are available in that area, in an area similar to the area in which the hospital is located) for which a claim is submitted under a plan contracted for under section 1079(a) or 1086(a) of title 10, United States Code, to a hospital that does not impose a legal obligation on any of its patients to pay for such services: *Provided further*, That the Secretary of Defense shall periodically review the billing practices of each hospital the Secretary approves for payment under this section, to ensure that the hospital's practice of not billing patients for payment does not result in increased costs to the Government and the Secretary may require each hospital approved for payment under this section to provide evidence that it has sources of revenue to cover un-billed costs.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 240 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section designation in said amendment, insert: "8117".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 241 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"SEC. 8118. Funds provided by this Act for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) may be used by the office of CHAMPUS to conduct a pilot project to provide program modifications and efficiencies by amending up to two existing fiscal intermediary contracts: *Provided*, That the Secretary of Defense conducts a separate health care demonstration project, if it is in the best interests of the Government, in the New Orleans, Louisiana area (the area described in Solicitation Number MDA 903-87-R-0047) that uses a managed health care network, including health care enrollment (as provided for in section 1099, title 10, United States Code): *Provided further*, That the Secretary shall implement this demonstration project no later than September 30, 1989.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 242 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section designation in said amendment, insert: "8119".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 243 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section designation in said amendment, insert: "8120".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 244 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 8121. No more than $183,179,000 of the funds appropriated by this Act shall be available for the payment of unemployment compensation benefits.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 245 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section designation in said amendment, insert: "8122".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 247 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section designation in said amendment, insert: "8123".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 248 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"SEC. 8124. (a) If a reduction in variable housing allowance (VHA) rates was required subsequent to January 1, 1988, to comply with section 8047 of the Department of Defense Appropriations Act, 1988, a member of the uniformed services who received reduced rates and who, on the effective date of this Act, is still a member of the uniformed services, shall be paid the difference between the VHA rate as reduced subsequent to January 1, 1988, and the VHA rate of which the member would have been entitled under the rates established on January 1, 1988: *Provided*, That such payments shall be made from appropriations provided by this Act.

"(b) None of the funds appropriated to the Department of Defense by this or any other Act for fiscal year 1989 shall be available to pay the variable housing allowance authorized members of the uniformed services under section 403a of title 37, United States Code, and the payments authorized by subsection (a) of this section in a total amount in excess of $1,220,000,000: *Provided*, That any reduction in the rates of the variable housing allowance necessitated by the foregoing limitation shall be made as provided in section 403a of title 37, United States Code.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 249 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"SEC. 8125. (a)(1) Not later than March 1, 1989, the Secretary of Defense shall submit to Congress a report on the assignment of military missions among the member countries of North Atlantic Treaty Organization (NATO) and on the prospects for the more effective assignment of such missions among such countries.

"(2) The report shall include a discussion of the following:

"(A) The current assignment of military missions among the member countries of NATO.

"(B) Military missions for which there is duplication of capability or for which there is inadequate capability within the current assignment of military missions within NATO.

"(C) Alternatives to the current assignment of military missions that would maximize the military contributions of the member countries of NATO.

"(D) Any efforts that are underway without NATO or between individual member countries of NATO at the time the report is submitted that are intended to result in a more effective assignment of military missions within NATO.

"(b) The Secretary of Defense and the Secretary of State shall (1) conduct a review of the long-term strategic interests of the United States overseas and the future requirements for the assignment of members of the Armed Forces of the United States to permanent duty ashore outside the United States, and (2) determine specific actions that, if taken, would result in a more balanced sharing of defense and foreign assistance spending burdens by the United States and its allies. Not later than August 1, 1989, the Secretary of Defense and the Secretary of State shall transmit to Congress a report containing the findings resulting from the review and their determinations.

"(c) The President shall appoint an Ambassador at Large responsible to the President who shall have the responsibility for ensuring a more balanced sharing ot defense costs by the NATO members, Japan, the Republic of Korea, and other countries allied to the United States. Such responsibilities shall include negotiations for burdensharing including increased in-kind and financial support by such countries for Department of Defense military units and personnel assigned to permanent duty ashore outside the United States in support of the security of such countries, and multi-lateral foreign assistance costs: *Provided*, That the Ambassador at Large should review (1) trade restrictions that require German utilities to purchase German-produced coal to the exclusion of foreign coal, including United States coal, and (2) the extent to which the tax on electricity used to subsidize German coal producers is borne by American military installations, American military dependents, or American civilians who support our military installations. The Ambassador at Large should prepare an economic analysis on the comparison of using German versus United States coal at defense facilities in Europe. This analysis should address the issues of all direct subsidies provided on German coal and restrictions imposed on imported coal and should be submitted to the Department of Defense, State, and Commerce for use in their study on the economic benefits of using coal at defense facilities in Europe.

"(d) The President shall specify (separately by appropriation account) in the Department of Defense items included in the budgets submitted to Congress under section 1105 of title 31, United States Code, for fiscal years after fiscal year 1989 the amounts necessary for payment of all personnel, operations, maintenance, facilities, and support costs for Department of Defense overseas military units, and the costs for all dependents who accompany Department of Defense personnel outside the United States.

"(e) Not later than May 1, 1989, the Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report that sets forth the total costs required to support the dependents who accompany Department of Defense personnel assigned to permanent duty overseas.

"(f) As of September 30 of each fiscal year after fiscal year 1989, the number of members of the Armed Forces on active duty assigned to permanent duty ashore in Japan and the Republic of Korea may not exceed 94,450 (the number of members of the Armed Forces on active duty assigned to permanent duty ashore in Japan and the Republic of Korea on September 30, 1987). The limitation provided for the preceding sentence may be increased if and when a major reduction of United States forces in the Republic of the Philippines is required because of a loss of basing rights in that nation, and the President determines and certifies to Congress that, as a consequence of such loss, an increase in United States forces stationed in Japan and the Republic of Korea is necessary.

"(g)(1) After fiscal year 1990, Department of Defense budget submissions to Congress under section 1105 of title 31, United States Code, shall identify funds requested for Department of Defense personnel and units in permanent duty stations ashore outside the United States that exceed the amount of such costs incurred in fiscal year 1989, and shall detail: (A) a description of the types of expenditures increased, by appropriation account, activity and program; and (B) specific efforts to obtain allied host nations' financing for these cost increases.

"(2) The Secretary of Defense shall notify in advance the Committees on Appropriations and Armed Services of the House and Senate through existing notification procedures, when costs of maintaining Department of Defense personnel and units in permanent duty stations ashore will exceed the amounts as defined in the Department of Defense budget as enacted for that fiscal year. Such notification shall describe: (A) the type of expenditures that increased; and (B) the source of funds (including prior year unobligated balances) by appropriation account, activity and program, proposed to finance these costs.

"(3) In computing the costs incurred for maintaining Department of Defense personnel and forces in permanent duty stations ashore outside the United States compared with the amount of such costs incurred in fiscal year 1989, the Secretary shall—

"(A) exclude increased costs resulting from increases in the rates of pay provided for members of the Armed Forces and civilian employees of the United States Government and exclude any cost increases in supplies and services resulting from inflation; and

"(B) include (i) the costs of operation and maintenance and of facilities for the support of Department of Defense overseas personnel, and (ii) increased costs resulting from any decline in the foreign exchange rate of the United States dollar.

"(h) The provisions of subsections (f) and (g) shall not apply in time of war or during a national emergency declared by the President or Congress.

"(i) In this section—

"(1) the term 'personnel' means members of the Armed Forces of the United States and civilian employees of the Department of Defense;

"(2) the term 'Department of Defense overseas personnel' means those Department of Defense personnel who are assigned to permanent duty ashore outside the United States; and

"(3) the term 'United States' includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 250 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"SEC. 8126. The Secretary of Defense shall take such action as may be necessary to implement at the earliest practicable date and with funds provided for such purpose under the heading "Army Stock Fund" in title V of this Act, the program proposed by the Department of Defense in a letter, dated August 30, 1985, from the Assistant Secretary of Defense for Acquisition and Logistics to rehabilitate and convert current steam generating plants at defense facilities in order to achieve a coal consumption target of 1,600,000 short tons of coal per year (including at least 300,000 short tons of anthracite coal) above current consumption levels at Department of Defense facilities in the United States by fiscal year 1994: *Provided,* That such action shall be subject to use of only the most cost-effective fuel system in the construction of new plants or the conversion of existing plants; however, this cost-effectiveness requirement is not applicable to a comparison between bituminous and anthracite coal: *Provided further,* That the requirement to purchase 300,000 short tons of anthracite coal expressed in the Department of Defense Appropriations Act 1988, section 8113, must be complied with: *Provided further,* That, if the Department does not execute contracts to purchase the anthracite coal mandated in the fiscal year 1988 Defense Appropriations Act by September 30, 1988, it shall use such funds as are necessary from appropriations made available in this Act to complete this purchase.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 253 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section designation in said amendment, insert: "8128".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 254 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"(TRANSFER OF FUNDS)

"SEC. 8129. Upon enactment of this Act, the Secretary of Defense shall make the following transfer of funds: *Provided,* That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, but shall be available only for the time period of the appropriations from which transferred: *Provided further,* That funds shall be transferred between the following appropriations in the amounts specified:

"(1) From:

"Under the heading, "Shipbuilding and Conversion, Navy, 1985/89":

"Trident submarine program, $89,200,000;

"T-ACS auxiliary crane ship program, $500,000; and

"Outfitting and Post Delivery programs, $7,200,000;

"Aircraft Procurement, Navy 1987/89, $28,000,000;

"Research, Development, Test, and Evaluation, Navy, 1988/89, $40,000,000; and

"Research, Development, Test, and Evaluation, Air Force, 1988/89, $31,000,000;

"To: Under the Heading, "Shipbuilding and Conversion, Navy, 1985/89":

"T-AO fleet oiler ship program, $54,400,000;

"MCM mine countermeasures ship program, $30,500,000;

"DDG-51 guided missile destroyer program, $105,000,000; and

"T-AGS ocean survey ship program, $6,000,000;

"(2) Under the heading, "Shipbuilding and Conversion, Navy, 1986/90":

"From: TRIDENT ballistic missile submarine program, $8,900,000;

"To: Mine countermeasures ship program, $8,900,000; and

"(3) From:

"Aircraft Procurement, Army, 1987/89, $14,800,000;

"Missile Procurement, Army, 1987/89, $75,200,000;

"Weapons and Tracked Combat Vehicles, Army, 1987/89, $77,600,000;

"Other Procurement, Army, 1987/89, $43,100,000;

"Weapons Procurement, Navy, 1987/89, $71,900,000;

"Other Procurement, Navy, 1987/89, $99,900,000;

"Other Procurement, Navy, 1988/90, $10,000,000;

"Coastal Defense Augmentation, 1988, $20,000,000;

"Aircraft Procurement, Air Force, 1987/89, $110,500,000;

"Missile Procurement, Air Force, 1987/89, $103,000,000;

"Other Procurement, Air Force, 1987/89, $32,500,000;

"National Guard and Reserve Equipment, 1988/90, $82,300,000;

"Research, Development, Test and Evaluation, Army, 1988/89, $10,000,000;

"Research, Development, Test, and Evaluation, Air Force, 1988/89, $5,300,000;

"To: Under the heading, "Shipbuilding and Conversion,

"Navy, 1987/91":

"DDG-51 destroyer program, $666,000,000;

"SSN-688 Attack submarine program, $68,600,000;

"AO conversion program, $8,000,000;

"For craft, outfitting, and post delivery, $13,500,000; and

"(4) From:

"National Guard and Reserve Equipment, 1988/90, $110,700,000;

"To:

"Other procurement, Navy, 1989/91, $110,700,000.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 256 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert;

"(INCLUDING TRANSFER OF FUNDS)

"SEC. 8130. In addition to the amounts appropriated or otherwise made available in this Act, $438,800,000 is appropriated for the DDG-51 destroyer program, and in addition, $349,200,000 shall be available by transfer for this program for the following appropriations: Aircraft Procurement, Army, 1988/90, $30,000,000; Missile Procurement, Army, 1988/90, $3,800,000; Weapons and Tracked Combat Vehicles, Army, 1988/90, $71,500,000; Aircraft Procurement, Navy, 1988/90, $61,700,000; Shipbuilding and Conversion, Navy, 1988/92, $126,300,000; Other Procurement, Navy, 1988/90, $53,900,000; and Other Procurement, Air Force, 1988/90, $2,000,000: *Provided,* That the amounts transferred shall remain available for obligation only for the time period provided when originally appropriated.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 257 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"SEC. 8131. (a) Of the funds made available in this Act to the Department of the Navy, $6,000,000 shall only be available for dredging and employment of a portion of dredge material at the critical zone Sandy Hook, New Jersey.

"(b) Under the heading entitled, "Construction general", in the Energy and Water Development Appropriations Act of 1988, title I (Public Law 100-202; Stat. 1329, 1329-108), amend the paragraph that begins "The Secretary of the Army" and deals with Saxon Harbor, Wisconsin, by deleting the words "wood cribs as".

"(c) Section 628 of "An Act Making Appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President and Certain Independent Agencies, for the Fiscal Year ending September 30, 1989, and for Other Purposes," is hereby amended to add the following at the end thereof: "(c) This Section shall be effective on January 16, 1989.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 258 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"SEC. 8132. In applying any rule of statutory construction, the provisions of Titles I through IX of this Act shall be deemed to have been enacted after the provisions of the Department of Defense Authorization Act, Fiscal year 1989 as set forth in Title X of this Act or as set forth in H.R. 4481 (regardless of the actual dates of enactment concerned).".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 259 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section designation in said amendment, insert "8133".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 260 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section designation in said amendment, insert: "8134".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 261 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"SEC. 8135. None of the funds made available to the Department of Defense in this Act may be used to plan, design, or procure more than one type of Air Force trainer aircraft.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 263 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section designation in said amendment, insert: "8136".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 264 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"SEC. 8137. The total amount appropriated to or for the use of the Department of Defense by this Act is reduced by $150,000,000 to reflect savings resulting from the decreased use of consulting services by the Department of Defense. The Secretary of Defense shall allocate the amount reduced in the preceding sentence and not later than March 1, 1989, report to the Senate and House Committees on Appropriations how this reduction was allocated among the Services and Defense Agencies.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 269 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section designation in said amendment, insert: "8138".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 270 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"SEC. 8139. Section 3554 of title 31, United States Code, is amended in subsection (a)(1), by striking out unless the Comptroller General determines and states in writing the reasons that the specific circumstances of the protest require a longer period.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 271 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section designation in said amendment, insert: "8140".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 272 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"SEC. 8141. (a) Not later than 90 days after the date of enactment of this Act, the Administrator of the Office of Federal Procurement Policy shall issue a policy, and not later than 180 days thereafter governmentwide regulations shall be issued under the Office of Federal Procurement Policy Act which set forth:

"(1) conflict of interest standards for persons who provide consulting services described in subsection (b); and

"(2) procedures, including such registration, certification, and enforcement requirements as may be appropriate, to promote compliance with such standards.

"(b) The regulations required by subsection (a) shall apply to the following types of consulting services:

"(1) advisory and assistance services provided to the government to the extent necessary to identify and evaluate the potential for conflicts of interest that could be prejudicial to the interests of the United States;

"(2) services related to support of the preparation or submission of bids and proposals for federal contracts to the extent that inclusion of such services in such regulations is necessary to identify and evaluate the potential for conflicts of interest that could be prejudicial to the interests of the United States; and

"(3) such other services related to federal contracts as may be specified in the regulations prescribed under subsection (a) to the extent necessary to identify and evaluate the potential for conflicts of interest that could be prejudicial to the interests of the United States.

"(c) The Comptroller General shall report to Congress not later than one year after the date of enactment of this Act his assessment of the effectiveness of the regulations prescribed under this section.

"(d) Intelligence activities as defined in section 3.4(e) of Executive Order 12333 or a comparable definitional section in any successor order may be exempt from the regulations required by subsection (a): *Provided,* That the Director of Central Intelligence shall report to the Intelligence and Appropriations Committees of the Congress no later than January 1, 1990, and annually thereafter delineating those activities and organizations which have been exempted from the regulations required by subsection (a) in accordance with the provisions of this subsection.

"(e) The President shall, before issuance of the regulations required by subsection (a), determine if the promulgation of such regulations would have a significantly adverse effect on the accomplishment of the mission of the Department of Defense or other federal government agencies: *Provided,* That if the President determines that the regulations required by subsection (a) would have such an adverse effect, the President shall so report to the appropriate committees of the Senate and the House of Representatives, stating in full the reasons for such a determination: *Provided further,* That in the event of submission of a report to the committees containing an adverse effect determination, the requirement for the regulations prescribed by subsection (a) shall be null and void.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 273 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"SEC. 8142. (a) Of the amounts available to the Department of Defense for fiscal year 1989, not less than $10,000,000 shall be available for National Defense Science and Engineering Graduate Fellowships to be awarded on a competitive basis by the Secretary of Defense to United States citizens or nationals pursuing advanced degrees in fields of primary concern and interest to the Department.

"(b) Fellowships awarded pursuant to subsection (a) above shall not be restricted on the basis of the geographical locations in the United States of the institutions at which the recipients are pursuing the aforementioned advanced degrees.

"(c) Not less than fifty per centum of the funds necessary to carry out this section shall be derived from the amounts available for the University Research Initiative Program in "Research, Development, Test, and Evaluation, Defense Agencies", and the balance necessary shall be derived from amounts available for Defense Research Sciences under title IV of this Act.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 274 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section designation in said amendment, insert: "8143".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 275 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section designation in said amendment, insert: "8144".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 277 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"TITLE X—DEFENSE AUTHORIZATIONS

"SEC. 10001. ENACTMENT OF FISCAL YEAR 1989 DEFENSE AUTHORIZATION BILL.

"The provisions of the bill H.R. 4481 of the One Hundredth Congress, as contained in the conference report filed in the House of Representatives on September 28, 1988 (House Report 100-989), are hereby enacted into law.

"SEC. 10002. TERMINATION OF PROVISIONS UPON ENACTMENT OF AUTHORIZATION BILL.

"Section 10001 shall not take effect if the bill H.R. 4481 of the One Hundredth Congress is enacted before this Act. If that bill is enacted after this Act, the provisions of section 10001 shall cease to be effective upon the enactment of that bill.

"SEC. 10003. INCREASE IN CERTAIN AUTHORIZATION AMOUNTS.

"(a) PROCUREMENT.—Title I of the National Defense Authorization Act, Fiscal Year 1989, is amended as follows:

"(1) AIRCRAFT PROCUREMENT, NAVY.—Section 102(a) is amended by striking out '$9,259,253,000' and inserting in lieu therefore $9,415,311,000.'.

"(2) WEAPONS PROCUREMENT, NAVY.—Section 102(b) is amended—

"(A) by striking out '$5,972,181,000' in the matter preceding the colon and inserting in lieu thereof '$6,154,032,000';

"(B) by striking out '$3,203,737,000' in paragraph (2) and inserting in lieu thereof '$3,245,154,000'; and

"(C) in paragraph (3)—

"(i) by striking out '$700,054,000' in the matter preceding the colon and inserting in lieu thereof '$840,488,000';

"(ii) by striking out '$431,014,000' in the item relating to the MK-48 torpedo program and inserting in lieu thereof '$485,000,000'; and

"(iii) by striking out '$17,552,000' in the item relating to the Vertical Launched ASROC torpedo program and inserting in lieu thereof '$105,000,000'.

"(3) SHIPBUILDING AND CONVERSION, NAVY.—Section 102(c) is amended—

"(A) by striking out '$9,056,100,000' in the matter preceding the colon and inserting in lieu thereof '$10,013,900,000';

"(B) by striking out '$2,207,300,000' in the item relating to the DDG-51 program and inserting in lieu thereof '$2,646,100,000';

"(C) by striking out '$284,900,000' in the item relating to the TAO-187 fleet oiler program and inserting in lieu thereof '$689,900,000'; and

"(D) by striking out '$192,600,000' in the item relating to the landing craft, air cushion program and inserting in lieu thereof '$306,600,000'.

"(4) RESERVE COMPONENTS.—Section 106 is amended—

"(A) in the matter relating to the Army National Guard, by striking out '$240,000,000' and inserting in lieu thereof '$256,000,000;

"(B) in the matter relating to the Air National Guard, by striking out '$216,500,000' and inserting in lieu thereof '$399,500,000';

"(C) in the matter relating to the Naval Reserve, by striking out '$75,000,000' and inserting in lieu thereof '$144,600,000'; and

"(D) in the matter relating to the Marine Corps Reserve, by striking out '$50,000,000' and inserting in lieu thereof '$81,800,000'.

"(b) SPECIAL OPERATIONS ENHANCEMENT.—Part B of title VII is amended by adding at the end the following new section:

"'SEC. 716. SPECIAL OPERATIONS FORCES ENHANCEMENT.

"'In addition to the amounts otherwise authorized to be appropriated by this Act, there is hereby authorized to be appropriated to the Department of Defense for fiscal year 1989 the sum of $286,000,000. Amounts appropriated pursuant to the preceding sentence shall be available only for equipping and operating Special Operations Forces.'".

Mr. STEVENS. Mr. President, is that subject to a motion to reconsider?

The PRESIDING OFFICER. It is.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Will the Senator from Louisiana yield? I do not know what other procedural motions there are. I would like—I have been on the floor for quite a while—to get some indication. I am willing to bring my amendment up subject to when the managers would prefer and in the right order. The amendment I have concerns amendment No. 89, which deals with the university set-aside. So if I could get some indication from the floor managers about the order they would prefer, I would appreciate it.

Mr. STEVENS. Mr. President, I make an inquiry: The regular procedure would be to take them in order, would it not?

The PRESIDING OFFICER. The regular procedure would be for the clerk to report the amendments in disagreement in order and 78, 89, and 252 would be the regular order.

Mr. STEVENS. I state to the Senator, that would be up to the Senator from North Carolina.

Mr. HELMS. Mr. President, I would be glad to enter into a time agreement for my amemdment.

Mr. JOHNSTON. Mr. President, I appreciate the suggestion of the Senator from North Carolina. How much time would he desire?

Mr. HELMS. Twenty minutes, equally divided, and I probably would not take my 10 minutes.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that when the Senator from North Carolina, Mr. HELMS, is recognized to offer an amendment with respect to the Poseidon submarine and SALT II compliance, there be a time limit of 20 minutes, equally divided, and that second-degree amendments not be in order.

Mr. WARNER. Mr. President, reserving the right to object, and I shall not object, could the Senator from Virginia give me 2 minutes to speak in opposition to the amendment?

Mr. JOHNSTON. Yes, he may have 2 minutes.

Mr. STEVENS. Mr. President, is it possible, I might inquire now, first to get time agreements on all three of the amendments that are going to be discussed?

Mr. JOHNSTON. I think it would probably not be possible on the university amendment to get a time agreement at this point.

Mr. STEVENS. May I inquire—the Senator from Maine is here—whether it would be possible for a time agreement on the item in disagreement that he wishes to address? Would the Senator permit me to do that?

Mr. JOHNSTON. I had hoped that we would have a solution to the amendment of the Senator from Maine which would not require an amendment.

Mr. STEVENS. I withdraw the request.

Mr. JOHNSTON. Will an amendment be required?

Mr. COHEN. An amendment will be required.

Mr. STEVENS. If one is required, I would like to, in order to keep Members informed, inquire if it is possible for the Senator from Maine to give us a time agreement now on that amendment.

Mr. COHEN. I was under the impression that it would be so universally accepted that it would not take very much time. If there is going to be deep opposition to it, I cannot say how much time. I would take no more than 15 minutes.

Mr. JOHNSTON. Mr. President, I do not think it would take a great deal of time, but the action on that amendment would depend, to some extent, on what happens on the other amendments.

Mr. STEVENS. I withdraw my request.

The PRESIDING OFFICER. The Senator from Louisiana asked unanimous consent that, when the Senator from North Carolina offered his amendment, there would be a total of 20 minutes, equally divided. Further, I understand, above that, that the Senator from Virginia would have an additional 2 minutes. Does the Chair understand that correctly?

Mr. JOHNSTON. Mr. President, I intended to inform the Senator from Virginia that he can have 2 minutes out of our 10 minutes.

The PRESIDING OFFICER. Without objection, the unanimous-consent request was agreed to.

Mr. NUNN. Mr. President, I inquire of the Chair, is the House amendment to Senate amendment No. 89 now in order?

The PRESIDING OFFICER. Regular order is to report the amendments in disagreement in order: Nos. 78, 89, and 252. The clerk has not yet reported amendment No. 78 in disagreement.

HOUSE AMENDMENT TO SENATE AMENDMENT NO. 78

The PRESIDING OFFICER. The clerk will report amendment No. 78.

The assistant legislative clerk read as follows:

: *Resolved,* That the House recede from its disagreement to the amendment of the Senate numbered 78 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

: **Provided, That $2,000,000 shall be available** only for development of high thermal stability and/or endothermic jet fuels, including studies on coal based fuels: *Provided* *further*, That of the funds appropriated in this paragraph, $890,000,000 shall be available for ICBM modernization programs as follows:

(1) $40,000,000 shall be available for continued development and flight testing of the MX missile;

(2) $250,000,000 shall be available for the Small ICBM program; and

(3) $600,000,000 shall be available for the MX Rail Garrison program and of the $600,000,000 available for the MX Rail Garrison program, the amount obligated before February 15, 1989, may not exceed $250,000,000: *Provided further*, That during the period beginning on January 21, 1989, and ending on February 15, 1989, the President shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives a report on—

(1) anticipated obligations for the remainder of fiscal year 1989 for the small ICBM program, the MX Rail-Garrison program, and other ICBM modernization programs; and

(2) the purposes those obligations are intended to accomplish.

AMENDMENT NO. 3344

(Purpose: To prevent any funds to be obligated or expended after December 1, 1988 to dismantle any Poseidon submarines unless the President, using existing authority on that date has certified to Congress that the Soviet Union has dismanted the Krasnoyarsk radar)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. STEVENS. Mr. President, parliamentary inquiry. Is this the amendment that has the time limit on it?

The PRESIDING OFFICER. I would ask the Senator from North Carolina, and I see he is affirmatively saying that it is this amendment that is under the time agreement. That does conform with the amendment listed on the agreement.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for himself, Mr. SYMMS, Mr. MCCLURE, Mr. WALLOP, Mr. HUMPHREY, and Mr. MCCAIN, propose an amendment numbered 3344.

I move to concur in the House amendment with the following amendment, at the end of the pending House amendment to amendment 78, add the following:

"Provided further, That notwithstanding any other provision of law or of this Act, none of the funds appropriated by this act shall be obligated or expended after December 1, 1988 to dismantle any Poseidon submarines unless the President, using existing authority on that date has certified to Congress that the Soviet Union has dismantled the Krasnoyarsk radar.".

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair.

Mr. President, may we have order? Because I am going to be using some figures and I do not want it to be lost in the stratosphere somewhere.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HELMS. I thank the Chair.

Mr. President, the United States currently has 1,174 MIRV'd ballistic missiles that are accountable under the expired SALT II Treaty. The SALT II sublimit on MIRV'd ballistic missiles is 1,200. This is the main SALT II sublimit.

Therefore, obviously, the United States is well below the main SALT II sublimit.

Now let us look at the Soviet Union. The Soviet Union currently has more than 1,220 MIRV'd ballistic missiles accountable under the expired SALT II Treaty. Therefore, obviously, the Soviet Union is well above the main SALT II sublimit.

Just for the purpose of emphasis, let me repeat that the United States is well below the main SALT II sublimit and the Soviet Union is well above the main SALT II sublimit.

The United States is 26 MIRV'd ballistic missiles below the main SALT II sublimit, and the Soviets are at least 20 such missiles above the main SALT II sublimit.

Therefore, Mr. President, obviously the simple arithmetic of it is the Soviet Union is violating the main sublimit of the SALT II Treaty. Moreover, there are 26 separate presidentially confirmed Soviet violations of the SALT II Treaty.

There are some Senators who advocate the continued U.S. dismantlement of two Poseidon submarines, unilaterally, carrying 32 MIRV'd ballistic missiles, which would further reduce the U.S. MIRV'd ballistic missile totals even further.

But what is happening on the Soviet side? The Soviets are increasing their violation above the main SALT II sublimit further and further. In fact, the Soviets have never had in previous times, a higher total of SALT II accountable MIRV'd ballistic missiles. Obviously this 1,220 Soviet level is the highest level they have ever had.

President Reagan said it right, when he vetoed the defense authorization bill on August 3, 1988: "The action of dismantling two more Posedion submarines—as required in the Presidentially vetoed fiscal year 1989 defense authorization bill and also the revised Fiscal Year 1989 defense authorization bill—is a vestige of thinly disguised congressional efforts to force the United States to comply unilaterally with numerical limits in the fatally flawed and unratified SALT II Treaty."

The administration has just confirmed to me, again, that the following statement is both accurate and unclassified.

Information indicates that the Soviets are currently over the SALT II sublimit of 1200 MIRV'd CBM and SLBM launchers, and on occasion have temporarily exceeded the sublimit since mid-1987. The Soviets continue to be over the SALT II strategic nuclear delivery vehicle limit of 2504.

Mr. President, the Defense Department's unclassified 1988 edition of Soviet military power indicates that the Soviets have at least 1,220 MIRV'd ballistic missiles, or at least 20 more than the SALT II sublimit of 1,200. There is good reason to believe that the Soviets have even more than that. I am stating what we can say in unclassified context in terms of their being over, when the high probability is that the situation is worse than that.

So the pending amendment is simple. The Senate is being asked to vote on whether the United States should unilaterally disarm while the Soviet Union is increasing both the scope and the scale of its violations of the ABM Treaty and the SALT II Treaty.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. SIMON). Who yields time? The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, this amendment tries to reopen an arms control debate which should be separate from appropriations bills. This amendment runs entirely counter to what this President of the United States, Ronald Reagan, wants to do.

This President has not yet decided what is the next step in the U.S. response to the Krasnoyarsk radar. It seems to me that he ought to have full authority to determine what he wants to do, or the next President ought to have full authority, when he is elected, to determine what he wants to do.

This amendment takes all of the flexibility out of that decision. It reopens the arms control debate. It only delays the passage of a needed Defense money bill, and the Senate, Mr. President, has already debated both SALT II compliance and the ABM Treaty completely and exhaustively.

Mr. President, it would be a tragedy to attempt to put this amendment on this bill. In addition to the fact it would be, in my view, harmful to the flexibility, to the power of the President to decide this issue, by having this bill amended and being sent to the House, undoubtedly it would delay this bill past the end of the fiscal year.

We need to keep our eyes on the clock, Mr. President, and remember that any amendment adopted to this conference report is probably going to delay us after midnight and cost us the ability to complete this conference report by the end of the fiscal year.

So, at an appropriate time I will move to table. Mr. President, I yield 2 minutes to the distinguished Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 2 minutes.

Mr. WARNER. I find myself in the awkward position of opposing my good friend from North Carolina when in essence I agree with him. He very accurately pointed out a case here where we should give support to his position. But I also find myself in the position as one of the four individuals who sat down with the Secretary of Defense, which Secretary was authorized by the President in a letter to me to speak for the President. And the Secretary of Defense argued much as the good Senator from North Carolina did. The President would prefer this position. But there came a time when we simply had to put the pieces together if we were to receive an authorization bill and a commitment, and I stress a commitment, from the President that he would sign that bill.

It is a very unusual procedure, that the President committed that that bill was acceptable to him prior to its being transmitted to the White House. And I was present and the distinguished Senator from Georgia was, the Secretary of Defense and others were, when we reached the agreement which is accurately reflected in the amendment to this appropriations bill. And the President committed beforehand that he would sign the authorization bill.

If I were to support you, I would, in effect be saying: "Mr. President, we got an agreement, we presented it to you through the Secretary of Defense, you concurred in that agreement, committed to sign the bill"—and indeed the President did sign it last night.

So I regret to say that I agree with you, but I cannot support the amendment and I urge Senators to consider this unique procedure followed by which we received an authorization bill agreed upon by the Congress of the United States and the President of the United States and signed in a very timely fashion so that we could go forward with the measure now pending.

The PRESIDING OFFICER. Who yields time? The Senator from North Carolina is recognized.

Mr. HELMS. Mr President, I do not know that it is permissible to ask those who are operating television cameras to focus on the two exhibits I have here. I wish, if they could do that, I wish they would, if they are listening. I do not know whether they are, so I will just proceed. I will say only that I was not part of the negotiation, and I know that my friend from Virginia has stated it correctly.

However, we are obliged to vote on what is right or wrong around this place, and I consider it wrong and the President of the United States has considered it wrong to scrap the Poseidon submarine. The President is opposed to it.

Let me state again what the President said when he vetoed the defense authorization bill mandating the scrapping of the two Poseidon submarines. That was one of the main reasons he vetoed it. He said:

> The action of dismantling two more Poseidon submarines [as required in the Presidentially vetoed fiscal year 1989 defense authorization bill] is a vestige of thinly disguised congressional efforts to force the United States to comply unilaterally with numerical limits in the fatally flawed and unratified SALT II Treaty.

Those are the words of the Commander of Chief. I think he is right, I think he was right with what he said. I think it is wrong for us to enter into legislation that will lead to the scrapping of still more Poseidons.

I reserve the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Louisiana wish to take some of his time?

Mr. STEVENS. Mr. President, will the Senator yield me 1 minute?

Mr. JOHNSTON. Yes, I yield the Senator from Alaska 1 minute.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 1 minute.

Mr. STEVENS. Mr. President, I deeply regret I cannot support the position of the Senator from North Carolina. I do support his objective, but as part of our relationship with the House, we agreed to the authorization committees' recommendations concerning those first two Poseidons. I personally checked it with the administration to see if that was acceptable. I know Secretary Carlucci reluctantly did agree to it. I just cannot at this time support this although eventually we are going to have to do something to tie our actions to the lack of action by the Soviets on Krasnoyarsk.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, a long time ago, I served on the city council of my hometown of Raleigh, and I took a position on a matter and I remember one of the councilmen said: "I agree with JESSE HELMS in principle, but not in practice."

What I am doing here is giving the Senate an opportunity to correct a mistake. It is an egregious mistake to scrap more Poseidons. I know the deal actually was cut in good faith, and I do not have any criticism whatsoever of any Senator who agreed to it. But it is a mistake. The Soviet Union is cheating all around us, and I can go into great detail on that, but this is a mistake. The amendment will correct the mistake and Senators can vote it up or down or if there is a motion to table—I hope there will not be; I hope there will be an up or down vote on it, but that is up to the managers of the bill.

Scrapping more Poseidons is a mistake and it could be a tragic mistake. The President took that position, the Secretary of Defense took that position, and only in order to get a compromise with the House of Representatives did they reluctantly agree to it.

I say that the Senate has an opportunity to correct an error, and I hope we will.

Mr. WARNER. Will the Senator from Louisiana yield this Senator such additional time as he needs?

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I ask the distinguished Senator from Louisiana if I may have another minute and a half.

Mr. JOHNSTON. Yes, I yield 2 minutes to the distinguished Senator from Virginia.

Mr. WARNER. Mr. President, the record will reflect this Senator and others had to vote against the distinguished Senator from North Carolina. I think the Senator should understand the President listed his priorities in this agreement.

Priority I was to strengthen the SDI Program, a program that my distinguished colleague has been steadfast in support of the President throughout the many years that this program has been before the Senate. We were successful in those negotiations to remove out from the House language and, indeed, some of the Senate language certain floors and ceilings and other restrictions on expenditure of SDI funds. That was a major victory for the President's position.

Then along came the question of the modernization of the land-based ICBM, and the President was greatly concerned about the fact the Senate and the House had agreed on certain limits balancing the funds between the small mobile missile and the rail system, but preserving for the next President the option to make that decision.

We added considerable millions of dollars to the program to give the next President more flexibility and moved up the date to February 15 when the next President could make a decision. A major concern of the President was achieved in this negotiation.

I could go on and recite the issues of the depressed trajectory which I think set a bad precedent in terms of arms control, but we were able to eliminate that.

So we had a number of items, in terms of priority, that the President objected to. The Secretary of Defense, indeed, objected to this one. He was supportive of the goals that the Senator seeks to achieve, but on this one, we had to give in in order to balance the other three major gains that the President desired.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. There is no one in this Senate for whom I have more respect and friendship than the Senator from

Virginia. I appreciate what he said, and what he has said is that Senator Helms is right and he agrees with me, but he cannot vote with me. Now, why scrap more Poseidons? Not to save money. Why do we do it? The Soviet Union is cheating on SALT II and ABM and everything else, and we say we are going to scrap two Poseidon submarines in order to comply unilaterally with SALT II.

I say again that a mistake has been made and this amendment gives Senators a chance to correct that mistake. It is up to them as to how they will vote.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. will the Senator from Louisiana yield me 1 minute?

Mr. JOHNSTON. Yes.

Mr. NUNN. Mr. President, I join the Senator from Louisiana and the Senator from Virginia in opposing this amendment. I think it is interesting that the effective date of this amendment is December 1 of this year. I assume the reason that is so is because the administration's own budget takes out a Poseidon submarine, the *John Adams*, in October of this year.

So that Poseidon submarine is going to be taken out and, of course, if you are really opposed to any Poseidon submarines coming out, given the date of this Poseidon submarine coming out, then the date on this amendment should be October 1. Then you would really achieve the goal, otherwise we are going to have one come out because the administration wants it to come out to save money. Each submarine we take out in these 24-year old submarines saves about $125 to $150 million. These two submarines that are the subject of this amendment, according to my information, are already going to be taken out by the Navy to save money. It will just not be until fiscal year 1990. The Senator from North Carolina needs to discuss this with the Navy and the administration and the White House because they are taking out Poseidon submarines themselves.

What the authorization bill does is simply accelerate that by a few weeks because some of our Members are very concerned about the SALT II sublimits. I thank the Senator from Louisiana.

Mr. BUMPERS. Will the distinguished manager of the bill yield me 2 minutes?

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield 2 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Louisiana has 1 minute 31 seconds.

Mr. JOHNSTON. I yield 1 minute 31 seconds to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I want to commend all of the players who managed to keep this provision on the bill. It is a very important one. To give you some idea of just how important, in the political campaign that is going on in the country right now, you hear so much about how the INF Treaty destroys for the first time in history a whole class of missiles and that is fine. We all applaud that.

But what most people do not know is that since Gorbachev and President Reagan shook hands on the INF Treaty in December 1987, we have added more warheads to our strategic arsenal than we will eliminate in our arsenal under the INF Treaty. In short, we have more strategic weapons right now than we did in December 1987 even if the INF Treaty were totally completed right now.

No. 2: You cannot have it both ways. You cannot argue that the SALT II is an unratified treaty, and nobody is bound to abide by it if it is not ratified, and then talk about Soviet violations.

But let me just say, instead of listening to accusations on the floor of the Senate as to who is abiding by the treaty and who is not, go to the intelligence community. Go to the CIA. Go to the DIA. You go to any intelligence community you want and ask them are the Sovets complying with the ICBM sublimit of SALT II, or the overall sublimit on multiple warhead systems, and they will say yes.

The PRESIDING OFFICER. The Senator has used up his time.

Mr. BUMPERS. A minute and a half passes very quickly when you are rolling.

Mr. HELMS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from North Carolina has 45 seconds.

Mr. HELMS. I have done everything that the distinguished Senator from Arkansas suggested. I have been to all communities. I have asked CIA and the NSC. And the administration says that the Soviet's are over the 1,200 SALT II sublimit. I think I know as much as the next Senator knows about it.

In sum, let me read what the amendment says:

> *Provided further,* That notwithstanding any other provision of law or of this Act, none of the funds appropriated by this Act shall be obligated or expended after December 1, 1988 to dismantle any Poseidon submarines unless the President, using existing authority on that date, has certified to Congress that the Soviet Union has dismantled the Krasnoyarsk radar.

That is the point. Are we going to send a signal to the Soviets that we will not tolerate their SALT violations forever or are we going to roll over and play dead?

I yield back the remainder of my time.

THE FATAL FLAWS OF SALT II

Mr. SYMMS. Mr. President, the SALT II Treaty was valid in December 1979 "not in the national security interest of the United States," by the Senate Armed Services Committee, because it was judged to be "unequal, unbalanced, and destabilizing." History has proven this assessment to be true. The SALT II Treaty expired on December 31, 1985, under its own terms, but the unilateral disarmament bloc in the Congress has been trying to legislate U.S. compliance with this unratified treaty for several years. This attempted legislation of the SALT II Treaty is unconstitutional because it would involve the House of Representatives in a treatymaking matter reserved by the Constitution to the Senate and the President. Moreover, legislating SALT II is also unconstitutional because simple majorities of the Senate and the House would vote on it, but the Constitution says that two-thirds of the Senate must give its advice and consent for the President to ratify a treaty.

U.S. unilateral compliance with the unratified, expired, SALT II Treaty is unconstitutional. I will show why the fundamental inequities of SALT II and the Soviet violations of it invalidate the attempts to legislate the SALT II Treaty.

What are the fatal flaws of SALT II, which Ronald Reagan campaigned against in 1980?

First, SALT II allowed the Soviets a monopoly in the most dangerous weapon in the world, heavy ICBM's—820 for the Soviets, compared to 0 for the United States.

Second, SALT II allowed the already overwhelming Soviet ICBM first-strike counterforce capability codified in SALT II to grow significantly. The Soviets have legally added over 4,000 intercontinental nuclear warheads to their arsenal since SALT II was signed in 1979, doubling their arsenal of intercontinental warheads. These were mostly first-strike counterforce ICBM warheads. Since 1979, the Soviets also added another 2,000 first-strike counterforce ICBM warheads in violation of SALT II.

Third, SALT II allowed the Soviets to keep thousands of stockpiled ICBM's for covert soft launch and rapid-refire, allowing a doubling of the already overwhelming first-strike capability of the Soviet ICBM force.

Fourth, SALT II allowed the Soviets to keep their 350 intercontinental range Backfire bombers outside of SALT II and uncounted in SALT II. These bombers have always had a range greater than other bombers on both sides which do count in SALT II, and they can serve as the launch platform for thousands of long range ALCM's.

As Defense Secretary Weinberger correctly stated,

> Even with the SALT II constraints, the Soviet Union has built more warheads capable of destroying our missile silos than we initially predicted they would build even without any SALT II agreement.

Beyond these fatal flaws of SALT II, which made the treaty unequal and destabilizing, the Soviets have engaged in systematically violating the most important terms of the treaty. The Soviets had a legal obligation under international law not to defeat the object and purpose of SALT II between June 1979 and September 1981, when both sides were still considering its ratification. After September 1981, when the United States announced its intention not to seek ratification of the treaty, both sides by mutual agreement made a reciprocal political commitment not to "undercut" the treaty as long as the other side showed "equal restraint."

But the Soviets showed no restraint at all, and completely violated SALT II. President Reagan has made seven reports to Congress since January 1984, confirming 26 Soviet violations of SALT II, and these reports showed an expanding pattern of Soviet violations. The six most important Soviet SALT II violations are:

First, Soviet deployment of over 100 SS-25 mobile ICBM's, a prohibited second new type ICBM, which have a prohibited rapid-refire capability doubling the force, and a covert MIRV capability;

Second, Soviet deployment of from 69 to 600 more intercontinental missile launchers and bombers than the Soviets had when they signed SALT II in June 1979, exceeding both SALT II's overall ceilings on missiles and bombers—2,400 and 2,250. The number of missiles and bombers that the Soviets had in June 1979—2,504—became the de facto Soviets ceiling in September 1982. And the Soviets are now 69 to 600 above even this ceiling. The United States did not have the right to the same 2,504 Soviet ceiling, further illustrating the fundamental inequalities of SALT II;

Third, Soviet deployment of 10 or more camouflaged SS-24 railmobile MIRV'd ICBM launchers, without adequate compensatory dismantlement of other MIRV'd ICBM launchers, in violation of the SALT II sublimit of 820 MIRV'd ICBM launchers. Moreover, the administration has now also confirmed that the Soviets are violating the SALT II sublimit of 1,200 MIRV'd ballistic missiles. The Soviets are 20 MIRV'd ballistic missiles above this sublimit.

Fourth, Soviet production of more than 30 Backfire bombers per year, and deploying Backfires to arctic staging bases and equipping them with refueling probes, all in violation of the Brezhnev Backfire bomber statement, an integral part of SALT II;

Fifth, Soviet deployment of 50 to 200 SS-16 mobile ICBM's banned by SALT II;

Sixth, excess MIRV fractionation on the SS-18 superheavy ICBM, and the reported flight-testing of an even heavier SS-18 follow-on—the SS-X-26—with even more than the 14 warheads carried by the SS-18 in violation of SALT II.

President Reagan reported to Congress on December 1, 1987 that:

> A number of Soviet activities involving SALT II constituted violations of the core or central provisions of the treaty frequently cited by proponents of SALT II as the primary reason for supporting the agreement * * * in no case where we determined that the Soviet Union was in violation of SALT I and SALT II did they take corrective action.

So it is clear that SALT II is fatally flawed, unequal, destabilizing, and systematically violated by the Soviets. The fiscal year 1989 Defense authorization bill conference report is trying to legislate selectively part of the unratified SALT II Treaty, the SALT II sublimit of 1,200. But it is quite clear that the Soviets have violated this SALT II sublimit of 1,200 MIRV'd ICBM and SLBM launchers, with their MIRV'd SS-24 mobile ICBM deployment and their continued deployment of Typhoon and Delta IV submarines carrying MIRV'd SLBM's. This violation of the most important SALT II sublimit totally invalidates this attempt to legislate U.S. unilateral disarmament to comply with SALT II.

Those who advocate a U.S. return to compliance with the SALT II Treaty sublimits are asking that the United States comply with SALT II sublimits that the Soviets have exceeded since August 1986, well before November 28, 1986, when the United States exceeded a SALT II sublimit as a proportionate response to previous Soviet SALT II sublimit as a proportionate response to previous Soviet SALT II violations. A legislated United States return to SALT II compliance now, in view of this most recent Soviet SALT II sublimit violation, would be nothing less than United States unilateral disarmament. Advocacy of renewed U.S. SALT II compliance in the face of 26 confirmed Soviet SALT II violations is part of the blame America first syndrome. This is simply appeasement and unilateral disarmament.

Mr. PELL. Mr. President, the amendment offered by the Senator from North Carolina [Mr. HELMS] affords the U.S. Congress an opportunity to act in haste and repent at leisure. It is an opportunity which we should reject.

The Senator from North Carolina is not alone in his displeasure over the Krasnoyarsk radar situation. I agree that it is a plain and simple violation of the 1972 Anti-Ballistic Missile Treaty. Nonetheless, the President is now engaged in a strong effort to resolve the Krasnoyarsk issue. He should be afforded an opportunity to succeed. He does not need the Senate imposing solutions and timetables.

Mr. President, the Director of the Arms Control and Disarmament Agency, William Burns, will brief the Committee on Foreign Relations Tuesday afternoon on the recent ABM Treaty Review Conference and subsequent negotiations. General Burns has been leading our negotiating effort to solve the Krasnoyarsk problem. He will be questioned thoroughly. I will make sure that the issue is followed closely. We intend to be centrally involved next year if legislative action appears advisable.

Finally, I would emphasize to my colleagues my judgment that at this important juncture in our arms control efforts, as we hope for steady and significant progress toward a major new agreement reducing strategic offensive arms, the sensible course for the United States to pursue is to show that it intends to live up to its arms control commitments. It is clear that we can take steps to stay within the ceilings of previous agreements without any risk to our national security interests. We should set that standard for ourselves and be unrelenting in our efforts to have our partners in arms control agreements meet the same standard.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. For what purpose does the Senator from Louisiana seek recognition?

Mr. JOHNSTON. Mr. President, I move to table the motion and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion of the Senator from North Carolina. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from Delaware [Mr. BIDEN], the Senator from California [Mr. CRANSTON] and the Senator from Massachusetts [Mr. KENNEDY] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Washington, [Mr. EVANS], the Senator from Texas [Mr. GRAMM], the Senator from Indiana [Mr. QUAYLE], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. Wallop] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 66, nays 25, as follows:

[Rollcall Vote No. 346 Leg.]

YEAS—66

Adams
Armstrong
Baucus
Bingaman
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Danforth
Daschle
DeConcini
Dixon
Dodd
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heinz
Inouye
Johnston
Kassebaum
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Simon
Specter
Stafford
Stennis
Stevens
Warner
Weicker
Wirth

NAYS—25

Bond
D'Amato
Dole
Garn
Grassley
Hatch
Hecht
Heflin
Helms
Hollings
Humphrey
Karnes
Kasten
McCain
McClure
McConnell
Murkowski
Nickles
Pressler
Shelby
Simpson
Symms
Thurmond
Trible
Wilson

NOT VOTING—9

Bentsen
Biden
Boschwitz
Cranston
Evans
Gramm
Kennedy
Quayle
Wallop

So the motion to lay on the table the motion to concur in the House amendment with amendment No. 3344 was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, the hour is at 20 minutes until 9. We have 3 hours and 20 minutes, if we are to meet the fiscal year deadline. We still have behind this bill the D.C. appropriations bill, and the legislative appropriations bill. I am sure there is going to be some fireworks on one or both of those bills.

Of course, if there is action taken in the Senate that requires further action of the House, that delays the final action.

So I hope Senators will keep that in mind, offer fewer amendments, and talk less on those that they offer so we can meet that deadline.

It will be the first time in 11 years that both Houses will have passed all appropriations bills before the new fiscal year begins, and if the President has time to sign them all before the new fiscal year begins, it will be the first time in 40 years.

I yield the floor.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, I move that the Senate concur in the House amendment to Senate amendment No. 78.

Mr. DANFORTH addressed the Chair.

Mr. DANFORTH. Mr. President, I move to concur in the House amendment to Senate amendment number 78, which was the amendment that Senator Helms sought to amend.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, what is the regular order?

HOUSE AMENDMENT TO SENATE AMENDMENT NO. 89

The PRESIDING OFFICER. The clerk will report the next committee amendment in disagreement.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 89 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *Provided further,* That of the amount available for obligation, $20,000,000 is available only for the X-Ray Lithography Program: *Provided further,* That of the amount available for obligation, $3,000,000 is available only for the Center for the Advancement of Scientists, Engineers, and Technologists to complete the study that was initiated by the Department of Defense in 1985 for the purpose of determining and testing the factors that increase the supply of minority and women scientists, engineers, and technologists needed by defense industries and the Department of Defense to fulfill the national defense mission: *Provided further,* That of the amount available for obligation, $12,500,000 is available only for the Optoelectronics materials research and development program: *Provided further,* That of the amount available for obligation, $7,500,000 is available only for the Lehigh University National Center for Industrial Innovation: *Provided further,* That of the amount available for obligation, $10,000,000 is available only for establishment of the Auburn University Center for the Management of Technology: *Provided further,* That of the amount available for obligation, $10,000,000 is available only for construction costs of a new academic facility on a university campus in the District of Columbia, where there will be established an Institute for Intercultural Security Studies: *Provided further,* That of the amount available for obligation, $7,000,000 is available only for the Minnesota Supercomputer Center, Incorporated, which is affiliated with the University of Minnesota, to be matched by local funds for the acquisition, design, testing, integration and advancement of a new supercomputer: *Provided further,* That of the amount available for obligation, $10,000,000 shall be made available until expended, as a grant, only for a program begun in fiscal year 1988 to develop an engineering, sciences and technology complex to promote defense industry involvement in manpower training and education, for associated facilities, and for related purposes: *Provided further,* That of the amount available for obligation, $1,500,000 is available only for advanced ceramic material fabrication, development, testing and related research at the U.S. Department of Energy's Component Development and Integration Facility.

AMENDMENT NO. 3345

Mr. NUNN. Mr. President, I send an amendment to the desk. This amendment is on behalf of myself, Mr. Warner, Mr. Danforth, Mr. Bingaman, Mr. Wirth, Mr. Exon, Mr. Dixon, and others.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. Nunn], for himself and others, proposes an amendment numbered 3345 to the House amendment to the Senate amendment numbered 89.

In lieu of the matter inserted by such amendment, insert the following: "*Provided further,* That not later than February 1, 1989, the Secretary of Defense shall submit to the Committees on Appropriations and on Armed Services of the Senate and the House of Representatives a report setting forth (1) each program, project, or activity for which funds were not requested in the budget submitted to Congress pursuant to section 1105 of title 31, United States Code, for fiscal year 1989 and are made available under this Act for only one educational institution, or organization affiliated with an educational institution, which is identified, either directly or indirectly, by the terms of this Act (or the Joint Statement of Managers accompanying the conference report on H.R. 4781 of the One Hundredth Congress) as the institution or organization to perform the program, project, or activity for which such funds are provided, and (2) the name of the institution and the amount of funds made available for such program, project, or activity: *Provided further,* That the funds appropriated by this Act to carry out a program, project, or activity by any such educational institution or organization may not be obligated or expended for such purpose before February 1, 1989, and such funds may be obligated or expended on or after such date for such purpose only after a period of 60 days has expired after the date on which the committees named in the preceding proviso have received the report referred to in such proviso.".

Mr. NUNN. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3346

Mr. NUNN. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] proposes an amendment numbered 3346 to amendment numbered 3345.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment to be dispensed with.

Mr. STEVENS. Mr. President, reserving the right to object, is this different from the amendment that has been distributed?

Mr. NUNN. I say to the Senator from Alaska that this amendment is the same, just that it is in the second degree. The only thing is that it changes 60 days to 90 days.

Mr. STEVENS. I thank the Senator.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment is as follows:

Strike out everything after the word "*Provided*" the first time it appears and insert in lieu thereof the following "*further*, That not later than February 1, 1989, the Secretary of Defense shall submit to the Committees on Appropriations and on Armed Services of the Senate and the House of Representatives a report setting forth (1) each program, project, or activity for which funds were not requested in the budget submitted to Congress pursuant to section 1105 of title 31, United States Code, for fiscal year 1989 and are made available under this Act for only one educational institution, or organization affiliated with an educational institution, which is identified, either directly or indirectly, by the terms of the Act (or the Joint Statement of Managers accompanying the conference report on H.R. 4781 of the One Hundredth Congress) as the institution or organization to perform the program, project, or activity for which such funds are provided, and (2) the name of the institution and the amount of funds made available for such program, project, or activity: *Provided further*, That the funds appropriated by this Act to carry out a program, project, or activity by such education institution or organization may not be obligated or expended for such purpose before February 1, 1989, and such funds may be obligated or expended on or after such date for such purpose only after a period of 90 days has expired after the date on which the committees named in the preceding proviso have received the report referred to in such proviso.".

Mr. NUNN. Mr. President, I offer this amendment on behalf of myself and a number of other members of the Senate Armed Services Committee and other Members of the Senate.

This battle is a continuation of the battle led by the Senator from Missouri [Mr. DANFORTH] in 1986, where we had basically a tie vote, in effect, because one time he succeeded and one time the Senate rejected the Danforth amendment.

I think this is an important amendment, not because of the amount of money involved but because of the principle involved. We have to decide whether the defense bill is going to become a university set-aside bill.

I am in favor of university research. We have increased funding for it every year in the authorization bill, but I am not in favor of having the appropriation committee or the authorization committee, in the defense area, set aside funding for various universities without competition, and without any analysis of the merits, simply because that particular university happens to have the power to make it happen in Congress.

Mr. DANFORTH. Mr. President, may we have order in the Senate? The Senate is not in order.

The PRESIDING OFFICER. The point of the Senator from Missouri is well taken. Will Senators take their seats and cease conversations?

Mr. NUNN. The issue this amendment addresses is whether the earmarking of funds for university research in this, or any other defense bill, represents either the proper use of defense funds or even the proper procedure for allocating these funds. We have dealt with these issues on the floor before, particularly in June 1986.

The provision in the appropriation bill we seek to amend includes nine projects totaling $81.5 million. Of that total, $46 million is earmarked for specific universities, and for some institutions I am not sure I can identify. Some people may be able to identify them, but it is almost impossible to do the way the bill language is couched. The six projects that make up this $46 million were not authorized and were not in either appropriation bill as passed. In other words, these emerged out of conference. They were not in the Senate-passed bill, and they were not in the House-passed bill. We had $46 million of set-asides for universities that emerged mysteriously out of conference. The other three projects that make up the remaining $35.5 million were both authorized and appropriated, and I make it clear that there is a distinction.

Because of the way the amendment in disagreement has been brought back, we have six earmarked projects and three projects related to general research. So we have some apples and oranges here, but we only have one way to deal with it because of the way amendment 89 is constructed.

It is important to understand that the $46 million for the six is found in one line item in the tables and this amendment 89 is the language that earmarks the funds. The $35.5 million for the remaining three is found in three different lines. If our proposed amendment is successful, the earmarks would be eliminated but the funds would remain in the bill. Our amendment does not cost university research one penny. Our amendment simply says that you are not going to set aside the funding for specific universities.

I have made clear my support for basic research, and I am all for increasing funding in the technology base needed to support our national security. The Senate Armed Services Committee formed the Defense Industry and Technology Subcommittee with one of its primary objectives being to improve our defense technology base. Over the last 2 years, because of this subcommittee's efforts, the Senate has authorized significant increases in funding for technology base programs. I know that the appropriators have also supported that. But I cannot support setting aside funding for specific colleges and universities that is not based on a competitive process and merit review.

I thought the Appropriations Committee had also clearly stated that it, too, was opposed to the practice of earmarking funds. In the report accompanying the supplemental appropriations bill in 1986, the Senate Appropriations Committee stated:

> The Committee does not intend to consider or approve any future requests for specific universities or research institutions for projects that are noncompetitive and do not comply with legal requirements for merit reviews and competitive contracting, nor is it the committee's intention to consider or approve future requests to fund construction or related facilities for such projects. The Committee will not consider any future requests to earmark DOD research and development funds for specific research projects that have not gone through competitive and merit review processes without specific authorizations.

Let me state that last phrase again: That have not gone through competitive and merit review processes without specific authorization. That seems pretty clear to me, but many of these projects in the conference report violate their own policy.

So what we are saying is, let us take the appropriators at their word here, and let us not do this in this bill.

I do not want to take a lot of time, and I do not like to have to do it now, because I think the majority leader and the minority leader have gotten us further along in passing appropriations bills than ever, and I hope we can make this mark.

The practice of earmarking is, and has been, opposed by the administration, the Department of Defense, and the academic community. Secretary Carlucci has told me personally that he opposes the earmarking in the bill. These groups were opposed in 1986, and they are opposed to the practice today. Let me quote from a letter I received yesterday from the American Association of Universities and the National Association of State Universities and Land-Grant Colleges.

> * * * scarce Federal funds for research and research facilities should be awarded competitively, according to merit-based

principles and criteria and in accordance with established agency procedures. If the present merit-based system continues to be eroded annually by the actions of a few, the pressures on other insitutions to seek earmarked funding for their worthy projects ineveitably will intensify.

If we accept this earmarking, then we will have every Senator expected to deliver funds in the future for their universities.

Then the Senate is going to have to decide which university and college in each State deserves the funds.

I have had numerous schools in my own State ask the Senate Armed Services Committee to designate certain set asides for their school. We have refused to do that in our committee while at the same time we have increased university funding, and I hope we can continue that pattern.

We have had Senator after Senator in our committee ask whether the committee would accept an earmarking provision, and we have asked them to restrain themselves and they have.

But if this is going to happen in the appropriations bill, it is going to be fair game for the authorization bill, and we are going to have a situation that just does not make sense for the country.

If we accept the earmarking identified in amendment 89, the pressures on every Senator to take care of his State's universities will be enormous. Is that what we want? To pit our schools against one another at the pork barrel? Do you want to be the Senator who has to decide which of his State's schools he will support in the Congress? Surely we don't want our educational institutions to be dependent upon this approach. If this amendment fails, perhaps we should propose an amendment that would divide the university research funds into 50 equal parts and tell each Senator he can designate a school of his or her choice for a share of the pot.

Let me quote one last line from the National Association of State Universities and Land-Grant College's policy statement:

> * * * the National Association of State Universities and Land-Grant Colleges shares the concerns of the Association of American Universities, the National Academy of Sciences, and others, that this approach is unacceptable, in that it could diminish the capability of higher education to carry out its mission in education and research, and we urge Members of Congress and leaders of colleges and universities to refrain from this practice.

Mr. President, I ask unanimous consent that the September 29, 1988, letter from Mr. Robert Rosenzweig, president of the Association of American Universities, and Mr. Robert Clodius, president of the National Association of State Universities and Land-Grant Colleges, with three attachments, be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

AAU and NASULGC,
September 29, 1988.

Hon. Sam Nunn,
Chairman, Committee on Armed Services, U.S. Senate, Senate Russell Office Building, Washington, DC.

Dear Senator Nunn: We understand that when the Senate considers the FY 1989 Appropriations bill for the Department of Defense, the issue of earmarking funds for projects at specific universities will be raised, and that you and other Senators will object to the inclusion of such funds in the bill. We write to thank you for your leadership and to endorse your efforts on behalf of the competitive, merit-based allocation of federal funds for research and academic research facilities.

The Association of American Universities and the National Association of State Universities and Land-Grant Colleges continue to believe that scarce federal funds for research and research facilities should be awarded competitively, according to merit-based principles and criteria and in accordance with established agency procedures. If the present merit-based system continues to be eroded annually by the actions of a few, the pressures on other institutions to seek earmarked funding for their worthy projects inevitably will intensify. The policies adopted by our associations in response to this threat are enclosed.

Also enclosed is a report just released by the National Science Foundation. It documents clearly the research facilities needs of our research institutions. All across the country the research and training programs of these institutions are being hampered by inadequate science and engineering facilities. NSF reports that institutions are deferring about $2.50 in needed facilities construction for every $1.00 spent. For every $1.00 being spent on facilities repair and renovation, another $3.60 is being deferred. The need for leadership by the research agencies of the federal government, including the Department of Defense, is clear. For these reasons we applaud the leadership of Congress in establishing the Academic Research Facilities Modernization Program in the National Science Foundation. If this program is funded next year at the authorized level of $125 million, a promising first step toward a systematic response to the facilities problem will be completed.

We thank you and your sympathetic colleagues for your efforts on behalf of the merit-based allocation of funds, and we urge the Senate to reject all earmarked funds for university research and research facilities construction projects from the FY 1989 DOD Appropriations bill.

Sincerely,

Robert M. Rosenzweig,
President, Association of American Universities.

Robert L. Clodius,
President, National Association of State Universities and Land-Grant Colleges.

STATEMENT ON FEDERAL FUNDING OF ACADEMIC FACILITIES

In recent years, federal funding of various higher education programs had decreased markedly. In particular, wholly inadequate resources for facilities has led some institutions to seek direct assistance from Congress. The outcome of such a process could be an irrational system of distribution based solely on political influence. In that regard, the National Association of State Universities and Land-Grant Colleges share the concerns of the Association of American Universities, the National Academy of Sciences, and others, that this approach is unacceptable, in that it could diminish the capability of higher education to carry out its mission in education and research, and we urge Members of Congress and leaders of colleges and universities to refrain from this practice.

We further urge the Congress to fund Title VII of the Higher Education Act and similar programs in other agencies at reasonable levels, and to insure the systematic allocation of resources to satisfy pressing national concerns.

AAU STATEMENT ON DECISION MAKING IN FEDERAL FUNDING FOR RESEARCH FACILITIES

The Association of American Universities represents institutions whose faculties are deeply engaged in research. We share with many other institutions and individuals a commitment to advancing the quality of the nation's research effort. Since the vitality of this effort is closely linked to the soundness of decisions made about science by public bodies, it is both appropriate and important for the AAU to state its collective views about the ways in which those decisions are best made.

The United States has evolved an admirable but fragile system of awarding federal funds for research. In general, Congress appropriates funds for the support of broad categories of research. Subsequently, the administering federal agency issues guidelines for making applications in a manner that assures fair and open competition. Researchers then submit detailed proposals that are judged by experts, scientists chosen for their ability to make sound and careful judgments in the scientific area involved. This method maximizes the scientific return on the federal investment by assuring that awards are made on the scientific merit of the proposal and the professional merit of the proposer.

The same method governed most federal programs in support of scientific facilities when such programs existed. However, in the early 1970s, most federal government programs in support of the construction and renovation of research facilities ended. The subsequent decade-long failure to attend to the capital base of university science has led to a backlog of need that has hampered American science and placed great stress on the processes by which the government allocates scientific resources.

We believe that processes based on the informed peer judgments of other scientists need to be preserved and strengthened. We therefore urge scientists, leaders of America's universities, and Members of Congress to support the practice of awarding funds for the support of science on the basis of scientific merit, judged in an objective and informed manner. Further, we urge them to refrain from actions that would make scientific decisions a test of political influence rather than a judgment on the quality of the work to be done. These principles should apply in making decisions about scientific facilities as well as in awarding funds for research projects.

Finally, we urge officials of the national Administration and Members of Congress to deal promptly with the decay of the physical plant that houses much of the nation's basic research. S. 1537, introduced by Senators Danforth and Eagleton, is a bipartisan effort to deal with this national priority and deserves strong and prompt support.

AAU RESOLUTION ON FUNDING FOR SCIENTIFIC RESEARCH FACILITIES

We have received the Langenberg Committee report and intend to discuss it further among ourselves and with other associations. While we have some concern with its first recommendation, we support its call for an immediate and sustained effort to bring the higher education community, the Congress and the federal agencies into discussion to resolve the issues surrounding the federal funding of scientific research facilities. We intend to engage fully in those discussions in the hope that common ground can be found and the processes that do not best serve the long-term quality and capacity of U.S. science can be put behind us. In the meantime, however, we:

(1) Reaffirm our support for the following propositions:

(a) Decisions about funding scientific research projects should be made on the best available judgments of the importance of their probable contributions to scientific theory and practice.

(b) The current practice of earmarking scientific facilities construction on the basis of criteria unrelated to their scientific merit is not in the interests of either the nation or its institutions of higher education.

(2) Instruct the president of the AAU to rely on these propositions as the basis of his representations to the Congress on this policy issue.

(3) Agree to observe a moratorium on earmarked funding for scientific facilities while seeking, in cooperation with other higher education associations and the Congress, the creation of federal programs to assist the nation's colleges and universities in meeting their facilities needs for research.

Mr. NUNN. Mr. President, I am concerned that this practice of earmarking is out of control. In an article entitled "Biggest Pork Barrel Ever: $225-Million for Projects that Bypassed Merit Reviews" in the January 27, 1988, edition of the Chronicle of Higher Education, Colleen Cordes has identified more than $225 million in 1988 appropriation bills for specific campus projects. That's a quarter of a billion dollars. No one is even sure if that accounts for all the set-asides. Legislators become very adept at cleverly phrasing legislative and report provisions to be sure that certain funds are spent at the university of their choice.

Mr. President, I ask unanimous consent that the article by Collen Cordes in the January 27, 1988 edition of the Chronicle of Higher Education, be printed in the RECORD at this point.

There being no obligation, the article was ordered to be printed in the RECORD, as follows:

BIGGEST PORK BARREL EVER: $225-MILLION FOR PROJECTS THAT BYPASSED MERIT REVIEWS

(By Colleen Cordes)

WASHINGTON.—In the rush to approve a spending measure for fiscal 1988 last month, Congress quietly approved millions of dollars' worth of funds for campus research projects that had not been subject to traditional merit-review procedures.

In past years, the financing of such research—sometimes labeled "pork-barrel science" by opponents—has generated rancorous debates in Congress. But the controversy over the wisdom of allowing lawmakers to direct federal money to specific campus projects appears to have died down, and the practice has become more prevalent than ever.

Congress approved more than $225-million for specific campus projects in this year's budget—an amount that experts believe sets a record.

Because members of Congress have become persuaded that economic vitality—local, as well as national—is closely tied to investments in science and education, it is widely expected that in the years to come, more and more lawmakers will try to get special projects for campuses in their states.

Much of the money for projects at specific universities is to be used for construction of research buildings or other campus facilities. Some of it, however, will be spent directly on research.

A few members of Congress will probably continue to decry such expenditures. And many university officials and representatives of scientific associations continue to condemn the process of allowing politics to become a major factor in the awarding of research dollars.

However, after losing so many battles in Congress, the opponents seem to have given up. What's more, the universities and lawmakers that have long been champions of such direct appropriations have aggressively staked a claim to the higher moral ground. Proponents argue that Congress rightly uses such projects to redistribute federal money more equitably among university "haves" and "have-nots" than the traditional system of merit review has done.

They say that many universities go directly to Congress for money to help build and equip research facilities so they can prepare their institutions to compete with the relatively few universities that have traditionally won most of the money the federal government spends on research.

Indeed, there are signs that some members of Congress are determined to shake up the long-standing merit-review system even more.

Under merit review, institutions are supposed to win federal support on the basis of the worth of their proposals, in competitions with other universities. Proposals for research money are generally reviewed by panels of university researchers' peers.

Congress, with little dissension, has already voted to bar the Department of Defense from giving more than 14 per cent of its money for a special new university program to the universities in any one state.

PRESSURE ON FEDERAL OFFICIALS

Federal officials are nervously waiting to see if lawmakers will try to apply similar limits to other research programs. Even some lawmakers who oppose the idea of Congress's bypassing merit reviews want research agencies to choose more reviewers from states that generally don't fare well in federal research competitions. This kind of scrutiny is pressuring federal officials to pay more attention to geography when they select the winners—particularly for competitions involving large sums of federal money.

As for the lull in opposition to Congressional efforts to earmark money for specific campuses, political observers offer a number of explanations.

Some people attribute it to the fact that those who fought the projects in the past generally lost. Good politicians, they say, don't care to align themselves with losing causes.

A growing politicization of decisions about spending federal research dollars, some Congressional aides add, is an unavoidable consequence of the fact that science is being taken more seriously on Capitol Hill.

Science groups, led by the National Science Foundation, have been struggling to associate the nation's economic competitiveness with national spending on science and education. That argument, the aides say, has been just as convincing when members of Congress look at their own districts. The result is a strong market for such projects, particularly in states with weak economies—and a situation where comparisons of "haves" and "have-nots," in terms of research facilities, affect not just individual universities but whole states and regions.

"If you continue to fund the people who already have that infrastructure, then it's a situation where the rich get richer and the poor get poorer," said Neal R. Yawn, senior vice-president of operations at the Institute for Technology Development, Inc. The Institute works with universities in Mississippi to develop the state's technological prowess and to create jobs.

Another reason for the lack of opposition to the special projects this year was the fact that the major higher-education group which had been spearheading the battle—the Association of American Universities—decided not to continue the fight.

Robert M. Rosenzweig, president of the association, says the organization, which represents many of the major research universities in the United States, decided to forgo opposing individual projects and to focus its energies instead on lobbying Congress for a new competitive program to support campus research facilities. No other group has come forward to fill the void.

Just about everyone agrees that a new federal program is needed so that universities can compete for the money that many of them say they desperately need to build and renovate research facilities.

But whether members of Congress will give high priority to establishing such a program—and approving money for it—may be a different matter.

The political pressure to obtain money for local university projects will be both more intense and more immediate for individual lawmakers. Those from states that generally do poorly in national competitions will have few incentives to lobby for a new program unless a significant portion of its money is to be reserved for institutions that currently receive little federal support for research. Deciding exactly how much should be reserved for which kind of institution, however, is not going to be easy.

Congress is now in the process of extending the authority of the National Science Foundation, and proposals for a new facilities program are part of that effort. Action in the Senate last year was held up in part over that very issue, as legislative aides were deluged with conflicting advice from colleges and universities.

"There will be haggling about that down to the very end," Mr. Rosenzweig says.

Meanwhile, the experience of the Agriculture Department has not been heartening for supporters of the proposed program at the National Science Foundation. A few years ago, Congress did approve a program that allows the Agriculture Department to provide new facilities to colleges and universities. Congress stipulated that the program was not to get more than $20-million a year. But the program has not received any money at all, so the department has never been able to sponsor a competition.

THERE'S ALWAYS BEEN PORK

Instead, Congress has directed the department to give money to specific universities under an entirely different program and in amounts exceeding the $20 million limit. Individual universities' prospects for winning money directly from Congress for specific projects, department officials say, has drained policial support from efforts to obtain money for a competitive program. Many scientists, however, remain disconcerted about the idea of an individual university's seeking research money directly from Congress.

"There's always been pork," says Robert L. Park, executive director of the Washington office of the American Physical Society. "But we thought it only applied to sewers. And now to have universities classed with sewers is somehow demeaning."

Others suggest that higher education's needs won't claim the dollars they deserve without aggressive lobbying.

Says H. Douglas Braymer, acting vice-president for academic affairs in the Louisiana State University System; Many people feel that everything in the world has been lobbied for in Congress except higher education."

CAMPUS PROJECTS THAT CONGRESS EARMARKED FOR FUNDS THIS YEAR

(Compiled by Colleen Cordes and Courtney Leatherman)

WASHINGTON.—The following list includes many of the specific campus projects that Congress has directed federal agencies to support this year, even though the agencies neither requested money for them nor sponsored competitions to determine which institutions to support.

The items were identified by officials in the agencies involved. Congress earmarked the money for specific campuses either in the massive spending bill for the entire federal government that it passed late last year, or in the accompanying legislative report that explained the contents of the bill. In most cases, the money will actually go to the university named. In other cases, however, the work will be conducted on a campus, but the money will not be spent directly by the university.

Many agencies still require universities to submit an acceptable proposal for the work that Congress has designated money for them to do before the institutions can actually receive the money.

The list is not complete. Many federal agencies are still scrambling to identify some of the institutions for which Congress intended to earmark money. The Defense Department, for instance, has not yet determined which institutions it will give money to. In addition, some projects are difficult to detect because they were described in vague references in legislation or the accompanying legislative report.

The list includes some items that have not been the subject of controversy, since they do not involve projects that would have been subject to merit review. In some cases, the colleges have a history of receiving special treatment by the federal government for specific reasons.

University of Alabama at Huntsville, $10.6-million from the Department of Energy's Office of Energy Research, for a Center for Applied Optics.

University of Arizona, $4.58-million from the Department of Agriculture, for construction of an agricultural biotechnology center; $4-million from the General Services Administration, to help build and equip a Center for Advanced Studies for Copper Recovery and Utilization.

Arizona State University, $10-million from the Department of Energy's Office of Energy Research, for the Barry Goldwater Center for Science and Engineering.

University of Arkansas, $375,000 from the Department of Agriculture, for renovating a poultry laboratory and isolation facilities; $370,000 from the National Agricultural Library of the Agriculture Department, for a project on agricultural law.

Auburn University, $237,500 from the Federal Aviation Administration, for construction and equipment for airway-science projects.

Boston College, $4-million from the Department of Energy's Office of Energy Research, for a multi-purpose center.

Boston University, $8.5-million from the Department of Energy's Office of Energy Research, for the Institute for Advanced Physics Research.

University of Bridgeport, $50,000 from the Department of Agriculture, to study the feasibility of constructing an agricultural biotechnology institute; $2.5-million from the Economic Development Administration, to help build the Connecticut Technology Institute.

Columbia University, $4-million from the Department of Energy's Office of Energy Research, for the National Center for Chemical Research.

Drake University, $1.5-million from the Commission on the Bicentennial of the U.S. Constitution, to operate a legal-aid clinic to serve the poor and elderly.

Drexel University, $5.6-million from the Department of Energy's Office of Energy Research, for the Center of Automation Technology.

East Central University, $4-million from the Department of Energy's Office of Energy Research, for a Center on Physical and Environmental Science.

Eastern Washington University, $496,000 for operation of the Upper Columbia United Tribes Fisheries Research Center in Washington.

Embry-Riddle Aeronautical University, $1.43-million from the Federal Aviation Administration, for construction of facilities and purchasing equipment used in airway-science projects.

Florida Memorial College, $1.425-million from the Federal Aviation Administration, for construction of facilities and purchasing equipment to be used in airway-science projects.

Florida Institute of Technology, $237,500 from the Federal Aviation Administration, for construction of facilities and purchasing equipment to be used in airway-science projects.

Florida State University, $11.74-million from the Department of Energy's Office of Energy Research, for a supercomputer center.

Georgetown University, $1-million from the Urban Mass Transportation Administration, for research and development of fuels for buses.

University of Georgia, $50,000 from the Department of Agriculture, to study the feasibility of constructing a biocontainment center.

Gonzaga University, $7.5-million from the Department of Agriculture, for planning and construction of the Regional Center for Information and Technology.

University of Hawaii, $600,000 from the Department of Interior's Bureau of Mines, for a Marine Minerals Technology Center.

University of Hawaii at Manoa, $1.7-million from the Department of Commerce, to reestablish service of the Pan-Pacific Educational and Cultural Experiences by Satellite-program (the main satellite terminal is located on the campus); $5-million from the General Services Administration, to build a facility for research on strategic materials.

University of Idaho, $500,000 from the Bureau of Mines, for research on water contamination.

Iowa State University, $6.38-million from the Department of Agriculture, for planning and construction at the National Center for Food and Industrial Agricultural Product Development.

Jackson State with the Ana O. Mendez Foundation in Puerto Rico, an estimated $1.5-million from the Department of Energy's Office of Energy Research, for research and education program for members of minority groups.

University of Kentucky, $227,000 from the Department of Agriculture, for a trade center.

Loma Linda University Medical Center, $8.5-million from the Department of Energy's Office of Energy Research, for proton-beam cancer treatment.

Loyola University (La.), $1.5-million from the Commission on the Bicentennial of the U.S. Constitution, to operate the Gillis W. Long Poverty Law Center.

Louisiana State University, $3.5-million from the Department of Defense, for nutrition research at the Pennington Biomedical Research Center; $12-million from the Department of Energy's Office of Energy Research, for the Center of Advanced Microstructures and Devices; $250,000 from the Department of Energy, for development of a carbon-dioxide injection test.

University of Massachusetts at Amherst, $250,000 from the Department of Energy, to study and design a solar heating plant; $5-million from the General Services Administration, to help build a strategic materials research facility.

Medical University of South Carolina, $8-million from the Department of Energy's Office of Energy Research, for a cancer research center.

University of Medicine and Dentistry of New Jersey, $7.5-million from the Department of Energy Office of Energy Research, for the Institute of Nuclear Medicine.

University of Miami, $600,000 from the Department of Energy, for hydrogen production technology at the Clean Energy Research Institution.

University of Mississippi, $500,000 from the Department of Agriculture, for the National Center for Physical Acoustics, which is a joint enterprise of the university and the Institute for Technology Development, Inc.; $50,000 from the Department of Agriculture, to study the feasibility of constructing the National Center for Development of Natural Products; $600,000 from the Department of Interior's Bureau of Mines, for the Mississippi Mineral Resources Institute; $1.8-million from the Navy, for personnel expenses at the National Center for Physical Acoustics.

Mississippi State University Cooperative Extension Service, $333,000, to be shared with the Oklahoma State University Cooperative Extension Service, from the Department of Agriculture, for a pilot project for technology transfer.

Mississippi Valley State University, $625,000 from the Department of Agriculture, for curriculum development.

University of Nebraska Cooperative Extension Service, $190,000 from the Department of Agriculture, for rural development work; $65,000 from the Department of Agriculture for demonstrating the production and marketing of crambe and rapeseed; $47,000 from the Department of Agriculture, for an integrated reproductive management program.

University of Nevada, $600,000 from the Bureau of Mines, to study cyanide leaching of gold.

University of New Mexico, $1-million from the General Services Administration, to conduct research on replacement for metallic alloys that use critical materials.

University of North Dakota, $475,000 from the Federal Aviation Administration, for construction of facilities and equipment for airway-science projects.

North Dakota State University, $500,000 from the Department of Agriculture, for research on oil seeds; $300,000 from the Department of Agriculture, to consolidate facilities at the North Dakota Agricultural Experiment Station.

Northwestern University, $6-million from the Department of Energy, for an energy-research facility.

Oklahoma State University, $100,000 from the Department of Agriculture and $250,000 from the Economic Development Administration, for an international-trade development center; $50,000 from the Department of Agriculture, to study the feasibility of creating a national center for equine and bovine biotechnology research.

Oklahoma State University Extension Service, $433,000 from the Department of Agriculture, for rural development projects; $333,000, from the Department of Agriculture to be shared with the Mississippi State University Cooperative Service, for a pilot project on technology transfer.

University of Oklahoma at Norman, $5.5-million from the Department of Energy, for an energy center.

Oregon Graduate Center, $500,000 from the Department of Energy's Office of Energy Research, for research on membrane-based technologies.

Oregon Health Science University, $10-million from the Department of Energy's Office of Energy Research, for a science building.

Oregon State University, $2.5-million from the Department of Agriculture, for construction of an agricultural research facility.

Polytechnic University, $1.43-million from the Federal Aviation Administration, for construction of facilities and equipment for airway-science projects.

Rochester Institute of Technology, $800,000 from the Department of Energy, for micro-electronic research.

Rutgers University, $50,000 from the Department of Agriculture, to study the feasibility of constructing a plant bioscience center.

Somerset Community College, $50,000 from the Farmers Home Administration, for a study on the need for a regional center for agricultural education and training.

University of South Carolina at Aiken, $700,000 from the Department of Energy, for equipment for a new science building that will be used to house programs to train federal employees.

University of Southern Mississippi, $4.75-million from the Department of Agriculture, for the Polymer Institute.

State University of New York Maritime College, $10 million from the Department of Transportation, to modernize a training vessel to be used by the college.

Texas A&M University, $50,000 from the Department of Agriculture, to study the feasibility of constructing an agricultural biotechnology facility; $600,000 from the Department of Energy, for research on hydrogen production technology.

Tufts University, $2.8 million from the Environmental Protection Agency, for research at the Center for Environmental Management.

University of Utah, $4 million from the General Services Administration, to help build and equip a center for research on biomedical polymers.

University of Vermont, $2.2-million from the Department of Agriculture, for the construction of building at the Stafford-Aiken Center for Microbiology.

Virginia Polytechnic Institute, $50,000 from the Department of Agriculture, to study the feasibility of constructing an agricultural biotechnology center; $50,000 from the Department of Agriculture, to study the feasibility of constructing an equine medical center isolation unit.

University of Washington, $1-million, to be shared with Washington State University, from the Department of Agriculture, for international trade-development centers.

Washington State University, $5.54 million from the Department of Agriculture, for construction of a food and nutrition center; $1 million, to be shared with the University of Washington, from the Department of Agriculture, for international trade-development centers.

West Virginia University, $375,000 from the Agriculture Department, for planning for a poultry laboratory; $50,000 from the Agriculture Department, for a cooperative program with the Forest Service; $262,000 from the Economic Development Administration for the West Virginia University Regional Research Institute for research on growth in manufacturing employment; $6-million from the Department of Energy, for an energy center; $4.31 million from the Department of Health and Human Services, for construction and equipment for the Mary Hubb Randolph Center, which will conduct research on cancer treatments.

FEDERAL GRANTS

(National Endowment for the Humanities)

University of Alabama at Tuscaloosa. For an institute for secondary-school English: up to $160,155 (project director: Ralph Bogardus).

For planning the interpretation of the Mississippian Phase (900-1450) archaeological site and museum complex at Moundville, Ala.: up to $41,283 (project director: Douglas E. Jones).

Alabama State University. A biography of Mary McLeod Bethune: up $27,500 (principal investigator: Elaine M. Smith).

American Numismatic Society. For support of programs in the humanities: up to $300,000 (project director: Leslie A. Elam).

Amherst College. Daniel Alexander Payne, black evangelism and the 19th-century black church: up to $27,500 (principal investigator: David W. Wills).

Arizona State University. Charity and welfare for mothers in 19th-century Paris: up to $27,500 (principal investigator: Rachel G. Fuchs).

A cultural history of fire in Australia: up to $27,500 (principal investigator: Stephen J. Pyne).

University of Arkansas at Fayetteville. For Arkansas's participation in the U.S. Newspaper Program: up to $127,571 (principal investigator: Patrick F. Callahan).

Auburn University at Montgomery. The remaking of France: up to $27,500 (principal investigator: Michael P. Fitzsimmons).

Austin Peay State University. The ideology of the Republican party in the gilded age: up to $27,500 (principal investigator: Charles W. Calhoun).

Barnard College. Aristotle's philosophy of mathematics: up to $27,500 (principal investigator: Henry R. Mendell).

Class, caste, and ritual in the religions of India: up to $27,500 (principal investigator: Brian K. Smith).

Brown University. Belief and its justification: up to $27,500 (principal investigator: Ernest Sosa).

Black literary culture before the Harlem Renaissance: up to $27,500 (principal investigator: Wilson J. Moses).

Calvinism and society in Europe to 1700: up to $27,500 (principal investigator: Philip J. Benedict).

Bucknell University. The ethics of character—from Aristotle and Confucius to contemporary technology: up to $27,500 (principal investigator: James P. Buchanan).

Twentieth-century American experimental music: up to $27,500 (principal investigator: William E. Duckworth).

University of California at Berkeley. For preservation of European language and literature materials: up to $998,411 (project director: Joseph A. Rosenthal).

To plan an exhibition, catalogue, and planetarium presentation that examine the role of scientific and technological knowledge in exploration by focusing on the voyages of Columbus: up to $50,000 (project director: Cary J. Sneider).

University of California at Los Angeles. Art and craft in the life and work of Vincent van Gogh; up to $27,500 (principal investigator: Debora L. Silverman).

Modesty in the 18th- and 19th-century novel; up to $27,500 (principal investigator: Ruth B. Yeazell).

University of California at San Diego. The Apaches in Paris, 1902-13; up to $27,500 (principal investigator: Jann C. Pasler).

Progress, rationality, and the growth of science; up to $27,500 (principal investigator: Philip S. Kitcher).

California Polytechnic State University at San Luis Obispo. Codice Saldivar Number 4—a study of a baroque guitar masterpiece from the new world; up to $27,500 (principal investigator: Craig H. Russell).

Canisius College. The German right and the Nazi seizure of power; up to $27,500 (principal investigator: Larry E. Jones).

Carleton College. The two foundings—rights, Republicanism and Federalism in the American constitutional order; up to $27,500 (principal investigator: Michael P. Zuckert).

Catholic University of America. Caesarius of Aries and the making of a Christian community in late antique Gaul; up to $27,500 (principal investigator: William E. Klingshirn).

For an institute for secondary-school teachers up to $64,566 (project director: Linda Valli).

University of Chicago. Byzantium and Islam—military confrontation, 650-850; up to $27,500 (principal investigator: Walter E. Kaegi, Jr.).

The postrevolutionary self—competing psychologies in France, 1790-1850; up to $27,500 (principal investigator: Jan E. Goldstein).

The stylistic development of Handel's cantatas between 1706 and 1720; up to $27,500 (principal investigator: Ellen T. Harris).

Clemson University. The Gold Dust Twins—Ben Cohen, Tommy Corcoran, and the New Deal; up to $27,500 (principal investigator: William Lasser).

Colby College. The power of "tradition"—Japanese Shinto festival music and forces of preservation; up to $27,500 (principal investigator: Linda K. Fujie).

Texts in reflection—contemporary Spanish American fiction; up to $27,500 (principal investigator: Jorge Olivares).

Colgate University. A Biography of Edward Alleyn; up to $27,500 (principal investigator: Susan P. Cerasano).

College of the Holy Cross. For an institute for secondary-school teachers: up to $189,023 (project director: David L. Schaefer).

Colorado State University. For an institute for secondary-school teachers; up to $193,872 (project director: Loren W. Crabtree).

Columbia University. Adam Smith—the historical coherence of the arguments of The Wealth of Nations; up to $27,500 (principal investigator: Laurence Dickey).

Degas and history painting; up to $27,500 (principal investigator: Theodore Rell).

For work on the *Encyclopedia Iranica*, a reference work covering all aspects of the history and culture of the Iranian peoples, both ancient and modern, as well as their interaction with neighboring peoples; up to $288,185 (project director: Eshan Yarshater).

Cornell University. The chronicles of Amos Webber: up to $27,500 (principal investigator: Nick Salvatore).

The culture of realism—the body and the machine in American realist literary and social discourse: up to $27,500 (principal investigator: Mark I. Seltzer).

Dartmouth College. Courtly poetry and history in late medieval French literature: up to $27,500 (principal investigator: Kevin Brownlee).

For annual humanities institutes: up to $1.4-million (project director: Richard R. Sheldon).

Davidson College. Religion and aesthetic expression in classical South Asia: up to $27,500 (principal investigator: William K. Mahony).

University of Denver. The black churches north of slavery, 1780-1870: up to $27,500 (principal investigator: William B. Gravely).

Duke University. Royal pardons in the society of early modern England: up to $27,500 (principal investigator: Cynthia B. Herrup).

Eastern Michigan University. Islamic fundamentalism in the Middle East: up to $27,500 (principal investigator: Mansoor Moaddel).

Emory University. The concept of neutrality and the position of non-belligerent states in ancient Greece: up to $27,500 (principal investigator: Robert A. Bauslaugh).

Empire State College. History of the Upper Rio Grande Basin, 1598-1821: up to $27,500 (principal investigator: Robert L. MacCameron).

Fordham University. For an institute for secondary-school teachers: up to $134,290 (project director: John P. Entellis).

Rhetoric of the narrative poetry of the British Renaissance: up to $27,500 (principal investigator: Marshall S. Grossman).

Franklin and Marshall College. The geographical expedition in 20th-century fiction: up to $27,500 (principal investigator: Cecile C. Zorach).

George Mason University. Antoine Caron's Artemisia, Catherine de Medici, and the invention of the ideal Renaissance queen: up to $27,500 (principal investigator: Sheila Ffolliott).

Georgetown University. A history of work in early America: up to $27,500 (principal investigator: Marcus Rediker).

Hamilton College. The female audience of 12th- and 13th-century Old French courtly romance: up to $27,500 (principal investigator: Roberta L. Krueger).

Harvard University. The assignment of word stress in English: up to $27,500 (principal investigator: Luigi Burzio).

For a permanent exhibition that examines native American cultures from late prehistoric to recent times in anthropological and historical perspectives: up to $700,000 (project director: C.C. Lamberg-Karlovsky).

Haverford College. For a professorship and library acquisitions in comparative literature: up to $250,000 (project director: Harry C. Payne).

University of Hawaii. To endow programs in Asian and Pacific studies: up to $750,000 (project director: Robert W. McHenry, Jr.).

To purchase updated computerized equipment for the university press: up to $28,500 (project director: Janet F. Heavenridge).

University of Illinois at Chicago. The effects of social and technological change on the Chinese writing system: up to $27,500 (principal investigator: John S. Rohsenow).

The middle classes in American history, 1828-1919: up to $27,500 (principal investigator: Burton J. Bledstein).

Socialist feminism and women's unions in the 1970's: up to $27,500 (principal investigator: Margaret Ann Strobel).

University of Illinois at Urbana-Champaign. Asian "others", popular culture, and national identity in early modern Japan: up to $27,500 (principal investigator: Ronald P. Toby).

To endow programs in the humanities: up to $1-million (project director: David P. Bishop).

Indiana University. A comparison of musical performance among the Gd-speaking communities of Brazil: up to $27,500 (principal investigator: Anthony Seeger).

Conceptualism, realism, and intensional logic: up to $27,500 (principal investigator: Nino B. Cocchiarella).

Logic and revelation in Judaism: up to $27,500 (principal investigator: Howard Eilberg-Schwartz).

The Mexico City poor house, 1774-1876: up to $27,500 (principal investigator: Silvia M. Arrom).

Iowa State University. A biography of Anna Laetitia Barbauld: up to $27,500 (principal investigator: William P. McCarthy).

Johns Hopkins University. For an endowment for library materials in the humanities: up to $1 million (project director: Susan K. Martin).

The rhetoric of revelation in Pascal's *Pensees*: up to $27,500 (principal investigator: Milad N. Doueihi).

Kalamazoo College. David Hume and human nature: up to $27,500 (principal investigator: Wade L. Robison).

Kansas State University. State, finance, and the prosecution of crime in France, 1670-1789: up to $27,500 (principal investigator: Albert N. Hamscher).

Knox College. For library acquisitions in the humanities and to help renovate the library building: up to $300,000 (project director: John P. McCall).

Lawrence University. The nature of ethnography: up to $27,500 (principal investigator: Jay O'Brien).

Failed saints—pretense of sanctity, the inquisition, and society in early modern Italy: up to $27,500 (principal investigator: Anne J. Schutte).

Lewis and Clark College. For programs in the humanities: up to $1.2 million (project director: Jacquelyn A. Mattfeld).

University of Kentucky. Journalism, time, and politics in France, 1770-89: up to $27,500 (principal investigator: Jeremy D. Popkin).

Louisiana State University at Baton Rouge. Biography of Jefferson Davis: up to $27,500 (principal investigator: William J. Cooper).

Marquette University. Courage in the works of Homer, Plato, and Aristotle: up to $27,500 (principal investigator: Darrell D. Dobbs).

Indian cultural adaptation in northeastern Mexico, 1577-1725: up to $27,500 (principal investigator: Jose Cuello).

University of Maryland at College Park. For institutes for secondary-school teachers: up to $350,801 (project director: Adele F. Seeit).

For Maryland's participation in the U.S. Newspaper Project: up to $192,255 (project director: Peter H. Curtis).

University of Massachusetts at Amherst. Landscape as history in the Meratus Mountains of Indonesia: up to $27,500 (principal investigator: Anna Lowenhaupt Tsing).

Oscar Wilde and the theater: up to $27,500 (principal investigator: Joseph W. Donohue, Jr.).

Massachusetts Institute of Technology. The idea of American society—the revolutionary heritage and the development of American society, 1765-1865: up to $27,500 (principal investigator: Pauline R. Maier).

Memphis State University. Language and the world—semantics, metaphysics, and materialism: up to $27,500 (principal investigator: Terence E. Horgan).

University of Michigan. A neglected tradition of aesthetics in antiquity: up to $27,500 (principal investigator: James I. Porter).

Modes of writing and the visual work of art: up to $27,500 (principal investigator: Thomas E. Crow).

Syrian architecture of the Ayyubid period: up to $27,500 (principal investigator: Terry Allen).

Middlebury College. A biography of Hector St. John de Crevecoeur: up to $27,500 (principal investigator: John P. McWilliams, Jr.).

Incorporating significant literature into the elementary-school curriculum: up to $175,000 (project director: Stephen Donadio).

The domestication of "culture" in interwar America. 1919-41: up to $27,500 (principal investigator: John S. Gilkeson, Jr.).

University of Minnesota. Origins of American slave society—the Carolina-Georgia low country to 1790: up to $27,500 (principal investigator: Russell R. Menard).

University of Missouri at Columbia. Laura's daughter—the life of Rose Wilder Lane: up to $27,500 (principal investigator: William V. Holtz).

University of Missouri at St. Louis. Coal and steel in 20th-century European politics—Germany and France, 1918-54; up to $27,500 (principal investigator: John R. Gillingham).

University of Montana. Native American texts—genres of Colville-Okanagan narratives; up to $27,500 (principal investigator: Anthony Mattina).

Mount Holyoke College. To plan a traveling exhibition, catalogue, and interpretive programs that examine the impact of technological change on French culture at the time of the Universal Expositions of 1889 and 1900: up to $21,975 (project director: Wendy M. Watson).

The politics of suffrage in the new South—up to $27,500 (principal investigator: Dolores E. Janiewski).

National Humanities Center. For institutes for high-school teachers; up to $95,940 (project director: Charles Blitzer).

Newberry Library. To endow programs in the humanities: up to $1-million (project director: Charles T. Cullen).

University of New Hampshire. To endow programs in the humanities: up to $500,000 (project director: Richard H. Hersh).

New York University. An interpretation of anthropological fieldwork with Australian aborigines. 1973-88; up to $27,500 (principal investigator: Fred R. Myers).

University of North Carolina at Chapel Hill. Toni Morrison's literary folklore; up to $27,500 (principal investigator: Trudier Harris).

The "Gakwege" famine in Eastern Rwanda, Africa, 1928-29; up to $27,500 (principal investigator: David S. Newbury).

North Carolina Central University. Black message, white envelope—the nature of the slave narrative; up to $27,500 (principal investigator: John A. Sekora).

Roy Welensky and the world of Central African labor; up to $27,500 (principal investigator: Kenneth P. Vickery).

North Carolina State University. Metaphysical and semantic issues of identity and survival; up to $27,500 (principal investigator: William R. Carter).

Northern Illinois University. Aristotle's biopolitics—a defense of natural right and biological telcology; up to $27,500 (principal investigator: Larry E. Arnhart).

Descartes's fourth meditation: up to $27,500 (principal investigator: Donald A. Cress).

Redefining America—the industrial transformation and the new liberalism: up to $27,500 (principal investigator: Mary O. Furner).

University of North Florida. The American dreams of Samuel (Golden Rule) Jones; up to $27,500 (principal investigator: Marnie Cullen Jones).

Northwestern University. The theoretical basis of modern skepticism: up to $27,500 (principal investigator: Michael J. Williams).

University of Notre Dame. Aristotelian approaches to justice and friendship; up to $27,500 (principal investigator: David K. O'Connor).

Milton and 17th century metaphysics: up to $27,500 (principal investigator: Stephen M. Fallon).

Oberlin College. Fascist movements in France, 1933-39: up to $27,500 (principal investigator: Robert J. Soucy).

Kant's theory of radical evil: up to $27,500 (principal investigator: Gordon E. Michalson, Jr.).

Local government and the Chinese reforms: up to $27,500 (principal investigator: Marc J. Blecher).

Oklahoma State University. To support a four-week summer institute for 45 elementary-school educators on the development, ratification, and significance of the Constitution: up to $149,853 (project director: Carolyn J. Bauer).

Pace University. The image in print—the illustrated English book in the 15th and 16th centuries: up to $27,500 (principal investigator: Martha W. Driver).

University of Pennsylvania. An analysis of selected writings on the American revolution: up to $27,500 (principal investigator: Betsy J. Erkkila).

For work on *The Pennsylvania Sumerian Dictionary*: up to $27,500 (principal investigator: Ake W. Sjoberg).

The postwar family, 1940-1960: up to $27,500 (principal investigator: Mark J. Stern).

Phillips University. In the public eye—a history of reading in modern France: up to $27,500 (principal investigator: James S. Allen).

Pomona College. Franklin D. Roosevelt and Anglo-American relations, 1932-39; up to $27,500 (principal investigator: Richard A. Harrison).

To fix the boundaries of sorrow—precuriousness of life in early America: up to $27,500 (principal investigator: Helena M. Wall).

Princeton University. The City of Thebes—civic representation and political ideology in the ancient theater of Athens: up to $27,500 (principal investigator: Froma I. Zeitlin).

University of Puget Sound. An intellectual and cultural history of America in the 1910's; up to $27,500 (principal investigator: Terry A. Cooney).

Religion and working-class life in pre-Civil War America: up to $27,500 (principal investigator: James Lazerow).

Reed College. The frame-narrative in Russian fiction; up to $27,500 (principal investigator: Charles R. Isenberg).

Practical wisdom and political philosophy: up to $27,500 (principal investigator: Peter J. Steinberger).

Rhode Island School of Design. For a traveling exhibition on Egyptian Coptic art: up to $170.846 (project director: Florence D. Friedman).

Rice University. The temple of Venus Genetrix and the development of the Roman *Templum-Rostratum;* up to $27,500 (principal investigator: Roger B. Ulrich).

University of Rochester. Thomas Jefferson and the Republic of Letters; up to $27,500 (principal investigator: Frank C. Shuffelton).

Women's religious communities (Zhenskie Obshchiny) in Russia, 1764-1917; up to $27,500 (principal investigator: Brenda Meehan-Waters).

Rochester Institute of Technology: For research on the causes of deterioration of cellulose acetate photographic film (safety film) and the development of recommendations for the preservation of this type of film; up to $120,199 (project director; James M. Kelly).

Roosevelt University. Telecommunications and international relations, 1851-1945; up to $27,500 (principal investigator: Daniel R. Hendrick).

Rutgers University, Manuel II Palagologus, the Turks, and Islam; up to $27,500 (principal investigator: Stephen W. Reinert).

St. Olaf College. A theory of intentional behavior; up to $27,500 (principal investigator: Frederick M. Stoutland).

San Diego State University. Expanding horizons—the world before and after 1492; to to $27,500 (principal investigator: William D. Phillips).

Oligarchs and their adversaries—the contest for power in Breacia under the Lion of Saint Mark, 1590-1645; up to $27,500 (principal investigator: Joanne M. Ferrurol).

Santa Clara University. Chinese morality books—painting and religious texts; up to $27,500 (principal investigator: Catherine M. Bell).

Social Science Research Council. For research activities of the Joint Committee on Eastern Europe; up to $69,958 (project director; Frederic Wakeman).

Society of Japanese Studies. For the publication of the Journal of Japanese Studies; up to $50,000 (project director; Susan B. Hanley).

University of South Carolina. A theory of privacy; up to $27,500 (principal investigator: Ferdinand D. Schoeman).

University of South Carolina. Gluck and the French theater in Viennia, up to $27,500 (principal investigator: Bruce A. Brown).

To endow humanities collections in the university library: up to $1-million (project director; Marshall Cohen).

State Univerity of New York at Albany. Symbolic landscapes in Chinese poetry of the T'ang and Sung dynasties: up to $27,500 (principal investigator: Charles Hartman).

State University of New York at Bingham. Representation and pictoral description (Ekphrasis) in medieval narrative: up to $27,500 (principal investigator: Marilynn Robin Desmond).

State University of New York at Buffalo. Frank Lloyd Wright and Darwin D. Martin, architect and client: up to $27,500 (principal investigator: Jack F. Quinan

To preserve the manuscripts and books in the library's collection of 20th-century poetry written in English: up to $82,802 (project director: Robert J. Bertholf).

State University of New York at Stony Brook. Parodic subversion in the *Libro de Buen Amor* up to $27,500 (principal investigator: Louise O. Vasvari).

State University of New York College at Old Westbury. The poetry and music of Lesotho migrants in performance: up to $27,500 (principal investigator: David B. Coplan).

Swarthmore College. Cicero on fute: up to $27,500 (principal investigator: Dorothea A. Frede).

Women and the social sciences in America. 1920-60: up to $27,500 (principal investigator: Robert C. Bannister).

Syracuse University. The epistemology of the perception of God: up to $27,500 (principal investigator: William P. Alston).

University of Texas at Austin. The social and political history of Crete. 700-150 B.C.: up to $27,500 (principal investigator: Paula J. Periman).

Chaucer in Florence and Lombardy: up to $27,500 (principal investigator: David J. Wallace).

Hume's theory of mind: up to $27,500 (principal investigator: Daniel E. Flage).

State enterprise in Bourbon Mexico—a history of the royal monopoly. 1765-1821: up to $27,500 (principal investigator: Susan Deans-Smith).

Trinity University (Tex.). Commercial and imperalism—The United States and Cuba, 1760-1898: up to $27,500 (principal investigator: Linda K. Salvucci).

Tulane University. Heidegger's concept of technology—a critical study: up to $27,500 (principal investigator: Michael E. Zimmerman).

Vanderbilt University. Consensus to conflict in early Stuart Cambridge—Samuel

Ward and his circle: up to $27,500 (principal investigator: Margo Todd).

For an institute for secondary-school teachers on fifth-century Greece: up to $153,474 (project director: George J. Graham, Jr.).

The rival roles of humanism and epistemology in creating the 17th-century mechanistic conception of nature: up to $27,500 (principal investigator: Lynn S. Joy).

Vassar College. Hegel's political theory—an interpretation of the *Philosophy of Right:* up to $27,500 (principal investigator: Peter G. Stillman).

University of Vermont. Divine sovereignty—metaphuysical and normative aspects of a theory in philosophical theology: up to $27,500 (principal investigator: William E. Mann).

Poetics of the new history—French historical writing since the 1960's; up to $27,500 (principal investigator: Philippe Carrard).

University of Virginia. Simon Mayr—From *opera seria* to *melodrama:* up to $27,500 (principal investigator: Scott L. Balthazar).

Virginia Commonwealth University. For programs of faculty development in the humanities: up to $150,410 (project director: Elake V. P. Smith).

The policies of the American Authors' Authority—James M. Cain's 1946 plan to organize writers: up to $27,500 (principal investigator: Richard A. Fine).

Virginia Polytechnic Institute and State University. Philosophy of statistics and the rationality of experimental science: up to $27,500 (principal investigator: Deborah G. Mayo).

University of Washington. To support a collaborative project for 92 Washington teachers who will study the history, literature, and art of China and Japan and develop materials for statewide use: up to $278,388 (project director: Jacqueline Sherris).

Washington University (Mo.), Language and religious disputes in an Indonesiam Islamic society: up to $27,500 (principal investigator: John R. Bowen).

Wayne State College (Neb.) The quasi-war—America's limited war with France. 1798-1801: up to $27,500 (principal investigator: Donald R. Hickey).

Wellesley College. Commemorative painting in Yuan and early Ming China: up to $27,500 (principal investigator: Anne de C. Clapp).

Narrative and meaning in the films of Prancois Truffaui: up to $27,500 (principal investigator: Anne T. Gillain).

Three American architects—Richardson, Sullivan, and Wright: up to $27,500 (principal investigator: James Francis O'Gorman).

Wesleyan University. Charlemagne inconography at Chartres—text, context: up to $27,500 (principal investigator: Clark Maines).

The development of theatrical dance in Paris, 1760-1840: up to $27,500 (principal investigator: Susan I. Porter).

Westminster College (Pa.). For a summer institute for 30 Latin teachers on the literature and culture of the post Augustian Age: up to $112,066 (project director: Albert Dwight Castro).

University of Wisconsin at Madison. Wharton and Dreiser—essays on the rhetoric of fiction and American history: up to $27,500 (principal investigator: Gordon N. Hutner).

Yale University. For preservation of European history materials: up to $1 million (project director: Gay R. Walker).

The place of the body in modern narrative: up to $27,500 (principal investigator: Peter P. Brooks).

Mr. NUNN. The Defense authorization bill this year attempted to deal with this problem with two provisions that address the issue of university set-asides on the one hand, and the need to broaden the university infrastructure on the other. One of these provisions is the university research initiative. This provision is intended to set up a two-track system that provides funding for quality research while at the same time beginning a program to provide funding for improving the overall nationwide science and engineering graduate education infrastructure on the other. Both of these programs are to be conducted using competitive procedures. We also authorized $120 million to fund this two track system, with $25 million specifically identified for broadening the university infrastructure. Unfortunately, the appropriations bill before us does not provide the needed $25 million for this competitive program, and instead earmarks $46 million for specific schools.

The second provision would require that all spending for colleges and universities be awarded using competitive procedures. This provision has a delay of 1 year—it will be implemented October 1, 1989—to allow time of plan and effect a smooth implementation of the provision. The response to this provision has been surprising. The theme of the calls and letters have received is generally along the lines, "Sam, you know that I am all for competition; However * * *" Do we or do we not believe in competition? From what I am witnessing, everyone is for competition as long as it is someone else who has to complete. Well, with the amendment we are proposing, each Senator has a chance to express his position on competition.

We are not proposing this amendment because we have a problem with the projects that are identified in amendment 89. Quite frankly, we don't have enough information to judge their merits. What we are proposing is an amendment based on principle. The amendment would strike the earmarking that is being proposed and replace it with a provision that will help us gain greater understanding of the magnitude of the problem in the defense bill. It asks the Secretary of Defense to provide a report that names each program, project, or activity specified for only one educational institution or affiliated organization either in the bill or the statement of managers. The report is to identify those institutions as well as the funds appropriated. It would further restrict the obligation of funds so identified until February 1, 1989, and a period of 9 days have elapsed following receipt of the report.

The reason I am proposing this is because of the difficulty we have in finding and trying to keep out these set-asides. For example, one of the set-asides in amendment 89 calls for an appropriation of $10 million to pay for the construction costs of a new academic facility on a university campus in the District of Columbia, where there will be established an Institute for Intercultural Security Studies, whatever that is. What isn't made clear in the amendment is that this is a proposal for Georgetown University to build a new facility, and that the total bill will be $60 million.

Mr. President. I think we are at a crossroads here. If we accept earmarking in this bill, we will have opened the floodgates. If this body wants to support earmarking, then I suggest we ensure that each and every Senator and each and every State has an earmarked project. If we take the high road and work for merit-based research and funding in our educational institutions, we will assure that the foundations of research in our society remain open and competitive. Now is not the time to back away from our commitment to solid underpinnings for a strong competitive structure in a highly competitive world.

Mr. McCLURE. Mr. President, will the Senator yield for a question?

Mr. NUNN. I yield to the Senator.

Mr. McCLURE. Mr. President, I thank the Senator for yielding.

My concern is not the thrust of the amendment or the purpose which has been stated. But I am a little bit unsure of the effect of the amendment as drafted, the way we got here.

Let me pose the situation of a university or an institution that is involved in an ongoing activity which had been funded in the past but for which, for one reason or another, there is an earmarking in this bill. As I understood the discussion of the distinguished Senator from Georgia somebody might argue that that ongoing activity now would be subject to a new competition and a new grant, even though it was a continuation of an old activity.

Would that necessarily be the effect, or would the ongoing activity, which just happened to receive an earmarking now, if the earmarking is out, would it be eligible to continue without reopening a new competition for it?

Mr. NUNN. I would say to my friend I believe the answer to his question is if it is in the President's budget it is not affected at all.

Mr. McCLURE. If it is in the President's budget and if it has been funded in the past and would normally be funded under this bill absent earmarking, the fact that you are striking the earmarking and making it subject to competition would not affect the old activity that is gong on?

Mr. NUNN. The Senator is correct. We do not remove the funds. The administration can go ahead with those funds.

Mr. McCLURE. If the Senator will yield further, it is extremely important to me because I have precisely that kind of a situation in which there is an earmarking which I did not seek but does affect an ongoing activity. If you strike the earmarking it should not strike the ongoing activity that was behind that.

Am I correct in restating that if it is an ongoing activity that even though that same item may have been earmarked in this it is not going to affect the underlying ongoing activity?

Mr. NUNN. May I ask the Senator a question before I answer his?

Mr. McCLURE. Surely.

Mr. NUNN. Is this particular project in the President's budget as submitted? We believe it is.

Mr. McCLURE. I think that is probably correct, and I wish I could answer the question, but I am not certain. But it is not a new initiative. It is not a new activity. It is an ongoing, old activity that has been funded traditionally.

Mr. NUNN. We can show the Senator the list of those that are stricken. We cannot tell him every other one affected because of the way many are worded. Sometimes it says—I am using this hypothetically—sometimes it says for the purpose of research certain grants shall be made to a university founded in 1802 and located in the western part of the United States. So we do not know where that is.

So I cannot be precise. But if it is in the President's budget, it is not stricken, or if it is not named—and we can show the Senator the language here on the floor—if it is not directly or indirectly named, it is not affected. But our amendment will have the Secretary of Defense make this determination and not spend the money until he comes back with a report.

Mr. McCLURE. It is very important because it is not specifically named and it is not identified by university, but it is identified as a category of activity and that activity has been going forward in the past under funding that has been given each year under the budget. Whether it is specifically included in the budget I cannot answer. But that activity has been going on and is intended under the budget request of the administration that that activity be continued but because of the accident of the earmarking by others who identified the same kind of activity now to remove it should not affect that which was going on before and would have ordinarily been continued absent any action.

Mr. STEVENS. Mr. President, will the Senator yield to me on this?

Mr. NUNN. I will be glad to yield to the Senator.

Mr. STEVENS. Mr. President, let us take, for example——

The PRESIDING OFFICER. The Senator from Georgia has the floor.

Mr. NUNN. Mr. President, I yield to the Senator.

Mr. STEVENS. If I may ask the Senator the question and that is as an example the case of Los Alamos which is associated with UCLA but has an ongoing reference in this bill to funds that have been provided in the past and had been specifically allocated. They were not incorporated in this amendment, the amendment that is under attack, 89. They are part of the overall research and development program.

The Senator's amendment does not go to the ongoing activities that have been funded on a constant basis under contracts and awards that have already been made on mostly a year basis but they are funded on an annual year basis.

Mr. NUNN. The Senator is correct, assuming they are in the President's budget.

Mr. McCLURE. I thank the Senator. I just wanted to make certain that by accident we do not say that because a portion of that activity is mentioned in the earmarking, we remove the earmarking, that we now open up the entire activity to initial competition. We ought to continue the ongoing activity for that ongoing activity as covered by the administration's budget.

Mr. NUNN. I would say to the Senator there is another amendment in the authorization bill and it may be that the two have to some extent been combined as people look at this amendment. The provision in the authorization bill said that we had to complete all university projects on the basis of merit.

Because of ongoing activities and because we were not sure exactly what was being affected, we deferred the provision in the authorization bill 1 year. That is already now law. We deferred that provision for 1 year so it is not effective until next year. If the Senator's project is in the President's budget, even if it is earmarked, it is not affected by this amendment.

Mr. McCLURE. I figured it would be covered by the general request. But I cannot tell the Senator the specific activity that is covered by a specific request in the administration's budget. But it is an ongoing activity that has been funded for a number of years and would ordinarily be funded again on an annual basis.

Mr. NUNN. I will be glad to have the staff get with the Senator right now and try to find out if we are correct. My opinion is that it is not affected.

Mr. McCLURE. I thank the Senator.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, first, let us be clear about what this amendment does, and I wish the Senator from Idaho would listen to this.

Amendment No. 89, which is the amendment in technical disagreement, collects up a number of projects within its language—that of the amount available for obligation, $20 million is available only for the X-Ray Lithography Program, and in the case of what the Senator from Idaho is interested, it says that of the amount available for obligation, $1.5 million is available only for advanced ceramic material fabrication, et cetera, at the U.S. Department of Energy's Component Development and Integration Facility, that being a specific facility in Idaho.

Those projects are named in amendment No. 89.

Now the amendment of the Senator from Georgia states—it starts off as follows: "In lieu of the matter inserted by such an amendment, insert the following": So in lieu of naming these projects, it takes them out. That is what "in lieu" means, "in place of."

So your project is gone and then this proposed amendment goes on and refers to the fact that the Department of Defense shall specify certain university projects left in the bill—and there are some other projects that are within the four corners of the bill. The Department shall specify those and withhold obligation until it reports on them.

But your project and all these other projects are gone under this amendment.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. McCLURE. The point I am trying to make is that there is an activity which was funded in a larger funding of money, a larger pot of money, and I do not want the fact that an earmarked activity is in the words of the Senator from Louisiana "gone" to expunge the underlying larger pot of money which does fund the activity in the absence of this earmarking. In other words, the earmarking and then the removal of the earmarking should not cancel out the activity that is otherwise going forward.

Mr. JOHNSTON. I agree, it should not, but I am afraid it does, because the President had no budgetary request for this.

Mr. NUNN. Will the Senator from Louisiana explain which project he is talking about?

Mr. JOHNSTON. I am speaking of the Idaho project, $1.5 million for advanced ceramic material fabrication.

Mr. McCLURE. Mr. President, if the Senator will yield, it is my understanding that this is an ongoing expenditure of money. It was funded last year and the year before and the money has been spent before this activity. All that the sponsor of this amendment was attempting to do was to earmark a portion of the larger amount of money for a specific activity.

I do not want this to be read, if you take this specific thing out, that the underlying broader activity is, therefore, removed from the bill with a direction from Congress: "Don't do it."

Mr. NUNN. Is this for a university or for a laboratory?

Mr. McCLURE. It goes through the Idaho National Engineering Laboratory.

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. JOHNSTON. Mr. President, at best, this amendment is very vague in its effect upon the Senator from Idaho's project. I think it is not vague with respect to all the rest. They go; they are out the door.

Mr. President, we have been told that there was no analysis of these projects; they were just picked out of the thin air and put in this bill.

Each and every project on the Senate side—I believe I am correct in this—each and every one was authorized. That means the Armed Services Committee authorized each and every one of these Senate projects. Indeed, in one project that happens to be in my State, they not only specifically authorized it, but we funded the first half of it last year. And now they want to come along this year and stop an ongoing project, stop it dead in its tracks, and start all over again and upset the whole applecart.

Mr. President, maybe the Armed Services Committee did not know what it was doing when it was authorizing these projects, but I do not think so. And for them to come in now, after they have authorized, after we have debated them on the floor, after they have been obtained in conference, it just is not right, Mr. President. It amounts, in my estimation, to breaking faith with the Appropriations Committee.

Mr. DeCONCINI. Mr. President, will the Senator yield for a question?

Mr. JOHNSON. Yes, I yield for a question.

Mr. DeCONCINI. If I understand what the Senator is saying and the interpretation of this amendment, as I think it is the case—and I would like it to be clarified either by the Senator from Louisiana or the Senator from Georgia—the only way you can get a project funded here is if it is in the President's budget; is that correct?

Mr. JOHNSTON. I think, under the Nunn amendment, you are correct; that if it was not in the President's budget and your university was identified directly or indirectly, your project is gone.

Mr. DeCONCINI. If the Senator will yield further, then if it is not in the President's budget but it has been authorized and for some reason the administration leaves it out of the budget, then, if you find it, the appropriators, it is gone, it is gone by this amendment, is that correct?

Mr. JOHNSTON. The Senator is correct.

Let me make this part clear. There are two types of projects: One type is funded under amendment No. 89, which contains certain listed projects, and the second type includes other projects inside the conference.

Now, those funded by amendment No. 89, they, by the effect of the amendment, are simply deleted in toto.

Mr. DeCONCINI. If the Senator would yield, then that means all of these Senate projects would go out?

Mr. JOHNSTON. That is correct. In other words, in lieu of the matter inserted by such amendment, insert the following.

Mr. DeCONCINI. If the Senator will yield further, all of these projects have been authorized, is that correct?

Mr. JOHNSTON. That is correct.

Mr. DeCONCINI. How many Senate projects are there? Eleven or twelve, is that correct? So 1 out of 12 is not authorized. So we are really giving a line item veto here, in essence, to the administration, that all they have to do, if you have a project authorized, you played it straight all the way, and they do not want it funded, there is not a thing you can do about it up here because they could line item it out if this amendment passes?

Mr. JOHNSTON. It is really worse than that, because in the case of these authorized projects, they are projects passed on by the Senate Armed Services Committee and approved, and now the Armed Services Committee wants to change its mind—in the case of a project in my State, halfway through the funding. They funded it last year. They authorized it last year, now they want to knock it out.

Mr. NUNN. Will the Senator yield, because he is dead wrong. We are not knocking these programs out. We are saying the Secretary of Defense makes that choice and if he has ongoing activity at Tulane University and wants to spend it there, every penny of that is in this budget. We are not taking one penny out. We are saying to the Senator from Louisiana, when he designates Louisiana University, he is taking away the Secretary of Defense's and the other people's choice over there in determining on the merits. It might be that some Arizona university is better for that project.

Mr. JOHNSTON. Mr. President, I did not yield for a speech.

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. JOHNSTON. Mr. President, the Armed Services Committee may now be changing its mind. I thought we had an agreement. I thought we had this worked out. The Senator from Georgia has talked about agreements. And I can tell you that the Appropriations Committee went through a lot to live up to our share of the agreement as far as the authorization and appropriations were concerned and took some criticism for doing so.

I think this is breaching our agreement, as far as I am concerned.

Mr. President, there are certain congressional initiatives which ought to be able to be made. There is more than $1 billion worth of these projects in there by the Department of Defense. Do you think the people, just because they happen to be in the Pentagon, know everything there is to know about all projects? I do not think so, Mr. President.

I think, for example, that we have a project here, to pick one, on x-ray lithography. Do you know what that is? That is the newest kind of research on the new computer chips. You know, this country used to be No. 1 in computer chips around the world. Just a few years ago, we made 90-something percent. But in the last 10 years or so we have lost 65,000 American jobs in computer chips. The Japanese have taken them over.

For example, the D-RAM, in 1975, we made 90 percent of them in the country. Now we are making 5 percent.

X-ray lithography is the kind of technology which will give us the ability to go in and compete with the Japanese and get in on the cutting edge of that new kind of technology.

Mr. President, this is an authorized program.

Mr. NUNN. Will the Senator yield for just a brief observation? I want to try to make it clear. For instance, the Senator said that we authorized the project he is concerned about, the bioenvironmental hazard research project, is that correct?

Mr. JOHNSTON. That is correct.

Mr. NUNN. We did authorize it. We said it was supposed to be competed. What the Senator has done is fenced the money so there is no competition. We are keeping the money in with our proposed amendment. Tulane may win it, but it will not be because there was a set-aside in the appropriations bill. They will have to show that they were the best people to qualify to do it.

So we are not deauthorizing this project. It is authorized. It remains authorized. This amendment does not affect the authorization. It does not affect the money. It says you still have to compete it. That is it.

Mr. JOHNSTON. Mr. President, the Senator yielded for an observation.

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. JOHNSTON. Mr. President, I can tell you that the funding for that project in this bill did not change the meaning of the amendment as passed by the Armed Services Committee as part of that bill last year.

Mr. President, there are certain congressional initiatives which I believe are fully supported. Bioenvironmental is one. All of these are. But there is one overriding important thing that I think my colleagues should keep in mind. The congressional process, the conference committee process is one of compromise and of balance.

We were in this conference committee over 10 days. The projects in the House bill were very important to them and all of those projects would be gone under this amendment. Some of the Senate projects would be able to be considered under this arrangement as set forth by the Senator from Georgia.

But, Mr. President, if we were to adopt this amendment, I do not know what the House would do and what it would do to this bill. I suspect that the House would want further to amend this bill. I suspect that the House would say, "Well, if you are going to get into that, then we are going to reexamine other things." And, Mr. President, here at the 11th hour, when there may not be time for all that process in this fiscal year, I think it is improper to do so. And if you want to meet the deadline and get a bill I submit, Mr. President, that we ought to go with this bill as is and therefore, Mr. President, I move to table. I ask for the yeas and nays.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana has the floor. Did the Senator make a motion?

Mr. DANFORTH. Will the Senator yield for a question?

Mr. JOHNSTON. I will yield for a question.

Mr. DANFORTH. The Senator from Missouri obviously has a very keen interest in this subject matter. I fought this battle in 1986. I have been standing up during most of the debate hoping for a time for recognition and I wonder if the Senator from Louisiana would withhold the motion to table.

Mr. JOHNSTON. Mr. President, I thought we had an agreement with the Armed Services Committee on these matters. We may lose this vote and this language is further amendable.

But that clock is running. If you want to get this thing finished in this fiscal year I submit we have got to vote on it and have got to get going.

Everybody wants to debate this. If you want to open it up for a long period of debate and lose the ability to get it done in the fiscal year then the way to do it is to talk it to death and amend it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. HEFLIN. Will the Senator yield for a question?

Mr. JOHNSTON. Yes, I will yield for a question.

Mr. HEFLIN. I listened to Senator BYRD make his plea for us to finish tonight, to finish all of the bills. If this amendment is adopted or if it goes on with further amendment, am I correct in assuming that the House would not be in a position to do anything on this until next Tuesday? Is that a likely probability?

Mr. JOHNSTON. I understand that there is a large exodus that has taken place in the House.

Mr. HEFLIN. Well, in the normal course of events on a Friday night in the House of Representatives—we are not exactly at the close of the session—would it not be reasonable to assume, that if we send this back, it will be at least Tuesday before the House acts? Tuesday is October 3. And are we not trying to finish this by the end of September 30?

It seems to me that what we are doing here is just playing into the hands of those who say we cannot do the Senate's business and we come up in the last minute where a lot of things are questionable. It would appear to me that it is either today or it will be next Tuesday when we finally get around to adopting this appropriations bill.

Mr. JOHNSTON. I think the Senator makes an obvious point and that is that this bill would be delayed.

Mr. President, I want to try to get this bill through in this fiscal year. And I think this is an endless debate. I do not want to cut my colleagues off. I see Senators who are sincere and want to be heard. I guess we will just have to talk for a while.

So I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, first of all this is not a debate about killing projects. This is a debate about whether or not the Appropriations Committee earmarks projects. That is the issue.

We do not kill projects by the Nunn amendment. We simply say that the projects are not going to be earmarked, that they are going to be selected by a different process. And the process is competition. And the competition is based on merit, ability. That is the issue before the Senate. The issue is whether research should be done by the competent or the incompetent. The issue is whether the decision on who does the research is determined by politicians who have no technical expertise, or rather whether it is determined by those who do have expertise in the field. That is the only issue that is before the Senate. It is not a new issue before the Senate, but it is a very, very important issue.

We have recognized repeatedly that the earmarking of research grants is bad for the country and we have promised ourselves repeatedly that we are not going to do it.

For example, in the Deficit Reduction Act of 1984 we provided that, and I quote:

> The competitive selection for award in basic research proposals resulting from the general solicitation and peer review or scientific review as appropriate in such proposals.

That is what we provided for in 1984 by an act of Congress.

In 1986, and Senator NUNN has read this to the Senate, in 1986 the Senate Appropriations Committee said:

> The committee does not intend to consider or approve any future requests for specific universities or research institutions for projects that are noncompetitive and do not comply with legal requirements for merit reviews and competitive contracting * * *.

Mr. President, the Senator from Louisiana said he thought that he had a deal with the Armed Services Committee. What is the plain meaning of the language of the Appropriations Committee back in 1986? What is the meaning of the words?

> The committee does not intend to consider or approve any future requests for specific universities or research institutions for projects that are noncompetitive and do not comply with legal requirements for merit reviews and competitive contracting.

And then, in the authorization bill which we just passed, in the DOD authorization bill we provided that, "the Secretary of Defense may not make a grant or award a contract to a college or university for the performance of research and development or for the construction of any research or other facility unless the grant or contract is made or awarded using competitive procedures."

We have taken this position repeatedly and yet when it comes right down to it, the taste of pork is so delicious in our mouths that we just cannot resist another bite. And so, as a matter of fact, while every 2 years we go about the business of telling ourselves that we are not going to engage in this pork barrel award of research grants anymore, in fact the pork barrel goes on and on.

In 1982, Congress earmarked, and this was not only DOD, although this is the largest share of it—in 1982. Congress earmarked a total of $3 million for specific universities for scientific research. By 1985 this had gone up from $3 million to $137.6 million. Last year, it reached $225 million. Now the process has become so complicated that we cannot even be sure what is in this bill because it is all tucked away in various corners of the bill.

Mr. President, a lot of people are raising questions about defense spending for this country. I happen to believe in a strong national defense. But I am telling the Senate we are going to lose our audience with this country if the American people believe that defense spending is wasted money, if they believe that it is not being competitively awarded but is simply grants to favored institutions in the home States of members of the Appropriations Committee.

The American people believe that the support for a strong national defense is going to erode very quickly. So we are not only engaged in a question of something that we have recognized as being wrong, we are engaged in the waste of defense money.

People say what is waste in the budget? What is fat in the budget? Mr. President, here it is. This is waste. This is fat. This is pork. And this should be deleted.

Several Senators addressed the Chair.

The **PRESIDING OFFICER.** The majority leader is recognized.

Mr. **BYRD.** Mr. President, I appeal to Senators to cut out the talk. If we are going to move to table, let us move. Let us let the Senate work its will. Let us let it make its judgment, whatever that judgment is.

We only have 2 hours now and 40 minutes. We have a D.C. appropriations bill that is coming after this. We are going to get some fireworks on that. I hope that Senators will let the Senate work its will.

I do not think all of the talk is going to change any votes. Whatever the Senate's judgment is, let us have it. Senators have a right to talk, but please let us cut it short and get on with the work and get on to the next bill.

The **PRESIDING OFFICER.** The Senator from Illinois.

Mr. **DIXON.** Mr. President, in the words of Yogi Berra, "This is deja vu all over again." This happened in 1984. This happened in 1986. I will be brief, but I want to make these points.

One of my friends on this side said a while ago, "Well, if you take the position of the distinguished Senator from Georgia, that means if it is not in the budget, you are not going to get it."

No, that is not our position. They took some money in the budget and moved it around and earmarked it. We are not saying you cannot move it around. We do not care how you move it around. I move it around. We are just saying when you move it around, do not earmark it; have peer review and use merit to determine who gets the money. That is one.

Then my friend the manager said, "There is no money being appropriated here that was not authorized." I want to tell my colleagues that I am chairman of a subcommittee in the Armed Services Committee and one of these universities came to me and they came to me with one of my best friends in public life. They asked me to authorize $10 million for their university. I went to the chairman of my committee, and others, came back and said: "With due respect, I cannot do it."

That was a $10 million downpayment on $60 million that we turned down and did not authorize that ended up in this appropriations bill after we declined to authorize.

So I want to say to my colleagues here, this might be the last night, but I want to say it is not the first time. I am going to tell my colleagues something. I want to go home to bed, and I want to quit tonight. If this was the first time, I might throw in the sponge, but this is the third successive time in a row that our committee has turned down authorization of funds in nonmeritorious cases many times and, in this case, in the end, it might be meritorious in peer review, I do not know, where it has turned up appropriated in the other bill.

I say to my colleagues, if we are not going to go to peer review, if we are not going to go to merit, then let us face the fact that everybody is going to go for a piece of pork and it is who gets the piece of pork first.

I do not think that is a very good process, but that is exactly the process that is taking place here. Once we had closed the shop, once we had finished the authorization, once our job was done, they went to the other shop and got the pork there. That is as simple as it is. You cannot dress it up; you cannot make a pretty face on it; I do not make a speech here that I never voted for pork. I have. I do not make a speech that I will not ever again because I will. But the point is here that that is all there is involved.

If you want to do it that way and you did it that way the last time—I think we lost. Maybe we will lose again. But I want to go on record as saying next time if you want to do it that way, by golly, we will do it first.

Mr. **NUNN.** Will the Senator yield?

Several Senators addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Nebraska is recognized.

Mr. **EXON.** Mr. President, I am going to be brief because what should have been said has been said. I associate myself with the remarks of the people who are supporting the Nunn amendment. I support it.

I simply want to state just six words, what those will be voting for if they support the Appropriations Committee and vote against the Nunn amendment. They will be voting for pure, unadulterated, uncooked, dripping pork in its rawest form, and I hope that we will straighten up and vote with the Nunn amendment.

Several Senators addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Arizona is recognized.

Mr. **DECONCINI.** Mr. President, this old talk about unadulterated, pure pork is enough to make you want to go on a diet, I guess. It is a peculiar thing. The Senator from Illinois was standing here and talking about pork, and he does not want any pork, although he said, "I voted for some."

No. 1, this is not pork, nor was the new Federal building in the city of Chicago that we earmarked in the Treasury-Postal Subcommittee for him. That was not pork. It was decided that there was merit to it even though the Postal Service and the GSA had not come forward yet and said, "We need it." And Why? Because that Senator, and a few others here, made a good case that there was a necessity for public interest to build that post office and that Federal building, rather, that included the post office and it is going to be done.

We have done that in New York; we have done that in Arizona; and we have done it in a lot of States here. That is not pork. That is representing yourself and telling the GSA that these are priority buildings.

We are talking about the same thing here. My colleagues might remember, Secretary Weinberger was against the inspector general. "Oh, we don't want that. We don't want anybody fooling around here," and this body put in the inspector general. The President, to his credit, did not take the advice in that case of the Secretary and signed that bill.

We are not talking about pork here. We are talking about things that Members have a right to do for their constituency and for the country.

This amendment means a line item veto. You are going to give the Secretary, instead of the President, the chance and the opportunity to say if I do not put it in the budget, you cannot have it even if you authorize it.

That is not what we ought to be doing here. This is a compromise that was worked out. It was a difficult one, and I did not like it, to tell you the truth. But the Senator from Louisiana and the Senator from Georgia worked a long time and they agreed to this, and now it is all thrown apart because of pork and, believe me, this is not pork. These projects have merit and everybody knows it.

Mr. **HEFLIN.** Mr. President, events of the past two decades have shown that the development and utilization of new technologies are key factors in our national security as well as in our local and national economies. Although the United States has always been a leader in the discovery of fundamental phenomena, its leadership in the exploitation of such knowledge is being successfully challenged by friend and foe alike. This has been generally attributed to a variety of problems including wage differentials, Government subsidization, et cetera.

In recent years, the national debate has moved past "laying blame" for such problems to finding how to use the Nation's technological resources to help ensure our security and become more competitive. One result of this process is the realization that business and Government must learn to better manage technology. This can be accomplished by the use of computer systems to link engineering and production functions within a government agency or company to entities outside the agency or company. In an environment of rapidly changing technology the timely response of large organizations—like the Pentagon—is a major challenge. Computer-based systems that tie organization functions together in flexible ways should help reach the desired goal. Moreover, such systems provide a vehicle for breaking down barriers between organizational components that exist because of fundamental discipline differences.

The center which the Appropriations Committees funded would be established for the purpose of studying how computer systems can be used to achieve a high degree of flexibility in the total operation of the administration, and production processes of a government entity or company. Although the concept of a highly integrated computer-based management and production system is not new, Government and industry have only begun to implement the first stages of such systems. Moreover, as experience is being gained, the details of how such systems should be designed and implemented are changing rapidly.

Although it is being widely recognized that one impetus for the introduction of flexibility is rapid technological change, little or no attention has been given to how such systems should be designed to assure the efficient management of technological resources. Thus the emerging concepts of "technology management" would be incorporated in the design of highly flexible computer management and control systems.

This center will allow our country to pursue a research strategy that will provide distinct focus for several relevant disciplines to explore the variety of cross-disciplinary links that must be established and used in support of current production systems and to address the importance of such links to achieve the high flexibility desired.

I ask unanimous consent that two white papers, entitled "Automated Management and Control Systems for Flexible Manufacturing" and "Center for the Management or Technology" be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Automated Management and Control Systems for Flexible Manufacturing

1. The introduction of computer controlled machines and the grouping of such machines into cells and production lines has led to the possibility of highly flexible manufacturing processes. Through the use of changing and/or adaptable computer programs flexibility becomes limited by design constraints on individual machines and their physical interconnection.

2. The interplay of computer programs and their interaction with the "outside world" has become the major factor in the introduction and successful operation of flexible manufacturing systems. Experience has shown that traditional management systems cannot respond rapidly enough to fully utilize the flexibility available. One approach is to automate the overall management system as much as possible.

3. Install current Advanced Manufacturing Technology Center (AMTC) equipment and operating plan for establishing full scale manufacturing cells with complete computer control of cell and computer simulation of remainder of production system. Expand as opportunities provide with organizations such as John Deere, Rexham (Huntsville), FALK, Dexter Lock, etc.

4. Develop serveral research thrusts on modeling and dynamically simulating the operation of a complete manufacturing business with the goal of eventually automating as much of the business processes as possible and tying directly into flexible manufacturing system. Do some of this in cooperation with Hamilton Technologies.

5. Develop similar but complementary research aimed at dealing with large government program management and operation such as NASA Space Station.

6. Note that this approach provides a tool for bringing together people with a wide range of backgrounds. It can be extended to cover all aspects of the entire invention-to-commercialization process and the many feedback loops that obviously exists but are usually ignored in most case studies.

EXPERIMENTAL ACADEMIC STUDIES

1. Establish an experimental Masters Program featuring two or three different tracks depending on the person's undergraduate degree. In each case the student would qualify for a Masters within their own discipline but would take Management of Technology core courses. Each track to emphasize student's specialty in working in decision making environment. By working with persons of other backgrounds each student learns how to recognize own weaknesses in acquiring, assimilating and utilizing information from people from other backgrounds in decision making processes.

Center for the Management of Technology

The Department of Defense has many requirements for the new and emerging technologies which cross the entire spectrum of science and engineering. These technologies-advanced materials and signal processing, microelectronics, power generation, superconductivity, space and low observable, to name but a few—are not being effectively translated into end products.

The Committee's concern over this problem is shared by organizations such as the National Research Council. In a 1987 report on Manufacturing Technology—Cornerstone of a Renewed Defense Industrial Base, the Council stated that:

Although DoD has never developed an explicit peacetime strategic manufacturing plan, its implicit strategy has been consistently to neglect manufacturing equipment and process technology. This neglect has:

Forced important manufacturing capabilities to leave the United States almost entirely.

Caused weapon systems to increase in price while similar commercial products have decreased in price, and

Allowed the defense industrial base to erode.

These problems have yet to be addressed. The Center for the Management of Technology is aimed at attacking just these problems. The purpose of the Center is to develop the understanding and knowlege base that are necessary if industry and government are to change the way technology is managed. It will focus on those technologies and issues that will be important in the future, and will seek to promote change in industry, government, and academia through active participation from each sector.

In 1986, the Department of Defense started the University Research Initiative (URI) to establish Centers that not only address DoD technology needs in Science and education but involve scientists and engineers in the disciplines that underpin technologies important to national defense. While these efforts are commendable a serious void remains in the effective utilization of these technologies in the DoD manufacturing process. Therefore, the Committee believes the establishment of a Center for the Management of Technology to address this need would be an appropriate complement to the existing Centers.

Ten million dollars is hereby appropriated to Auburn University, Auburn, Alabama, for the establishment of a Center for the Management of Technology to provide the facility and state-of-the-art equipment to allow a unified research, teaching and outreach effort and which will utilize the university's unique blend of research talent in its Colleges of Business, Engineering, and Sciences and Mathematics to incorporate all the necessary disciplines to address the challenge.

Mr. D'AMATO. Mr. President, I rise to ask the distinguished senior Senator from Alaska, his interpretation of the recently adopted amendment authored by Senators Nunn and Danforth.

Mr. President, amendment No. 89, the amendment in technical disagreement to which Senators Nunn and Danforth are offering their amendment, includes a program that, unlike many of the other programs in amendment No. 89, is authorized.

Funding for this program, x-ray lithography, has been approved by both authorizing committees, and by the Senate Appropriations Committee. This is not a new program. Congress approved $15 million in funding for fiscal year 1988.

Quite simply, Mr. President, x-ray lithography did not belong in amendment 89. Most of those projects are unauthorized and are specifically designated for one university.

I ask the senior Senator from Alaska if it is his understanding that under the Nunn/Danforth amendment, is the Department of Defense still compelled to provide funding for x-ray lithography in fiscal year 1989?

Mr. STEVENS. Mr. President, let me assure the junior Senators from New York and Wisconsin that although the bill language earmarking $20 million for x-ray lithography has been dropped, Senate report language, along with authorization language, remains and will be enough direction for the Department of Defense to fund further research efforts into x-ray lithography.

Mr. KASTEN. Mr. President, I ask the distinguished ranking Republican member of the Defense Appropriations Committee if there are funds provided in the fiscal year 1989 Defense Appropriations Act for x-ray lithography.

Mr. STEVENS. This legislation sets aside $23.25 million for critical technology analysis, defense agency research, development, testing, and evaluation, of which $20 million is for x-ray lithography.

Mr. D'AMATO. Mr. President, is it the understanding of the senior Senator from Alaska that x-ray lithography would be subject to the provisions of the Nunn/Danforth amendment?

Mr. STEVENS. Because x-ray lithography is not designated for a specific university, it is my understanding that the X-Ray Lithography Program would not be subject to the provisions of the Nunn/Danforth amendment.

Mr. KASTEN. Mr. President, I happen to know that the University of Wisconsin, which receives a minor part of this funding, is not the only university affiliated with x-ray lithography.

Mr. D'AMATO. I thank the distinguished Senator from Alaska for clarifying this matter for the junior Senator from Wisconsin and me. My original intention was to perfect the Nunn/Danforth amendment to ensure that x-ray lithography was not lumped together with the unauthorized programs in amendment 89, the very programs I understand are the targets for the Nunn/Danforth amendment. The Senator's clarification, however, has assured me that funding for x-ray lithography will continue unabated through fiscal year 1989.

Mr. President, x-ray lithography offers some of the most promising means for producing the next generation of computer chips. It will result in the production of smaller and faster chips which, most importantly, will reduce U.S. dependency on foreign manufacturers. This, of course, has significant ramifications on our national security.

The importance of this program to our national security has been reinforced by the Defense Advanced Research Projects Agency [DARPA]. Officials there are very pleased with the X-Ray Lithography Program. I ask unanimous consent that a recent letter from the Director of DARPA, Raymond Colladay, to Congressman HOCHBRUECKNER, on this important program be printed in the RECORD.

I thank the Senator from Alaska and the junior Senator from Wisconsin for their help on this matter.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEFENSE ADVANCED RESEARCH
PROJECTS AGENCY,
Arlington, VA, September 16, 1988.

Hon. GEORGE HOCHBRUECKNER,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN: Thank you for your letter addressing the potential for x-ray lithography and its future role in manufacturing integrated circuits. We share your concern about the strong development activities in Japan and Europe and the potential problems for our weapon systems procurements if foreign manufacturers were to dominate the supplies of advanced microelectronics. X-ray lithography is certainly one of the leading candidates for semiconductor device production during the 1990s, when minimum feature sizes on the circuit will be 0.25 micrometers. DOD must work to ensure that this opportunity in manufacturing is developed to meet the need for strong domestic suppliers of advanced microelectronics.

DOD has worked with national resources in industry, the national laboratories, and the universities to identify problem areas and approaches for their solution. Developments are needed in mask technology, x-ray sources (both point sources and synchrotrons), mask-to-wafer aligners, and the associated semiconductor processing and device technology. Technical objectives of these developments have been detailed. DOD has been funding some work in these areas over the past few years and the FY 1988 appropriation for x-ray lithography is being used to expand those efforts.

The synchrotron efforts involve both the University of Wisconsin and Brookhaven National Laboratory, as well as industrial partners to develop synchrotron sources appropriate for advanced manufacturing. The Synchrotron Radiation Center at the University of Wisconsin can be utilized to provide research and development teams an early access to synchrotron x-rays.

To date, Brookhaven National Laboratory has received $3.75M from DOD to assist industry in synchrotron development so that this work can proceed in a timely manner. DOD has emphasized the necessity for increased industrial participation at Brookhaven.

If FY 1989 funds are appropriated, the work will continue with emphasis on masks, synchrotron technology, and process integration/device fabrication. This will include contracting for development of an aligner (government furnished equipment) to be installed at the University of Wisconsin synchrotron, continued work at Brookhaven, and accelerated industrial effort.

DOD realizes that individual U.S. companies do not have the resources to fully underwrite a program of this extent. Our program is aimed at providing the initiative and focus for the national resources available. I have directed my staff to continue to work with the private sector to encourage long-term investments which are necessary for a healthy domestic semiconductor industry. My staff is working with the SEMATECH consortium to accelerate developments in areas of high payoff such as x-ray lithography. We are in the final stages of the FY 1990 budget process, and I assure you that my staff is giving serious attention to the FY 1990 and outyear technical and budgetary requirements for critical technologies such as x-ray lithography.

Sincerely,

RAYMOND S. COLLADAY,
Director.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, one final word. All I can say is in the Senate we funded these projects on the same line item and in the same way as authorized by the Armed Services Committee.

Mr. President, the hour is getting late. I hope no one thinks that we are doing anything that was not done exactly as authorized because we are not. We must get this bill over to the House. I move to table, and ask for the yeas and nays.

The PRESIDING OFFICER. Is the Senator moving to table the underlying amendment?

Mr. JOHNSTON. The underlying amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from Delaware [Mr. BIDEN], the Senator from Florida [Mr. CHILES], the Senator from California [Mr. CRANSTON], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Maryland [Mr. SARBANES], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Washington [Mr. EVANS], the Senator from Texas [Mr. GRAMM], the Senator from Indiana [Mr. QUAYLE], the Senator from Vermont [Mr. STAFFORD], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote.

The result was announced—yeas 35, nays 53, as follows:

[Rollcall Vote No. 347 Leg.]

YEAS—35

Adams
Baucus
Breaux
Bumpers
Burdick
Byrd
Conrad
D'Amato
Daschle
DeConcini
Dodd
Durenberger
Ford
Harkin
Heflin
Heinz
Hollings
Inouye
Johnston
Lautenberg
Leahy
Matsunaga
Melcher
Mikulski
Mitchell
Moynihan
Reid
Riegle
Rockefeller
Sanford
Sasser
Shelby
Simon
Specter
Stennis

NAYS—53

Armstrong
Bingaman
Bond
Boren
Bradley
Chafee
Cochran
Cohen
Danforth

Dixon
Dole
Domenici
Exon
Fowler
Garn
Glenn
Gore
Graham
Grassley
Hatch
Hatfield
Hecht
Helms
Humphrey
Karnes
Kassebaum
Kasten
Kerry
Levin
Lugar
McCain
McClure
McConnell
Metzenbaum
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Roth
Rudman
Simpson
Stevens
Symms
Thurmond
Trible
Warner
Weicker
Wilson
Wirth

NOT VOTING—12

Bentsen
Biden
Boschwitz
Chiles
Cranston
Evans
Gramm
Kennedy
Quayle
Sarbanes
Stafford
Wallop

So the motion to lay on the table amendment No. 3345 was rejected.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, we think the will of the Senate is wrong, but we know what the will of the Senate is. Therefore, we will accept the will of the Senate, and accept a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the second-degree amendment, No. 3346.

The amendment was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Regular order.

The PRESIDING OFFICER. The question is on agreeing to the amendment, (No. 3345) as amended. On this question, the yeas and nays have been ordered.

Mr. JOHNSTON. Mr. President, I move to vitiate the order for the yeas and nays on this amendment.

Mr. STEVENS. Mr. President, I ask unanimous consent to do that.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question is on agreeing to the amendment, as amended.

The amendment, (No. 3345), as amended, was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair will inform the Senator that the House amendment to Senate amendment No. 89, as amended, has not yet been concurred in.

The Senate will be in order.

Mr. JOHNSTON. Mr. President, I move to concur in the House amendment, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion to concur in the House amendment to Senate amendment number 89 was agreed to.

HOUSE AMENDMENT TO SENATE AMENDMENT NO. 252

The PRESIDING OFFICER. The clerk will report the next amendment in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 252 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 8127. Not more than $3,000,000 of the funds appropriated in this Act may be used to carry out the provisions of section 420 of title 37, United States Code.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. COHEN. Mr. President, if I could have the attention of the body——

The PRESIDING OFFICER. The Senate will be in order. Will Senators please take their conversations to the cloakrooms? All staff in the back of the room will please take their conversations out of the Chamber.

AMENDMENT NO. 3347

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. COHEN] proposes an amendment numbered 3347 to the House amendment to the Senate Amendment No. 252.

In lieu of the matter inserted by said amendment, insert:

SEC. 8127. (a) Not more than $3,000,000 of the funds appropriated in this Act may be used to carry out the provisions of section 430 of title 37, United States Code.

(b) Of the amount appropriated in this Act for Other Procurement, Air Force, the sum of $18,200,000 may be obligated only for the procurement of 20 Mobile Armored Reconnaissance Vehicles (MARV).

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. COHEN. Mr. President, this amendment will not add any additional funds to the bill. It will not delete any other systems. It will provide that out of the amount appropriated in this act the sum of $18.2 million will be obligated for the procurement of 20 Mobile Armored Reconnaissance Vehicles, so-called MARV. Some might inquire about what a MARV/SMUD is. During the conference deliberations, apparently my colleague, Senator RUDMAN, suggested that the conferees thought it was a Bulgarian weightlifter who had taken steroids, and therefore they disqualified it for funding.

Frankly, Mr. President, that probably is the best explanation I have heard as to why funding was deleted for this particular system.

First of all, what is it? It is a mobile, lightly-armored vehicle that is used to go to airstrips that are under attack, that have been bombed, and they are used to destroy the unexploded munitions so we can go in and clean up those air bases and continue the projection of our air power.

Why do we need it? Because we do not have this capability today. When do we need it? Yesterday.

The Air Force has indicated one of its highest priorities is this particular system, and they have written to the Senate Armed Services Committee. We authorized the request at $18.2 million. They have indicated to the conferees that it is again a very high priority.

It was not funded apparently because there was some misunderstanding in terms of its importance. I would only point out that other items that were not authorized were in fact funded. I will not take the time, but my understanding is that this is certainly a system that has the support of the Senator from Alaska.

I believe it has the support of the chairman of the House Appropriations Defense Subcommittee, and I urge adoption of the amendment.

Mr. President, I ask unanimous consent that a letter from the Department of the Air Force dated May 19, 1988, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the Record, as follows:

DEPARTMENT OF THE AIR FORCE,
Washington, DC, May 19, 1988.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to gain your support in the authorization process for the Mobile Armored Reconnaissance Vehicle (MARV). This essential system will provide an "after attack" capability to safely locate airfield damage and to quickly make large unexploded bombs safe. This capability does not now exist and without it, we will suffer a significant degradation in our ability to launch and recover aircraft. The MARV remains my highest priority effort within the Air Base Operability program.

Similar letters were also forwarded to the Honorable John W. Warner, Ranking Minority Member, Committee on Armed Services, United States Senate; the Honorable Les Aspin, Chairman, and the Honorable William L. Dickinson, Ranking Minority Member, Committee on Armed Services, House of Representatives.

TIDAL MCCOY,
Assistant Secretary of the Air Force.

Mr. STEVENS. Will the Senator yield?

Mr. COHEN. I yield.

Mr. STEVENS. Mr. President, the letter from the Department of Air Force concludes with this statement:

> I strongly urge the Committee to support funding for MARV/SMUD in the FY 1989 budget. I want to emphasize to you my conviction that MARV/SMUD is the single most important ABO-related procurement item in the FY 1989 budget.

Mr. President, I ask unanimous consent that the letter from the Air Force be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE AIR FORCE,
Washington, DC, Sepember 26, 1988.

Senator TED STEVENS,
Washington, DC.

DEAR SENATOR STEVENS: I understand that the Appropriations Conference Committee may decide to deny without prejudice procurement funding for the Mobile Armored Reconnaissance Vehicle (MARV) due to concerns with regard to affordability, EOD personnel shortfalls, concurrency, and possible alternative guns. Below is a summary of information previously provided about these concerns.

AFFORDABILITY

The MARV is a version of the Light Armored Vehicle (LAV) presently being procured by the Marine Corps. The LAV was significantly cheaper in life cycle costs than any of the four other vehicles which were considered for this mission, and far more capable than its next closest competitor for cost, the M-113A3. If FY 1989 funding is denied, lead time for vehicle procurement will extend from 11-12 months to 18 months, with commensurate increases in cost, not only to the MARV/SMUD program but also to Marine Corps variants.

EOD PERSONNEL SHORTFALLS

It is precisely because we have a severe wartime shortfall in EOD personnel that the MARV/SMUD is so urgently needed. MARV/SMUD provides the force multiplier that will maximize the effectiveness of the EOD and EOD augmentee personnel we have, as well as to enhance significantly their survivability. Of the maximum crew size of six in each MARV, at least one, but rarely more than two or three, will be EOD technicians.

CONCURRENCY

There are two separate contracts involved: one for acquisition of the MARV vehicle itself, and a second for integration of the MARV with the turret. The long lead time (11 months) required for vehicle procurement makes it critical that procurement of the MARV begin in FY 1989 to marry up the chassis with the turret in a timely, cost effective fashion. Although turret integration is inherently low risk, Air Force IOT&E has been designed to identify and eliminate any remaining risk prior to letting a production contract for the vehicle.

ALTERNATIVES

The Air Force investigated a variety of different calibers ranging from 7.62 mm to 30 mm to verify which is best suited to address the submunition threat. The M2 .50 caliber machinegun was selected after field tests as the one best suited to engage the range of munitions with which the MARV/SMUD will have to deal. The Air Force has no plans to integrate any other weapons system onto the MARV/SMUD.

I strongly urge the Committee to support funding for MARV/SMUD in the FY 1989 budget. I want to emphasize to you my conviction that MARV/SMUD is the single most important ABO-related procurement item in the FY 1989 budget.

Sincerely,

JAMES F. MCGOVERN,
Under Secretary of the Air Force.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MITCHELL. Mr. President, I ask unanimous consent to be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I am glad to be a cosponsor of the amendment to restore designation of $18.2 million in the fiscal year 1989 defense appropriations bill for the Air Force's Mobile Armored Reconnaissance Vehicle/Stand-Off Munitions Disrupter (MARV/SMUD).

The acronym for the program is not very elegant. MARV/SMUD basiclly means a light armored vehicle with a turrent and a machinegun on top.

The program is fairly simple, and not very dramatic, especially when compared to some of the more exotic billion dollar weapons systems that can be found in the defense budget.

Yet the MARV/SMUD is vitally important to the Air Force, and the defense of forward positioned air bases, particularly in Europe.

The MARV/SMUD is an 8-wheeled light-armored vehicle, armed with a turret-mounted .50-caliber machinegun and a special day and night target-sighting system.

The MARV/SMUD is intended to enhance airfield survivability, and allow a quick return to operational status after an enemy air attack. Its mission is to venture out on to base runways and aprons, to find and destroy unexploded bombs and other ordinance. It provides the necessary speed, mobility, and protection for explosive ordinance demolition (EOD) crews, and a capability to shoot smaller bombs to disrupt fuse mechanisms.

The MARV/SMUD addresses a major vulnerability of forward-positioned bases. A September 1987 article entitled "Easy Targets?" in the Military Logistics Forum observed that "Many defense experts now believe that U.S. and allied air bases in West Germany are increasingly susceptible to a crippling first blow."

NATO's defense depends on U.S. air superiority to counter Warsaw Pact advantages in conventional ground forces. Yet whole airfields can be disabled simply by enemy air attacks hitting them with a limited number of "runway buster" bombs.

On May 19, 1988, the Assistant Secretary of the Air Force for Readiness Support, Tidal McCoy, wrote in a letter to the Senate Armed Services Committee that the MARV/SMUD "will provide an 'after attack' capability to safely locate airfield damage and to quickly make large unexploded bombs safe. This capability does not now exist, and without it, we will suffer a significant degradation in our ability to launch and recover aircraft."

The Assistant Secretary called the MARV/SMUD program "essential" and the "highest priority effort within the Air Base Operability program."

Beginning production of the MARV/SMUD program in fiscal year 1989 is essential because of military necessity. It also is essential because of the economic costs that will accompany any delay.

I will be very candid. The prime contractor for the MARV/SMUD is Saco Defense, Inc., which is located in Maine. Saco is owned by Chamberlain Manufacturing Corp. of Illinois. In Maine, the program represents perhaps 50 jobs. Other participants in the program include companies in Virginia, and Maryland, as well as Canada and Sweden.

However, the economic costs associated with delay of the program are not simply lost jobs. They also involve wasted startup costs, lost production efficiency, and greater costs per unit over time.

The Air Force already has spent $600,000 in the research and development phase of the program. The amendment would spend $18.2 million to build 20 MARV/SMUD's in fiscal year 1989. Lead time to produce the vehicle assembly for each MARV/SMUD is slightly less than a year.

On September 26, 1988, the Under Secretary of the Air Force, James F. McGovern, wrote to the Senate Defense Appropriations Subcommittee to warn: "If fiscal year 1989 funding is denied, lead time for vehicle procurement will extend from 11–12 months to 18 months, with commensurate increases in costs." These increased costs will be felt not only in the Air Force's MARV/SMUD Program, but also in the Marine Corps Light Armored Vehicle [LAV] Program, already under production from which the MARV/SMUD is adapted.

There is no good reason for delaying this program. Delay will mean lost jobs. Delay will mean increased costs. And delay will mean continued vulnerability of our forward-positioned airfields.

Congress already has recognized the need to begin the MARV/SMUD Program in fiscal year 1989. The program was included in the Defense authorization bill.

The Senate Appropriations Committee also included it in its Defense bill. But in conference, the House appropriations conferees opposed it—for no good reason, as far as anyone can tell.

Reasons for delay have been offered. But they are not good reasons. All were effectively refuted in the Air Force Under Secretary's letter of September 26, 1988.

I ask unanimous consent the letter be included in its entirety in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE AIR FORCE,
Washington, DC, September 26, 1988.
Hon. JOHN STENNIS,
Chairman, Subcommittee on Defense,
Senate Appropriations Committee,
U.S. Senate.

DEAR SENATOR STENNIS: I understand that the Appropriations Conference Committee may decide to deny without prejudice initial procurement funding for the Mobile Armored Reconnaissance Vehicle (MARV) due to concerns with regard to affordability, EOD personnel shortfalls, concurrency, and possible alternative guns. Below is a summary of information previously provided about these concerns.

AFFORDABILITY

The MARV is a version of the Light Armored Vehicle (LAV) presently being procured by the Marine Corps. The LAV was significantly cheaper in life cycle costs than any of the four other vehicles which were considered for this mission, and far more capable than its next closest competitor for cost, the M-113A3. If FY 1989 funding is denied, lead time for vehicle procurement will extend from 11-12 months to 18 months, with commensurate increases in cost, not only to the MARV/SMUD program but also to Marine Corps variants.

EOD PERSONNEL SHORTFALLS

It is precisely because we have a severe wartime shortfall in EOD personnel that the MARV/SMUD is so urgently needed. MARV/SMUD provides the force multiplier that will maximize the effectiveness of the EOD and EOD augmentee personnel we have, as well as to enhance significantly their survivability. Of the maximum crew size of six in each MARV, at least one, but rarely more than two or three, will be EOD technicians.

CONCURRENCY

There are two separate contracts involved: one for acquisition of the MARV vehicle itself, and a second for integration of the MARV with the turret. The long lead time (11 months) required for vehicle procurement makes it critical that procurement of the MARV begin in FY 1989 to marry up the chassis with the turret in a timely, cost effective fashion. Although turret integration is inherently low risk, Air Force IOT&E has been designed to identify and eliminate any remaining risk prior to letting a production contract for the vehicle.

ALTERNATIVES

The Air Force investigated a variety of different calibers ranging from 7.62 mm to 30 mm to verify which is best suited to address the submunition threat. The M2 .50 caliber machinegun was selected after field tests as the one best suited to engage the range of munitions with which the MARV/SMUD will have to deal. The Air Force has no plans to integrate any other weapons system onto the MARV/SMUD.

I strongly urge the Committee to support funding for MARV/SMUD in the FY 1989 budget. I want to emphasize to you my conviction that MARV/SMUD is the single most important ABO-related procurement item in the FY 1989 budget.

Sincerely,

JAMES F. MCGOVERN,
Under Secretary of the Air Force.

Mr. MITCHELL. The Air Force letter says it all.

Concerns about affordability, concurrency, shortfalls in EOD personnel, and alternative guns all have been convincingly addressed.

There is no good reason for delay.

The Armed Services Committee wants production to begin in fiscal year 1989.

The Senate Appropriations Committee originally included it.

The Air Force wants it.

And our national defense needs it.

I hope the managers will agree to accept the amendment. It is a worthy amendment. It does not impede the process, and I hope the managers will accept the amendment.

Mr. JOHNSTON. Mr. President, the deletion of this amendment, which was in the Senate bill but deleted in conference, was actually an oversight. It is a program which we have supported, which the House has supported.

I spoke to Chairman CHAPPELL this afternoon, who agreed and, as a matter of fact, was prepared to sign a letter to request the reprogramming.

Since the bill has been amended anyway, we need no longer worry about carrying amendments to the House which are further amendable. We have already amended. With that in mind, this is a cleaner, more direct way to do it, and we accept the amendment.

Mr. NUNN. Mr. President, I think the Senator from Maine is exactly right; both Senators from Maine are right. This is a very important program, and I thank the manager of the bill for accepting it.

Mr. WARNER. Mr. President, I join in support of the amendment of the Senator from Maine.

Mr. JOHNSTON. Mr. President, am I correct that that is the last amendment in disagreement?

The PRESIDING OFFICER. This is the last amendment. A motion to concur will be necessary.

Mr. JOHNSTON. Mr. President, I move to concur in this amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. JOHNSTON. Mr. President, this, then, will finish the Senate bill, at least until we receive the report back from the House, which could be amended. I hope it will not be, but it could be. Otherwise, we are finished with this bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3347) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DIXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, FISCAL YEAR 1989—CONFERENCE REPORT

Mr. BYRD. Mr. President, we have 11 down and 2 to go.

Mr. President, I submit a report of the committee of conference on H.R. 4776 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4776) making appropriations for the government of the District of Columbia and other revenues chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1989, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 29, 1988.)

Mr. HARKIN. Mr. President, as chairman of the Subcommittee on the District of Columbia Appropriations Committee, I reluctantly bring before the Senate this evening the conference report on the fiscal year 1989 District of Columbia appropriations bill.

I say "reluctantly" because this was a very difficult conference, and I am not sure the outcome is in the best interests of this body or of the District of Columbia or of the country. It was a difficult conference. We met on three separate occasions. We were faced with many difficult issues—difficult issues that a subcommittee dealing with the District of Columbia ought not to have to be dealing with, we should not even be addressing.

The issues of abortion, insurance for AIDS victims, discrimination against homosexuals—all these things came up in the District of Columbia bill, and this really ought not be the bill on which these issues are discussed. I am not saying these issues are not important and that they should not be debated in this body. I am just saying that the District of Columbia appropriations bill is not the place to be dealing with them.

First of all, these subject matters, while I admit they are important, are left to State and local governments in every jurisdiction in the United States but the Capital of the United States, the capital of the free world.

I know that when our distinguished chairman first came here, Congress really ran the District of Columbia. It was under the full jurisdiction of Congress. But several years ago, it was the wisdom of Congress to give the District of Columbia home rule, to allow them to elect their own city council and their mayor, to levy their taxes, to set up their own spending priorities, and to run the District of Columbia.

We also provided at that time that the Federal Government, in lieu of property taxes, would make a Federal payment to the District of Columbia. That Federal payment was in lieu of property taxes because, after all, how do you levy a property tax on the Capitol Building? What is the property tax of the Washington Monument, of the Lincoln Memorial? There is no way to calculate that. So, in lieu of these property taxes, the Federal Government made an agreement with the District to provide for a Federal payment every year.

It has been longstanding policy of the Senate, under the leadership of the distinguished chairman, the Senator from Mississippi, that we dealt with those funds that were Federal funds. Our citizens in Iowa and Mississippi and other States pay taxes, which then go out to the District of Columbia. That has been a rightful place for Congress to express its interests and its wishes. After all, it is our taxpayers' money. We ought to have the right to have some input as to how they are spent. I have never argued with that. In fact, I have always said that is an area for Congress to exercise its discretion.

However, in that area where the District levies its own taxes and spends its own money, Congress ought not be intervening. If we do, then home rule is really a sham, and we might as well do away with the whole home rule charter, and let us take back the District of Columbia and run it from Congress. I do not think anybody wants to do that any longer.

Mr. President, I will have a little more to say about this later, but let me turn first to the amounts provided in the conference agreement.

The Federal fund payment about which I spoke totals $536.9 million, which, I point out, is $13 million less than last year and well within our allocation from the Appropriations Committee.

This amount is comprised of the following: $435.5 million for the Federal payment, $32 million for water and sewer payments that we use from the District, $52.1 million for the payment to various District retirement funds and $2.3 million for inaugural expenses for next January's inauguration.

These amendments together with local revenues combine to provide a total District budget of $3.2 billion for fiscal year 1989.

This is all I have to say about the facts and the figures in the conference report. They are straightforward and, as I said, they are $13 million below last year's appropriated amount. But I do want to say more about what is contained in the conference agreement.

I say I reluctantly bring this conference report here. Normally, we would be very proud to bring in a conference report that was $13 million below last year's total. We would be very proud of that fact.

However, this evening we are about to take steps that may close down the District government and deny 600,000 U.S. citizens their self-determination and their rights.

Why will we shut down the District government? Well, it is simple. This bill contains an amendment adopted by the Senate that provides that the District government may not obligate or expend any funds, any funds, not just the Federal funds, but any funds, after December 31 of this year if the District Council does not by that time enact a specific provision, a specific provision that was offered on the floor of the Senate by the Senator from Colorado, stating that it is not unlawful to discriminate against homosexuals at educational institutions affiliated with religious organizations in the District of Columbia.

I do not mean to get into the debate on that again. We debated that thing here at length on the Senate floor.

I would just point out that those parties at interest in this dispute, Georgetown University, the organization, the gay rights organization, and the District government, and the courts—I should say the courts—the gay rights organization and Georgetown came to an agreement and it was settled and there was no problem there.

And yet this body saw fit to add this amendment. It is my belief that the District Council may not enact such a provision and they should not have to, but if they do not the government will not be able to obligate or expend any funds after December 31. They will have to shut down.

What will happen, and it could be quite possible, that on January 2 or 3 when we come back to get sworn in we could have another big snowfall. We have had problems with snow removal in the District before. That is when we had people running the snowplows. What is going to happen on January 3 if we do not have people running those snowplows? They cannot come to work because they do not have any money. They do not have any gasoline to put in them or diesel fuel if they do not enact this provision.

I would just add that is a very short time for the District to act on a very important measure like that. We would never even expect that, I do not think, of our own body.

I guess the question is, Should we require the District of Columbia to enact legislation that is not required of any other community in the United States? If we are going to require this on the District, why should it not apply to the other 61 municipalities and 16 counties and the States of Wisconsin, Illinois, Michigan, California, New York, Minnesota, and Pennsylvania; those States, plus 61 other municipalities that we know of, there may be more, that have the same kind of prohibitions in their local statutes against discrimination based on sexual orientation.

Again, we do not tell other States or jurisdictions what they can do. We may not agree with them. We may not agree with what they do, but that is sort of our system of Government. Those States and local jurisdictions run themselves as they see fit.

I pointed out the other day, I think, if I am not mistaken, the State of Nevada has legalized prostitution. I do not happen to be in favor of that, but I do not think that we here in this body ought to be saying to the State of Nevada, "You cannot do that." That is what our Federal-State systems are all about.

I dare say I do not think anyone here would like to offer an amendment or something that says that no Federal funds can go to Nevada unless they change that law. I would not like to see that.

Or how about Denver, CO? They have an ordinance just like the District of Columbia. Should we say that no Federal funds shall be expended in Denver, CO, until they change it and give the exact language that they have to adopt?

I say that is very violative of our Federal-State relationship.

The District's law was not handed down by some unseen force and imposed on the people of the District. Their elected City Council enacted that provision and they were well within their legislative authority to do so. The citizens of the District elected these people and no one in this Chamber as far as I know has ever had to ask one citizen of the District of Columbia for a vote. Never. There are no votes in the District of Columbia for anyone who sits in this body.

Enough on that issue.

As I said, we will not be dealing with the so-called Armstrong amendment that was offered by the Senator from Colorado. That was adopted by the other body and so it is not in issue here this evening.

What is in issue here this evening is the matter of abortion and the issue as it applies to the District of Columbia.

I feel compelled at this point in time to take the valuable time of the body, even though the hour is late and we have to move ahead with this and legislate and get these things wrapped up.

To make clear my position on this issue, lest it be misunderstood, not so much by Members here, but by those perhaps outside, I just want to say as a Catholic I am opposed to abortion. I have always been opposed to abortion. I feel the number of abortions being performed is a national and international tragedy, but I see abortion not in the singular but I see it as a part of a growing insensitivity to all human suffering, to injustice and insensitivity to injustice and a disrespect for all life.

That is why I do not adopt the narrow and negative approach advocated by some which could as a matter of constitutional law make it a crime which if you follow it to its logical conclusion could be punished by the death penalty for a women to have an abortion even in the case of rape.

If we are truly concerned about respect for life, then we have to do a lot of things. I think that we have to take some of the money that we have to support a national program of prenatal and postnatal care, assistance for women, infants and children, adopted services, life support centers, more help to pregnant teenagers.

I introduced a bill to do this clear back in 1977.

This I believe is a positive approach and I believe it is an approach that will work. It would do more to reduce the number of abortions and would also address the other issues concerning the respect for life.

This is a positive approach, and it is what I followed in the House of Representatives and what I will continue to follow as long as I am privileged to serve in this body.

There is a positive approach to this problem and there is a negative approach. The negative approach says you shall not. The positive approach is that we are going to solve these problems in a very positive way by showing that there is an alternative to abortion, an alternative that we as a caring and humane society will support.

So we come down to this. Are we to stand here and say that we know better what is good for the District of Columbia and the citizens who live there and their representatives? Certainly we have a special relationship, as I pointed out, with the District. It is the Nation's Capital. It is the seat of our National Government, the symbol of freedom and hope for the world. But it is also the home of more than 600,000 U.S. citizens. That is more people than the State of Vermont or Alaska or Wyoming.

(Mr. LEVIN assumed the chair.)

Mr. HARKIN. Mr. President, the District citizens pay Federal income taxes. Yet they have absolutely no voice in this body or the other. It seems to me we fought a revolution over that issue of taxation without representation.

Yet here we are. We have citizens taxed but they have no representation and no voice here in this body.

The situation is this: The Senate adopted a provision that we have adopted every year since 1980 dealing with abortion in the District of Columbia. That provision basically says that no Federal funds, the funds that we have jurisdiction over, can be expended for any abortions in the District but to save the life of the mother or in the cases of rape or incest or ectopic pregnancy.

Now we have adopted that, as I said, Mr. President, every year since 1980. The vote this year was 51 to 34 in favor. And it has been even more than that in past years. There were 14 Senators not voting on that day.

I would also point out, Mr. President, that that language that we adopted was signed into law every year by President Reagan. Every single year since 1981, that language has been adopted by the executive branch, by President Reagan, who has time and time again voiced his opposition to abortion.

Furthermore, I would point out that this language was specifically signed into law by the President in 1981, 1982, and 1983 when we adopted the appropriations bill for the District of Columbia. In 1984, 1985, 1986, and 1987 it was of course wrapped up in a continuing resolution but the language was in there nonetheless. So at least on three separate occasions President Reagan signed that into law. He did not veto it and send it back and say, "I want tougher language. I don't want the life of the mother, I don't want rape or incest or ectopic pregnancy." He did not say that. He signed it into law. He did not veto it. But this year we had a message from the President, although I have to tell you I do not think the President even knows about it. He sends a message down saying if we sent this language down to him this year he would veto it, even though he has signed it into law every year for the last 7 years. But he said he would veto it this year.

Again, I do not think the President even knew about it. I think the staff just did that.

Well, anyway, on the House side they adopted the so-called Hyde language—no funds, both Federal and District funds, no funds for any abortion, period. Not to save the life of the mother or anything else, just no funds for any abortions. So this is where we met in conference between these two positions.

The conferees took back the Senate language. The House rejected it. We met again in conference. We tried to compromise down even further to say that no Federal funds for any abortions except to save the life of the mother. Took everything else out of it. Went back to the House. They rejected that, too.

So today we met for the third time and what was adopted—and I might add on our side by a 4-to-3 vote—was no funds for any abortions except to save the life of the mother. And that went back to the House and of course that is what we have in front of us now. The Senate, of course, has not acted on that. The House acted on it, but the Senate has not acted on it.

So that is really about the only issue that we are going to have.

We have a total of nine amendments in disagreement, Mr. President. I believe that the rest of those will not engender much comment or discussion, but I will leave that up to the wishes of the Senators if they wish to talk about any of those other amendments in disagreement.

After I yield to my distinguished colleague and friend from Oklahoma, we will move on with the adoption of those amendments.

I yield the floor to the Senator from Oklahoma.

Mr. NICKLES. Mr. President, in regard to Senator HARKIN's comments, I would echo them. This has not been the easiest conference that we have had. It has been a difficult conference. We have wrestled with the House conferees on several issues, primarily on the issue of abortion, as explained by Senator HARKIN. We have differing viewpoints on that issue. There are a lot of people that differ on this matter in this body and also in the House of Representatives. The House has voted three times over the past week to insist on the Hyde language. Basically, that means no funds would be used for abortion except when necessary to protect the life of the mother. The Senate conferees agreed to that language. I personally agree with that language.

I also wish to compliment the President for his statement that he would veto this bill if the Hyde language is not agreed to. And I am 100 percent sure that that is exactly what he would do. I think it is because of the President's leadership and many others that we are here today to finally pass language that would prohibit the use of the funds in the D.C. bill for abortion.

It is not a home rule issue. If someone wants to make the home rule argument they are going to have to argue about many, many other provisions that are in this bill that violate home rule. And so I think that is important that it be noted and be stated as well.

Mr. President, this is the only major issue that is still in dispute. Hopefully it can be agreed upon and the Senate will concur with the House. That is this Senator's hope and I think it is probably the hope of the majority of the Senators if we are going to finish this bill and be done with this bill and be able to finish all of our appropriation bills by our deadline.

Also before I yield the floor, I wish to compliment the Senator from Colorado, Senator ARMSTRONG, for his leadership and his persistence in trying to resolve the very difficult problem that we found ourselves in, the so-called Georgetown amendment. As Members of this body are well aware, we had a vote on that amendment which carried by a very large margin, due to the leadership of Senator ARMSTRONG from Colorado.

We were able to maintain the Armstrong amendment in this conference package. Certainly I concur with that, as well. The House did not accept it. The House conferees did not. They voted on it in the House, and by a significant margin, to accept the Armstrong amendment. That is now part of the conference package.

Mr. President, I am in support of the conference report as it pertains to budgetary and fiscal matters. The conferees have brought to the Senate a bill which is within the 302(b) allocations—$6 million under in budget authority; $3 million under in outlays. The bill provides a Federal payment of $536.9 million which is under the President's budget request and under last year's appropriation. The remaining funds appropriated by the bill represent moneys which are generated through local revenues. Those appropriations amount to $3.2 billion—an increase of about $128 million over last year's agreement, but there are no Federal funds within that amount.

Mr. President, there are a number of controversial issues within this legislation which the conferees addressed and compromised upon. I am particularly pleased that the House has acted to concur with the Senate on the so-called Armstrong amendment with regard to religious freedom in the Nation's Capital. And, Mr. President, I hope that the Senate will not delay this legislation and send to the President a bill he will sign. I urge my colleagues to support the conference report.

Mr. President, I want to commend the chairman of the subcommittee for his cooperation in the completion of the District's appropriation bill for fiscal year 1989. The conference this year was not an easy one, and my colleague from Iowa, Mr. HARKIN, deserves recognition for bringing this bill to its conclusion.

I want the record to clearly show that the intended legal effect of my amendment is to prohibit any part or subpart of the government of the District of Columbia from expending any funds whatever in furtherance of the performance of abortions, except where the life of the mother would be endangered if the fetus were carried to term.

This language is to be interpreted as prohibiting the D.C. government from expending any funds whatever on abortions, induced surgically or otherwise, or on expenses related to or necessary for an abortion, including laboratory services—pre-abortion and post-abortion—hospital and nursing services, drugs, anesthetics, and other expenses directly related to an abortion, or administrative expenses directly related to the performance of abortions.

However, these expenses are permitted "where the life of the mother would be endangered if the fetus were carried to term." This refers to circumstances in which a physician certifies in writing that a pregnant woman suffers from a grave physical disorder or disease which would, with reasonable medical certainty, cause the death of that woman if an abortion is not performed. All of this is consistent with the well-established scope of the Hyde amendment to the Labor/DHHS appropriations bill.

I simply want to be sure that the D.C. government does not seek to engage in some attempt to evade the clear intent of this language. It would, for example, clearly violate the intent of my amendment for the D.C. Health Services Program, or any other D.C. government entity, to continue to reimburse providers of abortions with funds obtained from private sources, or from a voluntary tax-checkoff scheme, or whatever, since such mechanisms would obviously require the expenditure of funds which are appropriated within this bill, for administrative expenses and so forth.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Thank you very much, Mr. President.

First, I wish to compliment the managers of the District of Columbia Appropriations Subcommittee. I think they have done an outstanding job under most difficult circumstances. Often chairing this committee is viewed as a thankless task. And the reason it is viewed as a thankless task is it is the only subcommittee on appropriations that deals with specifically local issues. We often are placed in a double bind because, at one time we are a national body and we say that we have empowered the District of Columbia with powers of home rule, and then we take upon ourselves the posture of being a Federal city council. And that thrust is often placed upon us by well-intentioned but, nevertheless, misdirected colleagues.

I think the fact that Senator HARKIN and Senator NICKLES, the chairman and ranking minority member, have put in long hours, I think they deserve the thanks of the Senate for the efforts they have made.

However, I must say that I am deeply disturbed about some of the amendments or provisions that the House has insisted on maintaining and also one of ours on the subject of abortion.

There are many things in this conference report that trouble me, one of which, of course, is the overall usurping of really the principle of home rule.

But on this issue related to abortion, I just want to reiterate what my chairman has said. Since 1980, Congress has imposed antiabortion restrictions on Federal funds appropriated for the District of Columbia. Last year, the House went further, but only by a margin of 10 votes, prohibiting locally raised District revenues from being used to provide any abortions at all, even in cases of life endangerment, rape, or incest. Now, we are going to take a small step and say it is OK if the life of the mother is in danger.

Although portrayed as a simple extension to the Hyde amendment, such a restriction on locally raised revenues would be a negative legislative maneuver.

Let me just state a couple of points to what I think is wrong with this. First, it violates the District of Columbia self government Act of 1973 enacted by Congress to give residents of the District the same right to determine their local government. It also violates the 1980 Supreme Court decision to restrict the funding of abortions through the Medicaid Program and, Mr. President, most of all, it violates the rights of women in the District of Columbia to freely choose an abortion when they need it and when their own local taxes will pay for it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I rise for somewhat the same reason Senator NICKLES did, to speak primarily to the Armstrong amendment and to compliment my colleague from Colorado for that victory that now will be thorough because of the position of the other body in accepting it as well. But, not so much just from the content of the Armstrong amendment as he wants to disagree with the subject matter of the D.C.-Georgetown case. But, more importantly, I think that the Armstrong victory is important because if we had not challenged that Georgetown case, Mr. President, it would have been bad in the constitutional context in which that decision was made if that had not been answered in the final way that we answered here in this Armstrong amendment. That now should become law, because no jurisdiction, Mr. President, either local, State, or national, and whether it be under the guise of home rule, States' rights or whatever label, has the right to abridge the Constitution.

While I may agree that most issues are best left to those levels of government closest to the people, at the local and State level, this does not translate into the right to violate the Constitution.

The freedom of association and the freedom of religion, guaranteed by the first amendment to our Constitution, protects the basic right of individuals and institutions from being forced to support or finance groups whose beliefs are fundamentally contrary to one's own religious principles.

Indeed, our Nation was founded on the principle that no individual or institution need ever compromise its religious principles to suit the Government.

While "official"—de jure—recognition is not mandated by the D.C. court decision in the Georgetown case—as well it should not be—other lesser "support" should also not be mandated, because that can result in "de facto" recognition and support of an organization, in violation of the religious liberty guaranteed by the first amendment.

The D.C. court decision in the Georgetown case, which upholds the D.C. human rights law, is the highest local court to hear this case. However, it is not the highest court that could potentially hear this case. Georgetown University could have appealed to the Federal courts.

However, Georgetown has decided not to appeal. Georgetown has also indicated to the Congress that it did not ask for, either directly or indirectly, the Armstrong amendment.

I think the decision not to appeal is regrettable; and the nonparticipation in the Armstrong amendment debate must, by necessity, be considered irrelevant—because the D.C. court opinion needs to be exposed for what it is—rampant judicial activism at its worst—discarding fundamental constitutional doctrine to satisfy the noisy activists of the moment.

Georgetown's decision not to appeal—and the subsequent decision by the university to be a "nonplayer" in the debate over the Armstrong amendment—may well have been based, for various reasons, upon the fear of reprisal from the government of the District of Columbia. The specter of the government strong-arming or using extortion on a religious institution—on a matter of moral choice—is one that ought to shake all of us to the core. This only serves to underscore that the first amendment cannot be abridged by the State.

There should be no debate that religious institutions like Georgetown should have the right to refuse to fund, support, or recognize organizations whose beliefs are fundamentally contrary to the beliefs of that institution or any other institution.

They should enjoy the protection of the first amendment to be free from fear of reprisal, retaliation, or discrimination by any governmental body, at any political level of government.

Of the D.C. Court of Appeals' decision is allowed to stand as a precedent, there could be enormous, unintended consequences.

The D.C. human rights law at issue here also bans discrimination based upon political persuasion or affiliation, among others.

Consequently, this decision could logically be extended not only to homosexual and other groups, but to political and quasi-political organizations as well.

It could well require an individual, or religious institution like Georgetown, to give financial support to proabortion groups or other special interest organizations to which they are opposed on religious grounds.

Such an extension could do further violence to the religious freedom rights protected by the first amendment.

While I concede that the groups intended to be protected by the D.C. human rights law are entitled to some protections, no local ordinance should ever be allowed to supersede the Constitution just because it may not be appealed as far up the judicial ladder as it can be appealed.

I think the D.C. court's opinion is a clear assault on religious freedom.

By voting to agree to the Armstrong language in the D.C. appropriations bill, as passed by the Senate, the House this very day has voted to uphold religious freedom as guaranteed by the first amendment.

I want to commend our colleagues both in this body and the other body for their courageous vote to defend religious freedom in America.

Mr. NICKLES. Mr. President, I appreciate very much the comments of my colleague and friend, Senator GRASSLEY from Iowa, and also I very much appreciate the work and contribution he has made on this subcommittee. He has been tireless in his effort, he has attended the meetings, attended the conferences, and he has been a very valuable player on this conference, and I thank him for his fine statement tonight.

Mr. BYRD. Mr. President, let us vote.

The PRESIDING OFFICER. The question occurs on the conference report.

The Senator from Iowa?

Mr. HARKIN. Mr. President, I just have to take a couple of minutes to respond to my dear friend. I call him that because he is a great friend of mine and my colleague from Iowa, Senator GRASSLEY. I tried to listen to most of the comments that the distinguished Senator said.

I am a little disturbed only by one part of what he said and that was somewhat of an insinuation or an outright statement that perhaps Georgetown's reluctance to be involved in this issue up here was because they might have been afraid of reprisals from the District of Columbia government.

I would like to refer my friend to the March 28, 1988, letter that was sent by the president of Georgetown University, Timothy J. Healy, Father Healy, to the members of Georgetown's faculty and alumni. I am not going to read the whole thing because it is a very, very long letter. But I wanted to read a couple of points to point out that this was not as such a religious freedom issue and that the university certainly was not making the decision not to engage up here because they feared any reprisals. If I know Jesuits, they are not afraid to engage in any fight anywhere any time for something they believe is in the best interest of either their order or their church.

I want to read a couple parts of this, and I am reading from Father Healy's letter to the faculty and alumni. He said in that letter:

> Instead the court said, "The act only requires Georgetown to grant the groups the tangible benefits associated with university recognition."

That is from the court decision.

Father Healy goes on:

> The court, therefore, recognized the distinction in principle between officially recognizing an organization and underwriting its activities.

That is one of the issues that Father Healy fought for and the university fought for.

Let me read again from his letter so that my colleague understands where Georgetown is coming from.

> The university itself had, since the opening of the trial, more vigorously defended its right not to endorse a homosexual lifestyle than it had defended the right to deny quite minimal tangible benefits to these particular student groups. In that sense, the court could have been said to have adopted the university's own distinctions as presented by its counsel.

In other words, the university said, "Because of our moral theology, we do not want to officially recognize a group that openly espouses homosexual relationships."

On the other hand, the university said, "We recognize that there is discrimination and that they do have a right to organize, but we cannot be told to recognize that group."

So let me just read on a little bit:

> Over the long and difficult negotiations, covering several months, the university has finally achieved an agreement with the plaintiffs which was presented to the trial court as an agreed-upon order for it to issue. In the order as it stands, all four of the major goals the university sought in these negotiations are achieved. * * *
>
> The board discussion was long and serious, and the counsel was present for it. We began by acknowledging that there is such a thing as discrimination against homosexuals, and that as a Catholic institution, in faithfulness to the Church's teaching, we had to support legal efforts, sometimes even imperfect ones, to remedy that discrimination.

So on the one hand, the university is saying, "We recognize the discrimination and we have to end it, we have a moral obligation, but we also, because of our religious teachings, are normally obligated not to be forced into recognizing those groups."

> In the days that followed, an acceptable agreement was reached. It protected the essential elements I have described above, and it was accepted by the judge.

So it was not from any fear of reprisal. It was because the university felt that the judge's decision fulfilled all four requirements that they outlined in the trial court, and having done that and having then said the court saying that Georgetown University did not have to recognize the group, Georgetown then was in a position to say, "OK, we can extend them the same benefits as other groups but we are not forced and we will not, according to the moral teachings of the Catholic Church, recognize them as a group."

In that one case, I would respectfully disagree with that statement made by my colleague from Iowa that the university feared reprisal. I felt the university felt, according to Father Healy, that a just and reasonable and responsible decision was reached in the case.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I rise first to say a word of appreciation to the conferees who stood in favor of the religious liberty amendment and to express to my colleague from Iowa and my colleague from Oklahoma my thanks for their gracious words. I appreciate that more than I can say, but most of all to the two of them and also the Senator from Nevada [Mr. REID], I want to say a word of thanks for their steadfastness in supporting the Senate's position on this matter. It would have been very easy for them to back away or let the issue slide away or get out of perspective or somehow get lost in conference as sometimes these important issues do.

I know they are going to pay a price for having stood up and having been counted on this. In fact, I happen to know they have already paid something of a price. Let me just say to my colleagues, for their faithfulness on this matter, that there are people not only in this Chamber but elsewhere, all over this country, who care about religious liberty and who will always be grateful to them. For while we won a fine victory in this Chamber, and while the other body agreed with our amendment by an overwhelming margin, that vote never would have occurred had not Senator REID, Senator GRASSLEY, and Senator NICKLES hung in there on the conference.

Let me say to my friend Mr. HARKIN, it is tempting to relitigate the issues he has reopened again. I personally believe, and the evidence is pretty clear, there is reason to think that there is an element of coercion. But it does not seem to me there is any profit or any reason to reopen that question.

The arguments he has presented tonight are, in essence, similar to those when the matter was first before us. The same arguments, the question of liberty, coercion, home rule, all of these things were brought up in the other body. In each Chamber the decision was the same.

I think we ought to let it rest, and if the issue arises again, I will be prepared to speak to it.

For now let me just say to my friend from Iowa, there are matters of which reasonable men from time to time will disagree, and I shall be complimented if this is the only occasion we have to disagree.

Mr. HELMS. Mr. President, I do hope the Senate will support the amendment in disagreement to prohibit funds appropriated by this Congress from being used for abortions by the District of Columbia.

Mr. President, since 1979, Congress has been playing a shell game of sorts with the abortion restrictions placed on funds appropriated by Congress for the District of Columbia. The game goes like this: Congress puts abortion restrictions on so-called Federal funds in the D.C. appropriations bill, but leaves the so-called District moneys totally unimpeded. The District then funds abortions out of the so-called District moneys.

Mr. President, the flaw with this scheme is that all funds available to the District are, in fact and in law, appropriated by Congress. While there may be funds denominated Federal and District, and while there may be certain bookkeeping and other advantages in this distinction, it is Congress that appropriates all—to repeat: all—funds for the District of Columbia.

The shenanigans of Congress, Mr. President, have helped to produce an unconscionable result. The District of Columbia is now the Abortion Capital of the United States. According to the most recent Census Bureau Report, the District of Columbia has the highest abortion rate in the country—1,517 abortions for every 1,000 live births. In addition, according to the National Right to Life Committee, the District has the most permissive policy on tax funding of abortion in the Nation, not only paying for abortion on demand for Medicaid-eligible women but also paying for abortion for women who do not qualify for Medicaid but have no private health insurance.

Mr. President, inasmuch as many here in Congress would like to minimize the abortion issue, or ignore it, this Senator cannot. Unborn babies here in our Nation's Capital and elsewhere across this land are making a silent but unmistakable claim on our conscience. They, like all other human beings, deserve the right to survive; to love and be loved; and to fulfill the life that God, himself, has given them.

Ignoring this travesty, Mr. President, sets us down a dangerous course which threatens the lives of millions of other Americans. If we are unwilling to protect the lives of all human beings within our border, including the innocent, helpless lives yet to be born, what is to preclude Congress from denying this same right to life to the infirmed, the disabled, the senile, or the physically impaired who are just as weak and just as dependent as the unborn child?

Tonight, Mr. President, the Senate will make a crucial decision on this fundamental question—the question of whether the taxpayers of the United States, through an appropriation by their Congress, will fund the deliberate termination of innocent human life in the Nation's Capital.

Fortunately, the House of Representatives has held to its position. Year after year, the House has voted to end this charade by placing a flat-out ban on any abortion funding, with moneys appropriated by Congress, rather than placing the restriction merely on Federal moneys. The approach taken by the House is honest, it is forthright, and it is an approach that deserves the support of the Senate.

The Senate should end its charade, Mr. President, a charade which has forced the taxpayers to fund countless thousands of abortions in the District. The Senate should support this amendment in disagreement.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARKIN. Mr. President, I ask unanimous consent that the amendment in disagreement be considered and agreed to en bloc with the exception of amendment No. 29.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Reserving the right to object.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma reserves the right to object.

Mr. NICKLES. I have no objection.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I send an amendment to the desk——

Mr. BRADLEY. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I would object to that unanimous-consent request for adopting all of the amendments en bloc with the exception of amendment No. 29. I would like to have excepted from that amendment No. 15 as well.

The PRESIDING OFFICER. Is there objection to the request of the manager of the bill?

Mr. BRADLEY. I object.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I ask unanimous consent the amendments in disagreement be considered and agreed to en bloc with exception of amendment No. 29 and amendment No. 15.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendments of the House to the amendments of the Senate were agreed to en bloc as follows:

Resolved, That the House recede from its disagreement to the amendments of the Senate numbered 6, 23, 25, 27, and 28 to the aforesaid bill, and concur therein.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 3 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

: *Provided*, That construction may not commence unless access and parking for construction vehicles are provided solely at a location other than city streets: *Provided further*, That District officials meet monthly with neighborhood representatives to inform them of current plans and discuss problems: *Provided further*, That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding the new prison, can promptly obtain information from District officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further*, That the District of Columbia shall also take steps to publicize the availability of that service among the residents of the area surrounding the new prison.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 12 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

: *Provided further*, That the Taxicab Commission shall report to the Committees on Appropriations of the Senate and House of Representatives by January 15, 1989 on a plan as outlined in Senate Report 100-162 to issue and implement regulations including but not limited to the age of vehicles, frequency of inspection, and cleanliness of vehicles

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 19 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 135. (a) Section 11-1563(d), D.C. Code is amended—

(A) by inserting "or while receiving retirement salary under this subchapter but before having recouped all contributions," before "the lump-sum credit for retirement"; and

(B) by inserting "or the balance after deduction of retirement salary paid prior to death, if applicable," before "shall be paid,".

(b) The Mayor, within 30 days after the enactment of this Act, shall engage an enrolled actuary, to be paid by the District of Columbia Retirement Board, and shall comply fully with the requirements of section 142(d) and section 144(d) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96-122, D.C. Code, secs. 1-722(d) and 1-724(d)).

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 21 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by this amendment, insert:

SEC. 136. (a) Within 30 days after the date of enactment of this Act, the United States, acting through a duly authorized official, shall convey to the District of Columbia without consideration, all right, title, and interest of the United States, in the real property described in subsection (b) (and any improvements thereon).

(b) The real property referred to in subsection (a) is that property (commonly known as the District of Columbia Employment Security Building at 500 C Street, Northwest) located in the District of Columbia in Square 491 described in a deed from the District of Columbia to the United States dated April 20, 1961, and recorded on April 26, 1961, as instrument number 11232 in liber 11589, folio 135 of the District of Columbia.

(c) If for any reason the District of Columbia should dispose of the real property described in subsection (b) (and any improvements thereon), such disposition shall be in accordance with procedures established by the Federal Department of Labor as are applicable to any of the 50 states.

SEC. 137. Section 147 of the Surface Transportation and Uniform Reallocation Assistance Act of 1987 (Public Law 100-17, approved April 2, 1987) is repealed.

SEC. 138. Notwithstanding Section 110 of this Act, appropriations in this Act shall not be available, during the fiscal year ending September 30, 1989, for the compensation of any person appointed to a permanent position in the District of Columbia government during any month in which the number of employees exceeds 38,512, the number of positions authorized by this Act.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 22 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by this amendment, insert:

SEC. 139. (a) Up to 118 officers or members of the Metropolitan Police Department who are hired before February 1, 1980, and who retire on disability before the end of the calendar year 1989 shall be excluded from the computation of the rate of disability retirement under subsection 145(a) of the District of Columbia Retirement Reform Act, as amended, approved September 30, 1983 (97 Stat. 727; D.C. Code, sec. 1-725(a)), for purposes of reducing the authorized Federal payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund pursuant to subsection 145(c) of the District of Columbia Retirement Reform Act.

(b) The Mayor, within 30 days after the enactment of this Act, shall engage an enrolled actuary, to be paid by the District of Columbia Retirement Board, and shall comply with the requirements of section 142(d) and section 144(d) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96-122, D.C. Code, secs. 1-722(d) and 1-724(d)).

(c) If any of the 118 light duty positions that may become vacant under subsection (a) are filled, a civilian employee shall be hired to fill that position.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 24 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 141. (a) If by May 1 1989, the District of Columbia government has not adopted, and implemented no later than September 30, 1989, a preference system that does not preclude the hiring of noncity residents, none of the funds provided or otherwise made available by this Act may be used to pay the salary or expenses of any officer, employee, or agent who is engaged in implementing, administering, or enforcing a District of Columbia residency requirement with respect to employees of the Government of the District of Columbia.

(b) After the date of enactment of this section, the District shall not dismiss any employees currently facing adverse job action for failure to comply with the residency requirement.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 26 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 143. None of the Federal funds appropriated by this Act shall be obligated or expended after December 31, 1988, if on that date the District of Columbia has not repealed District of Columbia Law 6-170, the Prohibition of Discrimination in the Provision of Insurance Act of 1986 (D.C. Law 6-170), amended the law to allow testing for the human immunodeficiency virus as a condition for acquiring all health, life and disability insurance without regard to the face value of such policies. Eligibility for coverage and premium costs shall be determined in accordance with ordinary practices.

HOUSE AMENDMENT TO THE SENATE AMENDMENT NO. 15

The PRESIDING OFFICER. The clerk will now report the first amendment in disagreement.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 15 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 117. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I move that the vote by which the amendments were agreed to en bloc be reconsidered.

Mr. NICKLES. I move to lay that motion on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona.

Mr. DECONCINI. Mr. President, what amendment are we on now?

The PRESIDING OFFICER. Amendment No. 15.

Mr. DECONCINI. I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I move to disagree with the House amendment to Senate amendment No. 15.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, in just a second I am going to move to table the motion of the Senator from New Jersey for a couple reasons. One, I disagree with the essence of the motion. Also, I compliment my colleague, Senator HARKIN, who happens to agree philosophically with the Senator from New Jersey. He has fought that battle as hard as anybody, let me assure you, because we have been in conference committee for hours. The House has had three or four votes.

If the Senator's motion would prevail and we would send this back over to the House, the House would not agree. They have already had three votes on it and we will not end up getting a bill by certainly 12 o'clock tonight. We will not be able to finish. And so, with I hope the support of the leaders and others who would like to see us finish this bill, I move to table the motion of the Senator from New Jersey.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oklahoma. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from Delaware [Mr. BIDEN], the Senator from Oregon [Mr. BOREN], the Senator from California [Mr. CRANSTON], the Senator from Connecticut [Mr. DODD], and the Senator from Massachusetts [Mr. KENNEDY] are necessarily absent.

I further announce that, if present and voting, the Senator from Delaware [Mr. BIDEN] would vote "nay."

Mr. SIMPSON. I announce that the Senator from Washington [Mr. EVANS], the Senator from Texas [Mr. GRAMM], the Senator from Indiana [Mr. QUAYLE], the Senator from Vermont [Mr. STAFFORD], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 45, nays 44, as follows

[Rollcall Vote No. 348 Leg.]

YEAS—45

Armstrong
Bond
Boschwitz
Breaux
Byrd
Cochran
Conrad
D'Amato
Danforth
DeConcini
Dixon
Dole
Domenici
Durenberger
Exon
Ford
Garn
Grassley
Hatch
Hatfield
Hecht
Heflin
Helms
Humphrey
Johnston
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Melcher
Murkowski
Nickles
Pressler
Proxmire
Reid
Shelby
Simpson
Stennis
Symms
Thurmond
Trible
Warner

NAYS—44

Adams
Baucus
Bingaman
Bradley
Bumpers
Burdick
Chafee
Chiles
Cohen
Daschle
Fowler
Glenn
Gore
Graham
Harkin
Heinz
Hollings
Inouye
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Pryor
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Simon
Specter
Stevens
Weicker
Wilson
Wirth

NOT VOTING—11

Bentsen
Biden
Boren
Cranston
Dodd
Evans
Gramm
Kennedy
Quayle
Stafford
Wallop

So the motion to table the motion of the Senator from New Jersey to disagree to the House amendment to Senate amendment No. 15 was agreed to.

Mr. NICKLES. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARKIN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. Mr. President, may we have order? The clock is running.

The PRESIDING OFFICER. Will Senators please take their conversations to the Cloakrooms?

Mr. BYRD. Mr. President, may we have action on the amendment?

The PRESIDING OFFICER. The Senate will come to order.

The House amendment to Senate amendment No. 15 is still before the body.

Mr. NICKLES. I move to concur in the House amendment to Senate amendment No. 15.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HOUSE AMENDMENT TO SENATE AMENDMENT NO. 29

The PRESIDING OFFICER. The clerk will report amendment No. 29.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 29 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

TITLE II—FISCAL YEAR 1988

SUPPLEMENTAL APPROPRIATIONS

DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

(INCLUDING RESCISSION)

For an additional amount for "Governmental direction and support", $2,168,000: *Provided,* That of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-91 to 1329-92), $3,525,000 are rescinded.

ECONOMIC DEVELOPMENT AND REGULATION
(INCLUDING RESCISSION)

For an additional amount for "Economic development and regulation", $143,000: *Provided,* That of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-92), $15,779,000 are rescinded.

PUBLIC SAFETY AND JUSTICE
(INCLUDING RESCISSION)

For an additional amount for "Public safety and justice", $33,253,000: *Provided,* That of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-92 to 1329-93), $2,000 are rescinded.

PUBLIC EDUCATION SYSTEM
(INCLUDING RESCISSION)

For an additional amount for "Public education system", $13,900,000 which shall be allocated for the public schools of the District of Columbia: *Provided,* That of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-93 to 1329-94), $210,000 for the District of Columbia School of Law, $549,000 for the Public Library, and $355,000 for the Commission on the Arts and Humanities are rescinded.

HUMAN SUPPORT SERVICES
(INCLUDING RESCISSION)

For an additional amount for "Human support services", $24,467,000: *Provided,* That of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-94), $8,578,000 are rescinded: *Provided further,* That an additional $2,545,000, to remain available until expended, shall be available solely for the District of Columbia employees' disability compensation: *Provided further,* That the $990,000 appropriated in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c)) shall be solely for Project Volta and shall remain available until expended: *Provided further,* That $746,054 in funds made available to the District of Columbia pursuant to the Employment Security Administrative Financing Act of 1954, approved August 5, 1954 (68 Stat. 668; 42 U.S.C. 1103), shall be appropriated for the purpose of providing $39,210 towards the purchase of an optical character reader and $706,844 to pay unemployment insurance staff salaries and benefits: *Provided further,* That the $746,054 referred to in the preceding proviso shall be withdrawn and expenses incurred after the enactment date of this Act and shall not be available for obligation after the close of a 12-month period which begins on the date of the enactment of this Act.

PUBLIC WORKS
(INCLUDING RESCISSION)

For an additional amount for "Public works", $2,783,000: *Provided,* That of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-94), $2,625,000, including $241,000 from the school transit subsidy are rescinded.

REPAYMENT OF LOANS AND INTEREST
(RESCISSION)

Of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-95), $1,005,000 are rescinded.

REPAYMENT OF GENERAL FUND DEFICIT

For an additional amount for "Repayment of general fund deficit", $118,000.

OPTICAL AND DENTAL BENEFITS

For an additional amount for "Optical and dental benefits", $1,080,000.

PERSONAL SERVICES

For "Personal services", for pay increases and related costs, to be transferred by the Mayor of the District of Columbia to the various appropriation titles for fiscal year 1988 from which employees are properly payable, $34,150,000, which includes a 12 percent pay absorption to be apportioned among the various appropriation titles by the Mayor.

ADJUSTMENTS

Of the funds appropriated under the various appropriation titles in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-90 to 1239-104), $911,000, as determined by the Mayor, are rescinded.

CAPITAL OUTLAY

For an additional amount for "Capital outlay", $6,340,000, to remain available until expended.

WATER AND SEWER ENTERPRISE FUND

For an additional amount for "Water and sewer enterprise fund", $39,750,000, of which $8,385,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects and $31,365,000 shall be for pay-as-you-go capital projects, of which $10,500,000 shall be for new capital project authority for fiscal year 1988 and $20,865,000 shall be for prior-year capital project authority.

For an additional amount for construction projects, $10,500,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, sec. 43-1512 et seq.).

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For an additional amount for "Lottery and charitable games enterprise fund", $764,000.

GENERAL PROVISION

SEC. 201. Notwithstanding any other provision of law, appropriations made and authority granted pursuant to this title shall be deemed to be available for the fiscal year ending September 30, 1988.

The PRESIDING OFFICER. Will Senators please take their conversations to the Cloakroom, and will staff kindly remove themselves from the floor?

AMENDMENT NO. 3348

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration. It is an amendment to amendment No. 29.

The PRESIDING OFFICER. The amendment will be stated.

The legislative Clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 3348 to the House amendment to the Senate amendment numbered 29.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment No. 29, add the following:

SEC. . (a) This section may be cited as the "Hatch Act Reform Amendments of 1988".

(b) Subchapter III of chapter 73 of title 5, United States Code, is amended to read as follows:

"SUBCHAPTER III—POLITICAL ACTIVITIES

"§ 7321. Political participation

"It is the policy of the Congress that employees should be encouraged to exercise fully, freely, and without fear of penalty or reprisal, and to the extent not expressly prohibited by law, their right to participate or to refrain from participating in the political processes of the Nation.

"§ 7322. Definitions

"For the purpose of this subchapter—

"(1) 'employee' means any individual, other than the President and the Vice President, employed or holding office in—

"(A) an Executive agency other than the General Accounting Office; or

"(B) a position within the competitive service which is not in an Executive agency; but does not include a member of the uniformed services;

"(2) 'partisan political office' means any office for which any candidate is nominated or elected as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected, but shall exclude any office or position within a political party or affiliated organization; and

"(3) 'political contribution'—

"(A) means any gift, subscription, loan, advance, or deposit of money or anything of value, made for any political purpose;

"(B) includes any contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for any political purpose;

"(C) includes any payment by any person, other than a candidate or a political party or affiliated organization, of compensation for the personal services of another person which are rendered to any candidate or political party or affiliated organization without charge for any political purpose; and

"(D) includes the provision of personal services for any political purpose.

"§ 7323. Political activity authorized; prohibitions

"An employee may take an active part in political management or in political campaigns, except an employee may not—

"(1) use his official authority or influence for the purpose of interfering with or affecting the result of an election;

"(2) knowingly solicit, accept, or receive a political contribution from any person, unless such person is—

"(A) a member of the same Federal employee organization; and

"(B) the solicitation is for a contribution to the multicandidate political committee (as defined under section 315(a)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(4))) of such Federal employee organization; and

"(3) run for the nomination or as a candidate for election to a partisan political office.

§ 7324. Political activities on duty; prohibition

"(a) An employee may not engage in political activity—

"(1) while the employee is on duty;

"(2) in any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency or instrumentality thereof;

"(3) while wearing a uniform or official insignia identifying the office or position of the employee; or

"(4) using any vehicle owned or leased by the Government of the United States or any agency or instrumentality thereof.

"(b)(1) An employee described in paragraph (2) of this subsection may engage in political activity otherwise prohibited by subsection (a) if the costs associated with that political activity are not paid for by money derived from the Treasury of the United States.

"(2) Paragraph (1) applies to an employee—

"(A) the duties and responsibilities of whose position continue outside normal duty hours and while away from the normal duty post; and

"(B) who is—

"(i) an employee paid from an appropriation for the Office of the President; or

"(ii) an employee appointed by the President, by and with the advice and consent of the Senate, whose position is located within the United States, who determines policies to be pursued by the United States in relations with foreign powers or in the nationwide administration of Federal laws.".

(c)(1) Section 3302(2) of title 5, United States Code, is amended by striking out "7203, 7321, and 7322" and inserting in lieu thereof "and 7203".

(2) The table of sections for subchapter III of chapter 73 of title 5, United States Code, is amended to read as follows:

"SUBCHAPTER III—POLITICAL ACTIVITIES

"7321. Political participation.
"7322. Definitions.
"7323. Political activity authorized; prohibitions.
"7324. Political activities on duty; prohibition.".

(d) Section 602 of title 18, United States Code, relating to solicitation of political contributions, is amended—

(1) by inserting "(a)" before "It";

(2) in paragraph (4) by striking out all that follows "Treasury of the United States" and inserting in lieu thereof a semicolon and "to knowingly solicit any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 from any other such officer, employee, or person. Any person who violates this section shall be fined under this title or imprisoned not more than 3 years, or both"; and

(3) by adding at the end thereof the following new subsection:

"(b) The prohibition in subsection (a) shall not apply to any activity of an employee (as defined in section 7322(1) of title 5) or any individual employed in or under the United States Postal Service or the Postal Rate Commission, unless that activity is prohibited by section 7323 or 7324 of such title.".

(e) Section 603 of title 18, United States Code, relating to making political contributions, is amended by adding at the end thereof the following new subsection:

"(c) The prohibition in subsection (a) shall not apply to any activity of an employee (as defined in section 7322(1) of title 5) or any individual employed in or under the United States Postal Service or the Postal Rate Commission, unless that activity is prohibited by section 7323 or 7324 of such title.".

(f) Section 6 of the Voting Rights Act of 1965 (42 U.S.C. 1973d) is amended by striking out "the provisions of section 9 of the Act of August 2, 1939, as amended (5 U.S.C. 118i), prohibiting partisan political activity" and by inserting in lieu thereof "the provisions of subchapter III of chapter 73 of title 5, United States Code, relating to political activities".

(g) Section 1501(1) of title 5, United States Code, is amended by inserting ", the District of Columbia," after "State".

(h) Section 675(e) of the Community Services Block Grant Act (42 U.S.C. 9904(e)) is repealed.

(i) The amendments made by this section, and any regulations thereunder, shall apply with respect to employees of the United States Postal Service or the Postal Rate Commission, pursuant to section 410(b) and 3604(e) of title 39, United States Code.

(j) The amendments made by this section shall take effect on Janaury 1, 1989.

(k) Any repeal or amendment made by this section of any provision of law shall not release or extinguish any penalty, forfeiture, or liability incurred under that provision, and that provision shall be treated as remaining in force for the purpose of sustaining any proper proceeding or action for the enforcement of that penalty, forfeiture, or liability.

(l) No provision of this section shall affect any proceedings with respect to which the charges were filed on or before the effective date of the amendments made by this section. Orders shall be issued in such proceedngs and appeals shall be taken therefrom as if this section had not been enacted.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. DeCONCINI. I yield.

Mr. BYRD. Mr. President, may we have a time agreement on this amendment?

Mr. STEVENS. What is it?

Mr. DeCONCINI. I am more than happy to enter into a time agreement. This is the Hatch Act reform amendment.

Mr. President, on the eve of another Presidential election, I am offering an amendment that will modify the so-called Hatch Act—a measure that for nearly 50 years has prevented nearly 3 million Federal and Government employees from fully participating in our political process. Specifically, I am offering as an amendment to the District of Columbia appropriations bill conference report, the full text of H.R. 3400 as reported by handout leaflets, register voters, and place signs in their yards—rights that everyone else in the country enjoys right now and is doing right now as we zero in on the Presidential election day. And under my amendment Federal employees may solicit other members of the same Federal or Postal employee organizations for contributions for a multi-candidate political action committee once they are off duty and away from the job site. Again, I repeat, away from the job site.

Finally, let me tell the Senate what my amendment does not allow Federal employees to do. My amendment prohibits Federal employees from participating in political activities while on duty, in a Federal facility, in uniform, or while using a vehicle owned or leased by the Federal Government. Under my amendment, employees the Senate Governmental Affairs Committee last May. I do not want to spend an inordinate amount of time on this matter, but let me start by dispelling some of the misinformation that has been spread around town on the Hatch Act reform amendment that we are offering today and which the Governmental Affairs Committee reported last May.

First, the amendment provides a well-balanced approach to addressing the modern day problems associated with the Hatch Act, while preserving the current important prohibitions against political coercion. My amendment allows Federal employees to participate in a greater range of political duties once they are off-duty and off the worksite. Let me repeat, "off the worksite." Empoyees would be permitted to work at phonebanks, may not—repeat, may not—run for any partisan political office at any level. I wanted to emphasize this because the minority views in the Governmental Affairs report erroneously indicated that the committee substitute would allow Federal employees to run for office, and that is just not true. Finally, my amendment would not allow to solicit or receive political contributions form the general public, and it contains language that preserves all the current civil and criminial penalities for political coercion by Federal and Postal employees.

Mr. President, I will not go back through the history of the Hatch Act and how it evolved 50 years ago. There has been testimony from dozens of groups, Members of Congress, and interested citizens urging Congress to free the nearly 3 million Federal and Postal employees from the first amendment bondage that has been in effect for half a century. Suffice it to say that there is no valid reason for failing to focus our attention on the pressing need for reform of the Hatch Act. And what better time to address this issue than 30 days before the election of our next President and Vice President of the United States.

Mr. President, let me conclude with an example of how ludicrous the current situation has gotten under the Hatch Act. A postmaster in my State of Arizona has been forced to spend part of his time patrolling a fellow postman under his supervision. It appears that this postman has a relative who is a county sheriff and another relative is a judge. Understandably, in his off-duty time, the postman wants to help them get reelected. But because of the Hatch Act this man's supervisor must spend part of his time—time that is better spent making certain that the mail is delivered on-time—tracking one of his employees down for possible Hatch Act violations. Is that the type of benefit the Hatch Act is providing to Federal Service? Do we really want a postman precluded from putting up a sign on his lawn in Mesa, AZ, that supports his relative's campaign? And do we really want to say to Federal and Postal workers that your "off-duty" time does not belong to you, and that you must remain muzzled throughout the course of an election cycle? I think not and a majority of my colleagues in the Senate apparently concur as evidenced by the strong support for H.R. 3400 as reported by the Governmental Affairs Committee.

Mr. President, I have no doubt that the prospects for enactment of the Hatch Act reform this year are remote, even if we pass this amendment tonight. But I can think of no more appropriate amendment to bring to a vote on the eve of another Presidential election.

I urge the adoption of my amendment.

Mr. NICKLES. Mr. President, may be have order in the Senate?

The PRESIDING OFFICER (Mr. DIXON). The Senator is correct. The Senate is not in order.

Mr. STEVENS. Mr. President, I had hoped that this bill would come up some time ago, and I am glad to see that it is before the Senate now.

As one who has worked on this bill for a substantial period of time and has made, I think, a great many changes in this bill in committee, I hope it will remain before us now, so that we can get it to the point where the Senate can adopt it.

I might say that this version is much improved over the bill that came from the House, and I recommend it to the Senate. Several Members of the Senate have told me they intend to offer some amendments to it, and I am prepared to explain that, so soon as my staff comes here. I am saddened that the Senator from Arizona did not notify us that it would come up at this time.

But I am prepared to explain the bill at length when the time comes that those people want to offer amendments, to present them.

I understand there will be a motion to table, and I hope that is defeated, because I think in a period of time just before a major election, a group of Americans who have been denied their constitutional rights so long as the Government employees have deserve a chance to be heard and we should pass this.

It may take the House a little while to agree to it, but it is something that ought to be passed.

It is something that is long overdue. The people who work for the Federal Government are still Americans and entitiled to their constitutional rights, and I think they have been curtailed for years.

It is time for us to consider this bill, and I am pleased that we will have the opportunity to do so.

Again, I urge that we not table this and we get down to considering some amendments and try to eliminate some of the objections that I have heard raised in the past.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I would like to ask the sponsor of this amendment a couple of questions if I might.

What is the situation as it pertains to IRS employees? Are they treated exactly the same as everyone else?

Mr. DeCONCINI. That is correct.

Mr. CHAFEE. What about solicitation of funds by IRS employees?

Mr. DeCONCINI. They would be under the same prohibition on soliciting funds as any other Federal employee.

Mr. CHAFEE. They could not solicit campaign funds.

Mr. DeCONCINI. Just a minute.

This amendment would not allow employees to solicit or receive political contributions from the general public and it contains language that preserves all the current civil and criminal penalties for political coercion. So they could not solicit funds from anyone other than a member of the same Federal employee organization.

Mr. CHAFEE. What about the wearing of campaign buttons while on duty?

Mr. DeCONCINI. They cannot wear campaign buttons while on duty. They cannot do that today. They could put bumper stickers on their car, if they own the car. However, the bumper sticker size is now restricted.

Mr. CHAFEE. What about campaign buttons for a postman on his uniform, and so forth?

Mr. DeCONCINI. No; they cannot campaign or politic while on the job, on the work site, or whether they are in uniform or not. Nor can they use Federal automobiles for campaign or political purposes whether it is leased or assigned to them.

Mr. PELL. Mr. President, will the Senator yield?

Mr. DeCONCINI. I yield.

Mr. PELL. As one point of accuracy, I believe that you may wear a political badge or button or display a political sticker on your automobile, et cetera. But I think when you see the things you are allowed to do under the Hatch Act today, many people use the Hatch Act as an escape hatch not to participate and do the political things they might be able to do.

The PRESIDING OFFICER. Has the Senator from Rhode Island concluded his question?

The Senator from Arizona.

Mr. DeCONCINI. Mr. President, I stand corrected.

I say to the junior Senator from Rhode Island, I am advised you can wear political buttons under this amendment where you cannot now wear a political button. You can put a bumper sticker on your own car, any size you want, or yard sign, any size you want under this amendment, where you cannot do it now.

Mr. CHAFEE. I just wanted to ask about buttons. First, if you are in uniform, a postman. Can he wear it?

Mr. DeCONCINI. You cannot if your are in uniform. But you can if you are civilian.

Mr. CHAFEE. An IRS agent comes to see you. He can wear his?

Mr. DeCONCINI. No; you cannot do that.

Mr. CHAFEE. He would not have a uniform on.

Mr. DeCONCINI. If he had a uniform. Excuse me.

Mr. CHAFEE. An IRS agent comes to see you on a——

Mr. DeCONCINI. Yes, he could if he is in civilian clothes, but not in an official capacity as a agent of the Federal Government.

Mr. CHAFEE. This seems to be a serious matter.

Mr. DeCONCINI. If he is in civilian clothes.

Mr. CHAFEE. He can or cannot?

Mr. DeCONCINI. He can if he is in civilian clothes and is not on duty.

Mr. STEVENS. No; he cannot. He cannot.

Mr. CHAFEE. There seems to be come confusion.

Mr. HARKIN. To say the least.

The PRESIDENT OFFICER. Is there any further discussion?

The Senator from Rhode Island.

Mr. PELL. Mr. President, I just want to pin down the question about the political badge or button. In the literature that is distributed by the post offices, among the things you are permitted to do is you may presently wear a political badge or button.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I had the privilege of chairing I believe 2 days of hearings in the Governmental Affairs Committee on the subject of the Hatch Act. As we all know, the Hatch Act is now 50 years of age. I do not think there has ever been an amendment in these five decades to the Hatch Act.

It is my interpretation that this provision offered by the Senator from Arizona would actually tighten some of the restrictions on the Federal employees and more strictly enforce especially when the employee was on official duty.

It would be my interpretation—I tried to answer both of our colleagues from Rhode Island—in saying that if they were on official duty, if the Senator's amendment passed then this would prohibit them while on duty, uniform or not, from wearing a button.

The real authority in this area, of course, and my colleague and counterpart who helped me and helped all of us so well craft this legislation, is of course the Senator from Alaska, Senator STEVENS. But I hope that will help to clarify this.

I think it is a very sound and reasonable approach. I think also that this approach we have crafted is one that is much better than the House of Representatives. It gives much more protection to the average citizen out there from any form of intimidation.

It also gives some degree of encouragement, you might say, or at least the opportunity for the Federal employee to participate in the electoral process.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, we did not know on this side if this amendment was going to be offered. We are going to need to put in a quorum call and get staff over and some amendments. This is another major piece of legislation coming in at the last moment, so somebody can get a little political credit somewhere. We are not going to be the fall guys and vote to table it on this side. We are all going to vote against tabling. But we need a lot of amendments. We have to do a lot of discussion, and I suggest the absence of a quorum, so we can get our staff over here and go to work on this very important legislation.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. I thank the distinguished minority leader.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I rise in support of the pending amendment. Let me add at the outset that I am a convert to this because I started out this year very leery of making any changes in the Hatch Act. I thought about it as a real shield of protection for our Federal workers.

I want to give credit to the distinguished Senator from Arkansas, Senator PRYOR, who did an outstanding job in conducting the hearings and bringing out a lot of facts and figures, I think we should consider.

The right of American citizens in good standing to participate in our political system is a very serious and important right—a right that if restricted at all should be restricted only to the extent necessary to prevent more profound violations of other rights from occurring .

The Hatch Act prohibits most Federal civilian and postal employees from being politically active. It was enacted in the 1930's in order to "protect" employees.

That was good. There were a lot of abuses back in those days. Despite its curtailment of first amendment rights, which was admitted, the act passed quickly. This would be almost unthinkable today. The Hatch Act did not even have any hearings when it was passed, following disclosure that appointees in the Public Works Administration had coerced relief workers into making political contributions in return for their jobs. That was an abuse, and there is no doubt about it.

But today I think we all know that Federal jobs are no longer synonymous with patronage jobs, nor do we wish to see them returned to that. We want to see protections remain, though we have a very different kind of professional civil service today, a merit system. We estimate that when this was passed about three-quarters of the Government employees had no protection whatsoever and only about one-fourth really received any protection. Three-quarters of the Federal work force needed the Hatch Act.

With the advance of civil service in the intervening years what do we find now? Well, we find it just the opposite.

We find that about three-quarters of the governmental employees are adequately protected without the Hatch Act. They have redress and grievance procedures that protect them quite well. But we do not want to dispense with the Hatch Act altogether. I would not want to do that, because one-quarter of the people still need protection, and we want to have that kind of protection.

We do have dramatically different kind of professional civil service today. I think that a compelling case can be made for revamping restrictions on the political liberties of this work force. However, too dramatic a change in the Hatch Act might serve to, once again, politicize the civil service system. That is why I would counsel that we proceed with caution.

What we really face is a balancing act. We must balance the integrity of the Federal work force with the equally important constitutional concerns to ensure the right to political participation, something fundamentally American.

The pending amendment that Senator DECONCINI has offered is identical, word for word, to legislation, reported out of the Governmental Affairs Committee earlier this year. We hoped that it would come up as a freestanding bill so we could debate this, but it was impossible to schedule.

I have written a letter to Senator BYRD trying to get it scheduled. Senator DECONCINI, I know, did exactly the same thing. We were unable to get it scheduled on the floor at an earlier time. This was not sprung on us in the middle of the night, as the distinguished minority leader said. This has been on the calendar and available for action for several months now. It is identical to H.R. 3400.

It would continue current law prohibitions against running for partisan political office. However, it would allow Federal employees to run for office within party organizations or affiliated groups. In other words, an employee could be, for example, a convention delegate.

It would continue the current law prohibitions against Federal and Postal employees soliciting campaign contributions from the general public. However, they would be allowed to actively participate in other ways. For example, a Federal worker could work in a partisan voter registration drive, could wave a political poster at a rally, or host a meet-the-candidate coffee hour in his or her home, something that they cannot do now under the Hatch Act. These are just basic rights that other Americans take for granted.

Mr. President, once we got into this in committee, it turned out that there were 900 or maybe it was 1,200 different regulations under the Hatch Act. Such things as limiting the size of posters that can be put on a front lawn were included. Just some ridiculous extremes. Everyone admitted, even those who do not want to see the Hatch Act changed dramatically, that many of the rules and regulations promulgated under this act are just ridiculous. They are ludicrous. They make a mockery of our whole system.

I think it is time to change this system and get back to something that is more realistic. As I say, I started out this year feeling I did not want to see any changes in the Hatch Act. We got into it in committee and looked into it in detail—I think if all of our colleagues would just look at that committee record they would find that they, too, might be convinced that we need to change the Hatch Act. We have switched now to where about three-quarters of the Government employees do in fact have adequate protection. They do not need the Hatch Act.

We do not want to toss it out. I would not toss it in the ashcan at all. I would keep it for that one-quarter of employees that need it. But we do need to change these regulations that just make a mockery out of the first amendment and out of the political rights that we take for granted.

So I am aware of what the situation is tonight; that there may be extended debate, or extended discussion about this if we continue. I am aware the hour is late. I do not wish to contribute to that lengthening of time.

I realize that Senator DECONCINI does not expect that this will be passed into law tonight. But I am glad he has brought this up. I wish to congratulate him for it. I am glad to support his efforts wherever it leads us this evening. Whether or not we pass this into law tonight, certainly we need to guarantee all the people in the country, including Government employees, the right that every citizen in this country expects.

I yield the floor.

Mr. HATFIELD. Mr. President, if any of our membership studies carefully some of the surveys and some of the indepth studies about why the public has lost confidence in its political institutions, and particularly the Congress, I think we have an opportunity to redeem ourselves, at least some degree, tonight. We have an opportunity to honor a man who is leaving the Senate after this session in retirement who has made a most distinguished record, probably equaled by none. He happens to be the chairman of the Appropriations Committee, Senator STENNIS of Mississippi.

For in about 33 minutes, the fiscal year ends. There is no other issue on this particular appropriation measure. We can then go to the legislative appropriation measure and dispose of it, because we know of no major controversy on it, and we could complete in the U.S. Senate the Nation's business on appropriating 13 appropriation bills before the end of the fiscal year as a tribute and honor to Senator STENNIS. Or we can fiddle around here doing this type of thing that will lead nowhere.

The House of Representatives, even if we pass this—and I subscribe to everything the Senator from Ohio said about the Hatch Act. I support it. but let us be realistic. I doubt if it would even get out of this Chamber tonight. But, if it did, the House of Representatives rules would preclude it from even being considered. And then we are back into the old—I will not use the word—we are back into the fertilizer in which we find ourselves time after time because we get the same old business of raising amendments on an appropriations bill that is legislative in character and really should not be considered.

I do not care whether it is abortion or school prayer or the Hatch Act. None of them should be on an appropriations measure.

So all I say is, I plead with my colleagues that we can finish the 13 appropriations bills for the first time in the memory of the majority of this Senate before the end of the fiscal year. And it can be a great tribute to the man who brought this about in his leadership as chairman of the Appropriations Committee.

I would urge that we do this as not only a way to redeem our status within the general public about being totally irresponsible here in the Congress—and they are watching us and they know far more than perhaps we realize they know about our conduct and about the way we conduct the Nation's business. I get tired of having the Appropriations Committee founded as a fault of the poor way we conduct the Nation's business. We get the blame year in and year out. "Well, the appropriators have another continuing resolution."

But this year, under Chariman STENNIS, for the first time we have an opportunity to finish the Nation's business within the next few minutes. Please, let us get this done in an orderly fashion when we have the opportunity and, at the same time, to send JOHN STENNIS back to Mississippi with a crown that could not be equaled by anybody in the memory of anyone here.

Several Senators addressed the Chair.

THE PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I appreciate the statement of the Senator from Oregon. I have great respect for the Senator from Mississippi, as everyone knows.

I have opposed the amendments that have been previously offered to the Senate by the Senator from Washington. I do not see him here right now, but I think we should keep in mind that one of the reasons we are going to send 13 separate appropriations bills to the President has been the Senator from Washington, who is also retiring. He has tried to valiantly split up these continuing resolutions and make them back into separate bills which we have done because we knew the President said he would veto any continuing resolution. And I believe he would veto any continuing resolution. But, be that as it may, the Senator from Arizona, in his wisdom, has seen fit to offer this bill. It is a bill that I have worked on now for 20 years, and I would be most happy to try to work it out tonight with anyone who wants to come up with the amendments I have heard about, as I indicated.

There were some statements that were not precisely correct concerning what this bill does. It differs from the House bill in many respects. It is a bill which will, I think, clarify the relationship of Federal employees to the political process.

It would not allow political activities on the job and provides very stringent penalties for anyone who does conduct political activities on the job. For instance, including the wearing of buttons—which, incidentally, is allowed under current law, would be prohibited by this. Political activity after hours, when one is on one's own time, would be permitted.

But it is a bill that I think will properly define the relationship of political appointees; for instance, it might interest the Senate—certain employees, those paid from the appropriations from the Executive Office of the President or those appointed by the President with the advice and consent of the Senate would be exempt from the provisions of the Hatch Act restrictions so long as the costs associated with that activity are not paid from the Treasury. The penalties under this title are increased to $5,000 or imprisonment up to 3 years for conducting prohibited activities, including coercion of an employee to engage in political activities or the action that might prohibit an employee from conducting the activities authorized by this act.

As I said, it would change substantially the bill that came to us from the House, and for the first time, I think, would be a bill that I think ought to be signed. It would not apply to the current election, I might add. It would not become effective until January 1, 1989. And there is time for us to consider this at length later if the comments of the Senator from Oregon are pursued.

But if it is here, I would like to see people who have asked questions about it pursue it while it is on the floor, before the Senate, so we might explain the changes that would be proposed would be put into law by this proposal.

For instance, at the current time, a Federal employee cannot participate in party activities at any level; cannot be a delegate to a State convention, cannot be a delegate to a national convention. This would allow that, but at the same time it would prohibit activities that are currently authorized under existing law. And I think it is a bill that meets the proper balance for public employees, Federal employees and the relationship to the Government.

I do not know if anyone has any question.

Does the Senator from Wisconsin seek the floor?

Mr. PROXMIRE. I seek the floor, yes.

Mr. STEVENS. I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I have before me the House-passed drug bill and I understand, parliamentary inquiry, can I amend the DeConcini amendment in the second degree?

The PRESIDING OFFICER. The Senator has that right.

Mr. DOLE. I am not going to do it. But I want to point out the folly of what is going on here right now.

We can amend it with the House-passed drug bill, a pretty good bill. I have not read it myself but I heard a lot about it. And that would take some time to dispose of that. But I stil want to accommodate the majority leader and all the other Senators on the Appropriations Committees who have worked so hard to get this done and I am not going to offer this but I could right now.

I have the floor. Nobody can take me off my feet. But in the spirit of trying to complete action on the appropriation bills as pointed out by the Senator from Oregon, I understand the Senator from Wisconsin will move to table the bill. I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I am going to move to table the bill. Before I say that, let me say the DeConcini amendment has great merit. The reform of the Hatch Act is long overdue but it is totally irrelevant to this bill. If we start down this path we are going to be here until 5 o'clock in the morning or all day tomorrow or all next week and we are not going to do what we had earnestly hoped we would do, complete all the appropriations bills and send them separately to the President.

Therefore, Mr. President, I move to table the DeConcini amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Wisconsin moves to table the amendment. Is there a request for the yeas and nays.

Mr. DECONCINI. I ask for the yeas and nays.

Mr. BYRD. Let us have a voice vote.

Mr. DECONCINI. I ask for the yeas and nays, Mr. President.

Mr. BYRD. Let us have a voice vote. We have 25 minutes, we have two conference reports and we have a message coming back from the House on the foreign ops bill.

Mr. DECONCINI. I ask to have a vote on this. I ask for the yeas and nays.

Mr. BYRD. Let us get a voice vote.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

The motion to table has been offered by the Senator from Wisconsin. The question is on agreeing to the motion to table.

The motion to table the amendment No. 3348 was agreed to.

Mr. HARKIN. I move to reconsider the vote by which the motion was agreed to.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I move the Senate concur in the amendment of the House to Senate amendment No. 29.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. NICKLES. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. HUMPHREY. Mr. President, as the Senate sponsor of the abortion language adopted by the House, I would like to make several points for the record.

This language concurs exactly with the language of the Federal Medicaid Program Hyde amendment. It was my intention that this amendment be subject to the same interpretation as the Hyde amendment.

The Hyde amendment allows Medicaid reimbursement for abortion only where the life of the mother would be endangered if the fetus were carried to term. That means, only where the physician certifies in writing that a pregnant women suffers from a grave physical disorder or disease which would, with reasonable medical certainty, cause the death of that woman if an abortion is not performed.

Further, the Hyde amendment, and similarly this amendment as applied to the District of Columbia, prohibits the Government from expending any funds whatsoever on performing abortions—surgically, chemically, or otherwise—or on expense directly related to the abortion. Such expenses under the Hyde amendment have been interpreted to include laboratory services—both preabortion and postabortion—hospital and nursing services, hospitalization costs, drugs, anesthetics, or administrative expenses directly related to the performance of abortions.

Finally, my understanding of this language is that it prevents a government agency from administering a program under which abortions are reimbursed with funds from private sources, a voluntary tax checkoff, or similar scheme. Obviously, Government administration of such a program would effectively involve expenditure of public funds to provide abortion.

Mr. HARKIN. Mr. President, I strongly believe that revisions to the Hatch Act are long overdue. Federal employees make many sacrifices to serve their Government, ranging from restricted labor rights to lower pay than that available in the private sector. I would hope that the Congress will continue to strive to erase those discrepancies, for citizens should not be punished for dedicating their lives to Government service.

Despite the very nature of the material sacrifices made by Government employees, there is a more fundamental, if less tangible, sacrifice made by these individuals. In a democracy, no right is more important than the right to participate in the political process. And since the enactment of the Hatch Act in 1939, Government employees have been denied that most fundamental democratic right.

No one can disagree with the Hatch Act's goal of protecting Government workers from political coercion. Yet the Hatch Act goes much further than that. The tangled, confusing web of regulations under the act have prevented thousands upon thousands of Federal workers from voluntarily participating in our political process.

As my colleagues are aware, my State of Iowa is the home of the first Presidential caucuses in the Nation. Last winter, I received scores of calls from Iowans covered by the Hatch Act who were uncertain if they were allowed to participate in those exciting manifestations of grassroots politics and Government. I can only wonder how many more simply stayed home, assuming they were prohibited from participating in Iowa's Presidential caucuses.

Let me share with my colleagues another example of the confusing regulations spawned by the Hatch Act. A couple weeks ago, I met with Ray Harwood of the Iowa Letter Carriers Association. In the course of our discussion, Ray told me that under the Hatch Act, he could display a political bumpersticker on his car and a political yardsign on his lawn—both political activities common to many Americans. Yet under the Hatch Act regulations, the yardsign is not allowed to be as large as is the bumpersticker.

This is just one example of the ludicrous turns and twists that the Hatch Act has taken. And the net effect of this confusion is that many Federal employees do not even exercise the very limited political rights they have under the Hatch Act.

The other body has taken an important step toward resolving this problem by the passage of H.R. 3400. And I commend my colleagues who serve on the Senate Committee on Government Affairs for approving their version of Hatch Act revision. I would particularly commend the Senator from Arkansas [Mr. PRYOR,] the Senator from Alaska [Mr. STEVENS] and the chairman, Mr. GLENN.

I would also like to commend the Senator from Arizona [Mr. DECONCINI] for bringing this issue before the full Senate for consideration.

Having said that, Mr. President, as manager of the District of Columbia appropriations measure, I find myself in somewhat of a difficult position regarding the amendment by the Senator from Arizona.

Ms. MIKULSKI. Mr. President, I rise today in strong support of the amendment offered by the distinguished Senator from Arizona that would provide for the long-needed reform of the Hatch Act.

In a little more than a month, Americans will go to the polls and cast their vote for President and Vice President. But in the weeks and months preceding this important day, several million loyal, hard-working and dedicated Americans will be unable to exercise their complete political freedoms because of the current requirements of the Hatch Act.

Congress "hatched" Federal employees in 1939 to prevent partisan-minded managers from coercing Federal employees to participate in political activities. At the time, abuses had stripped Federal employees of their individual political rights and threatened to undermine the integrity of the civil service. The Hatch Act was designed to restore and protect the political freedom of Federal employees.

In the half-century since the Hatch Act was enacted, however, it has spawned over 3,000 regulations. These regulations often are inconsistent, and lead to confusion over what types of political activities Federal employees may participate in.

Some of the more blatant inconsistencies include:

A Cabinet Secretary is exempt from the Hatch Act, and can actively campaign for a candidate, but his or her secretary is covered by the act, and therefore can't even stuff envelopes for a candidate on his or her own time;

Federal workers may wear campaign buttons, but can't host a candidate coffee in their homes;

Employees may put a bumper sticker on their car, but they can't give one to a friend;

Government workers may write a letter to the editor of one newspaper, but they can't send the same letter to five different newspapers.

Because the law is confusing, it is often overenforced, and discourages even the limited participation now technically allowed. The current Hatch Act no longer protects Federal workers—it silences them, infringing upon their first amendment rights of free speech and association.

The Hatch Act reform legislation now before us would make great strides to correct this serious problem. It succeeds in striking a balance between political freedom for individual Federal employees and a Federal workplace that is free of political activity and coercion.

We need reform that allows Federal workers—when they are off-duty and away from work—to participate in a full range of political activities.

At the same time, we must ensure that any legislation has no unintended negative consequences which could undermine the foundations of our career civil service. As we implement these needed changes, we must make sure we do not recreate the problems that led to the passage of the Hatch Act in the first place.

Opponents of overhauling the Hatch Act argue it is a revolutionary step that would politicize the Federal work force. That kind of rhetoric is both unfounded and untrue. Instead, reforms such as those contained in H.R. 3400 would clear up the present confusion. They would restore the rights of Federal workers who have been denied an opportunity to play an active role in America's political process for 50 years.

It's time to stand up for the rights of our Federal work force. So I therefore urge my colleagues in the Senate to grant political freedom to our civil service employees.

America is a nation that was founded upon the principle of liberty and the free expression of one's political preferences. Reform of the Hatch Act will guarantee those loyal Americans who have dedicated their careers to their Government that they will have the same rights and privileges of every other American—the opportunity to fully participate in the political process.

For that reason, I urge adoption of the amendment.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, has all action been completed?

The PRESIDING OFFICER. The Senator is correct.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, FISCAL YEAR 1989—CONFERENCE REPORT

Mr. BYRD. Mr. President, I submit a report of the committee of conference on H.R. 4587 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4587) making appropriations for the legislative branch for the fiscal year ending September 30, 1989, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 28, 1988.)

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, the pending business now is the legislative appropriation?

The PRESIDING OFFICER. That is correct.

Mr. DECONCINI. Thank you, Mr. President. Well, Mr. President, I was very disappointed in the last vote. I have always given the seconds to anyone in this body who has asked for the yeas and nays and I had an understanding with the chairman of the D.C. Appropriations Committee. I did not have that understanding with the majority leader, that we would have a vote on that.

Mr. President, I feel that that is unfortunate because it now puts me in a position where we had an arrangement to handle that bill in what would have been a very equitable manner. The majority leader understood what that was as did the chairman of the subcommittee. Now I am in a position where I cannot, in good faith go back, with the interests that I have in this bill, because I did not get a vote on it.

Now the legislative bill is before us and I understand that there are no amendments in disagreement. If I could ask the distinguished chairman without losing my right to the floor, ask unanimous consent that the distinguished chairman of the Legislative Committee confirm that for me?

The PRESIDING OFFICER. Will the chairman, the Senator from Arkansas, yield?

Mr. DECONCINI. Without losing my right to the floor, will the distinguished chairman confirm? Are there any amendments in disagreement?

Mr. BUMPERS. No amendments in disagreement.

Mr. DECONCINI. Then, Mr. Chairman, it puts me in the position that I am frozen out. I am not one that causes undue problems around here.

I can talk. I could talk well into the hour if that was my nature. But I am not vindictive. But I want my colleagues to know that I am disappointed that they would not give this Senator the courtesy that I always give to this body in granting the yeas and nays of a vote.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I am pleased to bring this conference report back to the Senate. The bill contains a total of $1.8 billion which is 3 percent above last year's total but more than $160 million below the amounts requested.

In addition to amounts provided for the operation of the Senate and House of Representatives the bill contains funds for the various joint committees and congressional support agencies.

This year we have also provided $775,000 for the Joint Committee on Inaugural Ceremonies of 1989, which will provide the necessary funds for the construction of the inaugural platform and other expenses of the ceremonies.

The House agreed to include funds recommended by the Senate to continue important work that the Office of Technology Assessment is doing in the area of health adolescent behavior and $332,000 for work on climate modification, the greenhouse effect. In addition we have continued the availability of funds previously appropriated for the Biomedical Ethics Board through fiscal year 1989. This Board has now been formed and had its first meeting earlier this week.

The conferees have agreed to the Senate provision which allows the Library of Congress to double its capacity to preserve books by microfilming. The statement that accompanies this conference report also directs the Library to seek ways to support the proposed "Encyclopedia of Congress" project, in connection with the bicentennial of the Congress, through the use of existing funds.

Mr. President, the most difficult item we had to deal with in conference was the official mail account. This account provides for payment to the Postal Service for the use of the frank. The appropriation creates a large pool of funds that each House can draw on to pay for mailings to their constituents. The problem is that over the last 10 years the House has used an average of 63 percent of the money available.

As we all know, the Senate Rules Committee places limits on the amount that each Senator can use. The House, however, has no such limitation. Because we must respond to the estimates of the Postal Service on the costs of this program, and they have submitted an updated estimate for fiscal year 1989 that is $17 million more than their original estimate, we receded to the House of this item. We did insist on report language that urges the appropriate authorizing committees to look into the possibility of providing separate allocations for each body from this account.

Mr. President, the conference is recommending a total of $340,677,200 for the operations of the Senate in fiscal year 1989. This represents an increase of only $3,363,200 or 1 percent over fiscal year 1988.

The major changes from the current year include the transfer of the administrative, clerical and legislative assistance to Senators' account together with related agency contributions amount and the official office expense allowance to a new account under the contingent fund entitled "The Senators' Official Personnel and Office Expense Account." The recommendation for this account is $151,065,000.

In keeping with long standing policy, the bill contains the amount recommended by the House of Representatives for its activities without change; a total of $505,710,000.

The conferees have also agreed to language that will combine the two Capitol Police salary accounts. The Capitol Police Board will submit a proposal to the proper authorizing committees by January 1, 1989. This change when finally approved, will for the first time, place all of the police personnel in one account where the whole Congress can scrutinize its total personnel complement. It also makes the Police Board, made up of the two Sergeant at Arms and the Architect of the Capitol, accountable for all police activity. This move is essential if we are to finally have a true professional police force and have a comprehensive, national security plan for the Capitol complex.

We provide no additional funds for cost of living increases that may be granted next year. Those sums would have to be absorbed within available funds.

Mr. President, this conference report also provides for the establishment of the John C. Stennis Center for Public Service Training and Development at Mississippi State University. This center will honor Senator STENNIS who will be retiring at the end of this Congress after more than 40 years in the Senate.

Mr. President, that concludes my remarks, I want to thank the House conferees, led by Representatives VIC FAZIO and JERRY LEWIS, for their help and fairness in resolving what few matters divided us. My thanks also to my colleagues on the Senate conferenced, and particularly Senator GRASSLEY, our ranking member, who was always there and helped us reach this conference agreement.

Mr. President, I yield the floor.

I yield to my distinguished ranking member, Senator GRASSLEY.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I associate myself with the remarks of the Senator from Arkansas and congratulate him on his leadership.

Mr. President, I thank my colleague, Mr. BUMPERS for his excellent leadership in chairing the Legislative Branch Appropriations Subcommittee. It has been a pleasure to serve with Mr. BUMPERS, as ranking member of this committee, throughout the 100th Congress.

I am pleased, for the most part, with this bill that is now before the Senate. I suspect that most members of this body anticipate an easy debate and an easy vote on the conference report for the legislative branch appropriations. Indeed, most conference reports generate little controversy on the Senate floor.

There are, however, a couple of things I wish to discuss. Acceptance of this conference report, perhaps, shouldn't be so cut and dry.

Mr. President, it took 4 months from the time the House and Senate appointed the conferees to this bill until the time the conference committee finally met just this past Wednesday.

The House passed H.R. 4587, the legislative branch appropriations bill, on May 19 and the Senate passed it on June 14.

This Senator, as ranking member of this Appropriations Subcommittee, was ready to conference for 4 months. This Senator has been anxious to proceed with the deliberations.

There are several reasons I wanted to proceed in a more timely fashion. For one, the Congress failed to complete a single appropriations bill last year. The President was presented a most ungainly package of documents, which we shamefully called a continuing resolution. By advancing the appropriation bills for fiscal year 1989 in an expeditious manner, I had been optimistic that that scene would not recur.

I was also optimistic that Members of Congress would be given ample time to review appropriations bills before required to act on them. In order to do our job of making laws, it is essential that we be allowed sufficient time to study the legislation under consideration.

I am sure that many of my colleagues in the Senate have also been anxious to work on the appropriations bills. This may particularly apply to the legislative branch bill, as in previous years it served as a precedent for the remaining 12 bills.

I will even hazard to suggest, Mr. President, that many of my colleagues here in the Senate have been anxious for the opportunity to adopt the Grassley amendment, which was contained in the legislative branch appropriations bill. After all, this body has approved that language many times during this Congress.

The Grassley amendment, of course, is the requirement that members of Congress vote on their pay raises before they can pocket them. It's very simple and very significant.

Mr. President, I have come before this body many times to discuss this issue, as have several of my colleagues, such as Senator PRESSLER, Senator HELMS, Senator WALLOP, and Senator HUMPHREY. I have introduced many bills and amendments dealing with congressional pay raises. In fact, I struggle, sometimes, to come up with new ways to present the case requiring a simple vote for a salary increase.

But good policy doesn't need lots of explaining—it speaks for itself. The provision dealing with the pay raise is good policy. After all, it has been approved by the Subcommittee on Legislative Branch Appropriations, the full Committee on Appropriations, and ultimately by the full Senate. This success in the Senate was duplicated for the previous fiscal year, which concludes today.

The Grassley amendment, which was stripped from the bill during the conference committee deliberations, simply asks for accountability. It just asks Congress to face its actions up front and cast a vote on its own salary increases.

Now we are destined to repeat the fiasco that was experienced only a year and a half ago when the last pay raise was given to Congress. Since the conferees allowed the Grassley amendment to fall, I urge my Senate colleagues to support an amendment by Senator PRESSLER, which will be considered at some time in the few days remaining before sine die.

The fiasco of the 1987 pay increase occurred regardless of votes of denial in both the House and the Senate. Is there any other legislation which can be enacted when both chambers vote it down? Wouldn't members of the civil service be thrilled to receive pay raises even though Congress disapproved them?

As the Senator from Ohio, Mr. GLENN, said last year of the shenanigans, "It's say no and take the dough!"

Notwithstanding the Senate's vote of 88-6 on January 29, 1987, and the House's vote, though by voice, on February 4, 1987, to reject the pay raise, all of our pay checks were increased last year by $12,100. This resulted due to a technicality in the law requiring the vote of disapproval within a scant 30 days.

I think that we could adopt a motto for the 30 day period during which we sit and wait for the pay raise to come. It goes like this:

> There is no time like the present for postponing what you do not want to do.

It is just plain too convenient to postpone action on a resolution to reject the recommendations of the President and Quadrennial Commission. During the first month of a Congress, there are many procedural and organizational activities which take place, in addition to lots of scheduled recess. The 30 day time period is impractical, at best, for the first month of a new Congress.

The current method of simply waiting out 30 days in order to receive the pay raise is like an ostrich sticking its head in the sand. Only in this case, the ostrich is avoiding responsibility.

In fact, I respect those Members of Congress who forthrightly say they deserve a pay raise. There may be good reasons for pay increases, which all of us can readily recite.

For example, there is the cost of maintaining two homes, one of which must be in the costly Washington, DC, area. In addition to housing, other factors related to the cost of living in this metropolitan area are high. It can also be argued that salaries for Members of Congress should be adjusted in comparison with senior level executives in the civil service, to say nothing about the level of pay compared with the private sector.

These are valid arguments. There are probably many differences of opinion whether these are good enough, or significant enough, to warrant another salary increase. But that is what we were elected to do—to argue the point and make those tough decisions.

But, once again, this matter is not whether we should get a pay increase. This matter is that if the reasons are good enough for a pay increase, then they are good enough to go to the public and admit it.

Even the chairman of the Senate Subcommittee on Legislative Branch Appropriations, Mr. BUMPERS, said during the conference meeting that he believes the public is more concerned about the way Congress gets its money than how much it gets.

However, the Quadrennial Commission is meeting this fall. Because the Grassley amendment will not be enacted, Members will once again have their hands in the cookie jar.

It is like a little boy who is too small to reach over the kitchen counter and into the cookie jar by himself. He has to ask his mother or father for a cookie. But when the little boy gets too anxious and crawls up on the counter to get the cookies himself, without asking his mom or dad, sure enough—he will lose his balance, knock over the cookie jar, and make a mess.

Like little kids, Congress gets too anxious. Congress is prone to make a mess when it gets caught with its hands in the proverbial cookie jar. If Congress would only be big enough to admit when it wants a salary increase, like the child asking for a cookie, a big mess would be avoided.

But enough of children and cookies. Salaries earned by Members of Congress is serious stuff. This amendment, however, has nothing to do with how much Members of Congress are worth. It has to do with whether they're willing to stand up for it.

As I have said already, the members of the Quad Commission have been appointed and will soon be meeting. They must report to the President by December 15 of this year. The President will make his adjustments to the Commission's report and present them to Congress along with his budget message.

Unless we act on this process soon, we will again go through the mess we experienced in January 1987. Though the Grassley amendment is gone for this Congress, Senators may have the opportunity to correct the situation by supporting an amendment by Senator PRESSLER he plans to offer before Congress adjourns.

After all, the memory of constituent outrage over the last pay raise is vivid in my mind. I remember it quite well and really don't want Congress to invite it again so soon.

The Senate acted on the pay raise issue at least four different times this Congress. In addition to the resolution of disapproval, Senator HUMPHREY would have added an amendment to the homeless bill in April to disapprove the pay increase received by Congress. Senator BYRD substituted a measure to create a form for Members to return the pay raise.

Senator HUMPHREY repeated this endeaver in July on the emergency debt limit extension.

The Senate approved, however, an amendment identical to the one stripped from the legislative branch appropriations bill, on that late Friday night of July 31, 1987. With a vote of 84 to 4, the Senate approved the Grassley amendment, requiring a simple vote to accept future pay raises.

But, as always happens, the House wanted the Senate to recede from the Grassley amendment and the Senate obediently went along. The House cops out of the responsibility to acknowledge their pay raise.

In early 1987 when the House again took the responsibility for rejecting the pay raise, Senator Helms said:

> I want it clearly understood . . . If a cop-out occurs, it will lie like a dead cat on the door step of the House of Representatives.

The Senator from North Carolina is listening, I am afraid the stench from that dead cat has spread over to the Senate. Even though the Senate consistently approves a requirement to vote for a pay raise, the Senate easily shirks its duty and cops out to the push from the House of Representatives.

I do not believe, Mr. President, that it is in the best interests of the Senate to let the House unicamerally set congressional pay policy. But that is exactly what happens when the Senate conferees defer to the House conferees on this issue. We have allowed the Members of the House to override the Members of the Senate on the pay issue, and we have allowed them to do this without even a recorded vote.

Though I have to be careful at questioning the sincerity of my Senate colleagues, I wonder now and have wondered before how firm or genuine the Senate votes have been in support of the Grassley amendment.

Mr. President, the conferees on the legislative branch appropriations bill for fiscal year 1989 met yesterday and reached agreement on all issues. We have no amendments in disagreement, and final action on this measure will require just one vote.

The conference agreement provides a total of $1,804,624,200 in new budget authority for fiscal year 1989. Our agreement is $161,795,000 below the President's budget and only $262,000 above the Senate-passed bill. We are within our 302(b) allocation for this subcommittee. I believe we have reached a good agreement, and I urge its adoption.

There were a number of issues before the conference of interest to Senators, and I will discuss them briefly.

Of particular interest was my amendment to require a vote to affirm any congressional pay raise that might ensure from the procedures of the Federal Salary Act of 1967. I believe we should be held accountable, for our actions, and if we want a pay increase, we should vote on the matter so our constituents can judge our record. The Senate has affirmed this position on several different occasions, but the House remains absolutely adamant on the matter and the Senate receded. I am undeterred, however, and will continue to pursue the matter whenever I have the opportunity.

On another matter of particular concern to me and many other Members of this body, the conferees agreed to delete language pertaining to a drug-free workplace. We did so only because language previously included in the fiscal year 1989 Treasury appropriations bill covers the legislative branch as well, and we have included language in the statement of the managers to make that clear.

The conferees agreed to a number of new Senate items raised subsequent to passage here in the Senate. At the request of the Rules Committee, we have included a provision repealing the so-called 10-percent limitation for Senators' office expense allowances, a provision allowing emergency repair and maintenance of vehicles in the Senate garages subject to procedures established by the Rules Committee, and a provision improving procedures for meeting mailing costs from office allowances. We have also authorized the Sergeant at Arms to carryover up to $3,600,000 in fiscal year 1988 funds for computer procurements and installations, authorized the minority leader to hire two additional consultants, and allowed employees of the Senate Beauty Shop to become employees of the Senate.

The conferees agreed to increase the amount for the Joint Committee on Inaugural Ceremonies to $775,000, at the request of the committee. This level is consistent with that provided in prior years.

The conferees decided to drop proposals offered by both House and Senate to unify the Capitol Police Force under a single entity rather than having part of the force on the Senate payroll and part on the House payroll. While we believe the proposals have merit, they deserve more study before enactment. We have required the police force to submit a unified budget for fiscal year 1990. In that connection, we also dropped the proposal for a technical security countermeasures office, and directed that plans for such an office be included in the unified budget proposal.

On the official mail account, the conferees agreed to $53,926,000 as proposed by the House. Together with amounts carried over from fiscal year 1988, this should be sufficient to cover official mail costs next year. The Senate conferees felt very strongly that we ought to establish separate mail accounts for the House and the Senate, and the statement of the managers includes language urging the authorizing committees of jurisdiction to explore this possibility.

At the request of the Budget Committee, we have included language on pay absorption. A similar provision has been included in all other fiscal year 1989 appropriations bills.

The agreement provides the customary gratuities to the surviving spouses of deceased House Members. We have directed the Architect to design and create a national rose garden on the Botanic Garden grounds, within available funds. The plants themselves will be donated.

Finally, Mr. President, the conferees agreed to the Senate proposal to create the John C. Stennis Center for Public Service Training and Development. This is a fitting tribute to our chairman, who is about to close a long and distingushed career with the outstanding achievement of presiding over the passage of 13 separate appropriations bills before the October 1 beginning of the next fiscal year. That feat has not been accomplished, I believe, since Senator STENNIS' second year in this body.

Mr. President, I ask unanimous consent that a summary table be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

	Fiscal year—					Conference compared with—			
	1988 enacted	1989 estimates	House	Senate	Conference	Enacted	Estimates	House	Senate
TITLE I—CONGRESSIONAL OPERATIONS									
Senate	337,314,000	377,303,200		340,677,200	340,677,200	+3,363,200	−36,626,000	+340,677,200	
House of Representatives	513,786,500	576,355,000	505,710,000	505,710,000	506,068,000	−7,718,500	−70,287,000	+358,000	+358,000
Joint items	94,981,000	73,598,000	92,959,000	93,482,000	120,983,000	+26,002,000	+47,385,000	+28,024,000	+27,501,000
Office of Technology Assessment	16,901,000	18,321,000	17,505,000	18,203,000	17,937,000	+1,036,000	−384,000	+432,000	−266,000
Biomedical Ethics Board	250,000					−250,000			
Congressional Award Board	189,000					−189,000			
Congressional Budget Office	17,886,000	18,900,000	18,361,000	18,361,000	18,361,000	+475,000	−539,000		
Architect of the Capitol (except Library buildings and grounds)	100,565,000	128,701,000	79,554,000	103,640,000	103,640,000	+3,075,000	−25,061,000	+24,086,000	
Library of Congress:									
Congressional Research Service	43,022,000	47,889,000	44,684,000	44,684,000	44,684,000	+1,662,000	−3,205,000		
Speaker's Civic Achievement Awards Program		680,000					−680,000		
Congressional printing and binding, Government Printing Office	70,359,000	77,700,000	72,000,000	72,000,000	72,000,000	+1,641,000	−5,700,000		
John C. Stennis Center				10,000,000	7,500,000	+7,500,000	+7,500,000	+7,500,000	−2,500,000
Total, title I—congressional operations	1,195,253,500	1,319,447,200	830,773,000	1,206,757,200	1,231,850,200	+36,596,700	−87,597,000	+401,077,200	+25,093,000
TITLE II—OTHER AGENCIES									
Botanic Garden	2,221,000	2,521,000	2,521,000	2,521,000	2,521,000	+300,000			
Library of Congress (except items in title I)	192,148,000	212,595,000	199,165,000	199,560,000	199,560,000	+7,412,000	−13,035,000	+395,000	
Architect of the Capitol (Library buildings and grounds)	6,741,000	8,975,000	7,500,000	7,500,000	7,500,000	+759,000	−1,475,000		
Copyright Royalty Tribunal	129,000	127,000	123,000	123,000	123,000	−6,000	−4,000		
Government Printing Office (except congressional printing and binding)	19,162,000	26,800,000	13,731,000	13,731,000	13,731,000	−5,431,000	−13,069,000		

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	Fiscal year—		House	Senate	Conference	Conference compared with—			
	1988 enacted	1989 estimates				Enacted	Estimates	House	Senate
General Accounting Office	329,847,000	393,864,000	346,339,000	348,139,000	347,339,000	+17,492,000	−46,525,000	+1,000,000	−800,000
General Services Administration		2,000,000			2,000,000	+2,000,000		+2,000,000	+2,000,000
Total, title II—other agencies	550,248,000	646,882,000	569,379,000	571,574,000	572,774,000	+22,526,000	−74,108,000	+3,395,000	+1,200,000
Grand total, new budget (obligational) authority	1,745,501,500	1,966,329,200	1,400,152,000	1,778,331,200	1,804,624,200	+59,122,700	−161,705,000	+404,472,200	+26,293,000

Mr. BUMPERS. Mr. President, I urge the adoption of the conference report.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, this is the last conference report on the appropriations bills. The House is sending a message back to the Senate with some amendments, I believe amendments to Senate amendments on the foreign ops bill. I hope that we can get action on those as quickly as possible.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, again I would like to publicly express my appreciation to the Senate for moving ahead to complete these 13 appropriations bills.

Mr. President, I would like to just take 2 minutes to outline the fact that the Appropriations Committee is a 29-member committee. We have to get 15 in order to have a quorum and to do business. I think many of us serve on other committees of which 17 is the total membership, and we have difficulty often in getting a quorum with 17 members.

We have a professional staff, Mr. President, that has had a continuity on that committee for 12, 15, 18 years. It is a nonpartisan staff. When the majority party in 1980 lost its status and the Republicans became the majority party in the 1981 year, we continued all of those professional staff people who had been under the hire of the previous Democratic majority. And until they left on their own accord, they had jobs. We did not kick them all out and put in all new staff from the Republican majority status.

When the Democrats won again this Senate 2 years ago, the new chairman, Senator STENNIS of Mississippi, continued again these staff, and we found that they were shifting from a minority to a majority status.

So consequently I think we owe so much to that professional staff that has brought together 13 separate bills that the Senate has acted on and the conference reports to those bills sometime even before the end of the fiscal year.

Mr. President, again, let me emphasize the leadership of those 13 subcommittees, the combination of the extraordinary leadership of the chairmen of those subcommittees and the ranking members of those subcommittees. Let me say there was some adjustment, of course, going from a chairmanship to a ranking minority position, as there was 6 years ago when this happened in 1986. But you never would have felt a ripple in the functioning of the Appropriations Committee changing from majority to minority to majority again. I think that, in part, and certainly in large part is due to this tremendous professional staff. But the real key has been our chairman. Senator STENNIS had been a member of this committee over the many years that he served in the Senate. He knew that committee and he knew every subcommittee. Senator STENNIS was the continuity of that committee when I became chairman in 1981.

He had been my tutor as the chairman of the subcommittee when I first went on that committee and had the right to be a ranking member on a subcommittee. It was his chairmanship that I was tutored under. I personally owe a tremendous debt of gratitude to this extraordinary man, and I think we all do, not only from the standpoint of his performance as the chairman of that committee, getting all this accomplished before midnight, but because he has represented the history of this body. He has represented the integrity of this body. He has represented the stature of this body by his very presence. I know of few people whose presence communicates a powerful message as does the presence of JOHN STENNIS in our committee sessions and in the deliberations here on the floor.

I want to say to my chairman that it is an honor. I really felt that the 6 years that I had the title chairman that I was sort of the acting chairman with JOHN STENNIS' spirit and JOHN STENNIS' counsel and JOHN STENNIS' presence really giving me the kind of support that made it even possible for me to execute my responsibilities on that committee.

I think we all owe him a great debt of gratitude. I am so proud to be a part of a leadership that made this possible tonight and a body that cooperated to let us do this before midnight.

[Applause.]

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, it seems there are only about 3 minutes left, and I will take 1 of those. First, I want to express my deep appreciation for those very generous words of the former chairman who has just spoken. I had this thought, among others, of the deepest kind of appreciation. I started out with the late Dick Russell on the Appropriations Committee, and I am going to wind up with the former chairman. We went together, as he said, 6 years. He taught me a great deal and totally stood for the things that I think the Senate ought to stand for.

I want to personally thank him and commend him for his very, very fine work.

I am proud, and it is not really the chairman who is entitled to the credit for this year, for last year; not total credit. It was the staff members, beginning at the very newest one; the staff who worked on the actual figures; the staff that did everything. I walked right into the finest organization, in many ways, that I have seen.

We find people who put this thing together—I mean staff members in one form or another—and they are being seasoned, seasoned members of this great body that we all love. All of us try to strengthen.

Mr. President, with the passage of the conference report on the fiscal year 1989 foreign operations appropriation bill, Congress will have completed action on all 13 individual appropriation bills for fiscal year 1989. This is the first time in over a decade that 13 individual appropriation bills will have sent to the President for signature.

I understand that the last time all 13 appropriation bills were enacted into law before the beginning of the new fiscal year was 1948. I am proud of our achievement this year. It represents the hard work and extraordinary cooperation of many people, particularly those Senators who are members of the Appropriations Committee.

Mr. President, when I first came to the Senate in 1947, the Federal budget was $35 billion. This year we have a total budget of $1.1 trillion. As the amount appropriated has grown, the process of appropriating has become more complicated and more difficult.

The successful effort this year has required active involvement on the part of many people determined to avoid the pitfalls of the past. The first step was taken last year when leaders in Congress sat down with the administration and agreed on a 2-year plan requiring $76.1 billion in deficit reductions and specific levels of discretionary for fiscal years 1988 and 1989. This budget summit agreement established the levels of funding for defense, international affairs, and domestic discretionary programs at the beginning of the budget process.

I ask unanimous consent that a table which indicates that we have complied with the budget summit agreement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the Record, as follows:

SENATE COMMITTEE ON APPROPRIATIONS—COMPARISON OF BUDGET SUMMIT AGREEMENT WITH APPROPRIATIONS ACTION

[In billions of dollars]

Discretionary	Budget Summit Agreement		Congressional action	
	Budget authority	Total outlays	Budget authority	Total outlays
BUDGET SUMMIT TOTALS (Sec. 8001 of Public Law 100-203)				
Defense	299.5	294.0	299.3	294.0
Domestic and International Affairs	166.2	185.3	165.8	185.3
SUBCOMMITTEES				
Agriculture, Rural Development and Related Agencies			14.9	[1] 9.2
Commerce, Justice, State, Judiciary			14.6	[1] 14.7
Defense (including mandatory appropriations)			282.4	[1] 278.3
District of Columbia			.6	[1] .6
Energy and Water Development			18.0	[2] 17.8
Foreign Assistance			13.3	[1] 11.2
HUD-Independent Agencies			43.4	[2] 48.7
Interior			9.8	[2] 10.0
Labor, Health and Human Services, and Education			39.3	[2] 44.9
Legislative			1.8	[1] 1.8
Military Construction			9.0	[2] 8.1
Transportation			10.4	[2] 26.5
Treasury, Postal Service, General Government			8.3	[2] 8.2
Total			465.8	480.0

[1] Conference.

[2] Public Law.

Memorandum: Congressional action on appropriations bills is in compliance with Budget Summit Agreement.

Mr. STENNIS. Mr. President, I sincerely hope that similar budget agreements can be reached in the future. In my opinion, this would certainly improve the ability of Congress to consistently enact all 13 individual appropriation bills in a timely manner.

We all realize that omnibus appropriation bills and continuing resolutions are not good Government. The best interest of the Nation is not served when we scurry around at the end of the legislative session desperately seeking an interim agreement that will keep our Government going. There are too many issues of too great importance to scuttle the careful process of considering each of the appropriation bills separately. We need greater scrutiny of dollars appropriated for various programs and projects, not less. And we must work to restore the confidence of all that we can and will meet our responsibility to approve funding on time to keep our Government running without interruption.

I am confident that the process can be improved, and I urge my colleagues who will continue to have these responsibilities to diligently search for a better way.

Mr. President, let me take just a moment to expand on what I have said about the hard work that goes into putting these bills together. The subcommittee chairmen's work begins when the President submits his budget proposal in January. After the President's budget is submitted, many hours are spent in preparing for hearings with both administration witnesses and outside experts in order to gain a sense of what the priorities of the country should be. Then, of course, the bills go through the legislative process of subcommittee and full committee markups, floor debates and passage in both Houses, conference with the House, and then final approval of the conference reports by the House and Senate. Each step of this process involves many, many member and staff hours to ensure that these bills reflect the needs of our Nation.

Mr. President, it has been a real privilege and honor for me to participate in this process as a member of this committee since I became a full member in 1955. I have had an opportunity to chair, at one time or another, many of the 13 subcommittees and to work on most of the others. I have learned a lot in the process, and hope I have been able to make some contribution along the way.

I have always felt a keen sense of responsibility to the citizens of this Nation who work hard, pay their taxes, and look to us to determine our country's spending priorities. This is an awesome responsibility and a great challenge, and I am thankful to many, many people along the way who have helped me immensely as I have tried to do my part.

I want to extend my sincere thanks to all members and staff who have been so instrumental this year in accomplishing the task of passing 13 individual appropriation bills.

I have never been more proud of the returns that came in from some of the effort that I was connected with. I cannot thank you enough for your fine spirit tonight. I think it was a spirit that came over to you as it came over to me in a big way. I will not mind that it goes back to you in the same vein, all for the strength and security and glorification of this truly great system of Government that we have.

As I have said before, as I look back, the one thing over my entire adult life that I look to now as being up front and the basis for improvement in our system is the coming of women's sufferage. Another one is the election, not in my time, but I was a boy and I remember when it happened, the election of Members of the U.S. Senate, the direct election by the people. Those are the things that give us strength.

I do not want to take up too much time. Again, may God bless you and thank you from the bottom of my soul.

[Standing ovation.]

The PRESIDING OFFICER. The majority leader.

FOREIGN OPERATIONS APPROPRIATIONS, 1989—CONFERENCE REPORT

Mr. BYRD. Mr. President, the House has completed its action on the foreign operations appropriations bill, so there will be no further action required by the Senate. The House disagreed with the Senate amendment to the House amendment to the Senate amendments numbered 176 and 182, which means that the message is on its way back to the Senate. In order to beat the midnight deadline, the Senate would have to recede from its amendments to the House amendments to the Senate amendments.

Now, if the Senate waits on the message from the House on the foreign operations appropriations bill, this may mean that we would have cheated ourselves, of the record which has been much discussed this evening, and we would have cheated ourselves by our longwindedness as well as some longwindedness, I am sure, on the part of the other body. But we can still salvage this opportunity and not miss this deadline if we will agree to the following unanimous consent request, so that we will not await the House message. But if I could get unanimous-consent to this request that I am going to make, then the Senate will have achieved its goal and the House will have achieved its goal and the chairman will have achieved his goal of passing all appropriations bills before the fiscal year midnight deadline, which is 4 minutes from now. So I hope there will not be any objection. Then we will have plenty of time to solve it.

Mr. President, I ask unanimous consent that the Senate recede from its amendments to the House amendments to the Senate amendments numbered 176 and 182 en bloc on the foreign operations appropriations bill.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

Mr. PELL. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. What are the items that are being stripped from the bill?

Mr. INOUYE. Mr. President, if the Senator will yield, I can tell him.

Mr. President, the House has considered and rejected several of the Senate amendments to House amendments which were reported in technical disagreement. As I informed my colleagues earlier this evening, we were not confident that the House would accept Senate amendments which went beyond the conference agreement on H.R. 4637.

I am pleased to report that the House has accepted the Senate amendments to amendment No. 119. These amendments, which were proposed by the chairman of the Senate Foreign Relations Committee, dealt with the reauthorization of OPIC, as well as certain provisions bearing on the exclusion or deportation of aliens and on the Exchange Visitor Program of the U.S. Information Agency.

Unfortunately, the House did not accept Senate amendments to amendment No. 176 and amendment No. 182. The House did not strike the underlying amendments, but did reject the Senate amendments adopted earlier this evening.

The Senate amendment to amendment No. 176 was rejected on a point of order on the House floor. The managers on the part of the House had no choice but to strike the Senate amendment.

With respect to amendment No. 182, the House rejected the Senate provisions relating to the sale of missiles in the Middle East—an amendment which I cosponsored—as well as amendments originally proposed by Senator HELMS concerning: First, the sale of missiles and the launching of satellites by China; and second, the immunity of diplomats.

The House debated these amendments at length and ultimately sided with the Secretary of State who wrote to the House bill managers to indicate that these amendments would pose serious difficulties to the conduct of American foreign policy and place at risk our diplomats and their families serving abroad.

On the question of Chinese missile sales, the Secretary of State wrote, "The Senate's action is unnecessary and unacceptable." The Secretary also wrote to me to inform me that these issues are being addressed through high-level approaches to the Chinese, including the recent visit of Secretary Carlucci. The Secretary was most emphatic in stating, "The Senate amendment represents an infringement on the President's ability to resolve these issues in a manner satisfactory to the Congress and the administration."

On the question of diplomatic immunity, the Secretary underscored the very real danger that the proposed changes "will threaten the well-being of American diplomats around the world." For this reason, and because of "serious constitutional defects," the Secretary informed me that the President's senior advisers will recommend that the bill be vetoed if these provisions are included in the final text.

Mr. President, I believe the Senate has been well served by the airing of its concerns in debate tonight. I believe that the Senate has seized the attention of the administration of these questions of great importance. Nonetheless, I believe the time has come for the Senate to recognize that we have reached the end of the fiscal year and that this may not be the best time to attempt to legislate profound changes in the conduct of our Nation's foreign relations.

Mr. PELL. Personally, I would like not to accept those rejections, but I will abide the wishes of the leadership, the Senate, and also my colleague and partner in this, the Senator from North Carolina.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request by the majority leader? There is no objection heard by the Chair.

The consent will be effective when the message is received.

Mr. BYRD. Mr. President, I move to reconsider that action.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr President, I thank the distinguished Senator from North Carolina [Mr. HELMS], who stood with me at that desk a moment ago. He did not want to hold up, the final action on this bill. I think he made a contribution. I am sure he felt strongly about the House action, and had there been time and the circumstances were different I am confident he would have waged a valiant fight to maintain his position. I personally thank him and I thank all Senators, and I say to all of the Senators who have managed the bills and the ranking members that we can be proud of this achievement.

The last time that all appropriations bills were passed by both Houses was 11 years ago, 1977—almost 12 years ago.

MESSAGE FROM THE HOUSE ON H.R. 4637

Mr. BYRD. Mr. President, I yield for the receipt of a message from the House.

The PRESIDING OFFICER. The Senate will receive a message from the House of Representatives.

A message from the House of Representatives by Mr. Hays, one of its clerks, announced that the House agreed to the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 119 to the bill H.R. 4637, an act making appropriations for foreign operations and for other purposes.

[Applause.]

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, the messenger did his best to get the message here before 12 and he did it.

Mr. President, I was just saying that the last time the Congress has passed all appropriations bills before the fiscal year deadline was in 1977, the first year that I was majority leader.

And had the Congress passed all appropriations bills in time for the President to have signed all appropriations bills, we would have broken a 40-year record because the last time that was done was in 1948. But I think that we have done our job well, and I feel that the people of the United States will be gratified at the action of the Congress. I think they can renew their faith and confidence in this institution, and I feel grateful to all Members for the cooperation on both sides of the aisle.

I especially want to thank my good friend, BOB DOLE, the minority leader, because he has worked assiduously to help bring this about. And I would like to shake his hand.

[Applause.]

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. If the minority leader will yield, just for the record, the previous order was executed upon receipt of the message.

The Republican leader.

Mr. DOLE. Mr. President, I will just take 1 minute to express my thanks, Particularly to the majority leader, but to Chairman STENNIS, Senator JOHNSTON, Senator HATFIELD, Senator STEVENS, and to all the other Senators on both the authorizing and the appropriations committees for the outstanding work they have done.

I also express my thanks to Senator DECONCINI and Senator HELMS for accepting the will of the Senate because, if either had not done that, we would not have completed action by midnight. And I think it was worth the effort.

I hope no one feels that we were rushing too quickly.

ORDER OF PROCEDURE

Mr. DOLE. I ask the majority leader now: Will there be any more votes this morning?

Mr. BYRD. No.

Mr. DOLE. We will not be in on Saturday? It is Saturday. But we will not be in until Monday then?

Mr. BYRD. Mr. President, the United States has put a man on the Moon, and brought him home safely again. But it has yet to perfect a good public address system.

[Laughter.]

The answer to both questions is no.

HYDE MURRAY HONORED WITH SID YUDAIN AWARD

Mr. DOLE. Mr. President, One of the most respected congressional aides on Capitol Hill—Hyde Murray—was recently honored for his distinguished 30-year career on Capitol Hill.

He has been presented with the first-ever "Sid Yudain Congressional Staff Award," a new award from Roll Call that recognizes congressional staffers for their service to their office and their community.

Hyde is presently the minority counsel of the House of Representatives, a position he has held for the past five Congresses. Prior to that important task, Hyde was one of Washington's leading staff experts on agriculture, which is how the Senator from Kansas first met Hyde Murray many years ago.

For 21 years, Hyde was the minority staff director of the House Agriculture Committee. I can say from firsthand experience that he was always on top of the issues, always available to help Members on both sides of the aisle, and always willing to spend however long it took to get the job done.

Throughout that demanding assignment, Hyde was also a tireless leader for several staff organizations and always a devoted family man.

Hyde Murray has earned the respect of everyone who has ever worked with him and I just wanted to take this opportunity today to salute this hardworking, dedicated staff member and friend, and to congratulate him on his much-deserved recognition.

OCTOBER AS NATIONAL AIDS AWARENESS AND PREVENTION MONTH

Mr. GLENN. Mr. President, as an original cosponsor of Senate Joint Resolution 192, a joint resolution designating October as National AIDS Awareness and Prevention Month, I am pleased to rise and recommend its adoption by the Senate.

This legislation speaks to the need for a major national educational, informational, and public health effort to fight the AIDS epidemic. Federal researchers have predicted that the AIDS virus will likely prove fatal to everyone it infects unless drugs are developed to treat it. As scientists race against the clock to create the drugs that will allow persons with AIDS to lead normal lives, we are reminded that the simplest, cheapest, and most effective method of fighting AIDS is by educating the public on how to avoid it.

Recently, the Federal Government mailed a candid brochure, called "Understanding AIDS," to every American household. These is no question that the distribution of 107 million copies of this national mailer was a necessary part of the campaign to educate the general public. But it is not enough. We know that nearly 90 percent of the current AIDS cases represent either male homosexuals or drug abusers, or both. Blacks and Hispanics make up a disproportionate 40 percent of the current cases. Therefore, we also need effective education programs that reach persons in these specific communities and counsel them about risk reduction behaviors.

Of course, AIDS education, like all other national public health campaigns, faces major challenges. We must learn how to best grab the attention of the persons targeted for information and how to motivate them to act safely. During this learning process, there are bound to be approaches that fail. However, it is imperative that these efforts be carefully evaluated so that we can learn from them and try again.

Last week, I released a report by the General Accounting Office (GAO/PEMD-88-35) which outlines a seven-step model for AIDS health education for use by researchers, public health agencies, medical personnel, and community-based organizations to ensure that effective programs are put into operation. I requested that GAO design this model, after a Governmental Affairs Committee hearing earlier this year on the effectiveness of current AIDS education.

The GAO model draws on evidence gathered from previous public health research as well as reviews of exemplary education campaigns in the five U.S. cities hardest hit by AIDS. Key aspects of the model include: Determining the target group; selecting the media most likely to reach that group; providing the skills necessary for preventing or changing risky behavior; and specifying the intended outcome of education messages.

The GAO report also recommends that the Secretary of Health and Human Service [HHS] collect data for assessing the relative effectiveness of different parts of AIDS education programs. The GAO further recommends that Congress enact legislation requiring HHS to report to Congress on its progress in evaluating the significance of various program components.

Effective AIDS education is critical now, and will remain so even after scientists have developed a drug to treat AIDS. Recent data show that the incidence of sexually transmitted diseases is once again increasing in many parts of the Nation. From 1986 to 1987, infectious syphilis cases rose 30 percent. These facts impress upon us the need for continuing health education, even when treatment for a disease is available. In short, AIDS brutally reminds us that the job of the health educator is never finished.

I urge my colleagues to support the adoption of Senate Joint Resolution 192.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REVISED DEFERRAL OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 160

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Foreign Relations:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report one revised deferral of budget authority now totalling $20,134,291.

The deferral affects programs for the Department of State.

The details of this deferral are contained in the attached report.

RONALD REAGAN.

THE WHITE HOUSE, *September 30, 1988.*

DEFERRAL OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 161

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, was referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Energy and Natural Resources, the Committee on Labor and Human Resources, the Committee on the Judiciary, the Committee on Foreign Relations, and the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report 10 deferrals of budget authority now totalling $2,024,171,278.

The deferral affects programs in Funds Appropriated to the President, and the Departments of Agriculture, Defense, Energy, Health and Human Services, Justice, State, and Transportation.

The details of these deferrals are contained in the attached report.

RONALD REAGAN.

THE WHITE HOUSE, *September 30, 1988.*

MESSAGES FROM THE HOUSE

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 10:03 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

H.R. 4419. An act to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974; and

S.J. Res. 317. Joint resolution commemorating the bicentennial of the French Revolution and the Declaration of the Rights of Man and of the Citizen.

The enrolled bill H.R. 4419 was subsequently signed by the Acting President pro tempore [Mr. ADAMS].

The enrolled joint resolution, S.J. Res. 317, was signed on September 29, 1988 by the Acting President pro tempore [Mr. BYRD].

At 10:26 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3029. An act to designate the new Post Office Building in Gretna, Louisiana, as the "William W. Pares, Jr., Post Office Building;" and

H.R. 4443. An act to make permanent the Martin Luther King, Jr., Federal Holiday Commission.

At 12:48 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the title of the bill (H.R. 4418) to authorize appropriations for the National Science Foundation for fiscal years 1989 and 1990, and for other purposes; and that the House agrees to the amendment of the Senate to the text of the bill, with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3614. An act to authorize a study of the Hanford Reach of the Columbia River, and for other purposes;

H.R. 4272. An act to enlarge the San Francisco Bay National Wildlife Refuge;

H.R. 4529. An act extending permission for the President's Commission on White House Fellows to accept certain donations;

H.R. 4550. An act to amend title 13, United States Code, to improve the administration of the decennial censuses of population, and for other purposes;

H.R. 4557. An act to direct the Secretary of the department in which the Coast Guard is operating to require alerting and locating equipment, including emergency position indicating radio beacons, on United States uninspected vessels, and for other purposes;

H.R. 4584. An act to authorize the development of public outdoor recreation areas and facilities at Minidoka Dam in the State of Idaho;

H.R. 5001. An act to establish the Delaware Water Gap National Recreation Area Citizen Advisory Commission;

H.R. 5221. An act to amend title 38, United State Code, with respect to the housing loan program carried out under chapter 37 of such title, and for other purposes;

H.R. 5225. An act to amend title 18, United States Code, to provide penalties for the dumping of hospital wastes in the high seas, and for other purposes;

H.R. 5287. An act to establish the Panama Canal Commission Compensation Fund to provide for the accumulation of funds to meet the Panama Canal Commission's obligations under chapter 81 of title 5, United States Code, and for other purposes; and

H.R. 5325. An act to establish a commission to review and make recommendations for the improvement of the Federal crop insurance program.

At 2:47 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4781) making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 44, 84, 85, 88, 93, 105, 112, 113, 171, and 187 to the bill, and agrees thereto; and it recedes from its disagreement to the amendments of the Senate numbered 1, 19, 21, 23, 35, 36, 42, 45, 49, 50, 60, 61, 71, 72, 73, 77, 78, 80, 81, 83, 87, 89, 102, 103, 104, 106, 108, 128, 131, 138, 179, 186, 192, 195, 206, 208, 209, 210, 220, 227, 228, 229, 230, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 247, 248, 249, 250, 252, 253, 254, 256, 257, 258, 259, 260, 261, 263, 264, 269, 270, 271, 272, 273, 274, 275, and 277 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate.

H.R. 4919. An act to approve the governing international fisheries agreement between the United States and the Union of Soviet Socialist Republics.

At 6:38 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4776) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1989, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 6, 23, 25, 27, and 28 to the bill, and agrees thereto, and it recedes from its disagreement to the amendments of the Senate numbered 3, 12, 15, 19, 21, 22, 24, 26, and 29 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1720) to replace the existing AFDC Program with a new Family Support Program which emphasizes work, child support, and need-based family support supplements, to amend title IV of the Social Security Act to encourage and assist needy children and parents under the new program to obtain the education, training, and employment needed to avoid long-term welfare dependence, and to make other necessary improvements to assure the the new program will be more effective in achieving its objectives.

The message further announced that the House has agrees to the following concurrent resolution, without amendment:

S. Con. Res. 148. A concurrent resolution to correct technical errors in the enrollment of the bill H.R. 1720.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 2952. An act to increase the amount authorized to be appropriated for acquisition at the Women's Rights National Historical Park;

H.R. 3977. An act to authorize appropriations for the Mining and Mineral Resources Research Institute Act for fiscal years 1990 through 1993; and

H.R. 4457. An act to create a national park at Natchez, Mississippi.

The enrolled bills were subsequently signed by the President pro tempore (Mr. STENNIS).

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 9:57 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 4784. An act making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes;

H.R. 4998. An act to amend the Food Stamp Act of 1977 to make technical corrections in the Family Independence Demonstration Project; and

H.J. Res. 576. Joint resolution designating February 19 through 25, 1989, as "National Visiting Nurse Associations Week".

The enrolled bills and joint resolution were subsequently signed by the President pro tempore (Mr. STENNIS).

At 11:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House had passed the following bill, without amendment:

S. 2846. An act to provide for the awarding of grants for the purchase of drugs used in the treatment of AIDS.

At 11:58 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 119 to the bill (H.R. 4637) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes; and that it disagrees to the amendments of the Senate to the amendments of the House to the amendments of the Senate numbered 176 and 182 to the bill.

The message also announced that the House agrees to the amendments of the Senate to the amendments of the House to the amendments of the Senate numbered 89 and 252 to the bill (H.R. 4781) making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes.

The message further announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate.

S. 1693. An act to amend the National Trails System Act to provide for a study of the Coronado Trail, and for other purposes.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 2018. An act to expand the boundaries of the Congaree Swamp National Monument, to designate wilderness therein, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 322. A concurrent resolution recognizing the loyalty and dedication of the American and Panamanian employees of the Panama Canal Commission during the current political unrest in the Republic of Panama.

ENROLLED BILLS SIGNED

At 12:39 a.m. (on October 1, 1988), a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 4587. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1989, and for other purposes;

H.R. 4537. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes;

H.R. 4776. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1989, and for other purposes; and

H.R. 4781. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore [Mr. STENNIS].

MEASURED REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4272. An act to enlarge the San Francisco Bay National Wildlife Refuge; to the Committee on Environment and Public Works.

H.R. 4550. An act to amend title 13, United States Code, to improve the administration of the decennial censuses of population, and for other purposes; to the Committee on Government Affairs.

H.R. 4584. An act to authorize the development of public outdoor recreation areas and facilities at Minidoka Dam in the State of Idaho; to the Committee on Energy and Natural Resources.

H.R. 5001. An act to establish the Delaware Water Gap National Recreation Area Citizen Advisory Commission; to the Committee on Energy and Natural Resources.

H.R. 5221. An act to amend title 38, United States Code, with respect to the housing loan program carried out under chapter 37 of such title, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 5225. An act to amend title 18, United States Code, to provide penaltites for dumping of hospital wastes in the high seas, and for other purposes; to the Committee on Environment and Public Works.

H.R. 5325. An act to establish a commission to review and make recommendations for the improvement of the Federal Crop Insurance Program; to the Committee on Agriculture, Nutrition, and Forestry.

The following bills previously received from the House of Representatives were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2109. An act for the relief of Rosa Pratts; to the Committee on the Judiciary.

H.R. 2461. An act for the relief of Milena Mesin and Bozena Mesin; to the Committee on the Judiciary.

H.R. 2511. An act for the relief of Tarek Mohamad Mahmoud; to the Committee on the Judiciary.

H.R. 3238. An act for the relief of Maria Linda Sy Gonzalez; to the Committee on the Judiciary.

H.R. 3414. An act for the relief of Meenakshiben P. Patel; to the Committee on the Judiciary.

H.R. 3917. An act for the relief of Rajani Lal; to the Committee on the Judiciary.

MEASURE PLACED ON THE CALENDAR

The Committee on Energy and Natural Resources was discharged from the further consideration of the following bills, which were placed on the calendar:

H.R. 4362. An act to amend section 3 of the Act of June 14, 1926, as amended, (43 U.S.C. 869.2), to authorize the issuance of patents with a limited reverter provision of lands devoted to solid waste disposal, and for other purposes.

S. 1549. A bill to increase the authorization ceiling for the Closed Basin Division, San Luis Valley Project, Colorado.

The following bills, previously received from the House of Representatives for concurrence, were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 5334. An act to make certain technical and conforming amendments to the Education of the Handicapped Act and the Rehabilitation Act of 1973, and for other purposes; and

H.R. 5232. An act to grant the consent of the Congress to the Southwestern Low Level Radioactive Waste Disposal Compact.

Pursuant to the order of September 30, 1988, the following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4529. An act extending permission for the President's Commission on White House Fellows to accept certain donations;

Pursuant to the order of September 28, 1988, the following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4189. An act to authorize appropriations to carry out the Marine Mammal Protection Act of 1972 for fiscal years 1989 through 1993;

H.R. 4557. An act to direct the Secretary of the department in which the Coast

Guard is operating to require alerting and locating equipment, including emergency position indicating radio beacons, on United States uninspected vessels, and for other purposes;

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3614. An act to authorize a study of the Hanford Reach of the Columbia River, and for other purposes;

H.R. 5337. An act to provide for the imposition of sanctions on Iraq.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, September 30, 1988, he had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 317. Joint resolution commemorating the bicentennial of the French Revolution and the Declaration of the Rights of Man and of the Citizen.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works, with amendments:

H.R. 4030. A bill to strengthen certain fish and wildlife laws (Rept. No. 100-563).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2723. A bill to partition certain reservation lands between the Hoopa Valley Tribe and the Yurok Indians, to clarify the use of tribal timber proceeds, and for other purposes (Rept. No. 100-564).

By Mr. INOUYE, from the Select Committee on Indian Affairs, without amendment and an amended preamble:

S. Con. Res. 76. A concurrent resolution to acknowledge the contribution of the Iroquois Confederacy of Nations to the Development of the United States Constitution and to reaffirm the continuing government-to-government relationship between Indian tribes and the United States established in the Constitution (Rept. No. 100-565).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

H.R. 4068. A bill to amend the Archaeological Resources Protection Act of 1979 to strengthen the enforcement provisions of that Act, and for other purposes (Rept. No. 100-566).

By Mr. BURDICK, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

H.R. 791. A bill to authorize the water resources research activities of the United States Geological Survey, and for other purposes (Rept. No. 100-567).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 850. A bill to amend the Wild and Scenic Rivers Act to designate a segment of the Rio Chama River in New Mexico as a component of the National Wild and Scenic Rivers Systems (Rept. No. 100-568).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 1985. A bill to improve the protection and management of archeological resources on federal land (Rept. No. 100-569).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2148. A bill to amend the Wild and Scenic Rivers Act of 1968, and for other purposes (Rept. No. 100-570).

S. 2264. A bill to authorize the Secretary of the Interior to exchange certain Federal mining rights for certain lands in New Mexico (Rept. No. 100-571).

S. 2545. A bill to redesignate Salinas National Monument in the State of New Mexico, and for other purposes (Rept. No. 100-572).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment:

S. 2617. A bill to revise the boundary of Aztec Ruins National Monument in the State of New Mexico, and for other purposes (Rept. No. 100-573).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment and an amendment to the title:

S. 2750. A bill to authorize a study on wetlands to commemorate the nationally significant contributions of Georgia O'Keefe (Rept. No. 100-574).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 2767. A bill to authorize a study of the history and culture of Warm Springs, New Mexico, in order to preserve its historic and cultural legacy for future generations (Rept. No. 100-575).

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute:

S. 2571. A bill to designate certain National Forest System lands in the State of Oklahoma for inclusion in the National Wilderness Preservation System, create the Winding Stair Mountain National Recreation and Wilderness Area, and for other purposes (Rept. No. 100-576).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

H.R. 2677. A bill to establish procedures for review of tribal constitutions and bylaws or amendments thereto pursuant to the Act of June 18, 1934 (48 Stat. 987) (Rept. No. 100-577).

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 2838. A bill to designate the Sipsey River as a component of the National Wild and Scenic Rivers System, to designate certain areas as additions to the Sipsey Wilderness, to designate certain areas as additions to the Cheaha Wilderness, and to preserve over thirty thousand acres of pristine natural treasures in the Bankhead National Forest for the aesthetic and recreational benefit of future generations of Alabamians, and for other purposes (Rept. No. 100-578).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2672. A bill to provide Federal recognition for the Lumbee Tribe of North Carolina (Rept. No. 100-579).

S. 136. A bill to improve the health status of Native Hawaiians, and for other purposes (Rept. No. 100-580).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with amendments:

H.R. 3621. A bill to declare that certain lands located in California and held by the Secretary of the Interior are lands held in trust for the benefit of certain bands of Indians and to declare such lands to be part of the reservation with which they are contiguous (Rept. No. 100-581).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2752. A bill to declare that certain lands be held in trust for the Quinault Indian Nation, and for other purposes (Rept. No. 100-582).

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

H.R. 2985. A bill to designate the facility of the United States Postal Service located at 850 Newark Turnpike in Kearny, New Jersey, as the "Dominick V. Daniels Postal Facility".

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment and an amended preamble:

S. Res. 412. A resolution expressing the sense of the Senate with regard to the use of degradable products.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works:

James R. Curtiss, of Maryland, to be a Member of the Nuclear Regulatory Commission for the term of 5 years expiring June 30, 1993.

(The above nomination was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate).

By Mr. PELL, from the Committee on Foreign Relations:

Treaty Doc. 100-8. Treaty Between the United State of America and the United Kingdom of Great Britain and Northern Ireland concerning the Cayman Islands relating the Mutual Legal Assistance in Criminal Matters (Exec. Rept. No. 100-26).

Treaty Doc. 100-13. Treaty on Cooperation between the United States of America and the United Mexican States for Mutual Legal Assistance (Exec. Rept. No. 100-27).

Treaty Doc. 100-14. Treaty between the Government of the United States of America and the Government of Canada on Mutual Legal Assistance (Exec. Rept. No. 100-28).

Treaty Doc. 100-16. Treaty between the United States of America and the Kingdom of Belgium on Mutual Legal Assistance on Criminal Matters (Exec. Rept. No. 100-29).

Treaty Doc. 100-17. Treaty between the United States of America and the Commonwealth of the Bahamas on Mutual Legal Assistance in Criminal Matters (Exec. Rept. No. 100-30).

Treaty Doc. 100-18. Treaty between the Government of the United States of America and the Government of the Kingdom of Thailand on Mutual Assistance in Criminal Matters (Exec. Rept. No. 100-31).

TEXTS OF RESOLUTIONS OF ADVISE AND CONSENT TO RATIFICATION AS REPORTED BY THE COMMITTEE ON FOREIGN RELATIONS

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty between the United

States of America and the United Kingdom of Great Britain and Northern Ireland concerning the Cayman Islands relating to Mutual Legal Assistance in Criminal Matters with Protocol, signed at Grand Cayman, Cayman Islands on July 3, 1986, together with related notes exchanged at London the same day.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty between the United States of America and the United Mexican States for Mutual Legal Assistance, signed at Mexico City on December 9, 1987.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty between the United States of America and the Government of Canada on Mutual Legal Assistance in Criminal Matters, with Annex, signed at Quebec City on March 18, 1985.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty between the United States of America and the Kingdom of Belgium on Mutual Legal Assistance in Criminal Matters, signed at Washington on January 28, 1988.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty between the United States of America and the Commonwealth of The Bahamas on Mutual Assistance in Criminal Matters, signed at Nassau on June 12 and August 18, 1987 with related notes.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty between the United States of America and the Government of the Kingdom of Thailand on Mutual Assistance in Criminal Matters, signed at Bangkok on March 19, 1986.

By Mr. INOUYE, from the Select Committee on Indian Affairs:

Herman Agoyo, of New Mexico, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term of years prescribed by Public Law 99-498 of October 17, 1986; and

Thomas A. Thompson, of Montana, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term of years prescribed by Public Law 99-498 of October 17, 1986.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. REID:

S. 2847. A bill to transfer certain real property to the City of North Las Vegas, Nevada; to the Committee on Energy and Natural Resources.

By Mr. PELL.

S. 2848. A bill entitled "Sanctions Against Iraqi Chemical Weapons Use Act"; to the Committee on Foreign Relations.

By Mr. BOND (for himself and Mr. DURENBERGER):

S. 2849. A bill to amend title 18 of the United States Code to stiffen the penalties for bank fraud; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. PRYOR (for himself, Mr. FOWLER, Mr. LEAHY, Mr. HELMS, Mr. EXON, Mr. MELCHER, Mr. COCHRAN, Mr. NUNN and Mr. HEFLIN):

S. 2850. A bill to amend the Egg Research and Consumer Information Act to limit the total costs that may be incurred by the Egg Board in collecting producer assessments and having an administrative staff, to eliminate egg producer refunds, and to delay the conducting of any referendum by egg producers on the elimination of such refunds; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEAHY (for himself, Mr. LUGAR, Mr. FOWLER, and Mr. BOND):

S. 2851. A bill to provide for study and research on the decline in United States forest productivity and to determine the effects of atmospheric pollutants on forest environments, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PELL (for himself and Mr. ROTH):

S.J. Res. 389. Joint resolution proposing an amendment to the Constitution of the United States relative to the commencement of the terms of office of the President, Vice President, and Members of Congress; to the Committee on the Judiciary.

By Mr. D'AMATO:

S.J. Res. 390. Joint resolution designating November 7, 1988, as "The Memorial Day for Victims of Communism"; to the Committee on the Judiciary.

By Mr. DODD (for himself and Mr. D'AMATO):

S.J. Res. 391. Joint resolution designating November 4 through 10, 1988, as the "Week of Remembrance of Kristallnacht"; to the Committee on the Judiciary.

By Mr. HARKIN (for himself, Mr. McCAIN, Mr. BYRD, Mr. DOLE, Mr. PELL, Mr. LUGAR, Mrs. KASSEBAUM, Mr. DURENBERGER, Mr. KENNEDY, Mr. GRAHAM, Mr. DODD, and Mr. SANFORD):

S.J. Res. 392. Joint resolution to express the support of the United States for the restoration of full and genuine democracy in Chile and calling upon the Government of Chile to take the steps necessary to assure that the will of the Chilean people is freely, fully, and accurately expressed in the upcoming plebiscite; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOND (for himself and Mr. DURENBERGER):

S. 2849. A bill to amend title 18 of the United States Code to stiffen the penalties for bank fraud; to the Committee on Banking, Housing, and Urban Affairs.

PENALTIES FOR BANK FRAUD

Mr. BOND. Mr. President, today I am introducing legislation which stiffens the penalties for defrauding a financial institution. One of the first issues we are going to face when we return next session is the need to recapitalize the Federal Savings and Loan Insurance Corporation fund and reform the deposit insurance system.

Mr. President, prior to my coming to the floor today after I prepared this legislation, I read in the paper statements by one of the political candidates who was attempting to make some short-term political gain out of the crisis that we face in the savings and loan industry. I found the comments of that individual particularly unconstructive and totally without foundation.

I will be happy to debate, in other forums, the responsibility and the problems that came about in the savings and loan industry. But, for today, I think we ought to focus on how we solve that problem. Truly, that problem is a major one.

The General Accounting Office has estimated that FSLIC's losses are in the $50 billion range. A very disturbing aspect of the problem is that part of the losses and insolvencies are caused by out-and-out fraud—fraud which, I think, in many instances has risen to the level of criminality. Certainly, the majority of the problems have been caused, among other things, by economic decline in certain areas of this country, including the Southwest, but there have been some flamboyant and outrageous cases of fraudulent activity.

It reflects badly on our entire financial system when a few unscrupulous individuals are able to use federally insured deposits as private slush funds. A recent report by the Office of the Comptroller of the Currency on the reasons for bank failures states that "insider abuse and fraud were significant factors in the decline of more than one third of the failed and problem banks the OCC evaluated." Similar figures are not available for savings and loans, but there have been several widely publicized prosecutions of former savings and loan operators in Texas.

According to Justice Department figures, in 1987 the FBI conducted nearly 12,000 investigations of fraud and embezzlement at financial institutions. These investigations did not all lead to prosecutions. The figures include embezzlement by employees of the financial institution and by outsiders; the majority of these crimes did not lead to the failure of the institution involved; 9,316 of the investigations involved banks, 1,993 involved savings and loan associations and 498 involved credit unions.

After a financial institution fails, the FDIC or the FSLIC conducts an investigation of the causes of the failure. If there is reason to suspect criminal violations, the case is referred to the FBI for investigation and then to the Justice Department for prosecution. These cases tend to be very complex and difficult to prove and the investigations are time consuming. In recent years, the Justice Department has moved prosecutions of those involved with the failure of financial institutions up on its list of priorities. This move is entirely appropriate. In addition, recommendations have been made to the U.S. Sentencing Commission that restitution be required of those convicted of bank fraud.

These are positive steps, but I believe that more needs to be done. Congress needs to send a powerful message that white collar criminals who steal from insured financial institutions will face stiff punishment. The legislation I am introducing today increases the maximum penalty for defrauding a financial institution from 5 years and $10,000 to 10 years and $500,000. Certainly, these maximum penalties are not appropriate in all cases, but those who have looted banks or savings and loans to fund their lavish lifestyles deserve to be dealt with severely. The taxpayers stand behind the deposit insurance funds, and thus those who steal from financial institutions are ultimately stealing from us all.

In addition to this legislation, I will be pursuing other legislative remedies in the next Congress. The Justice Department may need more resources to prosecute these fraud cases. Currently, there is an informal interagency working group on bank fraud comprised of the bank regulators, the FBI, and the Justice Department. It might be helpful to give this group a formal legislative mandate to emphasize the importance that Congress places on the prosecution of bank fraud.

Congress should not recapitalize the FSLIC without taking steps to ensure that it will never be necessary again. There are many structural reforms of the deposit insurance system that the Banking Committee should consider, but it is also important to send the message that we will not condone those losses to the insurance fund that are caused by fraud. A slap on the wrist and a short jail term are not enough punishment for those whose illegal wheeling and dealing are going to cost the taxpayers billions.

I ask unanimous consent to have printed in the RECORD a copy of the legislation and a series of articles outlining the dimensions of this problem, an article from the American Banker by Irvine Sprague, two articles from the June 20, 1988 Newsweek, one entitled "Going for Broke," and the other entitled "Loan Stars Fall in Texas;" an article from Business Week of May 18, 1987 entitled "A Wave of Embezzlement Hits Banking;" and a June 30, 1988, New York Times article entitled "Untangling a Savings Failure."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2849

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1344(a) of title 18, United States Code, is amended by striking "shall be fined not more than $10,000, or imprisoned not more than five years, or both" and inserting "shall be fined not more than $500,000, or imprisoned not more than 10 years, or both."

[From the American Banker, Aug. 12, 1988]

CRIME DOESN'T PAY—EXCEPT WHERE CERTAIN BANKERS ARE CONCERNED

(By Irvine Sprague)

Quick now. Name 20 bank chairmen or presidents who went to jail in the past 20 years. I'm talking about top managers who defrauded the stockholders and customers who had trusted them with their money—not tellers or bookkeepers or bank robbers.

The question is unfair. There aren't 20. At least I could not come up with that many after consulting my memories, augmented with library file searches by Len Samowitz of the Federal Deposit Insurance Corp. and Lou Leventhal of the American Banker.

Another question: How many convicted bankers served their full sentence? The answer, of course, is none. We all know that. Time off for good behavior and a change of heart by the sentencing judge almost always reduce the sentence.

Two flagrant examples. A prominent banker who stole millions was sentenced to five years in prison but stayed out on appeal for more than 10 years and finally served only eight months in a cushy outdoor job at a country club prison. A banker's son, given a 20-year sentence for securities fraud in 1982, already is out on the street.

The odds are that if you mismanage a megabank into the ground you won't go to jail and you won't pay for restitution. The stockholders take care of that for you. For it is the stockholders who pay for the directors' and officers' liability policies, which in turn pay for the mismanagement liabilities that often run into millions of dollars.

(Space is much too limited to go into the proliferation of savings and loan crooks who have had a wonderful time during these carefree deregulation years.)

BAD MANAGEMENT AND FRAUD

Comptroller Robert L. Clarke recently released a study showing that inept management has been the primary cause of bank failures, and that fraud often was a tool used by bad managers. FDIC Chairman L. William Seidman has testified that fraud was involved in at least one-third of all bank failures in 1986, 1987 and 1988.

With hundreds of bank failures in the past two decades and fraud a major cause, why the shortage of jail sentences? I guess the answer is threefold:

1. The Justice Department is asleep, or inept, or underfinanced. (The American Banker on July 28 reported an epidemic of bank fraud in the central district of California at the same time the major fraud division staffing there was cut more than 30%. Blame Ronald Reagan, Edwin Meese, James C. Miller.)

2. Bank fraud is one of the most difficult crimes to prove to the satisfaction of a jury.

3. White collar crime pays.

This treaties was prompted by the guilty pleas of William Patterson of Penn Square Bank and John Lytle of Continental Illinois National Bank and Trust Company of Chicago, representatives of the two most flamboyant bank failures in history. Mr. Patterson and Mr. Lytle are to be sentenced Aug. 30. (I count Continental Illinois as a bank failure because it was. The FDIC annual report for 1987 continues the myth that it was not a failure by omitting it from the list of the 10 largest failures in history.)

The Patterson and Lytle cases are classic examples of how not to provide quick retribution and prompt justice. The guilty pleas came six years to the day after Penn Square failed.

The surfacing of the story after six years brought back memories of that Fourth of July weekend as we spent three long days in Paul A. Volcker's cramped office deciding what to do about Penn Square.

Recent accounts attempt to rewrite the history of that weekend. I guess I should set the record straight. Comptroller Todd Conover was concerned, correctly, that if he closed Penn Square and we paid it off there would be multiple, unknown fallout, probably including fatal damage to Seattle-First National Bank, Continental Illinois and other banks. William Isaac, then chairman of the FDIC, was concerned, correctly, that if we saved Penn Square the concept of deposit insurance would become a farce.

REGAN'S ROLE WAS "MUSH"

The role of Mr. Volcker was to advocate doing nothing that would disrupt the system. The role of Treasury Secretary Donald Regan was mush. Mr. Volcker called Mr. Regan to meet with us on July 4. He listened to our problem but clearly did not want to get involved. As he left, he said: "Well, I'm sure you gentlemen will do the right thing."

All five people involved have tremendous egos. I'm sure each, in his own mind, dominated the discussoin and made the decision. Mr. Volcker and Mr. Regan could talk. Mr. Conover, Mr. Isaac and I had to vote. With Mr. Isaac and Mr. Conover headed in different directions, I had to decide which way we would go. To me, it was simple: we simply could not bail out Penn Square with its trail of greed and dishonesty. In the end, the vote to let Penn Square take its lumps was 3 to 0.

Enough of that. Back to the jail sentences. Let me refresh your memories. Think of Silverthorne, Sindona, Smith, Butcher, and who else?

Let us call the roll of the pitifully small handful of bankers identified as having served prison sentences:

Michele Sindona tops the list with a 25-year prison sentence in 1980 for fraud and perjury, a sentence that the *American Banker* then described as the longest ever meted out for white-collar crime.

Mr. Sindona masterminded the Franklin National Bank downfall and his story is fascinating. Before sentencing he disappeared for a time, returning with a tale about being kidnapped. Extradited to Italy, he was given a 15-year prison sentence for fraud and then sentenced to life for murder. A week later, in 1986 he died in prison. Some say he was poisoned, others that he committed suicide. A third version is that it was stroke-induced, a natural death.

(A footnote to the Sindona case. Last month the National Archives gave the FDIC permission to destroy the Franklin files: more than 6,000 filing cabinets filled with 700 tons—yes, tons—of paper.)

C Arnholt Smith is my second favorite bank crook. Mr. Smith, whose domain included U.S. National Bank in San Diego, in 1975 pleaded no contest to charges he defrauded the bank of $170 million. The short, suspended sentence he received in federal court was variously attributed to his age, his illness, or more likely, his powerful political connections.

In a separate tax evasion charge, he received a five-year sentence from a state court for grand theft but he stayed out of the slammer for 10 years with repeated appeals. Finally, he did serve eight months as a gardener in a county work center. (The FDIC is still trying to dispose of some of the garbage loans he bequeathed us.)

Jake Butcher, C.H. Butcher, and Jesse Barr. I must discuss Mr. Barr first. Convicted of defrauding Union Planters Bank of $17 million in 1976, he received a five-year sentence but was released after 11 months. UPI reported at the time that the relase came after a letter to the judge in which Mr. Barr said: "I've truly seen that crime does not pay." Later, Mr. Barr was picked up by the Butcher brothers and was an adviser during the looting of United American Bank and other Butcher institutions. Jake and C.H. both received 20-year prison sentences, Mr. Barr 18 years and C.H.'s wife, Shirley, three years.

Don C. Silverthorne was the first bank crook whose damage I officially encountered. When I joined the FDIC in 1968 we were busily involved in sorting out the junk portfolio he left at San Francisco National Bank. (It took just over 20 years after the failure to finally close the books on San Francisco National.) Mr. Silverthorne took the bank to the cleaners before it failed in 1965. He finally spent some time at the McNeill Island federal prison. My longtime assistant, Alan Miller, recalls that Mr. Silverthrone's first conviction was overturned on the grounds there was so much publicity that a fair trial was impossible. He was convicted in a second trial and sentenced.

Here are some other former bankers whose sentences bolster the point that while crime may pay, it does have its risks:

Harry D. Vestal, City and County Bank of Campbell County, Jellico, Tenn., four years.

John A. Bodziak, Florida Center Bank, 10 years.

Tommy Ballard, The Bank of Woodson, Tex., three years.

Sam Spikes, Far West Financial Corp., Tex., 10 years.

Henry Earl Fagan, Guaranty State Bank, Redwater, Tex., eight years.

Douglas Adams, First Security Bank of North Arkansas, Horseshoe Bend, Ark., two years.

Anthony B. Angelos, Des Plaines Bank, Des Plaines, Ill., five years.

Gary Miller, First National Bank of Carrington, N.D., five years.

John Vergo, Midtown National Bank of Pueblo, Colo., two years.

W.R. Smith Sr., Citizen Bank of Tillar, Ark., three years.

Byron Phillips, Aquia Bank and Trust Co., Stafford, Va., three years.

Richard R. Saccone, Mohawk Bank and Trust Co. of Greenfield, Mass., two years.

While the incidence of jail sentences is low, the volume of civil suits is rising both in number and volume. In 1987 there were 40 judgments that returned $59 million to the FDIC. The civil suits expose and disgrace those caught up in them, but often times they do not touch their pocketbooks. Two examples:

At Seafirst, there was a consent judgment against chairman William Jenkins and other top bank officials in an amount exceeding $100 million, the judgment to be paid solely by the inurance carriers.

Last month, the suit against the carrieres was settled and the results sealed. Bank of America, owner of Seafirst, then announced a $46 million addition to its bottom line, so it is fair the assumed that was the settled amount.

CONTINENTAL MAY SET RECORD

The all-time high settlement may come from Continental Illinois, and that is appropriate for the all-time record bank failure. Chairman Roger Anderson, president John Perkins, and other top officers agreed to settlements totaling $88 million, to be paid solely by the insurance carriers. The insurance was staggered, carried in differing degrees by several companies. Some settlements have been reached, others are pending, and whatever is left will go to trail in November.

In a category all by himself is Stanford S. Stoddard of Michigan National. Accused of misusing bank funds for his personal pleasures, including paying for his daughter's wedding reception, Mr. Stoddard was assessed a $146,000 penalty by an administrative law judge.

Comptroller Clarke let Stoddard off in a ruling that reminds one of Alice in Wonderland: "Although Mr. Stoddard flagrantly misused bank funds, the bank's expenditures . . . do not constitute extensions of credit. Accordingly, the civil money penalty shall not be assessed."

Separately, Mr. Stoddard was convicted in a criminal trial and sentenced to three years. He remains free on appeal.

In most cases, where fraud or negligence is involved, suit is filed against a number of culpable bank officers. The usual pattern is for most of their insurers to settle. Others go to civil trial.

Two cases this year indicate the parttern. In FDIC v. Bruce A. Bryan (Farmers and Merchants National Bank of Hennessy, Okla.), a jury returned a $3.3 million verdict against two inside directors. In FDIC v. Rex Niver (First State Bank of Thayer, Kan.), a jury found against two defendant directors in amounts of $860,000 and $255,000.

Last Year, a judge handed down a $865,000 judgment in FDIC v. Craig Caldwell (Western National Bank of Santa Ana, Calif.).

How to end a column like this, one prompted by the guilty pleas of Mr. Patterson and Mr. Lytle, two who looted their banks? My preference would be to say that white-collar crime does not pay. Under the circumstances I'll just have to be silent. The Wall Street Journal recently said what we need is a sufficient demonstration that bankers are to be held accountable for their mistakes.

[From Newsweek, June 20, 1988]

Going for Broke—How Many More Troubled S&L's Can the Feds Fix Before They Need a Big Bailout of Their Own?

This could be the stuff of financial panic. Every week or so, somewhere in the nation, another troubled savings and loan association is either liquidated or taken over by a stronger institution. Remarkably, American savers seem to be taking it all in stride. When federal regulators closed down American Diversified Savings Bank and North America Savings and Loan Association in southern California last week, depositors simply reclaimed $1.35 billion of their money—the largest cash payoff in U.S. banking history. Depositor Joan Steen, a Huntington Beach marketing consultant, got to her thrift 45 minutes before its 9 a.m. opening; by 9:45 she was on her way out with a check for $90,000 tucked in her purse. "I chuckled to myself about it," she says. "They were not only validating parking tickets, they were also serving coffee and doughnuts."

Savers can afford to be calm, since accounts of up to $100,000 are guaranteed by the federal government. The nervous flutters are felt at the thrifts themselves and at the Federal Home Loan Bank Board, which regulates them. About one in six of the country's more than 3,100 thrifts is technically insolvent and about one in three is losing money. The losses are huge: a total of $13.4 billion in red ink was spilled in 1987, more than double the $6.6 billion in earnings reported by the profitable S&L's.

Many of the losers have little hope of ever recovering their health—experts refer to them as the "walking dead." That's especially true in Texas, where a number of thrifts were run into the ground by inept or even crooked operators who got rich on questionable schemes (page 42). Nationwide, the plight of the S&L's will get still worse if forecasts of rising interest rates and then a recession in 1989 come true. The only solution for most of these shaky thrifts is a government takeover. But current bailout funds, provided by the Federal Savings and Loan Insurance Corp., may be far from adequate. And while they struggle to survive, the troubled thrifts continue to lose money. "The problems in the S&L industry haven't been this widespread since the 1930s," says Wall Street analyst Henry Peltz of Keefe, Bruyette & Woods.

In the case of the two California thrifts that failed last week, FSLIC is paying $1.1 billion to American Diversified's depositors and an additional $209 million to North America's. (Regulators hope to reduce their total losses to $931 million through the sale of the thrifts' assets.) The two institutions, which shared the same sleek office building in Costa Mesa, Calif., typify much of what has gone wrong in the savings business: inexperienced management, freewheeling investment policies and overblown interest rates.

American Diversified was run by Ranbir Sahni, a former pilot in the Indian Air Force. North America was owned by Duayne Christensen, a dentist. Both thrifts solicited deposits by telephone, offering interest rates of more than 8.5 percent as a lure. FSLIC took over American Diversified in 1986, accusing Sahni of mismanagement; he denied the charges and said the government didn't understand his strategy. Among Sahni's investments: wind farms and ethanol plants. At one point, the bank board declared 98 percent of North America's loans were bad; when regulators took over in 1987, Christensen was killed in a car crash the same day. FSLIC is now seeking a fraud judgment against his estate and a former associate (who denies the charges).

"Ponzi scheme": Blame for the crisis may lie partly with Congress. In 1982 it deregulated thrifts, letting them diversify beyond the home-mortgage business. The move seemed reasonable: the thrifts were in trouble then because the interest they paid to attract deposits exceeded what they were earning on their mortgages. In theory, income from other types of business would put them back in the black. The states deregulated, too, notably Texas and California, where most of the failures are concentrated. In Texas the situation was exacerbated by the plight of the oil industry: when the price of oil plummeted, taking real estate with it, many Texas S&L's were stuck hopelessly in the red.

Last year Congress tried again, authorizing FSLIC to sell $10.8 billion in new bonds to renew the rescue fund. It wasn't enough. Without adequate cash to liquidate losers or get them in shape for a sale or merger, FSLIC had no choice but to take over thrifts or leave them in the hands of the same managers who led them astray. And thanks to federal deposit insurance, even the worst losers usually managed to stay afloat by offering higher interest rates than solvent thrifts did. Crafty savers knew the lofty rates reflected financial weakness, but they also knew that each account was guaranteed by the government. Analyst Bert Ely says some S&L's are running, in effect, "a government-sanctioned Ponzi scheme," soliciting new deposits to pay interest on existing ones.

Joan Steen was one of these "rate chasers." Her account at North America was earning about 1 percentage point more than average, but then she switched to American Diversified last month to get a still better rate. John Woolley, an Orange County Superior Court judge, was playing the same game on behalf of his 73-year-old mother. "She lives off the interest, so you try to get the most you can," he says. "Anybody would."

The regulators are helpless to stop thrift failures unless they can raise enough money. Unfortunately, nobody really knows how much is needed. FSLIC appears to have sufficient funds to dispose of the 259 "hopelessly insolvent" thrifts on its books, a job expected to cost $17.4 billion. But whether it can handle the other 256 thrifts likely to fall into its lap is another question. FSLIC says the second tier of cases can be settled for $5.3 billion (the thrifts in deepest trouble are being dealt with first, so the second phase will cost less). FHLBB chairman M. Danny Wall says "There is no question we have the resources" to deal with all the problem thrifts by the end of 1991.

Huge shortfall: The General Accounting Office, however, claims the second phase might cost as much as $19 billion. Among other things, GAO says the insurance agency overestimated its revenues, which are based in part on S&L deposits. FSLIC says deposits will rise at their historic rate of 7 percent a year, even though growth has missed that mark in each of the past three years. GAO also says that FSLIC underestimates the number of thrifts it will have to liquidate. Eugene Sherman, chief economist for the Federal Home Loan Bank Board of New York, says the shortfall could run anywhere from $10 billion to $25 billion.

Alarmed by that crushing load, some analysts suggested that FSLIC boost the rescue kitty by merging with the Federal Deposit Insurance Corp., which insures accounts at commercial banks. That strikes most experts as being basically unfair and unworkable, however. Banks, too, are now failing at a higher rate than at any time since the Depression, thanks to iffy Third World and commercial real-estate loans, and the FDIC may not have much money to spare. Who will pay for the S&L bailout? "It is ultimately going to have to come from the taxpayer," says Sherman. "There's no way around it." But Washington wants to cut federal spending, not increase it. Key congressional figures now admit more help is needed, but the problem is so sticky it probably will be passed on to the next administration and Congress. Meanwhile, the cost of saving the S&L's keeps rising—just like compound interest.

[From Newsweek, June 20, 1988]

LOAN STARS FALL IN TEXAS

(By Bill Powell and Daniel Pedersen)

Donald R. Dixon, it seemed, always knew the right thing to say, the right face to put on, the right image to convey. Whatever role he needed to play to get what he wanted he played brilliantly, and in the spring of 1981 he sat in a house by Lake LBJ in the gently rolling hills of central Texas and played the prodigal son. He sat and spoke reverently of the town in which he was raised. Vernon, Texas, about 200 miles northwest of Dallas, is a town notable only for its wholesome familiarity. There is a single town square, several churches, three banks and two small savings associations. Of the two, Vernon Savings & Loan was the biggest. Many local workers—like those who stitch Boy Scout uniforms at a plant just outside town—deposited their paychecks there and took loans to buy their modest homes. Dixon, a successful developer in Dallas by his mid-30s, told banker R.B. Tanner, sitting in his hill country home, about his desire "to return to my roots."

He had loved Vernon as a boy, he said, growing up the affluent son of the local newspaper owner and popular radio personality, W.D. Dixon. Now, he said earnestly, he wanted to give something back to the community. He wanted to buy the thrift Tanner owned—Vernon Savings & Loan Association. Tanner, then 65 and ready to pass on a business he'd run for more than 20 years, says Dixon assured him that there would be few changes, and that suited Tanner fine. He had been a Depression-era bank examiner in rural Texas, and he ran his thrift with a rigid discipline born of that experience. Only a fraction of Vernon Savings' loan portfolio was in default when he turned his majority stock over in exchange for a down payment and a $1.75 million balloon note. Tanner agreed to sell, he says, because Dixon had "painted us a real pretty picture."

Next month the note was to have been paid off completely, and though Tanner would never admit it, he probably will never see a dime. Don Dixon filed for personal bankruptcy in the spring of 1987, shortly after the Federal Savings and Loan Insurance Corp. took over an insolvent Vernon Savings. FSLIC found more than 90 percent of its loans were delinquent, and soon afterward filed a $540 millon civil suit—its largest ever—against Dixon and six other Vernon Savings officers, charging them with fraud and self-dealing during their five-year run at the top of the S&L. Sources close to the case believe the Justice Department, whose investigation into thrift fraud in Texas dwarfs its inquiry into Wall Street's insider-trading scams, will file similar charges shortly.

Back in 1981 there was no hint of the economic cyclone that would soon hit Texas with stunning force, putting an end to a riotous boom that many thought would last for a long, long time. Dixon certainly thought so, and so did many of the people running the thrifts in the state. There was a revolution under way in the Texas S&L industry, propelled by coming deregulation and a real-estate boom, and men like Don Dixon were in the vanguard. So too was his friend Tyrell (Terry) Barker, a general contractor from California who, some months before Dixon, had also approached Tanner about buying Vernon Savings. Tanner had turned him down, but Barker, for the same reasons that motivated Dixon, was determined to buy a thrift.

SERIOUS MONEY

To Dixon and Barker—and the many like them in Texas in the early 1980s—the allure of thrifts was obvious. They offered the tantalizing prospect of serious money. Starting in 1982, Washington cut loose what was a tightly regulated, sleepily managed business. Regulators allowed thrifts to pay any amount of interest they wanted to attract deposits—and the thrifts loaned them out more aggressively than ever before.

The business soon attracted real-estate men with the instinct of gamblers. They paid high rates and then turned around and poured the money right back into the blistering real-estate market. By far the biggest shot at earning millions, they saw, came from their ability to get a piece of every deal the thrifts would finance. In return for a loan, S&L's could now ask for a chunk of the proceeds from the sale of a developed property.

MAIN MAN

Dixon and Barker were very interested in getting rich quick. One of Barker's business ventures after coming to Texas in 1980 was a development partnership called MLMQ 1—"Make Lots of Money Quick." Thanks to the surge in real-estate prices in California, Barker had done reasonably well. But when he arrived in Texas he didn't have enough money to buy even a small S&L, so Dixon introduced Barker to Herman K. Beebe Sr. Beebe owned AMI Inc., a diversified company with interests in nursing homes, motels and insurance. But in the early '80s, Beebe started bankrolling people who wanted a piece of the thrift action in Texas. "Herman was the man to see," says a former thrift regulator.

Dixon's introduction of Barker to Beebe in 1981 began what one FSLIC investigator calls the tale of "the godfather and the two sons." Dixon had known Beebe since the mid-1970's, and he frequently borrowed from a Houston S&L that Beebe controlled. Beebe helped Dixon purchase Vernon Savings. In truth, the emotional reasons for the purchase that Dixon had so eloquently described to R.B. Tanner had little to do with the deal, says Dale Anderson, the former president of AMI and long Beebe's closest associate. To Beebe, Dixon played the more realistic role of a let's-get-the-deal-done businessman, and Beebe warmed to him. Dixon bought Vernon Savings mainly because it was the easiest to finance. When Dixon brought Barker to Beebe, Beebe again didn't hesitate. Contractor Barker didn't have a whit of banking experience ("When I knew him in California," says a former colleague, "he wore dirty clothes and pounded nails"), but he got $880,000 from Beebe to buy State Savings and Loan in Lubbock, Texas.

From that point on, the three lives were linked inextricably. Each man in the next few years earned millions financing Texas real-estate deals. But each also crashed in a heap, victims of a heady era not unlike that which soon followed on Wall Street—one in which making big money fast was the highest priority, no matter how it was done. Barker last year was convicted of fraud and is serving five years in a federal penitentiary in Fort Worth. Herman Beebe, having pleaded guilty to two felony charges (for wire fraud and conspiracy) will join him there shortly, serving a scheduled sentence of a year and a day. Beebe is also now cooperating with the Justice Department's probe of Dixon, who of the three flew the highest and fell the farthest. He has been accused by FSLIC of "looting, dissipating and wasting Vernon's assets," and has yet to respond formally to the allegations.

After getting their S&L's in 1981, Dixon and Barker were living high and making millions, with no prospect that things would soon change. They both expanded small branch offices their thrifts had in Dallas and turned them into executive offices. The small-town pace of Vernon and Lubbock had no allure for two relatively young men trying to make millions. Occasionally Dixon visited Beebe's modern mansion just outside Shreveport. The two also traveled together frequently, playing gin and drinking burbon on the plane, with the younger Dixon referring to Beebe by the grandfatherly nickname of "Papaw." And from 1982 and 1984, says a former Barker associate, "Terry and Beebe were on the phone to each other all the time."

PACKAGE DEALS

Their bond was money. Says U.S. Attorney Joe Cage, who prosecuted Beebe twice: "Beebe created Barker and Dixon for his benefit, their benefit, everybody's benefit but the American taxpayer. It worked great for awhile." Beebe started financing savings and loan associations, allowing his to sell more of AMI's credit life insurance. According to Anderson and FSLIC investigators who have looked into Dixon's affairs at Vernon, Dixon was adept at peddling AMI's insurance to the S&L's borrowers. Anderson says a $200,000 loan was often offered with a $200,000 credit life policy."We were very careful about how we worded it," he says. "If a borrower said he'd talk to his own insurance man, we'd say, 'Fine. That's probably where you need to get your loan'." In two years, according to Anderson, AMI netted $2.5 million through Vernon's insurance sales.

The quid pro quos flirted with the outer limits of the law, and the practice foreshadowed far more questionable practices that would emerge later. Barker wasn't as adept selling Beebe's credit life policies through his S&L, State Savings, but he learned how to deal feverishly in the real-estate market. His motto was "If I rest, I rust," and part of his energy may have been fueled by a desire to overcome dyslexia. According to a psychologist's report filed at his trial last year, Barker reads only at the third-grade level.

DOGGIE POLL

His main passion outside business, it seemed, was his two dogs—an English bulldog and a labrador. He traveled almost everywhere with them, and in 1983 he built a miniature swimming pool just outside the sliding glass doors of his Dallas office so his pets could refresh themselves in the scalding summer heat.

Barker followed a simple business philosophy: "You bring the dirt, I bring the money. We split 50-50." Borrowers were not required to put any money of their own into their real-estate projects. All they had to do was give State Savings a 50 percent interest in the project. According to John Meyer, former president of the S&L, State Saving's standards for credit risk were, to say the least, tolerant. He recalls one customer who had worked for a lumberyard at $35,000 a year. "The next year, he's suddenly a general contractor with a construction loan of $1.5 million." In less than two years State Savings went from $50 million in assets to $750 million.

At Vernon Savings under Don Dixon, that was only crusing speed. At a party just after Dixon had bought the thrift, Woody Lemons, the institution's president under Tanner and then the CEO under Dixon, told Vernon Savings' employees that change was imminent. S&L's were now able to compete for funds with the money-center banks and anyone else, he said; Vernon Savings would be quick and it would take risks.

Founder R. B. Tanner learned quickly that he wasn't going to like the Dixonized version of Vernon. He had retained a seat on the board after the sale. Vernon insiders say that at the first directors' meeting he attended with Don Dixon presiding, the new owner asked the board to approve the purchase of an expensive work of art, a bronze sculpture of an American Indian that cost $125,000. Tanner voted no, the purchase was approved and he later resigned from the board.

To the regulators in Washington and Austin—and to the new management—Tanner and his conservatism represented the stodgy, unimaginative ways of the past. In 1987 Dixon told the Dallas Times Herald that "the regulators were just thankful to have new flesh and blood foolish enough to invest in a dying industry." (Through his attorneys Dixon refused repeated requests for interviews by Newsweek, as did Barker and Beebe. In the past, one of Dixon's attorneys has denied fraud allegations.)

Dixon's Vernon Savings went after big deposits from institutional investors vigorously—money that was very sensitive to the slightest rate changes. From 1982 to 1986, Vernon accepted $1.7 billion in new deposits.

* * * * *

A former customer says that Vernon had become, simply, "the lender of last resort."

Dixon, some associates say, would profess ignorance of the industry's regulations whenever federal or state regulators raised questions—as they did as early as 1983. Others say that was just another of his roles—this time the ignorant developer trying to learn the ways of a new business.

Though regulators had discouraged Dixon from dealing with Beebe, the two remained close at least until mid-1984. In the meantime, according to FSLIC's complaint, Dixon was in the process of setting up elaborate schemes to use Vernon for his own personal benefit. In April 1983 he set up a bewilderingly complex web of subsidiaries under a company called Dondi Financial Corp. He did so, in part, FSLIC alleges, to transfer some stock from one of Dondi's subsidiaries to Vernon. The net effect, FSLIC says, was to inflate Vernon's net worth. By so doing Dixon was allegedly able to increase dividend payments to the thrift's major shareholders without adding to its working capital, as bank-board regulations normally require. The biggest stockholder, of course, was Dixon himself.

TAKING OFF

FSLIC charges that was only the beginning; other alleged abuses soon followed. By October of 1983 Dixon had begun to live the rarefied life of a man with apparently limitless wealth, but he did it using Vernon's funds, according to FSLIC's complaint. Uncomfortable with commercial air travel, he bought a fleet of five planes for Vernon and leased two others. In three years, FSLIC says, Vernon Savings paid out close to $6 million in maintenance fees and operational costs on the fleet.

Perhaps that wasn't surprising, given how frequently Dixon and his wife, Dana, who ran her own interior-decorating firm, used the fleet. In October of 1983, for example, they flew off to Europe for a two-week trip that Dana entitled "Gastronomique Fantastique" in a diary she kept. For several days, Don and Dana Dixon and another couple fed themselves at seven different three-star European restaurants. Their trip had been arranged in part by international playboy Philipe Junot, former husband of Monaco's Princess Caroline.

* * * * *

GOURMET TRAVEL

Dixon's jurisdiction for these trips, associates say, is that he was traveling on business. Dana says he made a side trip during Gastronomique Fantastique to Switzerland, apparently to check on a European subsidiary that was to lure foreign capital to Vernon. Dixon's craving for the high life didn't stop at world travel. Some of his friends believe he became so impressed with Beebe and his lavish life-style—AMI owned a private jet and Beebe had a plush house in La Costa, Calif.—that Dixon was determined to "out-perk him." Dixon once told Beebe confidant Dale Anderson that a measure of a man's success was "the number of toys he had." In December 1984 Vernon Savings bought a $2 million beach house in Del Mar, Calif.—a transaction the board, according to FSLIC's suit, never approved. For the next year, FSLIC charges, the Del Mar house was Dixon's main residence, but he paid no rent. Occasionally he threw parties for Vernon executives and customers. A former construction manager for Dixon, Jack Brenner, says they were attended by attractive young women who, he alleges, were hired for the occasions. The ostensible reason for purchasing the luxurious beach house was to monitor Vernon's West Coast project—but Brenner insists "there was no damn business reason to come out."

In Texas the world had changed considerably by 1985. The oil bust had thrown the state into recession, and the relentless climb in real-estate prices stopped. But Beebe and Barker had made a lot of money for themselves when the going was good, despite the fact that Barker failed to sell much AMI credit insurance.

Beebe and Barker continued to cut each other in on deals, including one the government later prosecuted successfully. "Basically it all boiled down to back scratching," says Roger McRoberts, the U.S. attorney who prosecuted Barker. In 1983 Barker's State Savings loaned $4.4 million to Beebe and an unnamed partner to finance the purchase of a ranch in Foard County, near Vernon. After buying the ranch for $2.8 million in June 1983, Beebe and his partner asked for most of the remainder—$1.05 million—as "working capital."

The money was promptly wired to Beebe's Bossier Bank & Trust Co. in Bossier City, La. Beebe used some of the funds to retire an outstanding loan from Barker. But according to Anderson, $800,000 was split four ways—one part to Anderson, another to Beebe, another to a Texas rancher and the last quarter to Woody Lemons, Dixon's CEO at Vernon Savings. Lemons's attorney says his client received a payment of just over $19,000 and strongly insists the transaction was "legitimate." But a government investigator believes that Beebe's transaction will be the avenue the Justice Department will use to seek an indictment against Lemons and Dixon.

In 1984 FSLIC brought in a new chairman to replace Terry Barker at State Savings. A year after that Beebe and Anderson were convicted of defrauding the Small Business

Administration—a scam apparently unrelated to Dixon or Barker. Dixon quickly distanced himself from his friend Beebe. And, FSLIC says be began unloading loans made against what had since become wildly overpriced commercial properties. In desperation, in November of 1986 he enlisted the aid of House Speaker Jim Wright to keep FSLIC from closing Vernon. But by then investigators knew just how bad things were and resisted. Soon after they moved in, and Dixon, back in California, filed for bankruptcy.

At Barker's trial last year, one bank official who had met with the State Savings owner revealed that he once sat around his north Dallas office and described for friends the mechanics of how so many Texas properties got so inflated during the boom. Barker had elevated age-old "land-flipping" schemes into a finely honed craft. Flipping land meant getting appraisers to pin high values on properties, and Barker had no trouble arranging that. He knew several appraisers, he claimed, from whom he could get "any price" he wanted. Then he would get one of his "network" of financial institutions to buy the property—with a big loan from State Savings—and then flip the land over to the "next greater fool." On what Barker called the "Day of the Great Fool," some investor or bank would "take their lumps." Eventually "somebody winds up [with] the property and, of course, gets buried in it."

BUSTED DOWN

In Texas in the last three years, the burials have come with increasing frequency. More thrifts and banks have failed than at any time since the 1930s. Ben Barnes, Texas's former lieutenant governor, once sat on Herman Beebe's board at Bossier Bank & Trust and, with former governor John Connally, borrowed around $40 million from Vernon Savings (legally). Their partnership went bankrupt, as the bust punished big and small investors alike. "People don't realize," Barnes says, "that this was a full-blown regional depression."

No one knows how much outright fraud contributed to the great Texas thrift crisis and how much was simply attributable to plummeting oil and land prices. Undeniably, through, unscrupulous lending practices fueled much of the overbuilding and contributed to the severity of the crash. Next week some of Donald R. Dixon's wordly possessions will go up for sale in a bankruptcy auction at his old Dallas home. The curious will pick over Chinese porcelain vases, expensive Oriental rugs and antique guns. It will be another small Texas burial, one that R. B. Tanner won't bother to attend.

[From Business Week, May 18, 1987]

A WAVE OF EMBEZZLEMENT HITS BANKING

Banks, with all that money floating about, seem an obvious place to look for white-collar crime. Yet except for a few celebrated bank frauds, prosecutors have shied away from cases involving tellers with their fingers in the till or officers making phony loans—often in collusion with customers. For their part, publicity-shy banks were often unwilling to press charges.

No longer. On May 1 two federal grand juries indicted 21 former employees of south Florida banks and thrifts for embezzling a total of $1.2 million. Those charged ranged from a Citibank International vice-president, who allegedly siphoned $624,000 into accounts he controlled, to a teller at Centrust Savings Bank, who is accused of taking $1,100. Neither could be reached for comment. The indictments were the latest round in a year-old program that has turned up 30 other embezzlement cases. Leon B. Kellner, U.S. Attorney for south Florida, says the indictments show that "anyone betraying the public trust when working for a financial institution should be prepared to pay the price."

They also demonstrate the new aggressiveness of financial institutions and law enforcement agencies in prosecuting bank fraud, including embezzlement. Such crimes are becoming an epidemic, particularly in New York, California, Texas, and Florida, say federal prosecutors. They cite a variety of reasons, including sheer growth in the number of financial institutions and laws that permit a broader range of institutional investments. In south Florida the transient population has contributed to an increase in small embezzlements.

BACKLOGS

Losses to federally insured banks, S&Ls, and credit unions from fraud and embezzlement leapt to $1.1 billion last year from $196 million in 1981, according to the Federal Bureau of Investigation (chart). In a February memo, Attorney General Edwin Meese III outlined the seriousness of the problem and urged the 93 U.S. Attorneys to resolve backlogs of bank-fraud cases.

Meese's concern is the close link between such abuses and the rash of bank failures. According to federal officials, frauds or embezzlement is a significant factor in more than one-third of current bank failures. In 1986, there were 144 such failures, and at least 66 commercial banks have been shut down so far this year. And for every fraud that leads to a bank failure, there are thousands of smaller embezzlements that eat away at the banking system.

To combat those small but destructive abuses, more financial institutions are working with FBI agents, U.S. Attorneys, and local police departments under a program called "Fast Track." Started in 1981 by the FBI and the U.S. Attorney in San Francisco and adopted in south Florida last year, the program targets cases that can be easily prosecuted. The banks and S&Ls collect much of the evidence, such as audit tapes, witness statements, and even signed confessions. The evidence is then turned over to the FBI and U.S. Attorney's Office, and a federal grand jury issues a slew of indictments simultaneously. Bunching the cases together attracts publicity, which prosecutors figure sends a warning to other bank employees.

That's a big change from past practice. Previously, "banks treated embezzlement like a skeleton in the family closet," says Melvin M. Kann, general auditor of Southeast Bank. "They were happy to get restitution and have the employee go away." Prosecutors grew frustrated preparing fraud cases only to have the banks drop charges or plead for reduced sentences. And in south Florida, prosecutors swamped with murders and million-dollar drug deals were seldom able to pursue small-scale fraud.

Lax enforcement didn't escape the eye of would-be embezzlers. In fact, bankers complain that there's a growing class of criminals who pursue bank fraud as a career. Richard H. Dailey, president of Dadeland Bank, tells of a customer-service representative who embezzled $40,000 from the Miami-based bank in early 1985. She was recognized on a videotape of an automated teller machine after a customer complaint tipped off bank officials to unauthorized withdrawals. At the time, she was facing embezzlement charges from another bank and paying bank money to a third that had declined to prosecute.

OVERWHELMED

By leaving the small cases to bank investigators, FBI agents and prosecutors say they can concentrate on larger frauds. The U.S. Attorney in Los Angeles is investigating 130 cases involving $250,000 or more. Miami has 50 cases involving $100,000 or more; half of those involve more than $1 million. A year-old bank-fraud tracking system at the Justice Dept. counts 300 cases involving $200,000 or more nationwide, with many involving bank failures.

The link between fraud and failure will become even more apparent as these and other cases are investigated. In Texas, where 23 banks have failed this year, prosecutors are inundated. Says one federal investigator: "The more you see, the more you believe the best place for your money is under the fourth fencepost on the left." Officals are still studying the 1984 failure of Empire Savings & Loan Assn. of Mesquite, a Dallas suburbs. The S&L piled up nearly $500 million in bad real estate loans along the heavily overbuilt Interstate 30 corridor east of Dallas. So far, Justice has won more than 90 convictions, mostly against borrowers for faulty loan applications.

The sheer number of investigations is overwhelming the system. Currently, 45 major bank-fraud cases investigated by the FBI has been awaiting trial for more than a year because of a shortage of prosecutors. But federal regulators say that in recent months, reports by banks of possible embezzlement and fraud have dipped slightly. That may be the first hopeful sign that the nationwide crackdown is working.

[From the New York Times, June 30, 1988]

UNTANGLING A SAVINGS FAILURE—U.S. CHARGES FRAUD AT CALIFORNIA UNIT

(By Richard W. Stevenson)

LOS ANGELES, June 29.—When savings and loan institutions fail, as hundreds of them have in recent years, government officials picking through the rubble usually have no problem identifying the cause.

There are failures from downturns in regional economies, such as the slump in the Texas oil patch. There are cases of mismanagement, where executives make bad loans, invest in risky real estate and other ventures or fail to fend off competitors.

Then there is fraud. Although it remains for the courts to decide, Federal officials say a classic example of the kind of fraud they have been uncovering with distressing frequency is the case of the North America Savings and Loan Association of Santa Ana, Calif. Earlier this month, the Federal Savings and Loan Insurance Corporation, which insures deposits, announced it would liquidate North America at a cost of $209 million.

MAKINGS OF A DIME NOVEL

On one level, the story of North America Savings, as pieced together from court documents and by lawyers working for the F.S.L.I.C., and recounted in various news reports, sounds like a cheap mystery novel, complete with a suspicious death and a big life insurance payoff.

On another level, government officials say, it is an example of how the rapid deregulation that swept the industry during the early 1980's led to abuses that the insurance fund—and ultimately, according to most experts, the taxpayer—will be paying for far into the 1990's.

Behind North America's rise and fall was Dr. Duayne Christensen, a dentist-turned-banker who founded the institution in 1982 and was its chairman and sole owner.

As he drove toward his office on the morning of Jan. 16, 1987, he surely knew he was in trouble. Under intensifying regulatory scrutiny and financial pressure, he was to meet that day with state officials who were demanding that he raise more capital to keep his institution solvent.

Dr. Christensen, who was known as "Doc," never made it to the office. His brown Jaguar hit a concrete abutment on the Corona del Mar Freeway in Orange County at 40 miles an hour killing him at age 57.

Despite initial suspicions that his death may have been a case of suicide or foul play, the authorities ultimately ruled it an accident.

Within a few hours of his death, regulatory officials seized control of North America and began unraveling what they say is a tangled web of sham transactions and improper payments. In its pending lawsuit, the F.S.L.I.C. has charged that Dr. Christensen masterminded the scheme along with Janet F. McKinzie, who was his companion, top aide and the sole beneficiary of a $10 million insurance policy on his life.

Mrs. McKinzie was also the sole beneficiary of Dr. Christensen's will, which was signed three days before his death and made no provision for his former wife or their children.

Through her lawyer, Mrs. McKinzie denied the charges. A criminal investigation is continuing, her lawyer, Michael Essmyer, said.

Like most savings executives charged with fraud, Dr. Christensen entered the business in the early 1980's, when deregulation attracted a new source of person to the industry.

The new entrepreneurs were neither schooled in nor particularly interested in the industry's traditional business of taking deposits from small customers and making home mortgage loans. Instead, they saw savings institutions as vehicles to raise large sums for investment in real estate and other ventures.

Many encountered financial difficulties as high-risk investments went sour. Others ran afoul of Federal and state regulators, most of whom had little experience evaluating the complex ventures being pursued.

Dr. Christensen came to the business as a real estate investor. A prosperous dentist in Orange County, south of Los Angeles, he apparently started making real estate investments during the early 1970's, and within a few years was offering investment seminars to other doctors, according to lawyers who have investigated the case for the F.S.L.I.C. At some point he met Mrs. McKinzie, who was starting out as a real estate broker, and in 1982 he received regulatory permission to found North America Savings.

The company had one branch and did make some home loans. But its major business was buying, selling and developing real estate. The F.S.L.I.C. suit charges that many of its transactions were shams intended to create the illusion of increasing net worth and generating profits, commissions and fees that Dr. Christensen, Mrs. McKinzie and others pocketed.

Take the case of Kingsbury of Tahoe, a 20-unit condominium development in South Lake Tahoe, Nev. In December 1982, a real estate investment trust run by Dr. Christensen acquired the project for $3.6 million. Through a complex series of transactions, the suit charges, Dr. Christensen sought to disguise his interest in the trust and then to acquire an option to sell the property to North America Savings at an inflated value.

According to the suit, Dr. Christensen paid nearly $3 million for the operation and donated it to North America, which then exercised the option and acquired the property for an additional $14.7 million. The property went onto the institution's books at $17.7 million (the purchase price plus the option price).

That helped to increase the institution's net worth, and because the limits on lending and investing are determined by net worth, North America was thus able to expand its business. Much of the profit from the deal eventually filtered back to Dr. Christensen's real estate trust, the suit charges. The real value of the property, the F.S.L.I.C.'s appraisers said, was no more than $2.4 million.

North America Savings subsequently sold the property twice. The first time it was sold to two investors for $20.5 million ($18.4 million of which was financed by a loan from North America). Mrs. McKinzie, whose title was executive assistant to Dr. Christensen but who also headed a separate real estate company, was paid a $1 million commission on the sale, the suit says.

After the investors defaulted on the loan in 1986 and the property was repossessed, Kingsbury was sold again, this time for $30 million, and eventually ended up in the hands of a company headed by Mrs. McKinzie's father, the suit says. That transaction, the suit says, was also intended to help inflate the profits and net worth of North America.

A $20 MILLION LOSS

Mrs. McKinzie's father, James A. Andrews, died late last year, his former attorney, Jerry C. Graham, said. Mr. Graham said Mr. Andrews had no involvement with the company the F.S.L.I.C. said he had headed.

Altogether, the suit says, the wheeling and dealing on Kingsbury led to the misappropriation of more than $20 million from North America.

When regulators began asking questions about these deals, Mrs. McKinzie fired off letters to various people involved in the project.

In one letter cited in the suit, she told Bruce Gage, one director of a subsidiary of the real estate trust, that his "story should go something like this: You've known me for approximately 10 years, you're not sure. I am a responsible, trustworthy, straightforward and honest person and you trust me explicitly. You've never had a very good memory and because you were involved in so many other things it's hard for you to remember specifics."

The letter has a P.S.: "Please destroy after reading."

SOME FANCY LIVING

The institution's funds supported some fancy living by Dr. Christensen and Mrs. McKinzie, according to the suit and investigators in the case. Dr. Christensen's walnut-paneled 1,500-square-foot office held several hundred thousand dollars' worth of art and decorative objects paid for by North America.

Mrs. McKinzie, whose real estate company, the Plaza Group, was paid $1.7 million in "advance commissions" by North America during two weeks in May 1986, regularly commuted to a home near Sacramento on a Lear jet paid for by the institution (a total bill of $151,481), according to court documents.

Mrs. McKinzie bought almost $97,000 worth of jewelry during 1986 alone, the suit says. The suit also says that she ran up credit card bills of more than $247,000 at Neiman-Marcus paid more than $300,000 to her decorator over three years. She bought a $165,000 Rolls-Royce Corniche for herself and a less expensive model for Dr. Christensen as a Christmas present, investigators said.

She reportedly did well by her relatives, too. In 1984, North America Savings asked permission from California regulators to make mortgage loans in Alaska, and hired Mrs. McKinzie's sister, Rebecca S. Thrall, to work in the planned Alaska office. Regulators, the suit says, quickly turned down North America's application, and Mrs. Thrall was dismissed—but not before collecting $104,843 for three weeks' work.

North America then appointed Mrs. Thrall to act on its behalf as a mortgage broker in Alaska, through a newly formed company, the suit says. Within a year, the suit says, she had made $37 million worth of mortgage loans; in two years it was $58 million, or 27 percent of the institution's assets. Almost half the loans were delinquent by Oct. 31, 1986, according to the suit, which charges that North America paid Mrs. Thrall more than $1 million in unearned commissions. William Weinstein, Mrs. Thrall's lawyer, declined to comment but said that she is not a defendant in the case.

DOZENS OF OTHER DEALS

The F.S.L.I.C. inquiry found dozens of other reportedly improper deals, including real estate transactions made through a company where Mrs. McKinzie installed her hairdresser as president, according to the suit.

Mr. Essmyer, Mrs. McKinzie's lawyer, said that "the facts will show that she had no evil motive or criminal intent" and that North America's financial problems were the result of "bad business decisions" or wrongdoing by others of the dozens of defendants. The other defendants include employees and directors of North America and the real estate trust.

The $10 million life insurance payment has been frozen by the United States District Court in Los Angeles at the request of the F.S.L.I.C., and most of Mrs. McKinzie's assets have been seized.

The court has allowed Mrs. McKinzie to use some interest on the polcy to pay certain legal and living expenses pending the outcome of the suit, according to Mr. Essmyer.

By Mr. PRYOR (for himself, Mr. Fowler, Mr. Leahy, Mr. Helms, Mr. Exon, Mr. Melcher, Mr. Cochran, Mr. Nunn, and Mr. Heflin):

S. 2850. A bill to amend the Egg Research and Consumer Information Act to limit the total costs that may be incurred by the Egg Board in collecting producer assessments and having an administrative staff, to eliminate egg producer refunds, and to delay the conducting of any referendum by egg producers on the elimination of such refunds; to the Committee on Agriculture, Nutrition, and Forestry.

EGG RESEARCH AND CONSUMER INFORMATION ACT AMENDMENTS

● Mr. PRYOR. Mr. President, this legislation addresses a serious situation facing the egg industry, which in the past few years has had its share of problems.

The legislation would amend the Egg Research and Consumer Information Act by striking the refund provision of the act of assessments paid by producers for 18 months and set a referendum at that time to determine whether this practice should be continued.

The egg industry, which is a vital part of the agricultural economy in my State, has prided itself on the fact that it receives no Government price supports or direct Federal assistance. This makes the Egg Research and Consumer Information Act all the more important to the industry as one program that the industry can utilize and address its economic plight.

The egg industry believes it must have a program that is supported by all commercial egg producers or have no program at all.

This was shown in a poll of all commercial producers, with the ballots counted by USDA, in which 69 percent of those voting, representing 79 percent of production, voted in favor of making the assessment mandatory.

This will pattern the egg promotion and research program after the very successful dairy, beef, and pork programs.

The egg industry has realized that sufficient funding must be maintained in order to effectively address the problems facing the industry and make positive progress for the future. This can be done through the research and promotion program with all producers contributing their fair share.

This legislation is supported by a broad based coalition of the egg industry, representing producers from across the country.●

● Mr. FOWLER. Mr. President, I urge my colleagues to cosponsor legislation introduced today, that would keep alive a program that is very important to our Nation's egg producers and to American consumers.

The American Egg Board was created in 1975 to carry out a coordinated program of research, consumer and producer education, advertising and promotion. Its funding comes from a small assessment paid by egg producers.

Under this legislation, the egg promotion and research program would be tailored to the highly successful beef, dairy, and pork programs by eliminating the refund provision of the assessment followed by a referendum among producers.

The overwhelming majority of egg producers support the American Egg Board and feel that it is only equitable that each producer contribute a fair share for the vital research and necessary promotion of their product.

A referendum would be held after 18 months for producers to determine whether to continue the required assessment.

Eggs are a nutritious, low-cost part of a balanced, healthy diet. However, the egg industry has realized that sufficient funding by producers must be maintained in order to address the problems facing the industry and make positive progress for the future. Egg producers receive no Federal price support or direct Federal assistance.

I urge my colleagues to support this bill, which will be a real service to the egg industry and American consumers as well.●

By Mr. LEAHY (for himself, Mr. LUGAR, Mr. FOWLER, and Mr. BOND):

S. 2851. A bill to provide for study and research on the decline in United States forest productivity and to determine the effects of atmospheric pollutants in forest environments, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FOREST ECOSYSTEMS AND ATMOSPHERIC POLLUTION RESEARCH ACT

● Mr. LEAHY. Mr. President, today with my colleagues, Senator, LUGAR, Senator FOWLER, and Senator BOND, I am pleased to introduce the "Forest Ecosystems and Atmospheric Pollution Research Act of 1988."

The bill is very similar to the House-passed forest health study bill. We have worked closely with the House to draft this legislation, and we look for its passage under a unanimous consent agreement.

The bill would establish a 10-year study of the effects of air pollution on the forest ecosystems of the United States. This addresses the need to broaden the scope of the current research and monitoring effort related to the effects of air pollution on forests. The bill would give the USDA-Forest Service clear direction to develop a research program which expands the agency's current research and survey efforts beyond their currently narrow focus on acid precipitation.

In recent years, concern for the declining health and productivity of forests in the United States and Europe has attracted the public's attention as few other forestry issues have. Certain of these declines have been attributed to one or a combination of natural forest stresses: insects, disease, drought, and other factors. Recently, however, there is growing evidence that air pollution, including acid precipitation, heavy metals, and ozone may also be playing a significant role.

Heavy mortality and visible damage to high elevation spruce forests on Camel's Hump Mountain in Vermont and elsewhere along the Appalachian Mountains have raised concerns that the forests of the United States may be facing the initial stages of the devastating declines that have affected forests of West Germany and other European countries.

In 1980, in response to concerns over the effects of acid precipitation on forests and the environment, Congress established the National Acid Precipitation Assessment Program [NAPAP] to conduct research on the sources, transport, deposition, and effects of acid precipitation. The Forest Service was identified as the lead agency for assessing the terrestrial effects of acid deposition. Although the forestry research being conducted by the Forest Service is primarily focused on acid precipitation, scientists in the United States, Canada, and Europe have indicated that a wide variety of pollutants, including ozone, and heavy metals may damage forest health and productivity.

The Forest Ecosystems and Atmospheric Pollution Research Act, therefore, has been drafted to provide the necessary expansion of the Forest Service Research Program into the effects of the range of pollutants potentially affecting our Nation's forest health. The bill is not, however, intended as an excuse to delay action to reduce emissions of these harmful pollutants. Overwhelming evidence exists documenting the damaging effects of acid rain and other air pollutants on human health and the environment. I firmly believe that we must take immediate action to reduce acid rain and other air pollution.

I am also aware, however, of the complex interactions that exist within the forest ecosystem. Our understanding of this ecosystem is incomplete, at best. Whether additional emissions controls are enacted by this Congress or the next, we must develop a better understanding of the forest ecosystem and its reactions to stress, both natural and anthropogenic.

I urge my Senate colleagues to pass this important research measure.●

By Mr. PELL (for himself and Mr. ROTH):

S.J. Res. 389. Joint resolution proposing an amendment to the Constitution of the United States relative to the commencement of the terms of office of the President, Vice President, and Members of Congress; referred to the Committee on the Judiciary.

CONSTITUTIONAL AMENDMENT

Mr. PELL. Mr. President, I am today introducing with the distinguished senior Senator from Delaware, Senator ROTH, a joint resolution proposing an amendment to the Constitution to provide for a prompt inauguration of the President and Vice President of the United States after their election. The amendment would also provide for an earlier swearing-in of newly elected Members of the Congress.

I believe it is essential, Mr. President, that the United States have a continuity of effective national leadership to protect our national interests.

In this regard, however, it is ironic that our Constitution now provides automatically for up to 10 weeks of crippled leadership each time the Presidency of our Nation changes hands through elections.

A new President will be elected by the American people on November 8, of this year. But under existing provisions of the Constitution, that new President will not be allowed to take office and assume leadership of the Nation for about 10 weeks, until late in January 1989. And during that long interval, we will surely have a crippled Presidency.

It is an unhealthy and an unnecessary situation. There is no good reason for such an extended delay between the date of our national election and the installation of the elected officers.

The constitutional amendment I am proposing would produce three important improvements in our Government:

It would provide for installation in office of a President, Vice President and Members of Congress promptly after their election by the people, reducing the unproductive and potentially dangerous interlude of 2½ months that now exists between November elections and January inaugurals.

It would eliminate "lame duck," post-election sessions of Congress in which Members of Congress who have either retired or been defeated continue to vote on national policy.

It would, by moving the Presidential inauguration forward to November, provide a far better chance of favorable weather for what has become a national celebration of our democratic processes of Government, and reduce greatly the chances that the inaugural parade and other events would be canceled because of the bitter cold and storms so common to our Nation's Capital in January.

The amendment provides that the terms of Members of Congress would begin on November 15, instead of January 4, and that the President and Vice President would take office on November 20. The earlier installation of the new Congress is necessary because of the constitutional requirement that the House of Representatives certify the votes of the electoral college for President and Vice President.

In my view, there is no longer any justification for a 10-week delay between our national elections and the installation of elected officials. This leisurely schedule was established before the development of voting machines, instant tabulation of election results, high-speed communications, and jet-age transportation.

Indeed, a major problem today is that the Nation may be told who has won election to the Presidency before all of the polling places have even closed. In these circumstances, it makes little sense to allow weeks and weeks to pass before our new leaders take the offices to which they have been elected.

Not only do such delays deprive voters of a prompt carrying out of their wishes, they are also potentially dangerous and give lame-duck officials, both elected and appointed, an unwarranted and unnecessary opportunity for misconduct.

It is dangerous because in those years in which there is a change in the Presidency, particularly involving a shift between the major political parties, the direction of our foreign affairs is essentially paralyzed. The incumbent President no longer has real political authority and the incoming President lacks constitutional authority—and the whole world knows it. It is a period of vulnerability which can and should be eliminated.

In addition, the lame-duck period is a time when appointive executive branch officials, knowing they will soon leave office, are tempted to expend funds, make contracts and grants, and promulgate regulations that may be either politically motivated or inspired by sheer self-interest.

Ridding ourselves of the possibility of lame-duck sessions of Congress also is in the national interest. Our recent experience with post-election sessions of Congress has been so unsatisfactory that in both 1984 and in 1986 the congressional leadership wisely determined that there would be no such session. And I earnestly hope that we will have no lame-duck session this year. But times and congressional leadership both change and the circumstances can again arise when a lame-duck session could be called in an effort to enact legislation that might face sure defeat by newly elected legislators.

The proposal I have introduced today is identical to the constitutional amendment I introduced in the 98th and 99th Congresses. An excellent hearing on that proposal (S.J. Res. 71 of the 98th Congress) was held on April 24, 1984 by the Subcommittee on the Constitution of the Senate Judiciary Committee.

The hearing included testimony by academic experts who have studied Presidential transitions, and persons who have played a major role in managing Presidential transitions.

The preponderance of the testimony was in favor of advancing the inaugural date and of a similar change in the beginning of terms for newly elected Members of Congress. There were suggestions that the time allowed by this amendment between elections and inaugurations might be lengthened somewhat, and these are suggestions that I believe deserve consideration.

Obviously this constitutional amendment cannot become effective in time to speed the transition after the Presidential election this November. We must resign ourselves to hearing the exasperation of the American people in the coming November and December and January as they undergo an interminable delay in the inauguration of the President they will have elected on November 8, 1988.

And then I think we must resolve to adopt this amendment to our Constitution so that the American people and our Nation will never again be subjected to a dangerously and unnecessarily long delay between the election of a President and his installation in office.

I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:

"The terms of the office of the President and Vice President shall end at noon on the twentieth day of November, and the terms of Senators and Representatives at noon on the fifteenth day of November of the years preceding the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.".

Mr. ROTH. Mr. President, I am pleased to join with the distinguished Senator from Rhode Island in introducing a constitutional amendment to update the 20th amendment, which establishes the commencement of presidential and congressional terms of office. I am taking this action for the very reasons the 20th amendment was adopted over 50 years ago: The time between the election and the beginning of the term is too long.

Although the 20th amendment moved these commencement dates from March to January, the last half century has witnessed such great advances in transportation and communication that the 20th amendment has, in my opinion, become outmoded.

Strictly speaking, it is not legally necessary to amend the Constitution in order to shorten the period between election and these commencement dates since Congress has the authority, by law, to vary the election date. But making election day fall later in the year presents serious practical difficulties, including holiday travel and bad weather.

The same choice was presented to Congress in considering the 20th amendment, and Congress elected not to change the statutory date but rather the constitutional dates. If we wish to hold the election outside the holiday rush and before snowstorms become commonplace in many parts of the country, it is necessary to amend the Constitution.

In my opinion, the 2½-month period between early November and January 20 is too long for several reasons. First, it guarantees to all our foreign adversaries a substantial period of American vulnerability. During this period we have two Presidents—one lacking legal authority and one lacking moral authority. While we have been fortunate in the past, I am deeply concerned about the future. If a crisis develops, it is possible that the lameduck President would respond excessively because he is no longer accountable or that he would respond timidly in recognition of his lost mandate. This period of uncertainty is rife with the wrong incentives. It should be reduced to a bare minimum.

Second, this period provides an opportunity for political mischief. John Adams' appointment of "midnight judges" is one of our earliest examples. In modern times, it is not uncommon for an outgoing administration to accelerate the issuance of grants, particularly to friends. If the incoming administration is of the other party, the outgoing administration may initiate lawsuits and take other actions to place its successor in an embarrassing position. If these actions were in the public interest, one may wonder why they weren't taken earlier. The adoption of the proposed amendment would reduce the opportunity for mischief.

Third, in recent times we have witnessed the exponential growth of transition teams, who serve the incoming President before the beginning of the new term. These teams are a parallel government, working alongside of the outgoing team. Both are paid out of the Treasury. In addition, those who wish to please the new administration volunteer their services. Now a few have questioned the propriety of this. In my opinion, a substantially shorter transition period would be a distinct improvement. It would reduce possible conflicts of interest and the taxpayer costs associated with transition teams.

The proposed constitutional amendment would move up the commencement of Congress to November 15 and the inauguration of the President to November 20. I embrace this proposal not as the ultimate answer to overly long transitions but as a starting point of our search for the best answer.

The adoption of the proposed amendment would provide the Nation with the flexibility to structure transitions which both the original constitution and the 20th amendment denied. As I noted earlier, Congress may by law change the date of the election. If the proposed commencement dates create a transitional considered too short, Congress has the flexibility to shift the election into October without interfering with holiday plans or tempting mother nature.

I recognize that the period between election day and Inauguration Day should not be too crimped. We do not have a system of popular election of our President. Rather, in our system, the States appoint electors, equal in number to their representation in Congress, who cast the ballots that elect the President. Every State has happily decided that it will take the advice of its people, given on election day, in selecting electors. The electors of each State assemble in their own State—not in any central place—and cast ballots on a day established by Federal law. Those ballots are then counted and certified by the new Congress. For this reason, the 20th amendment and the proposed amendment both contemplate Congress convening earlier than Inauguration Day.

Since the electoral college system tends to exaggerate the size of the victory, contests are infrequent. But their possibility must be factored into the equation in choosing an ideal transition period. The advantage of the proposed amendment is that it would allow Congress the flexibility to make adjustments based on experience or necessitated by later amendments to the electoral-college system.

The status quo invites disaster abroad and political mischief at home. This condition will only grow worse in time. That is why I am pleased to join with the Senator from Rhode Island in introducing this important reform.

By Mr. D'AMATO:

S.J. Res. 390. Joint resolution designating November 7, 1988, as "The Memorial Day for Victims of Communism"; to the Committee on the Judiciary.

MEMORIAL DAY FOR VICTIMS OF COMMUNISM

● Mr. D'AMATO. Mr. President, I rise today to introduce a Joint Resolution to designate November 7, 1988, as "The Memorial Day for Victims of Communism." The Joint Resolution is identical to House Joint Resolution 555, which was introduced in the House on April 26, 1988, by my friend and distinguished colleague from New York Representative GEORGE WORTLEY.

House Joint Resolution 555 now has 41 cosponsors in the House. It was referred to the Subcommittee on Census and Population of the House Committee on Post Office and Civil Service on May 2, 1988.

Since it appears that the House is not disposed to move ahead on this important commemorative resolution, I have decided to introduce it in the Senate. I ask my colleagues to join me in support of this measure and in seeking to achieve its expeditious passage.

As a member and former Chairman of the Commission on Security and Cooperation in Europe, I believe it is important to remind my colleagues, the American people, and supporters of human rights around the world, of the reasons why we must continue to press the Soviet Union on Human rights issues. Despite General Security Gorbachev's new policies and the evident improvement in human rights conditions within the Soviet Union, much remains to be done.

The Vienna follow-up meeting of the Conference on Security and Cooperation in Europe should come to an end this fall. Surprisingly, the Soviet Union is not the main roadblock to its conclusion. Instead, Romania, which appears to be wedded to economic and social policies even the Soviet Union has recognized are counterproductive, is blocking progress.

The Soviets, however, are not without responsibility for the current state of Affairs in Vienna. We stated before the Vienna negotiations began that we insisted upon performance by the Soviet Union in response to its human rights and humanitarian affairs obligations. We have seen some improvement, but not enough.

I note that the recent meeting between Secretary of State Shultz and Foreign Minister Schevardnadze has resulted in progress on some cases of concern to us. In an article entitled "Soviet Officials Tell United States 44 Prisoners to be Freed," By A.D. Horne, which was published in the Wednesday, September 28, 1988, edition of the Washington Post, it was reported that "Soviet officials have told the United States that 44 Soviet political prisoners out of 48 in whom Washington expressed interest will be released soon. * * *"

But the author correctly points out that this is only a step forward and does not resolve all problems, even on the political prisoner front. The article continues—

> The Reagan administration and independent human rights groups list between 250 and 300 Soviet dissidents and political prisoners. Officials at one group, the New York-based Helsinki watch, cautioned that previous Soviet announcements of impending releases sometimes have not been borne out. They noted also some releases may be conditioned on pardons, which some prisoners have refused to request.

There are many human rights and related concerns looming on the horizon in the Soviet Union. I will not take the Senate's time to review them in full detail, but I believe it is important to summarize them. The major issues are: emigration, including Soviet Jewry; nationalities, including especially the Baltic States, Armenia, and Ukraine; religious freedom, including especially the Ukrainian Uniate Catholic and Orthodox Churches; cultural freedom; criminal code reform; and human contacts issues.

We should not relax in our efforts to achieve improvements in the Soviet Union. There is no guarantee that the present warmer climate in United States-Soviet relations will be permanent, or that the international reform program General Secretary Gorbachev is attempting to implement will be successful. In fact, some analysts have testified before the Helsinki Commission that they believe that Mr. Gorbachev has a limited period of time in which to produce results. Recent reporting from the Soviet Union indicates that the average Soviet citizen has not seen much in the way of material benefits from Gorbachev's efforts and, indeed, that life for many has become harder.

History reminds us that the path of the reformer in Russia has always been rough. Generally, when reforms collapse, the results have been disastrous. While public opinion rides the crest of optimism about the Gorbachev reforms, we must remain cautious, understanding what has happened in the past and keeping our options open for the future.

In this regard, this resolution is important. It recalls to our attention the fearsome price the Russian people and the people of other nationalities inside the Soviet Union have paid since the Bolshevik Revolution.

As the Soviets themselves say, it is no accident that nearly 6 million of their own people have been killed or died as a result of policies and actions of the Communist Government of the Soviet Union. This total does not address the human toll of Soviet imperialism outside Soviet borders. It does not raise the issue of the persons who were killed by Stalin's secret police after the conquest or Eastern Europe during World War II. It does not discuss the number of dead in places like Korea, Cuba, Vietnam, Cambodia, Laos, Ethiopia, Angola, Afghanistan, or Nicaragua.

It provides a sober, factual counterpoint to the celebration by the Communist Government of the Soviet Union of the resolution that brought the Communist Party of the Soviet Union to power. It tells the families of those who were murdered that the rest of the world has not forgotten.

Mr. President, this is not vhe first effort to call this matter to the world's attention. A distinguished former colleague of our—and the father of the distinguished junior Senator from Connecticut—requested that one of the preeminent Soviet specialists of our age prepare a short report for publication as a Senate document. At Senator Thomas J. Dodd's request, Mr. Robert Conquest prepared a Study entitled "the Human Cost of Soviet Communism," that was published as Senate Document No. 92-36 on July 16, 1971, by the Government Printing Office.

Mr. President, I ask unanimous consent that an excerpt from that document, comprising pages 7 through 33, be printed in the Record at the close of my remarks.

Since 1971, much additional scholarship has been done on this subject. I commend to my colleagues Mr. Conquest's most recent major work, "The Harvest of Sorrow: Soviet Collectivization and the Terror-Famine," which is available from the Library of Congress. It tells the story of the great famine artificially created to aid the collectivization of Soviet agriculture. Even the Soviet Union itself is now groping toward an understanding of its own terrible past. There is some sign that its leadership realizes a need to lay to rest the bloody ghost of Stalin's terror. This can only be done by telling the truth about it and by dealing fairly with its victims and their families.

If the Soviet Union Should carry forward with this effort, it would provide its citizens—and the rest of the world—some assurance that Stalin's methods will not be resurrected during some future crisis. It would show the world that the Communist state recognizes some limits on its power—that it no longer claims the right to kill its own citizens by the millions, in disregard of all moral and ethical considerations.

Mr. President, in closing, I again ask for the support of my colleagues for this joint resolution. I urge everyone to work for its passage before sine die adjournment.

There being no objection, the material was ordered to be printed in the Record, as follows:

THE HUMAN COST OF SOVIET COMMUNISM—THE ROOTS OF TERROR

In dealing with the various waves of oppression which have swept the Soviet Union, we should not fail to remark that the idea of terror was deeply rooted in the whole Bolshevik conception of rule.

Lenin had written a theoretical justification of it as early as 1905, when he envisaged the use of terror in the style of 1793 "to settle accounts with Tsarism" after the revolution. In 1908 he wrote of "real, nationwide terror, which reinvigorates the country and through which the Great French Revolution achieved glory."

One of his closet adherents, Bonch-Bruyevich, wrote long after the revolution: "We were all long ago mentally prepared for the period when we would have to defend the achievements of the dictatorship of the proletariat * * * by using one of the most radical and effective means of our revolutionary struggle—the red terror." Another, Lenin's favourite Bolshevik historian, Pokrovsky, was able to say that the secret police "sprang from the very essence of the proletarian revolution" and that the terror was the "inevitable consequence" of that revolution. Many similar pronouncements could be cited. Meanwhile it is worth quoting Lenin at a key moment, on the eve of the seizure of power, proposing the death penalty for whole social groups: "Not a single revolutionary government can dispense with the death penalty for the exploiters (i.e., for the landlords and capitalists)".

THE FIRST PHASE: 1917–24

On December 20, 1917, came the founding of the CHEKA—the secret police—which under its various names has been a recognizedly important component of the regime ever since. In theory it did not at first have the right to execute. Whatever Lenin's own wishes, neither the party nor its supporters were yet fully prepared for a bloodbath. The mood was changed fairly gradually.

An announcement on December 13, 1917, which had branded the whole of the liberal Constitutional Democratic Party as "enemies of the people" whose leaders were "outside the law," led to the lynching of two of their ex-ministers in a Petrograd hospital on January 20. This sort of thing had already been excused, as by Trotsky when he had announced on December 15, 1917, that there would be "moments of popular fury" brought on themselves by the Constitutional Democrats and that "not one of us will undertake to say that the people, if pushed to the extreme, will refrain from this final measure." On January 27, 1918, Lenin publicly announced—though at this stage about speculators only—that they should be shot on the spot and that "we can achieve nothing unless we use terror." On February 23, 1918, Pravda published an announcement that the Cheka could "see no other method of fighting counter-revolutionaries, spies, speculators, looters, hooligans, saboteurs, and other parasites than their merciless destruction on the spot." It was the following day that the first known case of shooting without trial by the Cheka took place.

It was at this point that the Left Social Revolutionaries, who were then still included in the Soviet Government, protested. Lenin ruled them out of order when they tried to bring the matter up in the Council of People's Commissars. Four hundred anarchists are reported sentenced by the Cheka's three-man courts in April 1918 in Moscow alone.

Early in June 1918, the secret police Chief Felix Dzerzhinsky announced openly of the Cheka, "We stand for organized terror," while Lenin himself continually insisted on intensified terror, against the judgment of many of his subordinates. For example, as early as June 1918, he intervened against the Petrograd party's error in restraining elements who wished for mass terror: "this is unheard of! The energy and mass nature of the terror must be encouraged." In August he had similarly to call on the Nizhni Novgorod Soviet "to apply mass terror immediately, to execute and exterminate hundreds of prostitutes, drunken soldiers, former officers, etc." And so on.

Reasons given for execution in the Soviet press included simply describing the dead man as "a cunning and crafty counter-revolutionary" or "having used his premises for intrigue against the Soviet." Others were simply down as "shot in the ordinary course of the Red terror," or as "an ex-member of the Constitutional Democratic Party," or as "a counterrevolutionary by conviction." The sculptor, Ukhtomsky, was charged with transmitting information about the condition of Russian museums.

Scores of well-authenticated cases of the most revolting brutality and the most degrading tortures, the execution of innocent hostages including women and children, and so forth, could be produced. Rather than provide what is nowadays all too often the staple of rival atrocity propagandas, we would refer students to such books as "The Red Terror in Russia," by S.P. Melgounov, a prominent Social Revolutionary, while the Soviet classic "And Quiet Flows the Don," by Mikhail Sholokhov, gives a vivid if incomplete picture of Bolshevik brutality at this time—and also makes it clear that these terrorist tactics far from bringing political benefit, turned hitherto acquiescent populations against the regime.

One particularly well investigated case is, of course, the execution of the Czar and his family on July 16, 1918. It could be argued that the Czar and Czaritsa had—by Bolshevik standards at least—committed political offenses in their capabity as ruler and adviser. This was scarely applicable to the young haemophiliac Czarevich, not yet 14. In his case, the argument was that on the death of his father, he would become the true Czar for the monarchists. But even this argument could not apply to the young Grand Duchesses—aged 23, 21, 19, and 17; for under the Romanov law of succession they and their descendants had no right to the throne. Still less can a case be made for the execution of the Czar's family doctor and the three servants shot at the same time. Even less, it might be thought, could the royal spaniel be held responsible.

This execution was carried out, after careful preparation, by the established Bolshevik authorities using an official Cheka squad, and as such, is instructive about what may be regarded as a comparatively mild example of the methods and attitudes of the time. It was not accompanied by the sometimes literally obscene brutalities reported elsewhere. Most of the victims died quickly, though the maid had to be chased round the cellar and bayonetted, and the Czarevich and one of the Grand Duchesses had to be finished off with boots, rifle butts, and bayonets. All other members of the family on whom the Bolsheviks could lay their hands were similarly executed—sometimes in worse circumstances. The Grand Duchess Elizabeth, a nun since her husband's death in 1905, with five other members of the family, including three young boys, were thrown down an abandoned mine shaft and heavy timbers and hand grenades hurled after them. This all took place at a time when the civil war had barely started, and when the main anti-Bolshevik force on the front concerned was the Czechoslovak Legion, against whom serious allegations of terrorism were never made. And, as Trotsky later admitted, the killings took place on the express instructions of the Soviet leadership.

The attempt on Lenin's life in late August, followed by the assassination of Uritsky, were the occasion for increasing the terror and for extending the power of the Cheka. First, 500 hostages were executed. On September 5, 1918, came the famous decree "On the Red Terror." Under it the Cheka was to be strengthened by sending a large number of Party members into it; concentration camps were to be set up; anyone in contact with counterrevolutionary organizations was to be shot; and the names and reasons for executions were to be published. At the same time, Latsis explained that under it the prisoner was to be asked "to what class he belongs, what is his origin, his education and profession. It is those questions that should decide the fate of the defendant—therein lies the meaning of red terror."

Not all party members at first accepted all this. Resistance came from a majority of the local Soviets whose opinions were canvassed in 1918. A leading Old Bolshevik, the journalist Olminsky, wrote several critical pieces in "Pravda" making it clear that a section of the Party opposed the extensive executions then being carried out and felt that the powers of the Cheka were greatly excessive. He also protested on one occasion against the scandalous and inhuman behavior of one of the local Chekas which had stripped and flogged a number of peasants. (The Cheka's own organ had already printed letters from local Chekists demanding that torture be added to execution. They protested against the release of Robert Bruce Lockhart, the British diplomat then under arrest on charges of conspiracy, urging that he should instead be subjected to "tortures, the very description of which would have filled counterrevolutionaries with cold terror.")

Prominent Chekists counterattacked. Lenin backed them up. He attacked "a narrowminded intelligentsia" in the Party who "sob and fuss" over mistakes made by the Cheka; adding "when we are reproached with cruelty, we wonder how people can forget the most elementary Marxism." But he admitted that "it is quite understandable that alien elements should attach themselves to the Cheka" This early hint that unpleasant characters were getting into the secret police is supported by its own officials, who conceded, moreover, that the work corrupted even the better elements. One wrote, "Work in the Cheka, conducted in an atmosphere of physical coercion, attracts corrupt and outright criminal elements. . . . Dzerzhinsky himself remarked, "Only saints or scoundrels can serve in the GPU, but now the saints are running away from me and I am left with the scoundrels."

Though the party at the center was responsible for insisting on mass terror, many of the worst acts were committed on individual initiative. To waver in ruthlessness was to waver in loyalty, or was so taken. But it is also true that in the localities power fell into the hands of men more or less self-selected within the turmoil on the basis of ruthlessness and brutality. As in all cases when authority collapses, and power passes locally into the hands of small groups, energetic antisocial elements came to hand as the instrument of the new regime. (Friedrich Engels, cofounder of Marxism, had once written to Marx himself, deploring the excesses of the French Revolution, and describing the "mob of riffraff who know how to profit from the Terror.") Common criminals formed an important proportion of the new terror squads and killer groups: some of them, indeed, were to make high careers in the secret police (for example, E.G. Evdokimov, later prominent in producing the first of the faked "confession" trials). This attachment of unsavory characters to the ruling party and particularly to the secret police was passed off as an unfortunate necessity.

While it is true and relevant that red and white terrors alternated in the areas changing hands in the Civil War, it seems clear that in general the former was the worse of the two. Above all, while the whites shot commissars and Communists, and there were many occasions on which they ran amok in a more general way, it was only by the Bolshevik side that, as a matter of policy, people were executed who had not been involved in any way in helping their enemies, but simply on class grounds. It was at this time, too, that the hostage system was instituted. The wives and children of officers serving in the Red Army were held as sureties for their loyalty. And, in general, wives and families of "bourgeois" who had evaded arrest were often seized and executed in their stead.

The war casualties proper cannot, in the strictest sense, be put into our account of the deaths consciously inflicted by the Bolsheviks—though it may be felt that the seizure of power by a minority group, and its determination to extirpate all opposition, should be considered the main cause of that war. Even leading Bolsheviks noted, as did 10 peoples commissars, resigning from the government as early as 1917, that the rejection of a coalition government meant "government by means of political terror," while another (Emilian Yaroslavsky) denounced statements by "responsible leaders" that "for one of ours we shall kill five opponents," as part and parcel of Lenin's "regime of the bayonet and the sabre."

It is also true that battle casualties were light, and the main killings were of prisoners and enemy civilian sympathizers. In August 1917 Latsis announced that in the civil war then starting, enemy wounded would be shot. A Soviet source estimates the total excess mortality in those provinces where statistics were kept as about 7 million between January 1918 and July 1920. An estimate for the remaining areas should bring this up to about 9 million. These deaths were largely from typhus and famine—though the great famine of 1921 with its 5-million-odd deaths, had not yet come.

These casualties might be labeled as resulting from the revolution in a general sense. But the figures for actual execution (and death in camps and prisons) of the period up till 1924 is of course far lower. Though official figures are both self-contradictory and admittedly incomplete, it can be deduced that a minimum of 200,000 official executions must have taken place in the period 1917-23. This omits two main sources of death. First, those shot out of hand after the putting down of various "rebellions"—245 such risings are officially given for 1918 alone, while 99 are listed in only 20 provinces (constituting about a third of Bolshevik-controlled territory) in 7 months of 1919. And second, those dying as a result of prison and camp treatment. Together, these are conservatively estimated to have accounted for at least twice as many lives as the executions proper. If we put forward a total of 500,000 victims for the period we shall certainly be erring on the side of underestimation. It is, of course, true that several million of the most intransigent of the regime's opponents had escaped into exile (and the executions in the Crimean after the hasty final evacuation had left behind a particularly large concentration of bourgeois and white guards, was by far the most unrestrained of all the Bolshevik terror operations.)

In March 1921 came the crushing by the Communists of the rebellion of their own sailors at Kronstadt. Among the rebel's complaints was that the regime had "brought the workers, instead of freedom, an ever present fear of being dragged into the torture chambers of the Cheka, which exceeds by many times in its horrors the gendarmerin administration of the Tsarist regime."

With this, and the crushing of large scale peasant rebellions in the Volga basin and elsewhere, the regime found itself with no serious internal opponents. By the New Economic Policy launched in 1921, Lenin had reverted from the rigors of purist Bolskevik policy to the toleration of a good deal of economic liberty and relaxation. The first problem now was that these new policies showed that the moderate socialist parties had been right all along. In the towns the Mensheviks had begun to gather strength, and it became clear that the workers supported them. In the countryside the peasants remained massively attached to the Social Revolutionary Party. Even within the Communist Party itself, oppositions favoring concessions to the workers and to democracy arose. The choice before Lenin was to come to terms with these forces or to crush them. He chose the latter. Even those sections of the other parties which had supported the Bolsheviks, however reluctantly, in the Civil War, were now made illegal. There were mass trials of Menshevik and Social Revolutionary leaders. The main trial of the latter, which took place in 1922, was notable in the first place as a faint adumbration of the later Stalinist trials, in that half the defendants were agents provocateurs, and the court (which was headed by the purely political figure Pyatakov) was merely a party agency. Under very strong pressure from the European socialist parties, a Bolshevik delegation agreed that there should be no executions. This was contrary to Lenin's instructions, and he was extremely angry, saying that it was essential that the leaders should be shot. In the end they received death sentences, suspended until further notice. Some of them lasted as late as the 1930's: but in any case all of them eventually perished. In the same year, when things were settling down, and emergency action was giving way to codification, Lenin again came out formally for terror, ordering the Commissar for Justice to work on the basis of "the justification of terror and its indispensibility * * * the court must not abolish terror * * * but must substantiate it and legalise it in principle."

TERROR IN THE COUNTRYSIDE

Nevertheless the period 1924-29 was one of comparative relaxation. Under the new policy the peasantry regained their prewar level of prosperity, and Russian industry was rebuilt. However, it remained contrary to all the principles of the Communist Party that a free, property-owning peasantry should continue to exist for very long. "Moderate" voices within the party, such as Bukharin's, said that the better off peasants could of course be "hounded down at will," but urged caution in bringing the main body under control. However, these men were easily defeated by Stalin, supported by the great majority of the party, and even by those who opposed him on other grounds. In 1929 the decision was taken to eliminate the richer peasants (kulaks) and to force the remainder into collective farms, where they would be economically and physically under the control of the State.

The first attempt, in the early months of 1930, led to hundreds of peasants risings. Casualties in this phase are not known, but certainly ran into tens of thousands. But the peasants responded not only "with the shotgun," but also by slaughtering half Russia's livestock, and by March, the policy was in ruins, and the attempt was called off.

By a far better prepared combination of ruthlessness and economic measures, the almost complete collectivization of the bulk of the country was again attained by the end of 1932. Resistance was now met by a simple method. If the peasant had produced only enough for his own subsistence, leaving none for the State, local enforcement officials reversed that procedure. The last sacks of grain were taken from the barns for export while famine raged. Butter was sent abroad while the Ukranian infants were dying for lack of milk.

The famine can be blamed quite flatly on Stalin. The crop in 1932 was about 12 percent below the average. This was far from being famine level, but procurement of food from the peasantry was up by 44 percent. The result was, and could not have been other than, large-scale starvation. It is perhaps the only case in history of a purely man-made famine—man-made, not in the sense that it was due to faulty policies, but quite literally, in that the food was there and men took it away.

It is also the only major famine whose very existence was ignored or denied by the governmental authorities, and even to a large degree successfully concealed from world opinion. The process by which this happened is a very unfortunate one, involving political reactions which are still with us to this day. It was not, of course, possible to make the concealment absolute. It was widely known in Moscow, and even the low-level government official occasionally spoke of it to a foreigner. Some foreigners—including Malcolm Muggeridge and Gareth Jones, Lloyd George's secretary—even penetrated the famine area and saw for themselves. But (and this of course applies to the whole of the period's oppressions) the information was naturally taken up and given widest publicity in the West by those most hostile to the Soviet Union in principle. By a common—through thoughtless and unfortunate—reaction, leftwing and even moderate circles were able to persuade themselves that the story was untrue or (a much easier view) greatly exaggerated. The Soviet Government had not admitted it. Occasionally specially shepherded travellers (for example, Sir John Maynard) had been taken to prepared spots in the area and had generalized from that. Certain journalists (e.g. Walter Duranty) who were fully aware of the facts and recounted them in private conversation, played them down in order not to offend the Soviet Government and lose their visas and their positions.

The Soviet authorities, as far as can be seen, let through only one accidental admission—an accusation that members of the People's Commissariat of Agriculture then on trial for sabotage had used their positions "to create a famine in the country." The Ukranian President Petrovsky told a Western correspondent that millions were dying. Thirty years later, there was a brief lifting of the curtain in the Soviet press—in the novel "People Are Not Angels," by Ivan Stadnyuk, who summed up: "The men died first, then the children, and finally the women."

As is always the case when the authorities will not provide information, nor permit research into the relevant archives, it is not easy to estimate the casualties. A careful examination of all the estimates, and all the accounts, seems to show that about 5 million deaths from hunger and from the disease of hunger is the best estimate. Only one famine, listed in the "Encyclopedia Britannica," (that of China in 1877-78) is cited as more destructive.

The Mensheviks had already in 1930 quoted a "prominent Communist" as saying that to bring socialism to the villages "we must destroy 5 million people." The estimate seems to have been correct. This is on * * *.

* * * * *

The Shakhty trial was followed by a number of other public spectacles of the same type but under increasingly better stage management—notably the Menshevik trial of 1931, and the Metro-Vic trial of 1933—and culminated in the three great "Moscow Trials" against Stalin's opponents or unenthusiastic supporters within the party.

In August 1936 came the first of these. Grigory Zinoviev, Lev Kamenev—Lenin's closest collaborators and 14 others publicly confessed to having organised the Kirov murder, and were all executed.

In January 1937, after the leading member of the Politburo still opposed to these methods, Sergo Ordzhonikidze, had been killed or forced to commit suicide, a similar trial took place. Yuri Pyatakov and others were executed for a plot which had involved Pyatakov flying to Norway to receive instructions from Trotsky, then in Oslo. (It was proved while the trial was still in progress that no aeroplane had in fact landed at or near Oslo during the month of the alleged visit.) In June, Marshal Tukhachevsky and other leading officers were shot after a short closed trial on charges of being agents of Fascism. This was followed by a vast purge in the Army which accounted for about half the officer corps, and in particular almost all the generals. Most of them seem not to have been "tried" at all; for example, we are told of Marshal Blyukher that "continuous interrogation broke down the health of this virile man" and that he was dead within 3 weeks of arrest.

In March 1938, a further trial ensued, that of Nikolai Bukharin, described by Lenin as "the darling of the party," Alexei Rykov (former Prime Minister of the Soviet Union) and others. They were charged with treason, terrorism, sabotage, espionage, and various other crimes. In particular, they had used several prominent Moscow doctors to poison various figures (including the writer, Maxim Gorky). Dr. Pletnev, the pride of the Russian medical profession, was not easily brought to confess to have murdered one of his more prominent patients. It had been necessary, a whole year previously, to arrest him and try him in secret on a faked charge of having sexually assaulted a woman patient—actually a NKVD provocateur; in this case, contrary to Soviet practice in sexual cases, this had been given enormous publicity and every conceivable disgrace heaped on his name.

Police methods

Confessions, though in their case only written ones, were also required from the millions of ordinary prisoners who did not go to public trial. Naturally, in neither case were they obtained by humane methods. Torture (retrospectively authorized by a decree of the Central Committee of January 20, 1939); the "conveyor," continuous interrogation without sleep for up to 7 days; and, for the publicly tried, a long-drawn out breaking down of the will and personality over a period of months, these were the means employed.

A Soviet general describes his torture:

"I accidentally found out that my friend of an interrogator's name was Stolbunsky * * * Apart from him, two brawny torturers took part in the interrogation. Even now my ears ring with the sound of Stolbunsky's evil voice hissing "You'll sign, you'll sign!" as I was carried out, weak and covered in blood. I withstood the torture during the second bout of interrogation, but when the third started, how I longed to be able to die!"

A physicist tells us that the conveyor was "as painful as any torture." The groins swell, and violent pains set in. After 2 or 3 days the prisoner is actually being physically poisoned by fatigue.

Neither the general nor the scientist were brought to public trial. And this was true of the vast majority who now fell to the most concentrated terror operation of them all—the "Yezhovshchina" of 1936-38, called after Stalin's latest head of the Secret Policie, Nikolai Yezhov.

1936-38: MASS ARRESTS AND EXECUTIONS

The number of arrests in 1936-38 can be estimated by a variety of methods. And although exact precision cannot be obtained, and should not be expected, every train of evidence and argument tends to a figure of about 7 million.

The prisons, during 1938, held about a million inmates. The sufferings due to overcrowding may be judged from an account published in Budapest in 1965, by the Hungarian writer, Joszef Lengyel. He describes his cell in Moscow's Butyrka Prison, then holding about 30,000 inmates, 275 men live "in, between and under 25 iron bedsteads." (All the same this was better than the cell in which he was softened up for interrogation.) There are many similar accounts. The punishment cells were worse, amounting to the literal immuring of the victim.

The labor camp population at this time (which included numbers who had started their sentences in the pre-1936 period) can be estimated at about 8 million.

The death rate in the camps was high—especially before they were to some extent rationalized in 1950-1951. Throughout the whole camp system (omitting the little known extermination camps of the far north) it seems never to have been below 10 percent per annum and often seems to have been considerably higher. If we take the conservative figures of an average camp death rate of 10 percent and an average camp population of 8 million, over the whole Stalin period not less than 12 million people must have died in the camps.

Though, as we have said, precise figures cannot be obtained, there is no longer any doubt whatever that the casualites were of the order described. Similar estimates have been given by Academician Andrei Sakharov, the Soviet physicist. And they have, for example, been accepted by prominent Communists like Roger Garaudy, when still a member of the politburo of the French Communist Party. The usual cause of death was dystrophy, due to progressive starvation. Rations remained inadequate for work—they were considerably lower than in the notorious Japanese prisoner-of-war camps on the River Kwai, for example.

The number of people actually executed in this period was something over a million. We are told by Academician Sakharov that 600,000 party members alone were actually shot, quite apart from a further 550,000 to 600,000 who died in labor camps—that is, together, a total of about half the party membership.

In addition to the executions, and the ordinary sentences to the forced labor camps, where the death rate was high but random, there was an intermediate sentence. This was of forced labor without the right of correspondence. No labor camp survivor is known to have ever met any one serving such a sentence. Some of those receiving it were simply shot on the spot. Others seem to have been taken to the death camps on the Tamyr Peninsula and Novaya Zemlya, of which very little is known to this day. It seems, in any case, that they were there killed when convenient. Academician Sakharov says that in them thousands of prisoners were machinegunned because of overcrowding, or as the result of special orders.

Unlike the assault on the peasantry, this phase of the terror struck everywhere. The party itself, as we have seen, suffered enormously, as did the officer corps. Another category which did badly was the creative intelligentsia. With all the death and emigration which had taken place among them, those who remained may still be thought to have stood for permanent human values not easily assimilable to Stalin. Many of the greatest perished: the great prose writers Isaac Babel and Boris Pilnyak; the great producer Vsevolod Meyerhold and the great poet Osip Mandelshtam; Nikolai Vavilov, Russia's great biologist and all his distinguished subordinates. Writers suffered particularly: at least 600 Alexander Solzhenitsyn tells us, went to the camps or execution cellars. Scientists too; of the eight chiefs of the U.S.S.R.'s main physics institute, at Kharkov, only one escaped. All 13 of the successive heads of the Kiev University Academy of Science between 1921 and 1938 were arrested.

The vast figures of deaths may almost numb the reader to the individual human effects, taken in particular. Many memoirs make it clear, for example, that the wives of the arrested led a fearful life of persecution and penury. Often they could not get news of their husbands' fate. The wife of Titsian Tabidze, the Georgian poet who was arrested and shot in 1937, was not informed of his death for nearly 20 years. Her long calvary is movingly described by Boris Pasternak in his "Letters to Georgian Friends." Much the same story is told of the Russian poet, Pavel Vasiliev. Arrested on February 7, 1937, he was shot in July 16 of the same year; his wife again only learned of his death 20 years later.

Families were, in any case, subject to the hostage principle—which was actually incorporated into Soviet published law in the particular case of escapes abroad. Under the decree of June 9, 1935, even members of the family ignorant of the escapees' plans were liable to penalties. But, in fact, hostages were used widely, especially in the confession trails.

There was, indeed, we are told by a Soviet spokesman of the Khrushchev period, even a special category for the death penalty under the accusation "wife of an enemy of the people." Children, too, suffered, under a decree of April 7, 1935, which extended the death penalty down o the age of 12. Trotskyite children down to this age were executed in the camps. There were even trails of children alone. When, early in 1939, the Soviet press started to report the arrest of various NKVD officers for extorting false confessions, one case concerned children down to 10 years old. This has since been described in greater detail by the Soviet liberal, Leonid Petrovsky, in his "Letter to the Central Committee," dated March 5, 1969. Four officials from the police and prosecutor's office had rounded up, in all, 160 children mainly between the ages of 12 and 14. After severe interrogation, they had confessed to espionage, terror, treason, and links with the Gestapo. One 10-year-old, after an all night interrogation, broke down and admitted to anti-State activity, going back 3 years, to the time when he was only 7. Petrovsky adds that similar mass trials of children had taken place in a number of other cities.

In fact, with all the horrible and extraordinary accumulation of death it is difficult to estimate, and, of course, impossible to quantify, the moral suffering of the period. But it must be noted that it was not merely a matter of physical torture, death in disgrace and exhaustion, the anguish of broken homes, the constant fear of tomorrow. Boris Pasternak tells us that when the war came, with all its horrors, it was a relief:

"It isn't only in comparison with your life as a convict, but compared to everything in the thirties, even to my favorable conditions at the university, in the midst of books and money and comfort; even to me there, the war came as a breath of fresh air, an omen of deliverance, a purifying storm * * * And when the war broke out its real horrors, its real dangers, its menace of real death, were a blessing compared with the inhuman power of the lie * * *"

Having to act out, to pretend enthusiasm for a vast system of vicious falsehood, was a corruption of the heart, and perhaps, as Pasternak implies, the worst thing of all for many. To die, or lose your loved ones is bad enough. To do so under a false accusation—and virtually all of the accusations were false—is worse. But to be forced to denounce your father or husband, in the hope of saving the rest of the family and, in general, to be compelled in public to express joy at the whole bloodbath, may be thought worse still. Truth almost perished. As the writer Isaac Babel remarked, "Today a man only talks freely to his wife—at night, with the blankets pulled over his head." Every man became, in a sense, what Donne says she is not, an island.

THE REGIME CONSOLIDATED—1938-53

This greatest wave of Russian suffering ended with the fall and execution of Yezhov, himself. From 1939 onward, a normal rate of terror, rather than the extremes of the previous 2 years, was maintained. The country and the party had been broken. Over the ensuing period, interrupted but not essentially altered by the war, the terror was simply a normal institution of the established Stalinist state. During this period an influx into the labor camps of about a million new prisoners per annum made up for continuous erosion of the camp population by starvation and execution. In fact, after the war, in the early fifties, the camps seem to have reached their maximum population which, Alexander Solzhenitsyn tells us in "The First Circle," was often exaggerated, being in fact no more than 12 to 15 million—figures approximately the same as those arrived at by the various evidence and deductions available in the West.

The annexation of the Baltic States and the other border areas in Eastern Europe resulted in the imposition on these hitherto un-Sovietised areas of the Stalin penal system. The listings of suspects for Lithuania indicate approximately 23 percent of the population. In all, something in the nature of a million Balts seem to have been deported. From the areas annexed from Poland, in addition to about 200,000 Polish prisoners of war, about 400,000 civilians were sentenced to labor camps. Of these, about 270,000 died over the two and a half year period before they were released under the Polish-Soviet Treaty.

In early 1940, when the Soviet Union was at peace, the Soviet Government ordered the massacre of the Polish prisoners of war held in the camps at Kozielsk, Starobielsk, and Ostachkov. There were about 15,000 of these, including about 8,700 officers, 800 of them doctors. The approximately 5,000 held at Kozielsk were taken into the Katyn Forest in April 1940 and there shot and buried in mass graves. These were discovered when the Germans occupied the area. In spite of a Soviet claim that it was the Germans, themselves, who had shot them, an international medical commission including neutrals, representatives of the Polish underground, and Allied prisoners of war, were all clear that the German story was, for once, true. The evidence may be examined in a number of books, but here it is only necessary to say that the Soviet story fails on a whole series of grounds and is nowhere credited by serious students.

It had long been Soviet practice to deport suspect minority nationalities from border areas. The Koreans of the Maritime Province around Vladivostock were removed to central Asia in the thirties, as were the Finnish Ingrians of the Leningrad area. In 1941, and in 1943-44, the politburo ordered and organized the deportation of eight national groups, totaling one and a half million people, in the North Caucasus and elsewhere. These included the Crimean Tartars, the Kalmyks, and the Chechens. These nations were sent en bloc, men, women, and children, to various parts of Soviet Asia where they were held in appalling conditions under police control. The death rate ranged form about 25 percent (the Meskhetians) to over 46 percent (the Crimean Tartars)—the best estimate of the total of deaths seems to be just over half a million. We are told by Academician Sakharov that the highest rate of casualties was among children and old people. The alleged autonomous republics and so forth, which had catered for these people, disappeared from the maps and the names removed from the list of admitted entities. They remained in oblivion until the late fifties when five of them were rehabilitated and restored to their homelands. There are still three national groups, totaling about three-fourths million, who, though they have now been cleared of charges of mass treason, are still penalized and not permitted to return to their homelands—the Crimean Tartars, the Volga Germans, and the Meskhetians.

The turn to anti-Semitism in the modern style in the Soviet Union only came in 1943-44, though Zionism and the Jewish religion had been heavily persecuted for decades. Yugoslav Communists, visiting Moscow at that time, were astonished to hear that generals and others had been "exposed" as having Jewish blood. In 1949, when a new wave of arrests swept various Soviet groupings, large numbers of Jewish cultural and public figures were arrested, including almost all the members of the Jewish Anti-Fascist Committee. Over the following years, attacks became increasingly sharp. The Yiddish theaters and periodicals were closed down. The leading Jewish actor and producer, S. Mikhoels, was shot down by NKVD gunmen in Minsk in 1949. In 1952 came the still obscure Crimean affairs, in connection with which all Yiddish cultural figures were executed—it is estimated that about 600 of these were shot over this period.

Stalin's new wave of terror, which had included a large-scale killing of Leningrad Communists, culminated in the "Doctors' Plot" of 1952-53, where, once again, Russia's leading physicians were arrested and tortured into confession that they had plotted to poison the Soviet leadership, largely for motives of Jewish bourgeois nationalism. Stalin gave personal instructions to the investigators on how to obtain these confessions: "Beat, beat, and beat again."

AFTER STALIN

After Stalin's death in 1953, a considerable relaxation took place and by 1957 it seems that the camp population had been cut to about a third. Certain of his more rigorous laws—including that on hostages—were repealed and a large rehabilitation of his victims among Communists, soldiers, and writers took place. On the other hand, the laws against opposition to the state remained draconic and the rehabilitations were notably incomplete. For example, none of those executed in the two first Moscow trials has been rehabilitated.

These changes mainly took place under the aegis of Nikita Khrushchev. His attempt, if not radically to reform the system, at least to repudiate the horrors of the past, petered out with his fall in 1964. The years since then have seen a progressive rehabilitation of Stalin himself, an increase in the prestige of the Secret Police, and the suppression—once again—of the more unpleasant facts of the Soviet past. Indeed, there has been a progressive worsening of the situation. Nothing resembling the extremes of Stalinism has reemerged. But many of the camp complexes are still flourishing. Estimates of the numbers inside vary from about half a million upwards. And the worst feature of the whole system—the inadequacy of the camp ration—has remained quite unaltered. The death rate is all the same much lower, largely because those receiving this inadequate fare are nevertheless no longer used to any great extent on truly back-breaking labor such as lumbering. One method, not indeed new but becoming more frequent nowadays, is the detention of leading advocates of political reform in lunatic asylums run by the Secret Police, where they can be submitted to various "cure," often of a degrading and painful nature and always without medical justification.

But, while Lenin's and Stalin's terrors destroyed whole social classes, by the 1960's the activity of the ever powerful Secret Police was directed, and needed to be directed, not at the population at random but only at those who genuinely showed some sort of resentment at or rejection of the system.

WESTERN MISAPPREHENSIONS

History, it has been said, is the propaganda of the victor. One of the difficulties of dealing with Communist history is that all of us, or most of us, have been influenced over a half a century by versions more concerned to present the official Soviet picture than to discover the truth. It is true that in the last 2 decades a formidable body of independent scholarships has investigated these matters; but in spite of its status and influence, it does not seem to have driven out at least the remnants of unfounded assumptions which entered into the Western liberal conscience over the earlier period.

For the true condition of the Soviet Union in these matters was long concealed from many in the West. Part of the concealment, of course, was due to the precautions of the Soviet authorities to ensure as wide a measure of secrecy as possible. But even then, much information became available, through refugees, and others. The Russians, and their supporters throughout the world, simply denied the truth of these allegations. It may seem incredible that a great amount of true, and mutually confirmatory evidence, should be rejected by large numbers of men of good will in America and elsewhere. They seem to have been deceived basically because they had accepted a picture of the world into which the true facts did not fit. Some of them were, in one form or another, "socialists". They had been told that the Soviet Union was a "socialist" state. And at any rate, it clearly was not what they reprobated most, a "capitalist" state. And they were unaware of other possibilities. Under "socialism" they knew—indeed, it followed by definition—that serious injustices could not take place. Even those of them who willingly acquiesced in the execution of any number of "capitalists" or Fascists, could not credit that under socialism people would be falsely and publicly charged with Fascism. Nor was their imagination flexible enough even to consider the notion that a socialist state would, or could, conceal the existence of labor camps full of millions of starving prisoners. The most they could accept was that a very limited number of anti-social types were being redeemed by productive labor in prisons of unexampled humaneness.

However, it must not for a moment be suggested that all socialists took this view. There were many on the left—and even on the extreme left—to whom the facts were perfectly clear, and who refused to pretend otherwise. It was among moderate liberals, heavily penetrated and influenced indeed by men more devoted to the Soviet scheme, that the highest level of self-deception was reached.

THE RELEVANCE OF RUSSIA'S PAST

An excuse often advanced for these Soviet actions is, in effect, that things were as bad, or worse, in the previous Tsarist period. It needs to be strongly emphasized that this is by no means the case. Up to 1905, the Tsarist regime was in the most literal sense an autocracy, and even after that date it was the most backward polity in Europe. Nevertheless it was progressing. And even more important, it had never produced anything remotely comparable to the terror of the Communist regime.

For example, for the last half century of Tsarism, the only capital crimes were attempts on the life of the Emperor, his wife, and the heir to the throne, and certain offenses against quarantine laws. In the 1870's special courts were temporarily set up for terrorists. But over the whole period before 1902 the death sentences amounted to no more (for 39 assassinations, including that of Tsar Alexander II) than a few score. A confidential Tsarist document gives 48 executions, while a Soviet source (Small Soviet Encyclopedia, 1st ed.) gives 94, from 1866 to 1900.

Increasingly, political assassinations became widespread, causing about 1,400 deaths in 1906 and 3,000 in 1907. Large areas were put under special regulations and courts-martial tried those accused of terrorism and rebellion. These courts only existed for a few months but over a thousand executions resulted. (Soviet sources give 1,139 executions in 1907, and 1,340 in 1908; while they also speak of 6,000 executions in the period 1908-12, and of 11,000 in the period "following the 1905-07 Revolution." The highest figure that can be arrived at from these sources is one of about 14,000.)

The other crime of which Tsarism can be rightly accused, at least in a general sense, was the pogroms against the Jews—that is, members of the Jewish religion—which started in the latter part of the nineteenth century. (Ironically enough, these pogroms were also encouraged by the revolutionaries of that period—not on racial or religious grounds, but as a form of popular terrorism against "exploiters.") Tsarist officialdom, at one level or another, was often involved in the incitement of these bloody riots. The number killed over the whole period may have been over a thousand. Generally speaking, if we set a limit of 25,000 for all executions, pogrom murders and deaths in prison of the period from 1867 to 1917, we will be safe. The total maximum imprisoned (in 1912) was 183,949. It is absurd to compare these figures with those of the Soviet epoch, let alone justify the latter by them. Over the first-half century of Soviet rule, the executions were at least 50 times as numerous as over the last-half century of Tsarist rule, and the maximum number of prisoners at least 70 times as great. Moreover, in every other respect as well, the standards of humanitarianism had enormously worsened. In Tsarist times torture was the rarest and most scandalous exception: and the hostage system quite unknown. Lenin himself, the most intransigent enemy of the Tsarist regime, had suffered exile in a village where he was free to work, received letters, got an allowance, met his friends, hunted and so on. In the later period, any friend of a friend of some maker of a minor joke about the government was locked in a camp and working himself to death on starvation rations, without hope of release.

Naturally, this is by no means to deny that the Russian past is relevant. The country had, at any rate since the 13th century, been the scene of cycles of dreadful violence. The true creator of the unified and expansionist Russian state was Ivan the Terrible, who would massacre all the inhabitants of any of his own towns which showed signs of independence, as in Pskov and Novgorod. Ivan, who was openly admired—and rehabilitated—by Stalin, was also the founder of the first terror organization or secret police proper, the Oprichnina. His death was soon followed by the Time of Troubles, in which the armies of pretenders and of foreigners again ravaged the country and the permanent underground criminal element, nowadays known as *blatniye*, with their own laws and customs, sprang up.

The restoration of the State by the Romanovs led to stagnation. No feudal system, properly speaking, arose. That is to say, there was no body of rights and duties linking the people, the privileged and the Crown. Under the Tsars—and particularly after the system became fully stabilized in the 18th century—there was an absence of even theoretical rights: everyone was, in principle, simply the servant of the autocrat. The "modernization" carried out by Peter the Great and Catherine the Great consisted of the rationalization of this system, and the establishment in Russia of the technical, the military and the administrative methods of the West, but nothing of its civic and political content. At the beginning of the 19th century most of the population were "serfs". (This word is to a great degree misleading. The usual Russian word "rob" means slave. And in fact the serf had in general fewer rights than the slaves of the Americas.)

Russia was thus heavily and deeply brutalized, at the top by the irresponsibilities of absolute power, and at the base by the absence of social responsibilities and rights.

In the 19th century, however, the beginnings of a great change began to show themselves. Western ideas came back with the officers who had defeated Napoleon, Tsar Alexander II emancipated the serfs in 1861, and through the century an educated middle class arose. In the years before the revolution, the beginnings of a genuine civic life had begun to lay down roots—though as yet comparatively shallow ones. Even in the political sphere the autocracy was substantially modified by the concessions made after the 1905 revolution. And an independent peasantry with a true feeling for the land had begun to emerge.

On the other hand, the older revolutionaries, who had accepted Western radical ideas at the end of the previous century, and had come to them without any ballast of political and civil experience, evolved into abstract fanaticisms. When the Bolshevik Revolution took place in 1917, it meant (from the humanitarian point of view) that a group of men who believed that all not sharing their views were representatives of irremediable evil, and who openly put forward the idea of terror as a political weapon, were in control of a country and state where a whole history of irresponsible and archaic brutality had as yet been only superficially eroded, and lay ready to burst forth. Moreover, over the ensuing years, it was precisely the class in which the civilized virtues had genuinely taken root which was destroyed—not merely by literal means, but also through the emigration of millions of Russians in the wake of the Civil War. (Lenin to some extent saw this; while remarking that the culture of the Russian middle classes was "inconsiderable, wretched", he said that even so it was "in any case greater than that of our responsible Communists").

As yet, it is undeniable that all the vast expenditure of human life has not led to the juster or more humane society promised. If anything there has been, in these qualities at least, a retrogression.

SUMMARY

In my book, "The Great Terror," I sought to estimate the overall cost in human lives of the Stalin-Yezhov terror. The figures were brought together in a paragraph which it might be appropriate to quote at this point:

"Taking the conservative figures of an average over the period 1936-50 inclusive, of an 8 million population of the camp, add a 10-percent death rate per annum, we get a total casualty figure of 12 million dead. To this we must add a million for the executions of the period, certainly a low estimate. Then there are the casualties of the pre-Yezhov era of Stalin's rule 1930-36: This includes as its main component the 3½ million who perished in the collectivization itself, plus the similar number sent to the camps where virtually all died in the following years: again minimal estimates. Thus we get a figure of 20 million dead, which is almost certainly too low, and might require an increase of 50 percent or so, of the debit balance of the Stalin regime for 23 years."

To obtain the total number of human being directly killed in the Soviet Union by the Communist authorities since the revolution, we should add to this the casualties of the Lenin period. The number we take as dying as a result of the revolution, though not actually at the hands of its agents, depends on the degree to which we blame the plagues and famines of the early period in the seizure of power by a minority group and the consequent collapse of authority; and how much we blame the 1921 famine on the food policies of "War Communism." But, even leaving them aside, the result is striking enough.

All the same, in concentrating on these figures, it would surely be wrong to forget the vast amount of unquantifiable human misery resulting from, indeed part of, this same process. The suffering of wives whose husbands disappeared, the children who were orphaned, cannot be counted. The spiritual cost of being forced to denounce one's own parents, the mental torment of lying in fear of unjust arrest and death night after night for months or years, are not subject to measurement.

Finally, the sheer scale of all this human suffering, both physical and spiritual, is such that it cannot be regarded as a mere accident or observation. It was, on the contrary, part of the very essence of the attempt to create by force a new political and social order—and one which, based on the exaltation of the totalitarian party as against the rights of the citizen or of the truth, continues to put itself forward on a world scale as the alternative to our own tradition.

APPENDIX—CASUALTY FIGURES FOR THE STALIN TERROR [1]

No exact numbers can yet be given of those who suffered in the Great Purge. In general Soviet citizens speak of "millions of lives" broken, of "millions of innocent people in camps and prisons." The estimates tentatively put forward in chapter 10 are those which for various reasons have seemed reasonable to the author. We can indeed be sure that they are of the right order of magnitude, but the evidence will naturally lack precision until the NKVD archives are available for examination.

Nevertheless, there is much material which bears on the question. And without attempting to deduce from it a rigor which it will not at present support, we can list the main points which lead to the type of conclusion I have come to.

This can suitably be done under five main heads. First, the number arrested can be considered. Second, the number of these condemned to death, or at least executed. Third, the numbers in the labor camps. Fourth, the death rate in those camps. The figures for each of these depend to some degree on the others, but there is in every case a body of evidence directly bearing on the special point. Fifth and additionally, we can consider, looking back from the most recent Soviet census, the population deficit produced by the Purge. I have thought it best to give each train of evidence separetely, and not make any explicit attempt to collate them. The extent to which they confirm each other, and the areas of uncertainty too, will be fairly apparent.

A. ARRESTS

1. We know from the Stalin-Molotov Secret Instruction of May 8, 1933 that there were at that time 800,000 persons in "places

---

[1] Reprinted from "The Great Terror" by Robert Conquest, with the permission of the Macmillan Co.

of detention . . . *not* counting labor camps and colonies," that is, prisons. All accounts agree that crowding was much greater in 1937-38 than at any previous period: we can take 1 million as a minimum, at any rate.

It fits with direct evidence from the cells. The Butyrka held about 30,000 prisoners. If we conservatively allow another 20,000 for the other Moscow prisons, plus those of the towns of Moscow province, that would imply a total in the whole country of 950,000: Moscow province, with about 9 million inhabitants, had about one-nineteenth of the total population. Moscow is, indeed, not entirely typical. Its high concentration of party members and Government officials were particularly liable to arrest; on the other hand, ordinary citizens are usually reported to have suffered less than the norm, and in general these factors are believed to balance out. (Leningrad, with a province population of about 6 million, reportedly had some 40,000 prisoners in 1940.) A figure around a million might still be an underestimate of the number actually held in prisons proper at a given moment in 1937-38.

2. An estimate which has found much support is that the average prisoner, over the whole 2-year period, stayed in jail about 3 to 4 months. This would give a total arrest figure for the 2 years of 6-8 million, if we accept an average jail population of only a million.

A complementary figure, given by an NKVD interrogator himself under arrest, is that there were 3,000 interrogators in Moscow alone. If they concluded a case a week on the average—not a heavy demand—this would be at the level, for the whole country, of 6 million for the 2 years of "political" prisoners only.

3. Dr. Alexander Weissberg, the physicist, who was in the Kharkov prisons from March 1937 until February 1939, estimates that about 5.5 percent of the population of the area feeding these jails were arrested during this period. Among other indications, a check was kept by following the numbers on the receipts given prisoners for their goods confiscated on arrest—money, braces, etc. But this was confirmed by other methods. (Avtorkhanov, a high official in the North Caucasus, estimates that about 4 percent of the population of that region was arrested in 1937 alone, though he appears to grant that this is a higher figure than for the U.S.S.R. as a whole.)

It has been objected to Dr. Weissberg's figures that Kharkov too may not be representative. But Weissberg in fact compared the local figure with those made by prisoners who had done the same computation in other parts of the country,[2] and found that 5-5½ percent was regularly reported. (Another prominent academic prisoner who conducted the same researches concluded that 5 percent was a minimum figure for arrests.)

Applied to the population total as given in the 1939 census,[3] this would mean about 8½ million arrests.

4. It can be estimated that during the most crowded period in the winter of 1937, over 4,000 men a week went from the Butyrka prison, mainly into camps, and were replaced. For the whole of Moscow province one might postulate 7,000. If the average over the 2 years was of the lower order of c. 4,000, we get a total for the 2 years of 416,000; which applied to the whole country would give just under 8 million as the total number of arrests.

5. In 1934, at the 17th Party Congress, there were 2,817,000 members and candidate members of the party. Under the then regulations, candidates could not retain that intermediate position for more than 3 years. That is, by the 18th Congress in 1939, they should all have been promoted—or expelled. The full membership in 1939 was 1,568,000, and of these c. 400,000 had not been in the party at all in 1934. That is, there is a deficit of c. 1,640,000. About 300,000 been expelled in 1934, when comparatively nonincriminating reasons were common. But the rest, including the 1935 expellees,[4] formed the first and hardest hit target of the whole purge. We can scarcely allow that a quarter of them escaped arrest. This would give a figure for party arrests of not far short of a million.

Another careful estimate is that about 850,000 expulsions took place in the 18 months, January 1937 to June 1938, which accords with the above estimate.

The figure most commonly found of the proportion of non-party to party arrests runs at 7-8 to 1. This would give some 8-9 million arrests.

6. Other estimates are of the same general type. A Yugoslav estimate is that there were about 7 million arrests in 1936-38. An estimate by a responsible party official is also 7 million arrests. In fact all our chains of evidence (treated, in general, somewhat conservatively) lead, though without any real precision, to some such figure.

B. EXECUTIONS

1. Of the number of death sentences the impression of careful observers is that "they did not exceed 10 percent of the whole". An analysis of reports on 471 random arrests in the period 1936-40 (relatives of 2,725 Soviet citizens later defecting to the West) included 52 known death sentences—around 10-11 percent. On the arrest figures we have, this would give c. 700,000 "legal" executions.

The party official who estimates 7 million arrests suggests that the death sentences amounted to about 500,000.

2. We were told by a Soviet writer that in the Lefortovo, as early as August 1937, they were shooting 70 men a day. The rate for the first 5 months of 1937, must have been a good deal lower; but, on the other hand, things were worse over the winter of 1937-38. If we take a total of 40,000 over the 2 years, we shall probably not be far wrong. This would give a figure of around 800,000 for the whole country if all the remaining prisons in it accounted for 20 times as many executions, which seems conservative even allowing for the special circumstances of the Lefortovo.[5] Then again, local NKVD branches in the provinces were ordered on occasion simply to execute a given number of "enemies of the people" in their hands, that is not prisoners held by GULAG in camps, but by the local authorities in prisons. For example, a former NKVD officer reports one telegram of which he was personally aware, and which is doubtless representative of others sent regularly throughout the Union, such is its air of routine formality: this was from Yezhov to the NKVD chief at Frunze, capital of Kirghizia:

"You are charged with the task of exterminating 10,000 enemies of the people. Report results by signal."

The form of reply was: "In reply to yours of * * *, the following enemies of the people have been shot," followed by a numbered list. One order to the city NKVD of Sverdlovsk called for 15,000 executions. Another, to a small town near Novosibirsk, ordered 500, but the NKVD there could find only petty offenders available. In the end they had to shoot priests and their relatives, all who had spoken critically of conditions, amnestied former members of White Armies and so on—mostly people who would have ordinarily qualified for 5-year sentences or less. One example of this type of massacre has become known in physical detail. Mass graves were discovered in Vinnitsa, in the Ukraine, in 1943, when the area was under German occupation, and were examined—like the Katyn graves—by an international commission of medical experts. The number of corpses, all killed by shots in the back of the neck, except for a few cases of braining with gun butts or clubs, was over 9,000. There were 1,670 corpses examined. These shootings seem to have taken place in 1938. The identifications made by relatives give the latest arrests in June that year. The bodies were buried actually within the city limits in an orchard, a cemetery, and a section of the municipal park. This implies a far greater likelihood of discovery than in the (presumably more natural and usual) selection of more isolated spots. The discovery was, in fact, made because various inhabitants had heard or seen suspicious actions. There is thus a presumption—as indeed can be deduced from Katyn—that other similar massacres remained undiscovered. (But we can also note in the selection of such sites that the NKVD in 1938, is shown as arrogantly sure of itself in its treatment of the population.)

The population of Vinnitsa before the war was about 70,000, and of the province about 1 million. If these 9,000 were the only executions in Vinnitsa, if they represented the entire province, and if the same proportion applied throughout the country, we get a figure of c. 1½ million executions. The same calculation applied to the (less solidly authenticated) Frunze and Sverdlovsk massacres mentioned above give a countrywide figure of over a million, from these one-shot operations alone.

Very significantly to estimates derived from known death sentences, there was also a sentence of forced labor "without right of correspondence." No exprisoner ever met anyone serving such a sentence. Moreover, when the mass grave at Vinnitsa was examined, a number of relatives identified corpses whose sentence had been notified to them as of (usually) 10 years "without right of correspondence." We can conclude that this phrase was no more than a method of concealing the execution rate. We have no means of estimating the numbers of deaths thus misrepresented. But the employment of this ruse was pointless unless it had substantial application, and one Moscow informant notes several out of his own limited acquaintance. An ex-NKVD officer says that it was quite a normal procedure.

---

[2] As another prisoners remarks: "Every cell possesses at least one statistician."

[3] One of the difficulties is that we do not know what to make of the 1939 census. The census taken in January 1937 was suppressed, and publicly though vaguely denounced, for "gross breaches of the elementary bases of statistical science." The Census Board is believed to have been shot. But what it was that proved unsatisfactory in their results is unknown. An NKVD rumor had it that the total population fell far below what was expected and required (a figure of 147 million instead of the 170 million reported in January 1939 was bruited). On the other hand, the published total seems on the face of it compatible with the known and estimated population trends, and a quite different motive for the stifling of 1937 figures—unsatisfactory social distribution—has been suggested. Even so, in the circumstances, we can hardly repose unreserved confidence in any aspect of the 1939 census.

[4] A typical description of the reasons for expulsion being that they were "kulaks, white guards, Trotskyites, Zinovievites, and all other filth."

[5] E.g. in Gorki, provincial population c. 4m., fifty to seventy executions a day are reported at NKVD headquarters.

4. Mass executions were also ordered at this time in the camps. These were almost always carried out somewhat furtively. Prisoners would disappear to special centers, and thus not be reckoned by their mates among the camp death rate estimates. Genuine old Trotskyists, of whom a few still survived even in 1938, were usually given a formal, if rapid, "trial," but this was exceptional. An account from the central isolation prison of the Biakal-Amur railway group of camps, where executions were entirely clandestine and without sentence, estimates that in the 2 years, 1937-38, some 50,000 people were executed here in this fashion. In addition to such operations, death sentences for sabotage and anti-Soviet propaganda were routine in camp.

5. It will be seen that no exact estimate of total executions can be made, but that the number was most probably something around a million. One officer of the central NKVD estimates about 2 million "liquidations" in 1936, 1937, and 1938. An official Yugoslav statement estimated, as we have seen, that the total "killed" in 1936, 1937, and 1938, was 3 million. These seem high figures and perhaps include estimated camp deaths other than by shooting.

C. NUMBERS IN THE CAMPS

We are not able to give exact figures in this field any more than in the others. But there are methods of estimating which are sound in principle and cannot give answers that are far wrong, if carefully applied. Though arising independently, they tally with each other. And the results are in adequate accord with those deduced at the other end of the process—the rates of arrest.

1. First, we have a set of figures, authentic in themselves, but needing interpretation, for the forced labor resources expected by the NKVD to be available in 1941. These come in the secret "State Plan for the Development of the National Economy of the USSR in 1941." The version available is incomplete. From its list of the amount of production allotted, one can make certain deductions on the amount of forced labor in lumbering, coal-mining, and the other spheres. But it omits gold-mining, agriculture, and certain other branches, and, in particular, gives no figures for the out-contracting in construction work done by the NKVD for other Commissariats, one of its major spheres. Professor Swianiewicz, in a careful and conservative estimate based on this, arrives at a total of just under 7 million. It should be noted that late 1940, was a comparatively low period for camp population: Wiles, estimating 8 million for 1939, gives 6½ million for 1940.

2. The second method is also sound in theory—that based on prisoners' reports. Dr. Julius Margolin, for example, was imprisoned in several camps of the Baltic-White Sea group from 1940 on. He found that the group contained a Division 28, that each division had at least 10 to 15 sites, and that these held a range from a few hundred to a few thousand prisoners. A rough deduction gives several hundred thousand prisoners for the whole. (The true total is believed to be about 300,000.) Obviously such individual estimates can give no more then a rough result. But when a considerable number of such reports are collated, plainly a very reasonable approximation can be attained. This was done, over the whole range of camps, by Dallin and Nicolaevsky in the midforties, and their conclusion warrants considerable confidence. (Many of the survivors of the c. 440,000 Poles sent to labor camps in 1939-41, and allowed to leave the U.S.S.R. in 1942-43, gave useful indications.) Calculations so based give a figure, for the 1940-41 period, of 8-12 million.

3. There are various odd points in Soviet statistics published in the late thirties which have seemed to researchers to give indications of a possible labor camp figure. For example, there is a discrepancy between the aggregate payroll for the whole economy and the total wage bill on the basis of official labor statistics, amounting to 18.5 percent of the total payroll. Part of this is accounted for by the Army, but it has been estimated that 13.5 million involuntary workers remain after that has been done. These would include the large category of those doing "forced labor" at the place of employ, then a common penalty though a short-term one.

Again, the author of the most authoritative study of the Soviet population (Lorimer) was puzzled by a residue of 6,790,000 unaccounted for in terms of employment, pensions, Army, etc., plus just under 1¼ million labelled "social group not indicated". Similarly, an analysis applying to the 1939 figures the proportion of population to labor force of the 1926 census—a point not given in that of 1939—left a residue of 10 million.

Thus, those who take these approaches as genuinely significant can deduce from them figures of the right sort of magnitude. But the formal difficulties are great, and in none of these cases is it possible to say that the apparent anomaly is not accountable in some other way.

It is clear, again, that the 1939 census does *not* list the prisoners in the areas which actually contained them. Komi, for example, is given as having *c.* 319,000 population, half of them of the local nationality, and Magadan as a mere 173,000 (these figures are probably adequate to cover the free staff of the camp complexes, and their surroundings). Nor is it possible to establish where or not the census contains the prisoners in any other way.

We must leave it that neither the census nor any other published Soviet statistics of the period have yet yielded any sound basis for an estimate; though it is worth noting that the expected population for 1937, as given in the preface, prepared in 1936, to *The Second Five Year Plan for the Development of the National Economy of the U.S.S.R.* (English ed., New York, 1937), was 180,700,000, as compared with the census result of 170,467,000 two years later.

4. Other evidence is simply by report, but deserves consideration because it must often represent official leakage or at worst informed guesswork. The general estimate in the camps themselves over 1938-41 was from 15 million upward, and this was shared by many NKVD officers themselves under arrest. It was also the common rumor in official circles. GULAG officials arrested in 1938 gave about 10 million as their own estimate. There are a few lower estimates, such as that of an official who gave 6 million "with a strong upward trend" in early 1941. A colonel connected with the inspectorate of camp guards from 1934 to 1941 said there were between 12 and 14 million just before the war.[6] That these estimates run several million higher than those arrived at by other methods is probably due to the inclusion of those charged under other articles of the Code than 58—that is, "common criminals" such as bandits, small peculators, breakers of labor discipline, et cetera. Most of these did not go through the processes described above but were held at detention centers attached to the police stations (Moscow had 11 prisons in addition to the five named in the Purge literature). There, their cases, involving simple and genuine facts, were processed in 2 or 3 days; and they went straight off to camp.

5. No exact computation being possible, one can see that these figures, together with those for arrests and executions, are compatible with a highly conservative solution of the following type—not including "criminals," as not specifically victims of the purge—for the end of 1938:

	Millions
In jail or camp already January 1935	*c.* 5
Arrested January 1937-December 1938	*c.* 7
Total	*c.* 12
Of which executed	*c.* 1
Died in camp 1937-38	*c.* 2
Total	*c.* 3
In captivity late 1938	*c.* 9
Of which in prison	*c.* 1
Total in camps	*c.* 8

D. DEATH IN THE CAMPS

We are typically told that "during the first year about one-third of the prisoners die," mainly of exhaustion. That is, those physically most unfitted to the extreme conditions of the camps went quickly. Taken as applying to the newly arrested of 1937-38, it would imply a loss of about 1 million of them each year, over the period immediately following admittance.

This 30 percent death rate for the new intake is not of course the death rate for the camp population as a whole. A careful study of this has produced a rate in camps, in 1933, of about 10 percent per annum. In 1938 it had risen to about 20 percent. This variation is compounded by another difficulty—that our information usually comes from particular areas, and there was much variation in conditions. Kolyma, as we have seen, had a death rate of up to 30 percent. If we take its average population as 500,000, possibly an underestimate, this camp area alone probably accounted for over 2 million deaths, up to 1950. Lumber work, and others in the far north—especially on the Vorkuta railway—were also dangerous employments. But in general, leaving aside a few very bad and a few notably moderate camps, the total impression is that the ration was always and everywhere insufficient to the work, and until 1950 always produced a death rate of a minimum of 10 percent per annum.

An estimate in the broad scale, though still not a precise one, can be made in the case of the Polish prisoners of 1939-42. Of

---

[6] After the war there was certainly an increase. NKVD functionaries imprisoned in 1948 spoke of 12 million. The commandant of a "repatriation camp" feeding the labor camps spoke of the post-war total as 15-17 million.

1,060,000 Poles taken to labor camps, or forced settlement, about 270,000 died. Of these, the great majority perished in the labor camps, which accounted for about 440,000 of the total detainees. Even allowing for the executions at Katyn and elsewhere, and starvation in a number of free settlements, it seems that not less than 40-50 percent of the labor-camp inmates of Polish citizenship must have died during an average incarceration of around two to two and a half years.

Release was very rare. Moveover, in the late forties, as is now admitted, those who had been released were all rearrested. Thus, the average prisoner had to go through bad years as well as fair, and except in a few favored camps was most unlikely to survive. Of 3,000 Kursk "collaborationists" sent to camp after the recapture of that city in 1943, only 60 were alive in 1951.

After 1950 the death rate, at least in the main zones of northern Russia, became little higher (except for "disciplinary" deaths) than the local civilian rate. The physical possibility of surviving a sentence existed, though the prospects at the time seemed poor, for, as the well-adjusted "Ivan Denisovich" could say:

"Maybe you could last 10 years and still come out of it alive, but how the hell could you get through 25?"

Fortunately, these later victims did not have to wait so long. But the average camp inmate arrested in the period before 1950 had usually been through killing years, as with the men from Kursk. The 1937-38 victims who did not go under in the first wave of deaths often survived right up to the war. But the bad years then ensuing killed the vast majority of them. They are only reported most exceptionally in the post-war evidence.

Taking the conservative figures of an average over the period 1936-50 inclusive of an 8 million population of the camps and a 10 percent death rate per annum, we get a total casualty figure of 12 million dead. To this we must add a million for the executions of the period, certainly a low estimate. Then there are the casualties of the pre-Yezhov era of Stalin's rule, 1930-36—this includes as its main component the 3½ million who perished in the collectivation itself plus the similar number sent to camps where virtually all died in the following years: again minimal estimates. Thus we get a figure of 20 million dead, which is almost certainly too low and might require an increase of 50 percent or so, as the debit balance of the Stalin regime for 23 years.

ADDENDUM: THE SOVIET CENSUS OF JANUARY 1959

The total figure of 208,827,000 was some 20 million lower than Western observers had expected after making allowance for war losses—even though the first losses of the purge, or such of them as may be registered in the 1919 census, had also been taken into account. On the other hand war losses had probably been underestimated and this remains to some degree an imponderable.

But the main point arises from a consideration of the figures for males and females in the different age groups:

Age (Jan. 15, 1959)	Number (thousands)		Percent	
	Male	Female	Male	Female
0 to 9	23,608	22,755	50.9	49.1
10 to 19	16,066	15,742	50.5	49.5
20 to 24	10,056	10,287	49.4	50.6
25 to 29	8,917	9,273	49.0	51.0
30 to 34	8,611	10,388	45.3	54.7
35 to 39	4,528	7,062	39.1	60.9
40 to 44	3,998	6,410	38.4	61.6
45 to 49	4,706	7,558	38.4	61.6
50 to 54	4,010	6,437	38.4	61.6
55 to 59	2,906	5,793	33.4	66.6
60 to 69	4,099	7,637	34.9	65.1
70 and older	2,541	5,431	31.9	68.1
Age not given	4	4		
Total	94,050	114,777	45.0	55.0

Many women died as a result of the war and the purges. But in both cases the great bulk of the victims was certainly male. From neither cause should there be much distinction in the figures for the sexes for the under-30 age groups in 1959. Nor is there. For the 30-34 block the proportion of 453 men to 547 women is a comparatively small difference, presumably indicating the losses of the young Army men in their late teens during the war. In the 35-39 group, which could have been expected to take the major war losses, we find figures of 391 men to 609 women. One would have thought that these men, in their early twenties in the war, would have had the highest losses.[7] But the proportion then gets worse still, and for the 40-44, 45-49 and 50-54 remains a set 384 to 616. Even more striking the worst proportion of all comes for the 55-59 age group (334 to 666: in fact in this group alone there are almost exactly twice as many women as men). The figures for the 60-69 group (349 to 691) and for the 70 and over group (319 to 681) are also much worse than the soldiers' groups.[8] Now all authorities agree that the Purge struck in the main at people "between 30 and 55", "generally, arrested people are all 30 or over. That's the dangerous age: you can remember things." There were few young or old, most of them being "in the prime of life. Add 20 years for the 1959 position.

Precise deductions are not possible. Older men died as soldiers in the war. But on the other hand, the mass dispatch to labor camps of prisoners of war returned from Nazi hands in 1945 must have led to an extra, and nonmilitary, death rate among the younger males. So must the guerrilla fighting in the Baltic States and the Western Ukraine which lasted for years after the war; and so must the deportations from the Caucasus and the general renewal of purge activities in the post-war period. But in any case, the general effect of the figures is clear enough. The wastage of millions of males in the older age groups is too great to be masked, whatever saving assumptions we may make. We here have, frozen into the census figures, a striking indication of the magnitude of the losses inflicted in the purge.●

By Mr. DODD (for himself and Mr. D'AMATO):

S.J. Res. 391. Joint resolution designating November 4 through 10, 1988, as the "Week of Remembrance of Kristallnacht;" to the Committee on the Judiciary.

WEEK OF REMEMBRANCE OF KRISTALLNACHT

● Mr. DODD. Mr. President, November 9 will mark the 50th anniversary of the infamous Kristallnacht, the first major violent onslaught of the Nazi terror machinery upon the Jewish citizens of Germany and Austria.

On this occasion, together with my colleague from New York, Senator D'AMATO, I introduce this joint resolution to designate the week of November 4 as the "Week of Remembrance of Kristallnacht." Our resolution is identical with House Joint Resolution 654, introduced by Congressman CHARLES SCHUMER and we gratefully acknowledge his authorship.

By November 1938, the Jews of Nazi Germany had been deprived of most of their civil rights, they had become second-class citizens. November 9, however, opened a new chapter in their tragedy: the beginning of sheer physical terror against them that led to the murder of 6 million Jews in Europe. On the night of November 9, Adolf Hitler unleashed thousands of SS and SA thugs on Jewish businesses, shops, synagogues and homes in Germany and Austria. Close to 300 synagogues were burned, thousands of businesses destroyed, nearly a hundred Jews killed and tens of thousands deported to concentration camps. By the morning of the 10th, millions of tiny specks of broken glass covered the streets wherever Jews lived, sparkling in the morning light like so many crystals. This is how this night of infamy became known as Kristallnacht.

Mr. President, the horror of Kristallnacht directly led to the monstrous horror of the holocaust. The reason this 1-day rampage could rise to that magnitude was due to the fact that, although the civilized world was outraged by the Nazi terror, it did precious little beyond condemnation.

It is for this reason that we think it necessary to remember what happened during Kristallnacht. This commemoration is not an empty exercise in historical retrospection. Its purpose is to reinforce the lesson of the holocaust, to teach us and the next generations what happens when good people remain silent or inactive in the face of evil. This must not happen again, and it is our duty to make sure that it will not happen again. I hope our colleagues will support our resolution.●

● Mr. D'AMATO. Mr. President, I rise today as an enthusiastic cosponsor of this resolution to designate November 4 through 10, 1988, as "the Week of Remembrance of Kristallnacht." As my colleagues know, Kristallnacht was the night of November 9-10, 1938, when the Nazi regime organized an attack on the Jews of Germany and

---

[7] This obvious point is backed by one of the few available age analyses of actual deaths in war. Losses in the German Army in World War I in proportion of age groups were distributed as follows: 15-19, 2.81 percent 20-24, 15.25 percent; 25-29, 22.9 percent; 30-34, 15.48 percent; 35-39, 11.6 percent; 40-44, 5.38 percent; 45-49, 3.49 percent.

[8] It is true that losses in the First World War and the Civil War have some effect on this group, but in the census of 1926 there is none with a deficit of males of more than 10 percent.

Austria, in retaliation for the murder of Ernest Vom Rath, Third Secretary of the German Embassy in Paris, by Herschel Grynzspan.

Grynzspan, the son of Polish-Jewish parents living in Germany, attacked Vom Rath, seeking to avenge himself against the Nazis for their deportation of his parents to the Polish-German frontier in October 1938. He shot Vom Rath on November 7, 1938. Vom Rath died of his wounds on the afternoon of November 9.

The Nazis attempted to present this assault on Jews living in territory under their jurisdiction as a spontaneous act of outrage on the part of ordinary German citizens. In fact, the allies captured Nazi records during World War II that show that Kristallnacht was a centrally-directed and coordinated action originating with the highest echelons of the Nazi party and carried out by the various SA or sturm-abteilung units.

According to authoritative sources, at least 36 Jews were killed, 36 more were severely injured, 191 synagogues were set on fire and 76 more were destroyed, 171 houses were burned down or demolished, 815 Jewish-owned shops and 29 warehouses were destroyed, and roughly 30,000 Jews were arrested. This was a major step down the road to the holocaust, the industrialized genocide committed by the Nazis against Europe's Jews.

I spoke extensively on the subject of Kristallnacht on September 20, 1988. My remarks on that occasion appear on pages 24470-24472. I want to add to the points that I made on that occasion in these remarks.

Mr. President, I ask unanimous consent that an excerpt from a book entitled "Crystal Night, November 9-10, 1938," by Rita Thalmann and Emmanuel Feinermann, be printed in the RECORD at the close of my remarks. This excerpt provides a detailed account of the responsibility of Hitler and the other Nazi leaders for Kristallnacht.

It describes how the Nazi leaders were gathered at the Munich Town Hall on the evening of November 9 to commemorate the failed beer hall Putsch of 1923. A message was given to Hitler informing him of Vom Rath's death. Hitler then spoke with the Nazi Minister of Propaganda, Dr. Goebbels. Goebbels then directed the SA leadership to undertake the attacks on Germany's Jews.

As part of my remarks on September 20, I briefly discussed the treatment of Jews in the United States and anti-semitism, in the United States. I spoke about the vandalization of the Orthodox Congregation Rabbinical Institute Sharai Torah in Brooklyn by two youths. I noted the superficial resemblance between this act and the horrendous desecrations and criminal acts that occurred during Kristallnacht.

Since then, a publication called the GIEA Newsletter has been brought to my attention. It represents itself as a publication of the German-American Information and Education Association, giving P.O. Box 23169, Washington, DC 20026, as its address. At the bottom of the newsletter, it calls itself "The Human Relations Agency for 52 million German-Americans."

Mr. President, I ask unanimous consent that the June 1988 edition of this newsletter be printed in the RECORD following the excerpt from "Crystal Night."

This is a remarkable document. In this newsletter, the editor, Stan Rittenhouse, attempts to prove that the holocaust was a fabrication. He states that "the holocaust is proving to be the hoax of the 20th century—possibly, a better term would be hoaxacaust."

This nauseating anti-Semitic tract closes with the following thought, and I quote:

> On balance, war always seems to be the best thing that ever happens to the Jews. Through terrorism, they get a 'homeland'; from war, they expand their boundaries; as a result of a previous war, they reap billions upon billions; and possibly, as a result of a future war, they may gain some of the richest oil fields in the world. Yes, war has been good to international Zionism!

Mr. President, I have many German-American constituents. Not a one of them would support the views contained in this newsletter. Its intent is to raise funds for Mr. Rittenhouse's association. Not a one of my constituents would contribute to this organization.

It so happens that within the week, the President of the United States will dedicate the cornerstone of the U.S. Holocaust Memorial Museum. President Reagan is scheduled to deliver the keynote address at this October 5 event.

The President has a special reason, in addition to the office he holds, to be the keynote speaker. Since 1984, President Reagan has been the honorary chairman of the museum's fundraising campaign. More than $50 million of the $147 million needed has already been raised. I am confident that my constituents will choose to contribute to the President's—and the Nation's—institution, and will join me in thwarting the efforts by anti-Semites and neo-Nazis to deny the existence of the holocaust.

Mr. President, the continued existence of anti-Semitic views such as those propounded in the "GIEA Newsletter" makes our unanimous support for this resolution all the more important. The American people—and the people of the world—should never believe that we are prepared to endorse in our own country the very doctrines so many of our people died to destroy in Nazi Germany.

I urge my colleagues to join me to assure this resolution of speedy passage.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE KILL

When news of vom Rath's assassination reached Germany the Jewish communities realized what would be in store for them.

On November 7th the German press relegated the incident to a few lines on the second page, but the following day they blazoned it across the front pages, gave increased space to the 'world Jewish conspiracy' and foretold the exaction of severe reprisals. The most moderate daily, the *Deutsche Allgemeine Zeitung,* announced in its Berlin edition of November 8th: 'The Jewish attempt against the German Embassy in Paris will have, as everyone now knows, the most serious repercussions on the Jews, including foreign Jews living in our country. They will learn to their cost that the assassin's phrase 'racial brother' cuts both ways. Goebbels' *Völkischer Beobachter* did not trifle with circumlocutions. 'It is clear,' the edition of the same day stated, 'what conclusions the Germans will draw from this latest event. We shall no longer tolerate the hundreds of thousands of Jews within our territory who control entire streets of shops, who avail themselves of our public entertainments, and as foreign landlords pocket the wealth of German leaseholders while their brothers in religion incite war on Germany and assassinate German officials.' Other newspapers reported with satisfaction the antisemitic comments published in such French papers as *La Nation, Le Jour, Le Journal* and *L'Action Française.*

The government ominously forbade publication of Jewish newspapers in Germany after November 8th, thus outlawing three large newspapers, the *Central Verein Zeitung* (with a circulation of 40,000 copies), the *Judische Rundschau* (circulation 26,000) and the *Israelitisches Wochenblatt* (circulation 25,000), as well as the four cultural papers, the sports magazines, and specialist magazines, not to mention the twenty-five community bulletins (the circulation of the Berlin bulletin alone was 40,000). In this way, the government lopped off the last source of information and communication available to the Jews, who had already been ostracized from public life and deprived of their radios.

A series of antisemitic demonstrations on November 8th all traced a similar pattern in a large number of places. The heads of local Party organizations held meetings to denounce 'Jewish crimes', after which the local synagogues were set on fire, and Jewish shops and homes were pillaged and wrecked. The following morning Nazi officials visited the cities and villages in which no demonstrations had occurred to urge the local Party leaders to organize action against the Jews. On the same day the Nazis harassed many of the Jews who went to the French Travel Office in the famous street Unter den Linden in Berlin to purchase tickets to leave the country.

Magnus Davidsohn, reader of the principal synagogue in Berlin, paid a visit with his wife to Counsellor vom Rath's parents, who happened to be neighbours and acquaintances of many years' standing. When he expressed his condolences and the sympathy of the Jewish community, Herr vom Rath, distraught with grief, responded 'My dear

Reverend, neither you nor any other Jew is responsible for this. I think my son was assassinated on orders. He spoke too much and a hired assassin killed him.' Magnus Davidsohn uselessly tried to explain that the young murderer had sought to revenge his parents' deportation; the old Prussian officer, whom the Nazis later made the figurehead of a department dealing with racial questions, clung obstinately to his own version of what had happened.

On the evening of November 9th, the old Nazi guard gathered at the Munich town hall to celebrate the anniversary of the putsch of 1923. A little after nine o'clock, a messenger brought Hitler the news of vom Rath's death. The Führer, who was visibly moved, signalled to Goebbels. They whispered together for a moment, then the Führer abruptly walked out without giving his speech. As he left he announced, "The SA should be allowed to have a fling."

A report on the members of the SA and SS arrested afterwards for murder and other criminal offences committed against the Jews on the night of November 9th-10th was submitted to Marshal Goering by Walter Buch, acting for the Supreme Tribunal of the Nazi Party, on February 13th 1939. In it he pinned the major share of the blame for the pogrom on Dr. Goebbels, whose fanatical stories featured the "spontaneous" antisemitic demonstrations that took place in reaction to the news of Grynszpan's crime. These convinced the leaders of the Nazi Party that they should not appear officially to have authorized the pogrom, although they virtually planned and organized it.

The Minister of Propaganda's fundamental responsibility for unleashing the pogrom was confirmed by Baldur von Schirach, head of the Hitler Youth, Niepolt, Deputy and District Party Leader in Munich, and Obernitz, head of the SA, all of whom testified at the Nuremberg trials that they attended the meeting on the evening of November 9th. It is unlikely that there is any substance in Prince Schaumburg-Lippe's claim that Goebbels was appalled at the extent of the pogrom and blamed Julius Streicher, the malignant District Party Leader in Nuremburg, and "those idiots in Munich". It is more probable that on the evening of November 9th Goebbels was acting in accord with a more sweeping strategy designed to expel all the Jews from Germany. As we have seen, this stategy had been mapped out by Hitler and his principal associates early in 1938. Otto Dietrich claimed in his memoirs, *Twelve Years with Hitler*, that Hitler alone was to blame for the pogrom and ordered Goebbels to organize it and to advise the SA how to proceed.

The probability that a general strategy had been hammered out beforehand is reinforced by still another detail. The SA chiefs in Munich returned after their meeting to their hotel, the Rheinischer Hof, at about eleven o'clock to telephone instructions relating to the pogrom through to their regional sections, but an independent teletype message, signed "Müller, Gestapo II," was secretly sent out from Berlin to all the police headquarters after 11:55 p.m. It reads as follows:

1. Action will be taken against the Jews, particularly against their synagogues, throughout Germany at the earliest possible moment. The police should cooperate with other forces of order to guard against the possibility of pillaging or other excesses.

2. Any important archives housed in synagogues should be removed to safety immediately.

3. Preparations should be made to arrest between 20,000 and 30,000 Jews throughout the Reich, preference being given to the wealthier Jews. Further instructions will follow during the course of the night.

4. In carrying out these instructions any Jews found in possession of arms will be dealt with extremely severely. The regular and reserve troops of the SS may be called upon at any time during the assignment. But overall direction of the operation shall be the responsibility of the police.

The substance of this message certainly resembled the instructions which the SA chiefs telephoned to their sections, but there were several important divergencies. First, although the SA instructions referred to burning synagogues, it was not archives but religious objects which they ordered to be removed to safety, with the further recommendation that firemen should not be called in except to protect neighbouring buildings. Secondly, the SA chiefs expressly ordered the destruction of shops and the posting of notices on burntout synagogues and other ruined buildings, saying, 'Vengeance for the Murder of vom Rath,' 'Death to World Jewry,' 'No Alliances with Countries which are Friends of the Jews'. Thirdly, whereas Müller's message specifies that Jews carrying arms should be treated severly, the SA ordered them to be killed. The fourth and most crucial difference had to do with the way in which responsibility for the operation was distributed. While Müller's message provided for SS participation but assigned overriding responsibility to the police, the SA instructions stated explicitly, 'The Führer does not wish the police to intervene.'

Müller's distribution of command, and his order to arrest twenty to thirty thousand German Jews (which is not mentioned in the SA instructions), seem to suggest that, without notifying his superiors, he was following a prearranged plan activated by vom Rath's death. This seems plausible in the light of a telephone call which the Security Chief, Heydrich, who was staying at the Four Seasons Hotel in Munich, received at about 11:30 p.m. from the chief of police and security in Munich, Baron von Eberstein. Von Eberstein had escorted the Führer to his Munich apartment at about ten o'clock and had then gone to the Odeon Square for a swearing-in ceremony of SS recruits. Here news reached him that a synagogue and the castle belonging to Baron Hirsch had been set ablaze by unidentified persons and that the firemen had been prevented from putting the fires out. Von Eberstein immediately sent the SS to extinguish the fires, restore order and capture the arsonists. He then notified Heydrich and requested instructions.

Heydrich immediately rang Himmler, who needed first to consult Hitler. Heydrich accordingly did not reply with official instructions until 1:20 in the morning, nearly an hour and a half after the Gestapo instructions had been sent out from Berlin. Heydrich's instructions, which were broadcast from Munich, synthesized Müller's plan and the SA orders. They stressed that police operations should be co-ordinated with those of the political services. The police were to take charge of demolition and incendiary operations so as to prevent pillaging and possible damage to neighbouring Aryan property. They were not to interfere in demonstrations but to supervise them in accordance with the orders which they had received. No one was to molest foreigners, including foreign Jews. Archives and documents belonging to the Jewish communities were to be seized by the police and removed to safety with the help of officers of the criminal branch and members of the secret service and the SS. Müller's order to arrest twenty to thirty thousand of the wealthier Jews was clarified. Only healthy men who were not too old were to be arrested. They were not to be treated roughly but transported to concentration camps as quickly as possible. Upon receiving these instructions, the Munich police chief added that the law officers were not to wear uniforms. Dressed in civilian clothing, they were to maintain contact with their Party leaders and to be available to supervise any action decided upon.

But all these instructions were ignored by the SA. Dr. Goebbels' fiery harangue had convinced them that the hour of the "final solution" had come. They considered that they had been asked to whip up a program to a frenzied pitch during the following day.

In his report to Marshal Goering on behalf of the Supreme Tribunal of the Nazi Party, Major Buch described the SA's state of mind on the eve of the Crystal Night:

Among the Nazis who had been in the Party from the beginning, it was a normal practice to give hazy unspecific instructions for any operation which the Party did not wish to appear to instigate. Members acquired the habit of overstepping the bounds of their instructions, just as local leaders were used to interpreting the interests of the Party from allusions, particularly in arranging illegal demonstrations.

When Goebbels suggested that the Party should not organize the demonstrations, the Party chief's present at the Town Hall meeting took it that the Party should not appear to organize them. And this is what Goebbels meant, since the politicians—or activists—who would play a prominent role in this form of demonstration were naturally Party members and attached to Party organizations. The demonstrations, in fact, could only be organized through the Party.

The phrasing of orders often left much to conjecture. For example, the suggestion that not only Grynszpan but all Jews were responsible for vom Rath's death meant that the German people should take vengeance against all Jews . . . that the operations were undertaken on the Führer's **orders, that everyone should load his pistol.**

By one o'clock in the morning, the SA and the SS, wearing civilian clothes, had burst into action, before Heydrich and Goebbel's instructions reached the Reich security services and the propaganda sections of the Party. From north to south, the brownshirted hordes fell on synagogues, community houses, old people's homes, Jewish hospitals, children's homes, private homes and Jewish shops.

Seggermann, the head of the SA group at Lesum, a village outside Bremen, telephoned to ask the mayor, 'This is SA Company 411 group commander Seggermann. Have you received your orders?'

'No. What orders?'

'The SA is on stand-by throughout Germany to carry out reprisals for the shooting of vom Rath. No Jews are to be left in Germany after tonight. Their shops are to be destroyed.'

'And what are they really going to do with the Jews?'

'They are to be wiped out. Do you understand? Wiped out.'

'The astonished mayor immediately telephoned the SA commander at Bremen. 'It's Koester here, Mayor Koester from Lesum.

I'm sorry to trouble you, but I've just received an order that is so ridiculous that I thought I'd ring to find out if there may have been a mistake.' 'There's no mistake,' was the reply. 'The "Night of the Long Knives" has begun at Bremen. The synagogue has already been set alight.' (Paradoxically, the SA chief called the impending pogrom by the name used for the slaughter of his superiors, notably Captain Roehm, in June 1934.)

The SA at Lesum hurried to recover time wasted. They rushed out to round up the few Jews in the village. A group commanded by Scharführer August Frühling and Rottenführer Bruno Mahlsted burst into the bedroom of Herr and Frau Goldberg, who had been awakened by the hubbub and were waiting, frozen with fear, by their beds.

Frühling approached, pistol in hand. 'I have a difficult mission to perform.'

Frau Goldberg replied calmly, 'Please aim carefully.'

Frühling fired. Mahlsted shot Herr Goldberg.

Sinasohn, another Jew living at Lesum, was shot in the same way.

Frühling and Mahlstedt, with twenty-four other members of the SS and SA, were tried by the Supreme Tribunal of the Nazi Party. Of the sixteen murders reviewed by the tribunal, the special hearing recognized only three and sentenced the accused to penalties ranging from imprisonment for previous offenders to temporary or permanent suspension from political duties for murder, including, in one case, the murder, 'contrary to orders', of a sixteen-year-old boy. The Supreme Tribunal of the Party classified thirteen other cases, comprising seventeen murders, including those at Lesum, as 'acts committed under orders by a superior,' and asked the Führer in the interests of the Party and the State to prevent action in the criminal courts.

GIEA NEWSLETTER OF THE GERMAN AMERICAN INFORMATION AND EDUCATION ASSOCIATION

GOOD NEWS

We received our tax-deductible status which means that all contributions to the German American Information & Education Association are now officially tax deductible.

Let us build an organization that will contribute much to America just as the Germanic contributions of the past have done to make America great. The time is now ripe for the German Americans to restore America's greatness, for the opportunities are as great now as ever before. Without apology, I recognize, as most of you do, that the ethical and moral standards of the German people are such that we have much to offer; and we can continue to contribute in keeping America on the path that brought us to the leadership role we have played in the world these past 200 plus years.

Let's face facts, America and her strong Germanic influence has set the standard for the world; as a matter of fact, we are the standard of the world—but only if we do not allow those forces to control us which run contrary to the Germanic/American way of doing business. (If America is in decline today, it is due to these opposing forces gaining more influence and control.) Let us never allow that Germanic influence to wane or go unrecognized. That is the role of G.I.E.A. and its Newsletter.

ZENGER AND ZUNDEL

Once again the Germans are out in front leading the battle for individual human rights and, in this particular case, freedom of the press. Zenger & Zundel, two peas in the same pod, have much in common in spite of 253 years between them.

John Peter Zenger was an American printer and journalist who was born in Germany in 1697 (died in New York on July 28, 1746) and arrived in the New World in 1710. A year later, the 14 year-old boy was apprenticed to the printer William Bradford for an eight-year term. In 1723, he was made a freeman of New York City. Later he formed a partnership with Bradford but this lasted for only one year.

In 1730, he printed Peter Venema's "Arithmetica," the first arithmetic text printed in New York. He began the publication of the New York Weekly Journal on November 5, 1733, an organ opposed to the governor but supported by Chief Justice Lewis Morris and other leading men who undoubtedly contributed many of its major articles. The paper greatly influenced public opinion against the government, and Zenger was arrested on November 17, 1734, on a charge of publishing seditious libels. He was imprisoned for nearly ten months before his trial, at which he was defended by Alexander Hamilton. His acquittal by the jury (not a biased, programmed, fearful judge) in August 1735 was regarded as the first important victory for the freedom of the press in the English colonies. His newspaper reported the trial verbatim, and a year later he published separately "A Brief Narrative of the Case and Tryal of John Peter Zenger." So, a German once again led the battle against the tyranny of those who wish to control the minds of men.

Enter stage right some 250 years later, Ernst Zundel. His trial in Canada was on "free speech" but from the very beginning the judge showed a bias when he ruled that the Holocaust was a fact and that it was not an issue in the trial. Nevertheless, it was the re-printing of literature on the Holocaust that brought him to trial in the first place. And it came as no surprise that Ernst Zundel was found guilty of "spreading false news," whatever that means. People, including judges and juries, do strange things when under pressure and/or undue influence.

Expert witnesses were presented to the court who gave evidence that proved that no such thing as a "gas chamber" existed at Auschwitz in spite of that "information" being reported around the world. For years, we read and heard that millions of people had been gassed there. (Pope John Paul II claimed 4 million dead.)

Another classic case of misleading information is found in The National Geographic Magazine (January 1947, p. 70): "At Dachua, where the Nazis cremated more than a quarter of a million civilian victims. . . ." At Dachau, officially 31,952 perished and this includes many who were executed as traitors, deserters and common criminals as a result of the stringent wartime laws. There was a small crematorium but no gas chambers and even the West German Government will admit to this now.

A former member of the Allied War Crimes Investigation Commission for Austria testified that the Allied Investigation Commission had not found any execution gas chambers to kill people within some 13 camps and their many sub-camps, 20 of them in Austria alone. Dachau was listed as one of these camps.

(Most Americans are not aware that for 10 years after the war a memorial plaque was placed in front of the camp which declared that 238,000 Jews were killed at Dachau. The officials were so hell-bent on perpetrating this lie that an Allied ukase (edict) prohibited the German people from not only removing it but to even question it. The German government must now admit that this too was a lie. (The plaque was quietly removed.) The folks who claimed 238,000 victims at Dachau are also the same people who claim the 6 million.

In a court of law, a witness who lies under oath is considered unreliable and all subsequent testimony is generally no longer accepted. This principle, as applied to the holocaust propaganda of International Zionism, is now making suspect worldwide their claims of 6 million, thus making it unacceptable to people of integrity.)

A crematorium operator told the court that it would be impossible to cremate as many as the historians claim. Another expert witness was a man who is responsible for gassing prisoners sentenced to death in Missouri as well as elsewhere within the U.S. He testified that the gassing procedures as described by the "historians" would have killed the guards doing the gassing! Even the bricks of the camps were chemically analyzed and they proved to be "clean" thus again confirming that the Holocaust is proving to be the hoax of the 20th Century. (Possibly, a better term would be "Hoaxacaust.") However, only time and history will better prove the evidence presented at one trial; nevertheless, the tide does appear to be turning against the Zionist propaganda that we have been flooded with over the past decades. On the other side of this same coin, the image of Germanity will improve in the eyes of the world (and that includes the American people, their politicians and their judges) as facts and truth continue to surface.

Americans should be grateful for men like Zenger & Zundel who have paid such a price for taking a stand. Just as water seeks its own level, the truth will rise regardless of how much suppression is applied. The truth winning out is inevitable and those who attempt to suppress it are always the losers! It would seem that the Zionist Jews and others who oppose the truth (and Christ) would eventually, over the centuries, wake up to that fact. But evidently history does repeat itself and there are always enough fools on stage to play the part.

BLACKMAIL OR RESTITUTION?

The state prosecutor's office in Karlsruhe (Baden-Wurttemberg) began preliminary investigations into allegations that the late chairman of the Central Council of Jews in Germany, Werner Nachmann, had embezzled DM 33 million (approximately $20 million), the interest of "restitution" money (tribute) which the federal government in Bonn had transferred between 1980 and 1987 to the council for distribution as restitution to victims of National Socialist crimes. Nachmann, who died in January at 62, had served as chairman of the council for 22 years.

Nachmann's successor as chairman, Heinz Galinski, announced that financial irregularities of "considerable magnitude" had been discovered by the council . . . Galinski pledged that those entitled to restitution payments would not suffer as a result of the incident. He called the affair "one of the most difficult situations for the Jewish community since 1945."

Evidently, government funds are turned over to the Jews for them to dispense among themselves. This appears to be more of a payoff, a bribe with no element of accountability by the very government who gives out the money.

From the West German Embassy here in Washington comes this piece of information. This is in response to the question of whether the West German government planned to discontinue its payments to Nazi victims; i.e., the Jews.

"It is, of course, not correct that the Federal Republic of Germany is going to end its commitment to try to compensate the sufferings of victims of nazi persecution. . . .

"Most of the victims are receiving monthly benefits for damages to health caused by the persecution, and they are going to receive them until their death. These benefits vary according to the degree of the reduction in earning capacity caused by persecution and average US—$1,000—per month. Furthermore, the beneficiaries are refunded for their entire medical costs for treatment of diseases and defects they incurred by persecution.

"Moreover, there are still payments made to Israel, payments to twelve European countries to compensate victims who are their citizens, and the hardship fund administered by the Conference of Jewish Claims Against Germany. It serves the purpose of paying lump sums to those who, owing to circumstances beyond their control, were not in a position to file their application within the time limit set by indemnification law. The beneficiaries are mostly Jews coming from Eastern Europe. (It appears that some of these provisions provide a slush fund for any and all.—ed.)

"On January 1, 1987, payments made for indemnification purposes totalled (approximately) $50,000,000,000 (billion).

"According to conservative estimates, we will pay approximately $15,000,000,000 (billion) in the 12 years to come and reach an amount of (nearly) $65,000,000,000 (billion) until the year 2000."

"Wow"!

On balance, war always seems to be the best thing that ever happens to the Jews. Through terrorism, they get a "homeland"; from war, they expand their boundaries; as a result of a previous war they reap billions upon billions; and possibly, as a result of a future war, they may gain some of the richest oil fields in the world. Yes, war has been good to International Zionism!

For the inevitable victory of decency, free speech, and historical truth! This article appeared in the Washington Post, May 13, 1988:

FIFTH GRADERS' TRIP TURNS TO TERROR IN TRAIN TUNNEL

(By James Rupert)

A field trip to Washington was interrupted in terrifying fashion for 97 fifth graders from Florida when their homebound train stalled in a tunnel near Union Station for nearly 40 minutes last night and began filling with diesel smoke.

The pupils from Longleaf Elementary School in Pensacola were taken, along with their adult chaperones, to hospitals throughout the city for treatment of possible smoke inhalation. Authorities said about 25 children received first aid at Union Station, but that perhaps as few as two showed severe symptoms.

The train stopped in the tunnel when a passenger in the train's first car apparently activated an emergency brake. Amtrak officials said one of the train's engines continued to run, spewing engine exhaust into the tunnel.

Scores of police and rescue workers converged on the station, and ambulances and buses crisscrossed the city for much of the evening, leaving as many children at each hospital as could be treated.

While some of the children appeared to regard the incident as something of an adventure, others cried or clung fearfully to chaperones. "We are * * * poor old country boys scared half to death," Paul Moore, 11, said afterward as he stood on the station platform.

The train, Amtrak's Crescent, destined for New Orleans by way of Atlanta and other southern cities, left Union Station about 6:40 p.m. and headed into the decades-old tunnel that runs for 3,900 feet beneath Capitol Hill before emerging at New Jersey Avenue and D Street SE.

Within five minutes, according to Amtrak spokesman Cliff Black, the six-car train, carrying 402 passengers and 18 crew members, had halted in the tunnel.

Crew members, suspecting a failure in a hose carrying air for the brakes, got off the train and began an inspection. After finding the hoses intact, they returned to the train and found that an emergency brake had been activated in the first car.

Unable to release the brakes, the spokesman said, the crew ordered the train's lead engine to shut down. The second had halted when the train stopped. The engine shutdown turned off the train's air circulation system, Black said.

"We had just gotten started when the train stopped in the tunnel," one of the fifth graders said later.

"Smoke started coming in through the ceiling," according to the boy, Jason Ring, 11.

"The electricity went out," he added, and our teachers told us to get down on the floor and breathe through handkerchiefs."

Black said that the smoke that entered the cars came from the train's two engines. "Once smoke accumulates in the tunnel," he said, "it takes some time to disperse."

Black said seven minutes elapsed before the first of the two engines was shut down. Another engine pulled the Crescent back to the station at 7:25 p.m.

John Cavenagh, head of the city's emergency ambulance operations, said about 25 of the pupils received first aid as soon as the train reached the station. He said two appeared to be "seriously affected."

The group from Pensacola consisted of 97 pupils and 27 adults. All of the field trip's participants had been in the first two or three cars, according to preliminary accounts. Some were taken immediately to hospitals by ambulance; others remained on the station platform while paramedics worked on them.

According to a tally released last night by Amtrak, 129 persons were taken to seven Washington hospitals. Black said that those children who were released would be housed for the night at the National 4-H Center in Chevy Chase.

SCHOOLCHILDREN UNHARMED BY DIESEL EXHAUST!

Nothing surprising about this, we would say, since it has long been known that the exhaust from Diesel engines is, though malodorous, not especially toxic. But why is this of relevance to a German-American organization? And why this mailing?

Because our children are still being poisoned by the loathsome Zionist "Holocaust" story, and:

Because, despite the hundreds of movies, books, TV docu-dramas, "eyewitness-testimonies" and warcrimes trial "evidence"—

1. No one any longer claims "gassings" in the camps inside the German Reich (Bergen-Belsen, Buchenwald, Dachau, Mauthausen, Ravensbrück, etc.). In fact, a recently brought forward allied investigatory document reveals the authorities knew the stories were false as early as 1948.

2. The Auschwitz/Birkenau (and related Majdanek) "gas chamber" story, the very cornerstone of the entire "holocaust" legend (though long discounted by the sophisticated), has just been dealt the final death blow. In Toronto on April 20th, 1988, Mr. Fred Leuchter, an American engineer with over 25 years of experience in the design and construction of gas chambers for execution of criminals (and the American expert on the subject), testified under oath in court that, based on his study of original plans, and his recent on-site visual inspection (and subsequent chemical analysis of scrapings and brick samples), there is no conceivable way the absurd structures and ruins shown to the gullable by the Polish Communist authorities (mostly old crematoria mortuary rooms with holes clumsily chopped through the ceilings!) could ever have functioned as homicidal gas chambers, on even a small scale!

Previously at the same "trial",

There was testimony that the Red Cross did, indeed, have access to the camps in Poland,

Maria van Herwaarden, an Austrian woman who had been incarcerated for over two years at Auschwitz/Birkenau, testified that, although she had heard of "gassing" rumors (and seen many typhus deaths), she had never seen anything to support a genocide story,

J.G. Burg, an elderly Rumanian-born Jew who, as an accredited observer, had visited the camps immediately after the war and saw no "gas chambers", testified that Ilya Ehrenburg (the leading Soviet propagandist of that era) told him, during recess conversation at Nuremberg, that he, Ehrenburg, had wandered all over the camps soon after their liberation by the Red Army and could find no "gas chambers" either, and, a Canadian Crematorium manager had previously testified that Birkenau's standard, European-type crematoria ovens (intended to control the worst-case typhus epidemics) could not possibly have disposed of very large numbers of bodies. (He described the figures of Prof. Raul Hilberg as "preposterous—beyond the realm of reality).

Because, this being the case, all that is left now of the "Holocaust" story is the even more ludicrous war-time propaganda rumor variant, the bizarre tale (unsupported, needlessly to say, by any credible physical or documentary evidence whatsoever) that the ruthlessly efficient, evil Germans Exterminated Millions of Jews at three tiny (and long since virtually vanished) transit camps near the Polish Eastern border (Belzec, Sobibor, and Treblinka)—and did so (though some early versions referred to "steam" or "suffocation") by means of Diesel Exhaust "from a Russian T-34 tank". (One assumes the tank was operated by John Demjanjuk, who no doubt clubbed the "950,000" victims of Treblinka into the "gas chamber", and then sprinted around the back, leapt into his tank, and started 'er up!) And, we are assured, the millions of victims were then burned in "open pits", and the ashes then buried just below the ground.

However, as we have seen, Diesel Exhaust would have been laughably unsuitable for large-scale genocide. And, also, of course, it would have been quite impossible to burn large numbers of bodies in "open pits". (They simply don't burn properly that way).

The clincher is that, in any event, there is absolutely no evidence anywhere of the hundreds of tons of ash and bone residue which would have inevitably resulted from large-scale gassing and burning, however the fiendishly clever Germans might have accomplished it. (Unless . . . . . unless, of course the Germans did, indeed, have a diabolical "vaporizing machine" (!), as, incredibly enough, was alleged (along with the "steam" story and other absurdities) by the U.S. at the now infamous Nuremberg travesty.)

And, one last devastating development: 8 aerial reconnaissance photographs have recently been discovered in our National Archives showing clearly that the Germans (having nothing to hide) did not, as long claimed, dismantle Treblinka when the area was abandoned to the advancing Soviets. It was, in fact, the Soviets themselves—bent upon inventing a story of mass murder—who did so.

This then,—although you are not supposed to know about it—is the utterly discredited and disreputable status of "The Holocaust" as of July 1988. Is it any wonder that the (currently) most widely read historian writing in the English language, the brilliant British author, David Irving, has just publicly changed his long-held "Holocaust" position from quasi-revisionism ("I doubt genocide was planned") to 100% out-and-out revisionism ("there were no gassings anywhere")?

By Mr. HARKIN (for himself, Mr. McCain, Mr. Byrd, Mr. Dole, Mr. Pell, Mr. Lugar, Mrs. Kassebaum, Mr. Durenberger, Mr. Kennedy, Mr. Graham, Mr. Dodd, and Mr. Sanford):

S.J. Res. 392. Joint resolution to express the support of the United States for the restoration of full and genuine democracy in Chile and calling upon the Government of Chile to take the steps necessary to assure that the will of the Chilean people is freely, fully, and accurately expressed in the upcoming plebiscite; to the Committee on Foreign Relations.

RESTORATION OF DEMOCRACY IN CHILE

● Mr. HARKIN. Mr. President, next Wednesday, October 5, the people of Chile will cast a historic vote on the future of their country. In next Wednesday's plebiscite, Chileans will either vote "yes" for another 8 years of rule by Gen. Augusto Pinochet, or they will cast their ballots "no," which is a vote against further military rule and for truly democratic, open, and competitive Presidential elections in 1990.

Although the plebiscite, in which Chileans will vote up or down on a single candidate selected by a four-man military junta, is not a fair election in the normal sense of the term, this vote is seen by Chileans as a contest between dictatorship and democracy. Regardless of the plebiscite's shortcomings, it will be a referendum on whether Chileans will endure military dictatorship for another 8 years until 1997, or whether Chileans will begin a process to restore their long-established tradition of democracy.

The historic importance of the plebiscite is demonstrated by the record number of Chileans who have registered to vote in the October 5 plebiscite. When voter registration closed on August 30, 7.3 million of 8 million eligible voters—over 90 percent of the electorate—had registered to vote. Chileans have decided to participate in the plebiscite, no matter how inherently unfair this process may be, because they see this contest as a battle between Pinochet and freedom.

The Chilean people have accepted the inequality of this contest because they want to regain their freedom through the ballot box without having to resort to violence.

We owe it to the Chilean people and their democratic hopes to speak out forcefully and unequivocally in support of a fair and fraud-free plebiscite. For this reason, along with the Senator from Arizona [Mr. McCain], I am introducing today a resolution calling for the restoration of full and genuine democracy in Chile. Joining Senator McCain and me as original sponsors are the Senators from West Virginia, Mr. Byrd, Kansas, Mr. Dole, Indiana, Mr. Lugar, Kansas, Mrs. Kassebaum, Minnesota, Mr. Durenberger, Florida, Mr. Graham, Massachussetts, Mr. Kennedy, Connecticut, Mr. Dodd, North Carolina, Mr. Sanford, and Rhode Island, Mr. Pell.

Our resolution, which is a straightforward and noncontroversial statement, expresses the support of the United States for the restoration of full and genuine democracy in Chile and calls upon the Government of Chile to take the steps necessary to assure that the will of the Chilean people is freely, fully, and accurately expressed in the upcoming plebiscite.

This modifies the first Harkin-McCain resolution, Senate Joint Resolution 370, to reflect the changes that have occurred in Chile since the original resolution was introduced on August 11. Specifically, this resolution takes into account the facts that the Chilean Presidential plebiscite will be held on October 5, that on August 27 the Government of Chile lifted the two states of exception then in effect, and that as of August 30, when the four-man military junta met to select General Pinochet as the plebiscite candidate, the voter registration ended.

A similar resolution, House Joint Resolution 620 introduced by Congressman Gus Yatron, was unanimously approved by the House of Representatives on August 8. It is also my understanding that this resolution has been approved by the administration, which for the past 2 years has helped work to shape a truly bipartisan policy with respect to Chile.

Let me briefly explain what this resolution calls for.

It expresses support of the Congress for the restoration of full and genuine democracy in Chile.

It condemns acts of violence from any source—from either the left or the right—as contrary to the democratic aspirations of the Chilean people.

It urges the Government of Chile to insure a climate of freedom and fair competition for the plebiscite to assure that the will of the Chilean people is freely, fully, and accurately expressed.

And it declares that ensuring such a climate of freedom requires that the Chilean Government guarantee easy and equitable access to the mass media, especially television during peak periods of viewership; provide access, according to established procedures, by international visitors to Chile to the polling places and vote count centers on the day of the plebiscite; and guarantee the public tabulation of ballots in the presence of representatives of both sides in the plebiscite.

Mr. President, this resolution is a statement of policy which echoes views held by the Reagan administration. On December 17, 1987, the Department of State, speaking for the President of the United States, proclaimed:

> The people and government of the United States share the aspiration of the Chilean people to have full democracy restored in their country * * *. The fuller the observance of basic and civil rights in the period leading up to and during the election, the greater will be the legitimacy of its outcome.

The statement continues:

> For the ideal of popular sovereignty to become reality in Chile, the United States believes that a climate of freedom and fair competition must be established many months before the actual balloting takes place. This atmosphere must be marked by easy and equitable access to the mass media, especially television, by unrestricted discussion of political issues, broad freedom of assembly . . . facilitation of registration of prospective voters, and freedom for citizens and political groups to campaign peacefully in favor of their ideas.

This is a statement approved by the President of the United States.

Surely, the U.S. Senate, on behalf of all Americans who support democracy in Latin America, will reaffirm President Reagan's message.

As of August 30, when the four-man military junta met to select General Pinochet as the Presidential candidate in next Wednesday's plebiscite, more than 7 million Chileans—out of an eligible voting population of 8 million—have registered to vote. Despite Government harassment, an unfair set of registration procedures, and resistance from the violent left, the Chilean people have demonstrated through their feet, their courage and their labor that democracy is still alive in Chile.

To its credit, the Chilean Government has taken a number of steps contributing to what a recent report of the International Human Rights Law Group characterized as "an improved atmosphere for political participation." The two states of emergency which had been in force throughout Chile for the past 15 years—the "State of Emergency" and the "State of Danger to the Disturbance of Internal Peace"—were officially lifted on August 27. On September 1, the Government permitted all exiles to return to their homeland to take part in the plebiscite. In addition, during the month prior to the plebiscite, one-half of daily free television campaign programming has been alloted, divided equally between the "yes" and "no" campaigns.

These are positive developments. However, more needs to be done to ensure against fraud on the day of the vote and to assure Chileans that the Government and military will not resort to harassment and intimidation prior to October 5. There clearly is ample reason to be concerned about the climate for unfettered political freedom going into next week's plebiscite.

In the first 6 months of 1988, the Catholic human rights organization, the Vicariate of Solidarity, documented 1,780 arrests for political reasons. Over 30 journalists are currently being prosecuted on vague charges such as "insulting the armed forces," and journalists are frequent targets of threats and of violence from unidentified civilian groups that many believe are linked with the military regime.

These facts, plus the legacy of 15 years of dictatorial rule, have created in Chile, according to the International Human Rights Law Group, "a significant perception that the plebiscite will not be free, despite the existence of mechanisms to promote the conduct of a fair and verifiable ballot." The Law Group further states, "Polls show that even in Santiago, a third of prospective voters believe that the authorities will know how they mark their ballots." Whether or not these fears are true is not the point; in Chile today, because of its history, they are believed. The Law Group examined the effects of these fears on results of the Chilean plebiscite:

> A free election cannot take place when large segments of the population think the electoral exercise is not free, that there is no real choice about the outcome, and that an individual's vote may subject him or her to reprisals. Any intrusive presence of the military on the day of the plebiscite will increase such fears.

The burden of proof is on the Government and the military not just to ensure a fraud-free vote count on the day of the plebiscite, but to assure Chileans that the electioneering before the vote takes place, as well as the actual voting, will occur without violence, without reprisal, and with a willing acceptance of the outcome of the plebiscite.

I recognize that a plebiscite, where Chileans are only permitted to cast their ballots either for or against General Pinochet, is not a democratic election in the truest sense. Yet, the Chilean people, who have suffered 15 years of authoritarian rule have decided to accept the rules of the game, and to win on Pinochet's terms.

The Chilean people, the true forces of democracy in Chile, the real freedom fighters in Latin America, are risking their lives for freedom and democracy. The least we can do is to call for the fairest outcome in the plebiscite, one where the Government cannot manipulate the election results, one where the Government cannot deny international observers and political parties access to polling places.

The resolution offered by Senator McCAIN and myself supports democracy and freedom in its truest sense. It puts the Senate on record in alignment with the democratic hopes and aspirations of the Chilean people.

I ask unanimous consent that the resolution and an excellent statement by Mr. John Biehl on the current political situation in Chile and the significance of the plebiscite be printed in the RECORD. Mr. Biehl, a former adviser to President Oscar Arias of Costa Rica, is a Chilean and a defender of democracy in freedom in his native Chile and in the rest of Latin America. I commend to my colleagues attention the translation of the speech delivered by Mr. Biehl on September 5 at the National Theater in San Jose, Costa Rica. I also ask permission that the Department of State's statement of December 17, 1987 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Whereas Chile has the longest democratic tradition in Latin America;

Whereas Chile has been ruled by a military government for nearly 15 years;

Whereas on October 5, 1988, the Chilean people will be called on to vote in a plebiscite to approve or reject a candidate, nominated by Chile's military commanders, for an 8-year term as president;

Whereas Chile's major democratic parties are participating in the plebiscite in the hopes that the plebiscite will initiate a return to Chile's century-and-a-half tradition of democratic government;

Whereas that process will be initiated only if the results of the plebiscite are judged legitimate by the Chilean people;

Whereas commendable efforts were made to register eligible voters;

Whereas a fair electoral exercise requires that the rights of freedom of expression, association, and assembly be respected to allow political organizing and campaigning and to inform citizens about the issues; and

Whereas the Chilean Government provides the democratic opposition limited access to television, continues to arbitrarily arrest and detain journalists, and limits freedom of expression, association, and assembly: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States—

(1) expresses its support for the restoration of full and genuine democracy in Chile at the earliest possible moment;

(2) condemns acts of violence from any source as contrary to the democratic aspirations of the Chilean people;

(3) urges the Government of Chile to create a climate of freedom and fair competition before the upcoming plebiscite in order to assure that the will of the Chilean people is freely, fully, and accurately expressed by guaranteeing—

(A) easy and equitable access to the mass media, especially television during peak periods of viewership;

(B) broad freedom of assembly and association for Chilean citizens and political groups to campaign peacefully in favor of their ideas;

(C) access, according to established procedures, by international visitors to Chile to the polling places and vote count centers on the day of the plebiscite; and

(D) the public tabulation of ballots in the presence of representatives of both sides in the plebiscite.

U.S. STATEMENT ON SUPPORT FOR DEMOCRACY IN CHILE

Chile's long and profound democratic tradition is a resource on which the Chilean people will draw in their return to government by majority rule. The United States believes that if given the chance to select their leaders under conditions marked by respect for basic guarantees and freedoms, the people of Chile will soon again take their rightful place in the community of democratic nations.

The people and government of the United States share the aspiration of the Chilean people to have full democracy restored in their country. Two centuries of experience with representative government have convinced us that this goal is best accomplished when the will of the people is expressed freely and openly in elections. The fuller the observance of basic and civil rights in the period leading up to and during the election, the greater will be the legitimacy of its outcome. This is totally in keeping with the tradition of Chile itself, a country which was long at the forefront of democracy in this hemisphere.

For the idea of popular sovereignty to become reality in Chile, the United States believes that a climate of freedom and fair competition must be established many months before the actual balloting takes place. This atmosphere would be marked by easy and equitable access to the mass media, especially television, by unrestricted discussion of political issues, broad freedom of assembly, early announcement of the rules of any electoral proceeding, facilitation of registration by prospective voters, and freedom for citizens and political groups to campaign peacefully in favor of their ideas. States of exception which limit freedom of assembly, association, and expression are not compatible with a legitimate electoral procedure.

DEPARTMENT OF STATE,
Washington, DC.

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, DC.

[Speech given by Dr. John Biehl del Río, September 5, 1988, at the National Theater, San Jose, Costa Rica]

DEAR FRIENDS: Many thanks to all of you. First I speak to the Costa Rican brothers who for 15 years have been faithful to the cause of freedom of Chile. Not only have they had an unwavering faith for struggling for a far away country, there in South America, but they have allowed thousands of my fellow countrymen here in this country to feel as if they were in their own home. One day we will be able to thank you from a free Chile, again democratic, again proud before the entire world.

I have written the words that I am now reading to you, because I want to be especially careful. Even though I am speaking in a beautifully free country, here the dictator has eyes and ears. He has allies that think that freedom is for sale, that it can be compromised for a false promise of economic development.

For 15 years everyone who struggles for freedom in Chile has been considered a subversive.

For 15 years about a million Chileans have lived far from their homeland and yearn to return to it.

For 15 years by desecrating the name of liberty the most ferocious violations of human rights have occurred in Chile.

For 15 years Chile has been looking at its future through the bars in which it is imprisoned.

For 15 years Chile has looked with nostalgia at a past that was the pride of America, a past in which we were free.

For 15 years the Chile of Neruda and Gabriela Mistral has been a prisoner.

We look at the future through those bars that imprison us. We look at it without bitterness because the people want justice and not to practice vengeance. Chile wants to forgive and not to punish. We want freedom because, between the nostalgia of a proud past and the dream of a future that we want to build together, a dictatorship that shames our history is interposed.

My dear friend: in the upcoming weeks a plebiscite will take place in Chile. It is an unequal contest. It is not the vote of a democracy. It is an election called by the dictatorship, under its own rules. Just one candidate appears. He was elected by the commanders in chief of the armed forces. He was chosen in a primary, in which just four men of arms had the right to vote. Pinochet was the chief of all of them. Everything is unequal in this contest, from the propaganda to the use of force. But the other candidate, the alternative to the name of Pinochet, is freedom. The people accept the inequality of the contest because they want to regain their freedom without having to resort to violence. Therefore the last hope is put in the votes being counted honestly.

The military regime called this election in order to legitimize the dictatorship. In order to prolong it indefinitely. We Chileans will go to vote so that the dictator will leave. With the hope that the armed forces will think things over and an opportunity for democracy in Chile will open up.

The similarities that history shows us among dictators are surprising. Crazed by power, they consider themselves more similar to God than men:

They consider themselves irreplaceable. Only they can govern and must do so forever. Therefore they leave power only when they are overthrown, assassinated or natural death takes them away.

The alternative to the dictator is always chaos, anarchy, and all the torments of hell.

Every dictator who is respected denies being a dictator. He governs in the name of freedom. They are mercurial, unpredictable. When they concede the most elementary human rights their kindness must be appreciated. When they violate them one must celebrate their patriotism and firmness on behalf of the Nation.

The dictator has no adversaries that can disagree. He has enemies and punishes traitors with exile, jail or death.

The dictator will always perform an economic miracle. Everyone will live happy with people's cars, said Hitler, others say bicycles.

The dictator always saved his people from a terrible, incurable evil. They will lapse into that evil and worse if abandoned.

The dictator always seeks to legitimize his position through elections. The world must see how he is "adored" by his people. They always win with a high percentage, 80 or 90 or more percentage points of the votes. . . . A dictator never lost an election.

The dictator does not carry out "politics" nor is their corruption in his governments. Everything is defined according to the national interest . . . In the dictatorship there is less talk of corruption, not because less exists, but rather because talking of it costs jobs, freedom, or life.

To keep power they do anything. From lying to leading the country to frightening wars, everything is permitted. They are amoral governments.

The dictator is surrounded by adorers. Fanatic partisans that reaffirm for the tyrants his resemblance to God. They are the same people that later in history will be the first to say that if they had known that Pedro was murdered, or Diego tortured, or Enrique exiled, or Maria raped, or Rosa fired from her job, they would have given their lives to overthrow the dictator.

When the dictator is in power, when he marches with trumpets and jesters, he tries to write the lie as history. History is written by peoples in freedom, they write it after the dictator leaves. Men know the trail of pain and poverty that are uncovered when freedom arrives. With what prudence and wisdom people always put in that history, as black and bitter periods, the times of the dictator! They are years that we want to forget, they are years we all swear will not return.

There are no streets that carry their names or statues that recall them for Hitler, Mussolini, Franco, Stalin, Batista, Somoza and so many others. One day in my Homeland, they will not exist for Pinochet, either.

This last week I saw the youths by thousands and thousands shout freedom in the streets of Chile. I saw them bravely confront sinister machines of repression. Nothing stops the cry of freedom. I cannot be a coward in a free land when my brothers are brave in a capitive land. I have seen these days how the old politicians are insulted for fighting for freedom. I tell you that what shames me is to see some young politicians fight for the old dictator.

In the plebiscite which is approaching, Chile will vote for its freedom. The vote before violence, before the rifle. We want peace and today the people of Chile only ask that the votes be counted cleanly. The government and its partisans are very careful to point out that the consultation will be clean and democratic. They make a great show of being shocked and are offended at distrust. They deny all inequality. For them we are going to the most democratic consultation in our history! There are some in the world that are echoing this propaganda and repeating pleasantly that the voting in Chile will be the cleanest democratic expression. They are the same ones that speak of an economic miracle. That miracle doesn't exist, that equality for voting doesn't exist. More than five million Chileans live in poverty. The workers have lost 40 percent of their purchasing power in just the last three years and we could continue to cite a long list of economic mistakes.

There are positive things in our economy, there are entrepreneurs that are emerging and generating wealth, but that is the result of our long democratic history. The entrepreneurs do not have a reason to be accomplices of the dictator. They are allies in the democratic deveolopment of Chile. In the same way the workers are not an obstacle to development, as they are treated so often today, but rather its firmest pillars.

Chile urgently needs its freedom in order to ensure peace. Chile will vote NO in the plebiscite, in order to say NO to the dictatorship and its dictator. It will vote NO in order to reencounter its history as free men. It will vote NO in order to lift its head and again look at the world with pride. It will vote NO so that everyone can return to the Homeland. It will vote NO because we have all learned to want freedom and democracy much more. We are going to take care of them. The future of Chile, the peace of Chile, will only be able to be written in freedom.

Dear friends, there are many Chileans here who have found a new Homeland in Costa Rica. A great and beautiful homeland, as are the countries where freedom is strong. One day, God willing not long from now, we will all be able to return to Chile without fear. Some will remain here forever, but they will remain voluntarily, from love for this blessed country and not from fear of the tyrant. That day of freedom for Chile, men, women and children from all places in the world will return to our land. We will leave behind memories and eternal gratitude what we will not be able to repay. We will express in a thousand ways our gratitude for so many peoples, and so many men and women. Perhaps we will be able to choose a name, of a citizen of all those countries, in order to grant in gratitude honorary Chilean citizenship on that first day of freedom for Chile. That person will represent all those who in Costa Rica, Sweden or Norway, in the United States or in Spain, or in any country that a Chilean was one day, were our brothers. I will propose that day and I am sure that all of you also, that that name be of a Costa Rican. We will not name him today, because the same as always, those who talk of the Chilean economic miracle and sell freedom, will unleash a defamation campaign against him or her. That day will come, in which we will be able to applaud him or her in streets full of free people.

Many thanks dear friends, for that solidarity for the freedom of Chile. May it be soon, until freedom again unites us. Thank you very much.●

Mr. McCAIN. Mr. President, as many of my colleagues are aware, next Wednesday marks the beginning of what we all hope will be a return of democracy to Chile. On that day, millions of Chileans will take to the polls in a plebiscite to approve or reject another 8 years of rule for Gen. Augusto Pinochet.

In August, Senator HARKIN and I submitted a resolution calling on all parties in Chile to ensure that the will of the people be expressed in a full, fair and accurate way. That resolution expressed the sense of Congress favoring the return of democracy to Chile, and condemning acts of violence "from any source as contrary to the democratic aspirations of the people of Chile." It also called on the Government to terminate Chile's state of exception, and to guarantee that every effort be made to register eligible voters, that easy and equitable media access be granted to the media, especially television, that broad freedom of assembly and association be guaranteed for Chileans to campaign peacefully, and that the voting and tabulation procedures be open to representatives of both sides in the plebiscite, and to international visitors to Chile.

The resolution before us has been changed slightly, to recognize that Chile's rulers have lifted the state of exception, and that, through great effort, approximately 7.4 million voters, 90 percent of those eligible to participate in the plebiscite, have been registered.

Mr. President, two things are worth bearing in mind regarding next Wednesday's plebiscite. The first is that the results will be judged not only by events on the day of voting, but also by the events leading up to the plebiscite. That is why the resolution places great weight on opposition access to the media and the ability of those favoring a "no" vote to organize freely. The second is that, assuming fair procedures in the plebiscite, it is incumbent upon all parties to respect the freely expressed will of the people in the voting. Some have theorized that elements of the far right or far left might take drastic steps should they not agree with the results of the plebiscite. It is vital that those not favored by Chile's voters accept the freely, fairly expressed will of the people.

Mr. President, bipartisanship in foreign policy has become a rare event. In this case, the administration has joined with liberal and conservative Members of both the House and Senate in crafting the language before us. President Reagan, in a statement issued by the State Department, has said that "The people of the United States share the aspiration of the Chilean people to have full democracy restored in their country. The fuller the observance of basic and civil rights in the period leading up to and during the election, the greater will be the legitimacy of its outcome." A resolution similar to the one before us was approved by voice vote in the House of Representatives on August 8. In the spirit of bipartisanship in foreign policy, Senator HARKIN and I agreed to sponsor the resolution before the Senate today. Joining with us in cosponsoring the resolution are Senators **BYRD, DOLE, PELL, KENNEDY, DODD,** GRAHAM, LUGAR, KASSEBAUM, DURENBERGER, and SANFORD. By any standards, the language and spirit of this resolution are supported across a wide ideological and political spectrum. I urge my colleagues to join with me in cosponsoring the resolution.

ADDITIONAL COSPONSORS

S. 714

At the request of Mr. SPECTER, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 714, a bill to recognize the organization known as the Montford Point Marine Association, Inc.

S. 1349

At the request of Mr. McCAIN, the name of the Senator from Nebraska [Mr. KARNES] was added as a cosponsor of S. 1349, a bill to amend the Internal Revenue Code of 1986 to improve the portability of pension benefits, and for other purposes.

S. 1480

At the request of Mr. DOMENICI, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1480, a bill to improve the integration of universities and private industry into the National Laboratory System of the Department of Energy in order to speed the development of technology in areas of significant economic potential.

S. 1489

At the request of Mr. MOYNIHAN, the names of the Senator from Pennsylvania [Mr. SPECTER], the Senator from Virginia [Mr. TRIBLE], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of S. 1489, a bill to amend section 67 of the Internal Revenue Code of 1986 to exempt certain publicly offered regulated investment companies from the disallowance of indirect deductions through pass-thru entities.

S. 1738

At the request of Mr. WILSON, the name of the Senator from New Hampshire [Mr. RUDMAN] was added as a cosponsor of S. 1738, a bill to make long-term care insurance available to civilian Federal employees, and for other purposes.

S. 2011

At the request of Mr. CRANSTON, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 2011, a bill to increase the rate of Veterans' Administration compensation for veterans with service-connected disabilities and dependency and indemnity compensation for the survivors of certain disabled veterans.

S. 2454

At the request of Mr. HARKIN, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Florida [Mr. GRAHAM], the Senator from Michigan [Mr. RIEGLE], the Senator from Alaska [Mr. STEVENS], the Senator from Hawaii [Mr. INOUYE], the Senator from Arizona [Mr. McCAIN], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from North Dakota [Mr. CONRAD], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 2454, a bill to seek the eradication of the worst aspects of poverty in developing countries by the year 2000.

S. 2500

At the request of Mr. GRASSLEY, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2500, a bill to amend title 28, United States Code, to provide for an exclusive remedy against the United States for suits based upon certain negligent or wrongful acts of omissions of United States employees committed within the scope of their employment, and for other purposes.

S. 2614

At the request of Mr. HOLLINGS, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2614, a bill to amend the National Science and Technology Policy, Organization, and Priorities Act of 1976 in order to provide for improved coordination of national scientific research efforts and to provide for a national plan to improve scientific understanding of the Earth system and the effect of changes in that system on climate and human well-being.

S. 2734

At the request of Mr. THURMOND, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 2734, a bill to require the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate United States participation in that conflict.

S. 2765

At the request of Mr. GLENN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2765, a bill to protect the rights of persons to due process of law and equal protection of the laws in guardianship proceedings.

S. 2806

At the request of Mr. Hatfield, the name of the Senator from Oregon [Mr. Packwood] was added as a cosponsor of S. 2806, a bill to require the transfer of the decommissioned Coast Guard cutter *Glacier* to the State of Oregon for use as a maritime museum and display.

SS. 2821

At the request of Mr. Harkin, the name of the Senator from Mississippi [Mr. Cochran] was added as a cosponsor of S. 2821, a bill to make certain technical and conforming amendments to the Education of the Handicapped Act and the Rehabilitation Act of 1973, and for other purposes.

S. 2845

At the request of Mr. Hecht, the name of the Senator from Nevada [Mr. Reid] was added as a cosponsor of S. 2845, a bill to provide for the transfer of a certain parcel of land located in Clark County, NV.

SENATE JOINT RESOLUTION 280

At the request of Mr. Hatch, the names of the Senator from Oklahoma [Mr. Nickles], and the Senator from Maryland [Ms. Mikulski] were added as cosponsors of Senate Joint Resolution 280, a joint resolution to designate the week of November 27, 1988 through December 3, 1988 as "National Home Care Week."

SENATE JOINT RESOLUTION 354

At the request of Mr. Heflin, the name of the Senator from Missouri [Mr. Bond] was added as a cosponsor of Senate Joint Resolution 354, a joint resolution to designate November 6 through 12, 1988, as "National Farm Broadcasters Week."

SENATE JOINT RESOLUTION 372

At the request of Mr. Hatch, the names of the Senator from North Carolina [Mr. Sanford], the Senator from Nebraska [Mr. Exon], the Senator from Rhode Island [Mr. Pell], the Senator from Pennsylvania [Mr. Heinz], the Senator from Wisconsin [Mr. Kasten], the Senator from South Dakota [Mr. Pressler], the Senator from New Jersey [Mr. Lautenberg], the Senator from South Dakota [Mr. Pressler], the Senator from New Jersey [Mr. Lautenberg], and the Senator from Tennessee [Mr. Gore] were added as cosponsors of Senate Joint Resolution 372, a joint resolution to designate the week beginning November 21, 1988, through November 27, 1988, as "National Adoption Week."

SENATE JOINT RESOLUTION 378

At the request of Mr. Heinz, the name of the Senator from Ohio [Mr. Glenn] was added as a cosponsor of Senate Joint Resolution 378, a joint resolution designating the week of October 2 through 8, 1988, as "National Wild and Scenic Rivers Act Week."

SENATE JOINT RESOLUTION 381

At the request of Mr. Bond, the name of the Senator from Alaska [Mr. Stevens] was added as a cosponsor of Senate Joint Resolution 381, a joint resolution to designate October 30, 1988 as "Fire Safety at Home Day—Change Your Clock, Change Your Battery."

SENATE CONCURRENT RESOLUTION 127

At the request of Mr. Wilson, the names of the Senator from Maine [Mr. Cohen], the Senator from Virginia [Mr. Warner], and the Senator from New Mexico [Mr. Bingaman] were added as cosponsors of S. Con. Res. 127, a concurrent resolution expressing the sense of the Congress concerning support for amateur radio and amateur radio frequency allocations vital for public safety purposes.

SENATE CONCURRENT RESOLUTION 140

At the request of Mr. Durenberger, the names of the Senator from Vermont [Mr. Leahy], the Senator from North Carolina [Mr. Sanford], the Senator from Pennsylvania [Mr. Heinz], the Senator from Connecticut [Mr. Weicker], and the Senator from Florida [Mr. Graham] were added as cosponsors of Senate Concurrent Resolution 140, a concurrent resolution calling for the restoration of democracy in Panama and pledging economic assistance.

SENATE CONCURRENT RESOLUTION 145

At the request of Mr. Mitchell, the name of the Senator from Wisconsin [Mr. Kasten] was added as a cosponsor of Senate Concurrent Resolution 145, a concurrent resolution expressing the sense of the Congress regarding the state of affairs in Lebanon and urging all parties in Lebanon to work together to resolve the constitutional crisis.

SENATE CONCURRENT RESOLUTION 147

At the request of Mr. Graham, the name of the Senator from Iowa [Mr. Harkin] was added as a cosponsor of Senate Concurrent Resolution 147, a concurrent resolution expressing the sense of the Congress regarding the restoration of democracy to Haiti and on conditions for the resumption of United States assistance to that country.

SENATE CONCURRENT RESOLUTION 149—RELATING TO THE RESTORATION OF DEMOCRACY IN HAITI

Mr. BYRD (for Mr. Graham, for himself, Mr. Kerry, Mr. Kennedy, Mr. McCain, Mr. D'Amato, Mr. Simon, Mr. Sanford, Mr. Chiles, Mr. Bradley, Mr. Dixon, Mr. Fowler, Mr. Durenberger, Mr. Moynihan, Mr. Lugar, Mr. DeConcini, Mr. Cranston, Mr. Boren, and Mrs. Kassebaum) submitted the followng concurrent resolution; which was considered and agreed to:

S. Con. Res. 149

Whereas 29 years of repressive Duvalier rule came to end on February 7, 1986, when the Haitian people sent President-For-Life Jean-Claude Duvalier into exile;

Whereas a National Governing Council, a military-dominated provisional junta appointed by Duvalier prior to his departure and headed by General Henri Namphy, was named to govern the country and announced a plan to form a Constituent Assembly to draft a new constitution;

Whereas on March 29, 1987, an overwhelming majority of Haitian voters (98.99 percent) approved the new constitution calling for the creation of a Provisional Electoral Council to draft an Electoral Law and oversee presidential and municipal elections;

Whereas on November 29, 1987, the first Haitian presidential election in thirty years was violently disrupted and ultimately postponed when Duvalierists and elements of the army massacred at least 34 voters and wounded 75 as Haitians peacefully assembled at polling booths to cast their ballots;

Whereas the ruling National Governing Council took no action to protect voters and stop the violence and, further, dissolved the Provisional Electoral Council and abrogated the Electoral Law;

Whereas the United States reponded by suspending all military and economic aid except for humanitarian assistance;

Whereas the Congress, with the exception of those programs such as assistance for refugees and disaster relief assistance that serve the interests of the United States, prohibited any further aid to Haiti not passing through private, non-governmental organizations until the Haitian government holds elections in accordance with the 1987 Haitian Constitution;

Whereas the National Governing Council held an election on January 17, 1988, widely recognized as fraudulent, and the army-backed candidate, Leslie Manigat, was selected as president in balloting in which no more than 4 to 6 percent of the three million eligible Haitian voters participated and where many who did vote were paid to do so;

Whereas Leslie Manigat was overthrown on June 19, 1988, and General Henri Namphy assumed power and, with the support of remnants of Duvalier's private army, the Tonton Macoutes, began terrorizing the Haitian people.

Whereas as this campaign of terror against the Haitian people culminated on September 11, 1988, in the murder of 13 Haitians when elements of the Tonton Macoutes viciously attacked worshippers attending a Sunday morning mass at St. Jean Basco Roman Catholic Church in Port-au-Prince and subsequently attacks were carried out against political party headquarters and radio stations and two other churches were burned;

Whereas noncommissioned officers in the Haitian military, upset by increasing human rights abuses perpetrated by a military government including Duvalierists and Tonton Macoutes, overthrew the Namphy regime and installed Lt. Gen. Prosper Avril at Haiti's new president on September 17;

Whereas Lt. Gen. Avril has said that the final objective of his military government will be to implement democracy;

Whereas, upon taking power General Avril proclaimed "We dream of a Haiti where libery will flourish, where human rights will be guaranteed and dialogue will be honored for the sake of national reconciliation, and where the economic stagnation in which the country is floundering will disappear for the greatest good of the of the greatest number"; and

Whereas the continuing popular unrest in Haiti since the exile of President-For-Life

Jean-Claude Duvalier is a clear indication that the people of Haiti will continue to risk their lives for the opportunity to select their own leaders through free, fair and open elections: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the resumption of economic or any other assistance by the United States to the Government of Haiti should be clearly linked to tangible actions by the Government of Haiti to—

(1) embark upon a credible transition to democracy that will include restoring the 1987 Constitution, appointing a genuinely independent electoral commission to oversee elections, and most important, announceing a date certain for elections that will lead to a democratic government led by civilians;

(2) strictly observe human and civil rights and in so doing take immediate steps to disarm and restrain the remnants of Duvalier's private army, the Tonton Macoutes, and to institute a judicial process whereby human rights violations will be vigorously investigated and violators will be brought to justice;

(3) reform a corrupt bureaucracy;

(4) promote economic development that will benefit the Haitian people by providing the security and freedom of association necessary for bottom-up, grass-roots development;

(5) improve cooperation between the United States and Haiti in dealing with the growing problem of narcotics trafficking through Haiti and to take meaningful steps to halt the involvement of the Haitian military in the transshipment of illicit drugs; and

(6) demonstrate the willingness of the Haitian armed forces to submit to legally constituted civilian authority and to fully respect and abide by the Constitution of Haiti.

SEC. 2. It is further the sense of the Congress that—

(1) there will be no resumption of regularized and sustained government-to-government assistance, as part of a normalization of relations with the Government of Haiti, until the election of a civilian government pursuant to free, fair and open elections held in accordance with the provisions set forth in section 1; and

(2) the appropriate Executive branch officials should consult fully and completely with the Congress before assistance of any kind is made available by the United States to the Government of Haiti.

SEC. 3. The Congress further declares its support for the people of Haiti and their desire for democratic government and economic development by directing that the appropriate committees of the Congress conduct hearings to determine what legislative actions may be appropriate and necessary to promote free, fair and open elections leading to civilian government in Haiti, including increased economic aid should the government take the steps outlined in section 1, or, in the event of its failure to do so, the feasibility of additional sanctions as outlined in legislation now pending before the Congress.

SEC. 4. The appropriate Executive branch officials should examine ways that the United States can work with its friends and allies and appropriate international organizations and institutions to develop a multilateral policy toward Haiti that is consistent and sustainable.

AMENDMENTS SUBMITTED

COLORADO RIVER STORAGE PROJECT

GARN AMENDMENT NO. 3317

Mr. GARN (for himself and Mr. HATCH) proposed an amendment to the bill (H.R. 3408) to increase the amounts authorized for the Colorado River Storage Project; as follows:

SECTION 1.

(a) PURPOSES.—The purposes of this section are—

(1) to modify the boundary of the Uinta National Forest to include certain Strawberry Valley Project lands currently administered by the Bureau of Reclamation, in order to provide more efficient management for public benefits;

(2) to transfer certain lands, and to compensate the Association for the loss of certain contractual surface rights and interests; and

(3) to provide for rehabilitation of certain of those lands to be administered by the Forest Service for public benefit.

(b) DEFINITIONS.—For the purposes of this Section—

(1) the term "Association" means the Strawberry Water Users Association,

(2) the term "Secretary" means the Secretary of the Interior, and

(3) the term "Project Lands" means approximately 56,870 acres of Strawberry Valley Project Lands and includes 95 acres to be transferred to the Association, 25,990 acres of recreation lands associated with the Bonneville Unit of the Central Utah Project, and 30,785 acres of remaining Strawberry Valley Project Lands.

(c) BOUNDARY MODIFICATION OF UINTA NATIONAL FOREST.—

(1) The exterior boundary of the Uinta National Forest shall be modified to include 56,775 acres of the original 56,870 acres of Strawberry Valley Project lands as generally depicted on a map entitled "Boundary Modification, Uinta National Forest", and dated May 1988. The effective date of such modification shall be the date upon which administrative jurisdiction is transferred to the Secretary of Agriculture in accordance with subsection (e)(1)(B). Those lands encompassed by the modified boundary include 25,990 acres of recreation lands associated with the Bonneville Unit of the Central Utah Project and 30,785 acres of remaining Project Lands. Such lands shall be administered by the Forest Service in accordance with applicable laws except that the 25,990 acres shall continue to be managed by the Forest Service as recreation lands in accordance with the purposes set forth in the Memorandum of Agreement between the Department of the Interior, Bureau of Reclamation, Upper Colorado Region, and the U.S. Forest Service (Contract No. 2-07-40-L3016) dated February 2, 1982.

(2) A map depicting the modified boundary of the Uinta National Forest shall be on file and available for public inspection in the office of the Chief of the Forest Service and appropriate field offices and the House Interior and Insular Affairs Committee and the Senate Energy and Natural Resources Committee.

(d) VALID EXISTING RIGHTS.—

(1) Notwithstanding any other provision of this section, the administration by the Forest Service of the lands described in subsection (c) shall not—

(A) affect or interfere with the authority of the Bureau of Reclamation to construct, operate, maintain, replace, or improve, as necessary, project facilities and access thereto associated with the Strawberry Valley Reclamation Project and Bonneville Unit of the Central Utah Project; or

(B) diminish any other authorized uses of the lands for water resource and power development under the Federal law.

(2) The Association shall relinquish all of its contractual surface rights and interests, including sand and gravel, in the 56,775 acres of the Project Lands in accordance with subsection (e)(2). Notwithstanding any other provision of this section, all other contractual rights and interests of the Association in the Strawberry Valley Reclamation Project shall remain unchanged. The Association shall be exempt from fees or charges for licenses or permits, other than grazing fees, for project related facilities on Project Lands.

(e) STRAWBERRY VALLEY LAND TRANSFERS, AND OTHER CONSIDERATIONS.—

(1)(A) The Secretary is hereby authorized and directed to convey to the Association 95 acres in fee title of Project Lands, together with all improvements, as shown on a plat appended to the map referred to in subsection (c)(1). This action is consistent with the intent of the Act of April 4, 1910 (chapter 140, 36 Stat. 269).

(B) Within 15 days of payment of compensation to the Association in accordance with subsection (e)(2), the Secretary shall transfer administrative jurisdiction to the Secretary of Agriculture over the 30,785 acres of remaining Project Lands and the 25,990 acres of recreation lands. Management of the surface shall be subject to applicable law.

(C) Notwithstanding any other provision of this section, the Association shall retain its contractual rights to issue oil, gas, coal and mineral leases, excluding sand and gravel, on the Project Lands. The authority of the Association to issue such leases and to utilize revenues therefrom as set forth in Interior Solicitor's Opinion M-36863 dated August 8, 1972 (79 I.D. 513) is hereby confirmed. All such revenues shall be used and applied to Strawberry Valley Reclamation Project purposes.

(2) COMPENSATION.—There is authorized to be appropriated under Section 8, of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620g), $15,000,000 as compensation to the Association which shall be available only for such compensation and must be used for Strawberry Valley Reclamation Project purposes. Of the amounts appropriated hereafter under Section 8 of such Act, the first $15,000,000 shall be paid to the Association. Upon receipt of such compensation, the Association shall relinquish all of its contractual surface rights and interests, including sand and gravel, in the 56,775 acres of Project Lands.

(3) OTHER CONSIDERATIONS.—The Association shall be entitled to retain the first right of refusal to grazing privileges on the 30,785 acres of remaining Project Lands, and if permitted under the grazing rehabilitation plan pursuant to subsection (f), on the 25,990 acres of recreation lands.

(f) REHABILITATION OF LANDS.—The Forest Service shall, in coordination with the State of Utah and other appropriate agencies begin long-term rehabilitation of Project

Lands. Such rehabilitation shall be five years in duration and shall permit continued grazing uses consistent with such rehabilitation. There is authorized to be appropriated under Section 8 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620g), $3,000,000 which shall be available only for such rehabilitation. The Association shall be held harmless for any costs associated with rehabilitation.

(g) INTERIM RECREATIONAL MANAGEMENT BY FOREST SERVICE.—Until administrative jurisdiction of the 25,990 acres of recreation lands is transferred to the Secretary of Agriculture in accordance with subsection (e)(1)(B), the Congress authorizes and directs the Secretary of Agriculture to expend National Forest System appropriated funds in lieu of Department of Interior, Bureau of Reclamation funds to manage the 25,990 acres of recreation lands for the Strawberry Reservoir adjacent to the Uinta National Forest in Utah. Such expenditures shall be in accordance with the provisions of the Memorandum of Agreement (Contract No. 2-07-40-L3016) dated February 2, 1982.

(h) LAND EXCHANGE.—

(1) AUTHORIZATION.—The Secretary of Agriculture may exchange or sell the National Forest system lands, including any administrative sites and improvements thereon, described in subsection (h)(2). Disposal or exchange of these properites is intended to facilitate the acquisition of administrative sites and offices together with improvements thereon at either Provo, Utah County, Utah or near Heber City, Wasatch County, Utah, as specified by the Secretary of Agriculture. If the sale option is exercised, moneys collected shall be held in a special account intended for this purpose and are hereby authorized for expenditure without further appropriation.

(2) LANDS.—The lands referred to in subsection (h)(1) are those lands which are depicted on a plat, entitled Heber City, Utah, dated April 17, 1978, and May 7, 1978. The plat shall be on file and available for public inspection in the office of the Chief of the Forest Service and appropriate field offices.

(3) REQUIREMENT OF EQUAL VALUE.—If the lands are exchanged, the values, as determined by the Secretary of Agriculture, of the lands and building to be exchanged under this section shall be equal, or if not equal, shall be equalized by the payment of money to the grantor or the Secretary of Agriculture as the circumstances require so long as the payment does not exceed 25 percent of the total value of the land (including any improvements thereon) transferred out of Federal ownership. The Secretary of Agriculture shall make every reasonable effort to keep any such payment to the minimum amount necessary to equalize the values involved.

COASTAL HERITAGE TRAIL

BRADLEY AMENDMENT NO. 3318

Mr. BYRD (for Mr. BRADLEY) proposed an amendment to the House amendments of the bill (S. 2057) to provide for the establishment of the Coastal Heritage Trail in the State of New Jersey, and for other purposes; as follows:

On page 1, line 2, before "Route" insert "Trail".

On page 1, line 16, before "Route" insert "Trail".

On page 4, line 15, before "Route" insert "Trail".

At the end of the bill, add the following new section:

SEC. . REVITALIZATION OF OFFICERS ROW, SANDY HOOK, NEW JERSEY.

(a) AGREEMENT WITH STATE.—To further the revitalization, rehabilitation, and utilization of the area known as "Officers Row" located within the Sandy Hook Unit of the Gateway National Recreation Area, the Secretary of the Interior, or his designee, shall enter into an agreement to permit the State of New Jersey to use and occupy the property depicted on the map numbered 646/80,003, entitled "Marine Science Laboratory Land Assignment", dated September 1988, for the express purpose of constructing, developing, and operating, without cost to the National Park Service, a marine sciences laboratory to be known as the "James J. Howard Marine Sciences Laboratory". The design of the new facility, the rehabilitation of Building 74, the design and location of landscaping modifications thereto, shall be reviewed by, and subject to the approval of, the Director of the National Park Service or his designee using the standards for rehabilitation and National Park Service guidelines and policies approved by the Secretary of the Interior.

(b) REVERSION.—If the improvements described in subsection (a) are not used as a marine sciences laboratory by the State of New Jersey, all use of the property and the improvements thereon shall revert, without consideration, to the National Park Service.

Amend the title so as to read: "To provide for the establishment of the Coastal Heritage Trail Route in the State of New Jersey, and for other purposes".

FOREIGN OPERATIONS APPROPRIATIONS ACT, FISCAL YEAR 1989

SYMMS AMENDMENT NO. 3319

Mr. SYMMS proposed an amendment, which was subsequently modified, to the amendment of the House to the amendment of the Senate numbered 119 to the bill (H.R. 4637) making appropriations for foreign operations, export financing, and related programs, for the fiscal year ending September 30, 1989, and for other purposes; as follows:

In amendment 119, strike "*Provided further,* That the amendment in the nature of a substitute to the text of H.R. 4645, as ordered reported from the Committee on Banking, Finance and Urban Affairs on September 22, 1988, is hereby enacted into law:"

PELL AMENDMENT NO. 3320

Mr. PELL proposed an amendment (which was subsequently modified) to the amendment of the House to the amendment of the Senate numbered 119 to the bill H.R. 4637, supra; as follows:

At the end of the pending amendment insert the following:

"*Provided further,* That notwithstanding any other provision of this act, Titles I, and III of S. 2757 as reported by the Senate Committee on Foreign Relations on September 7, 1988 are hereby enacted into law: *Provided further,* That purchases, investments or other acquisitions of equity by the fund created by section 104 of S. 2757 as hereby enacted are limited to such amounts as may be provided in advance in appropriations Acts: *Provided further,* That Section 901(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (8 U.S.C 1182 note) is amended to read as follows:

"'(a) IN GENERAL.—Notwithstanding any other provision of law, no nonimmigrant alien may be denied a visa or excluded from admission into the United States, or subject to deportation because of any past, current or expected beliefs, statements or associations which, if engaged in by a United States citizen in the United States, would be protected under the Constitution of the United States.'

'*Provided further,* That subsection (b) of section 901 of such Act is amended—

'(1) by inserting "to deny adjustment of status of," after "deny issuance of a visa to,";

'(2) by inserting in paragraph (1) before the semi-colon, ", unless such alien is seeking issuance of a visa, adjustment of status, or admission to the United States as an immigrant."'

"*Provided further,* That subsection (d) of section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (8 U.S.C. 1182 note) is amended to read as follows:

'(d) EFFECTIVE PERIOD.—Subsection (a) shall only apply to—

'(1) applications for non-immigrant visas submitted before January 1, 1991;

'(2) admissions sought before March 1, 1991;

'(3) deportations based on activities occurring before January 1, 1991, or for which deportation proceedings (including judicial review with respect to such a proceeding) are pending at any time between December 31, 1987 and January 1, 1991.':

"*Provided further,* That the amendment made in the preceding sentence shall not require the deportation of aliens admitted for permanent resident status under Section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, as in effect before the date of enactment of this act:" "*Provided further,* That Title III of S. 2757 shall be in effect for Fiscal Years 1989 and 1990: *Provided further,* That the Comptroller General of the United States shall examine the use of nonimmigrant visas under section 101(a)(15)(J) of the Immigration and Nationality Act for current programs of educational and cultural exchange and shall, not later than 30 days before the end of fiscal year 1989, submit to the Committees on the Judiciary of the Senate and House of Representatives, a report on whether the participants in programs of cultural exchange receiving visas under that section are performing activities consistent with the congressional intent for the implementation of that section."

METZENBAUM (AND HELMS) AMENDMENT NO. 3321

Mr. METZENBUAM (for himself and Mr. HELMS) proposed an amendment to amendment 3320 to the bill, H.R. 4637, supra; as follows:

Strike everything after "*Provided further*" the first time it occurs and insert in lieu thereof the following: That notwithstanding any other provision of this act, Titles I, III, and V of S. 2757 as reported by the Senate Committee on Foreign Relations on September 7, 1988 are hereby enacted into law: *Provided further*, That purchases, investments or other acquisitions of equity by the fund created by section 104 of S. 2757 as hereby enacted are limited to such amounts as may be provided in advance in appropriations Acts: *Provided further*, That Section 901(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (8 U.S.C. 1182 note) is amended to read as follows:

(a) In General.—Notwithstanding any other provision of law, no nonimmigrant alien may be denied a visa or excluded from admission into the United States, or subject to deportation because of any past, current or expected beliefs, statements or associations which, if engaged in by a United States citizen in the United States, would be protected under the Constitution of the United States.

Provided further that subsection ((b) of section 901 of such Act is amended—

(1) by inserting "to deny adjustment of status of," after "deny issuance of a visa to,";

(2) by inserting in paragraph (1) before the semi-colon, ", unless such alien is seeking issuance of a visa, adjustment of status, or admission to the United States as an immigrant."

Provided further, That subsection (d) of section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (8 USC 1182 note) is amended to read as follows:

'(d) Effective Period.—Subsection (a) shall only apply to—

'(1) applications for non-immigrant visas submitted before January 1, 1991;

'(2) admissions sought before March 1, 1991;

'(3) deportations based on activities occurring before January 1, 1991, or for which deportation proceedings (including judicial review with respect to such a proceeding) are pending at any time between December 31, 1987 and January 1, 1991.':

Provided further, That the amendment made in the preceding sentence shall not require the deportation of aliens admitted for permanent resident status under Section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, as in effect before the date of enactment of this act." *Provided further*, that the following section is hereby enacted into law as part of S. 2757:

SEC. . PROHIBITION ON ASSISTANCE FOR FOREIGN INVESTMENTS COMPETING WITH UNITED STATES GOODS.

(a) In General.—Section 237 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(n)(1) No insurance, reinsurance, or guarantees may be issued or remain in effect under this title with respect to a project which produces exports to the United States of goods directly competitive at the time of such issuance with goods manufactured in the United States, except in such cases where the location of the proposed project is in a country whose annual per capita income is $984 or less in 1986 United States dollars, and where the Corporation notifies the Committee on Foreign Relations of the Senate and Committee on Foreign Affairs of the House of Representatives three months prior to such issuance.

"(2) For purposes of paragraph (1), exports to the United States of more than 10 percent of the total output of a project during any 12-month period shall be considered to be exports within the meaning of paragraph (1).".

"(3) Notwithstanding any other provision of law—

"(A) no insurance, reinsurance, or guarantees shall be issued under this title with respect to any petroleum producing or hotel project; and

"(B) no insurance, reinsurance, or guarantees shall be issued under this title to financial institutions whose proposed projects are not located in countries included in the United States General System of Preferences.

"(4) The Corporation shall report, six months after the date of enactment of this subsection, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on the status of implementation of all recommendations contained within the General Accounting Office report on operations of the Corporation issued in May 1987 and shall report every three months thereafter until such recommendations have been fully implemented.".

(b) Effective Date.—The amendment made by subsection (a) applies to any insurance, reinsurance, or guarantees issued after the date of enactment of this Act.

ANTI-APARTHEID ACT AMENDMENTS

PRESSLER AMENDMENT NOS. 3322 THROUGH 3336

(Ordered to lie on the table.)

Mr. PRESSLER submitted fifteen amendments intended to be proposed by him to the bill (S. 2756) entitled the "Anti-Apartheid Act Amendments of 1988"; as follows:

Amendment No. 3322

On page 29, line 8, strike "180 days" and insert in lieu thereof "two years".

Amendment No. 3323

On page 30, line 6, strike "." and insert in lieu thereof ";and,";

On page 30, between lines 6 and 7, insert: "(3) medical and health technology and the byproducts thereof,"

Amendment No. 3324

On page 30, between lines 10 and 11, insert:

"(d) The prohibition under subsection (a) shall not apply to any agricultural product or commodity when the Secretary of Agriculture, by certification to Congress, determines that insufficient alternative sources are available to meet the needs of the people of the United States.";

On page 30, line 11, strike "(d)" and insert in lieu thereof "(e);

On page 30, line 23, strike "(e)" and insert in lieu thereof "(f);

Amendment No. 3325

Strike everything from line 4, page 29 through line 17, page 37.

Amendment No. 3326

Strike from page 31, line 12, through page 34, line 21, all of section 202.

Amendment No. 3327

On page 32, strike line 18 through line 21.

Amendment No. 3328

Strike line 1, page 33, through line 21, page 34.

Amendment No. 3329

On page 34, between lines 21 and 22, insert:

"(C) The President may waive the application of subsection (a) with respect to foreign persons in any country whose trade with South Africa in 1988 constituted more than half of the total value of their international trade."

Amendment No. 3330

On page 37, line 10, strike "180 days" and insert in lieu thereof "one year".

Amendment No. 3331

On page 37, strike lines 8 through 17.

Amendment No. 3332

On page 7, line 4, strike "180 days" and insert in lieu thereof "one year".

Amendment No. 3333

On page 7, line 7, after "321," add "322,".

Amendment No. 3334

On page 7, line 6, after "212," add "301,".

Amendment No. 3335

On page 7, line 6, after "304," add "306,".

Amendment No. 3336

On page 7, line 6, after "310," add "315,".

FOREIGN OPERATIONS APPROPRIATIONS ACT, FISCAL YEAR 1989

DOMENICI (AND BINGAMAN) AMENDMENT NO. 3337

Mr. DOMENICI (for himself and Mr. Bingaman) proposed an amendment to amendment No. 3320 proposed by Mr. Pell, and subsequently modified, to the amendment of the House to the amendment of the Senate numbered 119 to the bill H.R. 4637, supra; as follows:

At the end of the pending amendment, add the following: *Provided further*, That notwithstanding section 208 of the United States Information Agency Authorization Act, FY 1986 and 1987 and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 USC 1461)—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the film entitled "Land of Enchantment"; and

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall reimburse the Director for any expenses of the Agency in making that master copy available, shall deposit that film in the National Archives of the United States, and shall make copies of that film available for purchase and public viewing within the United States.

Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

HELMS (AND OTHERS) AMENDMENT NO. 3338

Mr. HELMS (for himself, Mr. Pell, and Mr. DeConcini) proposed an amendment to the amendment of the House to the amendment of the Senate to the bill H.R. 4637, supra; as follows:

At the end of the pending amendment, insert the following: ": *Provided further*, That S. 2763, as passed by the United States Senate on September 9, 1988 is enacted."

PELL (AND OTHERS) AMENDMENT NO. 3339

Mr. PELL (for himself, Mr. Helms, and Mr. DeConcini) proposed an amendment to amendment No. 3338 proposed by Mr. Helms (and Mr. Pell) to the amendment of the House to amendment of the Senate numbered 176 to the bill H.R. 4637, supra; as follows:

Strike all after the colon and insert the following: "*Provided further*, That S. 2848, as introduced on September 30, 1988 is enacted."

HELMS AMENDMENT NO. 3340

Mr. HELMS proposed an amendment to the amendment of the House to the amendment of the Senate numbered 182 to the bill H.R. 4637, supra; as follows:

Before the period at the end of the House amendment to Senate amendment 182, add: ": *Provided further*, That the United States Government shall not assist the missile program of the People's Republic of China in any manner, including approving of the export of satellites employing U.S. technology for launch by Chinese missiles, until the President certifies to the Congress that China is not supplying missiles to Iran, Iraq, Syria, Libya, or Saudi Arabia, and has provided reliable assurances that no future sales of missiles to such countries are planned.".

SPECTER AMENDMENT NO. 3341

Mr. SPECTER proposed an amendment to the amendment of the House to the amendment of the Senate numbered 182 to the bill H.R. 4637, supra; as follows:

At the end of the pending amendment, add the following: "no funds may be appropriated, obligated or expended if after October 1, 1988, any Maverick G missiles are sold to Kuwait.".

SPECTER (AND OTHERS) AMENDMENT NO. 3342

Mr. SPECTER (for himself, Mr. Inouye, Mr. DeConcini, and Mr. Kasten) proposed an amendment to the amendment of the House to the amendment of the Senate numbered 192 to the bill H.R. 4637, supra; as follows:

At the end of the pending amendment, add the following: "It is the sense of the Senate that the President be urged to undertake discussions and negotiations with other nations, which are principal suppliers of arms in the Mideast, to limit to the maximum extent possible, the sale of arms to nations in the Mideast.".

HELMS AMENDMENT NO. 3343

Mr. HELMS proposed an amendment to the amendment of the Senate numbered 182 to the bill H.R. 4637, supra; as follows:

Before the period at the end of amendment number , insert the following: *Provided further*, That title V of S. 2757 as reported by the Senate Committee on Foreign Relations on September 7, 1988 is hereby enacted into law".

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, FISCAL YEAR 1989

HELMS (AND OTHERS) AMENDMENT NO. 3344

Mr. HELMS (for himself, Mr. Symms, Mr. McClure, Mr. Wallop, Mr. Humphrey, and Mr. McCain) moved to concur in the amendment of the House to the amendment of the Senate No. 78 to the bill (H.R. 4781) making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes; with an amendment; as follows:

"*Provided further*, That notwithstanding any other provision of law or of this Act, none of the funds appropriated by this Act shall be obligated or expended after December 1, 1988 to dismantle any Poseidon submarines unless the President, using existing authority on that date has certified to Congress that the Soviet Union has dismantled the Krasnoyarsk radar.".

NUNN (AND OTHERS) AMENDMENT NO. 3345

Mr. NUNN (for himself, Mr. Warner, Mr. Danforth, Mr. Bingaman, Mr. Wirth, and Mr. Exon) proposed an amendment to the amendment of the House to the amendment of the Senate numbered 89 to the bill H.R. 4781, supra; as follows:

In lieu of the matter inserted by such amendment, insert the following: "*Provided further*, That not later than February 1, 1989, the Secretary of Defense shall submit to the Committees on Appropriations and on Armed Services of the Senate and the House of Representatives a report setting forth (1) each program, project, or activity for which funds were not requested in the budget submitted to Congress pursuant to section 1105 of title 31, United States Code, for fiscal year 1989 and are made available under this Act for only one educational institution, or organization affiliated with an educational institution, which is identified, either directly or indirectly, by the terms of this Act (or the Joint Statement of Managers accompanying the conference report on H.R. 4781 of the Hundredth Congress) as the institution or organization to perform the program, project, or activity for which such funds are provided, and (2) the name of the institution and the amount of funds made available for such program, project, or activity: *Provided further*, That the funds appropriated by this Act to carry out a program, project, or activity by any such educational institution or organization may not be obligated or expended for such purpose before February 1, 1989, and such funds may be obligated or expended on or after such date for such purpose only after a period of 60 days has expired after the date on which the committees named in the preceding proviso have received the report referred to in such proviso.".

NUNN AMENDMENT NO. 3346

Mr. NUNN proposed an amendment to amendment No. 3345 proposed by him (and others) to the amendment of the House to the amendment of the Senate numbered 89 to the bill H.R. 4781, supra; as follows:

Strike out everything after the word "*Provided*" the first time it appears and insert in lieu thereof the following:

"*Further*, That not later than February 1, 1989, the Secretary of Defense shall submit to the Committees on Appropriations and on Armed Services of the Senate and the House of Representatives a report setting forth (1) each program, project, or activity for which funds were not requested in the budget submitted to Congress pursuant to section 1105 of title 31, United States Code, for fiscal year 1989 and are made available under this Act for only one educational institution, or organization affiliated with an educational institution, which is identified, either directly or indirectly, by the terms of this Act (or the Joint Statement of Managers accompanying the conference report on H.R. 4781 of the One Hundredth Congress) as the institution or organization to perform the program, project, or activity for which such funds are provided, and (2) the name of the institution and the amount of funds made available for such program, project, or activity: *Provided further*, That the funds appropriated by this Act to carry out a program, project, or activity by any such educational institution or organization may not be obligated or expended for such purpose before February 1, 1989, and such funds may be obligated or expended on or after such date for such purpose only after a period of 90 days has expired after the date on which the committees named in the preceding proviso have received the report referred to in such proviso.".

COHEN (AND MITCHELL) AMENDMENT NO. 3347

Mr. COHEN (for himself and Mr. Mitchell) proposed an amendment to the amendment of the House to the amendment of the Senate numbered 252 to the bill H.R. 4781, supra; as follows:

In lieu of the matter inserted by said amendment, insert:

"Sec. 8127. (a) Not more than $3,000,000 of the funds appropriated in this Act may be used to carry out the provisions of section 430 of title 37, United States Code.

"(b) Of the amount appropriated in this Act for Other Procurement, Air Force, the sum of $18,200,000 may be obligated only for the procurement of 20 Mobile Armored Reconnaissance Vehicles (MARV).".

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, FISCAL YEAR 1989

DECONCINI AMENDMENT NO. 3348

Mr. DECONCINI proposed an amendment to the amendment of the House to the amendment of the Senate numbered 29 to the bill (H.R. 4776) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1989, and for other purposes; as follows:

At the end of the amendment No. 29, add the following:

SEC. _____. (a) This section may be cited as the "Hatch Act Reform Amendments of 1988".

(b) Subchapter III of chapter 73 of title 5, United States Code, is amended to read as follows:

"SUBCHAPTER III—POLITICAL ACTIVITIES

"§ 7321. Political participation

"It is the policy of the Congress that employees should be encouraged to exercise fully, freely, and without fear of penalty or reprisal, and to the extent not expressly prohibited by law, their right to participate or to refrain from participating in the political processes of the Nation.

"§ 7322. Definitions

"For the purpose of this subchapter—

"(1) 'employee' means any individual, other than the President and the Vice President, employed or holding office in—

"(A) an Executive agency other than the General Accounting Office; or

"(B) a position within the competitive service which is not in an Executive agency; but does not include a member of the uniformed services;

"(2) 'partisan political office' means any office for which any candidate is nominated or elected as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected, but shall exclude any office or position within a political party or affiliated organization; and

"(3) 'political contribution'—

"(A) means any gift, subscription, loan, advance, or deposit of money or anything of value, made for any political purpose;

"(B) includes any contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for any political purpose;

"(C) includes any payment by any person, other than a candidate or a political party or affiliated organization, of compensation for the personal services of another person which are rendered to any candidate or political party or affiliated organization without charge for any political purpose; and

"(D) includes the provision of personal services for any political purpose.

"§ 7323. Political activity authorized; prohibitions

"An employee may take an active part in political management or in political campaigns, except an employee may not—

"(1) use his official authority or influence for the purpose of interfering with or affecting the result of an election;

"(2) knowingly solicit, accept, or receive a political contribution from any person, unless such person is—

"(A) a member of the same Federal employee organization; and

"(B) the solicitation is for a contribution to the multicandidate political committee (as defined under section 315(a)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(4))) of such Federal employee organization; and

"(3) run for the nomination or as a candidate for election to a partisan political office.

"§ 7324. Political activities on duty; prohibition

"(a) An employee may not engage in political activity—

"(1) while the employee is on duty;

"(2) in any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency or instrumentality thereof;

"(3) while wearing a uniform or official insignia identifying the office or position of the employee; or

"(4) using any vehicle owned or leased by the Government of the United States or any agency or instrumentality thereof.

"(b)(1) An employee described in paragraph (2) of this subsection may engage in political activity otherwise prohibited by subsection (a) if the costs associated with that political activity are not paid for by money derived from the Treasury of the United States.

"(2) Paragraph (1) applies to an employee—

"(A) the duties and responsibilities of whose position continue outside normal duty hours and while away from the normal duty post; and

"(B) who is—

"(i) an employee paid from an appropriation for the Office of the President; or

"(ii) an employee appointed by the President, by and with the advice and consent of the Senate, whose position is located within the United States, who determines policies to be pursued by the United States in relations with foreign powers or in the nationwide administration of Federal laws.".

(c)(1) Section 3302(2) of title 5, United States Code, is amended by striking out "7203, 7321, and 7322" and inserting in lieu thereof "and 7203".

(2) The table of sections for subchapter III of chapter 73 of title 5, United States Code, is amended to read as follows:

"SUBCHAPTER III—POLITICAL ACTIVITIES

"7321. Political participation.
"7322. Definitions.
"7323. Political activity authorized; prohibitions.
"7324. Political activities on duty; prohibition.".

(d) Section 602 of title 18, United States Code, relating to solicitation of political contributions, is amended—

(1) by inserting "(a)" before "It";

(2) in paragraph (4) by striking out all that follows "Treasury of the United States" and inserting in lieu thereof a semicolon and "to knowingly solicit any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 from any other such officer, employee, or person. Any person who violates this section shall be fined under this title or imprisoned not more than 3 years, or both."; and

(3) by adding at the end thereof the following new subsection:

"(b) The prohibition in subsection (a) shall not apply to any activity of an employee (as defined in section 7322(1) of title 5) or any individual employed in or under the United States Postal Service or the Postal Rate Commission, unless that activity is prohibited by section 7323 or 7324 of such title.".

(e) Section 603 of title 18, United States Code, relating to making political contributions, is amended by adding at the end thereof the following new subsection:

"(c) The prohibition in subsection (a) shall not apply to any activity of an employee (as defined in section 7322(1) of title 5) or any individual employed in or under the United States Postal Service or the Postal Rate Commission, unless that activity is prohibited by section 7323 or 7324 of such title.".

(f) Section 6 of the Voting Rights Act of 1965 (42 U.S.C. 1973d) is amended by striking out "the provisions of section 9 of the Act of August 2, 1939, as amended (5 U.S.C. 118i), prohibiting partisan political activity" and by inserting in lieu thereof "the provisions of subchapter III of chapter 73 of title 5, United States Code, relating to political activities".

(g) Section 1501(1) of title 5, United States Code, is amended by inserting ", the District of Columbia," after "State".

(h) Section 675(e) of the Community Services Block Grant Act (42 U.S.C. 9904(e)) is repealed.

(i) The amendments made by this section, and any regulations thereunder, shall apply with respect to employees of the United States Postal Service and the Postal Rate Commission, pursuant to sections 410(b) and 3604(e) of title 39, United States Code.

(j) The amendments made by this section shall take effect on January 1, 1989.

(k) Any repeal or amendment made by this section of any provision of law shall not release or extinguish any penalty, forfeiture, or liability incurred under that provision, and that provision shall be treated as remaining in force for the purpose of sustaining any proper proceeding or action for the enforcement of that penalty, forfeiture, or liability.

(l) No provision of this section shall affect any proceedings with respect to which the charges were filed on or before the effective date of the amendments made by this section. Orders shall be issued in such proceedings and appeals shall be taken therefrom as if this section had not been enacted.

HOOPA—YUROK SETTLEMENT ACT

INOUYE AMENDMENT NO. 3349

Mr. BYRD (for Mr. INOUYE) proposed an amendment to the bill (S. 2723) to partition certain reservation lands between the Hoopa Valley Tribe and the Yurok Indians, to clarify the use of tribal timber proceeds, and for other purposes; as follows:

Amend S. 2723 by striking all of Section 15 from the reported bill.

SALT RIVER PIMA-MARICOPA INDIAN WATER CLAIMS SETTLEMENT ACT

STENNIS (AND HATFIELD) AMENDMENT NO. 3350

Mr. BYRD (for Mr. STENNIS, for himself and Mr. HATFIELD) proposed an amendment to the bill (H.R. 4102) to provide for the settlement of water rights claims of the Salt River Pima-Maricopa Indian community in Maricopa County, AZ, and for other purposes; as follows:

On page 29 strike all beginning on line 16 through line 20.

FISHERY AGREEMENT BETWEEN THE U.S. AND THE U.S.S.R.

HOLLINGS AMENDMENT NO. 3351

Mr. BYRD (for Mr. HOLLINGS) proposed an amendment to the bill (H.R. 4919) to approve the governing international fishery agreement between the United States and the Union of Soviet Socialist Republics; as follows:

At the end, add the following:

SECTION 8. AUTHORIZATION FOR CERTIFICATES OF DOCUMENTATION.

(a) Notwithstanding sections 12105, 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for the following vessels:

(1) Aleutian Trawler, United States official number 236979;

(b) Notwithstanding sections 508 and 510(g) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158 and 1160(g)), and United States Department of Transportation Contract Numbered MA-6772 (IFB PD-X-945) and amendments thereto, the Secretary of Transportation is authorized to allow, and the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for, the vessel M/V Ocean Tempest (ex Horseshoe Splice), United States official number 248773, to acquire, purchase, process, and transport fish and fish products in the fisheries of the United States: *Provided*, That if the vessel is scrapped, it shall not be scrapped other than in the domestic market without the prior approval of the Secretary of Transportation.

SEC. 9. TRANSFER OF THE COAST GUARD CUTTER INGHAM.

The Secretary of the department in which the Coast Guard is operating shall transfer the Coast Guard cutter "Ingham" to the Naval and Maritime Museum at Patriots Point, South Carolina. The Secretary shall transfer the "Ingham" along with such equipment and in such condition as the Secretary considers appropriate. The Secretary shall make the transfer upon the decommissioning of the "Ingham" or at a later time as determined appropriate by the Secretary.

(2) Encore, United States official number 545162;

(3) Fair Tide, United States official number 644363;

(4) Freedom, United States official number 569163;

(5) Pavlof, United States official number 597532;

(6) Suva, United States official number 225008;

(7) Ra, United States official number 655181;

(8) Te De II, United States official number 572205;

(9) Free-N-Eze, United States official number 659826;

(10) Beta Lyra, United States official number 679226;

(11) Scotch 'N Water (ex Victorious), United States official number 264090;

(12) ERSA, United States official number 229511;

(13) Compass Rose III, United States official number 559647;

(14) Polar Ice, United States official number 604676;

(15) Gipsy, United States official number 903276; and

(16) Gilbert, United States official number 230568, with a restriction that the vessel may engage in the coastwise trade of the United States only for the purpose of moving barges filled with seafood waste and wastewater to designated ocean disposal sites from Port Canaveral, Florida.

DEMOCRACY IN PANAMA

GRAMM AMENDMENT NO. 3352

Mr. ARMSTRONG (for Mr. GRAMM) proposed an amendment to the concurrent resolution (S. Con. Res. 140) calling for the restoration of democracy in Panama and pledging economic assistance; as follows:

At the end of page 2, line 17, add the following:

(E) to promote vigorously free enterprise and democracy in Panama through limited government and the fundamental economic rights and opportunities that support and sustain them, embodying effective constitutional guarantees of free enterprise, including the right to buy, own, and dispose of private property; and.

GRAMM AMENDMENT NO. 3353

Mr. ARMSTRONG (for Mr. GRAMM) proposed an amendment to the preamble to the concurrent resolution, S. Con. Res. 140, supra; as follows:

At the appropriate place in the preamble add the following:

Whereas political democracy and the human rights which accompany it will stimulate economic growth through free enterprise and ultimately can only be sustained by economic growth through free enterprise;

HEALTH IMPROVEMENTS OF NATIVE HAWAIIANS

INOUYE AMENDMENT NO. 3354

Mr. BYRD (for Mr. INOUYE) proposed an amendment to the bill (S. 136) to improve the health status of Native Hawaiians, and for other purposes; as follows:

On page 53, lines 2 and 3, strike the words "under section 720(a)(1) of the Public Health Service Act";

On page 53, line 6, beginning with the word "Notwithstanding" delete all through the period on line 9.

REVIEW OF TRIBAL CONSTITUTIONS AND BYLAWS

PROXMIRE AMENDMENT NO. 3355

Mr. BYRD (for Mr. PROXMIRE) proposed an amendment to the bill (H.R. 2677) to establish procedures for review of tribal constitutions and bylaws or amendments thereto pursuant to the act of June 18, 1934 (48 Stat. 987); as follows:

At the conclusion of the bill, add the following new Titles to the bill:

TITLE —. POTAWATOMI JUDGMENT FUNDS

SEC. . That, notwithstanding any provision of the Act of October 19, 1973 (87 Stat. 466; 25 U.S.C. 1401, et seq.), or any other law, regulation, or plan promulgated pursuant thereto, the funds appropriated in satisfaction of the judgment awarded to the Wisconsin Band of Potawatomi in docket 28 of the United States Claims Court (including all interest and investment income accrued thereon) shall be used and distributed as provided in this Act.

SEC. . (a) The funds appropriated with respect to the judgment awarded the Wisconsin Band of Potawatomi in docket 28 of the United States Claims Court (less attorney fees and litigation expenses), including all interest and investment income accrued thereon, are allocated as follows:

(1) 141/451 of such funds are allocated to the Hannahville Indian Community, and

(2) 310/451 of such funds shall be allocated to the Forest County Potawatomi.

(b)(1) The funds allocated to each Indian tribe under subsection (a), and any interest and investment income accrued on such funds, are hereby declared to be held in trust by the United States for the benefit of such Indian tribe and shall be invested by the Secretary of the Interior for the benefit of such Indian tribe.

(2) The funds held in trust by the United States under paragraph (1) for the benefit of an Indian tribe shall be available to the governing body of such Indian tribe, on a budgetary basis and subject to the approval of the Secretary of the Interior, for tribal, social, and economic development programs for such Indian tribe.

SEC. . None of the funds held in trust by the United States under this Act (including interest and investment income accrued on such funds while such funds are held in trust by the United States), and none of the funds made available under this Act for programs or for distributions under any programs, shall be subject to Federal, State, or local income taxes, nor shall such funds nor their availability be considered as income or resources or otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which any household or individual would otherwise be entitled under the Social Security Act or, except for per capita payments in excess of $2,000, any other Federal or federally assisted program.

TITLE .—POTAWATOMI TRUST LANDS

SEC. . (a) All rights, title, and interests of the United States in the surface and mineral estate of approximately 11,300 acres of land located in Forest County and Oconto County, Wisconsin, that was acquired by the United States by reason of section 24 of the Act of June 30, 1913 (38 Stat. 102), including any improvements on such land, are hereby declared to be held by the United States in trust for the benefit and use of the Forest County Potawatomi Community of Wisconsin and such land is hereby declared to be the reservation of the Forest County Potawatomi Community of Wisconsin.

(b) All rights, title, and interests of the United States in the surface and mineral estates of approximately 3,359 acres of land located in Menominee County, Michigan, that was acquired by the United States by reason of section 24 of the Act of June 30, 1913 (38 Stat. 102), including any improvements on such lands, are hereby declared to be held by the United States in trust for the benefit and use of the Hannahville Indian Community of Michigan, and such land is hereby declared to be the reservation of the Hannahville Indian Community of Michigan.

SEC. . The Secretary of the Interior shall publish in the Federal Register a detailed description of the lands referred to in this title.

SEC. . Nothing in this Act shall deprive any person (other than the United States) of any lease, right-of-way, mining claim, grazing permit, water right, or other right or interest which such person may have in the surface or mineral estate of any land refered to in section 1 on the day before the date of enactment of this Act.

INOUYE AMENDMENT NO. 3356

Mr. BYRD (for Mr. INOUYE) proposed an amendment to the bill, H.R. 2677, supra; as follows:

At the end of the committee substitute, add the following new title:

"TITLE V—SOUTHERN CALIFORNIA INDIAN LAND TRANSFER

"SECTION 501. SHORT TITLE.

This Act may be cited as the "Southern California Land Transfer Act".

SEC. 502. LANDS HELD IN TRUST FOR VARIOUS GROUPS AND BANDS OF MISSION INDIANS.

(a) In General.—Subject to section 3, all right, title, and interest of the United States in and to the lands described in subsection (b) in connection with each band or group of Mission Indians listed in the table contained in such subsection (including all improvements on such land and appurtenances to such land) are hereby declared—

(1) to be held in trust by the United States for the benefit of such band or group listed in such table, and

(2) to be part of the reservation listed in connection with each such band or group in such table.

(b) Land Described.—

(1) The lands referred to in subsection (a) are the lands which are described in paragraph (2) and are adjacent to the reservation of a band or group of Mission Indians, as listed in the following table and generally described as "Lands identified in the Proposed So. California Indian Land Transfer Act" and depicted on the map entitled "Southern California Indian Land Transfer Act Map," May 1988:

Band or group of Mission Indians	Approximate Acreage	Reservation
Barona Group of Capitan Grande Band ...	722.86	Barona Ranch
Cahuilla Band.....	611.88	Cahuilla
Campo Band........	470.28	Campo
La Jolla Band......	355.51	La Jolla
La Posta	84.20	La Posta
Mesa Grande Band	800.00	Mesa Grande
Morongo Band	107.00	Morongo
Pala Band	415.00	Pala
Pechanga Band...	302.64	Pechanga
Rincon Band	320.00	Rincon
Soboba.................	880.00	Soboba

(2) The lands described in this paragraph are as follows:

(A) Lands with respect to the Barona Group of Capitan Grande Band:

T. 14S., R. 1E., SBM
Section 13, NE¼, N½SE¼;
T. 14S., R. 2E., SBM
Section 7, Lots 5, 6, 10, 11, 12, 21 and 22, E½NE¼, NE¼SW¼, SE¼;
Section 18, Lot 1, W½NE¼, NE¼NW¼;

(B) Lands with respect to the Cahuilla Band:

T. 8S., R. 2E., SBM
Section 11, Lots 5 thru 8, 11, and 12;
Section 12, Lots 17 thru 19;
T. 8S., R. 3E., SBM
Section 7, Lots 8 thru 15;
Section 8, Lots 7, 8, and 12;

(C) Lands with respect to the Campo Band:

T. 17S., R. 6E., SBM
Section 17, S½NE¼, SE¼;
Section 35, Lots 3, 5, and 7, N½S½;
Section 36, Lots 6 and 9;

(D) Lands with respect to the La Jolla Band:

T. 11S., R. 1E., SBM
Section 2, Lots 1 thru 4, S½NW¼;
Section 3, Lots 1 thru 3;

(E) Lands with respect to the La Posta Band:

T. 17S., R. 6E., SBM
Section 6, Lots 6 thru 8, SW¼NW¼;

(F) Lands with respect to the Mesa Grande Band:

T. 12S., R. 2E., SBM
Section 23, NE¼, N½SE¼, E½NW¼;
Section 24, NW¼NW¼, S½NW¼, NW¼SW¼, S½SW¼;
Section 25, E½NW¼, W½NE¼, W½SE¼;

(G) Lands with respect to the Morongo Band:

T. 3S., R. 1E., SBM
Section 34, S½NW¼NW¼;
T. 3S., R. 2E., SBM
Section 20, Lot 10;
Section 32, W½NW¼NE¼, N½SE¼NW¼, SW¼SE¼NW¼;

(H) Lands with respect to the Pala Band:

T. 9S., R. 2W., SBM
Section 13, SW¼SW¼ (excepting the patented portions of MS 6452 and MS 6848 and excepting those portions of public land not contiguous to the Indian Reservation);
Section 14, W½W½ (excepting the patented portion of MS 6458), SE¼SE¼ (excepting the patented portion of MS 6452 and excepting those portions of public land not contiguous to the Indian Reservation);
Section 15, NE¼NE¼, S½NE¼, E½W½, SE¼ (excepting the patented portions of MS 4886, MS 4926, and MS 6458);

(I) Lands with respect to the Pechanga Band:

T. 8S., R. 2W., SBM
Section 23, Lots 4 and 5, S½SW¼, SE¼;

(J) Lands with respect to the Rincon Band:

T. 10S., R. 1W., SBM
Section 28, SE¼, E½SW¼;
Section 33, N½NE¼;

(K) Lands with respect to the Soboba Band:

T. 4S., R. 1E., SBM
Section 20, SE¼SW¼;
Section 33, S½;
Section 34, W½NE¼, W½, W½SE¼, SE¼SE¼.

SEC. 503. EXISTING RIGHTS PRESERVED; RIGHT OF CERTAIN CURRENT LESSEES TO PURCHASE; MISCELLANEOUS PROVISIONS.

(a) Existing Rights Preserved.—The declarations contained in section 2 shall not affect—

(1) any right or interest of any person in any land described in such section under any legal right-of-way, mining claim, or grazing permit in effect on the day before the date of the enactment of this Act, or

(2) any other right, title, or interest which such person may have in such land on such day.

(b) Right of Holder of Grazing Permit to Purchase Lands.—

(1) In general.—Any person who holds a valid grazing permit and lease (as such term is defined in section 103(p) of the Federal Land Policy and Management Act of 1976) with respect to any land described in section 2 shall have the right to purchase such land before the end of the 1-year period beginning on the date of the enactment of this Act for the fair market value of such land (determined as of the date of purchase) on such terms and conditions as the Secretary of the Interior may prescribe. The declarations in section 2 relating to the trust and reservation status of such land shall take effect subject to the right of purchase established under this paragraph.

(2) Notice by secretary required.—Before the end of the 30-day period beginning on the date of the enactment of this Act, the Secretary of the Interior shall notify each person referred to in paragraph (1) of the right of purchase established under such paragraph.

(3) Proceeds of sale to be held in trust for indians.—In the case of any sale of land under paragraph (1), the proceeds of such sale shall be held in trust by the Secretary of the Interior for the benefit of the band or group of Mission Indians for whose benefit such land is held after the date of the enactment of this Act and before such sale. The net income on the amount held in trust by such Secretary shall be available for use or obligation by such band or group in such manner and for such purposes as the Secretary may approve.

(c) Proceeds From Rents and Royalties Transferred to Indians.—Amounts which accrue to the United States after the date of the enactment of this Act from sales, bonuses, royalties, and rentals relating to any land described in section 2 shall be available for use or obligation, in such manner and for such purposes as the Secretary may approve, by the band or group of Mission Indians for whose benefit such land is held after the date of the enactment of this Act.

(d) ADDITIONS TO RESERVATIONS SUBJECT TO LAWS GOVERNING EXISTING RESERVATIONS.—Any lands which are held in trust for the benefit of any band or group of Indians pursuant to this Act shall be subject to the laws of the United States relating to Indian land in the same manner and to the same extent as the lands comprising the reservation of such group or band on the day before the date of the enactment of this Act.

MURKOWSKI AMENDMENT NO. 3357

Mr. ARMSTRONG (for Mr. MURKOWSKI) proposed an amendment to the bill, H.R. 2677, supra; as follows:

At the end of Title II add the following new section:

SEC. 217. Subsection (a)(1) of Section 2 of Public Law 94-204 (89 Stat. 1148), as amended by Section 1411(a) of Public Law 96-487 (94 Stat. 2497), is amended by inserting in the first paragraph after "resources of lands" and before "withdrawn" the following: ", including wildlife proceeds received between the date of withdrawal and the date of conveyance from harvests on lands conveyed pursuant to the Act,".

PIPELINE SAFETY REAUTHORIZATION ACT

JOHNSTON AMENDMENT NO. 3358

Mr. BYRD (for Mr. JOHNSTON) proposed an amendment to the bill (S. 2424) to authorize appropriations under the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes; as follows:

On page 17, strike lines 2 through 6, and insert in lieu thereof the following: "of operators of pipeline facilities of activities in the vicinity of a pipeline facility which could threaten the safety of such facility."

EXON AMENDMENT NO. 3359

Mr. BYRD (for Mr. EXON) proposed an amendment to the bill (S. 2424) supra; as follows:

At the end of the bill, add the following:

"SECTION 1. 408(d)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1988(d)(1)) is amended by adding the following new subparagraph at the end thereof:

(C) Nothing in this Act shall be construed to prohibit the use of any written power of attorney (otherwise permitted by State or local law) for purposes of compliance with the mileage disclosure statement requirement of subparagraph (A), including the signature and dating of such statement. Any person exercising authority under any such power of attorney shall be subject to civil and criminal penalties under this Act if he intentionally discloses in such statement a mileage different from that set forth by the motor vehicle transferor in the power of attorney.

SEC. 2. Section 408 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. s 1988) is amended by adding the following at the end thereof:

(h) The term "transferor" means, for purposes of subsection (a) of this section, any person who transfers his ownership in a motor vehicle by sale, gift or any means other than by creation of a security interest. For purposes of subsections (b)-(d), it also means any person who, as agent, makes the disclosure of odometer information required by subsection (a) of this section and the rules prescribed thereunder, other than a person making the disclosure of odometer information pursuant to a written power of attorney as described in paragraph (d)(1)(C) of this section.

SEC. 3. (a) Section 408(d) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1988(d)) is amended by adding at the end the following:

(2) No registration card may be issued in any state for any motor vehicle unless the application for such registration card contains the information specified in subsection (a) (1) and (2), determined as of the date on which such application is submitted. Each state shall maintain such information, together with the vehicle identification number for the motor vehicle to which such information pertains for a period of 5 years after the information is received by the state.

(4) The Secretary shall promulgate such rules as may be necessary to avoid the printing of mileage information that is false, misleading or inaccurate. To prevent falsification or alteration of the mileage information required to be disclosed by a transferee in accordance with paragraph (2), the Secretary shall promulgate such rules as may be necessary regarding the specific form to be used on any title for compliance with the provisions of paragraph (2)(A)(iii). In addition, the Secretary shall promulgate rules regarding the actions to be taken by states with respect to the unauthorized alteration of titles for motor vehicles and other documents on which odometer information is required to be recorded or maintained.

(b) Section 408(f)(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1988(f)(2)) is amended to read as follows:

(2) The Secretary shall not approve such alternate motor vehicle mileage disclosure requirements unless the Secretary determines that the alternate method for making such disclosure is consistent with the purposes of subsections (d) and (e).

SEC. 4. (a) Except as provided in section 2(c)(2) of the Truth in Mileage Act of 1986, and notwithstanding any other provisions of law, subsections (d), (e), (f) and (g) of section 408 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. s 1988) shall apply with respect to motor vehicles which are transferred after the date 24 months after the date of enactment of this section.

(b) The Secretary shall, in accordance with applicable provisions of law, initiate (not later than 60 days after such date of enactment of sections 1-3 above) and complete (within 12 months after such a date of enactment) a rulemaking to implement those sections and the "Truth in Mileage Act of 1986."

DURENBERGER AMENDMENT NO. 3360

Mr. ARMSTRONG (for Mr. DURENBERGER) proposed an amendment to the bill S. 2424, supra; as follows:

S. 2424 is amended at page 11 after line 6 by adding the following new subsection:

"(c) The Secretary shall increase by not less than 2 the number of instructors in pipeline safety at the Transportation Safety Institute.".

DURENBERGER AMENDMENT NO. 3361

Mr. ARMSTRONG (for Mr. DURENBERGER) proposed an amendment to the bill, S. 2424, supra; as follows:

S. 2424, the Pipeline Safety Authorization Act of 1988, is amended by adding at the end thereof the following new section:

"SEC. . (a) Section 203(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (42 U.S.C. 2002(d)) is amended by adding "which are inconsistent with Federal safety standards for such facilities" before the final period.

"(h) A State may apply to the Secretary to conduct inspection and enforcement of safety standards with respect to interstate pipeline facilities and the Secretary shall, after notice and opportunity for comment, approve such application, if the Secretary determines that the State has the capability to carry out such inspection and enforcement actions and the State has established standards for such facilities which are consistent with the Federal standards. No enforcement action may be taken by a State pursuant to authority of this subsection until the date 30 days after such State informs the Secretary of its intention to take such action unless the Secretary indicates that there is no objection to such action. If the Secretary indicates in writing that the Secretary intends to take action with respect to the same alleged violation, the State shall suspend action for a period of 120 days following the notification of the Secretary and shall suspend any action which has been commenced after such date with respect to such alleged violation, if the Secretary commences an enforcement action (whether or not such action results in a finding of violation) with respect to such alleged violation. No penalty may be imposed by a State for a violation, if a penalty has been imposed under Federal law or regulation for the same violation."

KASTEN AMENDMENT NO. 3362

Mr. ARMSTRONG (for Mr. KASTEN) proposed an amendment to the bill, S. 2424, supra; as follows:

At the end, add the following new section:

CLARIFICATION OF CONGRESSIONAL INTENT

SEC. 16. The Act entitled "An act to revise, codify, and enact without substantive change the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code, 'Transportation' ", approved October 17, 1978 (92 Stat. 1337; Public Law 95-473) does not repeal and has no substantive effect on any rights, obligations, liabilities, or remedies of oil pipelines, including those arising under any provisions of the Interstate Commerce Act (49 U.S.C. App. 1 et seq.) or the Pomerene Bills of Lading Act (49 U.S.C. App. 81 et seq.), before any Federal department or agency or official thereof or a court of competent jurisdiction.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Commit-

tee on Governmental Affairs be authorized to meet on Friday, September 30, at 10 a.m., for a joint hearing with the House Government Operations Subcommittee on Environment, Energy and Natural Resources on Friday, September 30, in 2154 Rayburn.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON AGRICULTURAL CREDIT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Credit of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Friday, September 30, 1988, to hold a hearing on the implementation of the Agricultural Credit Act of 1987 as it relates to the Farmers Home Administration.

The PRESIDING OFFICER. Without objection, it is ordered.

ADDITIONAL STATEMENTS

A TRIBUTE TO ROBERT MICHAEL LESTER

● Mr. INOUYE. Mr. President, it is with great pride and appreciation that I rise to recognize the work of an outstanding American—a civil servant who has distinguished himself both in the executive branch of our Government and within the Halls of Congress. For the past 8 years, Mr. Robert Lester, first a deputy assistant general counsel and then an assistant general counsel for legislation and policy in the Office of the General Counsel at the Agency for International Development, has lent his skills to the crafting of the foreign operations appropriations bill. He had done so with the selfless devotion, consummate ability and good nature of a true professional. Day or night, weekends and holidays, he has made himself available to my staff for the crafting and polishing of this important annual legislation, suffering personal inconvenience so that our urgent deadlines could be met.

The work which Bob has done in support of the Congress and in AID is based on considerable experience in the field. After serving in the Agency's mission in Vietnam, and witnessing the tragic fall of Saigon, he was sent by AID to Kenya, where, for 4 years, he served as an assistant regional legal advisor attached to the AID mission. There, with the help of only one other attorney, he provided legal services to all of the missions in east and southern Africa—a monumental endeavor requiring a knowledge of the local customs, national policies, and foreign affairs of nearly 20 nations.

While in Kenya, Bob became expert in questions of African development and the role of United States aid agencies in trying to shape the destiny of tht impoverished continent. The expertise which he developed during this period has been of immeasurable benefit to the committee and to the Congress as a whole. Much of the committee's work dealing with AID over the last 8 years has been influenced and informed by Bob's keen powers of analysis.

Mr. President, Bob Lester is largely responsible for building the close, working relationship his office has with Congress. This unique relationship has enabled AID's Office of Legislative Affairs to operate more effectively and has fostered the enactment of congressional and administrative initiatives that might not otherwise have been adopted into law. One of these, the $200 million annual Trade Credit Insurance Program—a cornerstone of the Kissinger Commission recommendations for Central American assistance—was included in legislation at Bob's initiative during negotiations on a prior-year continuing resolution.

Mr. President, Bob also has been at the center in the preparation of appropriations legislation which is included in the President's annual budget submission to Congress. Often, his drafting has given form to new initiatives, new efforts to deal with emerging problems faced by developing countries. For example, Bob collaborated on a proposal to revise a provision of law prohibiting assistance to countries in default on loans made by the United States. This initiative helped to prompt an administration review of its position on African debt and should result in a new approach which recognizes the perilous economic and financial condition of many African countries while securing assured repayment of debt in default.

Mr. President, Bob shares with many here, a deep and abiding concern for the welfare of the peoples of Africa and the Third World. He has demonstrated this concern, not by words alone, but by his tireless efforts to assist the Congress and the administration in a nonpartisan, nonpolitical, and self-effacing way. He has not been concerned with getting credit for his work; his concern has been that others achieve a better understanding of the needs of poor and disenfranchised, and that others address these needs with precision and practicality.

Mr. President, it is one of the unfortunate aspects of our hurried lifestyle as Members of Congress that we often fail to recognize the contributions of those whose drive, creativity and professionalism have made our jobs easier. Often we, and the public, become so concerned with the consequences of legislation that we forget the hundreds of hours of drafting and discussion and redrafting which went into the creation of our laws. Robert Lester is one of those unsung heroes of our democratic process of whom all Americans should be proud. It is through the energy and commitment of such individuals that this often cumbersome legislative leviathan is able to move forward.

This is my last year as chairman of the Appropriations Subcommittee on Foreign Operations and the last foreign aid bill I will be shepherding through Congress. After 15 years of service, 8 of those as chairman, I will be moving next year to the chairmanship of the Appropriations Subcommittee on Defense. But, I hope and expect that I will have many opportunities to continue to work with all those who have contributed to making these past years a success. I am greatful to them all, but I wish to pay special tribute to Mr. Robert Lester.

Bob, thank you, for a job well done.●

NEW HAMPSHIRE HEROES

● Mr. HUMPHREY. Mr. President, I often wonder why positive stories on young American heroes are so rare and so underreported. In a world where gang violence, drugs, and aimlessness seem to be prevalent it would seem fitting that youthful acts of courage and heroism be granted, at the very least, an equal share of national recognition. Today, I want to honor four young men who are deserving of national attention, but who will never receive it because what they did was heroic, honorable, and selfless. And selflessness, honor, and heroism are, sadly, not the qualities which are attractive to prime time television's portrayal of young America today.

Scott Colangelo, Rick Davenport, Stan Kilbreth, and Mark Harrington were swimming at Wildcat Falls in Merrimack, NH, on Friday, August 12, 1988, with their friend Ron Letender. Ron dove into the cool water and did not surface. Scott, Rick, Stan, and Mark did not panic. Without calculating the risk to themselves they repeatedly went into the murkey water until they located Ron wedged between some rocks. They struggled with Ron's now limp body until after 3 agonizing minutes they freed him and brought him to shore. These four young men remembered a CPR course they took at Merrimack High School. They pumped Ron's chest and gave him mouth-to-mouth resusciation.

After help arrived, Ron was taken to the hospital where he spent the next 4 days. He survived because of the quick and selfless action of his friends.

This is the kind of story that makes America proud. These are the young men who typify the kind of young American too often forgotten as the media focuses on drugs, gangs, and the sordid side of growing up today.

For this reason, Mr. President, I would like to honor Scott Colangelo, Rick Davenport, Stan Kilbreth, and Mark Harrington, by inserting this account of their courage from the Merrimack News into the RECORD. It is through their bravery and example that Scott, Rick, Stan, and Mark, in turn, have honored us all.

The article follows:

[From the Merrimack (NH) News, Aug. 27, 1988]

FRIENDS SAVE RON LETENDRE'S LIFE—MARK HARRINGTON AND SEAN KILBRETH DO CPR AFTER RESCUE AT WILDCATS FALLS

(By Patricia Ladew)

Thanks to the quick thinking, brave action, and perseverance of Merrimack High School seniors Mark Harrington and Sean Kilbreth, 19-year-old Ron Letendre will be going off to college next week. He was almost a summer drowning statistic.

Letendre's story begins on a sweltering Friday afternoon (August 12) when Harrington Kilbreth, Letendre, and friends Scott Colangelo and Rick Davenport decided to cool off with a swim at Merrimack's Wildcat Falls, a popular swimming spot of West Chamberlain Road.

For a while it was fun. They "body surfed" down the rocks into the cool, rushing water, which is part of the Souhegan River. Then, Letendre went "over the falls" on his stomach. The swift current flipped him over on his back and plunged him under water. When he tried to surface, he found he was wedged between a rock and a log.

I COULDN'T MOVE

"The current was so strong—I couldn't move," says Letendre. "I must have blacked out for a while, but when I came to, all I could think was, 'I'll never see my fiancee again—I've got to get out of here.' With God's help, I was finally able to get a hand out of the water."

The brief glimpse of Ron's hand was all his friends needed. They knew he had gone under, but didn't know where he was until they saw the hand.

"We (went in after him and) grabbed his arm and pulled and pulled, but we couldn't get him out," remembers Harrington. Meanwhile, Letendre—still trapped under water—lost consciousness and his body went limp.

While Harrington struggled to lift the log that was trapping Letendre, Kilbreth went under water and tried to free him. "I got leverage on a rock under water and finally pulled him out," says Kilbreth.

WE THOUGHT HE WAS DEAD

"All four of us pulled him up to the rocks," continues Harrington. "He was purple. He wasn't breathing. We thought he was dead. He was under so long." The boys estimated that Letendre was under water for approximately three minutes. MHS' Vescio taught them CPR.

Although he appeared dead, Harrington and Kilbreth sprung into action, administering the CPR (cardiopulmonary resuscitation) they had learned from Merrimack High School physical education teacher Vicki Vescio this past year.

"Mark was doing the pumping and I was doing the breathing," recalls Kilbreth. "It took several minutes before he (Letendre) started coughing and breathing."

It was a joyful moment for the small crowd that had gathered when Letendre—breathing on his own—sat up on the rocks. His ordeal wasn't completely over, however. It took another 45 minutes for paramedics—who floated him across the river on a raft—to get Letendre to a waiting ambulance.

Letendre, whose lungs were filled with water, also suffered a cut over one eye and an assortment of scrapes and bruises. He spent several days in the intensive care unit at St. Joseph's Hospital in Nashua before being released last week. He was glad to be alive, though, and glad to be able to see his family and his fiancee, Shelley Epstein, who visited him every day in the hospital.

LIFE-CHANGING EXPERIENCE

"You just read about this (kind of experience) and think, it could never happen to me," says Letendre. "Well, it happened to me." He says the experience has made him a lot more cautious. "I always wear my seat belt in the car now," he commented. "I'm just not going to take as many chances."

"This (experience) makes you think a little more and grow up a little faster," adds Harrington, who turned 18 recently.

DON'T EVEN GO THERE

The boys, who say their swimming experience at Wildcat Falls on August 12 was "a first and a last," advise other Merrimack youths to stay away from the scenic spot.

"Don't even go there," warns Harrington. "The water is too fast—especially for little kids. It's not safe."

"It's a bad place to go," agrees Larry Letendre, Ron's father. He hopes that Ron's story will serve as a deterrent to other youths who might consider swimming at Wildcat falls.

Larry Letendre also wants to see Ron's friends get the recognition they deserve.

"We always hear a lot of negative things about our youth," he says. "Well, here are a couple of boys who knew what to do and didn't give up. They (Harrington, Kilbreth, Colangelo, and Davenport) deserve a lot of credit. They deserve to be recognized for their heroism."●

SENATOR THURMOND'S PORNOGRAPHY AMENDMENT TO THE PARENTAL AND MEDICAL LEAVE ACT

● Mr. SIMON. Mr. President, child pornography is a phenomenon that degrades our children and our society. Child pornography is not protected by the Constitution, and we can and should enact legislation in this area. I support legislation that gives prosecutors the tools to go after those who profit from the exploitation of children. Many of these children are runaways or victims of abduction. I sponsored both the Missing Children's Act and the Missing Children's Assistance Act, laws that put Federal resources to work on these problems. I have been talking to the Justice Department to ensure they have what they need to put those engaged in sordid activity out of business and into jail.

We have a number of different proposals addressing child pornography before the Senate. But I want legislation that punishes pornographers, not legitimate business owners. I want legislation that is constitutional, and that will not be struck down by the courts. I think we have moved in a good direction.

I have heard from the American Library Association, American Booksellers Association, Association of American Publishers, Recording Industry of America, Council for Periodical Distributors Association, Video Software Dealers Association, and others. They are not pornographers; they do not deal in obscene material. But they fear this amendment.

Why? Well, for example, the bill defines "engaged in the business" as selling books. Selling books is a protected first amendment activity; selling obscenity is not. And what is obscenity? The Supreme Court leaves that decision to local communities, and I agree. But this bill would set a Federal standard—anything that is found obscene in any court, State or Federal. I do not believe that is wise, and I do not believe it is constitutional.

My good friend from South Carolina should be commended for his leadership on this important problem. His zeal to rid our country of this terrible activity is understandable. However, the bill he originally introduced went far beyond that laudable goal, threatening legitimate businesses and constitutionally protected materials.

I am happy to see that a number of suggestions from me and others who have been working on this issue have been incorporated into this amendment. As I have noted, there are still areas where I have some disagreement, and I am hopeful they can be worked out, but I support this legislation because it is needed.

Many of us working to see a child pornography bill enacted have been targeted by the Moral Majority, accused of stalling the bill or worse. This is a lie, a smear tactic. A bill struck down by the courts cannot be used to put pornographers in jail.

The bill which we adopted unanimously on September 28 is far better legislation as a result of our working together, much more likely to be a powerful weapon against child pornography and obscenity, much less likely to be struck down by the courts. As chairman of the Constitution Subcommittee, I stand ready to work with my colleagues to ensure the constitutionality of this important bill.●

GOLDEN SHACKLES

● Mr. BOSCHWITZ. Mr. President, I rise today to share a story of an innovative company, Andersen Corp., and their employees in rural Minnesota from the September 1988 issue of Business Month. Although rural areas of my State have seen some pretty hard times, Andersen Corp. has proven that a "share-the-wealth" attitude can be highly profitable.

Andersen Corp., a major producer of sliding glass doors and windows sold under the name "Andersen

Windowalls," is located in Bayport, MN. It believes in a policy of hiring the best employees and paying them top wages. This policy has made Andersen the largest American window manufacturer, with $964 million in total sales for 1987.

Andersen's success helps a rural American small town help itself. Its payroll acts as a substantial economic stimulus in the community by inserting $200 million back into the local economy annually.

Andersen's concern for its employees also is reflected in its employee benefits program. Last year, it gave its employees a profit-sharing bonus of 84 percent, which brought the average wage at this remarkable company to over $60,000. Andersen introduced its profit-sharing plan in 1914—20 years before Social Security—as a way to help workers save for old age. Further, through an "employee stock ownership trust," workers own 30 percent of the company's stock. Andersen's was also one of the earliest corporations to provide health and life insurance plans and 2 weeks' paid vacation to its employees.

Andersen Corp. is a shining example of a company achieving a positive work environment without sacrificing productivity and profitability. Consequently, the quote, "They work 'em hard, but they take care of them," accurately describes the work ethic that still exists at Andersen.

At this time, Mr. President, I ask that a copy of the article on the Andersen Corp's achievements be inserted in the RECORD following my statement.

The article follows:

GOLDEN SHACKLES

(By Carl M. Cannon)

It was mid-January on the Minnesota-Wisconsin border and most of the trees were bare. The St. Croix River was frozen solid; snow had been on the ground for three months, and spring was still three months away. But in the hamlet of Bayport, Minnesota, and in most of the neighboring communities, a warm anticipation had been building throughout the year among the 4,000 factory workers of Andersen Corporation. At the annual mid-winter party, to be held on January 16, company officers would reveal how much the employee profit-sharing plan had earned for the workers. In 1987, the magic number was $72 million, which meant that each employee was handed a check for 72½ percent of his or her 1986 annual pay. Rumor was that 1987 would top even that sum. The Andersen workers were so sure, in fact, that they had rented every available limousine from Minneapolis to Milwaukee for the celebration.

When the night finally arrived and everyone assembled in a festively decorated warehouse at the factory, W. Arvid Wellman, chairman of the board, stood to commend the workers for producing the most profitable year in the company's history. Then he paused long enough for the tension to build to a fever pitch before announcing a profit-sharing bonus of 84 percent, or an average supplemental check of about $27,000 per employee. In 1987, the average worker at America's largest window factory earned more than $60,000.

The crowd erupted, and the revelry spilled out into the streets and bars of Bayport and the restaurants of Stillwater and over to Minneapolis, where some of the younger factory workers took suites at the Regency Plaza hotel for the weekend. To the old-timers, the limos and the champagne and the hotel suites were a bit excessive. But Hans Jacob Andersen, the visionary who started all this in 1914, probably wouldn't have minded. Although he introduced profit sharing as a way to help his crew save for old age—it predates Social Security by 20 years—he would have approved of using some of the money to celebrate the company's success. This was his factory and his town. These were his workers. He, and his son Fred after him, built the company into the largest and most profitable window manufacturer in the country without any outside interference or help. And they did it with a benevolent form of paternalism. They didn't want anybody else involved, not with their company, not with their town, and not with their workers. That included the government, unions and outside agitators, such as the press. Not only Bayport but most of the surrounding communities are one large company town, and the company in charge is Andersen Corporation.

The most striking thing about Bayport, is not the huge Andersen factory, which is so well kept you could eat off the floors, but the most eerie feeling of continuity and prosperity in a region known for economic dislocations. While many of the farming communities scattered across the Great Plains have fallen on very hard times, Bayport has retained the squeaky clean feeling of a small Midwestern town that people who don't live in small Midwestern towns expect in the heartland of America. It is the kind of place where a shirtless young man in a pickup truck who accidentally drops a beer bottle in the gutter spends five minutes methodically gathering up all the broken glass. If it is possible to combine the wide-open optimism of Southern California or Houston in its hey-day with the calm demeanor and stolid construction of the Scandinavian Midwest, Bayport is it.

Just across the bridge in Wisconsin is Hudson, where Hans Jacob Andersen actually established his Andersen Lumber Company in 1903 with his sons, Fred and Herbert. It began as a retail lumberyard, where he sold white pine harvested from the vast forests of the St. Croix valley. Andersen had emigrated from Denmark in the 1870s and worked his way west from Portland, Maine, with the big logging operations that cleared the Northeastern forests and then moved on. By the time he settled in Hudson, the lumber industry had already peaked, and he knew that to prosper he would have to do more than cut down trees.

His plan was to mass-produce door and window frames, a novel concept at the time. In those days, doors and windows typically were built by the carpenters on the construction site to whatever dimensions looked right. If Andersen could persuade the local builders and building suppliers to accept a few standardized dimensions, he could mass-produce window frames. The first year the company marketed its new products (1905), Andersen and his sons broke even. The second year, their production doubled. In 1907, it doubled again and Andersen Lumber was on its way. In 1987, Andersen Corporation reported total sales of $964 million.

Hans Andersen ran the company for nine years, until his death in 1914. Herbert died in 1921 at age 36, after serving as factory manager for seven years. Except for a brief stint in the army during World War I, Fred ran things from 1914 until he finally relinquished control to Earl Swanson in 1972. The current chairman, W. Arvid Wellman, is only the fourth person to head the company. All have been either family by blood or family by employment: Earl Swanson started as a junior draftsman when he was 16 years old and worked for 45 years before taking the reins; Wellman started as a junior clerk in the foundry when he was 19 and worked 38 years before becoming president in 1975. (Wellman's father worked at the plant for 33 years.) All of the stock is held by the family and by current or past employees. All seven living heirs are women, and none is active in running the company. Perhaps one of the reasons that Fred Andersen was willing, shortly before his death, to institute a program that will transfer a large chunk of a family business to the people who work for it was to keep ownership and management close to home by making it harder to sell the whole company. Andersen Lumber Company became Andersen Corporation in 1937 and obtained a trademark for Andersen Windowalls in 1944. It has never diversified, gone public or been on the block. And it still makes high-quality windows and doors.

But there have been changes. In 1913, Hans Andersen moved his factory across the river out of Wisconsin and into Minnesota. The official reason for relocating was that the company needed more room to grow, but local folklore offers two alternative explanations: Andersen moved either because there was talk of an income tax in Wisconsin or because an antigrowth faction backed by a prominent local family blocked his plans to expand. Hudson, it seems, didn't want such low-brow businesses as giant lumberyards. Since there is to this day more than enough room along the waterfront in Hudson to accommodate even the modern Andersen plant, one of the latter reasons is most likely true. Either way, Bayport was the winner.

Bayport hugs the western bank of the St. Croix for about three miles, and the docks, where lumber was once loaded on barges to be shipped down the river to the Mississippi, now serve only pleasure boats. The main drag, Third Street, four blocks up from the river, is about a mile and a half long. The current Andersen factory—100 acres of lumber and crates and warehouses—sits with its back to the river and dominates everything around it. The total population of Hudson, Bayport and Stillwater, Minnesota—just to the north—is about 22,000, and the total work force at Andersen is 4,000. Turnover is practically nil; most employees work until retirement. The payroll alone pumps more than $200 million into the economy annually, and four Andersen-controlled foundations with a total endowment of $240 million contribute significantly. The second-largest employer in the region is UFE Incorporated, a custom plastic injection molding company in Stillwater with only 650 employees and a payroll of $15 million. The nearest large economic entity is Minneapolis/St. Paul, 20 miles to the west. But the pull in this case is reverse; at least 80 Andersen workers commute from the Twin Cities to Bayport. Should Andersen pack up and move, much of the region would be bereft of an economic base. The result of all this is a symbiotic relationship in which both management and workers conspire to keep their town and their company to themselves.

Yet, this is not an exposé of the ills of corporate America, but rather a story about a radical and wildly successful way of managing workers that results in high-quality products, huge profits, the largest share of a very competitive market and employees who are more productive than the average worker in almost any other industry. The company, in return for a generous compensation package and a steady economy for the community, expects the employees to be loyal and quiescent. There has never been any need to break unions, because there have never been any unions. There has never been much interference from the government, because Andersen provides not only for its workers but also for the community.

"Make a product that is different and better. Hire the best people and pay top wages. Provide steady employment insofar as humanly possible." This is what Hans Andersen told his sons when they started their company, and it was this credo that led him to conclude that he should share the profits. Six percent was a reasonable return for those who created and managed the company, he figured; the rest should go to the workers. His sons agreed. And after Hans Andersen died of a heart attack on the day before Christmas Eve in 1914, having just signed the first profit-sharing checks, Fred Andersen continued his father's policies. In 1975, four years before he died, Fred agreed to the creation of the Employee Stock Ownership Trust, a plan formulated by his successors to buy stock each year for the workers. At this point, they own 30 percent of the company.

A conservative Republican, the son was, if anything, even more distrustful than his father of government largess and the controls it brought with it. "Fifty years ago when Uncle Sam was passing out grants to build sewage-treatment facilities," Swanson recalls, "Fred Andersen said, 'Not in my town.'" Then he wrote a check to the city to cover the cost of installing a plant. He despised most forms of government spending and firmly believed that the community should be self-sufficient. The Hugh J. Andersen Foundation, which is run by Fred's grandniece Sarah, has often stepped in where the government would have trod. It has outfitted the local fire department and helped build a hospital wing and a 231-seat art center in Hudson: a scout camp in Wisconsin; and a retirement home and a library in Bayport. If generosity can't keep the government out, the Andersens simply and politely don't get involved. "I'm chairman of the Housing Authority, and one year I needed carpeting in 61 units of housing we had for the elderly," says 69-year-old Willis H. Miller, Hudson's historian. "I went to see Fred Andersen. He was very nice, but he said, 'I would never contribute to anything the government contributes to.'" And he never did.

Fred Andersen's strength had always been as a salesman and a motivator, but with his alter ego, Earl Swanson, an innovative engineer and designer, he guided Andersen Windowalls through five decades of dramatic growth and extraordinary product development. After the ubiquitous white pine disappeared, Andersen helped develop a preservative that made its replacement, the West Coast ponderosa pine, more resistant to rot and insects. The company improved on existing products—designing waterproof frames for casement windows, for example. It also offered innovations in pulleys, leakproof sills, weather stripping, storm windows and fully assembled and glazed basement windows in the 1920s and 1930s, and in 1937 the production of completed double hung windows put it in competition with the largest window manufacturers of the time. In the 1940s, Andersen introduced sliding glass doors, the product for which Earl Swanson is probably best known in the 1950s, awning windows; and in the 1960s, vinyl-framed windows, which today are standard in the home-building business.

And all during this time, Andersen's innovations in employee relations kept pace. Only two years after their father died, the Andersen brothers provided a health and life-insurance plan for their workers, which was only the beginning of a long list of employee benefits that were well ahead of their time. In 1923, it was two weeks paid vacation, a concept that was becoming fashionable for office workers but not yet for factory workers. The next year, management began paying $2 to anyone who made a suggestion about product design, employees relations or manufacturing systems that was actually adopted by the company. Also in 1924, every hourly wage employee in the plant became eligible for bonus pay based on productivity. After putting the issue to a vote of the workers, management decided to cut the workday from 10 hours to nine without a reduction in pay. The theory was that as much work could be accomplished in nine hours as 10 by increasing productivity through increased incentives. In this case the incentive was very simple: more money for more output. Productivity above a predetermined "normal" level for a shift would draw bonus pay. Today a shift is eight hours, and the increased benefits can be up to 140 percent of base pay. Some workers, such as draftsmen, are on their own, but others on the assembly line work in crews of six or more, with the incentive based on the crew's productivity. Some "hit the jackpot," the 140 percent ceiling, every single day. Furthermore, when employees are paid their profit sharing at the end of the year, it is based on their overall pay for the previous year—incentive pay compounded by incentive pay.

So why all the secrecy if Andersen's management is so forward-thinking and its employees so happy? "Because we don't need corporate publicity," says Earl Swanson. Even at the age of 77, Swanson has a firm handshake, a full head of hair, a wide mouth that turns easily into a grin, and a stubborn streak that is well documented back to his days at Andersen. What he was stubborn about on the day he had agreed to be interviewed was talking about current affairs at Andersen Corporation. Swanson gazed for a few moments out of the Andersen windows in his home, which sits on a wooded Bayport peninsula called The Point, before fixing a sharp look on his visitor. "You said you wanted to talk about Fred Andersen. . . I'm not sure I should be talking about Andersen window business." Asked what it is that they want to keep secret, Swanson said simply, "Why take a chance? You know the phrase, 'Lo how the mighty hath fallen.'"

Andersen's corporate shyness about publicity is renowned around Bayport. Jack Ullrich, the company's official spokesman, doesn't peddle press releases, doesn't return calls, won't pass along interview requests or talk to reporters who call him at home, even off-the-record. And any attempt to interview former executives reveals a consensus that there is no percentage in talking about the company. Andersen is revered by almost everyone in the region, and its reputation in the industry is unsurpassed, so its executives say they don't need to pat themselves on the back. After all, if they set themselves up as the examples of everything right in American business, they would become an irresistible target for the same kind of criticism that enveloped the freethinking, freewheeling industrialist William C. Norris of Control Data Corporation.

In addition, the company is overjoyed that no union has ever come close to organizing the plant; why throw up a red flag. Letting out inside information usually means trouble. The biggest local market, Chicago, remained closed to Anderson's products until 1958, for example, because union carpenters threatened a secondary boycott against the nonunion company.

And what if the profit-sharing system were garbled by journalistic shorthand or misunderstood by the public. "Suppose a guy goes to buy a window and decides Andersen is overcharging him because he read somewhere that it paid its employees 84 percent bonuses," says Richard O'Brien, who was manager of production engineering until he retired in 1986 after 37 years. "He doesn't stop to think that other companies pay comparable amounts to their executives and stockholders. Or that the windows can't be overpriced or we wouldn't have the sales we have in a very competitive market. But that is why we want to keep a low profile."

Finally, any outsider trying to get Andersen executives to talk is up against an ingrained Midwestern reluctance to draw attention to oneself. "We're all pretty secretive," says Ray Juracek, official spokesman for Pella Windows, referring to the top three wood-frame window companies: Andersen, Marvin Windows and Pella, which is number two in market share and in surveys on builders preferences. Pella is in Iowa, and Marvin Windows is another Minnesota company; all three firms are privately owned. "Anderson is more open than we are, we play things close to the vest and Marvin is absolutely paranoid," Juracek says.

Maybe there is the slightest concern that if Andersen failed to maintain control over access to its employees, they might be convinced by some outsider that their lives could be even better. The working conditions are certainly as good as, and in most cases vastly superior to, other factory jobs. But, management fears, employees might find areas in which demands could be made. Schedules, for example: Line workers switch off shifts, working days for two weeks, nights for two weeks and the swing shift for two weeks. Some say this helps morale, but it can play havoc with their families. In any event, it keeps the factory working around the clock, which it must do to meet orders for the 158,000 window and door units that move from the plant every week. Indeed, it is the combination of a very productive work force and a highly automated plant that keeps Andersen's profit margins between 20 percent and 30 percent, according to its competitors.

"They work 'em hard, but they take care of them," said Mary, a 24-year-old bartender at Pawnee's, one of several watering holes frequented by Andersen's workers. "I couldn't do it Split shifts, uh-uh. And when summer comes, they work Saturdays. It's not for me. But if you can stand that, Andersen will do great things for you."

The jukebox and pinball machines in Pawnee's were unplugged this night because the Twins baseball game was on television. Mary was serving 65 cent drafts to a handful of regulars. Business would pick up at 11 p.m. when the swing shift ended. Pawnee's has an eight-lane bowling alley, and it was the last night of this winter's ladies' league. In between strikes and spares, 37-year-old Darlene Schultz talked about her work. "I love my job. I really do," she said. "I haven't missed a day of work in two years". She was on the night shift, working in a crew of six whose task was to apply a strip of vinyl at the top of a window to make it waterproof. She earns $11.41 per hour in base pay, but last year her line averaged 132 percent of that amount after incentives. Her profit-sharing check at the end of the year was $15,000. And the money gets even better for those who stick around. In the milling, shop the base pay is upward of $18 an hour. Schultz has been at the plant two years and plans to stay until she retires.

A couple of nights later across the border in Wisconsin, Bruce and Kim Olien, both in their late 20s, sat in another bowling alley in New Richmond. They wore matching maroon bowling jackets. Their young daughter was with them, and Kim was expecting another child. The company had given her an office job until the baby is born, and she will get six weeks paid maternity leave and an option to take eight weeks more, unpaid. Before she got pregnant Kim worked on the assembly line in a group of 15 workers that made its 140 percent maximum "most of the time."

"They treat you good," she said. "But you work hard."

Bruce was less willing to talk. He glanced around the bar before saying anything. "There's a lot of jealousy toward Andersen workers. It's harder to get into Andersen than some colleges."

The word family kept coming up, and it wasn't just metaphorical. The company encourages nepotism. Most new openings go to the children, spouses, siblings or close friends of current Andersen employees. No one seemed to think it was worth discussing how these programs helped keep union sentiments completely buried. Especially since, for many workers, a union would put restrictions on traditional relationships with the company. "What could a union offer them?" John Lind, the bartender at Greystone, Bayport's most popular bar said. "Where else can you go to work on a line and make $60,000 a year?" And then have your children work on the line for even more money.

About the only controversy surrounding the nepotism is where the workers hail from. In recent years, a lot more Wisconsin workers have been hired than Minnesota workers. "Bayport men used to get preference. Now the big wheels in hiring live in Wisconsin," say Walt Serier, Bayport's retired 78-year-old barber. (In his old barbershop, Serier kept a list of nicknames for all his customers. Asked the nickname of Fred Andersen, Serier said without hesitation, "Mr. Andersen.")

The Wisconsin-Minnesota rivalry is real, however. On the Wisconsin side, the scuttlebutt is that Minnesotans have gone soft because of the high-paying, white-collar jobs in the Twin Cities. On the Minnesota side, Wisconsin people are often described as simple farmers who think working in a factory is a good life.

Such talk wouldn't have mattered to Hans Jacob Andersen; he hired men from both sides of the river. All he expected was hard work and loyalty. According to the official founders myth, his first words in English were "All together boys," a statement he is said to have uttered while urging his crew to work harder to clear tree stumps. The story is almost certainly apocryphal, but for more than eight decades, Andersen Corporation and its workers have been laboring and living together in an unusual symbiosis that has produced extraordinary results: record profits for the company and staggering bonus payments for the workers. In the immortal words of Bayport's mayor, Nathan Bliss, Republican and born-again Christian, "If there is a future or American business, I think this is it." Amen.●

HISTORIC ST. MARY'S CHURCH IN ROCKVILLE, MD, CELEBRATES 175TH ANNIVERSARY

● Ms. MIKULSKI. Mr. President, this year St. Mary's Church in Rockville, MD, observes the 175th anniversary of its founding in 1813. Its founding was a milestone in the history of the Roman Catholic Church in Maryland.

Mr. President, I ask unanimous consent that an article about this historic church by Maryland State Delegate Mary Boergers be inserted in the RECORD at this point.

The article follows:

ST. MARY'S 175 YEARS: A HISTORY OF THE CATHOLIC FAITH—MONTGOMERY COUNTY

(By Mary H. Boergers)

On December 15, 1978, St. Mary's Church and cemetery, where several distinguished Americans, including F. Scott Fitzgerald, are laid to rest, were included on the National Register of Historic Places.

In 1813, Father Redmond, who lived at Georgetown College, began his ministry to the Catholics living in Montgomery County. He attended to the religious needs of his widely scattered flock by riding the circuit on horseback.

Through his efforts the faith was kept alive at five mission sites where Catholic services were held:

Rock Creek Congregation worshipped at Carroll Chapel, the oldest Catholic edifice in the county,

St. Mary's at Barnesville,

The Seneca Congregation worshipped at a small building on the Waring Estate,

In Rockville a number of Catholics worshpped in private homes in the area, and

At Hollings River a handful of Catholics met for divine services.

The establishment of St. Mary's Church in Rockville 175 years ago was a first step from mission status to a great citadel of the Roman Catholic faith which is Montgomery County today.

When the first mass was said in the original church during the Advent season in 1817 the congregation of St. Mary's consisted of fewer than 100 souls. The cost of the new church was only $4,000 and the first pastor, Father James Redmond, was one of the great Catholic pioneers of the early 19th Century.

During the 1820's the construction of the Chesapeake and Ohio Canal brought in scores of Irish laborers and a new need for a more permanent Catholic presence in our county.

From this time forward, the growth in St. Mary's continued to soar and reached its peak in the post World War II housing boom. The growth of Montgomery County was reflected in a population explosion as Rockville changed from rural to urban-suburban. The parish grew from about 700 during the war to 7,000 in 1974.

Out of the original St. Mary's parish, five new parishes were eventually formed—St. Catherine's, St. Jude's, St. Elizabeth's, St. Raphael's, and St. Patrick's.

By 1967 the population growth led to the construction of a new church whose architecture reflected the new liturgy arising from the Second Vatican Council.

Today, Rt. Reverend Msgr. Adam J. Kostic is the spiritual leader of a vibrant, dynamic parish looking forward to another 175 years of service to the community.●

MINNESOTA POW/MIA DAY

● Mr. DURENBERGER. Mr. President, many times in our Republic's history, men and women have been called upon to defend our land and liberty. In the service of their nation, these patriots have sacrificed themselves to guarantee the freedoms we so cherish. No one sacrificed more than those Americans who suffered the fate of being imprisoned in the course of war. And no Americans deserve our honor and our gratitude more than POW's and MIA's.

I rise today to bring tribute to those Americans and to promise that I will not cease its efforts to account for our men and women, who are still listed as missing in action as a result of the conflict in Southeast Asia. As part of my efforts to honor these individuals, I cosponsored a resolution naming September 16, 1988, as "National Prisoner of War and Missing in Action Day on September 16, 1988."

Though the Vietnam war has been over for most Americans for many years, thousands of Americans know the pain of having the fate of their loved one remain unresolved. I have met with many of my fellow Minnesotans who are as dedicated as I am to satisfactorily resolving the MIA issue. In particular, I am proud of the effort of Gary Gaetti—member of the 1987 world champion Minnesaota Twins—who has spent so much of his time working for a resolution of the MIA issue and letting the families know we will never forget.

It has not been easy to keep the POW/MIA issue alive. We have all endured a bewildering number of shifts and vacillations in the position of the Vietnamese Government. I have pledged to oppose normalization of relations between our two nations until the MIA issue is resolved.

The persistence and commitment has begun to pay off. Retired Chief of Staff—and fellow Minnesotan—Gen. John Vessey has led U.S. efforts to resolve the issue at President Reagan's request. He has undertaken negotiations that have resulted in a resolution of three Minnesota cases. It is my sincere hope that these negotiations continue to make progress toward the ultimate goal of resolving all MIA cases that have been unresolved for far too long.

As a symbol of Minnesota's dedication to those declared missing in action and recognized prisoners of war, my home State of Minnesota proclaimed September 16, 1988, POW/

MIA Recognition Day to honor and remind us of those who remain missing.

Mr. President, I ask that the proclamation by the State of Minnesota be printed in the Record at this point.

The proclamation follows:

PROCLAMATION

Whereas: America's men and women have served their country heroically since the Revolutionary War; and

Whereas: Thousands of Americans have served in those wars, were captured by enemy or became Missing in Action; and

Whereas: Nearly 2,400 such men and women are still officially unaccounted for in Southeast Asia, including 42 Minnesota men; and

Whereas: Additional servicemen remain unaccounted for from the Korean Conflicts, and World War II; and

Whereas: The American government is still receiving reports that indicate the possibility that many are still alive and being held, thus creating a situation many citizens of Minnesota and this great Nation consider unbearable; and

Whereas: President Reagan has said, "We accept and remember our obligation to these missing servicemen. Until the POW/MIA issue is resolved it will remain a matter of the highest national priority"; and

Whereas: This nation now enjoys the blessings of peace because of all its veterans and their dedication to duty, honor and sacrifice, and because we recognize this special debt we owe those Prisoners of War and Missing in Action; and

Whereas: President Reagan has proclaimed September 16, 1988 as "National POW/MIA Recognition Day" and has requested that each state also designate a day; and

Whereas: All POW/MIA organizations, veterans groups and all concerned citizens have requested that a day in September be set aside for all Minnesotans to gather to show their support for a speedy solution to this unresolved POW-MIA situation;

Now, therefore, I, Rudy Perpich, Governor of the State of Minnesota, do hereby designate the week September 11, 1988 through September 17, 1988 to be POW/MIA Recognition Week and Friday, September 16, 1988 to be POW/MIA Recognition Day in Minnesota, and urge all citizens to show their support of these Veterans who, even while missing, are still serving their country.●

MEDICAL CARE'S NEXT REVOLUTION

● Mr. DURENBERGER. Mr. President, I rise to bring attention to an article in this week's Fortune magazine entitled "Medical Care's Next Revolution." It is the single best article on some of the critical issues we face in health care that I have seen in several years. Edmund Faltermayer, the author, does an outstanding job of describing and summarizing what is happening in health care and what we must all begin to face. As Faltermayer said: "Doctors increasingly toil in the murky areas of chronic ailments: arthritis, angina chest pain, impaired vision. Here the question of which treatment is best can only be settled with data." Inevitably, the decision has to be the patient's since the patient is in the best position to judge the costs and benefits of alternative treatments. The patient must choose among less than perfect options. The article provides an illustration of what many patients face every day. Often patients are not aware fully of the seriousness of the consequences of medical treatment. They may have outcomes they do not want, often even doctors are making decisions on limited information and hunch, not firm answers about efficacy or long-term effects of treatment alternatives.

The valuable work of medical leaders like Paul Ellwood, M.D., chairman of the board of Interstudy, one of the Nation's top think tanks, and Jack Wennberg, M.D., Dartmouth Medical School, is discussed as well as their emphasis on outcomes research and medical care variations. They and other, including Dr. Fred Nobrega of the Mayo Clinic and Dr. Phil Caper, also of Dartmouth, have been working for years to document the importance of understanding how much variability in medical care there is around the country and why we must fund health services research. We must understand what we are buying when we purchase health care. We must also know the benefits of changing our behavior and lifestyles to get more health out of our investment in health care.

We spend roughly $500 billion on health care in this country yet know shockingly little about what is effective and what will make a difference either in saving lives or improving the quality of lives. Moreover, as we have seen with radical mastectomy there is an unfortunate lag between the time we know about important changes in treatment and their diffusion throughout the country.

Articles such as this one that will reach leaders in the private sector will expand our understanding of the importance of outcomes research, and the value of consumer information. An informed consumer is the lynchpin of real reform in health care and the fastest way to get quality health care at an affordable cost. Private sector leaders and policymakers in Congress and the executive branch will benefit enormously by emphasizing and adopting ideas such as those cited here. We can save billions of dollars and have resources to meet our many unmet needs by eliminating inappropriate and less than appropriate medical care. Outcomes and effectiveness research and knowledgeable consumers are essential.

Mr. President, I ask that the article be printed in the Record.

The article follows:

[From Fortune magazine, Oct. 10, 1988]

MEDICAL CARE'S NEXT REVOLUTION

(By Edmund Faltermayer)

Consider what doctors, to say nothing of patients, don't know about the value of just one procedure. Each year about 80,000 Americans get a carotid endarterectomy, a kind of Roto-Rooter job on clogged neck arteries. Typically costing $9,000, counting the bill for a hospital stay, the operation is designed to prevent strokes. Another triumph of modern medicine? Or an overly risky, overdone alternative to cheaper drug therapy? Incredibly, no one knows for sure, and no one is tracking the patients on a systematic basis to find out.

The same holds true for scores of other medical ministrations. Food companies know the impact of a redesigned ketchup bottle on sales. But the virtuosos performing hysterecomies, installing pacemakers, and bypassing diseased coronary arteries have only patchy information about the real payoffs. "Half of what the medical profession does is of unverified effectiveness," asserts Dr. Paul M. Ellwood Jr. of Minneapolis, in a phalanx of physicians who want to cut down on the guesswork.

Half of something as stupendous as the U.S. health bill—now 11.4% of GNP, or nearly twice what the military gets—implies a huge ore body that could be mined for savings. That should be of special interest to business, which picks up the biggest chunk of medical expenditures. Health insurance premiums have jumped anew in 1988, following several years in which companies successfully slowed the rise.

Abetting the persistent upward trend is what one consultant calls "MD-ification." Corporations, for all their new cost-containment mechanisms, don't know enough to go eyeball to eyeball when professionals are determined to do an operation. Yet business executives would be shocked if they knew of the doctors' own uncertainties. The problem is rare in the cut-and-dried matter of treating acute afflictions—prescribing penicillin for pneumonia or setting a broken bone. But doctors increasingly toil in the murky area of chronic ailments: arthritis, angina chest pain, impaired vision. Here the question of which treatment is best can be settled only with data.

The need for much more of it has never been so urgent. The new law liberalizing Medicare payments for catastrophic illness promises to boost demand for health services still further. So could the extension of health insurance to the uninsured (Fortune, September 26). A roll back of ignorance would bring huge benefits. With better data, business could effectively challenge proposed treatments. Many doctors might enjoy better protection against malpractice suits. Patients could be the biggest gainers. If the pros and cons of alternative treatments were better known and conveyed in lay language—a rarity now—patients could have a real say in how they are scanned and sliced.

The growth of health maintenance organizations, whose membership has tripled to 31 million in the past six years, was supposed to supply much of the missing knowledge. Operating on a fixed "subscription" payment set annually for their members, HMOs have strong reasons to study their centralized patient files for ways to weed out wasteful procedures. Alas, such studies have not been extensive. Until recently, HMOs have managed to save plenty of money just by cutting down on hospital stays.

That's particularly disappointing to Ellwood, 62, a witty, searingly insight visionary who heads a medical think tank called InterStudy. He led the proselytizers when the concept of prepaid care was barely known in the early 1970s, and the very term HMO is his. But the rates at which HMO doctors perform various procedures, it turns out, are not so different than elsewhere. Caesareans and other debatable operations, moreover, are way up, just as they are in the country at large. "What HMOs haven't done, which I had hoped, is manage the content of medical care," Ellwood says. Why not? "HMO doctors are ignorant, just like all doctors."

Having shaken up the medical system once, Ellwood seeks to do it again. He wants the recods of millions of encounters between doctor and patient, whether in HMOs or in the traditional fee-for-service system, recorded in computers and the results of treatment routinely monitored through follow-up questionnaires to patients. "When we're spending a half trillion dollars a year on health care," Ellwood says, "we ought to know what works." Dr. Arnold S. Relman, editor of the influential New England Journal of Medicine, says that "assessments" and the general concern about quality are "the third revolution in medical care," the first being the spread of health insurance and the second the revolt of the payers. Physicians must be in charge of the third revolution, Relman says, for only they have the training.

Though better information could put an end to some fat fees, doctors are starting to rally behind the idea. Many fear a loathsome alternative; another round of heavy-handed cost controls imposed by nondoctors. Dr. William L. Roper, a pediatrician who runs the federal government's Medicare and Medicaid programs, adds that "those on the firing line want better information so they can do a better job for their patients."

Medical research is hardly in short supply. Teams of doctors report all the time on the success of this new operation or that diagnostic device. But the studies often leave important questions unanswered because the number of patients is small, the scope of inquiry narrow, or the methodology faulty.

Take the controversy on how to treat hardening of the leg arteries, which can turn walking to agony and lead to amputation. Doctors have four main alternatives: Do nothing, prescribe physical therapy and exercise, perform bypass surgery, or use a newer procedure called percutaneous transluminal angioplasty, or PTA—inserting a balloon and inflating it to clear the arteries. During a 1987 visit to Duke University's Center for Health Policy Research and Education, Dr. Raphael Adar, a prominent Israeli surgeon, pored over 39 papers on the use of PTA for the leg. As disclosed in a recent issue of *Health Affairs* magazine, Adar found all the studies deficient. Not even the better ones reported on the outcomes of greatest concern to patients: the relief of pain and the continued ability to walk.

"For people who read this kind of information, it's very frustrating," says Dr. David Eddy, a professor of health policy at Duke and a critic of much medical research. Meaningful members on the cost effectiveness of tests can also be hard to come by. When left in the dark, Eddy says, panels of doctors charged with evaluating the tests' usefulness fall back on their own best clinical impressions. One panel was asked to estimate the effect of a particular testing regimen—annual sigmoidoscopy and stool specimens—in reducing cancers of the colon and rectum, which annually take the lives of about 60,000 Americans. The answers ranged all the way from a 5% reduction in deaths to 95%.

Elsewhere, shafts of knowledge have begun to pierce the darkness. Financed primarily by foundation funds, Rand Corp., a research organization in Santa Monica, California, has looked into those carotid endarterectomies. First the researchers studied the literature and listed the hundreds of situations in which the treatment might help. Then they asked a panel of nine doctors to rate its appropriateness in each situation and reviewed the records of 1,302 Medicare patients in three areas who got the operation in 1981.

The conclusion, published earlier this year: Just over a third of the carotid endarterectomies were appropriate, while 32% were borderline. The other 32% should not have been performed, mainly because the symptoms did not seem serious enough to warrant the considerable risks. During the hospital stay, 3.4% of all the patients who got carotid endarterectomies died because of complications from the operation. Another 6.4% had strokes—just what they had hoped to avoid. The researchers recommended that the operation be curtailed.

Three other procedures have come under Rand's scrutiny. As the table at the end shows, the researchers found two diagnostic tests much in vogue to be overdone, though not as greatly as some critics assert. But Rand recently came down hard on coronary artery bypass surgery.

More than 230,000 Americans had coronary bypass operations last year, twice as many as in 1980. Few are life-and-death affairs performed on patients who have just had heart attacks. The aim generally is to relieve chest pain. Two alternatives—drugs and clearing the coronary arteries with an inserted balloon—are less costly and sometimes just as effective. Reviewing 386 bypass operations done in three hospitals in 1979, 1980, and 1982, Rand concluded that only 56% were clearly appropriate.

"Appropriateness" studies are a giant step forward, but they have limitations. They are based on what committees of specialists believe is the right time to test or operate. To know what works requires surveys of how patients made out later on—typically at least a year later. Contact with patients often ends when they walk out of the hospital or the doctor's office. Dr. John E. Wennberg, an epidemiologist at Dartmouth Medical School, made some fascinating discoveries in a follow-up study of men who underwent prostate operations.

Wennberg, 54, has a quietly earnest manner that befits one with a sense of mission. Because doctors don't know the probable outcomes of one treatment vs. another, he says, medicine is in an "intellectual crisis." When studying health care patterns in rural New England in the 1970s, Wennberg was struck by significant variations in the rate at which doctors performed tonsillectomies, hysterectomies, and other operations. Later he found sharp differences in medical spending in Boston and New Haven, Connecticut. Though the health characteristics of both cities' populations are similar, Boston was spending the equivalent of 16% of GNP on medical care to New Haven's 9%.

Prostate operations, which varied from place to place by a factor of four in the earlier New England study, provided an opportunity for Wennberg and his colleagues to pioneer. Few are performed to save a man's life; even cancer of the prostate is rarely fatal. But many physicians have long advised preventive surgery to avoid a greater risk when the man is older. More than 300,000 operations on benignly enlarged prostates were performed in the U.S. last year at a cost of about $3,500 each.

Two-thirds of Maine's practicing urologists agreed to participate in Wennberg's survey of patients getting prostatectomy operations, starting in mid-1983. Most of the patients were 65 and older. An initial interview detailing each man's symptoms was followed by another three months after surgery and telephone interview after six and 12 months. The findings, based on 263 men who completed all three postoperative interviews, were published last spring in the *Journal of the American Medical Association*. The researchers found that the "preventive" argument for surgery is wrong, for the operation caused a slight decrease in life expectancy. It is justified solely, they concluded, for what physicians call quality-of-life reasons: The patient is having problems urinating.

For most of the men, the quality of life improved over a year: 78% reported mild or no symptoms and 16% moderate problems, leaving only 6% with serious symptoms. The results of the survey have been incorporated into a videodisc that will be tested before focus groups of doctors and patients this fall. Running 28 minutes, not counting additional information the viewer can select at the press of a button, the disc is a breakthrough in medical consumer information.

To background music, the title comes on screen: choosing—Prostatectomy or Watchfull Waiting. Dr. Charles Culver, a psychiatrist who serves as narrator, says the operation brings "improvement at a price. We'll tell you the harms and benefits, but then you must decide." Four patients appear. One of two who agreed to the operation can scarcely contain his enthusiasm: "Now I can put my initials in the snow!" One who chose "watchful waiting" is asked whether his condition interferes with daily activities. His mildly jovial reply: "All tickets at the theater or the airlines had better be on the aisle."

While pointing out the advantages of the operation, the narrator cautions that the negatives must not be overlooked. Within three months of the operation, 8% of the men were back in the hospital with serious complications. Others encountered new difficulties: 4% of those who never had the problem became incontinent to some degree, and 5% of those who previously had erections became impotent. If the video-disc were generally available, many men would probably turn down the operation, particularly those who don't have severe problems.

Not too many years hence, Wennberg hopes, a typical doctor's office will have perhaps a score of videodiscs covering as many illnesses. To those accustomed to the dictatorial style of medicine, it might seem utopian to expect doctors to furnish information enabling patients to argue with them. But many doctors, particularly family physicians, might welcome the change to help patients make up their minds. It's a safe bet, too, that payers would encourage the practice.

Wennberg favors a big increase in funding for a little-known federal agency called the National Center for Health Services Research and Health Care Technology Assessment. Despite the impressive name, its budget has declined since the 1970s, to $47 million. Wennberg and others want the figure boosted to at least $200 million. That would finance more studies like the one on prostatectomies. Says Wennberg, who notes that the drug industry spends billions evaluating its products: "The fundamental assessments of whether procedure A or B works better just haven't been done."

Ellwood has something far more ambitious in mind, which he calls "outcomes management." The health system would keep track of *all* patients and their progress after treatment. Initially the goal would be to track chronic illnesses whose treatment is of uncertain value. Doctors who constantly adjust their procedures in response to feedback on what works best, much as a retail chain adjusts its buying according to on-line data that show what is selling.

The beginnings of such a system can already be discerned. Medicare boss Roper's outfit, the Health Care Financing Administration, has agreed to pay for pilot studies of outcomes management at ten Midwestern HMOs. Quality Quest, a subsidiary of Ellwood's InnerStudy, will be in charge. One of the first tasks is to select a short, standardized "quality of life" questionnaire in which patients would describe their condition before treatment and later on. Such questionnaires, developed in the past few years by Boston psychometrician John E. Ware and others, include general queries on the patient's well-being and ability to function as well as some related to his specific illness. Sample question for a victim of heart disease: "Do you need to sleep sitting up at night?"

Ten other organizations are interested in financing pilot studies, among them the state of Massachusetts and the Blue Cross and Blue Shield Association in Chicago. When asked what he thinks of Ellwood's idea, the association's president, Bernard R. Tresnowski, responds, "Right on!"

"The health care system," Ellwood declares, "has become an organism desperately in need of a central nervous system that can help it cope with the complexities of modern medicine." Until a single national databank can be created, he would settle for a sharing of information among insurers and health organizations.

One of the biggest data pools is Health Information Reporting Co., set up three years ago by nine of the largest Blue Cross and Blue Shield plans and the national association to analyze payment and utilization trends among 15 million members. Another is the federal government, which has years of claims data covering 32 million Medicare recipients. In neither case are patients surveyed later on to guage the effectiveness of treatments, though the Blues and Medicare are both interested in the idea. Data on patients' fates are already gathered, however, for some major illnesses. For example, the National Cancer Institute has access to data on more than a million patients, and a pool of data banks called Aramis tracks 28,000 arthritis victims. Some of the findings are available to the public.

Doctors' offices, which long ago turned to computers for billing, are still paper holdouts when it comes to maintaining patients' medical records. Many hospitals and health care organizations, on the other hand, have gone heavily electronic. Intermountain Health Care of Salt Lake City, which in 1975 took over hospitals formerly owned by the Mormon church, has created what may be the best computerized clinical database in the U.S. At some bedsides, doctors can call up a patient's history on terminals, including past test results and even recommended procedures. Dr. Brent James, who is director of medical research at Intermountain, plans to add follow-up surveys of discharged patients.

Computers already influence what doctors do. At Wishard Memorial Hospital in Indiana University's Indianapolis medical center, at least 400 doctors have access to computerized patient records. In an experiment at reducing blood tests in the mid-1980s, terminals began flashing information on the odds that each of eight common tests would reveal a suspected abnormality. Result Billing for the eight tests dropped 9%.

United HealthCare, a Minneapolis firm that owns seven HMOs and provides contractual services to 16 others, maintains prescription records for two million people. About 500,000 live in the Twin Cities area, where pharmacies are tied into a computer network. When the computers spotted excessive use of diet pills a few years ago, the HMOs stopped paying for them and doctors cut down on prescribing them.

The next medical revolution will quickly sputter if it merely amasses information that doctors ignore. It's unlikely insurers will let that happen. Willis Goldbeck, president of the Washington Business Group on Health, a national organization of large companies with employee medical plans, says that "physicians will change their behavior if the new knowledge is tied to reimbursement."

Such ties are already being forged. Citing Rand Corp.'s studies, California Blue Shield has decided to require a second opinion on carotid endarterectomies. One of Rand's senior researchers on the medical studies, Dr. Mark Chassin, has become senior vice president of a new company called Value Health Sciences, which is turning the Rand findings into a computer software program that insurers will be able to use as a cheaper alternative to a second doctor's opinion.

Thus the payers are using doctor-generated information to control what doctors receive. The implications cause a few shivers among physicians. Will medicine become a "cookbook" affair, with the treatment for each set of symptoms limited to what shows up on a computer screen? No two patients are alike, after all, and doctoring has always been a subtle blend of feel and fact. Roper, for one, doubts that cold science will eliminate the need for healing art. Airline pilots are required to follow all sorts of standard checkout procedures, he says, but flying the big ship still calls for experience. By putting as much uncertainty as possible behind them, doctors should find their calling more satisfying than ever.

TOO MUCH DOCTORING, SAY THE DOCTORS

Procedure	Percent	
	"Unjustified"	"Debatable"
Coronary artery bypass (cost: $37,000)	14	30
Carotid endarterectomy ($9,000): Removal of deposits from clogged neck arteries	32	32
Pacemaker implants ($9,000)	20	36
Coronary angiography ($3,400): X-rays of heart arteries injected with dye	17	9
Upper gastrointestinal tract endoscopy ($750): Visual examination with fiber-optic device	17	11

Sources: Rand Corp.; Dr. Allan M. Greenspan et al.; Value Health Sciences.

Note: Big savings might result from better data on which patients really need fancy operations and tests. Panels of doctors developed the criteria upon which these findings are based.●

THE NRA'S IRRESPONSIBLE "VICTORY"

● Mr. SIMON. Mr. President, the Senate may not get the opportunity to vote on a 7-day waiting period for handgun registration. That being the case, I would like to take this opportunity to register my outrage at the lobbying tactics of the National Rifle Association—an organization that previously supported a waiting period. Of particular note is a letter to NRA members from the NRA Institute For Legislative Action. In a recent column I write for newspapers in my State, I rebut some of the NRA's claims. I ask to have it reprinted in the RECORD.

The article follows:

THE NRA'S IRRESPONSIBLE VICTORY

The runaway winner for the most irresponsible letter on a legislative matter so far this year—and the competition is fierce—is the National Rifle Association.

And the NRA won, even though it tarnished its reputation with members of Congress for the campaign it conducted.

Sarah Brady, wife of presidential Press Secretary Jim Brady, has been promoting legislation to require a seven-day waiting period for someone buying a handgun so that police could check out whether that individual is a convicted felon or has a history of mental problems.

That's all the bill does.

Police organizations around the nation strongly favor it.

The man who runs my Springfield office, Joe Bob Pierce, has a gun collection. He's a member of the Electrical Workers union, a former Baptist minister and a Mason. Joe is a good all-around person who happens to enjoy collecting guns. I asked Joe if there was anything wrong with this legislation and he assured me there was no reason for any hunter or gun collector or anyone who is going to use a gun responsibly to oppose it.

But look at the arguments put out by the National Rifle Association:

NRA: The bill would cost "billions of your tax dollars."

The estimate by the Congressional Budget Office is $5 million to $10 million, not billions.

NRA: It would "impose back-door registration on American gun owners."

Not true.

The final sentence of the inflammatory letter: "Don't let the U.S. Congress impose total gun control on America."

After reading this misleading letter, a great many gun owners around the nation understandably wrote to stop the Brady bill.

Unfortunately, the NRA frightened enough members of Congress so that the suggestion for a one-week delay in purchasing handguns was defeated 228 to 182.

It was a victory for irresponsibility.

This measure would not have stopped all crime. But it would have helped a little. Over and over we have instances—like the shooting of Jim Brady and Ronald Reagan—where a handgun is purchased to kill or maim but a waiting period would give law enforcement authorities time to check out the buyer. In John Hinckley's case, law enforcement officials believe the background check would have revealed a previous criminal offense and stopped the gun sale.

My friends at the NRA would be wise to remember this fact about the law in any field. Change will come. If reasonable change is resisted, then unreasonable changes may occur.

The police organizations are right.

Sarah Brady is right.

The National Rifle Association is wrong.

Unfortunately, in too many instances, dead wrong.●

WATER RESOURCES DEVELOPMENT ACT OF 1988

● Mr. STAFFORD. Mr. President, as we near the end of this Congress, we may also be nearing a meeting between House and Senate conferees on omnibus Corps of Engineers water resources development legislation.

This is important because it represents the opportunity to reestablish a more regular and controlled passage of water resources development bills.

Last year when the Committee on Environment and Public Works began drafting water resources development legislation, we held up two principles as paramount: the legislation should not authorize projects that have not been approved by the chief of engineers as environmentally and economically sound, and the legislation should contain no exceptions to the new cost sharing principles established by the Water Resources Development Act of 1986.

While not perfect, S. 2100, the water resources development bill which was reported out of the committee and subsequently passed the Senate this past April, upheld these principles and demonstrates remarkable restraint. My colleagues on the committee and in the Senate are to be commended for this.

But, Mr. President, as we begin to look to conference with the House, I worry that it may be difficult to impossible to achieve a bill that meets the important principles I have described and which is acceptable to the administration.

Mr. President, I will explain. First, H.R. 5247, the bill which was reported out of the House Committee on Public Works and Transportation, is already so large that the administration has sent a policy statement to the House expressing that OMB would recommend the President veto it in its present form.

Further, it appears that numerous additional provisions will be added on the House floor. If this turns out to be the case, this is likely to make this bill even more unacceptable to the administration.

If this is the case, the Senate conferees on this bill will be faced with the daunting and unrewarding task of insisting that most, if not all, of the numerous special interest provisions contained in the House bill be removed. Certain provisions in the Senate bill also may have to be removed. If, as previous history has shown, the House conferees are reluctant as they have been in the past to remove provisions from their bill, then I have no doubt that we will be heading for a veto of this legislation.

Mr. President, a veto of water resources development legislation will not serve the interests of any Member of Congress nor will it serve the interests of the water resources development program of the Army Corps of Engineers. Therefore, I will say right now that I will work very hard to ensure that any bill agreed upon by the conferees will be responsible and will be signable by the President.

If we can see a responsible and modest water resources development bill signed into law this year, we will have proven that both the reforms of the landmark Water Resources Development Act of 1986 and the authorizing process are working as they should.

However, as important as I believe this goal to be, I can assure my colleagues that it should not and cannot be bought at the expense of a water resources development bill overloaded with bad provisions and premature project authorizations. I therefore urge my colleagues in the Senate to lend their full cooperation to this very important effort.

Mr. President, I ask that the administration's policy statement on H.R. 5247, the House water resources development bill, be entered at this point in the RECORD.

STATEMENT OF THE ADMINISTRATION POLICY ON H.R. 5247—WATER RESOURCES DEVELOPMENT ACT OF 1988

The Administration strongly supports reestablishment of biennial authorization bills for Army Corps of Engineers water projects to help ensure the continued credibility and vitality of the Army Corps of Engineers Civil Works program. The key to this program, however, is the overriding need to preserve the cost-sharing reforms of the landmark Water Resources Development Act of 1986, Public Law 99-662, and to limit Federal spending to only economically-justified projects for which there is a clear Federal responsibility. H.R. 5247, to the contrary, would erode the cost-sharing reforms of Public Law 99-662; authorize numerous low-priority, special-interest provisions; and circumvent the Administration's established policy and planning review process.

Accordingly if H.R. 5247 were presented to the President in its current form, the Director of the Office of Management and Budget would recommend that it be vetoed.

The Administration's strong objection to H.R. 5247 is based on the bill's inclusion of provisions that would:

Erode the cost-sharing principles of Public Law 99-662 by (1) reducing the non-Federal cost share for municipal and industrial water supply at certain projects; (2) authorizing the use of Federal dollars to pay a project's non-Federal cost share; and (3) the use of language that does not clearly state that cost-sharing provisions of Public Law 99-562 apply to all projects authorized in H.R. 5247;

Fail to limit the number and cumulative cost of projects authorizations;

Authorize low-priority, special-interest projects opposed by the Administration; and

Violate the concept and need for biennial project authorizations by authorizing or conditionally authorizing numerous projects, for which (1) economic and environmental feasibility have not been demonstrated, and (2) the Executive branch policy and planning review process has not been completed.●

AMENDING RICO—S. 1523

● Mr. GORE. Mr. President, I have been contacted by Tennessee's Insurance Commissioner, Ms. Elaine McReynolds, and she expressed to me her opposition to S. 1523, a bill to amend the Racketeer Influenced and Corrupt Organizations Act. The National Association of Insurance Commissioners has passed a resolution in opposition to this legislation and I have been asked to include in today's RECORD in order that the association's views be made available to all Senators and their staffs. I ask that this resolution appear in today's RECORD immediately following my remarks.

The resolution follows:

NAIC RESOLUTION—IN OPPOSITION TO PENDING FEDERAL LEGISLATION TO AMEND THE RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT

Whereas, the United States Congress may soon consider amendments to the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. 1964 ("RICO"); and

Whereas, state insurance departments have found the federal civil RICO statute one of the most effective enforcement tools to combat insurance fraud; and

Whereas, if passed, such legislation may prevent state insurance departments from bringing treble damage to civil RICO lawsuits under the federal statute; and

Whereas, if passed, such legislation may apply retroactively to ongoing lawsuits brought under the direction of many of the state departments. The result is that it may be difficult, if not impossible, to recover treble damages in pending federal civil RICO actions involving the following states: Illinois, North Carolina, Texas, Tennessee, Rhode Island, New York and Iowa; and

Whereas, if passed such legislation may create procedural roadblocks so that the filing of a civil RICO lawsuit by anyone against a regulated entity—such as an insurance company—would not be practical.

Now therefore, be it resolved that the National Association of Insurance Commissioners believes that the effect of current proposals would be to protect the insurance industry and others involved with the industry from any civil RICO liability and interfere with the right of state regulators to bring civil RICO lawsuits against those who would commit insurance fraud upon the public.

Be it further resolved that the National Association of Insurance Commissioners opposes this legislation or similar legislation.●

ARTHUR D. SHORES—LIVING LEGACY AWARD RECIPIENT

● Mr. SHELBY. Mr. President, it is with a great deal of pleasure that I ask my colleagues in the Senate to recognize with me not only an exceptional Alabamian, but an outstanding American as well.

Arthur D. Shores of Birmingham has been selected as a 1988 recipient of the "Living Legacy Award" by the National Caucus and Center on Black Aged. Mr. Shores will be honored at a banquet here in Washington on October 13, 1988.

The Living Legacy Program was established in 1979 by the National Caucus and Center on Black Aged to honor older black Americans who have made important contributions to their communities.

Arthur Shores more than meets those qualifications. For over 50 years, Arthur D. Shores has used his knowledge of the law, his skill and legal expertise as an advocate for blacks in Alabama. Working as a legal advocate during the early period in the civil rights movement, Shores made his mark as the only black practicing attorney in the State of Alabama and the only attorney defending the civil rights of black people.

Arthur Shores has left a remarkable legacy in the many cases he was involved in—cases that helped pave the way for real changes under the law. He was responsible for successfully filing a case for voting rights in Birmingham; he fought for and won pay equity for black teachers in Jefferson County, AL.

Arthur Shores worked on behalf of many people. Vivian Malone, E.L. Shuttlesworth, Arthurine Lucy, and the Reverend Dr. Martin Luther King, Jr., were some of the clients he helped achieve victory for in their fight for equal rights.

Mr. Shores' civil rights work on behalf of all Alabamians is his living legacy for our State. This award is a tribute to the change that he was not only a part of, but made happen.

In addition to his unparalleled legal career, Mr. Shores' commitment to his community extended into the realm of civic and charitable endeavors. The Salvation Army, the Birmingham Urban League, and the YMCA, are just a few organizations that have benefitted by his participation.

Arthur Shores embodies the very characteristics that identify the American spirit—faith, courage, and determination. He is a most fitting and worthy recipient of the Living Legacy Award and a source of great pride for the entire State of Alabama. It is my pleasure to serve as his Senator in Washington.●

VENTURA COUNTY JEWISH COUNCIL

● Mr. WILSON. Mr. President, I had the honor during this past weekend to participate in the 50th anniversary celebration of the Ventura County Jewish Council-Temple Beth Torah. This model community organization was begun by a group of humble but determined businessmen who met in a Coca Cola Bottling Building in 1938. The hopes expressed on this dusty factory floor blossomed into a new temple and community center 50 years later that now serves 500 families from western Ventura County. As a fitting salute to the dream of this community becoming a reality through perseverance, hard work, and most importantly, an enduring faith, I ask that my 50th anniversary proclamation to the Ventura County Jewish Council be printed in the RECORD.

The proclamation follows:

PROCLAMATION TO THE VENTURA COUNTY JEWISH COUNCIL TEMPLE BETH TORAH

It is with great respect and admiration that I extend my congratulations to the Ventura County Jewish Council-Temple Beth Torah, on the occasion of its 50th anniversary.

This joyous weekend of events celebrates the deep ties of faith and heritage which have united Jewish families in Ventura County for half a century. And it celebrates the incalculable contributions made by the members of the Ventura County Jewish Council-Temple Beth Torah, individually and in partnership, to enrich not only the lives of its families, but also the quality of life for all Californians who live in the Ventura region of our California community.

It is also a time to remember the founders of the Ventura County Jewish Council, people who lit the menorah fifty years ago in humble, borrowed surroundings, and with bold leadership, carried its shining light from other makeshift premises to create today's headquarters and home at Temple Beth Torah.

From its small beginning five decades ago, this venerable Temple has grown in size and scope to encompass over 500 Jewish families in Ventura into its larger spiritual family as an important cultural, recreational, social, and religious center in Southern California. I salute this rich heritage and know that the Ventura County Jewish Council—Temple Beth Torah will continue to be a guiding force in our California community for many years to come.

With my very best wishes on this special anniversary occasion,

Sincerely,

PETE WILSON.●

RECOGNIZING THE MONTFORD POINT MARINE ASSOCIATION

● Mr. D'AMATO. Mr. President, I rise today to support legislation, S. 714, granting a Federal charter to the Montford Point Marine Association [MPMA]. Recognition of this organization is long overdue, and is greatly deserved.

The origins of the Montford Point Marine Association extend to the years prior to World War II. During these years, it was often difficult for black Americans to enlist their services in defense of our country. In 1941, President Roosevelt issued an Executive order permitting black Americans to join the Marine Corps. However, these men typically did not attend boot camp with other Marines; instead, they were trained at Montford Point at Camp Lejeune, NC. This segregated training continued until 1948, when a second Executive order directed the integration of the U.S. Armed Forces. Between 1941 and 1948, nearly 20,000 black troops were trained at Montford Point.

In 1965, the marines who had trained at Montford Point and had served together in combat formed the Montford Point Marine Association. Their stated goal is "to promote and preserve the strong bonds of friendship borne of shared adversities; and to devote themselves to the furtherance of these friendships as marines through the sharing of experiences and accomplishments to ensure more peaceful times." The MPMA, open to all marines and honorably discharged veterans, furthers this goal through programs to assist veterans, educational scholarships, and community action projects.

Mr. President, in my home State of New York, there are approximately 500 members of the MPMA. Through their continued devotion to the goals of their organization, these individuals have earned our genuine respect. I am pleased to support S. 714, and I urge my colleagues to join me in cosponsoring it as well.●

BOB HENDERLIDER

● Mr. SYMMS. Mr. President, I rise to salute a man who has spent 36 years fighting government regulations in the automotive industry as a lobbyist for the automobile dealers in Idaho. Mr. Bob Henderlider has led a star-spangled career including a term in the Idaho House of Representatives.

Today, I salute Bob and wish him all the best as he begins a new career in agriculture education. I am sure he will succeed in whatever activities he pursues.

Hard work, dedication, and commitment are part of the great work ethic by which Bob Henderlider lives.

I ask that an article pertaining to Mr. Henderlider be printed in the RECORD.

The article follows:

[From the Boise (ID) Statesman, June 30, 1988]

AUTOMOBILE DEALERS LOBBYIST TO PARK 36 YEAR-CAREER OCTOBER 1

(By Jana Pewitt)

Robert Henderlider graduated from the University of Idaho in 1950 with plans to launch a career in agricultural education.

But after two years as extension agent in Lemhi County and member of the Idaho House of Representatives, he accepted a job as a lobbyist for the Idaho Automobile Dealers Association and never looked back.

Almost 36 years later, Henderlider, 64, plans to retire Oct. 1 as the association's executive vice president. He will be succeeded by Tim Brennan, who currently lobbies for the Idaho Retailers Association.

"We are kind of a public relations outlet for the automobile industry," he said. "We provide dealers with information about government regulations—things that affect them."

Henderlider has been a well-known lobbyist for automobile dealers. He was heavily involved in the auto emissions program and lobbied for Idaho's seat belt law.

"This year we lobbied against sales tax on automobile repairs," he said. "Our group is interested in taxing all services rather than picking out any separate industry."

As technology has changed, the number of automobile dealers and the way they do business has changed, Henderlider said.

In the past 15 years, the number of new car dealerships in Idaho has declined from more than 225 to 139.

"We've seen the consolidation of dealerships," Henderlider said. "Some just closed up."

Dealerships in cities such as Arco and Dubois closed as population dwindled.

While the number of dealerships has declined, car sales for 1988 are up from 1987. Truck sales also are rising.

"Here in Idaho, our economic base is pretty much agriculture and lumber," Henderlider said. "Now, manufacturers are coming into the picture and there is more payroll. People who held off for a while are buying."

In Idaho, sales of American-made cars are exceeding those of foreign models, he said. "The bad feelings about American-made cars are being corrected."

American cars have been improved mechanically, Henderlider said. Also, the prices of foreign cars, which often were lower, now are more comparable with domestic auto prices.

Technology has changed the way car dealerships operate in the business office and the garage, Henderlider said, and more change is in the offing.

"There's a new machine now that they can hook up to your car and plug it into a phone," he said. "It's connected to the factory and tells them what's wrong with the car."

But Henderlider isn't sticking around for the next wave of changes in the auto industry.

"I just kind of grew into it," he said of his association post. "I've just stayed with it and I like it. Now it's time to move on."

HENDERLIDER FILE

Name: Robert M. Henderlider.

Age: 64.

Education: University of Idaho, graduated 1950 with a degree in agriculture education.

Work experience: Lemhi County extension agent, 1950-1953. Idaho Automobile Dealers Association since 1953.

Military experience: U.S. Army infantry, 1942-1945.

Family: Married childhood sweetheart, Esther, 1947. Two daughters: Gwen, Laurie.

Leisure: Fishing, golfing, gold panning.●

RETURN TO SPACE

● Mr. SYMMS. Mr. President, yesterday this Nation witnessed America's return to the space race. The successful launch of the *Discovery* space shuttle gave us all something to cheer about. Americans all over this great country watched with a small lump in their throats as the shuttle hurdled into the sky, taking men once again to the greatest frontier they have ever attempted to conquer.

A special group of workers deserves to be singled out for praise today, I am speaking of the men and women from Idaho and Utah who built the solid rocket motor at the Morton Thiokol plant in Brigham City, UT. For the past 2 years they have accomplished more in the way of testing than was done on the entire program prior to the *Challenger* accident. They have sacrificed countless hours of their personal time to help make a safe return of the Shuttle Program. I have had the opportunity to visit this plant and see first hand the dedication of the work force. As I walked through the manufacturing areas, talked with the workers and engineers, I could see in their faces how intent they were in making the rocket motors succeed.

All of the space community can be proud today, and I congratulate them on their success, but I want the people in Idaho and Utah who work on the Space Program to know we appreciate their efforts, so to them I say: Congratulations on a job well done.●

SHELDON COLEMAN

● Mr. WALLOP. Mr. President, last week the Nation lost a giant of a champion for the outdoors. Sheldon Coleman, whose name appears on well over 100 million lanterns, stoves, tents, and other recreation products in use around the world today, died at the age of 86 in Wichita, KS. His funeral was held on National Hunting and Fishing Day, which was altogether appropriate since there was not a more avid angler and hunter than Sheldon.

Sheldon combined the skills of an entrepreneur, the persuasiveness of a world-class salesman and the passions of an outdoors lover into a colorful and most successful lifetime. His personal love of the outdoors led him to move a struggling company founded by his father into the fledgling recreation industry. At the time of his death, the name of the company he had led for 60 years had grown to be synonymous with the outdoors, including within its product lines camping equipment of every shape and sort, air rifles and archery equipment, water skis and powerboats, RV heating and cooling devices and canoes.

My relationship with Sheldon started years ago as a satisfied user of his many products. When I finally met him, he was delighted to hear my tale of how his products had been part of my family's traditions outdoors. He was a proud man—proud of his efforts to help people enjoy the outdoors and proud of the great outdoors we call America.

Sheldon's active work on recreation and conservation issues began long ago. In 1964, he testified before the platform committees at both the Republican and Democratic Conventions. Through the 1980's, Sheldon was a frequent visitor to Washington. He championed the expansion of the Dingell-Johnson Program, and savored with me the success we tasted in 1984 in achieving that objective, converting that fund into what is now called the Wallop-Breaux Trust Fund to aid State fishing and boating programs., He lent his name and energies to the protection of the Nation's wetlands, and saw the results in the 1985 farm bill and other legislation. He teamed his company with another great name in the outdoors—the National Park Service—in 1984 for an innovative "donate or rebate" program, giving his customers the opportunity to donate their rebate to a program which now helps inner-city children in Ohio go camping in Cuyahoga Valley National Recreation Area. For his long-time support, he was commissioned a honorary ranger of the National Park Service.

He gave his dynamic support to the Take Pride in America Program from its inception, and just recently completed service as a judge for the national duck stamp contest.

He was especially proud of the role he played in stimulating and conducting a review of our Nation's recreation programs and priorities over the past 6 years. His efforts began in 1982, when he teamed up with Laurance Rockefeller on a privately funded outdoor recreation policy review group. That effort helped chart the course for the President's Commission on Americans Outdoors, created in 1985 and on which both Sheldon and I served.

Sheldon was easily the best-liked of the commissioners. His warmth, his enthusiasm and his charm endeared him to his colleagues and the commission staff. And our witnesses—more than 1,000—seemed to get a special kick out of testifying before Sheldon. He related especially well to the youth of America, perhaps because he shared their optimism and energy levels.

He was described as the dean of the recreation industry, a title befitting both the length and the quality of his service. He told a gathering of other businessmen not long ago, "I am the luckiest man alive. There are countless ways to earn a living. I make mine helping others enjoy the outdoors. There isn't a better calling."

Sheldon Coleman is gone, and we miss him already. We hope the vivid memories of a man who lived his life fully and well will help his wonderful wife, Galey, and inspire his son Sheldon C. Coleman, of whom he was so proud, and who has succeeded him as president of the Coleman Co.

I would like to close my words about Sheldon by sharing with my colleagues messages sent to his family by the Vice President and the Secretary of the Interior.

Mr. President, I ask that the several letters be printed in the RECORD.

The letters follow:

SEPTEMBER 23, 1988.

MRS. SHELDON COLEMAN,
Eight Hampton Road, Wichita, KS.

DEAR MRS. COLEMAN: Barbara joins me in extending heartfelt condolences over Sheldon's passing on Wednesday.

I know Sheldon loved our country very much. In particular, this was exemplifed by what he did for our great outdoors. He gave 110 percent to everything he did and served with distinction on the President's Commission on Americans Outdoors.

Even closer to home, he was very helpful through his service to the "Conservationists for Bush" coalition. He was a very good friend, and will be sorely missed.

Please know that you and your family are in our prayers.

Sincerely,

GEORGE BUSH.

THE SECRETARY OF THE INTERIOR,
Washington, DC, September 23, 1988.
Mrs. GALEY COLEMAN,
8 Hampton Road, Wichita, KS

DEAR MRS. COLEMAN: Please accept my deepest sympathies on the loss of your husband Sheldon.

Over the years, my wife Barbara and I—and many others at the Department of the Interior—came to know and appreciate so much Sheldon's expertise in and enthusiasm for recreation in America.

Our thoughts and prayers are with you.

Sincerely,

DONALD PAUL HODEL.

THE SECRETARY OF THE INTERIOR
Washington, DC, September 23, 1988.
Mr. SHELDON C. COLEMAN,
President, The Coleman Company, Inc., Wichita, KS.

DEAR SHELDON: I was so saddened to learn of the passing of your father. Please know that my wife Barbara and I have you and your family in our thoughts and prayers in this most difficult time.

Sheldon Coleman was a remarkable man whose love of country and the great outdoors was an inspiration to all of us. His insight and counsel will be sorely missed in the conservation and recreation community.

We will always remember him.

Sincerely,

DONALD PAUL HODEL.

GEORGE "PINKY" NELSON

● Mr. BOSCHWITZ. Mr. President, I come to the floor of the Senate today to speak about a Minnesotan who is in the news and who has brought great credit to himself and to the State.

We Minnesotans take great pride in our State, Mr. President, a pride that is reflected in our State motto. In French, it is "L'Etoile du Nord," which translated means "The Star of the North."

It really is a star, Mr. President, the northernmost of the 48 contiguous States, and a shining tribute to the values of hard work and perseverance. By any accounting, Minnesota has produced more than its share of national leaders and pioneers in many fields of endeavor.

From the early days of statehood, when the First Minnesota Regiment saved the day at the Battle of Gettysburg, on through Nobel Prize winners Sinclair Lewis and Frank Kellogg, the Mayo Brothers and my predecessor here in the Senate, Hubert Humphrey, Minnesota has a distinguished record of providing leaders for this Nation.

Yesterday, another Minnesotan was on hand to lend his leadership to the country. For all of us here in the Senate, it was a thrill to watch as the space shuttle *Discovery* lifted off, marking the return of America into space.

Aboard the shuttle yesterday was a native Minnesotan, George Nelson of Willmar, MN, known to his friends and colleagues as "Pinky."

Pinky Nelson was onboard the shuttle yesterday, part of the five-man crew that took the courageous step of blasting into space and resuming the important work of our Space Program.

Pinky's hometown, Willmar, is a charming city in southwestern Minnesota. I have been to Willmar any number of occasions, Mr. President, and like many other Minnesota communities, it is a great place to find honest, dedicated, hard-working people. But those same hard-working people still find time to dream dreams.

Pinky's dream, according to his friends, was to travel in space. One boyhood friend recalls Pinky being 10 years old and predicting he would someday fly in space.

Since then, Pinky has logged more than 300 hours in space. He was the first man to undergo a "space walk" without being tethered to his spacecraft. And yesterday, when our space program needed five people of uncommon courage and valor to return us to space, Pinky was there again.

Every person has his or her own dreams, Mr. President, but Minnesotans have an uncommon knack for making those dreams come true. Pinky Nelson has done it, and it is with a tremendous amount of pride in him, and in our State, that I salute his accomplishments today, and wish him a safe and successful mission.●

CHANGE TO RULES AND PROCEDURE

● Mr. DECONCINI. Mr. President, I would like to have printed in the RECORD the "Authorization for Change to Rules and Procedure of the Special Committee on Investigation of the Select Committee on Indian Affairs." I ask that the full change in the rules be printed in the RECORD.

The change in the rules follows:

AUTHORIZATION FOR CHANGE TO RULES AND PROCEDURE OF THE SPECIAL COMMITTEE ON INVESTIGATION OF THE SELECT COMMITTEE ON INDIAN AFFAIRS

Pursuant to Rule 9 of the Rules and Procedure of the Special Committee on Investigation of the Select Committee on Indian Affairs, the following change is hereby approved by the Special Committee:

Rule 4.1 governing the authorization and issuance of subpoenas is hereby modified as follows:

Authorization. Subpoenas may be authorized by the Committee, the Chairman or Co-Chairman, and may be issued by the Chairman, Co-Chairman or any member of the Committee designated by the Chairman or Co-Chairman. The Chief Clerk shall keep a log and a file of all subpoenas that have been issued.

The Special Committee directs that this change be effective immediately and further directs that the Chief Counsel provide any witnesses who may be affected by the change in rules with a copy of them. Notice of this change is directed to be published in the Congressional Record.

Dated: September 29, 1988.

DENNIS DECONCINI,
Chairman.
JOHN MCCAIN,
Co-Chairman.
THOMAS A. DASCHLE.[1]

MINNESOTA STUDENT FIDDLES HER WAY TO MISS AMERICA CROWN

● Mr. DURENBERGER. Mr. President, I would like to recognize one more Minnesotan who is making my home State and this country very proud. Gretchen Carlson of Anoka, MN, became the 1989 Miss America earlier this month.

Her strong academic skills as well as her musical ability were crucial to her victory and I am proud to know that the children of Minnesota have Gretchen as a role model.

She is not the first Miss America from the great State of Minnesota, and I'm sure she won't be the last.

Mr. President, I ask that an article from the Washington Times be printed in the RECORD as a tribute to Gretchen's achievement.

The article follows:

MINNESOTA STUDENT FIDDLES HER WAY TO MISS AMERICA CROWN

(By Scott Sublett)

ATLANTIC CITY, N.J.—Gretchen Carlson, the new Miss America and former possessor of the weighty nickname "blimpo," was valedictorian of her class at the high school that produced that rustic raconteur Garrison Keillor.

And like that author-broadcaster, Miss Carlson is no bumpkin. The 22-year-old blonde, with self-described "emerald green" eyes, is a student at prestigious Stanford University and hopes to use her Miss America scholarship to attend Harvard Law School.

An accomplished violinist, Miss Carlson has played as a soloist with the Minnesota Orchestra. Her fiddling as Miss Minnesota was crucial to her victory in this year's pageant, which weighed the talent competition more heavily than in previous years.

The first runner-up was Maya Walker, Miss Colorado, who is of black and Japanese descent. Miss Walker, like Miss Carlson, plans to attend law school.

There was a tie between Miss Oklahoma, Lori Lee Kelley, and Miss California, Marlise Ricardos, for second runner-up. The judges were asked to rescore those contestants and Miss Oklahoma came out ahead.

Fourth was Miss Alabama, Jenny Lee Jackson. Miss Arkansas, who was a favorite earlier in the week, did not make the 10 finalists, nor did Misses D.C., Virginia or Maryland.

The tie caused the Miss America telecast to run about 12 minutes overtime. At a news conference immediately following her coronation, Miss Carlson said, "I'm so incredibly shocked right now—I feel just great."

She said that during the excruciating moments while the contestants awaited the breaking of the tie, she was scanning the audience in search of her mother, hoping for encouragement.

Miss Carlson, Miss America 1989, said that during her reign she will emphasize education.

"I truly feel America's not doing enough to educate the people," she said, explaining that we live in an "amoral society" that lacks respect for education. She asserted that with discipline America could improve its educational system at no additional cost.

Echoing a theme that recurred throughout pageant week, a reporter asked Miss Carlson what she thought of the pageant's swimsuit competition. She replied that it didn't bother her, but that the pageant should add a category to measure scholastic achievement.

"Then we could truly say, 'This is a scholarship program,' and there wouldn't be any more protesters out there, because we would be judging [the contestants] on their academic ability."

Asked what kind of Miss America she would be, the 5-foot-3½-inch Miss Carlson joked, "A short one."

Before Saturday night's finals Miss Carlson had expressed confidence in her ability to win. Nevertheless, she suffered a moment of despair after answering the on-stage impromptu question—a tradition that was reinstituted this year. "I thought that I had blown it, to be quite frank."

At her first news conference as Miss America, she condemned contestants' use of cosmetic surgery as not "sincere," and said that her charms are "definitely for real."

"When I go out on stage, I know it's all me," she said, adding that she had grown up in a family—and in a state, Minnesota—that valued the "genuine-ity of people."

Miss Carlson's father, Lee Carlson, runs a Chevrolet-Cadillac dealership that was founded by his father in 1919 (Chevrolet happens to be one of the pageant's sponsors). Miss Carlson's maternal grandfather heads what Mr. Carlson called the second-largest Lutheran congregation in the country.

"She's had her many doubts this week," said her mother, Karen Carlson. The Carlsons are from Anoka, a small community north of Minneapolis. Miss Carlson is "100 percent Swedish—very proud of that." She is also proud of her moral and religious roots.

Mrs. Carlson, a homemaker, said that part of the reason she encouraged her daughter to enter pageants was to sustain the girl's interest in the violin, which flagged after years of serious study. Miss Carlson originally had aspired to become a concert violinist.

"She's a winner," said Mr. Carlson. "Everything she does, she goes 110 percent. She doesn't like to lose." He and Mrs. Carlson agreed that their daughter was "intense and organized."

Miss America yesterday posed on the beach for the traditional "morning after" photo opportunity. Then, winsome in pink knit dress and sparkling tiara, looking luminous despite less than 3½ hours' sleep, she attended a news conference where she posed at a breakfast table with her parents.

Miss Carlson revised some statements she had made the previous evening, describing the "boyfriend" as just "a very good friend" and specifying that, while she was against cosmetic surgery for herself, she did not oppose it for others. She readily admitted that she sometimes dyes her hair.

Miss Carlson has an older sister and two younger brothers. The boys (their father expects them to follow him into the family car dealership) used to tease Gretchen.

"When I used to be fat, they used to call me 'blimpo'," she said, and described how at 16 she dieted down from 128 pounds to attract a star basketball player at her high school who liked her but thought her "a little plump" (her current weight is 108). Once she dropped the pounds, she decided she preferred not to date someone who was so concerned about her looks.

She attributed her selection to the judging's new emphasis on talent—an emphasis that many veteran pageant-watchers doubted until Miss Carlson was named Miss America.

She agreed with a reporter who characterized her as "an overachiever," and expressed a dream of someday being a "very successful corporate executive." She repeated her charge that modern American society is too "lax," and said that problems such as the divorce rate could be attacked through an educational system that emphasized altruism while fighting narcissism.

Miss Carlson was presented with the keys to a red Corvette convertible, and went to the boardwalk to take possession of the car. As she strode out of the Resorts International Hotel and Casino, a beefy young man called out to her, "Yo! Come back." When she didn't, he boasted to companions, "She may not have seen me—but she heard me."●

SAT SCORES UP AMONG MINORITIES

● Mr. BINGAMAN. Mr. President, on September 20, 1988, the college board released a report indicating that scholastic aptitude test [SAT] scores among ethnic groups are continuing to rise steadily. The largest gains in the class of 1988 were among blacks and Mexican-Americans.

The college board reported that between 1978 and 1988, the scores of blacks rose 21 points on the verbal portion of the test and 30 points on the match portion, and the average scores of Mexican-Americans rose 12 points on the verbal portion and 26 on the math. Among other ethnic groups, American Indians increased their scores by 6 and 16 points, and Puerto Ricans increased theirs by 6 and 14 points. These gains were realized despite the fact that more minority students than ever before took the test this year, and greater numbers of test takers usually mean lower averages. Minorities now represent 23 percent of all college-bound students who take the SAT, compared to only 11 percent in 1973.

These improvements are particularly heartening to me, as minorities in my home State of New Mexico comprise a large percentage of our population. Nearly 40 percent of our residents are Hispanic and 9 percent are American Indian. This progress for minorities bodes well for the economic and social well-being of my State.

And they are a heartening sign for the Nation as well. They indicate that some programs devised to help minorities now may be paying off. Many educational professionals believe the improvements are the result of 1960's and 1970's educational reforms to help minorities. A key to the educational progress of many minority children is Head Start. That important program began as a summer experiment during President Johnson's antipoverty campaign 23 years ago. It now has evolved into a year-round program that administers education, health, and social services for millions of preschool children from low-income families. Another factor may be the heightened minority enrollments in solid academic high school courses—the result of greater emphasis on more demanding high school programs by college and university admissions officers.

Clearly, our Nation's commitment to preschool education and special programs for minorities at early ages is paying off. Numerous studies have confirmed that early education helps children better handle future responsibilities in and out of school. They are better prepared academically and thus less likely to drop out of school. They also are less likely to fall victim to delinquency, teenage pregnancy, and illiteracy. One study indicates that for every dollar spent on quality preschool education, at least $4.75 is saved that might have been required later for corrective education programs, public assistance, and the criminal justice system.

Programs such as Head Start enrich lives just as they save money. Minorities are a growing percentage of our Nation's population, and if we fail to nurture their academic and productive potential, we do them and our Nation a great disservice.

Early education, however, is not enough. Although the SAT scores of minorities are rising, they still lag behind the scores of Anglos, and we must find ways to close the gap. We must invest in early education and assistance throughout our children's educational years. To those minorities of limited English proficiency, we must give adequate English language training so they can progress in our society. At the grade-school level, we must support chapter 1 and Star Schools, a program to spread telecommunications technology to disadvantaged children.

Finally, to minorities in high school, we cannot just offer the hope that they will meet some college's affirmative action quota. We must prepare them to qualify for admission on their own merits and to survive in the demanding university environment once they are admitted. That means we must demand and expect more from them during their precollege years.

When more is expected and more is demanded, the possibilities for success are boundless. I was awed and inspired by the example of one teacher in California, Jaime Escalante, whose story is told in the film "Stand and Deliver." The film tells the true story of one highly committed high school math teacher who instilled in a group of disenchanted east Los Angeles Hispanic high school students the ganas, or desire, to learn and to achieve. Thanks to his untiring efforts, all 18 students in this group passed the advanced placement calculus test, a feat so remarkable that it was immediately challenged by the Educational Testing Service. The students were retested months after their final calculus class—they still passed, many with top marks.

We need more Jaime Escalantes in our classrooms. We cannot regard students who suffer from disadvantages as unworthy of our utmost efforts. We must give them the attention they deserve. When we do, they will give back as much and more. Likewise, when we recognize and respect the needs of minorities, we open the door to their positive contributions to our society, contributions that will enrich each of us individually and all of us as a nation.●

WILLMAR PINK WITH PRIDE

● Mr. DURENBERGER. Mr. President, I rise today as an American who was very proud to watch the successful launch of the space shuttle, *Discovery*, from Cape Canaveral, FL, yesterday. The eyes of the world watched with anticipation the critical phases of takeoff, and when mission control gave the all clear the loudest cheers in Minnesota came from Willmar, the hometown of one of the five shuttle astronauts, George "Pinky" Nelson.

This brave American has flown on previous shuttle missions, and will help deploy an important space communications satellite on this flight.

A critical research experiment which is being conducted while the shuttle is in space is a native to Minnesota as well. Minnesota Mining and Manufacturing [3M], the biggest corporate supporter of space research, has placed aboard the shuttle a host of tubes and chemicals which will be mixed together upon computer command. The experiment, upon success, will teach us more about how matter is formed in a weightless environment.

And, to complete the equation, Minneapolis-based Honeywell, Inc., has played a great role in the shuttle's construction. Many of the complex control systems which monitor the shuttle's flight and carriage were designed and built by Minnesotans.

As a nation, we are proud of all of those who worked so hard to successfully put these five men in space. Minnesotans are pleased to have had the chance to be a part of this historic flight.

As a tribute to Pinky Nelson and the contributions Minnesota has made to this shuttle mission, I wish to submit for the RECORD the front page article from this morning's St. Paul Pioneer Press Dispatch.

The article follows:

[From the St. Paul Pioneer Press Dispatch, Sept. 30, 1988]

WILLMAR PINK WITH PRIDE

(By John Camp)

WILLMAR.—They counted down with Mission Control, stamped their feet with ignition of the main engine, cheered when Discovery lifted free of the launch pad and held their collective breath through first stage separation.

Finally, the students at Willmar Junior High allowed themselves to collapse into a noisy, happy babble as one of their alumni disappeared into the stratosphere in America's latest step into space.

"I was glad they had a successful liftoff and I hope they have more. It's kind of neat to say that Pinky Nelson is from our own school," said Amanda Johnson an eighth grader. I think it would be neat to be "weightless in space, and exploring stuff."

George "Pinky" Nelson, a physicist, astronomer and astronaut, grew up in Willmar and was the classic student success story: president of his sophomore, junior and senior classes, straight A student, all-conference football and baseball player, a cheerful reserve on the basketball team.

And if there was anybody in this pleasant, central Minnesota town who didn't know all about Nelson, that person wasn't around Thursday morning. Television crews roamed the streets and schools looking for interviews and getting them, and newspaper reporters and photographers worked the schools.

"There's a very definite and strong effect. There's not a kid in this school who doesn't see himself doing something like Pinky Nelson is doing. He's a role model. They know that he went through the junior high school and the high school here, and it makes it more possible for them to want the same kind of things from life," said Norm Hellickson, an earth science instructor who seemed as excited by the launch as his students.

Hellickson rolled a television into his science classroom a few minutes before the launch, and cheered with his students as *Discovery* left the launch pad about 10:40 a.m. Three girls sat at one table with arms interlinked and the fingers on all six hands crossed for good luck, glancing only occasionally at the TV cameras filming then as they watched the television across the room.

"Look at that, look at that," Hellickson called to the class as *Discovery* went up, as though there might be someone who was not looking at it.

"This kind of thing just doesn't happen every day. These kids will remember this day for a long time, it's something good that's happened. And it must have an effect," Hellickson said.

"All of us are interested in it, and it was fun watching. My friend was remarking that she was real excited and that she wants to go up in space. It gives you a feeling that makes you want to do the same thing," said Courtney Powers, an eighth grader.

"It was neat. I was just hoping that nothing would go wrong like it did last time. I was pretty tense when it went up," said Dan Martens, also an eighth grader.

The Willmar schools were doing everything they could to encourage the pupils' interest. Students were wearing pink, for Pinky, and a few minutes after 11 a.m., hundreds of them gathered in schoolyards for a mass release of pink helium balloons. The Willmar radio station was monitoring and rebroadcasting Kennedy Space Center's mission control for minute-by-minute updates, with a Willmar science teacher doing a running commentary.

The focus of all the interest was Nelson, a 1968 graduate of Willmar High School and a mission specialist on *Discovery*. Since he graduated, Nelson has taken degrees in physics, astrophysics and astronomy—the last a Ph.D. from the University of Washington—and has flown on two previous shuttle missions.

Before the launch of the *Discovery*, he had 314 hours in space, and was the first man to do an untethered space walk with the so-called "jet-pack." He has a total of nine hours of "space-walking" under his belt. On this mission, he will help deploy a communications satellite.

Mervin Ellwood, a work experience coordinator at Willmar Junior High was a social studies instructor in 1964 when Nelson went through junior high school.

"Pinky was an excellent student, hardworking and serious about his schoolwork, but he enjoyed life, too. He was an excellent athlete, all-conference in football and baseball. Pretty much of an all-around good kid," Ellwood said.

"He stays in touch with people around town, his classmates and so on. Quite a few of them are down there in Florida for the launch, and they were down there in 1984, too."

Nelson, 38, was last in town in July for his 20th class reunion. He was president of his sophomore, junior and senior classes. He was also here to speak after his first flight, and was the graduation speaker at Willmar High School in 1987.

"You know what one of the kids said just now?" Hellickson asked as he watched the pink balloons soaring up into the overcast sky. "He said, 'Pink is for pride.' I thought you'd like to hear that."●

ACID RAIN

● Mr. MOYNIHAN. Mr. President, by way of introduction to the material that will follow these remarks, I must observe that we have come a long way in the fight for an end to acid rain. I personally have been pressing the Senate on this matter since I entered the Senate in 1976. Concern for damaged lakes in the Adirondacks and other parts of New England was what really got things going in the mid-1970's; Senator Muskie held the first hearings in Washington in 1975. During those hearings scientists tried to convince us that acid rain was real. Too many people remained unconvinced. Too many years have gone by, but it appears that this year we might finally take some action.

The only acid rain bill that has ever been enacted is my Acid Precipitation Act of 1980. In the last 8 years this legislation has provided the stimulus for a federally coordinated and funded program of acid rain research. Back in 1980 the Congress could never agree to the type of bill we may succeed in passing this year, one that would actually reduce emissions leading to acid rain. And so in 1980 we did a very forwardlooking thing. We put in place a system to amass the data to prove, as those intimately involved with the subject already knew, that acid rain really does exist, and that we must do something about it. Now that data is coming in, and people are coming around, as was foreseen.

The discussion I will place in the CONGRESSIONAL RECORD today will be just one more piece of the already large record on acid rain. It is the transcript of a hearing I held in Lake Placid, NY, on July 23, 1988. Lake Placid, as many will know, is near the center of the single most threatened region in the country when it comes to acid rain. Participating were myself, Thomas Jorling, who is New York State's Commissioner of Environmental Conservation, Dr. Volker Mohnen with the State University of New York at Albany's Atmospheric Sciences Research Center, and Mr. Charles Clusen, who is executive director of the Adirondack Council.

Mr. President, I ask that the attached transcript be printed in the RECORD, at this point.

The material follows:

PUBLIC HEARING REGARDING ACID RAIN

Senator MOYNIHAN. We thank you all for coming today, and hope that today's hearing will add to the process of building a record on the subject of acid rain. Some might think that what is said at these proceedings is not heard in Washington. Well, this is not true. These field hearings are truly integral to what we do in the nation's capital. These proceedings bring a touch of reality.

A moment ago I was looking at a clipping from the L'Challet Record Democrat dated July 15, 1981. We were holding an acid rain hearing at Saranac just a few miles away. I am quoted as saying ". . . you know you can only read so much about acid rain. You have to go out and get some black flies, stand in the rain say that you've seen it." And so you can see we have been holding these forums up here for quite some time.

And that's because New York has the unenviable position of being the region in the nation most affected by acid rain as we now understand the phenomenon. The northeasterly winds and storms that come up from (and Dr. Mohnen, follow me very carefully and make strange sounds if I get this wrong) the region encompassed by Ohio, West Virginia and Pennyslvania. These storms hit the Adirondacks first which are the first large chain of mountains along the path of these storms. And you can plainly see the effects here in the Adirondacks. The first, lakes that the storms encounter are the ones most seriously affected. I am going to be visiting one of these, Piseco Lake, a little later this morning.

And so we have the dubious distinction of being most affected, but it also to be recorded that your delegation, the New York delegation, responded first. The first and the only legislation on acid rain that has ever been enacted in Washington was the bill I introduced in 1979, which was, you might say, a trout fisherman's bill. We did not know that much about this subject, but we knew fish were dying, and more importantly, fish were not thriving in some of these lakes. It is not, as any layman such as I might think, that the water gets acid and the fish drink the water and the next thing you know they go belly-up. It is more complicated.

These are granitic lakes, and the acid releases aluminum—the granite has aluminum traces—and this gets into the gills. For example, Mirror Lake here in town has a limestone base, and the minerals in limestone act as a buffer to acid rain damage.

I introduced legislation in 1979—the Acid Precipitation Act of 1980. The bill was passed. It is very important to note that the bill was passed before the phenomenon of acid rain was clearly understood. There was a concurrent resolution introduced in 1978. It was in 1979 that I introduced a bill proper, which is S. 1754, which I amended on the Floor on November 9, 1980 and which became the Acid Precipitation Act of 1980. This Act established the National Acid Precipitation Task Force, and set up $45 million dollars over 9 years to develop the data base and the scientific evidence needed if we were going to ask the country to do something. It is now time to go to the Congress and say "Now, we're asking for a large effort, and this is why. This is what we have learned." We have learned a great deal.

It is a mystery, if you like, that in almost a century of forest researech, a century in which they have measured the first robin to arrive in this area, the last leaf to fall, the depth of the snow, the color of the sky, they did everything but take measurements of the acidity of the water! They just did not.

The oldest data on acid rain is random and thus falls short of the scientific absolute. What is the longest study? Perhaps twenty years. Not one hundred but twenty! Now in recent years, we have ten years of data for every place, and that changes our understanding. Of course we quickly established the connection between coal emissions, particular kinds of high-sulfur coal, and wind streams. If I may say so, we are doing well. Congress is not resisting this new information.

I am now a ranking member of the Committee on Environment and Public Works. I was not a ranking member in 1980, I was a junior member, but they approved the bill nonetheless. But them as the evidence mounted, responses became more difficult. As I previously stated, in 1980, we passed the first bill, and the only bill to date. The next year, following a hearing in Saranac, I introduced the first measure to propose a control, a limit, on sulfur dioxide emissions. This was known as the Acid Precipitation Control Act of 1981. And then the troubles began.

The early evidence clearly indicated that something had to be done. The question facing legislators, however, was "To what extent does acid rain represent a national problem?" Unfortunately, and I do not mean to be critical—I just mean to be descriptive—an administration had come, to office which was very unresponsive to this kind of issue. And I do mean unresponsive. In the case of the director of the EPA, as far as she was concerned, acid rain was caused by too many campers leaving too many bottles of vinegar behind, or something like that.

I remember a scene and I'd like to take a second to describe it. In the spring of 1981, the State University at Buffalo, which has a U.S.-Canada center, was holding a conference on acid rain. I was asked to speak at the lunchoen. I arrived in Buffalo that morning, and had a meeting with the editorial board of the old *Courier Express* which, unfortunately, is no longer publishing. When I arrived, they said, "You may be interested to know that the Canadian Foreign Secretary is at the Amherst Campus of the University of Buffalo. He is waiting to greet you." He was, as you may know, is a very fine gentleman named McGuigen. Needless to say I was shocked. I said, "My heavens! And where is our Secretary of State, Alexander Haig?" "I don't know where Haig is," was the answer. Wherever he was, he was not in Buffalo." I could not believe it.

And so I asked if I might use their phone. I called the White House, and I said, "Hey, this is Senator Moynihan from New York." It happened to be someone at the White House that I knew and I told him, "the Canadian Minister of State for External Affairs was standing on the Campus of the State University of New York at Buffalo, and he is talking about acid rain! Why is there not even an assistant counsel here to meet him? Where is the Secretary of State?" The response I received was rather cool. I was told that the Secretary of State was en-route to a foreign ministers' meeting of NATO in Rome. And I said, "Well, where the hell do you think McGuigen is en route to? And who the hell do you think will be sitting next to him when he gets to Rome? Alexander Haig, that's who!" Once they realized their gaffe they immediately asked me what to do. I told them that they must immediately send a cable of apology. So I wrote the cable for them. I dictated it to them, and asked if they could sign Haig's name. They responded that only Haig had such authority. And so it went. The idea that this might be an issue engaging the interest of the Secretary of State was beyond them. The fact that it was so hard to engage the interest of this country—even given the immense interest of the most important other country in the world to us—had just never sunk in.

The United States and Canada share so much together. And when we have a problem—a common problem—we both must work together on it. And such is acid rain.

And so later President Reagan appointed Drew Lewis, a very able former cabinet officer to be special commissary to Canada on Acid rain. He and the Canadian representative, Mr. Davis, came up with an agreement for emission reductions. It was never pursued by this Administration. But it was not a proposal, it was an agreement. The two countries agreed. It is on that subject still that a problem exists. The issue was who is going to pay for this. The first bill, I put in. The next one came from Senator Mitchell. (He had just arrived in Congress and immediately became interested in the subject. He is from Maine of course. And this is now his subcommittee). Our bills said that whomever is putting this sulfur dioxide into the atmosphere has to put less of it. That's all. Period. That was easy for us to say because the costs were being born in other places. We used an old rule, which is, the polluter pays. And yet sulfur emissions are so heavily concentrated in one set of polluters, who would have to do the paying that the political arrangements were not there for a polluter bill to pass. We had to come up with a cost-sharing program. This was first proposed by a Representative from California, Mr. Waxman, and more recently, Governors Cuomo of New York and Celeste of Ohio who proposed a sharing program. We now have in the Senate a big bill that is tied to a ten million ton reduction in sulfur dioxide emissions over a short period of time that will be paid for by an increase in electricity rates everywhere. I think we may now have the outline of a national solution.

I hope in the next two to three years we can accomplish a viable solution to this crisis. Remember, this began with hearings held in the Adirondacks in the late 1970s. We were the first to pick up the problem. We were the first to identify it. We were the first to analyze it. We are going to hear more about that this morning. I leave this introduction with one bit of hope—actually, more than that. I am generally optimistic that this is becoming much more an object of national awareness than it was when we first began talking in the seventies. People are finding problems in many other states.

There is a big smelter in Mexico that is aimed right at the Rocky Mountains. They are beginning to feel the effects of acid precipitation just as we have felt the effects of a Canadian smelter in Ontario. The most startling event was a plume of acid rain that went from the Houston area more or less due east. It passed over the city of Tampa, Florida which of course is on the Gulf of Mexico. That city happens to be the place where most of the automobiles shipped into the eastern United States are off-loaded. They have vast parking lots, like Iowa cornfields, and there is literally nothing but cars. Two years ago there were hundreds of BMWs parked there, and acid rain spoiled the finish on all of them. The response from that part of the world was quite remarkable, in that you could do what you liked to lakcs, but don't fool around with BMWs.

I now have the great honor to introduce Commissioner Tom Jorling, who is our very able and distinguished head of the State Department of Environmental Conservation. Mr. Jorling was formerly a member of the staff on the Senate Committee on Environment and Public Works. Commissioner, good morning.

TOM JORLING. Thank you Senator. Good morning. I think it's a testament to the interest in acid rain controls that after three days of acid rain falling, and a beautiful sunny day on a Saturday morning, that we have this kind of attendance here. Senator, I'd like to thank you for hosting this forum on the topic of acid rain. Especially, as you point out, here in the Adirondacks. I'm sure you have experienced the same thing I have, and you have alluded to it. That is, no matter where you go in this country and talk about acid rain, the Adirondacks are synonymous with acid rain damage. It is in effect the place that people point to as the part of the nation that is experiencing acid rain damage.

But it is not just the Adirondacks. There are many areas of the country that are suffering damage, including all of us that breathe sulfur-laden air. We are also aware, Senator, of your continued efforts dating back ten years, when you took the lead in efforts to address this very serious problem. You were the driving force behind the creation of the National Acid Precipitation Assessment Program, the NAPAP Program, designed to provide an objective look at the science underpinning both the release and the effects of acid rain. In the fact of constant opposition from the Reagan-Bush administration, you, along with members of your committee and Senator Mitchell, have attempted to enact a very progressive acid rain control program. You are a leader. We in New York are very deeply appreciative of that.

You have also described some of the efforts in Washington to underscore the importance of getting acid rain controls enacted. I think it is important for us to point out that without the federal government's help, without federal legislation, no matter what we do in the State of New York, we cannot protect our environment and avoid the impacts of acid rain elsewhere. Sources of emission in New York are responsible for only 17 percent of the acid deposition that falls in our state. The remainder comes from other states, and the great bulk of that remainder comes from fossil fuel burning sources in the Ohio Valley. Even if we turned off every light, shut down every factory in the State of New York, we would still have acid rain damage produced. New York has taken as much action as it can in its effort to deal with acid rain. In addition to the continuing efforts of Senator Moynihan and the committees of Congress, we have enacted our own acid deposition control program in 1984. We were the first State in the Union to enact controls on emissions of sulfur which call for reductions beyond those established in the Federal Clean Air Act. We have required the emitters of sulfur dioxide in New York to reduce their emissions already. As a result, we have reduced by 146,000 tons the emission of sulfur into the atmosphere. Simply put, we have applied additional controls on our own sources.

This produces an economic disadvantage for us and our economy, yet we have been so concerned about the effects of acid rain that we have been willing, as the State of New York and its citizens, to impose those additional costs. We will, under our own law, apply additional controls on those same sources under the second phase of the state acid rain control program. When we do, we will have exceeded the reductions that will be applied, or would be applied, by any of the statutes enacted at the national level. So New Yorkers have attempted to be good citizens. We have not asked others to bear our burden—we have already borne that burden here. We have also made considerable efforts to develop the kind of information that is necessary to support national legislation. Along with the Empire State Electric Research Corporation, which is a consortium of the electric utilities in the State of New York, we, the Department of Environmental Conservation, have put together what is called the Adirondack Lake Survey Corporation. Its job is to research the damage that has occured in the Adirondacks. The results are clear. In fact, the results are even clearer than those of the NAPAP study.

In the Adirondacks now, 26 percent of our lakes have reached a pH level below 5, which is the sort of agreed upon definition of a fully acidified aquatic system. In addition, another 19 percent of our lakes fall between 5 and 6 on the pH scale. Those we consider to be extremely sensitive and vulnerable to further acid deposition damage. This is in sharp contrast to the NAPAP study, which only found 10 percent of the lakes in the Adirondacks with an acidified character. The reason for the difference is that the NAPAP study only looked at lakes and ponds of 10 acres of larger. Obviously, common sense tells us that those ponds and lakes smaller than 10 acres have the least buffering capacity and are the most vulnerable. In fact, our study shows, these have been acidified—damaged. The data is in. We know—and we think the evidence is conclusive enough this time—for the national government to act. But it has been trying to act in the face of steadfast opposition from the Reagan-Bush administration. We hope that given the changing political circumstances present in the country that we may be on the verge of a breakthrough.

To demonstrate the potential to achieve that kind of breakthrough (a potential that can only be achieved through political leadership) Governor Cuomo last year, at the National Governor's conference, concluded that the bugaboo of regional impasse—of regional conflict—alleged to be paralyzing Congress, could be addressed head-on. Governor Cuomo directed us to work with the staff of Governor Celeste of Ohio to determine whether or not the state identified with the most severe impact, New York, and the state identified clearly with the highest emissions from any state in the Union, Ohio, could sit down together and see if there was common ground.

Over the past winter, that common ground was established. We were able to agree with Ohio. Governors Cuomo and Celeste have announced an agreement on a control program—a control program that meets New York's requirements of at least a reduction of a half in the amount of acid deposition in our state, and Ohio's concern about the rate of economic impact that would be borne in its state.

We have reached agreement on those elements and have proposed to Congress an agreement which would, we hope, break that bugaboo of regional impasse which has so far paralyzed the national government. So, there is common ground and it is important that Congress act. Congress should have the support of a national administration in that regard. Each day that passes without the elimination and reduction of sulfur compounds produces a greater impact here in the Adirondacks. If we look to the history of any environmental issue, it is clear that preventive measures are far cheaper and much more cost effective than trying to repair damage. That is most certainly the case with respect to acid rain. We now hope that the stage is being set for more effective action by Congress and continued action in the state.

Before I close, I would like to take this opportunity to acknowledge Senator Moynihan. I would like to express my thanks to you for your continued support—not just for the acid rain control programs that are so vital to the State of New York—but for environmental programs in general. As the Senator pointed out in some modesty, he is the ranking member of the Environment and Public Works Committee, and in that capacity has a great deal of influence over matters that effect our environment. He has led the effort to provide assistance from the federal government in continued protection of our water through the Construction Grant Program and its transition to revolving funds. The fact that the State of New York receives approximately $100 million per year, more than any other state in the Union, including California, is a testament to his effective representation of the State of New York.

I am very grateful for that, and I think all citizens should be grateful. His work on infrastructure, the kinds of systems he feels we must put in place to protect the environment over the long haul, are legendary. We are very fortunate to have that kind of representation. We are the direct beneficiaries of his efforts. I want to take this opportunity, Senator, to assure you that we are deeply appreciative of those efforts. I am grateful for the opportunity you have afforded me to speak this morning, and I hope that we can have an interesting dialogue in the session that follows. Thank you.

Senator MOYNIHAN. I once heard Lyndon Johnson respond to similar kind remarks. He said, "I wish my mother and father could be here to listen to what you said. My father would have enjoyed it. My mother would have believed it."

We now have the very true distinction of having Dr. Volker Mohnen of the State University at Albany to speak with us. Dr. Mohnen, whose doctorate is from Munich, is a scientist of great promise and increasing achievement. He just handed me a paper which will appear in next month's *Scientific American* called "The Challenge of Acid Rain". The subtitle reads "Acid rain's effect in soil and water leave no doubt about the need to control its causes. New advances in technology have yielded environmentally and economically attractive solutions."

If I can make a point, it is that in proceeding with this situation, we did not do as some of our environmental counterparts did when they said, "There is a problem. I can see it, feel it, touch it or whatever, and I know that it is. Don't bog me with facts," and then proceed to respond in ways that did not have much effect. From the beginning, we knew we were dealing with a complex matter. It is not just wet precipitation, it is dry precipitation. We must remember, my one and only bill says "acid precipitation" which means dry precipitation as well as wet.

There are cloud problems. The trees on top of the White Mountains spend about a quarter of the time surrounded by acidic clouds. We are learning to measure that, and we are learning what to do about it. Here is a scientist who is at the cutting edge of all this enterprise. This paper, which I have just received and have not read, is obviously going to make a great deal of difference. Dr. Mohnen, won't you please come forward, sir.

Dr. VOLKER MOHNEN. Thank you, Senator, ladies and gentlemen. Let me first start off with a little anecdote. When the word acid rain was first heard, people started to make jokes at almost every meeting we had, that went like the following: If you are asked by the audience: "Do we have an acid rain problem at a certain place?" The standard answer of most scientists those days was "Well, if you plant cucumbers and you harvest sour pickles in the fall, you've got an acid rain problem."

I think time has long since gone that we joke about it. It is a deadly serious problem. What we recognize now is just the tip of an iceberg of a much, much more global problem. It is man's interference with the integrity of bio-geo-chemical cycles. And if anyone in the room says they understand what I just said, they are lying. So let me explain.

The atmosphere is a temporary holding reservoir through which material is constantly cycled. When you go in your rose garden, you smell the roses. Well, the roses smelled before man came. This is part of the biology of the rose that some of its products are given off in the air—waste products. Trees smell of turpentine. Trees give off all kinds of gases. There are pollens in the air. So all of that makes the atmosphere really a holding reservoir. It is a reaction vessel where things are processed.

Why are they processed? Because the eternal rule of space and earth is: You must recycle. And Commissioner Jorling, you know what that means for a different aspect. So here, good earth, mother earth, has given us the internal mandate that says: "You must recycle—re-use everything that is produced". If this space ship we call earth were to have nothing but rocks and inorganic material, and no living organisms, then obviously the question of recycling would be simple. But since this is one of the few planets that also has life, and life expands continuously through evolution, we are continuously producing more species. Speciation is the word of progress, and each species emits material into the atmosphere. Herein lies the rule of recycling.

It so happens that all sulfur-, nitrogen-, and carbon-containing molecules are given off by living organisms; may it be trees, or shrubs or microorganisms in the soil. Sulfur is given off by bacteria in the ocean in the form of di-metal sulfite, which is pugnant to the nose. It is then oxidized in the atmosphere and hence comes back down to earth as sulfate. So this cycle goes on and on, and what we now find is man, through his technology and through his activity, and most obviously through fossil fuel burning, is interfering with that natural process. While natural cycles will yield concentrations of sulfate in the air that are minute, hardly detectible by scientific instruments, man puts out those substances in a massive, concentrated way. Since they must be recycled, they come back to earth in great quantity, as acid deposition. That's where the problem comes from.

Since biology is involved, chemistry is involved, and geology is involved (with volcanoes and soil erosion), we refer to this process as being bio-geo-chemical in nature. Since we recycle, we call them bio-geo-chemical cycles. The integrity of those cycles is crucial for our own survival. If we interfere with those cycles, then life on earth will change. Finally, man has realized that. Finally!

Now, we talk about global changes. Acid rain is just one fraction, although the most visible fraction, of the change that is going on. You can measure a lake that is acidified. You can measure rain that falls from the sky and contains the impurities that rain must carry back. Rain washes the atmosphere—it is the global laundry. It brings down man's and nature's products but man's products dominate.

So in that sense, it was in 1980, a decade ago, that Senator Moynihan started in a very small way with the acid rain bill that he has described. This started a massive research effort. The very fact that I am here today and that my summer salary is paid quite comfortably is in no little way thanks to your bill, Senator Moynihan. So, I have a personal reason to be grateful, in addition to the official reason. I thank you on bahalf of all scientists, and there are tens of thousands in the United States—in agencies such as the National Science Foundation, the Environmental Protection Agency, the Department of Energy, the Department of the Interior, and the list goes on and on—who are part of this effort envisioned ten years ago by Senator Moynihan.

Those scientists, within government agencies, who follow to a good degree their own scientific instincts in working with us, the university scientists, and with others, do not to a great degree follow the political climate on top. Scientists, I hate to say, Senator, do not ask if you are a Democrat or a Republican. Rather we ask, "Is this Senator or that Senator responsive to the kind of problems we present to our legislative leaders?" And if the answer to that is yes, and quite frankly, if a little bit of money flows so we can do research, then we call him or her a good Senator. In that respect, you've been a good Senator. A leader!

Where are we today? There has been much criticism that the scientific community has not come forward with answers fast enough. In testimonies we have been told to cut off one of our hands to avoid the scientific habit of saying "on the one hand it is like this, but on the other hand it is like that." Famous indeed this speech has become to many legislative people in Washington. The point being that they did not want to listen anymore.

So, where are we today? I think through the National Acid Precipitation Assessment Program, or NAPAP as it is called, which will report its findings in 1990, we will establish that indeed man interferes with the integrity of bio-geo-chemical cycles. Acid rain indeed is a problem not only for the Adirondacks but is a problem for many other areas, including the West. We have established that there are other substances that must carefully be watched, most predominantly, photochemical oxidants, (or ozone), hydrogen peroxide and others. We talk today about acid rain. We mean this as a catch-word as Senator Moynihan pointed out, for a larger variety of problems. Today, when the scientific community says acid rain, we meet rain, snow, clouds, sulphur dioxide gas, sulfate aerosol, nitrate aerosol, ozone, and perhaps others. We now include all of these under acid rain, because we now consider acid rain and all the other problems that come from fossil fuel burning as politically one problem. A problem yet to be resolved.

I guess this is what scientists will fight for in the next decade. The NAPAP program will come to an end in 1990. I can say on behalf of the entire scientific community as we are in close contact through conferences workshops and other scientific endeavors, that I sincerely hope you will protect the vision you instilled ten years ago. I rest assured that you will protect this vision into the next bigger frame, that is called global change. We need to study in a greater context the integrity of bio-geo-chemical cycles, and ultimately extend our concern from one region to the entire globe.

Some of you might have heard that chlorofluorocarbons, as were included in aerosol sprays, or the stuff you put under your underarm, is killing the ozone layer. The irrefutable proof has now come in from the Antarctic. This phenomena indeed takes place. It took fifteen years to prove, but now that the proof is in, and CFCs are dead. You can see them going out. So, scientists can indeed come forward with answers, but they are slow in coming.

That leads us to the next question. How long should one wait for action? If you see something, but cannot really prove it all the way, then should you look further? At the same time you must look at other sites where the ecosystem suffers. If you do so, you will find that fossil fuel combustion is indeed our number one global problem at this time. From a scientific point of view, it means that we must strive for the highest efficiency whenever we burn fossil fuel. We should do it with the highest achievable efficiency. We should do it by also achieving the lowest emissions, not only for sulfur, but for other pollutants as well. If you only look for sulfur, you miss a lot of the other problems. Nitrogen oxides are a problem. You must also realize that in the atmosphere these products interact, and eventually you have that "chemical soup" that causes problems. The ecosystem has been weakened not by sulfur alone, but by the synergistic effects of sulfur, nitrogen, and carbon. All of these molecules come from fossil fuel combustion.

The time has now come to do something, and I will close with this. Technology has leap-frogged science. We have technology that can mean the repowering of old, coal burning power plants; and also will lead to the introduction of clean coal technology. New products can come, and are coming to the marketplace, which will give us better fuel efficiency and therefore, better and lower emissions. Ultimately over a period of fifteen to thirty years, we may be able to lower emissions by at least fifty percent all around—for nitrogen and sulfur. This will slow the growth of the carbon dioxide which so adversely affects our climate.

Now Senator, if I may close with one other note. We have seen the acid rain problem grow from an Adirondack problem—a lake problem—into a national problem involving fossil fuel combustion everywhere. But it is bigger than that. This is a global problem that includes China, Russia, West Germany and the rest of the industrialized world. We have scientific tools that are now available through super-computers which model the entire eastern United States, and I think that from a technological point of view we have the solution to reduce these emissions. Not only for sulfur, but for all other substances too. You can look back with a great deal of pride that one single bill provided the incentive to do all that. But you should not rest on your achievement. I strongly encourage you and your staff to work now for the next phase of concentrated study and effort—global change. You are to be commended for such strength and leadership.

Senator MOYNIHAN. I hope you saw at work not just a first rate mind, but a first rate enterprise. World science and American science, is learning. One of the great arts of government in our age—I think Commissioner Jorling would agree—is to bring science into our counsels in an intelligent way. It is difficult. More difficult than you might know, and I'll take just a moment to expand on this.

I plan to have these proceedings printed because so many suggestions have come forward. In the history of the United States Senate, there has been only two natural scientists that ever served in the body. The second was Harrison Schmidt. Senator Schmidt was an astronaut and a geologist from Harvard. He and I used to have lunch sometimes when the Senate was not busy and we would merely talk about things. I used to tell him that he was the second natural scientist. He was the first natural scientist to actually serve in the Senate—Thomas Jefferson, another scientist presided over the Senate as Vice President.

I have a very slight connection to the scientific world. I was a member of PSAC (President's Science Advisory Committee). There were two and a half social scientists that had ever served on PSAC. The first was Herbert Simon who had a PhD and nobel prize for demonstrating that computers think. The second was Jim Coleman in Chicago, and I'm the half. But still I was there, and I can testify to some of the things Dr. Mohnen mentioned.

In 1969, there was a twentieth anniversary of NATO, and President Nixon had to make a speech. But what was he going to say about NATO the twentieth time? He sent around a message to get other ideas. I was an assistant for Urban Affairs in his administration. At some point it was suggested that NATO take up environmental issues. He thought that was a good idea—any idea was a good idea. The result was something called the Committee on the Challenges of Modern Society, which the Europeans resisted with great distaste at first. During this decade we have been trying to get out, but now the Europeans insist on it. We brought the environmental movement to Europe, as it was developing in the United States. The issue we brought was the question of ozone. But it was one of about half a dozen issues.

At that time, going back about twenty years, you could walk down a corridor of Cornell University, in the physics department, and knock on each door. In one door you'd find a kindly old gentleman who claimed that the world was going to end in fire because the ozone layer is being depleted. You would knock on the next door and ask when this was going to happen, and the answer would be, "but not next year—in five million years". As if this was not enough, you could knock on the next door and an equally kindly old gentleman would tell you that the world was going to end in ice because we are sending up so much particulate the sun would not be able to get through at all. We are all going to freeze to death. How soon? About five million years. As you can see, it was a divided question, and I think in the last fifteen years it has been resolved. The fire people seem to be winning.

These are wonderful questions; they are deeply important; they are international. That point is clear. I am also a member of the Committee on Foreign Relations. Last August, a year ago, I went over to Moscow. Three of us went. They insisted we were a delegation. In fact, we were actually there to look and see what the hell they had done to our embassy. They insisted that we were a delegation and we met in great formal meetings in the Kremlin. We went well beyond the level of being polite or trying to change the subject from immigration and things such as that. They felt that we really ought to work on environmental problems. We have a lot in common regarding our environmental problems. Let me ask, how much distance separates the borders of the United States and the Soviet Union at their closest point? 25, miles at the Bering Strait.

Is it that mix of foreign and community concern and legislative action that has so successfully brought together our next special, Mr. Charles Clusen. Mr. Clusen is Executive Director of the Adirondack Council. As many of you know, they have been a guardian of these green hills and mountains for so many generations. Sir, we welcome you.

CHARLES CLUSEN. Thank you senator for holding this forum. We appreciate the opportunity, at any time, to talk about the grave problem of acid rain. I might start by saying that we have been experiencing now for the past eight years of our national administration the new version of the three ancient monkeys. That is to say, we hear no evil about acid rain, we see no evil acid rain, and we say there is no evil acid rain. We sincerely appreciate your efforts in spite of this vulnerable and critical problem. I now believe that we are on the verge of doing something very significant to solve at least part of the problem.

The Adirondack Council has, for over a decade, worked very hard to bring the acid rain problem to the forefront. This has accomplished by publishing pamphlets and brochures; by educating our members; by working with the media, and the public at large. We also are a lobby organization which frequently goes to Washington. We have played a significant role in organizing the New York State Acid Rain Coalition. In fact, one of our staff people was the chairman of that organization. Lastly, we are a very active member of the National Clean Air Coalition. Senator Moynihan, you have said it is an international problem, and the only way to solve it is through a combination of national legislation and international treaties. In any case, I think everybody in this room has, in some way, experienced acid rain or the result of acid rain. Virtually everybody knows of someone whose favorite fishing hole is no longer a good fishing hole. I think everybody has seen the devasting affects of acid rain on the red spruce on our mountains. This is a very personal thing to all of us and we have all experienced it. We know there is this problem even if some say it doesn't exist. We do not believe them. The evidence is with us.

Acid rain is a very silent problem that is gradually choking our lakes and streams. As Commissioner Jorling has pointed out with the new results of the Adirondack lake survey, there is absolute proof that we have scratched the surface of a problem that must addressed in depth. When you combine the lakes which are critically impacted and those that are endangered you are then speaking of almost fifty percent of the lakes in the Adirondack Park. Senator, we all know there is a problem and we thank you for your great leadership. But we must move as a nation on this problem, not as an individual state. You do not need to live in the Adirondacks or in acid deposition areas to recognize that there are grave problems. If we cannot appeal to an individual's sense for the natural environment, then perhaps we can impress them with the cost of maintenance for public buildings that have been devasted by the affects of acid deposition. EPA studies indicate a three and one half billion dollar impact. Moreover, there is another study that indicates in the seventeen northeastern states there could be a six billion dollar per year problem soon if something is not done.

Forest decline is being reported in many places. In the southeast, yellow pines have been experiencing a decline of forty to fifty percent in growth rates. I was talking to the local Director of the Department of Environmental Conservation here yesterday. He was telling of the noticeable decline in forest growth in this area. He noted further that this is not an experience just in the east or the Appalachians. It is being experienced in the Rocky Mountains, and it is being experienced in California. There are also studies that indicate economic damage or impact on the growth of agricultural crops. In some areas, like California, this could be very significant. Let me reiterate, if I may, that even if one does not care about the natural environment—and I think everyone should—we have heard a fine presentation indicating why we should be concerned, at the very minimum about the economic impact.

Also to be considered is the insidious threat to our nation's health. The sulfates in the air pose a very significant health hazard to people who have respiratory problems. As many as fifty thousand premature deaths in our nation each year may be the direct result of this poison. It is also, perhaps, causing an increase in the cancer rate and may pose a serious problem to our drinking water. When acid water infiltrates the water system it can literally decompose the pipes and sometimes heavy metals are released into the drinking water. They can be carcinogenic. It is also a suspect, in that it can leach out metals in the soil and run into lakes. If that lake is used as a water supply, you can see the problem.

So all in all, I think the case has been made that acid rain is not good for our individual health, and it is not good for our nation's economic health. I would like to particularly commend you, Senator, for being a sponsor of S. 1894. This bill is the bill that the citizens throughout this nation have supported. We thank you for your very great efforts on the Committee on Environment and Public Works, and for your efforts behind the scenes to move that legislation. We are very hopeful that now, perhaps, we can accomplish something. We would like to commend Governor Cuomo and Governor Celeste for their historic agreement. I would also like to commend Commissioner Jorling as he has been personally involved. He has tremendous expertise dating back to when he worked for your committee, Senator. In any event, I think we now have a well-documented case. We know that there is a problem. We have reached a situation where we have demonstrated this problem nationwide. We are breaking across the original lines and there are new ideas of how to deal with the problem of who must pay. There is little question that there will be a significant pricetag. At any cost, it is well worth it. It is time to move on this knowledge, and get it done.

We sincerely hope that a bill can be passed this Congress. I know you are working very hard to do that Senator Moynihan. In any event, we certainly are pleased that you have made it an absolute top priority for the 101st Congress. It is very interesting that even though we know damage is being done and is being done at a very rapid pace, we still maintain a level of hope. Acid rain is not something that we have to live with, and there are now studies coming out that show that lakes can be recovered. We must somehow turn off that precipitation. There is a natural resilience in the environment that enables recovery. It is not just a matter of saving those lakes that are left in the Adirondacks, but rather the restoration of all lakes in the Adirondacks to their natural state. We commend you again for your efforts. While I'm up here, I would also like to commend the Senator for not only being a leader in the area of pollution, but also for your fine leadership in dealing with our natural environment on the Subcommittee on Public Works as well and particularly your co-sponsorship of S. 1804, the Arctic Wildlife Refuge protection bill.

Senator MOYNIHAN. One point that should be made; we shouldn't think of anything as irreversible. For the last quarter century my wife Liz and I have lived on a farm down in Delaware County which is just on the western slopes of the Catskills. Around the 1880's there was a small publishing industry in that area which would publish county histories. You could subscribe, and if you did, your farm would be included in the published volume—you could have yourself and your wife or your horse (they usually seemed to pick their horse) in the picture. My wife Liz gave me one of these things for Christmas fifteen years ago for the year 1884, for Delaware County. It was for the town of Davenport where we live, and in one entry, this obviously older gentleman was quoted as saying "Well, the first major animals to disappear were the deer." He had last seen a deer in 1854 and he had last eaten venison in 1855—that would be a quarter of a century earlier. This was an area where there were a number of tanneries, and they would just cut the big hemlock trees down, strip the bark, and there were no more trees after a while, and no more deer.

But this gentleman was hopeful that the trout would one day return to the streams, and the deer to the forests. Well, that was ten years before Theodore Gordon began developing the American art of fly-casting on the Beaver. In ten years we had the richest trout streams in the eastern United States. On a given spring day at our farm you can count eighteen deer in the dooryard. There are more deer shot in Delaware County than in any other county in the state. All this is by way of saying that once you damage a system, it is not irreversable. Natural systems recover in time. Not right away perhaps, but in time.

We have been working for many years down in Washington to pass the next stage acid rain bill. We may get it this year and we may not. If we do not, though, the next President will sign it. I said the next President, whoever that is. And when this happens we will start drafting a plan for the next decade of NAPAP, to look not just at our problems, the Adirondacks' problems, but global problems. There are things we need to know; how does the rule of recycling work, and how is it going, and what do we have to do with fossil fuels?

And so I think we have come full circle this morning, and all of you should know that we are at work down here in the Capital, and we will get at this problem.●

THE LEGACY OF MUNICH

● Mr. BOSCHWITZ. Mr. President, today marks the 50th anniversary of the conclusion of the infamous Munich agreement—the agreement that set the stage for World War II. Half a century ago, Britain and France, unprepared to challenge the growing military might of Nazi Germany, blessed Hitler's plan to annex Czechoslovakia's Sudetenland—a small gesture that was to have global repercussions.

The modern state of Czechoslovakia was created by the breakup of the Austro-Hungarian Empire in the Versailles Treaty. An ethnic mixture, Czechoslovakia was founded on Western ideas of pluralistic democracy. Indeed, 50 years ago, Czechoslovakia was a prosperous industrial state—and the only genuine democracy among the remnants of the old Hapsburg Empire. All this began to change when the Nazis, having already annexed Austria, turned eastward for their next conquest.

Adolf Hitler initially restricted his claim to Czechoslovakia's Sudetenland, home to ethnic Germans who, Hitler claimed, were oppressed by Czech rule. Although both France and the Soviet Union had mutual assistance pacts with Czechoslovakia, Hitler's threat to invade the Sudetenland led to their acquiescence, not resistance. Stalin remained silent while French Premier Deladier joined with British Prime Minister Chamberlain, Italian dictator Mussolini, and Hitler at Munich. At the meeting, Chamberlain and Deladier handed Hitler the Sudentenland; Hitler handed them a signed promise that he had no further territorial ambition.

Chamberlain returned to London with a worthless piece of paper, proclaiming, "peace in our time * * * peace with honor." Hitler, however, had obtained a strategically important region of Czechoslovakia. In less than 6 months, Hitler used the Sudetenland to invade the "rump" of Czechoslovakia, Bohemia and Moravia. The Nazi armies of occupation acquired the enormous Czech armaments factories, adding greatly to their war machine. All this occurred months before Hitler's invasion of Poland, the event that officially marks the beginning of World War II.

Only a few politicians—Winston Churchill was one—understood what Hitler was up to. Fortunately, my father had such foresight and took us from Germany in 1933. That's why the so-called lessons of Munich mean so much to me: I am here because my father rightly appraised what Hitler meant well before it became absolutely clear to the rest of the world.

Ronald Reagan has adapted the lessons of Munich to our own day, and our Nation is more secure and democracy is flourishing around the world as a result. Despite Chamberlain's good intentions, appeasement leads not to peace but to war. A world leader must lead world events, not be led by them. To compare America's role in the world in the 1970's and the 1980's is to learn the lessons of Munich all over again.

In the latter half of the 1970's America seemed to lose its will to lead. Important weapons systems, such as the B-1 bomber, were canceled and morale sank in our Armed Forces. At the same time, the intelligence-gathering capabilities of the CIA were weakened. Congress imposed restrictions on America's ability to act abroad. We responded to diplomatic crises with such futile gestures as grain embargoes and withdrawing from the Olympic games. With these apparent unilateral United States moves to retrench around the world, it's no wonder the Soviets showed little inclination to accommodate Western concerns.

As a result, in almost every section of the globe, the influence of Marxism and the Soviet Union or other totalitarian dictatorships grew. Look at the list: Angola, Ethiopia, Vietnam, Laos, Cambodia, and Nicaragua all fell under Communist domination in the 1970's. Dictatorships of the right took over in Chile and Iran. The Soviets moved into Afghanistan. Throughout the decade, the U.S.S.R. had engaged in the largest arms buildup in world history. At the end of the Carter administration, Defense Secretary Harold Brown remarked bitterly that he had learned, "when we build, they build; when we stop, they build."

But as this decade dawned, the United States, under the leadership of President Reagan, made a commitment to turning this situation around. We reaffirmed our commitment to aiding democracy and encouraging the development of representative government around the world. The results have been extraordinary.

During this decade Brazil, Argentina, Peru, Ecuador, Uruguay, Surinam, Grenada, the Philippines, South Korea, Bangladesh, Pakistan, Turkey, Sudan, Guatemala, Honduras, and El Salvador have all established democracies. To be sure, some of these young democracies are fragile and perhaps incomplete. They need our continued support. But there can be no doubt that the cause of freedom has expanded and triumphed in this decade.

And what has happened to dictatorships of the left and the right? Their expansion has ceased. Not a single square foot of land has fallen to Communist expansion in this decade, nor has a single country fallen from freedom to a rightist dictatorship. In fact we're witnessing the Soviets withdrawing from Afghanistan. That's absolutely unprecedented—never before have the Soviets given up land they had purposely seized. In the area of nuclear arms, the United States and U.S.S.R. have signed and ratified the Intermediate-range Nuclear Forces [INF] Treaty—the first treaty in the nuclear era to eliminate an entire class of weapons.

Mr. President, on this anniversary of the tragic Munich agreement, I think that we should reflect on the reasons why the 1980's have been such a good decade for peace and democracy. I think that it is clearly because Ronald Reagan rejected the philosophy of appeasement of Neville Chamberlain and understood that peace comes through strength. The United States restored the strength of its Armed Forces and pursued its goals in the world with resolve and assurance. We have sent a welcome to those who would attempt to expand freedom, and a warning to those who seek to crush freedom. As a result, the world is a more free and secure place than it was just 8 years ago.●

ARIZONA AND IDAHO LANDS BILL—S. 2840

● Mr. McCAIN. Mr. President, I am here today to express my strong support for S. 2840. This bill reported from the Senate Committee on Energy and Natural Resources on September 27, 1988, contains the provisions of three bills which will have a profound impact on lands within the State of Arizona. Due to the unique and significant nature of these provisions, I would like to address the merits of each bill individually.

THE SAN PEDRO RIPARIAN NATIONAL CONSERVATION AREA

Upon enactment, S. 2840 would establish the San Pedro Riparian National Conservation Area. This 56,431-acre region would be welcome and important addition to the lands already set aside in Arizona and our country. Moreover, the preservation of this terrain is vital if we are going to protect the unique riparian area of the San Pedro River in Cochise County, AZ.

The San Pedro River, which runs through the proposed conservation area, is a long stretch of desert riparian habitat that cannot be found anywhere else in this country. While by no means pristine, this area is in good condition and deserves to be under the stewardship of those who can ensure its preservation.

In addition, the San Pedro area is home to an outstanding array of wildlife. Many rare raptors, such as the gray hawk, Harris hawk, and the black hawk have been spotted in the San Pedro. Even the rarely seen aplomado falcon has been sighted hunting for food in the area.

The San Pedro area, however, also contains more than 120 archeological, paleontological, and historic sites. It is the site of the Presidio of Santa Cruz de Terrenate and the location of 11,000-year-old Paleo-Indian sites. The American Revolution-era Presidio is a fortress that is part of Arizona history, and when one stands at the edge of the ruins they can view practically the same scene the Spaniards had over 200 years ago. Moreover, among the paleontological sites are those containing the fossils of extinct mammoths, camels, bison, horse, and deer.

Mr. President, the establishment of the San Pedro Riparian National Conservation Area will assure that future generations of Americans will be able to utilize the recreational, wildlife, educational, and scientific benefits this region has to offer. This area deserves special designation and it is my hope that we can act on this legislation as quickly as possible.

THE ARIZONA-FLORIDA LAND EXCHANGE

Mr. President, S. 2840 contains the provisions of H.R. 4519 in its entirety. As you may know, H.R. 4519 provides for the closing of the Phoenix Indian School and sets forth a legislative plan for allocating the property at the site for future public and private uses. The legislation would ratify a proposed land exchange among the United States, Collier Enterprises, and the Barron Collier Co. Under the terms of the land exchange, the Colliers would transfer to the United States approximately 108,000 acres of environmentally sensitive land in southwest Florida in exchange for approximately 68 acres of the 104 acres at the site of the Phoenix Indian School in Phoenix, AZ. The remaining 36 acres would be divided among the Veterans' Administration, the city of Phoenix, and the State of Arizona.

Mr. President, a lot of time and effort has been expended over the last 2 years in putting this land exchange together. Members of the Arizona congressional delegation have themselves been closely involved in the development of this exchange. This legislation has been the subject of open and extensive public debate, including three congressional hearings.

I believe the Arizona-Florida land exchange is in the best interest of the United States. Not only will 108,000 acres be added to the Big Cypress and the Florida Panther preserves, but 11.5 acres will be provided for the expansion of the existing Veterans' Administration Medical Center. In addition, 20 acres is guaranteed to the city of Phoenix for use as a park, and 4.5 acres will be set aside for the State of Arizona should they elect to establish a State veterans' nursing home in the future. And finally, the Colliers would pay the United States $34.9 million which would be used to establish two educational trust funds for the educational, child welfare, and facility construction needs of Arizona Indian tribes.

A number of questions have been raised concerning the value of the Florida property involved in this exchange. These questions are wholly the result of confusion about the details of the long process underlying the Collier-Department of the Interior negotiation process. Nevertheless, some clarification is required. These questions suggest that the Florida properties have not been properly appraised, and that large portions of the tracts involved in the exchange are underwater and are not actually owned by the Colliers.

First, with respect to the values of the lands, the U.S. Department of the Interior performed appraisals of three of the four tracts of Florida lands, following standard appraisal practice and procedures used for all Interior Department land acquisitions. These appraisals were based on sales of comparable property in the area, and fully comply with nationally accepted commercial appraisal standards.

With respect to the value of the fourth tract, the parties initially set an estimated value of $26.6 million and agreed ultimately to rely on the outcome of a related Florida State Department of Transportation condemnation proceeding to confirm the accuracy of that value. In that proceeding, the value of the Collier land was determined pursuant to appraisals using standard Member of Appraisal Institute practices. These appraisals were undertaken and approved according to well-established Florida Department of Transportation and Federal Highway Administration practices. Under the Florida Department of Transportation proceeding, the value of the lands Collier owns and would convey under the exchange agreement was determined to be $28 million. The result is that the United States would be acquiring the largest tract in the exchange at lower than its appraised value.

In short, all the values of the Florida lands were negotiated on the basis of standard commercial appraisal practices, undertaken by or on behalf of public agencies.

One of the four areas to be acquired in the exchange is the land within the Ten Thousand Islands area. Approximately 4,000 acres in this area are below the mean high-water line and are subject to an unasserted claim by the State of Florida. The remaining 15,000 acres of upland are clearly owned by Collier. In the exchange, the Interior Department negotiated the 15,000 acres of the upland in the Ten Thousand Islands at $5.8 million. The Interior Department did not assign any value to the submerged lands, and Collier gets no credit for any value of the submerged lands in the exchange. At the request of the Interior Department, Collier has quitclaimed whatever claim of title it may have to the 4,000 submerged acres, but at no additional cost to the United States. If it is ultimately determined that Collier does have title to the 4,000 acres, the United States would have acquired them at no cost. Even if it should ever be determined that the State owns them, these lands will still be in public ownership, which is exactly the right outcome from the perspective of environmental conservation. In either event, the United States has paid nothing for the small parcel of submerged lands in the deal.

Another question that has been raised concerns the value of the Phoenix Indian School property. For purposes of valuing the property, the Department of the Interior conducted two appraisals. The first appraisal found that if the entire property were developed at its highest and best use that is, high density, high rise, and commercial space—the present value of the property would be approximately $160 million. That appraisal was not accepted by the Interior Department because the consistent position of the city of Phoenix has been that the property would be zoned as a mixed use high- and low-rise development, and that every effort would be made to maximize public open space. The planning and zoning agreement between Collier and the city makes clear that this kind of mixed-use zoning is the objective that all parties intend to achieve.

For that reason, the Department of the Interior contracted for a second appraisal, which took into account the likelihood of mixed-use zoning and greater public open space. That appraisal resulted in a value of $122.2 million for the tital site. Because it will take some time for the zoning process to be completed, particularly given the level of public participation required by the planning process, the appraiser was required to make assumptions as to the likely outcome of the zoning process. The GAO, in its review of the Phoenix appraisal raised a concern that these zoning assumptions may prove incorrect. This is a legitimate concern; an appraisal is, in effect, an expert's best guess as to what a willing buyer will pay and a willing seller will accept for property in an arm's length transaction. It is therefore, never a totally "realiable" test of the value of a piece of property. This is of particular concern when the property is not zoned, and elaborate assumptions respecting zoning have to be made. If ultimately the zoning permits more intense development, the property value will be higher. If the zoning is more restrictive, the property value could be less.

I am convinced that once the outcome of the zoning process is known, it is important that the value to be paid by Collier should be put to a test to ensure that the value received by the United States represents the full value that a willing buyer would pay. Thus, the only true test is to put the property on the open market, and test the price paid for the land under the exchange agreement against other competitive bids. For that reason, the bill requires that prior to the closing of the exchange transaction, the property will be put up for competitive bid, and other parties will be given an opportunity to bid on the property. If higher offers are received, Collier, who has undertaken the complex zoning effort, will be given a right to match the higher offer. If no offers are received, the value we now assume for the Phoenix Indian School property will have survived a true market test and the land exchange can properly go forward.

Mr. President, after 2 years of hard work on this legislation, I believe the Arizona delegation has put together a defensible and supportable package that maximizes the benefits to everyone with a legitimate claim on the property, while minimizing—if not eliminating—the costs to the Federal taxpayers.

Finally, Mr. President, I wish to express my appreciation to my colleague, Senator DECONCINI, for his efforts in developing this legislation. I would also like to thank Senator CHILES and Senator GRAHAM for their contributions and support. I am proud to assist them in their efforts to preserve and expand the Everglades.

THE SANTA RITA PUBLIC LANDS EXCHANGE ACT OF 1988

Mr. President, the final portion of S. 2840 that pertains to lands within the State of Arizona is known as the Santa Rita Public Lands Exchange Act of 1988. The original bill of which I am a cosponsor and enthusiastic supporter, and the provisions incorporated in S. 2840 provide for a series of land transfers and administrative actions affecting lands under the jurisdiction of the Bureau of Land Management, the U.S. Fish and Wildlife Service, the Bureau of Reclamation, the U.S. Forest Service, and the State of Arizona. Santa Rita is the product of many months of negotiations between Federal, State, local, and private individuals in Arizona and in the long run all Americans will benefit when the exchange of approximately 300,000 acres of State and Federal lands in Arizona takes place.

I would like to briefly comment on some of the major provisions contained within the Santa Rita measure:

The 51,000-acre Santa Rita Experimental Range south of Tucson would be transferred to the Arizona State Land Department. The area would continue to be managed by the University of Arizona for ecological and range research, but it would be protected from the development which is encroaching on this area day by day. This and certain other transfers under the bill are a repayment to the State of Arizona for the remaining debt for 12,000 acres of State trust land taken south of Tangerine Road for the central Arizona project [CAP] canal, for compensation for lands taken for the construction of the new Waddell Dam, as well as for requiring State trust lands within the Buenos Aires National Wildlife Refuge and the Catalina State Park. The latter two will be transferred to the U.S. Fish and Wildlife Service and the Forest Service, respectively.

In addition, 60,000 acres of State trust land on Perry Mesa, which lies within the Black Canyon corridor, would be transferred to the Bureau to manage the outstanding remains of Pueblos dating from 1200-1400 A.D. and other multiple use values. Under State trust administration, these resources did not receive the protection they will receive under Federal administration. Transfer of an additional

16,000 acres of land north of Lake Pleasant to the Bureau for multiple resource management and expansion of the regional park surrounding Lake Pleasant would consolidate ownerships which are now intermingled and ultimately make the area easier to manage. The Forest Service, in turn, would acquire from the State 520 acres at Madera-Elephant Head Trail and 1,350 acres at Arivaca Lake.

One of the important benefits to be derived from this exchange is the complete elimination of land management and fiscal constraints on the Buenos Aires National Wildlife Refuge caused by State-owned lands, lands lying within refuge boundaries and currently leased by the U.S. Fish and Wildlife Service.

The Buenos Aires Refuge is faced with prohibitively high-lease payments for State-owned lands within its boundaries. Over the 10-year lease period, lease payments are scheduled to increase annually from $90,197 in 1988 to $541,185 in 1996. This increase has a crippling effect on the operating budget of the refuge, and would result in the restriction of the budgets of all refuges in Arizona as funds would have to be taken from them to help pay the Buenos Aires lease costs. The increase has arisen from reclassification of the lands by the Arizona State Land Department from grazing to commercial with a concomitant increase in estimated value.

Mr. President, these State-owned acres are integral to the operation of the refuge. Comprising over 80 percent of the total refuge area, the State lands buffer the riparian areas comprising the majority of the watershed and provide potential habitat for the endangered masked bobwhite quail. The only viable solution to the situation was through the complete exchange of lands between the BLM and the Arizona State Land Department, and this is what this bill will accomplish.

Last, S. 2840 provides for the inclusion of the 80,497-acre known as the Tinajas Altas within the Cabeza Prieta Refuge. The Military Lands Withdrawal Act of 1986—Public Law 99-606—transferred administration of the surface resources to the Bureau of Land Management. The Bureau currently is in the process of completing a management plan and resolving management issues on the Barry M. Goldwater Range, which includes the Tinajaz Altas area. Transfer of administration would enhance long-term management.

The U.S. Marine Corps now operates over the existing lands of the Tinajas Altas through an existing interagency memorandum of understanding [MOU]. Initially, there was much concern whether the Corps would be allowed to continue its current operations once the transfer took place since the refuge is "managed pursuant to the National Wildlife Refuge System Administration Act of 1966." But an amendment I authored was incorporated in this package which calls for the development of a separate, additional MOU for the Tinajas Altas. This was essential to ensure that the area is successfully administered as part of the refuge but that necessary military activities on or above the lands are accommodated.

Mr. President, I truly believe that S. 2840 is a very good piece of legislation. Its passage would enable the involved Federal and State agencies to better accomplish their goals and provides future public benefits in areas of research, recreation, economic growth and development, wildlife, cultural, and water and land related programs. As priviledged stewards of this Nation's precious resources efficient management is more than good policy—it is our responsibility. I strongly urge all of my colleagues to support this legislative measure.●

UNITED NATIONS

● Mr. DURENBERGER. Mr. President, on Monday, we witnessed the farewell address of President Reagan to the U.N. General Assembly, an address culminating a welcome change on the part of the President toward the United Nations. And this week, we witnessed the long overdue recognition of the U.N. peacekeeping forces with a Nobel Peace Prize. The selection of the Nobel Committee was especially timely given the recent progress in negotiations over a series of regional security conflicts—in the Persian Gulf, Afghanistan, Cambodia, Western Sahara, and Southern Africa. Supporters of the United Nations like myself have seen the value of this international body dedicated to the peaceful settlement of conflict and the open exchange of ideas.

Afters years of contentious disputes—and many welcome reforms—the administration decided to release $44 million in dues for the current fiscal year and to settle roughly $520 million in past debts to the United Nations and its associated organizations. I made my concerns known on many occasions to the White House over this vital international debt. I applaud the President for his decision.

Since its inception after the Second World War, the United Nations has repeatedly played a key role as the one place in the world that friend and foe could argue their case. And never has the United Nations been more important than in 1988. As President Reagan said in his address on Monday, "Today the United Nations has the opportunity to live, breathe and work as never before. Already, you, Mr. Secretary General, through your persistence, patience and unyielding will, have shown, in working toward peace in Afghanistan and the Persian Gulf, how valuable the United Nations can be. And we salute you for these accomplishments."

Perhaps the best known U.N. organizations are the peacekeeping forces—made up of soldiers from around the world serving lonely and dangerous duty in often hazardous conditions. The U.N. peacekeeping forces have finally received the appreciation they deserve. Ten thousand men and women make up the front lines of peace and they are stationed in areas of conflict from Lebanon to Cyprus, in Afghanistan, and between Iran and Iraq. Frequently acting as a buffer for hostile parties, 733 members of U.N. peacekeeping forces have sacrificed their lives for peace. Their efforts are far from vain, because they are exemplary of the dedication and determination of the United Nations to fulfill its role in the international community.

Our commitment to the peaceful resolution of the conflicts around the world can be made a reality through the efforts of U.N. peacekeeping forces. Mr. President, I ask that an article describing the resurgance of the United Nations be inserted in the RECORD at this point. I also ask that an editorial from the September 28, 1988, Star and Tribune that applauds the recent cooperative spirit evidenced at the United Nations between the superpowers be printed in the RECORD.

The material follows:

[From the Minnesota Star Tribune, Sept. 28, 1988]

THE SUPERPOWERS' U.N. HANDSHAKE

If precedents governed, a nasty debate between superpowers could have taken place the past two days at the United Nations. Its failure to materialize is a further sign that the United States and the Soviet Union, along with many other member states, are taking the organization seriously.

One precedent worth preserving has been evident this week. It is the comfortable mingling of foreign ministers and other top officials gathered for the opening of each year's General Assembly. President Reagan has been highly visible, meeting with NATO allies Tuesday and addressing the Assembly on Monday. Compared to his previous six Assembly speeches, this one nearly gushed with praise, especially for Secretary General Javier Perez de Cuellar. Aside from a perfunctory slam at the Soviets for not moving fast enough on human rights, Reagan was upbeat about prospects for superpower coexistence. Even on subjects that preoccupy him—space-based defense and Nicaragua's Sandinistas—he was relatively restrained.

The Soviets reciprocated. In his speech to the Assembly yesterday, Soviet Foreign Minister Eduard Shevardnadze expressed agreement with Reagan's view of improvements in regional security. In less formal comments a week earlier, Shevardnadze's deputy was even more emphatic about the cooperative era—a contrast, he said, to earlier years when his country had been unhelpful. Like a White House aide elaborating on a presidential message to Congress, the deputy foreign minister spoke of specific new Soviet concerns for human rights, international law and peace-making.

Some of this on both sides is mood music that cannot drown out basic Soviet-U.S. disharmonies. Abrasive speeches in years past amplified the differences. The welcome new signal by each superpower to the other—and to other U.N. members—is an emphasis on cooperation.

[From the Washington Post, Sept. 25, 1988]

UNITED NATIONS FINDS ITSELF "BACK IN FASHION"

(By John M. Goshko)

UNITED NATIONS.—The autumn sunlight dancing across the glass facade of the U.N. Secretariat building hard by Manhattan's East River aptly reflects the current mood here. After years of condemnation for alleged financial profligacy, ineffectiveness and radicalism, the United Nations suddenly is basking in the glow of a revived reputation as a global peacemaker.

"We are back in fashion," said Secretary General Javier Perez de Cuellar, in bemused acknowledgment of the changing perceptions of the United Nations since he took office in 1982.

The turnabout will be underscored Monday when President Reagan comes here to say farewell. His address to the 43rd annual General Assembly session will come two weeks after he moved to end eight years of wrangling over money that had turned Uncle Sam into "Uncle Deadbeat," the U.N.'s biggest debtor, and brought the organization to the brink of financial disaster.

Some have said that Reagan's order to the State Department to pay $188 million in back dues and a promise to settle $520 million in past debts was intended to ensure him a warm reception from the United Nation's 159 member countries.

But the U.S. move was more than a public relations ploy. Richard S. Williamson, assistant secretary of state for international organizations, noting that the United Nations has moved to correct many problems that caused the U.S. holdout, said Reagan's move was meant as an acknowledgment of "real progress toward reform and an attempt to foster still more progress."

There were other reasons for the administration to start settling its debts, however. In the past eight months, countries involved in several of the world's most worrisome regional conflicts have shown signs they are ready to stop fighting and seek peace.

While circumstances differ, common to each of the following conflicts is the realization that U.N. mediation and peacekeeping offers the best framework to work for a resolution:

Afghanistan. In April, after six years of U.N.-sponsored talks between the Moscow-backed Afghan government and Pakistan, representing the mujaheddin rebels, the Soviet Union agreed to withdraw all its troops by early 1989, ending almost nine years of occupation.

Persian Gulf. Prodded by the U.N. Security Council, Iran in July agreed to a cease-fire in its eight-year war with Iraq. The cease-fire is being monitored by 350 U.N. military observers while Tehran and Baghdad try through Perez de Cuellar's mediation to negotiate an end to their bloody war.

Southern Africa. Talks among South Africa, Angola, Cuba and the United States show signs of movement toward agreement to withdraw Cuban troops from Angola and to obtain neighboring Namibia's long-delayed independence from South Africa. Under Security Council Resolution 435, adopted 10 years ago, the United Nations would supervise elections and the transition to independence.

Western Sahara. Last month Morocco and the Polisario guerrilla movement accepted a U.N. plan to end 13 years of warfare and observe a U.N.-supervised cease-fire while they negotiate who should control a remote area of the Sahara region.

Cambodia. The parties to the bloody Southeast Asia struggle are considering a U.N. role in supervising the withdrawal of Vietnamese troops from Cambodia and establishing an interim government of communist Khmer Rouge and noncommunist forces.

U.N. Officials acknowledge that these developments evolved initially less from their efforts than from a convergence of events and trends in the regions involved.

U.S. officials strongly credit the Reagan administration for insisting on U.N. reform and for pursuing a tough, assertive foreign policy that had strong impact on many regional conflicts.

"If Ronald Reagan had not [supported] the mujaheddin with Stinger missiles and other equipment, the Soviets probably wouldn't have moved to get out of Afghanistan," Williamson said.

"When it became a question of how to get out, they saw the U.N. as a great potential facilitator," he said. "But the decisions were made not in New York or Geneva by [U.N. mediators] but in Moscow."

He and other administration officials also contend that the Iran-Iraq cease-fire partly resulted from the administration putting a massive naval presence in the Persian Gulf and working in the Security Council and elsewhere to deny Iran weapons to continue fighting.

Other observers think that exhaustion and war weariness meant more than U.S. policy in cooling the regional disputes.

"Neither Iran nor Iraq could continue to endure much longer the slaughter that had mounted into the hundreds of thousands," said a senior U.N. offical who asked to remain anonymous. Noting Soviet fears of a "mirror image" in Afghanistan of the U.S. defeat, Vietnam, he added that if a Namibia solution is close, "it is largely because the South African government is aware that its electorate is not eager to have its sons killed in Angola."

Others strongly credit Perez de Cuellar, whose shyness has made him the least visible of the five men who have led the United Nations in its 43 years. Despite his low profile, the Peruvian diplomat, 68, is regarded by U.N. members as a skilled, patient and trustworthy mediator. One U.S. diplomat, who declined to be identified, said:

"The secretary general has carved out a niche in diplomacy where no one considers him a threat to their interests. He cannot force or instigate solutions, but he is an almost perfect, honest broker. He can keep nibbling at a problem, waiting for the parties to decide they want his mediation. . . . His patience is paying off."

Perez de Cuellar said: "The most important role of the secretary general is to help the parties in a dispute save face. When someone has to make a concession, it is easier to do it through the secretary general than directly to one's adversary."

But many U.N. veterans and U.S. officials said the most important reason for the world body's new effectiveness has been the dramatic shift in Soviet U.N. attitudes under Mikhail Gorbachev. Senior diplomats here are convinced Gorbachev wants to end many of Moscow's costly regional involvements to focus on changes he wants to make at home.

Gorbachev has promised to pay substantial Soviet U.N. debts and enunciated a new policy of working to strengthen the U.N. role in resolving international disputes.

Improved U.S.-Soviet relations allow the superpowers to "get together in the Security Council or in a less formal forum to reach a consensus that it's time to force a problem to resolution," said Brian Urquhart, a former U.N. undersecretary general. "That leaves less and less room for recalcitrant parties to play Washington and Moscow off against each other."

He added, "The lion's share [of credit] must go to the Soviets if only because they started from so much further back. . . ."

A Ford Foundation scholar since retiring in 1986, Urquhart said the United Nations was founded so that World War II's major victors, through their permanent Security Council votes, could forge a global consensus and give other countries confidence that the United Nations would resolve their disputes fairly and impartially.

"But it never worked that way because the Soviet Union from the outset became an obstacle to consensus," he said. Almost everything that has happened since at the United Nations, Urquhart said, has been an attempt to overcome Soviet obstacles.

In the early years, the United Nations was a Cold War battleground symbolized by walkouts of such scowling Soviet diplomats as Andrei Vishinsky and Andrei Gromyko and by Moscow's efforts to eliminate or cripple the secretary general.

In the 1960s, the burgeoning Third World bloc of newly independent, decolonized nations of Africa, Asia and the Middle East sought to use its superior numbers to gain a significant measure of U.N. control.

Under the nonaligned movement's banner, they coordinated classic logrollings to gain healthy shares of budget and personnel patronage, vote resolutions supporting each other's pet causes and seek to deal with the superpowers on equal terms.

In the 1970s, Third World shrillness rose against the United States and such close U.S. friends as Israel. In 1975, the General Assembly passed a resolution stating that "Zionism is a form of racism. . . ."

The Reagan administration refused to let criticism of the United States or its friends go unchallenged, and denounced what it saw as U.N. waste and incompetence.

In 1984, the United States pulled out of the U.N. Educational, Scientific and Cultural Organization (UNESCO), charging gross mismanagement and anti-Western bias. Two years later, Washington began pressuring the main organization, withholding some dues to force reforms. A budgetary struggle between administration and Congress has widened the U.S. payment gap through legislative cuts in U.N. funding.

U.N. members resented these tough U.S. tactics, but the stage was set for Perez de Cuellar to meet many of the U.S. demands by calling for budgetary austerity, a 15 percent cut in the U.N.'s 13,500-member work force, and giving bigger donors more say in financial matters by making decisions through consensus rather than majority vote.

Although not fully mollified, senior U.S. officials said Washington has agreed to pay U.S. arrearages in part because of a 13 percent reduction in U.N. personnel and the expected acceptance of consensus decisions by Third World members.

The action came as Perez de Cuellar was warning that the United Nations might have to close its doors in November. Noting that Reagan has only promised to pay all back debts over a period of years, U.N. officials say the organization has no reprieve, but merely a delay of a financial crisis that awaits longrange resolution.

If recent mediation efforts succeed, the United Nations soon will face new peacekeeping operations in Namibia, Cambodia and the Sahara that could exceed $2 billion a year, nearly three times its current annual budget. It is unclear whether superpowers will pay the bill.

"When I joined the U.N., people actually believed it would be able to end wars and eliminate the need for armies," Urquhart said. "It's unlikely that we'll ever come back to that kind of belief. But if the encouraging developments of recent months hold fast, if the Soviets really want to use the U.N. as a substitute for unilateral action, then the effects could be profound for all manner of world affairs.

"But it's a bit too early to sound the trumpets," he said.

ADDITIONAL COSPONSOR—S. 1349

● Mr. McCAIN. Mr. President, I ask unanimous consent that my distinguished colleague from Nebraska, Senator KARNES, be added as a cosponsor of S. 1349, legislation to amend the Internal Revenue Code of 1986 to improve the portability of pension benefits.

Coming to this body just a year ago, Senator KARNES has shown himself to be an individual with the promise to become a very valuable Member of this body. He does his homework on the issues, is thoughtful in his approach, and is most capable in his representation of the people of Nebraska.

I know one provision of the legislation that is of particular interest to Senator KARNES is the one that would permit individuals, without a tax penalty, to tap into their retirement benefits for the purpose of meeting long-term care and other catastrophic-related health care expenses of their own, or an immediate family member.

I thank the Senator for his interest in this legislation, and look forward to his involvement in the effort to pass portable pension legislation.●

THE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished acting Republican leader, Mr. ARMSTRONG, as to whether or not Calendar Order No. 1002 and Calendar Order No. 1017 are cleared on his side of the aisle.

Mr. ARMSTRONG. Yes, they are cleared on our side of the aisle.

In addition, we show as cleared number 994.

Mr. BYRD. That has been removed.

Mr. ARMSTRONG. We will remove it from our records.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of both of those items.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMPLEMENTATION OF INTER-AMERICAN CONVENTION ON INTERNATIONAL COMMERCIAL ARBITRATION

The Senate proceeded to consider the bill (S. 2204) to implement the Inter-American Convention on International Commercial Arbitration, which had been reported from the Committee on Foreign Relations, with an amendment. On page 5, after line 7, insert the following:

SEC. 4(a) Chapter 1 of title 9, United States Code, is amended by adding at the end thereof the following new section:

"§ 15. Inapplicability of the Act of State doctrine

"Enforcement of arbitral agreements, confirmation of arbitral awards, and execution upon judgments based on orders confirming such awards shall not be refused on the basis of the Act of State doctrine.".

(b) Section 1605(a) of title 28, United States Code, is amended by—

(1) striking out "or" at the end of paragraph (4);

(2) striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or"; and

(3) adding at the end thereof the following:

"(6) in which the action is brought, either to enforce an agreement made by the foreign State with or for the benefit of a private party to submit to arbitration all or any differences which have arisen or which may arise between the parties with respect to a defined legal relationship, whether contractual or not, concerning a subject matter capable of settlement by arbitration under the laws of the United States, or to confirm an award made pursuant to such an agreement to arbitrate, if (A) the arbitration takes place or is intended to take place in the United States, (B) the agreement or award is or may be governed by a treaty or other international agreement in force for the United States calling for the recognition and enforcement of arbitral awards, (C) the underlying claim, save for the agreement to arbitrate, could have been brought in a United States court under this section or section 1607, or (D) paragraph (1) of this subsection is otherwise applicable.".

(c) Section 1610(a) of title 28, United States Code, is amended by—

(1) striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or"; and

(2) adding at the end thereof the following:

"(6) the judgment is based on an order confirming an arbitral award rendered against the foreign State, provided that attachment in aid of execution, or execution, would not be inconsistent with any provision in the arbitral agreement.".

So as to make the bill read:

S. 2204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 9, United States Code, is amended by adding:

"CHAPTER 3. INTER-AMERICAN CONVENTION ON INTERNATIONAL COMMERCIAL ARBITRATION

"Sec.

"301. Enforcement of Convention.

"302. Incorporation by reference.

"303. Order to compel arbitration; appointment of arbitrators; locale.

"304. Recognition and enforcement of foreign arbitral decisions and awards; reciprocity.

"305. Relationship between the Inter-American Convention and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958.

"306. Applicable rules of Inter-American Commercial Arbitration Commission.

"307. Chapter 1; residual application.

§ 301. Enforcement of Convention

"The Inter-American Convention on International Commercial Arbitration of January 30, 1975, shall be enforced in United States courts in accordance with this chapter.

§ 302. Incorporation by reference

"The provisions of chapter 2, sections 202, 203, 204, 205 and 207 shall apply to this chapter as if specifically set forth herein, except that for the purposes of this chapter "the Convention" shall mean the Inter-American Convention.

§ 303. Order to compel arbitration; appointment of arbitrators; locale

"A court having jurisdiction under this chapter may direct that arbitration be held in accordance with the agreement at any place therein provided for, whether that place is within or without the United States. The court may also appoint arbitrators in accordance with the provisions of the agreement.

"In the event the agreement does not make provision for the place of arbitration or the appointment of arbitrators, the court shall direct that the arbitration shall be held and the arbitrators be appointed in accordance with Article 3 of the Inter-American Convention.

§ 304. Recognition and enforcement of foreign arbitral decisions and awards; reciprocity

"Arbitral decisions or awards made in the territory of a foreign State shall, on the basis of reciprocity, be recognized and enforced under this chapter only if that State has ratified or acceded to the Inter-American Convention.

§ 305. Relationship between the Inter-American Convention and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958

"When the requirements for application of both the Inter-American Convention and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958, are met, determination as to which Convention applies shall, unless otherwise expressly agreed, be made as follows:

"(1) If a majority of the parties to the arbitration agreement are citizens of a State or States that have ratified or acceded to the Inter-American Convention and are member States of the Organization of American States, the Inter-American Convention shall apply.

"(2) In all other cases the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958, shall apply.

§ 306. Applicable rules of Inter-American Commercial Arbitration Commission

"(a) For the purposes of this chapter the rules of procedure of the Inter-American Commercial Arbitration Commission referred to in Article 3 of the Inter-American Convention shall, subject to subsection (b) of this section, be those rules as promulgated by the Commission on January 1, 1978.

"(b) In the event the rules of procedure of the Inter-American Commercial Arbitration Commission are modified or amended in accordance with the procedures for amendment of the rules of the said Commission, the Secretary of State, by regulation in accordance with Section 553 of Title 5, United States Code, consistent with the aims and purposes of this Convention, may prescribe that such modifications or amendments shall be effective for purposes of this chapter.

§ 307. Chapter 1; residual application

"Chapter 1 applies to actions and proceedings brought under this chapter to the extent chapter 1 is not in conflict with this chapter or the Inter-American Convention as ratified by the United States."

SEC. 2. Title 9, United States Code, is further amended by adding to the table of chapters at the beginning a new sub-heading as follows:

"3. Inter-American Convention on International Commercial Arbitration....... 301".

SEC. 3. This Act shall be effective upon the entry into force of the Inter-American Convention on International Commercial Arbitration of January 30, 1975, with respect to the United States.

SEC. 4. (a) Chapter 1 of title 9, United States Code, is amended by adding at the end thereof the following new section:

"§ 15. Inapplicability of the Act of State doctrine

"Enforcement of arbitral agreements, confirmation of arbitral awards, and execution upon judgments based on orders confirming such awards shall not be refused on the basis of the Act of State doctrine.".

(b) Section 1605(a) of title 28, United States Code, is amended by—

(1) striking out "or" at the end of paragraph (4);

(2) striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or"; and

(3) adding at the end thereof the following:

"(6) in which the action is brought, either to enforce an agreement made by the foreign State with or for the benefit of a private party to submit to arbitration all or any differences which have arisen or which may arise between the parties with respect to a defined legal relationship, whether contractual or not, concerning a subject matter capable of settlement by arbitration under the laws of the United States, or to confirm an award made pursuant to such an agreement to arbitrate, if (A) the arbitration takes place or is intended to take place in the United States, (B) the agreement or award is or may be governed by a treaty or other international agreement in force for the United States calling for the recognition and enforcement of arbitral awards, (C) the underlying claim, save for the agreement to arbitrate, could have been brought in a United States court under this section or section 1607, or (D) paragraph (1) of this subsection is otherwise applicable.".

(c) Section 1610(a) of title 28, United States Code, is amended by—

(1) striking out the period at the end of paragraph (5) and inserting in lieu thereof ", or"; and

(2) adding at the end thereof the following:

"(6) the judgment is based on an order confirming an arbitral award rendered against the foreign State, provided that attachment in aid of execution, or execution, would not be inconsistent with any provision in the arbitral agreement.".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRESERVATION OF NATIVE AMERICAN LANGUAGES

The joint resolution (S.J. Res. 379) to establish as the policy of the United States the preservation, protection, and promotion of the rights of indigenous Americans to use, practice and develop native American languages, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 379

Whereas the unique status of the cultures and languages of Native Americans is analogous to that of native and endemic species in the United States, and the United States has the responsibility to act together with indigenous Americans to ensure the survival of these unique cultures and languages;

Whereas special status is accorded Native American peoples in the United States, a status that recognizes unique cultural features and the right to continue unique identities;

Whereas the traditional languages of Native Americans are an integral part of their cultures, traditional heritage, and identity, such languages forming the basic medium of the transmission, and thus survival, of Native American cultures, literatures, histories, religions, and values;

Whereas the widespread practice of treating Native American languages as if they were non-valid languages has placed Native American languages in a position of being treated as linguistic outcasts in their own homeland;

Whereas the lack of clear, comprehensive and consistent Federal policy has often resulted in acts of suppression and extermination being directed against Native American languages and cultures, especially as used by the young in educational institutions;

Whereas acts of suppression and extermination directed against Native American languages and cultures have often been premised on bases incompatible with a United States policy of self-determination for Native Americans;

Whereas Native American languages and cultures in their own homelands, principal settlements and reservations have been restricted, banned and, in some cases, exterminated;

Whereas all indigenous languages of the Americas are recognized as full members of the world's linguistic community;

Whereas languages are fully capable of serving as a means of communication for the full range of human experiences and are critical to the survival of cultural integrity of any people; and

Whereas language provides a direct and powerful means of promoting intercultural communication: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) it shall be the policy of the United States to preserve, protect, and promote the rights of indigenous Americans, including Indians, Alaska Natives, Native Hawaiians and Native American Pacific Islanders, to use, practice, and develop Native American languages, including the right to use Native American languages as the media of instruction in State and Federal institutions of compulsory education and as the official language in their traditional territories;

(2) the Federal Government supports the granting of proficiency in an indigenous language the same academic credit as proficiency in a foreign language; and

(3) the Federal Government strongly recommends that all institutions of elementary, secondary, and higher education include indigenous languages in the curriculum in the same manner as foreign languages are and that competency in the indigenous language be granted the same full academic credit.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PARTITION OF CERTAIN RESERVATION LANDS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2723.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2723) to partition certain reservation lands between the Hoopa Valley Tribe and the Yurok Indians, to clarify the use of federal timber proceeds, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from Select Committee on Indian Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. SHORT TITLE AND DEFINITIONS.

(a) SHORT TITLE.—This Act may be cited as the "Hoopa-Yurok Settlement Act".

(b) DEFINITIONS.—For the purposes of this Act, the term—

(1) "Escrow funds" means the moneys derived from the joint reservation which are held in trust by the Secretary in the accounts entitled—

(A) "Proceeds of Labor-Hoopa Valley Indians-California 70 percent Fund, account number J52-561-7197"

(B) "Proceeds of Labor-Hoopa Valley Indians-California 30 percent Fund, account number J52-561-7236";

(C) "Proceeds of Klamath River Reservation, California, account number J52-562-7056";

(D) "Proceeds of Labor-Yurok Indians of Lower Klamath River, California, account number J52-562-7153";

(E) "Proceeds of Labor-Yurok Indians of Upper Klamath River, California, account number J52-552-7154";

(F) "Proceeds of Labor-Hoopa Reservation for Hoopa Valley and Yurok Tribes, account number J52-575-7256"; and

(G) "Klamath River Fisheries, account number 5628000001";

(2) "Hoopa Indian blood" means that degree of ancestry derived from an Indian of the Hunstang, Hupa, Miskut, Redwood, Saiaz, Sermalton, Tish-Tang-Atan, South Fork, or Grouse Creek Bands of Indians;

(3) "Hoopa Valley Reservation" means the reservation described in section 2(b) of this Act;

(4) "Hoopa Valley Tribe" means the Hoopa Valley Tribe, organized under the constitution and amendments approved by the Secretary on November 20, 1933, September 4, 1952, August 9, 1963, and August 18, 1972;

(5) "Indian of the Reservation" shall mean any person who meets the criteria to qualify as an Indian of the Reservation as established by the United States Court of Claims in its March 31, 1982, May 17, 1987, and March 1, 1988, decisions in the case of Jesse Short et al. v. United States, (Cl. Ct. No. 102-63);

(6) "Joint reservation" means the area of land defined as the Hoopa Valley Reservation in section 2(b) and the Yurok Reservation in section 2(c) of this Act.

(7) "Karuk Tribe" means the Karuk Tribe of California, organized under its constitution on April 6, 1985;

(8) "Secretary" means the Secretary of the Interior;

(9) "Settlement Fund" means the Hoopa-Yurok Settlement Fund established pursuant to section 4;

(10) "Settlement Roll" means the final roll prepared and published in the Federal Register by the Secretary pursuant to section 5;

(11) "Short cases" means the cases entitled Jesse Short et al. v. United States, (Cl. Ct. No. 102-63); Charlene Ackley v. United States, (Cl. Ct. No. 460-78); Bret Aanstadt v. United States, (Cl. Ct. No. 146-8S5L); and Norman Giffen v. United States (Cl. Ct. N. 746-85L);

(12) "Short plaintiffs" means named plaintiffs in the Short cases;

(13) "trust land" means an interest in land the title to which is held in trust by the United States for an Indian or Indian tribe, or by an Indian or Indian tribe subject to a restriction by the United States against alienation;

(14) "unallotted trust land, property, resources or rights" means those lands, property, resources, or rights reserved for Indian purposes which have not been allotted to individuals under an allotment Act;

(15) "Yurok Reservation" means the reservation described in section 2(c) of this Act; and

(16) "Yurok Tribe" means the Indian tribe which is recognized and authorized to be organized pursuant to section 9 of this Act.

SEC. 2. RESERVATIONS: PARTITION AND ADDITIONS.

(a) PARTITION OF THE JOINT RESERVATION.—(1) Effective with the publication in the Federal Register of the Hoopa tribal resolution as provided in paragraph (2), the joint reservation shall be partitioned as provided in subsection (b) and (c).

(2)(A) The partition of the joint reservation as provided in this subparagraph, and the ratification and confirmation as provided by section 8, shall not become effective unless, within 60 days after the date of the enactment of this Act, the Hoopa Valley Tribe shall adopt, and transit to the Secretary, a tribal resolution:

(i) waiving any claim such tribe may have against the United States arising out of the provisions of this Act, and

(ii) affirming tribal consent to the contribution of Hoopa Escrow monies to the Settlement Fund, and for their use as payments to the Yurok Tribe, and to individual Yuroks, as provided in this Act.

(B) The Secretary, after determing the validity of the resolution transmitted pursuant to subparagraph (A), shall cause such resolution to be printed in the Federal Register.

(b) HOOPA VALLEY RESERVATION.—Effective with the partition of the joint reservation as provided in subsection (a), the area of land known as the "square" (defined as the Hoopa Valley Reservation established under section 2 of the Act of April 8, 1864 (13 Stat. 40), the Executive Order of June 23, 1876, and Executive Order 1480 of February 17, 1912) shall thereafter be recognized and established as the Hoopa Valley Reservation. The unallotted trust land and assets of the Hoopa Valley Reservation shall thereafter be held in trust by the United States for the benefit of the Hoopa Valley Tribe.

(c) YUROK RESERVATION.—Effective with the partition of the joint reservation as provided in subsection (a), the area of land known as the "extension" (defined as the reservation extension under the Executive Order of October 16, 1891, but excluding the Resighini Rancheria) shall thereafter be recognized and established as the Yurok Reservation. The unallotted trust land and assets of the Yurok Reservation shall thereafter be held in trust by the United States for the benefit of the Yurok Tribe.

(2) Subject to all valid existing rights and subject to the adoption of a resolution of the Interim Council of the Yurok Tribe as provided in section 9(c)(2)(A), all right, title, and interest of the United States—

(A) to all national forest system lands within the Yurok Reservation and

(B) to that portion of the Yurok Experimental Forest described as Township 14 N., Range 1 E., Section 28, Lot 6: that portion of Lot 6 east of U.S. Highway 101 and west of the Yurok Experimental Forest, comprising 14 acres more or less and including all permanent structures thereon, shall thereafter be held in trust by the United States for the benefit of the Yurok Tribe and shall be part of the Yurok Reservation. Within six months after the date of enactment of this Act, the Secretary of the Interior shall submit a report to Congress concerning the advisability of conveying to the Yurok Tribe all right, title and interest of the United States to all National Park System lands within the Yurok Reservation. If the Secretary determines that such rights should not be immediately conveyed, his report shall include a proposed agreement for submission to the Interim Council of the Yurok Tribe that would assure tribal members of reasonable hunting, fishing and gathering rights and reasonable access to ceremonial and religious sites on such lands within the Yurok Reservation.

(3)(A) Pursuant to the authority of sections 5 and 7 of the Indian Reorganization Act of June 18, 1934 (25 U.S.C. 465, 467), the Secretary may acquire lands or interests in land, including rights-of-way for access to trust lands, for the Yurok Tribe or its members, and such lands may be declared to be part of the Yurok Reservation.

(B) From amounts authorized to be appropriated by the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13), the Secretary shall use not less than $5,000,000 for the purpose of acquiring lands or interests in lands pursuant to subparagraph (A). No lands or interests in lands may be acquired outside the Yurok Reservation with such funds except lands adjacent to and contiguous with the Yurok Reservation or for purposes of exchange for lands within the reservation.

(4) The—

(A) apportionment of funds to the Yurok Tribe as provided in sections 4 and 7;

(B) the land transfers pursuant to paragraph (2);

(C) the land acquisition authorities in paragraph (3); and

(D) the organizational authorities of section 9 shall not be effective unless and until the Interim Council of the Yurok Tribe has adopted a resolution waiving any claim such tribe may have against the United States arising out of the provisions of this Act.

(d) BOUNDARY CLARIFICATIONS OR CORRECTIONS.—(1) The boundary between the Hoopa Valley Reservation and the Yurok Reservation, after the partition of the joint reservation as provided in this section, shall be the line established by the Bissel-Smith survey.

(2) Upon partition of the joint reservation as provided in this section, the Secretary shall publish a description of the boundaries of the Hoopa Valley reservation and Yurok Reservations in the Federal Register.

(e) Management of the Yurok Reservation.—The Secretary shall be responsible for the management of the unallotted trust land and assets of the Yurok Reservation until such time as the Yurok Tribe has been organized pursuant to section 9. Thereafter, those lands and assets shall be administered as tribal trust land and the Yurok reservation governed by the Yurok Tribe as other reservations are governed by the tribes of those reservations.

(f) Criminal and Civil Jurisdiction.—The Hoopa Valley Reservation and the Yurok Reservation shall be subject to section 1360 of title 28, United States Code; section 1162 of title 18, United States Code, and section 403(a) of the Act of April 11, 1968 (82 Stat. 79; 25 U.S.C. 1323(a)).

SEC. 3. PRESERVATION OF SHORT CASES.

Nothing in this Act shall affect, in any manner, the entitlement established under decisions of the United States Claims Court in the Short cases or any final judgement which may be rendered in those cases.

SEC. 4. HOOPA-YUROK SETTLEMENT FUND.

(a) ESTABLISHMENT.—(1) There is hereby established the Hoopa-Yurok Settlement Fund. Upon enactment of this Act, the Secretary shall cause all the funds in the Escrow funds, together with all accrued income thereon, to be deposited into the Settlement Fund.

(2) Until the distribution is made to the Hoopa Valley Tribe pursuant to section (c), the Secretary may distribute to the Hoopa Valley Tribe, pursuant to the provision of

title I of the Department of the Interior and related Agencies Appropriations Act, 1985, under the heading 'Bureau of Indian Affairs' and subheading 'Tribal Trust Funds' at 98 Stat. 1849 (25 U.S.C. 123c), not to exceed $3,500,000 each fiscal year out of the income or principal of the Settlement Fund for tribal, non-per capita purposes provided, however, that the Settlement Fund apportioned under subsections (c) and (d) shall be calculated without regard to this subparagraph, but any amounts distributed under this subparagraph shall be deducted from the payment to the Hoopa Valley Tribe pursuant to subsection (c).

(3) Until the distribution is made to the Yurok Tribe pursuant to section (d), the Secretary may, in addition to providing federal funding, distribute to the Yurok Transition Team, pursuant to provision of title I of the Department of the Interior and Related Agencies Appropriations Act, 1985, under the heading "Bureau of Indian Affairs" and subheading "tribal trust funds" at 98 Stat. (25 U.S.C. 123c), not to exceed $500,000 each fiscal year out of the income and principal of the Settlement Fund for tribal, non per capita purposes, provided, however, that the Settlement Fund apportioned under subsections (c) and (d) shall be calculated without regard to this subparagraph, but any amounts distributed under this subparagraph shall be deducted from the payment to the Yurok Tribe pursuant to subsection (d).

(b) DISTRIBUTION; INVESTMENT.—The Secretary shall make distribution from the Settlement Fund as provided in this Act and, pending payments under section 6 and dissolution of the fund as provided in section 7, shall invest and administer such fund as Indian trust funds pursuant to the first section of the Act of June 24, 1938 (52 Stat. 1037; 25 U.S.C. 162a).

(c) HOOPA VALLEY TRIBE PORTION.—Effective with the publication of the option election date pursuant to section 6(a)(4), the Secretary shall immediately pay out of the Settlement Fund into a trust account for the benefit of the Hoopa Valley Tribe a percentage of the Settlement Fund which shall be determined by dividing the number of enrolled members of the Hoopa Valley Tribe as of the date of the promulgation of the Settlement Roll, including any persons enrolled pursuant to section 6, by the sum of the number of such enrolled Hoopa Valley tribal members and the number of persons on the Settlement Roll.

(d) YUROK TRIBE PORTION.—Effective with the publication of the option election date pursuant to section 6(a)(4), the Secretary shall pay out of the Settlement Fund into a trust account for the benefit of the Yurok Tribe a percentage of the Settlement Fund which shall be determined by dividing the number of persons on the Settlement Roll electing the Yurok Tribal Membership Option pursuant to section 6(c) by the sum of the number of the enrolled Hoopa Valley tribal members established pursuant to section (c) and the number of persons on the Settlement Roll, less any amount paid out of the Settlement Fund pursuant to section 6(c)(3).

(e) FEDERAL SHARE.—There is hereby authorized to be appropriated the sum of $10,000,000 which shall be deposited into the Settlement Fund after the payments are made pursuant to subsections (c) and (d) and section 6(c). The Settlement Fund, including the amount deposited pursuant to this subsection and all income earned subsequent to the payments made pursuant to subsections (c) and (d) and section 6(c), shall be available to make the payments authorized by section 6(d).

SEC. 5. HOOPA-YUROK SETTLEMENT ROLE.

(a) PREPARATION; ELIGIBILITY CRITERIA.—(1) The Secretary shall prepare a roll of all persons who can meet the criteria for eligibility as an Indian of the Reservation and—

(A) who were born on or prior to, and living upon, the date of enactment of this Act;

(B) who are citizens of the United States; and

(C) who were not, on August 8, 1988, enrolled members of the Hoopa Valley Tribe.

(2) The Secretary's determination of eligibility under this subsection shall be final except that any Short plaintiff determined by the United States Claims Court to be an Indian of the Reservation shall be included on the Settlement Roll if they meet the other requirements of this subsection and any Short plaintiff determined by the United States Claims Court not to be an Indian of the Reservation shall not be eligible for inclusion on such roll.

(b) RIGHT TO APPLY; NOTICE.—Within thirty days after the date of enactment of this Act, the Secretary shall give such notice of the right to apply for enrollment as provided in subsection (a) as he deems reasonable except that such notice shall include, but shall not be limited to—

(1) actual notice by registered mail to every plaintiff in the Short cases at their last known address;

(2) notice to the attorneys for such plaintiffs; and

(3) publication in newspapers of general circulation in the vicinity of the Hoopa Valley Reservation and elsewhere in the State of California.

Contemporaneous with providing the notice required by this subsection, the Secretary shall publish such notice in the FEDERAL REGISTER.

(c) APPLICATION DEADLINE.—The deadline for application pursuant to this section shall be established at one hundred and twenty days after the publication of the notice by the Secretary in the FEDERAL REGISTER as required by subsection (b).

(d) ELIGIBILITY DETERMINATION; FINAL ROLL.—(1) The Secretary shall make determinations of eligibility of applicants under this section and publish in the FEDERAL REGISTER the final Settlement Roll of such persons one hundred and eighty days after the date established pursuant to subsection (c).

(2) The Secretary shall develop such procedures and times as may be necessary for the consideration of appeals from applicants not included on the roll published pursuant to paragraph (1). Successful appellants shall be added to the Settlement Roll and shall be afforded the right to elect options as provided in section 6, with any payments to be made to such successful appellants out of the remainder of the Settlement Fund after payments have been made pursuant to section 6(d) and prior to division pursuant to section 7.

(3) Persons added to the Settlement Roll pursuant to appeals under this subsection shall not be considered in the calculations made pursuant to section 4.

(e) EFFECT OF EXCLUSION FROM ROLL.—No person whose name is not included on the Settlement Roll shall have any interest in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Hoopa Valley Tribe, the Hoopa Valley Reservation, the Yurok Tribe, or the Yurok Reservation or in the Settlement Fund unless such person is subsequently enrolled in the Hoopa Valley Tribe or the Yurok Tribe under the membership criteria and ordinances of such tribes.

SEC. 6. ELECTION OF SETTLEMENT OPTIONS.

(a) NOTICE OF SETTLEMENT OPTIONS.—Within sixty days after the publication of the Settlement Roll as provided in section 5(d), the Secretary shall give notice by certified mail to each person eighteen years or older on such roll of their right to elect one of the settlement options provided in this section.

(2) The notice shall be provided in easily understood language, but shall be as comprehensive as possible and shall provide an objective assessment of the advantages and disadvantages of each of the options offered. The notice shall also provide information about the counseling services which will be made available to inform individuals about the respective rights and benefits associated with each option presented under this section. It shall also clarify that an election the Lump Sum Payment option requires the completion of a sworn affidavit certifying that the individual has been provided with complete information about the effects of such an election.

(3) With respect to minors on the Settlement Roll the notice shall state that minors shall be deemed to have elected the option of section 6(c), except that if the parent or guardian furnishes proof satisfactory to the Secretary that a minor is an enrolled member of a tribe that prohibits members from enrolling in other tribes, the parent or guardian shall make the election for such minor. A minor subject to the provisions of Section 6(c) shall, notwithstanding any other law, be deemed to be a child of a member of an Indian tribe regardless of the option elected pursuant to this Act by the minor's parent. With respect to minors on the Settlement Roll whose parent or guardian is not also on the roll, notice shall be given to the parent or guardian of such minor. The funds to which such minors shall are entitled shall be held in trust by the Secretary until the minor reaches age 18. The Secretary shall notify and provide payment to such person including all interest accrued.

(4)(A) The notice shall also establish the date by which time the election of an option under this section must be made. The Secretary shall establish that date as the date which is one hundred and twenty days after the date of the publication in the Federal Register as required by section 5(d).

(B) Any person on the Settlement Roll who has not made an election by the date established pursuant to subparagraph (A) shall be deemed to have elected the option provided in subsection (c).

(b) HOOPA TRIBAL MEMBERSHIP OPTION.—(1) Any person on the Settlement Roll, eighteen years or older, who can meet any of the enrollment criteria of the Hoopa Valley Tribe set out in the decision of the United States Court of Claims in its March 31, 1982, decision in the Short case (No. 102-63) as "Schedule A", "Schedule B", or "Schedule C" and who—

(A) maintained a residence on the Hoopa Valley Reservation on the date of enactment of this Act;

(B) had maintained a residence on the Hoopa Valley Reservation at any time within the five year period prior to the enactment of this Act; or

(C) owns an interest in real property on the Hoopa Valley Reservation on the date of enactment of this Act, may elect to be, and, upon such election, shall be entitled to be, enrolled as a full member of the Hoopa Valley Tribe.

(2) Notwithstanding any provision of the constitution, ordinances or resolutions of the Hoopa Valley Tribe to the contrary, the Secretary shall cause any entitled person electing to be enrolled as a member of the Hoopa Valley Tribe to be so enrolled and such person shall thereafter be entitled to the same rights, benefits, and privileges as any other member of such tribe.

(3) The Secretary shall determine the quantum of "Indian blood" or "Hoopa Indian blood", if any, of each person enrolled in the Hoopa Valley Tribe under this subsection pursuant to the criteria established in the March 31, 1982, decision of the United States Court of Claims in the case of Jessie Short et al. v. United States, (Cl. Ct. No. 102-63).

(4) Any person making an election under this subsection shall no longer have any right or interest whatsoever in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Yurok Indian Reservation or the Yurok Tribe or in the Settlement Fund.

(c) Yurok Tribal Membership Option.—(1) Any person on the Settlement Roll may elect to become a member of the Yurok Tribe and shall be entitled to participate in the organization of such tribe as provided in section 9.

(2) All persons making an election under this subsection shall form the base roll of the Yurok Tribe for purposes of organization pursuant to section 9 and the Secretary shall determine the quantum of "Indian blood" if any pursuant to the criteria established in the March 31, 1982, decision of the United States Court of Claims in the case of Jessie Short et al. v. United States, (Cl. Ct. No. 102-63).

(3) The Secretary, subject to the provisions of section 7 of the Act of October 19, 1973 (87 Stat. 466), as amended (25 U.S.C. 1407), shall pay to each person making an election under this subsection, $5,000 out of the Settlement Fund for those persons who are, on the date established pursuant to section 6(a)(4), below the age of 50 years, and $7,500 out of the Settlement Fund for those persons who are, on that date, age 50 or older.

(4) Any person making an election under this subsection shall no longer have any right or interest whatsoever in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Hoopa Valley Reservation or the Hoopa Valley Tribe or, except to the extent authorized by paragraph (3), in the Settlement Fund. Any such person shall also be deemed to have granted to members of the Interim Council established under section 9 an irrevocable proxy directing them to approve a proposed resolution waiving any claim the Yurok Tribe may have against the United States arising out of the provisions of this Act, and granting tribal consent as provided in section 9(d)(2).

(d) Lump Sum Payment Option.—(1) Any person on the Settlement Roll may elect to receive a lump sum payment from the Settlement Fund and the Secretary shall pay to each such person the amount of $15,000 out of the Settlement Fund, provided that such individual completes a sworn affidavit certifying that he or she has been afforded the opportunity to participate in counseling which the Secretary, in consultation with the Hoopa Tribal Council or Yurok Transition Team, shall provide. Such counseling shall provide a comprehensive explanation of the effects of such election on the individual making such election, and on the tribal enrollment rights of that persons children and descendants who would otherwise be eligible for membership in either the Hoopa or Yurok Tribe.

(2) The option to elect a lump sum payment under this section is provided solely as a mechanism to resolve the complex litigation and other special circumstances of the Hoopa Valley Reservation and the tribes of the reservation, and shall not be construed or treated as a precedent for any future legislation.

(3) Any person making an election to receive, and having received, a lump sum payment under this subsection shall not thereafter have any interest or right whatsoever in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Hoopa Valley Reservation, the Hoopa Valley Tribe, the Yurok Reservation, or the Yurok Tribe or, except authorized by paragraph (1), in the Settlement Fund.

SEC. 7. DIVISION OF SETTLEMENT FUND REMAINDER.

(a) Any funds remaining in the Settlement Fund after the payments authorized to be made therefrom by subsections (c) and (d) of section 6 and any payments made to successful appellants pursuant to section 5(d) shall be paid to the Yurok Tribe and shall be held by the Secretary in trust for such tribe.

(b) Funds divided pursuant to this section and any funds apportioned to the Hoopa Valley Tribe and the Yurok Tribe pursuant to subsections (c) and (d) of section 4 shall not be distributed per capita to any individual before the date which is 10 years after the date on which the division is made under this section; provided however, that if the Hoopa Valley Business Council shall decide to do so, it may distribute from the funds apportioned to it a per capita payment of $5,000 per member, pursuant to the Act of August 2, 1983 (25 U.S.C. 117a et seq.).

SEC. 8. HOOPA VALLEY TRIBE; CONFIRMATION OF STATUS.

The existing governing documents of the Hoopa Valley Tribe and the governing body established and elected thereunder, as heretofore recognized by the Secretary, are hereby ratified and confirmed.

SEC. 9. RECOGNITION AND ORGANIZATION OF THE YUROK TRIBE.

(a) Yurok Tribe.—(1) Those persons on the Settlement Roll who made a valid election pursuant to subsection (c) of section 6 shall constitute the base membership roll for the Yurok Tribe whose status as an Indian tribe, subject to the adoption of the Interim Council resolution as required by subsection (d)(2), is hereby ratified and confirmed.

(2) The Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461 et seq.), as amended, is hereby made applicable to the Yurok Tribe and the tribe may organize under such Act as provided in this section.

(3) Within thirty (30) days after the enactment of this Act the Secretary, after consultation with the appropriate committees of Congress, shall appoint five (5) individuals who shall comprise the Yurok Transition Team which, pursuant to a budget approved by the Secretary, shall provide counseling, promote communication with potential members of the Yurok Tribe concerning the provisions of this Act, and shall study and investigate programs, resources, and facilities for consideration by the Interim Council. Any property acquired for or on behalf of the Yurok Transition Team shall be held in the name of the Yurok Tribe.

(b) Interim Council; Establishment.—There shall be established an Interim Council of the Yurok Tribe to be composed of five members. The Interim Council shall represent the Yurok Tribe in the implementation of provisions of this Act, including the organizational provisions of this section, and subject to subsection (d) shall be the governing body of the tribe until such time as a tribal council is elected under a constitution adopted pursuant to subsection (e).

(c) General Council; Election of Interim Council.—(1) Within 30 days after the date established pursuant to section 6(a)(4), the Secretary shall prepare a list of all persons eighteen years of age or older who have elected the Yurok Tribal Membership Option pursuant to section 6(c), which persons shall constitute the eligible voters of the Yurok Tribe for the purposes of this section, and shall provide written notice to such persons of the date, time, purpose, and order of procedure for the general council meeting to be scheduled pursuant to paragraph (2) for the consideration of the nomination of candidates for election to the Interim Council.

(2) Not earlier than 30 days before, nor later than 45 days after, the notice provided pursuant to paragraph (2), the Secretary shall convene a general council meeting of the eligible voters of the Yurok Tribe on or near the Yurok Reservation, to be conducted under such order of procedures as the Secretary determines appropriate, for the nomination of candidates for election of the members of the Interim Council. No person shall be eligible for nomination who is not on the list prepared pursuant to this section.

(3) Within 45 days after the general council meeting held pursuant to paragrpah (2), the Secretary shall hold an election by secret ballot, with absentee balloting and write-in voting to be permitted, to elect the five members of the Interim Council from among the nomination submitted to him from such general council meeting. The Secretary shall assure that notice of the time and place of such election shall be provided to eligible voters at least fifteen days before such election.

(4) The Secretary shall certify the results of such election and, as soon as possible, convene an organizational meeting of the newly-elected members of the Interim Council and shall provide such advice and assistance as may be necessary for such organization.

(5) Vacancies on the Interim Council shall be filled by a vote of the remaining members.

(d) Interim Council; Authorities and Dissolution.—(1) The Interim Council shall have no powers other than those given to it by this Act.

(2) The Interim Council shall have full authority to adopt a resolution—

(i) waiving any claim the Yurok Tribe may have against the United States arising out of the provision of this Act, and

(ii) affirming tribal consent to the contribution of Yurok Escrow monies to the Settlement Fund, and for their use as payments to the Hoopa Tribe, and to individual Hoopa members, as provided in this Act, and

(iii) to receive grants from, and enter into contracts for, Federal programs, including those administered by the Secretary and the Secretary of Health and Human Services, with respect to Federal services and benefits for the tribe and its members.

(3) The Interim Council shall have such other powers, authorities, functions, and responsibilities as the Secretary may recognize, except that any contract or legal obligation that would bind the Yurok Tribe for a period in excess of two years from the date of the certification of the election by the Secretary if the Secretary determines tht such a contract or legal obligation is unnecessary to improve housing conditions of members of the Yurok Tribe, or to obtain other rights, privileges or benefits that are in the long-term interest of the Yurok Tribe.

(4) The Interim Council shall appoint, as soon as practical, a drafting committee which shall be responsible, in consultation with the Interim Council, the Secretary and members of the tribe, for the preparation of a draft constitution for submission to the Secretary pursuant to subsection (e).

(5) The Interim Council shall be dissolved effective with the election and installation of the initial tribe governing body elected pursuant to the constitution adopted under subsection (e) or at the end of two years after such installation, whichever occurs first.

(e) Organization of Yurok Tribe.—Upon written request of the Interim Council or the drafting committee and the submission of a draft constitution as provided in paragraph (4) of subsection (d), the Secretary shall conduct an election, pursuant to the provisions of the Indian Reorganization Act of June 18, 1934 (25 U.S.C. 461 et seq.) and rules and regulations promulgated thereunder, for the adoption of such consitution and, working with the Interim Council, the election of the initial tribal governing body upon the adoption of such constitution.

SEC. 10 ECONOMIC DEVELOPMENT

(a) Plan for Economic Self-Sufficiency.—The Secretary shall—

(1) enter into negotiations with the Yurok Transition Team and the Interim Council of the Yurok Tribe with respect to establishing a plan for economic development for the tribe; and

(2) in accordance with this section and not later than two years after the date of enactment of this Act, develop such a plan.

(3) Upon the approval of such plan by the Interim Council or tribal governing body (and after consultation with the State and local officials pursuant to subsection (b) of this section), the Secretary shall submit such plan to the Congress.

(b) Consultation With State and Local Officials Required.—To assure that legitimate State and local interests are not prejudiced by the proposed economic self-sufficiency plan, the Secretary shall notify and consult with the appropriate officials of the State and all appropriate local governmental officials in the State. The Secretary shall provide complete information on the proposed plan to such officials, including the restrictions on such proposed plan imposed by subsection (c) of this section. During any consultation by the Secretary under this subsection, the Secretary shall provide such information as the Secretary may possess, and shall request comments and additional information on the extent of any State or local service to the tribe.

(c) Restrictions To Be Contained in Plan.—Any plan developed by the Secretary under subsection (a) of this section shall provide that—

(1) any real property transferred by the tribe or any member to the Secretary shall be taken and held in the name of the United States for the benefit of the tribe;

(2) any real property taken in trust by the Secretary pursuant to such plan shall be subject to—

(A) all legal rights and interests in such land existing at the time of the acquisition of such land by the Secretary, including any lien, mortgage, or previously levied and outstanding State or local tax; and

(B) foreclosure or sale in accordance with the laws of the State pursuant to the terms of any valid obligation in existence at the time of the acquisition of such land by the Secretary; and

(3) any real property transferred pursuant to such plan shall be exempt from Federal, State, and local taxation of any kind.

(d) Appendix to Plan Submitted to the Congress.—The Secretary shall append to the plan submitted to the Congress under subsection (a) of this section a detailed statement—

(1) naming each individual and official consulted in accordance with subsection (b) of this section;

(2) summarizing the testimony received by the Secretary pursuant to any such consultation; and

(3) including any written comments or reports submitted to the Secretary by any party named in paragraph (1).

SEC. 11. SPECIAL CONSIDERATIONS.

(a) Estate for Smokers Family.—The 20 acre land assignment on the Hoopa Valley Reservation made by the Hoopa Area Field Office of the Bureau of Indian Affairs on August 25, 1947, to the Smokers family shall continue in effect and may pass by descent or devise to any blood relative or relatives of one-fourth or more Indian blood of those family members domiciled on the assignment on the date of enactment of this Act.

(b) Rancheria Merger With Yurok Tribe.—If a majority of the adult members of any of the following Rancherias at the Resighini, Trinidad, or Big Lagoon, vote to merge with the Yurok Tribe in an election which shall be conducted by the Secretary within ninety days after the date of enactment of this Act, the tribes and reservations of those rancherias so voting shall be extinguished and the lands and members of such reservations shall be part of the Yurok Reservation with the unallotted trust land therein held in trust by the United States for the Yurok Tribe, provided however, that the existing governing documents and the elected governing bodies of any rancherias voting to merge shall continue in effect until the election of the Interim Council pursuant to section 9. The Secretary shall publish in the Federal Register a notice of the effective date of the merger.

(c) Preservation of Leasehold and Assignment Rights of Rancheria Residents.—Real property on any rancheria that merges with the Yurok Reservation pursuant to subsection (b) that is, on the date of enactment of this Act, held by any individual under a lease shall continue to be governed by the terms of the lease, and any land assignment existing on the date of the enactment of this Act shall continue in effect and may pass by descent or devise to any blood relative or relatives of Indian blood of the assignee.

SEC. 12 KLAMATH RIVER BASIN FISHERIES TASK FORCE.

(a) In General.—Section 4(c) of the Act entitled "An Act to provide for the restoration of the fishery resources in the Klamath River Basin, and for other purposes" (16 U.S.C. 460ss-3) is amended—

(A) in the matter preceding paragraph (1), by striking out "12" and inserting in lieu thereof "14"; and

(B) by inserting at the end thereof the following new paragraphs:

"(11) A representative of the Karuk Tribe, who shall be appointed by the governing body of the Tribe.

"(12) A representative of the Yurok Tribe, who shall be appointed by the Secretary until such time as the Yurok Tribe is organized upon which time the Yurok Tribe shall appoint such representative beginning with the first appointment ordinarily occurring after the Yurok Tribe is organized".

(b) Special Rule.—The initial term of the representative appointed pursuant to section 4(c)(11) and (12) of such Act (as added by the amendment made by subsection (a) shall be for that time which is the remainder of the terms of the members of the Task Force then serving. Thereafter, the term of such representatives shall be as provided in section 4(e) of such Act.

SEC. 13. TRIBAL TIMBER SALES PROCEEDS USE.

Section 7 of the Act of June 25, 1910 (36 Stat. 857; 25 U.S.C. 407) is amended to read as follows:

"Sec. 7. Under regulations prescribed by the Secretary of the Interior, the timber on unallotted trust land in Indian reservations or on other land held in trust for tribes may be sold in accordance with the principles of sustained-yield management or to convert the land to a more desirable use. After deduction, if any, for administrative expenses under the Act of February 14, 1920 (41 Stat. 415; 25 U.S.C. 413), the proceeds of the sale shall be used—

"(1) as determined by the governing bodies of the tribes concerned and approved by the Secretary, or

"(2) in the absence of such a governing body, as determined by the Secretary for the tribe concerned.

SEC. 14. LIMITATIONS OF ACTIONS; WAIVER OF CLAIMS.

(a) Any claim challenging the partition of the joint reservation pursuant to section 2 or any other provision of this Act as having effected a taking under the fifth amendment of the United States Constitution or as otherwise having provided inadequate compensation shall be brought, pursuant to 28 U.S.C. 1491 or 28 U.S.C. 1505, in the United States Claims Court.

(b)(1) Any such claim by any person or entity, other than the Hoopa Valley Tribe or the Yurok Tribe, shall be forever barred if not brought within the later of 210 days from the date of the partition of the joint reservation as provided in section 2 of 120 days after the publication in the Federal Register of the option election date as required by section 6(a)(4).

(2) Any such claim by the Hoopa Valley Tribe shall be barred 180 days after the date of enactment of this Act or such earlier date as may be established by the adoption of a resolution waiving such claims pursuant to section 2(a)(2).

(2) Any such claim by the Yurok Tribe shall be barred 180 days after the general council meeting of the Yurok Tribe as provided in section 9 or such earlier date may be established by the adoption of a resolu-

tion waiving such claims as provided in section 9(d)(2).

(c)(1) The Secretary shall prepare and submit to the Congress a report describing the final decision in any claim brought pursuant to subsection (b) against the United States or its officers, agencies, or instrumentalities.

(2) Such report shall be submitted no later than 180 days after the entry of final judgment in such litigation. The report shall include any recommendations of the Secretary for action by Congress, including, but not limited to, any supplemental funding proposals necessary to implement the terms of this Act and any modifications to the resource and management authorities established by this Act. Notwithstanding the provisions of 28 U.S.C. 2517, any judgment entered against the United States shall not be paid for 180 days after the entry of judgment; and, if the Secretary of the Interior submits a report to Congress pursuant to this section, then payment shall be made no earlier than 120 days after submission of the report.

SEC. 15. HEALTH ISSUES.

(a) CLEANUP OF DUMP SITES.—The Secretary of Health and Human Services, through the Indian Health Service, shall enter into a memorandum of understanding with Humboldt County to clean up all solid waste dump sites located on the Yurok Reservation along the banks of the Klamath River. Cleanup shall begin no more than six months from the date of enactment of this Act.

(b) SOLID WASTE DISPOSAL.—Not later than one year after the enactment of this Act, the Secretary of the Interior, through the Bureau of Indian Affairs, shall enter into a memorandum of understanding with Humboldt County, regarding the permanent disposal of solid waste from the Yurok Reservation.

AMENDMENT NO. 3349

(Purpose: To amend S. 2723 as reported by striking all of Section 15 of the bill)

Mr. BYRD. Mr. President, on behalf of Mr. INOUYE, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. INOUYE, proposes an amendment numbered 3349:

Amend S. 2723 by striking all of Section 15 from the reported bill.

Mr. INOUYE. Mr. President, I rise today in support of S. 2723, a bill to partition certain reservation lands in the State of California between the Hoopa Valley Indian Tribe and the Yurok Indians of the reservation. I know this has been controversial legislation and many of us have received calls or letters expressing opinions both opposed and in favor.

Mr. President, on June 30 I chaired a field hearing in Sacramento, CA, to obtain testimony on the background of this longstanding controversy. It was, at times, acrimonious. The history of the Hoopa Valley Reservation is long and complex, but I am satisfied from that hearing, and the later hearing we held on this legislation that the solutions embodied in this bill are fair to all sides of the controversy and represent the only practical means of resolving this issue.

I would like to note that there have been many charges made against this bill, all of which were considered in the select committee. Among other things, it was charged that the bill was a termination bill. Nothing could be further from the truth. As a result of some 25 years of litigation, the Hoopa Valley Tribe has lost its capacity to govern the Hoopa Valley Square. This legislation will restore to that tribe its capacity to govern the reservation square, and provide those programs it has so long delivered. The Yurok Tribe, which has never been organized and has, at this time, no membership roll, will be authorized to organize and adopt a constitution, and exercise full governmental authority over that section of the reservation known as the extension. Those persons who choose simply to settle their claims for a larger cash payment may do so.

Mr. President, there have been many amendments to this legislation which I believe have improved the bill significantly. Among other amendments, the bill now provides that all minor children who would be eligible to become members of the Yurok Tribe will be deemed to be members. The provision in the bill as introduced which permitted a parent to exercise the option for the child has been removed.

Mr. President, this legislation will work to the benefit of both the Hoopa Valley Indian Tribe and the Yurok Tribe which is to be organized, and I urge my colleagues to support this bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3349) was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2723

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND DEFINITIONS.

(a) SHORT TITLE.—This Act may be cited as the "Hoopa-Yurok Settlement Act".

(b) DEFINITIONS.—For the purposes of this Act, the term—

(1) "Escrow funds" means the moneys derived from the joint reservation which are held in trust by the Secretary in the accounts entitled—

(A) "Proceeds of Labor-Hoopa Valley Indians—California 70 percent Fund, account number J52-561-7197";

(B) "Proceeds of Labor-Hoopa Valley Indians—California 30 percent Fund, account number J52-561-7236";

(C) "Proceeds of Klamath River Reservation, California, account number J52-562-7056";

(D) "Proceeds of Labor-Yurok Indians of Lower Klamath River, California, account number J52-562-7153";

(E) "Proceeds of Labor-Yurok Indians of Upper Klamath River, California, account number J52-562-7154";

(F) "Proceeds of Labor-Hoopa Reservation for Hoopa Valley and Yurok Tribes, account number J52-575-7256"; and

(G) "Klamath River Fisheries, account number 5628000001";

(2) "Hoopa Indian blood" means that degree of ancestry derived from an Indian of the Hunstang, Hupa, Miskut, Redwood, Saiaz, Sermalton, Tish-Tang-Atan, South Fork, or Grouse Creek Bands of Indians;

(3) "Hoopa Valley Reservation" means the reservation described in section 2(b) of this Act;

(4) "Hoopa Valley Tribe" means the Hoopa Valley Tribe, organized under the constitution and amendments approved by the Secretary on November 20, 1933, September 4, 1952, August 9, 1963, and August 18, 1972;

(5) "Indian of the Reservation" shall mean any person who meets the criteria to qualify as an Indian of the Reservation as established by the United States Court of Claims in its March 31, 1982, May 17, 1987, and March 1, 1988, decisions in the case of *Jesse Short et al.* v. *United States,* (Cl. Ct. No. 102-63);

(6) "Joint reservation" means the area of land defined as the Hoopa Valley Reservation in section 2(b) and the Yurok Reservation in section 2(c) of this Act.

(7) "Karuk Tribe" means the Karuk Tribe of California, organized under its constitution on April 6, 1985;

(8) "Secretary" means the Secretary of the Interior;

(9) "Settlement Fund" means the Hoopa-Yurok Settlement Fund established pursuant to section 4;

(10) "Settlement Roll" means the final roll prepared and published in the Federal Register by the Secretary pursuant to section 5;

(11) "Short cases" means the cases entitled *Jesse et al.* v. *United States,* (Cl. Ct. No. 102-63); *Charlene Ackley* v. *United States,* (Cl. Ct. No. 460-78); *Bret Aanstadt* v. *United States,* (Cl. Ct. No. 146-8S5L); and *Norman Giffen* v. *United States,* (Cl. Ct. No. 746-85L);

(12) "Short plaintiffs" means named plaintiffs in the Short cases;

(13) "trust land" means an interest in land the title to which is held in trust by the United States for an Indian or Indian tribe, or by an Indian or Indian tribe subject to a restriction by the United States against alienation;

(14) "unallotted trust land, property, resources or rights" means those lands, property, resources, or rights reserved for Indian purposes which have not been allotted to individuals under an allotment Act;

(15) "Yurok Reservation" means the reservation described in section 2(c) of this Act; and

(16) "Yurok Tribe" means the Indian tribe which is recognized and authorized to be organized pursuant to section 9 of this Act.

SEC. 2. RESERVATIONS: PARTITION AND ADDITIONS.

(a) PARTITION OF THE JOINT RESERVATION.—(1) Effective with the publication in the Federal Register of the Hoopa tribal resolution as provided in paragraph (2), the joint reservation shall be partitioned as provided in subsection (b) and (c).

(2)(A) The partition of the joint reservation as provided in this subparagraph, and the ratification and confirmation as provided by section 8, shall not become effective unless, within 60 days after the date of the enactment of this Act, the Hoopa Valley

Tribe shall adopt, and transmit to the Secretary, a tribal resolution:

(i) waiving any claim such tribe may have against the United States arising out of the provisions of this Act, and

(ii) affirming tribal consent to the contribution of Hoopa Escrow monies to the Settlement Fund, and for their use as payments to the Yurok Tribe, and to individual Yuroks, as provided in this Act.

(B) The Secretary, after determining the validity of the resolution transmitted pursuant to subparagraph (A), shall cause such resolution to be printed in the Federal Register.

(b) HOOPA VALLEY RESERVATION.—Effective with the partition of the joint reservation as provided in subsection (a), the area of land known as the "square" (defined as the Hoopa Valley Reservation established under section 2 of the Act of April 8, 1864 (13 Stat. 40), the Executive Order of June 23, 1876, and Executive Order 1480 of February 17, 1912) shall thereafter be recognized and established as the Hoopa Valley Reservation. The unallotted trust land and assets of the Hoopa Valley Reservation shall thereafter be held in trust by the United States for the benefit of the Hoopa Valley Tribe.

(c) YUROK RESERVATION.—(1) Effective with the partition of the joint reservation as provided in subsection (a), the area of land known as the "extension" (defined as the reservation extension under the Executive Order of October 16, 1891, but excluding the Resighini Rancheria) shall thereafter be recognized and established as the Yurok Reservation. The unallotted trust land and assets of the Yurok Reservation shall thereafter be held in trust by the United States for the benefit of the Yurok Tribe.

(2) Subject to all valid existing rights and subject to the adoption of a resolution of the Interim Council of the Yurok Tribe as provided in section 9(c)(2)(A), all rights, title, and interest of the United States—

(A) to all national forest system lands within the Yurok Reservation and

(B) to that portion of the Yurok Experimental Forest described as Township 14 N., Range 1 E., Section 28, Lot 6: that portion of Lot 6 east of U.S. Highway 101 and west of the Yurok Experimental Forest, comprising 14 acres more or less and including all permanent structures thereon, shall thereafter be held in trust by the United States for the benefit of the Yurok Tribe and shall be part of the Yurok Reservation. Within six months after the date of enactment of this Act, the Secretary of the Interior shall submit a report to Congress concerning the advisability of conveying to the Yurok Tribe all right, title and interest of the United States to all National Park System lands within the Yurok Reservation. If the Secretary determines that such rights should not be immediately conveyed, his report shall include a proposed agreement for submission to the Interim Council of the Yurok Tribe that would assure tribal members of reasonable hunting, fishing and gathering rights and reasonable access to ceremonial and religious sites on such lands within the Yurok Reservation.

(3)(A) Pursuant to the authority of sections 5 and 7 of the Indian Reorganization Act of June 18, 1934 (25 U.S.C. 465, 467), the Secretary may acquire lands or interests in land, including rights-of-way for access to trust lands, for the Yurok Tribe or its members, and such lands may be declared to be part of the Yurok Reservation.

(B) From amounts authorized to be appropriated by the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13), the Secretary shall use not less than $5,000,000 for the purpose of acquiring lands or interests in lands pursuant to subparagraph (A). No lands or interests in lands may be acquired outside the Yurok Reservation with such funds except lands adjacent to and contiguous with the Yurok Reservation or for purposes of exchange for lands within the reservation.

(4) The—

(A) apportionment of funds to the Yurok Tribe as provided in sections 4 and 7;

(B) the land transfers pursuant to paragraph (2);

(C) the land acquisition authorities in paragraph (3); and

(D) the organizational authorities of section 9 shall not be effective unless and until the Interim Council of the Yurok Tribe has adopted a resolution waiving any claim such tribe may have against the United States arising out of the provisions of this Act.

(d) BOUNDARY CLARIFICATIONS OR CORRECTIONS.—(1) The boundary between the Hoopa Valley Reservation and the Yurok Reservation, after the partition of the joint reservation as provided in this section, shall be the line established by the Bissel-Smith survey.

(2) Upon partition of the joint reservation as provided in this section, the Secretary shall publish a description of the boundaries of the Hoopa Valley Reservation and Yurok Reservations in the Federal Register.

(e) MANAGEMENT OF THE YUROK RESERVATION.—The Secretary shall be responsible for the management of the unallotted trust land and assets by the Yurok Reservation until such time as the Yurok Tribe has been organized pursuant to section 9. Thereafter, those lands and assets shall be administered as tribal trust land and the Yurok reservation governed by the Yurok Tribe as other reservations are governed by the tribes of those reservations.

(f) CRIMINAL AND CIVIL JURISDICTION.—The Hoopa Valley Reservation and the Yurok Reservation shall be subject to section 1360 of title 28, United States Code; section 1162 of title 18, United States Code, and section 403(a) of the Act of April 11, 1968 (82 Stat. 79; 25 U.S.C. 1323(a)).

SEC. 3. PRESERVATION OF SHORT CASES.

Nothing in this Act shall affect, in any manner, the entitlement established under decisions of the United States Claims Court in the Short cases or any final judgment which may be rendered in those cases.

SEC. 4. HOOPA-YUROK SETTLEMENT FUND.

(a) ESTABLISHMENT.—(1) There is hereby established the Hoopa-Yurok Settlement Fund. Upon enactment of this Act, the Secretary shall cause all the funds in the Escrow funds, together with all accrued income thereon, to be deposited into the Settlement Fund.

(2) Until the distribution is made to the Hoopa Valley Tribe pursuant to section (c) the Secretary may distribute to the Hoopa Valley Tribe, pursuant to the provision of title I of the Department of the Interior and related Agencies Appropriations Act, 1985, under the heading 'Bureau of Indian Affairs' and subheading 'Tribal Trust Funds' at 98 Stat. 1849 (25 U.S.C 123c), not to exceed $3,500,000 each fiscal year out of the income or principal of the Settlement Fund for tribal, non-per capita purposes provided, however, that the Settlement Fund appropriated under subsections (c) and (d) shall be calculated without regard to this subparagraph, but any amounts distributed under this subparagraph shall be deducted from the payment to the Hoopa Valley Tribe pursuant to subsection (c).

(3) Until the distribution is made to the Yurok Tribe pursuant to section (d), the Secretary may, in addition to providing federal funding, distribute to the Yurok Transition Team, pursuant to provision of title I of the Department of the Interior and Related Agencies Appropriations Act, 1985, under the heading "Bureau of Indian Affairs" and subheading "tribal trust funds" at 98 Stat. 1849 (25 U.S.C. 123c), not to exceed $500,000 each fiscal year out of the income and principal of the Settlement Fund for tribal, non per capita purposes, provided, however, that the Settlement Fund apportioned under subsections (c) and (d) shall be calculated without regard to this subparagraph, but any amounts distributed under this subparagraph shall be deducted from the payment to the Yurok Tribe pursuant to subsection (d).

(b) DISTRIBUTION; INVESTMENT.—The Secretary shall make distribution from the Settlement Fund as provided in this Act and, pending payments under section 6 and dissolution of the fund as provided in section 7, shall invest and administer such fund as Indian trust Funds pursuant to the first section of the Act of June 24, 1938 (52 Stat. 1037; 25 U.S.C. 162a).

(c) HOOPA VALLEY TRIBE PORTION.—Effective with the publication of the option election date pursuant to section 6(a)(4), the Secretary shall immediately pay out of the Settlement Fund into a trust account for the benefit of the Hoopa Valley Tribe a percentage of the Settlement Fund which shall be determined by dividing the number of enrolled members of the Hoopa Valley Tribe as of the date of the promulgation of the Settlement Roll, including any persons enrolled pursuant to section 6, by the sum of the number of such enrolled Hoopa Valley tribal members and the number of persons on the Settlement Roll.

(d) YUROK TRIBE PORTION.—Effective with the publication of the option election date pursuant to section 6(a)(4), the Secretary shall pay out of the Settlement Fund into a trust account for the benefit of the Yurok Tribe a percentage of the Settlement Fund which shall be determined by dividing the number of persons on the Settlement Roll electing the Yurok Tribal Membership Option pursuant to section 6(c) by the sum of the number of the enrolled Hoopa Valley tribal members established pursuant to subsection (c) and the number of persons on the Settlement Roll, less any amount paid out of the Settlement Fund pursuant to section 6(c)(3).

(e) FEDERAL SHARE.—There is hereby authorized to be appropriated the sum of $10,000,000 which shall be deposited into the Settlement Fund after the payments are made pursuant to subsections (c) and (d) and section 6(c). The Settlement Fund, including the amount deposited pursuant to this subsection and all income earned subsequent to the payments made pursuant to subsections (c) and (d) and section 6(c), shall be available to make the payments authorized by section 6(d).

SEC. 5. HOOPA-YUROK SETTLEMENT ROLL.

(a) PREPARATION; ELIGIBILITY CRITERIA.—(1) The Secretary shall prepare a roll of all persons who can meet the criteria for eligibility as an Indian of the Reservation and—

(A) who were born on or prior to, and living upon, the date of enactment of this Act;

(B) who are citizens of the United States; and

(C) who were not, on August 8, 1988, enrolled members of the Hoopa Valley Tribe.

(2) The Secretary's determination of eligibility under this subsection shall be final except that any Short plaintiff determined by the United States Claims Court to be an Indian of the Reservation shall be included on the Settlement Roll if they meet the other requirements of this subsection and any Short plaintiff determined by the United States Claims Court not to be an Indian of the Reservation shall not be eligible for inclusion on such roll.

(b) Right to Apply; Notice.—Within thirty days after the date of enactment of this Act, the Secretary shall give such notice of the right to apply for enrollment as provided in subsection (a) as he deems reasonable except that such notice shall include, but shall not be limited to—

(1) actual notice by registered mail to every plaintiff in the Short cases at their last known address;

(2) notice to the attorneys for such plaintiffs; and

(3) publication in newspapers of general circulation in the vicinity of the Hoopa Valley Reservation and elsewhere in the State of California.

Contemporaneous with providing the notice required by this subsection, the Secretary shall publish such notice in the Federal Register.

(c) Application Deadline.—The deadline for application pursuant to this section shall be established at one hundred and twenty days after the publication of the notice by the Secretary in the Federal Register as required by subsection (b).

(d) Eligibility Determination; Final Roll.—(1) The Secretary shall make determinations of eligibility of applicants under this section and publish in the Federal Register the final Settlement Roll of such persons one hundred and eighty days after the date established pursuant to subsection (c).

(2) The Secretary shall develop such procedures and times as may be necessary for the consideration of appeals from applicants not included on the roll published pursuant to paragraph (1). Successful appellants shall be added to the Settlement Roll and shall be afforded the right to elect options as provided in section 6, with any payments to be made to such successful appellants out of the remainder of the Settlement Fund after payments have been made pursuant to section 6(d) and prior to division pursuant to section 7.

(3) Persons added to the Settlement Roll pursuant to appeals under this subsection shall not be considered in the calculations made pursuant to section 4.

(e) Effect of Exclusion From Roll.—No person whose name is not included on the Settlement Roll shall have any interest in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Hoopa Valley Tribe, the Hoopa Valley Reservation, the Yurok Tribe, or the Yurok Reservation or in the Settlement Fund unless such person is subsequently enrolled in the Hoopa Valley Tribe or the Yurok Tribe under the membership criteria and ordinances of such tribes.

SEC. 6. ELECTION OF SETTLEMENT OPTIONS.

(a) Notice of Settlement Options.—(1) Within sixty days after the publication of the Settlement Roll as provided in section 5(d), the Secretary shall give notice by certified mail to each person eighteen years or older on such roll of their right to elect one of the settlement options provided in this section.

(2) The notice shall be provided in easily understood language, but shall be as comprehensive as possible and shall provide an objective assessment of the advantages and disadvantages of each of the options offered. The notice shall also provide information about the counseling services which will be made available to inform individuals about the respective rights and benefits associated with each option presented under this section. It shall also clarify that an election of the Lump Sum Payment option requires the completion of a sworn affidavit certifying that the individual has been provided with complete information about the effects of such an election.

(3) With respect to minors on the Settlement Roll the notice shall state that minors shall be deemed to have elected the option of section 6(c), except that if the parent or guardian furnishes proof satisfactory to the Secretary that a minor is an enrolled member of a tribe that prohibits members from enrolling in other tribes, the parent or guardian shall make the election for such minor. A minor subject to the provisions of section 6(c) shall, notwithstanding any other law, be deemed to be a child of a member of an Indian tribe regardless of the option elected pursuant to this Act by the minor's parent. With respect to minors on the Settlement Roll whose parent or guardian is not also on the roll, notice shall be given to the parent or guardian of such minor. The funds to which such minors are entitled shall be held in trust by the Secretary until the minor reaches age 18. The Secretary shall notify and provide payment to such person including all interest accrued.

(4)(A) The notice shall also establish the date by which time the election of an option under this section must be made. The Secretary shall establish that date as the date which is one hundred and twenty days after the date of the publication in the Federal Register as required by section 5(d).

(B) Any person on the Settlement Roll who has not made an election by the date established pursuant to subparagraph (A) shall be deemed to have elected the option provided in subsection (c).

(b) Hoopa Tribal Membership Option.—(1) Any person on the Settlement Roll, eighteen years or older, who can meet any of the enrollment criteria of the Hoopa Valley Tribe set out in the decision of the United States Court of Claims in its March 31, 1982, decision in the Short case (No. 102-63) as "Schedule A", "Schedule B", or "Schedule C" and who—

(A) maintained a residence on the Hoopa Valley Reservation on the date of enactment of this Act;

(B) had maintained a residence on the Hoopa Valley Reservation at any time within the five year period prior to the enactment of this Act; or

(C) owns an interest in real property on the Hoopa Valley Reservation on the date of enactment of this Act, may elect to be, and, upon such election, shall be entitled to be, enrolled as a full member of the Hoopa Valley Tribe.

(2) Notwithstanding any provision of the constitution, ordinances or resolutions of the Hoopa Valley Tribe to the contrary, the Secretary shall cause any entitled person electing to be enrolled as a member of the Hoopa Valley Tribe to be so enrolled and such person shall thereafter be entitled to the same rights, benefits, and privileges as any other member of such tribe.

(3) The Secretary shall determine the quantum of "Indian blood" or "Hoopa Indian blood", if any, of each person enrolled in the Hoopa Valley Tribe under this subsection pursuant to the criteria established in the March 31, 1982, decision of the United States Court of Claims in the case of *Jessie Short et al.* v. *United States*, (Cl. No. 102-63).

(4) Any person making an election under this subsection shall no longer have any right or interest whatsoever in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Yurok Indian Reservation or the Yurok Tribe or in the Settlement Fund.

(c) Yurok Tribal Membership Option.—(1) Any person on the Settlement Roll may elect to become a member of the Yurok Tribe and shall be entitled to participate in the organization of such tribe as provided in section 9.

(2) All persons making an election under this subsection shall form the base role of the Yurok Tribe for purposes of organization pursuant to section 9 and the Secretary shall determine the quantum of "Indian blood", if any, pursuant to the criteria established in the March 31, 1982, decision of the United States Court of Claims in the case of Jessie Short et al. v. United States, (Cl. Ct. No. 102-63).

(3) The Secretary, subject to the provisions of section 7 of the Act of October 19, 1973 (87 Stat. 466), as amended (25 U.S.C. 1407), shall pay to each person making an election under this subsection, $5,000 out of the Settlement Fund for those persons who are, on the date established pursuant to section 6(a)(4), below the age of 50 years, and $7,500 out of the Settlement Fund for those persons who are, on that date, age 50 or older.

(4) Any person making an election under this subsection shall no longer have any right or interest whatsoever in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Hoopa Valley Reservation or the Hoopa Valley Tribe or, except to the extent authorized by paragraph (3), in the Settlement Fund. Any such person shall also be deemed to have granted to members of the Interim Council established under section 9 an irrevocable proxy directing them to approve a proposed resolution waiving any claim the Yurok Tribe may have against the United States arising out of the provisions of this Act, and granting tribal consent as provided in section 9(d)(2).

(d) Lump Sum Payment Option.—(1) Any person on the Settlement Roll may elect to receive a lump sum payment from the Settlement Fund and the Secretary shall pay to each such person the amount of $15,000 out of the Settlement Fund, provided that such individual completes a sworn affidavit certifying that he or she has been afforded the opportunity to participate in counseling which the Secretary, in consultation with the Hoopa Tribal Council or Yurok Transition Team, shall provide. Such counseling shall provide a comprehensive explanation of the effects of such election on the individual making such election, and on the tribal enrollment rights of that persons children and descendants who would otherwise be eligible for membership in either the Hoopa or Yurok Tribe.

(3) The option to elect a lump sum payment under this section is provided solely as a mechanism to resolve the complex litigation and other special circumstances of the Hoopa Valley Reservation and the tribes of

the reservation, and shall not be construed or treated as a precedent for any future legislation.

(2) Any person making an election to receive, and having received, a lump sum payment under this subsection shall not thereafter have any interest or right whatsoever in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Hoopa Valley Reservation, the Hoopa Valley Tribe, the Yurok Reservation, or the Yurok Tribe or, except authorized by paragraph (1), in the Settlement Fund.

SEC. 7. DIVISION OF SETTLEMENT FUND REMAINDER.

(a) Any funds remaining in the Settlement Fund after the payments authorized to be made therefrom by subsections (c) and (d) of section 6 and any payments made to successful appellants pursuant to section 5(d) shall be paid to the Yurok Tribe and shall be held by the Secretary in trust for such tribe.

(b) Funds divided pursuant to this section and any funds apportioned to the Hoopa Valley Tribe and the Yurok Tribe pursuant to subsections (c) and (d) of section 4 shall not be distributed per capita to any individual before the date which is 10 years after the date on which the division is made under this section; provided however, that if the Hoopa Valley Business Council shall decide to do so it may distribute from the funds apportioned to it a per capita payment of $5,000 per member, pursuant to the Act of August 2, 1983 (25 U.S.C. 117a et seq.).

SEC. 8. HOOPA VALLEY TRIBE; CONFIRMATION OF STATUS.

The existing governing documents of the Hoopa Valley Tribe and the governing body established and elected thereunder, as heretofore recognized by the Secretary, are hereby ratified and confirmed.

SEC. 9. RECOGNITION AND ORGANIZATION OF THE YUROK TRIBE.

(a) YUROK TRIBE.—(1) Those persons on the Settlement Roll who made a valid election pursuant to subsection (c) of section 6 shall constitute the base membership roll for the Yurok Tribe whose status as an Indian tribe, subject to the adoption of the Interim Council resolution as required by subsection (d)(2), is hereby ratified and confirmed.

(2) The Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461 et seq.), as amended, is hereby made applicable to the Yurok Tribe and the tribe may organize under such Act as provided in this section.

(3) Within thirty (30) days after the enactment of this Act the Secretary, after consultation with the appropriate committees of Congress, shall appoint five (5) individuals who shall comprise the Yurok Transition Team which, pursuant to a budget approved by the Secretary, shall provide counseling, promote communication with potential members of the Yurok Tribe concerning the provisions of this Act, and shall study and investigate programs, resources, and facilities for consideration by the Interim Council. Any property acquired for or on behalf of the Yurok Transition Team shall be held in the name of the Yurok Tribe.

(b) INTERIM COUNCIL; ESTABLISHMENT.—There shall be established an Interim Council of the Yurok Tribe to be composed of five members. The Interim Council shall represent the Yurok Tribe in the implementation of provisions of this Act, including the organizational provisions of this section, and subject to subsection (d) shall be the governing body of the tribe until such time as a tribal council is elected under a constitution adopted pursuant to subsection (e).

(c) GENERAL COUNCIL; ELECTION OF INTERIM COUNCIL.—(1) Within 30 days after the date established pursuant to section 6(a)(4), the Secretary shall prepare a list of all persons eighteen years of age or older who have elected the Yurok Tribal Membership Option pursuant to section 6(c), which persons shall constitute the eligible voters of the Yurok Tribe for the purposes of this section, and shall provide written notice to such persons of the date, time, purpose, and order of procedure for the general council meeting to be scheduled pursuant to paragraph (2) for the consideration of the nomination of candidates for election to the Interim Council.

(2) Not earlier than 30 days before, nor later than 45 days after, the notice provided pursuant to paragraph (1), the Secretary shall convene a general council meeting of the eligible voters of the Yurok Tribe on or near the Yurok Reservation, to be conducted under such order of procedures as the Secretary determines appropriate, for the nomination of candidates for election of the members of the Interim Council. No person shall be eligible for nomination who is not on the list prepared pursuant to this section.

(3) Within 45 days after the general council meeting held pursuant to paragraph (2), the Secretary shall hold an election by secret ballot, with absentee balloting and write-in voting to be permitted, to elect the five members of the Interim Council from among the nominations submitted to him from such general council meeting. The Secretary shall assure that notice of the time and place of such election shall be provided to eligible voters at least fifteen days before such election.

(4) The Secretary shall certify the results of such election and, as soon as possible, convene an organizational meeting of the newly-elected members of the Interim Council and shall provide such advice and assistance as may be necessary for such organization.

(5) Vacancies on the Interim Council shall be filled by a vote of the remaining members.

(d) INTERIM COUNCIL; AUTHORITIES AND DISSOLUTION.—(1) The Interim Council shall have no powers other than those given to it by this Act.

(2) The Interim Council shall have full authority to adopt a resolution—

(i) waiving any claim the Yurok Tribe may have against the United States arising out of the provision of this Act, and

(ii) affirming tribal consent to the contribution of Yurok Escrow monies to the Settlement Fund, and for their use as payments to the Hoopa Tribe, and to individual Hoopa members, as provided in this Act, and

(iii) to receive grants from, and enter into contracts for, Federal programs, including those administered by the Secretary and the Secretary of Health and Human Services, with respect to Federal services and benefits for the tribe and its members.

(3) The Interim Council shall have such other powers, authorities, functions, and responsibilities as the Secretary may recognize, except that any contract or legal obligation that would bind the Yurok Tribe for a period in excess of two years from the date of the certification of the election by the Secretary shall be subject to disapproval and cancellation by the Secretary if the Secretary determines that such a contract or legal obligation is unnecessary to improve housing conditions of members of the Yurok Tribe, or to obtain other rights, privileges or benefits that are in the long-term interest of the Yurok Tribe.

(4) The Interim Council shall appoint, as soon as practical, a drafting committee which shall be responsible, in consultation with the Interim Council, the Secretary and members of the tribe, for the preparation of a draft constitution for submission to the Secretary pursuant to subsection (e).

(5) The Interim Council shall be dissolved effective with the election and installation of the initial tribe governing body elected pursuant to the constitution adopted under subsection (e) or at the end of two years after such installation, whichever occurs first.

(e) ORGANIZATION OF YUROK TRIBE.—Upon written request of the Interim Council or the drafting committee and the submission of a draft constitution as provided in paragraph (4) of subsection (d), the Secretary shall conduct an election, pursuant to the provisions of the Indian Reorganization Act of June 18, 1934 (25 U.S.C. 461 et seq.) and rules and regulations promulgated thereunder, for the adoption of such constitution and, working with the Interim Council, the election of the initial tribal governing body upon the adoption of such constitution.

SEC. 10. ECONOMIC DEVELOPMENT

(a) PLAN FOR ECONOMIC SELF-SUFFICIENCY.—The Secretary shall—

(1) enter into negotiations with the Yurok Transition Team and the Interim Council of the Yurok Tribe with respect to establishing a plan for economic development for the tribe; and

(2) in accordance with this section and not later than two years after the date of enactment of this Act, develop such a plan.

(3) Upon the approval of such plan by the Interim Council or tribal governing body (and after consultation with the State and local officials pursuant to subsection (b) of this section), the Secretary shall submit such plan to the Congress.

(b) CONSULTATION WITH STATE AND LOCAL OFFICIALS REQUIRED.—To assure that legitimate State and local interests are not prejudiced by the proposed economic self-sufficiency plan, the Secretary shall notify and consult with the appropriate officials of the State and all appropriate local governmental officials in the State. The Secretary shall provide complete information on the proposed plan to such officials, including the restrictions on such proposed plan imposed by subsection (c) of this section. During any consultation by the Secretary under this subsection, the Secretary shall provide such information as the Secretary may possess, and shall request comments and additional information on the extent of any State or local service to the tribe.

(c) RESTRICTIONS TO BE CONTAINED IN PLAN.—Any plan developed by the Secretary under subsection (a) of this section shall provide that—

(1) any real property transferred by the tribe or any member to the Secretary shall be taken and held in the name of the United States for the benefit of the tribe;

(2) any real property taken in trust by the Secretary pursuant to such plan shall be subject to—

(A) all legal rights and interests in such land existing at the time of the acquisition of such land by the Secretary, including any lien, mortgage, or previously levied and outstanding State or local tax; and

(B) foreclosure or sale in accordance with the law of the State pursuant to the terms of any valid obligation in existence at the time of the acquisition of such land by the Secretary; and

(3) any real property transferred pursuant to such plan shall be exempt from Federal, State, and local taxation of any kind.

(d) APPENDIX TO PLAN SUBMITTED TO THE CONGRESS.—The Secretary shall append to the plan submitted to the Congress under subsection (a) of this section a detailed statement—

(1) naming each individual and official consulted in accordance with subsection (b) of this section;

(2) summarizing the testimony received by the Secretary pursuant to any such consultation; and

(3) including any written comments or reports submitted to the Secretary by any party named in paragraph (1).

SEC. 11. SPECIAL CONSIDERATIONS.

(a) ESTATE FOR SMOKERS FAMILY.—The 20 acre land assignment on the Hoopa Valley Reservation made by the Hoopa Area Field Office of the Bureau of Indian Affairs on August 25, 1947, to the Smokers family shall continue in effect and may pass by descent or devise to any blood relative or relatives of one-fourth or more Indian blood of those family members domiciled on the assignment on the date of enactment of this Act.

(b) RANCHERIA MERGER WITH YUROK TRIBE.—If a majority of the adult members of any of the following Rancherias at the Resighini, Trinidad, or Big Lagoon, vote to merge with the Yurok Tribe in an election which shall be conducted by the Secretary within ninety days after the date of enactment of this Act, the tribes and reservations of those rancherias so voting shall be extinguished and the lands and members of such reservations shall be part of the Yurok Reservation with the unallotted trust land therein held in trust by the United States for the Yurok Tribe, provided however, that the existing governing documents and the elected governing bodies of any rancherias voting to merge shall continue in effect until the election of the Interim Council pursuant to section 9. The Secretary shall publish in the Federal Register a notice of the effective date of the merger.

(c) PRESERVATION OF LEASEHOLD AND ASSIGNMENT RIGHTS OF RANCHERIA RESIDENTS.—Real property on any rancheria that merges with the Yurok Reservation pursuant to subsection (b) that is, on the date of enactment of this Act, held by any individual under a lease shall continue to be governed by the terms of the lease, and any land assignment existing on the date of the enactment of this Act shall continue in effect and may pass by descent or devise to any blood relative or relatives of Indian blood of the assignee.

SEC. 12. KLAMATH RIVER BASIN FISHERIES TASK FORCE.

(a) IN GENERAL.—Section 4(c) of the Act entitled "An Act to provide for the restoration of the fishery resources in the Klamath River Basin, and for other purpose" (16 U.S.C. 460ss-3) is amended—

(A) in the matter preceding paragraph (1), by striking out "12" and inserting in lieu thereof "14"; and

(B) by inserting at the end thereof the following new paragraphs:

"(11) A representative of the Karuk Tribe, who shall be appointed by the governing body of the Tribe.

"(12) A representative of the Yurok Tribe, who shall be appointed by the Secretary until such time as the Yurok Tribe is organized upon which time the Yurok Tribe shall appoint such representative beginning with the first appointment ordinarily occurring after the Yurok Tribe is organized".

(b) SPECIAL RULE.—The initial term of the representative appointed pursuant to section 4(c) (11) and (12) of such Act (as added by the amendment made by subsection (a) shall be for that time which is the remainder of the terms of the members of the Task Force then serving. Thereafter, the term of such representatives shall be as provided in section 4(e) of such Act.

SEC. 13. TRIBAL TIMBER SALES PROCEEDS USE.

Section 7 of the Act of June 25, 1910 (36 Stat. 857; 25 U.S.C. 407) is amended to read as follows:

"SEC. 7. Under regulations prescribed by the Secretary of the Interior, the timber on unallotted trust land in Indian reservations or on other land held in trust for tribes may be sold in accordance with the principles of sustained-yield management or to convert the land to a more desirable use. After deduction, if any, for administrative expenses under the Act of February 14, 1920 (41 Stat. 415; 25 U.S.C. 413), the proceeds of the sale shall be used—

"(1) as determined by the governing bodies of the tribes concerned and approved by the Secretary, or

"(2) in the absence of such a governing body, as determined by the Secretary for the tribe concerned.

SEC. 14. LIMITATIONS OF ACTIONS; WAIVER OF CLAIMS.

(a) Any claim challenging the partition of the joint reservation pursuant to section 2 or any other provision of this Act as having effected a taking under the fifth amendment of the United States Constitution or as otherwise having provided inadequate compensation shall be brought, pursuant to 28 U.S.C. 1491 or 28 U.S.C. 1505, in the United States Claims Court.

(b)(1) Any such claim by any person or entity, other than the Hoopa Valley Tribe or the Yurok Tribe, shall be forever barred if not brought within the later of 210 days from the date of the partition of the joint reservation as provided in section 2 or 120 days after the publication in the Federal Register of the option election date as required by section 6(a)(4).

(2) Any such claim by the Hoopa Valley Tribe shall be barred 180 days after the date of enactment of this Act or such earlier date as may be established by the adoption of a resolution waiving such claims pursuant to section 2(a)(2).

(3) Any such claim by the Yurok Tribe shall be barred 180 days after the general council meeting of the Yurok Tribe as provided in section 9 or such earlier date as may be established by the adoption of a resolution waving such claims as provided in section 9(d)(2).

(c)(1) The Secretary shall prepare and submit to the Congress a report describing the final decision in any claim brought pursuant to subsection (b) against the United States or its officers, agencies, or instrumentalities.

(2) Such report shall be submitted no later than 180 days after the entry of final judgment in such litigation. The report shall include any recommendations of the Secretary for action by Congress, including, but not limited to, any supplemental funding proposals necessary to implement the terms of this Act and any modifications to the resource and management authorities established by this Act. Notwithstanding the provisions of 28 U.S.C. 2517, any judgment entered against the United States shall not be paid for 180 days after the entry of judgment; and, if the Secretary of the Interior submits a report to Congress pursuant to this section, then payment shall be made no earlier than 120 days after submission of the report.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

IRAQ SANCTIONS

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 5337, a bill dealing with United States sanctions against Iraq, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY WATER RIGHTS SETTLEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 1012, H.R. 4102, an act to provide for the settlement of water rights claims of the Salt River Pima-Maricopa Indian community in Maricopa County, AZ.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4102) to provide for the settlement of water rights claims of the Salt River Pima-Maricopa Indian community in Maricopa County, AZ, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill.

Mr. DeCONCINI. Mr. President, I am pleased to support the bill presently before the Senate, H.R. 4102, a bill to settle the water rights claims of the Salt River Pima-Maricopa Indian community of Arizona. The bill is the result of several years of discussions and negotiations between and amongst the Salt River Pima-Maricopa Indian community, non-Indian entities and the Department of the Interior. H.R. 4102 was introduced March 8, 1988, by Congressman MORRIS K. UDALL and the Senate companion bill, S. 2153, was introduced the same day by Senator McCAIN and I.

H.R. 4102 passed the House of Representatives on September 13 and was amended to respond to the concerns of the Reagan administration over the costs of the settlement and other items. The amendments adopted by the House will reduce the cost of the original settlement from $88 million to $58 million. The major reduction in the cost to the Federal Government is due to an agreement by local communities in the Phoenix metropolitan area to purchase approximately 22,000 acre feet of water from the Wellton-Mohawk irrigation and drainage district. This is a welcome achievement, Mr. President, and I commend all of the parties to the agreement for their considerable efforts in attempting to formulate a settlement agreement which is acceptable from a cost standpoint.

Other important amendments adopted by the House include the following:

First, section 10(a) has been amended to eliminate any financial exposure of the U.S. arising from the extinguishment of community allottee claims against non-Federal entities for deprivation of water rights;

Second, section 11(f), requiring the United States to subsidize the Indian community for costs of storage, transportation, and delivery of water from the Salt and Verde Rivers, has been eliminated;

Third, sections 5(a) and 5(b) have been modified to clarify the method of calculating the community's water rights under the Bartlett Dam Agreement and to clarify the operation of storage works;

Fourth, section 6 was amended to waive the applicable of the full cost pricing and ownership limitation of reclamation law;

Fifth, section 8(a)(2) has been amended to provide that the community's CAP water allocation shall be leased to the cities of Chandler, Glendale, Mesa, Scottsdale, and Tempe, and the town of Gilbert, as well as the city of Phoenix;

Sixth, a new section 9(c) has been added to quantify the amount of annual contributions for deposit in the community trust fund;

Seventh, a new section 10(d) has been added to limit the United States role in asserting any claims against any person, other than those included in the settlement agreement; and

Eighth, a new paragraph has been added to section 12(a) requiring as a condition to the settlement becoming effective the Secretary must appropriate funds authorized under existing law.

Mr. President, together, these amendments should respond to any objections raised by the administration with respect to the settlement agreement. As I pointed out earlier, the water settlement agreement to be implemented by enactment of H.R. 4102, has been many years in the making. All parties worked very diligently to insure that the Salt River Indian community would not only be able to put its water to beneficial use on the reservation but also use their rightful share of water for long-term economic development. This goal has been achieved with the provisions contained in the legislation and I heartily congratulate the Salt River Indian community and all of the non-Indian parties who were responsible for the formulation of this settlement agreement.

Section 14 contains a technical amendment relating to the previously enacted Ak-Chin Indian water settlement. Section 14 enables the Secretary of the Interior to discharge the obligations of the United States to the Ak-Chin Indian community of Arizona pursuant to the act of October 19, 1984, Public Law 98-530. The 1984 act provided for settlement of the community's claims for water and money damages against the United States. Section 3(c)(4) of the 1984 act requires the Secretary to discharge the community's repayment obligations for certain Small Reclamation Projects Act loans in lieu of payment for damages. At the request of the Secretary, Senate Report No. 100-159, accompanying the fiscal year 1988 energy and water development appropriations bill, included the following:

> The Committee is informed that the work under the Ak-Chin small reclamation loan phase I and phase II are likely to exceed the amount of the loan commitment requiring an escalation in funding. It is the Committee's understanding that the obligation to repay such escalated cost as may be expended for that purpose under the SRPA Program are subject to discharge by the Secretary of the Interior pursuant to the authority provided in section 3(a)(4) of Public Law 98-530 after review and approval of applications for escalation amounts for these contracts.

Subsequently, the Secretary determined that certain of the costs previously identified as "escalation costs" are more properly designated "supplemental costs"; and that the Secretary is obligated to discharge supplemental costs under Public Law 98-530. Discharge of supplemental costs may only cover 75 percent of the total supplmental costs. Section 14 would reduce the Secretary's obligation to $4.9 million from $6.5 million—a reduction of $1.6 million, and fully and finally meet the terms of Public Law 98-530. Section 14 further provides that terms and conditions of the Small Reclamation Projects Act, controlling on the date of enactment of the 1984 Settlement Act, shall apply to the loans the Secretary is obligated to discharge and waives the 60-day period for congressional review. The Ak-Chin Indian community supports the terms of section 14. Failure to enact this section would result in a breach of the 1984 Settlement Act and expose the United States to claims for damages.

In reference to the overall Salt River Settlement Agreement, Mr. President, it goes without saying that negotiated settlements to water rights disputes are preferable to lengthy and costly litigation. I endorse this legislation and urge my colleagues to do the same.

AMENDMENT NO. 3350

Mr. BYRD. Mr. President, I send to the desk an amendment on behalf of Senator STENNIS and Senator HATFIELD and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from West Virginia [Mr. BYRD], for Mr. STENNIS (for himself and Mr. HATFIELD) proposes an amendment numbered 3350.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 29 strike all beginning on line 16 through line 20.

Mr. STENNIS. Mr. President, the bill before us includes a provision which violates a longstanding principle of the U.S. Senate—namely the separation of appropriations and authorization responsibilities. The Senator from Oregon and I, as the chairman and ranking minority member, feel strongly that the infringement upon this important principle must be corrected before H.R. 4102 passes the Senate.

The Committee on Appropriations has had a longstanding policy of opposing procedures of this nature and the Senator from Oregon and I have tried very hard in our committee to honor the role and responsibilities of the authorizing committees of the Senate.

Specifically, section 14(c) of H.R. 4102 allows the Bureau of Reclamation of the Department of the Interior to redirect funds previously appropriated for fiscal year 1988 to fund the Ak-Chin Farms West project which has not been reviewed or approved by the Appropriations Committee.

Therefore, we have offered an amendment, which I understand is acceptable to those involved, which merely strikes the language transferring funds to the Ak-Chin project.

Mr. President, we take this action without prejudice to the merits of the project, but merely to uphold the principles and traditions of the Senate. The Senator from Arizona [Mr. DECONCINI], and all of those who have worked so hard on this measure, can be assured that funding for the Ak-Chin Farms West project can and will be handled in an expedited way under already existing reprogramming procedures.

Mr. DECONCINI. Mr. President, I express my appreciation to the distinguished chairman of the Appropriations Committee for his willingness to ensure that the reprogramming of a small projects reclamation loan for the Ak-Chin Indian community will be considered on a expedited basis. I also want the record to show that as a member of the Senate Appropriations Committee, I am sympathetic to the chairman's concerns over a legislative attempt to circumvent the Appropriations Committee's jurisdiction over the allocation of appropriated funds. However, I can assure the chairman that the inclusion of section 14(c) by my colleagues in the House of Representatives was not intended as a way to circumvent the appropriations process. On the contrary, the language was included merely as a means to accomplish the overall goals of section 14.

Mr. McCAIN. Mr. President, the Senate has before it legislation of enormous importance to my State. The Salt River Pima-Maricopa Indian Community Water Settlement Act of 1988 settles a long standing water dispute in Arizona. The bill will compensate the Salt River Pima-Maricopa Indian community for water rights to which they were entitled but never received. The water and infrastructure received by the tribe pursuant to the agreement will correct this long-standing injustice and are crucial to the tribe's economic development, well-being and self-sufficiency.

Mr. President, this agreement is the result of intense negotiations conducted over a long period of time. We all know that negotiation is preferable to costly, timely and divisive litigation. The bill before us today demonstrates that this is more than just a platitude, and that good will, cooperation and compromise bear fruit. I would like to commend the tribe, the State of Arizona, the local municipalities and water interests, and the administration for their outstanding efforts in making this day possible. I thank my distinguished colleague Senator DECONCINI and the many individuals whose dedication and commitment to this settlement were so indispensable. I look forward to seeing the legislation signed promptly into law.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3350) was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 4102), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SOUTHERN CALIFORNIA INDIAN LAND TRANSFER ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3621.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3621) to declare that certain lands located in California and held by the Secretary of the Interior are lands held in trust for the benefit of certain bands of Indians and to declare such lands to be part of the reservation with which they are contiguous.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs with amendments, as follows:

(The parts of the bill intended to be inserted are shown in italic.)

H.R. 3621

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SOUTHERN CALIFORNIA INDIAN LAND TRANSFER

SECTION 1. SHORT TITLE.

This Act may be cited as the "Southern California Indian Land Transfer Act".

SEC. 2. LANDS HELD IN TRUST FOR VARIOUS GROUPS AND BANDS OF MISSION INDIANS.

(a) IN GENERAL.—Subject to section 3, all right, title, and interest of the United States in and to the lands described in subsection (b) in connection with each band or group of Mission Indians listed in the table contained in such subsection (including all improvements on such land and appurtenances to such land) are hereby declared—

(1) to be held in trust by the United States for the benefit of such band or group listed in such table, and

(2) to be part of the reservation listed in connection with each such band or group in such table.

(b) LAND DESCRIBED.—

(1) The lands referred to in subsection (a) are the lands which are described in paragraph (2) and are adjacent to the reservation of a band or group of Mission Indians, as listed in the following table and generally described as "Lands identified in the Proposed So. California Indian Land Transfer Act" and depicted on the map entitled "Southern California Indian Land Transfer Act Map," May 1988:

Band or group of Mission Indians	Approximate Acreage	Reservation
Barona Group of Capitan Grande Band ...	722.86	Barona Ranch
Cahuilla Band.....	611.88	Cahuilla
Campo Band........	470.28	Campo
La Jolla Band......	355.51	La Jolla
La Posta	84.20	La Posta
Mesa Grande Band.................	800.00	Mesa Grande
Morongo Band....	107.00	Morongo
Pala Band	415.00	Pala
Pechanga Band...	302.64	Pechanga
Rincon Band	320.00	Rincon
Soboba.................	880.00	Soboba

(2) The lands described in this paragraph are as follows:

(A) Lands with respect to the Barona Group of Capitan Grande Band:

T. 14S., R. 1E., SBM
Section 13, NE¼, N½SE¼;
T. 14S., R. 2E., SBM
Section 7, Lots 5, 6, 10, 11, 12, 21 and 22, E½NE¼, NE¼SW¼, SE¼;
Section 18, Lot 1, W½NE¼, NE¼NW¼;

(B) Lands with respect to the Cahuilla Band:

T. 8S., R. 2E., SBM
Section 11, Lots 5 thru 8, 11, and 12;
Section 12, Lots 17 thru 19;
T. 8S., R. 3E., SBM
Section 7, Lots 8 thru 15;
Section 8, Lots 7, 8, and 12;

(C) Lands with respect to the Campo Band:

T. 17S., R. 6E., SBM
Section 17, S½NE¼, SE¼;
Section 35, Lots 3, 5, and 7, N½S½;
Section 36, Lots 6 and 9;

(D) Lands with respect to the La Jolla Band:

T. 11S., R. 1E., SBM
Section 2, Lots 1 thru 4, S½NW¼;
Section 3, Lots 1 thru 3;

(E) Lands with respect to the La Posta Band:

T. 17S., R. 6E., SBM
Section 6, Lots 6 thru 8, SW¼NW¼;

(F) Lands with respect to the Mesa Grande Band:

T. 12S., R. 2E., SBM
Section 23, NE¼, N½SE¼, E½NW¼;
Section 24, NW¼NW¼, S½NW¼, NW¼SW¼, S½SW¼;
Section 25, E½NW¼, W½NE¼, W½SE¼;

(G) Lands with respect to the Morongo Band:

T. 3S., R. 1E., SBM
Section 34, S½NW¼NW¼;
T. 3S., R. 2E., SBM
Section 20, Lot 10;
Section 32, W½NW¼NE¼, N½SE¼NW¼, SW¼SE¼NW¼;

(H) Lands with respect to the Pala Band:

T. 9S., R. 2W., SBM
Section 13, SW¼SW¼ (excepting the patented portions of MS 6452 and MS 6848 and excepting those portions of public land not contiguous to the Indian Reservation);

Section 14, W½W½ (excepting the patented portion of MS 6458), SE¼SE¼ (excepting the patented portion of MS 6452 and excepting those portions of public land not contiguous to the Indian Reservation);

Section 15, NE¼NE¼, S½NE¼, E½W½, SE¼ (excepting the patented portions of MS 4886, MS 4926, and MS 6458);

(I) Lands with respect to the Pechanga Band:

T. 8S., R. 2W., SBM

Section 23, Lots 4 and 5, S½SW¼, SE¼;

(J) Lands with respect to the Rincon Band:

T. 10S., R. 1W., SBM

Section 28, SE¼, E½SW¼;

Section 33, N½NE¼;

(K) Lands with respect to the Soboba Band:

T. 4S., R. 1E., SBM

Section 20, SE¼SW¼;

Section 33, S½;

Section 34, W½NE¼, W½, W½SE¼, SE¼SE¼.

SEC. 3. EXISTING RIGHTS PRESERVED; RIGHT OF CERTAIN CURRENT LESSEES TO PURCHASE; MISCELLANEOUS PROVISIONS.

(a) Existing Rights Preserved.—The declarations contained in section 2 shall not affect—

(1) any right or interest of any person in any land described in such section under any legal right-of-way, mining claim, or grazing permit in effect on the day before the date of the enactment of this Act, or

(2) any other right, title, or interest which such person may have in such land on such day.

(b) Right of Holder of Grazing Permit to Purchase Lands.—

(1) In general.—Any person who holds a valid grazing permit and lease (as such term is defined in section 103(p) of the Federal Land Policy and Management Act of 1976) with respect to any land described in section 2 shall have the right to purchase such land before the end of the 1-year period beginning on the date of the enactment of this Act for the fair market value of such land (determined as of the date of purchase) on such terms and conditions as the Secretary of the Interior may prescribe. The declarations in section 2 relating to the trust and reservation status of such land shall take effect subject to the right of purchase established under this paragraph.

(2) Notice by secretary required.—Before the end of the 30-day period beginning on the date of the enactment of this Act, the Secretary of the Interior shall notify each person referred to in paragraph (1) of the right of purchase established under such paragraph.

(3) Proceeds of sale to be held in trust for indians.—In the case of any sale of land under paragraph (1), the proceeds of such sale shall be held in trust by the Secretary of the Interior for the benefit of the band or group of Mission Indians for whose benefit such land is held after the date of the enactment of this Act and before such sale. The net income on the amount held in trust by such Secretary shall be available for use or obligation by such band or group in such manner and for such purposes as the Secretary may approve.

(c) Proceeds From Rents and Royalties Transferred to Indians.—Amounts which accrue to the United States after the date of the enactment of this Act from sales, bonuses, royalties, and rentals relating to any land described in section 2 shall be available for use or obligation, in such manner and for such purposes as the Secretary may approve, by the band or group of Mission Indians for whose benefit such land is held after the date of the enactment of this Act.

(d) Additions to Reservations Subject to Laws Governing Existing Reservations.—Any lands which are held in trust for the benefit of any band or group of Indians pursuant to this Act shall be subject to the laws of the United States relating to Indian land in the same manner and to the same extent as the lands comprising the reservation of such group or band on the day before the date of the enactment of this Act.

TITLE II—INDIAN DEVELOPMENT FINANCE CORPORATION

Subtitle A—General Provisions

SHORT TITLE

Sec. 201. This title may be cited as the "Indian Development Finance Corporation Act".

CONGRESSIONAL FINDINGS AND PURPOSE

Sec. 202. (a) The Congress finds that—

(1) a special relationship has existed between the United States and the Indian tribes which is recognized in clause 3, section 8, article I of the United States Constitution,

(2) Congress, through statutes, treaties and the exercise of administrative authorities, has implemented the Federal Government's responsibility for the protection and preservation of Indian tribes and their resources,

(3) despite the availability of abundant, natural resources on Indian lands and a rich, cultural legacy which places great value on self-determination, self-reliance and independence, American Indians and Alaskan Natives experience poverty and unemployment along with the associated incidences of social pathology, to an extent unequaled by any other group in America,

(4) the reasons for such unparalleled poverty and unemployment have been widely studied and documented by the Congress, the General Accounting Office, the United States Department of the Interior, private academic institutions and the Indian tribes themselves and that such studies have consistently identified as fundamental obstacles to balanced economic growth and progress—

(A) the very limited availability of long term development capital and sources of financial credit necessary to support the development of a private sector economy in Indian country comprised of Indian owned business enterprises,

(B) the lack of effective control by the Indians over their own lands and resources, and

(C) the scarcity of experienced Indian managers and technicians,

(5) previous efforts of the Federal Government directed at stimulating Indian economic development through the provision of grants, direct loans, loan guarantees, and interest subsidies have fallen far short of their objectives due to—

(A) inadequate funds,

(B) lack of coordination,

(C) arbitrary project selection criteria,

(D) politicalization of the delivery system, and

(E) other inefficiencies characteristic of a system of publicly administered financial intermediation, and

(6) the experience acquired by multilateral lending institutions among the so-called lesser developed countries has demonstrated the value and necessity of development financing institutions in achieving economic growth in underdeveloped economies and societies which are strikingly similar to Indian and Alaskan Native communities in relation to such matters as control over natural resource management and the absence of experienced, indigenous managers and technicians, as well as the availability of long term development capital and private sources of financial credit.

(b) It is hereby declared to be the policy of Congress that, in fulfillment of its special and longstanding responsibility to the Indian tribes, the Federal Government should provide assistance to the Indian people in their efforts to break free from the devastating effects of extreme poverty and unemployment and achieve lasting economic self-sufficiency through the development of the private sector of tribal economies by establishing a federally chartered, mixed ownership development financing institution which shall provide a broad range of financial intermediary services including working capital, direct loans, loan guarantees and project development assistance utilizing the proven efficiencies of the private market mode of operation.

DEFINITIONS

Sec. 203. For purposes of this title—

(1) The term "Indian" means any person who is a member of any Indian tribe.

(2) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, which is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians including any Alaska Native village or regional or village corporation as defined in, or established under, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(3) The term "reservation" means any Indian reservation, public domain Indian allotment, former Indian reservation in Oklahoma.

(4) The term "tribal organization" means the governing body of any Indian tribe or any entity established, controlled, or owned by such governing body.

(5) The term "Indian business enterprise" means any commercial, industrial or business entity—

(A) at least 51 percent of which is owned by one or more Indian tribes or Indians,

(B) which produces or furnishes goods, services, or facilities, which is operated, or organized on a for-profit basis,

(C) which is chartered, or controlled by any Indian tribe or tribal organization which is a shareholder of the Corporation, and

(D) whose—

(i) principal place of business is located within, or adjacent to, the boundaries of an Indian reservation or land held by any Alaska Native village or regional or village corporation (as defined in, or established under, the provisions of the Alaska Native Claims Settlement Act), or

(ii) principal business activities in addition to the production of a stream of income are determined by the Corporation to be directly beneficial to an Indian tribe and contribute to the economy of such Indian tribe. Such term includes any subsidiary entity which is owned and controlled by any commercial, industrial or business activity described in the preceding sentence.

(6) The term "Corporation" means the Indian Development Finance Corporation established under section 211(a).

(7) The term "Secretary" means the Secretary of the Interior.

Subtitle B—Establishment of Corporation

CREATION

SEC. 211. (a) There is hereby established the Indian Development Finance Corporation.

(b) The Corporation shall have succession until dissolved by Act of Congress. Only the Congress shall have the authority to revise or amend the charter of the Corporation.

FUNCTIONS

SEC. 212. (a) It shall be the duty of the Corporation to—

(1) provide development capital through the financial services that the Corporation is authorized to provide under subsections (b), (c), and (d);

(2) encourage the development of new and existing Indian business enterprises eligible for its assistance by providing and coordinating the availability of—

(A) long term capital and working capital,

(B) loans, loan guarantees and other forms of specialized credit, and

(C) technical and managerial assistance and training;

(3) maintain broad based control of the Corporation in its voting stockholders;

(4) encourage active participation in the Corporation by Indian Tribes by ownership of its equity securities; and

(5) assist in strengthening Indian tribal economies through the development of Indian business enterprises whose activities are directed at contributing to such economies.

(b)(1) The Corporation may—

(A) make loans or commitments for loans to any Indian business enterprise, or

(B) purchase, insure or discount any obligations of an Indian business enterprise, if such enterprise meets the requirements of paragraph (2).

(2) An Indian business enterprise meets the requirements of this paragraph if the Corporation makes an independent determination that—

(A) such enterprise has or will have—

(i) a sound organizational and financial structure,

(ii) income in excess of its operating costs,

(iii) assets in excess of its obligations, and

(iv) a reasonable expectation of a continuing demand for—

(I) its production, goods, commodities, or services, or

(II) its facilities, and

(B) the loan or obligation of such enterprise will be fully repayable in accordance with the terms and conditions of such loan or obligation.

(3)(A) In setting the terms, rates, and charges for loans made under this subsection the objective of the Corporation shall be to provide the type of credit needed by Indian business enterprises at the lowest reasonable cost and on a sound business basis, taking into account—

(i) the cost of money to the Corporation,

(ii) the necessary reserve and expenses of the Corporation, and

(iii) the technical and other assistance attributable to loans made available by the Corporation under this subsection.

(B) The terms of any loan made under this subsection may provide for interest rates which vary from time to time during the repayment period of the loan in accordance with the rates being charged by the Corporation for new loans at such times.

(4) The proceeds of a loan made under this subsection may be advanced or reloaned by the borrower to its members or stockholders for the development of individually owned businesses on or adjacent reservations, or land held by any Alaska Native village or regional or village corporation (as defined in, or established under, the provisions of the Alaska Native Claims Settlement Act), under circumstances permitted under the bylaws or rules of the Corporation.

(c)(1) The Corporation may guarantee all or any part of the principal and interest of any loan made by any State or federally chartered lending institution to any Indian business enterprise if—

(A) such loan is to an Indian business enterprise that meets the requirements of subsection (b)(2), and

(B) such loan was made on terms and conditions (including the rate of interest) which would be permissible terms and conditions if such loan were a direct loan made by the Corporation.

(2) The Corporation may impose a charge for any loan guarantee made under this subsection.

(3) No loan may be guaranteed by the Corporation under this subsection if the income from such to the lender is excludable from such lender's gross income for purposes of chapter 1 of the Internal Revenue Code of 1986.

(4) Any loan guarantee made under this subsection shall be assignable to the extent provided in the contract of guarantee entered into by the Corporation.

(5) Any guarantee made under this subsection shall be uncontestable, except in the case of fraud or misrepresentation of which the holder had actual knowledge at the time he acquired the loan.

(6) The Corporation, in lieu of requiring the original lender to service a loan guaranteed under this subsection until final maturity or liquidation, may purchase such guaranteed loan for an amount equal to the balance of the principal and the amount of interest accrued thereon without penalty if the Corporation determines that the purchase would not be detrimental to the interests of the Corporation and—

(A) the liquidation of such guaranteed loan would result in the insolvency of the borrower or deprive the borrower of assets essential to its continued operation,

(B) such guaranteed loan will be repayable with revision of the loan rates, terms, payment periods, or other conditions consistent with loans made by the Corporation under subsection (b), and

(C) the lender or other holder of such guaranteed loan is unwilling to make such revision.

(d)(1) For purposes of providing long-term capital and working capital to Indian business enterprises, the Corporation is authorized to purchase, or make commitments to purchase, all, or any portion of, the equity or ownership interest in any Indian business enterprise if the Corporation determines, after a full and complete appraisal of all project and business plans associated with the investment taking into account the criteria set forth in subsection (b)(2) that such an investment does not expose the Corporation to any unreasonable business risks considering the applicable standards prevailing in the field of development finance as applied to Indian economic development (or, in light of the socio-economic, political and legal conditions unique to Indian reservations).

(2) The Corporation is also authorized to supervise or participate in the management of Indian business enterprises in which an investment has been made under paragraph (1) according to such terms and conditions as are agreed to by the Corporation and the principals of the enterprise, including the assumption of a directorship in the corporate body of such Indian business enterprise by an officer of the Corporation.

GENERAL POWERS

SEC. 213. In carrying out the provisions of this title, the Corporation shall have the power, consistent with the provisions of this title—

(1) to adopt and alter a corporate seal, which shall be judicially noticed,

(2) to make agreements and contracts with persons, Indian tribes, and private or governmental entities and to make payments or advance payments under such agreements or contracts without regard to section 3324 of title 31, United States Code, except that the Corporation shall provide financial assistance only in accordance with this title,

(3) to—

(A) lease, purchase, accept gifts or donations of, or otherwise to acquire,

(B) own, hold, improve, use, or otherwise deal in or with, and

(C) sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of,

any property, real, personal, or mixed, or any interest therein,

(4) to sue and be sued in its corporate name and to complain and defend in any court of competent jurisdiction,

(5) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings,

(6) to make provision for and designate such committees, and the functions thereof, as the Board of Directors may deem necessary or desirable,

(7) with the approval of the agency concerned, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the executive branch in carrying out the provisions of this title and to pay for such use (such payments to be credited to the applicable appropriation that incurred the expense),

(8) to use the United States mails on the same terms and conditions as the executive departments of the United States Government,

(9) to obtain insurance or make other provisions against losses,

(10) to participate with one or more other financial institutions, agencies, instrumentalities, trusts, or foundations in loans or guarantees made under this title on terms as may be agreed upon,

(11) to accept guarantees from other agencies for which loans made by the Corporation may be eligible,

(12) to establish, as soon as practicable, regional offices in order to more efficiently serve the widely disbursed Indian population,

(13) to buy and sell—

(A) obligations of, or instruments insured by, the United States or any agency or instrumentalities thereof, or

(B) securities backed by the full faith and credit of any such agency or instrumentality,

(14) to make such investments as may be authorized by the Board of Directors of the Corporation,

(15) to establish such offices within the Corporation as may be necessary including offices for—

(A) Project Development,

(B) Project Evaluation and Auditing,

(C) Fiscal Management,

(D) Research and Development, and

(E) any other offices as may from time to time be authorized by the Board of Directors, and

(16) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Corporation in order to carry out the provisions of this title and the exercise of its powers, purposes, functions, duties, and authorized activities.

BOARD OF DIRECTORS

SEC. 214. (a) The powers of the Corporation shall be vested in the Board of Directors.

(b)(1) The Board of Directors shall consist of the following 15 members:

(A) 1 officer of the United States Government designated by the Secretary of the Interior,

(B) 13 individuals appointed by the President by and with the advice and consent of the Senate, and

(C) the President of the Corporation.

(2)(A) Of the members of the Board of Directors described in paragraph (1)(B)—

(i) at least 7 members shall be Indians, and

(ii) no more than 7 members may be members of the same political party.

(B) In making appointments under paragraph (1)(B) and paragraph (4), the President shall take into account the experience of the individual in private business enterprises and in development or commercial finance and shall consult with, and receive recommendations from Indian tribes.

(3)(A) Of the initial members of the Board of Directors appointed by the President under paragraph (1)(B)—

(i) 3 members shall have a term of office of 1 year,

(ii) 3 members shall have a term of office of 2 years,

(iii) 3 members shall have a term of office of 3 years, and

(iv) 4 members shall have a term of office of 4 years.

The term of office assigned to each of these initial members of the Board of Directors shall be determined by the President at the time of appointment.

(B) Except as otherwise provided in this paragraph, the term of office for any members of the Board of Directors described in paragraph (1)(B) shall be 4 years.

(4) If a vacancy occurs on the Board of Directors prior to the expiration of the term of office to which a member described in paragraph (1)(B) was appointed, the President shall appoint an individual, by and with the consent of the Senate, to fill such vacancy until the expiration of such term of office.

(5) A member of the Board of Directors may be removed from office by the President only for neglect of duty or malfeasance in office.

(c)(1) The Board of Directors shall establish the policies of the Corporation and shall supervise the management of the Corporation.

(2)(A) A majority of the Board of Directors shall constitute a quorum.

(B) Except as provided in subparagraph (C), any action of the Board of Directors shall be effected by majority vote of the members of the Board of Directors.

(C) The Board of Directors may take an action which is contrary to a policy adopted, or decision made, by the shareholders of the Corporation in an election held under the bylaws of the Corporation only if two-thirds of the members of the Board of Directors vote to take such contrary action.

(3) The Board of Directors shall annually elect from among the members described in subsection (b)(1)(B) a Chairman and Vice Chairman.

(4) The Board of Directors shall adopt, and may amend, such bylaws as are necessary for the proper management and functioning of the Corporation.

(5)(A) The Board of Directors shall meet at any time pursuant to the call of the Chairman and as may be provided by the bylaws of the Corporation, but not less than quarterly.

(B) Subject to such rules adopted by the Board of Directors as are necessary for the orderly conduct of business, all meetings of the Board of Directors shall be open to representatives of Indian tribes, Indian business enterprises, and Indian organizations and any individual who has an identifiable interest in the affairs of the Corporation. The Board of Directors may meet in private executive session if the matter under discussion in such session involves any matter which may impinge on the right of privacy of any individual.

(d) Each member of the Board of Directors not otherwise employed by the Federal Government or a State government shall receive compensation at a rate equal to the daily rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day, including traveling time, the member is engaged in the actual performance of duties as a member of the Board of Directors. A member of the Board of Directors who is an officer or employee of the United States Government or of a State government shall serve without additional compensation. All members of the Board of Directors shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

OFFICERS; EMPLOYEES

SEC. 215. (a) The Board of Directors shall appoint a President of the Corporation. The President of the Corporation may be removed from office by the Board of Directors in accordance with the bylaws of the Corporation.

(b) The President of the Corporation shall serve as the chief executive officer of the Corporation. Subject to the direction of the Board of Directors and the general supervision of the Chairman, the President of the Corporation shall have the responsibility for carrying out the policies and functions of the Corporation, and shall have authority over all personnel and activities of the Corporation.

(c) The President of the Corporation, with the approval of the Board of Directors, shall have the authority to appoint and fix the compensation and duties of such officers and employees as may be necessary for the efficient administration of the Corporation. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and chapter 51 and subchapter III of chapter 53 of title 5, United States Code.

CONFLICTS OF INTEREST AND FINANCIAL DISCLOSURE

SEC. 216. (a) The financial disclosure provisions of the Ethics in Government Act of 1978 (92 Stat. 1824; Public Law 95-521) applicable to individuals occupying positions compensated under the Executive Schedule shall apply to the members of the Board of Directors, the officers of the Corporation and to employees of the Corporation whose position is compensated at a rate equivalent to that payable for grade GS-16 or above of the General Schedule established by chapter 53 of title 5, United States Code. The financial disclosure provisions of the Ethics in Government Act of 1978 shall apply to the Corporation as if it were a Federal agency.

(b)(1) Except as permitted by paragraph (3), no member of the Board of Directors shall vote on any matter respecting any application, contract, claim, or other particular matter pending before the Corporation, in which, to his knowledge—

(A) such member,

(B) his spouse, child, or partner,

(C) an organization (other than the Corporation) in which he is serving as officer, director, trustee, partner, or employee, or

(D) any person or organization with whom he is negotiating, or has any arrangement concerning, prospective employment, has a financial interest.

(2) Action by any member of the Board of Directors contrary to the prohibition contained in paragraph (1) shall be cause for removal of such member pursuant to section 214(b)(5), but shall not impair or otherwise affect the validity of any otherwise lawful action by the Corporation in which such member participated.

(3) The prohibition contained in paragraph (1) shall not apply if the member first advises the Board of Directors of the nature of the particular matter in which he or she proposes to participate and makes full disclosure of such financial interest, and the Board of Directors determines by majority vote that the financial interest is too remote or too inconsequential to affect the integrity of such member's services for the Corporation in that matter. The member involved shall not participate in such determination.

(c) Subsection (a) of section 207 of title 18, United States Code (and subsections (f), (h), and (j) of such section to the extent they relate to subsection (a)) shall apply to former members of the Board of Directors, officers, and employees of the Corporation as if they were former officers or employees of the executive branch of the United States Government. Such section shall apply to the Corporation as if it were an agency of the executive branch of the United States Government.

ANNUAL MEETINGS

SEC. 217. (a) The Corporation shall hold an annual meeting of its shareholders which shall be open to the public. At such meeting, the Corporation shall give a full report of its activities during the year and its financial condition and may present proposals for future action and other matters of general concern to shareholders and Indian business enterprises eligible for services from the Corporation.

(b) Shareholders and representatives of Indian business enterprises may present motions or resolutions at the annual meeting of shareholders relating to matters within the scope of this title and may participate in the discussion thereof and other matters on the agenda of such meeting.

(c) At least 30 days notice of the time and place of the annual meeting required under subsection (a) shall be given to all shareholders.

(d) Each member tribe shall be entitled to vote their common stock on all matters before the annual shareholders meeting.

REPORTS TO CONGRESS

SEC. 218. (a) The Board of Directors of the Corporation shall report annually to the appropriate committees of the Congress on the Corporation's capital, operations, and financial condition. Such report shall include *recommendations for legislation needed to improve the services of the Corporation.*

(b) At the close of the first Calendar year beginning after enactment of this title, the Corporation shall submit to the Congress a comprehensive, 5-year organizational development plan which includes:

(1) financial projections,

(2) a description of a corporate structure and locations, and

(3) operational guidelines, particularly the coordinating relationship the Corporation has, or will have, with Federal domestic assistance programs which allocate financial resources and services to Indian tribes and reservations for economic and business development purposes.

ADVISORY COUNCIL

SEC. 219. (a) There is hereby established the Advisory Council to the Indian Development Finance Corporation (hereafter in this section referred to as the "Council"), which shall provide advice on the policies and operations of the Corporation.

(b) The Council shall consist of—

(1) the Comptroller of the Currency,

(2) the Secretary of Interior, and

(3) the Chairman of the Board of Governors of the Federal Reserve System.

(c) The Council shall—

(1) recommend to the Board of Directors of the Corporation general policy directives,

(2) be available to provide financial and technical assistance upon request of the Board of Directors,

(3) transmit to the Board of Directors and the Congress an annual report with respect to the policies of the Corporation that contains data on the operations and policies of the Corporation, recommendations concerning the Corporation, and such other data and material as the Council may deem appropriate, and

(4) make reports and recommendations to the Board of Directors as it may from time to time request or as the Council may consider necessary to more effectively or efficiently accomplish the purposes of this section or the purposes for which the Council is created.

(d) The Board of Directors of the Corporation shall keep the Council fully informed of its activities and shall provide the Council with such further information or data in its possession as the Council may deem necessary to the appropriate discharge of the responsibilities of the Council under this section.

CONFORMING AMENDMENTS

SEC. 220. (a) Paragraph (2) of section 9101 of title 31, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(K) the Indian Development Finance Corporation."

(b) Paragraph (3) of section 9107(c) of such title is amended by inserting "the Indian Development Finance Corporation," after "the Regional Banks for Cooperatives,".

(c) Paragraph (2) of section 9108(d) of such title is amended by inserting "the Indian Development Finance Corporation," after "the Regional Banks for Cooperatives,".

(d) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"President, Indian Development Finance Corporation.".

Subtitle C—Capitalization

ISSUANCE OF STOCK

SEC. 231. (a)(1) The Corporation is authorized to issue shares of stock in the Corporation in an amount and of such class as may be determined by the Board of Directors subject to the provisions of this section.

(2) Shares of stock in the Corporation may only be issued to and may only be held by Indian tribes and the United States.

(3) The Corporation is authorized to redeem or repurchase any share of stock issued by the Corporation at a price determined by the Board of Directors.

(b)(1) The Corporation shall make an initial offering of a total of 2,100,000 shares of common stock of the Corporation for sale at $50 per share to Indian tribes.

(2) The number of such shares of stock required to be purchased by each Indian tribe in order to become a member of the Corporation shall be determined on the basis of an equitable formula established by the Board of Directors taking into account indicators of the economic condition of each tribe applying for membership such economic indicators to be developed by the Board and thereafter applied on a uniform basis.

(3) Twenty percent of the value of the stock to be purchased by each tribe as a condition of membership shall be paid into the Corporation in the form of cash or cash equivalent securities and 80 percent shall be in the form of a legally binding commitment available for call by the Board to meet the obligations of the Corporation but not for use of the Corporation in lending activities or for administrative expenses.

(c)(1) The Secretary is authorized to subscribe to 2,000,000 shares of capital stock in the Corporation.

(2) The Secretary—

(A) shall, subject to availability of appropriations made in advance for this purpose, pay $20,000,000, representing 20 percent of the value of the shares of capital stock in the Corporation subscribed under paragraph (1), to the Corporation within a 2-year period beginning on the date of enactment of this Act, and

(B) beginning in fiscal year 1991, is authorized to agree on behalf of the United States to pay up to $80,000,000, representing 80 percent of the value of the shares of capital stock in the Corporation subscribed under paragraph (1), or any portion thereof, to the Corporation upon call of the Board of Directors of the Corporation. The amount of this request for funds to establish a reserve for loss, will be determined by the Secretary of Interior and the Board of Directors based upon an assessment of need, taking into account a risk analysis of the investment and credit policies and practices of the Corporation. Any commitment to make such contributions shall be made subject to obtaining the necessary appropriations, and shall be made when funds are required to meet obligations of the Corporation for funds borrowed by the Corporation or for loans guaranteed by the Corporation, but not for use of the Corporation in lending activities of the Corporation or for administrative expenses of the Corporation.

(3) The capital stock subscribed by the Secretary on behalf of the United States under paragraph (1)—

(A) shall be valued at $50 per share,

(B) shall be nonvoting stock,

(C) shall not accrue dividends, and

(D) may not be transferred to any person or entity other than the Corporation.

(d) The board shall establish policies for payment of dividends to the Corporation's shareholders to be based on sound business practices and fiscal management principles and which shall give a priority to providing a return on investment based on each shareholders pro-rata interest in income generated from the capital contribution of common stock shareholders as compared to income attributable to capital contributed by the United States.

(e) The stock or other securities or instruments issued by the Corporation shall, to the same extent as securities which are the direct obligations of the United States, be exempted securities, within the meaning of the laws administered by the Securities and Exchange Commission.

BORROWING AUTHORITY

SEC. 232. (a) The Corporation is authorized, subject, in any fiscal year, to appropriations made in advance, to issue bonds, notes, and other evidences of indebtedness. Such obligations shall be issued at such times, bear interest at such rates, and contain such terms and conditions as the Board of Directors shall determine after consultation with the Secretary of the Treasury.

(b) The aggregate amount of obligations issued under subsection (a) shall not exceed an amount equal to—

(1) the product of ten multiplied by the sum of—

(A) the paid-in capital of the Corporation, plus

(B) retained earnings and profits of the Corporation, and

(2) the book value of callable capital represented by the total commitments of tribal shareholders and the $80 million subscribed to by the United States as provided for in section 231(c)(2)(B) of this title.

(c) An obligation issued under subsection (a) may be sold through an agent by negotiation, offer, bid, syndicate sale or otherwise and such transaction completed by book entry, wire transfer, or such other means as may be appropriate.

Subtitle D—Authorization of Appropriations

GENERAL OPERATIONAL EXPENSES

SEC. 241. In addition to amounts authorized to be appropriated under section 242, there are authorized to be appropriated—

(1) $2,000,000 for fiscal year 1989 for the purpose of carrying out the provisions of this title,

(2) $2,500,000 for each of the fiscal years 1989, 1990, 1991, 1992 and 1993 for the purpose of project development activities, and

(3) such sums as may be necessary to carry out the provisions of this title for each of the fiscal years 1990 and 1991.

AUTHORIZATIONS FOR PAID-IN CAPITAL STOCK

SEC. 242. There are authorized to be appropriated for each of the fiscal years 1989 and 1990, $10,000,000 for the purpose of carrying out the provisions of section 231(c)(2)(A). Such sums shall remain available until expended. Beginning in fiscal year 1991, such amounts, not to exceed a total of $80,000,000, are authorized to be appropriated for the purpose of carrying out the provisions of section 231(c)(2)(B).

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 3621), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RESTORATION OF DEMOCRACY IN HAITI

Mr. BYRD. Mr. President, on behalf of Senator GRAHAM and others, I send a concurrent resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 149) expressing the sense of the Congress regarding the restoration of democracy to Haiti and on conditions for the resumption of United States assistance to that country.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The concurrent resolution (S. Con. Res. 149) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 149

Whereas 29 years of repressive Duvalier rule came to end on February 7, 1986, when the Haitian people sent President-For-Life Jean-Claude Duvalier into exile;

Whereas a National Governing Council, a military-dominated provisional junta appointed by Duvalier prior to his departure and headed by General Henri Namphy, was named to govern the country and announced a plan to form a Constituent Assembly to draft a new constitution;

Whereas on March 29, 1987, an overwhelming majority of Haitian voters (98.99 percent) approved the new constitution calling for the creation of a Provisional Electoral Council to draft an Electoral Law and oversee presidential and municipal elections;

Whereas on November 29, 1987, the first Haitian presidential election in thirty years was violently disrupted and ultimately postponed when Duvalierists and elements of the army massacred at least 34 voters and wounded 75 as Haitians peacefully assembled at polling booths to cast their ballots;

Whereas the ruling National Governing Council took no action to protect voters and stop the violence and, further, dissolved the Provisional Electoral Council and abrogated the Electoral Law;

Whereas the United States responded by suspending all military and economic aid except for humanitarian assistance;

Whereas the Congress, with the exception of those programs such as assistance for refugees and disaster relief assistance that serve the interests of the United States, prohibited any further aid to Haiti not passing through private, non-governmental organizations until the Haitian government holds elections in accordance with the 1987 Haitian Constitution;

Whereas the National Governing Council held an election on January 17, 1988, widely recognized as fraudulent, and the army-backed candidate, Leslie Manigat, was selected as president in balloting in which no more than 4 to 6 percent of the three million eligible Haitian voters participated and where many who did vote were paid to do so;

Whereas Leslie Manigat was overthrown on June 19, 1988, and General Henri Namphy assumed power and, with the support of remnants of Duvalier's private army, the Tonton Macoutes, began terrorizing the Haitian people.

Whereas as this campaign of terror against the Haitian people culminated on September 11, 1988, in the murder of 13 Haitians when elements of the Tonton Macoutes viciously attacked worshippers attending a Sunday morning mass at St. Jean Bosco Roman Catholic Church in Port-au-Prince and subsequently attacks were carried out against political party headquarters and radio stations and two other churches were burned;

Whereas noncommissioned officers in the Haitian military, upset by increasing human rights abuses perpetrated by a military government including Duvalierists and Tonton Macoutes, overthrew the Namphy regime and installed Lt. Gen. Prosper Avril as Haiti's new president on September 17;

Whereas Lt. Gen. Avril has said that the final objective of his military government will be to implement democracy;

Whereas, upon taking power General Avril proclaimed "We dream of a Haiti where liberty will flourish, where human rights will be guaranteed and dialogue will be honored for the sake of national reconciliation, and where the economic stagnation in which the country is floundering will disappear for the greatest good of the greatest number"; and

Whereas the continuing popular unrest in Haiti since the exile of President-For-Life Jean-Claude Duvalier is a clear indication that the people of Haiti will continue to risk their lives for the opportunity to select their own leades through free, fair and open elections: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the resumption of economic or any other assistance by the United States to the Government of Haiti should be clearly linked to tangible actions by the Government of Haiti to—

(1) embark upon a credible transition to democracy that will include restoring the 1987 Constitution, appointing a genuinely independent electoral commission to oversee elections, and most important, announcing a date certain for elections that will lead to a democratic government led by civilians;

(2) strictly observe human and civil rights and in so doing take immediate steps to disarm and restrain the remnants of Duvalier's private army, the Tonton Macoutes, and to institute a judicial process whereby human rights violations will be vigorously investigated and violators will be brought to justice;

(3) reform a corrupt bureaucracy;

(4) promote economic development that will benefit the Haitian people by providing the security and freedom of association necessary for bottom-up, grass-roots development;

(5) improve cooperation between the United States and Haiti in dealing with the growing problem of narcotics trafficking through Haiti and to take meaningful steps to halt the involvement of the Haitian military in the transshipment of illicit drugs; and

(6) demonstrate the willingness of the Haitian armed forces to submit to legally constituted civilian authority and to fully respect and abide by the Constitution of Haiti.

SEC. 2. It is further the sense of the Congress that—

(1) there will be no resumption of regularized and sustained government-to-government assistance, as part of a normalization of relations with the Government of Haiti, until the election of a civilian government pursuant to free, fair and open elections held in accordance with the provisions set forth in section 1; and

(2) the appropriate Executive branch officials should consult fully and completely with the Congress before assistance of any kind is made available by the United States to the Government of Haiti.

SEC. 3. The Congress further declares its support for the people of Haiti and their desire for democratic government and economic development by directing that the appropriate committee of the Congress conduct hearings to determine what legislative actions may be appropriate and necessary to promote free, fair and open elections leading to civilian government in Haiti, including increased economic aid should the government take the steps outlined in section 1, or, in the event of its failure to do so, the feasibility of additional sanctions as outlined in legislation now pending before the Congress.

SEC. 4. The appropriate Executive branch officials should examine ways that the United States can work with its friends and allies and appropriate international organizations and institutions to develop a multilateral policy toward Haiti that is consistent and sustainable.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the current resolution was agreed to.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPROVAL OF FISHERIES AGREEMENT BETWEEN THE UNITED STATES AND THE SOVIET UNION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 1028, H.R. 4919, the U.S.-U.S.S.R. Fisheries Agreement Act of 1989.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4919) to approve the governing international fishery agreement between the United States and the Union of Soviet Socialist Republics, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3351

(Purpose: To authorize a certificate of documentation for certain vessels and provide for the transfer of the Coast Guard cutter *Ingham*, and for other purposes)

Mr. BYRD. Mr. President, I send to the desk an amendment by Mr. HOLLINGS and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. HOLLINGS, proposes an amendment numbered 3351.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end, add the following:

SEC. 8. AUTHORIZATION FOR CERTIFICATES OF DOCUMENTATION.

(a) Notwithstanding sections, 12105, 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for the following vessels:

(1) Aleutian Trawler, United States official number 236979;

(2) Encore, United States official number 545162;

(3) Fair Tide, United States official number 644363;

(4) Freedom, United States official number 569163;

(5) Pavlof, United States official number 597532;

(6) Suva, United States official number 225008;

(7) Ra, United States official number 655181;

(8) Te De II, United States official number 572205;

(9) Fre-N-Eze, United States official number 659826;

(10) Beta Lyra, United States official number 679226;

(11) Scotch 'N Water (ex Victorious), United States official number 264090;

(12) ERSA, United States official number 229511;

(13) Compass Rose II, United States official number 559647;

(14) Polar Ice, United States official number 604676;

(15) Gipsy, United States official number 903276; and

(16) Gilbert, United States official number 230568, with a restriction that the vessel may engage in the coastwise trade of the United States only for the purpose of moving barges filled with seafood waste and wastewater to designated ocean disposal sites from Port Canaveral, Florida.

(b) Notwithstanding sections 508 and 510(g) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158 and 1160(g)), and United States Department of Transportation Contract Numbered MA-6772 (IFB PD-X-945) and amendments thereto, the Secretary of Transportation is authorized to allow, and the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for, the vessel M/V Ocean Tempest (ex Horseshoe Splice), United States official number 248773, to acquire, purchase, process, and transport fish and fish products in the fisheries of the United States: *Provided*, That if the vessel is scrapped, it shall not be scrapped other than in the domestic market without the prior approval of the Secretary of Transportation.

SEC. 9. TRANSFER OF THE COAST GUARD CUTTER INGHAM.

The Secretary of the department in which the Coast Guard is operating shall transfer the Coast Guard cutter "Ingham" to the Naval and Maritime Museum at Patriots Point, South Carolina. The Secretary shall transfer the "Ingham" along with such equipment and in such condition as the Secretary considers appropriate. The Secretary shall make the transfer upon the decommissioning of the "Ingham" or at a later time as determined appropriate by the Secretary.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3351) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ARMSTRONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I rise today to support H.R. 4919, the United States-U.S.S.R. Fisheries Agreement Act of 1989. The purpose of this important piece of legislation is to provide congressional approval for the governing international fisheries agreement [GIFA] entered into between the United States and the U.S.S.R. on May 31, 1988. The GIFA was transmitted by President Reagan for Senate consideration on June 22, 1988. Enactment of this bill will cause the agreement to enter into force with respect to the United States.

The new GIFA replaces both the existing GIFA and the February 21 interim access agreement. This new agreement is unique and has special significance because it provides for reciprocal access by fishing vessels to each country's 200-mile zone. This reciprocal agreement is the first of its kind entered into by the United States and represents a major milestone in United States-Soviet fisheries relations. For the first time, our fishermen will be gaining access to another nation's exclusive economic zone [EEZ] in exchange for allowing that country access to ours. We anticipate that the U.S. fishing industry will be able to engage in commercial ventures in Soviet waters. The agreement will provide important new opportunities for our domestic fishing fleet.

In addition, the new GIFA provides for cooperation between the two superpowers on other fisheries issues of mutual concern. Of particular improtance, the agreement calls on both countries to cooperate on the conservation of the fisheries in the Bering Sea and of salmon stocks on the high seas. Specifically, it creates an Intergovernmental Consultative Committee to deal with these and other bilateral fisheries issues of mutual concern. Section 5 of this bill sets up a fisheries advisory body to provide information to U.S. representatives of the committee to increase benefits of the GIFA for the U.S.

Sections 4 and 6 of the bill address the problem of illegal foreign fishing in our EEZ. This problem of foreign vessels raiding the rich fishery resources within this country's EEZ has grown more acute in recent years and should not be tolerated. As our domestic fishing industry has developed, there have been fewer opportunities for foreign vessels to legally harvest in our waters. As a result, some have resorted to illegal fishing operations, particularly in the Bering Sea Donut Hole area. This problem was highlighted in a hearing held earlier this year by the Commerce Committee. Section 4 would require foreign vessels to stow their fishing gear when transiting our EEZ. Section 6 would require that future GIFA's contain provisions that foreign vessels must carry position-fixing and vessel identification equipment if requested to do so.

Sections 2 and 3 authorize funding for the development of a marine biomedical laboratory to be located in Woods Hole, MA, and continued funding for the Great Lakes Shoreline Mapping Program.

I am offering an amendment to the bill which is of great importance to my State. This amendment would transfer the recently decommissioned Coast Guard Cutter *Ingham* to the Patriots Point Naval and Maritime Museum near Charleston, SC. As an elected representative of a State which figures so prominently in our Nation's military history, a State which plays so crucial a role in our current defense posture, and one which is home to the finest maritime museum in the world, I think that it is only fitting that the final home of the *Ingham* should be Patriots Point.

The *Ingham*, which was decommissioned a couple of months ago in Portsmouth, VA, was the Coast Guard's last operating *Secretary*-class 327-foot cutter. The first of four such ships built by the Navy, its keel was laid down in the Philadelphia Navy Yard on May 1, 1935. Of the other *Secretary*-class vessels to follow, two were built in New York and one in Charleston. The *Ingham* was commissioned on September 17, 1936. She saw considerable action in World War II, and was credited with sinking a German submarine on December 15, 1942. Her postwar duties for the Coast Guard have included search and rescue missions, fishery enforcement, and drug interdiction.

Patriots Point is the logical choice for the *Ingham*'s retirement. That's why we in South Carolina have been working for the past 3 years, through the proper channels, to ensure that the *Ingham* winds up where it rightfully should be—a place where the public can enjoy this great ship alongside the other vessels of premier historical importance. The rich history of this vessel makes it a natural for Patriots Point in South Carolina. Currently on display there are four vessels: the aircraft carrier U.S.S. *Yorktown*, the U.S.S. *Laffey*, a destroyer, the U.S.S. *Clamagore*, a submarine, and the NS *Savannah*, the world's first nuclear-powered merchant ship. The addition of the *Ingham* would complement this museum's unique display.

In addition, this amendment grants coastwise trading and fisheries privileges to a number of vessels that are not presently qualified for these trades. Mr. President, I ask that my colleagues join me in supporting this amendment.

Mr. ADAMS. Mr. President, this bill we have received from the House is a good bill, and I hope my colleagues will join me in supporting it.

First, this bill provides congressional approval of the new governing international fishery agreement [GIFA] between the United States and the Soviet Union. This agreement, entered into between our two Governments last June, replaces the existing GIFA, and marks a new phase in United States-Soviet fisheries relationships.

Under this agreement, United States fishermen will for the first time be able to take fish within the Soviet 200-mile zone. This achievement caps over a decade of progress in the development of a strong American fishing industry in the North Pacific. Twelve years ago when the Magnuson Act was passed fish in U.S. waters were largely harveted by foreign fleets. Now the fishery in U.S. waters is largely Americanized, and we have begun to expand our efforts into other areas.

The last year has also seen extensive ongoing negotiations with the Soviet Union regarding how, under existing international law, we can best work together and with other fishing states to protect our mutual interests in the area of international waters in the Bering Sea known as the Donut Hole. Largely because foreign fleets no longer have access to American fish, unregulated foreign fishing in the Donut Hole region as risen sharply in the past decade. While we don't yet know everything we should about the level of foreign effort in the Donut, or precisely what kinds of fish are being caught, sufficient data exists to support serious concerns about the potential negative impacts on United States and Soviet pollack stocks.

In addition concerns have been raised that foreign fleets are using the Donut Hole region as a staging area for illegal forays into U.S. waters. Because of all of these concerns, I chaired hearings earlier this year in the Senate Commerce Committee on this issue. We heard many suggestions on how to deal with these problems, both in terms of improving our enforcement efforts in our own waters. I am pleased to see that several of the suggestions raised in that hearing are, due to the efforts of my colleagues in the Washington State House delegation, Mr. LOWRY, Mr. BONKER, and Mr. MILLER, also part of this bill we are considering today.

First, the bill directs the Government to require, subject to existing authority in the Magnuson Act, the placement of position-fixing devices on foreign fishing vessels fishing in U.S. waters. Second, the bill requires foreign fishing vessels passing through our waters to stow their gear and nets unless they are in an area where they are authorized to fish. Finally, the bill establishes an advisory body to provide advice to the State Department in subsequent negotiations with the Soviet Union on North Pacific and Bering Sea fisheries issues. These are all good commonsense proposals that will help us better protect and manage our fisheries resource.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 4919) as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill as amended, was passed.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL WILD AND SCENIC RIVERS ACT WEEK

Mr. BYRD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S.J. Res. 378 and that the Senate proceed to its immediate consideration; that it be read the third time; passed; and the motion to reconsider laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The preamble was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the preamble was agreed to.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The joint resolution (S.J. Res. 378), with its preamble, reads as follows:

S.J. RES. 378

Whereas river corridors are one of the most precious cultural and recreational values in the United States;

Whereas the Wild and Scenic Rivers Act provided for the establishment of a system of rivers to be protected as free-flowing streams for the public use and enjoyment for generations to come;

Whereas there are 3,500,000 miles of rivers in the United States, many of which are protected because of the establishment of the Wild and Scenic Rivers System;

Whereas the Wild and Scenic Rivers Act has encouraged through the State and Local River Conservation Assistance Program authorized by the Act, the cooperative protection of river corridors by Federal, State, and local governments, private groups, and landowners;

Whereas public awareness of the importance of wild and scenic rivers must be raised and public and private cooperation encouraged to promote the continued protection of these precious river values; and

Whereas the Wild and Scenic Rivers Act was signed into law on October 2, 1968: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 2 through 8, 1988, is designated as "National Wild and Scenic Rivers Act Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate programs and activities.

RESTORATION OF DEMOCRACY IN PANAMA

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 1003.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 140) calling for the restoration of democracy in Panama and pledging economic assistance.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the concurrent resolution.

AMENDMENT NO. 3352

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk on behalf of Senator GRAMM and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The Senator from Colorado [Mr. ARMSTRONG], for Mr. GRAMM, proposes an amendment numbered 3352.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of page 2, line 17, add the following:

(E) to promote vigorously free enterprise and democracy in Panama through limited government and the fundamental economic rights and opportunities that support and sustain them, embodying effective constitutional guarantees of free enterprise, including the right to buy, own, and dispose of private property; and

● Mr. GRAMM. Mr. President, the amendment that is being offered today underscores what we all believe, that the free enterprise system is an essential element of the freedom that we enjoy in this country and that free enterprise will play an important role in developing and sustaining freedom in countries all around the globe.

America's Foreign Aid Program is much like the efforts of a little rich kid to make his poorer friends happy by sharing with them his piece of cake. After a while, the piece of cake is gone and his friends are hungry once again. We have spent hundreds of billions of our tax dollars since the end of World War II to help our fellow man and to achieve our foreign policy aims, in the name of promoting "economic development" and "structural adjustment." But after more than four decades of effort our foreign aid programs do little more than give other nations bites out of our cake.

What we should instead be giving to a hungry world is not the cake, but the recipe to make that cake. And the recipe that has produced America's "cake"—a prosperity unparalleled in human history—is the freedom to let people work for themselves, to keep what they earn, and to permit them to mold their own futures. Our most valuable export, then, and the basis of our foreign aid policy, should be promotion of our free enterprise system.

That consists of freedom for individuals to develop their God-given talents, to choose their own profession, to start their own business, to do so with a minimum of government interference and restriction, and to keep the fruits of their labors.

The amendment that is before us today will serve to remind ourselves and our friends that prosperity, and all of the benefits that come with it, come from liberating the human spirit, that come from economic and civil rights taken together. I urge my colleagues to adopt my amendment, which will serve to round out the resolution before us so that it underscores America's firm and unequivocal stand behind the full range of the rights of man.●

Mr. DURENBERGER. Mr. President, I rise today as an original sponsor of Senate Concurrent Resolution 140, expressing this body's support for the restoration of democracy in Panama.

This is the latest in a series of bipartisan expressions of support for freedom, democracy and human rights in Panama.

For more than a year, I have worked closely with the distinguished Senators from Massachusetts and the Senator from New York to help the Panamanian people move from tyrrany to liberty.

This concurrent resolution does not need much explanation: It states that the United States should continue efforts to get Noriega out of power and out of Panama.

The concurrent resolution also looks forward to the day when a transition to democracy is underway in Panama and what the United States should consider in food, housing, development, and financial assistance.

Panama will need United States help to rebuild a shattered economy after Noriega is gone—and this concurrent resolution spells out the kind of help we should consider.

Mr. President, the situation in Panama remains acute. My colleague from Massashusetts spoke eloquently earlier today about the harassment of American servicemen in Panama.

I share his outrage at these criminal acts clearly carried out by a criminal regime. As I have said many times, Noriega is a thug—but he is a cunning thug.

He has moved to confiscate the property of at least one leader in the fight for democracy.

We have no illusions that this resolution will end Noriega's reign of terror.

But it will let the people of Panama—and the world—know that the United States Senate has not forgotten Panama.

And it sends a strong signal that we will not forget Panama once Noriega has gone.

Mr. President, this is a very simple amendment and I understand it has been cleared on both sides.

Senator GRAMM's amendment adds a resolved clause affirming the importance of free enterprise in Panama.

Part of what makes Panama so unique is its thriving free enterprise economy—now in ruins thanks to Noriega. I support the amendment and ask for its adoption.

Mr. President, the action we are about to take shows that the Senate can speak with one voice on important foreign policy issues.

I am pleased to once again work with the Senator from Massachusetts in support of democratic change in Panama. I ask the adoption of the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3352) was agreed to.

Mr. KERRY. Mr. President, for far too long the issue of Panama has faded as a major news item in the United States, although the people of that country continue their courageous efforts to rid themselves of the narco-dictator, Gen. Manuel Noriega.

In the meantime, this drug thug continues to pile one humiliation after another on the United States of America, with little more than feeble protests from this administration.

This morning, the Associated Press carried a story stating that Noriega had his officials seize a shipment of United States arms bound for our soldiers stationed at the Southern Command Bases in Panama. A gun barrel, which was to have been sent to the tropical testing center in Panama, was confiscated and paraded through the streets of Panama City as evidence that the United States had nuclear capable weapons in that country.

This action was in violation of rights we enjoy under the Panama Canal treaties. Military equipment destined for our forces are not subject to customs inspection under the treaties. Apparently, we have filed a protest with Noriega and have called for an urgent meeting of the joint United States-Panamanian Committee. Noriega has not responded. This involves stolen U.S. property and under normal circumstances, this administration would be yelling bloody murder over this treaty violation.

This report follows on the heels of an article carried in yesterdays' New York Times, detailing how, since February 6 of this year, goon squads directed by Noriega have beaten and harassed American soldiers stationed at our bases in Panama. The Times reported that not only have our servicemen been beaten and shot, but we now find out that a young serviceman was beaten and locked in the trunk of his car while his 18-year-old wife was raped by a member of the Panamanian defense forces.

Just yesterday, Noriega issued orders for the confiscation of all the assets of patriotic Panamanians such as former Ambassador Gabriel Lewis, who is in exile in the United States, and those of President Arturo Delvalle and his Ambassador to Washington, Juan Sosa. For defending democracy in their country, these courageous Panamanians are called lackeys of the United States. Even the sanctity of private property in Panama has been violated by this drug trafficker.

Recently, dock workers at both the Pacific and Atlantic ports went on strike and their leaders were arrested, beaten, and jailed.

All schools have been closed in Panama in response to continuing student and teacher demonstrations. Most government workers have walked off their jobs.

Some 110 workers at the national electric utility have been fired, and the leadership of that union has been jailed.

In short, Noriega is finding that Panama is becoming increasingly ungovernable.

On Tuesday of this week, the Foreign Relations Committee reported unanimously Senate Concurrent Resolution 140. Those of us who are sponsors of this resolution believe it is imperative that we act expeditiously on this measure as a signal to the people of Panama that we stand behind them resolutely in their efforts to oust this narco-dictator from power and restore democracy to their country.

It is also important that we signal the people of Panama that once Noriega is removed from power we stand ready to work with them in rebuilding their economy. The success, or failure, of the redemocratization efforts will depend, in large part, on restoring the economy of Panama.

It should be pointed out that it has not been the economic sanctions that the United States has imposed on Panama which has created the present economic chaos in that country. Panama was on the verge of economic collapse well before United States sanctions were imposed. These circumstances stemmed from the mismanagement of the economy by Noriega and his cronies.

It is very important that once Noriega is removed from power in Panama, we have a recapitalization of the private sector in that country. It is important that, through our efforts to stabilize the Panamanian economy, we do so in a manner that encourages the private sector to repatriate its capital.

The sponsors of Senate Concurrent Resolution 140, feel that our resolution is an important signal to the private sector in Panama that we believe they will play a key role in revitalizing that economy and our policies will reflect support for that role.

Mr. President, this resolution is the product of a long-standing bipartisan effort in the Congress to support the people of Panama in their struggle to overthrow this narco-dictator. I applaud Senators EDWARD KENNEDY, DAVID DURENBERGER, and ALFONSE D'AMATO for the tireless efforts they have devoted to the issue of Panama over the years. I have appreciated the opportunity to work with them on this critical foreign policy issue.

Finally, Mr. President, all of us would be remiss if we did not take this opportunity to recognize the tireless efforts of the distinguished ranking Republican on the Foreign Relations Committee in focusing our attention on the Panama problem. At one time, Senator JESSE HELMS was a voice in the wilderness condemning this narco-dictatorship, and I think we owe him a debt of gratitude for his perseverance on this issue.

Mr. President, Gabriel Lewis, the former Panamanian Ambassador to the United States, issued a very important statement today regarding these recent developments in Panama. I ask unanimous consent that Ambassador Lewis' statement be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KERRY. I do not see any reason why we require a rollcall vote on this measure. I urge its adoption.

EXHIBIT 1

STATEMENT BY GABRIEL LEWIS, FORMER PANAMANIAN AMBASSADOR TO THE UNITED STATES

The internal situation in Panama has deteriorated greatly during recent weeks as a result of the desperate and irresponsible actions taken by the dictatorship of Manuel Noriega.

Growing popular discontent has erupted and has taken many forms:

(1) Funeral services for the late President Arnulfo Arias, a symbol of civic opposition to the military regime, were attended by an unprecedented multitude and represented massive popular repudiation of the dictatorship.

(2) Public sector employees have been carrying out a wave of strikes and work stoppages against the government.

(3) There is increasing evidence of tension and division among the dwindling number of Noriega's civilian and military followers.

(4) Recent polls by reputable international specialists show that the people of Panama overwhelmingly reject Noriega's regime and hold him responsible for the country's chaotic situation.

(5) The nation's acute fiscal crisis continues to worsen. Experts believe that the government will not have the funds necessary to meet the public payroll in the near future.

On the international scene, the people of Panama are aware of the strongly critical position taken toward General Noriega by both candidates for the U.S. Presidency. The dictator has lost all hope of normalizing relations with any new Administration.

Despite great efforts made by the Noriega regime to win Panama's readmission to the Group of Eight Latin American democracies, the strident diplomacy of the current dictatorship has failed miserably. Moreover, the people and government of neighboring Costa Rica have been offended by Noriega's repeated violations of their territory and sovereignty.

Faced with the steady deterioration of his position, Noriega's response has been indiscriminate and brutal.

First, alleging mythical conspiracies and U.S.-inspired terrorist acts, he has unleashed the cruelest campaign of persecution and officially sponsored terrorism in the history of Panama—detaining, beating and jailing more than two hundred citizens.

Second, he has begun a systematic campaign of persecution against President Del Valle and other leaders of his party, leading members of the Civic Crusade, as well as against other opposition leaders in exile, including myself. As part of this campaign, he has ordered the unprecedented and illegal seizure and confiscation of all our property and personal assets, opening the door to communist totalitarian measures that offend the conscience of free men everywhere.

Third, he has continued harassment of U.S. personnel, civilian and military. Now, he has taken the unprecedented action of seizing U.S. military cargo, a clear violation of the spirit and the letter of the treaties between our countries.

The answer of the Panamanian people to dictator Noriega is clear: the main effect of his irresponsible actions is only to intensify our participation in the struggle that most Panamanians are waging to bring down the tyrant.

Personally, I affirm that the unfounded accusations levied against me and linking me to any decisions regarding funds frozen by the U.S. Government are totally false. I have no reason for ever taking part in any decisions regarding the handling of these funds—nor will I—I am not a government official, I am a private citizen.

I pledge to redouble my efforts to help maintain the unity of the anti-Noriega forces, to reestablish peace in our country, to rescue our democracy from the dictator, and to seek the social and economic development of our people. The sooner the nightmare through which Panama has been living is ended, the brighter will be our country's future—and so, too, the future of stability, order and justice in the entire region.

Mr. D'AMATO. Mr. President, I rise to urge my colleagues to support Senate Concurrent Resolution 140, a concurrent resolution to encourage a return to democracy in Panama.

I commend the other authors of this bill, Senators DURENBERGER, KERRY, and KENNEDY as well as the distinguished cosponsors.

It is important that this body, which has been outspoken in its support for democracy in Panama, to speak out once again to demonstrate to the people of Panama that we have not abandoned their cause.

It is also important that this body send a signal to the people of Panama that we will help them rebuild their economy when military rule over Panama finally ends.

Although Panama has been far from the front pages in recent months, General Noriega has been far from quiet.

Mr. President, yesterday General Noriega's military boldly and arrogantly confiscated the storage area into which incoming goods to the U.S. military southern command are offloaded from ships. His forces reportedly broke the locks off appoximately 50 of the storage containers and ransacked their contents. Among the stolen goods was part of an experimental tank gun which was en route to our tropic test center in Panama.

Accounts and photographs of this illegal seizure have been splashed over the front pages of the Noriega-controlled newspapers as proof-positive of U.S. complicity to overthrow his government.

Mr. President, 6 short months ago we were asking ourselves when Noriega would cry "Uncle." Now I am wondering when the United States will cry "Uncle." I believe we should cry "Enough."

When Noriega's troops can, with impunity, march in and take control over U.S. property under the spurious facade of breaking a U.S.-backed anti-Noriega conspiracy, I have to question our will to act.

Mr. President, as an isolated incident, Panamanian troops confiscating United States property would not cause me great alarm. But, Mr. President, there has been an established pattern of hundreds of attacks, harassment, and intimidation against United States citizens in Panama by General Noriega.

Mr. President, when do we stop tolerating Noriega's excesses?

The list of human rights violations continues to grow. The home and property of President Delvalle has been confiscated. The home and property of former Ambassador Gabriel Lewis, a man known to many in this body as a vocal opponent of Noriega, is being confiscated as we speak.

Mr. President, the people of Panama have endured the excesses General Noriega since 1985. In June of 1987, they demonstrated their resolve to rid themselves of the military dictatorship.

Panamanians then, as they do now, looked to the United States for guidance. That is why we must not forget these Panamanians.

They have mortgaged their future in a thus far futile attempt to remove General Noriega. These people understood Noriega to be a fighter, but few realized that he would gladly watch his nation go down in ruins to ensure his hold on power.

Panamanians have not given up the fight. We cannot abandon them.

Mr. President, in the absence of decisive United States action, we must do all we can to help the Panamanians help themselves. A bankrupt Panama would provide little foundation for a fledgling democracy. As the leader of the free world, I truly believe that Panamanians would be willing to risk even more to establish a true and enduring democracy in Panama if we are ready to help out.

This legislation, Mr. President, in and of itself will not resolve the Panama problem. It will, however, send a long-awaited signal to President Delvalle and to the opposition that the United States remains firmly behind them.

Mr. President, I want to thank Senators DURENBERGER, KENNEDY, KERRY and GRAMM, for their efforts to get this concurrent resolution to the floor today.

Mr. President, I urge my colleagues to vote in favor of this important concurrent resolution.

AMENDMENT NO. 3353

Mr. ARMSTRONG. Mr. President, on behalf of Mr. Gramm, I send to the desk an amendment to the preamble and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. ARMSTRONG], on behalf of Mr. GRAMM, proposes an amendment numbered 3353.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the PREAMBLE, add the following:

Whereas political democracy and the human rights which accompany it will stimulate economic growth through free enterprise and ultimately can only be sustained by economic growth through free enterprise;

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3353) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment to the preamble was agreed to.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution, as amended, was agreed to.

The concurrent resolution, with its preamble, as amended, reads as follows:

S. CON. RES. 140

Whereas since June 1987, all elements of Panamanian society have been united in their effort and desire to restore genuine democracy and civilian constitutional government to the Panamanian nation;

Whereas General Manuel Antonio Noriega is a corrupt and ruthless military dictator;

Whereas General Noriega's continued and systematic repression of the Panamanian people, his involvement in narcotics trafficking, and his consisistent and willful disregard of fundamental human rights have led to a profound and unresolved crisis in the national life of Panama;

Whereas political democracy and the human rights which accompany it will stimulate economic growth through free enterprise and ultimately can only be sustained by economic growth through free enterprise;

Whereas the situation in Panama constitutes a threat to the national security interests of the United States;

Whereas it is in the national security interests of the United States to achieve a restoration of democracy and respect for human rights in Panama; and

Whereas it is also in the national security interests of the United States, after democracy has returned to Panama, to revive the economy of the country and to promote political stability: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the United States should work with President Eric DelValle and the members of his government, with the democratic forces inside Panama, and with the other governments in the region—

(A) to achieve the early departure of General Manuel Antonio Noriega from office and from Panama;

(B) to promote the creation of a transitional government of national reconciliation and the restoration of civilian constitutional government;

(C) to restore press and political freedom to the people of Panama; and

(D) to guarantee free and fair elections to be held in 1989 as provided in the Constitution of Panama;

(E) to promote vigorously free enterprise and democracy in Panama through limited government and the fundamental economic rights and opportunities that support and sustain them, embodying effective constitutional guarantees of free enterprise, including the right to buy, own, and dispose of private property; and

(2) in the event that democracy is restored to Panama, the United States should work with the people of Panama to revive their economy; and

(3) the United States should consider taking the following steps—

(A) provide economic support fund assistance for Panama under chapter 4 of part II of the Foreign Assistance Act of 1961;

(B) provide emergency food assistance to the people of Panama under the provisions of the Agricultural Trade Development and Assistance Act of 1954;

(C) provide development assistance to Panama under chapter 1 of part I of the Foreign Assistance Act of 1961;

(D) provide housing guarantees for Panama under title III of chapter 2 of part I of the Foreign Assistance Act of 1961;

(E) use the resources of the exchange stabilization fund, as authorized by section 5302 of title 31, United States Code, for the purpose of assisting the private banks of Panama in meeting their short-term liquidity needs; and

(F) provide foreign military sales credits for Panama under section 23 of the Arms Export Control Act.

HEALTH STATUS OF NATIVE HAWAIIANS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 136, a bill to improve the health status of native Hawaiians.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 136) to improve the health status of native Hawaiians, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Select Committee on Indian Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

FINDINGS

SECTION 1. The Congress finds that—

(1) the Federal Government retains the legal responsibility to enforce the administration of a public trust responsibility for the betterment of the conditions of Native Hawaiians by the State of Hawaii;

(2) in furtherance of the State of Hawaii's public trust responsibility for the betterment of the conditions of Native Hawaiians, contributions by the Federal Government to the provision of health education and health services to maintain and improve the health status of Native Hawaiians are consistent with the historical and unique legal relationship of the Federal Government with the government that represented the indigenous native people of Hawaii;

(3) it is the policy of the Federal Government to raise the health status of Native Hawaiians to the highest possible level and to encourage the maximum participation of Native Hawaiians in the planning and management of health services in order to achieve this objective;

(4) Federal support for programs that provide health care to Native Hawaiians (including culturally relevant programs) has resulted in a reduction in the prevalence and incidence of preventable illnesses among Native Hawaiians and in a reduction in premature deaths of Native Hawaiians; and

(5) further improvement in the health status of Native Hawaiians is necessary on the basis of findings that—

(A) Native Hawaiians experience an overall death rate that is 146 percent higher than the rest of the United States population,

(B) Native Hawaiians experience a rate of diabetes mellitus that is 588 percent higher than the rest of the United States population,

(C) Native Hawaiians experience a rate of heart disease that is 177 percent higher than the rest of the United States population,

(D) Native Hawaiians experience a cancer rate that is 126 percent higher than the rest of the United States population,

(E) Native Hawaiians experience a rate of cerebrovascular disease that is 145 percent higher than the rest of the United States population,

(F) Native Hawaiians experience the highest age-sex standardized mortality rate in the State of Hawaii,

(G) Native Hawaiians experience a lower life expectancy than any other population group in the State of Hawaii,

(H) Native Hawaiians experience a higher rate of infant mortality, congenital abnormalities and underweight infants than any other population in the State of Hawaii,

(I) Native Hawaiians have the greatest risk of diabetes, heart disease, and some forms of cancer than any other population in the State of Hawaii,

(J) Native Hawaiians experience the onset of diabetes, heart disease, and hypertension at earlier ages than other populations in the State of Hawaii,

(K) Native Hawaiians have significantly higher rates of heart disease and hypertension than other populations in the State of Hawaii,

(L) Native Hawaiians have one of the highest cancer rates of any population in the United States and Native Hawaiians have the poorest survival rates from cancer than any other population in the State of Hawaii,

(M) Native Hawaiian pregnant women rank the highest of all populations of pregnant women in the State of Hawaii—

(i) receiving late or no prenatal care,

(ii) smoking and alcohol consumption during pregnancy,

(iii) toxemia and urinary tract infections during pregnancy, and

(iv) complications of pregnancy over age 35,

(N) Native Hawaiians have higher rates of suicide among young adult and elderly males than the statewide population as a whole,

(O) Native Hawaiian children have one of the highest periodontal disease rates and the poorest dental hygiene of any other population in the State of Hawaii,

(P) Native Hawaiians have higher proportion of alcohol and narcotics use and school performance impairment than the statewide population as a whole,

(Q) Native Hawaiians have higher levels of stress than the statewide population as a whole based on leading stress indicators,

(R) Native Hawaiians are underrepresented in rates of participation in health education, health promotion, screening, and referral programs,

(S) utilization of mental health services by Native Hawaiians is significantly below that of other populations in the State of Hawaii, and

(T) Native Hawaiians are underrepresented in the health professions.

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) The term "disease prevention" includes—

(A) immunizations,

(B) control of high blood pressure,

(C) control of sexually transmittable diseases,

(D) prevention and control of diabetes,

(E) control of toxic agents,

(F) occupational safety and health,

(G) accident prevention,

(H) fluoridation of water,

(I) control of infectious agents, and

(J) provision of mental health care.

(2) The term "health promotion" includes—

(A) pregnancy and infant care, including prevention of fetal alcohol syndrome,

(B) cessation of tobacco smoking,

(C) reduction in the misuse of alcohol and drugs,

(D) improvement of nutrition,

(E) improvement in physical fitness,

(F) family planning, and

(G) control of stress.

(3) The term "Native Hawaiian" means any individual who has any ancestors that were natives, prior to 1778, of the area that is now the State of Hawaii as evidenced by—

(A) genealogical records,

(B) Kupuna (elders) or Kama'aina (long-term community residents) verification, or

(C) birth records of the State of Hawaii.

(4) The term "Native Hawaiian organization" means any organization—

(A) which serves and represents the interests of Native Hawaiians,

(B) which is—

(i) recognized by Papa Ola Lokahi for the purpose of planning, conducting, or administering programs (or portion of programs) authorized under this Act for the benefit of Native Hawaiians, and

(ii) certified by Papa Ola Lokahi as having the qualifications and capacity to provide the services, and meet the requirements, under the contract the organization enters into with, or grant the organization receives from, the Secretary under this Act, and

(C) in which Native Hawaiian health professionals significantly participate in the planning, management, monitoring, and evaluation of health services.

(5) The term "Native Hawaiian educational institution" means any educational institution that—

(A) serves and represents the interests of Native Hawaiians, and

(B) has as a primary and stated purpose the provision of educational services to Native Hawaiians.

(6) The term "Papa Ola Lokahi" means an organization composed of—

(A) E Ola Mau;

(B) the Office of Hawaiian Affairs of the State of Hawaii;

(C) Alu Like Inc.;

(D) the University of Hawaii School of Medicine; and

(E) the Office of Hawaiian Health of the Hawaii State Department of Health.

(7) The term "Secretary" means the Secretary of Health and Human Services.

(8) The term "traditional Native Hawaiian healer" means a practitioner—

(A) who—

(i) is of Hawaiian ancestry, and

(ii) has the knowledge, skills, and experience in direct personal health care of individuals, and

(B) whose knowledge, skills, and experience are based on a demonstrated learning of cultural and spiritual Native Hawaiian healing practices acquired by—

(i) direct practical association with Native Hawaiian elders, and

(ii) oral traditions transmitted from generation to generation, which include—

(I) ho'o ponopono (family problem solving led by a designated leader or haku);

(II) ho'o ma'e ma'e (internal cleansing method);

(III) ka hea (the calling for spiritual forces); and

(IV) lomi lomi (body massage).

HEALTH PROMOTION AND DISEASE PREVENTION

SEC. 3. (a)(1) For fiscal year 1990, and for each fiscal year thereafter, the Secretary shall enter into contracts with Native Hawaiian organizations under which the Secretary shall provide funds to Native Hawaiian organizations to establish and administer programs of health promotion and disease prevention designed to serve Native Hawaiians.

(2) The program that is to be established and administered under each contract entered into under paragraph (1) shall—

(A) provide comprehensive preventive-oriented health services, including maternal and child health care and mental health care, through the establishment of Native Hawaiian Healing Centers, subject to the availability of appropriations authorized under section 4(b);

(B) provide for the collection of data related to the prevention of diseases and illnesses among Native Hawaiians, including the prevention of fetal alcohol syndrome, hypertension, heart disease, and diabetes;

(C) provide for medical and general health-related research into the diseases that are most prevalent among Native Hawaiians including, but not limited to, heart disease, hypertension, cancer, and diabetes;

(D) provide for research into the mental health problems that are most prevalent

among Native Hawaiians including, but not limited to, alcoholism, substance abuse, reduction of stress, and child abuse;

(E) provide for education in health promotion and disease prevention in the Native Hawaiian population by Native Hawaiian community outreach workers, nurses, counselors, cultural educators and health aides, and non-Hawaiian nurses serving the Native Hawaiian community;

(F) provide for health planning in areas which shall include, but not be limited to, health planning in maternal and child health, nutrition, disease prevention, health promotion, health education, and mental health;

(G) provide for the provision of health care services by traditional Native Hawaiian healers; and

(H) provide training for Native Hawaiian community health outreach workers, nurses, counselors, cultural educators and health aides, and non-Hawaiian nurses serving the Native Hawaiian community in the provision of health care and health education in Native Hawaiian communities by means of a curriculum which—

(i) combines education in the theories of health care with supervised practical experience in the provision of health care,

(ii) provides instruction and practical experience in health promotion and disease prevention activities, particularly—

(I) nutrition,

(II) physical fitness,

(III) weight control,

(IV) cessation of tobacco smoking,

(V) stress management,

(VI) control of alcohol and substance abuse, including prevention of fetal alcohol syndrome,

(VII) control of high blood pressure,

(VIII) prevention and control of diabetes,

(IX) prevention of lifestyle related accidents,

(X) prenatal and postnatal infant health care, and

(XI) maternal health care, and

(iii) provides instruction in the most current and effective social, educational, and behavioral approaches to the establishment and maintenance of good health habits.

(b)(1) Subject to the availability of funds appropriated under the authority of paragraph (2), the Secretary shall provide grants to Native Hawaiian organizations for the purpose of developing a Native Hawaiian comprehensive health care master plan based upon the conduct of an assessment of the health care status and health care needs of Native Hawaiians.

(2) There are authorized to be appropriated $700,000 for fiscal year 1990 for the purpose of funding grants under paragraph (1).

(c)(1) The Secretary is authorized to enter into an agreement with any Native Hawaiian organization (or any Native Hawaiian educational institution) under which the Secretary is authorized to assign personnel of the Department of Health and Human Services with expertise identified by such Native Hawaiian organization (or such Native Hawaiian educational institution) to such Native Hawaiian organization (or to such Native Hawaiian educational institution) on detail for the purpose of providing education in health promotion and disease prevention to Native Hawaiian children who are underserved.

(2) Any assignment of personnel made by the Secretary under any agreement entered into under the authority of paragraph (1) shall be treated as an assignment of Federal personnel to a local government that is made in accordance with subchapter VI of chapter 33 of title 5, United States Code.

(d)(1) The Secretary shall include in any contract which the Secretary enters into with any Native Hawaiian organization under this section such conditions as the Secretary considers necessary to ensure that the objectives of such contract are achieved.

(2) The Secretary shall develop procedures to evaluate compliance with, and performance of, contracts entered into by Native Hawaiian organizations under this section.

(3) If, as a result of evaluations, the Secretary determines that a Native Hawaiian organization has not complied with or satisfactorily performed a contract entered into under this section, the Secretary shall, prior to renewing such contract, attempt to resolve the areas of noncompliance or unsatisfactory performance and modify such contract to prevent future occurrences of such noncompliance or unsatisfactory performance. If the Secretary determines that such noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract with such organization and is authorized to enter into a contract under this section with another Native Hawaiian organization that provides services to the same population of Native Hawaiians which is served by the Native Hawaiian organization whose contract is not renewed by reason of this paragraph.

(4) In determining whether to renew a contract entered into with a Native Hawaiian organization under this section, the Secretary shall—

(A) review the records of the Native Hawaiian organization, and

(B) shall consider the results of onsite evaluations.

(5) All contracts entered into by the Secretary under this section shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provision of the Act of August 24, 1935 (40 U.S.C. 270a, et seq.).

(6) Payments made under any contract entered into under this section may be made in advance, by means of reimbursement, or in installments and shall be made on such conditions as the Secretary deems necessary to carry out the purposes of this section.

(7) Notwithstanding any other provision of law, the Secretary may, at the request or consent of a Native Hawaiian organization, revise or amend any contract entered into by the Secretary with such organization under this section as necessary to carry out the purposes of this section, except that whenever such organization requests termination of any contract entered into under this section, such termination shall become effective upon a date specified by the Secretary that is not more than 120 days after the date of the request by such organization or at such later date as may be mutually agreed to by the Secretary and such organization.

(8)(A) For each fiscal year during which a Native Hawaiian organization receives or expends funds pursuant to a contract entered into under this section, such organization shall submit to the Secretary a quarterly report on—

(i) activities conducted by the organization under the contract,

(ii) the amounts and purposes for which Federal funds were expended, and

(iii) such other information as the Secretary may request.

(B) The reports and records of any Native Hawaiian organization which concern any contract entered into under this section shall be subject to audit by the Secretary and the Comptroller General of the United States.

(9) The Secretary shall allow as a cost of any contract entered into under this section the cost of an annual private audit conducted by a certified public accountant.

(10) The authority of the Secretary to enter into contracts under this section shall be to the extent, and in amounts, provided for in appropriation Acts.

NATIVE HAWAIIAN HEALING CENTERS

SEC. 4. (a) The Secretary is authorized—

(1) to establish Native Hawaiian Healing Centers on the islands of O'ahu, Moloka'i, Maui, Hawai'i, Lana'i, Kaua'i, and Ni'ihau in the State of Hawaii for the purpose of providing comprehensive health promotion and disease prevention services as well as primary health care services to Native Hawaiians;

(2) wherever practicable, to establish such Centers within existing facilities, or where no such facilities exist, to enter into a contract with a Native Hawaiian organization for the establishment of a Native Hawaiian Healing Center in a new facility, upon submission of a report by the Native Hawaiian organization which sets forth a proposed plan for a new facility, a justification of the need for a new facility, and the anticipated costs of construction;

(3) to provide planning grants (no more than 7 in number and of no more than $100,000 per grant) to Native Hawaiian organizations for the purpose of planning Native Hawaiian Healing Centers to serve the health needs of Native Hawaiian communities;

(4) to require that Native Hawaiian Healing Centers—

(A) conduct a health care needs assessment in each Native Hawaiian community that desires to participate in the Center, including a determination of the population of Native Hawaiians to be served by the Center, the current health status of Native Hawaiians served by the Center, and the current health care needs of Native Hawaiians served by the Center;

(B) develop a comprehensive Native Hawaiian health care master plan for the provision of training and services based on the health status and health care needs assessment; and

(C) recognizing that there will be certain health care services that may not be available within the Center, provide health care referral services to Native Hawaiians who are, or could be, recipients of health care referral services based on the health status and health care needs assessment, and assist Native Hawaiians in becoming familiar with such health services and resources and in utilizing such health service resources, following—

(i) the identification by the Center of all public and private health service resources which are, or could be, available to Native Hawaiians, and

(ii) a determination of the use of public and private health service resources by Native Hawaiians served by the Center.

(b) There are authorized to be appropriated—

(1) $700,000 for fiscal year 1990 for the purpose of providing planning grants under this section; and

(2) $2,800,000 for fiscal year 1991 for the purpose of establishing no more than 7

Native Hawaiian Healing Centers to serve the health needs of Native Hawaiian communities,

such sums to remain available until expended, without fiscal year limitation. No more than $525,000 of the funds authorized to be appropriated under this subsection may be expended for each Native Hawaiian Healing Center.

ACCESS TO MEDICARE AND MEDICAID SERVICES

SEC. 5. (a) The Secretary shall, in consultation with Native Hawaiian organizations, conduct a study of any barriers which may exist to the participation of Native Hawaiians in programs established under title XVIII of the Social Security Act (medicare) or under title XIX of the Social Security Act (medicaid).

(b) By no later than the date which is one year after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the study conducted under subsection (a). Such report shall include—

(1) recommendations for legislation which—

(A) would remove any barriers to participation identified in such study, and

(B) would encourage participation by Native Hawaiians in the programs described in subsection (a), and

(2) estimates of—

(A) the potential number of Native Hawaiians eligible for medicare,

(B) the potential number of Native Hawaiians eligible for medicaid,

(C) the number of Native Hawaiians participating in the medicare program, and

(D) the number of Native Hawaiians participating in the medicaid program.

GENERAL AUTHORIZATION

SEC. 6. There are authorized to be appropriated for fiscal year 1990, and for each fiscal year thereafter, such sums as may be necessary to carry out the provisions of this Act for which a specific authorization of appropriations is not otherwise provided for in this Act.

PACIFIC BASIN DISEASE RESEARCH INSTITUTE

SEC. 7. (a) The Secretary shall make a grant under section 720(a)(1) of the Public Health Service Act to the University of Hawaii in Honolulu, Hawaii, for the construction of a building for a Pacific Basin disease research institute. Notwithstanding sections 702(b) and 721(c) of such Act, the Secretary is not required to secure the advice of the National Advisory Council on Health Professions Education with respect to such grant.

(b) The Federal share of the necessary costs of construction, as determined by the Secretary, of the building described in subsection (a), shall be 50 percent.

(c) To carry out this section, there are authorized to be appropriated $5,000,000 for any one fiscal year. Amounts appropriated under this section shall remain available until expended.

AMENDMENT NO. 3354

Mr. BYRD. Mr. President, on behalf of Mr. INOUYE, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], on behalf of Mr. INOUYE, proposes an amendment numbered 3354.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 53, lines 2 and 3, strike the words "under section 720(a)(1) of the Public Health Service Act";

On page 53, line 6, beginning with the word "Notwithstanding" delete all through the period on line 9.

Mr. BYRD. Mr. President, I ask unanimous consent that the amendment at the desk by Mr. INOUYE be agreed to; that the committee substitute, as amended, be agreed to; the bill be advanced to third reading, read the third time, and passed; and the motion to reconsider laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 136), as amended, was passed, as follows:

S. 136

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS

SECTION 1. The Congress finds that—

(1) the Federal Government retains the legal responsibility to enforce the administration of a public trust responsibility for the betterment of the conditions of Native Hawaiians by the State of Hawaii;

(2) in furtherance of the State of Hawaii's public trust responsibility for the betterment of the conditions of Native Hawaiians, contributions by the Federal Government to the provision of health education and health services to maintain and improve the health status of Native Hawaiians are consistent with the historical and unique legal relationship of the Federal Government with the government that represented the indigenous native people of Hawaii;

(3) it is the policy of the Federal Government to raise the health status of Native Hawaiians to the highest possible level and to encourage the maximum participation of Native Hawaiians in the planning and management of health services in order to achieve this objective;

(4) Federal support for programs that provide health care to Native Hawaiians (including culturally relevant programs) has resulted in a reduction in the prevalence and incidence of preventable illnesses among Native Hawaiians and in a reduction in premature deaths of Native Hawaiians; and

(5) further improvement in the health status of Native Hawaiians is necessary on the basis of findings that—

(A) Native Hawaiians experience an overall death rate that is 146 percent higher than the rest of the United States population,

(B) Native Hawaiians experience a rate of diabetes mellitus that is 588 percent higher than the rest of the United States population,

(C) Native Hawaiians experience a rate of heart disease that is 177 percent higher than the rest of the United States population,

(D) Native Hawaiians experience a cancer rate that is 126 percent higher than the rest of the United States population,

(E) Native Hawaiians experience a rate of cerebrovascular disease that is 145 percent higher than the rest of the United States population,

(F) Native Hawaiians experience the highest age-sex standardized mortality rate in the State of Hawaii,

(G) Native Hawaiians experience a lower life expectancy than any other population group in the State of Hawaii,

(H) Native Hawaiians experience a higher rate of infant mortality, congenital abnormalities and underweight infants than any other population in the State of Hawaii,

(I) Native Hawaiians have the greatest risk of diabetes, heart disease, and some forms of cancer than any other population in the State of Hawaii,

(J) Native Hawaiians experience the onset of diabetes, heart disease, and hypertension at earlier ages than other populations in the State of Hawaii,

(K) Native Hawaiians have significantly higher rates of heart disease and hypertension than other populations in the State of Hawaii,

(L) Native Hawaiians have one of the highest cancer rates of any population in the United States and Native Hawaiians have the poorest survival rates from cancer than any other population in the State of Hawaii,

(M) Native Hawaiian pregnant women rank the highest of all populations of pregnant women in the State of Hawaii—

(i) receiving late or no prenatal care,

(ii) smoking and alcohol consumption during pregnancy,

(iii) toxemia and urinary tract infections during pregnancy, and

(iv) complications of pregnancy over age 35,

(N) Native Hawaiians have higher rates of suicide among young adult and elderly males than the statewide population as a whole,

(O) Native Hawaiian children have one of the highest periodontal disease rates and the poorest dental hygiene of any other population in the State of Hawaii,

(P) Native Hawaiians have higher proportion of alcohol and narcotics use and school performance impairment than the statewide population as a whole,

(Q) Native Hawaiians have higher levels of stress than the statewide population as a whole based on leading stress indicators,

(R) Native Hawaiians are underrepresented in rates of participation in health education, health promotion, screening, and referral programs,

(S) utilization of mental health services by Native Hawaiians is significantly below that of other populations in the State of Hawaii, and

(T) Native Hawaiians are underrepresented in the health professions.

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) The term "disease prevention" includes—

(A) immunizations,

(B) control of high blood pressure,

(C) control of sexually transmittable diseases,

(D) prevention and control of diabetes,

(E) control of toxic agents,

(F) occupational safety and health,

(G) accident prevention,

(H) fluoridation of water,

(I) control of infectious agents, and

(J) provision of mental health care.

(2) The term "health promotion" includes—

(A) pregnancy and infant care, including prevention of fetal alcohol syndrome,

(B) cessation of tobacco smoking,

(C) reduction in the misuse of alcohol and drugs,

(D) improvement of nutrition,

(E) improvement in physical fitness,

(F) family planning, and

(G) control of stress.

(3) The term "Native Hawaiian" means any individual who has any ancestors that were natives, prior to 1778, of the area that is now the State of Hawaii as evidenced by—

(A) genealogical records,

(B) Kupuna (elders) or Kama'aina (long-term community residents) verification, or

(C) birth records of the State of Hawaii.

(4) The term "Native Hawaiian organization" means any organization—

(A) which serves and represents the interests of Native Hawaiians,

(B) which is—

(i) recognized by Papa Ola Lokahi for the purpose of planning, conducting, or administering programs (or portion of programs) authorized under this Act for the benefit of Native Hawaiians, and

(ii) certified by Papa Ola Lokahi as having the qualifications and capacity to provide the services, and meet the requirements, under the contract the organization enters into with, or grant the organization receives from, the Secretary under this Act, and

(C) in which Native Hawaiian health professionals significantly participate in the planning, management, monitoring, and evaluation of health services.

(5) The term "Native Hawaiian educational institution" means any educational institution that—

(A) serves and represents the interests of Native Hawaiians, and

(B) has as a primary and stated purpose the provision of educational services to Native Hawaiians.

(6) The term "Papa Ola Lokahi" means an organization composed of—

(A) E Ola Mau;

(B) the Office of Hawaiian Affairs of the State of Hawaii;

(C) Alu Like Inc.;

(D) the University of Hawaii School of Medicine; and

(E) the Office of Hawaiian Health of the Hawaii State Department of Health.

(7) The term "Secretary" means the Secretary of Health and Human Services.

(8) The term "traditional Native Hawaiian healer" means a practitioner—

(A) who—

(i) is of Hawaiian ancestry, and

(ii) has the knowledge, skills, and experience in direct personal health care of individuals, and

(B) whose knowledge, skills, and experience are based on a demonstrated learning of cultural and spiritual Native Hawaiian healing practices acquired by—

(i) direct practical association with Native Hawaiian elders, and

(ii) oral traditions transmitted from generation to generation, which include—

(I) ho'o ponopono (family problem solving led by a designated leader or haku);

(II) ho'o ma'e ma'e (internal cleansing method);

(III) kā hea (the calling for spiritual forces); and

(IV) lomi lomi (body massage).

HEALTH PROMOTION AND DISEASE PREVENTION

SEC. 3. (a)(1) For fiscal year 1990, and for each fiscal year thereafter, the Secretary shall enter into contracts with Native Hawaiian organizations under which the Secretary shall provide funds to Native Hawaiian organizations to establish and administer programs of health promotion and disease prevention designed to serve Native Hawaiians.

(2) The program that is to be established and administered under each contract entered into under paragraph (1) shall—

(A) provide comprehensive preventive-oriented health services, including maternal and child health care and mental health care, through the establishment of Native Hawaiian Healing Centers, subject to the availability of appropriations authorized under section 4(b);

(B) provide for the collection of data related to the prevention of diseases and illnesses among Native Hawaiians, including the prevention of fetal alcohol syndrome, hypertension, heart disease, and diabetes;

(C) provide for medical and general health-related research into the diseases that are most prevalent among Native Hawaiians including, but not limited to, heart disease, hypertension, cancer, and diabetes;

(D) provide for research into the mental health problems that are most prevalent among Native Hawaiians including, but not limited to, alcoholism, substance abuse, reduction of stress, and child abuse;

(E) provide for education in health promotion and disease prevention in the Native Hawaiian population by Native Hawaiian community outreach workers, nurses, counselors, cultural educators and health aides, and non-Hawaiian nurses serving the Native Hawaiian community;

(F) provide for health planning in areas which shall include, but not be limited to, health planning in maternal and child health, nutrition, disease prevention, health promotion, health education, and mental health;

(G) provide for the provision of health care services by traditional Native Hawaiian healers; and

(H) provide training for Native Hawaiian community health outreach workers, nurses, counselors, cultural educators and health aides, and non-Hawaiian nurses serving the Native Hawaiian community in the provision of health care and health education in Native Hawaiian communities by means of a curriculum which—

(i) combines education in the theories of health care with supervised practical experience in the provision of health care,

(ii) provides instruction and practical experience in health promotion and disease prevention activities, particularly—

(I) nutrition,

(II) physical fitness,

(III) weight control,

(IV) cessation of tobacco smoking,

(V) stress management,

(VI) control of alcohol and substance abuse, including prevention of fetal alcohol syndrome,

(VII) control of high blood pressure,

(VIII) prevention and control of diabetes,

(IX) prevention of lifestyle related accidents,

(X) prenatal and postnatal infant health care, and

(XI) maternal health care, and

(iii) provides instruction in the most current and effective social, educational, and behavioral approaches to the establishment and maintenance of good health habits.

(b)(1) Subject to the availability of funds appropriated under the authority of paragraph (2), the Secretary shall provide grants to Native Hawaiian organizations for the purpose of developing a Native Hawaiian comprehensive health care master plan based upon the conduct of an assessment of the health care status and health care needs of Native Hawaiians.

(2) There are authorized to be appropriated $700,000 for fiscal year 1990 for the purpose of funding grants under paragraph (1).

(c)(1) The Secretary is authorized to enter into an agreement with any Native Hawaiian organization (or any Native Hawaiian educational institution) under which the Secretary is authorized to assign personnel of the Department of Health and Human Services with expertise identified by such Native Hawaiian organization (or such Native Hawaiian educational institution) to such Native Hawaiian organization (or to such Native Hawaiian educational institution) on detail for the purpose of providing education in health promotion and disease prevention to Native Hawaiian children who are underserved.

(2) Any assignment of personnel made by the Secretary under any agreement entered into under the authority of paragraph (1) shall be treated as an assignment of Federal personnel to a local government that is made in accordance with subchapter VI of chapter 33 of title 5, United States Code.

(d)(1) The Secretary shall include in any contract which the Secretary enters into with any Native Hawaiian organization under this section such conditions as the Secretary considers necessary to ensure that the objectives of such contract are achieved.

(2) The Secretary shall develop procedures to evaluate compliance with, and performance of, contracts entered into by Native Hawaiian organizations under this section.

(3) If, as a result of evaluations, the Secretary determines that a Native Hawaiian organization has not complied with or satisfactorily performed a contract entered into under this section, the Secretary shall, prior to renewing such contract, attempt to resolve the areas of noncompliance or unsatisfactory performance and modify such contract to prevent future occurrences of such noncompliance or unsatisfactory performance. If the Secretary determines that such noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract with such organization and is authorized to enter into a contract under this section with another Native Hawaiian organization that provides services to the same population of Native Hawaiians which is served by the Native Hawaiian organization whose contract is not renewed by reason of this paragraph.

(4) In determining whether to renew a contract entered into with a Native Hawaiian organization under this section, the Secretary shall—

(A) review the records of the Native Hawaiian organization, and

(B) shall consider the results of onsite evaluations.

(5) All contracts entered into by the Secretary under this section shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provision of the Act of August 24, 1935 (40 U.S.C. 270a, et seq.).

(6) Payments made under any contract entered into under this section may be made in advance, by means of reimbursement, or in installments and shall be made on such

conditions as the Secretary deems necessary to carry out the purposes of this section.

(7) Notwithstanding any other provision of law, the Secretary may, at the request or consent of a Native Hawaiian organization, revise or amend any contract entered into by the Secretary with such organization under this section as necessary to carry out the purposes of this section, except that whenever such organization requests termination of any contract entered into under this section, such termination shall become effective upon a date specified by the Secretary that is not more than 120 days after the date of the request by such organization or at such later date as may be mutually agreed to by the Secretary and such organization.

(8)(A) For each fiscal year during which a Native Hawaiian organization receives or expends funds pursuant to a contract entered into under this section, such organization shall submit to the Secretary a quarterly report on—

(i) activities conducted by the organization under the contract,

(ii) the amounts and purposes for which Federal funds were expended, and

(iii) such other information as the Secretary may request.

(B) The reports and records of any Native Hawaiian organization which concern any contract entered into under this section shall be subject to audit by the Secretary and the Comptroller General of the United States.

(9) The Secretary shall allow as a cost of any contract entered into under this section the cost of an annual private audit conducted by a certified public accountant.

(10) The authority of the Secretary to enter into contracts under this section shall be to the extent, and in amounts, provided for in appropriation Acts.

NATIVE HAWAIIAN HEALING CENTERS

SEC. 4. (a) The Secretary is authorized—

(1) to establish Native Hawaiian Healing Centers on the islands of O'ahu, Moloka'i, Maui, Hawai'i, Lana'i, Kaua'i, and Ni'ihau in the State of Hawaii for the purpose of providing comprehensive health promotion and disease prevention services as well as primary health care services to Native Hawaiians;

(2) wherever practicable, to establish such Centers within existing facilities, or where no such facilities exist, to enter into a contract with a Native Hawaiian organization for the establishment of a Native Hawaiian Healing Center in a new facility, upon submission of a report by the Native Hawaiian organization which sets forth a proposed plan for a new facility, a justification of the need for a new facility, and the anticipated costs of construction;

(3) to provide planning grants (no more than 7 in number and of no more than $100,000 per grant) to Native Hawaiian organizations for the purpose of planning Native Hawaiian Healing Centers to serve the health needs of Native Hawaiian communities;

(4) to require that Native Hawaiian Healing Centers—

(A) conduct a health care needs assessment in each Native Hawaiian community that desires to participate in the Center, including a determination of the population of Native Hawaiians to be served by the Center, the current health status of Native Hawaiians served by the Center, and the current health care needs of Native Hawaiians served by the Center;

(B) develop a comprehensive Native Hawaiian health care master plan for the provision of training and services based on the health status and health care needs assessment; and

(C) recognizing that there will be certain health care services that may not be available within the Center, provide health care referral services to Native Hawaiians who are, or could be, recipients of health care referral services based on the health status and health care needs assessment, and assist Native Hawaiians in becoming familiar with such health services and resources and in utilizing such health service resources, following—

(i) the identification by the Center of all public and private health service resources which are, or could be, available to Native Hawaiians, and

(ii) a determination of the use of public and private health service resources by Native Hawaiians served by the Center.

(b) There are authorized to be appropriated—

(1) $700,000 for fiscal year 1990 for the purpose of providing planning grants under this section; and

(2) $2,800,000 for fiscal year 1991 for the purpose of establishing no more than 7 Native Hawaiian Healing Centers to serve the health needs of Native Hawaiian communities,

such sums to remain available until expended, without fiscal year limitation. No more than $525,000 of the funds authorized to be appropriated under this subsection may be expended for each Native Hawaiian Healing Center.

ACCESS TO MEDICARE AND MEDICAID SERVICES

SEC. 5. (a) The Secretary shall, in consultation with Native Hawaiian organizations, conduct a study of any barriers which may exist to the participation of Native Hawaiians in programs established under title XVIII of the Social Security Act (medicare) or under title XIX of the Social Security Act (medicaid).

(b) By no later than the date which is one year after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the study conducted under subsection (a). Such report shall include—

(1) recommendations for legislation which—

(A) would remove any barriers to participation identified in such study, and

(B) would encourage participation by Native Hawaiians in the programs described in subsection (a), and

(2) estimates of—

(A) the potential number of Native Hawaiians eligible for medicare,

(B) the potential number of Native Hawaiians eligible for medicaid,

(C) the number of Native Hawaiians participating in the medicare program, and

(D) the number of Native Hawaiians participating in the medicaid program.

GENERAL AUTHORIZATION

SEC. 6. There are authorized to be appropriated for fiscal year 1990, and for each fiscal year thereafter, such sums as may be necessary to carry out the provisions of this Act for which a specific authorization of appropriations is not otherwise provided for in this Act.

PACIFIC BASIN DISEASE RESEARCH INSTITUTE

SEC. 7. (a) The Secretary shall make a grant to the University of Hawaii in Honolulu, Hawaii, for the construction of a building for a Pacific Basin disease research institute.

(b) The Federal share of the necessary costs of construction, as determined by the Secretary, of the building described in subsection (a), shall be 50 percent.

(c) To carry out this section, there are authorized to be appropriated $5,000,000 for any one fiscal year. Amounts appropriated under this section shall remain available until expended.

REVIEW OF TRIBAL CONSTITUTIONS AND BYLAWS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2677.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 2677) to establish procedures for review of the tribal constitutions and by laws or amendments thereto pursuant to the Act of June 18, 1934 (48 Stat, 978).

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Select Committee on Indian Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

TITLE I.—INDIAN REORGANIZATION ACT AMENDMENTS

SEC. 101. Section 16 of the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 476) is amended to read as follows:

"SEC. 16. (a) Any Indian tribe shall have the right to organize for its common welfare, and may adopt an appropriate constitution and bylaws, and any amendments thereto, which shall become effective when—

(1) ratified by a majority vote of the adult members of the tribe or tribes at a special election authorized and called by the Secretary under such rules and regulations as the Secretary may prescribe; and

(2) approved by the Secretary pursuant to subsection (d) of this section.

(b) Any constitution or bylaws ratified and approved by the Secretary shall be revocable by an election open to the same voters and conducted in the same manner as provided in subsection (a) for the adoption of a constitution or bylaws.

(c)(1) The Secretary shall call and hold an election as required by subsection (a)—

(A) within one hundred and eighty days after the receipt of a tribal request for an election to ratify a proposed constitution and bylaws, or to revoke such constitution and bylaws; or

(B) within ninety days after receipt of a tribal request for election to ratify an amendment to the constitution and bylaws.

(2) During the time periods established by paragraph (1), the Secretary shall—

(A) provide such technical advice and assistance as may be requested by the tribe or as the Secretary determines may be needed; and

(B) review the final draft of the constitution and bylaws, or amendments thereto to determine if any provision therein is contrary to applicable laws.

(3) After the review provided in paragraph (2) and at least thirty days prior to the call-

ing of the election, the Secretary shall notify the tribe, in writing, whether and in what manner the Secretary has found the proposed constitution and bylaws or amendments thereto to be contrary to applicable laws.

(d)(1) If an election called under subsection (a) results in the adoption by the tribe of the proposed constitution and bylaws or amendments thereto, the Secretary shall approve the constitution and bylaws or amendments thereto within forty-five days after the election unless the Secretary finds that the proposed constitution and bylaws or any amendments are contrary to applicable laws.

(2) If the Secretary does not approve or disapprove the constitution and bylaws or amendments within the forty-five days, the Secretary's approval shall be considered as given. Actions to enforce the provisions of this section may be brought in the appropriate Federal district court.

(e) In addition to all powers vested in any Indian tribe or tribal council by existing law, the constitution adopted by said tribe shall also vest in such tribe or its tribal council, the choice of counsel and fixing of fees to be subject to the approval of the Secretary; to prevent the sale, disposition, lease, or encumbrance of tribal lands, interests in lands, or other tribal assets without the consent of the tribe; and to negotiate with the Federal, state, and local governments. The Secretary shall advise such tribe or its tribal council of all appropriation estimates or Federal projects for the benefit of the tribe prior to the submission of such estimates to the Office of the Management and Budget and the Congress.

SEC. 102. For the purpose of this Act, the term—

(1) "applicable laws" means any treaty, Exective order or Act of Congress or any final decision of the Federal courts which are applicable to the tribe, and any other laws which are applicable to the tribe, pursuant to an Act of Congress or by any final decision of the Federal courts;

(2) "appropriate tribal request" means receipt in the Area Office of the Bureau of Indian Affairs having administrative jurisdiction over the requesting tribe, of a duly enacted tribal resolution requesing a Secretarial election as well as a copy of the proposed tribal constitution and bylaws, amendment, or revocation action;

(3) "Secretary" means the Secretary of the Interior.

SEC. 103. Nothing in this Act is intended to amend, revoke, or affect any tribal consititution, bylaw, or amendment ratified and approved prior to this Act.

TITLE II.—MISCELLANEOUS AMENDMENTS TO EXISTING LAWS

SEC. 201. Subsection (b) of Section 3 of the Old Age Assistance Claims Settlement Act (98 Stat. 2317; 25 U.S.C. 2302(b)) is amended to read as follows:

"(b) No payment shall be made to a person under subsection (a) with respect to any unauthorized disbursement from the trust estate of a deceased Indian if—

(1) the total amount of unauthorized disbursements from such trust estate was less than $50; or

(2) the payment (not including interest) would be less than $10."

SEC. 202. Section 4(b) of the Act of September 9, 1988 (Public Law 100-425) entitled "An Act to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes" is amended by striking out "4" in the first column of the description of the 38th tract of land listed in that subsection and inserting in lieu thereof "2".

SEC. 203. Notwithstanding any other provision of law, the plan dated July 7, 1988, that was submitted by the Assistant Secretary of the Interior for Indian Affairs to the Congress pursuant to the Indian Tribal Judgment Funds Use or Distribution Act, 87 Stat. 466, as amended (25 U.S.C. 1401 et seq.) for the division and use of the judgment funds awarded the Choctaw and Chickasaw Indians in Docket No. 387-85L of the United States Claims Court shall take effect upon enactment of this Act: *Provided*, That in the case of the Chickasaw portion of the plan, instead of the action by the tribal governing body or of the Chickasaw electorate, the Plan shall be deemed to require the proposal of a budget in accordance with the Tribe's governing documents, subject to the approval of the Secretary of the Interior.

SEC. 204. Section 4 of Public Law 99-383 (100 Stat. 404) is amended by striking out all that precedes paragraph (1) and inserting in lieu thereof the following:

"SEC. 4. The balance of the income derived by the Secretary of the Interior from the interests in the land described in section 1 that was transferred to the Treasury of the United States as miscellaneous receipts shall be transferred from the General Fund of the Treasury of the United States to, and held in trust by, the Secretary of the Interior for use as follows:".

SEC. 205. Paragraph (1) of section 2(c) of Public Law 96-135 (25 U.S.C. 472a(c)(1)) is amended by striking out "an employee" and inserting in lieu thereof "an applicant or employee".

SEC. 206. Section 23 of the Act of June 25, 1910 (36 Stat. 861; 25 U.S.C. 47) is amended by striking out: "products" and inserting in lieu thereof "products (including, but not limited to printing, notwithstanding any other law)".

SEC. 207. Subsection (c) of section 518 of the Federal Water Pollution Control Act is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", as defined in subsection (h) and former Indian reservations in Oklahoma (as determined by the Secretary of the Interior) and Alaska Native Villages as defined in Public Law 92-203.".

SEC. 208. (a) Subsection (h) of section 4 of the Indian Self-Determination and Education Assistance Act as amended by section 103 of the Indian Self-Determination and Education Assistance Act Amendments of 1988 is further amended—

(1) by striking out "by tribal organization" and inserting in lieu thereof "by a tribal organization"; and

(2) by striking out "a tribal organization or a tribal governing body" and inserting in lieu thereof "a tribal organization or the tribal organization's Indian tribe for purposes of section 102(a) of this Act".

(b) Subsection (j) of section 4 of the Indian Self-Determination and Education Assistance Act as amended by section 103 of the Indian Self-Determination and Education Assistance Act Amendments of 1988 is further amended—

(1) by striking out "Secretary the planning" and inserting in lieu thereof "the Secretary for the planning"; and

(2) by striking out "no contract" and inserting in lieu thereof "except as provided the last proviso in section 105(a) of this Act, no contract".

SEC. 209. Subsection (e) of section 5 of the Indian Self-Determination and Education Assistance Act as amended by section 104(b) of the Indian Self-Determination and Education Assistance Act Amendments of 1988 is further amended by striking out "to tribes" and inserting in lieu thereof "to each tribe".

SEC. 210. Subsection (c)(2) of section 102 of the Indian Self-Determination and Education Assistance Act as amended by section 201 of the Indian Self-Determination and Education Assistance Act Amendments of 1988 is further amended by striking out "section 1425 of title 25, United States Code" and inserting in lieu thereof "section 3 of the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451 et seq.)".

SEC. 211. Section 109 of the Indian Self-Determination and Education Assistance Act is amended by striking out "after providing notice and hearing to such tribal organization" and inserting in lieu thereof "after providing notice and hearing on the record to such tribal organization" and by striking out "in such cases, he shall hold a hearing within ten days thereof" and inserting in lieu thereof "in such cases, he shall provide the tribal organization with a hearing on the record within ten days or such later date as the tribal organization may approve."

SEC. 212. (a) Subsection (a) of section 110 of the Indian Self-Determination and Education Assistance Act as amended by section 201 of the Indian Self-Determination and Education Assistance Act Amendments of 1988 is further amended by striking out "over civil action" and inserting in lieu thereof "over any civil action".

(b) Subsection (b) of section 100 of the Indian Self- Determination and Education Assistance Act as amended by section 201 of the Indian Self-Determination and Education Assistance Act Amendments of 1988 is further amended by striking out "an Indian tribe" and inserting in lieu thereof "tribal organization" and by striking out "such tribe" and inserting in lieu thereof "such tribal organization".

(c) Subsection (c) of section 110 of the Indian Self-Determination and Education Assistance Act as amended by section 201 of the Indian Self-Determination and Education Assistance Act Amendments of 1988 is further amended to read as follows:

"(c) The Equal Access to Justice Act (Public Law 96-481, Act of October 1, 1980; 92 Stat. 2325, as amended), section 504 of title 5, United States Code, and section 2412 of title 28, United States Code shall apply to administrative appeals pending on or filed after the date of enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1988 by tribal organizations regarding self-determination contracts."

SEC. 213. Subsection (c) of the Act of August 31, 1964 (Public Law 88-540; 78 Stat. 747 25 U.S.C. 608(c)) is amended to read as follows:

"(c) Lands and interests in lands acquired by the Secretary pursuant to section (a)(1) of this Act and for the benefit of the Yakima Indian Nation pursuant to Section 5 of the Act of June 18, 1934 (48 Stat. 985; 25 U.S.C. 465) shall be held in trust by the United States for the benefit of the Yakima Indian Nation."

SEC. 214. Sec. 5 of the Act of June 18, 1934 (48 Stat. 985; 25 U.S.C. 465) is amended by striking out "this Act" and inserting in lieu thereof "this Act or the Act of July 28, 1955 (69 Stat. 392), as amended (25 U.S.C. 608 et seq.)".

Sec. 215. Section 816 of the Native American Programs Act of 1974 is amended by striking out "the preceding fiscal year" in subsection (c)(2) and inserting in lieu thereof "fiscal year 1987".

Sec. 216. Subsection (b) of section 5 of Public Law 86-339 (73 Stat. 604; 25 U.S.C. 955) is amended by adding the following new sentence at the end thereof:

"A payment and the income derived therefrom heretofore or hereafter made to an allottee as compensation for the acquisition of part or all of the allottee's allotment for a public purpose is—

(1) deemed a cash payment in lieu of an allotment for purposes of this subsection;

(2) deemed a right under subsection (a) of this section; and

(3) subject to the Act of March 2, 1931, ch. 374, 46 Stat. 1471 (25 U.S.C. 409a) and the undesignated provision added to the Act of February 8, 1887, ch. 119, by the Act of June 21, 1906, ch. 3504, 34 Stat. 327 (25 U.S.C. 410)."

Sec. 217. The Secretary of the Interior shall pay to the Tiospa Zina Tribal School from lapsed balances of funds appropriated for the Bureau of Indian Affairs for fiscal year 1987 the amount that the Director of the Office of Indian Education Programs of the Bureau determines that the School should have received that year for start-up costs.

TITLE III. TO TRANSFER OWNERSHIP OF CERTAIN LANDS HELD IN TRUST FOR THE BLACKFEET TRIBE, AND FOR OTHER PURPOSES

Sec. 301. (a) As compensation for and in settlement of all claims arising as the result of alleged errors in the Secretary of the Interior's approval of purported conveyances of land involved in the will of Garret White (also known as Many Whitehorse), upon certification by the Secretary of the Interior that the conditions precedent in subsection (c) have been met, the Secretary of the Treasury is directed to pay as a settlement under 1304(a)(1) of title 31, United States Code, not to exceed the following sums:

(1) $50,000.00 to John Benedict Renville of the Blackfeet Indian Reservation;

(2) $58,500.00 to be held in trust by the Secretary of the Interior for the Blackfeet Tribe of the Blackfeet Indian Reservation of Montana;

(3) $127,000.00 to Mary Lois Peterson Munoz of Cut Bank, Montana; and

(4) $165,535.00 to the Secretary of the Interior to be held in trust for John Benedict Renville, less attorney fees paid to the attorney for John Benedict Renville as provided in this Title.

(b) The payment and acceptance of such compensation shall be in full satisfaction of all claims that the receiving party has against the United States or any employee or officer thereof, and against any other party, in connection with the purported sale of some 540 acres of trust land involved in the will of Garret White to the Blackfeet Tribe approved October 28, 1946, the purported exchange of some 280 acres of the land by the Tribe for other land, and the purported acquisition of the 280 acres by Mary Lois Peterson Munoz.

(c) Each of the following is a condition precedent to any payment under subsection (a) of this Act:

(1) Each of the parties shall execute such releases, conveyances, or other documents as the Secretary of the Interior determines are necessary to carry out this Act by settling the claims and transferring interests in and clearing titles to the land involved. The execution of such documents on behalf of the Blackfeet Tribe is hereby authorized and is deemed approved under Resolution 250-87 of the Blackfeet Tribal Business Council and such documents may be executed by the Chairman. The Secretary of the Interior may approve and execute on behalf of the United States such documents as are necessary to carry out this Act.

(2) The Blackfeet Tribe shall transfer its interests in the remaining approximately 240 acres of land acquired by the Tribe on October 28, 1946, to the Secretary of the Interior who shall take the interests in trust for John Benedict Renville.

(3) Mary Lois Peterson Munoz shall transfer to the Secretary of the Interior all of her interests in the approximately 280 acres of land which had been acquired by the Blackfeet Tribe on October 28, 1946, to the Secretary of the Interior who shall take the interests in trust for John Benedict Renville.

(4) A final order has been entered in the civil action entitled *John Benedict Renville v. Blackfeet Tribe of Indians, et al.*, No. CV-84-42-6F, in the United States District Court for the District of Montana dismissing with prejudice all claims, crossclaims, counterclaims, third-party claims, and all other claims arising out of such civil action.

(d) The land and the interests therein acquired in trust by the Secretary of the Interior under this Title shall be subject to the laws that would apply if the sale of October 28, 1946, had not taken place.

(e) The amounts paid under subsection (a) of this Title to John Benedict Renville are subject to section 7 of the Act of October 19, 1973 (87 Stat. 468; 25 U.S.C. 1407), as amended.

(f) The amounts paid under subsection (a) of this Act to Mary Lois Peterson Munoz shall be considered as funds for condemnation proceedings as provided for in Section 1033 of the Internal Revenue Code.

(g) No part of any amount paid under this Act in excess of 10 percent of such amount, including the value of the land returned, shall be paid or delivered to, or received by, any agent or attorney on account of services rendered John Benedict Renville in connection with any claim settled under this Act and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of this subsection shall be a misdemeanor punishable by a fine of no more than $1,000.00.

(h) The Secretary of the Interior shall cause to be made an appraisal of the value of the lands described in subsection (b) as of the date of enactment of this Act; and the sums paid to the Blackfeet Tribe and Mary Lois Peterson Munoz under subsection (a) of this Act shall not exceed such appraisal values, plus a reasonable attorney's fee, not to exceed 10 percent of such award, any contract to the contrary notwithstanding. Violation of this subsection shall be a misdemeanor punishable by a fine of no more than $1,000.00.

TITLE IV. COLUMBIA RIVER TREATY FISHING ACCESS SITES

Sec. 401. (a) All Federal lands within the area described on maps numbered HR2677 sheets 1 through 12, dated September 21, 1988 and on file in the offices of the Secretary of the Interior, the Secretary of the Army and the Columbia River Gorge Commission shall, on and after the date of enactment of this Act, be administered to provide access to usual and accustomed fishing areas and ancillary fishing facilities for members of the Nez Perce Tribe, the Confederated Tribes of Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Confederated Tribes and Bands of the Yakima Indian Nation.

(b) Notwithstanding any other provision of law, the Secretary of the Army shall—

(1) identify and acquire additional lands adjacent to the Bonneville Pool from willing sellers until such time that at least six sites have been acquired adjacent to the Bonneville Pool for the purpose of providing access and ancillary fishing facilities for the members of the Indian tribes referred to in subsection (a); and

(2) improve the lands referred to in subsections (a) and paragraph (1) of subsection (b) and maintain such lands until such time as the lands are transferred to the Department of Interior for the purpose of maintaining the sites. Such improvements shall include, but not be limited to, camping and park facilities to the same standards as those provided in the National Park System; all weather access roads and boat ramps; docks; sanitation; fish cleaning, curing, and ancillary fishing facilities; electrical and sewage facilities; and landscaping; and

(3) make improvements at existing sites, including but not limited to dredging at the site at Wind River, Washington, and constructing a boat ramp on or near the site at Cascade Locks, Oregon.

(c) The Secretary of the Army shall treat the costs of implementation of paragraphs (2) and (3) of subsection (b) as project costs of the Army Corps of Engineers Columbia River projects, and such costs shall be allocated in accordance with existing principles of allocating Columbia River project costs. Funds heretofore and hereafter appropriated to the Secretary of the Army for maintenance and development of Columbia River projects may be used to defray the costs of accomplishing the purposes of this Act.

(d) There is hereby authorized to be appropriated a sum not to exceed $2,000,000 to implement the purposes of subsection (b)(1).

(e) The Secretary of the Interior shall be vested with the right of first refusal, after consultation with the Indian entities in subsection (a), to accept any lands adjacent to the Columbia River within the Bonneville, Dallas, and John Day Pools now owned or subsequently acquired by any federal agency and declared to be excess lands or otherwise offered for sale or lease by such federal agency, and upon such acceptance, such federal agency shall transfer such lands to the Secretary for the purpose of Indian treaty fishing: *Provided* however, That total acreage of sites provided under this Section adjacent to the Bonneville Pool of the Columbia River not exceed 360 acres.

(f) Nothing in this Act shall be construed as repealing, superseding, or modifying any right, privilege, or immunity granted, reserved, or established pursuant to treaty, statute, or Executive Order pertaining to any Indian tribe, band, or community.".

AMENDMENT NO. 3355

(Purpose: To provide for the use and distribution of funds awarded the Wisconsin Band of Potawatomi in docket 28 of the United States Claims Court; and to declare certain lands are held in trust for Potawatomi Indian communities in Wisconsin and Michigan)

Mr. BYRD. Mr. President, on behalf of Mr. PROXMIRE, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. PROXMIRE, proposes an amendment numbered 3355.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is as follows:

TITLE .—POTAWATOMI JUDGMENT FUNDS

SEC. . That, notwithstanding any provision of the Act of October 19, 1973 (87 Stat. 466; 25 U.S.C. 1401, et seq.), or any other law, regulation, or plan promulgated pursuant thereto, the funds appropriated in satisfaction of the judgment awarded to the Wisconsin Band of Potawatomi in docket 28 of the United States Claims Court (including all interest and investment income accrued thereon) shall be used and distributed as provided in this Act.

SEC. . (a) The funds appropriated with respect to the judgment awarded the Wisconsin Band of Potawatomi in docket 28 of the United States Claims Court (less attorney fees and litigation expenses), including all interest and investment income accrued thereon, are allocated as follows:

(1) 141/451 of such funds are allocated to the Hannahville Indian Community, and

(2) 310/451 of such funds shall be allocated to the Forest County Potawatomi.

(b)(1) The funds allocated to each Indian tribe under subsection (a), and any interest and investment income accrued on such funds, are hereby declared to be held in trust by the United States for the benefit of such Indian tribe and shall be invested by the Secretary of the Interior for the benefit of such Indian tribe.

(2) The funds held in trust by the United States under paragraph (1) for the benefit of an Indian tribe shall be available to the governing body of such Indian tribe, on a budgetary basis and subject to the approval of the Secretary of the Interior, for tribal, social, and economic development programs for such Indian tribe.

SEC. . None of the funds held in trust by the United States under this Act (including interest and investment income accrued on such funds while such funds are held in trust by the United States), and none of the funds made available under this Act for programs or for distributions under any programs, shall be subject to Federal, State, or local income taxes, nor shall such funds nor their availability be considered as income or resources or otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which any household or individual would otherwise be entitled under the Social Security Act or, except for per capita payments in excess of $2,000, any other Federal or federally assisted program.

TITLE .—POTAWATOMI TRUST LANDS

SECTION . (a) All rights, title, and interests of the United States in the surface and mineral estate of approximately 11,300 acres of land located in Forest County and Oconto County, Wisconsin, that was acquired by the United States by reason of section 24 of the Act of June 30, 1913 (38 Stat. 102), including any improvements on such land, are hereby declared to be held by the United States in trust for the benefit and use of the Forest County Potawatomi Community of Wisconsin and such land is hereby declared to be the reservation of the Forest County Potawatomi Community of Wisconsin.

(b) All rights, title, and interests of the United States in the surface and mineral estates of approximately 3,359 acres of land located in Menominee County, Michigan, that was acquired by the United States by reason of section 24 of the Act of June 30, 1913 (38 Stat. 102), including any improvements on such lands, are hereby declared to be held by the United States in trust for the benefit and use of the Hannahville Indian Community of Michigan, and such land is hereby declared to be the reservation of the Hannahville Indian Community of Michigan.

SEC. . The Secretary of the Interior shall publish in the Federal Register a detailed description of the lands referred to in this title.

SEC. . Nothing in this Act shall deprive any person (other than the United States) of any lease, right-of-way, mining claim, grazing permit, water right, or other right or interest which such person may have in the surface or mineral estate of any land referred to in section 1 on the day before the date of enactment of this Act.

Mr. PROXMIRE. Mr. President, This amendment to H.R. 2677 adds at the conclusion of the bill two new titles to address certain concerns of the Potawatomi Indians of Wisconsin and Michigan.

The first title provides legislation necessary to authorize the Secretary of the Interior to distribute certain judgment funds awarded to the Wisconsin Band of Potawatomi in docket 28 of the U.S. Claims Court in accordance with a plan the two affected bands have agreed to. The two bands are the Hannahville Indian Community and the Forest County Potawatomi. This provision was encompassed in S. 1870, which I introduced earlier in this Congress. There are no Federal funds involved in this provision, and the legislation is supported by the administration.

The second title provides that certain lands in Forest County and Oconto County in Wisconsin and lands in Menominee County, MI, shall be held in trust by the United States on behalf of the affected Potawatomi bands. These lands were originally acquired under a 1913 act which directed the Secretary of the Interior to acquire the lands from funds which were actually owed by the United States to the tribes. Again, the administration supports this provision and there is no cost to the Government.

Mr. President, I urge that the Senate support this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3355) was agreed to.

AMENDMENT NO. 3356

(Purpose: To declare that certain lands located in California and held by the Secretary of the Interior are lands held in trust for the benefit of certain bands of Indians and to declare such lands to be part of the reservation with which they are contiguous)

Mr. BYRD. Mr. President, I send an amendment to the desk on behalf of Mr. INOUYE and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD,], for Mr. INOUYE, proposes an amendment numbered 3356.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the committee substitute, add the following new title:

TITLE V—SOUTHERN CALIFORNIA INDIAN LAND TRANSFER

SECTION 501. SHORT TITLE.

This Act may be cited as the "Southern California Indian Land Transfer Act".

SEC. 502. LANDS HELD IN TRUST FOR VARIOUS GROUPS AND BANDS OF MISSION INDIANS.

(a) IN GENERAL.—Subject to section 3, all right, title, and interest of the United States in and to the lands described in subsection (b) in connection with each band or group of Mission Indians listed in the table contained in such subsection (including all improvements on such land and appurtenances to such land) are hereby declared—

(1) to be held in trust by the United States for the benefit of such band or group listed in such table, and

(2) to be part of the reservation listed in connection with each such band or group in such table.

(b) LAND DESCRIBED.—

(1) The lands referred to in subsection (a) are the lands which are described in paragraph (2) and are adjacent to the reservation of a band or group of Mission Indians, as listed in the following table and generally described as "Lands identified in the Proposed So. California Indian Land Transfer Act" and depicted on the map entitled "Southern California Indian Land Transfer Act Map," May 1988:

Band or group of Mission Indians	Approximate Acreage	Reservation
Barona Group of Capitan Grande Band ...	722.86	Barona Ranch
Cahuilla Band.....	611.88	Cahuilla
Campo Band........	470.28	Campo
La Jolla Band......	355.51	La Jolla
La Posta	84.20	La Posta
Mesa Grande Band................	800.00	Mesa Grande

Band or group of Mission Indians	Approximate Acreage	Reservation
Morongo Band....	107.00	Morongo
Pala Band...........	415.00	Pala
Pechanga Band...	302.64	Pechanga
Rincon Band.......	320.00	Rincon
Soboba.................	880.00	Soboba

(2) The lands described in this paragraph are as follows:

(A) Lands with respect to the Barona Group of Capitan Grande Band:

T. 14S., R. 1E., SBM
Section 13, NE¼, N½SE¼;
T. 14S., R. 2E., SBM
Section 7, Lots 5, 6, 10, 11, 12, 21 and 22, E½NE¼, NE¼SW¼, SE¼;
Section 18, Lot 1, W½NE¼, NE¼NW¼;

(B) Lands with respect to the Cahuilla Band:

T. 8S., R. 2E., SBM
Section 11, Lots 5 thru 8, 11, and 12;
Section 12, Lots 17 thru 19;
T. 8S., R. 3E., SBM
Section 7, Lots 8 thru 15;
Section 8, Lots 7, 8, and 12;

(C) Lands with respect to the Campo Band:

T. 17S., R. 6E., SBM
Section 17, S½NE¼, SE¼;
Section 35, Lots 3, 5, and 7, N½S½;
Section 36, Lots 6 and 9;

(D) Lands with respect to the La Jolla Band:

T. 11S., R. 1E., SBM
Section 2, Lots 1 thru 4, S½NW¼;
Section 3, Lots 1 thru 3;

(E) Lands with respect to the La Posta Band:

T. 17S., R. 6E., SBM
Section 6, Lots 6 thru 8, SW¼NW¼;

(F) Lands with respect to the Mesa Grande Band:

T. 12S., R. 2E., SBM
Section 23, NE¼, N½SE¼, E½NW¼;
Section 24, NW¼NW¼, S½NW¼, NW¼SW¼, S½SW¼;
Section 25, E½NW¼, W½NE¼, W½SE¼;

(G) Lands with respect to the Morongo Band:

T. 3S., R. 1E., SBM
Section 34, S½NW¼NW¼;
T. 3S., R. 2E., SBM
Section 20, Lot 10;
Section 32, W½NW¼NE¼, N½SE¼NW¼, SW¼SE¼NW¼;

(H) Lands with respect to the Pala Band:

T. 9S., R. 2W., SBM
Section 13, SW¼SW¼ (excepting the patented portions of MS 6452 and MS 6848 and excepting those portions of public land not contiguous to the Indian Reservation);
Section 14, W½W½ (excepting the patented portion of MS 6458), SE¼SE¼ (excepting the patented portion of MS 6452 and excepting those portions of public land not contiguous to the Indian Reservation);
Section 15, NE¼NE¼, S½NE¼, E½W½, SE¼ (excepting the patented portions of MS 4886, MS 4926, and MS 6458);

(I) Lands with respect to the Pechanga Band:

T. 8S., R. 2W., SBM
Section 23, Lots 4 and 5, S½SW¼, SE¼;

(J) Lands with respect to the Rincon Band:

T. 10S., R. 1W., SBM
Section 28, SE¼, E½SW¼;
Section 33, N½NE¼;

(K) Lands with respect to the Soboba Band:

T. 4S., R. 1E., SBM
Section 20, SE¼SW¼;
Section 33, S½;
Section 34, W½NE¼, W½, W½SE¼, SE¼SE¼.

SEC. 503. EXISTING RIGHTS PRESERVED; RIGHT OF CERTAIN CURRENT LESSEES TO PURCHASE; MISCELLANEOUS PROVISIONS.

(a) Existing Rights Preserved.—The declarations contained in section 2 shall not affect—

(1) any right or interest of any person in any land described in such section under any legal right-of-way, mining claim, or grazing permit in effect on the day before the date of the enactment of this Act, or

(2) any other right, title, or interest which such person may have in such land on such day.

(b) Right of Holder of Grazing Permit to Purchase Lands.—

(1) In general.—Any person who holds a valid grazing permit and lease (as such term is defined in section 103(p) of the Federal Land Policy and Management Act of 1976) with respect to any land described in section 2 shall have the right to purchase such land before the end of the 1-year period beginning on the date of the enactment of this Act for the fair market value of such land (determined as of the date of purchase) on such terms and conditions as the Secretary of the Interior may prescribe. The declarations in section 2 relating to the trust and reservation status of such land shall take effect subject to the right of purchase established under this paragraph.

(2) Notice by secretary required.—Before the end of the 30-day period beginning on the date of the enactment of this Act, the Secretary of the Interior shall notify each person referred to in paragraph (1) of the right of purchase established under such paragraph.

(3) Proceeds of sale to be held in trust for indians.—In the case of any sale of land under paragraph (1), the proceeds of such sale shall be held in trust by the Secretary of the Interior for the benefit of the band or group of Mission Indians for whose benefit such land is held after the date of the enactment of this Act and before such sale. The net income on the amount held in trust by such Secretary shall be available for use or obligation by such band or group in such manner and for such purposes as the Secretary may approve.

(c) Proceeds From Rents and Royalties Transferred to Indians.—Amounts which accrue to the United States after the date of the enactment of this Act from sales, bonuses, royalties, and rentals relating to any land described in section 2 shall be available for use or obligation, in such manner and for such purposes as the Secretary may approve, by the band or group of Mission Indians for whose benefit such land is held after the date of the enactment of this Act.

(d) Additions to Reservations Subject to Laws Governing Existing Reservations.—Any lands which are held in trust for the benefit of any band or group of Indians pursuant to this Act shall be subject to the laws of the United States relating to Indian land in the same manner and to the same extent as the lands comprising the reservation of such group or band on the day before the date of the enactment of this Act.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3356) was agreed to.

AMENDMENT NO. 3357

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk for Senator Murkowski and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado [Mr. Armstrong], for Mr. Murkowski, proposes an amendment numbered 3357.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the reading of the amendment be dispersed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of Title II add the following new section:

Sec. 217. Subsection (a)(1) of section 2 of Public Law 94-204 (89 Stat. 1148), as amended by section 1411(a) of Public Law 96-487 (94 Stat. 2497), is amended by inserting in the first paragraph after "resources of lands" and before "withdrawn" the following: ", including wildlife proceeds received between the date of withdrawal and the date of conveyance from harvests on lands conveyed pursuant to the Act,".

Mr. MURKOWSKI. Mr. President, in July, the Senate included language in the Interior appropriations bill that was intended to resolve a purported ambiguity in the Alaska Native escrow statutes that was impeding final resolution of a longstanding claim. In conference, the conferees chose to substitute detailed report language properly interpreting the escrow statutes and directing the Secretary of the Interior to complete certification of the claim in question.

Despite this expression of congressional intent, the claim remains unresolved. It is the opinion of the Federal lawyers that report language does not resolve ambiguity in the statutory provisions in this case. Without resolution, statutory interest is accruing at the rate of as much as $3,500 a day. This amendment will resolve this ambiguity.

Mr. President, this amendment simply clarifies that escrow claims based on wildlife proceeds are to be treated the same as those claims, already paid, based on proceeds from oil and gas, timber, etc. on selected Native lands. The proceeds received by the Federal Government from its sale of pelts taken from Native corporation lands should be the measure of the principal amount placed in escrow and then distributed.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3357) was agreed to.

The PRESIDING OFFICER. Without objection, the committee substitute, as amended, is agreed to.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read a third time and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ARMSTRONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL PLACED ON CALENDAR—S. 1549

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be discharged from consideration of S. 1549, a bill to increase the authorization ceiling for the closed basin division, San Luis Valley project, Colorado, and that the bill be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NATURAL GAS PIPELINE SAFETY ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2424, the Natural Gas Pipeline Safety Act.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2424) to authorize appropriation for the Natural Gas Pipeline Safety Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

S. 2424

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Pipeline Safety Reauthorization Act of 1988".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. (a) Section 17(a) of the Natural Gas Pipeline Safety Act of 1968 (49 **[**App.**]** U.S.C. *App.* 1684(a)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

"(6) $3,683,000 for the fiscal year ending September 30, 1988;

"(7) $3,978,000 for the fiscal year ending September 30, 1989; and

"(8) $4,086,000 for the fiscal year ending September 30, 1990.".

(b) Section 214(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 **[**App.**]** U.S.C. *App.* 2013(a)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

"(6) $921,000 for the fiscal year ending September 30, 1988;

"(7) $995,000 for the fiscal year ending September 30, 1989; and

"(8) $1,021,000 for the fiscal year ending September 30, 1990.".

GRANTS-IN-AID AUTHORIZATION

SEC. 3. (a) Section 17(c) of the Natural Gas Pipeline Safety Act of 1968 (49 **[**App.**]** U.S.C. *App.* 1684(c)) is amended—

(1) by striking "and" after "September 30, 1986,"; and

(2) by striking "1987." and inserting in lieu thereof the following: "*1987,* $5,000,000 for the fiscal year ending September 30, 1988, $5,500,000 for the fiscal year ending September 30, 1989, and $5,500,000 for the fiscal year ending September 30, 1990.".

(b) Section 17(d) of the Natural Gas Pipeline Safety Act of 1968 (49 **[**App.**]** U.S.C. *App.* 1684(d)) is amended by inserting "(1)" immediately before "Not less than" and by adding at the end the following new paragraph:

"(2) Not more than 20 percent of the amount of a pipeline safety grant made to a State under section 5(d) of this Act and section 205(d) of the Hazardous Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)) may be allocated to indirect expenses.".

(c) Section 17 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684) is amended by adding at the end the following new subsection:

"(e) The Secretary shall make available for grants to the States any funds appropriated for the fiscal years ending after September 30, 1986, and September 30, 1987, that have not been expended in making grants under section 5(d) of this Act and section 205(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)). Grants made under this subsection shall be available to States which in 1988 or thereafter (1) undertake new responsibilities under section 5(a) of this Act or section 205(a) of the Hazardous Liquid Pipeline Safety Act of 1979, or (2) implement a one-call damage prevention program established under State law, except that nothing in this subsection shall result in any State receiving grant funds under this Act or under the Hazardous Liquid Pipeline Safety Act of 1979 in excess of 50 percent of its allowable pipeline safety costs and no State shall receive funds under this subsection in excess of $75,000. Funds authorized under this subsection shall remain available until expended.".

CERTIFICATION AUTHORITY

SEC. 4. (a) Section 3(a)(1) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672(a)(1)) is amended by inserting after the second sentence the following: "Such standards may include a requirement that all individuals responsible for the operation and maintenance of pipeline facilities be tested for qualifications and certified to perform such functions.".

(b) Section 203(c) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(c)) is amended by inserting after the first sentence the following: "Such standards may include a requirement that all individuals responsible for the operation and maintenance of pipeline facilities be tested for qualifications and certified to perform such functions.".

STATE NOTIFICATION AND PIPELINE INVENTORY

SEC. 5. (a) Section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672) is amended by adding at the end the following new subsections:

"(e) Not later than 1 year after the date of enactment of this subsection, the Secretary shall establish by regulation minimum Federal standards requiring operators of pipeline facilities subject to this Act (to the extent practicable) to provide, and revise as necessary, information relating to the operation of such facilities. Such information shall be completed and maintained and be provided, upon request, to the Secretary and the appropriate State official. Such information shall include the following:

"(1) The business name, address, and telephone number, including an operations emergency telephone number, of the operator.

"(2) An accurate map or maps, along with any appropriate supplementary geographic description, showing the location of major pipeline facilities, including all transmission lines and significant distribution lines, of such operator in the State.

"(3) A description of the characteristics of the operator's pipelines within the State.

"(4) The manual that governs operations and maintenance of the pipeline facilities located in the State.

"(5) A description of all products transported through the operator's pipelines within the State.

"(6) An emergency response plan describing the operator's procedures for responding to and containing releases, including—

"(A) an identification of specific actions that will be taken by the operator on discovery of a release;

"(B) liaison procedures with State and local government agencies for emergency response; and

"(C) communication and alert procedures for immediate notification of State and local officials at the time of any release.

"(7) Any other information the Secretary considers useful and necessary to inform the State of the presence of pipeline facilities and operations within their boundaries.

"(f) The Secretary shall, by regulation, establish minimum Federal standards to require, not later than 1 year after the date of enactment of this subsection, operators of pipeline facilities suoject to this Act, to the extent practicable, to complete and maintain for the Secretary, and to revise as appropriate thereafter, an inventory with appropriate information with respect to all types of pipe used for the transmission of gas in such operator's system, along with additional information such as the material history and the leak history of such pipe. Such inventory shall exclude equipment used with the compression of gas.".

(b) Section 203 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002) is amended by adding at the end the following new subsections:

"(i) Not later than 1 year after the date of enactment of this subsection, the Secretary shall establish by regulation minimum Federal standards requiring operators of pipeline facilities subject to this title (to the extent practicable) to provide, and revise as necessary, information relating to operation of such facilities. Such information shall be completed and maintained and be provided, upon request, to the Secretary and an appropriate official of a State, as the case may be. Such information shall include the following:

"(1) The business name, address, and telephone number, including an operations emergency telephone number, of the operator.

"(2) An accurate map or maps, along with any appropriate supplementary geographic description, showing the location of major pipeline facilities of such operator in the State.

"(3) A description of the characteristics of the operator's pipelines within the State.

"(4) The manual that governs operations and maintenance of the pipeline facilities located in the State.

"(5) A description of all products transported through the operator's pipelines within the State.

"(6) An emergency response plan describing the operator's procedures for responding to and containing releases, including—

"(A) an identification of specific actions that will be taken by the operator on discovery of a release;

"(B) liaison procedures with State and local government agencies for emergency response; and

"(C) communication and alert procedures for immediate notification of State and local officials at the time of any release.

"(7) Any other information the Secretary considers useful and necessary to inform the States of the presence of pipeline facilities and operations within their boundaries.

"(j) The Secretary shall, by regulation, establish minimum Federal standards to require, not later than 1 year after the date of enactment of this subsection, operators of pipeline facilities subject to this title, to the extent practicable, to complete and maintain for the Secretary, and revise as appropriate thereafter, an inventory with appropriate information with respect to all types of pipe used for the transmission of hazardous liquids in such operator's system, along with additional information such as the material history and the leak history of such pipe. Such inventory shall exclude equipment associated only with the pipeline pumps or storage facilities.".

STATE ENFORCEMENT

SEC. 6. (a) Section 5(a)(3) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1674(a)(3)) is amended by inserting "through means which include inspections conducted by State employees who meet qualifications established by the Secretary under subsection (d) of this section" immediately after "standard".

(b) Section 205(a)(3) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(a)(3)) is amended by inserting "through means which include inspections conducted by State employees who meet qualifications established by the Secretary under subsection (d) of this section" immediately after "standard".

QUALIFICATIONS FOR STATE GRANT PROGRAMS

SEC. 7. (a) Section 5(d) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1674(d)) is amended by adding at the end the following new paragraph:

"(5) The Secretary may establish by regulation qualifications for States to meet in order to participate in the pipeline safety grant program under this subsection, including qualifications for State employees who perform inspection activities pursuant to either an annual certification by a State agency or an agreement relating to inspection between a State agency and the Secretary. Such regulations may take into account the experience and training of the State employee, may mandate training or other requirements, and may provide for conditional approval of qualifications pending satisfaction of specified requirements.".

(b) Section 205(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)) is amended by adding at the end the following new paragraph:

"(5) The Secretary may establish by regulation qualifications for States to meet in order to participate in the pipeline safety grant program under this subsection, including qualifications for State employees who perform inspection activities pursuant to either an annual certification by a State agency or an agreement relating to inspection between a State agency and the Secretary. Such regulations may take into account the experience and training of the State employee, may mandate training or other requirements, and may provide for conditional approval of qualifications pending satisfaction of specified requirements.".

FEDERAL-STATE COOPERATION IN CASE OF ACCIDENT

SEC. 8. (a) Section 9 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1676) is amended—

(1) by inserting "(a)" immediately before "Whenever"; and

(2) by adding at the end the following new subsection:

"(b) Not later than 1 year after the date of enactment of this subsection, after consultation with appropriate State officials, the Secretary shall establish procedures to promote more effective coordination between the agencies of the United States and *of* the States with regulatory authority over pipeline facilities with respect to responses to pipeline accidents.".

(b) Section 212 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2011) is amended by adding at the end the following new subsection:

"(d) Not later than 1 year after the date of enactment of this subsection, after consultation with appropriate State officials, the Secretary shall establish procedures to promote more effective coordination between the agencies of the United States and of the States with regulatory authority over pipeline facilities with respect to responses to pipeline accidents.".

INCREASED CIVIL PENALTIES

SEC. 9. (a) Section 11(a)(1) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1679a(a)(1)) is amended—

(1) by inserting ", after notice and an opportunity for a hearing," immediately after "Secretary";

(2) by striking "$1,000" and inserting in lieu thereof "$10,000"; and

(3) by striking all after "persists" and inserting in lieu thereof a period.

(b) Section 208(a)(1) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2007(a)(1)) is amended—

(1) by inserting ", after notice and an opportunity for a hearing," immediately after "Secretary";

(2) by striking "$1,000" and inserting in lieu thereof "$10,000"; and

(3) by striking all after "persists" and inserting in lieu thereof a period.

DESTRUCTION OF SIGNS OR MARKERS

SEC. 10. (a) Section 11(c) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1679a(c)) is amended by adding at the end the following new paragraph:

"(3) Any person who willfully and knowingly defaces, damages, removes, or destroys any pipeline sign or right-of-way marker required by Federal law or regulation shall, upon conviction, be subject, for each offense, to a fine of not more than $5,000, imprisonment for a term not to exceed 1 year, or both.".

(b) Section 208(c) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2007(c)) is amended by adding at the end the following new paragraph:

"(3) Any person who willfully and knowingly defaces, damages, removes, or destroys any pipeline sign or right-of-way marker required by Federal law or regulation shall, upon conviction, be subject, for each offense, to a fine of not more than $5,000, imprisonment for a term not to exceed 1 year, or both.".

ADDITIONAL INSPECTION AND TESTING

SEC. 11. (a) Section 13 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1680) is amended—

(1) by inserting "(a)" immediately before "Each person who engages"; and

(2) by adding at the end the following new subsection:

"(b) The Secretary shall inspect and, as appropriate, shall require testing of pipeline facilities subject to this Act and not covered by an agreement or certification under section 5 of this Act to ensure the safety of such pipeline facilities. To the extent and in such amounts as are provided in advance in appropriations Acts, such inspections shall be conducted no less frequently than once every 2 years. Such inspections shall begin as soon as feasible, but in no event more than 1 year after the date of enactment of this subsection. Such testing shall be performed using the most appropriate technology for the characteristics of the pipeline facility.".

(b) Section 210 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2009) is amended by adding at the end the following new subsection:

"(d) The Secretary shall inspect and, as appropriate, shall require testing of pipeline facilities subject to this title and not covered by an agreement or certification under section 205 of this title to ensure the safety of such pipeline facilities. To the extent and in such amounts as are provided in advance in appropriations Acts, such inspections shall be conducted no less frequently than once every 2 years. Such inspections shall begin as soon as feasible, but in no event more than 1 year after the date of enactment of this subsection. Such testing shall be performed using the most appropriate technology for the characteristics of the pipeline facility.".

(c) Section 14(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1681(a)) is amended by adding at the end the following new sentence: "Prior to requiring such testing, the Secretary shall notify the appropriate State official in the State in which the affected pipeline facility is located.".

(d) Section 211(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2010(a)) is amended by adding at the end the following new sentence: "Prior to requiring such testing, the Secretary shall notify the appropriate State official in the State in which the affected pipeline facility is located.".

FEASIBILITY OF REGULATING EXCAVATION ACTIVITIES

SEC. 12. (a) Section 14(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1681(a)) is amended by adding at the end, after the sentence added by section 11(c) of this Act, the following new sentence: "The Secretary shall assess the feasibility of regulating persons whose excavation activities may result in a pipeline damage and, not later than 18 months after the date of enactment of this sentence, transmit to Congress a report on the results of such assessment together with any legislative recommendations of the Secretary concerning regulation of such persons.".

(b) Section 211(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2010(a)) is amended by adding at the end, after the sentence added by section 11(d) of this Act, the following new sentence: "The Secretary shall assess the feasibility of regulating persons whose excavation activities may result in pipeline damage and, not later than **[**1 year**]** *18 months* after the date of enactment of this sentence, transmit to Congress a report on the results of such assessment together with any legislative recommendations of the Secretary concerning regulation of such persons.".

ONE-CALL NOTIFICATION SYSTEMS

SEC. 13. The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671 et seq.) is amended by adding at the end the following new section:

"ONE-CALL NOTIFICATION SYSTEMS

"SEC. 20. (a) In making allocations under section 5 of this Act, and under section 205 of the Hazardous Liquid Pipeline Safety Act of 1979, the Secretary shall consider whether a State has adopted or is seeking adoption of a one-call notification system under subsection (b) in determining whether a State may receive the full reimbursement under such sections to which it would otherwise be entitled.

"(b) Not later than 18 months after the date of enactment of this section, the Secretary shall issue regulations establishing minimum Federal requirements for operation of one-call notification systems for adoption by States as described in subsection (a) of this section relating to notification of operators of pipeline facilities and underground electric transmission and distribution lines of activities in the vicinity of a pipeline facility or underground electric transmission or distribution line which could threaten the safety of such facility or line.".

INTERNAL INSPECTION OF PIPELINES

SEC. 14. (a) The Secretary of Transportation shall undertake a study assessing the feasibility of requiring the inspection under the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671 et seq.) and the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001 et seq.), at periodic intervals, of transmission facilities with instrumented internal inspection devices.

(b) Not later than 18 months after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report detailing the Secretary's findings under subsection (a) of this section, together with any recommendations of the Secretary for appropriate legislation.

EMERGENCY FLOW RESTRICTING DEVICES

SEC. 15. (a) The Secretary of Transportation shall undertake a study of the safety, cost, feasibility, and effectiveness of requiring operators of pipeline facilities subject to the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671 et seq.) and operators of pipeline facilities subject to the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001 et seq.) to install emergency flow restricting devices in existing and future pipeline systems in varying circumstances and locations. The Secretary of Transportation shall also assess the cost and effectiveness of initiating a demonstration project of such emergency flow restricting devices.

(b) Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall submit to Congress a report detailing the Secretary's findings under subsection (a) of this section, together with any recommendations of the Secretary for appropriate legislation.

Mr. BYRD. Mr. President, I ask unanimous consent the committee amendments be agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to en bloc.

Mr. EXON. Mr. President, I am very pleased that the Senate has scheduled time for the consideration of S. 2424, the Pipeline Safety Reauthorization Act of 1988. As chairman of the Surface Transportation Subcommittee, I would like to commend the members of the Senate Commerce Committee for their concerted efforts to improve the safety of our Nation's pipelines.

The Surface Transportation Subcommittee held a hearing on the Pipeline Safety Reauthorization Act in October of 1987. The legislation under consideration, which I introduced with Senators DURENBERGER and PRESSLER, as original cosponsors, grew out of this hearing and seeks to strengthen both the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Act of 1979.

Some of the major provisions of the Pipeline Safety Reauthorization Act of 1988 include increasing the frequency of pipeline inspections by requiring the Department of Transportation to inspect pipelines under its jurisdiction once every 2 years. This added oversight will help to provide updated national information on the status of pipeline safety.

Second, this legislation grants DOT the authority to certify the qualifications of pipeline inspectors and maintenance personnel as well as those of State inspectors.

Third, this act requires that DOT establish minimum Federal requirements for the operation of one-call notification systems for adoption by the States. One-call systems are means of reducing the incidence of potentially fatal injuries, property damage, and interruptions in vital public services that occur when underground facilities are damaged during excavation activities. A one-call system provides notification to underground utility operators who can mark their existing facilities. Those markings alert excavators before they begin construction in the area. It is the committee's belief that increasing the participation in damage prevention systems will go a long way in decreasing outside force damage to pipelines which is the single greatest cause of pipeline accidents.

Other requirements of the bill include increasing the civil penalty for pipeline safety violations from $1,000 to $10,000 as well as DOT studying the efficacy of emergency flow restricting devices.

Generally, this bill seeks to increase the information and accountability related to pipeline safety.

I am committed to working with Senators DURENBERGER and PRESSLER; the chairman of the Commerce Committee, Senator HOLLINGS, and others to ensure passage of this legislation.

Mr. KASTEN. Mr. President, I am pleased to support S. 2424, the Pipeline Safety Reauthorization Act of 1988.

The primary purpose of this legislation is to reauthorize funding for pipeline safety programs administered by the Office of Pipeline Safety within the Department of Transportation. Specifically, the Natural Gas Pipeline Safety Act would be reauthorized at funding levels of $3,683,000, $3,978,000, and $4,086,000 for fiscal years 1988, 1989, and 1990, respectively. Funding authority for Hazardous Liquids Pipeline Safety Act would be provided in the amounts of $921,000, $995,000, and $1,021,000 for those fiscal years State grant-in-aid authority levels for both programs of $5,000,000 in fiscal year 1988, $5,500,000 in fiscal year 1989, and $5,500,000 in fiscal year 1990 would be provided. Finally, the bill includes a mechanism for redistributing unused grant moneys from previous fiscal years to States that assume new safety responsibilities or implement one-call systems.

S. 2424 also contains a number of substantive amendments designed to improve the safety of transporting products through our Nation's 1.7 million miles of pipeline. Those provisions would accomplish the following:

First, provide the Secretary of DOT with authority to require that individuals operating and maintaining pipeline facilities be tested for qualifications and certified;

Second, enable the Secretary to set standards that States must meet in order to qualify for grant moneys, including qualifications and possible training for State pipeline inspectors;

Third, require the Secretary to establish Federal standards related to the types of information—including accurate maps, emergency telephone numbers, operators' manuals, emergency response plans, and other information—that pipeline companies must make available, upon request, to the

Secretary and to appropriate State officials;

Fourth, require that the Secretary develop procedures within 1 year to promote coordination between State and Federal agencies with respect to pipeline accidents;

Fifth, increase the civil penalty for pipeline safety violations to up to $10,000 per violation per day;

Sixth, provide criminal penalties for anyone convicted for knowingly and willfully tampering with any pipeline sign or right-of-way marker required by Federal law or regulation;

Seventh, require that pipeline facilities be inspected at least once every 2 years, subject to the availability of appropriations, in order to improve consistency in this area;

Eighth, provide for a study to assess the feasibility of regulating excavators whose activities may result in pipeline damage;

Ninth, establish, within 18 months, minimum Federal requirements for the operation of one-call notification systems, and provide incentives to States adopting such systems;

Tenth, provide for a feasibility study on requiring the use of smart pigs for internal inspection of pipelines; and

Eleveth, provide for a study to assess the safety, cost, feasibility, and effectiveness of requiring the installation of emergency flow restricting devices in pipelines.

Similar House legislation, H.R. 2266, passed the House on April 19, 1988. I am optimistic that Senate passage of S. 2424 will mean the prompt enactment of effective pipeline safety improvements.

Mr. DURENBERGER. Mr. President, let me begin my remarks on this legislation by commending the distinguished manager of the bill, the Senator from Nebraska, for his commitment to safe pipeline operations. I had the honor to appear before his subcommittee when it held hearing on this topic last year. As the Senator knows this is a very important issue to the people of Minnesota and we have very much appreciated his willingness to listen to our proposals for pipeline reform and to move this bill promptly when it came over from the House.

Mr. President, I am sorry to say that many of the provisions in this bill are put before the Senate as the result of tragic pipeline accidents which have occurred over the past few years. Both Minnesota and South Dakota have recently experienced pipeline incidents which have convinced us that this bill is necessary. In Minnesota it was an explosion of a hazardous liquid pipeline in the community of Mounds View early in the morning hours of July 8, 1986. The gasoline spill and resulting explosion killed Beverly Spano and her 7-year-old daughter, Jennifer. All of Minnesota was united in the tragedy of this family. We are determined that it will not happen in our State again.

In response to that accident Governor Perpich of Minnesota appointed a commission on pipeline safety which held thorough hearings and made a comprehensive report in December of 1986. The bill we are considering today was in part developed from the recommendations of that commission. Just as the Spano family has our deepest sympathies, the Minnesotans who gave their time to the work of the commission to make the case for reform of the Pipeline Safety Program have our sincere gratitude. The work of the Minnesota Pipeline Safety Commission was guided by cochairmen, State Senator Steve Novak and Mr. Jon Grunseth. Their efforts will be rewarded as we pass this bill today. The views of the commission have been ably presented to the Congress by Bill Barbeau who is the director of our newly established Minnesota Office of Pipeline Safety.

Mr. President, I wish also to mention the work of two Minnesota Members of the House of Representatives, Congressmen BRUCE VENTO and JIM OBERSTAR. Mr. VENTO has authored many pipeline safety bills over the past decade. Had we heeded his warnings, the events in Mounds View may not have occurred. And Mr. OBERSTAR chaired investigative hearings in the House Public Works Committee which laid the foundation for the bill that was passed in that body. This bill owes a great deal to their efforts, as well.

The accident in Mounds View was not an isolated incident. Other Minnesotans have been injured and killed by pipeline accidents during this decade. Families in Maplewood, MN have lost their homes to gasoline vapors in their basements. In fact, about 70 spills in my State over a 20-year period can be attributed to one pipeline company alone. And, as our colleagues from South Dakokta may tell us, this very same company has been responsible for a number of problems in our neighboring State, as well.

In addition to a heightened concern for the safety of pipelines, Minnesotans learned another lesson from the events on and after July 8, 1986. We learned that when it comes to interstate pipeline operations the Federal Government is not prepared to respond in a direct and cooperative way with the views and concerns of State and local officials whose job it is to protect public health. The law excludes State and local officials from any meaningful role in pipeline regulation or oversight. The Federal Office of Pipeline Safety has insufficient resources to routinely assure the safety of pipelines. But the Federal program bars States and local governments from using their public safety resources to prevent or respond to accidents such as happened in Mounds View.

As shocking as the accident and its human consequences were, we have been as deeply affected by the callousness of the Federal regulatory program to the legitimate interests of State and local officials who tried to respond to the incident and faithfully discharge their duties after the event occurred. Not only do we need to make pipeline technology safer, we also need to change the structure of the Federal Pipeline Safety Program, so that State and local officials who have the principal duty to protect public safety in our Federal system of Government have recognized and appropriate role in pipeline regulation.

Mr. President, in making this statement, I intend no criticism of the officials at the Department of Transportation who run the Federal Pipeline Safety Program. They have been most alert to the needs of the people on Mounds View and Minnesota in the aftermath of the accident. They have done much—and here I am thinking principally of Cindy Douglass who administers the Federal Pipeline Program—to assist in developing this legislation. And they are open to the consideration of new measures which will make pipeline operations safer.

So, it is not the people. Rather, I criticize the law—the structure of the program—which explicitly denies a role for State and local governments in protecting the public safety of their communities.

The pipeline accident which occurred in Mounds View and which claimed the lives of two of our citizens should not have happened. It should have been prevented by Government programs to assure the safety of pipeline operations.

With hindsight we see a troubling safety record by the company which owned and operated the pipeline that ruptured in Mounds View. The operations of that company has been the cause of a series of accidents in Minnesota dating back to the late 1960's. As a result of the environmental and property damage caused by these accidents, this company had been subject to more fines than any other corporate citizen in the history of our State.

And that was all before the accident in Mounds View. In the aftermath, the U.S. Department of Transportation imposed on this company the largest fine in the history of Federal pipeline regulation for failures in corrosion protection and other operations of its facilities.

Why Governments failed to act on the troubling safety record of this company before this tragedy occurred has been the focus of our concern as we considered reauthorization of the pipeline safety statute. In light of this accident, we cannot conduct business as usual in this round of reauthorization. Based on my reading of the report of the Minnesota Pipeline Commission and conversations I have had with the parties involved, I think there are three major factors which contributed to Government's failure in this case.

First, is a general attitude about pipeline operations which assumes that pipelines are comparatively safe and thus no further regulation is needed. This attitude has been pervasive in the reauthorization hearings on the Pipeline Safety Program which have been held in the Congress over the past several years. We continually hear that pipeline transportation is safer than all other modes of surface transportation. And the statistics do indicate fewer injuries and deaths per ton mile from pipeline operations than from other transportation methods.

But those statistics really only tell part of the story. Whether we consider the safey record of the pipeline industry reasonable or not can only be determined by looking at the investment and effort for safe operations actually made by the pipeline operators. If they are investing some of their profits in the technologies which are reasonably available to make their operations safer, then little more can be expected. But if newer and safer technologies are available, but are not being employed, then the Government has a responsibility to push for higher safety standards.

I, along with eight of my colleagues here in the Senate, have introduced legislation, S. 888, which would require the use of new technologies and practices in the pipeline industry. These proposals should be judged by a standard which asks how safe the pipeline industry might be and not what is acceptable in light of the other risks presented by modern society. I will continue to press for better technology each time the Senate considers pipeline safety legislation.

The second factor which contributes to the failure of Government in Mounds View on the morning of July 8 was a lack of resources. After accidents in Minnesota earlier in this decade, an investigation of the Federal Pipeline Safety Program was conducted by the General Accounting Office. The overwhelming conclusion of that GAO report was that the Department of Transportation did not have sufficient staff and funds to carry out their mandate. Despite hearings by various committees of the Congress on that report, the Office of Pipeline Safety continues to receive an entirely inadequate appropriation each year.

We could do better even in these times of very tight Federal budgets. In the 1985 reconciliation legislation Congress established a fee on pipeline operators to pay the costs of the Federal Regulatory Program. There is no evidence that the fee has worked any hardship on the pipeline industry and it should be increased substantially, so that DOT has the resources to do that job that it has been given. Meeting the goals of the program, including annual inspections and audits for each pipeline company, need not add to the Federal deficit at all.

The third factor which contributed to the failure of Government in this case is the preemption of State pipeline safety programs which is contained in the Federal law. In most of our other health and safety programs, we rely heavily on State and local government to actually implement the Federal standards because the State and local governments have people and resources to assure that the law is carried out.

I have no doubt that the State of Minnesota would have established an effective regulatory program for pipelines after the accidents in the 1970's and early 1980's, but for the preemption in the Hazardous Liquid Pipeline Safety Act.

We—the people of Minnesota—have experienced the effects of preemption, Mr. President. And it was not acceptable. In the Mounds View case, we went through an incident where we were wholly dependent on the good offices of the U.S. Government to protect the safety of our people. And the impression that many Minnesotans had during that experience was that their national government, the only government allowed by law to protect them from events of this kind, was not on their side. They were convinced that the office of Pipeline Safety was working to serve the needs of the company and the only Federal interest was to get the line patched, buried, and back in operation. That philosophy is imbedded in the law. It needs to change.

Mr. President, I have already mentioned the bill, S. 888, which I introduced in 1987 to address these problems. It had five major elements:

First, it included a series of provisions that would require the use of better technology in the construction, operation, and monitoring of pipelines. The design and operating standards in S. 888 are not unlike those which have been required in other industries to protect public health and safety.

Second, S. 888 provided a larger role for States and local governments in regulating pipelines. Current law preempts the authority of States and their subdivisions to regulate interstate pipelines. The bill would strike the preemption and replace it with an explicit savings clause, reserving the right of States to impose requirements more stringent than Federal Requirements. The same savings clause is included in most of our other environmental statutes. In addition, the Federal regulatory responsibility could be delegated to the States.

Third, the bill included right-to-know provisions assuring that pipelines will be clearly marked and that local governments and nearby residents will be notified of the location of each pipeline and the materials that it carries.

Fourth, the bill required testing of pipelines at least once every 3 years using the best available testing technology and requires the U.S. Department of Transportation to employ sufficient inspectors to assure that each pipeline company is inspected and audited annually.

And finally, S. 888 provided increased funding of the DOT Pipeline Safety Program and provided for grants to the States financed through fees on pipeline companies of not less than $40 million each year.

That is the outline of the proposed reform bill which I introduced in 1987. I am pleased that some of those ideas have been incorporated in S. 2424, the bill which is now before the Senate and I have very much appreciated the spirit of close consultation and cooperation which was extended by the members of the committee and its staff as this bill was developed.

Mr. President, I would mention three provisions of the bill as especially noteworthy. First, is the right-to-know package which assures that public safety officials at the State level can acquire basic information on the operation of pipelines within their jurisdiction. This information is to include the operating manual and an emergency response plan prepared by the pipeline operator.

Second, is the provision which requires DOT to improve its inspection program including an expectation that each pipeline company will receive a thorough review every 2 years.

Finally, I would mention a provision which was developed here on the Senate side which would provide for distribution of appropriations which have not been spent in previous years as an incentive to States that develop new programs and take on the responsibility for operating one-call systems. As a result of the Mounds View incident, the State of Minnesota has taken both steps in this fiscal year and we expect the pipeline safety program in our State will make good use of these funds.

Mr. President, I must say in closing that this bill is not everything I had hoped. But that is the usual outcome of the legislative process. You cannot move a system as complex as the hazardous liquid pipeline system all the way to your goal in the first year or two. Some considerable progress has been made here and I am assured by the Minnesota Office of Pipeline Safety that this bill contains everything that is necessary for them to operate at full capacity over the period of this authorization. That is a comfort. But we will be back in the next Congress again pushing these concerns and again hoping that some additional, incremental progress can be made to improve the safety of pipeline operations.

Mr. PRESSLER. Mr. President, I rise in support of the Pipeline Safety Act which the Senate is considering. The legislation will strengthen the current Hazardous Liquid Pipeline Safety Act of 1979.

The National Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 granted the Department of Transportation regulatory authority over interstate and intrastate pipelines. Over 1 million miles of gas pipelines are regulated under these programs. In calendar year 1984, 1,002 gas pipeline failures occurred. These failures illustrate the size of the pipeline system and the potential hazards of pipeline leaks.

Even a small State like South Dakota has problems with gas pipeline leaks. In South Dakota an estimated 58 gasoline spills have occurred in the past 10 years. There have been numerous other incidents involving the spillage of hazardous substances.

In March 1986, 20,000 gallons of gasoline leaked from a pipeline terminal facility and forced the closure of an elementary school in Sioux Falls. The pipeline company has agreed to build a new school but hundreds of school children were exposed to dangerous gasoline fumes. Approximately a year later, another gasoline spill occurred at the terminal in Sioux Falls and a pipeline break occurred north of Sioux Falls near the city's well fields. At the time of the leak, there was serious concern about contamination of the city's water supply. This would have been devastating.

The National Transportation Safety Board has investigated these incidents and assessed penalities against Williams Pipeline Co. I want to be able to assure citizens of South Dakota that the needed changes have been made and they do not have to worry about future pipeline leaks. In an effort to tighten up the pipeline safety program, I joined Senator DURENBERGER in cosponsoring S. 888. The experiences in South Dakota demonstrated the need for tightening of pipeline safety regulations. For example, in both of the spills at the terminal facility local officials were not immediately notified. It is critical that local officials be immediately notified in any case where public safety is threatened. Several other changes are necessary to help detect leaks earlier and shore up inspection and maintenance programs.

Mr. President, I urge my colleagues to support this legislation.

Mr. FORD. As I understand S. 2424, the proposed amendments do not affect the application of the exemption for pipeline facilities in existence on the date that any new standards are set by the Secretary of the Department of Transportation. While the new material does not appear to alter this exemption, I think, in light of the newly proposed rulemakings by the Office of Pipeline Safety which apparently attempts by rule to do away with this statutory exemption, that it is advisable to clarify this.

Mr. EXON. As the act now stands, pipelines which are in existence when the Secretary issues a new standard are exempt from the new standard if it affects design, installation, construction, initial inspection or initial testing, unless a hazardous condition exists on such pipeline.

Mr. FORD. So the grandfathered pipelines which Congress intended to be exempt under section 3(a)(1) remain exempt under these amendments, provided those lines are operating in a safe manner. Of course, while the Secretary may not generally eliminate the exemption by rule, he may, if a hazardous condition exists on a line, certainly insist that the hazardous condition be rectified, and that the line posing the problem be brought into compliance with current standards.

Mr. EXON. That is correct, if the Secretary makes a specific finding that a particular line poses a potential hazard, that line should be brought into compliance with current standards.

Mr. FORD. With this clarification that the amendments do not change the statutory exemption for grandfathered pipelines, I believe the proposed amendments are acceptable.

Mr. ADAMS. Mr. President, I want to commend the distinguished Senator from Nebraska [Mr. EXON], chairman of the Surface Transportation Subcommittee, for his leadership in bringing the Pipeline Safety Reauthorization Act of 1988 to the floor. He has worked hard on this important piece of legislation. I also applaud the efforts of the Senator from Wisconsin [Mr. KASTEN], the ranking member of the subcommittee, the Senator from South Dakota [Mr. PRESSLER] and the Senator from Minnesota [Mr. DURENBERGER].

Mr. President, the Pipeline Safety Reauthorization Act of 1988 makes a number of much needed improvements in the way pipelines are regulated. One important improvement is contained in section 5 of the bill. This section requires the Secretary of Transportation to establish, by regulation, Federal standards requiring operators of natural gas and hazardous liquid pipeline facilities to furnish accurate maps, with appropriate supplemental geographic descriptions, showing the location of their major pipeline facilities in each State.

I would like to make the record clear as to what the committee meant by the term "accurate map" in section 5. It is my understanding that an accurate map is one prepared according to well established standards. I believe one such standard that should be considered by DOT is the National Map Accuracy Standard published by the U.S. Geological Survey. May I inquire of the distinguished managers of the bill whether this standard could be considered?

Mr. EXON. Mr. President, the Senator from Washington is correct that DOT could consider this standard, among others, within the scope of the rulemaking required by this legislation.

Mr. KASTEN. Mr. President, I agree with the statement of the distinguished Senator from Nebraska [Mr. EXON].

Mr. ADAMS. Mr. President, I also believe that to ensure the accuracy of these maps, DOT should consider including a certification requirement in the regulations, requiring that these maps be drawn by qualified professionals.

Mr. EXON. Mr. President, while I recognize Senator ADAMS' belief that a certification requirement would be advisable, it is not required by legislation. However, within the scope of their rulemaking DOT could consider the need for a certification requirement.

Mr. KASTEN. I, too, understand the view of the Senator from Washington regarding certification. There are, however, other viewpoints on this matter. I agree with Senator EXON that the rulemaking could consider the need for a certification requirement.

Mr. ADAMS. Mr. President, I thank the distinguished bill managers for this clarification.

AMENDMENT NO. 3358

Mr. BYRD. Mr. President, I send an amendment to the desk for Mr. JOHNSTON and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. JOHNSTON, proposes an amendment numbered 3358.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, strike lines 2 through 6, and insert in lieu thereof the following: "of operators of pipeline facilities of activities in the vicinity of a pipeline facility which could threaten the safety of such facility.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3358) was agreed to.

AMENDMENT NO. 3359

(Purpose: To allow written power of Attorney Under Truth in Mileage Act of 1986; to clarify definition of "transferor;" to provide for annual odometer updates; and for other purposes)

Mr. BYRD. Mr. President, I send an amendment to the desk on behalf of Mr. EXON and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. EXON, proposes an amendment numbered 3359.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

SECTION 1. 408(d)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1988(d)(1)) is amended by adding the following new subparagraph at the end thereof:

(C) Nothing in this Act shall be construed to prohibit the use of any written power of attorney (otherwise permitted by State or local law) for purposes of compliance with the mileage disclosure statement requirement of subparagraph (A), including the signature and dating of such statement. Any person exercising authority under any such power of attorney shall be subject to civil and criminal penalties under this Act if he intentionally discloses in such statement a mileage different from that set forth by the motor vehicle transferor in the power of attorney.

SEC. 2. Section 408 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. s 1988) is amended by adding the following at the end thereof:

(h) The term "transferor" means, for purposes of subsection (a) of this section, any person who transfers his ownership in a motor vehicle by sale, gift or any means other than by creation of a security interest. For purposes of subsections (b)-(d), it also means any person who, as agent, makes the disclosure of odometer information required by subsection (a) of this section and the rules prescribed thereunder, other than a person making the disclosure of odometer information pursuant to a written power of attorney as described in paragraph (d)(1)(C) of this section.

SEC. 3. (a) Section 408(d) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1988(d)) is amended by adding at the end the following:

(3) No registration card may be issued in any state for any motor vehicle unless the application for such registration card contains the information specified in subsection (a) (1) and (2), determined as of the date on which such application is submitted. Each state shall maintain such information, together with the vehicle identification number for the motor vehicle to which such information pertains for a period of 5 years after the information is received by the state.

(4) The Secretary shall promulgate such rules as may be necessary to avoid the printing of mileage information that is false, misleading or inaccurate. To prevent falsification or alteration of the mileage information required to be disclosed by a transferee in accordance with paragraph (2), the Secretary shall promulgate such rules as may be necessary regarding the specific form to be used on any title for compliance with the provisions of paragraph (2)(A)(iii). In addition, the Secretary shall promulgate rules regarding the actions to be taken by states with respect to the unauthorized alteration of titles for motor vehicles and other documents on which odometer information is required to be recorded or maintained.

(b) Section 408(f)(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1988(f)(2)) is amended to read as follows:

(2) The Secretary shall not approve such alternate motor vehicle mileage disclosure requirements unless the Secretary determines that the alternate method for making such disclosure is consistent with the purposes of subsections (d) and (e).

SEC. 4. (a) Except as provided in section 2(c)(2) of the Truth in Mileage Act of 1986, and notwithstanding any other provisions of law, subsections (d), (e), (f), and (g) of section 408 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. s 1988) shall apply with respect to motor vehicles which are transferred after the date 24 months after the date of enactment of this section.

(b) The Secretary shall, in accordance with applicable provisions of law, initiate (not later than 60 days after such date of enactment of section 1-3 above) and complete (within 12 months after such a date of enactment) a rulemaking to implement those sections and the Truth in Mileage Act of 1986."

Mr. EXON. Mr. President, this is an amendment concerning odometer fraud. It has two purposes. The first is to correct the National Highway Traffic Safety Administration's Misinterpretation of the Truth in Mileage Act, legislation I authorized and which President Reagan signed into law in October 1986. The second purpose is to improve on that legislation by restoring provisions this body has already passed word-for-word three times, but which the House has not yet adopted.

When the President signed the Truth in Mileage Act, the Department of Transportation had 30 months in which to adopt implementing regulations and to advise the States of the changes required under the Act. Instead of issuing its regulations promptly, the Department waited until August 5, 1988, to publish a final rule. This left the Senate barely 8 months in which to change their laws and regulations. In many States, of course, the legislature had already adjourned for the year.

Congress didn't ask the States to turn on a dime, and neither should the Federal bureaucracy. My amendment would assure the States at least 12 months advance notice of the new Federal requirements.

NHTSA also took it upon itself to change existing commercial practices in the motor vehicle trade, even where the practices are not related to odometer fraud. This was done allegedly pursuant to my 1986 bill passed by Congress. Congress did not do that, and I along with the House sponsors, Mr. BRYANT and Mr. TAUKE, wrote the agency to say so.

My amendment would also provide for annual odometer updates as a means of improving the paper trail needed to put the odometer fraud artists in jail. The Senate has passed this provision, word for word on three prior occasions, most recently as part of an amendment I sponsored to S. 853 passed in April 1987. Unfortunately that overall bill has received no action by the House, so my amendment has languished along with it.

We cannot afford to keep ignoring this problem. By the Transportation Departments own estimates, it is the largest consumer fraud in America today. The Department admits that the cost of odometer fraud may have doubled in the past 3 years. American used car buyers lose as much as $4 billion every year—twice the Department's May 1985 estimate of $2 billion.

America needed this sort of protection 1 year ago, 2 years ago, and 4 years ago, when the Senate passed the update requirement. We should insist that the American consumer has waited long enough.

I ask for the adoption of my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3359) was agreed to.

AMENDMENT NO. 3360

(Purpose: To amend S. 2424, the Pipeline Safety Reauthorization Act of 1988)

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk for Mr. DURENBERGER, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado [Mr. ARMSTRONG], for Mr. DURENBERGER, proposes an amendment numbered 3360.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

S. 2424 is amended at page 11 after line 6 by adding the following new subsection:

"(c) The Secretary shall increase by not less than 2 the number of instructors in pipeline safety at the Transportation Safety Institute.".

Mr. DURENBERGER. Mr. President, this amendment would add two additional pipeline safety instructors to the faculty of the Transportation Safety Institute which is operated by the Department of Transportation in Oklahoma City, OK.

There are only two pipeline safety instructors on the faculty of the institute now. Given the large job that this new pipeline safety legislation envisions, including additional Federal inspectors, the certification of pipeline operators and the certification of State inspectors, we can expect a large increase in the demand for safety training and technical assistance. That is the job of the Transportation Safety Institute, but it is currently understaffed in the area of pipeline safety and will not be able to handle these new demands without additional personnel.

This problem was brought to our attention by representatives of the State pipeline regulatory groups and we are pleased to propose the amendment to assure that adequate training capacity is available to fulfill the promise of this legislation.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3360) was agreed to.

AMENDMENT NO. 3361

(Purpose: To authorize State enforcement of Federal pipeline safety regulations)

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk for Mr. DURENBERGER and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado [Mr. ARMSTRONG], for Mr. DURENBERGER, proposes an amendment numbered 3361.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

S. 2424, the Pipeline Safety Authorization Act of 1988, is amended by adding at the end thereof the following new section:

"SEC. . (a) Section 203(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (42 U.S.C. 2002(d)) is amended by adding "which are inconsistent with Federal safety standards for such facilities" before the final period.

"(h) A State may apply to the Secretary to conduct inspection and enforcement of safety standards with respect to interstate pipeline facilities and the Secretary shall, after notice and opportunity for comment, approve such application, if the Secretary determines that the State has the capability to carry out such inspection and enforcement actions and the State has established standards for such facilities which are consistent with the Federal standards. No enforcement action may be taken by a State pursuant to authority of this subsection until the date 30 days after such State informs the Secretary of its intention to take such action unless the Secretary indicates that there is no objection to such action. If the Secretary indicates in writing that the Secretary intends to take action with respect to the same alleged violation, the State shall suspend action for a period of 120 days following the notification of the Secretary and shall suspend any action which has been commenced after such date with respect to such alleged violation, if the Secretary commences an enforcement action (whether or not such action results in a finding of violation) with respect to such alleged violation. No penalty may be imposed by a State for a violation, if a penalty has been imposed under Federal law or regulation for the same violation."

Mr. DURENBERGER. Mr. President, this amendment is intended to strengthen the role of the States in administering the Federal pipeline safety program. Under current law, States may play a lead role in regulating interstate pipelines provided their programs are not inconsistent with Federal rules. And States may take on the responsibility for inspecting interstate pipelines, as well. The bill which is now before the Senate would enlarge the inspection aspect of the State role. It would require that State inspectors be trained and certified. And it will provide more resources to the States for inspections.

My amendment would simply add another layer on to the partnership that the Commerce Committee bill is already trying to foster. It would allow the State government, using State resources and State institutions, to enforce Federal regulations. This amendment does not provide that States can run amok. They aren't authorized to set their own, more stringent standards by this amendment. They won't be able to do anything more stringent than the Federal Government already requires. They aren't going to threaten the operation of pipeline systems under this amendment.

It simply says that States can enforce Federal regulations in the event that the Federal Government chooses not to. The amendment creates a structure for consultation between the State and the Federal Department of Transportation so that interstate commerce will not be burdened.

First the State makes application to DOT for the right to enforce Federal regulations and the Secretary reviews the application to make sure that the State program would be entirely consistent with the Federal regulations;

Second, the State has to inform DOT 30 days before it takes any specific enforcement action so that the Federal Government has the opportunity to review the proposed action before it is implemented;

Third, DOT can cause the State to suspend its action by indicating that it will be taking action on the violation instead;

And finally, States cannot impose penalties for a violation, if penalties have already been imposed by the Federal Government for the same violation.

Mr. President, I would make two arguments for this amendment. The first is the basic case for federalism. Ours is a very large and still diverse nation. Not everyone sees things the same way. Priorities differ across regions and even between States within regions. What is important to a Minnesotan, may not seem so important in Nebraska or New Mexico or Maine. The principle of federalism is part of the genius of our system, but genius born of necessity. We couldn't get along nearly so well, if every decision on priorities in this country were brought here to the well of the Senate for absolute decision.

Pipeline safety is a high priority to the people of Minnesota. A much higher priority than it is to the Nation as a whole. We, Minnesotans, would like the opportunity to pursue our sense of priorities. We have no intention of undermining interstate commerce. We are not asking for the right to prohibit the construction of operation of a pipeline facility serving any of our neighbors. All this amendment suggests is that we be allowed to enforce Federal safety standards, because we know for a fact that the Federal Government doesn't have the resources to make sure that its own standards are obeyed.

We are sure that violations which pose a risk to public health are occurring without Federal endorsement actions, because there are not the resources in the Federal budget to pursue the violators. If we had more Federal dollars to put into transportation safety, I do not think Congress would apply those dollars to pipeline operations. We would most probably spend them on air traffic control. That is a high priority for the Federal DOT.

And all we in Minnesota say is "Fine. But then let us use our resources, our people, our institutions to make sure that all of the pipelines in our State meet Federal standards." That's all we ask. And we ask it, because we've had the experience that we pray will not be visited upon any other State. We had the accident which prompted the largest penalty in the history of pipeline safety, but a fine imposed only after the accident occurred on a pipeline system that experienced 70 accidents over the previous 20-year period.

My second argument, Mr. President, is the resource argument. It is clear from all of the hearings that have been held and reports that have been filed, that the Pipeline Safety Program is short on resources. Well, the State of Minnesota is ready to put a substantial portion of its own tax revenues into the effort. It is senseless to starve a public safety program for dollars in Washington, and at the same time deny the States the authority to do the job with dollars of their own.

I will say to the distinguished manager of the bill that I do not intend to press this amendment. I am prepared to take it down. I understand that there is opposition to this amendment.

In fact, it is one of the most disappointing aspects of this whole experience that some State regulatory officials are actually opposing this amendment. There is, I understand, a petition signed by 18 State bureaucrats saying they do not want anymore responsibility than they have now. Their letter says, and I quote, "No one State should have the right to interfere with interstate or foreign commerce." So they oppose this amendment.

I would say that I am not proposing to allow States to interfere with interstate commerce. I am simply proposing that they be allowed to enforce Federal regulations, after the DOT has been notified and had a chance to review the proposed enforcement action. I have said their position on this question is disappointing. It is also puzzling. They are apparently saying they do not want more authority, because they do not trust each other to exercise that authority responsibly. They are State regulators who have taken a position in opposition to more authority for themselves and their colleagues on the theory that their colleagues would abuse that authority to the detriment of interstate commerce.

As I say, Mr. President, I will not press this amendment now. The associations representing State pipeline regulatory officials have agreed to study this amendment over the next year and to report back to the Congress on their views by September of 1989. I have a letter on behalf of the National Association of Regulatory Utility Commissions to that effect which I ask unanimous consent to be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ARIZONA CORPORATION COMMISSION,
August 5, 1988.

Senator DAVE DURENBERGER,
154 Russell Senate Office Building,
Washington, DC.

DEAR SENATOR DURENBERGER: First of all on behalf of the NARUC Staff Subcommittee on Pipeline Safety, I would like to thank you for your concern for Public Safety and the National Pipeline Safety Program.

The NARUC Staff Subcommittee on Pipeline Safety will, as a study project for the next year review the current Federal Interstate Agent Policies and the Intrastate Certification Procedures for the enhancement of Safety and the Pipeline program.

This review will be in final form and provided to our office in September 1989, with all recommendations and/or proposed changes to the current policies.

Sincerely,

GARY A. SMITH,
Chairman, NARUC Staff,
Subcommittee on Pipeline Safety.

Mr. DURENBERGER. So, we will be back on this subject the next time that Congress reauthorizes the pipeline safety programs, I can assure you. With that, Mr. President, I ask that my amendment be withdrawn.

Mr. ARMSTRONG. Mr. President, on behalf of Senator DURENBERGER I ask unanimous consent that the amendment be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment was withdrawn.

AMENDMENT NO. 3362

(Purpose: To clarify the intent of Congress relating to the 1978 codification of title 49, United States Code)

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk on behalf of the Senator from Wisconsin, Mr. KASTEN, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado [Mr. ARMSTRONG], for Mr. KASTEN, proposes an amendment numbered 3358.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end, add the following new section:

CLARIFICATION OF CONGRESSIONAL INTENT

SEC. 16. The Act entitled "An Act to revise, codify, and enact without substantive change the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code, Transportation", approved October 17, 1978 (92 Stat. 1337; Public Law 95-473) does not repeal and has no substantive effect on any rights, obligations, liabilities, or remedies of oil pipelines, including those arising under any provisions of the Interstate Commerce Act (49 U.S.C. App. 1 et seq.) or the Pomerene Bills of Landing Act (49 U.S.C. App. 81 et seq.), before any Federal department or agency or official thereof or a court of competent jurisdiction.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3362) was agreed to.

Mr. KASTEN. The purpose of this amendment is to clarify existing law and to restate the intent of Congress in enacting the "Codification Act," Public Law 95-473, approved on October 17, 1978. That act was entitled, "An Act to revise, codify, and enact without substantive change the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code, Transportation."

I stress the fact that even the title indicates that no substantive changes were contemplated by this act.

This amendment has also been raised with House majority and minority staffs of the House Public Works and Transportation Committee, the House Energy and Commerce Committee, and the House Law Revision Counsel, and we know of no objection to this amendment.

Based upon the legislative history of the Codification Act it is unfounded to think that that act transferred only certain aspects of precodification law—namely, specified ICC functions—to the Federal Energy Regulatory Commission, and repealed the rest of the existing law, leaving huge gaps in the law governing oil pipelines, particularly as to loss and damage claims. Such a view comports with neither the Codification Act's terms, nor its legislative history, nor common sense.

The legislative history of section 4(c) of the Codification Act contains three statements that codification of the Carmack amendment—section 20(11)—made "no substantive change affecting the obligations of pipeline carriers or existing remedies."

In fact, because one Member of the House had raised a question about the impact on oil pipelines, the House Judiciary Committee, in 1978, requested an opinion from the House Law Revision Counsel as to "whether enactment of the bill would affect any rights or liabilities of oil pipelines." By letter dated February 10, 1978, the Law Revision Counsel concluded that the Codification Act made no substantive change in the preexisting law governing oil pipelines.

The notion that Congress somehow, after decades of control over interstate pipelines, inadvertently removed interstate oil pipelines from the mantle of Federal law and left them to the laws of the 50 States, is simply untenable. Thus, the amendment which I offer is simply to clarify the intent of existing law.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be discharged from further consideration of H.R. 2266, that the Senate proceed to its immediate consideration, that all after the enacting clause be stricken and the text of S. 2424, as amended, be inserted in lieu thereof, the bill be read the third time, passed, and the motion to reconsider lay on the table, and that further consideration of S. 2424 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. ARMSTRONG. Mr. President, I gather we are not quite ready to complete the work of the Senate for the evening. Perhaps this is an appropriate time to reflect on what remains between now and adjournment sine die. There are a lot of our colleagues who are hoping we can handle two or three measures and get out of here in perhaps a week or longer. I am one of those who earnestly shares that desire.

As far as I am concerned, having fulfilled our obligation to enact appropriations bills before the fiscal year, we ought to think in terms of adjourning this session so those Members running for election or reelection can get home and consult with their constituents and have an opportunity to discuss with the people at home the conduct of the Nation's business so those of us who are not running for reelection can have a chance to observe this process firsthand. In fact, some of us would like to just go someplace else and see how the world looks from outside the beltway.

Mr. President, though I earnestly desire that, I judge there are 99 other Senators who have the same idea. I think we ought to also recognize there are a few pieces of must business around here, and one of them is for the Senate, the Congress to make a decision about what we are going to do to aid the democratic resistance in Central America.

In March of this year, the Congress unwisely, dishonorably, in my opinion, cut off aid to the Contras, the democratic resistance in Nicaragua. At that time, the argument was that it was time for us to give peace a chance, particularly that we ought to give a chance to the plans suggested by President Oscar Arias. Give peace a chance. Put the Sandinistas to the test.

Mr. President, we have been doing that for the past several months and the results have been catastrophic for those who love liberty in Central America.

So I am just hopeful that while we are all eager to head home, to adjourn sine die, there will not be such a mad stampede as this session draws to a close that we will forget those who are fighting for their freedom in the jungles, in the highlands, in the streets and villages in Central America, in Nicaragua and those who are in the refugee camps in Honduras and those who long to bring free elections, freedom of the press, freedom of worship, a free economy in Nicaragua and those who are fighting for freedom throughout the Central American region.

Whether they succeed, whether we are able to have freedom in Central America where the Communists continue to gladly erode and destroy the basis for free enterprise and free election and free worship really depends upon this Congress, whether we are ready to stand up and honor the commitments we have made or whether or not we are going to somehow let that commitment wither away.

Mr. President, I note that the leader has returned, and it was my intention in addressing this subject only to productively use the time, not to make a lengthy statement at this moment. If the leader is ready to proceed, I am completely ready to yield the floor. I am glad to have the chance to let my colleagues know it is on my mind. At the right time, I will return to the subject and at the right time I look forward to voting on an aid package for the resistance.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, we had hoped to reach an agreement this evening limiting and enumerating the amendments which will be offered on both sides of the aisle to the tax technical corrections amendment bill. We were very close to getting that agreement, I think, but there are some problems that would prevent us from getting agreement tonight.

So I say this just so that our colleagues will know that both sides have been working very hard to draw up a list of the amendments. I thank Mr. BAUCUS for the work he has done and I thank Mr. ARMSTRONG and I thank Mr. DOLE. We thought we were within reach of such an agreement, but it will have to await another day.

MR. ARMSTRONG. Mr. President, will the leader yield to me for a moment?

Mr. BYRD. Yes.

Mr. ARMSTRONG. On our side, we are, I think, eager to reach an accommodation on the technical corrections bill.

I regret as the leader does that we are unable to clear that completely tonight. There is floating around a rather lengthy list of proposed amendments, which as I understand it were to be the subject of a possible unanimous-consent agreement. I am wondering if the leader would think it wise and helpful to put that list in the RECORD even though it is not the subject of UC tonight so that on Monday morning no Senator would have any reason not to think they had had that list in front of them. As far as I know, that list in its present form has not been previously available and that is why we are having trouble clearing it on our side as I gather the leader is on the Democratic side.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his suggestion, but I think it would probably be best not to do that because I think if we put it in the RECORD it would generate many more amendments. The public would see it, and that would probably result in a new generation of amendments. I would suggest we not do that.

Mr. ARMSTRONG. Mr. President, if the leader will yield briefly, of course, his experience in this is a lot greater than mine, and so I would defer to his judgment on it.

If I could offer one more comment about the technical corrections bill, speaking for myself, but I think with the general sense of how most Republican Members feel, we are eager to get on with the passage of a technical corrections bill. There are some of us on this side of the aisle, however, who see within the bill as it has been reported by the committee both those elements of a pure technical corrections bill and some elements of tax policy. And now I am speaking only for myself and not for any other Senator, but I hope there will be other Senators who feel as I do that this is an either/or proposition. If it is a technical bill, I think many of us on our side, and I hope all Senators, would be inclined to defer. I think I have suggested as many as 15 or 16 amendments that I might wish to offer, but I will just say to the managers and to the leader that I would plan to defer offering of most of those amendments, most of which are not of a technical nature, if in fact the nontechnical provisions of the bill are stripped out.

In other words, if it is technical, I will back off and in a general spirit of accommodation will not offer my amendments. And while I do not speak for other Senators, I think most of our people would feel the same way. On the other hand, if there is going to be some substantive tax policy addressed in the bill, then I think we are desirous, indeed I think obligated, to offer amendments that address tax policy. I suggest that for the consideration of the leader and of the Democratic manager. I have already said exactly this privately to the Republican leader and to the Republican manager of the bill, that I would be hopeful we could put together either a technical package or a policy package, either way, and get it passed sometime in the next several days.

Mr. BYRD. Mr. President, the Senator has made a very good suggestion, and I personally appreciate his willingness to back away from amendments if other Senators would do the same so that the result would be a purely technical corrections bill. That is what this is supposed to be. That is what we are calling it. But if it is going to do something beyond that, then I would expect the Senator and others to avail themselves of the opportunity to offer other amendments.

PASSAGE OF APPROPRIATIONS BILLS

Mr. BYRD. Mr. President, earlier this evening, I indicated that the last time the Congress passed all appropriations bills prior to the beginning of the new fiscal year was 11 years ago, which would have been 1977, and I made the comment that that was the first year that I was majority leader the first time.

I now find that the last time the Congress passed all of the appropriations bills prior to the beginning of the new fiscal year was the case of the fiscal year 1977 appropriations bill, which would have been calendar year 1976, and so that was the last year I was majority whip. I cannot claim that the first year I was majority leader was the first time we did it. But that does not take any of the glow away from the fact that the 100th Congress in its second session passed all of the appropriations bills prior to the new fiscal year. We just barely beat the midnight deadline, but we met it. And so we can all feel very proud about that. But I did want to state for the record that I was in error in that I had the calendar year mixed up with the fiscal year. I wish I could say it was calendar year 1977, but I cannot.

Mr. BAUCUS addressed the Chair.

Mr. BYRD. Mr. President, I yield the floor.

TECHNICAL CORRECTIONS TO TAX REFORM ACT

Mr. BAUCUS. Mr. President, I very much appreciate the work of the leader in coming very close to working out a consent agreement in listing amendments for the technical corrections bill.

I also want to thank the Senator from Colorado for his very able help in this regard. I want to remind Senators that this is truly a technical corrections bill.

In addition, there are three loophole closers with which the White House agrees. There is no objection from the White House to the major loophole closers in this bill, which are used to pay for, basically, extensions of existing law, very needed extensions like the low-income housing tax credit, the R&D tax credit, and so forth, as well as measures like correcting the diesel fuel provision, the heifer tax, and so forth.

This is a technical bill with some loophole closers and some extenders. I think that when the Senate looks at the bill more closely next week, whenever the leader wishes to call up the bill, Senators will see that and will make some minor adjustments. But I think Senators will want to keep this a clean technical bill—as it is.

Mr. ARMSTRONG. Mr. President, if the Senator will yield to me, it is not my purpose at 1 o'clock in the morning to be too argumentative and the suggestion that I might want to take a closer look at the bill is not ill founded, but I want to suggest to the Senator from Montana that I have taken a pretty close look at the bill. In fact, I seem to recall sitting through a couple of days in the Finance Committee where we considered various aspects of the bill, and I will tell the Senate that there are a lot of amendments in there which are not by my standards technical in nature. It is not to suggest they are all unworthy either but this is by no means a strictly narrowly defined technical corrections bill. In fact, it appears to me that while there are some policy measures in here, some extenders and one thing and another, there are some equally meritorious measures of almost exactly the same character which have not been included in the bill.

I guess I am just saying, and I hope my friend from Montana would take this under pretty serious consideration, that the same standard ought to apply across the board. In other words, if we are going to take care of the diesel tax, we ought to take care of splash blending. If we are going to take care of an extension of the housing program, we ought to take care of splash blending. If we are going to take care of the heifer tax, we ought to take care of, say, some municipal bond problems.

But there are various levels and degrees. There are on this list some amendments that are a lot bigger than any of the ones I have mentioned. So I ought to say it ought to be proportioned. If it is strictly technical, it is technical. But if we are going to continue to extend or pay for some existing substantive policy changes, then that ought to be pretty well applied across the board.

I hope my friend from Montana would reflect upon that with interest and concern.

ORDERS FOR MONDAY, OCTOBER 3, 1988

RECESS UNTIL 10 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 o'clock on Monday next.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

CLOTURE VOTE

Mr. BYRD. Mr. President, there will be a cloture vote on Monday next.

I ask unanimous consent that that cloture vote occur at 1 o'clock p.m. on Monday next.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders have been recognized under the standing order, there be a period for morning business to extend until 10:30 a.m., and that Senators may speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

VOTE ON CLOTURE

Mr. BYRD. Mr. President, I ask unanimous consent that there be one half-hour on the rollcall vote on cloture on Monday, and that the mandatory quorum be waived.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

CONSIDERATION OF HOUSE MESSAGE ON S. 1220

Mr. BYRD. Mr. President, it will be my intention at 10:30 a.m. on Monday to call up the House message, which will be a privileged motion, on S. 1220, entitled "Acquired Immunodeficiency Syndrome Education for Risk Reduction, Training, Prevention, Treatment, Care, and Research Act of 1987."

There will be some debate thereon, and there may be amendments thereto thus necessitating rollcall votes which, if ordered, will be stacked following the cloture vote at some point because Senators have been told there will not be any votes before 1 o'clock.

Mr. President, there will be rollcall votes on Monday next.

I hope all Senators will have a good weekend.

RECESS UNTIL 10 A.M., MONDAY, OCTOBER 3, 1988

Mr. BYRD. Mr. President, I thank my friend, Mr. ARMSTRONG.

If there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 o'clock a.m. on Monday next.

The motion was agreed to; and, at 1:06 a.m., the Senate recessed until Monday, October 3, 1988, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 30, 1988:

DEPARTMENT OF EDUCATION

Michelle Easton, of Virginia, to be Deputy Under Secretary for Intergovernmental and Interagency Affairs, Department of Education, vice Peter R. Greer, resigned.

Charles E.M. Kolb, of the District of Columbia, to be Deputy Under Secretary for Planning, Budget and Evaluation, Department of Education, vice Bruce M. Carnes, resigned.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

Louis B. Susman, of Missouri, to be a Member of the U.S. Advisory Commission on Public Diplomacy for a term expiring April 6, 1991, vice Herbert Schmertz, resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 30, 1988:

FEDERAL AGRICULTURAL MORTGAGE CORPORATION

THE FOLLOWING-NAMED PERSONS TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION:

JOHN R. DAHL, OF NORTH DAKOTA.
DERRYL MCLAREN, OF IOWA.
GORDON CLYDE SOUTHERN, OF MISSOURI.
EDWARD CHARLES WILLIAMSON, JR., OF GEORGIA.

DEPARTMENT OF DEFENSE

MILTON L. LOHR, OF CALIFORNIA, TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR ACQUISITION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE ON THE SENATE.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. LEONARD H. PERROOTS, [redacted]FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. CHARLES MCCAUSLAND, [redacted]FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. ROBERT P. MCCOY, [redacted]FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. HANSFORD T. JOHNSON, [redacted]FR, U.S. AIR FORCE.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 611(A) AND 624:

To be permanent brigadier general

COL. ROBERT EVERETT VIA, JR., [redacted] U.S. ARMY.

THE U.S. ARMY NATIONAL GUARD OFFICERS NAMED HEREIN FOR APPOINTMENT IN THE GRADES INDICATED BELOW, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3385 AND 3392:

MAJOR GENERAL OF THE LINE

BRIG. GEN. ROBERT H. APPLEBY, [redacted]

MAJOR GENERAL ADJUTANT GENERALS CORPS

BRIG. GEN. ROBERT C. THRASHER, [redacted]

BRIGADIER GENERAL OF THE LINE

BRIG. GEN. JULIUS L. BERTHOLD, [redacted]
BRIG. GEN. LARRY E. LEE, [redacted]
BRIG. GEN. DONALD W. LYNN, [redacted]
BRIG. GEN. ROBERT W. WILSON, [redacted]
COL. CHARLES R. ADAMS, [redacted]
COL. SHELBY K. BRANTLEY, [redacted]
COL. JERRY N. GURLEY, [redacted]
COL. STANLEY J. HARANSKY, [redacted]
COL. PAUL W. HUSBY, [redacted]
COL. NATHANIEL JAMES, [redacted]
COL. VITO MORGANO, [redacted]
COL. JAMES M. MORRIS, [redacted]
COL. NATHANIEL H. ROBB, [redacted]
COL. ROBERT R. ROSE, [redacted]
COL. MICHAEL W. RYAN, [redacted]

FOR CERTIFICATE OF ELIGIBILITY—BRIGADIER GENERAL OF THE LINE

COL. BENNY P. ANDERSON, [redacted]
COL. RICHARD G. CAPPS, [redacted]
COL. ARVID FLANUM [redacted]
COL. RODNEY R. HANNULA, [redacted]
COL. WILLIE F. JONES, [redacted]
COL. DAVID H. MC NINCH, [redacted]
COL. LOUIS C. MICHAUD, [redacted]
COL. WILLIAM E. MURPHY, [redacted]
COL. GARY J. TELLIER, [redacted]
COL. HAROLD M. THOMPSON, [redacted]

BRIGADIER GENERAL, ADJUTANT GENERALS CORPS

COL. THOMAS B. BAKER, [redacted]
COL. JAMES R. DANIEL, [redacted]
COL. ARTHUR J. FARMER, [redacted]
COL. JAMES H. MALLOY, [redacted]
COL. CARROLL THACKSTON [redacted]

THE U.S. ARMY NATIONAL GUARD OFFICER NAMED HEREIN FOR APPOINTMENT IN THE GRADE INDICATED BELOW UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3385 AND 3392:

FOR CERTIFICATE OF ELIGIBILITY—BRIGADIER GENERAL OF THE LINE

COL. JAMES C. RINAMAN, JR., [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be general

LT. GEN. H. NORMAN SCHWARZKOPF, [redacted] U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. CARL W. STINER, [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A) AND TO BE APPOINTED AS SENIOR ARMY MEMBER OF THE MILITARY STAFF COMMITTEE OF THE UNITED NATIONS UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 711.

To be lieutenant general and senior Army member of the Military Staff Committee of the United Nations

LT. GEN. JOHN W. FOSS, [redacted] UNITED STATES ARMY.

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624:

To be brigadier general

COL. RICHARD W. POTTER, JR., [redacted] U.S. ARMY.
COL. DEWITT T. IRBY, JR., [redacted], U.S. ARMY.
COL. MICHAEL M. SCHNEIDER, [redacted] U.S. ARMY.
COL. GERALD C. BROWN, [redacted] U.S. ARMY.
COL. JOSEPH S. STRINGHAM, [redacted], U.S. ARMY.
COL. HUBA WASS DE CZEGE, [redacted] U.S. ARMY.
COL. THOMAS L. PRATHER, JR., [redacted] U.S. ARMY.
COL. CREIGHTON W. ABRAMS, JR., [redacted] U.S. ARMY.
COL. JOHN G. COBURN, [redacted], U.S. ARMY.
COL. LEONARD D. MILLER, [redacted] U.S. ARMY.
COL. JOHN H. LITTLE, [redacted], U.S. ARMY.
COL. PAUL Y. CHINEN, [redacted] U.S. ARMY.
COL. OTTO J. GUENTHER, [redacted], U.S. ARMY.
COL. STANLEY KWIECIAK, JR., [redacted] U.S. ARMY.
COL. MARY C. WILLIS, [redacted] U.S. ARMY.
COL. RICHARD W. WHARTON, JR., [redacted] U.S. ARMY.
COL. ROGER F. YANKOUPE, [redacted], U.S. ARMY.
COL. WILLIAM G. CARTER III, [redacted], U.S. ARMY.
COL. JAMES E. MACE, [redacted] U.S. ARMY.
COL. ROBERT P. MCFARLIN, [redacted], U.S. ARMY.
COL. WESLEY K. CLARK, [redacted] U.S. ARMY.
COL. PAT M. STEVENS IV, [redacted] U.S. ARMY.
COL. WALTER H. YATES, JR., [redacted], U.S. ARMY.
COL. ROBERT A. DROLET, [redacted], U.S. ARMY.
COL. THOMAS P. BARRETT, [redacted], U.S. ARMY.
COL. JUDE W.P. PATIN, [redacted], U.S. ARMY.
COL. HUBERT G. SMITH, [redacted], U.S. ARMY.
COL. CHARLES W. MCCLAIN, JR., [redacted] U.S. ARMY.
COL. MICHAEL S. DAVISION, JR., [redacted] U.S. ARMY.
COL. RICHARD E. BEALE, JR., [redacted], U.S. ARMY.
COL. PAUL E. BLACKWELL, [redacted] U.S. ARMY.
COL. RICHARD W. TRAGEMANN, [redacted] U.S. ARMY.
COL. ROBERT E. GRAY, [redacted], U.S. ARMY.
COL. JARED L. BATES, [redacted] U.S. ARMY.
COL. HENRY A. KIEVENAAR, [redacted] U.S. ARMY.
COL. RICHARD F. TIMMONS, [redacted] U.S. ARMY.
COL. FRANK L. MILLER, JR., [redacted], U.S. ARMY.
COL. ALFONSO E. LENHARDT, [redacted] U.S. ARMY.
COL. JOSUE ROBLES, JR., [redacted], U.S. ARMY.
COL. THOMAS E. WHITE, JR. [redacted], U.S. ARMY.
COL. ROBERT C. GOETZ, [redacted], U.S. ARMY.
COL. JARRETT J. ROBERTSON, [redacted] U.S. ARMY.
COL. JOSEPH W. KINZER, [redacted], U.S. ARMY.
COL. JOHN S. COWINGS, [redacted], U.S. ARMY.
COL. WILLIAM M. STEELE, [redacted] U.S. ARMY.
COL. DAVID J. KELLEY, [redacted] U.S. ARMY.
COL. GREGORY G. GOVAN, [redacted], U.S. ARMY.
COL. WESLEY B. TAYLOR, JR., [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. ARTHUR E. BROWN, JR., [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER, UNDER PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 3034:

To be Vice Chief of Staff of the Army

LT. GEN. ROBERT W. RISCASSI, [redacted] U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES IN THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 611(A) AND 624:

To be permanent brigadier general

COL. BRUCE T. MIKETINAC, [redacted], U.S. ARMY.

IN THE NAVY

THE FOLLOWING-NAMED REAR ADMIRALS (LOWER HALF) OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF REAR ADMIRAL IN THE LINE AND STAFF CORPS, AS INDICATED, PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

UNRESTRICTED LINE OFFICER

SAMUEL EDWARD MCWILLIAMS.

MEDICAL CROPS OFFICER

ROBERT LAYMAN SUMMITT.

SUPPLY CORPS OFFICER

HENRY CULBERSON AMOS, JR.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370.

To be admiral

ADM. RONALD J. HAYS, [redacted]/1310, U.S NAVY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370.

To be admiral

ADM. LEE BAGGETT, JR., [redacted]/1110, U.S. NAVY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370.

To be admiral

ADM. KINNAIRD R. MCKEE, [redacted]/1120, U.S. NAVY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370.

To be vice admiral

VICE ADM. NILS R. THUNMAN, [redacted]/1120. U.S. NAVY.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. DANIEL L. COOPER, [redacted]/1120, U.S. NAVY.

THE FOLLOWING-NAMED REAR ADMIRAL (LOWER HALF) IN THE STAFF CORPS OF THE UNITED STATES NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

CIVIL ENGINEER CORPS (5104)

DAVID ELLIOTT BOTTORFF.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be admiral

VICE ADM. BRUCE DEMARS, [redacted]/1120, U.S. NAVY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370.

To be vice admiral

VICE ADM. HENRY C. MUSTIN. [redacted]/1110. U.S. NAVY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED

UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370.

To be vice admiral

VICE ADM. GEORGE W. DAVIS, JR., [redacted]/110. U.S. NAVY.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING MARVIN R. BENNETT, AND ENDING FREDERICK L. WEILAND, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 13, 1988.

AIR FORCE NOMINATIONS BEGINNING THOMAS J. CONAGE, AND ENDING RICHARD R. LEE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 28, 1988.

AIR FORCE NOMINATIONS BEGINNING JIMMIE L. BENTON, AND ENDING ROGER F. ELLIS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 28, 1988.

AIR FORCE NOMINATIONS BEGINNING CANDACE C. ABBOTT, AND ENDING RODNEY Y.H. WONG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 28, 1988.

AIR FORCE NOMINATIONS BEGINNING WILLIAM P. BAGLEY AND ENDING RICK W. WILSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF AUGUST 1, 1988.

AIR FORCE NOMINATIONS BEGINNING THOMAS R. BLAIR, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF AUGUST 5, 1988.

AIR FORCE NOMINATIONS BEGINNING MAJ. MICHAEL H. ABEL, [redacted] AND ENDING MAJ. PAUL Y. NESKOW, [redacted] WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF AUGUST 5, 1988.

AIR FORCE NOMINATIONS BEGINNING MAJ. JACK S. ARNOLD, [redacted] AND ENDING MAJ. PATRICIA S. SANCHEZ, [redacted] WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 8, 1988.

AIR FORCE NOMINATIONS BEGINNING LINDA R. BESON, AND ENDING BRUCE W. EBERT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 8, 1988.

AIR FORCE NOMINATIONS BEGINNING LEX A. ABADIE AND ENDING LOUIS V. ZUCCARELLO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 8, 1988.

AIR FORCE NOMINATION OF DOUGLAS G. MALLOY, [redacted] WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 20, 1988.

AIR FORCE NOMINATIONS BEGINNING DAVID ABRAMSON, AND ENDING DENNIS E. SWEET, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 20, 1988.

IN THE ARMY

ARMY NOMINATIONS BEGINNING LINDEL ANDERSON, AND ENDING GEORGE B. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 13, 1988.

ARMY NOMINATIONS BEGINNING WILLIAM A. AILEO, AND ENDING DANIEL L. ROTHLISBERGER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 28, 1988.

ARMY NOMINATIONS BEGINNING MORRIS H. MOSES, AND ENDING *DAVID R. SCHUCKENBROCK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 28, 1988.

ARMY NOMINATIONS BEGINNING *ROBERT E. WILLIAMS, AND ENDING *PATRICIA C. NOSSOV, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 28, 1988.

ARMY NOMINATIONS BEGINNING ORLANDO T. HINES, AND ENDING ARISTEO E. VILLASENOR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF AUGUST 5, 1988.

ARMY NOMINATIONS BEGINNING WILLIE L. BASLER, JR., AND ENDING GARY R. ZELUFF, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF AUGUST 5, 1988.

ARMY NOMINATIONS BEGINNING LEON D. ANDERSON, AND ENDING CALVIN E. MEIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 20, 1988.

IN THE MARINE CORPS

MARINE CORPS NOMINATIONS BEGINNING JAMES R. ACREBACK, AND ENDING LAWRENCE R. ZINSER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 25, 1988. (LIST CONFIRMED MINUS ONE NAME NOT REPORTED)

MARINE CORPS NOMINATIONS BEGINNING MICHAEL E. CORSEY, AND ENDING NANCY L. ROGERS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 13, 1988.

MARINE CORPS NOMINATIONS BEGINNING JAMES C. ADAMSON, AND ENDING WALTER R. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 13, 1988.

MARINE CORPS NOMINATIONS BEGINNING CARL T. AMODIO, AND ENDING CLARKE M. WOODSIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 8, 1988.

MARINE CORPS NOMINATIONS BEGINNING LARRY D. ADAMS, AND ENDING THOMAS C. YANCEY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 8, 1988.

NAVY NOMINATIONS BEGINNING SCOTT ANTHONY ABBOTT, AND ENDING FLOYD A. WALKER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 13, 1988.

NAVY NOMINATIONS BEGINNING JONATHAN C. UNDERWOOD, AND ENDING ROBERT DAVID LEE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 28, 1988.

NAVY NOMINATIONS BEGINNING CHRISTOPHER R. ACCETTA, AND ENDING THOMAS NICHOLAS TICHY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 28, 1988.

NAVY NOMINATIONS BEGINNING ALBERT M. PASSY, AND ENDING DAVID M. SMITH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 8, 1988.

NAVY NOMINATIONS BEGINNING MACK BONNER, AND ENDING DAVID G. PIEPGRAS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 20, 1988.

HOUSE OF REPRESENTATIVES—*Friday, September 30, 1988*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Our prayer, O God, is for mutual respect and understanding between all peoples. Especially, during this period designated as Religious Freedom Week, it is right that we acknowledge our traditions of religious liberty and affirm our heritage of freedom of worship in a free land. May we never hold to any bigotry or intolerance toward any person or group, but together celebrate the dignity that You have given us at creation and nurtured every day of our lives. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Would the gentleman from Louisiana [Mr. McCRERY] come forward and lead the House in the Pledge of Allegiance.

Mr. McCRERY. Would the Members and those in the gallery please rise.

Mr. McCRERY led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Snowden, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 2596. An act to improve Federal management of lands on Admiralty Island, Alaska; and

H.R. 4028. An act to authorize the Secretary of Agriculture to exchange certain national forest system lands in the Targhee National Forest.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4352. An act to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes.

The message also announced that the Senate had passed bills, a joint resolution and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1849. An act for the relief of Mr. Conwell F. Robinson and Mr. Gerald R. Robinson;

S. 2835. An act to designate the U.S. Post Office and Courthouse located at 151 West Street in Rutland, VT, as the "Robert T. Stafford United States Courthouse and Post Office";

S.J. Res. 314. Joint resolution designating October 1988 as "Pregnancy and Infant Loss Awareness Month"; and

S. Con. Res. 146. Concurrent resolution to authorize the printing of Senator Bob Dole's series of "Senate Bicentennial Minutes."

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like to announce that 1 minute speeches will be postponed until after we have disposed of the conference reports on the appropriation bills and the conference report on the family welfare reform bill, except that the Chair is going to recognize the gentleman from Virginia [Mr. BLILEY] for an announcement.

THE LATE HONORABLE DAVID SATTERFIELD

(Mr. BLILEY asked and was given permission to address the House for 1 minute.)

Mr. BLILEY. Mr. Speaker, it is my sad duty today to tell you that our former colleague, my predecessor, Dave Satterfield, died this morning at 2 o'clock in Richmond. Dave went into the hospital Tuesday complaining of shortness of breath and they were to do a catheterization, but apparently his heart failed this morning at 2 o'clock.

Dave was the son of a Congressman who represented our district. Dave served in the Navy during World War II as a pilot in the South Pacific. He was a member of the Richmond City Council, the Virginia General Assembly, and served for 8 years in this House.

I know all of you will miss him as much as I and that we all extend our deepest sympathy to Anne, his lovely wife, and to the rest of the family.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair is about to recognize the gentleman from Massachusetts [Mr. MOAKLEY] for a rule. The Chair is aware that Members are understandably interested about the program for today and the balance of this week. After we have passed the Department of Defense appropriation bill conference report, we would expect the majority leader would be available to enter into a colloquy concerning the business for the remainder of the day.

The Chair recognizes the gentleman from Massachusetts [Mr. MOAKLEY].

CONFERENCE REPORT ON H.R. 4781, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1989

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 555 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 555

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 4781) making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and all points of order against the conference report and against its consideration are hereby waived, subject to copies of the conference report being available for at least two hours. The conference report and motions to dispose of amendments in disagreement shall be considered as read when called up for consideration.

The SPEAKER. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes, for purposes of debate only, to the gentleman from Tennessee [Mr. QUILLEN], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 555 is the rule providing for the consideration of the conference report on H.R. 4781, the Department of Defense appropriations for fiscal year 1989. The rule waives all points of order against the conference report and against its consideration, subject to copies of the report being available to Members at least 2 hours before its consideration in the House.

The rule also provides that the conference report and the motion to dispose of amendments in disagreement will be considered as having been read when called up for consideration.

Mr. Speaker, this rule will allow us to act expeditiously on the DOD ap-

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

propriations conference report, which we need to do since the new fiscal year begins tomorrow. At the same time, the rule ensures that Members will have had the opportunity to review the report before it is considered by the House.

Mr. Speaker, I urge the adoption of House Resolution 555 so that we may proceed to the consideration of this important conference report.

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, the able gentleman from Massachusetts [Mr. MOAKLEY] has explained the provisions of the rule. We all know how important it is to get this appropriation bill passed and sent to the President today. I am for it. It has all been worked out where there is an agreement by both parties and the administration.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, in waiving all points of order in the bill, is one of the things we are waiving the Budget Act?

Mr. QUILLEN. Mr. Speaker, I will yield to the gentleman from Massachusetts on that. I do not think it is, I will tell the gentleman.

Mr. MOAKLEY. Mr. Speaker, if the gentleman will yield, we waived scope and we waived germaneness.

Mr. QUILLEN. The 3-day rule, I think.

Mr. MOAKLEY. It is not clear at this time whether we waived the Budget Act or not. I am sorry.

Mr. WALKER. Maybe someone from the Appropriations Committee can tell us whether or not the bill is within the 3-day rule.

Mr. QUILLEN. We waived the 3-day rule and not the Budget Act.

Mr. MOAKLEY. Mr. Speaker, if the gentleman will yield, the gentleman is correct. I have just been informed that we waived the 3-day rule, but we are not aware of any Budget Act waivers.

Mr. McDADE. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Speaker, I thank my colleague for yielding to me.

We are exactly just about on the summit that was agreed to in both BA and outlays. There is no number here that is not well-known and agreed to by the White House, by OMB and by the House and the Senate leadership on both sides of the aisle.

Mr. WALKER. Mr. Speaker, if the gentleman will yield further, so the gentleman from Pennsylvania knows of no need to waive the Budget Act with this rule, is that correct?

Mr. McDADE. I have no awareness of that, I would say to my colleague, and the reason for that is because the numbers are the numbers agreed to in the summit resolution, which consisted of the President and the Office of Management and Budget and the Speaker and the minority leader and the Senate majority leader and the Senate minority leader, so as far as I know, they are all in accord.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Mr. MOAKLEY. Mr. Speaker, if the gentleman will yield, just to clarify this, I have been informed that this conforms to the budget summit resolution and we are aware of no budget waivers in the bill.

Mr. QUILLEN. That is my understanding, and I thank the gentleman from Massachusetts.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. CHAPPELL. Mr. Speaker, pursuant to the previous order of the House, I call up the conference report on the bill (H.R. 4781) making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Pursuant to House Resolution 555, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 29, 1988.)

The SPEAKER. The gentleman from Florida [Mr. CHAPPELL] will be recognized for 30 minutes and the gentleman from Pennsylvania [Mr. McDADE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. CHAPPELL].

GENERAL LEAVE

Mr. CHAPPELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill (H.R. 4781) making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes, and that I may include extraneous and technical matter.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CHAPPELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I bring to the floor a conference report which provides funding for fiscal year 1989 for the Department of Defense. The conference report includes a total of $282.4 billion which is an increase above the fiscal year 1988 level of $3.4 billion. This bill meets the summit agreement and provides minimal funding to meet our defense needs. We have acknowledged in this bill that we need to show restraint in overall Government spending while maintaining strong national defense.

It was a long and arduous conference. The conference members debated many issues included in 277 separate amendments to be reviewed by the conference. Obviously, with that number of outstanding issues, it is impossible to bring back a conference report which will be totally satisfactory to all Members of the House. I am very pleased to report to the Members that the House position prevailed on many items in conference. However, as you all know, when the number of open issues in a conference is almost 1,000 it is simply impossible to return to the House with a conference report that does not include items which will be controversial to various Members of the House, including myself I might add, but which were insisted upon by the other body, and necessitated compromise.

We have cooperated fully with our authorization counterparts in crafting this conference agreement and I believe we have satisfied all their concerns. We were over authorization levels in three appropriation accounts and we will propose language which has been approved by the House Armed Services Committee to authorize these increased amounts. The accounts involved are aircraft procurement, Navy, weapons procurement, Navy and National Guard and Reserve equipment.

The conference agreement provides $78.5 billion for military personnel or $2.4 billion above last year's level and roughly the budget request level.

The bill provides the funding levels needed to finance a 4.1-percent military pay raise. The conference agreement provides $85.3 billion for the operation and maintenance accounts or $5 billion above last year's level.

The O&M accounts provide funds for the maintenance of equipment and facilities, fuel, supplies, and repair parts for weapons and equipment. These accounts along with military personnel provide the readiness needed to properly man and maintain the new weapons systems that are coming on line. If we short change these accounts, we will not adequately man and maintain our tanks, planes, and ships.

Unfortunately, these accounts have the biggest impact on outlays in the first year and they become a prime target when outlay reductions are needed. We have funded these accounts at the full authorized levels to cover dollar shortfalls because of the current exchange rates being experienced overseas.

The conference provides $79.3 billion in total obligational authority for procurement. Some of the so-called big ticket items recommended in the bill follow:

The agreement provides $863 million to purchase 72 AH-64 Appache attack helicopters.

The agreement provides $1.1 billion to purchase 545 M-1 Abrams tanks.

The agreement provides $644 million to purchase 581 Bradley fighting vehicles.

The agreement provides $2.4 billion to purchase 84 F/A-18 aircraft.

The agreement provides $1.1 billion to purchase one Trident submarine.

The agreement provides $1.2 billion to purchase 2 SSN-688 nuclear attack submarines.

The agreement provides $2.1 billion to purchase 3 DDG-51 destroyers.

The agreement provides $1.3 billion to purchase 36 to 15 aircraft.

The agreement provides $2.7 billion to purchase 180 F-16 aircraft.

The agreement provides $900 million to purchase 4 C-17 aircraft.

The agreement provides $807 million to purchase 12 MX missiles.

The conference agreement provides $37.7 billion in total obligational authority for research, development, test and evaluation which is $600 million above the fiscal year 1988 level. Some of the specific recommendations are as follows:

The agreement provides $575 million for continued development of the Trident II strategic missile system.

The agreement provides $692 million for development of the advanced tactical fighter.

The agreement provides $890 million for ICBM missile modernization—MX and small ICBM.

The agreement provides $941 million for continued development of the C-17 transport aircraft.

The agreement provides $3.7 billion for the strategic defense initiative—star wars, the authorized level.

The conference agreement provides over $19 billion for the National Guard and Reserve Forces which includes add ons above the budget request of $1 billion mostly for equipment. The conferees have always been a staunch supporter of the Guard and Reserve and we continue to try to update the equipment available to these forces by purchasing new aircraft, vehicles, tanks, and so forth.

The conferees also provided funding for drug interdiction of $300 million and special operations forces enhancements of $286 million.

I know not everyone is happy of the end result but it is the best we could do under the circumstances.

The hour is late;

The majority of the House and Senate have worked out their respective wills on the funding of major weapon systems;

The House conferees struck the best bargain they could with the Senate conferees.

We must provide funds for the Department of Defense.

Mr. Speaker, I recommend that the House adopt the Defense appropriations conference report.

□ 1015

Mr. McDADE. Mr. Speaker, will the gentleman yield?

Mr. CHAPPELL. I am happy to yield to the gentleman from Pennsylvania.

Mr. McDADE. I thank the chairman for yielding. Mr. Speaker, I would like to take just a minute or two to explain some difficulties which occurred late in our conference which, unfortunately, made it impossible for this Member as well as all the House conferees on this side to agree to sign the final conference report.

In the course of our negotiations with the other body, we reached agreement to increase funding for a number of high priority and, in my judgment, plain commonsense defense programs. As a result, our final conference agreement, in those areas, contained funding over the amounts recommended in the authorization conference.

Two nights ago, in our last conference meeting, the suggestion was made that in those areas where our product exceeded authorization—at the appropriations account level—the additional appropriations would be made available only if subsequently authorized.

I objected to this motion, as did my colleagues on this side. My reasons for objecting were twofold:

First, we had good reasons for recommending the additional funding over authorization. For example, we put more money—plus $156 million—into naval aircraft procurement in order to give the Navy the ability to enter into (multiyear contracts) and (keep production rates at robust levels)—the net result being savings, due to reduced unit costs. We added funds to the Navy weapons account—plus $182 million—to ramp up torpedo production and improve our antisubmarine warfare capability. And we added $300 million over the authorized amount for the Guard and Reserve components, among other things accelerating the deployment of the M-1 tank to the Guard.

In addition, in my view making appropriations subject to a subsequent authorization constituted a potential violation of the bipartisan summit agreement with the President. The summit set a firm number for Defense appropriations, which our conference provided. We met the summit targets. However, by making certain appropriations subject to later authorization, it would have withheld—at least temporarily—anywhere between $720 million and $1.3 billion in funds appropriated in this bill. I can't give you an exact number because we can't even agree between our two committees and the Pentagon as to what constitutes "appropriations in excess of authorization."

When the subject to authorization language was adopted, I could not in good faith report to Secretary Carlucci and the White House that this bill met the summit. I confess others in the conference did not share this view. But that was my judgment, and as a result I refused to sign the conference report.

As the gentleman from Florida has pointed out—this problem was called to the attention of the leadership and I am pleased to report that we have reached a satisfactory conclusion. As a result, after the House considers the conference report there will be an amendment offered which will provide the authorization for those appropriations accounts in question.

I want to commend the leadership, the chairman, and ranking member of the Armed Services Committee, and in particular, Chairman CHAPPELL for their diligent efforts to correct this. With this adjustment, I will be able to withdraw my reservations, and will strongly recommend this conference agreement to the House.

Mr. CHAPPELL. Mr. Speaker, I am pleased and gratified for that support, and I am glad that we have been able to work out our disagreement with the authorizing committee, and that agreement will be reflected later.

Mr. Speaker, I reserve the balance of my time.

Mr. McDADE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a result of the agreement which the chairman and I just discussed, I rise in strong support of this conference report and urge its adoption.

My colleagues, the gentleman from Florida has provided a good summary, and I would like to just reemphasize a few points.

Our conference report lives up to the funding levels established by the budget summit for defense, for both budget authority and outlays.

We are consistent with the agreements reached between the administration and the authorization committee as regards the strategic defense initiative and the ICBM modernization program. We have funded the authorized level for SDI—in this bill, $3.7 billion—with no earmarking directives; and we have tracked the authorization on the rail-mobile MX and Midgetman programs.

I can report to the House that the President signed the Defense authorization bill last night. Since our conference report incorporates those understandings I foresee no problems with this measure either.

Mr. Speaker, I would like to briefly note a few noteworthy actions. This bill emphasizes the two areas that the Secretary of Defense told us back in February needed to be protected: personnel and readiness.

Military personnel appropriations have received a $2.3 billion increase from last year, most of which will provide for a 4.1-percent pay raise. As for the readiness areas, the operations and maintenance accounts show an increase of nearly $5 billion from the current levels.

Several new initiatives were approved by the conferees, including $300 million in a new Defense Department account, set up to increase the Pentagon's contributions in the drug war. We also provided $289 million over the budget to increase our special operations capabilities.

Mr. Speaker, in many ways the bill is a testament to the men and women of the Nation who defend us around the world, the far-flung corners of the world, in a fight for freedom.

I noted, and I think all of us did, that the Nobel Peace Committee decided the other day to award the Nobel Prize to the U.N. peacekeeping forces around the world in all the flashpoints of the world, standing in harm's way, offering up their lives to keep peace in the world as the men and women funded in this bill do. I wanted to point out to my colleagues that there is one individual in that peacekeeping mission who used to wear the uniform of the U.S. Marines, whose name is Lt. Col. William R. Higgins. Lieutenant Higgins is the only peacekeeper, U.N. peacekeeper, held hostage in the world today. It has been noted by U.N. Under Secretary-General Marrack Goulding that when Colonel Higgins was seized last February 17, and I am quoting him, "For us, it is a No. 1 priority that this officer who was serving the United Nations, who was wearing the blue beret when he was kidnaped, should be released without delay."

Mr. Speaker, I have talked to some of my colleagues on the Committee on Foreign Affairs with respect to this issue. I think it would be useful if the House considered suggesting that the United Nations pass a specific resolution and maybe ask the Nobel Peace Committee to issue a statement indicating that this one gentleman, a citizen of this country who was wearing the blue of the United Nations, ought to be released by the people who hold him hostage, who hold him captive.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. McDADE. I am happy to yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, I think the gentleman's suggestion is well taken. After hearing from him in the Committee on Foreign Affairs, we are working on a draft that might meet the idea that the gentleman has, and hopefully we can get together a little later and finish that up, but obviously this is a good time to give the recognition which is definitely due to people who have put their lives on the line over a long period of time, and to recognize also that there is another way, and that through peacekeeping efforts, that way has been helpful and that we, the United States, are part of that process, and we need to pay due recognition to the individuals from all countries who are helping bring peace in the world.

Mr. McDADE. Mr. Speaker, I want to thank my distinguished colleague, the gentleman from Florida, who serves us so well as chairman of the Foreign Relations Committee, and appreciate very much his contribution.

Mr. Speaker, there are many other worthwhile measures in our bill I could mention, but in order to proceed to consideration of the conference report let me summarize by saying that in the best traditions of the Appropriations Committee members on both sides worked long and hard to bring back a Defense appropriations bill that deserves overwhelming support on both sides of the aisle.

We all know that reaching these kinds of agreements are not easy, and certainly this was one of the more difficult conferences I have been in. We had the benefit of a lot of hard work and cooperation, and I would like to acknowledge the work of all members of the conference, in particular, the senior Senator from Mississippi, Chairman STENNIS; the Senator from Louisiana, Senator JOHNSTON, and the senior Senator from Alaska, my good friend TED STEVENS. I also want to thank my friend BILL CHAPPELL, who once again has gotten us through a very tough year, all the House conferees for a lot of hours, and the staff of the committee.

I cannot let this moment pass without noting that our country will be losing the services of one of its leading statesmen, a man who played a major role in our conference as he has in so many issues impacting on the defense and well-being of our Nation over the years.

I am referring to the Secretary of Defense, Frank Carlucci, who I want to acknowledge not only for his help while we were in conference but also for his marvelous work this year. My colleagues, the Secretary has indicated he plans to return to private life for good after the end of this term; as we all know, over the past 30 years no single person has distinguished himself more in the service of our country than Frank Carlucci. Mr. Secretary, we will miss you, we are grateful for your service, and we thank you.

Mr. Speaker, this has been a remarkable year for the Appropriations Committee and the Congress—and no one is more pleased than this Member that we have finally been able to bring back a stand-alone Defense appropriations conference report. This is a remarkable event, one I hope we can repeat. In closing, this conference report deserves the support of all Members and I urge its overwhelming adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. CHAPPELL. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Speaker, I am pleased to join in support of this conference report. It is the product of intense deliberations, and I am confident that it is a bill that the House can strongly support.

Mr. Speaker, I want to strongly support our chairman, the gentleman from California [Mr. CHAPPELL], who has provided excellent leadership for all of us on this subcommittee and also our very distinguished ranking member, the gentleman from Pennsylvania [Mr. McDADE].

This has been a very difficult bill because of the veto of the authorization bill. This conference report is consistent with the summit agreement, and it includes an additional $1.1 billion for equipment for the National Guard, a major enhancement for special operations forces, and $210 million for Department of Defense contributions to the drug-interdiction effort.

Mr. Speaker, I am concerned, however, that the difficult choices we had to make in this bill will become even more difficult in the years to come in the absence of any real growth in the Defense budget. I hope that the next President will work with the Congress to fashion a long-term program that can be executed without overreliance on uneconomic stretchouts and sacrifices in force structure and readiness.

□ 1030

I am also pleased that we have a separate bill this year that can be enacted into law in time for the fiscal year. Let me tell you it has not been easy, especially because of the veto earlier this year of the Defense authorization bill.

I would not have been possible at all to get this job done without the dedicated work, many times into the wee hours of the morning of our staff on the Subcommittee on Defense, led by Don Richbourg, who provide the committee, the Congress, and the American people with an indispensable service, and I want to tell them and want them to know that this is something that is appreciated by all Members of the subcommittee and indeed by all Members of the House.

Mr. McDADE. Mr. Speaker, I am delighted to yield 3 minutes to my colleague, the gentleman from Florida [Mr. YOUNG], a distinguished member of our subcommittee.

Mr. YOUNG of Florida. Mr. Speaker, if I could paraphrase an age-old statement, this conference report today is testimony to the fact that reasonable men and women can disagree strongly and still be reasonable.

As I mentioned, and Mr. McDADE has stated, there was considerable disagreement as we went through this conference, and I would agree that in the nine terms I have been here this is the most arduous conference with the other body that I have ever taken part in.

We brought to you a strong Defense appropriation bill. It provides the defense, and the national security that the people of our country want. In addition to that it provides increased accountability on the part of the Department of Defense, as well as those who do business with the Department of Defense.

I said it was a tough conference, and voices were raised from time to time. In fact, they got pretty loud on occasion, but one of the problems was that we had no authorization bill. We not only were trying to confer with the counterparts in the other body, but trying to communicate on an hour by hour basis with our colleagues on the authorizing committee because their work was not yet completed. It would have been much more helpful had the authorization been completed.

I want to say, Mr. Speaker, that this good result came about because of people who are dedicated to the responsibility they have been given to provide for the national defense and that includes the Members of both parties in the committee in both Houses, and I have tremendous respect for each of those Members that I have had an opportunity to work with.

I would like to say also that especially on the House side, we have a staff that is very unusual in its knowledge, ability and in its willingness to spend the long, long hours, needed to get the job done.

Mr. Speaker, I would like to point out with pride, that in all the years I have had the privilege of in working in national defense issues here in the Congress I have never had any reason to believe that any member of the subcommittee or any member of our staff ever leaked any critical national security information. That is something this subcommittee and the staff can be proud of.

As I said, we bring you a good bill. Mr. McDADE mentioned that the Republicans took their names off the conference report at the last minute because of a last minute change that was unexpected. That has now been worked out. We have reached an agreement on that problem and we are all in complete agreement on this conference report and believe that it should be passed without delay and sent to the President. I am satisfied that he will sign it expeditiously.

Mr. McDADE. Mr. Speaker, I am delighted to yield 2 minutes to my distinguished colleague, the gentleman from Ohio [Mr. MILLER].

Mr. MILLER of Ohio. Mr. Speaker, I would like to make a few brief remarks about the conference report before us, and I ask unanimous consent to revise and extend my remarks.

Let me first commend my chairman, BILL CHAPPELL, and the ranking Republican, JOE McDADE. It is to their credit that we have this measure before us today. It has been approximately 5 years since the House has had the opportunity to vote on a freestanding Defense appropriations conference report. I would be remiss if I did not also thank our excellent staff for their fine work and patience during this conference.

As the membership will note, the Republicans assigned to this conference refused to sign the conference report. This should not be interpreted as either opposition to the substance of our bill, or as a partisan difference with our chairman. Rather, it reflects a significant difference of opinion within our subcommittee as to how we should proceed on the matter of unauthorized appropriations. This issue created unnecessary difficulties which must be avoided in the future.

Again, let me congratulate BILL CHAPPELL and JOE McDADE for a job well done under difficult circumstances. I encourage an "aye" vote.

Mr. CHAPPELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon [Mr. AuCOIN].

Mr. AuCOIN. Mr. Speaker, I appreciate the gentleman yielding this time.

I want to compliment the Chair of our subcommittee as well as the ranking member and all members of the subcommittee for producing this conference report. I would like to enter into a colloquy with the gentleman from Florida [Mr. CHAPPELL].

I would ask the chairman of the subcommittee, is it his understanding that the conferees agreed with the Senate direction that the $30 million the conferees provided for lighter ban air technologies research at DARPA shall include an assessment of Air Force and Navy requirements for fleet air defense and Conus air defense as described in the Senate report?

Mr. CHAPPELL. Mr. Speaker, will the gentleman yield?

Mr. AuCOIN. Mr. Speaker, I yield to the gentleman from Florida.

Mr. CHAPPELL. Mr. Speaker, that is my understanding.

Mr. AuCOIN. Mr. Speaker, I appreciate that clarification, and I rise to point out and seek correction of a typographical error in the printing of the report in yesterday's RECORD on page H8517 under the heading MH-60-G helicopters. Instead of the 6 helicopters being assigned to the 30th Aerospace Rescue and Recovery Squadron as the RECORD reads, the number of the squadron should be 304.

Mr. Speaker, I ask unanimous consent that this error be now corrected.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. CHAPPELL. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. MAVROULES].

Mr. MAVROULES. Mr. Speaker, I thank the gentleman for yielding, and I would like to clarify a matter on which, in my judgment, the language and the statement of the managers is not very clear.

The Patriot Air Defense System is a successfully deployed system on which billions of dollars and many years of efforts have been expended. It has been highly successful on antitactical missile shots to date, and further modification of the Patriot Air Defense which provides the required antitactical ballistic missile capability would be a cost effective and timely solution to the tactical need for this kind of protection.

Unfortunately, this effort, called Advanced Tactical Patriot, has become enmeshed in the SDI controversy.

The question I put to you, is it the position of the conferees that the Army and the Defense Department should give fair and objective consideration to the Advanced Tactical Patriot and that the conferees encourage them to proceed in the pursuit of prior approval reprogramming in fiscal year 1989 if Advanced Tactical Patriot is in the ATBM Program plan?

Mr. CHAPPELL. Mr. Speaker, will the gentleman yield to me?

Mr. MAVROULES. Mr. Speaker, I yield to the gentleman from Florida.

Mr. CHAPPELL. Mr. Speaker, that is the position of the conferees, as I understand it.

Mr. McDADE. Mr. Speaker, I am pleased to yield such time as she may consume to the gentlewoman from Maryland [Mrs. MORELLA] for purposes of engaging in a colloquy.

Mrs. MORELLA. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding time to me.

I understand that there is a logistics database system being developed by the Defense Department called the Federal Logistics on Compact Disc or Fed Log Program. I understand this system will compete directly with private vendors who currently provide functionally similar and more capable information systems to DOD components and services. I am concerned about the Department initiating a program which competes with private industry and wastes appropriated funds by duplicating a system which already has been developed and refined by commercial suppliers.

I have been informed that DOD has assured these private vendors that no program will move forward without a full report, and I hope the committee will have a chance to review the program before the funds are expended for its implementation.

It is also my understanding that there is nothing in this bill that would permit the Defense Department to move forward with Fed Log without fully complying with Federal statutes, Government policy, or regulations.

Mr. McDADE. Mr. Speaker, if the gentlewoman will yield, the gentlewoman is correct and I would add that it is important for DOD not to underestimate the costs associated with developing, implementing, and maintaining a system like Fed Log and I would expect considerable weight will be given to the fact that commercial systems superior to Fed Log are already available and in use.

Mr. McDADE. Mr. Speaker, I am pleased to yield 3 minutes to my very able colleague, the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I appreciate the gentleman from Pennsylvania yielding time to me.

When this bill left the House, it addressed the issue of the 17 deaths that took place in Navy training. As I interpret the bill, this provision remains unchanged. I would like to ask the chairman of the committee if this is correct?

Mr. CHAPPELL. Mr. Speaker, will the gentleman yield?

Mr. ROTH. Mr. Speaker, I yield to the gentleman from Florida.

Mr. CHAPPELL. Mr. Speaker, yes, the item was not in conference and does remain in the bill, and it is still effective in that regard.

Mr. ROTH. Mr. Speaker, I thank the gentleman for that clarification, and I want to compliment him and the ranking Member for the work they have done on this legislation. I realize that has been a tough conference and the committee devoted a lot of time to it. It shows the caliber of people we have on the subcommittee, that they did come forth with this bill and I congratulate the Members. There are many provisions related to funding of our Armed Forces and national security system. I want to call to my colleagues' attention to section 8104, which requires the Secretary of Defense to report to Congress on the causes and circumstances of all Navy deaths during training since 1985, and on the steps he is taking to prevent further deaths.

This provision will ensure that the top management of the Defense Department reviews the case of Navy airman Lee Mirecki, who, along with 17 other Navy personnel, died while undergoing training. Since 1985, there have been deaths in Navy training at the rate of 1 every 8 weeks, raising serious questions about the safety of these training programs. I became involved in this issue after my constituent, Lee Mirecki, died in a swimming pool at the Navy rescue swimmer school at Pensacola. While investigating the causes of his death, I discovered a disturbing pattern of deaths among young trainees.

Here we had not 1 but 17 young people die at the height of their physical fitness, a third of them dying of heart failure, and I just could not accept that.

Early on in my inquiry into the Mirecki case I became convinced that his death and the other deaths raised serious questions requiring congressional oversight, and I offered an amendment to this measure on June 21. Subsequently, the Senate agreed to the amendment and it was included in this conference report.

In the Mirecki case, this young man wanted to get out of a swimming pool because he could not go on any more. Supposedly the rule was that if a trainee told the instructor he did not want to go through with the training the person was allowed to leave the pool. In this case the instructor ordered all the recruits get out of the swimming pool, then four instructors jumped in with this young man and one held him under water until he was drowned. One officer was reprimanded; all but one of the instructors were punished administratively, under article XV, which means nothing, and the instructor who held him down was convicted of negligent homicide. As the Members in this Chamber who are lawyers know, this is about the lowest charge a person can get in this particular circumstance. Now this man has been sentenced to 90 days confinement and a reduction of rank.

Why, good God, in Wisconsin if you hit a parked car you get more than that. It is time that the military lives up to the same standards that we have in civilian law.

I would like to read a quote from one of the young man's sisters who said, "The Star Spangled Banner played for a gold medal winner at the Olympics; my joy is overshadowed by my thoughts that my brother heard the same song when he fought for his life."

It is not right to let military training get by with this sort of thing, and that is why I am glad to see this provision in this legislation. Unless the chairman or the ranking member corrects me, it says that by the end of this year, the Secretary of Defense is going to report to the Congress and give us an accounting, not only this 1 death but of all 17 deaths. That is as I understand the law as it is written here.

As a result, we will learn the truth about what happened in the Navy training programs to cause these deaths. At the end of this year, we will have the Secretary's report, on which we can base the necessary corrective action.

Moreover, the very act of preparing this report will focus the Secretary's attention on this problem. This should help stimulate overdue reforms to improve safety.

For Lee Mirecki's family and friends, and those of the other young men who died tragically while training to serve their country, nothing can overcome the loss they have experienced. My amendment is dedicated to making sure that their sacrifice leads to saving the lives of those who follow them into military training.

Mr. McDADE. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from Florida [Mr. YOUNG], a member of the subcommittee.

□ 1045

Mr. YOUNG of Florida. Mr. Speaker, I wanted to wait until the business of the subcommittee had been completed, but there is something missing here today as we present this conference report. That is a distinguished gentleman who, for much of his lifetime, has been heavily involved in the defense matters of our Nation, and especially the Congress, and, more specifically, our subcommittee. He is George Allen.

Mr. Speaker, George Allen was a member of our staff for a long, long time. He was a friend of ours from Florida. George Allen left our committee and went to the Defense Department as an Assistant Secretary a short time ago, and, while flying to a NATO meeting in a military transport plane, George Allen passed away.

We miss George. He was very knowledgeable. He was very knowledgeable on defense issues; he knew all of the answers. He even knew more answers than there were questions for the most part. He was a good, patriotic American. He was very helpful to my dear friend, the gentleman from Florida [Mr. CHAPPELL], the chairman of our subcommittee, and the gentleman from Pennsylvania [Mr. McDADE], the ranking member.

Mr. Speaker, as one member of our subcommittee, I think I can speak for all of us. We really miss George Allen. He was laid to rest as a former marine. I guess in the Marine Corps one is never a former marine. George Allen died as a marine and was laid to rest at the marine base in Quantico, and I want to say that we really miss George Allen.

Mr. CHAPPELL. Mr. Speaker, I yield such time as he may consume to our distinguished chairman, the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, I take this time to call to your attention the great job members of the Subcommittee on Defense have done—working day and night—to bring this conference report to the floor. We are indebted to the chairman, BILL CHAPPELL of Florida, and the ranking Republican, JOE MCDADE of Pennsylvania, for the great job they have done along with the members of the subcommittee on which I have served a long time.

Mr. Speaker, beginning in February and ending in May, this subcommittee held hearings on 39 days, taking testimony from over 160 witnesses on thousands of issues covering most of the world and important to our safety. That testimony is contained in seven volumes of hearings—all in the interest of providing for a good Defense Appropriations Act.

Too, Mr. Speaker, we are proud of each of the 13 subcommittees of our own Committee on Appropriations which have also done a great job over the years and particularly this year with the strong support and encouragement of SILVIO CONTE, the ranking Republican of the committee.

Mr. Speaker, we had 275 days of hearings and took testimony from over 5,000 witnesses which are printed on 88,319 pages in 90 hearing volumes. And we held the total of appropriations bills below our allocation and we finished on time.

I would like to thank the leadership for their cooperation and assistance.

In order to do this job, we needed the help of the staff which in my opinion is second to none.

I submit for the RECORD the names of the subcommittee chairmen and their Republican counterparts who certainly share the credit.

Subcommittee on Commerce-Justice-State-Judiciary: NEAL SMITH, chairman; HAL ROGERS, ranking Republican.

Subcommittee on Defense: BILL CHAPPELL, chairman; JOE MCDADE, ranking Republican.

Subcommittee on District of Columbia: JULIAN DIXON, chairman; LARRY COUGHLIN, ranking Republican.

Subcommittee on Energy and Water Development: TOM BEVILL, chairman; JOHN MYERS, ranking Republican.

Subcommittee on Foreign Operations, Export Financing, and Related Programs: DAVID OBEY, chairman; MICKEY EDWARDS, ranking Republican.

Subcommittee on HUD-Independent Agencies: EDWARD BOLAND, chairman; BILL GREEN, ranking Republican.

Subcommittee on Interior: SIDNEY YATES, chairman; RALPH REGULA, ranking Republican.

Subcommittee on Labor-Health and Human Services-Education: BILL NATCHER, chairman; SILVIO CONTE, ranking Republican.

Subcommittee on Legislative: VIC FAZIO, chairman; JERRY LEWIS, ranking Republican.

Subcommittee on Military Construction: BILL HEFNER, chairman; BILL LOWERY, ranking Republican.

Subcommittee on Rural Development, Agriculture, and Related Agencies: JAMIE WHITTEN, chairman; VIRGINIA SMITH, ranking Republican.

Subcommittee on Transportation: BILL LEHMAN, chairman; LARRY COUGHLIN, ranking Republican.

Subcommittee on Treasury-Postal Service-General Government: EDWARD ROYBAL, chairman; JOE SKEEN, ranking Republican.

Mr. Speaker, as a result of the work done by these subcommittees and the full committee, all 13 appropriations bills passed the House before June 30 and the conference agreements on all 13 bills were approved by the House on or before September 30.

Mr. CHAPPELL. Mr. Speaker, I yield myself such time as I may consume.

I would like to say that this subcommittee appreciates those remarks, especially since this comes from one who has such an outstanding and distinguished record in the Congress of the United States as does our dear chairman. We appreciate his praise, Mr. Speaker, and we appreciate all the good guidance, help and advice that he gives in the management and the operation of this committee.

Mr. Speaker, I would like to say just a word, if I might, about George Allen. Some of these things have been said before, and I have made some of these same remarks before. But my good friend, the gentleman from Florida [Mr. YOUNG], is absolutely correct when he said that there has been a great void this year especially after we went through the processes that we have been through in conference. Heretofore, George Allen has been such a stalwart in giving us good advice, furnishing good information, and adding a bit of humor where it was needed to cool things down. This year he was not there. He was sorely missed.

Mr. Speaker, George Allen came with me to the Congress of the United States 20 years ago. He served me so well and went from my staff to the military construction staff, and then he went to the Defense staff.

Mr. Speaker, George Allen was one of the most brilliant men I have seen in the field of ferreting out facts. I have never known one who could travel afar and come back with so much information about our bases overseas and about the needs of our personnel. He was the kind of guy, that, when things begin to get a little bit tough, he always had a story or something that kind of soothes the heart and kind of smooths the waters of dissention.

We have really missed him in the conference, and we will miss him in the future because he made such a wonderful contribution to the work of this committee and to the work of the Congress. When he went on over to the Department of Defense as an Assistant Secretary he gave them valued assistance. We are all going to miss him. We all share the void that has been with us during this conference.

Mr. MCDADE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me digress for just a moment to thank my colleagues from Florida for their remembrance of George. I had the privilege of working with him for some time, and I echo everything that they have said. Nobody will miss George more than I, and we look forward to reviewing acquaintances with him at a later date.

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me the time.

All told, from what I can gather from the conference report, it is a pretty decent conference report, but I am concerned about several items that I find in it where it appears to me that despite the fact that we had the authorization process going forward and an appropriations process going forward at the same time, we have seemed to have ended up appropriating without authorization.

I find, for example, a program, the F-109 engine program, which I understand is included in here at a figure of about $18 million. It is an unauthorized program. The question becomes with us trying to proceed along the right kind of course, why are we funding programs that the committee of authorization specifically decided not to authorize for one reason or another.

I find specific moneys going to some universities along the way which I am wondering whether or not they went through an authorization and/or a peer review process. For example, I find money for the University of Minnesota, for Auburn University, for Lehigh University, and it is my information that none of those have been authorized by anybody, and I guess my question for either the chairman or the ranking member is whether or not they have been through any kind of a peer review process before they have been put in this bill. Can anybody tell me whether those have been peer reviewed?

Mr. CHAPPELL. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Florida.

Mr. CHAPPELL. Mr. Speaker, I say to the gentleman from Pennsylvania [Mr. WALKER] with reference to the F-109 engine as he knows we have put $18 million of available funds. However, until such time as the Secretary of Defense would certify that there was an opportunity for recoupment on this engine and/or has certified that it has a military use he cannot spend the funds.

Mr. WALKER. Mr. Speaker, I understand that on the F-109, but on the other hand, it is to my understanding not an authorized program. So, the question becomes why we are even directing the Secretary of Defense to even begin spending the money if it is not an authorized program.

Mr. CHAPPELL. Mr. Speaker, I will say to the gentleman that there will be a provision that has been worked out with the authorization committee that cover these accounts.

Mr. WALKER. But, Mr. Speaker, we just passed an authorization bill here the other day, and it seems to me that, if it was going to be appropriately authorized, that is the place to do it in the authorization when the authorization bill passes.

But I come back to this: Are these universities getting money for projects of one kind or another? Are they authorized? Have they been peer reviewed? Is there any criteria other than the fact that somebody came before the Committee on Appropriations and decided here was some money that they wanted?

Mr. CHAPPELL. Mr. Speaker, I would say to the gentleman from Pennsylvania [Mr. WALKER] that some of those projects are authorized and some of them come with recommendations from the other body in appropriations.

There are some of us that have some concern about this particular process, but in these events we feel that these are projects that are important to the defense effort. There are specialized knowledge and research, that is going on by and through these universities. While we do not think this is the best way to do it, we have compromised the matter with the Senate to get this bill through, and we brought it back in what we think is a reasonable effort after having cutting a number of them out.

Mr. WALKER. Mr. Speaker, if I may reclaim my time, the problem is this is giving $7 million to one supercomputer center. There are lots of people interested in computers.

I serve on the Committee on Science, Space, and Technology. A lot of people are interested in that technology. The question is, if it is not peer reviewed, if it is not authorized, why are we giving special treatment to one particular university?

Mr. McDADE. Mr. Speaker, I yield such time as he may consume to my distinguished colleague, the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. McDADE] for yielding.

Mr. Speaker, I will not take much time, but I just want to take this opportunity to express my thanks and congratulations to the gentleman from Florida [Mr. CHAPPELL] the chairman, and to the gentleman from Pennsylvania [Mr. McDADE], the ranking member, and to all the members of the committee and to all of the staff that worked so hard to make this very interesting and extraordinary conference reach a successful conclusion.

We had our differences on a couple of items as the conference wore on, but those were resolved, and I think we have got an outstanding product. I recommend it highly to our colleagues in the House.

I specifically want to point out that we are applying, and, if appropriated, about half a billion dollars to the drug interdiction efforts passed by authorization bills previously in this House. There is a provision in there which will retain the ability of the Air Force to conduct hurricane reconnaissance efforts, and certainly we have seen in this very hectic hurricane season how necessary, and vital and critical that can be. There are provisions in here which will very much impact the much pressed ship building industry throughout the country and which will enable it to continue to provide the necessary work so critical to our defenses and to our capability of marine transport in the future.

So, all and all I think it is a good bill. Certainly there are provisions that can be attacked by individual Members, but I think that it is certainly worthy of passage by this body. I commend all those who worked so hard to bring it about.

Mr. McDADE. Mr. Speaker, I thank the gentleman from Louisiana.

I yield 2 minutes to the ranking member of the Committee on Appropriations, the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, I want to recognize the outstanding effort of the leadership and the members of the Defense Appropriations Subcommittee in putting together this conference report on the DOD appropriations bill for fiscal year 1989.

This bill took hundreds of hours to fashion. The committee started the conference with a 166-page computer printout of the differences between the two Houses. After our initial conference there were still over 400 items in disagreement in 277 amendments to the House bill. The managers have been locked in conference for nearly 2 weeks, fighting over some very difficult issues.

The funding of this bill is the linchpin around which we fashioned the budget summit of last year. That summit has brought us to the verge of getting all of the appropriations business of this Congress completed for the first time since 1953. The summit has been the funding game plan and once again we are living up to that plan in this bill.

My good and able friends, Chairman BILL CHAPPELL with whom I have played hardball for years in the Congressional Baseball Classic and the ranking member, JOE McDADE, have gone the extra mile to get the defense funding of this Nation in a proper condition. We owe them a very big vote of thanks for their work on this bill and the conference.

From the beginning of the march toward a Defense Appropriations Act, we have seen a real effort to make the budget summit agreement work. The Secretary of Defense cut $33 billion out of his intended request; the Budget Committee allocated the agreement, the authorizers stayed with the numbers and we have hit that $299.5 billion in budget authority for all defense almost precisely on the head.

While staying within those guidelines, the Defense Subcommittee has implemented some very important funding provisions:

There is a solid increase in pay and allowances.

We have raised the level for operations, training, and readiness by $5 billion over last year.

There is a steady state funding for research and development.

And there is substantial funding in procurement to continue the drive to equip our forces with the best weapons possible.

In addition to our funding responsibilities, the conference addressed some very important issues:

The area of consultants was examined to make certain we are getting our money's worth and to identify how we can better utilize them.

Sharing the burden on the part of our allies was addressed. We took the approach that, although our allies may be doing some very important things for our national security, there may be other areas in which they should be assisting us and that we should insist they do.

In addition we helped the Coast Guard with support from the Navy and we kept the options open for the next President to make certain strategic decisions.

All in all, the managers of this bill have brought us a conference report that we can be proud of. It was a tough, hard-nosed fight with the other body to preserve the good efforts of this House.

The administration has few problems with the final product and has indicated that the bill will be signed. I want to give my support to the report and urge my colleagues to do likewise.

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of this to extend humanitarian assistance to the Nicaraguan democratic resistance.

It is vital to U.S. national security interests that there be peace, democracy and development in Central America. The major obstacle to achieving those goals is the Communist Sandinista government in Nicaragua. To oppose the Sandinistas, it is necessary to support those Nicaraguans who seek peace, freedom, and justice in their country. Our assistance is necessary to keep their hopes alive.

Costa Rican President Oscar Arias received the Nobel Peace Prize for his plan which was agreed to by all the Central American leaders. Arias said, "Without democracy, there can be no peace in Central America." Although Nicaraguan President Daniel Ortega signed the Arias Agreement, his Government has not carried out the steps for democratization that it required. In spite of its promises to reform, the Sandinista government has continued brutally repressing its own people and systematically subverting it democratic neighbors.

Critics argue that Nicaragua is too small and insignificant to pose a threat to the United States. If Nicaragua were acting independently, there might be some merit to that argument. But the fact is the Soviet Union and Cuba are supplying hundreds of millions of dollars worth of military assistance and manpower to make Nicaragua the strongest military machine in Central America. The threat to the United States is the threat to its democratic allies in Costa Rica, El Salvador, Honduras, Guatemala, and Mexico. Destabilization of those democracies would send millions of refugees fleeing to the United States and the impact on American taxpayers would be incalculable.

Responsible leaders support the Arias initiative because it seeks peace through internal reconciliation and democratization. However, the Arias plan alone is incapable of achieving the objectives of peace and democracy in Central America because it lacks the mechanism to enforce compliance if a government fails to live up to its commitments.

The Sandinistas in Nicaragua recognize this flaw and have exploited it. When strong pressure was brought to bear on the Sandinistas, they promised democratic reforms and made initial cosmetic changes that seemed to respond to the Arias plan. But, as soon as the pressure lessened, the Sandinistas once again resorted to an organized campaign of repression and intimidation of its unarmed opposition and of further strengthening its military capability.

United States policy in Nicaragua does not seek a military solution. It is a two-tracked policy designed to bring pressure on the Sandinista government to live up to the promises it has continued to make ever since it sought legitimacy through the OAS in 1979. United States policy is a combination both of diplomatic initiatives and also of aid and support for the brave Nicaraguans who feel betrayed by the Sandinistas who turned their revolution against Somoza into a Communist totalitarian society.

Recent statements by the House Democratic leadership and specifically the Speaker have jeopardized not only the lives of brave Nicaraguans but also the hopes for democratic reform and respect for human rights in that country. To prevent further damage to the cause of democracy in Central America, it is essential that we approve this measure of modest humanitarian assistance to keep alive the hope of freedom and dignity.

I urge my colleagues to approve this measure which is vital for both peace and security in Central America.

Mr. HALL of Ohio. Mr. Speaker, I rise in opposition to the conference report on H.R. 4781, the Defense appropriations bill for fiscal 1989.

I realize that this legislation is going to pass, and that my colleagues are anxious to complete action on the remaining appropriations bills. However, in good conscience, I cannot vote in favor of the current version of this legislation because of the funding it contains for the Contras.

When the Defense appropriations bill originally passed the House on June 21, 1988, I was among those who voted in favor of it. At that time, there was no Contra funding in the Defense appropriations bill.

The Senate added Contra aid to its version of the legislation, and the House-Senate conference committee approved it for the final draft on which we are voting today. It is unfortunate that the conferees decided to add this extraneous matter to the regular Defense appropriations legislation.

If the Contra provisions were not in this measure, I would be voting for it. On balance, the conferees have done a commendable job in working out the differences among the House, the Senate, and the administration positions on the defense-related funding issues addressed by this legislation.

But I must oppose the bill before us because of my consistent opposition to Contra aid. This bill provides $27 million in so-called nonlethal Contra aid beginning on October 1, 1988. The aid would be available until March 31, 1988. This would amount to around $4.3 million per month.

In addition, there are provisions for expedited congressional consideration of a Presidential request to release up to $16.5 million in previously appropriated military aid, if the President requests the aid before Congress adjourns. Some of my colleagues contend that there is insufficient time for this lethal aid mechanism to be activated. While I hope that this is true, I still cannot support the principle of making this aid available.

I continue to believe that arming and supporting the Contras is the wrong way to deal with the Sandinista government and the wrong way to attempt to bring peace to Central America. For this reason, I cannot support Contra aid, however it is packaged and rationalized.

Mr. McDADE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CHAPPELL. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced the ayes appeared to have.

Mr. CONTE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant At Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 327, nays 77, not voting 27, as follows:

[Roll No. 372]

YEAS—327

Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Brennan
Brooks
Broomfield
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Dannemeyer
Darden
Davis (MI)
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dornan (CA)
Downey
Dreier
Dwyer
Dyson
Edwards (OK)
Emerson
English
Erdreich
Espy
Fascell
Fawell
Fazio
Fields
Fish
Flippo
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jenkins
Johnson (CT)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennelly
Kleczka
Kolbe
Kolter
Konnyu
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Madigan
Manton
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade

McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mica
Michel
Miller (OH)
Miller (WA)
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Obey
Olin
Owens (UT)
Oxley
Packard
Parris
Pashayan
Patterson
Payne
Penny
Pepper
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Sabo
Saiki
Sawyer
Saxton
Schaefer
Schuette
Schulze
Sharp
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stratton
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Weldon
Whittaker
Whitten
Wilson
Wise
Wolf
Wolpe
Wortley
Wylie
Yatron
Young (AK)
Young (FL)

NAYS—77

Ackerman
Atkins
AuCoin
Bates
Beilenson
Berman
Brown (CO)
Clay
Collins
Conyers
Crockett
DeFazio
Dellums
Dorgan (ND)
Durbin
Dymally
Eckart
Edwards (CA)
Evans
Feighan
Flake
Foglietta
Frenzel
Garcia
Green
Hall (OH)
Hawkins
Hayes (IL)
Johnson (SD)
Kastenmeier
Kennedy
Kildee
Kostmayer
Leach (IA)
Leland
Levine (CA)
Lewis (GA)
Markey
Mfume
Miller (CA)
Mineta
Moody
Morrison (CT)
Nagle
Oakar
Oberstar
Owens (NY)
Panetta
Pease
Pelosi
Perkins
Rahall
Rangel
Roybal
Russo
Savage
Scheuer
Schneider
Schroeder
Schumer
Sensenbrenner
Shays
Sikorski
Slaughter (NY)
Smith, Denny (OR)
Stark
Stokes
Studds
Tauke
Towns
Vento
Waxman
Weiss
Wheat
Williams
Wyden
Yates

NOT VOTING—27

Badham
Boland
Bonker
Boucher
Boulter
Boxer
Brown (CA)
Daub
Davis (IL)
de la Garza
Dowdy
Early
Florio
Gray (PA)
Gregg
Jeffords
Jones (TN)
Kemp
Kyl
Lott
Lungren
Mack
MacKay
McCandless
Ortiz
Solomon
Sweeney

☐ 1121

The Clerk announced the following pairs:

On this vote:

Mr. Florio for, with Mrs. Boxer against.

Mr. Jones of Tennessee for, with Mr. Brown of California against.

Messrs. HALL of Ohio, FEIGHAN, and MORRISON of Connecticut, Miss SCHNEIDER, and Messrs. RUSSO, MFUME, SCHUMER, and ACKERMAN changed their vote from "yea" to "nay."

Mr. TOWNS and Mr. McCLOSKEY changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. Pursuant to House Resolution 548 and 555, the amendments in disagreement and the motions to dispose of the amendments are considered as having been read.

The Clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 1: Page 2, line 14, strike out "$24,467,893,000" and insert "$24,459,745,000".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 1 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert $24,484,745,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 19: Page 8, strike out all after line 18, down to and including "Guard" in line 20, and insert "$24,916,901,000, of which $1,915,171,000 shall not become available for obligation until July 1, 1989, and shall be available only for civilian personnel compensation and benefits".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follow:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 19 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "$24,852,100,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 21: Page 9, line 12, after "levels" insert ": *Provided further,* That of the amount appropriated, $40,000,000 shall be available after August 15, 1989, for repair of the USS MIDWAY at a shipyard in the United States: *Provided further,* That the USS MIDWAY may be repaired at a shipyard in Japan only if such costs are assumed by the Government of Japan".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 21 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert ": *Provided further,* That of the amount appropriated, $40,000,000 shall be available after August 15, 1989, for repair of blister modification of the USS MIDWAY: *Provided further,* That blister modification of the USS MIDWAY may be accomplished at a shipyard in Japan only if such costs are assumed by the Government of Japan, or if the Government of Japan agrees to increase its share of U.S. labor costs or operational costs in the Japanese fiscal year by an amount equal to or greater than $40,000,000, and that such increase will be in addition to any increase already agreed to by the Governments of the United States and Japan at the time of enactment of this Act: *Provided further,* Notwithstanding section 2805 of title 10, of the funds appropriated herein, $3,500,000 shall be available for a grant to the Naval Undersea Museum Foundation for the completion of the Naval Undersea Museum at Keyport, Washington. These funds shall be available solely for project costs and none of the funds are for remuneration of any entity or individual associated with fund raising for the project: *Provided further,* That of the funds appropriated herein, not to exceed $980,000 shall be available to pay Ukpeavic Inupiat Corporation for expenses related to the conveyance of the Navy Arctic Research Laboratory: *Provided further,* That, notwithstanding any other provision of law, the lease of the U.S. repair ship HECTOR is hereby authorized in accordance with Chapter 6 of the Arms Export Control Act and subject to the reporting requirements of Section 62 of the Arms Export Control Act, as provided for in Executive Communication 4362, subject to a separate authorization bill being enacted or on or after October 18, 1988, whichever comes first".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 23: Page 9, line 24, strike out "$21,890,400,000" and insert "$21,817,327,000 of which $1,549,883,000 shall not become available for obligation until July 1, 1989, and shall be available only for civilian personnel compensation and benefits".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 23 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "$21,721,673,000 of which $1,500,000 shall be available only for repair and maintenance of Decker Field, Utah: *Provided*, That $26,000,000 shall be available only for the operation of the SR-71 Base in the Pacific area and, notwithstanding any other provision of law, these funds shall be available for obligation and expenditure for this purpose: *Provided further*, That none of the funds appropriated in this or any other Act may be obligated or expended for the purpose of disestablishing or reducing the Air Force SR-71 survivable airborne reconnaissance capability for the Far East and Middle East Theatres from the level of such capability available on October 1, 1987".

POINT OF ORDER

Mr. CHENEY. Mr. Speaker, I make a point of order against amendment No. 23.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. CHENEY. Mr. Speaker, with respect to the Senate amendment numbered 23, I make the point of order that the amendment to the Senate amendment offered by the gentleman from Florida is not germane to the Senate amendment as required by clause 7 of House rule XVI. The amendment waives the application of any other law—including the requirements of the Intelligence Authorization Act, fiscal year 1989, which was signed by the President on September 29, and section 502 of the National Security Act of 1947, as amended. It also seeks to limit the obligation and expenditure of funds in other appropriations acts. For both those reasons, the amendment is not germane to the Senate amendment, which was solely concerned with setting a different figure for the appropriations category entitled "Operation and Maintenance, Air Force" and a smaller, included subtotal concerned with civilian personnel compensation and benefits.

The SPEAKER pro tempore. Does the gentleman from Florida [Mr. CHAPPELL] desire to be heard on the point of order?

Mr. CHAPPELL. No, Mr. Speaker; I do not desire to be heard.

The SPEAKER pro tempore (Mr. MONTGOMERY). For the reasons stated by the gentleman from Wyoming, the point of order is sustained against the motion.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 23 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendmemt, insert the following: "$21,721,673,000 of which $1,500,000 shall be available only for repair and maintenance of Decker Field, Utah: *Provided*, That $26,000,000 shall be available only for the operation of the SR-71 Base in the Pacific area and, these funds shall be available for obligation and expenditure for this purpose".

The SPEAKER pro tempore. The question on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 35: Page 17, line 17, strike out [“$2,565,500,000”] and insert $2,556,800,000”.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 35 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$2,602,800,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 36: Page 17, line 18, strike out all after "1991" down to and including "100-180)" in line 24.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 36 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: ": *Provided*, That funds may be obligated and expended for procurement and advance procurement of the Forward Area Air Defense System, Line-of-Sight Forward-Heavy System without regard to the restrictions contained in section 111(d) of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180): *Provided further*, That notwithstanding sections 138 and 2366 of title 10 U.S.C., the Secretary of the Army may obligate advance procurement funds provided for the Forward Area Air Defense System, Line-of-Sight Forward-Heavy System".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 42: Page 20, line 15, strike out "$9,308,735,000" and insert "$9,231,311,000".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 42 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$9,415,311,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 44: Page 20, line 18, after "law" insert ": *Provided*, That the provisions in Public Laws 100-180 and 100-202 which provide that funds are available in specific dollar amounts only for specific programs, projects, or activities funded by the appropriation "Aircraft Procurement, Navy" shall have no force or effect which would limit the application of a proportionate share of the general reduction of $250,000,000 allocated within the appropriation account against these specific programs, projects or activities".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 44, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 45: Page 21, line 4, strike out all after "layaway" over to and including "$6,033,173,000" in line 17 on page 22, and insert ";$5,922,525,000".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 45 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert: ", as follows:

"Ballistic Missile Programs, $1,872,538,000;

"Other Missile Programs, $3,245,154,000;

"Mark-48 ADCAP Torpedo, $485,000,000;

"Mark-50 Torpedo, $198,547,000;

"Vertical launched ASROC, $105,000,000;

"Modification of Torpedoes, $3,289,000;

"Torpedo Support Programs, $48,652,000;

"Other Weapons, $108,440,000;

"Spares and Repair Parts, $87,412,000;

"In all: $6,154,032,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 49: Page 23, line 16, strike out "$2,134,400,000" and insert "$2,140,200,000".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 49 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,062,200,000;".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 50: Page 23, line 21, strike out "$689,900,000" and insert "$569,800,000".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 50 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert "$689,900,000: *Provided*, That the Navy shall first execute the remaining options for the low bidder's current contract: *Provided further*, That the remaining funds may not be obligated or expended until the Secretary of the Navy conducts an independent assessment of the shipbuilding mobilization base and determines whether or not the remaining three T-AO fleet oilers should be awarded to a second source shipyard and submits for approval to the Committees on Appropriations its T-AO fleet oiler procurement strategy".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 60: Page 28, line 7, strike out "$7,620,587,000" and insert "$7,649,757,000".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 60 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$7,219,683,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 61: Page 28, line 22, strike out all after "lawaway" over to and including "$8,097,047,000" in line 5 on page 29, and insert "$8,133,249,000".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 61 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert "$8,188,638,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 71: Page 31, line 22, strike out "$5,042,965,000" and insert "$5,011,894,000".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 71 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$5,130,166,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 72: Page 31, line 23, strike out all after "1990" over to and including "vehicles" in line 6 on page 32, and insert ": *Provided*, That $5,480,000 shall be available only to continue development of the DRAGON III interim, medium antiarmor weapon under the auspices of a joint program with the Marine Corps".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 72 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert ": *Provided*, That $7,300,000 shall be available only for type classification and operational testing of the 120 millimeter mortar system and development of a family of enhanced 120 millimeter ammunition: *Provided further*, That $2,500,000 shall be available only for the vehicular intercommunications system: *Provided further*, That $5,000,000 shall be available only for development of fluidtronics technology for use in ground combat or support vehicles: *Provided further*, That $2,000,000 shall be made available until expended, as a grant, only for continued development of a medical research institute directed at basic and clinical research in immunology, for associated facilities, and for related purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 73: Page 32, line 12, strike out "$9,136,405,000" and insert "$9,300,614,000".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 73 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$9,382,312,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 77: Page 33, line 6, strike out "$14,313,135,000" and insert "$14,438,332,000".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 77 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$14,502,347,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 78: Page 33, line 7, strike out all after "1990" down to and including "fuels" in line 21.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 78 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment amended to read as follows: ": *Provided*, That $2,000,000 shall be available only for development of high thermal stability and/or endothermic jet fuels, including studies on coal based fuels: *Provided further*, That of the funds appropriated in this paragraph, $890,000,000 shall be available for ICBM modernization programs as follows:

"(1) $40,000,000 shall be available for continued development and flight testing of the MX missile;

"(2) $250,000,000 shall be available for the Small ICBM program; and

"(3) $600,000,000 shall be available for the MX Rail Garrison program and of the $600,000,000 available for the MX Rail Garrison program, the amount obligated before February 15, 1989, may not exceed $250,000,000: *Provided further*, That during the period beginning on January 21, 1989, and ending on February 15, 1989, the President shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives a report on—

"(1) anticipated obligations for the remainder of fiscal year 1989 for the small ICBM program, the MX Rail-Garrison program, and other ICBM modernization programs; and

"(2) the purposes those obligations are intended to accomplish".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 80: Page 34, line 6, strike out "$7,468,757,000" and insert "$8,373,698,000".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 80 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$8,427,908,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 81: Page 34, line 7, strike out all after "1990" over to and including "repealed" in line 3 on page 35.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 81 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment amended to read as follows: ": *Provided*, That $95,000,000 shall be made available only for the Advanced Submarine Technology Program as described in section 241 of the National Defense Authorization Act for Fiscal Year 1989 (H.R. 4264), as provided in the conference agreement included in House Report 100-753: *Provided further*, That the Secretary of Defense shall award the funds made available in this Act for the University Research Initiative Program on the basis of competition; and, that none of the funds may be obligated or expended until the Appropriations and Armed Services Committees of the House and Senate approve a plan submitted by the Secretary of Defense to provide for broader geographic distribution of funds under such program in comparison to the distribution of such funds during fiscal year 1986 and 1987; and sets aside a portion of the funds available for such program for fiscal year 1989 to implement such a plan: *Provided further*, That section 215 (c) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180) is repealed".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 83: Page 35, line 3, after "repealed" insert ": *Provided further*, That, of the total amount available for the Strategic Defense Initiative, not less than the following amounts may be spent only for the following programs: $175,000,000 for the Boost Surveillance and Tracking System (BSTS); $200,000,000 for the Advanced Launch System (ALS) Program under Air Force management; $114,900,000 for antitactical missile activities as part of the Army's Theater Missile Defense and Antitactical Missile System Programs; $202,000,000 for the Exoatmospheric Re-entry Vehicle Interceptor System; $150,000,000 for the High Endoatmospheric Defense Interceptor System; $105,000,000 for the Neutral Particle Beam Program; $29,000,000 for Medical Technologies; and $17,000,000 for the Gallium Arsenide Integrated Circuit Technology Program".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 83 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment; insert ": *Provided further*, That of funds made available for the Experimental Evaluation of Major Innovative Technologies program, $34,000,000 is available only for the purposes of research, development, launch, and on-orbit functional demonstrations with military forces of LIGHTSAT systems and their required low-cost transportable space launch vehicles".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 84: Page 35, line 3, after "repealed" insert ": *Provided further*, That of the funds made available for the ALS Program, not less than $96,500,000 shall be transferred to the National Aeronautics and Space Administration only for ALS propulsion activities: *Provided further*, That the funds appropriated by this Act for any activities associated directly or indirectly with the Advanced Launch System or any

ALS variant shall be subject to the terms and conditions of section 5 of chapter II of title I of Public Law 100-71 (Supplemental Appropriations Act 1987): *Provided further*, That of the total amount available for obligation, $16,500,000 shall be made available through the Office of the Under Secretary of Defense for Acquisition only for bioenvironmental hazards research activities at universities, for associated facilities, and for other related purposes".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 84, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 85: Page 35, line 3, after "repealed" insert ": *Provided further*, That of the amounts available for obligation, an additional $100,000,000 shall be transferred to the National Aeronautics and Space Administration".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 85, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 87: Page 35, line 3, after "repealed" insert: ": *Provided further*, That of the total amount available for obligation for the Strategic Technology Program, $20,000,000 shall be made available only for the Defense Advanced Research Projects Agency Initiative in Concurrent Engineering, and $5,000,000 shall be made available only for increasing the transfer of training and simulation technology between components of the Department of Defense through Department of Defense support (by contract or grant) of activities carried out by a university organization, as a continuing center of expertise, that augments such training and simulation technology transfer activities of the Department of Defense".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 87 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert: ": *Provided further*, That of the total amount available for obligation for the Strategic Technology Program, $20,000,000 shall be made available only for the Defense Advanced Research Projects Agency Initiative in Concurrent Engineering".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 88: Page 35, line 3, after "repealed" insert: ": *Provided further*, That of the amounts available for obligation, in addition to the funds previously appropriated to the National Defense Stockpile Transaction Fund, notwithstanding the provisions of 50 U.S.C. 98h, there is hereby appropriated $3,500,000 from the strategic Technology Program only to the Fund, to remain available until expended for the South Carolina Research Authority pursuant to 50 U.S.C. 98a and 98g(a), for a grant to construct and equip a strategic materials research facility".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 88, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 89: Page 35, line 3, after "repealed" insert ": *Provided further*, That $6,561,000 of the funds appropriated under the heading, "Research, Development, Test, and Evaluation, Navy, 1988/1989", shall be transferred to the Lighter Than Air Technology Program in the Defense Advanced Research Project Agency, to remain available only for the time period provided when originally appropriated".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 89 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert: ": *Provided further*, That of the amount available for obligation, $20,000,000 is available only for the X-Ray Lithography Program: *Provided further*, That of the amount available for obligation, $3,000,000 is available only for the Center for the Advancement of Scientists, Engineers, and Technologists to complete the study that was initiated by the Department of Defense in 1985 for the purpose of determining and testing the factors that increase the supply of minority and women scientists, engineers, and technologists needed by defense industries and the Department of Defense to fulfill the national defense mission: *Provided further*, That of the amount available for obligation, $12,500,000 is available only for the Optoelectronics materials research and development program: *Provided further*, That of the amount available for obligation, $7,500,000 is available only for the Lehigh University National Center for Industrial Innovation: *Provided further*, That of the amount available for obligation, $10,000,000 is available only for establishment of the Auburn University Center for the Management of Technology: *Provided further*, That of the amount available for obligation, $10,000,000 is available only for construction costs of a new academic facility on a university campus in the District of Columbia, where there will be established an Institute for Intercultural Security Studies: *Provided further*, That of the amount available for obligation, $7,000,000 is available only for the Minnesota Supercomputer Center, Incorporated, which is affiliated with the University of Minnesota, to be matched by local funds for the acquisition, design, testing, integration and advancement of a new Supercomputer: *Provided further*, That of the amount available for obligation, $10,000,000 shall be made available until expended, as a grant, only for a progam begun in fiscal year 1988 to develop an engineering, sciences and technology complex to promote defense industry involvement in manpower training and education, for associated facilities, and for related purposes: *Provided further*, That of the amount available for obligation, $1,500,000 is available only for advanced ceramic material fabrication, development, testing and related research at the U.S. Department of Energy's Component Development and Integration Facility".

Mr. CHAPPELL. Mr. Speaker, we wish some time on amendment No. 89.

The SPEAKER pro tempore. The gentleman from Florida [Mr. CHAPPELL] is recognized for 30 minutes.

Mr. CHAPPELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. ASPIN].

Mr. ASPIN. Mr. Speaker, I am extremely concerned about a continuing trend to earmark funds for specific universities in the appropriation bill. The authorization conferees were so concerned about this matter that they initiated and passed legislation prohibiting the Secretary of Defense from awarding a contract to a college or university for performance of research and development or for construction of any research facility unless the contract was made using competitive procedures. The authorization conferees have recently agreed to delay this provision until October 1989, to provide the Department of Defense and other interested parties time to determine if this is the proper course of action and also to assess the impacts of university research set-asides and earmarking.

It is my understanding that about $95 million is earmarked in this appropriation bill for universities that was not requested nor authorized. Many of these are contained in amendments of disagreement such as amendments No. 84, 87, 88, and 89. I do not intend to oppose these amendments but I will do my best to encourage the Department of Defense to examine each of these set asides and to only consider for contract those university programs that pass peer review or competitive process.

It is my intent to hold hearings next year to see if we can provide some additional controls over this process, so that we are not faced with making these 11th hour decisions on whether or not a particular set-aside is of merit.

□ 1130

Mr. CHAPPELL. Mr. Speaker, will the gentleman yield?

Mr. ASPIN. Mr. Speaker, I am happy to yield to the gentleman from Florida.

Mr. CHAPPELL. Mr. Speaker, I would like to say to the gentleman that I, in concept, agree with him, and we did not, as the gentleman knows, put any of these in on the House side to begin with.

The trend toward this type of operation has been growing particularly over the last 3, 4, or 5 years. Unless we find a better way to do it, we are going to have more and more money designated in this manner. I would highly recommend that the good chairman of the Committee on Armed Services look into this matter and, as a matter of fact, we would like to join with him in what we perceive to be a good concept. It has to do really with how the structuring is put in place. I would certainly advocate some kind of regional peer representation on a peer board that would make the selections. I think that would be a much better and efficient way to do it.

We have tried to be pretty selective in these particular instances, but I would urge all the Members to join with us in helping us find a better way of allocating these resources next time.

Mr. ASPIN. Mr. Speaker, reclaiming my time, I appreciate the comments of the gentleman from Florida. I look forward to working with him on this issue next year.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 93: Page 36, line 7, after "law" insert ", of which $20,000,000 is available only for paying administrative expenses associated with directing and performing studies, surveys, engineering analyses, requests for proposals, contracting and associated contract administration functions that have as their sole objective the increased use of coal by the United States Department of Defense facilities in the United States".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 93, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 102: Page 38, after line 11, insert:

DRUG INTERDICTION, DEFENSE
(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense, $199,060,000 for transfer to "Military Personnel" and "Operation and Maintenance" appropriations for operating costs of the Department of Defense related to the detection and monitoring of aerial and maritime transit of illegal drugs into the United States. Not less than $30,000,000 of such amount shall be available only for drug interdiction activities of the Army and the Air National Guard. Funds appropriated by this paragraph in excess of $30,000,000 may not be obligated or expended until—

(1) the Secretary submits to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report on how the funds are proposed to be used; and

(2) a period of 30 days has elapsed after the date on which the report is received by such committees.

Such report shall be submitted not later than 60 days after the date of the enactment of this Act and should set forth in detail the plans of the Secretary for the obligation of such funds, including a statement of the following:

(A) The appropriation account or accounts to which the funds are proposed to be transferred.

(B) The activities proposed to be undertaken using those funds.

(C) The relationship between those activities and the drug interdiction strategy of the United States. Funds appropriated by this paragraph shall be available for obligation for the same period, and for the same purpose, as the appropriation to which transferred. The transfer authority provided in this paragraph is in addition to any transfer authority contained elsewhere in this Act. The restrictions contained in the third sentence of this paragraph shall not apply to the obligation of any amount not in excess of $30,000,000 which is obligated for drug interdiction activities.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 102 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

DRUG INTERDICTION, DEFENSE
INCLUDING TRANSFER OF FUNDS

For the Department of Defense, $210,000,000 and by transfer from Aircraft Procurement, Navy, 1987/89, $90,000,000 for transfer to "Military Personnel" and "Operation and Maintenance" appropriations for operating costs of the Department of Defense related to the detection and monitoring of aerial and maritime transit of illegal drugs into the United States. Not less than $40,000,000 of such amount shall be available only for drug interdiction activities of the Army National Guard and the Air National Guard. Funds appropriated by this paragraph in excess of $30,000,000 may not be obligated or expended until—

(1) the Secretary submits to the Committee on Armed Services and on Appropriations of the Senate and the House of Representatives a report on how the funds are proposed to be used; and

(2) a period of 30 days has elapsed after the date on which the report is received by such committees.

Such report shall be submitted not later than 60 days after the date of the enactment of this Act and should set forth in detail the plans of the Secretary for the obligation of such funds, including a statement of the following:

(A) The appropriation account or accounts to which the funds are proposed to be transferred.

(B) The activities proposed to be undertaken using those funds.

(C) The relationship between those activities and the drug interdiction strategy of the United States. Funds appropriated by this paragraph shall be available for obligation for the same period, and for the same purpose, as the appropriation to which transferred. The transfer authority provided in this paragraph is in addition to any transfer authority contained elsewhere in this Act. The restrictions contained in the third sentence of this paragraph shall not apply to the obligation of any amount not in excess of $30,000,000 which is obligated for drug interdiction activities.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 103: Page 38, after line 11, insert:

SPECIAL OPERATIONS FORCES FUND

For expenses, not otherwise provided for, necessary for equipping and operating Special Operations Forces; $868,500,000, of which $75,000,000 shall remain available for obligation until September 30, 1989, and $793,500,000 shall remain available for obligation until September 30, 1991.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of Senate numbered 103 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

SPECIAL OPERATIONS FORCES FUND

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for equipping and operating Special Operations Forces; $286,000,000, of which $108,000,000 shall be transferred to and merged with Other Procurement, Army; $35,000,000 shall be transferred to and merged with Operation and Maintenance, Navy; $100,000,000 shall be transferred to and merged with Shipbuilding and Conversion, Navy; $25,000,000 shall be transferred to and merged with Other Procurement, Navy; and $18,000,000 shall be transferred to and merged with Operation and Maintenance, Army.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 104: Page 41, line 20, strike out all after "*Provided*," down to and including "*further*," in line 23.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 104 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: "That except as provided in 10 U.S.C. 2690, the foregoing authority shall not be available for the conversion of heating plants from coal to oil or coal to natural gas at defense facilities in Europe: *Provided further*,"

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 105: Page 43, line 16, after "NATO" insert "and the State of Israel".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 105, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 106: Page 44, line 10, strike out all after "8012." down to and including "limitation" in line 20 and insert "No appropriation contained in this Act may be used to pay for the cost of legislative liaison activities of the Department of Defense in excess of $14,643,000: *Provided*, That costs for military retired pay accrual shall be included within this limitation".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 106 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert "No appropriation contained in this Act may be used to pay for the cost of legislative liaison activities of the Department of Defense in excess of $15,000,000: *Provided*, That costs for military retired pay accrual shall be included within this limitation."

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 108: Page 46, strike out lines 19 to 22.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 108 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

SEC. 8016. Except as provided in 10 U.S.C. 2690, none of the funds available to the Department of Defense in this Act shall be utilized for the conversion of heating plants from coal to oil or coal to natural gas at defense facilities in Europe.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 112: Page 47, line 15, after "excess of" insert "the lower of: (a)".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 112, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 113: Page 47, line 19, after "Code" insert "; or (b) the allowable amounts in effect during fiscal year 1988 increased to the extent justified by economic changes as reflected in appropriate economic index data similar to that used pursuant to title XVIII of the Social Security Act".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 113 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 128: Page 53, strike out line 4 and insert "Defense Meteorological Satellite;".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. Chappell moves that the House recede from its disagreement to the amendment of the Senate numbered 128 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert:

UHF follow-on satellite system;
Defense Meteorological Satellite;

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. Chappell].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 131: Page 53, strike out line 8.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. Chappell moves that the House recede from its disagreement to the amendment of the Senate numbered 131 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: "TOW 2 Missile: *Provided,* That any requirement that a multiyear contract may not be entered into unless the anticipated cost over the period of the contract is not more than 88 percent of the average cost incurred for the same system procured under an annual contract shall not apply to multiyear contracts for TOW 2.".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. Chappell].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 138: Page 55, strike out lines 1 to 20.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. Chappell moves that the House recede from its disagreement to the amendment of the Senate numbered 138 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to change "46,622" as follows: "47,292".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. Chappell].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 171: Page 66, lines 19 and 20, strike out "Defense Logistics Agency" and insert "Department of Defense".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. Chappell moves that the House recede from its disagreement to the amendment of the Senate numbered 171, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. Chappell].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 179: Page 68, strike out all after line 19 over to and including line 5 on page 69.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. Chappell moves that the House recede from its disagreement to the amendment of the Senate numbered 179 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

Sec. 8072. Except where specifically increased or decreased elsewhere in this Act, the restrictions contained within appropriations, or provisions affecting appropriations or other funds, available during fiscal year 1989, limiting the amount which may be expended for personnel services, and including pay and allowances of military personnel and civilian employees, or for purposes involving personal services are hereby increased to the extent necessary to meet increased pay costs authorized by or pursuant to law.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. Chappell].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 186: Page 70, line 23, strike out all after "8079." over to and including line 2 on page 71 and insert:

(a) None of the funds in this Act may be used to award a contract for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) Reform Initiative that exceeds the total fiscal year 1987 costs for CHAMPUS care provided in California and Hawaii, plus normal and reasonable adjustments for price and program growth.

(b) Notwithstanding section 725 of Public Law 100-180, the preemption provisions of title 10, United States Code, chapter 55, section 1103, shall not be limited to contractual provisions relating to coverage of benefits, but shall apply to any and all contracts entered into pursuant to Solicitation Number MDA-903-87-R-0047 and shall preempt any and all State and local laws or regulations which relate to health insurance or to prepaid health care plans.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. Chappell moves that the House recede from its disagreement to the amendment of the Senate numbered 186 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert:

(a) None of the funds in this Act may be used to execute a contract for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) Reform Initiative that exceeds the total fiscal year 1987 costs for CHAMPUS care provided in California and Hawaii, plus normal and reasonable adjustments for price and program growth.

(b) Notwithstanding section 725 of Public Law 100-180, the preemption provisions of title 10, United States Code, chapter 55, section 1103, shall not be limited to contractual provisions relating to coverage of benefits, but shall apply to any and all contracts entered into pursuant to Solicitation Number MDA-903-87-R-0047 and shall preempt any and all State and local laws or regulations which relate to health insurance or to prepaid health care plans

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. Chappell].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 187: Page 71, line 2, after "1989" insert ": *Provided further,* That any and all funds derived from contracts or subject to any Hawaii State or local sales, general excise, or similar taxes imposed upon gross sales, gross income, or gross receipts, except to the extent that such taxes are uniformly imposed upon physicians, hospitals, and all similar direct providers of health care services".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. Chappell moves that the House recede from its disagreement to the amendment of the Senate numbered 187, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. Chappell].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 192: Page 72, line 22, after "manufacturers" insert ": *Provided further,* That of the funds appropriated for "Other Procurement, Army" for fiscal year 1988, those funds provided for a supercomputer may only be obligated to purchase a system to be installed at a competitively selected independent academic institution".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 192 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert ": *Provided further,* That of the funds appropriated for "Other Procurement, Army" for fiscal year 1988, those funds provided for a supercomputer may only be obligated to purchase a system to be installed at a competitively selected independent academic institution: *Provided further,* That of the funds appropriated for "Other Procurement, Army" in fiscal year 1989, $27,400,000 shall be obligated to purchase a supercomputer system to be installed at the United States Army Engineer Waterways Experiment Station".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 195: Page 75, strike out lines 9 to 12.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 195 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

(c) None of the funds appropriated in this Act are available for procurement of mini- and micro-computers for the Army Reserve Component which duplicate functions to be included in the RCAS contract.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 206: Page 77, line 18, strike out all after "8092." down to and including "fuel" in line 24 and insert "None of the funds available to the Department of Defense shall be used to enter into any agreement or contract to convert a heating facility at military installations in Europe to district heat, direct natural gas, or other sources of fuel pending completion of a study by the United States Departments of Defense, State, and Commerce to determine the extent of, and justification for, the economic benefits accruing to the Soviet Union from all prior and anticipated conversions of United States military installations in Europe to district heat and direct natural gas systems which utilize Soviet-supplied natural gas. This study will be completed no later than July 1, 1989, and submitted to all Members of Congress".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 206 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert:

(a) None of the funds available to the Department of Defense shall be used to enter into any agreement or contract to convert a heating facility at military installations in Europe to district heat, direct natural gas, or other sources of fuel until ninety days after study by the United States Departments of Defense, State, and Commerce on the economic benefits of using United States coal at defense installations in Europe is completed and forwarded to Members of Congress: *Provided,* That this study should determine the extent of, and justification for, the economic benefits accruing to the Soviet Union from all prior and anticipated conversions of United States military installations in Europe to district heat and direct natural gas systems which utilize Soviet-supplied natural gas: *Provided further,* That this study should also address the issues raised by the economic analysis prepared by the Ambassador at large on burdensharing negotiations to be appointed by the President as delineated by subsection (c) of section 8125 of this Act: *Provided further,* That the study also include a review of the modernization plan for the needed updating of the heating systems in the Kaiserslautern military community and the usage of United States produced coals: *Provided further,* That this study should be completed no later than July 1, 1989.

(b) Notwithstanding subsection (a) funds available to the Department of Defense may used to enter into an agreement or contract to convert a heating facility at military installations in Europe to district heat, direct natural gas, or other sources of fuel if the Secretary of Defense certifies in writing and provides a copy to the Committees on Appropriations of the House and Senate that such conversion is in the best interest of the Nation.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPEL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 208: Page 78, line 12, after "fibrosis" insert ", until the Department of Defense has resolved inequities relating to applying diagnosis related group regulations to children's hospitals and neonatal care, such resolution including (1) adjustments that recognize the higher cost in children's hospital care by assuring that had the regulation been in effect in fiscal year 1988 it would have resulted in no reduction in estimated aggregate revenue to children's hospitals; and (2) refinements to the classifications applicable to neonatal care to reflect more accurately hospital resource use relating to that care".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The test of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 208 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

The Department of Defense may include the hospital and neonatal services identified in subsections (a) and (b) in diagnosis related group regulations during fiscal year 1989 when the Department of Defense has adopted special measures to assure equitable and adequate payment for such services, such special measures including: (1) "children's hospital differential" adjustment for each discharge of a CHAMPUS patient from a children's hospital that will assure that had the regulations been in effect for fiscal year 1988 they would have resulted in estimated aggregate CHAMPUS payments to children's hospitals not less than estimated aggregate CHAMPUS payments to such hospitals for discharges occurring during that fiscal year under the regulations in effect during fiscal year 1988 (recognize that payments in subsequent years will vary based on volume, case mix intensity, and other factors); for a transitional period of three years the children's hospital will be computed on a hospital specific basis for children's hospitals with 50 or more CHAMPUS discharges in fiscal year 1988 and will be computed in aggregate for children's hospitals with less than 50 discharges in a year; (2) a children's hospital differential hold harmless provision, providing for retrospective and prospective corrections; (3) a special outlier policy for children's hospitals and neonatal services that combines the thresholds in effect under CHAMPUS DRG regulations for fiscal year 1988 with the higher marginal cost factors proposed by 53 Fed. Reg. 20580 (June 3, 1988); (4) a refinement to the DRGs for neonatal services to account for birthweight, surgery, and the presence of multiple, major, and other neonatal problems; (5) incorporation of annual updates to the classification features included in the regulation for neonatal services; (6) a provision for making interim payments for cases that are especially lengthy or expensive; and (7) a commitment to examine possible further uses of Pediatric Modified DRGs in the future.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 209: Page 78, strike out lines 22 to 25.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 209 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

SEC. 8092. PROHIBITION ON PURCHASE OF TOSHIBA PRODUCTS FOR RESALE IN MILITARY EXCHANGE STORES

(a) PROHIBITION.—During the three-year period beginning on the date of the enactment of this Act, no product manufactured or assembled by Toshiba America, Incorporated, or Toshiba Corporation (or any of its affiliates or subsidiaries) may be purchased by the Department of Defense for the purpose of resale of such product in a military exchange store or in any other morale, welfare, recreation, or resale activity operated by the Department of Defense (either directly or by concessionaire).

(b) EXCEPTION.—The prohibition in subsection (a) shall not apply to microwave ovens manufactured or asssembled in the United States.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 210: Page 79, strike out lines 1 to 4.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 210 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

SEC. 8093. Notwithstanding any other provision of law, the Secretary of the Air Force shall, from existing prior year funds, make available $18,000,000 for the next generation trainer (F-109) engine over the next three year period: *Provided*, That none of the funds may be obligated or expended until the Secretary of the Air Force submits a certification to the Committees on Appropriations which identifies a specific United States military requirement for the F-109 engine or which demonstrates that these funds can be fully recouped under a contractual arrangement with the manufacturer through commercial sales of the engine.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 220: Page 81, strike out all after line 22 over to and including line 5 on page 82.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 220 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

SEC. 8101. The designs of the Army LHX helicopter, the Navy Advanced Tactical Aircraft, the Air Force Advanced Tactical Fighter, and any variants of these aircraft, must incorporate Joint Integrated Avionics Working Group standard avionics specifications no later than 1998.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 227: Page 84, after line 19, insert:

SEC. 8091. (a) None of the funds appropriated by this Act shall be available to compensate foreign selling costs as described in Federal Acquisition Regulation 31.205-38(b) as in effect on 1 April, 1984.

(b) Notwithstanding section 2324(e)(1)(H) of title 10, United States Code, and subsection (a) of this section, appropriations contained in this Act shall be available for, and the Secretary of Defense shall pay, reasonable costs under covered contracts incurred to promote American aerospace exports at domestic and international exhibits.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 227 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 8105. ALLOWABILITY OF COSTS TO PROMOTE THE EXPORT OF DEFENSE PRODUCTS

(a) IN GENERAL.—Section 2324(f) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) The regulations shall provide that costs to promote the export of products of the United States defense industry, including costs of exhibiting or demonstrating products, shall be allowable to the extent that such costs—

"(A) are allocable, reasonable, and not otherwise unallowable;

"(B) with respect to the activities of the business segment to which such costs are being allocated, are determined by the Secretary of Defense to be likely to result in future cost advantages to the United States; and

"(C) with respect to a business segment which allocates to Department of Defense contracts $2,500,000 or more of such costs in any fiscal year of such business segment, are not in excess of the amount equal to 110 percent of such costs incurred by such business segment in the previous fiscal year.".

(b) REGULATIONS.—The Secretary of Defense shall prescribe final regulations under paragraph (5) of section 2324(f) of title 10, United States Code (as added by subsection (a)), not later than 90 days after the date of the enactment of this Act. Such regulations shall apply with respect to costs referred to in such paragraph that are incurred by a Department of Defense contractor (or a subcontractor of such a contractor) on or after the first day of the contractor's (or subcontractor's) first fiscal year that begins on or after the date on which such final regulations are prescribed.

(c) REPORT.—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States and the Inspector General of the Department of Defense shall each submit to the Committees on Armed Services and Appropriations of the Senate and House of Representatives a report that includes the following:

(1) An assessment of whether the regulations required by section 2324(f)(5) of title 10, United States Code (as added by subsection (a)), provide the appropriate incentives to stimulate exports by the United States defense industry and provide cost savings to the United States.

(2) An assessment of whether such regulations provide appropriate criteria to ensure that costs allowed are reasonably likely to provide future cost savings to the United States.

(d) TERMINATION.—Section 2324(f)(5) of title 10, United State Code (as added by subsection (a)), shall cease to be effective three years after the date of the enactment of this Act.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 228: Page 84, after line 19, insert:

SEC. 8092. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 228 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 8106. (a) Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

(b) Sums appropriated in Title I of this Act, Military Personnel are reduced by $150,000,000 which will be realized by absorbing a portion of the pay raise requirements.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 229: Page 84, after line 19, insert:

SEC. 8093. Notwithstanding any other provision of law, the Secretary of Defense shall require that a provider of services under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) also provide services to members of the armed forces pursuant to section 1074(c), title 10, in accordance with the same reimbursement rules, subject to modificatons deemed appropriate by the Secretary of Defense, as apply under CHAMPUS.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 229 and concur therein with an amendment, as follows: In lieu of section number 8093 named in said amendment, insert "8107".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 230: Page 84, after line 19, insert:

SEC. 8094. Of the funds made available in this Act for military personnel appropriations, $2,000,000 shall be available for the payment of bonuses to officers of the Army Nurse Corps, the Navy Nurse Corps and officers designed as Air Forces nurses. A bonus, in an amount not to exceed $3,000, may be paid, under such regulations and conditions as the Secretary of Defense deems appropriate, to such an officer: *Provided,* That the officer is on active duty under a call or order to active duty for a period of not less than one year: *Provided further,* That the officer is qualified and performing as an anesthetist: *And provided further,* That this provision shall not be effective unless specifically authorized.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 230 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment insert "8108".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion ws agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 232: Page 84, after line 19, insert:

SEC. 8096. None of the funds available to the Department of Defense shall be obligated or expended during fiscal year 1989 for the purpose of converting the Naval Avionics Center, Indianapolis, the Naval Civil Engineering Laboratory, Port Hueneme, and the Naval Air Engineering Center, Lakehurst, from operation under the Navy Industrial Fund as authorized by 10 U.S.C. 2208 to operation as a direct appropriation financed authority.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 232 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment insert "8108".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 233: Page 84, after line 19, insert:

SEC. 8097. Nowithstanding any other provision of law, during fiscal year 1989, the Secretary of defense shall make available to the United States Coast Guard without reimbursement not less than $200,000,000 in supplies, fuel, training assistance, medical support, and other operational support, exclusive of administrative costs.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 233 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

(TRANSFER OF FUNDS)

SEC. 8110. Nothwithstanding any other provision of law, during fiscal year 1989, the Secretary of Defense shall make available to the United States Coast Guard without reimbursement not less than $140,000,000 in supplies, fuel, training assistance, medical support, and other operational support, exclusive of administrative costs; and from funds made available in this Act, $60,000,000 shall be transferred to Coast Guard "Operating Expenses".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 234: Page 84, after line 19, insert:

SEC. 8098. Of the funds appropriated by this Act, not more than $1,126,120,000 may be obligated for morale, welfare, and recreation activities: *Provided,* That nonappropriated funds may be used to reimburse appropriated funds for expenses of civilian employees employed on January 1, 1987, by revenue-generating recreation activities and such reimbursed expenses shall not be included in the dollar limitation of this section.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 234 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 8111. Of the funds appropriated by this Act, not more than $1,163,200,000 may be obligated for morale, welfare, and recreation activities: *Provided,* That nonappropriated funds may be used to reimburse appropriated funds for expenses of civilian employees employed on January 1, 1987, by revenue-generating recreation activities and such reimbursed expenses shall not be included in the dollar limitation of this section.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 235: Page 84, after line 19, insert:

SEC. 8099. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department of Defense to exceed, outside the fifty United States and the District of Columbia, 182,011 civilian workyears: *Provided,* That workyears shall be applied as defined in the Federal Personnel Manual Supplement 298-2, Book IV: *Provided further,* That workyears expended in dependent student hiring programs or hiring programs for disadvantaged youth shall not be included in this workyear limitation.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 235 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert "8112".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

The amendment No. 236: Page 84, after line 19, insert:

SEC. 8100. (a) No later than December 1, 1988, the Secretary of Defense shall submit to the Committees on Appropriations of the House and Senate, his evaluation of the Deputy Inspector General, Department of Defense, study team report titled "Review of Unified and Specified Command Headquarters, February 1988": *Provided,* That the evaluation shall specifically include a list of the report recommendations, by command, that the Secretary intends to implement and those recommendations that he does not intend to implement, together with the reasons for rejecting those recommendations not adopted.

(b) The Secretary shall provide for the implementation of those recommendations included in the list submitted under subsection (a) in the five-year defense program submitted to Congress for fiscal years 1990 through 1994 under section 114(g) of title 10, United States Code.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 236 and concur therein with an amendment, as follows: In lieu of section number 8100 named in said amendment, insert "8113".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 237: Page 84, after line 19, insert:

SEC. 8101. During the current fiscal year, salary increases granted to direct and indirect hire foreign national employees shall not be at a rate in excess of the percentage pay increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 237 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 8114. During the current fiscal year and thereafter, the Secretary of Defense shall notify the House and Senate Committees on Appropriations when salary increases granted to direct and indirect hire foreign national employees are at a rate in excess of the percentage pay increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code or at a rate in excess of the percentage increase provided to National Government employees of the host nation, whichever is higher.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 238: Page 84, after line 19, insert:

(TRANSFER OF FUNDS)

SEC. 8102. In addition to any other transfer authority contained in this Act, amounts from the Defense Stock Fund shall be transferred to the Operation and Maintenance appropriations contained in this Act to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided,* That such transfers shall not be less than $40,000,000 for Operation and Maintenance, Army Reserve; $40,000,000 for Operation and Maintenance, Air Force Reserve; $50,000,000 for Operation and Maintenance, Army National Guard; and $50,000,000 for Operation and Maintenance, Air National Guard: *Provided further,* That $80,000,000 may be transferred from the Navy Industrial Fund to Operation and Maintenance, Navy, to refund excess asset capitalization charges.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 238 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert "8115".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 239: Page 84, after line 19, insert:

SEC. 8103. Notwithstanding any other provisions of law, appropriations available to the Department of Defense during the current fiscal year shall be available to make payments to a hospital that obtains 6 percent or more of its operating funds from contributions and that limits the care it provides to the treatment of heart and lung conditions: *Provided,* That payment may not be denied for a claim for otherwise reimbursable services submitted under a plan contracted for under section 1079(a) and 1086(a) of title 10, United States Code, solely on the basis that such hospital does not impose a legal obligation, including a patient cost share or deductible, on its patients to pay for such services.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 239 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 8116. During the current fiscal year, the Secretary of Defense may exempt a patient from paying an amount required by section 1079(b)(1) or 1086(b)(3) of title 10, United States Code, if the hospital to which the patient is admitted does not impose a legal obligation on any of its patients to pay for inpatient care: *Provided,* That the Secretary of Defense may, upon request, make payments under section 1079 or 1086 of title 10, United States Code, for a charge for services (which shall not exceed the average amount paid for comparable services in the geographic area in which the hospital is located, or if no comparable services are available in that area, in an area similar to the area in which the hospital is located) for which a claim is submitted under a plan contracted for under section 1079(a) or 1086(a) of title 10, United States Code, to a hospital that does not impose a legal obligation on any of its patients to pay for such services: *Provided further,* That the Secretary of Defense shall periodically review the billing practices of each hospital the Secretary approves for payment under this section, to ensure that the hospital's practice of not billing patients for payment does not result in increased costs to the Government and the Secretary may require each hospital approved for payment under this section to provide evidence that it has sources of revenue to cover un-billed costs.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 240: Page 84, after line 19, insert:

SEC. 8104. None of the funds appropriated by this or any other Act with respect to any fiscal year for the Navy may be used to carry out an electromagnetic pulse program in the Chesapeake Bay area in connection with the Electromagnetic Pulse Radiation Environment Simulator for Ships (EMPRESS) program unless or until the Secretary of Defense certifies to the Congress that conduct of the EMPRESS program is essential to the national security of the United States and to achieving requisite military capability for United States naval vessels, and that the economic, environmental, and social costs to the United States of conducting the EMPRESS program in the Chesapeake Bay area are far less than the economic, environmental, and social costs caused by conducting the EMPRESS program elsewhere.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 240 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert "8117".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 241: Page 84, after line 19, insert:

SEC. 8105. Funds provided by this Act for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) may be used by the Office of CHAMPUS to conduct a pilot to provide program modifications and efficiencies by amending up to two existing fiscal intermediary contracts: *Provided,* That the Secretary of Defense conducts a separate health care demonstration project, if it is in the best interests of the Governments, in the New Orleans, Louisiana area (the area described in Solicitation Number MDA903-87-R-0047) that uses a managed health care network, including health care enrollment (as provided for in section 1099, title 10, United States Code): *Provided further,* That the Secretary shall implement this demonstration project no later than September 30, 1988.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 241 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 8118. Funds provided by this Act for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) may be used by the Office of CHAMPUS to conduct a pilot project to provide program modification and efficiencies by amending up to two existing fiscal intermediary contracts: *Provided,* That the Secretary of Defense conducts a separate health care demonstration project, if it is in the best interests of the Government, in the New Orleans, Louisiana area (the area described in Solicitation Number MDA 903-87-R-0047) that uses a managed health care network, including health care enrollment (as provided for in section 1099, title 10, United States Code): *Provided further,* That the Secretary shall implement this demonstration project no later than September 30, 1989.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

□ 1145

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 242: Page 84, after line 19, insert:

SEC. 8106. Notwithstandiang section 213(b) of the Joint Chiefs of Staff Reorganization Act of 1985 or any other provision of law, none of the funds in this or any other Act may be used to alter the command structure for military forces in Alaska.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 242 and concur therein with an amendment, as follows: In lieu of section number 8106 named in said amendment, insert "8119".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 243: Page 84, after line 19, insert:

SEC. 8107. Notwithstanding any other provision of law, each contract awarded by the Department of Defense in fiscal year 1989 for construction or service performed in whole or in part in a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: *Provided,* That the Secretary of Defense may waive the requirements of this section in the interest of national security.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 243 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert "8120".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 244: Page 84, after line 19, insert:

SEC. 8108. No more than $182,402,000 of the funds appropriated by this Act shall be available for the payment of unemployment compensation benefits.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 244 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 8121. No more than $183,179,000 of the funds appropriated by this Act shall be available for the payment of unemployment compensation benefits.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 245: Page 84, after line 19, insert:

SEC. 8109. None of the funds appropriated by this Act shall be used for the support of any nonappropriated fund activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcohol beverages sold by the drink) on a military installation located in the United States, unless such malt beverages and wine are procured in that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: *Provided*, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: *Provided further*, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages for military installations in States which are not contiguous with another State: *Provided further*, That alcohol beverages other than wine and malt beverages in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 245 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert "8122".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 247: Page 84, after line 19, insert:

SEC. 8111. Whereas the Congress supports the President's goal of reducing United States and Soviet conventional forces in Europe and reducing United States and Soviet strategic nuclear forces;

Whereas it is important the Congress and the President be in agreement on United States national security goals and objectives in order for the United States to be in the strongest possible position to negotiate with the Soviet Union future reductions in conventional and strategic nuclear forces;

Whereas the Congress strongly opposes the undercutting of these arms reduction negotiations by either the United States or the Soviet Union through unnecessary military initiatives or counter-productive arms control proposals;

Whereas no decision has been made on the development or deployment of strategic defenses:

Therefore, it is the sense of the Congress that—

(1) in order to maintain the basis for strong deterrence, the Strategic Defense Initiative (SDI) should be a long-term and robust research program to provide the United States with expanded options for responding to a Soviet breakout from the 1972 Anti-Ballistic Missile Treaty and to respond to other future Soviet arms initiatives that might pose a grave threat to United States national security;

(2) by expanding potential United States strategic options the SDI research program can enhance United States leverage in the United States-Soviet arms reduction negotiations and serve as a safeguard for ensuring that negotiated agreements are kept;

(3) further research plans and budgets for SDI must be established using realistic projections of available resources in the overall defense budget and must not undercut other important Department of Defense programs; and

(4) in matching research priorities against available resources, the primary emphasis of SDI should be to explore promising new technologies, such as directed energy technologies, which might have long-term potential to defend against a responsive Soviet offensive nuclear threat.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the house recede from its disagreement to the amendment of the Senate numbered 247 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert "8123".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 248: Page 84, after line 19, insert:

SEC. 8112. (a) If a reduction in variable housing allowance (VHA) rates was required subsequent to January 1, 1988, to comply with section 8047 of the Department of Defense Appropriations Act, 1988, a member of the uniformed services who received reduced rates and who, on the effective date of this Act, is still a member of the uniformed services, shall be paid the difference between the VHA rate as reduced subsequent to January 1, 1988, and the VHA rate to which the member would have been entitled under the rates established on January 1, 1988: *Provided*, That such payments shall be made from appropriations provided by this Act.

(b) None of the funds appropriated by this or any other Act for fiscal year 1989 shall be available to pay the variable housing allowance authorized members of the uniformed services under section 403a of title 37, United States Code, and the payments authorized by subsection (a) of this section, in a total amount in excess of $1,150,000,000: *Provided*, That any reduction in the rates of the variable housing allowance necessitated by the foregoing limitation shall be made as provided in section 403a of title 37, United States Code.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 248 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 8124. (a) If a reduction in variable housing allowance (VHA) rates was required subsequent to January 1, 1988, to comply with section 8047 of the Department of Defense Appropriations Act, 1988, a member of the uniformed services who received reduced rates and who, on the effective date of this Act, is still a member of the uniformed services, shall be paid the difference between the VHA rate as reduced subsequent to January 1, 1988, and the VHA rate to which the member would have been entitled under the rates established on January 1, 1988: *Provided*, That such payments shall be made from appropriations provided by this Act.

(b) None of the funds appropriated to the Department of Defense by this or any other Act for fiscal year 1989 shall be available to pay the variable housing allowance authorized members of the uniformed services under section 403a of title 37, United States Code, and the payments authorized by subsection (a) of this section in a total amount in excess of $1,220,000,000: *Provided*, That any reduction in the rates of the variable housing allowance necessitated by the foregoing limitation shall be made as provided in section 403a of title 37, United States Code.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The test of the amendment is as follows:

Senate amendment No. 249: Page 84, after line 19, insert:

SEC. 8113. (a)(1) Not later than March 1, 1989, the United States Military Representative to the Military Committee of the North Atlantic Treaty Organization (NATO) shall submit to Congress a report on the assignment of military missions among the member countries of NATO and on the prospects for the more effective assignment of such missions among such countries.

(2) The report shall include a discussion of the following:

(A) The current assignment of military missions among the member countries of NATO.

(B) Military missions for which there is duplication of capability or for which there is inadequate capability within the current assignment of military missions within NATO.

(C) Alternatives to the current assignment of military missions that would maximize the military contributions of the member countries of NATO.

(D) Any efforts that are underway within NATO or between individual member countries of NATO at the time the report is submitted that are intended to result in a more effective assignment of military missions within NATO.

(3) The United States Military Representative to the NATO Military Committee shall consult with the other members of the Military Committee in preparing the report.

(b) The Secretary of Defense and the Secretary of State shall (1) conduct a review of the long-term strategic interests of the United States overseas and the future requirements for the assignment of members of the Armed Forces of the United States to permanent duty ashore outside the United States, and (2) determine specific actions that, if taken, would result in a more balanced sharing of defense and foreign assistance spending burdens by the United States and its allies. Not later than August 1, 1989, the secretary of Defense and the Secretary of State shall transmit to Congress a report containing the findings resulting from the review and their determinations.

(c) The President shall appoint a special representative who shall have the primary responsibility for conducting burdensharing negotiations directly with other members of the North Atlantic Treaty Organization, Japan, the Republic of Korea, and other countries allied to the United States by treaty. The objective of such negotiations shall be to secure increased defense spending by such countries, increased in-kind and financial support by such countries for Department of Defense military units and personnel assigned to permanent duty ashore outside the United States in support of the security of such countries, and a more balanced sharing of foreign assistance costs.

(d) The President shall specify (separately by appropriation account) in the Department of Defense items included in the budgets submitted to Congress under section 1105 of title 31, United States Code, for fiscal years after fiscal year 1989 the amounts necessary for payment of all personnel, operations, maintenance, facilities, and support costs for Department of Defense overseas military units, and the costs for all dependents who accompany Department of Defense personnel outside the United States.

(e) Not later than May 1, 1989, the Secretary shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report that sets forth the total costs required to support the dependents who accompany Department of Defense personnel assigned to permanent duty overseas.

(f) As of September 30 of each fiscal year after fiscal year 1989, the number of members of the Armed Forces on active duty assigned to permanent duty ashore in Japan and the Republic of Korea may not exceed 94,450 (the number of members of the Armed Forces on active duty assigned to permanent duty ashore in Japan and the Republic of Korea on September 30, 1987). The limitation provided for in the preceding sentence may be increased if and when a major reduction of United States forces in the Republic of the Philippines is required because of a loss of basing rights in that nation, and the President determines and certifies to Congress that, as a consequence of such loss, an increase in United States forces stationed in Japan and the Republic of Korea is necessary.

(g)(1) After fiscal year 1989, that portion of the costs incurred for Department of Defense personnel and units in permanent duty stations ashore outside the United States which exceeds the amount of such costs incurred in fiscal year 1989 shall be defrayed only out of (A) increased financial or in-kind contributions made by the allied countries in which such personnel are assigned by mutual defense alliance organizations supported by the deployment of such personnel outside the United States, or (B) amounts appropriated or otherwise available to or for the use of the Department of Defense for personnel and units in permanent duty stations ashore outside the United States. The Secretary of Defense may not defray such excess cost by reducing the amounts allocated for the support of Department of Defense personnel and units afloat or assigned to permanent duty stations in the United States.

(2) In computing the amount of the excess of the costs incurred for maintaining Department of Defense personnel and forces in permanent duty stations ashore outside the United States over the amount of such costs incurred in fiscal year 1989, the Secretary shall—

(A) exclude increased costs resulting from increases in the rates of pay provided for members of the Armed Forces and civilian employees of the United States Government and exclude any cost increases in supplies and services resulting from inflation; and

(B) include (i) the costs of operation and maintenance and of facilities for the support of Department of Defense overseas personnel, and (ii) increased costs resulting from any decline in the foreign exchange rate of the United States dollar.

(h) The provisions of subsections (f) and (g) shall not apply in time of war or during a national emergency declared by the President or Congress.

(i) In this section—

(1) the term "personnel" means members of the Armed Forces of the United States and civilian employees of the Department of Defense;

(2) the term "Department of Defense overseas personnel" means those Department of Defense personnel who are assigned to permanent duty ashore outside the United States; and

(3) the term "United States" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possession of the United States.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 249 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 8125. (a)(1) Not later than March 1, 1989, the Secretary of Defense shall submit to Congress a report on the assignment of military missions among the member countries of North Atlantic Treaty Organization (NATO) and on the prospects for the more effective assignment of such missions among such countries.

(2) The report shall include a discussion of the following:

(A) The current assignment of military missions among the member countries of NATO.

(B) Military missions for which there is duplication of capability or for which there is inadequate capability within the current assignment of military missions within NATO.

(C) Alternatives to the current assignment of military missions that would maximize the military contributions of the member countries of NATO.

(D) Any efforts that are underway within NATO or between individual member countries of NATO at the time the report is submitted that are intended to result in a more effective assignment of military missions within NATO.

(b) The Secretary of Defense and the Secretary of State shall (1) conduct a review of the long-term strategic interests of the United States overseas and the future requirements for the assignment of members of the Armed Forces of the United States to permanent duty ashore outside the United States, and (2) determine specific actions that, if taken, would result in a more balanced sharing of defense and foreign assistance spending burdens by the United States and its allies. Not later than August 1, 1989, the Secretary of Defense and the Secretary of State shall transmit to Congress a report containing the findings resulting from the review and their determinations.

(c) The President shall appoint an Ambassador at Large responsible to the President who shall have the responsibility for ensuring a more balanced sharing of defense costs by the NATO members, Japan, the Republic of Korea, and other countries allied to the United States. Such responsibilities shall include negotiations for burdensharing including increased in-kind and financial support by such countries for Department of Defense military units and personnel assigned to permanent duty ashore outside the United States in support of the security of such countries, and multi-lateral foreign assistance costs: *Provided*, That the Ambassador at Large should review (1) trade restrictions that require German utilities to purchase German-produced coal to the exclusion of foreign coal, including United States coal, and (2) the extent to which the tax on electricity used to subsidize German coal producers is borne by American military installations, American military dependents, or American civilians who support our military installations. The Ambassador at Large should prepare an economic analysis on the comparison of using German versus United States coal at defense facilities in Europe. This analysis should address the issues of all direct subsidies provided on German coal and restrictions imposed on imported coal and should be submitted to the Departments of Defense, State, and Commerce for use in their study on the economic benefits of using coal at defense facilities in Europe.

(d) The President shall specify (separately by appropriation account) in the Department of Defense items included in the budgets submitted to Congress under section 1105 of title 31, United States Code, for fiscal years after fiscal year 1989 the amounts necessary for payment of all personnel, operations, maintenance, facilities, and support costs for Department of Defense overseas military units, and the costs for all dependents who accompany Department of Defense personnel outside the United States.

(e) Not later than May 1, 1989, the Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report that sets forth the total costs required to support the dependents who accompany Department of Defense personnel assigned to permanent duty overseas.

(f) As of September 30 of each fiscal year after fiscal year 1989, the number of members of the Armed Forces on active duty assigned to permanent duty ashore in Japan and the Republic of Korea may not exceed 94,450 (the number of members of the Armed Forces on active duty assigned to permanent duty ashore in Japan and the Republic of Korea on September 30, 1987). The limitation provided for the preceding sentence may be increased if and when a major reduction of United States forces in the Republic of the Philippines is required because of a loss of basing rights in that nation, and the President determines and certifies to Congress that, as a consequence of such loss, an increase in United States forces stationed in Japan and the Republic of Korea is necessary.

(g)(1) After fiscal year 1990, Department of Defense budget submissions to Congress under section 1105 of title 31, United States Code, shall identify funds requested for Department of Defense personnel and units in permanent duty stations ashore outside the United States that exceed the amount of such costs incurred in fiscal year 1989, and shall detail: (A) a description of the types of expenditures increased, by appropriation account, activity and program; and (B) specific efforts to obtain allied host nations' financing for these cost increases.

(2) The Secretary of Defense shall notify in advance the Committees on Appropriations and Armed Services of the House and Senate through existing notification procedures, when costs of maintaining Department of Defense personnel and units in permanent duty stations ashore will exceed the amounts as defined in the Department of Defense budget as enacted for that fiscal year. Such notification shall describe: (A) the type of expenditures that increased; and (B) the source of funds (including prior year unobligated balances) by appropriation account, activity and program, proposed to finance these costs.

(3) In computing the costs incurred for maintaining Department of Defense personnel and forces in permanent duty stations ashore outside the United States compared with the amount of such costs incurred in fiscal year 1989, the Secretary shall—

(A) exclude increased costs resulting from increases in the rates of pay provided for members of the Armed Forces and civilian employees of the United States Government and exclude any cost increases in supplies and services resulting from inflation; and

(B) include (i) the costs of operation and maintenance and of facilities for the support of Department of Defense overseas personnel, and (ii) increased costs resulting from any decline in the foreign exchange rate of the United States dollar.

(h) The provisions of subsections (f) and (g) shall not apply in time of war or during a national emergency declared by the President or Congress.

(i) In this section—

(1) the term "personnel" means members of the Armed Forces of the United States and civilian employees of the Department of Defense;

(2) the term "Department of Defense overseas personnel" means those Department of Defense personnel who are assigned to permanent duty ashore outside the United States; and

(3) the term "United States" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 250: Page 84, after line 19, insert:

SEC. 8114. The Secretary of Defense shall take such action as may be necessary to implement at the earliest practicable date and with funds provided for such purpose under the heading "Army Stock Funds" in title V of this Act, the program proposed by the Department of Defense in a letter dated August 30, 1985, from the Assistant Secretary of Defense for Acquisition and Logistics to rehabilitate and convert current steam generating plants at defense facilities in order to achieve a coal consumption target of 1,600,000 short tons of coal per year (including at least 300,000 short tons of anthracite coal) above current consumption levels at Department of Defense facilities in the United States by fiscal year 1994: *Provided*, That such action shall be subject to use of only the most cost-effective fuel system in the construction of new plants or the conversion of existing plants: *Provided further*, That the requirement to purchase 300,000 short tons of anthracite coal expressed in the Department of Defense Appropriations Act, 1988, section 8113, must be complied with: *Provided further*, That, if the Department does not execute contracts to purchase the anthracite coal mandated in the fiscal year 1988 Defense Appropriations Act by September 30, 1988, it shall use such funds as are necessary from appropriations made available in this Act to complete this purchase.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 250 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 8126. The Secretary of Defense shall take such action as may be necessary to implement at the earliest practicable date and with funds provided for such purpose under the heading "Army Stock Fund" in title V of this Act, the program proposed by the Department of Defense in a letter, dated August 30, 1985, from the Assistant Secretary of Defense for Acquisition and Logistics to rehabilitate and convert current steam generating plants at defense facilities in order to achieve a coal consumption target of 1,600,000 short tons of coal per year (including at least 300,000 short tons of anthracite coal) above current consumption levels at Department of Defense facilities in the United States by fiscal year 1994: *Provided*, That such action shall be subject to use of only the most cost-effective fuel system in the construction of new plants or the conversion of existing plants; however, this cost-effectiveness requirement is not applicable to a comparison between bituminous and anthracite coal: *Provided further*, That the requirement to purchase 300,000 short tons of anthracite coal expressed in the Department of Defense Appropriations Act, 1988, section 8113, must be complied with: *Provided further*, That, if the Department does not execute contracts to purchase the anthracite coal mandated in the fiscal year 1988 Defense Appropriations Act by September 30, 1988, it shall use such funds as are necessary from appropriations made available in this Act to complete this purchase.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 252: Page 84, after line 19, insert:

SEC. 8116. None of the funds appropriated in this Act may be used to carry out the provisions of section 430 of title 37, United States Code.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 252 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 8127. Not more than $3,000,000 of the funds appropriated in this Act may be used to carry out the provisions of section 430 of title 37, United States Code.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 253: Page 84, after line 19, insert:

(TRANSFER OF FUNDS)

SEC. 8117. Of the funds made available by this Act to the Department of the Army, $5,500,000 shall be transferred to the Bureau of Land Management for the relocation of the smokejumper facility at Ft. Wainwright, Alaska: *Provided*, That such sum shall remain available until expended.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 253 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert "8128".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 254: Page 84, after line 19, insert:

(TRANSFER OF FUNDS)

SEC. 8118. Upon enactment of this Act, the Secretary of Defense shall make the following transfer of funds: *Provided*, That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, but shall be available only for the time period of the appropriation from which transferred: *Provided further,* That funds shall be transferred between the following appropriations in the amounts specified:

(1) From:

Under the heading "Shipbuilding and Conversion, Navy, 1985/89":

Trident submarine program, $89,200,000;

T-ACS auxiliary crane ship program, $500,000; and

Outfitting and Post Delivery programs, $7,200,000;

Aircraft Procurement, Navy 1987/89, $28,000,000;

Research Development, Test, and Evaluation, Navy, 1988/89, $40,000,000; and

Research, Development, Test, and Evaluation, Air Force, 1988/89, $31,000,000;

To: Under the heading, "Shipbuilding and Conversion, Navy, 1985/89":

T-AO fleet oiler ship program, $54,400,000;

MCM mine countermeasures ship program, $30,500,000;

DDG-51 guided missile destroyer program, $105,000,000; and

T-AGS ocean survey ship program, $6,000,000;

(2) Under the heading, "Shipbuilding and Conversion, Navy 1986/90":

From: Trident submarine program, $8,900,000;

To: Mine countermeasures ship program, $8,900,000; and

(3) From:

Aircraft Procurement, Army, 1987/89, $14,800,000;

Missile Procurement, Army, 1987/89, $75,200,000;

Weapons and Tracked Combat Vehicles, Army, 1987/89, $51,000,000;

Other Procurement, Army, 1987/89, $79,400,000;

Weapons Procurement, Navy, 1987/89, $145,000,000;

Other Procurement, Navy, 1987/89, $99,900,000;

Aircraft Procurement, Air Force, 1987/89, $110,500,000;

Missile Procurement, Air Force, 1987/89, $119,300,000; and

Other Procurement, Air Force, 1987/89, $39,500,000;

To: Under the heading, "Shipbuilding and Conversion, Navy, 1987/91":

DDG-51 destroyer program, $666,000,000; and

SSN-688 submarine program, $68,600,000.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 254 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

(TRANSFER OF FUNDS)

SEC. 8129. Upon enactment of this Act, the Secretary of Defense shall make the following transfer of funds: *Provided,* That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, but shall be available only for the time period of the appropriation from which transferred: *Provided further,* That funds shall be transferred between the following appropriations in the amounts specified:

(1) From:

Under the heading, "Shipbuilding and Conversion, Navy, 1985/89":

Trident submarine program, $89,200,000;

T-ACS auxiliary crane ship program, $500,000; and

Outfitting and Post Delivery programs, $7,200,000;

Aircraft Procurement, Navy 1987/89, $28,000,000;

Research, Development, Test, and Evaluation, Navy, 1988/89, $40,000,000; and

Research, Development, Test, and Evaluation, Air Force, 1988/89, $31,000,000;

To: Under the heading, "Shipbuilding and Conversion, Navy, 1985/89";

T-A0 fleet oiler ship program, $54,400,000;

MCM mine countermeasures ship program, $30,500,000;

DDG-51 guided missile destroyer program, $105,000,000; and

T-AGS ocean survey ship program, $6,000,000;

(2) Under the heading, "Shipbuilding and Conversion, Navy, 1986/90":

From: TRIDENT ballistic missile submarine program, $8,900,000;

To: Mine countermeasures ship program, $8,900,000; and

(3) From:

Aircraft Procurement, Army, 1987/89, $14,800,000;

Missile Procurement, Army, 1987/89, $75,200,000;

Weapons and Tracked Combat Vehicles, Army, 1987/89, $77,600,000;

Other Procurement, Army, 1987/89, $43,100,000;

Weapons Procurement, Navy, 1987/89, $71,900,000;

Other Procurement, Navy, 1987/89, $99,900,000;

Other Procurement, Navy, 1988/90, $10,000,000;

Coastal Defense Augmentation, 1988, $20,000,000;

Aircraft Procurement, Air Force, 1987/89, $110,500,000;

Missile Procurement, Air Force, 1987/89, $103,000,000;

Other Procurement, Air Force, 1987/89, $32,500,000;

National Guard and Reserve Equipment, 1988/90, $82,300,000;

Research, Development, Test, and Evaluation, Army, 188/89, $10,000,000;

Research, Development, Test, and Evaluation, Air Force, 1988/89, $5,300,000;

To: Under the heading, "Shipbuilding and Conversion, Navy, 1978/91":

DDG-51 destroyer program, $666,000,000;

SSN-688 attack submarine program, $68,600,000;

AO conversion program, $8,000,000;

For craft, outfitting, and post delivery, $13,500,000; and

(4) From: National Guard and Reserve Equipment, 1988/90, $110,700,000;

To: Other Procurement, Navy, 1989/91, $110,700,000.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 256: Page 84, after line 19, insert:

SEC. 8120. In addition to the amounts appropriated or otherwise made available in this Act, $441,000,000 is appropriated for the DDG-51 destroyer program, and in addition $269,000,000 shall be available by transfer for this program from the following appropriations: Aircraft Procurement, Army, 1988/90, $30,000,000; Missile Procurement, Army, 1988/90, $3,800,000; Weapons and Tracked Combat Vehicles, Army, 1988/90, $30,000,000; Shipbuilding and Conversion, Navy, 1988/92, $126,300,000; Other Procurement, Navy, 1988/90, $53,900,000; Missile Procurement, Air Force, 1988/90, $23,000,000; and Other Procurement, Air Force, 1988/90, $2,000,000: *Provided,* That the amounts transferred shall remain available for obligation only for the time period provided when originally appropriated.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 256 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

(INCLUDING TRANSFER OF FUNDS)

SEC. 8130. In addition to the amounts appropriated or otherwise made available in this Act, $438,800,000 is appropriated for the DDG-51 destroyer program, and in addition, $349,200,000 shall be available by transfer for this program from the following appropriations: Aircraft Procurement, Army, 1988/90, $30,000,000; Missile Procurement, Army, 1988/90, $3,800,000; Weapons and Tracked Combat Vehicles, Army, 1988/90, $71,500,000; Aircraft Procurement, Navy, 1988/90, $61,700,000; Shipbuilding and Conversion, Navy, 1988/92, $126,300,000; Other Procurement, Navy, 1988/90, $53,900,000; and Other Procurement, Air Force, 1988/90, $2,000,000: *Provided,* That the amounts transferred shall remain available for obligation only for the time period provided when originally appropriated.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 257: Page 84, after line 19, insert:

SEC. 8121. Of the funds made available in this Act to the Department of the Navy, $6,000,000 shall only be available for dredging and emplacement of a portion of dredge material at the critical zone Sandy Hook, New Jersey.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 257 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

Sec. 8131. (a) Of the funds made available in this Act to the Department of the Navy, $6,000,000 shall only be available for dredging and emplacement of a portion of dredge material at the critical zone Sandy Hook, New Jersey.

(b) Under the heading entitled "Construction, general", in the Energy and Water Development Appropriations Act of 1988, title I (Public Law 100-202; 101 Stat. 1329, 1329-108), amend the paragraph that begins "The Secretary of the Army" and deals with Saxon Harbor, Wisconsin, by deleting the words "wood cribs as".

(c) Section 628 of "An Act Making Appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President and Certain Independent Agencies, for the Fiscal Year ending September 30, 1989, and for Other Purposes," is hereby amended to add the following at the end thereof:

"(c) This Section shall be effective on January 16, 1989."

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. Chappell].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 258: Page 84, after line 19, insert:

Sec. 8122. None of the funds authorized and appropriated may be administratively withheld from obligation unless in compliance with Section 1012 of the Congressional Budget and Impoundment Control Act of 1974, as amended in Public Law 99-177: *Provided*, That the Secretary shall provide a report to Committees on Appropriations and Armed Services within 45 days after enactment of this Act which presents a plan for orderly obligation of funds, projects a quarterly expenditure rate for all funds available, and presents a rationale for any delayed obligations relative to the budget plan or intent expressed in the applicable joint explanatory statements of managers.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. Chappell moves that the House recede from its disagreement to the amendment of the Senate numbered 258 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

Sec. 8132. In applying any rule of statutory construction, the provisions of Titles I through IX of this Act shall be deemed to have been enacted after the provisions of the Department of Defense Authorization Act, Fiscal Year 1989 as set forth in Title X of this Act or as set forth in H.R. 4481 (regardless of the actual dates of enactment concerned).

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. Chappell].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 259: Page 84, after line 19, insert:

Sec. 8123. The Secretary of Defense shall take such action as necessary to assure that a minimum of 50 percent of the polyacrylonitrile (PAN) carbon fiber requirement be procured from domestic sources by 1992: *Provided*, That the annual goals to achieve this requirement be as follows: 15 percent of the total DOD requirement by 1988; 15 percent of total DOD requirement by 1989; 20 percent of the total DOD requirement by 1990; 25 percent of the total DOD requirement by 1991; and 50 percent of the total DOD requirement by 1992.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. Chappell moves that the House recede from its disagreement to the amendment of the Senate numbered 259 and concur therein with an amendment, as follows: In lieu of the section number in said amendment, insert: "8133".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. Chappell].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 260: Page 84, after line 19, insert:

Sec. 8124. The total amount appropriated to or for the use of the Department of Defense by this Act is reduced by $30,000,000. The Secretary of Defense shall allocate the amount of the reduction made by the preceding sentence in the procurement and research, development, test, and evaluation accounts of the Army, Navy, Air Force, Marine Corps, and Defense Agencies as the Secretary determines appropriate to reflect savings resulting from increased use of discount air fares that (1) are granted by commercial air carriers for travel of Federal Government employees on official Government business under agreements entered into between the Administrator of General Services and such carriers, and (2) are available to contractor personnel traveling in connection with the performance of cost-reimbursable contracts awarded by the Department of Defense.

MOTION OFFERED BY THE MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. Chappell moves that the House recede from its disagreement to the amendment of the Senate numbered 260 and concur therein with an agreement, as follows: In lieu of the section number named in said amendment, insert "8134".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. Chappell].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 261: Page 84, after line 19, insert:

Sec. 8125. None of the funds appropriated by this Act may be obligated for an Air Force training system aircraft for tanker and transport pilot training unless the requirements for bomber pilot training are also met by the aircraft selected.

MOTION OFFERED BY MR. CHAPPEL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. Chappell moves that the House recede from its disagreement to the amendment of the Senate numbered 261 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

Sec. 8135. None of the funds made available to the Department of Defense in this Act may be used to plan, design, or procure more than one type of Air Force trainer aircraft.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. Chappell].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 263: Page 84, after line 19, insert:

Sec. 8127. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. Chappell moves that the House recede from its disagreement to the amendment of the Senate numbered 263 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert: "8136".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. Chappell].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 264: Page 84, after line 19, insert:

SEC. 8128. (a) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and professional services; special studies and analyses; technical assistance; and management review of program funded organizations; in excess of an amount equal to 85 percent of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(b) The Director of the Office of Management and Budget shall take such action as may be necessary, through budget instructions or otherwise, to direct each department, agency, and instrumentality of the United States to comply with the provisions of section 1114 of title 31, United States Code.

(c) Notwithstanding any other provision of this Act, the aggregate amount of funds appropriated by this Act to any such department, agency, or instrumentality for fiscal year 1989 is reduced by an amount equal to 15 percent of the amount expended by such department, agency, or instrumentality during fiscal year 1987 for purposes described under subsection (a).

(d) As used in this section, the term "consulting services" includes any service within the definition of "Advisory and Assistance Services" in Office of Management and Budget Circular A-120, dated January 4, 1988.

(e) Funds reduced from appropriations contained in this Act pursuant to this provision shall be available only for costs associated with the January 1, 1989, civilian pay raise of Department of Defense civilian employees: *Provided*, That such funds shall be allocated on a pro rata basis to the Defense Agencies and the Military Departments and shall be transferred to the appropriate applicable appropriations for such pay raise costs to be available for the same time period as the appropriation to which transferred: *Provided further*, That the authority to transfer funds under this section shall be in addition to any other transfer authority contained in this Act.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 264 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 8137. The total amount appropriated to or for the use of the Department of Defense by this Act is reduced by $150,000,000 to reflect savings resulting from the decreased use of consulting services by the Department of Defense. The Secretary of Defense shall allocate the amount reduced in the preceding sentence and not later than March 1, 1989, report to the Senate and House Committees on Appropriations how this reduction was allocated among the Services and Defense Agencies.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 269: Page 84, after line 19, insert:

SEC. 8133. Of the funds appropriated, reimbursable expenses incurred by the Department of Defense on behalf of the Soviet Union in monitoring United States implementation of the Treaty Between the United States of America and the Union of Soviet Republics on the elimination of their Intermediate-Range or Shorter-Range Missiles ("INF Treaty"), concluded December 8, 1987, may be treated as orders received and obligation authority for the applicable appropriation, account, or fund increased accordingly. Likewise, any reimbursements received for such costs may be credited to the same appropriation, account, or fund to which the expenses were charged: *Provided*, That reimbursements which are not received within one hundred eighty days after submission of an appropriate request for payment shall be subject to interest at the current rate established pursuant to section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (59 Stat. 526). Interest shall begin to accrue on the one hundred eighty-first day following submission of an appropriate request for payment.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 269 and concur therein with an amendment, as follows: In lieu of section number 8133 named in said amendment, insert "8138".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 270: Page 84, after line 19, insert:

SEC. 8134. Section 3554 of title 31, United States Code, is amended—

(1) in subsection (a)(1), by striking out "unless the Comptroller General determines and states in writing the reasons that the specific circumstances of the protest require a longer period";

(2) in subsection (c)—

(A) by striking out "may declare an appropriate interested party to be entitled to the costs of—" in paragraph (1) and inserting in lieu thereof "may recommend to the Federal agency issuing the solicitation, proposing the contract award, or awarding the contract, as the case may be, that such agency pay to the appropriate interested party reimbursement for the costs of—"; and

(B) by striking out "Monetary awards to which a party is declared to be entitled under paragraph (1) of this subsection shall be paid promptly" in paragraph (2) and inserting in lieu thereof "A payment of costs recommended by the Comptroller General under paragraph (1) of this subsection may be paid"; and

(3) in subsection (e)(1), by striking out "those recommendations within 60 days of the receipt of the Comptroller General's recommendations under subsection (b) of this section." And inserting in lieu thereof "the recommendations of the Comptroller General under subsection (b) or (c) of this section within 60 days after the head of such procuring activity receives those recommendations.".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 270 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 8139. Section 3554 of title 31, United States Code, is amended in subsection (a)(1), by striking out "unless the Comptroller General determines and states in writing the reasons that the specific circumstances of the protest require a longer period".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 271: Page 84, after line 19, insert:

SEC. 8135. Section 2345 of the Military Construction Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1230), is amended to read as follows:

"SEC. 2345. USE OF SEWAGE FACILITIES AT FORT CHAFFEE, ARKANSAS.

"(a) IN GENERAL.—The Secretary of the Army shall permit the City of Barling, Arkansas, to use the sewage treatment facilities at Fort Chaffee under an agreement that would require the city to pay a reasonable cost for the use of such facilities and to pay any reasonable costs incurred by the Army in increasing the capacity of the sewage treatment facilities at Fort Chaffee in order to accommodate the use of such facilities by the city. An agreement entered into under this section shall be for such period, not less than 20 years, as may be agreed upon by the Secretary and the city.

"(b) REQUIREMENT FOR COMPLETION OF ALL ASSESSMENTS, STUDIES, AND REPORTS.—(1) The Secretary of the Army shall complete all necessary environmental assessments, studies, and reports and all baseline studies that may be required in connection with the increased use and expansion of the sewage treatment facilities at Fort Chaffee as a result of the enactment of this section not later than 120 days after the date of the enactment of this Act.

"(2) The city shall be required to reimburse the United States for all costs incurred by the Secretary in carrying out such assessments, studies, and reports. Such costs shall be amortized over the period of the agreement entered into by the Secretary and the city pursuant to subsection (a).

"(c) DEADLINE FOR AGREEMENT.—The Secretary shall enter into negotiations with the City of Barling at the earliest practicable date after the date of the enactment of this Act regarding the use of the sewage treatment facilities at Fort Chafee and shall make every effort to conclude negotiations and sign an agreement with the city not later than 150 days after the date of the enactment of this Act.

"(d) ADDITIONAL TERMS AND CONDITIONS.—Any agreement entered into under this section shall be subject to such other terms and conditions as the Secretary of the Army determines necessary or appropriate to protect the interests of the United States.".

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 271 and concur therein with an amendment, as follows: In lieu of section number 8135 named in said amendment, insert "8140".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 272: Page 84, after line 19, insert:

SEC. 8136. (a)(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2397c the following new section:

"§ 2397d. Registration of consultants

"(a)(1) An agency may not award a contract for the procurement of advisory and assistance services to a consultant unless—

"(A) such consultant complies with the registration requirements of this section; and

"(B) the contracting officer responsible for such contract has reviewed the information provided by such consultant in its registration and such other information as may be available to the contracting officer and determined, with the approval of his supervisor, that, with respect to such contract, the consultant does not have a conflict of interest that could be prejudicial to the interests of the United States.

"(2) An agency may not award a contract to any person submitting a bid or proposal to such agency unless such person certifies that, to the best of such person's knowledge and belief, each consultant that has furnished advice, information, direction, or assistance to such person in support of the preparation or submission of the bid or proposal has complied with the registration requirements of this section.

"(b)(1) A consultant submitting a bid or proposal for a contract referred to in subsection (a)(1) shall, within such time after submitting the bid or proposal as the Secretary of Defense shall prescribe in regulations, register with the Office of Standards of Conduct of the Department of Defense and provide a copy of such registration to the contracting officer responsible for such contract.

"(2) A consultant retained by a person in connection with the preparation or submission of a bid or proposal for a Department of Defense contract shall register with the Office of Standards of Conduct of the Department of Defense within such time after the retention of such consultant as the Secretary of Defense shall prescribe in regulations.

"(3) A consultant who is registered with the Office of Standards of Conduct under this subsection with respect to one contract, bid, or proposal shall update the registered information whenever the consultant submits a bid or proposal for another Department of defense contract (if such contract is for the procurement of advisory and assistance services) and whenever the consultant is retained by a person in connection with the preparation or submission of a bid or proposal for another Department of Defense contract. The consultant shall update such information within such time as the Secretary of Defense shall prescribe in regulations.

"(c) A person registering as a consultant under this section shall include in its registration the following information:

"(1) The name and address of the consultant.

"(2) A description of the nature of the services furnished by the consultant in the normal course of the consultant's business and a description of the nature of the clients (public and private, foreign and domestic) for which the consultant has furnished such services.

"(3) A list of all clients for which the consultant has furnished related advisory and assistance services within three years before the date of the registration and a description of the related advisory and assistance services furnished each such client by the consultant.

"(4) A statement of whether the consultant has ever been convicted of a felony and whether, at the time of the registration, there is pending any indictment or information charging the consultant with a felony.

"(5) A statement of whether, at the time of the registration, the consultant is ineligible, by reason of suspension or debarment, to be awarded a contract by the Federal Government.

"(6) A certification that, to the best of the consultant's knowledge and belief at the time of the registration, such consultant and all employees of the consultant are not in violation of any applicable requirement set out in, and are not engaged in any conduct prohibited by, sections 2397, 2397a, 2397b, and 2397c of this title and any contract term required by such section 2397c.

"(d) The Inspector General of the Department of Defense shall monitor the compliance of consultants with the registration requirements of this section and shall submit to the Committees on Armed Services of the Senate and the House of Representatives an annual report containing a discussion of the extent of such compliance.

"(e) Each consultant who intentionally fails to comply with the registration requirements of this section shall be subject to suspension and debarment proceedings.

"(f) This section shall not apply to a contract for advisory and assistance services which, as determined by the Secretary of Defense, involves—

"(1) sensitive foreign intelligence or foreign counterintelligence activities; or

"(2) sensitive law enforcement investigations.

"(g) In this section:

"(1) The term 'agency' means those agencies listed in paragraphs (1), (2), (3), and (4) of section 2303(a) of this title.

"(2) The term 'consultant' means any person (including, in the case of a business organization, any affiliate of such organization) that—

"(A) furnishes or offers to furnish advisory and assistance services; or

"(B) pursuant to a contract, furnishes advice, information, direction, or assistance to any other person in support of the preparation or submission of a bid or proposal for a Department of Defense contract by such other person.

"(3)(A) The term 'advisory and assistance services' means those services acquired by an agency from any nongovernmental source, by contract, to support or improve agency policy development, decisionmaking, management, and administration, or to support or improve the operation of management systems.

"(B) Such term includes—

"(i) management and professional services;

"(ii) the conduct and preparation of studies, analyses, and evaluations; and

"(iii) engineering and technical services.

"(4) The term 'management and professional services' means professional services relating to the management and control of programs, including—

(A) management data collection services;

(B) policy review and development services;

(C) program evaluation services;

(D) program management support services;

(E) program review and development services;

(F) systems engineering services; and

(G) other management and professional services of a similar nature which are not related to any specific program.

"(5) The term 'studies, analyses, and evaluations' includes the following:

"(A) Any analysis or other examination of a subject which—

"(i) is undertaken to provide greater understanding of relevant issues and alternatives regarding organizations, policies, procedures, systems, programs, and resources; and

"(ii) leads to conclusions or recommendations with respect to planning, programming, budgeting, decisionmaking, or policy development.

"(B) With respect to a program of an agency, any study initiated by or for the program management office of the agency.

"(C) A cost-benefit analysis, a data analysis (other than a scientific analysis), an economic study or analysis, an environmental assessment or impact study, a legal or litigation study, a legislative study, a regulatory study, a socioeconomic study, and a feasibility study which does not relate to construction.

"(D) A geological study, a natural resource study, a scientific data study, a soil study, a water quality study, a wildlife study, and a general health study.

"(E) Any similar study or analysis.

"(6) The term 'engineering and technical services' means the furnishing of advice, training, or direct assistance to personnel in order to ensure the efficient and effective operation or maintenance of existing platforms, weapon systems, related systems, and associated software by such personnel.

"(7) The term 'related advisory and assistance services' means advisory and assistance services provided to any person or to the Department of Defense regarding a contract, subcontract, or prospective contract or subcontract awarded or to be awarded by the Department of Defense.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2397c the following:

"2397d. Registration of consultants.".

(b) The first report required by section 2397d(d) of title 10, United States Code, as added by subsection (a), shall be submitted not later than one year after the date of the enactment of this Act.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 272 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 8141. (a) Not later than 90 days after the date of enactment of this Act, the Administrator of the Office of Federal Procurement Policy shall issue a policy, and not later than 180 days thereafter government-wide regulations shall be issued under the Office of Federal Procurement Policy Act which set forth:

(1) conflict of interest standards for persons who provide consulting services described in subsection (b); and

(2) procedures, including such registration, certification, and enforcement requirements as may be appropriate, to promote compliance with such standards.

(b) The regulations required by subsection (a) shall apply to the following types of consulting services:

(1) advisory and assistance services provided to the government to the extent necessary to identify and evaluate the potential for conflicts of interest that could be prejudicial to the interests of the United States;

(2) services related to support of the preparation or submission of bids and proposals for federal contracts to the extent that inclusion of such services in such regulations is necessary to identify and evaluate the potential for conflicts of interest that could be prejudicial to the interests of the United States; and

(3) such other services related to federal contracts as may be specified in the regulations prescribed under subsection (a) to the extent necessary to identify and evaluate the potential for conflicts of interest that could be prejudicial to the interests of the United States.

(c) The Comptroller General shall report to Congress not later than one year after the date of enactment of this Act his assessment of the effectiveness of the regulations prescribed under this section.

(d) Intelligence activities as defined in section 3.4(e) of Executive Order 12333 or a comparable definitional section in any successor order may be exempt from the regulations required by subsection (a): *Provided*, That the Director of Central Intelligence shall report to the Intelligence and Appropriations Committees of the Congress no later than January 1, 1990, and annually thereafter delineating those activities and organizations which have been exempted from the regulations required by subsection (a) in accordance with the provisions of this subsection.

(e) The President shall, before issuance of the regulations required by subsection (a), determine if the promulgation of such regulations would have a significantly adverse effect on the accomplishment of the mission of the Department of Defense or other federal government agencies: *Provided*, That if the President determines that the regulations required by subsection (a) would have such an adverse effect, the President shall so report to the appropriate committees of the Senate and the House of Representatives, stating in full the reasons for such a determination: *Provided further*, That in the event of submission of a report to the committees containing an adverse effect determination, the requirement for the regulations prescribed by subsection (a) shall be null and void.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 273: Page 84, after line 19, insert:

SEC. 813. (a) Of the amounts available for the University Research Initiative Program in "Research, Development, Test and Evaluation, Defense Agencies", no more than $12,000,000 shall be available for National Defense Science and Engineering Graduate Fellowships to be awarded on a competitive basis by the Secretary of Defense to United States citizens or nationals pursuing advanced degrees in fields of primary concern and interest to the Department.

(b) Fellowships awarded pursuant to subsection (a) above shall not be restricted on the basis of the geographical locations in the United States of the institutions at which the recipients are pursuing the aforementioned advanced degrees.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 273 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 8142. (a) Of the amounts available to the Department of Defense for fiscal year 1989, not less than $10,000,000 shall be available for National Defense Science and Engineering Graduate Fellowships to be awarded on a competitive basis by the Secretary of Defense to United States citizens or nationals pursuing advanced degrees in fields of primary concern and interest to the Department.

(b) Fellowships awarded pursuant to subsection (a) above shall not be restricted on the basis of the geographical locations in the United States of the institutions at which the recipients are pursuing the aforementioned advanced degrees.

(c) Not less than fifty per centum of the funds necessary to carry out this section shall be derived from the amounts available for the University Research Initiative Program in "Research, Development, Test, and Evaluation, Defense Agencies", and the balance necessary shall be derived from amounts available for Defense Research Sciences under title IV of this Act.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 274: Page 84, after line 19, insert:

SEC. 8138. Of the amounts available for obligation for research, development, test, and evaluation, no more than $2,500,000 shall be made available in equal amounts to the Army and the Air Force for the testing and evaluation of low-profile antenna systems for ground level communications: *Provided*, That whatever total amount made available by this section shall only be available if it is matched on an equal basis by any industrial participant in the testing and evaluation: *Provided further*, That the Secretary of the Army and the Secretary of the Air Force shall report the results of these tests and evaluation to the Committees on Appropriations of the Senate and House of Representatives by June 30, 1989.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CHAPPELL moves that the House recede from its disagreement to the amendment of the Senate numbered 274 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert "8143".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CHAPPELL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 275: Page 84, after line 19, insert:

SEC. 8139. (a) The Congress finds that—

(1) the armed forces of the Soviet Union have waged a brutal war of conquest against the people of Afghanistan for 8 years;

(2) foreign correspondents attempting to cover the war in Afghanistan have always been subject to extreme danger;

(3) the danger to foreign correspondents became even greater in 1984 when the Soviet Ambassador to Pakistan explicitly threatened foreign journalists entering Afghanistan in the company of the Afghan resistance, known as the mujaheddin;

(4) on September 19, 1985, Charles E. Thornton, a medical reporter for the Arizona Republic, was killed by Soviet troops while preparing a story about volunteer doctors in Afghanistan;

(5) on October 9, 1987, Lee Shapiro, of North Bergen, New Jersey, and Jim Lindelof, of California, were ambused and murdered by Soviet troops while filming a documentary on the war in Afghanistan;

(6) the statements of Abdul Malik, the Afghan interpreter and guide who accompanied Lee Shapiro and Jim Lindelof and who witnessed their deaths, demonstrate that the 2 Americans were strafed by helicopter gunships of the Soviet Union and shot by Soviet soldiers who then confiscated their equipment and film; and

(7) Charles E. Thornton, Lee Shapiro, and Jim Lindelof displayed great courage by facing the perils of war and the lethal threat directed against correspondents and ultimately gave their lives to inform the world of the struggle for liberty taking place in Afghanistan.

(b) It is the sense of the Congress that the President should posthumously award the Presidential Medal of Freedom to Charles E. Thornton, Lee Shapiro, and Jim Lindelof in honor of their brave efforts to document the Afghan struggle for freedom.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. Chappell moves that the House recede from its disagreement to the amendment of the Senate numbered 275 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert "8144".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. Chappell].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the final amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 277: Page 84, after line 19, insert:

TITLE X—NATIONAL DEFENSE AUTHORIZATIONS FOR FISCAL YEAR 1989

Sec. 10001. (a) Except as provided in subsection (b), the provisions of S. 2355 of the One Hundredth Congress, as passed by the Senate on May 27, 1988, are incorporated in this Act by reference.

(b) The following sections of S. 2355 of the One Hundredth Congress, as passed by the Senate on May 27, 1988, shall be deemed to have been stricken from S. 2355 before being passed by the Senate:

(1) Section 615, relating to a special annuity for certain surviving spouses.

(2) Sections 2106, 2305, and 2409, relating to extensions of certain prior year authorizations.

MOTION OFFERED BY MR. ASPIN

Mr. ASPIN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Aspin moves that the House recede from its disagreement to the amendment of the Senate numbered 277 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

TITLE X—DEFENSE AUTHORIZATIONS

SEC. 10001. ENACTMENT OF FISCAL YEAR 1989 DEFENSE AUTHORIZATION BILL.

The provisions of the bill H.R. 4481 of the One Hundredth Congress, as contained in the conference report filed in the House of Representatives on September 28, 1988 (House Report 100-989), are hereby enacted into law.

SEC. 10002. TERMINATION OF PROVISIONS UPON ENACTMENT OF AUTHORIZATION BILL.

Section 10001 shall not take effect if the bill H.R. 4481 of the One Hundredth Congress is enacted before this Act. If that bill is enacted after this Act, the provisions of section 10001 shall cease to be effective upon the enactment of that bill.

SEC. 10003. INCREASE IN CERTAIN AUTHORIZATION AMOUNTS.

(a) Procurement.—Title I of the National Defense Authorization Act, Fiscal Year 1989, is amended as follows:

(1) Aircraft procurement, navy.—Section 102(a) is amended by striking out "$9,259,253,000" and inserting in lieu thereof "$9,415,311,000.".

(2) Weapons procurement, navy.—Section 102(b) is amended—

(A) by striking out "$5,972,181,000" in the matter preceding the colon and inserting in lieu thereof "$6,154,032,000";

(B) by striking out "$3,203,737,000" in paragraph (2) and inserting in lieu thereof "$3,245,154,000"; and

(C) in paragraph (3)—

(i) by striking out "$700,054,000" in the matter preceding the colon and inserting in lieu thereof "$840,488,000";

(ii) by striking out "$431,014,000" in the item relating to the MK-48 torpedo program and inserting in lieu thereof "$485,000,000"; and

(iii) by striking out "$17,552,000" in the item relating to the Vertical Launched ASROC torpedo program and inserting in lieu thereof "$105,000,000".

(3) Shipbuilding and conversion, navy.—Section 102(c) is amended—

(A) by striking out "$9,056,100,000" in the matter preceding the colon and inserting in lieu thereof "$10,013,900,000";

(B) by striking out "$2,207,300,000" in the item relating to the DDG-51 program and inserting in lieu thereof "$2,646,100,000";

(C) by striking out "$284,900,000" in the item relating to the TAO-187 fleet oiler program and inserting in lieu thereof "$689,900,000"; and

(D) by striking out "$192,600,000" in the item relating to the landing craft, air cushion program and inserting in lieu thereof "$306,600,000".

(4) Reserve components.—Section 106 is amended—

(A) in the matter relating to the Army National Guard, by striking out "$240,000,000" and inserting in lieu thereof "$256,000,000";

(B) in the matter relating to the Air National Guard, by striking out "$216,500,000" and inserting in lieu thereof "$399,500,000";

(C) in the matter relating to the Naval Reserve, by striking out "$75,000,000" and inserting in lieu thereof "$144,600,000"; and

(D) in the matter relating to the Marine Corps Reserve, by striking out "$50,000,000" and inserting in lieu thereof "$81,800,000".

(b) Special Operations Enhancement.—Part B of title VII is amended by adding at the end of the following new section:

"SEC. 716. SPECIAL OPERATIONS FORCES ENHANCEMENT.

"In addition to the amounts otherwise authorized to be appropriated by this Act, there is hereby authorized to be appropriated to the Department of Defense for fiscal year 1989 the sum of $286,000,000. Amounts appropriated pursuant to the preceding sentence shall be available only for equipping and operating Special Operations Forces.".

Mr. ASPIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore (Mr. Bosco). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. Aspin] is recognized for 30 minutes.

Mr. ASPIN. Mr. Speaker, I yield myself such time as I may consume.

Let me, at the outset of this amendment, say how much I appreciate the cooperation of the gentleman from Florida [Mr. Chappell] in working out the matter that we are dealing with here in this amendment at the end of the long and arduous process, and I want to congratulate the gentleman from Florida for cooperation, integrity and his help in working out this very, very difficult area.

Mr. Speaker, what this amendment does is to amend in effect the authorization bill by adding money, adding authorization to five accounts, thereby making the authorization bill consistent with the appropriations bill that we have here on the floor that we are dealing with today.

The issue is what is the role of the authorizing committees, and what is the role of the appropriating committees in the whole defense process and the process of establishing the defense budget. What we had was an authorization bill which Congress voted on and passed a couple days ago and was just signed into law by the President last night, establishing the defense budget for 1989. The appropriations bill before us exceeded the authorization committee in a couple of accounts. The agreement that we worked out between the authorizing committees and the appropriating committees at the beginning of the year, we established that when that occurred there would be language in the Defense Appropriations Committee that would say that these accounts would be subject to authorization. What we have done now with this amendment that is before us now that I have offered that is before us now is to change the authorizing levels to reflect the new levels that are necessary in these accounts, and at the same time eliminating any kind of language that says "subject to authorization."

The point is, Mr. Speaker, is that the Armed Services Committee, the authorizing committee, needs to have its rights protected in this process, and what we are doing now does protect our rights. We do not need language there that says that we are, that this money is subject to authorization because, in effect, the authorizing committee are hereby concurred with the overall level.

I want to make clear, though, that the fact that this language "subject to authorization" is being dropped from the bill does not affect the fact that there is a firm agreement that any appropriations that are in excess of authorized amounts in defense accounts are required to make subject to authorization. That was our agreement and we are doing this because Mr. CHAPPELL has been so cooperative and because it was important to him that we do it this way, and again I find that the gentleman from Florida [Mr. CHAPPELL], has been very honorable and a high degree of integrity on this issue.

With respect to the line items in the bill [Mr. CHAPPELL] has also been very, very helpful and very good about sharing information with us, but the time constraints of getting the bill to the floor have made it impossible for us to be able to know everything that is in this bill.

To a large degree we have no problem with what has been done but there may be certain legislative items or programs we would like to take issue with. We will look at these items and direct them in another bill next week.

Again I would like to commend the gentleman from Florida for all of his cooperation. We are dealing with a very difficult cooperation. I know several members of his committee were in a position where they did not like what we were doing and we were able to work with them to help work it out and maintain the integrity of the authorization process and at the same time being able to make sure that we were able to pass the appropriation bill in a form in which the gentleman from Florida wanted.

Mr. CHAPPELL. Mr. Speaker, will the gentleman yield to me?

Mr. ASPIN. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. CHAPPELL].

Mr. CHAPPELL. Mr. Speaker, I want to commend the gentleman on his help and assistance in working out a very difficult problem between the authorizers and the appropriators, and I do think we have an atmosphere of good cooperation between our committee. I thank the gentleman for offering this motion which will put in place, in essence, the authorization of the three items which are over at the account level. I hope I understand my good friend, the gentleman from Wisconsin, to say this will close this matter out for this year, although he may offer another bill coming up next week. We will try to work closely with the gentleman in next year's round. I hope we will have a process in place by the time we get into the authorizing procedure next year whereby we will not have the difficulty that we have had this year by having to put in certain items of authorization in the appropriation bill at the request of my good friend and others. Hopefully we can keep working to the point where most of the disagreements which we might have between us may be tested on points of order as we go through the authorizing bill and the appropriations bill.

I thank the gentleman for his cooperation and help.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. McDADE] is recognized for 30 minutes.

Mr. McDADE. Mr. Speaker, I yield 10 minutes to the gentleman from Alabama [Mr. DICKINSON].

Mr. DICKINSON. Mr. Speaker, let me join in the colloquy here and the discussion on the subject in general dealing with unauthorized appropriations which is an annual and continuing problem.

We made progress in the past several years and last year we had an agreement to which the Speaker was a part, and the agreement, as I think has been pointed out, was first that every year we see that the Appropriations Committee on the defense bill comes in and certain areas and certain categories they appropriate more than has been authorized.

Now, it is elementary that initially we had an authorizing committee then Appropriations Committee not that many years ago, that the theory was that we authorize, and that is the ceiling, and then the appropriators come along and, depending on how much money is available, they appropriate according to what we have authorized.

That was in theory the way it works, but sometimes between the time of our authorizing committee and their appropriating, situations change and the facts in the situation change, and they have many, many times appropriated more than has been authorized.

□ 1200

Well, this has been a bone of contention for the last several years. But we worked it out in a very amicable way as far as I am concerned. And I am sure I speak for my chairman, Mr. ASPIN. We have an agreement with Mr. McDADE, Mr. CHAPPELL and before then with Mr. Addabbo and Mr. EDWARDS.

We got along pretty good over here. Last year it was set down in a clear understanding that those overages would be subject to subsequent authorization and that if they did not agree, that the Speaker would not waive points of order and that also we would be allowed to participate, they in our conference and we in their conference to try to work out these differences without having to bring them to the floor.

The problem is that the other body has not been as cooperative with the authorizing process as have our House Members.

There is legislation on an appropriation that should not be there under the House rules. One of the problems is that when our staffs talk back and forth we do not see the provisions early. There has been a rivalry in the past. So in order to obviate the problem there either has been or will be an amendment offered to raise the funding levels to get around how much is left, but recognizing that there are some items in disagreement that reserve the right to address next week when the bill comes up.

But I would just like to say that it is a pleasure, it has been a pleasure—it is a pleasure working with athe chairman and the ranking member on the Committee on Appropriations. If we have a problem, we resolve it. We all understand each other's turf, I think. It is my strong feeling, however, that we need in the future to come together in an informal way and maybe even to formalize it, but to come up with some device or vehicle, a mode of resolving these issues without ever having to bring them to the floor to even discuss them here.

In the main we have this in the House, but the other body, some in the other body feel very strongly the other way, which leads us to the problem we face here today.

Mr. CHAPPELL. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Florida.

Mr. CHAPPELL. I thank the gentleman for yielding.

Mr. Speaker, I hope that the direction in which we are going will lead us to the point where the authorizors can employ more of their time toward the expertise of force levels, weapons systems, and ceiling levels and leave the appropriating committee to lend its best expertise to the handling of money matters, financial scheduling, procurements levels, procurement rates and spending priorities. If we can work more to these points, recognizing that it is the appropriators who are bound by the work of the budget committee and not the authorizors, and give the appropriators a little more latitude in the funding levels, the process would work easier. What I am saying in the final analysis to the House is that this institution can best be served by better use of the unusual expertise which you authorizors have toward developing force levels, selecting weapons systems, and handling the overview necessary to assure the most appropriate level of security for our country and leaving to us the opportunity of working the financial matters, procurement rates, and funding priorities.

I thank the gentleman for his cooperation and for the cooperation from that side.

Mr. DICKINSON. I thank the gentleman for his remarks. I think we in general understand the jurisdiction, the so-called turf of each of the committees, but as I pointed out, there are some things that are legislation on appropriation that should not be there.

We have difficulty in learning these facts ahead of time in order to deal with them in an orderly way. So I simply raise this as a caution flag to say that we have some areas of concern, but to go on record as saying we appreciate the fine cooperation and support that we received from the chairman, the ranking member, and the other members of the Committee on Appropriations.

Hopefully we can come up with some device, scheme, method, form to deal with these things more or less in an institutional manner in the future to obviate what has been a very contentious problem between the House committees. And then in turn the House and the other body. So I thank the gentleman and I thank the gentleman from Pennsylvania for yielding.

Mr. McDADE. Mr. Speaker, I yield 4 minutes to my distinguished colleague, the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. I thank the gentleman for yielding.

Let me say at the outset I understand that the conferencing of the appropriations and the authorizing bills has been a very large task and I certainly do not intend to involve myself in that business. Still at the same time and somewhat cojointly with that work there has been a question of the progress of the base closing legislation which we used last week to move the House authorizing bill and for which I still have great expectations of a conference next week. Furthermore, as we examine the base closing bill that was passed from the House on July 12, there was within that bill a provision to authorize $300 million for the base closing account.

I guess I would just like to feel at this time somewhat assured that the arrangement outlined here does not in any way hamper the ability to move forward with that bill, with that provision in the conference and subsequently on the floor perhaps next week.

So the question is: Is there anything about this arrangement that would interfere with that process?

Mr. ASPIN. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Wisconsin.

Mr. ASPIN. I thank the gentleman for yielding.

No, the gentleman, from our side, clearly nothing we have arranged here will interfere with the concern that the gentleman has to get his base closing bill passed. We, of course, will move when we can now that we have settled the issue, if this settles the authorization-in-an-appropriation process. We need to move to the issue of the base closing. It is certainly my intention to appoint conferees to see whether we can get a base closing bill here before the end of the session which looks like we are not going to have a lot of time. But as the gentleman from Texas knows, it was the unfortunate veto of the President's that puts us into this bind. Had not the President vetoed that very fine authorization bill, the authorization bill that was so carefully crafted.

Mr. ARMEY. If I might reclaim my time, I thank the gentleman for his overly generous explanation.

I conclude then that there is nothing in this arrangement that would interfere with our ability to maintain the base closing account as we had passed it? Thank you.

Mr. ASPIN. Let me get my time, because the gentleman from Texas will not let me fully answer his question. I will say there is nothing in this bill, nothing in this arrangement that will prevent us from getting an authorization—getting the base closing conference report done. If there is any reason why we do not get the conference report on base closing done, it is because we have such a short amount of time in which to do it. I would point out to the gentleman from Texas that the reason we have such a short amount of time to do it is that our time has been distracted trying to put together the authorizing bill and then the appropriating bill and then getting the two of them working together, because they both came to the floor almost at the same time. Had the President signed the authorizing bill as indeed he should have when the bill was presented to him, we would have clearly had plenty of time and we would have by now be doing the base closing bill. As I say, the base closing bill is going to be touch and go but we will do our very best in spite of the roadblocks that the President has put in the way of getting the bill. We will do our very best to get the base closing bill to the floor.

Mr. ARMEY. If I might once again reclaim my time and once again thank the gentleman for his generous explanation. I really do not want to go on but I cannot help but observe that on April 28, when we agreed not to offer base closing as an amendment to the Defense authorization we were assured that base closing would be back by early June and it did not get back until July. So the delays go beyond the President's veto to a great many considerations, all of which are understandable and equally excusable.

I applaud the gentlemen on both committees for the hard work they put in on the appropriations and the authorizing bills. I know it has been a difficult task and I certainly do not want to complicate that.

Let us go on to base closing.

Mr. McDADE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to express my thanks to my colleague from Alabama [Mr. DICKINSON] for the action that we are taking here today. I think it is a constructive one. I do have to, without revisiting the entire issue, indicate that there is a very substantial question involved here.

A few nights ago late in the evening in conference with the Senate, every Member on my side of the aisle, this Member on down, took our names off the conference report because of the insistence on language for subsequent authorization that some people are trying to drive into that conference.

Now the reason for that is because had we not done so it would have made contingent subject to some future action which might or might not have been taken. When one remembers the two and one-half rules or whatever we had out here on the authorization bill, the 5 days or whatever it was of discussion, and 300 or more amendments, and the very tortuous conference that ensued and finally agreed to ultimately was, just a few nights ago, one wonders about another authorization bill.

Has we revisited that process, we would have had on the table about $2 billion, roughly, of money that was a part of the summit agreement and all of it placed in jeopardy.

There was no possible way that we could concur in that kind of a procedure.

So I agree with my friend from Alabama, we have had an excellent relationship on his side of the Capitol, on this side of the aisle. There is no one I get along with better in the Congress than my friend from Alabama and I know as we go down the road in future sessions we will continue that cooperation. We always have.

But we need to understand that a lot of these things are not so easy of resolution as they seem and that there are great stakes on the table when such issues arise.

Mr. Speaker, I reserve the balance of my time.

Mr. ASPIN. Mr. Speaker, I yield myself such time as I may consume.

Let me take just a few more moments of time here to respond to the gentleman from Pennsylvania's [Mr. McDADE] comments.

What we are dealing with here, I would tell the gentleman, and what we have been trying to deal with earlier in the year when the gentleman from Florida and I were trying to work out an accommodation, the question is: What is the role of the authorizing committees? And what is the role of the appropriating committees in this process?

Now there is a disputed area under which the question arises as to whether the authorizing committees and appropriating committees have jurisdiction over the line items.

The gentleman from Florida would contend and I am sure the gentleman from Pennsylvania would contend that we have no business in line items. We would contend that we have some business in line items.

Set that aside. The issue, however, is under the accounts level. The accounts level, nobody questions that in terms of the overall accounts level the authorizing committee sets the level for the accounts level.

So if the account level is aircraft procurement, Navy, and the amount authorized is the amount that is authorized for that account level; so what we were saying is that when we pass an authorization bill, we the authorizers, pass an authorization bill, that establishes the money for the account level for which the appropriators cannot appropriate in excess of that.

Now what the gentleman from Florida pointed out, and I frankly thought he had a good point, is that later in the year updated information may cause the right thing to do to exceed some of those account levels; that it may be that because the appropriations bill comes later that the amount of money that we would want to appropriate for aircraft procurement, Navy, is in excess of the amount that was authorized, and that if we would all agree to that, it will be counterproductive for us to go into a rigid formula because of the legislative situation that we could not do what all of us thought was the right thing to do.

□ 1215

So we agreed that at times on the account level we want to exceed the account levels in the authorizing legislation. The question then is, if we can go by the account levels, then, of course, the authorizing committee loses all control of the process. We have no input in the process if the appropriators can go in and set aside what we have done and appropriate what they want.

So what we agreed to and what we thought would be a good compromise in this thing is to say that the appropriators would try to stay within the account levels but if they exceed the account levels, to the extent they exceeded the account levels they would make those excesses subject to authorization to keep our hand in it.

That is what happened this year. There are over 50 different account levels in the bill. There are thousands of line items, but there are over 50 account levels in the bill, of which a relative handful were when the appropriators wanted to come in and appropriate in excess of the amount in the authorization bill.

So we had no problem. We looked over the list, and we said, "There is no problem with this. All you have to do is make sure those three accounts where you exceed the authorized level are subject to authorization."

Of course, that is what we wanted to have happen, and then we ran into all these problems. We have worked it out this year. We have worked out the compromise. We have changed the authorization bill and drafted the language which the gentleman from Pennsylvania finds offensive, the language which is subject to authorization. But it seems to me the problem is a real one. If the authorizing committees are going to have a role in this process, there is no question that we do have to rely on the law as to line items. Clearly in the law, as to account levels, the language is clear. Unless there is authorization, appropriations cannot exceed those account levels, and we are just trying to work out some process where we all agree we ought to exceed the account levels and keep the hand of the authorizers in the process.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I certainly understand the concern the chairman of the committee has about this issue, and I think everyone has tried to work this out in an amiable way. There has always been a tendency on the part of appropriators not to want to get overly involved in the authorization bill, but there is obviously one other answer to this problem.

I am speaking only for myself here. The answer to the problem is, I believe, where we feel there are going to be account levels that are not going to be sufficient, then obviously we should have an opportunity when the authorization bill is on the floor to try to increase those account levels in the regular process. I just wanted to remind the chairman of the committee that that is not something that has been done in the past, but out of good conscience in the future we may have to do that in order to provide for the national security of our country.

Mr. ASPIN. Mr. Speaker, let me just say to the gentleman from Washington that we welcome that opportunity. We want to have a total and complete exchange of information, and we would like to have the gentleman sit in on our conferences. We would welcome the smiling face of the gentleman from Washington in our conferences. I believe we can give the gentleman all the information he needs. If the gentleman thinks he needs more money in the account level, we would be happy to work with him.

Mr. DICKS. Mr. Speaker, if the gentleman will yield further, it is, for example, just like this year. I cannot recall the exact numbers, but I will have the exact numbers furnished later. We are talking about something like $295 million as a difference in the Guard and Reserve, and if we had not been able to expand that authorization via this amendment, the Guard and Reserve, I think, would have been devastated in this country by the loss of this very important equipment.

Mr. ASPIN. Mr. Chairman, the gentleman must understand that the Armed Services Committee is not about to let that happen. The gentleman who was in the chair just a little while ago—and I refer to the gentleman from Mississippi [Mr. MONTGOMERY], General Montgomery—certainly would not allow the Armed Services Committee to stand in the way of money getting to the Guard and the Reserve.

The point is not on the issues themselves, because we are in agreement. The point is just to make sure that we do not have a process by which whatever we do, meaning the Armed Services Committee, the authorizing committee, is just total set aside with no input into the operations of the Appropriations Committee.

Mr. DICKS. Mr. Chairman, the only point I would like to make is this: There has been a tendency by the authorizers, I think, to stay within the limits that have been set up rather than laying out what is necessary for national security. My own view of it is that the authorizing committee should spend more time saying, "Here is what we really need, and here is what the authorized level ought to be to take care of defense."

My view is that you do not have to live within the budget resolution. There is nothing that requires that. But there has been a tendency to want to do that in recent times, and I think that is dangerous. I think the authorizers should be saying, "Here is what we really want to do, and we don't have to live with the budget resolution."

Mr. ASPIN. Mr. Chairman, if I may be allowed to take back my time, the gentleman is absolutely correct. The gentleman is correct on two accounts. One important account is that the authorizing committee does not have to meet the budget resolutions; the appropriating committee does. But the gentleman also knows that as a practical matter on the floor here, if the authorizing committee were to bring back a defense bill that is in excess of the amount in the budget resolution, we would run into an immediate storm of protest, and indeed we would end up with an across-the-board cut to make sure that we were back within some consistency with the budget.

The gentleman is correct. What we ought to do is allow the appropriators some leeway by authorizing more than the budget resolution. We should authorize more in order to allow the appropriators some leeway to make some changes and still stay within the budget resolution. If we are going to do that, we will have to educate our colleagues here and let them accept the idea that the authorizing committee could bring in a bill that is inconsistent with the budget resolution, because as the political situation exists now, if I were to show up on the floor with an authorizing bill in excess of the budget numbers, I would get an enormous number of amendments to cut it and bring it down, and Members would vote for those amendments to bring it down.

Mr. DICKS. Mr. Speaker, if the gentleman will yield further, this is now the fourth straight year in which we have had a basic freeze or a little bit less of a freeze for defense. I frankly think that unless we get some growth back in the defense budget, we are going to see all the progress that has happened between 1981 and 1985 start to erode, and I think the authorizers may have a responsibility to the House and the country to get around this somehow and start this education process and lay out what the real needs are in defense and then let the appropriators live with the realities of the budget process.

Mr. ASPIN. As I say, I agree with the gentleman entirely. The question is whether the floor would allow us to do that. As I see it right now, the answer is that they would not.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, I think this is a terribly important discussion, but the problem we have is this: We would not run into the problem the gentleman mentioned of a point of order against an authorization exceeding the budget resolution goal if the authorization was on the floor in the year in which it should be on the floor. There are no limitations on what we can put in the authorization for 1990 if it is done in the prior year.

Next week they are going to start working down in that department on the appropriations request for next spring. Since there is no authorization for fiscal year 1990, they are going to develop a proposed budget without the benefit of an authorization guideline. They are going to make up their own proposed guidelines, and when the hearings are held, you will be holding hearings on what they want for an authorization. The authorization should be in place right now for 1990.

That is the way it was when the gentleman from Georgia, Mr. Vinson, was chairman of the committee. They had multiyear authorizations. They set out their program. They set out what they thought was necessary for the defense of the country, and the appropriations process later put limitations on the accounts. In those days, the Armed Services Committee also had time to do adequate oversight.

I think the main problem here is that the authorizations are 1 year late. That got started about 15 years ago, and I do not know why that happened.

Mr. ASPIN. Mr. Speaker, if the gentleman would let me respond to that, the point is that we are trying and the Department has tried to bring that in. We are trying to bring in a 2-year budget during the next year. If we can do it, we will try to bring in a 2-year budget for the next 2 years. It is turning out to be very difficult, as the gentleman from Iowa can recognize, to institute a 2-year budget, particularly when we do not have 2-year budgets anyplace outside of defense. People are just unwilling and unlikely to want to authorize 2 years of weapons systems that are controversial.

Mr. SMITH of Iowa. We have 4-year farm programs, for example. We have multiyear budgets for other agencies.

Mr. ASPIN. But the gentleman is dealing with entitlement programs. We can have multiyear budgets in something of that nature. What we are dealing with is individually appropriated and bought items, and that is a more difficult process.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Speaker, I think perhaps we have beat this horse enough, but I would just like to point out that last year we had a little revolt on the Armed Services Committee.

The chairman of the committee was trying to hold the expenditure level down to the budget, the anticipated budget figure. We, the majority on the committee, said that this is not the way to go, that what we should budget to is what we think the need is and what the threat is. So we did that. We brought to the floor a bill that we thought was reasonable, that we thought best met the anticipated threat. This is what came to the floor as the product of the Armed Services Committee.

The chairman of our own committee then offered an amendment on the floor to take it back down to the budget figure, not the committee figure but the budget figure. If I am not badly wrong, the gentleman from Washington voted with the gentleman from Wisconsin to lower the figure back to the budget figure, cutting out $2 billion, and now he comes to the floor with this explanation.

Mr. DICKS. Mr. Speaker, if the gentleman will yield——

Mr. DICKINSON. Mr. Speaker, the gentleman has yielded to me, and I have the floor.

If I am not mistaken, most of the Members on that side of the aisle voted to cut it down to the budget figure, not the figure the gentleman now says is the right figure or what we need.

So it is a nice thing to say, but the very gentleman who is on his feet now saying this is the way to do it is the very gentleman who voted to cut it back down to the budget figure, along with the majority on the other side. So, as a practical matter, it does not work that way.

Mr. DICKS. Mr. Speaker, will the gentleman yield further?

Mr. ASPIN. I am glad to yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I may be incorrect in this, and I cannot recall the specifics of that. The gentleman may well be correct. But I just feel that in the light of this discussion and reassessing, as we know, the relationship between the two committees, I would be the first to say that I may have sinned and erred in the past, but in the future I would like to see us do this thing correctly, and I may well support the gentleman from Alabama in the future if he does what he says. I think that is the right way to do it.

Mr. DICKINSON. Mr. Speaker, I am glad the gentleman finally got convinced.

Mr. ASPIN. Mr. Speaker, let me just point out that both the gentleman from Washington and the gentleman from Alabama may have a nice idea, but it is not going to work. The problem is that even if the gentleman from Washington would vote against the amendment to cut to bring it down to the Budget Committee level, I would point out that vote passed overwhelmingly because Members in this body cannot afford to have it charged against them that they voted for more defense than the budget resolution called for. So we end up with these problems, and it is a political difficulty we cannot solve.

Mr. CHAPPELL. Mr. Speaker, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Florida.

Mr. CHAPPELL. Of course, Mr. Speaker, there is one way to do it. Of course, the gentleman may very well be right and we could never reach that agreement, but if the authorizers, for example, want to set just one outside limit, that is, on all the weapons systems instead of putting in dollar amounts that would ease the problem. They could put in overall numbers, like numbers of personnel for the various services and numbers of tanks, in other words, put in the quantitative information in the bill, we might ease ourselves away from the problem. That could be done.

Mr. Speaker, I certainly appreciate this discussion myself, and I hope we can move on. I urge the adoption of the motion.

Mr. ASPIN. Mr. Speaker, I yield back the balance of my time.

The **SPEAKER** pro tempore (Mr. Bosco). The question is on the motion offered by the gentleman from Wisconsin [Mr. Aspin].

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

CONFERENCE REPORT ON H.R. 1720, FAMILY WELFARE REFORM ACT OF 1987

Mr. BONIOR. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 556 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 556

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 1720) to replace the existing AFDC program with a new Family Support Program which emphasizes work, child support, and need-based family support supplements, to amend title IV of the Social Security Act to encourage and assist needy children and parents under the new program to obtain the education, training, and employment needed to avoid long-term welfare dependence, and to make other necessary improvements to assure that the new program will be more effective in achieving its objectives, and all points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

□ 1230

The **SPEAKER** pro tempore (Mr. Bosco). The gentleman from Michigan [Mr. Bonior] is recognized for 1 hour.

Mr. BONIOR. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Ohio [Mr. Latta], pending which I yield myself such time as I may consume.

Mr. Speaker, let me at the outset extend my appreciation, and, I assume, the appreciation of most of my colleagues, for the splendid job that was done on our side of the aisle by the gentleman from Illinois [Mr. Rostenkowski], by the gentleman from New York [Mr. Downey], and the gentleman from Tennessee [Mr. Ford], for the great work that they did on the very important piece of legislation is historic in the sense that it will be brought before us in a few minutes.

Mr. Speaker, House Resolution 556 provides for the consideration of the conference report on H.R. 1720, the Family Welfare Reform Act of 1987. The rule waives all points of order against the conference report and against its consideration.

The rule further provides that the conference report shall be considered as having been read when it is called up for consideration.

Mr. Speaker, this is a bill that will give a helping hand to those Americans struggling to make it on their own. It is a helping hand to the ever-increasing working poor in our country, those people who are getting squeezed. It offers the hope of a warm place to stay, and something to eat, of adequate child care for children whose parents are working their way off of welfare. The bill is designed to make the transition off of welfare easier, and, therefore, these people will be more likely to succeed.

Mr. Speaker, self-sufficiency and independence are all part of the American dream, and this bill will help make that dream a reality for millions more of the American people.

Mr. Speaker, I urge the adoption of this rule, and I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the end of the Congress comes closer, we are starting to move more quickly on some major pieces of legislation.

Welfare reform is one of them. In future years, this legislation may be viewed as one of the most significant actions of this Congress. It is a subject area where there has been a long history of strong disagreement. The fact that this bill has achieved the degree of consensus that it has is encouraging.

I commend the members of the Committee on Ways and Means and the members of the other committees with jurisdiction over parts of this bill for their hard work and for the degree of success they have achieved.

Mr. Speaker, one point of particular interest to me is that this bill finally contains a provision which should have been in the law years ago. I speak of the mandatory work requirement. This bill provides that effective in the years 1994 through 1998 one parent in a two-parent welfare family must contribute at least 16 hours per week in a work activity program. Mr. Speaker, this is a small positive step but it should not be delayed until 1994, it should be effective now. And it should cover more than the small percentage of welfare recipients covered by this bill. Even so, it is a small positive step, and I commend the conference committee for it. Future Congresses will need to be vigilant that this requirement is not deleted before it is allowed to take effect.

Mr. Speaker, the rule before us today waives all points of order so that we may proceed promptly to the consideration of this conference report.

I support the rule, Mr. Speaker.

I have no requests for time, and I yield back the balance of my time.

Mr. BONIOR. Mr. Speaker, I yield 4 minutes to the gentleman from Texas [Mr. Gonzales].

Mr. GONZALEZ. Mr. Speaker, I just rise to ask the gentleman a couple of questions.

I think that my colleagues know that very seldom have I ever voted against a rule on such occasions, closed rules in the past, but I certainly am loath in this case except that I consider this to be a very, very complicated matter and one which actually, as much as I would like to legislate, I have to raise some issues.

In looking over the printed conference report appearing in the Wednesday, September 28, Record, I notice one particular section that makes me wonder about just how effective will we really be in helping without the stigma that continues to be associated with the unfortunate population of our fellow Americans that happen to be on what we so often pejoratively call relief, but one that I think is a throwback to the poor laws of England in which bastardy and paternity and all that kind of things was a big issue. For instance, on page H8885, where the conference agreement with respect to performance standards for the establishment of paternity appears, the conference agreement follows a Senate amendment. The conference agreement adopts a House provision providing that each State require the child and all other parties to a contested paternity case to submit to genetic tests upon the request of any party with a modification.

I ask, if this case arises, how is a parent going to pay for a genetic test?

Mr. DOWNEY of New York. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from New York [Mr. Downey].

Mr. DOWNEY of New York. Mr. Speaker, in the case of an AFDC recipient, the paternity genetic tests would be paid for by the State, by people of means, by them based on a sliding scale dependent upon income.

Mr. GONZALEZ. Mr. Speaker, I will tell my colleagues the truth. I think this is one case where—of course this is my determination—but I thank the gentleman from New York [Mr. Downey] for answering the question.

Mr. BONIOR. Mr. Speaker, I move the previous question on the resolution.

The previous question ws ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to House Resolution 556, I call up the conference report on the bill (H.R. 1700) to replace the existing AFDC Program with a new Family Support Program which emphasizes work, child support, and need-based family support supplements, to amend title IV of the Social Security Act to encourage and assist needy children and parents under the new program to obtain the education, training, and employment needed to avoid long-term welfare dependence, and to make other necessary improvements to assure that the new program will be more effective in achieving its objectives.

The Clerk read the title of the bill.

The **SPEAKER** pro tempore. Pursuant to House Resolution 556, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 29, 1988.)

The **SPEAKER** pro tempore. The gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes and the gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 1720, now under consideration.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on the bill H.R. 1720, the Family Support Act of 1988.

Today, the House has a historic opportunity. We have a chance to make our welfare system more responsive to the needs of the poor and more effective in helping welfare recipients achieve self-sufficiency. We can do this by adopting the conference report.

There isn't a Member of this body who has not heard, or made, complaints about our current welfare system. Increasingly, we hear about the failure of the system to provide adequate assistance for those in need. And all too often, the very help the system provides can become a trap for beneficiaries.

Attempts at reform have repeatedly failed. Welfare recipients are not an organized lobby and all too often they have been mere bystanders in a philosophical debate that has little to do with the reality of poverty.

In the 2 years we have been working on this legislation our greatest task has been to dispel the myths about welfare. I think we have succeeded. This legislation recognizes that welfare recipients want to work, but it also recognizes that forcing a parent to choose between health care for her children and a job is simply to unfair. The legislation demands that welfare recipients help themselves, but it also provides the training, child care and work related assistance that is needed for economic independence.

This legislation provides real help not promises; 200,000 to 800,000 individuals per year will be assisted by the new work, training and jobs provisions. Sixty-five thousand two-parent families, a total of 285,000 parents and children, will become eligible for Medicaid coverage. The new child-care and Medicaid transition benefits will help 250,000 to 475,000 individuals move from welfare to work.

These people want to work and get off welfare. They need the funds provided in this agreement for training, job search and other job opportunity programs. They need the transition benefits, which will allow them to take entry level jobs by providing necessary child care and health insurance.

I've served in Congress a long time and I have witnessed many welfare debates. I can tell my colleagues that a chance like this doesn't come along very often. This legislation is not perfect. For some, the work requirements do not go far enough. For others, the benefit improvements are not enough. I am confident, however, that the families who are trapped in the cycle of poverty would tell us to give them a chance and pass this bill.

In closing, Mr. Speaker, I want to thank the members of the Committee on Ways and Means who have worked so long and hard to bring this legislation to the floor. HAROLD FORD developed the original committee legislation. HANK BROWN, the ranking minority member of the subcommittee, played a crucial role throughout the process and in crafting the provisions of the final agreement. All of the members of the Public Assistance Subcommittee have done a tremendous job.

I want to especially recognize and pay tribute to TOM DOWNEY, the acting chairman of the Public Assistance Subcommittee. TOM guided this bill through the committee and the House. He encouraged the other body to move the bill.

No issue is more divisive than welfare. In the conference, TOM DOWNEY was tireless, and brilliant, in his efforts to find a common ground among all of the members and groups that were interested in this legislation. It is not an overstatement to say that without his efforts, this legislation would not be on the floor today.

Mr. Speaker, I urge my colleagues to support this historic agreement.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this conference report, though I do so with a degree of reluctance. A lot of people have worked very hard, and they put together a package that has some good in it. But it also has a lot of bad in it.

Mr. Speaker, when I put it on the scales and weigh the good and the bad, I must come down on the side that this is not what we are looking for in welfare reform.

My criteria for welfare reform are that after 5 years of implementation we should be able to say to the taxpayers of this country that we have been able to encourage and to remove welfare recipients from the roles so that it results in a program which has fewer welfare recipients than would occur under the current law. We should be able to say to the working people of this country that the cost of this program will result after 5 years in reduced taxes necessary to pay for welfare. This bill fails on both accounts.

Mr. Speaker, the CBO projections are that there will not be fewer welfare recipients at the end of 5 years, and their projections are that the cost of the bill will approach $1 billion a year in extra spending at the conclusion of a 5-year transition implementation period.

The one good thing in the bill is that for the first time it has a mandated Federal work requirement as a condition for welfare for some welfare recipients. But the results of even this workforce program—which does not even go into effect until 1994—but even after being in effect, are that a maximum of only 1 percent of the welfare cases will be removed from the welfare roles.

□ 1245

I do not think this measures up to what the people of this country want in basic welfare reform.

Another aspect of the bill that troubles me is that the Work Training Program, as I perceive it, is one that is a revisitation of CETA, with a potential for enormous abuse without a cost productive result.

Additionally, there is an item in the bill that pays for $375 million of the cost to provide child care for the children of welfare families by taking the money out of the pockets of middle-income taxpaying Americans who currently have the ability to get a child care tax credit on their tax returns. This bill will reduce from 15 to 13 the age of children eligible for child care tax credit under the current law. As a result, TAG parents of those children that are 13 to 15, the latchkey children of this country, will end up paying more in Federal income tax in order to pay for the cost of day care for welfare recipients. I do not think the people of this country want that—particulary when this is an age bracket when unattended children have a high exposure to drugs.

In addition, if you look at the outyears beyond the 5-year projections, the major source of financing is the extension of a program that is already on the books to collect debts owed to the Federal Government from income tax refunds. That is a very constructive positive program, but because it was going to expire, under our rather warped budget scoring system, by extending it we are given credit—as if it were new—for revenue that it has already been generating every year.

But sadly once you get beyond the 5-year period, the collection of those debts drops off and it will no longer provide the income necessary to maintain this program. Those who aspire to a balanced budget are going to be faced with a difficult task in the 6th year to again keep the deficits of this country under control, because they are going to have to find new tax revenues.

I wish we could have reached a system that made more sense. I wanted to support this legislation, but I do not believe the people across this country are going to welcome a welfare bill that does not reduce the welfare rolls and does not reduce the overall costs for welfare just because it is called reform.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. FORD].

Mr. FORD of Tennessee. Mr. Speaker, I, too, must join with my distinguished chairman of the full committee, the gentleman from Illinois [Mr. ROSTENKOWSKI] and to commend the acting chairman, the gentleman from Mississippi [Mr. DOWDY] for the work that he has put into this bill, and also the full committee chairman and the ranking member, the gentleman from Colorado [Mr. BROWN].

Mr. Speaker, I rise in support of this bill today. We reported out H.R. 1720. H.R. 1720 in its original form was a bill that was a lot stronger than what we are bringing back to the House today, but when we think in terms of the 12 million people trapped into the vicious cycle of welfare and to the welfare program itself, this Family Security Act today is a piece of legislation that will set the tone for this Nation. When we see the 7½ million children who are trapped into that cycle and we see this legislation that is before us here, we know that we can truthfully say with this bill today, that, yes, work, education and training, will be the cornerstone for the new Family Security Act that we are acting upon today.

We know that there is a transitional rule for Medicaid and a transitional rule for child care for those who will go into training and educational programs and those who will go into the work force. We know that this new program will respond to many of the needs of those who are trapped into that cycle.

Mr. Speaker, I urge all my colleagues, and even those few groups who have indicated that they are in opposition to this bill today, those are the groups who have started with us and those are the groups we know that have been in the forefront and who will continue to be in the forefront, and I can assure these groups that we will set the agenda for the new Congress to come back to monitor with oversight hearings to make sure that these programs are administered in a fashion that each State will carry out the type of programs that all of us in America will be proud of and those who are trapped into this welfare cycle.

You know, this bill does not go all the way. It will not complete the whole job that is needed to be completed, but I can say that we make major steps in this new welfare reform package that is before us today.

We talk about costs. Yes, it will cost additional dollars. We knew that from the outset that we would have to spend additional dollars.

I call upon my colleagues to support this legislation today, because those who are trapped into the welfare cycle are in need of a new program and this is a program that we can say to the States that we can implement and respond to the problems of poverty in this country.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Speaker, I thank the distinguished chairman of the conference committee for yielding me this time.

Mr. Speaker, I rise in strong opposition to this conference report. It is false labeling and an unacceptable deviation from traditional principles of fairness and democracy. The strong education provisions, the limitations on the Community Work Experience Program [CWEP] or workfare, the equal pay standards, and the child care enhancements present in earlier versions of the proposal, were compromised out of this final agreement. The conference report represents expediency at its worst.

In the last few weeks, under extreme political pressure to pass a bill, mandatory workfare has caught on like wildfire. For years, the Reagan administration has peddled the concept of forcing all welfare recipients to work off their benefits. For years, the Congress resisted and rejected the administration's position. By adopting this proposal, the Reagan administration may finally achieve its goal at the expense of the poor people the measure is intended to help.

The compromise fails to impose any time limits on an individual's mandatory participation in a CWEP Program. Unfortunately, the 6-months' limitation and no repeat assignment provision on workfare in the House bill was eliminated by the conference committee. Coupled with the high participation rates and a requirement that States offer two out of four mandatory work activities, this will likely drive States to assign greater numbers of individuals to the CWEP Program. The CWEP assignments are often make-work jobs and are disruptive at the local job sites.

Workfare does not provide education and training to enable welfare recipients to become more employable, and certainly does not lead to permanent employment. It's a punitive approach to forcing people off the rolls.

CWEP under current law is optional. The conference report provides the incentive for States to mandate CWEP nationwide. Twenty-six States now operate CWEP on a limited scale and only nine States run workfare statewide. Major cities are often excluded from the CWEP Program due to the difficulty of administering large-scale workfare programs in urban areas.

Unlimited workfare assignments cause displacement of regular public employees. A recent Michigan survey found that failure to put limits on CWEP resulted in a loss of 3,000 full-time civil service jobs between 1980 and 1985. Large-scale workfare programs also have led to the elimination of low-wage public employment in New York City. Despite provisions to prohibit displacement or substitution. States will be tempted to exploit the availability of unpaid CWEP workers over time.

Workfare is punitive and counterproductive to the original goal of our bill, that is, improving the employability of AFDC recipients by providing them with good employment and training opportunities.

Another major concern is the wage rate provision. The conference report allows two different standards of pay—one for regular employees and a lesser, unequal pay standards, for the welfare employee.

The original House bill has an equal pay standard which ensured that participants in federally subsidized jobs would be treated equally and not exploited because of their vulnerable economic status. This important provision was deleted in conference and further weakens the bill. We should reject this double standard and not send out the message that welfare recipients' work is worth less than that of other workers doing the same or similar work.

The new mandate, that up to 75 percent of the unemployed parent (two-parent) caseload be required to work 16 hours per week and that up to 20 percent of the single-parent caseload be actively enrolled in some program activity, is unrealistic and counterproductive. It will drive States to process large numbers of people each month in a less effective program. More importantly, the mandate also prevents States from investing in more intensive, intervention services needed to move people off the welfare rolls and toward employment.

My own State of California, for example, has indicated to me that these participation requirements are simply unattainable. California has found that over 60 percent of participants in the State's GAIN Program require remedial education before they can be assigned to any other education, employment or training activity. I am certain that we will hear from California and the Governors of other States in the near future about their inability to meet these burdensome requirements.

For the record, I will include in my statement documentation, by the respected Manpower Demonstration Research Corp. [MDRC], which details the shortcomings of current workfare programs.

The Manpower Demonstration Research Corp. [MDRC], a well-respected research organization in New York City, has completed evaluations of several State initiatives that attempt to restructure the relationship between welfare and work. Generally, MDRC's reports of welfare work programs in the States of Arkansas, California, Illinois, Maine, Maryland, New Jersey, Virginia, and West Virginia show that the programs led to relatively modest increases in employment, which in some cases translated into modest welfare savings as well. The results of the West Virginia, Illinois, and Maryland programs area worth noting.

West Virginia has a mandatory workfare requirement for both single-parent and two-parent caseloads. Welfare recipients in West Virginia could be assigned to community service jobs for as long as they receive public assistance. In some cases, their workfare assignments lasted for years. Their welfare checks are reduced if they fail to fulfill their unpaid work assignments. MDRC concluded that workfare in West Virginia did not lead to any financial gains for the welfare recipients and that it cost rather than saved money for the government. Clearly, if the West Vrigina workforce model is replicated in communities across the country, it will probably not improve the employment prospects of individuals seeking self-sufficiency nor will it have a significant impact on reducing welfare caseloads. Instead, unlimited workfare will simple produce large pools of cheap, unemployed labor available for community service.

MDRC also evaluated the workfare program in Cook County, IL. The Illinois model focused primarily on short-term job search followed by an unpaid work experience or workfare assignment. The assignments were mainly entry-level jobs requiring few skills and providing little opportunity for skills development. Participants were discouraged from pursuing other education or training activities. After an 18-month followup period, MDRC found no significant effects on employment or earnings for those individuals who had gone through job search and work experience. MDRC also found that over a 5-year period, these activities did not make individuals better off financially; rather, they appear to have made some individuals somewhat worse off on average. The majority of the participants in the Illinois program were dissatisfied with the idea of working off their welfare benefits and almost all believed that the employer got the better of the deal. These findings are significant since States can chose job search and workfare as two of the mandated activities under this proposal.

Unlike the other States, MDRC found that the Maryland model provided more intensive education and training activities intended to enhance the future labor prospects of its participants. Maryland was successful in offering a full range of services including job search, employability preparation, work experience, GED preparation and skills training. As a result of this flexibility, the program was effective in helping individuals to improve their employment levels. More significantly, these earnings impacts appeared to continue and even increase after the short-term observation period. In addition, MDRC found that the less employable group benefited from the efforts of a more intensive program offered in Maryland. The Maryland program, indeed, made efficient use of resources and provided more opportunities for substantive education, employment, and training programs for its welfare recipients. Certainly, the Maryland model supports the contention that employment and training interventions, if properly structured, do work.

Proponents of this revised welfare reform bill often cite the State of Massachusetts' Employment and Training Choices [ET] Program as a model for this new welfare work program. For the record, the ET program differs significantly from the proposal before us. ET is entirely voluntary. ET is not punitive. ET has no workfare.

ET works because it offers comprehensive employment and training, and support services, designed to help welfare recipients overcome significant barriers to employment. Representatives from the private sector, welfare, education and community-based organizations are committed to make ET work. Although all AFDC clients are encouraged to enroll in ET, recipients do not lose their benefits if they chose not to participate in the program. The average wage earned by ET graduates in 1987 is over $12,000. More than three-quarters of ET participants left the welfare rolls permanently. No doubt ET has contributed significantly to the drop in the welfare caseload in Massachusetts. Through ET's efforts, over 30,000 welfare recipients have been placed into unsubsidized employment, with adequate child care and health care assistance. Blessed with outstanding economic conditions, Massachusetts' ET program has a long waiting list of individuals anxious to participate in this voluntary program which gives them a real chance to get off welfare.

Another major concern about this conference report is that the child care provisions are weak and inadequate. The House provisions increasing the supply of child care resources and training have been eliminated in this agreement, and funding is unrealistic given the current cost and availability of quality, affordable child care.

While I agree that the 12 months of child care transition and the 12 months of transitional health care assistance are improvements over current law, I am troubled by the fact that this compromise would terminate these necessary transitional services in 1998. It makes no sense to sunset these provisions. There is no evidence that recipients will not need these transitional services in the out-years of the program.

The conference agreement also weakens the House provision which would have provided that postsecondary education would be an acceptable JOBS activity. This also takes away from the effectiveness of this measure.

During the Education and Labor Committee's consideration of H.R. 1720, and during the floor vote on the bill, there was agreement that postsecondary education is the right training option for some welfare recipients. Obviously, most welfare recipients are not ready for college, but the opportunity should never be foreclosed to those who have the motivation and capability to pursue a postsecondary education.

Finally, I cannot, in all good conscience, support a compromise when the proposed reform's effectiveness is highly questionable, the standards are flawed, and funding is woefully inadequate. The cruelest irony, however, is that many economists are warning

that our country may be headed into another economic recession with high cyclical unemployment. If this new welfare work program does prepare individuals for the workplace, where will the jobs come from? Even today, most new jobs are in the service industries paying low wages. Many people are forced to work part time in more than one job in order to make ends meet. Many people have given up looking for work and are no longer counted in the labor force. A recent study by the Senate Budget Committee documents that half the new jobs created in the last eight years were at wages below the poverty level for a family of four. Believe me, this new program is no panacea for poor people, and economic conditions in the next several years will be the true determinant of how successful we are in our efforts to reform the welfare system.

I applaud the diligent efforts of the Members of the House and Senate who attempted to fashion a bill which will be better than current law. The conference agreement achieves some desirable goals. However, the baggage that it carries far outweighs the modest improvements. We have deviated considerably from the bill approved by a majority of the House of Representatives. By approving this compromise package, we may be creating problems which will haunt us for years to come. I would rather oppose this conference agreement and seek a more constructive approach in the next Congress than risk jeopardizing the quest for self-sufficiency of millions of people.

ORGANIZATIONS OPPOSED TO WELFARE REFORM CONFERENCE AGREEMENT, SEPTEMBER 30, 1988

AFL-CIO, AFSCME, Americans for Democratic Action [ADA], Bread for the World, Child Welfare League, Children's Defense Fund, Church Women United, Coalition for the Homeless, Coalition on Human Needs, Communications Workers of America, Food Research and Action Center [FRAC], Friends Committee on National Legislation, Full Employment Action Council, Interfaith Action Council, League of Women Voters, National Council of Churches, National Council of La Raza, National Puerto Rican Coalition, National Organization of Women, National Urban League, United Church of Christ, U.S. Catholic Conference, and Wider Opportunities for Women.

COALITION ON HUMAN NEEDS,
September 29, 1988.

DEAR SENATOR/REPRESENTATIVE: The Coalition on Human Needs, an alliance of over 100 religious, civil rights, labor, professional and other organizations concerned with the needs of the poor, minorities, children, women, the aged and disabled, urges you to oppose the Conference Report on the Family Welfare Reform Act.

The bill's complicated requirements will add to the bureaucratic nighmare now faced by AFDC recipients who receive assistance payments that approximate only $345/month (national median) for an average family of three. Meanwhile, House provision to encourage state benefit increases has been stripped from the bill.

The bill will mainly affect children age 1-5 whose parents are now exempt from WIN work registration. Parents would be required to accept employment if it is offered at the minimum wage. Today the minimum wage reaches only 79 percent of the poverty threshold for a family of three working full time. If not moving into employment, all other able-bodied, non-exempt adults would be subject to the requirement that they participate in some state-determined work, training or education activity. States will make assignments as their resources permit, but they must meet high participation quotas. The White House estimates that the 20 percent quota will require 800,000 adults per year to participate in such activities.

Each year hundreds of thousands of children (and likely more) will be thrust into a child care market which is already overburdened. Although child care is "guaranteed" and reimbursement levels are permitted to increase to the local market level, the original House program to increase the supply of child care for AFDC children has been dropped. The bill gives states, not the mother, the power to make the judgment of when appropriate care is available. There is no immediate requirement that care provided in a family home meet basic health and safety standards.

The complex provisions of the JOBS program will seriously restrict the ability of participants to increase their educational or jobs skills. The participation rates and fixed dollars amounts will spread dollars thinly. In addition, one adult in *all* families covered by AFDC-UP (unemployed parent) must participate in an unpaid work program. The UP caseload, consisting mostly of men who were recently employed, will drain off resources that could be devoted to training others more in need. Finally, the bill mandates that states run two of four programs oriented to job search or work experience rather than education or skills training.

The bill fails to limit Community Work Experience. As a result, participants can be required to stay on "workfare" indefinitely. For this and other work programs, there is no requirement that participants be "paid" their benefits at rates equal to regular employees doing the same work. Although such "equal pay" is required after nine months in CWEP, experience shows that few workers reach that point.

The sunsetting in of Medicaid and child care transition assistance in 1998 represents a real gamble that they somehow will be reauthorized. With the JOBS requirements continuing beyond that date, people could be left with no care for their children and no medical coverage.

The estimated $3.3 billion cost of this program is not a wise investment. We, therefore, urge you to vote against it.

Sincerely,

SUSAN REES,
Executive Director.

CHILDREN'S DEFENSE FUND,
Washington, DC, September 28, 1988.

DEAR REPRESENTATIVE: On behalf of the Children's Defense Fund (CDF), I urge you to oppose the Conference Report on H.R. 1720, The Family Welfare Reform Act, when it comes to the House floor later this week. The Conference agreement on welfare reform fails to ensure poor families the help they need to support their children and move toward economic self-sufficiency.

The final House-Senate compromise permits about one-half of the states to place arbitrary time limits on cash assistance for poor two-percent unemployed families, thereby continuing incentives toward family breakup. In addition, at the ideological insistence of the White House, the agreement proposes to squander taxpayers' dollars by mandating old-fashioned "make-work" programs for two-parent families. Such mandates will be implemented at the expense of far more productive investments in education and training programs for single parents on AFDC who will be unable to enter the job market without such help.

Specific provisions in the Conference Report that will prove most harmful to poor children and families include:

The failure to require that all states must provide full-year coverage under the AFDC-Unemployed Parent Program (AFDC-UP);

The imposition of federal "workfare" requirements on AFDC-UP families in all states, a provision which will force states to divert scarce resources toward nonproductive make-work assignments for those parents with the greatest work experience and away from education and training programs for those single parent families who are most likely to become long-term AFDC recipients;

The establishment of rigid participation rates for the regular AFDC caseload in JOBS Program activities, thereby focusing resources on compliance with the participation quotas rather than on the intensive services needed to help young single parents move into jobs; and

The lack of a requirement that family day care assisted with AFDC funds, but currently exempt from state and local child care standards, must comply with minimal health and safety guidelines established by individual states or localities.

These provisions undermine the potential gains for poor children and families in the Conference agreement in the areas of child care, Medicaid transition, and child support enforcement. The additional funds for child care for children in AFDC families and for transitional child care and Medicaid for those families moving from AFDC to jobs are critically needed. Such investments, however, must not be thwarted by requirements which otherwise impede progress for poor families struggling to become economically self-sufficient.

We urge you to oppose the Conference Report on H.R. 1720 and to continue to seek critical improvements for poor children and families in the next Congress.

Sincerely,

MARIAN WRIGHT EDELMAN.

CHILD WELFARE LEAGUE
OF AMERICA, INC.
Washington, DC, September 27, 1988.

AN OPEN LETTER TO ALL MEMBERS OF CONGRESS

We the undersigned members of the Child Welfare League of America are attending the 1988 Biennial Assembly to chart a course for Child Welfare Policy and Practice for the next two years. We are concerned that the pressure to reach consensus on welfare reform has resulted in a bill that will do little to enhance the long-term self-sufficiency of AFDC parents and even less for the 7.3 million children who depend on AFDC for their income security.

We urge you to oppose a bill that would:

Impose a workfare requirement on AFDC-UP recipients in two-parent families. Make-work is no substitute for quality job training. It is not cost effective and provides no long-term benefits.

Impose unrealistic participation rates in the JOBS program and particularly for AFDC-UP recipients.

Place recipients in Community Work Experience (CWEP) without time limits or protections against repeat assignments.

Allow children to be placed in family day care without guarantees that the home meets basic health and safety requirements.

We believe that the bill's overall emphasis on CWEP and high participation rates will divert very limited resources from those who need intensive basic education and training.

As you move toward final passage of a welfare reform bill, please be assured that the Child Welfare League of America and its 500 member agencies throughout the country supports efforts by Members of Congress to craft a bill that results in genuine and humane welfare reform. We stand ready to support you and other Members of Congress who withstand the pressures to further erode the modest improvements outlined in the original House bill.

CHILD WELFARE LEAGUE OF AMERICA, INC.

Agency, city/State

Mississippi Children's Home Society and Family Services Association, Jackson, Mississippi.

Orchard Place, Des Moines, Iowa.

Children's Bureau of Indianapolis, Indianapolis, Indiana.

Lutheran Child & Family Service of Michigan, Bay City, Michigan.

Children's Aid Society, Birmingham, Alabama.

Family and Child Services, Birmingham, Alabama.

Harris County Children's Protective Services, Houston, Texas.

Fulton County Department of Family and Children's Services, Atlanta, Georgia.

St. Louis Christian Home, St. Louis, Missouri.

Juliette Fowler Homes, Inc., Dallas, Texas.

The Children's Center, Galveston, Texas.

Southern Christian Services, Jackson, Mississippi

Beech Brook, Pepper Pike, Ohio.

Presbyterian Child Welfare Agency, Buckhorn, Kentucky.

Chicago Child Care Society, Chicago, Illinois.

Boston Children's Services Association, Boston, Massachusetts.

Central Baptist Children's Home, Lake Villa, Illinois.

Counseling and Family Services, Peoria, Illinois.

Sunny Hills Children's Services, San Anselmo, California.

Lutheran Family Services, Raleigh, North Carolina.

New England Home for Little Wanderers, Boston, Massachusetts.

The Salvation Army Social Services for Children, New York, New York.

Jewish Board of Family and Children's Services, New York, New York.

Worcester Children's Friend Society, Worcester, Massachusetts.

Catholic Community Services, Miami Shores, Florida.

Family and Children's Services of Chattanooga, Inc., Chattanooga, Tennessee.

Beacon Counseling, Boston, Massachusetts.

Jewish Child Care Association, New York, New York.

Lula Belle Stewart Center, Detroit, Michigan.

COMMUNICATIONS WORKERS OF AMERICA, (AFL-CIO, CLC),
Washington, DC, September 29, 1988.

DEAR REPRESENTATIVE: The Communications Workers of America urge you to vote against the conference report on welfare reform. We strongly believe in the need for efficient, useful changes in our welfare system. Unfortunately, this proposed conference agreement falls short; it includes some worthy benefits but also far too many damaging provisions.

This legislation fails to provide adequate protection against the displacement of current public workers. Thus, it may provide new jobs for some people while at the same time eroding employment for others. The conference report also unfairly mandates workfare while failing to pay equal wages. In other words, welfare recipients may be required to perform the same work as public workers but without the same wages, which harms both welfare recipients and undermines existing public servants.

Finally, we are concerned about the significant absence of adequate child care, job training and other support services for those welfare recipients participating in mandatory work programs. Without such services, it will be extremely difficult, if not impossible, for welfare beneficiaries to escape the cycle of poverty.

Given these concerns, we hope you will oppose the pending welfare reform conference agreement.

Sincerely,

BARBARA J. EASTERLING,
Executive Vice President.

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO,
Washington, DC, September 28, 1988.

DEAR REPRESENTATIVE: On behalf of its 1.1 million members, the American Federation of State, County and Municipal Employees (AFSCME) opposes the Conference Report on H.R. 1720, the Family Welfare Reform Act.

H.R. 1720 falls far short of the balanced system of benefit improvements, education and training services, and work requirements originally envisioned in the House bill which AFSCME supported. Instead, it embraces the Administration's unreasonable quotas for participation in work activities and its punitive and inequitable workfare philosophy, while preserving very little of the enhanced benefits approved by the House.

As a result of this bill, untold thousands of welfare recipients will be forced to work off their welfare grants in state and local agencies without the dignity of a paycheck or the opportunity to get the education, training and job search services they need for real self-sufficiency. The bill fails to assure them equity in the form of full equal pay protection, and it will cause the loss of public sector entry-level jobs that offer decent wages and benefits for low-skilled workers.

Finally, the bill shortchanges young single women on welfare who need education and training services the most. It will drain the efforts and resources of the states away from these young women as the states seek to meet impossibly high and burdensome workfare requirements for two-parent families who do not need "work experience."

In point of fact, H.R. 1720 will be a waste of the taxpayers money, denying education and training opportunities to those segments of the welfare population who need new skills, not make-work, to prepare for full-time productive employment. It will also create considerable chaos in the public sector and violates the basic principles of fairness and equity. It should be defeated and we urge you to vote against the Conference Report.

Sincerely,

GERALD W. MCENTEE,
International President.

WILLIAM LUCY,
International Secretary Treasurer.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Speaker, I wish to associate myself with the gentleman's remarks.

Mr. Speaker, I rise in opposition to this conference agreement. What started out as welfare reform has become something different, something much less than real reform. In fact, this bill makes some significant improvements in the welfare system. The most important is the Medicaid transition benefit, which will provide 12 months of health insurance to welfare recipients who leave the rolls for unsubsidized jobs that do not provide insurance. A close second in importance is the provision of transition child care benefits to welfare clients who need child care in order to take an unsubsidized job, and the provision of Federal matching funds for States that provide child care for welfare recipients.

But one of the key components of real welfare reform—benefit increases that would allow the children who depend on welfare to grow up without going hungry, without freezing in the winter and surviving in degrading poverty—was simply abandoned. Benefit levels have fallen by 35 percent since 1970. In some States, a family of three must survive on $120 a month or less.

And if the gentleman from New York and the Senator from New York are right—if this is the only chance for welfare reform for a decade—we are condemning millions of kids to live in poverty that is a disgrace to the United States. And whatever you may think of their parents, those children will be disadvantaged their whole lives through no fault of their own. It is a monumental mistake to abandon this key element of real reform.

The other key element of the legislation that originally passed the House was a program of education and training designed to increase the employability of welfare mothers. Based on the most successful WIN demonstration programs, H.R. 1720 originally provided a sensible balance of supportive services, remedial education, classroom training, on-the-job training, and work experience—all with an understanding of the family responsibility of welfare mothers and the limitations of the State welfare bureaucracies.

Sadly, the conference report has no such understanding and no balance. The conferees have taken a punitive approach to training and work experience that will lead to ineffective short-term training and job placement efforts instead of a genuine attempt to give welfare recipients an education and lasting skills. I believe it is destined to fail.

The JOBS Program will fail because it places artificial participation standards on the States, standards that are so high compared to the funds made available that States will be forced to cut corners to meet them. Recent evaluations of the Job Training Partnership Act and the WIN Program have proven what was always obvious to many of us—to have a lasting effect, to get a real return on investment, training must be intensive and must impart real skills. If the JOBS Program concentrates on job placement efforts and "job readiness" training, its graduates will find themselves in unstable, poverty-level jobs with no future. Such a program is a false promise of hope.

But the worst aspect of this bill is its treatment of unemployed parents in two-parent families. The House bill required every State to provide AFDC benefits to two-parent families in which the principal earner is unemployed. The conference agreement pulls back from this improvement in the law and allows States to deny benefits to intact families for 6 months out of a year. It punishes poor families that beat the odds and stay together.

Then, to punish them further, the bill requires the States to force AFDC-UP parents into workfare programs for 16 hours a week. Not because they would benefit from work experience; not because there are jobs in the community that are unfilled: but only because of a mean-spirited desire to make the poor "work off their benefits."

I believe everyone should work for a living. But I also believe everyone who works should be paid a decent wage and should have meaningful work to do. Workfare doesn't meet that test.

The workfare provisions in the bill don't just punish the welfare recipient; they also punish the State and local governments that must administer them.

The bill imposes impossibly high workfare participation rates on the States for the population that would benefit from workfare the least.

The AFDC-UP recipients already have job experience. To force them into community work experience programs, doing make-work jobs for local governments is a waste of time and money.

The Governors know it's a waste. If CWEP worked, they would have implemented it. The States have had the option to use workfare for years, but they have rejected it.

Look at the facts:

According to Ways and Means figures, only 19 States used CWEP at all in 1987.

Total monthly participation for the entire United States dropped from 51,919 in 1986 to 48,654 in 1987.

The largest State CWEP Programs was Virginia's which had 21,750 participants in 1986. Virginia eliminated CWEP in 1987.

The participation rates in the conference agreement will require a ten-fold increase in CWEP programs nationwide.

None of the States with the largest AFDC-UP populations come close to a 50 percent CWEP participation rate, let alone 75 percent.

The Governors have rejected workfare. They are willing to swallow this bill for only two reasons: They want the money, and they know the workfare requirement won't take effect until 1994—plenty of time to come back and lobby to repeal it.

I think that's a cynical way to legislate, and I reject that strategy.

My second major problem with workfare concerns wage rates. The bill says that people working side by side—one in a workfare job and the other in a city or county job—will be paid vastly different wages. One will get a poverty wage, the minimum wage, for 9 months; the other will get a real wage. That is bad policy.

It will cause resentment among both groups of workers. And it will inevitably cause local governments in financial trouble to substitute workfare workers for fully paid workers. It happens now, when the States aren't forced by the Federal Government to create workfare jobs.

It'll be worse when we have 500,000 people forced into workfare by this bill.

West Virginia already has teachers, firemen, carpenters, and plumbers in workfare jobs, making the minimum wage. That is not the future I want for local government and public employees in my State.

Mr. Speaker, I ask that an analysis of the workfare provisions prepared by the Michigan Department of Social Services be included at this point in the RECORD.

Requiring participation rates of 39 or 50 percent for two-parent families on AFDC will be difficult to meet at best and impossible should unemployment rates rise. These participation rates will not necessarily increase the number of cases closed to employment.

1. Urban areas, where most of our clients live, are losing jobs.

	Total employment		Percent change 1979 to 1986
	1979	1986	
Wayne County	1,026	876	−14.6
Other PMSA Counties	740	848	+14.6
Total Detroit PMSA	1,766	1,724	−2.4

2. Not only are these areas losing jobs, they are losing the types of jobs for which clients are most likely to qualify and which are most likely to pay wages sufficient to close a case.

EMPLOYMENT BY INDUSTRIAL CLASS, WAYNE COUNTY AND OTHER DETROIT PMSA COUNTIES

[In thousands]

Industrial class	Total employment		Percent change 1979 to 1986
	1979	1986	
Nat. Res. and construction	62	56	−9
Manufacturing	616	492	−20
Trans., Comm., Util.	81	77	−5
Wholesale	87	90	+3
Retail	281	293	+4
Services	1,523	1,394	−2

3. With fewer jobs that pay well, the percentage of clients already employed but not earning enough to leave welfare continues to climb. The percentage of clients with earned income is less in Wayne County because there are insufficient jobs for the population.

PERCENT OF AFDC CASES WITH EARNED INCOME, BY FISCAL YEAR

Region	1986	1987	1988
Entire State	11.9	14.3	15.8
Wayne County	4.7	6.4	7.6

4. Greater required participation rates will mean more clients competing for fewer jobs in the very regions least able to absorb additional workers.

JULY, 1988

Region	AFDC-U cases	39 percent rate	50 percent rate
Entire State	25,153	9,809	12,576
Wayne County	5,406	2,108	2,703

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado [Mr. BROWN], who has been so active in the development of this process from the beginning in the subcommittee.

Mr. BROWN of Colorado. Mr. Speaker, let me express my thanks to the gentleman from Texas. His strong leadership made this a far better bill than it would have been.

I would like also to express thanks to the gentleman from Tennessee [Mr. FORD]. One of the nicest parts of working on this bill has been the opportunity to get to know the gentleman from Tennessee [Mr. FORD] and the gentleman from New York [Mr. DOWNEY]. They are tough, vigorous competitors, and while sometimes the folks on my side of the aisle wonder about our ability to negotiate with the Russians, I have no doubt that these two gentlemen could be as tough negotiators as the United States could have. They have been strong advocates of their viewpoints. I have great respect for their integrity, and their arguments. They have both been, I am sorry to report, far too effective in their endeavors, but my hat is off to them for a dedicated effort.

I would also like to express my personal thanks to the gentleman from Delaware [Mr. CARPER]. His willingness to step forward to help develop some common ground, to bring liberals and conservatives together in a common goal to help the poor has contributed immeasurably to the process. His leadership, I think, is one of the major reasons that we were able to develop this compromise.

Mr. Speaker, both parties have been concerned about helping those less fortunate in our society. It is no secret that one side thought the key to helping those folks was more benefits, more assistance. Likewise, other parties, including myself, felt that the major contribution we could make here is providing real and meaningful opportunity to those who are less fortunate to realize their abilities and their ambitions.

The key is finding a way to help the able bodied get off welfare, not stay on perpetually. Our hope has been that we would find meaningful work to help them fight their way up from poverty and dependence.

So the real question here was between dependence on Government programs versus independence and opportunity.

The bill is a compromise. It does involve elements of both, and that is why I think it has such broad support here today.

Mr. Speaker, I do not want this occasion to pass without pointing out that the key to success for those less fortunate in our society is a four-letter word: work. That four-letter word ultimately means opportunity and success for those less fortunate throughout our society.

Some have expressed the fear that this bill may be the camel's nose under the tent with regard to work. I believe it is. I believe this is the opening step toward providing work alternatives. I believe it is the opening step for expanded opportunity. Honest, productive and creative work is the essential missing element in helping people turn their lives around.

□ 1300

It is the single most important thing we can do. It is the greatest gift we can provide to those who are less fortunate.

The bill is a beginning, only a beginning, but it does hold out the promise of a richer, fuller life. I believe we will see a vast expansion of meaningful, creative work programs.

Mr. DOWNEY of New York. Mr. Speaker, I yield 4 minutes to the indispensable gentleman from California [Mr. WAXMAN], without whose assistance this bill would not have been possible.

Mr. WAXMAN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of this conference report. From the standpoint of reforming the Medicaid Program, this is a major step forward.

First, this conference report will provide Medicaid coverage to all members of poor, two-parent unemployed families in all States, even during the months in which those families are not receiving cash assistance. This is a long-overdue improvement that will extend Medicaid to an estimated 65,000 two-parent unemployed families, including about 130,000 children.

Second, this conference agreement will provide transitional Medicaid coverage to families who leave welfare and return to work. This will help welfare recipients to take a job and keep it.

Let me explain the provision relating to transitional Medicaid coverage for working welfare families. This provision was passed twice by the Energy and Commerce Committee, first on the welfare reform bill itself (H. Rept. 100-159, part 3), and then on the 1987 budget reconciliation bill, (H. Rept. 100-391, part 1).

Under this conference report, States would be required to provide Medicaid coverage for 12 months to women and their children who leave cash welfare due to earnings, and who continue to work. For the first 6 months, States would be required to continue the basic Medicaid coverage that these families received while on welfare. During the second 6 months, the States could impose a monthly premium on those with incomes above the Federal poverty level, and could offer these families a choice of regular Medicaid benefits and some alternate coverage, such as coverage under a plan that might be offered by their employer. This benefit would start on April 1, 1990.

This 12-month transition benefit will serve two major purposes. First, it will eliminate the current law work disincentive, under which families who want to leave welfare for a low-paying job have to accept the fact that their employer does not offer health insurance coverage.

Second, it will increase health care coverage for working poor families and children. We have roughly 37 million uninsured people in this country, and roughly two thirds of them are in working families. This provision assures that welfare reform will not add to the number of uninsured. According to CBO estimates, about 240,000 working poor families, including about 480,000 children, will receive 12 month transitional coverage.

While I wish that the coverage period were longer than 12 months, the budget limitations on this conference made this impossible. Still, this transition coverage is a major improvement in the current Medicaid Program, one on which we can build in the future. I urge my colleagues to support the conference report.

Mr. SLATTERY. Mr. Speaker, will the gentleman yield?

Mr. WAXMAN. I am happy to yield to the gentleman from Kansas.

Mr. SLATTERY. Mr. Speaker, I rise in support of this welfare reform legislation. This bill provides welfare recipients with a hand up, not a hand out. It emphasizes education, training and work which we know is the only real way to break the cycle of poverty.

This legislation offers welfare families critical medical and child care benefits for up to 1 year after they leave welfare. The medical safety net and child care support are key provisions that will allow a working mother to choose a job and a paycheck without the fear of losing medical coverage for her children or worrying about their safety while at work.

This legislation also requires States to strengthen their efforts to collect delinquent child support.

The American taxpayer should be proud of this welfare reform legislation. It makes good use of Federal funds by providing welfare recipients with the incentive to work and the education, training, and support services needed to help them regain their place in society as productive, taxpaying citizens.

I urge my collegues to support this legislation.

Mr. ARCHER. Mr. Speaker, I yield 5 minutes to a highly respected member of the Committee on Ways and Means, the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I would like to begin in the same fashion as the distinguished gentleman from Colorado, by congratulating the gentleman from New York [Mr. DOWNEY] on a spectacular achievement. Anyone who can disregard the instructions of the House by a half billion dollars and outslicker the White House demands some sort of Harry Houdini Award for 1988, and I think his achievements are enormous.

Mr. Speaker, I do have some criticism of this bill which has gained nearly unanimous approbation in the other body and probably will gain the same here. It does cost $3.3 billion over the 5-year period that we are costing it, and probably we will see those costs vastly increase in the next 5 years for which this bill authorizes it to proceed. It then sunsets, as I understand the bill.

I think the interesting thing is that we are talking about taking people off of welfare and, indeed, the bill will do some of that, we believe, but the unemployed parent provision will put 65,000 new welfare cases into being, and the increased disregards, according to CBO, will add 15,000. That gives us 80,000 additional people going onto welfare.

The training provisions will remove 80,000 people, and so we have a wash. We have spent $3.3 billion for very little gain, at least in the CBO's estimate.

Mr. Speaker, of the 80,000 people coming off of welfare to the training program, about 70 percent are going to be because Republicans insisted on participation standards, and I think there we have the nubbin of the bill.

Of the $3.3 billion, about one-third of it is in new benefits, not in my judgment well spent to take people off of welfare. About one-third of it is spent in training which is, in my judgment, the heart of the bill and the good part of the bill which is calculated to take people off of welfare. Another one-third is spent on Medicaid enhancements and day care enhancements for those going off of welfare who already have some of those incentives. As far as I know, there are no studies showing that these will be incentives.

I think logic would tell us that they may help some, but certainly there are no studies that I am aware of that will do that.

There are some good things in the bill which I will support, provisions such as the training particularly, the support that goes with that training in day care and transportation and the work provision.

The bad things in the bill are, of course, the National Unemployed Parents Program, the increased disregards which I have indicated before will put more people into the welfare system, the fact that there are no quotas for the work provisions until 1994, the reduced tax credit mentioned by my friend, the gentleman from Texas, and the kind of what I would call phony provision of $2 billion financing out of an expired tax collection program which is used to finance this new program. When that expires, I assume it will be used to finance another new program, because the base line always accepts these programs, but the tax provisions expire.

I believe the bill overall is strictly marginal. It is a coin flip as to whether it helps. I am going to support it, because I think the new training provisions are worth an investment. They are worth taking the risk of the bad things that are in the bill.

I would like to engage the attention of the gentleman from Colorado [Mr. BROWN], because it is my impression that in this bill there is no language imposing specific regulatory duties for home day care on the States. Is that the gentleman's understanding of the conference committee agreement?

Mr. BROWN of Colorado. Mr. Speaker, if the gentleman will yield, that is, indeed, my understanding of it. Only by ensuring that there was no burdens on regulation of home child care were we able to reach agreement.

Mr. FRENZEL. May I ask the gentleman, I understand the States are not required to move into any specific guidelines, although they are requested to do so on the same subject. Is that his understanding?

Mr. BROWN of Colorado. That is a correct interpretation.

Mr. FRENZEL. Is it the understanding of the gentleman that there is no authority in this bill for the Secretary to determine whether State regulations, if enacted, meet any potential Federal standard or anybody's interpretation of what might be nice care?

Mr. BROWN of Colorado. That is my understanding of the bill.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman.

Mr. Speaker, it is very important, I believe, that we protect those 70 percent of people using day care or using home day care. The gentleman from Colorado and I believe that this is very important.

I will vote for the bill, Mr. Speaker, on a marginal basis. Those who vote against it may have better reasons than I.

Mr. DOWNEY of New York. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Speaker, I would like to begin by commending the gentleman from Tennessee [Mr. FORD], the originator of this welfare-to-work idea, the acting chairman, the gentleman from New York [Mr. DOWNEY], who in my view has done an outstanding job of putting the conference report together, and certainly the gentleman from Illinois [Mr. ROSTENKOWSKI], who, as usual, has shown his many, many abilities in the area of legislative compromise.

Mr. Speaker, I rise in strong support of the conference report on welfare reform. We are here in agreement that work should be the cornerstone of our welfare reform efforts, because we know that a job has always been and will continue to be the best way to leave welfare behind.

The people we are trying to reach with this package are those with the common sense to know that their long-term prospects would be brighter with a job. But who have real and practical problems that hinder them from making the transition from welfare to self-sufficient employment.

Many are held back by a lack of basic education or job skills. This bill makes education and skills training a priority.

Others are hesitant to try the job market because they are understandably worried about what will happen to their children. How will they be cared for? What will happen if they need medical care? These are questions we would expect any mother to ask.

The bill addresses both of these vital concerns by guaranteeing child care and Medicaid for 12 months. This kind of rational response to serious shortcomings in the current welfare system is a hallmark of this bill.

We were also able to make progress on an aspect of welfare reform that this House has endorsed repeatedly in the past. With the enactment of this bill, we will require all States to establish AFDC programs to serve two-parent families. No criticism of the current welfare system has been more potent than the charge that it encourages families to break up. It is long past time that we eliminate this counterproductive feature of the system.

True, the provision will not make all State programs equal in this area. But compared to current law, even a 6-month program in those States not now serving two-parent families is better than no program at all.

The most important thing we will be doing here today is to start the process of changing the way people think about welfare. No longer will it be the place where people settle after they have hit bottom. The system won't be one that neglects its participants. Rather, its goal will be to actively help people off the welfare rolls.

Today, we will be sending a clear signal that we expect people on welfare to move on to regular employment. And we will be providing tools and removing obstacles to make that transition possible.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to a respected member of the committee, the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Mr. Speaker, for the last 14 years our welfare system has been the subject of documented abuse, ridicule and attempted reform. The American people have demanded changes in welfare for years—changes to take people off welfare rolls and put them in jobs or job training. Before us today, is legislation which heads us in that direction, toward workfare and equity, and while deeply flawed, it is the first positive step in 14 years, and I must support it.

Some in Congress are objecting to workfare requirements in this bill—this fact gives me hope that it really may lead to required work for welfare assistance. On the other hand, the bill before us opens the door for a future expansion of domestic programs we cannot afford. Work standards and participation requirements are weak, and estimates show the bill creating 65,000 more welfare recipients than current law over the next 5 years.

Is this legislation perfect? No, not by a long shot. Is it, however, better than our current system? Yes, it is. A wider safety net has been woven, and improvements in this program do cost money, but the savings to society by requiring many of those of welfare to find employment, undertake job training, or perform community service, give us hope for the future and for better values and dignity for welfare beneficiaries.

It is difficult in a society of prosperity and record economic growth to understand the State of our current welfare system. Jobs are out there, and training is out there, and welfare recipients should be required to participate. Nobody should get a free ride, yet compassion must exist for those less fortunate. This legislation ensures both, and is a starting point for future progress.

□ 1315

Mr. DOWNEY of New York. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I rise in strong support of the Family Support Act conference report. As a member of the subcommittee, a member of the Committee on Ways and Means and as a conferee, I think I can comment with a certain amount of competence on this bill. All the wonderful days when the first legislation was introduced, the sky was the limit. Unfortunately, fiscal reality had to set in. Unfortunately, those that wanted a jobs program forgot they had to pay for day care and Medicaid. Compromises had to be made. Negotiations were entered into and, Mr. Speaker, I stand here very candidly telling you that if the gentleman from New York [Mr. DOWNEY] had not fought as hard as he fought on this side to get things back from the Senate side, I will be very frank with you, Mr. Speaker, I would not support the bill today, but he kept jobs program, kept Medicaid and kept Medicare.

Is the conference report a good bill? Yes, it is. It is better than present law, no contest. What this conference report has brought about is the fact that now our welfare system, a system that is presently flawed, failed, will no longer lock women and their children into poverty. This system means for a young woman, if she got pregnant, had to leave school, if she really made a hash of her life, this bill means she gets a second chance. She can get an education, she can get back to work, and her child has a role model.

Mr. Speaker, I want to tell Members something, welfare will now be something we can be proud of rather than ashamed of.

I urge the support of this bill.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I rise in support of the conference agreement on H.R. 1720, the welfare reform legislation, but not without reservation.

The compromise before us, although not the total answer to the welfare crisis, does represent a legislative watershed. It puts Congress on the record in support of restructuring our broken welfare system. The compromise has flaws—the price tag is still too high, among other things, yet, the incentives to the States stand on firm principles.

General analysis of the bill have already been amply illustrated during the course of this debate. Allow me, then, to confine my remarks to a few basic and undeniable facts.

First, on child support enforcement. I am pleased to note that after years of hard work and, often bitter battles, my provisions for child support enforcement have been adopted and will become law.

The strongest of these provisions requires that all State enforced child support cases, or IV-D cases, have immediate wage withholding within 25 months of the bill's enactment. Furthermore, the bill requires that by the year 1994 all support orders, regardless of whether a parent has applied for IV-D services, have immediate wage withholding.

This is landmark legislation that will spare millions of families from endless, expensive, debasing, and destructive legal battles before they can receive the child support to which they are legally and morally entitled. Once again the Federal Government is going on record that child support is not a voluntary commitment.

Automatic withholding of child support payment from a parent's paycheck is the foundation of the new reforms. For the first time, just about every family that needs wage withholding can get it by using the State child support enforcement system. In addition, due to this bill, wage withholding will become universal in 1994. This will prevent families from falling onto welfare, lighten our crowded court docket, and standardize enforcement across the Nation.

This legislation also requires States to use uniform guidelines when determining the actual size of a support award and would force States to review and update those awards periodically to cover cost-of-living increases.

Now, what consequences will these provisions have to the welfare system?

These are fundamental to lifting family after family from the welfare rolls. Those States which have already enacted wage withholding have seen dramatic increases in collection. Take Virginia for example; in 1986 only 107 mothers on welfare got enough support payments to get off welfare. The first 8 months of 1988, after wage withholding was enacted, about 3,100 have received enough support payments to get off welfare. These statistics speak eloquently to the need for this provision.

New Jersey, a State in the forefront of reform, has also demonstrated dramatic and instructive progress in alleviating dependency on welfare by strict enforcement of child support orders. For example, in a demonstration project where orders were updated, based on current salary status and inflation adjustments—26 percent of the welfare recipients were removed from the rolls with adjusted child support orders.

I am pleased to note the provision requiring States to enroll a certain percentage of eligible parents in the education and training programs. Enrollment targets are essential incentives to States for welfare participation.

Furthermore, the compromise requiring two-parent households to work at least 16 hours and allows States the option of dropping the two-parent benefits after 6 months is significant. This is the "workfare" requirement the Republicans fought for. Funds are to be targeted to increased work opportunities rather than increased welfare benefits. This provision alone saves the Federal Government close to $1 billion.

I began by saying that I have reservations about this compromise—and I do. The first is the provision that a welfare mother does not have to have training or take on a job if she has a child 3 years or younger. Contrast that with the facts of today's work force.

Today, there are 51 million women who work. Latest figures show that more than 50 percent of working mothers have children under age 1. And yet, this bill holds up a different standard, a standard that is totally inconsistent with the economic and social realities of contemporary America.

There is another key provision in which this bill tips the scale of equity. The bill may allow an AFDC recipient attending an accredited postsecondary institution full time in pursuit of a 4-year baccalaureate degree, to be exempted from any work requirement. College attendance would qualify the welfare recipient to receive welfare and AFDC benefits, including child care, transportation, and Medicaid. There is no requirement for even part-time work.

While the pursuit of a college degree is certainly laudable and for many opens up the opportunity for a higher paying job, it would seem apparent that welfare recipients who are skilled enough to gain admission to attend a college are more likely already to possess the skills necessary to obtain some level of employment.

But the reason this provision is egregious is that hundreds of thousands of individuals are currently working their way through community colleges, vocational institutions, and universities. The Bureau of Labor Statistics recently compiled data which show that of the 1.5 million students enrolled in postsecondary institutions, 593,000 are working, while an additional 90,000 are seeking employment.

This means that one-fourth of the class of 1985 worked at least part-time while making their way through school. Yet this bill does not require an AFDC recipient to engage in a job search, if attending a full-time baccalaureate program. We expect of some what we do not even ask of others.

I shall work in the future to change this provision.

As the number of two-worker families increases, the key to welfare reform is to maintain a balance of equity between adequate welfare benefits and strong incentives to work. If benefits are not adequate we may have children and families without enough to live on. If benefits are too generous, however, there is a strong disincentive for the low-income working families.

I support this compromise because it has become apparent that the current welfare system is in crisis. The conference report, although merely a step, puts Congress on the record in support of restructuring our welfare system. It attempts to provide that equilibrium between strong work incentives and adequate benefits. To that end, I support the conference report. But more remains to be done.

Mr. DOWNEY of New York. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. Andrews].

Mr. ANDREWS. Mr. Speaker, I would like to limit my remarks to title I of the bill, the child support provisions. They are the cornerstone of this piece of legislation. We know today that three out of four of all welfare cases in this country begin through divorce, separation, or birth out of wedlock, but only one-half of all single parents are awarded any child support, and only one-half of those women receive their child support provisions.

Under this bill, mandatory wage withholding will go into effect on a national level. In Texas, my State, it has worked very well. In 4 years, 1982 to 1986, we have tripled the amount of child support payments we have brought into the system. We can estimate that when this bill comes into effect we can add $170 million in 3 years into the welfare system of nontax dollars.

Mr. ARCHER. Mr. Speaker, I yield 30 seconds to the gentlewoman from Connecticut [Mrs. Johnson].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman from Texas and rise in support of this legislation because it can be well used by States which have been the leaders in reform, because it does compel government as well as women on welfare to develop their work skills and career objectives years earlier than under current law and provide the essential transition services for women to regain their independence and to free women and children from poverty.

Mr. DOWNEY of New York. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. Levin].

Mr. LEVIN of Michigan. Mr. Speaker, this bill provides a creative linkage between welfare and work with support services. People are not statistics. For thousands this will represent a new tomorrow. I want to say a word about the CWEP Program. This bill provides additional protections against displacement of present employees, going beyond present law.

We can see between now and 1994 whether it is enough. If it is not, we can act on it.

This bill is not marginal. In my judgment it is a breakthrough after years of stalemate and stagnation.

I strongly urge its support.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. Olin].

Mr. OLIN. Mr. Speaker, I rise in opposition to the conference report on welfare reform.

The motivation behind welfare reform is good and I hope that if today's bill passes the program can later be modified to make it fiscally sound and effective in achieving its objective.

This welfare reform bill has two major shortcomings.

First, it does not provide sufficient new revenue to cover its cost. Two billion dollars of its expected cost of $3 billion is to be raised by increased effort by the IRS. Everybody knows that if the IRS could have collected more taxes over the past 8 years, it would have done so. This revenue plan is smoke and mirrors. A new major program of this type should not be approved without adequate revenue to pay for it.

Second, funding authorized for the program is not sufficient to achieve its objectives. Mandated training programs are unlikely to be matched by the availability of good paying jobs in most parts of the nation. The bill underestimates support actually required to get poor, single women with children on a self sustaining basis.

The probable result will be that only a few of the poor will actually end up self sufficient. Funds for the others will run out and we will have created another program with unrealistic expectations that will finally either be largely abandoned or will cost the taxpayers billions more than anticipated.

As worthy as the objectives of welfare reform are, we should not enact this bill at this time. It will add to the deficit and disappoint the poor. We should hold out for a better plan that faces reality and is better funded.

Mr. DOWNEY of New York. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. Miller], the esteemed chairman of the Select Committee on Children, Youth, and Families.

Mr. MILLER of California. Mr. Speaker, I rise in support of the conference report on H.R. 1720, the Family Welfare Reform Act of 1987. The legislation before the House today is critical both for its potential to create opportunities for self-sufficiency for millions of low-income American families, and for its extension of government support to children in all poor families.

I especially want to commend Chairman Rostenkowski of the Committee on Ways and Means, Acting Chairman Downey of the Subcommittee on Public Assistance and Unemployment Compensation, Committee on Ways and Means, Chairman Hawkins of the Committee on Education and Labor, Chairman Waxman of the Subcommittee on Health and the Environment, Committee on Energy and Commerce, Chairman Panetta of the Subcommittee on Domestic Marketing, Committee on Agriculture, and the other members of the conference committee for their leadership on welfare reform.

I am especially pleased that this bill recognizes that children—who make up two-thirds of current welfare recipients—must be a key consideration in any welfare reform initiative and that they will be directly affected by policy changes which seek to enhance the employability of their parents.

I personally do not believe that compelling low-income parents to work has proven very effective and I am especially concerned about the additional burdens work requirements will place on poor families with very young children. In fact, I would just like to remind my colleagues that not one of the Manpower Demonstration Research Corp., studies on workfare, which so greatly influenced our thinking on welfare and work programs, included mothers with children under the age of 6 and mothers who were long-term users of AFDC. However, what we do know, is that whether participation is mandatory or voluntary, a parent's ability to move toward self-sufficiency depends on the availability of support services and benefits—principally, but not exclusively, child care and medical benefits.

For low-income mothers trying to get training, enter the job market, or hold on to hard-won employment, the absence of decent affordable health benefits and child care for their children creates an insurmountable barrier. Too often, returning to the certainty of AFDC becomes the only rational choice to protect their children.

I am also concerned that work requirements and participation rates may constrain States' efforts to operate meaningful employment and training programs. Implementing a mandatory work program is expensive and states will be obliged to divert resources away from developing intensive employment and training programs for truly disadvantaged groups in order to enforce AFDC-UP work requirements. Participation rates will force States to stretch limited resources over several required programs, thus restricting a State's flexibilty and endangering program effectiveness.

I would also like to remind my colleagues that once we pass this bill, there will still be 13 million impoverished children and their families in

America. There will still be 100,000 homeless children on any given night. Welfare reform won't solve poverty for the simple fact that only forty percent of poor children and their families can even get it.

Just last week, the select committee heard from a group of America's most prominent thinkers about strategies Congress and the next administration must pursue, beyond welfare reform, if we are to extend prosperity to all of America's children and their families. The witnesses, from both sides of the political aisle, agreed that in order to close the gap between poverty and prosperity we must embark on a dual strategy: helping parents so they can work and support their families and investing in children to prevent future generations of poverty.

The Select Committee on Children, Youth, and Families' investigations have clearly established that the current child care system is fragmented and unstable at best. The supply of care is woefully low, waiting lists are common, and the numbers of families needing out-of-home care for their children is increasing. The result is children whose care is haphazard at best, or frequently dangerous or nonexistent. Furthermore, when child care arrangements fail, we wind up with parents whose work productivity predictably declines. As a result, assuring quality child care programs—facilities, training and quality control—must be an essential ingredient in any war against welfare dependency. For low-income families and families trying to maintain entry level work opportunities, finding ways to make child care affordable is also critical.

I am especially pleased that this legislation assures that all program participants, and especially those participating in the JOBS Program, will have access to child care. For the first time, we will guarantee welfare recipients, that once they leave welfare, we will continue to provide essential child care and Medicaid during the important transition from welfare to work. And, in order to assure that the goals of this legislation be successfully realized, I would hope that before this program is fully underway, we will be able to restore the provisions on child care standards, child care supply, and caregiver training that were included in the bill we passed last December.

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Speaker, I rise in support of this conference agreement on H.R. 1720. This compromise, although not as comprehensive as I had first hoped, nonetheless is a step forward in reducing poverty in our country.

In the past, welfare has not provided the necessary means for a family to achieve economic stability. Unfortunately, it provided an incentive for families to remain outside of the work force—unskilled, uneducated and unemployed.

The conference report to H.R. 1720 incorporates the necessary work requirements yet eases the burden on those entering the workforce. Each State is required to initiate its own Job Opportunities and Basic Skills Training Program. Through this program, families with children will be able to obtain the education, the training and the employment necessary to becoming productive members of our community. However, in return for this program, States are allowed to require each participant to negotiate and enter into agreements, contracts if you will, with the State agency. These agreements, as with employment contracts can define the obligations, duration and the services to be provided by the State. A parent in each Unemployed Parent [AFDC-UP] family must participate at least 16 hours per week in a work activity. Welfare is not and should never be considered a viable alternative to employment. Benefits must be tied to work requirements and in this conference agreement, benefits will be withheld from a recipient who fails without "good cause" to participate in the program.

Transitional benefits will also be provided for participants moving from the welfare rolls into the workforce. If child care is necessary for employment, the State must guarantee child care. Medicaid must be extended for 1 year to families who leave AFDC due to increased earnings. In the future, more must be done to get these people off welfare and back to work. Programs must be available to all recipients and requirements for participation must be strengthened. Parents must be given the options needed in order to provide for their families. Poverty is a cycle—passed along from generation to generation. The time has come to break this cycle. The time has come to stop providing support alone but rather to provide the means for families to support themselves.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I rise in support of the conference agreement on welfare reform. As in most compromise efforts, this conference agreement is not perfect—but it will provide us with a welfare system that is much improved over what we currently have in place.

When the House considered its version of welfare reform last December, at that time I stated what I thought to be the most important goal of this reform process—to find a way in which to foster independence humanely—in best interest of recipients and the United States as a whole.

At that time I stressed that we must develop a system of mutual obligations: Government's obligation to see that welfare recipients are able to acquire skills necessary to be self-sufficient; recipients' obligation to contribute to their own support by working or participating in training to make them job-ready.

A system where recipients are better off by working than they would be on welfare—but where quality child care is available, even after the recipient has gained employment; and where medical benefits are continued for a long enough period of time to enable mothers of young children to work without threat of losing vital health coverage.

I am proud to say that I think we have achieved this goal—and while many of us would have preferred to have done so at a cost of less than $3.34 billion over the next 5 years—this is still a relatively low cost measure compared to the much more expensive $7 billion House bill.

This legislation significantly improves the Child Support Enforcement Program under welfare so that within 4 years, child support collections should produce an increase of about $200 million per year in Federal revenues and even more—about 50 percent more—in State revenues.

It significantly expands and improves on the employment, training and work experience programs run in each State to assure that AFDC recipients and their families obtain the education, training, and work experience that will enable them to obtain employment—breaking their dependence on public assistance.

For the first time, all able AFDC recipients with children age 3 or over—and in States so desiring and where approved by the Secretary, age 1 or over—will be required to participate in an education, training, or work experience program that will lead to unsubsidized employment in the private sector.

For the first time States will be required to mandate school attendance of young parents lacking high school diplomas or the equivalent regardless of the age of the child if child care is provided.

The agreement requires that each participant in the JOBS Program be assessed for skills levels, family needs, and that an employability plan be developed with the participants' input.

It requires each State to serve set percentages of welfare recipients in work or training programs: 7 percent in 1990-91; 11 percent in 1992-93; 15 percent in 1994; 20 percent in 1995.

And it provides States with the flexibility needed to develop and run community work experience programs to provide meaningful work experience to AFDC recipients who are in need of such experience to enable them to move onto unsubsidized work.

Again, this legislation is not perfect. Of the $3.34 billion additional money that this legislation is projected to cost over the next 5 years—I do believe we could have found greater savings.

However, I believe that it is a very positive step in the right direction to decrease the numbers of Americans who are dependent on the welfare system—helping them to move into private sector jobs that offer bright futures of self-sufficiency.

□ 1330

Mr. DOWNEY of New York. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. PANETTA], the chairman of the Subcommittee of the Committee on Agriculture dealing with food stamps.

Mr. PANETTA. Mr. Speaker, I rise in support of this conference agreement. My support does not reflect an enthusiastic endorsement of this compromise which was only reached after arduous negotiations between the two bodies and the administration. This compromise is better than current law but is not true welfare reform.

While everyone agrees that the welfare system—and it is probably inaccurate to even describe the bureaucratic maze of current welfare programs as a system—an agreement on true welfare reform has been an illusory quest over the past two decades.

The conferees bring before us today not welfare reform, but simply the framework which we can fill in to construct true welfare reform in future years. Welfare reform should have four components:

First, simplification of the current, often contradictory welfare rules and programs;

Second, benefit improvements so that low-income Americans can live in dignity;

Third, employment and training opportunities so that those who can work can escape welfare dependency; and

Fourth, adequate day care and medical care for welfare recipients trying to work their way out of the welfare system.

The compromise before us today does not address two of these four objectives. For budgetary reason and because of administration opposition, benefit improvements were not included in this compromise. This is a particularly serious problem in view of the erosion of real AFDC benefits over time because States have not increased benefit levels anywhere near the rate of inflation. On the average, real AFDC benefits have declined by more than a third over the last 17 years. As welfare reform has gone through the legislative process, both a benefit floor for AFDC and financial incentives for States to increase benefits have been dropped. Unfortunately, the additional financial requirements which the new employment and training provisions will impose on States could cause them to defer or provide lower AFDC benefit increase in the future.

There is no significant simplification of the current welfare system or improved coordination between the programs in the conference agreement before us. One striking omission was the exclusion of the food stamp simplification and coordination provisions which the House of Representatives included as title X of H.R. 1720, the Family Welfare Reform Act of 1987. One item which was dropped is an excellent example of how the current welfare system can give with one hand and take away with the other. Under current law and under the compromise, the first $50 a month in child support payments to a family receiving AFDC, is not counted as income for AFDC. That amount is counted as income in the Food Stamp Program unless a State elects with its own funds to pay for this exclusion. No State has made that election. Therefore, under current law and under this conference agreement, the $50 child support disregard in AFDC is reduced by at least 30 percent because of the interaction of AFDC and food stamps. The House approved the coordination of child support payments between the two programs last December so that the $50 disregard would indeed be worth $50 to a family on welfare. This was one of the provisions dropped at the last minute by the conferees.

This conference agreement includes improvements in employment and training, but we should have no illusions that we have finished our job of providing meaningful employment and training opportunities for those at most risk of long-term welfare dependency. Research results which have become available in recent years demonstrate conclusively that the long-term payoff from investments in employment and training is for young mothers. There is no evidence that fathers who stay with their families avoid going to work in order to collect welfare benefits. Unfortunately, because of a rather sterile ideological debate about extending AFDC benefits to families with both parents present, we will be allocating scarce training and employment resources to people who will get jobs if they are available at the expense of young mothers who desperately need employment and training opportunities to escape the trap of welfare. In addition, I fear that we may be repeating the mistake which was made with the generally discredited WIN Program of creating bureaucratic incentives for program administrators to claim success by funneling through employment and training programs people who would have gotten jobs in any event.

This bill makes some progress on the day care and health care fronts. Once again, we cannot declare victory and walk away from the problem. Quality day care is expensive. On the other hand, the failure to provide quality day care will cost us dearly in the future if we do not provide young children of low-income Americans with a caring and intellectually stimulating environment that will help prepare them to compete successfully for jobs in the future. We should not kid ourselves that we are providing the resources for quality day care in this conference agreement.

On balance, this bill is an improvement over current law. We have been debating welfare reform in successive Congresses since Americans first landed on the Moon back in 1969. Major welfare reform proposals of the Nixon and Carter administrations were defeated by a coalition of conservatives who thought the bills were too costly and liberals who thought the bills did not do enough. Frankly, we don't have the budgetary resources now to do the job right. On the other hand, if we don't seize the opportunity now, we throw away the opportunity to make some significant incremental improvements to our welfare system.

On the other hand, I hope that the next Congress and the next administration will not think that this year's welfare reform legislation means that we can ignore the problem of welfare dependency. We have built a framework with this conference agreement. It remains for the next administration and Congress to finish the construction of a welfare system that in a humane and compassionate fashion achieves the ultimate objective for a welfare system that works—to provide the opportunity for all who can work to do so at wages that allow families to live in dignity and to provide adequate assistance to those who cannot work.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. HAWKINS].

Mr. OWENS of New York. Mr. Speaker, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from New York.

Mr. OWENS of New York. I think it is important to point out, Mr. Speaker, that this bill in only a small measure resembles H.R. 1720 which most of us voted for before it went to conference. There is not a single penny in this bill, there is not a single incentive or encouragement to the States to lift the floor of the amount of benefits that they provide to poor people who are living on subsistence, not a single penny.

This 100th Congress has been very generous to some other disadvantaged people. We voted for a $3.9 billion drought relief bill for farmers. While I am all in favor of the small farmers getting drought relief, farmers earning up to $2 million per year, $2 million gross income per year, were eligible for drought relief. Not a single one of these millionaire farmers was asked to work off that grant. They were temporarily disadvantaged, they are temporarily disadvantaged and the Government is coming to their aid, although if you are making $2 million I do not know why the Government has to come to your aid. But nobody has to work it off. They do not have to provide access to their farms, for urban children, for example, to come out to picnic. Nothing is required.

We are going to be relieving savings and loan associations by providing $10 to $20 billion of taxpayers' money either in this Congress or in the next Congress. But for poor people, poor people who have no power, you have gone to the White House and you have let Ronald Reagan dictate the terms.

This 100th Congress has been generous but not to poor people. We pledge allegiance now in the 100th Congress. We started a new tradition. The last three words "justice for all" none of us seem to understand. There is no justice for the people who have no power. There can be no true work program in this complex age of ours if you do not have an education program. There is really no education program.

We need nurses, we need early childhood workers, we need more teachers. None of those, you cannot qualify for any of these jobs unless you are in an education program up to junior college or college. That is not in here. We leave the States with the option of providing junior college and college and all States, just about, have opted out of that in the past and will continue to do so.

So the bill has good rhetoric, but the substance is not there. I am all for jobs. That is the primary purpose of my being here. Income and jobs will solve the problems for poor people. But you cannot have income and jobs with rhetoric. You have to put some real training behind it. The problem is the educational deficit that our people face. They need education in order to qualify for the jobs that are available.

This bill does not provide that. It does not provide adequate jobs, job training, it does not provide adequate education training. It does not provide the jobs at the end because people can never get decent jobs if they do not have the proper education. There is no justice for the people who need it most, for the children of America who are on AFDC. We continue to discriminate against these children. There is no justice here and this bill I think should be shelved. Let us come back when we have a new President and a new Congress to do a real welfare reform bill.

Mr. Speaker, I rise in strong opposition to the welfare reform conference report.

When the welfare reform debate began 2 years ago, we decided we were not going to repeat the mistakes of the past, that we were going to look at all the research that has been done over the years and design a program that we know from experience will really work. And what we learned was that the biggest problem with our current approach to training was that we were spreading our resources too thin, that what we really needed to help people become self-sufficient were more intensive, long-term training programs, with a strong emphasis on education. And, for the most part, that's what the original House welfare reform bill would have provided.

But then we got into conference and it soon turned into a confrontation between ideology and common sense. And after locking the people who know better out of the room—the Education and Labor Committee—ideology won out.

The result is not a job training bill that will help people, but something mean-spirited which ignores everything we know about job training, a bill driven by Ronald Reagan's philosophy that poverty is a bad habit and aversion therapy is the only cure.

And so what began with such great promise has degenerated, in the end, into an odious bon voyage gift to Ronald Reagan, helping to mangle yet another safety net program in ways he would not have been able to achieve on his own. And the Democratic Party, which kicked off the Reagan era by abandoning principle and embracing the disastrous budget cuts and tax giveaways of 1981, thus ends the Reagan era in the same unprincipled, supine position with which it began.

I am embarrassed by the rationalizations being served up to justify this monstrosity. Members who have spent the last eight years ridiculing the administration's tendency to equate massive defense spending with military strength now tell us that though the welfare reform compromise will not do much for the poor and will likely hurt a great many, we should be happy because it will at least spend a lot of money. Others who are optimistic about the election reassure us that the worst parts of this bill will be ameliorated by regulations issued by a sympathetic Dukakis administration, the theory being, I suppose, that it is less painful to be impaled on a dull pike than a sharp one. More pessimistic types warn that we should jump at this plan now in case we do lose the election, maintaining implausibly, but somehow with a straight face, that Ronald Reagan is, of course, so much more liberal and amenable to compromise than GEORGE BUSH. And most ludicrous of all is the suggestion that we should not worry too much about this awful bill because we can all just come back next year and repeal or modify its most draconian provisions and, while we're at it, throw in some modest benefit improvements as well. Sure—and maybe we can call that remarkable legislation the Omnibus Flying Pigs and Snowball in Hell Act of 1989.

Another argument for this bill that we are now hearing is that, despite all its shortcomings, it will at least provide an unprecedented amount of new funding for education and job training for AFDC recipients. This is simply incorrect. The original House bill did provide generously for education and job training; the conference report, however, does not.

According to CBO, in real dollars, this bill will provide about half of what we spent on the WIN Job Training Program for welfare recipients during the 1970's and just about the same as what we spent on WIN during the early 1980's.

By 1993, CBO estimates we will be spending $395 million for this new program—exactly what the WIN Job Training Program received in 1980. But since, unlike WIN, this program requires States to serve a large, fixed number of participants, this money will have to be stretched to cover more people than under WIN. In 1980, WIN served 280,000 people with that $395 million; in 1993, states will have to serve one-third more people with the exact same amount of money.

In other words, the much-hyped "capped entitlement" in this conference report will give States even less money to spend for training each AFDC recipient than the WIN Program did. Ironically, the chief reason people regard WIN as a failure is because it spent too little on each participant. Now, we will be spending even less.

Anyone who is knowledgeable about job training will tell you that you just can't run a real training program on the paltry funds provided in this bill. The amount of money which will be available to train will only be about one-third of the average amount we spend to train someone under the Job Training Partnership Act, which generally serves people who are better educated and have more work experience than the average welfare recipient. One-third of the average cost of training under the old CETA Program. One-third of the average cost of an on-the-job training program. One-third of the cost of remedial education instruction. And just one-third of what Michael Dukakis spends to train someone in his ET Choices Program in Massachusetts. In fact, Governor Dukakis created ET to replace the kind of cheap, ineffective training program that this bill requires every State to implement.

The bottom line is that the only program that States will be able to afford to run under this bill will be workfare. Now, the best reason to oppose workfare is because it is a form of indentured servitude, but there is another good reason as well—it does not work.

For some people who have never worked before, workfare is sometimes useful, but only if it is limited in duration and is linked to real training, as it was in the House bill. But all of the research tells us that the kind of unlimited, empty, and universal workfare programs mandated by this bill are practically worthless.

Even under the best of circumstances, limited workfare programs are still the least effective training intervention we know of. The most successful program—in San Diego—only increased the average earnings of participants by about $560 a year. Most of the other workfare programs only increased earnings by $100 to $200 a year. And some, as in Chicago and West Virginia, had no effect on employment and earnings at all.

Now compare those results with some other training programs we've tried for welfare recipients and the long-term unemployed. CETA, which Ronald Reagan called a failure, increased average earning by about $1,700 to $3,300 a year. The supported work demonstrations of the 1970's increased earnings by $960 a year. And the WIN Program that this bill replaces increased average earnings by about $980 a year.

There can be no question, then, that this bill takes us backward—not forward—in helping Americans trapped on welfare.

But still, some insist that while this bill may be worse than what we have now, it is at least better than nothing. I disagree. We simply do not have the money to waste on ideological exercises anymore, on more cheap, junk programs. And poor people on welfare cannot afford to wait another decade for common sense to prevail in Washington.

If you think this bill really will be better than nothing, consider for a moment what it will mean for the families of Aliquippa, PA. Ten years ago, Aliquippa had the largest steel mill in the world—16,000 jobs—and the highest per capital income in the Nation. But then, suddenly, the bottom dropped out; the mill shut down; and now there are no jobs. Not at the mill, not anywhere.

Men who worked 20 years in the mill, earning $30,000 a year, have been laid off, exhausted their unemployment benefits, and now try to support their families on a $350 monthly AFDC-UP check.

And what will this so-called better than nothing bill do for those men?

Not retrain them. Not educate them. Instead, it will force them to pick up trash on the interstate in a workfare job, every day, every week, until the day they're finally old enough to collect Social Security.

And what for? To teach them the "dignity of work"? These men who worked proudly for 20 years in the mill?

To train them? For what job? There certainly won't be any real, paying jobs picking up trash because the welfare recipients will all be doing them for free.

Then why? Because welfare is "immoral"? Are you really begrudging these men—who worked and paid taxes for 20 years—10 bucks a day to feed their families in a time of need?

No, for the people of Aliquippa, for all people on welfare, this bill is not better than nothing. There is no compelling reason to support this bill, to throw up our hands and resign ourselves to a welfare reform scheme that has been written largely in the Reagan White House. So many of the groups which once had such high hopes for welfare reform and strongly supported the original House bill are now asking us to stop, think, and wait until next year; AFSCME, the AFL-CIO, Americans for Democratic Action, Bread for the World, the Child Welfare League of America, the Children's Defense Fund, Church Women United, the Coalition for the Homeless, the Coalition on Human Needs, the Food Research and Action Center, the Friends Committee on National Legislation, the Full Employment Action Council, Interfaith Action, the League of Women Voters, National Council of Churches, National Council of La Raza, National Puerto Rican Coalition, National Organization of Women, National Urban League, Service Employees International Union, United Church of Christ, U.S. Catholic Conference, and Wider Opportunities for Women—they all urge us to vote "No."

During the initial House consideration of H.R. 1720, many of us were reluctant to support it precisely because we feared that it would be hijacked in this way by the White House. But we were repeatedly reassured that this would not be the case, that the sponsors of H.R. 1720 would rather have no bill at all than a bad one. Apparently, they changed their minds. Presumably, however, as welfare reform becomes yet another rightwing Trojan horse, one more set of broken promises, and as the door to real reform slams shut for another decade, the millions of Americans who are trapped in grinding poverty will be expected to take comfort in the knowledge that their suffering has a higher purpose—"making history" and pumping up the legislative batting averages of a handful of legislators in Washington.

Vote "No."

Mr. DOWNEY of New York. Mr. Speaker, I yield 30 seconds to the gentleman from Delaware [Mr. CARPER].

Mr. ARCHER. Mr. Speaker, I yield 1 additional minute to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. I thank the gentlemen very much for yielding time to me.

Mr. Speaker, if we set out to design a worse welfare system than our existing one, it likely would be impossible. Our current welfare programs discourage self-sufficiency. They encourage dependence.

I am grateful that the compromise we're sending to the President today reflects in several respects the bipartisan welfare reform bill that a number of us introduced last year: emphasis on transition assistance in areas of child care and family health care, tough child support enforcement, incentives to keep two-parent families together, as well as a more affordable cost.

This compromise, like our bipartisan proposal, seeks to makes it clear that if a person wants to get off of a welfare roll, we want to help you.

If you are a teenager who drops out of school to have a baby, we want you to resume your education in order to qualify for assistance.

If you are a welfare recipient who wants and needs more training to improve your job opportunities, we'll make that training more accessible.

If you are a parent who shirks his responsibility to help provide for the needs of his children, we're coming after you.

If you are a welfare recipient who is willing to take a job that has no initial health care benefits, we'll provide at least 1 full year of transition health care assistance for your family.

If your new job will require you to leave your young children unattended, we'll also provide at least 1 year of transition child care assistance while you get your feet on the ground.

And, finally, we don't intend to break the bank in undertaking these reforms. We'll do so in a cost-effective manner. We do so because of the tireless efforts of Mr. DOWNEY, Mr. HANK BROWN, Mr. HAROLD FORD, and other conferees.

Because each of you were willing to give a little at conference, America's taxpayers and its welfare recipients stand to gain a great deal—a chance to overhaul a welfare system that is fraught with problems and to start anew.

Mr. DOWNEY of New York. Mr. Speaker, I yield 30 seconds to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, it is time for welfare reform but it is also time to raise the minimum wage. The sad fact is that a parent in America today making minimum wage qualifies for welfare. Think about it; for some Americans today, even getting a job is no escape from a welfare line. That is inexcusable.

I support this bill and I commend the efforts of TOM DOWNEY and HAROLD FORD, but I think it is an indictment on Congress that we reform welfare but do not give those on the bottom of the ladder a chance to make a decent wage.

Mr. ARCHER. Mr. Speaker, I reserve the balance of my time.

Mr. DOWNEY of New York. Mr. Speaker, I reserve the balance of my time. I intend to close debate, and I do not have any other speakers for our side.

Mr. ARCHER. In that event, Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will admit that it is difficult to make a judgment on this bill. I will agree with the gentleman from Virginia that the intentions of those who support the bill are excellent. I am concerned that there will be a loss of expectations on the part of the taxpayers of this country, on the part of what the majority of the American people want to see in a truly effective welfare system.

It is clear that some of the provisions in the bill will accord welfare recipients who have gone to work continued benefits that will not be available to those who live side by side with them and work for the same amount of money and have never been on welfare. So it is possible that someone who earns $18,000 a year can continue to get benefits of Medicare and child day care while a worker next door who earns $18,000 a year and has never been on welfare is denied those privileges.

Mr. Speaker, I predict that in the future Congress will not let that dichotomy continue. Therefore, we are opening the door for massive new additional benefit programs in order to correct that inequity.

In addition I believe that working Americans, once they discover that a welfare family of four can, if I read the bill correctly and I am assured by staff that this is accurate, receive in earnings cash and noncash benefits an aggregate of up to $26,000 a year under this bill. What are working Americans going to think who have no welfare benefits, who are making $15,000 to $20,000 a year? I do not think that is supportable and I think it should be corrected if we are going to have true welfare reform.

In addition I have been troubled over the years from experiences I have seen in my own home city of Houston, TX, where children in welfare families do not get adequate clothing, do not get adequate sustenance, who refuse to go to school because of their embarrassment at going in with torn sweaters and torn trousers and are ridiculed out of the school by their classmates.

I see nothing in this bill that is going to propel aid directly to the children to break the poverty cycle. It is woefully deficient in this regard.

Yes, there are a lot of programs for the parents, but there is precious little in this bill that is designed to directly help the plight of the children, so that they will pursue their education and become productive citizens.

I am sorry to say that in spite of all the work I believe the bill falls short of the goals we should have on welfare reform. Just as I opposed tax reform, which did not bring us simplicity, and as I opposed the catastrophic illness program which has unfairly singled out the elderly for a higher income tax rate than any other group in the country, I must oppose this bill. One day the people will realize that this bill also, when implemented, will not fulfill its expectations.

Mr. Speaker, I yield 30 seconds to the gentleman from Indiana [Mr. COATS].

Mr. COATS. I thank the gentleman for yielding time to me.

Early in his term, President Kennedy sent a message to Congress calling for wefare reform. In that message, the President put the integrity and preservation of the family unit first on the list of his goals for public welfare. Twenty-seven years later, family-oriented welfare reform has finally come to the floor. As ranking member of the House Select Committee on Children, Youth, and Families, I rise today in support of H.R. 1720. There are many antifamily features of current welfare policy. I'd like to point out several provisions in this bill which will help to change that.

First, the child support provisions of the welfare reform bill support parental responsibility through tougher enforcement of child support rulings. HHS statistics show that fewer than half of families receive the support to which they are legally entitled. This provision will help remedy this inequity.

Second, the AFDC-UP provision extends welfare benefits to families where the father is present but unemployed. This eliminates the current welfare bias against two-parent families.

Third, the child care provision guarantees quality child care for families on welfare so that parents are able to participate in the work force, or enroll in education or job training programs. At the same time, mothers with children under 3 would be exempt from the so-called workfare provisions so that a healthy relationship between mother and child can develop. These provisions will facilitate the transition from welfare to independence while ensuring that families remain strong.

With these changes we can be confident that our social welfare policies will contain a long overdue profamily emphasis. I intend to vote in favor of the bill, and I urge my colleagues to support it also.

Mr. DOWNEY of New York. Mr. Speaker, I yield myself 5 minutes.

Mr. DOWNEY of New York. Mr. Speaker, let me begin by recognizing the two authors of this bill who are present and who grace the Chamber today.

The senior Senator from New York, who is here, is the driving force behind welfare reform in the other body. We owe him an enormous debt of gratitude for his 20 years of work on this. And to the gentleman from Tennessee [Mr. FORD], the gentleman who has for the last 3 years worked tirelessly on this bill I offer my thanks. His principal ideas are embodied herein.

We have all learned something, Mr. Speaker, from the process of writing this welfare bill. We have managed to dispel myths and face reality. We recognize, we Democrats, a point that the Republicans have made, that the best welfare bill is a strong economy because without a strong economy we are in trouble and the poor certainly are in trouble.

And our Republican friends have learned something about their recovery. They have learned a very sad lesson—that a rising tide does not lift all boats. Indeed even after 6 years of rising tides, too many have been left on the shore and too many are still floundering in the water. We have also both recognized, as we always have known, that there is great dignity in work and it is that dignity that we attempt to impart to the poorest among us with this bill.

We attempt to provide a way out for the people who want to work. Welfare recipients want to work, they do not want to be dependent. We had to fight the myths, we had to dispel them and we have done that. We had to recognize that no one likes welfare, not the people who pay the bills and not the people who are demeaned by accepting the benefits. We have forged a very tough but important compromise.

MAJOR OWENS stood in the well not 2 minutes ago and opposed this bill. He probably knows more about poor people than any one of us and probably has more contact with poor people than I do or any other Member. Chairman HAWKINS also strongly opposes the bill. They are giants and have been leaders in the cause of helping the poor.

While they oppose the bill today, and I understand the reason for their opposition, I will tell them as I will tell all of you that if we were to wait 2 or 3 years to do this bill again, there would be no guarantee that there would not be another work requirement; there would be no guarantee that the benefits would not have been better and that we would have lost 2, 3, 4, 5 or 10 years to do the things that this bill does.

□ 1345

We can say to the welfare recipients in the barrios of Los Angeles or in certain parts of Brooklyn, NY, "We have a training program, we have an education program, and if you work—and we know you want to work—we will give you transition benefits so you can step out of the darkness of welfare and into the light of productivity. We understand your problem, and we are prepared to do something about it."

That is what this bill does. We cannot legislate whether parents should be responsible or not, but we go a long way toward making sure that fathers who abandon their responsibilities to their children will be sought out by the State to make sure they pay their fair share.

This bill will make a difference. It will make a very big difference, and it richly deserves our support. It would not be possible for me to stand here today without the help of two Members that I want to single out. One is the ranking minority member of the Subcommittee on Public Assistance and Unemployment Compensation, the gentleman from Colorado [Mr. BROWN]. He is a joy to work with. We often disagree. We have very different views of the world, but he is a man of honor and decency and has worked tirelessly with us. I think him for his courage and his help.

The other is the chairman of the Committee on Ways and Means. The Committee on Ways and Means in the last 2 years has passed a catastrohic health bill, two major trade bills, and we have now done something with the passage of welfare reform that no Congress in 53 years has done. It has changed the nature of welfare. It has made it a work program, and it will help to take children out of proverty and give them an opportunity.

Mr. Speaker, this bill richly deserves our support. I thank all the Members who have worked so hard to make it possible.

Mr. BORSKI. Mr. Speaker, I rise in strong support of the conference agreement on H.R. 1720, the Family Support Act. This historic legislation is aimed at breaking the cycle of poverty that keeps welfare recipients unemployed and dependent on Government assistance.

For years, there has been a general consensus among policymakers and citizens alike that our welfare system is ineffective in meeting the needs of the poor. Today, we have an opportunity to reduce long-term welfare dependence and to help recipients find permanent, private sector jobs. A vote for the conference agreement is a vote to provide the education and training necessary to enable welfare recipients to become productive and self-sufficient citizens.

The conference agreement requires all States to establish job search and on-the-job training programs. It also provides for new Federal grants to States for operation of these employment programs.

Another important feature of the welfare reform agreement is the recognition that making the transition from welfare to work is a difficult one. In order to assist families making the transition, the legislation requires States to continue Medicaid benefits for up to 1 year for families wh leave welfare because of earnings from employment. It also requires States to provide or pay for child care for participants who find jobs or are enrolled in training programs. The health care and child care provisions are major improvements over current law as they remove the two biggest impediments to work.

This legislation is the most comprehensive revision of the welfare system in 53 years. It provides hope and opportunity to hundreds of thousands of welfare recipients who dream of leading independent, self-sufficient lives and it deserves our support.

Mr. GARCIA. Mr. Speaker, I rise today to lend my support to H.R. 1720, the Family Support Act. This measure is the result of much work by the House and Senate conferees and given the need to reform our welfare delivery system, I commend their hard work and dedication.

I believe that very few Americans would oppose providing assistance to families that truly need help. Many of these families and individuals have been left behind by a changing workplace, with skills no longer appropriate in modern day America. Others have failed to realize their full potential in school. Still others are temporarily down on their luck. They all deserve our support as members of the same great community—a community where hope should exist for each and every one of us.

The safety net that we in this country have agreed to provide our fellow citizens is a very important component of Federal assistance. At the same time, however, in many cases Federal support has not allowed families to lift themselves up from their level of poverty to a better standard of living. Tragically, many individuals in our inner cities, with no viable alternatives for improving their economic condition and that of their family, turn to the world of drugs.

What we must do is to provide people with opportunities. Opportunities to improve the status of their families and their children. This requires better education for our youngsters. It requires drug education and prevention programs as well. It requires providing families with decent housing and safe neighborhoods.

It also requires creating new jobs, jobs that will pay a wage that will support a family of four without requiring both adults to work full time while leaving the children unsupervised. It requires a fair and equitable minimum wage which unfortunately the Senate has foreclosed the possibility of consideration this year. It requires retraining workers for new jobs. It requires providing education opportunities for those people who have fallen through the cracks of an increasingly inadequate public school system.

The bill also provides benefits to two-parent families in which the principal earner is unemployed. This includes the controversial provision requiring one parent in two-parent families receiving benefits to participate in work activities for at least 16 hours each week.

Of course, H.R. 1720, the Welfare Reform Act, is the result of political compromise. It cannot satisfy every concern raised by the many participants and interest groups involved. Nor does it pretend to do all these things.

It alone cannot break the cycle of poverty that so many families have fallen victim to. It does, however, establish job training and employment programs. It also provides child care for participants of the JOBS Program and extends Medicaid benefits for up to 1 year to families that leave welfare because of work. The bill also strengthens the enforcement of child support payments, thereby holding families responsible for the welfare of their own children.

I understand that some Members have expressed concern about the work requirements under the AFDC-UP Program. I urge them not to stall the hard work put into this measure. The bill is a strong step in the right direction. It encourages families to move into the work force after participating in the JOBS Program and for the first time requires States to provide assistance to two-parent families.

I consider this reform legislation a strong first step towards making Federal assistance the road to opportunity and achievement for Americans who need such support. I urge my colleagues to support the measure based on its overall and ultimate impact.

Mr. VENTO. Mr. Speaker, I rise in support of the conference agreement on H.R. 1720. This agreement represents 2-plus years of work; of negotiations; of compromise. I commend all my colleagues who have spent so much time and energy on this essential legislation.

As Congress worked on this bill throughout this session, we acknowledged one clear fact. We need to enact changes in our Public Assistance Program. We need welfare reform. H.R. 1720 will help bring about that reform, changing the system from passive to active. For example, the JOBS Program will actively target long-term welfare recipients and those who are young parents for participation in the job training and education programs that will prepare and train people for the world of work. Importantly, the JOBS Program also provides child care, transportation, and other work-related support services. Tighter child support enforcement will also bring about increased family responsibility and accountability, while eliminating some of the need for public assistance.

Imperative measures in H.R. 1720 include the provision of AFDC payments to two-parent families [AFDC-UP] in every State. As we work to promote the responsibility of the family for the family, we cannot continue to promote its destruction through mandatory single-parent requirements for AFDC. Also essential are the year-long transitional provisions for Medicaid and day care assistance which will help families make the adjustment off of welfare less jolting.

The kinds of priorities and programs outlined in this legislation parallel a program established in Minnesota known as "PATHS—From Welfare to Self-Sufficiency." With its long-term recipient targeting—employment, training and support services—child care provisions—and unique interagency and interprogram cooperation, PATHS serves my state and our nation by building a firm model of reform, and, hence, this new policy, the Family Support Act, has similar potential.

Naturally, there are some problems with this legislation, as there are with any bill that promotes comprehensive social service policy changes. I am concerned that in our efforts to devise a bill that the President would sign, we compromised on key issues. Provisions like the mandatory work requirements, however, are not phased in until 1994. That leaves time to reconsider or revamp them as the entire Family Support Act becomes fully effective. But the positives in this measure far outweigh the negatives. By passing this landmark welfare reform legislation, Congress will use this opportunity to break the cycle of public assistance dependency by assisting families in supporting themselves on a new national policy path; a self-help path from maintenance and passivity to active self-sufficiency.

Mr. Speaker this is a good bill. Some are philosophically opposed to this compromise but with this chance to take an important step toward preventing generation after generation from slipping into the trap of dependency, we must be pragmatic. Otherwise, imprudent law and regulations will be superimposed in its stead. H.R. 1720 is not the ultimate answer but it is not being written in stone. It is but another step forward to help people in our society. With oversight and continued congressional involvement we will continue to improve on public assistance policies across the board, providing the skills and the help necessary to move people into the mainstream of our society.

Mrs. COLLINS. Mr. Speaker, I rise in strong opposition to the conference agreement on the Welfare Reform Act. There are several provisions in the agreement that cause me great concern, but the most onerous has to do with the so-called workfare provision.

The workfare provision of the conference agreement falls heaviest on two-parent families receiving AFDC assistance. The conference agreement provides that one parent in two-parent families receiving public assistance must be employed. This is a poorly considered policy. Two-parent families are the quickest to get off the public assistance rolls once jobs are available. These persons generally have a strong attachment to the labor force with a solid employment history.

They are most likely to reenter the job market by finding employment on their own and to succeed in staying off the public assistance rolls once they secure gainful employment.

Not only is this policy misdirected, but it is also wasteful. It will divert money and resources away from those persons most in need: single parents on public assistance. Single parents are most in need of education and vocational training and are more likely to continue to need public assistance if they don't get that education and training.

While on the topic of education and training, let me note the type of work the mother or father from the two-parent family will be required to do. The work assignments in this program are with public or private nonprofit agencies where the person "works off" his public assistance grant. These jobs, if I can stretch the term so far, provide very little training or experience that will be useful in securing the future employment that will eventually make these families self-sufficient.

It is interesting to note that the original House and Senate bills did not contain this workfare language; it was added on the Senate floor at the behest of the White House. If the administration can now support this conference agreement, it can boast that it supports welfare reform. But the welfare reform package that it supports is in large part misdirected, misguided, wasteful, insensitive, and doomed to be even more of a hodgepodge of bad policy than the system we are attempting to reform now.

I urge my colleagues not to support this conference agreement.

Mrs. MORELLA. Mr. Speaker, I rise in support of the conference report on H.R. 1720, the Family Support Act. While I have several concerns with the bill, I do want to recognize the untiring efforts of the House conferees. The final bill is a compromise—it simply cannot retain every element of the House bill. And yet, a number of very important provisions are still part of the final agreement. I believe we must adopt it while we have the opportunity, and then work to add the missing elements next year.

Today, one out of five American children lives in poverty—this is an appalling fact. The Family Support Act provides a means for families to support themselves through work and education, by creating a full range of educational programs and training. It goes beyond training—it establishes job search assistance and job-readiness activities to provide the recipient with the knowledge and confidence to enter the work force. These programs are instituted at the State level; thus, services can be geared toward the particular needs of that State and its population.

Historically, a family's ability to leave welfare has been hampered by the need for supportive services. By providing transitional child care benefits and Medicaid coverage for 1 year after the recipient leaves the welfare program, the reform package gives the single mother the chance to truly become independent.

The bill also strengthens the enforcement of child support payments, one of the key elements to reducing the number of single parents dependent on welfare. Among the child support provisions is the automatic withholding of child support payments from wages, unless there is a legitimate reason not to do so.

Although I recognize the merits of the agreement, I do have some reservations and I am committed to working in the future for continued improvements. There are several problems of particular concern. The legislation does not require States to provide benefits under the AFDC-Unemployed Parent Program for a full year; thus, while this program is expanded in the bill, it does not provide the full coverage needed to eliminate the existing incentives which encourage the breakup of families.

I am also concerned with the minimum participation rates established for the JOBS Program and the workfare requirements for AFDC-UP families. These provisions could divert funding toward meeting quotas and "make-work" assignments and away from important education and training programs needed to move recipients into permanent jobs.

Finally, the bill does not include requirements for health and safety standards for family day care services which are currently exempt from State child care standards. If mothers are to leave their children to go to work, they must be assured that their children are safe and well cared for.

These concerns are serious problems; however, I believe we must take this opportunity to approve the positive changes in the legislation. This agreement has been difficult to achieve, and it may represent our only chance to make major reforms in the welfare system for some time to come. We need to take immediate action to end the vicious cycle of welfare; we should approve H.R. 1720.

Mrs. LLOYD. Mr. Speaker, I rise in support of the conference report on H.R. 1720, the Family Support Act. This is an historic opportunity to enact and implement a significant new national effort to reach out to our most needy citizens and provide them with the tools they need to become self-sufficient.

This bill marks the first significant step toward reform in years. By establishing a new Work, Education, and Training Program, transitional Medicaid and child care, stronger child support enforcement, and a limited national AFDC-UP Program, the bill creates a foundation of opportunities for hundreds of thousands of welfare recipients who want to become self-sufficient.

With the first step toward comprehensive reform, States commit themselves to the massive task of education and training for families now receiving welfare. This Federal-State partnership can begin to make a difference in the lives of poor families.

When this legislation came before the House last December, I agreed with its intent, to provide to welfare recipients the opportunity to gain education and employment training in order to become self-sufficient and productive in our society, but I could not support the bill on passage because I found several aspects of the bill contradictory to the overall direction and purpose of the legislation. My concerns have since been rectified.

One of my major objections to the original House-passed bill was the cost, estimated to have been an exhorbitant $7 billion over 5 years. The Senate, on the other hand, voted for a $2.8 billion funding level. Fortunately, I had the opportunity to instruct the conferees on a number of occasions to adhere closer to the Senate-passed funding level—which did indeed prevail. The compromise proposal would cost $3.34 billion over 5 years, which is an acceptable amount to the administration, and will surely pay for itself in years to come in savings to our Nation in terms of enabling our welfare recipients to again become productive, contributing members of the work force and a vital part of our economic base.

I also firmly believe that welfare reform must include provisions mandating work or work training for able-bodied recipients. Regretably, the original House-passed bill removed the workfare option as a meaningful mandate. Fortunately, I also had the opportunity to instruct the conferees to adhere to the Senate language in this regard and remove most of the impediments to work in the original House-passed bill. The conference report would require one parent in two-parent welfare families to perform unpaid work at least 16 hours per week. This provision would be phased in from 1994 to 1997. I believe that workfare provides the welfare recipients with a sense of responsibility as well as the opportunity to gain work skills, job histories and job references. These are important skills, vital to both the recipient and potential employers, and I believe these provisions make this legislation much more viable than that which we originally considered.

Mr. Speaker, I believe this is sound legislation which should be enacted. It represents a bipartisan consensus for a major overhaul of our welfare system. I believe that we can implement this program efficiently and with positive results for millions of our citizens. I urge my colleagues to join with me in support of this compromise bill.

Mr. WEISS. Mr. Speaker, I take this occasion to express my support of the welfare reform conference agreement, but with serious reservations about several of its components.

First, I would like to commend the efforts of the conferees who worked diligently over the past several months to come up with a consensus bill that will undoubtedly pass today. In particular, I would like to congratulate Senator MOYNIHAN, who has worked hard for welfare reform for over 20 years. In addition, I would like to congratulate the gentleman from New York [Mr. DOWNEY], who has had to negotiate, under trying circumstances, with many factions and viewpoints while trying to mold a consensus in favor of this legislation. Last, I would like to thank the gentleman from California [Mr. HAWKINS], and the gentleman from Michigan [Mr. FORD], whose commitment to helping the lives of poor people has undoubtedly made this a more acceptable package. Their efforts in this Congress have for many years served the interests of our Nation's disadvantaged citizens.

The conference report on H.R. 1720 is an improvement over current law. It extends Medicaid coverage to AFDC recipients who go to work, no longer forcing these people to choose between a job and health care, as the current system does. Second, the bill guarantees child care services to AFDC recipients who wish to work or attend school. Clearly, these services will remove a major disincentive to welfare recipients who cannot leave their homes and leave their children unattended. Finally, and most importantly, the Federal Government is making a significant commitment of resources for job training, education, and child care services to help thousands of this country's most difficult to employ citizens.

Under the bill, each State will be required to establish a Job Opportunities and Basic Skills Training Program [JOBS]. This program will include a broad range of services and activities including education, job training, and job readiness activities. Programs will include job search assistance, work experience, and on-the-job training.

In addition, JOBS funds will be targeted on those families most likely to have long stays on welfare, including young parents without a high school education, families with older children who are expected to lose eligibility under AFDC, and families who have received AFDC for more than 36 months in the preceding 60-month period.

There are many provisions of this bill that will go a long way to help many Americans who have been unable to enter the job market due to constraints within the system. However, as I mentioned before, I do have serious reservations about several other components of this conference agreement. As a result of this bill's "workfare" provisions, thousands of welfare recipients will be forced to work off their welfare grants in State and local agencies without the dignity of a paycheck or the opportunity to get the education, training, and job search services they need for real self-sufficiency.

I am also concerned about the provisions which establish minimum participation requirements for all AFDC recipients and which establish a quota system for AFDC-UP recipients in order to receive Federal matching funds for services. As we have learned from experience, these types of arrangements can give States the incentive to place the least expensive to train and most experienced individuals in jobs just to prevent a cutoff of Federal funding support. We should do all we can to see that Federal moneys are spent on the most difficult to train, longer term welfare recipients as the bill intends.

Fortunately, the most obnoxious provisions established in the bill will not take effect until 1994. Therefore, there is time for Congress to reconsider these sections of the welfare reform package and, at the same time, work to remove the "workfare" component described above. In the meantime, this bill authorizes $3.3 billion to help States develop and expand programs to educate and train welfare dependent individuals.

I believe that one other point deserves mentioning. I am concerned that the conference agreement may give the States too much flexibility in establishing health and safety requirements for the child care services funded in the bill. It is extremely important, Mr. Speaker, that mothers feel secure in knowing that their children are safe and secure as they pursue the employment opportunities offered in this bill. The Federal Government has a responsibility to closely monitor this situation since a large amount of Federal money will be used to fund child care under the bill.

Finally, Mr. Speaker, I hope that this legislation is not seen as the best we can do to address the problems of the poorest people in our country. Instead, I hope it will represent a beginning of our efforts in Congress to address the large inequities and unfairnesses that exist for so many disadvantaged citizens in America today.

Mr. Speaker, if I felt confident that by defeating this bill we would be guaranteed that a better and fairer bill would be enacted within the next year or two, I would vote against it. Unhappily, no such guarantee can be assumed. Rather, the most likely result would be a long delay, if not permanent denial, of the many beneficial provisions contained in this bill.

On the other hand, if the political climate changes sufficiently so that a fairer new bill could be passed, there is nothing to prevent Congress from removing the more onerous provisions of this bill prior to their effective date of 1994.

Ultimately, the question is whether an overwhelming percentage of AFDC recipients will be better off under this bill than under current law. I am convinced that they will be. It is for this reason that I am voting for this conference report.

Mr. BRENNAN. Mr. Speaker, I rise today in strong support of the conference report on H.R. 1720, the Family Support Act of 1988.

This legislation will help welfare recipients get off welfare and into a job. I believe that the best service program is a job. A job brings hope to people who may be in despair, it offers them self-respect and it offers them a chance to reach their potential as human beings.

When I was Governor of the State of Maine, I took great pride in a demonstration program similar to what is in this conference report. we called it the welfare employment, education and training program or WEET. And the point was to help AFDC recipients get jobs. And it worked.

That program has helped over 6,000 Mainers get jobs, and statistics have shown that close to 74 percent of the participants are still working. The program has also proved to be cost effective. It has actually saved Maine money. The WEET program has cost approximately $9 million to operate since 1982, but it would have cost Maine over $16 million if those people had stayed on welfare. But the program is much more than numbers.

It enabled people to get the training, and assistance that they needed to work. The reality is that people want to work, and the Government must provide services like job training to help them get jobs. The Government must try to make the transition from welfare to employment as smooth as possible.

And the conference report we have before us today does just that. This legislation recognizes that single women with children need child care, in order to work. It recognizes that parents should not have to choose between getting a job and giving up Medicaid benefits.

Today we are voting on a conference report that will make the transition easier. We cannot miss the opportunity to improve the lives and dignity of these people. I urge my colleagues to join me in support of the conference report.

Mr. HAYES of Illinois. Mr. Speaker, I rise to speak in opposition to the so-called compromise Welfare Reform Agreement (H.R. 1720) which I believe represents a lost opportunity to improve effectively the lives of poor families and children who are recipients of Aid to Families with Dependent Children [AFDC].

I am pleased that the child care and medical assistance would be extended for one year after loss of benefits, for example, when a AFDC recipient takes a job. The net effect of these critical transition services is certainly eroded if the AFDC recipients are placed in proverty wage—minimum wage—jobs or maintained in endless workfare assignments. Conspicuous by its absence is, the lack of quality of child care for children of AFDC mothers. How can a struggling AFDC parent take an improved job opportunity, if there is not child-care?

I object to the Community Work Experience Program [CWEP] or workfare provisions in this agreement because in the House bill CWEP—now optional—with training, modifies current law by limiting it to 6 months and allows for no repeat assignments. In addition, the maximum number of required hours of CWEP participation is calculated based on the higher of the Federal, State or local minimum wage or the rate of pay for individuals employed in the same or similar occupations by the same employer—equal pay rate.

This conference agreement has unlimited CWEP, a reassessment after 6 months, and only after 9 months is the equal pay rate used in calculating the number of hours of CWEP assignment. CWEP would be one of the four mandatory work programs. This means that community work experience becomes a work-off-the-grant portion of the program, you go into community-based service and you receive your grant in turn.

Mandatory workfare has been based on misinformation about the real needs of AFDC recipients to achieve permanent economic self-sufficiency. In the past, Congress has rejected workfare, knowing that it does not work and wastes limited resources. Workfare does not move AFDC recipients of welfare. Workfare, maintains families on below-poverty-level benefits in exchange for community service. Welfare reform should ensure needed education, needed training, and needed placement in decent jobs at good wages for AFDC recipients to help move the recipient off welfare.

In addition, this agreement is fatally flawed because it is underfunded by a capped entitlement, mandatory caseload participation rates failure to mandate effective work programs and lack of assurance that community based organizations are included in program planning and design. This agreement continues the current policy of ignoring families whose head of household desperately needs intensive education and skill training for a changing labor market. The goal of true welfare reform, should be permanent placement of recipients in real jobs with decent wages at least equal to non-welfare employees.

I applaud the efforts of many of my colleagues, but the philosophy and direction of this Welfare Reform Agreement, will punish people, instead of investing in them. This "Agreement" does not address the needs of welfare recipients in a realistic and human manner.

This bill fails to provide sufficient benefit improvements and education and training services to balance the work requirements of the bill. Instead this "Agreement" includes the administration's unreasonable quotas for participation in work activities and its punitive workfare philosophy. On the other hand this "Agreement" only improves AFDC benefits slightly.

The effect of this "Agreement" will be to force thousands of welfare recipients to work off their grants in unpaid jobs with no opportunity for meaningful education, training, and job services. This "Agreement" does not include the provisions of the House bill requiring full equal pay protections, therefore it will result in a loss of public sector entry-level jobs that provide opportunities for low-skilled workers who might otherwise be forced onto welfare.

For these and other reasons I must oppose this Welfare Reform Agreement passed by the conference committee.

Mr. NIELSON of Utah. Mr. Speaker last December we considered the Democratic version of the welfare reform bill, H.R. 1720, and the Republican substitute, H.R. 3200, the Michel-Brown substitute.

At that time I was supporting H.R. 3200 because it strengthened employment and training opportunties for AFDC recipients.

Now, today, we are considering a welfare reform bill where major modifications were made. However, some of these modifications will have a very negative impact in Utah.

There are several factors that greatly concern me. This bill, if passed, increases spending by $3.297 billion. It forces States that oppose AFDC for two-parent families to adopt the program; it increases the number of families on welfare by making more two-parent families eligible for benefits and by changing the rules so that people who work can stay on welfare longer; and it reduces the child care tax credit by denying credits for children ages 14 and 15.

While there are some positive aspects of this bill, for example, the unemployed parent in a two-parent family in AFDC-UP States will be required to work 16 hours a week, and significant increases in medical care and child care are offered for those who leave welfare and move into work and self sufficiency, I still strongly feel that I cannot support this conference agreement because of the impact it will have on my State.

As you may already know, Utah is the only State which has an Aid to Families with Dependent Children [AFDC] Program for two-parent households called the Emergency Work Program [EWP]. The Utah Emergency Work Program which was enacted by the Utah legislature in 1983 as a State funded, time limited, work-oriented alternative to AFDC-UP. While the basic eligibility standards are identical to AFDC-UP, the performance requirements are very different:

First, 40 hours a week of community work, adult education, training and job search is required of an adult.

Second, the spouse is required to participate part time in educational or employment activities unless excused for good cause.

Third, payment is made only after performance.

Fourth, assistance is limited to 6 months in a 12-month period.

The results over the past 4 years have been dramatic: A 69-percent job placement rate, an average length of stay of 10 weeks, support for marital stability, and a cost of only 8 percent of the AFDC-UP Program which Utah operated from 1961 to 1981.

Mr. Speaker, if the House passes the welfare reform bill today, this Emergency Work Program [EWP] in Utah will be eliminated. Why? Because the legislation we are considering today will mandate the parent unemployed parent program [AFDC-UP].

Utah had an Unemployment Parent Program, AFDC-UP, 6 years ago but we did away with it because of the cost. Now we have a 6-month emergency work program. Let me share with you some of the cost differences. The last time Utah had an Unemployment Parent Program it was in June 1981. The cost for that year for the AFDC-UP Program was $9 million. The State share for that year was $2,800,000. There were 1,900 cases. If the same program were implemented again in 1987 it would cost $15 million and the State share would be $3,900,000.

The emergency work programs that we currently run cost a total of $908,000 for 1987. The State share was $240,000. The number of cases was 238. The average length of time a person spends on a system before he gets a job is 9 to 10 weeks.

It is obvious, Mr. Speaker, that this mandated two-parent unemployed parent program is not cost effective. And, to be perfectly honest with you, Utah does not know how they will come up with $3.5 million dollars to implement the AFDC-UP Program.

In conclusion, Mr. Speaker, I believe, we, the Members of Congress, need to ask ourselves three very hard questions: How much do we want to spend on welfare reform? Can we make it cost effective? And, do we want welfare reform to help people prepare for work? This compromise bill is clearly not true welfare reform. I do not believe this measure will help more recipients become self-sufficient, it will just increase the number of families on welfare, completely do away with the successful Emergency Work Program [EWP] that my State has implemented, and will cost Utah $3.5 million. For these reasons, I will not support this bill.

Mr. KILDEE. Mr. Speaker, the legislation before us has made progress in some important areas affecting the lives of welfare parents. I believe that our welfare recipients want opportunities to become self-sufficient.

I have been involved with the development of this legislation. In our hearings before the House Education and Labor Committee and on the House floor we worked to develop responsibile legislation.

We knew when we passed the legislation out of the House that there would be a need to compromise. I accept that as I accept that all legislation is a product of substance and compromise.

However, as we began to compromise we began to loose sight of what we had so clearly in focus in the original House bill—our children.

Those of us that have been involved with this legislation for the last 2 years are very familiar with the phrase "breaking the cycle of poverty." But how can we break the cycle of poverty if we do not provide the sons and daughters of welfare recipients with healthy and supportive environments during the time their parents will be required to participate in the program?

When the House passed this welfare reform bill we guaranteed parents unlimited access to their children in child care programs. This conference agreement does not.

When the House passed welfare reform we said that family day care providers and group home care providers which provide child care services under this act should at least meet the standards the State has already established concerning the health and safety of children in similar settings. This conference agreement does not.

When the House passed welfare reform we said that children had a right to care which was appropriate for their age and individual need. This conference agreement does not do this.

When the House passed welfare reform we said that before States require parents of infants to work they must guarantee that adequate infant care is available in the State. This conference agreement not only does not require a guarantee of appropriate infant care but does not even require an assessment of the availability of any child care.

When the House passed welfare reform we said that if we are going to require parents to work and thereby increase the demand for child care we must provide moneys to States to help them meet the new demand and at least provide some assistance for training. The House authorized $750 million for this purpose. This conference agreement does not provide one dime in this area.

I examine every bill which I am called to vote upon to determine whether it will promote, defend, enhance, and protect human dignity. I am deeply disappointed that the answer on this conference agreement is no.

Mr. MATSUI. Mr. Speaker, today the House of Representatives will vote to approve the House-Senate conference agreement and report on H.R. 1720, the Family Support Act of 1988. For the record, the following organizations are opposed to the conference agreement:

AFSCME.
AFL-CIO.
Bread for the World.
California Rural Legal Assistance.
Children's Defense Fund.
Church Women United.
Coalition of California Welfare Rights Organizations.
Coalition on Human Needs.
Food Research and Action Council.

Friends Committee on National Legislation.
Full Employment Action Council.
Interfaith Action for Economic Justice.
League of Women Voters of the United States.
National Coalition for the Homeless.
National of Churches.
National Council of La Raza.
National Organization for Women.
National Urban League.
NETWORK: Catholic Social Justice Lobby.
United States Catholic Conference.
Western Center on Law and Poverty.
Wider Opportunities for Women.

This list of opposing organizations includes many well-respected advocates for low-income families and children. Perhaps Democrats should be asking their friends the truly important question regarding this bill. That question is not about politics, it is a very simple inquiry: Will this bill help poor families?

My colleagues from the Ways and Means Committee have described many of the beneficial aspects of the conference agreement on H.R. 1720. I believe, as they do, that the transitional childcare and Medicaid benefits, the child support enforcement provisions and other elements of the bill are measures which move the Aid to Families of Dependent Children [AFDC] Program in a positive direction. However, if you look at the bill as an entire package of reform, this legislation is a step backward for State welfare programs striving to help recipients gain financial independence. If the Democrats can call this bill "welfare reform," then they should also label the Tax Technical Corrections Act "tax reform."

The House-Senate welfare reform agreement fails to accomplish the critical original goal of the Subcommittee on Public Assistance and Unemployment Compensation when we first addressed welfare reform. It does not create a welfare program which ensures that low-income families will have available to them the resources they need to develop economic independence. The agreement imposes extremely high participation rates on AFDC-UP families, thereby diverting scarce resources from education and training for young single parents who are most likely to become long-term recipients. It forces States to spread limited resources so thin that no individual receives the kind of intensive help necessary to break the cycle of poverty.

By fiscal year 1997, States must have at least one parent in 75 percent of their AFDC-UP families participating each month in a workfare program. This unlimited time on "make-work" does not give the AFDC-UP population skills or experience to help them move into the work force. It simply forces this group, who tend to move quickly off the welfare roles on their own, to earn their benefits at degrading tasks or at substandard wage levels. Rather than instill a sense of pride in the welfare recipient, month after month on workfare undermines it.

In addition to the AFDC-UP unrealistic participation rates, by fiscal year 1995, 20 percent of AFDC single parents must be participating each month in the JOBS Program activities. Again, arbitrary quotas that fail to take into account individual State and county welfare loads will prevent the targeting of resources to those AFDC recipients who will remain long-term dependents without intensive education and training. Targeted intensive education and training programs are cost-effective. Sufficient investment in individuals will move long-term, costly welfare recipients off the roles. The 20-percent participation requirement prevents effective targeting of intensive education and training.

The agreement allows individuals assigned to "CWEP" or workfare to work off their benefits at minimum wage for 9 months no matter what the nature of the work they are assigned to do. The prevailing wage for a particular job, say a secretarial position, could be $10 an hour but a welfare recipient would only be valued at $3.35. The rhetoric of the Democratic Party of "a fair wage for a hard day's work" does not seem to extend to the poorest in our Nation.

What benefit increases did we gain in exchange for these workfare requirements? The agreement fails to mandate full-year AFDC-UP coverage in all States by a date certain. States currently without UP programs will be required to offer an AFDC-UP Program but only for 6 months out of a year. The poor two-parent unemployed family will find their cash assistance arbitrarily cut off after 6 months regardless of the circumstances, such as severe economic conditions in their hometown, unless that family breaks up. Family stability is discouraged and long-term welfare dependence may well be the result. Even this minimal 6-month AFDC-UP mandate will sunset in fiscal year 1999.

I sincerely hope that as the provisions of the Family Support Act are implemented, we continue to monitor the impact of these changes on State welfare programs and welfare families. I ask that my colleagues remain openminded and flexible as we continue to examine welfare in this country. We must continue to reform the welfare system so that people are treated with respect and given a real opportunity to become financially self-sufficient.

Mr. Speaker, I submit three letters for the RECORD as one measure of the strong opposition that exists for the conference agreement on H.R. 1720, the Family Support Act, among those who actually serve and represent poor families and children in this country.

CHILDREN'S DEFENSE FUND,
Washington, DC, September 28, 1988.

DEAR REPRESENTATIVE: On behalf of the Children's Fund (CDF), I urge you to oppose the Conference Report on H.R. 1720, The Family Welfare Reform Act, when it comes to the House floor later this week. The Conference agreement on welfare reform fails to ensure poor families the help they need to support their children and move toward economic self-sufficiency.

The final House-Senate compromise permits about one-half of the states to place arbitrary time limits on cash assistance for poor two-parent unemployed families, thereby continuing incentives toward family breakup. In addition, at the ideological insistence of the White House, the agreement proposes to squander taxpayers' dollars by mandating old-fashioned "make-work" programs for two-parent families. Such mandates will be implemented at the expense of far more productive investments in education and training programs for single parents on AFDC who will be unable to enter the job market without such help.

Specific provisions in the Conference Report that will prove most harmful to poor children and families include:

The failure to require that all states must provide full-year coverage under the AFDC-Unemployed Parent Program (AFDC-UP);

The imposition of federal "workfare" requirements on AFDC-UP families in all states, a provision which will force states to divert scarce resources toward non-productive make-work assignments for those parents with the greatest work experience and away from education and training programs for those single parent families who are most likely to become long-term AFDC recipients;

The establishment of rigid participation rates for the regular AFDC caseload in JOBS Programs activities, thereby focusing resources in compliance with the participation quotas rather than on the intensive services needed to help young single parents move into jobs; and

Tha lack of a requirement that family day care assisted with AFDC funds, but currently exempt from state and local child care standards, must comply with minimal health and safety guidelines established by individual states or localities.

These provisions undermine the potential gains for poor children and families in the Conference agreement in the areas of child care, Medicaid transition, and child support enforcement. The additional funds for child care for children in AFDC families and for transitional child care and Medicaid for those families moving from AFDC to jobs are critically needed. Such investments, however, must not be thwarted by requirements which otherwise impede progress for poor families struggling to become economically self-sufficient.

We urge you to oppose the Conference Report on H.R. 1720 and to continue to seek critical improvements for poor children and families in the next Congress.

Sincerely,
MARIAN WRIGHT EDELMAN.

COALITION ON HUMAN NEEDS,
Washington, DC, September 19, 1988.

DEAR SENATOR/REPRESENTATIVE: The Coalition on Human Needs, an alliance of over 100 religious, civil rights, labor, professional and other organizations concerned with the needs of the poor, minorities, children, women, the aged and disabled, urges you to oppose the Conference Report on the Family Welfare Reform Act.

The bill's complicated requirements will add to the bureaucratic nightmare now faced by AFDC recipients who receive assistance payments that approximate only $345/month (national median) for an average family of three. Meanwhile, House provisions to encourage state benefit increases has been stripped from the bill.

The bill will mainly affect children age 1-5 whose parents are now exempt from WIN work registration. Parents would be required to accept employment if it is offered at the minimum wage. Today the minimum wage reaches only 79 percent of the poverty threshold for a family of three working full-time. If not moving into employment, all other able-bodied, non-exempt adults would be subject to the requirement that they participate in some state-determined work, training or education activity. States will make assignments as their resources permit, but they must meet high participation quotas. The White House estimates that the 20 percent quota will require 800,000 adults per year to participate in such activities.

Each year hundreds of thousands of children (and likely more) will be thrust into a child care market which is already overburdened. Although child care is "guaranteed" and reimbursement levels are permitted to increase to the local market level, the original House program to increase the supply of child care for AFDC children has been dropped. The bill gives states, not the mother, the power to make the judgment of when appropriate care is available. There is no immediate requirement that care provided in a family home meet basic health and safety standards.

The complex provisions of the JOBS program will seriously restrict the ability of participants to increase their educational or job skills. The participation rates and fixed dollar amounts will spread dollars thinly. In addition, one adult in *all* families covered by AFDC-UP (unemployed parent) must participate in an unpaid work program. The UP caseload, consisting mostly of men who were recently employed, will drain off resources that could be devoted to training others more in need. Finally, the bill mandates that states run two of four programs oriented to job search or work experience rather than education or skills training.

The bill fails to limit Community Work Experience. As a result, participants can be required to stay on "workfare" indefinitely. For this and other work programs, there is no requirement that participants be "paid" their benefits at rates equal to regular employees doing the same work. Although such "equal pay" is required after nine months in CWEP, experience shows that few workers reach that point.

The sunsetting in of Medicaid and child care transition assistance in 1998 represents a real gamble that they somehow will be reauthorized. With the JOBS requirements continuing beyond that date, people could be left with no care for their children and no medical coverage.

The estimated $3.3 billion cost of this program is not a wise investment. We, therefore, urge you to vote against it.

Sincerely,

SUSAN REES,
Executive Director.

COMMUNICATIONS WORKERS OF AMERICA (AFL-CIO, CLC),
Washington, DC, September 19, 1988.

DEAR REPRESENTATIVE: The Communications Workers of America urge you to vote against the conference report on welfare reform. We strongly believe in the need for efficient, useful changes in our welfare system. Unfortunately, this proposed conference agreement falls short; it includes some worthy benefits but also far too many damaging provisions.

This legislation fails to provide adequate protection against the displacement of current public workers. Thus, it may provide new jobs for some people while at the same time eroding employment for others. The conference report also unfairly mandates workfare while failing to pay equal wages. In other words, welfare recipients may be required to perform the same work as public workers but without the same wages, which harms both welfare recipients and undermines existing public servants.

Finally, we are concerned about the significant absence of adequate child care, job training and other support services for those welfare recipients participating in mandatory work programs. Without such services, it will be extremely difficult, if not impossible, for welfare beneficiaries to escape the cycle of poverty.

Given these concerns, we hope you will oppose the pending welfare reform conference agreement.

Sincerely,

BARBARA J. EASTERLING,
Executive Vice President.

Mr. MARTINEZ. Mr. Speaker, as chairman of the Subcommittee on Employment Opportunities with oversight over our Nation's job training programs, I must regrettably oppose this welfare agreement that we have before us.

This Congress, we policymakers were faced with a rare bipartisan opportunity to reform the welfare system. There was a major consensus that our Nation's poor families were not being adequately served under the existing welfare system. The emphasis on weaning welfare dependence through job training, enhanced medical and child care support, and education remediation was supported by all responsible officials. Unfortunately, the bill that we have before us today is hopelessly diluted and potentially damaging to both the States and the welfare recipients.

This bill includes workfare requirements that do not bear any relationship to the job experience of the welfare recipient. Thus it becomes a punitive make-work device rather than a true skill-training vehicle to mainstream welfare recipients into the work force.

This workfare bill has devastating ambiguities. One prime example is the equal pay provision contained in title II which amends section 482(f) of the Social Security Act. This provision is so vague that States could avoid paying equal wages to CWEP participants simply by perpetually changing their CWEP assignment before 9 months have elapsed. For example, after 8 months in one job, the individual could be switched to another job, and because he has not spent 9 months in a single assignment, could continue to be paid only the minimum wage. Indeed, this could allow the establishment of a permanent, minimum wage work force. Because of these concerns, I ask the chairman of the Ways and Means Committee and subcommittee to clarify this provision.

I have an equal concern that this bill simply does not provide enough resources to ensure adequate child care services or operating safety standards. Without a sound and safe child care system, this whole welfare reform effort will collapse without a hope of success.

Finally, the impractical percentages placed upon States to fulfill AFDC-UP requirements will cause States to lose a substantial percentage of their jobs program moneys. As punishment for failing to meet arbitrary program participation quotas, States would lose full funding for training. This places a double bind upon the States.

Mr. Speaker, I am concerned about the plight of the welfare recipients as well as the States under this new program. I do not want the expectations of the poor nor the States to be raised just to be dashed—as they certainly will—by the inability of this program to deliver on its promise of employment and independence.

Some say if we do not take this compromise package, we will not get another bill for 10 years. I say if we take this fatally flawed bill, we will be condemning the poor in this country to another 10 years of poverty. In good conscience, we simply cannot add to the miseries of the poor.

Mr. COLEMAN of Texas. Mr. Speaker, I rise today in support of the conference report on H.R. 1720, the Family Support Act which would reform this Nation's welfare system.

This legislation is historic because of its potential effect. For the first time we are providing welfare recipients with a true opportunity to become self-sufficient. Welfare recipients are often told their goal should be to get off the welfare rolls. And often this is their goal. But they are not provided with the opportunity to do so because they do not have anyone to care for their children while they search for a job. They cannot afford to lose their health insurance when they take a minimum wage job. For these reasons—though they would rather not—many welfare recipients remain on the welfare rolls for years, because we actually have disincentives in the system.

As we have learned over the course of the last 2 years, a reform of the welfare system is extremely difficult to achieve, and I urge my colleagues to not let this opportunity go by. If we are to break the cycle of poverty, welfare recipients must be provided with the opportunity to become self-sufficient through participation in training and education programs that will eventually result in employment for them.

With this legislation, Congress is establishing a meaningful program for employment and training programs to enable welfare recipients to enter the work force without the threat of losing their health benefits. The bill provides for continued health and child care benefits for welfare families to assist them in making the transition to work. Also for the first time, States will be required to provide at least some AFDC benefits to two-parent families where the principal earner is unemployed. The bill also strengthens procedures for ensuring that absent parents pay child support. Best of all, the conference committee ensured that the revenue raising provisions in the bill would fully offset the new costs of the program.

Mr. Speaker, this bill is not perfect. I acknowledge that many of the benefits included in the original bill considered by this body had to be scaled down because of fiscal constraints. But I remain convinced that the concept of the bill will result in great improvements in both the administration of our welfare system and in the lives of welfare recipients. I believe that what comes before us today for consideration is the best piece of legislation that could arise in view of budget limitations and within a Republican administration. As we all know, the threat of a Presidential bill hung over conferees as they sought to work out an agreement that would pass both Houses of Congress and be acceptable to the President.

Yet in some instances, the conferees managed to be more generous to welfare recipients than either the original House or Senate bills provided. For example, the agreement provides for continuing Medicaid coverage for families leaving welfare for a full year.

Mr. Speaker, all along we have known that we needed a welfare system that encouraged and enabled recipients to get off the welfare rolls and become self-sufficient. This bill creates such a system, and I am proud to join my colleagues in supporting it.

Mr. VALENTINE. Mr. Speaker, when the House considered welfare reform last winter I supported the reform bill because I believed that we had a unique and historic opportunity to improve public assistance radically in this country.

Despite my enthusiasm for the intent of this legislation, I had serious concerns over its $7 billion price tag over a 5-year period. Today I am happy to see that the conference committee was able to cut the cost of this program in half, to $3.34 billion over 5 years.

The members of the conference committee that molded this agreement should be commended. They achieved a lower price without sacrificing any of the four goals that compelled me to support the House bill.

First, it brings welfare recipients into the work force.

Second, it provides education and training to give those citizens a fighting chance to build productive careers and become permanently self-supporting.

Third, it provides a level of short-term support that will enable welfare recipients to complete their preparation for work.

Fourth, it increases the incentives for work rather than dependency.

Mr. Speaker, last December I spoke about the need for education and job training in my district. Those conditions still exist. We are faced with nearly a 25-percent illiteracy rate in North Carolina. In some counties the rate is as high as 36 percent. Although my home State has taken formidable steps to train and educate its citizens, too many are left without the necessary skills to participate fully in and benefit from a rapidly changing, technologically advanced economy.

With the approval of the conference report every State will be required to establish job opportunities and basic skills training [JOBS], a program designed to assure that needy families with children obtain the education, training, and employment that will help them avoid long-term welfare dependence. The Federal Government will be there with matching grants to ensure that States are not left holding the bag for the cost of these programs.

With very few exceptions, welfare parents with children over three will be required to participate in these self-help programs. I believe this program will go a long way toward helping these families make the transition from welfare dependency to productive employment.

The legislation makes this transition gentler by a variety of provisions that will enable families to improve their situation and stay together at the same time. By extending day care assistance and Medicaid family eligibility for 1 year after they obtain a job, parents can enter the job force with the reassurance that their children are safe and healthy. By tightening child support requirements, absent parents will have to take some responsibility for their children.

This bill, unlike other proposals, gives assistance to families that choose to stay together so that parents are not encouraged to separate in order to receive assistance. All States will be required to provide benefits for families in which the father is present but unemployed. A provision that will be phased in from 1994 to 1998 will require one parent in two-parent families to work at least 16 hours a week in an unpaid community job or similar work slot.

Mr. Speaker, I know that the reform offered today is not perfect. We are taking on some of the worst problems that plague this country. There are bound to be some needs that remain unmet. But we cannot increase productivity, improve our competitiveness in the international market, and decrease our deficit until we make this commitment to our finest resource, the American people. I urge my colleagues to support the conference report as a step toward improving our future.

Mr. DE LUGO. Mr. Speaker, as chairman of the Subcommittee on Insular and International Affairs, which has jurisdiction over the Nation's territories and commonwealths, I am happy to report that H.R. 1720 would, for the first time in almost 10 years, take a step toward fairer treatment of the needy residents of the insular areas.

This is a matter that I have been working on for many months, in cooperation with the House Ways and Means Committee and the Senate Committee on Finance. I would like to express specific thanks to Chairman TOM DOWNEY of the Subcommittee on Public Assistance and Unemployment Compensation, as well as Chairman LLOYD BENTSEN of the Senate Committee—for their excellent cooperation and assistance during our long efforts to provide help for needy insular Americans.

For too long, the 3.5 million Americans of the insular areas have been treated as second-class citizens in Federal welfare programs. Unfairly, our needy have faced either limited access to the system, or a closed door.

Despite the relatively minor impact on the budget of funds to provide assistance for the insular needy, their needs have been bypassed each year in the name of fiscal restraint for too long.

Indeed, in order to meet their most urgent needs, islanders have been forced to move to the States to become residents, so as to become eligible for more equitable benefits under several programs.

Denying fair access to these Americans may also be detrimental to our Nation's image throughout the Caribbean and Pacific areas.

Today, however, as the House considers the conference report on H.R. 1720, reforming the Nation's welfare system, my constituents' concerns for the principles of equality can be reaffirmed. For the first time since 1979, the limits on grants to Puerto Rico, the Virgin Islands and Guam for AFDC and programs for the aged, blind and disabled would be increased. Although these increases are modest in comparison to the need, Congress can, nonetheless, demonstrate its renewed recognition of the plight of the needy citizens of the insular areas.

H.R. 1720 would also enable American Samoa to participate in the AFDC Program.

The legislation would also delay the AFDC-UP participation requirement for 2 years for the insular areas. Thus, the impact of the impostion of its costs will be lessened, since the lower AFDC and Medicaid caps in the insular areas are far less than the authorized Federal share of program costs.

Mr. MILLER of California. Mr. Speaker, I rise in support of the conference report on H.R. 1720, the Family Welfare Reform Act of 1987. The legislation before the House today is critical both for its potential to create opportunities for self-sufficiency for millions of low-income American families, and for its extension of Government support to children in all poor families.

I especially want to commend Chairman ROSTENKOWSKI of the Committee on Ways and Means, Acting Chairman DOWNEY of the Subcommittee on Public Assistance and Unemployment Compensation, Committee on Ways and Means, Chairman HAWKINS of the Committee on Education and Labor, Chairman WAXMAN of the Subcommittee on Health and the Environment, Committee on Energy and Commerce, Chairman PANETTA of the Subcommittee on Domestic Marketing, Committee on Agriculture, and the other members of the conference committee for their leadership on welfare reform.

I am especially pleased that this bill recognizes that children—who make up two-thirds of current welfare recipients—must be a key consideration in any welfare reform initiative and that they will be directly affected by policy changes which seek to enhance the employability of their parents.

I personally do not believe that compelling low-income parents to work has proven very effective and I am especially concerned about the additional burdens work requirements will place on poor families with very young children. In fact, I would just like to remind my colleagues that not one of the Manpower Demonstration Research Corporation studies on workfare, which so greatly influenced our thinking on welfare and work programs, included mothers with children under the age of 6 and mothers who were long-term users of AFDC. However, what we do know, is that whether participation is mandatory or voluntary, a parent's ability to move toward self-sufficiency depends on the availability of support services and benefits—principally, but not exclusively, child care and medical benefits.

For low-income mothers trying to get training, enter the job market, or hold on to hard-won employment, the absence of decent affordable health benefits and child care for their children creates an insurmountable barrier. Too often, returning to the certainty of AFDC becomes the only rational choice to protect their children.

The Select Committee on Children, Youth, and Families' investigations have clearly established that the current child care system is fragmented and unstable at best. The supply of care is woefully low, waiting lists are common, and the numbers of families needing out-of-home care for their children is increasing. The result is children whose care is haphazard at best, or frequently dangerous or nonexistent. Furthermore, when child care arrangements fail, we wind up with parents whose work productivity predictably declines. As a result, assuring quality child care programs—facilities, training and quality control—must be an essential ingredient in any war against welfare dependency. For low-income families and families trying to maintain entry level work opportunities, finding ways to make child care affordable is also critical.

I am especially pleased that this legislation assures that all program participants, and especially those participating in the JOBS Program, will have access to child care. For the first time, we will guarantee welfare recipients, that once they leave welfare, we will continue to provide essental child care and Medicaid during the important transition from welfare to work. And, in order to ensure that the goals of this legislation be successfully realized, I would hope that before this program is fully underway, we will be able to restore the provisions on child care standards, child care supply, and caregiver training that were included in the bill we passed last December. Without these protections, we cannot ensure that children are safe and well-cared-for.

I am also concerned that work requirements and participation rates may constrain States' efforts to operate meaningful employment and training programs. Implementing a mandatory work program is expensive and States will be obliged to divert resources away from developing intensive employment and training programs for truly disadvantaged groups in order to enforce AFDC-UP work requirements. Participation rates will force States to stretch limited resources over several required programs, thus restricting a State's flexibility and endangering program effectiveness.

I would also like to remind my colleagues that once we pass this bill, there will still be 13 million impoverished children and their families in America. There will still be 100,000 homeless children on any given night. Welfare reform won't solve poverty for the simple fact that only 40 percent of poor children and their families can even get it.

Just last week, the select committee heard from a group of America's most prominent thinkers about strategies Congress and the next administration must pursue, beyond welfare reform, if we are to extend prosperity to all of America's children and their families. The witnesses, from both sides of the political aisle, agreed that in order to close the gap between poverty and prosperity we must embark on a dual strategy: Helping parents so they can work and support their families and investing in children to prevent future generations of poverty.

Mr. DOWNEY of New York. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ARCHER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 347, nays 53 answered "present" 1, not voting 30, as follows:

[Roll No. 373]

YEAS—347

Ackerman
Andrews
Annunzio
Anthony
Applegate
Aspin

Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Brennan
Brooks
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Chandler
Chapman
Chappell
Clarke
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Conte
Cooper
Costello
Coughlin
Courter
Coyne
Darden
Davis (MI)
de la Garza
DeFazio
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dyson
Eckart
Edwards (OK)
Emerson
English
Erdreich
Espy
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Foley
Ford (TN)
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gordon
Gradison
Grandy
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Manton
Markey
Martin (IL)
Martin (NY)
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Petri
Pickett
Pickle
Porter
Price
Pursell
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Sabo
Saiki
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)

Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stratton
Studds
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NAYS—53

Akaka
Anderson
Archer
Armey
Burton
Carr
Cheney
Clay
Collins
Combest
Conyers
Craig
Crane
Crockett
Dannemeyer
DeLay
Dellums
Dixon
Dymally
Edwards (CA)
Evans
Fields
Ford (MI)
Frank
Gonzalez
Hall (OH)
Hawkins
Hayes (IL)
Kildee
Leath (TX)
Lukens, Donald
Madigan
Marlenee
Meyers
Natcher
Nielson
Olin
Owens (NY)
Pepper
Perkins
Roybal
Savage
Schroeder
Shumway
Slaughter (VA)
Stokes
Stump
Towns
Traxler
Walker
Whitten
Williams
Yates

ANSWERED "PRESENT"—1

Martinez

NOT VOTING—30

Alexander
Badham
Boland
Bonker
Boucher
Boulter
Boxer
Brown (CA)
Daub
Davis (IL)
Dowdy
Early
Florio
Grant
Gregg
Holloway
Jeffords
Kemp
Kyl
Lott
Lungren
Mack
MacKay
Matsui
McCandless
McCrery
Ortiz
Quillen
Rose
Sweeney

□ 1408

The Clerk announced the following pairs:

On this vote:

Mrs. Boxer for, with Mr. Matusi against.
Mr. Lungren for, with Mr. Kyl against.

Mr. AKAKA changed his vote from "yea" to "nay."

Messrs. LELAND, LEWIS of Georgia, RODINO, and GARCIA changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENROLLMENT OF H.R. 1720 FAMILY WELFARE REFORM ACT OF 1987

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the concurrent resolution (S. Con. Res. 148) authorizing the Clerk of the House to correct technical errors in the enrollment of the bill (H.R. 1720) to replace the existing AFDC Program with a new Family Support Program which emphasizes work, child support, and need-based family support supplements, to amend title IV of the Social Security Act to encourage and assist needy children and parents under the new program to obtain the education, training, and employment needed to avoid long-term welfare dependence, and to make other necessary improvements to assure that the new program will be more effective in achieving its objectives, and I ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore (Mr. Bosco). Is there objection to the request of the gentleman from Illinois?

PARLIAMENTARY INQUIRY

Mr. ARCHER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. ARCHER. Mr. Speaker, was the gentleman from Illinois [Mr. ROSTENKOWSKI] making a unanimous-consent request?

The SPEAKER pro tempore. The gentleman from Illinois was making a unanimous-consent request.

Mr. ARCHER. And has that already been approved?

If not, Mr. Speaker, I reserve the right to object, and I shall not object.

Mr. ROWSTENKOWSKI. Mr. Speaker, will the gentleman from Texas yield?

Mr. ARCHER. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, Senate Concurrent Resolution 148 is a simple resolution which makes purely technical corrections in the enrollment of H.R. 1720, the Family Welfare Reform Act of 1987. I want to assure all Members that the provisions of this resolution make purely technical and clerical changes, correcting drafting errors in the conference report just adopted. I want to give the equal assurance that there are absolutely no substantive changes contained in this enrollment resolution.

Mr. ARCHER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 148

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (H.R. 1720) to revise the AFDC program to emphasize work, child support, and family benefits, to amend title IV of the Social Security Act to encourage and assist needy children and parents under the new program to obtain the education, training, and employment needed to avoid long-term welfare dependence, and to make other necessary improvements to assure that the new program will be more effective in achieving its objectives, the Clerk of the House of Representatives shall make the following corrections:

(1) In section 111(f)(3) of the bill, strike "such date" and insert "such data".

(2) In paragraphs (2) and (4) of subsection (i) of the proposed new section 482 of the Social Security Act (as added by section 201(b) of the bill), strike "403(k)" and insert "403(1)".

(3) In paragraph (1)(C)(i)(II) of the proposed new subsection (g) of section 402 of the Social Security Act (as added by section 301 of the bill), before the period insert ", or (if higher) an amount established by the State".

(4) In paragraph (6)(D) of the proposed new subsection (g) of section 402 of the Social Security Act (as added by section 301 of the bill), strike "$13,000,000,000" and insert "$13,000,000".

(5) In section 403(a) of the bill (in the matter preceding paragraph (1)), strike "402(f)" and insert "401(f)".

(6) In section 604(a) of the bill (in the matter preceding paragraph (1)), strike "402(f)" and insert "401(f)".

(7) In section 605(a) of the bill (in the matter preceding paragraph (1)), strike "420(f)" and insert "401(f)".

(8) In the proposed new subsection (e) of section 403 of the Social Security Act (as added by section 606 of the bill), immediately after "402(g)(1)(A)(i)", strike the brackets and the words included therein.

(9) In section 401(g)(2) of the bill, insert "Puerto Rico," after "respect to".

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

REQUEST TO CONSIDER S. 2846, PROVIDING FOR THE AWARDING OF GRANTS FOR THE PURCHASE OF DRUGS IN TREATMENT OF AIDS

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2846) to provide for the awarding of grants for the purchase of drugs used in the treatment of AIDS, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. MADIGAN. Mr. Speaker, reserving the right to object, under my reservation I yield to the gentleman from California [Mr. WAXMAN] for an explanation of what is going on.

Mr. WAXMAN. Mr. Speaker, I thank the gentleman from Illinois for yielding to me.

This is an authorization for a 6-month period for the emergency purchase of AZT, which is a drug, the only drug approved by the Food and Drug Administration for AIDS, and it was my understanding that in this we would urge low-income people be the ones that would be first served.

Mr. MADIGAN. Mr. Speaker, further reserving the right to object, I would ask the gentleman from California [Mr. WAXMAN] if this is a 6-month extension, if it was approved by the party leadership of both parties in the Senate and is supported by the administration.

□ 1415

Mr. WAXMAN. Mr. Speaker, it is my understanding it was approved by the party leadership in the Senate and has been sent to us. It is a continuation for 6 months of a continuing program and then it sunsets itself out of existence.

Mr. MADIGAN. Mr. Speaker, I thank the gentleman for advising me of the bipartisan support and the administration's support.

I would like to state my support for ths 6-months' extension.

Mr. MADIGAN. Mr. Speaker I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. WALKER. Reserving the right to object, Mr. Speaker, could I again have described to me just exactly what we are doing here?

Mr. WAXMAN. Mr. Speaker, will the gentleman yield to me?

Mr. WALKER. I am glad to yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, we have an ongoing program for 1 year to provide the payment for AZT, which is the only known drug for treatment of some of the symptoms of AIDS.

The Senate unanimously, as I understand it, passed this extension for a 6-month period, during which time the States will put in place the laws that will be necessary for them to take over this program. Otherwise, there will be a gap and some people who have been on this drug without having it available to them will almost certainly die, so it is a funding authorization for a 6-month period for this drug.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, let me ask the gentleman, this is not something you can go up and get a rule on and come back to the floor so that we can take it up under the regular processes, rather than by unanimous consent?

Mr. WAXMAN. The reason we are taking it up by unanimous consent is that the end of the fiscal year is coming up tomorrow. It was just sent over from the Senate, so we thought that since there was no controversy on it, we would take it up by unanimous consent.

Mr. WALKER. Well, further reserving the right to object, Mr. Speaker, I think the gentleman more than anyone else here knows that there has been a constant stream of unanimous-consent requests rejected because his committee will not bring a clean air bill to the floor. It seems to me that that is still an operative kind of thing.

We have had a couple other bills where we had emergency sessions of the Rules Committee where you go to the Rules Committee, you get your emergency rule, you bring it down here, and we take care of all these things.

I have personally gone along with that, but I am not willing to see legislation move by unanimous consent until we are assured that we are going to get final action on a clean air bill.

I wonder if the gentleman is in a position of assuring me of that at this point.

Mr. WAXMAN. Well, if the gentleman will yield to me, no one in this House stands second to me in desiring a clean air bill to be passed, including acid rain control, and I think the gentleman knows that fact. I am still hopeful that we will be able to accomplish that in the short time left in the session, although it still is an open question; but this legislation if it were not passed by tonight could leave a delay, and every day of delay of funding for this drug is a question of life or death for many of these patients.

Mr. WALKER. This gentleman certainly does not want to do that, but what I am suggesting to the gentleman is that we have had a pattern around here the last several days that has worked extremely well of simply going to the Rules Committee, getting a rule, bringing the legislation back down to the floor and getting it accomplished. I do not see why we cannot do that and why we have to use a unanimous-consent request in order to move the legislation. We have a regular process. All I am suggesting to the gentleman is that that regular process ought to be observed so that we can get this very important legislation through by the appropriate means.

Mr. ROWLAND of Georgia. Mr. Speaker, before the gentleman objects, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Georgia.

Mr. ROWLAND of Georgia. Mr. Speaker, I would like to point out to the gentleman from Pennsylvania that this is a unique situation that we are facing here. In fact, I have had a call from my Department of Public Health in the State of Georiga where they are treating some low-income AIDS patients, about 200, and they are going to be out of funds to be able to do that, to purchase the drug; so it is a matter of life and death for some 200 people in my State, possibly.

I want to point that out to the gentleman, that this is a different type of situation. I am sure the same situation must exist in the gentleman's State also.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, I would say to the gentleman that I am sure that is the case.

Here just the other day we managed to go to the Rules Committee. We got a rule, We came back here, and my understanding is that we are going to be here until fairly late tonight anyway. We might as well just take care of this legislation.

All I am suggesting is let us take care of it by the regular means available to this House, rather than doing it by unanimous consent.

Mr. ROWLAND of Georgia. Mr. Speaker, if the gentleman will yield, the gentleman brought up the Clean Air Act a few minutes ago. Would the gentleman be willing to yield if he was assured that the Clean Air Act would be brought up? I mean, is the gentleman using that leverage?

Mr. WALKER. This gentleman, further reserving the right to object, Mr. Speaker, is concerned that we deal with clean air.

Yes, if we could get absolute assurance that we were going to deal with the Clean Air Act on this floor before the Congress adjourns, I think this gentleman would feel far more comfortable about other legislation moving.

Until we have that assurance, though, I do not think that we ought to be moving legislation by unanimous consent. I think we ought to use the regular process.

Mr. ROWLAND of Georgia. Mr. Speaker, if the gentleman will yield, I fail to see what the Clean Air Act has to do with unanimous consent in providing this aid.

Mr. WALKER. It has to do with priorities. We in this body are now setting the priorities of things that are important for us to do between now and the end of the session. We are coming on the end of the session.

This gentleman feels that taking up something which this House defined 6 months ago as being a priority of this House to do before the end of the session is something that needs to be done.

What I am hearing is that it is not going to get done, so therefore it seems to me that in pursuing our priorities to the end of the session, we ought to do them under the regular means, not by unanimous consent on the floor.

So I have been objecting to unanimous-consent requests in order to assure that anything that is done here is done by the regular processes until we have assurance that some of the other priorities are adhered to. That is all I am suggesting in this case. There is a regular process that can be gone through in order to get this very vital and important legislation to the floor. I think that should be done. I do not think that we ought to be doing it by unanimous consent in lieu of bringing up the Clean Air Act.

Mr. WALKER. Therefore, Mr. Speaker, I do object.

The SPEAKER pro tempore. Objection is heard.

WATER RESOURCES DEVELOPMENT ACT OF 1988

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 535 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 535

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5247) to provide for the conservation and development of water and related resources, to authorize the United States Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and each section shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a subsitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except on motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentlement from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. LATTA], and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 535 is an open rule providing for the consideration of H.R. 5247, the Water Resources Development Act of 1988. The rule provides for 1 hour of general debate, with the time equally divided between the chairman and ranking minority member of the Committee on Public Works and Transportation. It makes in order the Public Works Committee amendment in the nature of a substitute now printed in the bill, to be considered as original text, with each section considered as having been read. Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, H.R. 5247 authorizes more than $1.9 billion for Corps of Engineers water resources development projects for flood control, navigation, beach erosion control, and other purposes. It also contains deauthorizations of previously authorized projects, authorizations of studies of water resource problems, and other provisions dealing with water resources.

Until 1986 Congress had not been able to pass a regular water resources authorization bill for 10 years. Now this bill offers us the chance to get back on a regular 2-year cycle of authorization bills so that important projects are not delayed and authorization bills do not become so large they are difficult to pass. I want to congratulate the Public Works Committee for presenting us with a bill that is carefully crafted so that it can be enacted and we can get back on track with regular bills.

Mr. Speaker, this is a straightforward open rule that will allow full consideration of this important legislation. I urge adoption of the rule.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

(Mr. LATTA asked and was given permission to revise and extend his remarks.)

Mr. LATTA. Mr. Speaker, I would like to commend the chairman of the Committee on Public Works and Transportation. The gentleman from California [Mr. ANDERSON], and the ranking Republican member of that committee, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], for their hard work on this bill.

I am sorry to say, however, that the administration objects to many of this bills, provisions.

As a matter of fact, the administration strongly supports reestablishment of biennial authorization bills for Army Corps of Engineers water projects to help ensure the continued credibility and vitality of the Army Corps of Engineers Civil Works Program. The key to this program, however, is the overriding need to preserve the cost-sharing reforms of the landmark Water Resources Development Act of 1986, Public Law 99-662, and to limit Federal spending to only economically justified projects for which there is a clear Federal responsibility. The administration says that H.R. 5247, to the contrary, would erode the cost-sharing reforms of Public Law 99-662; authorize numerous low-priority, special-interest provisions; and circumvent the administration's established policy and planning review process.

Accordingly if H.R. 5247 were presented to the President in its current form, the Director of the Office of Management and Budget would recommend that it be vetoed.

The administration's strong objection to H.R. 5247 is based on the bill's inclusion of provisions that would:

Erode the cost-sharing principles of Public Law 99-662 by: First, reducing the non-Federal cost share for municipal and industrial water supply at certain projects; second, authorizing the use of Federal dollars to pay a project's non-Federal cost share; and third, the use of language that does not clearly state that cost-sharing provisions of Public Law 99-662 apply to all projects authorized in H.R. 5247;

Fail to limit the number and cumulative cost project authorizations;

Authorize low-priority, special-interest projects opposed by the administration; and

Violate the concept of and need for biennial project authorizations by authorizing or conditionally authorizing numerous projects, for which: First, economic and environmental feasibility have not been demonstrated; and second, the executive branch policy and planning review process has not been completed.

The administration also objects to the bill because it lacks provisions that would provide for: First, the Construction Productivity Advancement Research [CPAR] Program; second, increased recreation user fees; third, technical assistance to private firms; and fourth, the transfer of funds for intensified mitigation.

The advantage of moving a bill now is that it enables us to return to a 2-year authorization process for the Army Corps of Engineers Civil Works Program. Up until the last decade or so, Congress used to enact these bills on a regular 2-year cycle. This is a much better approach than the 10-year period of controversy which preceded the Water Resources Development Act of 1986. The 2-year cycle will permit Congress to maintain better control of the program.

Mr. Speaker, I will support this rule so that the House may proceed to make necessary improvements to the Water Resources Development Act of 1988 and hopefully to remove the provisions to which the administration strongly objects.

□ 1430

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield such time as he may consume to the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Speaker, I rise in support of the rule and of the bill.

Mr. Speaker, I rise in support of H.R. 5247, the Water Resources Development Act of 1988. I strongly commend the committee for its work on this bill.

A particular item in this bill dealing with my district is a project for beach erosion control in Nassau County—Amelia Island, FL. The bill authorizes a first Federal cost of $4,619,000, and an estimated first non-Federal cost of $1,134,000. This provision is important because the ocean shore of Amelia Island has been undergoing physiographic changes since construction of jetties to aid navigation in the entrance to Fernandina Harbor in the 1880's. Studies show that the unusually severe erosion along the area is the result of the jetties constructed for the Federal navigation project at Fernandina Harbor. This bill will mitigate the effects of the navigation project on the adjacent shoreline in May of 1986. This language insures that we will deal adequately with the situation caused by the long-ago Federal navigation project.

I commend the Senate for moving on this bill, and I commend the House committee for moving this important legislation to the floor.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield such time as he may consume to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of this bill and the amendments offered on behalf of the Public Works Committee.

Let me say, Mr. Speaker, that the changes proposed in the amendment on Lake Koocunusa Reservoir in my district are more than welcome changes and I would like to point out why the committee amendments makes sound economic sense as well as give a little history of the Libby Dam project.

When the Libby Dam project was proposed and presented to the folks in Montana, most of the discussions with the locals centered around flood control and recreation. There was opposition to the project for various reasons ranging from ruining the fishing to inundating farmland. Apparently the Corp of Engineers officials were not making much progress in talking about power at that time, so they talked about the benefits the dam would bring to the area: flood control, recreation, tourism.

For 16 years the Lake Koocanusa Reservoir which was created by the Libby Dam was jokingly called "Who can use it." Folks had given up more than 90 miles of blue ribbon trout stream and thousands of acres of wildlife habitat for what purpose?

In the early 1980's, by accident or design, no one knows for sure, Kokanee salmon were released in the reservoir and began to thrive. A few years later fisherman discovered that a salmon fishery had developed. By 1985 thousands of fishermen were using the reservoir, giving the surrounding communities of Libby and Eureka and northwest Montana a needed financial boost.

The original projections of the recreation opportunities this fine reservoir would provide have now begun to materialize but it appears current Corps of Engineers and Bonneville Power Administration officials are not as interested in fostering the recreation opportunities originally created by construction of the dam and promised to the area.

Of course after 1985 the dry years began. 1986, 1987, and 1988 produced lower than normal precipation. Power needs increased and huge amounts of water continued to be released to drive the turbines. By the end of 1987 it was clear there would be little chance of the reservoir filling for summer fishing. The result was that the seven boat ramps and eight recreation areas were left high and dry.

People began to ask BPA and the Corps of Engineers for help. No help was to be had. Folks were told that power and flood control were the purposes of this dam. Recreation and fishery were not found to be important they were told.

Let me review the promises made by the corps in 1960:

First. Power preference for area users.

Second. Recreation and multiuse similar to Grand Coulee Dam; 25 boat ramp access locations and 23 recreational areas along the reservoir; over 1 million visitors projected by the year 2000.

Third. Indian tribal burial sites to be forever protected by the reservoir waters.

What happened to the promises?

First. The power preference was dropped during final negotiations for ratification of the treaty.

Second. A grand total of seven improved and seven unimproved ramps in various stages of disrepair and eight recreation areas of which three were usable.

Third. Tribal sites exposed to looters.

Fourth. Subtle changes in the operations regime with water elevation levels meeting projected rule curve limits less and less frequently over the last 5 years.

This amendment will clarify that the Army Corps of Engineers has the ultimate responsibility, including financial, for providing access to the water as a result of the low-water pool level. This includes extending the boat ramps to allow access for boating. In addition the corp has selected additional sites on the lake for recreational development. These areas will be developed by the corps and the U.S. Forest Service for general recreational use.

The second part of the amendment clarifies that the Corps of Engineers has the ultimate responsibility for protection and preservation of the Indian artifacts that are exposed by the operation of the Libby Dam. Receding water levels expose to illegal pot hunters many religious Indian artifacts and have increased the theft of these items and the desecration of an important religious area to the Salish and Kootenai people. On site preservation should be the first priority of the corps in implementing this part of the amendment.

I commend my colleagues on the Public Works Committee for this amendment because it will provide real benefits to the people of northwestern Montana and will reflect the interests of fish and wildlife, recreationists and the power system. This amendment will also encourage investment in long-term access projects in lieu of redesignating the project purposes.

Mr. CLINGER. Mr. Chairman, I rise in support of H.R. 5247. I do share the same reservations expressed a moment ago by the ranking Republican of the Public Works Committee, Mr. HAMMERSCHMIDT, but on balance I believe this legislation merits the support of all House Members for a couple of key reasons.

First, H.R. 5247 authorizes the reconstruction of two locks on the lower Ohio River. At present they are old and susceptible to mechanical failure, and we must keep them in good working order if we are to maintain a viable inland waterway system.

Let me add that half of the construction work, valued at a total cost of $775 million, will be funded through receipts of the fuel tax assessed on inland waterway users, and half will be paid for with general revenues. The White House supports this vital project.

Second, H.R. 5247 reestablishes the practice of reporting out water project authorization bills on a 2-year cycle. Many of you may remember that in 1986 the President enacted the first such bill after a 10-year hiatus. The backlog of worthwhile projects awaiting approval was tremendous, and if we are to ensure an orderly process and avoid extraordinarily expensive bills in the future, we must report them out on a regular basis.

Mr. Chairman, this bill does contain some provisions to which I take exception, but clearly its merits outweigh these considerations. I urge Members to support this legislation.

Mr. LATTA. Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. BOSCO). Pursuant to House Resolution 535 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5247.

□ 1431

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5247) to provide for the conservation and development of water and related resources, to authorize the U.S. Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes, with Mr. HERTEL in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. ANDERSON] will be recognized for 30 minutes and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to bring to the floor the bill H.R. 5247, the Water Resources Development Act of 1988. This bill is the result of a bipartisan effort on the part of our committee, and I wish to extend my thanks and appreciation to the ranking Republican member of the full committee, the gentleman from Arkansas [Mr. HAMMERSCHMIDT] and the ranking Republican member of the Subcommittee on Water Resources, the gentleman from Minnesota [Mr. STANGELAND] for the excellent work and cooperation they have contributed to this effort. And I also wish to extend a special expression of appreciation to the chairman of the Subcommittee on Water Resources, the gentleman from New York [Mr. NOWAK] for the leadership he has shown in developing this legislation.

This is the first water resources development bill relating to the water resources program of the U.S. Army Corps of Engineers to be considered by the House since the passage of the landmark Water Resources Development Act of 1986. With this bill we plan to return to the cycle of an authorization bill each 2 years as was common in prior years. The 1986 act was the first since 1976. The years preceding its enactment were spent in long and difficult negotiations over the issues of cost sharing and proper Federal and non-Federal roles in water resources development. The culmination of these years of negotiations was the 1986 act, which contained new and revised cost-sharing policies for projects, an expanded role for State and local governments, and significant provisions designed to protect and enhance environmental values.

The 1986 act has permitted the corps' water resources program to move ahead, providing flood control, inland navigation, ports, and related benefits such as hydroelectric power and water supply to the Nation.

H.R. 5247 continues the efforts now underway and extends the program to meet new and future needs. It authorizes the construction of water resources development projects by the Corps of Engineers for flood control, navigation, beach erosion control, and related purposes. It also contains deauthorizations of previously authorized projects, authorizations for studies of water resources problems and needs, modifications to previously authorized projects, and provisions relating generally to the water resources program of the Corps of Engineers.

Major provisions of the bill include:

Authorization of 16 water resources projects to be constructed by the corps at a total cost of $1,551,987,000, of which $620,029,000 will be paid by non-Federal interests;

Authorization of seven projects subject to a final report of the Chief of Engineers and approval by the Secretary of the Army at a total cost of $153,988,000, of which $53,846,000 will be paid by non-Federal interests;

Twenty modifications to previously authorized projects relating to matters such as changes in project scope, necessary increases in cost ceilings, clarifications and technical changes in existing authorizations; and

Deauthorization of several previously authorized projects with an estimated total cost of $814 million.

A number of matters have been brought to our attention following the reporting of the bill. We have examined these carefully and have prepared a committee amendment which will be offered later.

There is one additional item I wish to mention at this point relating to section 30 of the reported bill which declares certain portions of the Delaware River in Philadelphia County, PA, to be nonnavigable waters of the United States. Some explanatory language important to this provision was inadvertently omitted from the committee report accompanying the bill. This language states that section 30 declares certain portions of the Delaware River in Philadelphia County, PA, to be nonnavigable waters of the United States for the purpose of removing the navigational servitude. Under the doctrine of navigational servitude, removal or alteration of projects at these sites may be ordered by the Federal Government without compensation to the owners. It is the intent of the section that the Federal Government could not order the removal or alteration of projects at these sites without compensation to the owners. This provision also retains permitting and regulatory authorities of the Federal Government but would require compensation for the owners if there were an order by the Federal Government to alter or remove the projects. This provision is necessary to remove the cloud on title caused by the navigational servitude so that the projects can proceed.

Mr. Chairman, H.R. 5247 responds to serious water resources needs in many parts of the Nation and continues the program improvements in the 1986 act. I strongly urge passage of the bill.

Mr. Chairman, I reserve the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in somewhat reluctant support of H.R. 5247, the Water Resources Development Act of 1988. I say somewhat reluctant because, although I strongly support our efforts to enact a modest Corps of Engineers authorization bill, I feel the current vehicle could have been more modest.

Although, I have some reservations about the bill, I must express my appreciation to the leadership of the House Public Works and Transportation Committee for their efforts at fashioning a responsible bill. Chairman ANDERSON as well as the chairman and ranking Republican on our Subcommittee on Water Resources, Mr. NOWAK and Mr. STANGELAND, are to be commended for their hard work and continuing support for a bipartisan bill.

H.R. 5247 authorizes numerous Corps of Engineers projects for flood control, navigation, shoreline protection, fish and wildlife mitigation, recreation and related purposes. The bill also provides important technical corrections and clarifications to the Water Resources Development Act of 1986, modifies several previously authorized projects, and includes various deauthorizations and renamings.

In all, the bill would authorize 16 new water resources development projects, all of which have been fully studied by the Army Corps with favorable reports from the Chief of Engineers. An additional seven projects would be authorized if and when they receive a favorable report from the Chief of Engineers and the approval of the Secretary of the Army. The bill also contains 20 project modifications, three project deauthorizations plus numerous miscellaneous provisions.

This legislation is important, not so much for what it contains, but for what it promises for the future of the corps' water resources program. Over the last 150 years, the Civil Works Program of the corps has helped develop, operate, and maintain a remarkable system of inland and coastal navigation that has been indispensable in the growth of our economy. Corps water projects also protect lives and property from the ravages of flood water. In addition, corps projects provide important hydroelectric energy; municipal, industrial, and agricultural water supplies; recreational opportunities; and protection and enhancement of fish and wildlife resources.

H.R. 5247 signals an important attempt to get the corps' water project authorization process back on a regular, 2-year schedule. This 2-year process is essential for maintaining the orderly development of projects by the corps and the careful oversight of the program by the Congress. In many ways, it also reaffirms the reforms enacted in 1986 involving cost sharing, price increases, and the project study and authorization process. As a measure of the bill's balance, it has received praise overall from environmental and development interests. For these reasons, I am willing to support the legislation even though I share many of the concerns about its current size and scope which have been expressed by the administration.

Mr. Chairman, H.R. 5247 is not a perfect bill but it is a good start. It presents the basis for a comprehensive authorization package that, with some refinement in conference, can be approved by the administration. In some respects, the bill goes farther than some of us felt was needed in authorizing new work. In addition, I am concerned about the overall wisdom of abdicating to the administration the responsibility for renewal and authorization of projects which have not yet been fully studied. Nonetheless, I support the overall package because I view a return to the biennial authorization process as imperative. Accordingly, I intend to continue to work to develop a comprehensive, yet responsible bill—one that can enjoy broad support in Congress and in the executive branch.

Mr. Chairman, I reserve the balance of my time.

Mr. ANDERSON. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. NOWAK].

Mr. NOWAK. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I join the chairman of our Committee on Public Works and Transportation in bringing to the floor the bill H.R. 5247, the Water Resources Development Act of 1988. I commend him for the leadership he has shown in the development of this legislation. I wish also to express my appreciation for the bipartisan participation and cooperation of the ranking Republican member of the full committee, the gentleman from Arkansas [Mr. HAMMERSCHMIDT] and the ranking Republican of the Subcommittee on Water Resources, the gentleman from Minnesota [Mr. STANGELAND]. This bill represents a return by our committee to a regular authorization schedule for the water resources program of the Department of the Army. In years past, it was common to have an authorization bill every 2 years. This process was disrupted, however, for a decade preceding the landmark Water Resources Development Act of 1986. During this period, long and difficult negotiations with administration and the Senate took place over the issues of cost sharing, and the proper Federal and non-Federal roles in water resources development. The culmination of that 10-year period, during which there was no authorization bill, was the 1986 act which contained new and revised cost sharing policies, an enlarged role for State and local goverments in water resources planning and implementation, and numerous provisions designed to protect and enhance environmental values.

With the enactment of the 1986 act, the Water Resources Program of the Corps of Engineers was able once again to move forward, and a number of new projects for flood control, inland navigation, port development, and related purposes such as recreation, hydroelectric power and water supply have been started. Additional new starts have not been possible recently because of budgetary constraints, but the program is on the right track again, and serious water resources needs are being addressed in a cooperative effort, involving the Federal, State, and local governments.

The Congressional Budget Office estimates that H.R. 5247 will result in outlays of $222 million through fiscal year 1993, and approximately $1.7 billion over the fiscal years 1994 to 2004. It notes that the Water Resources Development Act of 1986 set obligation ceilings for Corps of Engineers' construction activities of $1.6 billion in 1989, $1.7 billion for 1990, and $1.8 billion for 1991. The report of the Congressional Budget Office goes on to say:

> Information from the corps indicates that for these years, obligations for currently authorized projects are likely to meet these targets, leaving little money for funding the new projects authorized in this bill. It is possible that spending for these new projects would displace spending on some already authorized projects. In either case, total spending for corps construction activities will remain constrained by the obligation ceilings, consequently, enactment of this bill would likely result in little additional spending from 1989 through 1991.

The task of determining priorities for construction of projects is of course one for the Appropriations Committee. But, the overall budgetary impact of the bill will be constrained not only by the obligation ceilings imposed in 1986, but also by the budget process itself. It is important to remember that the provisions of the bill only authorize appropriations—they will not have the effect of increasing appropriations beyond any applicable ceilings.

The floor amendment which will be offered by the chairman does not add appreciably to the cost of the bill and, in any event, will be subject to the same spending limitations.

Finally, I wish to point out that adjustments in the House bill will undoubtedly have to be made in conference—this is a necessary part of the legislative process. It is important, however, that those adjustments be saved for conference, and that we carry the full House position into conference. We will then do our utmost to secure a bill that can be agreed to by the conferees and become law.

Mr. Chairman, H.R. 5247 will continue our efforts to address the water resources needs of the Nation in a cost-effective and responsive manner, and I urge its passage.

□ 1445

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Minnesota [Mr. STANGELAND], the ranking member of the Subcommittee on Water Resources.

Mr. STANGELAND. Mr. Chairman, I rise in support of H.R. 5247, the Water Resources Development Act of 1988. This omnibus water resources bill provides needed projects for flood control, navigation, beach erosion, fish and wildlife protection, and other purposes. It will also help get us back on track with a regular, 2-year authorization process.

The Public Works Committee reported H.R. 5247 on September 12, 1988. We could not have done this without the leadership and bipartisan cooperation of Chairman GLENN ANDERSON, ranking minority member, JOHN PAUL HAMMERSCHMIDT, and subcommittee chairman, HENRY NOWAK. The resulting legislation is very important to the Corps of Engineers' water resources program. Therefore, it is important to get the bill to conference as soon as possible in the remaining days of the 100th Congress.

H.R. 5247 authorizes corps' projects for flood control, navigation, beach erosion, environmental protection, recreation and related purposes. It also reaffirms reforms enacted in 1986 involving cost-sharing, price increases, and project study and authorization procedures.

The most important point is that it signals a return to the 2-year project authorization process. Up until the last decade or so, Congress enacted corps' bills on a regular cycle. A return to this process would benefit everyone.

Mr. Chairman, allow me to highlight some of the bill's provisions. Section 3 authorizes new locks and a dam near Olmstead, IL, along the lower Ohio River. The project area is in a strategic location of the Nation's inland waterway network, linking the Mississippi River system with the Ohio River system. These twin locks will provide for dependable and efficient navigation by the country's fleet of barges. The inland waterways users board, the corps, and countless others support the revitalization of this important link in the Nation's chain of navigable highways.

H.R. 5247 also contains important provisions to address commercial, recreational and environmental concerns in the great lakes and upper Mississippi regions. I am pleased to have supported provisions, now in the bill, which will authorize improvements to the great lakes connecting channels and harbors and ensure the containment of dredged material. Section 13, which improves the Environmental Management Program for fish and wildlife enhancement in the upper Mississippi River region, also adds to the bill.

Section 18, regarding the corps' reservoirs in the upper Mississippi's headwaters region, responds to recent criticisms of proposed drawdowns during this year's drought. Concern about a drawdown's impact on the environment and local economy prompted me to introduce legislation (H.R. 5152) to prevent imprudent actions. Section 18, proposed by the gentleman from Minnesota [Mr. OBERSTAR], responds to the same concern.

Section 35 authorizes the technical resources service for the Red River of the north basin in Minnesota and North Dakota. This new authority will supplement the ongoing section 22 and section 206 efforts in the basin. Because of its unique physical features and jurisdictional boundaries, the basin needs increased flood protection and coordination among land and water officials. The intent of this section is to have the corps and the two States work closely with the International Coalition for Land/Water Stewardship in the Red River Basin.

Another section in the bill modifies the existing flood control project at Roseau River, MN, to allow the corps to go forward with a smaller and more economical component of the overall project. The corps is authorized to construct a levee in the vicinity of Duxby, MN, under their section 205 authority. This will allow an important flood control project to proceed.

Mr. Chairman, I think it's important for every Member to know that the administration has severe, and I think justified, reservations about various aspects of this legislation. Therefore, we will need to make a number of adjustments to the bill in conference. Our goal in these final days of the 100th Congress is to produce legislation that the President can sign and that can return Congress to the traditional 2-year authorization process. This can happen only if we make some difficult decisions in conference in order to make H.R. 5247 more modest in its size and scope.

Thus, it bears repeating that the more amendments we adopt, the more difficult it will be to return to the 2-year cycle. Quite frankly, we may lose this bill if it grows larger in size or scope.

Nonetheless, Mr. Chairman, in its current form, H.R. 5247 can get us into conference with the other body and back on track with the regular authorization process.

I urge each Member to support the bill. If given the chance, we can work to improve the legislation in conference. In working with the other body, I will do my best to produce a bill that the President can sign and that can return us to the regular authorization process.

Mr. ANDERSON. Mr. Chairman, I yield 4 minutes to the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Chairman, I thank the gentleman for yielding and I rise in support of the en bloc amendment offered by the distinguished gentleman from California [Mr. ANDERSON], chairman of the Committee on Public Works and Transportation.

As you know, there are a number of important legislative issues in the amendment offered by Mr. ANDERSON, including H.R. 4558, the Bridge Administration Transfer Act. H.R. 4558 was originally introduced on May 10, 1988, at the request of the administration and enjoys bipartisan support. Joining the gentleman from North Carolina [Mr. JONES], chairman of the Merchant Marine and Fisheries Committee, and the gentleman from Michigan [Mr. DAVIS], and myself as original cosponsors are the chairman and ranking members of both the full Committee on Public Works and Transportation and the Subcommittee on Water Resources.

The purpose of H.R. 4558 is to transfer the Bridge Administration Program from the Coast Guard back to the U.S. Army Corps of Engineers. Prior to 1967, the Corps of Engineers was responsible for managing the bridge program and had the responsibility of assuring freedom of navigation on the Nation's waterways. When the Department of Transportation was established in 1967, all transportation-related functions of the Government were to be located within that Department. Hence the Coast Guard, which was transferred from the Treasury Department to the new Transportation Department, was given responsibility for the administration of bridges and causeways.

For the past 20 years the Coast Guard has carried out its assigned duties of regulating and enforcing the Bridge Administration Program. However, recent environmental legislation has injected a much broader range of issues into the bridge permitting process and has created an overlap of responsibility between the Coast Guard and the Corps of Engineers. This duplication has decreased the efficiency of the bridge permitting process. It is not cost effective, it is confusing to the public, and it leads to problems over which agency is responsible for developing environmental impact statements.

The Bridge Transfer Act is designed to eliminate the existing problems and place all waterway construction-related projects in a single agency. It should also increase efficiency and improve Government responsiveness to the public—a laudable goal in itself.

Mr. Chairman, I strongly endorse this amendment and urge my colleagues to join me in supporting the package put forth by the gentleman from California [Mr. ANDERSON].

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of H.R. 5247, and to commend the chairman, the gentleman from California, as well as the gentleman for Arkansas [Mr. HAMMERSCHMIDT], the gentleman from New York [Mr. NOWAK] and the gentleman from Minnesota [Mr. STANGELAND], along with the staff of the committee, for their work in putting together a sound, workable water resources bill.

As you know, our Nation's infrastructure or harbors, waterways and flood control projects provides a foundation for economic growth, jobs and public safety, and needs continuing attention to remain in safe working condition. That's the essence of this bill, and I urge my colleagues to sustain that infrastructure by voting "aye."

In particular, I want to express my appreciation, on behalf of the residents of Venture, CA, for two items in the bill. The bill authorizes a needed navigation project at the Ventura harbor, to alleviate hazardous navigation conditions which occur during the winter months. The bill also authorizes the Corps of Engineers to repair groin No. 1 just upcoast from the harbor, in order to prevent further erosion of the beach, which threatens homes and public facilities and even the integrity of the harbor itself. Both of these projects require local cost sharing. There has been a large investment of public funds in this area, which these two projects would help to maintain in good order.

Mr. Chairman, I urge an "aye" vote on the bill.

Mr. ANDERSON. Mr. Chairman, I yield 4 minutes to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Chairman, the Water Resources Development Act of 1988 is the first water resources legislation to be reported by the Public Works and Transportation Committee since the enactment of the landmark 1986 water projects bill. This legislation broke the decade long debate on various policy matters relating to water resources development, primarily by resolving the issue of cost sharing. I highly commend our full committee chairman, Mr. ANDERSON and the ranking minority member, Mr. HAMMERSCHMIDT, and the subcommittee chairman, Mr. NOWAK, the ranking majority member, Mr. STANGELAND, for their superb efforts on this extremely important piece of legislation to our Nation.

Among the various provisions of H.R. 5247 are several which I authored. So as to facilitate their implementation, I would like to provide some background and explanatory comments.

Section 34(d) of H.R. 5247 as reported by the subcommittee contains a provision that directs the U.S. Army Corps of Engineers in cooperation with the National Park Service to conduct a study and prepare a report on modifying the operation of the Bluestone Lake project in order to facilitate the protection and enhancement of biological resources and recreational use of the waters downstream from the project.

This study requirement is in direct response to the failure of the Corps of Engineers to meet the letter and intent of section 1110 of title XI of the National Parks and Recreation Act of 1978, Public Law 95-625, the law which established the New River Gorge National River downstream of the Bluestone project.

Adopted almost 10 years ago in an attempt to address problems with the operation of the Bluestone Dam, the provision clearly directs the corps to cooperate with the National Park Service in matters pertaining to the water requirements of the national river. In part section 1110 stated:

> The Secretary of the Army shall provide for releases of water from the Bluestone Lake project consistent with that project's purposes and activities in sufficient quantity and in such manner to facilitate protection of biological resources and recreational use of the national river.

One of the problems this section sought to address was discussed in a recent report by the National Parks and Conservation Association [NPCA], entitled, "New River Gorge National River: Water Through the National Park Service's Fingers." This report stated:

> Water levels in the National River fluctuate widely and unpredictably, creating serious problems for downstream recreationists. At water flows below 3,000 c.f.s., undercut rocks are exposed and navigation becomes difficult. Above 15,000 c.f.s., high water volumes make rafting dangerous. Inconsistent flows cause obvious problems: low flows cause crowding on the river, take income away from outfitters, and provide less dilution/flushing action on water-born contaminants; spasmodic high-volume water releases are dangerous, deadly, and wash out some 15-20 business days each summer. The impacts to the National River's biological resources are simply unknown.

Over the last decade, the Corps has rebuffed every attempt by the National Park Service to cooperatively seek to implement section 1110 of Public Law 95-625, and resisted every suggestion that flow improvements could be achieved by making minor operational adjustments. Instead, the corps insisted on proceeding with a study aimed at justifying making major construction modifications at the project so as to support the installation on hydropower generating capacity at the Bluestone Dam.

As the NPCA report noted:

> [A]s early as December, 1981, representatives from the NPS and the corps' Huntington District Office had indentified a 24 hour (store 12 hours, release 12 hours) alternative that would improve target flows available for recreational use (3000-17,000 c.f.s.) by 14% over existing conditions. Implementation of this plan on a trail basis would have required the addition of several night shifts at Bluestone Dam, primarily to provide adequate water flows Saturday through Monday. This was all the NPS and the out-

fitters intitally asked for. Yet not a single indicator suggests that the corps or the NPS attempted to make any provision to secure these resources, which would amount to a trifling sum in the corps' billion dollar budget.

Recently, the corps suspended its Bluestone project modification study and issued a report which, while outlining a number of alternatives, made no recommendation and deferred further investigations. In essence, the corps wasted a decade in a fruitless effort to convince the local populace of the benefits of hydroelectric power capacity at the project. The report did indicate, however, the corps intention to field test a minor operational adjustment at the project of the type that, ironically, is similar in nature to what the National Park Service proposed back in 1981. I would note this test would also be required under a provisions of the West Virginia rivers bill, H.R. 900, which is pending final congressional action.

While the deferral of investigations under the Bluestone modification study apparently closes the chapter on hydropower installation at the project, there has yet to be compliance with section 1110 of Public Law 95-625. This is the purpose of the study required by H.R 5247. Now that there is some willingness being shown to at least test minor operational adjustments, the same detailed examination the corps previously expended in trying to build a case for hydropower and major construction at the project should now be given to the various types of operational adjustments that could be implemented, either with or without minor project modifications.

I have taken some time to explain this situation because it is a matter of extreme importance, not only to the biological integrity and recreational development of the New River Gorge National River, but to the region's economy as well. In this regard, I want to stress that the use of the word "cooperation" in the provisions of H.R. 5347 should not be taken lightly. This time around, it is fully intended for the corps to cooperate with the National Park Service in conducting the study. Further, by requiring the corps to publish a notice of the proposed study in the Federal Register, it is intended that the public be given the opportunity to fully participate in its formulation.

Another provision involving the Bluestone project can be found in section 7 of the bill as reported by the committee. I am also the sponsor of this section, which seeks to provide a recreation authorization for eight specified water resources projects.

These projects include Bluestone Lake, Beechfork Lake, East Lynn Lake, Jennings Randolph Lake and the R.D. Bailey Lake in West Virginia along with the Francis E. Walter Dam and the Youghiogheny River Lake in Pennsylvania and the Savage River Dam in Maryland.

The recreation authorization includes downstream whitewater recreation, recreational fishing, and boating on water at the project. However, the legislation also specifically authorizes recreation on project lands as well. In this regard, I would note that the project land recreation authorization is intended to gain greater corps cooperation in the planning of recreational projects such as campground, lodging facilities and related infrastructure requirements.

In recent years a number of instances have arisen where older corps projects have come to serve important new public purposes. These new uses were not always envisioned when the project was initially authorized. However, some of these uses, such as whitewater recreation, have evolved into very significant local, and even national, benefits and are not incompatible with project purposes such as flood control and low flow augmentation. Nonetheless, since they are not clearly mentioned as "project purposes" in the original authorizing legislation, they are dependent on sensitive management of the project by the corps.

This type of management is not always forthcoming due to the lack of specific recreational authorization. For example, since downstream recreation has not been a specific project purpose of the Bluestone Dam, the corps has indicated it is not in noncompliance with section 1110 of Public Law 95-625 since the language of that law provides for releases "consistent with that project's purposes."

In addition, these recently accrued benefits are jeopardized when developers seeks to install new hydropower facilities at these older corps dams. In these situations, there can be significant disruption of whitewater flows during construction and thereafter with little protection afforded to recreational interests since recreation has not been a specific purpose of these projects.

The intention of the provision in H.R. 5247 is to direct the corps to protect and preserve the project operations at the eight specified projects on which recreation activities have come to depend. It is also the intent of the provision that the corps fully involve dependent recreation interests in all plans for project modifications, or for changing project operations, which could affect their interests.

Finally, I do want to note that in the 1986 Water Resources Development Act, a downstream whitewater recreation authorization was provided for the Summersville Dam in West Virginia. With a similar authorization for the Bluestone Dam being provided in this bill as reported, and the addition of the Sutton Dam to this legislation as part of the committee's package of floor amendments, all three dams in the Kanawha Basin would have a recreation authorization.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania, [Mr. CLINGER].

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. SHUMWAY].

Mr. SHUMWAY. Mr. Chairman, I rise in support of H.R. 5247, the Water Resources Development Act of 1988. I'd first like to commend the leadership and members of the Public Works Committee for their efforts in bringing this bill to the floor, and thereby reestablishing the previous practice of the Congress to pass needed water project authorization legislation every 2 years.

It's certainly in the Nation's best interest to keep our water resource development needs up to date, and I believe routine consideration of these bills discourages authorization of projects that are not economically viable or have not been fully studied.

The job of assembling an omnibus water development bill is a difficult one and I believe, on balance, the Public Works Committee has done a pretty responsible job. The 16 projects authorized in the bill have favorable chief of engineers' reports. And while there are seven projects conditionally authorized without the chief's reports, the bill gives the Secretary of the Army the flexibility to finalize such reports before actual authorization occurs—in fact, the Secretary of the Army has the final say on these seven projects.

I am particularly pleased with the committee's action with regard to section 16 of the bill. This section gives the Sacramento area a temporary window of relief from FEMA restrictions and increased flood insurance premiums.

Congressmen FAZIO and MATSUI who represent this area of California—which is adjacent to my congressional district—have worked hard to come to grips with this serious flood problem along the American River. And while I do not agree with my two colleagues from California on the best long-term solution to Sacramento's flood problem, I do fully recognize the area's dire need for additional flood protection. And I therefore support the provision in section 16 of the bill and the Fazio amendment to that section.

I must add, however, that I strongly believe Sacramento's flood problem must not be separated from the other equally as serious needs within the American River basin—most particularly the need for water.

Just 2 years after the Sacramento flood of 1986 illustrated the need for more flood protection, California, like many parts of the Nation, experienced a severe drought. The American River basin was hit particularly hard. This dramatic contrast between flood and drought illustrates graphically the need for a multipurpose project—not just a flood control project—on the American River. Such a multipurpose project would provide both flood protection and an additional water supply. It is precisely for these two overidding reasons that the Auburn Dam was authorized by Congress in 1965.

To ensure that this multipurpose Auburn Dam is completed, and in a manner that is consistent with non-Federal cost sharing requirements, the American River Authority, a local entity comprised of El Dorado County and Placer County officials, has proposed to contribute $700 million in funds raised from revenue bonds to pay for the water and power portions of the project. Mr. Chairman, this is an unprecedented offer and one which I am hopeful will help bring the needed Auburn Dam to a reality.

I would just like to note that the committee is well aware of the A.R.A.'s recent proposal and stated on page 33 of their committee report that they "recognize that on-going local efforts to develop non-Federal funding for the traditional multipurpose project have been resumed in recent months. The committee's action in this bill will allow that effort to continue moving forward."

I would like to thank the committee for their efforts in this regard, particularly Chairman ANDERSON and NOWAK and the ranking minority members Mr. HAMMERSCHMIDT and Mr. STANGELAND. And I urge that the House pass this legislation.

Mr. ANDERSON. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. FAZIO].

□ 1500

Mr. FAZIO. Mr. Chairman, I rise in support of H.R. 5247, the Water Resources Development Act of 1988. I commend the chairman of the committee, my colleague from California, GLENN ANDERSON, and Chairman NOWAK of the Water Resources Subcommittee, and their ranking colleagues Mr. HAMMERSCHMIDT and Mr. STANGELAND for bringing this legislation to the floor quickly and cleanly. This bill could and should be signed by the President without hesitation.

This bill is particularly significant in that it may mark the restoration of the biennial public works process that existed before the passage of the Water Resources Development Act of 1986. H.R. 6, as we all know, was the first water resources development bill in 10 years. Its impact has been broad and very beneficial, but as those of us on the Energy and Water Appropriations. Committee know it was a lot to swallow at once. I look forward to building and rebuilding this Nation's infrastructure in 2-year doses.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois.

Among a number of other important programs included in this legislation is a provision which will allow the Sacramento area to continue its pursuit of high-level, comprehensive flood protection without restrictions the Federal Emergency Management Agency may impose upon the community as early as next spring.

I know some have expressed concern about the provision currently in the bill which would deem that Sacramento has made adequate progress toward constructing high-level flood protection. While Sacramento does have extensive flood control from existing dams, levees, and channels, a comprehensive flood control project which provides a high level of protection still needs to be authorized. Representative BOB MATSUI and I hope to get that flood control project approved as soon as a feasibility study on flood control measures is completed in 1990.

I will offer an amendment today which would substitute the provision currently in the bill for language simply stating that Sacramento's existing 100-year flood plain maps will be used to determine flood insurance rates for, basically, the next 4 years. This will allow the ongoing feasibility study to be completed, and provide a 2-year window to obtain authorization for a flood control project.

My substitute amendment also includes findings that the city and county of Sacramento will voluntarily limit new development in the flood-prone areas of the community to that which has already been approved in the general plans of both entities. This should ensure that a temporary exemption from FEMA regulations will not precipitate rapid development in the area's 100-year flood plain.

This bill also includes a provision which would allow the new city of West Sacramento, CA, to charge tolls at the William G. Stone Lock between the Sacramento deepwater ship channel and the Sacramento River. The provision will give jurisdiction over the lock to West Sacramento, which was incorporated into Yolo County, CA, less than 2 years ago.

I urge my colleagues to support the bill.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. HASTERT], a member of the committee.

Mr. HASTERT. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the bill.

Mr. Chairman, the Army Corps of Engineers, under section 404 of the Clean Water Act, has jurisdiction over the approval and consideration of permits in wetland areas, which include recharge areas. This responsibility extends to situations where water supply and quality might be impacted.

A problem which is fairly unique to my district is the problem of naturally occurring radium in the drinking water. It is a pervasive problem which I have sought to remedy through numerous means. While the technology for cleanup exists for compliance with EPA's stringent standards, it is extermely costly. For many, the last resort is to dig wells to blend water in order to lower the levels of radium.

I am concerned that these shallow aquifers—the critical water that is needed for blending purposes—remain pristine.

The Newark Valley Aquifer, which is named in this legislation, runs through six counties in Illinois. It is the primary source of drinking water for these counties. A proposal has been made to site a balefill in this recharge area, under which lies the Newark Aquifer.

The immersion of this balefill into the Newark Aquifer is troubling for a number of reasons, one of them being the fact that this particular aquifer runs through a glacial drift that is rapidly moving. The Illinois Geological Survey has warned of the potential for contamination of the shallow ground-water supplies. The presence of sand and gravel units provide pathways for leachate to poison the water supply.

It is imperative that the Army Corps of Engineers conduct this study. If there is any chance we might pollute this aquifer, we need to find out now, before the landfill is built. The people of this region must have confidence that their water supply, which is so crucial to meeting EPA standards, remain pristine.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. I thank the gentleman for yielding.

Mr. Chairman, I want to thank the gentleman from California, Mr. ANDERSON, the gentleman from Arkansas, Mr. HAMMERSCHMIDT, Mr. ROE, Mr. NOWAK, Mr. STANGELAND for their willing helpfulness on the West Columbus flood wall project which is included in this bill.

I talked to Col. Tom Farewell this morning, the new head of the Huntington District and he reaffirmed this project as one of the highest priority and one of the best benefit-to-cost ratio projects on the list.

Mr. Chairman, the bill authorizes approximately $24 million in urgently needed funds of the approximately $31 million needed to construct the flood control wall in West Columbus, OH. West Columbus is a highly developed area particularly prone to recurring flooding by the Scioto River. Significant historical flooding occurred in 1913, 1937, and 1959. The 1913 flood, the largest ever recorded for the area, resulted in the loss of 93 lives.

Over 4,000 residents live in the flood plain and nearly 500 commercial and industrial establishments are located there. Should there be a recurrence of the 1913 flood, there would be an estimated $288 million in damages. The annual damage right now is about $10.3 million. This flood control project not only would prevent further loss of life and property in the flood plain, but also would allow for significant economic development in the area.

I would like to mention that there is another reason that this project should be approved and construction begun as soon as possible. In 1992 we will celebrate the quincenntennial of the discovery of America by Christopher Columbus. Columbus, OH is the largest city in the world bearing the name of America's discoverer and has been designated the lead city in this national commemoration. The sooner the project gets underway the better because the city will face monumental problems if construction is not completed prior to the beginning of this important event.

Mr. Chairman, this is a meritorious and necessary project with a benefit cost ratio of 3.4 to 1 for which Congress already has appropriated $200,000 in preconstruction engineering and design funds earlier this summer.

Mr. Chairman, I support the Water Resources Development Act of 1988 wholeheartedly.

Mr. ANDERSON. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Chairman, I rise in strong support of the Water Resources Development Act. This bill provides a number of important answers to critical problems in my State of New Jersey from flood control to beach erosion to studies of water resources problems.

These are vital for the environmental health and the economic growth of my State, but most important among them is a special provision that will ease the regulatory process so the resource recovery plant can be built in the Meadowlands in the State of New Jersey, ease a 300-percent increase in garbage rates by allowing this plant to proceed, ease the environmental degradation of the continued dumping and piling of garbage in our Meadows.

This is just one benefit of this bill. But it is important.

I thank the chairman, I thank the gentleman from Minnesota [Mr. STANGELAND] and the members of the committee for their cooperation. You will make a real difference in the environmental health of my district and in easing this tremendous financial burden from the garbage crisis in New Jersey.

Mr. HAMMERSCHMIDT. Mr Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. ANDERSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. GRAY].

Mr. GRAY of Illinois. Mr. Chairman, I rise in strong support of the Water Resources Development Act of 1988.

I first want to compliment my friend and very able chairman of the full committee, Mr. ANDERSON of California my neighbor, Congressman HAMMERSCHMIDT of Arkansas, the ranking minority member, the very able subcommittee chairman, Mr. NOWAK of New York, and my friend Mr. STANGELAND of Minnesota for all their hard work in crafting this important all American bill.

Mr. Chairman, some people call water resources development as "pork barrel". Nothing could be further from the truth. I will give one project in this bill as an example. Replacement of locks and dam numbers 52 and 53 on the Ohio River at Olmsted, IL.

Mr. Chairman more barge traffic goes up and down the Ohio and Mississippi Rivers than passes through the Panama and Suez Canals combined. At the present time we are experiencing several hours of delays in passing through these antiquated locks and dams. Time means money. These unnecessary costs are passed on to the shippers who pass them on to the consumers. Over 80 million tons pass through locks and dams 52 and 53 on the Ohio River each year. This project has a return of over $2.20 for every dollar spent on construction. So it is in the public interest to make these improvements particularly in view of the fact that one-half of the entire cost is to be paid by the barge operators who pay a tax into the waterway users fund. So as taxpayers they are providing the public with a cheaper mode of transportation and paying for the improvements twice. That doesn't sound like pork barrel to me.

Mr. Chairman, this is a good deal for the taxpayers and I hope will be supported by the House unanimously today.

Mr. CLEMENT. Mr. Chairman, I rise in strong support of H.R. 5247, the Water Resources Development Act reported from the House Public Works and Transportation Committee.

In particular, I would like to thank Chairman GLENN ANDERSON, Water Resources Subcommittee Chairman HENRY NOWAK, and ranking Republicans JOHN PAUL HAMMERSCHMIDT and ARLAN STANGELAND for including in the package of committee amendments my amendment requiring the Secretary of the Army to study and report to the Congress on the need to modernize and upgrade the federally owned and operated hydroelectric power system.

As a former member of the Board of Directors of the Tennessee Valley Authority, I am especially cognizant of the need to protect our Nation's investment in the Federal Government's energy generating facilities, particularly its hydroelectric generating facilities.

The federally owned hydroelectric power system is composed of thousands of dams, reservoirs, powerplants, transmission lines and substations and necessary maintenance facilities operated by the power marketing administrations, the Tennessee Valley Authority, the Corps of Engineers, and the Bureau of Reclamation. For example, within the Southeastern Power Administration, which includes my home State of Tennessee, 22 Corps of Engineers projects across 10 Southeastern States have a generating capacity of 3,092 megawatts. These 22 projects represent a sizable investment, although a full estimate of the modernization costs are unavailable.

By contrast, the Alaska Power Administration operates two Federal hydroelectric projects with a replacement value in excess of $265 million. The Bonneville Power Administration markets hydroelectric power from 30 Corps of Engineers and Bureau of Reclamation facilities spread across a 300,000-square-mile service area. The Southwestern Power Administration markets power from 23 Corps of Engineer hydroelectric plants in a six-State area. And, lastly, the Western Area Power Administration markets power generated by 51 plants operated by the Bureau of Reclamation, the Corps of Engineers, and the International Boundary and Water Commission.

An assessment of the cost involved in upgrading and modernizing these facilities is critical as some of them near the end of their useful life. And, since the ratepaying consumers have presumably paid to maintain and improve these facilities, I think it valuable for them to know how well their investment has been protected and what capital costs lay ahead.

Mr. Chairman, the Federal Government's hydroelectric power system represents a sizable proportion of the power-generating capacity our Nation relies on in order to minimize our dependence on foreign sources of energy. We must assure that this system survives into the next century and, in order to do so, it is advisable that the Congress and the American people know the full extent of the capital improvements that must be undertaken.

Thanks again to my committee chairmen, GLENN ANDERSON and HENRY NOWAK.

Mr. FLORIO. Mr. Chairman, I rise in strong support of the Water Resources Development Act of 1988. This legislation authorizes a number of important water development projects.

I am particularly pleased that the bill includes a provision authorizing the deepening of the Delaware River at the Beckett Street terminal in Camden, NJ, from 37 to 40 feet. The provision is based on a bill I introduced earlier this year, H.R. 4301.

According to the Corps of Engineers, this project would have a positive benefit to cost ratio of 1.6 to 1. The project was recommended by the administration in its own water resources authorization bill and has also been included in the authorizing bill passed by the other body.

This deepening project will be of great assistance to commerce on the Delaware River and to the port facilities in Camden. The current authorized depths are inadequate for efficient transit of deep draft vessels and require costly alternatives, such as light loading of vessels.

Accordingly, I urge support of this legislation.

Mr. ROTH. Mr. Chairman, I commend my colleagues on the Public Works and Transportation Committee for bringing this important legislation to the floor. I am particularly thankful for the efforts of the gentleman from California, the gentleman from Arkansas, the gentleman from New York and my good friend, the gentleman from Minnesota. They have worked hard on this legislation and have remained firm in their commitment to pass a water resources authorization bill in this Congress.

I am pleased that the legislation includes a deauthorization project in Wisconsin that will not only save taxpayer dollars, but give a small lakefront community the opportunity to embark on a harbor development project.

H.R. 5247 includes the language of a bill I introduced last year which would transfer the Federal authority over the outer basin feature of Algoma Harbor to the control of the city of Algoma, WI. Once the city of Algoma has gained control over outer basin area, they will then be able to undertake the planned harbor development project. The goal of the city is to provide a sheltered marina area for recreational boaters and fishermen. Completion of the sheltered marina will once again allow the harbor to serve in an active and useful capacity for the people of Algoma. The new marina will facilitate launching and docking as well as greatly contribute to controlling wave action and soil erosion.

In July, the Wisconsin Waterways Commission appropriated $300,000 to the Algoma community in order to begin construction of the harbor project this October. While the Algoma Harbor Commission can begin site preparatory work for the marina, they can not initiate any work on the outer basin until the Federal authority over the project has been transfered to local jurisdiction. Mr. Chairman, passage of H.R. 5247 is critical to this small community on the shores of Lake Michigan.

The harbor project offers the Algoma community an opportuntiy to expand its economy and attract greater tourism to the area. Revenues in excess of $2 million annually are estimated to be generated from the new marina recreation facilities. Additional jobs will be created and the local businesses will undoubtedly reap benefits from the increased number of tourists to the area.

Transferring control over the outer basin feature of the Algoma Harbor is favorably supported by the Army Corps of Engineers. The Algoma project does not involve any Federal moneys and in fact, would save Federal tax dollars in the long run. My provision in H.R. 5247 would simply return jurisdiction of a Federal harbor project to the local community.

Algoma is a picturesque and quiet harbor town. The new marina will complement this reputation while bringing tourists and revenue to the city of Algoma. By passing H.R. 5247, Congress can provide the incentive for a small Wisconsin community to meet its goals of greater economic vitality.

Mr. Chairman, I urge my colleagues to support this responsible legislation.

Mr. LEVINE of California. Mr. Chairman, I wish today to compliment the chairman of the Public Works Committee and my close friend, and distinguished colleague, GLENN ANDERSON for his tireless work on behalf of both Redondo Beach and Santa Monica. Without his strong support and detailed knowledge of these two cities, we would not have construction in the works for their two very important breakwaters today.

Indeed, the Redondo Beach breakwater provides a lifeline for the city. Without it Redondo Beach would be a different place today. The breakwater has allowed Redondo Beach to prosper and become a destination point for visitors from all over the country.

Likewise, the Santa Monica breakwater's reconstruction will provide vital protection for the city and navigation in the bay. Its reconstruction is badly needed.

I am very appreciative to all the members of the Public Works Committee whose commitment to these projects has been outstanding.

Mr. MATSUI. Mr. Chairman, I rise today to offer my full support to the amendment offered by my distinguished colleague, VIC FAZIO, to H.R. 5247, the Water Resources Development Act. This amendment will preserve for a limited time the Federal flood insurance standards now in effect in the Sacramento, CA, area.

In early 1986, the Sacramento area experienced a nearly disastrous flood. Since that time, a coalition in the community has pulled together to plan a flood control project that will offer a cost effective, high level of flood protection for the Sacramento area. I would like to salute my colleague for the leadership and work that he has done on this crucial issue for the Sacramento area.

During the time that the community has been working to implement a flood protection system, the Federal Emergency Management Agency has been in process of analyzing the adequacy of Sacramento's existing flood control system. Prior to the floods of 1986, this system was thought to be well above flood protection standards. However, Sacramento's extensive flood control system is on the verge of being redefined, largely because FEMA is increasing its estimate of the size and frequency of storms in the area.

This sudden redefinition of the adequacy of Sacramento's flood control system will effectively impose a building ban over major areas of Sacramento, an area which encompasses roughly 350,000 people and over $14 billion in existing property. The ban would last for an indefinite number of years, and would seriously erode the coalition that has come together to support a comprehensive flood control project.

Such a ban would lead those who can organize themselves, individuals, developers, and special districts, to build their own flood control facilities. But these facilities would likely be uncoordinated, only meet minimum standards, and could well prevent integration into a project that protects the entire region. Areas unable to protect themselves would be left vulnerable to floods, and FEMA would remain liable for damages in the case of flooding.

The provision under consideration today would simply leave existing flood plain definitions in place for a period of time sufficient to allow the Corps of Engineers to complete the feasibility study on the comprehensive flood control project, as well as time to allow congressional authorization of this project.

During this time, Sacramento area governments have pledged to refrain from approving dangerous development in flood prone areas. Local officials are as sensitive as any of us to the risks of development in areas subject to flooding, and are accutely aware of the need to minimize the risk to life and property.

The Sacramento community needs this temporary relief so that our efforts to provide a comprehensive, cost effective flood control project can continue to move forward. Members on both sides of the aisle of the Public Works and the Banking and Urban Affairs Committees have supported the need to offer this interim relief, and I appreciate their concern and attention to this situation. They understand that Sacramento's circumstances warrant temporary, well-defined assistance, and they understand that maintaining the status quo will mean that many more people and much more property will be protected in the long run.

Mr. Chairman, I strongly support the amendment offered by Mr. FAZIO today, and believe that it is in the best interests of the Sacramento area, as well as the Federal Government.

Mr. LEWIS of Florida. Mr. Chairman, I rise in support of H.R. 5247, the Water Resources Development Act of 1988, and to encourage the House of Representatives to swiftly pass this important measure. In particular, I am very pleased that the House Public Works and Transportation Committee has included in this legislation a section concerning the development of a simulation model of the south central Florida hydrologic ecosystem.

Simply stated, this section is my Lake Okeechobee management model initiative. We in Florida, and others around this Nation who are concerned with the future of this lake, applaud the inclusion of this effort of such vital importance to the health and well-being of Lake Okeechobee.

Throughout the 20th century, the management of Lake Okeechobee and the surrounding ecosystem can be characterized as fragmented, narrow in focus and directed toward achieving limited objectives. In short, the impact of the actions on the entire ecosystem was not considered.

I am not criticizing the importance of these past decisions because the decisionmakers did not have the benefits of extensive scientific research or computer-scientific management tools. Saving human lives is, and should always remain, the No. 1 priority. Nevertheless, today and tomorrow's management decisions cannot be made in a vacum—the entire ecosystem must be included in the factors to be considered.

There are those who say that Lake Okeechobee is facing imminent catastrophic disaster, and that action must be taken now to protect the Lake because we do not have time to wait for the development of a management system for the entire ecosystem. I answer that statement by saying that we must take correct action without delay.

But what is the correct action? Based on the past history, we cannot afford to manage by the often utilized trial and error system—the cost is too great in both time and money. We must increase our efforts to profit by past management mistakes, not repeat them.

Estimates placed the population of south Florida at over 4 million and increasing. Many depend, either directly or indirectly, on the ecosystem for municipal drinking water. Others, utilize the water for the $1 billion agricultural industry, while recreational, environmental, and general land use are high priorities for others.

By the turn of the century, the population may increase by 50 percent. This will place even greater demands and stresses on the lake ecosystem. If we do not have a logical, scientific management system in use long before then, we may stumble into an ecological disaster and make enemies of evey interest group in south Florida.

Clearly, we must develop a decisionmaking process that will focus on long-term scientific consideration and include the interests of the citizens of south Florida. To accomplish this objective, I proposed the development of a water resources management model that would assess the impact and effectiveness of various management decisions on the entire ecosystem. The leadership of the Public Works Committee is to be commended for wisely including my proposal in the Water Resources Development Act (H.R. 5247).

Such a comprehensive management model has not yet been developed, but as the experts will explain, the knowledge and technology to do so are at hand.

This legislative initiative, included in H.R. 5247, calls for the collection and analysis of scientific data on the management of various aspects of the ecosystem including pollutants affecting aquatic plants, and surface and ground water. Scientific research is a cornerstone of this effort in order to develop new and innovative management technologies. The research is to include both in-house and outside research scientists at the Corps of Engineers.

The management model system that is developed must be demonstrated in Lake Okeechobee and be capable of being used in lakes throughout the United States. The legislation makes this point abundantly clear because the management model system is a national program and not just a regional effort.

In order to ensure that the program works both in Lake Okeechobee and in other ecosystems, coordination with State and local agencies is mandated. The model system will be completed within 3 years.

Mr. Chairman. as I have demonstrated, the simulation model of south central Florida hydrologic included in H.R. 5247 is essential for the proper management of Lake Okeechobee. I firmly believe that the promise this initiative holds cannot be overstated. Consequently, I urge H.R. 5247's swift adoption by the House. Thank you.

Mr. DAVIS of Michigan. Mr. Chairman, I rise in support of H.R. 5247, the Water Resources Development Act because I believe that it returns the Congress to a reasonable 2-year schedule of revisions to water resources project authorizations. This bill provides for necessary new projects, while at the same time minimizing unnecessary expenditures.

An important provision of this legislation authorizes improvements to connecting channels and harbors in Michigan, Minnesota, and Wisconsin. The project in Michigan authorizes dredging in the upper St. Mary's River. This needed deepening of navigation channels for our Great Lakes commercial shipping, as outlined in the Corps of Engineers' board on rivers and harbors report of May 24, 1988, will permit a maximum safe vessel draft of 26½ feet. The dredged material will be used to create an island in Isaac Walton Bay which will be managed as a nesting habitat for the piping plover—a federally recognized endangered species. In its report the corps states that this project, and the deepening of the Duluth Superior Harbor are environmentally and economically sound. I would like to commend the Lake Carriers Association, which has agreed to pay the local cost share for the upper St. Mary's River dredging of $1.1 million, for their role in getting this project approved.

In addition, section 6 of the bill as reported begins to address a serious problem regarding the destruction of established recreational use which may occur in the process of modifying and maintaining existing corps navigational structures. My understanding is that the committee amendment on this bill will include the full provisions of my bill, H.R. 4609, which should completely address this problem. I will expand my remarks on this legislation during consideration of that amendment.

I would like to take this opportunity to commend Chairman ANDERSON, Chairman NOWAK, and the ranking minority members Mr. HAMMERSCHMIDT and Mr. STANGELAND, for their consideration during the committee deliberations on the bill.

Mr. Chairman, I urge all my colleagues to support this legislation.

Mr. Chairman, I am delighted to add my support to H.R. 5247, a vital piece of legislation. It is another step in the progress made in our Nation's water resources policy through the leadership of my good friend, the gentleman from New York [Mr. NOWAK], chair of the Public Works and Transportation Committee's Subcommittee on Water Resources.

The passage of the Water Resources Development Act of 1986 was a great step forward, and included many improvements in our water policy, such as the cost-sharing and cost-ceiling requirements in water projects. The bill we are considering today makes further progress and refinements of these policies.

I applaud the effort to establish a regular pattern of congressional water resources authorization bills, which certainly serves our constituents much better than the recent lengthy gap, ended by the passage of the 1986 act, where no major authorization bills dealing with Army Corps of Engineers projects had been enacted for well over 10 years.

I am also happy to support this bill because of the provisions it contains relating to specific projects.

In 1982, and again in 1983, the Coyote Creek in Santa Clara County, CA, overtopped its banks, causing the evacuation of hundreds of people and millions of dollars in damage. Both Coyote and Berryessa Creeks continue to threaten the county with massive damage and potential loss of life in the event of future floods.

Provisions in H.R. 5247 will help take steps to assure that such destruction will not happen again. The bill authorizes a $42.2 million flood control project, subject to the approval of the Secretary of the Army, which will allow the project to progress as quickly as possible.

The Corps of Engineers and the Santa Clara Valley Water District have spent years of study and have determined that this proposal is the best solution to the severe flood threat associated with the Coyote and Berryessa Creeks.

I am concerned that further flooding will occur before the completion of this project, so I am glad that Mr. NOWAK understands these fears and promptly included this authorization in the Water Resources Development Act. I appreciate his attention and sensitivity to this important issue.

I hope that our counterparts in the Senate will also understand the necessity of this project and include it in their version of this legislation.

I commend Mr. NOWAK, and I urge my colleagues to support this bill.

Mr. JONES of North Carolina. Mr. Chairman, I rise in strong support of the Public Works Committee amendment to the Water Resources Development Act. Contained within the committee amendment is the language of H.R. 4558, the Bridge Administration Transfer Act. H.R. 4558 was introduced by the leadership of the Committee on Merchant Marine and Fisheries and the Committee on Public Works and Transportation. The bill, which was introduced at the request of the administration, would serve to transfer legal authority for bridge administration from the Secretary of Transportation to the Secretary of the Army, with some exceptions. First, the Coast Guard would retain authority to prescribe lights and other signals on bridges and causeways for the benefit of navigation as required under the inland navigational rules. Second, the St. Lawrence Seaway Development Corporation would maintain administration over bridges over the seaway. Third, the Federal Highway Administration and the Federal Railroad Administration would retain authority to approve international crossings across nonnavigable waters.

Transferring the administration of the bridge permitting authority back to the Corps of Engineers would place the administration of all construction related projects in the navigable waters of the United States in a single agency. This reunification should improve the overall efficiency of Government, reduce the duplication of effort in issuing permits, eliminate confusion over which agency should be the lead agency for required environmental impact statements, and improve the Government's responsiveness to the public. For a more detailed explanation of the provisions contained within the bridge program transfer legislation, I would encourage Members to consult the report on H.R. 4558, namely, House Report 100-966. Finally, let me add that the bridge legislation does not authorize any appropriations.

H.R. 4558 has the strong bipartisan support of both committees of jurisdiction as well as the support of the Administration and I laud its inclusion in the Public Works Committee amendment to the Water Resources Act and urge its adoption.

Mr. GUNDERSON. Mr. Chairman, I take the time of the House today to discuss a provision of H.R. 5247, the Water Resources Development Act, which is of particular importance to the city of La Crosse, WI.

This provision was included as part of the omnibus committee amendment to H.R. 5247. It deals with the Mississippi-Black-La Crosse Rivers flood control project. The history of the project is worth reviewing.

Section 710 of the Water Resources Act of 1986—Public Law 99-662—provides for the automatic deauthorization of incomplete water resources studies for which no funds have been appropriated during the previous 5 full fiscal years. Section 710 further provides that 90 days after the Army Corps submits a list of such eligible projects to Congress the projects will be deauthorized.

On June 24, 1987, the House approved H.R. 2700, the Energy and Water appropriations bill for fiscal year 1988. That bill included funding for the Mississippi-Black-La Crosse Rivers project.

Nearly 3 months later, on September 17, 1987, the Army Corps of Engineers submitted to Congress a list of projects eligible for deauthorization under section 710. The La Crosse project was on that list.

Ninety days later when the section 710 deauthorization took effect, Congress still was wrangling over the continuing resolution, which contained $100,000 for the La Crosse project. The continuing resolution was signed into law on December 22, 1987, only 5 days after the automatic deauthorization occurred.

On March 16, 1988, the House Committee on Public Works and Transportation approved a committee survey resolution, which reauthorized the La Crosse project.

The impact of this unintended deauthorization was to put the La Crosse project in a different cost sharing scheme. The purpose of the committee amendment offered today is to place La Crosse in the position vis-a-vis cost sharing that it was in before the deauthorization.

A feasibility phase I study was completed on the La Crosse project in September 1973. However, a reevaluation study is required to evaluate the project based on changes made since 1973. This reevaluation study was to be funded 100 percent by the Federal Government. But because the project was deauthorized, the reevaluation study will now require a 50 percent non-Federal cost share—Section 215 of Public Law 99-662. The city estimates that this new cost-sharing formula could cost $200,000 to $500,000.

The committee amendment now included in the House-passed version of the Water Resources Development Act—H.R. 5247—seeks to remedy this inequity by restoring the La Crosse project to its status before the deauthorization. This is a matter of fairness which deserves our continued support as H.R. 5247 moves through the legislative process.

Mr. PURSELL. Mr. Chairman, I rise in support of H.R. 5247, the Water Resources Development Act and I want to commend Chairman ANDERSON and ranking Republican, JOHN HAMMERSCHMIDT, for their diligence and hard work in bringing this bill before the House.

I want to call to the attention of the House a provision, section 34(e), that I sponsored in cooperation with the gentlelady from Ohio, Congresswoman KAPTUR, that deals with a vital economic and national security transportation link—the St. Lawrence Seaway.

This provision, contained in the committee amendment, requires that the Corps of Engineers identify and examine alternative means of financing navigational improvements on the Great Lakes connecting channels and the St. Lawrence Seaway, including modernization of the Eisenhower and Snell Locks.

By requiring the corps to examine alternative means of financing, I want especially to see creativity and objectivity in the way they approach this directive. I want to see new methods that could be tried and developed on the Seaway and then applied in other similar situations. Equally important, I want to encourage the corps to involve outside, independent sources of advice and expertise in developing this initiative.

I call to your attention that the St. Lawrence Seaway is the only waterway which has been required to pay back construction costs and interest to the Government.

Interest paid to U.S. Treasury (Interest forgiven in 1971)	$37,000,000
Construction cost paid (Debt forgiven in 1983)	27,000,000
It is the only waterway with tolls:	
U.S. Toll Revenue (1959-1986) (Tolls rebated since 1987)	201,008,605
Total	265,008,605

Some 20 States depend on the seaway to move manufactured and agricultural products into foreign markets.

Finally, I want to thank the Public Works Committee and its staff for their support and assistance to me in perfecting this provision.

Mr. ANDERSON. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill is considered as an original bill for the purpose of amendment and each section is considered as having been read.

The Clerk will designate section 1.

Mr. ANDERSON. Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentlemen from California?

There was no objection.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 5247

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Water Resources Development Act of 1988".

SEC. 2. SECRETARY DEFINED.

For purposes of this Act, the term "Secretary" means the Secretary of the Army.

SEC. 3. PROJECT AUTHORIZATIONS.

(a) AUTHORIZATION OF CONSTRUCTION.—Except as otherwise provided in this subsection, the following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports designated in this subsection:

(1) RILLITO RIVER, ARIZONA.—The project for flood control, Rillito River, Arizona: Report of the Chief of Engineers, dated January 22, 1988, at a total cost of $16,500,000, with an estimated first Federal cost of $12,325,000 and an estimated first non-Federal cost of $4,175,000.

(2) LOWER MISSION CREEK, SANTA BARBARA, CALIFORNIA.—The project for flood control, Lower Mission Creek, Santa Barbara, California: Report of the Chief of Engineers, dated March 25, 1988, at a total cost of $10,420,000, with an estimated first Federal cost of $5,909,000, and an estimated first non-Federal cost of $4,511,000.

(3) FT. PIERCE HARBOR, FLORIDA.—The project for navigation, Ft. Pierce Harbor, Florida: Report of the Chief of Engineers, dated December 14, 1987, at a total cost of $6,742,000, with an estimated first Federal cost of $4,319,000, and an estimated first non-Federal cost of $2,423,000.

(4) NASSAU COUNTY, FLORIDA.—The project for beach erosion control, Nassau County (Amelia Island), Florida: Report of the Chief of Engineers, dated May 19, 1986, at a total cost of $5,753,000, with an estimated first Federal cost of $4,619,000, and an estimated first non-Federal cost of $1,134,000.

(5) PORT SUTTON CHANNEL, FLORIDA.—The project for navigation, Port Sutton Channel, Florida: Report of the Chief of Engineers, dated March 28, 1988, at a total cost of $2,670,000, with an estimated first Federal cost of $1,155,000, and an estimated first non-Federal cost of $1,515,000.

(6) CHICAGOLAND UNDERFLOW PLAN, ILLINOIS.—The project for flood control, Chicagoland Underflow Plan, Illinois: Report of the Chief of Engineers, dated March 25, 1988, at a total cost of $419,000,000, with an estimated first Federal cost of $314,250,000, and an estimated first non-Federal cost of $104,750,000.

(7) LOWER OHIO RIVER, ILLINOIS AND KENTUCKY.—The project for navigation, Lower Ohio River, Locks and Dams 52 and 53, Illinois and Kentucky: Report of the Chief of Engineers, dated August 20, 1986, at a total cost of $775,000,000, with a first Federal cost of $775,000,000, and with the costs of construction of the project to be paid one half from amounts appropriated from the general fund of the Treasury and one half from amounts appropriated from the Inland Waterways Trust Fund.

(8) HAZARD, KENTUCKY.—The project for flood control, Hazard, Kentucky: Report of

the Chief of Engineers, dated October 30, 1986, at a total cost of $7,450,000, with an estimated first Federal cost of $5,590,000 and an estimated first non-Federal cost of $1,860,000.

(9) WOLF AND JORDAN RIVERS, MISSISSIPPI.—The project for navigation, Wolf and Jordan Rivers and Bayou Portage, Mississippi: Report of the Chief of Engineers, dated June 10, 1987, at a total cost of $2,290,000, with an estimated first Federal cost of $1,620,000 and an estimated first non-Federal cost of $670,000.

(10) TRUCKEE MEADOWS, NEVADA.—The project for flood control, Truckee Meadows, Nevada: Report of the Chief of Engineers, dated July 25, 1986, at a total cost of $78,400,000, with an estimated first Federal cost of $39,200,000 and an estimated first non-Federal cost of $39,200,000.

(11) WEST COLUMBUS, OHIO.—The project for flood control, Scioto River, West Columbus, Ohio: Report of the Chief of Engineers, dated February 9, 1988, at a total cost of $31,562,000, with an estimated first Federal cost of $23,671,000, and an estimated first non-Federal cost of $7,891,000.

(12) DELAWARE RIVER, PENNSYLVANIA AND DELAWARE.—The project for navigation, Delaware River, Philadelphia to Wilmington, Pennsylvania and Delaware: Report of the Chief of Engineers, dated June 15, 1986, at a total cost of $17,200,000, with an estimated first Federal cost of $9,100,000 and an estimated first non-Federal cost of $8,100,000.

(13) CYPRESS CREEK, TEXAS.—The project for flood control, Cypress Creek, Texas: Report of the Chief of Engineers, dated October 12, 1987, at a total project cost of $114,200,000, with an estimated first Federal cost of $84,900,000 and an estimated first non-Federal cost of $29,300,000.

(14) FALFURRIAS, TEXAS.—The project for flood control, Falfurrias, Texas: Report of the Chief of Engineers, dated March 15, 1988, at a total cost of $31,800,000, with an estimated first Federal cost of $15,900,000, and an estimated first non-Federal cost of $15,900,000.

(15) GUADALUPE RIVER, TEXAS.—The project for navigation, Guadalupe River to Victoria, Texas: Report of the Chief of Engineers, dated September 1, 1987, at a total cost of $23,900,000, with an estimated first Federal cost of $15,100,000, and an estimated first non-Federal cost of $8,800,000.

(16) MCGRATH CREEK, WICHITA FALLS, TEXAS.—The project for flood control, McGrath Creek, Wichita Falls, Texas: Report of the Chief of Engineers, dated March 25, 1988, at a total cost of $9,100,000 with an estimated first Federal cost of $6,800,000, and an estimated first non-Federal cost of $2,300,000.

(b) AUTHORIZATION OF CONSTRUCTION SUBJECT TO FAVORABLE REPORT.—The following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports cited, with such modifications as are recommended by the Chief of Engineers and approved by the Secretary, and with such other modifications as are recommended by the Secretary; except that if no report is cited for a project, the project is authorized to be prosecuted by the Secretary in accordance with a final report of the Chief of Engineers, and with such other modifications as are recommended by the Secretary, and no construction on such project may be initiated until such a report is issued and approved by the Secretary:

(1) COYOTE AND BERRYESSA CREEKS, CALIFORNIA.—The project for flood control, Coyote and Berryessa Creeks, California: Report of the Board of Engineers for Rivers and Harbors, dated May 11, 1988—

(A) in the case of Coyote Creek, at a total cost of $32,325,000, with an estimated first Federal cost of $24,243,000 and an estimated first non-Federal cost of $8,082,000, and

(B) in the case of Berryessa Creek, at a total cost of $9,950,000, with an estimated first Federal cost of $7,460,000 and an estimated first non-Federal cost of $2,490,000.

(2) MORRO BAY, CALIFORNIA.—The project for navigation, Morro Bay, California, at a total cost of $3,300,000, with an estimated first Federal cost of $2,640,000 and an estimated first non-Federal cost of $660,000.

(3) HARBOR AND CITY OF VENTURA, CALIFORNIA.—The project for navigation, Ventura Harbor, California, at a total cost of $4,000,000, with an estimated first Federal cost of $3,200,000 and an estimated first non-Federal cost of $800,000. Structural and nonstructural measures to restore groin number 1 in the Pierpoint groin field, Ventura, California, to its original configuration constructed pursuant to House document number 87-458, at a total cost of $300,000, with an estimated first Federal cost of $225,000 and an estimated first non-Federal cost of $75,000.

(4) MIAMI HARBOR, FLORIDA.—The project for navigation, Miami Harbor, Florida, at a total cost of $32,000,000, with an estimated first Federal cost of $19,000,000 and an estimated first non-Federal cost of $13,000,000. If non-Federal interests make any improvements to such Harbor which are later recommended by the Chief of Engineers and approved by the Secretary under this subsection, the Secretary may reimburse such non-Federal interests an amount equal to the Federal share of the cost of such improvements, without interest. In analyzing costs and benefits of the project authorized under this paragraph, the Secretary shall consider the costs and benefits produced by any improvements which are carried out under the preceding sentence by non-Federal interests and which the Secretary determines are compatible with such project.

(5) GREAT LAKES CONNECTING CHANNELS AND HARBORS, MICHIGAN, MINNESOTA, AND WISCONSIN.—The project for navigation, Great Lakes connecting channels and harbors, Michigan, Minnesota, and Wisconsin: Report of the Board of Engineers for Rivers and Harbors, dated May 24, 1988, at a total cost of $8,089,000, with an estimated first Federal cost of $5,385,000 and an estimated first non-Federal cost of $2,704,000.

(6) SMALL BOAT HARBOR, BUFFALO HARBOR, NEW YORK.—The project to replace the dike at the Small Boat Harbor, Buffalo Harbor, New York, at a total cost of $10,000,000, with an estimated first Federal cost of $5,000,000 and an estimated first non-Federal cost of $5,000,000. Prior to construction of the project, the Secretary may undertake such emergency repairs as the Secretary determines necessary to preserve, until completion of the project, the existing dike.

(7) RIO DE LA PLATA, PUERTO RICO.—The project for flood control, Rio de la Plata, Puerto, Rico: Report of the Board of Engineers for Rivers and Harbors, dated May 9, 1988, at a total cost of $54,024,000, with an estimated first Federal cost of $32,989,000 and an estimated first non-Federal cost of $21,035,000.

(c) COST SHARING.—Section 108 of the Water Resources Development Act of 1986 (33 U.S.C. 2218) is amended—

(1) by inserting "(other than section 102)" after "title" the first place it appears;

(2) by striking out "projects in this Act" and inserting in lieu thereof "projects for water resources development and conservation and related purposes to be carried out by the Secretary in this Act and in laws enacted after the date of the enactment of this Act, including the Water Resources Development Act of 1988";

(3) by striking out "a project authorized by this Act" and inserting in lieu thereof "a project for water resources development and conservation and related purposes authorized to be carried out by the Secretary by this Act or by a law enacted after the date of the enactment of this Act, including the Water Resources Development Act of 1988,"; and

(4) by striking out "in this title," and inserting in lieu thereof a comma.

(d) MAXIMUM COST OF PROJECTS.—Section 902 of such Act is amended—

(1) by striking out "in this Act, or an amendment made by this Act, for a project" and inserting in lieu thereof "with respect to a project for water resources development and conservation and related purposes authorized to be carried out by the Secretary in this Act or in a law enacted after the date of the enactment of this Act, including the Water Resources Development Act of 1988, or in an amendment made by this Act or such law with respect to such a project";

(2) in paragraph (1) by inserting ", in such law," after "in this Act" and by inserting "or such law" after "by this Act";

(3) in paragraph (2)(A) by inserting "or such law" after "of this Act"; and

(4) in paragraph (2)(B) by inserting "or such law" after "by this Act".

SEC. 4. PROJECT MODIFICATIONS.

(a) WEST MEMPHIS AND VICINITY, ARKANSAS.—The project for flood control, West Memphis and vicinity, Arkansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4112) is modified to provide that non-Federal cooperation for such project may be provided by private individuals, private organizations, levee districts, drainage districts, or any unit of a State, county, or local government.

(b) KING HARBOR, REDONDO BEACH, CALIFORNIA.—Section 809 of the Water Resources Development Act of 1986 (100 Stat. 4168) is amended—

(1) in the first sentence—

(A) by striking "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) if recommended in a report of the Chief of Engineers and approved by the Secretary, the Secretary is authorized to construct the breakwaters to a height greater than 22 feet in accordance with such report."; and

(2) by striking out the last sentence and inserting in lieu thereof the following: "The non-Federal share of the cost of work undertaken pursuant to this section shall be in accordance with title I of this Act.".

(c) LOS ANGELES AND LONG BEACH HARBORS, SAN PEDRO BAY, CALIFORNIA.—The navigation project for Los Angeles and Long Beach Harbors, San Pedro Bay, California, authorized by section 201 of the Water Resources Development Act of 1986 (100 Stat. 4091), is modified to provide that, if non-Federal interests carry out any work associated with such

project which is later recommended by the Chief of Engineers and approved by the Secretary, the Secretary may reimburse such non-Federal interests an amount equal to the Federal share of the cost of such work, without interest. In analyzing costs and benefits of such project, the Secretary shall consider the costs and benefits produced by any work which is carried out under the preceding sentence by non-Federal interests and which the Secretary determines is compatible with such project. The feasibility report for such project shall include consideration and evaluation of the following proposed project features: Long Beach Main Channel, Channel to Los Angeles Pier 300, Channels to Los Angeles Pier 400, Long Beach Pier "K" Channel, and Los Angeles Crude Transshipment Terminal Channel.

(d) Los Angeles River, California.—The Secretary is directed to perform maintenance dredging of the existing Federal project at the mouth of the Los Angeles River, California, to the authorized depth of 20 feet for the purpose of maintaining the flood control basin and navigation safety.

(e) San Leandro Marina, California.—

(1) Maintenance of access channel.—The project for San Leandro Marina, California, authorized under section 201 of the Flood Control Act of 1965 and approved by resolution adopted by Committee on Public Works of the House of Representatives on June 22, 1971, and by the Committee on Public Works of the Senate on December 15, 1970, is modified to authorize the Secretary to maintain an access channel extending from the southern auxiliary access channel to the boat launching ramp of the city of San Leandro, California, in the vicinity of the small boat lagoon in such city to a depth of 8 feet and length of approximately 650 feet.

(2) Deauthorization.—The auxiliary access channel and basin extending to the north end of the project for San Leandro Marina, California, referred to in paragraph (1) is not authorized after the date of the enactment of this Act.

(f) Indiana Shoreline Erosion, Indiana.—The undesignated paragraph of section 501(a) of the Water Resources Development Act of 1986 under the heading "INDIANA SHORELINE, INDIANA" (100 Stat. 4135) is amended by striking out "with an estimated first Federal cost of $15,000,000 and an estimated first non-Federal cost of $5,000,000." and inserting in lieu thereof "with the Federal share of the cost of this project to be determined in accordance with title I of this Act.".

(g) Annapolis Harbor, Maryland.—The project for navigation, Annapolis Harbor, Maryland, is modified to authorize and direct the Secretary to realign the channel in such project, as determined necessary by the Secretary, for the purpose of promoting more efficient mooring operations in Annapolis Harbor.

(h) Deal Island, Maryland.—The Secretary may pay the remaining cost for the navigation project for Deal Island, Maryland (Lower Thorofare), authorized under section 107 of the River and Harbor Act of 1960, estimated at $277,000, plus any interest due the construction contractor.

(i) Redwood River, Marshall, Minnesota.—The project for flood control, Redwood River, Marshall, Minnesota, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4117), is modified to authorize the Secretary to construct the project substantially in accordance with the General Design Memorandum, dated April 1987, at a total cost of $6,900,000, with an estimated first Federal cost of $5,000,000 and an estimated first non-Federal cost of $1,900,000.

(j) Root River Basin, Minnesota.—The undesignated paragraph of section 401(a) of the Water Resources Development Act of 1986 under the heading "ROOT RIVER BASIN, MINNESOTA" (100 Stat. 4117) is amended by adding at the end thereof the following new sentence: "Nothing in this paragraph affects the authority of the Secretary to carry out a project under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).".

(k) Roseau River, Minnesota.—The project for flood control, Roseau River, Minnesota, authorized by the Flood Control Act of 1965, is modified to authorize and direct the Secretary to construct as authorized, or to construct under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), the 6-mile flood control levee in the vicinity of Duxby, Minnesota, beginning at a point approximately 2 miles upstream, substantially in accordance with the recommendations of the Chief of Engineers contained in House Document Numbered 282, 89th Congress, at an estimated total cost of $360,600, and with an estimated first Federal cost of $270,200 and an estimated first non-Federal cost of $90,000. Benefits and costs resulting from construction of such levee shall continue to be included for determining the economic feasibility of the Roseau River flood control project.

(l) Gulfport Harbor, Mississippi.—

(1) In general.—The project for navigation, Gulfport Harbor, Mississippi, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4094-4095) is modified to authorize the Secretary to dispose, in accordance with all provisions of Federal law, of dredged material—

(A) from construction, operation, and maintenance of such project in open waters of the Gulf of Mexico;

(B) from construction of such project by thin layer disposal in the Mississippi Sound under the demonstration program carried out under paragraph (2);

(C) from operation and maintenance of such project by disposal in the Mississippi Sound under a plan developed by the Secretary and approved by the Administrator of the Environmental Protection Agency if the Secretary, after consultation with the study team established under paragraph (3), determines that the report submitted under paragraph (2)(H) indicates that there will be no unacceptable adverse environmental impacts from such disposal; and

(D) from construction, operation, and maintenance of such project as fill in connection with a pier extension project for such Harbor carried out under a permit issued before, on, or after the date of the enactment of this Act under section 404 of the Federal Water Pollution Control Act.

(2) Demonstration program.—

(A) Purposes.—During construction of the Gulfport Harbor navigation project, the Secretary shall carry out a demonstration program for the purpose of evaluating the costs and benefits of thin layer disposal in the Mississippi Sound of dredged material from construction of harbor improvements, including any operation and maintenance materials that may be removed during construction, and for determining whether or not there are unacceptable adverse effects from such disposal—

(i) on human health or welfare, including but not limited to plankton, fish, shellfish, wildlife, shorelines, and beaches;

(ii) on marine life (including the transfer, concentration, and dispersal of pollutants or their byproducts through biological, physical, and chemical processes), changes in marine ecosystem diversity, productivity, and stability, and species and community population changes;

(iii) on esthetic, recreation, and economic values; and

(iv) on alternative uses of oceans, such as mineral exploitation and scientific study.

In addition, the Secretary shall determine through such program the persistence and permanence of any such adverse effects and methods of mitigating any such adverse effects.

(B) Planning.—Within 4 months after the date of the enactment of the Act, the Secretary, in consultation with the study team established under paragraph (3), shall develop a plan for carrying out the demonstration program under this paragraph. Such plan shall, at a minimum, establish predisposal monitoring requirements, thin layer disposal locations, the amounts of dredged material necessary for carrying out such demonstration program, the duration of thin layer disposal under such demonstration program, the compatibility of the receiving habitat with thin layer dredged material disposal, requirements for minimizing demonstration program impacts, the depth of thin layer disposal, and the scope of the post disposal monitoring.

(C) Use of materials from project.—The Secretary in carrying out the demonstration program under this paragraph shall use suitable material removed during construction of the Gulfport Harbor navigation project. The amount of material used shall be of sufficient quantity to determine the effects of thin layer disposal in near shore areas of (i) dredged materials from construction of harbor improvements, and (ii) any materials from operation and maintenance of harbor improvements dredged during the period of such construction, but shall be limited to the amount determined under the plan developed under subparagraph (B).

(D) Consultation requirement.—In conducting the demonstration program under this paragraph, the Secretary shall consult the study team established under paragraph (3).

(E) Post disposal monitoring.—The demonstration program under this paragraph shall include monitoring of the near shore areas at which dredged material is disposed of under such program during the period determined under the plan developed under subparagraph (B).

(F) Applicability of Federal law.—The demonstration program under this paragraph shall be carried out in accordance with all applicable provisions of Federal law, including section 404(c) of the Federal Water Pollution Control Act.

(G) Cost sharing.—The demonstration program carried out under this paragraph shall be subject to cost sharing under title I of the Water Resources Development Act of 1986. All costs of such program, other than dredging costs, shall not be included for purposes of calculating the economic costs and benefits of the navigation project for Gulfport Harbor, Mississippi.

(H) Report to Congress and EPA.—Within 1 year after the date of completion of the demonstration program under this paragraph, the Secretary, after consultation with the study team established under paragraph (3), shall transmit to Congress and to the Administrator of the Environmental Protec-

tion Agency a report on the results of such demonstration program together with recommendations concerning thin layer disposal in near shore areas of dredged material from construction, operation, and maintenance of future navigation projects.

(I) APPROVAL OR DISAPPROVAL OF RECOMMENDATIONS.—Not later than 30 days after the date of receipt of the report and recommendations under subparagraph (H), the Administrator of the Environmental Protection Agency shall approve or disapprove the recommendations and shall notify Congress and the Secretary of such approval or disapproval. If the Administrator disapproves the recommendations, not later than 30 days after the date of such disapproval, the Administrator shall notify Congress and the Secretary of the reasons for such disapproval together with recommendations for modifications which could be made to the recommendations to take into account such reasons. If the Administrator fails to approve or disapprove the recommendations transmitted under subparagraph (H) within the 30-day period, the recommendations shall be deemed to be approved.

(3) STUDY TEAM.—The Secretary shall establish a study team to assist the Secretary in planning, carrying out, monitoring, and reporting on the demonstration program and the results of such program under this subsection. Such team shall be appointed by the Secretary and shall consist of representatives of the Corps of Engineers, the Environmental Protection Agency, interested Federal and State resource agencies, and the local sponsor of the demonstration program. Members of the study team who are not officers or employees of the United States shall serve without compensation. Members of the study team who are officers or employees of the United States shall receive no additional pay by reason of their service on the study team.

(m) BRUSH CREEK AND TRIBUTARIES, MISSOURI AND KANSAS.—The project for flood control, Brush Creek and Tributaries, Missouri and Kansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118), is modified to authorize the Secretary to provide to the non-Federal interests providing local cooperation for such project services (including the provision of services by contract) in the design and construction of upstream and downstream non-Federal extensions to such project—

(1) if the non-Federal interests provide, in advance of obligation of Federal funds for such design and construction, amounts sufficient to cover all costs of such services;

(2) if, prior to construction of such extensions, the non-Federal interests obtain all necessary Federal and State permits; and

(3) if the non-Federal interests agree to hold and save the United States free from damages due to the planning, design, construction, operation, or maintenance of such extensions. Construction, operation, and maintenance of such extensions shall be a non-Federal responsibility and shall not be considered part of the Brush Creek flood control project for any purpose.

(n) SEA BRIGHT TO MONMOUTH BEACH, NEW JERSEY.—Section 854(a) of the Water Resources Development Act of 1986 (100 Stat. 4179) is amended by inserting "(1)" after "to provide that" and by striking out the period at the end of such section and inserting in lieu thereof the following: "; (2) such reach shall be constructed substantially in accordance with the draft general design memorandum, dated January 1988, at a total additional initial cost of $51,000,000; and (3) periodic beach nourishment over the project life will be conducted, at an estimated annual cost of $1,200,000. Additional costs incurred under clause (2) and costs incurred under clause (3) for beach nourishment shall be subject to cost sharing in accordance with title I of this Act.".

(o) MASSILLON, OHIO, BRIDGE.—Section 803 of the Water Resources Development Act of 1986 (100 Stat. 4166) is amended by adding at the end thereof the following new sentence: "Notwithstanding section 215 of the Flood Control Act of 1968 (42 U.S.C. 1962d-5a), if, before the date of the enactment of this Act, non-Federal interests complete construction and repair of the Cherry Street bridge, the Secretary shall credit toward the non-Federal share of the cost of construction of the Walnut Street bridge an amount equal to the Federal share of the cost incurred for construction and repair of the Cherry Street bridge.".

(p) MAUMEE BAY, OHIO.—The undesignated paragraph of section 501(a) of the Water Resources Development Act of 1986 under the heading "MAUMEE BAY, LAKE ERIE, OHIO" (100 Stat. 4135-4136) is amended by adding at the end thereof the following new sentence: "The Secretary shall credit toward the non-Federal share of the cost of such project an amount equal to the Federal share of the work carried out by non-Federal interests on the eastern segment of such project before the date of the enactment of the Water Resources Development Act of 1988.".

(q) ROCHESTER, PENNSYLVANIA.—The project for navigation on the Ohio River at Rochester, Pennsylvania, authorized by the River and Harbor Act of 1909, is modified to authorize the Secretary to construct safety facilities of a floating dock, a river access ramp, and roadway and parking areas at a total cost of $35,000.

(r) WYOMING VALLEY, PENNSYLVANIA.—The project for flood control, Wyoming Valley, Pennsylvania, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 1424), is modified to authorize the Secretary to construct an inflatable dam on the Susquehanna River in the Wilkes Barre area, Pennsylvania, at a total cost of $2,000,000 with the non-Federal share of the cost of such dam to be as provided in section 103(c)(4) of the Water Resources Development Act of 1986.

(s) BLAIR AND SITCUM WATERWAYS, WASHINGTON.—The undesignated paragraph of section 202(a) of the Water Resources Development Act of 1986 under the heading "BLAIR AND SITCUM WATERWAYS, TACOMA HARBOR, WASHINGTON" (100 Stat. 4096) is amended by striking out "$38,200,000" and all that follows through "$12,000,000;" and inserting in lieu thereof "$54,000,000;".

(t) WYNOOCHEE LAKE, WASHINGTON.—

(1) OPERATION AND MAINTENANCE BY NON-FEDERAL INTEREST.—The project for Wynoochee Lake, Wynoochee River, Washington, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1193), is modified to provide that the Secretary may permit the city of Aberdeen, Washington, to operate, maintain, repair, and rehabilitate the project after September 30, 1988.

(2) TERMS AND CONDITIONS.—Operation, maintenance, repair, and rehabilitation of the project referred to in paragraph (1) by the city of Aberdeen shall be subject to such terms and conditions as the Secretary shall establish by regulation to ensure that operation, maintenance, repair, and rehabilitation of the project are consistent with the project's authorized purposes, including fish and wildlife mitigation. In issuing such regulations, the Secretary shall evaluate the effect of such regulations on the project costs payable by the city.

(3) TRANSFER OF RESPONSIBILITIES; PROTECTION OF TITLE; DAMAGES; RESUMPTION OF FEDERAL O&M.—If the Secretary decides to permit the city of Aberdeen to operate, maintain, repair, and rehabilitate the project referred to in paragraph (1)—

(A) the Secretary shall modify the project contract to forgive future operation, maintenance, repair, and rehabilitation payment obligations of the city to the extent that the city is performing project operation, maintenance, repair, and rehabilitation in accordance with this subsection and the regulations issued under this subsection;

(B) the Secretary shall transfer to the city responsibility for operation, maintenance, repair, and rehabilitation of such project in a safe and cost-effective manner;

(C) title to real and personal property of such project shall remain in the United States, and the city shall not impair such title;

(D) the city shall hold and save the United States free from any damages that result from operation, maintenance, repair, and rehabilitation of such project by the city, except for damages due to the fault or negligence of the United States or its contractors; and

(E) upon due cause as determined by the Secretary and after notice to the city, the Secretary may resume operation, maintenance, repair, and rehabilitation of such project and the city shall be responsible to pay the percentage of the operation, maintenance, repair, and rehabilitation costs of the project incurred thereafter and related to water supply storage as described in the original project contract.

SEC. 5. COMMENTS ON CERTAIN CHANGES IN OPERATIONS OF RESERVOIRS.

Before the Secretary may make changes in the operation of any reservoir which will result in or require a reallocation of storage space in such reservoir or will significantly affect any project purpose, the Secretary shall provide an opportunity for public review and comment.

SEC. 6. PROTECTION OF RECREATIONAL AND COMMERCIAL USES.

(a) GENERAL RULE.—In planning any water resources project, the Secretary shall consider the impact of the project on existing and future recreational and commercial uses in the area surrounding the project.

(b) MITIGATION.—If maintenance, repair, rehabilitation, or reconstruction of a water resources project by the Secretary results in a change in the configuration of any structure which is a part of such project and has an adverse effect on a recreational use established with respect to such project before the date of such maintenance, repair, rehabilitation, or reconstruction, the Secretary, to the maximum extent practicable, shall take such actions as may be necessary to restore such recreational use or provide alternative opportunities for comparable recreational use.

(c) LIMITATION.—Subsection (b) shall not apply to any action of the Secretary which is necessary to discontinue the operation of a water resources project.

(d) COST SHARING.—Costs incurred by the Secretary to carry out the objectives of this section shall be allocated among authorized project purposes in accordance with applicable cost allocation procedures and shall be subject to cost sharing or reimbursement to the same extent as other project costs are shared or reimbursed.

SEC. 7. OPERATION OF CERTAIN PROJECTS TO ENHANCE RECREATION.

(a) Enhancement of Recreation.—The Secretary shall ensure that each water resources project referred to in this subsection is operated in such manner as will protect and enhance recreation associated with such project. The Secretary shall also manage project lands at each such project in such manner as will improve opportunities for recreation at the project. Such activities shall be included as authorized project purposes of each project. Nothing in this subsection shall be construed to affect the authority of the Secretary to carry out other authorized project purposes or to comply with other requirements or obligations of the Secretary which are legally binding as of the date of the enactment of this Act. The provisions of this subsection shall apply to the following projects:

(1) Beechfork Lake, West Virginia.

(2) Bluestone Lake, West Virginia.

(3) East Lynn Lake, West Virginia.

(4) Francis E. Walter Dam, Pennsylvania.

(5) Jennings Randolph Lake (Bloomington Dam), Maryland and West Virgina.

(6) R.D. Bailey Lake, West Virginia.

(7) Savage River Dam, Maryland.

(8) Youghiogheny River Lake, Pennsylvania and Maryland.

(b) Recreation Defined.—As used in this section, in addition to recreation on lands associated with the project, the term "recreation" includes (but shall not be limited to) downstream whitewater recreation which is dependent on project operations, recreational fishing, and boating on water at the project.

SEC. 8. SIMULATION MODEL OF SOUTH CENTRAL FLORIDA HYDROLOGIC ECOSYSTEM.

(a) In General.—The Secretary, in cooperation with affected Federal, State, and local agencies and other interested persons, may develop and operate a simulation model of the central and southern Florida hydrologic ecosystem for use in predicting the effects—

(1) of modifications to the flood control project for central and southern Florida, authorized by the Flood Control Act of 1948,

(2) of changes in the operation of such project, and

(3) of other human activities conducted in the vicinity of such ecosystem which individually or in the aggregate will significantly affect the ecology of such ecosystem,

on the flow, characteristics, quality, and quantity of surface and ground water in such ecosystem and on plants and wildlife within such ecosystem. Such model shall be capable of producing information which is applicable for use in evaluating the impact of issuance of proposed permits under section 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 403), commonly known as the River and Harbor Act of 1899, and under section 404 of the Federal Water Pollution Control Act.

(b) Availability to State and Local Agencies.—The Secretary shall allow Federal, State, and local agencies to use, on a reimbursable basis, the simulation model developed under this section.

(c) Cost Sharing.—The Federal share of the cost of developing and operating the simulation model under this section shall be 75 percent.

SEC. 9. SECTION 215 REIMBURSEMENT LIMITATION PER PROJECT.

Section 215(a) of the Flood Control Act of 1968 (42 U.S.C. 1962d-5a) is amended by inserting after "$3,000,000" the following: "or 1 percent of the total project cost, whichever is greater".

SEC. 10. ADDITIONAL 10 PERCENT PAYMENT OVER 30 YEARS FOR CONSTRUCTION OF HARBORS.

(a) Relocation Costs.—Section 101(a)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 2211(a)(2)) is amended by inserting "and the cost of relocations borne by the non-Federal interests under paragraph (4)" before "shall be credited".

(b) Retroactive Effective Date.—The amendment made by subsection (a) shall take effect on November 17, 1986.

SEC. 11. COMPLIANCE WITH FLOOD PLAIN MANAGEMENT AND INSURANCE PROGRAMS.

Section 402 of the Water Resources Development Act of 1986 (33 U.S.C. 701b-12) is amended by inserting "including any project for hurricane or storm damage reduction," after "local flood protection,".

SEC. 12. FEDERAL REPAYMENT DISTRICT.

The last sentence of section 916(a) of the Water Resource Development Act of 1986 (33 U.S.C 2291) is amended by striking out "include the power to collect" and all that follows through the period at the end of such sentence and inserting in lieu thereof "have the power to recover benefits through any cost-recovery approach that is consistent with State law and satisfies the applicable cost-recovery requirement under subsection (b).".

SEC. 13. ALLOCATION OF RESPONSIBILITY UNDER UPPER MISSISSIPPI RIVER PLAN.

Section 1103(e)(6)(A) of the Water Resources Development Act of 1986 (100 Stat. 4227) is amended to read as follows:

"(6)(A) Notwithstanding the provisions of subsection (a)(2) of this section, the costs of each project carried out pursuant to paragraph (1)(A) of this subsection shall be allocated between the Secretary and the appropriate non-Federal sponsor in accordance with the provisions of section 906(e) of this Act, except that the costs of operation, maintenance, and rehabilitation of projects shall be the responsibility of the entity that owns the lands on which the project is located.".

SEC. 14. FLOOD WARNING AND RESPONSE SYSTEM.

(a) Demonstration Project.—The Secretary, in cooperation with other Federal agencies and the Susquehanna River Basin Commission, is authorized to design and implement a comprehensive flood warning and response system to serve communities and flood prone areas along Juniata River and tributaries in the State of Pennsylvania for the purpose of demonstrating the effectiveness of such systems and evaluating the cost of such systems.

(b) Authorization of Appropriation.—There is authorized to be appropriated to carry out this section $2,000,000 for fiscal years beginning after September 30, 1988.

SEC. 15. LAKEPORT LAKE, CALIFORNIA.

(a) Project Reauthorization.—The project for flood control, Lakeport Lake, California, as authorized by the Flood Control Act of 1965 on the day before the date of the enactment of the Water Resources Development Act of 1986, is authorized.

(b) Repeal of Deauthorization.—Section 1003 of the Water Resources Development Act of 1986 (100 Stat. 4222-4223) is repealed.

SEC. 16. SACRAMENTO, CALIFORNIA.

(a) General Rule.—For periods before the date 1 year after the date on which the Secretary submits to the Congress the report on the feasibility study on Northern California Streams, American River Watershed, adequate progress under section 1307(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(e)) shall be deemed to have been made on the flood protection system for Sacramento, California, which includes—

(1) the overall Sacramento River Flood Control project; and

(2) the flood control features of the Oroville Dam, Folsom Dam, Shasta Dam, Black Butte Dam, and New Bullards Bar Dam.

(b) Budget Submission.—The President, in submitting his budget for fiscal year 1990, shall include a schedule for completing the study referred to in subsection (a) as expeditiously as practicable and an estimate of the resources required to meet such schedule.

SEC. 17. FUNDING FOR NON-FEDERAL SHARE OF SANTA MONICA BREAKWATER.

Upon request of the city of Santa Monica, California, the Director of the Federal Emergency Management Agency shall transfer to the Secretary for credit towards the non-Federal share of the cost of any project to reconstruct the Santa Monica breakwater such amounts as the Director has allocated to such city for any major disaster declared under the Disaster Relief Act of 1974 in calendar year 1983.

SEC. 18. MISSISSIPPI RIVER HEADWATERS RESERVOIRS.

Notwithstanding any other provision of law, the Secretary is directed to maintain water levels in the Mississippi River headwaters reservoirs within the following operating limits: Winnibigoshish 1296.94 feet—1303.14 feet; Leech 1293.20 feet—1297.94 feet; Pokegama 1271.42 feet—1276.42 feet; Sandy 1214.31 feet—1218.31 feet; Pine 1227.32 feet—1234.82 feet; and Gull 1192.75 feet—1194.75 feet. Such water levels shall be measured using the National Geodetic Vertical Datum.

SEC. 19. HEARDING ISLAND INLET, DULUTH HARBOR, MINNESOTA.

The Secretary is authorized to dredge the Hearding Island Inlet, Duluth Harbor, Minnesota, for the purpose of increasing water circulation and reducing stagnant water conditions.

SEC. 20. APPLICABILITY OF COST SHARING REGULATIONS WITH RESPECT TO CERTAIN MUNICIPAL AND INDUSTRIAL WATER SUPPLY PROJECTS.

Cost sharing paid by non-Federal interests for municipal and industrial water supply with respect to Grayson Lake, Dewey Lake, and Carr Fork Lake, Kentucky, shall be determined in accordance with the regulations issued to carry out section 103(m) of the Water Resources Development Act of 1986 with respect to cost sharing agreements for flood control.

SEC. 21. LOUISIANA EMERGENCY WATER SUPPLY.

The Secretary is directed to assist the State of Louisiana in providing water to distressed communities in south Louisiana (especially Lafourche Parish) whose water supply quality is threatened by drought, other climatic conditions, or disasters. Assistance under this section shall include such dredging of the existing reservoir in the northern regions of Bayou Lafourche as the Secretary determines is necessary to provide additional water storage needed to respond to drought conditions. Cost sharing for assistance provided under this section shall be the same as the cost sharing for the transportation of water under section 5(b)(4) of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved August 18, 1941 (55 Stat. 650; 33 U.S.C. 701n(b)(4)).

SEC. 22. CONTAINED SPOIL DISPOSAL FACILITIES IN THE GREAT LAKES AND THEIR CONNECTING CHANNELS.

(a) Period for Depositing Dredged Materials.—Section 123 of the River and Harbor Act of 1970 (33 U.S.C. 1293a) is amended by adding at the end thereof the following new subsection:

"(j) Period for Depositing Dredged Materials.—The Secretary of the Army, acting through the Chief of Engineers, is authorized to continue to deposit dredged materials into a contained spoil disposal facility constructed under this section until the Secretary determines that such facility is no longer needed for such purpose or that such facility is completely full.".

(b) Study and Monitoring Program.—Such section is further amended by adding at the end thereof the following new subsection:

"(k) Study and Monitoring Program.—

"(1) Study.—The Secretary of the Army, acting through the Chief of Engineers, shall conduct a study of the materials disposed of in contained spoil disposal facilities constructed under this section for the purpose of determining whether or not toxic pollutants are present in such facilities and for the purpose of determining the concentration levels of each of such pollutants in such facilities.

"(2) Report.—Not later than 1 year after the date of the enactment of this subsection, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1).

"(3) Inspection and monitoring program.—The Secretary shall conduct a program to inspect and monitor contained spoil disposal facilities constructed under this section for the purpose of determining whether or not toxic pollutants are leaking from such facilities.

"(4) Toxic pollutant defined.—For purposes of this subsection, the term 'toxic pollutant' means those toxic pollutants referred to in sections 301(b)(2)(C) and 301(b)(2)(D) of the Federal Water Pollution Control Act and such other pollutants as the Secretary, in consultation with the Administrator of the Environmental Protection Agency, determines are appropriate based on their effects on human health and the environment.".

SEC. 23. LAND CONVEYANCE, WHITTIER NARROWS DAM, LOS ANGELES COUNTY, CALIFORNIA.

(a) Authority To Convey.—Subject to the provisions of this subsection, the Secretary may convey to the city of South El Monte, California, approximately 7.778 acres of real property, together with improvements thereon, located within the Whittier Narrows Flood Control Basin, south of the Pomona Freeway (Highway 60) and east of Santa Anita Avenue, in the city of South El Monte, California.

(b) Consideration.—In consideration for the conveyance authorized by subsection (a), the Secretary may accept real property in the Los Angeles area or cash, or both. The value of the consideration for the conveyance may not be less than the fair market value of the property conveyed by the United States, as determined by the Secretary. Any funds received by the Secretary under this section shall be deposited into the general fund of the Treasury.

(c) Conditions.—The Secretary may convey the real property described in subsection (a) only if—

(1) the city of South El Monte, California, grants the United States a perpetual easement that enables the Federal Government to carry out necessary flood control activities with respect to such real property; and

(2) such city agrees to use suitable property located directly adjacent to the Whittier Narrows Park, which will be acquired through an exchange for such real property, for parking in connection with recreational activities in the Whittier Narrows Recreational Area, as the Secretary considers appropriate.

(d) Additional Terms.—The Secretary may impose such additional terms and conditions on the conveyance authorized by subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(e) Legal Description of Real Property.—The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of such survey shall be borne by the city of South El Monte, California.

SEC. 24. LAND CONVEYANCE, OTTAWA, ILLINOIS.

(a) In General.—Subject to the provisions of this section, the Secretary shall convey to the State of Illinois by quitclaim deed any right, title, and interest of the United States to approximately 5.3 acres of land located at the junction of the Fox and Illinois Rivers in the city of Ottawa, Illinois.

(b) Terms and Conditions.—The conveyance by the United States under this section shall be subject to the condition that the State of Illinois, its successors and assigns, agrees to hold the United States harmless from all claims arising from or through the operations of the lands conveyed by the United States. The Secretary may impose such additional terms and conditions on the conveyance as the Secretary considers appropriate to protect the interests of the United States; except that the Secretary may not impose any term or condition which restricts the use of the lands conveyed by the United States under this section.

(c) Legal Description of Real Property.—The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of the survey shall be borne by the State of Illinois.

SEC. 25. LAND TRANSFER IN WHITMAN COUNTY, WASHINGTON.

(a) Exchange of Land.—The Secretary shall exchange approximately 171 acres of land acquired by the United States for the Lower Granite Lock and Dam project, Washington, authorized as part of the navigation project for the Snake River, Oregon, Washington, and Idaho by section 2 of the River and Harbor Act of March 2, 1945 (59 Stat. 21), for a tract of land owned by the Port of Whitman County, Washington, which the Secretary determines is suitable for wildlife mitigation purposes. Such exchange shall be made without regard to the values of the lands being exchanged.

(b) Terms and Conditions.—The land of the United States exchanged under subsection (a) shall be subject to a reversionary interest in the United States if such land is used for any purpose other than port or industrial purposes. Such exchange shall also be subject to such other terms, conditions, reservations, and restrictions as the Secretary determines necessary for the development, maintenance, and operation of the Lower Granite Lock and Dam project referred to in subsection (a) and to protect the interests of the United States.

(c) Legal Descriptions and Surveys.—The exact acreages and legal descriptions of the lands exchanged under subsection (a) shall be determined by such surveys as the Secretary determines are necessary. The cost of such surveys shall be paid by the Port of Whitman County, Washington.

SEC. 26. LESAGE/GREENBOTTOM SWAMP, WEST VIRGINIA, LAND CONVEYANCE.

The Secretary is authorized to convey to the State of West Virginia, subject to such conditions as the Secretary may deem advisable, title to the land known as the Lesage/Greenbottom Swamp acquired or to be acquired by the United States for fish and wildlife mitigation purposes in connection with the Gallipolis Locks and Dam replacement project authorized by section 301(a) of the Water Resources Development Act of 1986 (100 Stat. 4110).

SEC. 27. CLEAR LAKE PILOT PROJECT, CALIFORNIA.

The Secretary is authorized to conduct a pilot project for the purpose of determining the viability of the use of aluminum sulfate for algae control in Clear Lake in Lake County, California. There is authorized to be appropriated $80,000 to carry out this section.

SEC. 28. PLACEMENT OF DREDGED BEACH QUALITY SAND ON BEACHES.

Section 145 of the Water Resources Development Act of 1976 (33 U.S.C. 426j) is amended by adding at the end thereof the following new sentence: "In carrying out this section, the Secretary shall give consideration to the State's schedule for providing its share of funds for placing such sand on the beaches of such State and shall, to the maximum extent practicable, accommodate such schedule.".

SEC. 29. WILLIAM G. STONE LOCK TOLLS.

The first sentence of section 1150(b) of the Water Resources Development Act of 1986 (100 Stat. 4255) is amended by striking out "Yolo County, California" and inserting in lieu thereof the following: "the city of West Sacramento, California".

SEC. 30. DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF THE DELAWARE RIVER.

The portions of the Delaware River in Philadelphia County, Pennsylvania, which are particularly described in the following metes and bounds description are hereby declared to be nonnavigable waters of the United States within the meaning of the Constitution and the laws of the United States, except for purposes of the Federal Water Pollution Control Act and section 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 403), commonly known as the River and Harbor Act of 1899:

(1) Liberty Landing.

Description of Pier 53 South

All that certain lot or piece of ground together with the improvements thereon erected, situate in the 1st ward of the city of Philadelphia and described according to a plan of property by John Stefanco, Surveyor and Regulator of the Second Survey District, dated November 4, 1974 and revised December 18, 1974:

Beginning at an interior point formed by the intersection of the following two courses and distances: (1) north 14 degrees 46 minutes 39 seconds east, the distance of 781.002 feet northwardly from the northerly side of Reed Street (50 feet wide bearing south 75 degrees 13 minutes 21 seconds east); (2) south 75 degrees 20 minutes 21 seconds east, the distance of 231.805 feet eastwardly from the easterly side of Delaware Avenue (150 feet wide bearing north 14 degrees 39 minutes 39 seconds east); thence extending from said point of beginning, north 0 degree 49 minutes 15 seconds west, the distance of

160.856 feet to a point; thence extending north 79 degrees 53 minutes 04 seconds east, the distance of 24.808 feet to a point; thence extending north 10 degrees 03 minutes west, the distance of 15.0 feet to a point; thence extending south 79 degrees 53 minutes 04 seconds west, the distance of 22.723 feet to a point; thence extending north 4 degrees 56 minutes 56 seconds west, the distance of 99.228 feet to a point; thence extending south 80 degrees 53 minutes 04 seconds west, the distance of 7.0 feet to a point on an arc; thence extending along an arc curving to the right having a radius of 698.835 feet, a central angle of 11 degrees 29 minutes 44 seconds, an arc distance of 140.211 feet to a point of tangency; thence extending north 0 degree 44 minutes 16 seconds west, the distance of 57.302 feet to a point on the former centre line of former Washington Avenue (100 feet wide); thence extending along the said centre line of former Washington Avenue and crossing the bed of a 30-foot-wide private driveway and the bulkhead line, (approved by the Secretary of War, September 10, 1940); south 75 degrees 13 minutes 21 seconds east, the distance of 940.350 feet to a point on the pierhead line (approved by the Secretary of War, September 10, 1940); thence extending along the said pierhead line, south 1 degree 32 minutes 57 seconds east, the distance of 422.516 feet to a point; thence extending north 75 degrees 13 minutes 21 seconds west, recrossing the said Bulkhead line; the distance of 690.031 feet to a point; thence extending north 6 degrees 35 minutes 30 seconds west, the distance of 58.388 feet to a point; thence extending south 79 degrees 54 minutes west, the distance of 19.120 feet to a point; thence extending south 10 degrees 6 minutes east, the distance of 4.10 feet to a point; thence extending south 79 degrees 54 minutes west, and crossing the bed of the aforementioned 30-foot-wide private driveway, the distance of 196.802 feet to the First mentioned point and place of beginning.

Containing in total area 374,026.6 square feet—8.58647 acres description of 30-foot-wide private driveway within the property of Pier 53 south.

All that certain lot or piece of ground described as a 30-foot-wide private driveway as shown on a plan of property, situated in the 1st ward of the city of Philadelphia, by John Stefanco, Surveyor and Regulator of the Second Survey District, dated November 4, 1974 and revised December 18, 1974.

Beginning at an interior point formed by the intersection of the following 2 courses and distances: (1) north 14 degrees 46 minutes 39 seconds east, the distance of 802.293 feet northwardly from the northerly side of Reed Street (50 feet wide bearing south 75 degrees 13 minutes 21 seconds east), (2) south 75 degrees 20 minutes 21 seconds east, the distance of 277.764 feet eastwardly from the easterly side of Delaware Avenue (150 feet wide bearing north 14 degrees 39 minutes 39 seconds east); thence extending from said point of beginning north 10 degrees 3 minutes west, the distance of 173.758 feet to a point; thence extending north 14 degrees 52 minutes 4 seconds west, the distance of 180.551 feet to a point; thence extending north 17 degrees 35 minutes 1 second west, the distance of 101.949 feet to a point on the centre line of former Washington Avenue (100 feet wide); thence extending along said former centre line of Washington Avenue, south 75 degrees 13 minutes 21 seconds east, the distance of 35.516 feet to a point; thence extending south 17 degrees 35 minutes 1 second east, the distance of 91.669 feet to a point; thence extending south 14 degrees 52 minutes 4 seconds west, the distance of 182.653 feet to a point; thence extending south 10 degrees 3 minutes east, the distance of 167.104 feet to a point; thence extending south 79 degrees 54 minutes west, the distance of 30.000 feet to the first mentioned point and place of beginning. Area of 30-foot-wide private driveway is 13,465.2 square feet—0.30912 acres.

All that certain lot or piece of ground with the buildings and improvements thereon erected, situated in the first ward of the city of Philadelphia and described according to a Plan of Property by Evans Sparks, Surveyor and Regulator of the Second Survey District, dated February 23, 1988 as follows: Parcel "A".

Beginning at a point on the easterly side of Delaware Avenue (150 feet wide), located northwardly the distance of 1,100 feet 7⅜ inches from the point of intersection of the northerly side of Tasker Street (50 feet wide) and the easterly side of the said Delaware Avenue; thence extending north 14 degrees 39 minutes 39 seconds east along the said easterly side of Delaware Avenue, the distance of 975 feet 1 inch to an angle point; thence continuing along the said easterly side of Delaware Avenue, north 14 degrees 35 minutes 09 seconds east, the distance of 50 feet 0 inch to a point on the center line of former Washington Avenue (100 feet wide), stricken from the city plan; thence extending south 75 degrees 14 minutes 21 seconds east along the center line of the said former Washington Avenue, the distance of 151 feet 4⅞ inches to a point on the westerly side of a 30-foot-wide driveway easement; thence extending south 17 degrees 35 minutes 01 second east along the said driveway easement, the distance of 102 feet 0 inch to an angle point; thence continuing along the said driveway easement south 14 degrees 52 minutes 04 seconds west, the distance of 180 feet 6⅝ inches to an angle point; thence still continuing along the said driveway easement south 10 degrees 03 minutes 00 second east, the distance of 131 feet 7⅛ inches to a point; thence extending south 14 degrees 39 minutes 39 seconds west along a line, the distance of 638 feet 11 inches to a point; thence extending north 75 degrees 14 minutes 21 seconds west, along a line, the distance of 260 feet 1½ inches to a point on the easterly side of said Delaware Avenue, being the first mentioned point and place of beginning.

Containing in area 246,456 square feet or 5.6579 acres.

All that certain lot or piece of ground with the buildings and improvements thereon erected, situated in the first ward of the city of Philadelphia and described according to a Plan of Property by Evans Sparks, Surveyor and Regulator of the Second Survey District, dated February 23, 1988 as follows: Parcel "B".

Beginning at a point on the easterly side of Delaware Avenue (150 feet wide), located northwardly the distance of 1,038 feet 1⅞ inches from the point of intersection of the northerly side of Tasker Street (50 feet wide) and the easterly side of the said Delaware Avenue; thence extending north 14 degrees 39 minutes 39 seconds east along the said easterly side of Delaware Avenue, the distance of 62 feet 5½ inches to a point; thence extending south 75 degrees 14 minutes 21 seconds east along a line, the distance of 260 feet 1½ inches to a point; thence extending north 14 degrees 39 minutes 39 seconds east along a line, the distance of 638 feet 11 inches to a point on the westerly side of a 30 feet wide driveway easement; thence extending south 10 degrees 03 minutes 00 second east along the said driveway easement, the distance of 42 feet 2 inches to a point; thence extending north 79 degrees 54 minutes 00 second east crossing the said driveway easement, the distance of 146 feet 2½ inches to a point; thence extending north 10 degrees 06 minutes 00 second west, the distance of 4 feet 1½ inches to a point; thence extending north 79 degrees 54 minute 00 seconds east, the distance of 19 feet 1½ inches to a point; thence extending south 6 degrees 35 minutes 30 seconds east, the distance of 58 feet 4⅝ inches to a point; thence extending south 75 degrees 13 minutes 21 seconds east, crossing the bulkhead line approved by the Secretary of War, September 10, 1940; August 9, 1909, and January 20, 1891, the distance of 690 feet 1⅝ inches to a point on the pierhead line of the Delaware River approved by the Secretary of War, September 10, 1940; August 9, 1909, and January 20, 1891; thence extending along the said pierhead line south 1 degree 32 minutes 57 seconds east, the distance of 386 feet 4⅛ inches to a point; thence continuing along the said pierhead line, south 8 degrees 55 minutes 55.5 seconds east, the distance of 491 feet 11½ inches to a point on the northerly side of Reed Street (50 feet wide) stricken from city plan and vacated and reserved as a right-of-way for drainage, water main and gas purposes; thence extending along same, north 75 degrees 13 minutes 21 seconds west, recrossing the said bulkhead line and 30-foot-wide driveway easement the distance of 632 feet 1½ inches to a point on the westerly side of said driveway easement; thence extending north 12 degrees 24 minutes 31 seconds west, along said driveway easement, the distance of 136 feet 0½ inch to a point; thence extending north 14 degrees 50 minutes 59 seconds east, partly along a 25-foot-wide driveway easement, the distance of 21 feet 0⅛ inch to a point; thence extending north 75 degrees 13 minutes 21 seconds west, the distance of 492 feet 11¾ inches to a point; thence extending south 14 degrees 46 minutes 39 seconds west, the distance of 51 feet 3⅛ inches to a point; thence extending north 64 degrees 29 minutes 30 seconds west, the distance of 259 feet 9⅝ inches to the easterly side of said Delaware Avenue, being the first mentioned point and place of beginning.

Containing in area 785,683 square feet or 18.0368 acres.

(2) Marina Towers and World Trade Center—Pier 25 North.

All that certain lot or piece of ground situate in the 5th ward, city of Philadelphia, Commonwealth of Pennsylvania, described in accordance with a Plan of Property made for Old City Harbor Associates Developers, by Lawrence J. Cleary, Surveyor and Regulator, Third Survey District dated May 26, 1981 as follows: to wit:

Beginning at a point on the easterly line of Delaware Avenue (150 feet wide) located north 15 degrees 16 minutes 00 second east, the distance of 10 feet 6 inches northeastwardly from a point of intersection of the easterly line of the said Delaware Avenue with the northerly line of former Willow Street (50 feet wide) produced; thence extending south 73 degrees 55 minutes 50 seconds east the distance of 9 feet 4¾ inches to a point on the bulkhead line of the Delaware River, approved by the Secretary of War, September 10, 1940; thence further extending south 73 degrees 55 minutes 50 seconds east, the distance of 506 feet 0⅜ inch to a point on the pierhead line of the Delaware River, ap-

proved by the Secretary of War, September 10, 1940; thence extending the following two (2) courses and distances along the said pierhead line of the Delaware River (approved by the Secretary of War, September 10, 1940); (1) south 29 degrees 05 minutes 21 seconds west, the distance of 54 feet 10⅝ inches to an angle point; (2) south 19 degrees 41 minutes 36 seconds west, the distance of 43 feet 0½ inch to a point; thence extending north 74 degrees 58 minutes 31 seconds west, the distance of 502 feet 0⅝ inch to a point on the said bulkhead line of the Delaware River (approved by the Secretary of War, September 10, 1940); thence further extending north 74 degrees 58 minutes 31 seconds west, the distance of 16 feet 4¼ inches to a point on the easterly side of the said Delaware Avenue; thence extending north 27 degrees 52 minutes 00 second east along the easterly side of the said Delaware Avenue, the distance of 89 feet 1¾ inches to an angle point; thence extending north 15 degrees 16 minutes 00 second east along the easterly side of the said Delaware Avenue; the distance of 18 feet 7⅛ inches to the first mentioned point and place of beginning.

Containing in total area 51,817.7 square feet.

(3) Marine Trade Center—Pier 24 North.

Description of a property located on the easterly side of Delaware Avenue. Northwardly from the south house line of Callowhill Street produced (pier numbered 24 north).

All that certain lot or piece of ground situate in the fifth ward of the city of Philadelphia and described in accordance with a Survey and Plan of Property made November 16, 1985 by Lawrence J. Cleary, Surveyor and Regulator, Third Survey District, and revised March 22, 1988 by him.

Beginning at a point of intersection of the easterly side of Delaware Avenue (150 feet wide) and the south house line of Callowhill Street (formerly 50 feet wide) produced; thence extending north 27 degrees 52 minutes 00 second east along the said side of Delaware Avenue, the distance of 340 feet 3 inches to a point; thence extending south 74 degrees 44 minutes 00 second east the distance of 23 feet 10⅝ inches to a point on the bulkhead line of the Delaware River approved by the Secretary of War, September 10, 1940; thence extending south 74 degrees 44 minutes 00 second east the distance of 528 feet 8⅝ inches to a point on the pierhead line of the Delaware River approved by the Secretary of War, September 10, 1940; thence extending south 19 degrees 41 minutes 36 seconds west along the said pierhead line the distance of 289 feet 9½ inches to a point on the said south house line of Callowhill Street produced; thence extending north 78 degrees 58 minutes 50 seconds west along the south house line of said Callowhill Street produced the distance of 522 feet 8¾ inches to a point on the said bulkhead line; thence continuing along the said south house line of Callowhill Street produced north 78 degrees 58 minutes 50 seconds west the distance of 59 feet 5¼ inches to the first mentioned point and place of beginning.

Containing in area 171,171 square feet (3.9295 acres).

(4) National Sugar Company "Sugar House".

Description and Recital—block 6 north 6 lot 17—all that certain land.

Situate in the 5th ward of the city of Philadelphia, Pennsylvania and more particularly described as follows:

Beginning at a point on the southeasterly side of Penn Street (60 feet wide) which point is measured south 43 degrees 30 minutes west along the said southeasterly side of Penn Street the distance of 282 feet 6 inches from a point formed by an intersection of the said southeasterly side of Penn Street and the southwesterly side of Laurel Street (50 feet wide); thence extending from said point of beginning south 46 degrees 30 minutes east the distance of 738 feet 8½ inches to a point on the Delaware River pierhead line established January 5, 1894, approved by Secretary of War September 10, 1940; thence extending south 48 degrees 13 minutes 7 seconds west along the Delaware River pierhead line the distance of 188 feet 3⅛ inches to a point; thence extending north 46 degrees 30 minutes west partly passing within the bed of a 10-foot-wide alley by deed (which extends northwestwardly to the said southeasterly side of Penn Street) the distance of 723 feet 2⅝ inches to a point on the said southeasterly side of Penn Street; thence extending north 43 degrees 30 minutes east along the said southeasterly side of Penn Street and crossing the bed of the said 10-foot-wide alley by deed the distance of 187 feet 7½ inches to a point, being the first mentioned point and place of beginning.

Containing 3,148 acres, more or less, as surveyed on June 29, 1981, by Lawrence J. Cleary, Surveyor and Regulator of the 3rd District.

Together with 1,736 linear feet of track thereupon erected, made or being and all and every of the rights, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging, or in anywise appertaining. Being known as pier 40 north.

Being the same premises which Ralph Heller, an individual by deed dated November 4, 1981, and recorded in Philadelphia County, in deed book EFP 345 page 531 conveyed unto pier 40 north associates, a Pennsylvania Limited partnership, its successors and assigns, as partnership property for the uses and purposes of said partnership.

Description of piers 41, 42, and 43 north

All that certain lot or piece of ground situate in the fifth ward of the city of Philadelphia and described in accordance with a Topographic Survey and Plan of Property made May 23, 1988, by Lawrence J. Cleary, Surveyor and Regulator of the Third Survey District:

Beginning at the point formed by the intersection of the easterly side of Penn Street (60 feet wide), and the southerly side of former Laurel Street (50 feet wide), stricken and reserved for drainage; thence extending south 46 degrees 30 minutes 00 second east, along the said southerly side of former said Laurel Street, the distance of 190 feet 9 inches to a point on the bulkhead line established January 5, 1894, and approved by the Secretary of War, September 10, 1940; thence extending south 46 degree 30 minutes 00 second east the distance of 571 feet 3¼ inches to a point on the pierhead line established January 5, 1894, and approved by the Secretary of War, September 10, 1940; thence extending south 48 degrees 13 minutes 07 seconds west along the said pierhead line the distance of 283 feet 5½ inches to a point; thence extending north 46 degrees 30 minutes 00 second west leaving said pierhead line the distance of 546 feet 11⅝ inches to a point on the aforementioned bulkhead line established January 5, 1894, and approved by the Secretary of War, September 10, 1940; thence extending north 46 degrees 30 minutes 00 second west the distance of 191 feet 8⅞ inches to a point on the easterly side of said Penn Street; thence extending north 43 degrees 30 minutes 00 second east along the easterly side of said Penn Street the distance of 282 feet 6 inches to the first mentioned point and place of beginning.

Description of piers 44 to 50 north, inclusive.

All that certain lot or piece of ground situate in the fifth ward of the city of Philadelphia and described in accordance with a Survey and Plan of Property made March 7, 1985 by Lawrence J. Cleary, Surveyor and Regulator of the Third Survey District:

Beginning at a point of intersection formed by the northeasterly side of Shackamaxon Street (60 feet wide) and the southeasterly side of Penn Street (50 feet wide); thence extending south 22 degrees 26 minutes 57 seconds east along the northeasterly side of the bed of former Shackamaxon Street (reserved for drainage purposes), the distance of 170 feet 8⅝ inches to a point on the bulkhead line of the Delaware River (established January 5, 1984—approved by the Secretary of War, September 10, 1940); thence further extending south 22 degrees 26 minutes 57 seconds east along the northeasterly side of the bed of former Shackamaxon Street (subject to a right-of-way for sewer maintenance as provided in ordinance), the distance of 623 feet 6⅜ inches to a point on the pierhead line of the Delaware River (established January 5, 1894—approved by the Secretary of War, September 10, 1940); thence extending south 54 degrees 04 minutes 10 seconds west along the said pierhead line (being also the southeasterly head of the said former Shackamaxon Street), the distance of 61 feet 8⅜ inches to an angle point; thence extending south 48 degrees 11 minutes 38 seconds west along the said pierhead line the distance of 385 feet 11½ inches to a point on the northeasterly side of Laurel Street (50 feet wide) produced; thence extending north 46 degrees 29 minutes 00 second west along the northeasterly side of the said Laurel Street produced, the distance of 575 feet 6⅞ inches to a point on the said bulkhead line; thence further extending north 46 degrees 29 minutes 00 second west along the northeasterly side of the said Laurel Street, the distance of 190 feet 7 inches to a point on the southeasterly side of Penn Street (60 feet wide); thence extending north 43 degrees 30 minutes 00 second east along the southeasterly side of the aforesaid Penn Street, the distance of 543 feet 0¾ inch to an angle point; thence extending north 63 degrees 51 minutes 33 seconds east along the southeasterly side of said Penn Street (50 feet wide), the distance of 240 feet 9 inches to the first mentioned point and place of beginning.

(5) Rivercenter.

Beginning at the point of intersection of the northeasterly side of Dyott Street (100 feet wide) with the bulkhead line established by the Secretary of War, September 10, 1940; thence from said point of beginning leaving the side of Dyott Street and extending along the bulkhead line the following five (5) courses and distances—

(1) north 64 degrees 18 minutes 09 seconds east 829 feet 10 inches to a point;

(2) south 48 degrees 30 minutes 57 seconds east 936 feet 8⅝ inches to a point;

(3) north 64 degrees 40 minutes 52 seconds east 936 feet 8⅝ inches to a point;

(4) north 32 degrees 24 minutes 26 seconds west 149 feet 2¼ inches to a point;

(5) north 64 degrees 04 minutes 09 seconds east crossing a 60 foot drainage right of way 296 feet 3¾ inches to a point on the southwesterly side of pier #20;

thence extending along said southwesterly side of pier #20 15 feet distant and parallel with the aforementioned drainage right of way south 25 degrees 02 minutes 08 seconds east 586 feet 6⅜ inches to a point on the pierhead line established by the Secretary of War, September 10, 1940; thence extending along the pierhead line south 64 degrees 18 minutes 52 seconds west 2,021 feet 10 inches to a point on the northeasterly side of Dyott Street; thence extending along said northeasterly side of Dyott Street north 30 degrees 02 minutes 52 seconds west 494 feet 9⅜ inches to the point and place of beginning.

SEC. 31. EXTENSION OF MODIFIED WATER DELIVERY SCHEDULES, EVERGLADES NATIONAL PARK.

The first sentence of section 1302 of the Supplemental Appropriations Act, 1984 (97 Stat. 1292-1293) is amended by striking out "January 1, 1989" and inserting in lieu thereof "January 1, 1992".

SEC. 32. PERIOD OF ENVIRONMENTAL DEMONSTRATION PROGRAM.

Section 1135(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2294 note) is amended by striking out "two-year period" and inserting in lieu thereof "5-year period".

SEC. 33. MAYO'S BAR LOCK AND DAM, ROME, GEORGIA.

The Secretary is authorized and directed to prepare plans and specifications for the restoration of the Mayo's Bar Lock and Dam near Rome, Georgia, at a total cost of $300,000, with an estimated first Federal cost of $150,000 and an estimated first non-Federal cost of $150,000.

SEC. 34. WATER RESOURCES STUDIES.

(a) Carter Lake, Iowa and Nebraska.—

(1) Study and demonstration project.—The Secretary shall conduct a study and demonstration project to determine the effects of fluctuations of the water level of Carter Lake, Iowa and Nebraska, on groundwater induced flooding in the area surrounding such lake and of methods of reducing such flooding by pumping water between such lake and the Missouri River.

(2) Report.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study and demonstration project carried out under this subsection.

(b) Memphis Harbor, Ensley Berm, Tennessee.—The Secretary may conduct a study for the purpose of determining the extent of seepage associated with the project for flood control, Memphis Harbor, Ensley Berm, Tennessee, and the need for corrective measures.

(c) Bartlett, Illinois.—Before issuing a permit under section 404 of the Federal Water Pollution Control Act for a proposed municipal landfill in the vicinity of Bartlett, Illinois, the Secretary shall study, and report to Congress on, the impact of such landfill on the Newark Valley Aquifer and on the ability of water from such Aquifer to dilute for purposes of drinking water supply naturally occurring radium in groundwater.

(d) Bluestone Lake, West Virginia.—

(1) In general.—The Secretary, in cooperation with the Secretary of the Interior, is authorized and directed to conduct a study and prepare a report on modifying the operation of the Bluestone Lake project, West Virginia, in order to facilitate the protection and enhancement of biological resources and recreational use of waters downstream from the project. Specific consideration shall be given in the study to all feasible means of improving flows from such project during periods when flows from the lake are less than 3,000 cubic feet per second, except that the study shall not consider project operation adjustments which entail major construction modifications at the project.

(2) Notice and comments.—The Secretary shall publish notice of the proposed study under this subsection in the Federal Register within 3 months after the date of the enactment of this Act and shall consider any written comments regarding the scope of the study which are submitted during the 60-day period after publication of such notice.

(3) Final report.—Not later than 18 months after the date of the enactment of this Act, the final report on the results of the study under this subsection shall be transmitted to Congress.

SEC. 35. TECHNICAL RESOURCE SERVICE, RED RIVER BASIN, MINNESOTA AND NORTH DAKOTA.

The Secretary is directed to establish a Technical Resource Service for the Red River Basin in Minnesota and North Dakota. There is authorized to be appropriated $500,000 annually for the purpose of providing to such States a full range of technical services for the development and implementation of State and local water and related land resources initiatives within the Red River Basin and sub-basins. The Technical Resource Service is to be provided in addition to related services provided under authority of section 206 of the River and Harbor and Flood Control Act of 1960 and section 22 of the Water Resources Development Act of 1974.

SEC. 36. CORRECTION OF DESCRIPTIONS.

(a) Hudson River, New York.—That portion of Public Law 100-202 designated as the Energy and Water Development Appropriation Act, 1988 is amended by striking out the undesignated paragraph beginning "The following portion of the Hudson River" and ending "the States of New York and New Jersey." (101 Stat. 1329-109) and inserting in lieu thereof the following:

"The following portion of the Hudson River in the Borough of Manhattan, New York County, State of New York, is hereby declared not to be part of the federally authorized Channel Deepening Project; that portion of the Hudson River and land thereunder more particularly bounded and described as follows: Beginning at a point in the United States Pierhead Line approved by the Secretary of War on July 31, 1941, such point having a coordinate of north 4,677.56 feet and west 11,407.92 feet and running: (1) northerly along such Pierhead Line on a bearing of north 21 degrees 01 minutes 53 seconds west for a distance of 700 feet to a point; thence (2) westerly at right angles to such Pierhead Line on a bearing of south 68 degrees 58 minutes 07 seconds west for a distance of 200 feet to a point; thence (3) southerly and parallel with such Pierhead Line on a bearing of south 21 degrees 01 minutes 53 seconds east for a distance of 700 feet to a point; thence (4) easterly at right angles to such Pierhead Line on a bearing of north 68 degrees 58 minutes 07 seconds east for a distance of 200 feet to the point of beginning. Bearings and coordinates are in the system used on the Borough Survey, Borough President's Office, Manhattan. This declaration shall apply to all or any part of such described area used or needed for New York harbor passenger ferry boat service as such may be operated by or contracted for operation by a bistate agency created by compact between the States of New York and New Jersey.".

(b) Mianus River, Connecticut.—Section 1006(b) of the Water Resources Development Act of 1986 (100 Stat. 4223) is amended—

(1) in paragraph (2) by striking out "coordinates N14296.251" and inserting in lieu thereof "coordinate: N14296.451"; and

(2) in paragraph (3)—

(A) by striking out "64 seconds West" and inserting in lieu thereof "54 seconds West"; and

(B) by striking out "coordinate: N13970.8" and inserting in lieu thereof "coordinate: N13970.81".

SEC. 37. PROJECT DEAUTHORIZATIONS.

(a) Period of Authorization.—Section 1001(a) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(a)) is amended—

(1) by striking out "authorized for construction by this Act" and inserting in lieu thereof "for water resources development and conservation and related purposes authorized to be carried out by the Secretary on or after the date of the enactment of this Act"; and

(2) by striking out "beginning on the date of enactment of this Act" and inserting in lieu thereof "beginning on the date on which such project is so authorized".

(b) Specified Projects.—The following projects are not authorized after the date of the enactment of this Act, except with respect to any portion of such a project which portion has been completed before such date of enactment or is under construction on such date of enactment:

(1) Rockland lake, texas.—The Rockland Lake water resources project, Texas, authorized by section 2 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public work on rivers and harbors, and for other purposes", approved March 2, 1945 (59 Stat. 18).

(2) White river navigation to batesville, arkansas.—The project for navigation, White River Navigation to Batesville, Arkansas, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4139).

(c) Algoma, Wisconsin, Outer Harbor.—

(1) Deauthorization.—Except as provided in paragraph (2), the outer harbor basin feature of the navigation project for Algoma, Wisconsin, authorized by the Act entitled "An Act making appropriations for construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1907 (34 Stat. 1101), is not authorized after the date of the enactment of this Act.

(2) Retention of maintenance responsibilities for breakwaters and channel.—The Secretary shall retain all responsibilities of the Secretary existing on the date of the enactment of this Act for maintenance of the breakwaters and channel of the harbor at Algoma, Wisconsin.

(d) Continuation of Project Authorizations.—Notwithstanding section 1001(b)(1) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)(1))—

(1) the navigation project for Monterey Harbor (Monterey Bay), California, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 483), and

(2) the navigation project for the North Branch of the Chicago River, Illinois, authorized by the first section of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved July 24, 1946 (60 Stat. 636),

shall remain authorized after December 31, 1989.

SEC. 38. NAMINGS.

(a) LEWIS M. PARAMORE DIVERSION UNIT.—

(1) DESIGNATION.—The Soldier Creek Diversion Unit in Topeka, Kansas, shall hereafter be known and designated as the "Lewis M. Paramore Diversion Unit".

(2) LEGAL REFERENCES.—A reference in any law, map, regulation, document, record, or other paper of the United States to such diversion unit shall be deemed to be a reference to the "Lewis M. Paramore Diversion Unit".

(b) LAKE JACK LEE.—

(1) DESIGNATION.—The lake formed by the Felsenthal Dam on the Ouachita River, Arkansas, shall hereafter be known and designated as "Lake Jack Lee".

(2) LEGAL REFERENCES.—A reference in any law, map, regulation, document, record, or other paper of the United States to such lake shall be deemed to be a reference to "Lake Jack Lee".

(c) VENTURA HARBOR.—

(1) DESIGNATION.—The harbor commonly known as Ventura Marina, located in Ventura County, California, and adopted and authorized by section 101 of Public Law 90-483, shall hereafter be known and designated as "Ventura Harbor".

(2) LEGAL REFERENCES.—A reference in any law, map, regulation, document, record, or other paper of the United States to such Harbor shall be deemed to be a reference to "Ventura Harbor".

(d) ELVIS STAHR HARBOR, PORT OF HICKMAN.—

(1) DESIGNATION.—The harbor located on the Mississippi River at Hickman, Kentucky, known as the Port of Hickman, shall hereafter be known and designated as the "Elvis Stahr Harbor, Port of Hickman".

(2) LEGAL REFERENCE.—A reference in any law, map, regulation, document, record, or other paper of the United States to such harbor shall hereafter be deemed to be a reference to the "Elvis Stahr Harbor, Port of Hickman".

(e) EMMETT SANDERS LOCK AND DAM.—

(1) DESIGNATION.—Lock and dam number 4 on the Arkansas River, Arkansas, constructed as part of the project for navigation on the Arkansas River and tributaries, shall hereafter be known and designated as the "Emmett Sanders Lock and Dam".

(2) LEGAL REFERENCE.—A reference in any law, map, regulation, document, record, or other paper of the United States to such lock and dam shall hereafter be deemed to be a reference to the "Emmett Sanders Lock and Dam".

(f) JOE HARDIN LOCK AND DAM.—

(1) DESIGNATION.—Lock and dam number 3 on the Arkansas River, Arkansas, constructed as part of the project for navigation on the Arkansas River and tributaries, shall hereafter be known and designated as the "Joe Hardin Lock and Dam".

(2) LEGAL REFERENCE.—A reference in any law, map, regulation, document, record, or other paper of the United States to such lock and dam shall be deemed to be a reference to the "Joe Hardin Lock and Dam".

(g) ED JONES BOAT RAMP.—

(1) DESIGNATION.—The boat ramp to be constructed on the Mississippi River in Lauderdale County, Tennessee, shall be known and designated as the "Ed Jones Boat Ramp".

(2) LEGAL REFERENCE.—A reference in any law, map, regulation, document, record, or other paper of the United States to such boat ramp shall be deemed to be a reference to the "Ed Jones Boat Ramp".

AMENDMENTS OFFERED BY MR. ANDERSON

Mr. ANDERSON. Mr. Chairman, I have a series of amendments at the desk which I offer, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. ANDERSON: Page 5, line 8, after "$39,200,000", insert the following: "; except that the Secretary is authorized to carry out fish and wildlife enhancement as a purpose of such project, including fish and wildlife enhancement measures described in the District Engineer's Report, dated July 1985, at a total cost of $4,140,000.".

Page 24, after line 24, insert the following new subsection:

(o) IRONDEQUOIT BAY, NEW YORK.—The navigation project for Irondequoit Bay, New York, authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 299), is modified to authorize the Secretary to construct a highway bridge across the new channel constructed as part of such project if non-Federal interests—

(1) agree to be responsible for operation and maintenance of such bridge,

(2) agree to pay 50 percent of the cost of such construction, and

(3) agree that title to such bridge will be held by non-Federal interests.

Redesignate the subsequent subsections of section 4 of the bill accordingly.

Page 24, after line 10, insert the following new subsection:

(n) LIBBY DAM, MONTANA.—The project for Libby Dam, Lake Koocanusa reservoir, Montana, is modified (1) to authorize the Secretary, in consultation with the Secretary of Agriculture, to undertake measures to alleviate low water impact on existing facilities at such project, including provision of low water access to Lake Koocanusa, Montana, and provision of additional planned public recreation sites along the reservoir, and (2) to direct the Secretary to protect Indian archaeological sites which are exposed during the course of operations of such project, at an estimated total cost of $750,000. The Secretary shall coordinate with the Kootenai Tribes in monitoring exposed archaeological sites to prevent pillaging in preserving artifacts onsite and in facilitating curation at the tribal curation center in Pablo, Montana when onsite preservation is not warranted.

Redesignate the subsequent subsections of section 4 of the bill accordingly.

Page 68, after line 18, insert the following new paragraph:

(3) CHICAGO RIVER TURNING BASIN, CHICAGO HARBOR, ILLINOIS.—The inner basin of Chicago Harbor, Illinois, known as the Chicago River Turning Basin, authorized by the first section of the Act entitled "An Act making appropriations for the repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes, for the fiscal year ending June 30, 1871", approved July 11, 1870 (16 Stat. 226).

Page 9, after line 7 insert the following new paragraph:

(5) CHICAGO RIVER, ILLINOIS.—The project to construct the wall from the extension of the inner breakwater on the southside of the mouth of the Chicago River, Illinois, to the mainland parallel to the existing channel for a distance of approximately 490 feet, at a total cost of $2,400,000.

Redesignate the subsequent paragraphs of section 3(b) of the bill accordingly.

Page 12, line 12, insert "and" after the semicolon.

Page 12, strike out lines 13 through 22 and insert in lieu thereof the following:

(B) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) if recommended in a report of the Chief of Engineers and approved by the Secretary, the Secretary is authorized to construct the breakwaters to a height greater than 22 feet, and to extend the breakwaters, in accordance with such report; and

"(4) major rehabilitation of the breakwaters necessary as a result of a natural event shall be a Federal responsibility."; and

Page 15, after line 5, insert the following new subsection:

(g) BIG SOUTH FORK OF THE CUMBERLAND RIVER, KENTUCKY AND TENNESSEE.—Section 108 of the Water Resources Development Act of 1974 is amended by adding at the end thereof the following new subsection:

"(1) The non-Federal share of any cost incurred for purposes of this section may be provided by any person, including concessioners of any agency of the Federal Government. In any case in which a non-Federal interest (including a person) agrees to provide recreational facilities within the boundaries of the National Area, the Secretary shall provide any utilities, roads, or other support facilities necessary for the provision of such recreational facilities.".

Redesignate the subsequent subsections of section 4 of the bill accordingly.

Page 24, after line 10, insert the following new subsection:

(o) NEW YORK HARBOR, NEW YORK.—The New York Harbor collection and removal of drift project is modified to authorize the Secretary to collect refuse through the use of nets, at a total cost of $20,000.

Redesignate the subsequent subsections of section 4 of the bill accordingly.

Page 29, after line 13, insert the following new subsection:

(b) MAINTENANCE.—Whenever the Secretary maintains, repairs, rehabilitates, or reconstructs a water resources project which will result in a change in the configuration of a structure which is a part of such project, the Secretary, to the maximum extent practicable, shall carry out such maintenance, repair, rehabilitation, or reconstruction in a manner which will not adversely affect any recreational use established with respect to such project before the date of such maintenance, repair, rehabilitation, or reconstruction.

Page 29, line 14, strike out "(b)" and insert in lieu thereof "(c)".

Page 29, strike out line 24, and insert in lieu thereof the following:

(d) APPLICABILITY.—

(1) GENERAL RULE.—Subsections (b) and (c) shall apply to maintenance, repair, rehabilitation, or reconstruction for which physical construction is initiated after May 1, 1988.

(2) LIMITATION.—Subsections (b) and (c) shall not apply to any

Page 29, realign lines 25 and 26 accordingly.

Page 30, line 1, strike out "(d)" and insert in lieu thereof "(e)".

Page 62, line 3, insert "(a) EXTENSION OF PERIOD.—" before "Section".

Page 62, after line 6, insert the following new subsection:

(b) REPORTS.—Section 1135(d) of such Act is amended by striking out "two years" and inserting in lieu thereof "5 years".

Page 31, after line 13, insert the following new section:

SEC. 8. COLLABORATIVE RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—For the purpose of improving the state of engineering and construction in the United States and consistent with the civil works mission of the Army Corps of Engineers, the Secretary is authorized to utilize Army Corps of Engineers laboratories and research centers to undertake, on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local government, colleges and universities, and corporations, partnerships, sole proprietorships, and trade associations which are incorporated or established under the laws of any of the several States of the United States or the District of Columbia.

(b) ADMINISTRATIVE PROVISIONS.—In carrying out this section, the Secretary may consider the recommendations of a non-Federal entity in identifying appropriate research or development projects and may enter into a cooperative research and development agreement, as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a); except that in such agreement, the Secretary may agree to provide not more than 50 percent of the cost of any research or development project selected by the Secretary under this section. Not less than 5 percent of the non-Federal entity's share of the cost of any such project shall be paid in cash.

(c) APPLICABILITY OF OTHER LAWS.—The research, development, or utilization of any technology pursuant to an agreement under subsection (b), including the terms under which such technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701-3714).

(d) AUTHORIZATION OF APPROPRIATIONS.—To carry out the purposes of this section, there is authorized to be appropriated to the Secretary of the Army civil works funds $3,000,000 for fiscal year 1989, $4,000,000 for fiscal year 1990, $5,000,000 for fiscal year 1991, and $6,000,000 for each fiscal year thereafter.

(e) ADDITIONAL FUNDING.—Notwithstanding the third proviso under the heading "GENERAL INVESTIGATIONS" of title I of the Energy and Water Development Appropriations Act, 1989 (102 Stat. 857), an additional $3,000,000 of the funds appropriated under such heading shall be available to the Secretary for obligation to carry out the purposes of this section in fiscal year 1989.

Redesignate the subsequent sections of the bill accordingly.

Page 15, after line 5, insert the following new subsection:

(g) STUMPY LAKE, LOUISIANA.—The project for mitigation of fish and wildlife losses Red River Waterway, Louisiana, authorized by section 601(a) of the Water Resources Act of 1986 (100 Stat. 4142), is modified—

(1) to include design and construction of such structural or remedial measures as necessary to control erosion and protect the valuable environmental resources of the area between Lake Bistineau and Red River, including Stumpy Lake and vicinity; and

(2) to authorize the Secretary to spend $500,000 in participation with the State of Louisiana on design, construction, and purchase of necessary lands and rights-of-way for such structural and remedial measures.

Such structural and remedial measures shall be subject to cost sharing under title I of the Water Resources Development Act of 1986.

Redesignate the subsequent subsections of section 4 of the bill accordingly.

Page 44, after line 5, insert the following new section:

SEC. 27. PRADO BASIN, CALIFORNIA, PROPERTY INTEREST EXCHANGE.

(a) EXCHANGE.—To further enable the Santa Ana River Mainstream Flood Control project to proceed, the Administrator of General Services (hereinafter in this section referred to as the "Administrator") shall issue certificates of credit under subsection (b) in return for which both the holder of producing leasehold mineral interests in the reservoir of Prado Basin, Riverside County, California, and the nonpublic owners of override and royalty interests and other nonpublic entities with rights to the minerals in such reservoir (hereinafter in this section referred to as "nonpublic owners of mineral interests") surrender to the United States their interests and rights in such reservoir.

(b) CERTIFICATES OF CREDIT.—Certificates of credit issued under this section may be used in paying for Federal excess property. Subject to an agreement between the holder of producing leasehold mineral interests in the reservoir referred to in subsection (a) and the nonpublic owner of mineral interests, such certificates may only be issued to such holder and not to such nonpublic owner, and compensation to such nonpublic owner for surrendering its interests in such reservoir to the United States shall be given to such holder.

(c) VALUE.—Subject to an agreement between the holder of producing leasehold mineral interests in the reservoir referred to in subsection (a) and the nonpublic owner of mineral interests, the value of a certificate of credit issued under this section for surrender of mineral interests in the reservoir referred to in subsection (a) shall be equal to the value of the aggregate of both the leasehold value and the nonpublic ownership value of such mineral interests, as determined by the Administrator.

(d) EVALUATION AND APPRAISAL.—The Administrator is authorized to undertake such evaluation and appraisal of leasehold mineral interests and mineral interests which may be surrendered under this section and shall submit a final report on the results of such evaluation and appraisal to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives not later than 120 days after the date of the enactment of this Act. If, in undertaking such evaluation and appraisal, the Administrator contracts for appraisal service, the Administrator shall require an independent and objective appraisal by a person knowledgeable of the petroleum industry. Upon submission of the report under this subsection, the exchange of property (including issuance of certificates of credit) referred to in subsection (a) shall be effectuated.

(e) LIMITATION ON APPROPRIATIONS.—No appropriation shall be made for carrying out the purposes of this section and no exchange costs shall be required to be born by the local governmental jurisdictions benefited by the project.

(f) FEDERAL EXCESS PROPERTY DEFINED.—For purposes of this section, the term "Federal excess property" means any excess property of the United States property acquired, purchased, or improved pursuant to the Public Buildings Act of 1959.

Redesignate the subsequent sections of the bill accordingly.

Page 62, after line 12, insert the following:

SEC. 34. FEDERAL HYDROELECTRIC POWER MODERNIZATION STUDY.

(a) STUDY—The Secretary shall conduct a study of the need to modernize and upgrade the federally owned and operated hydroelectric power system.

(b) REPORT.—Not later than 1 year after the date of the enactment of this section, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a) together with recommendations.

Redesignate the subsequent sections of the bill accordingly.

Page 25, after line 21, insert the following new subsection:

(q) BROKEN BOW LAKE, OKLAHOMA.—The project for flood control, power and water supply, Broken Bow Lake, Oklahoma, authorized by the Flood Control Act of 1958 and the Flood Control Act of 1962, is modified to authorize and direct the Secretary to construct such hydroelectric power production facilities at the Broken Bow Lake reregulation dam as are recommended in a report of the Chief of Engineers and approved by the Secretary, at an estimated total cost of $13,300,000.

Redesignate the subsequent subsection of section 4 of the bill accordingly.

Page 33, after line 18, insert the following new section:

SEC. 12. FEASIBILITY REPORTS.

Section 905(a) of the Water Resources development Act of 1986 (33 U.S.C. 2282(a)) is amended by inserting after the third sentence the following new sentence: "The feasibility report shall also include a local and regional economic development plan for the project area if the proposed project is located in an area which qualifies for designation as an economic development area under the Public Works and Economic Redevelopment Act of 1965.".

Redesignate the subsequent sections of the bill accordingly.

Page 2, after line 2, insert the following:

TITLE I—WATER RESOURCES DEVEOPMENT

Page 2, lines 4 and 7, strike out "Act" and insert in lieu thereof "title".

Redesignate sections 1 through 38 of the bill as sections 101 through 138, respectively.

At the end of the bill, add the following new title:

TITLE II—BRIDGE ADMINISTRATION TRANSER

SEC. 201. SHORT TITLE.

This title may be cited as the "Bridge Administration Transfer Act".

SEC. 202. AUTHORIZATION AND DELEGATION.

(a) AUTHORIZATION.—Administration of bridges and causeways over navigable waters is transferred from the Secretary of Transportation to the Secretary of the Army. The administration transferred includes all authorities for bridge and causeway approvals, drawbridge regulations, administration of bridge alterations, and all other related authority, functions, and duties concerning bridges and causeways over navigable waters otherwise exercised by the Secretary of Transportation except—

(1) administration of bridges and causeways in or over the Saint Lawrence Seaway; and

(2) Authority to prescribe lights and other signals on bridges and causeways for the benefit of navigation.

(b) TRANSFER DATES.—The transfer of authorities under this section shall take effect on October 1, 1989, or on such prior dates as the Secretary of the Army, in consultation with the Secretary of Transportation, prescribes and publishes in the Federal Register.

(c) NAVIGABLE WATERS DEFINED.—For purposes of this Act the term "navigable waters" means waters which are subject to the ebb and flow of the tide, or which are used or susceptible to use in their natural condition or by reasonable improvement as a means of transporting interstate or foreign commerce.

SEC. 203. PROCEDURE FOR TRANSFER.

(a) PERSONNEL, MONEY, PROPERTY, ETC.—(1) on or before October 1, 1989, and as determined by the Director of the Office of Management and Budget in consultation with the Secretary of Transportation and the Secretary of the Army, the Secretary of Transportation shall transfer to the Secretary of the Army all—

(A) civilian employees and personnel positions,

(B) assets, liabilities, contracts, property, records, unexpended balances of appropriations, authorizations, allocations, and funds collected; and

(C) other resources and assets; which the Secretary of Transportation has before then employed, controlled, or used for purposes of the administration transferred under section 202.

(2) The transfer pursuant to this section shall be carried out in accordance with section 3503 of title 5, United States Code, and shall not cause any such employee to be separated or reduced in grade or compensation for at least one year after the date on which each employee is transferred to the Secretary of the Army. Appropriations and funds shall be transferred and accounted for in accordance with section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 1531).

(b) REGULATIONS.—

(1) IN GENERAL.—The Secretary of the Army may issue such regulations as may be necessary and appropriate to implement section 202.

(2) EFFECTIVE DATE.—Regulations issued by the Secretary of the Army under this subsection shall be effective on the effective date of the particular transfers implemented by the regulations.

(c) LEGAL RIGHTS AND DUTIES.—No approvals, notices, determinations, grants, contracts, permits or permit actions, regulatory actions, penalties or penalty actions, suits, or claims against or by the United States or officers, employees, representatives, or agencies of the United States, or other legal rights or duties relating to bridges and causeways over navigable waters shall be affected by the transfer under section 202 of this Act, except that the Secretary of the Army or officers, personnel, or agencies of the Department of the Army shall be substituted, as appropriate, for the Secretary of Transportation or officers, personnel, or agencies of the Department of Transportation. This subsection does not prohibit the modification, continuation, or discontinuation of any legal rights or duties by the Secretary of the Army under the same terms and conditions and to the same extent as would have been lawful by the Secretary of Transportation.

SEC. 204. CONFORMING AMENDMENTS.

(a) EFFECT OF AMENDMENTS.—The conforming amendments in this section shall not affect the authorities being transferred under this Act until such authorities are tranferred under section 202 of this Act.

(b) AMENDMENTS TO THE RIVERS AND HARBORS APPROPRIATIONS ACT OF 1899.—The Act of March 3, 1899, otherwise known as the Rivers and Harbors Appropriations Act of 1899, is amended as follows:

(1) The text of section 9 of the Act (33 U.S.C. 401) is amended to read as follows:

"It shall not be lawful to construct or commerce the construction of any bridge, causeway, dam, or dike over or in any port, roadstead, haven, harbor, canal, navigable river, of other navigable water of the United States until the consent of Congress to the building of such structures shall have been obtained and until the plans for the bridge, causeway, dam, or dike shall have been submitted to and approved by the Secretary of the Army. However, such structures may be built under authority of the legislature of a State across rivers and other waterways the navigable portions of which lie wholly within the limits of a single State, provided the location and plans thereof are submitted to and approved by the Secretary of the Army before construction is commenced. When plans for any bridge or other structure have been approved by the Secretary of the Army, it shall not be lawful to deviate from such plans either before or after completion of the structure unless modification of said plans has previously been submitted to and received the approval of the Secretary of the Army. In the case of a bridge or causeway in or over the Saint Lawrence Seaway, the authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army. The approval required by this section does not apply to any bridge or causeway over waters that are not subject to the ebb and flow of the tide and that are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.".

(2) The text of section 18 of the Act (33 U.S.C. 502) is amended to read as follows:

"(a) Whenever the Secretary of the Army shall have good reason to believe that any railroad or other bridge now constructed, or which may hereinafter be constructed, over any of the navigable waterways of the United States is an unreasonable obstruction to the free navigation of such waters on account of insufficient height, width or span, or otherwise, or where there is difficulty in passing the draw opening or the draw span of such bridge by rafts, steamboats, or other water craft, it shall be the duty of the Secretary of the Army, first giving the parties reasonable opportunity to be heard, to give notice to the persons or corporations owning or controlling such bridge so to alter the same as to render navigation through or under it reasonable free, easy, and unobstructed; and in giving such notice the Secretary shall specify the changes that are required to be made, and shall prescribe in each case a reasonable time in which to make them. If at the end of such time the alteration has not been made, the Secretary of the Army shall forthwith notify the United States Attorney for the district in which such bridge is situated, to the end that the criminal proceedings hereinafter mentioned may be taken. If the persons, corporation, or association owning or controlling any railroad or other bridge shall, after receiving notice to that effect, as hereinafter required, from the Secretary of the Army, and within the the time prescribed by the Secretary willfully fail or refuse to remove the same or to comply with the lawful order of the Secretary of the Army in the premises, such persons, corporation, or association shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding $5,000, and every month such persons, corporation, or association shall remain in default in respect to the removal or alteration of such bridge, shall be deemed a new offense, and subject such persons, corporation, or association so offending to the penalties have prescribed.

"(b) No owner or operator of any bridge, drawbridge, or causeway shall endanger, unreasonably obstruct, or make hazardous the free navigation of any navigable water of the United States by reason of the failure to keep the bridge, drawbridge, or causeway and any accessory works in proper repair.

"(c) Whoever violates any provision of this section, or any order issued under this section, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of the Army may assess and collect any civil penalty incurred under this subsection and, in the Secretary's discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

"(d) In the case of a bridge or causeway in or over the Saint Lawrence Seaway, the authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army.".

"(c) AMENDMENTS TO THE BRIDGE ACT OF 1906. The Act of March 23, 1906, otherwise known as the Bridge Act of 1906, is amended as follows:

"(1) The text of the first section of the Act (33 U.S.C. 491) is amended to read as follows:

"That when, after March 23, 1906, authority is granted by Congress to any persons to construct and maintain a bridge across or over any of the navigable waters of the United States, such bridge shall not be built or commenced until the plans and specifications for its construction, together with such drawings of the proposed construction and such map of the proposed location as may be required for a full understanding of the subject, have been submitted to the Secretary of the Army for the Secretary's approval, nor until the Secretary shall have approved such plans and specifications and the location of such bridge and accessory works; and when the plans for any bridge to be constructed under the provisions of this Act have been approved by the Secretary it shall not be lawful to deviate from such plans, either before or after completion of the structure, unless the modification of such plans has previously been submitted to and received the approval of the Secretary. In the case of a bridge over the Saint Lawrence Seaway, the authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army. This section shall not apply to any bridge over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.".

(2) The text of section 4 of the Act (33 U.S.C. 494) is amended to read as follows:

"No bridge erected or maintained under the provisions of this Act shall at any time unreasonably obstruct the free navigation of the waters over which it is constructed, and if any bridge erected in accordance with the provisions of this Act shall, in the opinion of the Secretary of the Army, at any time unreasonably obstruct such navigation, either on account of insufficient height, width of span, or otherwise, or if there be difficulty in passing the draw opening or the drawspan of such bridge by rafts, steamboats, or other watercraft, it shall be the duty of the Secretary of the Army, after giving the parties interested reasonable opportunity to be heard, to notify the persons owning or controlling such bridge to so alter the same as to render navigation through or under it reasonably free, easy, and unobstructed, stating in such notice the changes required to be made and prescribing in each case a reasonable time in which to make such changes, and if at the end of the time so specified the changes required have not been made, the persons owning or controlling such bridge shall be deemed guilty of a violation of this Act; and all such alterations shall be made and all such obstructions shall be removed at the expense of the persons owning or operating said bridge. In the case of a bridge over the Saint Lawrence Seaway, the above authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army. The persons owning or operating any such bridge shall maintain, at their own expense, such lights and other signals thereon as the Secretary of Transportation shall prescribe. If the bridge shall be constructed with a draw, then the draw shall be opened promptly by the persons owning or operating such bridge upon reasonable signal for the passage of boats and other water craft.".

(3) The text of section 5 of the Act (33 U.S.C. 495) is amended to read as follows:

"(a) Any person who shall willfully fail or refuse to comply with the lawful order of the Secretary of the Army or the Secretary of Transportation made in accordance with provisions of this Act shall be deemed guilty of a misdemeanor and on a conviction thereof shall be punished in any court of competent jurisdiction by a fine not exceeding $5,000, and every month such persons shall remain in default shall be deemed a new offense and subject such persons to additional penalties therefor; and in addition to the penalties above described the Secretary of the Army (or the Secretary of Transportation, in the case of a bridge or causeway in or over the Saint Lawrence Seaway) may, upon refusal of the persons owning or controlling any such bridge and accessory works to comply with any lawful order issued by the Secretary in regard thereto, cause the removal of such bridge, and suit for such expense may be brought in the name of the United States against such persons, and recovery had for such expense in any court of competent jurisdiction, and the removal of any structures erected or maintained in violation of the provisions of this Act or the order or direction of the Secretary made in pursuance thereof may be enforced by injunction, mandamus, or other summary process, upon application to the district court in the district in which such structure may, in whole or part, exist, and proper proceedings to this end may be instituted under the direction of the Attorney General of the United States at the request of the Secretary; and in case of any litigation arising from any obstruction or alleged obstruction to navigation created by the construction of any bridge under this Act, the cause or question arising may be tried before the district court of the United States in any district which any portion of said obstruction or bridge touches.

"(b) Whoever violates any provision of this Act, or any order issued under this Act, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary whose order is violated, or who is responsible for the administration of a provision of this Act which is violated, may assess and collect any civil penalty incurred under this subsection and, in the Secretary's discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.".

(d) Amendment to the Act of August 1894.—The text of section 5 of the Act of August 18, 1894 (33 U.S.C. 499), is amended to read as follows:

"(a) It shall be the duty of all persons owning, operating, and tending drawbridges across the navigable rivers and other waters of the United States, whenever built, to open, or cause to be opened, the draws of such bridges under such rules and regulations as in the opinion of the Secretary of the Army the public interests require to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law. Every such person who shall willfully fail or refuse to open, or cause to be opened, the draw of any such bridge for the passage of a boat or boats, as provided in such regulations, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than $2,000 nor less than $1,000, or by imprisonment (in the case of a natural person) for not exceeding one year, or by both such fine and imprisonment, in the discretion of the court: *Provided*, That the proper action to enforce the provisions of this subsection may be commenced before any magistrate, judge, or court of the United States, and such magistrate, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States: *Provided further*, That whenever, in the opinion of the Secretary of the Army, the public interests require it, the Secretary may make rules and regulations to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law, and any willful violation thereof shall be punished as hereinbefore provided: *Provided further*, That any regulations made in pursuance of this section may be enforced as provided in section 17 of the Act of March 3, 1899 (33 U.S.C. 413), the provisions whereof are made applicable to the said regulations.

"(b) No vessel owner or operator shall signal a drawbridge to open for any nonstructural vessel appurtenance which is not essential to navigation or which is easily lowered and no person shall unreasonably delay the opening of a draw after the signal required by rules or regulations under this section has been given. The Secretary of the Army shall issue rules and regulations to implement this subsection.

"(c) Whoever violates any rule or regulation issued under subsection (a) or (b), shall be liable to a civil penalty of not more than $1,000. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of the Army may assess and collect any civil penalty incurred under this subsection and, in the Secretary's discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

"(d) In the case of a bridge over the Saint Lawrence Seaway, the authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army.".

(e) Amendments to the Truman-Hobbs Act.—The Act of June 21, 1940, otherwise known as the Truman-Hobbs Act, is amended as follows:

(1) The text of the first section of the Act (33 U.S.C. 511) is amended to read as follows:

"When used in this Act, unless the context indicates otherwise—

"(1) The term 'alteration' includes changes of any kind, reconstruction, or removal in whole or in part.

"(2) The term 'bridge' means a lawful bridge over navigable waters of the United States, including approaches, fenders, and appurtenances thereto, which is used and operated for the purpose of carrying railroad traffic or both railroad and highway traffic, or if a State, county, municipality, or other political subdivision is the owner or joint owner thereof, which is used and operated for the purpose of carrying highway traffic.

"(3) The term 'bridge owner' means any State, county municipality, or other political subdivision, or any corporation, association, partnership, or individual owning, or jointly owning, any bridge, and, when any bridge shall be in the possession or under the control of any trustee, receiver, trustee in a case under title 11 of the United States Code, or lessee, such term shall include both the owner of the legal title and person or the entity in possession or control of such bridge.

"(4) The term 'Secretary' means the Secretary of the Army, except in the case of a bridge over the Saint Lawrence Seaway, in which case it means the Secretary of Transportation.

"(5) The term 'United States', when used in a geographical sense, includes the Territories and possessions of the United States.".

(2) The text of section 4 of the Act (33 U.S.C. 514) is amended to read as follows:

"After the service of an order under this Act, it shall be the duty of the bridge owner to prepare and submit to the Secretary, within a reasonable time as prescribed by the Secretary, general plans and specifications to provide for the alteration of such bridge in accordance with such order, and for such additional alteration of such bridge as the bridge owner may desire to meet the necessities of railroad or highway traffic, or both. The Secretary, may approve or reject such general plans and specifications, in whole or in part, and may require the submission of new or additional plans and specifications, but when the Secretary shall have approved general plans and specifications, they shall be final and binding upon all parties unless changes therein be afterwards approved by the Secretary and the bridge owner.".

(3) The text of section 7 of the Act (33 U.S.C. 517) is amended to read as follows:

"Following service of the order requiring alteration of the bridge, the Secretary may make partial payments as the work progresses to the extent that funds have been appropriated. The total payments out of Federal funds shall not exceed the proportionate share of the United States of the total cost of the project paid or incurred by the bridge owner, and if such total cost exceeds the cost guaranteed by the bridge owner, shall not exceed the proportionate share of the United States of such guaranteed cost, except that if the cost of the work exceed the guaranteed cost by reason of emergencies, conditions beyond the control of the owner, or unforeseen or undetermined conditions, the Secretary may, after full review of all the circumstances, provide for additional payments by the United States to help defray such excess cost to the extent the Secretary deems it to be reasonable and proper, and shall certify such additional payments to the Secretary of the Treasury for payment. All payments made to any bridge owner herein provided for shall be made by the Secretary of the Treasury upon certifications of the Secretary.".

(4) The text of section 13 of the Act (33 U.S.C. 523) is amended to read as follows:

"If the owner of any bridge and the Secretary shall agree that in order to remove an obstruction to navigation, or for any other purpose, a relocation of such bridge or the construction of a new bridge upon a new location shall be preferable to an alteration of the existing bridge, such relocation or new construction may be carried out at such new site and upon such terms as may be acceptable to the bridge owner and the Secretary, and the cost of such relocation or new construction, including also any expense of changes in and additions to rights-of-way, stations, tracks, spurs, sidings, switches, signals, and other railroad facilities and property, and relocation of shippers required for railroad connection with the bridge at the new site, shall be apportioned as between the bridge owner and the United States in the manner which is provided for in section 6 of this Act (33 U.S.C. 516) in the case of an alteration and the share of the United States paid from the appropriation authorized in section 8 of this Act (33 U.S.C. 518): *Provided*, That nothing in this section shall be construed as requiring the United States to pay any part of the expense of building any bridge across a navigable stream which the Secretary shall not find to be, in fact, a relocation of the existing bridge.".

(f) AMENDMENTS TO THE GENERAL BRIDGE ACT OF 1946.—The Act of August 12, 1946, otherwise known as the General Bridge Act of 1946, is amended as follows:

(1) The text of section 502 of the Act (33 U.S.C. 525) is amended to read as follows:

"(a) CONSENT OF CONGRESS.—The consent of Congress is hereby granted for the construction, maintenance, and operation of bridges and approaches thereto over the navigable waters of the United States, in accordance with the provisions of this title.

"(b) APPROVAL OF PLANS.—The location and plans for such bridges shall be approved by the Secretary of the Army before construction is commenced, and, in approving the location and plans of any bridge, the Secretary may impose any specific conditions relating to the maintenance and operation of the structure which the Secretary may deem necessary in the interest of public navigation, and the conditions so imposed shall have the force of law. In the case of a bridge over the Saint Lawrence Seaway, the authority in this subsection shall be exercised by the Secretary of Transportation instead of the Secretary of the Army. This subsection shall not apply to any bridge over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.

"(c) PRIVATE HIGHWAY TOLL BRIDGES.—Notwithstanding the provisions of subsections (a) and (b) of this section, it shall be unlawful to construct or commence the construction of any privately owned highway toll bridge until the location and plans thereof shall also have been submitted to and approved by the highway department or departments of the State or States in which the bridge and its approaches are situated: and where such bridge shall be between two or more States and the highway departments thereof shall be unable to agree upon the location and plans therefor, or if they, or either of them, shall fail or refuse to act upon the location and plans submitted, such location and plans then shall be submitted to the Secretary of the Army and, if approved by the Secretary of the Army, approval by the highway departments shall not be required.".

(2) The text of section 510 of the Act (33 U.S.C. 533) is amended to read as follows:

"(a) Any person who willfully fails or refuses to comply with any lawful order of the Secretary of the Army or the Secretary of Transportation issued under the provisions of this title, or who willfully fails to comply with any specific conditions imposed by the Secretary of the Army or the Secretary of Transportation relating to the maintenance and operation of bridges, or who willfully refuses to produce books, papers, or documents in obedience to a subpoena or other lawful requirement under this title, or who otherwise willfully violates any provision of this title, shall, upon conviction thereof, be punished by a fine not to exceed $5,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.

"(b) Whoever violates any provision of this Act, or any order issued under this Act, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary responsible for the provision or order violated may assess and collect the civil penalty incurred under this subsection and, in the Secretary's discretion, may remit, mitigate, or compromise the penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.".

(g) AMENDMENTS TO THE INTERNATIONAL BRIDGE ACT OF 1972.—Public Law 92-434 (the Act of September 26, 1972), otherwise known as the International Bridge Act of 1972, is amended as follows:

(1) The text of section 2 of the Act (33 U.S.C. 535) is amended to read as follows:

"The consent of Congress is hereby granted to the construction, maintenance, and operation of any bridge and approaches thereto, which will connect the United States with any foreign country (hereinafter in this Act referred to as an 'international bridge') and to the collection of tolls for its use, so far as the United States has jurisdiction. Such consent shall be subject to (1) the approval of the proper authorities in the foreign country concerned; (2) the provisions of the Act entitled 'An Act to regulate the construction of bridges over navigable waters', approved March 23, 1906 (33 U.S.C. 491-498), except section 6 (33 U.S.C. 496), whether or not such bridge is to be built across or over any of the navigable waters of the United States; and (3) the provisions of this subchapter. In the case of a bridge over the Saint Lawrence Seaway, and in the case of a bridge which would not otherwise be subject to the Act of March 23, 1906, the authority of the Secretary of the Army in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army.".

(2) The text of section 5 of the Act (33 U.S.C. 535c) is amended to read as follows:

"The approval of the Secretary of the Army or the Secretary of Transportation as required by the first section of the Act of March 23, 1906 (33 U.S.C. 491), and section 2 of this Act (33 U.S.C. 535) shall be given only subsequent to the President's approval, as provided for in section 4 of this Act, and shall be null and void unless the construction of the bridge is commenced within two years and completed within five years from the date of the Secretary's approval: *Provided, however*, That the Secretary concerned, for good cause shown, may extend for a reasonable time either or both of the time limits herein provided.".

(3) The text of section 11 of the Act (33 U.S.C. 535h) is amended to read as follows:

"The Secretary of the Army and the Secretary of Transportation shall each make an annual report of approvals granted by them under sections 2 and 5 of this Act (33 U.S.C. 535 and 535c).".

(h) AMENDMENTS TO TITLE 14, UNITED STATES CODE.—Section 662 of title 14, United States Code, is amended—

(1) by striking paragraph (3),

(2) by redesignating paragraph (4) as paragraph (3), and

(3) in paragraph (3) (as redesignated) by striking "clauses (1)-(3)" and inserting "paragraph (1) or (2)".

SEC. 205. COMPILATION OF LAWS.

The Secretary of the Army shall prepare a compilation of Federal Laws relating to the administration and regulation of bridges, causeways, dams, dikes, and other structures in, on, or over navigable waters of the United States and shall submit such compilation to the Speaker of the House of Representatives and the President pro tempore of the Senate with such recommendation as to consolidation, revision, amendment, or simplification of those laws as in the Secretary's judgment would be most advantageous to the public interest.

SEC. 206. DECLARATION OF NONNAVIGABILITY OF BODIES OF WATER IN RIDGEFIELD, NEW JERSEY.

The three bodies of water located at block 4004, lots 1 and 2, and block 4003, lot 1, in the Borough of Ridgefield, County of Bergen, New Jersey which have their mouths at the Hackensack River at 40 degrees 49 minutes 58 seconds north latitude and 74 degrees 01 minute 46 seconds west longitude, 40 degrees 49 minutes 46 second north latitude and 74 degrees 01 minute 55 seconds west longitude, and 40 degrees 49 minutes 35 seconds north latitude and 74 degrees 02 minutes 04 seconds west longitude, respectively, and the body of water located at block 4006, lot 1, in the Borough of Ridgefield, County of Bergen, New Jersey which has its mouth at the Hackensack River at 40 degrees 49 minutes 15 seconds north latitude and 74 degrees 01 minute 52 seconds west longitude, are declared to be nonnavigable waterways of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

Page 11, after line 23, insert the following new subsection:

(a) Beaver Lake, Arkansas.—

(1) Amendments.—Section 843 of the Water Resources Development Act of 1986 (100 Stat. 4176-4177) is amended—

(A) by inserting "and the Chief of the Soil Conservation Service" after "the Environmental Protection Agency"; and

(B) by inserting "including best management practices," before "at a total cost".

(2) Continuation of planning and design.—Using funds made available for the Beaver Lake project, Arkansas, pursuant to the Energy and Water Development Appropriations Act, 1989, the Secretary is directed to continue overall planning and design for such project, including the development of implementation plans for individual parcels of land within the drainage basin which contribute to water quality degradation and impairment of water supply uses at Beaver Lake.

Redesignate the subsequent subsections of section 4 of the bill accordingly.

Page 67, lines 8 and 9, strike out "on or" and insert in lieu thereof "by this Act or".

Page 64, after line 15, insert the following new subsection:

(e) Great Lakes and Saint Lawrence Seaway.—

(1) Study of financing navigational improvements.—The Secretary, in cooperation with other Federal agencies and private persons, is authorized and directed to contract with an independent party to conduct a study of cost recovery options and alternative methods of financing navigational improvements on the Great Lakes connecting channels and Saint Lawrence Seaway, including modernization of the Eisenhower and Snell Locks of the Saint Lawrence Seaway.

(2) Report.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study carried out under this subsection together with recommendations.

(3) Funding.—For the purpose of furthering the same objective as the objective for which section 105(a)(2) of the Water Resources Development Act of 1986 was enacted, there is authorized to be appropriated for fiscal years beginning after September 30, 1988, to carry out this subsection $1,000,000.

Page 61, after line 18, insert the following new section:

SEC. 31. DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF CONEY ISLAND CREEK AND GRAVESEND BAY, NEW YORK.

The portions of Coney Island Creek and Gravesend Bay, New York, which are particularly described in the following metes and bounds description are hereby declared to be nonnavigable waters of the United States within the meaning of the Constitution and the laws of the United States, except for purposes of the Federal Water Pollution Control Act and section 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 403), commonly known as the River and Harbor Act of 1899:

Beginning at the corner former by the intersection of the Westerly Line of Cropsey Avenue, and the Northernmost United States Pierhead Line of Coney Island Creek.

Running thence south 12 degrees 41 minutes 03 seconds E and along the westerly line of Cropsey Avenue, 98.72 feet to the northerly channel line as shown on Corps of Engineers Map Numbered F. 150 and on Survey by Rogers and Giollorenzo Numbered 13959 dated October 31, 1986.

Running thence in a westerly direction and along the said northerly channel line the following bearings and distances:

South 48 degrees 59 minutes 27 seconds west, 118.77 feet; south 37 degrees 07 minutes 01 seconds west, 232.00 feet; south 23 degrees 17 minutes 10 seconds west, 430.03 feet; south 31 degrees 25 minutes 46 seconds west, 210.95 feet; south 79 degrees 22 minutes 49 seconds west, 244.18 feet; south 55 degrees 00 minutes 29 seconds west, 183.10 feet; south 41 degrees 47 minutes 04 seconds west, 315.16 feet; and

North 41 degrees 17 minutes 43 seconds west, 492.47 feet to the said Pierhead Line; thence north 73 degrees 58 minutes 40 minutes west and along said pierhead line, 2665.25 feet to the intersection of the United States bulkhead line;

Thence north 0 degrees 19 minutes 35 seconds west and along the United States Bulkhead line 1138.50 feet to the intersection of the westerly prolongation of the center line of 26th Avenue,

Thence north 58 degrees 25 minutes 06 seconds east and along the center line of said 26th Avenue, 2320.85 feet to the westerly line of Cropsey Avenue, then southeasterly and along the southerly line of Cropsey Avenue the following bearings and distances:

South 31 degrees 34 minutes 54 seconds east, 4124.59 feet; and

South 12 degrees 41 minutes 03 seconds east, 710.74 feet to the point or place of beginning.

Coordinates and bearings are in the system as established by the United States Coast and Geodetic Survey for the Borough of Brooklyn.

Redesignate subsequent sections of the bill accordingly.

Page 62, after line 13, insert the following new subsection:

(a) Internal Drainage System, Frog Pond Agricultural Area, Florida.—The Secretary shall conduct a study for the purpose of determining the need for an internal drainage system in the Frog Pond agricultural area of south Dade County, Florida. Within 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a reconnaissance report on the need for such system.

Redesignate the subsequent subsections of section 34 of the bill accordingly.

Page 43, strike out line 21 and all that follows through line 5 on page 44 and insert in lieu thereof the following:

SEC. 25. LESAGE/GREENBOTTOM SWAMP, WEST VIRGINIA.

(a) Limitation on Land Conveyance.—The Secretary shall not convey title to all or any part of the Lesage/greenbottom Swamp to the State of West Virginia.

(b) Lesage/Greenbottom Swamp Defined.—For purposes of this section, the term "Lesage/Greenbottom Swamp" means the land located in Cabell and Mason Counties, West Virginia, acquired or to be acquired by the United States for fish and wildlife mitigation purposes in connection with the Gallipolis Locks and Dam replacement project authorized by section 301(a) of the Water Resources Development Act of 1986 (100 Stat. 4110).

(c) Limitation on Statutory Construction.—Nothing in this section shall be construed as affecting the authority of the Secretary to carry out the Gallipolis Locks and Dam replacement project authorized by section 301(a) of the Water Resources Development Act of 1986 (100 Stat. 4110).

Page 14, after line 21, insert the following new subsection:

(f) Sunset Harbor, California.—The demonstration project at Sunset Harbor, California, authorized by section 1119(b) of the Water Resources Development Act of 1986 (100 Stat. 4238), is modified to include wetland restoration as a purpose of such demonstration project. All costs allocated to such wetland restoration shall be paid by non-Federal interests in accordance with section 916 of such Act.

Redesignate the subsequent subsection of section 4 of the bill accordingly.

Page 24, after line 24, insert the following new subsection:

(o) East Rockaway Inlet to Rockaway Inlet and Jamaica Bay, New York.—The project at East Rockaway Inlet to Rockaway Inlet and Jamaica Bay, New York, authored by the Flood Control Act of 1965 and modified by the Water Resources Development Act of 1974, is modified to extend periodic beach nourishment for such project to the 50th year after construction of such project and to direct the Secretary to participate in periodic nourishment through the 50-year project life of the project under the cost-sharing terms of the previously executed local cooperation agreement.

Redesignate subsequent subsections of section 4 of the bill accordingly.

Page 65, after line 4, insert the following:

SEC. 36. MISSISSIPPI RIVER FLOOD CONTROL, LA CROSSE, WISCONSIN.

Any study or reevaluation of the Mississippi River at La Crosse, Wisconsin, flood control project undertaken pursuant to the Committee Resolution of the Committee on Public Works and Transportation of the House of Representatives approved on March 15, 1988, shall be treated, for purposes of section 905(b) of the Water Resources Development Act of 1986, as a continuation of the phase I feasibility study for such project completed in September 1973 and not as initiation of a new study for such project.

Redesignate the subsequent sections of the bill accordingly.

Page 34, after line 15, insert the following new section:

SEC. 14. ABANDONED AND WRECKED VESSELS.

Section 1115 of the Water Resources Development Act of 1986 (100 Stat. 4235) is amended by inserting "(a) General Rule.—" before "The Secretary" the first place it appears and by adding at the end thereof the following new subsection:

(b) Special Rule.—The Secretary may enter into an agreement with a private person for removal of the abandoned vessel referred to in subsection (a)(3). Such agreement shall provide that consideration for such removal shall be transfer of title from the United States to such person of a DeLong Pier Jack-Up Barge Type A, Serial Number BPA6814. Such transfer shall be subject to such conditions as the Secretary determines appropriate, including a condition requiring such person to successfully remove such vessel. Procedures otherwise governing disposal of property shall not apply to the transfer of title to such barge.".

Redesignate subsequent sections of the bill accordingly.

Page 31, after line 7, insert the following new paragraphs:

(9) Summersville Lake, West Virginia.

(10) Sutton Lake, West Virginia.

(11) Stonewall Jackson Lake, West Virginia.

Page 15, after line 5, insert the following new subsection:

(g) ATLANTIC COAST OF MARYLAND AND ASSATEAGUE ISLAND, VIRGINIA.—The project for shoreline protection, Atlantic Coast of Maryland and Assateague Island, Virginia, authorized by section 501(a) of the Water Resources Development Act of 1986 (100 Stat. 4135), is modified to provide that, if non-Federal interests place sand on the beach as part of such project after December 31, 1988, the Secretary shall credit toward the non-Federal share of the cost of the project an amount equal to the Federal share of the cost of such sand placement.

Redesignate the subsequent subsections of section 4 of the bill accordingly.

Page 66, after line 25, insert the following:

SEC. 37. PUMP STORAGE AT RICHARD B. RUSSELL DAM AND LAKE, GEORGIA AND SOUTH CAROLINA.

None of the funds appropriated or otherwise made available before, on, or after the date of the enactment of this Act shall be used for planning, financing, contracting, or construction in connection with pumped storage at the Richard B. Russell Dam and Lake, Georgia and South Carolina, except as necessary to comply with the Federal Water Pollution Control Act, the National Environmental Policy Act of 1969, or the Fish and Wildlife Coordination Act, and to study and develop a means for prevention of fish entrainment.

Redesignate subsequent sections of the bill accordingly.

Page 25, line 17, insert "the work remaining on" before "such project".

Page 36, after line 8, insert the following new section:

SEC. 17. PLANADA, CALIFORNIA.

The Director of the Federal Emergency Management Agency is directed to prepare or cause to be prepared a hydrological study of Miles Creek, California, to use as the basis for the establishment of revised base flood elevations in and near the community of Planada, California. Until such time as such revised base flood elevations and established, the flood insurance rate map (Community Panel No. 0601880315A) in effect on September 1, 1988, for the area in and near such community shall remain in effect.

Redesignate subsequent sections of the bill accordingly.

Page 7, after line 11, insert the following new paragraph:

(1) VALLEY CREEK, WARRIOR RIVER AND TRIBUTARIES, ALABAMA.—The project for flood control, Valley Creek, Warrior River and Tributaries, Alabama, at a total cost of $23,830,000, with an estimated first Federal cost of $17,882,500 and an estimated first non-Federal cost of $5,957,500.

Redesignate the subsequent paragraphs of section 3(b) of the bill accordingly.

At the end of the bill, add the following new section:

SEC. 39. WATER IMPROVEMENTS, PHARR, TEXAS.

On the request of the Military Highway Water Supply Corporation of Progreso, Texas, the Secretary of Commerce shall waive the reimbursement of the amounts owed to the Federal Government which resulted from the sale of the Las Milpas portion of the water system improvements constructed under the Economic Development Administration project number 8-11-01533 which was sold to the city of Pharr, Texas, if the proceeds of such sale will be used for the purpose of carrying out in the area served by such Corporation water and sewer improvements which would be eligible for assistance under the Public Works and Economic Development Act of 1965 or the Consolidated Farm and Rural Development Act or title V of the Housing Act of 1949.

Page 26, line 2, strike out "$35,000" and insert in lieu thereof "$90,000".

Page 7, after line 11, insert the following new paragraph:

(1) NOGALES WASH AND TRIBUTARIES, ARIZONA.—The project for flood control, Nogales Wash and Tributaries, Arizona: Report of the Board of Engineers for Rivers and Harbors, dated September 14, 1988, at a total cost of $6,400,000. Nothing in this paragraph affects the authority of the Secretary to carry out such project under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

Redesignate the subsequent paragraphs of section 3(b) of the bill accordingly.

Page 8, line 6, strike out "and city".

Page 8, line 10, strike out "Structural" and all that follows through the period on line 16.

Page 44, after line 20, insert the following new section:

SEC. 29. RESTORATION, VENTURA TO PIERPONT BEACH, CALIFORNIA

The Secretary shall make such repairs as are required to restore groin number 1 of the Ventura to Pierpont Beach erosion control project to its original configuration as authorized pursuant to House Document 87-458, at a total cost of $300,000, with an estimated first Federal cost of $225,000 and an estimated first non-Federal cost of $75,000.

Redesignate subsequent sections of the bill accordingly.

Page 48, line 12, strike out "west" and insert in lieu thereof "east".

Page 49, line 17, strike out the comma.

Page 51, line 14, strike out "1½" and insert in lieu thereof "1¼".

Page 52, line 3, strike out "½" and insert in lieu thereof "¼".

Page 52, line 12, strike out "½" and insert in lieu thereof "¼".

Page 53, line 8, strike out "May" and insert in lieu thereof "March".

Page 53, strike out line 9 and all that follows through line 16 on page 54 and insert in lieu thereof the following:

Beginning at a point on the easterly line of Delaware Avenue (150 feet wide) located south 27 degrees 52 minutes 00 second west, the distance of 119 feet 8⅞ inches from a point of intersection of the easterly line of the said Delaware Avenue with the southerly line of Willow Street (50 feet wide) produced; thence extending along the easterly line of the said Delaware Avenue, the two following courses and distances: (1) north 27 degrees 52 minutes 00 seconds east, the distance of 162 feet 8⅛ inches to an angle point; (2) north 15 degrees 16 minutes 00 seconds east, the distance of 95 feet 5⅜ inches to a point; thence extending south 73 degrees 55 minutes 50 seconds east, the distance of 18 feet 5⅞ inches to a point on the bulkhead line of the Delaware River approved by the Secretary of War September 10, 1940; thence further extending south 73 degrees 55 minutes 50 seconds east, the distance of 515 feet 9⅜ inches to a point on the pierhead line of the Delaware River approved by the Secretary of War September 10, 1940; thence extending the following two courses and distances along the said pierhead line of the Delaware River (approved by the Secretary of War September, 1940: (1) south 29 degrees 05 minutes 21 seconds west, the distance of 133 feet 8⅞ inches to an angle point; (2) south 19 degrees 41 minutes 36 seconds west, the distance of 117 feet 2½ inches to a point; thence extending north 74 degrees 44 minutes 00 seconds west, the distance of 504 feet 10 inches to a point on the said bulkhead line of the Delaware River (approved by the Secretary of War September 10, 1940); thence further extending north 74 degrees 44 minutes 00 seconds west, the distance of 23 feet 10⅝ inches to the first mentioned point and place beginning.

Being parcels number 1 (known as pier 25 north), number 2 and number 3 and containing in total area 130,281.6 square feet.

Page 57, line 3 strike out "3,148" and insert in lieu thereof "3.148".

Page 60, line 24, strike out "936 feet 8⅝" and insert in lieu thereof "53 feet 5⅝".

Page 61, line 13, strike out "18" and insert in lieu thereof "16".

Page 62, after line 12, insert the following new section:

SEC. 34. KISSIMMEE RIVER, FLORIDA.

The Secretary is directed to proceed with work on the Kissimmee River demonstration project, Florida, pursuant to section 1135 of the Water Resources Development Act of 1986.

Redesignate the subsequent sections of the bill accordingly.

Page 4, after line 8, insert the following new paragraph:

(9) MISSISSIPPI AND LOUISIANA ESTUARINE AREAS, MISSISSIPPI AND LOUISIANA.—The project for environmental enhancement, Mississippi and Louisiana Estuarine Areas, Mississippi and Louisiana: Report of the Chief of Engineers, dated May 19, 1986, at a total cost of $59,300,000.

Redesignate subsequent paragraphs of section 3(a) of the bill accordingly.

Page 64, after line 15, insert the following new section:

SEC. 35. DIVISION LABORATORY.

The Secretary is authorized to construct a new division laboratory at an estimated cost of $2,000,000, for the United States Army Engineer Division, Ohio River. Such laboratory shall be constructed on a suitable site, which the Secretary is authorized to acquire for such purpose.

Redesignate the subsequent sections of the bill accordingly.

Page 10, strike out line 8 and all that follows through line 4 on page 11.

Page 11, line 5, strike out "(d)" and insert in lieu thereof "(c)".

Page 37, after line 18, insert the following new section:

SEC. 20. COST-SHARING FOR LAKES IN KENTUCKY.

Costs to be paid by non-Federal interests for any municipal industrial water supply storage associated with the Grayson Lake, Dewey Lake, and Carr Ford Lake projects, Kentucky, shall be determined based on the original project cost estimates of $17,800,000, $7,845,000, and $46,800,000, respectively, notwithstanding any other rules or regulations promulgated by the Secretary.

Redesignate subsequent sections of the bill accordingly.

At the end of the bill, add the following new section:

SEC. 39. PERIOD OF AVAILABILITY FOR FUNDING FOR METROPOLITAN DADE COUNTY, FLORIDA.

The first undesignated paragraph under the heading "CONSTRUCTION, GENERAL" in title I of the Energy and Water Development Appropriation Act, 1988 (101 Stat. 1329-106) is amended by striking out "to be made available to Metropolitan Dade County, Florida, for the purpose of a 50 per centum, cost-shared" and inserting in lieu thereof "to remain available until expended, for a grant to Metropolitan Dade County, Florida, for a".

Page 69, after line 6, insert the following new paragraph:

(3) The element of the Missouri River Basin Project authorized by sec. 228 of the River and Harbor Act of 1970,

Mr. ANDERSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California that the amendments be considered en bloc?

There was no objection.

Mr. ANDERSON. Mr. Chairman, the amendments that I have at the desk that are offered en bloc, these amendments have been prepared in response to matters which have been brought to our attention following the reporting of the bill. These amendments are similar in nature to the provisions in the bill and include particular corrections, project modifications and authorizations, project deauthorizations, and other matters relating to the Corps of Engineers program.

They increase the cost by about 3 to 4 percent.

In the interest of time, I will not go into them because I think they are just like committee amendments.

Mr. Chairman, as I indicated, I have a series of amendments at the desk which I am offering en bloc. These amendments would provide the following:

Amendment No. 1:

TRUCKEE MEADOWS, NEVADA

This amendment adds fish and wildlife enhancement as an authorized project purpose at the Truckee Meadows, Nevada, flood control project. This project feature had originally been included in the considerations of the District Engineer but was not included in the final recommendation of the Chief of Engineers for lack of support. The U.S. Fish and Wildlife Service has now provided assurances to support the fish and wildlife enhancement feature.

Amendment No. 2:

IRONDEQUOIT BAY, NEW YORK

This subsection modifies the project for Irondequoit Bay, New York, to authorize the Secretary to construct a highway bridge across the new channel constructed as a part of such project, but only if non-Federal interests agree to be responsible for operation and maintenance of the bridge, agree to pay 50 percent of the cost of such construction, and agree that title to such bridge will be held by non-Federal interests. This bridge would replace the bridge which previously crossed the channel prior to construction of the Irondequoit Bay project.

Amendment No. 3:

LIBBY DAM, LAKE KOOCANUSA, MONTANA

This subsection modifies the project for Libby Dam, Lake Koocanusa Reservoir, Montana to authorize the Secretary to undertake measures to alleviate low water impact on existing facilities at the project including low water access to Lake Koocanusa and additional planned public recreation sites along the reservoir. The Secretary is also directed to protect Indian archaeological sites which are exposed during the course of operations of the project. These activities are to be coordinated with Kootenai tribes in monitoring exposed archaeological sites to prevent pillaging and preserving artifacts on site and to facilitate and curation at the Tribunal Curation Center in Pablo, Montana when on site preservation is not warranted.

This amendment includes matters which affect the jurisdiction of the Agriculture Committee and the Interior and Insular Affairs Committee, and their cooperation and jurisdiction are acknowledged.

Amendments Nos. 4, 5:

CHICAGO RIVER TURNING BASIN, CHICAGO HARBOR, ILLINOIS

Amendment number 4 deauthorizes the Chicago River Turning Basin to allow the Chicago Park District to construct a marina at the site. In addition, the plans of the Chicago Park District will result in the purpose of the existing breakwater becoming fully navigational. Amendment No. 5 authorizes the Secretary, subject to a final report of the Chief of Engineers and approval of the Secretary of the Army, to construct a new wall along the south side of the Chicago River.

Amendment No. 6:

KING HARBOR, REDONDO BEACH, CALIFORNIA

This amendment modifies the provision related to King Harbor Redondo Beach, California to provide that in instances when major rehabilitation of the breakwaters become necessary as the result of a single natural event, such rehabilitation is to be a Federal responsibility. It also authorizes extensions of the breakwaters and construction of the breakwaters to a height greater than 22 feet if recommended by the Chief of Engineers and approved by the Secretary of the Army. The Board of Engineers for Rivers and Harbors has recently recommended the extensions.

Amendment No. 7:

BIG SOUTH FORK, KENTUCKY AND TENNESSEE

The subsection modifies the authorization for the Big South Fork of the Cumberland River, Kentucky and Tennessee project by providing that the non-Federal costs may be provided by any person, including concessionaires of any agency of the Federal government. Further, in any case where a non Federal interest agrees to provide recreational facilities within the boundaries of the national recreation area, the Secretary is to provide any utilities, roads, or other support facilities necessary for the provision of such recreational facilities.

Amendment No. 8:

NEW YORK, NEW JERSEY HARBOR DRIFT REMOVAL

This subsection modifies the New York Harbor Collection and Removal of Drift project to authorize the Secretary to collect refuse through the use of nets. This work would occur in conjunction with his current efforts to remove drift and debris in the New York and New Jersey Harbor.

Amendment No. 9:

PROTECTION OF RECREATIONAL AND COMMERCIAL USES

This amendment modifies the section in the bill which requires the Secretary to consider any impact of a project on existing and future recreational and commercial uses in the area surrounding the project. The amendment provides that when the Secretary maintains, repairs, rehabilitates, or reconstructs a water resources project which will result in a change in the configuration of the structure which is part of the project, the Secretary is to carry out such maintenance, repair, rehabilitation, or reconstruction in a manner which will not adversely affect any recreational use which was established prior to the date of such work. This section is also made applicable to any work for which physical construction is initiated after May 1, 1988.

Amendment No. 10:

ENVIRONMENTAL ENHANCEMENT

Section 1135 of the 1986 Water Resources Development Act authorized the Corps to make modifications to existing Corps projects in the interest of improving the quality of the environment in the public interest. The bill extends this authority from two to five years. This amendment would require that a report be furnished to Congress at the end of that five year period.

Amendment No. 11:

COLLABORATIVE RESEARCH AND DEVELOPMENT

This amendment adds a new section to the bill authorizing the Secretary to use Army Corps of Engineers laboratories and research centers to undertake, on a cost shared basis, collaborative research and development with non Federal entities, including state and local governments, colleges and universities, and corporations, partnerships, sole proprietorships, and trade associations. Such work is authorized for the purpose of improving the state of engineering and construction in the United States and as consistent with the civil works mission of the U.S. Army Corps of Engineers. The amendment is consistent with the policy of the Committee on Science, Space, and Technology regarding cooperative Research and Development agreements. The inability of laboratories to provide matching funds under the Stevenson-Wydler Act repeatedly has been identified as an area that needs to be strengthened. The Committee on Science, Space, and Technology supports this additional test of cost-sharing which, if successful, would provide a basis for extending the Stevenson-Wydler Act authority to all government laboratories.

Amendment No. 12:

STUMPY LAKE, LOUISIANA

This subsection modifies the project for mitigation of fish and wildlife losses for the Red River Waterway, Louisiana, to include design and construction of structural or remedial measures, as necessary, to control erosion and protect the valuable environmental resources of the area between Lake Bistineau and Red River, and to authorize the Secretary to spend $500,000 in participation with the state of Louisiana on design, construction, and purchase of necessary lands and rights of way for such structural and remedial measures.

Amendment No. 13:

PRADO RESERVOIR, CALIFORNIA

This amendment would allow the holders of certain leasehold interests of mineral rights at Prado Reservoir, California to release those rights to the Federal government and in return to receive credits which could be used to purchase Federal excess property in exchange for the value of those rights relinquished. The level of Prado Reservoir is to be raised which will result in the leaseholds being inundated by the enlarged reservoir.

Amendment No. 14:

HYDROPOWER STUDY

This section authorizes the Secretary to conduct a study on the need to modernize and upgrade the federally owned and operated hydroelectric power system. The results of the study are to be submitted to the Congress not later than one year after enactment. Because the study will include the reservoirs of many agencies, the report should be furnished to each of the House and Senate committees of jurisdiction, including the Committee on Public Works and Transportation and the Committee on Interior and Insular Affairs of the House of Representatives, and the Committee on Environment and Public Works and the Committee on Energy and Natural Resources of the Senate.

Amendment No. 15:

BROKEN BOW LAKE, OKLAHOMA

The amendment authorizes and directs the Secretary to construct hydroelectric power production facilities at the Broken Bow Lake reregulating dam. The project was originally authorized for flood control, power and water supply by the Flood Control Act of 1958.

Amendment No. 16:

FEASIBILITY STUDY

This section amends 905(a) of the Water Resources Development Act of 1986 which relates to the content of the Corps of Engineers feasibility reports to require that the feasibility report also include a local and regional economic development plan for the project area. This is intended to allow local project sponsors to better evaluate the effects of a proposed water resources development project on the area. It applies where the project is located in an area which qualifies for designation as an economic redevelopment area under the Public Works and Economic Development Act of 1965.

Amendment No. 17:

BRIDGE ADMINISTRATION TRANSFER

This amendment would transfer many of the regulatory functions over bridges in the United States from the Department of Transportation, United States Coast Guard, to the U.S. Army Corps of Engineers. These functions were transferred to the Coast Guard through the Department of Transportation when the Department of Transportation was formed in 1966. This amendment would transfer the functions and personnel associated with these programs back to the Corps of Engineers. The amendment also provides a non navigability declaration for certain drainage ditches at Ridgefield, New Jersey.

This amendment transferring the bridge regulatory functions is within the joint jurisdiction of the Public Works and Transportation Committee and the Merchant Marine and Fisheries Committee and is offered on behalf of both committees.

Amendment No. 18:

BEAVER LAKE, ARKANSAS

This provision would amend Section 843 of the Water Resources Development Act of 1986 relating to the clean up of Beaver Lake, Arkansas to include a role for the Soil Conservation Service and to provide for the use of best management practices in controlling water quality problems at Beaver Lake. In addition, the Secretary is authorized to use previously appropriated funds to continue overall planning and design for the project including implementation plans for individual parcels of land within the drainage basin which contribute to water quality degradation and impairment of water quality uses at the lake. This amendment includes the Soil Conservation Service which is within the jurisdiction of the Agriculture Committee, and the committee acknowledges the jurisdiction and assistance of the Agriculture Committee in adopting this amendment.

Amendment No. 19:

PROJECT DEAUTHORIZATIONS

This amendment is a technical correction to a provision in the bill which makes the automatic deauthorization provision contained in the 1986 Water Resources Development Act applicable to projects authorized subsequent to that act. The automatic deauthorization provision operates to deauthorize any project authorized by the 1986 act, or subsequent to that act, which does not have funds obligated for construction of the project within 5 years of authorization.

Amendment No. 20:

GREAT LAKES AND ST. LAWRENCE SEAWAY

This amendment authorizes the Secretary to conduct a study of cost recovery options and alternative methods of financing navigational improvements on the Great Lakes and St. Lawrence Seaway, including modernization of the Eisenhower and Snell Locks of the St. Lawrence Seaway. The report is to be submitted within 18 months.

Amendment No. 21:

DECLARATION OF NON NAVIGABILITY FOR PORTIONS OF CONEY ISLAND CREEK AND GRAVESEND BAY, NEW YORK

The amendment declares a portion of Coney Island Creek and Gravesend Bay, New York to be non navigable waters of the United States within the meaning of the Constitution and the laws of the United States, except for purposes of the Federal Water Pollution Control Act and section 10 of the River and Harbor Act of 1899.

Amendment No. 22:

FROG POND AGRICULTURAL AREA, FLORIDA

This amendment authorizes the Secretary to perform a study on the need for an internal drainage system in the Frog Pond agricultural area of South Dade County, Florida. The first phase of this study, the reconnaissance phase, is to be submitted to the Congress within one year of enactment.

Amendment No. 23:

LESAGE-GREENBOTTOM SWAMP, WEST VIRGINIA

This amendment is a substitute for section 25 in the reported bill and prohibits the Secretary from conveying title to all or any part of the Lesage Greenbottom Swamp to the State of West Virginia. This land was purchased in conjunction with the construction of the Gallipolis locks and dam replacement on the Ohio River, and nothing in this section is to cause any delay in the construction of that project.

Amendment No. 24:

BOLSA CHICA, CALIFORNIA

This amendment modifies the project at Sunset Harbor, Bolsa Chica, California, to allow the Secretary to include wetland restoration as a project purpose and furthermore to provide that costs so allocated are to be paid by the non Federal sponsors pursuant to the Federal project repayment district concept authorized by the Water Resources Develolpment Act of 1986. This will result in full repayment of project costs by the non Federal interests for the project.

Amendment No. 25:

EAST ROCKAWAY INLET TO ROCKAWAY INLET AND JAMAICA BAY, NEW YORK

This amendment modifies the project East Rockaway Inlet to Rockaway Inlet and Jamaica Bay, New York to extend periodic beach nourishment for such project to the fiftieth year after construction of the project and to direct the Secretary to participate in periodic nourishment through the 50 year project life.

Amendment No. 26:

MISSISSIPPI FLOOD CONTROL, LA CROSSE, WISCONSIN

The amendment provides that any study or reevaluation of the Mississippi River at La Crosse, Wisconsin, flood control project which is undertaken pursuant to the Committee resolution of the Committee on Public Works and Transportation approved on March 15, 1988 is to be treated for purposes of section 905(b) of the Water Resources Development for such project completed in September, 1973 and not as an initiation of a new study for the project.

Amendment No. 27:

ABANDONED AND WRECKED VESSELS

The 1986 Water Resources Development Act directed the U.S. Army Corps of Engineers to remove the vessel A. Regina from a coral reef at Mona Island off Puerto Rico. This amendment would modify that provision to authorize the Secretary to enter into an agreement with a private person for removal of the vessel. The agreement will provide that consideration of the removal shall be transfer of title from the United States to such person of a Delong Pier jack up barge type A, with the transfer subject to such conditions as the Secretary determines appropriate, including a condition requiring such person to successfully remove the vessel. This authority is being granted because of the unique circumstances of this situation. It is not intended as a precedent for futurre transfers of excess property.

Amendment No. 28:

OPERATION OF CERTAIN PROJECTS TO ENHANCE RECREATION

This amendment adds the projects Stonewall Jackson Lake, Summersville Lake, and Sutton Lake, all in West Virginia. to section 7 of the bill which authorizes the Secretary to operate these projects in such a way as to enhance their recreational potential. Nothing in this amendment affects the operation of section 1102 of the 1986 Water Resources Development Act, relating to Gauley River Whitewater recreation.

Amendment No. 29:

ATLANTIC COAST OF MARYLAND

This provision modifies the authorization for the beach erosion control project for the Atlantic Coast of Maryland to allow non

Federal interests to continue work on the Federal project and to have the work performed after December 31, 1988 to be credited against their non Federal share for the entire project.

Amendment No. 30:

RICHARD B. RUSSELL RESERVOIR, GEORGIA AND SOUTH CAROLINA

This amemdment would prohibit the expenditure of funds for planning, financing, contracting, or construction in connection with the pump storage facility at the Richard B. Russell Dam and Lake, Georgia and South Carolina, except as necessary to comply with the Federal Water Pollution Control Act, the National Environmental Policy Act, or the Fish and Wildlife Coordination Act. The Secretary may also study and develop a means for prevention of fish entrainment.

Amendment No. 31:

MAUMEE BAY, OHIO

This is a technical correction to a provision in the bill which directs the Secretary to credit non Federal interests with the Federal share of work on the Federal project which had been previously completed by the non Federal interests.

Amendment No. 32:

PLANADA, CALIFORNIA

This section would provide that the flood insurance rate maps which the Federal Emergency Agency proposes for the area could not be used until such time as the U.S. Army Corps of Engineers has completed new hydrological studies of Miles Creek, California, to use as the basis for the establishment of revised base flood elevations to be used in setting flood insurance rates.

Amendment No. 33:

VALLEY CREEK, ALABAMA

This amendment authorizes the construction of a flood control project for Valley Creek, Alabama. The construction is conditioned upon the favorable report of the U.S. Chief of Engineers and approval by the Secretary of the Army.

Amendment No. 34:

PROGRESO, TEXAS

The amendment directs the Secretary of Commerce to waive the reimbursement requirement of amounts owed to the federal government which resulted from the sale of the Las Milpas portion of the water system improvements constructed pursuant to an Economic Development Administration project that was sold to the city of Pharr, Texas. The proceeds of the sale must be used for sewer and water improvments which would be eligible for assistance under the Public Works and Economic Development Act, the Consolidated Farm and Rural Development Act, of Title V of the Housing Act of 1949.

Amendment No. 35:

ROCHESTER, PENNSYLVANIA

This amendment corrects an erroneous cost estimate contained in the bill to increase the authorized cost from $35,000 to $90,000.

Amendment No. 36:

NOGALES WASH AND TRIBUTARIES, ARIZONA

The amendment would authorize a project for flood control, Nogales Wash and Tributaries, subject to a final report of the Chief of Engineers and approval of the Secretary of the Army. In addition, the amendment provides that nothing is to affect the authority of the Secretary to carry out a project in that area under the small project authority of section 205 of the Flood Control Act of 1948.

Amendment No. 37:

RESTORATION, VENTURA TO PIERPONT BEACH, CALIFORNIA

This amendment directs the Secretary to make such repairs as are required to restore Groin Number 1 of the Ventura to Pierpont Erosion Control Project to its original configuration as authorized pursuant to House Document 87-458.

Amendment No.38:

DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF THE DELAWARE RIVER

This amendment corrects technical errors in the description of certain property along the Delaware River in Philadelphia County, Pennsylvania which was declared to be nonnavigable waters of the United States within the meaning of the Constitution of the laws of the United States, except for purposes of the Federal Water Pollution Control Act and Section 10 of the act of March 3, 1899. That provision was contained in the reported bill.

Amendment No. 39:

KISSIMMEE RIVER, FLORIDA

The amendment directs the Secretary to proceed with work on the Kissimmee River, Florida demonstration project under the authority of section 1135 of the Water Resources Development Act of 1986. The Secretary received funding for this work in the Energy and Water Development Appropriations Act, 1989.

Amendment No. 40:

MISSISSIPPI AND LOUISIANA ESTUARINE AREAS, MISSISSIPPI AND LOUISIANA

This amendment would authorize a project for environmental enhancement for Mississippi and Louisiana, in accordance with the report of the Chief of Engineer dated May 19, 1986.

Amendment No. 41:

DIVISION LABORATORY

This amendment authorizes the Secretary to construct a new division laboratory for the United States Army Engineer Division, Ohio River. This laboratory would replace an existing facility.

Amendment No. 42:

AMENDMENT SUMMARY

This amendment deletes section 3(c) of the bill, which provides that the cost sharing requirements of the 1986 Act apply to projects authorized after the date of enactment of that Act. Concern has been expresed about the effects of this provision on previously authorized projects. The Committee did not intend to exempt in any way any projects from the 1986 cost sharing requirements, and is deleting the language so as to avoid any confusion. The matter will be addressed as necessary in conference to ensure that all projects are subject to appropriate cost sharing.

Amendment No. 43:

This amendment is a substitute for section 20 of the reported bill and it provides that costs paid by non Federal interests for municipal and industrial water supply associated with three projects in Kentucky are to be determined based on the original project cost estimates.

Amendment No. 44:

METROPOLITAN DADE COUNTY, FLORIDA

This amendment amends Public Law 100-202 to provide that money appropriated for the Metropolitan Dade County project is to be available for a grant to Metropolitan Dade County for a project including environmental restoration, hurricane protection facilities and dock space, and establishing public access and a regional public park along the Miami River.

Amendment No. 45:

This amendment would prevent the bridge across the Missouri River known as the Fort Yates Bridge from becoming automatically deauthorized on December 31, 1989, as provided by law. The bridge would be eligible for deauthorization with the next submission of proposed deauthorizations from the President.

Mr. Chairman, that completes my description of the amendments. I urge their passage.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON. I yield to the gentleman from California.

Mr. LEWIS of California. I thank the gentleman for yielding.

Mr. Chairman, am I to understand that these amendments include that which relates to that relatively minor modification in my district on the Santa Ana River?

Mr. ANDERSON. Yes; these amendments which have been offered have been cleared with the gentleman from Arkansas [Mr. HAMMERSCHMIDT], on both sides. The committee has worked them over rather well.

Mr. LEWIS of California. I very much appreciate the gentleman's assistance and I support his amendments.

Mr. HAMMERSCHMIDT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in reluctant support of the committee's en bloc amendments to H.R. 5247, the Water Resources Development Act of 1988.

Many of these amendments are necessary because of new developments since our committee markup. The package includes new projects, studies, and provisions, as well as refinements to existing provisions in our committee reported bill.

The package, however, also includes provisions that could endanger the prospects of the entire bill. Some of these provisions may be viewed as premature or controversial from the administration's standpoint. For this reason, I am concerned about the amendments and their impact on our efforts to pass a bill that the President can sign and that can return us to the regular, 2-year authorization process.

Some aspects of the package improve the bill, however. For example, the committee amendment includes the administration's proposals on collaborative research and development with the private sector. Our amendment also includes development with the private sector. Our amendment also contains the administration's bill to transfer regulatory authority over bridges and causeways from the Coast Guard to the Corps of Engineers. This is based on H.R. 4558, which was jointly referred to our committees and the Merchant Marine and Fisheries Committee. We offer this proposal to this bill at the request of the Merchant Marine and Fisheries Committee chairman, the distinguished gentleman from North Carolina, [Mr. JONES].

Mr. Chairman, another important provision involves implementation of the Beaver Lake, AR, cleanup project authorized in section 843 of the Water Resources Development Act of 1986—Public Law 99-662. This project has also been funded in both the fiscal year 1988 continuing resolution—Public Law 100-202—and the fiscal year 1989 Energy and Water Development Appropriations Act—Public Law 100-371.

The 1986 act authorized a 1-year study of the problems at Beaver Lake to identify measures to optimize the project's purposes while preserving and enhancing the quality of the reservoir's water. The study was to be undertaken in cooperation with interested Federal and State agencies and was to be followed by a project to determine the effectiveness of the measures identified in the study.

Unfortunately, the corps appears to be pursuing an approach of more study rather than one that focuses on solving the problem. In my view, this is a waste of scare Federal funds. We need to go beyond additional studies and begin to design a solution based on best management practices and watershed activities.

The amendment is consistent with Congress' intent when it authorized and funded the project. It is meant to ensure greater emphasis on the Soil Conservation Service, best management practices, and action taken rather than unnecessary study.

On balance, Mr. Chairman, I believe the committee's en bloc amendment contains more that benefits the bill than detracts from it and I, therefore, give to it my support.

Mrs. VUCANOVICH. Mr. Chairman, I rise in support of the amendment offered by my colleague, Mr. ANDERSON, to H.R. 5247, the Water Resources Development Act. I would like to thank the chairman; ranking minority member, Mr. HAMMERSCHMIDT; Mr. NOWAK, chairman of the subcommittee; and Mr. STANGELAND, the subcommittee's ranking minority member for their hard work and assistance on this bill.

Mr. Chairman, this amendment contains a provision that is important to my district. One of the bill's projects is for flood control in the Truckee Meadows. The Truckee Meadows has a long history of flooding, most recently in 1986, and is also becoming more urbanized. If history were to repeat itself, the flooding would have a devastating effect on the Reno-Sparks area of my State.

When the Corps of Engineers drafted its first feasibility report for this project, it included a provision for the creation of approximately a 300-acre marsh for wildlife enhancement. This provision was agreed to by local U.S. Fish and Wildlife Service officials, but removed at the regional level because of requirements for the service to operate and maintain the project. This year, discussions were held with the Fish and Wildlife Department and it has now agreed that the service will assume the responsibility for operations and maintenance.

The committee amendment being considered before the House amends the Truckee Meadows flood control project to include the creation of the 300-acre marsh as originally proposed by the corps. This marshland would have significant benefits to the wildlife as well as improve the water quality of the Truckee River which would come to the aid of the Cui Ui fish, and endangered species in Pyramid Lake.

Mr. Chairman, this is a good amendment to a very important bill and I urge my colleagues to support them both.

Mr. STANGELAND. Mr. Chairman, I rise in reluctant support of the committee's en bloc amendments to H.R. 5247, the Water Resources Development Act of 1988.

Many of these amendments are necessary because of new developments since our committee markup and because of subsequent discussions with other committees. Today's package of amendments includes new projects, studies, and other provisions, as well as refinements to existing provisions in our committee-reported bill.

On the whole, however, I am concerned about the impact of these amendments. They will make our task in conference with the other body more difficult than before. Regardless of their individual merit, these amendments increase the size and scope of our bill. And as you know, Mr. Chairman, the larger and more controversial our bill becomes, the less likely our chances are of producing a signable bill.

Even so, our package makes some important contributions to the bill. One amendment, known as the "construction productivity advancement research" provision, will promote research and development within the corps and encourage partnerships with the private sector.

Other important amendments include the Big South Fork Recreation Area in Kentucky; flood control in La Crosse, WI; marsh protection at Truckee Meadows, Nevada; and erosion control and wildlife protection at Stumpy Lake in Louisiana. The gentlemen from Kentucky [Mr. ROGERS], Wisconsin [Mr. GUNDERSON], and Louisiana [Mr. MCCRERY]; and the gentlelady from Nevada [Mrs. VUCANOVICH] have all worked tirelessly on behalf of their constituents to address these water resources needs in a fair and equitable manner.

The La Crosse, WI, provision is particularly important to understand. This is not an exemption from or erosion of the cost sharing principles in the Water Resources Development Act of 1986. The provision is limited strictly to a particular situation involving unique circumstances and poorly timed appropriations. It will not set any precedent for a retreat from the 1986 cost sharing reforms.

Another provision authorizes the corps to study financing and cost recovery opportunities for projects in the Great Lakes connecting channels and St. Lawrence Seaway, including the Eisenhower and Snell Locks. The gentleman from Michigan [Mr. PURSELL] has shown great leadership in protecting commercial navigation of the seaway and been very helpful with this provision in particular. This important study, funded by the Federal Government, will provide crucial information to ensure the continued vitality of the seaway and connecting channels.

The committee amendment also includes H.R. 4558, the Bridge Administration Transfer Act of 1988. This legislation was introduced by request on March 10, 1988, Referred jointly to Merchant Marine and Fisheries and Public Works and Transportation, and reported by Merchant Marine on September 23, 1988. Based on a proposal by the administration, the bill transfers authority to administer bridges and causeways over "navigable waters of the United States" from the Coast Guard to the Corps of Engineers. The transfer should help ease problems with regulatory duplication and inefficiency caused by the current divisions of responsibility between the Coast Guard and the corps.

We understand the Secretaries of Transportation and the Army will develop a memorandum of agreement outlining procedures for the transfer. The Public Works and Transportation Committee expects to be kept fully informed on the development of this agreement.

The amendment also includes a provision authorizing the corps to repair a groin in the vicinity of Ventura, CA. Originally, this small-scale but important authorization was contained in section 3 of our bill. We have relocated the provision in our bill in order to emphasize the need for expedited action by the corps. It is our understanding the groin needs emergency repair. We expect the corps to proceed as soon as possible on restoring the groin to its original configuration.

Mr. Chairman, the committee amendment represents a compromise. I urge my colleagues to support it so we can begin our negotiations with the other body as soon as possible.

Mr. RAHALL. Mr. Chairman, one of the committee amendments being offered to H.R. 5247 was drafted by this gentleman from West Virginia and involves an area referred to as the Lesage-Greenbottom Swamp.

The U.S. Army Corps of Engineers is currently in the process of completing the acquisition of this area in West Virginia for fish and wildlife, mitigation purposes in connection with the Gallipolis locks and dam replacement project on the Ohio River. Of the 838 acres involved in the project, all but about 25 acres are located in Cabell County within my congressional district.

Recently, it came to my attention that the corps planned to transfer the title of this area to the State of West Virginia. It fact, without consulting with this gentleman, the corps provided legislative language to the committee for this propose.

This arrangement seems a bit unusual. Various corps project lands are often leased, not deeded, to the State to manage as, for example, public hunting and fishing areas. However, I have now learned that the proposed transfer of title to this area has no substantive basis other than Reagan administration policy to divest Federal land holdings.

Fish and wildlife enhancement, management and public hunting is the true concern here, and there is simply no reason why the Federal Government should not lease this area, rather than transfer fee title, to the State. I cannot in good conscience stand idly by and allow 838 acres of West Virginia land be purchased from private owners by the Federal Government and then immediately transferred out of Federal ownership.

For this reason, H.R. 5247 not only does not provide legislative authority to the Corps of Engineers to transfer title to the Lesage/Greenbottom Swamp area, but contains language specifically prohibiting such an action. The intent here is to proceed with a lease arrangement with the State.

Mr. BENNETT. Mr. Chairman, I support the en bloc amendments to the Water Resources Development Act of 1987, particularly the portion dealing with the Kissimmee River in Florida.

The fiscal year 1988 appropriations bill contained report language directing the Corps of Engineers to spend $2 million for the Kissimmee River restoration. Unfortunately, the corps has refused to use that money because it wasn't a high priority.

The en block amendment contains specific statutory language directing the corps to use that money as Congress intended.

While this river is outside my district, I recognize the Kissimmee as a vital link in the Kissimmee as vital link in the Kissimmee River—Lake Okeechobee-Everglades watershed. As such, it plays a key role in protecting the Everglades, a great national treasure.

So, I commend the committee for including this amendment. I strongly support it.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California [Mr. ANDERSON].

The amendments were agreed to.

AMENDMENT OFFERED BY MR. PETRI

Mr. PETRI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PETRI: Page 35, strike line 14, and all that follows through line 8 on page 36 (all of section 16).

Renumber succeeding sections accordingly.

Mr. PETRI. Mr. Chairman, as we have heard, my amendment strikes section 16. Section 16 declares that Sacramento, CA, has made adequate progress on flood protection for the purposes of the National Flood Insurance Program. I am very concerned about the precedent set by this section.

First, under current law, the determination that adequate progress has been made generally carries with it a requirement that a project be both fully authorized and 50 percent complete. In the case of Sacramento, there isn't even a plan in place.

In fact, the Corps of Engineers started the feasibility study for such a project just a few weeks ago and it won't be complete for about 2 years.

So, in effect, Congress is arbitrarily declaring that the Sacramento area is adequately protected from flooding and is a safe place to build.

This will make low cost, highly subsidized flood insurance available for properties on some 50,000 acres in low-lying flood prone lands. I don't think we ought to be providing an incentive to build on a flood plain when inadequate flood protection exists.

This is a bad precedent that could be invoked in other parts of the country. The financial stability of the Federal Flood Insurance Program depends on accurate assessments of the risks involved in building in a given flood-prone area.

To declare an area safe arbitrarily just for the purpose of providing subsidized flood insurance goes against the basic premise for providing flood insurance in the first place.

I have been told that one of the reasons this section is needed is so that developers do not provide adequate protection for their building projects on their own.

This is supposed to ensure a unified approach to the flood protection problem for the whole area. But, this could be accomplished without providing this special exemption.

It could be done the way development control is achieved in most jurisdictions—through the issuance or nonissuance of building permits by local officials. We do not need to establish a bad precedent simply to solve a local problem. I am not interested in making decisions for the people of Sacramento about their flood control needs.

However, I am concerned about the precedent of establishing a policy whereby Congress arbitrarily states that an area's adequately protected when it clearly is not. For this reason, I urge my colleagues to support my amendment.

PERFECTING AMENDMENT OFFERED BY MR. FAZIO

Mr. FAZIO. Mr. Chairman, I offer a preferential perfecting amendment.

The Clerk read as follows:

Perfecting amendment offered by Mr. FAZIO:

Page 35, strike line 14 and all that follows through line 8 on page 36 (all of section 16) and insert the following:

SEC. 16. SACRAMENTO, CALIFORNIA.

(a) FINDINGS.—The Congress finds that—

(1) the Sacramento, California area has had in place a flood control system which has been classified as protecting against floods with recurrence intervals of up to 125 years;

(2) local governmental entities in the Sacramento metropolitan area have been working diligently with the State of California, the Army Corps of Engineers, and the Bureau of Reclamation since the occurrence of a heavy storm in 1986 to formulate and implement a comphrehensive plan to provide high level, efficient flood protection to the region;

(3) the Federal Emergency Management Agency, in response to studies by the Corps of Engineers indicating increased flood vulnerability attributable to increased estimates of the frequency of large storms in the region, has begun a process of re-analyzing the flood risks in the Sacramento area, and this analysis is likely to result in substantially increased flood elevation requirements under the National Flood Insurance Program;

(4) changed flood elevation requirements attributable to a change in flood elevation determinations by the Director of the Federal Emergency Management Agency will cause severe disruption in the Sacramento region and could precipitate the break-up of the political, institutional, and economic relationships sustaining the high level, comprehensive, flood protection effort;

(5) failure to implement a comprehensive plan would leave substantial portions of the Sacramento area without necessary flood protection, and, further, could impose on the Federal Government various, substantial costs related to emergency responses and damage claims in the event of a major flood;

(6) the Federal purposes embodied in the National Flood Insurance Program to minimize development in flood plains, to minimize damages caused by floods, and to reduce requirements for costly flood protection projects remain valid for the Sacramento metropolitan area, and impose upon its local governmental jurisdictions an obligation to exercise their authorities to avoid undue exposure to the dangers of floods and to voluntarily comply to the maximum extent practicable, consistent with other purposes of this section, with the National Flood Insurance Program standards which are anticipated to be applicable to the Sacramento area following expiration of the period set by subsection (b);

(7) the City and County of Sacramento have each provided assurances to the Congress that they will not designate any increases in urbanization beyond lands already so designated in their general plans during the period set forth in subsection (b), and, in addition, that in the exercise of their discretion to approve new development they will give careful consideration to—

(A) an evaluation-emergency response plan;

(B) mechanisms by which to attempt to provide notice to all buyers of new structures;

(C) retention of natural floodways; and

(D) recommendations to all buyers of new structures to purchase flood insurance;

(8) the City and County of Sacramento, in their discretion, reserve the authority to impose elevation or other requirements for new construction based upon best available flood data if facts indicate the necessity of doing so; and

(9) maintenance of the Federal flood elevation requirements now in effect for the Sacramento area for the limited period set forth in subsection (b) will facilitate implementation of the high level, comprehensive plan for flood protection in the Sacramento area, and is therefore in the interest of Sacramento, the public safety, and the United States.

(b) FLOOD ELEVATIONS.—Prior to the expiration of two years after the date on which the Secretary submits to the Congress the report on the feasibility study on Northern California Streams, American River Watershed, but not later than four years after the date of enactment of this act, the provisions of the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of

1973 shall apply on the basis of flood map elevation determinations made by the Director of the Federal Emergency Management Agency in effect as of the date of enactment of this Act to the following areas:

(1) the floodplain areas within Sutter and Sacramento Counties, California (collectively known as the "Natomas area") which are bounded by the Sacramento River, the American River, the Natomas Cross Canal, and the floodplain of the Natomas East Main Drainage Canal;

(2) the floodplains with Sacramento County of Dry Creek, Arcade Creek, and Morrison Creek, to the extent these creeks are affected by the American and Sacramento Rivers, the American River, and the Sacramento River upstream of the City of Freeport, California; and

(3) the City of West Sacramento in Yolo County, California.

(c) BUDGET SUBMISSION.—The President, in submitting his budget for fiscal year 1990, shall include a schedule for completing the study referred to in subsection (b) as expeditiously as practicable and an estimate of the resources required to meet such schedule.

Mr. FAZIO (during the reading). Mr. Chairman, I ask unanimous consent that the perfecting amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FAZIO. Mr. Chairman, I respect the gentleman from Wisconsin [Mr. PETRI] a great deal and understand the concerns which have led him to offer his amendment to strike this provision. In the interim, since the full committee markup, we have been working together to try to find a way to compromise our differences and I hope we have accomplished that.

First of all, this provision that I have offered as an alternative to his language would allow for the remaining 2 years of the feasibility study and 2 more years in which hopefully Congress could enact a flood control authorization bill to allow during that 4-year period a continuing moratorium on FEMA's eliminating flood insurance for those existing uses that exist in the flood plain and in effect would prevent FEMA from imposing a building moratorium on large areas of the Sacramento suburban and urban area which do fall within the 100-year flood plain and currently being determined by the Corps of Engineers in their remapping process.

We clearly do not want the community to in any way fail to understand the serious situation that exists. So we have been working with the city and the county to bring together through resolution and letters a record of what they intend to do in terms of land use in that region.

☐ 1515

I am hopefully assured by this, as I am sure many others are, that they are now willing to stipulate that they will make no further conversion of agricultural land to other forms of land use, and that they will in effect comply with their existing zoning, so that this does not kick off an unlimited development in the flood plain area.

Mr. Chairman, does the gentleman wish to conduct a colloquy to further clarify the amendment?

Mr. PETRI. Yes, I do. Mr Chairman, will my colleague yield for a couple of questions?

Mr. FAZIO. I am happy to yield to the gentleman from Wisconsin.

Mr. PETRI. Mr. Chairman, I first want to thank my colleague, the gentleman from California, for all the work he has put in in behalf of his constituents. I have the highest respect for his judgment and hard work. We have worked on a lot of things together, and I just want to say this has been a little bit more difficult than some of the others, although they have all been difficult in one way or another. But it has always been a pleasure working with the gentleman.

The first question I have is this:

The relevant section in H.R. 5247 defines "project" as including physical facilities of the Central Valley project located 100 miles or more away from the Sacramento Basin and which provide no flood control protection to Sacramento whatsoever. Does the gentleman's amendment delete this definition?

Mr. FAZIO. Yes, it does, but we should not lose sight of the fact that there are substantial existing flood control facilities, including some that are more than 100 miles a way, that do contribute to our safety in the area. But we have, in the interest of compromise, eliminated that section.

Mr. PETRI. Mr. Chairman, will the gentleman yield further?

Mr. FAZIO. I yield to the gentleman from Wisconsin.

Mr. PETRI. Mr. Chairman, another objection to H.R. 5247 was that statutory extension was open ended and had no time limit. Does the gentleman's amendment establish a time cap?

Mr. FAZIO. Yes. As I indicated, it will allow for a 4-year cap.

Mr. PETRI. Mr. Chairman, will the gentleman yield further?

Mr. FAZIO. Certainly.

Mr. PETRI. H.R. 5247 legislatively declared that adequate progress had been made despite the fact that no work had been initiated for any comprehensive flood control program in Sacramento. Has this provision been eliminated?

Mr. FAZIO. Yes, it has been. However, we have initiated considerable efforts to provide comprehensive flood protection for the area, including a number of studies which are going forth at the present time, and, most importantly, the feasibility study which is well under way.

Mr. PETRI. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I am happy to yield to the gentleman from Wisconson

Mr. PETRI. What assurance does the Federal Government have that the city and county will exercise great restraint in the issuance of development permits in the flood plain during a period in which the comprehensive flood control plain is being formulated?

Mr. FAZIO. The city and county have publicly pledged to exercise such restraint through letters and resolutions.

Mr. PETRI. Mr. Chairman, if my colleague will yield further, there is a concern that permits issued for development in the flood plain are effectively generating benefits for the Army Corps of Engineers feasibility study for Auburn Dam. What assurances do we have that the city and country of Sacramento will not attempt, in concert with ongoing feasibility studies, to generate new project benefits through the issuance of development permits in the flood plain?

Mr. FAZIO. Certainly, the gentleman from California [Mr. MATSUI] and I would be working to assure the gentleman to that degree, and the highest priorities of the city and county are flood protection, and we feel they will take precedence over anything else.

Mr. PETRI. Mr. Chairman, if the gentleman will yield further, the concern, plainly stated, is that the city and county will engage in a wholesale land rush in the flood plain. Can the gentleman provide the House with assurances that this will not happen?

The CHAIRMAN. The time of the gentleman from California [Mr. FAZIO] has expired.

(On request of Mr. PETRI, and by unanimous consent, Mr. FAZIO was allowed to proceed for 3 additional minutes.)

Mr. FAZIO. Mr. Chairman, in answer to the gentleman's question, we feel confident that this will not occur. We certainly do not anticipate the city or county moving into a wholesale land rush in the area. I think that is also on record in terms of communications from the city and county board and the city council.

Mr. PETRI. Mr. Chairman, is it the gentleman's understanding that the substitute amendment would not impede FEMA from developing and issuing the new flood plain maps?

Mr. FAZIO. That is correct, it will not, and we do not want that to occur. We want the community to know the extent to which it is vulnerable to flooding.

Mr. PETRI. It is further the gentleman's understanding that the Fazio-Matsui substitute would not impact on

FEMO's notification and mandatory insurance requirements?

Mr. FAZIO. That is our understanding, that it will not.

Mr. PETRI. Mr. Chairman, if the gentleman will yield further, with the gentleman's amendment, he seeks flexibility in the administration of current FEMA rules and policies. In effect, the city and county seeks a partnership with the Federal Government to provide that flexibility. Will the city and county conduct themselves as full partners with the Federal Government by demonstrating great restraint in the issuance of development permits in the flood plain?

Mr. FAZIO. It is certainly my understanding that they will use restraint, in accordance with their general plains in the area.

Mr. PETRI. Mr. Chairman, if the gentleman will yield further, in other words, will the gentleman from California assure this body that by granting this extension the city will act responsibly and with restraint in the issuance of development permits?

Mr. FAZIO. Certainly that is our intent, and they have communicated their willingness to do that.

Mr. PETRI. Is it the gentleman's understanding that the city and county will avoid encroachment on existing floodways and avoid drainage of wetland areas that assist in evacuating flood waters?

Mr. FAZIO. Yes, I think that is their policy, and that they intend to follow it.

Mr. PETRI. Finally, is it the gentleman's understanding that the city and county of Sacramento, to the extent that permits are issued during the period of the extension for development in the flood plain, will issue building permits in accordance with standards of the Federal Flood Insurance Program which are anticipated to be applied once the extension expires?

Mr. FAZIO. Yes, that is my understanding. Toward the end of the 4-year period, if we have not made progress, that would be their plan.

Mr. PETRI. Mr. Chairman, I thank my colleague for yielding.

Mr. FAZIO. Mr. Chairman, I thank my friend, the gentleman from Wisconsin [Mr. PETRI] for his very constructive efforts to help clarify this bill, and I very much appreciate the spirit in which we engaged in our compromise.

Mr. SHUMWAY. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I am happy to yield to the gentleman from California.

Mr. SHUMWAY. Mr. Chairman, I do not want to subject the gentleman to an inquisition here, but there is another area that I would just like to inquire about briefly, and I would appreciate the gentleman's response.

The gentleman's amendment refers in several instances to the need for Sacramento to "implement a comprehensive plan to provide high level, efficient flood protection for the region."

As the gentleman well knows, there are both the so-called expandable dry dam options for comprehensive flood control and the traditional multipurpose option which also would provide comprehensive flood control.

I would like to clarify for the record that when your amendment refers to a comprehensive flood protection plan you are not referring just to the expandable dry dam options. And that during this window from FEMA restrictions under your amendment local efforts on behalf of the multipurpose can move forward.

Mr. FAZIO. That is correct. This amendment does not make a judgment one way or the other as to what the long-term comprehensive plan will or should be—stageable dry dam or multipurpose dam. But rather the amendment simply makes it clear that the city and county of Sacramento are committed to moving forward in implementing a comprehensive plan as soon as feasible.

Mr. SHUMWAY. Mr. Chairman, I thank the gentleman. And with that understanding I support the amendment.

Ms. KAPTUR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to thank the committee, particularly the gentleman from New York [Mr. NOWAK] of the full committee, and the gentleman from California [Mr. ANDERSON] of the subcommittee, and I also rise on behalf of my fellow colleague from the State of Michigan, the gentleman from Michigan [Mr. PURSELL], regarding an amendment that was accepted in the committee to provide a study of the financing of navigational improvements for the Great Lakes and the St. Lawrence Seaway System. We thank the committee so very much for their consideration of this important amendment whereby the Secretary, in cooperation with other Federal agencies and private persons, is authorized and directed to consult with an independent third party to conduct a study of the cost recovery options and alternative methods of financing navigational improvements on the Great Lakes connecting channels and the St. Lawrence Seaway, including modernization of the Eisenhower and Snell locks of the St. Lawrence Seaway System.

Mr. Chairman, the building of the St. Lawrence Seaway back in the 1950's provided a water link for the Great Lakes States and the entire Midwest region with the outside international marketplace. Now with the intensified interest in international trade as witnessed this year with the trade bill and the United States-Canada Trade Agreement, the seaway must be improved if it is to serve America and the Midwest in this new era of international trade.

The seaway must remain competitive with other modes of transportation if the Midwest economy is to be served by a complete support system for the movement of goods and raw materials between the Midwest and international destinations. It offers the cheapest form of transportation. Sixty percent of all manufactured goods in the United States are manufactured within a stone's throw of the Great Lakes Seaway.

The present locks were built in the 1950's and are too small and narrow for today's new cargo ships used in international trade. As the locks have aged since the seaway was opened 30 years ago, bridge and lock accidents have increasingly hampered operations. Prevention maintenance and repairs are not enough to keep the seaway competitive.

We must begin to face up to the costs of rebuilding the seaway locks and find a way to finance this important project. We cannot wait until ships are backed up or shipping lines withdraw from commerce on the seaway.

Over the past few years we have seen growth in seaway traffic. The turnabout in the steel industry continues to benefit the seaway. Most of this industry is located in the Great Lakes region. Iron ore on the seaway surged up 20 percent in 1987 as many steel mills in the region ran at full capacity.

The Department of Agriculture predicts a substantial rise in farm exports for this year. Three of the top 10 farm exporting States are on the Great Lakes. Grain sales to the U.S.S.R., Europe, Egypt, and Algeria are strong with exports going through the Seaway.

Under the amendment, the Army Corps of Engineers would consult with other Federal agencies and private sector, to explore cost recovery options and alternative financing methods for modernizing the two American locks on the St. Lawrence Seaway and other connecting links in the Great Lakes region.

The St. Lawrence Seaway is the only waterway in our country which has paid its own way from the start. It has been required to pay back construction costs and interest to the Federal Government. Whatever construction costs are eventually incurred by modernization and widening the locks and channels in the St. Lawrence Seaway, I am sure this proposed amendment will provide us with the most cost effective manner including cost recovery to achieve this major modernization so necessary to our region of the country.

Mr. Chairman, I again want to thank all the members of the committee for their consideration of this amendment, and I commend the gentleman from Michigan [Mr. Pursell] for his leadership on this issue.

PARLIAMENTARY INQUIRY

Mr. HAMMERSCHMIDT. Mr. Chairman, an amendment was offered by the gentleman from Wisconsin [Mr. Petri], amended by the gentleman from California [Mr. Fazio]; is that correct?

The CHAIRMAN. The amendment has not been amended as yet. If there is no further discussion on the Fazio amendment, the Chair will put the question on the perfecting Fazio amendment.

Mr. HAMMERSCHMIDT. I thank the Chair.

The CHAIRMAN. The question is on the perfecting amendment offered by the gentleman from California [Mr. Fazio].

The perfecting amendment was agreed to.

The CHAIRMAN. Under the precedents, the perfecting amendment, amending the entire section, having been adopted, the motion to strike offered by the gentleman from Wisconsin [Mr. Petri] fails and is not voted upon.

AMENDMENT OFFERED BY MR. HOPKINS

Mr. HOPKINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Hopkins: Page 33, after line 12, insert the following new section:

SEC. 11. COST SHARING FOR MUNICIPAL AND INDUSTRIAL WATER SUPPLY.

(a) Declaration of Policy.—Congress declares that there is a national interest in the development of adequate and dependable sources of water for municipal and industrial purposes through Federal funding and other assistance for construction of multipurpose water resource projects which include municipal and industrial water supply as a project purpose.

(b) Cost Sharing.—Section 103(c)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(c)(2)) is amended by striking out "100 percent" and inserting in lieu thereof "35 percent".

(c) Operation and Maintenance.—The Secretary may enter into agreements with non-Federal interests providing for Federal cost sharing with respect to operation maintenance of civil works—

(1) the primary functions of which are municipal and industrial water supply, and

(2) which are constructed on or after the date of the enactment of this Act with Federal assistance from the Secretary.

The Federal share of the cost of such operation and maintenance shall be in accordance with section 103(c)(2) of the Water Resources Development Act of 1986.

Redesignate the subsequent sections of the bill accordingly.

Mr. HOPKINS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. HOPKINS. Mr. Chairman, I offer this amendment today to make the point that America's water policy is outdated and discriminatory and inadequate to the needs of this Nation. A water policy which focuses exclusively on flood control and navigable waterways but is blind to the need for an adequate water supply is simply not good enough for America.

Unfortunately, that describes our current water policy. The simple purpose of this amendment now before the House is to improve that policy by making water supply projects eligible for Federal cost sharing. It is a necessary and important change, because many areas of the country are plagued by inadequate and dwindling water supplies. One such area is the Bluegrass region of Kentucky, which is feeling the adverse effects of the drought of 1988 and several consecutive years of deficit rainfall over the past decade. Many other areas of the country are seeing their water supplies severely threatened and diminished by groundwater pollution, the magnitude of which we are now only beginning to understand.

□ 1530

Water is the livelihood of a healthy nation, and it can no longer be the stepchild of an obsolete Federal policy. Helping communities and regions of this Nation deal with water shortages is a Federal responsibility every bit as much as helping those damaged by floods. By amending present law to establish a 65-percent Federal cost-sharing formula for water supply projects we can add both fairness and common sense to our water policy.

Mr. Chairman, my concern for the budget deficit is well known to this House. So let me assure my colleagues that this amendment is in keeping with my amendment to a balanced budget. It does not necessarily expand Federal outlays. All it does is allows those of us threatened by diminishing sources of water to drink from the Federal pool of available funds. Today we are denied access to that pool, and that is not only unfair, it is shortsighted and potentially disastrous.

So I ask this House, Mr. Chairman, if they are willing to let those cities and towns, regions which happen to have scarce water supplies, simply dry up and blow away like some 18th-century cow town that was bypassed by the railroad. America is better than that, and its water policy should be, too, and it can be with the adoption of the amendment before us.

However, I realize that this amendment will have a far-reaching effect on the management of America's water resources and will touch the lives of millions of Americans. It obviously deserves careful consideration within our committee system.

So out of respect for that process I will not ask the House to rush to judgment and make that decision today. Therefore, Mr. Chairman, I would ask at this time if I might engage the gentleman from New York [Mr. Nowak], the chairman, and the gentleman from Minnesota [Mr. Stangeland], the ranking minority member, in a brief colloquy so that I might receive assurance that the Water Resources Subcommittee will schedule hearings on this issue to give it proper and thoughtful consideration in the next Congress. So, I ask these gentleman if this is the understanding of the subcommittee chairman and the ranking minority member.

Mr. NOWAK. Mr. Chairman, will the gentleman yield?

Mr. HOPKINS. I yield to the gentleman from Minnesota.

Mr. NOWAK. Mr. Chairman, I thank the gentleman from Kentucky [Mr. Hopkins] for yielding, and I agree that the gentleman is correct.

Mr. Chairman, the Subcommittee on Water Resources is very concerned with the growing national problem on inadequate and contaminated water supplies. Financing can be particularly difficult for local governments, and, while the subcommittee shares the gentleman's concerns, we believe the amendment proposes a major policy change and deserves committee consideration.

We certainly look forward to giving the new policy a very broad hearing in the upcoming Congress.

Mr. HOPKINS. Mr. Chairman, I thank the gentleman from New York [Mr. Nowak] for his commitment.

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. Hopkins] has expired.

(By unanimous consent, Mr. Hopkins was allowed to proceed for 2 additional minutes.)

Mr. STANGELAND. Mr. Chairman, will the gentleman yield?

Mr. HOPKINS. I yield to the gentleman from Minnesota.

Mr. STANGELAND. Mr. Chairman, I concur with the gentleman from Kentucky [Mr. Hopkins] and the chairman of the subcommittee. Inadequate water supplies are a growing national problem. The corps' current policy, however, does not place a high priority on water supply development. Perhaps it should, particularly in light of the recent drought and the ongoing problems with ground water pollution.

H.R. 5247, however, is not the right vehicle for such a broad-reaching policy change. We need to look at this issue in depth before we suggest changes of longstanding policy and cost sharing principles.

I know with the chairman's leadership the subcommittee will look at water supply issues, throughly in the 101st Congress.

We also share the concern of the gentleman from Wisconsin [Mr. PETRI] on water conservation particularly in light of the recent drought, and we will be looking at that in the next session as well.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. HOPKINS. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, let me commend by colleague, the gentleman from Kentucky [Mr. HOPKINS] for his amendment and a separate bill which he has filed, which I am happy to be a cosponsor of, which would achieve the same result. The gentleman is absolutely correct. The water supply of many of the areas of the Eastern United States, particularly in late months and years, have become contaminated and polluted. The underground supply is endangered for areas that in the past historically had wonderful supplies of water, including my area.

So, Mr. Chairman, I commend the gentleman from Kentucky [Mr. HOPKINS] for this effort. In the past, the policy of this Nation; in fact, the policy now, is that in the Western part of the country and west of the Mississippi, the Bureau of Reclamation is allowed to build, authorized to build, water supply projects. In the Eastern United States, the Corps of Engineers, who has control of the water systems, does not have such authority, and that is unfair in these days when the Eastern United States is beginning to suffer from inadequate or contaminated supplies of fresh water. So, Mr. Chairman, I commend the gentleman from Kentucky [Mr. HOPKINS] for a noble effort.

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. HOPKINS] has expired.

(By unanimous consent, Mr. HOPKINS was allowed to proceed for 3 additional minutes.)

Mr. HUBBARD. Mr. Chairman, will the gentleman yield?

Mr. HOPKINS. I yield to the gentleman from Kentucky.

Mr. HUBBARD. Mr. Chairman, I thank the gentleman from Kentucky [Mr. HOPKINS] for yielding, and I would reiterate what my colleague from the Fifth District of Kentucky has just said regarding our colleague from Kentucky, and also his amendment, the bill he has introduced. We concur in what he is trying to do to help our Commonwealth of Kentucky and support his efforts.

Mr. WHITTAKER. Mr. Chairman, I would like to take this opportunity to congratulate my distinguished colleague from Kentucky for recognizing the vast importance of this issue. Also, I would like to commend the distinguished chairman and ranking minority member of the Water Resources Subcommittee for their commitment to fully address this issue in hearings to be conducted next year.

The Water Resources Development Act of 1986 set forth many necessary guidelines for the establishments and perpetuation of the many needed local water projects across this great country. However, along the way, local communities were left behind. While Federal water policy allows for the development of recreational and flood control projects, municipal and industrial water supplies were excluded from Federal consideration. As a result, small towns like many of those located throughout the great States of Kansas and Kentucky cannot finance needed water supply projects.

I believe my distinguished colleague's bill will go a long way toward correcting this inequity. While immediate action is needed, I look forward to working with the distinguished leaders of the Water Resources Subcommittee in the next session in their efforts to reconcile this great injustice.

Mr. HOPKINS. Mr. Chairman, I thank my colleagues, the distinguished chairman of the subcommittee and the ranking minority member, for their interest in this very important issue, and, with their commitment that this issue will be addressed in depth in the next Congress, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. DERRICK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the committee amendment, and, in particular, in support of a provision dealing with a project in my district. The Army Corps of Engineers is currently attempting to build a $74 million pump storage addition to the Richard B. Russell Dam between South Carolina and Georgia. The operation of the four planned pump turbines would allow water to be pumped back above the dam so that water flow and electric generation could be increased at peak electricity demand periods. Serious questions have been raised about the effect the operation of these turbines could have on the large game fish population in Strom Thurmond Lake immediately below the Russell Dam.

In 1982 when a single turbine was tested at a similar dam, the Harry S. Truman Dam in Missouri, more than 2,000 pounds of fish were killed in about 3 hours of operation. As a result of this, the pump turbines at the Truman Dam have never been put into operation.

Experts at the U.S. Fish and Wildlife Service and the South Carolina Wildlife and Marine Resources Department fear that similar results could occur at the Russell Dam. Despite these fears and requests by me and others that there should be a thorough assessment of potential harm to fish populations before any more construction occurs, the corps has insisted on proceeding as planned with the project. The corps has agreed that a supplemental environmental impact statement should be carried out, but it plans on completing construction of the project about the time and the EIS should be finished.

When the South Carolina Wildlife and Marine Resources Department, the National Wildlife Federation and others took the corps to court, a Federal judge agreed that work should be suspended pending a decision whether the supplemental EIS must be completed before construction may be resumed.

While this might seem to resolve the issue, it is not a satisfactory solution for two reasons: First, the court could still decide on technical legal grounds that the corps does not have to complete the EIS before it proceeds with the project. More importantly, the court can only require that the corps comply with the procedural requirements of the environmental laws. If the corps does complete the EIS, even if the information gathered compellingly demonstrates that there will be significant fish kills if the pump turbines are operated, the corps would still be legally able to complete the project. Because the corps has demonstrated its determination to finish this project in the face of any evidence of potential damage, I believe that the Congress should reserve for itself the responsibility to assess the evidence that it gathered and then determine whether it is a wise use of the taxpayers' dollars to complete the project.

The provision included in the committee amendment would prohibit any further expenditures on the project, for work at the site or away from the site, except expenditures for work on the environmental impact statement or other studies to determine the likelihood of significant fish kills and for work or studies of possible methods of mitigating fish kills.

When these studies have been completed Congress can assess the evidence and decide whether the corps should proceed to finish the project.

I want to make clear that I am not opposed to the pump storage project at the Russell Dam. I have pledged to support the resumption of work on the project if the evidence is compelling that the turbines can be operated without significant harm to the fish population. I merely believe that it makes no sense to spend millions of the taxpayers' dollars in a risky venture without careful review of the evidence and a decision by Congress that the money will be well spent.

Finally, Mr. Chairman, I want to thank the chairman of the Water Resources Subcommittee, Mr. NOWAK, and the chairman of the Public Works Committee, Mr. ANDERSON, for their cooperation on this matter.

Mr. DYSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the bill and particularly the committee amendment. As my colleagues know, the committee amendment has bill language which is going to help Maryland in restoring the beaches at Assateaque and at Ocean City, and this project for shoreline protection, I think, is going to go a long way to protecting the valuable real estate located here. The committee has been very generous in allowing the State to be taken into consideration and to be credited for their part of their non-Federal share of that project.

I would also like to thank the gentleman from New York [Mr. NOWAK] the chairman of the committee, and the gentleman from Minnesota [Mr. STANGELAND] and the gentleman from Arkansas [Mr. HAMMERSCHMIDT], and the committee members for their assistance.

Mr. Chairman, on September 21, 1988, the State of Maryland successfully completed phase I of the Ocean City beach replenishment project. This was far ahead of schedule. Unfortunately, because of the appropriations process, the Corps of Engineers cannot start phase II, the Federal phase, of the project until the spring of 1990. This wastes valuable time, and because phase II will build the hurricane protection for Ocean City, may result in beach erosion if a severe storm hits. Because we are in a district where tourism is a major industry, we cannot afford to wait. Every lost month could spell economic disaster.

With the language now added to the bill, the State can afford to start phase II. Funds expended by the State would be credited to the State's cost-sharing requirements. This would enable the beach replenishment project to move forward without forcing the State to increase its percentage of the project cost. Without this amendment, the State would be liable not only for its percentage of the full project cost, but for any costs it incurs while beginning phase II.

The State can better protect the beach replenishment project if it starts phase II now, while at the same time saving the taxpayers money. The State estimates that $10 million can be saved by starting phase II early. I am supporting Maryland's amendment in the water protects bill so that the State will not be financially penalized for moving ahead with this important project. This is the best of both worlds. In an era of budget-cutting, this makes sound fiscal policy.

Mr. Chairman, once again I would like to state my strong support for this legislation, and urge its speedy passage.

Mr. HUBBARD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to speak briefly to compliment the leaders of the Committee on Public Works and Transportation for this legislation, House bill 5247. This is helpful to Kentucky, and many other States of course.

I rise in strong support of this legislation, and I urge my colleagues to support it enthusiastically, and again I commend those that worked so hard on this water Resources Development Act of 1988.

The CHAIRMAN. If there are no other comments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose and the Speaker pro tempore [Mr. GRAY of Illinois] having assumed the chair, Mr. HUTTO, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5247) to provide for the conservation and development of water and related resources, to authorize the U.S. Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes, pursuant to House Resolution 535, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5247, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5247, WATER RESOURCES DEVELOPMENT ACT OF 1988

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 5247, the Clerk be authorized to correct section numbers, punctuation, and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 5247.

The SPEAKER pro tempore. Is there objection to request of the gentleman from California?

There was no objection.

☐ 1545

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the Senate bill (S. 2100) to authorize the U.S. Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2100

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Water Resources Development Act of 1988".

SEC. 2. Table of Contents:

Title I—Project Authorizations
Title II—General Provisions
Title III—Programs and Studies

SEC. 3. For purposes of this Act, the term "Secretary" means the Secretary of the Army.

TITLE I—PROJECT AUTHORIZATIONS

SEC. 101. The following projects are authorized to be prosecuted by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports designated in this subsection.

LOWER MISSION CREEK, SANTA BARBARA, CALIFORNIA

The project for flood control, Lower Mission Creek, Santa Barbara, California: Report of the Chief of Engineers, dated March 25, 1988, at a total cost of $10,420,000, with an estimated first Federal cost of $5,909,000, and an estimated first non-Federal cost of $4,511,000.

FT. PIERCE HARBOR, FLORIDA

The project for navigation, Ft. Pierce Harbor, Florida: Report of the Chief of Engineers, dated December 14, 1987, at a total cost of $6,742,000, with an estimated first Federal cost of $4,319,000, and an estimated first non-Federal cost of $2,423,000.

NASSAU COUNTY, FLORIDA

The project for beach erosion control, Nassau County (Amelia Island), Florida: Report of the Chief of Engineers, dated

May 19, 1986, at a total cost of $5,753,000, with an estimated first Federal cost of $4,619,000, and an estimated first non-Federal cost of $1,134,000.

PORT SUTTON CHANNEL, FLORIDA

The project for navigation, Port Sutton Channel, Florida: Report of the Chief of Engineers, dated March 28, 1988, at a total cost of $2,670,000, with an estimated first Federal cost of $1,155,000, and an estimated first non-Federal cost of $1,515,000.

CHICAGOLAND UNDERFLOW PLAN, ILLINOIS

The project for flood control, Chicagoland Underflow Plan, Illinois: Report of the Chief of Engineers, dated March 25, 1988, at a total cost of $419,000,000, with an estimated first Federal cost of $314,250,000, and an estimated first non-Federal cost of $104,750,000.

LOWER OHIO RIVER, ILLINOIS AND KENTUCKY

The project for navigation, Lower Ohio River, Locks and Dams 52 and 53, Illinois and Kentucky: Report of the Chief of Engineers, dated August 20, 1986, at a total cost of $775,000,000, with a first Federal cost of $775,000,000, and with the costs of construction of the project to be paid one half from amounts appropriated from the general fund of the Treasury and one half from amounts appropriated from the Inland Waterways Trust Fund.

HAZARD, KENTUCKY

The project for flood control, Hazard, Kentucky: Report of the Chief of Engineers, dated October 30, 1986, at a total cost of $7,450,000, with an estimated first Federal cost of $5,590,000 and an estimated first non-Federal cost of $1,860,000.

MISSISSIPPI AND LOUISIANA ESTUARINE AREAS, MISSISSIPPI AND LOUISIANA

The project for environmental enhancement, Mississippi and Louisiana Estuarine Areas, Mississippi and Louisiana: Report of the Chief of Engineers, dated May 19, 1986, at a total cost of $59,300,000, with an estimated first Federal cost of $59,300,000.

WOLF AND JORDAN RIVERS, MISSISSIPPI

The project for navigation, Wolf and Jordan Rivers and Bayou Portage, Mississippi: Report of the Chief of Engineers, dated June 10, 1987, at a total cost of $2,290,000, with an estimated first Federal cost of $1,620,000 and an estimated first non-Federal cost of $670,000.

TRUCKEE MEADOWS, NEVADA

The project for flood control, Truckee Meadows, Nevada: Report of the Chief of Engineers, dated July 25, 1986, at a total cost of $78,400,000, with an estimated first Federal cost of $39,200,000 and an estimated first non-Federal cost of $39,200,000.

WEST COLUMBUS, OHIO

The project for flood control, Scioto River, West Columbus, Ohio: Report of the Chief of Engineers, dated February 9, 1988, at a total cost of $31,562,000, with an estimated first Federal cost of $23,671,000, and an estimated first non-Federal cost of $7,891,000.

DELAWARE RIVER, PENNSYLVANIA AND DELAWARE

The project for navigation, Delaware River, Philadelphia to Wilmington, Pennsylvania and Delaware: Report of the Chief of Engineers, dated June 15, 1986, at a total cost of $17,200,000, with an estimated first Federal cost of $9,100,000 and an estimated first non-Federal cost of $8,100,000.

CYPRESS CREEK, TEXAS

The project for flood control, Cypress Creek, Texas: Report of the Chief of Engineers, dated October 12, 1987, at a total project cost of $114,200,000, with an estimated first Federal cost of $84,900,000 and an estimated first non-Federal cost of $29,300,000.

FALFURRIAS, TEXAS

The project for flood control, Falfurrias, Texas: Report of the Chief of Engineers, dated March 15, 1988, at a total cost of $31,800,000, with an estimated first Federal cost of $15,900,000, and an estimated first non-Federal cost of $15,900,000.

GUADALUPE RIVER, TEXAS

The project for navigation, Guadalupe River to Victoria, Texas: Report of the Chief of Engineers, dated September 1, 1987, at a total cost of $23,900,000, with an estimated first Federal cost of $15,100,000, and an estimated first non-Federal cost of $8,800,000.

MC GRATH CREEK, WICHITA FALLS, TEXAS

The project for flood control, McGrath Creek, Wichita Falls, Texas: Report of the Chief of Engineers, dated March 25, 1988, at a total cost of $9,100,000 with an estimated first Federal cost of $6,800,000, and an estimated first non-Federal cost of $2,300,000.

SEC. 102. The provisions of section 902 of Public Law 99-662 shall apply to the total costs of projects set forth in this Act, and to the total costs of projects authorized subsequent to this Act.

SEC. 103. (a) The provisions of section 1001(a) and section 1001(c) of Public Law 99-662 shall apply to the projects authorized for construction by this Act, except that the five-year period during which funds must be obligated to prevent deauthorization shall begin on the date of enactment of this Act.

(b) The provisions of section 1001(a) and section 1001(c) of Public Law 99-662 shall also apply to projects authorized subsequent to this Act, except that the five-year period during which funds must be obligated to prevent deauthorization shall begin on the date of authorization of such projects.

TITLE II—GENERAL PROVISIONS

SEC. 201. (a) Section 101(a) of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4082) is amended by deleting all of subsection (2) and inserting in lieu thereof the following:

"(2) ADDITIONAL 10 PERCENT PAYMENT OVER 30 YEARS.—The non-Federal interests for a project to which paragraph (1) applies shall pay an additional 10 percent of the cost of the general navigation features of the project in cash over a period not to exceed 30 years, at an interest rate determined pursuant to section 106. The value of lands, easements, rights-of-way, relocations, and dredged material disposal areas provided under paragraph (3) and the costs of relocations borne by the non-Federal interests under paragraph (4) shall be credited toward the payment required under this paragraph.".

(b) The amendment made by this section is effective as of November 17, 1986.

SEC. 202. Section 1125 of the Water Resources Development Act of 1986 is amended as follows:

(1) by deleting from line 4 of subparagraph (a) the words "United States" and inserting in lieu thereof the words "Bureau of Indian Affairs of the Department of the Interior".

(2) By deleting from subparagraph (b) line 11 the words "north of the half northwest quarter" and inserting in lieu thereof the words "north half of the northwest quarter".

(3) By deleting from subparagraph (b)(2) the description of lands beginning on line 6 and ending on line 13 and inserting in lieu thereof the following:

"Commencing at the quarter corner common to sections 15 and 16; thence easterly along the quarter line of said section 15 a distance of 1,320.00 feet; thence south 42 degrees 37 minutes 58 seconds west a distance of 903.34 feet to the point of beginning; thence north 42 degrees 37 minutes 58 seconds east a distance of 903.34 feet; thence south 00 degrees 03 minutes 00 seconds east a distance of 1,518.00 feet; thence north 83 degrees 00 minutes 00 seconds west a distance of 668.00 feet; thence north 03 degrees 28 minutes 26 seconds east a distance of 773.78 feet to the point of beginning.".

(4) By deleting subparagraph (c) and inserting in lieu thereof the following:

"(c) The legal description contained in subsections (b) (1) and (2) herein will be subject to correction by survey in order to accomplish the purpose and intent of this Act".

(5) By deleting subparagraph (d) and inserting in lieu thereof the following:

"(d) These lands described in subsection (b) are hereby deemed excess to the needs of the United States for the maintenance and operation of the Garrison Dam and Reservoir Project and are hereby gratuitously declared to be held in trust by the Secretary of the Interior for the use and benefit of the Three Affiliated Tribes of the Fort Berthold Reservation. The United States shall not be responsible for damages to property or injuries to persons which may arise from, or be incident to, the use of said lands".

(6) By inserting a new subparagraph (e), as follows:

"(e) The United States hereby retains a flowage and sloughing easement for the purpose of flood control and related Garrison Dam and Reservoir project purposes over that portion of the lands described in subsection (b) that lie below the elevation of 1,854 feet (mean sea level), to exclude and reserve any residual interest necessary for project operations outside said 1,854 feet msl contour caused by the movement of such contour because of erosion, or the effect of flood impoundments, including, but not limited to, seepage, wave action or sloughing".

SEC. 203. Section 916(a) of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4082) is amended as follows: Delete all after "and shall" and insert therein "have the power to recover benefits through any cost-recovery approach that is consistent with State law and satisfies the applicable cost-recovery requirement under subsection (b)".

SEC. 204. Section 402 of the Water Resources Development Act of 1986 (33 U.S.C. 701b-12) is modified by inserting the words "or shoreline protection" after the words "local flood protection".

SEC. 205. (a) The Secretary shall, whenever feasible, seek to promote long- and short-term cost savings, increased efficiency, reliability, and safety, and improved environmental results through the use of innovative technology in all phases of water resources development projects and programs under his jurisdiction. To further this goal, the Congress encourages the Secretary to—

(1) use procurement and contracting procedures that encourage innovative project

design, construction, rehabilitation, repair, and operation and maintenance technologies;

(2) frequently review technical and design criteria to remove or modify unnecessary impediments to innovation;

(3) increase timely exchange of technical information with universities, private companies, government agencies, and individuals;

(4) foster design competition; and

(5) encourage greater participation by non-Federal project sponsors in the development and implementation of projects.

(b) Within two years after the date of enactment of this Act, and thereafter at the Secretary's discretion, the Secretary shall provide the Congress with a report on the results of, and recommendations to increase, the development and use of innovative technology in water resources development projects under the Secretary's jurisdiction. Such report shall also contain information regarding innovative technologies which the Secretary has considered and rejected for use in water resources projects under this jurisdiction.

(c) For the purpose of this section, the term "innovative technology" means designs, materials, or methods which the Secretary determines are previously undemonstrated or are too new to be considered standard practice.

Sec. 206. Upon receipt of a request from a non-Federal sponsor of a water resources development project under construction by the Secretary, the Secretary shall provide such sponsor with periodic statements of project expenditures. Such statements shall include an estimate of all Federal and non-Federal funds expended by the Secretary, including overhead expenditures; the purpose for expenditures; and a schedule of anticipated expenditures during the remaining period of construction. Statements shall be provided to the sponsor at intervals of no greater than six months.

Sec. 207. (a) The Secretary is authorized to undertake a demonstration program for a two-year period, which shall begin within six months after the date of enactment of this Act, to provide technical assistance, on a nonexclusive basis, to any United States firm which is competing for, or has been awarded, a contract for the planning, design, or construction of a project outside the United States, if the United States firm provides, in advance of fiscal obligation by the United States, funds to cover all costs of such assistance. In determining whether to provide such assistance, the Secretary shall consider the effects on the Department of the Army civil works mission, personnel, and facilities. Prior to the Secretary providing such assistance, a United States firm must—

(1) certify to the Secretary that such assistance is not otherwise reasonably and expeditiously available; and

(2) agree to hold and save the United States free from damages due to the planning, design, construction, operation, or maintenance of the project.

(b) As to an invention made or conceived by a Federal employee while providing assistance pursuant to this section, if the Secretary decides not to retain all rights in such invention, the Secretary may—

(1) grant or agree to grant in advance, to a United States firm, a patent license or assignment, or an option thereto, retaining a nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the United States and such other rights as the Secretary deems appropriate; or

(2) waive, subject to reservation by the United States of a nonexclusive, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the United States, in advance, in whole, or in part, any right which the United States may have to such invention.

(c) Information of a confidential nature, such as proprietary or classified information, provided to a United States firm pursuant to this section shall be protected. Such information may be released by a United States firm only after written approval by the Secretary.

(d) Within six months after the end of the demonstration program authorized by this section, the Secretary shall submit to the Congress a report on the results of this demonstration program.

(e)(1) For purposes of this section, "United States firm" means a corporation, partnership, limited partnership, or sole proprietorship that is incorporated or established under the laws of any of the United States with its principal place of business in the United States.

(2) For purposes of this subsection (a), "United States", when used in a geographical sense, means the several States of the United States and the District of Columbia.

Sec. 208. (a) The Secretary is authorized to provide services, including the provision of such services by contract, to the non-Federal project sponsor in the design and construction of upstream and downstream non-Federal extensions to the Federal project for flood control, Brush Creek and Tributaries, Missouri and Kansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4082, 4118), if the non-Federal sponsor provides, in advance of fiscal obligation by the United States, funds to cover all costs of such services.

(b) Prior to construction of such extensions, the non-Federal sponsor must obtain all necessary Federal and State permits.

(c) The non-Federal sponsor must agree to hold and save the United States free from damages due to the planning, design, construction, operation, or maintenance of such extensions.

(d) Such extensions remain a non-Federal responsibility and shall not be considered part of the Federal project for any purpose.

Sec. 209. The Secretary is authorized to construct a new division laboratory at an estimated cost of $2,000,000, for the United States Army Engineer Division, Ohio River. Such laboratory shall be constructed on a suitable site, which the Secretary is hereby authorized to acquire for that purpose.

Sec. 210. The Secretary is authorized to pay tuition expenses of suitable, English-taught primary and secondary education in Puerto Rico for the child or children of any Federal employee when such expenses are incurred after the date of enactment of this Act and while the employee is temporarily residing and employed in Puerto Rico for the construction of the Portuguese and Bucana Rivers, Puerto Rico, project.

Sec. 211. Subsection (d) of section 3036 of title 10, United States Code, is amended—

(1) by designating the first sentence as paragraph (1);

(2) by designating the second sentence as paragraph (2); and

(3) by deleting "United States" and all that follows in such subsection and inserting in lieu thereof the following: "United States or to a State or political subdivision of a State. The Chief of Engineers may provide any part of those services by contract. Services may be provided to a State, or to a political subdivision of a State, only if—

"(A) the work to be undertaken on behalf of non-Federal interests involves Federal assistance and the head of the department or agency providing Federal assistance for the work does not object to the provision of services by the Chief of Engineers; and

"(B) the services are provided on a reimbursable basis.".

Sec. 212. Section 809 of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4082, 4168) is amended by deleting the last sentence and inserting in lieu thereof the following: "The non-Federal share of the cost of work undertaken pursuant to this section shall be in accordance with title I of this Act.".

Sec. 213. Section 145 of the Water Resources Development Act of 1976 (33 U.S.C. 426j), as amended, is amended further to add the following sentence at the end thereof: "In implementing activities pursuant to this section, the Secretary shall give consideration to the State's schedule for providing its share of funds for such activities and shall, to the maximum extent practicable, accommodate that schedule so as to assure placement of beach quality sand on such beaches.".

Sec. 214. Section 211 of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4082, 4106) is amended as follows: Reletter subsections (d)-(g) as subsections (e)-(f) and insert the following new subsection:

"(d) Designation Plan.—Not later than one hundred and twenty days after the date of enactment of the Water Resources Development Act of 1988, the Administrator shall submit to the Committee on Environment and Public Works in the Senate and the Committee on Public Works and Transportation in the House of Representatives his plan for designating one or more sites under subsection (a). The plan shall specify the actions necessary to comply with subsection (a), the funding requirements associated with these actions and the dates by which the Administrator expects to complete each of these actions. The plan also shall specify actions which the Administrator may be able to take to expedite the designation of any sites under subsection (a).".

Sec. 215. The Libby Dam project for flood control and allied purposes for the Kootenai River, Montana, authorized by the River and Harbor Act approved May 17, 1950, is modified to include fish and wildlife enhancement and recreation as project purposes: *Provided*, That the Secretary is directed to reallocate joint use costs, if operational changes necessary for fish and wildlife enhancement or recreation would otherwise result in a reduction of hydroelectric power generation. As used in this section, the term "recreation" includes downstream fish and wildlife and recreational uses which are dependent on project operations as well as fish and wildlife and recreation at the project.

Sec. 216. Public Law 534, Seventy-eight Congress, second session, section 9 is hereby amended by adding the following new subsection:

"(f) The Secretary of the Army is directed to undertake such measures, including maintenance and rehabilitation of existing structures, that the Secretary determines are needed to alleviate bank erosion and related problems associated with reservoir releases along the Missouri River between Fort Peck Dam, Montana, and a point fifty-eight miles downstream of Gavins Point Dam, South Dakota, and Nebraska. Notwithstanding any other provision of law, the costs of these measures, including the costs of necessary real estate interests and structural features, shall be apportioned among project purposes as a joint-use operation and maintenance expense. In lieu of structural measures, the Secretary may acquire interests in affected areas, as he deems appropriate, from willing sellers.".

SEC. 217. The project for flood control, Redwood River, Marshall, Minnesota, authorized by section 401(a) of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4082, 4117), is modified to authorize the Secretary to construct the project substantially in accordance with the General Design Memorandum, dated April 1987, at a total cost of $6,900,000, with an estimated Federal first cost of $5,000,000 and an estimated non-Federal first cost of $1,900,000.

SEC. 218. If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

SEC. 219. Section 501(a) of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4082) is amended by striking the following: "The project for shoreline protection, Indiana Shoreline Erosion, Indiana: Report of the Chief of Engineers, dated November 18, 1983, at a total cost of $20,000,000, with an estimated first Federal cost of $15,000,000 and an estimated first non-Federal cost of $5,000,000.", and inserting in lieu thereof the following: "The project for shoreline protection, Indiana Shoreline Erosion, Indiana: Report of the Chief of Engineers, dated November 18, 1983, at a total cost of $20,000,000, with the Federal share of the cost of this project to be determined in accordance with title I of this Act.".

SEC. 220. Section 123 of the River and Harbor Act of 1970, as amended (33 U.S.C. 1293a) is further amended by adding at the end thereof the following new subsection:

"(j) The Secretary of the Army is authorized to continue to deposit dredged materials into a facility constructed under the provisions of this section until the Secretary of the Army determines that such facility is no longer needed for such purpose or that such facility is completely full.".

SEC. 221. Section 1135(b) of the Water Resources Development Act of 1986 is amended by striking "two-year period beginning on the date of enactment of this Act", and inserting in lieu thereof "five-year period beginning on the date of enactment of this Act".

SEC. 222. The portions of Coney Island Creek and Gravesend Bay, New York that are particularly described in the metes and bounds description below are hereby declared to be nonnavigable waters of the United States for purposes of the navigation servitude.

Beginning at the corner formed by the intersection of the Westerly Line of Cropsey Avenue, and the Northernmost United States Pierhead Line of Coney Island Creek.

Running thence south 12 degrees 41 minutes 03 seconds East and along the westerly line of Cropsey Avenue, 98.72 feet to the northerly channel line as shown on Corps of Engineers Map Numbered F. 150 and on Survey by Rogers and Giollorenzo Numbered 13959 dated October 31, 1986.

Running thence in a westerly direction and along the said northerly channel line the following bearings and distances:

South 48 degrees 59 minutes 27 seconds west, 118.77 feet; South 37 degrees 07 minutes 01 seconds west, 232.00 feet; South 23 degrees 17 minutes 10 seconds west, 430.03 feet; South 31 degrees 25 minutes 46 seconds west, 210.95 feet; South 79 degrees 22 minutes 49 seconds west, 244.18 feet; North 55 degrees 00 minutes 29 seconds west, 183.10 feet; North 41 degrees 47 minutes 04 seconds west, 315.16 feet; and

North 41 degrees 17 minutes 43 seconds west, 492.47 feet to the said Pierhead Line; thence north 73 degrees 58 minutes 40 seconds west and along said pierhead line, 2665.25 feet to the intersection of the United States bulkhead line;

thence north 0 degrees 19 minutes 35 seconds west and along the United States Bulkhead line 1138.50 feet to the intersection of the westerly prolongation of the center line of 26th Avenue,

thence north 58 degrees 25 minutes 06 seconds east and along the center line of said 26th Avenue, 2320.85 feet to the westerly line of Cropsey Avenue, then southeasterly and along the southerly line of Cropsey Avenue the following bearings and distances:

South 31 degrees 34 minutes 54 seconds east, 4124.59 feet; and

South 12 degrees 41 minutes 03 seconds east, 710.74 feet to the point or place of beginning.

Coordinates and bearings are in the system as established by the United States Coast and Geodetic Survey for the Borough of Brooklyn. .

TITLE III—PROGRAMS AND STUDIES

SEC. 301. Section 91 of the Water Resources Development Act of 1974 (Public Law 93-251, 88 Stat. 12, 39) is amended by striking out "$30,500,000" and inserting in lieu thereof "$6,000,000 annually".

SEC. 302. The Secretary of the Army is directed to establish a Technical Resource Service for the Red River Basin in Minnesota and North Dakota. There is authorized an appropriation of $500,000 annually for the purpose of providing to the two such States a full range of technical services for the development and implementation of State and local water and related land resources initiatives within the Red River Basin and sub-basins. The Technical Resource Service is to be provided in addition to related services provided under authority of section 206 of the River and Harbor and Flood Control Act of 1960, as amended, and section 22 of the Water Resources Development Act of 1974.

SEC. 303. (a) The Secretary, in cooperation with the Administrator of the Environmental Protection Agency, shall undertake a study of the water quality effects of hydroelectric facilities owned and operated by the Corps of Engineers. Such study shall be transmitted to Congress within two years of the enactment of this section and shall consider and include information for each such Corps of Engineers hydroelectric facility pertaining to: relevant water quality standards including dissolved oxygen; water quality monitoring data; possible options and projected costs of measures required to improve the quality of water released from each such facility where justified; and recommendations with respect to these findings.

(b) Nothing in this section shall convey to any agency of the Federal Government any new authority with respect to the allocation or release of water from Federal reservoirs. Further, nothing in this section is designed or intended to affect any present or future legal actions or proceedings.

SEC. 304. The Comptroller General of the United States General Accounting Office is authorized and directed to conduct a review of the Civil Works Program of the United States Army Corps of Engineers. This management and administration review shall be transmitted to the Congress, together with any recommendations which the Comptroller General may make, no later than one year after the date of enactment of this Act.

SEC. 305. The Secretary is authorized, as part of the existing wetland research program, to conduct wetland research and restoration activities, including necessary construction, for a period not to exceed five years from the date of enactment of this Act. There is authorized to be appropriated $5,000,000 beginning in fiscal year 1989 for purposes of carrying out such activities. The non-Federal share of activities undertaken pursuant to this section shall be in accordance with section 906(e) of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4082, 4187). Upon completion of each activity undertaken pursuant to this section, the Secretary shall report to Congress on his findings.

SEC. 306. The Secretary of the Army is directed to establish a Water Resources management and planning service for the Hudson River Basin, in New York and New Jersey. There is authorized an appropriation of $400,000 annually for the purpose of providing the two States a full range of services for the development and implementation of State and local water resource initiatives.

MOTION OFFERED BY MR. ANDERSON

Mr. ANDERSON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ANDERSON moves to strike all after the enacting clause of the Senate bill, S. 2100, and to insert in lieu thereof the provisions of the bill, H.R. 5247, as passed, as follows:

TITLE I—WATER RESOURCES DEVELOPMENT

SECTION 101. SHORT TITLE.

This title may be cited as the "Water Resources Development Act of 1988".

SEC. 102. SECRETARY DEFINED.

For purposes of this title, the term "Secretary" means the Secretary of the Army.

SEC. 103. PROJECT AUTHORIZATIONS.

(a) AUTHORIZATION OF CONSTRUCTION.—Except as otherwise provided in this subsection, the following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports designated in this subsection:

(1) RILLITO RIVER, ARIZONA.—The project for flood control, Rillito River, Arizona: Report of the Chief of Engineers, dated January 22, 1988, at a total cost of $16,500,000, with an estimated first Federal cost of $12,325,000 and an estimated first non-Federal cost of $4,175,000.

(2) LOWER MISSION CREEK, SANTA BARBARA, CALIFORNIA.—The project for flood control, Lower Mission Creek, Santa Barbara, California: Report of the Chief of Engineers, dated March 25, 1988, at a total cost of

$10,420,000, with an estimated first Federal cost of $5,909,000, and an estimated first non-Federal cost of $4,511,000.

(3) FT. PIERCE HARBOR, FLORIDA.—The project for navigation, Ft. Pierce Harbor, Florida: Report of the Chief of Engineers, dated December 14, 1987, at a total cost of $6,742,000, with an estimated first Federal cost of $4,319,000, and an estimated first non-Federal cost of $2,423,000.

(4) NASSAU COUNTY, FLORIDA.—The project for beach erosion control, Nassau County (Amelia Island), Florida: Report of the Chief of Engineers, dated May 19, 1986, at a total cost of $5,753,000, with an estimated first Federal cost of $4,619,000, and an estimated first non-Federal cost of $1,134,000.

(5) PORT SUTTON CHANNEL, FLORIDA.—The project for navigation, Port Sutton Channel, Florida: Report of the Chief of Engineers, dated March 28, 1988, at a total cost of $2,670,000, with an estimated first Federal cost of $1,155,000, and an estimated first non-Federal cost of $1,515,000.

(6) CHICAGOLAND UNDERFLOW PLAN, ILLINOIS.—The project for flood control, Chicagoland Underflow Plan, Illinois: Report of the Chief of Engineers, dated March 25, 1988, at a total cost of $419,000,000, with an estimated first Federal cost of $314,250,000, and an estimated first non-Federal cost of $104,750,000.

(7) LOWER OHIO RIVER, ILLINOIS AND KENTUCKY.—The project for navigation, Lower Ohio River, Locks and Dams 52 and 53, Illinois and Kentucky: Report of the Chief of Engineers, dated August 20, 1986, at a total cost of $775,000,000, with a first Federal cost of $775,000,000, and with the costs of construction of the project to be paid one half from amounts appropriated from the general fund of the Treasury and one half from amounts appropriated from the Inland Waterways Trust Fund.

(8) HAZARD, KENTUCKY.—The project for flood control, Hazard, Kentucky: Report of the Chief of Engineers, dated October 30, 1986, at a total cost of $7,450,000, with an estimated first Federal cost of $5,590,000 and an estimated first non-Federal cost of $1,860,000.

(9) MISSISSIPPI AND LOUISIANA ESTUARINE AREAS, MISSISSIPPI AND LOUISIANA.—The project for environmental enhancement, Mississippi and Louisiana Estuarine Areas, Mississippi and Louisiana: Report of the Chief of Engineers, dated May 19, 1986, at a total cost of $59,300,000.

(10) WOLF AND JORDAN RIVERS, MISSISSIPPI.—The project for navigation, Wolf and Jordan Rivers and Bayou Portage, Mississippi: Report of the Chief of Engineers, dated June 10, 1987, at a total cost of $2,290,000, with an estimated first Federal cost of $1,620,000 and an estimated first non-Federal cost of $670,000.

(11) TRUCKEE MEADOWS, NEVADA.—The project for flood control, Truckee Meadows, Nevada: Report of the Chief of Engineers, dated July 25, 1986, at a total cost of $78,400,000, with an estimated first Federal cost of $39,200,000 and an estimated first non-Federal cost of $39,200,000; except that the Secretary is authorized to carry out fish and wildlife enhancement as a purpose of such project, including fish and wildlife enhancement measures described in the District Engineer's Report, dated July 1985, at a total cost of $4,140,000.

(12) WEST COLUMBUS, OHIO.—The project for flood control, Scioto River, West Columbus, Ohio: Report of the Chief of Engineers, dated February 9, 1988, at a total cost of $31,562,000, with an estimated first Federal cost of $23,671,000, and an estimated first non-Federal cost of $7,891,000.

(13) DELAWARE RIVER, PENNSYLVANIA AND DELAWARE.—The project for navigation, Delaware River, Philadelphia to Wilmington, Pennsylvania and Delaware: Report of the Chief of Engineers, dated June 15, 1986, at a total cost of $17,200,000, with an estimated first Federal cost of $9,100,000 and an estimated first non-Federal cost of $8,100,000.

(14) CYPRESS CREEK, TEXAS.—The project for flood control, Cypress Creek, Texas: Report of the Chief of Engineers, dated October 12, 1987, at a total project cost of $114,200,000, with an estimated first Federal cost of $84,900,000 and an estimated first non-Federal cost of $29,300,000.

(15) FALFURRIAS, TEXAS.—The project for flood control, Falfurrias, Texas: Report of the Chief of Engineers, dated March 15, 1988, at a total cost of $31,800,000, with an estimated first Federal cost of $15,900,000, and an estimated first non-Federal cost of $15,900,000.

(16) GUADALUPE RIVER, TEXAS.—The project for navigation, Guadalupe River to Victoria, Texas: Report of the Chief of Engineers, dated September 1, 1987, at a total cost of $23,900,000, with an estimated first Federal cost of $15,100,000, and an estimated first non-Federal cost of $8,800,000.

(17) MCGRATH CREEK, WICHITA FALLS, TEXAS.—The project for flood control, McGrath Creek, Wichita Falls, Texas: Report of the Chief of Engineers, dated March 25, 1988, at a total cost of $9,100,000 with an estimated first Federal cost of $6,800,000, and an estimated first non-Federal cost of $2,300,000.

(b) AUTHORIZATION OF CONSTRUCTION SUBJECT TO FAVORABLE REPORT.—The following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports cited, with such modifications as are recommended by the Chief of Engineers and approved by the Secretary, and with such other modifications as are recommended by the Secretary; except that if no report is cited for a project, the project is authorized to be prosecuted by the Secretary in accordance with a final report of the Chief of Engineers, and with such other modifications as are recommended by the Secretary, and no construction on such project may be initiated until such a report is issued and approved by the Secretary:

(1) VALLEY CREEK, WARRIOR RIVER AND TRIBUTARIES, ALABAMA.—The project for flood control, Valley Creek, Warrior River and tributaries, Alabama, at a total cost of $23,830,000, with an estimated first Federal cost of $17,882,500 and an estimated first non-Federal cost of $5,957,500.

(2) NOGALES WASH AND TRIBUTARIES, ARIZONA.—The project for flood control, Nogales Wash and tributaries, Arizona: Report of the Board of Engineers for Rivers and Harbors, dated September 14, 1988, at a total cost of $6,400,000. Nothing in this paragraph affects the authority of the Secretary to carry out such project under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

(3) COYOTE AND BERRYESSA CREEKS, CALIFORNIA.—The project for flood control, Coyote and Berryessa Creeks, California: Report of the Board of Engineers for Rivers and Harbors, dated May 11, 1988—

(A) in the case of Coyote Creek, at a total cost of $32,325,000, with an estimated first Federal cost of $24,243,000 and an estimated first non-Federal cost of $8,082,000, and

(B) in the case of Berryessa Creek, at a total cost of $9,950,000, with an estimated first Federal cost of $7,460,000 and an estimated first non-Federal cost of $2,490,000.

(4) MORRO BAY, CALIFORNIA.—The project for navigation, Morro Bay, California, at a total cost of $3,300,000, with an estimated first Federal cost of $2,640,000 and an estimated first non-Federal cost of $660,000.

(5) HARBOR OF VENTURA, CALIFORNIA.—The project for navigation, Ventura Harbor, California, at a total cost of $4,000,000, with an estimated first Federal cost of $3,200,000 and an estimated first non-Federal cost of $800,000.

(6) MIAMI HARBOR, FLORIDA.—The project for navigation, Miami Harbor, Florida, at a total cost of $32,000,000, with an estimated first Federal cost of $19,000,000 and an estimated first non-Federal cost of $13,000,000. If non-Federal interests make any improvements to such Harbor which are later recommended by the Chief of Engineers and approved by the Secretary under this subsection, the Secretary may reimburse such non-Federal interests an amount equal to the Federal share of the cost of such improvements, without interest. In analyzing costs and benefits of the project authorized under this paragraph, the Secretary shall consider the costs and benefits produced by any improvements which are carried out under the preceding sentence by non-Federal interests and which the Secretary determines are compatible with such project.

(7) CHICAGO RIVER, ILLINOIS.—The project to construct the wall from the extension of the inner breakwater on the southside of the mouth of the Chicago River, Illinois, to the mainland parallel to the existing channel for a distance of approximately 490 feet, at a total cost of $2,400,000.

(8) GREAT LAKES CONNECTING CHANNELS AND HARBORS, MICHIGAN, MINNESOTA, AND WISCONSIN.—The project for navigation, Great Lakes connecting channels and harbors, Michigan, Minnesota, and Wisconsin: Report of the Board of Engineers for Rivers and Harbors, dated May 24, 1988, at a total cost of $8,089,000, with an estimated first Federal cost of $5,385,000 and an estimated first non-Federal cost of $2,704,000.

(9) SMALL BOAT HARBOR, BUFFALO HARBOR, NEW YORK.—The project to replace the dike at the Small Boat Harbor, Buffalo Harbor, New York, at a total cost of $10,000,000, with an estimated first Federal cost of $5,000,000 and an estimated first non-Federal cost of $5,000,000. Prior to construction of the project, the Secretary may undertake such emergency repairs as the Secretary determines necessary to preserve, until completion of the project, the existing dike.

(10) RIO DE LA PLATA, PUERTO RICO.—The project for flood control, Rio de la Plata, Puerto, Rico: Report of the Board of Engineers for Rivers and Harbors, dated May 9, 1988, at a total cost of $54,024,000, with an estimated first Federal cost of $32,989,000 and an estimated first non-Federal cost of $21,035,000.

(c) MAXIMUM COST OF PROJECTS.—Section 902 of such Act is amended—

(1) by striking out "in this Act, or an amendment made by this Act, for a project" and inserting in lieu thereof "with respect to a project for water resources development and conservation and related purposes authorized to be carried out by the Secretary in this Act or in a law enacted after the date of the enactment of this Act, including the Water Resources Development Act of 1988, or in an amendment made by this Act or such law with respect to such a project";

(2) in paragraph (1) by inserting ", in such law," after "in this Act" and by inserting "or such law" after "by this Act";

(3) in paragraph (2)(A) by inserting "or such law" after "of this Act"; and

(4) in paragraph (2)(B) by inserting "or such law" after "by this Act".

SEC. 104. PROJECT MODIFICATIONS.

(a) Beaver Lake, Arkansas.—

(1) Amendments.—Section 843 of the Water Resources Development Act of 1986 (100 Stat. 4176-4177) is amended—

(A) by inserting "and the Chief of the Soil Conservation Service" after "the Environmental Protection Agency"; and

(B) by inserting "including best management practices," before "at a total cost".

(2) Continuation of planning and design.—Using funds made available for the Beaver Lake project, Arkansas, pursuant to the Energy and Water Development Appropriatons Act, 1989, the Secretary is directed to continue overall planning and design for such project, including the development of implementation plans for individual parcels of land within the drainage basin which contribute to water quality degradation and impairment of water supply uses at Beaver Lake.

(b) West Memphis and Vicinity, Arkansas.—The project for flood control, West Memphis and vicinity, Arkansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4112) is modified to provide that non-Federal cooperation for such project may be provided by private individuals, private organizations, levee districts, drainage districts, or any unit of a State, county, or local government.

(c) King Harbor, Redondo Beach, California.—Section 809 of the Water Resources Development Act of 1986 (100 Stat. 4168) is amended—

(1) in the first sentence—

(A) by striking "and" at the end of paragraph (2); and

(B) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) if recommended in a report of the Chief of Engineers and approved by the Secretary, the Secretary is authorized to construct the breakwaters to a height greater than 22 feet, and to extend the breakwaters, in accordance with such report; and

"(4) major rehabilitation of the breakwaters necessary as a result of a natural event shall be a Federal responsibility."; and

(2) by striking out the last sentence and inserting in lieu thereof the following: "The non-Federal share of the cost of work undertaken pursuant to this section shall be in accordance with title I of this Act.".

(d) Los Angeles and Long Beach Harbors, San Pedro Bay, California.—The navigation project for Los Angeles and Long Beach Harbors, San Pedro Bay, California, authorized by section 201 of the Water Resources Development Act of 1986 (100 Stat. 4091), is modified to provide that, if non-Federal interests carry out any work associated with such project which is later recommended by the Chief of Engineers and approved by the Secretary, the Secretary may reimburse such non-Federal interests an amount equal to the Federal share of the cost of such work, without interest. In analyzing costs and benefits of such project, the Secretary shall consider the costs and benefits produced by any work which is carried out under the preceding sentence by non-Federal interests and which the Secretary determines is compatible with such project. The feasibility report for such project shall include consideration and evaluation of the following proposed project features: Long Beach Main Channel, Channel to Los Angeles Pier 300, Channels to Los Angeles Pier 400, Long Beach Pier "K" Channel, and Los Angeles Crude Transshipment Terminal Channel.

(e) Los Angeles River, California.—The Secretary is directed to perform maintenance dredging of the existing Federal project at the mouth of the Los Angeles River, California, to the authorized depth of 20 feet for the purpose of maintaining the flood control basin and navigation safety.

(f) San Leandro Marina, California.—

(1) Maintenance of access channel.—The project for San Leandro Marina, California, authorized under section 201 of the Flood Control Act of 1965 and approved by resolution adopted by Committee on Public Works of the House of Representatives on June 22, 1971, and by the Committee on Public Works of the Senate on December 15, 1970, is modified to authorize the Secretary to maintain an access channel extending from the southern auxiliary access channel to the boat launching ramp of the city of San Leandro, California, in the vicinity of the small boat lagoon in such city to a depth of 8 feet and length of approximately 650 feet.

(2) Deauthorization.—The auxiliary access channel and basin extending to the north end of the project for San Leandro Marina, California, referred to in paragraph (1) is not authorized after the date of the enactment of this Act.

(g) Sunset Harbor, California.—The demonstration project at Sunset Harbor, California, authorized by section 1119(b) of the Water Resources Development Act of 1986 (100 Stat. 4238), is modified to include wetland restoration as a purpose of such demonstration project. All costs allocated to such wetland restoration shall be paid by non-Federal interests in accordance with section 916 of such Act.

(h) Indiana Shoreline Erosion, Indiana.—The undesignated paragraph of section 501(a) of the Water Resources Development Act of 1986 under the heading "INDIANA SHORELINE, INDIANA" (100 Stat. 4135) is amended by striking out "with an estimated first Federal cost of $15,000,000 and an estimated first non-Federal cost of $5,000,000." and inserting in lieu thereof "with the Federal share of the cost of this project to be determined in accordance with title I of this Act.".

(i) Big South Fork of the Cumberland River, Kentucky and Tennessee.—Section 108 of the Water Resources Development Act of 1974 is amended by adding at the end thereof the following new subsection:

"(1) The non-Federal share of any cost incurred for purposes of this section may be provided by any person, including concessioners of any agency of the Federal Government. In any case in which a non-Federal interest (including a person) agrees to provide recreational facilities within the boundaries of the National Area, the Secretary shall provide any utilities, roads, or other support facilities necessary for the provision of such recreational facilities.".

(j) Stumpy Lake, Louisiana.—The project for mitigation of fish and wildlife losses Red River Waterway, Louisiana, authorized by section 601(a) of the Water Resources Act of 1986 (100 Stat. 4142), is modified—

(1) to include design and construction of such structural or remedial measures as necessary to control erosion and protect the valuable environmental resources of the area between Lake Bistineau and Red River, including Stumpy Lake and vicinity; and

(2) to authorize the Secretary to spend $500,000 in participation with the State of Louisiana on design, construction, and purchase of necessary lands and rights-of-way for such structural and remedial measures.

Such structural and remedial measures shall be subject to cost sharing under title I of the Water Resources Development Act of 1986.

(k) Atlantic Coast of Maryland and Assateague Island, Virginia.—The project for shoreline protection, Atlantic Coast of Maryland and Assateague Island, Virginia, authorized by section 501(a) of the Water Resources Development Act of 1986 (100 Stat. 4135), is modified to provide that, if non-Federal interests place sand on the beach as part of such project after December 31, 1988, the Secretary shall credit toward the non-Federal share of the cost of the project an amount equal to the Federal share of the cost of such sand placement.

(l) Annapolis Harbor, Maryland.—The project for navigation, Annapolis Harbor, Maryland, is modified to authorize and direct the Secretary to realign the channel in such project, as determined necessary by the Secretary, for the purpose of promoting more efficient mooring operations in Annapolis Harbor.

(m) Deal Island, Maryland.—The Secretary may pay the remaining cost for the navigation project for Deal Island, Maryland (Lower Thorofare), authorized under section 107 of the River and Harbor Act of 1960, estimated at $277,000, plus any interest due the construction contractor.

(n) Redwood River, Marshall, Minnesota.—The project for flood control, Redwood River, Marshall, Minnesota, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4117), is modified to authorize the Secretary to construct the project substantially in accordance with the General Design Memorandum, dated April 1987, at a total cost of $6,900,000, with an estimated first Federal cost of $5,000,000 and an estimated first non-Federal cost of $1,900,000.

(o) Root River Basin, Minnesota.—The undesignated paragraph of section 401(a) of the Water Resources Development Act of 1986 under the heading "ROOT RIVER BASIN, MINNESOTA" (100 Stat. 4117) is amended by adding at the end thereof the following new sentence: "Nothing in this paragraph affects the authority of the Secretary to carry out a project under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).".

(p) Roseau River, Minnesota.—The project for flood control, Roseau River, Minnesota, authorized by the Flood Control Act of 1965, is modified to authorize and direct the Secretary to construct as authorized, or to construct under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), the 6-mile flood control levee in the vicinity of Duxby, Minnesota, beginning at a point approximately 2 miles upstream, substantially in accordance with the recommendations of the Chief of Engineers contained in House Document Numbered 282, 89th Congress, at an estimated total cost of $360,600, and with an estimated first Federal cost of $270,200 and an estimated first non-Federal cost of $90,000. Benefits and costs resulting from construction of such levee shall continue to be included for determining the economic feasibility of the Roseau River flood control project.

(q) Gulfport Harbor, Mississippi.—

(1) In general.—The project for navigation, Gulfport Harbor, Mississippi, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4094-4095) is modified to authorize the Sec-

retary to dispose, in accordance with all provisions of Federal law, of dredged material—

(A) from construction, operation, and maintenance of such project in open waters of the Gulf of Mexico;

(B) from construction of such project by thin layer disposal in the Mississippi Sound under the demonstration program carried out under paragraph (2);

(C) from operation and maintenance of such project by disposal in the Mississippi Sound under a plan developed by the Secretary and approved by the Administrator of the Environmental Protection Agency if the Secretary, after consultation with the study team established under paragraph (3), determines that the report submitted under paragraph (2)(H) indicates that there will be no unacceptable adverse environmental impacts from such disposal; and

(D) from construction, operation, and maintenance of such project as fill in connection with a pier extension project for such Harbor carried out under a permit issued before, on, or after the date of the enactment of this Act under section 404 of the Federal Water Pollution Control Act.

(2) DEMONSTRATION PROGRAM.—

(A) PURPOSES.—During construction of the Gulfport Harbor navigation project, the Secretary shall carry out a demonstration program for the purpose of evaluating the costs and benefits of thin layer disposal in the Mississippi Sound of dredged material from construction of harbor improvements, including any operation and maintenance materials that may be removed during construction, and for determining whether or not there are unacceptable adverse effects from such disposal—

(i) on human health or welfare, including but not limited to plankton, fish, shellfish, wildlife, shorelines, and beaches;

(ii) on marine life (including the transfer, concentration, and dispersal of pollutants or their byproducts through biological, physical, and chemical processes), changes in marine ecosystem diversity, productivity, and stability, and species and community population changes;

(iii) on esthetic, recreation, and economic values; and

(iv) on alternative uses of oceans, such as mineral exploitation and scientific study.

In addition, the Secretary shall determine through such program the persistence and permanence of any such adverse effects and methods of mitigating any such adverse effects.

(B) PLANNING.—Within 4 months after the date of the enactment of the Act, the Secretary, in consultation with the study team established under paragraph (3), shall develop a plan for carrying out the demonstration program under this paragraph. Such plan shall, at a minimum, establish predisposal monitoring requirements, thin layer disposal locations, the amounts of dredged material necessary for carrying out such demonstration program, the duration of thin layer disposal under such demonstration program, the compatibility of the receiving habitat with thin layer dredged material disposal, requirements for minimizing demonstration program impacts, the depth of thin layer disposal, and the scope of the post disposal monitoring.

(C) USE OF MATERIALS FROM PROJECT.—The Secretary in carrying out the demonstration program under this paragraph shall use suitable material removed during construction of the Gulfport Harbor navigation project. The amount of material used shall be of sufficient quantity to determine the effects of thin layer disposal in near shore areas of (i) dredged materials from construction of harbor improvements, and (ii) any materials from operation and maintenance of harbor improvements dredged during the period of such construction, but shall be limited to the amount determined under the plan developed under subparagraph (B).

(D) CONSULTATION REQUIREMENT.—In conducting the demonstration program under this paragraph, the Secretary shall consult the study team established under paragraph (3).

(E) POST DISPOSAL MONITORING.—The demonstration program under this paragraph shall include monitoring of the near shore areas at which dredged material is disposed of under such program during the period determined under the plan developed under subparagraph (B).

(F) APPLICABILITY OF FEDERAL LAW.—The demonstration program under this paragraph shall be carried out in accordance with all applicable provisions of Federal law, including section 404(c) of the Federal Water Pollution Control Act.

(G) COST SHARING.—The demonstration program carried out under this paragraph shall be subject to cost sharing under title I of the Water Resources Development Act of 1986. All costs of such program, other than dredging costs, shall not be included for purposes of calculating the economic costs and benefits of the navigation project for Gulfport Harbor, Mississippi.

(H) REPORT TO CONGRESS AND EPA.—Within 1 year after the date of completion of the demonstration program under this paragraph, the Secretary, after consultation with the study team established under paragraph (3), shall transmit to Congress and to the Administrator of the Environmental Protection Agency a report on the results of such demonstration program together with recommendations concerning thin layer disposal in near shore areas of dredged material from construction, operation, and maintenance of future navigation projects.

(I) APPROVAL OR DISAPPROVAL OF RECOMMENDATIONS.—Not later than 30 days after the date of receipt of the report and recommendations under subparagraph (H), the Administrator of the Environmental Protection Agency shall approve or disapprove the recommendations and shall notify Congress and the Secretary of such approval or disapproval. If the Administrator disapproves the recommendations, not later than 30 days after the date of such disapproval, the Administrator shall notify Congress and the Secretary of the reasons for such disapproval together with recommendations for modifications which could be made to the recommendations to take into account such reasons. If the Administrator fails to approve or disapprove the recommendations transmitted under subparagraph (H) within the 30-day period, the recommendations shall be deemed to be approved.

(3) STUDY TEAM.—The Secretary shall establish a study team to assist the Secretary in planning, carrying out, monitoring, and reporting on the demonstration program and the results of such program under this subsection. Such team shall be appointed by the Secretary and shall consist of representatives of the Corps of Engineers, the Environmental Protection Agency, interested Federal and State resource agencies, and the local sponsor of the demonstration program. Members of the study team who are not officers or employees of the United States shall serve without compensation. Members of the study team who are officers or employees of the United States shall receive no additional pay by reason of their service on the study team.

(r) BRUSH CREEK AND TRIBUTARIES, MISSOURI AND KANSAS.—The project for flood control, Brush Creek and Tributaries, Missouri and Kansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118), is modified to authorize the Secretary to provide to the non-Federal interests providing local cooperation for such project services (including the provision of services by contract) in the design and construction of upstream and downstream non-Federal extensions to such project—

(1) if the non-Federal interests provide, in advance of obligation of Federal funds for such design and construction, amounts sufficient to cover all costs of such services;

(2) if, prior to construction of such extensions, the non-Federal interests obtain all necessary Federal and State permits; and

(3) if the non-Federal interests agree to hold and save the United States free from damages due to the planning, design, construction, operation, or maintenance of such extensions. Construction, operation, and maintenance of such extensions shall be a non-Federal responsibility and shall not be considered part of the Brush Creek flood control project for any purpose.

(s) LIBBY DAM, MONTANA.—The project for Libby Dam, Lake Koocanusa reservoir, Montana, is modified (1) to authorize the Secretary, in consultation with the Secretary of Agriculture, to undertake measures to alleviate low water impact on existing facilities at such project, including provision of low water access to Lake Koocanusa, Montana, and provision of additional planned public recreation sites along the reservoir, and (2) to direct the Secretary to protect Indian archaeological sites which are exposed during the course of operations of such project, at an estimated total cost of $750,000. The Secretary shall coordinate with the Kootenai Tribes in monitoring exposed archaeological sites to prevent pillaging in preserving artifacts onsite and in facilitating curation at the tribal curation center in Pablo Montana when onsite preservation is not warranted.

(o) NEW YORK HARBOR, NEW YORK.—The New York Harbor collection and removal of drift project is modified to authorize the Secretary to collect refuse through the use of nets, at a total cost of $20,000.

(t) SEA BRIGHT TO MONMOUTH BEACH, NEW JERSEY.—Section 854(a) of the Water Resources Development Act of 1986 (100 Stat. 4179) is amended by inserting "(1)" after "to provide that" and by striking out the period at the end of such section and inserting in lieu thereof the following: "; (2) such reach shall be constructed substantially in accordance with the draft general design memorandum, dated January 1988, at a total additional initial cost of $51,000,000; and (3) periodic beach nourishment over the project life will be conducted, at an estimated annual cost of $1,200,000. Additional costs incurred under clause (2) and costs incurred under clause (3) for beach nourishment shall be subject to cost sharing in accordance with title I of this Act.".

(m) IRONDEQUOIT BAY, NEW YORK.—The navigation project for Irondequoit Bay, New York, authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 299), is modified to authorize the Secretary to construct a highway bridge across the new channel constructed as part of such project if non-Federal interests—

(1) agree to be responsible for operation and maintenance of such bridge,

(2) agree to pay 50 percent of the cost of such construction, and

(3) agree that title to such bridge will be held by non-Federal interests.

(n) East Rockaway Inlet to Rockaway Inlet and Jamaica Bay, New York.—The project at East Rockaway Inlet to Rockaway Inlet and Jamaica Bay, New York, authorized by the Flood Control Act of 1965 and modified by the Water Resources Development Act of 1974, is modified to extend periodic beach nourishment for such project to the 50th year after construction of such project and to direct the Secretary to participate in periodic nourishment through the 50-year project life of the project under the cost-sharing terms of the previously executed local cooperation agreement.

(w) Massillon, Ohio, Bridge.—Section 803 of the Water Resources Development Act of 1986 (100 Stat. 4166) is amended by adding at the end thereof the following new sentence: "Notwithstanding section 215 of the Flood Control Act of 1968 (42 U.S.C. 1962d–5a), if, before the date of the enactment of this Act, non-Federal interests complete construction and repair of the Cherry Street bridge, the Secretary shall credit toward the non-Federal share of the cost of construction of the Walnut Street bridge an amount equal to the Federal share of the cost incurred for construction and repair of the Cherry Street bridge.".

(x) Maumee Bay, Ohio.—The undesignated paragraph of section 501(a) of the Water Resources Development Act of 1986 under the heading "MAUMEE BAY, LAKE ERIE, OHIO" (100 Stat. 4135–4136) is amended by adding at the end thereof the following new sentence: "The Secretary shall credit toward the non-Federal share of the cost of the work remaining on such project an amount equal to the Federal share of the work carried out by non-Federal interests on the eastern segment of such project before the date of the enactment of the Water Resources Development Act of 1988.".

(y) Broken Bow Lake, Oklahoma.—The project for flood control, power and water supply, Broken Bow Lake, Oklahoma, authorized by the Flood Control Act of 1958 and the Flood Control Act of 1962, is modified to authorize and direct the Secretary to construct such hydroelectric power production facilities at the Broken Bow Lake reregulation dam as are recommended in a report of the Chief of Engineers and approved by the Secretary, at an estimated total cost of $13,300,000.

(z) Rochester, Pennsylvania.—The project for navigation on the Ohio River at Rochester, Pennsylvania, authorized by the River and Harbor Act of 1909, is modified to authorize the Secretary to construct safety facilities of a floating dock, a river access ramp, and roadway and parking areas at a total cost of $90,000.

(aa) Wyoming Valley, Pennsylvania.—The project for flood control, Wyoming Valley, Pennsylvania, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 1424), is modified to authorize the Secretary to construct an inflatable dam on the Susquehanna River in the Wilkes Barre area, Pennsylvania, at a total cost of $2,000,000 with the non-Federal share of the cost of such dam to be as provided in section 103(c)(4) of the Water Resources Development Act of 1986.

(bb) Blair and Sitcum Waterways, Washington.—The undesignated paragraph of section 202(a) of the Water Resources Development Act of 1986 under the heading "BLAIR AND SITCUM WATERWAYS, TACOMA HARBOR, WASHINGTON" (100 Stat. 4096) is amended by striking out "$38,200,000" and all that follows through "$12,000,000;" and inserting in lieu thereof "$54,000,000;".

(cc) Wynoochee Lake, Washington.—

(1) Operation and maintenance by non-Federal interest.—The project for Wynoochee Lake, Wynoochee River, Washington, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1193), is modified to provide that the Secretary may permit the city of Aberdeen, Washington, to operate, maintain, repair, and rehabilitate the project after September 30, 1988.

(2) Terms and conditions.—Operation, maintenance, repair, and rehabilitation of the project referred to in paragraph (1) by the city of Aberdeen shall be subject to such terms and conditions as the Secretary shall establish by regulation to ensure that operation, maintenance, repair, and rehabilitation of the project are consistent with the project's authorized purposes, including fish and wildlife mitigation. In issuing such regulations, the Secretary shall evaluate the effect of such regulations on the project costs payable by the city.

(3) Transfer of responsibilities; protection of title; damages; resumption of Federal O&M.—If the Secretary decides to permit the city of Aberdeen to operate, maintain, repair, and rehabilitate the project referred to in paragraph (1)—

(A) the Secretary shall modify the project contract to forgive future operation, maintenance, repair, and rehabilitation payment obligations of the city to the extent that the city is performing project operation, maintenance, repair, and rehabilitation in accordance with this subsection and the regulations issued under this subsection;

(B) the Secretary shall transfer to the city responsibility for operation, maintenance, repair, and rehabilitation of such project in a safe and cost-effective manner;

(C) title to real and personal property of such project shall remain in the United States, and the city shall not impair such title;

(D) the city shall hold and save the United States free from any damages that result from operation, maintenance, repair, and rehabilitation of such project by the city, except for damages due to the fault or negligence of the United States or its contractors; and

(E) upon due cause as determined by the Secretary and after notice to the city, the Secretary may resume operation, maintenance, repair, and rehabilitation of such project and the city shall be responsible to pay the percentage of the operation, maintenance, repair, and rehabilitation costs of the project incurred thereafter and related to water supply storage as described in the original project contract.

SEC. 105. COMMENTS ON CERTAIN CHANGES IN OPERATIONS OF RESERVOIRS.

Before the Secretary may make changes in the operation of any reservoir which will result in or require a reallocation of storage space in such reservoir or will significantly affect any project purpose, the Secretary shall provide an opportunity for public review and comment.

SEC. 106. PROTECTION OF RECREATIONAL AND COMMERCIAL USES.

(a) General Rule.—In planning any water resources project, the Secretary shall consider the impact of the project on existing and future recreational and commercial uses in the area surrounding the project.

(b) Maintenance.—Whenever the Secretary maintains, repairs, rehabilitates, or reconstructs a water resources project which will result in a change in the configuration of a structure which is a part of such project, the Secretary, to the maximum extent practicable, shall carry out such maintenance, repair, rehabilitation, or reconstruction in a manner which will not adversely affect any recreational use established with respect to such project before the date of such maintenance, repair, rehabilitation, or reconstruction.

(c) Mitigation.—If maintenance, repair, rehabilitation, or reconstruction of a water resources project by the Secretary results in a change in the configuration of any structure which is a part of such project and has an adverse effect on a recreational use established with respect to such project before the date of such maintenance, repair, rehabilitation, or reconstruction, the Secretary, to the maximum extent practicable, shall take such actions as may be necessary to restore such recreational use or provide alternative opportunities for comparable recreational use.

(d) Applicability.—

(1) General rule.—Subsections (b) and (c) shall apply to maintenance, repair, rehabilitation, or reconstruction for which physical construction is initiated after May 1, 1988.

(2) Limitation.—Subsections (b) and (c) shall not apply to any action of the Secretary which is necessary to discontinue the operation of a water resources project.

(e) Cost Sharing.—Costs incurred by the Secretary to carry out the objectives of this section shall be allocated among authorized project purposes in accordance with applicable cost allocation procedures and shall be subject to cost sharing or reimbursement to the same extent as other project costs are shared or reimbursed.

SEC. 107. OPERATION OF CERTAIN PROJECTS TO ENHANCE RECREATION.

(a) Enhancement of Recreation.—The Secretary shall ensure that each water resources project referred to in this subsection is operated in such manner as will protect and enhance recreation associated with such project. The Secretary shall also manage project lands at each such project in such manner as will improve opportunities for recreation at the project. Such activities shall be included as authorized project purposes of each project. Nothing in this subsection shall be construed to affect the authority of the Secretary to carry out other authorized project purposes or to comply with other requirements or obligations of the Secretary which are legally binding as of the date of the enactment of this Act. The provisions of this subsection shall apply to the following projects:

(1) Beechfork Lake, West Virginia.

(2) Bluestone Lake, West Virginia.

(3) East Lynn Lake, West Virginia.

(4) Francis E. Walter Dam, Pennsylvania.

(5) Jennings Randolph Lake (Bloomington Dam), Maryland and West Virgina.

(6) R.D. Bailey Lake, West Virginia.

(7) Savage River Dam, Maryland.

(8) Youghiogheny River Lake, Pennsylvania and Maryland.

(9) Summersville Lake, West Virginia.

(10) Sutton Lake, West Virginia.

(11) Stonewall Jackson Lake, West Virginia.

(b) Recreation Defined.—As used in this section, in addition to recreation on lands associated with the project, the term "recreation" includes (but shall not be limited to)

downstream whitewater recreation which is dependent on project operations, recreational fishing, and boating on water at the project.

SEC. 108. COLLABORATIVE RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—For the purpose of improving the state of engineering and construction in the United States and consistent with the civil works mission of the Army Corps of Engineers, the Secretary is authorized to utilize Army Corps of Engineers laboratories and research centers to undertake, on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local government, colleges and universities, and corporations, partnerships, sole proprietorships, and trade associations which are incorporated or established under the laws of any of the several States of the United States or the District of Columbia.

(b) ADMINISTRATIVE PROVISIONS.—In carrying out this section, the Secretary may consider the recommendations of a non-Federal entity in identifying appropriate research or development projects and may enter into a cooperative research and development agreement, as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a); except that in such agreement, the Secretary may agree to provide not more than 50 percent of the cost of any research or development project selected by the Secretary under this section. Not less than 5 percent of the non-Federal entity's share of the cost of any such project shall be paid in cash.

(c) APPLICABILITY OF OTHER LAWS.—The research, development, or utilization of any technology pursuant to an agreement under subsection (b), including the terms under which such technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701–3714).

(d) AUTHORIZATION OF APPROPRIATIONS.—To carry out the purposes of this section, there is authorized to be appropriated to the Secretary of the Army civil works funds $3,000,000 for fiscal year 1989, $4,000,000 for fiscal year 1990, $5,000,000 for fiscal year 1991, and $6,000,000 for each fiscal year thereafter.

(e) ADDITIONAL FUNDING.—Notwithstanding the third proviso under the heading "GENERAL INVESTIGATIONS" of title I of the Energy and Water Development Appropriations Act, 1989 (102 Stat. 857), an additional $3,000,000 of the funds appropriated under such heading shall be available to the Secretary for obligation to carry out the purposes of this section in fiscal year 1989.

SEC. 109. SIMULATION MODEL OF SOUTH CENTRAL FLORIDA HYDROLOGIC ECOSYSTEM.

(a) IN GENERAL.—The Secretary, in cooperation with affected Federal, State, and local agencies and other interested persons, may develop and operate a simulation model of the central and southern Florida hydrologic ecosystem for use in predicting the effects—

(1) of modifications to the flood control project for central and southern Florida, authorized by the Flood Control Act of 1948,

(2) of changes in the operation of such project, and

(3) of other human activities conducted in the vicinity of such ecosystem which individually or in the aggregate will significantly affect the ecology of such ecosystem,

on the flow, characteristics, quality, and quantity of surface and ground water in such ecosystem and on plants and wildlife within such ecosystem. Such model shall be capable of producing information which is applicable for use in evaluating the impact of issuance of proposed permits under section 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 403), commonly known as the River and Harbor Act of 1899, and under section 404 of the Federal Water Pollution Control Act.

(b) AVAILABILITY TO STATE AND LOCAL AGENCIES.—The Secretary shall allow Federal, State, and local agencies to use, on a reimbursable basis, the simulation model developed under this section.

(c) COST SHARING.—The Federal share of the cost of developing and operating the simulation model under this section shall be 75 percent.

SEC. 110. SECTION 215 REIMBURSEMENT LIMITATION PER PROJECT.

Section 215(a) of the Flood Control Act of 1968 (42 U.S.C. 1962d-5a) is amended by inserting after "$3,000,000" the following: "or 1 percent of the total project cost, whichever is greater".

SEC. 111. ADDITIONAL 10 PERCENT PAYMENT OVER 30 YEARS FOR CONSTRUCTION OF HARBORS.

(a) RELOCATION COSTS.—Section 101(a)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 2211(a)(2)) is amended by inserting "and the cost of relocations borne by the non-Federal interests under paragraph (4)" before "shall be credited".

(b) RETROACTIVE EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on November 17, 1986.

SEC. 112. COMPLIANCE WITH FLOOD PLAIN MANAGEMENT AND INSURANCE PROGRAMS.

Section 402 of the Water Resources Development Act of 1986 (33 U.S.C. 701b-12) is amended by inserting "including any project for hurricane or storm damage reduction," after "local flood protection,".

SEC. 113. FEASIBILITY REPORTS.

Section 905(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2282(a)) is amended by inserting after the third sentence the following new sentence: "The feasibility report shall also include a local and regional economic development plan for the project area if the proposed project is located in an area which qualifies for designation as an economic development area under the Public Works and Economic Development Act of 1965.".

SEC. 114. FEDERAL REPAYMENT DISTRICT.

The last sentence of section 916(a) of the Water Resource Development Act of 1986 (33 U.S.C 2291) is amended by striking out "include the power to collect" and all that follows through the period at the end of such sentence and inserting in lieu thereof "have the power to recover benefits through any cost-recovery approach that is consistent with State law and satisfies the applicable cost-recovery requirement under subsection (b).".

SEC. 115. ALLOCATION OF RESPONSIBILITY UNDER UPPER MISSISSIPPI RIVER PLAN.

Section 1103(e)(6)(A) of the Water Resources Development Act of 1986 (100 Stat. 4227) is amended to read as follows:

"(6)(A) Notwithstanding the provisions of subsection (a)(2) of this section, the costs of each project carried out pursuant to paragraph (1)(A) of this subsection shall be allocated between the Secretary and the appropriate non-Federal sponsor in accordance with the provisions of section 906(e) of this Act, except that the costs of operation, maintenance, and rehabilitation of projects shall be the responsibility of the entity that owns the lands on which the project is located.".

SEC. 116. ABANDONED AND WRECKED VESSELS.

Section 1115 of the Water Resources Development Act of 1986 (100 Stat. 4235) is amended by inserting "(a) GENERAL RULE.—" before "The Secretary" the first place it appears and by adding at the end thereof the following new subsection:

"(b) SPECIAL RULE.—The Secretary may enter into an agreement with a private person for removal of the abandoned vessel referred to in subsection (a)(3). Such agreement shall provide that consideration for such removal shall be transfer of title from the United States to such person of a DeLong Pier Jack-Up Barge Type A, Serial Number BPA6814. Such transfer shall be subject to such conditions as the Secretary determines appropriate, including a condition requiring such person to successfully remove such vessel. Procedures otherwise governing disposal of property shall not apply to the transfer of title to such barge.".

SEC. 117. FLOOD WARNING AND RESPONSE SYSTEM.

(a) DEMONSTRATION PROJECT.—The Secretary, in cooperation with other Federal agencies and the Susquehanna River Basin Commission, is authorized to design and implement a comprehensive flood warning and response system to serve communities and flood prone areas along Juniata River and tributaries in the State of Pennsylvania for the purpose of demonstrating the effectiveness of such systems and evaluating the cost of such systems.

(b) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated to carry out this section $2,000,000 for fiscal years beginning after September 30, 1988.

SEC. 118. LAKEPORT LAKE, CALIFORNIA.

(a) PROJECT REAUTHORIZATION.—The project for flood control, Lakeport Lake, California, as authorized by the Flood Control Act of 1965 on the day before the date of the enactment of the Water Resources Development Act of 1986, is authorized.

(b) REPEAL OF DEAUTHORIZATION.—Section 1003 of the Water Resources Development Act of 1986 (100 Stat. 4222–4223) is repealed.

SEC. 119. PLANADA, CALIFORNIA.

The Director of the Federal Emergency Management Agency is directed to prepare or cause to be prepared a hydrological study of Miles Creek, California, to use as the basis for the establishment of revised base flood elevations in and near the community of Planada, California. Until such time as such revised based flood elevations are established, the flood insurance rate map (Community Panel No. 0601880315A) in effect on September 1, 1988, for the area in and near such community shall remain in effect.

SEC. 120. SACRAMENTO, CALIFORNIA.

(a) FINDINGS.—The Congress finds that—

(1) the Sacramento, California area has had in place a flood control system which has been classified as protecting against floods with recurrence intervals of up to 125 years;

(2) local governmental entities in the Sacramento metropolitan area have been working diligently with the State of California, the Army Corps of Engineers, and the Bureau of Reclamation since the occurrence of a heavy storm in 1986 to formulate and implement a comprehensive plan to provide high level, efficient flood protection to the region;

(3) the Federal Emergency Management Agency, in response to studies by the Corps

of Engineers indicating increased flood vulnerability attributable to increased estimates of the frequency of large storms in the region, has begun a process of re-analyzing the flood risks in the Sacramento area, and this analysis is likely to result in substantially increased flood elevation requirements under the National Flood Insurance Program;

(4) changed flood elevation requirements attributable to a change in flood elevation determinations by the Director of the Federal Emergency Management Agency will cause severe disruption in the Sacramento region and could precipitate the break-up of the political, institutional, and economic relationships sustaining the high-level, comprehensive, flood protection effort;

(5) failure to implement a comprehensive plan would leave substantial portions of the Sacramento area without necessary flood protection, and, further, could impose on the Federal Government various, substantial costs related to emergency responses and damage claims in the event of a major flood;

(6) the Federal purposes embodied in the National Flood Insurance Program to minimize development in flood plains, to minimize damages caused by floods, and to reduce requirements for costly flood protection projects remain valid for the Sacramento metropolitan area, and impose upon its local governmental jurisdictions and obligation to exercise their authorities to avoid undue exposure to the dangers of floods and to voluntarily comply to the maximum extent practicable, consistent with other purposes of this section, with the National Flood Insurance Program standards which are anticipated to be applicable to the Sacramento area following expiration of the period set by subsection (b);

(7) the City and County of Sacramento have each provided assurances to the Congress that they will not designate any increases in urbanization beyond lands already so designated in their general plans during the period set forth in subsection (b), and, in addition, that in the exercise of their discretion to approve new development they will give careful consideration to—

(A) an evacuation-emergency response plan;

(B) mechanisms by which to attempt to provide notice to all buyers of new structures;

(C) retention of natural floodways; and

(D) recommendations to all buyers of new structures to purchase flood insurance;

(8) the City and County of Sacramento, in their discretion, reserve the authority to impose elevation or other requirements for new construction based upon best available flood data if facts indicate the necessity of doing so; and

(9) maintenance of the Federal flood elevation requirements now in effect for the Sacramento area for the limited period set forth in subsection (b) will facilitate implementation of the high level, comprehensive plan for flood protection in the Sacramento area, and is therefore in the interest of Sacramento, the public safety, and the United States.

(b) Flood Elevations.—Prior to the expiration of two years after the date on which the Secretary submits to the Congress the report on the feasibility study on Northern California Streams, American River Watershed, but not later than four years after the date of enactment of this Act, the provisions of the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973 shall apply on the basis of flood map elevation determinations made by the Director of the Federal Emergency Management Agency in effect as of the date of enactment of this Act to the following areas:

(1) the floodplain areas within Sutter and Sacramento Counties, California (collectively known as the "Natomas area"), which are bounded by the Sacramento River, the American River, the Natomas Cross Canal, and the floodplain of the Natomas East Main Drainage Canal;

(2) the floodplains within Sacramento County of Dry Creek, Arcade Creek, and Morrison Creek, to the extent these creeks are affected by the American and Sacramento Rivers, the American River, and the Sacramento River upstream of the City of Freeport, California; and

(3) the City of West Sacramento in Yolo County, California.

(c) Budget Submission.—The President, in submitting his budget for fiscal year 1990, shall include a schedule for completing the study referred to in subsection (b) as expeditiously as practicable and an estimate of the resources required to meet such schedule.

SEC. 121. FUNDING FOR NON-FEDERAL SHARE OF SANTA MONICA BREAKWATER.

Upon request of the city of Santa Monica, California, the Director of the Federal Emergency Management Agency shall transfer to the Secretary for credit towards the non-Federal share of the cost of any project to reconstruct the Santa Monica breakwater such amounts as the Director has allocated to such city for any major disaster declared under the Disaster Relief Act of 1974 in calendar year 1983.

SEC. 122. MISSISSIPPI RIVER HEADWATERS RESERVOIRS.

Notwithstanding any other provision of law, the Secretary is directed to maintain water levels in the Mississippi River headwaters reservoirs within the following operating limits: Winnibigoshish 1296.94 feet—1303.14 feet; Leech 1293.20 feet—1297.94 feet; Pokegama 1271.42 feet—1276.42 feet; Sandy 1214.31 feet—1218.31 feet; Pine 1227.32 feet—1234.82 feet; and Gull 1192.75 feet—1194.75 feet. Such water levels shall be measured using the National Geodetic Vertical Datum.

SEC. 123. HEARDING ISLAND INLET, DULUTH HARBOR, MINNESOTA.

The Secretary is authorized to dredge the Hearding Island Inlet, Duluth Harbor, Minnesota, for the purpose of increasing water circulation and reducing stagnant water conditions.

SEC. 124. APPLICABILITY OF COST SHARING REGULATIONS WITH RESPECT TO CERTAIN MUNICIPAL AND INDUSTRIAL WATER SUPPLY PROJECTS.

Cost sharing paid by non-Federal interests for municipal and industrial water supply with respect to Grayson Lake, Dewey Lake, and Carr Fork Lake, Kentucky, shall be determined in accordance with the regulations issued to carry out section 103(m) of the Water Resources Development Act of 1986 with respect to cost sharing agreements for flood control.

SEC. 125. COST-SHARING FOR LAKES IN KENTUCKY.

Costs to be paid by non-Federal interests for any municipal industrial water supply storage associated with the Grayson Lake, Dewey Lake, and Carr Ford Lake projects, Kentucky, shall be determined based on the original project cost estimates of $17,800,000, $7,845,000, and $46,800,000, respectively, notwithstanding any other rules or regulations promulgated by the Secretary.

SEC. 126. LOUISIANA EMERGENCY WATER SUPPLY.

The Secretary is directed to assist the State of Louisiana in providing water to distressed communities in south Louisiana (especially Lafourche Parish) whose water supply quality is threatened by drought, other climatic conditions, or disasters. Assistance under this section shall include such dredging of the existing reservoir in the northern regions of Bayou Lafourche as the Secretary determines is necessary to provide additional water storage needed to respond to drought conditions. Cost sharing for assistance provided under this section shall be the same as the cost sharing for the transportation of water under section 5(b)(4) of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved August 18, 1941 (55 Stat. 650; 33 U.S.C. 701n(b)(4)).

SEC. 127. CONTAINED SPOIL DISPOSAL FACILITIES IN THE GREAT LAKES AND THEIR CONNECTING CHANNELS.

(a) Period for Depositing Dredged Materials.—Section 123 of the River and Harbor Act of 1970 (33 U.S.C. 1293a) is amended by adding at the end thereof the following new subsection:

"(j) Period for Depositing Dredged Materials.—The Secretary of the Army, acting through the Chief of Engineers, is authorized to continue to deposit dredged materials into a contained spoil disposal facility constructed under this section until the Secretary determines that such facility is no longer needed for such purpose or that such facility is completely full.".

(b) Study and Monitoring Program.—Such section is further amended by adding at the end thereof the following new subsection:

"(k) Study and Monitoring Program.—

"(1) Study.—The Secretary of the Army, acting through the Chief of Engineers, shall conduct a study of the materials disposed of in contained spoil disposal facilities constructed under this section for the purpose of determining whether or not toxic pollutants are present in such facilities and for the purpose of determining the concentration levels of each of such pollutants in such facilities.

"(2) Report.—Not later than 1 year after the date of the enactment of this subsection, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1).

"(3) Inspection and monitoring program.—The Secretary shall conduct a program to inspect and monitor contained spoil disposal facilities constructed under this section for the purpose of determining whether or not toxic pollutants are leaking from such facilities.

"(4) Toxic pollutant defined.—For purposes of this subsection, the term 'toxic pollutant' means those toxic pollutants referred to in sections 301(b)(2)(C) and 301(b)(2)(D) of the Federal Water Pollution Control Act and such other pollutants as the Secretary, in consultation with the Administrator of the Environmental Protection Agency, determines are appropriate based on their effects on human health and the environment.".

SEC. 128. LAND CONVEYANCE, WHITTIER NARROWS DAM, LOS ANGELES COUNTY, CALIFORNIA.

(a) Authority To Convey.—Subject to the provisions of this subsection, the Secretary may convey to the city of South El Monte, California, approximately 7.778 acres of real property, together with improvements thereon, located within the Whittier Narrows Flood Control Basin, south of the Pomona Freeway (Highway 60) and east of Santa

Anita Avenue, in the city of South El Monte, California.

(b) CONSIDERATION.—In consideration for the conveyance authorized by subsection (a), the Secretary may accept real property in the Los Angeles area or cash, or both. The value of the consideration for the conveyance may not be less than the fair market value of the property conveyed by the United States, as determined by the Secretary. Any funds received by the Secretary under this section shall be deposited into the general fund of the Treasury.

(c) CONDITIONS.—The Secretary may convey the real property described in subsection (a) only if—

(1) the city of South El Monte, California, grants the United States a perpetual easement that enables the Federal Government to carry out necessary flood control activities with respect to such real property; and

(2) such city agrees to use suitable property located directly adjacent to the Whittier Narrows Park, which will be acquired through an exchange for such real property, for parking in connection with recreational activities in the Whittier Narrows Recreational Area, as the Secretary considers appropriate.

(d) ADDITIONAL TERMS.—The Secretary may impose such additional terms and conditions on the conveyance authorized by subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(e) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of such survey shall be borne by the city of South El Monte, California.

SEC. 129. LAND CONVEYANCE, OTTAWA, ILLINOIS.

(a) IN GENERAL.—Subject to the provisions of this section, the Secretary shall convey to the State of Illinois by quitclaim deed any right, title, and interest of the United States to approximately 5.3 acres of land located at the junction of the Fox and Illinois Rivers in the city of Ottawa, Illinois.

(b) TERMS AND CONDITIONS.—The conveyance by the United States under this section shall be subject to the condition that the State of Illinois, its successors and assigns, agrees to hold the United States harmless from all claims arising from or through the operations of the lands conveyed by the United States. The Secretary may impose such additional terms and conditions on the conveyance as the Secretary considers appropriate to protect the interests of the United States; except that the Secretary may not impose any term or condition which restricts the use of the lands conveyed by the United States under this section.

(c) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of the survey shall be borne by the State of Illinois.

SEC. 130. LAND TRANSFER IN WHITMAN COUNTY, WASHINGTON.

(a) EXCHANGE OF LAND.—The Secretary shall exchange approximately 171 acres of land acquired by the United States for the Lower Granite Lock and Dam project, Washington, authorized as part of the navigation project for the Snake River, Oregon, Washington, and Idaho by section 2 of the River and Harbor Act of March 2, 1945 (59 Stat. 21), for a tract of land owned by the Port of Whitman County, Washington, which the Secretary determines is suitable for wildlife mitigation purposes. Such exchange shall be made without regard to the values of the lands being exchanged.

(b) TERMS AND CONDITIONS.—The land of the United States exchanged under subsection (a) shall be subject to a reversionary interest in the United States if such land is used for any purpose other than port or industrial purposes. Such exchange shall also be subject to such other terms, conditions, reservations, and restrictions as the Secretary determines necessary for the development, maintenance, and operation of the Lower Granite Lock and Dam project referred to in subsection (a) and to protect the interests of the United States.

(c) LEGAL DESCRIPTIONS AND SURVEYS.—The exact acreages and legal descriptions of the lands exchanged under subsection (a) shall be determined by such surveys as the Secretary determines are necessary. The cost of such surveys shall be paid by the Port of Whitman County, Washington.

SEC. 131. LESAGE/GREENBOTTOM SWAMP, WEST VIRGINIA.

(a) LIMITATION ON LAND CONVEYANCE.—The Secretary shall not convey title to all or any part of the Lesage/Greenbottom Swamp to the State of West Virginia.

(b) LESAGE/GREENBOTTOM SWAMP DEFINED.—For purposes of this section, the term "Lesage/Greenbottom Swamp" means the land located in Cabell and Mason Counties, West Virginia, acquired or to be acquired by the United States for fish and wildlife mitigation purposes in connection with the Gallipolis Locks and Dam replacement project authorized by section 301(a) of the Water Resources Development Act of 1986 (100 Stat. 4110).

(c) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as affecting the authority of the Secretary to carry out the Gallipolis Locks and Dam replacement project authorized by section 310(a) of the Water Resources Development Act of 1986 (100 Stat. 4110).

SEC. 132. PRADO BASIN, CALIFORNIA, PROPERTY INTEREST EXCHANGE.

(a) EXCHANGE.—To further enable the Santa Ana River Mainstem Flood Control project to proceed, the Administrator of General Services (hereinafter in this section referred to as the "Administrator") shall issue certificates of credit under subsection (b) in return for which both the holder of producing leasehold mineral interests in the reservoir of Prado Basin, Riverside County, California, and the nonpublic owners of override and royalty interests and other nonpublic entities with rights to the minerals in such reservoir (hereinafter in this section referred to as "nonpublic owners of mineral interests") surrender to the United States their interests and rights in such reservoir.

(b) CERTIFICATES OF CREDIT.—Certificates of credit issued under this section may be used in paying for Federal excess property. Subject to an agreement between the holder of producing leasehold mineral interests in the reservoir referred to in subsection (a) and the nonpublic owner of mineral interests, such certificates may only be issued to such holder and not to such nonpublic owner, and compensation to such nonpublic owner for surrendering its interests in such reservoir to the United States shall be given to such holder.

(c) VALUE.—Subject to an agreement between the holder of producing leasehold mineral interests in the reservoir referred to in subsection (a) and the nonpublic owner of mineral interests, the value of a certificate of credit issued under this section for surrender of mineral interests in the reservoir referred to in subsection (a) shall be equal to the value of the aggregate of both the leasehold value and the nonpublic ownership value of such mineral interests, as determined by the Administrator.

(d) EVALUATION AND APPRAISAL.—The Administrator is authorized to undertake such evaluation and appraisal of leasehold mineral interests and mineral interests which may be surrendered under this section and shall submit a final report on the results of such evaluation and appraisal to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives not later than 120 days after the date of the enactment of this Act. If, in undertaking such evaluation and appraisal, the Administrator contracts for appraisal service, the Administrator shall require an independent and objective appraisal by a person knowledgeable of the petroleum industry. Upon submission of the report under this subsection, the exchange of property (including issuance of certificates of credit) referred to in subsection (a) shall be affectuated.

(e) LIMITATION ON APPROPRIATIONS.—No appropriation shall be made for carrying out the purposes of this section and no exchange costs shall be required to be born by the local governmental jurisdictions benefited by the project.

(f) FEDERAL EXCESS PROPERTY DEFINED.—For purposes of this section, the term "Federal excess property" means any excess property of the United State property acquired, purchased, or improved pursuant to the Public Buildings Act of 1959.

SEC. 133. CLEAR LAKE PILOT PROJECT, CALIFORNIA.

The Secretary is authorized to conduct a pilot project for the purpose of determining the viability of the use of aluminum sulfate for algae control in Clear Lake in Lake County, California. There is authorized to be appropriated $80,000 to carry out this section.

SEC. 134. PLACEMENT OF DREDGED BEACH QUALITY SAND ON BEACHES.

Section 145 of the Water Resources Development Act of 1976 (33 U.S.C. 426j) is amended by adding at the end thereof the following new sentence: "In carrying out this section, the Secretary shall give consideration to the State's schedule for providing its share of funds for placing such sand on the beaches of such State and shall, to the maximum extent practicable, accommodate such schedule.".

SEC. 135. RESTORATION, VENTURA TO PIERPONT BEACH, CALIFORNIA.

The Secretary shall make such repairs as are required to restore groin number 1 of the Ventura to Pierpont Beach erosion control project to its original configuration as authorized pursuant to House Document 87–458, at a total cost of $300,000, with an estimated first Federal cost of $225,000 and an estimated first non-Federal cost of $75,000.

SEC. 136. WILLIAM G. STONE LOCK TOLLS.

The first sentence of section 1150(b) of the Water Resources Development Act of 1986 (100 Stat. 4255) is amended by striking out "Yolo County, California" and inserting in lieu thereof the following: "the city of West Sacramento, California".

SEC. 137. DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF THE DELAWARE RIVER.

The portions of the Delaware River in Philadelphia County, Pennsylvania, which are particularly described in the following metes and bounds description are hereby declared to be nonnavigable waters of the United States within the meaning of the Constitution and the laws of the United States, except for purposes of the Federal Water Pollution Control Act and section 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 403), commonly known as the River and Harbor Act of 1899:

(1) LIBERTY LANDING.

Description of Pier 53 South

All that certain lot or piece of ground together with the improvements thereon erected, situate in the 1st ward of the city of Philadelphia and described according to a plan of property by John Stefanco, Surveyor and Regulator of the Second Survey District, dated November 4, 1974 and revised December 18, 1974:

Beginning at an interior point formed by the intersection of the following two courses and distances: (1) north 14 degrees 46 minutes 39 seconds east, the distance of 781.002 feet northwardly from the northerly side of Reed Street (50 feet wide bearing south 75 degrees 13 minutes 21 seconds east); (2) south 75 degrees 20 minutes 21 seconds east, the distance of 231.805 feet eastwardly from the easterly side of Delaware Avenue (150 feet wide bearing north 14 degrees 39 minutes 39 seconds east); thence extending from said point of beginning, north 0 degree 49 minutes 15 seconds west, the distance of 160.856 feet to a point; thence extending north 79 degrees 53 minutes 04 seconds east, the distance of 24.808 feet to a point; thence extending north 10 degrees 03 minutes west, the distance of 15.0 feet to a point; thence extending south 79 degrees 53 minutes 04 seconds west, the distance of 22.723 feet to a point; thence extending north 4 degrees 56 minutes 56 seconds west, the distance of 99.228 feet to a point; thence extending south 80 degrees 53 minutes 04 seconds west, the distance of 7.0 feet to a point on an arc; thence extending along an arc curving to the right having a radius of 698.835 feet, a central angle of 11 degrees 29 minutes 44 seconds, an arc distance of 140.211 feet to a point of tangency; thence extending north 0 degree 44 minutes 16 seconds west, the distance of 57.302 feet to a point on the former centre line of former Washington Avenue (100 feet wide); thence extending along the said centre line of former Washington Avenue and crossing the bed of a 30-foot-wide private driveway and the bulkhead line, (approved by the Secretary of War, September 10, 1940); south 75 degrees 13 minutes 21 seconds east, the distance of 940.350 feet to a point on the pierhead line (approved by the Secretary of War, September 10, 1940); thence extending along the said pierhead line, south 1 degree 32 minutes 57 seconds east, the distance of 422.516 feet to a point; thence extending north 75 degrees 13 minutes 21 seconds west, recrossing the said Bulkhead line; the distance of 690.031 feet to a point; thence extending north 6 degrees 35 minutes 30 seconds west, the distance of 58.388 feet to a point; thence extending south 79 degrees 54 minutes west, the distance of 19.120 feet to a point; thence extending south 10 degrees 6 minutes east, the distance of 4.10 feet to a point; thence extending south 79 degrees 54 minutes west, and crossing the bed of the aforementioned 30-foot-wide private driveway, the distance of 196.802 feet to the First mentioned point and place of beginning.

Containing in total area 374,026.6 square feet—8.58647 acres description of 30-foot-wide private driveway within the property of Pier 53 south.

All that certain lot or piece of ground described as a 30-foot-wide private driveway as shown on a plan of property, situate in the 1st ward of the city of Philadelphia, by John Stefanco, Surveyor and Regulator of the Second Survey District, dated November 4, 1974 and revised December 18, 1974.

Beginning at an interior point formed by the intersection of the following 2 courses and distances: (1) north 14 degrees 46 minutes 39 seconds east, the distance of 802.293 feet northwardly from the northerly side of Reed Street (50 feet wide bearing south 75 degrees 13 minutes 21 seconds east), (2) south 75 degrees 20 minutes 21 seconds east, the distance of 277.764 feet eastwardly from the easterly side of Delaware Avenue (150 feet wide bearing north 14 degrees 39 minutes 39 seconds east); thence extending from said point of beginning north 10 degrees 3 minutes west, the distance of 173.758 feet to a point; thence extending north 14 degrees 52 minutes 4 seconds east, the distance of 180.551 feet to a point; thence extending north 17 degrees 35 minutes 1 second west, the distance of 101.949 feet to a point on the centre line of former Washington Avenue (100 feet wide); thence extending along said former centre line of Washington Avenue, south 75 degrees 13 minutes 21 seconds east, the distance of 35.516 feet to a point; thence extending south 17 degrees 35 minutes 1 second east, the distance of 91.669 feet to a point; thence extending south 14 degrees 52 minutes 4 seconds west, the distance of 182.653 feet to a point; thence extending south 10 degrees 3 minutes east, the distance of 167.104 feet to a point; thence extending south 79 degrees 54 minutes west, the distance of 30.000 feet to the first mentioned point and place of beginning. Area of 30-foot-wide private driveway is 13,465.2 square feet—0.30912 acres.

All that certain lot or piece of ground with the buildings and improvements thereon erected, situate in the first ward of the city of Philadelphia and described according to a Plan of Property by Evans Sparks, Surveyor and Regulator of the Second Survey District, dated February 23, 1988 as follows: Parcel "A".

Beginning at a point on the easterly side of Delaware Avenue (150 feet wide), located northwardly the distance of 1,100 feet 7⅝ inches from the point of intersection of the northerly side of Tasker Street (50 feet wide) and the easterly side of the said Delaware Avenue; thence extending north 14 degrees 39 minutes 39 seconds east along the said easterly side of Delaware Avenue, the distance of 975 feet 1 inch to an angle point; thence continuing along the said easterly side of Delaware Avenue north 14 degrees 35 minutes 09 seconds east, the distance of 50 feet 0 inch to a point on the center line of former Washington Avenue (100 feet wide), stricken from the city plan; thence extending south 75 degrees 14 minutes 21 seconds east along the center line of the said former Washington Avenue, the distance of 151 feet 4⅞ inches to a point on the westerly side of a 30-foot-wide driveway easement; thence extending south 17 degrees 35 minutes 01 second east along the said driveway easement, the distance of 102 feet 0 inch to an angle point; thence continuing along the said driveway easement south 14 degrees 52 minutes 04 seconds west, the distance of 180 feet 6⅝ inches to an angle point; thence still continuing along the said driveway easement south 10 degrees 03 minutes 00 second east, the distance of 131 feet 7⅛ inches to a point; thence extending south 14 degrees 39 minutes 39 seconds west along a line, the distance of 638 feet 11 inches to a point; thence extending north 75 degrees 14 minutes 21 seconds west, along a line, the distance of 260 feet 1½ inches to a point on the easterly side of said Delaware Avenue, being the first mentioned point and place of beginning.

Containing in area 246,456 square feet or 5.6579 acres.

All that certain lot or piece of ground with the buildings and improvements thereon erected, situate in the first ward of the city of Philadelphia and described according to a Plan of Property by Evans Sparks, Surveyor and Regulator of the Second Survey District, dated February 23, 1988 as follows: Parcel "B".

Beginning at a point on the easterly side of Delaware Avenue (150 feet wide), located northwardly the distance of 1,038 feet 1⅞ inches from the point of intersection of the northerly side of Tasker Street (50 feet wide) and the easterly side of the said Delaware Avenue; thence extending north 14 degrees 39 minutes 39 seconds east along the said easterly side of Delaware Avenue, the distance of 62 feet 5½ inches to a point; thence extending south 75 degrees 14 minutes 21 seconds east along a line, the distance of 260 feet 1½ inches to a point; thence extending north 14 degrees 39 minutes 39 seconds east along a line, the distance of 638 feet 11 inches to a point on the westerly side of a 30 feet wide driveway easement; thence extending south 10 degrees 03 minutes 00 second east along the said driveway easement, the distance of 42 feet 2 inches to a point; thence extending north 79 degrees 54 minutes 00 second east crossing the said driveway easement, the distance of 146 feet 2½ inches to a point; thence extending north 10 degrees 06 minutes 00 second west, the distance of 4 feet 1¼ inches to a point; thence extending north 79 degrees 54 minutes 00 seconds east, the distance of 19 feet 1½ inches to a point; thence extending south 6 degrees 35 minutes 30 seconds east, the distance of 58 feet 4⅝ inches to a point; thence extending south 75 degrees 13 minutes 21 seconds east, crossing the bulkhead line approved by the Secretary of War, September 10, 1940; August 9, 1909, and January 20, 1891, the distance of 690 feet 1⅝ inches to a point on the pierhead line of the Delaware River approved by the Secretary of War, September 10, 1940; August 9, 1909, and January 20, 1891; thence extending along the said pierhead line south 1 degree 32 minutes 57 seconds east, the distance of 386 feet 4⅛ inches to a point; thence continuing along the said pierhead line, south 8 degrees 55 minutes 55.5 seconds east, the distance of 491 feet 11¼ inches to a point on the northerly side of Reed Street (50 feet wide) stricken from city plan and vacated and reserved as a right-of-way for drainage, water main and gas purposes; thence extending along same, north 75 degrees 13 minutes 21 seconds west, recrossing the said bulkhead line and 30-foot-wide driveway easement the distance of 632 feet 1½ inches to a point on the westerly side of said driveway easement; thence extending north 12 degrees 24 minutes 31 seconds west, along said driveway easement, the distance of 136 feet 0¼ inch to a point; thence extending north 14 degrees 50 minutes 59 seconds east, partly along a 25-foot-wide driveway easement, the distance of 21 feet 0⅛ inch to a point; thence extending north 75 degrees 13 minutes 21 seconds west, the distance of 492 feet 11¾ inches to a point; thence extending south 14 degrees 46 minutes 39 seconds west, the distance of 51 feet 3⅛ inches to a point; thence extending north 64 degrees 29 minutes 30 seconds west, the distance of 259 feet 9⅝ inches to the easterly side of said Delaware Avenue, being the first mentioned point and place of beginning.

Containing in area 785,683 square feet or 18.0368 acres.

(2) MARINA TOWERS AND WORLD TRADE CENTER—PIER 25 NORTH.

All that certain lot or piece of ground situate in the 5th ward, city of Philadelphia, Commonwealth of Pennsylvania, described in accordance with a Plan of Property made for Old City Harbor Associates Developers, by Lawrence J. Cleary, Surveyor and Regulator, Third Survey District dated March 26, 1981 as follows: to wit:

Beginning at a point on the easterly line of Delaware Avenue (150 feet wide) located 27 degrees 52 minutes 00 second west, the distance of 119 feet 8⅞ inches from a point of intersection of the easterly line of the said Delaware Avenue with the southerly line of Willow Street (50 feet wide) produced; thence extending along the easterly line of the said Delaware Avenue, the two following courses and distances: (1) north 27 degrees 52 minutes 00 second east, the distance of 162 feet 8⅛ inches to an angle point; (2) north 15 degrees 16 minutes 00 second east, the distance of 95 feet 5⅜ inches to a point; thence extending south 73 degrees 55 minutes 50 seconds east, the distance of 18 feet 5⅞ inches to a point on the bulkhead line of the Delaware River approved by the Secretary of War September 10, 1940; thence further extending south 73 degrees 55 minutes 50 seconds east, the distance of 515 feet 9⅜ inches to a point on the pierhead line of the Delaware River approved by the Secretary of War September 10, 1940; thence extending the following two courses and distances along the said pierhead line of the Delaware River (approved by the Secretary of War September 10, 1940): (1) south 29 degrees 05 minutes 21 seconds west, the distance of 133 feet 8⅞ inches to an angle point; (2) south 19 degrees 41 minutes 36 seconds west, the distance of 117 feet 2½ inches to a point; thence extending north 74 degrees 44 minutes 00 second west, the distance of 504 feet 10 inches to a point on the said bulkhead line of the Delaware River (approved by the Secretary of War September 10, 1940); thence further extending north 74 degrees 44 minutes 00 second west, the distance of 23 feet 10⅝ inches to the first mentioned point and place beginning.

Being parcels number 1 (known as pier 25 north), number 2 and number 3 and containing in total area 130,281.6 square feet.

(3) MARINE TRADE CENTER—PIER 24 NORTH.

Description of a property located on the easterly side of Delaware Avenue. Northwardly from the south house line of Callowhill Street produced (pier numbered 24 north).

All that certain lot or piece of ground situate in the fifth ward of the city of Philadelphia and described in accordance with a Survey and Plan of Property made November 16, 1985 by Lawrence J. Cleary, Surveyor and Regulator, Third Survey District, and revised March 22, 1988 by him.

Beginning at a point of intersection of the easterly side of Delaware Avenue (150 feet wide) and the south house line of Callowhill Street (formerly 50 feet wide) produced; thence extending north 27 degrees 52 minutes 00 second east along the said side of Delaware Avenue, the distance of 340 feet 3 inches to a point; thence extending south 74 degrees 44 minutes 00 second east the distance of 23 feet 10⅝ inches to a point on the bulkhead line of the Delaware River approved by the Secretary of War, September 10, 1940; thence extending south 74 degrees 44 minutes 00 second east the distance of 528 feet 8⅝ inches to a point on the pierhead line of the Delaware River approved by the Secretary of War, September 10, 1940; thence extending south 19 degrees 41 minutes 36 seconds west along the said pierhead line the distance of 289 feet 9½ inches to a point on the said south house line of Callowhill Street produced; thence extending north 78 degrees 58 minutes 50 seconds west along the south house line of said Callowhill Street produced the distance of 522 feet 8¾ inches to a point on the said bulkhead line; thence continuing along the said south house line of Callowhill Street produced north 78 degrees 58 minutes 50 seconds west the distance of 59 feet 5¼ inches to the first mentioned point and place of beginning.

Containing in area 171,171 square feet (3.9295 acres).

(4) NATIONAL SUGAR COMPANY "SUGAR HOUSE".

Description and Recital—block 6 north 6 lot 17—all that certain land.

Situate in the 5th ward of the city of Philadelphia, Pennsylvania and more particularly described as follows:

Beginning at a point on the southeasterly side of Penn Street (60 feet wide) which point is measured south 43 degrees 30 minutes west along the said southeasterly side of Penn Street the distance of 282 feet 6 inches from a point formed by an intersection of the said southeasterly side of Penn Street and the southwesterly side of Laurel Street (50 feet wide); thence extending from said point of beginning south 46 degrees 30 minutes east the distance of 738 feet 8½ inches to a point on the Delaware River pierhead line established January 5, 1894, approved by Secretary of War September 10, 1940; thence extending south 48 degrees 13 minutes 7 seconds west along the Delaware River pierhead line the distance of 188 feet 3⅛ inches to a point; thence extending north 46 degrees 30 minutes west partly passing within the bed of a 10-foot-wide alley by deed (which extends northwestwardly to the said southeasterly side of Penn Street) the distance of 723 feet 2⅝ inches to a point on the said southeasterly side of Penn Street; thence extending north 43 degrees 30 minutes east along the said southeasterly side of Penn Street and crossing the bed of the said 10-foot-wide alley by deed the distance of 187 feet 7½ inches to a point, being the first mentioned point and place of beginning.

Containing 3.148 acres, more or less, as surveyed on June 29, 1981, by Lawrence J. Cleary, Surveyor and Regulator of the 3rd District.

Together with 1,736 linear feet of track thereupon erected, made or being and all and every of the rights, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging, or in anywise appertaining. Being known as pier 40 north.

Being the same premises which Ralph Heller, an individual by deed dated November 4, 1981, and recorded in Philadelphia County, in deed book EFP 345 page 531 conveyed unto pier 40 north associates, a Penna. Limited partnership, its successors and assigns, as partnership property for the uses and purposes of said partnership.

Description of piers 41, 42, and 43 north

All that certain lot or piece of ground situate in the fifth ward of the city of Philadelphia and described in accordance with a Topographic Survey and Plan of Property made May 23, 1988, by Lawrence J. Cleary, Surveyor and Regulator of the Third Survey District:

Beginning at the point formed by the intersection of the easterly side of Penn Street (60 feet wide), and the southerly side of former Laurel Street (50 feet wide), stricken and reserved for drainage; thence extending south 46 degrees 30 minutes 00 second east, along the said southerly side of former said Laurel Street, the distance of 190 feet 9 inches to a point on the bulkhead line established January 5, 1894, and approved by the Secretary of War, September 10, 1940; thence extending south 46 degree 30 minutes 00 second east the distance of 571 feet 3¼ inches to a point on the pierhead line established January 5, 1894, and approved by the Secretary of War, September 10, 1940; thence extending south 48 degrees 13 minutes 07 seconds west along the said pierhead line the distance of 283 feet 5½ inches to a point; thence extending north 46 degrees 30 minutes 00 second west leaving said pierhead line the distance of 546 feet 11⅝ inches to a point on the aforementioned bulkhead line established January 5, 1894, and approved by the Secretary of War, September 10, 1940; thence extending north 46 degrees 30 minutes 00 second west the distance of 191 feet 8⅞ inches to a point on the easterly side of said Penn Street; thence extending north 43 degrees 30 minutes 00 second east along the easterly side of said Penn Street the distance of 282 feet 6 inches to the first mentioned point and place of beginning.

Description of piers 44 to 50 north, inclusive

All that certain lot or piece of ground situate in the fifth ward of the city of Philadelphia and described in accordance with a Survey and Plan of Property made March 7, 1985 by Lawrence J. Cleary, Surveyor and Regulator of the Third Survey District:

Beginning at a point of intersection formed by the northeasterly side of Shackamaxon Street (60 feet wide) and the southeasterly side of Penn Street (50 feet wide); thence extending south 22 degrees 26 minutes 57 seconds east along the northeasterly side of the bed of former Shackamaxon Street (reserved for drainage purposes), the distance of 170 feet 8⅝ inches to a point on the bulkhead line of the Delaware River (established January 5, 1984—approved by the Secretary of War, September 10, 1940); thence further extending south 22 degrees 26 minutes 57 seconds east along the northeasterly side of the bed of former Shackamaxon Street (subject to a right-of-way for sewer maintenance as provided in ordinance), the distance of 623 feet 6⅜ inches to a point on the pierhead line of the Delaware River (established January 5, 1894—approved by the Secretary of War, September 10, 1940); thence extending south 54 degrees 04 minutes 10 seconds west along the said pierhead line (being also the southeasterly head of the said former Shackamaxon Street), the distance of 61 feet 8⅜ inches to an angle point; thence extending south 48 degrees 11 minutes 38 seconds west along the said pierhead line the distance of 385 feet 11½ inches to a point on the northeasterly side of Laurel Street (50 feet wide) produced; thence extending north 46 degrees 29 minutes 00 second west along the northeasterly side of the said Laurel Street produced, the distance of 575 feet 6⅞ inches to a point on the said bulkhead line; thence further extending north 46 degrees 29 minutes 00 second west along the northeasterly side of the said Laurel Street, the distance of 190 feet 7 inches to a point on the southeasterly side of Penn Street (60 feet wide); thence extending north 43 degrees 30 minutes 00 second east along the southeasterly side of the aforesaid Penn Street, the distance of 543 feet 0¾ inch to an angle point; thence extending north 63 degrees 51 minutes 33 seconds east along the southeasterly side of said Penn Street (50 feet wide), the distance of 240 feet 9 inches to the first mentioned point and place of beginning.

(5) RIVERCENTER.

Beginning at the point of intersection of the northeasterly side of Dyott Street (100 feet wide) with the bulkhead line established by the Secretary of War, September 10, 1940; thence from said point of beginning leaving the side of Dyott Street and extending along the bulkhead line the following five (5) courses and distances—

(1) north 64 degrees 18 minutes 09 seconds east 829 feet 10 inches to a point;

(2) south 48 degrees 30 minutes 57 seconds east 53 feet 5⅝ inches to a point;

(3) north 64 degrees 40 minutes 52 seconds east 936 feet 8⅝ inches to a point;

(4) north 32 degrees 24 minutes 26 seconds west 149 feet 2¼ inches to a point;

(5) north 64 degrees 04 minutes 09 seconds east crossing a 60 foot drainage right of way 296 feet 3¾ inches to a point on the southwesterly side of pier #20;

thence extending along said southwesterly side of pier #20 15 feet distant and parallel with the aforementioned drainage right of way south 25 degrees 02 minutes 08 seconds east 586 feet 6⅜ inches to a point on the pierhead line established by the Secretary of War, September 10, 1940; thence extending along the pierhead line south 64 degrees 16 minutes 52 seconds west 2,021 feet 10 inches to a point on the northeasterly side of Dyott Street; thence extending along said northeasterly side of Dyott Street north 30 degrees 02 minutes 52 seconds west 494 feet 9⅜ inches to the point and place of beginning.

SEC. 138. DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF CONEY ISLAND CREEK AND GRAVESEND BAY, NEW YORK.

The portions of Coney Island Creek and Gravesend Bay, New York, which are particularly described in the following metes and bounds description are hereby declared to be nonnavigable waters of the United States within the meaning of the Constitution and the laws of the United States, except for purposes of the Federal Water Pollution Control Act and section 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 403), commonly known as the River and Harbor Act of 1899.

Beginning at the corner formed by the intersection of the Westerly Line of Cropsey Avenue, and the Northernmost United States Pierhead Line of Coney Island Creek.

Running thence south 12 degrees 41 minutes 03 seconds E and along the westerly line of Cropsey Avenue, 98.72 feet to the northerly channel line as shown on Corps of Engineers Map Numbered F. 150 and on Survey by Rogers and Giollorenzo Numbered 13959 dated October 31, 1986.

Running thence in a westerly direction and along the said northerly channel line the following bearings and distances:

South 48 degrees 59 minutes 27 seconds west, 118.77 feet; south 37 degrees 07 minutes 01 seconds west, 232.00 feet; south 23 degrees 17 minutes 10 seconds west, 430.03 feet; south 31 degrees 25 minutes 46 seconds west, 210.95 feet; south 79 degrees 22 minutes 49 seconds west, 244.18 feet; north 55 degrees 00 minutes 29 seconds west, 183.10 feet; north 41 degrees 47 minutes 04 seconds west, 315.16 feet; and

North 41 degrees 17 minutes 43 seconds west, 492.47 feet to the said Pierhead Line; thence north 73 degrees 58 minutes 40 seconds west and along said pierhead line, 2665.25 feet to the intersection of the United States bulkhead line;

Thence north 0 degrees 19 minutes 35 seconds west and along the United States Bulkhead line 1138.50 feet to the intersection of the westerly prolongation of the center line of 26th Avenue,

Thence north 58 degrees 25 minutes 06 seconds east and along the center line of said 26th Avenue, 2320.85 feet to the westerly line of Cropsey Avenue, then southeasterly and along the southerly line of Cropsey Avenue the following bearings and distances:

South 31 degrees 34 minutes 54 seconds east, 4124.59 feet; and

South 12 degrees 41 minutes 03 seconds east, 710.74 feet to the point or place of beginning.

Coordinates and bearings are in the system as established by the United States Coast and Geodetic Survey for the Borough of Brooklyn.

SEC. 139. EXTENSION OF MODIFIED WATER DELIVERY SCHEDULES, EVERGLADES NATIONAL PARK.

The first sentence of section 1302 of the Supplemental Appropriations Act, 1984 (97 Stat. 1292–1293) is amended by striking out "January 1, 1989" and inserting in lieu thereof "January 1, 1992".

SEC. 140. PERIOD OF ENVIRONMENTAL DEMONSTRATION PROGRAM.

(a) EXTENSION OF PERIOD.—Section 1135(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2294 note) is amended by striking out "two-year period" and inserting in lieu thereof "5-year period".

(b) REPORTS.—Section 1135(d) of such Act is amended by striking out "two years" and inserting in lieu thereof "5 years".

SEC. 141. MAYO'S BAR LOCK AND DAM, ROME, GEORGIA.

The Secretary is authorized and directed to prepare plans and specifications for the restoration of the Mayo's Bar Lock and Dam near Rome, Georgia, at a total cost of $300,000, with an estimated first Federal cost of $150,000 and an estimated first non-Federal cost of $150,000.

SEC. 142. FEDERAL HYDROELECTRIC POWER MODERNIZATION STUDY.

(a) STUDY.—The Secretary shall conduct a study of the need to modernize and upgrade the federally owned and operated hydroelectric power system.

(b) REPORT.—Not later than 1 year after the date of the enactment of this section, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a) together with recommendations.

SEC. 143. KISSIMMEE RIVER, FLORIDA.

The Secretary is directed to proceed with work on the Kissimmee River demonstration project, Florida, pursuant to section 1135 of the Water Resources Development Act of 1986.

SEC. 144. WATER RESOURCES STUDIES.

(a) INTERNAL DRAINAGE SYSTEM, FROG POND AGRICULTURAL AREA, FLORIDA.—The Secretary shall conduct a study for the purpose of determining the need for an internal drainage system in the Frog Pond agricultural area of south Dade County, Florida. Within 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a reconnaissance report on the need for such system.

(b) CARTER LAKE, IOWA AND NEBRASKA.—

(1) STUDY AND DEMONSTRATION PROJECT.—The Secretary shall conduct a study and demonstration project to determine the effects of fluctuations of the water level of Carter Lake, Iowa and Nebraska, on groundwater induced flooding in the area surrounding such lake and of methods of reducing such flooding by pumping water between such lake and the Missouri River.

(2) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study and demonstration project carried out under this subsection.

(c) MEMPHIS HARBOR, ENSLEY BERM, TENNESSEE.—The Secretary may conduct a study for the purpose of determining the extent of seepage associated with the project for flood control, Memphis Harbor, Ensley Berm, Tennessee, and the need for corrective measures.

(d) BARTLETT, ILLINOIS.—Before issuing a permit under section 404 of the Federal Water Pollution Control Act for a proposed municipal landfill in the vicinity of Bartlett, Illinois, the Secretary shall study, and report to Congress on, the impact of such landfill on the Newark Valley Aquifer and on the ability of water from such Aquifer to dilute for purposes of drinking water supply naturally occurring radium in groundwater.

(e) BLUESTONE LAKE, WEST VIRGINIA.—

(1) IN GENERAL.—The Secretary, in cooperation with the Secretary of the Interior, is authorized and directed to conduct a study and prepare a report on modifying the operation of the Bluestone Lake project, West Virginia, in order to facilitate the protection and enhancement of biological resources and recreational use of waters downstream from the project. Specific consideration shall be given in the study to all feasible means of improving flows from such project during periods when flows from the lake are less than 3,000 cubic feet per second, except that the study shall not consider project operation adjustments which entail major construction modifications at the project.

(2) NOTICE AND COMMENTS.—The Secretary shall publish notice of the proposed study under this subsection in the Federal Register within 3 months after the date of the enactment of this Act and shall consider any written comments regarding the scope of the study which are submitted during the 60-day period after publication of such notice.

(3) FINAL REPORT.—Not later than 18 months after the date of the enactment of this Act, the final report on the results of the study under this subsection shall be transmitted to Congress.

(f) GREAT LAKES AND SAINT LAWRENCE SEAWAY.—

(1) STUDY OF FINANCING NAVIGATIONAL IMPROVEMENTS.—The Secretary, in cooperation with other Federal agencies and private persons, is authorized and directed to contract with an independent party to conduct a study of cost recovery options and alternative methods of financing navigational improvements on the Great Lakes connecting channels and Saint Lawrence Seaway, including modernization of the Eisenhower and Snell Locks of the Saint Lawrence Seaway.

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study carried out under this subsection together with recommendations.

(3) FUNDING.—For the purpose of furthering the same objective as the objective for which section 105(a)(2) of the Water Resources Development Act of 1986 was enacted, there is authorized to be appropriated

for fiscal years beginning after September 30, 1988, to carry out this subsection $1,000,000.

SEC. 145. DIVISION LABORATORY.

The Secretary is authorized to construct a new division laboratory at an estimated cost of $2,000,000, for the United States Army Engineer Division, Ohio River. Such laboratory shall be constructed on a suitable site, which the Secretary is authorized to acquire for such purpose.

SEC. 146. TECHNICAL RESOURCE SERVICE, RED RIVER BASIN, MINNESOTA AND NORTH DAKOTA.

The Secretary is directed to establish a Technical Resource Service for the Red River Basin in Minnesota and North Dakota. There is authorized to be appropriated $500,000 annually for the purpose of providing to such States a full range of technical services for the development and implementation of State and local water and related land resources initiatives within the Red River Basin and sub-basins. The Technical Resource Service is to be provided in addition to related services provided under authority of section 206 of the River and Harbor and Flood Control Act of 1960 and section 22 of the Water Resources Development Act of 1974.

SEC. 147. MISSISSIPPI RIVER FLOOD CONTROL, LA CROSSE, WISCONSIN.

Any study or reevaluation of the Mississippi River at La Crosse, Wisconsin, flood control project undertaken pursuant to the Committee Resolution of the Committee on Public Works and Transportation of the House of Representatives approved on March 15, 1988, shall be treated, for purposes of section 905(b) of the Water Resources Development Act of 1986, as a continuation of the phase I feasibility study for such project completed in September 1973 and not as initiation of a new study for such project.

SEC. 148. CORRECTION OF DESCRIPTIONS.

(a) HUDSON RIVER, NEW YORK.—That portion of Public Law 100-202 designated as the Energy and Water Development Appropriation Act, 1988 is amended by striking out the undesignated paragraph beginning "The following portion of the Hudson River" and ending "the States of New York and New Jersey." (101 Stat. 1329-109) and inserting in lieu thereof the following:

"The following portion of the Hudson River in the Borough of Manhattan, New York County, State of New York, is hereby declared not to be part of the federally authorized Channel Deepening Project; that portion of the Hudson River and land thereunder more particularly bounded and described as follows: Beginning at a point in the United States Pierhead Line approved by the Secretary of War on July 31, 1941, such point having a coordinate of north 4,677.56 feet and west 11,407.92 feet and running: (1) northerly along such Pierhead Line on a bearing of north 21 degrees 01 minutes 53 seconds west for a distance of 700 feet to a point; thence (2) westerly at right angles to such Pierhead Line on a bearing of south 68 degrees 58 minutes 07 seconds west for a distance of 200 feet to a point; thence (3) southerly and parallel with such Pierhead Line on a bearing of south 21 degrees 01 minutes 53 seconds east for a distance of 700 feet to a point; thence (4) easterly at right angles to such Pierhead Line on a bearing of north 68 degrees 58 minutes 07 seconds east for a distance of 200 feet to the point of beginning. Bearings and coordinates are in the system used on the Borough Survey, Borough President's Office, Manhattan. This declaration shall apply to all or any part of such described area used or needed for New York harbor passenger ferry boat service as such may be operated by or contracted for operation by a bistate agency created by compact between the States of New York and New Jersey.".

(b) MIANUS RIVER, CONNECTICUT.—Section 1006(b) of the Water Resources Development Act of 1986 (100 Stat. 4223) is amended—

(1) in paragraph (2) by striking out "coordinates N14296.251" and inserting in lieu thereof "coordinate: N14296.451"; and

(2) in paragraph (3)—

(A) by striking out "64 seconds West" and inserting in lieu thereof "54 seconds West"; and

(B) by striking out "coordinate: N13970.8" and inserting in lieu thereof "coordinate: N13970.81".

SEC. 149. PUMP STORAGE AT RICHARD B. RUSSELL DAM AND LAKE, GEORGIA AND SOUTH CAROLINA.

None of the funds appropriated or otherwise made available before, on, or after the date of the enactment of this Act shall be used for planning, financing, contracting, or construction in connection with pumped storage at the Richard B. Russell Dam and Lake, Georgia and South Carolina, except as necessary to comply with the Federal Water Pollution Control Act, the National Environmental Policy Act of 1969, or the Fish and Wildlife Coordination Act, and to study and develop a means for prevention of fish entrainment.

SEC. 150. PROJECT DEAUTHORIZATIONS.

(a) PERIOD OF AUTHORIZATION.—Section 1001(a) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(a)) is amended—

(1) by striking out "authorized for construction by this Act" and inserting in lieu thereof "for water resources development and conservation and related purposes authorized to be carried out by the Secretary by this Act or after the date of the enactment of this Act"; and

(2) by striking out "beginning on the date of enactment of this Act" and inserting in lieu thereof "beginning on the date on which such project is so authorized".

(b) SPECIFIED PROJECTS.—The following projects are not authorized after the date of the enactment of this Act, except with respect to any portion of such a project which portion has been completed before such date of enactment or is under construction on such date of enactment:

(1) ROCKLAND LAKE, TEXAS.—The Rockland Lake water resources project, Texas, authorized by section 2 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public work on rivers and harbors, and for other purposes", approved March 2, 1945 (59 Stat. 18).

(2) WHITE RIVER NAVIGATION TO BATESVILLE, ARKANSAS.—The project for navigation, White River Navigation to Batesville, Arkansas, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4139).

(c) ALGOMA, WISCONSIN, OUTER HARBOR.—

(1) DEAUTHORIZATION.—Except as provided in paragraph (2), the outer harbor basin feature of the navigation project for Algoma, Wisconsin, authorized by the Act entitled "An Act making appropriations for construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1907 (34 Stat. 1101), is not authorized after the date of the enactment of this Act.

(2) RETENTION OF MAINTENANCE RESPONSIBILITIES FOR BREAKWATERS AND CHANNEL.—The Secretary shall retain all responsibilities of the Secretary existing on the date of the enactment of this Act for maintenance of the breakwaters and channel of the harbor at Algoma, Wisconsin.

(3) CHICAGO RIVER TURNING BASIN, CHICAGO HARBOR, ILLINOIS.—The inner basin of Chicago Harbor, Illinois, known as the Chicago River Turning Basin, authorized by the first section of the Act entitled "An Act making appropriations for the repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes, for the fiscal year ending June 30, 1871", approved July 11, 1870 (16 Stat. 226).

(d) CONTINUATION OF PROJECT AUTHORIZATIONS.—Notwithstanding section 1001(b)(1) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)(1))—

(1) the navigation project for Monterey Harbor (Monterey Bay), California, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 483), and

(2) the navigation project for the North Branch of the Chicago River, Illinois, authorized by the first section of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved July 24, 1946 (60 Stat. 636),

(3) The element of the Missouri River Basin Project authorized by section 228 of the River and Harbor Act of 1970.

shall remain authorized after December 31, 1989.

SEC. 151. NAMINGS.

(a) LEWIS M. PARAMORE DIVERSION UNIT.—

(1) DESIGNATION.—The Soldier Creek Diversion Unit in Topeka, Kansas, shall hereafter be known and designated as the "Lewis M. Paramore Diversion Unit".

(2) LEGAL REFERENCES.—A reference in any law, map, regulation, document, record, or other paper of the United States to such diversion unit shall be deemed to be a reference to the "Lewis M. Paramore Diversion Unit".

(b) LAKE JACK LEE.—

(1) DESIGNATION.—The lake formed by the Felsenthal Dam on the Ouachita River, Arkansas, shall hereafter be known and designated as "Lake Jack Lee".

(2) LEGAL REFERENCES.—A reference in any law, map, regulation, document, record, or other paper of the United States to such lake shall be deemed to be a reference to "Lake Jack Lee".

(c) VENTURA HARBOR.—

(1) DESIGNATION.—The harbor commonly known as Ventura Marina, located in Ventura County, California, and adopted and authorized by section 101 of Public Law 90-483, shall hereafter be known and designated as "Ventura Harbor".

(2) LEGAL REFERENCES.—A reference in any law, map, regulation, document, record, or other paper of the United States to such Harbor shall be deemed to be a reference to "Ventura Harbor".

(d) ELVIS STAHR HARBOR, PORT OF HICKMAN.—

(1) DESIGNATION.—The harbor located on the Mississippi River at Hickman, Kentucky, known as the Port of Hickman, shall hereafter be known and designated as the "Elvis Stahr Harbor, Port of Hickman".

(2) LEGAL REFERENCE.—A reference in any law, map, regulation, document, record, or other paper of the United States to such harbor shall hereafter be deemed to be a reference to the "Elvis Stahr Harbor, Port of Hickman".

(e) EMMETT SANDERS LOCK AND DAM.—

(1) Designation.—Lock and dam number 4 on the Arkansas River, Arkansas, constructed as part of the project for navigation on the Arkansas River and tributaries, shall hereafter be known and designated as the "Emmett Sanders Lock and Dam".

(2) Legal reference.—A reference in any law, map, regulation, document, record, or other paper of the United States to such lock and dam shall hereafter be deemed to be a reference to the "Emmett Sanders Lock and Dam".

(f) Joe Hardin Lock and Dam.—

(1) Designation.—Lock and dam number 3 on the Arkansas River, Arkansas, constructed as part of the project for navigation on the Arkansas River and tributaries, shall hereafter be known and designated as the "Joe Hardin Lock and Dam".

(2) Legal reference.—A reference in any law, map, regulation, document, record, or other paper of the United States to such lock and dam shall be deemed to be a reference to the "Joe Hardin Lock and Dam".

(g) Ed Jones Boat Ramp.—

(1) Designation.—The boat ramp to be constructed on the Mississippi River in Lauderdale County, Tennessee, shall be known and designated as the "Ed Jones Boat Ramp".

(2) Legal reference.—A reference in any law, map, regulation, document, record, or other paper of the United States to such boat ramp shall be deemed to be a reference to the "Ed Jones Boat Ramp".

TITLE II—BRIDGE ADMINISTRATION TRANSFER

SEC. 201. SHORT TITLE.

This title may be cited as the "Bridge Administration Transfer Act".

SEC. 202. AUTHORIZATION AND DELEGATION.

(a) Authorization.—Administration of bridges and causeways over navigable waters is transferred from the Secretary of Transportation to the Secretary of the Army. The administration transferred includes all authorities for bridge and causeway approvals, drawbridge regulations, administration of bridge alterations, and all other related authority, functions, and duties concerning bridges and causeways over navigable waters otherwise exercised by the Secretary of Transportation except—

(1) administration of bridges and causeways in or over the Saint Lawrence Seaway; and

(2) authority to prescribe lights and other signals on bridges and causeways for the benefit of navagation.

(b) Transfer Dates.—The transfer of authorities under this section shall take effect on October 1, 1989, or on such prior dates as the Secretary of the Army, in consultation with the Secretary of Transportation, prescribes and publishes in the Federal Register.

(c) Navigable Waters Defined.—For purposes of this Act, the term "navigable waters" means waters which are subject to the ebb and flow of the tide, or which are used or suceptible to use in their natural condition or by reasonable improvement as a means of transporting interstate or foreign commerce.

SEC. 203. PROCEDURE FOR TRANSFER.

(a) Personnel, Money, Property, Etc.—(1) On or before October 1, 1989, and as determined by the Director of the Office of Management and Budget in consultation with the Secretary of Transportation and the Secretary of the Army, the Secretary of Transportation shall transfer to the Secretary of the Army all—

(A) civilian employees and personnel positions,

(B) assets, liabilities, contracts, property, records, unexpended balances of appropriations, authorizations, allocations, and funds collected; and

(C) other resources and assets; which the Secretary of Transportation has before then employed, controlled, or used for purposes of the administration transferred under section 202.

(2) The transfer pursuant to this section shall be carried out in accordance with section 3503 of title 5, United States Code, and shall not cause any such employee to be separated or reduced in grade or compensation for at least one year after the date on which each employee is transferred to the Secretary of the Army. Appropriations and funds shall be transferred and accounted for in accordance with section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 1531).

(b) Regulations.—

(1) In general.—The Secretary of the Army may issue such regulations as may be necessary and appropriate to implement section 202.

(2) Effective date.—Regulations issued by the Secretary of the Army under this subsection shall be effective on the effective date of the particular transfers implemented by the regulations.

(c) Legal Rights and Duties.—No approvals, notices, determinations, grants, contracts, permits or permit actions, regulatory actions, penalties or penalty actions, suits, or claims against or by the United States or officers, employees, representatives, or agencies of the United States, or other legal rights or duties relating to bridges and causeways over navigable waters shall be affected by the transfer under section 202 of this Act, except that the Secretary of the Army or officers, personnel, or agencies of the Department of the Army shall be substituted, as appropriate, for the Secretary of Transportation or officers, personnel, or agencies of the Department of Transportation. This subsection does not prohibit the modification, continuation, or discontinuation of any legal rights or duties by the Secretary of the Army under the same terms and conditions and to the same extent as would have been lawful by the Secretary of Transportation.

SEC. 204. CONFORMING AMENDMENTS.

(a) Effect of Amendments.—The conforming amendments in this section shall not affect the authorities being transferred under this Act until such authorities are transferred under section 202 of this Act.

(b) Amendments to the Rivers and Harbors Appropriations Act of 1899.—The Act of March 3, 1899, otherwise known as the Rivers and Harbors Appropriations Act of 1899, is amended as follows:

(1) The text of section 9 of the Act (33 U.S.C. 401) is amended to read as follows:

"It shall not be lawful to construct or commence the construction of any bridge, causeway, dam, or dike over or in any port, roadstead, haven, harbor, canal, navigable river, or other navigable water of the United States until the consent of Congress to the building of such structures shall have been obtained and until the plans for the bridge, causeway, dam, or dike shall have been submitted to and approved by the Secretary of the Army. However, such structures may be built under authority of the legislature of a State across rivers and other waterways the navigable portions of which lie wholly within the limits of a single State, provided the location and plans thereof are submitted to and approved by the Secretary of the Army before construction is commenced. When plans for any bridge or other structure have been approved by the Secretary of the Army, it shall not be lawful to deviate from such plans either before or after completion of the structure unless modification of said plans has previously been submitted to and received the approval of the Secretary of the Army. In the case of a bridge or causeway in or over the Saint Lawrence Seaway, the authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army. The approval required by this section does not apply to any bridge or causeway over waters that are not subject to the ebb and flow of the tide and that are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.".

(2) The text of section 18 of the Act (33 U.S.C. 502) is amended to read as follows:

"(a) Whenever the Secretary of the Army shall have good reason to believe that any railroad or other bridge now constructed, or which may hereinafter be constructed, over any of the navigable waterways of the United States is an unreasonable obstruction to the free navigation of such waters on account of insufficient height, width or span, or otherwise, or where there is difficulty in passing the draw opening or the draw span of such bridge by rafts, steamboats, or other water craft, it shall be the duty of the Secretary of the Army, first giving the parties reasonable opportunity to be heard, to give notice to the persons or corporations owning or controlling such bridge so to alter the same as to render navigation through or under it reasonably free, easy, and unobstructed; and in giving such notice the Secretary shall specifiy the changes that are required to be made, and shall prescribe in each case a reasonable time in which to make them. If at the end of such time the alteration has not been made, the Secretary of the Army shall forthwith notify the United States Attorney for the district in which such bridge is situated, to the end that the criminal proceedings hereinafter mentioned may be taken. If the persons, corporation, or association owning or controlling any railroad or other bridge shall, after receiving notice to that effect, as hereinafter required, from the Secretary of the Army, and within the time prescribed by the Secretary willfully fail or refuse to remove the same or to comply with the lawful order of the Secretary of the Army in the premises, such persons, corporation, or association shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding $5,000, and every month such persons, corporation, or association shall remain in default in respect to the removal or alteration of such bridge, shall be deemed a new offense, and subject such persons, corporation, or association so offending to the penalties above prescribed.

"(b) No owner or operator of any bridge, drawbridge, or causeway shall endanger, unreasonably obstruct, or make hazardous the free navigation of any navigable water of the United States by reason of the failure to keep the bridge, drawbridge, or causeway and any accessory works in proper repair.

"(c) Whoever violates any provision of this section, or any order issued under this section, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on

the charge. The Secretary of the Army may assess and collect any civil penalty incurred under this subsection and, in the Secretary's discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

"(d) In the case of a bridge or causeway in or over the Saint Lawrence Seaway, the authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army.".

(c) AMENDMENTS TO THE BRIDGE ACT OF 1906.—The Act of March 23, 1906, otherwise known as the Bridge Act of 1906, is amended as follows:

(1) The text of the first section of the Act (33 U.S.C. 491) is amended to read as follows:

"That when, after March 23, 1906, authority is granted by Congress to any persons to construct and maintain a bridge across or over any of the navigable waters of the United States, such bridge shall not be built or commenced until the plans and specifications for its construction, together with such drawings of the proposed construction and such map of the proposed location as may be required for a full understanding of the subject, have been submitted to the Secretary of the Army for the Secretary's approval, nor until the Secretary shall have approved such plans and specifications and the location of such bridge and accessory works; and when the plans for any bridge to be constructed under the provisions of this Act have been approved by the Secretary it shall not be lawful to deviate from such plans, either before or after completion of the structure, unless the modification of such plans has previously been submitted to and received the approval of the Secretary. In the case of a bridge over the Saint Lawrence Seaway, the authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army. This section shall not apply to any bridge over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.".

(2) The text of section 4 of the Act (33 U.S.C. 494) is amended to read as follows:

"No bridge erected or maintained under the provisions of this Act shall at any time unreasonably obstruct the free navigation of the waters over which it is constructed, and if any bridge erected in accordance with the provisions of this Act shall, in the opinion of the Secretary of the Army, at any time unreasonably obstruct such navigation, either on account of insufficient height, width of span, or otherwise, or if there be difficulty in passing the draw opening or the drawspan of such bridge by rafts, steamboats, or other watercraft, it shall be the duty of the Secretary of the Army, after giving the parties interested reasonable opportunity to be heard, to notify the persons owning or controlling such bridge to so alter the same as to render navigation through or under it reasonably free, easy, and unobstructed, stating in such notice the changes required to be made and prescribing in each case a reasonable time in which to make such changes, and if at the end of the time so specified the changes required have not been made, the persons owning or controlling such bridge shall be deemed guilty of a violation of this Act; and all such alterations shall be made and all such obstructions shall be removed at the expense of the persons owning or operating said bridge. In the case of a bridge over the Saint Lawrence Seaway, the above authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army. The persons owning or operating any such bridge shall maintain, at their own expense, such lights and other signals thereon as the Secretary of Transportation shall prescribe. If the bridge shall be constructed with a draw, then the draw shall be opened promptly by the persons owning or operating such bridge upon reasonable signal for the passage of boats and other water craft.".

(3) The text of section 5 of the Act (33 U.S.C. 495) is amended to read as follows:

"(a) Any person who shall willfully fail or refuse to comply with the lawful order of the Secretary of the Army or the Secretary of Transportation made in accordance with provisions of this Act shall be deemed guilty of a misdemeanor and on a conviction thereof shall punished in any court of competent jurisdiction by a fine not exceeding $5,000, and every month such persons shall remain in default shall be deemed a new offense and subject such persons to additional penalties therefor; and in addition to the penalties above described the Secretary of the Army (or the Secretary of Transportation, in the case of a bridge or causeway in or over the Saint Lawrence Seaway) may, upon refusal of the persons owning or controlling any such bridge and accessory works to comply with any lawful order issued by the Secretary in regard thereto, cause the removal of such bridge, and suit for such expense may be brought in the name of the United States against such persons, and recovery had for such expense in any court of competent jurisdiction, and the removal of any structures erected or maintained in violation of the provisions of this Act or the order or direction of the Secretary made in pursuance thereof may be enforced by injunction, mandamus, or other summary process, upon application to the district court in the district in which such structure may, in whole or part, exist, and proper proceedings to this end may be instituted under the direction of the Attorney General of the United States at the request of the Secretary; and in case of any litigation arising from any obstruction or alleged obtruction to navigation created by the construction of any bridge under this Act, the cause or question arising may be tried before the district court of the United States in any district which any portion of said obstruction or bridge touches.

"(b) Whoever violates any provision of this Act, or any order issued under this Act, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary whose order is violated, or who is responsible for the administration of a provision of this Act which is violated, may assess and collect any civil penalty incurred under this subsection and, in the Secretary's discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.".

(d) AMENDMENT TO THE ACT OF AUGUST 1894.—The text of section 5 of the Act of August 18, 1894 (33 U.S.C. 499), is amended to read as follows:

"(a) It shall be the duty of all persons owning, operating, and tending drawbridges across the navigable rivers and other waters of the United States, whenever built, to open, or cause to be opened, the draws of such bridges under such rules and regulations as in the opinion of the Secretary of the Army the public interests require to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law. Every such person who shall willfully fail or refuse to open, or cause to be opened, the draw of any such bridge for the passage of a boat or boats, as provided in such regulations, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than $2,000 nor less than $1,000, or by imprisonment (in the case of a natural person) for not exceeding one year, or by both such fine and imprisonment, in the discretion of the court: Provided, That the proper action to enforce the provisions of this subsection may be commenced before any magistrate, judge, or court of the United States, and such magistrate, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States: Provided further, That whenever, in the opinion of the Secretary of the Army, the public interests require it, the Secretary may make rules and regulations to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law, and any willful violation thereof shall be punished as hereinbefore provided: Provided further, That any regulations made in pursuance of this section may be enforced as provided in section 17 of the Act of March 3, 1899 (33 U.S.C. 413), the provisions whereof are made applicable to the said regulations.

"(b) No vessel owner or operator shall signal a drawbridge to open for any nonstructural vessel appurtenance which is not essential to navigation or which is easily lowered and no person shall unreasonably delay the opening of a draw after the signal required by rules or regulations under this section has been given. The Secretary of the Army shall issue rules and regulations to implement this subsection.

"(c) Whoever violates any rule or regulation issued under subsection (a) or (b), shall be liable to a civil penalty of not more than $1,000. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of the Army may assess and collect any civil penalty incurred under this subsection and, in the Secretary's discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

"(d) In the case of a bridge over the Saint Lawrence Seaway, the authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army.".

(e) AMENDMENTS TO THE TRUMAN-HOBBS ACT.—The Act of June 21, 1940, otherwise known as the Truman-Hobbs Act, is amended as follows:

(1) The text of the first section of the Act (33 U.S.C. 511) is amended to read as follows:

"When used in this Act, unless the context indicates otherwise—

"(1) The term 'alteration' includes changes of any kind, reconstruction, or removal in whole or in part.

"(2) The term 'bridge' means a lawful bridge over navigable waters of the United States, including approaches, fenders, and appurtenances thereto, which is used and operated for the purpose of carrying railroad traffic or both railroad and highway traffic, or if a State, county, municipality, or other political subdivision is the owner or joint owner thereof, which is used and operated for the purpose of carrying highway traffic.

"(3) The term 'bridge owner' means any State, county, municipality, or other political subdivision, or any corporation, association, partnership, or individual owning, or jointly owning, any bridge, and, when any bridge shall be in the possession or under the control of any trustee, receiver, trustee in a case under title 11 of the United States Code, or lessee, such term shall include both the owner of the legal title and person or the entity in possession or control of such bridge.

"(4) The term 'Secretary' means the Secretary of the Army, except in the case of a bridge over the Saint Lawrence Seaway, in which case it means the Secretary of Transportation.

"(5) The term 'United States', when used in a geographical sense, includes the Territories and possessions of the United States.".

(2) The text of section 4 of the Act (33 U.S.C. 514) is amended to read as follows:

"After the service of an order under this Act, it shall be the duty of the bridge owner to prepare and submit to the Secretary, within a reasonable time as prescribed by the Secretary, general plans and specifications to provide for the alteration of such bridge in accordance with such order, and for such additional alteration of such bridge as the bridge owner may desire to meet the necessities of railroad or highway traffic, or both. The Secretary may approve or reject such general plans and specifications, in whole or in part, and may require the submission of new or additional plans and specifications, but when the Secretary shall have approved general plans and specifications, they shall be final and binding upon all parties unless changes therein be afterwards approved by the Secretary and the bridge owner.".

(3) The text of section 7 of the Act (33 U.S.C. 517) is amended to read as follows:

"Following service of the order requiring alteration of the bridge, the Secretary may make partial payments as the work progresses to the extent that funds have been appropriated. The total payments out of Federal funds shall not exceed the proportionate share of the United States of the total cost of the project paid or incurred by the bridge owner, and if such total cost exceeds the cost guaranteed by the bridge owner, shall not exceed the proportionate share of the United States of such guaranteed cost, except that if the cost of the work exceeds the guaranteed cost by reason of emergencies, conditions beyond the control of the owner, or unforeseen or undetermined conditions, the Secretary may, after full review of all the circumstances, provide for additional payments by the United States to help defray such excess cost to the extent the Secretary deems it to be reasonable and proper, and shall certify such additional payments to the Secretary of the Treasury for payment. All payments made to any bridge owner herein provided for shall be made by the Secretary of the Treasury upon certifications of the Secretary.".

(4) The text of section 13 of the Act (33 U.S.C. 523) is amended to read as follows:

"If the owner of any bridge and the Secretary shall agree that in order to remove an obstruction to navigation, or for any other purpose, a relocation of such bridge or the construction of a new bridge upon a new location shall be preferable to an alteration of the existing bridge, such relocation or new construction may be carried out at such new site and upon such terms as may be acceptable to the bridge owner and the Secretary, and the cost of such relocation or new construction, including also any expense of changes in and additions to rights-of-way, stations, tracks, spurs, sidings, switches, signals, and other railroad facilities and property, and relocation of shippers required for railroad connection with the bridge at the new site, shall be apportioned as between the bridge owner and the United States in the manner which is provided for in section 6 of this Act (33 U.S.C. 516) in the case of an alteration and the share of the United States paid from the appropriation authorized in section 8 of this Act (33 U.S.C. 518): Provided, That nothing in this section shall be construed as requiring the United States to pay any part of the expense of building any bridge across a navigable stream which the Secretary shall not find to be, in fact, a relocation of the existing bridge.".

(f) AMENDMENTS TO THE GENERAL BRIDGE ACT OF 1946.—The Act of August 12, 1946, otherwise known as the General Bridge Act of 1946, is amended as follows:

(1) The text of section 502 of the Act (33 U.S.C. 525) is amended to read as follows:

"(a) CONSENT OF CONGRESS.—The consent of Congress is hereby granted for the construction, maintenance, and operation of bridges and approaches thereto over the navigable waters of the United States, in accordance with the provisions of this title.

"(b) APPROVAL OF PLANS.—The location and plans for such bridges shall be approved by the Secretary of the Army before construction is commenced, and, in approving the location and plans of any bridge, the Secretary may impose any specific conditions relating to the maintenance and operation of the structure which the Secretary may deem necessary in the interest of public navigation, and the conditions so imposed shall have the force of law. In the case of a bridge over the Saint Lawrence Seaway, the authority in this subsection shall be exercised by the Secretary of Transportation instead of the Secretary of the Army. This subsection shall not apply to any bridge over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.

"(c) PRIVATE HIGHWAY TOLL BRIDGES.—Notwithstanding the provisions of subsections (a) and (b) of this section, it shall be unlawful to construct or commence the construction of any privately owned highway toll bridge until the location and plans thereof shall also have been submitted to and approved by the highway department or departments of the State or States in which the bridge and its approaches are situated: and where such bridge shall be between two or more States and the highway departments thereof shall be unable to agree upon the location and plans therefor, or if they, or either of them, shall fail or refuse to act upon the location and plans submitted, such location and plans then shall be submitted to the Secretary of the Army and, if approved by the Secretary of the Army, approval by the highway departments shall not be required.".

(2) The text of section 510 of the Act (33 U.S.C. 533) is amended to read as follows:

"(a) Any person who willfully fails or refuses to comply with any lawful order of the Secretary of the Army or the Secretary of Transportation issued under the provisions of this title, or who willfully fails to comply with any specific conditions imposed by the Secretary of the Army or the Secretary of Transportation relating to the maintenance and operation of bridges, or who willfully refuses to produce books, papers, or documents in obedience to a subpoena or other lawful requirement under this title, or who otherwise willfully violates any provision of this title, shall, upon conviction thereof, be punished by a fine not to exceed $5,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.

"(b) Whoever violates any provision of this Act, or any order issued under this Act, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary responsible for the provision or order violated may assess and collect the civil penalty incurred under this subsection and, in the Secretary's discretion, may remit, mitigate, or compromise the penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.".

(g) AMENDMENTS TO THE INTERNATIONAL BRIDGE ACT OF 1972.—Public Law 92-434 (the Act of September 26, 1972), otherwise known as the International Bridge Act of 1972, is amended as follows:

(1) The text of section 2 of the Act (33 U.S.C. 535) is amended to read as follows:

"The consent of Congress is hereby granted to the construction, maintenance, and operation of any bridge and approaches thereto, which will connect the United States with any foreign country (hereinafter in this Act referred to as an 'international bridge') and to the collection of tolls for its use, so far as the United States has jurisdiction. Such consent shall be subject to (1) the approval of the proper authorities in the foreign country concerned; (2) the provisions of the Act entitled 'An Act to regulate the construction of bridges over navigable waters', approved March 23, 1906 (33 U.S.C. 491-498), except section 6 (33 U.S.C. 496), whether or not such bridge is to be built across or over any of the navigable waters of the United States; and (3) the provisions of this subchapter. In the case of a bridge over the Saint Lawrence Seaway, and in the case of a bridge which would not otherwise be subject to the Act of March 23, 1906, the authority of the Secretary of the Army in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army.".

(2) The text of section 5 of the Act (33 U.S.C. 535c) is amended to read as follows:

"The approval of the Secretary of the Army or the Secretary of Transportation as required by the first section of the Act of March 23, 1906 (33 U.S.C. 491), and section 2 of this Act (33 U.S.C. 535) shall be given only subsequent to the President's approval, as provided for in section 4 of this Act, and shall be null and void unless the construction of the bridge is commenced within two years and completed within five years from the date of the Secretary's approval: Provided, however, That the Secretary concerned, for good cause shown, may extend for a reasonable time either or both of the time limits herein provided.".

(3) The text of section 11 of the Act (33 U.S.C. 535h) is amended to read as follows:

"The Secretary of the Army and the Secretary of Transportation shall each make an annual report of approvals granted by them under sections 2 and 5 of this Act (33 U.S.C. 535 and 535c).".

(h) AMENDMENTS TO TITLE 14, UNITED STATES CODE.—Section 662 of title 14, United States Code, is amended—

(1) by striking paragraph (3),

(2) by redesignating paragraph (4) as paragraph (3), and

(3) in paragraph (3) (as redesignated) by striking "clauses (1)-(3)" and inserting "paragraph (1) or (2)".

SEC. 205. COMPILATION OF LAWS

The Secretary of the Army shall prepare a compilation of Federal laws relating to the administration and regulation of bridges, causeways, dams, dikes, and other structures in, on, or over navigable waters of the United States and shall submit such compilation to the Speaker of the House of Representatives and the President pro tempore of the Senate with such recommendation as to consolidation, revision, amendment, or simplification of those laws as in the Secretary's judgment would be most advantageous to the public interest.

SEC. 206. DECLARATION OF NONNAVIGABILITY OF BODIES OF WATER IN RIDGEFIELD, NEW JERSEY.

The three bodies of water located at block 4004, lots 1 and 2, and block 4003, lot 1, in the Borough of Ridgefield, County of Bergen, New Jersey which have their mouths at the Hackensack River at 40 degrees 49 minutes 45 seconds north latitude and 74 degrees 01 minute 46 seconds west longitude, 40 degrees 49 minutes 46 seconds north latitude and 74 degrees 01 minute 55 seconds west longitude, and 40 degrees 49 minutes 35 seconds north latitude and 74 degrees 02 minutes 04 seconds west longitude, respectively, and the body of water located at block 4006, lot 1, in the Borough of Ridgefield, County of Bergen, New Jersey which has its mouth at the Hackensack River at 40 degrees 49 minutes 15 seconds north latitude and 74 degrees 01 minute 52 seconds west longitude, are declared to be nonnavigable waterways of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

SEC. 207. WATER IMPROVEMENTS, PHARR, TEXAS.

On the request of the Military Highway Water Supply Corporation of Progreso, Texas, the Secretary of Commerce shall waive the reimbursement of the amounts owed to the Federal Government which resulted from the sale of the Las Milpas portion of the water system improvements constructed under the Economic Development Administration project number 8-11-01533 which was sold to the city of Pharr, Texas, if the proceeds of such sale will be used for the purpose of carrying out in the area served by such Corporation water and sewer improvements which would be eligible for assistance under the Public Works and Economic Development Act of 1965 or the Consolidated Farm and Rural Development Act or title V of the Housing Act of 1949.

SEC. 208. PERIOD OF AVAILABILITY FOR FUNDING FOR METROPOLITAN DADE COUNTY, FLORIDA.

The first undesignated paragraph under the heading "CONSTRUCTION, GENERAL" in title I of the Energy and Water Development Appropriation Act, 1988 (101 Stat. 1329-106) is amended by striking out "to be made available to Metropolitan Dade County, Florida, for the purpose of a 50 per centum, cost-shared" and inserting in lieu thereof "to remain available until expended, for a grant to Metropolitan Dade County, Florida, for a".

Amend the title so as to read; "An Act to provide for the conservation and development of water and related resources, to authorize the United States Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An act to provide for the conservation and development of water and related resources, to authorize the U.S. Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 5247) was laid on the table.

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill, S. 2100, and request a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from California?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Kalbaugh, one of his secretaries.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment, a bill and a concurrent resolution of the House of the following titles:

H.R. 1596. An act to amend title 28, United States Code, to create two divisions in the Judicial District of Maryland; and

H. Con. Res. 373. Concurrent resolution correcting technical errors in the enrollment of the bill, H.R. 1467.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 2057) "An act to provide for the establishment of the Coastal Heritage Trail in the State of New Jersey, and for other purposes," with amendments

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 1165) "An act to authorize the Secretary of the Interior to provide for the development and operation of a visitor and environmental education center in the Pineline National Reserve, in the State of New Jersey."

The message also announced that the Senate had passed bills and a joint resolution of the following title, in which the concurrence of the House is requested:

S. 1504. An act to provide an alternative to adversarial rulemaking by facilitating the appropriate use of negotiated rulemaking committees;

S. 1911. An act to amend title 5, United States Code, to allow all forest fire fighting employees to be paid overtime without limitation while serving on forest fire emergencies; and

S.J. Res. 364. Joint resolution to designate the week of October 2 through October 8, 1988, as "National paralysis Awareness Week."

CONFERENCE REPORT ON H.R. 4776, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1989

Mr. DIXON submitted the following conference report and statement on the bill (H.R. 4776) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1989, and for other purposes:

CONFERENCE REPORT (H. REPT. 100-1013)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4776) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1989, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 5, 8, 10, 11, 13, 14, 18, and 20.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 4, 9, 16, and 17, and agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$32,040,000*; and the Senate agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$623,924,000*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numberdd 3, 6, 12, 15, 19, 21, 22, 23, 24, 25, 26, 27, 28, and 29.

Julian C. Dixon,
William H. Natcher
(with exception of No. 15),
Louis Stokes,
Wes Watkins,
Steny H. Hoyer,
Jamie L. Whitten,
Lawrence Coughlin,
Bill Green
(except as to amendment No. 26),
Ralph Regula,
Silvio O. Conte,
Managers on the Part of the House.

Tom Harkin,
Harry M. Reid,
John C. Stennis,
Don Nickles,
Chuck Grassley,
Mark O. Hatfield,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4776) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1989, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the actions agreed upon by the managers and recommended in the accompanying conference report.

TITLE I—FISCAL YEAR 1989 APPROPRIATIONS

Amendment No. 1: Inserts title and fiscal year heading to separate fiscal year 1989 appropriations from supplemental appropriations for fiscal year 1988.

Federal Payment for Water and Sewer Services

Amendment No. 2: Appropriates $32,040,000 instead of $36,726,000 as proposed by the House and $27,130,000 as proposed by the Senate. The amount agreed to by the conferees is based on revised estimates submitted by District officials. The conferees note that the President's budget had proposed that the District bill the individual Federal agencies for these services. in denying that request and providing the lump sum payment, the conferees do not express unequivocal opposition to the proposal. However, in an April 1987 letter, the General Accounting Office stated that the proposal was contrary to existing law, and that the District has no statutory authority to bill or to accept payments from agencies. The conferees would encourage the relevant committees to consider the proposed request to change the statute. If such legislation is enacted during the fiscal year, the Committees on Appropriations will consider a request to adjust the amount provided.

Criminal Justice Initiative

Amendment No. 3: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following: *: Provided,* That construction may not commence unless access and parking for construction vehicles are provided solely at a location other than city streets: *Provided further,* That District officials meet monthly with neighborhood representatives to inform them of current plans and discuss problems: *Provided further,* That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding the new prison, can promptly obtain information from District officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further,* That the District of Columbia shall also take steps to publicize the availability of that service among the residents of the area surrounding the new prison.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The language agreed to by the conferees requires the District government to take certain steps to mitigate the impact of the proposed new prison on the surrounding neighborhood in Southeast Washington. The conferees have deleted the proviso requiring access and egress on other than 19th Street, Southeast, and the proviso that required a portion of the old D.C. jail site to become a neighborhood shopping center.

Public Safety and Justice

Amendment No. 4: Appropriates $734,207,000 as proposed by the Senate instead of $735,528,000 as proposed by the House.

Metropolitan Police Department.—The conference action appropriates $207,157,000 as proposed by the House instead of $207,407,000 as proposed by the Senate. The conferees have not approved the increase of $250,000 proposed by the Senate. These funds would have been used in cooperation with Federal authorities to mount a drug interdiction initiative at the District's Lorton Correctional Complex. This matter is discussed under amendment number 5.

Superior Court.—The conference action provides $54,646,000 and 1,173 positions as proposed by the Senate instead of $52,680,00 and 1,137 positions as proposed by the House. The increase of $1,966,000 and 36 positions above the House of allowance will fund mandatory pay increases and provide needed staff and resources for various divisions in the Superior Court.

Court System.—The conference action provides $20,080,000 and 80 positions as proposed by the Senate instead of $19,875,000 and 75 positions as proposed by the House. The increase of $205,000 consists of $47,000 to fund two existing positions in the Equal Employment Opportunity program, $94,000 and five positions for a pilot test of a court-manned security force and $64,000 for liability insurance for the District's judicial officers.

SECURITY AND MAINTENANCE OF COURT BUILDINGS

The increase of $94,000 will fund five positions and will permit the court system to pilot test a court-manned supplemental security force. Court officials have testified that they continue to experience severe security problems which they have reported for several years, and instead of improving, the situation has deteriorated. Court officials further reported that the security and maintenance services provided by the District's Department of Administrative Services have not been satisfactory.

Because of these problems, court officials have repeatedly requested the transfer of these responsibilities and the applicable funding to the court. For whatever reasons, this has not been accomplished.

Testimony from court officials indicates that the Department of Administrative Services' responsibility for these services, if properly performed, would be acceptable to the courts. However, in light of the continued dissatisfaction with the obviously less than satisfactory service, the conferees recommend funding a small supplemental security force and evaluating the courts' ability to accomplish improved security in the buildings it occupies.

JUDICIAL INDEMNITY INSURANCE

An increase of $64,000 is provided for professional liability insurance. This increase is unnecessary except for the fact that the Council of the District of Columbia has not yet completed action on legislation amending the D.C. Code to ensure appropriate liability coverage for judicial employees comparable to that provided for medical employees under D.C. Code, sec. 1-1215(b). The need for this legislation results from the liability exposure created by the Supreme Court decision in the case of *Pulliam* vs. *Allen* (1984) 104 S. Ct. 1970. This issue was first called to the attention of District officials in House Report 99-223 dated July 24, 1985. The report stated that "* * * the Committee urges the Mayor and Council to pursue the expedited passage of legislation amending the D.C. Code to ensure appropriate coverage for judicial employees thereby eliminating the need for funds to cover insurance premiums in fiscal year 1986."

That was over three years ago. The conferees are deeply concerned with what appears to be inaction on a seemingly innocuous bill that is simply good government as well as cost effective.

Department of Corrections.—The conference action provides $193,855,000 instead of $197,347,000 as proposed by the House and $193,605,000 as proposed by the Senate. The reduction of $3,492,000 below the House allowance will provide $29,496,000 for the Federal Bureau of Prisons payment instead of $32,988,000 as proposed by the House and $29,246,000 as proposed by the Senate.

DRUG INTERDICTION TASK FORCE

Amendment No. 5: Deletes language proposed by the Senate concerning the use of funds proposed under amendment number 4 for the drug interdiction task force at the Lorton, Virginia prison complex. The conferees have agreed to delete the $250,000 proposed by the Senate under amendment number 4 for use by the Metropolitan Police Department to establish a drug interdiction task force at the Lorton, Virginia prison complex.

The conferees are concerned, however, that the flow of illicit drugs into the Lorton complex remains a serious problem and may contribute to instability and disturbances at the prison. The conferees direct the District of Columbia government to focus increased resources and effort on drug enforcement activities at Lorton.

The conferees further direct the District of Columbia government to proceed with the establishment of a drug interdiction task force. The District of Columbia Government should seek funding, as appropriate, from other Federal programs such as those being established as part of the omnibus drug legislation presently being considered by the Congress and/or use available funds to pay for police salaries, transportation, communications, drug testing services and equipment, and related expenses necessary to establish and operate a task force at Lorton and throughout the District of Columbia prison system.

The conferees believe that such a task force could greatly reduce the flow of drugs into Lorton and thus help prevent more serious problems. Therefore, the conferees direct the District of Columbia government to report to the Committee on Appropriations of the House and Senate, not later than January 15, 1989, on the effort being made to establish the task force, obtain funding, and on the severity of the drug problem at Lorton and throughout the prison system.

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that the staffing levels of two-piece engine companies within the Fire Department shall be maintained in accordance with the Fire Department's Rules and Regulations until final adjudication by the relevant courts.

Public Education System

Amendment No. 7: Appropriates $623,924,000 instead of $623,424,000 as proposed by the House and $623,981,000 as proposed by the Senate. The increase of $500,000 above the House allowance is for the Very Special Arts Program founded in 1974 as an educational affiliate of the John F. Kennedy Center for the Performing Arts. The program is dedicated to enriching the lives of people with disabilities through the arts, music, dance, drama, creative writing and the visual arts. These funds will be used to provide interpreters, ramps, needed medical coverage, accessible transportation equipment and signage services in support of the International Very Special Arts Festival scheduled to be held in Washington, D.C. in June 1989.

The conferees have not approved $57,000 proposed by the Senate for the Civil Air Patrol. This matter is discussed under amendment number 8.

Amendment No. 8: Allocates $452,403,000 for the public schools of the District of Columbia as proposed by the House instead of $452,460,000 as proposed by the Senate. The reduction of $57,000 below the Senate allocation reflects the deletion of funds intended for the establishment of a Civil Air Patrol Cadet Program within the District of Columbia Public Schools. This is done without prejudice to the program, and the conferees hope that the Board of Education will seriously consider any proposal from the Civil Air Patrol to establish this program in the D.C. school system.

The Cadet Program is an activity for young men and women between the ages of 13 and 21 years old. The basic program includes training in leadership, aerospace education, moral leadership, and physical fitness. Under the leadership of CAP senior members, cadets progress through a series of structured achievements earning military type promotions in grade. The Cadet Program provides its participants a forum in which they are challenged to perform and rewarded when they do.

Programs such as the Civil Air Patrol Cadet Program are of great value in providing worthwhile activities for youth during the hours after school as a method of combating the temptation of drug abuse.

Public Schools.—The conferees are concerned about what the Mayor has described as a crisis of values particularly among school-age children in the District of Columbia. This crisis manifests itself in the apparent insensitively of youth to the specter of violence and drug use and where being victimized in viewed simply as part of growing up. In response to this type of crisis the Board of Education has established a Values Commission that is to report to the Board on a program that could be implemented in all schools and all grades.

This Commission is a fine first step in recognizing a fundamental problem in our current culture. However, the job will not be completed when the report is received and the program implemented. The conferees hope that the School Board will examine its own operations to ensure that they are sending the proper message to students through their own actions and deeds.

In addition, the conferees hope that the Commission will take into consideration the message that is received by students when the D.C. Public School system ranks last in teacher salaries in the region and by the deteriorated condition of the schools themselves. The conferees are aware that these are not easy questions to address, nor will they be inexpensive to correct, but students will judge our commitment to these goals by our adherence to the principles we establish.

Supplemental budget needs.—The conferees are aware of the financial needs of the District of Columbia Public Schools and the possible shortfall of $13,000,000 in the proposed fiscal year 1989 budget. The new Superintendent testified that he hopes that the Mayor will propose and the District Council will enact a supplemental budget that will fully fund the needs of the public schools. The conferees direct that the Board of Education transmit to the Committees on Appropriations of the Senate and House of Representatives its estimate of needed supplemental funding at the same time this request is transmitted to the Mayor.

This request is made so that the Committees can be kept apprised of the budgetary situation in the D.C. Public Schools and not as a promise to fund all amounts requested. The Board of Education should continue to be mindful of possible administrative savings and is requested to detail in its transmittal the steps it has taken that could mitigate the final amount needed.

Amendment No. 9: Allocates $4,192,000 for the Commission on the Arts and Humanities as proposed by the Senate instead of $3,692,000 as proposed by the House. The increase of $500,000 above the House allowance is for the Very Special Arts Program discussed under amendment number 7.

Human Support Services

Amendment No. 10: Appropriates $744,901,000 as proposed by the House instead of $745,665,000 as proposed by the Senate.

Department of Human Services.—The conference action provides $616,555,000 as proposed by the House instead of $617,319,000 as proposed by the Senate. The conferees have deleted the $264,000 proposed by the Senate for a pilot project which would have provided housing and supportive services for mentally disabled mothers. The conferees do so without prejudice to the merits of such a program and encourage the Commission on Mental Health to assess the magnitude of the need in the District of Columbia and report to the Committees on Appropriations of the Senate and House of Representatives not later than December 31, 1988. This report should include the number of such mothers in the District as well as information on how these mothers and infants are currently cared for in the District.

The Committees will consider a supplemental or reprogramming request as early in fiscal year 1989 as the Commission on Mental Health and District government deem appropriate. The conferees have not approved the additional $500,000 proposed by the Senate for Project Volta. An appropriation of $990,000 was included in the District's fiscal year 1988 appropriations act for this project. The conferees have included bill language under "Human Support Services" in amendment number 29 making the $990,000 available solely for Project Volta and extending the availability of those funds until expended.

The conferees are concerned about cuts in the Handicapped Infant Intervention Project (HIIP). This is a program, similar to Project Volta in approach, which provides for early intervention for handicapped infants and toddlers up to age three. This is done through screening of high risk newborn infants for early recognition of mental retardation, minimal brain damage, and overall delay in development skills. The conferees share the concern expressed by others that without this program, deafness in many infants might go undetected and intervention might not occur. The conferees hope that ways can be found to minimize the impact of reductions on this program.

The conferees direct that $36,000 be disbursed within 15 days of the enactment of this Act to the Samaritans of Washington, a nonprofit, nonsectarian largely volunteer tax-exempt organization which operates a round-the-clock hotline to serve persons who are in despair or contemplating suicide. Since the Samaritans' hotline became operational in February 1986, the number of calls has increased from 300 a month to as many as 2,500 a month. The Samaritans' phones are staffed by 45 trained volunteers who are on duty approximately 1,500 hours each month. The cost effectiveness of this program is obvious.

Amendment No. 11: Deletes language proposed by the Senate concerning the payment of funds under amendment number 10 to Project Volta. The conferees did not approve the additional $500,000 proposed by the Senate for this project under amendment number 10.

Public Works

Amendment No. 12: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the matter proposed by said amendment insert the following: *Provided further,* That the Taxicab Commission shall report to the Committees on Appropriations of the Senate and House of Representatives by January 15, 1989 on a plan as outlined in Senate Report 100-162 to issue and implement regulations including but not limited to the age of vehicles, frequency of inspection, and cleanliness of vehicles.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees remain concerned about the pace of progress of the Taxicab Commission in reaching the goals set out in last year's conference report (House Report 100-498). At that time the conferees requested the submission of a report and stated:

This report should include a timetable for consideration of a fair, equitable, non-discrimination fare structure based on time and mileage; consideration of taxicab vintage; a review of driver standards; a review of methods to provide better monitoring of the industry including the possibility of monthly insurance stickers; and a policy on the types of permitted radio operations.

The conferees are aware of the report of September 1, 1988 by the Taxicab Commission to the Committees which outlines plans for many of the items mentioned in last year's conference report. The conferees are pleased to note that some progress is being made, and continue to strongly believe that all of the information that the Commission should require ought to be available at this time. The conferees also strongly believe that the Commission, after receiving public comment, should take final action not later than January 1, 1989 on a vintage standard as well as on the other matters contained in the September 1, 1988 report, and report the results of that action to the Committees by January 15, 1989. In addition, the Commission is requested to include in its report a schedule for consideration of the other items mentioned in the above directive, including the frequency of taxicab inspections, the age of vehicles used as cabs, the condition of heating and air-conditioning systems, and the cleanliness of vehicles.

The conferees are also aware that the Commission intends to contract for a wide-ranging study of the taxicab industry in the Nation's Capital. The conferees support this effort; however, the conferees are concerned about the length of time the study is proposed to take. One of the stated purposes of the study is to gather information about the economics of the industry to aid in setting rates. It does not seem that this data would be required to make a determination on whether or not the current zone fare system should be replaced by a system of meters. This is an important first step in progressing to a regional uniform taxicab system where fares are uniform and trip origin and destination barriers are removed.

MOTOR TRUCK SAFETY

The conferees note with concern that the District has not become a member of the Motor Carrier Safety Assistance Program (MCSAP). Currently, over 50 of 56 eligible jurisdictions are involved in this program which provides grants to jurisdictions which adopt the Federal Motor Carrier Safety Regulations and Hazardous Materials Regulations and provide their police with sufficient authority to enforce these regulations.

Currently, the District does not have the capacity to enforce regulations governing truck safety and the transportation of hazardous materials. The conferees noted that the MCSAP program has been extremely successful in other jurisdictions, increasing annual roadside inspections of trucks from 30,000 in 1984 to over one million this year, and an expected 1.5 million in fiscal year 1989.

The MCSAP program provides Federal funds for training and hiring personnel and would be a direct benefit to the motoring public. By becoming a member of the MCSAP program, the District would greatly enhance the regional effort to ensure that trucks operating in the Washington Metropolitan Region are operating safely.

Accordingly, the conferees strongly encourage the District to join the MCSAP program and adopt local regulations and laws necessary to enforce the program. The conferees direct the District to report back to the House and Senate Committees on Appropriations no later than March 1, 1989, on the status of the District's efforts.

INAUGURAL EXPENSES

The conferees direct that $80,000 of the $2,300,000 appropriated for expenses that the District government expects in connection with the upcoming Presidential inauguration be allocated to the D.C. National Guard for expenses that it incurs in connection with the inauguration activities.

CAPITAL OUTLAY

Amendment No. 13: Appropriates $138,336,000 as proposed by the House instead of $148,336,000 as proposed by the Senate. The conferees have not approved the increase of $10,000,000 proposed by the Senate to finance the construction of the Federal City Communications Center on the campus of Catholic University.

Amendment No. 14: Deletes language proposed by the Senate concerning the availability of funds under amendment number 13 for the Federal City Communications Center. The conferees did not approve the funds proposed by the Senate under amendment number 13.

GENERAL PROVISIONS

Amendment No. 15: Reported in disagreement.

Amendment No. 16: Deletes language proposed by the House and stricken by the Senate concerning the expenditure of funds in any workplace that is not free of illegal use or possession of controlled substances. The conferees strongly agree with the intent of the provision included by the House. However, the conferees have agreed to strike this language since this issue was addressed on a government-wide basis in Section 628 of the conference report for the Treasury-Postal Service and General Government Appropriations Act, 1989 (H.R. 4775; H. Rept. 100-881, pp. 33-34). Section 628 of that Act (Public Law 100-440) covers the District of Columbia as well as all Federal entities.

Amendment No. 17: Deletes language proposed by the House and stricken by the Senate concerning the District's residency requirement for employees. This matter is addressed under amendment number 24.

Amendment No. 18: Deletes language proposed by the Senate which would have provided a Federal loan guarantee in an amount not to exceed $20,000,000 to the Washington Center, a nonprofit corporation, for the construction of an educational housing facility.

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 135. (a) Section 11-1563(d), D.C. Code is amended—

(A) by inserting "or while receiving retirement salary under this subchapter but before having recouped all contributions", before "the lump-sum credit for retirement"; and

(B) by inserting "or the balance after deduction of retirement salary paid prior to death, if applicable", before "shall be paid,".

(b) The Mayor, within 30 days after the enactment of this Act, shall engage an enrolled actuary, to be paid by the District of Columbia Retirement Board, and shall comply fully with the requirements of section 142(d) and section 144(d) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96-122, D.C. Code, secs. 1-722(d) and 1-724(d)).

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment agreed to by the conferees changes the section number and makes a technical correction to D.C. Code, sec. 11-1563(d) concerning the refund of retirement withholdings to judges of the District of Columbia courts. Currently, if a judge who has not elected to participate in the Survivor Annuity Program dies while in active service, the contributions made by the judge to the retirement system are returned to the named beneficiary or the judge's estate. In those cases where a retired judge has not yet recouped the contributions prior to death, there is no provision for a named beneficiary or the estate to recoup the remaining portion of the contributions. The language in Senate amendment number 19 corrects this inequity. The language also requires the Mayor to engage an enrolled actuary to determine the financial effects of this change on the retirement fund and to comply fully with sections 142(d) and 144(d) of Public Law 96-122.

Amendment No. 20: Deletes language proposed by the Senate concerning the qualification requirements for retirement benefits for persons serving in the position of Executive Officer of the District of Columbia Courts. The proposed language sought to clarify the treatment for the Executive Officer of the District of Columbia Courts under circumstances where the Officer is involuntarily removed from office. Section 11-1703(c) of the District of Columbia Code states that "The Executive Officer shall receive the same compensation as an associate judge of the Superior Court".

The conferees ask that the courts bring back this proposal with a fuller explanation of the need for such clarification.

Amendment No. 21: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 136. (a) Within 30 days after the date of enactment of this Act, the United States, acting through a duly authorized official, shall convey to the District of Columbia without consideration, all right, title, and interest of the United States, in the real property described in subsection (b) (and any improvements thereon).

(b) The real property referred to in subsection (a) is that property (commonly known as the District of Columbia Employment Security Building at 500 C Street, Northwest) located in the District of Columbia in Square 491 described in a deed from the District of Columbia to the United States dated April 20, 1961, and recorded on April 26, 1961, as instrument number 11232 in liber 11589, folio 135 of the District of Columbia.

(c) If for any reason the District of Columbia should dispose of the real property described in subsection (b) (and any improvements thereon), such disposition shall be in accordance with procedures established by the Federal Department of Labor as are applicable to any of the 50 states.

SEC. 137. Section 147 of the Surface Transportation and Uniform Reallocation Assistance Act of 1987 (Public Law 100-17, approved April 2, 1987) is repealed.

SEC. 138. Notwithstanding Section 110 of this Act, appropriations in this Act shall not be available, during the fiscal year ending

September 30, 1989, for the compensation of any person appointed to a permanent position in the District of Columbia government during any month in which the number of employees exceeds 38,512, the number of positions authorized by this Act.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action inserts language to transfer title of the District's Employment Security Building located at 500 C Street, NW, to the District government. The General Accounting Office, in response to a request from the House and Senate Committees on Appropriations as to how ownership of title to the District's Employment Security Building might equitably be handled if the District were treated as if it were a state under the employment security program, has sent the Committees a letter dated September 14, 1988 stating that the building was paid for from the appropriations for employment security grants, and that this use of the grants was consistent with the use of such grants by other states. The letter from the General Accounting Office further states that an official of the Federal Department of Labor told them that the District's Employment Security Building is the only instance they were aware of wherein a state did not hold legal title to similar employment services program property.

The site was originally titled to the District of Columbia and was transferred to the Federal government in April 1961 at no cost. It should be noted that before the District received Home Rule in 1973, the Federal government provided a myriad of municipal services to the District. In a letter dated January 29, 1959 from Robert E. McLaughlin, President of the Board of Commissioners of the District of Columbia, to James E. Dodson, Administrative Assistant Secretary of the Federal Department of Labor, Mr. McLaughlin, in outlining the conditions of the site transfer, stated ". . . it is hoped that this structure will ultimately become District property . . ." (see letter submitted for the record in hearings on the District's fiscal year 1989 budget held on May 10, 1988, before the House Subcommittee on District of Columbia Appropriations, part 1, pp. 410-411).

The conferees have also included language in subsection (c) to ensure that the District abides by procedures established by the Federal Department of Labor in the event the District disposes of the property. These procedures were developed by the Federal Department of Labor for the disposal of facilities used in the various States' Employment Security Agencies Program (SESA). It is the express intent of the conferees that the District of Columbia be treated in the same manner as any of the 50 states.

The conferees have also approved a new section 137 which repeals Section 147 of Public Law 100-17, the Surface Transportation and Uniform Reallocation Assistance Act of 1987. Section 147 was included by the House as part of Public Law 100-17 when the Commonwealth Transportation Board, Commonwealth of Virginia refused to make certain adjustments in the High Occupancy Vehicle (HOV) restrictions on the I-95/I-395 facilities (the Shirley Highway express lanes—adjustments which would have improved the ingress/egress of the high volume of traffic moving in and out of Washington, D.C. The conferees have been advised that an agreement has since been reached with the Commonwealth Transportation Board whereby in return for repeal of Sec. 147, the state will lower HOV requirements from four persons per vehicle to three persons per vehicle; will keep open to all traffic the Pentagon HOV-lanes access ramp (Ramp G) for as long as is practical; will maintain the current 6:00 p.m. time at which the express lanes are open to all traffic; and will institute certain improvements in HOV-restriction enforcement procedures and programs. These changes will go into effect in January 1989. The language agreed to by the conferees has been cleared with the chairman and ranking member of the Subcommittee on Surface Transportation of the House Committee on Public Works and Transportation.

The conferees have also approved a new section 138 which increases the employment ceiling in section 110 from 38,471 to 38,512. The increase of 41 reflects the changes for the D.C. Superior court and the Court System agreed to by the conferees.

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 139. (a) Up to 118 officers or members of the Metropolitan Police Department who were hired before February 14, 1980, and who retire on disability before the end of calendar year 1989 shall be excluded from the computation of the rate of disability retirement under subsection 145(a) of the District of Columbia Retirement Reform Act, as amended, approved September 30, 1983 (97 Stat. 727; D.C. Code, sec. 1-725(a)), for purposes of reducing the authorized Federal payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund pursuant to subsection 145(c) of the District of Columbia Retirement Reform Act.

(b) The Mayor, within 30 days after the enactment of this Act, shall engage an enrolled actuary, to be paid by the District of Columbia Retirement Board, and shall comply with the requirements of section 142(d) and section 144(d) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96-122, D.C. Code, secs, 1-722(d) and 1-724(d)).

(c) If any of the 118 light duty positions that may become vacant under subsection (a) are filled, a civilian employee shall be hired to fill that position.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action allows for the retirement of not to exceed 118 police officers and states that their retirements are to be excluded from the computation of the rate of disability retirement under subsection 145(a) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96-122). This rate of disability retirements is used to determine whether to reduce the authorized Federal payment to the Police Officers and Firefighters' Retirement Fund. Testimony from the Mayor and the Chief of Police indicated that a number of officers are in a limited or light duty status or on extended sick leave. The police chief stated that it is important to replace these individuals with able-bodied police officers who can perform on the street.

Prior to the enactment of subsection 145(a) of Public Law 96-122, there was concern that the District's retirement system was being abused with excessive disability retirements. In some years, disability retirements accounted for 99 percent of all police and fire retirements. In order to address the situation, the Congress approved subsection 145(a) as part of the District's Retirement Reform Act to provide some incentive to District managers to reduce the percentage of disability retirements. The conferees believe the District has responded favorably and has included this language which will allow these individuals to retire without reducing the authorized Federal payment to the retirement funds and will permit the Metropolitan Police Department to hire police officers to fill the vacated positions. The conferees direct that these retirements, while exempt from the computation of the rate of disability retirements, be subject to all of the rules and regulations of the District's Board of Surgeons as well as the Policemen and Firemen's Retirement and Relief Board and meet all of the criteria for retirement.

The language agreed to by the conferees requires the Mayor to engage an enrolled actuary to determine the financial effects of this change on the retirement fund and to comply fully with sections 142(d) and 144(d) of Public Law 96-122. The language also requires that if any of the 118 positions that may become vacant because of retirements under subsection (a) are filled, a civilian employee shall be hired to fill that position. The objective of this section is to ensure that the objectives of the Mayor and the Metropolitan Police Chief to hire more able bodied officers for street duty are carried out.

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which allows for the operation of a home for the dying poor, including those with AIDS. The conference action is consistent with a unanimous ruling by the District's five-member Board of Zoning Adjustment on September 7, 1988, which granted the home a zoning exemption so that it can operate as a community residential facility. This action by the conferees will ensure the continued operation of this much-needed facility for homeless AIDS patients at no cost to District taxpayers.

Amendment No. 24: Reported in technical disagreement. The manager on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 141.(a) If by May 1, 1989, the District of Columbia government has not adopted, and implemented no later than September 30, 1989, a preference system that does not preclude the hiring of noncity residents, none of the funds provided or otherwise made available by this Act may be used to pay the salary or expenses of any officer, employee, or agent who is engaged in implementing , administering, or enforcing a District of Columbia residency requirement with respect to employees of the Government of the District of Columbia.

(b) After the date of enactment of this section, the District shall not dismiss any employees currently facing adverse job action for failure to comply with the residency requirement.

The manager on the part of the Senate will offer a action to concur in the amendment of the House to the amendment of the Senate.

The conference action requires the District to adopt by May 1, 1989 and to implement by September 30, 1989, a hiring preference system that allows for the hiring of non-city residents as proposed by the Senate. The conferees have also agreed to prohibit the use of any funds, rather than just federal funds as proposed by the Senate, to implement, administer or enforce the residency law if either the date for adoption or the date for implementation is not met. The conferees have also agreed to language which prohibits the District from dismissing any employees for failure to comply with the residency requirements.

Amendment No. 25: Reported in technical disagreement. The manager on the part of the House will offer a motion to recede and concur in the amendment of the Senate requiring that all fiscal year 1989 pay raises be absorbed within the levels appropriated in this Act. With the adoption of this language, there will not be any additional Federal funds appropriated to finance any pay raises that the District government may provide to employees during fiscal year 1989. This provision applies only to Federal funds and does not apply to local District funds which are not included in the Federal scorekeeping process.

Amendment No. 26: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following.

SEC. 143. None of the Federal funds appropriated by this Act shall be obligated or expended after December 31, 1988, if on that date the District of Columbia has not repealed District of Columbia Law 6-70, the Prohibition of Discrimination in the Provision of Insurance Act of 1986 (D.C. Law 6-170), or amended the law to allow testing for the human immunodeficiency virus as a condition for acquiring all health, life and disability insurance without regard to the face value of such policies. Eligibility for coverage and premium costs shall be determined in accordance with ordinary practices.

The manager on the part of the Senate will move to concur in the amendment of the Senate.

The language agreed to by the conferees prohibits the use of Federal funds by the District government after December 31, 1988, if the District has not repealed D.C. Law 6-170, the Prohibition of Discrimination in the Provision of Insurance Act of 1986, or adopted amendments to the Act to allow the testing of individuals as a basis for purchasing all health, life and disability insurance without regard to the face value of the policy. It also provides that eligibility for coverage and premium costs will be determined in accordance with ordinary practices.

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which requires the mandatory reporting of individual abortions for statistical purposes.

Amendment No. 28: Reported in disagreement.

TITLE II—FISCAL YEAR 1988 SUPPLEMENTAL APPROPRIATIONS

DISTRICT OF COLUMBIA FUNDS

Amendment No. 29: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following:

TITLE II—FISCAL YEAR 1988 SUPPLEMENTAL APPROPRIATIONS

DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

(INCLUDING RESCISSION)

For an additional amount for "Governmental direction and support", $2,168,000: Provided, That of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-91 to 1329-92), $3,525,000 are rescinded.

ECONOMIC DEVELOPMENT AND REGULATION

(INCLUDING RESCISSION)

For an additional amount for "Economic development and regulations", $143,000: Provided, That of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-92), $15,779,000 are rescinded.

PUBLIC SAFETY AND JUSTICE

(INCLUDING RESCISSION)

For an additional amount for "Public safety and justice", $33,253,000: Provided, That of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-92 to 1329-93), $2,000 are rescinded.

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSION)

For an additional amount for "Public education system", $13,900,000 which shall be allocated for the public schools of the District of Columbia: Provided, That of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-93 to 1329-94), $210,000 for the District of Columbia School of Law, $549,000 for the Public Library, and $355,000 for the Commission on the Arts and Humanities are rescinded.

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSION)

For an additional amount for "Human support services", $24,467,000: Provided, That of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-94), $8,578,000 are rescinded: Provided further, That an additional $2,545,000, to remain available until expended, shall be available solely for the District of Columbia employees' disability compensation: Provided further, That the $990,000 appropriated in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c)) shall be solely for Project Volta and shall remain available until expended: Provided further, That $746,054 in funds made available to the District of Columbia pursuant to the Employment Security Administrative Financing Act of 1954, approved August 5, 1954 (68 Stat. 668; 42 U.S.C. 1103), shall be appropriated for the purpose of providing $39,210 towards the purchase of an optical character reader and $706,844 to pay unemployment insurance staff salaries and benefits: Provided further, That the $746,054 referred to in the preceding proviso shall be withdrawn and expenses incurred after the enactment date of this Act and shall not be available for obligation after the close of a 12-month period which begins on the date of the enactment of this Act.

PUBLIC WORKS

(INCLUDING RESCISSION)

For an additional amount for "Public Works", $2,783,000: Provided, That of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 13, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-94), $2,625,000, including $241,000 from the school transit subsidy are rescinded.

REPAYMENT OF LOANS AND INTEREST

(RESCISSION)

Of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-95), $1,005,000 are rescinded.

REPAYMENT OF GENERAL FUND DEFICIT

For an additional amount for "Repayment of general fund deficit", $118,000.

OPTICAL AND DENTAL BENEFITS

For an additional amount for "Optical and dental benefits", $1,080,000.

PERSONAL SERVICES

For "Personal services", for pay increases and related costs, to be transferred by the Mayor of the District of Columbia to the various appropriation titles for fiscal year 1988 from which employees are properly payable, $34,150,000, which includes a 12-percent pay absorption to be apportioned among the various appropriation titles by the Mayor.

ADJUSTMENTS

Of the funds appropriated under the various appropriation titles in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-90 to 1329-104), $911,000, as determined by the Mayor, are rescinded.

CAPITAL OUTLAY

For an additional amount for "Capital outlay", $6,340,000, to remain available until expended.

WATER AND SEWER ENTERPRISE FUND

For an additional amount for "Water and sewer enterprise fund", $39,750,000, of which $8,385,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects and $31,365,000 shall be for pay-as-you-go capital projects, of which $10,500,000 shall be for new capital project authority for fiscal year 1988 and $20,865,000 shall be for prior-year capital project authority.

For an additional amount for construction projects, $10,500,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, sec. 43-1512 et seq.).

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For an additional amount for "Lottery and charitable games enterprise fund", $764,000.

GENERAL PROVISIONS

SEC. 201. Notwithstanding any other provision of law, appropriations made and authority granted pursuant to this title shall be deemed to be available for the fiscal year ending September 30, 1988.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action inserts a new "Title II" and heading for fiscal year 1988 supplemental appropriations as proposed by the Senate and appropriates $135,877,000 instead of $103,938,000 as proposed by the Senate. There are no Federal funds involved in this supplemental; it is funded entirely with increases in local revenue collections above the level projected at the time the District's regular appropriations bill for fiscal year 1988 was considered and approved by the Congress. The District government submitted three separate supplemental requests; none of which was submitted in time to be considered by the House and only one was submitted in time to be considered by the Senate. The three supplemental requests total $180,877,000 and consist of a net increase of $103,938,000 submitted in House Document 100-188, a net increase of $31,939,000 submitted in House Document 100-223, and $45,000,000 in capital budget authority also submitted in House Document 100-223. The increase of $31,939,000 recommended by the conferees above the Senate allowance reflects the second supplemental request. The conferees have denied without prejudice $45,000,000 in additional capital budget authority submitted as the District's third supplemental request. This item is discussed later in this report under the heading "capital outlay".

GOVERNMENTAL DIRECTION AND SUPPORT

The conference action recommends the appropriation of an additional $2,168,000 and rescinds $3,525,000 for a net decrease of $1,357,000 as proposed by the Senate for the appropriation account "Governmental direction and support". A brief description of the conferees' recommendations by office follows:

Office of the Secretary.—The conference action provides an additional $177,000 consisting of $27,000 to provide staff for the newly-established controller's unit, and $150,000 to cover the cost of automating the records of the Office of Public Records.

Office of Communications.—The conference action provides an additional $32,000 for contractual services and printing costs for publishing and disseminating general information to the public and $7,000 for computer equipment to upgrade and enhance the office's computer system.

Office of Intergovernmental Relations.—The conference action provides an additional $559,000 including increases of $162,000 for underfunded positions, $29,000 for office supplies, $22,000 for communications costs, $188,000 for other services and charges, and $158,000 for computer equipment.

Office of Personnel.—The conference action rescinds $1,043,000 consisting of $789,000 in personal services due to attrition, position vacancy management, termination of term appointments and curtailment of paid overtime and $254,000 due to reducing the publication and mailings of job bulletins, shared computer usage and executive recruitment costs.

Department of Administrative Services.—The conference action provides a net increase of $1,194,000 consisting of an increase of $2,000,000 for increased space rental costs for leased facilities, a rescission of $688,000 in personal services due to underspending resulting from maintaining vacant positions and restructuring positions downward to the entry level as they become vacant and a rescission of $118,000 due to an across-the-board reduction in contractual services.

Deputy Mayor for Finance.—The conference action rescinds $52,000 due to savings from positions remaining vacant.

Office of the Budget.—The conference action rescinds $139,000 due to position vacancy management and $44,000 due to printing fewer budgets and a reduction in office supplies.

Office of Financial Management.—The conference action rescinds $1,700,000 consisting of $700,000 due to a delay in purchasing a laser printer and upgrading the hardware and software for the Share Computer Center and $1,000,000 due to a decrease in contractual services for upgrading various programs.

Department of Finance and Revenue.—The conference action rescinds $537,000 consisting of $427,000 due to delays in filling vacant positions and $110,000 due to delays in the purchasing of equipment.

Office of Campaign Finance.—The conference action provides an additional $189,000 consisting of $150,000 to provide full funding for current on-board staff and $39,000 to cover the cost of upgrading the computer system.

Office of Employee Appeals.—The conference action provides an additional $10,000 for board members' compensation due to an increase in the number of board meetings in order to reduce the backlog in the number of appeals.

Commission on Baseball.—The conference action rescinds $10,000 in other services and charges for the promotion of baseball in the District.

ECONOMIC DEVELOPMENT AND REGULATION

The conference action recommends the appropriation of an additional $143,000 and rescinds $15,779,000 for a net decrease of $15,636,000 instead of an additional $143,000 and rescissions of $11,279,000 for a net decrease of $11,136,000 as proposed by the Senate. A brief description by office follows:

Office of the Deputy Mayor for Economic Development.—The conference action rescinds $178,000 due to a delay in filling vacant positions in the Office of Banking.

Office of Planning.—The conference action rescinds $193,000 due to a delay in filling vacant positions.

Department of Housing and Community Development.—The conference action rescinds $3,150,000 as follows: $150,000 in the Mortgage Default Prevention Program, $2,300,000 in the Citywide Home Purchase Assistance Program, and $700,000 in the Ward 8 Purchase Assistance Program. These rescissions are being made because carryover funds are available for these programs from fiscal year 1987. The conference action also recommends rescissions of $4,500,000 requested in the second supplemental due to certificate holders in the Tenant Assistance Program not being able to find housing during fiscal year 1988.

Department of Employment Services.—The conference action rescinds $2,441,000 as follows: $900,000 due to revised projections in the number of participants in the Adults-With-Dependents Program, $681,000 due to revised projections in the number of participants in the Training/Retraining Program, and $860,000 due to the postponed implementation of the Teen PREP Program until fiscal year 1989.

Office of Business and Economic Development.—The conference action provides an additional $83,000 for the Commercial Development Assistance Program for loans to start-up businesses along the commercial corridors in Ward 8 and rescinds $1,312,000 consisting of $54,000 in personal services due to savings through attrition and delays in hiring, $1,000,000 in the Business Purchase Assistance Program due to the availability of carryover funds from previous fiscal years, $200,000 in the Economic Development Finance Corporation due to the level of private investment in the corporation and $58,000 from positions no longer needed which were created to help implement the Economic Development Finance Corporation.

Minority Business Opportunity Commission.—The conference action rescinds $69,000 due to lower than anticipated personal services costs and $68,000 due to the deferral of the preparation of audio/visual displays for community outreach efforts and the purchase and maintenance of equipment.

Housing Finance Agency.—The conference action rescinds $69,000 due to positions remaining vacant longer than anticipated and $400,000 due to delays in implementing the Mortgage Loan Guarantee Program which is still in the development stage.

Board of Appeals and Review.—The conference action rescinds $10,000 due to personal services costs being less than originally budgeted.

Board of Equalization and Review.—The conference action rescinds $35,000 in personal services due to a delay in upgrading staff positions.

Department of Consumer and Regulatory Affairs.—The conference action provides an additional $160,000 and 12 positions and rescinds $3,572,000 for a net decrease of $3,412,000. Additional funds are provided for the implementation of the Alcoholic Beverage Control Amendment Act, D.C. Law 6-217, which requires a comprehensive overhaul of the regulation of alcoholic beverage control licensing in the District. Rescissions of $1,357,000 due to delays in filling vacant positions and $2,215,000 due to a reduction in spending for the Abatement of Nuisances Program, the ADP program and equipment purchases.

Public Service Commission.—The conference action rescinds $25,000 due to delays in filling positions in the securities regulation area.

Office of the People's Counsel.—The conference action provides an additional $39,000 to fully fund on-board staff and $104,000 for space rental costs and legal analysis expenses.

PUBLIC SAFETY AND JUSTICE

The conference action recommends the appropriation of an additional $33,253,000 and rescinds $2,000 for a net increase of $33,251,000 for the appropriation account "Public safety and justice" as proposed by the Senate. A brief description of the conferees recommendations follows:

Metropolitan Police Department.—The conference action provides an additional $9,468,000 consisting of $7,080,000 for the increased costs of night differential, terminal leave, holiday pay, and longevity pay, $388,000 for 38 additional police officers and associated overtime for anti-drug enforcement efforts and $2,000,000 for software development and licensing and maintenance contracts for both computer software and hardware.

Fire Department.—The conference action provides an additional $9,117,000 which includes $5,665,000 for additional overtime; $565,000 for employee health benefits; $406,000 for self-contained underwater breathing apparatus and training; $440,000 to upgrade 11 units to advance life-support ambulances; $204,000 for paramedic physical examinations; and $150,000 for the paramedic recruitment program. Other increases approved by the conferees include $250,000 and 32 paramedic positions to convert the Emergency Ambulance Service to advanced life support service; $436,000 for ambulance and first aid supplies; $504,000 for development of promotional and entrance examinations; $90,000 for outside medical costs; $352,000 for communications equipment and maintenance vehicles; $30,000 for a medical physician position; and $25,000 for personal computers for the recently established Emergency Ambulance Bureau.

Court of Appeals.—The conference action provides an additional $120,000 for the judicial pay raise and the senior judges' pay differential in accordance with Public Law 99-190.

Superior Court.—The conference action provides an additional $510,00 for the judicial pay raise and the senior judges' pay differential in accordance with Public Law 99-190.

D.C. Court System.—The conference action provides an additional $8,000 for the Executive Officer's pay adjustment and $1,265,000 for Criminal Justice Act Program fees. The conferees have also approved three positions for the Equal Employment Opportunity Office. The cost of these positions will be absorbed by the Court System.

Office of the Corporation Counsel.—The conference action provides an additional $1,061,000 and 26 positions and rescinds $100,000. The increases include $344,000 for the New Contract Appeals Board, $148,000 for new term full-time positions for the Civil Division to reduce the backlog in cases, $178,000 for support of St. Elizabeths Hospital functions, $135,000 for asbestos litigation, $166,000 for the Juvenile Diversion Program and $90,000 for expert witnesses, depositions, transcripts, terminal leave, library books, and the Citizen's Complaint Center.

Settlements and Judgments.—The conference action provides an additional $3,060,000 consisting of $1,530,000 for out-of-court settlements of claims and suits and $1,530,000 for payment of judgments.

Public Defender Service.—The conference action provides an additional $25,000 for an improved telephone system, $24,000 for staff support to the Superior Court Single Representation Program, and $9,000 for litigation services in support of the Civil Legal Services Program.

Pretrial Services Agency.—The conference action provides an additional $142,000 for the Juvenile Drug Testing Program.

Department of Corrections.—The conference action provides an additional $8,012,000 consisting of $2,500,000 for unfunded care factor costs, $2,511,000 for D.C. Code violations housed in other facilities, $1,301,000 for the medical contract at the several detention facilities, $525,000 for the Drug Abatement Program, and $1,175,000 for management of the increasing prison population.

Board of Parole.—The conference action provides an additional $115,000 and two positions for expansion of the Board from three to five members and $47,000 for increased office security.

Office of Emergency Preparedness.—The conference action provides an additional $300,000 and 11 positions to cover costs in the Executive Command and Communications Center previously funded by intra-District agreements with various District agencies.

Commission on Judicial Disabilities and Tenure.—The conference action rescinds $2,000 due to the deferral of the purchase of a computer software package.

Law Revision Commission.—The conference action provides an additional $18,000 for underfunded commissioner's stipends.

Office of Criminal Justice Plans and Analysis.—The conference provides a net increase of $52,000 including an increase of $160,000 and rescissions of $108,000. The increase of $160,000 is for use by the Civilian Complaint Review Board to eliminate the backlog of cases. The rescission of $108,000 is due to the delay in filling vacant positions.

PUBLIC EDUCATION SYSTEM

The conference action recommends the appropriation of an additional $13,900,000 and rescinds $1,114,000 for a net increase of $12,786,000 for the appropriation account "Public education system" instead of an additional $10,000,000 and rescission of $1,114,000 for a net increase of $8,886,000 as proposed by the Senate. A brief description of the amounts recommended by agency follows:

Board of Education (Public Schools).—The conference action provides an additional $10,000,000 to support the fiscal year 1988 increase for teacher's salary adjustments. The conference action also provides an additional $3,900,000 requested in the District's second supplemental request for other regular pay purposes.

District of Columbia Law School.—The conference action rescinds $210,000 due to lower than anticipated costs for personal services and contractual services.

Public Library.—The conference action rescinds $579,000 and deletes four positions and provides an additional $30,000 for four security guards at branch libraries. The rescissions consist of $290,000 due to projected savings in energy, $115,000 due to deferring carpet and vehicle purchases, $95,000 due to a delay in the opening of the new Shepherd Park Branch Library, and $79,000 due to various miscellaneous cost-saving measures.

Commission on the Arts and Humanities.—The conference action rescinds $355,000 consisting of $20,000 due to a decrease in the funding level for the Capital Children's Museum, $190,000 due to a slowdown in program expansion, $30,000 due to a reduction in cultural arts research and assessment, and $115,000 due to a decrease in program maintenance and delays in implementing new programs.

HUMAN SUPPORT SERVICES

The conference action recommends an additional appropriation of $24,467,000 and rescinds $8,578,000 for a net increase of $15,889,000 for the appropriation account "Human support services" instead of an additional $2,550,000 and rescissions of $18,361,000 for a net increase of $15,811,000 as proposed by the Senate. A brief summary by agency follows:

Department of Human Services.—The conference action provides an additional $37,072,000 and rescinds $49,355,000 for a net decrease of $12,283,000. The increase of $37,072,000 includes the following: $4,000,000 to cover unbudgeted costs in rent, communications, and energy, $4,782,000 to implement the Comprehensive Homeless Plan, $8,000,000 for the Foster Care Program, $5,600,000 for the implementation of the Jerry M. Consent Decree requirements, $2,000,000 for the Day Care Program, $2,000,000 for the Emergency Assistance Program, $1,200,000 for PCP Clinics, $150,000 to increase the hourly rate of homemaker and chore aides, $1,800,000 for specialized home care and respite services, $900,000 for the Randolph-Sheppard Vending Program, $1,000,000 to reinstate the three percent reimbursement increase for hospitals, and $2,550,000 for drug abuse prevention and treatment services. The conferees also recommend increases of $1,024,000 to implement the Nursing Assignment Act of 1987, $656,000 for the Cancer and Teenage Pregnancy Prevention Program, and $1,410,000 for compliance with the State Medicaid Plan and replacement of equipment. The rescission of $49,355,000 consists of the following: $14,478,000 for administrative savings, $6,322,000 because of a limitation on new hires to fill non-critical positions, $10,041,000 as a result of program adjustments and resizing measures, $12,800,000 as a result of increased revenue collections enhancements, $4,558,000 due to delays in filing vacant positions, $500,000 in the Youth Services Administration due to lower than anticipated inflationary cost estimates, and $656,000 in rental costs of the Preventive Health Services Administration due to lower actual costs.

The conference action also provides an additional $34,200,000 requested in the second supplemental request (H. Doc. 100-223) as follows: (1) $7,606,000 for personal services to fill critical and essential vacant positions, (2) $50,000 for regulatory and legislative services, (3) $659,000 for necessary funding for personal services contracts, (4) $49,000 for the required 100% match for the State Student Incentive Grant Program, (5) $500,000 to upgrade the Office of Information Systems computer capability, (6) $426,000 for relocation costs of the Office of Information Systems to make room for the Department of Corrections Treatment Facility, (7) $19,000 for additional court reporter services to provide legally mandated verbatim transcripts of hearings, (8) $70,000 to purchase computer equipment, (9) $100,000 for administrative support costs in the Office of Inspection and Compliance, (10) $4,088,000 to cover increased costs of emergency shelter for families and other homeless persons, (11) $6,212,000 for the foster care program, (12) $4,978,000 for increases in the costs of settlements of prior years' services, (13) $3,765,000 for increased inpatient and outpatient services at D.C. General Hospital, increased home health care services, and day treatment programs for the mentally retarded and frail elderly, (14) $2,157,000 for increases in mandated and uncontrollable costs of services, and (15) $3,521,000 for increases in contractual services in the Commission on Mental Health.

The conferees have deleted, without prejudice, language allocating $400,000 in fiscal year 1988 and $264,000 in each of the fiscal years ending September 30, 1989, September 30, 1990, and September 30, 1991, for the operation of a residential facility for mentally-disabled mothers and their infants. The subject is addressed earlier in this report under amendment number 10 under the side heading "Department of Human Services".

The conferees have included bill language providing that the $990,000 appropriated in the District's fiscal year 1988 appropriations act be solely for Project Volta and remain available until expended. Project Volta is a joint project of the District and the Alexander Graham Bell Association for the Deaf for early detection and intervention of hearing impaired Children in the District of Columbia.

Department of Recreation.—The conference action rescinds $1,077,000 consisting of $399,000 due to a reduction in the use of school custodians, $72,000 due to a reduction in the hours of operation for recreation centers and playgrounds, $ 514,000 due to a reduction in funding for various programs, and $92,000 due to a reduction in nonpersonnel services, terminal leave and leaving two positions vacant.

Office on Aging.—The conference action rescinds $1,239,000 consisting of $1,086,000 due to a delay in the construction of the mult-purpose senior centers, $125,000 due to a delay in the implementation of the Later Life Learning Resource Centers, and $28,000 due to a delay in filling new positions authorized in fiscal year 1988.

D.C. General Hospital.—The conference action rescinds $3,500,000 due to management improvements that have increased operational efficiency and improved the hospital's ability to more accurately estimate revenue and to bill and collect that revenue. The conference action also rescinds an additional $2,500,000 contained in the second supplemental request (H. Doc. 100-223) due to improved revenue generation and the transfer of equipment repair and purchase authority from the operating budget to the capital improvements program.

Disability Compensation Fund.—The conference action provides an additional $2,545,000 consisting of $2,200,000 for benefit payments due to a cost of living adjustment of 4.2 percent and $345,000 for medical services due to an increase in medical billings.

Office of Human Rights.—The conference action rescinds $98,000 and deletes two positions due to a decrease in personal services resulting from positions remaining vacant and $30,000 due to the deferral of the purchase of furniture, equipment and consultant services.

Office on Latino Affairs.—The conference action rescinds $13,000 due to a decrease in the purchase of office supplies and equipment and $121,000 due to savings in the Latino Initiative Program due to the lengthy recruitment efforts required to find qualified bilingual personnel.

Energy Office.—The conference action provides an additional $5,000 to support the Gasoline Advisory Board established by the Reail Service Station Act of 1976.

PUBLIC WORKS

The Committee recommends and additional appropriation of $2,783,000 and rescinds $2,625,000 for a net increase of $158,000 for the appropriation account "Public works" instead of rescissions of $6,293,000 as proposed by the Senate. A brief summary by agency follows:

Department of Public Works.—The conference action provides an increase of $2,098,000 and rescinds $4,650,000 for a net decrease of $2,552,000. The increaes approved by the conferees are as follows: $15,000 for the Eastern Market renovation project, $35,000 for the Hazardous Material Study Commission, $30,000 for training programs for blue-collar workers, $676,000 for department-wide rental costs, $125,000 to establish the Office of the Litter and Solid Waste Reduction Commission, $30,000 for the Roadway and City Gateway Beautification Program, $183,000 for electrical energy, $50,000 to establish the Bureau of Recycling and Resource Recovery, and $954,000 for the Residential Parking Permit Program. The rescission of $4,650,000 consists of $1,640,000 due to a reduction in personal services cost resulting from leaving positions vacant, $100,000 due to delaying the study to consolidate and link the existing independent data bases for motor vehicle registrations, motor vehicle operator permits, insurance, and traffic tickets, $690,000 due to a department-wide reduction in overtime costs, $100,000 due to a reduction in streetlight and traffic signal electrical energy due to lower fuel costs, $960,000 due to a reduction in streetlight operations and maintenance due to postponing the conversion of streetlights to sodium vapor, $200,000 due to a reduction in contractual park maintenance, and $308,000 due to a reduction in building maintenance. The conferees also recommend rescissions of $127,000 due to a reduction in the mechanical alley cleaning program, $100,000 due to a reduction in underpass electrical testing, $225,000 due to a reduction in the purchase of supplies, vehicle inspection stickers, and contractual services, and $200,000 due to a reduction in the gateway beautification project, public space maintenance and the delay in purchasing a new filing system for the Adjudication Processing Division.

The conference action provides an additional $4,935,000 contained in the second supplemental request (H. Doc. 100-223) consisting of $1,455,000 for snow removal and $3,480,000 for increased dump fee costs at the Lorton landfill.

Department of Public Works (Pay-As-You-Go Capital).—The conference action rescinds $2,384,000 as requested in the second supplemental (H. Doc. 100-223) due to postponement until fiscal year 1989 of the purchase of selected large items of equipment such as packers, sweepers, and dump trucks.

Washington Metropolitan Area Transit Authority.—The conference action rescinds $3,500,000 due to a credit resulting from the fiscal year 1987 audit which will be used to offset the District's fiscal year 1988 operating subsidy. The conference action recommends the rescission of $3,254,000 requested in the second supplemental (H. Doc. 100-223) due to increased revenues from ridership growth. The conference action provides an increase of $7,154,000 requested in the second supplemental consisting of $6,644,000 for Metrobus Operations due to increased bus costs, lower audit adjustment credits, and reduced Federal operating grants, and $510,000 for rail construction management due to accelerated rail construction on the Green, Red, and Yellow lines.

School Transit Subsidy.—The conference action rescinds $241,000 due to lower-than-anticipated student ridership.

REPAYMENT OF LOANS AND INTEREST

The conference action recommends an additional $3,469,000 as proposed by the Senate for debt service on the District's outstanding long-term capital debt which is higher than previously estimated. As a result, the District will be required to borrow capital funds in mid-spring rather than early summer as planned and thus incur additional debt service costs.

The conference action rescinds $4,474,000 contained in the second supplemental request due to lower than anticipated interest costs on the new capital funds bond issue.

REPAYMENT OF GENERAL FUND DEFICIT

The conference action appropriates an additional $118,000 as proposed by the Senate for repayment of the District's accumulated general fund deficit.

OPTICAL AND DENTAL BENEFITS

The conference action appropriates an additional $1,080,000 as proposed by the Senate for optical and dental payments for District employees based on the increase in the number of claims.

PERSONAL SERVICES

The conference action appropriates an additional $34,150,000 for the estimated costs of employee pay raises instead of $34,377,000 as proposed by the Senate. These raises represent an increase of approximately 4 percent for police officers, an average increase of 9.66 percent for registered nurses and a 3 percent or $1,000 base increase, whichever is higher, for most other employees.

ADJUSTMENTS

The conference action recommends approval of an unallocated rescission of $911,000 requested in the second supplemental (H. Doc. 100-223) to be taken from various appropriation titles as determined by the Mayor.

CAPITAL OUTLAY

The conference action recommends an additional appropriation of $6,340,000 as proposed by the Senate for the "Capital Outlay" appropriation account. The conference allowance consists of $540,000 for the purchase of a structure to house a halfway house for women, and $5,800,000 to purchase equipment and make renovations at D.C. General Hospital. The conferees have deferred, without prejudice, the additional capital borrowing authority of $45,000,000 for an 800-bed Correctional Housing Development project at Lorton, Virginia, requested in the District's third supplemental request submitted in H. Doc. 100-223.

The proposed additional capacity continues the District's efforts to expand prison capacity to catch-up with rapidly increasing prison population. Since 1974, the year before Home Rule, the District has expanded jail capacity by more than 104 percent and Lorton capacity by approximately 97 percent, yet facilities are more overcrowded than they were a decade ago. The District is also faced with court orders that limit the number of inmates at the jail to 1,694, which is 22 percent above its original design capacity. Courts have also placed a population limitation on the Central Facility at the Lorton Complex.

The District has responded by proposing an 800 bed Correctional Treatment Facility (CTF) in Southeast Washington; 230 halfway house beds in the District; and the proposed 800 bed expansion at Lorton. As responsive as these plans are, there needs to be a more coordinated and comprehensive review of the District's prison capacity needs. In Senate Report 99-367, dated August 5, 1986, the following suggestion was included:

The Department of Corrections should begin to undertake a department-wide analysis of its current prison space. More than one-half of the capacity at the Lorton complex is contained in buildings that are 60 years old or older. During testimony March 26, 1986, the Council Chairman suggested a comprehensive public safety plan. Realistic long-range analysis is overdue and should be undertaken as soon as possible.

That need still exists. The conferees direct that the District undertake such a review and analysis and submit a plan and program addressing capacity issues for the remainder of this century. This report should be submitted to the Council and the Committees on Appropriations of the Senate and House of Representatives not later than April 15, 1989.

The plan should address issues such as the need to replace various current facilities; expected cost savings of new buildings compared to high maintenance cost of antiquated facilities. Also addressed should be the location of any replacement buildings. It should be noted that the total acreage at the District's Lorton Correctional complex is 3,000 acres. However, according to a report of the District in March 1985, actual prison facilities emcompass only 201.51 acres. The consolidation of facilities should be examined with an eye toward freeing some of the acreage for non-District, noncorrectional uses. The conferees would expect that the district would address the latter issue of consolidation prior to undertaking any final siting decision on the proposed expansion now requested.

WATER AND SEWER ENTERPRISE FUND

The conference action recommends an additional appropriation of $39,750,000 as proposed by the Senate for the "Water and Sewer enterprise fund" appropriation account to pay deferred principal and interest on Potomac Interceptor project "C" borrowings and for pay-as-you-go capital projects.

The conference action recommends an additional appropriation of $10,500,000 as proposed by the Senate for capital outlay and includes $5,000,000 for facility rehabilitation, $3,000,000 for major equipment acquisitions, and $2,500,000 for water meter replacements.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

The conference action recommends an additional appropriation of $764,000 as proposed by the Senate for the "Lottery and Charitable Games Enterprise Fund" as follows: $207,000 for the estimated fiscal year 1988 pay adjustment, $120,000 to fund authorized marketing positions, $171,000 for personnel functions and public relations, $40,000 for agency realignments, and $226,000 for automated information services.

GENERAL PROVISIONS

The conference action adds language to the bill which deems the appropriations made in Title II to be available for the fiscal year ending September 30, 1988. This language in effect ratifies all obligations and expenditures made in anticipation of the enactment of the District's fiscal year 1988 supplemental request as approved in Title II of this Act.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1989 recommended by the Committee of Conference, with comparisons to the fiscal year 1988 amount, the 1989 budget estimates, and the House and Senate bill for 1989 follow:

FEDERAL FUNDS

New budget (obligational) authority, fiscal year 1988	$550,000,000
Budget estimates of new (obligational) authority, fiscal year 1989	541,596,000
House bill, fiscal year 1989	541,596,000
Senate bill, fiscal year 1989	532,000,000
Conference agreement, fiscal year 1989	536,910,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1988	−13,090,000
Budget estimates of new (obligational) authority, fiscal year 1989	−4,686,000
House bill, fiscal year 1989	−4,686,000
Senate bill, fiscal year 1989	+4,910,000

DISTRICT OF COLUMBIA FUNDS

FISCAL YEAR 1989

New budget (obligational) authority, fiscal year 1988	$3,077,347,000
Budget estimates of new (obligational) authority, fiscal year 1989	3,206,916,000
House bill, fiscal year 1989	3,206,916,000
Senate bill, fiscal year 1989	3,216,916,000
Conference agreement, fiscal year 1989	3,206,095,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1988	+128,748,000
Budget estimates of new (obligational) authority, fiscal year 1989	−821,000
House bill, fiscal year 1989	−821,000
Senate bill, fiscal year 1989	−10,821,000

DISTRICT OF COLUMBIA FUNDS

FISCAL YEAR 1988 SUPPLEMENTAL

Budget estimates of new (obligational) authority, fiscal year 1988 supplemental	$180,877,000
House bill, fiscal year 1988 supplemental	....
Senate bill, fiscal year 1988 supplemental	103,938,000
Conference agreement, fiscal year 1988 supplemental	135,877,000
Conference agreement compared with:	
Budget estimates of new (obligational) authority, fiscal year 1988 supplemental	−45,000,000
House bill, fiscal year 1988 supplemental	+135,877,000
Senate bill, fiscal year 1988 supplemental	+31,939,000

JULIAN C. DIXON,
WILLIAM H. NATCHER
(with exception of No. 15),
LOUIS STOKES,
WES WATKINS,
STENY H. HOYER,
JAMIE L. WHITTEN,
LAWRENCE COUGHLIN,
BILL GREEN
(except as to amendment No. 26),
RALPH REGULA,
SILVIO O. CONTE,
Managers on the Part of the House.

TOM HARKIN,
HARRY M. REID,
JOHN C. STENNIS,
DON NICKLES,
CHUCK GRASSLEY,
MARK O. HATFIELD,
Managers on the Part of the Senate.

Mr. DIXON. Mr. Speaker, pursuant to the previous order of the House, I call up the conference report on the bill (H.R. 4776) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1989, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 548, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of today, September 30, 1988.)

The SPEAKER pro tempore. The gentleman from California [Mr. DIXON] will be recognized for 30 minutes and the gentleman from Pennsylvania [Mr. COUGHLIN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. DIXON].

GENERAL LEAVE

Mr. DIXON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DIXON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conferees, following the action of the House yesterday, met again early this afternoon to try to work out an agreement on amendment No. 15 the abortion amendment on H.R. 4776, the District of Columbia Appropriations Act for fiscal year 1989. We were unable to reach an agreement to resolve this issue in conference and it is being brought back in true disagreement.

I have worked out an agreement with the parties involved in this issue so that at the appropriate time, rather than offer a motion on amendment No. 15, I will allow a Member who supports the House position to offer a motion.

Mr. Speaker, we have debated this issue numerous times. I think everyone is well aware of the arguments on both sides of the issue. There appears to be no controversy on the conference report itself. I would hope the House would adopt the conference report on a voice vote and move immediately to the amendments in disagreement which include the abortion amendment.

Let me say again; I will not offer a motion on amendment No. 15. In fact, I will allow a motion to be offered by a Member who supports the House position.

Mr. Speaker, I reserve the balance of my time.

Mr. COUGHLIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have been at this point before. All that needs to be said about the conference report itself, which is the thing we will vote on first, has already been said.

I urge all the Members of the House, regardless of their position on some of the amendments in disagreement, to vote for the conference report. It is a good report.

Mr. Speaker, I yield 30 seconds to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Speaker, I thank the gentleman for yielding this time to me.

I would add my words of encouragement to our colleagues. As the vice chairman of the authorizing committee here, let me say this is a good conference report. It should be supported, irrespective of the disagreements or the positions of various Members on other matters.

Mr. DIXON. Mr. Speaker, I yield 8 minutes to the delegate from the District of Columbia [Mr. FAUNTROY].

Mr. FAUNTROY. Mr. Speaker, I do not often come to this floor to discuss appropriation matters with respect to the District of Columbia. That is because I believe that my role as the delegate of the people of this district is that first of seeking legislation authorizing the expansion of our home rule powers, and second, that of seeking to defend the rights already delegated to our locally elected government by the Congress.

I have also avoided coming to sessions of the Appropriations Subcommittee on the District of Columbia for the reason that it reminds me that the people whom I am elected to represent, alone among taxpaying Americans, have 535 Members of the House and the Senate as their City Council, and the President of the United States as their Mayor.

It is painful to me to be told, as I was told by the Ambassador from South Africa when I appealed to him to allow the 23 million people who are black in that Republic, to have the basic right to vote and to have those who govern, govern by their consent.

He reminded me that I, of all people, ought to understand how things are done in South Africa, because in the District of Columbia the people whom I represent are in the same situation.

The Congress says, "We govern you without your consent and you will do what we decide you are going to do and we know what is in your best interests."

So I have watched and listened to the debate as the House and the Appropriation Subcommittees have decided whether or not the District will have a training institution facility at one of our local colleges. I have watched as you have decided that the grant of authority over our personnel matters shall be withdrawn and that you will determine what our residency laws shall be, under threat of denial of both our Federal and local funds to administer it.

In this conference report there is a measure that says you will decide that unless we change a human rights law, which you delegate to us the authority to pass, which we did pass, which the Congress accepted, and which then the courts have upheld, unless we do that, you will shut this city down on December 31, 1988, with no funds, federally or locally to be expended for purposes of delivering these services.

I cannot tell you, Mr. Speaker, how deeply hurt and humiliated I am by the fact that you vote on this today.

I called three of my colleagues, one in the House, one in the Senate, and one at the White House, to ask, to plead that they not mandate for the District of Columbia with respect to the abortion provisions what they did not last week and what they would not for other citizens who live in other jurisdictions in this country.

I was told by one of my colleagues that he knows it is not fair for us to single out the District of Columbia residents for discrimination and to say we will do to you what we will not do to the rest of the citizens of this country, we will require that you not use your local funds.

I told him that I am a minister of the Gospel, I am a pro-life person, but it is not right in the sight of God to say to one group of people that we will discriminate against you.

My good friend said he likes me. He knows my case is right, but if he had the authority to impose this upon his own local jurisdiction, he would. He does not have that authority, but he has the authority, the dictatorial raw, naked power, in this Chamber to impose it upon the people whom I represent.

Mr. Speaker, that is not right, that is not fair, and while I know you are going to do it, I have decided that I understand now why Patrick Henry at one point said, "Give me liberty or give me death."

I understand, HENRY, why Nelson Mandela, languishing in jail, said, "Before I will leave this jail and subject myself to this kind of humiliation, I will die here."

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. FAUNTROY. I am happy to yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I appreciate that.

I want to say that I deeply appreciate the sincerity with which the gentleman is making his point.

May I just suggest to the gentleman that from the opposite point of view, we feel the ultimate discrimination is against the unborn, and we realize that rights are in conflict. Home rule right is important and we do not like to trample on that, but the right to life, which is the fundamental right to life, we feel is more important, and in this conflict of rights if we have any opportunity at all, even if it involves invading home rule, it will save defenseless human life, and that is the ultimate goal and that is why we take this step.

We hope the gentleman will understand as we agree with his sincerity, our sincerity in doing it.

Mr. FAUNTROY. I do not understand it, I say respectfully to the gentleman from Illinois [Mr. HYDE]. I do not understand it, that is why I have urged my brothers in South Africa to resist the abuse of rights by every means of nonviolence available to them, and they are doing that.

I have urged my brothers and sisters in Haiti to go to the polls in defense of their right to vote at the risk of being chopped up by machetes.

I want you to know that when you have voted this and mandated to the duly elected officials of the District of Columbia that if they do not pass a law changing our human rights law, a law that we have the authority to pass, that the Congress accepted and the courts have approved, and you will cut off our Federal and local funds for the administration of this city, I am going to urge, as I have in South Africa, as I have in Haiti, that we choose every nonviolent means available to us to resist this tyranny.

I hope that our city council and our mayor will do that and then on January 1, 1989, we say to our teachers that if you go to school to teach, you will not be paid; to our police officers, that if you go on the streets, you will not be paid, because there are some things that are more important and more precious than money, and that is your human dignity.

Mr. CONTE. Mr. Speaker, I rise in support of this conference report for the fiscal year 1989 District of Columbia appropriations bill. The agreement meets the targets set in the budget resolution and it meets the requirements of the budget summit agreement.

The conference report provides $536.9 million in Federal funds for the District of Columbia. That amount is $4.68 million less that the President's request and the House-passed level. Specifically, the bill provides $430 million in an unrestricted Federal payment to the District, $32 million for water and sewer service, $52 million for the Federal contribution to retirement funds, $20 million for a transitional payment for St. Elizabeth's Hospital and $2.3 million for inaugural expenses.

In addition, the bill appropriates $3.2 billion in local funds for the operation of the District of Columbia. These are not Federal funds, but an appropriation of local revenues as approved by the city council and the mayor. Each year the District budget must be approved by the Congress before any local revenues can be spent.

Mr. Speaker, this bill is fiscally responsible and I urge its adoption.

Mr. COUGHLIN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DIXON. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. Pursuant to House Resolution 548, the amendments in disagreement are considered as having been read.

The Clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 3: Page 3, line 15, after "prison" insert ": *Provided*, That construction may not commence unless access and parking for construction vehicles is provided solely at a location other than city streets: *Provided further*, That the facility may not open unless parking for staff and access and egress is provided other than to 19th Street, Southeast: *Provided further*, That the Mayor take steps to ensure that a portion of the site of the old D.C. jail become a neighborhood shopping center: *Provided further*, That District officials meet monthly with neighborhood representatives to inform them of current plans and discuss problems: *Provided further*, That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding the new prison, can promptly obtain information from District officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further*, That the District of Columbia shall also take steps to publicize the availability of that service among the residents of the area surrounding the new prison".

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 3 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: ": *Provided*, That construction may not commence unless access and parking for construction vehicles are provided solely at a location other than city streets: *Provided further*, That District officials meet monthly with neighborhood representatives to inform them of current plans and discuss problems: *Provided further*, That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding the new prison, can promptly obtain information from District officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further*, That the District of Columbia shall also take steps to publicize the availability of that service among the residents of the area surrounding the new prison".

Mr. DIXON (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 6: Page 8, line 23, after "Northwest" insert ": *Provided further*, That the staffing levels of two piece engines companys with the Fire Department shall be maintained in accordance with the provisions of article III, section 18 of the Fire Department Rules and Regulations as then in effect, until final adjudication by the relevant courts".

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein.

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

□ 1600

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Speaker, I have a parliamentary inquiry.

This Member has an interest in Senate amendment No. 28. When does the gentleman expect we will be getting to that?

The SPEAKER pro tempore. Is the gentleman propounding a parliamentary inquiry?

Mr. DANNEMEYER. Mr. Speaker, yes; I am.

Mr. DIXON. Mr. Speaker, that is not a parliamentary inquiry. I will certainly give him notice. We are trying to move very fast here. It will be in the next 4 or 5 minutes. I will raise my hand when it comes up.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 12: Page 11, line 9, after "Business" insert ": *Provided further*, That the Taxicab Commission shall report to the Committees on Appropriations of the Senate and House of Representatives by September 1, 1988, or within 15 days of the enactment of this Act, on a plan to issue and implement regulations on the age of vehicles, frequency of inspection, cleanliness of vehicles and other items contained in Senate Report 100-162".

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 12 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following: ": *Provided further*, That the Taxicab Commission shall report to the Committees on Appropriations of the Senate and House of Representatives by January 15, 1989 on a plan as outlined in Senate Report 100-162 to issue and implement regulations including but not limited to the age of vehicles, frequency of inspection, and cleanliness of vehicles".

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 15: Page 22, strike out lines 7 and 18 and insert:

SEC. 117. None of the Federal funds provided in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

MOTION OFFERED BY MR. REGULA

Mr. REGULA. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. REGULA moves that the House recede from its disagreement to the amendment of the Senate numbered 15 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

SEC. 117. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 19: Page 29, after line 15, insert:

Sec. 136. Section 11-1563(d), D.C. Code is amended—

(A) by inserting "or while receiving retirement salary under this subchapter but before having recouped all contributions," before "the lump-sum credit for retirement"; and

(B) by inserting "or the balance after deduction of retirement salary paid prior to death, if applicable," before "shall be paid,".

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Dixon moves that the House recede from its disagreement to the amendment of the Senate numbered 19 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

Sec. 135. (a) Section 11-1563(d), D.C. Code is amended—

(A) by inserting "or while receiving retirement salary under this subchapter but before having recouped all contributions," before "the lump-sum credit for retirement"; and

(B) by inserting "or the balance after deduction of retirement salary paid prior to death, if applicable," before "shall be paid,".

(b) The Mayor, within 30 days after the enactment of this Act, shall engage an enrolled actuary, to be paid by the District of Columbia Retirement Board, and shall comply fully with the requirements of section 142(d) and section 144(d) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96-122, D.C. Code, secs. 1-722(d) and 1-724(d)).

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Dixon].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 21: Page 29, after line 15, insert:

Sec. 138. No funds provided by this or any other Act may be used to condemn, vacate, or raze the Employment Security Building, located at 500 C Street NW., Washington, District of Columbia, until June 30, 1989.

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Dixon moves that the House recede from its disagreement to the amendment of the Senate numbered 21 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

Sec. 136. (a) Within 30 days after the date of enactment of this Act the United States, acting through a duly authorized official, shall convey to the District of Columbia without consideration, all right, title, and interest of the United States, in the real property described in subsection (b) (and any improvements thereon).

(b) The real property referred to in subsection (a) is that property (commonly known as the District of Columbia Employment Security Building at 500 C Street, Northwest) located in the District of Columbia in Square 491 described in a deed from the District of Columbia to the United States dated April 20, 1961, and recorded on April 26, 1961, as instrument number 11232 in liber 11589, folio 135 of the District of Columbia.

(c) If for any reason the District of Columbia should dispose of the real property described in subsection (b) (and any improvements thereon), such disposition shall be in accordance with procedures established by the Federal Department of Labor as are applicable to any of the 50 states.

Sec. 137. Section 147 of the Surface Transportation and Uniform Reallocation Assistance Act of 1987 (Public Law 100-17, approved April 2, 1987) is repealed.

Sec. 138. Notwithstanding Section 110 of this Act, appropriations in this Act shall not be available, during the fiscal year ending September 30, 1989, for the compensation of any person appointed to a permanent position in the District of Columbia government during any month in which the number of employees exceeds 38,512, the number of positions authorized by this Act.

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Dixon].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 22: Page 29, after line 15, insert:

Sec. 139. Up to 118 officers or members of the Metropolitan Police Department who were hired before February 14, 1980, and who retire on disability before the end of calendar year 1989 shall be excluded from the computation of the rate of disability retirement under subsection 145(a) of the District of Columbia Retirement Reform Act, as amended, approved Setember 30, 1983 (97 Stat. 727; D.C. Code § 1-725(a)), for purposes of reducing the authorized Federal payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund pursuant to subsection 145(c) of the District of Columbia Retirement Reform Act.

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Dixon moves that the House recede from its disagreement to the amendment of the Senate numbered 22 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

Sec. 139. (a) Up to 118 officers or members of the Metropolitan Police Department who were hired before February 14, 1980, and who retire on disability before the end of calendar year 1989 shall be excluded from the computation of the rate of disability retirement under subsection 145(a) of the District of Columbia Retirement Reform Act, as amended, approved September 30, 1983 (97 Stat. 727; D.C. Code, sec. 1-725(a)), for purposes of reducing the authorized Federal payment to the District of Columbia Police Officers and Fire Fighter's Retirement Fund pursuant to subsection 145(c) of the District of Columbia Retirement Reform Act.

(b) The Mayor, within 30 days after the enactment of this Act, shall engage an enrolled actuary, to be paid by the District of Columbia Retirement Board, and shall comply with the requirements of section 142(d) and section 144(d) of the District of Columbia Retirement Reform Act of 1979 (Public law 96-122, D.C. Code, secs. 1-722(d) and 1-724(d)).

(c) If any of the 118 light duty positions that may become vacant under subsection (a) are filled, a civilian employee shall be hired to fill that position.

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Dixon].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 23: Page 29, after line 15, insert:

Sec. 140. (a) Notwithstanding any other provision of law, for purposes of zoning regulations of the District of Columbia, the premises on squares 4302 through 4305, and parcels 167/64, 167/65, 167/67 and 167/68 in the District of Columbia shall be considered to be an eleemosynary institution in accordance with the decision of the Deputy Zoning Administrator on December 23, 1986, as authorized by the Certificate of Occupancy Number B-26019 dated November 8, 1960, and that the current use of the premises is within the non-conforming use of rights as permitted by such Certificate of Occupancy.

(b) Subsection (a) shall be construed to require any new license unless such was requrired by District of Columbia law prior to the adoption of Zoning Commission Order Number 347 dated July 9, 1981.

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 23, and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 24: Page 29, after line 15, insert:

SEC. 141. (a) If by May 1, 1989, the District of Columbia government has not adopted, and implemented no later than September 30, 1989, a preference system that does not preclude the hiring of noncity residents, none of the Federal funds provided or otherwise made available by the Act may be used to pay the salary or expenses of any officer, employee, or agent who is engaged in implementing, administering, or enforcing a District of Columbia residency requirement with respect to employees of the Government of the District of Columbia.

(b) After the date of enactment of this section, the District shall not dismiss any employees currently facing adverse job action for failure to comply with the residency requirement.

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 24 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 141. (a) If by May 1, 1989, the District of Columbia government has not adopted, and implemented no later than September 30, 1989, a preference system that does not preclude the hiring of noncity residents, none of the funds provided or otherwise made available by this Act may be used to pay the salary or expenses of any officer, employee, or agent who is engaged in implementing, administering, or enforcing a District of Columbia residency requirement with respect to employees of the Government of the District of Columbia.

(b) After the date of enactment of this section, the District shall not dismiss any employees currently facing adverse job action for failure to comply with the residency requirement.

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 25: Page 29, after line 15, insert:

SEC. 142. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 25, and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 26: Page 29, after line 15, insert:

SEC. 143. None of the federal funds appropriated by this act shall be obligated or expended after December 31, 1988, if on that date the District of Columbia has not repealed D.C. Law 6-170, the Prohibition of Discrimination in the Provision of Insurance Act of 1986 (D.C. Law 6-170).

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 26 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 143. None of the Federal funds appropriated by this Act shall be obligated or expended after December 31, 1988, if on that date the District of Columbia has not repealed District of Columbia Law 6-170, the Prohibition of Discrimination in the Provision of Insurance Act of 1986 (D.C. Law 6-170), amended the law to allow testing for the human immunodeficiency virus as a condition for acquiring all health, life and disability insurance without regard to the face value of such policies. Eligibility for coverage and premium costs shall be determined in accordance with ordinary practices.

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. the Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 27: Page 29, after line 15, insert:

SEC. 144. None of the funds appropriated under this Act for the Mayor of the District of Columbia shall be expended after January 1, 1989, if on that date, using existing powers, the Department of Human Services has not implemented a system of mandatory reporting of individual abortions performed in the District of Columbia; and categories of data collected under such system shall be substantially similar to those collected by the National Center for Health Statistics: *Provided*, That the Department of Human Services shall not require reporting of the identity of the aborting woman or the abortion provider, and shall ensure that the identity of the aborting woman and abortion provider remain strictly confidential, and data be used for statistical purposes only.

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 27, and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 28: Page 29, after line 15, insert:

NATION'S CAPITAL RELIGIOUS LIBERTY AND ACADEMIC FREEDOM ACT

SEC. 145. (a) This section may be cited as the Nation's Capital Religious Liberty and Academic Freedom Act".

(b) None of the funds appropriated by this Act shall be obligated or expended after December 31, 1988, if on that date the District of Columbia has not adopted subsection (c) of this section.

(c) Section 1-2520 of the District of Columbia Code (1981 edition) is amended by adding after subsection (2) the following new subsection:

"(3) Notwithstanding any other provision of the laws of the District of Columbia, it shall not be an unlawful discriminatory practice in the District of Columbia for any educational institution that is affiliated with a religious organization or closely associated with the tenets of a religious organization to deny, restrict, abridge, or condition—

"(A) the use of any fund, service, facility or benefit; or

"(B) the granting of any endorsement, approval, or recognition.

to any person or persons that are organized for, or engaged in, promoting, encouraging, or condoning any homosexual act, lifestyle, orientation, or belief.".

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 28 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

NATION'S CAPITAL RELIGIOUS LIBERTY AND ACADEMIC FREEDOM ACT

SEC. 145. (A) This section may be cited as the "Nation's Capital Religious Liberty and Academic Freedom Act".

(b) None of the funds appropriated by this Act shall be obligated or expended after December 31, 1988, if on that date the District of Columbia has not adopted subsection (c) of this section.

(c) Section 1-2520 of the District of Columbia Code (1981 edition) is amended by adding after subsection (2) the following new subsection:

3. It shall not be an unlawful discriminatory practice for a not-for-profit corporation or association owned or operated by, or affiliated with, a religious organization to fail to endorse, or to disavow, the ideas of any person or persons engaged in, or organized for the purpose of, advocating ideas that conflict with the sincerely held religious beliefs of that religious organization.

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PREFERENTIAL MOTION OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Speaker, I offer a preferential motion on amendment in disagreement No. 28.

The SPEAKER pro tempore. The Chair will examine the motion.

The Clerk will report the motion.

The Clerk read as follows:

Mr. DANNEMEYER moves that the House recede from its disagreement with the amendment of the Senate No. 28 and concur therein.

Mr. DIXON. Mr. Speaker, I demand a division on the question on the preferential motion.

The SPEAKER pro tempore. The question is: Will the House recede from its disagreement to Senate amendment No. 28?

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Speaker, I have a parliamentary inquiry. Is there any debate time on a motion to recede, or divide the question, rather?

The SPEAKER pro tempore. Debate time is on the underlying motion to recede. There is an hour of debate to be allotted.

Mr. DANNEMEYER. Mr. Speaker, I desire to be heard on the division of the question.

The SPEAKER pro tempore. Does the gentleman from California [Mr. DIXON] wish time on the pending motion?

Mr. DIXON. Mr. Speaker, yes, I request time on the motion.

The SPEAKER pro tempore. The Chair will recognize the gentleman from California [Mr. DIXON] for 30 minutes.

The Chair recognizes the gentleman from California [Mr. DIXON] for 30 minutes.

Mr. DIXON. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from the District of Columbia [Mr. FAUNTROY].

Mr. FAUNTROY. Mr. Speaker, I rise to state my opposition to the motion offered by the gentleman from California [Mr. DANNEMEYER].

Mr. Speaker, I rise in support of the amendment to the Senate amendment to section 145 of the D.C. appropriations bill.

The Senate amendment, commonly referred to as the "Armstrong Amendment" because it was authorized by Senator ARMSTRONG, would have the Congress inject a view different from the view of the D.C. Court of Appeals in the case of the Gay Rights Coalition versus Georgetown University decided last year. Specifically, the Armstrong amendment would prohibit the expenditure of "any" funds by the District government if, by December 31, 1988, it has not amended its local human rights law to allow discrimination by certain religious institutions on the basis of sexual orientation.

The effect of the Armstrong amendment is extreme. If its mandate is not met, all local government operations would come to a halt because funds could not be spent. Garbage could not be picked up. Police and fire protection could not be paid for. Even water and sewer services could not be funded. I think all would have to agree that this is an absurd and unacceptable result.

The amendment however is even more unworkable because its mandate is nearly impossible to meet. Every act of the D.C. government must lay over in the Congress for 30 legislative days. Thirty legislative days typically converts to 90 calendar days. Congress is scheduled to adjourn on or around October 15. Even if the District government resolved to meet the mandate of Armstrong by passing a bill, the bill could not become law in time. And while the District has emergency legislative powers, acts passed on an emergency basis are only good for 90 days. In short, Mr. Speaker, the time constraints embodied in the Armstrong amendment are unreasonable and unworkable.

But aside from the critical procedural concerns I have raised, the Armstrong amendment raises serious and far-reaching constitutional concerns. Federal courts have consistently used the equal protection clause of the U.S. Constitution to strike down legislative acts which serve to erect barriers to prevention of private discrimination, which indicate an intent to harm a politically unpopular group or which discriminate among ideas and religious practices, protected by the first amendment. The Armstrong amendment would have this Congress sit as the largest court in the land, and we have a history of resisting the temptation of that intrusion into the work of another branch of government.

The court has decided the issue raised by Armstrong. The adversaries in that court case have reached accord as reflected by letters from Dean Pitofsky of the Georgetown University Law Center and from Father Healy, president of Georgetown. And it seems to me that we should be loathe to embrace the notion of promoting discrimination by anybody, public, private, or otherwise.

Again, I urge support for the Dixon substitute.

Mr. COUGHLIN. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I thank my colleague, the gentleman from Pennsylvania, for yielding me this time.

Mr. Speaker, the issue that the House will have an opportunity to vote on shortly involves a fundamental issue of religious liberty. This issue developed as a result of the adoption by the District of Columbia of an ordinance that, in effect, required that organizations in the District of Columbia would be required to charter organizations that espoused homosexuality, that is, student groups on campus that were promoting homosexuality. It would require Georgetown University or any other institution in the District of Columbia to grant a charter to a homosexual group, a group of students that practiced or promoted homosexuality. This ordinance was taken up on an appeal to the Circuit Court of Appeals of the District of Columbia, and based on the existence of this ordinance in the District of Columbia, the circuit court of appeals held in the form of an opinion that Georgetown University was required to charter a student organization on Georgetown campus that promoted homosexuality.

The Senate has adopted the position that I will ask the House to affirm in this issue at this time, which is to the effect that in order for the District of Columbia to receive its funding for calendar year beginning January 1 of next year that the District of Columbia will have to adopt an ordinance, in effect, repealing that ordinance it previously passed on which the circuit court of appeals hung its opinion.

The issue is whether or not, as a matter of religious freedom, Georgetown University, which expresses affirmation of the heterosexual ethic as the foundation of our civilization, that it will be able to sustain that point of view in the instructions it brings to the students who have enrolled in Georgetown University.

I think the issue should be clear to my colleagues that this is an issue of religious freedom. The tenets of the Catholic church which operates Georgetown University which historically have held to the view that homosexuality is abnormal and a sin, should be able to be dominant in the administration of that university, and this action or ordinance of the District of

Columbia should have the effect of compelling Georgetown University to disavow a basic tenet of its philosophy.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I am happy to yield to my colleague, the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this particular issue is so bizarre that if someone had bet me 10 years' salary when I was first elected in 1976 that I would be standing here as a practicing Catholic with 7 years of Jesuit education, that the Jesuit institution of higher learning with the most renowned school of foreign service in the Nation that I was not able to go to when I left Loyola High School in Los Angeles, that school, that school that the Jesuits, the Society of Jesus, the Marine Corps of the Catholic church, would be so shellshocked that they would not weigh in on either side of this argument and lobby this Hill and leave it up to my courageous Lutheran brother here to carry the fight of the Holy Roman Catholic Church and the Vatican, that they do not have to have clubs on their schools centered on sodomy, if one had ever told me this debate would be on the House floor, I would say that hell had frozen over.

As a loyal Catholic and a Christian, I am telling the Members that the most offensive thing I have ever seen, and I hope it is not going to be couched in the context of home rule, that when religious rights are offended at any rabbinical school, Methodist grade school, parochial school of any denomination anywhere, whether it is the Islamic Temple up there that was taken over by terrorists in my freshman year, to tell somebody that they have to form an organization around something that they consider a mortal sin involving an egregious matter, sufficient reflection and full consent of the will, all the requirements in my Baltimore Catechism as a first grader, that that type of offense would be forced in the face of the Marine Corps, the Society of Jesus, the Jesuits, that I knew as tough people on theology and moral principle, I would say impossible, impossible.

□ 1615

Unbelievable, and here we are trying to tell this school sitting over there shocked into silence that they have a Member of this House come to that school and stand up there and say that the choice for a Presidential candidate sometimes is like being in a homosexual bar at 10 minutes to 2. I do not know this is a fact, but reported in the Middlesex News, which sounds to me like a sexual paper for senior citizens or something, wherever the good Middlesex News is, I saw the banner headline and reported that a Member of this Congress went to a Jesuit institution and it was only dirt on the Palisades over the Potomac, they consecrated the ground, threw water out and said the ground of Georgetown was dedicated to Jesus Christ, and on that campus a Member of this body stands there and says the choice for the President is like tough choices in a homosexual bar, and he used the adjective that is a synonym for cheerful and happy, a PR thing, and said in a homosexual bar, the choices are tough at 10 minutes to 2. That is absurd.

I beg the Members to follow the procedure as it goes in the House here, to recede to the Senate language that says Georgetown University, a religious university organized in the name of the Son of God has the right to protect itself from having a Federal enclave forced upon its organizations based upon a grievous offense against not only Biblical words but against the word of Jesus.

I will close with a very charitable thing that Jesus said in the New Testament. "Let he without sin cast the first stone." That is not the just I am talking about, but his next words to a woman who had offended against lust he said, "Go forth and sin no more."

That is the message that should be coming out of every one of the three Loyolas in this country, including where the whip and I matriculated in Los Angeles, and the word coming out of Georgetown should be a crystal clear message about sins of gluttony, lust, pride, anger, envy, and greed, and if they cave in on lust, they will talk about why arbitrage is OK in insider trading on Wall Street.

Mr. COUGHLIN. Mr. Speaker, I yield 2½ minutes to the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Speaker, I rise in support of the Armstrong amendment to this bill and urge the House to recede and concur in that Senate amendment.

It troubles me that Members of this body should have painted this amendment as something other than a correction of remarkably bad policy on the part of the District of Columbia City Council. The real issue is religious liberty in our Nation's capital.

The District's Human Rights Act makes it unlawful for any education institution to deny access to any of its facilities or services based upon the sexual orientation of an individual. This law demonstrates a clear disregard for religious organizations in the District and, consequently, the religion clause of our Constitution.

I am not speaking of the establishment clause, as it is often called. That is only half the story. Our Constitution states that Congress shall make no law prohibiting the free exercise of religion. In effect we have done just that by permitting the District of Columbia to impose its secular views on a religiously affiliated institution.

Many churches and religious organizations believe that homosexual behavior is a moral evil which must not be condoned or encouraged. Already this law has been used, with partial success, to compel Georgetown University to provide tangible benefits to a gay rights organization at the university. The D.C. Court of Appeals held that District of Columbia has a compelling interest in eradicating discrimination against homosexuality and that overrides the first amendment protection of Georgetown's religious objections to subsidizing homosexual rights organizations.

The Armstrong amendment would not directly affect the Georgetown situation, but the D.C. law and the court's decision as applied to Georgetown sets a dangerous precedent that all religious institutions have reason to fear. In a word, they assert that constitutionally defined religious liberties may be abridged by a law.

While I believe the law is unconstitutional and the D.C. Court of Appeals' decision is erroneous, challenging the law, or defending themselves against civil actions from homosexual groups, places a tremendous burden on private religious institutions that many may not be able to bear. What's their choice? Abandon their principles or let the institutions founder under the financial strain.

Georgetown was required by the court to pay, at a minimum, $300,000 in fees to the attorneys representing the Gay Rights Coalition. The case was litigated for 8 years. Moreover, the District attempted to compel the university to act contrary to its teachings by refusing to issue tax exempt bonds to which it was legally entitled unless the university recognized and funded the self-designated gay rights coalition. How many more schools and universities will the District hold hostage because of their religious beliefs?

We cannot wash our hand of this controversy by claiming that the Human Rights Act is an issue of home rule. No law, only a constitutional amendment, can remove our ultimate responsibility for all cuts passed by the legislature of the District of Columbia. The Constitution states that the Congress shall have power "to exercise exclusive legislation in all cases whatsoever, over * * * the seat of Government of the United States. * * *" It is imperative that, given this opportunity, we end the real discrimination in the District of Columbia and protect religious liberty.

I would remind my colleagues that it was only a couple of weeks ago that the House passed a resolution designating the week of September 25—this week—as Religious Freedom Week. Let's be consistent. Do we believe in religious freedom or are we only willing to pay it lipservice? A vote for the Armstrong amendment is a vote for religious freedom.

I urge my colleagues to support the Senate amendment.

Mr. DIXON. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. Green].

Mr. GREEN. Mr. Speaker, a few minutes ago when we discussed the abortion issue the gentleman from Illinois [Mr. Hyde] recognized home rule as an important principle and said he was prepared to stand by home rule but only when human rights itself was at stake, to hold that principle higher than home rule.

I suggest there is nothing that we are discussing now that justifies a similar conclusion as to this amendment. For the fact of the matter is that this amendment that is proposed or the position that is proposed by the gentleman from California [Mr. Dannemeyer] will accomplish nothing and the reason for that is very simple. Georgetown and the District of Columbia have reached an agreement in resolution of their dispute. Georgetown is quite happy with that agreement. They have written all and sundry who have inquired about it, stating that the entire Georgetown community, faculty, administrators, students, alumni, all are happy with the agreement and that regardless of what Congress does as to the Armstrong amendment, Georgetown will not change the stance it now has which it considers educationally sound.

That position, as this bill moves along, will be offered by the gentleman from California [Mr. Dixon] who will exert his right under our rules after we have receded to offer a motion, which will take preference to concur with an amendment, as I understand it. That amendment, that motion to concur with an amendment will fully spell out Georgetown's right to express its views on any question in full keeping with its first amendment rights, both freedom of speech and freedom of religion.

Georgetown is perfectly happy with that solution to the problem. So what basis at all is there for us to be trying to legislate with respect to the District of Columbia?

I would finally like to appeal to my colleagues simply on the basis of protecting the prerogatives of the House of Representatives. The fact of the matter is that an amendment of the kind we are being asked to recede to here cannot be passed during ordinary House consideration of an appropriation bill because it permits an appropriation to take effect only if someone else takes some nonministerials act and that kind of an amendment has consistently been ruled out of order as legislating on an appropriation bill.

If we are going to accept these kinds of amendments when they are offered on the Senate side, where the Senate binds itself by no such rule, then we are continually going to be putting ourselves at a disadvantage with respect to the Senate. Today it is only the District of Columbia authorizing committee that is hurt by the action, and I know Members around here, unless they come from the metropolitan area, do not pay a lot of attention to the workings of that committee, but I say to every other Member of the House on every other authorizing committee, maybe it is the District of Columbia Committee this time whose ox is being gored but the same can be done in the way of legislation on appropriation bills in the Senate on any other appropriation bill that comes through.

If you are going to start the practice of giving away to this kind of activity on the part of the Senate time after time on this bill, you know they will start using other appropriation bills to take advantage of our authorizing committees, just the same way they are taking advantage of the District of Columbia Committee here. It is time for us in the House to insist on our prerogatives to put a stop to that encroachment by the other body.

I hope, therefore, Members will support the chairman of the subcommittee in this effort.

Mr. DIXON. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. Gonzalez].

Mr. GONZALEZ. Mr. Speaker, I thank the distinguished chairman. I am compelled to rise after hearing the very fervent speech that was given in his behalf by my colleague from California [Mr. Dornan], because I believe that to remain silent is to acquiesce on something that I believe, one, must go on the record.

First, I think the gentleman from New York [Mr. Green] put it in the proper perspective. This would be an attempt again through legislative fiat to undo a judicial decision. This has been the sorry and rather lamentable history of these attempts to legislate in this form on these issues, including the abortion issue.

The gentleman from Illinois [Mr. Hyde], my namesake, mentioned that the attempt of this was to save some lives and beings, and the fact is that no such thing has happened. The Congress has passed no less than 23 times the so-called Hyde amendment, and we have more abortions than ever before in previous years, so that obviously something is missing here.

I think we ought to go back, and I for one want to say I am shocked to have heard my colleague from California [Mr. Dornan] was shocked because anybody addressing this issue was addressing in a way that opposed his religious views. The truth of the matter is that this has nothing to do with religious views any more than the manner and shape and form in this antiabortion measures have been brought before the House.

It just seems that there comes a time when we have to recognize that even though in an election year we are compelled sometimes to swallow passively some outrageous actions that we must go on record and protest and say that we rise in opposition to this motion offered by the gentleman from California [Mr. Dannemeyer].

Mr. COUGHLIN. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. Parris].

Mr. PARRIS. Mr. Speaker, I appreciate the gentleman yielding to me.

The arguments that have been propounded by our friend from California [Mr. Dornan] on religious basis, those that were discussed by my colleague from Virginia [Mr. Bliley] on constitutional argument are very interesting and helpful. They help all of us to understand for those of us who are deeply involved in this business there are subtle but important differences between the postures here, and I am going to attempt, perhaps I am getting in a briar patch, but I am going to attempt to reduce the choices for my colleagues for what I think is the simple difference in where we are.

□ 1630

The question is: Under Senator Armstrong's amendment which is identical to that of our friend from California [Mr. Dannemeyer], it would provide that no funds, no service, no facility, no benefit at Georgetown University shall be required to be supplied for homosexual groups. It is just that simple.

The difference is that in the Dixon motion which will come subsequent to the Dannemeyer consideration, it is defined as a nonunlawful discriminatory practice for Georgetown to disavow any idea or suggestion that conflicts with the sincerely held religious beliefs of that institution.

In other words, under the Dixon motion, Georgetown may disavow but may not refuse funds, services or use of facilities to so-called offensive groups. That is the subtle but important distinction on which this entire debate is centered. And I hope that that adds to the understanding rather than detracts from it.

PARLIAMENTARY INQUIRY

Mr. DIXON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. (Mr. Gray of Illinois). The gentleman will state it.

Mr. DIXON. Mr. Speaker, is it not true that the gentleman from California [Mr. Dannemeyer] had a motion to recede and concur? I made a motion to divide the question. Is it not true, so that there will not be any misunderstanding about votes, that in fact I am asking at this time when the vote occurs to recede? If the House recedes, then I will offer a motion to amend the Senate language.

The SPEAKER pro tempore. The gentleman is correct on the first part of his statement. His original motion to concur with an amendment then will be pending at that point.

Mr. DIXON. I thank the Chair.

Mr. Speaker, I yield 6 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, this is a tough issue, there is no doubt about it. And the Pharisees and the Sadducees very rigidly ruled and were in the forefront of their time on making very clear the distinctions between people. Indeed, Jesus came not to divide but to bring together, not to divide Jew from gentile, as the dispute between Paul and Peter raged on, after Jesus ascended, but to bring us together. In the name of religion we have discriminated in this Nation. Some of the great violence in history has been done in the name of religion. All of us know of the crusades where millions were slaughtered in the name of religion. Let us not, however, dispute the right to all of us to hold deeply to our convictions. Let us not, for any time or any moment or any second, in America dispute that those who have strongly held religious beliefs ought to be able to hold strongly to those.

But let me also suggest that we have seen that throughout history in nation after nation that it is easy to discriminate, easier, yet to discriminate the smaller the group and the more unpopular its position.

Would any of us stand on this floor and say that because a human being is black it is all right to discriminate in the name of religion? Would we say that? Do we believe that? Is that what I pledge allegiance to America and to justice and liberty for all is all about? I suggest to my friends that Jesus did not believe in that and indeed he contended with the Pharisees and the Sadducees over and over again, in Mathew, Mark, Luke, and John that that was not what Jesus came in the world to preach. He spoke to the woman in the well who was just about to be stoned and said to those people who would stone that woman, "Stand back, except if you are without sin, stand back."

My friend, HENRY HYDE, and he is my friend, has deeply held beliefs and I respect those beliefs. When we had a Member of this House standing in the well to be censured, HENRY HYDE stood up and demonstrated the deepest of Christian principles with which I concur. He said, "You can hate the sin, but do not hate the sinner."

I believe that America stands for that principle.

Let me read what Dr. Healy said, the President of Georgetown.

And I suggest to my friend from California that Father Healy knows of which he speaks. He said this, "While the university might disagree with the position they took, it can have no criticism of the integrity or the probity and indeed the correctness that both of these men have exercized vis-a-vis Georgetown." That is Father Healy, the President of the university from whose law school I graduated.

Father Healy went on, "These last 12 years hardly qualify me as a native, but they have taught me that it is essential for the good of this city, the Nation's Capital, and 700,000 citizens, that the city enjoy its privilege of home rule. Georgetown feels itself very much a part of the city of Washington since, along with its 200 years' association, it is also the largest private employer in the district and contributes through its employees, its faculty and its students close to three-quarters of $1 billion every year to the city's economy."

He concluded, "But my years here have taught me how dangerous a precedent that can set, and indeed how unfair and demeaning it can be to the electorate of the District itself. For that reason, Georgetown always has and always will support home rule."

Now, Mr. Speaker, this is a nation of laws, not of men. And in the processes of our constitutional system the litigants went to court.

They went first to the Superior Court of the District of Columbia. They then went to the circuit court of appeals and then indeed to the Supreme Court. After that litigation they reached an agreement, a consent order signed on March 29, 1988, to try to resolve in the best tradition of American jurisprudence this dispute.

As HENRY HYDE has said, so difficult to do so when very strongly held beliefs contend.

I was never prouder of the President of the United States than when he was asked a question in a press conference, "Mr. President, do you believe that gays ought to be discriminated against?" And without blinking, without reservation, without a second's hesitation, the President of the United States said, "I do not believe that any individual ought to be discriminated against."

This is a difficult issue dealing with a small, perhaps growing but certainly unpopular minority of which I am not a member. But there may be some day that I will be a member of a small minority group and I hope that others will stand to say that, as I pledge allegiance to my country and my flag, I do so because I believe it to be the greatest, strongest, most self-confident nation in the world that can say to all its citizens, "We accord you every right that we want and that we expect."

I hope that we vote for this motion and I hope we support the chairman's motion.

Mr. COUGHLIN. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. I thank the gentleman for yielding.

Mr. Speaker, I appreciate much of what our colleague from Maryland has said. He and I have worked together on many human issues. I am somewhat reminded of a dialog that took place on this floor a couple of years ago when one of our colleagues rose in the well of the House and asked what would Jesus say and I was tempted to stand and ask the Chaplain for a theological opinion on the question.

It seems to me the gentleman from Maryland, however, has missed a very important point. The question is not rights enjoyed by all Americans under the Constitution, but rights of religious institutions to make determinant judgments in keeping with their religious dogmas and right for free practice and exercise, and institutional control of those institutions which is also a constitutional right.

In my situation, for example, I am a Protestant. Do I have a right to demand entre into the rights and privileges and memberships in the Roman Catholic Church or the Greek Orthodox Church even though I may not attest to its dogmas? My argument would be they have a right to exclude me from memberships if I do not accede to their statements of faith or their canons of faith. And vice versa.

What happens in a situation, however, when attendant to the dogmas are deeply held religious convictions pertaining to behaviors that are viewed to be part of a religious tradition? That is what has triggered the question as to whether or not the District of Columbia has infringed constitutionally on the rights of a religiously organized corporation and institution.

The gentleman will recall that several months ago with great reluctance, I was among the very few who raised this question because of the extensions involved, secondary and tertiary extensions of the Civil Rights Act in Grove City because of my concern on this very singular point.

I am trying to speak very calmly and rationally. The gentleman has spoken calmly, rationally, and eloquently. But that is the issue. The issue is not the rights under the Constitution of individual behavior at this point. The question I think we should make clear is the right of a religious institution under the Constitution at this point.

Mr. DIXON. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. I appreciate very much the gentleman's remarks and logic. And I think he is right. That is why I advocate the adoption of the childrens' motion because I think the consent order speaks to that protection of the exercise and holding of that belief by Georgetown.

Mr. DIXON. Mr. Speaker, may I inquire how much time I have remaining?

The SPEAKER pro tempore. The gentleman from California [Mr. DIXON] has 13 minutes remaining and the gentleman from Pennsylvania [Mr. COUGHLIN] has 14 minutes remaining.

Mr. COUGHLIN. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I have an interest in this because I am a graduate of Georgetown University and I am very proud of that school. I also understand this difficult question in the terms of the first amendment, religious freedom. The struggle for freedom in this country has been the struggle against intrusive government. Now it happens that the Catholic faith, as I understand it, does not approve of homosexuality. Now I can understand a Catholic university not wishing to formally recognize an organization that is designed to promote, advocate, and advance a practice that is deemed by them to be sinful. That is far removed from individuals who may or may not practice that lifestyle whom we are taught to love and to pray for and hope that they will pray for us. But the first amendment is so important and it says Congress not only shall make no law respecting an establishment of religion nor prohibit the free exercise thereof. And I was so sorry to see Georgetown fail to vindicate their free exercise of religion, to cooperate in determining what that really means under our Constitution.

I read the letter from Father Healy. The legal action was costing an arm and a leg and there were all sorts of reasons for them to abandon its defense.

But the vindication of the first amendment, religious freedom for a university that has a set of beliefs which ought to be vindicated and ought to stand supreme over a city council that says, "You shall recognize a group even though it advocates practices and beliefs which are inimical to the very soul and core of your beliefs.

□ 1645

Now, the Black Caucus does not admit nonblacks. The gentleman from California [Mr. STARK] tried to join some time ago, and he could not make it.

Mr. FAUNTROY. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I understand that. Let me say to the gentleman from the District of Columbia that I understand that, because there is a reason for that.

MR. FAUNTROY. Mr. Speaker, will the gentleman yield?

Mr. HYDE. Yes, I yield to the gentleman from the District of Columbia.

Mr. FAUNTROY. Mr. Speaker, the gentleman is on rare occasions wrong. He is wrong on this occasion. The fact is that we do have associate members of the Black Caucus.

Mr. HYDE. Associate members, yes, but I am talking about a real member. I am talking about dues-paying members, not associates. Those are auxiliaries, those are ancilliaries.

Mr. FAUNTROY. Associate members pay dues, I say to the gentleman.

Mr. HYDE. Good for you. But they are still associate members. They are not full-fledged members.

Mr. FAUNTROY. No, they would have to go back into the womb, which is impossible. They can be born again, but not physically.

MR. HYDE. The city council could pass a law, and that could happen. You can do just about anything in the city council in the District of Columbia.

Mr. FAUNTROY. Until the Congress changes it. Now, you can mandate it. As you know, you can do that with respect to the District.

Mr. HYDE. My point is that the integrity of the black experience is as exemplified in the Black Caucus, and I understand that.

I suggest that the Catholic experience is entitled to no less integrity, and I regret that Georgetown did not try to vindicate what the first amendment means about the free exercise of religion, because I happen to think the Constitution is superior to a municipal ordinance.

Mr. DIXON. Mr. Speaker, I yield 6 minutes to the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, for one brief, shiny moment I thought the gentleman from Illinois was going to come down on the other side. It is just the law of averages, I think.

Let me remind the Members, if I may, notwithstanding the eloquence that we have heard on this question—and I particularly commend the gentleman from Maryland [Mr. HOYER]—that there really was not a problem here until the Senator from Colorado and the gentleman from California [Mr. DANNEMEYER] decided to create one in order to resolve it.

The reason that we have a first amendment is not to protect popular beliefs or popular speech. If that were the case, we certainly would not need one. Let me remind my friend, the gentleman from Illinois, that while in this case he may cite a religion which has some difficulties with differences amongst individual human beings with respect to sexual orientation, there have been religions that did not think much of women, there have even been religions that did not think much of people of color, and there are some religions in the world that do not think much of other people of other religious faiths or beliefs. And there are occasions in human jurisprudence where there are conflicting rights and conflicting constitutional considerations.

Let me bring us back, if I may, to what is actually before us here. The D.C. Court of Appeals made a decision last year in the case of the Gay Rights Coalition versus Georgetown University. The Armstrong amendment would overturn not only that decision but an agreement among all the parties, including the university, that was reached pursuant to it. The court of appeals voted 5 to 2 that Georgetown was required under the D.C. Human Rights Act to provide gay and lesbian student organizations with equal access to the benefits that it provides to other student organizations. It is pure and simple. It did not order any particular type or level of benefits to be provided, and it held that the university was not required to recognize the gay student organizations.

The court concluded—and this is what I would refer my friend, the gentleman from Illinois, to—that the District law served a compelling state interest in eradicating discrimination that outweighed the relatively slight burden on the university's religious freedom.

The five-judge majority, incidentally, which reached that decision consists of judges, two of which were appointed by President Carter, two by President Ford, and one by President Reagan.

Georgetown University announced that the court's decision vindicated its primary concern, namely, that it did not have to be compelled to condone homosexuality. The university, in a settlement with the student groups, which the amendment of the gentleman from California seeks to affirm here would overturn that settlement agreement with the entry of a court order—and I quote—"which recognizes the rights of the student group under the District of Columbia Human Rights Act and the rights of the university under the religion clause of the first amendment to the Constitution."

That consent order entered by the superior court stipulates that Georgetown may request the student groups to disavow any endorsement by the university, deny the use of religious facilities such as the chapel, restrict the use of facilities to a university audience, and exercise supervision and control over all student groups consistent with accepted norms of conduct by the university.

Let me state to my friends that the university has announced its disapproval of any constitutional action to overturn this agreement.

Let me read briefly, if I may, from a letter from Robert Pitofsky, acting president of the university, in July of this year to Senator ARMSTRONG. I quote as follows:

> As you know, Georgetown University neither asked for nor participated in the legislative process involving your amendment. Indeed, you may be unaware, but in March of this year, the University arrived at an acceptable resolution of its eight-year dispute with the gay rights student groups on campus and has, in the last several months, achieved an accommodation with those groups.
>
> The University's student body faculty, and alumni feel the resolution is appropriate. It both upholds the University's initial position and establishes grounds for an adequate accommodation. It is the University's intent to abide by its resolution of the matter.
>
> Georgetown has done nothing which in any way attacks the home rule rights of the District of Columbia, which the University supports.

Mr. Speaker, the legislation of the District of Columbia which it is proposed that we intrude into and overturn is identical to laws in effect at this moment in the State of Wisconsin, in 16 countries, and in 62 cities in this country, including New York, Los Angeles, Philadelphia, Detroit, Atlanta, Boston, Raleigh, Chapel Hill, Tucson, Iowa City, Aspen, CO, Evanston, IL, and Dayton, OH. Not only that but executive orders with precisely the same effect exist in the States of Minnesota, New Mexico, New York, Ohio, Oregon, Pennsylvania, Rhode Island, and Washington.

Mr. Speaker, I ask the Members of the House, would it be conceivable that this institution would ask those States or those cities to reverse their laws, much less that we would presume to tell those State legislatures, those city councils, those mayors, and those Governors how they might or might not conduct their own business?

Finally, let me just remind the Members, as I indicated, that in the first place there is not a problem that needs resolving; it has been resolved to the satisfaction of all the parties concerned.

I think it was Mark Twain who said, "Always do right. This will gratify some people and astonish the rest." I am absolutely confident in the depths of my being that if the Members of the House do what they know is right in this instance, the motion offered by the gentleman from California [Mr. DIXON] to recede will be adopted and we will proceed to abide by the wishes of the people of the District of Columbia and by the common decency and common sense of the Members of this House.

Mr. COUGHLIN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, the question has been raised here in the last few minutes, why would Georgetown give up its constitutional rights in favor of capitulating to the City Council? Let me give the Members one possible scenario. It may be called reality, the reality of political pressure, because it has at least been alleged that the reason why Georgetown University took the step it did and sent the letter that has been sent to the Congress, or the one that was talked about as being sent to the Congress, was because they were under pressure from both the Mayor's office and the City Council to do so or otherwise they would lose their ability to get bonds that they desperately needed to continue their educational activities at the campus.

I think that might be one reason why we got such a letter and why all of a sudden constitutional obligations and constitutional rights were set-aside.

Mr. Speaker, I would ask the gentleman from Virginia [Mr. PARRIS], who follows these matters very closely with regard to the D.C. government, whether or not that is a possibility and whether or not such allegations do exist.

Mr. PARRIS. Mr. Speaker, if the gentleman will yield, I would certainly confirm that in those delicate but important discussions between the university and appropriate authorities of the District of Columbia, there is clear and convincing evidence of political considerations of the highest nature. I do not have documented evidence that says, "You must do this" or "You don't do this," or whatever. But we all understand how these things work in the real world, and I suggest to the gentleman that the suggestion has at least some merit of credibility.

Mr. WALKER. Mr. Speaker, I thank the gentleman. We do want to know why some persons would willingly abandon their constitutional rights. In this situation constitutional rights may have been abandoned because of political reality. That is a shame, and I do not think it should go unnoticed on this floor.

Mr. DIXON. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, it is ironic and, I guess, historic, that this debate is taking place only hours before Georgetown University celebrates its 200th anniversary in the Nation's Capital—almost as long as our Nation itself has existed.

I would concede at the outset that I have a conflict of interest in this debate, being an alumnus of Georgetown and having a daughter who is a student there. But I would also say that I think this is possibly the most unusual debate I have heard on the floor of the House in the 6 years I have been a Member.

I can never recall another debate which has centered on one institution, one agency outside of Government, almost to the exclusion of the merits of the question. What we have heard from at least two Members who have taken the floor is an all-out attack, not on the question before us and the principles to be argued but, rather, on Georgetown University.

I suppose that a university that has been here for 200 years does not need the defense of this individual, but I would remind the Members that Georgetown University did not invite this controversy, and when they found themselves mired deep into it, they had to resolve it from several different perspectives—as a university, as a Catholic university, as a Catholic university in the District of Columbia, and as a Catholic university in the District of Columbia in a pluralistic society, in court fighting in the first instance in most cases a question of what the law should be and how it should be applied to a university.

To hear my colleagues take the floor and second-guess the lawyers of Georgetown University as to how they would have handled the lawsuit is, I think, inappropriate in this debate. To hear a colleague take the floor and suggest that this somehow detracts from the great tradition not only of that university but also the religious order which has given its lifeblood to that university is, I think, inappopriate.

I would also suggest to my colleagues that they consider the fact that those representing Georgetown University have said that regardless of how we come down on resolving the very real questions here between religious tenets and whether or not local ordinances should be subservient to them, Georgetown University has already written and said they are going to stand by their existing policy. They believe it to be consistent theologically, consistent morally, and consistent legally.

Mr. Speaker, this debate should have been centered on the merits of the question rather than centered on one university and one institution. I say, happy anniversary to Georgetown University. It will continue to survive despite the attacks it has taken on the floor of this House of Representatives today.

Mr. COUGHLIN. Mr. Speaker, I yield 7 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I would like to just briefly set the procedure as this Member from California understands it. The first issue we will decide is to recede from the House position and concur in the Senate position. I believe that both sides want to recede. The next issue will be a consideration by the House of an amendment offered by my colleague, the gentleman from California [Mr. Dixon].

□ 1700

That amendment I would like to discuss briefly right now. It will be my position to ask for a "no" vote, which is the first rollcall vote I believe we are going to get on this issue, a no vote on the amendment offered by my colleague, the gentleman from California [Mr. Dixon], so that I will have an opportunity of having the House consider the amendment that I have pending at the desk on which I will then ask for a "yes" vote. That, I think, is where we are procedurely.

Now, with respect to the amendment which has been offered by my colleague, the gentleman from California [Mr. Dixon], he seeks to shift the debate from an argument of equal protection with respect to sexual preference under the 14th amendment onto the 1st amendment of free speech because it talks about ideas. Really who can be against letting somebody talk about ideas? That has a ring that gets to the heart and soul of all of us in America because of the precious freedoms that we enjoy as a result of the first amendment to the Federal Constitution.

But let us not kid ourselves. If the amendment offered by the gentleman from California [Mr. Dixon] is adopted, it will accomplish nothing with respect to the principle that is involved in this debate. The principle in this debate is religious freedom, whether or not Georgetown University will be permitted to pursue policies, a tenet of its religion, as long as it chooses to educate young men and women in the community called the District of Columbia.

Our colleague, the gentleman from California [Mr. Dixon] has also asked, "Well, Georgetown has kind of settled its problems with the City Council of the District of Columbia. Therefore, we need not concern ourselves with the issues anymore."

Let us face it. Trinity College is located in the District; Catholic University is located in the District. We have numerous high schools operated by religious organizations of different persuasions doing business in the District that are going to have a similar problem as well.

I might point out to my colleagues that the National Association of Evangelicals says the Armstrong amendment answers with a resounding "no" the question whether religious colleges and schools should be forced to subsidize student organizations promoting beliefs and practices contrary to their own.

The public affairs committee of the Southern Baptist convention says the issue is not homosexuality, but the separation of church and state. The issue is whether a government institution has a right to force a religious institution to subsidize the propogation and promulgation of beliefs diametrically opposed to its religious convictions. The Lutheran church Missouri Synod say that our church body seeks no public condemnation of homosexuals as persons, nor any diminution of their proper civil rights. We will continue to deal compassionately with the problem posed by homosexuality within our own community and within society at large. But we will not be forced by Government to say that sin is not sin. The Catholic Center says that if an institution which exists to carry out a religious mission can be forced by civil law to act against its own professed beliefs and proclaim legitimacy of that which is sinful, then the religious freedom has become a fiction.

Finally, let me make this observation to my colleague, the gentleman from Maryland [Mr. Hoyer] because we hear this time and again in the debate that fundamentally is a part of this religious issue that we have described today. That is the claim that homosexuality should be protected on the basis that it is nothing more than a respect of sexual preference against which discrimination should not take place.

Let us be very candid. When we talk about discrimination in sexual preference, that coin has another side. The other side of that coin of claimed discrimination is affirmation, the affirmation of the heterosexual ethic, and those values are in conflict. For us to believe or say to our kids in the next generation that those ideas or values are not in conflict is just being naive. They are in conflict.

The Judeo-Christian ethic, the foundation of our civilization, makes very clear that God's plan for all of us is one man and one woman who come together in marriage and pledge to be mutually faithful.

Mr. Speaker, that is what we believe. We are not only acting for the District of Columbia and the institutions that are in the education business there. We today are acting as a symbol for this country because we are the elected representatives of the American people. It is an issue of religious freedom. It should be treated that way.

But we kid ourselves if we do not admit that involved in this issue of religious freedom is whether or not we, the elected representatives of the American people, will stand up and affirm the heterosexual ethic as the foundation of our society.

That is the issue, as well as religious freedom, and I hope that we will have the courage to stand and affirm the heterosexual ethic as a foundation of our civilization as well as the religious freedom of the institutions who choose to teach young men and women in the District of Columbia.

Mr. DIXON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it was kind of hard for me to follow this debate because I thought I was going to offer an amendment on one subject, and quite frankly somebody in the House is way off here as to what this debate is all about.

Now my colleagues can vote any way they want to vote, but the debate is not about anything that the gentleman from California [Mr. Dannemeyer] is talking about. He has a right to say it is, but it is not.

What this debate is about is an amendment offered by Senator Armstrong that says, if the District of Columbia does not repeal a section of their human rights statute by December 31, 1988, they cannot spend any money after that date.

Now what part of the statute are we talking about? It is very simple. We are talking about a section of the human rights statute that says an institution cannot discriminate based on sexual preference. That statute has been upheld in the courts. The parties that felt aggrieved under the statute have settled their differences.

Notwithstanding that, there are men and women in this body that think once again we should demand that the District of Columbia government repeal a perfectly valid statute, and if they do not repeal it, then they cannot spend any money after December 31, 1988. That is what the gentleman from the District of Columbia [Mr. Fauntroy] was saying. If they do not repeal a perfectly legal statute that the parties of the lawsuit have agreed to, and that has been upheld by the courts, then they cannot spend any money.

Mr. Speaker, is there anyone here who does not think this is the most drastic action based on nonsense they have even seen?

Mr. DYMALLY. Mr. Speaker, I rise today in strong opposition to the Armstrong amendment. I believe, as so do many of my colleagues, that this amendment discriminates among viewpoints and among religious tenets, thus violating the first amendment to the U.S. Constitution. I find it very disturbing that the Armstrong amendment would allow sex discrimination by an educational institution closely identified with a tenet of a religious organization. It would override a decision which followed years of litigation between Georgetown University and its gay and lesbian organizations. As you know, Georgetown is chartered by the Congress as an education institution. While formerly affiliated with the Jesuit order, it severed its formal affiliation in 1969, and is now governed by a lay board of trustees who members are not required to be Catholic. The purpose of the university is to provide a secular, not a religious, education. Mr. Speaker, let me emphasize that it does not require instruction in Catholic dogma. It has accepted, and continues to seek, public funding.

In addition, the District of Columbia Court of Appeals voted 5 to 2 that Georgetown University was required, under the D.C. Human Rights Act, to provide gay and lesbian student organizations with equal access to the tangible benefits that it provides to other student organization. After the decision, Georgetown and the students entered into an agreement along these lines and other parties decided not to appeal to the U.S. Supreme Court. I would like to emphasize that Georgetown has agreed to accept this resolution and believes that there is no need for congressional involvement in this local matter.

That is why I rise today, in opposition to the Armstrong amendment, and favor, instead, Mr. DIXON's substitute which would codify the agreement between the students and the university. In closing, I would just like to point out that our local and State jurisdictions have protections for our lesbian and gay citizens. The decision in the Georgetown case was a landmark in finding that such laws serve the same important public purpose as do laws against discrimination on the basis of race, sex, or religion. A measure, such as the Armstrong amendment, which serves to repeal fairness and equality in favor of sex discrimination represent a recalcitrant move away from the civil rights, justice, and equality our Nation stands for.

Ms. PELOSI. Mr. Speaker, I rise in strong support of the substitute to the Senate Armstrong amendment offered by my colleague from California. I commend the gentleman for proposing an alternative which provides better protection for religious organizations while protecting the constitutional rights of individuals to express their own beliefs. The amendment before us would not limit its protections to educational institutions but would apply to all religious nonprofit organizations.

The Armstrong amendment is a serious attack on the rights of freedom of speech and freedom of association. Its constitutionality is questionable.

The Senate amendment seeks to provide a remedy for an institution which did not even seek it. The administration of Georgetown University has indicated its satisfaction with the agreement worked out with the D.C. government which does not require it to condone or encourage any behavior with which it does not agree. The Armstrong amendment is an example of legislative overkill.

The Dixon substitute, on the other hand, simultaneously preserves religious freedom and protects individual rights. I urge my colleagues to support it.

Mr. DIXON. Mr. Speaker, I yield back the balance of my time.

Mr. COUGHLIN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is, Will the House recede from its disagreement to Senate amendment No. 28?

The House receded from its disagreement to Senate amendment No. 28.

The SPEAKER pro tempore. The question is, Will the House concur in Senate amendment 28 with an amendment?

The question was taken, and the Speaker pro tempore announced that the noes appeared to have it.

Mr. DIXON. Mr. Speaker, on that I demand the yeas and the nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 134, nays 201, not voting 96, as follows:

[Roll No. 374]

YEAS—134

Ackerman
Akaka
Anderson
Aspin
Atkins
AuCoin
Bates
Beilenson
Berman
Boggs
Bonior
Borski
Bosco
Brooks
Bryant
Bustamante
Carr
Chandler
Coelho
Coleman (TX)
Collins
Conte
Dellums
Dicks
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dymally
Edwards (CA)
Espy
Evans
Fazio
Feighan
Fish
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gejdenson
Gephardt
Gilman
Gonzalez
Gray (IL)
Green
Hawkins
Hayes (IL)
Hertel
Hoyer
Hubbard
Hughes
Jones (NC)
Jontz
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Lewis (GA)
Lowry (WA)
Markey
Martinez
Mavroules
Mazzoli
McHugh
Mfume
Miller (WA)
Mineta
Moakley
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Natcher
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Pashayan
Pease
Pelosi
Pepper
Perkins
Pickle
Price
Rangel
Richardson
Rodino
Roybal
Sabo
Savage
Sawyer
Scheuer
Schneider
Schumer
Shays
Sikorski
Sisisky
Skaggs
Slaughter (NY)
Solarz
Stark
Studds
Swift
Synar
Torres
Torricelli
Towns
Traficant
Udall
Vento
Visclosky
Walgren
Waxman
Weiss
Wheat
Wolpe
Wyden
Yates

NAYS—201

Annunzio
Anthony
Applegate
Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Brennan
Broomfield
Brown (CO)
Bruce
Buechner
Burton
Byron
Callahan
Carper
Chapman
Chappell
Clement
Clinger
Coble
Coleman (MO)
Combest
Cooper
Costello
Coughlin
Craig
Crane
Dannemeyer
DeLay
Derrick
DeWine
Dickinson
Dingell
DioGuardi
Dornan (CA)
Dreier
Dwyer
Dyson
Eckart
Edwards (OK)
Emerson
English
Erdreich
Fawell
Fields
Flippo
Gallegly
Gallo
Gaydos
Gekas
Glickman
Goodling
Gordon
Grandy
Hall (OH)
Hall (TX)
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hiler
Hochbrueckner
Hopkins
Houghton
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Johnson (CT)
Johnson (SD)
Jones (TN)
Kanjorski
Kasich
Kolbe
Kolter
Konnyu
LaFalce
Lagomarsino
Latta
Leach (IA)
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lujan
Luken, Thomas
Lukens, Donald
Madigan
Manton
Marlenee
Martin (NY)
McCloskey
McCollum
McCurdy
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (OH)
Molinari
Mollohan
Murtha
Myers
Nagle
Nelson
Nielson
Owens (UT)
Oxley
Packard
Parris
Patterson
Payne
Penny
Petri
Pickett
Porter
Rahall
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Robinson
Roe
Rogers
Roukema
Rowland (CT)
Russo
Saiki
Saxton
Schulze
Sensenbrenner
Sharp
Shaw
Shumway
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spratt
Staggers
Stallings
Stangeland
Stratton
Stump
Sundquist
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weber
Weldon
Whittaker
Whitten
Wise
Wolf
Wylie
Yatron
Young (AK)
Young (FL)

NOT VOTING—96

Alexander
Andrews
Badham
Barnard
Boland
Bonker
Boucher
Boulter
Boxer
Brown (CA)
Bunning
Campbell
Cardin
Cheney
Clarke
Clay
Coats
Conyers
Courter
Coyne
Crockett
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dowdy
Early
Fascell
Florio
Frenzel
Gibbons
Gingrich
Gradison
Grant
Gray (PA)
Gregg
Guarini
Gunderson
Hamilton
Hansen
Holloway
Horton
Huckaby
Jeffords
Jenkins
Kaptur
Kemp
Kyl
Levine (CA)
Lott
Lowery (CA)
Lungren
Mack
MacKay
Martin (IL)
Matsui
McCandless
McCrery
McDade
McEwen
Mica
Miller (CA)
Montgomery
Moorhead
Murphy
Neal
Nichols
Ortiz
Panetta
Pursell
Quillen
Ray
Roberts
Rose
Rostenkowski
Roth
Rowland (GA)
Schaefer
Schroeder
Schuette
Shuster
Smith (FL)
Smith, Denny (OR)
Spence
St Germain
Stenholm
Stokes
Sweeney
Swindall
Taylor
Traxler
Williams
Wilson
Wortley

☐ 1730

The Clerk announced the following pairs:

On this vote:

Mr. GUARINI for, with Mr. RAY, against.
Mr. CONYERS for, with Mr. ORTIZ, against.
Mrs. BOXER for, with Mr. MCDADE, against.

Messrs. STRATTON, JONES of Tennessee, SMITH of Iowa, ROE, and NAGLE changed their vote from "yea" to "nay."

So the House refused to concur in the Senate amendment No. 28 with an amendment.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the motion offered by the gentleman from California [Mr. DANNEMEYER].

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:
Page 29, after line 15, insert:

TITLE II—FISCAL YEAR 1988 SUPPLEMENTAL APPROPRIATIONS

District of Columbia Funds

GOVERNMENTAL DIRECTION AND SUPPORT

(INCLUDING RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1988, in the District of Columbia Appropriations Act, 1988, approved December 21, 1987 (Public Law No. 100-202, sec. 101(c); 101 Stat. 1329-91 to 1329-92), $1,357,000 are rescinded.

Economic Development and Regulation

(INCLUDING RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1988, in the District of Columbia Appropriations Act, 1988, approved December 21, 1987 (Public Law No. 100-202, sec. 101(c); 101 Stat. 1329-29), $11,136,000 are rescinded.

Public Safety and Justice

For an additional amount for "Public safety and justice", $33,251,000.

Public Education System

(INCLUDING RESCISSION)

For an additional amount for "Public education system", $8,886,000, to be allocated as follows: $10,000,000 additional for the public schools of the District of Columbia and a rescission in the amount of $210,000 for the District of Columbia School of Law, $549,000 for the Public Library and $355,000 for the Commission on the Arts.

Human Support Services

(INCLUDING RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1988, in the District of Columbia Appropriations Act, 1988, approved December 21, 1987 (Public Law No. 100-202, sec. 101(c); 101 Stat. 1329-94), $15,811,000 are rescinded: *Provided*, That an additional $2,545,000, to remain available until expended, shall be available solely for the District of Columbia employees' disability compensation: *Provided further*, That within funds remaining available under this head for the Commission on Mental Health, $400,000 shall be available for the fiscal year ending September 30, 1988, for the purpose of granting funds to a private non-profit organization establishing and operating a residential facility for mentally disabled mothers and their infants as a demonstration of the cost-effectiveness of early intervention to keep families at risk together, together with $264,000 in each of the fiscal years ending September 30, 1989, September 30, 1990, and September 30, 1991.

Public Works

(INCLUDING RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1988, in the District of Columbia Appropriations Act, 1988, approved December 21, 1987 (Public Law No. 100-202, sec. 101(c); 101 Stat. 1329-94). $6,293,000 are rescinded.

Repayment of Loans and Interest

For an additional amount for "Repayment of loans and interest", $3,469,000.

Repayment of General Fund Deficit

For an additional amount for "Repayment of general fund deficit", $118,000.

Optical and Dental Benefits

For an additional amount for "Optical and dental benefits", $1,080,000.

Personal Services

For an additional amount for "Personal services", for pay increases and related costs, to be transferred by the Mayor of the District of Columbia to the appropriations for fiscal year 1988 from which employees are properly payable, $34,377,000, which includes a 12% pay absorption to be apportioned among the various appropriation titles by the Mayor.

Capital Outlay

For an additional amount for "Capital outlay", $6,340,000.

Water and Sewer Enterprise Fund

For an additional amount for "Water and sewer enterprise fund", $39,750,000, of which $8,385,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects and $31,365,000 in water and sewer enterprise fund operating revenues for pay-as-you-go capital projects, $10,500,000 of this $31,365,000 shall fund new authority in the Fiscal Year 1988 Supplemental Budget and Rescissions of Authority Request Act of 1988 and $20,865,000 of this $31,365,000 shall fund prior year capital project authority.

An additional amount for construction projects, $10,500,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, sec. 43-1512 et seq.).

Lottery and Charitable Games Enterprise Fund

For an additional amount for "Lottery and Charitable Games Enterprise Fund", $764,000.

Administrative Provision

SEC. 201. Funds appropriated by this title shall become available upon enactment.

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 29 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

TITLE II—FISCAL YEAR 1988 SUPPLEMENTAL APPROPRIATIONS

District of Columbia Funds

GOVERNMENTAL DIRECTION AND SUPPORT

(INCLUDING RESCISSION)

For an additional amount for "Governmental direction and support", $2,168,000: *Provided*, That of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-91 to 1329-92), $3,525,000 are rescinded.

ECONOMIC DEVELOPMENT AND REGULATION

(INCLUDING RESCISSION)

For an additional amount for "Economic development and regulation", $143,000: *Provided*, That of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-92), $15,779,000 are rescinded.

PUBLIC SAFETY AND JUSTICE

(INCLUDING RESCISSION)

For an additional amount for "Public safety and justice", $33,253,000: *Provided*, That of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); Stat. 1329-92 to 1329-93), $2,000 are rescinded.

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSION)

For an additional amount for "Public education system", $13,900,000 which shall be allocated for the public schools of the District of Columbia: *Provided*, That of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-93 to 1329-94), $210,000 for the District of Columbia School of Law, $549,000 for the Public Library, and $355,000 for the Commission on the Arts and Humanities are rescinded.

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSION)

For an additional amount for "Human support services", $24,467,000: *Provided*, That of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec 101(c); 101 Stat. 1329-94), $8,578,000 are rescinded: *Provided further*, That an additional $2,545,000, to remain available until expended, shall be available solely for the District of Columbia employees' disability compensation: *Provided further*, That the $990,000 appropriated in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c)) shall be solely for Project Volta and shall remain available until expended: *Provided further*, That $746,054 in funds made available to the District of Columbia pursuant to the Employment Security Administrative Financing Act of 1954, approved August 5, 1954 (68 Stat. 668; 42 U.S.C. 1103), shall be appropriated for the purpose of providing $39,210 towards the purchase of an optical character reader and $706,844 to pay unemployment insurance staff salaries and benefits: *Provided further*, That the $746,054 referred to in the preceding proviso shall be withdrawn and expenses incurred after the enactment date of this Act and shall not be available for obligation after the close of a 12-month period which begins on the date of the enactment of this Act.

PUBLIC WORKS

(INCLUDING RESCISSION)

For an additional amount for "Public works", $2,783,000: *Provided*, That of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c);

101 Stat. 1329-94), $2,625,000, including $241,000 from the school transit subsidy are rescinded.

REPAYMENT OF LOANS AND INTEREST
(RESCISSION)

Of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-95), $1,005,000 are rescinded.

REPAYMENT OF GENERAL FUND DEFICIT

For an additional amount for "Repayment of general fund deficit", $118,000.

OPTICAL AND DENTAL BENEFITS

For an additional amount for "Optical and dental benefits", $1,080,000.

PERSONAL SERVICES

For "Personal services", for pay increases and related costs, to be transferred by the Mayor of the District of Columbia to the various appropriation titles for fiscal year 1988 from which employees are properly payable, $34,150,000, which includes a 12 percent pay absorption to be apportioned among the various appropriation titles by the Mayor.

ADJUSTMENTS

Of the funds appropriated under the various appropriation titles in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-90 to 1329-104), $911,000, as determined by the Mayor, are rescinded.

CAPITAL OUTLAY

For an additional amount for "Capital outlay", $6,340,000, to remain available until expended.

WATER AND SEWER ENTERPRISE FUND

For an additional amount for "Water and sewer enterprise fund", $39,750,000, of which $8,385,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects and $31,365,000 shall be for pay-as-you-go capital projects, of which $10,500,000 shall be for new capital project authority for fiscal year 1988 and $20,865,000 shall be for prior-year capital project authority.

For an additional amount for construction projects, $10,500,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, sec. 43-1512 et seq.).

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For an additional amount for "Lottery and charitable games enterprise fund", $764,000.

GENERAL PROVISION

SEC. 201. Notwithstanding any other provision of law, appropriations made and authority granted pursuant to this title shall be deemed to be available for the fiscal year ending September 30, 1988.

Mr. COUGHLIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

□ 1730

KEEP SPIRIT OF COOPERATION ALIVE NEXT YEAR

(Mr. COELHO asked and was given permission to address the House for 1 minute.)

Mr. COELHO. Mr. Speaker, with passage of the appropriations bill for the District of Columbia, Congress and the President will have done something remarkable.

For the first time since 1977, Congress will have passed all 13 appropriations measures, individually, and sent them to the President prior to the beginning of the new fiscal year.

What's more, if the President signs each bill before midnight tonight, all of these individual appropriations will have been enacted before the fiscal year for the first time since 1948.

The truth is, we are obligated to complete these measures on time, but we have rarely done so.

That's why some commemoration of this event is in order.

Eleven months ago, the Nation and the world underwent a rude fiscal awakening when the stock market crashed.

The congressional leadership and the President agreed to a bipartisan economic summit, recommended by the Speaker, and we got serious about the deficit for the first time in 8 years.

With the help of Mr. MICHEL and the Senate leadership, our majority leader, TOM FOLEY, guided that summit to a successful conclusion.

Today, we should remember the work of TOM FOLEY and BOB MICHEL, and the other summiteers, for putting the Nation above partisan interests and working out that agreement.

But throughout the year, there were two stellar performances that made it possible for the House, the Congress, the President and the country to be where we are today.

First, the appropriators in committee led by Mr. WHITTEN, the distinguished chairman, and the members on the floor, all deserve credit and our applause for making the process work.

While it is true that the budget summit set ceilings on spending for them to follow, the appropriators made tough choices in every account. They kept Defense strong, and a humane public agenda, while adhering to the budget process.

Members on both sides of the aisle and both sides of the Capitol made this work.

Second, there was one constant in the process from the earthquake on October 19 to the watershed of September 30. His name is Speaker JIM WRIGHT.

The Speaker knows it is people and not process on whom we must rely. So, in his statement last January 25, he made a commitment, on the record, to the press, to the Congress, and to the American people, that we would finish our work on time.

Working behind the scenes and outside the glare of the camera lights, urging bipartisanship, forcing people to make concessions on firmly held views, Speaker WRIGHT brought us where we are today.

He took personal responsibility for a successful outcome, and now he deserves public recognition for making that happen.

It is my hope we can keep this spirit of cooperation alive next year, as we look forward to a new administration and, perhaps, a new resolve. Not only to finish all appropriations bills on time again, but to make further progress on the deficit and further progress on restoring America's economic strength.

With the Speaker's leadership, I know we can make that happen.

CONTINUING RESOLUTIONS DIED WHEN PRESIDENT REAGAN SAID HE WOULD NOT SIGN ANOTHER CONTINUING RESOLUTION

(Mr. EDWARDS of Oklahoma asked and was given permission to speak out of order.)

Mr. EDWARDS of Oklahoma. Mr. Speaker, I would concur with the gentleman from California that we are all grateful for the fact that we do not have to again labor under the threat of a continuing resolution, the continuing resolution which, along with closed rules, self-executing rules, and such other things, have denied to the American public their right to hold their representatives accountable, but I might say that while the gentleman is correct that we all benefit from not having CR's, the credit for that belongs, and while I am sure the Speaker had a role to play and all the members of the Committee on Appropriations had a role to play, the CR died when President Reagan stood up there and said he would not sign another CR. That is what happened to the CR.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I am happy to yield to the gentleman from California.

Mr. DANNEMEYER. Mr. Speaker, I wanted to ask our good friend, the gentleman from California [Mr. COELHO], a very important question. Does he know how much we added to the national debt this year as we congratulate ourselves on no CR? The answer is $243 billion to the next generation to pay for our inability to exercise discipline today. I would like to ask Mr. COELHO another question: When is the majority party going to bring to the floor of the House for their elected representatives to vote on an amendment to the U.S. Constitution to mandate that we get some discipline in this institution to match the income and the outdo? When is that going to happen, Mr. Speaker?

CONFERENCE REPORT ON S. 908, INSPECTOR GENERAL ACT AMENDMENTS OF 1988

Mr. BROOKS submitted the following conference report and statement on the Senate bill (S. 908) to amend the Inspector General Act of 1978 to establish Offices of Inspector General in certain departments, and for other purposes.

CONFERENCE REPORT (H. REPT. 100-1020)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 908), to amend the Inspector General Act of 1978 to establish Offices of Inspector General in certain departments, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

TITLE I—INSPECTOR GENERAL ACT AMENDMENTS

SEC. 101. SHORT TITLE.

This title may be cited as the "Inspector General Act Amendments of 1988".

SEC. 102. ESTABLISHMENT OF OFFICES OF INSPECTOR GENERAL.

(a) PURPOSE.—Section 2(1) of the Inspector General Act of 1978 (Public Law 95-452; 5 U.S.C. App. 3) is amended to read as follows:

"(1) to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 11(2);".

(b) TECHNICAL AMENDMENT.—The last clause of section 2 is amended by striking out "thereby" and inserting in lieu thereof "there".

(c) ADDITION OF DEPARTMENTS OF ENERGY, HEALTH AND HUMAN SERVICES, JUSTICE AND TREASURY, FEDERAL EMERGENCY MANAGEMENT AGENCY, NUCLEAR REGULATORY COMMISSION, OFFICE OF PERSONNEL MANAGEMENT, AND RAILROAD RETIREMENT BOARD TO LIST OF COVERED ESTABLISHMENTS.—Section 11 of such Act is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) the term 'head of the establishment' means the Secretary of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Labor, State, Transportation, or the Treasury; the Attorney General; the Administrator of the Agency for International Development, Environmental Protection, General Services, National Aeronautics and Space, Small Business, or Veterans' Affairs; the Director of the Federal Emergency Management Agency, the Office of Personnel Management or the United States Information Agency; the Chairman of the Nuclear Regulatory Commission or the Railroad Retirement Board; as the case may be;

"(2) the term 'establishment' means the Department of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Justice, Labor, State, Transportation, or the Treasury; the Agency for International Development, the Environmental Protection Agency, the Federal Emergency Management Agency, the General Services Administration, the National Aeronautics and Space Administration, the Nuclear Regulatory Commission, the Office of Personnel Management, the Railroad Retirement Board, the Small Business Administration, the United States Information Agency, or the Veterans' Administration; as the case may be;".

(d) TRANSFERS OF EXISTING AUDIT AND INVESTIGATION UNITS.—Section 9(a)(1) of such Act is amended—

(1) by striking out subparagraph (I), relating to the Community Services Administration;

(2) by redesignating subparagraphs (E) and (F) as subparagraphs (G) and (H), respectively;

(3) by redesignating subparagraphs (G) and (H) as subparagraphs (J) and (K), respectively;

(4) by redesignating subparagraph (J) as subparagraph (M);

(5) by redesignating subparagraphs (K) and (L) as subparagraphs (O) and (P), respectively;

(6) by redesignating subparagraphs (M) and (N) as subparagraphs (T) and (U), respectively;

(7) by inserting after subparagraph (D) the following new subparagraphs:

"(E) of the Department of Energy, the Office of Inspector General (as established by section 208 of the Department of Energy Organization Act);

"(F) of the Department of Health and Human Services, the Office of Inspector General (as established by title II of Public Law 94-505);";

(8) by inserting after subparagraph (H) (as redesignated by paragraph (2) of this subsection) the following new subparagraph:

"(I) of the Department of Justice, the offices of that Department referred to as (i) the 'Audit Staff, Justice Management Division', (ii) the 'Policy and Procedures Branch, Office of the Comptroller, Immigration and Naturalization Service', the 'Office of Professional Responsibility, Immigration and Naturalization Service', and the 'Office of Program Inspections, Immigration and Naturalization Service', (iii) the 'Office of Internal Inspection, United States Marshals Service', (iv) the 'Financial Audit Section, Office of Financial Management, Bureau of Prisons' and the 'Office of Inspections, Bureau of Prisons', and (v) from the Drug Enforcement Administration, that portion of the 'Office of Inspections' which is engaged in internal audit activities, and that portion of the 'Office of Planning and Evaluation' which is engaged in program review activities;";

(9) by inserting after subparagraph (K) (as redesignated by paragraph (3) of this subsection) the following new subparagraph:

"(L) of the Department of the Treasury, the office of that department referred to as the 'Office of Inspector General', and, notwithstanding any other provision of law, that portion of each of the offices of that department referred to as the 'Office of Internal Affairs, Bureau of Alcohol, Tobacco, and Firearms', the 'Office of Internal Affairs, United States Customs Service', and the 'Office of Inspections, United States Secret Service' which is engaged in internal audit activities;";

(10) by inserting after subparagraph (M) (as redesignated by paragraph (4) of this subsection) the following new subparagraph:

"(N) of the Federal Emergency Management Agency, the office of that agency referred to as the 'Office of Inspector General';"; and

(11) by inserting after subparagraph (P) (as redesignated by paragraph (5) of this subsection) the following new subparagraphs:

"(Q) of the Nuclear Regulatory Commission, the office of that commission referred to as the 'Office of Inspector and Auditor';

"(R) of the Office of Personnel Management, the offices of that agency referred to as the 'Office of Inspector General', the 'Insurance Audits Division, Retirement and Insurance Group', and the 'Analysis and Evaluation Division, Administration Group';

"(S) of the Railroad Retirement Board, the Office of Inspector General (as established by section 23 of the Railroad Retirement Act of 1974);".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1)(A) Section 208 of the Department of Energy Organization Act is repealed.

(B) The table of contents in the first section of such Act is amended by striking out the item relating to section 208.

(2) Title II of Public Law 94-505 is repealed.

(3) Section 23 of the Railroad Retirement Act of 1974 is repealed.

(4) Any individual who, on the date of enactment of this Act, is serving as the Inspector General of the Department of Energy, the Department of Health and Human Services, or the Railroad Retirement Board, shall continue to serve in such position until such individual dies, resigns, or is removed from office in accordance with section 3(b) of the Inspector General Act of 1978.

(f) SPECIAL PROVISIONS WITH RESPECT TO THE INSPECTORS GENERAL OF THE NUCLEAR REGULATORY COMMISSION, THE DEPARTMENT OF THE TREASURY, AND THE DEPARTMENT OF JUSTICE.—The Inspector General Act of 1978 is amended by inserting after section 8A the following new sections:

"SPECIAL PROVISIONS CONCERNING THE NUCLEAR REGULATORY COMMISSION

"SEC. 8B. (a) The Chairman of the Commission may delegate the authority specified in the second sentence of section 3(a) to another member of the Nuclear Regulatory Commission, but shall not delegate such authority to any other officer or employee of the Commission.

"(b) Notwithstanding sections 6(a) (7) and (8), the Inspector General of the Nuclear Regulatory Commission is authorized to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization thereof, subject to the applicable laws and regulations that govern such selections, appointments and employment, and the obtaining of such services, within the Nuclear Regulatory Commission.

"SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF THE TREASURY

"SEC. 8C. (a)(1) Notwithstanding the last two sentences of section 3(a), the Inspector General shall be under the authority, direction, and control of the Secretary of the Treasury with respect to audits or investigations, or the issuance of subpenas, which require access to sensitive information concerning—

"(A) ongoing criminal investigations or proceedings;

"(B) undercover operations;

"(C) the identity of confidential sources, including protected witnesses;

"(D) deliberations and decisions on policy matters, including documented information used as a basis for making policy decisions, the disclosure of which could reasonably be expected to have a significant influence on the economy or market behavior;

"(E) intelligence or counterintelligence matters; or

"(F) other matters the disclosure of which would constitute a serious threat to national security or to the protection of any person or property authorized protection by section 3056 of title 18, United States Code, section 202 of title 3, United States Code, or any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note; Public Law 94-524).

"(2) With respect to the information described under paragraph (1), the Secretary of the Treasury may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpena, if the Secretary determines that such prohibition is necessary to prevent the disclosure of any information described under paragraph (1) or to prevent significant impairment to the national interests of the United States.

"(3) If the Secretary of the Treasury exercises any power under paragraph (1) or (2), the Secretary of the Treasury shall notify the Inspector General in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice to the Committees on Governmental Affairs and Finance of the Senate and the Committees on Government Operations and Ways and Means of the House of Representatives, and to other appropriate committees or subcommittees of the Congress.

"(b) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of the Treasury shall have oversight responsibility for the internal investigations performed by the Office of Internal Affairs of the Bureau of Alcohol, Tobacco and Firearms, the Office of Internal Affairs of the United States Customs Service, and the Office of Inspections of the United States Secret Service, and the internal audits and internal investigations performed by the Office of Assistant Commissioner (Inspection) of the Internal Revenue Service. The head of each such office shall promptly report to the Inspector General the significant activities being carried out by such office.

"(c) Notwithstanding subsection (b), the Inspector General may initiate, conduct and supervise such audits and investigations in the Department of the Treasury (including the bureaus and services referred to in subsection (b)) as the Inspector General considers appropriate.

"(d) If the Inspector General initiates an audit or investigation under subsection (c) concerning a bureau or service referred to in subsection (b), the Inspector General may provide the head of the office of such bureau or service referred to in subsection (b) with written notice that the Inspector General has initiated such an audit or investigation. If the Inspector General issues a notice under the preceding sentence, no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General and any other audit or investigation of such matter shall cease.

"(e)(1) The Inspector General shall have access to returns and return information, as defined in section 6103(b) of the Internal Revenue Code of 1986, only in accordance with the provisions of section 6103 of such Code and this Act.

"(2) Access by the Inspector General to returns and return information under section 6103(h)(1) of such Code shall be subject to the following additional requirements:

"(A) In order to maintain internal controls over access to returns and return information, the Inspector General, or in the absence of the Inspector General, the Acting Inspector General, the Deputy Inspector General, the Assistant Inspector General for Audits, or the Assistant Inspector General for Investigations, shall provide to the Assistant Commissioner (Inspection) of the Internal Revenue Service written notice of the Inspector General's intent to access returns and return information. If the Inspector General determines that the Inspection Service of the Internal Revenue Service should not be made aware of a notice of access to returns and return information, such notice shall be provided to the Senior Deputy Commissioner of Internal Revenue.

"(B) Such notice shall clearly indicate the specific returns or return information being accessed, contain a certification by the Inspector General, or in the absence of the Inspector General, the Acting Inspector General, the Deputy Inspector General, the Assistant Inspector General for Audits, or the Assistant Inspector General for Investigations, that the returns or return information being accessed are needed for a purpose described under section 6103(h)(1) of the Internal Revenue Code of 1986, and identify those employees of the Office of Inspector General of the Department of the Treasury who may receive such returns or return information.

"(C) The Internal Revenue Service shall maintain the same system of standardized records or accountings of all requests from the Inspector General for inspection or disclosure of returns and return information (including the reasons for and dates of such requests), and of returns and return information inspected or disclosed pursuant to such requests, as described under section 6103(p)(3)(A) of the Internal Revenue Code of 1986. Such system of standardized records or accountings shall also be available for examination in the same manner as provided under section 6103(p)(3) of the Internal Revenue Code of 1986.

"(D) The Inspector General shall be subject to the same safeguards and conditions for receiving returns and return information as are described under section 6103(p)(4) of the Internal Revenue Code of 1986.

"(f) An audit or investigation conducted by the Inspector General shall not affect a final decision of the Secretary of the Treasury or his delegate under section 6406 of the Internal Revenue Code of 1986.

"(g) Notwithstanding section 4(d), in matters involving chapter 75 of the Internal Revenue Code of 1986, the Inspector General shall report expeditiously to the Attorney General only offenses under section 7214 of such Code, unless the Inspector General obtains the consent of the Commissioner of Internal Revenue to exercise additional reporting authority with respect to such chapter.

"(h) Any report required to be transmitted by the Secretary of the Treasury to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified under such section, to the Committees on Governmental Affairs and Finance of the Senate and the Committees on Government Operations and Ways and Means of the House of Representatives.

"SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF JUSTICE

"SEC. 8D. (a)(1) Notwithstanding the last two sentences of section 3(a), the Inspector General shall be under the authority, direction, and control of the Attorney General with respect to audits or investigations, or the issuance of subpenas, which require access to sensitive information concerning—

"(A) ongoing civil or criminal investigations or proceedings;

"(B) undercover operations;

"(C) the identity of confidential sources, including protected witnesses;

"(D) intelligence or counterintelligence matters; or

"(E) other matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to the information described under paragraph (1), the Attorney General may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpena, if the Attorney General determines that such prohibition is necessary to prevent the disclosure of any information described under paragraph (1) or to prevent the significant impairment to the national interests of the United States.

"(3) If the Attorney General exercises any power under paragraph (1) or (2), the Attorney General shall notify the Inspector General in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice to the Committees on Governmental Affairs and Judiciary of the Senate and the Committees on Government Operations and Judiciary of the House of Representatives, and to other appropriate committees or subcommittees of the Congress.

"(b) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of Justice—

"(1) may initiate, conduct and supervise such audits and investigations in the Department of Justice as the Inspector General considers appropriate;

"(2) shall give particular regard to the activities of the Counsel, Office of Professional Responsibility of the Department and the audit, internal investigative, and inspection units outside the Office of Inspector General with a view toward avoiding duplication and insuring effective coordination and cooperation; and

"(3) shall refer to the Counsel, Office of Professional Responsibility of the Department for investigation, information or allegations relating to the conduct of an officer or employee of the Department of Justice employed in an attorney, criminal investigative, or law enforcement position that is or may be a violation of law, regulation, or order of the Department or any other applicable standard of conduct, except that no such referral shall be made if the officer or employee is employed in the Office of Professional Responsibility of the Department.

"(c) Any report required to be transmitted by the Attorney General to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified under such section, to the Committees on the Judiciary and Governmental Affairs of the Senate and the Committees on the Judiciary and Government Operations of the House of Representatives.".

(g) Disclosure of Tax Returns and Return Information.—Section 5(e)(3) of the Inspector General Act of 1978 is amended by striking out "Nothing" in the first sentence and inserting in lieu thereof "Except to the extent and in the manner provided under section 6103(f) of the Internal Revenue Code of 1986, nothing".

(h) Transfer of 20 Investigation Positions within the Department of Justice.—No later than 90 days after the date of appointment of the Inspector General of the Department of Justice, the Inspector General shall designate 20 full-time investigation positions which the Attorney General may transfer from the Office of Inspector General of the Department of Justice to the Office of Professional Responsibility of the Department of Justice for the performance of functions described under section 8D(b)(3) of the Inspector General Act of 1978. Any personnel who are transferred pursuant to this subsection, and who, at the time of being so transferred, are protected from reduction in classification or compensation under section 9(c) of such Act, shall continue to be so protected for 1 year after the date of transfer pursuant to this subsection.

SEC. 103. UNIFORM SALARIES FOR INSPECTORS GENERAL.

(a) Uniform Salaries.—Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"Inspector General, Department of Commerce.

"Inspector General, Department of the Interior.

"Inspector General, Department of Justice.

"Inspector General, Department of the Treasury.

"Inspector General, Agency for International Development.

"Inspector General, Environmental Protection Agency.

"Inspector General, Federal Emergency Management Agency.

"Inspector General, General Services Administration.

"Inspector General, National Aeronautics and Space Administration.

"Inspector General, Nuclear Regulatory Commission.

"Inspector General, Office of Personnel Management.

"Inspector General, Railroad Retirement Board.

"Inspector General, Small Business Administration.".

(b) Conforming Amendments.—Section 5316 of such title is amended by striking out the paragraphs relating to—

(1) the Inspector General of the Department of Commerce;

(2) the Inspector General of the Department of the Interior;

(3) the Inspector General of the Agency for International Development;

(4) the Inspector General of the Community Services Administration;

(5) the Inspector General of the Environmental Protection Agency;

(6) the Inspector General of the General Services Administration;

(7) the Inspector General of the National Aeronautics and Space Administration;

(8) the Inspector General of the Small Business Administration;

(9) the Deputy Inspector General of the Department of Energy; and

(10) the Deputy Inspector General of the Department of Health and Human Services.

SEC. 104. EXTENSION OF INSPECTOR GENERAL ACT PROTECTIONS AND REQUIREMENTS TO CERTAIN DESIGNATED FEDERAL ENTITIES.

(a) Requirements for Federal Entities and Designated Federal Entities.—The Inspector General Act of 1978 (as amended by section 102(f) of this title) is further amended by inserting after section 8D the following new section:

"REQUIREMENTS FOR FEDERAL ENTITIES AND DESIGNATED FEDERAL ENTITIES

"Sec. 8E. (a) Notwithstanding section 11 of this Act, as used in this section—

"(1) the term 'Federal entity' means any Government corporation (within the meaning of section 103(1) of title 5, United States Code), any Government controlled corporation (within the meaning of section 103(2) of such title), or any other entity in the Executive branch of the Government, or any independent regulatory agency, but does not include—

"(A) an establishment (as defined under section 11(2) of this Act) or part of an establishment;

"(B) a designated Federal entity (as defined under paragraph (2) of this subsection) or part of a designated Federal entity;

"(C) the Executive Office of the President;

"(D) the Central Intelligence Agency;

"(E) the General Accounting Office; or

"(F) any entity in the judicial or legislative branches of the Government, including the Administrative Office of the United States Courts and the Architect of the Capitol and any activities under the direction of the Architect of the Capitol;

"(2) the term 'designated Federal entity' means ACTION, Amtrak, the Appalachian Regional Commission, the Board of Governors of the Federal Reserve System, the Board for International Broadcasting, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Corporation for Public Broadcasting, the Equal Employment Opportunity Commission, the Farm Credit Administration, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Election Commission, the Federal Home Loan Bank Board, the Federal Labor Relations Authority, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Legal Services Corporation, the National Archives and Records Administration, the National Credit Union Administration, the National Endowment for the Arts, the National Endowment for the Humanities, the National Labor Relations Board, the National Science Foundation, the Panama Canal Commission, the Peace Corps, the Pension Benefit Guaranty Corporation, the Securities and Exchange Commission, the Smithsonian Institution, the Tennessee Valley Authority, the United States International Trade Commission, and the United States Postal Service;

"(3) the term 'head of the Federal entity' means any person or persons designated by statute as the head of a Federal entity, and if no such designation exists, the chief policymaking officer or board of a Federal entity as identified in the list published pursuant to subsection (h)(1) of this section;

"(4) the term 'head of the designated Federal entity' means any person or persons designated by statute as the head of a designated Federal entity and if no such designation exists, the chief policymaking officer or board of a designated Federal entity as identified in the list published pursuant to subsection (h)(1) of this section, except that with respect to the National Science Foundation, such term means the National Science Board;

"(5) the term 'Office of Inspector General' means an Office of Inspector General of a designated Federal entity; and

"(6) the term 'Inspector General' means an Inspector General of a designated Federal entity.

"(b) No later than 180 days after the date of the enactment of this section, there shall be established and maintained in each designated Federal entity an Office of Inspector General. The head of the designated Federal entity shall transfer to such office the offices, units, or other components, and the functions, powers, or duties thereof, that such head determines are properly related to the functions of the Office of Inspector General and would, if so transferred, further the purposes of this section. There shall not be transferred to such office any program operating responsibilities.

"(c) Except as provided under subsection (f) of this section, the Inspector General shall be appointed by the head of the designated Federal entity in accordance with the applicable laws and regulations governing appointments within the designated Federal entity.

"(d) Each Inspector General shall report to and be under the general supervision of the head of the designated Federal entity, but shall not report to, or be subject to supervision by, any other officer or employee of such designated Federal entity. The head of the designated Federal entity shall not prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation.

"(e) If an Inspector General is removed from office or is transferred to another position or location within a designated Federal entity, the head of the designated Federal entity shall promptly communicate in writing the reasons for any such removal or transfer to both Houses of the Congress.

"(f)(1) The Chief Postal Inspector of the United States Postal Service shall also hold the position of Inspector General of the United States Postal Service, and for purposes of this section, shall report to, and be under the general supervision of, the Postmaster General of the United States Postal Service. The Postmaster General, in consultation with the Governors of the United States Postal Service, shall appoint the Chief Postal Inspector. The Postmaster General, with the concurrence of the Governors of the United States Postal Service, shall have power to remove the Chief Postal Inspector or transfer the Chief Postal Inspector to another position or location within the United States Postal Service. If the Chief Postal Inspector is removed or transferred in accordance with this subsection, the Postmaster General shall promptly notify both

Houses of the Congress in writing of the reasons for such removal or transfer.

"(2) For purposes of paragraph (1), the term 'Governors' has the same meaning as such term is defined under section 102(3) of title 39, United States Code.

"(g)(1) Sections 4, 5, 6 (other than subsections (a)(7) and (a)(8) thereof), and 7 of this Act shall apply to each Inspector General and Office of Inspector General of a designated Federal entity and such sections shall be applied to each designated Federal entity and head of the designated Federal entity (as defined under subsection (a)) by substituting—

"(A) 'designated Federal entity' for 'establishment'; and

"(B) 'head of the designated Federal entity' for 'head of the establishment'.

"(2) In addition to the other authorities specified in this Act, an Inspector General is authorized to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization thereof, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the designated Federal entity.

"(3) Notwithstanding the last sentence of subsection (d) of this section, the provisions of subsection (a) of section 8C (other than the provisions of subparagraphs (A), (B), (C), and (E) of subsection (a)(1)) shall apply to the Inspector General of the Board of Governors of the Federal Reserve System and the Chairman of the Board of Governors of the Federal Reserve System in the same manner as such provisions apply to the Inspector General of the Department of the Treasury and the Secretary of the Treasury, respectively.

"(h)(1) No later than April 30, 1989 and annually thereafter, the Director of the Office of Management and Budget, after consultation with the Comptroller General of the United States, shall publish in the Federal Register a list of the Federal entities and designated Federal entities and the head of each such entity (as defined under subsection (a) of this section).

"(2) Beginning on October 31, 1989, and on October 31 of each succeeding calendar year, the head of each Federal entity (as defined under subsection (a) of this section) shall prepare and transmit to the Director of the Office of Management and Budget and to each House of the Congress a report which—

"(A) states whether there has been established in the Federal entity an office that meets the requirements of this section;

"(B) specifies the actions taken by the Federal entity otherwise to ensure that audits are conducted of its programs and operations in accordance with the standards for audit of governmental organizations, programs, activities, and functions issued by the Comptroller General of the United States, and includes a list of each audit report completed by a Federal or non-Federal auditor during the reporting period and a summary of any particularly significant findings; and

"(C) summarizes any matters relating to the personnel, programs, and operations of the Federal entity referred to prosecutive authorities, including a summary description of any preliminary investigation conducted by or at the request of the Federal entity concerning these matters, and the prosecutions and convictions which have resulted.".

(b) CONFORMING AMENDMENT.—Section 410(b) of title 39, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon;

(3) by striking out "The" in paragraph (8) and inserting in lieu thereof "the";

(4) by striking out the period at the end of paragraph (8) and inserting in lieu thereof a semicolon and "and"; and

(5) by adding at the end thereof the following new paragraph:

"(9) the provisions of section 8E of the Inspector General Act of 1978.".

SEC. 105. RULE OF CONSTRUCTION OF SPECIAL PROVISIONS.

The Inspector General Act of 1978 (as amended by sections 102(f) and 104 of this title) is further amended by inserting after section 8E the following new section:

"RULE OF CONSTRUCTION OF SPECIAL PROVISIONS

"SEC. 8F. The special provisions under section 8, 8A, 8B, 8C, or 8D of this Act relate only to the establishment named in such section and no inference shall be drawn from the presence or absence of a provision in any such section with respect to an establishment not named in such section or with respect to a designated Federal entity as defined under section 8E(a).".

SEC. 106. PROVISIONS TO ENSURE UNIFORMITY AND RELIABILITY OF REPORTS.

(a) REPORT INFORMATION REQUIRED ON AUDITS.—Section 5(a) of the Inspector General Act of 1978 is amended by striking out "and" at the end of paragraph (5) and by striking out paragraph (6) and inserting in lieu thereof:

"(6) a listing, subdivided according to subject matter, of each audit report issued by the Office during the reporting period and for each audit report, where applicable, the total dollar value of questioned costs (including a separate category for the dollar value of unsupported costs) and the dollar value of recommendations that funds be put to better use;

"(7) a summary of each particularly significant report;

"(8) statistical tables showing the total number of audit reports and the total dollar value of questioned costs (including a separate category for the dollar value of unsupported costs), for audit reports—

"(A) for which no management decision had been made by the commencement of the reporting period;

"(B) which were issued during the reporting period;

"(C) for which a management decision was made during the reporting period, including—

"(i) the dollar value of disallowed costs; and

"(ii) the dollar value of costs not disallowed; and

"(D) for which no management decision has been made by the end of the reporting period;

"(9) statistical tables showing the total number of audit reports and the dollar value of recommendations that funds be put to better use by management, for audit reports—

"(A) for which no management decision had been made by the commencement of the reporting period;

"(B) which were issued during the reporting period;

"(C) for which a management decision was made during the reporting period, including—

"(i) the dollar value of recommendations that were agreed to by management; and

"(ii) the dollar value of recommendations that were not agreed to by management; and

"(D) for which no management decision has been made by the end of the reporting period;

"(10) a summary of each audit report issued before the commencement of the reporting period for which no management decision has been made by the end of the reporting period (including the date and title of each such report), an explanation of the reasons such management decision has not been made, and a statement concerning the desired timetable for achieving a management decision on each such report;

"(11) a description and explanation of the reasons for any significant revised management decision made during the reporting period; and

"(12) information concerning any significant management decision with which the Inspector General is in disagreement.".

(b) REPORT ON FINAL ACTION.—Section 5(b) of such Act is amended by striking out "head of the establishment containing any comments such head deems appropriate." and inserting in lieu thereof the following: "head of the establishment containing—

"(1) any comments such head determines appropriate;

"(2) statistical tables showing the total number of audit reports and the dollar value of disallowed costs, for audit reports—

"(A) for which final action had not been taken by the commencement of the reporting period;

"(B) on which management decisions were made during the reporting period;

"(C) for which final action was taken during the reporting period, including—

"(i) the dollar value of disallowed costs that were recovered by management through collection, offset, property in lieu of cash, or otherwise; and

"(ii) the dollar value of disallowed costs that were written off by management; and

"(D) for which no final action has been taken by the end of the reporting period;

"(3) statistical tables showing the total number of audit reports and the dollar value of recommendations that funds be put to better use by management agreed to in a management decision, for audit reports—

"(A) for which final action had not been taken by the commencement of the reporting period;

"(B) on which management decisions were made during the reporting period;

"(C) for which final action was taken during the reporting period, including—

"(i) the dollar value of recommendations that were actually completed; and

"(ii) the dollar value of recommendations that management has subsequently concluded should not or could not be implemented or completed; and

"(D) for which no final action has been taken by the end of the reporting period; and

"(4) a statement with respect to audit reports on which management decisions have been made but final action has not been taken, other than audit reports on which a management decision was made within the preceding year, containing—

"(A) a list of such audit reports and the date each such report was issued;

"(B) the dollar value of disallowed costs for each report;

"(C) the dollar value of recommendations that funds be put to better use agreed to by management for each report; and

"(D) an explanation of the reasons final action has not been taken with respect to each such audit report,

except that such statement may exclude such audit reports that are under formal administrative or judicial appeal or upon which management of an establishment has agreed to pursue a legislative solution, but shall identify the number of reports in each category so excluded.".

(c) ISSUANCE OF REPORT ON FINAL ACTION.—Section 5(c) of such Act is amended by adding at the end thereof the following new sentence: "Within 60 days after the transmission of the semiannual reports of each establishment head to the Congress, the head of each establishment shall make copies of such report available to the public upon request and at a reasonable cost.".

(d) CONFORMING AMENDMENT; DEFINITIONS.—Section 5 of such Act is further amended by adding at the end thereof the following new subsection:

"(f) As used in this section—

"(1) the term 'questioned cost' means a cost that is questioned by the Office because of—

"(A) an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds;

"(B) a finding that, at the time of the audit, such cost is not supported by adequate documentation; or

"(C) a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable;

"(2) the term 'unsupported cost' means a cost that is questioned by the Office because the Office found that, at the time of the audit, such cost is not supported by adequate documentation;

"(3) the term 'disallowed cost' means a questioned cost that management, in a management decision, has sustained or agreed should not be charged to the Government;

"(4) the term 'recommendation that funds be put to better use' means a recommendation by the Office that funds could be used more efficiently if management of an establishment took actions to implement and complete the recommendation, including—

"(A) reductions in outlays;

"(B) deobligation of funds from programs or operations;

"(C) withdrawal of interest subsidy costs on loans or loan guarantees, insurance, or bonds;

"(D) costs not incurred by implementing recommended improvements related to the operations of the establishment, a contractor or grantee;

"(E) avoidance of unnecessary expenditures noted in preaward reviews of contract or grant agreements; or

"(F) any other savings which are specifically identified;

"(5) the term 'management decision' means the evaluation by the management of an establishment of the findings and recommendations included in an audit report and the issuance of a final decision by management concerning its response to such findings and recommendations, including actions concluded to be necessary; and

"(6) the term 'final action' means—

"(A) the completion of all actions that the management of an establishment has concluded, in its management decision, are necessary with respect to the findings and recommendations included in an audit report; and

"(B) in the event that the management of an establishment concludes no action is necessary, final action occurs when a management decision has been made.".

SEC. 107. OATH ADMINISTRATION AUTHORITY.

Section 6(a) of the Inspector General Act of 1978 is amended—

(1) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively, and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the functions assigned by this Act, which oath, affirmation, or affidavit when administered or taken by or before an employee of an Office of Inspector General designated by the Inspector General shall have the same force and effect as if administered or taken by or before an officer having a seal;".

SEC. 108. APPROPRIATION ACCOUNTS.

Section 1105(a)(25) of title 31, United States Code, is amended to read as follows:

"(25) a separate appropriation account for appropriations for each Office of Inspector General of an establishment defined under section 11(2) of the Inspector General Act of 1978.".

SEC. 109. EXTERNAL REVIEWS.

Section 4(b) of the Inspector General Act of 1978 is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by inserting "(1)" after "(b)"; and

(3) by adding at the end thereof the following:

"(2) For purposes of determining compliance with paragraph (1)(A) with respect to whether internal quality controls are in place and operating and whether established audit standards, policies, and procedures are being followed by Offices of Inspector General of establishments defined under section 11(2), Offices of Inspector General of designated Federal entities defined under section 8E(a)(2), and any audit office established within a Federal entity defined under section 8E(a)(1), reviews shall be performed exclusively by an audit entity in the Federal Government, including the General Accounting Office or the Office of Inspector General of each establishment defined under section 11(2), or the Office of Inspector General of each designated Federal entity defined under section 8E(a)(2).".

SEC. 110. TECHNICAL AMENDMENTS.

(a) SENIOR EXECUTIVE SERVICE POSITIONS.—Section 6 of the Inspector General Act of 1978 is amended by adding at the end thereof the following:

"(d) For purposes of the provisions of title 5, United States Code, governing the Senior Executive Service, any reference in such provisions to the 'appointing authority' for a member of the Senior Executive Service or for a Senior Executive Service position shall, if such member or position is or would be within the Office of an Inspector General, be deemed to be a reference to such Inspector General.".

(b) COAST GUARD OPERATION AS PART OF DEPARTMENT OR AGENCY.—Section 8(e) of the Inspector General Act of 1978 is amended by inserting before the period at the end thereof the following: ", except that, when the Coast Guard operates as a service of another department or agency of the Federal Government, a member of the Coast Guard shall be deemed to be an employee of such department or agency".

SEC. 111. REPORT ON IMPLEMENTATION.

On October 31, 1989, the head of each designated Federal entity (as defined under section 8E(a)(2) of the Inspector General Act of 1978) shall submit to the Director of the Office of Management and Budget and to each House of the Congress a report on the status of the implementation by that designated Federal entity of the requirements of section 8E of such Act. Such report shall identify any area in which implementation is not complete and state the reasons for that failure.

SEC. 112. PAYMENT AUTHORITY SUBJECT TO APPROPRIATIONS.

Any authority to make payments under this title shall be effective only to such extent as provided in appropriations Acts.

SEC. 113. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 180 days after the date of the enactment of this title, except that section 5(a) (6) through (12) of the Inspector General Act of 1978 (as amended by section 106(a) of this title) and section 5(b) (1) through (4) of the Inspector General Act of 1978 (as amended by section 106(b) of this title) shall take effect 1 year after the date of the enactment of this title.

TITLE II—GOVERNMENT PRINTING OFFICE INSPECTOR GENERAL

SEC. 201. SHORT TITLE.

This title may be cited as the "Government Printing Office Inspector General Act of 1988".

SEC. 202. OFFICE OF INSPECTOR GENERAL.

Title 44 of the United States Code is amended by adding at the end thereof the following new chapter:

"CHAPTER 39—GOVERNMENT PRINTING OFFICE: OFFICE OF INSPECTOR GENERAL

"Sec.

"3901. Purpose and establishment of the Office of Inspector General.

"3902. Appointment of Inspector General; supervision; removal.

"3903. Duties, responsibilities, authority, and reports.

"§ 3901. Purpose and establishment of the Office of Inspector General

"In order to create an independent and objective office—

"(1) to conduct and supervise audits and investigations relating to the Government Printing Office;

"(2) to provide leadership and coordination and recommend policies to promote economy, efficiency, and effectiveness; and

"(3) to provide a means of keeping the Public Printer and the Congress fully and currently informed about problems and deficiencies relating to the administration and operations of the Government Printing Office;

there is hereby established an Office of Inspector General in the Government Printing Office.

"§ 3902. Appointment of Inspector General; supervision; removal

"(a) There shall be at the head of the Office of Inspector General, an Inspector General who shall be appointed by the Public Printer without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. The Inspector General shall report to, and be under the general supervision of, the Public Printer. The Public Printer shall have no authority to prevent or pro-

hibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation.

"(b) The Inspector General may be removed from office by the Public Printer. The Public Printer shall, promptly upon such removal, communicate in writing the reasons for any such removal to each House of the Congress.

"§ 3903. Duties, responsibilities, authority, and reports

"(a) Sections 4, 5, 6 (other than subsection (a) (7) and (8) thereof), and 7 of the Inspector General Act of 1978 (Public Law 95-452; 5 U.S.C. App. 3) shall apply to the Inspector General of the Government Printing Office and the Office of such Inspector General and such sections shall be applied to the Government Printing Office and the Public Printer by substituting—

"(1) 'Government Printing Office' for 'establishment'; and

"(2) 'Public Printer' for 'head of the establishment'.

"(b) The Inspector General, in carrying out the provisions of this chapter, is authorized to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General subject to the provisions of this title governing selections, appointments, and employment in the Government Printing Office (and any regulations thereunder).".

SEC. 203. TRANSFER OF OFFICE.

(a) IN GENERAL.—There is transferred to the Office of Inspector General established pursuant to this title, the office of the Government Printing Office referred to as the "Office of Inspector General".

(b) RELATED PROVISIONS.—With respect to such transferred office—

(1) sections 9 (b) and (c) of the Inspector General Act of 1978 shall apply; and

(2) all the functions, powers, and duties of the office transferred by subsection (a) shall lapse.

(c) PERSONNEL.—Any person who, on the effective date of this title, held a position compensated in accordance with the applicable laws and regulations that govern selections, appointments, and employment within the Government Printing Office, and who, without a break in service, is appointed in the Office of Inspector General established by this title to a position having duties comparable to those performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of service in the new position.

SEC. 204. AMENDMENT TO TABLE OF CHAPTERS.

The table of chapters for title 44, United States Code, is amended by adding at the end thereof the following new item:

"39. Government Printing Office: Office of Inspector General .... 3901".

SEC. 205. PAYMENT AUTHORITY SUBJECT TO APPROPRIATIONS.

Any authority to make payments under this title shall be effective only to such extent as provided in appropriations Acts.

SEC. 206. EFFECTIVE DATE.

The provisions of this title and the amendments made by this title shall take effect 180 days after the date of the enactment of this title.

And the House agree to the same.

JACK BROOKS,
JOHN CONYERS,
MIKE SYNAR,
BOB WISE,
BEN ERDREICH,
FRANK HORTON,
ROBERT S. WALKER,
BILL CLINGER,

Managers on the Part of the House.

JOHN GLENN,
LAWTON CHILES,
JIM SASSER,
DAVID PRYOR,
BILL ROTH,
TED STEVENS,
JOHN HEINZ,

For the purposes of the Nuclear Regulatory Commission provisions only:

JOHN BREAUX,
AL SIMPSON,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the Senate and House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 908) to amend the Inspector General Act of 1978 to establish Offices of Inspector General in certain departments, and for other purposes, submit the following joint statement to the Senate and House in explanation of the effect of the action agreed upon by the managers and recommended in this conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, structural changes, conforming changes made necessary by amendments reached by the conferees, and minor drafting and clarifying changes.

TITLE I—INSPECTOR GENERAL ACT AMENDMENTS

SECTION 102. ESTABLISHMENT OF OFFICES OF INSPECTOR GENERAL

Senate Bill

The Senate bill amends the Inspector General Act of 1978 ("the Act") to establish an Office of Inspector General (OIG), headed by a Presidentially-appointed Inspector General (IG), in five establishments: Department of the Treasury, the Internal Revenue Service (IRS), the Office of Personnel Management (OPM), the Nuclear Regulatory Commission (NRC), and the Federal Emergency Management Agency (FEMA). The Senate bill transfers the audit, but not the internal investigations, resources of Treasury's Bureau of Alcohol, Tobacco and Firearms (BATF), Customs Service and Secret Service into the Treasury OIG. The Senate bill includes special provisions applicable to Treasury and IRS. One such provision allows the Treasury IG to conduct investigations in those bureaus in certain circumstances.

The IRS Office of Assistant Commissioner (Inspection) is transferred into the separate IRS OIG. The special provisions also provide that the IGs at Treasury and IRS are under the "authority, direction and control" of the Treasury Secretary and IRS Commissioner, respectively, with respect to an audit, investigation or issuance of a subpoena when those establishment heads determine, on a case-by-case basis, that the audit, investigation, or issuance of a subpoena requires access to specifically delineated information. The Senate bill allows those heads to halt an individual audit, investigation, or issuance of a subpoena to preserve the confidentiality or prevent the disclosure of such information, and requires that Congressional committees receive notice of such action.

The Senate bill also includes special provisions applicable to the NRC Chairman's authority to delegate supervisory authority over the IG to another member of the Commission.

House Amendment

The House amendment contains a Title I, "Inspector General Act Amendments of 1988", which amends the Act to establish an OIG, headed by a Presidentially-appointed IG, in the Departments of Justice and the Treasury and in FEMA. The House amendment transfers the audit, but not the internal investigations, resources of BATF, Customs Service and Secret Service into the Treasury OIG. The House amendment does not transfer the IRS Office of Assistant Commissioner (Inspection) into the Treasury OIG.

The House amendment transfers the following resources from the Department of Justice into the OIG: the Audit Staff, Justice Management Division; from the Immigration and Naturalization Service, the Policy and Procedures Branch, Office of the Comptroller, the Office of Professional Responsibility, and the Office of Program Inspections; the Office of Internal Inspection, United States Marshals Service; from the Bureau of Prisons, the Financial Audit Section, Office of Financial Management and the Office of Inspections; and from the Drug Enforcement Administration, that portion of the Office of Inspections which is engaged in internal audit activities and that portion of the Office of Planning and Evaluation which is engaged in program review activities.

The Department's Office of Professional Responsibility, the internal investigations resources of DEA, and the audit and internal investigations resources of the Federal Bureau of Investigations (FBI) are not transferred into the OIG. The House amendment does not contain any special provisions for the Departments of Justice and Treasury or the NRC.

The House amendment contains a Title II, "Government Printing Office Inspector General Act of 1988", which amends Title 44 of the United States Code to establish an OIG, headed by an IG appointed by the Public Printer, in the Government Printing Office (GPO).

Conference Agreement

The conference agreement follows the House format providing for two Titles: Title I, "Inspector General Act Amendments of 1988", which establishes OIGs, each headed by a Presidentially-appointed IG, in the Departments of Justice and the Treasury, the NRC, OPM and FEMA; and Title II, "Government Printing Office Inspector General Act of 1988", which establishes an OIG headed by an IG appointed by the Public Printer, in GPO. There is no provision for a separate Presidentially appointed IG at IRS.

The House recedes to the Senate with respect to special provisions for the Department of the Treasury and NRC, as modified in conference, with an amendment in section 105 of the conference agreement that would add a Rule of Construction for clarification of the impact of the special provisions contained in the Inspector General Act of 1978 on their respective establishments.

Section 102(d) of the conference agreement follows the House amendment (which is identical to the Senate bill) as to the offices transferred into the Treasury OIG. In the future, the Treasury Secretary may determine that the internal investigations resources of BATF, Customs Service, and Secret Service and the IRS Office of Assistant Commissioner (Inspection) should be consolidated in the OIG. Pursuant to section 9(a)(2) of the Inspector General Act, the Treasury Secretary is authorized to effect the transfer of resources and functions necessary to achieve this consolidation. Such a transfer would be consistent with the inspector general concept.

Section 102(f) includes special provisions providing that the Treasury IG is under the "authority, direction and control" of the Treasury Secretary with respect to an audit, investigation or issuance of a subpoena when the Treasury Secretary, on a case-by-case basis, determines that the audit, investigation, or issuance of a subpoena requires access to specifically delineated information. The conference agreement allows the Treasury Secretary to halt an individual audit, investigation, or issuance of a subpoena to revent the disclosure of such information or prevent significant impairment to the national interests of the United States, and requires that Congressional committees receive notice of such action.

The special provisions also provide that the IG shall have oversight responsibility for the internal investigations performed by certain specified offices in BATF, Customs Service and Secret Service, and for the audits and investigations performed by the Office of Assistant Commissioner (Inspection) of the IRS. The head of each such office shall promptly report to the IG the significant activities being carried out by such office. The IG may initiate, conduct and supervise such audits and investigations in the Department as the IG considers appropriate. In the event any IG audit or investigation involves BATF, Customs Service, Secret Service or IRS, all other audits or investigations shall cease. The conference agreement includes additional special provisions concerning procedures governing the IG's access to taxpayer returns and return information in IRS.

In addition, section 102(d) of the conference agreement follows the House amendment as to the offices transferred into the Justice OIG. With respect to this transfer provision, the conferees recognize that certain personnel currently employed in some of the offices or portions of offices slated for transfer have been rotated into these offices for a limited period of time. These employees expect to serve out their assignments and then return to operating programs in their respective bureaus or services.

In general, rotation of personnel in and out of an OIG is inconsistent with the inspector general concept. The conferees intend that these particular Justice Department employees should finish their assignments in the new Office of Inspector General, but upon completion, they should be allowed to return to complete their careers in their respective bureaus or services. However, the full-time equivalent position and any current appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available to the Department for each such employee's position will remain with the OIG.

In deference to the request of the Attorney General, the Senate recedes to the House with respect to not transferring the Department's Office of Professional Responsibility (OPR) into the OIG. In the future the Attorney General may determine that OPR and the other audit, internal investigation, and inspection units remaining outside the OIG should be consolidated in the OIG. Pursuant to section 9(a)(2) of the Inspector General Act, the Attorney General is authorized to effect the transfer of resources and functions necessary to achieve this consolidation. Such a transfer would be consistent with the inspector general concept. Nothing in the conference agreement is intended to preclude the Attorney General or the head of any Justice Department component from reviewing, evaluating or analyzing the programs under their direction.

Section 102(f) contains special provisions in the Act concerning the Justice Department. These include special provisions providing that the Justice IG is under the "authority, direction and control" of the Attorney General with respect to an audit, investigation, or issuance of a subpoena when the Attorney General, on a case-by-case basis, determines that the audit, investigation, or issuance of a subpoena requires access to specifically delineated information. The conference agreement allows the Attorney General to halt an individual audit, investigation, or issuance of a subpoena to prevent the disclosure of such information or prevent significant impairment to the national interests of the United States, and requires that Congressional committees receive notice of such action.

The special provisions also include a provision that the IG give particular regard to the activities of the Counsel, OPR, and any other audit, internal investigation, or inspection units remaining outside the Office of Inspector General with a view toward avoiding duplication and insuring effective coordination and cooperation. In addition, the IG shall refer to the Counsel, OPR for investigation information or allegations relating to the conduct of an officer or employee of the Department employed in an attorney, criminal investigative, or law enforcement position that is or may be a violation of law, regulation, or order of the Department or any other applicable standard of conduct, except that no such referral shall be made if the officer or employee is employed in OPR.

The Inspector General Act of 1978 provides the Justice IG with the statutory authority to conduct and supervise audits and investigations relating to the programs and operations of the Department. However, the conference agreement permits OPR, which remains outside the OIG, to conduct the investigations of alleged misconduct involving a Justice Department officer or employee in an attorney, criminal investigative, or law enforcement position.

The Justice IG shall determine the deployment of OIG audit and investigative resources. In exercising the authorities granted the IG by the Inspector General Act, the IG may provide audit and investigative assistance to the Counsel, OPR as the Inspector General considers appropriate to best meet the goal of providing audit and investigative coverage to the Department. Every effort should be made for the IG and the Counsel, OPR to coordinate efforts, share resources and combine their expertise to provide the Attorney General and program managers with audit and investigative coverage.

Section 102(h) of the conference agreement provides that not later than 90 days after the appointment of the Justice IG, the IG shall designate 20 full-time investigation positions which the Attorney General may transfer from the OIG to OPR for the employee misconduct investigations to be performed by OPR. The conferees recognize the sensitivity surrounding internal investigations of personnel affiliated with the law enforcement programs of the FBI, DEA, the Marshals Service, the Immigration and Naturalization Service, and the Bureau of Prisons. Nothing in this conference agreement is intended to foreclose the OPR and OIG from expediting investigations of allegations involving the conduct of personnel of the law enforcement bureaus. The conferees intend that OPR and the IG remain responsive to the internal investigation needs of the heads of the law enforcement bureaus—FBI, DEA, the Marshals Service, the Immigration and Naturalization Service, and the Bureau of Prisons.

In the semi-annual reports required by section 5(a) of the Inspector General Act, which requires the IG to summarize the activities of the OIG during the preceding 6-month period, the IG should provide information about the coordination and cooperation between the OIG and Counsel, OPR, including a summary of matters referred to the Counsel, OPR for investigation and, where available, the results of such investigations. The Counsel, OPR should work with the IG to provide such information for inclusion in the IG's semi-annual reports in an appropriate manner.

The conferees do not intend that the IG should render judgments on the exercise of prosecutorial or other litigative discretion in a particular case or controversy. Examples include an attorney's decision regarding the adequacy of evidence to litigate a case or the decision to grant immunity to one defendant in return for testimony against another defendant. Unless a unique set of circumstances dictates otherwise, the conferees intend that reviews of such prosecutorial or other litigative discretion in a particular case or controversy is an appropriate role for, and may be delegated by, the Attorney General.

SECTION 104. EXTENSION OF INSPECTOR GENERAL ACT PROTECTIONS AND REQUIREMENTS TO CERTAIN DESIGNATED FEDERAL ENTITIES

Senate Bill

The Senate bill requires 33 "designated Federal entities" named in the bill, including the Corporation for Public Broadcasting and the Federal Election Commission, to establish internal audit units to be headed by a director appointed by the head of the designated Federal entity. The Senate bill applies relevant special provisions concerning the Treasury Department to the Federal Reserve System, one of the 33 designated Federal entities.

The Senate bill provides that the Chief Postal Inspector of the United States Postal Service shall be the internal audit unit director of the Postal Service, another designated Federal entity. The Chief Postal Inspector shall be appointed by the Postmaster General. The Chief Postal Inspector may be removed or transferred if the Postmaster General issues a written order stating the reasons for such action and two-thirds of the Governors of the Postal Service vote to ratify the order. In that case, the Postmaster General shall notify both Houses of Congress of the reasons.

The Senate bill requires the heads of the Federal entities which are not designated Federal entities to file annually with OMB a report on the status of their audit and internal investigation coverage. The Senate bill defines "head of the Federal entity" and "head of the designated Federal entity" to mean the director, administrator, president, chairman or chief executive officer of such entity, or any other body designated by statute as the head of such entity.

House Amendment

The House amendment requires each of the 33 "designated Federal entities" named in the bill, including the NRC and OPM, but not including the Corporation for Public Broadcasting and the Federal Election Commission, to establish an Office of Inspector General to be headed by an IG appointed by the head of the designated Federal entity. The House amendment contains no special provisions for the Federal Reserve System, a designated Federal entity.

The House amendment provides that the Chief Postal Inspector of the United States Postal Service shall also hold the position of Inspector General of the Postal Service, a designated Federal entity. The Chief Postal Inspector shall be appointed by the Governors of the Postal Service and may be removed or transferred by the Governors. In that case, the Governors shall notify each House of Congress of the reasons for such action.

The House amendment requires the heads of the Federal entities which are not designated Federal entities to file annually with OMB and each House of Congress a report on the status of their audit and internal investigation coverage. The House amendment defines "head of the Federal entity" and "head of the designated Federal entity" to mean the director, administrator, president, chairman, or chief policymaking officer or board of such entity, or any person or persons designated by statute as the head of such entity.

Conference Agreement

The conference agreement follows the Senate bill to include the Corporation for Public Broadcasting and the Federal Election Commission in the definition of "designated Federal entity" and to provide the NRC and OPM each with an OIG headed by a Presidentially-appointed IG (pursuant to section 102 of the conference agreement). The conference agreement also follows the Senate bill to apply relevant special provisions concerning the Treasury Department to the Federal Reserve System.

The conferees agree to follow the House amendment requiring the establishment and maintenance of an Office of Inspector General within each designated Federal entity. The conference agreement also follows the House amendment by requiring the heads of each "Federal entity" to file annually with OMB and each House of Congress a report on the status of their audit and internal investigation coverage. The first such report is due on October 31, 1989.

The conferees agree to amend the definitions of "head of the Federal entity" and "head of the designated Federal entity" to mean any person or persons designated by statute as the head of such entity, and if no such designation exists, the chief policymaking officer or board of each such entity as identified in a list to be published annually in the Federal Register by the Director of the Office of Management and Budget, after consultation with the Comptroller General of the United States. The first such list from OMB is due April 30, 1989. The conferees designate the National Science Board as the head of the National Science Foundation, a designated Federal entity.

Further, recognizing the unique structure of the National Labor Relations Act and the National Labor Relations Board, the conferees intend that "the head of the designated Federal entity" for the purposes of this bill will be the Chairman of the NLRB and that the Chairman shall exercise such authority consistent with the past practices of the Board, which has been to balance the responsibilities of the Board and the unique responsibilities of the General Counsel. In addition, because of the uniqueness of the structure of the Panama Canal Commission, the conferees intend that "the head of the designated Federal entity" for the purposes of this bill will be the Chairman of the Board of the Panama Canal Commission.

The conferees intend that the head of the designated Federal entity appoint the Inspector General without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

Section 104(a) of the conference agreement clarifies the definition of "Federal entity" specifically to exclude a "designated Federal entity". The conferees do not intend that the definition of "Federal entity" should be interpreted only to apply to federal agencies. Rather, all agencies, regulatory boards, commissions, government corporations and other federally-funded entities in the executive branch of the government which are not specifically exempted from the definition of "Federal entity" should be included. It is intended that the Office of Management and Budget will liberally enforce the requirements of section 104(h)(2) for all of the entities listed on Attachment A hereto which are existing on the effective date of section 104, and to any other similar entities within the executive branch.

The conference agreement follows the House amendment providing that the Chief Postal Inspector of the United States Postal Service shall also hold the position of Inspector General of that designated Federal entity. The conferees intend that the Chief Postal Inspector may continue to use that title to the exclusion of the title of Inspector General, as the Chief Postal Inspector may choose.

The conference agreement provides that the Postmaster General, in consultation with the Governors of the United States Postal Service, shall appoint the Chief Postal Inspector. The Postmaster General, with the concurrence of the Governors, shall have the power to remove the Chief Postal Inspector or transfer the Chief Postal Inspector to another position or location within the United States Postal Service. The conferees intend that concurrence shall be a simple majority of the Governors of the United States Postal Service. If this authority is exercised, the Postmaster General shall promptly notify both Houses of Congress in writing of the reasons for such removal or transfer.

Section 104(b) of the conference agreement provides that there shall not be transferred to an OIG established in a designated Federal entity any program operating responsibilities. The Inspector General Act authorizes each much IG to promote economy and efficiency in the administration of, and prevent and detect fraud and abuse in, programs and operations of the designated Federal entities. The IGs are intended to act as independent factgatherers, with no vested interest in policy, or in particular programs and operations. For example, the conferees do not intend that the IG at the National Science Foundation question the scientific merits of a specific grant or contract proposal or that the IG at the FEC render judgment on the Commission's exercise of discretion in a particular case or controversy involving enforcement of or compliance with the campaign finance laws. Under the IG Act, an IG in a designated Federal entity is authorized to review allegations of misconduct in the decisionmaking process, e.g., an alleged conflict of interest on the part of an officer or employee who could personally benefit from a certain decision.

SECTION 106. PROVISIONS TO ENSURE THE UNIFORMITY AND RELIABILITY OF REPORTS

Senate Bill

The Senate bill defines "audit determination" to mean the evaluation by the management of an establishment covered by the Act of the findings and recommendations included in an audit report and issuance of a written decision concerning its response to such findings and recommendations. "Audit resolution" is defined to mean the completion of all corrective actions that management has concluded in an audit determination are necessary with respect to the findings and recommendations, and in the event management concludes no action is necessary, audit resolution occurs when an audit determination has been reached. The Senate bill also defines "ineligible", "unsupported" and "disallowed" costs. The IGs are required to report on the status of audit reports through the point of audit resolution using a statistical table. The Senate bill requires the heads of each establishment covered by the Act to include in their semi-annual reports a list of each audit report not resolved within 1 year after the date on which an audit determination was made, an explanation of the reason such audit was not resolved, and for each such report, the amount of disallowed costs that are under administrative or judicial appeal and the amount of any disallowed costs returned to or offset by the Government.

House Amendment

The House amendment substitutes "management decision" and "final action" to describe "audit determination" and "audit resolution", respectively, with minor drafting changes. The House amendment requires the IGs to include with the listing of each audit report issued by the OIG during the reporting period the amounts of costs reported as "ineligible" and "unsupported" (as such terms are defined in the amendment). The IGs would also report on the status of audit reports pending and issued during the reporting period through the point of management decision using a statistical table. The House amendment would require the IGs to include separate sections in their semi-annual reports on the activities of those audit and investigative offices outside the OIG. The House amendment requires the heads of each establishment covered by the Act to include in their semi-annual reports a list of each audit report on which final action has not been taken one year after the date upon which a management decision was made in response to such report and an explanation of the reason final action had not been taken, except that such list may exclude audit reports under administrative or judicial review but shall identify the number of reports so excluded. The heads of establishments are also required to report on the status of audit reports from the point of management decision through final action using a statistical table.

Conference Agreement

The conference agreement follows the House amendment setting forth the definitions of "management decision" and "final action". The conferees agree to define "questioned" costs to mean those costs questioned by OIG because of an alleged violation of a provision of law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds; a finding that, at the time of the audit, such cost is not supported by adequate documentation; or a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable. This definition clarifies that a cost may be questioned by OIG because it is "ineligible" (a term previously separately defined in the Senate bill and House amendment), "unsupported" (a term separately defined in the conference agreement), or unnecessary or unreasonable. The conferees also agreed to separately define the terms "disallowed cost" and "recommendation that funds be put to better use".

Section 106(a) of the conference agreement follows the House amendment to require the IGs to report on the status of audit reports pending and issued during the reporting period through the point of management decision. With regard to such reports, the conferees intend that the IGs should only claim as accomplishments or savings with respect to questioned costs those costs that management of an establishment, in a management decision, has sustained or agreed should not be charged to the Government.

The conferees agree to require the IGs to use 2 statistical tables to report on audit reports pending and issued during the reporting period: one concerning the status of management decisions in repsonse to questioned costs; and the other concerning the status of management decisions in response to recommendations that funds be put to better use. Section 106(a) also requires the IGs to include with the listing of each audit report issued by the OIG during the reporting period information concerning the total dollar value of questioned costs, with a separate category setting out the dollar value of unsupported costs included in the total dollar value of questioned costs, and the dollar value of recommendations that funds be put to better use. The conferees agree to require the IGs to provide information concerning each audit report issued before the commencement of the reporting period for which no management decision has been made by the end of the reporting period.

Section 106(b) of the conference agreement follows the House amendment to require the heads of establishments covered by the Act to report on the status of audit reports from the point of management decision through final action. The conferees agreed to require the heads of establishments to use 2 statistical tables: one concerning the status of final action to be taken to recover disallowed costs; and the other concerning the status of final action to be taken to implement recommendations that funds be put to better use. Section 106(b) also requires the heads of establishments to provide a statement concerning audit reports on which management decisions have been made but final action has not been taken, other than audit reports on which a management decision was made within the preceding year, including information about the reason final action had not been taken. Such a statement may exclude audit reports under formal administrative or judicial appeal or upon which management of an establishment has agreed to pursue a legislative solution. In those instances, the heads of establishments shall identify the number of reports so excluded.

SECTION 109. EXTERNAL REVIEWS

The Senate recedes from its disagreement to the amendment of the House in regard to the reviews of Offices of Inspector General and other audit offices to determine compliance with section 4(b)(1)(A) of the Act with a substitute agreed to in conference which makes technical, conforming and clarifying changes.

SECTION 110. TECHNICAL AMENDMENTS

The Senate recedes from its disagreement to the amendment of the House in regard to the technical amendments to the Act concerning the authority of the IGs to appoint members of the Senior Executive Service to SES positions in the OIG and the status of members of the Coast Guard for purposes of section 7 of the Act.

SECTION 111. REPORT ON IMPLEMENTATION

The Senate recedes from its disagreement to the amendment of the House in regard to the one-time report required of the heads of each of the 33 designated Federal entities named in section 104(a) of the conference agreement concerning the status of implementation by each designated Federal entity of the requirements of section 104. The conferees agree that the report shall be submitted to OMB and each House of Congress on October 31, 1989. The conferees also agree to other clarifying and technical changes.

SECTION 112. PAYMENT AUTHORITY SUBJECT TO APPROPRIATIONS

The Senate recedes from its disagreement to the amendment of the House subjecting payment authority under Title I of the conference agreement to appropriations Acts.

SECTION 113. EFFECTIVE DATE

The Senate recedes from its disagreement to the amendment of the House in regard to making the effective date of Title I and the amendments to the Act made by Title I with a substitute agreed to in conference which clarifies that the effective date of all but the amendments to section 5 of the Act (relating to the IGs' and establishment heads' reporting requirements) shall be 6 months from the date of enactment of Title I. The effective date of the amendments to the reporting requirements shall be 1 year after the date of enactment of Title I.

TITLE II—GOVERNMENT PRINTING OFFICE INSPECTOR GENERAL

The Senate recedes from its disagreement to the amendment of the House in regard to Title II, which establishes an IG appointed by the Public Printer in GPO, with a substitute agreed to in conference which makes clerical corrections, structural changes, and technical and clarifying changes.

ATTACHMENT A

Administrative Conference of the United States
Advisory Committee on Federal Pay
Advisory Commission on Intergovernmental Relations
Advisory Council on Historic Preservation
African Development Foundation
Alaska Land Use Council
Alaska Natural Gas Transportation System Office of Federal Inspector
American Battle Monuments Commission
Architectural and Transportation Barriers Compliance Board
Arms Control and Disarmament Administration
Barry Goldwater Scholarship Foundation
Commission on Fine Arts
Commission on Civil Rights
Commission on Constitution Bicentennial
Commission on Education of the Deaf
Commission on Ukraine Famine
Center for Cultural and Technical Interchange Between East and West
Columbia Quincentenary Commission
Commission for Purchase from the Blind and Other Severely Handicapped
Delaware River Basin Commission
Export-Import Bank
Federal Mediation and Conciliation Service
Federal Mine Safety and Health Review Commission
Federal Retirement Thrift Investment Board
Federal Savings and Loan Insurance Corporation
Franklin Roosevelt Memorial Commission
Harry Truman Scholarship Foundation
Holocaust Memorial Commission
Illinois and Michigan Canal National Heritage Corridor Commission
Institute for Museum Services
Intelligence Community Staff
Inter-America Foundation
James Madison Fellowship Foundation
Japan-United States Friendship Commission
Jefferson National Expansion Memorial Commission
Marine Mammal Commission
Merit Systems Protection Board
Office of Special Counsel
National Afro-American History Commission
National Board for Promotion of Rifle Practice
National Capital Planning Commission
National Consumer Coop Bank
National Commission on Libraries and Information Science
National Council on Employment Policy
National Council on Handicapped
National Council on Public Works Improvement
National Critical Materials Council
National Endowment for Democracy
National Institute of Building Sciences
National Mediation Board
National Transportation Safety Board
Navajo-Hopi Relocation Commission
Neighborhood Reinvestment Corporation
Occupational Safety and Health Review Commission
Office(s) of Independent Counsel(s)
Overseas Private Investment Corporation
U.S. Institute for Peace
Pennsylvania Avenue Development Corporation
Postal Rate Commission
Potomac River Basin Commission
Selective Service System
U.S. Sentencing Commission

State Justice Institute
Susquehanna River Basin Commission
Washington Metropolitan Transit Authority

Jack Brooks,
John Conyers,
Mike Synar,
Bob Wise,
Ben Erdreich,
Frank Horton,
Robert S. Walker,
Bill Clinger,
Managers on the Part of the House.
John Glenn,
Lawton Chiles,
Jim Sasser,
David Pryor,
Bill Roth,
Ted Stevens,
John Heinz,
For the purposes of the Nuclear Regulatory Commission provisions only:
John Breaux,
Al Simpson,

Managers on the Part of the Senate.

APPOINTMENT OF CONFEREES ON S. 2100, WATER RESOURCES DEVELOPMENT ACT OF 1988

The SPEAKER. The Chair appoints the following conferees on S. 2100: Mr. Anderson; Mr. Roe, except section 30; Mr. Nowak, as an additional conferee; Mr. Borski, on section 30 only of H.R. 5247, as reported, now contained in the House amendment and modifications committed to conference; and Mr. Hammerschmidt and Mr. Stangeland.

TODAY IS AN HISTORIC DAY

(Mr. CONTE asked and was given permission to address the House for 1 minute.)

Mr. CONTE. Mr. Speaker, it is not often that one gets to take part in history. But today is a day of historic, nay, of olympic, proportions. Today is a day that shatters myths, that counters our critics, that ends many winters of discontent.

For the first time since 1948, 40 years ago, long before the House of Representatives was more than an apple in my eye, this House of the United States of America has completed action on all 13 appropriations bills prior to the start of the fiscal year on October 1.

For the first time since 1953, 35 years ago, this Congress will not resort to a stopgap continuing resolution to keep the Government from running out of money at the start of the new fiscal year.

For the first time in the modern era, the Federal budget for the upcoming fiscal year is in place, on time and under budget.

This is it, Mr. Speaker, right here, right now. This is how the Government should run. This is how the Congress should conduct its business.

This is the textbook case that can be held up as the gold standard against which our future actions can be compared.

Let it be said, to all those who would criticize the workings of our democracy, that good Government is back—and hopefully here to stay.

Why, Mr. Speaker, why have we come so far? I would say there is no magic, no special fix, that's been put into place.

In fact, it is in spite of all the reforms—the Budget Act, which has bogged us down so badly; and Gramm-Rudman-Hollings, which gave OMB the power, by making them the unchallengeable bean counters, to jerk us around with the threat of sequester.

What was different this year was leadership. Last November, leaders in the House, the Senate, and the administration met in a Budget Summit Conference to confront, head on, the crisis of the Federal deficit.

For 22 days, we met and hashed out an agreement setting broad overall targets for domestic, military and international spending. With that agreement in place, the Appropriations Committee simply went to work and did its job.

It didn't take an act of Congress. It didn't take years of hearings, and proposals and reforms. All it took was getting key members of the administration and Congress into the same room to work out broad targets ahead of time that we could shoot for. And then, the Speaker, the leadership on my side of the aisle, the House, and the administration, simply let the Appropriations Committee do its job. And for that, I thank you.

Mr. Speaker, it is a great privilege for me to stand here in the well of the House on this momentous and historical occasion.

My privileges have been many: The privilege of working with the chairman of the committee, the dean of the House of Representatives, the gentleman from Mississippi, Jamie Whitten; the privilege of representing the minority and of working with the Speaker Jim Wright and the Republican leader, the gentleman from Illinois, Bob Michel; the privilege of working with the members of the committee from my side and all the Members.

This is a very special moment for me, a first in my career, that I will be proud of for years to come.

I would like to thank all the Members of this House and to say that the gold medal for this great achievement goes to all of you. Congratulations on a job well done. And happy fiscal new year.

Mr. Speaker, it's an historic moment. We're at the end of the end of a long marathon. It's the last amendment in disagreement on the last bill on the last day of the fiscal year. We can see the finish line across the hill and down the avenue. It's only 16 blocks away, but there's a hurdle across the Capitol.

With apologies to the great Johnny Mercer, I say to my friends in the Senate:

Something's gotta give!
When an irresistible force such as you,
Meets an old immovable object like us,
You can bet as sure as you live,
Something's gotta give,
Something's gotta give,
Something's gotta give.

When we work 11 months or more,
And you leave early the day before,
Please don't say no because we insist,
This deadline just can't be missed.

Something's gotta give,
Something's gotta give,
Something's gotta give.

Let's make history at this late date,
Senate action tomorrow will be too late,
The House has acted so the President can sign,
All the funding bills on time.
Now Senate: work, work, work with all your might!
Chances are you may get it right.
We'll find out at the stroke of midnight.

Something's gotta give,
Something's gotta give,
Something's gotta give.

□1745

CONGRATULATIONS TO HOUSE ON PASSAGE OF APPROPRIATIONS BILLS

(Mr. WHITTEN asked and was given permission to address the House for 1 minute.)

Mr. WHITTEN. Mr. Speaker, this is a great occasion and I am very thankful, and I do think that we should take time to realize that it has not been the Appropriations Committee that has delayed the Congress, nor spent money beyond the limits. We have passed our appropriations bills on the House side in time. In recent years we have had to resort to continuing resolutions because our friends on the other side could not do their work. I want to say that this year has been different and it is a great day, and I want to take the time on this occassion when we are so proud about the end result to point out that our Committee on Appropriations joins with you and other leaders in celebrating this occasion. I believe there is enough credit to pass a little around to each of the 57 members of our committee.

Mr. Speaker, may I say "thank you" for giving our various appropriations bills the right-of-way on the floor and I hope that you will join in our happiness at the end result.

This year we had to wait for the Budget Committee for some 53 days after the due date because the Senate and the House couldn't agree on the budget bill. Then after it was 53 days overdue, we had a new set of figures so we had to do it all over again. We need to look at this problem in the future and figure out a way that we can help the Congress and the committees do their work instead of stopping it.

Mr. Speaker, our committee is going to need much more to help next year by insisting that the Budget Committees and the Senate act on time. As the record shows, it was the failure of agreeing to a timely budget resolution that forced us into a continuing resolution for the past 2 years.

I couldn't conclude without telling my colleagues about how much work we had to do this year. I would like to repeat what I said today in debate on the defense appropriations bill.

Our committee held 275 days of hearings and took testimony from over 5,000 witnesses which is printed on 88, 319 pages in 90 hearing volumes. And we held the total of appropriations bills below our allocation and we finished on time.

Mr. Speaker, let me tell you about the House Members who helped to bring this great occasion about, particularly Silvio Conte, the ranking Republican of the committee, who has worked so hard to bring this about.

In order to do this job, we had the help of the staff which in my opinion is second to none.

I submit for the record the names of the subcommittee chairmen and their Republican counterparts who certainly share the credit:

Subcommittee on Commerce-Justice-State-Judiciary: Neal Smith, chairman; Hal Rogers, ranking Republican.

Subcommittee on Defense: Bill Chappell, chairman; Joe McDade, ranking Republican.

Subcommittee on District of Columbia: Julian Dixon, chairman; Larry Coughlin, ranking Republican.

Subcommittee on Energy and Water Development: Tom Bevill, chairman; John Myers, ranking Republican.

Subcommittee on Foreign Operations, Export Financing, and Related Programs: David Obey, chairman; Mickey Edwards, ranking Republican.

Subcommittee on HUD-Independent Agencies: Edward Boland, chairman; Bill Green, ranking Republican.

Subcommittee on Interior: Sidney Yates, chairman; Ralph Regula, ranking Republican.

Subcommittee on Labor-Health and Human Services-Education: Bill Natcher, chairman; Silvio Conte, ranking Republican.

Subcommittee on Legislative: Vic Fazio, chairman; Jerry Lewis, ranking Republican.

Subcommittee on Military Construction: Bill Hefner, chairman; Bill Lowery, ranking Republican.

Subcommittee on Rural Development, Agriculture, and Related Agencies: Jamie Whitten, chairman; Virginia Smith, ranking Republican.

Subcommittee on Transportation: Bill Lehman, chairman; Larry Coughlin, ranking Republican.

Subcommittee on Treasury-Postal Service-General Government: Edward Roybal, chairman; Joe Skeen, ranking Republican.

Mr. Speaker, as a result of the work done by these subcommittees and the full committee, all 13 appropriations bills passed the House before June 30 and the conference agreements on all 13 bills were approved by the House on or before September 30. We were glad to carry out your request.

PROVIDING FOR CONSIDERATION OF S. 2846 PROVIDING GRANTS FOR PURCHASE OF DRUGS IN THE TREATMENT OF AIDS

Mr. DERRICK, from the Committee on Rules, reported the following privileged resolution (H. Res. 559, Rept. No. 100-1021), which was referred to the House Calendar and ordered to be printed.

H. Res. 559

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (S. 2846) to provide for the awarding of grants for the purchase of drugs used in the treatment of AIDS. Debate on the bill shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, and the previous question shall be considered as ordered on the bill to final passage without intervening motion except one motion to commit.

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 559 and ask for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution.

The SPEAKER. The question is, Will the House now consider House Resolution 559?

The question was taken; and (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 559.

The SPEAKER. The gentleman from South Carolina [Mr. Derrick] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Ohio [Mr. Latta] pending which I yield myself such time as I may consume.

Mr. Speaker, this rule provides for consideration of S. 2846, a bill to provide for the awarding of grants for the purchase of drugs to be used in the treatment of AIDS. The bill will be considered in the House, with debate limited to 1 hour and equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce. The rule provides that the previous question shall be considered as ordered on the bill. Finally, the rule provides one motion to recommit.

Mr. Speaker, this rule is necessary to allow consideration of this amendment in a timely manner so that AIDS patients will not be denied access to drugs that are used in the treatment of that disease.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there was an attempt to obtain unanimous consent to consider the bill providing for the awarding of grants for the purchase of drugs used in the treatment of AIDS. Objection was heard.

The Rules Committee was then called into an emergency session to report this rule. This rule provides for consideration of the bill in the House. The bill will be debated for 1 hour. No amendments will be in order.

Mr. Speaker, this bill passed the Senate yesterday by a voice vote. According to the description on the Senate floor. It is an authorization for $15 million to be expended between now and March 1989 for the purchase of AZT for those who cannot afford it. The present program expires at midnight tonight.

Mr. Speaker, I will not object to the passage of this rule. So that the House may proceed to the consideration of the bill it makes in order.

Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF S. 2749, NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1989

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 557 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 557

Resolved, That upon the adoption of this resolution it shall be in order to take from the Speaker's table the bill (S. 2749) to authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, to consider said bill in the House, and all points of order against consideration of said bill are hereby waived. It shall then be in order to move to strike out all after the enacting clause of said Senate bill and to insert in lieu thereof the provisions of H.R. 4481 as passed by the House on July 12, 1988. Said motion shall be considered as read, shall be debatable for not to exceed one hour, to be equally divided and controlled by the proponent and a Member opposed thereto, all points of order against said motion are hereby waived, and the previous question shall be considered as ordered on the motion to final adoption without intervening motion except one motion to commit. It shall then be in order to move that the House insist on its amendment to the bill S. 2749 and request a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. HOYER). The gentleman from South Carolina [Mr DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Ohio [Mr. LATTA], pending which I yield myself such time as I may consume.

□ 1800

Mr. Speaker, House Resolution 557 makes in order procedures that will allow the House to go to conference with the Senate on legislation providing a mechanism for closing unnecessary military bases. The rule makes it in order to take S. 2749, the Defense Authorization Act for fiscal year 1989, from the speakers table and consider it in the House and waives all points of order against consideration of the bill. The rule provides that a motion will then be in order to consider an amendment in the nature of a substitute consisting of the text of H.R. 4481 as passed by the House on July 12, 1988. Debate on this motion is limited to 1 hour, with the time equally divided and controlled by the proponent and an opponent of the motion. All points of order against the motion are waived and the previous question shall be considered as ordered. The rule provides for the one motion to commit. Finally, the rule provides that it shall be in order to move that the House insist on its amendment and request a conference with the Senate.

Mr. Speaker, this rule is necessary to ensure that the House and Senate can go to conference on the very important base-closing legislation that this House passed earlier this year as H.R. 4781. The procedure is necessary because, in order to speed up the process of getting a revised Defense authorization bill to the President, the House and Senate Armed Services Committee conferees stripped H.R. 4781 of the base-closing provisions and substituted the Defense authorization bill. This rule will allow the House to take up S. 2749, which is a Senate-passed version of the Defense authorization bill and substitute for those provisions the House-passed base-closing legislation and go to conference on those provisions.

Mr. Speaker, the base-closing legislation offers a mechanism which will allow us to close costly military installations which have outlived their usefulness, but which are difficult to eliminate because of strong local support for the facilities and the jobs they provide. In the past, we have often avoided the tough decisions to close bases because of the suspicion that bases were targeted for closing more on the basis of political considerations than efficiency. This legislation provides a process which will focus the decisions on the real needs of our military.

I urge the adoption of this rule and of the motions it makes in order, so that this important legislation can be completed before the adjournment of the 100th Congress.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill made in order by this rule is the Senate Defense authorization bill, which happens to include base closing provisions.

This rule provides for a motion to strike the provisions of the Senate bill and insert in lieu thereof the provisions of the base closing bill passed by the House on July 12 of this year. Finally, the rule makes in order a motion to send the base closing language to conference.

Mr. Speaker, when the House last considered the base closing legislation it passed by a vote of 374 to 39. With such strong bipartisan support we should proceed to act before the end of the Congress. This rule provides the best means to achieve that goal.

I support the rule, Mr. Speaker, so that we can move this legislation promptly to conference.

Mr. Speaker, I yield 30 seconds to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I wanted to ask the Chair a question. I think the Members of this body are entitled to be given some direction tonight as to what the schedule is for the rest of the day. Many Members have meetings to go to, have family events, and no one from any side, my side or the other side, is telling us what the schedule is. I would request that the Speaker tell us what we will be doing for the rest of the night and when we are finished. Do we know?

Mr. DERRICK. Mr. Speaker, I yield such time as he may consume to the distinguished majority leader, the gentleman from Washington [Mr. FOLEY].

Mr. FOLEY. Mr. Speaker, we have been advised that the other body has amended at least two of the appropriations bills conference reports and accordingly we will have to await their action and our action in resolving those differences and any other action that may be taken on appropriations.

As a consequence I think, after completing our announced schedule, we may be requesting recess authority subject to the call of the Chair and try to keep Members advised from time to time on the plans with respect to resuming sitting of the House. The only thing I can tell Members is that we are at the end of the fiscal year and it is critically important that the Congress send to the President as soon as possible the individual appropriation bills on which we have determined to provide funding for the Federal Government.

It is not an easy situation for Members, it is not a convenient situation for Members. It is no one's fault. It is the process of adjudicating the differences between the two bodies with respect to this critical legislation.

I think we will have to consult and will consult with the leadership on the Republican side during the course of the evening as well as with the leadership in the other body to assess at what time we may expect to complete action or the possibility that we will adjourn to meet tomorrow.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Mr. Speaker, if we could look just a little bit further down the road, it is my understanding we are going to have approximately 40 suspensions on Monday and because there has been some dissension in the ranks there may be as many as 40 votes called for Monday. Now a number of Members on both sides of the aisle, all of us are up for reelection of course, had events scheduled for money fundraisers and so forth. I just wonder if there is any possibility whatsoever if we have as many as 30 or 40 votes on suspensions on Monday, if they could be held over until Tuesday morning.

Mr. FOLEY. Well, I will tell the gentleman we do not intend to roll the votes, all of the votes on Monday over to Tuesday. And if an individual Member wants to record 40 votes, then it would be important for Members to know that if they are absent they will miss 40 votes.

Mr. BURTON of Indiana. So there will be 40 votes that Members will miss——

Mr. FOLEY. I cannot tell the gentleman. If the gentleman wants to suggest that is what will happen then I think we ought to be prepared for a very long day on Monday.

I might say that I think Members should realize that we have said consistently throughout all the recent weeks that every Monday and Friday this week and next week there would be votes on every day. That was announced. It was announced in the same spirit in which we have attempted to announce a month ahead of time the schedule of votes on each weekly schedule. So it seems to me that if Members find themselves in a situation where they had expected that there would not be votes on a Monday or a Friday, they have that expectation against all the information that has been provided on both sides of the aisle for several weeks.

And again, with the greatest respect, we are at the end of our session and I think Members always realize that in those circumstances, extraordinary sessions are sometimes necessary to complete the work of the House.

In my judgment this is a historic Congress, not only in terms of its 100th Congress character but in terms of the legislation that is being passed and sent to the President. And I would hope that in the best spirit possible we could conclude this Congress in an orderly way which will be the most convenient and the most effective for both the Members and the administration and indeed, the country.

Mr. DORNAN of California. Mr. Speaker, would the distinguished majority leader yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. DORNAN of California. I thank the gentleman for yielding.

Mr. Speaker, I just wanted to inquire about today. Instead of recessing, we did not have 1-minutes this morning and today is the 50th anniversary of the unfortunate Chamberlain remark "Peace in our time."

Mr. FOLEY. I did not mean to imply——

Mr. DORNAN of California. I would like to do a special order.

Mr. FOLEY. Yes; I am sorry. If the gentleman assumed by that that we would not do 1-minutes or would not do special orders, he was mistaken. I meant to say in terms of legislative business we would, after our completed schedule, we would perhaps seek recess authority. But before that we would assume the conclusion of 1-minute speeches and special orders.

Mr. DORNAN of California. I thank the majority leader. I have a fascinating special order.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the distinguished leader.

Mr. MICHEL. I thank the majority leader for yielding.

Mr. Speaker, I apologize for my tardiness in not being able to hear his earlier remarks. I was talking to the other body over there. I understand that the agriculture bill is all right and that foreign operations has passed, but with two or three amendments which I know cause heartburn downtown. Obviously that will force it back for reconsideration here in the House.

The District of Columbia measure, the abortion issue will have to be dealt with again over there on that side.

Legislative operations appears to be all right.

Do we have any preprogram terminal point for this evening when we would make a decision as to whether or not we should go over until tomorrow? Does the gentleman have any guesstimate as to when we might want to make that determination or should we just charge on through regardless with time considerations?

Mr. FOLEY. Mr. Speaker, I would assume—and this is only an assumption and I would like to have the opportunity to consult with the gentleman and with other Members of the leadership on his side—I would assume if we could not complete the business by midnight that it might well be the best course after consultation perhaps with the leadership on the other side in the other body as well to go over until tomorrow. But rather than make a commitment to Members now that we will not meet after midnight, I would like to have an opportunity to see a bit more of the progress that we may make in the earlier part of the evening. It would be foolish, for example, if we could complete all our business by 12:30 a.m. to adjourn at midnight and come back tomorrow under a situation which would obviously be more easily concluded by continuing.

But we simply need a little more opportunity to see the progress of the early evening to make a judgment.

What I would propose to do is proceed with the legislative business and with special orders and 1-minute speeches and then if circumstances indicate, and permission is given, recess with 1 hour's notice to Members of the resumption of House sitting.

Perhaps it might be appropriate, Mr. Speaker, to say that I ask unanimous consent that at the conclusion of legislative business and special orders, it shall be in order for the Speaker to declare recesses subject to the call of the Chair, providing 1 hour's notice to Members of the resumed sitting of the House.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from Washington?

Mr. WALKER. Reserving the right to object, Mr. Speaker, I would say to the majority leader that I do have some concerns about that kind of authority. Of course, if he goes to the Rules Committee and comes down and gets the authority, that is fine with this gentleman, but to do it by unanimous consent gives me some concern, largely because I think there is legislation we could be dealing with during the period of time when the House would otherwise not be sitting.

I have on occasion prior to this referred to perhaps taking up the Clean Air Act. I realize that has not emerged yet from committee. But we do have a bunch of suspensions on the calendar for next Monday. It occurs to this gentleman that some of those suspensions could come up during a period of time when the House would otherwise be in downtime. It would certainly save the Members some time on Monday or Tuesday to have some of those matters taken up yet tonight. I mean, can we not find some legislative business to be doing since we have such a pressing schedule next week?

Mr. FOLEY. Well, it might be possible to do that. I cannot tell the gentleman now that the committees are ready on this short notice to begin debate on suspensions. And I really think that the gentleman could be assured that we would declare recesses only after the most complete consultation with the Republican leadership. We are not trying to either avoid possible work or bring about unnecessary recesses.

□ 1815

But Members also, I think, might benefit from some brief respite during the course of the evening if there is no legislation ready to be considered and we are waiting for the other body.

Mr. WALKER. Mr. Speaker, further reserving the right to object, that is just this gentleman's point. We do have lots of legislation that we could be considering, and we will be in a time crunch sometime next week with the suggestion that we have a lot of legislation to do and we need to continue to pile it on the calendar.

The gentleman is simply suggesting that rather than recessing, we might be better off moving ahead with legislation that is scheduled to come to the floor anyway, thereby giving us a chance to be more rational in the scheduling next week. While I agree that the gentleman may have to check with the committees, I would be reluctant to grant a unanimous consent for a recess at this point.

Mr. FOLEY. Mr. Speaker, I think the gentleman is saying that he prefers that the House obtain a rule.

Mr. Speaker, I withdraw my unanimous-consent request.

The SPEAKER pro tempore (Mr. HOYER). The Chair recognizes the gentleman from South Carolina [Mr. DERRICK].

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3408. An act to increase the amounts authorized for the Colorado River Storage Project.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 5261), "An act to reauthorize and amend the Indian Health Care Improvement Act, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. INOUYE, Mr. MELCHER, Mr. DECONCINI, Mr. BURDICK, Mr. DASCHLE, Mr. EVANS, Mr. MURKOWSKI, and Mr. MCCAIN to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4637), "An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes."

The message also announced, that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 1, 5, 7, 10, 11, 23, 31, 33, 35, 44, 47, 53, 55, 62, 64, 70, 84, 86, 87, 89, 90, 101, 103, 111, 112, 115, 124, 133, 134, 135, 141, 144, 169, 170, 171, 172, 173, 175, 177, 179, and 180 to the above-entitled bill.

PERSONAL EXPLANATION

(Mr. KOLBE asked and was given permission to address the House for 1 minute.)

Mr. KOLBE. Mr. Speaker, yesterday, September 29, 1988, I was unable to cast my vote on several measures because I was at the Kennedy Space Center for the launch of the space shuttle *Discovery*. If I had been in attendance, I would have voted "aye" on rollcall 364, "nay" on rollcall 365, "nay" on rollcall 366, "nay" on rollcall 367, "aye" on rollcall 368, and "aye" on rollcall 369.

PROVIDING FOR THE AWARDING OF GRANTS FOR THE PURCHASE OF DRUGS USED IN THE TREATMENT OF AIDS

Mr. WAXMAN. Mr. Speaker, pursuant to House Resolution 559, I call up the Senate bill (S. 2846) to provide for the awarding of grants for the purchase of drugs used in the treatment of AIDS.

The Clerk read the title of the Senate bill.

The text of S. 2846, is as follows:

S. 2846

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GRANTS FOR TREATMENT DRUGS FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 314 the following new section:

"SEC. 315. GRANTS FOR TREATMENT DRUGS FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME.

"(a) AUTHORITY.—The Secretary, may make grants to the States for the purpose of assisting grantees in the provision of drugs determined to prolong the life of individuals found to have acquired immune deficiency syndrome and related conditions.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there is authorized to be appropriated $15,000,000.

"(c) PERIOD FOR GRANTS.—No grant may be made under this section after March 31, 1989.

"(d) REPEALER.—This section shall cease to exist on March 31, 1989.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 30 minutes and the gentleman from Illinois [Mr. MADIGAN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, there is a current program for funding the purchase of a drug called AZT. It is the only drug now approved by the Federal Drug Administration to be used by AIDS patients.

The program will run out tonight unless we adopt this legislation. The legislation that is before us was adopted unanimously on the Senate side. It was authorized by Senator WEICKER. It would extend for 6 additional months the existing program for the purchase of the drug AZT.

It is imperative that we pass this legislation so that we leave no gap, so that people who must have this drug to stay alive would go without it.

So the legislation before us is urgent, and I ask for the adoption of the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2846.

The authorization for the AIDS Drug Reimbursement Program expires at midnight tonight. That authorization provided $30 million to assist individuals with AIDS in purchasing AZT.

The Medicaid programs of every State but two—Alabama and Colorado—currently provide reimbursement for the cost of retrovir for indigent patients. However, there remain several thousand AIDS patients who do not qualify for Medicaid, who lack private health insurance and who are unable to pay for the drug. These patients fall between the cracks of our health care system.

S. 2846 simply extends the current program for 6 additional months and provides authority for the expenditure of $15 million. This authority will be repealed at the end of this 6 month period.

It is my understanding that the sponsor of the drug, Burroughs Wellcome, also intends to contribute to solving the problem of access to this drug through a special patient assistance grant. I commend them for this effort and I urge my colleagues to support this bill.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from California.

Mr. DANNEMEYER. Mr. Speaker, I thank my colleague, the gentleman from Illinois, for yielding.

Mr. Speaker, I rise in support of this legislation. I think the House should speedily adopt it.

I can only add that some of us on the Subcommittee on Health and Environment, on which I am privileged to serve, have urged the Federal Drug Administration to modify its practice dealing with licensing drugs that offer some hope to people who are suffering now from a fatal disease in this country called AIDS.

As the practice now exists, before a drug can be approved, you have to pass two tests—safety and efficacy. Sometimes the process can last as long as 6 or 7 years. Some of us have urged, in light of the severity of the problem in the country, that the FDA be urged to authorize physicians to prescribe drugs when the safety hurdle is passed and then let a patient who is said to be dying have an opportunity to make a decision as to whether or not they want to take the drug notwithstanding the fact that the efficacy test has been fulfilled.

So I hope the FDA will get on with that suggestion. I think it would be a constructive way to hopefully develop more drugs that would reduce the suffering of these persons who are suffering from this tragic disease.

Mr. MADIGAN. Mr. Speaker, I thank the gentleman from California [Mr. DANNEMEYER] for his comments and for his support of the bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding this time to me, and I rise in support of the legislation.

I commend the gentleman from California [Mr. WAXMAN] and the gentleman from Illinois [Mr. MADIGAN] for their leadership.

I am pleased to give them my commendation and my gratitude for their fine work on this issue.

Mr. Speaker, I strongly support this legislation which would authorize a 6-month continuation of the Federal AZT Distribution Program. As you know the program is scheduled to expire today unless Congress acts. When Congress approved this program last year, we expected that there would soon by an even more effective alternative to this very costly drug. This, however, is not the case. AZT is the only drug approved for the treatment of AIDS and AIDS-related condition.

This is an emergency measure to address a crisis. About 6,000 people are now being treated with AZT in the United States. While there is no cure for AIDS, studies indicate that AZT cannot only prolong life but also increase the quality of life. There is no alternative and the cost remains exceptionally high.

Although the full medical story of AZT is still to be written, early studies indicate that withdrawal from AZT treatment can, for some people, result in an even greater degree of illness than before they started the drug. This possible medical rebound effect has led to a moral responsibility to try to keep people supplied with the drug until something equally effective but less costly can be found.

This program has succeeded in improving the lives of people with AIDS and AIDS-related conditions. It has allowed many people to continue to work and thus continue to feel productive in their lives. Unfortunately, the cost of the drug is such that were it not for this program these people would have to leave their jobs and become Medicaid eligible in order to receive the drug. This would be a loss to our economy and a shame for the people involved.

Clearly, we must look for more long-term solutions to the general problem of expensive life-prolonging drugs and the role of the Federal Government. In the next Congress, we will have another opportunity to develop a solution to this problem. Today we must act to save lives. We must authorize a 6-month continuation of this program.

Mr. WAXMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to the rule, the previous questions is ordered.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PERSONAL EXPLANATION

(Ms. PELOSI asked and was given permission to address the House for 1 minute.)

Ms. PELOSI. Mr. Speaker, on Thursday, September 29, 1988, I was unavoidably detained during voting on the motion to recede and concur in the Senate amendment making appropriations for foreign operations. Had I been present I would have voted "yea" on rollcall 367.

UNITED STATES MILITARY PERSONNEL ABUSED IN DETERIORATING SITUATION IN PANAMA

(Mr. McCLOSKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCLOSKEY. Mr. Speaker, this is not the time for business as usual in Panama.

It is shocking to read in yesterday's New York Times of continued shootings, beatings, abuse, harassment, and rape of American military personnel and dependents by Noriega's military defense forces.

At my request, Chairman BILL NICHOLS of the Armed Services Subcommittee on Investigations, on which I serve, has agreed to hold hearings on this deplorable situation.

State Department officials and mid-ranking officers in the Southern Command reportedly maintain the command's leadership is more content with business as usual than with vigorously protesting Noriega abuses. The Times article notes the White House has made it clear that negative publicity about Panama policy should be kept to a minimum as the political campaign intensifies.

Mr. President, this is negative publicity. Surely such cases as the rape of the 18-year-old wife of a private first class, and the beating of an officer and his wife by a Panamanian officer cry out for redress.

If the Reagan-Bush administration truly cares for the safety and dignity of our citizens in Panama, they should protest the almost 300 such cases reported in the last 6 months at least as vigorously as the current protest over Panamanian seizure of United States military equipment.

WORKING POOR AGAIN VICTIMIZED AS CONGRESS SHELVES MINIMUM WAGE INCREASE

(Mr. HAYES of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES of Illinois. Mr. Speaker, it is indeed a sad day in America when the economic well-being of millions of Americans is shelved because of an uncaring, unsympathetic, and unwise partisan political agenda.

In the 7 years since the minimum wage was raised, millions upon millions of American workers have had to suffer the ravages of inflation and escalating living expenses, without a corresponding increase in their wages. Their cries for a decent wage have gone unanswered and unfortunately, due to the actions of a minority of Members in the other body, it appears they will continue to go unanswered. The sad truth is that the protectors of economic slavery are alive and well on the far side of this Capitol Building.

My district has more poor and working poor people than any other district in Illinois. In 1986, the Nation as a whole had 8.9 million working poor, 2 million of whom worked full time year-round but remained in poverty. While forcing hard working citizens to work at a minimum wage which keeps them in poverty may be characteristic of our trading partners, it certainly is not the manner in which the world's richest nation should be treating its own citizens. Raising the minimum wage should not be an issue held hostage for the political ambitions and agenda of a few millionaires.

While many of our colleagues have worked very hard to resolve the problems that the Reagan administration has with treating American working men and women with fundamental fairness, some Members of the other body have given up on raising the minimum wage. I am here to tell them that the issue is far from dead. It will resurface in the current Presidential campaign, it will resurface in this Chamber and the other Chamber, and yes, it will resurface in many of the 435 congressional districts that we represent.

For those Members without the backbone to press for a minimum wage increase, it will be an issue that could very well spell their early departure from these hallowed Halls. We in the U.S. Congress need to honor this Nation's 50-year contract with low-wage workers by paying a decent minimum wage now.

□ 1830

FAMILY SUPPORT ACT

(Mr. OWENS of Utah asked and was given permission to address the House for 1 minute.)

Mr. OWENS of Utah. Mr. Speaker, as one of the original cosponsors of this bill, I rise to express my pleasure that we passed today the first major overhaul of our welfare system in 53 years. I would like to commend Chairman ROSTENKOWSKI, Representative DOWNEY, and Senator MOYNIHAN, and the other conferees, for their unceasing effort to reach a compromise so this extraordinary legislation could become law.

I have always believed that the work ethic must be enshrined, along with opportunity, in our welfare programs. Welfare services must be inextricably linked with work incentives. In my State, the LDS Church's successful welfare services have evidenced that this conference report's workfare provisions can help numerous welfare recipients become self sufficient.

Work, education, and training programs will encourage parents—some third generation welfare recipients—to break out of the poverty cycle and find dignified opportunity and hope. The growing number of children becoming dependent on welfare—reaching almost 7 million—has become a disturbing fact that we as a nation can no longer ignore.

This bill's work, education, and training programs are an investment, not only in the future productivity of welfare recipients, but also an investment in the future productivity of our Nation. It is the children we must help first. By assisting, and insisting that the parents find work, we teach the children that self sufficiency is both possible and respectable.

Not only does this bill provide immense benefits to the individual welfare recipients and their children, but this bill does it in a manner consistent with our fiscal difficulties.

Again, I express my appreciation and gratitude to our colleagues, the conferees, for their patient, almost superhuman, efforts which made this historical bill possible.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 316

Mr. SLAUGHTER of Virginia. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of House Concurrent Resolution 316.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from Virginia.

There was no objection.

DEFERRAL OF BUDGET AUTHORITY AFFECTING DEPARTMENT OF STATE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 100-237)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed.

(For message, see proceedings of the Senate of today, Friday, September 30, 1988.)

DEFERRALS OF BUDGET AUTHORITY AFFECTING DEPARTMENTS OF AGRICULTURE, DEFENSE, ENERGY, HEALTH AND HUMAN SERVICES, JUSTICE, STATE, AND TRANSPORTATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 100-238)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed.

(For message, see proceedings of the Senate of today, Friday, September 30, 1988.)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will begin to call special orders without prejudice to the resumption of legislative business should that become necessary.

PASSIVE FOREIGN INVESTMENT COMPANIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. COYNE] is recognized for 5 minutes.

Mr. COYNE. Mr. Speaker, the United States usually imposes a tax on U.S. shareholders of a foreign corporation only when the shareholder receives the corporation's earnings in the form of a dividend.

One exception to this deferral is set forth in subpart F of the Internal Revenue Code. According to the General Explanation of the Tax Reform Act of 1986, prepared by the staff of the Joint Committee on Taxation, "* * * under these provisions, income from certain 'tax haven' or other activities conducted by corporations controlled by U.S. shareholders is taxed currently to the corporation's U.S. shareholders without regard to whether they actually receive the income currently in the form of a dividend."

Another exception to the deferral principle is the foreign personal holding company [FPHC] provision. Under subpart F, if a foreign corporation is controlled by U.S. stockholders, those U.S. shareholders who own at least 10 percent are taxed currently on their share of the firm's passive investment income. Further, if a corporation is controlled by five or fewer U.S. shareholders, and the income of the corporation is primarily from passive investment, then each shareholder is taxed currently, as opposed to deferral, on the corporation's passive investment income.

The 1986 Tax Reform Act expanded the scope of current taxation so as to include some types of income not currently taxed under subpart F or the FPHC provisions. The law did this by establishing passive foreign investment companies.

A passive foreign investment company [PFIC] is defined by the act to mean any foreign corporation that meets one of two criteria: either 75 percent or more of its income for the taxable year consists of passive income; or, 50 percent or more of the average value of its assets consists of assets that produce, or are held for the production of, passive income.

The Joint Committee Print points out that "the Congress did not believe that tax rules should effectively operate to provide U.S. investors tax incentives to make investments outside the United States rather than inside the United States."

As a member of the Ways and Means Committee that drafted the 1986 TRA I can confirm that this was indeed our objective. However, in the process of achieving this objective we must make certain that the law does not have any unintended results.

The Deputy Assistant Secretary of Treasury for Tax Policy is quoted in a statement made before the Subcommittee on Taxation and Debt Management of the Senate Finance Committee as saying that "we are concerned that the passive asset test operates to throw too broad a category of companies into PFIC status."

The Treasury Official goes on to say that "we believe that the level of a foreign corporation's passive assets generally is not relevant, except to the extent that the assets either generate current passive income to the corporation or reflect the accumulation of current passive income within a lower tier corporation."

Mr. Speaker, today I am introducing legislation which would amend this section of the 1986 Tax Reform Act. Joining me are Mr. Donnelly, Mrs. KENNELLY, Mr. MCGRATH, Mr. DOWNEY, Mr. FOLEY, and Mr. ATKINS. Five of the original cosponsors were involved in drafting the 1986 TRA.

Our legislation would narrow the applicability of the PFIC provision, but it would do so in a manner that respects the original objectives of the 1986 Tax Reform Act.

The bill would amend section 1296 of the Code by establishing 1296(e).

The new subsection provides that in certain circumstances, the 50 percent asset test would be waived. First, the foreign corporation must be a controlled foreign corporation, as defined in subpart F. Second, the company must be treated as a resident under the laws of a foreign country which had a deficit in its balance of trade with the United States. And third, such a corporation must engage in substantial manufacturing or production during the taxable year in such foreign country.

Mr. Speaker, we believe that there is a nexus between the manufacturing operations of U.S. firms [PFIC's] and the trade balance favorable to the United States. We also think that if the 50-percent asset test for PFIC's remains without any consideration given to the origin of the passive assets—in this case, the profit from the manufacturing operations—then the U.S. trade with certain countries may be adversely affected. I want to stress that this legislation would only address the 50-percent asset section of the definition. This section contains the more stringent of the two criteria.

For example, we know that Ireland, which according to the Department of Commerce, had a trade deficit with the United States that exceeded $600 million last year, imports items related to the U.S. manufacturing operations in Ireland. If the investment decisions in the manufacturing sector are made because of the PFIC provisions, we may inadvertently reduce those imports from the United States. This we do not want to do.

Mr. Speaker, this legislation is important to make certain that the PFIC provisions of the

1986 TRA as written, do not adversely affect the competitive position of U.S. firms. I commend it to my colleagues.

HONG KONG: PREPARE FOR THE FUTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. DONALD E. "BUZ" LUKENS] is recognized for 5 minutes.

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, so often, in the course of world events we find ourselves behind the curve. We find that we have not adequately prepared ourselves for current world events.

In 1977, less than 10 years from now, Hong Kong will pass from British hands to the Chinese. The time to prepare ourselves for that world event is now.

I would like to insert for the RECORD, for the use of my colleagues and the public, the text of an insightful paper prepared by Eric Hotung.

Mr. Hotung is a native of Hong Kong of Anglo-Chinese descent. He is a businessman educated in his country and in our own. Mr. Hotung's Institute for International Studies cosponsored the China trade talks held in November 1987 under bipartisan auspices in the U.S. Senate. I encourage my colleagues to familiarize themselves with Mr. Hotung's writing and prepare themselves for the future.

THE PEOPLE OF HONG KONG: THE KEY TO PEACE AND PROSPERITY IN THE PACIFIC

(By Eric Hotung)

HONG KONG.—Statesmanlike comments by the senior representatives of the Chinese government in Hong Kong during a recent fact-finding trip to the U.S. provide encouraging evidence that the leadership of the People's Republic of China wants to ensure that the transition of Hong Kong from British to Chinese rule in 1997 will be peaceful and productive.

"Not only will (Hong Kong) be able to maintain its prosperity and stability," Mr. Xu Jiatun, director of the Hong Kong Bureau of Xinhua News Agency, told a group of Chinese and American officials in Washington in August, "but also it will play a still more important role in the coming century within the Asian-Pacific region."

The unofficial remarks by Mr. Xu, a high-ranking member of the Communist Party of China, reiterated the PRC's official position that Hong Kong will exist in an environment of "one country, two systems" after 1997. This statement of political realism—which applies to Taiwan as well—reflects China's recognition that it is essential to preserve the social stability and economic vitality that have made Hong Kong a showcase of entrepreneurial achievement.

I am prepared to take Mr. Xu at his word and hope that the policies crafted for Hong Kong by the Chinese leadership survive top leader Deng Xiaoping. But I also share the concerns about the future of Hong Kong candidly acknowledged by Mr. Xu as a psychological factor in the transition equation.

As a fourth generation Hong Kong businessman, I can understand the apprehension of the five-and-a-half million Hong Kong residents as to what might happen after midnight on June 30, 1997. At that moment, as stipulated in a Sino-British agreement signed four years ago, Hong Kong will surrender the status it has enjoyed for almost 150 years as a British Crown Colony and become a Special Administrative Region of the PRC.

While the agreement included China's pledge to ensure Hong Kong's basic freedoms well into the 21st century, the people of Hong Kong are no strangers to the turmoil of Chinese politics when conservative and radical elements clash, as in the chaotic Cultural Revolution. Hong Kong's citizens obviously want Deng's reform to succeed, but they have learned from experience to be wary of diplomatic promises, especially ones crafted in the Orwellian year of 1984.

Far more is at stake here than just the self-interest of Hong Kong or the territorial integrity of China. Hong Kong's state of health affects the stability of the Chinese communities throughout Southeast Asia, including Thailand, Indonesia, Malaysia, Singapore, the Philippines and even Australia. Hong Kong is the world's third busiest container port, a crossroads where the fabric of mercantile capitalism in Asia has always found haven and ultimate expression. It is the largest financial centre after New York, London and Tokyo, a hub of East Asian economic development that could become China's centre of trade and investment. It is China's door to the Pacific and must be kept open.

Deep in our collective psyche is the fear that political change may diminish or even strangle the free enterprise system that has given Hong Kong one of the highest standards of living in the world. Can the Wall Street of Asia successfully co-exist with the Great Wall of China, we ask ourselves? I am confident that it can, but we must first confront a more pressing question—what will happen to the people of Hong Kong between now and 1997?

After all, it is the people of Hong Kong—98 percent Chinese and more than half born in Hong Kong—who have made us one of the most prosperous and productive communities in the world, and who have the most to lose. Their singularity, and the contribution of the community's multiracial and multinational minorities must be recognized. To permit an undercurrent of uncertainty, arising from misconceptions, to cause panic or apathy that would continue to drain the energy slowly from this superb financial centre and its irreplaceable pool of diverse skills, would be tragic.

Yet this "brain drain" is already beginning. According to a recent survey by the Hong Kong Computer Society, more than 67 percent of its members have decided to leave or are considering leaving. And a government spokesman recently stated, "It appears that we are headed towards a labour shortage in middle management, especially in the financial sectors," as concerns about reprisals after 1997 lead many people to take advantage of relaxed immigration laws in Australia and Canada.

However, the end result for Hong Kong need not be the atrophying of its most precious resource—its people—through enervating despair or a massive exodus. Although members of the Hong Kong Basic Law Drafting Committee unanimously agreed last April in Beijing to make public the first draft of the Law in order to elicit opinion, and although this draft provides for a high degree of autonomy, Hong Kong's populace deserves unqualified municipal autonomy as well as integration with China.

In the month ahead, prior to a second phase of opinion solicitation and consultation, it is critically important that we instill in the professional managerial class a confidence that will be conveyed by them to outside investors. A formula, practical as well as theoretical, is required to provide this assurance.

While it is clear that China and Great Britain are endeavouring to put in place a viable government well before 1997, they must first ensure that sufficient skilled workers and professional managers remain to train a younger generation and to sustain continued economic growth well into the future. The people of Hong Kong cannot put forth their best effort if they do not feel that they will have a hand in shaping their future. Without their cooperation and support, no basic economic ambience can exist and, consequently, the Basic Law cannot be implemented, even with the best of intentions by all parties.

Indeed, there are signs that a kind of interim governing structure through consultations is already evolving, and every effort should be made to encourage this process of solicitation even from trading partners who recognize the geopolitical realities of our unique situation.

Clearly, the time between now and 1997 presents a singular opportunity for China as well as Great Britain and her Commonwealth partners. All can participate in the Pacific Basin's huge and growing economy, in cooperation with their major trading partner, the United States, to assure continued economic growth and political stability in the region.

I am convinced that the leadership in Beijing wants to preserve and nourish the incomparable qualities that are the basis of Hong Kong's amazing productiveness. In the inevitable climate of uncertainty as the deadline of 1997 approaches, the people of Hong Kong can take encouragement in the thought that neither China nor Great Britain can afford to be anything less than fair and generous.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama [Mr. CALLAHAN] is recognized for 5 minutes.

Mr. CALLAHAN. Mr. Speaker, due to an unfortunate death in my family, I was necessarily absent Tuesday, Wednesday, and part of yesterday. Had I been here, I would have cast my votes as follows:

Votes missed Tuesday, September 27, 1988: Rollcall No. 348, "yea"; rollcall No. 349, "nay"; rollcall No. 350, "nay"; rollcall No. 351, "nay"; rollcall No. 352, "yea"; rollcall No. 353, "yea"; and rollcall No. 354, "yea."

Votes missed Wednesday, September 28, 1988: Rollcall No. 355, "nay"; rollcall No. 356, "yea"; rollcall No. 357, "yea"; rollcall No. 358, "yea"; rollcall No. 359, "yea"; rollcall No. 360, "yea"; rollcall No. 361, "nay"; rollcall No. 362, "yea"; rollcall No. 363, "nay."

Votes missed Thursday, September 29, 1988: Rollcall No. 364, "yea."

CLEAN COAL TECHNOLOGY PROJECTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. REGULA] is recognized for 5 minutes.

Mr. REGULA. Mr. Speaker, this week the Department of Energy announced the selection of a new round of clean coal technology projects valued at more than $1.3 billion.

The projects will demonstrate improved techniques that could be used in the 1990's to reduce air pollution from coal plants. To my colleagues who are clamoring for an acid rain program, I would say that we have one and it is the Clean Coal Program.

The Clean Coal Program is the best hope of meeting our Nation's future energy needs. It offers a promise to energy intensive industries, such as steel, for reductions in energy costs through improved efficiencies. It offers a promise that we could insure energy security by finding ways to burn our most abundant domestic energy resource cleanly. It offers a promise of a cleaner environment. The successful demonstration of a variety of clean coal technologies could make these promises realities.

Enactment of proposed acid rain legislation, which may be considered soon, would guarantee that these promises will never be realized.

If all 16 projects are successfully negotiated the applicants will receive $537 million in Federal funds. The Federal dollars would be matched by more than $800 million in private sector funding.

This demonstrates that industry, in partnership with the Government, is making a substantial commitment to improving our energy security as well as addressing the acid rain problem. It would be a travesty to waste this investment by mandating the installation of costly and inefficient scrubbers before these technologies have been given a chance to come on stream.

THE MOST INCREDIBLE 50 YEARS IN THE HISTORY OF MANKIND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, today is designated by some of us as important, as an important historical day in this body, because we passed all 13 appropriations bills. Well, it is an important day to remember as well because 50 years ago today the world was deluded into thinking that we had purchased peace at the price of dissecting the small democracy of Czechoslovakia and had satisfied the Nazi leader of the Third Reich, Adolf Hitler, Fifty years ago today, the world found out that last night, or the night of the 29th of 1938 in September, that Lord Chamberlain, the Prime Minister of Great Britain, Benito Mussolini, the French Prime Minister, and the Reich Chancellor, Adolf Hitler, had signed an agreement. I read it into the RECORD in its entirety last night. That would cut away just the pro-Nazi areas of the Czecho part of Czechoslovakia and that Hitler would be satisfied, would live up to this agreement.

As Mr. Chamberlain said at the airport in Munich, "I believe we have achieved peace in our time." He got on a small two-engine Lockheed Electra aircraft built in Burbank, CA, flew to a small field that no longer exists in the area of Heathrow, the large international airport that is there today, flew to the small field of Helston, stood before an emergency press conference and said, "I believe I have brought you peace in our time."

Mr. Speaker, it was not peace for the small nation of Czechoslovakia. And even peace for Europe lasted a fragile 11 months.

On the first of September 1939, Adolf Hitler sent a commando unit of SS guards across the Polish border at night. They were dressed as Polish soldiers. They turned around and came back and attacked German outposts along the German-Polish border murdering, I believe in cold blood, other fellow German soldiers of their age to create the provocative act that Poland has attacked Germany, and then in the wee hours of the morning of that date of September 1, Hitler unleashed his Panther division, and World War II officially began.

Now I have in front of me one of those historical newspapers of October 1, 1938. There was no television in those days, very little radio, to announce to the world what Mr. Chamberlain had said at the airport outside of Munich which, by the way, is now the Olympic area.

Mr. Speaker, I had the pleasure of going over to cover as a television producer and host of the Olympics in 1972. I jogged around that track there, set in the stands, looked at all those young athletes competing. It turned into the saddest of all Olympics when the terrorists murdered the 11 coaches and athletes of the Israeli team, most of them their weightlifters, but on that soil of the Olympics is where the old airport was that Hitler saw Chamberlain off, and here is the Times, the New York Times and the London Times of October 1, 1938, the next day reporting those two airport press conferences outside of Munich and at Helston Field outside of London.

The headline said, "Declaration of Peace at Munich. Future of Anglo-German Relations. The Desire of Our Two Peoples. Consultation Henceforth, Not War."

I will read the opening paragraph, and then I am going to supplement my remarks that I prepared for this 50th anniversary with a scholarly, and certainly near perfect, article on the front page of Washington's most dynamic newspaper, the Washington Times, where a professor writes succinctly what that Munich agreement means to this world today, to the other body, the U.S. Senate, to this Chamber and what it means since we are celebrating this year—not celebrating, memorializing—the 25th anniversary of the equivalent failure at Munich, and it was the failure in November of 1963 when on November 1 the head of the Government of South Vietnam, President Diem, was assassinated, not with CIA complicity, but with CIA acquiescence under the administration of a handsome young President named John F. Kennedy who had no idea that by his ambassador, a Republican, Henry Cabot Lodge, acquiescing to an overthrow, a coup d'etat, of the President of South Vietnam, that it would cost President Viem, his brother, their lives. And 22 days later, on the 22 of that November 1963, President Kennedy was brutally murdered by a leftwing radical zealot named Lee Harvey Oswald, and then, during the tailend of that year in 1963, the decisions were made on how to conduct the defense of South Vietnam.

Mr. Speaker, it seems unbelievable to me that that was the midpoint between the Munich agreement and today was the beginning of the seeds of the sell out of freedom in Southeast Asia.

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, will the gentleman yield?

Mr. DORNAN of California. It is my pleasure to yield to the other distinguished gentleman from Ohio.

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, I thank the gentleman from California [Mr. DORNAN] for yielding.

One remark about my admiration for the gentleman bringing up the point of history is I think he made it very carefully this evening. This was 50 years approximately on this very eve that we saw Neville Chamberlain and the piece of paper that would turn out to be very empty and led to World Wars, that peace was had in our time by the empty promise and on a worthless piece of paper. He makes the charge also of the Korean battle which most of our citizens today do not even remember because they are too old and out in vintage years as the gentleman from California [Mr. DORNAN] and I come from.

I would just like to make this observation. In our lifetime we have seen freedom threatened by the illusion of peace without strength.

□ 1845

We have again seen freedom threatened, in fact thrown away in Nicaragua, by the illusion of peace by the leaders in this very House who seem to have more support for a Communist dictatorship in Nicaragua than they have for the Presidency of the United States.

It is critical that the Constitution gives the President of the United States the power and the responsibility to enact and carry out foreign policy, and yet we have seen in this House the tragedy of American leaders in this very House, in the leftwing leadership that controls the agenda, controls the appropriations and controls the schedule that we have not even seen yet, and have actually given more support to a Communist dictator, Daniel Ortega in Nicaragua than they give to the President of the United States.

I find that very, very disturbing.

Mr. DORNAN Of California. Mr. Speaker I thank the gentleman.

In April 1971, I came to this Capitol. I had been lying in wait to run for Congress for 13 years. It took me 19 years from the day I left the Air Force at age 24 to run for Congress. I used to come to the Capitol whenever I had a chance, and it was usually hitchhiking on Air National Guard airplanes.

I came here in 1971 in April and this city was under siege. Radical leftists were in every corner of this city. That night I had watched them tear down the flags representing each State around the Washington Monument, urinate on them, burn them, tear up the benches in that area, set fires with them, roll garbage cans down onto the George Washington Parkway, hang a Communist flag in front of the west front of this Capitol in front of which a Member of this Chamber, Mrs. Abzug spoke, a Senator from Indiana, Mr. Hartke spoke.

This city was absolutely in an unbelievable scene of radicalism. That night after having a gun pulled on me at one point, a knife at another point, I collected five Communist flags that day. It was one of the most enjoyable days of my life from that standpoint, one of the saddest days of my life from watching this city turn into a radical hotbed of pro-Communist activity.

At the end of the night, President Johnson had given a long finger of land, the park that stretches down to the statue of the man buried in the ground down toward the War College. That whole area was sort of a hippie camp with all sorts of pup tents and people having sexual activity in sleeping bags. It was a scene to behold. A low cloud of marijuana hung over this enclave that the Government had given these people to use as their rallying camp.

I remember Senator KENNEDY wearing his brother Jack's naval flight jacket, a leather flight jacket with the Presidential seal on it, working his way through the crowd, greeting the various radicals, rejecting marijuana cigarettes, I might add.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. DORNAN of California. I am glad to yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Speaker, I know the gentleman has previously consented to stand aside while we get this rule through, and I thank the gentleman from California.

PROVIDING RECESS AUTHORITY DURING LEGISLATIVE DAYS OF SEPTEMBER 30, 1988, AND OCTOBER 1, 1988

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. N. 100-1022) on the resolution (H. Res. 560) providing recess authority during the legislative days of September 30, 1988, and October 1, 1988, which was referred to the House Calendar and ordered to be printed, as follows:

H. RES. 560

Resolved, That upon adoption of this resolution the Speaker is authorized to declare recesses, subject to the call of the Chair with one-hour notice for reconvening after consultation with the Minority Leader, during the legislative days of September 30, 1988 and October 1, 1988.

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 560 and for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution.

The SPEAKER pro tempore. The question is, Will the House now consider House Resolution 560?

The question was taken, and (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 560.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. LATTA], pending which I yield myself such time as I may consume.

Mr. MOAKLEY. Mr. Speaker, this rule authorizes the speaker to declare recesses of the House on today and tomorrow. The resolution requires consultation with the minority leader and requires that 1-hour notice be given to Members before the House reconvenes from any recess called pursuant to the resolution. Adoption of this resolution is necessary so that the Speaker may call recesses of the House once the day's legislative business and special rules are completed and while we await the arrival of appropriations bills from the other body.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with the resolution, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Chair again recognizes the gentleman from California [Mr. DORNAN] to continue his special order.

The Chair thanks the gentleman from California for his courtesy.

Mr. DORNAN of California. Mr. Speaker, we left off with April 23, 1971.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. DORNAN of California. I yield to my distinguished friend, the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding to me.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Pennsylvania will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, I just wanted to figure out where we were.

Do I understand with the rule just passed that before any legislative business is taken up at this point, the Members will be given 1 hour notice?

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Massachusetts.

Mr. MOAKLEY. The gentleman from Pennsylvania is correct. It will be 1 hour notice.

The SPEAKER pro tempore. The gentleman from Pennsylvania has propounded a parliamentary inquiry to the Chair.

It is only if a recess has been declared would the answer be in the affirmative, only in the event a recess has been declared. As of this time, a recess has not been declared.

Mr. WALKER. So the answer to the question at the moment is "No"?

The SPEAKER pro tempore. The answer is "No."

Mr. WALKER. A recess would have to be declared by the Chair before the 1-hour notice?

The SPEAKER pro tempore. The gentleman is absolutely correct.

Mr. WALKER. Are we expecting to go to legislative business immediately after special orders at this point?

The SPEAKER pro tempore. The Chair cannot answer that at this point. We are waiting on the other body in their deliberations.

Mr. WALKER. Mr. Speaker, I thank the Chair.

The SPEAKER pro tempore. The gentleman from California [Mr. DORNAN] is again recognized.

Mr. DORNAN of California. Mr. Speaker, none of that time that just transpired, as important as it was, will be taken from my special order?

The SPEAKER pro tempore. The Chair will state to the distinguished gentleman from California that the Chair did not take that time out of the gentleman's time.

Mr. DORNAN of California. Mr. Speaker, when I last left off, it was April 23, 1971, radicals from the left had taken over the city. There was a cloud of marijuana hanging over. Flags were being burned around the Washington Monument. Pandemonium reigned supreme. Patriotic, but thoughtless, Senators from various States, even from great States like Indiana, were talking to these sundry radicals gathered around here.

I went down to this hippie encampment along the banks of the beautiful Potomac and Jerry Rubin of Tom Hayden-Rubin-Abbott-Hoffman fame, had a stage setup down there by the Potomac and a group came in called Ridley's Sound. That name sticks in my mind. It was stenciled all over their hi-fi equipment. They set up large speakers. They were going to interrupt the sexual activity and the pot smoking, and right before they went on the air with these huge speakers, Jerry Rubin—excuse me, not Jerry Rubin. Who was the other guy of the Chicago Seven? His name will come to me. Rennie Davis. Rennie Davis rubs his hands together and says, "All right, gang, let's radicalize these people," and then the speakers began to boom out this ugly pro-Communist, pro-Hanoi, anti-American message.

Sometimes his words come back to me, "Let's radicalize these people."

Sometimes I want to take this well and say, "Come on, my colleagues, let's get smart. Let's educate one another."

So with that spirit, I read the words of Lord Chamberlain at Heston Field on the outskirts of London, when to a cheering nation, it says in the New York Times, he says the following, the head paragraph says; "The Nation is Thanked."

First he reads a letter from the king. This is so good, let me back up a paragraph:

> The Lockheed airliner in which Mr. Chamberlain and his official advisors flew from Munich was sighted over the Aerodrome at 5:38 p.m. against a gray sky from which there had just fallen a heavy downpour of rain.

Hence the umbrella becoming the symbol of appeasement.

> Two minutes later this machine had come to a standstill and the Prime Minister was standing at the cabin door smiling, waving his hat in response to the loud cheers that welcomed him back from his third and most memorable flight to Germany within 15 days.

Dare I say, shuffle diplomacy?

> As soon as Mr. Chamberlain stepped to the ground, the Lord Chamberlain handed him a letter from the King. Then Lord Halifax shook him warmly by the hand.

"Good fellow," he probably said.

> And others who rushed forward to greet and congratulate him included the Italian Ambassador, Count Grundi—

The fascist Italian Ambassador, the French Ambassador, Mr. Corbin—he probably became—well, I do not want to brand him, but they were about to become Vichy members engaged in complicity with the Nazi regime, the German charge d'affaires, Dr. Kordt—probably a secret Nazi, and the Hungarian Minister De Masiervich.

> Mr. Chamberlain had a cordial welcome from ministerial colleagues, among whom were Lord Homme, Mr. Hor-Bielisha, Mr. Malcolm MacDonald—

Probably from Scotland, I am sure—

> Captain Mogasan, Mr. Jeffrey Lloyd and Captain Harold Balfour.

They probably earned their honors at the Sonne in the battlefields of World War I, where 10 million of the youth of Europe had been ground up laying the seeds for Hitler's rise to power, crushing the Weimar Republic.

> The Lord Mayor of London congratulated Chamberlain on behalf of the citizens of London.

Then there is a subheadline "The Nation Thanked."

> THE NATION THANKED
>
> Then amid continuous cheers, the Prime Minister stepped towards a microphone and spoke a message to the nation. He said:
>
> There are only two things I want to say. First of all I received an immense number of letters during all these anxious days—and so has my wife—letters of support and approval and gratitude; and I cannot tell you what an encouragement that has been to me. I want to thank the British people for what they have done. Next I want to say that the settlement of the Czechoslovak problem which has now been achieved is, in my view, only a prelude to a larger settlement in which all Europe may find peace.
>
> This morning I had another talk with the German Chancellor, Herr Hitler, and here is a paper which bears his name upon it as well as mine. Some of you perhaps have already heard what it contains, but I would just like to read it to you.
>
> Mr. Chamberlain then read the joint declaration—

Which I inserted in the RECORD last night—

> and there was a further burst of cheering.
>
> "Here, here, old boy."
>
> There were more cheers as policemen made a way for him to his car, and the drive to London began to the singing of—

Could you guess—

> For he's a jolly good fellow.

Excuse me for violating the rules and singing, Mr. Speaker, I got carried away.

> Then as Mr. Chamberlain drove past the cheering Eton boys—

With their little ties and their little bowler hats and umbrellas from the downpour—

> to the airport exit his car was surrounded by crowds who could not be held back by the police, and amid the enthusiasm many people tried to open the doors of the car to shake him by the hand.
>
> Mounted police eventually made a way—

Maybe the Light Guards from Buckingham Palace, for all we know—

> and the Prime Minister drove slowly through the pressing and cheering crowds—among whom were children waiving tiny flags—towards London—

By the way, some of those Eton boys probably died in the jungles of Burma or in the deserts of North Africa or on Sword or Juneau or Gold beaches in the invasion of Hitler's Atlantic Wall a mere 6 years later—

> and the still greater welcome that was the acknowledgment of a victory gained for peace.

No talk of appeasement here.

Next paragraph:

> CROWDS AT THE PALACE—A BALCONY APPEARANCE
>
> London's welcome reached its climax outside Buckingham Palace, where a crowd of several thousands had waited for over two hours. Indifferent to the heavy rain, they stood, densely packed, a happy throng, their hearts full of relief and a deep sense of thankfulness towards the man who had lifted a great weight of anxiety from their minds.

□ 1900

Mind you, this is a year and a half before the battle of Britain, when even the Cathedral of St. Paul was being hit with Luftwaffe bombs and London is burning from the docks to the outskirts, and the Cathedral of Coventry is turned into rubble.

"Mrs. Chamberlain arrived at the palace at 6:15 in the evening. The crowd cheered her loudly, and she smiled and waved in reply. She was conducted to their majesties' private apartments where she was received by the King and the Queen. Just before the Prime Minister arrived, a rainbow was seen over the rooftops, and it was hailed by some as an omen," God writes.

Mr. SOLARZ. Mr. Speaker, will the gentleman yield?

Mr. DORNAN of California. I am happy to yield to one of the distinguished historians of the House, my good colleague, the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, I thank the gentleman for yielding.

I think the gentleman has performed a profoundly useful service to the Congress and to the country by reminding us that this is the 50th anniversary of the infamous Munich agreement.

In the history of diplomacy, it is difficult to think of a more shameful sellout on the part of the sovereign republics of another country upon whom they were dependent for their security, and as it turned out, ultimately for their survival.

The American philosopher and historian, George Santayana, has told us those who do not study the past are condemned to repeat it. That is precisely why I think this special order is so timely. A half a century after the Munich agreement, we need to remind ourselves of the consequences of this accord for the peace of the entire world. It was clearly a prelude to the Second World War. It provided the ultimate signal to Hitler that the West would not resist. It helped persuade Stalin to enter into an arrangement with Hitler which itself facilitated the Nazi invasion of Poland. It was entirely unfortunate.

Historians have debated the lessons of Munich, and my good friend from California will be, I am sure, speaking to that question.

Let me simply suggest this evening that one of the clear lessons of Munich, one of the indisputable lessons of Munich, is that peace at any price is too high a price to pay. Those who strive for peace through diplomatic accommodations and through the peaceful resolution of conflicts between countries are certainly to be praised. "Blessed are the peacemakers, because they will one day inherit the Earth." But peace at any price is often too high a price to pay. It was clearly too high a price to pay at Munich. It resulted in the dismemberment of an independent and democratic country, Czechoslovakia. It was the prelude to the worst conflict in the history of mankind. It resulted in the betrayal of solemn pledges made by Britain and France and the Soviet Union to come to the aid of Czechoslovakia. It fed the appetite of a maniacal dictator who was interested in greater and greater expansion, and so I want to thank the gentleman for taking this opportunity to bring this to the attention of the House.

The majority of the American people living today were born after Munich. I have no doubt that there are millions of Americans in school and even who have graduated from school who probably do not remember Munich, who not only have no personal knowledge of it but who either never read about it, or if they have read about it, have forgotten about it, but we forget about Munich at our own peril. We forget about Munich at the peril not only of our security but of our values and of our ideas and of our principles.

Let us hope that as a result of what happened in Munich subsequently, as a result of the efforts being made by my friend, the gentleman from California, and others to remind us of the lessons of Munich, that another Munich will never happen again.

Mr. DORNAN of California. Mr. Speaker, if the gentleman will stay for just a few moments, I thank him for lending his thoughts to this.

Maybe I was getting too lighthearted about these press reports of the next day after Chamberlain came back, but I thought of reading it after this article that I want to comment on in the Washington Times today, front page of Commentary, that just made me want to set aside all my notes and everything I wanted to say on this, it was so much more succinctly written and such a fine analysis, but the gentleman is one of the few Members I told that on the 1st, 2d, and 3d of this month I visited all the major extermination camps of Poland, and I mentioned the Battle of Britain a year and a half after this.

To a Member who came here in 1974, who still looks and feels young, the last 14 years for him have gone as quickly, I am sure, as the 12 that I have been around have for me, and 6 years is just such a brief period of time. The concentration camps were already open when this adulation was going on, when this Italian ambassador, Grande, and what a peculiar name, is meeting Lord Chamberlain at planeside, and Mussolini has already used poison gas in Ethiopia, and he has already reinstituted the concentration camps that were created in the Boer War on the island of Ceylon, and had them all over what is now known as Libya, and he was crushing what he called colonists there, trying to expand the Italian Empire, and these are Nazis and Italian Fascists signing their name to a piece of paper with a Frenchman and a Britich Prime Minister, and the euphoria in all the contries, here is one from Italy that says, "Joy in Berlin, hope of a better understandings; the very first five-power meeting from our correspondents in Berlin." This was euphoria beyond belief, and it did not last 11 months.

Mr. SOLARZ. If I may say to the gentleman, one interesting but perhaps little-known aspect of the euphoria generated in the various capitals of the countries concerned, except, of course, in Prague, where it was a moment of great sadness, is that the French Prime Minister, Monsieur Daladier, when he arrived back in Paris, at least had the decency to say to his associates in private when he saw the French people cheering wildly upon his return something to the effect about how these people must be crazy, because he recognized himself, in effect, what had been done, but I think he believed that once he could no longer count on the British to come to the help of the French, if the French lived up to their commitment to the Czechs, should the Czechs resist the Germans' demands, that France would not be in a position to successfully repel an expected German invasion against France, but the point is that he left Munich knowing in his heart of hearts what the ultimate consequences would be.

The exact opposite response was elicited from none other than Herr Hitler, who, we know from the biography of him written by Joachim Fest, probably the leading German biographer of Hitler, was personally displeased by the euphoric reaction throughout the cities of Germany after the Munich agreement because, to Hitler, what is indicated was that the German people really preferred pease to war, and Hitler preferred war to peace. It was an indication to him, at least as of that date, that the German people did not yet have the martial spirit which he felt was necessary and desirable.

I think that is a sort of interesting commentary on what transpired in Munich and subsequent to it in terms of the reaction of some of the principals who were involved in that negotiation, but to my way of thinking, the most important reaction was not in Berlin, it was not in Paris, it was not in London, it was not in Washington, it was not in Moscow, it was in Prague, the capital of the country that had been sold down the river, a free, independent, and democratic country that deserved better from its friends in the West, and because it did not get better, we all know what happened.

I want to offer just one further comment.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. DORNAN of California. I am happy to yield to the gentleman from Indiana under "the Burton rule."

Mr. BURTON of Indiana. Mr. Speaker, I would just like to interject one thought here, and that is that there are parallels, at least in my mine, to be drawn between what happened 50 years ago today and what is happening right now in our own hemisphere, and as I listened to the gentleman's words from New York, who is a very learned and eloquent speaker, I just wonder if we could maybe think about the freedom in Nicaragua that has been lost and the abandonment of those people by the United States that is taking place as we speak and the possible abandonment of the entire region of Central America.

It is very nice to listen to the history lesson that is going on here, but since we know so much about history, should we not profit from history, and should we not realize that wars are avoided by strength and by standing up to tyrants and by standing by friends who want freedom rather than turning our backs on them? We should have learned that in 1938.

It appears to me that, instead of learning from history, we, as the historians say, are making the same mistakes over and over again, because we do not profit from history.

Mr. SOLARZ. Mr. Speaker, will the gentleman yield further?

Mr. DORNAN of California. Mr. Speaker, let me make a suggestion, because I want to yield also under the Burton rule to the distinguished gentleman from California. The Burton rule is that when a Member stands on his feet during a special order, I yield within 60 seconds unless possibly I yield within 5.

Mr. Speaker, I yield to the gentleman from California, and then I want to reclaim my time for just a brief moment to lay the groundwork for this editorial called "Munich, What remains to be said?" and then elicit some more comments. I am just going to read this, and not comment myself, but I will solicit comments from my colleagues.

I yield to the gentleman from California [Mr. Lagomarsino].

Mr. LAGOMARSINO. Mr. Speaker, I want to thank the gentleman for taking out this special order. It is very appropriate for the 50th anniversary of Munich.

There are many lessons which are to be learned from Munich. One is, as the gentleman pointed out, one is that if we make bad deals for peace, it is too high a price to pay, as my friend, the gentleman from New York, has said, not only do you get peace, you do not get peace and you do not only pay too high a price but it ends up in a war.

Another lesson to be learned, a very obvious one, is that it was pretty apparent that Herr Hitler and the allies knew from the fact of that agreement that not only was the West not strong enough to resist them militarily but they did not have the will to do it.

Our adversaries, the Soviet Union, believe the same way, and the gentleman was with me, and we were together, and there were others there, too, in the Kremlin in 1979 when we asked the Soviets how they were going to reciprocate for various things that we had done at that time in cutting back on arms, some unilaterally, mostly unilaterally. I will never forget what they said. They said, when I asked, "How are you going to reciprocate," the answer was, "We do not believe in unilateral disarmament. We do not believe in unilateral disarmament."

I would hope that whoever the next administration is, whoever is elected, that they will remember that and will negotiate from a position of strength and a position of will and will not make unilateral concessions but, indeed, will get something for whatever is given.

Again, I appreciate the gentleman taking this special order out. It is very appropriate.

Mr. DORNAN of California. I appreciate the gentleman's observations, because that is obviously the main reason for my saying let us get educated here on this issue, and that is why I mentioned this midway point of Vietnam and the turmoil tearing this city apart.

The gentleman from New York [Mr. Solarz] mentioned Daladier. Here is the very thing he was talking about. Daladier, cheered by a joyful France; "These two peoples," Daladier said, and this is after, as Mr. Solarz just said, just pointed out of his saying, "Are they crazy out there cheering in the streets?" "Are they bereft of their senses?" He said, "These two peoples may yet reach a cordial understanding, and I am going to do my best to try and reach it."

"The Premier's desk and room were banked with flowers sent by schools and societies, most of them anonymously. He sent them to the grave of the unknown solider below the Arc de Triomphe on the Champs Elysee, and announced that tomorrow evening he would go to the head of the delegation of war veterans to rekindle the flame that always burns on the tomb," so obviously the French Premier was playing to all of this joy and euphoria, and here is a picture of Lord Chamberlain at Heston Airdrome outside of London.

Everything I was reading about the cheering, and there is something about an anniversary, particularly a 100th or a quarter century anniversary, where the pictures come to life on the pages, and they have an appeal they otherwise would not have.

Let me read this article by a great scholar from my viewpoint, Francis Loewenheim, a member of the Historical Division of the State Department in the Eisenhower adminstration; he is now a professor of history at Rice University. He starts off, "After all that has been written about Munich over the past 50 years, what possibly remains to be said?"

□ 1915

The answer is plenty. The first thing to note is that Munich, that is to say, the Munich conference of September 29-30, 1938, was not at all what almost everyone seems to now think it was. There was not any craven surrender to Hitler's demand that had taken place in the days before. The Munich conference put it in written form and I would ask you, Mr. Speaker, that any person who gets hold of this transcript of our proceedings would get my remarks from last night, put it together with this night, because obviously the gentleman from New York [Mr. Solarz] did not see it last night or he would not have quoted again, George Santayana, "Those who reject history are cursed to relive it," and he did not know that most of my special order last night was on the Hitler-Stalin Pact which followed this anniversary into August 23 of 1939, and the Nazis were the first ally of choice by Joseph Stalin. We were a second choice.

Mr. HUNTER. Mr. Speaker, will the gentleman from California yield?

Mr. DORNAN of California. Mr. Speaker, I yield to my friend, the gentleman from California [Mr. Hunter].

Mr. HUNTER. Mr. Speaker, I thank the distinguished gentleman for yielding, and I am very impressed by his recall of history and I think it is appropriate with regard to what is happening in Central America today to talk about Munich.

In recent months, as the prisoners, political prisoners at Nandaime have been shown to be repressed and tortured, fine citizens by the Sandinistas Government, people have become increasingly resentful of Mr. Arias of Costa Rica and his so-called peace plan, and I think we have to remind them that Mr. Arias is not a mad man, he is as nice and intelligent and as well-meaning and as wrong as Neville Chamberlain was.

I wish we could somehow impress upon him the lesson of Munich. I thank the gentleman for coming down here to talk about something that is of great import to the Americans and people throughout the world who do not want to see a situation in which we repeat the mistakes of Munich, and as I recall 50 million people died following that day when Mr. Neville Chamberlain came home clutching that piece of paper, as Mr. Arias clutched his piece of paper.

Mr. DORNAN of California. The gentleman has anticipated the analogies that I intended to draw at the end of my special order, and if we run out of time I hope the gentleman would ask unanimous consent for 5 minutes, which you can get on the House, and the gentleman would do the same, and we can continue this because I want you to tell a story about your first day of combat in Vietnam when you carried a young Hispanic lad off the battlefield and how the groundwork for that was laid in negotiations earlier, just a few years earlier at the midpoint of this 50 years from Munich to Vietnam to the hills of Nicaragua.

Mr. Speaker, I yield to the gentleman from Indiana.

The SPEAKER pro tempore (Mr. Gray of Illinois). The Chair would state that the distinguished gentleman from Washington [Mr. Miller] had asked his 5 minutes be reinstated after the gentleman from California, and that would have to be done by unanimous consent, and I agreed to recognize the gentleman for that purpose, but will the gentleman amend his request to follow the gentleman from Washington?

Without objection, so ordered.

Mr. DORNAN of California. Mr. Speaker, reclaiming my time, I might ask the gentleman from Washington, in the nature of a commercial, not that his words of wisdom are like a commercial, but if he has a pressing engagement and he wants to insert his 5 minutes right now, I would be glad to yield to the gentleman.

The SPEAKER pro tempore. The Chair would state that the time would come out of the time of the gentleman from California.

Mr. MILLER of Washington. Mr. Speaker, let us have the gentleman from California finish his special order.

Mr. DORNAN of California. Mr. Speaker, if Lieutenant HUNTER would keep an ear to the tube I would like him to hear the seven points that Professor Lowenheim makes about the lessons of Munich today.

Mr. BURTON of Indiana. Mr. Speaker, I briefly interject a thought, and I wish we had our distinguished colleague from New York [Mr. SOLARZ] here, as he would add a great deal to this debate, and one thing I was very hopeful was that he would stick around because he has such an eloquent voice in the majority of this House and people listen to them, and the thing that concerns me when we start drawing parallels between what happened in 1938 and subsequent to that which embroiled the world in World War II, when we try to compare that with Central America and other things taking place in the world, we turn off and leave and that is discouraging to me because I think parallels are there to be drawn and we need to draw the parallels so we do not make the mistakes over again and unfortunately Mr. SOLARZ left and I hope maybe he will return during the debate or discussion so we can illuminate this place with historical facts and draw the parallels because they are so important.

If the parallels are not drawn and we make the mistakes made in 1938 and subsequent, our boys will be fighting and dying unnecessarily in Central America, which is why the gentleman's special order tonight is so important because 50 years ago tragic mistakes were made and we were about to make the same mistakes again, and have made some. If we are to stay out of war we need a majority party to participate.

Mr. DORNAN of California. I do not want to rain on the House's parade tonight about completing 13 appropriation bills, which is what we are supposed to do on the last day of the fiscal year, but every Member was referring to the historicity of the 100th Congress, which has a week to go. The only thing I could focus on was the 100th Congress abandoned freedom in Central America and that is what it may go down in history for as we see how silly all this euphoria sounds in the capitals of Paris and London and even as to the poor deluded people of the Fascist nation of Germany, which did choose peace over war and thought they were getting that, but did not understand when a third gave their vote to the former corporal from World War I, Adolf Schickelgruber.

An interesting irony, before I finish with Professor Lowenheim's observation about the importance of this night on the 50th anniversary, our Congressional Research Service at the Library of Congress is tremendous. I had this thought in the back of my head that someone told me when I visited the Olympic site in 1972 that this was where Chamberlain and Hitler had stood, so I sent over there and they sent me a map back from the 1930's of the airfield, outside of Munich. It is Flughafen Oberwiesenfeld Field, and they said, yes, that is correct, the airport in Munich where Chamberlain landed and debated is now the Olympic site.

What I vividly remember is this Olympic site was built on a garbage dump, which is how they are reconciled. When Munich was bombed into rubble by the United States 8th, 15th, and 9th Air Forces to clear the rubble out of the streets, and we all recall the price that Germany paid for the brutality under the Third Reich, the first way you start to rebuild a city of rubble is to clear a path through the streets of all the broken bricks and stone and mortar. They carried it all out. They were not interested in having an airport at that moment, but interested in clearing the streets. They dumped all the bombed rubble from Munich on Flughafen Oberwiesenfeld Field, and it stayed that way until the 1960's. Over 20 years before they began to clear the site they built a new airfield outside the city. Much earlier, they cleared the site of the bombed rubble to begin building an Olympic village, and entered the bombed rubble with the runways from which the Lockheed Electria carried Mr. Chamberlain back to Europe.

Here is the meat of the article. Professor Lowenhein said there was not any craven surrender to Hitler's demands. The Munich conference put it in written form.

That is one lesson to learn. No sellout. This was a kissoff.

Too, it should be remembered that the initial response to Munich was overwhelmingly favorable. I touched on a sample of that in the headlines of world papers of October 1, 1938. Neville Chamberlain was lionized as a man of peace who saved the world from unspeakable and senseless slaughter and suffering.

President Franklin Delano Roosevelt, and why I hoped Mr. SOLARZ would stay, a Democrat from New York, he is an admirer of Roosevelt as much as our current Republican President, Ronald Reagan; he, too, was showered with international approval for his several calls for peace. It was approval FDR had no compunction about accepting.

Let me get to the point and yield to my colleagues for more House business.

This is a cliff-hanger. Munich was not a crisis about Czechoslovakia-Germany and relations for another phase in Hitler's determination to achieve mastery of Europe and much else, but was or symbolized the failure of democracy to recognize their fundamental interests against the short-ranged needs or fears of the time. It symbolized both their day-to-day drift and long-range confusion. Without exception a democracy believed that sacrificing parts of Czechoslovakia would buy them peace.

Mr. DORNAN of California. Continuing on point 4, and if you cannot retain these in your memory, write to your Congressman and ask for days 29 and 30 of your CONGRESSIONAL RECORD, and my fourth point, Munich repeated a fundamental decline in democratic self-esteem.

There is a rumor that Henry Kissinger said after a NATO meeting that his job was to cut the best deal that he could for the United States; as a second-rate Nation we are through as the leader of the world.

This is on the heels of achieving the Nobel Peace Prize, only to see the North Vietnam Communist lie and make that prize of his meaningless, giving his money in a noble gesture to the MIA families and children and Le Duc Tho had the savoir-faire to accept the peace prize, not thinking for a second that he would not live up to it.

As too many saw, the democracy heyday came and went. Mired in the depths of the Great Depression people on both sides of the Atlantic widely agreed the democratic ideals and processes were not for everybody, and so help me, Members, I hear those words when a Democratic liberal stands up on this floor and says let them have the form of government they want in Nicaragua. As though people had freely chosen the Ortega brothers as a Communist form of government that is virtually starving them, that has 9,000 people in Communist prisons built by Communists, and I hear that once a month. People get up on the floor and say they cannot all have our style of democracy. It has been my experience as the most traveled Member of either body, even more than my well-traveled friend, Mr. SOLARZ, everyone I meet in the world wants our style of government if given a true plebiscite in a secret election.

Now, more on that point 4. Woodrow Wilson, 14 years in his grave, was derided as an idealistic fool who had talked vapidly at the end of World War I about making the world safe for democracy.

This Member's father had three wound chevrons, two for poison gas. We called him Purple Heart, which he was awarded in the 1930's when that came back on the Army books, and he thought he had gone over as a young 25-year-old officer to make the world safe for democracy. Over there, over there, we will not be back until it is over over there.

But I learned something from the article which is why I disregarded my own remarks for the night. Democracies would be important if freedom survived in Britain, France, and the United States. The fall of France, 21 months after all this madness, 20½ months, suggested it might be finished there in France as well.

Fifth, Munich did not necessarily mean the end of Czechoslovakia any more than January 1973, Paris peace agreements automatically spelled the end of the Republic of Vietnam.

□ 1930

Had the Paris peace accords been faithfully observed by the Communist North Vietnam Government, South Vietnam could well have continued to exist as an independent state and so also with Czechoslovakia, had Hitler observed the Munich agreement there was no reason why Czechoslovakia, free of its dissident pro-Nazi minority, the parts that they were cutting off in four sections to be augmented over the first 8 days of October 1938, those pro-Nazi parts, most of them pro-German speaking, carved away by Hitler, Daladier, Mussolini, and Chamberlain. They thought that would make Czechoslovakia a more solid nation.

As we now know, the North Vietnamese, after 1973, and Hitler had not the slightest intention of living up to the four-power agreement that he had just solemnly signed. Hence Le Duc Tho, rejecting the Nobel Peace Prize and Henry Kissinger to this day, haunted by the fact that he had forced President Thieu of Vietnam with a very clever line, "I see light at the end of the tunnel." That is sort of a derivation of "peace in our time." And like the head of the government in Prague who was not invited to sign this document, was not even there; they did the same thing at the Paris peace talks that had been done at the Munich agreement 25 years before—add 10 years—35 years before.

Here is point 6 and there are only two to go. Six: The time has come to banish the image of Neville Chamberlain as a blind and reckless appeaser. I said as much in my freshman year in 1977. It is doubtless true that he was momentarily swayed by Hitler's false promises at Munich. That is debatable. But the Prime Minister of England, Great Britain, was far from sanguine or indifferent about the unspeakable brutalities of the Nazi system.

The concentration camp at Dachau which I visited three times, sits outside Munich itself. It is a short drive from this flughafen where they began the "peace of our time" talk. That camp opened up the month that I was born in April 1933. The first camp commandante was Rudolf Hess who, 2 years after this agreement, bailed out of a Messerschmitt over Scotland to try to cut a deal with the West because he knew that Germany would lose the war against the Soviet Union.

Hess was the first commandante of the first concentration camp and that camp outside of this very same Munich, Dachau, became the training camp for all camp commandantes, including Franz Rudolph Haas who was the camp commandante for the longest period of time at Auschwitz/Birkenau which I just visited on the 3d of this month.

As he wrote, for example, in his private diary—this is Lord Chamberlain—September 3, 1938, 27 days before he stood on the ramp of the airport at Munich, and listened to his own words: "Is it not possibly horrible to think that the fate of hundreds of millions depends on one man and he is half mad?" That bears a lot of analysis. What did he think he was dealing with at Munich? The half-sane side of Herr Hitler as he called him?

We did not lose hundreds of millions in World War II; we lost 55 million. His statement in his diary is so prophetic and the concentration camp at Dachau is a few miles outside and because Austria had been consumed by Hitler under the joining of the German-speaking people in March 1938, the concentration camp at Mathausen already had the surveyors out there drawing up the lines for that notorious Austrian then-Nazi concentration camp.

It was Mr. Chamberlain's misfortune to inherit power in May 1937. Imagine, he was only in office 16 months. This would be like Jimmy Carter in his 16th month or Ronald Reagan in his 16th month in the Presidency, this Congress, probably both Houses, would not allow a President in the first part of his second year to be going and signing a document so tenuous as this one. But it was in May 1937 that he got power at a time when the myopic, economic diplomatic and military policies of the preceding Stanley Baldwin era—that would be comparable to a Republican conservative—not of the church of variety, because it was Mr. Baldwin who use to cut up Churchill behind his back and finally said 1½ years—no, just 1 year, 11 months after this Munich agreement, it was that same Stanley Baldwin, the head of the Tory Party, the conservative party that said, "Well, I gues it is time for Winston to take over here." It was Baldwin who in the debate for 5 years leading up to this as they gutted the RAF and led to this sellout at Munich, it is that same Baldwin in the other party that watched in the first 6 months of the Labor Party Lord Chamberlain make this mistake.

Now they exposed, the Baldwin era exposed the British Empire to the greatest dangers from Europe to the Far East. If Mr. Chamberlain did not manage that unprecedented crisis in 1938, well, he was, let us admit it candidly, far from responsible for creating the perilous conditions that awaited him.

If somebody wants to see the greatest series of tapes that applied to this whole period of history on television, run on PBS twice in the last 5 years, look at the BBC series called the Wilderness Years, a brilliant portrayal by a British actor of Winston Churchill. And Winston Churchill's debates, as I tried to point on this floor, to stony silence sometimes, Churchill's debates about the growth of the Luftwaffe in Germany were identical to the debates in this Chamber in the late 1970's and throughout the 1980's on the growth of Soviet military power.

All you have to do is take out the word "Luftwaffe" and insert SS-18's and SS-19's and 24's and 25's missiles and all you have to do is take the word of "Tory," the conservative Stanley Baldwin, which our colleague JACK KEMP has said over and over during defense authorization and appropriation debates where lordly Stanley Baldwin said "The only defense is offense." Put all your eggs into strategic weapons, forget about strategic defense.

So the groundwork was laid by the opposition party and we should not put all the blame on Lord Chamberlain. But who in history clases teaches that it was the Baldwins or the conservative isolationist Republicans of the Saltonstall and Vandenberg variety in the other body and the nameless isolationist conservative Congressmen in this House, using that word in terms of the 1930's, who laid the groundwork for this.

But we find out shortly that Frankline Delano Roosevelt is not without fault.

Seven, and finally, and perhaps most noteworthy on this 50th anniversary, it is important to keep in mind that Munich was not simply a crisis in European affairs. Far from it. Though almost all history books ignore it, Munich was in fact a crisis in Atlantic history. Virtually alone, Hitler drew the correct conclusion from 1917. Listen to this, "The United States must be kept out of any future European conflict." Hitler did not want the U.S.A. involved in that war. Hitler pointed out at points in his diary during the course of the Second World War that he never declared war on the United States or on Great Britain.

Mr. Speaker, I will be back.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The time of the gentleman from California [Mr. DORNAN] has expired and under the rules he is not permitted to extend beyond 60 minutes.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4354. An act to designate certain National Forest System lands in the State of Oklahoma for inclusion in the National Wilderness Preservation System, create the Winding Stair Mountain National Recreation and Wilderness Area, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4787) "An act making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 1, 12, 22, 43, 46, 56, 68, 75, 82, 90, 91, 109, 120, 121, 122, 126, 127, 128, 129, 130, 131, 140, 141, and 142 to the above-entitled bill.

PERSONAL EXPLANATION

Mr. MILLER of Washington. Mr. Speaker, I was unable to be here yesterday. Had I been here, I would have cast the following votes: "Yes" on rollcall No. 370 and "yes" on rollcall No. 371.

THE PRICE OF BEING A RELIGIOUS BELIEVER IN THE SOVIET UNION

The SPEAKER pro tempore. Without objection, the Chair will return to the 5-minute special orders and recognize the distinguished gentleman from Washington [Mr. MILLER].

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. MILLER] is recognized for 5 minutes.

Mr. MILLER of Washington. Mr. Speaker, before I begin on my special order I would like to thank the distinguished gentleman from California [Mr. DORNAN] and the gentleman from Indiana [Mr. BURTON] for allowing me to interrupt their excellent presentation on the lessons of Munich.

Mr. Speaker, today I again rise to talk about Alyosha Zavrajnov. Congressman GILMAN and I met with a group of Soviet Christians in a small apartment in Moscow in January. It was there that we met Alex. At that time, Alex told us of being arrested in 1987 on the charge of being a religious fanatic. He was arrested for the simple reason that he was distributing Christian literature and he was organizing Christian study groups. In other words, he was attempting to exercise his basic right to practice his faith. I asked Alex what happened to him after he was arrested on this charge. He told me that he had been taken to a psychiatric hospital where he was injected with drugs.

Such is the price today of being a religious believer in the Soviet Union. This is the Soviet Union's effort to dissuade Alex and others from practicing their faith. But it didn't work. Alex was released and he is still a Christian and he is still a believer.

However, the day after he met with us in Moscow, upon returning to his apartment, he was accosted by several men who he assumed were KGB agents. They beat Alex, and they challenged him: "So you want to meet with a Congressman?"

This was in January. Now recently I have learned that Alex was put back in a psychiatric prison in late July and early August. This is in 1988—not the preglasnost era. This is in Michail Gorbachev's Soviet Union. This is after the Soviets have stated that psychiatric hospitals would no longer be used to imprison religious or political dissidents. And yet, Alex found himself once again imprisoned in a psychiatric hospital, imprisoned for the simple reason that he was a Christian, imprisoned because he wanted to share with others his Christian belief, and finally imprisoned because he wished to be able to exercise his basic right to emigrate—to live where he wished.

Alex, not able to practice his faith, was willing to leave his homeland and settle in a different country where he would have the most basic right of religious freedom. But the Soviets are not even allowing him this basic right.

Alex, after having been imprisoned twice, beaten and harassed continuously for wanting to exercise his basic rights, has now started down a path borne out of desperation to gain these rights that we take for granted. On September 12, he began a hunger strike.

Already Alex's health is deteriorating. We can only hope that the same resolve and faith that has carried him through his imprisonments, beatings, and harassment will see him through this. We in Congress and in the United States must also do our part. In our hopes for glasnost and perestroika, we must not forget Alex and the thousands of others like him. We must speak out on their behalf; we must champion their cause. Because in the end their cause is our cause. So, we ask you, Mr. Gorbachev, to allow Alex to exercise his religious rights. We ask you, Mr. Gorbachev, to adhere to the Helsinki accords—allow Alex to emigrate.

And we say to all of you in the Soviet Union that we will not forget your struggle. We will continue to speak out and work until Christians and Jews and other religious believers will be able to enjoy full religious freedom.

FIFTIETH ANNIVERSARY OF THE MUNICH AGREEMENT—CONTINUED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, my colleague from California [Mr. DORNAN] I think was quoting Douglas MacArthur rather than Winston Churchill when he said, "I shall return." I have no doubt that he will be joining us again very shortly.

☐ 1945

There were a couple of parallels I would like to draw. Before the gentleman from Washington [Mr. MILLER] leaves, I would like to just make some comments.

I am glad the gentleman brought that issue to the floor tonight, because it points out once again that the Soviets many times say one thing and do another. That is why in dealing with them we must always deal from a position of strength whenever we negotiate with them.

The gentleman from Washington cited an example of the young man who was put into a psychiatric hospital. Even though we have heard General Secretary Gorbachev say that that is a policy of the past, yet here in 1988 we see it happening again. Yet we continue to trust these people that we know violate their word on a regular basis. Here is an example of that, albeit it not one of what many would call international significance, but I certainly think it is significant.

Mr. MILLER of Washington. Mr. Speaker, will my colleague yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from Washington.

Mr. MILLER of Washington. My colleague, the gentleman from New York [Mr. GILMAN] met with, as I mentioned, and was with me when I met with Alex. I would tell my colleague from New York that I just spoke about Alex's imprisonment in a psychiatric hospital, his release, and now on September 12 starting his hunger strike in order that he might get the right to emigrate to the United States.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I would like to thank my colleague, the gentleman from the State of Washington, Representative MILLER, for arranging today's special order on behalf of Alexei Zavrajnov. It is important that we continue to focus attention on the issue of human rights violations within the Soviet Union.

I well remember meeting Alexei in Moscow this past January, when Congressman MILLER and I had the opportunity to visit with Soviet human rights activists. A young man, Alexei, recounted to us the many difficulties he encountered in attempting to exercise his right to Christian worship. In fact, he was arrested in 1987 for his religious activities, and was sentenced to a term in a psychiatric hospital. During that stay he was forcibly injected with drugs, notwithstanding the fact that his "crime" was in distributing literature and organizing Christian study groups.

When we first met Alexei his spirit was still strong. Upon our return to the United States, we learned that the day after our meeting, Alexei was followed by several KGB agents and beaten up. One even said to him, "so you want to meet with congressmen." This and other, more recent actions have led Alexei to strongly desire to emigrate.

This past summer Alexei was arrested once more, and sentenced to another psychiatric hospital for a period of 3 weeks. On September 12, Alexei began a hunger strike in order to achieve the rights that are due him under the Helsinki Final Act and other human documents to which the Soviet Union is signatory. Although a young man, the treatment to which he has been subjected, the harassment, the injections, and the beatings, have taken their toll. But Alexei has not given up, and apparently, will not relent with his hunger strike, which is weakening his health, until he has been granted the right to leave so that he can practice his faith freely and openly, without fear of retribution.

Mr. Speaker, there are thousands of other Soviet Christians like Alexei. Many have been harassed and beaten for their religious ideals. Many are jailed on trumped up charges and sent to labor camps or psychiatric hospitals. This is not the glasnost we have come to expect from the Soviet Union. It is far too reminiscent of the old ways. We still need to be convinced that glasnost has truly taken hold in the Soviet Union. To accomplish this, General Secretary Gorbachev needs to bring about the prompt release of all prisoners arrested solely for their religious beliefs, as well as commiting the Soviet Union to adhering to both the letter and the spirit of the Helsinki Final Act.

Alexei Zavrajnov has the right to practice his religion freely, in any country of his choosing. Mr. Speaker, I am pleased to join the gentleman from Washington in urging the Soviet Government to grant Alexei the necessary emigration documents as soon as possible, and I thank Mr. MILLER for helping to bring this case to public attention.

Mr. MILLER of Washington. Mr. Speaker, I thank my colleague from New York [Mr. GILMAN] as well as my colleague from Indiana [Mr. BURTON] for yielding the time.

Mr. BURTON of Indiana. Mr. Speaker, it is always nice to yield to Members who have something to offer this body. I think what both gentlemen have brought to our attention is very worthwhile and important, because once again it points out that the Soviets say one thing, even the current Soviet leader, and they do another. That is why we must never deal with them with our head in a sack. We must always have our eyes wide open and deal from a position of strength.

Mr. Speaker, I see my colleague from California has returned as he promised. Might I inquire how much time the gentleman thinks he might need to go ahead with his additional information.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, if my friend will allow me to buy him dinner downstairs when I am through, I would try to stay within 15 minutes.

Mr. BURTON of Indiana. That would be fine. What I would like to do, if it is all right with the gentleman from California, even though I control the time I will cede time to him as long as I can draw from parallels and finish at the conclusion of his remarks.

Mr. DORNAN of California. The reason I am doing this is not just to get us educated, all of us. It is to draw analogies to current history at the end of a short 50 years. As I said last night, 50 years in most history books is a paragraph on one page. They write about the Roman Empire in a few chapters, and we are talking about the sweep of a half a century. The Ottoman Empire that collapsed in 1917 was precisely 500 years, by some counts.

I had reached the point in the discussion on what was going on in the United States under President Roosevelt who was then in his fifth year. He had won a massive reelection victory against Alf Landon, Senator NANCY KASSEBAUM's dad, in 1936, so he was in the middle of what was thought to be his second and final term when this happened.

The last words I closed on were Hitler's feeling that the United States must be kept out of any future European conflicts. The conclusion that a great majority of Americans, including President Roosevelt and his top advisers, drew from our involvement in World War I was that it was a terrible mistake and must never be repeated.

I do not believe that is what the gentleman and I were taught in school, that it was a terrible mistake. We were watching Jimmy Cagney and the Fighting 69th and told in our school that we had helped the Europeans to stop this slaughter and that we had made the world safer for democracy. But Roosevelt and most of our fathers and mothers and the adults of that time were feeling that it was a terrible mistake. We lost 53,000 men in combat all in a matter of really a few months in 1918 when that war ended.

This Professor Loewenheim goes on to say when he learned that Mr. Chamberlain was headed for Munich, FDR sent the Prime Minister a brief congratulatory telegram "Good man," signed Franklin Delano Roosevelt. But as the present writer discovered and published in September 1978, Joseph P. Kennedy, the grandfather of one of our young Congressman on the majority side, then United States Ambassador to Great Britain, failed to deliver FDR's supportive message as instructed, and it never reached Mr. Chamberlain. The message, by the way, was no fluke, nor the product of momentary elation.

And on October 17, 1938, 17 days after Munich when the devastating meaning of Munich should have been plain for all to see, this is within a few days, Mr. Roosevelt went even further, writing to William Phillips, the United States Ambassador to Italy, and an old personal friend of FDR's "I want you to know that I am not the least bit upset over the final result," of the Munich agreement.

Or as FDR told the Senate Military Affairs Committee at the White House in a closed session, and it did not leak out for 40 years, a little different in those days than around here now, was it not, but in the White House on January 31, 1939, and that would be 1 day after Roosevelt's 56th birthday, a meeting surreptiously recorded by the President's stenographer. We have heard all about the Roosevelt tapes, and so there are the Nixon tapes, and early on the stenographer was tape recording all of the members of the Military Affairs Committee, a joint committee, I believe. The text was not published until 40 years later in 1979.

This is the end of this brilliant article. Here is what the tape says from Roosevelt's own stenographer: "You may be quite sure, about the last thing this Congress should ever do is to send an army to Europe."

How Hitler would have approved that sentiment of Mr. Roosevelt's had he known about it instead of merely devoutly wishing it. But Hitler, of course, did not surmise that the night President Johnson, who read the Munich crisis well indeed, because he left the House a few years later to go in the Navy, and was awarded the Flying Cross for sitting in the back of a plane that was strafed by a couple of aircraft, and he won that medal for sitting in the back, but the night that President Johnson learned of the Soviet invasion of Czechoslovakia, August 20, 1968, at the beginning of the Democratic Convention in Chicago, where Tom Hayden, who I have said many times in this well is a California assemblyman who I believe to be a traitor to freedom, to his State, and to his Nation, was organizing on the barricades by riling people up the night before, and then going to watch the people on television, which was his style, while all that rioting was taking place on the streets in Chicago, with razor blades placed in potatoes that were thrown in the streets, and the Kerner Commission called it a police riot, but I happen to have a different viewpoint since I was there and I witnessed it. But that night Johnson said, learning of the Soviet invasion of Czechoslovakia, he told an emergency meeting of the National Security Council when he was trying to get ready to go to his convention, he said there is danger in aggression anywhere in the world. The lesson of Munich remains exactly that. In world politics, we can run but we can't hide.

I like the ring of that, because our President used that when he talked about terrorists, and then he brought to fruition the Navy and the Air Force attack by fighter planes on Libya in April 2 years ago. In world politics, we can run but we cannot hide, says Prof. Francis L. Lowenheim. From Brookline to Berkeley, Brookline being the Massachusetts equivalent where Mr. Dukakis started his career, where they still at every town hall meeting every week refuse to pledge allegiance to the flag, from Brookline to Berkeley, that may be unfashionable to say these days, but it is true all the same.

My words, Nicaragua, Angola, Afghanistan, wherever there is agression, it is the business of this House and the other house down Pennsylvania Avenue.

He concludes 50 years after Munich, 25 after Vietnam, and this is what the gentleman from California [Mr. Hunter], and the gentleman from Indiana [Mr. Burton] are talking about, closing the loop, has that hard lesson been forgotten? Perhaps no one summed up the meaning of Munich better than Sir Charles Webster, the renowned British diplomatic historian, speaking at the Royal Institute of International Affairs in London in December 1960. This is not even at the halfway point. That would be 22 years after Munich. Professor Webster says the following, "Munich," he said,

> shows the folly of unilateralism and neutralism, the necessity of close cooperation between threatened states, the penalty of deserting faithful allies, the dangers of discussions at the highest levels without careful preparation and adequate advice, and the special danger of negotiating under the threat of immediate war.

The gentleman from New York [Mr. Solarz] alluded to deserting faithful allies in his reference to Czechoslovakia. My friend from the majority side went on and on about Reykjavik and President Reagan not being properly prepared to meet Mr. Gorbachev, and although they oversold their case, there was a thread of merit in what they were saying.

The professor concludes by saying "The special danger of negotiating under the threat of war."

□ 2200

Loewenheim continues quoting Prof. Charles Webster. Some may perhaps find in it, Munich, even wider applications such as that employed by Mr. Somerset Maugham in an aphorism which he adopted from a reflection by Thucydides; that is the name the Vice President had such trouble with on the stump the other day, Thucydides on the Peloponnesian War, and these words are so important that I would like to see them emblazened up there next to Daniel Webster's words. Thucydides said that if a nation values anything more than freedom, it will lose its freedom and the irony of it is, if it is comfort and money that it values more, then it will loose those, too.

British Prof. Charles Webster, diplomatic historian; Francis L. Lowenheim, professor of history at Rice; and Bob Dornan with the request that the gentleman yield that one point after I yield to the gentleman on what the Poles and the Czechs were doing during the next week 50 years ago. I thank the gentleman for taking this hour for himself and lending me some time to complete my thoughts.

Mr. BURTON of Indiana. I hope the gentleman from California [Mr. Dornan] will not leave us yet because he may want to participate in a colloquy as we get further into this discussion. My colleagues know that Chamberlain would have won the Nobel Peace Prize. I do not think there is any question about that. At the time everybody in the world probably would have said Herr Hitler, Mussolini, Lord Chamberlain, all who signed that agreement, should be awarded the Nobel Peace Prize. Unfortunately or fortunately they did not have the Nobel Peace Prize at that time.

Now we see a similar agreement, as the gentleman from California [Mr. Dornan] mentioned a while ago, the infamous Arias peace agreement or program, getting him the Nobel Peace Prize, and it is not unlike what happened in 1938 in my view.

My colleagues know that we cannot trust the Communists to keep agreements, and, if my colleagues do not believe that, all they have to do is look at the record. The ABM Treaty has been violated, SALT I, SALT II. Almost every single agreement militarily that has been signed has been violated.

In Nicaragua, the Communists down there who are supported by the Cubans, and the Soviets and their fellow travelers, violated the agreement they made with the world and the Nicaraguan people which they agreed to in 1979 when they said that there would be democracy, and free institutions, and free elections, and freedom of speech in the press and everything we hold dear. They signed an agreement at Sapoe and Esquipulas. Neither of those agreements have been lived up to, and the tyranny that is taking place in Nicaragua continues to expand.

We see violations of agreements in other parts of the world, in Afghanistan. I have talked to people from the various departments of our Government, and there is some question as to whether or not the Soviets are living up to the agreement that they signed on evacuating their troops or removing their troops from Afghanistan.

We are about to enter into another agreement, it appears to me, in Angola. It is very similar to the agreement which was signed in Afghanistan regarding Afghanistan. And I am very suspicious that the Cubans will not leave. There are now 57 Cubans over there that, if we bring in the U.N. peacekeeping forces to provide a buffer zone between the South African forces and the Angolan forces and the Communist Cubans that will still be there, what it will do is ensure that the Cubans will never leave. They might take a token contingent out of Angola, but I believe the major forces will still be there.

Mr. Speaker, that is a major concern of mine, that we do not learn from history. We did not learn from Munich. Otherwise we would not be signing these agreements. We would be dealing from a position of strength and making sure that the Soviet Union, our chief adversary in the world, lives up to the promises they make.

We ought to remember that the Soviets, as the gentleman from California [Mr. Dornan] said a few moments ago; they signed an agreement with Herr Hitler prior to 1938, and the only reason that the Soviet Union became an ally of the United States was because the Nazis under Herr Hitler's leadership turned on them, and they have not had to deal with us, had to work with the United States and become an ally of ours to win World War II.

Cooperation between the States, as the gentleman from California [Mr. DORNAN] stated a few moments ago, is also very necessary. We need to work with our allies around the world to make sure that we have a unified front, that we have the strength that is necessary, the strength in numbers of all the free countries and free peoples of the world to deter aggression on the part of the Soviet Union, and we must never abandon our friends.

The fact of the matter is right now we are on the verge of completely abandoning friends in other parts of the world. I see that evolving in Angola with Dr. Savimbi, I see that evolving and happening in Afghanistan with the Mujahidin. I say to my colleagues today, they feel like they are being abandoned because we signed an agreement that we promised them we would not sign without their support and without their agreement.

And we are abandoning, as I said before, our friends in Nicaragua. The people in Nicaragua were promised freedom. They were promised freedom by us. They were promised freedom by the Sandinistas and that freedom has not been realized.

As a matter of fact, the tyranny that they experienced under Samoza has been increased tenfold, twentyfold, thirtyfold under the Sandinistas, and it is getting worse by the day, and as we withdraw our support, as we withdraw our support, and I think we are going to completely withdraw our support within just a very short period of time, there will be no freedom fighters left in Nicaragua. Once that happens, the Communists there will solidify their position, as they have promised they would do in Nicaragua, and they will rapidly, more rapidly than they have in the past, export revolution into the surrounding countries. There is no question in my mind.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I thank the gentleman from Indiana [Mr. BURTON] for yielding, and I think that this special order and in speaking about the similarities between the situation in Central America and that—that surrounded the European crises in the late 1930's is very commendable.

One thing that I want to inject into this discussion is the human cost of mistakes of our diplomats. The Sandinistas speak in diplomatic jargon in Washington, DC, and Managua just as Mr. Hitler's very articulate representatives spoke when the Czechs were being sold out. And yet the human cost to the people who were affected by the agreement, and, if we want to compare the Arias peace plan with the Munich agreement, there are people who are being affected right now, law-abiding citizens of Nicaragua who can hardly be hard right wingers or Samozistas. They are civilians. They are people who believe in free speech, in the right to assemble and the right to redress their government and redress their grievances. Those people are being oppressed in the same manner that Mr. Hitler oppressed the people of Czechoslovakia and ultimately many, many other regions of the world in the late 1930's and the 1940's.

Let me offer a couple of examples that were given by Jeane Kirkpatrick in her recent article called, "The Prisoners of Nicaragua," about the march in Nandaimi, Nicaragua. Leading citizens who are opposition leaders marched. They carried flags. One of our colleagues, the gentleman from Texas [Mr. DELAY] watched this particular demonstration. They exercised their right to free speech. They made a peaceful march down the street carrying flags. For this action, which the Sandinistas term to be provocative and illegal, they were arrested and thrown in jail, into prison, and they are still there, 40 people, and let me describe a couple of them. Now these are people who are reaping the results of the Arias peace plan for which Mr. Arias received his prize.

First, the wife of the Secretary General of the Democratic Coordinating Board, Roger Guevara Mena, reported recently after visiting her husband that the food is inadequate, as well as adulterated, that many prisoners have developed skin ailments and throat infections, and that most received no medical care. Trade union leader—we are not talking about some so-called rightwinger or Samozista. We are talking about a trade union leader, trade union leader Carlos Huembes who has lost 35 pounds since his imprisonment and is still losing weight. Dr. Miriam Arguello, hardly a rightwinger, who is one of those arrested at Nandaime, was seized while she spoke, jailed and paraded in prison garb. This is a woman, a leader who has as much respect among the minority political system, the minority representatives and the minority parties in Nicaragua as the gentlewoman from Maryland [Mrs. BYRON] has and the gentlewoman from Nevada [Mrs. VUCANOVICH] and other gentleladies who represent their districts in this Congress of our country. Here is a representative, a doctor, who is highly respected. She was seized, she was thrown into prison garb, and she was jailed and paraded before TV cameras. She is confined to a crowded cell with common criminals and restricted to her bunk. This is according to Mrs. Kirkpatrick:

> Arguello suffered rapid deterioration of her physical condition. Her private physician, Dr. Jose Maria Morales, who examined her on September 9 of this year said Arguello was permitted to get up from her jail bunk only when a guard was standing in front of the cell door.

So here is a lady who is in politics in Nicaragua. She is a respected doctor, a member of the opposition party. She is thrown into jail by the Communist Sandinistas, and she is only allowed to rise out of her bunk. She cannot even stand upright unless a guard permits her to. Morales said Arguello appeared, and he is a doctor, dazed and in a fog. He said her history of circulatory problems, lack of proper nourishment, and continuous psychological pressure had caused her blood pressure to rise and the loss of some control in her hands.

Now the Sandinista doctor, Dr. Miguel Aragon, pronounced Arguello "in good health," and said that all the political leaders were "in perfect condition."

Let me remind my colleagues that these citizens of Nicaragua who are being abused in Sandinista jails were people whose only crime, as witnessed by a Member of this House who has great credibility, the gentleman from Texas [Mr. DELAY], whose only crime was to march down the streets holding flags. All this was done under the Arias peace agreement. All this repression has arisen and emanated from that agreement that was made between the neighbors of Nicaragua and the dictator of Nicaragua.

Mr. BURTON of Indiana. If I might just interject one thought, I was in a town called Leon just north of Managua about 40 miles, and it parallels with what the gentleman from California [Mr. HUNTER] is talking about. The people there wanted to have a demonstration for freedom, and we thought when we went to Leon—the Government of Nicaragua tried to dissuade us from going. They even tied us into a possible meeting with some of the Sandinista commandantes to keep us from going to Leon at a time when they knew we were supposed to depart. Nevertheless, we did not want to break faith with these people. We thought there would be about 400, 500 at this movie theater or a small village gathering place to meet with us. When we got to Leon we found, not 500 people, but about 5,000 or 6,000 people, waiting for us and cheering because they had a way to demonstrate their opposition to the tyrannical practices of that government. And they had a big parade through the town, which is similar to the one the gentleman from California [Mr. HUNTER] is talking about, and they carried flags, and it was a very festive occasion, and the Sandinista military stood along the parade route, and they had television cameras, the small

VCR's, and they monitored every single person that went by the parade route, and I wonder to this day how many of those people may have been picked up after we left and thrown into jail like the people that the gentleman from California is talking about tonight.

Mr. Speaker, there is no question in my mind that many of them probably have suffered because of that demonstration, because they talked to a Congressman from the United States about the repression and the repressive tactics of the Communist Sandinista government down there.

Mr. HUNTER. Mr. Speaker, I thank the gentleman from Indiana [Mr. BURTON] for taking out this special order, and I just wonder if all of those who talk about peace in Central America would accept the peace in which wonderful people like this gentlelady that I spoke of—who is a conservative leader in Nicaragua—is jailed, is physically deteriorating under the very repressive prison practices of the Sandinistas. As long as their story and their cries for help do not get out to the outside world and bother us as we sit around television for the evening news, is that the kind of peace that—is that peace suitable for us? Is that what we want to accept?

Mr. BURTON of Indiana. That is the peace that we condemned Czechoslovakia to. That is the peace we condemned Poland to in World II by allowing a horrible document like the Munich agreement to be signed. The fact of the matter is that when Samoza left office, was run out of the country and the Sandinistas took over, there were about 800 or 900 people in their prisons. Today they have what—10 or 12 times as many prisons and about 11,000 political prisoners.

□ 2015

So the lady you are talking about, this doctor who was a political leader down there who only spoke out for freedom, that lady is about 1 of about 10,000 to 11,000 people who are condemned to prison, and as the gentleman from California [Mr. DORNAN] said many times, the greatest growth industry in Nicaragua is the prisons, because they are growing with leaps and bounds.

So I thank the gentleman from California for his contribution and for bringing this article to our attention.

I would like to just cite a couple other things that parallel what happened after Munich and before Munich. Before Munich, Great Britain had a policy of disarmament. We have Members of our Congress who want to have in effect unilateral disarmament, who want to cut our defense budget back to the bone, back to where we had gaping holes in the military in the late seventies. That is something that we cannot tolerate.

What was happening prior to World War II, Great Britain was involved in disarmament, conferences in Geneva, along with other countries in the free world. In fact, all the free world countries were concerned there would be a repeat of World War I, so they all went to Geneva to have a disarmament conference. The United States was a participant, France, Spain, Great Britain, Italy, all of them were up there at this disarmament conference—I take that back. Italy was not there. That was one of the Axis powers; but Hitler at the time this disarmament conference was taking place was involved in the biggest military buildup in the history of mankind.

The thing that is ironic about this, while Great Britain and her allies were disarming, they were selling engine parts and aircraft engines to Herr Hitler while he was involved in this huge military buildup.

Now, what do we see today that parallels that? Today the Soviet Union spends 17 percent of their GNP on military hardware and on an offensive capability. While they are doing this, as I said before, the United States is involved in cutting back or trying to cut back by many Members of this body.

Those of us who believe in a strong military stand in the breach year after year trying to make sure we have an adequate defense and that we are not involved in unilateral disarmament; nevertheless there are those who want unilateral disarmament, not unlike what England experienced under Lord Chamberlain prior to World War II.

What it led to was a terrible military tragedy.

Now, in Central America, while we withdraw support from our friends in Nicaragua who want freedom, the freedom fighters who have laid their lives on the line down there, we have given them I think a couple hundred million dollars in military supplies. While we withdraw all support, the last vestiges of help to the freedom fighters in Nicaragua, the Contras, the Soviet Union continues the greatest military buildup in the history of Central America. So far they have sent between 3 and 5 billion dollars' worth of military hardware down there. There have been thousands of tons of war materials going in there on a regular basis, while we do nothing.

While the freedom fighters, the Contras in Nicaragua, are being stamped out and run out of the country, this buildup continues.

Make no mistake about it, the parallels between what happened in 1938 and today are real. If we do not help our allies in Central America militarily today by giving them the supplies necessary to fight for freedom, then the tyrants in Nicaragua who are receiving these huge quantities of military supplies from the Soviet Union will continue to export and expand that revolution throughout all of Central America and up into Mexico. Once they get into Mexico or close to it, then the United States will have no option, no option whatsoever, but to deploy American troops south of the Mexican-American border to defend what I call the soft underbelly of America and to protect ourselves from having a military presence of the Soviet type on the Rio Grande.

We cannot allow that to occur, and yet our actions today by cutting off aid to the freedom fighters will lead to that eventually, because the Soviets are not cutting back on their military supplies to the Communists in that area, and the exportation of revolution is continuing. We have found supplies, Soviet and Communist military supplies, in many countries in Central and South America, and it goes on and on and we do not do anything about it.

I flew into a place, as I said before, called Chalatenango Province in northern El Salvador. There had been a firefight there 2 days before and during that firefight many people had been killed, and when we landed they took me in to talk to a captured Communist guerrilla. We asked this gentleman, I used our own interpreter, "Where were you trained?"

He told us he had been trained along with his cadre in Nicaragua in a camp just outside Managua. He then took us outside, they took us outside along with this gentleman to take a look at the captured military supplies that they had captured in this fight that took place a day or two before. We saw Bulgarian hand grenades, Soviet mortars, and M-16 rifles that had come from Vietnam. These military supplies had been supplied to them by the Soviet bloc through Cuba and through Nicaragua.

There is just no question that the buildup and the exportation of revolution has been perpetrated on the people of Central America by the Soviet bloc and by the Cubans.

If we continue to cut off aid to those fighting for freedom in places like Angola or Afghanistan or Nicaragua, then we will reap the whirlwind.

The Soviet Union, in my opinion, will never involve itself in a frontal attack on the United States of America. Their attacks will come in bits and pieces through her surrogates. In Angola it will be by using the Cubans to take over that country. In Mozambique they will use the Communist Frelino government supplied by the Soviet Union and helped by the Cubans. In Afghanistan they will use her surrogates, the Communist government in Kabul, and if necessary they will keep their Soviet troops in there, and in Nicaragua they will use the Cubans and the Nicaraguan Communists, the Sandinistas, to solidify their position there.

Then they will use the Sandinista troops in exporting revolution into these other Central American countries as well as training Communist guerrillas in those countries.

So they are going to take the world in bits and pieces without a direct frontal assault. It is not going to be like Herr Hitler coming across the Rhineland in World War II with a direct frontal attack with his Panzer Divisions. It will be small brush fire wars and we will see the world go Communist in bits and pieces.

We need to deal with that. We need to deal with that from a position of strength. We must not involve ourselves in signing agreements that will involve capitulation by our friends and allies.

Right now, as I said before, there are negotiations going on in Angola and those negotiations, I believe, could lead to a complete Communist takeover in Angola and an erosion of support for freedom forces in that country and the countries south of there. The Communists control Angola, Mozambique, and Zimbabwe, and if we allow them to solidify their positions in those three countries, then the entire southern tier of Africa will be in jeopardy.

The minerals that we need to survive as a nation come from only two major sources, the southern tier of Africa and from the Soviet bloc. If the Soviets have their way by using their surrogates to take over the southern tier of Africa, then ultimately the United States will have to go to the Soviet Union with hat in hand and ask for the minerals that we need to produce cars, to produce defense materials to defend this country, and they will literally have us by the throat, and yet we continue to negotiate. We continue to sign agreements that are not going to be lived up to by the Soviet bloc, by the Cubans or by their allies.

I feel we need to realize that we are not just in a continuing cold war with the Soviet Union. We are involved in a real war with the Soviet Union, and it has not changed.

My colleagues on this floor on the other side of the aisle tell us from time to time that glasnost is a new era, the beginning of a new era in Soviet-American relations, and that we can trust General Secretary Gorbachev, that we can sign agreements with them knowing full well that they will live up to those agreements, that as long as they are somewhat verifiable, we need not worry.

The fact of the matter is that while we reduce our defense spending to 5 or 4 percent of our total budget or 6 percent of our total GNP, rather, the Soviets have expanded their defense spending to 17 percent. They are not cutting back one little bit in the area of offensive military capability. They outnumber us by about 5 to 1 as far as military personnel are concerned.

They have, as a matter of fact, over 100 divisions. We have 29 divisions, and that does not include their Warsaw Pact allies. They have five times as many tanks as we have. They have two or three times as many artillery pieces, and then you can get into the other nuclear weaponry and the ships and so on and so forth, and in most cases they outnumber us dramatically, and they continue to build, build, build, and modernize.

We signed an INF treaty not long ago that was hailed by our President as being an historic document, one that would bring us peace and take us back from the nuclear precipice. The fact of the matter is that document, I think, was fatally flawed. We signed that document saying that there would be onsite verification.

The fact of the matter is that the SS-20's that are supposed to be destroyed by the Soviet Union are in mobile missiles with three nuclear warheads. A mobile missile is almost impossible to verify being destroyed because it can be moved around the country.

Sure, they will show us the destruction of some of those missile systems, but not all.

In addition to that, they are replacing the SS-20's with a new generation of missiles called the SS-25. It is an intercontinental ballistic missile that can be retargeted on the same targets that the SS-20 was directed at, and yet we signed that agreement.

The Soviets build, we believe, we sign an agreement and they move forward and they use this military buildup to take other little countries in brush fire wars.

I do not know when we are going to wake up. I do not know when we are going to learn lessons from history. I do not know when we are going to realize that the Munich of 1938 will become very real today unless we start realizing the Soviets have one ultimate goal and objective. They stated it very clearly in 1917, 1918, and 1919, after they took power, and that is world domination.

If we are to survive as a free nation, if the free nations of the world are to survive, then we must be strong and we must deal from a position of strength. We must not sign agreements that give away the freedoms of our friends and our allies. We must stand with those small countries, those fledgling democracies that are fighting to retain their freedom.

In Central America on our southern flank there are a number of democracies that are very new, fledgling democracies that are struggling to survive. They are being attacked daily by Communist guerrillas, who are being supported by the Soviet Union.

We have seen Nicaragua fall. El Salvador is in jeopardy as we speak. Honduras and Guatemala are in jeopardy, and ultimately I think Mexico will be in jeopardy, and if we do not help those countries survive, then we will have to fight alone. We will have to stand up to the Communists ultimately alone in Central America or someplace in Mexico. That is a thought that I do not like to think about.

I think Winston Churchill said something very similar to that. He said that if you will not help your allies, if you will not do what is necessary to fight the Nazis—and I am paraphrasing him now—he said that someday you will have to stand alone against them, and you may have to fight knowing full well that you may not be able to survive. You may have to fight not for freedom, but just to survive.

□ 2030

One may fight knowing full well that he is going to lose, because he would rather not live as a slave. These are dire thoughts that I am presenting to my colleagues tonight, but on the 50th anniversary of the Munich agreement, we need to step back and take a look at what happened then, and look at what is going on today.

In 1938, to a tumultuous welcome, Lord Chamberlain got off the plane at Heathrow Airport, held aloft the agreement and said, "Peace in our time," and he would have won the Nobel Prize, as I said earlier, had there been one at that time.

We see in Central America a similar agreement being signed, a gentleman, the President of Costa Rica, President Arias, getting the Nobel Peace Prize for coming up with this, and we are heading down the same basic road that was traveled back in 1938, and yet nobody will admit to it. Nobody will agree that there is a threat, not only to the security of the other fledgling democracies, or to fledgling democracies of Central America, but to the United States as well.

Are we going to wait until all of those countries go Communist? Are we going to cut off aid to El Salvador, Guatemala, and Honduras like we have to the freedom fighters in Nicaragua and then stand alone against the Communists of Central America?

I talked to Bayardo Arce at the airport in Managua. He told me that their goal was to build a 1 million-man army in that country. Major Miranda, who defected from that country, who was one of the assistants to the leaders, one of the commandantes down there, said that they were going to build to a 600,000-man army. Bayardo Arce told me that they wanted a 1 million-man army.

The fact of the matter is we only have 2 million men in our entire military force. If they build up that kind of military force in Central America, supplied by the Soviet Union, we will not be fighting the Soviet Union. We will be fighting one of their tentacles. We will have to withdraw our support from areas, countries, like NATO and the Mideast and the Middle East and focus that attention on the soft underbelly of America, the Mexican-American border and with Central America, and that is something I do not want to think about.

I do not want to see us involved in a land war on the North American continent, not like what they faced in Europe. I do not want to see American cities face what they had to face in London during the Blitz, and those things can happen if we do profit from history, and do not do what is necessary to keep that from happening again.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, the gentleman brought this perfectly full cycle with his special order tonight as I had hoped.

At the end of Vietnam, the words "peace with honor" were used quite extensively by a Republican administration. President Nixon used them, and Secretary of State Henry Kissinger used them. In all of these newspaper transcripts, and Washington was sort of a provincial city in those days, so I did not find much coverage by the old Washington Star or the Washington Post, not as extensive as the New York Times that I have in front of me, but listen to these same words out of Mr. Chamberlain's mouth, "Peace with honor," says Chamberlain. "Prime Minister wildly cheered by relieved Londoners. King welcomes him at the palace. Prime Minister Neville Chamberlain had a hero's welcome on a rainy autumn evening when he came back to London bringing the four-power agreement. He says, 'The desire of our two peoples never to go to war with one another for the second time in our history,' he told a wildly cheering crowd in Downing Street, 'a British Prime Minister has returned from Germany bringing peace with honor,'" the same thing that was talked about in late 1972 and the so-called Paris peace agreements signed by the Secretary of State, Henry Kissinger, and Le Duc Tho, the representative for the Communist government in North Vietnam, the same words, "peace with honor," here they were, and it seems to be a bigger headline than, "I have brought you peace in our time." That seems to have picked up momentum the next day.

Mr. BURTON of Indiana. If the gentleman would let me interject one thought. The gentleman may go ahead.

Mr. DORNAN of California. I just wanted to point out the little ironies of history, that the five people on the international commission settling the Sudetenland problem, those territories in Czechoslovakia that were German-speaking, just for history, I want to say the Fascist Italian was Bernardo Attolico, and the Czech that they dragged in kicking and resisting was Dr. Woitcek Matsnie, the French representative, and these were all the ambassadors to Berlin, Andre Poncet, and the Englishman was Sir Nevil Henderson, and the German was Baron Ernst von Veizacker, and I am serious, and Mr. Veizacker has such a kind and gentle face, and the German Nazi concentration camps were already building.

If the gentleman will allow me, my wife Sally called in with a sad epilog to Mr. Chamberlain, to reemphasize the point the gentleman and I were both making, that he was not a bad man, and that he was trying to pick up the evil mistakes, not evil mistakes, the thoughtless, patriotic, thoughtless judgment of the presiding coalition government. I misspoke earlier when I said that he was the opposition government. He was part of the MacDonald - Baldwin - Chamberlain - Churchill coalition government, and I will just end up with this and yield back the time.

Mr. BURTON of Indiana. I just had one thought that I would like to interject. Churchill, who was one of the greatest minds of that time and one of the most realistic politicians and a realist, he realized what Hitler was all about and made several statements comparing the Nazis to the Communists. He understood the danger of communism back in 1938 through 1945. He said, "Like the Communists, the Nazis cannot be trusted. Like the Communists, the Nazis are always looking for a new prize, a new victim, a new objective," and he knew that one could not trust them and, yet, today we continue to try to find ways to trust the Soviet Union, trust their leadership, because they have a nice smile, because they dress like we do, because they have a nice soft voice and have a genteel appearance or approach to us. It concerns me that we are being duped today by Mr. Gorbachev, General Secretary Gorbachev, like they duped Lord Chamberlain back in 1938, although Hitler was pretty abrasive, and they are much more polished today, but Churchill realized that the Communists could not be trusted, and we should learn from history, learn from Winston Churchill, and if we think Churchill was a great man, we should read what he stated time and again, and that is that one does not trust them, that you deal from a position of strength, and do not sign agreements that are going to put us in a trick bag.

Mr. DORNAN of California. Exactly. Here is what my wife called in, so I would be sure and reinforce the point that this was a good man, and he was no elitist Briton born to the peerage. He was the mayor of Birmingham, which suffered horribly under the bombing of the Luftwaffe just a few months after this flawed Munich agreement.

He did not serve in World War I, because he was 45 years of age when the war started, August 1914. He was born March 18, 1869, in Birmingham, served there on the city council, and he was trained to be a businessman. He was the mayor in 1915, so he was already 46 years of age. He had failed in the Caribbean, and I do not even know what sisal is, and somebody will call my office tomorrow and tell me, but it was a crop on his father's farms on the Caribbean islands, and he tried to make it work for 7 years, failed, came back and entered city government, became the mayor. In 1916 he formed a savings and loan bank, of all things, in Birmingham. Then he was called from Birmingham because of his success by David Lloyd George. He joined the government of Baldwin after that, although he broke with David Lloyd George, tried to go back into private life. He was made chairman of his party in 1930, and that is the post that Vice President BUSH has held for our party, and he joined the government of Ramsay MacDonald, the Conservative government, August 31, and for 5½ years he was the Health Minister. His background was not in diplomacy, and the mayor of Birmingham is hardly trained to deal with a Nazi Reichschancellor who is burning down the Congress in Berlin.

He did a good job for 5½ years of service, and then he was there in 1934 at the beginning of rearmament, and that was sort of in his favor, but he kept blocking Churchill, who wanted to rearm faster than the Baldwin group. On May 28, 1937, he came into power, as I said, and he was only in power 16 months when that Munich thing happened. On April 16, 1938, just a few minutes before Munich, he signed a treaty with Italy, the other Fascist country, the original Fascist country of this century, to cut them away from Germany. It all fell apart a few weeks later at Munich.

On March 15 of 1939 was another move to try and isolate Hitler from the rest of the country, and in April of 1939 after the failed Munich thing was obvious within days, the draft, involuntary servitude, started in England. They had gotten through all of World War I without a draft, killing millions of young Englishmen, but they needed a draft. They began to prepare for war. He tried to put together, threatening Hitler all during 1939, because this was falling apart, an allied arrangement with Great Britain, France, and the U.S.S.R., but Stalin stabbed Chamberlain in the back on August 23. They signed the infamous Hitler-Stalin pact which we discussed last night and tonight.

He maintained, after Hitler invaded Poland, which he warned Hitler not to do, and it was Chamberlain that declared war on Adolf Hitler, not Churchill, and not Germany declaring war on Great Britain.

Mr. BURTON of Indiana. But he was forced to do that. He had no choice.

Mr. DORNAN of California. Hitler was occupying Poland, and they drew a line in the sand.

Mr. BURTON of Indiana. He held off until the last possible minute, and then he had no choice.

Mr. DORNAN of California. And Churchill was on his heels and speaking in the House, "Now, the jackboot is felt in Poland. What are you going to do about it?"

Mr. BURTON of Indiana. That is one thing we have excluded from our discussion tonight, and that is that Winston Churchill, when Chamberlain came back from Munich, went to the floor of the House of Commons to deliver a speech, and was shouted down, just because he was saying that, "We have just sown the seeds of war." It is unfortunate that while we are talking about the negative aspects of what happened at Munich, we ought to talk also about the great leader who foresaw this, and that was Winston Churchill.

Mr. DORNAN of California. The parallel that I feel here is the patriotic liberal Democrat in this Chamber making one of these mistakes, and if they were to have the White House, and I see the parallel with Governor Dukakis in the White House saying, and when giving away the store, trying to recoup and say that we are calling for some firm move, that it is almost too late then, making the proper moves as Hitler is rearmed, and they are playing catch-up.

In April, he led or supported and planned the British failed move to save Norway. Germany invaded Norway and Denmark in April of 1940, and one of these ironies of history is he resigned May 10, 1940, as Hitler invaded Belgium, and the Netherlands, who never believed Hitler would invade them, because they were neutral in World War I, and the aircraft designer Fokker was a Dutchman. And he hit France, and he resigned. Churchill kept him on as Lord President of the Council. He fell into ill health during or just before the Battle of Britain and, from a hospital bed, heard his beloved Great Britain being bombed, and the Spitfires and the Hurricanes fighting with the Luftwaffe overhead. He died in Heckfield, which is near Reading, England, on November 9, 1940, when the issue was in doubt, and America was still 13 months from rescuing our Mother Country again as we had in World War I.

The irony is he even died on a historical day, an ugly day, November 9, 1940, which was the second anniversary of Kristallnacht, which happened just a few days after Munich in 1938, 2 months and 9 days after this tragic agreement, "Peace in our time, peace with honor," and the Germans broke the windows of every Jewish shop throughout Germany, blew up and burned synagogues, and there was so much broken glass from Jewish shops that they called it "Kristallnacht" or "Crystal Night."

Mr. BURTON of Indiana. There is another parallel which we have not pointed out tonight, and that is that in Nicaragua there were synagogues burned in Nicaragua, there were Jewish people who were run out of the country, and so the religious persecution that took place in Nazi Germany has taken place in Nicaragua and is taking today, and yet we continue to close our eyes and turn our back on those people down there who want freedom so desperately, so desperately that in 1979 they accepted the Sandinistas when they ran Somoza out of the country. There is another parallel, and yet we do not look at it.

I talked to Members on the other side of the aisle, and even our side of the aisle, and when we start talking about Munich, because people talk about Winston Churchill and his predictions and what happened back in those days all the time in the well, and yet even though we point that out time and again and draw the parallels, they will not see, and I do not understand why, because now we are talking about our border, our southern flank, our soft underbelly in the North American Continent, and we are not talking about half a world away, we are not talking about waiting until the war gets so bad that we realize we have to get in it, because this time there is not going to be any leeway if it happens, because we are going to be right in it from the beginning.

Mr. DORNAN of California. Maybe Vietnam is still too close. The ending is, for us, 15 years away, for the collapse of freedom 13 years away, 25 years away from a government complicity, although they did not believe a murder would take place of the Diem brothers. Maybe that is still too close, but Munich has about the proper distance, 50 years.

The gentleman at the leadership desk has argued eloquently for freedom in the former German African colonies, but the African colonies of Germany, Mozambique and Angola, went over to be colonies of Portugal, and now they are colonies of the Soviet Union through the Cuban mercenaries, and every time we speak on the floor, it is still all the history of this fast-moving century, and I hope that this House, not next week, because we will have other things on our mind, but when we reconvene again, whichever Members have not retired, and the handful, about less than 2 percent, who will suffer defeat at the polls, and I hope we are not part of that 1½ percent, and when we come back, we begin to relive the 50th anniversary of 1939.

□ 2045

Building up to the 50th anniversary of the start of the war, and we will have that vision to see why the lessons pertain today.

Mr. BURTON of Indiana. Thus, we think there is no threat. Look back at the last 10 years and see how many countries have gone Communist. None under Ronald Reagan, but prior to that, we have Angola, we have seen Mozambique, we have seen Ethiopia, we have seen Cambodia, Laos, Nicaragua, Grenada, although liberated, and about 12 or 13 countries go Communist and the Soviet Union continues to supply billions of dollars in more countries to Communist guerrillas to overthrow the world and take the world piece by piece and get us to sign agreements or allies to sign agreements that will buy them time when they still feel like there is need to buy time.

Mr. DORNAN of California. Our great staff here helped me put a footnote to a footnote.

What kind of a farm did Lord Chamberlain fail on in the Caribbean. "Sisal, a strong durable white fiber used especially for hard fiber cordage and twine, called also sisal hemp, a widely cultivated West Indian agave whose leaves yield sisal; any of several fibers similar to true sisal, and from sisal farmer in the Caribbean the mayor of Birmingham died in a hospital bed in 1940, listening to his country being pounded by Nazi bombs because he was not tough enough when tough enough was required facing dictatorships, and I thank the gentleman for letting me participate in his special order, and I thank the gentleman for taking my special order and bringing it back perfectly on the lessons we should learn today.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for his participation and I yield back the balance of my time.

SLATTERY SUPPORTS WELFARE REFORM BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. SLATTERY] is recognized for 5 minutes.

Mr. SLATTERY. Mr. Speaker, today the House of Representatives passed the first major welfare reform package in 53 years.

The Family Support Act of 1988 provides welfare recipients with a hand up, not a hand out.

It emphasizes education, training, and work which we know is the only real way to break the cycle of poverty.

This legislation offers welfare families critical medical and child care benefits for up to 1 year after they leave welfare. The medical safety net and child care support are key provisions that will allow a working mother to choose a job and a paycheck without the fear of losing medical coverage for her children or worrying about their safety while at work.

This bill also requires States to strengthen efforts to collect the millions of dollars in delinquent child support payments.

The American taxpayer should be proud of this welfare reform legislation. It makes good use of Federal funds by providing welfare recipients with the incentive to work and the education, training and support services needed to help them regain their place in society as productive, taxpaying citizens.

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I have spoken out with respect in the immediate, past immediate days with respect to fundamental things.

One I will defer for next week, the subject matter having to do with the vulnerability and the dangers inherent in our present monetary and fiscal situation, but tonight I want to place into the RECORD a letter that I wrote as of yesterday to the editorial page, the editor of the Washington Post, Meg Greenfield, concerning an editorial that appeared in the Washington Post on Friday last, on September 23, entitled "Jim Wright and the CIA."

In that editorial, the editor who wrote that, whether it be a he or she, was in such a dreadful state of mind that I believe a grave injustice was done our distinguished leader, Mr. WRIGHT, my fellow Texan, when they referred to Mr. WRIGHT'S referral intern to the Nicaragua regime now in power, Sandinista regime, or call it what you will.

I would like to read excerpts from my letter because I think it will succinctly state the case, and then I wish to enlarge upon and particularly in view of some of the remarks that have been made earlier in the evening here on this House floor, remarks that are very disturbing because of their lack of perspicacity as to the nature of the world here south of the border.

In this letter I state:

> Your editorial condemning Jim Wright for undercutting the legal political opposition in Nicaragua is just plain wrong.
>
> There isn't any credible evidence that anything Mr. Wright said compromised any official secret. In any case, the aim of our government in Nicaragua is crystal clear: get rid of the Sandinistas by fair means or foul. Whatever secret Jim Wright supposedly compromised surely must be the worst-kept one in the world.
>
> The Sandinista opposition from the beginning has suffered from being identified with U.S. destabilization efforts. Funding of the contras and ham-fisted intervention into Nicaraguan politics for years has meant every opponent of the Sandinista regime could be charged with being a subversive. In such a climate, legitimate political opposition has been stillborn. That shouldn't surprise anyone: it is practically impossible for legitimate political opposition to develop or survive in any country facing subversion financed by outside powers. Well-publicized United States support for the contras, or for political opposition, long ago impaired the credibility of any opposition to the Sandinistas. What we've done in that country thus has done more to entrench the Sandinistas than anything else.
>
> It is foolish for the Post to assume that large-scale meddling in the political affairs of other countries can long be concealed. Clandestine intervention can have perverse effects: Fidel Castro has been able to blame all his failures on the CIA forever, it seems. And that is the real point of Jim Wright's comments: clandestine intervention has done more to kill off legitimate political movements than to help them. Ill-concealed interventions like that in Nicaragua makes all opposition suspect and does more harm than good to legitimate opponents of the regime.
>
> Opposition movements cited by the Post in South Africa, Poland and Chile have legitimacy and power precisely because they are home-grown. If they were identified with the CIA, let alone dependent on it, these movements would never have gotten off the ground. For your paper to suggest that these movements are the same as, or even similar to, the products of our government's Nicaraguan destabilization policy, is positively Orwellian logic. What our government has done in Nicaragua simply gives the Sandinistas excuses to suppress opposition. The governments of Poland, South Africa and Chile don't have that excuse, and opposition to them is both legitimate and increasingly effective as a result.
>
> Notwithstanding all the well-orchestrated handwringing, Jim Wright has performed a public service by pointing out that clandestine and not so clandestine political interference in other countries very often does more harm than good, because it allows incumbent regimes to brand all opponents as subversives.
>
> Sincerely,
>
> HENRY B. GONZALEZ,
> *Member of Congress.*

I think this is plain to those who have followed the development as they have unhappily evolved south of the border particularly. It is fine and dandy to say that one is against communism. It is another thing to say that one knows what one is talking about, much less doing, when one barges in like a bull in the china closet without understanding either the nature of the history or the culture of the particular country.

What has been happening south of the border is something that has been happening for quite a long time. We are talking about societies and cultures that have their own history, their own evolvement, even though the tendency on our part north of the border is to lump all into a homogenized entity or concept.

Nothing could be farther from the truth. There is no question about it. When the President told us just about 4 years ago that Nicaragua was a menace to the United States and its security because such cities as Harlingen, TX, were in the path of a possible invasion on the part of the Sandinistas there was no question that that statement made not only he, but us, in the United States the laughingstock of the world.

There is no question that it revealed a total and complete ignorance of what exists, even physically, much less culturally, south of the border. To visualize an invasion from Nicaragua into the United States would mean that we would take for granted that that invader would traverse the various and sundry countries, 1,500 miles down the road, including such countries as the Central American countries of Costa Rica or El Salvador, Guatemala, and Mexico, untrammeled, unimpeded as if those nations were not jealously guarding their own hegemony and own independence and own sovereignty.

I think, though, the point we reach is at such a danger that unless our American leadership in and out of the White House, in and out of the Congress, shows more enlightened type of leadership, that we will be paying an undue and unnecessary penalty in blood and treasure.

In the discussions we were hearing a few minutes ago, attempts were made to parallel the situation at the onset of what turned out to be World War II. Comparing countries, such as the Middle European countries, the Western countries of France, Germany, Belgium, England and trying to make a parallel comparison with what is happening in our part of the world today, in this case with a supposed threat of communism, nothing could be more remote, nothing could be more screened than to try to bring in that type of parallel comparison.

I think a more proper comparison should be with what has happened with our policy once the world of communism and anticommunism triggers off our thinking process or blocks them in so many cases, and we get into a state of mind, and when people are in a state of mind there is no way that one can reason. I think the best parallel is to compare our course of conduct on the other side of the world, 8,500 miles away in Southeast Asia and in that part of the world. There we must never forget that as a result of our incursions we still presently have over 45,000 of our soldiers in South Korea alone. In Germany we have over 315,000, but what about our so-called allies? Why is it that France has about 10,000 and why Britain has 7,700? Why is it that we continue to have a mind set and a perspective of the world as if this were a 1947-48 world?

□ 2100

Why is it that when we entered almost blithely into our involvements in Southeast Asia we totally ignored the reality of that world even to the point that today we have heard recitations about the so-called armed strength of the Soviet Union? If we talk about terms in terms of divisions and we do not take into account that the Soviet Union has more divisions deployed on its eastern front, where it has been at war off and on with China for more than 250 years, I think we are making a very, very serious calculated mistake. If we do not realize that our incursion into Southeast Asia, first in Korea where we lost a considerable number of men, and a lot of treasure, but more preciously it was the beginning of the folding in of the hegemony that had resulted from the active shooting phase of World War II.

When we considered that world as a monolithic Communist world, we are embarking on one of the most fatal errors that any country has made in the recorded annals of mankind's history. When we persisted in not learning any better, and we must recall our experience in Korea, we did not win, we are still under a trust, we had major generals captured by the so-called Communist forces, joined not only with the North Koreans but by the Chinese at that time.

Our incursion into what we call Vietnam, but which really was the remnants of the French Indochina colonies, we ventured under a system that we have used in impressing our young men into service during the hot shooting phase of World War II.

At no time did the Congress ever address that we had reached a watershed of difference in approaching as to who would be selected or impressed to serve and who would not. We should have known and certainly the handwriting was on the wall just about the time that the Korean war was prolonging itself into the third critical year, 1953, and by that time I can recall we were beginning to have the same manifestations that we later saw in the plethora of abundance during the Vietnam hot shooting phase of that war as far as America was concerned. That is, we had demonstrations, we had people who stood in the way of munition trains in California in 1952 and 1953 and it was based on the fact that there were some Americans being conscripted and impressed into service while others were not.

These are the things that are not taken into consideration. These are contributing factors. Just like in trying to extrapolate comparisons between past eras and the present, it is almost impossible unless we have total recall of the sights, the sounds, the feelings, the emotions, the fears. We cannot compare the environment in 1938-39 and even before that, 1936-37, with the Japanese invasion of Manchuria. In 1937 the sinking of our gunboat, the *Panay*. Those were eras that I can recall vividly. I do not know how our colleagues—whether they were from that period of time. I am sure they are considerably younger than I am. But unless we can recall that, unless we can recall that in the middle thirties and even in the later thirties, we had distinguished American heroes like Charles Lindbergh, flying to Germany, decorated by Hitler and coming back to the United States and advising that the German Luftwaffe was invincible. There was nothing in the world that could defeat the German power.

That was our No. 1 hero, Charles Lindbergh telling us that. That was the environment. We had isolationism in our Congress, we had the counterparts of those that are now advocating something, I do not know whether the advocates are advocating that we invade, that we prepare for invasion, because I think what is being overlooked is that almost as if we are willing it, we have been acting in such a way as to not only fortify and unite the very objects of our dislike and our fear, but we are also setting up the very possibility of such a thing eventually happening. For example, it is fine well to blame the Marxist-Leninists or Communist forces in the revolutionary efforts in El Salvador or in Nicaragua. But if the conclusion is made that these movements are other than indigenous native born among the people, fought by the people, then we are making a sad mistake that is going to cost us very much if we continue to progress as this administration has in its actions.

For example, we talk about how we will have to have our boys fight and die. They have already died. A year ago we lost a soldier in El Salvador. He is supposed to have been an adviser but he was in an area of action and got killed.

We have had a total of over 23 of our personnel killed all up and down Central America.

My contention from the beginning has been that if we do not properly assess a situation, if we do not know where we are going from, we can hardly chart a proper, a wise, a prudent, a life saving, a national interest-saving course of action in the future.

What we are confronted with at this point in the eighth year of the term of President Reagan is a total collapse of bankruptcy, a lack of policy but certainly a bankruptcy in whatever has been the thinking that this administration would define as policy.

Actually I do not think any has been defined. The reason I say this is that if we ascribe to the Marxist-Leninists or the Communists the troubles that we identify with the countries of Nicaragua, Guatemala, El Salvador, then what about Panama? Now Panama is the real lulu, believe it or not. And the reason there is that, given the absolute ineptness, the total incompetency of our diplomatic efforts on the part of this administration, we have reached the point of no return in Panama where situations are vastly different, where we are in preparation of something, some action.

What it will be, I naturally am not privy. All I know is that the reports emanating from that country are very disturbing. As of July we know that a shipment of 5,000 plastic body bags and coffins were sent down to Panama to the original site of our hospital, Georges Hospital in Panama which is still under our domain.

However, regardless, we know that the world was astounded when it read in the front pages of our most prominent newspapers here in the United States—and this is what I cannot understand—the Post has criticized vehemently, falsely accusing the Speaker of the House of having compromised some national interests in having made the statements that he made that were critical of the CIA. But I did not see the Post saying anything about its own front page announcement that covert actions were planned and, again in the month of July, by the CIA and other intelligence components of our Government.

What I think my colleagues may not be aware of is the extent of the uncontrolled activity on the part of some components of our armed services; special teams that have been organized that are not even accountable to the commanding chiefs of those particular units under which they operate.

This has led to the exposure of such activities as the bugging and surveillance of General Noriega as far back as 1982. The fact that one intelligence agency, the Army Special Intelligence Assistance Team, was unaware that both the Drug Enforcement Agency and the CIA, particularly, actually had Mr. Noriega, or General Noriega on their payroll.

There is no question about it.

Now did the Post ever proclaim that there was an improper leakage of information there? What happened to their front page story in which they were announcing that the Secretary of State Shultz had even proposed the kidnapping of General Noriega? All that led to was a man who was not particularly popular suddenly receiving the solid support of all of the countries surrounding Panama. We had the South American countries of Columbia, Venezuela, and the others, Ecuador, and we had some of the neighboring Central American countries saying, "Now wait awhile, Uncle Sam. Now we might understand why you don't like General Noriega, but one thing is for you to do something about him diplomatically and the other is to try to come in and invade the sovereignty, whatever is left of it, of Panama," because what we must never forget is that every one of these nation's leaders are equally afraid of the improper Yankee invasion of their sovereignty. We may not be aware of it generally but let me tell you that in that part of the world it is.

Whether we like it or not the fact is that the CIA has embarked, ever since before 1982, on very dangerous tactics, actually blowing up wharves, port facilities, attempted to hire assassins to knock off some of the then junta, the Sandinista leaders in Nicaragua and resulting in the sovereign nation of Nicaragua—we must remember that these countries are not colonies, they are sovereign independent nations.

□ 2115

We must remember that these countries are not our colonies, they are sovereign nations. They went before the International Tribunal of Justice or the World Court. They prosecuted their case. The World Court found us guilty of acts of terrorism, even set a fine or reparations, whatever we want to call it.

What was our answer to that? We walked out of the World Court. That had never happened in the history of our participation in the Court, which we ourselves helped to form many years ago.

General Eisenhower, when he was President, even he with his Secretary of State had better sense. They had better expertise too. How in the world could anybody compare the range and the depth of capacity of the sort of men like Allen Dulles and those that Allen Dulles appointed as Deputy Secretaries of State for International Affairs with what we have today in the person of a fanatic ideologue such as Elliot Abrams, who has no background other than the fact that he is the son-in-law of Norman Podhoretz, the editor of Commentary, who was the one who discovered for President Reagan the lady by the name of, the lady that actually was our Ambassador to the U.N., selected merely because of her ideological holdings, and who has been at the bottom of this kind of approach, interventionist approach in Central America.

So if we have an ideological approach based on a warped perception of what that real world is, how in the world can we end up anyplace than where we are presently? Somebody is going to have to inherit this mess.

Even the situation created in Panama, for example, overlooked at the time these plans were blithely considered, as if we could just walk in there, overwhelm and kidnap General Noriega. The fact is that today the American citizens, both in service as well as in civilian capacity living off of the military sites in Panama, are faced with a steady offensive confrontation daily.

So what will we do about that? Are we going to tolerate it? What can we do about it if it continues to exacerbate?

The time for wise and prudent action is past. The time to try to retrieve lost ground I am afraid is also lost, and it is too late. I am afraid that the inheritance we will have of the Reagan administration concept of what America's actions should be toward these countries is one that will be very costly. I think the American public has yet to know the full extent of the price tag to their admission ticket to watch President Reagan act as President of the United States.

If we voted in the belief that a movie actor could do a good job of acting the role of the Presidency, we forgot to ask what the admission tab would be, and that still has yet to be presented to the American public.

When we talk blithely about how future interventions are possible, we certainly must be alarmed because we are talking about asking somebody else's children to go and fight in areas that we have not been involved in directly. Unfortunately, our history with respect to the particular country of Nicaragua is abysmal. For 100 years we have been invading Nicaragua at will. In just this 20th century we have invaded Nicaragua better than a dozen times. In 1929, President Coolidge sent the Marines, kept them there and they stayed there for 13 years until they could impose the Somoza regime, and above all the Civilian Guard or the Guardi Civil.

These are the things that were the seeds that are now sprouting such distress and which called for every available element of leadership in our country, both in the congressional as well as the executive branch to summon forth the best available talent and approach this situation now in a manner, shape, and form that will still save the last remaining vestiges of moral suasive power of leadership of our country with these nations and their leaders that would like very much for the United States to lead.

They did in 1957 when we had the outbreak of hostility there along the Honduran and Nicaraguan border. And President Eisenhower did not think it was below our honor to join the four or five countries similar in makeup to the Contadora countries, and we went to the World Court. But these countries were to delighted when we said yes, we share with you an attempt to resolve these differences peacefully. We did not go in there to try to divide and conquer. We went in there with the right spirit, and went to the World Court, and those countries then said, well, Mr. United States, then you are going to be our leader. You will be our spokesman and we will go to the World Court and present the case. And we did, and the results were to satisfactory that until President Reagan's Secretary of State, General Haig, invited Argentine military personnel to come to Honduras as a precursor of the so-called Contras, there had been absolute peace between those two nations.

We must recognize that as in the case of almost any other set of countries in the world we have animosities, and we have rivalries. In South America, we have had wars and combats ever since their independence from Spain among some of these entities, Chile against Argentina, Bolivia against Peru, and the like. We can either assume a constructive and in the long run a productive leadership that will inure to our future well-being. It seems as if we can damn the Communists or Soviet Russia all we want, but right now what we can see is happening throughout the world is that while it seems as it in Russia the Russian people are being better led than Red, we in the United States are relapsing into better dead than Red. And that instead of a cohesive, informed, intelligent approach on all levels, we have retrograded and gone back to the gunboat type of diplomacy. It is not going to work. Those days are long gone when it could, and we have to somehow or other give the leadership to those Americans that we have. We have great leaders among us. Our task is to allow them and select them to perform.

There was no greater leader than Sumner Welles, who was President Roosevelt's Deputy Secretary of State for Latin American, for Inter-American Affairs, one of the greatest leaders that we have ever developed and who was so knowledgeable that he has written probably the definitive history, a two-volume history of the Dominican Island, and who was the great mind behind the Good Neighbor Policy.

What good was produced? Franklin Roosevelt had to resist the powerful banking, finance and oil lobbies who wanted us to invade Mexico because

President Cardenas had appropriated the United States oil fields and the oil companies, some of them belonging to American owners. Wisely, Franklin Roosevelt did not. The memories of our invasion of Vera Cruz were still vivid in the Mexican mind.

But with his promulgation of the Good Neighbor Policy, his sophisticated way of handling things with the great help of geniuses like Sumner Welles, he brought forth a policy that in our hour of need just a few years later, at the outbreak of World War II, had made us an ally. There were thousands of Mexicans who died helping us in our war effort. I think this has not ever really been presented on this level. Down in the Southwest border areas yet we are very well aware of it. The Escuadron 201, or Squadron 201, made a famous contribution of airplanes and aviators of the Mexican Government to our war effort in the Pacific. There were thousands of Mexican nationals who volunteered and served and became American soldiers. Many died, way out of proportion to their numbers, in Europe and in the Pacific. Texas, for instance, boasted the greatest per capita number of Medals of Honor winners among this group. Some of them, yes, were native born Texans. Some of them were not. Some of them were born in Mexico, but were American citizens to the extent that they volunteered happily, willingly, eagerly, and served heroically.

It became a great body of soldiers fighting in behalf of the United States. This was the product of the foresightedness of President Roosevelt.

What can we imagine has led to our failure, and it has taken a Central American country president, Arias, and I finally heard some of my colleagues saying that they have never been for the Arias peace plan. But let me advise my colleagues, the only reason the Arias plan worked in such a way as to get the seven distinct leaders around the region together even was they are tired of the bloodletting.

What we in America do not understand is the extent of the suffering and the bloodletting, much of which has been prolonged because of our interference, believe it or not. In El Salvador, most of the armament used, 90 percent of it is not Russian or Cuban or Communist made, it is American. One of my colleagues mentioned that some of it had been brought over from Vietnam, from that great disaster in which we left in a very unsatisfactory manner, leaving billions of dollars in armaments, aircraft, and even bases such as Cam Ranh Bay, which is now and has been used by the Russian navy.

Are these the results of wise policy? I hardly think so. We ended up in such a way that it cast a pall on America's leadership ability.

□ 2130

I say that, if we continue to ignore the legitimate voices south of the border, we will be preempted in this new world, too. Fortunately for us among the common masses of these countries there is a very deep reservoir of affection and respect for America. It still is a country of promise and hope, but that can be dissipated just like our active leadership was dissipated just between the years 1980 and 1981 with the organizations, regional organizations, such as the Organization of American States.

President Reagan has violated our solemn treaties in the invasion of Grenada. We talk about how the Russians do not respect their words. Well, we have violated our treaties and our pledges, and even our own domestic laws. President Reagan has been guilty of that, and it is the reason I introduced an impeachment resolution a year ago in March, and it is the reason why we do not have the happy opinion, favorable opinion, of the world with us.

There is not a country in the new world, from Canada to Argentina, that shares their sympathy with us in our policies thus far in Central America. There is not an industrialized nation in Europe that I know of, possibly with England just being indifferent, but actually no other country has expressed anything but indignation and criticism of our actions there.

With this, what can we in the Congress wait for? Are we going to continue to also indulge in violation of our own laws? It is against international law. It is against our own solemn treaties. It is against our own pledges as Members of the United Nations to have organized, aided and abetted such a thing as what we call the resistance for the Contras who are not in Nicaragua. They are in Honduras. They are hiding out in Honduras.

Have we not paused, as I have implored for the last 6 years, to just stop and reason? Even if we were to intervene with 100,000 of our troops, which is what the expert militaries tell us it would take to invade Nicaragua, even if we knocked over the regime, possessed the country through direct intervention, unless we ourselves sat there and governed the resistance group, the ex-Samozistas, the so-called Contras will never, never govern Nicaragua. That we know.

So, what else then? What are we striving for? It was the same thing in 1961 with the attempted invasion of Cuba, and incidently one of the invading forces departed from Nicaragua, helped espouse and aided by then President Samoza of Nicaragua, and what happened there? Disaster.

But even if the invasion had succeeded, it would have never governed Cuba unless the United States was willing to go in, suffer loss of life, spend a lot of money and then occupy Cuba. There is no force then represented by the invading combination that had the capability of governing Cuba because they were not an expression, an outburst from the midst of the people.

The revolution in El Salvador is one that has been going on and off since 1932. In 1932 over 30,000 lives were lost, brutally suppressed by the 11-12 ruling families that still dominate that country. What is the story of our activities during this administration in El Salvador proper? We have spent somewhere around $5 billion. As I am speaking today, we will have spent during this 24-hour period $2 million a day in El Salvador, and we are no closer to any kind of a convenient solution of that problem than we were 8 years ago.

Is this not clear evidence, I ask my colleagues, that what we have here is total bankruptcy? It behooves us to have the wit and the will to change at least the direction which our Government, representing our people, should be taking. When I started out in speaking in this manner a few years ago, I was very severely chastised, and finally one Member got up and said, "Well, just what would you do if you had the power?"

And I said, "Well, of course, that is an imponderable. I don't have the power. I don't seek it even if I could, but, if I did, one thing I would do would be to remove all our military, and instead of the military sending down doctors, nurses, and let all of the ministers of the gospel who have been working in those fields for decades and who were primarily responsible for the vestige of good will still held toward America, give them free reign. I wouldn't worry about anything else. I wouldn't worry about a people who have been oppressed and submerged for 300 years, who now that the world has contracted, no, they don't have to any longer, and, whether we identify with them or with their oppressors is the key issue," I will tell my colleagues here today.

Therefore, I wanted to compliment the Speaker, JIM WRIGHT, for the observations he very wisely made because he was pointing out to his fellow Americans that agencies created by the Congress are not the ones that are going to determine the policies and the actions of our Government and particularly when they are not accountable to the Congress as they have not been for many years.

History shows that at no time in any country under crime we can set up the type of activities that were born, and, just as in the case of the Federal Reserve Board, diverted from the intended congressional purposes for which they were founded and set up in such a way there is no accountability. We should not be surprised that we are having the troubles we are having now in our financial matters given the fact that we have had the most powerful agency ever created in any country at any time in any historical development of any country and wholly unaccountable to the Congress and unaccountable to the President because the Congresses have not wanted to compel accountability. Not any more there than even within our intelligence complexes because we have had actions taken by persons, perhaps with the best of intentions in their lives. But wholly outside of character with an open society and with the Democratic practices which we so much extol and praise.

There is no question about it. We know and everybody else knows whether the American people generally have it in writing, but everybody else throughout the world seems to know that we have had an agency that has been actually assassinating foreign leaders we do not like, are feared for whatever reason. We know that when that happens that a country is compromised.

I cannot imagine any country, democracy or not, that sooner or later does not have to address that problem and I want to thank the Speaker for having had the courage. I know that he is being laced pretty hard, but I want to compliment him because he reveals what all of us know and have known for some time, that he has not a superficial but a rather profound, knowledge of the history and the culture and the language of these countries.

The articles referred to follows:

[From the Washington Post, Sept. 23, 1988]

JIM WRIGHT AND THE CIA

Here are the preliminary results of House Speaker Jim Wright's statement that the CIA has testified that it ginned up anti-Sandinista protests in Nicaragua in order to provoke the Sandinistas into an oppressive overreaction that would kick back on the Sandinistas:

First, the statement is a savage blow to the Nicaraguan civic opposition—the legal political opposition—and especially to the 38 Nicaraguans who were arrested in a peaceful protest at Nandaime last July 10 and who are now facing trial. The worst political thing that can befall an opposition figure there is to be accused of being a CIA agent rather than a self-starting democrat. You will recall that Mr. Wright and others of his persuasion successfully defunded the contras, reducing the military option of the resistance to the near-disappearing point, precisely to give a chance to a democratic political process.

The statement has further implications for American efforts to extend a hand to local democratic forces elsewhere. It becomes easier in, say, South Africa, Poland and Chile for unrepresentative governments to embarrass citizen challengers with even the slightest and most innocuous contacts with foreign well-wishers.

The statement may also inflict damage on the pending bill to tighten the terms of executive notice to Congress of covert operations—a bill (supported by the speaker) that the executive branch and conservatives have fought on grounds that Congress can't keep secrets.

Mr. Wright suggests that, when he spoke, the Nicaraguan resistance and The Washington Times were already putting the allegation of a CIA hand into the public domain and that other news organizations had made similar reports earlier. But this explanation fails to take into account either the particular confidentiality obligations of an elected official or the crucial authority that a congressional figure can add by his confirmation.

Mr. Wright dates his abhorrence of CIA "destabilization" from the case of Salvador Allende in Chile in 1973. His likening of the Sandinistas to an "elected government" that represents "the choice . . . of the people," however, is laughable, or would be if the effects of his intervention were not so serious.

That leaves the factual question of whether the CIA actually did gin up that July 10 opposition rally at Nandaime, something it would have been incredibly stupid to do. The U.S. government stands on a customary and necessary refusal to be drawn into confirming or denying such charges. Public testimony in Congress absolves the U.S. government. Mr. Wright has his own view.

IS HISTORY ALL THE JAPANESE REWRITE?

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, as you know, I have given a number of special orders over the past 2 years concerning the expansion of Japan in the industrial world.

I have talked about how Japan Inc. through its Ministry of International Trade and Industry—also known as MITI—together with a number of its giant firms have targetted United States industries with the motivation of destroying such basic and vital industries in the U.S.A. as steel, autos, electronics, typewriters, machine tools, tubing, semiconductors, and I could go on and on.

Everyday something else comes out. Now this.

Recently I saw an article in the Wall Street Journal that absolutely amazed me. I thought perhaps I had fallen asleep and wakened in a new world when I read the following headline: "Changed History: More Japanese Deny Nation Was Aggressor During World War II."

I had always believed that Japan was the aggressor. As a young girl I heard it on the radio on December 7, 1941. That was a day you don't forget. The memories may grow dim, but you don't forget. I remember, as do many of you, President Roosevelt stating in his address about the Japanese bombing Pearl Harbor that "It was a day that would go down in infamy."

It was unquestionably a tragedy for this country, but we did prevail.

Accompanying this article is another one also in the Wall Street Journal by the same author, Urban Lehner quoting a prominent writer, Hideaki Kase, who is the son of a former ambassador to the United Nations. Kase stated, "As a matter of history, we've been treated very unfairly by the victors."

A recent bulletin from the Japan Information and Culture Center stated that "In a mere 50 years, Japan has become a major economic force."

If we treated them unfairly, then how did they get there? We helped them on their feet. Now we have an article in the paper about "Changed History" and "we have been unfair."

I would like to read quotations from the article and leave it for the RECORD.

These are just some of the highlights in there, and we are referring to Mr. Kase who the son of the former ambassador, and its says:

> Precisely because they fear Mr. Kase is right, many people in other countries particularly other Asian countries, worry about Japanese attitudes toward World War II. They see a Japan that wields incredible economic power and clearly wants a greater political role in the world. They see Japan's growing self-confidence, its anger and frustration at constant foreign criticism of its trade policies, and its ever-present sense of racial uniqueness. They are disturbed by suggestions that Japan wants to rewrite history to portray itself as a victim rather than as an aggressor.

And Mr. Lehner in the Wall Street Journal goes on to say, "Are these fears justified? Certainly some Japanese are working feverishly to promote a revisionist view of World War II. They want to play down Japanese aggression in the 1930's by substituting advance into China for invasion of China in textbooks they can test what they see as exaggerated casualty estimates from the 1973 incident. In Nanchang, China in which Japanese troops rampaged for days raping and slaughtering Chinese civilians," and then it jumps over and goes on about the schools and points out that many young people know little about the war, about World War II.

> But many young people know little about the war. Hidetaro Inoue, a Tokyo University junior born more than 20 years after it ended, and his friends "never talk about it at all," he says. He has a vague sense that Japan was an aggressor but confesses ignorance of the details. In his high-school course on Japanese history, he adds, "the school year ended while we were still in the Meiji era [1868-1912]."
>
> In his high-school course on Japanese history, he adds, "the school year ended while we were still in the Meiji era [1868-1912]."

□ 2145

Well, Mr. Lehner says:

> Had the year been longer, Mr. Inoue still might not have learned much. Even before

the revisionist got to work, Japanese history textbooks were woefully inadequate. Some, for example, don't mention Japan's harsh colonization of Korea from 1910 to 1945. "West Germany gives young people tough criticism of the Nazi era," complains a Korean diplomat who worries that 30% to 40% of Japanese sympathize with the view that Japan did nothing wrong in Korea. "But the Japanese government does not do that kind of thorough education.

And then it goes on to say:

Historian Ikuhiko Hata of Takushoku University in Tokyo is among those holding to the we-did-wrong view that dominated Japan in the 1950s. He sees "less than 10% justification" for the occupation of Manchuria and at most 30% justification for anything Japan did in China. To Mr. Okuno's argument that "the white races had already colonized much of Asia," Mr. Hata retorts "We can't justify our aggression by citing white man's aggression."

Mr. Lehner says:

Revisionism is progressing instep with Japan's growing awarenes of its economic strength, which bolsters its self-confidence. Earlier in the postwar era, when Japan was poor and struggling to export, a sense of fragility, even inferiority, kept most Japanese from thinking—or at least voicing—self-justifying ideas about the war.

But now, "there's a self-confidence bordering on arrogance or smugness," says Tadashi Yamamoto, who heads a Tokyo-based cultural-exchange organization. "America is declining, Europe is declining, but we're doing just fine."

As a result of this self-confidence, many Japanese , at the very least, are in no mood for self-flagellation. Earlier this year, the Japanese distributor of Bernardo Bertolucci's "The Last Emperor" wanted to make cuts before showing the film here. The distributor said it feared that Japanese moviegoers would avoid the film rather than sit through its newsreel footage of what has come to be known as the Rape of Nanking. The distributor eventually restored some, but not all, of the cut material at Mr. Bertolucci's insistence.

Affluence and self-confidence also have a more subtle, fundamental effect on Japanese attitudes, Mr. Hata says, "younger people who don't know much about Japanese modern history believe that our prosperity cannot be the product of such a miserable history," he says. "Japan must have behaved correctly, otherwise we wouldn't have this prosperity."

Now, some people are asking whether rewriting history presages rearmament. For most, the answer is no. They argue that most Japanese consider low defense outlays one of the sources of Japan's economic strength, and few want to trade butter for guns. "It's true, as foreigners say, that never before has a country had such economic power without having military power. In that sense, Japan is trying to have a vast experiment," says Hajime Izumi, a professor at Shizuoka University in Shizuoka. "But we Japanese have high confidence that this experiment will succeed. We must do a better job of explaining our confidence to foreigners."

In closing remarks it says:

Sadao Mogami, an army veteran, likes to tell what he considers an instructional story about his British business contact in Singapore in the 1960s.

The contact was a longtime resident of Southeast Asia, and Japanese troops had beheaded his elder sister during the war and hung her head from a bridge to frighten British civilians. But despite his strong distaste for the Japanese, the contact, according to Mr. Mogami, believed that "100 years from now, there's going to be the opinion that Japan contributed a lot to the liberation of Asia." Mr. Mogami clearly believes this, too.

Mr. Speaker, I also include in here a second article by Mr. Lehner from the Wall Street Journal on the same day, entitled "Japan Revisionists Tackle Ideas Much as Westerners Do.":

JAPAN REVISIONISTS TACKLE IDEAS MUCH AS WESTERNERS DO

(By Urban C. Lehner)

TOKYO.—As a young journalist living a few months in Japan in 1935, the historian Barbara Tuchman apparently came to dislike what she saw as cavalier Japanese attitudes toward historical truth.

In an article in Foreign Affairs in April 1936, she complained about a Japanese general's denial that Japan had occupied Chinese territory during the Manchurian incident in 1931: "In real bewilderment, the foreigner asks himself what purpose the Japanese believe could be served by such obvious pretense."

Mrs. Tuchman concluded that the Japanese "mental process" is "completely divorced . . . from what Westerners call logic." But today's historical revisionists are among those Japanese whose mental processes are most like those of Westerners—people such as Hideaki Kase and Takeshi Muramatsu.

Mr. Kase is a widely read, conservative writer and the son of a former ambassador to the United Nations. He is rare among Japanese not only for his mastery of idiomatic English but also for his evident enthusiasm for Western-style debate.

PROMOTING NATIONAL PRIDE

Sitting in his Tokyo office sipping Japanese tea from a Washington Redskins mug, Mr. Kase explains that Japan was "foolish" in taking on the U.S. in the war: "We jumped into the lake when we couldn't swim." But he insists that Japan didn't wage an unjust war. "As a matter of history," he asserts, "we've been treated very unfairly by the victors."

Mr. Kase sarcastically says that Japan adopted a penitent pose after the war because "it is much easier to say everthing we did before 1945 was wrong, and we are so sorry. It protects our impregnable pacifism. It lets us get away with spending only 1% of GNP on defense while we let the Americans play mercenaries."

But with America on the decline in the world, Mr. Kase goes on, Japan cannot continue to teach its children that Japan was completely wrong. "Pacifism flourished under absolute U.S. protection. Now that the U.S. seems weaker, more and more Japanese think we have to provide defense by ourselves, and that means we have to establish national pride, especially among young people.

Mr. Muramatsu, a professor of French literature at the University of Tsukubao, is less concerned with defense than with what he calls "the search for values." With his hong hair, pullover shirts and Gaulloise cigarettes, he could almost pass for an artist on Paris's Left Bank. A lover of French culture, he wants Japan to "defend its own cultural tradition and identity."

Towards that end, he has served as a consultant in the writing of a texbook with a right-wing slant on Japanese history. After lengthy arguments and some editing, the government recently decided to allow schools to use the book, which, among other things, plays down the 1946 proclamation that the emperor is a human being, not a living god. Japan's claims that its emperor was divine and that it was the "land of the gods" were critical to its prewar self-justification for expansionism.

"We have lived for 40 years as a purely economically oriented people," Mr. Muramatsu complains. "I'm afraid that many Japanese people forget that there are more important things than money."

Even some mainstream politicians are pushing anti-materialist, return-to-tradition theme, although not many dare carry it as far as the more extreme revisionists do. Among such politicians is Yasuhiro Nakasone, Mr. Takeshita's predecessor as prime minister, who was renowned as an internationalist despite a strong nationalistic streak.

In a campaign speech in 1983, Mr. Nakasone told his countrymen that they had created an image of themselves abroad as people who "become timid in front of strangers, act selfishly and are good at making money." He added: "For Japan to be regarded this way, despite our 2,000 years of tradition, the richness of our spiritual life, the strength of our arts, is unbearably mortifying.

"WE WEREN'T THE BAD BUYS"

But why does the "search for values" involve rewriting World War II history? Actually, those pushing the rewriting deny doing any such thing. They say they are simply trying to undo the self-denigrating left-wing bias about the war that was written into the national consciousness during and right after the American occupation.

"We do feel we should not have waged this war," says Shizuka Kamei, a member of the Japanese Diet. "But we did not have aggressive motives. We just cannot accept the notion that the Americans and the British and the Allies were the good guys, and we were the bad guys."

Yet many of the revisionists' historical arguments seem dubious. It may be true, as they argue, that it wasn't the Japanese who fired the first shot at the Marco Polo Bridge near Beijing in 1937, or that some foreign accounts exaggerated the death toll during the Rape of Nanking.

But, as the Japanese writer Minoru Tada notes, Japan's troops were present without invitation in another country for a long period, using increasing levels of force. "This was already an invasion before the Marco Polo Bridge incident occurred," Mr. Tada says.

In closing, I must say, we must ask ourselves if they rewrite the history of something we all know existed and that many of us participated in, then what will they do in other areas? I believe the same attitude applies to making agreements.

A year ago Toshiba sold our sensitive technology to Russia after they had signed an agreement. That sale of milling machines cost the public not only in loss of security, but in tax dollars. Estimates range from $30 billion to $90 billion to build up our defense again as a result of this espionage.

In the trade bill, which President Reagan signed on August 23, a 3-year ban of Toshiba products was imposed for this illegal sale to the Soviet Union. One provision set santions against violators of Cocom rules. It is the agreement among the Western allies over the list of restricted technologies that are too sensitive to be shipped into the Eastern bloc countries. That is the Cocom rule.

A recent article in the Journal of Commerce, titled "Japan To Fight U.S. Band on Toshiba Products" on September 7 by Barbara Casassus pointed out that the Japanese intend to fight the ban on "imports of Toshiba products at the October executive meeting of Cocom."

What is troubling to me about this Japan's apparent feeling that they can protest our setting—the Congress setting—a standard for selling our secrets. I know that two Japanese businessmen resigned and their government took some actions, very minuscule actions, I might say, but we still have the right to set the standards for our security.

If they are so insistent about Toshiba and our banning a company for espionage, then what will they do in other areas? A movement to rewrite the history of World War II—then I wonder about our agreements.

Mr. Speaker, I include the entire article from the Journal of Commerce in with my statement today.

CHANGED HISTORY; MORE JAPANESE DENY NATION WAS AGGRESSOR DURING WORLD WAR II

(by Urban C. Lehner)

TOKYO—Toshio Ichiki remembers the tension aboard the destroyer Kagero just before the Japanese attack on Pearl Harbor. He remembers the exultation and relief when he and his crewmates saw the bombers and torpedo planes returning to the carriers.

But the former navigation officer doesn't recall any qualms over the sneak attack or any other aspect of Japan's role in World War II. Nor did he develop any qualms in his 13 years as a government military historian, during, which he researched the Japanese occupation of China in the 1930s.

"I have studied this history, I have lived through the flow of this history, and I don't think that what Japan did before and during the war was aggression," the 69-year-old Mr. Ichiki declares."

A growing number of Japanese, seem to agree. Last April, a cabinet minister proclaimed that Japan didn't have any "aggressive intentions" when it occupied parts of China. He was eventually forced to resign, but for lack of diplomacy, not historical inaccuracy. A group of 41 ruling-party politicians announced their support for his view that Japan has no reason to apologize for its past actions.

"I'll bet every member of the cabinet secretly shares that view," gloats Hideaki Kase, a conservative writer who shares it himself.

Precisely because they fear Mr. Kase is right, many people in other countries, particularly other Asian countries, worry about Japanese attitudes toward World War II. They see a Japan that wields incredible economic power and clearly wants a greater political role in the world. They see Japan's growing self-confidence, its anger and frustration at constant foreign criticism of its trade policies, and its ever-present sense of racial uniqueness. They are disturbed by suggestions that Japan wants to rewrite history to portray itself as a victim rather as an aggressor.

REVISIONIST GROUP

Are these fears justified? Certainly, some Japanese are working feverishly to promote a revisionist view of World War II. They want to play down Japan's aggression in the 1930s by substituting "advance into China" for "invasion of China" in textbooks. They contest what they see as exaggerated casualty estimates from the 1937 incident in Nanking, China, in which Japanese troops rampaged for days, raping and slaughtering Chinese civilians.

But these revisionists are still very much on the fringe. Talks with dozens of Japanese produce a more complex picture of current attitudes toward World War II. The spectrum of opinion is wide, and some Japanese harbor what appear to be contradictory views. One Japanese college student says Japan was the aggressor in the war, but he adds, in the same breath, that it didn't have any choice.

Although the majority doesn't agree with Mr. Kase, it is clear that fewer and fewer Japanese feel much guilt about the war. The unanswerable question is whether mainstream attitudes are drifting toward making the majority susceptible to the revisionist view in the future.

FORGETTING IT ALL

Unlike the Germans, who are still agonizing over how they went wrong, many Japanese never think about World War II at all. If the German character is to brood over history, "the Japanese character is to forget," says Takashi Hosomi, a former Finance Ministry official who was an army corporal during the war. "It comes from the climate. The typhoons come and take everything. The next day we have beautiful weather, and the Japanese people say, 'The sky is clear. Let's start again.' "

A Japanese intellectual puts it more sharply: "The West Germans are trying to learn from the war experience. The Japanese are trying to bury it."

Young people, in particular, know little and little about the war. It is as distant to them as the War of 1812 is to Americans; one Japanese college professor says some of his students don't even know that the U.S. occupied Japan for seven years after the war ended.

Schools are supposed to teach students that Japan was the aggressor in China in the 1930s and that its actions eventually led to war with the U.S. Some young people do take that message to heart. In a school workbook, on the page describing Japan's occupation of Manchuria in 1931, a 12-year-old boy living in a Tokyo suburb scrawled: Nihon wa zurui!! Japan cheats!!

But many young people know little about the war. Hidetaro Inoue, a Tokyo University junior born more than 20 years after it ended, and his friends "never talk about it at all," he says. He has a vague sense that Japan was an aggressor but confesses ignorance of the details. In his high-school course on Japanese history he adds, "the school year ended while we were still in the Meiji era [1868-1912]."

Had the year been longer, Mr. Inoue still might not have learned much. Even before the revisionists got to work, Japanese history textbooks were woefully inadequate. Some, for example, don't mention Japan's harsh colonization of Korea from 1910 to 1945. "West Germany gives young people tough criticism of the Nazi era," complains a Korean diplomat who worries that 30% to 40% of Japanese sympathize with the view that Japan did nothing wrong in Korea. "But the Japanese government does not do that kind of thorough education."

After years of commemorations of Hiroshima and Nagasaki, many Japanese tend to remember what was done to them rather than what they did to others. During a night of sake drinking, a Japanese businessman in his 40s who deals frequently with foreigners confesses that he regrets that Japan didn't defeat the U.S. He is apologetic about what Japan did to China but not about Pearl Harbor. How, he demands emotionally, could Americans have murdered so many innocent Japanese civilians at Hiroshima and Nagasaki?

Self-justifying sentiments are strongest and most widespread among Japanese who fought in the war or were educated before it. This may partly explain the support for whitewashing Japan's past among Diet members; many, are elderly men.

Historian Ikuhiko Hata of Takushoku University in Tokyo is among those holding to the we-did-wrong view that dominated Japan in the 1950s. He sees 'less than 10% justification" for the occupation of Manchuria and at most 30% justification for anything Japan did in China. To Mr. Okuno's argument that "the white races had already colonized much of Asia", Mr. Hata retorts: "We can't justify our aggression by citing the white man's aggression".

But Mr. Hata worries that voices such as his are becoming less influential. "Reaction to the dominant view is gaining power," he says. Right after the war, he says, Japanese regarded Gen. Hideki Tojo, Japan's prime minister from 1941 to 1944, as "a symbol of evil", and most Japanese agreed with the Tokyo War Crimes Trial verdict declaring him a "Class A war criminal". Now, Mr. Hata says, more and more Japanese regard him as a "scapegoat" or a victim of "victor's justice".

Observing the changing attitudes a few Japanese fear the worst. Hiraku Inoue, deputy general secretary of the Japan Congress Against A- and H-Bombs, worries that "a new system of fascism might be coming".

Revisionism is progressing in step with Japan's growing awareness of its economic strength, which bolsters its self-confidence. Earlier in the postwar era, when Japan was poor and struggling to export, a sense of fragility, even inferiority, kept most Japanese from thinking—or at least voicing—self-justifying ideas about the war.

But now, "there's a self-confidence bordering on arrogance or smugness", says Tadashi Yamamoto, who heads a Tokyo-based cultural-exchange organization. "America is declining, Europe is declining, but we're doing just fine."

As a result of this self-confidence, many Japanese, at the very least, are in no mood for self-flagellation. Earlier this year, the Japanese distributor of Bernardo Bertolucci's "The Last Emperor" wanted to make cuts before showing the film here. The distributor said it feared that Japanese moviegoers would avoid the film rather than sit through its newsreel footage of what has come to be know as the Rape of Nanking. The distributor eventually restored some, but not all, of the cut material at Mr. Bertolucci's insistence.

Affluence and self-confidence also have a more subtle, fundamental effect on Japanese attitudes, Mr. Hata says. "Younger people who don't know much about Japanese modern history believe that our prosperity cannot be the product of such a miserable history," he says. "Japan must have behaved correctly, otherwise we wouldn't have this prosperity."

Now, some people are asking whether rewriting history presages rearmament. For most, the answer is no. They argue that most Japanese consider low defense outlays one of the sources of Japan's economic strength, and few want to trade butter for guns. "It's true, as foreigners say, that never before has a country had such economic power without having military power. In that sense, Japan is trying to have a vast experiment," says Hajime Izumi, a professor at Shizuoka University in Shizuoka. "But we Japanese have high confidence that this experiment will succeed. We must do a better job of explaining our confidence to foreigners."

Mr. Izumi adds that although young people know little about the war, "there is no sentiment among them in favor of turning Japan into a militarist nation."

An oft-noted irony—that with Asia liberated from Western colonialism as a result of the war, Japan has today achieved economically much of what it had sought militarily—also tends to encourage revisionist thinking. In its prewar propaganda, Japan said it wanted to establish the Greater East Asia Co-Prosperity Sphere to liberate Asia from the white man. Actually, its attitudes were far more complex. They ranged from contempt for other Asians (one ditty sung by Japanese schoolchildren before the war went, "Chinka, Chinka, Chinka, So stupid and they stinka") to a strong feeling that history, destiny and economic necessity gave Japan the right to dominate Asia economically.

Sadao Mogami, an army veteran, likes to tell what he considers an instructional story about his British business contact in Singapore in the 1960s.

The contact was a longtime resident of Southeast Asia, and Japanese troops had beheaded his elder sister during the war and hung her head from a bridge to frighten British civilians. But despite his strong distaste for the Japanese, the contact, according to Mr. Mogami, believed that "100 years from now, there's going to be the opinion that Japan contributed a lot to the liberation of Asia". Mr. Mogami clearly believes this, too.

RECESS

The SPEAKER pro tempore. Without objection, the House will stand in recess until 10 p.m.

There was no objection.

Accordingly (at 9 o'clock and 54 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2215

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. GRAY of Illinois) at 10 o'clock and 18 minutes p.m.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. HALLEN, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4781) "An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 1, 19, 21, 23, 35, 36, 42, 45, 49, 50, 60, 61, 71, 72, 73, 77, 78, 80, 81, 83, 87, 102, 103, 104, 106, 108, 128, 131, 138, 179, 186, 192, 195, 206, 208, 209, 210, 220, 227, 228, 229, 230, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 247, 248, 249, 250, 253, 254, 256, 257, 258, 259, 260, 261, 263, 264, 269, 270, 271, 272, 273, 274, 275, and 277 to the above-entitled bill.

CONFERENCE REPORT ON H.R. 4637, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1989

Mr. OBEY. Mr. Speaker, I call up from the Speaker's table the bill (H.R. 4637) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes, with the remaining Senate amendments in disagreement.

The Clerk read the title of the bill.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 119: *Resolved,* That the Senate agree to the amendment of the House of Representatives to the amendment of the Senate numbered 119 with an amendment as follows: After "Acts" at the end of the amendment, insert ": *Provided further,* That notwithstanding any other provision of this Act, titles I and III of S. 2757 as reported by the Senate Committee on Foreign Relations on September 7, 1988, are hereby enacted into law: *Provided further,* That purchases, investments or other acquisitions of equity by the fund created by section 104 of S. 2757 as hereby enacted are limited to such amounts as may be provided in advance in appropriations Acts: **Provided further,** That section 901(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (8 U.S.C. 1182 note) is amended to read as follows:

(a) IN GENERAL.—Notwithstanding any other provision of law, no nonimmigrant alien may be denied a visa or excluded from admission into the United States, or subject to deportation because of any past, current or expected beliefs, statements or associations which, if engaged in by a United States citizen in the United States, would be protected under the Constitution of the United States:

Provided further, That subsection (b) of section 901 of such Act is amended—

(1) by inserting "to deny adjustment of status of," after "deny issuance of a visa to,",

(2) by inserting in paragraph (1) before the semicolon, ", unless such alien is seeking issuance of a visa, adjustment of status, or admission to the United States as an immigrant."

Provided further, That subsection (d) of section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (8 U.S.C. 1182 note) is amended to read as follows:

(d) EFFECTIVE PERIOD.—Subsection (a) shall only apply to—

(1) applications for non-immigrant visas submitted before January 1, 1991;

(2) admissions sought before March 1, 1991;

(3) deportations based on activities occurring before January 1, 1991, or for which deportation proceedings (including judicial review with respect to such a proceeding) are pending at any time between December 31, 1987 and January 1, 1991.":

Provided further, That the amendment made in the preceding sentence shall not require the deportation of aliens admitted for permanent resident status under section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, as in effect before the date of enactment of this act:

Provided further, That title III of S. 2757 shall be in effect for fiscal years 1989 and 1990: *Provided further,* That the Comptroller General of the United States shall examine the use of nonimmigrant visas under section 101(a)(15)(J) of the Immigration and Nationality Act for current programs of educational and cultural exchange and shall, not later than 30 days before the end of fiscal year 1989, submit to the Committees on the Judiciary of the Senate and House of Representatives, a report on whether the participants in programs of cultural exchange receiving visas under that section are performing activities consistent with the congressional intent for the implementation of that section:

Provided further, That notwithstanding section 208 of the United States Information Agency Authorization Act, Fiscal Years 1986 and 1987 and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the film entitled "Land of Enchantment"; and

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall reimburse the Director for any expenses of the Agency in making that master copy available, shall deposit that film in the National Archives of the United States, and shall make copies of that film available for purchase and public viewing within the United States.

Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

Mr. OBEY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MOTION OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. OBEY moves that the House concur with the Senate amendment to the House amendment to the Senate amendment No. 119.

Mr. SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin [Mr. OBEY].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 176:

Resolved, That the Senate agree to the amendment of the House of Representatives to the amendment of the Senate numbered 176 with an amendment as follows: After "appropriated" at the end of the amendment, insert ": *Provided further,* That S. 2848, as introduced on September 30, 1988, is enacted".

Mr. OBEY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MOTION OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. OBEY moves that the House concur with the Senate amendment to the House amendment to the Senate amendment No. 176.

POINT OF ORDER

Mr. ARCHER. Mr. Speaker, I rise to make a point of order against the motion to concur in Senate amendment No. 176 under clause 5(b) of rule 21 because it constitutes a tax or tariff amendment which has not been reported by the committee having jurisdiction over such matters and has not been offered to a bill which was reported by such committee.

The SPEAKER pro tempore. Does any Member desire to be heard on the point of order of the gentleman from Texas?

Mr. OBEY. Mr. Speaker, I concede the point of order.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The point of order is conceded and sustained.

MOTION OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. OBEY moves that the House disagree to the Senate amendment to the House amendment to the Senate amendment No. 176.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 182:

Resolved, That the Senate agree to the amendment of the House of Representatives to the amendment of the Senate numbered 182 with an amendment as follows: After "Fund" at the end of the amendment, insert ": *Provided further,* That the United States Government shall not assist the missile program of the People's Republic of China in any manner, including approving of the export of satellites employing United States technology for launch by Chinese missiles, until the President certifies to the Congress that China is not supplying missiles to Iran, Iraq, Syria, Libya, or Saudi Arabia, and has provided reliable assurances that no future sales of missiles to such countries are planned.".

Resolved, That the Senate agree to the amendment of the House of Representatives to the amendment of the Senate numbered 182 with an amendment as follows: After "Fund" at the end of the amendment, insert ": *Provided further,* That title V of S. 2757 as reported by the Senate Committee on Foreign Relations on September 7, 1988, is hereby enacted into law".

Resolved, That the Senate agree to the amendment of the House of Representatives to the amendment of the Senate numbered 182 with an amendment as follows: At the end of the amendment, insert "It is the sense of the Senate that the President be urged to undertake discussions and negotiations with other nations, which are principal suppliers of arms in the Mideast, to limit to the maximum extent possible, the sale of arms to nations in the Mideast.".

Mr. OBEY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MOTION OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. OBEY moves that the House disagree to the Senate amendment to the House amendment to the Senate amendment No. 182.

Mr. WALKER. Mr. Speaker, I reserve the right to object.

The SPEAKER pro tempore. Does the gentleman from Wisconsin [Mr. OBEY] desire time on the motion?

Mr. OBEY. Yes, Mr. Speaker, I do.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. OBEY] is recognized for 30 minutes.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Thirty minutes has been yielded to the gentleman from Wisconsin [Mr. OBEY]; does that mean 30 minutes will be yielded to the gentleman from Oklahoma [Mr. EDWARDS]?

The SPEAKER pro tempore. The gentleman is absolutely correct.

Mr. WALKER. I thank the Chair.

Mr. OBEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House is at a very critical moment with respect to this session. We have the last remaining obstacles before us that will prevent sending to the White House the first free-standing foreign operations appropriations bill in 7 years. The Senate chose to add three items to this bill in the form of amendment No. 182. The first item is a sense of the Congress amendment with respect to future sales of Maverick missiles. I do not think there is any serious objection to that portion of the amendment.

There are two very serious problems that remain with the rest of the amendment and they have necessitated the White House instructing me that if this amendment is not rejected they will veto the bill. Those two provisions are two provisions by Senator HELMS. One suggests that the United States shall not approve the export licenses for any material for satellites which would be injected into orbit by Chinese missiles unless the President certifies that the Chinese are not supplying missiles to a number of countries.

I think all of us agree with the sentiments expressed in that amendment. But very frankly I think that before Members take the very serious step of supporting this amendment they ought to approach a number of Members of the House and ask what has been happening diplomatically to deal with this problem. I do not think it is productive to talk about it in public, but I do think it is important that people understand what the administration is trying to achieve.

I stand here tonight as someone who very often is an opponent to the administration on both domestic programs and on foreign policy, but I am persuaded after discussing this matter with the Secretary of State this evening that it would be a very serious mistake for those who want to see our friends in the Middle East protected and for those who want to see the Chinese restrain themselves from supplying missiles that we do not want to see provided to that region of the world, to adopt this amendment.

I have discussed this with, for instance, the Executive Director of the Organization of Middle East concerned with Israel, AIPAC, and I have been told that they oppose the adoption of this amendment and want this bill sent on to the President clean.

There is also a third provision in the amendment which I find most disturbing because that amendment would limit the President's discretion in terms of the granting of diplomatic immunity to foreign diplomats. Again the purpose of the amendment is laudable. The purpose is to give us greater ability to pursue through our legal system diplomats who violate the privilege of representing their country in the United States. No one can argue with that goal but the fact, Mr. Speaker, is that if this amendment were to be adopted it would open our diplomats, in the judgment of the White House and in the judgment of the State Department, it would open our diplomats to the kind of risk worldwide that they do not feel they ought to incur. It would, for instance, say, it would prohibit the President from applying immunity to a foreign diplomat if he is suspected of a crime even though that crime had not been adjudicated. We can imagine how easily that same principle could be used to put any of our diplomats any other place in the world at risk. It could also require us to ask that country to waive immunity if that diplomat had been accused of a crime. That means that the political opposition of any foreign country, of any foreign government, could merely, by accusing one of their own diplomats of a crime, require us to ask that immunity be waived.

I have a letter from the Secretary of State which reads as follows:

> As I discussed with you on the phone, the Administration has major difficulties with Senate action on HR 4637, the Foreign Operations Conference Report. Of particular concern are the serious changes affecting diplomatic immunity, changes that will jeopardize reciprocal immunities and thereby threaten the well being of American diplomats around the world. The provision also contains serious constitutional defects. If this provision is contained in the enacted bill and presented to the President, his senior advisors will recommend that the bill be vetoed.

This is verified by representatives of the White House itself in conversations we had with them just 20 minutes ago.

> In addition, there are two other provisions adopted by the Senate that are particularly objectionable. The imposition of sweeping sanctions against Iraq will be counterproductive to our efforts to deal effectively with the use of chemical weapons in the Gulf region and will seriously undermine our efforts to maintain a dialogue with the Government of Iraq.
>
> Finally, the Senate's action concerning the sale of missiles and the launching of satellites by China is unnecessary and unacceptable. Both of these concerns are being addressed through high level approaches to the Chinese, including the recent visit of Secretary Carlucci.

I would urge any Member of this House who is thinking of voting for the amendment to contact Secretary Carlucci to get his personal view of this amendment before considering voting for the amendment. I think if you listen to his reasons you will find good reason to reject the amendment because rejecting this amendment is in the interest of the United States and it is in the interest of the countries that the Helms amendment is trying to help.

The letter says:

> The Administration is dealing with these issues in an appropriate manner and the Senate amendment represents an infringement on the President's ability to resolve these issues in a manner satisfactory to the Congress and the Administration.

I would urge that Members recognize that we have two matters of substance which are very serious before us. We also have a matter of utmost importance in clearing the deck of all appropriations so that we can, as we have tried to promise so often, finally deliver unencumbered all 13 appropriation bills to the President for his signature.

☐ 2230

And I would urge that Members, despite the very laudable goals represented by both the Helms amendments, I would urge you to support the administration, support the interests of this country and the Congress and turn down the amendment.

Mr. Speaker, I reserve the balance of my time.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, the chairman of the subcommittee is correct that this is a difficult question that is before us. He is also correct in that the provisions that were added by the Senate to our bill are for the most part laudable. I would like particularly to concentrate attention for just a moment on the provisions with respect to diplomatic immunity. What is it that the people in the other body have asked us to add to this bill? The heart of it, the heart of the Helms amendment is a provision that says whenever there is probable cause to believe that an individual who is entitled to immunity from criminal jurisdiction of the United States may have committed a serious criminal offense, particularly a crime of violence, the Secretary of State shall request the foreign ministry of the country such individual represents to waive the immunity of that individual.

If such waiver is denied, the Secretary of State shall declare that individual non grata or insure the removal from the United States. We are not talking here about just willy-nilly kicking out foreign diplomats because some representatives of the opposition in their country points the finger at some diplomat in this country and asks us to remove him.

We are talking about probable cause, we are talking about serious offenses.

There are many cases that we all know about where individuals in this country have been harmed by the actions of diplomats from other countries who are immune from our justice system. And it seems to me that in that regard at least on this particular provision, the Senator from North Carolina adds something that probably most Members of this House would agree with.

I know that the State Department is recommending a veto. I am always amazed by the things that prompt the State Department's concerns. But I would say that what is contained in this provision in regard to immunity is something that ought to be enacted by the Congress.

I would be personally quite satisfied if the Speaker of the House, who is in the Chamber at the moment, and the majority leader of the Senate would agree that we would be able to have a separate vote before we adjourn in both Houses on the diplomatic immunity question.

The bill has been pending. Many leading Members on both sides of the aisle have supported that bill and tried to get it to come to the floor so we could act on it. That has not happened.

There are probably better ways to act than to have had this added in the Senate on this bill. I am as eager to finish the appropriations process as everyone else is. I am no happier being here at 10:30 at night debating this than anybody else is, but we have to look at it on its merits. And on its merits the diplomatic immunity provisions of the Helms amendment are correct. They represent actions that ought to be taken by this House. It puts us in a difficult position, therefore, to vote to disagree with that action.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I simply would ask this: Under the Helms amendment who defines probable cause? The amendment does not say.

I would ask: Who defines what is a prima facie case? The amendment does not say.

It requires that we ask the foreign country to waive immunity. In the case of a sex offender, the administration tells me that they do not want immunity waived because if immunity were waived and that diplomat were prosecuted we would have a problem. We could be liable for treatment for him. We could incure large expenses when what we want to do is to get rid of him. It just seems to me that we ought not at 10:30 at night be debating a very sensitive and very complicated question which could involve the security and safety of every American diplomat around the world if other countries wanted to apply this same logic to our own diplomats.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I think the question before us here: Are we representatives of the State Department or are we representatives of the people? Because we have a couple of very, very important questions to look at here.

First of all, the gentleman from Wisconsin told us a little while ago there were some nations that we were not allowed to sell missiles to under the Helms amendment. We had better know which nations those are. If you vote against upholding the Helms amendment, you are voting to allow the Chinese to sell missiles to Iran, Iraq, Syria, and Libya.

Now those are certainly places that we don't want the Chinese sending missiles. In my opinion, no, no. I do not think we have any desire whatsoever to have the Chinese selling missiles to those countries. The Helms amendment says specifically we are not going to send satellite technology to them, if they continue to sell missiles to those nations.

Also I think we have an issue here of our domestic launch industry. We have a launch industry that we are trying to get off the ground. It is a very, very important component part of the mixed fleet that we need.

You will drive that launch industry further away from being economically successful if in fact you allow the Chinese to go into unfair competition with them.

In my mind that is not the right approach to take.

So that in approving the Helms amendment what you help us do is get the mixed fleet that we have long said we need as a part of our space launch industry.

Finally, I would like to deal with the matter of diplomatic immunity because we are saying that that is important as far as our diplomats go. Well, what about the American people? What about our folks who are being attacked by diplomats in this country and are being left without any recourse as a result of those attacks? There are a couple of examples that I think we ought to be aware of. There was a girl in the Metropolitan Washington area who was raped by sons of diplomats who taunted her throughout the rape with the idea that she could not do anything because they had diplomatic immunity. Well, they were right. There was absolutely nothing we could do in that case because they did have diplomatic immunity. It was a disgusting case.

We have a fellow by the name of Ken Skeen. He was shot several times by the son of a Brazilian Ambassador. As it turned out, the ambassador's son, who had diplomatic immunity, had previously been involved in at least one other serious crime. Yet nothing had been done to him.

Mr. Skeen in testifying before the Congress had this frustration and I quote, "I am an American. He is over here in my country, on my property. He shoots me. I am working. And I look like I am the bad guy, and he walks away scot-free. I was just wondering if anybody here can explain how anybody can get away with attempted murder, running over people, raping women in this country. We have a very civilized country. We are not a country where we do not have laws. We protect our people."

Mr. Skeen has a right to feel that he should be protected.

Under the Helms amendment here we are going to protect our people against diplomats who run wild and use diplomatic immunity to cover their crimes. I would suggest that if you vote against the Helms amendment as it has been presented in this House you are voting to do three things: You are voting to allow the Chinese to sell missiles to Iran, Iraq, Syria, and Libya; you are voting to bring about a problem for the domestic launch industry, our ELV's and you are voting to allow criminals among the diplomatic community to continue to use their immunity as a way of getting off from their crimes scot-free.

I do not think very many people want to vote that way unless, of course, you are voting pro-State Department and against the people.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, we have heard that if you are against the sale of intermediate range missiles by China to Iran, Iraq, Libya, or Syria, you should vote in favor of the Helms amendment. Let me suggest to you that if in fact you are concerned about the possibility that China might sell intermediate range missiles to countries like Iraq, Iran, Libya, and Syria, you ought to vote against the Helms amendment and in favor of the motion by the gentleman from Wisconsin [Mr. OBEY] to vote "aye" on his motion to disagree with the Helms amendment.

This is a diabolical amendment. It is a diabolical amendment because if it is adopted it is likely to achieve precisely the result it is ostensibly designed to prevent.

A few weeks ago the Secretary of Defense, not the Secretary of State, the Secretary of Defense Frank Carlucci was in China. When he was in Beijing he had discussions with people at the very highest levels of the Chinese Government. And as a result of those discussions which we are not in a position, for reasons of confidentiality, to disclose on the floor of the House, I think it is safe to say that we can be reasonably confident that if we defeat this amendment and if the sale of an American satellite to Australia for launch on a Chinese missile goes forward, that in fact, China will not be selling intermediate range missiles to Iran, Iraq, Libya, and Syria. But if the Helms amendment should be adopted, the fact of the matter is that pursuant to that amendment the President of the United States would be neither able nor willing to provide the precise kind of assurances called for by the amendment.

As a consequence of that, we would not be in a position to authorize the sale of the satellite to Australia for launch on the Chinese missile, as a consequence of which the sale will not go forward and China is unlikely to be constrained in its potential willingness to sell intermediate range missiles to these terrorist countries in the future.

This amendment in fact is opposed not only by the President who indicates he will veto it; not only by the Secretary of Defense who thinks it could have significantly negative strategic consequences for the United States given the degree to which it would impair our relationship with China; it is even opposed by APAC, which believes that it would be counterproductive in terms of Israel's interests in the Middle East.

Now I would simply suggest that even if you disregard completely the implications of the Helms amendment for the global balance of power in our strategic relationship with China, if all you are concerned about is the survival and security of the state of Israel, if you do not want countries like Libya and Iran and Iraq to have Chinese missiles, the best way to prevent that from happening is to vote "aye" on Mr. OBEY's motion and defeat the Helms amendment.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 5 minutes to the gentleman from New Mexico [Mr. LUJAN].

Mr. LUJAN. I thank the gentleman for yielding.

Mr. Speaker, I take the floor because we have held 2 days of hearings on this issue of the Long March launch rocket. During those 2 days we were very concerned about granting this license, because we were all very involved, particularly on our Committee on Science, Space and Technology of building up our domestic launch industry. We are very committed to that. We want to do that. Certainly we do not want any competition. We do not want any competition from the French, we do not want any competition from the Chinese, we do not want any competition from anyone. And so I went into this hearing thinking that it was a good idea, that it sounded good, that we deny the export license because then we would not face that competition.

I went in with the idea that it was very patriotic for others to do that, to oppose the Chinese from launching any of the satellities that we might work on. And I thought that it was the best thing to do, to deny the license to launch those satellites.

Originally I thought that that is the side that I would come down on. But after 2 days of hearings I became concerned that maybe that was not the direction that we wanted to go in, that perhaps that was not the direction we wanted to take in order to save our embryonic launch industry.

□ 2245

I thought there were other ways to do it. We heard from the builders of the satellites. We heard from the launchers, those that would be affected by the competition. We, of course, heard from the Department of State and the Department of Defense as to their views, because we were concerned about the national and the security implications of granting this license to launch on the Long March vehicle. The Department of Defense, which was my greatest concern, to be honest about it, told us that there was no problem with doing that; the Department of Defense favors issuing this license.

What did we find in these 2 days of hearing? Well, first of all, we found that with respect to the satellites, two of them belonged to Australia, and the third one belongs partially to the People's Republic of China; as a matter of fact, one-third is to a consortium from Hong Kong, and the other third to a British company. And they told us, particularly the British, the British company representative, that that is what they wanted. The wanted it for reasons other than just costs; they wanted it launched on the Chinese Long March rocket because of business considerations on their part.

So what they were telling us in effect was this: "OK, we hired an American company to do the work on the satellites, but then belong to us, and we would like them to be launched on this Long March vehicle. Now, if you don't want to do that, then we will rebid this whole process." And probably my calculations on it were that the British Aerospace Co. or one of those, not an American company, would get the business, first of refurbishing the recovered satellite, and No. 2, the building of the other two, and we would be out $400 million, another $400 million in balance of trade, because they are going to be launched on the Chinese vehicle anyway. So all that we could accomplish would be to lose 400 million dollars' worth of business to an American company.

Mr. Speaker, there are certain safeguards to the granting of this license by the foreign government. Before granting that license, there are several issues that must be settled. There must be a level playing field so that everybody is bidding on the same basis. There is a question of liability. The question is, Who is liable? That must be settled. And then there is the question of technology transfer, because we do not want transfer of the technology.

So we see that it is an emotional issue. We set up the barriers. I am not here to tell the Members that I am exactly right, that I feel 100 percent comfortable with the decision. As a matter of fact, I thought just the opposite for a long time. But after listening for 2 days and viewing the situation as it is, I just have to come on the side that says we cannot be protectionist and say that just because it is not an American-launched vehicle, we cannot grant that license.

So, Mr. Speaker, I would ask the Members of this House to look at the issue very carefully, to see what it is we are doing, and make our decision based on that assessment, not on some preconceived notion we might have.

Mr. OBEY. Mr. Speaker, I yield 4 minutes to the distinguished chairman of the Committee on Science, Space, and Technology, the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I thank the distinguished gentleman from Wisconsin for yielding me the time.

I have had a plaque on my wall for 20 some odd years, and that plaque reads: "More mistakes are made from lack of facts than poor judgment."

At the outset I want to point out that the only way we can rationally discuss the Long March issue is in the broad context of United States-China relations. We are hearing today that the license approval will be linked to specific agreements of pricing, and on and on. We are listening to the point of view that, yes, if we approve this, what we will be doing is, we will be approving other missiles that will be sent to Saudi Arabia, and so on.

That is not the issue. The issue is: Should we or should we not approve the licenses as far as the Chinese are concerned in launching the three Long March rockets that are involved and the three satellites?

Two of the satellites belong to the Australian Government, and the other one belongs to the Chinese Government, the British Government, and a consortium of companies out of Hong Kong.

As the gentleman from New Mexico [Mr. LUJAN] pointed out, we have had a day and a half of intensive hearings on this overall program. We determined the following: We called in economic people, we called in the former Ambassador to China, we called in representatives directly from the Australian Government, we called in representatives and speakers from London, from the British Government, we brought in the satellite manufacturers, we brought in the domestic launch industry, and we brought in the aerospace people and the Ariane people from France to hear what the issue was.

What we found out was the following: The assumption that if we were to disapprove these licenses, an American company would get the launching contracts, that is totally falacious. They told us specifically that if the Long March was turned down on the bid that Hughes made—which, by the way, goes to close to $600 million on the three satellites—what would happen at that point is, they would rebid that and it would go to either a British or a French company and it may be launched on the Ariane rocket. We are not going to get that business in both cases, in both instances.

The third thing has to do with the rehabilitation of the satellite, and that is a satellite that is already owned by the People's Republic of China. They own a third of the satellite themselves. One-third is owned by the British, and one-third is owned by a consortium of companies in Hong Kong. They are not our satellites. That is what it amounts to. If we do not let them launch with the Long March, which is going to happen, we are going to lose $600 million worth of satellite business. So we are not going to gain anything. That is what it amounts to.

Then they asked us this: The British said, "What about our launching, and how can we work this out?" They said to us, "If we can't launch on the Long March, then the Soviets will be into this picture and we will lose that marketplace."

Every single company that bid internationally and domestically used the Long March rocket. They did not use the Ariane rockets, nor did they use American rockets. So that is what the facts are, and that is what we are dealing with.

Let me caution the Members on this point: The people wanted to testify, and that had to do with the three companies that are handling our domestic launching program. One is General Dynamics, one is Martin-Marietta, and the other is McDonnell Douglas Corp. McDonnell Douglas wanted to testify separately because they had a problem. What was the problem they had? The problems they had is that they have a $1 billion contract with China under production now where we are building the MD-80 commercial aircraft in a joint program with China at this particular point. We are training a thousand of their engineers here. That is a $1 billion contract to McDonnell Douglas. There is another $3 billion contract pending. So the litany goes.

In the time that I have left, let me read this into the RECORD:

As of 1988 there were 407 U.S.-China joint ventures worth more than $2.1 billion in U.S. investment. In addition, there is in excess of $940 million worth of U.S. investment in offshore oil development. By the end of this year the total U.S. investment will exceed $3.9 billion. Already, American Motors cooperates with the Chinese in the manufacture of jeeps, Babcock and Wilcox cooperates in power station boilers, Corning in the manufacture of glass, Hewlett-Packard in electronics, and the list goes on. The China market is a vast commercial frontier and represents one quarter of the world's population. We simply cannot afford to ham string our private sector by short sighted protectionist trade policies.

Mr. Speaker, the future of trade in this world is going to be in the Asiatic theater, and we cannot afford to throw that opportunity away for the corporations of our country. I would urge the Members to vote down the Helms amendment and support the gentleman from Wisconsin [Mr. OBEY].

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, unlike the gentleman from Wisconsin [Mr. OBEY], who got up and spoke so eloquently a few minutes ago saying he almost never supports the administration, particularly on foreign affairs and national security issues, I almost always support the President in his foreign policy and on his national security issues. Therefore, it is very difficult for me to stand up here and oppose that position, but I do so because I am very much concerned about it.

We have heard a lot of cogent arguments. Certainly one of the most distinguished Members of this House, the gentleman from New Jersey [Mr. ROE], spoke very eloquently. What he says has a lot of merit to it, but the truth of the matter is that what is at stake is whether or not the United States of America is going to be able to develop a fledging industry of expendable launch rocket systems so we do not have to be dependent on a Communist country, whether that be the Chinese or whether that be the Soviet Union. What matters here today is that the United States right now is proposing to license the Chinese to launch our satellites at a cost of about $16 million per launch. That means that our own fledging industries today have to pay more, because it costs them about $40 million. Why is there such a disparity? Because the industry in China is subsidized 100 percent by the Chinese Government. The industry is owned by the Chinese Government, and they produce at slave labor wages.

That means that not only do we have technology transfer at stake, not only do we have foreign policy at stake, we have American access to space at stake, and that is the thing that concerns me the most, not to mention the trade and other national security issues.

I say to the Members that Martin-Marietta, the General Electric Co., General Dynamics, and all the other fledging industries that took you at your word, Mr. Congressman, all of you, and you, Mr. President Ronald Reagan, when you told them 5 years ago what you wanted them to do, because they understood us to say, "Spend millions of dollars in the private sector because we don't want to be dependent on our own systems of launching our own rockets out of the Federal Government; we need the private sector to be in competition so that we will always have a reserve fleet to back that up."

If we go ahead with this agreement with the Chinese, nobody in their right mind, no stockbrokers in any corporation in American is going to get involved at all in this. So we, the United States of America, will then be solely dependent on a Communist nation to launch our satellites, whether it be for protection, for spying, or for whatever it might be up there. That is wrong.

Second, the gentleman from New Jersey [Mr. ROE] pointed this out—and I give him a lot of due respect—that if we do not let the Chinese do it, our allies are going to another country and have them do it, that they will go to the Chinese by themselves.

Well, we have a thing called Cocom in this country of ours, and our foreign policy dictates what kind of technology transfer we give to Communist-controlled countries. If we do not set the example, that means that Britain and France and all the others are not going to go to the Chinese; they are going to go to either French companies or American companies, those American companies with 10,000 employees, General Dynamics, Martin-Marietta, and all the rest. They are going to come to us on a competitive basis.

Mr. ROE. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I am glad to yield to my distinguished colleague, the gentleman from New Jersey.

Mr. ROE. Mr. Speaker, the program is definitely subject to the approval of Cocom.

Mr. SOLOMON. That is right. And Cocom, in case anybody wants to know, is all of our NATO countries, minus Iceland, plus Japan. Japan is the one we have got to watch out for here. If we let this go today, there will be no fledgling industry, we will not be able to launch any satellites, and this country is going to be jeopardized down the line.

We have had the heads of these companies come up and testify to us with exactly the same facts I am telling the Members here today. So I just say, without taking up any more time of the body, that it is not just what this resolution says here that is at issue, but I do want to read it to the members.

It says this: "The United States shall not assist the missile program of the People's Republic of China in any manner, including approving of the export of satellites employing United States technology for launches of Chinese missiles until the President certifies to the Congress that China is not supplying missiles to Iran, Iraq, Syria, Libya," and some other Mideastern countries.

I see nothing wrong with that. Seriously, what this does now is say to Clayton Yeutter, who has been given the responsibility to negotiate with the Chinese, if we adopt this amendment tonight, "Mr. Yeutter, you get over there and you watch those astute Chinese. They are good people, but they know what they are doing. They will take your pants off if you aren't careful."

Mr. Speaker, I say to the Members that we should adopt this amendment. It sends a message to drive a hard bargain.

□ 2300

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. As usual, the gentleman from Wisconsin [Mr. OBEY] and I are up here defending the administration against these radicals. Let me say that I think it would be a serious mistake for us to accept this amendment on the missile site in particular. I am concerned that, if we try to tell the Chinese what to do, it would have the opposite reaction.

I remember meeting with Chairman Deng Xiaoping, and of course he said, "I'm only the chairman of a very small committee; that's the military committee," and I remember asking who was second in command, and somebody said to me, "It's very dangerous to be second in command in China," but Deng Xiaoping said to us, "There were two things that are the most important to the Chinese country; was military hegemony and economic security," and I think here we are attempting to interfere in their military hegemony.

I have to say that the Nixon administration did the greatest service maybe in this century, by opening up China and allying us with China against the Soviet Union. And I listened to the Chinese leaders, they were affable, and they had absolutely no fear of the Soviet Union. They felt they could handle the Soviet Union on their border, and they were happy to have the United States allied with them, but they did not need us, and they certainly were not afraid of the Soviet Union.

I believe that what we would do in this case, we would get the opposite reaction.

The gentleman from New York [Mr. SOLARZ] may be the next Secretary of State, and he said earlier that we would get the opposite reaction, and I agree with that.

I think if we try to tell the Chinese what they should do in foreign policy, they are going to do the opposite.

I remember standing on this floor and speaking against the Jackson-Vanik amendment because I believed that the Soviets would do the opposite of what the Jackson-Vanik amendment would call for. They would reduce the amount of Jews that they let out of the Soviet Union, and of course that is exactly what happened.

When we went to Russia a couple of years ago, the Soviets mentioned to us that they were not happy about a resolution that we passed years ago. They felt it was an insult to their independence, and I think we would get exactly the same kind of reaction.

If we want to cause the Chinese to sell missile in the Middle East and if we want to cause them to have the opposite reaction, I am convinced all we have to do is pass a resolution on this floor that prevents them or tries to prevent them from doing it, and the opposite will happen.

So, I would urge that the Members of the House with the chairman of the Committee on Foreign Affairs that we defeat the attempt to pass the Helms amendment in the House.

Mr. FOLEY. Mr. Speaker, the reason I sought recognition is that there is the possibility of asking unanimous consent that the House move out of the present order of debate to consider motions to be offered by the distinguished gentleman from Florida [Mr. CHAPPELL] with respect to the Department of Defense appropriation bill prior to final action with respect to this amendment.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is the gentleman from Washington [Mr. FOLEY] making a request?

Mr. FOLEY. Mr. Speaker, I yield to the gentleman from Florida [Mr. CHAPPELL].

Mr. CHAPPELL. Mr. Speaker, I make a request. I ask unanimous consent that we call up from the Speaker's table the remaining amendments in disagreement on the bill, H.R. 4781, making appropriations for the Department of Defense for the fiscal year 1989 and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. WALKER. Mr. Speaker, reserving the right to object, I am just trying to figure out what we are doing here.

Do I understand that we are rising on the bill that we are presently considering, going to another bill, and then coming back to the bill that we were considering?

The SPEAKER pro tempore. The House is not in the Committee of the Whole. We would not have to rise. We are in the House.

Mr. WALKER. Mr. Speaker, I thank the Chair, but, as the Chair knows, for some of us it is a problem because in terms of debate here, the way the debate was structured, the only speakers that are going to be left on the bill a little later will be speakers who are speaking in opposition to the position that, for instance, the gentleman from Oklahoma [Mr. EDWARDS] and I have taken, and it seems a little unusual to proceed in this way.

Can we get some explanation as to why?

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, we are going to take up the Defense conference report. The Senate is taking it up. They have two amendments. We feel we can clean this up in about 5 minutes and then get right back onto this bill here.

Mr. WALKER. Mr. Speaker, can the gentleman tell me what the two amendments are?

Mr. CONTE. Sure. One amendment knocked out all the colleges, and I think we are going to agree to take that, and the other amendment was the Cohen amendment to transfer money, reprogram money, for a MARV system which was agreed to by Senators NUNN and BYRD, and the administration supports it.

The SPEAKER pro tempore. The Chair will state there is 22 minutes remaining on the pending motion.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CHAPPELL. Mr. Speaker, there are two amendments yet to be disposed of in this conference. One is amendment No. 89, and the other one is amendment No. 252.

The SPEAKER pro tempore. Does the gentleman from Florida [Mr. CHAPPELL] call up the amendments?

CONFERENCE REPORT ON H.R. 4781, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1989

Mr. CHAPPELL. Mr. Speaker, I call up from the Speaker's table the remaining amendments in disagreement on the bill (H.R. 4781) making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 89:

Resolved, That the Senate agree to the amendment of the House of Representatives to the amendment of the Senate numbered 89 with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment to the Senate amendment insert ": *Provided further*, That not later than February 1, 1989, the Secretary of Defense shall submit to the Committees on Appropriations and on Armed Services of the Senate and the House of Representatives a report setting forth (1) each program, project, or activity for which funds were not requested in the budget submitted to Congress pursuant to section 1105 of title 31, United States Code, for fiscal year 1989 and are made available under this Act for only one educational institution, or organization affiliated with an educational institution, which is identified, either directly or indirectly, by the terms of this Act (or the Joint Statement of Managers accompanying the conference report on H.R. 4781 of the One Hundredth Congress) as the institution or organization to perform the program, project, or activity for which such funds are provided, and (2) the name of the institution and the amount of funds made available for such program, project, or activity: *Provided further*, That the funds appropriated by this Act to carry out a program, project, or activity by any such educational institution or organization may not be obligated or expended for such purpose before February 1, 1989, and such funds may be obligated or expended on or after such date for such purposes only after a period of 90 days has expired after the date on which the committees named in the preceding proviso have received the report referred to in such proviso".

Mr. CHAPPELL (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CHAPPELL moves that the house concur in the Senate amendment to the House amendment to the Senate Amendment No. 89.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the remaining amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 252:

Resolved, That the Senate agree to the amendment of the House of Representatives to the amendment of the Senate numbered 252 with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment to the Senate amendment insert:

SEC. 8127. (a) Not more than $3,000,000 of the funds appropriated in this Act may be used to carry out the provisions of section 430 of title 37, United States Code.

(b) Of the amount appropriated in this Act for Other Procurement, Air Force, the sum of $18,200,000 may be obligated only for the procurement of 20 Mobile Armored Reconnaissance Vehicles (MARV).

Mr. CHAPPELL (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

MOTION OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CHAPPELL moves that the House concur in the Senate amendment to the House amendment to the Senate amendment No. 252.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the two motions was laid on the table.

CONFERENCE REPORT ON H.R. 4637, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1989

The SPEAKER pro tempore. The Chair recognizes the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Speaker, for years foreign-made satellites have been going into space on American launch facilities.

First, beginning the export of American made satellites to be launched on the Chinese Long March facilities will mean American industry will not be able to compete with foreign companies for the building of satellites in the international marketplace. Jobs will be lost overseas.

Example: Hughes has been awarded a contract from Australia to build a satellite with a stipulation that it be launched on China's Long March launch system. Hughes will loose this contract to a foreign company if this amendment is not defeated.

Second, our Government has been loosing more and more of our launching business to the French Ariane. The French Government has been subsidizing their launches and thus we have been exporting our launch business to the cheaper Ariane. We have been desperately looking for an opportunity to bring the French to negotiate fair and equitable competition for launch facilities. While our launch has been crippled.

Once the Chinese offered attractive launch pricing—all of a sudden the French are now willing to come to the table.

This amendment will send the message—the French need not negotiate.

Third, our Government is negotiating with the Chinese to protect American technology and to establish long-range trade agreements. Let's not frustrate these very desirable and delicate negotiations by passing the Helms amendment.

I believe it would be in our best interest to grant the export license and defeat the Helms amendment.

Mr. OBEY. Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Mr. Speaker, I might say, first of all, to the gentleman from Wisconsin [Mr. OBEY] carrying the water for the administration is one thing, but it was nice of the gentleman from Pennsylvania [Mr. MURTHA] to suggest that President BUSH is going to appoint the gentleman from New York [Mr. SOLARZ] to his Cabinet.

Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, the gentleman from New York, when he addressed the House, felt that the absence of this agreement would be one in which Chinese would nevertheless feel could be strained and not deal with Libya and Syria, et cetera and that that should be enough for us to go forward with the transaction that is contemplated without the Helms amendment. If indeed the Chinese already feel that they can promise, can pledge, and we have faith in that pledge that they will not deliver missiles to these other nations, why do we fear the Helms amendment? All it does is verbalize what the gentleman from New York says is already a de facto assurance by the Chinese in that regard. If it were not so much for the agonizing element of this diplomatic immunity issue, I would feel that it is a draw on the other end of it. Therefore, I feel that the Helms amendment is worthy of consideration only because it puts into paper the status quo which the gentleman from New York says is already agreed to by the Chinese.

☐ 2315

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Speaker, I thank the gentleman for yielding me this time.

Let me simply make one point here. I am going to support the gentleman from Wisconsin, but I do want to put one issue on the record for the administration on this. If they are asking us to support them in this matter in terms of their exercise of the Chief Executive's prerogatives in the conduct of this Nation's foreign policy, they must also take into account its potential impact on our satellite industry, and an issue that we have tried to address in this Congress deals with the chief subsidy that we do not have in this country for our private launch capacity, and that is the overwhelming cost of liability. That is where the cost differential comes in, and that is where we are facing, primarily, the kind of potential competition from state enterprises, both East and West.

The SPEAKER pro tempore. The time of the gentleman from Michigan has expired.

Mr. OBEY. Mr. Speaker, I yield the gentleman 1 additional minute from our side.

Mr. ROE. Mr. Speaker, will the gentleman yield?

Mr. HENRY. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Speaker, I want to compliment the gentleman for bringing this particular item up, because it is an absolute key issue if we are going to be developing an independent, if you like, private source of launch companies to do this work.

We have passed the bill on our side, on the House side. I understand the Senate is going to be taking it up very shortly.

I want to assure the gentleman that I thoroughly support his position on this and will do everything possible, I know our committee will, to see that this gets enacted into law this year.

Mr. HENRY. Mr. Speaker, I thank the chairman, and should this take place, this would more than offset whatever immediate commercial loss there would be to our space industry.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, I want to thank my good friend, the gentleman from Oklahoma, for yielding me this time.

A "no" vote means a veto on this bill, and that means we would have a continuing resolution.

Earlier today my good friend, the gentleman from Oklahoma, took the floor of the House here, we all heard him, and the gentleman from California [Mr. COELHO] got up here and gave Speaker WRIGHT all the credit. He got up and he gave President Reagan all the credit and he said the reason we do not have a continuing resolution is because the President said he will not a sign a continuing resolution, and now he wants to make the President veto this bill and have a continuing resolution.

I agree with the gentleman from Oklahoma. He is right. We do not want a continuing resolution, but the China language is a direct insult to the Saudi Arabians, one of our few friends in the Arab governments in the volatile Middle East, in the Persian Gulf region.

Secretary Carlucci tonight called me to plead that the House not agree with this last minute Senate amendment. He was just in China, he told me, he looked into the missile question very carefully and thoughtfully, and in his opinion we have already made our point.

Mr. Speaker, I hope that we will vote "no."

Mr. EDWARDS of Oklahoma. Mr. Speaker, we are going to offer a motion on this side.

In the interim, Mr. Speaker, I yield 3 minutes and 45 seconds to the Republican leader, the gentleman from Illinois [Mr. MICHEL], saving enough time for us to offer our motion.

Mr. MICHEL. Mr. Speaker, at this late hour may I first compliment the gentleman from Wisconsin [Mr. OBEY] for the accurate portrayal of the administration's position during the course of his discussion of these pending amendments; also to the gentleman from New York [Mr. SOLARZ], and yes, to the gentleman from New Jersey [Mr. ROE] and the gentleman from New Mexico [Mr. LUJAN] for the very dramatic points they make with respect to the space issue, or the Chinese issue, however you want to characterize it.

First of all, let me say we have really two foreign policy issues here. I am not altogether sure when my dear friend from Pennsylvania makes mention of whether or not we are going to support the State Department or whether we are going to support the folks back home makes a pretty good campaign argument from time to time, but I think here this evening we have got to have some trust and confidence in our State Department, and yes, in our Defense Department, too.

The issue that has to do with Chinese missiles, I think the gentleman from Wisconsin put it very well. If you had the opportunity to talk personally with the Secretary of Defense, as some of us have, I think you could be certainly assured from his private conversations of what the issue is here.

Then the problem would be if we do not defeat the amendment and the bill is vetoed and then the issues are highlighted all the more by that, we do ourselves a disservice.

Now, may I address myself, if I might just very briefly, to my friends on my side, because the amendment comes to us as the result of a Member of our own party from the other body. We love the gentleman, endear him. Sometimes he is right, sometimes he can be wrong. He has not always been the strongest supporter of the State Department, the administration, or the President from time to time on issues on which he had his own ideas. That is his prerogative, certainly, but I look upon this amendment coming at this hour and at this time as rather a mischievous one.

We would all do ourselves a favor this evening by voting down that amendment, with my assurance that when it gets back to the other body they will accept the decision of the House in that respect and we will have a foreign aid bill that will pass muster down at the White House.

I urge you to vote "no."

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to my friend, the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, the gentleman mentioned the same thing that I did. Vote no on the Helms amendment, but vote aye on the Obey motion.

Mr. MICHEL. Oh, absolutely.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 30 seconds to the gentleman from Pennsylvania [Mr. WALKER].

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, is the Obey motion before the House at the moment, the motion to disagree?

The SPEAKER pro tempore. The gentleman is correct.

PREFERENTIAL MOTION OFFERED BY MR. WALKER

Mr. WALKER. Mr. Speaker, I offer a preferential motion.

The SPEAKER pro tempore. The Clerk will report the preferential motion.

The Clerk read as follows:

Mr. WALKER moves that the House concur with the amendment of the Senate numbered 182.

The SPEAKER pro tempore. The question is on the preferential motion offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point or order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas, 23, nays 234, not voting 174, as follows:

[Roll No. 375]

YEAS—23

Applegate
Bartlett
Barton
Bilirakis
Burton
Combest
Craig
Crane
Dannemeyer
Edwards (OK)
Gekas
Hefley
Hunter
Kanjorski
Kasich
Nielson
Schulze
Smith, Robert (NH)
Solomon
Torricelli
Traficant
Upton
Walker

NAYS—234

Akaka
Anthony
Archer
Ballenger
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bilbray
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Brennan
Brooks
Bruce
Bustamante
Byron
Callahan
Carper
Carr
Chandler
Chapman
Chappell
Clement
Clinger
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Cooper
Costello
Coughlin
Davis (IL)
DeLay
Dellums
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dymally
Eckart
Emerson
English
Erdreich
Espy
Evans
Fawell
Fazio
Fields
Foglietta
Foley
Frost
Gallegly
Gallo
Gejdenson
Gilman
Glickman
Gonzalez
Goodling
Gordon
Grandy
Gray (IL)
Green
Hall (OH)
Hall (TX)
Hammerschmidt
Harris
Hayes (IL)
Hefner
Henry
Herger
Hertel
Hochbrueckner
Hopkins
Houghton
Hoyer
Hubbard
Hyde
Inhofe
Ireland
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kennelly
Kildee
Kolbe
Konnyu
Kostmayer
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Lloyd
Lowry (WA)
Lujan
Lukens, Donald
Madigan
Markey
Martin (IL)
Martin (NY)
Mavroules
Mazzoli
McCloskey
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Moody
Morella
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Oakar
Oberstar
Obey
Olin
Owens (NY)
Oxley
Packard
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Porter
Price
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roe
Rogers
Roukema
Rowland (CT)
Roybal
Sabo
Saiki
Sawyer
Saxton
Scheuer
Schneider
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (OR)
Snowe
Solarz
Staggers
Stallings
Stangeland
Stark
Sundquist
Swift
Synar
Tallon
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Udall
Valentine
Vento
Visclosky
Vucanovich
Watkins
Weber
Weldon
Wheat
Whittaker
Whitten
Wise
Wolf
Wolpe
Wyden
Yates
Young (AK)

NOT VOTING—174

Ackerman
Alexander
Anderson

Andrews
Annunzio
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Barnard
Bates
Bevill
Boland
Bonker
Boucher
Boulter
Boxer
Broomfield
Brown (CA)
Brown (CO)
Bryant
Buechner
Bunning
Campbell
Cardin
Cheney
Clarke
Clay
Coats
Conyers
Courter
Coyne
Crockett
Darden
Daub
Davis (MI)
de la Garza
DeFazio
Derrick
Dixon
Donnelly
Dowdy
Dwyer
Dyson
Early
Edwards (CA)
Fascell
Feighan
Fish
Flake
Flippo
Florio
Ford (MI)
Ford (TN)
Frank
Frenzel
Garcia
Gaydos
Gephardt
Gibbons
Gingrich
Gradison
Grant
Gray (PA)
Gregg
Guarini
Gunderson
Hamilton
Hansen
Hastert
Hatcher
Hawkins
Hayes (LA)
Hiler
Holloway
Horton
Huckaby
Hughes
Hutto
Jacobs
Jeffords
Jenkins
Jones (NC)
Kaptur
Kastenmeier
Kemp
Kennedy
Kleczka
Kolter
Kyl
LaFalce
Leath (TX)
Levine (CA)
Lewis (GA)
Livingston
Lott
Lowery (CA)
Luken, Thomas
Lungren
Mack
MacKay
Manton
Marlenee
Martinez
Matsui
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
Mica
Miller (CA)
Montgomery
Moorhead
Morrison (CT)
Murphy
Neal
Nelson
Nichols
Nowak
Ortiz
Owens (UT)
Panetta
Parris
Petri
Pickle
Pursell
Quillen
Ray
Roberts
Robinson
Rodino
Rose
Rostenkowski
Roth
Rowland (GA)
Russo
Savage
Schaefer
Schroeder
Schuette
Schumer
Shuster
Slaughter (NY)
Smith (FL)
Smith, Denny (OR)
Spence
Spratt
St Germain
Stenholm
Stokes
Stratton
Studds
Stump
Sweeney
Swindall
Tauke
Taylor
Towns
Traxler
Vander Jagt
Volkmer
Walgren
Waxman
Weiss
Williams
Wilson
Wortley
Wylie
Yatron
Young (FL)

□ 2343

Mr. UDALL changed his vote from "yea" to "nay."

Mr. BARTON of Texas changed his vote from "nay" to "yea."

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Wisconsin [Mr. OBEY] to disagree to the Senate amendment to the House amendment to the Senate amendment No. 182.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

LEGISLATIVE PROGRAM

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

Mr. FOLEY. Mr. Speaker, the distinguished Republican leader and I would like to inform the House of what we expect for the remainder of the evening and for next week. The other body has passed the District of Columbia appropriations bill, it is my understanding, and, of course, we have acted jointly on the Department of Defense authorization bill. The legislative bill is now under consideration in the other body, since the bill is entirely within the conference report, there are no amendments in disagreement. The vote in the other body will be up or down, and it is expected to be adopted.

We are thus in a position to wait upon the Senate's action on the bill we have just returned to the other body, and it is my hope that there will be no further votes tonight. If additional votes should occur, we would give Members 1 hour's notice, but if no further votes are needed, we would not provide notice of motion to adjourn.

I would like to announce the schedule for next week. I have just been informed that the legislative appropriation bill has been cleared by the Senate, by the other body, so the only remaining bill will be the Foreign Operations bill which we have just returned to the Senate. We do not intend tonight at this point to have a session tomorrow, and only extraordinary circumstances, I think, would make that possible. I think Members can assume that that will not take place.

The House will, accordingly, with unanimous consent, adjourn to meet at noon on Monday. That has not been obtained yet, but I will seek it.

On Monday we have 43 bills under suspension of the rules, and if the House will indulge me, I will not read them.

The list of suspensions is as follows:

H.R. 5288, Veterans' Judicial Review Act;

H.R. 5408, to make a correction in the Education and Training for Competitive America Act of 1988;

H.R. 4857, to concur in Senate amendments to technical amendments to the Job Training Partnership Act;

S. 496, to concur in Senate amendments to the Computer Matching and Privacy Protection Act of 1987;

H. Con. Res. 351, Senate amendments to the Prompt Payment Act of 1987;

H.R. 5291, to authorize the Secretary of the Air Force to convey certain land;

H.R. 5050, Women's Business Ownership Act of 1988;

H.R. 3718, to authorize refinancing of certain small business debentures;

S. Con. Res. 137, to authorize the use of the Rotunda of the Capitol in honor of John F. Kennedy;

H.R. 5280, to require the Secretary of the Treasury to mint coins in commemoration of the Bicentennial of the U.S. Congress;

H.R. 60, to authorize the Architect of the Capitol to accept gifts and bequests;

H. Res. 558, fair employment practices resolution;

H.R. 4758, Public Safety Officers' Death Benefits Amendments of 1988;

H.R. 3914, Commisssion on Racially Motivated Violence Act of 1988;

H.R. 5164, Mariel Cuban Detainee Review Act of 1988;

H.R. 5200, to limit the period of detention of excludable aliens pending removal in a manner similar to that of deportable aliens pending deportation;

H.R. 5347, to amend the municipal bankruptcy laws;

H.R. 5348, to amend the bankruptcy laws with respect to the rejection of intellectual property licenses;

H.R. 4712, Office of Government Ethics Reauthorization;

H. Con. Res. 115, providing for participation by delegations from Congress in ceremonies marking the 200th anniversary of the U.S. Constitution;

S. 508, Whistleblower Protection Act;

H.R. 5199, Agricultural Quarantine Enforcement Act;

H.R. 5430, to amend the Ocean Dumping Act to impose special fees on ocean disposal of sewage sludge;

H.R. 4210, to reauthorize title II of the Marine Protection Research and Sanctuaries Act;

H.R. 4211, National Ocean Pollution Planning Act reauthorization;

H.R. 5315, Congressional Award Act;

H.R. 5318, Egg Research and Consumer Information Act amendments;

H.R. 4724, Mississippi reversionary interest release bill;

H.R. 4345, grain inspection fees extension;

H.J. Res. 597, to authorize the Compact of Free Association between the United States and the Government of Palau;

S. 1236, Navajo-Hopi Relocation Program authorization;

H. Con. Res. 331, relating to recognition of the contributions of the Iroquios Confederacy of Nations to the United States;

H.R. 5203, to declare that certain lands be held in trust for the Quinault Indian Nation;

H.R. 4267, to concur in Senate amendments to the WEB rural water development project authorization;

H. Res. , to concur in Senate amendments to H.R. 2772, the Lyman-Jones, West River and Oglala Sioux rural water development projects;

H.R. 4102, Senate amendments to Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988;

H.R. , omnibus territories bill;

S. 795, California Indian water rights settlement;

H. Res. , to go to conference on H.R. 5261, Indian Health Care;

H.R. 2596, Senate amendments to Admiralty Island bill;

H. Res. , Senate amendments to H.R. 900, relating to the protection of the New, Gauley, Meadow and Bluestone Rivers in West Virginia;

H.R. 4028, Senate amendments to authorize the exchange of certain national forest system lands in the Targhee National Forest; and

H.R. 4354, Oklahoma Wilderness.

□ 2345

We also have on Tuesday, H.R. 2642, Colorado Ute Indian Water Rights Settlement Act, open rule, 1 hour of debate.

We will defer votes on suspensions until the conclusion of all suspensions, and I cannot at this time inform the House on how many votes will be ordered or how many will be taken on Monday, but Members should expect that there will be votes in the afternoon on Monday.

On Tuesday, October 4, we will have 40 votes under suspension of the rules and recorded votes on suspensions will be postponed until after debate on all those bills.

The suspension bills are as follows:

H.R. 5389, Bangladesh Disaster Assistance Act of 1988;

H. Con. Res. 371, concerning U.S. response to atrocities in Burundi, a bill authorizing the lease of a naval repair ship to Pakistan;

S. Con. Res. 143, technical corrections in enrollment of H.J. Res. 602, regarding Cambodia;

A bill to authorize new United Nations peacekeeping operations;

H.R. 4844, FAA Drug Enforcement Assistance Act of 1988;

S. 2496, to provide for the leasing of certain real property to the American Red Cross, District of Columbia Chapter;

S. 1476, to designate the Federal Record Center in Overland, MO, as the "SSG Charles F. Prevedel Building";

H.R. 5186, to designate the Federal Building and the U.S. Courthouse in Jackson, TN, as the "Ed Jones Federal Building";

H.R. 5407, to establish a National Commission on the Thrift Industry;

H.R. 4140, to require an Office of Investigations within the NRC;

H.R. 3515, Medical Waste Tracking Act of 1988;

H.R. 5117, to require that plastic ring carrier devices be degradable;

H.R. 4939, Lead Contamination Control Act of 1988;

S. 836, pertaining to security at Strategic Petroleum Reserve Facilities Sanctuaries Act;

H.R. 2800, Hazardous Waste Reduction Act;

H. Res. 351, urging local telephone companies to establish community telephone centers;

H.R. 5155, to concur in Senate amendments to the Protection and Advocacy for Mentally Ill Individuals Act;

H.R. 4833, Senate amendments to Nursing Shortage Reduction Act;

S. 1579, conference report on Public Health Service Act Block Grant;

H.R. 3235, to concur in Senate amendments to HMO Reauthorization Act;

H.R. 5150, Senate amendments to clinical laboratory improvement amendments;

H.R. 3097, Senate amendments to Organ Transplant Amendments Act;

H.R. 3361, Senate amendments to Deafness Institute and NIH reauthorization;

H. Con. Res. 276, to express the sense of Congress that the Surgeon General should declare that drunk driving is a national crisis;

H.R. 4982, Generic Animal Drug Patent Term Restoration Act;

H.R. 2848, Satellite Home Viewer Copyright Act of 1988;

H.R. 5372, Trademark Law Revision Act of 1988;

H.R. 1518, patents in space;

H.R. 4972, Patent and Trademark Office authorization;

H.R. 2953, to permit U.S. district courts to enjoin or suspend certain State ad valorem property taxes on interstate gas pipelines;

H.R. 4379, Temporary Safe Haven Act of 1988;

H.R. 5155, Legal Immigration Amendments Act of 1988;

H.R. 4756, EPA Law Enforcement Powers Act of 1988;

H.R. 1417, Torture Victim Protection Act of 1987;

H.R. 3685, to increase amounts the United States may pay in settlement of a claim;

S. 2350, to clarify the investigatory powers of the U.S. Congress;

H.R. 4480, to name the National Tropical Botanical Garden;

H.J. Res. 644, granting the consent of Congress to an interstate compact establishing the Lake Wylie Marine Commission; and

H.R. 4174, conference report on Small Business Administration Reauthorization and Amendment Act.

Also on Tuesday we will have the motion to override the veto of H.R. 1154, the Textile and Apparel Trade Act.

On Wednesday, Thursday and Friday, October 5, 6, and 7, the House meets at 10 a.m. and H.R. 5410 and conference reports and other end of the session matters which will be announced later. I will assume we will be striving to conclude our business by Friday or Saturday of next week, if that is possible.

Mr. MICHEL. I notice the gentleman said that Tuesday we would have the motion to override the veto, and that is the gentleman's feeling; as far as this gentleman is concerned, I feel differently. The gentleman made mention of the motion to override the veto of the textile bill, and it may be the other side's position, but it is this side's position that the President's position would be sustained.

Mr. FOLEY. It may be.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. Mr. Speaker, I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. There will probably be, then, 84 votes on Monday and Tuesday next week?

Mr. FOLEY. I cannot tell the gentleman that because it is the authority of the Speaker that suspension votes may be postponed for up to 2 days, and I believe it will be our intention to seek a rule making an order every day next week as a suspension day, and accordingly we may place the suspensions on different days next week if that authority is given by the House, by rule and adoption of the rule, making it an order of special suspension days other than Monday and Tuesday.

ADJOURNMENT TO MONDAY, OCTOBER 3, 1988

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Washington?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

FISCAL YEAR 1989 APPROPRIATIONS

(Mr. PORTER asked and was given permission to address the House for 1 minute.)

Mr. PORTER. Mr. Speaker, on the eve of the new fiscal year I want to congratulate the members of the Appropriations Committee, the entire membership of the House of Representatives and the President, for a job well done. We have made great progress since last year's budgeting debacle, and we have every right to be proud.

Mr. Speaker, I heard a great deal of comment earlier this evening as to how we got to this wonderful position. Let me tell the House how it actually occurred.

Last December 22, I sat down at a typewriter off the House floor as we considered the omnibus continuing resolution for fiscal year 1989, and typed a letter to President Reagan. All that day and into the early hours of the following morning I collected members' signatures. One hundred and forty-six colleagues from my side of the aisle joined me in signing the letter and all of us promised to vote to uphold a Presidential veto of any CR. I am convinced that that was just the message the President needed to hear and provided the foundation for the strong message he delivered to Congress and the Nation regarding CR's in this year's State of the Union Address.

The icing on the cake came last week when one of our distinguished colleagues was at the White House. the President said he adamantly opposed a CR. The colleague asked if he would consider signing a short one, folding two or three bills together. The President made it clear that no CR would get his signature this year. Our promise to support the President made the difference between responsible budgeting and the chaos of last year.

There is much we can learn from our success this year. The most important lesson is that process is not the limiting factor in Federal budgeting, Congress is. The 9 months we have to finish appropriations is plenty of time to create a complete, coherent, prioritized budget and present the President with 13 separate bills on time. The Budget Committee must report a bill early in the session. Subcommittees must markup their bills quickly. The full committee must take action and report bills to the House on time. Conferees must be appointed as soon as the Senate appoints theirs and the President must see each bill separately. We have done it this year and can no longer propagate the lie that we need CR's.

This is a watershed year. Whoever our next President may be, he enters office with the knowledge that CR's are a thing of the past and need no longer be tolerated.

Again I congratulate the President and the Appropriations Committee, our chairman and our ranking Member for their fine works and especially the 145 Republican Members who made the budget process work by pledging themselves good government last year.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will not entertain requests for speeches under the 1-minute rule, or Members desiring recognition for special orders for 5 minutes.

Does any Member seek recognition?

RECESS

The SPEAKER pro tempore. The Chair declares a recess, subject to the call of the Chair.

Accordingly (at 11 o'clock and 56 minutes p.m.), the House stood in recess subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. FOLEY) at 11 o'clock and 59 minutes p.m.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ALEXANDER (at the request of Mr. FOLEY), after 12 noon today, on account of official business.

Mr. GRANT (at the request of Mr. FOLEY), after 11:30 a.m. today, on account of personal business.

Mr. OWENS of Utah (at the request of Mr. FOLEY), after 7 p.m. today, on account of personal reasons.

Mr. HUTTO (at the request of Mr. FOLEY), after 7:30 p.m. today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. UPTON) to revise and extend their remarks and include extraneous material:)

Mr. MILLER of Washington, for 5 minutes, today.

Mr. WYLIE, for 60 minutes, on October 4.

Mr. McCOLLUM, for 5 minutes, today.

Mr. CALLAHAN, for 5 minutes, today.

(The following Members (at the request of Mr. HAYES of Illinois) to revise and extend their remarks and include extraneous material:)

Mr. COYNE, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ALEXANDER, for 60 minutes, on October 6.

(The following Member (at his own request) to revise and extend his remarks and include extraneous matter:)

Mr. BURTON of Indiana, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DYMALLY, just before vote on amendment No. 28, H.R. 5247, in House, today.

(The following Members (at the request of Mr. UPTON) and to include extraneous matter:)

Mr. McMILLAN of North Carolina.

Mr. GUNDERSON.

Mr. DIOGUARDI.

Mr. CHANDLER.

Mr. HANSEN.

Mr. RHODES in two instances.

Mrs. JOHNSON of Connecticut.

Mr. DONALD E. "BUZ" LUKENS in two instances.

Mr. FISH.

Mr. McEWEN in two instances.

Mr. RITTER.

Mr. BROOMFIELD.

Mr. CONTE.

Mr. DAVIS of Illinois.

Mr. EMERSON.

(The following Members (at the request of Mr. HAYES of Illinois) and to include extraneous matter:)

Mr. HAYES of Illinois.

Mr. TALLON.

Mr. RODINO.

Mr. MAVROULES.

Mr. WALGREN.

Mr. CAMPBELL.

Mr. WILSON.

Mr. CONYERS.

Mr. LEVINE of California.

Mr. ATKINS.

Mr. DELLUMS.

Mr. DYSON.

Mr. SPRATT.

Mr. GARCIA in two instances.

Mr. SKELTON.

Mr. HOYER.

Mr. VENTO.

Mr. LANTOS.

Mr. DONNELLY.

Mrs. COLLINS.

SENATE BILLS, JOINT RESOLUTION AND CONCURRENT RESOLUTION REFERRED

Bills, a joint resolution, and concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1504. An act to provide an alternative to adversarial rulemaking by facilitating the appropriate use of negotiated rulemaking committees; to the Committee on the Judiciary.

S. 1849. An act for the relief of Mr. Conwell F. Robinson and Mr. Gerald R. Robinson; to the Committee on Interior and Insular Affairs.

S. 1911. An act to amend title 5, United States Code, to allow all forest fire fighting employees to be paid overtime without limitation while serving on forest fire emergencies; to the Committee on Post Office and Civil Service.

S.J. Res. 314. Joint resolution designating October 1988 as "Pregnancy and Infant Loss Awareness Month"; to the Committee on Post Office and Civil Service.

S. Con. Res. 146. Concurrent resolution to authorize the printing of Senator Bob Dole's series of "Senate Bicentennial Minutes"; to the Committee on House Administration.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2952. An act to increase the amount authorized to be appropriated for acquisition at the Women's Rights National Historical Park;

H.R. 3977. An act to authorize appropriations for the Mining and Mineral Resources Research Institute Act for fiscal years 1990 through 1993;

H.R. 4457. An act to create a national park at Nachez, Mississippi;

H.R. 4784. An act making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes;

H.R. 4998. An act to amend the Food Stamp Act of 1977 to make technical corrections in the Family Independence Demonstration Project; and

H.J. Res. 576. Joint resolution designating February 19 through 25, 1989, as "National Visiting Nurse Associations Week."

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills and joint resolutions of the House of the following titles:

H.R. 1467. An act to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992, and for other purposes;

H.R. 2858. An act to provide for refunds pursuant to rate decreases under the Federal Power Act;

H.R. 2884. An act to assure uniformity in the exercise of regulatory jurisdiction pertaining to the transportation of natural gas and to clarify that the local transportation of natural gas by a distribution company is a matter within State jurisdiction and subject to regulation by State commissions, and for other purposes;

H.R. 4481. An act to authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes;

H.R. 4782. An act making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1989, and for other purposes;

H.R. 4794. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1989, and for other purposes;

H.J. Res. 580. Joint resolution to designate the month of September 1988 as "National Sewing Month"; and

H.J. Res. 665. Joint resolution authorizing the hand enrollment of appropriations bills for fiscal year 1989 and authorizing the subsequent, post-enactment preparation of printed enrollments of those bills.

ADJOURNMENT

Mr. KILDEE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock p.m.) under its previous order, the House adjourned until Monday, October 3, 1988, at 12 o'clock.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4393. A letter from the Inspector General, Department of Defense, transmitting the Army Audit Agency's audit of Superfund financial transactions for fiscal year 1987, pursuant to 31 U.S.C. 7501 nt.; to the Committee on Energy and Commerce.

4394. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

4395. A letter from the Director, Administration and Management, Department of Defense, transmitting notification of a proposed new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4396. A letter from the Administrator, Department of Health and Human Services, transmitting notification of a new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4397. A letter from the Acting Administrator, General Services Administration, transmitting a report of the General Services Administration's compliance with the competition advocacy program, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

4398. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4399. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4400. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4401. A letter from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting notice on leasing systems for the eastern Gulf of Mexico, sale 116, part I, to be held in November 1988, pursuant to 43 U.S.C. 1337(a)(8); to the Committee on Interior and Insular Affairs.

4402. A letter from the Acting Administrator, General Services Administration, transmitting information copies of various lease prospectuses, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

4403. A letter from the Acting Administrator, General Services Administration, transmitting an informational copy of a lease prospectus for the National Aeronautics and Space Administration, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

4404. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers, Department of the Army, on Guadalupe River, channel to Victoria, TX, together with other pertinent reports (H. Doc. No. 100-236); to the Committee on Public Works and Transportation and ordered to be printed.

4405. A letter from the Director, National Science Foundation, transmitting the second biennial report on scientific and engineering research facilities at universities and colleges for 1988, pursuant to 42 U.S.C. 7454(c); to the Committee on Science, Space and Technology.

4406. A letter from the Executive Secretary, Department of Defense, transmitting the report on Department of Defense procurement from small and other business firms for October 1987 through July 1988, pursuant to 15 U.S.C. 639(d); to the Committee on Small Business.

4407. A letter from the Comptroller General, General Accounting Office, transmitting a review of the audit of the Neighborhood Reinvestment Corporation's financial statement for fiscal year 1987 (GAO/AFMD-79); jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. RODINO: Committee on the Judiciary. H.R. 5347. A bill to amend title 11 of the United States Code with respect to claims payable from special revenues by municipalities that are debtors; and for other purposes (Rept. 100-1011). Referred to the Committee of the Whole House on the State of the Union.

Mr. RODINO: Committee on the Judiciary. H.R. 5348. A bill to amend title 11 of the United States Code with respect to the rejection of executory contracts licensing rights to intellectual property (Rept. 100-1012). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIXON: Committee of conference. Conference report on H.R. 4776 (Rept. 100-1013). Ordered to be printed.

Mr. SIKORSKI: Committee on Post Office and Civil Service. H.R. 4712. A bill to reauthorize the Office of Government Ethics, and for other purposes; with an amendment (Rept. 100-1017, Pt. 1). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2800. A bill to improve Environmental Protection Agency data collection and dissemination regarding reduction of toxic chemical emissions across all media, to assist States in providing information and technical assistance about waste reduction, and for other purposes; with an amendment (Rept. 100-1018). Referred to the Committee of the Whole House on the State of the Union.

Mr. RODINO: Committee on the Judiciary. H.R. 2953. A bill to amend title 28, United States Code, to permit the district courts of the United States to enjoin, suspend, or restrain certain State ad valorem property taxes on interstate gas transmission property, and for other purposes; with an amendment (Rept. 100-1019). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee of Conference. Conference report on S. 908. (Rept. 100-1020). Ordered to be printed.

Mr. DERRICK: Committee on Rules. House Resolution 559. Resolution providing for the consideration of S. 2846, a bill to provide for the awarding of grants for the purchase of drugs used in the treatment of AIDS. (Rept. 100-1021). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 560. Resolution providing recess authority during the legislative days of September 30, 1988 and October 1, 1988. (Rept. 100-1022). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy and Commerce. House Resolution 351. Resolution urging local telephone operating companies to establish community telephone centers to provide free local service for persons who cannot afford residential telephones. (Rept. 100-1023). Referred to the House Calendar.

Mr. de la GARZA: Committee on Agriculture. H.R. 5318. A bill to amend the Egg Research and Consumer Information Act to limit the total costs that may be incurred by the Egg Board in collecting producer assessments and having an administrative staff, to eliminate egg producer refunds, and to delay the conducting of any referendum by egg producers on the elimination of such refunds; with an amendment (Rept. 100-1024). Referred to the Committee of the Whole House on the State of the Union.

Mr. de la GARZA: Committee on Agriculture. H.R. 4724. A bill to direct Secretary of Agriculture to release a reversionary interest of the United States in certain land located in Oktibbeha County, Mississippi; with an amendment (Rept. 100-1025). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FRANK: Committee on the Judiciary. H.R. 610. A bill for the relief of Calvin L. Graham; with an amendment (Rept. 100-1014). Referred to the Committee of the Whole House.

Mr. FRANK: Committee on the Judiciary. H.R. 4755. A bill for the relief of H.H., Barter, doing business as Barter Enterprises, (Rept. 100-1015). Referred to the Committee of the Whole House.

Mr. FRANK: Committee on the Judiciary. H.R. 5173. A bill for the relief of Ray F. Seuga (Rept. 100-1016). Referred to the Committee of the Whole House.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X, the following action was taken by the Speaker:

H.R. 3593. Referral to the Committee on Energy and Commerce extended for a period ending not later than October 28, 1988.

H.R. 5132. Referral to the Committees on Armed Services and the Judiciary extended for a period ending not later than October 7, 1988.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ARCHER (for himself, Mr. Chandler, Mr. Crane, Mr. Frenzel, Mr. Thomas of California, Mr. Brown of Colorado, Mr. Daub, Mr. Kyl, Mr. DeFazio, Mrs. Bentley, Mr. Gekas, Mr. Goodling, Mr. Fawell, Mr. DeLay, Mr. Armey, Mr. Schaefer, Mr. Cheney, Mr. Burton of Indiana, Mr. Nielson of Utah, Mr. Gingrich, Mr. Holloway, Mr. Porter, Mr. Swindall, Mr. Stump, Mr. Ballenger, Mr. Rhodes, Mr. Bliley, Mr. Davis of Illinois, Mr. Hunter, Mr. Ritter, Mr. Shumway, Mr. Baker, Mr. Slaughter of Virginia, Mr. Weber, and Mr. Hopkins):

H.R. 5426. A bill to amend title XVIII of the Social Security Act and other provisions of law to delay for 1 year the effective dates of the Medicare Catastrophic Coverage Act of 1988 and to establish a Bipartisan Commission to Review the Medicare Catastrophic Coverage Act; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. MAZZOLI:

H.R. 5427. A bill to extend for 2 years section 314 of the Immigration Reform and Control Act of 1986, to make additional visas available to immigrants from underrepresented countries to enhance diversity in immigration, and to extend through December 31, 1989, H-1 nonimmigrant status for certain registered nurses; to the Committee on the Judiciary.

By Mr. BOSCO:

H.R. 5428. A bill to partition certain reservation lands between the Hoopa Valley Tribe and the Yurok Indians, to clarify the use of tribal timber proceeds, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, Merchant Marine and Fisheries.

By Mr. COYNE (for himself, Mr. Donnelly, Mr. Downey of New York, Mrs. Kennelly, Mr. McGrath, Mr. Foley, and Mr. Atkins):

H.R. 5429. A bill to amend the Internal Revenue Code of 1986 to provide that certain corporations engaged in substantial manufacturing operations in certain foreign countries will not be treated as passive foreign investment companies; to the Committee on Ways and Means.

By Mr. HUGHES (for himself, Miss Schneider, Mr. Saxton, Mr. Jones of North Carolina, Mr. Anderson, Mr. Roe, Mr. Nowak, Mr. Hammerschmidt, Mr. Stangeland, Mr. Carper, Mr. Towns, Mr. Lowry of Washington, Mr. Molinari, Mr. Gallo, Mr. Buechner, Mrs. Morella, Mr. Mrazek, Mrs. Roukema, Mr. Guarini, Mr. Rodino, Mr. Courter, Mr. Manton, Mr. Downey of New York, Mr. Hochbrueckner, Mr. Bennett, Mr. Gilman, Mr. DioGuardi, Mr. Lent, Mr. Boehlert, Mr. Wortley, Mr. Green, Mr. Horton, Mr. Smith of New Jersey, Mr. Smith of New Hampshire, Mr. Davis of Michigan, Mr. Studds, Mr. Weldon, Mr. Dwyer of New Jersey, Mr. Houghton, Mr. Martin of New York, Mr. McGrath, and Mr. Solomon):

H.R. 5430. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to establish special fees for the ocean dumping of sewage sludge and industrial waste, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

By Mr. GRAY of Illinois:

H.R. 5431. A bill to authorize the Governor of Illinois to use funds from the abandoned mine reclamation fund to provide relief to certain property owners adversely affected by abandoned mines; to the Committee on Interior and Insular Affairs.

By Mr. LaFALCE (for himself, Mr. Wortley, Mrs. Roukema, and Mr. Bartlett):

H.R. 5432. A bill to increase the limitation on the amount of outstanding obligations of the Financing Corporation, impose a limitation on the amount of outstanding promissory notes issued by the Federal Savings and Loan Insurance Corporation, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LUJAN:

H.R. 5433. A bill to assist in creating a viable domestic uranium enrichment industry, to insure the maximum economic utilization of the existing diffusion plant assets, to establish mechanisms which would permit the creation of a privately owned corporation or a mixed government-privately owned corporation to utilize the Federal Government's investment in centrifuge technology and in the centrifuge assets, to establish alternate sources of enrichment supply, so as to create American jobs, to return monies to the government and to increase Ameican industrial competitiveness in world wide nuclear fuel sales; jointly, to the Committees on Energy and Commerce, Interior and Insular Affairs, and Science, Space and Technology.

By Mr. PORTER (for himself, Mr. Bonker, Miss Schneider, Mr. Gejdenson, Mr. Mica, and Mr. Lantos):

H.R. 5434. A bill to ensure that any solid waste exported from the United States to foreign countries is managed to protect human health and the environment; jointly, to the Committees on Energy and Commerce and Foreign Affairs.

By Mr. RITTER (for himself, Mr. Boehlert, Mr. Brown of California, Mr. Hall of Texas, Mr. Lent, Mr. Madigan, Miss Schneider, Mr. Walgren, and Mr. Whittaker):

H.R. 5435. A bill to maximize protection of human health and the environment by requiring the submission to Congress of an annual report to assist the oversight and appropriation process, with the objective of providing an assessment which weighs the achieved or anticipated reduction in environmental risk through implementation of the Environmental Protection Agency's statutory authorities against the Agency's budgetary expenditures and the societal costs of reducing those risks; jointly, to the Committees on Energy and Commerce, Public Works and Transportation, Agriculture, Merchant Marine and Fisheries, and Interior and Insular Affairs.

By Mr. SPRATT:

H.R. 5436. A bill to suspend for a 5-year period the duty on certain dyes; to the Committee on Ways and Means.

H.R. 5437. A bill to suspend for a 5-year period the duty on certain brown, orange, and violet dyes; to the Committee on Ways and Means.

H.R. 5438. A bill to suspend for a 5-year period the duty on vat red 10 dye; to the Committee on Ways and Means.

H.R. 5439. A bill to suspend for a 5-year period the duty on certain blue and green dyes; to the Committee on Ways and Means.

By Mr. TALLON:

H.R. 5440. A bill to eliminate urban-rural distinctions in making payments and determining fees and rates under the Medicare Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. TRAFICANT:

H.R. 5441. A bill to authorize the Secretary of Transportation to carry out certain highway demonstration projects in the State of Ohio; to the Committee on Public Works and Transportation.

By Mr. SKELTON:

H.J. Res. 670. Joint resolution to designate September 15, 1989, as "National Respect for the Elderly Day"; to the Committee on Post Office and Civil Service.

By Mr. DORNAN of California:

H. Con. Res. 381. Concurrent resolution expressing the sense of the Congress regarding United States goals with respect to Lebanon; to the Committee on Foreign Affairs.

By Mr. CHENEY (for himself, Mr. Hyde, Mr. Livingston, Mr. McEwen, Mr. Lungren, and Mr. Shuster):

H. Res. 561. Resolution directing the Committee on Standards of Official Conduct to conduct an investigation regarding a possible unauthorized disclosure of classified information in violation of the Rules of the House of Representatives; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

471. The SPEAKER presented a memorial of the Legislature of the State of Maine, relative to legislation for better child care services; which was referred jointly, to the Committees on Education and Labor and Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1036: Mr. Miller of Washington.

H.R. 2612: Mr. Donald E. Lukens and Mr. Hiler.

H.R. 2934: Mr. Ray.

H.R. 3348: Mr. Dornan of California and Mr. Valentine.

H.R. 3515: Mr. Hochbrueckner and Mr. Dyson.

H.R. 3891: Mr. Wise, Mrs. Morella, and Mr. Sawyer.

H.R. 3944: Mr. Lightfoot.

H.R. 4277: Mr. Spence.

H.R. 4293: Mr. Gingrich, Mr. Lewis of Georgia, and Mr. Burton of Indiana.

H.R. 4575: Ms. Slaughter of New York, Mr. Synar, Mr. Chandler, and Mr. Lujan.

H.R. 4576: Mr. Rahall, Mr. Courter, and Mr. Brown of California.

H.R. 4581: Mr. Armey, Mr. Boulter, Mr. Bliley, Mr. Bruce, Mr. Feighan, Mr. Gallo, Mr. Gingrich, Mr. Hefley, Mr. Jones of North Carolina, Mr. Lewis of Florida, Mrs. Martin of Illinois, Mr. Rowland of Connecticut, Mr. Denny Smith, and Mr. Upton.

H.R. 4632: Mr. Lehman of California and Mr. Weber.

H.R. 4680: Mr. Upton, Mrs. Kennelly, Mr. Crockett, and Mr. Shays.

H.R. 4690: Mr. Smith of New Hampshire.

H.R. 4760: Mr. Fauntroy.

H.R. 4803: Mr. DeFazio, Mr. Coble, Mr. Boehlert, and Mr. Hamilton.

H.R. 4860: Ms. Kaptur and Ms. Pelosi.

H.R. 4874: Mr. Oberstar.

H.R. 4884: Mr. Payne, Mrs. Collins, Mr. Chapman, Mrs. Bentley, Mr. Atkins, Ms. Kaptur, Mr. Sabo, and Mr. Walgren.

H.R. 4885: Mr. Payne, Mrs. Collins, Mr. Chapman, Mrs. Bentley, Mr. Atkins, Ms. Kaptur, Mr. Kastenmeier, Mr. Sabo, Mr. Walgren, Mr. Stump, and Mr. Borski.

H.R. 4992: Mrs. Morella and Mr. Frenzel.

H.R. 5000: Mr. Bryant.

H.R. 5061: Mr. Kyl, Mr. Boulter, Mr. Owens of New York, Mr. Mfume, Mr. Wortley, Mr. Inhofe, and Mr. Skeen.

H.R. 5069: Mr. Bates.

H.R. 5075: Mr. Henry, Mr. Jeffords, Mr. Hall of Ohio, Mr. Craig, and Mr. Dickinson.

H.R. 5086: Mr. Ray and Mr. Solomon.

H.R. 5107: Mr. Clinger.

H.R. 5146: Mr. Crockett and Mr. Burton of Indiana.

H.R. 5214: Mr. Smith of Florida.

H.R. 5227: Mr. Kolbe, Mr. Dannemeyer, Mr. Hastert, and Mr. Packard.

H.R. 5351: Mr. Gingrich, Mr. Hyde, Mr. Weber, Mr. Smith of Texas, Mr. DeLay, MR. Davis of Illinois, and Mr. Broomfield.

H.R. 5352: Mr. Gingrich, Mr. Hyde, Mr. Weber, Mr. Smith of Texas, Mr. DeLay, Mr. Davis of Illinois, and Mr. Broomfield.

H.R. 5353: Mr. Gingrich, Mr. Hyde, Mr. Weber, Mr. Smith of Texas, Mr. DeLay, Mr. Davis of Illinois, and Mr. Broomfield.

H.R. 5354: Mr. Gingrich, Mr. Hyde, Mr. Weber, Mr. Smith of Texas, Mr. DeLay, Mr. Davis of Illinois, and Mr. Broomfield.

H.R. 5355: Mr. Gingrich, Mr. Hyde, Mr. Weber, Mr. Smith of Texas, Mr. DeLay, Mr. Davis of Illinois, and Mr. Broomfield.

H.R. 5356: Mr. Gingrich, Mr. Hyde, Mr. Weber, Mr. Smith of Texas, Mr. DeLay, Mr. Davis of Illinois, and Mr. Broomfield.

H.R. 5357: Mr. Gingrich, Mr. Hyde, Mr. Weber, Mr. Smith of Texas, Mr. DeLay, Mr. Davis of Illinois, and Mr. Broomfield.

H.R. 5358: Mr. Gingrich, Mr. Hyde, Mr. Weber, Mr. Smith of Texas, Mr. DeLay, Mr. Davis of Illinois, and Mr. Broomfield.

H.R. 5359: Mr. Gingrich, Mr. Hyde, Mr. Weber, Mr. Smith of Texas, Mr. DeLay, Mr. Davis of Illinois, and Mr. Broomfield.

H.R. 5360: Mr. Gingrich, Mr. Hyde, Mr. Weber, Mr. Smith of Texas, Mr. DeLay, Mr. Davis of Illinois, and Mr. Broomfield.

H.R. 5361: Mr. Gingrich, Mr. Hyde, Mr. Weber, Mr. Smith of Texas, Mr. DeLay, Mr. Davis of Illinois, and Mr. Broomfield.

H.R. 5362: Mr. Gingrich, Mr. Hyde, Mr. Weber, Mr. Smith of Texas, Mr. DeLay, Mr. Davis of Illinois, and Mr. Broomfield.

H.R. 5363: Mr. Gingrich, Mr. Hyde, Mr. Weber, Mr. Smith of Texas, Mr. DeLay, Mr. Davis of Illinois, and Mr. Broomfield.

H.R. 5364: Mr. Gingrich, Mr. Hyde, Mr. Weber, Mr. Smith of Texas, Mr. DeLay, Mr. Davis of Illinois, and Mr. Broomfield.

H.R. 5365: Mr. Gingrich, Mr. Hyde, Mr. Weber, Mr. Smith of Texas, Mr. DeLay, Mr. Davis of Illinois, and Mr. Broomfield.

H.R. 5366: Mr. Gingrich, Mr. Hyde, Mr. Weber, Mr. Smith of Texas, Mr. DeLay, Mr. Davis of Illinois, and Mr. Broomfield.

H.R. 5371: Mr. Jones of Tennessee, Mr. Ackerman, and Mr. Lewis of Georgia.

H.R. 5410: Mr. Lipinski and Mr. Vento.

H.J. Res. 438: Mr. Borski, Mrs. Kennelly, and Mr. Brennan.

H.J. Res. 515: Mr. Nielson of Utah, Ms. Pelosi, Mr. Frank, Mr. Bennett, Mr. McMillen of Maryland, Mr. Gejdenson, Mr. Hayes of Illinois, and Mr. Brown of California.

H.J. Res. 557: Mr. Brown of California, Mr. Torres, Mr. Bateman, Mr. LaFalce, Mr. Hall of Ohio, Mr. Borski, Mr. Berman, Mr. de Lugo, Mr. Yates, Mr. Weiss, Mr. Valentine, Mr. Tallon, Mr. Bruce, Mr. Gordon, Mr. Hayes of Louisiana, Mr. Skelton, Mr. Dannemeyer, Mr. Whitten, Ms. Slaughter of New York, Mr. Hyde, Mr. Traficant, Mr. Wise, Mr. Espy, Mr. Torricelli, Mr. Archer, Mr. Ridge, Mr. Denny Smith, Mr. Bonker, Mr. Shaw, Mr. Coble, Mr. Rahall, Mr. Chappell, Mr. Sawyer, Mr. Cooper, Mr. Bustamante, Mr. Wilson, Mr. Boucher, Mr. Scheuer, Mr. Rangel, Mr. Roberts, Mr. Derrick, Mr. Sabo, Mr. Nichols, Mr. Miller of Ohio, Mr. Dyson, Mr. Hochbrueckner, Mr. Price of North Carolina, Mr. Hutto, Mr. Gray of Pennsylvania, Mr. Ireland, Mr. Dellums, Mr. Hubbard, and Mr. Donnelly.

H.J. Res. 564: Mr. Lowery of California.

H.J. Res. 570: Mr. Anderson, Mr. Aspin, Mr. Clay, Mr. English, Mr. Madigan, Mr. MacKay, Mr. Moody, Mr. Studds, and Mr. Barnard.

H.J. Res. 607: Mr. Hubbard, Mr. Hunter, Mr. Hyde, Mr. Kemp, Mr. Ireland, Mr. Kostmayer, Mr. Lagomarsino, Mr. Latta, Mr. Levine of California, Mr. Lipinski, Mrs. Lloyd, Mr. Lowry of Washington, Mr. Mack, Mr. MacKay, Mr. Madigan, Mr. Manton, Mr. Markey, Mrs. Martin of Illinois, Mr. Martin of New York, Mr. Mavroules, Mr. Mazzoli, Mr. McCrery, Mr. McHugh, Mr. Mineta, Mr. Nielson of Utah, Mr. Packard, Mr. Pepper, Mr. Pickett, Mr. Pickle, Mr. Quillen, Mr. Ravenel, Mr. Robinson, Mr. Rodino, Mr. Roybal, Mr. Sawyer, Mr. Shaw, Mr. Denny Smith, and Mr. Solarz.

H.J. Res. 613: Mr. Smith of Florida.

H.J. Res. 626: Mr. Aspin, Mr. Badham, Mr. Blaz, Mr. Durbin, Mr. Erdreich, Mr. Hyde, Mr. Jenkins, Mr. Jones of North Carolina, Mrs. Kennelly, Mr. McMillen of Maryland, Mr. Moakley, Mr. Murtha, Mr. Nielson of Utah, Mr. Pickett, Mr. Richardson, Mrs. Saiki, Mr. Smith of Iowa, Mr. Spratt, Mr. Walgren, Mr. Wilson, and Mr. Wise.

H.J. Res. 631: Mr. Rangel, Mrs. Johnson of Connecticut, Mr. Frenzel, Mr. Hayes of Illinois, Mr. Gordon, Mr. Frost, Mr. Bryant, Mr. Espy, Mr. Brown of Colorado, Mr. Chapman, Mr. Schaefer, Mr. Lancaster, Mr. Solomon, Mr. Owens of New York, Mr. Levin of Michigan, Mr. Walgren, and Mr. Brennan.

H.J. Res. 636: Mr. Brennan.

H.J. Res. 651: Mr. McCloskey, Mrs. Patterson, Mr. McMillen of Maryland, Mr. Schaefer, Mr. Hall of Ohio, Mr. Applegate, Mr. Borski, Mr. Carper, Mr. Clarke, Mr. Coble, Mr. Gray of Pennsylvania, Mr. Darden, Mr. Daub, Mr. DeFazio, Mr. Dellums, Mr. Dixon, Mr. Dorgan of North Dakota, Mr. Bevill, Mr. AuCoin, Mr. Foley, Mr. Foglietta, Mr. Fauntroy, and Mr. Dowdy of Mississippi.

H.J. Res. 661: Mr. Barnard, Mr. Boehlert, Mr. Bunning, Mr. Bustamante, Mr. Clay, Mr. Coelho, Mr. Courter, Mr. DioGuardi, Mr. Dwyer of New Jersey, Mr. Dyson, Mr. Emerson, Mr. Fawell, Mr. Feighan, Mr. Foglietta, Mr. Gejdenson, Mr. Gephardt, Mr. Hayes of Illinois, Mr. Hertel, Mr. Hoyer, Mr. Kasich, Mr. Leland, Mr. Livingston, Mr. MacKay, Mr. Martin of New York, Mr. Morrison of Connecticut, Mr. Olin, Ms. Pelosi, Mr. Ritter, Mr. Sikorski, Ms. Slaughter of New York, Mr. Spratt, Mr. Udall, Mr. Wolf, and Mr. Wortley.

H. Con. Res. 129: Mr. Slaughter of Virginia.

H. Con. Res. 339: Mr. Sabo, Mr. Bruce, Mr. Schuette, Mr. Broomfield, Mr. Ortiz, Mr. Gilman, Mr. Gephardt, Mr. Lungren, Mr. Emerson, Mr. St Germain, Mr. Quillen, Mr. McHugh, Mr. Flake, Mr. Savage, Mr. Pickett, Mr. Molinari, Mr. Horton, Mr. Davis of Michigan, Mr. Alexander, Mr. Volkmer, Mr. Brown of Colorado, Mr. Taylor, Mr. Sundquist, Mr. DeLay, Mr. Baker, Mr. Clarke, Mr. Ballenger, Mr. Coleman of Missouri, Mr. Michel, and Mr. Smith of New Hampshire.

H. Con. Res. 342: Mr. Natcher, Mr. Hastert, Mr. Martinez, Mr. DeWine, Mr. Vento, Mr. Cheney, Mr. Frost, Mr. Sikorski, Mr. Traficant, Mr. Conte, Mrs. Saiki, Mr. AuCoin, Mr. Molinari, Mr. Carr, Mr. Latta, Mr. Smith of Florida, and Mr. Shumway.

H. Con. Res. 355: Mr. Payne and Mr. Jontz.

H. Con. Res. 365: Mr. Smith of Florida.

H. Con. Res. 370: Mr. Skeen, Mr. Parris, and Mr. McCrery.

H. Con. Res. 380: Mr. Moakley.

H. Res. 472: Mr. Bryant, Mr. Evans, Mr. Hayes of Illinois, Mr. Rangel, Mr. Garcia, and Ms. Pelosi.

H. Res. 542: Mr. Coleman of Texas, Mr. Akaka, Mr. Martinez, Mr. Bonker, Mr. Ackerman, Mrs. Martin of Illinois, Mr. Wolf, Mr. Torres, Ms. Kaptur, Mr. Bruce, Mr. Smith of Florida, Mr. Dannemeyer, Mr. Frank, Mr. Shays, and Mr. Daub.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H. Con. Res. 316: Mr. Slaughter of Virginia.

EXTENSIONS OF REMARKS

THE COMMUNISTS ARE CRACKING HEADS NOW THAT U.S. CONGRESSIONAL LIBERALS HAVE DESERTED THE FREEDOM FIGHTERS IN NICARAGUA

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, just as many of us predicted, without a viable opposition, the Sandinista Communists have returned to their repressive ways.

During congressional consideration of aid to the freedom fighters of Nicaragua, Commandante Ortega tried to put the best face on his brutal dictatorship. His plan was to bide his time, consolidate his power, and fool the U.S. Congress into strangling his opposition for him. And our naive House leadership fell for it.

Now that he feels the threat to his regime is disappearing, he can return to using brute force as a political tool.

I would like to insert for the RECORD an article from the October 10 issue of Insight magazine which attempts to catalog recent Sandinista repression.

Mr. Speaker, our actions and our inaction has consequences far beyond the debate we pursue from our comfortable seats here on the floor of the House. As this article shows, there are those who have paid for our inaction with torture, there are others who have paid for it with their lives.

The article follows:

[From the Insight magazine, Oct. 10, 1988]

REPRESSION FLOWS AS IT GETS HOT UNDER SANDINISTA COLLAR

(By David Brock)

(Summary: Summer in Nicaragua was a time for testing the Sandinista regime's willingness to relax its control. A March cease-fire accord had renewed hopes that the regional peace plan's provisions for greater political freedom, agreed to by the Sandinistas, might have room to be realized. But as civilian opposition gained momentum, the ruling party hardly stepped aside. The crackdown, coming without excuse of a Contra military threat, includes the jailing and killing of civilians.)

The bullet-ridden body of Eleazar Herrera, a prosperous cattleman and farmer from Matagalpa, was found lying in a ditch near his property July 29 by Sandinista police. The 48-year-old leader of a faction of the opposition Conservative Party in the Matagalpa province in central Nicaragua had been reported missing two days earlier by his wife, who said that her husband had left their home the previous week and had not been seen since. When Radio Sandino, the government station, curtly reported the homicide July 29, opposition leaders in Managua immediately called for an investigation of the killing, fearing that it was triggered by the political organizing of the province's peasantry that Herrera had been doing of late, with great success.

Nicaragua's Interior Ministry soon issued a statement saying Herrera had been killed "apparently by thieves." A second official explanation a few days later said he had been killed by one of his own employees following a wage dispute. Upon further investigation, the government called the murder a crime of passion, saying that he was done in by an employee who was romantically invoved with Herrera's wife.

That explanation, however, was contradicted by the accused worker, who said in a public statement that he had been hired by the Sandinistas to be an accomplice to the murder, which was carried out by two Sandinista military officers. His story was seconded by opposition leaders, who said that spent cartridges found at the scene were of the same type used by the Sandinista military. The worker denied involvement with Herrera's wife. So did she, coming forward to say that Sandinista police had clipped hairs from her head and her genital area to plant as evidence of the alleged affair.

The worker subsequently was arrested for murder and brought to a Matagalpa prison. A few days later, Sandinista authorities announced that he had been killed in an escape attempt. And they closed the Herrera murder investigation.

The Matagalpa incident was only one in a carefully calculated series of events carried out recently by the Sandinista regime to frighten anyone inclined to oppose its increasingly unpopular rule. These include detention and imprisonment of suspected oppositionists under a "public order and security" law on the books since the days of dictator Anastasio Somoza Debayle; closing of independent news outlets; organized harassment of the churches and labor unions by so-called *turbas,* Sandinista toughs who brutally intimidate those who try to exercise their civil rights; and accelerated expropriation of private property as retribution for political activism.

An editorial in the independent newspaper La Prensa the second week of July referred to these events as a "lightning operation" designed to "shock the country, placate the people's fears by cowing them and create the international image of a strong regime with the necessary strength to deal blows without causing destabilization." The Sandinistas, it said, have been "carried away by their vengeful triumph—which is characteristic of totalitarian dictatorships—and have apparently tried to set a permanent example that will serve as a 'future warning' to those who harbor 'subversive thoughts' and those who don't know who has the power in Nicaragua, the spokesmen of permanent hate and the true apologists of institutional violence."

This provoked the government once again to shut La Prensa, the light switch of Nicaraguan democracy, which the Sandinistas have flicked on and off so often that news of its closing hardly raises an eyebrow. This time, the paper was silenced for 15 days in the midst of a deep-going summer crackdown on the growing ranks of the civilian opposition, a collection of political parties, churches, human rights groups, business and agriculture associations and labor unions that, until now, not only have kept a modicum of reformist pressure on the Sandinistas but also allowed the regime the pretense of political pluralism.

"It has been the internal opposition that has prevented the Cubanization of Nicaragua and kept the political process from being permanently closed," says Adan Fletes of the Nicaraguan Social Christian Party. Adds Virgilio Godoy Reyes, president of the Independent Liberal Party and a former Sandinista labor minister, "The main policy of the Sandinistas now in internal repression to retain power by any means."

This new—and perhaps final—round of repression, designed to gut what remains of the nonmilitary opposition to the regime's one-party rule, follows a yearlong process of tenuous democratization, as the government sought to convey the impression that it was abiding by the terms of the regional peace plan crafted by Oscar Arias Sanchez, the president of Costa Rica.

Under the plan, five governments in the region specifically agreed in August last year to establish "freedom of press, television, and radio . . . without prior censorship"; to grant political groups "freedom of association, free speech and movement in order to proselytize"; to decree an amnesty guaranteeing "freedom in all its forms"; and to terminate state-of-emergency laws while reestablishing "the full exercise of all constitutional guarantees."

These, of course, would be merely the first steps on the road to Nicaraguan democracy. In addition, opposition groups maintained that true democratization only would come with an end to the one-party state, with the Sandinista National Liberation Front giving up its total control of such institutions as the military, the government bureaucracy and the schools. In that event, Sandinista Nicaragua would be the first Marxist-Leninist state to negotiate itself out of power.

This being so, many critics doubted the sincerity of Sandinista intentions from the outset. The government nonetheless proceeded to lift a state of emergency, allow the opposition press to operate freely and permit a host of critical radio stations to broadcast throughout the country. While the ruling directorate made no permanent, institutional reforms, the political openness, fueled by a severe economic crisis, emboldened the democratic opposition to press for more concessions.

By all accounts, over the course of several months, popular discontent with Sandinista rule swelled to an all-time high. Opposition political rallies since last fall have drawn large numbers. A January march and rally in Managua, for example, attracted approximately 30,000 people, the largest anti-Sandinista demonstration since 1984, when enthusiastic throngs greeted Arturo Jose Cruz, the opposition candidate in that year's presidential election. (Cruz later withdrew his candidacy after failing to reach agreement with the government on democratic electoral procedures.)

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The next month in Monimbo, a poor barrio in the city of Masaya that was the site of the first major uprising against Somoza a decade ago, hundreds of peasants took to the streets to protest forced military recruiting. They chanted anti-Sandinista slogans, advocated the now widespread practice of draft dodging and pelted the state police with rocks.

A new coalition that has united communist and noncommunist labor unions for the first time in Nicaraguan history, representing construction workers, mechanics and hotel and restaurant workers, among others, struck against government-imposed wage controls throughout the spring. Since striking is illegal, they were replaced by the government with other workers, aggravating the labor tensions further still. All the while, La Prensa was publicizing these successful protests, and they began to spread throughout the countryside.

The Sandinistas' troubles with the public were demonstrated in July with the release of an opinion poll by the University of Central America's Managua campus that found only 28.3 percent of the respondents supporting the government. The mood in the capital could be seen in more practical terms on the streets, where, even in the grip of economic collapse, the government was having trouble finding youngsters willing to sell copies of Barricada, the official daily of the Sandinista Front.

"Since the Sandinistas signed the Esquipulas accords, we had one big opposition rally every month," says Ramiro Gurdian, acting president of the Nicaraguan Democratic Coordination Board, an umbrella group for the opposition. "More and more people were coming out, and the Sandinistas were watching." Alberto Saboria, president of the independent Nicaraguan Bar Association, says, "There were anti-Sandinista meetings in every little village. Every day, we had reports from some small department about the crowds at a meeting. Poor people were coming from all around. The Sandinistas believed they were facing the possibility of a general insurrection."

A year of frenetic opposition activity culminated July 10 in a rally in Nandaime, a town 35 miles southeast of the capital. Since the 1979 revolution, Nandaime has been known as a Sandinista stronghold. Many Nicaraguans recall that in 1982 a small opposition rally was violently broken up by local Sandinista mobs, shouting, "We'll kill you if you ever come back," says Horacio Ruiz, La Presnsa's managing editor. "The Nandaime demonstration was therefore a very brave act," with high symbolic importance, he says.

The opposition forces attracted more than 10,000 people in Nandaime to hear their call for a "government of national salvation," a loosely defined coalition body that would displace the junta until democratic elections could be held. The Sandinista police, many clad as civilians, soon set upon the crowd with clubs and tear gas and dispersed it. They then conducted a search from house to house hunting down opposition leaders and taking them to jail.

Among the 39 top opposition leaders arrested for "disturbing the peace" and jailed were Carlos Huembes, a trade union leader and president of the Nicaraguan Democratic Coordinating Board; Miriam Arguello, a leader of the Conservative Party; and Agustin Jarquin, head of the Nicaraguan Social Christian Party. The sentences were the harshest imposed on the civic opposition since the Sandinistas came to power and had the effect of severely crimping the opposition's ability to organize.

The government claimed the Nandaime demonstration was the final phase of an effort, coordinated by the U.S. Embassy in Managua, to "destroy the Nicaraguan revolution." The next day, Ambassador Richard Melton and seven other U.S. diplomats were expelled from Nicaragua for designing the alleged "Melton plan," which both the civic opposition and the U.S. government has said never existed. Rather, they contend that the "plan" was invented by Sandinista disinformers as an excuse to persecute opponents.

The Sandinistas have provided no proof to back up their charge. But in Washington Sept. 20, House Speaker James C. Wright Jr. told reporters: "We have received clear testimony from CIA people that they have deliberately done things to provoke an overreaction on the part of the government in Nicaragua." As the House ethics panel met to consider whether the Texas Democrat violated House rules prohibiting disclosure of classified information, he backtracked, claiming his allegation was based solely on published accounts. The CIA said it would neither confirm nor deny whether any such covert action was undertaken.

The crackdown gave the lie to the Sandinista claim that the military threat posed by the Nicaraguan Resistance was the justification for its policies of political repression. The Contra threat, of course, has been all but eliminated, as U.S. aid has been cut off since February and new military aid appears unlikely to be approved by Congress this year. As many as 10,000 rebels have fled from Nicaragua in the past five months to camps in eastern Honduras.

The regime and the resistance leadership have entered a new round of negotiations, but the Contras contend that with the military pressure off, the Sandinistas will not make the concessions needed to bring democracy and peace to the country. "We really are in a weakened position without any military aid," says Adolfo Calero Portocarrea, a leading member of the Contra directorate. "We don't have a bargaining chip."

Thus it appears that the Sandinistas genuinely fear the civic opposition. In a speech July 17, Thomas Borge Martinez, the hard-line minister of the interior, admitted as much, saying that "the internal political war" was "more dangerous than the military war."

Though it is difficult to judge the opposition claim that the country had reached an "insurrectionary" state before the July events, the crackdown made it clear that the Sandinistas cannot afford even a small measure of internal liberalization if they are to maintain their control of Nicaraguan life. Their opponents say the latest government moves ought not be viewed as merely another stage in the waxing and waning of Sandinista repressiveness, but as a high-profile commitment to consolidating their dictatorship, regardless of international or internal criticism of their policies.

In a July speech, President Daniel Ortega Saavedra said: "Our socialism defends a mixed economy and political pluralism, but political pluralism within the constitutional and institutional framework, not to defy the government, not to defy people's power, but to work with the government." He also declared that Sandinista opponents "should be thankful that we're not offering them the guillotine or the firing squad, which is what they deserve."

While hopes were high last fall in the months following the signing of the Arias peace plan, few Nicaraguans other than beneficiaries of the ruling party appear now to hold out much hope for material improvement in their lives or progress toward political pluralism. On the contrary, many now routinely say that Sandinista rule amounts to a combination of Marxist-Leninist ideology and traditional Nicaraguan authoritarianism, which they term "scientific Somocism"—the repression of the roundly despised Somoza era, perfected and expanded. One Sandinista state prosecutor, who defected in March, declared that the country was undergoing a "Stalinist social drama."

The Sandinistas have long argued that Nicaragua can cope with dissent in a more humane way than the neighboring governments of El Salvador and Guatemala, which they have accused of systematically massacring communist rivals. But the Sandinistas have been implicated with increasing frequency in death squad activities directed at their opponents.

Alvin Guthrie Rivez, head of the independent Confederation of United Trade Unions, or CUS, an affiliate of the Brussels, Belgium-based International Confederation of Free Trade Unions, attributes several recent assassinations of local labor leaders to the government. These include the death June 24 of Mauricio Canales Prieto, the legal counsel of a CUS-affiliated union, who was shot in the head in his home in Chinandega, and that of confederation leader Carlos Garcia Velasquez, who also was shot in the head in his home, in Nindiri July 3. Witnesses attributed both slayings to Sandinista police officers.

In March two labor activists, who were leading a peaceful group of 60 peasants to a rally against the government's agrarian reform policy of providing land only to supporters, were shot down publicly by government troops near the village of El Tuma in Matagalpa, according to several protesters.

In addition to recording the assassinations, the Permanent Commission on Human Rights, an independent body that denounced violations under the Somoza regime and now documents charges against the Sandinistas, said in a recent report that new political prisoners were being taken at an "alarming rate." A March cease-fire accord reached between the junta and the Contras in Sapoa provided for a phased release of political prisoners; half were to be freed once the rebels moved into special cease-fire zones and the rest upon the signing of a definitive peace agreement.

The commission estimates that the government is holding at least 8,000 such prisoners of conscience, some in cells the size of phone booths, depriving them of light, water, sleep and food and threatening them with death. It also reported the deaths of 33 persons under arrest and said the total number of "disappearances" nationwide had reached 500. The commission is getting more than 200 complaints a month, double the number of a year ago.

Though the government forces should be demobilizing in keeping with the Sapoa accord, the Sandinistas have used the cease-fire period instead to comb rural areas and identify people sympathetic to the resistance, "releasing a veritable hunt on young males," aimed at forcing political opponents and labor activists into the Sandinista army, says Lino Hernandez, the commission's director. The government also has stepped up aerial bombing in rural areas and the forced relocation of peasants into militarized "cooperatives" and clamped down on legal emigration, Hernandez says.

Meanwhile, the junta has moved to institutionalize its control of the population at large. Participation in the Sandinista Defense Committees has slumped to the extent that most of the duties of neighborhood groups—controlling food ration cards, delivering draft summonses, collecting intelligence for the government—have been shifted to the Interior Ministry for more efficient execution. In the same vein, Ortega announced that the Ministry of Justice would be closed and its duties assumed by Interior, eliminating the last vestiges of judicial independence. The courts now exist only to legalize the actions of the police.

In this environment, there is little prospect that the internal opposition can become an effective anti-Sandinista force, even if the current round of peace talks with the resistance leads to relaxation of repression. The small window of liberty given the opposition under the Arias plan apparently so threatened the regime that it turned to the only resources it could rely on: its police power and military forces. Managua is heavily militarized, with uniformed, armed Sandinistas patrolling the streets in East German transport vehicles. Soviet bloc military aid and supplies have grown this year to an average of $100 million a month.

"The Sandinistas had to take a risk," says La Prensa's Ruiz. "If they did not crack down, they would lose control of the situation. If they did, they faced the prospect of renewed Contra aid from the U.S. Congress. They took a gamble, and it appears they have won, sealing the fate of the country."

MEDICARE CATASTROPHIC COVERAGE—LET'S TAKE A SECOND LOOK

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. CHANDLER. Mr. Speaker, as children we used to play a game called telephone. Everyone sat in a circle and someone would whisper something into the ear of the kid sitting next to him. The message would be repeated around the circle until it reached the person who started the game. By the time the message had gone full circle, it was distorted beyond recognition.

The game provided a moral lesson: it was intended to teach children something about gossip. There are times when it approximates the legislative process as well. What starts out as a good idea can become distorted beyond recognition.

At the beginning of this Congress, the Reagan administration transmitted to Congress a proposal to address the catastrophic medical costs that can threaten the security of the Nation's elderly. It was relatively limited in scope. It would have provided coverage for up to 1 year of hospital care and capped annual out-of-pocket expenses for Medicare-covered services at $2,000. The cost? About $5 a month.

The measure that reached the President's desk provided more generous benefits to be sure, including a drug benefit that is going to drive costs into the stratosphere. But the premiums are something beyond stratospheric. In fact, some have suggested that the name "catastrophic" was suggested by the premium structure.

In 1989, a Medicare beneficiary could pay as much as $1,173.20 a year in premiums.

By 1993, that same beneficiary is likely to be paying as much as $1,561.20 a year in premiums—a 33-percent premium increase in 4 years.

Those who have saved all their lives and planned for their retirement years are going to be hardest hit. They'll be facing surtaxes of up to $800 a year, next year, and as much as $1,050 in 1993.

It's not just that the premiums are burdensome. Every dollar raised for this benefit is a dollar that can't be used for something else. Eight of ten seniors are already protected from acute hospital care costs, but 9 out of 10 have no insurance against long-term care expenses. Where are we going to find money to address long-term care after we spend $45 to $60 billion on acute care coverage?

And long-term care isn't the only health care challenge facing Congress. There are an estimated 37 million uninsured Americans. We have to find a way to improve their access to health care.

The gentleman from Texas [Mr. ARCHER] and I are introducing an extraordinary measure today. It sets up a commission—there's nothing extraordinary about that—but it suggests the need to revisit the measure we passed a few short months ago.

That's not easy, but our Nation's elderly deserve no less.

The bill would delay implementation of the Medicare Catastrophic Coverage Act of 1988 for one year, and set up a bipartisan commission to review the new law and make recommendations to Congress for its improvement.

The Commission would be composed of 13 members. Five would be appointed by the President and would include representatives of the private insurance industry, health care provider groups and health economists. The Speaker, in consultation with the minority leader, would appoint four members from the House, and four members would be appointed from the other body.

The Commission would be charged with recommending:

1. An appropriate structure for Medicare catastrophic coverage, including a role for private insurance;

2. A way to assure the availability of supplemental coverage for Medicare beneficiaries who are not eligible for Medicaid and are unable to purchase supplemental coverage; and

3. A way to provide a financing mechanism for Medicare and catastrophic coverage that treats all Medicare beneficiaries the same.

The Commission would submit its findings to Congress within 6 months of enactment of our bill, allowing sufficient time for Congress to act on the recommendations if it so chooses.

Mr. Speaker, I have tremendous respect for the hard work that went into the development of the Medicare Catastrophic Coverage Act. I participated in the markup at the subcommittee and full committee level. And I have profound respect for the process by which we process legislation here in Congress. But in this case, somehow the process didn't work. Somehow, what started out as a good bill picked up so much freight along the way that our constituents simply cannot afford our generosity.

I do not fault my colleagues for their work on this bill, and I do not fault the President for signing it. But I do not believe that it is the best we can do—not by a long shot. Let's give ourselves a little time to straighten this out, and let's reach outside our own resources for a little help.

I would urge my colleagues to support the Archer-Chandler bill.

CONTROLLING OUR SPENDING HABIT

HON. JOHN J. RHODES III

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. RHODES. Mr. Speaker, I rise today to share with my colleagues some insights from a couple of my constituents, Dan and Rebecca Garrett of Tempe, AZ. The Garretts have written me regarding the Federal budget deficit and our role as Congressmen in addressing this problem.

It is fitting that I share these thoughts today, the last day of the fiscal year of the U.S. Government. Tomorrow, the Government begins a new fiscal year and for the first time since 1948, Congress may manage to pass, before the new fiscal year, the required 13 regular appropriations bills to continue the operation of the Federal Government.

In addition, we may manage, if only barely, to remain under the Gramm-Rudman balanced budget deficit target for the fiscal year. Of course, this depends on our collective self-control—not to spend more than the law allows.

I am hopeful, as are Dan and Rebecca Garrett, that we, the elected representatives of the American people, will find the ability to unite, control our spending habit, and balance the budget. I commend the following letter to my colleagues as food for thought.

DEAR CONGRESSMAN JOHN RHODES; I am one of the humble citizens of this great country. I don't keep good track of what goes on in Washington, I guess I'm too busy with the problems and joys of my own life. However, there is something going on in Washington that has got me worried.

You know, a pretty big chunk of my paycheck goes to taxes and it seems like it just isn't enough. You congressmen keep borrowing more and more money each year. I know the republicans want to spend money their way and the democrats want to spend it another way. In order to make both happy (if that could even happen) you end up spending much more than we give you each year.

In 1987 we gave the federal government $842,400,000,000 and this is not counting all the taxes we paid to the states, counties, and cities. I don't think we can afford to give you much more and I don't want to cosign for any more of your borrowing. So, I guess what I'm trying to say is, YOU HAVE GOT TO CUT BACK.

There are 535 of you Congressmen who decide how much to spend and what to spend it on. You can fight all you want over where to spend the money—that is your job as a republican or democrat, but you have got to all agree, up front, on the size of the pie you're slicing—that is your job as an American.

I know that I am just a little guy, one of about 244,000,000 people in this country, but you are one of just 535 people who decide the destiny of all of us. I am not near as worried about what the Russians are doing to us, as I am about what you guys are doing to us.

I think it is fair to say that we will all be happier in the long run if you 535 people can get united on this one issue and lick this problem. Oh, we will still complain, but we always complain. You need to do what is best for us in spite of some of our complaints.

This letter isn't a threat. In fact, I feel more like we are at your mercy. Please, LET'S BALANCE THE BUDGET.

An American who cares,
DAN GARRETT,
REBECCA GARRETT.

HONORING THE SEA OTTER

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. PANETTA. Mr. Speaker, I rise today to draw my colleagues attention to an important upcoming event. In a few weeks, many in California and across the Nation will be celebrating a noteworthy double anniversary. This year is the 50th anniversary of the rediscovery of the southern sea otter, a small and rare marine mammal previously thought to be extinct. It is also the 20th anniversary of the founding of a major organization dedicated to the preservation of this rare species, Friends of the Sea Otter. I hope that Members of the House will join me in commemorating both these important anniversaries.

The southern California sea otter once flourished along the central California coast. Its numbers decreased, however, probably as a result of fur trading in the 18th and 19th centuries, and it was considered to be extinct. On March 19, 1938, however, a small group of otters was spotted rafting in kelp beds, along a newly built bridge in Big Sur. Since the rediscovery, millions of visitors to the California coast have enjoyed watching the sea otter's playful antics.

The species has struggled, however. It is listed as a Federal threatened species, and the State of California has designated it as a fully protected mammal, and provided additional statutory measures to ensure its survival. Despite these efforts, however, the sea otter has not regained its former numbers or range, and concerns for its long term well-being remain. Indeed, just last year, the U.S. Fish and Wildlife Service undertook a sea otter translocation program to move a colony of sea otters to San Nicolas Island, where the otter had once flourished, to protect the species from the threat of catastrophic events, such as oil spills.

In 1968, in response to concerns about the animal's future, Margaret Owings of Big Sur, CA, and Dr. James Mattison, Jr., of Salinas, CA, founded the Friends of the Sea Otter. The organization now has more than 4,700 members in 50 States and 14 countries, and is dedicated to increasing public awareness of risks to the sea otter's well-being and to encouraging the implementation of measures to ensure its protection.

The organization's achievements in the 20 years of its existence have been numerous. It played a key role in securing the listing of the species as a threatened species on the Federal endangered species list; worked with the State, State agencies, and commercial fishermen and others to develop regulations on the setting of certain fishing nets which had caused otter mortalities; and worked to promote the establishment of the San Nicolas reserve colony.

But the work of the Friends of the Sea Otter is not limited to those issues which affect only the sea otter. The organization has been active on a wide variety of marine and coastal issues. It has worked to protect the coast from the threats of offshore oil drilling, from the dumping of toxic and contaminated waste water from the San Joaquin Valley, and other issues of critical importance to both humans and sea otters. I might add that these are issues which are of concern to the vast majority of my constitutents and many others along the California coast.

We celebrate this double anniversary first and foremost, for what it is—the recognition of the survival of an important species and of the hard work of a group of extraordinary people dedicated to the animal's well-being.

But I believe that we should celebrate this double anniversary for the important message which it sends to all of us. The near extinction of the sea otter and its recent increases in population show us that man can make a difference—be it positive or negative—in the natural environment around him. Man was given a rare second chance to assist in the recovery of the sea otter, and the work of the Friends of the Sea Otter demonstrates that we should seize upon these opportunities.

Thus, as we celebrate this anniversary, I hope that we will also consider the many threats to our coasts and waterways, even to life on the planet, and ask ourselves what kind of impact we are making, remembering always that the potential for positive change exists. In this respect, the survival of the sea otter and the good work of Friends of the Sea Otter stand as shining examples for all of us.

I urge my colleagues to join me in saluting the 50th anniversary of the rediscovery of the California sea otter and the 20th anniversary of the Friends of the Sea Otter.

THE GORENSHTEIN FAMILY

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. McEWEN. Mr. Speaker, Boris Gorenshtein, his wife Aliza, and their two children, Inna and Yuli, have been waiting roughly 10 years for an exit visa to leave the Soviet Union. The reason for their repeated denials has been heard so many times before—access to "classified information." In this case, Aliza's previous work as an electronics engineer had exposed her to "secrets."

The Gorenshtein's who currently live in Leningrad, are hoping to be reunited with Boris' brother and mother, both of whom have already emigrated to Israel. This week I sent a letter to General Secretary Gorbachev, signed by over 80 of my colleagues, asking him to put his money where his mouth is when it comes to glasnost and peristroika for the Soviet people, and to grant the Gorenshtein family the right to leave the Soviet Union.

CELEBRATING THE BICENTENNIAL OF GEORGETOWN UNIVERSITY

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. CONTE. Mr. Speaker, this weekend Georgetown University celebrates its bicentennial. Throughout 200 years, Georgetown has grown and diversified, enriching the experience of its students and preparing them for a new and changing world. Throughout those two centuries, this university on the Potomac has also remained committed to the three very fundamental principles that have become the themes of this bicentennial—education, faith, and freedom.

Anyone who has visited Georgetown during the last year knows what I mean when I talk about the growth of the university. The campus is spotted with new buildings. The construction of a brand new multimillion dollar student center, the addition of three new dormitories, and the completion of the solar-powered International Cultural Center are part of the university's preparation for the future. In every sense the school is reaching forward.

The tremendous growth of Georgetown's campus complements a broadening of curriculum, sport, and student life at the university that have combined to make Georgetown one of the Nation's finest educational institutions. Its reputation for academic excellence is widely recognized. Scholars in the field of political science, law, philosophy, medicine, English, theology, and history have come to Georgetown to join a distinguished faculty and to teach a bright, motivated student body—a student body that has relied on its Georgetown experience to become leaders in our towns, in our country, and around the globe.

But perhaps the most unique aspect of a Georgetown education is the moral and spiritual reflection it inspires in its students. Both the Catholic and lay community at Georgetown University are uniquely aware of the potential for spiritual growth, both individually and in the community. In the classrooms, in counseling, and in the dormitories, there exists a tremendous respect for the ability and potential for individuals as part of a greater whole. Faith is an important part of the Georgetown experience.

However, throughout the Nation the university's name is often identified not with academic excellence or spiritual growth, but with the team coached by John Thompson—the Hoyas. The basketball program at Georgetown has brought tremendous pride and enthusiasm to the university. With the basketball program, we've seen the track and field, lacrosse, and volleyball programs grow as well. But more importantly, we've seen an enthusiasm for sport that has taken over the campus, keeping the recreational Hoyas healthy.

Mr. Speaker, over the last 20 years Georgetown has achieved an unparalleled balance between the challenge of preparing students for an increasingly international and dynamic world and ensuring that they approach that world with sound values and spiritual strength.

That kind of balance must be made by wise and creative men with vision. I would be remiss if I didn't take this opportunity to mention two of those men at Georgetown, the university's president Father Timothy Healy, Father T. Byron Collins and my good, good friend, Father William George.

In 1815, the Congress granted the university its charter. I don't think anyone could have possibly imagined back then just what Georgetown would become. I think it's only fitting that today, on the eve of the bicentennial celebration, we recognize that spirit of excellence embodied by Georgetown University.

A TIME FOR ACTION

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. LAFALCE. Mr. Speaker, there is now absolutely no question that we are facing serious problems in the thrift industry that will not be resolved without some basic and comprehensive reforms. That is not a task we can hope to perform in the last week or so of this session. But we also cannot afford to allow current activities to proceed unchecked. Before the Congress adjourns, we will undoubtedly see the establishmnent of a national thrift commission to examine industry problems and offer recommendations. That is an important step, but far from enough. Today I am introducing legislation that will introduce an element of damage control until Congress can address this problem in a meaningful way.

We have heard a great deal from the Bank Board about the cost efficiencies of current case "resolution" procedures and have been assured that the cash projections of the Board indicate it can easily meet projected burdens. In reality, talk about case "resolutions" is dangerously premature. And the Board's wildly optimistic cash-flow projections seem to rise conveniently to meet its exponentially increasing costs.

Without congressional authorization, the Board has taken us from a strategy approved under last year's Competitive Equality Banking Act that is budget neutral, relies on industry self-help, and is directed at the quick closing of clearly insolvent institutions, to one which will impact severely on the Federal budget, puts taxpayer dollars more blatantly at risk, and may simply create large institutions whose ultimate solvency and stability is far from assured.

Under CEBA, the Congress recapitalized the FSLIC with $10.8 billion and provided for the issuance of long-term FICO bonds, the proceeds of which were to be used for the rapid closure of hopelessly insolvent institutions. We should have admitted then, and must admit now, that the recapitalization level was woefully inadequate; and the annual limitation put on bond issuance made the system more unworkable still.

Absent sufficient funds to close the hopelessly insolvent institutions, the Board has devised its own high-risk strategy. It is issuing ever rising levels of FSLIC notes in connection with a flurry of mergers of weakened institutions. Given the insolvency of the insurance funds, investors and accountants are dubious about the ultimate value of these notes, and with good reason as long as there is no limit in sight. And with each note issued, the potential taxpayer burden rises.

Nor is the ultimate need to back up the notes the only cost we may have to lay at the taxpayer's door. Investors are being lured into these transactions with myriad guarantees against loss. If these new institutions are not viable in the long term, it is the taxpayer that could be forced to pay.

Certainly, liquidation is not the preferred strategy where demand for services exists and communities would experience hardship. A strategy that holds out the hope of turning potentially viable institutions around is obviously preferable to one which assumes that nothing is salvageable. New institutions with a real future are everyone's hope. But the hope must be real, or the ultimate costs of resolution will make current estimates pale by comparison.

We have not resolved any problem cases until we establish that the new institutions being created through the Board's assisted transactions are viable and can function over the long term on a sound and profitable basis. There are good reasons to have doubts: inadequate infusion of capital, questionable management, and deals structured to encourage the kinds of speculative investments that got us into trouble in the first place.

The Treasury, and now apparently the Board, assume that the full faith and credit of the U.S. Government stands behind this strategy and the FSLIC notes. To argue that, because the full faith and credit of the U.S. Government stands behind consumer deposits, it stands behind any obligations incurred in their name, is to make an enormous leap of faith. That is a decision only the Congress can make. To date, Congress has not given the Board a license to issue, in effect, unlimited Treasury debt and I do not want Congress to be backed into that position.

It is time for Congress to reassert control over this process. GAO has repeatedly requested that the Board put an explicit cap on the level of notes it will issue to ensure public confidence. If the Board won't—and it continues to refuse to do so—the Congress must.

The legislation I am introducing would put an absolute cap on the notes at $20 billion. It would also increase the FSLIC recapitalization by $5 to $15.8 billion and remove the annual limit on bond issuance, paving the way for increased reliance on bond authority. Finally, it will reassert a congressional preference for the use of FICO bonds rather than FSLIC notes. At a minimum, we can introduce some accountability into this process in the short term.

I would welcome the support of my colleagues.

The text of the bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled;

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Savings and Loan Insurance Corporation Recapitalization Amendments of 1988".

SEC. 2. FICO OBLIGATIONS.

(a) INCREASE IN LIMITATION ON OUTSTANDING OBLIGATIONS OF FICO.—Section 21(e)(1)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441(e)(1)(B)) is amended by striking out "$10,825,000,000" and inserting in lieu thereof "$15,825,000,000".

(b) REPEAL OF ANNUAL LIMITATION ON NET NEW BORROWING AFTER 1ST YEAR.—Section 21(e)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441(e)(2) is amended to read as follows:

"(2) LIMITATION ON ANNUAL BORROWING DURING 1ST YEAR.—Net new borrowing by the Financing Corporation shall not exceed an amount equal to $3,750,000,000 in the 1-year period beginning on the date of the enactment of the Federal Savings and Loan Recapitalization Act of 1987.".

SEC. 3. LIMITATION ON FSLIC AUTHORITY TO ISSUE PROMISSORY NOTES.

Section 406(f) of the National Housing Act (12 U.S.C. 1729(f)) is amended by adding at the end thereof the following new paragraphs:

"(7) LIMITATION ON OUTSTANDING PROMISSORY NOTES ISSUED BY FSLIC.—The aggregate outstanding balance on promissory notes issued by the Corporation under this subsection or any other provision of this section shall not exceed the lesser of—

"(A) the sum of the cash flow projections of the Federal Home Loan Bank Board from—

"(i) the sale of capital certificates and stock under section 402(b)(1);

"(ii) the insurance premiums assessed under subsections (b) and (c) of section 404; and

"(iii) receivership assets; or

"(B) $20,000,000,000.".

SEC. 4. SENSE OF THE CONGRESS.

It is the sense of the Congress that, in providing assistance through the Federal Savings and Loan Insurance Corporation to resolve cases involving failed or failing thrift institutions, the Federal Home Loan Bank Board should rely primarily on raising funds through the Financial Corporation as a mechanism for providing such assistance rather than relying on other forms of assistance which the Federal Savings and Loan Insurance Corporation is authorized to provide, such as issuing promissory notes or providing guarantees.

THE DEATH OF J.C. HEARD—DETROIT'S AND THE NATION'S LEGENDARY JAZZ DRUMMER

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. CONYERS. Mr. Speaker, it is with great sadness that I inform my colleagues of the passing of the 71-year-old legendary jazz drummer, J.C. Heard. During his lifetime, he performed with most of the jazz giants of America including Coleman Hawkins, Benny Carter, Cab Calloway, Duke Ellington, Count Basie, Woody Herman, Louis Armstrong, Teddy Wilson, Charlie Parker, Oscar Peterson, Billie Holiday, Dinah Washington, Lena Horne, and Ella Fitzgerald.

J.C. Heard was a prodigious and versatile artist, a band leader, singer and tapdancer who appeared on stages around the world. He performed on more than 1,200 recordings with his own and other bands. Few artists were more supportive in urging passage of House Concurrent Resolution 57 expressing the sense of Congress that jazz is a national American treasure. He and his brother, Dave Heard, were utterly devoted in their commitment to the preservation and support of this great art form.

J.C. Heard truly exemplified the spirit of this magnificent music that he loved and lived for, and his contributions to it will be the most lasting evidence of enormous talent. From jazz at the Philharmonic appearance in the forties to his final appearance this month, he will never be forgotten.

The following articles on J.C. Heard's life and accomplishments were printed in the Detroit News and the Detroit Free Press. They speak to the extraordinary life and times of this artist and I would like to share them with my colleagues in the RECORD:

HE WAS THE MOST PROLIFIC OF DRUMMERS—THE JAZZ COMMUNITY MOURNS THE DEATH OF FRIEND AND "GRANDMASTER" J.C. HEARD

(By Jim Dulzo)

It was the most somber of rehearsals, made ever more painful by irony: It should have been the most joyful of reunions. There they were—Dizzy Gillespie and some of Detroit's finest musicians, terribly quiet, eyes rimmed with tears, walking around the stage of the Detroit Institute of Arts auditorium in a trance.

J.C. Heard, legendary drummer, bandleader and bon vivant, was dead at 71.

Heard died of a heart attack Tuesday in Beaumont Hospital, Royal Oak, ending a career that sometimes ran parallel with those of the late Gene Krupa and Buddy Rich.

Last year Heard was operated on successfully for colon cancer and had not had a recurrence. He had no previous history of heart trouble, said his daughter-in-law, Cindy Heard.

Heard, of Troy, had been scheduled to play with Dizzy Gillespie tonight in the DIA.

To meet him was to discover how young 71 could be. To hear him play, whether swinging his elegant, steaming big band or playing beside a long list of superstars, was to know the sweet ferocity that is jazz at its finest.

Gillespie, just off the plane from New York, was subdued as he remembered.

"I met him in 1938, over in the Valley," he said, referring to Detroit's long-gone black entertainment district, Paradise Valley.

"He was the most prolific of drummers. He set such high standards."

Born in Dayton, Ohio, Oct. 8, 1917, Heard broke into the business in Detroit on the vaudeville stage, where he picked up his indefatigable showbiz persons. He was a tap dancer and singer in amateur shows at age 11. His mother dressed him in short trousers and a bow tie and gave him a megaphone to sing through. He added the dancing.

At age 15, he dropped out of school to devote all his time to performing, learning from Cuba Austin, the McKinney Cotton Pickers' legendary drummer, and from visiting stars Big Sid Catlett and Chick Webb.

By 1936 he had his own group at Detroit's Cozy Corner.

After a number of offers from musicians visiting the Corner, he joined Teddy Wilson's band. That led to stints with Coleman Hawkins, Benny Carter, Cab Calloway, Duke Ellington, Count Basie, Woody Herman, Louis Armstrong, Charlie Parker, Oscar Peterson and records with Billie Holiday, Dinah Washington and Ella Fitzgerald.

When he had his own band in the 1940s in a New York club called Cafe Society, he gave a chance to a beautiful young singer who to this day, publicly claims it was her first big break in show business. Her name: Lena Horne.

He cut one of the first bebop records with Charlie Parker and Gillespie.

"He created the guideline for drummers who have come after him," Gippespie said. "He was a member of the drum triumvirate, along with Kenny Clarke, who invented bebop drumming, and Max Roach. His loss is like losing Charlie Parker, or Kenny. He made thousands of records. Thousands."

In the late '40s, Heard, Krupa and Rich were among the all-stars of American jazz who performed in the renowned Jazz at the Philharmonic concert series. Although Krupa, Rich and Heard usually played separately, there were hot moments when Krupa and Rich dueled on the skins, and they got hotter when Heard joined the battle. The three seemed to have a tight grip on drumming awards.

Heard visited Japan with a package of jazz superstars, met his wife-to-be, Hiroko, and stayed on for four more years before coming back to the States in 1957.

"Sometimes people ask, 'Who's J.C. Heard?'" Heard once recalled, "People say, 'Why everyone who loves jazz knows him.' They say, 'How come you're not on TV? How come you're not in Hollywood?' I say, 'I've seen them stars driving up in their Rolls-Royces to pick up their unemployment checks.'"

In New York he cut still more albums, shifting effortlessly from the swing era to the new thing, bebop.

But he moved back to Detroit in 1966 for good—a tough decision for someone with such an insatiable taste for nonstop action.

"What felt good for me," said Jim Fleming, Heard's agent for the last five years and a close personal friend, "was seeing him starting to get acknowledgements again from his old peers when they visited here.

"Like at the Montreux Detroit festivals. Miles Davis, Sonny Rollins, Carmen McRae—they were so eager to talk to him when they heard he was here. He had lost personal contact with those people, and it helped him gain back his credibility within himself when he saw them seeking him out."

The Detroit News' Michigan Magazine named Heard a Michiganian of the Year in 1987. He annually played Montreux Detroit and once served as its ambassador of goodwill, touring Europe.

He is listed in *Who's Who of Jazz* and the *Jazz Encyclopedia*.

Heard created his own scene here, gathering around him musicians who were attracted to his personal magnetism, his jazz spirit.

Sundiata Keits, a percussionist, called him "a major influence on my training." That is a sobriquet that many younger musicians readily pin on this man, who had come to be known as Detroit's grandmaster of jazz.

"I am forever indebted to him because he always looked out for the younger musicians," Keits said.

Heard's big band had been formed six years ago as a one-night-only setup to celebrate Ellington's birthday, but gradually grew into a terrific vehicle for modern jazz, as Heard found renewed delight in leading his own orchestra. The band was catching on outside of Detroit, playing around the state last year as part of the sesquicentennial celebration, visiting Montreal last summer and aiming for the Chicago Jazz Festival and Europe next year.

"He made all kinds of sacrifices for the music," Gillespie said. "Having a big band depending on you—whew, that is a lot of stress."

The word spoken most often at Wednesday's rehearsal was this one: inspiration. Heard, his obvious joy for life, his untiring lust for great jazz superbly performed, his crazy jokes, ribald ribbing, constant showbiz patter from the stand—it was all pure inspiration to those around him.

"When I get discouraged with how hard this business is," Fleming said, "I used to talk to him about it. He would always put it in perspective. He always renewed my vitality. He always inspired me."

Added Earl Van Riper, an old friend and Heard's pianist since 1979: "He was quite important to the people that were seriously involved in the Detroit jazz scene. He had such an effect on them with his personality and enthusiasm."

"Nobody ever said anything bad about J.C.," Fleming said, shaking his head. "People loved him. He was a lovable guy. Hopefully, some of the young guys learned from him."

Surviving Heard are his wife, Hiroko, son Eric, two grandchildren, one brother and one sister.

Visitation will be 5-9 tonight and 1-9 p.m. Friday in the Hopcroft-Swanson Funeral Home, 31445 John R. Madison Heights. Services will be at 1 p.m. Saturday in the funeral home, with burial in White Chapel Memorial Park, Troy.

JAZZ WORLD MOURNS DEATH OF DETROIT'S J. C. HEARD

(By Molly Abraham)

The world of jazz skipped a beat Wednesday to mourn legendary Detroit drummer J. C. Heard.

Heard, 71, died of an apparent heart attack late Tuesday night at Royal Oak's William Beaumont Hospital after being stricken at the home of a friend. Heard—the

J. C. stood for James Charles—had played with virtually every jazz giant. He played drums for Cab Calloway, Duke Ellington, Count Basie and Dizzy Gillespie in a Big Band career that started in 1939, when Heard joined the Teddy Wilson Orchestra at age 22. Heard had appeared on an estimated 1,200 recordings with his and other bands.

Heard, who lived in Troy, celebrated his 71st birthday in August. He was one of the headliners at the Montreux-Detroit Jazz Festival earlier this month, and was scheduled to join trumpeter Dizzy Gillespie in a pair of concerts—Wednesday, a private show for an automotive group; tonight for the public—featuring the music of the '20s '30s and '40s at the Detroit Institute of Arts. The concerts were to go on as scheduled, with tonight's being dedicated by the musicians as a tribute to Heard.

"He was really looking forward to that performance," said his daughter-in-law, Cindy Heard, who was the only family member in town when Heard, a man of tremendous energy and zest for life and music, was stricken. Heard's wife, Hiroko, was visiting friends in England and their only son, Eric, was in Japan on business. Both were retuning home Wednesday.

Heard was to have participated in a benefit for the Graystone International Jazz Museum this week by posing for pictures with Gillespie and local jazz fans in return for a $50 donation to the museum. In a news conference at the Art Institute Gillespie, who was informed of his friend's death when he arrived at Metro Airport Wednesday, said Heard was in the Triumvirate of dummers, including Max Roach and Kenny Clarke, who set the guidelines for modern jazz drumming.

Funeral arrangements are being made by the Hopcroft-Swanson Funeral Home, 31145 John R, Madison Heights. Visitation will be 5-9 p.m. today and 1-9 p.m. Friday. Funeral services will be at the funeral home at 1 p.m. Saturday.

Heard was born in Dayton, Ohio, in 1917 and came to Detroit at a young age. He began as a self-taught tap dancer who won a week's engagement at the Coplin Theatre, the Detroit stop for acts on the 1920s black vaudeville circuit. When the pit band's drummer became ill shortly before a show, Heard got the job with the help of one of the headliners, Butter Beans.

Beans gave him some advice: Open the fast numbers with a drum roll until the trumpet player sets the tempo. "That was slick thing," Heard told the Free Press several years ago, "And I never forgot that day, I kept the drums, I really got hung up with the drums."

Thus began a career that lasted almost 50 years. Despite some serious abdominal surgery in 1987, Heard was back at work with his band two weeks after leaving the hospital. He continued to maintain a full schedule of performing and recording till the end. His current 13-piece band was organized in 1982. He was in process of cutting it down to nine because he felt a smaller band would be easier to book.

One of heard's early influences was Chick Webb, whom he first met in 1937. "I had never heard anybody play drums like that in my life," he told jazz historian Stanley Dance. "Chick could not only swing the band, but his attack in solos was spectacular. I'd sit up at the bandstand, right by Chick, listening to him on those accents all night long."

Heard performed with the big bands of Benny Carter and Cab Calloway after the Wilson band broke up. His biggest success came in the late '40s and early '50s with Jazz at the Philharmonic, the all-star group that put on jam sessions in concert halls all over the world. The recordings made during those tours include drum battles with Gene Krupa, trumpet duels between Roy Eldridge and Charlie Shavers, the saxophone madness of Illinois Jacquet and Flip Phillips, and the dazzling technique of Oscar Peterson. The memories of that excitement remained with Heard always.

Japan was one of the countries the musicians visited, and Heard liked it so much he stayed for five years, touring the Far East during that time. Japan was where he met and married his wife, Hiroko. After several years in Las Vegas and Los Angeles, the Heards made the Detroit area their permanent home in 1968.

All his family called him "Papa," including his wife. Many musicians used that affectionate term for the man who was always accessible, always willing to help a young musician. One of those musicians, Bill Cairo, had the sad task of filling in for J.C. at the Art Institute performances.

"J.C. was just a very important part of the (Montreux-Detroit Jazz) festival," said Robert McCabe of Detroit Renaissance, whose keepsakes include a pair of drumsticks given him by Heard after the 1987 festival. "He played in every one. Not only did he participate in terms of playing, but he was also everywhere with his peers down at the plaza—just an important part of the festival. Also, and I'm so pleased that we did it, at the '87 jazz festival we commissioned a piece to be written by J.C. and his very good friend, Dizzy Gillespie, and it was 'Monstroh.'

"He was such a sweet guy. . . . It's a great loss to the world of music, not just to Detroit. He's one of the giants in the history of American jazz. The fact that he chose to live in Detroit was a blessing."

Said Michigan Council for the Arts Chairman Leon S. Cohan: "Michigan has lost one of its greatest musicians. J.C. Heard was a star of the highest order on the international jazz scene playing with other jazz legends. He was an artist of towering talent and it was a talent he shared generously with his home town Detroit. His own orchestra has been a mainstay of the Detroit jazz scene. His uniquely individual gifts, creativity and originality will be sorely missed. He can't be replaced. It is a deep loss to the arts in Michigan."

In addition to his wife and son, Heard is survived by his brother David; sister, Shirley, and two grandchildren, Erica, five months, and Samantha, five years old, both of Royal Oak. Samantha was the subject of a song, "Samantha, It's You," on Heard's album, "Some of This, Some of That," on the Hiroko label, released about a year ago.

"Heard came from the old school of big band drummers and they don't make them any better," said trumpeter Walter Szymanski, music director and arranger since 1982 with the Heard band, after this month's Montreux-Detroit appearance. "He's the engine, the locomotive of the train. He isn't a guy who just read some books. He's been there, he's done it, he's the one who gets every one of us up for it. He's like a little kid."

And he was until the very end.

BARRINGER HIGH SCHOOL CELEBRATES 150 YEARS OF OUTSTANDING EDUCATION

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. RODINO. Mr. Speaker, this has been a very special year for a very special high school; 1988 marks the 150th anniversary of Barringer High School in Newark, NJ, and this milestone has been the cause of much reflection and celebration. As a graduate, I am very proud to salute Barringer High School for a century and a half of outstanding education.

From its very beginning, Barringer High School was a pioneer in the field of education. It was the first high school in New Jersey and the third in the United States. The founding of Newark High School—which was later renamed in honor of Dr. William Barringer—reflected the determination of the citizens of Newark to ensure a quality education for their children and for future generations.

The Barringer tradition has always been one of high academic standards and the maintenance of a positive environment in which students could achieve their full potential. It has also included an unwavering commitment to providing equal educational opportunities for all students.

Although much has changed since I was a student at Barringer, many things have endured. Barringer High School remains an institution of quality learning, its dedicated faculty serves as an inspiration and example, and its students continue to excel in their chosen fields and to bring honor to their school.

Mr. Speaker, as this anniversary year comes to a close, I want to express my warmest congratulations to the students, faculty, and staff of Barringer High School and extend my very best wishes on their 150th anniversary. With your permission, I would like to include in my remarks the following article which highlights the outstanding history and achievement of Barringer High School.

[From the Newark Star-Ledger]

BARRINGER: THE FIRST 150 YEARS

(By William Gordon)

The school building was old and drafty. The 91 students were orphans and boys from poor homes. The principal and sole teacher, Nathan Hedges, was hated as a tyrant whose stern disciplinary techniques included flogging.

And yet it was the start of something big and, to generations that followed, something wonderful.

That something big became known and renowned as Newark High School—later as Barringer High, the first high school in New Jersey, the third in the nation and through the long years the beloved academic breeding ground of scholars, statesmen, doctors, star athletes and many other distinguished alumni.

This is the 150th anniversary year of the founding of Barringer High School, an institution that got its wobbly start on Bank Street and was later to occupy a knoll called "Goat Hill" overlooking a swamp that was transformed into Branch Brook Park, the crown jewel in the nation's first county (Essex) park system.

Students and faculty at Barringer are in the midst of preparations for a year of programs and special events that include publication of an anniversary edition of the senior yearbook, "Athenaeum," and a massive autumn reunion of alumni.

Owing to the strong tradition of alumni loyalty at Barringer, the reunion may prove a record breaker. The school is reaching back to its 1925 yearbook for graduates' names and has hired a computerized firm of reunion specialists to track them down and send out invitations.

"If you figure an average of 200 graduates a year for 63 years, it comes out to more than 12,000 names," said Vincent Guarino, chairman of the school's newly organized Alumni Association committee. "We may have to hire the Brendan Byrne Arena!"

The 55-year old Guarino, class of 1948 and a Barringer physical education teacher, hastened to add there would be a "cutoff point" somewhere if the list of acceptances becomes unwieldy. The "somewhere" has yet to be decided.

"It'll be first-come, first-served," he said. "So far we have names and addresses of 1,300 graduates, plus all the football players, including those who became pros, like Andre Tippett of the Patriots and Pete Shaw of the Giants."

Stephen Awerman of Reunions Unlimited in Florham Park said his four-year old firm does about 100 reunions a year, mostly high school events, and that the biggest so far was a multi-year reunion for a Brooklyn school that drew 650 alumni.

"For Barringer, we'll focus first on five major geographic areas," said Awerman. "We'll concentrate at first on the last 40 years, then go back before that. Graduates of 50 and 60 years ago will be few and far between, but we'll look. We're prepared to go to Timbuktu."

Some old grads should prove easy to locate—U.S. Supreme Court Justice William Brennan, for example, and Rep. Peter Rodino (D-10th Dist.), chairman of the House Judiciary Committee, and retired New Jersey Chief Justice Joseph Weintraub.

And some won't be able to make it due to previous engagements, but it would be great to have them around to share the memories—U.S. Supreme Court Chief Justice and presidential candidate Charles Evans Hughes (1862-1948), New Jersey Supreme Court Chief Justice Arthur Vanderbilt (1888-1957), and "Show Boat" composer Jerome Kern (1885-1945).

Actually, Kern ("Bill," "All the Things You Are,") did not receive a diploma. He left school in the last month of his senior year. He was a popular student who played the piano at assemblies and staged musical shows. Some believe Kern's early Broadway successes included songs that were recasts of numbers from his senior class production.

"Barringer has a history of incredible alumni loyalty," said Pat Restaino, a graduate of the school who returned to teach and become principal during some of its most tumultuous years—the 1970s. "You can travel anywhere in the United States and you'll run into Barringer graduates and reminders of the school."

Restaino, now principal of the city's Science High School, said that one Thanksgiving Day he woke up in a small south Texas town to find the local paper had run the scores of the Barringer-East Orange football games—the longest school football rivalry in the country.

"Another day," he related, "I was at a party in a Manhattan apartment when several guests I didn't even know started singing the Barringer alma mater, 'Over Many a City.'

"It's hard to convey the tremendous pride and loyalty students of Barringer feel for the school. I'm a product of the 1940s. Back then your school stood next to God, home and country."

Restaino said Barringer always had a superior faculty, with many graduates returning from college to teach. The school currently has 30 teachers who were graduates. "They were steeped in Latin, Greek, astronomy and math in the tradition of the great academy schools," he said. "One Latin teacher had written the textbook he used.

"It was like being part of a huge, illustrious family, something like the 'Long Gray Line' at West Point, only ours was the 'Long Blue Line.' You were imbued with that sort of spirit.

"And the academic standards were high. Barringer graduates would be accepted by colleges without going through admission tests. The school had what we call a 'positive climate.' It's an important ingredient in the educational experience and it persisted even during the troublesome 1960s and 1970s."

Joanne Girkant of Caldwell, who retired last July after 40 years as a Barringer English teacher, observed that, "The school has changed, but of course the entire American society has changed, but I think something of the old spirit is still there, particularly among the faculty."

Reflecting on her many years as a teacher, and adviser to "The Acropolis," the oldest high school newspaper in the country, Girkant said:

"I simply loved being a teacher. If I had my life to live over again—my career to live over. I would be a teacher."

Sal Di Gerlando, an art teacher at Barringer, has researched the school's long history for the special anniversary edition of the yearbook, which students are helping him prepare. A graduate of the school, Di Gerlando has been a faculty member for 23 years, and the yearbook adviser for 17 years, longer than anyone in the state.

"Because of the special nature of this event," he said, "we are considering the production of a video cassette, and possibly an audio tape, that will highlight the activities of this school year.

"This is a momentous occasion. With the establishment of our alumni association, and the aid of thousands of graduates—many in important positions in society—we hope to form an organization that will foster enrichment activities for our school."

In 1838, when Newark High School came into being on the first floor of an old Bank Street building, the city had only 16,000 inhabitants. It was the era of the horse and buggy, unpaved streets, and candlelit dwellings.

Four public grammar schools had been in existence for 18 years, one in each of the city's four wards, and each with male and female departments. Classes met in damp and dingy basements of churches and other buildings. An African school for blacks met in the basement of the African Church.

As early as 1828, a special school committee had recommended establishment of a high school to serve the 160 grammar school students who "have begun to write and cypher, and are sufficiently advanced to send to a high school."

The city's new charter in 1836 provided for public schooling, and $3,500 was set aside for free education. The Bank Street high school opened two years later with the despised Mr. Hedges at the helm and a curriculum left largely to his whim.

In 1845, John Whitehead, a new member of the school committee, toured Newark's schools and was appalled by the overcrowding, understaffing, and walls "green with mould."

Replying to Whitehead's report, the city council president said education must stand aside while the city sought "an additional supply of water and more policemen."

Whitehead rejoined that the council president must decide whether a generation "should grow up uneducated and unfitted for citizenship or whether the city should wait a while for more water and police protection."

The remark goaded 11 city aldermen to board a horse-drawn car for a tour of the schools. Shocked by the tour, the council that night unanimously granted the demands for more and better schools.

A Board of Education was created in 1850 to institute a public school system, and two years later property was acquired at the corner of Washington and Linden Streets for a new Newark High School.

The new brick building opened its doors on Jan. 7, 1853. It was three stories high and had an enrollment of 498 boys and girls. For 20 years, the first floor was occupied by the city's volunteer fire forces.

"The boys and girls were separated into two distinct departments, the girls on the second floor and the boys on the third," said Di Gerlando. "They were not allowed to mingle, either inside the school or outside. The rules were very strict."

The schedule and curriculum of the school was unique, if compared to today's secondary education. To be admitted, a student had to be proficient in elementary school studies, have a record of high attendance and good conduct, be vaccinated, and pass an entrance exam.

The course of study included chemistry, bookkeeping, physiology, Latin, Greek and English literature. Hours were 9 a.m. to 5 p.m. August was the vacation month.

A monthly magazine, the "High School Journal," was started. It contained descriptions of important occurrences, and an analysis of the moral issues which concerned the students of the era.

"The journal featured pictures that were created with ink and paint," said Di Gerlando. "It was an honor to be selected to work on the magazine. When each issue was completed, it was read in the auditorium by the principal."

The journal noted the passing of Lincoln through the city in the fall of 1861, the year the Civil War began, observing that "it was an historic and memorable occasion for all who witnessed the procession."

During the war, 200 Newark High boys served in the Union Army. Into battle at places like Antietam and Gettysburg the New Jersey regiment of volunteers, which mustered on the grounds of Branch Brook Park, carried a silk flag with gold tassels and lace and the 34 stars of the states.

The girls of Newark High had raised $80 to pay for the flag, which was sewn by a French seamstress.

Pat Restaino, former Barringer principal, said students of the school played a role in all the nation's wars from the Civil War to Vietnam.

"For many years there was a plaque in the main corridor in memory of a young man killed in the Spanish-American War," he said. "It was put up by his buddies who returned every Memorial Day to place a wreath over the plaque. It continued until the last veteran had died. It was very touching to see the old soldiers returning to their school."

In 1875, Dr. William N. Barringer of Troy, N.Y., was hired as superintendent of schools.

"He took up his job with great enthusiasm," said Di Gerlando. "The effort, courage and faith he imparted to the Newark school system exerted great influence on the youth of the city."

Enrollment at Newark High led to overcrowding by 1886, and Dr. Barringer persuaded the school board to enlarge the building. Nineteen rooms were added, and an annex was built for the girls.

Continued increases in enrollment resulted in overcrowding again by 1895. Newark High had 700 students jammed into facilities meant for 500. Dr. Barringer's dream for a new high school was fulfilled when plans were approved for a new building containing 38 rooms and an auditorium.

The site selected for the new school, a remote section of the city where goats grazed near a quarry, drew protests that the city would never enlarge to those extremes, and particularly not in that direction.

Construction was begun in 1897 and completed in 1899. The class of 1898 was the last to graduate from the Washington and Linden Streets building. Costing $300,000, the new school was regarded as one of the finest architectural achievements in the city.

On a nearby tract, at the time, stone markers were laid out to outline the ground plan for the Cathedral of the Sacred Heart, and work was begun to transform the swamp into what became Branch Brook Park with its famous groves of Japanese cherry trees.

Di Gerlando noted that the "Colored School" of pre-Civil War days continued on to 1900, even though segregation was banned in 1872, and black teachers received the lowest salaries in the entire system.

"In the early 1870s, a talented black girl named Irene Pastaquam attempted to enter Newark High and was opposed," said Di Gerlando. "A black teacher at the Colored School fought for her and she was admitted. By 1908, about 1,000 black children were attending formerly white schools."

One of the dangers of trolley travel during this period were the many railroad grade levels that had to be crossed. On December 3, 1904, a trolley packed with 120 passengers—most of them Barringer students—was heading north on Clifton Avenue from its Orange Street stop just before 9 a.m.

The air was crisp and filled with student song. As the trolley neared the Lackawanna tracks, a speeding Bernardsville Special whistled its approach from the west. The crossing gate went down and the motorman applied his brakes, but the trolley slid onto the tracks and was shattered by the locomotive.

"Nine Barringer students were killed, and 30 were injured," said Di Gerlando. "Nearly every room in the school was affected, with a child dead or in the hospital."

The following year, a memorial stained glass window depicting the education of an American Indian boy was installed above the entrance to Barringer. It was dedicated to the victims of the tragedy. In the present day Barringer, it is installed on the north wall of the auditorium exterior. A tablet lists the names of the victims.

The former employers of Wayland E. Stearns described him as "firm and exacting" when he left the Rome, N.Y., school system to become principal of Newark High in 1900.

"Instead," said Di Gerlando, "Pop' Stearns proved to be gentle, understanding and progressive. He became a very popular principal who instituted many new courses."

The decades that followed proved relatively placid at the school until 1964 when the new Barringer opened its doors to an additional 1,000 students from drastically increased district lines.

"A school that had a black student population of about 10 percent suddenly was confronted with a large number of black enrollees," said Di Gerlando. "The existing white student body and the black students were suddenly thrust together in an unfamiliar building that sprawled over five acres.

"It was a far cry from a small, familiar old building. Barringer had always been a local, community school. The faculty and members of the committee for the new Barringer were under the delusion that this new structure would simply replace the old school plant. Nobody was prepared for what took place."

Racial confrontation increased at Barringer after the rioting in the city during the summer of 1967 and the climate was tense during the 1970s as debate raged over the war in Vietnam and the role young Americans were playing in it.

"Educators all over were unprepared for the changes occurring in their schools," recalled Di Gerlando. Some staff members left Newark. Others were able to adjust and use the new experiences to build on their commitment to an equal education to all youth, no matter the color or creed. Many of these teachers are still on the faculty of Barringer."

Di Gerlando said articles by students calling for unity that appeared in the Acropolis newspapers in the late 1970s reflected a weakening of discrimination in the nation. The antagonism that existed between the races subsided as the black population at Barringer expanded. Hispanic students today represent 60 percent of the student body.

THE BYRON-CHANDLER FRATERNIZATION BILL

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. CHANDLER. Mr. Speaker, yesterday, I joined the distinguished chairwoman of the Armed Services Military Personnel Subcommittee, Mrs. BYRON, in introducing a bill that addresses some serious problems with the fraternization policies of our armed services.

Along with the gentlelady from Illinois, Ms. MARTIN, and the gentleman from Missouri, Mr. SKELTON, we hope to persuade the Defense Department to review the various and often conflicting policies of the four military services toward fraternization between officers and enlisted persons.

Last spring I became involved in resolving the case of Navy Medical Corps Lt. Kathleen Mazure, who became implicated in a widely publicized fraternization case.

In this case, Lieutenant Mazure was subjected to court martial proceedings when she dated and later married a marine lance corporal. Not only were they not in the same chain of command, but they were not serving in the same branch of service. Yet only after prominent coverage on the ABC News show, Nightline, and the intervention of a U.S. Congressman were the charges dropped.

It is difficult to imagine how a Naval officer's dating and later marrying a marine lance corporal could affect good order and discipline—especially in light of the fact that this is a common practice throughout the services.

Women are a vital part of our military personnel today and have been for some time. But our fraternization policies were developed during a time when women and men who served their country were much more segregated then they are today.

We now have no consistent or uniform fraternization policy governing relationships between different branches of the Armed Forces.

In some branches of the service, this new reality is addressed, in others it appears not to be. Whatever the policy, however, unless it is consistent, a workable and fair fraternization policy will be impossible.

That is why we are introducing this resolution, which expresses the sense of Congress that current fraternization policies of the Armed Forces of the United States do not adequately address the complex issues presented by the increased pressence of women in the military.

It calls for a report to Congress by the Secretary of Defense that addresses the issue of fraternization in the military services. The report should make recommendations to the President and Congress on changes in fraternization policy that may be required in a modern military.

Nearly everyone agrees that a sound, workable fraternization policy is necessary to maintain good order, discipline, and high unit morale. But the current fraternization policies of the Armed Forces have not been uniformly and consistently developed, and do not adequately address the realities inherent in a modern, fully sexually integrated, military force.

REGARDING FLOOR VOTES ON MONDAY, SEPTEMBER 26 AND THURSDAY, SEPTEMBER 29, 1988

HON. JOHN J. RHODES III

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. RHODES. Mr. Speaker, this week I was absent from the floor during rollcall votes Nos. 346 and 364 through 369. Had I been present, I would have voted as follows:

Rollcall No. 346: "No."
Rollcall No. 364: "No."
Rollcall No. 365: "No."
Rollcall No. 366: "No."
Rollcall No. 367: "Yes."
Rollcall No. 368: "Yes."
Rollcall No. 369: "Yes."

Thank you for this opportunity to record my votes on these issues.

A TRIBUTE TO CAPT. ESTA J. ALLEN

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. McEWEN. Mr. Speaker, Rev. Billy Graham was quoted once as saying "Courage is contagious. When a brave man takes a stand, the spines of others are often stiffened." With this statement in mind I wish to bring to my colleague's attention the courage of Capt. Esta J. Allen of the Southern Ohio Correctional Facility Fire Department.

On September 12 of this year Captain Allen came upon the burning auto of Betty J. Carver who had just been involved in an auto accident which left her unconscious. With complete disregard for his own safety, Captain Allen pulled Ms. Carver from the burning wreck and performed mouth-to-mouth resuscitation after discovering she had stopped breathing. She was later life flighted to Grant Hospital in Columbus where her condition has steadily improved.

Mr. Speaker, I would just like to add that Captain Allen has been an employee of the Department of Rehabilitation and Corrections for over 25 years. For the past 10 he has served as the institution inspector/security and safety officer, in addition to his duties as Fire Chief. It is my honor to take this opportunity to relate to you his heroic act.

AMNESTY INTERNATIONAL EXPRESSES CONCERN OVER BIRMINGHAM SIX CONVICTION AND APPEAL

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. FISH. Mr. Speaker, as the cochairman of the bipartisan Ad Hoc Congressional Committee for Irish Affairs with over 110 members, I wish to make my colleagues aware of a recent report by Amnesty International. The report discusses the case, conviction, and appeal of the so-called Birmingham Six, individuals convicted in 1975 on murder charges in connection with the bombings of pubs in Birmingham, England.

The Amnesty report was presented to us at a September 22 meeting of the committee by Ms. Gareth Pierce, one of the attorneys who represented the six in their appeal. The Amnesty report is critical not only of the original trial and conviction, but is especially critical of the appeal which resulted in a January 28, 1988, upholding of the convictions. Amnesty specifically recommended that the case "not be closed."

In addition, Attorney Pierce advised the members of the committee in attendance that a petition will be filed with the European Commission on Human Rights in Strasbourg on behalf of the Birmingham Six. The Commission sits as the appellate body which adjudicates alleged violations of the European Convention on Human Rights of which the United Kingdom is a signatory. It is our intention to lend our support to this petition at the appropriate time.

At this point in the RECORD, I wish to insert Gareth Pierce's letter to the committee, and a summary of the Amnesty report. I urge my colleagues to read this material carefully.

B.M. BIRNBERG & Co.,
London, England, September 29, 1988.

Re The Birmingham Pub Bombing Appeal.

Ad Hoc Congressional Committee for Irish Affairs, House of Representatives, Washington, DC, U.S.A.

DEAR SIRS: We are most greateful to you for the courteous hearing that you gave to this case and to other linked issues on September 22nd. We are sending to you (separately) a summary of our submissions during that hearing and also the full text and appendices of the petition which we are today submitting to the European Commission of Human Rights which sits in Strasbourg in France. That Commission sits as the appellate body which adjudicates upon alleged violations of the European Convention on Human Rights. The Convention has been ratified by the United Kingdom as well as 19 other European States, and represents for Defendants in England, the only potential of any philosophical consideration of a violation of a human right. As you will be aware, there is no constitution in England, and consequently no equivalent of the United States Supreme Court, to which one can complain of the breach of a right.

In the Birmingham case, in which 6 persons were convicted in 1975 of multiple counts of murder, having exhausted their domestic remedies, those 6 Defendants will not petition the European Commission of Human Rights for redress.

They will allege that there are violations of two articles of the Convention.

Article 6 guarantees that each person, in the determination of any criminal charge against him, is entitiled to a "fair and public hearing". Article 13 guarantees that everyone whose rights and freedoms as set out in the Convention are violated "shall have an effective remedy before a national authority".

The complaint that the 6 Defendants make is threefold and is to the effect that they have been denied the right to a fair trial and that there is no remedy available in internal national law to that denial.

1. The English system of justice dictates that matters of fact in criminal cases are to be determined by a jury; that each Defendant in a criminal trial should have the evidence against him and the evidence on his behalf, considered by a jury of his peers drawn at random and representative of the corporate good sense of the community from which he comes. In the case of the Birmingham Defendants, half the evidence against them was so considered; it was heard by a jury in 1975. The other half of the evidence was not heard until 1987 and was considered not by a jury but by three appellate Judges who refused to order a retrial of the whole of the case. The fresh evidence produced at the appeal was substantial; at the trial the men had alleged brutality on the part of the police that led four of them to put their names to confessions; in 1987 on appeal four police officers who had been present and on duty at the Police Station at the relevant time gave evidence to the effect that they had seen either actual brutality inflicted on Defendants prior to or during their interrogations, or the results of such brutality having been inflicted. Two serving prison officers gave evidence that upon the mens' first reception into prison from police custody, they had seen evidence of injuries upon their bodies that must have been inflicted in the preceding two to three days.

Given that the forum constituted to consider evidence and determine guilt or innocence is the jury, the Defendants complain that the failure in their case of any jury to have considered at least half of the evidence now available leads to a denial of their right to a fair trial. No forum could properly make an assessment on evidence without having heard the entirety, but moreover it is a denial of the right to trial by jury, for appellate Judges to substitute themselves for that forum.

2. The second complaint stems from the approach adopted by the Judges, namely that the Defendants were guilty; that the verdict of the jury should stand unless proven to the contrary beyond reasonable doubt; and consequently in considering the evidence put forward on appeal and heard by them, Judges were applying a burden of proof different to the one adopted in criminal trials. They were requiring the Defendants to prove their innocence beyond reasonable doubt, rather than applying the burden of proof demanded in criminal trials, namely that such a burden rests upon the prosecution and not the defence. The Amnesty International report upon the appeal hearing emphasises this point among others.

3. The third area of complaint relates to the fact that when evidence is heard by an appeal court sitting as the Court of first instance, there is no appeal from that hearing, whereas in relation to a trial, where there have been errors during the trial, the Court of Appeal exists as a forum to correct such errors. Consequently this violates the provision in the European Convention, that there should be an effective remedy before a national authority. There is no such remedy available to the Birmingham Defendants in appealing the decision of the Court of Appeal when it has taken upon itself to substitute itself for a trail jury.

The 6 Defendants who are submitting their petition are Hugh Callaghan, Patrick Hill, Gerard Hunter, Richard McIlkenny, William Power and John Walker. They have now served 14 years in prison for this offence. There is little likelihood of their release during this century. The consideration by the European Commission of petitions is agonisingly slow. We are therefore most grateful that you have considered that you might add your voice to the desirability of this petition receiving careful consideration. It is seldom that "due process" rights of Defendants in this country come under any international scrutiny and we have no doubt that our system of justice would be the richer were such scrutiny to be applied more often.

We can only thank you again for your interest and will take the liberty of forwarding to you the more substantial petition in due course.

Yours faithfully,

GARETH PEIRCE.

APPEAL HEARING OF SIX MEN CONVICTED OF BOMBINGS IN BIRMINGHAM

SUMMARY

This paper describes the case of six prisoners convicted of murder and sentenced to life imprisonment in 1975 in connection with pub bombings in Birmingham.

John Walker, William Power, Patrick Hill, Richard McIlkenny, Gerry Hunter and Hugh Callaghan have consistently claimed to be innocent of the charges, and they have consistently alleged that their signed confessions were extracted through improper methods of interrogation by the police. They said that these methods included physical ill-treatment and verbal threats of violence while they were held incommunicado.

In recent years, new evidence has emerged concerning both the reliability of the forensic tests carried out on the men in 1974 and the men's claim that their confessions had been obtained through coercion. In view of this new evidence the Home Secretary decided in 1987 to refer the case to the Court of Appeals.

This paper describes the original trial of the men in 1975 and the appeal hearing in 1987 at which the men argued that the new evidence rendered the original convictions "unsafe and unsatisfactory". The paper summarizes the testimonies of witnesses who gave new evidence to the Court of Appeal, as well as the Court's judgment in this case.

On 28 January 1988 the Court of Appeal upheld the convictions of the six prisoners. The Court did not consider that the new evidence cast sufficient doubt on the original convictions to render the verdict of the jury "unsafe or unsatisfactory". In connection with the evidence about how the confessions had been obtained, the Court dismissed the testimony of all new witnesses as either dishonest or irrelevant. In Amnesty International's opinion, the Court of Appeal consistently refused in its judgment to give the prisoners the benefit of the doubt on important points. Significantly, the Court did not specifically deal with the cumulative effect of the testimony supporting the prisoners' allegations.

Amnesty International believes that grave doubts remain about official denials that these six prisoners were ill-treated while in police custody, and, therefore about the "safeness" of their convictions based on confessions. Amnesty International believes that the case should not be closed and that the allegations of ill-treatment must be subject to further review.

THE COMPREHENSIVE ENVIRONMENTAL RISK MANAGEMENT ACT

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. RITTER. Mr. Speaker, society does not have a limitless supply of people and money to address every hazard that has been identified in our environment. It is imperative that we develop a consistent scientific way to identify risk. We must promote a framework that will assist us in pursuing a rational plan to address the "worst risks first."

The problem of too few resources chasing too many hazards is complicated by the fact that we are now able to identify so many more hazards, since monitoring and testing technologies have allowed us to detect the presence of pollutants in the environment at increasingly smaller concentrations. Today, we routinely measure concentrations of substances in the parts per trillion range. What does this mean? Well, one part per trillion is equal to a 6-inch leap on a journey to the Sun. Or, one part per trillion is the equivalent of one pinch of salt on 10,000 tons of potato chips.

We must begin to put such risks posed by the presence of trace amounts of hazardous substances into better perspective. During the early days at the EPA, the primary mission was to clean the visible pollution from the air and water. In many instances, we are still operating in that mode. But, some of our environmental legislation requires that the Federal Government take action on substances simply because they are present in the environment, giving little or no attention to identifying exposed populations or determining the risks posed by these substances.

We have to focus our efforts to achieve the most risk reduction while keeping within the financial resources that society has allocated for environmental and public health protection. Today I have introduced the Comprehensive Environmental Risk Management Act [CERMA] and I believe this legislation will provide a needed first step in achieving these objectives.

CERMA is intended to promote wider application of risk assessment and risk management across the payments at the Environmental Protection Agency. The first requirement in the bill is to complete risk assessment guidelines for noncancer health effects. These risk assessment guidelines provide a general framework for developing risk assessments, and will ensure that the EPA will have a stable foundation on which to construct risk management decisions. Although development of these guidelines is a long process, the EPA must take the lead in assessing a wider range of health and environmental effects from exposure to hazardous substances in the environment. Cancer is not the only reason to regulate and may not be primary in many cases.

The bill also requires that the EPA submit to Congress, on an annual basis, a report which projects the costs and net risk reduction that would result from the implementation of each of the Agency's abatement and control programs. The purpose of the report is to put information on exposure, human response to such exposure, the risk reduction resulting from regulatory action, and the cost of the program in the hands of Congress in order to facilitate the oversight and budgetary process. The Comprehensive Environmental Risk Management Act is meant to assist the Congress and the EPA in developing priorities for expending society's limited resources in the most efficient manner to protect human health and the environment.

Such information would also be valuable to the scientific and public health community, to environmental groups, to industry and trade groups and, through the media, to the public itself.

THE 50TH ANNIVERSARY OF THE MUNICH AGREEMENT OF 1938

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. CHANDLER. Mr. Speaker, today is the 50th anniversary of the Munich Agreement, signed on September 30, 1938, by France, Germany, and Great Britain. It was supposed to bring "peace in our time," but instead brought war, death, starvation, and homelessness to millions around the globe.

Some blame Germany's dictator, Adolf Hitler, for the betrayal of the agreement. Surely, had there been no Hitler, war probably would not have broken out in Europe in 1939. But at every step, it is vital that we remember Hitler never gave a hint that he would honor the agreement. In fact, he consistently raised his demands with every allied acquiescence.

The Munich Agreement allowed Germany to invade sovereign Czechoslovakia's Sudatenland where many ethnic Germans had lived peacefully until Hitler's rise to power in 1933. Britain and France agreed not to oppose the invasion in return for Germany's promise not to go to war against them in the future. This was Munich's "peace in our time," as only British Prime Minister Neville Chamberlain believed. In London, Chamberlain called it a treaty, in Berlin, Hitler called it a worthless piece of paper, but in Prague, there were riots in the streets. The placards of the mobs called it betrayal. In less than a year, German troops were occupying all of Czechoslovakia.

In the end, it was Britain's next Prime Minister, Winston Churchill, who remembered Chamberlain most accurately. Churchill said "his all-pervading hope was to go down in history as the Great Peacemaker; and for this he was prepared to strive continually in the teeth of facts, and face great risks for himself and his country. Unhappily, he ran into tides the force of which he could not measure, and met hurricanes from which he did not flinch, but with which he could not cope."

So I don't condemn Chamberlain for wanting peace, and I certainly don't place the weight of the Second World War entirely on his shoulders, but if we in this country cannot learn the lessons from our mistakes and those of our allies, not only are we doomed to repeat them, we may be doomed to repeat them repeatedly.

With German troops in Czechoslovakia and Poland, Britain, and France already at war, Japan occupying Manchuria, and the Holocaust well underway, the Members of this body nearly failed to extend the draft. On August 12, 1941, just 4 months before the attack on Pearl Harbor in which half of our Navy was destroyed, the House passed the new draft law by a one-vote margin, achieved only through the extraordinary parliamentary maneuvers of the Speaker and the full influence of his office.

Fifty years later in the nations of Central America, another quest for peace is being driven by a new, Great Peacemaker. I worry, that we have forgotten the lessons of Munich, forgotten the folly of August 12, 1941. I worry that some of us may also be "prepared to strive continually in the teeth of facts, and face great risks" for ourselves and our country. I worry that they are running into tides the force of which they cannot measure, and are meeting hurricanes from which they are not flinching, but with which they cannot cope.

As the Sandinistas in Nicaragua build their 100,000-person armed force with billions of dollars in Soviet aid; as they continue to crush the internal opposition, aided by the leadership of this very body; as they renege on every promise they have ever made at a negotiating table while Congress hails their efforts for peace; I pray we remember the lessons of Munich well.

CHANGE IN LEADERSHIP IN POLAND

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. HOYER. Mr. Speaker, I have been watching events in Poland closely since I visited that country with a Helsinki Commission delegation this past April. Workers' strikes, independent human rights meetings, and the continuing growth of an unofficial press free from censorship—all attest to the continuing ferment in Polish society, and a renewed engagement of the population in its national life.

There have been a number of positive signs and developments over the past summer. In July, the Polish Government replaced its old military oath, which called for allegiance to the Soviet Union, with a new oath calling for allegiance to the Polish nation. A legal change was also made regarding the law on conscientious objection which resulted in the release of nearly 100 people from prison. This was also in response to the independent movement known as "Freedom and Peace." In both of these instances the Polish Government was responding to the demands its people have been articulating for several years.

Indeed, there have been many surprising events in Poland this year. Not the least of these events occurred last week when the Prime Minister, Zbigniew Messner, and 19 members of his cabinet stepped down from office after losing a vote of confidence by a vote of 359 to 1, with 17 abstentions. The new Prime Minister is Mieczyslaw Rakowski. This is the first time in post-war Eastern Europe than an entire government has stepped down.

Prime Minister Rakowski is one of the officials with whom my delegation had the opportunity to meet in April while in Warsaw. At that time, he presented us with many thought-provoking ideas. One in particular, though, stands out. "The days when the Communist Party could impose from above its will on the people have ended," he said. "The time has come to build a consensus with the people."

This view was echoed in testimony presented by Janusz Onyszkiewicz, the official spokesperson for solidarity, in a hearing before the Helsinki Commission last week. At that time Professor Onyszkiewicz noted that, "the resignation of this government opens up the possibility not only of changing the government but also of changing policy [to] a policy marked by a considerable opening up, by considerable political initiative * * * let's hope that this opportunity will not be missed." As I noted to the professor, the very fact that he, as a member of his country's opposition, is able to testify before the U.S. Congress and then return to his country, speaks not only to his personal courage but also, hopefully, to the progress being made in his country.

Prime Minister Rakowski takes office at a time in Poland's history when expectations for change run high and the political and economic crises run deep. It will be no mean feat to hammer a consensus out of a society still deeply divided by the legacy of martial law. Yet this is precisely what the Prime Minister must do. Mr. Rakowski's predecessor was forced out of office in the wake of massive worker unrest. But this is no longer just a workers issue. There is a whole new generation that questions whether Poland holds any future for them. Forging a consensus with all the people, such as Mr. Rakowski has called for, might avoid a repeat of such unrest and give hope to those who want to work for a free Poland.

COMMANDER FREDERICK (RICK) HAUCK

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. ANDERSON. Mr. Speaker, as you know, at 11:37 yesterday morning, the space shuttle *Discovery* was launched into space, marking the end of the 32-month pause in the U.S. Manned Space Program, and the beginning of a new era in American space exploration. While all the crew members of this historical flight are to be commended, I would like to take a moment to pay special tribute to the commander of the mission, a native son of Long Beach, CA, Navy Capt. Frederick (Rick) Hauck.

Captain Hauck has compiled an extensive background with NASA since his selection as an astronaut candidate in January 1978. After completing a year of training, he became a member of the support crew for the first shuttle orbiter mission, and his first mission as a shuttle pilot was aboard the second *Challenger* flight launched on June 18, 1983.

On November 8, 1984, the second flight of the orbiter *Discovery* was launched with Captain Hauck as the spacecraft's commander. This mission completed 127 orbits of the Earth before landing on November 16, 1984. Upon completion of this flight, Captain Hauck had logged 339 hours in space. After a 3-year pause in space travel, Captain Hauck resumed his duties at the Johnson Space Center in 1987, and was assigned to command the space shuttle mission STS-26, now in orbit.

As the eyes of the world are once again focused on an American crew orbiting the Earth, let me extend warm congratulations to Commander Hauck and his four crew members for having the courage to continue, the willingness to try, and the determination to succeed. It is the attitude and qualities found in these astronauts that make us all proud to be Americans.

TODAY'S SUCCESS PROVES AMERICA LEARNS FROM HER MISTAKES

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. ATKINS. Mr. Speaker, 3 years ago it appeared that America's Space Program was racing toward the stars, and limits to our exploration of space seemed boundless. Early in 1986, the dreams of millions of Americans were about to be realized. The Nation held its breath on the threshold of a new era. Christa McAuliffe was about to become the first regular person to journey into space.

Christa McAuliffe was not a regular person, though. While the rest of the Nation focused on the glamour and the glory of the *Challenger* flight, Christa understood the risks she and her fellow crewmembers were undertaking. The tremendous successes of the early shuttle flight had blinded the rest of us to the real dangers and difficulties of space exploration. Christa McAuliffe understood these dangers, faced them courageously, and welcomed the adventure that her voyage presented.

The tragic events of January 28, 1986, do not need to be recounted. A nation echoed the grief of the astronaut's families, and a country mourned. Christa McAuliffe's family could have become embittered by the *Challenger* disaster, but Edward and Grace Corrigan, Christa's parents, have raised their voices to ensure that the dream of their daughter live on. I would like to take this opportunity to express my deep admiration for them, and for their dedication to the mission for which their daughter gave her life. That mission was one of knowledge.

Christa McAuliffe was a teacher. She dedicated her life to expanding the horizons of others. This Nation learned a terrible lesson in the winter of 1986, but today's success proves that America learns from her mistakes. The *Challenger* tragedy has strengthened the U.S. Space Program and strengthened America's resolve to explore the cosmos. We possess a new, more realistic view of the dangers inherent in space flight, and a new commitment to face and overcome those risks in the quest for knowledge.

The people of this country will never forget the *Challenger*, or the sacrifices of its crew. Nevertheless, as discovery hangs in the skies above our heads, we can be certain that those heroes did not die in vain, and the dreams of Christa McAuliffe will live on as long as the thirst for knowledge infuses the souls of human beings.

PRESIDENT REAGAN'S UNITED NATIONS ADDRESS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. BROOMFIELD. Mr. Speaker, This week President Reagan gave his final address to the United Nations, congratulating them for the work they are doing to make the world a safer and better place.

As he points out in the speech, peace appears to be breaking out all over the world: the United States and the Soviet Union have recently signed the INF Agreement; the Soviets appear to be pulling their troops out of Afghanistan; the Vietnamese have agreed to pull their troops out of Cambodia; Iran and Iraq have agreed on a cease-fire in the Gulf war; Angola, Cuba, and South Africa are near an accord on foreign troop withdrawals from Angola; the Greek and Turkish communities on Cyprus are holding direct talks; and a referendum is being held in the Western Sahara.

The world is more peaceful that it was at the beginning of this decade, and the United Nations deserves a good measure of the responsibility for this state of affairs. The award of the Nobel Peace Prize to the peacekeeping forces of the United Nations is richly deserved.

In his speech, the President also praised the United Nations for the work it has done in three areas of special concern: terrorism; research on AIDS; and the drug crisis. And he sees a growing need for international cooperation in other areas. One issue he rightly singles out is the proliferation of chemcial weapons. His call for a conference on the use of chemical weapons is one that should be heeded by all countries that consider themselves part of the civilized community of nations.

Clearly the President is being not only gracious but correct in pointing out that the United Nations is a far more effective organization today than it was just 8 years ago. And its increasing effectiveness in in large part due to the budget and program reforms urged on it by the United States and other nations.

The full text of the President's speech, reprinted below, also provides a good summary of the foreign policy goals and achievements of the Reagan years. I believe the world is a much safer place today because Ronald Reagan provided firm, consistent, and persevering leadership to the free world's most powerful nation.

TEXT OF REMARKS BY THE PRESIDENT TO THE 43D GENERAL ASSEMBLY OF THE UNITED NATIONS, NEW YORK, NY, SEPTEMBER 26, 1988

Mr. President, Mr. Secretary-General, distinguished delegates. Half a world away—far from this place of peace—the firing, the killing, the bloodshed in two merciless conflicts have for the first time in recent memory diminished. After adding terrible new names to the rollcall of human horror—names such as Halabja, Maidan Shahr, and Spin Buldak—there is today hope of peace in the Persian Gulf and Afghanistan.

So, too, in the highlands and coastal cities of southern Africa—places of civil war, places of occupation by foreign troops—talk of peace is heard, peace for the tortured nation of Angola. Six thousand five hundred miles further east in the Southeast Asian country of Cambodia, there is hope now of a settlement, hope now of the removal of Vietnam's occupying forces. And finaly in this hemisphere, where only 12 years ago one-third of the people of Latin America lived under democratic rule, some 90 percent do so today; and especially in Central America, nations such as El Salvador, once threatened by the anarchy of the death squad and the specter of totalitarian rule, now know the hope of self-government and the prospect of economic growth.

And another change, Mr. Secretary-General. A change that if it endures may go down as one of the signal accomplishments of our history—a change that is cause for shaking of the head in wonder—is also upon us. A change going to the source of post-war tensions, and to the once seemingly impossible dream of ending the twin threats of our time—totalitarianism and thermonuclear world war.

For the first time, the differences between East and West—fundamental differences over important moral questions dealing with the worth of the individual and whether governments shall control people or people control governments—for the first time, these differences have shown signs of easing. Easing to the point where there are not just troop withdrawals from places like Afghanistan but also talk in the East of reform and greater freedom of press, of assembly, and of religion. Yes, fundamental differences remain. But should talk of reform become more than that, should it become reality—there is the prospect of not only a new era in Soviet-American relations but a new age of world peace. For such reform can bring peace; history teaches and my country has always believed that where the rights of the individual and the people are enshrined, war is a distant prospect; for it is not people who make war, governments do that.

I stand at this podium then in a moment of hope. Hope, not just for all peoples of the United States or the Soviet Union but for all the peoples of the world. And hope, too, for the dream of peace among nations, the dream that began the United Nations.

Precisely because of these changes, today, the United Nations has the opportunity to live and breathe and work as never before. Already, you, Mr. Secretary-General, through your persistence, patience, and unyielding will, have shown, in working toward peace in Afghanistan and the Persian Gulf, how valuable the United Nations can be. We salute you for those accomplishments.

And in Geneva at this very hour, there are numerous negotiations underway: multilateral negotiations at the Conference on Disarmament as well as bilateral negotiations on a range of issues between the Soviets and ourselves. And these negotiations, some of them under U.N. auspices, involve a broad arms control agenda: strategic offensive weapons; strategic defense and space; nuclear testing; and chemical warfare—whose urgency we have witnessed anew in recent days.

And, Mr. Secretary-General, the negotiators are busy—and over the last few years they have been engaged in more than an academic exercise. There is movement. The logjam is broken. Only recently, when the United States and the Soviet Union signed the INF agreement, an entire class of U.S. and Soviet nuclear missiles was eliminated for the first time in history. Progress continues on negotiations to reduce, in massive number, strategic weapons with effective verification. And talks will begin soon on conventional reductions in Europe.

Much of the reason for all of this goes back, I believe, to Geneva itself; to the small chateau along the lake where I and the General Secretary of the Soviet Union had the first of several fireside chats—exchanges characterized by frankness, but friendliness, too. I said at the first meeting in Geneva that this was a unique encounter between two people who had the power to start World War III or to begin a new age of peace among nations. And I also said peace conferences, arms negotiations, proposals for treaties could make sense only if they were part of a wider context—a context that sought to explore and resolve the deeper, underlying differences between us. I said to Mr. Gorbachev then, as I have said to you before: Nations do not mistrust each other because they are armed, they are armed because they mistrust each other.

In that place, by that peaceful lake in neutral Switzerland, Mr. Gorbachev and I did begin a new relationship based not just on engagement over the single issue of arms control, but on a broader agenda about our deeper differences; an agenda of human rights, regional conflicts, and bilateral exchanges between our peoples. Even on the arms control issue itself, we agreed to go beyond the past. To seek not just treaties that permit building weapons to higher levels, but revolutionary agreements that actually reduced, and even eliminated, a whole class of nuclear weapons.

What was begun that morning in Geneva has shown results. In the INF treaty. In my recent visit to Moscow. In my opportunity to meet there with Soviet citizens and dissidents and speak of human rights. And to speak, too, in the Lenin Hills of Moscow to the young people of the Soviet Union about the wonder and splendor of human freedom. The results of that morning in Geneva are seen in peace conferences now under way around the world on regional conflicts; and in the work of the U.N. here in New York as well as in Geneva.

But Mr. Secretary-General, history teaches caution; indeed, that very building in Geneva, where important negotiations have taken place—the Geneva Accords on Afghanistan, the Iran-Iraq negotiations, for example—we see it today as stone-like testimony to a failed dream of peace in another time. The Palais des Nations was the headquarters of the League of Nations—an institution that was to symbolize an end to all war. And yet that institution and its noble purpose ended with the Second World War, ended because the chance for peace was not seized in the 1930's by the nations of the world, ended because humanity did not find the courage to isolate the aggressors, to reject schemes of government that serve the state, not the people.

We are here today, Mr. Secretary-General, determined that no such fate shall befall the United Nations. We are determined that the U.N. should succeed and serve the cause of peace for humankind.

So, Mr. Secretary-General, we realize that, even in this time of hope, the chance of failure is real. But this knowledge does not discourage us. It spurs us on. For the stakes are high: Do we falter and fail now and bring down upon ourselves the just anger of future generations? Or do we continue the work of the founders of this institution and see to it that, at last, freedom is enshrined and humanity knows war no longer. And that this place, this floor shall be truly "the world's last battlefield."

We are determined it shall be so. So we turn now to the agenda of peace. Let us begin by addressing a concern that was much on my mind when I met with Mr. Gorbachev in the Kremlin as well as on the minds of Soviet citizens I met in Moscow. It is also an issue that I know is of immediate importance to the delegates of this Assembly who, this fall, commemorate the 40th anniversary of the Universal Declaration of Human Rights.

That declaration says plainly what those who seek peace can forget only at the greatest peril, that peace rests on one foundation: observing "the inalienable rights of all members of the human family." In a century where human rights have been denied by totalitarian governments on a scale never before seen in history—with so many millions deliberately starved or eliminated as a matter of state policy—a history, it has been said, of blood, stupidity, and barbed wire—few can wonder why peace has proved so elusive.

Let us understand. If we would have peace, we must acknowledge the elementary rights of our fellow human beings. In our own land. And in other lands. If we would have peace, the trampling of the human spirit must cease. Human rights is not for some, some of the time. Human rights, as the universal declaration of this Assembly adopted in 1948 proclaims, is: "for all people and all nations." And for all time.

This regard for human rights as the foundation of peace is at the heart of the U.N. Those who starve in Ethiopia, those who die among the Kurds, those who face racial injustice in South Africa, those who still cannot write or speak freely in the Soviet Union, those who cannot worship in the Ukraine, those who struggle for life and freedom on boats in the South China Sea, those who cannot publish or assemble in Managua—all of this is more than just an agenda item on your calendar. It must be a first concern; an issue above others. For when human rights concerns are not paramount of the United Nations—when the Universal Declaration of Human Rights is not honored in these halls and meeting rooms—then the very credibility of this organization is at stake, the very purpose of its existence in question.

That is why when human rights progress is made, the United Nations grows stronger and the United States is glad of it. Following a two year effort led by the United States, for example, the U.N. Human Rights Commission took a major step toward ending the double standards and cynicism that had characterized too much of its past. For years, Cuba, a blatant violator of its citizens' human rights, has escaped U.N. censure or even scrutiny. This year, Cuba has responded to pressure generated by the Human Rights Commission by accepting an investigation into its human rights abuses. Fidel Castro has already begun to free some political prisoners, improve prison conditions, and tolerate the existence of a small, independent national human rights group.

More must be done; the United Nations must be relentless and unyielding in seeking change. In Cuba and elsewhere. And we must also see to it that the universal declaration itself should not be debased with episodes like the "Zionism is Racism" Resolution. Respect for human rights is the first and fundamental mission of this body, the most elementary obligation of its members. Indeed, wherever one turns in the world today there is new awareness, a growing passion for human rights—the people of the world grow united; new groups, new coalitions form; coalitions that monitor government, that work against discrimination, that fight religious or political repression, unlawful imprisonment, torture or execution. As those I spoke to at Spaso House said to me last June: such movements make a difference.

Turning now to regional conflicts, we feel again the uplift of hope. In the Gulf War between Iran and Iraq—one of the bloodiest conflicts since World War II—we have a cease-fire. The resolution and the firmness of the allied nations in keeping the Persian Gulf open to international shipping not only upheld the rule of law, it helped prevent further spread of the conflict and laid the basis for peace. So, too, the Security Council's decisive resolution in July a year ago has become the blueprint for a peaceful Gulf. Let this war—a war in which there has been no victor or vanquished, only victims—let this war end now. Let both Iran and Iraq cooperate with the Secretary-General and the Security Council in implementing Resolution 598. Let peace come.

Moving on to a second region—when I first addressed the U.N. General Assembly in 1983, world attention was focused on the brutal invasion and illegal occupation of Afghanistan. After nearly nine long years of war, the courage and determination of the Afghan people and the Afghan freedom fighters have held sway—today, an end to the the occupation is in sight. On April 14, the U.S.S.R. signed the Geneva Accords, which were negotiated under U.N. auspices by Pakistan and the Kabul regime. We encourage the Soviet Union to complete its troop withdrawal at the earliest possible date so that the Afghan people can freely determine their future without further outside interference.

In southern Africa, too, years of patient diplomacy and support for those in Angola who seek self-determination are having their effect. We look forward to an accord between the governments of Angola, Cuba, and South Africa that will bring about a complete withdrawal of all foreign troops—primarily Cuban—from Angola. We look forward as well to full implementation of U.N. Security Council Resolution 435 and our longstanding goal of independence for Namibia. We continue to support a growing consensus among African leaders who also believe there can be no end to conflict in the region until there is national reconciliation within Angola.

Mr. Secretary-General, there are new hopes for Cambodia, a nation whose freedom and independence we seek just as avidly as we sought the freedom and independence of Afghanistan. We urge the rapid removal of all Vietnamese troops and a settlement that will prevent the return of the Khmer Rouge to power, permitting instead the establishment of a genuinely representative government—a government that will, at last, respect fully the rights of the people of Cambodia and end the hideous suffering they have so bravely and needlessly borne.

In other critical areas, we applaud the Secretary-General's efforts to structure a referendum on the Western Sahara. And in the Mediterranean, direct talks between the Greek and Turkish Cypriot communities hold much promise for a accord in that divided island nation. Finally, we look to a peaceful solution to the Arab-Israeli conflict. So, too, the unnatural division of Europe remains a critical obstacle to Soviet-American relations.

In most of these areas, then, we see progress and, again, we are glad of it. Only a few years ago, Mr. Secretary-General, all of these and other conflicts were burning dangerously out of control. Indeed, the invasion of Afghanistan and the apparent failure of will among democratic and peace-loving nations to deter such events seemed to cause a climate where aggression by nations large and small was epidemic, a climate the world had not seen since the 1930's. Only this time, larger war was avoided, avoided because the free and peaceful nations of the world recovered their strength of purpose and will. And now the United Nations is providing valuable assistance in helping this epidemic to recede.

And because we are resolved to keep it so, I would be remiss in my duty if I did not now take note here of the one exception to progress in regional conflicts. I refer here to the continuing deterioration of human rights in Nicaragua and the refusal of the tiny elite now ruling that nation to honor promises of democracy made to their own people and to the international community. This elite—in calling itself revolutionary—seeks no real revolution; the use of the term is subterfuge, deception for hiding the oldest, most corrupt vice of all—man's age-old will to power, his lust to control the lives and steal the freedom of others.

That is why, as President, I will continue to urge the Congress and the American public to stand behind those who resist this attempt to impose a totalitarian regime on the people of Nicaragua; that the United States will continue to stand with those who are threatened by this regime's aggression against its neighbors in Central America.

Today, I also call on the Soviet Union to show in Central America the same spirit of constructive realism it has shown in other regional conflicts. To assist in bringing conflict in Central America to a close by halting the flow of billions of dollars worth of arms and ammunition to the Sandinista regime, a regime whose goals of regional domination—while ultimately doomed—can continue to cause great suffering to the people of that area and risk to Soviet-American relations. Unless action is taken now.

Moving now to the arms reduction agenda, I have mentioned already the importance of the INF treaty and the momentum developed in the START negotiations. The draft START treaty is a lengthly document, filled with bracketed language designating sections of disagreement between the two sides. But through this summer in Geneva, those brackets have diminished; there is every reason to believe this process can continue. I can tell this Assembly that it is highly doubtful such a treaty can be accomplished in a few months, but I can tell you a year from now is a possibility, more than a possibility. But we have no deadline. No agreement is better than a bad agreement. The United States remains hopeful and we acknowledge the spirit of cooperation shown by the Soviet Union in these negotiations. We also look for that spirit to be applied to our concerns about compliance with existing agreements.

So, too, our discussions on nuclear testing and defense and space have been useful. But let me here stress to the General Assembly that much of the momentum in nuclear arms control negotiations is due to technological progress itself, especially in the potential for space-based defensive systems. I believe that the United States determination to research and develop and, when ready, deploy such defensive systems—systems targeted to destroy missiles, not people—accounts for a large share of the progress made in recent years in Geneva. With such systems, for the first time, in case of accidental launch or the act of a madman somewhere, major powers will not be faced with the single option of massive retaliation, but will instead have the chance of a saner choice—to shield against an attack instead of avenging it. So, too, as defensive systems grow in effectiveness, they reduce the threat and the value of greater and greater offensive arsenals. Only recently, briefings I have received in the Oval Office indicate that progress toward such systems may be even more rapid and less costly than we had at first thought. Today, the United States reaffirms its commitment to its Strategic Defense Initiative and our offer to share the benefits of strategic defenses with others.

And yet, even as diplomatic and technological progress holds out the hope of at last diminishing the awful cloud of nuclear terror we have lived under in the post-war era, even at this moment another ominous terror is loose once again in the world. A terror we thought the world had put behind, a terror that looms at us now from the long, buried past; from ghostly, scarring trenches and the haunting, wan faces of millions dead in one of the most inhumane conflicts of all time.

Poison gas. Chemical warfare. Mr. Secretary-General, distinguished delegates, the terror of it. The horror of it. We condemn it. The use of chemical weapons in the Iran-Iraq war—beyond its tragic human toll—jeopardizes the moral and legal strictures that have held these weapons in check since World War I. Let this tragedy spark reaffirmation of the Geneva protocol outlawing the use of chemical weapons. I call upon the signatories to that protocol, as well as other concerned states, to convene a conference to consider actions that we can take together to reverse the serious erosion of this treaty. And we urge all nations to cooperate in negotiating a verifiable, truly global ban on chemical weapons at the Conference on Disarmament in Geneva.

It is incumbent upon all civilized nations to ban, once and for all—and on a verifiable and global basis—the use of chemical and gas warfare.

Finally, Mr. Secretary-General, we must redouble our efforts to stop further proliferation of nuclear weapons in the world. Likewise, proliferation in other high-technology weapons such as ballistic missiles is reaching global proportions, exacerbating regional rivalries in ways that can have global implications. The number of potential suppliers is growing at an alarming rate and more must be done to halt the spread of these weapons. This was a matter of discussion last week between Secretary Shultz and Foreign Minister Shevardnadze. Talks between American and Soviet experts begin on this today. And we hope to see a multilateral effort, to avoid having areas of tension like the Middle East become even more deadly battlegrounds than they already are.

But in most of these areas, we see not only progress but also the potential for an increasingly vital role for multilateral efforts and institutions like the United Nations. That is why now more than ever the United Nations must continue to increase its effectiveness through budget and program reform. The U.N. already is enacting sweeping measures affecting personnel reductions, budgeting by consensus, and the establishment of program priorities. These actions are extremely important. The progress on reforms has allowed me to release funds withheld under congressional restrictions. I expect the reform program will continue and that further funds will be released in our new fiscal year.

And let me say here we congratulate the United Nations on the work it has done in three areas of special concern. First, our struggle against the scourge of terrorism and state-sponsored terrorism must continue. And we must also end the scourge of hostage taking. Second, the work of the World Health Organization in coordinating and advancing research on AIDS is vital. All international efforts in this area must be redoubled. The AIDS crisis is a grave one; we must move as one to meet it.

So, too, is the drug crisis. We are moving now toward a new anti-drug trafficking convention. This important treaty will be completed in December. I am confident other strong U.N. drug control programs will also follow. The American people are profoundly concerned, deeply angered. We will not tolerate the drug traffickers. We mean to make war on them—and we believe this is one war the United Nations can endorse and participate in.

Yes, the United Nations is a better place than it was eight years ago—but so too is the world. But the real issue of reform in the United Nations is not limited just to fiscal and administrative improvements but also to a higher sort of reform, an intellectual and philosophical reform, a reform of old views about the relationship between the individual and the state.

Few developments, for example, have been more encouraging to the United States than the Special Session this body held on Africa 2½ years ago. A session in which the United Nations joined as one in a call for free market incentives and a lessening of state controls to spur economic development.

At one of the first international assemblies of my Presidency in Cancun, Mexico, I said history demonstrates that time and again, in place after place, economic growth and human progress make their greatest strides in countries that encourage economic freedom. That individual farmers, laborers, owners, traders, and managers are the heart and soul of development. Trust them. Because where they are allowed to create and build, where they are given a personal stake in deciding economic policies and benefitting from their success, then societies become more dynamic, prosperous, progressive, and free. We believe in freedom. We know it works.

And this, Mr. Secretary-General and distinguished delegates, is the immutable lesson of the postwar era: that freedom works. Even more, that freedom and peace work together. Every year that passes, everywhere in the world, this lesson is taking hold, from the People's Republic of China to Cameroon, from Bolivia to Botswana, and, yes, in the citadel of Marxism-Leninism itself. No, my country did not invent this synergy of peace and freedom but, believe me, we impose no restrictions on the free export of our more than two centuries of experience with it. Free people blessed by economic opportunity and protected by laws that respect the dignity of the individual are not driven toward war or the domination of others. Here, then, is the way to world peace.

And yet, we Americans champion freedom not only because it is practical and beneficial but because it is also just, morally right. And here, Mr. Secretary-General, I hope you will permit me to note that I have addressed this assemblage more than any of my predecessors and that this will be the last occasion I will do so. So, I hope too I may be permitted now some closing reflections.

The world is currently witnessing another celebration of international cooperation; at the Olympics we see nations joining together in the competition of sports and we see young people, who know precious little of the resentments of their elders, coming together as one.

One of our young athletes—from a home of modest means—said that she drew the strength for her achievement from another source of wealth—"we were rich as a family," she said, about the love she was given and values she was taught.

Mr. Secretary-General, I dare to hope that in the sentiment of that young athlete, we see a sign of the rediscovery of old and tested values, values such as family—the first and most important unit of society where all values and learning begin, an institution to be cherished and protected. Values, too, such as work, community, freedom, and faith. For it is here we find the deeper rationale for the cause of human rights and world peace.

And our own experience on this continent, the American experience, though brief, has had one unmistakable encounter, an insistence on the preservation of one sacred truth. It is a truth that our first President, our Founding Father, passed on in the first farewell address made to the American people. It is a truth that I hope now you will permit me to mention in these remarks of farewell.

A truth embodied in our Declaration of Independence—that the case for inalienable rights, that the idea of human dignity, that the notion of conscience above compulsion can be made only in the context of higher law, a higher order. Only in the context of what one of the founders of this organization, Secretary-General Dag Hammarskjold, has called "devotion to something which is greater and higher than we are ourselves."

This is the endless cycle, the final truth to which humankind seems always to return. That religion and morality, that faith in something higher, are prerequisites for freedom. And that justice and peace within ourselves is the first step toward justice and peace in the world and for the ages.

Yes, this is a place of great debate and grave discussion, and yet I cannot help but note here that one of our Founding Fathers, the most worldly of men and an internationalist, Benjamin Franklin, interrupted the proceedings of our own Constitutional Convention to make much the same point.

And I cannot help but think this morning of our beginnings. Of where and when I first read those words, "and they shall beat their swords into plowshares. . . ." and "your young men shall see visions and your old men shall dream dreams. . . ." This morning, my thoughts go to her who gave me many things in life but whose most important gift was the knowledge of the happiness and solace to be gained in prayer. It is the greatest help I have had in my Presidency and I recall here Lincoln's words when he said only the most foolish of men would think he could confront the duties of the office I now hold without turning to someone stronger, a power above all others.

I think then of her and others like her in that small town in Illinois, gentle people who possessed something that those who hold positions of power sometimes forget to prize. No, none of them could ever have imagined the boy from the banks of the Rock River would come to this moment and have this opportunity. But had they been told it would happen, I think they would have been a bit disappointed if I had not spoken here for what they knew so well: that when we grow weary of the world and its troubles, when our faith in humanity falters, it is then we must seek comfort—and refreshment of spirit, in a deeper source of wisdom, one greater than ourselves.

And so if future generations do say of us that, in our time, peace came closer, that we did bring about new seasons of truth and justice, it will be cause for pride. But it shall be a cause of greater pride still, if it is also said that we were wise enough to know the deliberations of greater leaders and great bodies are but overture; that the truly majestic music—the music of freedom, of justice and peace—is the music made in forgetting self and seeking in silence the will of Him who made us.

Thank you for your hospitality over the years. I bid you now farewell.

MEDICARE PROGRAM LEGISLATION

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. TALLON. Mr. Speaker, today I am introducing a bill to eliminate the urban-rural differential in making payments and determining fees and rates under the Medicare Program.

In 1983, the prospective payment system was established to combat skyrocketing health care costs. The effects of PPS on the cost and quality of health care have been mixed at best.

One clear fact is that rural care givers have suffered financially since the inception of PPS. The premise that there is a difference in health care costs between rural and urban care givers based on historical charges may have been a logical reason for the formulation of the reimbursement system. However, the urban-rural differential has evolved into an outdated and inequitable system that does not reflect accurate medical trends. It is clear that we must implement an alternative method of reimbursement that is reflective of actual procedural costs.

While many might argue that technology, care, property costs of urban areas deem a higher reimbursement rate, there can be no doubt that rural hospitals generally have a higher proportion of Medicare patients. They count on Medicare business and they are essential to the Medicare system.

The trends in health care such as shorter hospital stays and the preference for specialized care have changed the roles and the problems of rural hospitals. Health care is growing increasingly expensive in rural areas and this growth is disproportionate when compared to urban areas. Nationwide the average Medicare profit for urban hospitals fell to 7.6 percent while the same for rural hospitals fell to 0.14 percent.

Try to imagine separating all American hospitals into two groups according to a single factor. The only precise divisions you could create would be numerical such as the number of beds or staff. However, if you base it on a characteristic subject to interpretation you will have a mess. That is what we have with the Medicare urban-rural classifications of hospitals.

While there are definite rural hospitals and definite urban hospitals, the present Medicare rural-urban distinction leaves far too many hospitals in a nebulous and costly realm.

For example, Grand Strand General Hospital in Myrtle Beach, SC, receives a rural rate because its residential population base is not an urban area according to the metropolitan statistical area qualifications. Yet for most of the year, Grand Strand General serves a tourist population which swells to almost 10 million. It has an emergency department which is comparable to many larger urban hospitals. Yet its emergency services and professionals are considered of lower value according to Medicare.

In the sixth district, 75 percent of our Medicare rural hospitals are 40 miles or less from a Medicare urban hospital. This proximity often pits rural and urban hospitals against each other instead of encouraging a productive competition. These hospitals dispute over patients, nurses, and other health care professionals.

In one county in my district, 34 percent of the local nurses commute out of the county. Many of these work in a neighboring county that is considered Medicare urban. There ought to be a geographic incentive for these hospitals to establish a multihospital partnership; however, that incentive is destroyed by the inequity in reimbursement.

We must give our rural hospitals every chance for survival. A hospital in a rural area means a great deal to a community that an urban hospital does not. Often, the hospital is the largest employer of the county. Residents of rural areas like going to their local hospital where they were born to receive care. They expect their hospital to be a viable part of their municipal life.

A strong hospital system in a rural area is the key to rural development. A business or an industry will not locate in a rural area where there is a failing hospital or where there is no hospital. A good hospital is a source of economic prosperity and pride for a rural community.

The rural/urban differential must be eliminated to see that the Federal Government in no way inhibits a rural hospital from operating at its optimal potential. I am proud to introduce this bill because it expresses this goal.

TRIBUTE TO JOSEPH "MOE" DELLAPORTA

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. DIOGUARDI. Mr. Speaker, I rise today to pay special tribute to Mr. Joseph "Moe" Dellaporta, a lifelong resident of my district, a friend and a great American. On October 7, 1988, "Moe" will celebrate his 60th anniversary at Winged Foot Golf Club in Mamaroneck, N.Y. In recognition of his dedication to the men and women of Winged Foot, he will be honored by the members of this internationally recognized golf club.

"Moe" first started at Winged Foot as a caddie, at the age of 12. Having demonstrated a strong work ethic, he was rewarded with a promotion to the pro shop within 6 years. Since 1941, "Moe" has been serving the golf community at Winged Foot as the manager of the golf shop.

A family man, "Moe" was born in Hoboken N.J. His parents, originally from northern Italy, raised four boys ("Moe," Rocco, Frank, and Dominic). His father, Steven, also spent time as an employee at Winged Foot. "Moe" married his wife Marie in 1943 and together they raised three children (Jackie, Joann, and Joe, Jr.). "Moe" is the proud grandfather of eight grandchildren.

A legend at Winged Foot, "Moe" has been a friend to well-known entertainers, including Bob Hope and Bing Crosby. In addition, he has professionally served some of the world's best known professional golfers. During the 1984 U.S. Open "Moe" expertly designed a special epoxy to repair professional golfer Greg Norman's clubs.

Working 12-hour days, often starting before 6 a.m., "Moe" has given his life to a sport in which he himself stopped participating over 35 years ago.

A friend to all, I would like the Members of the House of Representatives to join me in congratulating "Moe" Dellaporta for his 60 years of commitment and dedication to excellence at Winged Foot. I wish "Moe" continued health and success in his endeavors, and many more years at Winged Foot.

NON-LETHAL AID TO THE CONTRAS

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. COSTELLO. Mr. Speaker, today I voted in support of the bill providing funding for America's defenses for fiscal year 1989. This important bill will continue our commitment to a strong and ready defense in the coming year.

However, I thought it was unfortunate that $27 million in nonlethal aid to the Nicaraguan Contras was included in the bill.

I feel that this controversial issue is best considered outside of a huge, comprehensive bill like this one, and deserves greater debate than was allowed under the strict provisions of the Defense Appropriations bill.

Had nonlethal aid to the contras been a separate measure, I would have urged my colleagues to oppose it.

TRIBUTE TO DOLLAR GENERAL CORP. OF NASHVILLE

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. CLEMENT. Mr. Speaker, yesterday morning I had the distinct honor of going to the White House to watch President Reagan present Dollar General Corp. of Nashville, TN, with the President's Award under the Private Sector Initiative Program.

Dollar General was one of 30 corporations and organizations that received recognition for their charitable and philanthropic activities and unselfish initiatives to assist our fellow citizens.

Dollar General sponsors a literacy program, whereby it promotes in each of its 1,300 stores information about resources available to adults that will help them learn to read. Over several years, more than 5,000 individuals have been directed to local GED and literacy programs.

I am pleased to extend my heartfelt congratulations to Cal Turner, Jr., president and chief executive officer of Dollar General Corp., and to Carol Harris, vice president of marketing, on receipt of this award from President Reagan.

DISASTER RELIEF FOR JAMAICA

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1988

Mr. DYMALLY. Mr. Speaker, I rise today before this distinguished body to discuss the very pressing issue of assistance to Jamaica to help that country recover from the devastation wrought by Hurricane Gilbert. I am pleased to say that my dear colleague, the Honorable DAVID OBEY, chairman of the Subcommittee on Foreign Operations, has given me his assurance that the conference report on appropriations earmarks not less than $35 million for relief, rehabilitation, and reconstruction assistance for Jamaica.

The report specifies that this earmarked assistance is to be in addition to development assistance funds otherwise made available to that country. Chairman OBEY has also informed me that these specified funds should be used to restore power distribution and communication, to distribute food and other needed supplies, to provide materials for temporary shelters, to contribute to the process of redevelopment, and for other emergency needs. It is also my understanding that more than $23 million in relief, rehabilitation and food will be obligated for Jamaica by the end of this week that would constitute fiscal year 1988 funds.

For fiscal year 1989, in addition to the $35 million Foreign Operations has earmarked, Jamaica is scheduled to receive $17.6 million in regular development assistance, and $30 million in Public Law 480, which is already signed up. In addition, I am informed that $10 million in new Public Law 480 is in the works to provide needed lumber for the reconstruction effort. Jamaica will also receive $15 million in Housing Investment Guarantees. And finally, Jamaica is eligible to receive up to $25 million in ESF to support narcotics control activities in that country. According to Chairman OBEY, there is also authority, subject to the discretion of the administration, to provide funds from the regular disaster assistance accounts and from the special de-ob re-ob authority we provide for Jamaica and Bangladesh for any additional relief and reconstruction needs that may arise.

I would like to commend my colleague from Wisconsin for the crucial role he has played to provide sufficient funding to the relief and reconstruction activities in Jamaica and to assure that United States assistance is sufficient to meet the extraordinary needs that country will be facing. I would like to take this time to thank Congressman OBEY for his time, effort, and assurances on this issue and look forward to working with him and other members of the Subcommittee on Foreign Operations, as well as with the chairman and members of the Committee on Foreign Affairs on this effort to assist our good and close neighbor.

A TRIBUTE TO FREDERIC B. BEAR, 1902-1988

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. SCHUETTE. Mr. Speaker, it is with great pleasure that I pay tribute to Fred Bear, affectionately known as "Papa Bear" to many outdoorsmen throughout our great Nation. I hope that all Members here today will join me in recognizing the legacy Fred left to the future generations of Americans, especially those who love the outdoors and the challenge of hunting with a bow.

Fred Bear was born in Waynesboro, PA on March 5, 1902. Fred spent his childhood in the Cumberland Valley where he learned the sport of hunting and fishing and developed a lifelong love for the outdoors. At the age of 21 Fred move to Detroit, MI where he became a patternmaker for Packard Motor Car. In 1925 he moved to Chrysler and later ran an advertising and silk-screening plant for the automotive trade.

Fred was first introduced to bow hunting in 1927 when he and a friend saw a film entitled "Alaskan Adventures" which depicted the adventures of Arthur Young, a young man from California who had learned many bow-hunting skills from an Indian named Ishi. Soon after, Mr Young visited Detroit and spent hours in Fred's basement teaching him how to make bows, arrows, and handmade Irish linen bowstrings.

In 1929 Fred first journeyed to St. Helen, MI to hunt. In 1947 he moved his archery plant to Grayling, MI located a few miles west of St. Helen, where it remained until 1957 when it was moved to Gainesville, FL.

Fred was innovative and soon began patenting many types of hunting equipment. He also began competing in competitions of skill with his beloved bow.

Fred first won the Michigan State Target Championship in 1934 and helped found the National Field Archery Association in 1939. Among the many awards he received were: The Compton Medal of Honor, 1964; National Leadership Award from the National Sporting Goods Association, 1965; Michigan Governor's Award, 1968; National Sporting Goods Association Lifetime Career Award, 1976; Regents Citation of Honor from the University of Michigan, 1976; Maurice Thompson Medal of Honor, 1977; and the Conservation Achievement Award from National Wildlife Federation, 1987.

Fred also published three books on bow hunting while managing the Bear Archery Plant which produced a record 360,000 bows in 1976.

In his eulogy at the Memorial Service held for Fred, his close friend and employee for 48 years, Frank Scott said, "To some, Fred will be remembered as a self made man, an industrialist who, starting with little more than a dream, strong desire and determination created a company that provided employment for hundreds, and recreation and enjoyment for millions. In the process of creating Bear Archery he unselfishly shared his experience, knowledge and confidence that everyone could benefit."

Mr. Scott closed with a quotation from a man that Fred greatly admired and was greatly influenced by, although they probably never met. That man was Ishi, the last member of the Yana Indian tribe in northern California. In the Yana or Yahe language, there were no words for goodbye. Ishi would simply say, "You go—I stay." As Mr. Scott so eloquently said, "So to you, our dear friend Fred, we say to you—You go—we stay and by the grace of God we will meet again in a happy place where the environment will be pure and our joys will be boundless and our game bag will overflow with happiness and love."

PERSONAL EXPLANATION

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. GARCIA. Mr. Speaker, due to a prior engagement I was unable to cast my vote for the conference report, H.R. 4784, the Agriculture Appropriations Act of 1989 and the conference report, H.R. 4787, the Legislative Branch Appropriations Act of 1989.

My vote for H.R. 4784 would have been "yes".

My vote for H.R. 4787 would have been "yes".

IN MEMORY OF WOLFE KIRSON

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. LEVINE of California. Mr. Speaker, I rise today to pay tribute to an outstanding young man, and, with great sadness, to announce his death.

Wolfe Kirson was a good and inspirational young man who cared deeply for others. He sought to help those in need and was willing to share his life for this cause. His most noteworthy community service was through the Santa Monica Boys Club. Indeed, he was named Young Man of the Year, and went on to receive national recognition from President Reagan.

Wolfe Kirson's charm and talents were recognized by his peers. While a student at Santa Monica High School, and again at UCLA, he was repeatedly chosen as a leader by his classmates. These attributes were also recognized by the Boys Club Foundation of Southern California who awarded Wolfe with a 4-year scholarship. As a student of economics and South American studies he aspired to a career in the foreign service. There is no doubt but that he would have served with distinction in whatever work he chose.

Tragically, Wolfe Kirson lost his life in a fall at Sequoia National Park. Though only 20 years old, he had touched the lives of many. He was loved for his enthusiasm toward life and his sympathy for the world around him. He was held in esteem by those who knew and loved him, both for his accomplishments and for his great potential. The loss of Wolfe will weigh heavily in their hearts.

But the very aspects of Wolfe Kirson's life which made his passing so regrettable are also cause for joy. For we were blessed with his presence. The family and many friends of Wolfe Kirson have had their own lives enriched for having known him. Alas, we are reminded that it is no small thing to say of someone that he was good, was loved and shall be missed greatly.

SUPPORT NATIONAL RESPECT-FOR-THE-ELDERLY DAY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. SKELTON. Mr. Speaker, I rise to introduce the House joint resolution which requests and authorizes the President to declare September 15, 1989, National Respect-For-The-Elderly Day. Mr. Speaker, through my work on the Aging Committee and in my dealings with my constituents, I have come to the conclusion that we are simply overlooking one of our most valuable resources. Recently it came to my attention that Japan has created a national holiday based on respect for the elderly. I believe it would be a valuable exercise to set aside a day to raise our awareness of the contribution the elderly have made and educate ourselves about what benefits they can still offer.

Older Americans possess the wisdom of the ages and there is a lot to educate ourselves about, Mr. Speaker. For example, scientists who study the aging process will tell you that, contrary to the popular belief, intelligence increases with age; it does not decrease. Older Americans are anxious to be useful. They possess the wisdom of the ages, based on experiences and knowledge. Knowing this, we should routinely consult and not simply admire them.

Older Americans are the fastest growing segment of our population yet many have lost their self-esteem because of what they receive. This is wrong.

The country should take time to become aware of what we owe our older Americans and what we can learn from them if we would only ask and listen. They deserve our respect and more. Passage of this resolution will lead us in that direction, and there is no cost involved in the Federal Government. I urge your support of National Respect-For-The-Elderly Day.

THANKS, THIOKOL, WE'RE BACK IN SPACE

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. HANSEN. Mr. Speaker, yesterday, our space program passed a major milestone with the successful launch of the space shuttle *Discovery.*

The words of NASA's Hugh Harris, when he reported to the world, "three, two, one, zero, and liftoff. Americans return to space * * *" were the words all of America has been waiting to hear for 2 years.

I believe there would not have been a launch yesterday if it had not been for months of intense activity by Morton Thiokol as it reevaluated and modified the shuttle's two solid-fuel booster rockets. They set ambitious goals for themselves, and they challenged themselves to the limit. Let me say to every one of my colleagues in the House of Representatives that I am very proud to say that Morton Thiokol is located in my congressional district.

Our Nation is oriented toward growth, opportunity and forward movement. Certainly, the space program experienced a major setback, but Thiokol did not let any fears or reservations blind them in their determination to get the space program back on track. Their never-ending commitment to proceed in rebuilding the solid booster rockets allowed our country to make bold strides in restoring the Nation in a leadership role in space.

If NASA is going to stay ahead in technology; if it is to stay competitive in space, it needs Morton Thiokol. If we can get to the moon, we ought to be able to go anywhere. But, wherever our space program leads America, there is one thing for certain, Morton Thiokol will be there.

CONGRESSMAN MAVROULES SALUTES DR. CARL E. MUELLER

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. MAVROULES. Mr. Speaker, as we prepare to begin a new fiscal year, I think it is appropriate that we reflect on the successes of the Small Business Innovation Research [SBIR] program—a program that, I believe, has repaid many times over the Federal money put into it. In particular, I wish to bring to the attention of my colleagues the accomplishments of Dr. Carl E. Mueller during his tenure as the Director of the Navy's SBIR program. The reason I do so at this time is because Dr. Mueller has recently moved on to another assignment for the Navy at the Naval Surface Warfare Center.

Dr. Mueller took responsibility for the Navy's SBIR program in September 1985. He served as a creative and effective advocate for the program with the Pentagon, small businesses and large businesses, universities and the Congress. During his tenure, the scope of the Navy SBIR program grew from $25 to $60 million.

The success of the Navy SBIR program and its strong support in the small business and Defense community, as well as in the Congress, can be attributed to Dr. Mueller's excellent management skills and diverse technical background. The SBIR program has become a major contributor to the Navy's mission and our national defense technology base.

I congratulate Dr. Mueller on his promotion and wish him every success in this new assignment. I do hope that he will also remain an active participant in the SBIR program.

NUEVA LEARNING CENTER RECEIVES NATIONAL RECOGNITION

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. LANTOS. Mr. Speaker, just a few days ago at a ceremony held at the White House, the Nueva Learning Center of San Mateo County, CA, was one of the very small group of schools recognized and honored by President Reagan and Secretary of Education, William Bennett. Nueva was the recipient of the U.S. Department of Education "Elementary School Recognition Program Award" for progress toward excellence in education. Accepting the award on behalf of Nueva was Dr. Anabel Jense, director of the Nueva Learning Center.

To be given this prestigious award by the Department of Education is a high honor, indeed. Only 230 public and 57 private schools throughout the entire country were so honored. Schools were selected on the basis of their philosophy and goals, organization, leadership, curriculum, quality of instruction, learning climate, character development and community relations. The recognition of Nueva is well deserved and it is a credit to the administration, teachers, students, and alumni of the school.

The Nueva Learning Center was established in 1967 by Karen F. Stone as a nonprofit private school for the gifted and talented. Its programs were developed through a nationwide series of meetings with prominent educators, psychologists, businesses, and Nobel laureates. The personal experiences and visions of the future held by these leaders was tapped to establish the school's basic instructional system. The most respected research and theories of child development and educational practice were incorporated into the school's philosophy.

Nueva's philosophy demands teaching methods and materials that help a child become an excited, self-directed, and independent learner. The primary academic goal is that each child achieve at the highest possible level in all subject areas based upon ability and identified learning constraints. The school program emphasizes problem-solving, critical thinking, and leadership skills. In addition to the strong emphasis on academic subjects, Nueva also emphasizes the "other three-Rs"—rights, respect, and responsibility—which are an integral part of educating the whole child to become a functioning and contributing adult in society.

In addition to Nueva's commitment to maintaining a high-quality school serving gifted and talented children, this outstanding school is also a beneficial influence on the general educational community through the dissemination of the proven concepts and techniques that have been tested and established at Nueva. For example, in the past 3 years, the staff of the Nueva Learning Center have reached over 2,000 teachers with innovative math programs.

Mr. Speaker, I invite my colleagues to join me in paying tribute to Nueva Learning Center and its outstanding director, Dr. Anabel Jensen.

INTRODUCTION OF LEGISLATION TO MODIFY PASSIVE FOREIGN INVESTMENT COMPANY PROVISIONS OF THE 1986 TAX REFORM ACT

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. DONNELLY. Speaker, I am pleased to join Congressman COYNE, as well as several of my colleagues from the Committee on Ways and Means, in introducing legislation today to modify the passive foreign investment company (PFIC) provisions of the 1986 Tax Reform Act. In addition to the bipartisan group of Ways and Means Committee sponsors of this bill, Congressmen FOLEY and ATKINS have agreed to join us as well.

Mr. Speaker, the 1986 act acted to end a major abuse of the laws governing U.S. taxation of foreign source income by creating the concept of passive foreign investment companies, or PFIC's. One result of the PFIC provisions has been adverse tax consequences to multinational corporations and their U.S. shareholders which were not the specific targets of the loophole closing provisions of the 1986 act. The basic issues are as follows.

The United States taxes its citizens on their worldwide income. One major exception to this principle of income tax law is the principle of deferral, whereby income of foreign subsidiaries of U.S. corporations is not taxed currently in the United States. Instead, the income is not taxed until it is repatriated—that is, distributed to U.S. shareholders as dividends.

Generally, if more than 50 percent of the stock of a foreign corporation is owned by U.S. shareholders that each own at least 10 percent of the voting power of the stock on any day during the taxable year of the foreign corporation, the corporation is a controlled foreign corporation (CFC). In the case of a CFC, the principle of deferral does not always apply. Any passive income of a CFC—commonly referred to as "subpart F" income—is taxed currently to U.S. shareholders, whether or not it is repatriated.

Prior to enactment of the Tax Reform Act, it was possible for foreign subsidiaries of U.S. corporations to manipulate their stock ownership to avoid classification as a CFC. The result of this type of stock manipulation was to avoid current U.S. taxation of a corporation's subpart F income and thus retain the benefits of deferral.

To prevent this abuse, Congress created the concept of passive foreign investment companies. A corporation is a PFIC if either: one more than 50 percent of the corporation's assets are passive or two more than 75 percent of the corporation's income is passive. If a corporation is classified as a PFIC, its U.S. shareholders generally do not get the benefits of deferral on any of its income. Thus, all income of a PFIC is generally taxed currently in the United States.[1]

Mr. Speaker, the 1986 act clearly ended the abuses which came to the committee's attention. Unfortunately, when the Committee on Ways and Means was considering the new PFIC proposals, I don't think that the members focused on the fact that the new rules effectively ended deferral on manufacturing income earned by corporations with large amounts of passive income or assets. Our bill eliminates this result in certain cases.

Under our proposed legislation, a corporation which meets the 50 percent passive asset test will not be classified as a PFIC if: one it is a CFR and two it is located in a country which has a trade deficit with the United States. The result of this rule will be to continue to deny deferral on subpart F income, but allow foreign subsidiaries of U.S. corporations to retain the benefits of deferral on manufacturing income.

Mr. Speaker, we have chosen to take this approach because it seems anomalous for Congress to create disincentives for companies to locate in countries which have trade deficits with the United States. Congress, on the one hand, has taken strong steps to reduce the U.S. trade deficit by attempting to increase exports abroad. The PFIC rules, on the other hand, may encourage foreign subsidiaries of U.S. corporations to move out of countries to which we export raw materials.

A classic example is the country of Ireland, which imposes low tax rates on manufacturing income. If subsidiaries of U.S. corporations there were to move to other nations in the European economic community, it would cause devastating economic consequences. Already, the unemployment rate in Ireland is the highest in Western Europe; to the extent that we enjoy a trade surplus with that country, we should encourage United States companies to locate their operations there. We believe that this bill provides such encouragement.

Let me also add, Mr. Speaker, that our bill is drafted in such a way as to provide this benefit to companies located in any country which has a trade deficit with the United States. It came to our attention during drafting of this legislation that the country of Panama has a trade deficit with the United States.

We do not intend to apply this benefit to companies located in Panama. That government, run by a drug-dealing, tinhorn dictator, should not be able to benefit from a liberalization of the U.S. tax laws as this bill proposes. In April of this year, the Internal Revenue Service issued Notice 88-47, which generally denied the foreign tax credit for taxes paid to the Noreiga regime in Panama. It is our intent that the benefits of this bill will not apply to the country of Panama during the time that IRS Notice 88-47 is outstanding—or any other notice, announcement, regulation or ruling which reaches the same result as that notice.

Mr. Speaker, our bill should serve as an incentive to taxpayers that are in Ireland to remain there, and to encourage taxpayers to consider locating there. As members of the Committee on Ways and Means, we intend to push strongly for enactment of this legislation in the next Congress.

JOSEPH BLASCHALK—OUTSTANDING CITIZEN

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. APPLEGATE. Mr. Speaker, it gives me much pride to bring to the attention of my colleagues in the U.S. House of Representatives a constituent of mine, Joseph L. Blaschalk, of Mingo Junction, OH. Because of his lifetime involvement in community affairs, Joe presided as grand marshal over the Mingo Junction Annual Community Days celebration.

A native of the Jefferson County, OH area, Mr. Blaschalk has been a licensed mortician for 40 years, operating his own business in Mingo Junction for nearly a quarter of a century. He served his country for 4 years in World War II in General Patton's Third Army in Normandy, France, and received the Purple Heart medal for his efforts.

---

[1] If a PFIC is a "qualified electing fund" (QEF), a U.S. shareholder may elect to defer payment of tax on his or her share of a PFIC's total earnings which are not currently received. A taxpayer making the election must pay an interest charge, however. If a PFIC is not a QEF, its shareholders are required to pay tax on income realized from a PFIC and pay an interest charge attributable to the value of deferral.

His commitment to the betterment of Mingo Junction and the surrounding area is long standing. Joe is a member of the Jefferson County Chamber of Commerce, Mingo Lions Club, Knights of Columbus Post 4361 and American Legion Post 351. He has received the award of Catholic Man of the Year by the Knights of Columbus as well as the Lions Club Member of the Year.

It is because of his deep concern for his fellow man and his home that he has dedicated himself to their betterment, and it is for this reason that he was named as grand marshal this year.

Mr. Speaker, as good in every way as this country of ours is, it would only be a better place if there were more citizens in it like Joe Blaschalk. We salute him and his efforts.

JOSEPHSON TWINS OLYMPIC STARS

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mrs. JOHNSON of Connecticut. The 1988 Summer Olympics has focused the world's attention on Seoul, South Korea. The games are heralded as the pinnacle in many fields of athletic competition. To qualify for Olympic competition is an outstanding accomplishment in itself.

Despite the media publicity surrounding the Olympics, synchronized swimming's duet competition has only recently received the recognition that it deserves. Sarah and Karen Josephson of Bristol, CT, are two remarkable young women who have earned the right to compete in this event this year. They have been preparing for 18 years to have this opportunity and I am proud to have them and their parents, Beryl and Carl Josephson, as constituents.

I would like to publicly acknowledge their efforts, and let them know how proud we are of their Olympic participation. I trust that my colleagues will join me in wishing them the very best in their competition tonight and I look forward to welcoming them home as champions.

TRIBUTE TO FORMER CONGRESSWOMAN, THE HONORABLE SHIRLEY CHISHOLM

HON. CHARLES A. HAYES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. HAYES of Illinois. Mr. Speaker, on October 8, 1988, the National Political Congress of Black Women will salute a former Member of Congress, the Honorable Shirley A. Chisholm, at their 20th anniversary celebration in Atlantic City, NJ. This year marks the 20th anniversary of Mrs. Chisholm's election to the U.S. Congress. Even though she and I did not serve in the U.S. Congress at the same time, I would like to pay tribute to her for her important contribution to enhancing the quality of life for, black women, Hispanic women, and minorities in her congressional district and across America.

I understand that, when Mrs. Chisholm was elected to the U.S. House of Representatives and took her seat in 1969, she became the first black woman ever elected to Congress. She represented the then newly drawn 12th New York Congressional District, in Brooklyn's impoverished Bedford-Stuyvesant. Mrs. Chisholm was a specialist in early education and child welfare who entered politics, more or less, by public demand in 1964, when she ran successfully for the New York State Assembly on the Democratic ticket. Mrs. Chisholm, has always been known as an articulate, straightforward champion of the right of disadvantaged blacks, Puerto Ricans, and women. She derives her power from the "the people."

When she retired from the House of Representatives, she was the senior Democratic woman in the House. She was the only woman, and the only black American, to sit on the powerful House Rules Committee, and she was a leading member of the Congressional Black Caucus.

Mrs. Chisholm earned her B.A. degree (Cum Laude), M.A. in education and diploma in administration from Columbia University. She has been awarded honorary degrees from many prestigious colleges and universities. She writes and speaks fluent Spanish.

During Mrs. Chisholm's congressional career she earned praise for her efforts on behalf of black colleges, compensatory education, mininum wage for domestics, American Indians, Haitian refugees, migrant farmworkers, and the poor. Her fierce individualism has resulted in a reputation as a "maverick" and "unpredictable," terms which simply say that she was a powerful influence in the U.S. House of Representatives.

In 1972, Mrs. Chisholm became the first black woman to campaign for the Democratic Party nomination for President of the United States.

She retired from the Congress, at the end of her term in 1982, and has been writing ("Unbought and Unbossed" and "The Good Fight"), teaching at Mount Holyoke College, lecturing and traveling around this Nation elevating, motivating and uplifting Americans everywhere. I admire your leadership, I envy you energy, I salute your commitment Shirley Chisholm. My congratulations and best wishes for the future.

THE 50TH ANNIVERSARY OF DORA PERLMUTTER BECOMING A U.S. CITIZEN

HON. BEN NIGHTHORSE CAMPBELL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. CAMPBELL. Mr. Speaker, I wish to pay tribute to Ms. Dora Perlmutter, a constituent of mine who, on September 28, 1988, celebrated her golden anniversary of becoming a resident and citizen of the United States.

Ms. Perlmutter and her husband, the late Nick Perlmutter, M.D., Colonel, U.S. Army (ret.), emigrated from Germany and arrived in the United States on September 28, 1938.

Within 2 years of her arrival, she was practicing in her career as a registered nurse in Savannah, GA. Beginning in 1945 she accompanied her husband into the Army for his 26-year career. During this period she worked and served faithfully as a volunteer nurse, American Red Cross volunteer, homeroom mother, PTA officer, volunteer translator, den mother, Girl Scout leader, cookbook editor, thrift shop president, Officer's Wives Club president, and commander's wife.

Having been a resident of Colorado since 1967 she continued her selfless volunteer work as a Meals on Wheels volunteer and once again as a Red Cross volunteer and hospital volunteer. Recently, on her 76th birthday, she was named Hospital Volunteer of the Year by Saint Mary's Hospital in the city of Grand Junction. Today, she continues to volunteer for many worthwhile charities and organizations in my district.

For the past 50 years she has been an exceptional citizen of this country in her roles as a professional, wife, mother, grandmother and volunteer.

My congratulations to Dora Perlmutter for her outstanding community service; let us all join in wishing her continued success in her many pursuits.

PERSONAL EXPLANATION

HON. BILL NELSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. NELSON of Florida. Mr. Speaker, I was unable to be present for rollcalls 362 and 363. Had I been present I would have voted

Rollcall 362: "No."

Rollcall 363: "Yes."

THE DEATH OF CHARLES RAPER JONAS

HON. J. ALEX McMILLAN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. McMILLAN of North Carolina. Mr. Speaker, we are saddened to learn of the death on Wednesday of one of my political mentors, former Congressman Charles Raper Jonas. Son of a former Congressman, he provided vital leadership here, serving as ranking member on several subcommittees on the Appropriations Committee before his retirement in 1972.

Almost single-handedly, Mr. Jonas made it acceptable to be a Republican in North Carolina as he paved the way for a two-party system in our State. Elected to the House in 1952, he was gerrymandered no less than three times in his 20 years of service. And each time he was elected with higher majorities.

Some of my first political involvements were on behalf of Mr. Jonas' compaigns. Mr. Jonas was a man of ideals and a man of conviction who led many to see that they should support a two-party system rather than two systems in one party.

But Charles Jonas was an inspiration to all of us in Piedmont, NC—regardless of party. He had a keen community spirit and was a dedicated citizen of his home of Lincoln County, NC, and indeed the United States. His many friends on both sides of the aisle bear testimony to the wide respect he earned here.

The reach of Charles Raper Jonas was not unlike that of those 34 men who debated, drafted and signed the Constitution of our country. As long as there are others prepared to walk down the same path of integrity and public service as did Charles Jonas, our Republic will always be secure.

COMMENDING PASTOR ERNESTINE C. REEMS

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. DELLUMS. Mr. Speaker, this year Pastor Ernestine C. Reems and the Center of Hope Community Church are celebrating 20 years of service to the people of Oakland and the Bay Area.

Having the same concerns as the city's political, community and corporate leadership, Pastor Reems and the Center of Hope Community Church continue to contribute to the city of Oakland through such ongoing programs as: the E.C. Reems Foundation—which includes youth programs in education, recreation, and cultural awareness; and the Hope Academy—a nonprofit, private school providing quality education to more than 350 students in grades K through 8th; families in need of creative options for decent housing; the Center of Hope Food and Clothing Bank; and the Hope Senior Housing Project.

I am pleased to join my friends in the Bay Area in this timely celebration of Pastor Reems' life and good work. With this RECORD entry goes my very best with for the future success of Pastor Reems and the causes she so selflessly supports.

CHESAPEAKE APPRECIATION DAY

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. DYSON. Mr. Speaker, I rise today to announce Chesapeake Appreciation Day on Monday, October 3, 1988. I ask my colleagues to join me in celebrating what I hope is the eternal life of the Nation's largest, most productive estuary. Those of us who represent the people who live on the shores of the bay and those whose livelihood depends on its bountiful marine life know that the Chesapeake has served us well. From Spesutie Island on the northern tip of the bay to Cove Point on the southern Maryland shore and on down, watermen have made their living, natives of the eastern shore and tourists have sailed its waters for pleasure.

There is no feeling more exhilirating than to wake up before the Sun rises, a brisk wind spreading a morning chill, and heading out on the Chesapeake. Being rocked by the rhythm of waves carrying your vessel along a silky blue surface is a serenity known only to those who know the Chesapeake. I have cast my line out on solo journeys, joined watermen in the laborious quest for oysters, and skippered the helm of a recreational sail. The beauty of the Chesapeake never ceases to astound me.

Many of the people in my district and surrounding ones have done the Chesapeake well in turn. We have worked hard to preserve the more than 2,500 plant and animal species whose habitat is the bay. We are proud of our efforts and I know that I and many others are dedicated to curbing the pollution of the bay so that it may be environmentally sound for our children, grandchildren and the generations to come.

And so this day of appreciation will be celebrated with great respect for an extraordinary environmental wonder. As an old man of the bay once said, "If it's slick ca'm you want, this here's the right place."

DEBT FOR DEVELOPMENT IN THE FOREIGN AID PROGRAM

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. WALGREN. Mr. Speaker, I am pleased that H.R. 4575, the Debt for Development Act of 1988, is well on its way to becoming law. This bill would provide some greatly needed debt relief for the poorest of developing countries while providing a base for future growth and development. It has been incorporated into the 1988 foreign aid bill, which has been approved by the House and Senate.

H.R. 4575 would authorize the President to accept repayments in local currencies of debt owed to the U.S. Government by the least developed countries. Under the bill, the local currencies would remain in the same country to be used by the U.S. Government agencies for local development programs.

The most distressing casualties of the increasing debt of poor countries is the damage done to those struggling with the lowest standard of living. Per capita income in the least developed nations ranges from $120 in Ethiopia to $420 per year in Senegal. Debt repayment uses up valuable foreign exchange needed to import fertilizer for basic agricultural production; and undercuts efforts to produce basic food requirements.

The statistics for hunger, malnourishment, and child mortality are up and the debt crisis can be traced as a major cause. Each day 40,000 children die in the developing world. Between the ages of 5 months and 6 years old 140 million children are malnourished.

The United States simply must do all we can to put in operation effective aid programs to advance development in poorer countries. This program, which keeps local currencies employed at home is a small step in the right direction.

WELCOME TO WASHINGTON, REPRESENTATIVE DING

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. EMERSON. Mr. Speaker, the Republic of China's announcement of her former Foreign Minister Ding Mou-shih to succeed Dr. Fredrick Chien as her Washington representative was greeted with enthusiasm and immediate approval by Washington, given Minister Ding's eminent experience and credentials.

Ever since the founding of the Republic in 1911, the Republic of China has always sent her top diplomats to represent her in the United States. Distinguished ROC ambassadors to Washington include such luminaries as Dr. Hu Shih, Dr. George Yeh, and Dr. Fredrick Chien. While Hu and Yeh served during periods of normalized relations between the two countries, Chien had the formidable job of representing his country without "official" recognition by Washington. However, Chien's hard work and success are evident in today's strong working relationship between Taipei and Washington.

Minister Ding is uniquely qualified to succeed Chien. Born in 1925 and educated at the Universite de Paris, he has spent his whole career in the foreign service, starting as a specialist in European affairs (1958) and continuing in different posts abroad. He was ROC's Ambassador to the Republic of Rwanda (1965), ROC's Ambassador to the Republic of Zaire (1967), and ROC's Ambassador to the Republic of Korea (1979-82). In addition, he served as First Secretary, ROC Mission to the United Nations European Office (1962); he also served as Advisor and Alternate Representative of the ROC's Delegation to the United Nations General Assembly (1964, 1969-70). From 1975 through 1979 he was Director-General of ROC's Government Information Office, while concurrently serving as Director of the Department of Cultural Affairs of the Central Committee of the Kuomintang.

Minister Ding is no stranger to many U.S. friends. In his capacity as ROC's Administrative Vice Minister of Foreign Affairs (1979) and Political Vice Minister (1983), he was often the host of many diplomatic functions as well as the able spokesman for ROC's foreign policies. In his role as Foreign Minister (1987-88) he helped shape ROC's present policy of continuing economic growth and democratization.

As Taipei's Washington Representative, Ding will continue to articulate and explicate ROC's positions on matters vital to sustaining a vibrant and expanding relationship between the Republic of China and the United States, while at the same time he will help his Government and his countrymen understand United States views on sensitive political and especially trade issues. We who represnt agricultural distirct are particularly anxious to have positive dialog on critical issues; and, certainly those of us who represent those at textile producing districts are anxious that our views on critical trade issues relating to these products have his full understanding and attention.

Representative Ding will have a challenging job in Washington, and we look forward to working construtively with him to the mutual benefit of our respective countries.

THE DIXON AMENDMENT

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. DORGAN. Mr. Speaker, I voted yes on the Dixon amendment to overturn the D.C. statute requiring recognition of groups based on sexual preference. The Dixon amendment provides, in my judgment, broad protection of religious freedom and appropriately overturns the D.C. statute. The Dixon amendment, however, failed. The House then approved by voice vote the Dannemeyer motion to accept the Armstrong amendment. I voted yes on that voice vote in support of the Dannemeyer motion.

It seems appropriate to me that Congress express itself on this question of whether it is advisable to have a statute, like the D.C. statute, requiring a religious organization to recognize groups that condone or promote moral behavior that is not in keeping with the teachings of the religious institution.

TRIBUTE TO F.W. (BILL) NICKELL

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. HUGHES. Mr. Speaker, I rise today to pay tribute to an outstanding Federal law enforcement officer, F.W. (Bill) Nickell, Assistant Director of the Bureau of Alcohol, Tobacco and Firearms. Bill is retiring on October 1, 1988, after 30 years of exemplary service.

Bill's career as a law enforcement professional began as a member of the Border Patrol in Fabens, TX, and culminated as the Assistant Director, Office of International Affairs, Bureau of Alcohol, Tobacco and Firearms in Washington, DC.

During his career with the Border Patrol from 1960 to 1964 he served in Texas, New Mexico, and North Dakota. His career with the Bureau of Alcohol, Tobacco and Firearms began in 1964. His assignments include resident agent in charge, Portland, OR; area supervisor, San Francisco, CA; assistant special agent in charge, Los Angeles, CA; special agent in charge, San Francisco, CA and St. Paul, MN; chief, planning and analysis staff, Washington, DC; Firearms Division, Washington, DC; and Assistant Director, Office of International Affairs, Washington, DC.

Throughout the last 30 years he has served diligently in his law enforcement efforts and has effected, either directly or indirectly, many functional changes in law enforcement strategy. Bill's intellect and imperturbable approach to the complex problems and challenges that face today's law enforcement officer has served as an encouragement to his friends and coworkers.

I am sure my colleagues join me in commending him for his service and wishing him the best in his retirement.

STUNNING CHANGES IN SOVIET UNION

HON. JACK DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. DAVIS of Illinois. Mr. Speaker, I stand before you today to recognize a very important event which has just taken place in the Soviet Union. The stunning changes that have taken place in the status of various members of the Soviet Central Committee constitutes a serious realignment and appears to earmark a sharp move by Gorbachev to strengthen support for his policies.

The sudden removal today of some of the central committee's top leaders, substituted by the promotion of others, leaves questions as to why individuals were either moved in or out of the circle of power. The Kremlin's announcement yesterday that a special session of the Supreme Soviet, the Soviet Union's legislature, will meet on Saturday, adds to the aura of suspense in Moscow.

It appears that those who have been moved "out of the circle" are individuals who have opposed the more liberal moves by Gorbachev, or whom have been known to be associate with hard-line policies in the past. However, Gorbachev, always wily in is politics, did not remove from power all who oppose. He may have doubted his ability to combat a larger, and perhaps more unified, opposition of those displaced.

Those removed from their positions include Gromyko, long associated with the old guard and the opposition to reform, Solamentsev, the chairman of the Party Control Committee, who was also viewed as an obstacle to reform. The most surprising demotion was probably that of Dobrynin, long-time Ambassador to the United States, a fallen star who rose with Gorbachev—only to be dropped by him today. The demotion of Dobrynin signals to the United States how difficult it is for us to judge who stands for what in the Soviet power structure. Certainly, appearances offer little indication in Soviet society of what underlying rumblings may really be taking place.

Those who were promoted also provide a few surprises. Medvedev, a supporter of liberal reforms, was upped from membership in solely the Secretariat to membership in both the Secretariat and the Politburo, the real sign of becoming a "mover and a shaker" in Soviet politics. The same is true for Cheberkov, the head of the KGB, who made a similar move.

It is still too soon to know what ramifications these changes will have, but they certainly suggest a dramatic move by Gorbachev to solidify his own position and to quell his opposition.

These changes are exciting, and I think the world will wait with baited breath to see what it all will signify. However, it is still important to remember that for all the glasnost, and perestroika, the changes that took place today, whatever the underlying differences of opinion, took place under a unanimous vote. There was not a peep of opposition from anybody. The events of today signal a dynamic change in the personnel structure of Soviet politics. However, I do not think that the United States can judge from appearances as to what it will all really mean. Gorbachev is certainly the master of public relations. However, the Soviet blend of advertising is still too much like store 24, a big monopoly, for us to see who the rising competitors might really be.

TURNER'S SYNDROME

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. GALLEGLY. Mr. Speaker, I rise today to bring to my colleagues; attention a rare birth defect affecting women.

Turner's Syndrome is a chromosomal abnormality affecting about 1 in every 2,500 girls born each year. The most visible result of Turner's Syndrome is short stature, but in addition it causes infertility and incomplete sexual development, and in some cases other medical problems.

Beside these problems, women with Turner's Syndrome frequently encounter psychological problems. Because size is associated with age, even mature women with Turner's Syndrome are often treated as children. In addition, because the condition is relatively rare, many women with it may never meet another with the same disorder, which leads to a sense of alienation.

Fortunately, recent medical advances make many of the phsyical conditions treatable. But tragically, many of the girls with Turner's Syndrome are not properly diagnosed until they're too old to completely benefit.

To help women with Turner's Syndrome and their families in southern California, a day-long seminar will take place on October 15 in downtown Los Angeles. Sponsored by the Human Growth Foundation, L.A. chapter, and the Turner's Syndrome Society, the seminar will feature lectures and workshops on the problems encountered by this select group of women.

Experts as Dr. Barbara Lippe, pediatric endocrinologist at UCLA, and Ms. Lynn Tesch of Minnesota, the founder of the society, will discuss the latest developments in the diagnosis and treatment of this condition, and how to improve the future for themselves and their families.

Mr. Speaker, I'm sure my colleagues join me in wishing for a successful seminar on October 15, and in expressing my support and concern for women with Turner's Syndrome, and for their families.

SUNSET LAKE ELEMENTARY SCHOOL—THE NATIONAL AWARD OF EXCELLENCE

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. WOLPE. Mr. Speaker, today I want to pay tribute to an elementary school serving my district—the Sunset Lake Elementary School of Vicksburg, MI. On October 1, 1988, the Vicksburg Community will join in celebration to honor the school for having received the prestigious National Award of Excellence.

The Sunset Lake Elementary School is an example of how dedication and hard work can transform limited resources into excellence. Sunset Lake is a rural school that receives less than half the statewide average in funding, yet its students are provided with a nationally recognized curriculum.

As a former teacher myself, I understand that schools like Sunset Lake are not the result of just good teachers or bright students. Exemplary schools like Sunset Lake are built through a collective effort—one that is the result of parents, teachers, administrators, and the community all working together. It is the people of Vicksburg that have produced a school worthy of national recognition. I am honored to represent a constituency that demonstrates such dedication to the education of its young.

SUSPENDING TARIFFS ON CERTAIN COLORS OF VAT DYES USED IN TEXTILE INDUSTRY

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. SPRATT. Mr. Speaker, today I am introducing four bills which would temporarily suspend tariffs imposed on certain colors of imported vat dyes used in the textile industry. The purpose of this bill is to make American finished dye and textile producers more competitive both in our own markets and abroad. At present, the cost of producing finished dye and textiles is higher for American companies than their foreign competitors because of the tariffs our Government imposes on imported vat dyes. By contrast, foreign manufacturers pay less for vat dye, a savings they can pass on to their purchasers. As a result, it is harder for American producers of textiles and finished dye to compete with foreign manufacturers. In my own district in Rock Hill, SC, I have a company with about 24 employees making finished dyes. This company is struggling to compete with foreign manufacturers who also make finished dyes because they buy vat dyes at cheaper prices. I am introducing my bill today to protect the jobs of this South Carolina company as well as all the other American businesses which make or use finished dyes.

Tariffs on vat dyes were adopted by Congress at a time when our Nation produced dyes of various colors. Since these tariffs were enacted, however, American companies have ceased production of most, but not all, types of vat dyes. In drafting these pieces of legislation, I tried to include only dyes which American manufacturers neither currently make nor have plans to make. At least one informal survey of American vat dye manufacturers, initiated at my request, has already been conducted to determine whether the dyes covered by this legislation are made domestically so that my legislation could include only those dyes made overseas. Before the House Ways and Means Committee begins consideration of these bills, the International Trade Commission and the Commerce Department will be conducting a formal industry survey as part of the review of these bills. I am pleased that this survey will be conducted because it will provide a definitive list of which dyes are made in America and I will support modifications of these bills to reflect the results of the survey.

These four bills are important to protect American jobs and to maintain American competitiveness with foreign companies. Failure to pass these bill could mean that the jobs of Americans and I urge the Congress to approve the measures.

LITHUANIAN CATHOLIC RELIGIOUS LIBERTY GROUP PROTESTS SOVIET VIOLENCE

HON. JOHN MILLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. MILLER of Washington. Mr. Speaker, Representative EDWARD FEIGHAN and I, as cochairmen of the Lithuanian Catholic Religious Liberty Group in the House of Representatives, strongly protests and condemns the violent breaking up of a demonstration in Lithuania to mark the 49th anniversary of the signing of the second secret protocol to the Molotov-Ribbentrop Pact. In this protocol Nazi Germany agreed to transfer Lithuania to the Soviet sphere of influence paving the way for the Soviet annexation of Lithuania of 1940. The demonstration was staged by the Lithuanian Freedom League, an organization advocating Lithuanian independence.

According to eye-witnesses, as reported by the Lithuanian Information Center, the rally was attended by at least 25,000 participants, with approximately an additional 200,000 people gathered in the surrounding area. Vytautas Bogusis, a spokesman for the league, stated:

> They beat everyone, even children and old women. * * * People scattered in all directions, but then regrouped and came back shouting "facist occupiers out of Lithuania!"

The police, armed with helmets, shields, and truncheons, countered with more attacks.

According to demonstration speaker Fr. Robertas Grigas, police forces withdrew at 8 p.m. to Gediminas Hill, where, it was rumored, protestors would attempt to raise the national tricolor flag of Lithuania. The Sovet Lithuanian flag presently waves atop a castle on Gediminas Hill.

When the police withdrew, masses of people returned to the square, said Grigas, citing eyewitnesses estimates of 15,000 to 25,000 participants. According to Grigas, the demonstration was allowed to proceed without incident, though speeches were often interrupted by applause and chants of "Lithuania will be free!" The demonstrators dispersed peacefully at 9:15 p.m.

As cochairmen of Lithuanian Catholic Religious Liberty Group, we call upon our colleagues in Congress, the administration and all people who support freedom and self-determination for the Baltic nations of Estonia, Latvia, and Lithuania to speak out forcefully against these repressive actions taken by the Soviets against the Lithuanian people.

As President Reagan himself said in 1983 in reference to the Baltic peoples

> We cannot remain silent in the face of the continued refusal of the government of the USSR to allow these people to be free. For this reason, the government of the United States has never recognized the forced incorporation of the Baltic States into the Soviet Union and will not do so in the future.

Now is the time for the U.S. Government to reaffirm its commitment to this policy by speaking out forcefully and unequivocally against the recent acts of violence in Lithuania.

THE NATIVITY OF THE THEOTOKOS ORTHODOX CHURCH

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mrs. BENTLEY. Mr. Speaker, in the past I have had the great pleasure to salute the anniversaries of many churches. Last week I honored one which turns 250 years old this year. Now I have the opportunity to commemorate the groundbreaking ceremony for the Nativity of the Theotokos Orthodox Church. It's not an old church; nor is it as well known as some other churches. Yet it is very special for one very simple reason.

Mr. Speaker, this church has a congregration rich in spirit, so October 2 will truly be a wonderful day for all. In addition, His Grace Bishop Antoun, Auxilliary Bishop of the Antiochian Orthodox Christian Association of North America, shall be the honored guest. the fact that such an important man is willing to attend a groundbreaking ceremony for such a small church truly demonstrates the importance of this day. It is only right that I tell the story of this wonderful little church here.

The Nativity of the Theotokos was founded in 1968. At first it only had 13 members; now 50 families make up its congregation. This still may seem like a small number, yet for a church with no permanent house of worship this isn't too bad. For 20 years the congregation has met in a series of temporary locations. This is a testament to the devotion of its members. One common mission—not stained-glass windows and a beautiful altar—has kept these people united in worship.

The church has also managed to engage in a number of charitable activities. Last Christmas 300 pounds of food were collected for the poor. Forty-five people were treated to a full course holiday meal. It has also served its community through such programs as the Men's Fellowship Club, the Ladies' Society, and the Youth Group. Under Rev. Father George Romney's leadership over the past 8 years these activities have steadily increased. In fact, this church has done more over the past 2 decades than many organizations have done in 10.

Mr. Speaker, It's been a long time coming, but now this Orthodox group finally is going to get its own building. To Pastor Romney as well as all the parishoners of the Nativity of the Theotokos Orthodox Church, I send my most sincere congratulations and best wishes for a job well done.

ANTHONY R. HAMILTON

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. GALLEGLY. Mr. Speaker, we all remember the classic scene from the movie, "The Graduate," in which Dustin Hoffman was pulled aside and told that the secret to success in the world was plastics.

Well, with all due respect to those in the plastics industry, I'd argue that perhaps the most important field today is not plastics but electronics.

For it's electronics and computerization that have revolutionized the world in the past 25 years, in areas ranging from consumer products to medicine to defense and space technology.

But those electronic components and computer products would be useless if they didn't get from where they were manufactured to where they are used. Thanks to people like Anthony R. Hamilton, they do.

Tony Hamilton, since 1980 the chairman and chief executive officer of Avnet, Inc., is often called the "Father of Distribution." He has won numerous awards and recognitions, including the Electronic Business "Executive of the Year—Distribution" award for the past 3 years and the NEDA "Lifetime Achievement Award."

Tony struck out on his own in 1957 when he left his position as director of purchasing for Lear, Inc. to form a manufacturer's representative company. Within a year, he became franchised to distribute the General Electric line of tantalum capacitors, thus beginning Hamilton Electro Sales.

In 1961, the company went public, and a year later, it merged with Avnet, Inc. and became part of Avnet's Electronic Marketing Group. In fiscal 1987, the group reported sales of more than $1.8 billion, while Avnet, Inc. reported sales in excess of $1.5 billion.

For his lifetime of achievement, Tony Hamilton will be presented with the Free Enterprise Award by the San Fernando Valley Business and Professional Association on October 14, 1988. He joins such luminaries as Andy and Dolly Granatelli, Mary Kay Ash, H.F. "Bert" Boeckmann, Walter Knott, and President Ronald Reagan in receiving the award.

Mr. Speaker, the free enterprise system has made America the great Nation it is, and it's people like Tony Hamilton who make the free enterprise system the engine for economic progress that it is. I'm sure my colleagues join me in saluting him for earning this well-deserved honor.

GREG BARTON—DOUBLE GOLD

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1988

Mr. WOLPE. Mr. Speaker, just moments ago I watched a young man from Homer, MI, win his second gold medal of the day in the Olympic games. Greg Barton is a constituent of mine and although the hour is late and we're all feeling a little weary, it is nice to know that in the tiny town of Homer there is joy, celebration, and dancing in the streets. Greg Barton is an exceptional young American. Four years ago he won a bronze medal in the same kayak competition at the Los Angeles Olympic games. Today he becomes the first American to ever go for the gold in kayak racing. He epitomizes the spirit and dedication that our young athletes took with them to Seoul. We are proud of Greg Barton. We are proud of all our outstanding competitors for the inspiration they have provided.

I congratulate Greg Barton. Tonight all Americans share in his and Homer's pride.

SENATE—*Monday, October 3, 1988*

(*Legislative day of Monday, September 26, 1988*)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable JOHN BREAUX, a Senator from the State of Louisiana.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Eternal God, Lord of Heaven and Earth, wherever the Bible is known, the Shepherd's Psalm has brought peace, comfort, and blessing to multiplied millions, generation to generation, for more than two millenia.

Thank You, Lord, for this exquisite gift. May its priceless promise infuse Your servants in the Senate this week with the "peace that passeth understanding * * *."

"The Lord is my shepherd; I shall not want. He maketh me to lie down in green pastures: he leadeth me beside the still waters. He restoreth my soul: he leadeth me in the paths of righteousness for his name's sake. Yea, though I walk through the valley of the shadow of death, I will fear no evil: for thou art with me; thy rod and thy staff they comfort me. Thou preparest a table before me in the presence of mine enemies: thou anointest my head with oil; my cup runneth over. Surely goodness and mercy shall follow me all the days of my life: and I will dwell in the house of the Lord for ever."—Psalm 23.

Thank you, Lord, Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER**. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 3, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN BREAUX, a Senator from the State of Louisiana, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. **BREAUX** thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The **ACTING PRESIDENT** pro tempore. Under the standing order, the majority leader is recognized.

THE CHAPLAIN'S PRAYER

Mr. **BYRD**. Mr. President, I thank the Chaplain for his prayer, for his reference to that great, old book our mothers and fathers read, the Holy Bible.

I have always liked the name of James as a masculine name, one reason being that it was under King James of England, the first of the Stuarts, that a commission was appointed and the result of which was the publication of the King James version of the Holy Bible, in 1611.

The Bible was the guiding light of our forefathers, and we can see throughout the pages of American history the strong spiritual awareness running as a continuing, unbroken thread on the part of our forefathers, the people who founded this Republic, continuing from the earliest days and prior even to the founding of the Republic, down to the present moment.

I have also found the 23d Psalm, quoted by our beloved Chaplain, again to be a most reassuring, comforting message. Most of us learned that psalm from the earliest days of our childhood. It has always been a favorite of millions and millions of people, and it will continue to be.

I thank the Chaplain for reviewing it for us today.

RESERVATION OF TIME OF BOTH LEADERS

Mr. **BYRD**. Mr. President, I ask unanimous consent that the time of both leaders be reserved.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The **ACTING PRESIDENT** pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

NEW YORK TIMES WRONG: SOCIAL SECURITY SHOULD NOT ERODE WITH INFLATION

Mr. **PROXMIRE**. Mr. President, Social Security paid out over $200 billion last year. Here is a program that is not means tested. So the payments went out without reference to need. Middle income as well as rich beneficiaries received full benefits. In a lead Sunday editorial the New York Times contends that this is wrong. It argues that "In an economy with limited resources, everyone can't be entitled." Is the New York Times right? No, the New York Times is wrong. It is dead wrong. Social Security is not a welfare program. It is in no sense a handout program. It does not exist solely for the low income needy. Social Security is a truly national program covering the overwhelming majority of American workers. Virtually every American who is gainfully and legally employed during his lifetime pays into Social Security. Today the vast majority of those gainfully and legally employed pay a whopping, effective 15 percent of their income into the Social Security fund. I say "an effective" 15 percent because the 7½ percent paid from wages is matched by an equal 7½ percent of the wage paid by employers. Absent the Social Security system the worker would take home the full 15 percent.

Now let us take the time to consider just what that 15 percent constitutes. Is it just another Federal tax? No. It is not. It is an extraordinarily regressive tax. Think of it. Here is a tax on the very first dollar earned. There is no deduction allowed. There is no exemption. The poorest worker who earns a bare $5,000 per year and lives in grinding poverty, pays the same percentage of his income as the worker who earns $45,000 per year. And that is only the beginning of this tax regressiveness. The Member of the Congress who earns about $90,000 per year pays nothing on that part of his income that exceeds $45,000. So a Member of the Congress pays only half as much of his income in Social Security taxes as a poverty level worker earning $5,000 or $6,000 per year. And of course the corporation chief executive officer who is paid $450,000 annually pays only one-tenth as much of his income as those who earn less than $45,000 annually. And the really wealthy person who receives all of his or her income from interest, dividends, and capital gains pays literally noth-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

ing into the Social Security reserve. How do we justify such a conspicuously and offensively regressive tax? We justify it because benefits are paid on a correspondingly progressive basis. Beneficiaries receive back roughly—very roughly—in accordance to what they paid in. Senators who paid a Social Security tax on only about half of their senatorial pay receive a return related not to their pay but to their Social Security contribution. The wealthy coupon clipper who has contributed nothing to the Social Security reserve receives no Social Security benefits.

The Social Security payroll tax is not really a tax. It is forced savings. The Federal Government sets aside a proportion of American workers' wage earnings during workers' working years. The Government invests those earnings during those years. When the worker retires the Government returns those earnings plus the compounded interest they have earned to those workers. What possible justification is there for spending this Social Security reserve—any of it—for any purpose other than a return of savings? There is absolutely none.

The New York Times proposes that the benefits might be taxed like other incomes. Fair enough. The workers' earnings have accumulated interest earnings. The tax imposed would presumably be the progressive income tax. There should be no objection. But then the Times proposes that the Government cap the payment levels or that it allow the benefit payments to erode with inflation. The answer is no, no, and no again. This would convert Social Security into a welfare, handout system. And the only purpose of such a limit on payments would be to build a bigger Social Security reserve for future beneficiaries. But the Social Security reserve this year will bring in $38 billion more than it pays out. And this excess of income over outgo will grow rapidly for at least the next 30 years. By the year 2015, the Social Security payroll tax will yield $500 billion. That is right, half a trillion dollars in a single year. And by the year 2020 the Social Security reserve will total more than $10 trillion. I repeat $10 trillion.

So what point is there in refusing to pay the full benefits to Social Security recipients—when the benefits consist of returning those beneficiaries the part of their earnings that had been set aside as forced savings? The average monthly check for the Nation's 35 million Social Security beneficiaries averages a meager $500 per beneficiary. For some it is a few hundred dollars higher. No one is getting rich from Social Security. The maximum payment is a modest $12,000 per year. Many recipients do have outside income. In some cases that outside income is substantial, maybe very substantial. Does this justify a determination that the portion of a worker's pay that was set aside by Government fiat during his or her working life as his or her savings should not be returned to retired workers because those workers had, one way or another, set aside other money during their working life? Of course not. Just possibly if the Social Security System were in deficit and constituted a drain on the Federal Government an inflation erosion on benefits might be justified, but with a looming $10 trillion surplus? No way.

Mr. President, I yield the floor.

The ACTING PRESIDING pro tempore. The Senator from Wisconsin yields the floor.

The minority leader.

BICENTENNIAL MINUTE

FEBRUARY 20, 1987: KANSAS SENATOR PREPARES "ORATORICAL ERUPTION"

Mr. DOLE. Mr. President, 91 years ago, the February 20, 1987, edition of Harper's Weekly displayed on its cover an eye-catching illustration captioned: "The Senator from Kansas Preparing an Oratorical Eruption." Senator William Peffer appears in the center of the illustration, seated at his desk in the Senate Chamber. Surrounded by mountains of papers, he is attended by two young pages bearing large books. Sporting a waist-length beard, the Kansas Senator appears lost in his thoughts while drafting a major speech. This illustration reminds us that prior to the 20th century, the Senate Chamber served as the principal office space for many Senators.

A journalist and former editor of the Kansas Farmer, William Peffer belonged to the Populist Party and served in the Senate from 1891 until March 1897. As a third-party member, he had little influence in the Senate. He was known as a persistent and somewhat tedious speaker on a wide variety of subjects. One biographer assessed him as follows:

> His tall, well-rounded figure, his unusually long and wavy beard, which he combed constantly with his fingers as he talked, his heavy, dry, excessively statistical speeches, his absence of humor, and his deadly earnestness made him a conspicuous figure in the Senate, and one which in caricature came to typify populism.

Soon after Peffer left the Senate, he composed these memorable lines. They are as applicable today as they were nine decades ago. Peffer wrote:

> The Senate is a school. The world's history is its textbook. The record of a single day's proceedings frequently shows a range of work as wide as christendom. No man well made up can be there long, if he will but listen, without himself becoming wiser and better. His opportunities for usefulness multiply as the new days come to him; his intellectual horizon expands, his view broadens and he grows stronger.

EISENHOWER COIN BILL TO BE SIGNED BY PRESIDENT REAGAN

Mr. DOLE. Mr. President, at a White House signing ceremony later today one of America's great heroes—and one of my home State's true giants—will be memorialized thanks to a bill authorizing the minting of a new silver coin.

The coin will help celebrate the 100th birthday of Dwight David Eisenhower, the man from Abilene, KS, who served his country and the free world with honor and distinction as the allied commander during World War Two and as our 34th President.

The $1 silver coin issued at no government cost, and whose proceeds will go toward reducing the Federal deficit will be available at the first of the year, 1990.

It is only one of many special commemoratives planned for the century-celebration of President Eisenhower's birthday. I am honored to play a role in these events, both as a Senator from Kansas and also as one of thousands and thousands of other American GI's who served under Ike in Europe.

I thank my colleagues in this Chamber who helped make today's signing ceremony possible: My colleague from Kansas, NANCY KASSEBAUM, and Senator JOHN HEINZ of Pennsylvania, who was an original cosponsor of the bill and also helped secure the endorsement of the Banking Committee.

As chairman of the Eisenhower Centennial Commission, I would like to thank my colleagues, and look forward to the events ahead in remembering one of America's greatest heroes.

I was fortunate enough to meet the President in the Oval Office a few weeks after I was elected to Congress.

A picture from that meeting still hangs in my office today. When I became majority leader of the Senate in 1985 I selected two portraits which are now hanging in my private office. I chose the two Presidents who have had the greatest influence on me, Abraham Lincoln and Gen. Dwight David Eisenhower.

I have a feeling I am not alone.

THE SENATE'S AGENDA

Mr. DOLE. Mr. President, I will just say as I look around on this side of the aisle, it is our hope that come Saturday we will all be home or somewhere. As the majority leader has indicated, we have the drug bill, the tax bill, and we have an AIDS message that gets from the House that will be pending, and maybe other matters.

I think based on a meeting we had in the majority leader's office on Friday, we have now worked out some compromise on Federal judges which brings with it a whole host of legislation, as many as 14 different bills that have been agreed upon if we can work out the problem on the Federal judges.

So there are a number of items that will probably go fairly quickly, but I do believe that the priority, as I view it, is the drug bill certainly, and in that case there is a bipartisan effort to whittle down the amendments.

I have instructed Senator Rudman, who is the leader of our tax force on this side, to see if he could get Republicans to agree that they would only offer seven amendments. If the Democrats could get a similar agreement there would be seven amendments on each side on the drug bill. We will agree on a floor package. I believe we can dispose of that bill. It will probably take some time

On the Tax Technical Corrections Act, having been and still a member of the Finance Committee, that presents more difficulties. There are 99 amendments, as I understand it, now pending and we have had all weekend to think up more. It would be a very difficult job.

I think Senator Baucus of Montana and Senator Packwood are working in a meeting today to see if they can reduce the number of amendments.

That bill is important to many, many individuals in this country and many, many businesses in this country.

So I would hope that that could be disposed of.

I know that we also have a cloture vote today on the motion to recommit, and that involves parental leave, day care, and child pornography.

I will only say to the majority leader that we will be as cooperative as we can knowing that most of us on this side are hoping we will be out of here by Friday.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Kansas reserves the remainder of his time.

Who seeks the floor?

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATOR DANIEL J. EVANS

Mr. BYRD. Mr. President, with the conclusion of the 100th Congress, the U.S. Senate says farewell to Senator Daniel J. Evans—a successful man of multiple talents who has many and various accomplishments to his credit.

With an undergraduate and graduate degrees in civil engineering from the University of Washington, he has had an active and productive career as an engineer. He has been a partner in a private structural engineering practice in Seattle and in 1965, was named Washington State's "Engineer of the Year." From 1981 to 1983, he served as chairman of the Pacific Northwest Electric Power and Conservation Planning Council.

He has had an interesting and active military career. He was in the U.S. Naval Reserve from 1943 to 1946. Later commissioned as an ensign, he served on an aircraft carrier in the Asiatic-Pacific theater. In 1951, he was called to active duty during the Korean war where he served as operations officer with the rank of lieutenant. During the peace negotiations at Panmunjom, he served as an aide to Adm. William K. Mendenhall.

And, as everyone in this Chamber is aware, he has had an active and productive political career. This successful segment of his life began in 1956 when he was elected to the Washington State House of Representatives.

Nine years later, he was elected Governor of the State of Washington. He was twice reelected to that office, making him the only person in the history of that State to win three consecutive terms as Governor.

A look at his record reveals that he was an active and productive State Chief Executive. He secured passage of many and various forms of legislation, especially numerous environmental laws. And he was very productive in improving the quality of education for the people of his State.

Because of his success as State Chief Executive, he was selected as chairman of the Campaign Committee of National Republican Governors, chairman of the Western Governors' Conference in 1969, and chairman of the National Governors' Conference in 1974. He was also selected as a member of the Executive Board of National Republican Governors and as the keynote speaker to the 1968 Republican National Convention.

In 1977, he left public service to become president of Evergreen State College.

Six years later, however, he returned to public service. In September 1983, Gov. John Spellman appointed him to fill the seat of the late Senator Henry M. Jackson. Senator Evans retained that seat in November 1983, by winning a special election.

In the U.S. Senate, Senator Evans has shown an interest and expertise in a broad range of issues. He has served on the Senate Energy and Natural Resources and Foreign Relations Committee, and as vice chairman of the Select Committee on Indian Affairs.

He has sponsored and in other ways supported legislation to promote American education, to protect the American environment, and to help the cause and ease the plight of the American Indian.

Several times, especially in the area of foreign policy, his personal convictions have put him at odds with an administration of his own political party, and he has voted against the administration's position.

This never seemed to distract from the administration's awareness of the abilities and experiences of Senator Evans as he has had numerous Presidential appointments including the Advisory Commission on Intergovernmental Relations, the National Center for Productivity and Quality of Working Life, and the Commission on Vietnamese Refugees.

As an engineer, educator, Governor, and U.S. Senator, Senator Evans has truly had an active and productive career. I am sure that in whatever he does after he leaves the Senate, he will continue to be active and productive. as Senator Evans returns to private life, my wife Erma and I wish him and his lovely wife Nancy the best in their future endeavors.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended for 15 minutes and that Senators may speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Chair recognized the Senator from Pennsylvania.

SCHEDULING THE DRUG BILL

Mr. SPECTER. Mr. President, I seek the floor this morning to discuss activities the Senate is about to engage in, and certain scheduling matters; and to express my views on the motion for cloture on the motion to recommit the parental leave bill and, as added to it, the obscenity bill.

At the outset, I again offer my congratulations to the distinguished majority leader for the activities of the Senate under his leadership on Friday last, in completing action on all the appropriations bills before the close of the fiscal year. However close it might have been, it was a success and it is good for the Congress, good for the Senate, good for the majority leader, good for the Republican leader, good for all the Members that we were able to complete our task on time this year and the President was able to sign the remainder of the 13 appropriations bills on Saturday so that the Federal Government could go ahead without any loss in time.

Mr. President, it is the hope of this Senator that the Senate will move promptly, as promptly as possible, to the consideration of drug legislation. Mr. President, it is my intention to vote against cloture on the motion to recommit the parental leave bill because I believe that the posture of that legislation is a procedural snarl. There are procedural complexities compounded in that effort because, if cloture is obtained on the motion to recommit the parental leave bill, then the matter will go back to committee. There the intention is to have added to the pending legislation the day care bill.

If the motion for cloture is successful, there will be a period for protracted debate before cloture is actually invoked and it is the suggestion of this Senator that that procedure is totally counterproductive.

It is my suggestion, Mr. President, and I say this with deference because I understand that the scheduling is up to the distinguished majority leader, that we proceed to complete consideration on the parental leave bill. As this Senator said on Friday morning, our last day in session, it was my hope that we would have been able to proceed last Thursday. The parental leave bill has had added to it the child pornography bill, a very important piece of legislation. And on Wednesday last this Senator addressed certain constitutional concerns on the child pornography bill which this Senator was prepared to address on Thursday with amendments, but the procedural status of the Senate on Thursday precluded that.

It is the sense of this Senator that if the procedure is worked out to recommit the parental leave bill with child pornography already on it, and send it back to the committee to have day care added, that the ultimate result would be that nothing would be enacted, not parental leave, not child pornography, not day care. And I raise again, Mr. President, the element of political considerations as contrasted with the question of public policy considerations as to whether the motivation here is really to get this legislation enacted or whether the motivation is to have political blame to affix to the Republicans, really looking to the election as opposed to the completion of the business of this body.

Last week, Mr. President, I called attention to the consideration, at least, of this Senator, that had the Senate stayed on the minimum wage bill we would have completed action on that bill. A week ago last Friday in the cloture vote 56 Senators voted for cloture, including this Senator. As I outlined last Friday, I did not vote for cloture on the preceding day because I had filed an amendment involving Wheeling, Pittsburgh Steel Co., on a proposed foreign sales, which foreign buyers were likely to purchase. They ultimately did not. But that amendment would not have been germane had cloture been invoked on the previous day, on Thursday. This Senator voted against cloture on Thursday, but having filed the amendment in time to have it considered, this Senator voted cloture on Friday.

At that time, there were some 56 Senators voting in favor of cloture as it was announced from the Senate floor by Senator KENNEDY, three Democrats were absent and it was virtually certain, if not totally certain, that cloture would have been invoked had there been another cloture vote.

The distinguished majority leader and this Senator had a discussion on the matter on Friday last and there was some issue as to whether, had cloture been invoked, there might have been a subminimum wage and this Senator expressed the view that had this been the case it would have been the will of the Senate.

This Senator had already gone on RECORD, as had many other Senators, some on this side of the aisle as well as this Senator, in opposition to the subminimum wage. Certainly, the subminimum could not have passed without substantial support on the other side of the aisle from Democratic Senators. But it seemed to this Senator that the issue on minimum wage should have been taken up and should have been resolved. Whatever the will of the Senate would have been.

Whether it was to the liking of this Senator, as I say I was not for the subminimum, but had that been the will of the Senate so be it.

There is general agreement, Mr. President, that there should have been a minimum wage bill. Really from all quarters, including Vice President BUSH. And I submit that the interests of the union would have been well served had we proceeded to complete action on the minimum wage bill. But this Senator was surprised, Mr. President, to see the blame attached to the Republicans.

The Senator was not surprised to see that contention come from the Democratic Senators. All is fair in the political scene as well as in love and war. But this Senator was surprised to see the media accept that contention and affix blame to the Republicans, which this Senator submits was, simply stated, wrong. That the decision to take down the bill came from the distinguished majority leader and it was not the responsibility of the Republicans.

This Senator is concerned, Mr. President, that the same consequence will attach if we proceed with all the procedural mangle on sending the parental leave back for the addition of child care. This Senator has already indicated, stated his support for parental leave. The original cosponsor was Senator DODD on the original legislation. Subject to substantial modifications I think that the country needs a prenatal leave bill. But it has to be worked out and we have to have time to resolve it.

This Senator is in favor of a child pornography bill, again a cosponsor of that legislation and similar legislation which this Senator had introduced and had very substantial hearings on as chairman of the Juvenile Justice Subcommittee. And on child care, again, there is general agreement that there ought to be legislation.

On the Democratic side, Vice President BUSH has expressed his view that there ought to be legislation on child care. This Senator subscribes to the fact that we ought to have such legislation.

I believe that if we proceed with a motion for cloture on the motion to recommit, spend time on the cloture debate, recommit the bill, and bring it back to the floor, we are going to lose very valuable time and end up not having a parental leave bill, not having a child pornography bill, not having a day care bill. We are going to be spinning our wheels in procedural machinations. That is why this Senator intends to vote against the cloture motion. I urge that we move ahead on the substantive issues.

As I reflected on last week's activities, Mr. President, I wonder how much time we actually spent on the substantive work of the Senate. I have asked my staff to take a look at that issue and to review the time. I will report that later to the body. I do not have that figure before me at the present time. I have a strong sense this body spent very little time on substantive matters last week.

Mr. President, it would be the hope of this Senator, and this is the primary purpose for which I have sought the floor this morning, that we would move ahead to consideration of the drug bill. I say that because notwithstanding the tremendous importance of parental leave, the tremendous importance of child pornography and the tremendous importance of day care, the drug bill is more important than all of them.

We face a problem with drugs in this country which is without parallel in the history of our Nation. We face a problem which is recognized by every one of the 100 Senators and every one of the 435 House Members and virtually every one of 250 million Americans to be a most pressing problem, probably the most pressing problem facing the Nation. That is hard to say when we have the problem of the fiscal deficit, hard to say when we have the problem of the trade deficit, hard to say when we have the problem of the arms race. Those are all issues of enormous importance. But the drug issue probably is the most important matter which we ought to undertake.

That is why, Mr. President, it seems surprising to this Senator that we do not emphasize this issue as a priority item. We certainly have not done so. Why do I say that? Because we have finished the fiscal year, we have finished September 30, the day originally targeted by the distinguished majority leader for adjournment and we have not yet taken up the drug bill. It comes up not even today as we go into the month of October.

It is a complicated bill. It is going to take some time in the Senate and it is going to take some time in conference. With the October season upon us, it is questionable how long there will be a quorum in the House of Representatives, as expressed by some of my senior colleagues in this body who have served there.

It is also surprising to this Senator considering the priority of the drug issue, that we will wait until all of the other appropriations bills are concluded to decide how much money is left over. Is it not curious that we spend $1.1 trillion on the financing of the other Federal issues, the other Federal matters, and then wait to see how much money is left over before we take up the drug bill? It would seem to this Senator, Mr. President, that the drug bill being either the No. 1 priority or, at worst, the No. 2 priority or at some stage the No. 3 priority, that we would have taken up the drug bill with the relative importance, if not the greatest importance, of this issue before we had spent all of the Federal budget?

Last week the issue was articulated on the floor of this body that we could not take up the drug bill because we did not know how much money was left over until the Office of Management and Budget told us how much money was left over. I took the floor on Friday morning and said that notwithstanding the fact that we did not know how much money was left, but there were other issues that did not involve money, like capital punishment, like search and seizure which this body could take up and discuss until we found out how much money was available for drugs.

Mr. President, I would say that our priorities in this body are topsy-turvy, upside-down; that the drug matter should have been taken up before we had spent $1.1 trillion and that we ought not be in a posture of asking how much money is left over to see what could be applied to drugs when everyone in this body acknowledges the fact that it is the Nation's No. 1 priority or one of the top priorities of the country.

When you take a look at the kind of money which we are talking about on drugs, $2.1 billion in the House bill, $2.6 million or $2.7 million in the Senate prospective legislation, we are talking about less than one-quarter of 1 percent of the Federal budget. If we rounded off at $2.5 billion, that is less than one-quarter of 1 percent of the Federal budget of $1.1 trillion.

It would seem to this Senator, Mr. President, that we should have allocated that money in advance or, at worst, we should have allocated that money perhaps with an across-the-board cut of one-quarter of 1 percent or even, Mr. President, we might think of an additional tax burden to pay for drugs.

This Senator knows that "taxes" is a dirty word on this floor, but this Senator also knows that "drugs" is a dirtier word on this floor.

The ACTING PRESIDENT pro tempore. The Chair advises that the time for morning business is now concluded.

Mr. BYRD. How much time does the Senator need?

Mr. SPECTER. I would say another 10 minutes. It is hard to say precisely because what I would like to do is discuss the drug bill for a few moments now and I would yield the floor, I say to the distinguished majority leader, if any other Senator comes to the floor and seeks it. We can see on the floor at the moment only the distinguished majoriy leader and I are present. So I would be pleased to yield the floor as soon as anyone else seeks it.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senator may proceed for 10 additional minutes.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. SPECTER. I thank the distinguished majority leader.

I was saying, Mr. President, that this body might even consider additional taxes, recognizing as I have said before my time had expired that the word "taxes" is a dirty word on the Senate floor, a dirty word in any political context. But I also recognize the word "drugs" is an even dirtier word.

I have a strong sense, Mr. President, that the American people would be glad to see an increase of one-quarter of 1 percent of their tax burden if the money were to be directed to the drug problem, not for the other Federal expenditures where there was so much public concern about the propriety or adequacy of what the Congress does by way of the appropriations process.

I am not urging that there be additional taxes. I believe that it is entirely possible in a budget of $1.1 trillion to find one-quarter of 1 percent of that expenditure for the drug issue and that we do not have to wait until every other Federal program is funded before we turn to what is either the No. 1, No. 2, or at worst the No. 3 problem facing this country.

On the subject of the drug issue, as I say, the primary reason for my coming to the floor today is to discuss the drug issue. This Senator and a substantial part of my staff have been working on the drug issue for many months now in anticipation of a drug bill coming to the floor.

Mr. President, I ask unanimous consent that a full text of an extensive statement be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. Mr. President, this is a 47-page statement which my staff and I have been working on for some time—my new administrative assistant, Carl Feldbaum, Michael Russell, Bobbi Hornig, Steve Hilton, Margaret Morton, and others. I am unsure as I stand here whether there will be any other time to introduce the statement to make comments about it because I do not know if, as, and when, or if, as, or when this body will take up the drug bill.

I would like to comment briefly about it, Mr. President, and I thank the distinguished majority leader for extending my time. It is hard to pinpoint the time needed to go through this entire statement. To read it will probably take more than an hour. In the few minutes I have remaining I would like to hit the highlights of what I think this country ought to be doing on the drug issue.

I might say preliminarily, Mr. President, that this statement is prepared on the assumption that a drug bill has been prepared and that a drug bill has been introduced. That has not been accomplished yet. I have been working with other Senators, and let me acknowledge, Mr. President, that a prodigious amount of work has gone on on both sides of the aisle by many Senators. Perhaps most Senators in this body have spent a substantial amount of their time in the course of the past many weeks preparing discussion on this bill. So it is not just my staff and I and this 47-page statement representing the work of only one Senator and one Senator's staff but a lot of time and effort has gone into consideration by Senators on this side of the aisle meeting with Senators on the other side of the aisle to prepare a core bill. It would be my hope, I say again, that this matter will be taken up and taken up promptly.

Mr. President, there are many issues to be addressed in a drug bill, and the death penalty and search and seizure, which I earlier mentioned, are only two of the problems. This Senator believes that the major emphasis now has to be addressed to the demand side because of the great difficulty in making a serious inroad on the supply side. I say this after having recently made a trip to Colombia, Bolivia, and Peru to get a firmer handle on what is going on in those countries on the supply side.

I believe that we need substantial resources dedicated to education and to rehabilitation, and these approaches are set out in some detail in my statement.

I believe that legislation ought to be both tough and pragmatic. It ought to be tough in dealing with the criminals who sell drugs, and it ought to be pragmatic in dealing with the users who may benefit from rehabilitation. Also it ought to be caring in dealing with the children who can certainly benefit from education, and not just the children of tender years in the second, third, fourth, and fifth grades, but in the youngsters in junior high school and in high school who could benefit from some real education programs stressing awareness of the problems of drugs.

Mr. President, I believe we need tough sentences for tough criminals who are in the drug rackets. I believe we need the death penalty for murders committed by drug dealers in the course of their drug activities.

The Federal Government does not have a constitutional death penalty at the present time, although 16 years have elapsed since the case of Furman versus Georgia, which was handed down by the Supreme Court of the United States in 1972. In that case the Supreme Court struck down the Georgia death penalty, and I believe others because, as the Court determined, those statutes did not comport with constitutional standards as interpreted by the Supreme Court in that case. The Supreme Court said that there had to be a consideration of aggravating and mitigating circumstances so that the death penalty was not applied in a discriminatory manner.

Since 1972, the Federal death penalty statutes as applied to a variety of offenses have not been brought up to date to comply with that Supreme Court decision.

When we talk of the death penalty for drugs, I think we are talking about an important subject, but I believe we ought to be talking about updating the death penalty on the Federal laws which call for it at the present time where it cannot be imposed because the statute does not comport with the constitutional standards.

This Senator believes that the death penalty is appropriate because of the experience that I have had as district attorney of Philadelphia for some 8 years and as an assistant district attorney before that, seeing where the presence of the death penalty and the possibility of the imposition of the death penalty has deterred individuals who planned robberies, has deterred individuals who planned burglaries from taking weapons with them for concern that the weapons might be used and they might face the death penalty.

To be tough on the drug dealers, we should make greater use of the career criminal bill enacted in 1984 and modified to include drug sales in 1986, where there is a provision for a mandatory sentence of 15 years to life for anyone found in possession of a firearm who has three prior convictions on serious charges, including drug offenses. That statute has been used very effectively by the Bureau of Alcohol and Tobacco, and the details are specified in my statement.

At the same time, I think our drug bill ought to be pragmatic in providing rehabilitation for first and some second offenders where it is possible to do so. It is no surprise to see that when a functional illiterate is released from jail without a trade or skill and that functional illiterate is a drug addict, that functional illiterate drug addict returns to a life of crime. It is absolutely no surprise at all. We ought to undertake in this country to see to it that there are realistic rehabilitation programs to deal with literacy training and job training and rehabilitation on the drug problem. Where we have people committing other offenses and becoming career criminals as defined under the Federal Armed Career Criminal Act, then we ought to throw away the key. But in order to do that, we first ought to take a stand to have rehabilitation where it is possible.

One other brief comment, Mr. President, and then I shall yield the floor. I see another Senator has come to the floor, and as I said I would not continue this presentation if another sought recognition or had business to conduct.

It would be my suggestion that we ought to utilize resources on the rehabilitation side. Some 20 years ago when I was district attorney of Philadelphia, I undertook to participate in the marathon program sponsored by Daytime Village in Swan Lake, NY. It was a fascinating program. I arrived at Swan Lake on a Friday afternoon. They took us on a vigorous tour of the premises not knowing at that time that they wanted to tire us out, and the marathon went from midnight for 26 hours. There was a brief period of time for sleep of 7 hours, and it went on again for the better part of 24 hours.

The **PRESIDING OFFICER**. The time of the Senator from Pennsylvania has expired.

Mr. **SPECTER**. I thank the Chair and I thank the majority leader for the time.

Mr. **BYRD**. Mr. President, I ask unanimous consent for an additional minute so the Senator may finish his statement.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **SPECTER**. I thank the majority leader. I would just conclude by saying it was an extraordinary experience to participate in this rehabilitation program at Swan Lake, which was directed at drug addicts in a very intensive fashion. This was only one of many programs.

As this Senator has traveled through Pennsylvania and has visited drug rehabilitation centers in many places—Pittsburgh, Lancaster, Reading, Allentown, and Philadelphia—I have seen the opportunity for rehabilitation to work. Statistically, we do not know yet what is successful and what is not, but we are on the track. It would be my hope that we would address this issue in our legislation.

Mr. President, my prepared statement takes into consideration the interdiction program and a wide range of other issues, and I will return to the floor, if the drug bill comes up, to amplify these statements, but I wanted to make them this morning because of my concern about this drug issue and my interest in seeing this body take up this very high priority item.

I thank the Chair and again express my thanks to the distinguished Senator from West Virginia, the majority leader, Mr. BYRD, for affording me this time.

EXHIBIT 1

OMNIBUS DRUG BILL OF 1988, STATEMENT BY SENATOR ARLEN SPECTER

Mr. President, once again an athlete has raised our consciousness about drug abuse, and paid dearly for it.

Canadian Ben Johnson won the Olympic gold metal for his 100-meter dash in stunning world-record time on September 24, 1988.

He was an international hero—for about 48 hours.

Johnson failed a drug test administered after his victory. The very next week, he was stripped of his Olympic gold.

Now he's an international tragedy.

The disclosure of his drug use—or drug misuse—was an embarassment not only to Johnson, but to Canada, the Olympic, and to athletes worldwide.

He is a fallen hero. Why? Because he couldn't say no to drugs.

Two years ago another athlete, University of Maryland basketball star Len Bias, paid dearly—with his life—for cocaine abuse.

The Bias incident was recognized by Congress in its passage of major anti-drug legislation in 1986. It is ironic that the Ben Johnson episode—involving steriod use—occurred as we are about to consider another omnibus anti-drug package.

Perhaps this latest tragic incident of drug misuse will heighten the public's awareness that using drugs has a high price. Perhaps it will also help educate the public that drug abuse involves more than hard substances like cocaine, crack and heroin. It means prescription drugs as well.

In light of this sorry episode, with international and national attention focused on drugs and their abuse, it is timely and pertinent that the Congress consider the Omnibus Drug Bill of 1988.

I support bipartisan drug legislation.[1] I believe a compehensive drug bill is necessary to take a forceful step forward in this nation's battle agaisnt the growing tragedy of drug abuse and drug-related crime. This Senator will pursue a number of issues in addition to a core drug bill including international efforts for crop eradication and drug interdiction, domestic law enforcement efforts, and the lack of vital statistics in rehabilitation programs.

During a recent tour of Latin America, I learned firsthand the extent of the illicit drug problem and I investigated the effectiveness of United States foreign assistance in stemming the flow of drugs into the United States. My conversations with foreign officials and United States personnel working in the field disclosed deep concern among Colombians, Bolivians and Peruvians that additional action must be taken jointly with the United States and other nations to combat the massive drug problem in their countries. However, the conclusion derived from my trip is that our primary legislative focus should be on reducing the demand for drugs in the United States because of the enormous, if not insurmountable, difficulties in significantly reducing the supply of drugs abroad.

Major illicit drug producing and transit countries have significant incentives to continue one of their sources, if not their most lucrative source, of cash crop revenue. For example, more than 50 percent of the agricultural exports of Mexico, Bolivia, Peru and Colombia, all of which receive U.S. foreign aid, are comprised of illegal drugs.

Clearly, illegal drugs comprise a large percentage of the agricultural exports of many major illicit drug producing and transit countries. The enormous profits reaped by foreign drug dealers and drug king-pins provide financial support to thousands of nationals. This income has become an integral, albeit undesirable, part of local and national economies, which, in turn, serves as a significant disincentive to promoting successful eradicationa nd interdiction of illegal drugs.

Establishing priorities

I am concerned that Congress and the Executive Branch have not fully considered the drug issue and allocation of funds in the context of setting overall budget priorities. In 1986, for example, Congress passed the Anti-Drug Abuse Act which provided $1.7 billion to fight the war on drugs. This Omnibus bill was the product of a rare six-week drafting period under tight budget restraints imposed not only by the Gramm-Rudman-Hollings deficit reduction bill but also by general end-of-the-year spending limitations. Again, this year Congress is considering an omnibus drug bill. The House of Representatives passed H.R. 5210 on September 22, 1988, which allocates $2.1 billion, and the Senate currently is considering similar legislation. The total amount of funding which would be available for inclusion in the bill was cast into doubt, even as late as August, when reports indicated that the Office of Management and Budget (OMB) underestimated the FY 1989 deficit by as much as $1.2 billion. This "error" seriously constrained the bipartisan drug bill negotiations and necessitated last minute funding discussions.

I long have believed that the federal government should establish crime control, including anti-drug initiatives as a top priority, and as such allocate sufficient funding levels. It is counterproductive to have a $1 trillion annual budget and, in effect, designate the amount of remaining funds to certain anti-crime programs.

To establish priorities for anti-crime programs, on March 23, 1983, I introduced S. 889, a bill which would allocate one percent of the Federal budget to fight violent crime in the United States. This bill was reintroduced as S. 486 in the 99th Congress and S. 411 in the 100th Congress. The essence of this "domestic defense" legislation is to spend approximately $10 billion a year during the next 10 years for a total outlay of $100 billion, with a goal of reducing violent crime in this country by some 50 percent. This represents a concentrated effort to focus greater resources far more narrowly in fighting violent crime. The National Advisory Commission on Criminal Justice Standards and Goals published its "National Strategy to Reduce Crime" in 1973, upon which the "domestic defense" bill is based. The Commission recommended targeting 25 percent and 75 percent of the total funding—one percent of the federal budget—to federal and state programs respectively. Of these two amounts, specific funding percentages then would be allocated to specific programs, such as fugitives ($125 million), new federal prosecutions ($175 million), drug enforcement ($300 million), federal prison construction ($125 million), construction of facilities to house state inmate "overflow" and all state habitual offenders sentenced to life ($175 million), jobs and literacy training for state inmates ($175 million), and drug treatment ($300 million).

The funding priorities recommended by the National Advisory Commission on Criminal Justice Standards and Goals and included in the "domestic defense" bill comprise a plan to allocate specific amounts for specific programs to accomplish specific goals. I believe that such an approach provides predictablity, stability and rationality in the government's approach to a complex national problem. Setting priorities, targeting resources, and identifying goals—as recommended by the National Commission—would greatly improve the present method Congress utilizes in addressing a massive, complex problem.

LAW ENFORCEMENT—DOMESTIC

I am concerned about the problems of drug enforcement since 1959 through my work in the district attorney's office in Philadelphia. My efforts to combat drug abuse continue today in the Senate Judiciary Committee. These effots include targeting the "career criminals" and serious drug offenders through tough, new laws and enhanced federal law enforcement, pushing for construction of additional jail cells to house the growing number of inmates, promoting prisoner rehabilitation, and developing a comprehensive "domestic defense" initiative to fight violent crime in this country.

Armed Career Criminal Act

A disproportionately large number of violent crimes are committed by habitual, repeat offenders, referred to as the "career criminal." During my eight years as District Attorney of Philadelphia, it became evident that approximately two-thirds of the robberies and burglaries in that city had been committed by only 10 percent of the criminal population.

I served on the National Commission on Criminal Justice Standards and Goals, which concluded in 1973 that 200,000 to 400,000 career criminals are responsible for more than 70 percent of the violent crime in this country. The Commission recommended that the unrehabilitable, repeat violent felon be incarcerated for lengthy periods of time, and concluded that violent crime in this country could be reduced by half by targeting the career criminal.

For the first time, the Federal Government became directly involved in fighting street crime by passage of the Armed Career Criminal Act in 1984, which I first introduced in 1981. This new law made it a Federal offense with a mandatory 15 years to life sentence for a career criminal, who was defined as someone with three prior convictions for robbery or burglary, to be found in possession of a firearm. On April 16, 1986, I introduced S. 2312, to expand the predicate offenses of the Armed Career Criminal Act to include violent felonies and serious drug offenses. The provisions of this bill were incorporated into the Anti-Drug Abuse Act of 1986 and signed into law.

The Treasury Department's Bureau of Alcohol, Tobacco and Firearms (BATF), which has primary jurisdiction over enforcement of the Armed Career Criminal Act, has implemented an effective Repeat Offender Program nationwide. This program is designed to identify, investigate, arrest and refer for prosecution armed career criminals and drug gangs, such as the Jamaican Posses. The initial results of the program reflect immediate success and great future potential. BATF reports that 50.78 percent of its defendants in 1986 had prior felony convictions and 62 percent had previous narcotics involvement. BATF's program has resulted in 2,486 repeat offender suspects being charged with Federal firearms law violations during Fiscal Year 1987 and the first quarter of 1988. The overall conviction rate in those cases adjudicated in Fiscal Year 1987 was an astonishing 96.3 percent. BATF Director Higgins reported on February 26, 1988, that through the Repeat Offender Program 301 defendants were convicted under the Armed Career Criminal Act in FY 1987 and 78 in the first quarter of FY 1988. Director Higgins reported on October 16, 1987, that "[s]ince April 1, 1986, the task force and Project Achilles efforts have resulted in convictions with enhanced sentencing for 72 armed career criminals. These criminals have been removed from our society for periods of 15 to 30 years. One defendant was given a life term. The total number of prison years, excluding the life sentence, is 1,206 years. The average sentence thus far has been 16 years.

As a member of the Appropriations Committee, I have worked to bolster the government's ability to fight drug trafficking and violent crime. The Committee recognized in 1987 the significant impact that apprehension of repeat offenders and career criminals could have on the number of crimes committed. Its FY 1988 Treasury, Postal Service Appropriations Report noted that "one hundred offenders may have committed: 490 armed robberies, 720 burglaries, and 4,000 other serious crimes." The Committee report also indicated that "two hundred career criminals would commit: 179,000 criminal offenses in a five-year period. The average narcotics addict commits one crime on 248 days out of 365 days." During the Fiscal Year 1988 appropriations process, the Committee approved an additional $10 million for BATF's Repeat Offender Program, which would provide for 200 new personnel. The Bureau estimated that this additional funding would help prevent 3,450 armed robberies, 3,600 burglaries, and 47,500 serious crimes during a five-year period nationwide, with special emphasis on major metropolitan areas with high drug crime rates.

---

[1] This statement has been prepared in support of a core drug bill which has been prepared, but not yet finalized or introduced.

In light of Administration attempts to cut funding for this vital anti-crime, anti-drug initiative, I questioned Treasury Secretary Baker during hearings before the full Committee on March 1, and the Foreign Operations Subcommittee on March 30, 1988, regarding the need not only to continue, but also to increase funding for the Repeat Offender Program. I reiterated this position in my July 6, 1988, letter to Senator Dole for consideration by the Senate drug task force.

I support the career criminal provisions in the pending Omnibus Drug Bill, which authorizes an additional $13 million for BATF to hire 280 full time personnel and equipment. The bill also designates $750,000 of this appropriation for overtime salaries of state and local law enforcement officers working with BATF agents and the maintenance of vehicles used in drug-related law enforcement operations. This crucial enhancement of BATF's anti-crime capability is a significant step forward in targeting career criminals and serious drug offenders.

Philadelphia Drug Task Force

Mr. President, I am concerned about the proliferation of illicit drugs and related crimes throughout the United States, but especially in our major cities where virtual war zones have been created. In Philadelphia alone, there has been a dramatic and steady increase in the use of crack and cocaine. For example, the Philadelphia Public Health Department reports that admissions to drug treatment centers for crack and cocaine use rose from 195 in 1983 to 3,918 in 1987, with 3,303 admissions already in the first half of this fiscal year. Similarly, crack and cocaine cases in Philadelphia hospital emergency rooms rose from 198 in 1983 to 2,207 in 1987. The City's Police Department reports that the number of arrests related to crack and cocaine skyrocketed from 2,648 in 1986 to 3,712 in 1987.

The Senate Appropriations Committee in 1986 recognized that Philadelphia was a city with a significant incidence of drug-related crime. The Committee recommended that Philadelphia be designated a test city for an Interagency Drug Task Force Demonstration Project.

The demonstration project is a cooperative effort by local and Federal law enforcement agencies to combat drug trafficking and abuse. The project will focus on investigative and prosecutorial action, coordinating efforts among the U.S. Attorney's Office, the Federal Bureau of Investigation, the Drug Enforcement Administration, the Bureau of Alcohol, Tobacco and Firearms, the Philadelphia District Attorney's Office and the Philadelphia Police Department.

The new task force is comprised of four special agents from each of the Federal law enforcement agencies and four assistant United States Attorneys. The enhanced effort will include investigation and location of evidence, seizure of drug-related assets, arrests of drug traffickers, identification of drug money laundering through banks, and prosecution by the U.S. Attorney's special narcotics team.

I am optimistic that this new infusion of Federal resources will have a significant impact on Philadelphia's war on drugs, and I strongly support the major enhancements in the pending Drug Bill for these Federal law enforcement agencies to fight drugs nationwide.

Prison construction

I support authorizing substantial funding for the Federal Prison System for planning, acquisition of sites, and construction of new facilities. This provision was included in the bill to help alleviate overcrowding in existing prisons and to meet the increased demand for prison space resulting from the fast-growing number of drug-related offenses.

Federal, state and local prison systems currently are operating dangerously above capacity. As a former district attorney and current member of the Senate Judiciary Committee, I have toured state prisons and local jails throughout Pennsylvania, including the Philadelphia prison system, the Cambria County jail, the Allegheny County jail, the Camp Hill Prison, the Lehigh County Prison, the Adams County Prison, and the Franklin County Prison.

Mr. President, these facilities, representative of local facilities nationwide, are seriously understaffed, underequipped, underfunded, and overcrowded. Having met with state and local officials, county commissioners, and wardens throughout Pennsylvania, I personally can attest to the pressing need for construction of additional prison facilities.

Throughout the country—at Federal, state, and local levels—overcrowding of jails and prisons strains our correctional system by overextending its staff and resources and by creating conditions which are not conducive to the rehabilitation of prisoners. Additionally, prison staffs are not equipped to deal with the prisoner unrest that all too often results from overcrowded conditions.

As Congress must establish sound budget priorities for anti-crime and anti-drug initiatives, so must Congress establish budget priorities for a comprehensive prison expansion program. It is more desirable for planning purposes and sound public policy to establish a predictable, long-term strategy for allocation of prison construction funding to meet the demands of a burgeoning prisoner population.

The Senate has begun to set such priorities—in five years, this body has moved from overwhelming rejection to overwhelming support of prison construction as a budget priority. On May 4, 1983, I offered an amendment to the First Concurrent Budget Resolution for Fiscal Year 1983 (S. Con. Res. 27) which would have provided $700 million over three years for construction of Federal prisons to house violent offenders sentenced under state habitual criminal statutes. Although the vast majority of states have statutes imposing longer sentences for habitual offenders, those statutes cannot be enforced when state prison systems are seriously overcrowded. Considering that states do not have sufficient resources to construct the necessary prison facilities, Federal financial assistance is essential. At that time, however, the amendment failed by a vote of 17-81.

On May 17, 1984, the Senate again considered the need for additional prison construction funding. I offered a perfecting amendment to a deficit reduction amendment to the pending legislation (H.R. 2163, amending the Federal Boat Safety Act) which would have earmarked $200 million for the nondefense discretionary spending account in Fiscal Year 1985 to alleviate overcrowding in federal, state and local prison facilities. This amendment, too, failed by a vote of 36-60.

By 1988, however, prison overcrowding reached such crisis proportions that Congress fully supported construction initiatives. In light of the worsening prison overcrowding crisis, on April 13, 1988, I offered Amendment No. 1938 to the Fiscal Year 1989 Budget Resolution to transfer $125 million from government travel allowances, allocating $100 million for prison construction and $25 million for enforcement of the Armed Career Criminal Act by the Bureau of Alcohol, Tobacco and Firearms.

Mr. President, the intent of the amendment was to be the first step in providing $100 million each year for five years to house 16,000 career criminals in Federal prisons, specifically those convicted under State habitual offender statutes. The Senate overwhelmingly passed this amendment by a vote of 76-18, reflecting a strong commitment by this body to support construction of additional prison cells and to target career criminals. Although this amendment was dropped in the Senate-House budget conference, additional funding has been provided for prison construction in the fiscal year 1989 Commerce, Justice, State appropriations bill and the pending drug legislation.

The transformation of Senate support over five years for additional prison construction funding underscores the need for Congressional leadership in establishing budget priorities for long-term anti-crime programs, including expansion of the nation's prison system. Accordingly, I support an authorization of substantial funding for prison construction, and urge my colleagues to undertake steps towards developing a comprehensive funding plan for these vital programs.

I long have been deeply concerned about the problem of prison overcrowding and prisoner rehabilitation. Hardened criminals are being released from jails without serving their sentences, because there is insufficient space in the jails; judges are not sentencing convicts who ought to go to prison, because there is insufficient space; parole boards are releasing prisoners prematurely, because there is insufficient space; and parolees who violate their parole are not being incarcerated, because there is insufficient space. The "domestic defense" bill discussed above, which I first introduced in 1983, would provide assistance to state prison systems and would provide for construction of 200,000 additional jail cells to house career criminals.

Mr. President, mindful of serious budget constraints facing the government, we must seek novel ways of financing prison construction. On September 17, 1986, I introduced S. 2828 (reintroduced in the 100th Congress as S. 1023) to authorize the expenditure of unobligated funds in the Department of Justice Assets Forfeiture Fund and the Customs Forfeiture Fund for emergency prison construction. What more appropriate way to finance prison construction than with the forfeited spoils of convicted drug traffickers? Another approach was embodied in S. 1022, which I introduced on April 10, 1987, to authorize the transfer of certain foreign assistance funds, earmarked for countries certified by the Secretary of State as major illegal drug producers, to the Justice Department for prison construction.

Currently, there are 44,000 inmates in 51 Federal facilities. The prison population is expected to skyrocket to 84,000 in 1995. Clearly, there is an urgent need for Congress to develop an emergency prison expansin program to address this looming national crisis.

Prisoner rehabilitation

In addition to strongly supporting the additional prison construction funding contained in the pending drug legislation, I firmly believe that much more needs to be done to rehabilitate prisoners. We must impose tough sentences on tough criminals, particularly serious drug offenders and career criminals. At the same time, however, we must make a realistic effort at rehabilitation wherever possible.

Effective rehabilitation of prisoners is an essential component of reducing the rate of recidivism. Accordingly, I introduced S. 412—the successor of S. 1690 in the 97th Congress, S. 59 in the 98th Congress, and S. 1190 in the 99th Congress—to require states to ensure that certain prisoners receive a marketable job skill and basic literacy training before being released on parole. In this way, such prisoners will be able to earn their way lawfully on the outside without resorting to or resuming a life of crime.

Mr. President, I included this proposal in my July 6 letter to Senator Dole for consideration by the drug task force. Even though the pending legislation does not specifically address this important component of incarcerating drug offenders, I urge the Senate to consider adopting measure to help inmates break out of the cycle of crime through effective rehabilitation and treatment in prisions.

Effective legislative to combat drug usage should include expanded resources for drug abuse treatment in prisons. Having toured state prisons and local jails throughout Pennsylvania, I personally can attest that jails and prisons are understaffed and ill-equipped to provide adequate drug treatment and rehabilitation services.

Based on these visits and my personal discussions with clinicans, doctors and counselors, I am conviced that the number of inmates far exceeds the number of counselors and doctors necessary to address the need for comprehensive treatment and rehabilitation for these inmates.

According to Justice Department reports, the percentage of incarcerated offenders with drug problems natiowide is increasing steadily. Federal Bureau of Prisons Director Quinlan reported that only four percent of the total prisoner population (1,850 inmates) are in prison drug treatment programs, even though approximately 40 percent of inmates in Federal prisons have drug problems. Providing these inmates with adequate drug assessment and treatment not only would reduce drug-related crime, but also would ease the prison overcrowding problem.

Although additional funding for this prisoner treatment initiative is not likely to be included in core bill, I urge my colleagues to examine the urgent need for such resources and to consider allocating sufficient funding at the earliest possible opportunity.

The Senate also should consider replicating the education and rehabilitation programs instituted in the District of Columbia corrections system. As a former chairman of the Senate Appropriations Subcommittee on the District of Columbia, I worked to help provide funding to the District for the expansion of academic and vocational training programs for inmates in the Lorton correctional facility. This is the start of a good program because it seeks to provide education, training and skills to prisoners who unfortunately are most often functionally illiterate—without skills or hope of a job. This program is designed to provide these individuals with the tools to complete in our society; my hope is that it also will reduce significantly the rates of recidivism. While the program has had underquestionable growing plans. I believe it has few potential as a national need; but considerable Congressional oversight is necessary to make sure it works.

On June 28, 1988, in testimony before the Senate Subcommittee on the District of Columbia, Hallem H. Williams, Director of the Department of Corrections, reported that since its implementation in 1984, this program has demonstrated considerable progress. Mr. Williams stated that through the end of 1987, 6000 individuals have completed the academic programs, which include courses in Adult Basic Education, General Educational Development, Special Education, Life Skills and Job Readiness, and Employment Techniques, Awareness and Preparation. In the vocational area, 3000 inmates completed District of Columbia programs in accounting, automotive body repair, plumbing, landscape/gardening and computer repair through the end of 1987.

This program, and others like it, have enormous potential to provide unemployed persons with new job opportunities. During FY 1987, 313 individuals who participated in the program were placed in jobs upon release. Of these individuals, 224 or 72 percent had not been reincarcerated as of August 31, 1988. In FY 1988, 471 inmates obtained employment through this program, a one year increase of 62 percent.

On September 22, 1988, Director Williams noted that inmates who participate in the program have a much higher overall "success rate," or are more likely to avoid reincarcertation, than those inmates who do not participate in the program. For example, as of August 31, 1988, 73 percent of former inmates who took part in the program were still in the community compared with 52 percent of those former inmates who did not participate.

The vast majority of D.C. inmates have drug problems. A recent survey of the D.C. correctional system indicated that a staggering 93.6 percent of the adult offenders abused drugs. The survey also showed that 95.5 percent of all the prisoners surveyed reported abusing more than one drug. As to youths incarcerated in the District's correctional facilities, the survey found that 91.1 percent reported use of more than one drug. Given the enormous likelihood that participants in the education and vocational training program have a history of drug abuse, the possibility of rehabilitation and employment oppportunities is critical to curbing future drug abuse and drug crime.

Provisions for juveniles

A proposed core bill would also reauthorize through 1992 the Juvenile Justice and Delinquency Prevention Act, the Justice Assistance Act, the Runaway and Homeless Youth Act and the Missing Children's Assistance Act. As former Chairman of the Senate Subcommittee on Juvenile Justice and Co-chairman of the Senate Children's Caucus, I support this provision of the drug bill.

Many of us have long worked to address the problems of juvenile delinquency, and missing, homeless, and runaway youths. The Juvenile Justice and Delinquency Prevention Act which, through the Justice Department's Office of Juvenile Justice and Delinquency Prevention, provides technical assistance to public and private agencies and individuals to implement juvenile justice programs, conduct research on the problems of juvenile delinquency and establishes national standards for the administration of juvenile justice. The Missing Children's Assistance Act of 1984 established a national clearinghouse for information on missing and exploited children and a national toll-free hotline. The Justice Assistance Act provides essential funding to vital state and local law enforcement programs nationwide.

Finally, the Runaway and Homeless Youth Act provides financial assistance to youth centers and shelters nationwide and funding for the National Runaway and Youth Suicide Switchboard, data collection, state and local coordination grants and networking grants. These programs have proven to be successful in reuniting runaway and homeless children with their families or providing them with a safe living environment.

As the sponsor of this important legislation in 1984, I joined Senator BIDEN on May 20, 1987, in introducing S. 1250, a bill to reauthorize these vital programs. The text of S. 1250 has been incorporated into the pending drug legislation, and I urge my colleagues to accord it full support.

LAW ENFORCEMENT—INTERNATIONAL

Mr. President, enhanced law enforcement efforts to fight drugs must not be limited to here at home. During a recent trip to Latin America, I learned firsthand about the vast extent of the problem of international drug production and trafficking. Therefore, I also support the enhanced law enforcement provisions included in the International Title of the pending Omnibus Drug Bill.

Intelligence, training and equipment

In this international war on drugs, we need a maximum effort to help train local police forces in major illegal drug producing countries and to make available critical equipment—such as helicopters—to assist local interdiction efforts.

During my recent trip to Central and South America, I learned that Colombian officials have sought to purchase $60 million in United States military equipment but cannot do so because of provisions in United States law which prohibit financing certain military equipment through the Export-Import Bank. While that prohibition is generally appropriate on public policy grounds, I believe here shall be an exception where that military equipment is exclusively and verifiably used against drug traffickers.

A fundamental component of our drug interdiction effort is the gathering of key intelligence concerning the operations of international drug traffickers. We should provide additional incentives to foreign countries to provide or share intelligence with the United States. Clearly, the sharing of seized assets would greatly enhance international cooperation in this area. Current U.S. law, specifically 18 U.S.C. Sec. 981 (i), provides that the Attorney General, with the concurrence of the Secretary of State, may transfer seized assets of a drug dealer to a foreign country that has provided intelligence which has led to a drug conviction. That provision, however, requires a ratified treaty before asset sharing may occur.

At present, there are no ratified treaties with the major drug producing and transit countries, and to negotiate and ratify such treaties would be not only time consuming but also politically impractical—indeed impossible—for many South American countries. Therefore, I intend to seek a modification of U.S. law which would delete the treaty requirement, one that would rely upon the discretion of the Attorney General and the Secretary of State to determine whether forfeited monies or property should be transferred to the nation providing intelligence leading to a drug conviction.

Crop eradication

Crop eradication is another integral part of our "supply side" efforts. There is a crop eradication program presently underway in the Chapare Region of Bolivia. Bolivia is the world's second largest producer of the coca plant and the Chapare Region accounts for the major growth in illicit Bolivian production.

The eradication program presently underway has met with some success. That success, however, has been limited by a rigid 70 percent eradication requirement instituted by the U.S. Agency for International Development (AID). This 70 percent eradication requirement must be met before AID will provide funds for crop substitution. Without a viable crop substitution program, Bolivian farmers will continue to grow coca plants because they are so lucrative and because the farmers lack confidence that crop substitution funds will be forthcoming. U.S. officials, as well as host country officials, agree that the 70 percent standard is too inflexible. Although the State Department is in the process of modifying this AID requirement, I am informed, however, that the House Omnibus Drug bill includes language which would codify the 70 percent requirement for the Chapare Region's eradication program.

I believe that such an inflexible standard should not continue. Congress should provide the State Department with the necessary flexibility to ensure that a successful eradication program will receive adequate funds to ensure a transition to other crops.

Foreign aid certification

It is of great concern to me that the present law regarding certification for major illegal drug producing and/or trafficking countries simply has not worked. Currently 17 major illegal drug producing and trafficking countries are certified by the President to receive $1.3 billion dollars in U.S. foreign assistance.

Pursuant to existing law, the State Department determines whether a country is "an illicit drug producing country" based on the amount of illicit drugs it produces or transports, or whether it is involved in laundering drug money. This determination is published in the Department of State's Annual International Narcotics Control Strategy Report. When a country is designated as a major illicit drug producing or drug transit country, the President is required to withhold 50 percent of the foreign aid designated for that country at the beginning of the fiscal year and 100 percent of U.S. foreign aid for subsequent fiscal years. Nevertheless, the President may certify that the country is eligible to receive U.S. foreign assistance on two grounds; first, that the country has "cooperated fully" with the United States, or taken adequate steps on its own "to control narcotics production trafficking and money laundering;" second, that provision of foreign aid "is in the vital national interests of the United States." The President's certification restores aid to the designated illicit drug producing or trafficking country, and exempts it from certain trade sanctions and from U.S. laws requiring the United States to oppose multilateral development bank loans to that country. Presidential certifications of specific countries can be rejected by a joint resolution of Congress.

Mr. President, the net result of this elaborate process is that many major illicit drug producing and transit countries continue to receive hundreds of millions of dollars each year in U.S. foreign assistance.

During hearings before the Appropriations Committee, I questioned former Treasury Secretary Baker and Secretary of State Shultz on this subject. For example, in 1985, at a hearing before the Foreign Operations Subcommittee regarding nations which have increased their narcotics production, I posed this question to Secretary Shultz: "Why don't we simply stop foreign aid to those countries?" The Secretary of State responded: "If you simply disengage from all those countries the question is, would that have the effect of more or less drug production in these countries? If you are dealing with governments that you feel, all things considered, are working constructively with you, then I think you have something going for you, and you shouldn't throw it away."

Mr. President, I submit that the international flow of drugs poses such a great threat to this country that those countries which received United States foreign assistance should be required to decrease and eliminate illegal narcotics production, no matter how helpful those countries may be on other issues.

During the 1985 subcommittee hearing, the Secretary of State acknowledged, "The importance of working at the problem of stopping production and processing and movement of drugs," though stated that "the fundamental problem is the use of drugs and the demand of drugs here, and we must concentrate on that heavily as the primary source of the problem." I noted that we not only have to concentrate on the use of drugs, but also on the supply. While we continue to address the demand side of drugs here at home, we nevertheless must increase our efforts to stem the supply of drugs from foreign countries.

I also pursued the issue of cutting off foreign aid to drug producing countries with Treasury Secretary Baker during the Foreign Operations Subcommittee hearing on March 30, 1988. At that time, I questioned Treasury Secretary Baker on the desirability of reallocating some of the foreign assistance monies provided to major drug producing countries for domestic drug enforcement. The Secretary responded that he did "not think that would be the right thing to do . . . because we have consistently pared back our commitment in the foreign area to, in times of severe budget constraints, fund some domestic programs to a greater extent" and provided examples of increased staffing in certain law enforcement programs. The Secretary, however, stated "that some of the funding that goes to a country like Colombia can be helpful to us in the war on drugs. And I think some of it probably has been helpful."

Secretary Baker acknowledged the problem of, and shared my concern for, foreign drug production. The Secretary indicated "it is a matter of balancing priorities and balancing interests."

Mr. President, I believe that stemming the flow of illegal drugs into the United States must be one of this country's top priorities. The first step is to toughen the certification standards in providing foreign assistance to the major illegal narcotics producing and transit countries.

On April 13, 1988, I offered an amendment to the FY 1989 Budget Resolution to transfer $125 million in foreign aid allocated to seven countries egregiously involved in the cultivation and transit of illegal drugs. These funds would be redirected to domestic law enforcement programs; namely, implementation of the Arrest Career Criminal Act and prison construction. After some consideration as to the difficulties which would be posed by the transfer of monies from foreign aid at that time, I decided to propose the transfer of money from government travel allowances which could be accomplished without undue difficulty.

In my July 6 letter to Senator Dole, I recommended that more stringent certification measures be included in the Omnibus Drug Bill. Therefore, I support the provisions in this bill which tighten the current foreign aid certification procedures. The bill provides that the President, in making determinations for certification of countries seeking aid under the Foreign Assistance Act, now shall consider specific criteria, including whether the foreign government has: taken sufficient action toward maximum reductions in illicit drug production; the government has taken the necessary legal and law enforcement actions to eliminate laundering of drug-related profits or monies, bribery and other forms of public corruption; officially encouraged or facilitated the production or distribution of illegal drugs; employed any senior official who engages in, or facilitates production or distribution of illegal drugs; and processed expeditiously extradition requests related to narcotics trafficking.

I believe the inclusion of these additional requirements in the presidential certification process is a sound first step in more carefully evaluating the anti-drug activities of foreign countries which receive U.S. foreign assistance. Congress, however, may have to revisit this issue next year if major illegal drug producing countries which receive U.S. foreign aid fail to make sufficient efforts in curbing their cultivation and transit of illegal drugs.

International Drug Force

There currently is an unprecedented level of cooperation and sharing of information among various nations' law enforcement officials. The international drug problem has been so severe that it is threatening the ability of many legitimate governments to operate effectively. These governments increasingly recognize that an enhanced level of international cooperation is needed to fight drug trafficking.

During an eight-day visit to Latin America in April 1988, former Attorney General Meese met with the region's leaders regarding the international drug problem. The Attorney General suggested the creation of an international drug force to restore order to threatened nations by assisting and protecting national prosecutors, judges and other public officials, many of whom have come under attack by the drug cartels. Such an international effort could make an enormous difference in a beleaguered country like Colombia where top law enforcement officials and members of the judiciary have regularly been assassinated by drug cartel-sponsored terrorists.

During the bipartisan negotiations on a core bill, I proposed to establish an international police force to target international criminals, including major drug kingpins. My proposal expresses the sense of the Senate that the President should call for international negotiations to establish an international drug global cooperation is the best way—indeed, the only way—to combat international drug trafficking, and strongly support this provision in the bill.

International Criminal Court

Mr. President, I believe that establishment of an international criminal court to hear cases regarding international crimes would be a significant step forward by the world community in fighting international drug trafficking under the rule of law.

Prosecutions brought before an international tribunal would avoid problems of obtaining jurisdiction and extradition of offenders, difficulties in application of our extraterritorial jurisdiction, and threats of retaliation directed towards a particular country holding and trying a drug kingpin or other international criminal. The international court could be similar to the Nuremberg Tribunal which was established to prosecute war crimes following World War II.

On June 25, 1986, I offered an amendment to the Omnibus Diplomatic Security and Antiterrorism Act expressing the sense of the Senate that the President should initiate international negotiations to investigate the possibility of establishing an international criminal court. The amendment passed the Senate by unanimous voice vote. I also have raised this issue with Secretary of State Shultz in hearings, most recently on June 16, 1988, before the Judiciary Committee. Secretary Shultz responded that it was an "interesting idea" and that "the more we can apply the rule of law the better."

Mr. President, the pending drug bill does not include a specific provision on the establishment of an international criminal court, therefore, I plan to offer an amendment on this important issue.

International narcotics control

Mr. President, I fully support increased efforts to eliminate the cultivation, production, and trafficking of illicit narcotics. The Administration budget request for Fiscal Year 1989 included $101 million for the International Narcotics Control Program administered by the Department of State. The international activities supported by this program include crop eradication, enforcement, interdiction, income replacement/development assistance, training, program development, and international drug demand reduction.

The Appropriations Subcommittee on Foreign Operations, on which I serve, recommended the full amount of the Administration's request for this important program. During consideration of the Foreign Operations appropriations bill (H.R. 4637), the subcommittee included language, at my urging, to strengthen existing law regarding the efforts of other countries pursuant to the International Narcotics Control Program.

Specifically, the new appropriations bill language now requires the State Department to further intensify "United States efforts in the eradication and interdiction of illicit narcotics," and seek "international cooperation on narcotics enforcement matters such as in the areas of extradition treaties, mutual legal assistance to combat money laundering, sharing of evidence, and other initiatives for cooperative narcotics enforcement efforts."

I believe that this new language tightening the law regarding international narcotics control, in conjunction with the many important international provisions included in the pending Omnibus Drug Bill, will significantly enhance international cooperation in this global war on drugs.

PREVENTION, EDUCATION AND TREATMENT

Battling the "supply side"—that is, intercepting, or in official parlance, interdicting drugs at their source before they make their way to our city streets—is such an overwhelming task that I believe the more realistic first emphasis in our war on drugs should be to stem the demand side through education and rehabilitation.

Drug rehabilitation is an economically sound, realistic, and humane approach to this national problem. I know this from over 20 years of personal experience. During my eight years as District Attorney of Philadelphia, I sought tough sentences for tough criminals, particularly when it came to drugs. However, as many of my cosntituents will recall, that is only half the story. I also was extensively involved in seeking help for drug addicts and alcoholics, and in instituting alcohol and drug education projects. My philosophy is, and always has been, that particularly when it comes to the young addict, every avenue of assistance and rehabilitation should be made available.

During my first year as District Attorney in 1966, for example, I initiated a study of rehabilitation facilities for drug addicts in the Philadelphia area. Finding there were none—and indeed that sounds unbelievable these days—I established a District Attorney's Citizens Committee on Alcoholism and Drug Addiction. That committee assisted me in launching a frontal attack on the increasingly serious problems of alcohol and drug addiction. Included in the Committee's initial charter was the task of establishing a model rehabilitation facility.

After 20 years of experience, it is clear that resident treatment centers are less expensive to operate than prisons, and more important, produce greater rates of recovery than penal institutions can ever hope to accomplish.

My experience included visits to the Daytop Village facilities including Swan Lake in upstate New York. My aim was to understand the concept of "self-help" through group therapy, and other methods—to see firsthand how they worked. That same year, the Citizen's Committee I empaneled was successful in securing funding from the General Assembly to establish the first treatment center in Pennsylvania. The center is named "Gaudenzia House" after a mythical horse which fell in the middle of a race, but recovered and went on to win. Gaudenzia is a pioneer institution; its techniques have been copied nationwide, and it is with pride that I mention the celebration of Gaudenzia's 20th anniversary later this year.

During my tenure as District Attorney of Philadelphia, the prevalence of drug abuse and drug related crime was apparent, as well as was the growing need for bold steps by society to address this problem. At that time, I helped alert Philadelphia area college students to the dangers of drugs, sought treatment for many addicted to alcohol, and made therapy available for addicts in prison.

By 1981, alcohol and drug abuse had become recognized national priorities. As a member of the Senate Judiciary Committee and Co-chairman of the Congressional Crime Caucus, I have worked extensively to toughen penalties for career criminals and expand prison facilities to incarcerate them. But I want it noted that I have never strayed from my cure-if-you-can philosophy on drug and alcohol addiction. During these past eight years, as a member of the Appropriations Committee, I have supported legislation to increase funding to states for drug abuse prevention, education, treatment and rehabilitation.

Mr. President, I have investigated how successful ongoing drug treatment programs have been in Pennsylvania to determine whether any of these programs may serve as a model for application nationwide. For example, I met with patients at the original Gaudenzia House in Philadelphia, the Gaudenzia program in Harrisburg, Brighton Woods in Pittsburgh, Keenan House in Allentown, Vantage House in Lancaster and the Neuman Center in Reading. These programs clearly demonstrated the extent of the need for such services and the success rate of treatment and rehabilitation programs. Thus, I strongly support the provision in this bill which provides funding for these and similar programs nationwide.

Lack of statistics

While I am, as I have been for 20 years, supportive of providing treatment for drug addicts, I have found one aspect of our war on drugs particularly troubling; namely, the inability to gather data on what's working and what is not.

We have allocated billions of dollars to address our national drug problem. Yet, we seem to be lacking a viable data base—basic essential information that would tell us how many drug addicts there are, how many of them are in treatment, and what kinds of treatment work best.

For most of this year, in anticipation of this legislation, I have been asking the question, "What is working, what is not, and what is the success rate of various treatment programs?"

Since the block grant funding system was initiated in 1982, states have been required to report statistical information to the Federal government. As a result, the National Institute of Drug Abuse (NIDA) the government's leading research agency on the drug treatment issue, does not know with any certainty how many drug abusers there are, the types of drugs being abused, how many people are in treatment, what kind of treatment is provided and what the best treatment is for a particular drug.

Another problem which I find equally if not more disturbing, is that while we are funding treatment programs, we are not funding necessary follow-up studies that would show how successful are the various treatment programs. In other words, we do not have a clear picture of whether these rather expensive treatment programs, which cost up to $15,000 per addict, are actually curing individuals.

Pennsylvania treatment program executives with whom I have met are the first to point out the need for this kind of research. For example, Michael Harle, President of Gaudenzia in Harrisburg, advised that "Gaudenzia realizes and agrees with the importance of appropriate follow-up and research regarding clients who have received treatment services. At this point, the funding for projects in this area is very limited."

Similarly, Charles Devlin, Vice President and Chief Executive of Daytop in New York

City, a pioneer in the treatment field, reported "There's no money in the system to do follow-up. How can you know, nobody knows how successful they are."

The Executive Director of Pennsylvania's Drug Policy Council, Bruce Feldman, stated: "The information we get is suspect. It's frustrating not to be able to get a handle on this thing and we're shooting in the dark most of the time. We don't know whether what we're doing is appropriate and meaningful and there's no follow-up."

Obviously, none of this impugns the quality of treatment services provided by the fine institutions of Gaudenzia and Daytop. Indeed, what it shows is that they want better follow-up information so they can do the best job they possibly can in curing drug addicts and helping them lead useful, meaningful lives.

Daytop, for example, would like to have the kind of follow-up information it gleaned from a study conducted between 1982 and 1984 on patients who were out of treatment between two and four years. This follow-up study, entitled "Miniversity Long-Term Outcome Study," included interviews with 101 former Daytop residents. Based on these lengthy interviews, Daytop ascertained that 90 percent had remained virtually drug free; further arrests had decreased 63 percent; and the need for further drug treatment had decreased 82 percent.

Gaudenzia in Harrisburg also did a follow-up study in 1985 but had limited resources for a 180-day study. The Gaudenzia staff volunteered its time to try to cover a two-year period. What it learned was that, of 73 clients who entered treatment, 59 completed it. Of these, after six months, 36 were drug free. The center then, on a voluntary basis, attempted a two-year tracking of the former patients, but could contact only 22 out of the 59 original program graduates. Of these, 19 remained drug and alcohol free and were fully employed.

More of these studies, I believe, are needed so Congress can determine how we are faring in our treatment programs.

My concern about the lack of statistical information available, including data on the types of treatment programs that are available and their level of effectiveness, was heightened this past April when I questioned Health and Human Services Secretary Bowen about these issues during a Labor, HHS Appropriations Subcommittee hearing. At that time, Secretary Bowen informed me that the National Institute on Drug Abuse (NIDA) would spend approximately $2.3 million on treatment outcome research in 1989. It is difficult to justify that after 20 years of allocating funds for treatment programs, the Federal government is just beginning to seek an answer to the question: "What works?"

It is evident that Congress must be diligent in its oversight responsibility regarding all aspects of the drug problem, particularly in instances where funds are provided by block grants. It is not safe to assume that a federal agency is gathering information uniformly or even that funds which are appropriated months ago have filtered down to local programs. Such was the case with drug education dollars from the 1986 Omnibus Drug Act. In questioning former Education Secretary William Bennett at an April 22, 1987 Labor, HHS Appropriations Subcommittee hearing about the extent to which monies for the Drug Free Schools program had been allocated, I found that several states had not submitted an application for the funds months after the dollars were made available. At the same time, parents, teachers, students and leaders in many communities were desperately seeking these drug education funds.

In accordance with my July 6, 1988, letter to Senator Dole, the bill requires the Secretary of the Department of Health and Human Services to collect information regarding the number and variety of public and nonprofit treatment programs available; the number and demographic characteristics of persons receiving treatment including persons reentering treatment after previously completing a program; the number and type of treatment slots available; costs of the type of treatment modalities; the estimated level of need; the number of treated individuals that have private insurance; and treatment manpower data. The Secretary must report to Congress every two years regarding the scope of drug, alcohol and mental health being provided.

I, therefore, support a legislative provision which would address the need for more comprehensive and uniform data collection.

Grants to States

The Anti-Drug Abuse Act of 1986 allocated over $200 million in grants to states for drug treatment, education and law enforcement. With the infusion of $23 million from this grant program, Pennsylvania has been able to treat more drug addicts, considerably expand its drug education program and enhance its law enforcement activities.

Pennsylvania received $7.8 million for drug treatment, to be spent over a two-year period. The office of Governor Casey has reported that 34 out of 47 county drug and alcohol authorities, which administer treatment programs statewide, have submitted reports revealing that 4,563 additional Pennsylvanians received treatment through the federal funding.

Moreover, the money is allowing the Commonwealth to address a data gap that is prevalent nationwide—getting a handle on how successful are current treatment programs. The Pennsylvania Department of Health has launched a three-year project to establish a statewide computer network. This computer link among state health officials, county drug and alcohol authorities and treatment providers will track what happens to particular clients. Presently, there is no systematic way to learn if an addict is, in effect, "treatment hopping"—receiving treatment at one facility, then entering other facilities in the future.

The new computer program is expected to address this lack of vital data. Aside from tracking addicts, the program also would give the State a better tool to evaluate the effectiveness of treatment centers.

The $7.2 million the State received for drug education has spawned a major program, for the first time establishing a partnership between Pennsylvania schools and community agencies offering drug, alcohol and mental health counseling services.

With the money, 470 school districts are establishing Student Assistance Programs. Through these, a core team of teachers, counselors and other school personnel are trained to identify students with substance abuse problems, refer them to appropriate treatment and help their re-entry into school after treatment.

Further, the State also has purchased and developed improved anti-drug curricula for schools and improved teacher training.

The third component of the 1986 Act's state grant program—law enforcement—also has demonstrated positive initial results. Pennsylvania received $7.8 million for drug enforcement in Fiscal Year 1987. State officials report the following results.

In the first two-quarters of the program, the Philadelphia Police Drug Trafficker Control Program arrested 975 adults and 96 juveniles by newly-hired narcotics agents funded under the 1986 omnibus drug bill. This far exceeded expectations of the police department which had hoped the project would net at most 300 additional arrests.

Systematic stepped-up supervision of drug-dependent parolees.

Establishment of six out of the eight planned new State Police Canine Units. Already these units have resulted in 27 seizures of drugs and approximately one half million dollars.

Establishment of an Attorney General's Mobile Drug Investigation and Prosecution Task Force. This unit already has made 47 vehicle and cash seizures; and responded to 512 local police requests for help, investigated 540 drug-releated cases and made 374 drug arrests.

Two major problems identified since 1986 regarding state and local assistance are the compilation of statistics and the speed with which the federal monies reach the local programs. The preliminary results from Pennsylvania programs funded through the State and local Narcotics Control Assistance title of the Anti-Drug Abuse Act of 1986 are positive and encouraging. Much more, however, needs to be done to ensure the compilation of comprehensive and accurate statistics which are essential for Congressional consideration in determining future funding amounts.

The second major problem which we encountered after enactment of the 1986 law, and which we must work to address after enactment of the pending legislation, is the method and timeliness of allocating drug funds to state and local programs. Serious delays occurred in 1987 at the Federal, state and local levels. I pressed for expeditious release of the funds with former Education Secretary Bennett during a Labor and Human Resources Committee hearing on April 22 and with former Attorney General Meese during a Judiciary Committee hearing on May 14, 1987. I also wrote to Pennsylvania Governor Casey and agency heads to help ensure that the Federal funds were directed to the local programs as expeditiously as possible.

My hope is that the federal and state governments will build on their experience from 1986 and 1987 and respond to channel the desperately needed monies to local programs more efficently and expeditiously in 1988 and 1989.

Cycle of despair

The annual cost of health problems associated with alcohol and drug abuse and mental illness is staggering. The Alcohol, Drug Abuse and Mental Health Administration estimates this cost at $249 billion which includes health care expenses, reduced productivity, and accidents and violence related to alcohol and drug abuse and mental illness.

Estimates by the National Institute on Alcohol Abuse and Alcoholism indicate that 18.3 million Americans consume more than 14 drinks per week. It is projected that alcohol costs the American economy nearly $120 billion annually in increased medical expenses and decreased productivity.

As the survey also noted, 29 million people used marijuana, cocaine was used by 12 million and about 6 million persons used one or more pharmaceutical agents such as amphetamines and barbiturates or hallucinogens and analogs (designer drug). A study of drug use in 1983 by the Research Triangle Institute estimated the annual cost of illicit drug use in this country at $60 billion in health care, lost productivity and crime.

These financial costs are compounded by the corrupting social costs that drug abuse exacts on our society. According to the President's Commission on Organized Crime, approximately 40 percent of all organized criminal activity involves drug trafficking, with organized crime earning annual revenues of up to $110 billion. Drug revenues have provided these organizations the financial and technological means to adapt to changes in federal government enforcement tactics and to intimidate and corrupt foreign governments. In some inner city neighborhoods, youth gangs are being transformed into drug trafficking organizations, and new organizations devoted entirely to drug trafficking are emerging. Such organizations have little difficulty recruiting for drug trafficking poor, uneducated, jobless youth with no hope for the future. It is a question of economics—a youth who must choose between unemployment, or the minimum wage, or $1,000 a day selling drugs, may often opt for the $1,000 a day, which usually exceeds his parents' monthly income.

Although this legislation cannot adequately address the issues of poverty, unemployment, education and job training, these issues must be dealt with more fully in view of the lucrative nature of the illicit drug business in our inner city neighborhoods. We must give disadvantaged youth a choice other than the drug trade, or minimum wage. As long as access to financially rewarding and personally fulfilling employment evades young people in the ghettos, barrios and slums of America, drug trafficking will remain the most easily identifiable way out of poverty and hopelessness.

The deep-rooted problems of poverty, the spiraling cycle of crime and drug use and trafficking clearly are inter-related. Experience with these problems has taught us that supply-reduction as the sole approach to controlling drug abuse is futile. There is growing evidence, however, that the expansion of treatment and prevention programs will enable us to make substantial progress in reducing the demand for drugs. We already know that treatment is cost-effective. A 1987 study by the National Association of State Alcohol and Drug Abuse Directors estimated the average cost of individual treatment per year to be $5,000. The average annual cost of incarcerating one inmate is $14,500.

Mr. President, clearly it is time for us to place more emphasis on the treatment aspect of the drug problem. I support legislation which would allocate resources for prevention, education and treatment. Legislation should expand Federal assistance for the development, maintenance and improvement of alcohol, drug abuse and mental health programs. Such funds should address the needs of special populations, including youth who are, or are at high risk of becoming, school dropouts; teens who may be at high risk for suicide; minorities; pregnant women; and intravenous (IV) drug abusers.

An Omnibus Drug Bill should ensure the provision of comprehensive mental health services by making grants to community mental health centers, including outpatient and 24-hour emergency care services. Provision should be made to mandate that services be provided to those in greatest need, including minorities and women.

Such legislation would also recognize that involvement from a variety of sectors in our communities is needed to help prevent drug abuse. To assist in this effort, the pending bill provides $50 million to direct drug prevention activities to communities with serious drug problems. Community-based organizations, schools, businesses, health departments, community health or mental health centers may be utilized to provide services targeted to school dropouts, or youth at a high risk for dropping out of school. This provision gives priority to projects returning youth to education programs, and providing training or employment opportunities.

Accordingly, I urge my colleagues to support these vital provisions.

CONCLUSION

Mr. President, the Congress, the entire Federal Government, and the American people face a formidable challenge in the escalating war on drugs. We have done much, but much more needs to be done. The Omnibus Bill we consider today will greatly enhance law enforcement, rehabilitation, and treatment. The legislation also will strengthen international efforts to eradicate and interdict drugs at their sources. Accordingly, as a cosponsor of the drug bill, I urge my colleagues to join in support of this essential anti-drug initiative.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended for 10 minutes under the same conditions as heretofore prevailing.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The majority leader is recognized.

SENATOR DOLE'S BICENTENNIAL MINUTES: A REMARKABLE AND INFORMATIVE SERIES

Mr. BYRD. Mr. President, on the first day of the historic 100th Congress, Senator DOLE began what has become a remarkable series of bicentennial minutes on the history of the U.S. Senate. On that day, January 6, 1987, he announced his intention to deliver a series of regular bicentennial minutes, short statements on significant people, unusual customs, and memorial events that took place in the Senate's life on that particular day.

What a wonderful way the Republican leader chose to celebrate the 200-year history of this great institution. His bicentennial minutes have been informative, interesting, sometimes humorous, other times poignant, but always meaningful.

These thumbnail glances of Senate history emphasize, on a daily basis, that the men and women who preceeded us in this Chamber faced much the same problems we face—that in many ways and forms history often does, indeed, repeat itself. Perhaps the only predictable constant in history is change, yet, it often seems that the more things change, the more they remain the same.

In capsule form, the Republican leader has highlighted events, places, and persons significant to the Senate's institutional development over the past two centuries.

They have recognized individual achievements such as Senator PROXMIRE's remarkable voting record. And they have called attention to historical vignettes such as Alexis De Tocqueville's comparisons of the Senate and the House.

As the 100th Congress approaches its final days, I commend the Republican leader for the valuable service he has rendered in these vignettes, on a daily basis, for the past 2 years.

I understand that by the time Senator DOLE completes this series at the end of this Congress, he will have delivered nearly 300 of these brief addresses.

I am pleased that, just a few days ago, the Senate approved a concurrent resolution, which I sponsored, to have this remarkable series printed as a Senate document titled, "The United States Senate Historical Almanac." This will be done as part of the Senate's 1989 bicentennial commemoration.

I again congratulate and thank my friend, the Republican leader, BOB DOLE.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SHELBY). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I had intended to make a motion to appoint conferees on the AIDS bill, but it is my understanding that there are some discussions that will be taking place off the floor which hopefully may result in a resolution of some problems connected therewith.

So it may be in the interest of time that we should have a recess.

RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, at 11:07 a.m., the Senate recessed until 11:37 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SHELBY).

EXTENSION OF MORNING BUSINESS UNTIL 12 NOON

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended until 12 noon and that Senators may speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois.

Mr. DIXON. Mr. President, I thank the majority leader for his usual gracious accommodation.

THE CORN CAUCUS

Mr. DIXON. Mr. President, corn is one of the most diverse agricultural products that we produce in the United States. In both volume and value, corn is the leading U.S. commodity. Nearly 25 percent of all U.S. cropland is planted in corn each year.

Recent breakthroughs in research and development demonstrate that new, unique business opportunities exist for our Nation's corn crop. The commercialization of new industrial uses of agricultural products, such as plastic from cornstarch, offer new hopes and economic opportunities for our Nation's farmers and their rural communities.

In order to increase attention to the importance of corn utilization, a caucus has been established within the U.S. Congress to address important new developments in the corn industry.

As founder and cochairman of the Corn Caucus with Senator KIT BOND, I believe that the Corn Caucus will serve as an important source of information for Members and their staffs. Senator BOND and I encourage you to join the Corn Caucus, and wish to extend an invitation to all Members and their staffs to attend its first special event, highlighting degradable plastics, on Wednesday, October 5. As a reminder, there will be a Member breakfast meeting held from 8:30 to 9:30 a.m. in room B354 of the Rayburn Building, and a staff luncheon in Russell 385.

I hope you will be able to join Senator BOND and this Senator on October 5.

Mr. President, I suggest the absence of a quorum.

Mr. BUMPERS. Will the Senator withhold?

Mr. DIXON. Mr. President, I am so delighted to withhold to hear the melodic voice of the distinguished senior Senator from Arkansas and I yield the floor to that great American.

THE CAMPAIGN AND THE REAL WORLD

Mr. BUMPERS. It is interesting that the Senator from Illinois came over this morning to tell us that we now have a corn caucus. I am for that and I will try to attend your meeting, Senator, even though we do not raise a lot of corn in Arkansas.

But in exchange for that, of course, I would hope you would attend the rice caucus. Most people do not realize that my State produces 40 percent of all the rice produced in the Nation and this all goes right to the heart of at least one of the things I wanted to talk about, Senator.

This morning's Washington Post has a story entitled, "Unfavorable Trends Seen in World Food Production."

Without going through the whole thing, I will ask unanimous consent that the story be printed in the RECORD following my remarks, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BUMPERS. It points out that the severity of the drop in grain production this year is ominous indeed. Lester R. Brown, the agricultural economist for the Worldwatch Institute, says that this year's grain harvest is forecast at about 190 million metric tons with consumption estimated at 202 million tons.

> To meet the 12 million ton deficit and an expected export demand of about 100 million tons, grain dealers are going to have to dip deeply into grain stores.

He goes ahead to say that:

> This year's poor harvets will reduce the world's grain reserve from the equivalent a year ago of 101 days of global consumption to 54 days at this harvest season. This is three days worth lower than the level that caused a doubling of world grain prices in 1973.

Mr. President, this is probably about the first time in recent memory that this Nation has produced less grain than it will consume. That takes me to my next point.

My next point is that it would be extremely dangerous for us, in the U.S. Congress, to ignore the theory of the so-called greenhouse effect. The 5 hottest years, in the past 130 that we have been keeping records, have occurred since 1980. That ought not to be only mildly disturbing. That ought to be terrifying to Members of Congress, as well as the other nations of the world.

Dr. Hanna with NASA testified before our committee that to assume that all of these inordinately hot, dry years that have occurred since 1980 is coincidence would be dangerous in the extreme. He believes that it is because of all the carbon dioxide and methane and other gasses we are throwing into the atmosphere which cause the greenhouse effect.

Mr. President, that takes me to the Presidential campaign. Here is an editorial from the Washington Post this morning entitled, "An Embarrassing Campaign."

And while it points out that neither of the candidates are doing very much for themselves, when it comes to the trivial, the irrelevant, and the refusal to talk about things like the greenhouse effect, as well as dozens of other problems in this country, GEORGE BUSH is ahead of Michael Dukakis by a length. They go ahead to say,

> Meanwhile, there is the world. You remember the world. It is the place where Mikhail Gorbachev and Ayatollah Khomeini and Third World debt and Lech Walesa and Nelson Mandela and Gaza and Bangladesh and the American budget deficit are.

We have created 17 million new jobs in the past 8 years. But here's a quick calculation. Divide those 17 million into the $1.6 trillion in new national debt that has been accrued in the past 8 years, which as you know is almost twice all the debt accumulated during the preceding 200 years of this Republic, and each one of those jobs, 60 percent of which according to the Census Bureau are low-wage jobs, has cost the American taxpayer $90,000.

I submit to you that IBM, General Motors, or any American industry will be delighted to build a plant as big as you want in your home State if you will promise them $90,000 for each job they create.

I do not understand why the American people and the candidates don't focus on this. To say that we have a great economy reminds me of the guy who jumped out of the 90th-floor window. As he passed the 20th floor, somebody hollered out the window, "How is it going?"

He said: "So far, so good."

The thing that set my alarm off this morning was a long, detailed story in the Post about some people in a community and how they feel about this Presidential race. I must say, I have been chagrined, dismayed, and downright irritable about the refusal to really talk about AIDS, which threatens the planet as no plague has ever threatened the planet; drugs, which are eroding the moral fabric of this Nation like no other substance has ever plagued us; education, where we finish close to last in all international competitions with other developed nations. We are not even utilizing the technology we have in industry. We invent items that never seem to get down to industry.

Then there is the environment; the greenhouse effect, ozone depletion, ocean dumping, clean air—which we may or may not deal within this Congress. I have been absolutely amazed that GEORGE BUSH has suddenly had an election year conversion to become an environmentalist.

The PRESIDING OFFICER. The time of the Senator from Arkansas has expired.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I have 5 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Arkansas is recognized.

Mr. BUMPERS. President Reagan just discovered acid rain 3 months ago. I went out to Duluth, MN, the other night. I was flying over what were once magnificent forests and they are dying and the lakes of Minnesota are dying. I went to a joint session of Congress recently when Brian Mulroney, the Prime Minister of Canada, was here, and he was pleading with us to do something about acid rain.

He asked a simple question: If Canada was dumping all of its sulfur dioxide on us, how would we feel about it? So, then, there is the environment, education, drugs, AIDS, you name it. What are we doing? The Department of Transportation is talking about increasing the limitation on gas guzzlers.

Fifty percent of all the greenhouse effect is caused by what is coming out of our automobile exhausts. So, in this Presidential race, Mr. President, I strongly suspect that people are reasonably satisfied right now even though keeping our economy going has cost $1.6 trillion in new debt, which my children and yours will have to pay.

We are living high on the hog, as we say in Arkansas, but somebody is going to eventually have to pay. And that somebody is our children. When the parents of this country sit around the kitchen table in the evening and they talk about what they love most, it is not that Mercedes out in the driveway, it is not that thousand-acre farm out back, it is not that money in the bank or that posh office downtown. What do they say they love most? Their children.

What do you love most if you are a father or mother? There is no comparison, no race, no contest.

So instead of talking about this debt and trying to ensure the survival of this country, what are we talking about? The Pledge of Allegiance.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Two and a half minutes.

Mr. SHELBY assumed the chair.

Mr. BUMPERS. I know the Senator from Missouri is here and wishes to speak, but I want to make this point. I am going to yield to him and let him have the floor if he will indulge me this story.

I have been reading a book called The Trial of Socrates by I.F. Stone. I do not recommend it unless you really want to know abut the trial of Socrates. I will shorten it.

As an undergraduate student at the University of Arkansas, I was always fascinated with Socrates. He was 70 years old, a scholar, well respected in Athens—which had developed the first democracy in the world. But for 25 years, the Athenians had been having a little difficulty permitting dissent which, as you know, is the very heart and strength of democracy. But the Athenian Senate wanted everyone to believe alike, dance to the same tune, march to the same drummer.

Finally, they decided to try Socrates, who was always searching for the truth. They indicted him for treason. Socrates—70 years old, a scholar and not to be intimidated—came before the Senate and the interrogation begins.

I was a trial lawyer, so I know something about these cross-examinations, and how they work. I used to try to entrap people, make them say something they would not otherwise say. Socrates wasn't about to say something he didn't believe.

"What are you searching for, Socrates," they asked.

He said: "The truth."

They discussed it, and then they asked, and this is oversimplification, "Do you love the truth?"

He said: "Of course. It is the reason I search for it."

They asked: "Do you love Athens?" He said "Of course."

Then they asked the key question we trial lawyers know so much about: "Which do you love more, the truth or Athens?"

Socrates said: "I love both. No contradiction. If I find the truth, Athens benefits."

But the Athenian Senate was having none of that.

So they said:

> Out of deference to your age and your citizenship in Athens, we are condemning you to death but we are going to let you do it to yourself. You may commit suicide.

Which he did. But it was not just Socrates who died that day; Athenian democracy began to die also.

Now back to the present.

I would love to be a trial examiner asking somebody: "Do you like the Star Spangled Banner?"

"You bet."

"Do you sing it?"

"I try. I wish it did not have all those high notes in it. But I love it."

"Did you get goosebumps when you saw Greg Louganis perfect his tenth dive and win that gold medal?"

"Goosebumps? I had tears in my eyes. I have never been so moved."

"And when the *Discovery* took off, did you have tears in your eyes then?"

"Tears were in my eyes. It was an exhilarating thing to see. It gave me such great pride in our Nation."

"Do you say the Pledge of Allegiance?"

"Never been to a civic club meeting in my life where I did not hold my hand over my heart and recite the Pledge of Allegiance."

"Do you love the Pledge of Allegiance?"

"You bet."

"Do you get goosebumps when you say it?"

"Yes, sir."

"How many?"

"I never really counted them but I guess probably over 400,000."

"You call yourself a patriot and you don't even get at least 500,000 goosebumps when you recite the Pledge of Allegiance?"

Just like the trial of Socrates. To me it is the height of arrogance for anybody to accuse any other American citizen of being unpatriotic. I did not join those who questioned Senator QUAYLE's patriotism. I might question his judgment, but I would never suggest Senator QUAYLE loves his country less than I do. I do not think anybody else ought to, either.

Mr. President, I yield the floor to the Senator from Missouri.

EXHIBIT 1

UNFAVORABLE TRENDS SEEN IN WORLD FOOD PRODUCTION

(By Boyce Rensberger)

After several good crop years that seemed to have banished the threat of famine from much of the globe, current trends in world food production are again turning unfavorable, Lester R. Brown, an agricultural economist and director of the Worldwatch Institute, concluded in a report issued yesterday.

The most immediate sign of the reversal is the sharp drop in grain production caused by this year's droughts in the United States, Canada and China. For possibly the first time, Brown said, U.S. farmers will produce less grain this year than the country will consume.

In his report, "The Changing World Food Prospect: The Nineties and Beyond," Brown outlines several reasons to fear that this year's poor farm performance may be the beginning of an ominous trend:

Evidence suggests that the world's climate is gradually turning warmer and drier, increasing the chance that droughts will be more common.

The amount of land available for farming has reached its limit in many areas. Much of the productivity gain of the early 1980s came from rapidly spreading cultivation into areas formerly considered marginal. In some cases, overplowing has created severe soil erosion problems that destroy fertility.

Overpumping of irrigation water—a factor in boosting food production in recent years—is lowering water tables to the point where continued irrigation may become impossible in some areas.

The development of higher-yielding varieties of major grain crops is far slower than the development rate of such varieties during the "green revolution" of the 1960s. For example, the highest yielding varieties of rice available to Asian farmers were developed 22 years ago. Asia is already reaping about as much benefit as possible.

World population is growing faster than ever. Although the birth rate is slowly falling, the number of mouths is expected to grow by about 90 million per year by the early 1990s. Twenty years ago, it was growing by 70 million a year.

Brown said this year's grain harvest in the United States is forecast at about 190 million metric tons, with consumption estimated at 202 million tons. To meet that 12 million-ton deficit and an expected export demand of about 100 million tons, grain dealers will have to dip deeply into grain stores.

Brown estimated that this year's poor harvests will reduce the world's grain reserve from the equivalent a year ago of 101 days of global consumption to 54 days at this harvest season. This is three days worth lower than the level that caused a doubling of world grain prices in 1973.

The size of the grain reserve is considered an important measure of global food security because grains—among them, wheat, rice and corn—are the largest single source of food. About half the food people eat is made directly from grains and much of the rest comes indirectly from grain in the form of meat, milk, eggs, cheese and other grain-fed animal products.

The 1973 price doubling, along with soaring oil prices, hit Third World countries hard, preventing many from importing enough food to meet local demands. Coupled with droughts in many of those countries, malnutrition became widespread and starvation threatened millions. A global food crisis, many experts warned then, threatened to become a long-term catastrophe if steps were not taken to boost food production.

Better weather and vigorous programs to expand food production, particularly in countries such as India and China, gradually reversed the trend. Although persistent pockets of famine, as in Ethiopia, remained, the most populous countries accumulated reserves that saw them through the occasional bad crop year.

It is the level of those reserves, Brown said, that is most worrisome because of major trends that could limit the likelihood of bumper crops in years to come.

The PRESIDING OFFICER. The Senator from Missouri.

THE CAMPAIGN TRAIL

Mr. BOND. Mr. President, I rise today not to engage in political debate, although I commend my good friend and distinguished friend from Arkansas for being a great stump speaker, and perhaps there will be another occasion when we will be able to share our views and our very strong disagreements on the campaign trail.

I note only for the record that not a penny is spent by the Federal Government unless it is appropriated by this Congress. I hope at some point perhaps we will see controls on spending, like a balanced budget amendment and a line-item veto, such as my colleague from Arkansas and I have seen used effectively at the State government level.

ESTABLISHMENT OF CONGRESSIONAL CORN CAUCUS

Mr. BOND. Mr. President, I rise today to inform my colleagues of the newly created Congressional Corn Caucus and invite all to become founding members—pioneers if you will. When first approached with the idea of a new corn caucus, I was somewhat skeptical that this important commodity lacked such organization. Upon learning that this is, in fact, the case, I eagerly joined my distinguished colleague and friend, Senator DIXON, as cochairman. We are excited about establishing a forum for interested members to discuss issues related to corn and the corn industry.

Throughout history, corn has been a vital part of our agricultural economy. While we are all aware of corn's importance to American settlers, some may not realize that the value of U.S. corn production today exceeds every other crop, at more than $13 billion. In terms of volume, in 1987 more than 59 million acres produced some 7 billion bushels. Approximately 65 percent of annual corn production is used for feed while roughly 24 percent is exported. Significant amounts of corn are produced throughout the Nation—in 1986, 17 States harvested at least 1 million acres. Large quantities are also produced by several foreign countries—many of which used to be major markets for U.S. corn.

Mr. President, in spite of new competing crops and increased foreign production, I believe corn has a very bright future. Today's corn farmers continue to strive for lower production costs while at the same time implementing conservation practices to ensure long-term sustainable production. Our land grant colleges and universities have joined public and private researchers in developing such things as new high-yielding strains, improved fertilization and pesticide practices and more efficient farm equipment. In addition, farmers could soon have access to varieties which have been genetically engineered to protect against excessive heat, drought or even insect infestation.

On the demand side, the National Corn Growers Association and the Corn Refiners Association have done an excellent job of looking toward the future. While continuing to examine the potential of ethanol blended fuels, NCGA has identified several other areas which could boost corn demand, and thus price. Support for these new uses has now been elevated to the highest office in the land—the Presidency. In the recent Presidential debate both candidates expressed their commitment for not only ethanol, but for road deicers and degradable plastics derived from corn starch.

These new uses have the potential to open vast new markets for our Nation's corn farmers. It has been estimated that degradable plastics alone could utilize some 300 to 500 million bushels annually—or more than the annual production of Missouri and Kansas combined. As additional plastics applications are developed, who knows what could happen—you might say the stalk's the limit.

Mr. President, next week Jefferson City, MO, will become the first city in the Nation to distribute degradable plastic trash bags. This 3-month trial will generate a wealth of much needed data; not only will researchers learn more about how the plastics perform under various conditions, but also gauge public reaction. The Missouri Corn Growers Association has been at the forefront of degradable plastics and I am proud of their commitment to this new technology.

While new uses have become somewhat of a hot topic, there are several other issues which demand congressional attention. Just recently we learned that an association of French corn growers may soon file a countervailing duty petition with regard to imports of corn gluten feed originating from the United States. Although preliminary analysis has concluded that there is no basis for countervailing duty action, Congress may need to express its concern about this threatened end to a $600 million export market.

In addition, next year Congress will begin consideration of the 1990 farm bill. This comprehensive legislation will be crucial in directing agricultural policy toward the next century.

Mr. President, I do not envision this caucus to be a sounding board for any one particular philosophy. Rather, I would hope that it would serve as a forum to discuss, debate and develop the issues and policies affecting our Nation's corn sector. Furthermore, the corn caucus will foster improved coordination and cooperation between not only both Houses of Congress, but the administration as well. This goal is possible—we need look no further than the drought bill for proof.

A couple of weeks ago, all Senators received a "Dear Colleague" letter announcing the corn caucus. Although many Members have already asked to participate, I personally extend an invitation to every one of my colleagues to join. All Members are invited to the inaugural meeting of the corn caucus which has been scheduled for this Wednesday, October 5. The first meeting will focus on degradable plastics and several experts will make brief presentations. In addition, staff have been invited to a similar meeting later in the day. I ask all interested Members of staff to contact either my office or Senator DIXON's office for additional information.

Mr. President, I truly believe the Corn Caucus could prove an excellent forum to discuss issues important not only to corn farmers but all of rural America. I can only hope my colleagues share this belief and decide to participate in this worthwhile endeavor.

THE DEFICIT

Mr. BUMPERS. Mr. President, I was waxing eloquent a moment ago about the Presidential election and some of the issues that we are not facing up to as a nation. The Senator from Missouri came on the floor to talk about the Corn Caucus, but before he did that, he said, in response to some of the things I had said about the deficit, that everyone knows the President cannot spend money Congress does not appropriate. That is true. But I was absolutely amazed to see the President of the United States at the convention in New Orleans go before the American people and say, I'm not in charge of the deficits? I did not have anything to do with that. You know only Congress can appropriate money."

I just want to make the record clear. In the past 8 years we have appropriated $26 billion less—less than President Reagan requested.

I yield the floor.

ATMOSPHERIC CONTAMINATION—XV

Mr. STAFFORD. Mr. President, the solutions to many of the problems created by atmospheric contamination are fairly obvious and not necessarily all that difficult. But, first we must overcome the fear of change, perhaps by acknowledging that change is by now inevitable.

It is no longer a question of whether there will be changes as a result of the contamination we have dumped into our atmosphere. The question is how extensive those changes will be and how quickly we can begin to moderate, or even reverse, them.

To ease the impact of the damages we have already set in motion, we will probably have to reverse a wide range of habits that have brought the globe to this condition. There are those who will say it is impossible to change these habits. There are those who will say it is not only impossible, but there is no need to do so. Others may agree it is possible to do so, but they will question the need to do so.

In the view of this Senator, it is not only possible for us to change our ways, but it is also essential that we do so—and soon. To continue business as usual is to gamble with the very future of this planet.

Also, it is important that we realize that the means of overcoming some of our problems are close at hand. Let us consider the depletion of the ozone layer and the role of chlorofluorcarbons, or Freons, as we know them, in that happening.

It is clear that the time has arrived for a worldwide ban on the production and use of CFC's—or Freons, as they are known to most of us. Or, if not a total ban, as close to it as possible, with exemptions for absolutely necessary functions where there are no substitutes.

Some CFC uses are so important that they are considered to be essential. Refrigeration is an example. But, in the United States, only 5 percent of the production of Freons is devoted to refrigeration.

Most CFC's are used to blow foams—rigid foams such as those used in Styrofoam cups and insulation, or soft foams such as those used in couch cushions. Substitutes are available for virtually all these uses, but they will not be developed and put into use in full until the governments of the world mandate an end to the use of CFC's.

The Montreal Protocol, an international agreement to regulate and reduce the production of CFC's, is a good beginning, and it is a hopeful note. But, it falls far short of what is needed. Indeed, because of exemptions of certain chemicals and waivers granted to developing countries, the Montreal Protocol could result eventually in a 40-percent increase in CFC production over 1988 levels.

A worldwide ban on CFC production and use will require an expanded international agreement and worldwide cooperation. That does not mean that the United States should not take action on its own in an effort to exert international leadership in this matter.

We acted unilaterally to ban the use of aerosol cans in 1976 and, while that did not end the global use of CFC's for that purpose, it slowed the phenomenal growth of aerosols and bought more time for all of us. Similar unilateral action by our Nation today may inspire the rest of the world to accelerate its efforts to get CFC's out of our atmosphere.

In addition to banning the production of CFC's, or Freons, the world must act to eliminate emissions of this chemical which threatens to destroy our planet's protection from the radiation of the Sun. CFC's should be disposed of only through incineration or recycling.

Releases into the atmosphere should be prohibited. Two-thirds of the CFC's used in the United States for automotive air conditioners are eventually lost into the air. The air conditioners and appliances should be designed so that the Freons are contained and also can be easily drained and disposed of at the end of the life of the appliance.

To achieve this, the United States must persuade other nations of the world to cooperate, especially the less developed nations. We should provide them with help, including financial aid, so that they can enjoy the benefits that CFC's have brought to us.

In short, the world must complete the task that the United States began in 1976 when aerosol uses of CFC's of Freon, were banned here.

Unfortunately, eliminating carbon dioxide and other pollutants produced through the burning of fossil fuels cannot be so easily achieved as a CFC ban. But, the prospects are not entirely bleak, and tomorrow I propose to discuss that issue.

EDWARD BENNETT WILLIAMS: A LAWYER FOR THE AGES AND A MAN FOR ALL SEASONS

Mr. KENNEDY. Mr. President, I know that this entire body joins with me in expressing our profound sorrow at the loss of a great American, Edward Bennett Williams. He was a close friend to some of us, a valued adviser to many more of us and an inspiration to all of us.

To know and understand the greatness of Edward Bennett Williams is to know and understand the greatness of America. Those same traits and attributes that made Ed Williams a giant in his public pursuits and in his private life are also the virtues that have made the United States so special in the eyes of the world.

Ed Williams believed in hard work and the pursuit of excellence. Like all Americans throughout our history, he loved to win. He often described himself as having chosen a path of "contest living," and after his death, many commentators used that phrase to describe the intensity of his competitive spirit. Whether in the world of law or in the world of sports, Ed Williams lived life to its fullest. Invariably, he looked for a scoreboard to consult to tell him—objectivity and impartially and dispassionately—whether his efforts had met with success or failure. It was no accident that he was a successful trial lawyer and that his tenants won both the Super Bowl and the World Series.

But there was far more to Edward Bennett Williams' competitive spirit than the mere thrill of the contest or the personal satisfaction of victory at the end of the day. Ed Williams had an almost religious faith in the redemptive qualities of hard work. He believed that the pursuit of excellence was, standing alone, a worthy enterprise.

He was above all a passionate and eloquent and relentless champion of the rule of law. In his life as a lawyer, he was tenacious in the defense of the fundamental rights and liberties guaranteed to every American by the Bill of Rights. He fought to defend and strengthen those rights where they count most and where they are most frequently put in jeopardy—in the battlefield of the criminal trial, where public condemnation of the accused often threatens to overwhelm strict adherence to the liberties that are at the heart of the great American experiment in justice. Ed Williams' book, "One Man's Freedom," and the example of his own professional life made criminal defense work a respected and honored part of the legal profession.

Ed Williams had one of the most distinguished legal careers in the history of the profession. He was lawyer to the famous and the infamous, to the powerful and the powerless, to the beloved and the condemned.

But in addition to his many famous clients and trials, in addition to his long and distinguished record of success before the appellate courts, he leaves a lasting legacy to the profession in the institution that he built in Washington, DC, the law firm that bears his name. Perhaps more than any courtroom victory, Ed Williams took pride in his law firm because it reflected and still reflects—those attributes that made his own life so special—hard work, excellence, and love of the law.

In all things, Ed Williams was a brave and tough and relentless man. He was willing to take on powerful opponents inside and outside the courtroom, and he was driven—and drove others—to succeed in every endeavor worthy of the undertaking, whether in business, law or the world of sports.

But nowhere in Ed'a career were his bravery and character more in evidence than in his 11-year-long battle with the disease that finally took his life. Throughout this struggle he showed such extraordinary personal courage, all who knew him were in awe. The defense that he mounted against that disease prolonged his life beyond all statistical expectations. He was ultimately defeated, but his final struggle was in itself a victory for the human spirit.

As he filled out the last weeks and months of his life, his unwillingness to surrender even in the face of overwhelming odds was reminiscent of those rare occasions when sheer determination and fortitude somehow prevail even in hopeless circumstances. Ed Williams' greatest trial—his struggle against that illness—will serve to kindle hope in many others who no longer have reason to hope, and impart strength to others who are weak. The way he died—equally with the way he lived—is cause for all of us to remember and celebrate Edward Bennett Williams.

His life is also the story of a private life well-lived. He loved his church, and he loved his family, not just in principle or as abstractions but in the way he lived his life very day. He was a religious man, and he supported his church, not only with his attendance, but also with his time and energy and resources. He was a loving husband and a caring father, not just in word but also in deed. His family will miss him most because they knew him best.

All of us who knew Edward Bennett Williams will miss him for many reasons. But above all, we will miss him for his sense of humor, his love of fun, and his capacity for friendship. It was always a privilege to be in the company of Ed Williams because of his wisdom and because of the depth and breadth of his experience. But it was also great fun to spend time with him. He loved to laugh, and he loved to make others laugh. It was a gift that was the envy of all who knew him, that made him such a friend, that all of us will miss.

Ed Williams was a great man and a great friend, and he was also greatly and widely loved. Many eloquent tributes have been written and spoken about his extraordinary career and character, and I ask unanimous consent that a series of these tributes and articles may now be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

FATHER TIMOTHY HEALY, PRESIDENT OF GEORGETOWN UNIVERSITY

(Remarks for funeral of Edward Bennett Williams August 16, 1988 10 a.m.)

The temptation for anyone speaking about Ed Williams is to get lost in anecdotes, so many, so lively, so comforting. I was, like many here, Ed's client and his friend. Most of the time I did what he told me, notwithstanding the occasional flaming row just to teach me how powerful his rhetoric could be. I told Agnes that every time we met he put a hat on me, from the cap of a juvenile delinquent all the way through to a dunce's cap for having more theory than common sense. At times, however, the hat was the old round one of the priest. We used to have supper together at the Jefferson, two eldering Catholics, both knowing what would kill us and both understanding, he better than I, that the years left were a blessed interim for work.

Our talk, of course, touched his struggle against cancer for the last eight years. His courage, his simplicity and his will to fight took my breath away. He seemed never to fear death. What shone through was his uncluttered enjoyment of life: his pride and strength in his family, in the law, the Orioles, the political give and take of this capital, the struggles of his Church to be heard in a century one would be hard put to call propitious. All through those years he never conceded that "the bright day was done," never settled "for the dark."

This morning makes me reach for a comparison, and I think of Thomas Moore; not the trappings of occasion, but the substance of the man. Both he and Ed, in the public forum, in the courts, in their heart of hearts, dealt with the tensions that circle the hard saying of Jesus: "Render unto Caesar the things that are Caesar's, and unto God the things that are God's."

Ed had it tougher than Sir Thomas because his Caesar was this republic and he loved it with passion and pride. He worked and served its law and its justice, for the freedom of his clients, for his own freedom to think and believe and be as he chose. But he also knew, like Moore, how "to lean unto the comfort of God."

This is a tension for a Catholic layman. The clergy are too removed—from marriage, from family, even from making a living. We only share it with men like Ed through our jobs, through the needs of colleagues, of students, of friends. He faced it, however, in his very being. He also faced it daily in the central act of his faith, the forum that makes belief workable, the Mass. That hold on God's reality kept him off shoals lurking for those who know only Caesar's. He told me once that he thought crucifixes ought to hang in courtrooms although he knew that was impossible. He was really saying that he saw the love of God for every man written in the law he served so proudly; written in it, undergirding it, making it ultimately work God's purposes.

Ed knew of how great a chorus he was a member and how richly his life and work added to its harmony. He shared the sorrow of Antigone when the law of the gods collided with that of a ruler. He heard the pleading of Socrates fighting for freedom against the anger and outrage of his fellow citizens. He spoke often of those quiet men two hundred years ago in Philadelphia, who despite the uncomforting God of Deism, knew how much fallen men needed the law but also how little restraint it worked without the light of God's love. Above all he understood in his bones the epitaph that Thomas Moore spoke for himself on the scaffold, "I am the king's good servant, but God's first."

"The Lord has given." We have known a great and good man who served every one of us. "The Lord has taken away." We are left with an emptiness against the sky where this lawyer and citizen stood. Let us yet finish the summary of Job, as Ed would have wanted his family and friends to finish it: "Blessed be the name of the Lord."

LEGAL TITAN EDWARD BENNETT WILLIAMS DIES—FAMED D.C. LAWYER-POLITICIAN OWNED REDSKINS, THEN ORIOLES

(By Marc Fisher)

Edward Bennett Williams, the locomotive of the law who charmed thousands of jurors, set the pace for a generation of trial lawyers and, from a private position, became a powerhouse in the public arenas of politics and sports, died yesterday at 68 after an 11-year, seven-operation war against cancer.

Williams, a founder of the prominent Washington law firm of Williams & Connolly, a former owner of the Washington Redskins and the current owner of the Baltimore Orioles, died at 6:15 p.m. yesterday at Georgetown University Hospital.

From his perch as "the country's top criminal lawyer," as Time magazine once called him, Williams "had absolute influence touching all facets of Washington without holding any position," said Joseph A. Califano, Jr., a former law partner and a member of the Carter Cabinet.

"He was the best," Califano said last night. "He was the best everything. He was the best father, the best husband, the best lawyer, the best partner, the best friend . . . and he was extraordinarily brave."

Columnist Art Buchwald, a close friend, once said of Williams: "There are guys who love him and there are others who'd like to throw him out the window," Redskins football coach George Allen, whom he fired, called him "devious and deceitful." To Richard Nixon, Williams was an expletive deleted and a "bad man" who earned a place at the top of the White House enemies list.

"The bar has lost perhaps its outstanding advocate," Washington lawyer Clark Clifford said last night.

"He was a role model for every honest, tough criminal lawyer in the postwar era," said Alan Dershowitz, a criminal lawyer and Harvard law school professor.

Williams' high school yearbook said it as well as those who would know him over the next half-century: "Known by everyone. He always ruled with an iron hand and a dominating will . . . and for this reason accomplished much."

Without office or titles, he wielded enormous power. Williams was such a proud member of the Washington establishment that when he concluded that Jimmy Carter was contemptuous of the city's power elite, the lawyer led a drive to deny the president his party's 1980 nomination.

"In 15 years of having the office next to his, I don't think I've seen a presidential campaign where every candidate from both parties didn't come see him for advice," said Brendan Sullivan, one of four Williams & Connolly partners who will manage the 110-lawyer firm.

Williams' sports teams made him a household name in the region. He ran the Washington Redskins for 14 years, giving up control in 1979, although he retained a minority interest in the team. He owned the Baltimore Orioles for the past nine years.

Williams had said the Orioles would be sold to the highest bidder after his death. Several groups of investors, including one headed by former owner Jerrold Hoffberger and one based within Williams & Connolly, were reportedly negotiating with Williams in the months before he died.

The centerpiece of Williams' life was the courtroom and the law firm he built into one of the nation's most important.

Williams & Connolly—a group of hard-charging, expensive lawyers who specialize in going to court on behalf of people in the worst trouble of their lives—will still do the same kind of work for similar clients under the same name, said Sullivan, a member of the firm's executive committee.

Califano said the firm's character will, by necessity, change. "Will Brendan attract the same kind of superstars Ed did?" he said, "I don't know if anyone alive can draw the superstar clients Ed did."

Lyndon Johnson wanted Williams to be the first mayor of Washington. Gerald Ford wanted him to run the CIA. So did Ronald Reagan.

Each time, Williams declined. The only government jobs he might have taken were Supreme Court justice and attorney general, he said.

Ed never really made the commitment to get his hands dirty," said Robert Strauss, the Democratic party leader who gave Williams the job of party treasurer. "He really liked politics, but he wanted to be on the fringe."

Despite his frequent appearances at Democratic functions and Washington social events, Williams preferred to work alone, his partners said.

"A trial lawyer has to closet himself and work for hundreds and even thousands of hours until, as Ed said, you know the case better than those who lived it," Sullivan said. "That is very lonely work.

"Ed wasn't willing to spend two years of his life shaking hands at the Giant supermarket. Nor is he much of a compromiser. He analyzes a problem, selects a solution and marches on."

Unlike lawyers who measure their clients by title, wealth, notoriety or cause, Williams was intrigued primarily by the depth of a client's despair.

"We wanted to be a very powerful firm, for people in deep, deep trouble," Califano said.

For a time, especially in the 1950s and '60s, Williams was best known as a defender of shady characters whose names were tabloid staples—Frank Costello, James R. Hoffa, Joseph McCarthy.

He was not the kind of defense lawyer who sought to protect the ideological fringe. He made his reputation taking on clients who had plenty of trouble, enough money and precious little public sympathy—people such as RC Cola magnate Victor Posner, New York Yankees owner George Steinbrenner, U.S. Rep. Adam Clayton Powell; fugitive financier Robert Vesco and LBJ aide Bobby Baker.

For three decades, Williams was an especially close adviser to The Washington Post. In the early 1960s, Williams helped Publisher Philip L. Graham in his battle with mental illness. In 1985, he went before the U.S. Court of Appeals two weeks after a cancer operation to defend the newspaper successfully in a libel case brought by William Tavoulareas, the former president of Mobil Oil.

Throughout the years, Williams was "invaluable to me and this paper, for common sense wisdom," said Benjamin C. Bradlee, executive editor of The Post.

Williams' dedication to his clients was total. During the Watergate scandal, when Califano filed suit on behalf of the Democratic National Committee against the Committee to Re-Elect the President, leaders of the Teamsters, then one of the firm's larger clients, were infuriated. They demanded that Williams & Connolly drop the suit.

"Ed had represented the Teamsters for years," Califano said. "Seven of our 25 lawyers then worked on Teamsters business. We had a 10-minute meeting about what to do. Ed said, 'Look, nobody tells us who our clients are. Go ahead with yoiur lawsuit.' The Teamsters walked out; immediately. It was very costly, but Ed made the decision instantly."

Although he attracted high-profile clients, Williams never relished the celebrity lawyer role perfected by Melvin Belli and F. Lee Bailey. He was not the type to stage press conferences. Instead, he would hole himself up for days on end, absorbing detail, rehearsing arguments.

As recently as 1986, Williams was still polishing his courtroom reputation. In Miami to defend Posner against tax evasion charges, Williams packed the courtroom. Lawyers lined up for seats hours before showtime. Inside the empty room, exhausted from cancer treatments, Williams spent 30 minutes pacing in front of an empty jury box, silently rehearsing his final argument. When the jury came in, Williams held forth for 159 minutes, standing the whole time, rarely glancing at his notes.

"He's only the second man I've ever seen who's lived up to his reputation," Harley Tropin, a lawyer, told a reporter. "The first was Sandy Koufax."

The only child of a department store floorwalker in Hartford, Conn., Williams was a big, tall man with wavy hair, gray-green eyes and a voice of reason. His voice was his instrument; it could sway jurors with cool rationality, charm the crowd at Toots Shor's with Irish bluster, frighten lawyers and sportswriters with rage and disgust.

He was a man of ritual and faith, attending 7 a.m. mass every morning at Trinity Church. But that was private, something he did not discuss even with the best of friends. In public, Williams' faith was what he called "contest living," an attitude in which nearly every moment in life is defined by victory or defeat.

"He has low tolerance for people who don't work hard," said the Rev. John E. Brooks, president of the College of Holy Cross in Worcester, Mass., where Williams was chairman of the board of trustees. "He likes constant movement. When we discussed building on campus, he would say you're either churning up earth or you're standing still."

"He was a taskmaster, and he ran that firm with a strong hand," Strauss said.

Lawyers in and out of Williams and Connolly—said Williams could be capricious in his rage; some attributed their departure from the firm to his manner. His anger was frightening enough that his secretary used to keep a "mood meter" in the office to warn coworkers of the state of the Williams temper. But lawyers who worked with him for decades say the legendary temper was an act.

"He deployed a wide variety of emotions to motivate people," said partner Vincent Fuller. "If you didn't know him, you could be overwhelmed by him. When I was very young, perhaps I was afraid of him. I later found him perfectly reasonable."

"He would not count among his friends people who were frightened by him," Sullivan said. "His friends were of equal will, or they were not his friends."

Williams' friends, and especially his closest pals, Bradlee and Buchwald, gathered over lubricated lunches at Duke Zeibert's on Connecticut Avenue NW, Redskins games or trips to the circus with their children. They shared with Williams a fierce loyalty to one another and a deep passion to win, whether the subject was sports, politics or saving the world.

Bradlee and Williams spent some lunches dreaming about quitting their jobs to set up shop taking on a series of "do-good projects." "It was just talk," Bradlee said. "We never even came close to doing anything about it."

Williams' bluntness and impatience with people less devoted to work extended even to his sports teams. Sportswriters and club officials alike told of being summoned to Williams' office, to sit in delicate little chairs while the owner raged at them from behind a massive desk often compared in size to an aircraft carrier.

"While he was winning, he was really having fun," said Jerrold Hoffberger, who sold the Orioles to Williams in 1979. "When his illness and the team combined to bring him distress, he didn't have any fun."

In 14 years running the Redskins and nine owning the Orioles, he was boosted by strong players who brought their teams to the Super Bowl and the World Series. But baseball club owners gave Williams greatest credit for his later years with the Orioles, when the club's attendance improved steadily even as the team's field performance declined.

Williams' sports endeavors were not all public. He was a betting man, and he invested several times in the fortunes of boxers who captured his imagination.

"His favorite sport was boxing, basically because it's a one-on-one encounter, a man standing alone with his own talents," Brooks said. "The contest—that's what he lived for."

In his final years, Williams made several heroic recoveries from cancer operations on his colon, lung and liver. At his firm, lawyers "almost had a pool on how quickly he would return from the hospital," Sullivan said. "Sometimes it was as soon as nine or 10 days after he was in surgery with his chest opened."

This last time, the warrior had finally come to the end. Until a month before his death, Williams worked more hours than any other lawyer in his firm. But in the final weeks, his strength wore down early each day. In late May, Bradlee, Buchwald and Califano accompanied their friend to commencement exercises at Holy Cross, flying up in the private jet that was Williams' major material indulgence. It was, they said, one of their last chances to see their friend as they wished to remember him.

Williams' final moment of satisfaction came a few days later, on May 31, when his daughter, Ellen, gave birth to a son. The boy, named Edward, after his grandfather, was born on Edward Bennett Williams' birthday.

[From the Washington Post, Aug. 14, 1988]

As a Team Owner, Lawyer, Williams Practiced a Relentless Drive to Win

(By Richard Justice)

Although Edward Bennett Williams spent much of the final nine years of his life owning and operating the Baltimore Orioles, his real legacy in sports may be a 25-year involvement with a team much closer to the hearts and minds of Washingtonians.

Perhaps more than anyone else, Williams was responsible for pushing the Redskins out of their long period of somnolence and laying the groundwork for what may now be the best organization in the National Football League.

It was Williams who convinced former Redskins owner George Preston Marshall to integrate the NFL's last all-white franchise. Marshall eventually agreed, and that led to the acquisition of receiver Bobby Mitchell in 1962. The tandem of Mitchell and quarterback Norm Snead gave the Redskins an offensive threat that, for the first time, made every game exciting, if not winnable.

It was Williams who talked Vince Lombardi out of retirement and Williams who hired George Allen, the coach who took the Redskins to their first Super Bowl.

Finally, in one of his last major acts before owner Jack Kent Cooke regained control of the team, it was Williams who hired Bobby Beathard, the architect of three Super Bowl teams.

Williams' death yesterday at 68 of cancer left a huge hole in the Washington sports scene. From his friendship with athletes such as Joe DiMaggio and Sugar Ray Leonard to his presidency of the Redskins and ownership of the Orioles, he was proud of his involvement in sports, proud of being part of an endeavor in which, like the law, each day's winners and losers were clearly defined.

A few months before this death, Williams' looking drawn and frail, spent a sunny, warm afternoon seated near the dugout at Miami Stadium alternating asking about this or that Orioles prospect and reflecting on his life in sports, law and politics.

"I was president of the Redskins when they won the Super Bowl in 1983 [although Cooke was running the show by this time]," he said, "and I was owner of the Orioles when they won the World Series that year. I don't think anyone has ever won a Super Bowl and World Series in the same season."

He clearly enjoyed reliving the moment. His first love remained the law, but apparently in athletes and games, he saw the same intense desire to succeed and win that drove him in his own life.

In 1979, a few weeks after he'd purchased the Orioles and at a time when he was fighting to remain Redskins president (when NFL rules forbade cross-ownership), Williams was asked why he loved sports so much. In many ways, the equation did not fit, not for a man who was one of the country's most famous trial lawyers, a confidant of presidents, and in a city that appreciates power, the insider's insider.

He could have had any number of jobs, including the directorship of the Central Intelligence Agency, so why did he talk so much pleasure in the Earl Weavers and the games little boys play?

"I love contest-living," he said. My life in the law has been contest-living. It's a life in which every effort ends up a victory or a defeat. It's a difficult way to live, but it is a very exciting way."

He seemed to love it because his competitive fires didn't simply burn, they raged, occasionally out of control. Ask anyone who watched him storm out of his box at Memorial Stadium because he couldn't stomach another Oriole loss. Ask anyone who saw his Vesuvian temper ignite when the Redskins weren't allowed a last-second field-goal attempt in a 1979 loss at Dallas.

He was not a man of patience, and his lack of it often made him an unpopular figure in the Oriole offices. He cut conversations off in mid-sentence, his telephone conversations did not include the words "hello" or "goodbye" and he did not much tolerate people he did not respect.

His friends say he liked people who were not only competitive, but those with intellect. He surely admired Weaver because Weaver was one of the few Orioles employees who argued with Williams and had counterpoints for all Williams' suggestions.

"Get Fatso out of here," Williams once snapped at Orioles general manager Hank Peters when overweight third baseman Floyd Rayford had looked bad at the plate one night.

He thought Peters so incapable of pulling the trigger on trades that he came up with a term for indecision—"hanking around."

He nicknamed Dallas Cowboys President Tex Schramm "Loopy," because Schramm "always looked for the loophole in one of his rule changes," Schramm said. "He wanted to just pass something and move on. Others of us were more deliberate."

In the same way, Williams greatly admired Baseball Commissioner Peter Ueberroth even as he came to dislike Ueberroth's predecessor, Bowie Kuhn.

"Ueberroth makes decisions." Williams once said. "I like that. Bowie would have the executive committee on the phone once a week because he was afraid to make the decision himself and moves ahead. Things get done."

Soon after Williams fired Peters and hired Roland Hemond this winter, he was asked if he was impressed with Hemond's work on trades.

"A lot of dribbling but no shots," he said, biting the words off.

But his friends and enemies say his termper and impatience were a result of his desire to win and to excel. He never asked anyone to work harder than he worked himself, and along the way, a lot of people came to admire him.

Milwaukee owner Bud Selig said Williams was "one of the best people I've never known."

"I know how much Ed wanted to win," Selig said, "and he knew I felt the same way about my club. But when the game was over, Ed was always very gracious. I'll never forget after we won that game on the last day of the 1982 season [for the division championship], he came down to our clubhouse and shook my hand. I know his guts were tearing up inside, but he made a gesture I'll never forget."

Farm director Doug Melvin remembers Williams urging him to enroll in writing urging him to enroll in writing classes and Georgetown University. Melvin had not graduated from college, and because Williams was grooming him to run the Orioles, he wanted him to be functional in writing and speaking skills.

Williams had the look of a tough Irish gumshoe, with a huge nose, a ruddy complexion and a booming voice. He was a man who inspired a rainbow of emotions from the people who know him.

"Whenever he gives us a pep talk, my first reaction is to yell, 'I'm guilty,'" Orioles outfielder Larry Sheets said.

Allen once called him "devious and deceitful . . . a Jekyll and Hyde . . . a cold-blooded fish."

Yet Reggie Jackson was so impressed after a conversation with Williams that he said: "That's what it must have been like talking to Winston Churchill."

Said former Redskins coach and general manager Bill McPeak: "He has an incredible desire to excel. He once told me about a summer job in a gas station, and how he was determined to be the best gas station attendant ever. He told me about all the little extras he'd do for people because he wanted the customer to feel there was no other place he'd ever go for gas."

REBUILDING THE REDSKINS

Williams' relationship with the Redskins began in the late 1950s when he was an attorney for Marshall. In 1962, Marshall named Williams to the team's board of directors, and in 1965, he became an executive vice president. Then in 1966, after Marshall became incapacitated, Williams took over a team that had had nine straight losing seasons and hadn't played a postseason game since 1945. The Redskins not only has the NFL's lowest payroll, but, worse, were the league's last all-white team.

"The single thing that made the Redskins respectable was the acquisition of Bobby Mitchell in 1962, and Ed was instrumental in that," McPeak said. "For the first time, we had a supreme weapon. With Norm Snead at quarterback, we had someone to get him the ball, and for the first time, the Redskins were capable of beating people."

McPeak said getting Mitchell was only part of the solution; Williams also convinced Marshall that salaries were rising and the Redskins couldn't win more without paying more.

"Before Ed, we had to draft very carefully," McPeak said. "We'd use our first-round pick to take a guy that should have gone in the late second or third round. If we took a legitimate first-round pick, we wouldn't have been able to pay him the money he wanted. You could get players, but not an impact player like you'd be likely to get in the first round."

That was the beginning. Williams brought in Otto Graham as head coach in 1966, then came his most dramatic move—talking Lombardi out of retirement in 1969. It was an incredible stroke of public-relations brilliance because it showed people that the Redskins no longer were afraid to spend money or make-bold commitments.

When Lombardi died, Williams made another bold move, bringing in Allen for the 1971 season. He and Allen would later come to despise one another, but for seven up-and-down seasons, the Redskins were, if not the NFL's most successful team, while shopping for another job, was fired by Williams. Allen went out with guns blazing, ripping Williams as deceitful and dishonest.

Williams hired Jack Pardee from Chicago to be head coach and hired Beathard as general manager.

The Redskins struggled through season of 10-6 and 6-10, but more troubling for Williams was that he was about to lose control of his beloved team. When Marshall died, Williams and Jack Kent Cooke were both minority stockholders, but over the years, Cooke had, a bit at a time, bought 85 percent of the team. He became the majority stockholder in 1974, but allowed Williams to remain as team president.

However, in 1979, Cooke moved from Las Vegas to Middleburg, Va., and within a year, had taken control. That cut Williams deeply, and even though he was about to buy the Orioles, he clearly wanted to keep his involvement with the Redskins.

"Jack wants me to be president, he's committed to the idea," Williams said at the time. "I feel attached and deeply committed to the Redskins. I want Jack Pardee and Bobby Beathard to succeed. I am sure they will, and I want to be part of it when they do."

However, he must have known his days were numbered, especially in those weird days in 1979 when he and Cooke shared the owners box at RFK Stadium.

In the summer of 1980, Cooke took charge of the team (although Williams remained as a figurehead president). The formal signal that certainly its most interesting. Even today, people around the NFL and major league baseball marvel at how two strong, independent, intolerant men like Williams and Allen co-existed for so long.

"We got along fine," Allen said. "He was as competitive as I was, and whenever we talked, it was about how we could get better. Anything I asked for, he always cooperated."

It was Williams who supported Allen's idea for a state-of-the-art practice facility (Redskin Park), something no other team had.

"I approached the board of directors about building it, and they voted me down," Allen said. "They said maybe next year. I said, 'I thought you guys wanted to win. You've had one winning season in 15 years and that was 7-5-2 under Lombardi.' I told them next year was too late, and that's how we came up with the slogan 'The future is now.'"

Under Allen and Williams, the Redskins had their first glory era since Sammy Baugh, going to the playoffs five times in seven seasons and playing in Super Bowl VII. The Over the Hill Gang became regional, if not national heroes, and for the first time in decades, Washington went bonkers over a pro sports team.

The Williams-Allen divorce came in 1978 when Allen declined to sign a long-term contract extension, and the Williams era had ended came on Jan. 5, 1981, when Cooke fired Pardee, whom Williams had hired in 1977 and strongly endorsed a few weeks earlier.

Asked about the firing, Williams declined comment, telling reporters, "Sometimes you can't improve on silence."

Williams and Cooke were never close again, and Williams rarely went to Redskins games again.

A COMMITMENT TO BALTIMORE

Williams' involvement with the Orioles began in 1978 when he negotiated to buy the team for former treasury secretary William Simon. When the deal fell through, Williams approached Jerry Hoffberger and got the team for the bargain-basement price of $12 million.

In retrospect, it appears Williams intended to move the Orioles to RFK and return major league baseball to Washington. The lease at Memorial Stadium allowed the Orioles to play 13 games at RFK, and when it was reported that Williams was considering such a move, a firestorm of negative reaction erupted in Baltimore.

"The Orioles belong to us," headlined a front-page editorial in the Baltimore News-American on Aug. 5, 1979.

Late in the '79 season, shortly after the sale had been approved, Williams announced the Orioles would play all their 1980 home games in Baltimore. He said the decision was made "after talking to a number of people in Baltimore and taking some advice. But the major part of the decision was mine. There will be no games in Washington next season. That includes any presidential opener."

He refused to rule out ever playing games in Washington, and in August, 1980, raised the possibility again, saying that season was "a trial year for Baltimore attendance, and the trial is just about to begin." If attendance wasn't suitable, Williams said he was prepared to investigate "all my options."

Again, there was a huge negative reaction, and a few weeks later, Williams said the Orioles belonged only to Baltimore. He realized he might be able to convince Washington fans to love the Orioles in Baltimore, but if he made the move, Baltimore fans would never drive to Washington (as the NBA Bullets discovered).

"The time may come when I leave baseball," he said, "but baseball will never leave Baltimore."

Instead, he hoped to make the Orioles every Washingtonian's favorite team and began an intense marketing campaign that eventually made the team a regional giant worth more than five times what Williams paid for it. He played down the word "Baltimore" in marketing campaigns, opened a ticket outlet in Washington and eventually drew about 5 percent of his home attendance from Washington.

Williams' early years as Orioles' owner were the best years. They finished second in '80, '81 and '82, then won the franchise's third World Series in 1983.

The club dropped to fifth in 1984 and never came close again. With the farm system already in decline, Williams went for the quick fix. His intentions may have been good, but all the moves failed, from Fred Lynn to Lee Lacy to Alan Wiggins to Rick Burleson, the outsiders were not worth the money Williams spent on them.

That money would have been better spent in the minor league system, but Williams, who had battled cancer since 1977, may not have thought he had that long to wait. It may also have been deeper than that because baseball and Williams were an odd marriage.

He was accustomed to football, where one draft supplies immediate help and where emotion, not steadiness and consistency, can push teams over the top.

"I have trouble accepting any sport where losing 62 times a year is considered a great year," he said. "I'll be the first to admit that my temperament may be all wrong for the game."

Many of his former employees are now extremely bitter, saying Williams publicly criticized the minor league system while slicing its operating budget to almost nothing. However, others say his problem was he had too much patience, that he had some pedestrian people working for him and he should have replaced them sooner.

Regardless, just as he had with the Redskins, he left a deep impression on the people who knew him or competed against his team.

"We had an intense rivalry, and I think we both enjoyed it," New York Yankees owner George Steinbrenner said. "We're both so competitive and we're both hands-on owners. I think we got inspiration from each other, and I certainly knew I had to get up early in the morning to beat Ed Williams. I have great respect for him. He contributed so much to the game, and in an important era, his leadership among the owners was more part of the solution than the problem."

[From the Washington Post, Aug. 14, 1988]

Winning Was Williams' Guiding Principle

(By J.Y. Smith)

A guiding principle of Edward Bennett Williams, who died of cancer yesterday at 68, was what he called "contest living," a system in which success depends only on winning, not just doing one's best.

He applied it to the law, to business and to sports, and he won some of America's rarest prizes. He was a minority owner of the Washington Redskins when they won the Super Bowl in 1983, and he owned the Baltimore Orioles when they beat the Philadelphia Phillies 4-1 to win the World Series in the same year.

Although the only public office he ever held was membership on the Foreign Intelligence Advisory Board, Mr. Williams was among the most influential people in the country. He was entirely at ease in the inner circles of Washington power, having been on personal terms with every president from John F. Kennedy to Ronald Reagan, and he also had important connections in business and in the press. He was a former national treasurer of the Democratic Party, and was one of the leaders of a move to deny the Democratic nomination to President Jimmy Carter in 1980.

President Ford asked him to be director of central intelligence in 1975, and President Reagan offered him the same job in 1987. Mr. Williams declined on the first occasion because he enjoyed the independence of private life and on the second because of his health. But as a member of the intelligence advisory board, since abolished, he was privy to an unlimited range of the nation's secrets. Board members had direct access to the president, and this gave them a measure of real power.

Mr. Williams first gained prominence as a brilliant and resourceful advocate who time and again won seemingly unwinnable cases. He had three simple rules: That his clients gave him total control of the matter, that they tell him the truth, and that they pay his fee. Beyond that, his success was due to hard work and meticulous preparation as much as anything.

He began his practice in Washington in 1944, and for much of his career he had only a small number of associates. In 1967, the late Paul R. Connolly became his partner and they formed the firm of Williams & Connolly. It now has about 110 lawyers.

Clients ranged from corporate giants such as The Washington Post Co. and personalities such as Frank Sinatra and William F. Buckley, Jr. to some of the most notorious figures of the day.

Among them were senator Joseph R. McCarthy, the red-baiting Wisconsin Republican: Frank Costello, the New York Mafia leader; James R. Hoffa, the president of the Teamsters Union; stock swindler Robert Vesco, and Igor Melekh, a Russian employee of the United Nations who was accused of espionage.

One of Mr. Williams' partners, Vincent J. Fuller, represented John W. Hinckley, Jr., acquitted by reason of insanity of charges that he attempted to assassinate President Reagan on March 30, 1981.

Other Williams clients included such Washington figures as John Connally, the Treasury secretary in the Nixon administration who was acquitted of charges that he took bribes from milk producers, and Richard Helms, the former director of central intelligence, who was accused of lying to a congressional committee in connection with CIA operations.

Standing 6 feet 1 inch and weighing more than 200 pounds, Mr. Williams was a man of massive energy and presence. In 1977, he learned he had cancer. In the ensuing decade, he underwent seven operations, always returning to work as soon as possible.

In an interview with The Post in 1986, Mr. Williams said of his illness: "I have never been sick, never physically sick, from this disease. If you think you're licked you have less of a chance than if you think, 'I'm not going to quit, I'm going to treat this as something I'm going to overcome.'"

As a lawyer, Mr. Williams sometimes persuaded the courts to apply old legal principles to new circumstances. This was particularly true in respect to the prohibition of the Fourth Amendment of the U.S. Constitution against unreasonable search and seizure.

One such case involved a bookmaker who was convicted on evidence obtained with a then-new device called a "spike mike." At that time, police could use as evidence anything they had overheard a defendant say as long as they had not physically invaded his premises.

In this case, the "spike mike" was placed against an air duct in the wall of the bookmaker's house. The officers stayed outside. In an opinion that extended the Fourth Amendment to cover new technology, the U.S. Supreme Court ruled in March 1961, in *Silverman et al v. United States,* that the placing of the microphone in the wall was an illegal invasion of the bookmaker's house.

Mr. Williams sometimes was accused of the sins of his clients, Joseph L. Rauh, Washington lawyer and Democratic Party figure who was one of his frequent critics, denounced him with special vehemence for defending Hoffa and the Teamsters. But Mr. Williams believed that the legal system is only as strong as the defenses available to unpopular people and causes.

"All the problems of humanity can be broadly divided into three categories—physical, spiritual and social," he wrote in "One Man's Freedom," a book he published in 1962. "The physician, the clergyman and the lawyer devote their lives to the solution of these problems. No physician worthy of the name turns away a patient because he suffers from a loathsome disease or is incurable. No clergyman worthy of the name turns away a suppliant sinner because his sins are too heinous or his soul is too black.

"Only the lawyer is expected to turn away a client because society regards him as socially, morally or politically obnoxious. Only the lawyer is expected to withhold his help from those who need it most."

But if the rights of individuals are protected, then the rights of society also will be protected, he said. "Freedom of religion, freedom of the press, freedom of speech, security from unreasonable search and seizure, the right to bail, the right to counsel, the right to trial by jury—all have been forged and reforged through the years in cases of men already condemned by society."

When he defended McCarthy in the case in which McCarthy was censured by, the Senate, he received mail denouncing him as a "McCarthyite" and "fascist," Mr. Williams recalled. In the same period, he defended a group of Hollywood writers who refused to answer questions about alleged Communist activities, and this brought mail accusing him of being a "Red."

In 1956, Mr. Williams took on the defense of Frank Costello, the model for Mario Puzo's "The Godfather," in income tax and denaturalization proceedings. Costello turned to Mr. Williams because he couldn't find a first-rate lawyer in New York who would take his case. But the old gangland did so reluctantly because at first he did not want to be associated with the man who had represented McCarthy.

In the end, Costello was convicted of tax evasion, but efforts to deport him failed. Mr. Williams argued that the government had applied the law incorrectly, and the Supreme Court agreed with him.

Other notable victories were the acquittal of Hoffa on bribery charges; and hung jury in the tax evasion trail of representative Adam Clayton Powell, the Harlem minister who was a controversial member of Congress in the 1950s and 1960s; the negotiation of a fine for Aristotle Onassis to settle charges that the Greek shipping magnate had committed fraud in acquiring surplus U.S. tankers.

Among the defeats was the conviction in 1967 of Robert G. (Bobby) Baker, President Johnson's protege in the Senate, on charges of fraud and tax evasion.

Mr. Williams' most recent appearance as a lawyer was on April 27, when he accompanied Michael Milken, the junk-bond chief of Drexel Burnham Lambert, before a subcommittee of the House of Representatives that was investigating Milken's investing activities.

In his later years, Mr. Williams spoke with amusement about the days when the doings of his clients were the stuff of tabloid headlines. A famous Costello story was about the time the lawyer could not get tickets to the hit musical "My Fair Lady." Costello told him to be in the lobby of the Biltmore Hotel in New York two hours before curtain time and that his problem would be solved.

At the appointed time, a stranger walked up and handed him an envelope containing two front-row tickets. "You look familiar," Mr. Williams said. "Don't we know each other?"

"I don't know," replied the messenger. "My name is Albert Anastasia."

And so it was that Mr. Williams found himself talking to the reputed head of Murder Inc., one of the most feared gangland figures of all time.

Mr. Williams began his career in sports in 1962 when he bought a 5 percent interest in the Washington Redskins. In 1965, he became the team's managing partner, and he remained at the helm until 1979, when he bought the Baltimore Orioles. Although he gave up control of the Redskins to Jack Kent Cooke when he got the Orioles, he continued as an owner of the football team until 1984.

Simply by owning the teams, Mr. Williams became one of the most visible public figures on the local horizon.

The Redskins went to the Super Bowl in 1973 and lost to the Miami Dolphins 14-7. After their 1983 victory over Miami, they returned in 1984 to lose to the Los Angeles Raiders 38-9. The 1988 Orioles set a record of a different kind: They opened the season with 21 straight losses, the longest season opening losing streak in American League history.

Although this spring he signed a long-term lease for the team to play in a new stadium to be built in downtown Baltimore, Mr. Williams was able to attend games only infrequently, and there were reports he might sell the team. Failing health and his impatience with the slow process of developing new baseball talent were given as reasons. At the end of May, he turned over responsibility for day-to-day operations to Lawrence Lucchino, a vice president and general counsel of the team and one of his law partners. Lucchino received the title of acting president.

Apart from his sports interests, Mr. Williams had extensive holdings in real estate. Among his properties are the Jefferson Hotel and the Hill Building at Connecticut Avenue and I Street NW on Farragut Square, where his office is located. It is expected that the family will sell some of these properties.

If he was hard working, Mr. Williams also was funny, sentimental, loyal and sometimes profane. During the Watergate crisis, President Nixon said of Mr. Williams that it was time "to fix the son of a bitch." Years later, touched by the resilience and toughness that Nixon showed after being forced from office, the lawyer wrote the ex-president a letter and the two became friends.

Mr. Williams loved sports heroes such as Vincent T. Lombardi, whom he hired as head coach of the Redskins, and Joe DiMaggio, whom he put on the board of directors of the Orioles. He could be funny about his experiences as a team president. When he picked George Allen to coach the Redskins after Lombardi died, he gave him an unlimited budget. A week later, as a way of expressing his awe at Allen's free-spending ways, he told a news conference that the coach already had exceeded it.

In 1957, when Jimmy Hoffa was about to go on trial, Robert F. Kennedy, the nemesis of the Teamster leader, said he would jump off the Capitol if Hoffa was acquitted. So when the jury said "Not guilty," Mr. Williams presented Kennedy with a parachute.

Edward Bennett Williams was born on May 31, 1920, in Hartford, Conn. His parents were Joseph Barnard Williams and Mary Bennett Williams. His father was a floor-walker in a department store. The boy would watch lawyers entering and leaving the courthouse, and it was then that he decided on a career in the law.

In 1941, he graduated summa cum laude from Holy Cross College, where he was voted the "most learned" member of the class. He enlisted in the Army Air Forces in World War II. He escaped death when a bomber on which he was training crashed, killing everyone else on board. He was discharged from the service because of back injuries.

He came to Washington to study law at Georgetown University. He said he picked Georgetown over other schools because he was fascinated by the city as a world capital. He was admitted to the D.C. Bar in 1945, and joined the well-known law firm of Hogan & Hartson.

His work there involved trying personal-injury cases for the local streetcar company. This gave him invaluable courtroom experience. Soon he put his name down as a lawyer willing to take criminal cases on appointment by the courts. In this way he was introduced to criminal law.

In 1949, Mr. Williams left a promising career at Hogan & Hartson to set up his own office. The first of his famous clients was senator McCarthy.

Mr. Williams was chairman of the board of trustees of Holy Cross College, from which he received an honorary degree in 1963. He also received honorary degrees from Fairfield University, Loyola University in Chicago, Mount St. Mary's Colleges and St. Joseph's College.

He was a member of the Metropolitan, Federal City, Vinson, Barristers, National Press and Alfalfa clubs. He lived in Potomac.

His first wife, Dorothy Adair Guider, the granddaughter of a senior partner of Hogan & Hartson, died in 1959.

Survivors include his wife, Agnes Anne Neill, a former lawyer in his law firm, of Potomac; three children by his first wife, Joseph Barnard, of Bucks County, Pa., Ellen Williams Bender of Arlington, and Peter Bennett; and four children by his second wife, Edward Neill, Anthony Tyler, Dana Williams Fulham of Hingham, Mass., and Kimberly Anne.

A funeral mass is scheduled for 10 a.m. Tuesday at St. Matthew's Cathedral on Rhode Island Avenue NW. Friends may call tomorrow at Joseph Gawler & Sons funderal home at 5130 Wisconsin Ave. NW from 6 to 9 p.m.

The family said memorial contributions may be made to the Edward Bennett Williams Memorial Fund, Lombardi Cancer Center, Georgetown University, Washington, DC 20007.

[From the Washington Post, Aug. 15, 1988]

EDWARD BENNETT WILLIAMS

We will not pretend to be detached about Edward Bennett Williams, who died on Saturday after a prolonged struggle with cancer. Mr. Williams was friend, counselor, merciless ragger, Dutch uncle and—on some high-stakes, high-drama occasions—courtroom defender of this paper. In all this we were privileged, but we were not alone. As others whose lives he touched and affected can well attest, Mr. Williams had a towering gift for friendship, a world-class sense of humor and a range and degree of intelligence that continued to startle, no matter how long you knew him. Not only his friends and family, but also his city, his party, his church, the world of law (his profession) and the world of sports (his avocation) will feel the loss.

The folklore is full of Ed Williams anecdotes, most of them, so far as we know, true. They have mainly to do with his encounters with an unending procession of public heavies whom he successfully defended in criminal trials and investigations—mobsters, people widely regarded as political villains and assorted others who were on the wrong side of public opinion and, sometimes, on the wrong side of moral decency but not, if Mr. Williams could help it, on the wrong side of the law.

And usually, of course, he could. Mr. Williams was the acknowledged master of criminal lawyers. He was not personally flamboyant or public relations-minded about it, and he also did not go in for a whole lot of philosophizing about the God-given right of everyone to a defense and so on. That is, there was neither a hint of glitz nor of self-inflating sanctimony to him. He just did it—as a legal craftsman and, equally important, an uncommonly wily student of human character who knew what to do not just with a law but also and preeminently with a jury.

Mr. Williams, for all his success in this, never grew complacent or even, in a sense, very self-confident. That may have been the secret of his success. He tended to sequester himself, to prepare as if he had never had a case before. Most of the people you hear about who are at the top of their craft have some measure of this to them: an utter absence of intellectual or professional arrogance concerning the matter at hand and an unwillingness to consider short cuts. In Mr. Williams' case it was a reflection of the many glorious paradoxes that made him such an interesting man. He was utterly worldly wise, but uncynical; knowing, but forever curious and eager to learn; competitive (was he ever competitive), but without pettiness or other vices of the tiny. He did good, but he didn't like to make a big mawkish deal of it, or any deal at all. Ed Williams was a central figure in the racial desegregation of sports in our region, but he never played the violin about it; it was the right thing to do and it was in the interest of the teams he backed—end of discussion.

Probably the most fundamental paradox of his nature was that of the warm, gregarious, engaged family man and the loner—the utterly private fellow, continually in training, continually testing, pressing and relying on his own stamina and skill. As a man—a friend—and as a professional, he had, as his friend, the Rev. John E. Brooks said of him recently, the particular quality of a prize fighter, which he much admired. His accomplishments were, in Father Brooks' words, those of "a man standing alone with his talents."

[From the Washington Times, Aug. 15, 1988]

WILLIAMS LIVED, PLAYED TO WIN

("I remember after we won the World Series '83, I asked him, 'Are you happy now?' And he said, 'I'm worried about next year.' "—Hank Peters, former Orioles GM)

(Dick Heller)

This was the biggest mystery about Edward Bennett Williams: Why would one of the nation's most renowned trial lawyers care so much about games played by other men masquerading as little boys?

Williams himself sought occasionally to explain the puzzle.

"There are three occupations that involve what I call 'contest living'—sports, courtroom law and politics," he said in 1983. "In each one, you may be absolutely brilliant on a given day, but you may still lose. It's the most agonizing way to live, but it's also the most exhilarating."

Not even EBW's worst enemy could doubt that he lived and played to win. And although Williams lost his final battle, an 11-year struggle with colon cancer, Saturday evening at Georgetown Hospital, he will be remembered as a winner.

He will be remembered as a giant.

Williams was a man who earned fame, and raised eyebrows, by defending some of the more controversial and dubious public figures of his time: Sen. Joseph R. McCarthy, crime lord Frank Costello, labor leader James Hoffa, Rep. Adam Clayton Powell—and, yes, baseball tyrant George Steinbrenner.

Yet, his own reputation towered. He was a power in the Democratic party and a consultant to presidents. He could have had various big jobs in government, and his oratorical skills might have made him an awesome political candidate himself.

Williams, however, preferred "to work on the fringes." And in the last 25 years of his life, he spent much of his time watching his employees play games—first as president of the Washington Redskins and then as owner of the Baltimore Orioles.

His impact on both sports was enormous. Too many modern owners are timid, shortsighted corporation executives virtually unknown to the public. But when Williams was in charge, everybody knew it.

It was Williams who laid the foundation for today's enormously successful Redskins franchise. In the early 1960s, as the club's attorney, he persuaded cantankerous owner George Preston Marshall that the last segregated franchise in professional sports could never win as such. He also nagged the penurious Marshall into paying decent salaries.

Later, after Marshall's death, Williams became president and lured the legendary Vince Lomardi out of retirement in 1969 as coach. Following Lomardi's death from cancer in 1971, Williams hired George Allen, who built the Redskins into a power.

In his last major move before he bought the Orioles in 1979 and majority owner Jack Kent Cooke took active control of the Redskins, Williams hired Bobby Beathard as general manager. The best year of his career in sports, and possibly of his life, came in 1983 when the Redskins won Super Bowl XVII and the Orioles captured the World Series.

But baseball, a sport that requires patience from those who play and those who watch, took a toll on Williams' demanding, get-it-done-today philosophy. He romantically saluted the '83 Orioles as "this band of brothers" but agonized over each subsequent failure—of which there were many—as the club sank rapidly toward the bottom of the American League East.

"This sport may not be right for me," he admitted once. "It's hard for me to accept a game where if you lose 62 times, you've had a successful season."

Although Williams was a handy man with a one-liner (of Allen, he said, "I gave George an unlimited budget and he exceeded it his first year"), his temper and desire to win made him tough to work for. After the Orioles plummeted to fifth place in 1984, he ignored general manager Hank Peters' advice to rebuild through the farm system and spent big money for free agents Fred Lynn, Don Aase and Lee Lacy.

This brought widespread criticism that Williams was meddling with his baseball people. He was, of course, but the charge puzzled him. "How can I be meddling when I own the ballclub?" he said.

Joe Altobelli, who had managed the Orioles to the pennant in his first season, was fired when the club continued to sag early in 1985. At the time, Williams reportedly called Altobelli "cement head." Pressed for confirmation, Williams refused comment except to say, "That would not be inconsistent with my thinking."

Williams fired Peters, his widely respected general manager, after the 1987 season. Irked by Peters' caution at consummating trades, Williams referred to such deliberations as "Hanking."

In his final official public appearance as the Orioles' owner, Williams announced a front-office shakeup lst fall that produced Roland Hemond as GM, Doug Melvin as player personnel director, Frank Robinson as special assistant to the president and former NFL running back Calvin Hill as a vice president.

A recent survey had revealed the presence of few minorities in the Orioles' front office. After announcing the appointments of Robinson and Hill, Williams vowed that "never again will the Baltimore Orioles be accused of insensitivity" in hiring practices.

But Williams' health, after seven cancer operations, was failing badly. Although his frail appearance at this season's opener April 4 shocked many who had not seen him since the previous fall, the old competitive fire still burned. When the Orioles lost their first six games, manager Cal Ripken Sr. was replaced by Robinson. Hemond said the decision was his, but there was no doubt Williams had concurred.

Williams made no public comment on the team's 21-game losing streak to start the season. By this time, most of his remaining energies were directed toward completing negotiations for a 15-year lease committing the Orioles to a new stadium planned near Harborplace. With none of his children apparently interested in running the club, Williams intended to forestall the possibility of any new owner whisking the Orioles off to a larger market.

On May 2, after the Orioles had won their first game in Chicago, a crowd of 50,402 nearly filled Memorial Stadium to show their support for the team on Fantastic Fans Night. Gov. William Schaefer, former mayor of Baltimore, announced the lease agreement and praised Williams lavishly.

The owner attended but made no comment during his final appearance at an Orioles game. Ironically, the new lease assuring that the Orioles would remain in Baltimore was negotiated by a man who had been widely suspected of wanting to move all or part of the home games to Washington's RFK Stadium when he had bought the club nine years earlier.

Certainly Edward Bennett Williams was a man of large contradictions, as well as large achievements. He will be remembered as a giant.

[From the Los Angeles Times, Aug. 15, 1988]

EDWARD BENNETT WILLIAMS, 68, Dies

WASHINGTON.—Edward Bennett Wililams, the supreme criminal lawyer and roguish sports entrepreneur whose spellbinding command of a courtroom rivaled that of boyhood idol Clarence Darrow, died of cancer Saturday in Georgetown University Hospital. He was 68.

Williams, owner of the Baltimore Orioles and former president and part owner of the Washington Redskins, secured his own niche in American trial lore while still in his 30s and went on to win fame, fortune and a phenomenal string of verdicts.

He was an exponent of what he called "contest living." He gave no quarter, even to the disease that finally killed him after he had fended off its assault for more than a decade with tortuous therapy and at least seven operations. Virtually to the end, he worked hard as ever.

Williams enchanted juries, befuddled prosecutors, defended pariahs and befriended the mighty. Inside the courtroom, he beat the best the government could offer; outside of it he gave his best to government, performing a variety of tough legal missions abroad and at home.

Sometimes he so irked his adversaries that he drew out the worst in them. Richard M. Nixon once vowed on tape that "we are going to fix" Williams, a lifelong Democrat who privately called Nixon "snake brains."

Williams frustrated friends, too, in the name of unpopular clients and causes. Robert F. Kennedy, then counsel for the Senate Rackets Committee, was a frequent breakfast companion after early Mass, but Williams enraged him by his successful defense of Jimmy Hoffa in a 1957 bribery case. During the trial, Kennedy vowed to "jump off the Capitol dome" if Hoffa were acquitted. Williams gleefully replied: "I'll buy him a parachute."

Williams, broad of shoulders and belly, with gray-green eyes, was absolutely monastic during a trial. Between cases, he was an ornery, fun-loving man who was equally at ease bending elbows with a pug fighter or dining with Washington's elite at the White House.

He defended Hoffa, John Connally, Frank Costello, Richard Helms, Joseph R. McCarthy, Adam Clayton Powell, Dave Beck, Bernard Goldfine, Bobby Baker, a secret U.S. agent suspected of murdering his commanding officer abroad and two Russian diplomats charged with espionage.

Costello, the mobster who was the model for Mario Puzo's "Godfather," once said: "I've had 40 lawyers. But Ed's the champ. Ed's the champ. It's like throwing dice. Man throws the six, he can't pay off. Ed makes the point. Ed makes the point."

In the early days, he was sneered at by many in the legal Establishment for his willingness to defend unsavory characters, but that merely stiffened his resolve. "The more opprobrium that was attached to the client," he said, "the more I relished the case."

Williams' customers also included the Democratic National Committee—he served two years as the party's treasurer—and the Washington Post, Ford Motor Co. and Gulf & Western. His firm, Williams & Connolly in downtown Washington, employed scores of lawyers and was known more familiarly as the "Department of Defense."

By his own account, Williams personally lost only one "major" case, the 1967 fraud and income tax evasion trial of Bobby Baker, an aide to Lyndon B. Johnson. According to Baker, Williams went home with him immediately after the guilty verdict and burst into tears. "He did not cry a silent gentlemanly stream of tears. His thick body shook and jerked almost convulsively as he sobbed. . . . He was inconsolable," Baker said.

He could not stand losing outside the courtroom, either. As president of the Redskins, he spent to get the best, first hiring the legendary Vince Lombardi as coach, and then, after Lombardi's death, George Allen. Williams was only half-joking when he once said of Allen: "I gave him an unlimited budget, and he exceeded it."

When Jack Kent Cooke bought out his share of the football team, Williams had already acquired a new toy, baseball's Orioles.

"In football," Williams said recently, "you only have 16 vulnerable days for depression. In baseball, it's practically every day."

Williams was the only child of a floorwalker in a Hartford, Conn., department store. When his father was laid off during the Depression, he all but abandoned his hopes of going to college, but got a scholarship at Holy Cross in Worcester, Mass., and became a star debater.

He joined the Army Air Force in World War II but was soon injured in the crash of a training plane—everyone else aboard was killed—and was discharged. He then enrolled at the Georgetown University Law School in Washington, and, bored by classwork, made a practice of wandering into the U.S. courthouse to sit through trials. "I watched bad lawyers," he said. "I learned a lot from their mistakes."

[From the Evening Sun, Aug. 15, 1988]

EBW KNEW HOW TO USE HIS POWER

(By John Steadman)

Because Edward Bennett Williams owned a baseball franchise, the Baltimore Orioles, he was in position to deal from strength. The new stadium that is being erected would not have happened without his clever strategy and the way he got what he wanted even though never directly asking that $239 million be spent to build it. Admittedly, that's overwhelming—having the state of Maryland go that far without even issuing an ultimatum or a word of innuendo.

In any kind of contest, the courtroom, business, football or baseball, he knew how to maneuver, how to set up an opponent—when to bluff, to bob and weave and, at the propitious moment, slug it out. Now that he has died, after taking on cancer and losing in a courageous fight, the Orioles will be sold by Williams' heirs.

Williams was a man of quick-firing intellect even though his baseball knowledge never caught up with his courtoom ability, where he was articulate with a commanding presence, demonstrative when the occasion demanded and quick to seize any opening and exploit it to his total benefit. And if he lost, he hollered for as happened in an early negotiation with the Baltimore Department of Parks and Recreation.

Lou Grasmick, a park board member, was designated to work out the Memorial Stadium rental agreement with the Orioles. He got Williams to settle on certain stipulations that he later found out were more to the city's advantage than his. So Williams complained that he couldn't work with the park board in completing the details of the lease.

Then Mayor William Donald Schaefer came out to support, at least publicly, the stand Williams had taken, and agreed it was necessary to have someone capable of discussing the issues on a higher level. This fed the ego. Schaefer quickly by appointing a lawyer, who utlimately gave Williams all he wanted.

Williams once allegedly told a Washington sports writer, a man of excellent professional reputation, that he could get anything he wanted out of Baltimore by merely engaging a Mayflower moving van to drive around Memorial Stadium.

Such a suggestion, if he indeed had mentioned it, even in jest, carried a painful message. The Colts had left Baltimore in 1984 for Indianapolis in Mayflower vans and any subtle hint the Orioles might do the same would cause panic. When this reporter confronted Williams with what he had supposedly told the Washington newspaperman and asked if it could be true, he reacted adamantly.

"That's a lie," he said. "A 100 percent lie. And I would like to know who said that. I would confront him eyeball-to-eyeball. That's absolutely outrageous."

Since his reputation as an attorney placed him out front in some of the nation's most controversial cases, he, too, faced the fires of public scrutiny.

He had arranged for Joe Louis, the former boxing champion, to come to the trial of Jimmy Hoffa and for the two to greet each other warmly in the courtoom. They had never met before but appeared to be old friends as they embraced.

It was Williams' way of trying to influence a jury that was predominantly black. On the issue of social justice, he was a champion. No doubt.

David Glenn, former executive director of the Maryland Human Resources Commission, said Williams accepted an invitation to come to Baltimore in the 1950s and addressed a virtually all-black audience on the racial subject. "There's no doubt he was a fair man who had no bias in his heart," said Glenn, a man who dedicated himself to improving social conditions.

When Williams appointed Calvin Hill, a former Yale and Cleveland Browns halfback, to a front office position with the Orioles and named Frank Robinson manager, he was doing it because he believed qualified blacks deserved to be in positions of authority. It was embarrassing to him that the team he owned had been seriously remiss in carrying out such action and promised it would never be caught in that situation again.

We once inquired of Williams if he remembered his first court case. He laughed and answered, "Yes. It was a man riding a bicycle in Washington who was involved in an accident with a pedestrian. The pedestrian brought suit but we convinced the court the pedestrian had walked into the bicycle rather than the bicycle rider bumping into him."

That was a far cry from having later clients like Sen. Joseph McCarthy, Frank Sinatra, Frank Costello, Victor Posner, Robert Vesco and Igor Melekh.

It was Williams who was extremely vocal when Carroll Rosenbloom, former owner of the Colts, attempted to transfer the football team to Tampa in 1972. Williams took a strong stand against any such move.

Inside the NFL, it was mentioned that Williams, when he was calling the signals of the Washington Redskins, was one of the few men forceful and adept enough to drive past or go around commissioner Pete Rozelle, who was not exactly a pushover in the linguistic league.

When Williams said something that didn't look good to him in print, he merely issued a denial, such as the questionable statement he apparently made to Sports Illustrated that bringing back Earl Weaver as Oriole manager was one of his most serious mistakes. Williams was enamored with names, which is another reason Frank Robinson was more important to him than the man he replaced, Cal Ripken Sr., was ever going to be.

Sometimes the things Williams said conveyed a picture he might have been a brilliant attorney but knew little about baseball. Such an example was forthcoming after the hiring of Ripken. He said he was impressed because the new manager, earlier a coach under Weaver, had worn his necktie during the team's entire flight from Baltimore to Japan after the 1984 season.

We always wanted to ask Williams the question, which has been whispered, if he had been the unknown "Deep Throat" informer who fed important information to Carl Bernstein and Bob Woodward, reporters of The Washington Post, during the Watergate scandal that toppled Richard M. Nixon from the presidency. That opportunity never came.

Williams' intellect was at the head of the class, a point that cannot be contested. He graduated summa cum laude from Holy Cross College in 1941 and made a powerful impact in the legal profession.

When he assumed control of the Orioles, there was fear the team would head for Washington. He said the club would stay in Baltimore as long as the public indicated its support, which was proven beyond a semblance of doubt. The city and the state became paranoid.

Whatever he wanted he got. That's the kind of grip Edward Bennett Williams, because he owned a baseball team and not because he was one of America's astute legal minds, had on a city and a state.

[From the Washington Post, Aug. 15, 1988]

FOR REDSKINS, WILLIAMS CREATED CLIMATE TO WIN

(By Ken Denlinger)

MIAMI.—For Redskins of a particular generation, concentration on Saturday's preseason game against the Dolphins was difficult. An image, of Edward Bennett Williams, kept interrupting normal thought patterns.

"When they made the announcement [over the public address system in Joe Robbie Stadium that Williams had died]," said assistant coach Charley Taylor, "it bothered me the whole game."

Of the present and former Redskins in Miami for the—27-10 victory, few knew Williams and even fewer realized his enormous impact on the team: Dave Butz on the field; Taylor and a couple of other assistants on the sideline; Bobby Mitchell in the scouting area; Sonny Jurgensen and Sam Huff in the broadcast booth.

When Williams was beginning to be influential with the Redskins, Bobby Mitchell was becoming the first black to play for the team, in 1962.

"If it hadn't been for Ed, really standing behind me, fighting for me in his own way," the assistant general manager recalled, "I wouldn't have been able to go out and perform.

"Everybody [in a pioneer role for sport] needs someone to talk to. Even Jackie Robinson. So many things happened to me my first two years: places I couldn't go; things I couldn't do. There were certain players not ready to accept [a black player]; certainly, management wasn't.

"I was having a hard time not being a militant. My nature is that turning the other cheek is for the other guy. Ed told me that lots of times you can't fight in that manner, that you've got to swallow your anger to get things done. He'd give me a parable that made sense."

On the board of directors and later as executive vice president and president, Williams also was making sense with the team. In the decade of the '50s, the Redskins had won just 47 games; the first four years of the '60s, they won just 10.

"He brought good people to the organization," Mitchell said. "He created the climate [for acceptance of black players in Washington and more aggressive management for the team]."

Williams grabbed for stars, trading for Jurgensen, and Huff and hiring Otto Graham, Vince Lombardi and George Allen as coaches. When many of the early teams under his stewardship still played terribly, Williams resorted to oratory that had inspired courtrooms.

"It would work for a half," Mitchell said. "He was trying. But then Ernie Stautner [the Steelers' Hall of Fame defensive tackle] would hit you in the mouth and you'd forget everything he'd said."

Williams encouraged the sort of innovative thinking that became even more evident when Jack Kent Cooke assumed total command in the 1980s. Allen spending two No. 1 draft choices and a No. 2 for Butz in 1975 was typical.

"I always thanked [Williams] for getting me out of St. Louis," Butz said. "He always made himself available to the players."

Williams also made some players available to him. For his family's annual Thanksgiving Day touch game against Art Buchwald's, the consummate competitor once conspired to use Jurgensen at quarterback.

Williams constantly was coaxing wide receiver Taylor to quit smoking. One of his incentives was a pipe for every touchdown the Redskins' all-time pass catcher scored.

"Think I have about 13," Taylor said.

When matters had become dismal once when Graham was the coach, Williams brought Jurgensen to his office.

"He said it was too soon to fire the coach [Otto Graham]," Jurgensen said, "and that no one would care about benching an offensive lineman. He said something was needed to shake up the team.

"I asked him what he was getting at; he said: 'I'm getting at you.' "

So Jurgensen was benched in favor of Dick Shiner. And when Shiner proved ineffective the leader referred to by several Redskin officials as Panic Button demanded that his coach get Jurgensen back in the game.

Jurgensen wouldn't return.

"He was exciting," Jurgensen said. "Like Lombardi was exciting." They are linked in tragedy, the Williams family asking that contributions be made to the Edward Bennett Williams Memorial Fund of the Lombardi Cancer Center at Georgetown.

For devoted Redskins fans, the entertainment highlight of many a season was Williams' wit at the team's annual Welcome Home Luncheon. He said that Allen was given an unlimited budget—and exceeded it. And that he gave his future-is-now coach a 5-year-old dog and Allen swapped it for two 10-year-old cats.

Williams' passion for "contest living" seemed to make him more suited for football than baseball and most geared for boxing. No fighter he saw or bankrolled ever showed more courage than Williams after cancer was discovered in 1977.

"When I retired [after the 1968 season], Ed told me he wanted me to move to the front office," Mitchell said. "I had no intention of doing it, of course. It was Lombardi's force that made me do it. Lombardi said: 'You will.' I said: 'Okay, Coach.'

"I always trusted Ed. As a player, I trusted him. When I came to the front office, I trusted him. That's important. Guess that's why I worked for less."

Huff and Jurgensen were talking about Williams in the Redskins' locker room after their postgame show, the linebacker saying of his former boss: "It wasn't a complicated world with him."

From a near-empty and nearby room, Butz appeared. In his hand was a canceled Redskins check, dated Sept. 30, 1969, and made out to Sam Huff for $2,280.44.

"A whole game check," said Huff, laughing that such a sum is walking-around money for 1988 Redskins.

"And you were overpaid," Jurgensen cracked.

Butz said how he came to have the check was "a secret." It was a timely connection with happier moments on a sad night.

E.B. WILLIAMS, LEGENDARY LAWYER, SPORTSMAN, DIES

(By Sean Piccoli)

Edward Bennett Williams, 68, president and owner of the Baltimore Orioles baseball team and a legendary trial lawyer who defended the powerful and the notorious, died Saturday at Georgetown University Hospital after an 11-year battle with cancer. He lived in Potomac.

Baseball Commissioner Peter Ueberroth called Mr. Williams "one of our generation's great men."

Longtime Orioles Manager Earl Weaver called him "a successful man, a happy man and a man who accomplished much in life."

American League President Bobby Brown said Mr. Williams' battle against colon cancer was "a struggle of epic proportions."

He was a giant in the legal profession, a respected and influential leader among baseball owners and a man whose intellect and wisdom were superseded only by his indomitable courage," Mr. Brown said.

Orioles Manager Frank Robinson, in Milwaukee for a game, said, "We knew he was sick, but it's still a shock. He was sick, in the back of my mind I thought he would pull through."

Wealthy and well-spoken, Mr. Williams was the consummate Washington insider: a friend and adviser to presidents, publishers and kingmakers, and legal counsel to figures who were part of modern American lore.

His clients included the embattled Sen. Joseph McCarthy, union leader Jimmy Hoffa, the free-wheeling Harlem congressman Adam Clayton Powell, underworld boss Frank Costello, boxer Sugar Ray Robinson, presidential aide Bobby Baker, former Texas Gov. John Connally, and Robert Stroud—a convicted murderer better known as the Birdman of Alcatraz.

As owner of the Orioles and in the years he controlled the Washington Redskins football club, he was part of sports dynasties. In 1983, at the pinnacle of his success, both the Orioles and Redskins brought home world championships.

In politics, however, Mr. Williams chose to remain on the fringes: He held several advisory posts and was a former treasurer of the Democratic National Committee, but he declined offers from Presidents Gerald Ford and Ronald Reagan to head the Central Intelligence Agency. He also turned down an offer from President Lyndon B. Johnson to be the District of Columbia's first mayor.

Mr. Williams brought an obsessive vigor to what he termed "contest living."

"There are three occupations that involve what I call 'contest living'—sports, courtroom law, and politics," he told The New York Times in 1983. "In each one you may be absolutely brilliant on a given day, but you may still lose. It's the most agonizing way to live, but it's also the most exhilarating."

Mr. Williams' battle for health lasted more than 10 years, taking him through several operations and experimental cancer treatments. But he rarely let the disease disrupt his phenomenal work schedule. Year after year, he billed more hours than most at Williams & Connolly, his firm.

The son of a department store floorwalker, Mr. Williams was born in Hartford, Conn. He grew up in a poor, Depression era household and worked after school at a gas station to help his family get by.

Mr. Williams decided early on to become a lawyer. As a youngster he studied hard, and, to polish his speaking skills, he imitated the fireside chats of President Franklin D. Roosevelt.

He graduated from Bulkeley High School in Hartford and won a scholarship to Holy Cross College in Massachusetts. In 1941, he graduated from Holy Cross summa cum laude and first in his class.

At the outbreak of World War II, Mr. Williams joined the Army Air Forces—serving a two-year stint that nearly ended in tragedy in a plane crash. Everyone aboard the plane died except Mr. Williams, who suffered back injuries and a concussion. He later received an honorable discharge.

Mr. Williams enrolled in law school at Georgetown—an institution his law firm would later represent. He graduated and was admitted to the bar in 1944, landing his first job at the prestigious Washington firm of Hogan & Hartson.

In 1946, Mr. Williams married Dorothy Adair Guider, granddaughter of a senior partner in the firm. They had three children before she died in 1959 at age 34.

From 1946 to 1958 he taught law at Georgetown University, and was also a guest lecturer at Yale and the University of Frankfurt in West Germany.

He made his first courtroom appearances as counsel for corporations and city agencies fighting negligence or damage claims—a job at which he excelled but tired of quickly. Mr. Williams left his promising future with Hogan & Hartson in 1949 to found his law office on Farragut Square.

In pursuing trial law, he clung to his belief in the absolute constitutional right to legal counsel.

Mr. Williams took unpopular clients and seemingly unwinnable cases—and often won. But he labored under the onus of guilt by association: He was accused of defending the indefensible and his client list prompted observers and opposing attorneys to brand him as seamy and corrupt.

"The lawyer is neither expected nor qualified to make a moral judgment on the person seeking his help," Mr. Williams wrote in his 1962 autobiography, "One Man's Freedom."

One observer saw in Mr. Williams "an intense desire to keep government from encroaching on human liberties." The Rev. James E. Lucey, former regent at GU's Law Center and the man who recommended the young lawyer for his first job, wrote in a 1960 article that Mr. Williams "takes spectacular and unpopular cases to make his point, and also because he thoroughly enjoys the battle of the forum. He wins cases by hammering away at points of law, not by oratorical appeals to the jury."

But paired with this principle was a clear penchant for playing devil's advocate. "The more opprobrium that was attached to the client, the more I relished the case," he told The Washington Post in a 1986 interview.

With the 1950s came Sen. Joseph R. McCarthy, a fiery conservative whose allegations of communist infiltration in the highest circles of government touched off furious acrimony and debate. Mr. Williams agreed to represent the Wisconsin Republican in two libel suits and in the Senate Army-McCarthy hearings of 1954.

The same year, Mr. Williams also represented Sidney Buckman and Robert Rossen, Hollywood scriptwriters who refused to testify before the House Un-American Activities Committee probling alleged Communist infilatration of the mass media.

The Senate ultimately censured Mr. McCarthy, but Mr. Williams was credited with keeping the unruly senator largely in check during the inquiry. The hearings launched Mr. Williams into national view and helped make him one of the country's most sought-after trial attorneys. His firm became popularly known as "the department of defense."

With Mr. Williams its most visible practitioner, defense law gained new respectability and a measure of dramatic allure: Mr. Williams was the shrewd and relentless courtroom gladiator, legal sharpshooter who could win over—or hang—any jury.

Mr. Williams' most explosive cases came in the late 1950s. In 1957, he defended gambler and reputed mobster Frank Costello. Mr. Williams fought federal efforts to strip Mr. Costello of his citizenship, and attacked his client's tax evasion conviction on grounds that prosecutors used evidence gleaned from illegal wiretaps. Mr. Costello was acquitted.

That year, Mr. Williams also defended Jimmy Hoffa, the notorious union leader who later disappeared. Mr. Hoffa, then vice president of the International Brotherhood of Teamsters, was charged with bribing a Senate attorney to get information from confidential files compiled by a congressional committee investigating racketeering.

Mr. Hoffa had committee documents with him when he was arrested, and federal prosecutors went to trial confident they had an airtight case.

But Mr. Williams, through gruelling cross-examination and a surprise move—calling professional boxer and longtime Hoffa friend Joe Louis as a character witness—won acquittal for the Teamster official. Mr. Williams became general counsel for the union, but he and Mr. Hoffa later split in a highly publicized falling out.

In 1960, Mr. Williams married Agnes Anne Neill, a top lawyer in his firm. They had four children.

In later years, Mr. Williams' client list took on a more corporate veneer. He defended former Texas governor and Treasury Secretary John Connally against charges of bribing milk producers. He was counsel to several tycoons and financiers.

And he represented the flamboyant Adam Clayton Powell, a New York Democrat who was censured, fined and forced from his House seat in 1967 after a select committee concluded he misused federal funds and put his wife on the congressional payroll.

During the Watergate era, Mr. Williams enraged President Richard Nixon by representing the Democratic National Committee and The Washington Post, whose reporters broke the Watergate scandal.

Mr. Williams did not always win: One of his hardest losses was the conviction of Bobby Baker, an aide to President Johnson, on charges of fraud and tax evasion.

Still, legal observers concluded Mr. Williams chalked up a remarkable won-lost record in congressional probes, federal prosecutions, grand jury proceedings and trials-by-media—forums that often devoured less able defense attorneys.

Mr. Williams brought the same must-win fervor to sports. He was appointed to the Washington Redskins' board in 1962 by the late George Preston Marshall after persuading the owner to start signing black players. Mr. Williams was named executive vice president in 1965 and became president the next year.

Mr. Williams hired the legendary Vince Lombardi to coach the Redskins in 1969. When Mr. Lombardi died the following year, Mr. Williams signed on George Allen, who led the Redskins through the 1970s.

The relationship between team president and coach was tumultuous. Their clashes once prompted Mr. Williams to remark, "I gave George an unlimited expense account, and he's already exceeded it."

Mr. Williams bought the Baltimore Orioles in 1979 for $12 million. As team president, owner and sole stockholder ("Owning all the stock makes decision-making simple," he once said), he was irrepressible, his enthusiasm for the game boundless.

His first five years as the Orioles' owner were wildly successful: Baltimore, in the thick of every pennant race, won two division championships, a pennant and the 1983 World Series.

"I never dreamed I'd be in a business where, if you lose 62 times a year, you'd be considered a howling success," Mr. Williams said after capturing the Series.

Afterward, Mr. Williams was asked if he thought his baseball team could repeat as world champions.

"Are we anxious for success? I don't know," he told The (Baltimore) Sun in 1984. "It's difficult to sustain that hunger, and I think winning will be very much tougher this year because we've been there before."

Mr. Williams' comments were prophetic. What followed was "The Collapse of '84." A string of dismal seasons ensued, and relations between team and owner soured. Mr. Williams was vilified for the firings of manager Joe Altobelli and several Oriole standouts.

Mr. Williams coaxed veteran O's manager Earl Weaver out of retirement in June 1985. But the team still faltered. Mr. Weaver retired after two seasons that also saw Mr. Williams feuding with his high-salaried superstars.

In 1985, Mr. Williams sold his 14.7 percent interest in the Redskins to owner Jack Kent Cooke and concentrated solely on baseball. The two parted on less than friendly terms, with Mr. Williams later representing Suzanne Martin Cooke in the convoluted, controversial premarital agreement signed by the Cookes before their troubled marriage last year.

In recent years, Mr. Williams was accused of trying to block efforts by Mr. Cooke and others to bring baseball to Washington. Critics said he was trying to protect the Orioles' regional monopoly at the expense of D.C. fans who wanted a hometown successor to the Washington Senators. Mr. Williams denied the accusations.

But as an owner protecting his team's interests, Mr. Williams was "as tough as nails," according to then-Baltimore Mayor William Donald Schaefer. Many feared he would move the Orioles to another city unless he got the brand-new, publicly funded stadium he had been calling for since 1983.

But Mr. Williams insisted he would stay in Baltimore as long as fans supported the team. He told Maryland state legislators considering the new stadium last year: "Let me break even, and I'm here for life."

Gov. Schaefer last year won the right to fund and build a new baseball stadium, expected to be completed by the early 1990s.

Law and sports often overlapped for Mr. Williams. He formerly represented New York Yankees baseball team owner George Steinbrenner.

In the summer of 1986, Mr. Williams made a controversial appearance before a grand jury probing the death of college basketball star Len Bias. Mr. Williams represented Lefty Driesell, the embattled Maryland basketball coach who reportedly told his players to clean up evidence of the cocaine use that killed Mr. Bias.

Whether Mr. Driesell was a target of the probe was unclear, but many believe Mr. Williams' appearance—almost unprecedented in grand jury proceeding—and his impassioned defense of Mr. Driesell as a caring, Christian man saved the former coach from prosectuion.

Despite the demands of a legal practice and team ownership, Mr. Williams found time for other pursuits.

President Ford appointed him in 1977 to the President's Foreign Intelligence Advisory Board. The organization was dismantled by President Jimmy Carter, although Mr. Williams served that administration as a consultant to the National Security Council.

In 1980, Mr. Williams led the unsuccessful drive to "open" the Democractic National Convention by trying to unseat incumbent Mr. Carter as the convention's candidate in favor of Henry Jackson.

Mr. Williams held at least 12 honorary degrees from various universities, and was a member or chairman of numerous boards, commissions and associations. From 1970–72 he served as Chairman of the American Bar Association Special Committee on Crime Prevention and Control. He was a fellow and former regent of the American College of Trial Lawyers, a past member of the President's Lawyer's Committee on Civil Rights, a former D.C. Bar Association "Lawyer of the Year," and a member of the International Academy of Trial Lawyers.

Other memberships included the University, Federal City, National Laywers, Metropolitan and National Press clubs.

Mr. Williams was national president of the Knights of Malta from 1984 until last April. The Knights raised more than $25 million for overseas charity during his tenure, and millions for domestic causes, including Mother Teresa's homes for the poor in Anacostia.

He was chairman of the Board of Trustees of his alma mater since 1982.

Mr. Williams also ventured into real estate and owned the Jefferson Hotel on 16th Street NW.

Survivors include his wife of 27 years, Agnes Anne Neill Williams; four children by his second marriage, Edward Neill Williams, Dana Bennett Williams and Anthony Tyler Williams, all of Hingham, Mass., and Kimberly Anne Williams of Potomac; three children by his first marriage, Joseph Barnard Williams of Bucks County, Pa., Ellen Adair Williams Bender of Arlington and Peter Bennett Williams of Sterling.

A funeral Mass will be said at 10 a.m. tomorrow at St. Matthew's Cathedral in Washington, with burial in St. Gabriel's Cemetery in Potomac. The family suggests that expressions of sympathy be in the form of contributions to the Edward Bennett Williams Memorial Fund at the Lombardi Cancer Center at Georgetown University.

EBW: GIANT OF THE LAW, AND FRIEND OF BALTIMORE—ORIOLE OWNER IS REMEMBERED AS HAVING LIVED LIFE TO FULLEST

(By Michael Wentzel)

Edward Bennett Williams counted presidents of the United States as friends and gangsters as clients.

A driven, forceful and often eloquent man, he lived to battle prosecutors and opposing baseball teams and to cut well-crafted and rewarding deals such as the one that will keep his team, the Orioles, in Baltimore.

"Ed took on life every day with both fists," said close friend Robert S. Strauss, a Washington lawyer and former national Democratic Party chairman.

"He was the greatest lawyer I have ever known," Strauss said. "He had the courage of his convictions. He was never timid. He was never scared to take a chance. He was an indefatigable worker. He liked a good time. He had a great sense of humor. He loved to rib and be ribbed. He was a devout man and a splended father. Ed sipped from the cup of life and he sipped rather fully."

Williams, 68, one of the nation's best known and most accomplished lawyers, died Saturday in Georgetown University Hospital in Washington after a long and vigorous battle with cancer.

A mass of Christian burial for Williams will be offered tomorrow at 10 a.m. at St. Matthew's Cathedral at 1725 Rhode Island Ave., NW., in Washington.

A remembrance of Williams also will be held at tomorrow's game between the Orioles and the Oakland Athletics.

Williams fought cancer through 11 years and seven operations with the same determination and aggressiveness that powered his performance in the courtroom or as owner of the Orioles.

"You can make a fair case that I'm addicted to contest living because almost all the things I do are in the area of contests in the courtroom and in the stadium," Williams said in a New York Times interview in 1983. "Everything winds up on the scoreboard as a win or a loss. It's probably the most exacting way in the world to live."

During more than 40 years as an attorney, he developed a list of clients that included U.S. Sen. Joseph R. McCarthy; Rep. Adam Clayton Powell; Greek shipping magnate Aristotle Onassis; Teamster boss Jimmy Hoffa; mobster Frank Costello; Lyndon B. Johnson's longtime Senate aide, Bobby Baker; U.S. Secretary of the Treasury John Connally; and singer Frank Sinatra.

He once managed boxers. He owned a piece of the Washington Redskins for several years and served as the team's president. He was a wealthy man, owning hotels and real estate in the nation's capital.

Williams often said he had a "terrific life."

His death means significant changes for the Orioles baseball team he purchased in 1979 for more than $12 million.

In interviews, Williams said the club would be sold after his death. He calmed the city's fears that a new owner could move the team, however, when he signed in May a 15-year lease that set into motion the construction of a baseball stadium and rooted the Orioles in Baltimore.

Williams took over the team after the Orioles lost to the Pittsburgh Pirates in the 1979 World Series. The next four seasons offered some of the best baseball the team has ever played, peaking with the winning of the World Series in five games over the Philadelphia Phillies in 1983. The buoyant owner, calling the team "a magnificent band of brothers," said then that the World Series victory was the greatest thrill of his life.

During the same years, attendance at Orioles games climbed to levels never believed possible in Baltimore, topping 2 million in 1983, 1984 and 1985.

Although Williams owned the Orioles at peak performance, he also watched in frustration from his Memorial Stadium box as the team stumbled into a swift decline.

He could not be a passive owner. Former Oriole pitcher Jim Palmer said the owner "seemed to live and die with every pitch. He's just like Weaver used to be," referring to former manager Earl Weaver.

Williams moved the team into the free-agent market as the win count staggered in 1984. Declaring himself disgusted in 1985 with Joe Altobelli, the manager who brought him the World Series win, he brought back manager Earl Weaver in a failed attempt to relight the victory fires of his first years as owner. Finally, after the disastrous 1987 season, he changed the team's administration, firing longtime general manager Hank Peters and others.

During much of his tenure as owner, Williams was the focus of the drive to tie the Orioles to a long-term lease to keep the team in Baltimore. Both the fans and city officials had difficulty deciding whether to trust that he would not move the Orioles.

Williams forced repairs and enhancements at Memorial Stadium as he signed only annual leases. He negotiated an agreement that established Baltimore City as a partner in the operation of the team and stadium, but the deal benefited the team first and foremost.

His complaints and demands about Memorial Stadium ultimately ignited the campaign to construct a new stadium in Camden Yards. After an intense, nine-month period of negotiation, Williams signed a long-term lease. The deal was announced by Gov. William Donald Schaefer at Memorial Stadium before more than 50,000 fans.

Long before he bought the Orioles, Williams had secured his reputation as a skilled and tenacious criminal lawyer. Known for his extensive pre-trial preparation, sharp cross-examinations and eloquent closing arguments, he was called "the magic mouthpiece" by Life magazine.

Williams had critics who argued that he rarely took on unpopular causes but preferred high-paying, high-publicity defendants. His polished style dressed up a hard-nosed, thoroughly assertive approach to the law. Still, most Washington lawyers and legal experts simply call Williams "the best" at his profession.

"He was the dominant criminal defense lawyer of his time, the most famous and deservedly so," said Yale Kamisar, a professor at the University of Michigan School of Law and a specialist in criminal procedure and constitutional law.

"He was a model lawyer. He made being a criminal defense lawyer respectable," Kamisar said. "It is rare that the same person can be tough and quick and a tremendous adversary in the courtroom and also write law review articles and appellate briefs of excellent quality. He could do it all."

Born in Hartford, Conn., Williams was an only child, the son of a Welsh father and an Irish mother who were devout Catholics. His father was a floorwalker in a department store who lost his job during the Depression.

Even as a youth, Williams wanted to be a lawyer, giving his version of famous speeches before a bedroom mirror. He developed a mellow but dramatic and flexible voice.

In 1941, he graduated first in his class at Holy Cross College, a school he attended on academic scholarship. In 1976, he returned to the school as a member of the board of trustees and then served as the board chairman from 1982 until his death. Williams joined the Army Air Force but was injured in a crash and discharged. He graduated from the Georgetown University School of Law in 1945 with such an excellent record he was hired by the prominent Washington law firm, Hogan & Hartson.

In 1946, Williams married Dorothy Adair Guider, the granddaughter of one of the founders of the firm. They had three children. In 1959, she died. In June 1960, Williams married Agnes A. Neill, an attorney in his firm whom he has called "one of the best lawyers I have ever known." They had four children.

At Hogan & Hartson, Williams primarily handled personal injury cases. But, even in those cases, he demonstrated his drive for victory.

In one case, Williams represented a department store in a suit filed by a women who claimed she was injured when she sat on a stool in the store's coffee shop. The store had closed off the section and even removed the tops of the stools to dissuade people from sitting in the area. The women sat there anyway.

Williams lost the case—in what probably was his first loss as a lawyer—although the women received only a few hundred dollars. He was outraged by the loss. The firm advised Williams to accept the loss but Williams convinced the insurance company to appeal. He lost again, but appealed again. He finally won.

"It was a very revealing characteristic," Howard Boyd, a lawyer then at Hogan & Hartson, told Williams' biographer, Robert Pack. "It didn't make any difference how small it was. He was satisfied that he was on the right side of that, and that he should have won."

In 1949, Williams started his own firm, Williams & Connolly, which has become well-known in Washington for determined and warrior-like attorneys.

Within a few years, Williams had started taking on the famous clients and the difficult cases that would form his reputation as a lawyer. His ability to recall facts and testimony allowed him to give lengthy, logical and sometimes hypnotic closing arguments without referring to notes. His analytical skills created incisive and, if necessary, destructive cross-examinations.

But his decision to take as clients some of the most notorious of defendants became a Williams trademark.

"He was a tremendous competitor. That's why he and Vince Lombardi loved each other so much," said Michael Tigar, a professor at the University of Texas School of Law and a former member of Williams' law firm.

"But he did not just believe in winning," said Tigar, who refers to Williams as "my father in the law." "He believed in the adversarial system of justice. He did not think the system was served by half-hearted acolytes. He retained a certain distance from the defendant. He wasn't a pal to his clients. He was the lawyer. He came there with a job to do."

In his well-received book from 1962, "One Man's Freedom," Williams forcefully argued for the civil rights of defendants and the right of any accused person to a lawyer and a vigorous defense. According to Kamisar, appeals argued by Williams broke new ground in establishing requirements for search-and-seizure warrants and in limiting the use of wiretaps.

"Ed wanted to be the best lawyer for a client in the same way he wanted to be the best friend or the best father or have the best baseball team," said Joseph A. Califano Jr., a member of both the Johnson and Carter administrations and a onetime member of the Williams firm.

"But you have a couple that with another trait," Califano said. "He really understood and never condemned human frailty. He deeply believed everyone was entitled to have someone speak out for them, to represent them.

Williams usually mounted the best defense but he did not always win. His friends say the conviction of Bobby Baker on fraud and tax evasion was his most bitter defeat. His most treasured win was the acquital of John Connally on bribery charges during the Watergates era.

In the courtroom, Williams did not resort to melodramatics but he did use his touch with a jury. He seemed to have a special understanding of jurors. Lawyers say he never condenscended to jurors, but courted them.

William Hundley, a friend and a well-known Washignton lawyer, said: "Ed projected integrity and competence."

"He always had the ability to get jurors and judges to transfer their wonderful feelings about him to his clients . . . and you could say some terrible things about some of his clients," said Hundley, with a touch of humor in his voice.

His clients and his many victories made Williams a potent connection in Washington but he rarely joined the capital's mix of power and society. He also turned down several chances at political power.

President Johnson asked him to become the first mayor of Washington. President Gerald Ford wanted him to head the Central Intelligence Agency. Richard Nixon thought he should run for the U.S. Senate in Maryland.

He did serve as treasurer of the Democratic National Committee from 1974 to 1977. In 1980, he organized an unsuccessful campaign to stop the renomination of Jimmy Carter, a president he did not like.

Outside the courtroom, his greatest fascination may have been sports. He first bought an interest in the Washington Redskins in 1962 in the wake of a complex and rugged battle over the will of George Preston Marshall, the founder of the Redskins. He served as the club president for 15 years, anguishing over bad trades and battling with most head coaches, but especially with George Allen.

After his purchase of the Orioles in 1979, he dropped any official position with the Redskins. He did not sell his 14.7 percent interest in the football team until 1985—reportedly for more than $8 million. His relationship with Jack Kent Cooke, the Redskins team owner, also reportedly ended then.

Throughout the many years he fought his cancer, Williams continued to work hard. In 1984, when a spot of cancer was removed surgically from his lung, he billed more than 3,000 hours, an extraordinarily high figure. Friends said he often forced himself to return to the office only days after an operation.

"No lawyer has a better record," Hundley said. "All lawyers have giant egos. But Ed is the only lawyer I've ever met whose ability matched his ego."

Williams, who lived in Potomac, is survived by his wife; his children, Joseph Barnard, of Bucks County, Pa., Ellen Williams Bender, of Arlington, Va., Peter Bennett, Edward Neill of Potomac, Dana Williams Fullham of Hingham, Mass., Anthony Tyler of Baltimore and Kimberly Anne of Potomac.

In lieu of flowers, the family has asked that contributions be made to the Edward Bennett Williams Memorial Fund, Vince Lombardi Cancer Center, Georgetown University, Washington, D.C.

WILLIAMS OFTEN HAD TO REASSURE HE WOULDN'T MOVE TEAM

(By Kent Baker)

Aug. 2—Edward Bennett Williams decides to buy the Baltimore Orioles from Jerold Hoffberger on his own behalf after former Secretary of the Treasury William E. Simon, whom he represented in negotiations, dropped out, citing Hoffberger's "duplicity." The purchase price is $12 million, and he is the sole owner through a corporation known as EBW. Williams pledges to keep the team in Baltimore as long as it is properly supported. Mayor William Donald Schaefer construes this to mean "breaking even." Williams says, "I'm not looking to make profits from the Baltimore Orioles. I don't make my living that way."

Oct. 22—American League owners unanimously approve the sale of the team. Ten days later, the sale officially takes effect.

Dec. 3—Williams objects to a proposed $23 million stadium improvement package totally favoring the Baltimore Colts.

1960

Feb. 11—Rumors surface that Williams is contemplating building a stadium for the Orioles and is supporting legislation that would provide tax-free bonds for the financing. He also announcees a goal to attract more Washington-area fans.

Feb. 14—Williams says he has no plans to build a stadium and no plans for a long-term lease: "The idea originated with a member of the legislature, and it isn't any sweetheart deal for the Orioles. It is absolutely wrong that the Orioles would build and pay for the stadium with their money." He reiterates that he would not sign a long-term lease based on the proposed stadium improvement plans, saying he prefers Memorial Stadium as it is.

April 13—Williams defends himself again against rumors he will move the Orioles. "I thought if I said the team would stay as long as the city supports it, everybody would be reassured," he says. "I think it was the distrust of a stranger. I've tried to give the fans trust, and I think I have."

July 10—When a four-game series with Boston draws 120,000 on the weekend Harborplace officially opens. Williams lashes at the fans. "I thought we'd get 150,000 for this series," he says. That's no good. We can't make out like this. The team is playing good baseball, yet we draw better on the road. That's a terrible indictment."

Aug. 5—Williams tells the fans their trial is about to begin" and announces the team's intention to compete "with teams like the Yankees and Red Sox."

Aug. 6—He backs off, saying the trial quote was "just a big blowup. To have a better team with better players, we must have better revenues. To do this, we need great support from Baltimore, not just good support." Talk of a new stadium in Camden Yards again surfaces.

Aug. 18—During a five-game series with the Yankees that draws a major-league record 253,636 fans, Williams again complains about the traffic problem. "The worst thing a baseball franchise can do to its product is to lock the family in its car in traffic.

Aug. 25—City police reveal they secretly tailed Williams from the stadium to the city line after a game and timed his car in 19 minutes. "If I had known, we probably would have driven more slowly," says Williams.

Nov. 12—The owner again pledges "the time may come when I leave baseball, but baseball will never leave Baltimore." After a season in which the Orioles draw 1,797,438 fans, he says that in his rookie year "I didn't make many mistakes, but the ones I made were beauts. I promise you there won't be any more."

1981

March 2—Williams expresses confidence that baseball's labor dispute can be resolved without his getting involved in the negotiations.

May 22—Williams says he senses "intractability" in the negotiations and admits "for the first time I feel very gloomy about the situation."

May 27—The owners' chief negotiator, Ray Brebey, calls Williams "a loose cannon" in the fraternity. "I can't believe he would show such bad judgment as to mean me," says Williams. "I've spent my whole life believing in principles over lunacy, and it would be lunacy to have a strike in baseball."

June 12—Baseball's players go on strike and Williams feels "so down and depressed, I just find it incomprehensible that we're in this situation."

June 14—Williams requests direct involvement in the negotiations, pointing out that no member of the Player Relations Committee is a majority owner. The request is denied.

June 16—Williams, New York Yankees principal owner George Steinbrenner and Texas Rangers owner Eddie Chiles demand progress in a meeting with American League president Lawrence MacPhail. Two days later, Steinbrenner issues a statement supporting the owners' bargaining team. "Oh, well, that's one over the side. They'll be sending Chiles and me to Lower Slobbovia," says Williams.

July 17—The owners meet and the PRC presents a proposal to the players that Williams says "represented very significant movement. Unfortunately, it didn't elicit any response."

July 24—Williams says Marvin Miller "has lost control of the union," venting his frustration after both sides stand fast.

July 27—At the urging of Williams, the owners hold another meeting, saying, "we must settle this week." He adds, "I think we're going to have a good old country meeting involving separate confabs for the more moderate American Leaguers and the hardline National Leaguers, then a joint session.

July 31—Williams is on a holiday at Martha's Vineyard when the strike is setted. He expressed relief and says, "The best thing to come out of the agreement was a war or peace. This is something we should never forget. It must never happen again."

Aug. 4—Williams is being credited with exerting influence on the talks in the final days. "Everyone said I made a tremendous impact, but I don't know," he says. "I don't understand what they understand. I don't care who gets the credit as long as we got something done."

Aug. 10—Williams talks to his players, telling of his pride that "we all stayed together for 50 days. We suffered terrible adversity, but we never wavered and never came apart," Meanwhile, the PRC hires lawyers to check on the strike conduct of Williams, Steinbrenner and Chiles. "I hope they charge me and try to fine me," says a defiant Williams. "I can't wait. They'll think they're in an eggbeater."

Oct. 2—With manager Earl Weaver hinting at retirement, Williams says he is entitled to, "but I would not want him to wait until the middle of next season to let us know, I would want him to let us know before the season started."

Oct. 4—Evaluating the season as a whole, Williams says. "We just peaked too late. We thought we were leading into the final third of the season. It was just a bad year all around. I feel like holding a New Year's Eve party because the season is finally over. "We [baseball] didn't do anything right."

Dec. 11—Williams is appointed by fellow owners to baseball's Executive Council, which advises the commissioner. 'I'm surprised, but happy," he says. Chiles is elected to the Player Relations Committee at the same time.

Jan. 27—Williams admits discussions with other owners about replacing commissionier Bowie Kuhn. "I've told him [Kuhn] face to face that I did not admire his leadership in 1981," says Williams. "The work stoppage could have been averted, should have been. We have to restructure baseball and have the kind of commissioner who has the confidence of both management and labor."

Feb. 25—Williams undergoes surgery for the second time to remove a small cancerous tumor. The first operation was in 1977.

March 15—Williams steadfastly denies that the Orioles are for sale. "I thought I was in heaven today when I woke up," he says. "I'm here at spring training and I'm with the club."

March 17—Williams makes peace with Kuhn, reflecting that "the commissioner's job is difficult one. I think I've been unfair at times, and I regret it." He cites the conflicts besetting the commissioner and asks that his powers not be diluted.

April 8—On a survey of the percentage of Washington-area fans at Memorial Stadium, the owner says "nobody knows what the real number is. You could go out and count cars and look at license plates, but even that wouldn't work. You just can't ask everybody where they're coming from."

April 14—Williams announces a complicated one-year lease with the city whereby the club will split profits depending on attendance. More fans will mean a higher share for the city.

May 13—After the Orioles fall 9½ games behind first-place Boston, Williams says, "my patience is running thin."

June 28—Rumors that Weaver will retire and manage in New York rankle Williams, who admits it is a problem. "I wish Earl hadn't announced he was going to retire at the end of year," he says. "I'm not anxious to have a new manager. I'd like to keep the one we have. I think he will find retirement unchallenging."

Aug. 13—After the team loses 12 times in 17 games, Williams goes to Boston for a personal inspection. "It's almost as if they're in a coma, but somehow we're going to have to figure a way to come out of it," he says.

Aug. 13—The players rave about Williams eloquence after his first clubhouse meeting with them: then, they beat the Red Sox, 5-2.

Aug. 17—Weaver agrees to stay as a scout and consultant in 1983. "Earl doesn't want to manage anywhere next season," says Williams, who adds that he will wait until the year ends to move on a new manager. "I'll have major input," Williams says. Simultaneously, Kuhn receives a vote of support from the American League at an owners meeting with Williams leading the oratory.

Sept. 4—Williams, general manager Hank Peters and Weaver are at odds over Weaver's successor. Williams favors one the young breed, like Tony LaRussa. Weaver is backing Cal Ripkin Sr. and Peters is for John McNamara.

Oct. 5—While the Orioles are in the process of losing the division by a game in an exhilarating final series against Milwaukee.

Nov. 12—Williams is attending to legal duties elsewhere when compromise candidate Joe Altobelli is hired to manage.

1983

Feb. 8—The $22 million stadium improvement loan is dead. Williams wants a $7.5 million loan from the state to improve the stadium for baseball. In exchange, he offers to sign a six-year lease. The Colts are also interested in such an arrangement.

March 30—In his first statement on Altobelli, Williams says, "We thought he was the best available man. I think he was uniquely qualified to step in at the moment because he has managed many of these players. He has major-league experence, something neither Cal Ripkin nor Ray Miller had." He says that if the Orioles ever become a bad team, "I am going to be in big trouble in this market because this town will not support a losing baseball team."

June 2—In a rambling discourse, Colts owner Robert Irsay says he won't sign a lease until Williams does and vows to stay in Baltimore, "unless you throw us out. If I sign and he doesn't, the first thing I do is eliminate the dugouts. What is Bennett going to do?" The $7.5 million improvements are passed by the legislature. Williams says he is "delighted" the Colts are staying, "but I don't know what our signing has to do with what Irsay does. What he does is a matter of total indifference to me. We're neogiating in good faith."

Aug. 2—Under heavy pressure, Kuhn resigns as commissioner, 10 days before his term is to expire. He agrees to stay until Dec. 31. Williams says Kuhn "acted out of a sense of selflessness" and assails the owners' rule that requires a three-quarters majority to approve a commissioner.

Oct. 5—Williams pronounces his satisfaction with attendance, which has reached 2,042,071. He now says: "It doesn't seem feasible to go downtown. It wouldn't improve our parking situation, and that's the major problem we have now."

Oct. 16—Williams donates the world championship trophy to the people of Baltimore. "The way I feel now, there has been no greater thrill in my life than the world championship," says Williams.

Nov. 18—Williams returns to Washington after having a small tumor on his lung removed.

1984

Jan. 29—The city rejects a six-year lease deal because of major new demands by Williams, who is called as difficult to deal with as Irsay. The Colts' owner had stopped talking with the city. "I don't know what the problems are:" says Williams, who wants all concessions revenues, all scoreboard advertising and a state-of-the-art scoreboard among other things. The partnership agreement with the city has ended.

Jan. 30—Williams says he has waited more than a month for the city to respond to his lease proposal and expresses annoyance that the only word he has heard has been "through the press. We do not believe that is the way to conduct negotiations." The city prepares a counter-proposal and Mayor Schaefer says, "There's been too much talk."

Feb. 26—Peters and Altobelli receive contract extensions, Peters for five years, Altobelli for one. Williams says publicity over the lease talks has been "outrageously unfair. The Orioles paid the highest revenue for use of an American League park."

Feb. 28—Williams says, "I have a conviction that the decision will be reached quickly" regarding a new commissioner. Kuhn's second contract extension has expired. Peter Ueberroth is named new commissioner several days later.

April 2—Williams tells Schaefer he will do "everything to help Baltimore regain an NFL franchise" after Irsay flees for Indianapolis.

April 10—Talk of a new stadium in Port Covington surfaces among city planners, but no one consults Williams. "Obviously if you're going to build a stadium, you would talk to the tenant," he says.

April 11—With the shock of the Colts leaving still fresh. Williams tells the fans "the Orioles are here for life . . . my lifetime. I'm not moving. I'd like to own an NFL team in Baltimore. I would tidy things up. The courts did away with that cross-ownership rule a few years ago, so legally there is nothing to stop me." He says he will use his influence with acquaintances in the NFL to restore a franchise that can be "great again" and declares he has never had any doubts about reaching an agreement with Schaefer on a lease.

July 11—Lease negotiations are completed successfuly. It is a modified agreement with the city's share still dependent on the team's financial success.

Aug. 23—The owner says: "We're going to make changes, lots of changes before next season. We really hurt ourseveles by keeping the status quo. You have to shake things up to keep the players motivated. I should have trusted my instincts, but fell into a familiar trap. We're going to take a long, hard look at our farm system to see what's out there. We've got to look everywhere for help, especially in the free-agent market." He adds that "it's great the fans are supporting us, but you always have a legacy from a championship team." On Altobelli: "I'm not about to give him a vote of confidence. That's like getting a kiss from the Mafia godfather."

Nov. 7—Frank Robinson is hired by Williams, giving the Orioles six coaches and creating an uncertainty about Altobelli's job.

Dec. 10—The Orioles begin the free-agent plunge, signing Lee Lacy to a four-year contract at $650,000 annually. Fred Lynn and Don Aase later sign with the club, which invests $11 million. "We felt we had to find replacements elsewhere," says Williams after the club loses Ken Singleton, Benny Ayala and Al Bumbry. Hank Peters, who had collapsed from exhaustion at the World Series, is opposed to firing Altobelli and begins to have a long siege of disagreements with the owner.

1985

Jan. 14—Williams undergoes cancer surgery for the fifth time.

Jan. 21—Williams says he has no objections to a long-term lease if it is one of the conditions for building a new $80 million stadium, which is to be lobbied for by a task force.

March 4—As talk of a downtown stadium re-surfaces, Williams announces his opposition to a dual-purpose stadium. "One [sport] always suffers," he says.

June 12—Williams meets with Weaver to offer him a contract to return as manager.

June 13—After several days of dangling, Altobelli is fired. Weaver is re-hired and Williams says "in making the move we tried to get the best guy we could and we simply got the best." The Orioles have a 29-26 record when they make the first mid-season managerial change since 1968, when Weaver replaced Hank Bauer. The owner is criticized for the way the change was handled.

Sept. 13—Williams undergoes sixth cancer surgery.

1986

Jan. 25—The feud with Peters escalates when Doug Melvin is hired as a special assistant to Williams and Peters without Peters' knowledge.

March 2—Williams denies a rift with Peters as "totally false, absolutely ridiculous."

March 2—The owner pledges more involvement and explains: "People say I'm a meddler. I call it being a governor. I have a substantial interest in this club and I'm going to protect it. The team is always on my mind. It nags at me. It's distracting. I want to win it all again. I want to win it three times."

June 13—On his first visit to Baltimore as a Yankees coach, Altobelli says of Williams: "It would have been easier to take [this firing] if it had been done by someone in baseball you honestly respected."

July 20—Williams expresses disappointment about the team and is convinced, "this is the best team, with more talent, than any we've ever had." However, the Orioles finished the season last in the East Division after being 2½ games out on Aug. 6. Weaver announced in September he wouldn't return for 1987.

Aug. 20—Williams criticizes Eddie Murray and questions the first baseman's off-season work habits. "Murray hasn't given us a good year," he says. "Look at his extra-base hits. And his fielding. It's really hurt us. He's influencing the other guys. At his age [30] he's got to work in the off-season; it's a full-time job." He also suggests moving Cal Ripken to third base.

1987

Feb. 18—During a long period of silence by the owner, Gov. Schaefer says Williams wants a baseball stadium in Camden Yards, period. Williams does reiterate his intention to stay in Baltimore. "I'm not going anywhere, for God's sake."

Feb. 20—With the stadium issue flaring again, Williams says, "I've become an SOB to a lot of people because everyone assumes I could be an SOB. But I've never been an SOB. I don't know how much time I have left, but I'm not going to start being an SOB now. At no time have I ever threatened I was going anywhere. I know the Irsay thing is part of this. But it is not my lifestyle to badger or threaten anyone or to break my word or make demands . . . I think the concern is I might die and my estate might sell the franchise. I think that's the greatest fear."

Feb. 27—Williams says he "doesn't feel compelled" to talk to Murray, but would be glad to have a meeting. "What I said, I said. It was unproductive."

March 4—Williams testifies before the General Assembly for a downtown stadium.

Oct. 5—The uneasy truce culminates in the firing of Hank Peters and Tom Giordano, his major lieutenant. Williams says, "You will be hearing much more from me from this day on. Maybe I'm not emotionally suited to this game . . . But I kind of have the Harry Truman theory: The buck stops here. I take all the blame. I don't try to parcel it out. I am an impatient person. I suppressed that impatience to the point of exhaustion." He says one man will no longer be responsible for all operations, that manager Cal Ripken's contract will probably be "rolled over" and that he will "not get into criticism of Hank Peters."

Nov. 10—Roland Hemond is named vice president of baseball operations, Frank Robinson a special assistant to Williams, Doug Melvin director of player personnel, Calvin Hill vice president for administrative personnel and Ripken re-hired as manager. "This is not the end. This is not the beginning of the end. This is the end of the beginning," says Williams.

Dec. 18—Maryland Stadium Authority chairman Herbert J. Belgrad says lease negotiations with the Orioles are going slowly, partly because of the city's involvement with the move of the St. Louis football team.

1988

Jan. 19—The Orioles extend their lease at Memorial Stadium for another year.

Jan. 20—Williams is back at his Washington offices after another trip to the hospital and grants his first interview of the year. He says, "If I die, the club would be sold," not remain in the family, admits he had failed to realize until recently that Murray "is a very sensitive guy" and said he hoped to sign a lease for the stadium "very quickly."

Jan. 26—Schaefer expresses his impatience with the status of the lease negotiations and says he may engage Williams in direct talks.

March 14—Williams and Schaefer meet, then schedule another meeting about the lease. "We didn't come to what I would call total conclusions," says Schaefer. "But I am convinced as of today that he wants to sign a lease." Williams is not talking.

March 29—The Orioles remain mum on the lease talks, but indications of progress surface. Schaefer says the major problems have been reduced "four . . to one."

April 4—On Opening Day at Memorial Stadium, Williams says his negotiators and the Stadium Authority are "very close" on a lease agreement for the proposed stadium and said he had agreed on a contract extension at Memorial Stadium "through the construction of a new stadium."

April 12—Ripken is fired after an 0-6 start and Frank Robinson becomes manager. Hemond says he made the move after consulting with Williams.

April 20—The Orioles break the loss record for a start, going to 0-14 with an 8-6 loss at Milwaukee. Schaefer expresses concern about the lack of progress in the lease negotiations.

April 22—Belgrad says negotiators in the stadium talks have made significant progress regarding concessions.

April 29—Schaefer says Williams has been cooperating fully in the long negotiations to complete a long-term lease and predicts the matter will end successfully within a few days.

April 30—The owner calls Robinson with congratulations on the team's first victory after a 21-game losing streak.

May 1—The Orioles and Maryland Stadium Authority reach agreement on the major issues for a 15-year lease at the downtown stadium.

May 2—Nine months of negotiations end as Schaefer officially announces agreement on a 15-year lease with a five-year option during pre-game ceremonies at Memorial Stadium. Williams, who is in ill health, declines interviews. It is his last appearance at an Orioles game.

May 5—A guaranteed season-ticket agreement with Baltimore business leaders is revealed as a key portion of the lease. The business community guarantees purchase of tickets whenever sales fall below minimum levels. This is seen as a major factor in Williams' willingness to sign the lease.

May 14—Sources in the local business community reveal that Williams has indicated a desire to sell the team, reversing his previous position on the matter. He has had talks with Jerold Hoffberger, from whom he purchased the Orioles in 1979.

May 31—Williams appoints Larry Lucchino, his top aide, as the team's acting president. Lucchino will give the owner a greater presence in the club's daily operations, since Williams' visits to Memorial Stadium have become less frequent.

June 9—Sources are quoted as saying Williams has rejected at least two offers of more than $60 million to buy the team.

July 7—Williams or his representatives are reported to be in negotiations with USF&G that could result in the transfer of the Orioles. They are considered the most detailed talks regarding a sale since Williams began to entertain offers for the team.

[From the Evening Sun, Aug. 15, 1988]

WHEN HE TOOK OVER, HE BREATHED NEW LIFE INTO A GROGGY BASEBALL CITY

(By Jim Henneman)

When Edward Bennett Williams first came to town he was painted as the Grinch of summer, the man who would take baseball from Baltimore. At the price he paid—far less than the reported $12 million—it would have been a major-leage steal.

But if the late owner of the Orioles left a legacy to this city, it is that he awakened interest in what had been a shaky franchise. Williams was much more successful marketing his organization than he was strengthening it.

Because of that, the Orioles are a remarkable attendance success story today despite the worst record in baseball over the last three seasons. They barely missed becoming the first last-place team to draw 2 million in 1986, falling 26,822 short only because of three rainouts. They attracted 1,835,692 to see a team that lost 95 games in 1987, and will come close to 1,750,000 this year with a team that opened the season with a record for futility and will lose in excess of 100 games.

This is the same team, in the same city, that averaged 14,407 while barely attracting a million people with a club that won 90 games just 10 years ago. That was the year before EBW bought the club, ending Jerold Hoffberger's five-year search for new ownership and signaling panic among those who envisioned the Orioles' flying to Washington's RFK Stadium.

To this day nobody is quite sure how Williams surfaced as the buyer, but there can be no doubt he is almost solely responsible for establishing Baltimore as a solid major league baseball city and spurring it toward the Camden Yards Complex. One of Williams' last acts with the Orioles was to sign a 15-year lease that assures the baseball half of the dual-stadium project will be built.

Williams was a latecomer to the negotiations to buy the Orioles but, as is his custom, once he moved it was a done deal. In late 1978 and early 1979, Hoffberger was in lengthy negotiations with William Simon, former U.S. Treasury secretary, whose D.C. connections aroused a lot of concern.

Not enough concern, however, to uncover a local buyer despite Hoffberger's relatively modest $12 million price tag. It was never really explained why the Simon deal, which appeared complete, fell through—but when it did, Williams slipped quietly through the back door.

As Simon's counsel, Williams was armed with all the information he needed, and in the space of two months he hammered out a deal others had been kicking around for five years. But it's doubtful if even Williams suspected how good a deal it would turn out to be.

Since the 1979 season had begun and the sale was consummated in June, it was agreed that Williams wouldn't take over until 1980. But the financial fortunes of the Orioles in 1979 figured heavily in the sale.

Hoffberger had never wavered from his $12 million asking price. That figure, however, included $2 million in convertible assets, making the bottom-line price $10 million. With a season already under way, there was a clause written into the contract to protect Hoffberger against any losses that year.

The stipulation was that if the Orioles lost money in 1979, the losses would be added to the sales price. However, if the team made money, the profits would be deducted from the purchase price. Shortly after the sale was announced, the Orioles went on a roll that delivered a pennant and a record attendance of 1,681,009 that was almost half-million more than they had ever drawn before. The result was a profit of more than $1 million that, in effect, lowered the price of the club to approximately $8.75 million.

Make no mistake, there were equal doses of fear and persuasion in the Orioles' stunning climb up the attendance ladder. The day it was announced that Williams had bought the team, the front-page headline of The News American read: "Bye, Bye Birdies." The accompanying story said Williams planned to play 13 games in Washington in 1980, increase the number gradually and eventually move the team.

However, by the time the sale was announced, it was too late to make any changes in the 1980 schedule. In addition, the schedule was subject to the approval of the players, who were already dug in and looking for bargaining hammers for negotiations that ultimately led to a strike delayed in 1981.

Unknowingly, the players and the impending strike were allies as Baltimore attempted to keep all the Orioles' games at Memorial stadium.

Williams never acknowledged any plans to play a partial schedule at RFK, and he reiterated a previously-stated belief that the owner of a sports team merely held it in trust for the city it represented, while declaring his allegiance to Baltimore. But always there was the veiled threat, which was aided immensely by the short-term sweetheart lease Williams inherited at Memorial Stadium.

All these factors meshed with the fact that 1979 was the first year of the Orioles' highly visible promotional marriage to radio station WFBR. Everything, including Williams' purchase of the team, came together at the right time.

At Williams insistence, the Orioles were marketed as heavily in Washington as they were in Baltimore. In a subtle way, it became a regional team, the office staff tripled and within four years the Orioles were drawing 2 million fans per year and nobody was even thinking of playing games anywhere but Memorial Stadium or in the new facility to be built in Camden Yards.

Williams' hands-on approach, especially in recent years, became more obvious in the baseball operations, but he had been an activist in the business end from Day One.

The team that won the 1983 World Championship was basically the same as the one that won the American League pennant in 1979, meaning virtually all the parts were inherited. By 1983, however, an era was ending, not starting. A total of 14 players on that club would be finished within two years, most gone in half that time.

The band-aid treatment of free agency didn't work, the earlier strains on the minor league department had taken their toll and the team was in a serious state of decay.

On the day Edward Bennett Williams died, the Orioles had the worst record, but the most fans per victory, in baseball. You could debate the rest of the year over how much of the blame he should take for the team's standing without resolving the point.

But don't even raise a question about who is most responsible for busier turnstiles at Memorial Stadium. If he accomplished nothing else, EBW managed to establish the Baltimore franchise.

It took a little persuasion, a little more aggressiveness and a lot of fear, but Edward Bennett Williams wound up making believers out of a lot of people, most likely himself included.

[From the Evening Sun, Aug. 15, 1988]

WEAVER: WILLIAMS WAS BOSS

(By Jim Henneman)

Of all the baseball people he had around him, the late Edward Bennett Williams always seemed most comfortable with Earl Weaver.

The former Orioles' manager was perceived as one who could control his owner, or at least keep him under wraps. But that wasn't the case at all, Weaver said last night from his home in Florida.

"I was the employee and he was the employer," said Weaver, "and I did anything he asked me to do."

Weaver, who celebrated his 58th birthday yesterday, remembered Williams as an understanding, not demanding owner.

"He never complained," said Weaver. "There were times he was disappointed, or discouraged, but he didn't complain. And when he talked, he was probably one of the most logical people you could talk to.

"I had been a baseball person all my life, and when we talked he'd end up saying, 'Do what you think is best.' He was that way with me, and I think he was that way with Hank [former GM Hank Peters], too.

"I'm just sorry," said Weaver, "that in 1986 [his second year after EBW had lured him out of retirement] I couldn't have given him better advice. And I think Hank feels the same way."

Weaver also says he saw a side of Williams that few others saw.

"One thing I remember about him the most is that he had an outstanding sense of humor," said Weaver. "He had to be a very intelligent man because he could laugh about a lot of things. The last time I saw him was during spring training and, with all of his physical troubles, he was still a guy who could laugh with you. That's one of the things I'll remember most about him.

"He was a guy baseball needed, and we're all sorry he's gone."

[From USA Today, Aug. 15, 1988]

FRIENDS REMEMBER WILLIAMS AS A MAN WHO LIKED CONTESTS

(By John Bannon)

Edward Bennett Williams relished 1983.

The Washington Redskins won the Super Bowl. Williams was a minority owner. The Baltimore Orioles, his baseball team, won the World Series.

Williams liked to win. Saturday, Williams—one of the nation's foremost trial lawyers and sports personalities—lost his 11-year fight with cancer. He was 68.

"He was a battler, a winner," Orioles manager Frank Robinson said. "Even though he was sick, in the back of my mind, I thought he would pull through."

Williams had a deserved reputation for persuasion.

"He was the toughest guy in the country in a public debate," said Peter Ueberroth, baseball's commissioner. "In an open forum, I had my hands full."

In the courtroom, he used those oratory talents to defend such notable clients as Sen. Joe McCarthy, Jimmy Hoffa and Frank Costello, the model for Mario Puzo's Godfather.

Williams also was the attorney for high-yield "junk" bond czar Michael Milken of Drexel Burnham Lambert Inc. The government has been investigating Milken and Drexel for two years, in relation to the Ivan Boesky scandal, but no charges have been brought.

"The bar has lost perhaps its outstanding advocate," Washington lawyer Clark Clifford told the Washington Post. Both Gerald Ford and President Reagan asked Williams to head the CIA.

In sports, he talked Vince Lombardi and Earl Weaver out of retirement to coach his teams. Weaver recalled Williams' persistence. He finally relented to Williams' repeated efforts to bring him back. "he said he needed me, so I said, 'If you need me, I'll manage.' "

Williams had a phrase for his life. He called it "contest living." He liked that the courtroom defined winners and losers. Sports had that same appeal.

Art Buchwald, syndicated columnist and friend, remembers Williams arriving for the two families' annual Thanksgiving touch football game with a ringer—Hall of Fame quarterback Sonny Jurgensen.

Baseball and Williams, though, was not the easiest of marriages. "I have trouble accepting any sport where losing 62 times a year is considered a great year," he said.

This season's Orioles, starting the season with a record 21 consecutive losses, were losing at an even more alarming rate. Before his death, Williams had begun entertaining offers to sell the team. He purchased it for $12 million in 1979 and it's now likely worth more than $50 million.

Robinson currently is baseball's only black manager and Calvin Hill is one of baseball's few minority front office workers. Williams' commitment to minorities is sports dates to 1962, when he convinced the Redskins to become the last National Football League to intergrate.

"He admitted he didn't realize how bad it was on his club, and that he was blind to (a lack of minorities)," Robinson said. "He set into motion an affirmative action plan. No one had to tell him to do it. He just did it."

[From the Washington Post, Aug. 16, 1988]

ORIOLES PREPARE TRIBUTE TO LATE OWNER—SCHMOKE SAYS WILLIAMS' 15-YEAR LEASE PROVED HIS BOND TO BALTIMORE

(By Richard Justice)

The Baltimore Orioles plan a tribute to Edward Bennett Williams before tonight's 7:35 game with Oakland at Memorial Stadium, and player uniforms will include "EBW" patches to honor his memory.

The Orioles' owner died Saturday at 68 after an 11-year battle with cancer. Mass will be celebrated at 10 this morning at St. Matthew's Cathedral, and on a somber, emotional day the Orioles worked yesterday to prepare a "dignified" pre-game tribute, a club spokesman said.

Their offices at Memorial Stadium will be closed today so that employees may attend the funeral. Then tonight, the club will hold a brief ceremony that probably will include a salute to Williams' life on the Diamond Vision screen.

Baltimore mayor Kurt Schmoke attended last night's wake for Williams and saluted him for his nine years as owner of the Orioles. Schmoke said he first met Williams three years ago when he was considering a run for mayor.

"I went down to meet him to begin to develop a personal relationship," Schmoke said. "He played a significant role in the lives of this city, and it was important that I know him. We ended up talking several hours, and the range of the man's intellect was so impressive. He was in a position where he couldn't be too partisan, but he certainly knew the players."

Schmoke said he realized that many Baltimore residents believed that Williams wanted to move the team to Washington, "but he said he wouldn't and didn't. He proved his bond to the city by signing that 15-year lease for the new stadium."

Meanwhile, several past and present Orioles continued to pay tributes to the man they knew only from a distance. One of those was outfielder Larry Sheets, who said: "One thing that I'll always remember is him phoning me after I signed a new contract last winter. He wasn't calling for any specific purposes, just to ask if I was happy and to say he was glad everything worked out."

Former Oriole Scott McGregor said: "He could be tough and inspiring, but he wanted the Orioles to be the best they could be. I remember seeing him this spring, and you could tell he wasn't feeling well. But in every conversation, what was best for the ballclub was the No. 1 thing on his mind."

[From the Washington Post, Aug. 16, 1988]

WILLIAMS AND BASEBALL: THE TRIAL NEVER ENDED

(By Thomas Boswell)

In all his endeavors, Edward Bennett Williams never met with more frustration than in his ownership of the Baltimore Orioles. Yet even there, during years while he fought cancer, Williams left a record that was a testament to his energy and desire to do what was right.

In baseball, Williams was respected by fellow owners to the point of awe and liked even by those who disagreed with him, even though the game proved difficult for him.

Williams was the first of many to say that he was probably temperamentally ill-suited to baseball ownership. The pro football test with the Washington Redskins was weekly; when he owned a team that played daily, he suffered agonies on an inning-by-inning basis.

For a man who created the phrase "contest living" and appeared to believe in it utterly, baseball was a kind of ultimate temptation. How could he leave it alone? A game almost every day from March to October. Every night, either on TV, the radio or at the park: a trial!

If you were in the most difficult situation of your life, you would want Ed Williams for your lawyer. It would be impossible to imagine a man who, in defending your freedom, could work too hard, want to win too much or be too well prepared. The last thing you would ever tell your attorney would be, "Take it easy. It's only a game."

If, however, you were a follower of the Orioles, and Williams became their owner, you might worry. Genius is often lopsided. At times, it seemed baseball was put in Williams' life as his most trying sporting test.

Some people are meant for battle, for the showdown, for those hours when adrenaline, experience, judgment and courage are all summoned for one sudden result. That was Williams.

He personified the ways in which a trial lawyer was like a football player or prizefighter. If he was good enough, he could win 'em all. Or almost all. It's been done. On the field, in the ring and in court. An aura of invincibility can be created. In fact, it must be nurtured. Doubt is next to defeat. Williams was perfect for the NFL, where you can never be too ready for the big game.

Sam Huff has said of Williams, "It wasn't a complicated world with him." Williams acted as though he never had a doubt about anything and if he did he would work and think his way through it.

If the lawyer and the football player are analogous, then perhaps a baseball player is better compared to a surgeon. If he's the best that he can be, it's still in the nature of his work that he will fail many times. A lawyer plays by man's rules and pleads before a jury. A surgeon often plays by nature's rules. And often cannot "win."

The harder Williams tried in baseball, the better his intentions, the more he loved his team, the more money he spent, the harder he asked his front office people to work, the more games the Orioles lost. They were a team often tied in a knot.

From a distance, someone might argue that baseball is an idle game, full of empty spaces, and in love with paradox. Just like baseball to torment Williams' desire for excellence. To those close to the Orioles, however, this was not some intellectual puzzle but rather a daily sorrow. Every person in Williams' employ knew for several years that he was dying of cancer, that he was battling it far beyond medical predictions, and that his impatience—if that is even a decent word to use—was an impatience that any normal person would feel.

Some players who were annoyed at Williams for individual decisions—like firing Hank Peters or Joe Altobelli or Cal Ripken Sr.—still felt sad and even guilty that all Williams' energy and devotion (and money) were not producing results.

This spring, Williams received a blow he never deserved. For a man who thought you could, perhaps even should, win them all, the Orioles' 21-game losing streak was . . .

Who knows what it was. Even the last straw? We do know his response. At the first Orioles home game after The Streak, Williams made his last public appearance in Memorial Stadium. He announced that he had just signed a 15-year lease for the Orioles to play in Baltimore and that a new stadium would be built in Camden Yards.

By signing the lease when he did and announcing it as he did, Williams showed his values. He wanted, as always, the best for the Orioles. Long after The Streak is history, the new park—perhaps EBW Stadium—will give others the pleasure in baseball that Williams knew too seldom in recent years.

[From the Washington Post, Aug. 17, 1988]

PALMER EVOKED ESSENCE

(By Thomas Boswell)

Of all his Orioles, Edward Bennett Williams liked Jim Palmer the best and never hid it. Palmer's style, wit and brains, not to mention his eight 20-win seasons, were the sort of qualities Williams admired. EBW was sure that The Best were really all one large club under the skin. That Palmer loved to needle and argue, test authority and challenge his bosses also went down smoothly with Williams, who never met a Supreme Court justice or U.S. president who daunted him. The spice of a little insubordination whets the intelligence.

Jim Palmer stood in the most remote back corner of St. Matthew's Cathedral yesterday, paying his last respects to the owner he found so powerful and fascinating. "It was impossible for him to have any contact with you and not leave an imprint," said Palmer.

Sports figures like Palmer and John Riggens, even commissioners like Peter Ueberroth and Pete Rozelle, were barely worth mention among the dignitaries—the senators and bishops, educators and attorneys, journalists and businessmen—who filled St. Matthew's yesterday, the crowd spilling back down the front steps toward the blocks of black limousines.

Games were just a sliver of Williams' diverse life—one in which he seemed to create a symbiosis of all the major mainstream power sources in his society and his age. How many others felt so at home at a 6 a.m. mass and a 10 p.m. prizefight, with a murder trial and a little political fund raising mixed into the meat of the day?

For Williams, everything illuminated and nurtured everything else in his life. The certainties of his Catholicism steeled him for the stresses of his law practice. The passion for competition that drew him to sports served him just as well in business, where he fought to the limit for every edge. The charm he laid on a jury worked in Democratic backrooms, too.

None of Williams' worlds, however, seemed to draw him more strongly in the last decade of his life than sports. He understood athletes, especially great ones, and they understood him, too. They were akin in their need for a simple result—a win or loss—and a level of commitment to a goal that many people would find frightening.

"Time isn't the same for everybody," said one eulogist at Williams's memorial. "Ed's clock ran faster." Certainly, Williams squeezed in more, started earlier, trained harder, pushed himself beyond reasonable limits—just as every singular athlete must.

"You always felt how much he wanted to win," said Palmer. "This year was awful for him [with the Orioles losing]. He told me after the 1984 season, "that was the worst year of my life.' And after 1985, he said, '*That* was the worst year of my life.' It wore him down."

Williams understood how to run the good race, fight the good fight. In defeat, knowing he's done his best, he could be gracious and even humorous. 'He told me he lived by the expression. 'No indecision and no regrets,' said Palmer. "He didn't second-guess himself. He just took his best shot."

Williams could drive too hard for some tastes and had little use for relaxation; the reward for good work was more work. The goal, the end, obsessed and fed him. Any athlete understands the glory and the burden of working for decades to perfect a gift.

Like his athletes, Williams took the world much as he found it—accepted the game as played—and simply tried to play it better than anybody else. The point of the game, the shape of the field, the nature of the rules only interested him secondarily—after the results were in and he's won again.

Like many athletes, he had little patience with those who couldn't match his sacrifies or intensity. If you were in the game, play it his way. When a person constantly wishes to raise the stakes, the higher the better—a murder trial, a presidential election, a Super Bowl trophy, a World Series ring—nothing is more irritating than reminders of your own humanity. Just as many athletes ignore their injuries, pretend that they simply do not exist. Williams was able, somehow, to function for 11 years with little or no visible concession to his cancer. If this was not a kind of athletic feat, what is?

Finally, like any athlete, Williams never wanted to retire or even slow down. Would Pete Rose ever voluntarily stop going to bat or Sonny Jurgensen want to throw his last pass? Williams kept booking hours and brainstorming over how to improve his star-crossed Orioles. For him, life, like a game, was a never-ending process of competing, succeeding, then setting the next goal. One great season only opened the possibility for a better one—a new personal best.

That is not the only way to live. But it is one of the most productive and dramatic. For a man blessed, apparently from youth, with the almost limitless power of rock-solid faith—in himself, his church, his country, his vocation, his family, his teams—it created a life of monumentally big achievements.

None need mourn a life so large and full, but many of us, for a long time, will seek to understand it.

[From the USA Today, Aug. 16, 1988]

PALMER LAMENTS DEATH OF FRIEND, FORMER BOSS

(By Rachel Shuster)

Losing a friend is sad.

"But it's just so sad to see Edward Bennett Williams, a man of that vigorous nature, pass on," ABC's Jim Palmer says. "He was a giant at whatever he did."

Palmer will attend today's funeral for Williams, the famed trial attorney and owner of the Baltimore Orioles who died of colon cancer Saturday night.

"Obviously, anybody who ever met him had to be impressed," says Palmer, who first met the Orioles' new owner during a rain delay in the 1979 World Series.

"Someone had put a bat in my hand, and I was trying to hit a wad of tape someone was throwing. Some guy in a three-piece suit ducked, came over and said, 'You don't like those orange uniform tops, do you? Well, I don't either, and we won't be wearing them any more.' I thought, 'Oh, geez, this must be Williams.

"The man was eminently fair. If I were to contrast the two (Orioles) owners, I'd say Jerry Hoffberger always wanted you for the best bargain. Ed was a self-made man, and he knew if he wanted the best, he had to pay accordingly."

The obituaries for Williams have referred to "contest living," his guiding philosophy. Palmer says the Orioles got such a speech in 1980, when they won 100 games but went through one disatrous road trip:

"He talked about baseball being a black-and-white business, just like being an attorney. One of the most difficult things was to spend a month and a half trying a case—and then lose. He said, 'All I ask of you is that you totally involve yourself spiritually, intellectually, physically and emotionally.' He was so eloquent. One thing about Ed, he had such positive nature."

[From the Washington Post, Aug. 17, 1988]

IN MEMORIAL STADIUM, TRIBUTE TO WILLIAMS

(By Richard Justice)

BALTIMORE, Aug. 16.—In a brief, emotional pregame tribute, the Baltimore Orioles tonight honored Edward Bennett Williams as a man of "inspiring personal courage" and for his humor, joy and passion for life.

Wearing the initials "EBW" to remember their owner, who died Saturday after an 11-year battle with cancer, Orioles players and coaches stood at attention along the third base line as announcer Jon Miller spoke of "an extraordinary lawyer, a courtroom legend and a passionate patriot."

He reminded the 22,239 at Memorial Stadium that, while Williams was sometimes viewed as an outsider in Baltimore, the fears he might someday whisk the Orioles away to Washington never materialized.

Instead, Miller said, "He gave the fans what no one before had given them—a formal commitment, keeping his word. And as a result, the Orioles will be yours for a long, long time."

The Oakland Athletics stood along the first base line as Miller spoke of Williams, and when he finished, a trumpeter—Baltimore policeman Clayton Buck—stood behind second base and played "Taps" while the Diamond Vision screen showed photographs of Williams' life.

The screen faded to black with a quote from Williams—"The time may come when I leave baseball, but baseball will never leave Baltimore."

The somber ceremony ended a long, emotional day for the Orioles, two of whom, shortstop Cal Ripken and catcher Terry Kennedy, had gone virtually without sleep to attend Williams' funeral this morning at St. Matthew's Cathedral in Washington.

Ripken and Kennedy made a 90-minute drive in rush-hour traffic after arriving home from Milwaukee at 4:15 a.m. (Manager Frank Robinson, his coaches and most of the front office staff traveled together in two buses.)

"I wanted to be there," Ripken said. "I thought it was important."

Ripken and Kennedy joined an overflow crowd that included a Who's Who from the world of law, politics and sports. Among the prominent sports figures were the commissioners of the National Football League, Pete Rozelle, and Major League Baseball, Peter Ueberroth; the presidents of the American and National Leagues, Bobby Brown and A. Bartlett Giamatti; Washington Bullets owner Abe Pollin; former Washington Redskins coach Jack Pardee and former Redskins Sonny Jurgensen, John Riggins and Ray Schoenke; New York Jets owner Leon Hess; New York Giants owner Wellington Mara; Milwaukee Brewers owner Bud Selig; Boston Red Sox executive Haywood Sullivan; former Orioles Jim Palmer and Scott Mcgregor, and James Madison Basketball coach Lefty Driesell.

They were all men Williams had represented, known or touched in some way, and as Palmer said, "He left an unbelievable imprint on everyone who knew him."

Williams, who had attended Ripken's wedding last winter, left one of those imprints on Ripken.

"He always seemed to be pouring with strength," Ripken said. "He gave off a kind of presence. I was thinking of that today. He always seemed to be confident, controlling, soothing and in command. To me, that was a sign of his strength."

Kennedy didn't join the Orioles until 1987 and missed the team's 1979–83 glory years under Williams, but his reasons for attending were similar to Ripken's.

"He was very generous to me and, out of respect for his family, I thought it was the proper thing to do," Kennedy said. "We talked in spring training briefly, but I had a good idea of his personal history, and the people he has been involved with. I know how he fought his cancer. He kept fighting. His attitude didn't change. He was always the same."

Several club officials were miffed that more players didn't attend, but only a few of the current Orioles had even met Williams, a sign of the rapid transition the roster has undergone the past three years. Of their 24-man roster, 13 are in their first Baltimore season. And Williams was in Memorial Stadium only twice this season—opening day and May 2—with only one brief clubhouse visit.

Another generation of Orioles remembers a different Wiliams, one who enjoyed the glory days and pushed his players and management, and asked that they work as hard as he did. Former Oriole Ken Singleton cited one of the happier times:

"One thing I'll always remember is a private moment during the celebration after the '83 World Series. He came over, put his arm around me and said, 'Kenny, this is the happiest I've ever been.' It was like he wanted to cry, and that was totally out of character for him. We'd always seen a man of such strength."

It was a 7:30 a.m. phone call from Williams in late 1984 that led to Frank Robinson returning to the Orioles, first as a coach, and later as an assistant general manager and manager. Robinson's hiring started what eventually would be a complete overhaul of the Orioles.

"He went about things the way I played the game," Robinson said. "He put everything he had into it. It wan't that he couldn't lose, but he certainly wouldn't accept it. It was 100 percent with him. That's the type of guy he was. He respected people that looked him in the eye and answered his questions. He despised people that gave him the answers they thought he wanted to hear. One of the problems here is that people weren't honestly telling him the situation this organization was in.

"The sad part is he won't be around to see the results now that it has changed."

[From the Sun, Aug. 17, 1988]

KINDRED SPIRITS: THE BALLPLAYER AND THE BARRISTER

(By John Eisenberg)

WASHINGTON.—Frank Robinson emerged from the Cathedral of St. Matthew Apostle into the noonday sunshine. He paused respectfully, as did hundreds of others who had attended the service, as the pallbearers carried Edward Bennett Williams' casket out of the church, down some steps and laid it gently into a hearse.

Robinson turned to leave and was stopped by a reporter; dozens were on the church steps. Famous people do die, and when it happens, famous people come to pay their respects. After Ed Williams' funeral yesterday, a line of limousines stretched far down the street. Hundreds of gawkers stood on the opposite sidewalk.

The crowd included the powerful of Washington, of pro sports, of the media. Thurgood Marshall, George McGovern, Gene McCarthy, Joseph Califano, Peter Ueberroth, Art Buchwald was a pallbearer. Jim Palmer was there. John Riggins gave interviews and disappeared before the service. Cal Ripken Jr. and Terry Kennedy were the only current Orioles to attend.

The church was full of familiar faces. There were Williams' friends. Many had known him for years, worked with and against him, struck deals, exchanged secrets, traded power. The most prominent were encircled by reporters as they left the church.

Robinson had not known Williams nearly as long as the others; nine years, to be exact, since Williams bought the team. Yet when a reporter stopped Robinson, the Orioles manager, on the steps of the church. Robinson gave a small, sad smile, shook his head and said, "I feel like I've lost a family member."

It was relationship no one could have predicted. Robinson was a brilliant baseball player who had spent his life in the game. Williams was perhaps the best trial lawyer of his generation, a man who counseled with kings. They were 16 years apart, one a man of words, the other of deeds.

Williams' ego didn't need Hall of Fame friends; he, himself, was a star. He rarely came to the Orioles clubhouse. Robinson, of course, had spent his life in clubhouses. No one could have predicted a friendship. Yet in the last three or four years of his life, Williams may have spent as much time conversing with Robinson as any man.

"I met him right after he bought the club," Robinson said, "and we developed a friendship. We got close. He respected people who gave him honest answers. He hated people who were intimidated by him, who told him what he wanted to hear. Yes men. I didn't do that. Not to blow my own horn, but when he asked me questions, I gave him honest answers."

The truth was this: Though they were of different backgrounds and professions, they were kindred spirits, virtual twins in manner. Williams was a fighter; a friend once described him as "the lion of the courtroom." Robinson was an aggressive baseball player and an articulate straight talker. As a manager, he demanded much from his players. When the two men looked at each others, they saw themselves. They knew they were special.

The way he was in the courtroom, in everything, such a fighter, that's the kind of player I was." Robinson said I never accepted defeat. I was never satisfied. I always felt

I could do better. And I looked at him the same way. I think it drew us closer.

One year after Williams purchased the Orioles, Robinson became manager of the San Francisco Giants. He was fired after 3½ seasons, and, Williams brought him back to Baltimore as a coach that off-season making the hire without consulting anyone else in the front office, it stirred trouble, but Williams didn't care.

It was then that their friendship truly began developing. Some weeks, they spoke three times on the phone. Some weeks it was twice. Some weeks it was only once. But the dialog never stopped. Questions. Answers. Opinions. Robinson's phone would ring, and Williams would be on the line, anxious to discuss the Orioles. He trusted Robinson's opinions: Williams' ultimate compliment.

"Sometimes, he'd do the talking," Robinson said. "He'd say what he had to say without being interrupted. Then he'd want to know what you thought about that. Other times, he'd ask a question and then give you the floor."

Last fall, Williams mentioned the possibility of Robinson's moving to the front office. He thought Robinson would make a fine general manager one day. Robinson had long considered the move, and thought the time right. It wasn't, of course: He replaced Cal Ripken Sr. as Orioles manager six games into this season.

He and Williams continued their conversations, even though Robinson was the manager. Robinson never thought Williams was meddling when they discussed moves. It remained Robinson's team to manage.

But their conversations became less frequent. Robinson became aware Williams was sick. The conversations became even less frequent. Finally, a month ago Robinson stopped calling "out of respect" for Williams, who was declining. He knew what was coming. Williams' death surprised him "only because he'd always fought back."

Standing on the steps of the church yesterday, Robinson shook his head. "It's a very sad day for me," he said. A reporter asked him for his name. It wasn't a baseball crowd. It was Ed Williams crowd. "Frank Robinson," Frank Robinson said. Then he said it again, as if for emphasis. Then he excused himself and walked off, almost crossing paths with George McGovern.

[From the Washington Post, Aug. 17, 1988]

WILLIAMS EULOGIZED AT MASS AS A MAN OF STALWART FAITH—FUNERAL ATTENDED BY CHURCH, SPORTS AND POLITICAL NOTABLES

(By Saundra Torry)

He was the legal titan of his age and the consummate Washington insider, but yesterday Edward Bennett Williams was laid to rest with eulogies that celebrated him as a man of sure and stalwart faith: "A faith not worn on his sleeve, but lived."

In a mass celebrated at the Cathedral of St. Matthew the Apostle on Rhode Island Avenue NW, Williams, who died Saturday after an 11-year war with cancer, was remembered as a Catholic who attended 7 a.m. mass almost every morning, who quietly gave his energies to good works, who "looked not for honor, but asked to serve where he could really make a difference."

"Many words have been spoken and written these past few days about Edward Bennett Williams as a father, a husband, an attorney . . . a civic figure and a friend . . .," Msgr. W. Louis Quinn told the mourners. But those who knew Williams best, he said, know "that he was a man of faith, that faith was the very foundation of his life. . . ."

Some of the mourners who jammed the cathedral said they were touched by this intimate portrait of the man they knew as a dynamo of politics and sports, and a trial lawyer who led the prominent firm of Williams & Connolly.

But that side of Williams—the counselor to presidents, the owner of the Baltimore Orioles baseball team, the lawyer whose clients and cases were legendary—was much in evidence, too. The story of his immense influence and his reach into sports and politics and law was told just by scanning the pews.

Some of the Kennedy clan were there, Ethel Kennedy and Sargent and Eunice Shriver. Supreme Court Justice Thurgood Marshall climbed the steps of the cathedral and told reporters that Williams was "a great man, a great American, a great lawyer." Former U.S. senators Eugene McCarthy and George McGovern and former Virginia governor Charles Robb and his wife Lynda came to bid farewell to Williams, as well.

From the sports world came baseball Hall of Famer Joe DiMaggio, Baseball Commissioner Peter Ueberroth, James Madison University basketball coach Lefty Driesell and Pete Rozelle, commissioner of the National Football League. Former Redskins running back John Riggins recalled the year he was hired by Williams.

"I told Ed, if he couldn't pay the freight, I'd go back home and be a truck driver," Riggins recalled. "And he told me, 'If you think that, then you're not smart enough to work for me.'" That, Riggins said, was typical Williams.

Washington Post Publisher Donald E. Graham and Chairman of the Board Katharine Graham came to pay tribute to the man who for three decades had been a close adviser to the company.

The men who carried Williams' mahogany casket at the small cemetery in Potomac where he was buried included former Health, Education and Welfare secretary Joseph A. Califano Jr.; Jack Valenti, president of the Motion Picture Association of America; columnist Art Buchwald and Washington Post Executive Editor Benjamin C. Bradlee.

Brendan V. Sullivan Jr., a Williams & Connolly partner and another of the pallbearers, said before the mass that Williams "was larger than life. It's hard for everybody to understand that he left us so early. Everybody loved him so."

Those who joined to celebrate the mass were a who's who of the Catholic community—a turnout, said one mourner, more befitting a priest than a layman.

The Rev. Timothy Healy, president of Georgetown University, offered remarks during the mass. Cardinal James A. Hickey, the archbishop of Washington, celebrated the mass of Christian burial that drew more than 1,000 mourners into the soaring marble environs of St. Matthew's. The cardinal, who had cut short a trip to an international convention in Australia to return for the mass, talked of Williams as a "man of deep Catholic faith and my friend."

The Rev. John E. Brooks, president of the College of Holy Cross in Worcester, Mass., where Williams was chairman of the board of trustees, said in his remarks that Williams was a man "in relentless pursuit of excellence and willing to pay the price, to make the necessary sacrifices, to achieve his goals."

Williams, he said, wanted to be "the best husband and father . . . the best trial lawyer in the United States of America," and he wanted his Jefferson Hotel, his law firm and his sports teams—whether the Washington Redskins, the Baltimore Orioles or the Holy Cross Crusaders—to be the best, as well.

But Brooks, too, talked of Williams' devotion to his faith and said that Williams, more than anyone he had ever met, "reflected the person of Jesus Christ."

"Edward Bennett Williams was indeed a giant of a man. He lived right, he loved steadfastly, and he walked humbly with his Lord," Brooks concluded. "His life is its own eulogy."

Williams had successfully battled cancer through 11 years and seven operations, but about a week ago, the 68-year-old lawyer told Msgr. Quinn that he thought the end was near. "He looked at me," Quinn recalled during his eulogy yesterday, "And holding me fixed, he said, 'I don't think I can beat it this time.'"

Yesterday, Williams was buried beneath the spreading branches of a maple tree at St. Gabriel's Cemetery, not far from his Potomac home. A sultry wind rustled in the trees and birds chirped softly, as his wife Agnes, dignified and stoic throughout, his seven children and about 200 friends gathered for the simple ceremony that followed the mass.

There was little of the pomp and less of the celebrity crowd than had been in evidence at the church. Cardinal Hickey said, "Let us pray for our brother . . . ." The mourners repeated the Lord's Prayer, and soon it was over.

As he was leaving the cemetery, Williams' oldest son Joseph said his father had kept his faith a very private thing. "Nobody knew what a Christian he was, until he was gone," the son said. And Ellen Bender, Williams' oldest daughter, turned toward the casket and mouthed the word, "Goodbye."

[From the Sun, Aug. 17, 1988]

WILLIAMS CELEBRATED AS ONE WHO FOUGHT A GOOD FIGHT

(By C. Fraser Smith and Mark Hyman)

WASHINGTON.—The life of Edward Bennett Williams—lawyer, churchman, associate of presidents and disciple of competition—was celebrated yesterday in Washington by a Supreme Court justice, by colleagues in the Washington bar, by a cardinal in the Roman Catholic Church and by some of the nation's best athletes.

A Mass of Christian burial was offered for Mr. Williams by Cardinal James Hickey, archbishop of Washington, at the Cathedral of St. Matthew Apostle. About 1,000 mourners filled the church to overflowing.

Mr. Williams, owner of the Baltimore Orioles, died Saturday at the age of 68 after an 11-year struggle with cancer.

For the man who defined his approach to life as "contest living," his son, Ned, read these lines from St. Paul's letter to Timothy: "I have fought a good fight. I have finished my course, I have kept the faith."

From 1960 to 1985, Mr. Williams was a part owner of the Washington Redskins. In 1979, he bought the Orioles, and in 1983, a year of glory for his credo, the Redskins were Super Bowl champions and the Orioles won the World Series.

Thought by many of his peers to be the nation's most formidable trial lawyer, Mr. Williams gained his reputation by defending, often successfully, well-known figures in serious trouble. They ranged from Teamsters boss James R. Hoffa to former Sen. Joseph R. McCarthy. His clients included the Ford Motor Co., Gulf & Western, the Washington Post and several of the clergyman who eulogized him yesterday.

As light flickered across the gold and silver mosaic rising behind the altar, Msgr. W. Lewis Quinn, pastor of the cathedral, said that Mr. Williams was as well-prepared for the loss of his long battle against cancer as he had been for the many celebrated victories of his life.

In a recent conversation, Monsignor Quinn said, Mr. Williams told him, "I don't think I can beat it this time." Still, the priest said, Mr. Williams "found victory in the Lord."

Cardinal Hickey called him "a faith-filled man, a lawyer of extraordinary talent who gave "deeply principled advice."

The Rev. Timothy S. Healy, S.J., president of Georgetown University had seen the well-attested power of Edward Bennett Williams, advocate, as a friend and client.

"Most of the time I did what he told me," he said. There was a murmur of appreciation. He did so, Mr. Healy said, "notwithstanding the occasional flaming row just to teach me how powerful his rhetoric could be."

Searching for an apt comparison, Father Healy said Mr. Williams was like Sir Thomas More, the English lawyer who found himself in conflict with King Henry VIII.

"In the public forum, in the courts, in their heart of hearts," Mr. Healy said, Mr. Williams and Thomas More "dealt with the tensions that circle the saying of Jesus: Render unto Caesar that which is Caesar's and unto God what is God's."

Mr. Williams, he said, "understood in his bones the epitaph Thomas More spoke for himself on the scaffold: 'I am the king's good servant, but God's first.' "

Art Buchwald, one of the pallbearers, recalled the story of Mr. Williams' commitment to winning that extended to the annual Thanksgiving Day touch-football game between the Williams and Buchwald families. One year, as a bit of prankish one-upmanship, Mr. Williams brought along Sonny Jurgensen, the former Redskin, to quarterback the Williams family squad.

Mr. Williams insisted this was fair, Mr. Buchwald said, because they were playing at the Williams house.

"I said it was unfair . . . but then we beat him," he said.

Eugene J. McCarthy, the former U.S. senator and presidential candidate, remembered Mr. Williams as a man of "unlimited energy," a man who displayed total commitment to everything he did.

Among the others who attended the funeral were U.S. Supreme Court Justice Thurgood Marshall: Maryland Comptroller Louis L. Goldstein; former Health, Education and Welfare Secretary Joseph A. Califano Jr.; former U.S. senator and presidential candidate George S. McGovern; Arthur L. Liman, chief counsel for the Senate's Iran-Contra hearings; Brendan V. Sullivan Jr., a partner in Mr. Williams' law firm; retired Marine Lt. Col. Oliver L. North, Mr. Sullivan's client in the Iran-Contra affair; former Virginia Gov. Charles S. Robb and his wife, Lynda Bird Johnson Robb; Washington Post Executive Editor Benjamin, C. Bradlee; the Rev. Robert F. Drinan, a former House member from Massachusetts; R. Sargent Shriver, former director of the Peace Corps and candidate for vice president, and his wife, Eunice Kennedy Shriver; Vincent Fuller, a law partner of Mr. Williams' for 32 years; and Frank F. Mankiewicz, former president of National Public Radio and press aide to the late Robert F. Kennedy.

The list of mourners also reflected Mr. Williams' life in sports. The Orioles were represented by about 60 employees, incuding General Manager Roland Hemond, Manager Frank Robinson and all six members of Mr. Robinson's coaching staff.

However, of the team's 24 players, only Cal Ripken Jr. and Terry Kennedy attended. The Orioles charter flight from Milwaukee—where the team played Monday night—had arrived at Baltimore-Washington International Airport yesterday at 2:25 a.m. Among the former Oriole players in attendance were pitchers Jim Palmer and Scott McGregor.

Other representatives of major league baseball were Commissioner Peter V. Ueberroth; the American League president, Dr. Bobby Brown; the National League president, A. Barlett Giamatti; Hall of Fame outfielder and Orioles board member Joe DiMaggio; Milwaukee Brewers owner Bud Selig; Boston Red Sox owner Heywood Sullivan; the Oakland A's executive vice president, Sandy Alderson, and A's Manager Tony LaRussa; and former Orioles owner Jerold Hoffberger.

Mr. Williams also was remembered by many National Football League players and officials, including NFL Commissioner Pete Rozelle; Cleveland Browns owner Art Modell; and about a dozen former Redskins players, including John Riggins, Sonny Jergenson, Larry Brown, Sam Huff, Jack Pardee, Ray Schoenke, Brig Owens and Calvin Hill, who now is an Orioles executive.

Mr. Hill, whom Mr. Williams hired last fall to ensure that the Orioles considered blacks and other minorities for front office jobs, remembered his friend and former boss as a man who sought out talent regardless of race or sex.

"He was interested in winning, in results," said Mr. Hill, who played for Redskins teams overseen by Mr. Williams in 1976 and '77. "And I think he understood that the people who would guarantee that success were not all of one sex or shade."

Others said they would remember Mr. Williams for his intellect, sensitivity, and skill as a trial attorney.

Jon Miller, the Orioles' radio broadcaster since 1983 and one of the Orioles employees Mr. Williams favored most, said he'd most miss the owner's "presence."

"From my standpoint, the work I did was influenced by Mr. Williams, Mr. Miller said. "I knew he listened to the broadcasts, and I wanted to impress him. I was just so impressed that I could be working for a man like him."

WILLIAMS PRAISED AS MAN OF FAITH, GENEROUS IN HIS SERVICE TO OTHERS

(By Norman McCarthy)

Attorney Edward Bennett Williams was "a man of deep faith, a faith not worn on a sleeve but lived, affecting his decisions, his words, his actions," Msgr. W. Louis Quinn told an overflow congregation of about a thousand people Tuesday at the Mass of Christian Burial for Mr. Williams at St. Matthew's Cathedral.

Msgr. Quinn, pastor of St. Matthew's Cathedral and a personal friend of Mr. Williams, said the famous criminal lawyer, former owner of the Washington Redskins football team and current owner of the Baltimore Orioles baseball franchise "looked for neither honors nor titles, but if asked to serve where he could really make a difference, he responded wholeheartedly . . ."

Cardinal James A. Hickey offered the Mass for Mr. Williams, who died Saturday at Georgetown University Hospital at the age of 68 after an 11-year, seven-operation battle with cancer. The congregation at the Mass read like a *Who's Who* in American law, politics and sports, including Supreme Court Justice Thurgood Marshall, members and former members of Congress, the executive and judiciary branches of government and the Redskins and Orioles.

In remarks following the Mass, Cardinal Hickey described Mr. Williams as a "strong, vibrant, faith-filled man" who never hesitated to give his time and energy to the Church.

In January, despite his illness, the cardinal said, Mr. Williams "willingly accepted the leadership" of a first-of-its-kind capital campaign by the Archdiocese of Washington to raise $25 million primarily to serve schoolchildren and the needy.

At that time, Mr. Williams said the campaign isn't just for Catholics. "Everyone's welcome to participate . . .," adding that Catholics and non-Catholics alike "are reaping a tremendous benefit from the Catholic educational system of this city." He also praised the Church's local outreach to the needy. "Poverty, indigence and need don't know religious boundaries or ethnic boundaries," he said.

The goals of the campaign include raising $1 million for teacher development, $3 million for a new Catholic Youth Organization retreat center, $2 million for housing for the elderly, $1 million for the hungry, $1 million for a Fund for Life for poor women facing difficult pregnancies, $1.5 million for Hispanic and other immigrant communities and $1 million for Catholic Capital Network.

Mr. Williams was regarded as one of the most influential persons in the country, having been on personal terms with every president from John F. Kennedy to Ronald Reagan.

At the time of his death, he was chairman of the board of trustees of his alma mater, Holy Cross College in Worcester, Mass., and of Georgetown Law School.

Jesuit Father John E. Brooks, president of Jesuit-run Holy Cross College, who also spoke at the Mass, said it was Mr. Williams' "relentless pursuit of excellence and willingness to pay the price, to make the sacrifices necessary to reach his goals" that made him so admired.

Jesuit Father Timothy S. Healy, president of Georgetown University, compared Mr. Williams to St. Thomas More in that both tried to serve their country and their God and felt the tension in serving both.

"Ed had it tougher than Sir Thomas . . . His Caesar was this republic and he loved it with a passion," said Father Healy.

Mr. Williams attended Mass daily either at Holy Trinity Church near Georgetown University or at St. Matthew's Cathedral. He was president of the Knights of Malta for four years.

Cardinal Hickey said that through the work of this international association, clinics were opened in Lebanon and El Salvador, food and medicine were distributed in Africa and hospices were started in Washington and Maryland.

Mr. Williams was twice approached, but twice declined to be the director of the Central Intelligence Agency. The first request came from President Gerald R. Ford in 1975 and the second from President Reagan in 1987.

Mr. Williams was born May 31, 1920, in Hartford, Conn., the son of Joseph Barnard and Mary Bennett Williams. While watching attorneys enter and leave the courthouse, he decided on a career in law.

He graduated in 1941 from Holy Cross College where he was voted the "most learned" in the class. Enlisting in the Army Air Corps in World War II, he was the only one to escape death when a bomber in which he was training crashed.

After being discharged because of back injuries, he came to Washington to study law at Georgetown University. He said he picked Georgetown because he was fascinated by the nation's capital. He was admitted to the D.C. Bar in 1945 and worked at the law firm of Hogan and Hartson for five years before forming his own firm in 1949.

His first wife, Dorothy Adair Guider, died in 1959. Survivors include his wife Agnes Anne Neill; three children by his first wife, Joseph Barnard of buck County, Pa.; Ellen Williams Bender of Arlington, Va., and Peter Bennett; and four children by his second wife, Edward Neill, Anthony Tyler, Dana Williams Fulham of Hingham, Mass., and Kimberly Anne.

Burial was at St. Gabriel's Cemetery in Potomac. The family suggests that memorial contributions may be made to the Edward Bennett Williams Memorial Fund, Lombardi Cancer Center, Georgetown University, Washington, D.C. 20007.

[From USA Today, Aug. 17, 1988]

Williams Buried, Called Competitor

(By Mel Antonen)

More than 1,000 people—including celebrities from sports, politics, law and the media—packed St. Matthew's Cathedral in Washington, D.C., Tuesday for the funeral of Edward Bennett Williams.

"He was a competitor," said baseball great Joe DiMaggio. "He could be 10 runs ahead with one out to go in the ninth, and be worried about that final out."

"It's hard to find somebody like him," said columnist Art Buchwald. "he had the mind, brain and ability to understand people and what they wanted."

Williams, 68, died Saturday after a 11-year bout with cancer. He owned the Baltimore Orioles and once was president of the Washington Redskins.

He was a famed trial lawyer whose clients included Joseph McCarthy and Frank Sinatra.

Williams was buried in St. Gabriel's Cemetery near his home in Potomac, Md.

Pallbearers included Washington Post executive editor Benjamin Bradlee, Buchwald, former Cabinet officer Joseph Califano and law partner Brendan Sullivan.

The baseball world was represented by Commissioner Peter Ueberroth, league presidents Bobby Brown and Bart Glamatti, pitching star and broadcaster Jim Palmer, and Orioles manager Frank Robinson, shortstop Cal Ripken and catcher Terry Kennedy.

Football notables: Commissioner Pete Rozelle and former Redskins Sonny Jurgensen and John Riggins.

Said Riggins: "If it weren't for him, I wouldn't be in this city. What do I owe Ed Williams? It's really what does everyone owe Ed Williams and his family?"

[From Newsweek magazine, Aug. 22, 1988]

Edward Bennett Williams: 1920–1988

It has been said that if Edward Bennett Williams had been a baseball player instead of a lawyer, he would have played the game as Ty Cobb did: sliding with his spikes up, battling fiercely for any edge. Williams called it "contest living," a competitive style where victory was what mattered most. Throughout his career, Williams was the name people called upon whey they needed the best lawyer in the land. But he was also a man of wit, warmth and courage who continued to work at his office until just before his death from cancer last Saturday.

Born in Hartford, Conn., Williams came to Washington, D.C., in 1944 and soon became known as the lawyer who could win unwinnable cases. His client list included some of the most celebrated and notorious figures of his time: Sen. Joe McCarthy, Congressman Adam Clayton Powell, reputed mobster Frank Costello (the model for Mario Puzo's "The Godfather") and, more recently John Hinckley. In 1971 Williams advised The Washington Post to print the Pentagon Papers; during Watergate, he said that if Nixon had asked, he would have told him to burn the tapes.

Though noted for his phenomenal memory and thorough preparation, Williams was at his best in the courtroom where his rhetoric, temperament and bearish form had a spellbinding effect on juries. He was not above occasional Perry Mason-like theatrics. During his successful defense of Jimmy Hoffa on bribery charges in 1957, boxer Joe Louis visited the trial and embraced Hoffa. Many felt the incident warmed black jurors toward the labor leader.

Williams had a passion for sports. He owned the Baltimore Orioles baseball team and until 1985 was part owner of the Washington Redskins. He had been fighting his illness for seven years.

U.N. PEACEKEEPING FORCES WIN THE NOBEL PEACE PRIZE FOR 1988

Mr. KENNEDY. Mr. President, the decision of the Nobel Committee to award this year's Nobel Peace Prize to the U.N. peacekeeping forces is a timely and well-deserved honor for that international organization.

In recent years, the United Nations has become an increasingly important and effective instrument for the resolution of regional conflicts throughout the globe. The U.N. peacekeeping forces have made extraordinary contributions to that goal, often in difficult circumstances and in many different parts of the world, and I commend them for their courage, their sacrifice and their dedication.

In a tangible and highly effective way, the peacekeeping forces embody the true spirit of the Nobel Peace Prize. Often in recent years, the Nobel Committee has honored organizations as well as individuals that contribute to the cause of world peace, and this year's award continues that eminently appropriate tradition.

More than ever, the United Nations is an indispensable partner in the search for peace in many troubled regions of the world. As Secretary General Javier Perez de Cuellar has often noted, peacekeeping is not an end but a means to an end. U.N. peace initiatives depend heavily on the good will of the member nations of the international organization, particularly the permanent members of the Security Council.

Peacekeepers are peacemakers too, and the remarkable successes of the U.N. peacekeeping forces are successes for all humanity. Over the past 40 years, these forces have made many vital contributions to world peace. I congratulate them on this honor, and I commend them for so skillfully helping to fulfill the founding goal of the United Nations—"to save succeeding generations from the scourge of war."

APPROPRIATIONS ACHIEVEMENT

Mr. DOLE. Mr. President, I want to take just a moment today to add my compliments to the Members of the Senate and House Appropriations Committees for their singular achievement in having all 13 regular appropriations bills ready for final congressional approval before the beginning of the fiscal year. As has been noted, this is the first time in more than 20 years that Congress has achieved this feat.

But in addition to praising the appropriators—who clearly deserve our praise—I want to acknowledge the work that both the administration—and Senator PETE DOMENICI, the ranking Republican on the Senate Budget Committee did as members of the so-called budget summit.

As you may recall, it was the summit agreement that established the framework for this year's budget and the fiscal 1989 appropriations bills. And if it has not been for the summit agreement, which set rather strict parameters on spending, there was little chance Congress would have completed its fiscal responsibilities in a timely way.

So, Mr. President, I want to again take my hat off to the appropriators, and to the House and Senate Members who generously gave up their right to pursue certain amendments, in order to see to it that the appropriations bills were in place by October 1. But I hope that everyone will remember the significant role that all participants in the budget summit—Republican and Democrat—from the administration and Congress—played in this accomplishment.

VIETNAM VETERANS

Mr. SIMPSON. Mr. President, I wish to say a few words today in a very short form about the veterans of the Vietnam War.

I have chaired the Veteran's Affairs Committee. It was a great honor and privilege to do that. Senator MURKOWSKI, a member of that committee, serves in that area very well as ranking member and does a splendid job. Senator CRANSTON is a very fine chairman. I have learned about the issue and paid close attention to it over the years during my service in the Senate.

A column by William K. Lane, Jr., appeared several weeks ago in the Wall Street Journal on July 26, 1988, and it is entitled "Vietnam Vets Without Hollywood, Without Tears." I reviewed it then, and I was struck by it. In thinking further about it over the weekend, as I was reading many things, reviewing and going through things, I am now going to sincerely commend this column to my colleagues and ask unanimous consent that the text be printed in the RECORD immediately following my brief remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SIMPSON. Mr. President, Mr. Lane expresses his sense of embarrassment and disgust—as a Vietnam veteran—at the current crop of movies and news stories portraying those who fought in Vietnam as "racist, neurotic, drug crazed, feral, a hopeless pawn of a rotten society sent to fight an unjust war." And he decries the image that all veterans of that war are "sick or depressed or drug addicted."

Of all the problems associated with the Vietnam war, none must be more demeaning to those who fought with great honor in that war than to be depicted as boobs or drug addicts or "walking time-bombs." It must truly be offensive to people like my own fine friend and chief of staff, J.O. Ratliff, a heavily decorated veteran of that war—a combat helicopter pilot who hauled a lot of people off those battlefields. Who ever hears about well-adjusted, successful Vietnam veterans like that? Or like my very able friend and former chief counsel and staff director of the Committee on Veterans' Affairs and now Deputy Administrator of the Veterans' Administration—another heavily decorated veteran—Tom Harvey, a splendid gentleman. These men served with real distinction. They were heroes.

I think we lose track as we see movies all the time. I guess we see movies of Platoon and Full Metal Jacket, you name it. There are plenty of it. They use a lot of napalm. It must be good for the stock of the manufacturers of that, and it is really something that has kind of taken on an aura of its own. I think it is most unfortunate.

There are millions of veterans of the Vietnam era and I think it is important just very briefly to say that there are 8,744,000 of them to be exact. Of those veterans—and hear this—only 3.4 million served in the Southeast Asia combat theater of operations, and only 2.5 million of those actually served within South Vietnam. A smaller figure of 20 percent of those 2.5 million were serving in infantry, armor, or artillery units that were usually the only units that regularly pursued and engaged the enemy in combat. These are realties of this war.

Life can be cruel, and the human condition is fraught with perils like depression and anxiety and illness. And they can be caused by a lot of things, by a ruptured or cracking marriage, by parents who are difficult and troublesome, by a kid who is on dope, just lots and lots of things, and they can also be caused by friends and loved ones who are in the deep, deep distress of their own.

It is the toughest four-letter word one can know sometimes. It is called life, and it goes on whether you were in the service or not, and it goes on whether you were in Vietnam or not. Mr. Lane's words are telling and moving, and his plea is one that we should hear. He said:

> I've met hundreds of Viet vets over the years, and I've yet to encounter one who fits the prevailing stereotypes. There are veterans from all our wars who are sick or depressed or drug addicted, and by all means they deserve our help and comfort. Those who were legitimately disabled deserve a special, revered status in our society. But can't we stop the fictional stereotyping that simply doesn't fit the majority of Vietnam veterans?

I could concur.

Mr. Lane's images of the combat which he personally saw in Vietnam illustrate that he speaks with complete authority. I trust that my colleagues might read this thoughtful article.

EXHIBIT 1

[From the Wall Street Journal, July 26, 1988]

VIETNAM VETS WITHOUT HOLLYWOOD, WITHOUT TEARS

(By William K. Lane Jr.)

Movies about Vietnam are the latest phase in Hollywood's nonstop assault on the American spirit. The films are often accompanied, in the print media and on TV, by advice from Vietnam veterans groups, "outreach" organizations, and the like, that we who fought in that conflict should see these movies only with a "support group." One organization advised us not to see "Platoon" alone; another cautioned us to spend time "decompressing with friends after it." We've been told about the danger of "nightmares" and warned of the ultimate horror: "flasbacks." Jane Fonda, our dart-board version of World War II's Betty Grable, claims she and a group of veterans "wept" in a theater lobby after seeing the movie.

Excuse me while I barf.

This ludicrous blubbering and psychobabble has puzzled me for 17 years. Every unveiling of a Vietnam memorial on TV news seems to star the same two central-casting vets wearing fatigues—both bearded, one with a pony tail—hugging each other and sobbing. It's embarrassing.

The other image is created by the cultural termites in Hollywood: the American soldier in Vietnam as racist, neurotic, drug crazed, feral, a hopeless pawn of a rotten society sent to fight an unjust war. Even the cartoonish Rambo character is a societal misfit, a mumbling killer exorcising his demons in a revenge ritual.

The vast majority of men who fought in that war—people like me—simply do not fit any of those images. Many of us are embarrassed by them, especially in the presence of veterans of Iwo Jima and Midway and Pork Chop Hill—most of whom saw much more horror than Vietnam soldiers ever did and managed to continue their lives without whining, acting nutty, or looking for a free ride.

This is not to say that Nam was not a searing experience. Indulge me as I present some images I dredge up in an attempt to stimulate a few "flashbacks."

I arrived in Vietnam in early 1968, as green as the beret I wore, and was assigned to the Special Forces "A team that had the dubious distinction, two weeks later, of being one of the first attacked during the Tet offensive. My memories of that battle are of the incredible roar and chaos that occurs when two rifle companies open up on each other; of a day and a night pinned down behind tombstones in a Buddhist cemetery; of picking up a terrible sweet smell for the first time and knowing instinctively that it was death.

I remember an old French priest who insisted I follow him during a lull in the battle because he wanted me to see a "bullet" in his church. The bullet turned out to be a howitzer shell that had come through an open window and embedded itself in the steps of the altar without exploding. We got "the bullet" out for him when things calmed down a week or so later, but I do remember genuflecting as I left the church in awe, and then going back to the grim work.

I can still see the terror in the eyes of the North Vietnamese prisoners brought before me. I was the first American they had ever seen, tall and blond (then), and undoubtedly going to kill them. They nearly collapsed in relief when I handed each of them a few of my Luckies and told them, "No sweat."

I remember the exhilaration brought about by extreme fatigue and our victory over the North Vietnamese regiment that had invaded our area. And I recall the curses, the hatred we felt when the New York Times clips arrived claimed the Vietnamese and American victory in the Tet offensive was actually a defeat.

There were other vignettes that haven't faded: A boy in a nearby village with a twisted foot caused by a badly-healed break. We begged his mother for months to let us take him into Nha Trang and have it fixed. Finally she relented, tearfully, not quite trusting us. Our medic sneaked the boy into an American hospital under care of a doctor who was part of our conspiracy. We gave him back to his mother, in a cast, with a leg as good as new. The whole village got drunk with us.

We got drunk on Thanksgiving day as well, after the giggling Vietnamese told us the "deer" we had eaten with them for Thanksgiving dinner was actually a dog.

I remember trying to cram a year of good times into a week of R&R in Singapore, and then landing back in Vietnam at the air base, hung over and depressed, only to be mortared in the terminal.

But many of the starkest of memories are the bad ones. A newly married lieutenant dead after less than a week in the country, a sergeant killed in a firefight when another American shot him accidentally, piles of dead North Vietnamese, dead South Vietnamese, dead Montagnards, a dead old man in his bed in a house wrecked by battle; heat, fear, concussion, the frenzy of fighting out of an ambush.

Bad things, but no worse than many other bad things in life: car wrecks, the death of loved ones. Being fired probably can be as traumatic as being fired upon. And besides, Nam was a long time ago.

I still know where a few of my teammates are. I get a few cards at Christmas. Sometimes I see one or two and hear about others. Some did a few more tours in Nam after I left. A couple are still in the Army. Some have done better than others, but I'll bet you this: None of them would need a "support group" to go see a movie. None of them would indulge in prattle about "post-traumatic-stress disorder" and how it caused them to beat up their wives or wet their beds. None of them would be a party to the Agent Orange hustle.

And none of them would go to an Army-Navy surplus store and buy jungle fatigues and put them on and hug each other and cry for the cameras because no one gave them a parade.

The men I knew in Vietnam didn't hate each other because of race. We weren't on drugs. We didn't murder civilians. We didn't hate the Army or LBJ or our country. We didn't feel America owed us a free ride because we spent time defending it. We were our own "support group" over there. We don't need one here.

I've met hundreds of Viet vets over the years, and I've yet to encounter one who fits the prevailing stereotypes. There are veterans from all our wars who are sick or depressed or drug addicted, and by all means they deserve our help and comfort. Those who were legitimately disabled deserve a special, revered status in our society. But can't we stop the fictional stereo-typing that simply doesn't fit the majority of Vietnam veterans?

Some of the bravest and best men that ever wore an American uniform fought in that war. They deserve better than to be caricatured by Hollywood and represented in the media as a legion of losers.

HONORING WILLIAM E. POWERS, M.D.

Mr. LEVIN. Mr. President, on October 11, Dr. William E. Powers, of Detroit, will receive the prestigious gold medal from the American Society of Therapeutic Radiology and Oncology Center [ASTRO] which is meeting in New Orleans. Dr. Powers is chief of the Gershenson Radiation Oncology Center in the Harper-Grace Hospitals of the Detroit Medical Center. He is also chairman of the Department of Radiation Oncology of the Wayne State University School of Medicine.

ASTRO, which has 3,000 members, is a society made up of physicians, radiation biologists, and radiation physicists. Its purpose is to encourage scientific advances in the area of radiation oncology and to provide for the education and professional fellowship of its members. Its prime concern, however, is to ensure that patients suffering with cancer have the full benefit of radiation therapy where appropriate.

In 1977, ASTRO's officers decided that the organization should award a gold medal annually to honor its giants—men and women who had made outstanding contributions to the development of therapeutic radiology and oncology.

Bill Powers, the first honoree from Michigan, has more than earned this honor. He has been at the forefront in many areas of radiation oncology. In the biological field, Dr. Powers demonstrated the existence of radiation resistant cells. He later carried out experimentation to support the biological basis of preoperative radiation therapy. His frustration with the inability to easily perform physics and dosimetry computations led to an association with computer scientists at the Biomedical Computer Laboratory at the Washington University Medical School where dedicated computers for treatment planning in radiation therapy were developed.

Very early, Dr. Powers recognized the importance of protecting normal tissues in order to deliver higher doses of irradiation, and—after many attempts to improve the shielding of normal structures—he designed Carrobend blocking, which is widely used today in many radiation oncology centers. Lately he has been deeply involved in the design and construction of a highly sophisticated superconducting cyclotron at Michigan State University which is to be installed at the Gershenson Radiation Oncology Center in Harper Hospital for advanced clinical trials in the treatment of patients with malignant tumors.

Bill Powers is a sensitive, empathetic and dedicated physician who has devoted a great deal of energy to the development of advanced techniques for the treatment of patients with cancer of the uterine cervix and to the use of preoperative radiation therapy for patients suffering from cancer of the head and neck. Along with Dr. Simon Kramer, he contributed to the Patterns of Care Study.

Dr. Powers has held numerous positions of leadership in his field. He has served under two Presidents as a member of the National Cancer Advisory Board. In 1984, he was appointed by the Governor of Michigan to the Michigan Radiation Advisory Committee.

Mr. President, the Talmud teaches that if one saves a single human life, it is as if he had saved the whole world. That being the case, it is hard to find words to describe the contributions of a physician and scientist like Bill Powers who has saved many thousands of lives. And will continue to save lives as he, and others now and in the future, build on the foundations he laid down. Let me simply say that I'm proud to know Bill Powers and proud that he lives and works in Michigan. He has lived a life that has made a difference to us all.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

PARENTAL AND TEMPORARY MEDICAL LEAVE

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 2488) to grant employees parental and temporary medical leave under certain circumstances, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Byrd motion to recommit the bill, with instructions to report back forthwith, with an amendment, as contained in Byrd Amendment No. 3308.

(2) Byrd Amendment No. 3309, in the nature of a substitute for the instructions.

(3) Byrd Amendment No. 3310 (to Amendment 3309), of a perfecting nature.

Mr. BYRD. Mr. President, there is 1 hour of debate on the motion to invoke cloture. I ask unanimous consent that the time be equally divided between the two leaders.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time? If neither side yields time, the time will be allocated equally.

Mr. BYRD. Mr. President, I suggest the absence of a quorum. I ask that the time be equally charged.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HARKIN). Without objection, it is so ordered.

Mr. HATCH. Mr. President, what is the time situation?

The PRESIDING OFFICER. Sixteen minutes and 30 seconds remain on the Senator's side.

Mr. HATCH. I yield myself 5 minutes.

Mr. BYRD. Mr. President, the time is under the control of the two leaders. I control the time for those who support cloture.

Mr. HATCH. I would like to have 5 minutes from the distinguished Senator.

Mr. BYRD. I yield 5 minutes to the distinguished Senator.

Mr. HATCH. I may need more than that. If I do, I will ask for it.

The PRESIDING OFFICER. The Senator from Utah is yielded 5 minutes.

Mr. HATCH. Mr. President, I stand here today as a person who feels very deeply about both the parental leave issue and child care. I should explain that just a little bit, too.

I believe it is the wrong thing to mandate parental leave policies across the board for all businesses of 50 or more employees, as this bill does, without at least trying something to encourage business, which has been moving in this direction, to voluntarily comply with their own ideas of parental leave.

I believe that we can get business across the board in this country to voluntarily do much about parental leave. Whether they will go 10 weeks for adoption or the birth of a child and 13 weeks for medical leave or not, I do not know. I do not think they will. But if they voluntarily recognize the need of a parent being in the home upon the birth or adoption of a child that goes a long way toward resolving these difficulties, and I believe most business, except those that are so small that they cannot afford to do it, would try to do something like this.

I would much rather have voluntary cooperation in these parts than I would to have the almighty Congress say you have to do this whether you like it or not, whether it is right for your business or not, whether it is good for your employees or not, keep them on, by mandating parental leave.

We may be taking certain employee rights that they would prefer to have to parental leave such as wage increase, such as further benefits medically or such as greater pension benefits or many other things that they can through the economic process go and fight for.

So I am very concerned about mandating parental leave even though my empathy and sympathies are with giving a parent these types of benefits down the line.

If after giving a voluntary opportunity for businesses, small business in particular, to voluntarily do something about this, we find that there is no good-faith effort to do so, then that may be a time when Congress can come up with some reasonable, workable parental leave approach.

But I believe we can do things in a free enterprise incentive way better than having Congress just demand that business do it its way and mandate that business has to do it its way and impose its will on the free enterprise system of business in this country.

So I am concerned about that.

No. 2 on child care, it is no secret that Congresswoman JOHNSON and I in the Hatch-Johnson bill filed the first child care bill of any consequence in this Congress, and frankly it was a month or so before the ABC bill was filed, and we feel very, very deeply about child care. We recognize that of the 44 percent of our work force who are women who work that two-thirds of those are either single heads of household or married to husbands who earn less than $15,000 a year so they have to work.

What happens to those children? Are we going to just leave them alone and let them be on their own and have them be more susceptible to the drug trafficking and juvenile delinquency problems that pervade our society? Are we going to try to provide some honest, reasonable means to help these families to help their children?

True, I strongly support having a parent in the home. I think it is a far preferable way to have a parent with their children in the home during those daylight hours. But that is not reality for many single heads of household the way they are divorced, widows or otherwise without companionship who have children. Reality is many, many children are going without any kind of help during daylight hours and we ought to do something about that, even though it is an inferior approach to having parents in the home.

On the other hand, I think it is very important that we do something about solving society's problems when there is no other way we can turn to.

In this particular case, in the case of child care, it is important that we encourage licensure. It is important that we have at least State and local standards for child care. It is important that we recognize these problems and do something about it. But I am worried in these last throes of the 100th Congress what we are doing here is playing politics with an issue that I consider to be one of the most pivotal and important issues in our country's history. It is the future of our families and future of our children.

I ask the majority leader for another 3 minutes. Would the majority leader grant me another 3 or 4 minutes?

Mr. BYRD. Yes, I yield 3 additional minutes.

Mr. HATCH. I am very concerned that if we politicize the child care area that we will be doing this whole country a great disservice. It appears to me there is enough opposition to putting together a child care package at the end of this Congress that it may be almost impossible to put it together.

I compliment the distinguished Senator from Connecticut, Senator DODD; the distinguished Senator from Maryland, Senator MIKULSKI; my friend and colleague from Massachusetts, Senator KENNEDY; Senator DURENBERGER from Minnesota; and others who have been working with us to try and fashion a child care compromise that we can all vote for, something that takes the best of the ABC bill, the best of the Hatch-Johnson bill, and the best of the suggestions of GEORGE BUSH so that you would have Governor Dukakis on ABC, GEORGE BUSH on refundable earned income tax credit, and the Hatch-Johnson bill as well as a lot of good ideas combined in one bill that might really work and might help solve these problems and get them going this year.

I would like to do that this year. I think it is possible if we had people of goodwill really working together.

But I question if it is possible in some way because of the desire of some to study this further and from a sincere standpoint to look into it even more next year. If we can do this, then we should not play politics with the child care issue.

Therefore, I am against the present program sponsored by my friend and colleague from Connecticut on parental leave for the reasons I have given and many other reasons.

Since I am against that, but I am for anything we can do about child care at this particular time, and I think there are many people in the U.S. Senate who will be with us, then I am enlisting and asking for all of my colleagues certainly on this side and hopefully on the other side to vote for cloture and let us go forward with this. If we cannot solve either of these problems, then let us not chalk it up to one party being less interested in solving potential leave than the other or one party being less interested in solving child care issue than the other.

I happen to know that neither Presidential candidate really wants child care to come through this year. Both of them want the opportunity of having their stamp on the child care bill next year, and that is probably a good idea. But if we have a chance at all of doing something on child care then I think we should do it this year.

For those who literally do not want anything to occur, voting for cloture I think is a wise move because all of these bills will still be amendable even if this bill is sent back to the committee and reported forthwith as a pending business. It is completely open for amendment and anybody who wants to stop the process here because they need more time or they want to do it next year or any other valid or good reason could do so.

So there is really no reason to get in a lockjaw process over cloture, and I hope all our colleagues will vote for cloture for the reasons that I have said. Those for parental leave ought to be voting for cloture. Those for child care ought to be voting for cloture. And those against both ought to be voting for cloture, because in essence all rights are protected and in this timeframe there is no way anyone is going to roll something through any

Member of this body does not really want.

I ask that we do not politicize these very important matters but really talk in terms of trying to work together and if we cannot do it this year in the last throes of this particular Congress let us go next year and do it then.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I yield 5 minutes to the distinguished Senator from Connecticut [Mr. DODD.]

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Thank you, Mr. President.

Let me, first of all, thank our distinguished majority leader for the tremendous support which he has given to this legislative package. Without his support, advice, and counsel, these matters would not be before this body. I personally thank him for his efforts on behalf of the American family, on behalf of children across this country, both when it comes to parental leave and child care and also the antipornography statute we already adopted as part of this bill 97 to 0.

We are about to vote in a few short minutes on the cloture motion and my hope would be that we be able to invoke cloture and get to the substance and heart of these matters.

I have just listened to my distinguished colleague from Utah, Senator HATCH, for whom I have the greatest degree of respect. He is tremendously supportive in trying to come up with a child care package, and frankly we have, and it would be my view there may be some i's that needed to be dotted and t's to be crossed, but on the fundamental package both in terms of substance of the ABC package as well as the tax provisions we had to come to agreement. We had some time ago.

The antipornography language, as I noted earlier, has already been adopted as part of this package. The outstanding matter that needs to be resolved is the parental leave part of this package. Frankly, I do not think it would be terribly difficult to resolve that particular issue. I think we could come up with some compromise positions which would retain the essence and the heart of that legislation and also satisfy those in this body who have been critical of that particular bill.

So my hope is that if we get cloture and can deal with these matters, we should be able to complete them by the end of this day. It is not that difficult to sit down and spend a couple of hours. We have exhausted a week. And while we have achieved a great deal in this body on other matters, particularly the appropriations bills—and let me again compliment the majority leader for the tremendous achievement of passing all the appropriations bills—nonetheless, we have spent 5 legislative days, all of last week, wherein this matter, the parental leave legislation, as well as the antipornography statute and, lastly, the child care bill have been linked together.

Now, I have listened, Mr. President, with some degree of interest over the last several days as some Members have suggested that we have not done enough on these other important matters—on the tax matter, the technical corrections package, it is called; and on a drug bill—and that we ought to get to those matters and lay parental leave and child care and antipornography statutes aside.

Let me make a couple of observations, Mr. President, if I can. One, when it comes to the drug legislation, I, like my colleagues, would hope that we would be able to pass a comprehensive drug bill. But I know of no one who would argue that dealing with parental leave and child care also contributes in our battle against the proliferation and the cancer of drugs in our society.

I am not going to suggest to you that parental leave and child care would eradicate the problem. But if we could begin to deal with the basic cell unit of our society, the family, and start to recognize the difficult problems that families face, particularly single-parent families today, where 9 out of 10 families are in that category, that we might begin to deal with the underlying problem, the underlying problem of drug addiction and the proliferation of narcotics in our society.

I suspect the drug bill, when it is presented to this body, will deal with stiffer penalties, ways to make it more difficult for the criminal to escape the justice system of this country, to suggest stiffer penalties against countries where drug production is a major problem. What we will be doing is going after the problem because it exists. There will be very little in that legislation which will try to deal with the underlying cause of that problem. And, again, parental leave legislation and child care legislation are not going to solve the drug problem, but every knowledgeable person I have heard who has spoken on the drug problem points, with great regularity, to this underlying issue of a deterioration that contributes to this cancer of drug abuse.

So I happen to believe, Mr. President, that dealing with parental leave, in whatever form we decide to do it, and decent, thoughtful child care legislation would contribute significantly to the drug abuse problem in our society.

Mr. President, I ask for 1 additional minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DODD. Mr. President, we dealt last week with the welfare bill. We all took great pride in the passage of that monumental piece of legislation. One of the features of that bill is to provide child care for welfare recipients who go into job training programs. The irony is that, once the job training program is completed, the child care no longer is available. And so we will train a person for a job, get them off welfare, try to get into the work force, but the central ingredient of a decent, affordable, quality child care program no longer is available. So the hoax will be you can get the training to get into the job force, but you will not be able to maintain the child care once you get the job.

We have been told that the tax legislation is important. Let us be honest about that. That is a candy store. This is not tax reform. This legislation is designed to provide goodies for corporations and businesses around the country who need them as a result of the tax reform bill passed 2 years ago.

I am a recipient of some of those goodies in my State, but you will never convince me, Mr. President, that that bill is more important than parental leave or decent child care—never convince me of that.

And if we can take the time to take care of the candy store, we ought to be able to take some time to take care of these basic issues of parental leave, child care, and antipornography statutes.

So, Mr. President, within a few short moments, we will vote on cloture. My hope is that my colleagues will invoke cloture. That will set up a time frame by which we ought to be able to—in fact, I would suggest in far less time than would be available under cloture—to resolve really one outstanding issue, and that is parental leave. We have taken care of the antipornography statute. We all support it. We have a compromise worked out between the minority and the majority on child care. All we need to do is spend a little time to work on the parental leave statute.

I would suggest we could do that before the close of business today. I have offered that all last week and my hope is that my colleagues would support that particular effort and invoke cloture.

Last, I wish to compliment my chairman, Senator KENNEDY of Massachusetts. Without his support and backing, we never would have gotten out of the committee with these bills and it is because of his tireless efforts that we are on the floor debating those important measures.

I wish to commend him and thank him for the support, guidance, counsel, and advice he has given during the last couple of years on both of these important measures.

Mr. President, I yield the floor.

The **PRESIDING OFFICER**. The Senator's time has expired.

Who yields time?

Mr. **KENNEDY**. Mr. President, who has control of the time?

The **PRESIDING OFFICER**. The leaders have control of the time. There are 13 minutes and 30 seconds under the control of the Republican leader and none under the control of the Democratic leader.

Mr. **HATCH**. Mr. President, how much time does the distinguished Senator from Massachusetts need?

Mr. **KENNEDY**. Five minutes.

Mr. **HATCH**. Mr. President, I ask unanimous consent that 5 minutes be taken from our side and given to the distinguished Senator from Massachusetts. Senator DOLE has indicated that I could use all but a minute or two of his time.

The **PRESIDING OFFICER**. Without objection, it is so ordered. The Senator from Massachusetts is recognized for 5 minutes.

Mr. **KENNEDY**. Mr. President, I thank the Senator from Utah for yielding the time.

Mr. President, today the Senate will vote to discuss, or to dispose of three of the most important family issues facing America: child care, child pornography, and parental leave. Before this vote, I would like to shed a few points of light on the issues before us.

After the campaign speeches that Vice President BUSH has given recently, I would hope that there would be no need of a cloture vote on these critical issues.

Given the public opinion surveys that have been conducted showing the overwhelming support for these proposals, I would think that there would be no need of a cloture vote on these issues.

Given the rhetoric we have heard lately about the importance of children and the family, I am surprised and dismayed that we are faced with a filibuster on these proposals.

But by now we should not be surprised; in their defeat of the minimum wage many in this body demonstrated their lack of commitment to American workers and American families. GEORGE BUSH says he is in favor of the minimum wage but he did not lift a finger to urge this Senate to cease the lethal filibuster against a fair wage for American workers.

The problem appears to be that many in this body prefer to listen to the fatcat lobbyists. They prefer to hear the voices of those who back their words with bucks so much that the voice of BUSH has been drowned out. I had hoped that the voices of the people would silence these lobbyists, but as we saw at length during the debate on the minimum wage, the press operation of the working poor is no match for the Chamber of Commerce. And now, we will find out if the voices of children can be heard in this Chamber.

Today, Mr. President, I fear we are in for more of the same. The Republicans—minus a few brave and committed souls—will take to the Senate floor to defeat justice for workers on orders from organized employers.

The minority leader has made his displeasure with these two proposals absolutely clear: he is opposed. The Vice president on the other hand, is officially in favor of both child care and parental leave—though he has been vague on how he intends to provide either. Now, Mr. President, GEORGE BUSH has the opportunity to put his money where his mouth is.

The Republican leader's comments last week let the cat out of the caucus. He told us that his party could not support these bills because the price to business of the parental leave bill was too much to bear. Mr. President, that bill will cost businesses less than a penny a day. Tens of millions of workers will have protection for their jobs and millions of children will have more time from their parents when they desperately need it—all for a penny a day. But they say that is too much.

All right. We've tried to make the penny go farther. We have included the child pornography legislation on this bill. Is a penny a day too much to ask to protect our children from exploitation by child pornographers? And now the bill will include legislation to provide child care for hundreds of thousands of working parents' children. Is a penny a day from business too much to bring all of this to the children of America?

Talk, they say, is cheap. But if the opposition cannot bring itself to support these measures after the leader of their Presidential ticket has announced his support for both of them, then they have debased their rhetorical currency to a new low.

Instead of counting the number of times I say GEORGE BUSH, and blocking the progress of the Senate, I would suggest to my Republican colleagues that they prepare amendments to show their position on child care and parental leave. If they are unwilling to ask employers to pay a penny a day so that a hard working American can get time off to care for a critically ill child, how much should employers be asked to pay?

If the ABC bill before us, a bill which represents the basis of a compromise with my friend Senator HATCH, a bill supported by hundreds of religious, labor, child welfare, and professional groups is not the appropriate response to the current crisis in child care—then what is?

Let's talk about where my colleagues stand on these issues. DAN QUAYLE has been crystal clear in his adamant opposition to job security for a woman who takes time off from work to be with a sick child. But GEORGE BUSH has flip-flopped.

The Reagan-Bush administration has sent three separate veto letters on this bill and yet GEORGE BUSH has publicly stated that parental leave is a good idea.

Senator DOLE called the ABC child care proposal a "terrible idea" and DAN QUAYLE opposed the bill in committee. But Senator HATCH has helped to craft a compromise and GEORGE BUSH has conceded the need for a Federal role in child care.

Why then, are my distinguished Republican colleagues so unwilling to vote on these issues? Why have they voted to postpone a discussion of this bill in a thinly disguised effort to kill this profamily package?

Finally, now with a chance to enact tough restrictions on child pornography, why are the Republicans so eager to discard this issue?

This cloture vote will provide my colleagues with a chance to redeem themselves. Voters in every State are waiting to see how the opposition will vote on the three critical issues before the Senate: child care, child pornography and parental leave. Their vote on Friday was misguided. I hope that over the weekend they have seen the "Thousand Points of Light" and will vote in favor of cloture—the welfare of America's children is at stake, the future of America's families hangs in the balance.

Mr. President, I wish to, as we reach this moment in the Senate's consideration of these pieces of legislation, again thank my friend from Connecticut for his kind remarks. I wish to say once again to the United States Senate that all of us on the Human Resources Committee and also those who have followed the debate over the period of these past days are very familiar with the amount of time that the Senator from Connecticut has spent on the issue of parental leave, as well as the day care issue. This legislation, even though there are Members of this body who are trying to diminish its importance and significance for working families in the country, is a result of nationwide hearings, hours of hearings, hours of witnesses coming before the committees in which he chaired, and also as a result of a good deal of accommodation to many of the points that have been raised by those who have not supported this legislation.

But the measures that we do have before us. Mr. President, are solid legislation and solid proposals and will make a great deal of difference to the quality of life for working families in this country and, most particularly, to the quality of life for the children in our Nation.

Mr. President, we do not come to these measures late in the session because those of us who have been strong supporters of this legislation have not made an effort to bring these matters before the Senate.

These matters, as the Senator from Connecticut has pointed out, are really lifelines to working families and there really is no business which is more important for us to consider than these very important measures dealing with day care and parental leave and also the provisions dealing with child pornography.

Just about 10 days ago, Mr. President, we had an opportunity in this body to debate and consider raising the minimum wage for the neediest workers in our society who have seen the minimum wage decrease, in terms of its ability to purchase the basic needs for the average family; put food on the table, clothes on the children of workers and to heat the homes and to pay the rents for American families.

We had the array of opposition in the from of the Chamber of Commerce that provided all different kinds of ways to divert the attention of this body from providing decent justice and fairness to the working people in our society, some 16 million workers in our country who would have been affected by that legislation.

But the power of the special interests, the power of the Chamber of Commerce, the old tired arguments were once again effective in this body and justice was deferred for the poorest workers in our society. Justice was deferred.

It might have been delayed but we will come back and revisit that issue in the next Congress of the United States.

Now, we have another issue. This body turned its thumbs down for the working poor. Now we have a question whether it is going to turn its thumbs down to the children in our society, the children who need parents at time of crisis and sickness and illness, times of adoption; whether those members of family are going to be permitted a very limited amount of medical leave when there is a serious health illness that affects that individual

The kind of issue, whether we are going to ensure that families, working fathers and working mothers in our society are going to know that when they go off and work because they need to go out and work, or because they want to be able to work, that their children are going to be safe, they are not going to be back in some latchkey apartment or they will not be in some situation where their safety and health and wellbeing are going to be threatened.

Now the issue is children. This body has turned its back on the working poor. Now we have an opportunity to say whether we really care about assuring that children are going to be protected.

I would think most persons would say, well, that is pretty preordained what the outcome will be. It will be a vote for children in the U.S. Senate. But most families do not understand the power of that Chamber that, under the guise of mandated benefits, some abstract philosophical argument, can be used to really frustrate what is basic fairness and decency and justice for working families and for the neediest people in our society. That really is the issue.

Will the Senator give me another 2 minutes?

Mr. HATCH. Yes.

The PRESIDING OFFICER. The Senator is recognized for 2 additional minutes.

Mr. KENNEDY. We have the time, Mr. President. These issues are familiar to this body. If we stay this week and we stay next week, we have time. The real question is, Mr. President, whether we will take that time to provide simple justice and fairness to those children and to those families. That is the issue and, once again, we are going to find out where this Senate is going to stand.

Will it stand with the powerful economic interests as reflected by the Chamber's position, which is a basic blind opposition to any reasonable attention to these questions; or whether it is going to be a vote for the children, the neediest people and families in our society, working families in our society? This is the issue and I would be very hopeful that on this question and on this issue we will enact cloture.

The working families and the children of working families of this country deserve no less.

Mr. BYRD. Mr. President, the distinguished Senator controls the time in opposition. Will he yield 3 minutes?

Mr. HATCH. I yield 3 minutes to the majority leader.

Mr. BYRD. I thank the Senator from Utah. Mr. President, we are about to vote on whether or not to invoke cloture on the legislative package I sent to the desk last week. That package of legislation includes the parental leave legislation, the child care legislation, and the child pornography legislation.

With this package, we will help America's families in a number of important ways. First, we will help families maintain stability and peace of mind during the critical periods of childbirth, adoption, and medical crisis, with the parental leave legislation.

Second, the child care legislation will give families access to quality child care nationwide—child care that parents must have in order to leave the home and earn the livings for their loved ones, quality child care that will give them the peace of mind that comes with the knowledge that when they drop off their youngsters for the day, these little ones will be cared for in adequate conditions for their health and safety.

Third, the child pornography legislation will protect America's children from the pernicious horror of sexual abuse and exploitation.

Mr. President, we have heard for quite some time that everybody in this Chamber, both sides of the aisle, wants to do something to help American families. Today, we will have that chance. The vote is that simple.

If my colleagues vote to invoke cloture, we will be able to consider these important family issues. We will be able to fine tune them, if that is necessary, and we'll be able to send to the House for urgent action, one of the most comprehensive pieces of legislation to help the American family ever considered in the U.S. Congress.

I think it is time for a showdown on this, Mr. President. Time is short in this Congress. But there is still yet time to pass this legislation, if we can get the votes to invoke cloture here.

The family is the crucible of American values and that is why we must do all we can to support this package.

That is why we must support the Parental and Medical Leave Act.

We who support cloture believe that we must do all we can now to give America's families access to quality child care. That is why we support the act for better child care, the ABC bill.

The third part of this package, the child pornography legislation, will go a long way in protecting the American family because of its sanctions against the manufacture and sale of child pornography.

It is time to get tough against this assault on our children and families. The proposal will make it a Federal crime for a guardian to sell a child's services in the production of pornography, and will prohibit the use of computers to traffic in this obnoxious industry. It will give prosecutors additional tools in combating the spread of child pornography, and its effect on our children and family values.

America's families need a child pornography bill. We hope to give them one.

As I said, Mr. President. The vote we are about to take is really very simple. A vote "yes" means you want to consider legislation now, not next year, to help the families of America. Now. A vote "no" means you do not.

And time is short. America's families are watching.

I yield back the time if I have any remaining.

The PRESIDING OFFICER. There are 3 minutes left of the time of the Republican leader.

Mr. DOLE. Mr. President, no one should be fooled that the vote about to take place is a clear indication of any Senator's views on either the parental leave issue or on child care legislation. Frankly, Republicans and I assume some Democrats have differing views on both these measures. Some of my colleagues are supportive and some are opposed. But, I think both sides would agree that these measures are both of a serious enough nature to warrant careful review.

But that is not what those who have combined these measures procedurally have in mind. My colleagues know that the chances of these measures actually reaching the President's desk this year are very slim. Even if we could complete action I understand the House is prepared to adjourn this week. I hope that is an accurate statement. And I cannot imagine completing action on these bills, the drug bill, technical corrections and a lot of other bills in the next 4 or 5 days, particularly where you might have to have a conference.

So I suggest that a conference would be likely. But I am going to urge my colleagues to vote for cloture.

I do not want tomorrow morning's headlines, written by the liberal media that cover this place, to report that Republicans are frustrating the efforts of Democrats on child care legislation or on any other legislation—parental leave.

So we are going to have our debate. We are going to offer some amendments. So I would urge Republicans on this side to vote for cloture.

But I would also indicate as I have done many times in the past several days, it seems to me that there are important issues that we ought to be addressing, one being drugs, one being the tax bill. I understand that efforts to compromise child care have fallen through. I am not certain anybody knows what is in the child care-parental leave bill.

We have a lot of amendments we would like to offer to this package. The House drug bill, we have cleaned that up some, taken out some of the onerous provisions, at least ones we have found to be onerous. Social Security earnings limitations, maybe we ought to debate that for a while. Tax incentives for child care. Training wage along with a $4.10 increase in the minimum wage.

I hope that all those issues can be debated, too. Maybe somebody can dredge up the Hatch Act again. We had that up the other night at 1 o'clock in the morning, a last minute political ploy to garner a few votes for someone.

Who knows what is going to happen, but I guess before the day is out, we could sit down tonight, the Republicans and the Democrats, and work out the schedule for the remainder of the week. We can do that.

I can assure the majority leader we want to cooperate in every case that we can; maybe some we cannot. But I certainly want to be helpful where we can.

Mr. President, I yield back the remainder of my time.

Mr. METZENBAUM. Mr. President, I rise as an original cosponsor and strong supporter of the Family and Medical Leave Act of 1988. I am voting for cloture today because we must move ahead to help America's working families. They are our most precious commodity. This legislation gives those families a chance to grow and prosper.

We must face facts. The once-typical family where the father is the sole earner while the mother stays at home to care for the children is rapidly vanishing. Less than 10 percent of America's families fit that model. Instead, today's typical family depends on two incomes to survive. Nearly 60 percent of American women are now in the work force. Two out of every three working women are either the sole support for their families or have husbands earning less than $15,000 per year.

Workplace practices have not kept up with this revolutionary change in the make-up of the work force. Workers are being forced to choose between a job and a family. This bill allows workers to have both—job security along with the time needed to raise a family. No parent should lose a job because he or she needs to take a few days or a few weeks off to care for a newborn infant, a sick child or a dying child.

The bill is also fair to employers. The leave is unpaid. There is a generous exemption for small business. Senator DODD's amendment, adopted earlier, expands the small business exemption from firms with 20 employees to firms with 50 employees. That means 95 percent of America's employers are exempt from the bill. For the remaining 5 percent of employers that are covered, the cost is minimal. The General Accounting Office estimates an annual cost of $3.50 per covered employee.

I congratulate Senator DODD for his efforts to bring this issue before the Senate. He criss-crossed the country to conduct hearings on the bill. In the process, he has built a broad-based, bipartisan coalition in support of this legislation. And that's the way it should be—giving young families a little time to be with a newborn or adopted infant or to care for a seriously-ill child is not and should not be a partisan issue.

Regrettably, now that the issue is before the Senate, we have heard the whining refrain from opponents of the bill that this is "just politics." We hear that refrain every time we consider legislation to help America's working families.

We heard it was "just politics" to provide 60 days advance notice to workers who lose their jobs in plant closings or mass layoffs. Tell that to the 260 meatpackers in Minnesota who lost their jobs with less than one day's notice or the 900 miners in Alabama who were put out on the street on 2 weeks notice just prior to Christmas. Advance notice is not "just politics" to them; it is a matter of simple fairness.

We heard it was "just politics" to restore the purchasing power of the minimum wage. Tell that to the over 1 million full-time workers trying to support a family making $3.35 per hour—$134 per week to try to make ends meet. An increased minimum wage is not "just politics" to them; it is a matter of survival and the basic dignity of work.

Now we will hear it is "just politics" to provide a few weeks of unpaid leave along with job security to parents who need to care for a newborn or seriously-ill child. Tell that to the father from Rhode Island who lost his job after he took 6 days unpaid leave to care for his 5-year-old son who was dying of cancer or to the Georgia secretary who lost her job when she gave birth to her first child. Unpaid parental leave is not "just politics" to them; it is a matter of compassion and basic human decency.

It is time we set the record straight. I introduced the plantclosing bill last year. The American people overwhelmingly supported it. Powerful business lobbyists bitterly opposed it. The Reagan/Bush administration sided with the business lobbyists until the public pressure was so great that the administration was forced to relent.

Senator DODD introduced the parental leave bill last year. The public wants this legislation and a number of Republican Senators are leading supporters of the bill. High-priced corporate lobbyists will do everything they can to kill the bill. The Reagan/Bush administration supports the corporate lobbyists.

The bottom line is clear—this administration has been openly hostile to efforts to improve the lives of America's working men and women. But that has not stopped us before and it should not stop us now. The Parental and Medical Leave Act is a matter of basic fairness and simple compassion. I urge all my colleagues to help America's working families by voting for cloture and supporting this legislation.

Mr. SPECTER. Mr. President, earlier today, I had stated that I intended to vote against cloture for reasons set forth in some detail.

Since that time, the Republican leader has urged Republican Senators to vote in favor of cloture in order to avoid the unjustified blame for obstructing legislation on parental leave, child pornography, and day care.

In making this request, Senator DODD referred to the same political considerations which troubled this Senator and about which this Senator spoke earlier. As long as it is apparent by all accounts that the cloture issue is a political one, purely and simply, I am prepared to vote in favor of cloture in order to avoid charges of political blame against Republican Senators.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the hour of 1 p.m. having arrived, the clerk will report the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to recommit S. 2488, a bill to grant employees parental and temporary medical leave under certain circumstances, and for other purposes.

Senators Harry Reid, William, Proxmire, Carl Levin, Dale Bumpers, Jay Rockefeller, Alan Cranston, Wyche Fowler, Jr., Christopher Dodd, Edward M. Kennedy, Claiborne Pell, Timothy Wirth, Daniel K. Inouye, Max Baucus, Robert C. Byrd, Terry Sanford, and Donald Riegle.

QUORUM CALL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to recommit S. 2488, the Parental and Medical Leave bill shall be brought to a close? The yeas and nays are required.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN] and the Senator from Massachusetts [Mr. KERRY] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. GARN], the Senator from Nevada [Mr. HECHT], the Senator from Pennsylvania [Mr. HENIZ], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Nebraska [Mr. KARNES], and the Senator from Indiana [Mr. QUAYLE], are necessarily absent.

I further announce that, if present and voting the Senator from Minnesota [Mr. DURENBERGER], would vote "yea."

The PRESIDING OFFICER (Mr. CONRAD). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 85, nays 6, as follows:

[Rollcall Vote No. 349 Leg.]

YEAS—85

Adams
Baucus
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Evans
Exon
Ford
Fowler
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hollings
Inouye
Johnston
Kassebaum
Kasten
Kennedy
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—6

Armstrong
Heflin
Helms
McClure
Melcher
Symms

NOT VOTING—9

Bentsen
Durenberger
Garn
Hecht
Heinz
Humphrey
Karnes
Kerry
Quayle

The PRESIDING OFFICER. On this vote, the yeas are 85, the nays are 6. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

PARENTAL AND TEMPORARY MEDICAL LEAVE

The Senate continued with the consideration of the bill.

Mr. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order, so that the majority leader can be heard.

Mr. BYRD. Mr. President, I thank our friends on the other side of the aisle for joining us on the cloture vote. That is a good first step.

Now, Mr. President, I wonder if we could get consent at some point during the day for a vote on the whole package: the amendment in the first degree, the amendment in the second degree. That will show a good-faith effort to enact these three measures—parental leave, child pornography, and child care.

I listened to the distinguished Republican leader, who is not on the floor now—he indicated that he would be away from the floor for a little while, but what I am saying will certainly not offend him—I listened to the distinguished Republican leader, who indicated that he was urging his side of the aisle to vote for cloture and that an amendment had been prepared on the drug bill, that they were prepared to offer the House drug bill as an amendment to this measure that is before the Senate, that they were prepared to offer the subminimum wage bill to this bill; and he iterated some other measures they were prepared to offer as amendments because they had been timely filed.

So, while I welcome what the distinguished Republican leader was saying—namely, to the effect that he was urging his side of the aisle to vote for cloture, or that the Republican Senators were going to vote for cloture—I welcome that as a clear indication that the Senate is about to make real progress on this package of family measures, a profamily package, three measures wrapped into one, all of which are needed by the families of America—now, not next year, not the year after—child pornography, parental leave, and child care.

When the distinguished Republican leader went on to indicate that they were prepared to call up all manner of amendments that certainly would not be germane to this package—indicated two of those, the subminimum wage and the House drug bill—then I began to wonder, what is this? Is this really an effort to join with those of us on this side of the aisle who really are wanting to see a profamily package enacted, or is this something that is not quite as it appears? Apparently, the Republican leader was indicating that his side of the aisle is prepared to offer various and sundry nongermane, nonrelevant amendments that would have as their purpose a slowing down of the profamily package.

I hope we will not let the debate deteriorate into the offering of various and sundry amendments that are not germane, the purpose of which is simply to delay action on the profamily package.

Therefore, I do hope that unanimous consent can be obtained for a time limitation on the family package and that we might be able to vote on that measure and then bring what would be the substitute back before the Senate, which would be the three measures wrapped into one profamily package, and then perhaps get an agreement on that package, or be in a position at that time to offer amendments that would be germane, and get on then with enacting that legislation.

I do not want to get into a situation where we are playing games with nongermane amendments.

As a protective measure, I filed some, also. I filed the Senate drug bill and I filed the minimum wage bill that Senator KENNEDY had modified in two or three occasions, and which was the bill before the Senate at the time cloture was not invoked, and we pulled that bill down.

So if we get into the act of offering nongermane amendments, we are prepared to do that on this side, also, but that does not get us anywhere on the pro-family package.

I simply say that we are prepared to do that, and we would have to do that to protect ourselves against the other side's amendments, which I have to some extent listed as I heard them when the distinguished Republican leader was speaking. I hope we will not get into that kind of playing games. We would both be playing games. I do not want to play games.

So the situation as it now stands is that cloture has been invoked on the motion to recommit with instructions to report back two amendments, and there are 30 hours, under the cloture rule, which can be utilized at this time in trying to bring about final action on the motion to recommit with instructions to report back.

I hope we will not use the 30 hours. I hope we can quickly move on to an agreement to dispose of this package and get it back before the Senate, in which case it would be in the nature of a committee substitute when it comes back. Then the Senate could work its will on that package, which would be open to amendment at that time.

I hope we will not engage in the offering of nongermane amendments at this point on the motion to recommit with instructions to report back. Of course, the second-degree amendment would have to be disposed of before either our friends on the other side or we on this side of the aisle could offer any of the amendments that are filed at the desk.

We have to dispose of the second-degree amendment first. If that second-degree amendment is disposed of, then the first-degree amendment is open to amendment, and our friends if they were to get recognition could offer an amendment. We could do the same. We could offer an amendment if we were to get recognized first.

As time goes on and we are able to talk and debate the measure which is before us, maybe we can get some understanding as to whether or not an agreement can be reached that will enable the Senate to act on this important pro-family legislation.

So, Mr. President, I yield the floor.

The PRESIDING OFFICER. The acting Republican leader.

Mr. SIMPSON. Mr. President, our leader is necessarily absent and will return shortly and, I am sure, will be working closely with the majority leader to see if we cannot reach some appropriate accord here. I think it is important to say, and I know that I speak for our leader; that we do not want to be involved in game playing. We do not want to be involved in delay. And we will not as long as we are all dealing in good faith.

I want at this time to pay particular tribute to the majority leader in what was a masterful legislative performance as we dealt with the 13 appropriations bills.

I have been here nearly 10 years. I have never seen a more adroit and skillful presentation of "doing the Nation's business" as was done last Friday night as we finished our work at the stroke of midnight with a breathless messenger at the door, and I was very proud.

I think I have not had such pride in being a Member of the Senate as I watched us do our work and as I look back on what we have done during the 100th Congress. It is truly a stunning legislative record. I mean that. That is an honest statement.

If anyone in this country wants to look what was done in the Senate, and most of it passed the House, but a great tremendous amount of it came out of this body in the 100th Congress, good legislation, thoughtful legislation, powerful legislation, innovative legislation, things we have not dealt with for all the years I have been here. We did it, we got done.

I see my friend from Massachusetts is on the floor. We passed a sweeping immigration bill this season for the first time, legal immigration, by a vote of 88 to 4. We likely will not get that addressed fully by the House, some of it perhaps, but we will deal with that again next year.

I was very proud to be a part of that. I am a legislator. I like to legislate. You can do it in the minority or the majority. That is what you can do. That is what you can do. That is what you learn as a legislator.

So that was a great high point for me Friday night, and I commend the majority leader sincerely for what was a superb performance. There is no way anyone will ever match him or his skills and no one should even attempt it and anyone will fall short. But he will have another role the next session, and I am sure he will be just as progressive and skilled in that role.

Now, back to the issue of the moment.

Mr. BYRD. Mr. President, will the distinguished Senator yield on the point he has been discussing?

Mr. SIMPSON. Yes, I surely will.

Mr. BYRD. Let me thank our Republican leader, Mr. DOLE, and the Republican assistant leader, Mr. SIMPSON.

I have taken occasion within the last few days to compliment the distinguished Republican leader for all of this assistance and cooperation in bringing the measures up and in getting them enacted and in enabling the Senate to finish action on the 13 appropriations bills.

But I should also remember that the distinguished Republican whip, Mr. SIMPSON, was the acting leader. He is the assistant Republican leader. He was the acting Republican leader for a period of about 3 months, some 12 weeks, I believe, earlier this year when the distinguished Republican leader was still involved in the primary elections around the country. And during those 12 weeks, I remember clearly how cooperative the distinguished Senator from Wyoming was, and without his help and aid during those critical 12 weeks, the Senate could not have moved on as it has been able to move up to this time. I think we have been in session, as of last Friday, 123 days this year, and the Senate certainly made excellent progress during those 12 weeks.

I had occasion in several instances during those 12 weeks not only to compliment the distinguished assistant Repubican leader but to thank him for the exellent cooperation that I was getting from him and from our friends on the other side of the aisle in moving the legislation along.

So there are many thanks to be spread around here as we talk about the record of the 100th Congress. I think it is an excellent record. I think it is one of the best Congresses that we have seen in a good many years. But it could not have been done by Democrats alone. It could not have been done by the majority leader alone. It could only be done by teamwork and cooperation and in many instances the strong support of the minority.

I register that expression of gratitutde here and now, while the distinguished Senator from Wyoming is on his feet, and I close by especially thanking the Members of the Senate in the last few minutes of last Friday night and I recall very vividly that Mr. BUMPERS and Mr. GRASSLEY moved the legislative appropriation bill through very expeditiously, and had they not done that we would not have broken that record of 12 years in which the Congress had not enacted all 13 appropriations bills separately. There were many times last Friday as we were nearing the midnight hour that I often wondered are we going to be able to do it or are we going to have another session of Congress past in which we have to have a continuing resolution even though it may be only on one bill or two bills?

I did not take the time then because in the interest of time we had to move quickly, but I take the time now to express appreciation to Mr. BUMPERS and Mr. GRASSLEY, because they moved that bill more quickly than any other appropriations bill moved, and they did it realizing that the minutes were fleeing.

I was sorry to have to urge that our friend from Arizona be denied the yeas and nays, but if we had had a rollcall vote on that tabling motion, we would not have fulfilled the announced desire of the two leaders to complete action on all appropriations bills before the new fiscal year began. So we had to deny the yeas and nays.

Mr. President, I thank the distinguished Senator from Wyoming again. I thank him for yielding to me at this particular time in his remarks.

Mr. THURMOND. Mr. President, will the distinguished Senator yield?

Mr. SIMPSON. I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to associate myself with the remarks made by the able assistant minority leader. I have been here 34 years and I do not think I have seen a performance more magnificent than that shown by Senator BYRD last week. It was truly outstanding leadership on his part that he got all these appropriations bills passed. I think the record ought to show that because I think it indicates the unexcelled leadership that he exerts as a parliamentarian and as leader of the Democrats in this Senate.

I am on the opposite side from him, but I have tremendous respect for him because of his great character and his integrity and the splendid manner in which he operates this Senate.

Mr. BYRD. Mr. President, will the Senator allow me just 30 seconds?

Mr. SIMPSON. I will indeed.

Mr. BYRD. Mr. President, I wish to thank the distinguished Senator from South Carolina, with whom I have served now almost 30 years in the Senate. The respect which he expressed is mutual, certainly. I have the highest respect and regard for the character and integrity of the Senator from South Carolina, Mr. THURMOND. I could have no higher respect or regard than that which I hold for him.

Mr. SIMPSON. Mr. President, let me add that, as a junior Member of this body—and I am still that, in a sense, with a 9-year tenure—that from these two fine senior colleagues, the majority leader and the former President pro tempore, one of the deans of this body, along with Senator STENNIS, our beloved friend, STROM THURMOND, I have learned so much. It is from them I have learned some of my skills and I have appreciated their great counsel and their friendship. So they are both to be commended once again.

But now, let me just say where we are right now. We have hauled the whole load. We have done the appropriations bills. The President has signed them. There were several requests from out in the land to veto one or two of those. That will not be done. The country is running. No persons are being sent home. This is the first time in 10 years that we have done that, where "nonessential people" were not sent home, which is an offensive distinction in every sense. So none of that. That must certainly please the Federal work force. It pleases the citizens.

But now, here is where we are: We really do not have much left to do. Oh, sure, there is a ton of stuff laying around, and that is the way this place works. But we do have some things to do.

We have a core drug bill that we want to do, and I think we can do that and limit the amendments on both sides, and do that. I hope we can. We know we have to do that because that is a great issue of the day.

We have the technical corrections legislation. There are some things in there that are not too popular, but there are some things in there that are very popular, such as the excise tax on diesel fuels, the "heifer" tax things that are of interest to us provincially—taxpayers' issues.

And then we have the nominations to the Federal district courts. Senator BIDEN and Senator THURMOND are working very closely on that. I think we are very close to presenting a way to break that logjam. It certainly will not please everyone. There are four judges on the calendar at the desk. Those will be dealt with, one way or the other. They are there. Others will be released from the Judiciary Committee, together with certain elements of legislation which should pass which are now fairly noncontroversial.

Those are the issues left to be done. I think we should all direct our energies and attention to those.

I feel quite certain, I certainly think and believe, that we would be finished by the end of this week. I do not see anything that would take us forward beyond that, unless it would be one thing which just might come up, one word called politics. It is called a political year. Yet I hope that we might save the politics for the campaign trail.

We are all anxious to hit the road. We can't wait. I am going around the country for GEORGE BUSH. I am going to have some fun in Los Angeles, Detroit, Cincinnati, Indianapolis, Chicago, and in New Jersey, and Pennsylvania and elsewhere. We are all going to hit the road and we are going to do what we like to do as part of our lives, and that is politics.

Hopefully, we might now have politics out of the Chamber, because we have done such a good job up to this point. And what I believe the minority leader said, if I recall his words, was that we just do not want tomorrow's papers to say that it is the Republicans who are the ones who are opposed to parental leave and child care. That would be absurd. That is what our leader said. He did not say that we definitely would offer these amendments, only that we could.

Now, we are into this 30-hour situation. We do not intend to use that for any kind of activity except leverage—to keep from being painted as slavering poops who do not like parental leave or child care or all these things. And we are not. You know, that is not us.

In fact, many of our able people are prepared—Senator HATCH has a fine child-care bill; Senator WALLOP has a fine child-care bill; Senator DODD has a fine child-care bill. If we were doing thoughtful legislating, we would meld them together and take the best and toss the worst. But that is not for now. Yet maybe it is. Maybe the principles can do that, I do not know. But it will be tough.

So that is what Senator DOLE was saying. And I appreciate the words the majority leader said about Senator DOLE and I think he too feels very proud that he was a member of this fine bipartisan effort in getting the appropriations bills done.

But I think we want to conclude our work, and our work is clear. I have just outlined what it is. We do not want to be in a position of playing games. That is not a becoming thing. I hope it is too late in the session to do that, for either side. We prefer not to. But, again, if we get into that position, then we will do so. But the American people should know that both sides are then playing games. You cannot have a game unless you have two participants. A game is a dual function. I do not know of many one-sided games, except solitaire, and that is fun, too. But if you are going to have political games, you have to have two people playing, two sides playing. So, there we are.

We do not think that we are really doing this. We are just protecting ourselves so that we will not appear to be, you know, some hardhearted folks from the other side of the aisle. And the games did not start here, if there are any, and I do not think I have identified any just yet.

But to say that placing the responsibility for opposition to parental leave and child care is on the Republican Party is just not acceptable and nothing is further from the truth. What has created and I think could create discord in these last days is that we on our side sometimes have been prevented from offering amendments. And when you do that in a legislative body, it creates frustration and hostility. Then the leaders have to visit with their colleagues and say, "I know, but just hold on. Don't get too clever. Don't get too heavy." And they say, "Well, I'm going to go out there and I'm going to do this," and, boy, I will tell you, they are not going to take a breath.

Well, then we have to subdue our troops and try to legislate. And I know that happens with the majority leader over there.

And the "filling of the amendment tree" has become a very common and frustrating thing. That happened with us on the minimum wage, where we had a lot of good thoughtful amendments and wanted to deal with them. Then we were limited on the motion to recommit, with the exception of the very courteous endeavor to allow the Senator from South Carolina to deal with his amendment on child pornography.

But it is most interesting to us all that this agenda that is so critical at the end of the session is something that has been laying around here for 2 years. All of these issues, the so-called family issues, the issues of conscience, like minimum wage, parental leave, maternal leave, child care, health care, have been laying around for 2 years—two sessions of the 100th Congress and in a Congress controlled by the Democratic Party at which at any time they wished to turn the crank, they could have turned the crank. And the reason the crank did not get turneth is because they will not pass, because it is an election year and the people back home say, "Don't raise the minimum wage on us. We can't afford it. We will be out of business." Especially when so many new jobs have been created and, employers also say to people who go home for election, "do not do that thing on mandatory parental leave, let us have flexibility to do it in our own businesses the way we want. If people do not want to work under those conditions they need not."

So that is the only thing that is at all honest about this. This stuff was on the forefront, the front burner in America. The issues that are on the forefront, child care is an issue and we must do something; parental leave is an issue and we should deal with it; minimum wage is an issue. Let us deal with it appropriately.

The American people are not dull witted. They really do not believe that Republicans are opposed to these things. In fact, nine of our party are cosponsored of the parental leave bill and several of them have been involved in the Minimum Wage Act here. And all of them are aboard on child care, just a different version than the one presented by the Senator from Connecticut.

So those are the things I just wanted to share. All of us have given up something. We did that Friday night. Senator Pell gave up something, Senator Helms gave up something—they both gave up things they really wanted and we are going to have to do that again. That is called legislating. It is called taking a deep breath and taking your lumps. People do not want to know how you are around here when you win. They want to know how you are when you lose. How are you handling it when you are losing?

So, we do not feel we have lost anything but we are certainly not going to be wedged into a position so that it appears that these great items of social legislation, which have just been laying around on the bottom of the tank for 2 years, that if they do not come up now in the last 48 hours or 72 hours, that it is somehow the Republicans that have done all that.

That is all we want to do and I think the American people can understand that with such clarity. And they should know that the old legislative engine just ran out of gas, and it came to pass, on this day, on October 3.

There is no need to fuel it with some partisan smoke if it simply ran out of gas.

So we are ready to do our work, we have our good people on both sides of the aisle getting up a bill on drug legislation, on technical corrections, good and thoughtful people putting together the judicial nominations and remaining legislation.

There are going to be some painful decisions with the judges where we will lose some tremendously good people, and it will not be for any other reason than pure partisanship; and we sadly understand that. We prevented Jimmy Carter, the President, from having 17 of his nominations and when we end up here they will probably have prevented us from having about 17 of ours. That is called the level playing field. That is called politics and we all understand it even if we don't like it.

But we are ready to do that agenda and that is why we will be in a position here, with the 30 hours running, to do it in an honest and fair way so that we try to keep on course, and still get the majority leader where he wants to go.

There will be issues that will be very disappointing that will not be dealt with, some of mine, some of the majority leader's.

We are ready to do that work as long as we keep our eye on the rabbit and I think that is all I wish to indicate. I thank the majority leader.

Mr. BOSCHWITZ. Will the Senator from Wyoming yield for a short comment about the schedule?

Mr. SIMPSON. Yes. I will yield the floor.

The PRESIDING OFFICER (Mr. Rockefeller). The Senator from Minnesota.

Mr. BOSCHWITZ. I wish to comment on Order No. 643, an act to implement the International Convention on the Protection and Punishment of Genocide. I would hope that that, too, will be an early item on the agenda. The Holocaust Museum's cornerstone is going to be laid on Wednesday and it certainly would be a very fiting matter that we should pass that bill and give the President an opportunity to sign that prior to the laying of that cornerstone.

I know it is part of a package. I hope that these things will move forward quickly. Indeed, it is an important piece of legislation, now that the treaty has been affirmed by the Senate.

Mr. SIMPSON. May I ask the chair for 30 seconds to respond to the Senator from Minnesota?

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. I just say that indeed the legislation implementing the genocide treaty is very much a part of this package and Senator Thurmond has agreed to remove the death penalty amendment from that so that it might move independently. And I have no doubt that, as we get the adjustment in the judges, that will be an item which will be ready to go through here in a very swift fashion.

Mr. BOSCHWITZ. I thank the Senator from Wyoming and I point out that laying the cornerstone occurs quite soon. I hope it will be able to be done by that time. Hopefully the package will be put together. I thank the Senator.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, we are in a situation in the Senate where we are considering a motion to recommit legislation in the Labor Committee with instructions to report back forthwith.

One of the items in that motion is the so-called parental leave legislation. This is legislation brought to the Senate just recently, and we have been talking about what is in the bill, what the implications of those provisions are for employees and also businesses around the country and the alternatives that may be available to the suggestions contained in that bill.

Alternatives have focused more on encouraging businesses to make available leave including paid leave for employees, rather than a mandated benefit that would be prescribed by the Federal Government for each employee and each business irrespective of the wishes of the employees or the wherewithal of the employers or businesses to pay for that mandated benefit.

So we have, as I see it, an opportunity to talk about what may be the more appropriate solution to the problem. I do not think there is any question but that Senators recognize that parental leave is a worthwhile benefit. It is a very important fundamental benefit that ought to be available to employees. There is no real debate on that.

I think the debate and the question is how do we get there? How do we ensure that those employees who would like to have time off on the occasion of the birth of a baby in their family or the adoption of a child get that time off, how do they keep from running the risk of losing their job when they take off the necessary time to have the baby and to begin the nurturing process, whether that is a process that takes weeks or months in some cases?

Most employees now who are asked about this subject, according to the polling information that I have seen, say that they would like to have the time off, but they would also like to be able to work out with their employer the entire range of benefits, including parental leave, that they have as a part of their employment agreement. Other polls have indicated that in the general public when asked do you think an employer ought to be required to make available parental leave, most everybody says "yes," without really going into the details of whether that should apply equally to the husband, as well as the wife.

Under the bill proposed by the committee it would have equal application to fathers as well as mothers and for a 10-week period of time. The leave under the bill reported by the committee would be unpaid.

So one question that immediately arises is will this be a benefit that will be exercised? Will this be a benefit that will be claimed?

Will fathers, for example, ask the employer to grant 10 weeks of unpaid leave? And no one really knows the answer to that question at this point.

One interesting thing to observe in trying to answer that question is whether or not this is a part of the usual employment contract?

Do unions who are negotiating for benefits in behalf of employees normally request this to be considered as a part of the contract of employment? The answer to that question is "no." It is not a benefit that is normally requested by union negotiators.

If you looked at some of the fringe benefit packages that are in place today, the most generous businesses in the country do not have that as a part of the package. The employees or the unions that negotiated that package did not request it, did not put it high up on the list of things to negotiate, and so it is unusual from that standpoint that the Labor Committee of the U.S. Senate would say to all unions, all employees, and all businesses, that this from now on is going to be a mandated benefit that will be made available by statute to every employee in every business in the United States that has the requisite number of employees.

The bill does exempt those businesses with fewer than 50 employees. But those who have more than 50 employees, no matter what kind of a business it is and no matter what kind or character of employee you have, whether it is an older employee or a newly married employee, this is going to be a mandated benefit.

One problem that has developed in the course of the hearings on the legislation and now since the bill has been reported out and as we have debated it, is whether or not this statutory mandate is going to have an adverse impact on other benefits that are available to employees generally. In other words, most benefits are not mandated by law. As a matter of fact, just a few are—unemployment insurance benefits. In case you become unemployed as a worker, the Federal Government has mandated that there be an unemployment benefit. And there is an insurance program that States participate in that guarantees a certain benefit in case a worker is displaced from his employment. Workmen's compensation is another benefit that is mandated by Federal statute. And retirement benefits under Social Security are mandated by law.

But other than that, there is no Federal law that, for instance, guarantees an employee a vacation or disability insurance or life insurance or many of the other kinds of fringe benefits and employee benefits that are now associated with the contract of employment in our society today.

(Mr. FOWLER assumed the chair.)

Mr. COCHRAN. We are seeing on the other hand more and more benefits made available voluntarily without the requirement of Federal edicts. Without the Federal Government requiring it, employers today are commonly looking for ways to attract better employees, to keep those employees they have because we have a growing problem with the numbers of people who are available for the work force.

The reality of the situation in America today is that in many employment areas there is a shortage—there is a shortage of qualified and available talent to do the many jobs that are being created in our society today. That is one of our serious problems—the challenge of training and making available the large number of people who are needed in the work force today. And the work force is changing as we all know. More and more women are becoming employed in the work force today. That is a fact. It is that fact that seems to be pushing those who are recommending this benefit as a reason for mandating a Federal parental leave benefit.

Most businesses, however, make available leave time—in many cases it is paid leave—for those who do have children to take off from work for that purpose. The time that is available to take leave varies among businesses throughout the country. Some young mothers decide not to come back to work for a long period of time.

I know there have been some who have worked as members of my staff who have decided not to come back because they wanted to devote all of their time to caring for their child or being with their children. Others have decided to come back and work on a part-time basis. We have had those experiences. There have been some who wanted to come back as soon as they could, and have done so.

So what this illustrates to many of us in the Senate is that there are a wide variety of personal interests involved. Each employee has his own opinion or view as to what their preferences are. This is the way it ought to be. The law ought to recognize that there has to be some flexibility, there should be some flexibility, so that an individual employee can negotiate and talk this out with employers and work out an accommodation that suits the interests and needs of each individual person. That is what we hope this law would permit.

But the bill as reported by the Labor Committee does not take that individual preference into account. It assumes that each employee is going to want the same thing, whether the employee is male or female, whether the employee is young or old, whether this is a high priority interest or not with each employee.

And so one alternative that has been suggested to the committee bill is a tax credit or an incentive that would encourage employers to make leave available to those who want to take leave when they have a newborn child or when they adopt a child. Some of us think that is the best and preferable kind of Federal statute to pass. Let us provide a credit to encourage those employers who are not now providing leave benefits to do so. This would accommodate the interests of those employees who do not want that kind of benefit or maybe prefer another benefit to the time off to help care for a newborn child or a newly adopted child.

For example, an employee who has children who are about to enter college might prefer a benefit that provides assistance with tuition. The parental leave benefit mandated by law is not really going to do anything to help or improve the family life or interest of that employee who has children of college age. But what might be helpful would be assistance in paying premiums on a life insurance contract that would protect those children and their access to expenses to help pay for college if that benefit were available and if something happened to their father or their mother.

So there are other kinds of benefits that may be more important to individual employees than having an unpaid parental leave.

Some employees would prefer a paid parental leave. They might not be well fixed enough financially to take off for 10 weeks without any pay. Think about that.

One criticism of the reported bill is that it is really going to help those who are farther up the economic scale and not be of much help at all to those who have to live week to week or month to month on their salary and have a hard time as it is making ends meet financially. And you are going to tell them, "We just did something to help you a lot. We are going to provide that, under Federal law now, compliments of the Senate Labor Committee, you are going to have 10 weeks of unpaid leave at any time you select it during a year when you have had a child added to your family by birth or adoption."

If this person really cannot afford to take off 10 weeks without any pay he is going to say, "Well, I am not so sure you have done me a big favor. I do not know that that is something that I am really going to be able to take advantage of."

That is right. There are going to be many workers who will not be able, because of their own financial situation, to take advantage of an unpaid leave opportunity.

So what we are saying is that while those who are proponents of the legislation are suggesting that it is a very important step toward helping ensure that the law is sensitive to family-oriented issues, it may not be as helpful as many assume it will be and there may be a better way to do this to encourage the availability of leave from work for new parents to care for their child, to get started raising a family. And that better alternative may be the encouragement through the Tax Code to help ensure that employers are more likely to make this benefit available—even paid leave available at this very important time for young couples.

There have been a number of articles written on this subject over the last couple of years. One that I thought was particularly interesting to me was in a publication entitled "Legal Times", published on December 1, 1986, in the "Commentary," section published here in Washington.

The title of the article is "Laws Can't Make us Good Parents."

The thesis of the article is a mandated benefit, no matter how worthy, does not increase the employee benefits pie. It merely divides it in a manner dictated by one or more special interests.

Mr. President, I ask unanimous consent that a copy of this article by Virginia Lamp be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LAWS CAN'T MAKE US GOOD PARENTS

(By Virginia Lamp)

Donna Lenhoff, in her Oct. 27 column ("America Needs A Family Policy," Legal Times, page 11) joins many women's groups and unions in advocating enactment of a new law that for the first time would mandate comprehensive federal standards for employee leave and health benefits. The new law would require employers to give 18 weeks of job-protected, unpaid leave for the birth, adoption, or serious illness of a child or parent, and 26 weeks leave for personal illness.

On the surface, mandating disability leave and leave for the care of a child or a dependent parent appears to be a simple way to guarantee all employees equal treatment while according priority to family responsibilities. But such a new national policy, however well-intentioned, presents several serious problems.

First, and perhaps most important, government coercion will not be able to bring about the desired results. No one disputes the value of good parenting, but mandated time off for parents skirts the underlying issue. Federal legislation simply cannot make us "bond" with our children.

Legislation will not create responsible, caring parents. Ultimately, family responsibility is individual responsibility. Balancing a family and a career is a challenge we all confront at the most personal level. Just as many people who spend a great deal of time with their children are still poor parents, many hard-working people have become successful parents without generous leave policies.

Second, government should avoid the tendency to play the role of the "Super Union." Formerly, when mandated-benefits legislation was proposed at the state level, business and labor used to join hands to fight such intrusion into an area traditionally left to their negotiation. Today, with unions representing only a fraction of the U.S. work force and "decertification" elections—in which unions are being voted out by previously unionized workers—on the increase, it is instructive to watch unions seeking to gain through Congress what they cannot gain at the bargaining table.

In the Nov. 4 elections, organized labor worked for each of the 20 Democratic Senators who won and endorsed 248 Representatives (218 constitutes a winning majority) for the House of Representatives.

The political clout of unions and budgetary constraints on Congress, which have restricted its ability to promote new social policies and distribute favors through spending and taxing programs, set up Congress to become a new "Super Union." The problem is that Congress will dictate—not negotiate—benefits without regard to the employer's ability to afford them or to the individual employee's desire for a particular benefit as compared with other benefits.

Third, any single mandated benefit is likely to lead to a reduction in other—sometimes more preferred—employee benefits. A mandated benefit, no matter how worthy, does not increase the employee benefits "pie." It merely divides it in a manner dictated by one or more special interests. If one employee benefit is required, then another benefit—perhaps one desired more by the employees of a particular company—will be eliminated or reduced to pay for the new mandated benefit.

Fourth, most employee benefits are not mandated by federal law. Employers are required to provide Social Security, workers' compensation, and unemployment compensation. Other important benefits, such as health or pension plans, have been left to the private, voluntary system of employee benefits.

Despite the absence of mandated benefits, employees are spending between 18 percent and 65 percent of their payrolls on employee benefits, from $3,500 to more than $13,000 annually per hourly employee. The variety of employee benefit packages indicate differences in the ability of employers to afford benefits, in the competitive market for a qualified, dedicated work force, or in the employee's desire for benefits (as opposed to higher wages or more flexibile scheduling), or other considerations.

Larger employers can generally afford more generous employee benefits and leave policies than smaller employers. Yet small businesses are the dynamic job-creating force in our economy.

For example, while large companies laid off 1 million workers during 1981 and 1982, small businesses hired 2.6 million. In 1983 and 1984, large companies created about 1.5 million new jobs, small businesses about 4 million. It would be ironic if such a mandated family policy winds up destroying the jobs that have assimilated second-income wage-earners into the labor force—the very jobs that the advocates of the legislation seek to protect.

At the 1986 White House Conference on Small Business, the Number 2 recommendation of the 1,800 delegates was for an end to government-mandated employee benefits, including parental leave. The more than 600 women business owners present opposed the parental leave legislation by a large majority.

Fifth, advocates of a new federal law have ignored employers' efforts to accommodate employees with conflicting family responsibilities. A recently completed survey of 1,000 firms by the National Chamber Foundation found that 77 percent have formal or informal policies that address the "parental leave" needs of workers. Of the remaining 23 percent, more than two-thirds, or 17 percent, responded that their employees preferred other benefits.

Furthermore, private employers increasingly are changing their policies and environments to meet the needs of working parents. We are seeing evidence of innovation in this area as employers voluntarily set up day-care centers, sick-child services that include home health-care aides, part-time or flex-time work schedules, or work-sharing arrangements. After Canada enacted a law mandating parental leave, employers became less interested in looking for new, creative, more cost-efficient, and employee-oriented policies or programs to serve the needs of working mothers.

Sixth, whereas advocates of parental leave legislation often claim that most industrialized countries provide mandated maternity benefits, being different from other industrialized countries is not all bad. As governments dictate social responsibilities to employers—something done frequently by socialist and communist governments—they will create at some point a strong disincentive to work, invest, and engage in entrepreneurial activity.

European countries are facing high unemployment rates, low economic growth rates, and minimal, if not negative, job creation statistics. This is not to say that U.S. employers can afford to be insensitive to human resource issues in their own work force. In fact, employers do their best to hang on to good employees. In the recent National Chamber Foundation study, employers overwhelmingly mentioned the need to recruit and retain employees as their most important reason for instituting parental leave policies.

Seventh, proponents of such a new family policy assume that * * * will not suffer adverse effects. Although the proposed policy would make leave available to both men and women, every study indicates that women are far more likely to take time off from their work to care for children or the dependent elderly.

The countries with the highest relative unemployment rates for women of childbearing age are the same nations that have the most generous parental leave laws. Women who choose career over family might be saddled with an unfair stereotype that could hinder their ability to attain more power in this still male-dominated world.

Eighth, the Pregnancy Discrimination Act of 1978 already requires all employers with short-term disability benefits to grant pregnancy benefits to women employees. Enactment of this law greatly expanded the universe of women eligible for pregnancy benefits.

Although a small percentage of employers still do not grant disability benefits to women or men, the national debate over "parental leave" is now focusing on a new and controversial claim that the first 18 weeks following birth or adoption are crucial for parental "bonding" to occur. Other experts disagree, but ultimately business cannot afford to stop while parents "bond" with their new children.

STIFLING FLEXIBILITY

Finally, such mandated benefits stifle the trend toward flexible benefits. Ironically, such proposed national schemes would stifle a trend in the business community toward employee benefits designed to meet the needs of individual workers.

With benefit costs currently near 40 percent of payroll, employers simply cannot afford to keep expanding their benefits "pie." To keep benefits attractive and affordable, many employers are offering "cafeteria plans" under which each employee can choose the package best suited to his or her own life circumstances. To dictate the coverage of parental or family leave would require employees to take this benefit instead of some other. Thus, a childless couple, for example, would be required to carry a parental leave benefit rather than getting more vacation or pension benefits.

The business community is responding to the changing demographics of the U.S. work force. Although its response may not be as rapid or as generous as some may like, flexible benefits and innovative solutions to the demands of working parents are being developed. The changes appear somewhat slow and haphazard—but this is infinitely preferable to rigid, inflexible, costly, and probably counterproductive federal mandates.

Ultimately, a healthy economy, jobs, and a cooperative labor-management environment can offer the most basic support—both financial and personal—that families must have to survive.

Mr. COCHRAN. Mr. President, others have written on this subject recently. I have assembled a number of articles that are helpful in analyzing this issue in the context of our changing time, the changing trends in the workplace today. These articles have been published in such widely diverse publications as U.S. News & World Report; the New York Times newspaper; School Board News, discussing how parental leave legislation will affect school districts; there are editorials from other groups around the country.

I ask unanimous consent that these articles be printed at this point in the RECORD. They are: "A One-Size-Fits-All Leave Policy?" by Louis Dehmlow, U.S. News and World Report, December 7, 1987; "Wooing Workers In The 90's: New Role For Family Benefits," by Glenn Collins, the New York Times, July 20, 1988; "Taxes, By Any Other Name . . .," by Melvyn Krauss, the New York Times, August 9, 1988; "How Will The Parental Leave Bill Affect School Districts?" School Board News, April 27, 1988; "Mandated Leave Co-opts Student Learning," School Board News, August 3, 1988; "Corporate Prenatal-Care Plans Multiply, Benefiting Both Mothers and Employers," by Cathy Trost, the Wall Street Journal, June 24, 1988; "A Glimpse of the 'Flex' Future," by Bob Cohn, Newsweek, August 1, 1988; "Let Business Make Its Own Rules On Leaves," by Joan Beck, Chicago Tribune, June 26, 1986; "The Caring Workplace," by Leonard Silverman, Enterprise, Winter, 1987; "Parental-Leave Policy Scares Company Away," by Deborah Baker, a United Press International Release, April 29, 1988; "Government Shouldn't Give Marching Orders To Business," Atlanta Constitution, September 16, 1988; "Mandated Uncompetitiveness," The Wall Street Journal, April 9, 1987; "People Don't Need Congressional Nannies," by Virginia Lamp, U.S.A. Today, April 24, 1986; "Parents Want To Choose Their Own Child Care," by Ann McLaughlin, the Washington Post, September 10, 1988; "Taking Leave Of Economic Sense," the Washington Times, November 30, 1987; "Parental Leave Bill Is Good Indication Of Conservatism, Liberalism," by James J. Kilpatrick, the Clarion-Ledger/Jackson Daily News, September 4, 1988.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A ONE-SIZE-FITS-ALL LEAVE POLICY?—LOUIS DEHMLOW ON MANDATING PARENTAL TIME OFF

Do you remember Procrustes, one of the great villains of Greek legend? He tied those who fell into his clutches to an iron bed, and if his unfortunate guests were too long to fit, he solved that problem by lopping off their legs. If they were too short, he'd stretch them out. He was nothing if not accommodating.

Procrustes came to mind the other day when I was thinking about the latest scheme from the bureaucratic paradise known as Washington, D.C. It's called the Family and Medical Leave Act, and it would force all but the smallest businesses to lie down on the same bed. The bill mandates that companies provide a set period of leave for parents of newborn or newly adopted children and for the care of ill children and dependent parents. That may not sound bad on the surface, but a look underneath shows that there are enormous flaws.

Consider a small business that would lose one of its highly skilled workers for a number of weeks. The employer might think he could not afford to train a new person only to let the new employe go several weeks later, to which the government would reply: "To the bed! It's time for your stretching exercises!"

Those pressing for this proposal argue that they are on the side of humanity. But let's look beyond their "good intentions" to the principles at stake. Some proponents believe that businesses can readily replace people for up to 18 weeks. They see people as interchangeable functionaries, like cogs in a machine. They believe businesses can simply go to a rent-a-person agency, get people and then discard them. That view is dehumanizing.

A woman in our company, who recently retired after 43 years, had worked with us since she was 17. In fact, she met the man who would become her husband when he visited our plant as a truckdriver. When they decided to have children, we agreed on a schedule that allowed her to do her office work between 3 and 11 a.m. Her husband stayed with the children until she got home, then he went to work. That arrangement was designed for one individual's particular case. How could such a situation be codified and enforced by the government? I could cite many other special arrangements involving salary, benefits, training and transfers.

The ability of business to provide greater employe benefits and freedom will suffer if government is allowed to steadily encroach on private relationships in private enterprise. And think about society as a whole when considering the consequences of the legislation. If the government imposes the standard of 18 weeks, what are young mothers and fathers to do when they decide that their weaning requires an additional two weeks—do they apply to a special agency for an extension? Or what if they're ready to return in just 10 weeks—do they worry that other would-be parents at their company will resent them for setting an example of returning early?

It's one thing to revere family; all politicians do, and no society truly progresses that does not. But it's quite another to *prescribe* the responsibilities of motherhood or fatherhood.

What if the economy became dangerously sluggish and government economists claimed that it was partly due to a baby boom that took too many skilled workers out of the economy? Would Congress then vote to lower the 18 weeks to 12 until the economy improved again? Does the number of weeks mandated become an issue before every election, like bills to increase the minimum wage or Social Security? And what about the person hired as a substitute—does Congress make him or her eligible for unemployment compensation?

The questions go on and on, revealing endless problems. But the larger danger can be put quite simply: If we allow the government to manage people through companies, then we have helped usher in a bureaucratic state that will only become more and more powerful.

[From the New York Times, July 20, 1988]

WOOING WORKERS IN THE 1990's: New Role for Family Benefits

(By Glenn Collins)

Employers are starting to prepare for the work force of the 1990's with an array of family-oriented benefit programs that had long been resisted by corporate America.

The decline in births in the 1970's is expected to produce intense competition for first-time workers in the 1990's, and many will be women in their child-bearing years.

"From now to the year 2000, the rate of growth in the labor force will be cut in half," said Dr. David E. Bloom, a professor of economics at Columbia University. "It will be very much in the interest of profit-hungry employers to offer family-oriented benefits."

Chief among these benefits are ways to make it easier or cheaper for young parents to obtain child care. Other family incentives being offered include paid and unpaid maternity leaves, flexibile working hours and programs that enable employees to work part time by sharing a job.

INTEREST IS WIDESPREAD

Dr. Martin O'Connell, chief of the fertility statistics branch of the Census Bureau, said, "There is quite a lot of interest in this on the part of employers—everyone from the telephone companies to oil companies."

But some executives still need convincing. Dana Friedman, a senior research associate at the Conference Board, a nonprofit New York-based business research organization, recalled a recent presentation she made to a breakfast meeting of chief executive officers in Hartford.

"I announced that 80 percent of the women in the work force will be of child-bearing age, and that 90 percent of them will get pregnant," she said.

"One C.E.O. jumped up and said. "Well, I just won't hire them! I said, "You are not going to have a choice, sir," and then I gave him the third statistic: that two-thirds of the new entrants in the work force will be women." The estimate comes from a Department of Labor projection.

SOME BENEFITS IMAGINATIVE

The number of companies offering family-oriented benefits, although small, is growing steadily. According to the Conference Board, 3,500 companies offer some form of child care support to their workers. More than 1,500 are providing "flexible spending accounts." subtracting money from an employee's gross income and paying it toward child care so that the employee is not taxed for that benefit.

Close to 1,000 are providing referral services for child care. Among employers supporting day care centers are 200 companies, 500 hospitals and 75 government agencies.

One company that is considered a pioneer is Merck & Company, the pharmaceutical company based in Rahway, N.J., that employs 15,000 people. "For us, that demographic future is here now," said Art Strohmer, director of human resources and staffing development at Merck.

"More and more potential employees are asking about day care, maternity leave and flexible time," Mr. Strohmer added. "We see increasingly that employees are shopping around."

Family benefits seem to foster loyalty. "With all the benefits you have here, it makes you think twice about going anywhere else," said Diane Dalinsky, coordinator of college relations for Merck.

Mrs. Dalinsky took six months of unpaid maternity leave after the birth of each of her three children—they are now 3, 6 and 9 years old—and was guaranteed a return to her old job each time. She also works flexible hours, arriving at work at 8 A.M. instead of 8:30 so that she can get off a half-hour earlier to pick up her children at after-school programs.

Last year, 130 workers took advantage of Merck's parental-leave program, which permits both mothers and fathers to take up to 18 months of unpaid leave while retaining their benefits and returning to comparable jobs. They get six weeks of paid leave and can return to the same job if they return within six months.

In 1980, the company helped set up a child care center for 70 children, mostly offspring of Merck employees, a mile and a half away from the headquarters plant. Recently the company committed $500,000 to build a center that will double the number of children to 140.

In April, Merck also made a child care referral service available to its employees and received 90 calls in the dozens officer of other companies, all of which requested anonymity, have visited Merck to study the scope and effectiveness of its human resources programs in the last few years.

That effectiveness has been documented at Merck. The flexible time option has increased productivity up to 20 percent in some departments, Mr. Strohmer said. The availability of child care through the day care center has "decreased absenteeism," he added, and has helped reduce the average maternity leave from seven months a decade ago to five months.

As more companies seek advice about offering such benefits, entrepreneurs are moving to supply child care and other family support services to businesses. "Right now there's more corporate interest in child care than ever before," said David J. Gleason, the chief operating officer of Corporate Child Care, a Nashville-based company that is marketing corporately subsidized child care as a way for employers to attract and retain workers.

To workers who need family care, "salary is only one factor—often a lesser one," said Mr. Strohmer.

A STRESS ON VALUES

Some corporate trend-watchers agree. "Studies have shown that the new workers of the 90's will have less emphasis on job security and more on personal values," said Rita P. Wilson, a vice president of All State Insurance Company in Chicago.

"They believe that being married is the best life style," she added, "and they believe in the importance of balancing their work and family lives. These ideas about the family will impact many companies' competitive position, since employers are going to have to compete for their services. It's bound to effect corporate culture and management life styles, too."

It is already affecting corporate accounting. "There is a whole new body of literature that is trying to quantify the costs of human resources," said Ms. Friedman of the Conference Board.

J. Douglas Phillips, senior director of corporate planning at Merck, has been working on a computerized model for the last five years that calculates the savings of family-oriented programs at Merck. He has demonstrated to Merck management that, even after the cost of the leave policy for child care is deducted, it adds an average pretax value of $12,000 an employee since the company saves the expense of training new workers.

Mr. Phillips believes that the Merck benefit package has helped account for the company's low annual turnover rate of 6 percent, against an American average of more than 14 percent.

Mr. Phillips said the cost of losing a worker and retraining a successor costs one and a half times the employees' salary. "You save the costs of retraining, you avoid the low productivity of the new worker, and al the secondary effects on managers, peers and subordinates," he said. "Those costs really mount up, let me tell you."

"Pro-family policies can be profitable," he said, "but when you describe the economic value of these programs, you have to talk to management in the terms they want to hear: that it makes pretax income go up, and increases value for stockholders."

TAXES, BY ANY OTHER NAME * * *

(By Melvyn Krauss)

PALO ALTO, Calif. The Democrats face a serious dilemma in their attempt to win the White House this November. They know they cannot prevail by advocating a tax increase. Walter F. Mondale taught them that much. Yet, distinguish themselves from Republicans and for ideological reasons the party feels it must be true to its traditions of increasing social services and being the party of Big Labor.

How can these contradictory forces be reconciled? It appears that Gov. Michael S. Dukakis thinks he has found the answer in mandatory labor benefits. "Instead of asking taxpayers to pay for programs," wrote E.J. Dionne Jr., in The New York Times, "the new consensus speaks more and more about requiring business to provide such things as health insurance or child care."

Though mandated benefits are not taxes, their effect is the same. They are nothing less than an implicit tax on the use of labor; the taxes are paid by the firms and the revenues go to labor. The cost of this income transfer from business to labor is not peanuts, either.

Robert K. Nathan Associates, a Washington, D.C. research organization, estimate that private employers would have to absorb up to $47.8. billion in additional labor costs if Big Labor's full agenda—mandated health benefits, plant closings high-risk notification and family and medical leave—became law. Health benefits alone could cost $38.8 billion in the first year.

The political appeal of these benefits is obvious: Approximately $48 billion could be added to he nation's social service spending without adding a cent to the Federal deficit. But just because these benefits do not add to the deficit does not mean they do not affect the economy. They do.

For starters, mandated labor benefits create unemployment. First, these benefits increase the cost of labor to firms relative to other factors of production. This, in turn, causes firms to substitute these other factors for labor. Second, the benefits encourage labor-saving technical innovations by making labor into a fixed cost of production (once firms employ labor it extremely difficult and expensive to disemploy it). Thus, just like minimum-wage laws, mandated benefits help those workers who manage to hold on to their jobs, but they reduce the number of jobs available.

That these benefits destroy jobs is confirmed by the experience of Western Europe. During the past two decades, relentless social spending pressures, combined with high tax rates, have led to the so-called privatization of an increasing amount of social service spending. Firms in Europe are obliged by law to provide benefits like health insurance and child care. Moreover, generous severance allowances and plant-closing notification laws have made it extremely costly for firms to discharge workers. And, as use of mandated benefits intensified, European unemployment rates grew from 3.5 to 11 percent.

Edward P. Lazear of the Hoover insitution offers a reason why these cause unemployment. Professor Lazear wrote: "The main effect of notice [plant closing] provisions appear to be a reduction in hours worked, as firms switch from covered full-time, permanent workers to exempted part-time, temporary workers."

In addition, to reducing employment, these benefits have a negative impact on the economy by hampering the economy's ability to adapt to fundamental changes in the environment. Some benefits (like plant-closing laws and generous severance pay requirements) retard the economy's ability to adjust by virtually freezing the number of workers in a given industry. If firms suffering from a long-term drop in business cannot respond by discharging workers without incurring exorbitant costs, then mobility is thwarted. Resources cannot flow from lower to higher productive uses, and the entire economy suffers.

Moreover, the disadvantaged firms may be forced to become "wards of the state," since the only way they can stay in business is through public subsidies.

Again, this is clearly seen in the European experience where government subsidizataion of inefficient firms and industries has grown hand-in-hand with mandated benefits.

Consider the following example: Because of changes in international comparative advantage, the locus of efficient shipbuilding switched from northern Europe to the Pacific basin during the 1970's. But northern European governments were reluctant to close the shipyards, or even allow them to shrink to more economical sizes. The result was significant subsidization of the shipbuilding industry. So significant, in fact, that Sweden was forced to face up to market realities after a decade or so of extremely costly subsidies and to close down its noncompetitive industry altogether.

No longer are the Swedes lavishing public subsidies on its noncompetitive firms and no longer are the Swedish plant closing notification laws meticulously enforced. And the Swedes are not the only Europeans to have second thoughts about mandated benefits. Recently, both Spain and the United Kingdom dramatically cut severance pay requirements in order to bolster employment and economic flexibility.

How ironic, then, that just as several European countries are questioning their commitment to this costly policy, the Democrats propose "Europeanization" of the American economy! Americans surely will see the folly of this and come to recognize mandated benefits for what they are—a new rendition of the Democrats favorite: "tax and spend." Apparently the key difference between the old and new Democratic consensus is that the old one was intellectual more honest. At least the taxes it proposed were not the hidden kind.

How Will the Parental Leave Bill Affect School Districts?

H.R. 925, which would mandate family and medical leave for all employees, has been approved by a House committee and is awaiting consideration by the full House of Representatives.

It would provide: (1) up to 15 weeks of unpaid leave in any 12-month period for one's own long-term medical condition, or (2) up to 10 weeks of unpaid leave in any 24-month period for either: (a) the illness of a child or parent, or (b) parental leave within a 12-month period following the birth, adoption or foster care placement of a child.

The following explanation of the bill was prepared by Dorothy Stambaugh, legislative assistant, NSBA Office of Federal Relations.

Q: Why does NSBA oppose the federal family and medical leave bill?

A: First, NSBA does not oppose the principle of family and medical leave. NSBA does, however, oppose the imposition of an educationally disruptive federal mandate. Further, mandated employee benefits for public employees is not a proper area for federal legislation.

Q: How do school boards currently treat family and medical leave?

A: NSBA conducted a survey in 1987 of school districts enrolling 15 percent of the nation's public school children. About 98 percent of those districts (ranging in size from 225 to 253,500 students) provide family leave and extended medical leave. Typically, the leave is for longer periods than provided in the federal bill, with a guarantee of employment upon return from leave.

Q: If so many school districts provide family and medical leave, why does NSBA object to the federal mandate?

A: Currently school districts have flexibility to implement leave policies that meet their primary obligation to students.

The following examples illustrate why local flexibility is so important:

First, consider the case of a physics teacher who requests non-emergency parental leave two weeks before the end of a semester. Even if a competent substitute is available, students would be placed in the detrimental position of having someone who has not previously taught them responsible for class-room summary, review, test preparation and grading.

Districts now have the discretion—which the federal mandate would eliminate—to permit a teacher to take non-emergency leave only after the semester or school year ends.

Second, under the federal mandate, a teacher could take a day or two of family leave sporadically throughout the semester, leaving the school system with no option to deny such leave no matter how educationally disruptive it becomes.

Third, when a teacher returns from extended leave, the district now may retain discretion—not available under the mandate—to require the teacher to return at the start of the next semester or grading period, thereby minimizing the disruption to student learning.

Q: Since the proposed federal mandate permits the employee to be returned to an equivalent position, won't that eliminate classroom disruption?

A: No. An equivalent position does not necessarily open up the day the teacher desires to return, especially in the teacher's area of certification, grade level or subject area. Therefore, even if the teacher does not return to the same position, some other teacher could be "bumped" to make room for the returning teacher, thus causing disruption in that classroom.

The only other alternative would be to create a non-teaching position—at taxpayer expense—until a teaching position becomes available. But then the teacher could object that the federal mandate requiring an equivalent position was not met.

Q: Who would decide what constitutes an equivalent position?

A: The U.S. Department of Labor would resolve any issues that arise under the mandate. This requires judgments about instruction and teaching qualifications beyond the experience or appropriate role of the Labor Department.

Q: Shouldn't employees have some right to take leave for nonemergency situations?

A: By creating an absolute right, the proposed federal mandate goes beyond reasonable accommodation. Taking regular leave to drive a family member to a doctor for allergy shots during the school day, for example, would fall within the scope of the mandate, even though such an absence would disrupt student's learning several hours each week.

Nothing in the mandate would prevent an employee from taking family leave to vacation with the family, rather than to provide care.

Q: Wouldn't many school districts be exempt, since H.R.925 only applies to employers with more than 50 employees?

A: Only 1.4 percent of students are in districts with fewer than 400 students. Since small districts have approximately one employee for 10 students, many systems with 500 or fewer students might well have 50 or more employees, including not only teachers but also support staff, such as cafeteria workers, bus drivers, custodians and secretaries.

Even very small school districts often are required by federal and state law to have programs that require specialized staff. Finding qualified substitutes or finding open slots for returning teachers in these smaller systems would be especially difficult.

Q: How would districts find substitutes for teachers on leave?

A: School districts must replace virtually all teachers who take leave with substitutes, whereas other employers may have a variety of options. It is already difficult to find qualified substitutes; a federal mandate would exacerbate the situation. It is far easier to recruit a qualified substitute teacher in a particular discipline for a year or even a semester than it is for an unspecified period of time.

Furthermore, if a special education teacher goes on leave, P.L. 94-142 (the federal law requiring an appropriate education for all handicapped children) requires the district to provide those students with an appropriately certified teacher. A district could be in the position of having to violate one federal mandate in order to satisfy another.

Q: Isn't there a provision in H.R. 925 for exclusion of vital employees, such as special education teachers, from the mandate?

A: The right of job restoration can be denied to the highest paid 10 percent of all employees. In school systems, teachers are generally not in the top 10 percent.

Moreover, the exclusion can be used only if "such denial is necessary to prevent substantial and grievous economic injury to the employer's operations." Having to hire an unqualified substitute does not constitute a "grievous economic injury" to the school system, no matter how much it interferes with learning.

Q: Who will pay for this mandate?

A: The cost of this mandate in non-dollar terms will be borne by those children whose learning will be disrupted by the more frequent entry and exit of teachers and by fill-in instruction from substitutes.

There will be financial costs as well. The mandate requires employers to continue health insurance coverage of employees on leave on the same basis as if they were not on leave. Most districts now permit employees on extended leave to continue insurance coverage at their own expense. Thus, school districts' insurance costs would increase.

School budgets also will have to cover administrative costs as well as the cost of recruiting specialized teachers, perhaps at a premium salary.

Q: Would the mandate require an employee to be physially fit to return from medical leave?

A: Under H.R. 925 an employee can be required to obtain a certification of fitness from the employee's health care provider. However, there is no requirement that the health care provider be a physician. School districts must maintain their own standards for fitness to resume a position that affects student safety, such as driving a school bus. Certification from an independent physician (or public health official in the case of communicable diseases) should be required.

Q: How would the mandate affect the way employee benefits are negotiated?

A. Because H.R. 925 takes family and medical leave off the bargaining table, other benefits would be brought to the table—at a cost. In addition, employees who are not in a position to exercise this mandated benefit would expect something at least as beneficial to them to be added to their benefit package.

Even districts that don't engage in formal negotiations would be denied the informal local processes by which the priorities and substance of the employee compensation package are determined.

Q: How would the potential for employee abuse of the mandate affect school districts?

A: Although most school employees would act responsibly, abuse can occur. For example, an employee can have the benefit of health care coverage and job restoration even if he or she is actually working full-time elsewhere rather than caring for a sick parent.

Q: Wouldn't the number of employees taking family or medical leave be very small, since the mandate would enable employees to take only unpaid leave?

A: Many school employees can afford to take unpaid leave, particularly adjacent to holidays or at peak work times. Moreover, the mandate permits employees to convert unpaid family leave into unused paid leave, as well as to convert unpaid sick leave under certain conditions—even if the employer would not have granted the paid leave in the first place.

Q: Would there be an impact on school district dismissal practices?

A: School districts may find it very difficult to dismiss incompetent employees if there is any connection with the leave/job security rights in this mandate.

Q: Without the mandate, how can school employees meet their child-bonding needs?

A: As mentioned above, almost all school districts already provide leave—although retaining some discretion on scheduling starting and ending dates of leave. Furthermore, the school year gives not only a two-month break for most employees but also about three weeks of official holidays during the school year, in addition to paid leave. Thus, there is opportunity for employees to structure their time in a way that enables them to meet their non-emergency family needs.

[From School Board News, Aug. 3, 1988]

MANDATED LEAVE CO-OPTS STUDENT LEARNING

Congress is to be commended for its desire to assist working parents facing the personal and economic challenges of raising young families in today's society. However, the recent decision by the Senate Labor and Human Resources Committee to extend the pending federal parental leave mandate to the classroom was ill-advised.

First, let's look at what's currently occurring in the nation's schools. Our school districts already have policies, of greater duration than the proposed federal mandate, to provide leaves of absence for the birth, illness and care of family members, as well as the employee's own illness.

Moreover, these legally enforceable policies also were designed for the real world of educating children in the classroom. Hence, school officials retain the discretion to object to employees' scheduling of certain leave and return dates.

For example, such local discretion is necessary and appropriate for the teacher who seeks to return from extended leave just two weeks before the end of a semester or frequently seeks time off throughout the semester. Under these circumstances, local school officials must have the wherewithal to tie the leave to the best interests of the students.

In local communities, parents would be justifiably concerned and critical if they knew that, as a result of this federal legislation, there would be an increased switching of teachers—including use of more substitutes—during educationally crucial periods of the school year. Before voting on this measure, our federal lawmakers may wish to ask their own children or grandchildren what it's like to have teachers switched midstream.

In this election year both political parties have advocated as a national priority improving educational opportunity for America's youth. Yet, the application of this legislation to the schoolhouse would have the opposite result.

Ironically, working parents are more interested in having affordable, competent and reliable daycare facilities available to them than the mandated right for unpaid family leave. Beyond personal preferences, the differences between the two approaches in terms of the societal, economic and educational impact are very real—especially if the current bill takes us down the road toward a paid family leave mandate.

Unfortunately, proponents insist on focusing the debate exclusively on employee job security following maternity leave or an extended illness. Surely they don't believe that school districts deny maternity and sick leave to employees—or wish to dictate when employees should have a baby.

Clearly, the scope and implications of the bill are much broader. We urge members to focus on the real question presented for the schools: students' learning.

As similar as congressional offices are to each other, it is surprising that Congress has not designed any uniform policy for itself—let alone include its staff under this universal mandate. Nevertheless, this legislation presumes both to design and impose personnel policies on local school districts from which Congress itself is exempt.

[From the Wall Street Journal, June 24, 1988]

CORPORATE PRENATAL-CARE PLANS MULTIPLY, BENEFITING BOTH MOTHERS AND EMPLOYERS

(By Cathy Trost)

A tiny baby helped to turn AmericTrust Corp. into a pregnancy coach.

The little girl, at birth no bigger than an adult's hand, was born prematurely to one of the Cleveland-based bank's employees. Happily, the baby survived, but her medical care cost the bank some $1.4 million in benefits.

After that pricey birth four years ago, AmeriTrust started holding free Perfectly Pregnant seminars at lunchtime to counsel its employees on pregnancy and beyond. Mothers-to-be get tips on everything from company maternity benefits to coping with physical and emotional changes.

Elsewhere, too, a growing number of women workers are seeing the maternal side of corporate paternalism, as more companies take a direct interest in the health of pregnant employees and their children. Besides formal pregnancy education classes and referral services, some companies are adding tips on pregnancy to wellness programs and working to help pregnant employees with special problems they may encounter in the workplace.

MEDICAL CARE AND NUTRITION

Though exact numbers aren't available, many companies have designed their own prenatal programs. These typically stress early and regular medical attention, sound nutrition and avoidance of such harmful substances as alcohol and tobacco, and in general aim to help women avoid having underweight (less than 5 ½ pounds) or premature babies, who are often sickly.

In addition, more than 150 companies—including Pillsbury Co., the Los Angeles Times, Eastern Airlines Inc. and Quaker Oats Co.—have adopted a prenatal health program offered since 1983 by the March of Dimes Birth Defects Foundation. Among the nine topics covered in the program are genetic counseling, exercise and special concerns of pregnant women older than 35. The March of Dimes supplies educational materials to the employers as well as personnel to help with seminars.

Of course, some employees who don't have children gripe about the programs for those who do. "The downside is that the more we publicize the benefits, the more animosity we get from people," concedes Lynn Ahlers, AmeriTrust's senior benefits administrator, adding that some women grumble about "giving so many benefits to maternity people." She notes, too, that the bank is in the process of analyzing the number of people who don't return to the job after their maternity leave. "Maybe," she says, "we're giving away the boat."

However, the motives behind the programs are strong. One, certainly, is concern for the health of employees and their children. Another is that health-care costs for a baby born too early or too small can be astronomical.

Like AmeriTrust, Sunbeam Appliance Co. found out the hard way about the importance of prenatal counseling. Four premature babies born in 1984 to women working at the company's Coushatta, La., plant accounted for fully half of the $1 million the company paid that year in health-care costs for 530 employees. One of the babies required so much care that the maximum $250,000 in covered major medical expenses was used up. In 1985, there were three premature births, one so troubled that again company-paid medical benefits were exhausted.

Stephen Duffy, vice president of human resources at Sunbeam, says the company did research and discovered that some employees at the plant, where the work force is 80% female, were waiting too long to see a doctor.

In 1986, Sunbeam started a prenatal program at the plant, which makes clothes irons. Pregnant employees can take an hour of company time every other week to attend classes taught by specialists in prenatal nursing from nearby Northwestern State University. Besides preaching the dangers of tobacco and alcohol and the benefits of good eating, the classes cover the baby's development in the womb and potential medical problems. The plant nurse weighs the women weekly and checks blood pressure and urine, and even gets them started on prenatal care by setting up appointments with obstetricians.

The program has paid quick dividends. Since it started, about 65 people have taken part, and there has been only one premature birth, which didn't entail severe problems. Average medical costs for maternity and nursery care took a nose dive, falling to $3,792 in 1987 from $27,243 three years earlier. The program has since been extended to another Sunbeam plant in Mississippi, and is available not only to employees but to their spouses as well. The total cost of the program at the two plants: less than $20,000 a year.

At AmeriTrust, the program goes beyond its seminars, which serve about 100 people a year. The company takes an active role that includes intervening with managers to go easy on pregnant employees having problems.

SPECIAL ATTENTION

In one case, a pregnant women who was having difficulty writing because of swollen joints went in tears to Ms. Ahlers, the benefits administrator, saying she couldn't go on. The woman was put on disability and paid full salary for six months. Ms. Ahlers says statistics show that for every week an expectant mother is kept pregnant, a company may save as much as $10,000 in health insurance costs. "We can use that as justification," she adds.

Such programs can boost employee morale and loyalty, too. "It made me more attached" to the company, says Tonya Davis, a 24-year-old AmeriTrust secretary who is three months pregnant. Through the seminars, she learned about classes at a local hospital, an exercise class for mothers-to-be and a program that sends specialists on house calls to make sure new mothers are breast-feeding correctly.

Even labor unions are getting involved. The predominately Chinese Local 23-25 of the International Ladies' Garment Workers Union in New York has worked with the March of Dimes since 1986 to provide classes taught in Chinese. The program offered by the local, which averages more than 500 pregnancies annually among its 23,000 members, is also geared to the special needs of Chinese women, such as different eating habits.

Irene McKirgan, director of the March of Dimes health-promotion programs, says that, with women of childbearing age making up 33% of the labor force, "if we wanted to reach the largest percentage of women, we had to go to the workplace."

[From Newsweek, Aug. 1, 1988]

A GLIMPSE OF THE "FLEX" FUTURE—AT STEELCASE, OFFERING VARIABLE HOURS, PAY, AND PERKS BENEFITS THE FIRM AND ITS WORKERS

(By Bob Cohn)

Cindy and Scott Keech have seen the future. They work there. Steelcase Inc., the Grand Rapids, Mich., office-furniture company where Cindy is employed as a receptionist, allows her to split her job with another woman. Cindy earns half pay working every other week. Before she leaves the office on Fridays, she writes a detailed note briefing her partner and stashes her desktop photos in a cabinet. Scott who upholsters chairs in a Steelcase factory, makes $8.82 an hour but more than doubles his pay with piecework and corporate profit-sharing bonuses. Every December Scott and Cindy sit down at their kitchen table and pick medical-, dental-, life-insurance and disability coverage from a range of options offered in the company's flexible-benefits package. By piggybacking on her husband's coverage, Cindy was able to bring home an extra $900 in unused benefit allowances last year.

Steelcase, one of a handful of U.S. companies in the forefront of implementing "flex" policies—options that give employees an unprecedented say in how they're compensated for their work. The No. 1 offfice-furniture maker allows employees to work unconventional hours, gives them a choice of benefits and offers bonuses for individual hard work and overall company performance. For management, the options save money, stimulate productivity and make unions less attractive. For workers, they afford more freedom of choice and greater ease in juggling jobs and families.

As the number of two-career families grows and competition for labor intensifies, more American companies are likely to follow Steelcase's lead. Other businesses might have trouble implementing its mix of policies: those with little growth will find profit sharing a hard sell. Small companies might not have the economies of scale to offer benefits options or the resources to manage odd-hour workers. But the Steelcase experience shows that under the right conditions, flexibility can work—and help a company prosper. Profits of the privately held firm were estimated last year at $120 million on sales of $1.6 billion. Annual turnover among its 8,000 workers is a remarkable low 3 percent. While both managers and workers have some complaints, most say the flex policies deserve a good deal of credit for the company's success.

Flexible pay: The basic pay scale at Steelcase is relatively low: its 6,000 factory workers earn an average hourly wage of $8 to $9 (about $17,000 a year). But last year they hauled in an additional 35 percent in "piecework"—incentive pay for each slab of metal they cut or chair they upholster—and 69 percent more in profit-sharing bonuses. That brought the average salary to more than $35,000.

Unions have historically resisted profit sharing, but Steelcase workers have never unionized. Most employees seem to accept the firm's argument that keeping fixed labor costs low makes it easier to avoid layoffs during tough times. "If we go into a recession and the bonuses are lower, at least I still have a job," says John Stuba, a welder in one of the desk-building plants. The company did let go 900 employees in 1983 but rehired them all within five months and hired 850 new hands the following year. Steelcase president Frank Merlotti swears by profit sharing: "It's recession resistant."

Piecework has also never become an organizing issue, although not all workers endorse it. "You fight the clock all day long." says Regina Wieczorek, who used to be a welder and is now a supervisor. "If I was even two parts behind [schedule]. I beat my brains. "Some workers complain that rates are "too tight" and worry that increased output might encourage management to cut them even further. That can undermine productivity rather than promoting it. "There's an unspoken law." says Doug Vander Meer, a fabric inspector who used to build chairs. "You don't turn in *too* much."

But other workers respond eagerly to the pay incentives. Larry Graw builds chairs faster than anyone in the plant. He skips breaks and takes short lunches. On a recent day Graw built 101 chairs. 41 more than average, earning an extra $60 in piecework. Though his base pay is $8.89 per hour, last year Graw made $49,000 after piecework and profit-sharing bonuses. "I guess I'm from the old school of hard work." says Graw. Profit sharing also creates peer pressure to work harder. Ty Tanis points down the assembly line at a colleague who builds chairs more slowly than the others: "We call him a bonus buster. He's soaking off my bonus."

Flexible hours: Roughly 400 of Steelcase's 2,000 office workers are on "flex time." and 40 of them share 20 jobs. Officials say these options have served their main purpose: reducing absenteeism among working mothers. Management also stresses that most job sharers eventually return to fulltime work, eliminating the need to find and train new workers. Job sharing has been so popular that Steelcase is starting a pilot program for factory workers.

Employees say the untraditional schedules help them balance the demands of home and work. Denise Francis, a payroll administrator on flex time, works a 9 a.m. to 3 p.m. shift. She is allowed to take time out if she needs it and is otherwise free to set her own schedule, so long as she puts in 40 hours a week. "It makes my life easier." says Francis who is divorced and cares for two daughters, 11 and 14 years old. "If one of my kids is sick and the doctor says. "Bring her in" I can just go."

It takes close communication among partners to make job sharing work. Marti O'Brien and Patty Konwinski share a job recruiting for the marketing department, each working two and a half days a week. On Wednesdays they meet over lunch to discuss everything from candidate interviews to the boss's mood. At the end of the week. Konwinski types a long computer note for O'Brien to review Monday morning.

"We can't be bumping into each other." says O'Brien. "We have to know everything that happens when we're not here." Not every team is so successful. Job splitting has to be approved by individual managers, and a few bad experiences have made some managers wary of granting sharing requests.

Flexible benefits: In 1985, Steelcase became one of the few major U.S. companies to introduce a "cafeteria style" benefits plan. Workers are allotted "benefit dollars and allowed to select from a menu of choices. There are eight medical plans, three dental options (including no coverage at all) and various forms of long- and short-term disability and life insurance. Employees who have money left over can put it in tax-free accounts to cover out-of-pocket health care or off-site day care. Unused benefit dollars can also be salted away for retirement—or taken home in cash. Clitton Charles, manager of food services in the factories, last year put $220 of his allowance in the child-care account but this year "switched gears" and is supplementing his retirement fund. "I feel I have control," he says. "It's not just dished out to me."

Company officials like to stress those advantages for workers. "People are becoming good at choosing what they need, as opposed to us playing God," says James Soule, vice president for human resources. But the cafeteria plan will also save Steelcase a good deal of money. It stipulates that as health-care costs go up, benefit dollars will increase only 80 percent as quickly, leaving employees to fill the 20 percent gap. Steelcase has also been tough about cracking down on abuses of the plan. In the past, workers have taken full dental coverage in one year, loaded up on dental work, then scaled back coverage the next year. Now the company requires workers to wait two years before changing dental plans.

As that hard-nosed policy demonstrates, employers are likely to embrace flex options only when it helps the bottom line. Most U.S. companies still aren't convinced of that. But at Steelcase, flexibility has allowed management to cut costs and improve morale at the same time. Marti O'Brien could earn considerably more than what she takes home from her half-time recruiting job. But she'd rather spend more time at home with her two-year-old son Peter. "This gives me time to take my son for a walk," she says. "I can smell the flowers." O'Brien winces at the thought of leaving Peter to work full time. As long as Steelcase allows her not to, she plans to remain a loyal and grateful employee.

[From the Chicago Tribune, June 26, 1986]

LET BUSINESS MAKE ITS OWN RULES ON LEAVES

(By Joan Beck)

Should working people be entitled to an unpaid leave when a family member needs them?

The Education and Labor Committee of the U.S. House thinks so. Members have just passed by a 22 to 10 vote a controversial bill that would require employers to give time off to employees with a newborn infant, a newly adopted child, a seriously ill youngster or a dependent parent needing care.

The measure would provide up to 18 weeks of unpaid parental leave every two years to full and part-time workers in businesses employing 15 or more people. Workers with personal health problems could take up to 26 weeks off in any 12-month period; intermittent absenses would be permitted.

The bill will have a tough time getting all the way through Congress, despite support from some women's groups. Most members of Congress like to consider themselves "profamily." But the label doesn't translate easily into specific legislation. And there is great disagreement over how far Congress should go in ordering employers to make accommodations for what have been traditionally, the concerns of wives and mothers.

The fundamental problem, of course, is who will do for family members what women have usually done before they moved by the millions into the work force. By now, it is clear that the first flip answers by feminist leaders aren't good enough. Neither men who have their own career concerns and time constraints nor government (increasingly pressured to cut spending instead of expanding services) have been able or willing to fill in to any substantial degree.

So it seems logical to put some of the burden of this great social change on business and to argue that because the work force has changed, the workplace should be changed to accommodate the new kinds of workers and to make adjustments for the needs of their families.

Most of the logical accommodations—flexible hours, shared jobs, at-home work opportunities, part-time schedules, individualized benefit programs—not only help workers with families but can be shown to be cost-effective for employers. Workers can push for them without asking for favors. Employers who provide such options need not fear they will lose their competitive edge and should gain by attracting a more loyal and enthusiastic work force.

The legislation passed by the House Education and Labor Committee, however goes considerably beyond these cost-effective accommodations. It is an intrusion by government into private-sector benefit programs. And it would mean additional labor costs for employers and, at least for small companies, considerable disruption in staffing.

The fears expressed by some committee members that such a bill would discourage employers from hiring women of childbearing age or people with a disability are probably justified. Even though the new bill provides that both men and women would be eligible for the unpaid leaves, there is little doubt that the majority of workers who would take the time off because of family needs would be women.

Without legislation such as this, what will happen to families with a newborn infant, a seriously ill child or an aged, dependent parent? Answers can be worked out by the private sector, just as other employment benefits are, sometimes in union contracts and sometimes on a flexible, individual basis. Businesses already are learning that it is cost-effective to make accommodations for their valued women employees.

Our society is still groping for ways to adjust to the massive movement of women, especially mothers of young children into the work force. Certainly, there is an urgency to develop a new balance between the demands of the workplace and the needs of families. Employers will have to be part of the answer and those who are most flexible and understanding will certainly gain a competive business edge. Not every answer has to come from Washington, and solutions are possible without federal intervention.

THE CARING WORKPLACE—EMPLOYERS WHO ADDRESS THE HOME AND HEALTH CONCERNS OF WORKERS FIND A MARKED IMPROVEMENT IN PERFORMANCE, HEALTH AND MORALE

One of the most innovative child care centers in the country is located at Hoffmann-La Roche Inc. in Nutley, N.J. The facility looks like all the other houses on Kingsland Street. You would consider it just another attractive family residence if you didn't see the crayon drawings in the windows.

Roche customized the inside of the house for the children. The rooms are individually and boldly colored so the preschoolers will quickly identify their own rooms. Everything was designed for small children, from doorknobs to emergency-exit levers.

The rooms are warm, with plenty of space. There are one-way mirrors through which parents may observe their children, and ramps for the physically handicapped. Behind the house is a fenced-in playground and, down the street, a park where the children go with staff members to play and learn.

Our children are Asian, Caucasian, Black and Hispanic. Our classroom is a living resource unit on children around the world.

If this sounds too removed from an international health care company's domain, trust me . . . it's not. But let me point out, it didn't just happen by chance or without expense. The Roche Corporate Child Care Services is the result of years of careful planning.

In 1974, a Roche task force of professional and nonprofessional employees recommended establishing day-care services for children of employees. The company developed a proposal and conducted a survey to determine the extent of needs for child care, the features employees desired, and their willingness to bear some of the cost.

Options explored included buying an existing day-care facility and establishing a new facility. The final recommendation advocated leasing services from an existing day-care center as the quickest means of meeting employee needs. The facility selected was about 10 miles from Roche headquarters.

In 1977, an agreement was reached whereby Roche leased part of the facility and employees began using the service. In 1979, Roche ended its relationship with the outside service, becoming the first corporate-sponsored child-care center in New Jersey. And in September 1980, Roche Corporate Child Care Services opened its doors.

The center is staffed by child-care professionals who are company employees. The children spend hours in the custody of the professionals staff but receive more than "custodial care." It's child care in the fullest meaning, with the staff members serving as teachers and friends, as well as guardians. They do their best for the physical, emotional and intellectual well-being of the children because, in a word, they care.

The Roche center provides direct-care services for children from two and one-half to eight years of age. Various categories of services are provided: full-time care for preschoolers and kindergarten-age children; full-day and part-time care five days a week; older children care; drop-in; summer care; after-school care and emergency care.

In 1983, we expanded services to include an Employee Information and Resource network and Parent-Child Consultation Services, meeting the needs of Roche employees both at the Nutley site and at other Roche facilities.

The Employee Information and Resource Network assists parents in evaluating child-care alternatives and identifying child-care services in local communities and other counties of New Jersey, as well as assisting employees who relocate to other states and countries in finding child-care services. It also helps parents identify child-care resources in the areas of health, nutrition, education and consumer education.

The Parent-Child Consultation Services provide parents with counseling on child development and child-rearing issues as they affect the work environment and child-care tax credit advice.

The Roche Child Care Center is licensed by the state of New Jersey to take care of 56 children at any one time. But, given the staggered work schedules at Roche, more children than that are accommodated. The center's 10-member staff includes a full-time director and five certified teachers with degrees in early childhood education and state certification. Three teacher assistants, a substitute teacher and a cook (who prepares American and international meals) round out the staff.

The curriculum includes reading and mathematics; elementary science; creative art; music; dramatic play; personal development; block building; and safety, health and nutritional education. In summer, the children receive weekly swimming instructions and gymnastics training at a local YMCA. International arts-and-crafts activities complete the summer program.

In addition, each child in a direct-care progam undergoes a series of tests during the first 90 days of enrollment to determine behavior and social characteristics, learning assessment, language development and self-help skills.

Parent involvement, naturally, is intense. Individual conferences, classroom conferences and group meetings are held regularly. Parents are actively involved in advisory, education, health and program planning committees.

Has Roche gained any benefits from its Corporate Child Care Services? From the beginning, the services have been offered as an added bonus for Roche employees. If the company has realized any gain, it has been in increased productivity of employees who previously worried about day-care arrangements for their children. In 1982, a survey we conducted showed that 78 percent of employees who used the center believed their productivity had improved because of the services. More than 40 percent of the employees surveyed said their tardiness and absenteeism had decreased because of the center's availability. And outside studies cite other key benefits that we at Roche can confirm. These include enhanced recruitment and retention, particularly in jobs that involve a considerable investment in training.

Keeping in mind less tangible, but no less substantive, benefits—such as corporate image (both internal and external), employee loyalty, higher morale, fewer family-related problems affecting productivity, and stronger bonds among employees—corporate child care makes good business sense.

It seems certain that employees who know their children are safe and well-cared-for at the center perform better during working hours. Moreover, those who work past five or who have unusual working hours appreciate that the center is open more than 11 hours a day—from 6:45 a.m. until 6:00 p.m., Monday through Friday.

The center's popularity testifies to its value. The waiting list varies, but a waiting period of a year or more is not unusual. Employees pay $285 a month for full-time care or an average of $14 a day. A portion of the operating expense is borne by the company.

Naturally, there are costs. But we consider support of child care to be an investment—one that has already paid handsome dividends. An examination of the financial costs involved is surely essential, but equally important is the other side of the equation: the most of not providing quality child care.

I believe that in the long run—and that "long run" is getting shorter even as I pen this—employer-supported child care will affect the bottom line of American business in three productivity-related areas: It will reduce absenteeism, enhance the recruitment of top talent (particularly in high-tech industries) and help us retain trained employees.

These are signs of the times. The face of the American labor force is undergoing change—and business has a choice. It can take the initiative by developing solutions that capitalize on today's emerging demographics, or it can ignore the situation and lose its opportunity to shape programs that work cost-effectively for everyone.

Child care is one of the premier issues of the '80s. It demonstrates a corporation's commitment to human values and the wisest sort of investment in our nation's future.

PARENTAL-LEAVE POLICY SCARES COMPANY AWAY

(By Deborah Baker)

HARRISBURG.—The Rite Aid Corp. has scrapped plans to build its $28.5 million corporate headquarters in Harrisburg, saying that the City Council's passage of a parental-leave bill set a disturbing precedent in municipal regulation.

The announcement yesterday came as legislators at the Capitol listened to testimony on the merits of proposed statewide parental-leave legislation, with business groups denouncing the idea.

Rite Aid president Alex Grass said Harrisburg has been ruled out as a site for consolidating the drugstore chain's corporate offices.

Harrisburg Mayor Stephen Reed said at a news conference that he would go to court to challenge the action of the City Council, which he said had exceeded its authority.

Reed blasted council members who he said "wish to use this city for their social-policy playground."

The council overrode the mayor's veto of the bill on a 5-2 vote Wednesday night. The legislation, passed April 12, requires some businesses to offer new parents up to 12 weeks of unpaid leave.

Grass said that Rite Aid has no objection to the policy itself but that it was unhappy with the City Council activity in an area traditionally governed by the state or federal government.

"We're concerned that this is the tip of the iceberg, that City Council would become involved in other matters that would make it difficult to manage our business," Grass said.

"This specific piece of legislation did not disturb us. We were disturbed by the kind of precedent it was setting," Grass said.

Rite Aid, which has 2,128 stores in 22 states, has corporate offices in two suburban locations, Shiremanstown and Camp Hill, company spokeswoman Suzanne Mead said. The company is seeking to consolidate the offices, which employ 750 people, Mead said.

Reed said he would support identical legislation mandated by the state or federal government. But he said that being the only municipality with such a requirement would work against Harrisburg by hindering business development.

He said he knew of no other city in the nation that has enacted such a policy.

Reed also said that, because of exclusions, the legislation covered fewer than half the employees of Harrisburg-based businesses.

The mayor said he would seek to block the legislation in Dauphin County Court.

At the Capitol, the House Labor Relations Committee held a hearing on three bills that would require employers to offer parental leave. Parental-leave legislation has the support of organized labor and women's groups.

Business representatives, however, said they were opposed to what one spokesman called "legislative meddling in the employment benefit structure."

Supporters of the legislation complained that the United States and South Africa are the only industrialized countries that do not provide job-protected maternity leave.

[From the Atlanta Constitution, Sept. 16, 1988]

GOVERNMENT SHOULDN'T GIVE MARCHING ORDERS TO BUSINESS

The Women's Legal Defense Fund, along with the National Women's Political Caucus, right alongside the Church Women United, and together with the National Abortion Rights Action League, have joined forces to lobby for a family-leave bill in Congress.

The bill is called the "Family and Medical Leave Act." It refers to "family leave" because the focus of "maternity leave" is too narrow.

"Family leave," because the bill also requires employers to give male workers "paternity" leave.

"Family leave," because employers must give time off to adoptive parents, as well as to natural parents.

"Family leave," because employers must give time off to workers whose elderly parents are seriously ill.

"Family leave," because the employee himself might turn seriously ill, and should be entitled to at least 15 weeks off.

America's work force is changing, and with it, so should the companies that employ us. With more women in the work force, more employers should offer maternity leave—and more do. With the child-rearing role of some fathers expanding, some employers should give male workers "paternity" leave—and a few do.

But when did it become government's business to tell employers what fringe benefits they must offer? When did government start giving marching orders to American businesses?

This bill forces these provisions on all employers with 50 or more workers: They must grant parents—male or female—10 weeks of leave when a child is born, when a child is adopted or when an older child becomes seriously ill. Ten weeks must be alloted to workers whose elderly parent is seriously ill. And employers are forced to give 15 weeks to workers who themselves are seriously ill.

We don't doubt that some employers are willing to give 15 months to employees who are seriously ill. On the other hand, there is probably a coldhearted boss who won't give a dying man a day off.

But it is not government's role to correct such inequalties; nor is it government's place to mandate fringe benefits. Neither should government cavalierly pass laws that inflict huge costs on American businesses.

Says Mary Tavenner, of the Concerned Alliance of Responsible Employers, "They're telling America's employers, 'We don't care who needs [time off] and who doesn't, this is what you've got to do, whether or not you can afford it.' "

That is a dangerous message in a dangerous bill.

[From the Wall Street Journal, Apr. 9, 1987]

MANDATED UNCOMPETITIVENESS

After listening to them say it over and over the past three months, we're convinced that all 535 members of Congress can speak five syllables at once—"competitiveness." It might help, though, if some of them gave it more than lip service, because on the evidence of recent congressional actions, especially among Democrats, Congress is more interested in raising business costs than lowering them.

There's even an official buzzword for this congressional assault on U .S. competitiveness—"mandated benefits." Mandated benefits are an old cost-shifting game dating back at least to the Clean Air Act of 1970. Congress dreams up some social good no reasonable person can be against, the social good's up-front costs are laid off on the private sector, which then redistributes the mandated costs among higher prices, reduced wage increases, lower dividends and delayed capital investment. In a global economy, this is a formula for reducing your country's competitiveness.

Evidence of this revival of off-budget legislating abounds:

Health Insurance. Sen. Edward Kennedy (D., Mass.) is preparing legislation that would require employers to provide health insurance for all employees working more than 17½ hours a week. This "minimum health" plan would require almost all firms to pick up 80 percent of the premium costs.

Parental Leave. Reps. Bill Clay (D., Mo.) and Pat Schroeder (D., Colo.) want to require employers with more than 15 workers to provide up to 18 consecutive weeks of unpaid leave in the event of a birth, adoption or serious illness of a child or parent. Employees would keep all health benefits during their absence and upon returning would be guaranteed their old job. The bill calls for a study on the feasibility of requiring paid leave in the future.

Immigration. The new immigration bill requires employers to bear the costs of making certain they do not hire illegal aliens. Some Sun Belt businesses already say they are hiring additional workers just to check job-applicant documents.

Environment. Last year's Superfund reauthorization imposed a toxic-waste cleanup tax on all industries, regardless of whether they were involved in any of the pollution.

Pensions. Last year Congress required that companies continue pension contributions for employees over 65. At the same time Congress outlawed mandatory retirement policies.

And you thought Gramm-Rudman was going to force Congress to cut spending. "The goal of mandating benefits is to create 'shadow' spending programs that force businesses to fulfill government objectives," says Fred Smith of the Competitive Enterprise Institute. "These will end up raising consumer prices, but will never show up as part of the deficit." Look at the Clean Air Act. In 1984 it cost business and consumers some $29 billion in compliance costs, despite clear evidence that more imaginative, flexible, less costly standards would promote a cleaner environment.

Why the flurry of interest in mandated benefits? Politicans have only four ways of financing government spending: creating money, borrowing it, indirect taxes and direct taxes. When one method becomes too politically damaging, they shift strategy toward the method of raising money that imposes the least political cost on themselves. With fears of inflation alive, opposition to more taxes intensifying and deficits too high, making employers pay for new programs through backdoor taxes is an obvious choice.

The social problems addressed by these proposals are worthy of concern, but mandating one-law-fits-all solutions often creates new problems. Many Americans, for example, work for small companies that don't offer any health-insurance coverage, largely because they're trying to avoid being swept into unafforable, state-mandated benefit schedules. There are ways to solve this dilemma by offering less than Cadillac coverage in some circumstances, but politicians either deal in Cadillac spending, or they do nothing.

Of course business is hardly the innocent victim here. Companies use political muscle to shift costs they don't want to bear themselves onto industry as a whole. Struggling financial institutions push for an industry-wide tax to bail out the Federal Savings and Loan Insurance Corp. Many states require financially troubled insurance companies to be bailed out by their competitors. Collapsing steel companies unload their pension liabilities on the Pension Benefit Guaranty Corp., then go back to "compete" with still-healthy companies.

Talking tough about "competitiveness" is the easiest thing in the world. Mandating benefits, however, are just one more way for Congress to slip out from under the hard decision of saying no to higher spending. It simply imposes more costs on someone else.

[From the U.S.A. Today, Apr. 24, 1986]

PEOPLE DON'T NEED CONGRESSIONAL NANNIES

(By Virginia Lamp)

WASHINGTON.—Congress is not, and should not become, our "national nanny."

Parental leave *is* an excellent employee benefit, and one that many companies provide. With the changing demographics of the U.S. work force, more employers likely will offer such benefits to attract and retain talented employees.

But mandated benefits, no matter how worthy, interfere with the flexibility employers and employees need to tailor benefits to their own needs, to bargain collectively, and to accommodate individual circumstances. They, not Congress, are in the best position to determine what is needed.

Small businesses are least able to afford the costs of holding a job open for four to six months, retraining a replacement worker, or any of the other costs associated with mandated leave. Yet small business is the engine for economic growth and job creation, being responsible for 9 million new jobs since 1982. Small business should be encouraged, not burdened.

The contention that most other countries mandate parental leave benefits is interesting, but incomplete. While our economy has been creating jobs and assimilating tremendous numbers of women into the labor market, the countries most often cited as having these policies have been mired in economic stagnation and have suffered a net job loss.

Mandating unpaid leave is only the first step. Clearly, proponents seek to mandate paid leave. In addition to mandating unpaid parental leave, the leading bill establishes a commission to recommend ways to implement paid leave.

And this proposal provides no notice to the employer to permit adequate planning. Nor does it contain an eligibility requirement: Replacement workers, part-time workers, and others would be immediately eligible for the leave.

While other nations may have put a premium on parental leave, U.S. employers have developed quite a comprehensive package of employee benefits: health and life insurance, pensions, Social Security, worker's compensation, unemloyment compensation, educational assistance, and a host of others. On average, U.S. employers spend 37 cents of every payroll dollar on benefits.

Congress should provide an environment that encourages economic growth and entrepreneurial activity. Business must have flexibility to provide benefits that respond to the changing needs of workers.

The Chamber of Commerce supports parental leave, but we oppose those in Congress hoping to serve as nannies who dictate that parental leaves must be granted—no matter what.

[From the Washington Post, Sept. 10, 1988]

PARENTS WANT TO CHOOSE THEIR OWN CHILD CARE

Sen. Christopher Dodd and I agree that the conflicts endured by working parents trying to juggle work and family and the need for child care are real. We disagree strongly, however, in our assessments of what the senator's Act for Better Child Care Services (ABC bill) would do, and of whether it represents the best approach to resolving these conflicts.

The senator says [op-ed, Aug. 29] that the measure would not create a new federal bureaucracy. Yet the bill establishes an "administrator of child care" who would be required to issue federal regulations, publish state standards, review and approve lengthy and complex state plans, monitor state compliance and establish a National Advisory Committee on Child Care standards.

As secretary of one of the largest regulatory and enforcement agencies in the federal government, I can assure you that these new responsibilities could not be carried out without a substantial increase in staff. A similar program that I am responsible for requires 500 people to operate. As if to acknowledge this, the bill requires that "the Secretary make available such staff and resources as are necessary," yet allocates no funds for these staff or resources.

The senator claims that the ABC bill "would encourage diversity and expand . . . parents' child care options" when, in effect, it would seriously limit parental choice. Funds in the ABC bill could only be used for services that met federal, state and local standards. Most parents have chosen to leave their children with relatives or in other informal family-oriented settings when not in school. In fact, only 25 percent of child care in America is currently subject to regulation. Tax credits, in contrast, expand choice by putting money in the hands of parents and letting them decide how to use it, without restrictions. Parents are the best determiners of what is good for their children; the federal government should facilitate, not limit, their options.

The senator says that funds "would go directly to . . . parents, who would choose the form of care that is best for their children." According to the bill, however, funds would go directly to parents only if the state chose to establish a voucher or certificate program. Otherwise money would be given directly to child care providers or nonprofit agencies.

Dodd says the bill "would target help to working parents at the lower end of the income spectrum, not the upper brackets." Yet the bill would allow funds to be used for children whose family income did not exceed 115 percent of state median income. In New Jersey, for example, a family of four could earn $51,280 and be eligible.

Finally, the senator argues that introduction of standards would not send providers underground. Even though family providers tell me otherwise, the more important point is that introduction of additional regulations would raise prices and constrict supply. A 1988 study of the ABC bill estimated that the staffing requirements proposed would increase the annual cost of center-based care by $250 per child and would restrict supply by 23 percent. This is particularly ironic given that the stated objective of the ABC bill is to improve the availability and affordability of child care.

The program outlined by Vice President George Bush would put 1.9 billion new dollars directly in the hands of parents through tax credits. No federal bureaucracy would be created because the existing tax system would be used. The $1.9 billion in new federal assistance would go only to families earning less than $20,000 per year, cleanly targeting low-income families. And since the tax credit would be refundable, even families that do not file tax returns would be eligible.

Dodd criticizes the vice president's tax credit, saying that it would pay only a fraction of average child care costs. Child care costs an average of $2,000 per child per year in America and costs $3,000 in urban areas. A $1,000 tax credit would therefore pay a significant portion—30 percent to 50 percent—of the entire bill. Coupled with the recent increase in the personal exemption, this is a real antipoverty program.

Parents want choices, not government intervention in family decisions. The child care needs of working Americans can best be met by providing assistance to parents, not to providers; through state and local regulations; not federal standards; and through community-based and private-public partnerships, not federal infrastructure.—Ann McLaughlin.

[From the Washington Times, Nov. 30, 1987]

Taking Leave of Economic Sense

The House Education and Labor Committee has passed a "parental leave" bill (HR 925) that's economic quackery. The measure would require businesses with 50 or more employees to grant workers up to 10 weeks unpaid leave each two years for the purposes of attending sick loved ones or taking care of newborns; 15 weeks if the employee gets sick. Three years after the bill's passage every company in America with 35 or more workers would take on this burden.

Proponents insist the impact on businesses will be minimal, citing a General Accounting Office (GAO) estimate that the bill would cost businesses only $188 million a year under the 50 employee threshold, and $212 million when the cutoff drops to 35. "We believe there will be little if any measurable net costs to employers resulting from a firm's method of adjusting to this temporary absence of workers taking unpaid leave under this legislation," GAO said in its report. "In addition, an employer's savings in worker salary and benefits for those on unpaid leave exceeds replacement costs and productivity losses."

Firms that would be covered under the legislation say GAO is living in a dream world. Morton Zetlin, a general partner at American Service Center in Arlington, says that the GAO doesn't "realize that these [workers who would qualify for leave] are human beings with specific skills." Problems can become particularly acute, he adds, when a manager takes a leave of absence and a firm must invest time and expense in training a replacement who are inferior to the person they're replacing. Mr. Zetlin, who considers the subject a proper topic for labor-management negotiation, says the legislation could result in poorer quality service and lost business, thereby jeopardizing the jobs of the very employees the legislation seeks to protect.

"There is a productivity loss" whenever you have to replace an employee, notes Thomas Smith, president of Tom's Superthrift, a supermarket that employs 53 people in Cardiff, Md., in Harford County at the Pennsylvania line. "You don't save anything, you end up paying overtime to people trying to take up the slack," he says. "A lot of people don't like to work the overtime. Then what do you do? It's tough enough running a small business . . . now government wants to extend its social programs" by taxing business to pay for them. Messrs. Zetlin and Smith worry that the next step in Congress would be to require paid leave, a key goal of feminist groups that have pushed the bill.

H.R. 925 seeks to gain for unions a benefit they have failed to gain through collective bargaining. But since it applies to lots of non-union shops, it could lead to an important unintended consequence. It could encourage small businesses to rely on "temporary" help that would not necessarily be entitled to parental leave. Such stratagems could inspire Congress to devise regulations designed to bind employers' hands more firmly, until Congress' social engineers have made it virtually impossible to open a new business and create new wealth and opportunity.

The "compromise" version of H.R. 925—an earlier version would have applied to businesses with 15 or more workers—imposes expensive burdens on businesses; creates a new tax that will be passed on to consumers in the form of higher prices and paid by employees in reduced fringe benefits. The president now should signal his intention to veto this measure. In an age when both political parties worship at the altar of "competitiveness," H.R. 925 is an unwelcome step toward welfare-state economic ineptitude.

[From the Clarion-Ledger/Jackson Daily News, Sept. 4, 1988]

Parental Leave Bill Is Good Indication of Conservatism, Liberalism

(By James J. Kilpatrick)

Washington.—How does one define liberalism? How does one define conservatism? A recent report from the Senate Labor Committee provides an excellent chapter for a textbook in political philosophy. In their opposing positions on the pending bill for parental leave, 16 senators eloquently define the terms.

On one side are nine liberal Democrats and two liberal Republicans. They support the bill as a necessary and desirable extension of federal authority into the marketplace. On the other side are five conservative Republicans. They plead instead for voluntary action within the private sector.

This is what the bill would do. It would require 681,000 business establishments with at least 20 employees to provide a new fringe benefit for 54 million workers. Under this bill, to quote from the majority report, "An employee is entitled to 10 weeks of unpaid parental leave during any 24-month period upon the birth, placement for adoption or foster care, or serious health condition of the employee's son or daughter."

The 11 liberals make this case: Many parents face difficulties in meeting both the needs of their families and the demands of their jobs. Mothers often have no guarantee that their jobs will be protected during childbirth and the first weeks of infant care. It is in this period that the bonding between infant and parent is so important.

Serious illness within a family also justifies mandatory unpaid leave for employees. During such periods of leave, employers must maintain a worker's health insurance benefits, but these costs will be insignificant. Various studies of firms that now provide parental leave indicate that such benefits "have no measurable effect on workplace routines or productivity." The United States is the only industrial nation with no statutory requirement for parental or medical leave. In Europe, five to six months of paid leave is the norm for new mothers.

The most detailed response comes from Indiana's Sen. Dan Quayle. It was written before he became the Republican vice presidential nominee. He begins by agreeing that a problem exists. He would go along with expansion of the Pregnancy Discrimination Act to assure that women may take job-protected leave when disabled owing to pregnancy or related medical conditions. He urges employers to initiate compassionate policies along the lines of the proposed legislation.

But Quayle argues convincingly that this bill goes far beyond these modest aims. It is both unnecessary and unwise. Fourteen states already have enacted legislation in this field; this is in the best tradition of federalism, by which the states experiment respectively in addressing social problems. Two studies separately have found that 72 percent of employers with at least 20 employees now provide some benefits in terms of maternity leave and job security.

For the federal government to mandate a benefit package is to reduce flexibility in the marketplace. "Mandatory benefits mean locked-in costs." The European experience has demonstrated that the inability of employers to respond to changing economic conditions has led to high levels of unemployment. Quayle would put his faith in both collective bargaining and individual agreements between employers and employees.

Orrin Hatch of Utah and Thad Cochran of Mississippi filed a separate minority report. They too support "the humanitarian objectives" of the bill, but they make the point that not all employees of a given company want "parental leave." Older workers especially might prefer dental insurance, profit-sharing, tuition benefits, paid medical prescriptions, extended vacations or just higher base pay. Small businesses cannot provide everything—or large businesses either.

Enforcement of the bill would be turned over to the U.S. Department of Labor, with a concomitant expansion of the federal bureaucracy. Employers who violated the law would be subject to civil suit, state and federal injunctions, and federal fines.

The contrasting views perfectly illustrate the conflicting political philosophies. On one side lie compulsion, rigid nationwide provisions and expanded authority of the federal government. On the other side one finds flexibility, variety, individualism and voluntarism within the private enterprise system. These are the differencs between liberal and conservative. And these are the differences between the Democrat Michael Dukakis and the Republican George Bush.

Mr. COCHRAN. Mr. President, what we find in looking at all of these articles, including one from the Atlanta Constitution, I noticed it was published on September 16, 1988, is that there may be more to parental leave than the recommendation that is being made by the legislation being reported out of the Senate committee. It is a much more complex and difficult subject to address than we may have been assuming on the basis of the arguments that have been advanced in support of the legislation before the Senate.

Each individual employee, whether it is a man or a women, has different family circumstances. Many have an interest in working part time, after a child is born. This does not do anything to help that parent at all.

Many would like to have an opportunity for flexible working hours, a departure from the very structured and rigorous schedule that has been imposed in many cases on workers. Some would like relief in the form of flexible working hours. This bill does not address that interest at all.

There are some who would like help with child care services on the premises. The parental leave bill does nothing to encourage employers to respond to that interest.

It simply requires that, for each employee in this country there be an unpaid leave period of 10 weeks and that is being hailed by some as a great, wonderful new benefit for the workers and those interested in family issues in this country today. I say we can do a better job, that there are ways available to this Senate to provide more sensitive, more needed, more important benefits to each employee than what has been recommended by the Labor Committee, and I think we ought to work to identify a way that is more appropriate than the suggestions reported from this Labor Committee.

The tax incentive, I personally think, is a better approach, and I hope that we will refrain from rubberstamping the recommendation of the committee in this instance and see if we cannot work out a better way to approach this important problem.

This is not to say that those who are suggesting the tax credit approach are less sensitive of the needs of those employees who are having children or who are adopting children. That is not the case at all. I think every Senator is interested in doing what we can and what we should to recognize that in this modern era business ought to be sensitive to the concerns that workers have for the well-being of their families and that is what we are talking about here.

How do we do that? How do we do that in a caring and responsible way? I think, as we look carefully at the proposal, we will find that there probably are better and more sensitive ways to address this issue than the way in which the committee has recommended that we do it.

So I hope, as we proceed to talk about it and review it, we come to the conclusion that the committee suggestion is not necessarily what we ought to embrace, and I think that is what these articles say, from the Atlanta Constitution, U.S. News & World Report, and all the others that have dealt with this issue.

COMMENDING ROBERT C. BYRD FOR HIS EXEMPLARY SERVICE TO THE UNITED STATES SENATE, THE CONGRESS, AND THE PEOPLE OF THE UNITED STATES

Mr. DOLE. Mr. President, I send to the desk a Senate resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 485) commending Robert C. Byrd for his exemplary service to the United States Senate, the Congress, and the people of the United States.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 485) was unanimously agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 485

Whereas the close of the 100th Congress represents the completion of the service of Robert C. Byrd as Majority Leader of the United States Senate; and

Whereas he has performed the duties of Majority Leader with diligence, grace, and consummate patience, thereby facilitating the important business of the Senate; and

Whereas Robert C. Byrd has demonstrated not only a mastery of the rules and procedures of the Senate, which he has used to promote the orderly debate and resolution of the complex public policy issues confronting our Nation, but also an unparalleled knowledge and appreciation of the history of the United States Senate and its role in our democracy; and

Whereas throughout his service in the Senate he has vigilantly defended the Constitutional prerogatives of the Congress; and

Whereas his efforts to work with the Speaker and other leaders of the House of Representatives has established a new level of cooperation and coordination between the two Houses; and

Whereas Robert C. Byrd has had a long and distinguished record of public service to the people of West Virginia and the United States, having held more elective offices than any other individual in the history of West Virginia, being the only West Virginian to have served in both Houses of the State legislature and in both Houses of the United States Congress, and having served in the leadership of the Senate for the past 21 years; and

Whereas in the long tradition of Leadership of the United States Senate, the service by Robert C. Byrd to the Senate, the Congress, and the Nation will stand as a benchmark for future leaders; and

Whereas the respect, trust, and confidence which his colleagues feel toward Robert C. Byrd is a testament to the integrity, humanity, and good will which he displays to all around him; Now therefore, be it

Resolved,

That the Senate of the United States expresses its deep appreciation to Robert C. Byrd for his dedication to the ideals of representative democracy and for his outstanding service to the United States and its citizens.

UNANIMOUS-CONSENT AGREEMENT—RULE XXII

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I ask unanimous consent that Senators Moynihan and Nunn and Rudman and D'Amato and Wilson and Gramm and any other Senators who are cosponsors of the bipartisan drug bill that is about to be introduced may be recognized for the introduction of that measure and may speak on it, notwithstanding rule XXII, but that the time be charged against the 30 hours under cloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Georgia [Mr. Nunn].

OMNIBUS ANTI-SUBSTANCE ABUSE ACT OF 1988

Mr. NUNN. Mr. President, on behalf of Senator Byrd, Senator Dole, myself, Senator Moynihan, Senator Rudman, Senator D'Amato, Senator Wilson, Senator Gramm, and numerous others on both sides of the aisle, I send a comprehensive drug bill to the desk, together with a section-by-section analysis, and ask that the matter be printed and ask that the bill be reported.

Mr. President, I will just introduce the bill at this point.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

There being no objection, the section-by-section analysis was ordered to be printed in the Record, as follows:

SECTION-BY-SECTION OF THE NATIONAL NARCOTICS LEADERSHIP ACT

SUBTITLE I OF TITLE I

Sec. 1001. Short Title.—This section sets forth that this title may be cited as the "National Narcotics Leadership Act of 1988."

Sec. 1002. Findings.—This section sets forth findings that highlight the scope of the drug problem; the need for maximum coordination and leadership among all levels of government and the private sector in fighting drug trafficking and abuse; the fact that past efforts—particularly federal efforts—have been hampered by lack of coordination, leadership, and long-range plan; the necessity of placing one Cabinet-level official in charge of the entire federal drug control program; and that said official must have the authority to develop and implement, in consultation with appropriate agency heads and outside experts, a research-based long-range national anti-drug strategy with the complete support and backing of the President.

Sec. 1003. Purposes.—This section sets forth the purposes of this Title. While the purposes are, for the most part, self explanatory, several points deserve attention. First, the Director for National Drug Control Policy must report directly to the President on drug control matters. The Director will be required to make difficult budget and policy decisions that may require agencies to undertake extensive revisions in their current drug policy. It is absolutely essential that the Director have the complete confidence and support of the President if he is to make these difficult budget and policy decisions. The second point is that this official must be accountable to Congress and—ultimately—to the American people. At this time, the Attorney General, as chairman of the National Drug Policy Board, is not available to come before Congress on a regular basis to discuss drug control efforts. And the Vice Chairman of the Policy Board, the Secretary of Health and Human Services, has never testified before Congress solely on the drug issue. The Director and the Deputy Directors must be available to consult with Congress on a frequent basis, testifying before appropriate Committees, and presenting the federal government's unified strategy on drug control. The Director must also be honest and candid in discussing the drug issue. Drug abuse in America will not go away overnight; it will take years, if not decades, to change attitudes and decrease drug use. To sustain public support for the national anti-drug strategy, the Director must be honest and frank about our successes and failures, and about what it will take—and how long—to decrease drug abuse. Finally, any national effort must contain a coordinated strategy between agencies at the federal, state and local levels. With so much of the responsibility for drug control falling within the jurisdiction of state and local governments, the national strategy must take into account the role that such governments play in drug control.

Sec. 1004. Definitions.—This section sets forth the definitions of six terms as used in this title. In general, the terms have been worded broadly to ensure that all efforts to reduce the supply of and demand for drugs are included in the jurisdiction of the Director of National Drug Control Policy. Any interpretation of such definitions should give deference to this broad interpretation. In addition, the term "drug" means the same as the term "controlled substance" as defined in the Controlled Substances Act. As a result, the Director's jurisdiction does not extend to alcohol abuse programs and thus nothing in this Title shall be construed to reduce the priority of alcohol abuse programs in the federal government. It is the intent of this Title, however, that alcohol and drug programs should be fully coordinated, particularly with respect to drug and alcohol abuse education, prevention and treatment programs.

Sec. 1005. Establishment of Office: (a) Establishment of Office.—This subsection establishes an Office of National Drug Control Policy within the Executive Office of the President. The Office has been placed in the Executive Office of the President to ensure that the Office receives a top priority within the executive branch. Such placement is consistent with the Director's authority and responsibility to report directly to the President on drug control matters.

(b) Director and Deputy Directors.—This subsection creates a Director to head the Office and two deputy Directors, one for drug demand reduction and the other for drug supply reduction, to assist the Director. In addition, the deputy directors may be assigned such other responsibilities under this Title as the Director may require.

(c) Bureau of State and Local Affairs.—This subsection creates a Bureau of State and Local Affairs within the Office of the Director to be headed by an Associate Director. The Associate director should report directly to the Director. This office should provide high-level attention within the Office to the needs and views of state and local drug control officials, particularly in preparing the state and local component of the National Drug Control Strategy.

Sec. 1006. Appointment and Duties of the Director, Deputy Directors and Associate, Director: (a) Appointment.—This section provides that the Director, the Deputy Directors and the Associate director shall be appointed by the President, by and with the advice and consent of the Senate. This section further provides that these officials serve at the pleasure of the President and that no person shall serve as Director, Deputy Director or Associate Director for a period of more than four years unless they are reappointed by the President and reconfirmed by the Senate. The latter provision allows for greater accountability on the part of the Director, the Deputy Directors and the Associate Director to the President and Congress. Finally, the Director, Deputy Directors and the Associate Director are prohibited from serving in any other position in the federal government. For example, the President could not appoint a sitting Attorney General or Vice President to head the Office of National Drug Control Policy. Given the difficult strategic and budgetary decisions that the Director must make, it is essential that the Director be independent from any one agency, and that he or she be able to devote full attention to drug control matters. The language in this section, however, would not preclude the Director from serving as a representative of the Administration in ceremonial, honorary or advisory positions as determined by the President.

In selecting the Director, the Deputy Directors, and the Associate Director, the President should look for individuals with sufficient stature to command the respect necessary to pull together the eleven Cabinet-departments involved in the federal drug control program. Finally, in selecting the Associate Director for State and Local Affairs, the President should select someone who will serve as an advocate for the concerns of state and local officials.

Paragraph (3) of this subsection amends the National Security Act of 1947 to provide that the Director shall be a member of the National Security Council. The NSC was established to advise the President with respect to the integration of domestic, foreign and military policies relating to the national security. Given the Director's important responsibilities for coordinating and directing U.S. domestic and international narcotics control policies, and that the President and Congress have declared international drug trafficking to be a national security threat, it is appropriate that the Director serve on the NSC.

This section also provides that the Director shall have the rank of Ambassador Extraordinary and Plenipotentiary. This simply reinforces the Director's responsibilities for coordinating and directing United States policy with respect to international drug control, and that he or she has the full and complete support of the United States Government in International drug control negotiations.

Paragraph (5) of subsection (a) sets forth the level of compensation for the Director and his assistants. The Director would receive the same compensation as other Cabinet members. The Deputy Directors would receive the same compensation as the Deputy Director for the Office of Management and Budget, which is also located in the Executive Office of the President. Finally, the Associate Director would receive the same compensation as the Associate Attorney General.

(b) Function.—This subsection provides that the Director shall serve as the principal director and coordinator of United States policy on drug control.

(c) Authorities and Responsibilities of the Director.—Paragraph (1) of this subsection provides that the Director is authorized and directed to notify any National Drug Control Program agency that its policies are not in compliance with the responsibilities of such agency under the National Drug Control Strategy. Paragraph (2) provides that the heads of agencies shall ensure that their agencies are in compliance with their responsibilities under the Strategy, as determined by the Director.

The purpose of this provision is to ensure that once the National Drug Control Strategy, developed by the Director and approved by the President, places specific responsibilities upon National Drug Control Program agencies such agencies are required to fulfill these responsibilities completely and cannot ignore the policies established by the President and the Director. If the Director determines that an agency is not meeting its responsibilities under the Strategy, the Director is required to notify such agency, in writing, that its policies are not in compliance with the Strategy. The Director shall further provide an explanation of what steps such agency must take to come into compliance with the Strategy. Once notified, agency heads are required to take appropriate action to comply with the agencies responsibilities under the Strategy. Furthermore, the President retains the final authority to settle disputes between the Director and any other Cabinet member.

Paragraph (3) further enumerates the Director's authorities and responsibilities. While these authorities and responsibilities are, in general, self-explanatory, the Director's function under subparagraph (G) merit elaboration. The Director is required to develop a consolidated National Drug Control Program Budget. There is a strong precedent for this structure under current law. Executive Order 12333 authorizes and directs the Director of Central Intelligence to "develop, with the advice of the program managers and departments and agencies concerned, the consolidated National Foreign Intelligence Program budget, and to present it to the President and the Congress." Under the current approach, federal agencies with drug control missions develop their budgets independently, with little or no guidance from the National Drug Policy Board. By requiring the Director to develop a consolidated National Drug Control Program budget, the Director will be able to develop sound and coherent budget priorities based on the policies established in the National Drug Control Strategy. This structure has substantially improved the budget process for the intelligence community (which had suffered from the same fragmentation that has undermined federal drug efforts) and should prove effective in the federal drug control program. This paragraph also gives the Director the authority to initiate and approve requests for reprogramming National Drug Control Program funds. The Attorney General currently has this authority as chairman of the National Drug Policy Board. Finally, this paragraph further authorizes the Director to transfer, after notifying the Appropriations Committees, up to five percent of the funds appropriated for one program to another program within a National Drug Control Program agency. This provision authorizes the Director to reprogram funds within an agency, not from one agency to another. For example, the Director could not transfer funds from the Department of Justice to the Department of Education.

(d) Consolidated National Drug Control Program Budget.—Paragraph (1) provides further direction with respect to the National Drug Control Budget process. In general, the Director shall task each department head, agency head and program manager with their responsibilities under the National Drug Control Strategy (in the intelligence community budget process, the Director of Central Intelligence tasks agencies up to two years in advance of the submission of the intelligence community budget to Congress). These officials should respond by providing the Director with their budget requests to carry out these responsibilities. This process should ensure that the Director and his staff are involved in development of the National Drug Control Program budget at the earliest possible date. On the basis of policies and priorities established in the National Drug Control Strategy, any hearings conducted by the Director, and the available resources, the Director will develop a consolidated budget request and present it to the President. This process is not, however, intended to give the Director dictatorial authority over the budgets of other agencies. Rather, the Director is instructed to develop, in consultation and cooperation with other agencies and departments, a consolidated budget that reflects and implements the priorities and policies set forth in the National Drug Control Strategy. When developing the budgets of programs included in the National Foreign Intelligence Program, the Director shall consult not only with the agency involved, but with the Director of Central Intelligence as well.

(e) Powers of Director.—This subsection provides general administrative and management authorities to the Director. Specifically, the Director is authorized to select and employ officers and employees to staff the Office of the Director, to hire experts and consultants, to use facilities and personnel of federal, state and local agencies on a reimbursable basis, to accept and use donations of property from federal agencies, and to use the mails in the same manner as other executive branch agencies. In addition, the Director is authorized to direct, with the concurrence of the department head of the agency employing such personnel, the temporary reassignment of federal personnel. This provides broad authority to the Director, from detailing federal personnel to the Office of the Director to developing and implementing a major policy operation, such as "Operation Alliance." Such authority, however, could only be exercised with the concurrence of the department head employing the personnel. The Attorney General currently has such authority as chairman of the National Drug Enforcement Policy Board. The subsection also authorizes and instructs the Director to monitor the implementation of the National Drug Control Program, including conducting program and performance audits and evaluations and requesting assistance from the Inspector General of the revelant agency.

(f) Personnel Detailed to the Office.—(1) Paragraph (1) of this subsection requires that the Director, or his designee within the Office, shall prepare the performance evaluation of any federal employee detailed to the Office. This should ensure that detailees have an incentive to cooperate fully with the permanent and temporary employees in the Office. Paragraph (2) of this subsection further provides that heads of federal agencies shall give preference in promotions within such agencies to employees who have served temporarily within the Office, subject to certain limitations. This provision is intended to provide an incentive for federal personnel with expertise in drug control issues to serve within the Office and should increase the professionalism and cooperation of permanent and temporary employees in the Office.

Sec. 1007. Duties and Responsibilities of the Heads of Executive Branch Agencies and Departments.—Subsection (a) provides that executive branch departments and agencies shall provide the Director with all information necessary and relevant to the National Drug Control Program and Strategy and shall give complete consideration to requests from the Director for appropriate support for National Drug Control Program activities. The subsection also instructs the Director of Central Intelligence to prescribe such regulations as may be necessary to protect the sources and methods of intelligence program information provided to the Director. Subsection (b) requires each department and agency to submit their National Drug Control Program budget requests in a timely manner and to provide the Director with all information necessary to perform his functions. The responsibilities of department and agency heads under subsections (a) and (b) are modeled closely after the responsibilities of intelligence community agencies under Executive Order 12333. Subsection (c) requires the heads of National Drug Control Program agencies to notify the Director in advance and in writing with any proposed changes in policy relating to such agency's drug control activities.

The Director is required promptly to review such proposals and to certify to the department or agency head in writing whether such changes are consistent with the National Drug Control Program and Strategy. In exigent circumstances, where advance notification is not possible, heads of departments and agencies are required to notify the Director in writing of the changes as soon as is practicable. In such circumstances, the Director is still required to review the changes and to certify whether such changes were consistent with the National Drug Control Program. While this subsection does not give the Director veto authority over agency proposals with respect to drug control activities, it does provide a mechanism whereby agencies are notified in advance as to whether proposed changes are, in the view of the Director, consistent with the National Drug Control Program. Not only will this mechanism foster communication and coordination, it will also provide a "paper trail" that should be useful to Congress in fulfilling its oversight responsibilities. Finally, subsection (d) directs the Administrator of the General Services Administration to provide support services to the Director on a reimbursable basis.

SEC. 1008. DEVELOPMENT AND SUBMISSION OF NATIONAL DRUG CONTROL STRATEGY: (a) DEVELOPMENT AND SUBMISSION OF THE NATIONAL DRUG CONTROL STRATEGY.—This subsection requires the Director to prepare a National Drug Control Strategy for the President which is to be submitted to Congress within 180 days after the date the first Director is confirmed by the Senate. The Strategy shall be based on the best available information as to the nature and scope of the problem and the relative effectiveness of drug demand reduction and supply reduction strategies and programs, both in the United States and in foreign countries. In developing the Strategy, the Director is required to consult with the National Drug Control Program agencies and state and local officials and to circulate a draft Strategy to the department heads of such agencies and officials. These agencies and officials have 30 days to submit their comments to the Director. The Director may then revise the Strategy. The Director shall present the Strategy to the President along with the second set of agency comments. When the Strategy is transmitted to Congress the Director shall include a list of persons and officials who were consulted during the preparation of the Strategy.

(b) GOALS AND PRIORITIES.—This subsection explicitly outlines the minimum requirements of the Strategy. Most important, the Strategy should contain a complete list of goals and priorities in each of the major components of the National Drug Control Program and five year projections for program and budget priorities and for achievable reductions of drug availability, purity and usage. Past "strategies," developed to comply with Congressional mandates, have codified existing policies and procedures and have contained only general policy statements. The language in this section should make clear that the Director is responsible for developing a comprehensive, long-term Strategy that includes sufficient detail to provide guidance to agency and department heads.

In developing and implementing an effective Strategy, it is absolutely necessary to set explicit goals and priorities to determine whether the Strategy is being implemented effectively. These goals should be specific and realistic. And the goals should reflect the purpose of the National Drug Control Strategy—reducing drug abuse in America. While goals for arrests and seizures could be included in the Strategy, the primary goals should be articulated in terms of the price, availability and use of drugs. By determining realistic and achievable goals for the future the Director should be able to speak forthrightly about the successes and failures of our drug control program, and thereby restore public confidence in our long-term struggle to substantially reduce drug trafficking and abuse in America.

Finally, the Director must designate "lead agencies" with the principal responsibility for carrying out each major component of the Strategy. Such designation is essential if each component of the National Drug Control Program is to be fully coordinated.

(c) Areas of Principal Responsibilities of Strategy.—The Director is directed to require that any National Drug Control Program agency that conducts an activity which is in the area of principal responsibility of a lead agency shall provide advance notice in writing to the lead agency. Upon objection by the lead agency, the conflict shall be promptly taken to the Director for resolution. The designation of lead agencies, however, should not be construed as limiting the authority of the Director to establish drug control policies. For example, once an agency is designated as the lead agency for a particular mission, it is not free to establish policies in that mission area independently from the Director. Rather, the lead agencies will be responsible for implementing the policies and priorities as established by the Director and coordinating the activities of agencies operating within the lead agencies' areas of responsibility.

Sec. 1009. Submission of National Drug Control Program Budget With the Annual Budget Request of the President.—This section amends Section 1105(a) of Title 31, United States Code, to provide that the President, as part of the annual budget presented to Congress, shall include a separate and detailed budget request for the Office of the Director and National Drug Control Program agency. This section simply expands on one of the primary purposes of this legislation: to bring coherence and coordination to the federal drug control budget process.

Sec. 1010. High-Intensity Drug Areas: (a) Designation and Assistance.—This section authorizes the Director to declare certain areas of the country to be "high-intensity drug areas," and to take any action authorized pursuant to sections 1006, 1007, 1008 and 1009 of this subtitle to provide increased federal assistance to such areas. This section highlights the need for the Director to aggressively use the authorities provided in this subtitle—including budgetary and personnel authorities—to help those areas of the country in which drug trafficking and abuse have created emergency situations where existing federal and state/local policies and resources are insufficient to respond to such emergencies.

(b) Coordination.—This subsection requires the Director to coordinate any action taken under this section with the appropriate state and local officials.

Sec. 1011. Termination of the National Drug Enforcement Policy Board, the National Narcotics Border Interdiction System, and the White House Drug Abuse Policy Office.—This section would reduce the bureaucracy currently involved in federal drug control policy by eliminating the National Drug Enforcement Policy Board (chaired by the Attorney General), the White House Office of Drug Abuse Policy (headed by a Special Assistant to the President) and the National Narcotics Border Interdiction System (headed by the Vice President). These three offices would be replaced by a single, Cabinet-level Office of National Drug Control Policy.

(a) National Drug Enforcement Policy Board.—(1) This subsection repeals the National Narcotics Act of 1984 (21 U.S.C. 1201) which established the National Drug Enforcement Policy Board. This provision would become effective on March 1, 1989.

(2) This subsection further provides that all strategies, implementation plans, memoranda of understanding and directives that have been issued or made by the National Drug Policy Board before the date of enactment of this subtitle shall remain in effect until modified or revoked by the President or the Director. This provision is intended to provide continuity among the federal drug control agencies during the transition to the establishment and staffing of the new Office. At the same time, this provision would in no way limit the Director's authority under this subtitle to make any changes to the strategies, implementation plans, memoranda of understanding and directives issued by the National Drug Policy Board.

(b) National Narcotics Border Interdiction System [NNBIS].—This subsection prohibits the expenditure of any funds for the operation or activities of NNBIS effective 180 days after the first Director is confirmed by the Senate under this Title. At this time, NNBIS is headed by the Vice President. The current NNBIS structure, however, is not consistent with the thrust of this title. This subsection further provides that the functions of NNBIS shall be transferred to other agencies. It is the intent of this provision that the policy functions of NNBIS shall be transferred to the Office of the Director while the operational functions shall be transferred to agencies designated by the Director.

(c) White House Office of the Drug Abuse Policy.—This subsection repeals six sections of the Drug Abuse Prevention, Treatment and Rehabilitation Act of 1970. Specifically, this subsection repeals the following section of Title 21, United States Code: section 1103 (definitions); Section 1111 (directing the President to establish a system to develop recommendations and policy with respect to drug abuse); Section 1112 (directing the President to designate one officer to direct drug abuse activities within the Executive Branch; this section provides the authority for the President to establish the White House of Drug Abuse Policy); Section 1113 (authorizing employment of staff for such officer); Section 1114 (authorizing acceptance of uncompensated services); and Section 1116 (relating to authority of Secretary of Defense and Administrator for Veteran's Affairs with respect to health care for veterans).

Sec. 1012. Executive Reorganization Authority.—This section requires the Director to submit a report on the need to reorganize the Executive Branch, including the Office of the Director, to maximize the effectiveness of the National Drug Control Program. The report is required within one year after the date of enactment of this Title, and the Director is required to consult with appropriate federal, state and local officials.

Sec. 1013. Reauthorization of the Office of National Drug Control Policy.—This section provides that after five years, the Office must be reauthorized by Congress. Since this Office is entirely new, it is possible that some type of restructuring of the Office, or the procedures provided in this Title, may be required. This provision has been included solely to require Congress to undertake a complete review of the effectiveness of the Office in reducing drug trafficking and abuse.

Sec. 1014. Authorization of Appropriations.—This section authorizes $7.5 million for the salaries and expenses of the Office of National Drug Control Policy. This level of funding should provide approximately 50 to 75 full-time positions to assist the Director, the Deputy Directors and the Associate Director to carry out their responsibilities under this Title. Since this is a new office, the level of funding may need to be adjusted in the second year of operation. Accordingly, this section authorizes such sums as may be necessary for each of fiscal years 1990, 1991, 1992 and 1993.

Sec. 1015. Effective Date.—This section provides that this Title and amendments made by this Title, unless otherwise specified, shall take effect on January 21, 1989.

SECTION-BY-SECTION—SUBTITLE B DEPARTMENT OF JUSTICE CIVIL ENFORCEMENT ENHANCEMENT

SEC. 1051. SHORT TITLE.—This section states that this may be cited as the Justice Department Organized Crime and Drug Enforcement Enhancement Act of 1988.

SEC. 1052. FINDINGS.—This section sets forth findings that organized crime has contributed to our current drug problem and that current trends in drug trafficking call for an aggressive attack that fully utilizes civil forfeiture and the seizure of assets. It also notes that the current structure of the Department of Justice's Criminal Division should be reviewed in order to determine if it is adequate to address this need for heightened civil enforcement. (These findings are very similar to the original findings.)

SEC. 1053. CIVIL ENFORCEMENT REPORTS.—This section requires the Director of National Drug Control Policy (Drug Czar) to report back within one year on the need for creating a new Division within the Department of Justice. He is required to consider consolidating the functions and personnel of the Organized Crime and Racketeering Section, the Narcotic and Dangerous Drug Section, the Asset Forfeiture Office and the Organized Crime Drug Enforcement Task Force program.

SEC. 1054. CIVIL ENFORCEMENT ENHANCEMENT.—

Subsection (a) This provision includes language suggested by the Department of Justice that would reiterate the high priority to be given civil enforcement by the Department.

Subsection (b) gives the Associate Attorney General (the 3rd highest officer in the Department) the responsibility for implementing this priority policy. This language was suggested by the Department of Justice.

Subsection (c) provides for a $4,350,000 increase in salaries and expenses for additional field attorneys and staff strictly for civil enforcement divided equally between the Organized Crime Strike Forces and Organized Crime Drug Enforcement Task Forces.

Subsection (d) requires an annual report by the Attorney General on the status of improved civil enforcement within the Department, including the additional resources provided by the bill and the need for further enhancements.

SEC. 1055. COORDINATION AND ENFORCEMENT OF FIELD ACTIVITIES.—This section basically restates language found in the original version which is meant to strengthen the OCDETF Task Forces. The inclusion of these provisions in the compromise is widely supported by the U.S. Attorneys who will continue to control the OCDETF Task Forces.

Subsection (a) calls for the co-location of (OCRS) Strike Forces and (OCDETF) Task Forces with the offices of U.S. Attorneys, where feasible, in order to enhance cooperation and coordination between these offices.

Subsection (b) requires, where feasible, the co-location of agents with attorneys in the OCDETF task forces.

Subsection (c) provides for a separate appropriation for those agents assigned to the newly created Strike Forces. This appropriation shall be made to the Attorney General for reimbursement to the agency supplying the agents. This section is intended to further the unique mission of the Task Forces without being underminded by the competition for resources among the participating agencies. This section ensures that additional resources authorized and appropriated to address the narcotics problem will be dedicated to that purpose and not reallocated to other missions without the knowledge and permission of the Attorney General. This provision parallels the initial funding mechanism proposed by the President Reagan in 1982 and is supported by the U.S. Attorneys who view this as a means of further guaranteeing support from agencies participating in the OCDETF program.

TITLE II: SECTION-BY-SECTION ANALYSIS

TITLE II—CRIMES, PENALTIES AND LAW ENFORCEMENT

TABLE OF CONTENTS

Subtitle A—Career Criminals.
Subtitle B—Public Corruption.
Subtitle C—Importation.
Subtitle D—Schools and Minors.
Subtitle E—Firearms.
Subtitle F—Money Laundering.
Subtitle G—Juvenile Justice.
Subtitle I—Prisons.
Subtitle J—Post-Arrest Sanctions.
Subtitle K—Minor and Technical Criminal Law Amendments Act.
Subtitle L—Sentencing Amendments.
Subtitle M—Miscellaneous.

Subtitle A—Career Criminals

SECTION 2101. VIOLENT FELONIES BY JUVENILES.

This section would add violent felonies committed by juveniles to the category of offenses that would give rise to enhanced punishments under the armed career criminal statute. 18 U.S.C. 924(e). Under present law, a person who violates section 922(g)(1) (possession of a firearm by a convicted felon), and who has three previous convictions for violent felonies, is subject to a mandatory minimum 15 year penalty pursuant to section 924(e). Violent felonies committed while the person was a juvenile, however, are not counted toward the "three previous conviction" requirement.

Law enforcement professionals report that large numbers of juveniles are committing violent felonies in furtherance of drug trafficking, yet those same individuals are treated as having a "clean slate", as far as the armed career criminal statute goes, when they become adults. This tends to give violent juveniles a sense of immunity from the law, and fails to protect the community from the most violent offenders as the armed career criminal statute intended.

SECTION 2102. LIFE IN PRISON FOR THREE-TIME DRUG OFFENDER.

Current law (21 U.S.C. 841(b)(1)(A)) provides for a mandatory 10 year jail term for the most serious drug felonies when committed as a first offense, and a mandatory 20 year term when such felonies are committed as a second offense. This section adds a provision imposing a mandatory life term for persons who commit the most serious drug felonies as a *third* offense.

Subtitle B—Public Corruption

SECTION 2151. NARCOTICS-RELATED PUBLIC CORRUPTION.

This section would create a new section 220 in title 18, United States Code, making it a federal offense to corrupt a federal, state, or local official, or a juror, in furtherance of a narcotics violation. The new section is modeled on 18 U.S.C. 201, relating to bribery of federal officials and witnesses, and it is intended that the case law interpreting the elements of a section 201 offense will be directly applicable to the new offense.

The new section differs from section 201 in two important respects. First, whereas section 201 is limited to offenses involving federal officials, section 220 would pertain to the corruption of any official at any level of government. This is intended to permit federal prosecution of offenses involving state and local law enforcement personnel by narcotics traffickers. Such instances have, unfortunately, become commonplace in many parts of the country, with the highly publicized case involving the Miami police providing the most visible example. The involvement of the federal law enforcement apparatus is necessary in such cases, of course, because local authorities are hampered in their ability to prosecute corruption in their own ranks.

Secondly, federal jurisdiction under section 220 would be limited to offenses connected to drug trafficking. It is not intended for this section to become a general purpose public corruption statute; it is intended to be an important tool in the federal government's effort to combat narcotics trafficking.

Subtitle C—Information

SECTION 2201. PENALTIES FOR IMPORTATION BY AIRCRAFT AND OTHER VESSELS.

This provision directs the U.S. Sentencing Commission to amend the sentencing guidelines to provide that in cases involving the importation of controlled substances by private aircraft, and in cases involving "critical crew members" of airplanes and other vessels such as pilots and navigators, the recommended sentence shall be at least 5 years, or at least 3 years more than it would be for the underlying offense, whichever is greater. This is accomplished by setting the offense level in Chapter Two of the guidelines at level 26 (63 months), or by increasing the offense level by two levels.

The use of the phrase "offense level under Chapter Two of the sentencing guidelines" means that the offense level resulting from the guideline mandated by this provision will be subject to the adjustments set forth in Chapters Three, Four and Five of the guidelines.

The amendment is intended to express the desire of Congress to require the imposition of significantly higher penalties for persons who would use aircraft to import drugs, or who act as critical members of drug importation operations. Expressing congressional intent in the form of a direction to the Sentencing Commission avoids the need to resort to inflexible mandatory minimum sentences which may be incompatible with the sentencing guideline concept as enacted in the Sentencing Reform Act of 1984.

Finally, subsection (b) takes into account the possibility that a subsequent amendment of the guidelines will render the literal implementation of the statutory instruction inappropriate; the Commission should fulfill the legislative mandate in a sensible manner. For example, if an amendment resulted in offense level 26 no longer corresponding to a guideline range of 63-78 months, the Commission should substitute an offense level which produces a comparable result.

Subtitle D—Schools and Minors

SECTION 2251. ENHANCING PENALTIES FOR OFFENSES INVOLVING CHILDREN.

Sections 845, 845a, and 845b of title 21 all provide for enhanced penalties for drug offenses involving children. Section 845 concerns distribution to persons under twenty-one; section 845a concerns distribution within 1,000 feet of a schoolyard; and section 845b concerns employing a person under eighteen in any drug violation.

In the Anti-Drug Abuse Act of 1986, Congress amended these statutes to provide for a mandatory minimum penalty of one year, and for a maximum penalty of twice that imposable for the underlying drug offense. For example, if the maximum penalty for distribution of cocaine in a given instance would be 5 years, the penalty for the same offense committed within 1,000 feet of a schoolyard would be a minimum of one year and a maximum of 10 years. See "Handbook on the Anti-Drug Abuse Act of 1986", Department of Justice (1987) at 32-37.

In 1987, the United States Sentencing Commission promulgated guidelines that set forth sentences to be imposed for violations of these statutes. The guidelines take the penalty enhancements into account in the following way: Wherever a sentence for an underlying drug offense would be calculated as a function of the amount of controlled substance involved in a transaction, the sentence for a violation of sections 845, 845a and 845b is calculated as a function of twice the amount actually involved in the transaction.

For example, the sentence for the distribution of "crack" cocaine is determined by reference to a table. (See guideline 2D1.1) That table gives an offense level for distributing 1 gram of "crack" that translates into 27-33 months in prison for a first offender. For the same offense occurring within 1,000 feet of a schoolyard, however, the guidelines provide that the amount involved in the transaction should be doubled before the table is consulted. (See guideline 2D1.3) Thus the sentence is determined by reference to the table entry corresponding to distributing 2 grams of "crack", or a sentence of 33-41 months for a first offender.

While the Commission has evidently incorporated in its guidelines some enhancement of sentences for violations involving children, and there is nothing wrong, in general, with achieving a penalty enhancement through a mechanism such as the Commission employed in this case, the above example illustrates that the enhancement falls short of what Congress intended when it provided for maximum penalties equal to twice the penalty for the underlying offense.

Some have proposed that Congress deal with this issue by simply enhancing the statutory penalties still further, such as by providing for mandatory minimum penalties of 10 or 15 years; but mandatory minimum penalties in that range would be an overreaction to the problem. The better course is to provide that the Sentencing Commission amend its guidelines to ensure that the penalty for a violation of sections 845, 845a and 845b is significantly greater than what it would be for the underlying drug offense.

This section of the bill directs the Sentencing Commission to amend the sentencing guidelines to ensure that persons who commit drug offenses involving children are subject to a penalty of at least 5 years, or at least 3 years more than it would be for the underlying offense, whichever is greater. This is accomplished by setting the offense level in Chapter Two of the guidelines at level 26 (63 months), or by increasing the offense level by two levels.

The use of the phrase "offense level under Chapter Two of the sentencing guidelines" means that the offense level resulting from the guideline mandated by this provision will be subject to the adjustments set forth in Chapters Three, Four and Five of the guidelines.

Subsection (b) takes into account the possibility that a subsequent amendment of the guidelines will render the literal implementation of the statutory instruction inappropriate; the Commission should fulfill the legislative mandate in a sensible manner. For example, if an amendment resulted in offense level 26 no longer corresponding to a guideline range of 63-78 months, the Commission should substitute an offense level which produces a comparable result.

Subsection (c) expresses Congress' intent that the two level increase described in subsection (a) not be applied cumulatively. For example, a defendant who distributed drugs to a minor within 1,000 feet of a schoolyard, would receive, as a result of the operation of subsection (a), a two, but not a four step increase in the chapter Two offense level.

SECTIONS 2252 AND 2253. EXCEPTION TO MANDATORY MINIMUM PENALTY FOR OFFENSES INVOLVING LESS THAN 5 GRAMS OF MARIJUANA.

The Anti-Drug Abuse Act of 1986 set forth mandatory minimum penalties for various drug offenses, including offenses involving distribution of drugs to children under 21 U.S.C. 845. In section 845(b), relating to subsequent offenders, however, the Act provided that the mandatory minimum sentences would not apply to an offense involving five grams or less of marijuana. No such exception was made for first offenders.

Section 2252 adds to subsection (a), relating to first offenders, an exception identical to the one provided in current law for subsequent offenders. Section 2253 eliminates the exception for subsequent offenders.

SECTION 2254. POSSESSION WITH INTENT TO DISTRIBUTE WITHIN 1,000 FEET OF A SCHOOLYARD.

Section 845a of title 21 currently makes it a crime to distribute or to manufacture controlled substances within 1,000 feet of a school. This section adds "possession with intent to distribute" to list of offenses covered by this statute so that the enhanced penalties would apply to someone apprehended near a school with a quantity of drugs sufficient to indicate an intention to distribute.

SECTION 2254A. PLAYGROUNDS, YOUTH CENTERS, SWIMMING POOLS AND VIDEO ARCADES.

This section would expand the scope of 21 U.S.C. 845a to encompass places other than schools—including playgrounds, youth centers, public swimming pools, and video arcades—where children congregate. In the case of these facilities, however, the protected area would extend to a distance of 100 feet.

SECTION 2255. PURCHASE OF CONTROLLED SUBSTANCES FROM MINORS.

Current law prohibits anyone eighteen years of age or older from using, inducing or coercing a child under eighteen years of age to violate the Controlled Substances Act (21 U.S.C. 845b). Those who do so are punishable by twice the term of imprisonment and fine ordinarily authorized for the violation, with a one-year mandatory minimum term of imprisonment. This section amends that statute to impose these increased penalties on any individual who purchases controlled substances from a person under 18 years of age.

Subtitle E—Firearms

SECTION 2301. GUNS IN THE SCHOOLYARD.

This section makes it unlawful for any person to transfer or possess a firearm in or on the real property constituting a public or private elementary, vocational, or secondary school unless such firearm is intended to be part of authorized school curriculum or military training program. The provision is intended to address the serious problem presented by students and outsiders bringing guns to school to trade for drugs, or for protection or to intimidate others in connection with drug transactions.

SECTION 2302. ENHANCED PENALTIES FOR USE OF CERTAIN WEAPONS IN CONNECTION WITH A CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.

This section increases the mandatory minimum penalties for violent crimes and drug offenses involving firearms. The mandatory penalty for using a handgun is increased from five year to ten years for first offenses, and from ten years to twenty years for subsequent offenses. The mandatory penalty for using a machine gun or a gun with a silencer is increased from ten years to thirty years for a first offense, and from twenty years to life for a subsequent offense.

SECTION 2304. PROHIBITION OF DANGEROUS WEAPONS IN FEDERAL FACILITIES.

This section, patterned after Section 5 of S. 2180, would prohibit the carrying of any firearm or other dangerous weapon in any federal facility, which is defined as any building where federal employees regularly are present for the performance of their official duties. The provision is intended to protect federal employees, such as Assistant U.S. Attorneys and federal tax and law enforcement agents, who often have offices in places other than federal courthouses or other government owned buildings. It is not intended, however, to prohibit the lawful carrying of firearms on federal lands for hunting or other legitimate purposes.

The provision contains a two-level penalty scheme: the more serious offense of carrying a weapon with intent that it be used is punishable by a maximum term of five years; the lesser offense of simple possession is punishable by one year. The provision also requires that notice of this prohibition be posted at the entrance of each federal facility covered by the statute, and provides that failure to comply with the posting requirement will result in an acquittal on the simple possession offense unless the defendant had actual notice.

SECTION 2305. INCLUSION OF FEDERAL FIREARMS VIOLATIONS AS PREDICATE WIRETAP OFFENSES.

This section adds firearms offenses to the list of suspected violations for which court-ordered wiretaps may be authorized.

SECTION 2306. INCREASED PENALTIES FOR CERTAIN FIREARMS OFFENSES.

This section increases the maximum penalty from five years to ten years for certain firearms offenses. These offenses include the following sections of title 18: 922(d) (selling a firearm to convicted felons, fugitives and others), 922(g) (transportation of firearms by convicted felons, fugitives and others), 922(h) (receiving a firearm on behalf of convicted felons, fugitives, and others), 922(i) (transporting stolen firearms), 922(j) (reporting requirements for sales of firearms at temporary locations), and 922(o) (possession of a machinegun).

Subtitle F—Money Laundering

SECTION 2351. MONEY LAUNDERING FORFEITURES.

The Anti-Drug Abuse Act of 1986 created two new forfeiture statues, 18 U.S.C. 981-82, that respectively govern civil and criminal forfeitures arising out of violations of the new title 18 money laundering offenses (18 U.S.C. 1956-57), and the reporting requirements and anti-structuring provisions of title 31 (31 U.S.C. 5313(a) and 5324). Unfortunately, sections 981-82 do not treat forfeitures arising out of title 18 offenses and forfeitures arising out of title 31 offenses in the same way.

Sections 981(a)(1)(A) and 982(a) provide that property representing the "gross receipts" of violations of sections 1956-57 are forfeitable. The legislative history makes clear that "gross receipts" means "only the commission earned by the money launderer . . ., and not the corpus laundered itself." S. Rep. No. 99-433 at 23 (1986). Therefore, in the case of a title 18 money laundering offense, the government may seize any property a launderer keeps or is entitled to keep as his fee for his laundering service, but it may not seize the property he was given to launder.

On the other hand, section 981(a)(1)(C) provides that in the case of a title 31 laundering offense, any property "involved in a transaction or attempted transaction" in violation of the statutes is forfeitable civilly. (There is no criminal forfeiture provision in section 982 for there title 31 offenses.) Therefore, in the case of violations of 31 U.S.C. 5313(a) (failure to file a currency transaction report) or 5324 (structuring transactions to avoid CTR requirements) the actual money being laundered is subject to forfeiture.

There does not appear to be any reason for treating these two types of money laundering differently for forfeiture purposes. It is the intent of Congress that a person who conducts his financial transactions in violation of the anti-money laundering statutes forfeits his right to the property involved regardless of which statutory provision he happens to violate.

The amendment would rationalize these conflicting provisions by combining section 981(a)(1)(A) and (C) and making the corpus of the money laundering offense subject to civil forfeiture in cases involving both title 18 and title 31 offenses. It would also add a criminal forfeiture provision for title 31 offenses to section 982(a).

As used in both statutes, the term "property involved" is intended to include the money or other property being laundered (the corpus), any commissions or fees paid to the launderer, and any property used to facilitate the laundering offense. Both statutes would preserve the exception, derived from the existing language in section 981(a)(1)(C), for violations of 31 U.S.C. 5313(a) committed by financial institutions.

Section 5313 offenses are basically reporting violations; in the case of reporting violations committed by institutions, the existing fines and penalties are adequate.

SECTION 2352. FORFEITURE OF SUBSTITUTE ASSETS FOR MONEY LAUNDERING.

This provision would permit forfeiture of substitute assets under the criminal forfeiture provisions applicable to money laundering violations.

The Anti-Drug Abuse Act of 1986 amended the criminal forfeiture provisions of RICO (18 U.S.C. 1963) and the Controlled Substances Act (21 U.S.C. 853) to permit forfeiture of substitute assets. In the case of section 853, this was accomplished by adding a new subsection (p) to the statute.

The 1986 Act also created a criminal forfeiture provision at 18 U.S.C. 982 that applies to violations of the new money laundering statutes, 18 U.S.C. 1956 and 1957. Rather than set out its own set of forfeiture procedures, however, section 982 merely incorporated the necessary provisions of 21 U.S.C. 853. But because of the sequence in which these new provisions were drafted, section 982 incorporated only subsections (c) and (e) through (o), and failed to incorporate the new section 853(p).

It is clear from the legislative history that Congress intended to incorporate into section 982 "all the procedures for criminal forfeitures set out in title 21." S. Rep. 99-433 at 24 (1986). The present amendment corrects the oversight.

The amendment also adds a sentence to make clear that the substitution of assets provision is not intended to be used to obtain substitute assets equal to the value of the property laundered (the corpus) from a launderer who handled the corpus only temporarily in the course of the money laundering offense. Without this provision, it might be permissible for a court to order a person who violated a money laundering statute by converting a million dollars to some other form on behalf of another party, to forfeit substitute assets worth a million dollars, even though the launderer had retained only a small portion of the corpus as his fee, and had transferred the remainder of the corpus back to the other party, or his designee, in the course of the offense. Such a result would appear to be unduly harsh.

The substitute assets provisons would, of course, apply to the fee retained by the launderer and to any property he or she may have used to facilitate the offense; and they would apply to the corpus itself with regard to a defendant who initially or ultimately had control of the laundered property and who was not merely an intermediary in the money laundering transaction.

SECTION 2353. UNDERCOVER "STING" OPERATIONS IN MONEY LAUNDERING CASES.

This amendment to the money laundering statute, 18 U.S.C. 1956, would permit undercover law enforcement officers to pose as drug traffickers in order to obtain evidence necessary to convict money launderers. The present statute does not provide for such operations because it permits a conviction only where the laundered money "in fact involves the proceeds of specified unlawful activity." 18 U.S.C. 1956(a)(1). Since money provided by an undercover officer posing as a drug trafficker does not "in fact" involve drug money, the laundering of such money is not presently an offense under the statute.

The amendment would add to section 1956 a new subsection (a)(3) dealing specifically with undercover operations. The first part of the amendment contains a mens rea requirement that is stricter than that in 1956(a)(1). The defendant would have to have specific intent to promote specified unlawful activity, to conceal the proceeds of such activity, or to avoid reporting requirements. It would not be sufficient, as it is under (a)(1), that the defendant merely know that the transaction was being conducted with the second or third of those purposes in mind.

On the other hand, there would not be any separate knowledge requirement regarding the source of the property involved in the transaction. The defendant would not have to know or believe that the property involved in the financial transaction was drug money. It would be sufficient that a law enforcement officer had represented it as such. While this would mean that everyone involved in the financial transaction would be guilty of this offense whether he was aware of the law enforcement officer's representation or not, the strengthened specific intent requirement would guard against innocent persons being prosecuted.

SECTION 2354. SPECIFIED UNLAWFUL ACTIVITY.

This section merely adds certain offenses to the list of violations considered "unlawful activity" for the purpose of the money laundering statute. The additions include the following: section 542 of title 18 (relating to the entry of goods by means of false statements), section 549 of title 18 (relating to removing goods from Customs custody), section 2319 of title 18 (relating to copyright infringement), section 830 of title 21 (relating to precursor chemicals), section 1590 of title 19 (relating to aviation smuggling), and section 857 of title 21 (relating to transportation of drug paraphernalia).

SECTION 2355. BANK SECRECY ACT AMENDMENTS.

This section makes several amendments to the Bank Secrecy Act relating to money laundering. Subsection (a) adds dealers of automobiles, boats and airplanes and persons involved in real estate closings and settlements to the list of businesses dealing in large quantities of cash that are required to file currency transaction reports. The subsection also empowers the Secretary of the Treasury to designate other businesses whose cash transactions "have a high degree of usefulness in criminal, tax or regulatory matters" to be required to file such reports. In order to ensure that there is no undue paperwork burden on such businesses, however, subsection (b) would provide that businesses so designated could comply with the requirement by filing a copy of the tax report they are already required to file regarding cash transactions under section 6050I of the Internal Revenue Code of 1986.

Subsection (c) amends section 5318 of title 31 to ensure that financial institutions both maintain and follow procedures for complying with reporting requirements.

Subsection (d) provides for a daily penalty of $10,000 for willful violations of section 5318.

Subsection (e) requires sellers of cashier's checks, traveler's checks, and similar instruments to keep records of the identity of any person, other than a regular customer, who purchases such an instrument for more than $3,000 in cash. The purpose of this amendment is to assist law enforcement agencies in identifying persons who attempt to evade the currency transaction reporting requirements and anti-structuring provisions of title 31 by purchasing monetary instruments in amounts under $10,000.

Subsections (f)-(h) impose a $10,000 civil penalty for willful and grossly negligent violations of record keeping requirements. Lesser penalties are provided for violations that are merely negligent.

SECTION 2356. PRESENTATION OF FINANCIAL RECORDS TO GRAND JURY.

This section amends the Right to Financial Privacy Act to provide that in cases where the volume of financial records subpoenaed by a grand jury is so great that actual presentation of the records to the grand jury is impractical, it will be sufficient for law enforcement agents conducting the investigation to receive the records and provide the grand jury with a description of their contents.

SECTION 2357. RIGHT TO FINANCIAL PRIVACY ACT AMENDMENT.

This section makes a technical correction to the suspicious transaction exception to the Right to Financial Privacy Act. Under this exception, a financial institution may provide the government certain information if it believes that it may be relevant to a possible legal violation of a statute or regulation. Technically, however, this exception may be read as only applying to individual accounts. The legislative history of this provision indicates that it was intended to cover corporate accounts as well, and this amendment simply makes clear that the suspicious transaction exception applies to corporate accounts. Thus, under this amendment, identifying information concerning a corporate account as well as an individual account may be disclosed without notice, notwithstanding any provisions of state law to the contrary and free from any civil liability.

Subtitle G—Juvenile Justice

SECTION 2401. MINORS CONVICTED OF DRUG TRAFFICKING.

Section 5032 of title 18 provides that proceedings against juveniles charged with acts of juvenile delinquency will, in general, take place in state court. Among the limited exceptions to this provision are cases involving certain drug offenses. This section of the bill would add two drug offenses and one firearms offense to this list of exceptions: 21 U.S.C. 953 (relating to exportation), 21 U.S.C. 960 (relating to importation), and 18 U.S.C. 922(p) (relating to guns in schools).

The bill would also amend the portion of Section 5032 dealing with treatment of 16 and 17 year olds as adults in certain instances. Current law provides that 16 and 17 year olds who are otherwise under federal jurisdiction will be treated as adults if the offense involves physical violence or one of a list of other serious violations. The bill adds the drug felonies to this list.

Subtitle I—Prisons

SECTION 2501. DRUG OFFENSES WITHIN FEDERAL PRISONS.

Section 1791 of title 18 provides criminal sanctions for distributing or possessing various types of contraband in federal prisons. This section of the bill amends section 1791 by increasing the maximum penalty from five years to twenty years for distributing drugs within a federal prison, and providing that such sentences shall be consecutive to any sentence being served by a defendant prisoner at the time of the offense. The bill also directs the U.S. Sentencing Commission to amend the sentencing guidelines to ensure that persons committing offenses under section 1791(a)(1) are exposed to a penalty of at least 5 years, or of at least 3 years more than what the sentence would be for the underlying offense if the offense had not occurred in a prison. This is accomplished by setting the offense level in Chapter Two of the guidelines at level 26 (63 months), or by increasing the offense level by two levels.

The use of the phrase "offense level under Chapter Two of the sentencing guidelines" means that the offense level resulting from the guideline mandated by this provision will be subject to the adjustments set forth in Chapters Three, Four and Five of the guidelines.

The amendment is intended to express the desire of Congress to require the imposition of significantly higher penalties for drug distribution offenses that occur in prison. Expressing congressional intent in the form of a direction to the Sentencing Commission avoids the need to resort to inflexible mandatory minimum sentences which may be incompatible with the sentencing guideline concept as enacted in the Sentencing Reform Act of 1984.

Finally, subsection (d) takes into account the possibility that a subsequent amendment of the guidelines will render the literal implementation of the statutory instruction inappropriate; the Commission should fulfill the legislative mandate in a sensible manner. For example, if an amendment resulted in offense level 26 no longer corresponding to a guideline range of 63-78 months, the Commission should substitute an offense level which produces a comparable result.

SECTION 2502. PAY FOR PRISON.

This section directs the Attorney General to study the feasibility of requiring federal prisoners to pay for their incarceration. If the result of the study is that such a plan would be feasible, the Attorney General will draft and submit appropriate legislation to Congress.

Subtitle J—Drug Testing as a Condition of Release.

SECTION 2551. DRUG TESTS AS A CONDITION OF PROBATION AND SUPERVISED RELEASE.

This section provides for mandatory drug testing at least every 60 days for all persons on probation or supervised release from a federal felony conviction (or a misdemeanor conviction that is drug-related), and provides sanctions including imprisonment, house arrest, and residential drug treatment for persons who test positive more than once within a certain period. The bill also provides that, on the motion of the Attorney General, the drug testing for a given individual may be suspended after one year if the individual has not tested positive during that time.

This provision would apply only to offenses committed on or after January 1, 1989. The prospective application of the provision is intended to avoid litigation over any ex post facto claims, and to give probation department time to establish procedures to comply with this provision in a way that ensures the most accurate results at the least cost.

SECTION 2552. HOUSE PROBATION AS A CONDITION FOR PROBATION, PAROLE OR SUPERVISED RELEASE.

This section makes house probation a discretionary condition to parole, probation, and supervised release.

Subtitle K—Minor and Technical Criminal Law Amendments Act

SECTIONS 2601-2696. MINOR AND TECHNICAL CRIMINAL LAW AMENDMENTS.

These sections comprise title I of S.2485, which passed the Senate on June 17, 1988. These provisions make minor and technical amendments to the Anti-Drug Abuse Act of 1986 and other provisions of law. A section-by-section analysis appears in the Congressional Record of June 8, 1988, at pages 13780-13786.

Subtitle L—Sentencing Amendments

SECTIONS 2701-2711. SENTENCING AMENDMENTS.

These sections comprise title III of S.2485, making minor changes to the Sentencing Reform Act of 1984. The section analysis for these provisions appears in the Congressional Record of June 8, 1988, at pages 13786-13789.

Subtitle M—Miscellaneous

SECTION 2751. MARIHUANA PLANTS.

Section 841(b)(1)(A) provides for a mandatory minimum 10 year penalty for distribution, or possession with intent to distribute, of "1,000 kilograms or more of a mixture or substance containing a detectable amount of marihuana." Defendants charged with possessing large quantities of marihuana plants have argued that the statutory definition of marihuana specifically excludes the seeds and stems of the plant, and that therefore these items may not be counted toward the 1,000 kilogram requirement.

The government has argued in response that the term "mixture or substance" encompasses all parts of the plants as harvested, notwithstanding the statutory definition of "marihuana," but defendants contend that the "mixture or substance" language applies only to marihuana after it has been prepared for illegal distribution. The defendants' position has been adopted by at least one court. *United States* v. *Miller,* 680 F. Supp 1189 (E.D. Tenn. 1988).

The amendment is intended to curtail this unnecessary debate by providing that the minimum penalty is triggered either by the weight of the "mixture or substance" or by the number of plants regardless of weight. The bill uses 1,000 plants as the equivalent of 1,000 kilograms.

SECTION 2752. FINES FOR SIMPLE POSSESSION.

The section eliminates the maximum fines for simple possession of controlled substances to conform to 18 U.S.C. 3571.

SECTION 2753. CONTINUING CRIMINAL ENTERPRISE.

This section increases the minimum penalty for engaging in a continuing criminal enterprise (the drug "kingpin" statute) from 10 years to 20 years.

SECTION 2754. COMMON CARRIER OPERATION UNDER THE INFLUENCE OF ALCOHOL OR DRUGS.

This section increases the maximum penalty for operating a common carrier while under the influence of a controlled substance or alcohol to fifteen years, and directs the U.S. Sentencing Commission to amend the sentencing guidelines to provide that if death or serious bodily injury results, the low end of the sentencing range shall be not less than a specified term. This is accomplished by setting the offense level in Chapter Two of the guidelines at level 26 (63 months) if death results, or at level 21 (37 months) otherwise.

The use of the phrase "offense level under Chapter Two of the sentencing guidelines" means that the offense level resulting from the guideline mandated by this provision will be subject to the adjustments set forth in Chapters Three, Four, and Five of the guidelines.

The amendment is intended to express the desire of Congress to require the imposition of significantly higher penalties for persons who operate a common carrier while under the influence of controlled substances. Expressing congressional intent in the form of a direction to the Sentencing Commission avoids the need to resort to inflexible mandatory minimum sentences which may be incompatible with the sentencing guideline concept as enacted in the Sentencing Reform Act of 1984.

Finally, subsection (d) takes into account the possibility that a subsequent amendment of the guidelines will render the literal implementation of the statutory instruction inappropriate; the Commission should fulfill the legislative mandate in a sensible manner. For example, if an amendment resulted in offense level 26 no longer corresponding to a guideline range of 63-78 months, the Commission should substitute an offense level which produces a comparable result.

SECTION 2756. ALIEN WITNESS COOPERATION ACT.

This section permits the Attorney General, after consultation with the Secretary of State, to permit an alien who has provided important information in a criminal investigation involving terrorism to receive an immigrant visa and to become a permanent resident without regard to his admissibility under the immigration laws. The provision is similar to one in the Central Intelligence Agency Act of 1949 that authorizes the admission to permanent residency of aliens and their immediate families when it is in the interest of national security or the furtherance of a particular intelligence mission to do so. 50 U.S.C. 403h.

SECTION 2757. AMENDMENT TO RULES OF CRIMINAL PROCEDURE.

This section amends the Rules of Criminal Procedure to require a defendant, who intends to claim in his defense that he acted with the approval of a government official, to give notice to the government of this intent before trial. Last minute assertions of the "public authority" defense are extremely disruptive to prosecutions because they require the government to cause numerous agencies to search their records in order to respond to the allegations.

The proposal has been approved by the Advisory Committee on Criminal Rules of the Judicial Conference following public hearings, but is currently being held in abeyance while the Conference considers whether to make other, more far-reaching changes in discovery rules designed to benefit defendants.

SECTION 2758. JURISDICTION OVER FEDERAL LANDS.

This section closes a loophole in federal/state jurisdiction by providing for applicability of state criminal laws on federal enclaves. Although the states currently have either concurrent or exclusive criminal jurisdiction of over 97% of all federal property, the three percent of federal land that is subject to exclusive federal jurisdiction presents a problem. Exclusive federal jurisdiction is frequently an historical artifact having no relationship to the type of activity conducted on the land. There are instances, for example, of exclusive federal jurisdiction over bowling alleys on military bases, but of concurrent state jurisdiction over weapons storage facilities.

The bill would make state laws applicable on the three percent of federal lands where this is not already the case so that crimes of a strictly local nature, such as minor drug offenses, can be handled by local authorities instead of the United States Attorney.

SECTION 2759. CUSTODY AND RETURN OF FOREIGN WITNESSES.

This section authorizes the Attorney General to accept and maintain custody of persons serving prison sentences abroad whose testimony is needed in a proceeding in the United States. The statute provides a formal procedure for handling such witnesses when dealing with countries with whom the United States has not yet negotiated a mutual assistance treaty.

SECTION 2763. DRUG PARAPHERNALIA.

This section amends the drug paraphernalia act passed as part of the 1986 drug bill. The current act requires the government to prove that that item in question was "intended" to be used with a controlled substance. Under the amendment, the government would only have to prove that the item was "traditionally used with" such a substance.

SECTION 2764. INTERPOL.

This section provides funding on a one time only basis for INTERPOL to host certain international conferences.

UNDER SUBTITLE M—ANALYSIS OF SECTION 2760 NATIONAL FOREST SYSTEM SAFETY

(a) Findings. The U.S. needs to protect the public from criminal acts committed in or affecting the administration of the National Forest System.

(b) Powers. Grants the Secretary of Agriculture the power, subject to agreement with the Attorney General of the United States, to investigate and arrest persons for violations of U.S. narcotics laws that take place in, or affect the administration of, the National Forest System.

(c) Cooperation. Permits the Secretary of Agriculture to cross designate law enforcement officials of other Federal agencies and to receive cross designation from other Federal agencies in conjunction with violations of U.S. narcotics laws.

(d) Penalties. Stipulates penalties for placing hazardous and injurious devices, sometimes referred to as "booby traps" and generally used by marijuana growers as well as others, in the National Forest System.

(f) Criminal Penalty for Polluting. Stipulates penalties for persons that pollute the National Forests while in the course of growing or manufacturing narcotics.

UNDER SUBTITLE M: SECTION-BY-SECTION ANALYSIS—U.S. MARSHALS SERVICE ACT OF 1988

Section 2761 Generally, this section makes changes to chapter 37 of Title 28 in order to combine existing sections as well as add new provisions relating to the functioning of the United States Marshals Service.

Section 2761(a) contains the following provisions:

Section 561 would be amended in the following ways:

1. 18 USC 561(a) adds a new provision to establish the United States Marshals Service as a bureau within the Department of Justice under the authority and direction of the Attorney General. Although the Marshals have been statutorily under the supervision of the Attorney General for more than 100 years, the Marshals Service exists only by virtue of an Attorney General directive. This section provides for a Director appointed by the President, with the advice and consent of the Senate. Presidential appointment of the Marshal Service Director is consistent with the similar status accorded Assistant Attorneys General and heads of other major Department of Justice divisions. Moreover, the amendment would eliminate the anomaly of an Attorney General appointee supervising the activities of 93 Presidentially appointed Marshals.

2. 18 USC 561(b) adds a new provision to provide that the Attorney General may delegate appropriate functions to the Director of the United States Marshals Service.

3. 18 USC 561(c) amends the current provision to provide for the establishment of an Office of United States Marshal for the Superior Court. Currently, the US Marshal for the District of Columbia provides support and executes court orders for the Federal court and, in addition, provides law enforcement support for the "municipal" DC Superior Court. Moreover, the Superior Court workload exceeds that of even the largest federal judicial districts. The establishment of a separate Office of US Marshal for the DC Superior Court will assure that both the District Court and the Superior Court receive the levels of attention they require. This section also provides that the US Marshal for the Northern Mariana Islands may also serve as a marshal in another judicial district, which reflects the current practice of the same person being appointed as marshal for both the Northern Mariana Islands and the district of Guam.

4. 18 USC 561(d) retains current law in section 561(b) which provides that a marshal shall be appointed for a four year term and shall remain in office after the expiration of that term until a successor is appointed and qualifies.

5. 18 USC 561(e) amends current law in section 561(c) to provide that the Director, rather than the Attorney General, shall designate places for a Marshall's office within each district. This provision is consistent with the Director's overall authority to supervise and direct the activity of the Marshals Service contained in section 561(g) of this bill. Generally, this section provides that a Marshal must reside within the district for which he is appointed. An exception to the general rule is that the Marshal for the District of Columbia and the Southern District of New York may reside within 20 miles of their district. This section amends current law to apply the exception to the newly created Marshal for the Superior Court of the District of Columbia. This section also carries forward current law which provides that the Marshal for the Northern Mariana Islands may reside in another district if he is also serving as Marshal for that district.

6. 18 USC 561(f) creates a new subsection which authorizes administrative authorities relating to the selection and appointment of law enforcement and staff support personnel in accordance with applicable Federal personnel regulations, and the supervisory authority of the Director.

7. 18 USC 561(g) adds a new subsection which codifies the Director's authority, currently provided by 28 CFR 0.111, to supervise and direct the activities of the United States Marshals Service.

8. 18 USC 561(h) codifies the Director's current authority and practice under 28 CFR 0.151 of administering oaths to Marshals Service personnel, as well as to others in the case of special deputation under 28 CFR 0.112.

9. 18 USC 561(i) authorizes the appropriation of such sums as may be necessary to carry out the responsibilities of the Marshals Service.

18 USC 562 creates a new section to provide for the appointment of an Acting Marshal by the Attorney General in the case of a vacancy in such office. It also assures the temporary nature of such interim appointment by the President to that office has been rejected by the Senate and by providing for the automatic termination of such interim appointments under specified circumstances.

18 USC 563 amends current law to delete the oath prescribed by the current section 563, certain of the language therein having become obsolete, and to provide generally that the Director, US Marshals and law enforcement officers of the Service must take an oath to faithfully execute the duties of their offices. This conforms to the oath requirements for US Attorneys (see 28 USC 544).

18 USC 564 retains current law in section 570 which restates the historic authority of US Marshals and their deputies, in executing the laws of the United States, to exercise the same powers as sheriff of a State. This provision amends current law to explicitly provide that such authority is also shared by other law enforcement officials of the Service.

18 USC 565 adds a new section to explicitly authorize the Director to use appropriated funds for expenses for personal services contracts and cooperative agreements, as authorized by the Attorney General, for security guards, and for the service of summons upon complaints, subpoenas and notices where service by persons other than marshals and deputy marshals is permitted by law or Rule of Procedure.

18 USC 566 would be amended in the following ways:

1. 18 USC 566(a) incorporates the language of current section 569(a), which authorizes the court to require the marshals attendance at court proceedings.

2. 18 USC 566(b) incorporates the language of current section 569(a), which authorizes the court to require the marshals attendance at court proceedings.

3. 18 USC 566(c) mandates the execution by the Marshals Service of all lawful writs, process and orders issued by the courts, and authorizes it to "command all necessary assistance" to execute its duties, in accordance with current section 569(b).

4. 18 USC 566(d) authorizes law enforcement officials of the Service to carry firearms and to make arrests, as currently authorized by 18 USC 3053.

5. 18 USC 566(e)(1) authorizes the Service to provide personal protection to judges, court officers, witnesses and other threatened persons when necessary to prevent criminal intimidation in connection with the judicial process or other official proceedings.

6. 18 USC 566(e)(2) authorizes the Service to conduct fugitive investigations, domestic and foreign, as directed by the Attorney General—authority currently provided to the Service under 28 CFR 0.111(q). This subsection further provides that such authority shall not be construed to interfere with or supersede the authority of other Federal agencies or bureaus to conduct such investigations.

7. 18 USC 566(f) retains the current requirement contained in Section 572a concerning the deposit of public monies into the Treasury.

8. 18 USC 566(g) retains current law which provides for the transfer of prisoners (section 573) and unserved process (section 574) from departing marshals and deputy marshals to their successors.

9. 18 USC 566(h) retains the provision of current section 571(a) requiring the payment by marshals of US Attorneys' offices expenses as may be directed by the Attorney General.

Section 2761(a)(2) makes necessary renumbering changes to Title 28 and repeals sections 572a, 573, and 574 which have been consolidated into sections 565 and 566.

Section 2761(a)(3) makes conforming changes to the table of sections.

Section 2761(b) amends 28 USC 755 to delete the third paragraph which limits the compensation for court bailiffs to $6.00 per day.

Section 2761(c) makes the following amendments to 28 USC 1921 with regard to Marshals Fees:

1. 28 USC 1921(a)(1) amends current law to allow the Attorney General to set fees collected from non-federal entities by Marshals in civil and criminal matters at levels reflecting the actual cost of the service provided. Current law explicitly sets the fee for the particular service performed at unrealistically low levels (a maximum of $3.00) well below the actual cost to the Government, thus subsidizing at the taxpayers expenses the service of non-federal process.

28 USC 1921(a)(2) retains current law in 28 USC 1921(a)(6) which provides that a deposit shall be collected to cover the expenses for the maintenance of attached property and other amounts shall be collected as necessary to provide for the continued maintenance.

28 USC 1921(a)(3) retains current law in 28 USC 1921(a)(9) which provides the method for computing mileage when a Marshal acting pursuant to 1921(a)(1)(G) makes two or more services or endeavors on behalf of: (1) the same party in the same case on the same trip or, (2) the same party for service on the same person in the same case. Under this section, the current fee for mileage (12 cents) is deleted.

2. 28 USC 1921(b) provides that the Attorney General may set by regulation the fees for the services performed by the Marshals, so that such fees will reflect the actual and reasonable costs of the services.

3. 28 USC 1921(c)(1) retains current law with regard to the collection of a commission by the Marshals for the sale of forfeited property. The section adds a new provision which allows the Attorney General to set the range of the commission. This would allow for those situations where the commission would not cover the maintenance costs, i.e. where the maintenance cost greatly exceeds the value of the property. It would also limit the commission to a reasonable level in cases where the property has extraordinary value.

28 USC 1921(c)(2) authorizes the Attorney General to establish by regulation a minimum and maximum amount of the commission to be collected.

4. 28 USC 1921(d) retains current law in 28 USC 1921(b)(2) which authorizes the Marshals to require a deposit to cover the fees for their services.

Section 2761(d) adds a new section to title 18, chapter 301 (relating to prisons and prisoners) which codifies the Service's responsibilities with respect to the support of federal prisoners in non-federal institutions as follows:

1. 18 USC 4013(a)(1-3) authorizes payment from appropriated funds for the costs of necessary clothing and medical care for Federal prisoners in non-federal institutions and for the payment of rewards in connection with the capture of Federal fugitives (18 USC 3059).

2. 18 USC 4013(a)(4-5) codifies the authority for the Cooperative Agreement Program under which the Service provides funds for state and local jail construction or modernization in exchange for the housing of Federal prisoners in those facilities. Congressional and administration initiatives leading to increased numbers of arrests of drug violators and other criminals require a significant expansion of available jail space for their short-term incarceration. This secure housing is obtained for the Federal government through the Marshals Service Cooperative Agreement Program.

Section 2761(e) amends 5 USC 5315 by adding the Director to those for whom compensation at Executive Level IV (currently $77,500) is authorized. This does not increase the salary of the current director, which is at SES-6 (exactly the same as Executive Level IV). The change made by this section is included only because the Act makes the Director a Presidential appointee, and the Executive Level designation is reserved for Presidential appointees.

Section 2762. National Advisory Commission on Law Enforcement. This section establishes an independent National Advisory Commission on Law Enforcement.

Membership will include: 4 members chosen by the bipartisan leadership of the Senate; 4 by the bipartisan leadership of the House of Representatives; the Comptroller General (Chairman); Director of Personnel Management; Attorney General and 3 members chosen by him from officials of the Department of Justice; Secretary of Treasury and 2 members chosen by him from officials of the Department of Treasury; Inspectors General of 3 federal agencies designated by the President; and 3 representatives from federal employee groups selected by OPM in consultation with the Speaker of the House of Representatives and Majority Leader of the Senate.

The Commission shall study pay and other benefits of law enforcement officers in federal agencies and in state and local government to determine what differences exist in pay policies; the rationale for the differences; the extent to which inequities exist among federal agencies with regard to pay policies for law enforcement officers; feasibility of devising a uniform system of overtime compensation for law enforcement officers; how salaries of federal law enforcement officers compare to those of state and local officers in the same area; impact of the rates of compensation on lifestyle, morale, and general well-being of law enforcement officers; recruitment and retention problems of federal agencies due to pay inequities and differences; extent to which federal legislation and regulations may be necessary to correct inequities; and average retirement age of law enforcement officers in federal agencies.

The Commission shall have the power to use services, equipment, personnel, information, and facilities of other federal, state, local, and private agencies; enter into contracts; request information from federal agencies; and hold hearings and call witnesses.

Federal agencies are authorized and directed to make resources available to the Commission as requested.

The Commission will submit a report to the President and to the Congress six months after the date of enactment of this law. The report will include findings and specific proposals for legislative and regulatory changes that it has determined are necessary or appropriate.

SUBTITLE N—STATE AND LOCAL NARCOTICS CONTROL AND JUSTICE ASSISTANCE IMPROVEMENTS—SECTION-BY-SECTION ANALYSIS

CHAPTER 1—STATE AND LOCAL NARCOTICS CONTROL AND JUSTICE ASSISTANCE IMPROVEMENTS

Section 1821. Bureau of Justice Assistance and Unified Grant Programs:

The new section 401 establishes the Bureau of Justice Assistance (BJA) within the Department of Justice. This bureau is to be headed by a Director, who will be appointed by the President and confirmed by the Senate. Making the Director a presidential appointee elevates the status of BJA equal to that of other agencies within the Office of Justice Programs including the Bureau of Justice Statistics, the Office of Juvenile Justice and Delinquency Prevention, the National Institute of Justice, and the Office for Victims of Crime. In addition, it increases the priority of BJA programs and initiatives as well as BJA accountability to Congress.

This bill retains the existing structure with respect to the Bureau of Justice Assistance (BJA), Bureau of Justice Statistics (BJS), National Institute of Justice (NIJ) and the Office of Juvenile Justice and Delinquency Prevention (OJJDP) (the Justice Assistance agencies) except for the provision making the Director of BJA a presidential appointee. Each of the Justice Assistance agencies remains an independent agency, headed by a Presidential appointee with final grant making authority who reports to the Attorney General through the Assistant Attorney General for the Office of Justice Programs (the "Office"). The Office continues to be charged with providing staff support to coordinate the justice assistance agencies. As such, the Office's coordination and reporting-through functions are limited. The Justice Assistance agencies are not a part of the Office.

The new section 402 describes the duties of the Director which represent the combined functions of administering a drug law enforcement program and a related criminal justice improvement program. The Director is authorized to enter into contracts with or make grants to any public or private agency, organization, institution or individual pursuant to the need for broad latitude in program development. The for-profit amendment provides flexibility in entering into contractual agreements and promotes consistency among OJP agencies.

In addition, this section outlines the Director's responsibilities regarding the preparation of recommendations for the national drug control strategy. Recommendations will be based on the review of statewide strategies and input from state and local enforcement officials.

The new section 501 enables State and local governments to address their drug control and related criminal justice system problems while simultaneously contributing to and supporting national drug control priorities and objectives. This section defines the range and types of programs that are eligible for funding, with special emphasis on coordination and integration of efforts at all levels of government. The Senate believes that the general direction of the Bureau's funding priorities under the Justice Assistance Act and Anti-Drug Abuse Act of 1986 has been consistent with these statutes and should be continued. In particular, the Senate believes that the merger of these two programs should not, in any way, diminish the funding priority devoted to community-based crime prevention programs, career criminal and serious offender programs and operational information system programs.

Trends in drug trafficking and abuse patterns demand a concerted, coordinated response—one that is the product of a nationwide strategy that is not limited by jurisdictional boundaries and single constituency interests. The consolidation of the purposes of the Justice Assistance Act of 1984 and the Anti-Drug Abuse Act of 1986 provides the mechanism to address drug control problems and related system-specific problems such as crowded courts and correctional facilities, which in many instances result from the overburdening of the system by drug control imperatives. The merger of drug and justice assistance grant programs is not intended to decrease the priority of the drug issue; on the contrary, it will increase the effectiveness of State strategies in response to this problem. The effect of the merger will be to streamline criminal justice grants to the States whereby States will submit one application for Federal funds relating to drugs and crime.

This system also provides for evaluation of drug control and system improvement programs. States and local government are authorized to use formula grant funds for evaluation. Guidelines for program evaluation will be established by the National Institute of Justice, in consultation with the Bureau of Justice Assistance. It is the intent of Congress not to evaluate each and every project funded under this title, but to assess the effectiveness of broad programs that indicate a potential for having a significant impact on drug demand and supply reduction strategies.

The new section 503 requires participating States to submit statewide strategies for drug control and criminal justice programs with emphasis on violent crime and serious offenders. These strategies will continue to enhance the strategic planning for drug control efforts and improve the ability of the States to address critical system problems that impact on the broader issue of the administration of justice. State strategies should serve as comprehensive blueprints for the coordination of drug control efforts and the targeting of Federal, State and local resources within the States.

The strategies will collect specific information regarding the nature of the drug problem, current efforts, resource needs and programmatic priorities. This information will also include specific data regarding major local jurisdictions, coordination requirements, an analysis of the relationship of the proposed State efforts to the national drug control strategy and the preparation of a plan to coordinate the proposed control programs with federally funded State and local drug abuse education, prevention and treatment programs. States need to implement this plan of coordinated to ensure that Federal funds are being spent in the most effective and efficient manner; for example, a street level heroin enforcement effort could be coupled with a heroin treatment program with the result of moving IV drug users from the streets and into treatment, and thus, prevent the spread of AIDS. Through this effort outlined in this section, State and local governments can continue the coordinated, multi-jurisdictional approach that is crucial to an effective drug control strategy.

This integrated and comprehensive strategic planning process will enhance the availability and utility of the data needed by State and local governments to make informed decisions relative to the priorities and programs from both the supply and demand perspectives. The statewide strategies will, therefore, provide a consistent and uniform data reporting system and establish a mechanism to effect the integration of State and local drug control and system improvement priorities with the priorities and objectives of Federal drug control efforts.

Each State strategy shall contain an evaluation plan which establishes the mechanism which will be employed to assess the impact and effectiveness of programs funded with formula grant funds. The National Institute of Justice, in cooperation with the Bureau of Justice Assistance, will design and distribute evaluation guidelines to assist the States.

The new section 504 establishes the Federal support levels for projects funded in FY 1989 through 1992. Projects funded from FY 1989 and 1990 appropriations may receive federal support of up to 75% of an approved project's costs. Projects funded from FY 1991 and 1992 appropriations may receive up to 50% of an approved project's costs. This formula requires that matching requirements be based on fiscal year appropriation, as opposed to when a project is initiated. The graduated matching fund approach reflects the purpose of this grant program to use Federal resources to promote innovation and information-sharing among the States, thereby enabling the States to assume the funding of those activities most effective within that State.

Up to 10% of the State formula grant may be used, at the State's discretion, for administrative costs. The non-Federal portion of the grant shall be in cash.

The new section 505 defines the Bureau's role and responsibility in the review of State applications. It specifies 45 days as the time allotted for BJA to review and approve a complete application in whole or in part, unless BJA provides written notice to the State applicant outlining specific reasons for disapproval. This requirement is reasonable in light of BJA's record of expedited review of State applications under the Anti-Drug Abuse Act of 1986.

Grant funds shall not be used for land acquisition. Construction projects, other than those for penal or correctional institutions housing drug offenders, are also prohibited. Construction for such penal or correctional institutions may be funded under this section only in proportion to which it is used to house drug offenders.

The new section 506 provides that the base formula grant amount for each participating State shall be $750,000 and that the remaining funds be distributed according to population. This section reinforces the importance of maintaining State strategies and multi-jurisdictional efforts between State and local governments, as well as the role of the State in transferring funds to local governments in a coordinated, efficient manner. Under this provision, all participating States receive a base allocation of $750,000. Section 506(c)(2) also provides that States shall pass through to each local unit of government or combination thereof with a minimum population of 500,000, or if the largest such unit in a State has less than 500,000, to the largest such unit, a percentage of the block grant funds based on the local unit of government's criminal justice expenditures.

In addition, each State is required to allocate up to 10% of its available funds to street sales enforcement programs. The Director may waive this requirement, in whole or in part, upon finding that the requirement is inappropriate in view of the State's documented needs as outlined in their statewide strategy.

The new section 507 requires the governor to appoint a State office which will be responsible for administering funds available under this program, preparing applications, monitoring and auditing, and coordinating efforts with State and local governments.

Section 508 imposes certain time limits on States in distributing federal moneys to local units of government. Section 508(a) requires States to approve applications by local units of government within 45 days unless the State informs the applicant in writing of specific reasons for disapproval. This is the same requirement that the Bureau must meet in reviewing and approving State applications. Section 508(b) establishes time limits on the States regarding the distribution of funds to local units of governments. Specifically, for local units of government with populations of 500,000 or more, or to the largest local unit of government if there is no local unit of government with a population of 500,000 or more within a State, States must make funds available to such local unit of government within 45 days after the Bureau has made funds available to the State. It is important to note that this requirement only applies if the application of such local unit has been submitted to and approved by the State. For all other local units of government, the State must distribute funds within 90 days. Finally, section 508(b) provides that if the State does not meet the deadlines specified in this subsection, the State shall return such funds to the Bureau, which shall provide such funds as quickly as possible directly to the local unit of government.

The purpose of the new section 510 is to advance state-of-the-art drug control and system improvements through national scope programs that demonstrate new and innovative approaches designed to assist the States and local governments. In addition, training and technical assistance will be provided through the discretionary grant program to affect the transfer of technology and enhance the capabilities of personnel involved in drug control and system improvement efforts at the State and local levels.

In carrying out the requirements of this section, the Director is authorized to enter into grants or contracts with any public or private agency, organization, institution, or individual.

The new section 511 allows for 20 percent of available funds to be used for demonstration and national scope programs. Up to 100 percent of the grant may be awarded with Federal funds.

The new section 513 specifies the requirements to be met by any applicant for discretionary funds. These requirements were designed to ensure that all applications are consistent with the purposes of this Part, methodologically sound and comply with relevant provisions of this Part and other applicable Federal laws.

Section 514 establishes a four year limit on funding for individual discretionary grant projects, with the exception that up to two additional years of funding may be provided for selected programs: (1) which have been evaluated and found to be effective or offer the potential for enhancing the criminal justice system and (2) where the grant recipient organization provides at least 50% of the cost of the continued project activities. Such grant recipient provided funds may be from any source of funds, including other Federal grant funds available to the organization.

The purpose of the new section 520 is to provide for an objective evaluation of programs funded under this title and to support continued research and development of drug and drug related crime control programs.

Objective evaluation and research and development can contribute significantly to the nation's drug control efforts by informing the criminal justice community of the most promising and effective strategies and programs. The intent of this section is to provide guidance to States and local governments on the types of information required to determine whether programs are meeting their intended objectives and to conduct more thorough and comprehensive evaluations of programs which are clearly innovative in nature, involve a large expenditure of funds, show a high potential for replications or demonstrate substantial community involvement or awareness.

In addition, evaluation and research are important to ensure that Federal funds are spent in the most effective manner. Evaluations do not have to be conducted for every project, but should be done for all major new programs. For example, if ten street level enforcement programs are funded, three should be evaluated. Research should be practical in order for it to be of assistance to criminal justice professionals in the field.

The National Institute of Justice, in consultation with the Bureau of Justice Assistance, will conduct evaluations of selected State and local formula grants and selected demonstration projects supported through the discretionary grant program of the Bureau. Candidate formula grant programs or projects will be selected based on their potential as demonstration efforts supported by the Bureau. Candidate discretionary grant programs will be selected based on their potential for replication by the States and local governments to enhance their drug control and system improvement efforts.

This section also provides for the National Institute of Justice to conduct research and development on drug and drug-related crime control programs. In conducting such research, the primary focus should be on practical strategies to assist state and local law enforcement agencies in responding to drug and drug-related research needs and priorities as specified in the State strategies.

The Bureau of Justice Assistance will conduct independent, selected evaluations under the authority of Section 801. In addition, the Bureau may conduct evaluations related to program monitoring, financial and compliance auditing and internal program assessments. The Bureau may also evaluate the implementation and impact of State drug control and system improvement strategies. These activities will be designed to ensure the enhancement of State and local drug control efforts, that Federal, State and local governments are fully coordinated and that such efforts are designed to maximize the effectiveness of the National Drug Control Strategy.

CHAPTER 2—JUVENILE JUSTICE AND DELINQUENCY PREVENTION PROGRAMS

Section 1825. Prevention and Treatment Programs Relating to Juvenile Gangs and Juvenile Drug Abuse and Drug Trafficking:

This section creates a new part D in title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (hereinafter referred to in this chapter as "the Act") to address the serious and growing problem of children involved in gangs and drug trafficking. This new problem would authorize the Administrator of the Office of Juvenile Justice and Delinquency Prevention (hereinafter referred to in this chapter as "the Office") to make discretionary grants to public and private non-profit agencies for the following general purposes: to strengthen the juvenile justice system's ability to deal with serious juvenile offenders involved in drug trafficking, particularly in gangs; to improve prevention and treatment programs for drug abusing juveniles, particularly for juveniles involved in gang activities; to reduce drug trafficking and drug-related crime in elementary and secondary schools; and to improve the adjudicative and corrections components of the juvenile justice system, including juvenile and family courts. The paragraph authorizing funds for juvenile corrections improvements should not be construed as to mark any significant change away from the Act's emphasis on the deinstitutionalization of juvenile offenders. There are, however, a small number of hard-core juvenile offenders for which certain types of institutional settings are appropriate, and funds should be available to provide training to such corrections personnel.

The juvenile gang and drug trafficking and abuse programs for which funds are made available under this new part D are balanced between treatment and prevention and law enforcement programs. It is intended that funding provided to programs under this section should reflect such a balance.

The authorization for this section provides $15 million for discretionary grants by the Administrator. When coupled with the changes in allocations for formula and discretionary funds in section 1828, the total amount of funds flowing directly to the states through formula grants will increase by approximately $6 million while discretionary funding will increase by $9 million.

Section 1827. Authority to Make Grants:

This section requires the Administrator of the Office (hereinafter in this chapter referred to as "the Administrator) to use up to two percent of the funds available for formula grants, to provide technical assistance to the states, units of government, and private agencies to improve compliance with section 223, including implementation of the state plans.

Section 1828. Allocation:

This section increases the minimum formula grant allocations to the states from $225,000 to $325,000. The allocations for the territories also is increased from $56,500 to $75,000. The minimum state allocations would increase to $400,000 and $100,000 for the states and territories, respectively, in the event that appropriations for parts A, B and C of title II exceeds $75 million. The minimum allocations for the states and territories have not been increased since the 1977 amendments to the Act.

The increased minima are also necessary to ensure that all states benefit from the increased funding for part B formula grants provided in this chapter. This section also ensures that no state will receive a disproportionate reduction in funding as a result of the minimum allocation increase.

Section 1829. Technical Assistance and Training Functions:

This section amends section 244 of the Act to consolidate certain provisions relating to technical assistance and training. The movement of technical assistance and training functions to part C, however, should not be construed in any way as diminishing the priority of the Office's technical assistance and training functions (including programs to improve the effectiveness of juvenile court systems) which shall receive, at the least, the same priority and funding that they currently receive.

Section 1830. Technical and Conforming Amendments to Parts B and C of title II:

This section amends the Act by transferring the special emphasis prevention and treatment programs, currently located in subpart II of part B to part C as a new subpart II. Changes made to the special emphasis programs include: expansion of the provision regarding youth advocacy to include services which improve legal representation of youth; and minor changes clarifying the law-related education provisions to clarify that these proven-effective programs be made available in a variety of community settings.

Section 1831. Authorization of Appropriations:

Subsection (a) reauthorizes all titles of the Act for four additional years at the existing authorization level of "such sums as may be necessary."

Subsection (b) changes the percentage allocation that each part (other than the new part D) receives from the total annual appropriation for title II to reflect the transferring of functions among parts A, B and C. Since the technical assistance and training function has been moved from part A to part C, the allocation for part A has been reduced from 7.5 percent to 5 percent. The new part B, which includes only the formula grant program, will now receive an allocation of 70 percent, a significant increase above the 61 percent that has been historically allocated to formula grants. Finally, the allocation for the new part C, which now includes the special emphasis prevention and treatment programs, technical assistance and training and the National Institute of Juvenile Justice and Delinquency Prevention, will be increased from 11 percent to 25 percent.

Section 1832. Technical Amendments to Part D:

This section simply consolidates the general and administrative provisions of title II in a new part E.

CHAPTER 3—RUNAWAY AND HOMELESS YOUTH

Section 1835. Runaway and Homeless Youth Act Reauthorization:

This section reauthorizes the runaway and homeless youth provisions (title III) of the Juvenile Justice and Delinquency Prevention Act (hereinafter referred to in this chapter as "the Act") through 1992 at the current "such sums as may be necessary" level.

Section 1836. Authorization of Transitional Living Projects:

This section amends title III of the Act (hereinafter referred to in this chapter as the "Runaway and Homeless Youth Act") to authorize a new grant program for public and private non-profit entities to establish and operate transitional living projects for homeless youth. This section defines homeless youth as any individual between the ages of 16 and 21 for whom it is not possible to live in a safe environment with a relative and who has no other safe alternative living arrangement. A "transitional living youth project" is defined as a project that provides shelter and services designed to promote a transition to self-sufficient living and to prevent long-term dependency on social services.

To be eligible for a grant, an applicant must submit to the Secretary a plan in which the applicant agrees among other things: to provide shelter and services to homeless youth for a continuous period not to exceed 540 days; to accommodate not more than 20 individuals (excluding staff) in a shelter facility and to provide within that shelter enough staff to ensure that all homeless youth participating in such projects receive adequate supervision and services; to provide services such as counseling in interpersonal skill building and educational advancement, job attainment and basic life skills; to provide a written transitional living plan to each youth designed to facilitate the transition from supervised participation in such a project to independent living or another appropriate living arrangement; to provide outreach; and to submit to the Secretary an annual report that includes information regarding the activities carried out with the funds, the achievements of the program and statistical summaries describing the number and characteristics of the homeless youth who participate in such a project. In making grants, the Secretary is directed to give priority to entities that have experience in providing services to homeless youth. The Secretary shall annually report to Congress on the status and accomplishment of this project.

The bill authorizes $5 million for FY 89 and such sums as may be necessary for FYs 1990, 1991 and 1992; however, the bill does require that the appropriation for part A of the Act must first reach the FY 88 funding level of $26.1 million. This requirement ensures that funding is not taken from other essential programs under the Runaway and Homeless Youth Act, while simultaneously recognizing the urgency of the homeless youth problem.

The Runaway and Homeless Youth Act was amended in 1977 to include homeless youth. As a result of this amendment, homeless youth are eligible to receive certain services and have availed themselves of this opportunity. The Act, however, does not provide for long-term services to this population. While short-term emergency services with a focus on family reunification meet the needs of runaway youth, homeless youth, who by definition have no alternative safe living environment, require long-term shelter and services to aid in the transition to independent living.

The purpose of the new transitional living program is to move beyond the first step of crisis intervention and address the unique problem of homeless youth by providing them the long-term shelter, counseling, and other critical services that they need. Although there are limited resources now available which have been used to set up independent living programs for homeless youth, the funding is scarce and a greater federal response is necessary. This new authorization will begin to fill a significant void by providing limited federal funds specifically to meet the special needs of the homeless youth.

Programs funded under this section will help homeless youth make the transition to self-sufficient adulthood. The Committee recognizes that education and employment preparation are key to self-sufficiency, and hopes that the transitional living programs will pay special attention to those services.

Section 1837. Grants for Runaway and Homeless Youth Centers:

Section 1837 amends section 311 of the Runaway and Homeless Youth Act to direct the Secretary of Health and Human Services (hereinafter referred to in this chapter as "the Secretary") to make grants to public and private entities to establish and support local runaway and homeless youth centers. This section merely establishes what the Secretary is authorized to do under existing law. While the language of this section is drafted in generic terms, these grants are frequently referred to by the Department of Health and Human Services as "basic center grants." This section establishes a minimum allocation of $75,000 for the states and $30,000 for the territories and requires that not less than 90 percent of the funds appropriated under title III of the Act be distributed for "basic center grants." This section also protects against any state receiving a reduction in funding as a result of the minimum allocations.

CHAPTER 4—MISSING CHILDREN'S ASSISTANCE ACT

Section 1841. Missing Children's Assistance Act:

Subsection (a) extends the current authorization of funding for the Missing Children's Assistance Act (title IV of the Juvenile Justice and Delinquency Prevention Act of 1974) for four additional years through 1992.

This section also makes several minor and technical amendments, including: authorizing the national resource center and clearinghouse on missing children to provide training to law enforcement personnel on the prevention, investigation, prosecution and treatment of cases involving missing and exploited children; and requiring certain grants to be awarded through a competitive process.

CHAPTER 5—FAMILY VIOLENCE PREVENTION ACT OF 1988

Section 1845. Short Title.

This section states that this part may be cited as the "Family Violence Prevention Act of 1988."

Section 1846. Data Collection and Reporting:

This section requires the Attorney General (and, by delegation, the Federal Bureau of Investigation) to include incidents of domestic and family violence in the uniform crime reports compiled by the Department of Justice. Collecting such statistics is consistent with the federal government's responsibility to compile and distribute national crime statistics. This is particularly important in the area of domestic violence, where a dearth of statistics at the federal, state and local levels has hindered the ability of law enforcement officials to develop and implement domestic violence programs. This section also authorizes "such sums as may be necessary" to collect and publish these statistics.

This section should complement the new provision in the Drug Control and Criminal Justice System Improvement Grant Program which adds domestic and family violence programs to the list of programs that can be funded under chapter I of this subtitle. As a result, state and local law enforcement agencies shall be eligible to receive limited federal funding to improve their response to incidents of domestic and family violence, including spouse abuse, child abuse and abuse of the elderly. These targeted resources should assist the states in incidents of domestic violence.

CHAPTER 6—REGIONAL INFORMATION SHARING SYSTEM GRANTS

Section 1851. Regional Information Sharing System Grants:

This section creates a specific authorization for the Regional Information Sharing System. This program, funded by the Department of Justice since the 1970s, provides grants to seven multi-state information sharing systems that link law enforcement agencies to a common data base. This allows police departments to share criminal intelligence information across jurisdictional boundaries that have previously blocked regional and interstate cooperation. In addition, funds provided in this section will be available to provide technical assistance and training and to establish an analytical component in each system to assist state and local agencies in analyzing, interpreting and distributing criminal intelligence to participating agencies. The guidelines established in this section are consistent with existing Department of Justice regulations for the RISS program. The Senate believes that a specific authorization for these programs will make these programs a higher priority within the Department of Justice and provide a more secure basis for future funding for the RISS programs.

CHAPTER 7—PUBLIC SAFETY OFFICERS' DEATH BENEFITS IMPROVEMENT

Section 1855. Public Safety Officers' Death Benefit Improvements:

This section increases from $50,000 to $100,000 the basic death benefit level payable to the families of public safety officers who are killed in the line of duty. This adjustment is needed to correct for the impact of inflation, which has eroded the benefit since the $50,000 level was established in 1976. In addition, this section provides for an annual adjustment in the benefit based on the Consumer Price Index. Finally, this section deletes the requirement that a parent be a dependent in order to qualify as a beneficiary. These changes are necessary not only to assist the families of public safety officers who are killed in the line of duty, but also to symbolize this country's support for the women and men who daily risk their lives to protect our families, our communities and our property.

Section 1856. National Programs for Families of Public Safety Officers who have Died in the Line of Duty.

This section authorizes and directs the Bureau of Justice Assistance to use up to $150,000 of the funds appropriated for this part to establish national programs to assist the families of public safety officers who have died in the line of duty. Such programs should help the families address the pyschological trauma associated with the sudden loss of a family member. In addition, the Bureau of Justice Assistance should develop model programs that could be replicated at the state and local level to assist such families.

CHAPTER 8—CRIMINAL HISTORY RECORD, ARREST WARRANTS AND STOLEN VEHICLE RECORD INFORMATION IMPROVEMENT

Sections 1861-1864 authorize $5 million per year, for 5 years, for grants to improve the accuracy, inclusiveness or completeness of criminal history record information, arrest warrant information and stolen vehicle record information. Grants are to be made on a discretionary, fifty-fifty, federal-state/local matching basis for up to 80 percent of funds appropriated for this program, and on a discretionary, 100 percent basis for the remaining 20 percent of funds appropriated for this program.

Accurate, timely, inclusive and complete criminal history record information and arrest warrant and stolen vehicle record information are of critical importance, both within and outside the criminal justice system. High quality data promotes effective law enforcement; protect personal privacy; assists research efforts. Unfortunately, numerous studies indicate that criminal history record information, arrest warrant and stolen vehicle record information is often of poor quality. A 1982 report published by the Office of Technology Assessment, ("OTA"), *An Assessment of Alternatives of a National Computerized Criminal History System*, found that the average nationwide disposition of reporting rate for arrest entries was about 66 percent. Over a dozen states reported disposition reporting rates of less than 50 percent. Eight states reported disposition of reporting rates of less than 25 percent. In addition, OTA found that approximately one-fifth of criminal history records contained material errors. A 1986 update of OTA found "significant continuing record quality problems". In addition, studies by a number of states and by SEARCH Group, Inc., in conjunction with the Bureau of Justice Statistics, have found that significant data quality problems for criminal history data persist among both State and local criminal justice agencies.

Studies by the Federal Bureau of Investigation with respect to arrest warrant and stolen vehicle information (the so-called "hot files") also reveal numerous problems due to errors, and incomplete or out-of-date information. FBI audits indicate that invalid warrant information in some states constitutes almost 15 percent of the data base. These problems persist despite a 15 year federal commitment to improving the quality of criminal history record and "hot file" information. *See* section 524(b) of the Crime Control Act of 1973, 42 U.S.C. Sec. 3789g, the implementing regulations and 28 C.F.R. Part 20. Accordingly, the Senate has determined that a national grant program targeted upon improving the quality of criminal history and "hot file" data is necessary. Although the amount of money contemplated by this bill ($5 million a year for 5 years) is not large, the monies are to be awarded on a discretionary basis so funds can be targeted in areas and on programs that are most likely to have a significant impact. In addition, the bill requires that agencies receiving grants set and meet numeric goals for the improvement of data quality. Agencies are also required to provide audit data, both before and after the grant period, to permit BJS and the grantee to monitor the extent and nature of their progress.

Section 305(a) identifies twelve types of programs that have proven to be effective in improving data quality. These programs involve both automated and manual systems. In addition, Section 305(a)(13) gives the Director discretion to award grants for other programs that can reasonably be expected to assist in improving data quality. This flexibility, along with 100 percent funding with respect to 20 percent of the appropriation, assures that sufficient coordination, training, technical assistance and research takes place to support the program on a national basis and to permit the effective identification, communication and propagation of successful strategies and policy initiatives for improving data quality.

Of course, criminal history record information (defined as information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, information or other formal criminal charges and any disposition arising therefrom, sentencing, correctional supervision and release); arrest warrant information (defined as identification record information on an individual against whom there is an outstanding arrest warrant, including the charge for which the warrant was issued, and information relevant to the individual's danger to the community and any other information that would facilitate the apprehension of the individual); and stolen vehicle record information (defined as information identifying a specific vehicle and related identification record information where there has been an initial determination that the vehicle has been stolen and any other information relevant to the location and repossession of the vehicle) represent only components of criminal justice record information. Criminal justice record information is defined as information collected by any component of the criminal justice system on individuals consisting of identifiable descriptions and notations describing the individual's contact with the criminal justice system. Criminal justice record information includes not only criminal history record information and arrest warrant information, but also intelligence and investigative records, information about charges and indictments and other information used for prosecutorial purposes, disposition and other information held by courts and used for adjudicatory purposes and correctional and release information.

The quality of criminal justice record information is important. Criminal justice records play a significant role in criminal justice and noncriminal justice decisions. In addition, the criminal justice system is increasingly an integrated system, and the quality of information in one record system affects the quality of information in other records systems. Accordingly, Section 1003 authorizes the Bureau to conduct or make grants to support research to determine the extent and nature of date quality problems in criminal justice record systems. At present, relatively little is known about the extent or the nature of such problems. This research effort will permit the Congress and the executive branch to make an appropriate response to the data quality problems identifies by this research.

CHAPTER 9—COLLEGE AND RAILROAD POLICE INFORMATION

Section 1865. College and Railroad Police Information:

This section permits the Attorney General to provide access to police agencies associated with private colleges and railroads, access to federal criminal justice data banks. Under existing law, the Attorney General has the authority to determine the criteria by which state and local police agencies are allowed access to federal criminal justice data banks. By adding college and railroad policy agencies to the list of agencies authorized to have such access, the Attorney General would have authority to establish criteria by which such agencies may gain access to federal criminal justice data banks.

CHAPTER 10—ASSISTANCE TO STATE AND LOCAL COURTS

Section 1871. State Justice Institute Reauthorization:

Subsection (a) provides a four-year reauthorization for the Institute; $15 million is authorized for fiscal 1989, and such sums as may be necessary are authorized in fiscal 1990, 1991, and 1992.

Subsection (b) makes a variety of minor and technical amendments as follows:

Paragraph (1) amends section 203(f) of the State Justice Institute Act (hereinafter in this chapter referred to as "the Act") relating to rulemaking to conform with the provision of the Administrative Procedures Act, title 5, United States Code, section 553(d).

Paragraph (2) amends section 205(d)(2) of the Act to make Institute employees eligible for coverage under the Federal Employees' Retirement System established under chapter 84 of title 5, United States Code.

Paragraph (3) amends the Act to clarify that the Institute may support alternative dispute resolution projects that involve judicial and non-judicial personnel; and deletes section 206(c)(4) of the Act which authorizes the Institute to expend certain funds.

Paragraph (4) amends section 206(d) of the Act to make the 50 percent match requirement for state judicial systems applicable to local governments as well.

Paragraph (5) amends section 207(a) of the Act to eliminate the requirement that the Institute continue interim funding, until after the conclusion of a formal administrative hearing, to a recipient whose application for refunding has been denied by the Board of Directors.

Subsection (c) of this section amends section 209 of the Act by deleting section 209(2), which establishes special hearing procedures for recipients whose applications for refunding had been denied, and adding a new section 209(b) to protect the confidentiality of information made available to persons conducting research under a grant from the Institute.

CHAPTER 11—VICTIM COMPENSATION AND ASSISTANCE

Section 1875. Victims of Crime Act of 1984 Reauthorization:

This section reauthorizes the Crime Victims Fund (hereinafter in this chapter referred to as "the Fund") established by the Victims of Crime Act of 1984 (hereinafter in this chapter referred to as "the Act") and extends the time deposits may be made to the Fund from September 30, 1988 to September 30, 1992.

Section 1876. Victims Assistance Amendments:

This section amends the Victims of Crime Act to require that states make funds available for programs that serve previously underserved victims populations. In keeping with the Department's guidelines implementing the priority language of section 1404(a) of the Act, the Committee directs the Attorney General to issue guidelines that ensure that at least ten percent of a state's victims assistance funds shall be used to provide grants to programs serving previously underserved victims populations, including, for example, survivors of homicide victims, victims of drunk and drugged driving incidents. This section also directs the Department to issue guidelines, after consultation with state and local officials and interested private parties, that provide flexibility to the states in determining the victims populations that may be underserved in their respective states.

It is important to note that the Department of Justice anticipates that revenues into the Fund will increase significantly in the next four years, due to increased criminal fines and improved procedures for fine collection. The Senate believes that these increases should provide an opportunity to fund new programs serving underserved populations without decreasing the level of commitment to existing programs, including priority programs. This section also requires the Director to issue guidelines, after consultation with state and local officials and interested private parties, that provide flexibility to the states in determining the types of victims that are underserved in such state. The Senate also believes that the intent of the priority language under section 1404(a) of the Act should be clairifed in that it is not the intent of Congress that specialized victim assistance programs serving only one or more of the priority victim populations be required to provide generic victim services in order to remain eligible for crime victim assistance grants.

Section 1404(a)(2)(A) requires that the chief executive certify that three types of crime victim assistance programs—rape crisis centers, domestic violence shelters, and child abuse programs—will receive priority in the distribution of grant money within the State. This requirement will remain in effect until expiration of the Victims of Crime Act on September 30, 1992. The requirement ensures that an adequate portion of each State's grant under section 1404(a) will be used to sustain and maintain a variety of vitally important crisis intervention services provided on a 24-hour per day basis to the targeted crime victim populations.

Finally, state victim assistance administrators are directed to work more closely with victim advocacy and victim service providers to help them to understand the eligibility and application procedures for grants, review and processing of grants, the priority language and eligibility criteria applicants must meet. State victim assistance administrators are further directed to develop a needs assessment to evaluate underserved victim populations, and develop specific outreach plans to increase the availability of victim assistance grants.

Section 1881. Establishment of Office.

This section amends the Act to establish the Office for Victims of Crime (hereafter referred to in this section as "the Office") as a bureau within the Department of Justice. While it is anticipated that the current structure of the Office will largely be maintained, the Senate believes that establishing the Office as a bureau highlights the importance of the Office and ensures future continuity in the Office's work. The Director of the Office shall be appointed by the Attorney General. The Senate believes that the Director should be a recognized expert in the law enforcement or social services fields (and preferably both), with some experience assisting victims of crime. This section further provides that the Director shall have the authority to make grants under the Act and shall have final authority for all grants, cooperative agreements and contracts awarded by the Office. Finally, section 1102 requires the Director to report through the Assistant Attorney General for the Office of Justice Programs to ensure coordination with other Office of Justice Program agencies.

Section 1882. Technical Amendments to Victims of Crime Act.

This section makes minor and technical amendments to effect the establishment of the Office.

Section 1883. Children's Justice Act Amendments.

This section amends the Child Abuse Prevention and Treatment Act (Public Law 100-294) to transfer responsibility for administration of the Children's Justice Act programs from the Department of Health and Human Services to the Office for Victims of Crime in the Department of Justice. The Children's Justice Act of 1986 amended the Victims of Crime Act by transferring 4.5 percent of the moneys in the Fund to the Department of Health and Human Services for grants to states to improve the investigation and prosecution of child abuse cases.

In two years, the Department of Health and Human Services has not made any grants from funds made available through the Children's Justice Act. The Senate believes that at this time the program should be transferred to the Office for Victims of Crime in the Department of Justice, particularly given the program's objective of improving the investigation and prosecution of child abuse cases through multidisciplinary approaches. The language of this section requires the Director to work with representatives from the Department of Health and Human Services in preparing an annual Program Brief that will specify the priority for programs funded under this section and the criteria to be used for selecting such programs.

This section also includes an important addition to the Children's Justice Act by making funds available for improving the investigation and prosecution of child abuse cases on Indian reservations.

Section 1885. Other Amendments to the Victims of Crime Act of 1984.

Subsection (a) amends section 1403(b)(1) of the Act to add victims of and survivors of victims of drunk driving (including driving while under the influence of other intoxicants) and domestic violence to the eligibility criteria for state compensation programs by December 30, 1991.

Subsection (b) creates a new section 1403(b)(4) of the Act to make explicit that state compensation programs cannot deny compensation to any victim of domestic violence on the basis of a familial relationship with the offender or because the victim lived with the offender at the time of the crime. The Department of Justice is authorized and directed to establish reasonable guidelines to prevent the unjust enrichment of the offender.

The remaining subsections make minor and technical amendments to the Victims of Crime Act.

SUBTITLE O: CHEMICAL DIVERSION

Section 2901.—Short Title.

Section 2902.—The Regulation of Listed Chemicals and Certain Machines.

This section will amend Section 310 of the Controlled Substance Act.

This section stipulates the criteria for recordkeeping and identification of transferees. Records shall be kept on all transactions of precursor and essential chemicals: four years for precursor chemicals, and 2 years for essential chemicals.

The content of these records shall include: the date, identity of those involved in the transaction(s), the quantity and form of the transaction, and the method of transfer. These records shall be made available to agents stipulated by the Attorney General.

Each member of the transaction is required to obtain the identification of the other parties to the transaction.

These regulations shall also apply to tableting and encapsulating machines: except that records shall be required for only 2 years after the transaction. The records for these machines shall include: the purpose for which the machine is intended, the serial number, and the make and the model of the machine.

Each regulated person shall, according to regulations set by the Attorney General, report any "suspicious" transactions involving listed chemicals or tableting or encapsulating machines. These transactions will be those that deemed to be of an extraordinary quantity, an uncommon method of payment, or anything else the regulated person may believe is improper. Also, any excessive loss or dissapearance of a listed chemical or machinery. This must be done at the earliest possible opportunity.

The Attorney General will supply to the regulated persons consultative guidance documents that state, a regulated person shall not make a transaction with the person or persons listed in the document. Unless, that is, the transaction has been otherwise approved by the Attorney General.

All information gathered by the parties involved shall remain confidential, and will be disclosed only as it relates to the enforcement of this act. The Attorney General shall take such steps as necessary to prevent any unauthorized disclosure of this information.

Section 2903.—Import and Export.

This section sets up the import and export guidelines for the listed substances.

21 U.S.C. 953 is amended to make exporting the listed chemicals and listed machinery illegal, unless a report of the exportation is submitted 15 days in advance, and it meets the "legitimate purposes" guidelines. Those are for medical, scientific, or commercial, or other legitimate uses. Regular customers may be exempted from the 15 day reporting requirement, for certain circumstances prescribed by the Attorney General.

The Attorney General must submit, in writing to the regulated person, the reasons why the request was denied. The denial may be followed up by a request for hearing by the regulated person.

The provisions of this section shall take place 60 days after passage of the bill.

This section will also make illegal to import any of the listed chemicals or listed machinery into the territory of the United States (including those intended for transshipment), unless the listed chemicals will be used for commercial, medical, scientific, or other legitimate purposes. The importation of these chemicals will be subject to a 15 day advance report; which may be modified if the Attorney General decides that the parties involved are regular customers, and meet the other filing requirements prescribed by him or her.

This, too, will take effect 60 days after passage.

Section 2904.—Definitions; section 102 of the Controlled Substances Act is amended.

This section stipulates the differences between essential chemicals and precursor chemicals. A precursor chemical is used directly in the manufacture of a controlled substance. An essential chemical is a chemical that is used as a solvent, reagent, or catalyst in the manufacture of a controlled substance.

This section also defines regular customers, regulated persons, and regulated transfers. Also defined is a chemical mixture.

Section 2905.—Amendments to Section 401 of the Controlled Substances Act.

This section amends section 401 of the Controlled Substance Act. It sets out the additional offenses related to the illegal manufacture, distribution, possession and/or evasion of recordkeeping and reporting requirements of the listed chemicals. It also sets the penalties for the different violations. The penalties will be; a fine in accordance with title 18 of the U.S. Code or imprisoned for not more than 10 years, and any person imprisoned for more than 1 year may be suspended from all related activity for not more than 10 years.

Section 2906.—Amendments to Section 402 of the Controlled Substances Act: that is, the confidential information amendment identification and reporting requirements and violations.

Section 2907.—Amendments to Section 403 of the Controlled Substances Act.

This section will make it illegal for unauthorized persons to be in possession of various machines used to the manufacture of medicine; such as, encapsulating machines, or three-necked round bottomed flasks, or machinery specifically designed to manufacture controlled substances, or any machine modified to manufacture a controlled substance. Also made illegal by this act will be the manufacturing, distributing, or importing of these or related machines to non-regulated persons or companies. Violators of this section shall be punished for more than one year and enjoined from conducting related activity for not more than 10 years.

Section 2908.—Amends Section 506 of the Controlled Substances Act.

This section amends the subpoena power of the Attorney General to allow him/her to subpoena witnesses: not just for controlled substances violations but also violations of the chemical diversion provisions of this bill.

Section 2909.—This section creates a forfeiture provision for the listed chemicals or the listed machinery involved in the manufacture or distribution of any controlled substances.

Section 2910.—This section directs the Attorney General to maintain an active program designed to curtail the diversion of listed chemicals. The Attorney General is also authorized to add to or delete from the list of chemicals. He/She will also be directed to promulgate the rules and regulations necessary to the administration of this subtitle.

Section 2911.—Effective date.

This subtitle shall take effect 120 days after enactment.

SUBTITLE P—APPLICATION OF UNITED STATES IMMIGRATION LAWS AND DEPORTATION OF ALIENS COMMITTING AGGRAVATED FELONIES

CHAPTER 1

Section 2915.—Short title—"Violent Criminal Alien Deportation Act."

Section 2916.—Defines "aggravated felony" within the Immigration and Nationality Act to include murder, kidnapping, rape, and drug and firearms trafficking.

Section 2917.—Subsection (a) requires the retention in custody without conditional parole of any alien committing an aggravated felony. Requires state and local authorities to transfer the custody of such aliens promptly to the Attorney General.

Subsection (b) makes aggravated alien felons ineligible for voluntary departure, thereby requiring their formal deportation.

Section 2918.—Increases current penalty for illegal re-entry after deportation from up to 2 years imprisonment or up to $1000 fine to:

Up to 5 years imprisonment and/or up to $10,000 for deported alien felons (other than aggravated alien felons).

At least 15 years imprisonment and up to $20,000 fine for deported aggravated alien felons.

Section 2919.—Extends current penalties for assisting the entry of certain subversive aliens to include also assisting aliens excludable for crimes of moral turpitude, certain other serious offenses, or drug possession and trafficking.

Section 2920.—Establishes criminal penalties (up to $250,000 fine or up to five years imprisonment) for convicted aggravated alien felons who fail to appear having been subpoenaed under the Immigration and Nationality Act.

Section 2921.—Authorizes the Attorney General to conduct in certain prisons the special deportation proceedings for aggravated alien felons established under this subtitle. Instructs the Attorney General, to the extent possible, to consolidate aggravated alien felons into certain prisons. Also, requires the Attorney General within 18 months to report to Congress on the effectiveness of special proceedings under this subtitle.

Section 2922.—Requires the expedited removal of aggravated alien felons.

Subsection (a) allows a conviction of an alien involving an aggravated felony to serve as conclusive evidence of deportability.

Subsection (b) requires the issuance of an order of deportation upon sentencing, to be effective upon the completion of the sentence. Subsection (c) requires that certain information be contained within the deportation order, and that it be personally served in the alien's native language.

Subsection (d) allows for petitions to vacate deportation orders on the grounds that (1) it involves a U.S. citizen, and not an alien, (2) the person in custody is not the person named in the order, or (3) the offense involved is not an aggravated felony.

Subsection (d) also establishes the process for such appeals, which—

Requires that petitions to vacate deportation orders be served on U.S. Attorneys, who must respond to the petition to the District Court within 30 days;

Permits the District Court to conduct a hearing within that 30-day period to resolve any disputed questions of fact, consistent with Federal Rules of Evidence. The court may either finalize or vacate the deportation order; and

Permits the district court's decision to be appealed to the appropriate U.S. court of appeals.

Section 2923.—Eliminates the withholding of deportation of aliens convicted of drug trafficking.

Section 2924.—Broadens arms possession and trafficking violations which are deportable offenses to include those defined in the criminal code.

Section 2925.—Adds individuals who have assisted aliens to enter the U.S. in violation of the law ineligible to enter the United States to the list of excludable offenses requiring a waiver from the Attorney General in order to enter the U.S.

Section 2926.—Alters definition of offense for assisting aliens to enter illegally to include those conducted "knowingly," rather than "knowingly and for gain."

Section 2927.—Prohibits aggravated alien felons to apply to re-enter the U.S. for ten years following their deportation, while maintaining the current five-year ban on re-entry for other deportable offenses.

Section 2928.—Broadens the forfeiture authorities of the Immigration and Nationality Act to include personal or real property, monies, and other things of value.

Section 2929.—Applies present penalties against those persons involved in escape from prison, providing contraband in prison, and inciting a riot in prison, to aliens detained by the Immigration and Naturalization Service pursuant to an order of exclusion or deportation.

Section 2930.—Authorizes $25 million for FY 89 to develop and implement a machine-readable passports, visas, and other travel and identity documents, to be allocated among the Customs Service, the Immigration and Naturalization Service, and the Department of State. These agencies are directed to develop such a program to improve border entry and departure control through the automated data capture of machine-readable travel and identity documents and through the exchange of enforcement data between relevant enforcement data between appropriate federal law enforcement agencies.

SUBTITLE Q: FORFEITURE AND CUSTOMS

CHAPTER 1

Sec. 2931.—Department of Justice Assets Forfeiture Fund.

Amends current law (28 U.S.C. 524(c)(1) to: allow overtime salaries of Federal agencies to be reimbursable expenses under the Fund; allow experts in management of seized property and outside consultants to be employed and reimbursed by the Fund; allow Federal, state and local agencies who participate in joint Federal law enforcement operations regarding forfeiture cases to be reimbursed under the Fund; allow attorneys skilled in local real estate law to be reimbursed under the Fund; allow automatic data processing equipment to be used to locate forfeitable assets; and, distinguish between those expenses of the Fund which are subject to appropriations and those expenses which are not specified in appropriations.

Amends 524(c)(2) to: increase the limitation for those informants awards that must be approved by senior officials of Justice Department to $200,000, consistent with existing delegation of authority for payment of awards, and increases the cap on the amount of informants awards to $250,000; correct an error in PL 99-570 with respect to payment of awards under (1)(B) and (1)(C) of the statute.

Amends 524(c)(4) to: permit the Postmaster General of the United States to deposit in the Postal Service Forfeiture Fund, the proceeds from Postal Services administrative forfeitures.

Amends 524(c)(5) to: allow interest from investment earnings from the Fund to be deposited in the Fund.

Amends 524(c)(6) to: require two detailed reports from Attorney General to Congress on transactions to and from the Fund: (A) a report on the total value of property forfeited but not liquidated under any law enforced or administered by Justice Department and the total value of the property transferred to state and local agencies; and (B) a report on the specific cash balances, receipts, cash held as evidence, defendant's equity, and carry over funds.

Amends 524(c)(7) to: specify that the Fund will be subject to annual audits.

Amends 524(c)(9) to: authorize such sums as necessary for next 5 years to carry out those functions subject to appropriations; authorizes $15 million for each fiscal year for carry over unless Attorney General determines a greater amount is needed to meet asset specific expenses; and, authorizes transfer of any unobligated monies to the Special Forfeiture Fund established in Section [1941].

CHAPTER 2

Sec. 2935.—Customs Forfeiture Fund at 19 U.S.C. 1616b

Amends 613(a) to: restate current law with changes: specifies that the Customs Forfeiture Fund is for assets seized by Customs Agency as well as U.S. Coast Guard.

Amends 613(a) to: specify that payments associated with liens, remission, and litigation cannot exceed the value of property at time of seizure.

Amends 613(b) to: specify those activities which the Coast Guard may use the Custom Fund to support which include equipping of conveyances used by Coast Guard or state and local agencies in cooperation with the Coast Guard; payment of overtime salaries, travel, fuel, training, equipment and other costs of State and local agencies in cooperation with the Coast Guard; and, costs associated with meeting environmental laws.

Amends 613(e) to: require two detailed reports from Commissioner to Congress on transactions to and from the Fund: (A) a report on the total value of property forfeited but not liquidated under any law enforced or administered by Customs Service and the total value of the property transferred to state and local agencies; and (B) a report on the specific cash balances, receipts, cash held as evidence, defendant's equity, and carry over funds.

Amends 613(e) to: specify that the Fund will be subject to annual audits.

Amends 613(f) to: distinguish amongst those funds not specified in appropriations and those funds for both Customs Service and Coast Guard which are subject to appropriations; authorize $15 million for each fiscal year to carry over into the next fiscal year; and, authorize transfer of any unobligated monies to the Special Forfeiture Fund established in Section [1941].

Amends 19 U.S.C. 1616a(c) to: allow Secretary of Treasury to retain forfeited property for official use or to transfer to other Federal, state or local agencies; and, expands reimbursement authorities to agencies which participate in joint Federal law enforcement operations.

CHAPTER 3

* * * * *

CHAPTER 4: MISCELLANEOUS FORFEITURE PROVISIONS

Sec. 2945.—Transfer of Foreign Property by Attorney General.

This section authorizes the Attorney General to transfer personal property or the proceeds from personal and real property to foreign countries who participate in a seizure or forfeiture of such property if such a transfer is approved by Secretary of State, is authorized in an international agreement, and is made with a country which is certified as cooperating with the U.S. in narcotics control.

Sec. 2946.—Transfer of Foreign Property by Sec. of Treasury.

This section authorizes the Sec. of Treasury to transfer personal property or the proceeds from personal and real property to foreign countries who participate in a seizure or forfeiture of such property if such a transfer is approved by the Secretary of State, is authorized in an international agreement, and is made with a country which is certified as cooperating with the U.S. in narcotics control.

Sec. 2947.—Innocent Owner Provision.

This section directs the Attorney General and the Secretary of the Treasury, within 90 days, to consult and to develop, to the extent possible, consistent regulations providing an administrative procedure by which an innocent owner involved in a forfeiture proceeding can prove his innocence and recover his property. The section requires an individual to meet a two-prong test to prove his innocence consistent with case law (*c.f.* Calero-Toledo v. Pearson Yacht Leasing Co., 416 U.S. 663, 689 (1974)) and applies to forfeitures of conveyances, real property, as well as monies and proceeds traceable to narcotics or properties exchanged for narcotics. This section is not intended to alter the current requirement that a nexus exist between the property and the alleged violation in a forfeiture action. Further, it is understood that the "reasonable steps" requirement under the second prong of the innocent owner test will of necessity vary depending on the extent to which the owner knew or should have known of the possibility that a criminal violation would occur. Finally, it is the intent that personal use quantities of controlled substances. However, it is not the intent that personal use quantities shall include sweepings or other nonpersonal use amounts.

Sec. 2948.—Warrants.

This section allows for the issuance of administrative search warrants under all forfeiture statutes under the same terms as provided for in the Federal Rules of Criminal Procedure.

Sec. 2949.—Postal Service Assistance.

This section provides authority to the Postmaster General of the United States to retain proceeds from administrative forfeitures in Postal Service Forfeiture Fund. The section also gives the Postal Inspection Service general law enforcement authorities and the ability to investigate drug offenses affecting the operation of the Postal Service as determined by and pursuant to limitations contained in an agreement between the Attorney General and the Postmaster General.

CHAPTER 5—ADMINISTRATIVE FORFEITURE

Sec. 2951.—Administrative Provision.

This section increases the threshold for administrative forfeiture from $100,000 to $500,000.

SUBTITLE R—UNITED STATES MAGISTRATES AND COURT REFORMS

Section 2955: Felony Pleas.

This section amends Section 636 of Title 18 of the United States Code to authorize United States Magistrates to conduct guilty plea proceedings in felony cases. Magistrates are appointed according to stringent selection criteria and are currently authorized to conduct a broad variety of judicial duties. Because of the important constitutional guarantees which must accompany the guilty plea process, the taking of a plea can be time-consuming, yet the authority to take guilty pleas is limited to federal district judges. By extending that authority to magistrates, this provision will relieve the caseload burdens which result from heavy criminal dockets.

Section 2956: Sentencing Jurisdiction.

This section amends Title 18 of the United States Code to authorize United States Magistrates to impose sentences on criminal defendants where the parties consent to such a procedure. As with sentencing before a United States District Judge, sentences imposed by a United States Magistrate would be determined according to applicable Sentencing Guidelines. By imposing a requirement that the parties waive the opportunity to proceed before a United States District Judge, this new provision would afford additional procedural protection to criminal defendants.

Section 2957: Drug Days.

This section amends Section 332(d)(1) of the United States Code, by expanding the authority of Circuit Councils to issue orders designating certain days in which the courts within the circuit shall only conduct proceedings relating to drug offenses. This new provision will establish a procedure to enable federal courts to devote specific days to drug cases and thereby provide high-profile priority to the disposition of drug matters.

SUBTITLE S—MILITARY INSTALLATIONS

Sec. 2961.—This section describes the civilian incarceration programs that the Bureau of Prisons will develop and manage on designated military facilities. The designated facilities will be named by the Commission on Alternative Utilization of Military Facilities as authorized in the 1989 Defense Authorization Bill.

The programs operated by the Bureau of Prisons will be directed at non-violent civilian prisoners, have an emphasis on drug treatment and maintain work programs in cooperation with base commanders, where appropriate.

SUBTITLE T: CUSTOMS ENFORCEMENT AMENDMENTS

Section 2965.—This section would give the Secretary of the Treasury the ability to impose requirements on the pilots of planes departing the United States to notify the Department of the Treasury before leaving. This section also increases the penalties on pilots who violate the Tariff Act. The aim is to make it easier to regulate pilots who may be active in narcotrafficking or money laundering, and to prosecute those who violate the procedure requirements.

This section would also facilitate the transfer of property seized under the Tariff Act to the USG, and also allows seized property to be transferred to the possession of foreign governments that participate directly or indirectly with United States law enforcement agencies in anti-drug efforts. This measure aims to encourage the cooperation of foreign governments in the drug war. The transfer of seized property, especially advanced boats, planes, and communications equipment, to law enforcement agencies of foreign countries could improve the performance of these agencies considerably.

This section would allow for fines to be imposed for the "reasonable costs of the investigation and prosecution of the offense" on those who are convicted of violating any law administered or enforced by the Customs Service involving the Bank Secrecy Act, Money Laundering Act, or the Controlled Substances Act. This measure will increase the level of deterrence to those who would violate drug laws at any level by increasing the financial penalty. Moreover, it would help to cover some of the costs that drug-related crime incurs on the criminal justice system.

This section would facilitate the issuing and enforcement of subpoenas by the Secretary of the Treasury for those whose testimony is necessary for the proper enforcement of any law related to the importation or exportation of prohibited merchandise. This measure will increase the speed with which law enforcement agencies can respond to information gathered on drug-related crime.

Section 2966.—This section amends the Federal Aviation Act of 1958 to increase the penalty for violation of the Act. Again, this will strengthen the deterrent to violating laws that make it possible to regulate air traffic.

SUBTITLE U—AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR DRUG ENFORCEMENT AND INTERDICTION

CHAPTER 1 AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR DRUG ENFORCEMENT PERSONNEL, FISCAL YEAR 1989

Sec. 2971. Immigration and Naturalization Service Personnel enhancement.

This section authorizes an additional $12,300,000 for the Immigration and Naturalization Service, including $4,100,000 to provide an additional 70 I.N.S. inspectors and related equipment; and $8,200,000 to increase the commitment of additional special agent and support positions to the Organized Crime Drug Enforcement Task Forces. The additional $8,200,000 will also provide for training, equipment and related costs and shall be used exclusively to assist Federal and local law enforcement agencies in combatting illegal alien involvement in drug trafficking and crime of violence. Funds provided in this section shall also be available to fund a pilot program in 4 cities to improve the capabilities of local I.N.S. offices and of local law enforcement agencies to respond to inquiries concerning aliens who have been arrested or convicted for drug related crimes.

Sec. 2972. Bureau of Alcohol, Tobacco, and Firearms Armed Career Criminal Apprehension Program Personnel Enhancement.

This section authorizes an additional $10,660,000 for the Bureau of Alcohol, Tobacco, and Firearms (BATF) to increase the number of BATF agents involved in the Armed Career Criminal Apprehension program by no fewer than 244 full-time equivalent positions. Of this additional amount, $615,000 is earmarked for the equipping of vessels, vehicles, or aircraft for use by State or local law enforcement agencies when used in drug-related joint law enforcement operations with BATF, and for payment of overtime, travel, training, and other costs of State and local law enforcement agencies involved in joint operations with BATF.

Sec. 2973. Drug Enforcement Administration Personnel Enhancement.

This section authorizes an additional $49,200,000 for the Drug Enforcement Administration (DEA), of which $44,280,000 shall be used to increase the number of D.E.A. enforcement personnel by no fewer than 609 full-time equivalent positions and for related equipment and costs incurred during drug operations. The balance of $4,920,000 shall be available to increase DEA operations against criminals involved in youth gang-related organized crime. This section also authorizes DEA to establish and maintain a DEA drug education program, and authorizes the Deputy Administrator of the D.E.A. to be compensated at Level IV of the Executive Pay scale.

Sec. 2974. Federal Bureau of Investigation Drug Enforcement Personnel Enhancement.

This section authorizes an additional $24,600,000 for the Federal Bureau of Investigation (F.B.I.) to increase the number of drug enforcement agents and related support staff by no fewer than 522 full-time equivalent positions, and for related equipment and costs.

Sec. 2975. United States Marshals Service Drug Enforcement Personnel Enhancement.

This section authorizes an additional $16,400,000 for the U.S. Marshals Service including: $4,920,000 for 100 additional full-time equivalent positions for asset forfeiture activities; $5,740,000 for 82 additional full-time equivalent positions for criminal justice and support activities, including prisoner production and tansportation; $3,280,000 for 45 additional full-time equivalent positions for protection of the Judiciary and court facilities during drug-related trials; and $2,460,000 for 26 additional full-time equivalent positions for increased workloads of the Marshals' Witness Security program.

Sec. 2976. Support of United States Prisoners.

This section authorizes an additional $16,400,000 for support of United States prisoners in non-Federal institutions, of which $4,100,000 is earmarked for the Cooperative Agreement Program to help renovate, construct, and equip State and local correctional facilities. This section also places certain requirements and conditions on the construction projects and space made available by such projects for the housing of prisoners.

Sec. 2977. Federal Prison System.

This section authorizes an additional $205,000,000 for the Federal Prison System, for planning and construction of Federal prisons; renovation, remodeling and equipping of such Federal prisons; and other construction activities designed to alleviate overcrowding in such prisons and to meet the increased demand for prison space resulting from drug-related offenses.

Sec. 2978. United States Attorneys Drug Enforcement Personnel Enhancement.

This section authorizes an additional $36,080,000 for the Department of Justice to increase the number of United States Attorneys and related support staff by no fewer than 757 full-time equivalent positions.

Sec. 2979. Federal Judiciary.

A total of $79,130,000 in additional appropriations is authorized under this section.

Subsection (a) authorizes an additional $43,132,000 for salaries and expenses of the Court of Appeals, District Courts, and other Judicial Services, including: $30,340,000 for probation and pretrial services; $1,640,000 for additional deputy clerks; $656,000 for additional law clerks and clerical support staff; $4,100,000 for additional renovation of court facilities; $4,756,000 for additional U.S. magistrates; and $1,640,000 for the Drug Dependent Offenders program.

Subsection (b) directs the Judicial Conference of the United States to prepare a report evaluating the impact of drug-related crime activity on the Federal Judiciary.

Subsection (c) authorizes an additional $28,700,000 for the operation of Federal Public Defender and Community Defender organizations and related expenses for attorneys, experts and investigations.

Subsection (d) authorizes an additional $2,378,000 for Federal courts fees and expenses of jurors and compensation of jury commissioners.

Subsection (e) authorizes an additional $4,920,000 for the procurement, installation, and maintenance of security equipment and protective services for the U.S. courts in courtrooms and adjacent areas.

CHAPTER 2 DRUG INTERDICTION ASSET AND PERSONNEL ENHANCEMENT

Sec. 2981. Short Title.

This Subtitle shall be cited as the "National Drug Interdiction Asset and Personnel Enhancement Act of 1988."

Subchapter (a) Coast Guard.

Sec. 2982. Coast Guard Drug Interdiction Asset Enhancement

This section authorizes an additional $68,060,00 for procurement of Coast Guard marine and air drug interdiction assets, and operation and maintenance expenses for such assets.

Sec. 2983. Coast Guard Drug Interdiction Personnel Enhancement.

This section authorizes an additional $16,400,000 for Coast Guard Operating Expenses to increase Coast Guard drug enforcement personnel by no less than 435 full-time equivalent positions. This section also makes the recruitment, compensation, and training of personnel, subject to the availability of appropriations.

Subchapter (b) United States Customs Service.

Sec. 2984. United States Customs Service Drug Interdiction Asset Enhancement.

This section authorize an additional $57,400,000 for the procurement of helicopters; interceptor aircraft; and operation and maintenance expenses of the U.S. Customs Service's air drug interdiction program.

Sec. 2985. United States Customs Service Drug Interdiction Personnel Enhancement.

This section authorizes an additional $30,340,000 for U.S. Customs Service salaries and expenses, of which $26,240,000 shall be used to increase the number of Customs inspectors for contraband enforcement teams and other drug cargo interdiction personnel by no fewer than 435 full-time equivalent positions and for related equipment. The balance shall be available for additional drug-related Customs Service law enforcement positions.

Subchapter (c) Drug Enforcement Administration

Sec. 2986. Drug Enforcement Administration Interdiction Asset Enhancement.

This section authorizes an additional $3,280,000 for Drug Enforcement Administration salaries and expenses for additional analysts and equipment designed to enhance the El Paso Intelligence Center (EPIC)'s ability to provide more tactical drug intelligence to Federal drug enforcement agencies.

Subchapter (d) Immigration and Naturalization Service/Border Patrol

Sec. 2987. Border Patrol Drug Interdiction Asset Enhancement.

This section authorizes an additional $16,400,000 for Border Patrol salaries and expenses for procurement of drug interdiction-related equipment for Border Patrol drug enforcement personnel, including 4-wheel drive vehicles, sensors and for related operation and maintenance expenses.

Sec. 2988. Immigration and Naturalization Service/Border Patrol Drug Interdiction Personnel Enhancement.

This section authorizes an additional $16,400,000 for Border Patrol salaries and expenses to increase drug interdiction officers of the Border Patrol by no fewer than 435 full-time equivalent positions, and for related equipment. This section earmarks $2,707,000 out of the aggregate Border Patrol enhancement authorization, for the design of improvements for the I.N.S. border patrol station at San Clemente, California.

This section also authorizes such sums as may be necessary to establish and maintain an I.N.S Drug Education Officers program, including the demonstration of drug detection canine enforcement units.

Subchapter (e) Research and Development Programs to Assist Federal Enforcement Agencies

Sec. 2989. Use of Existing Federal Research and Development Facilities for Civilian Law Enforcement.

This section mandates the newly established Office of National Drug Control Policy to develop a plan for using no fewer than eight (8) existing Federal research and development facilities to develop technologies for application to Federal Law Enforcement agency missions and to provide research and development support to Federal law enforcement agencies. The eight Federal facilities to be examined in developing such plans are:

(1) Department of Defense, Army Materiel Command, Night Vision Laboratory, Ft. Belvoir, Virginia;

(2) Department of Defense, Army Materiel Command, Communications Electronic Command, Fort Monmouth, New Jersey;

(3) Department of Defense, Air Force Systems Command, Electronic Systems Division, Hanscom Field, Massachusetts;

(4) Central Intelligence Agency and National Security Agency facilities, Washington, D.C.;

(5) Department of Defense, Army Materiel Command, Chemical Research Development and Engineering Center, Aberdeen, Maryland;

(6) Department of Energy, Sandia National Laboratories, Albuquerque, New Mexico;

(7) Department of Justice, Federal Bureau of Investigation and Drug Enforcement Administration facilities, Washington, D.C.; and

(8) Department of Defense, Naval Ordnance Station, Indian Head, Maryland.

Under this section, the Director of National Drug Control Policy is mandated to incorporate the views and recommendations of the Federal law enforcement agencies into the plan and the Comptroller General of the United States is required to monitor its development, and report periodically to Congress.

Sec. 2990. Cargo Container Drug Detection Research and Development.

This section authorizes an additional $4,100,000 for the U.S. Customs Service to accelerate the development and availability of X-ray detection, nitrate detection, or other technologies to help detect illegal drugs in cargo containers. The Commissioner of Customs is directed to coordinate and share his findings with other Federal agencies, and report his findings to Congress in conjunction with the President's fiscal year 1990 budget submission.

Subchapter (f) Drug Enforcement Training Improvement

Sec. 2991. Federal Law Enforcement Training Center Improvement.

This section authorizes an additional $5,740,000 for the Federal Law Enforcement Training Center (FLETC) in fiscal year 1989, of which $4,100,000 shall be used to accommodate advanced in-service training requirements of the Drug Enforcement Administration that cannot otherwise be met at Department of Justice training facilities. The balance of $1,640,000 shall be available to increase the amount of drug-related training at FLETC, including State and local training, and shall be used to increase full-time equivalent positions at FLETC in fiscal year 1989 by no fewer than 44. This section also authorizes total, aggregate salaries and expenses for FLETC in fiscal year 1990 and 1991 of $45,000,000 and $50,000,000 respectively. This section also directs FLETC to expand advanced training programs at its Marana, Arizona facility and to report to Congress on plans to implement the enhanced training directives contained and funded in this section.

Sec. 2992. Federal Law Enforcement Language Training Improvement.

This section authorizes $819,000 to be equally divided between the Drug Enforcement Administration; the Customs Service; and the Immigration and Naturalization Service, to allow those agencies to detail special agent personnel to the Defense Language Institute or the Foreign Service Institute for foreign language training. The Department of Defense and the Department of State are directed to provide such training on a reimbursable basis for these agencies. This foreign language training will be used in drug-related law enforcement operations by these Federal law enforcement agencies. These funds shall be provided within total appropriations authorized by this Act.

Subchapter (g) United States-Bahamas Drug Interdiction Task Force Programs

Sec. 2993. Reauthorization of United States-Bahamas Drug Interdiction Task Force Programs.

This section authorizes an additional $4,920,000 for the U.S.-Bahamas Drug Interdiction Task Force established in the 1986 omnibus drug bill. The funds would be authorized to be appropriated to the Drug Enforcement Administration for use for grants or other financial assistance to the Commonwealth of the Bahamas in the establishment of a Bahamian Enforcement Strike Team (B.E.S.T.) that will conduct unilateral Bahamian Government drug interdiction operations in the Bahamas. These unilateral drug interdiction efforts will be conducted under the auspices of the U.S.-Bahamas Drug Interdiction Task Force. The Government of the Bahamas will be required to provide $410,000 in matching funds toward such drug interdiction operations. This section also expresses the sense of Congress that the Bahamas should aggressively move to extradite Nigel Bowe; should consummate the pending extradition treaty with the U.S.; that the United States should provide information to the Government of the Bahamas regarding allegations of corruption and cooperate in extraditing U.S. citizens indicted for drug-related offenses in the Bahamas; and that agents of the Drug Enforcement Administration be permitted to witness the destruction of seized or confiscated narcotics in the Bahamas.

Subchapter (h) Standards of Care in Discovering Contraband

Sec. 2994. Standards of Care in Discovering Contraband.

This section requires the Secretary of the Treasury to prescribe regulations governing the criteria for owners and operators of aircraft, vessels, or other conveyances to be used in exercising the highest degree of care and diligence to keep controlled substances from being imported into the United States aboard such conveyances, and establishes a pilot carrier smuggling prevention program at three international airports.

Specifically, subsection (a) of this Section directs the Secretary of the Treasury to prescribe regulations setting forth criteria for the exercise of the highest degree of care and diligence to be followed by owners and operators of aircraft, vessels, and other conveyances to keep controlled substances from being imported into the United States aboard such conveyances.

Subsection (b) calls for an establishment of an air carrier drug smuggling prevention demonstration program to be conducted by the Department of the Treasury at three (3) high-risk international airports in the United States. Under this demonstration program, the Secretary of the Treasury would prescribe regulations that would govern the inspection procedures to be used by those air carriers participating in the demonstration program, to keep narcotics from being transported on international air carriers from drug source and transshipment countries. Those air carriers participating in the program and complying with those regulations and meeting the test of the highest degree of care and diligence, would not be subject to penalty or seizure provisions of the law, if a controlled substance is found on the flight in question. The burden of proof would be on the air carrier to show that they were in compliance with the regulations and that the carrier was not grossly negligent nor engaged in willful misconduct. This demonstration program will be conducted for a two-year period and would not have any effect on other, ongoing air transportation security requirements prescribed under the Federal Aviation Act of 1958, as amended.

Subchapter (i) Interpol—United States National Central Bureau

Sec. 2995. Interpol—United States National Central Bureau.

This section authorizes an additional $820,000 for Interpol, to be used to increase personnel by no fewer than 23 full-time equivalent positions, to maintain 24-hour per day operations and to upgrade its telecommunications equipment.

Subchapter (j) Civil Air Patrol

Sec. 2996. Civil Air Patrol.

This section directs the Secretary of the Air Force to issue regulations ensuring that the Civil Air Patrol has an integral part to play in both drug interdiction and eradication activities.

This section also requires the Secretary to prepare quarterly reports to the Appropriations and Armed Services Committees regarding the implementation of this Civil Air Patrol initiative in the drug interdiction and eradication effort.

TITLE III—SECTION-BY-SECTION ANALYSIS—TREATMENT, RESEARCH AND EDUCATION PROPOSALS

Section 02. Findings.—This section states Congressional findings with regard to treatment needs: (insert 6 findings)

Section 03. Purposes.—This section states purposes of the act. With regard to substance abuse, the 5 purposes are:

(insert from (a))

Section 04. Sense of Congress: Based on Congress' findings that:

Section 05. References to the Public Health Service Act.—All amendments are to the Public Health Service Act unless otherwise stated.

SUBTITLE A—ALCOHOL, DRUG ABUSE AND MENTAL HEALTH BLOCK GRANT

Section 11. Authorization of appropriations.—Authorizes the block grant at $550.5 million in 1988, $700 million in FY89, $868 million in FY90 and $952 million for FY91.

Section 12. State comprehensive mental health service plan.—Revises requirements for the state comprehensive mental health service plan.

Section 13. Alcohol and drug abuse and mental health services block grants.—Revises requirements and distribution formula for the block grant.

Section 14. Data Collection.—With regard to drug abuse treatment, required the Director of NIDA, in cooperation with the drug agencies of each State, to collect data on the number and variety of private treatment programs available, including the number and type of patient slots, the number and demography of individuals receiving treatment, the type of care received, etc. Requires the Secretary to submit a report to Congress every two years describing the scope of drug, alcohol, and mental services provided publicly and privately, an identification of shortage areas and gaps in services, the number of treatment settings, and the number and demography of individuals served.

Section 15. Model plan for seriously mentally ill individuals.—Required the Secretary to develop a model plan for a community-based system of care for seriously mentally ill individuals.

Section 16. Comprehensive drug treatment assistance program.

a. Authorizes state grants for drug treatment assistance for five years at funding levels of $959.0 million in 1989, $2 billion in 1990, $3 billion in 1991, and such sums in 1992 and 1993.

b. Establishes the formula for distribution of grant funds: 45 percent shall be distributed on the basis of population, 55 percent on the basis of the state's need for treatment and rehabilitation programs.

c. Required the Secretary to make payments according to section 6503 of title 31, U.S. Code. At the end of a fiscal year, unobligated funds shall remain available to such state.

d. Describes the application States must submit for receipt of payments. Applications shall contain an evaluation of programs and activities and the following assurances: "maintenance of effort"; funds will be targeted to communities with the greatest need; the State will provide $1 in new state funds for every $13 in Federal funds received by the State; the State will submit a plan within nine months describing how it could provide services to all individuals weeking services if sufficient resources were available; the State will consult with local governments, etc., in preparing its application.

e. Requires States to submit a State treatment plan as part of its application.

f. Delineates the uses of grant funds which include treatment, support services, referrals, outreach, programs for special populations (i.e. children); and the prohibited use of funds which include inpatient care, cash payments, enrollment in for-profit treatment programs, purchase of land or construction or improvement except under receipt of a Secretarial waiver. The waiver may be granted of a State demonstrates that adequate treatment can't be provided through use of existing facilities.

g. The Secretary shall provide training and technical assistance to the States.

h. The Secretary shall conduct data collection activities.

Section 17. Conforming amendments.

SUBTITLE B—NATIONAL INSTITUTES OF ALCOHOL, DRUG ABUSE AND MENTAL HEALTH

Section 21. Alcohol, Drug Abuse and Mental Health Administration.

a. Amends sections concerning the general operation of ADAMHA.

b. Changes the name of ADAMHA to the National Institutes of Alcohol, Drug Abuse and Mental Health.

Section 22. National Institute of Mental Health.

a. Authorizes new mental health demonstration projects.

b. Repeals existing authority for community support programs.

c. Amends youth suicide data collection provision.

d. Extends authority for block grant for mental health services for the homeless through 1990.

e. Requires the Secretary to conduct service research on community mental health services.

Section 23. Office of Substance Abuse Prevention; demonstration projects for high risk youths.

a. Duties of the OSAP director.—Authoritzes for administering OSAP $39 million in 1989, $48.5 million in 1990, $54.450 in 1991, $59.295 million in 1992 and $65.224 million for 1993. For demonstration projects, authorizes $52 million in 1989, $66 million in 1990, $72.6 m. in 1991, $77.860 m. in 1992, and $87.846 m. in 1993.

Amends section describing demonstration programs for high risk youth.

Requires the Director of NIAAA to establish a public information program on fetal alcohol syndrome.

Section 24. National Institute on Alcohol Abuse and Alcoholism.—Authorizes for research $83 m. in 1988, and such sums for 1989-1991; and for demonstration projects for the homeless $15 m. in 1988, $20 m. in 1989, $25 m. in 1990, and such sums 1991.

Section 25. Drug abuse research.—Amends the authority for drug abuse research to include research on effective methods of drug abuse and prevention, and on new and promising behavioral and chemical therapies for drug abuse.

Section 26. National Institute on Drug Abuse.

a. Authorizes for NIDA $165 m. in 1989, and such sums for 1990-91. For ongoing demonstration projects, authorizes $10 m. in 1989 and '90 and such sums in 1991.

b. The Secretary shall disseminate information concerning effective methods of treating drug abuse.

c. The Administrator of Veterans' Affairs shall evaluate the Veterans' Administration inpatient and outpatient drug and alcohol treatment programs. $1 m. is authorized in 1989 and such sums in 1990 and 1991.

d. Requires the Director of NIDA to conduct annual national surveys of households and of high school seniors on drug abuse, and to collect information on individuals not included in such surveys.

Section 27. Drug abuse treatment demonstration projects.

a. Establishes demonstration projects for effective drug treatment and referral services.

b. Directs the Secretary to award grants where there is a high: demand for services, prevalence of drug use, incidence of drug related criminal activities, etc.

c. Directs applicants to submit applications to the Secretary.

d. Directs the Secretary to give preference to organizations which demonstrate a comprehensive approach to the problem and evidence of community support and involvement.

e. Projects shall be for at least three years, not more than five.

f. Projects shall be evaluated.

g. Authorizes for these demonstrations $24 m. in 1989, and such sums for 1990-1993.

Section 28. Research on alcohol and drug abuse treatment programs.

Section 29. Comprehensive community prevention initiatives.

a-e. Directs OSAP to sponsor workshops to develop a long-term strategy against substance abuse and to coordinate programs. Provides for several types of demonstration programs including: partnerships between local community groups, business and government, projects targeted at cities with serious drug problems which coordinate with government efforts at developing long-term strategies. Programs must be evaluated.

f. Authorizes for Comprehensive Community Prevention Initiative $40 m. in 1989, $55 m. in 1990, $60.5 m. in 1991, $66.550 m. in 1992, and $73.205 m. in 1993.

g. Describes evaluation of OSAP programs. Authorizes for this purpose $15 m. in 1988-1991.

Section 30. Authorization of appropriations.—Authorizes funding for technical assistance $15 m. for 1988 throgh 1991. Authorizes for data collection for 1989-1991, $33 m. in 1989 and $38 m. in FY 1990-1991.

Section 31. Study by the Institute of Medicine.—Directs the Secretary to contract with the IOM for a study of treatment, rehabilitation, and continuing care of persons with mental illnesses.

Section 43. Action by the National Institute on Drug Abuse and States concerning military installations.

a. Directs the head of NIDA to coordinate the utilization of military installations that could be utilized or renovated for the housing of nonviolent drug abuse patients with the Secretary of Defense, the Director of the Bureau of Prisons, the Secretary of DHHS, and the Administrator of the General Services Administration. He is to work with and assist the states in adapting such installations into residential treatment centers.

b. Directs state drug abuse agencies to establish eligibility criteria for receipt of treatment in such installations, assist providers in securing financing for treatment programs, and establish and coordinate work programs for those receiving treatment with military officials.

c. The Director of NIDA may reserve space at such installations for research or demonstration projects.

Section 44. Administration of confinement facilities located on military installations by the Bureau of Prisons.

The Bureau of Prisons shall be responsible for administering confinement facilities on miltary installations in cooperation with the Secretary of Defense, establishing and regulating drug treatment programs for inmates in cooperation with NIA, establishing and managing work programs in cooperation with the installation commander.

SUBTITLE E—MISCELLANEOUS

Section 61. Establishment of the Office of Associate Director for Special Populations.

a. Authorizes the designation of an Associate Director for Special Populations at NIAAA who shall develop and coordinate prevention, treatment, research and administrative policies and programs to assure increased emphasis on needs of women and minorities.

b. Provides for the designation of an Associate Director for Special Populations at NIDA who shall perform the same functions with regard to drug abuse.

Section 62. Model drug abuse insurance plan.

a. Directs the Secretary, in cooperation with the Director of NIDA, members of the insurance industry, the Director of OPM, and members of the business community to develop a model insurance benefit plan to exten coverage to drug abuse treatment and rehabilitation. Must look at the costs and benefits of alternative designs.

b. The Secretary shall report in 6 months with recommendations from this report; the Director of OPM shall report on the appropriateness of incorporating a model plan into the Federal Employee Health Benefit Program.

c. Directs the Secretary to make the report available to the insurance industry and the business community.

Section 63. Training awards.—Authorizes $10 million additional dollars to NIDA, above current appropriations, for National Research Service Awards for research training awards for NIDA.

Section 64. Grants for training of personnel to treat drug abuse.

a. The Secretary may make grants or enter contracts with health professions schools to train personnel in the treatment of substance abuse, to train health personnel in general in the proper diagnosis and referral of substance abusers, and to develop curricula for these purposes. Stipends may be provided.

b. Authorizes $6 m. for 1989.

Section 65. Drug testing certification program requirements.—The Secretary shall establish a procedure for certifying clinical labs that analyze and determine the results of drug tests.

Section 66. Employee Assistance programs.—The Secretary of Labor shall establish a program to enable employees to develop employee drug and alcohol abuse assistance programs.

Section 67. Domestic volunteer service act.—There is authorized to be appropriated $4 m. in 1989-1991 for drug abuse prevention.

Drug free schools

Sec. 3081—Gives the short title

Sec. 3082—Increases funding level for the Drug Free Schools Act to $405,000,000 (from current $250,000,000) for fiscal year 1989, and to $489,000,000 for fiscal year 1990 and increases funding by 10% per year through 1993

Sec. 3083(a)—Required teacher training in drug education and prevention as one of the uses of the state (governor's) share of funds. Such training programs are to be operated through the state higher education agency or the state education agency, as appropriate.

Sec. 3083(b)—Rewords the current section (Sec. 5122(a)(2)) to reflect the making of teacher training mandatory.

Sec. 3083(c)—Provides for the establishment of regional substance abuse education and prevention centers within states. The purpose is to better coordinate referral as well as the sharing of information on effective techniques of education and prevention so that funds are spent on methods that work.

Sec. 3083(d)—Adds those who have "experienced chronic failure in school" as one of the groups considered as high-risk youth.

Sec. 3084(2)—Requires that the Governor include a detailed comprehensive plan describing how money allocated to the chief executive officer is to be used. This requirement is added to allow for better monitoring of how these funds are to be spent.

Sec. 3084(5)—Requires the state application to include, if applicable, a description of state teacher certification requirements in substance abuse education and prevention training and the extent to which substance abuse education is included in teacher training. The purpose is to gather information on the extent of teacher training in this area and to what further needs to be done.

Sec. 3085.—Modifies a use of state education agency funds to allow development, identification, and dissemination of model curriculum materials for consideration by local educational agencies; and makes teacher training a priority use of funds allocated to the state education department.

Sec. 3086.—Adds "families" as a group to which drug abuse counseling programs may be targeted; adds "outreach activities, drug abuse prevention programs, and referral services, for school dropouts" and "counseling programs and referral services for parents and siblings of substance abusers" as purposes for which substance abuse education and prevention efforts may be targeted. These additions recognize the serious impact that drug abuse can have on other family members.

Sec. 3087.—Amends the description of the biennial state report to require a description of the extent of the drug and alcohol problem in the schools in the state, the school drug and alcohol policy in the state, the number and the characteristics of populations served by their programs, the types of services provided and duration of those services, information on how high-risk youth were targeted, and the effectiveness of their programs. Allows states to obtain this information from local educational agencies. The purpose is to correct a lack of reliable data on the extent of the problem and the types and effectiveness of the programs provided.

Sec. 3088.—Adds a new Part C "Teacher Training" authorizing $16,000,000 in 1989, and $20,000,000 in each of 1990, 1991, 1992, and 1993, to establish, expand or enhance teacher training programs concerning drug and alcohol abuse prevention. Funds would only be available for this part if funds appropriated for the balance of the drug free schools act exceed $230,000,000.

Sec. 3089(a).—Amends the section of the Drug Free Schools Act currently providing for the production of the audio-visual and curricula materials to include coordination with the Partnership for a Drug Free America. This recognizes the highly successful current effort of media and private sector in drug abuse education and prevention.

Sec. 3089(b).—Adds requirements that the Secretary of Education summarize and consolidate the information from State reports and make a report to the Congress based on these reports; and that the Secretary of Education, in conjunction with the Secretary of Health and Human Services, conduct an independent evaluation of a representative sample of programs funded under this act and report the results of the evaluation to the Congress. From the evaluation, the Secretary of Education is to identify successful projects that may be replicated throughout the country. In addition, the Secretary is to disseminate information from the evaluation through the National Diffusion Network and through the Regional Centers.

Sec. 3090.—Requires the Secretary of Education to develop a model criteria and forms for data collection regarding programs funded under this act.

Sec. 3091.—Adds a new Part F requiring the Secretary of Education in concultation with the Secretary of Health and Human Services to develop age-appropriate curricula and training materials for use in early childhood development programs. Reserves $1,000,000 for this purpose.

Sec. 3092.—Effective date October 1, 1988 or upon enactment, whichever is later. Sec. 87(a)—Amends the description of the biennial state report to require description of the extent of the drug and alcohol problem in the schools in the state, the school drug and alcohol policy in the state, the number and the characteristics of populations served by their programs, the types of services provided and duration of those services, information on how high-risk youth were targeted, and the effectiveness of their programs. The purpose is to correct a lack of reliable data on the extent of the problem and the types and effectiveness of the programs provided.

TITLE IV INTERNATIONAL NARCOTICS CONTROL AND ASSISTANCE TO FOREIGN COUNTRIES

SUBTITLE A—AUTHORIZATION OF APPROPRIATIONS; ALLOCATION OF FUNDS

Section 5101 amends Section 482(a) of the Foreign Assistance Act of 1961 to authorize $101 million for international narcotics control activities for fiscal year 1989.

Section 5102 amends Section 302 of the Foreign Assistance Act of 1961 to authorize $5 million for United States voluntary contributions to multilateral and regional drug abuse control programs, with specific authorization of $3 million for the United Nations Fund for Drug Abuse Control (UNFDAC), and $1 million for two drug abuse control projects under the auspices of the Organization of American States. In the case of each of the OAS projects, the percentage of the U.S. contribution to the project may not exceed the percentage of the total U.S. contribution to the OAS. The remaining $1 million authorization is discretionary for additional contributions to UNFDAC or OAS or any other multilateral or regional organization drug abuse control programs.

Section 5103 authorizes $23 million for fiscal year 1989 for the development, procurement, and implementation of a machine-readable travel and identify document border security program, $7 million of which is dedicated to the Customs Service, $7 million of which is dedicated to the Immigration and Naturalization Service (INS), and the remaining $9 million of which is dedicated to the State Department. At the present time, the several agencies and departments of the U.S. government use various automated and manual systems for entry and departure control in the United States. The growing concerns surrounding international narcotics trafficking, terrorism and the security of our borders demands vastly improved screening of individuals at entry and departure points. The technology of producing machine readable travel and identity documents taking full advantage of electronic data transfer, integrated data bases, and digitized security features such as photographs already exists. For such a program to function efficiently and effectively and to take full advantage of all the aspects of automation, all passports produced in the U.S. must be machine readable; readers at all ports of entry are essential; machine readable visas, in all categories, must be produced.

Section 5104 urges the Assistant Secretary of State for International Narcotics Matters to give greater attention and resources to fully cooperating nonmajor drug transit countries (within the meaning of section 481(i)(5) of the Foreign Assistance Act). Subsection (b) earmarks $2.5 million for such countries for fiscal year 1989. A number of countries which may not fall under the definition of "major drug transit countries" are nonetheless important transit points and have governments eager and willing to cooperate effectively with the United States in addressing this problem. Further, historical experience indicates that today's "minor" transit country may become tomorrow's "major" transit country if preventive action is not taken.

Section 5105 amends section 36(g) of the State Department Basic Authorities Act of 1956 to increase from $5 million to $6 million the no-year authorization for narco-terrorism information rewards, to be awarded at the discretion of the Secretary. Congress has not appropriated funds under this account in two years, although a number of rewards are pending. This can be a valuable tool, although to date it has been under-utilized.

Section 5106 amends chapter 8 of Part I of the Foreign Assistance Act by adding a new section 486. New section 486(a) requires that if security assistance funds are not used for a country due to failure to take adequate steps to halt illicit drug production or trafficking, those funds shall be used for additional assistance for countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking.

Pursuant to subsection (a)(1), those funds may be transferred, without regard to the 20-percent limitation contained in section 610(a) of the Foreign Assistance Act, to the international narcotics control account to provide additional aid to cooperative drug countries. Funds so transferred may only be used to provide increased funding for activities previously justified to the Congress. Pursuant to subsection (a)(2), if those funds are not used for additional narcotics control aid, they shall be reprogrammed within the account for which they were appropriated in order to provide additional security assistance to cooperative countries. "Security assistance" is defined as MAP, ESF, IMET and FMS.

This section builds on previous reallocation requirements contained in section 613 of the International Security and Development Cooperation Act of 1985, and section 553 of the continuing resolution for foreign assistance appropriations (Public Laws 99-500 and 99-591).

Section 5106(b) states that the new authority contained in subsection (a) does not apply to funds appropriated prior to the date of enactment of this act.

Section 5107(a) earmarks $2 million in IMET funds for fiscal year 1989 for education and training solely for operation and maintenance of narcotics control aircraft in Latin America and the Caribbean.

Section 5107(b) provides that assistance under this section shall be coordinated with assistance provided under the Department of State's international narcotics matters programs.

Section 5107(c) states that such assistance may be provided notwithstanding the prohibition contained in section 660 of the Foreign Assistance Act relating to police training.

This section addresses the problem of equipment maintenance which countries with large aerial eradication programs, notably Mexico, often point to as hampering their ability to curtail illicit production.

Section 5108 earmarks $1 million in grant military assistance funds for fiscal year 1989 to arm, for defensive purposes, aircraft used in narcotics control eradication or interdiction efforts.

SUBTITLE B—RESTRICTIONS ON FOREIGN ASSISTANCE AND TRADE BENEFITS

Sections 5201 and 5202 amend paragraphs (1) of section 802(b) of the Trade Act of 1974 (19 U.S.C. 2492(b)(1) and section 482(h)(2)(A)(i)(I) to conform aid and trade certification of full cooperation requirements by: (a) adding the corruption standard to aid certifications; (b) conforming the 45 day Congressional review period for aid certifications to trade certifications; and (c) adding a bilateral or multilateral narcotics agreement standard to trade and aid certification procedures.

Section 5201 amends the Trade Act of 1974 (1) to require that, in making a determination as to whether a country has cooperated fully with the U.S. or has taken steps on its own, the President considers whether a country has taken steps to prevent and punish bribery and other forms of public corruption by government officials with respect to illicit drug production or transit; (2) to conform conditions on certification to those in the Foreign Assistance Act, as amended by this Act; and (3) in the Foreign Assistance Act, as amended by this Act; and (3) to conform the time period for congressional disapproval of Presidential certifications on major drug-producing and transit countries to that under the Foreign Assistance Act.

Section 5202 amends the Foreign Assistance Act of 1961 to require that, in making a determination as to whether a country has cooperated fully with the United States, the President considers whether a country has taken steps to prevent and punish bribery and other forms of public corruption by government officials relating to illicit narcotics. This section also expands upon the provision contained in the continuing resolution for fiscal year 1988 which requires the U.S. to have bilateral narcotics control agreements in place with every major drug producing country which receives foreign assistance to include multilateral agreements which achieve the objectives of the subsection.

Section 5203 rewrites subsection 481(h)(3) of the Foreign Assistance Act of 1961 to give equal weight to the following conditions which the President must consider in making a certification as to whether such country has cooperated fully with the United States or taken steps on its own to curb production and transit of illicit narcotics: eradication, law enforcement measures leading to seizures, law enforcement measures to prevent money-laundering, law enforcement steps to eliminate bribery and other forms of public corruption which facilitate illegal narcotics activities, government policies, activities of senior government officials, investigation of crimes against U.S. drug enforcement agents, cooperation with U.S. drug enforcement agents, enactment of laws such as conspiracy and asset seizure laws designed to facilitate law enforcement against drug traffickers, expeditious processing of U.S. extradition requests relating to narcotics trafficking, and expeditious processing of extradition requests from other countries relating to narcotics trafficking. Current law requires that the President give "foremost consideration" to a country's eradication efforts. In that measures of eradication are imprecise, at best, they have not provided an accurate assessment of progress, much less of full cooperation.

Section 5204(a) amends section 481(e)(3) of the Foreign Assistance Act of 1961 to require, for each country identified as a significant direct or indirect source of illicit narcotics, a certification by the Secretary that such country has not engaged in a pattern of misuse of U.S. aircraft or equipment made available under this chapter including spraying of food crops, transportation of troops or munitions for military purposes.

Section 5204(b) amends section 482 of the Foreign Assistance Act of 1961 to condition any assistance under international narcotics control programs to any country on a certification by the Secretary under subsection (a).

Section 5205 amends section 481(i) of the Foreign Assistance Act of 1961 to authorize A.I.D. to continue narcotics awareness activities in the event a country is not certified under section 481(h).

SUBTITLE C—REPORTING REQUIREMENTS

Section 5301 amends section 2013 of the Anti-Drug Abuse Act of 1986 to enroll its corrupt officials report into the annual March INCSR required under Chapter 8 of the Foreign Assistance Act. The beneficial effect of this measure will be twofold. First, this will streamline the State Department's process of reporting to Congress on international efforts to control narcotics and narcotics-related corruption. Second, it will establish the issue of corruption as a priority in the international drug enforcement area.

Section 5302 requires any asset transfer to a foreign country of assets forfeited to the U.S. in connection with narcotics related criminal activity to be subject to the regular reprogramming procedures under the Foreign Assistance Act of 1961, and requires the President to report annually to the Congress on all such transfers during the fiscal year, including an estimate of the fair market value and physical condition of each asset transferred.

Section 5303 amends section 481(e)(3) of the Foreign Assistance Act of 1961 to require that the annual March 1 international narcotics control strategy report (INCSR) include reports prepared by DEA, Coast Guard and Customs as to the assistance each agency provides to countries included in the report. This section will provide Congress with more comprehensive information on the full range of activities of the various interdiction agencies. It should also facilitate better coordination among the agencies.

Section 5304 amends section 481(e) of the Foreign Assistance Act of 1961 to require that the annual INCSR (1) describe any assistance denied to an uncooperative country in the preceding year, and (2) describe the activities and identities of corrupt officials, those who encourage or facilitate the production or distribution of illegal drugs as a matter of government policy, any senior official involved in the production or distribution of illegal drugs, and law enforcement or other officers of a government involved in acts or threats of violence against U.S. drug enforcement personnel.

Section 5305 amends section 481(e)(4) of the Foreign Assistance Act of 1961 to require that Presidential determinations of maximum achievable reductions in illicit drug production be stated in numerical terms, such as the acreage of illicitly cultivated drugs which can be eradicated. This will require the INM to set realistic eradication goals.

Section 5306 requires a one-time report, as part of the first annual INSCR submitted after enactment of this act, assessing what incentives might be proposed to encourage drug source countries' further cooperation in illicit narcotics control programs.

Section 5307 amends section 481(h) of the Foreign Assistance Report to require an annual October 1 report from the Secretary of State identifying those countries which he determines to be major illicit drug producing countries and major drug-transit countries. At least thirty days prior to the submission of such report, the Secretary shall notify the Senate Foreign Relations Committee and the House Foreign Affairs Committee of those countries proposed to be identified in the report. Both the preliminary notification and the report shall include a description of the criteria used to define major drug-transit countries.

SUBTITLE D—LATIN AMERICAN ANTI-DRUG STRIKE FORCE

Section 5401 calls upon the President to direct the Ambassador to the Organization of American States (OAS) to initiate diplomatic discussions aimed at establishing a multilateral strike force. Six months after enactment, the Secretary shall report to Congress on the progress of such diplomatic efforts. If such diplomatic efforts have demonstrated progress or if agreement on establishing a multinational strike force has been reached, within 30 days of receipt of the Secretary's report, the President is directed to submit to Congress a supplemental budget for the U.S. share of operating and maintaining such a strike force. This provision will stimulate U.S. leadership in increasing multilateral cooperation in fighting international narcotics trafficking, and will promote the idea of the drug war as a hemispheric security issue.

SUBTITLE E—MISCELLANEOUS PROVISIONS

Section 5501 amends section 482 of the Foreign Assistance Act of 1961 to provide that all narcotics control program contracting requests be considered as urgent matters. INM is increasingly confronted with the need to acquire and deploy aircraft and other commodities on an expedited basis, but is frequently delayed by the contracting procedures of the Department of State, as required under title 48 of the Code of Federal Regulations.

Section 5502(a) urges the U.S. Government to seek active cooperation of other countries in the enforcement of money-laundering statutes.

Section 5502(b) urges the Secretary of the Treasury to negotiate with finance ministers of foreign countries to establish an international currency control agency. This provision is intended to elevate the issue of money-laundering to an international priority and initiate a multilateral search for solutions to the problem.

Section 5503 states the sense of the Senate that the President should convene a summit of heads of state in the Western Hemisphere to combat the drug trade. The conference should focus on devising new, more cooperative means of controlling narcotics production and trafficking, and combatting drug-related corruption and money laundering. This section is similar to S. Res. 442, which passed the Senate on June 23, 1988 by a vote of 94-0.

Section 5504 states the sense of the Senate that the President should call for international negotiations for the purpose of establishing an international drug force.

Section 5505 directs the President to review U.S. narcotics raw materials policy to determine international needs for opium-derived pharmaceutical and chemical products, and the capabilities for meeting those needs through the opium gum process and the concentrated poppy straw method; whether the U.S. should rely on a single foreign country for its licit opium gum; whether the U.S. should encourage all opium producing countries to use the concentrated poppy straw method of production; and what options are available to the U.S. to reduce our reliance on licit opium gum. In addition, this section conditions Presidential certification of any country which is a producer of licit narcotics raw materials upon his determination that such country has taken steps to prevent diversion of its licit cultivation and production into the illicit market, maintains production and stockpiles at levels no higher than licit market demand, and prevents illicit cultivation and production.

TITLE V—USER ACCOUNTABILITY

SUBTITLE A—OPPOSITION TO LEGALIZATION AND PUBLIC AWARENESS SEC. 5001. SENSE OF THE CONGRESS OPPOSING LEGALIZATION OF DRUGS

This provision puts Congress on record as opposing legalization as an option in the war on drugs. It rejects as a solution anything short of a total victory over drugs on both the national and local level.

Sec. 5002. Public Awareness Campaign.—The Drug Control Director is to craft a program to inform citizens about the penalties they will incur for using or possessing illegal drugs. The Director is to develop this information program within 90 days of confirmation by the Senate.

SUBTITLE B—NATIONAL COMMISSION ON DRUG-FREE SCHOOLS

Section 5051. National Commission on Drug-Free Schools.—Establishes a National Commission on Drug Free-Schools to develop recommendations of criteria for identifying drug free schools and campuses and model programs to meet such criteria; and to make any other findings or recommendations that the Commission deems necessary to carry out the provisions of this section.

The Commission shall consist of 26 members:

Secretary of Education, Director of National Drug Control Policy, 16 individuals appointed by the Secretary and Director from "experts" in the field of drug abuse prevention, State and local school officials, members of Parent-Teacher associations, community groups, law enforcement officials; 4 members of the House—2 members appointed by the Speaker and 2 members appointed by the Minority Leader, 4 members of the Senate—2 members appointed by the Majority Leader and 2 appointed by the Minority Leader.

The Commission will report its findings and recommendations as well as any proposals for legislative action to the President and Congress no later one year after the date of enactment of this Act. The final report shall include:

Recommended criteria for schools to meet to be drug-free which may include drug education for students K-12, a code of student conduct, referral to treatment for students found to be using drugs, coordinated programs for drug use prevention involving parents, teachers, counselors, law enforcement officials, businesses and community organizations;

A description of potential benefits and liabilities of measured responses such as:

Parental notification of drug use by an unemancipated minor; feasibility of separating drug offenders from drug free students; suspension of eligibility for student assistance under Title IV of the Higher Education Act upon conviction of a drug-related offense; withholding of Federal funds from education systems and institutions which do not meet established critiera for drug-free schools; authorization of drug testing in schools.

A description of findings of research on the effectiveness of the proposed response (and of the above) on:

Rehabilitating drug using students and deterring use by students who do not use drugs, civil liberties, education programs, traditional family relationships.

A description of the assistance required by local school districts to establish drug-free schools and manner in which local, State and Federal governments may provide such assistance.

A description of the feasibility of certain programs designed to enhance and raise self-esteem, self-confidence, independence and responsibility among students.

SUBTITLE C—PREVENTING DRUG ABUSE IN PUBLIC HOUSING

Sec. 5101. Termination of Tenancy in Public Housing—Confirms that Public Housing Authorities have the legal authority to evict a public housing tenant if the tenant, a member of the tenant's household, or a guest or other person under the tenant's control is engaged in or is convicted of drug-related criminal activity on or near public housing premises while the tenant is a tenant in public housing.

Sec. 5102. Authority to Hire Investigators of Drug Crimes.—Allows a PHA to employ individuals to investigate the illegal use of and trafficking in controlled substances in public housing and provide evidence relating to that use in any administrative or court proceedings.

Sec. 5103. Bureau of Justice Assistance Block Grant Program Authorization.—Allows PHAs to apply for funds from the Bureau of Justice Assistance to address the problems of drug trafficking and manufacturing in public housing.

Sec. 5104. Inclusion of a Leasehold Interest in Property Subject to Forfeiture Under the Controlled Substances Act.—Clarifies that a lease is considered property with respect to the Federal Civil Forfeiture law and consequently that the lease is subject to forfeiture by the Federal Government. (21 U.S.C. 881(a)(7).)

Sec. 5125-5132. Public Housing Drug Elimination Pilot Program.—Establishes an $8 million pilot program under which PHAs may apply for funds to employ security personnel, reimburse local law enforcement agencies for additional security, make physical improvements specifically designed to enhance security, and create innovative programs designed to reduce the use of drugs in and around public housing. Applications will be granted based on the extent of a crime problem in public housing areas, quality of application, and extent of local support for anti-crime activities.

Sec. 5141. Report on Public Housing Lease and Grievance Regulation.—The Secretary of HUD shall submit a report to Congress on the public housing grievance procedure regulations (currently pending) which implement section 6(k) of the United States Housing Act of 1937. The report will describe the impact of those regulations on the ability of PHAs to evict or take other appropriate action against tenants engaged in criminal activity.

SUBTITLE D—DRUG FREE WORKPLACE REQUIREMENTS

Prohibits the awarding of any federal grant or contract to organizations that do not maintain a drug free workplace. To maintain a drug free workplace, organizations must:

Notify employees that using illegal drugs is prohibited in the workplace, and specifying the actions that will be taken against violators.

Establish a drug-free awareness and education program for employees.

Require that each employee engaged in performance of the contract or grant certify that he will abide by the organization's drug free workplace policies.

Impose a sanction on or require rehabilitation for any employee convicted of a drug offense.

Requires the agency awarding the contract or grant to terminate the contract or grant if the recipient fails to abide by the drug free workplace requirements, or if such a number of its employees have been convicted of drug offenses to indicate that it has failed to make a good faith effort.

Undercover activities of law enforcement agencies are exempted from these provisions if the agency director determines the provisions are not appropriate.

SUBTITLE E—DRUG TESTING IN THE TRANSPORTATION INDUSTRY

Requires the Secretary of Transportation, within one year of the enactment of this section, to prescribe regulations requiring pre-employment, periodic recurring, random, post-accident, and reasonable suspicion drug and alcohol testing of employees in safety sensitive positions in the airline industry, the Federal Aviation Administration, the railroad industry, and the trucking and bus industries.

The Secretary of Transportation is required to withhold Urban Mass Transit Funds from any Transit Authority which does not implement pre-employment, periodic recurring, random, post-accident, and reasonable suspicion drug and alcohol testing of employees responsible for safety-sensitive functions. The Transit Authority is given 12 months after the date of enactment of this bill to implement such a program before funds can be withheld.

Any drug testing required by this section must be carried out according to standards set by the Secretary, which must incorporate the drug testing guidelines issued by the Department of Health and Human Services on April 11, 1987.

SUBTITLE F—FEDERAL PRIVILEGES AND BENEFITS

Requires the Director of National Drug Control Policy to submit to Congress no later than 12 months after the enactment of this title a list of any non-safety net federal privileges, benefits, grants, and loans, which, if withheld from individuals convicted of a federal or state drug offense, would significantly deter the use of illegal drugs in the United States. The Director must also submit a report exploring the potential benefits and liabilities of the withholding of privileges and benefits in the effort to fight drug abuse.

SUBTITLE H—RESTRICTIONS ON PASSPORTS FOR VIOLATORS OF CONTROLLED SUBSTANCE LAWS AND OTHER LAWS

Directs the Secretary of State to revoke the passports of individuals convicted of any violations of the Controlled Substances Import and Export Act, the Bank Secrecy Act, or the Money Laundering Act that are punishable by imprisonment for at least one year. Passports shall remain revoked for 10 years after the completion of the individual's jail term.

SUBTITLE I—AUTHORIZATION OF APPROPRIATIONS FOR THE PRESIDENT'S MEDIA COMMISSION ON ALCOHOL AND DRUG ABUSE PREVENTION

Authorizes appropriations of $1 million per year for two years for the President's Media Commission on Alcohol and Drug Abuse Prevention, a panel authorized in the 1986 drug bill but unfunded since then. The Commission will explore ways in which the media glamorize or legitimize drug use and recommend ways to discourage such depictions.

TITLE VI—SENSE OF THE CONGRESS ON DRUG FUNDING

Section 6001. Sense of the Congress on Drug Funding.

States the sense of the Congress that:

(1) overall funds authorized in this bill shall be divided so as to allocate 60 percent of the funds for demand reduction (education, treatment and prevention) and 40 percent for supply reduction (law enforcement and interdiction);

(2) FY 1989 appropriations based on authorizations in this bill shall include obligation limitations to the extent necessary to avoid triggering a sequester in FY 1989;

(3) if obligation limitations become necessary, then the spending allocations for money provided in the first year shall be divided 50 percent for demand reduction and 50 percent for supply reduction;

(4) even if obligation limitations are imposed, spending allocations shall retain the 60 percent-40 percent split overall; and

(5) revenues from IRS enforcement and collections, and receipts from additional US Attorneys, used to enhance processing of forfeited assets, should be used to offset spending in this bill.

TITLE VII—DEATH PENALTY IN CASE OF DRUG RELATED KILLINGS

ELEMENTS OF OFFENSE

Section 7001. Death Penalty for Drug-Related Killings. (a) Elements of Offense. Amends Section 408 of the Controlled substances Act (21 U.S.C. 848) by adding a new subsection (e) as follows:

(e)(1)(a)—Any person engaging in a continuing criminal enterprise, or anyone working in furtherance of a continuing criminal enterprise who intentionally, or with reckless indifference to human life, kills or participates substantially in the killing of any individual, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death; and

(b) Any person, during the commission of, in furtherance of, or while attempting to avoid apprehension, prosecution or service of a prison sentence for, a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.) who intentionally, or with reckless indifference to human life, kills or participates substantially in the killing of any federal, state, or local law enforcement officer engaged in, or on account of, the performance of such officer's official duties, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death.

(e)(2)—Describes term "law enforcement officer".

Sec. 7001 (b) Procedure Applicable with Respect to Death Penalty. Amends Section 408 of the Controlled Substances Act (21 U.S.C. 848) by adding at the end the following:

Hearing Required with Respect to Death Penalty:

(g) A person is subject to death penalty only if a hearing is held in accordance with this section.

Notice by the Government:

(h) Whenever the Government intends to seek the death penalty, the attorney for the Government, a reasonable time before trial, or acceptance by the court of a plea of guilty, shall sign and file with the court, and serve upon the defendant, a notice that the Government in event of conviction will seek the death penalty and setting forth the aggravating factors the Government will seek to prove. The court may permit the attorney for the Government to amend notice for good cause shown.

Hearing Before Court or Jury:

(i) When the defendant is found guilty or pleads guilty, a separate sentencing hearing is conducted to determine the punishment imposed. The remainder of (i) describes the requirements for the structure of the hearing.

Proof of Aggravating and Mitigating Factors:

(j) This subsection sets forth the requirements of proof of aggravating and mitigating factors, which are listed in subsections (m) and (n). Notwithstanding Rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty of or pleads guilty to an offense under subsection (e), no presentence report shall be prepared. The burden of establishing the existence of any aggravating factor is on the Government and is not satisfied unless established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless established by a preponderance of the evidence.

Return of Findings:

(k) There shall be consideration of all the information received during the hearing. The jury, or if there is no jury, the court, shall return special findings identifying any aggravating factors set forth in subsection (n) found to exist. A finding with respect to a mitigating factor may be made by one or more of the members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such a factor established for purposes of this subsection, regardless of the number of jurors who concur that the factor has been established. Subparagraph sets forth the requirements of the findings with respect to mitigating and aggravating factors. A finding with respect to any aggravating factors must be unanimous. Based upon the considerations listed in this subsection, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

Imposition of Sentence:

(1) Upon a finding that a sentence of death is justified, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. A death sentence shall not be carried out upon a person under 18 years of age at the time the crime was committed, and may not be carried out upon a person who, by reason of mental disease or defect, is unable to understand his impending death or the reasons for it.

Mitigating Factors:

(m) Subsection lists mitigating factors that shall be considered, but which are not exclusive, with respect to a determination whether a sentence of death is to be imposed.

Aggravating Factors for Homicide:

(n) Subsection lists those aggravating factors that shall be considered, but which are not exclusive, if the defendant is found guilty or pleads guilty.

Right of the Defendant to Justice without Discrimination:

(o) In any hearing held before a jury, the court shall instruct the jury that in its consideration of whether the sentence of death is justified it shall not consider the race, color, national origin, or sex of the defendant or the victim and that the jury is not to recommend a death sentence unless it has concluded it would recommend a death sentence no matter what the race of the defendant, or the victim may be. The jury must return to the court a certificate signed by each juror that such consideration was not involved in reaching his or her decision, and that the individual juror would have made the same recommendation regarding a sentence no matter what race the defendant or the victim may be.

Not later than one year from the date of enactment, the Comptroller General shall conduct a study of the procedures used by the several States for determining whether or not to impose the death penalty in particular cases, and shall report to the Congress whether the procedures create a risk that race influenced the likelihood that defendants in those States will be sentenced to death. The remainder of subsection (o) describes requirements in conducting the study.

Sentencing in Capital Cases in Which Death Penalty is not Sought or Imposed:

(p) If a person is convicted of offense under subsection (e) and the court does not impose the death penalty, the court may impose a sentence of life imprisonment without possibility of parole.

Appeal in Capital Cases:

(q) In any case in which the sentence of death is imposed, the death sentence shall be subject to review by the court of appeals upon appeal by the defendant. Subsection sets time limit for appeal and permits consolidation with the appeal of the judgment of conviction. Such review shall have priority over all other cases. This subsection sets forth what the court of appeals shall consider: the record, the evidence submitted during the trial, the information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned. Subsection defines when the appeals court shall affirm the sentence, remand for reconsideration, and requires the court of appeals to state in writing the reasons for its disposition of the review of the sentence. In any post-conviction proceeding seeking to vacate or set aside a death sentence, the court shall appoint counsel to represent any defendant who is or becomes financially unable to obtain adequate representation.

Refusal to Participate by State and Federal Correctional Employees:

(r) No employee of a federal or state correctional facility or an employee providing services under contract shall be required to be in attendance at or participate in any execution if it is contrary to the moral or religious convictions of the employee.

Mr. BYRD. Mr. President, I ask that the bill remain at the desk until further action.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, there are numerous cosponsors of the bill on this side of the aisle. I know Senator RUDMAN had numerous cosponsors. I have already given the cochairmen's names as original sponsors on both sides of the aisle. In addition to the cochairmen of the effort on the Democratic and Republican sides of the aisle, I would like to add Senator GRAHAM of Florida Senator LAUTENBERG; Senator CHILES; Senator DECONCINI; Senator DIXON; Senator BENTSEN; Senator BINGAMAN; Senator EXON; Senator SASSER, on this side of the aisle.

I have also been asked to give the name of Senator ROTH, but I am sure that will be in the Republican list. Perhaps at this point the Senator from New Hampshire would like to list the other cosponsors. Then I will make my statement.

Mr. RUDMAN. I thank my friend from Georgia for yielding.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, there are numerous cosponsors on this side of the aisle in addition to Senator D'AMATO, WILSON and GRAMM.

I ask unanimous consent that the RECORD be held open for cosponsors until the close of business today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RUDMAN. I yield back to my friend.

Mr. NUNN. I thank the Senator from New Hampshire Mr. President, this bill represents a lot of effort over several months from people on both sides of the aisle, particularly Senator MOYNIHAN from New York, and myself have worked long and hard, as many other Members on the Democratic side and the Republican side. Senator RUDMAN and Senator D'AMATO are here. We worked very carefully with the leaders, Senators BYRD and DOLE, who are the prime sponsors of this legislation.

I am pleased today to introduce the Omnibus Antisubstance Abuse Act of 1988. This is a bipartisan legislative effort focused on perhaps our country's most serious challenge: The pervasive and crippling use of illegal substances. It is the end product of months of negotiations between Republican and Democratic Senators who so far have conscientiously attempted to deal with this national tragedy on a nonpartisan level.

If we are to get a bill, we are going to have to continue down that path. We all know the time is running out in this session. We know that we have major differences between this bill and the House bill. We know that one of the ways we arrived at a consensus package for this bill was to take out the most controversial, not necessarily the most meaningful, but the most controversial amendments and not putting them in this floor package on either side.

So, therefore, there are numerous amendments on both sides of the aisle by well-meaning, dedicated people. I truly believe, though, that if we were to pass all of the amendments, we would never get through this session. If we even take up one-half the amendments that are now known to us, we will never be able to pass the bill. If we have a prolonged conference with the House to try to reconcile every difference between this bill and the House bill, we probably will not be able to reach a conclusion this year on this bill and have it on the President's desk.

The fate of this bill, as I see it, will depend on restraint on both sides of the aisle in introducing amendments. It will also depend on some form of communication with the House which has not yet been established.

We all want a bill, and I believe that I can speak for the Senator fron New York and myself, at least probably for all other cosponsors, in saying whatever substance we are going to have that is meaningful in the fight against drugs, that about 90 percent of it is in this bill. The other amendments, important though they are to the authors, as I view it, are contributions which are more marginal in nature. This bill does provide the funding in law enforcement, the funding in health, the funding in education that is so important to the fight that continues today.

In 1986, the Congress spent many long hours discussing the magnitude of the drug problem in this country and the extent of our willingness to do something about it. The product of that debate was a massive piece of legislation entitled the Antidrug Abuse Act of 1986.

With the passage of that act, authorized funding for the Federal antidrug effort greatly increased, climbing to nearly $4 billion in fiscal 1987. The act created a number of new programs and recognized for the first time the importance of addressing the demand side of the drug equation by funding new education, treatment and rehabilitation programs on the State and local levels.

In passing the 1986 act, we intended to establish a strong and lasting commitment to effective antidrug policy at the Federal level. Unfortunately, that commitment, well-meaning though it was, at least in respect to funding, was short lived.

We have a funding problem with this bill. I have been informed by Senator CHILES that we now have available under the Budget Act, counting all the appropriations bills, we have about $450 million, which is about

$200 million more than we thought on Friday but a lot less then we need in order to get started right away on this bill. Yet that will at least be a start in this fiscal year. I would hope we can find such supplementary funding when we get back in the next Congress.

The House bill, as I understand it, has virtually no funding identified, and so we have a question between intent and reality here. All of us, I think, ought to face it that we are not fully funding this bill the first year. We do provide budget authority and we hope, assuming those figures are correct that I got from Senator CHILES in the last hour, we hope we will have $450 million of funding unless we find some magic funding formula that can be agreed on by the House and the Senate that has thus far not emerged.

We have had all sorts of debates as to why the last bill in 1986 was not fully funded. I will not get into that debate here today. Suffice it to say, I hope this act will fare better than the 1986 act in terms of funding. I certainly pledge every effort I can make to see that that is a reality this year and next year.

Although the 1986 act provided adequate funding for the first year after its enactment, not long after it was signed, White House officials proposed cutting the new Federal funds earmarked for the following year in the 1986 act.

Particularly controversial were proposals to eliminate the $200 million State and local law enforcement grant programs, to drastically reduce the education grant program, and to scale back the Customs Service and Coast Guard budgets. Depending on whose interpretation you accept, the President's budget proposal for 1988 called for cuts in the 1986 bill from OMB's small estimate of $225 million to the more realistic $900 million suggested by the House Select Committee on Narcotics Abuse and Control.

While both sides offer explanations to support their estimates, I think most observers are persuaded by the Select Committee's analysis which suggests that the administration viewed the 1986 act as being a "one-time infusion" of added funds rather than the "initial downpayment" on a long-term commitment to federal and state antidrug efforts.

For example, the 1986 act provided for a 4-year "Drug-Free Schools" Program to be administered by the Department of Education. For fiscal year 1987, Congress authorized and appropriated $200 million and further provided for an increase to $250 million for fiscal year 1988 through 1990. The President's budget called for $100 million for fiscal year 1988, reflecting the administration's assumption that the prior year's allocation was justified only because it involved "one-time, startup costs and increased State and local participation."

Congress, however, intended this program to grow, not shrink. It makes little sense, according to educators, for State and local educational agencies to launch new and innovative programs against drug abuse if Federal support is cut in one-half after 1 year and the remainder of the authorization through fiscal year 1990 is not assured.

The statistics we now face concerning our Nation's drug problems show not only that such underfunding is shortsighted, but also that additional action is now needed. While annual expenditures for drug control have risen from 1981 to date, our drug problem has far outstripped the funding role.

In hearings I chaired before the permanent Subcommittee on Investigations last year, the Office of Technology Assessment estimated that the quantity of cocaine coming into the United States has more than doubled since 1981 from 40 to 63 tons to over 130 tons per year. Although OTA acknowledged that we are catching more smugglers and seizing more drugs, more is still coming through.

Recent estimates published in the September 11, 1988, edition of the Miami Herald indicates cocaine seizures in south Florida have gone from 4,000 pounds in 1981 to almost 70,000 pounds in 1987. This year experts believe the total will surpass 100,000 pounds.

We also have a purity problem, as we know it, and we have a price problem. In south Florida, a kilogram, which amounts to 2.2 pounds, is selling for $14,000 today. That is one-fourth the price it was selling for in 1982. That means we have a whole lot more quantity. At the same time, its purity is at its highest, over 50 percent.

In addition, the number of Drug Abuse Warning Network [DAWN] cocaine-related hospital emergencies reported nationwide during 1987 was the highest yet recorded, increasing by more than 60 percent over the previous year's record. Startlingly, since 1980, there has been a near tenfold increase in the number of cocaine-related hospital emergencies reported through DAWN nationwide—from approximately 3,000 to 26,186 in 1987. Cocaine deaths have more than tripled since 1981 to nearly 2,000 a year.

Mr. President, as these trends surely show, the Nation's drug problem did not end with the passage of the 1986 legislation. Nor does any responsible Member believe the bipartisan Senate bill indroduced today will be a final solution to a problem which has plagued our country in recent years more intensely but has actually plagued our country since the turn of this century.

Drug absue is a complex social ill which does not readily limit itself to quick fixes or easy solutions. It reminds me of the old saying that "for every complex, complicated problem there is an answer that is simple, easy and wrong." The bipartisan bill recognizes the complexity of the drug issue and attempts to avoid the "simple, easy and wrong" pitfalls of the past while building upon the exellent foundation, in theory at least, that was laid down by the 1986 legislation.

One of the most glaring mistakes our proposal attempts to redress is the unrealistic expectations of past administrations that law enforcement, interdiction and other supply oriented efforts can, in and of themselves, solve the drug problem. By 1987, this assumption had resulted in the Federal Government spending three times more on supply reduction than on demand reduction, $3 billion and $1 billion. Spending on interdiction efforts alone has increased 1,500 percent since 1977.

In this bill, for the first time since 1977, we are proposing to shift the funding emphasis for the 2-year period which it covers from supply to demand reduction efforts. The overall funding will be tilted toward supply on a continuing basis because we are already spending a lot more than we have in this bill, but we are at least beginning in this bill an effort to bring about a more balanced effort between supply reduction, which is primarily though not totally law enforcement, and demand reduction, which will be more emphasis on education and health.

An antidrug policy that is overwhelmingly supply side is one of those "simple, easy and wrong" answers to the very difficult drug problem. It has not worked and will not work for two fundamental reasons—first of all—we can never realistically seal our borders. Not even a closed society like the Soviet Union from the importation of hashish from Afghanistan. The effort to police the 5,600 mile long coastline of the continental United States is, according to the Defense Science Board, about as likely of success as looking for "needles in a haystack."

Moreover, even if interdiction did succeed, experts tell us that a shutdown of imported drugs would soon result in the production of enough drugs within the United States to satisfy our national demand for narcotics. Recent statistics from this year's National Narcotics Intelligence Consumers Committee report confirm that domestic production of marijuana already accounts for nearly 25 percent of the total supply in 1987. This is up from 19 percent of total availability in 1985.

In fiscal year 1987, clandestine laboratories continued to produce much of the supply of illicit dangerous drugs in the United States. All of the PCP and the majority of the methamphetamine and amphetamine illicitly available in the United States during the year are believed to have been produced in clandestine laboratories here at home. During fiscal year 1987, a total of 682 clandestine laboratories were reported seized, a 34-percent increase over fiscal year 1986 seizures and a 270-percent increase since 1981. So far this year, DEA has seized 435 laboratories. At this rate, a total of 870 labs will be seized, an almost 30-percent increase over 1987.

One can only guess at the growth rate for these kinds of laboratories, not to mention the entire domestic designer drug industry, should imported drugs suddenly disappear from the U.S. market.

I think those programs have been too long underfunded and underemphasized.

Even if interdiction succeeds, experts tell us that to shut down imported drugs, if we did that totally, we would soon produce enough drugs in this country alone, within the United States, to satisfy our national demand for narcotics.

I was told, and we have no refutation of this, at one of our investigative hearings by credible witnesses, that even if we put an iron curtain around the United States and totally closed off all the cocaine coming in that with the modern techniques of chemistry the drug dealers would be able to produce enough cocaine in this country synthetically within 2 or 3 months to meet the demand.

So we are going to have to work both sides, supply and demand, but I think we are going to have to do much more than we have been in education and in health. I believe this is going to involve far more than just the Federal Government. As I view it, every community in America is going to have to be involved in this fight. We are going to have to have the schools; we are going to have to have the Parent-Teachers Associations; we are going to have to have the police people working with the educators and the health officials. We are going to have to have the civic clubs; we are going to have to have a battle from the community level right on up. So this bill is I think a major step.

It is not going to solve a complicated, complex problem. I hope it can begin to make a more meaningful contribution from the Federal level.

Far from criticizing our law enforcement and interdiction agencies, I and the other cosponsors of this bill support their efforts. However, the bipartisan bill recognizes the fallacy that exists in expecting them to singlehandedly fight the drug trafficker. Such a policy ignores the importance of demand in the drug equation. It is the willingness of hundreds of thousands of Americans to spend large amounts of money for drugs that fuels the ever increasing supply of drugs across our borders.

The Senate bipartisan bill recognizes that error and breaks new ground in shifting the focus of this war from the border to the home, school and community. It spells out a coordinated strategy to educate the public about drugs by establishing a long-term Federal commitment in the most critical area of drug education efforts.

The bill encourages the development of concrete plans and programs for drug abuse education and offers assistance to State boards of education and local school districts in the implementation of those plans. It supports a coordinated education effort with direct input to local schools. It provides for Federal assistance to those private and public agencies operating in our local communities that can have the greatest impact upon young people. This substantial Federal effort in education will help stimulate similar interest and programs at the grassroots level where we can most effectively reach the drug user or potential user.

To this end, it includes, among other amounts, $156 million for grants to promote drug-free schools, $40 million for comprehensive community prevention initiatives, $31 million for high risk youth demonstration projects, $6 million in grants to schools for health profession personnel training and $16 million in teacher training programs. In total, the bill earmarks over $273 million in fiscal year 1989 for drug education and prevention programs.

The bill also addresses the critical problem of treatment and rehabilitation for drug offenders. For too long, addict rehabilitation programs have received insufficient support. Waiting lists for treatment programs are routinely long and, even when openings are available, they are hopelessly unaffordable for most drug addicts.

For example, it is estimated that at best, some form of treatment reaches only 10 percent of intravenous drug abusers in the United States, a group potentially much smaller than cocaine abusers. Despite those statistics, Federal support for programs to prevent and treat drug and alcohol abuse declined 40 percent from fiscal year 1980 to fiscal year 1986. This administration has apparently not understood that to an addict, to "just say no", without treatment, is not enough. It is "simple, easy and wrong" to believe that rhetoric without professional help can break the grip of drug addiction in this country.

The bipartisan Senate bill authorizes almost $956 million in matching grants to State and local agencies that treat the victims of drug addiction. Our proposal adopts, as a goal, the principle of "treatment on request" and begins by making treatment available to an estimated 20 percent of current drug abusers over the next 2 years. This incremental approach to treatment will, for the first time, realistically deal with the years of neglect that created a system of treatment for only those few who were lucky or rich enough to find it.

At the same time, the bipartisan bill does not ignore the current needs of the law enforcement community. In developing this legislation, the drafters identified certain problems that have consistently undercut prior efforts to encourage better law enforcement. First and foremost has been a tendency to greatly assist one end of the law enforcement spectrum—namely investigative agencies—while shortchanging the other end—the courts, prosecutors and prisons. As a result, more drug arrests are being made every year but without adequate court or prison space to handle the new cases.

Recognizing this problem, this bill specifically earmarks additional resources to ease these bottlenecks. It authorizes $205 million in new funds for prison construction, $36 million for new U.S. attorneys and $79.1 for increased court personnel, security, juror expenses and public defenders.

Another problem area addressed in this bill is assistance to State and local law enforcement. There was bipartisan recognition that the key to any successful antidrug enforcement effort lies at the State and local level. It is at the street level that the war against the pusher and the dealer is being waged and to some extent, being lost. This bill provides $210 million in new funds for fiscal year 1989 to help provide reenforcements for our overburdened State and municipal law enforcement agencies. Of this amount, $15 million is directed to be used for juvenile justice assistance and 10 percent of the overall grant is specifically set aside for street level enforcement.

This bipartisan proposal marks a return to the policies of the 1960's and 1970's that greatly assisted street level law enforcement. It stands in marked contrast to cutbacks in those areas during this administration's first 6 years in office and reestablishes a Federal commitment to State and local law enforcement—a policy long overdue in light of the staggering crime statistics of the last 8 years.

The bill also toughens the penalties for major drug traffickers, authorizing, among other things, the death penalty for drug-related killings and increasing the potential for forfeiture of drug-related assets. It creates new criminal offenses for money laundering and chemical diversion.

In addition to the enhancement of law enforcement tools, the legislation gives added support to the Nation's drug interdiction program. This includes additional antidrug resources for the Coast Guard, the Customs Service and Justice Department.

One of the most significant features of this legislation is its establishment of the Office of Director of National Drug Control Policy. This bill reintroduces the drug czar proposal offered by Senator BIDEN in 1983 which passed both Houses of Congress only to be vetoed by President Reagan.

The premise of Senator BIDEN's proposal is that this country has no leader, no plan, and no system of accountability for Federal narcotics control. It recognizes the need for a strong and capable drug czar to finally guarantee some sense of cooperation and coordination among the nearly endless list of Federal agencies now engaged in the drug war.

Today we have 11 Cabinet departments and at least three dozen Federal agencies engaged in the war on drugs. Each has its own interests and its own agendas to prioritize, with turf battles and interagency squabbles too often the result. No better example could be found than what occurred in a 1987 hearing I chaired before the Permanent Subcommittee on Investigations. At that hearing, the Commandant of the Coast Guard and the Commissioner of the Customs Service disputed each other's claimed authority in the drug war. They could not even agree on an alleged agreement concerning their respective missions that they had signed the night before at the urging of the National Drug Policy Board. Too often it seems that our Federal agencies are busier fighting each other than fighting the drug traffickers.

The administration's solution to these turf battles has been assignment of the National Narcotics Border Interdiction System [NNBIS] to Vice President BUSH with a National Drug Policy Board having hands-on authority of the overall drug effort. The National Drug Policy Board has, by all reports, been an outstanding failure. The Comptroller General testified this June in hearings before a joint session of the Senate and House Armed Services Committees that since it operates by consensus, it has been "unable to make the hard choices affecting agency budgets and programs necessary to being cohesion to Federal drug control efforts."

The Comptroller went on to confirm the numerous problems caused by "the fragmentation of Federal antidrug efforts among several Cabinet departments and agencies and the resulting lack of coordination" in the Federal antidrug effort. He strongly recommended the assignment of all authority for planning and coordinating Federal antidrug efforts to a single individual. I am glad to see that the Comptroller's recommendations are now borne out with the introduction of this proposal.

Our goal, in this legislation, is to finally take the first real step in any military campaign—namely, to appoint a commanding general in the war against drugs. The bill creates a new Cabinet-level post of Director of National Drug Control Policy. That person is charged with the responsibility for drawing up a national strategy at home and abroad and then making sure that the dozens of agencies and departments involved carry it out.

Both Republican and Democratic Senators have now agreed that we need leadership at the top of our drug war and that neither the Vice President's National Narcotics Border Interdiction System nor the National Drug Control Policy Board has successfully provided it. For that reason, Republicans in the Senate have this year joined with their Democratic colleagues in abolishing both entities and establishing a Drug Czar to lead our Federal drug control efforts.

Overall, then, this legislation increases support for every aspect of the drug control effort—interdiction, law enforcement, education, treatment and rehabilitation. As cochair of the Democratic Substance Abuse Working Group, I have worked with my colleagues on both sides of the aisle on this measure and believe we have taken a necessary step in developing a balanced, comprehensive measure which, if adopted, will move the Nation forward on the long and trying road toward control of the drug traffic.

We all realize that the bill is not perfect. I do not pretend to suggest that it will end the plague of drugs currently facing our country. But this bill is at least realistic. It recognizes what we all know—the drug epidemic in this country is far past the stage where interdiction or law enforcement alone can stop it. It recognizes that we have to find ways to convince literally hundreds of thousands of Americans to no longer spend their dollars for illegal drugs. It recognizes that unless we do that, we are going to have the drug problem with us for a long time to come.

In the meantime, and despite our horror at the scope of the drug problem, we must continually beware of the quick fixes that may prove to be as deadly to our American way of life as the drug fix is to the user. Such solutions, though "simple, easy and wrong", all too often rise to the forefront in times of crisis. The drug problem has reached crisis proportions in this country and this bill clearly recognizes that fact. However, I am pleased to say, this legislation responds to that crisis, not with panic, hysteria and quick fixes, but with a realistic, responsible and focused strategy for success. I ask you to support this legislation and, in so doing, to demonstrate that, even in times of crisis, Americans do not abandon reason, foresight, responsibility, and common sense. This bill reflects the best efforts of both Democratic and Republican Senators to apply that type of approach to the drug problem. I commend them for their efforts and I urge you to join with me in voting for passage of the Omnibus Anti-Substance Abuse Act of 1988.

Mr. President, there are others on the floor who can and will make statements. I again thank all of my colleagues on both sides of the aisle—Senator BYRD and Senator DOLE for their leadership in getting us this far; Senator RUDMAN and his cochairs on the Republican side and particularly Senator MOYNIHAN, who has been a real stalwart in this matter. Also I see on the floor the Senator from Arizona [Mr. DECONCINI,] who has long been working on this problem and who, in effect, had previously introduced the core bill himself after which we have modeled this one. So I thank all of these Senators for their tremendous work.

Mr. President, I yield the floor.

Mr. BYRD. Mr. President, I am pleased to join with the distinguished Republican leader, Mr. DOLE, and Senators NUNN, MOYNIHAN, D'AMATO, and many other Senators on both sides of the aisle to introduce the Senate bipartisan drug bill, the Omnibus Antisubstance Abuse Act of 1988.

This bill has been in the process of development for many months; going back to the month of May, I appointed Senators MOYNIHAN and NUNN as cochairmen of the Democratic working group to work with Senators on the other side of the aisle appointed by Mr. DOLE to iron out a bipartisan package that could be introduced with strong bipartisan support.

The development of Democratic and Republican proposals started even earlier. The working group on my side was comprised of, in addition to Senators MOYNIHAN and NUNN, Senators DECONCINI, CRANSTON, GLENN, CHILES, KENNEDY, PELL, GRAHAM, KERRY, LAUTENBERG, SASSER, BUMPERS, and HOLLINGS.

I take this opportunity to thank Senators NUNN and MOYNIHAN and the members of the Democratic working group for their hard work over these past few months. They have met on many, many days for many, many hours in their pursuit of an effective piece of legislation that could be bipartisan in nature, and they have succeeded in reaching that point only after those many, many hours of consideration, discussions, and debate among and between themselves.

I know the degree of commitment that all of them, together with their colleagues on the other side of the aisle, brought to their work on this bill. I believe that they are owed the thanks and approbation of every Member of this Senate for their efforts.

In June, our working group proposed a comprehensive antisubstance abuse package, and it became the basis for the negotiations with the Republicans on a bipartisan package. I am pleased to report to my colleagues that the majority of the bipartisan bill today reflects the proposals contained in our package, even though, as in all successful negotiations, compromise and consensus dictated a melding of positions in many areas of this legislation.

Mr. President, we offer this bill today because we are all deeply and, evermore, concerned about the drug scourge afflicting our Nation. It is uppermost in our minds and in the minds of the American people. We must find a way to end this affliction—it is our hope that enacting this legislation will prove efficacious to this end.

We had hoped, when we sent to President Reagan the omnibus antidrug bill in 1986, that we had started the Nation on the road to recovery from this pernicious illness. But, sadly, that turned out not to be the case.

The ink was barely dry on that drug bill when the President sent to Congress a budget that severely underfunded many of the most important programs contained in our law.

Also, that law lacked an element critical to the success on the war on drugs. It lacked a drug czar provision to coordinate the multifaceted Federal programs. This was because the other side of the aisle, which then controlled this body, joined the President in opposing the creation of a Cabinet-level position to oversee the effective coordination of our Government's antidrug programs. In fact, the President had already vetoed the omnibus crime bill in 1983 because it had contained a drug czar provision. So, we were forced, of necessity, to yield on this to our Republican friends. The President's better idea was a drug policy board.

But the history of the administration's antidrug efforts over the past 2 years has made quite a difference in bipartisan opinion on this provision. Today, I am happy to report to my colleagues that our bipartisan package does call for the creation of a drug czar.

This bill makes some very important changes in current Federal policy. It recognizes the necessity of better addressing demand reduction programs. Currently, Federal policy is skewed with roughly 75 percent spent on supply reduction programs and 25 percent spent on demand reduction. Our bill provides, over a 2-year period, that 60 percent of the funds in this measure will go for demand reduction—education, prevention, and treatment programs—and 40 percent for supply reduction programs. These programs—law enforcement, interdiction, and crop eradication—will still receive the majority of Federal dollars when added to current efforts, and this is as it should be now in our fight against drugs. Furthermore, the funds available for the first year will be distributed equally between demand and supply reduction activities. Still, for the first time, we will begin to provide adequate funds for education programs and to provide rehabilitation programs for all those seeking help in kicking their pernicious habits.

Let there be no mistake about it, Mr. President, this bill is very tough indeed on those who would commit drug-related murders, who would traffic in drugs and, also, for those in safety-sensitive positions in the airline, railroad, trucking, bus, and transit fields who would attempt to use drugs.

This bill contains the death penalty for murders committed or ordered by drug "kingpins," and for the drug-related murders of law enforcement officers.

The law enforcement title is filled with provisions that will toughen existing criminal penalties and add new ones for drug related crimes. There are new and enhanced penalties for career criminals—mandatory life sentences will be required for third-time offenders.

There are new penalties for narcotics-related corruption, and smuggling, drug offenses involving minors and committed near places where minors congregate, and drug offenses in prisons. Also, immigration laws are strengthened to facilitate deportation of dangerous aliens and to punish those who attempt to assist certain aliens who seek to enter our country.

This title includes substantial funding for drug enforcement agencies, particularly at the State and local level. And additional funding is provided for those Federal agencies with responsibilities for enforcement, investigation, and interdiction.

This bill also addresses some underlying problems in law enforcement, especially the overcrowding of courts and prisons that deter prosecutors from bringing all drug cases to the criminal justice system. It provides new funds to hire additional prosecutors and to build new prisons. And it includes emergency funding, under the authority of the drug czar, so that high intensity drug areas may receive added assistance appropriate to the severity of the need. Enhanced recordkeeping is required to adequately track money-laundering and chemical diversion efforts.

In the "user-accountability" title, the bill includes the text of the Hollings-Danforth bill that has previously passed the Senate. It requires drug testing in the transportation industries, and we enlarge its scope to also include drug testing for mass transit. The bill also addresses the terrible drug problems in certain public housing units throughout the country by giving the public housing agencies the added authority to evict tenants if they, their families, or their guests engage in drug-related criminal activity. It allows the Federal Government to seize housing units from tenants who violate drug laws. And it includes a grant program to allow public housing authorities to hire security personnel.

This legislation requires the revocation of passports of individuals convicted of drug trafficking or money-laundering offenses, and it prohibits the awarding of any Federal grant or contract to businesses that do not maintain a drug-free workplace by establishing a drug education program for employees.

The bill endorses the goal of providing treatment for all those who require it. Those seeking to get off drugs will be able to receive the assistance they need. One billion dollars in additional treatment funds would be provided under the legislation, and expanded drug education and prevention programs would also be supported with roughly $400 million in additional spending authority.

Overall, this bill calls for $2.6 billion in spending authority for the programs and $1.4 in outlays for fiscal year 1989. Because we recognize that the severe budget deficit realities will make it impossible to fully appropriate all these funds in fiscal year 1989, we provide for the funds to be spent into 1990. We intend that this bill will be fully paid for by funds generated by an increased IRS initiative and forfeiture collections. These initiatives will generate approximately $300 million in fiscal year 1989 and will fully fund the bill in 1990.

I yield the floor so other Senators who wish to speak may do so.

I close again by thanking Senators MOYNIHAN, NUNN, and Senator DOLE, the Republican leader; Senators RUDMAN and D'AMATO; and all the other Senators who have so conscientiously directed their energies and their vision to working out a truly effective bipartisan bill that will reflect well upon the Senate and House, and will be graciously accepted by the American people as we all turn our attention to hopefully dealing with this rapidly developing and more gravely developing problem that affects our society.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, after several months of intensive review, negotiations and compromise, we are today introducing the Omnibus Antisubstance Abuse Act of 1988.

As I stated when Senate Republicans released our initial proposal last summer, I wanted to review the successes and weaknesses of current antidrug activities, and then draft a bill which would build upon existing programs that are effectively addressing the problem. While this bill does not include all of the provisions contained in the original Republican proposal, I believe it does represent a good starting point for Senate floor action.

CONCERN FOR TIME REMAINING

I am concerned, however, that we may not have sufficient time to consider all amendments that might be offered and complete a conference with the House in time to sent the bill to the President for signature. Therefore, I have discussed with my Republican colleagues and the majority leader the possibility of getting a time agreement to cover all amendments, or the possibility of getting an agreement to limit both the number of amendments and putting a time limit on those amendments.

So far, we have been unable to obtain an agreement. If we cannot get a time and amendment agreement, perhaps we might consider approving the House-passed bill. The bottom line is, we must have some kind of expedited procedure or time agreement if we are to give the American people what they are crying out for—protection against the scourge of illegal drugs.

Since passage of the 1986 drug bill, traffickers have changed their methods of smuggling drugs as well as the types of drugs available to weaken and claim the bodies and souls of our young, our neighbors, and our friends.

Crack cocaine was just coming on the scene in 1986. It is now the drug most feared by law enforcement agencies due to both its rapid addictive qualities and the extreme and random violence employed by those who traffic in crack.

The domestic marijuana crop now supplies 25 percent of domestic use, and is increasingly protected by booby traps placed in our national forests.

Youth gangs are taking over the manufacture and distribution of chemical drugs made entirely within this country, and are spreading their corruption and violence throughout the country.

We cannot and will not give up the fight against drugs. But we must give law enforcement, the judiciary, the prison system, parents, schools and treatment facilities the tools necessary to wage what has been described as—and sure is—the war against drugs.

CONGRATULATIONS TO SENATE NEGOTIATORS

Mr. President, I want to pay tribute to Senators on both sides of the aisle who have spent days and weeks over the past several months to hammer out this core package. Although all those who participated are too numerous to mention, I do want to thank the Republican coordinators, Senators WILSON, RUDMAN, GRAMM, and D'AMATO. In addition, the Republican cochairmen of the subgroups, Senators ROTH, THURMOND, HATCH, DOMENICI, and TRIBLE. These, of course, are but a few of the Senators involved in turning the idea of a drug bill into a reality. In addition, the Democratic negotiators, led by Senators MOYNIHAN and NUNN, are to be congratulated for their efforts. Finally, the staff on both sides have been in nonstop negotiations on the bill since early summer. They were able to resolve many of the most controversial issues and assist us with preparing this core bill.

HIGHLIGHTS

The Senate core bill would establish an Office of National Drug Control Policy, which will draft a national drug control strategy. Using the authority to review budgets of departments and agencies on the frontline of the drug war, the Drug Control Director will be able to focus on and coordinate all antidrug efforts.

Title 2 of the bill revises many of the criminal sanctions imposed by the 1986 antidrug bill and the 1984 Comprehensive Crime Control Act. In addition, it increases assets for so-called post arrest programs. The Republican proposal identified these programs as being most in need of additional resources, including U.S. attorneys, the courts, and Federal prisons. Arrests have increased and penalties have been strengthened, so it is now time to make incarceration a certainty.

Title 3 increases funding for treatment, research and education. Even though there is need for these resources, I believe the new provisions for strong evaluation and accountability of existing programs is potentially the most beneficial part of this title.

The following title increases programs seeking better cooperation with drug source and trans-shipping countries. We have seen better relations and increased action by these countries, and these provisions should help strengthen existing efforts.

Finally, title 5 seeks to establish avenues to ensure we have drug-free schools and workplaces, as well as removing drugs from public housing projects, the location of much of the current trade. Unfortunately, I do not believe these provisions go far enough when compared to the original Republican proposal. However as stated earlier, it does contain a good starting place to move the measure to the floor.

SUMMARY

In summary, let me say that this is a good core package, much better than the core bill in the House. However, the House added several vital amendments to its package which I think are essential to our commitment against drugs. We must add those amendments to whatever package finally passes the Senate. But what we must keep in mind that it is essential we get a bill cleared for the President's signature before adjourning the 100th Congress. I will work closely with the majority leader to help him achieve this goal, a goal being demanded by the American people.

Mr. President, I remind the Senate that in the closing days of the 1986 session when the Republicans were in the majority and we had a Dole-Byrd package, the first major drug legislation, but it really was, more importantly, a bipartisan package. We had working groups on each side of the aisle at that time.

I think this is another example; when the public interest needs a response, we are able in this Senate to do it in a bipartisan, nonpartisan way.

I want every drug pusher in America to remember this date, October 3, 1988, a day Congress started painting "Going Out of Business" signs for drug pushers.

Again, I want to thank Senators WILSON and D'AMATO for their early efforts on the death penalty provision which is now incorporated in this bill by agreement. I think it has already been indicated that time for talk is over—no more delays, no more excuses, and no more politics. It is time for Congress to take its own drug test. Are we going to be tough or just tough in speeches? Do we mean business or just business as usual? Are we going to pass a drug test or pass the buck?

The American people are watching and so are our children. So as I said we took a big step in 1986. That was sort of the pioneering bill. Now we need more muscle. We have already sent a message, and now is the time to send a warning. You do not take on the drug world like a bunch of diplomats. You take it on with the only kind of action pushers understand—tough, street smart, and hard-hitting action that hurts them in the pocketbook and breaks their backs in the courts.

So I applaud the core package that we have before us today. Now it is time to turn it into a club. We need amendments that help our law enforcement officials do their job on the streets and in the courts. We need amendments that tell the drug consumer play and you will pay. I am talking about long overdue reform, the exclusionary rule, and habeas corpus law. I am talking about heavy civil penalties for drug users with fines up to $10,000 for possession, and powerful sanctions against drug consumers such as loss of driver's license, Government assistance, and other privileges that they should forfeit. So there is the challenge. There is the test. It is time we pass this test before it is too late.

I would just say finally we ought to take a page from what happened in the Olympics. They took tough, and they took swift action when they found whoever it may be involved in the Olympics using drugs.

So I applaud my colleagues, and I especially want to applaud the Republicans as well as Democrats—Senators Rudman, D'Amato, Gramm, Wilson, who have been our task force along with Senators Moynihan Nunn, others, and Senator DeConcini on that side.

I applaud the majority leader for moving on this legislation. To me this is the most important thing we can do between now and the time we adjourn—take action on this bill. I believe if we do a pretty good job, the House might take our package. It might avoid a conference. So we are prepared, as Senator Rudman will point out on this side, to try to get an agreement that we will offer only so many Republican amendments. If we get the same agreement on the other side, there would be an equal number on each side, and we would offer those amendments with no agreement. They might lose, they might be tabled, and they might be adopted. So we are ready to go to work.

I applaud all Members for their cooperation.

BILL PLACED ON CALENDAR—S. 2852

Mr. BYRD. Mr. President, if the distinguished Republican leader will yield, I might ask unanimous consent not—the request has been cleared, and the Republican leader joins me in the request—that the bill be placed directly on the calendar.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, I commend my colleagues for developing this core bill, which represents a bipartisan consensus on what we can do this year to attack the drug problem that is ravaging this country. Although this bill does not provide the resources needed to mount a full-scale war on drugs, I support it for the following reasons:

It provides for the death penalty for drug-related killings. The bill includes the language of S. 2455, which passed the Senate June 10 by vote of 65 to 29. It provides for a Federal death penalty for:

First, the drug kingpin who intentionally, or with reckless indifference to human life, kills or orders a killing;

Second, the person, such as a hired killer, who intentionally, or with reckless indifference to human life, kills another person as part of a continuing drug enterprise; and

Third, the person who kills a law enforcement officer in a drug-related killing.

It provides new funding for U.S. attorneys, and strengthens other parts of the criminal justice system that have too long been neglected. For the first time, OMB has agreed to give U.S. attorneys credit for the assets of drug dealers they seize and for producing income for the Treasury. This enables us to appropriate an extra $36 million for 500 additional attorneys and support staff, of which $22 million—and 350 attorneys and support staff—will be earmarked for expanded asset forfeiture program.

The bill also provides resources for our overcrowded courts and prisons, for our overworked INS criminal investigators, DEA agents, and other Federal law enforcement agents, and provides for expedited Federal aid to State and local law enforcement agencies.

It places an increased emphasis on demand reduction. In additional to authorizing $1.5 billion in new funding for drug treatment and education programs, the bill begins a process that in the next few years will allocate 60 percent of new spending to drug demand reduction programs. The bill also authorizes the use of Federal funds to build and renovate drug treatment centers.

The bill recognizes that we cannot expect other countries to reduce their illegal drug production while we do almost nothing either to destroy illegal marijuana crops and drug labs in this country, or to reduce the illegal use of chemicals to make cocaine, heroin and other drugs. It creates a strong enforcement program to combat the diversion of chemicals used to make illegal drugs, and gives increased authority to the Border Patrol and Forest Service to destroy illegal drug crops and arrest growers in this country.

IT CREATES THE OFFICE OF "DRUG CZAR" OR DRUG POLICY DIRECTOR

I am pleased that this bill contains several provisions that originated in S. 2205, which Senator DeConcini and I introduced on March 23, as well as other provisions that I was able to insert into the Republican draft of the drug bill. These include:

THE SUBTITLE ON CHEMICAL DIVERSION

This part of the bill requires that chemical companies keep records on sales and purchases of regulated chemicals so that the Drug Enforcement Administration will be able to trace these chemicals and to combat the diversion of chemicals for illegal purposes.

Records relating to precursor chemicals—such as ephedrine and piperidine, which become a part of the drug's chemistry—must be kept for 4 years. Records relating to essential chemicals—such as ether and acetone, which are used as catalysts or solvents in the making of cocaine, but do not become a part of a drug's chemistry—must be kept for 2 years.

These records shall include the following information: The date, identity of those involved in the transaction, the quantity and form of the transaction, and the method of transfer.

Records relating to transactions involving tableting and encapsulating machines must also be kept for 2 years.

Such records shall be made available to agents designated by the Attorney General.

Those regulated under this act must also, under regulations to be issued by the Attorney General, report suspicious transactions involving listed chemicals to the Justice Department.

The bill makes importing and exporting listed chemicals and machinery illegal unless reported at least 15 days in advance—although the Attorney General can grant exemptions in cases involving regular customers—and unless the imports or exports satisfy the Justice Department's legitimate purposes guidelines. Legitimate purposes are medical, scientific, commercial, or other legitimate purposes approved by the Attorney General.

Illegal distribution, manufacture, possession and/or evasion of recordkeeping and reporting requirements of the act are punishable by imprisonment for up to 10 years. Anyone imprisoned more than 1 year for violating the provisions of the act may also be suspended from engaging in the chemical supply, import or export business for up to 10 years. The act also provides for the forfeiture of chemicals and equipment involved in a criminal violation.

THE SUBTITLE ON MONEY LAUNDERING

The bill authorizes the use of sting operations to investigate and prosecute criminal money launderers. It permits undercover law enforcement officers to pose as drug traffickers in order to obtain evidence necessary to convict money launderers, and it provides criminal penalties for persons who participate in such sting operations with criminal intent, whether the money involved in the sting really is drug money or is money furnished by a law enforcement agency. To be convicted, the defendant would have to have specific intent to promote a specified unlawful activity, to conceal the proceeds of such activity, or to avoid relevant reporting requirements. The defendant would not, however, have to know or believe that the property involved in the transaction was drug money. A law enforcement officer would only have to have represented it as such.

The Anti-Drug Abuse Act of 1986 made money laundering in furtherance of specified unlawful activities a crime. This subtitle adds a number of activities to the list of specified unlawful activities that can give rise to a charge of money laundering, including: Aviation smuggling, transportation of drug paraphernalia, and violations of laws controlling precursor and essential chemicals.

The bill provides a daily fine of $10,000 for financial institutions that wilfully violate the reporting requirements of the Bank Secrecy Act—title 31 section 5318—designed to combat money laundering. It also provides for a $10,000 civil penalty for willful and grossly negligent violations of the recordkeeping requirements of title 31.

The bill requires sellers of traveler's checks, cashier's checks and other instruments to keep records of the identity of any person not a regular customer who purchases such instrument for more than $3,000 in cash.

THE SUBTITLE ON STATE AND LOCAL DRUG LAW ENFORCEMENT ASSISTANCE

The part of the omnibus bill was developed from the State and local narcotics assistance subtitle of S. 2205. It reauthorizes the Bureau of Justice Assistance [BJA], provides that the Administrator shall be a Presidential appointee confirmed by the Senate, and requires each State to submit a master plan or strategy encompassing demand reduction, education, and law enforcement programs.

The bill establishes an expedited grant system for local governments. It gives BJA 45 days to review and approve a completed state application, unless BJA provides the State written notice of disapproval within that time. It provides that a local government's application for funds to a State shall by deemed approved by the State no later than 45 days after the State receives the application, unless the State informs the local government otherwise in writing. Generally, States must make funds available to local governments whose applications have been approved no more than 90 days after BJA makes funds available to the State. For units of local government with populations of 500,000 or more, the State has only 45 days after BJA approval to make funds available. If a State does not meet these requirements, the State must return the funds to BJA, which will then distribute the funds directly to local governments.

THE PUBLIC SAFETY OFFICERS' DEATH BENEFITS IMPROVEMENT SECTION

As in S. 2205, the omnibus bill increases to $100,000 the basic death benefit payable to families of public safety officers who are killed in the line of duty. The bill also eliminate the requirement that a surviving parent must be a dependent in order to receive such benefits.

THE NATIONAL ADVISORY COMMISSION ON LAW ENFORCEMENT SECTION

The bill adopts the proposal in S. 2205 to establish a National Advisory Commission on Law Enforcement to examine pay and benefits issues and to report findings to the President in 6 months. This Commission's work will give the next Congress a head start in addressing one of the most serious problems facing Federal law enforcement agencies; namely, that in many areas, Federal law enforcement agents' pay and benefits are so inferior to those of State and local law enforcement agents that Federal agencies cannot recruit and retain the personnel they need.

THE SUBTITLE ON DEPORTATION OF ALIENS COMMITTING DRUG CRIMES AND OTHER AGGRAVATED FELONIES

The inability of the Immigration and Naturalization Service to arrest, detain, and deport dangerous alien felons is well-documented in a series of GAO reports and the INS's own reports to the Senate Appropriations Committee. The omnibus bill adopts the essential proposal set forth in S. 2205 to address this problem by providing for the quicker and more certain deportation of criminal aliens. It also contains several excellent legislative provisions introduced by Senator Chiles.

Today, a conviction for even the most heinous crime is anything but conclusive evidence of deportability. Instead, a long list of defenses and complicated procedures—and the absence of time limitations to prevent these cases from dragging on for years—make it almost impossible to deport noncitizen drug dealers and violent criminals.

Under the provisions of this bill, however, an alien convicted of an aggravated felony—murder, kidnapping, rape, and drug and firearms trafficking—will be subject to an expedited deportation process. The bill clearly states that conviction of an alien for an aggravated felony serves as conclusive evidence of deportability. The alien must automatically be ordered deported by the INS upon sentencing, to be effective upon completion of the sentence. Aggravated alien felons will be ineligible for voluntary departure, a change in the law that requires their formal deportation. The order of deportation will be final unless the alien petitions a U.S. district court within 30 days.

This subtitle seeks to prevent deportation cases involving criminal aliens from dragging on unreasonably long by reforming the hearing and appeals process. It requires U.S. attorneys to respond to an alien's petition to the district court within 30 days, and permits the district court to conduct hearings within that 30-day period to resolve disputed questions of fact.

The bill protects the due process rights of aliens in a number of ways. It gives the alien ample notice and opportunity to be heard. The deportation order must be personally served in the alien's native language. Decisions of a district court are appealable to the court of appeals.

The bill permits review by an immigration judge of an alien's claim under section 212(c) of the Immigration and Nationality Act that deportation will result in hardship to his family. The claim must be filed within 30 days of receipt of a deportation order. If, after a preliminary hearing, the immigration judge believes that the alien's claim warrants consideration, the alien will be scheduled for a hearing on the merits before an immigration judge. However, if the preliminary hearing shows consideration of the claim of hardship is not warranted, the deportation process will resume according to the new rules and procedures.

The bill increases current penalties for illegal reentry after deportation, from a maximum of 2 years imprisonment and a $1,000 fine to: First, a minimum mandatory penalty of at least 15 years imprisonment and fines of up to $20,000 for deported aggravated alien felons who reenter the country illegally; and second, a maximum of 10 years of imprisonment and a $10,000 fine for deported alien felons other than aggravated alien felons.

The bill also provides increased penalties—up to 5 years in prison—for convicted aggravated alien felons failing to appear after having been subpoenaed under the Immigration and Nationality Act.

THE U.S. MARSHALS SERVICE ACT OF 1988

Since 1789, the U.S. Marshals Service has operated under a very broad legislative authority. That authority is so broadly stated that it does not adequately address the many activities that the modern Marshals Service is engaged in: The apprehension of criminal fugitives; extraditions; witness security; court security; prisoner detention and movement; and criminal asset forfeitures.

The U.S. Marshals Service Act of 1988 brings the Marshals Service authorization statute up to date, and makes clear that these important Marshals Service activities have full congressional support. It establishes the U.S. Marshals Service as a bureau within the Department of Justice under the authority and direction of the Attorney General.

With respect to the Justice Assets Forfeiture Fund, the bill authorizes the Attorney General to exempt the procurement of goods and services under the fund from the requirements of the Federal acquisition regulations [FAR]. Because the FAR were not designed to handle the high volume that is characteristic of the fund, this act authorizes the hiring of private firms to identify property seized from drug dealers and other criminals, manage those assets, and to perform title searches on properties targeted for seizure.

The bill also provides specific statutory authority for the Cooperative

Agreement Program, under which the Marshals Service provides funds for State and local jail construction or modernization in return for the housing of Federal prisoners in those facilities.

I urge my colleagues to let the Senate work its will quickly on this bill and on the amendments offered to it. Limited as the resources provided in this bill are, they are desperately needed.

Mr. President, I ask unanimous consent that the following be printed in their entirety in the REOCRD.

First, with respect to the need for legislation to combat illegal drug labs and diversion of chemicals for illegal purposes, an article in the Christian Science Monitor entitled, "U.S. Chemicals Used to Process Illicit Drugs," and an article in the Wall Street Journal entitled, "U.S.-Made Chemicals Supply Narcotics Labs Across Latin America";

Second, with respect to the need to make drug treatment block grant funds available for capital construction and renovation, a statement of the National Association of State Alcohol and Drug Abuse Directors entitled, "Capital Construction Costs," and a December 11, 1987 letter to me from the Therapeutic Communities of America;

Third, with respect to the need for the Violent Criminal Alien Deportation Act, a report on New York City cases involving criminal aliens convicted of felonies; a May 20, 1988 letter of support from INS Commissioner Alan Nelson; the section on "Detention and Deportation" from the March 1986 GAO Report on Criminal Aliens; and a July 30, 1986, article in the *New York Times* entitled, "Moves to Deport Aliens for Drugs Are Not Pressed."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, July 27, 1988]

U.S. CHEMICALS USED TO PROCESS ILLICIT DRUGS—BILL WOULD REGULATE CHEMICAL EXPORTS

(By Nicholas C. McBride)

WASHINGTON.—The United States has been aiding and abetting the enemy in its war on drugs.

A report obtained from the Central Intelligence Agency says that since 1983, there has been a sharp increase in Latin American imports of chemicals used to manufacture illegal drugs, among other purposes. It concludes that the imports far exceed those necessary for legitimate uses. Most of the chemicals are produced in the U.S.

According to the study, Mexican imports of ether, ether substitutes, and acetic anhydride—the "precursor" chemicals necessary to manufacture cocaine and heroin from coca and opium—tripled between 1983 and 1986. Total Latin American imports of ether, the most important of these chemicals, rose 70 percent during these years.

Ether is legally used as an anesthetic and acetic anhydride in the making of film, plastics, and yarn.

"Ninty-five percent of the chemicals necessary to manufacture cocaine in Latin America originate in the United States," says Gene R. Haislip, a deputy assistant administrator for the federal Drug Enforcement Administration in charge of its chemical-diversion program.

A separate DEA study concluded that 47 percent of the 10,000 tons of ether exported last year to Colombia, Ecuador, Peru, and Bolivia—the leading cocaine producing nations—was diverted to manufacture cocaine.

The report furnished by the CIA calculates that legitimate chemical imports should line up with individual production reflected in the gross domestic product of the region. It says the real GDP rose 2 percent to 15 percent in the region and that imports for legal use should have risen 10 to 20 percent. Yet many of these countries recorded chemical import gains of 50 percent or more.

"Even if we were a 100 percent off," Mr. Haislip says, "this would still be an enormous amount of chemicals for legitimate use."

While ether is the chemical most commonly used in cocaine processing, other chemicals, such as acetone, toluene, and methyl ethyl ketone (MEK), can be used as substitutes. Latin American imports of these three chemicals doubled between 1983 and '86. Toluene is used as a solvent and in the making of dynamite, saccharine, antiseptics, acids, dyes, and perfumes. Acetone and MEK are used to make paint, varnish remover, and chloroform.

There is what Haislip calls a "natural rub" between the chemical manufacturers and law enforcers.

"Industry is in business to make money. They are coopertive up to a point," the DEA official says. He hastens to add that the agency has received voluntary cooperation and support from "long range" thinkers in the business community who believe short-range profits are too high a price to pay for possibly sullied reputations.

"Most businessmen don't want to sell their products to bad guys," Haislip says.

The chemical division of Eastman Kodak produces 1 billion pounds of acetic anhydride each year. Most of it used to make the company's own film.

But Kodak sells about 2 million pounds to distributors and another 2 million pounds directly to pharmaceutical companies for aspirin production.

"Almost all of it, we know where it's going," says Kodak spokesman Lynn Johnson. "We know who the distributor's customers are, because we get service calls."

Yet Kodak cannot account for the final destinations of about 1 million pounds of the chemical.

Mr. Johnson says Kodak has voluntarily cooperated with the DEA, engaging in the monitoring of customers, particularly new customers. The company has rejected foreign sales that seemed shady.

Still, he says, "a million pounds gets out there to customers developed by the distributors. We don't disclose who they are, but they are six reputable distributors, known in the trade."

"There's a lot of legitimate businesses in Central America and South America," says Tom Gilroy of the Chemical Manufacturers Association. "You assume [the chemicals] are going for legitimate use."

According to the DEA, only 15 percent of the chemicals manufactured in the US is exported, and of that amount only 5 percent—or 0.75 percent of the total—is diverted for production of illicit drugs.

A bill currently being considered by Congress would place more stringent reporting requirements on the sales of these chemicals. Kodak and the Chemical Manufacturers Association back the bill.

The Chemical Diversion and Trafficking Act of 1988 would make new foreign customers wait 15 days before receiving chemicals purchased in the US. This would give the DEA time to investigate the unfamiliar buyers.

In addition, businesses selling affected chemicals in the domestic and international market would have to report "suspicious" purchasers and turn over records of who buys, and how much they buy, to the DEA upon request.

But while chemical manufacturers endorse the proposed regulation, "it is a hardship," says Garrity Baker, a spokesman.

"Some of these chemicals are sold in every hardware store in the country. There are a lot of distributors of acetone in every local or regional district in the country. You can't police the cocaine trade from the US," Mr. Baker says.

He adds that drug lords command great wealth and can buy their way around the law by having the chemicals rerouted through dummy companies in intermediary countries. "At least the DEA will know where the chemicals go in the first instance," he says, somewhat wanly.

To some extent Haislip agrees with Baker. He admits that the DEA cannot stop small-scale criminal purchases of these chemicals. But he says the bill will help the government go after the bigger operators.

"In Colombia you have plantations of coca plants of 200 acres. These guys need to buy [chemicals in] volume. This is who we want," Haislip says.

He says that the legislation will be a principal tool in what is already proving to be a drug-enforcement breakthrough.

Within the last two weeks, he says, the DEA has narrowed the number of exporting companies to 30 US businesses with 250 customers totaling about 1,100 transactions annually.

The legislation "will make a big difference," he says. "Formerly we were relying on voluntary information, mostly from tips."

The bill is slated for a vote in September.

Supplying the drug lords: U.S. chemicals flow to Latin America.

Ether is the chemical most commonly used in transforming coca to cocaine. Also used to manufacture cocaine and heroin are ether substitutes—acetone, toluene, and MEK—and acetic anhydride. Latin American imports of these chemicals for 1986 are shown in the accompanying table.

[1986 figures in metric tons]

	Ether substitutes	Acetic anhydride
Brazil	10,287	73
Chile	4,032	0
Colombia	7,924	96
Costa Rica	1,804	2
Dom. Rep.	2,443	1
Eucador	6,088	403
Guatemala	2,681	58
Mexico	31,439	579
Venezuela	13,824	31

United States-Made Chemicals Supply Narcotics Labs Across Latin America—Industry Says It Shuns Buyers It Suspects, but Somehow Shipments Keep Booming

(By Stanley Penn)

Frank Torres was the balding, nondescript operator of a Miami import-export business when opportunity knocked. It was a Colombian drug ring that wanted to Buy American.

The job sounded easy. Purchase in the U.S. a fairly common chemical—which happens to be vital to cocaine manufacture—and ship it to Colombia. But Frank Torres blew it.

He placed a suspiciously large order for 1,300 barrels of ether with J.T. Baker Inc., a Phillipsburg, N.J., chemicals distributor. He offered to pay cash, and he let slip that the ether was headed for Colombia. Also, he asked that the 55-gallon barrels not be labeled—he would do that himself. The company tipped off federal agents.

By the time Mr. Torres got his ether, agents had planted electronic beepers inside the barrels. They tracked the shipment by satellite from Tuscola, Ill., through New Orleans, to a cocaine factory known as "Tranquilandia" deep in the Colombian jungle. There, a national police raid netted 8.5 tons of cocaine. Mr. Torres now is doing five years in prison.

A STEADY U.S. SUPPLY

Mr. Torres's story is unusual only in that he was so heavy-handed that he was caught. For even as the U.S. rails at Latin American governments for failing to curb narcotics trafficking, a steady flow of American-made chemicals is keeping those countries' drug factories running.

"The evidence we've got is that most of the chemicals used in processing cocaine and heroin [in Latin America] originate in the U.S.," says Gene R. Haislip, a deputy assistant administrator for the federal Drug Enforcement Administration.

A raid on a Colombian cocaine lab in May underscores the point. The lab, near the cocaine capital of Medellin, was stocked with 154,000 gallons of ether and acetone—enough to produce 33,600 kilograms of cocaine with a New York City street value of $2.7 billion. "Between 80 percent and 90 percent of the chemicals originated in the U.S.," says a U.S. government source.

American chemical suppliers insist that they aren't happy about such things. They say they try to sell only to reputable customers, and alert the DEA on suspicious orders, as Mr. Torres discovered. Currently, a chemical industry trade group is backing a congressional bill that would give the DEA more power to track exports, and would increase penalties on suppliers who aid narcotics traffickers.

HIDDEN IDENTITIES

Still, some chemical companies concede that at times they don't have the foggiest notion of who really get what they sell or how it is used. That is partly because narcotics gangs may buy in small batches, use dummy companies and trade with multiple suppliers to disguise their identities.

But federal drug agents believe at least a few distributors and brokers—whom they won't identify—also want it that way. "The level of apathy and actual complicity on the part of [U.S.] businessmen has increased significantly," the DEA's Mr. Haislip charged before a House subcommittee on crime last fall.

In any event, one thing is clear: One way or another, the U.S. chemical industry is supplying a lot more of certain products to Latin America than legitimate businesses there can possibly use.

A Central Intelligence Agency report recently circulated among federal officials says that shipments of ether, acetone, toluene, methyl ethyl ketone (MEK) and acetic anhydride far exceed quantities needed to make such products as paint, artificial sweeteners and aspirin. Narcotics makers use these same chemicals in the reactions that turn raw materials like coca or opium into cocaine or heroin.

CIA statistics indicate just how big the imbalance is. From 1983 to 1986, shipments into Latin America of the so-called ether-substitutes acetone, toluene and MEK soared about 125 percent, while industrial activity in most of the region rose only 2 percent to 15 percent.

A separate DEA analysis concludes that as much as 47% of the 10,000 tons of ether, acetone, and MEK shipped from the U.S. to Colombia, Bolivia, Peru and Ecuador last year may have gone to make cocaine. Together, those four countries produce all the cocaine smuggled back to the U.S.

Chemical suppliers, of course, may have reaped only their routine profits on such sales, which appeared headed to legitimate industrial customers. But middlemen in the illicit chemical trade get huge markups. A 55-gallon barrel of ether that starts out at about $400 in the U.S. may bring $2,200 to $4,500 by the time it hits the Colombian black market.

That represents a bargain for narcotics makers, nonetheless. As long as U.S.-made chemicals keep coming, they don't need cumbersome and costly plants, equipment and scientific manpower to produce their own.

POSSIBLE REGULATIONS

Congressional anti-drug legislation now under consideration includes one measure that backers hope will complicate this flow of chemicals. U.S. companies would have to notify the DEA 15 days before filling an order from a new foreign customer, so the DEA could check the purchaser's credentials. Now, chemical exports are wholly unregulated.

The bill, supported by the Chemical Manufacturers Association, would also stiffen fines, prison terms and related penalties for deliberately dealing with narcotics traffickers, or those who could be reasonably suspected of being traffickers. That is already a crime; the challenge has always been—and remains—proving intent.

Chemical Imports Outpace GNP Growth In Several Latin American Countries

[World-wide imports of ether substitutes in metric tons]

	1986	In percent— 1983–86 increase	In percent— 1983–86 GNP change
Mexico	31,439	1,160	2.6
Ecuador	6,088	133	12.0
Brazil	10,287	117	23.8
Venezuela	13,824	52	4.0

Note: Shipments from the U.S. account for nearly all imports by these countries of substitutes for ether, a key chemical used in making cocaine.

On the other hand, the more the measure upsets the supply of chemicals, the greater the likelihood of new headaches. Illicit drug makers, if faced with soaring black-market costs, might decide to steal their chemicals. "That could mean violence—break-ins at warehouses, just like Prohibition," says one source. At minimum, security costs for suppliers and shippers could rise.

For the past two years, the U.S. Customs Service at major ports has been providing the DEA with information on who is exporting such chemicals as ether, acetone and MEK to Latin America. The data have helped the DEA identify some suspect shipments and shippers, an official of the agency says.

UP A BLIND ALLEY

But dead ends and blind alleys still crisscross the trail from supplier to trafficker. Mallinckrodt Inc., a St. Louis-based distributor, acknowledges that it has "discovered on occasion" that its ether and acetone were used in the manufacture of illicit drugs in Latin America. A spokeswoman says, "We have no idea how the material ended up in the wrong hands".

The chemical distribution system contributes to the lack of knowledge, even when there are only a few manufacturers. A case in point is acetic anhydride, needed to make heroin, much of which comes in from Mexico. The U.S. is Mexico's chief supplier of acetic anhydride, and only two companies here, Eastman Kodak Co. and Hoechst Celanese Corp., produce it.

Kodak makes a billion pounds annually, mostly for itself. It sells about two million pounds to six U.S. distributors, who resell to others. Kodak knows the identity of the end users of one million pounds, but can't account for the rest. Hoechst Celanese sells acetic anhydride to "dozens of distributors," a spokesman says. "In some cases, we don't."

Neither company would identify its distributors. However, one major U.S. distributor of the substance is Union Carbide Corp. It says that it doesn't know specifically what its customers do with it.

BUY IT ANYWHERE

At the other extreme are chemicals that are everyday products. Acetone, used in cocaine manufacture, is produced by at least 13 companies and sold by 50 major distributors. It is available at paint and hardware stores across the country.

Some countries try to restrict ether and acetone imports, requiring local users to establish a legitimate need. For traffickers, that is a minor nuisance. "In one Central American country, we've seen cases where it comes in as acetone. They slap new labels on it, and it's shipped out as paint thinner," says a DEA agent.

When Colombia and Ecuador imposed controls on ether, traffickers just stepped up their use of substitutes, including MEK and toluene. From 1983 to 1987, MEK imports into those countries combined rose 82%, to 14.4 million pounds, according to Census Bureau figures.

Middlemen also devise roundabout supply routes. U.S. authorities believe some use the tiny country of Suriname on the north coast of South America as a way station. "The chemicals sit in Suriname to let the trail get cold," a U.S. lawman charges. Then suppliers ship the material "down the Suriname coast to Brazil. It goes down the Amazon River, through Brazil, into the back door of Colombia."

NEW ROUTES APPEAR

In 1986, Etienné Boeren-Veen, identified as commander of the Suriname army, was convicted in Miami federal court of conspiring to use Suriname as a haven for cocaine smuggling and for shipping U.S. ether to illicit users. He received a 12-year prison term.

A new worry, according to the CIA, is "the growing importance of the Caribbean as a drug-processing and transshipment point." In the past four years, toluene shipments from the U.S. to the Dominican Republic have risen nearly fourfold, to 774,000 gallons, Census Bureau figures show.

Chemicals are also showing up in Panama, consigned to dummy customers with neither warehouses nor telephone listings, U.S. law-enforcement officials say. Once the material is unloaded from freighters, middlemen smuggle it into Colombia in small boats, the officials say.

According to a U.S. indictment filed in Miami this year; one of the more famous beneficiaries of this illicit trade has been Panamanian strongman Gen. Manuel Noriega. In early 1984, the U.S. alleges, 500 barrels of ether and acetone were delivered by Panamanian troops to a military air base. They were then flown by DC-6 to a narcotics cartel in Colombia. Gen. Noriega received $250,000 in cash, according to the indictment. He has denied the charges.

NO PURCHASE NECESSARY

Of course, even rigid control of sales and exports wouldn't hinder some activities. Miami-based Isaac Industries, Inc. was shipping acetone to a customer in Ecuador a few years ago when it simply vanished in Panama. "We never recovered our product," says company president David Evans. He figures someone secretly rerouted the shipment to Colombia.

And a small-time black market will always thrive, suggests another U.S. exporter, who ships MEK to Colombia and Ecuador: "Let's say we sell MEK to a paint manufacturer in Latin America," he says. The paint company's warehouse man, "making $200 a month, gets a phone call saying, 'I'm willing to buy a drum for $1,000.' What do you think he is going to say?"

[From the National Association of State Alcohol and Drug Abuse Directors, Washington, DC]

CAPITAL CONSTRUCTION COSTS

NASADAD recommends the removal of the current restriction against the use of the Alcohol, Drug Abuse, and Mental Health (ADMS) Block Grant and Supplemental Treatment monies for capital construction. One of the most cost-effective means for accomplishing long-term expansion of treatment capacity is the purchase of physical plants or housing for treatment programs.

In addition, many existing treatment programs will need to be renovated to provide for the expansion of services. Complete removal of this restriction or the inclusion of a limit on such costs will provide much needed flexibility to the States on the most appropriate mechanism for expanding and initiating new services.

Estimate of Facility Development Corp. of Rhode Island:

New 50-bed facility—$895,000 total.

Renovation of costs—$500,000 average.

THERAPEUTIC COMMUNITIES
OF AMERICA,
December 11, 1987.

Hon. ALFONSE D'AMATO,
U.S. Senate, Washington, DC.

DEAR SENATOR D'AMATO: Therapeutic Communities of America (TCA), the principal association of non-profit residential "drug free" programs, representing some 30 agencies in North America, wishes to commend the leadership you continue to provide to the substance abuse treatment community in the United States Senate. In particular, we appreciate your addressing the regulatory impediments which limit the expansion of treatment services, during a recent hearing of the Senate Caucus on International Narcotics Control.

As you know, despite the additional funding Congress allocated last year for treatment, an extreme shortage of space plagues many facilities. Thus, long waiting lists (for people seeking to enter drug treatment) characterize these programs in large states like New York and California.

While part of this problem can be attributed to the lack of federal emergency treatment money yet to be made available to many facilities, federal regulations continue to be a major factor limiting the ability of residential programs to expand living quarters to bring in more patients.

As was indicated by presentors at the Senate Caucus hearing, removal of the current restriction against the use of federal Alcohol, Drug Abuse and Mental Health Services (ADMS) block grant and supplemental treatment grant monies for capital construction provides one of the most cost-effective means for achieving long-term expansion of treatment capacity.

Representatives of TCA would like to meet with you to discuss your assistance in amending existing law for the aforementioned purposes.

Sincerely,

R. DOUGLAS CHIAPPETTA,
Director, National Office.

In New York County, which is only one of the five counties of New York City, over 1,000 Criminal Aliens were convicted of Felony Drug Crimes or Felony Crimes of Violence between November, 1986 and September, 1988. Owing to loopholes in the present law, bond jumping, etc., only a small percentage of this group will be deported.

The Violent Criminal Alien Deportation Act will not only result in the deportation of thousands of Violent Criminal Aliens, but will tend to prevent their illegal return to the United States.

As illustrated below, deported Violent Criminal Aliens are not deterred by the present maximum two-year penalty for illegally returning to the United States after Deportation.

(1) Sentenced: April 1985; 3 yrs. to life; criminal sale of narcotics. Deported: January 1987; to Colombia. Rearrested in United States: May 1987—criminal possession of marijuana.

(2) Sentenced: February 1985; 1 to 3 yrs.; criminal sale of narcotics. Deported: November 1985; to Panama. Rearrested in United States: December 1985—grand larceny.

(3) Sentenced: September 1979; 4 to 99 yrs.) criminal possession of narcotics. Deported: May 1983; to Colombia. Rearrested in United States: July 1986—larceny.

(4) Sentenced: January 1980; 5 to 10 yrs.; manslaughter. Deported: May 1985; to Dominican Republic. Rearrested in United States: February 1986—criminal possession of narcotics.

(5) Sentenced: July 1984; 3 to 10 yrs.; rape. Deported: May 1986; to Jamaica. Rearrested in United States: October 1987—criminal impersonation.

(6) Sentenced: December 1979; 10 to 20 yrs.; armed robbery. Deported: May 1986; to Dominican Republic. Rearrested in United States: August 1986—bribery.

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, DC, May 20, 1988.

Hon. ALFONSE D'AMATO,
U.S. Senate, Washington, DC.

DEAR SENATOR D'AMATO: I wish to express my appreciation to you for your continued support for the Immigration and Naturalization Service.

As you know, one of our top priorities is the expeditious removal of criminal aliens from our country. S. 2205, Subtitle E "Violent Criminal Alien Act" is right on target. It complements the initiatives in our Criminal Alien Program and is harmonious with the pilot program underway in New York City between our New York District Office and the Criminal Justice System in that jurisdiction.

I strongly support the continuation of these initiatives and the cooperative spirit which exists between you, Mayor Koch and the Immigration Service.

Thank you.

Sincerely,

ALAN C. NELSON, *Commissioner.*

[From the U.S. General Accounting Office report on Criminal Aliens: INS' Investigate Efforts in the New York City Area]

APPENDIX I—EFFORTS TO APPREHEND CRIMINAL ALIENS

DETENTION AND DEPORTATION

Deportable aliens are entitled to a deportation hearing. According to INS officials, 10 or more months can elapse between the time an alien is apprehended and the time he/she is finally deported. During this period, aliens either remain under INS detention or are released on bond or on their own recognizance. However, attempts are made to expedite hearings for those in detention. Aliens are entitled to bond and are released on bond regularly. Many abscond. A significant increase in apprehensions of criminal aliens would place additional burdens on NYDO's detention facilities and the deportation hearing process and could result in many criminal aliens being released from INS custody and absconding.

The deportation process begins when INS serves the alien with an order to show cause and brings the alien to a detention facility. The district director may release the alien on bond or on the alien's own recognizance or may detain the alien.

According to NYDO's counsel, a date is set by the Executive Office for Immigration Review (EOIR) for a deportation hearing before an immigration judge. In New York, there are eight EIOR judges who preside over judicial proceedings. The district has 13 trial attorneys who represent INS at deportation and other proceedings. Additionally, when the order to show cause is issued, INS is required to provide the alien with a list of organizations that provide free legal counsel.

The NYDO assistant director for detention and deportation told us that the district office operates one major detention facility—the Varick Street Service Processing Center. He said that this facility has a capacity of 225 beds for general detainees and an additional 21 beds for infirmary, maximum security, and families. District officials told us that although most detainees are housed temporarily, the facility is usually at or near capacity. The space problem is compounded by the fact that as of February 1986, 46 beds were occupied by Mariel Cubans. The NYDO also has available for use 50 beds at the Boston Service Processing Center and 10 beds at the Federal Metropolitan Correctional Center. In addition, NYDO contracts for space with the New York City Department of Correction. The Department of Correction must make available up to 210 beds at a cost of $63.55 per day per detainee. However, if only one bed is used, NYDO must still pay for a minimum of 20 detainees. According to INS officials, this facility has been virtually unused because of the unavailability of funds. The district office also has a contract with the Passaic County jail (50 beds at a cost of $50 per detainee per day).

The deportation process can be lengthy because of the number of cases that must be heard, the alien's right to claim relief from deportation and the need to investigate those claims, and the alien's right to appeal decisions. As of February 13, 1986, NYDO had 25,943 aliens in various stages of the deportation process. In fiscal year 1985, the eight immigration judges heard over 854 bond matters and completed 8,367 deportation cases. According to the office of the Chief Immigration Judge, any alien released on bond would not be scheduled for his initial deportation hearing for approximately 6 weeks. This office told us that no priority is given to scheduling hearings for criminal aliens released into the community. Also, according to NYDO's assistant director for detention and deportation, nothing is usually decided on the merits of a case at the first hearing. Accordingly, another hearing is scheduled for about 4 months later.

Numerous relief provisions (which take time to resolve) are available to potentially deportable aliens, including those with criminal records. For example, section 244(b) of the Immigration and Nationality Act allows a criminal alien to request suspension of deportation on the grounds that he has been in the United States for at least 10 years, is of good moral character, and would suffer exceptional and extremely unusual hardship if deported. If the judge agrees to hear the petition and NYDO opposes it, NYDO may have to make an investigation. A supervisory investigator told us that this could extend the case for another 6 months.

If an alien's application for relief is denied, he can appeal to the EOIR's Board of Immigration Appeals. The chief of NYDO's trial attorney branch estimated this can add 4 months to the process. Additionally, the alien can request judicial review to the U.S. Circuit Court of Appeals and up to the Supreme Court.

Delays in the deportation hearing and appeals process often work in the alien's favor. The alien can marry a U.S. citizen, become a parent, obtain employment, or satisfy the 10-year residency requirement during this process. The alien can then use these activities as grounds to plead for suspension of deportation. The chief trial attorney for NYDO told us that this often happens.

The length of the deportation process, the number of cases to be heard, and the alien's right to bond preclude detention of all but a fraction of the 26,000 aliens who are currently in the process. NYDO representatives told us that many of these, including the criminal element, abscond. A 1984 INS study reported that nationwide 76 percent of the aliens under a final order of deportation absconded, many of them after lenghty appeal procedures that had been resolved in favor of deportation. In fiscal year 1984, NYDO reported 2,757 aliens had absconded. NYDO apprehended 145 of them.

[From the New York Times, July 30, 1986]

Moves To Deport Aliens for Drugs Are Not Pressed

(By Peter Kerr)

Law enforcement agencies have given up pressing for the deportation of most aliens arrested for selling drugs in New York City because, officials say, the Immigration and Naturalization Service is unable or unwilling to investigate the cases.

The issue is of growing concern, law enforcement officials say, because up to half of the hundreds of people the police arrest each month for selling crack are aliens. The use of crack, a potent form of cocaine, has spread rapidly in the past year.

Under Federal Law, foreigners convicted of narcotics violations may be expelled from the country, even if they are not illegal aliens. If they are not deported, prosecutors say, most of them wind up back on the street.

YEARS OF BUDGET CUTBACKS

But the immigration services' assistant commissioner for investigation, John F. Shaw, said immigration authorities could not be expected to deport all the aliens convicted of drug charges if the courts are too overwhelmed to send them to jail. The immigration service, he said, is trying to do the best it can with only 81 investigators in the New York office and after years of budget cutbacks.

In recent interviews, however, District Attorney Robert M. Morgenthau of Manhattan and Senator Afonse M. D'Amato, Republican of New York, described the New York office of the Immigration and Naturalization Service as not only understaffed but also disorganized and reluctant to pursue drug dealers.

The officials, along with other presecutors and law enforcement officials who have been critical of the agency, cited a recent study by the General Accounting Office that found that even after the agency in New York identified criminal aliens as legally deportable, the majority of the aliens continued to live in the United States and were arrested again for additional crimes.

"I.N.S. is following up against very few of these aliens," Mr. Morgenthau said. "I think deportation proceedings can be a very effective weapon in the fight against drugs."

According to Mr. Morganthau, the New York City police arrested 2,291 noncitizens on drug charges in the first three months of this year, up 28 percent from the corresponding period last year. Of 30,000 drug arrests citywide in the first half of 1986, he said, about 5,000 or 20 percent were of aliens.

Robert M. Stutman, the Federal Drug Enforcement Administration's special agent in charge of the New York region, estimated that more than half of the people arrested on crack charges in the city were foreigners and that in certain neighborhoods, such as the Washington Heights section of Manhattan, the proportion might be higher.

The city's Police Department has arrested more than 700 people on charges of possessing and dealing in crack in the last two months.

NO JAIL TIME FOR MANY

Because of the large numbers of drug arrests and the backlog within the judicial system, most people arrested are sentenced to probation and do not go to prison.

In Manhattan, three out of four people convicted of drug misdemeanors—selling or possessing small quantities of drugs—got no jail time beyond that served between arrest and arraignment according to a study by Mr. Morganthau's office earlier this year. Though most defendants had previous misdemeanor arrests and 88 percent were convicted, only one in four got jail time beyond the day or day and a half between arrest and arraignment.

But under Federal law, aliens who are in the United States legally but who are convicted of a drug offense are subject to deportation. Illegal aliens are subject to deportation even if they are not convicted of a crime.

"If a foreigner is caught here dealing drugs," Mr. Morgenthau said, "I think he should be made to leave and should be kept out."

Of the 81 criminal investigators in the immigraiton service's office in New York, 19 investigate cases of aliens charged with criminal offenses.

Aliens who are deported must first face a hearing before an administrative judge. The process can range from several weeks to years, depending on whether the alien disputes the charges involved.

The March 1985 study, made by the General Accounting Office, the investigative arm of Congress, at Senator D'Amato's request, found that of the 200 people the immigration service identified last November as criminal or illegal aliens who met the legal criteria for deportation, 77 percent were arrested again for committing another crime and 11 percent were arrested five or more times.

EASIER CASES TO HANDLE

According to Senator D'Amato, the immigration and Naturalization Service was pursuing illegal aliens who were not suspected of serious crimes because those cases were easier to handle. The agency, he said, was avoiding the more difficult cases of drug dealers and other potentially violent criminals.

"They are making a sham of the system," Mr. D'Amato said. "To arrest women working in a sweat shop is easy. These are passive people. But they are avoiding the bad, bad people who are the most dangerous."

The General Accounting Office study found that immigration service investigators were following up on only a small fraction of the cases of criminal aliens referred to them and that the agency chose to pursue only the cases of aliens who remained in jail. Yet, the report said, seven out of eight aliens arrested for felony offenses never went to prison.

The report also found that in 1985 the service's New York office gave criminal aliens a low priority of only 16.5 percent of its investigative time. The report said most investigators were assigned to cases involving employers of illegal aliens and fraud schemes.

According to Arthur Diamond, a deputy to Sterling Johnson, the state's special narcotics prosecutor, the immigration service has been refusing to follow up on cases of aliens convicted as narcotics violators when they are sentenced to probation.

The New York office of the Immigration and Naturalization Service had nearly 800 people deported last year on charges ranging from overstaying entry visas to fraud, assault and murder, according to James Farris, chief of the agency's employers entitlement section. He said the office did not know how many of those aliens were convicted of drug charges and did not know how many aliens convicted of drug charges were in prison in New York.

> But Mr. Shaw, who oversees national enforcement efforts for the agency, said it had lost 38 percent of its staff in the last decade and had seen its investigators decline to 700 from 900 nationwide.

Mr. D'AMATO. Mr. President, let me congratulate the majority leader, Senator BYRD, and the minority leader, Senator DOLE, for exercising the kind of leadership particularly in this important area of bringing together the Senate so that we can deal with what I believe is the most threatening problem to this Nation, to its stability, to its mental health, to its competitiveness, and to domestic tranquility.

That is the drug epidemic. I commend my colleagues also who put aside the petty partisan considerations, who attempted to ameliorate the differences that may exist. In fact, the death penalty is so contentious, but yet the bipartisan group recognized the sentiment of the body; and notwithstanding our various feelings, why debate this for hours? Why have this matter tie up the bill? And we placed it in the core bill so that the death penalty for the drug kingpins, as outlined by Senator BYRD, is part of the bill.

Much more importantly, it looks to strengthen the apparatus of law—forfeiture seizures, seeing to it that we convert the assets of the drug kingpin into the battle against him so that State and local governments as well as U.S. prosecutors can use those revenues, emphasizing demand reduction, rehabilitation treatment, education, and all of these components contained in this bill; money laundering provisions so that we can begin again to get at the core, attack that drug kingpin, that empire, trace those assets, identify those people who are behind this, and make it difficult for the financial institutions to throw up their arms and say, "Oh, I had no way of knowing."

Yes, there are provisions that will hold them accountable. What about the commercial activities, and the sale of the various chemicals that are necessary in making these killer drugs? For too long Senator DECONCINI has been fighting a battle, a courageous battle, to see to it that we can trace these chemicals. And we have had one obstacle after another put forth in the way of seeing to it that there is adequate recordkeeping so that in this area law enforcement has the tools to see who is using these various chemicals to do nothing more than to manufacture drugs.

All of these and more are provisions contained in this bill.

Mr. President, I salute my comrades in arms in undertaking this activity.

But let me say that we will not lead the public to think that all will be right because it will not be. Because although we pass meaningful legislation, and although we will be taking a giant step forward in the battle against illegal drugs, there is the matter of funding. We account for about $450 million of new money for fiscal year 1989. That is not nearly enough. I know there are some of my colleagues—such as Senator RUDMAN—who have approached me and talked to me about the need of finding additional funds. That is not easy. That is pretty tough, because that is called taxes. No matter how we cut the cake, it is called taxes. Raising revenues, closing loopholes, user fees, sin taxes—it is taxes.

I think it is about time we recognized that if we are really going to fight this battle, if we are going to have the massive public education and prevention programs, if we are going to build the necessary prisons, it will require money.

In New York City, they arrested 86,000 people last year for selling drugs. Eighty thousand were back on the street within 24 hours. Why, Mr. President? Because they were not guilty? Because there was not reason to hold them? Because they had wonderful, stable roots? Because they presented no danger to the community? No. Simply because they did not have space to hold them in prison. Many of these are repeat offenders. For what? For the sale of drugs.

Unless we provide the resources, the treatment centers, the prisons, the prosecutors, the DEA agents, the massive education programs, with money, we are just kidding ourselves, and we will not be doing the job.

I think the tough work lies ahead. After we pass this bill, with whatever amendments my colleagues deem appropriate, we should address ourselves to raising real revenue, over and above the $450 million, so that we can say, when we close this session, that we have met our challenge, that we have done what the people would expect us to do, notwithstanding some of the political rhetoric and fallout that might take place. I suggest that the American people will be behind us and support us if we raise revenues for these purposes, to really fight the drug menace.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York [Mr. MOYNIHAN].

Mr. MOYNIHAN. Mr. President, I associate myself with all that has been said on the floor this afternoon.

We have surprised ourselves in the product we bring to the body. It is a long piece of legislation, some 700 pages, put together since May.

We first met on May 19 on our side and subsequently began the bipartisan meetings with Mr. GRAMM, Mr. D'AMATO, Mr. WILSON, Mr. RUDMAN, and other Members on both sides of the aisle. Gradually, this has come together.

We have made a large statement with respect to the emphasis, as Senator D'AMATO and others have said, on the question of demand. As long as there is a craving for drugs in our Nation, that craving is going to be satisfied. We hope to put into law the proposition that we ought to provide treatment on request. It is an immense undertaking, but it is the only one which offers any serious hope, outside of a Darwinian process whereby those who are now involved with drugs simply kill one another off. And do not exclude that possibility, Mr. President. Do not exclude the possibility that the heroin epidemic that produced the single-parent family of the 1960's will be followed by the crack epidemic that will produce the no-parent family of the 1990's.

One succinct incident: This morning, the front page of the New York Daily News has a single story, in the concise style of Daily News headlines. I have been reading the Daily News for 55 years and once sold it along 8th Avenue in Manhattan. I bought it for 2 cents and sold it for a nickel. It says: "Crack Dealer Torched, Dies; Cops Hunt Three Attackers Near Garden."

Mr. President, this is happening on the streets of our cities.

I will read the story, which is captioned, "Crack hustler torched. Dies in dousing by three at Garden."

> A street person-turned-crack hustler known as Scandalous Mike died yesterday after he was doused with a flammable liquid and set ablaze near Madison Square Garden, police said.
>
> The victim, tentatively identified as Michael Howard, 29, was wrestled to the ground by three men and torched about 10:15 Saturday night near a mailbox at Eighth Ave. and 31st St. He may have been killed in a dispute over drugs, police said.
>
> "Somebody apparently wanted him to suffer," said Capt. William Roe of Manhattan detectives.
>
> Howard, with second and third-degree burns over 98% of his body, was pronounced dead yesterday morning at New York Hospital-Cornell Medical Center's burn unit. Because of the severity of the burns, the victim's fingerprints could not be immediately checked.
>
> Doctors found two crack vials hidden in his mouth—"where people who sell crack keep it," Roe said.

Mr. President, these are crack vials that I hold in my hand. they are manufactured, as the label says, in the Republic of China, which is to say Taiwan. There is now an international trade in providing the drug paraphernalia of the United States: not only does the cocaine come in from abroad, but the vials as well.

We have commenced not just to have children murdering children with submachine guns; we have some hideous events such as the man burned alive on the streets of New York City, in that savage, mindless ferocity that this deadly substance brings.

Crack appeared in the Bahamas in 1983, came to New York in 1985, and has metastacized throughout the country. Either we do something or we will be a different country.

Mr. President, we are embarked on a new approach to the epidemic of drug abuse. The Omnibus Anti-Substance Abuse Act of 1988 would provide additional funds for law enforcement and drug interdiction, as well as imposing stringent new penalties against drug traffickers. But the bill also addresses the demand for drugs by emphasizing drug treatment and education programs; 60 percent of the $2.6 billion authorized by the bill would be devoted to such programs, which—in conjunction with the bill's law enforcement provisions—could do much to help break the epidemic of drug abuse.

Public concern over the drug issue is a response to the severity of this epidemic. A New York Times/CBS News Poll on April 10, 1988 found that 48 percent of Americans regard drug trafficking as the most important international problem of the moment by more than a 2-to-1 margin over such subjects as arms control, Central America, terrorism and Palestinian unrest. I agree Americans have good reason to be concerned about the drug problem. But the answer to one question is this poll gives me a little comfort: "Do you think the U.S. Government should concentrate more on reducing the supply of Illegal drugs coming into this country, or should it concentrate more on getting Americans to stop using illegal drugs?"

By a margin of 50 to 35 percent, respondents said that reducing the supply of illegal drugs is more important than stopping their use.

It appears to me that if we really believe this, we are deluding ourselves. Our strategy must be to reduce both the demand and supply of drugs. And I speak as one quite familiar with supply reduction. As the old navigators would put it, I have been down that way and know something of the coasts.

In a word, I am the person who conceived, and for the most part, put in place the strategy by which the United States broke "The French Connection." This took place almost 20 years ago.

Many of you here undoubtedly remember "The French Connection," if only because of a more than fine performance by Gene Hackman in a movie, since repeated many times on television, about New York when this phase of the heroin traffic was at its height. In the simplest terms, a criminal commerce had developed in which opium grown in the central provinces of Turkey was brought to Marseilles in France, processed into heroin, and smuggled into New York. By the mid-1960's heroin use had reached epidemic proportions in the city. Crime roared through the streets.

In November 1968 President-elect Richard M. Nixon asked me to come to Washington to be his Assistant for Urban Affairs, a new position in the White House. I was a Democrat, but if the President-elect was willing to have me on his staff, given the crisis atmosphere of urban issues at that time, it was hardly for me to decline, and indeed, I did not.

I said to the President-elect that I would come to Washington for 2 years, and I asked and received his approval to pursue two issues. One such issue was welfare reform. The other was to place the international drug traffic on the agenda of American foreign policy.

In August 1969 I flew west from San Clemente to India, then Turkey, and finally, in September, to Paris. My purpose was to meet with foreign officials in these countries and tell them of the President's concern about the flood of heroin then coming into the United States.

I was courteously received in Istanbul by the Turkish foreign minister, Ihsan Sabri Laglayangil. He knew well enough that poppy was grown in Anatolia. But he knew nothing of drug use, and if the United States wanted Turkish farmers to farm differently, we would have to pay them to do so. Which was reasonable, and which, in time we did. But in Paris the matter assumed quite different levels of seriousness. Heroin use had appeared in France. Among youth. There has been deaths. And as I made my way to and from Paris that autumn, the concern there grew.

Both Turkey and France had strong central governments, capable, if they chose, of doing what we were going to ask them to do. Further, each was a formal ally of the United States, which is to say we were all members of the North Atlantic Treaty Organization.

As regards to narcotics, the French have the Surete, a national police force dating back to 1820 which specializes in "vice" crime. They do not much like taking on Marseilles, one tough town, but if they have to they will. The Turkish national police, the Jandarma, is in fact a paramilitary organization. They would be reluctant to close down the poppy fields of Afyon province, which means poppy in Turkish. Poppy seeds are a feature of Turkish baking. But if orderd to do, they would.

Now, President Nixon knew this; Secretary of State William P. Rogers knew it; I knew it. This, therefore, was not a mission impossible. It took a few years, and the results are to be read in "International Naroctics Control Strategy Report" of March 1988. The entry on Turkey begins:

> There is no significant cultivation of illicit narcotic or psychotropic substances in Turkey.

Success? Yes, so far as it went. But I would like to offer the thought that this success had limits.

To put the point in context, let me recount an exchange that took place between me and George M. Shultz, then Director of the Office of Management and Budget, now our distinguished Secretary of State. A short while after it had become clear that the Governments of Turkey and France would join us in breaking the French connection, I was in a helicopter traveling to Camp David in the company of Mr. Shultz. The exchange went about as follows:

> Mr. MOYNIHAN. You will be interested to know that it looks like the Turks and the French are going to shut down their opium and heroin production.
>
> Mr. SHULTZ. Good.
>
> Mr. MOYNIHAN. This is a great victory, you know.
>
> Mr. SHULTZ. Is it?
>
> Mr. MOYNIHAN. But I suppose that as long as there is a demand there will be a supply.
>
> Mr. SHULTZ. You know, there is some hope for you, yet.

Of course, new supply sources did predictably enter the international drug market. And what was our response? We undertook to replicate our success with Turkey and France in a very different set of countries with a very different kind of drug.

But few if any of these countries have governments with the capacity to govern such as Turkey and France had—and have. Bolivia; there is little government in Bolivia. There is a capital. That is all there is to be said about Bolivia. Colombia? Yes. From time to time there is an effective government in Colombia. But it happens that Colombia has a tradition of civil violence of unimagined horror. If we move further north into the Caribbean, matters become worse. Panama, a country whose army chief, General Noriega, has been indicted by a Federal grand jury. Decisions made at the center—the capital—of these countries may be carried out. Or they may not.

That is the problem. We are pursuing a model of success which is plainly inapplicable. It is not succeeding and it will not succeed. We are reduced to hapless avoidance of reality as was evidenced by President Reagan's statement that America's war on drugs "is an untold American success story," adding that the use of illegal drugs "has already gone out of style in the United States."

And so it having come to pass that one source of heroin supply was closed down, lo, true to Secretary Shultz' model—as economists say—another source of supply, in time many other sources, came onto the world market. Further, with time, a new/old drug appeared. Cocaine.

The potential supply of cocaine is unlimited, or as near as makes no matter. To wit: The Department of Agriculture botanists figure that coca can be grown in virtually any subtropical region of the world which gets between 40 and 240 inches of rain per year, where it never freezes, and where the land is not so swampy as to be waterlogged. In South America this comes to roughly 2,500,000 square miles. Of this region, the Department of State's March 1988 "International Narcotics Control Strategy Report" informs us that 679 square miles are currently under cultivation. The drug interdictors—not the botanists—estimate that the current American demand could be supplied by the production—at four crops a year—of some 96 square miles. This is an area somewhat smaller than Queens—109 square miles. (U.S. demand for heroin could be met with opium grown on only 16 square miles). If somehow extirpated, the producers would not really have great difficulty finding alternative plots. There is Africa, India, and Java, where coca was once cultivated as part of the botanical exchanges of the colonial era. The supply, in other words, is unlimited. We cannot stop production abroad of illegal drugs intended for sale in this country.

We can try, and we should. Not to do so would be an utterly unacceptable form of acquiescence and would be seen in the world as such. And our efforts will have some small success. But if we are going to be serious, we will know that there is only so much to be achieved in this mode.

Similarly, there is only so much to be achieved through interdiction of drugs being smuggled into the United States. Why? We are a big country. A continent—88,633 miles of sea coast; 7,458 miles of land frontier. Very little of it fenced or guarded. In addition, each year over 300 million people cross our borders. There are 94 million automobile crossings, 650,000 airplane crossings and over 7 million cargo containers arrive every year in U.S. ports. Given that tiny quantities of herion or cocaine in pure form produce huge amounts of the drugs as consumed, and given the high "mark ups" in price, the pressure on our borders is irresistable.

Between 1984 and 1987, the amount spent by the Federal Government on the interdiction program about doubled, rising from just over $700 million to just under $1.4 billion. Federal seizures of cocaine about doubled also. But the amount that entered the country also doubled. Thus, the street price of cocaine has decreased from as high as $125 per gram in 1983 to as low as $80 a gram in 1987. No wonder we read reports that the international drug cartels, like cartels everywhere, would like nothing better than to restict supply and drive up prices.

I hold that at any given moment there is certain amount of narcotics that will be consumed in the United States. Suppliers from abroad will send in enough supply until this level of demand is met. Period. The stuff is so cheap out there and so dear in here. If we double our rate of interception, they will double their shipment rate. The same amount will get through.

Something like this happened during Prohibition. A huge amount of the most concentrated forms of alcohol, which is to say whiskey, gin, rum, were smuggled into the United States from Canada and the Caribbean. A great deal was seized. Or some was seized. Most of it got through. And so we see two models, do we not? The French Connection model of cutting off production abroad. The Prohibition model of preventing smuggling at the border. Neither is working. The first model can only work with a particular kind of country, of which there are but few. The second model did not even work the first time.

Clearly, we must now focus on the demand side of the equation in addition to addressing the supply side. We have no other choice. The drug epidemic is becoming particularly virulent form. Just look at the cocaine derivative known as crack; and the increasing association of IV drug use with acquired immune deficiency syndrome, it is a plague indeed.

This latter point can hardly be overstated. Drug use now threatens the lives of persons wholly uninvolved with drugs. In New York City today something like one child in 61 is born with the HIV virus. Of these approximately half will develop symptomatic AIDS itself and will thereupon—slowly but inevitably—die.

Given a problem, people hope for solutions, and there is not very great reward for insisting that no very obvious one may be at hand. Too frequently this is seen as a "cop out," an excuse for inaction. It is nothing of the sort, or need not be. In such situations the art of government is to begin with those things that Government can do. The Omnibus Anti-Substance Abuse Act of 1988 does just that.

This legislation stems from analysis done earlier in the year by the Democratic Working Group on Substance Abuse. That group was appointed by the majority leader to examine the weaknesses of existing drug policy and to recommend a better approach. The working group found in its statement of June 30, 1988, that past efforts were severely hampered by the large number of agencies with overlapping jurisdictions and fragmented authority." Hence, the proposal—incorporated in the Omnibus Anti-Drug Act of 1988—to create a Cabinet-level Director of National Drug Control Policy, who will guide and coordinate the entire federal drug control effort.

The working group also identified some underlying problems in law enforcement. While more drug arrests are made every year, courts and prisons are so overcrowded that swift and sure punishment is all too rare. The Omnibus Act provides $36 million to hire additional prosecutors and $240 million to build new prisons. This bill also authorizes additional appropriations for Federal drug enforcement agencies, including the DEA and FBI. States and localities would receive $280 million in assistance for drug enforcement—such assistance was eliminated in the President's budget request for fiscal year 1989.

Strict new penalties would be imposed on drug offenders. These penalties include life in prison for anyone convicted of three drug offenses, a doubling of the standard prison term for anyone buying drugs from minors, and a doubling of the mandatory minimum penalties for committing drug offenses with a firearm.

The Omnibus Act also endorses the goal of providing treatment on request, so all those seeking to get off drugs can receive the assistance they need. We would be outraged as a society to learn that hospital emergency rooms had commenced closing weekends, such that persons with severed arteries would henceforth be on their own until Monday mornings. Surely a 15-year-old crack addict turned away from treatment he has sought should arouse similar outrage.

Government cannot promise that treatment will work for all who seek it. What it can promise and undertake and deliver is the building, the personnel, and the resources. One billion dollars in additional treatment funds would be provided as the first step in making good on this commitment. Expanded drug education and prevention programs would also be supported with an authorization of $405 million.

Our counterparts on the Republican Substance Abuse Working Group reached many of the same conclusions about how drug policy should be changed. Thus, building on legislation already introduced by Senator DECONCINI and others, it was possible for both groups to join together in offering the Omnibus Anti-Substance Abuse Act of 1988. I urge its prompt enactment.

Mr. DECONCINI addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I think the Senator from Illinois has a short statement, and I will be glad to yield to him if he wishes to speak first. I yield to the Senator, and I ask unanimous consent that I follow him, after his statement.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. DIXON. Mr. President, before this day ends, 5,000 Americans will try cocaine for the first time. More than 2,700 boats and planes will smuggle illegal drugs into the country.

The United States is unquestionably losing the war on drugs. Drug seizures are up, yet on the streets of our cities, drugs are cheaper and easier to find than ever.

No question that drugs go hand-in-hand with crime. Street gangs are growing by leaps and bounds financed by drug profits. They are terrorizing and murdering innocent people on our streets.

Drugs are rotting our society and destroying the lives of our young people.

In Illinois alone, the economy loses an estimated $7 billion annually because of drug-related crime, health care costs, and lost worker productivity.

This bill fights back. It includes:

An additional $675.7 million and 3,287 Federal law enforcement agents;

Doubling the current Federal funding for prevention and treatment facilities. The bill establishes the goal of providing treatment to all addicts wishing to get off drugs;

Significant new resources for education programs so our young people understand the dangers of drugs; and

The death penalty for drug-related murders.

We must attack the drug problem on every front. This is a war we cannot afford to lose. It is a war we will not lose.

I thank the distinguished Senator from Arizona for permitting me to make these brief remarks.

The PRESIDING OFFICER. (Mr. SIMON). The Senator from Arizona.

Mr. DECONCINI. Mr. President, I rise in support of the major, bipartisan, omnibus antidrug bill introduced today. For several of us, it has been a long and difficult road to insure that we would adopt a comprehensive antidrug initiative before this 100th Congress adjourned.

Last year about this time, my good friend from New York, Senator D'AMATO, and I discussed with our staffs the critical need for Congress to once again take charge of this country's battle against illegal drugs.

The Reagan administration had virtualy abandoned the efforts of the 1986 drug bill. The administration has attempted to eliminate State and local law enforcement grants. The administration has slashed education and treatment funding. The administration has provided no effective coordination of our Federal law enforcement agencies involved in the so called war on drugs.

Drafting of a new comprehensive drug bill could not wait—the drug abuse problem in this country had reached epidemic proportions. A General Accounting Office study reported a 124-percent increase in the number of cocaine-related deaths between 1983 and 1986. And it revealed that the purity level of cocaine being sold on the streets of this country was close to 70 percent and the price was declining at the same time.

A Justice Department report confirmed what we had suspected for a long time: Over half of all serious crimes in America are related to drugs. Right here in our Nation's Capital, 7 out of 10 arrested for serious crimes tested positive for illegal drugs. In Phoenix, 6 out of 10 tested positive.

But the most alarming reports and statistics came from the form of cocaine known as crack. Crack was turning our city streets into battlefields—forcing families to lock themselves in their homes. Gangs, like the Crips and Bloods in Los Angeles, or the Jamaican possess in Miami and New York, were fighting to gain control of crack sales in cities all over this country.

This past February we heard President Reagan's final State of the Union Address. In his address, the President led us to believe this country had turned the corner on the fight against illegal drugs. The President spoke of an "untold American success story."

Well, there never has been an untold American success story on drugs. There are only hard facts and facts are stubborn things. This Nation is outmanned, outgunned, and outspent by narcotics traffickers. Only a small percentage of our children are receiving any kind of drug education at all. The availability of treatment and rehabilitation is limited—with waiting periods in many places of 3 months or longer.

On March 23, Senator D'AMATO and I introduced the Anti-Drug Abuse Act of 1988. This $2.5 billion piece of legislation addressed drug education, treatment, Federal, State, and local law enforcement, interdiction, and eradication.

We acquired 73 cosponsors of that bill and it had funding of over a billion dollars from the IRS initiative. Had we enacted that bill within 30 days, we would now be prepared to have close to a billion dollars available.

The Senate, in a bipartisan fashion, has worked here and I compliment to the leaders for the appointment, particularly to Senator MOYNIHAN and Senator NUNN, Senator RUDMAN on the other side and many others who have taken hours and hours to coordinate an effort and realize that once again the legislative branch here is going to have to lead the war on drugs.

The legislation addresses the needs of State and local law enforcement. These agencies are the front line forces in the drug war and are in critical need of assistance from the Federal Government.

We cannot continue the past policies where States and local fundings were continuously zeroed out in the budget. This bill does not do that. We are making a clear statement that we are going to authorize once again and fund the local State grant program notwithstanding the zeroing in the budgets that have been submitted by this administration.

Anyone associated with the fight against illegal drugs will tell you—drug education and treatment are critical elements to a successful battle plan. Experts will also tell you that any type of substance abuse funding should include the most popular of gateway drugs, and that is alcohol. This bill does just that.

The Senator from Florida, the senior Senator, led the fight to be sure that we kept our eye, these working committees, on that subject as well as other substance abuse.

This bill also provides for $1.2 billion for treatment and rehabilitation. For the first time ever, the bill offers the opportunity that these funds can be used for construction and renovation costs of badly needed treatment facilities.

In the area of drug education, funding will double this year's level to a total of $400 million. To insure that effective programs are developed, evaluation and accountability provisions have been included. Substance abuse training is critical for teachers. In a survey my staff did of four randomly selected States, less than 5 percent of all teachers had any kind of substance abuse education. This bill includes $17 in special grants for this purpose.

The bill comes to the rescue of several Federal law enforcement agencies who have been overlooked in the past. We defeat the purpose of providing additional drug enforcement agents, if we do not have the prosecutors, courts, or prisons to handle the increased workoad. We can seize all the assets in the world, but we will never reap the benefits if the Marshal's Service does not have the personnel to manage the forfeiture program.

Several of my colleagues say we spend too much money on Federal law enforcement and interdiction. They say it does not work—that it is not cost efficient. I will not disagree that we must increase immensely our emphasis on the demand side, and this bill does that, but not at the expense of supply side efforts. In 1980, the U.S. Customs Service seized 27,000 pounds of cocaine. In 1988, that number will increase to over 125,000 pounds. That is 125,000 pounds of cocaine that will not reach the school children and other Americans. Remember, supply creates its own demand.

I say, do not tell me enforcement efforts are ineffective until we have on line the manpower needed to do the job. The DEA is our number one narcotics enforcement agency. Yet we have only 2,700 DEA agents in the entire world. We also have a critical manpower shortage in the Border Patrol, the law enforcement agency that seizes 60 percent of the drugs along the Southwest border. Only three to four Border Patrol officers at any given time patrol a critical 50-mile stretch of the eastern Arizona border known as the cocaine corridor.

Do not tell me interdiction does not work until we have every radar balloon up along the Southwest, from Brownsville, TX to San Diego, radar that can spot every plane and every ship bringing illegal drugs into this country. Do not tell me interdiction does not work until we have the equipment to do the job at hand. The U.S. Customs Service and the Coast Guard cannot patrol our borders in used aircraft with cracked wings and that is what the military turned over to both the Customs Service and the Coast Guard.

Today even the poorest Mexican mules are beginning to carry $10,000 night-vision goggles and high-technology firearms on their smuggling runs into my State. By contrast, our own Border Patrol offices have no voice-privacy radios and only a half dozen in the whole El Paso sector night vision goggles.

I am proud to say that this drug bill addresses these issues. It increases manpower and assets for the DEA, FBI, Customs Service, Coast Guard, and Border Patrol. It provides law enforcement with tougher penalities, including an additional tool to go after those who use or traffic the chemicals used to manufacture drugs like cocaine, heroin, and PCP.

Finally, this legislation includes a provision I have long supported. The drug penalty, offered by the distinguished Senator from New York, Mr. D'AMATO, was able to pass this Senate this year. It includes the same safeguards as the D'Amato bill did when we passed it.

I believe the death penalty is the kind of deterrent we need to make drug traffickers and drug dealers understand we are serious about the drug problem as a Nation.

Mr. President, the people of this country have asked that action be taken against illegal drugs, and we in Congress have responded. However, we can pass all the drug laws that we want to in the world, but that alone is not going to do it, is not going to stop substance abuse. It is going to require the combined efforts of each and every one of us. Sports heroes, public officials, business, school teachers, and parents have to stand up and say, "No" and mean it and educate those that they are telling to say "No."

How can we expect children to say "No" to drugs when their favorite professional football player uses drugs and is simply suspended with pay for 30 days?

Before I close, I commend again the leadership of Senator NUNN and Senator MOYNIHAN on this side that led this task force. Hours and hours went into it. Senator WILSON, Senator RUDMAN, Senator D'AMATO, Senator GRAMM, Senator DOMENICI, and many others spent hours here trying to put this together. It was no easy task, I must say.

Particularly I thank Tim Carlsguard of my staff and Bobby Mills, who also worked with the staff of Senator NUNN of Eleanor Hill and John Sopko, and Paul Stockton of Senator MOYNIHAN's staff. These staff people spent 4 times or 10 times the amount of the time that the Senators did, and I know how much the Senators did because I went to almost all those meetings. These people deserve a great deal of credit and I think that they are a part and parcel of this effort. And I thank the Senator from New York in particular for this courtesies continuously through this strong effort that took a lot of patience on his part.

Mr. MOYNIHAN. Mr. President, I know Senator NUNN and I and the other Members would express our appreciation to the distinguished Senator from Arizona for his remarks.

May I add that Mr. Tom Melinowsky of our staff was of greatest possible assistance, as well.

I believe the Senator from California was on his feet.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. THURMOND. Mr. President, will the distinguished Senator from California yield?

Mr. WILSON. Mr. President, I am advised that the distinguished Senator from South Carolina has a brief statement. I ask unanimous consent that I may yield to him without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I rise in strong support of the core bipartisan antidrug package that is being introduced today.

As my colleagues will remember, in 1986, Congress passed a comprehensive drug bill which continued efforts to address the enormous drug problem confronting the Nation. This legislation was an important step in the war on drugs, but it is not the final solution. While progress is being made in this area, without question, drugs continue to be a pervasive problem.

The fight to halt the flow of drugs into the country must continue. Additionally, we must focus on the demand factor. As long as the demand for illicit drugs remains strong, so will the efforts of drug dealers to import, promote, and distribute illicit narcotics.

The statistics relating to drug use are cause for grave concern. Today, there are about 500,000 hardcore heroin users in the United States. In a recent household survey conducted by the National Institute on Drug Abuse, 5.7 million Americans indicated that they had used cocaine within the previous month. In 1985, Americans used 72.3 metric tons of cocaine and 4,694 metric tons of marijuana. Drug dealers continue, with such high demand, to import millions, even billions of dollars of illegal substances. Worse yet, these drug dealers have targeted young children for use in the distribution of these illicit narcotics. All too often, news accounts relate shocking instances of juveniles killing one another to protect their distribution territories. Action must be taken now.

In 1986, the drug bill, which was enacted into law, focused on cutting off the supply of drugs flowing into the United States. This law imposes stiff penalties on those involved in the drug trade, provides for the interdiction of the flow of drugs into the United States, and provides grants to State and local law enforcement agencies to combat the drug menace. This law also provides for educating our young people and other citizens concerning the evils of drug use.

The bill being introduced today builds on the efforts in the 1986 drug bill and provides stiff criminal penalties for drug traffickers, funds for State and local law enforcement, funds for treatment and education, and measures aimed at increasing user accountability.

With regard to enhanced penalties, this package contains provisions which increase the current penalties for persons who sell drugs within 1,000 feet of a school, sell drugs to children, or use children in trafficking drugs, use a firearm in the commission of a drug trafficking crime, or are repeatedly convicted of certain drug trafficking offenses. This legislation also contains a provision which provides for the death penalty for drug-related murder. This provision passed the Senate on June 9, 1988 by an overwhelming vote of 70 to 26. The death penalty is an important weapon in our attempts to stop drugs and I am pleased that it is included in this core package being introduced today. Additionally, this bill amends current law, to provide enhanced penalties for a person who operates a common carrier while under the influence of alcohol or drugs and causes death or serious bodily injury. This bill also includes a provision to require companies to report the distribution of certain chemicals used in the manufacture of illegal drugs.

This package also includes measures designed to ensure that we continue to address the drug problem in the workplace, our schools, public housing, and the transportation industry. As well, this legislation provides funding for additional personnel to enforce the drug laws, to prosecute those charged with drug offenses, to supervise drug offenders, as well as funding for prisons to house drug offenders.

As I stated earlier, this bill represents a core package that was formulated as a result of bipartisan negotiations. Although I am pleased with this package, it does not include several provisions that I believe will strengthen it. Therefore, I may offer amendments regarding the death penalty for other crimes such as murder, treason and espionage, habeas corpus reform, and exclusionary rule reform. These are important measures that would be of great assistance to our law enforcement officers in their efforts to address the drug problem. Further, these are issues that the Senate has considered and passed by overwhelming margins.

In closing, the drug issue is a serious matter which has been identified by many as the No. 1 problem facing the Nation today. It is a problem that is destroying the fabric of our society—our communities, our families, our young people. We must take every step necessary to end this senseless destruction. Ultimately, it is our responsibility to the American people to adopt a package which includes tough provisions so that we may send a strong message that drug importation and use is not acceptable and must not be tolerated.

Mr. President, I am pleased to join as an original cosponsor of this measure, and I strongly urge my colleagues to support this important legislation.

The **PRESIDING OFFICER**. The Senator from California.

Mr. **WILSON**. Mr. President, let me add to what is rightfully a swelling chorus of praise for my colleagues with who I have worked so many hours to produce this bipartisan consensus. There will be amendments offered to it. It is a very good core bill as it has been described.

I particularly thank those who have labored so long in this area. My friend from Arizona, DENNIS DECONCINI, and my friend from New York, ALFONSE D'AMATO, for a very long time, through a number of pieces of legislation, sought to improve a deteriorating situation.

Some centuries ago, the English poet John Donne wrote the immortal verse that:

> No man is an island unto himself.
> Ask not for whom the bell tolls, it tolls for thee.

Mr. President, he might have been clairvoyant, anticipating the contagion sweeping through America because of today's drug traffic. My State has the doubtful distinction of having spawned drug gangs which now have spread that contagion into virtually every major American city from Honolulu and Anchorage on the West to New York and Washington on the eastern coast of the United States.

What this bill prescribes, if not perfect, will go a very long way towards improving what has been not just a deteriorating situation, but a very frightening one. This bill, Mr. President, is regarded by my constituents as the most important thing that we will do in the 100th Congress. And, as is so often true, our constituents are wise and they are right. I hope that we will not allow time to pass. As important as are other matters that call for our attention, none is so pressing, none is so important or far reaching as the legislation that we are introducing at this time.

Let me add that all that I say about this legislation depends for its efficacy upon our having the will to provide the resources necessary to implement what otherwise will be good intentions, unfulfilled. There must be revenues to match the ambitious programs authorized by the bill.

Mr. President, this legislation authorizes new expenditures. It authorizes what will be for the first time adequate expenditures in all the many areas that attack the different facets of this problem. Interdiction, law enforcement, education, treatment, and rehabilitation all require funds. And the American people, in my judgment, from the mail I receive, from the meetings that I attend, from public opinion surveys, seem ready to pay what they think to be a small price in order to achieve a cure for a cancer that is matastasizing through our Nation.

Mr. President, this is a tough bill. It will put more people in prison to serve longer sentences in order to save American lives. And it should.

Fewer Americans will die needlessly on our highways because this bill will take drug-stoned drivers off our roads, out of train cabs, and out of airliner cockpits. Fewer American kids will die of drug overdose. Fewer American kids will be brain dead, squandering their education and talents in a tragic waste just at the time when America most needs them. Fewer will swell the ranks of the homeless. Fewer will drift through life without purpose and dependent on public charity because of their chemical dependence. Fewer will contract AIDS from a dirty needle.

Fewer will give birth to addicted babies. Fewer will mindlessly blow away young police officers because their own minds are blown away by drugs. Fewer will be tempted to become drug dealers because the certainty and severity of the penalties contained in this bill will outweigh the profit from this poisonous traffic.

This is a bill that will punish those who take life in cold blood for drug money by imposing a death penalty for their crime.

This is a bill that will change the odds to favor kids and cops, and not drug dealers and criminals.

It is not perfect. But it is a bill which, with proper amendments, will declare that America will no longer be ambivalent about drugs. It will declare clearly that drugs are not bad because they are illegal; they are illegal because they are bad, because they do waste lives and talent.

We will not tolerate recreational use by anyone—not rock stars, not sports heroes. We will demand user accountability, because the drug dealers must have a customer to do business.

Mr. President, this bill emphasizes prevention—through interdiction, through education—precisely because rehabilitation, though we must offer the opportunity for it to everyone who needs it, is a very expensive and very-time consuming process that produces very uncertain success.

Mr. President, this bill attacks the drug traffic in America by attacking both supply and demand. It is a tough bill, a needed bill, and a very great kindness to America's young people, to their families, and to the courageous peace officers who risk their lives to protect them daily. It is the priority for the 100th Congress. We need to pass it without delay.

I yield the floor.

The **PRESIDING OFFICER**. The Senator from Pennsylvania.

Mr. **SPECTER**. Mr. President, I thank the Chair.

Mr. President, earlier today, I spoke at some length about the problem of drugs in America and about my own thoughts and suggestions for legislation. I was not certain at 10:30 this morning, when I spoke, that there would be the introduction of the drug bill today. I am delighted to join my colleagues as a cosponsor of this important legislation. And, for reasons about which I spoke at length this morning, I hope that this bill will receive priority attention.

Mr. President, I think it curious that, considering the high priority of this kind of legislation, the U.S. Senate takes up this critical issue at this time, since we are about out of money and since we are about out of time.

It is not easy to categorize the priorties in the United States today. But, after hearing my colleagues address the drug issue, there is general agreement that it is either the No. 1 priority or very close to the top of the list. The reason that it is hard to assess which is No. 1 is because we have such great difficulties with the budget deficit, with the trade deficit, with international arms control, to name just a few items.

When we are looking to funding, it seems curious that we wait until the very last minute, when last week Senators spoke about the need for delay, until we found out how much money there was left over.

Why is it that we wait until all the other needs of the Nation, or alleged needs of the Nation, are funded before we take up the issue of drugs? If we are looking at an expenditure in the range of $2.5 billion, the House bill was at about $2.1 billion, the Senate proposals at about $2.6 or $2.7 billion, but if we think in terms of $2.5 billion, we are talking about less than one-quarter of 1 percent of the Federal Government. $2.5 billion is less than one-fourth of 1 percent of a Federal budget of 1 trillion 100 billion dollars.

It would be the suggestion of this Senator, Mr. President, that we ought to be assessing a higher priority in terms of the resources we are prepared to allocate and that we ought to be assessing a higher priority as to the time when we take up this very important matter.

When we are looking at this issue, to take it up at the very end of the session is extradordinarily difficult, as to whether there will be time enough to consider the important amendments that have to come forward under the Senate procedure and to have a conference. I hope that the bill will recieve top-level attention from this moment forward.

Mr. President, in terms of the direction of legislation, it seems to me it has to be tough, it has to be pragmatic and it has to be sensitive. It has to be tough in terms of sufficient sentences for tough criminals, using the mandatory sentence of 15 years to life for armed career criminals who are found in possession of a firearm and have three or four prior convictions. It has to be tought in utilizing the death penalty when you are talking about premeditated murder used in the commission of drug-related offenses.

The legislation has to be pragmatic, in terms of looking at the necessity for rehabilitation when we talk about first offenders, youthful offenders, perhaps some second offenders. It is no surprise, Mr. President, when you take a functional illiterate without a trade or a skill, a functional illiterate without a trade or a skill who is, in addition, a drug addict and he is released from jail without any rehabilitation, that he returns to a life of crime.

For reasons specified in my earlier statement on policy approaches, Mr. President, I have outlined a number of directions to deal with the issue of rehabilitation. When it comes to the issue of children, and the education necessary, we ought to be sensitive to provide the requisite education.

Mr. President, beyond those issues we have to take a hard look at the sources of supply and there is a great deal that can be done in terms of interdiction from Latin American countries, in terms of stepped-up use of our military forces. The drug program poses a greater threat to the United States than do the Soviets and we ought to be using the Department of Defense against this very horrendous problem.

Mr. President, in essence this bill addresses both the supply side and the demand side and I refer to the comments that I made earlier today regarding this issue.

I might ask in conclusion, Mr. President, that as we look to resources necessary to fund this drug legislation that it may be appropriate to take a look at additional taxes. I know taxes, that is a dirty word in the U.S. Senate and the U.S. Congress. But drugs are even a dirtier word.

Had we taken up this issue earlier, I think it would have been possible to have found an allocation in the $1 trillion, 100 billion in our budget and perhaps even yet it may be sensible to consider an across-the-board cut of one-quarter of 1 percent. Perhaps that is not an amount too large for other appropriated funds to sustain, to fund a $2.5 billion war on drugs. I think it is unnecessary, perhaps to even consider taxes in addition.

This issue of drugs ought to receive our direct attention. We ought to move promptly to consider this legislation, the certain necessary amendments, and its enactment at the earliest possible time. I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. TRIBLE. Mr. President, I, too, rise as a supporter of this bipartisan drug bill. Two years ago the Congress passed the most sweeping antidrug bill in the Nation's history and laid a foundation for the war on drugs. Today, we begin to build on that foundation with an even more comprehensive antidrug plan.

This bipartisan bill is the product of months of cooperative effort between the Republican and Democratic leaders and countless other Members. It attacks the plague of drug trafficking and abuse on every front.

First, the bill imposes even tougher demands on foreign governments that are significant sources of drug production and trafficking, and that fail to combat money laundering and drug-related corruption. Second, it provides even greater resources for interdiction programs to stop drug shipments before they reach the United States. Third, it toughens criminal penalties for drug-related crime, especially those involving drug sales to children. Finally, it substantially increases the Federal commitment to drug abuse prevention and treatment programs.

In short, this measure combines a crackdown on drug producers and traffickers with a sense of compassion toward those who are tempted by drugs or who are drug-dependent but seeking help.

I am especially pleased that the bill contains two proposals I authored. The first prohibits foreign assistance to governments that refuse to combat drug-related corruption. The second calls upon the President to convene an antidrug summit of heads of state in the Western Hemisphere.

These measures and the bill as a whole will do much to crub the narcotics industry. But this bill, and the 1986 antidrug law on which it builds, are but first steps on a longer journey.

The burden this Nation assumes in combating the drug trade is an enormous one, for we face a great many enemies—the trafficker who ships these drugs to America, the street dealer who peddles dope to our children, the banker who helps launder drug-related profits, the governments officials here and abroad who take bribes to ignore the drug trade.

These are the Nation's most dangerous criminals, for together they sustain a deadly enterprise that threatens the very foundations of our country. Their handiwork can be found in cemeteries and hospitals and prisons throughout the land.

In attacking the narcotics plague, passage of this bill will be one of the easiest steps. The more difficult battles will be those fought in homes, schools, and communities across the country. The heroes in this fight will be the young Americans who have the courage to resist the allure of drugs. Quite simply, Mr. President, the war on drugs will be decided by strength of character, not by force of arms.

But this bill will ensure that the Federal Government does more. It will further strengthen our criminal laws and toughen U.S. demands on foreign drug producers. It will make drug abuse prevention and treatment programs more widely available. In short, it maintains the Federal Government's role as leader of the Nation's antidrug war. I urge the Senate to act swiftly on this measure.

Mr. BINGAMAN. Mr. President, I am pleased to be a cosponsor of the Omnibus Anti-Substance Abuse Act of 1988. I also join in commending my colleagues who worked so extensively on developing this legislation. The bill is more than 600 pages long. A tremendous amount of work has gone into it.

Senators MOYNIHAN and NUNN on the Democratic side, Senators D'AMATO, RUDMAN, GRAMM, WILSON on the Republican side, and many other Senators have contributed greatly to the efforts.

I would like to make a few points. First, I think the allocation of funds in this bill—between supply and demand is correct. For the first time the Congress has made a conscious decision to allocate a majority of the funds authorized under this act to efforts dealing with reducing the demand for drugs. This is, trying to educate our young people, trying to educate the populace, about the dangers of drugs and trying to develop strong drug treatment programs.

Those are areas that have been neglected for too long, It is time that we begin to put the right emphasis on education and treatment. Sixty percent of the funds in this bill are devoted to dealing with the "drug demand" problem.

The other 40 percent, of course, go to the supply side of the drug equation and there, again, I think a great deal more needs to be done. This bill is a step in the right direction.

I wanted to comment on one provision of the bill which will have a significant, beneficial impact in my home State of New Mexico. That provision is the Chemical Diversion and Trafficking Act of 1988.

Last month, I participated in a field hearing in Albuquerque, NM, chaired by Senator DECONCINI, the chairman of the Subcommittee on Treasury, Postal Service and General Government of the Appropriations Committee.

At that hearing, Senator DECONCINI, Senator DOMENICI and I received testimony from Federal, State, and local law enforcement officials. The testimony revealed that by year's end, our sparsely-populated State of New Mexico could be the number one State in the Nation in the manufacture of illicit chemical drugs. Every month, more and more clandestine laboratory operators are moving into New Mexico to purchase precursor drugs and manufacture them into designer drugs, or methamphetamines.

The large and ever-increasing amount of manufacturing is taking place in our State because the purchase of precursor chemicals is regulated by the States, and State laws naturally vary.

New Mexico has weak laws in that respect. The surrounding States have much stronger laws, so the illicit chemists bring their labs to New Mexico. Fortunately, law enforcement officials are working with legislators in New Mexico to resolve this deplorable problem. Legislation will be presented to the next session of our State legislature to strengthen our State laws. I am hopeful that this legislation will be enacted into law with the utmost speed.

In the meantime, the Chemical Diversion and Trafficking Act, which is contained in the omnibus drug bill, provides authority to the Federal officials and through them to State officials working in cooperation with them, to monitor the selling, purchasing, importing and exporting of these dangerous precursor chemicals. It is not the total solution, but it is an important part of the total solution.

This legislation should help the law enforcement officials of our State combat illicit drug manufacturing until the State legislature acts in its first session next year. For this reason alone, I think this is very meritorious legislation. But I also know there are many other vital, essential, and meritorious provisions within this bill.

I hope we can pass this legislation quickly. I know there are some important amendments to be considered, but I hope that this bill does not become a end of the session catch-all for legislation that should be considered in other ways.

Our adjournment goal must be to pass strong antisubstance abuse legislation that will help this country to deal with this very serious problem.

Mr. GRAHAM. Mr. President, we are in the final days of this 100th Congress. We are only a few weeks before national elections. Under these circumstances, the Senate takes up a major new drug initiative. The timing, not surprisingly, will encourage cynicism about our true purpose and the effectiveness of drug legislation.

We are vulnerable to the accusations that we are positioning this legislation on the agenda to maximize political benefit. It will be argued that because the problems caused by illegal drug trafficking and abuse are high on the list of voters' concerns, Congress has heightened interest as campaigns draw to a close.

I would argue this does not have to be so. I would argue that we are all under fire in this terrible war—that there is no State in this Nation, no community, which has not taken a direct hit—and that the problem is so vast, the proliferation of drugs so alarming, the abuse so tragic and the costs so astronomical, that no quick, permanent solutions have magically appeared.

Yet any discussion of drug legislation, to win the support of the American people, must demonstrate the sincerity of our concern. I, therefore, suggest the following principles:

First, as we consider the passage of this legislation, we must commit the next Congress to a continuous oversight of the law that we will pass so that in the fall of 1990 we are not passing our third biennial, pre-election drug bill.

Second, we must focus our efforts. This is an enormous problem. It is a problem for schools, communities, churches, for local organizations, for local governments, for State governments, as well as the Federal Government. The Federal Government, within this partnership of required action, has some specific responsibilities which no others can or should be expected to assume. We, therefore, should focus our particular attention on those things which are singular to the Federal Government.

Let me give some examples of what I think are those special responsibilities.

We are responsible for the protection of our Nation's borders. If we do not protect our borders, there is no other institution in our land capable of doing so.

We, the Federal Government, are responsible for establishing open lines of international cooperation in eradication, apprehension, and enforcement. If we do not deal with the other nations of the world who share this common concern, no other agency is capable of doing so.

The Federal Government has the exclusive responsibility for immigration and naturalization laws. When there are illegal aliens who are involved in drug dealings, slow and inefficient deportation procedures become an accomplice to the enemy. In my State of Florida, Mr. President, it is estimated that 70 percent of all Federal intervention cases involve aliens, primarily illegal aliens.

Illegal aliens who commit crimes in our communities are likewise eligible for deportation. When we do not deport these criminals, they repeat crimes; they go about their drug business as usual. Deportation of these convicted criminals and traffickers should be expedited.

These are three examples of responsibilities which are singular to the Federal Government. I suggest that these should be a particular focus of our efforts over the next few days.

As a third principle, we must use the potentially major weapon of tough antidrug legislation realistically. There is a temptation to launch as many good ideas as we can generate, but in this era of tight fiscal constraints, we must resist that temptation. Rather than launch 100 rowboats, we should position four or five battleships, targeting our strength and strategy, aiming for results.

In 1986, we launched a rowboat. We called it drug education. But by the time it got to the schools and reached the young people it was meant to protect, it was not even effective.

In my State, the average money available per student through the 1986 Drug Education Program came to less than $5 per year. Mr. President, I submit we cannot launch a very effective battleship of drug education for $5 per student.

The legislation before us offers the potential for a harder look at the enormity of the deadly drug business, and a hardened resolve to do whatever it takes to rid ourselves of it.

Enforcement must be shifted from a defensive to an offensive weapon. This means a greater commitment of our resources and attention. Our entire criminal justice system must be balanced so that the success in the arrest and apprehension will not result in a swamping of the court system, of prosecutors, of defenders, and of our Federal Bureau of Prisons unable to complete the Federal responsibility.

The temptation is always to spend the most money at the highly visible front-end of the system. Hiring more drug-enforcement agents receives positive public reaction. Adding the additional prison cells to incarcerate those persons who are arrested by those additional agents tends to be lost in the shuffle.

The temptation is to strengthen our laws, to expand the time period of incarceration, to add additional layers of punishment. But unless there is a means within the system to prosecute and then actually apply that punishment, we have not strengthened the system, we have added to the cynicism of the system.

We need prosecutors and judges so that the Federal overflow is not dumped back on State prosecutors and judges and in jails with no room for more felons. We have had examples, Mr. President, of where Federal district attorneys were so overwhelmed with the drug cases which the arresting agencies could make that they had to impose thresholds, limitations, on how large the case had to be before they would take it. A consequence of that is either that the case went unprosecuted or, more typically, the case was prosecuted in the State system, therefore, adding to the burden of the State courts, the State prosecutors, the State public defender, and the State corrections institutions.

We have been pushing drug criminals back into State custody and then federally mandating the release of criminals from overcrowded facilities.

Not only does it not make any sense to pass criminals through the system and back out onto the streets, but it sends a weak message to those who think of breaking the law for profit that the penalty may not be much of a risk.

We now have efforts to strike in this drug war on many fronts. Thirty-three agencies are involved in varying degrees in the Federal effort against drugs. That is a primary reason why the creation of a Cabinet-level agency and director—a drug czar, as is frequently described—makes sense. All of that energy of the 33 agencies and the thousands of Federal employees who are responsible for carrying out their specific missions need to be coordinated and directed so that valuable resources are not squandered, so that efforts are not duplicated. The stakes are too high in this war. The cost to our own society is too great. The profits to the drug lords are astronomical.

Nothing can be wasted. Every strike must be direct and show results.

To this end we ought to give ourselves a kind of report card. We ought to set out criteria to measure the success of our strategy and annually review our efforts and expenditures to make sure this drug legislation makes a difference.

Let me suggest what some of the elements of that report card should be.

One year from now we ought to look at our Federal Justice system and find it balanced—able to prosecute and carry out the sentences imposed on those guilty of drug crimes.

We ought to establish an international coalition against drugs for the specific purposes of identifying common interests and working cooperatively, maybe even set up an international police drug enforcement agency—and examine that international partnership next year to see how well it is working for all the Members.

Mr. President, as an aside, there is a temptation for the United States to think that this is only our problem. To even further think, with a high degree of arrogance, that we are the only ones who have a moral revulsion at drug trafficking.

I would suggest, as the President who knows this region well will, I am confident, attest, that if we think that we have a problem, the United States of America, just consider what type of a problem a country like Colombia has. The very structure of its society has been placed at risk because of drug trafficking. The restoration of an authoritarian regime, one that has been rejected for over 3 decades in that country, has the potential for returning as a result of drug trafficking; because of the enormous economic influence in a relatively small economy, as Colombia's, as a result of drug trafficking.

Our neighbors in this hemisphere are not our enemies. They are our natural allies and we need to reach out in an effective way to form that alliance.

We should be prepared to judge ourselves a year from today as to how willing we were to extend that hand of partnership.

We ought to consult with State and local governments about how best to help with drug education, and evaluate the effectiveness of education and treatment programs.

This legislation, I think very wisely, authorizes a substantial increase in the Federal effort in drug education and in drug treatment. We need to know better than we do today which drug education programs, which drug treatment programs, actually work.

Recently I asked the director of a drug education program in my State to take me to where he thought the best drug education program in America was being conducted. And he said, "Senator, I would like to be able to do that, but I can't tell you where that program is and I can certify, based on conversation with my peers in other States, that they cannot tell you where that best program is."

We need to be able to have better answers to what is the state of the art, what is the best practice available, so that we can accelerate the process of making that best information known broadly across the land. We should be prepared to judge ourselves as to what we have been willing to invest in ansering those questions as to what is the most effective practice.

Drugs are a nightmare for the peer-pressured and for the addicted. It is morally wrong to offer half an effort at treatment, to merely hope our attempts to educate will truly teach children that dangers of drugs. We have to do a better job here and we can do a better job—and we should hold ourselves accountable for that treatment and education goals which we establish.

Another element of our report card ought to be to see the availability and the demand for drugs drop at the street level. However noble and well-intended our effort, it fails when the cocaine on our streets gets cheaper and purer—despite increased seizures—and when we see that 60 percent of the high school seniors in my State have already tried an illicit drug—a percentage which holds throughout much of the Nation.

Another element of our report card should be our willingness to enforce our borders which are an open invitation to smugglers. Our effort so far has been a pale shadow of what is needed.

Mr. President, I would underscore that it is not just an open invitation to drug traffickers. Our own borders are an open invitation to anyone who wishes to enter the United States for an illicit purpose.

It is estimated that every day, 50 or more illegal planes or boats gain entry to the United States, undetected, for the purpose of discharging a cargo of drugs. That is a very serious breach of our national sovereignty.

What would we say, Mr. President, if the same statistics, 50 or more planes or boats per day, breached our borders for the purpose of unloading an equal volume of terrorists? Or bombs? Or other direct threats to our national security?

Were that the case, I believe we would quickly be willing to redefine the problem as not the problem of the cargo alone, but fundamentally, the problem of the carrier; that it is the carrier which constitutes the threat to our national security. We should be prepared to evaluate ourselves a year from now as to whether we have given to America a better defense of our national borders.

When we have secured our sovereign borders against any kind of smuggling and criminal violation, we will see an abrupt drop in availability and we can measure that success in fewer violent crimes, in fewer ruined lives.

Mr. President, no one would challenge that statement that drugs are a scourge on our society and that we can spare no effort to eliminate that scourge. This drug bill arms us for that struggle.

We have to be smarter and tougher than the drug traffickers. We have to want a drug-free America more desperately than the drug lords want their grim and bloodstained profits.

This legislation reflects how badly we want to win this war. I urge every one of my colleagues to view a vote for this drug bill as a vote against drugs in our streets and our schools and our society. The real campaign here has nothing to do with politics.

But, Mr. President, we are going to be challenged soon after this legislation with an even more difficult question that is: Are we prepared to fund this legislation? It is our willingness to provide the resources that we will be providing convincing evidence of our sincerity and our commitment.

Mr. President, the dictionary gives a number of definitions for the word "campaign." The first definition in the dictionary is as follows:

> Any systematic course of aggressive activities for some special purpose.

We are beginning, or we are reenergizing our national campaign against drugs. The passage of this bill and the provision of the dollars necessary for its support will demonstrate that we have entered that campaign to win.

The **PRESIDING OFFICER**. The Senator from California.

Mr. **WILSON**. Mr. President, I could not help but hear the final moments of the speech of my friend from Florida and, again as so often when I have listened to him, I was impressed not only with his sincerity but with the importance of his message.

This afternoon, he and I and others, in a bipartisan compromise, or really a bipartisan consensus, have introduced legislation aimed at trying to reverse the tragic contagion that has afflicted America, the drug traffic that has cost the lives and the waste of talent of so many young Americans; the needless loss of so many of our young peace officers.

We are engaged in this Congress in what I think might be our most important work. When we address how to deal with the dealers, how to bring about the education of America's young people so that they can make an informed and intelligent choice, how we can avoid the tragic loss of their education and their talent and energy at a time when America most needs them, how we can avoid the tragedy of young people contracting AIDS from a dirty needle, how we can prevent young mothers, themselves addicted, from giving birth to addicted babies—all these things are implications of the effort that we make in this bipartisan consensus drug legislation.

It is my fervent hope that before we leave—and I hope that will not be too far into the future—before we close the final pages in this chapter of American history that we have called the 100th Congress that this priority legislation will be not an unfulfilled good intention but a new law on the books to give distress to drug dealers and criminals and to give some reasonable hope to young people and their families and to the courageous men and women of law enforcement who daily risk their lives to protect those young people and their families.

The pending business before us now, though, is not that drug legislation. I think we need just as quickly as possible to move to it because it is of overwhelming importance. My constituents clearly feel that addressing the drug problem in its many facets is the most urgent priority of this session of the Congress, and they will have little patience with us—quite deservedly—if, in fact, we give so much time and attention to other things and we leave here without having placed on the books these needed changes to the law of the United States, without having provided the resources that are adequate for the first time really in our history to deal with both supply and demand, to deal with interdiction, to deal with curbing the demand, necessary funds for education, for rehabilitation, and for treatment of those who seek it.

But we are engaged, Mr. President, in other matters, and I do not demean them. They are important. We have as the pending business before us a parental leave bill with a child care amendment. It is proper that we should address the subject of child care because, indeed, it is the earlier facet of this same problem that we have addressed when we say that having safeguarded our children through their early years we will not tolerate a situation in which they risk becoming brain dead through the use of drugs. Their education, their care is of preeminent concern of not just their own parents but of those of us who care about America, blessed with children or not, if we care about this country. The truism that our future is in our children is one that requires that we act today to see to it that that future be all that it can be.

On a more practical level, those of us who would urge the young working women of America, those of child bearing years who find themselves compelled to work, not necessarily as a choice—though many entitled to the peace of mind that comes only with knowing that they can find and afford child care suitable to the needs of their children.

That challenge, Mr. President, has rightly occupied some of the better minds on this floor and in the other body. It is not surprising that reasonable men and women differ in approach, if not in goal, and that, I think, is the situation that we find ourselves dealing with here in these last hours of the 100th Congress because there is no doubting the good intentions, the sincerity and motivation of those who have authored legislation that is far-reaching in its implications that seeks to give the kind of security and the peace of mind that I have just described to America's working parents.

So, Mr. President, I rise now to commend and to congratulate and to thank those who have offered their version of a solution to that problem, and it is certainly at the very least in the spirit of constructive criticism, but really more in the hope that what I offer as an alternative can find the response that I hope it will because it seems to me that what we must do must be practical. It must be realistic.

First of all, if we err on the side of creating a system that gives adequate security to the children of but a tiny fraction of all those children of working parents who are in need of child care, we have really not responded as we should, and we must.

That is one of the concerns I have with the legislation that quite understandably and even deservedly has received the greatest amount of attention, the legislation offered by my friend from Connecticut, Senator DODD.

So, I rise today in a spirit of compromise with a firm belief that the 100th Congress can reach a strong bipartisan consensus on the issue of child care. I must say that I do not agree with those who believe this task too large, too challenging for this Congress to deal with in this session.

There are some who, with very good intentions, have editorially advised the Congress that they should put off this decision, that we would be better to wait until the 101st Congress, that we should not act this year. But with all respect to those who, with utmost sincerity, give that solemn advice, I would challenge my colleagues to defy their advice and to prove that Congress is not incapable of laying aside election year politics to act in the best interest of the Nation, and most significantly of the Nation's children and their mothers hard at work needlessly apprehensive because of the absence of adequate child care facilities.

We can and we must act because the well-being of our 26 million children, the children of America's working parents, hangs in the balance; and for their parents, the availability of safe and affordable child care is not just some very real concern but virtually an obsession.

The need for legislative action has never been greater. Our society has changed, changed from the time when most Members of the Senate were themselves children. It is not that their mothers did not work, but most of them worked in the home making a home. They did not venture into the marketplace as do today's working parents and particularly the working mothers. Those young women of childbearing years are in the marketplace not by choice but of economic necessity.

So, clearly, the time for action is not tomorrow, as some editorial critics would suggest. The time for action is now.

Mr. President, the task before us is not an easy one. With very few legislative days left in the 100th Congress, many are predicting that our odds for success are low. To improve our chances, there is the need for a concerted effort toward compromise, for as Edmund Burke once said, "All government—indeed, every human benefit and enjoyment, every virtue and every prudent act—is founded on compromise and barter."

I quite agree with the very learned and wise Mr. Burke, and today I offer the following legislation as a point from which to begin the bartering. There is at the desk, as an amendment, legislation that I have earlier introduced which is entitled the Kids In Day Care Services Act of 1988, or for the convenience of an acronym, the KIDS bill, which does adopt a truly comprehensive approach to the child care problem.

To describe briefly the major provisions of this legislation, let me begin by stating that it creates a new refundable children's tax credit for low- and modest-income families. Quite similar to one that had been proposed by Vice President BUSH a few weeks ago, it would increase access to child care for millions of American families who are most in need of child care assistance.

More importantly, it affords parents and not bureaucrats a choice in selecting the child care program best suited for their children.

For those families that do not earn enough to pay taxes but for whom access to child care services is equally important, the KIDS bill would make the present dependent tax care credit refundable. Families again would be free to choose the greater of the two credits—either the children's tax credit or the existing dependent tax care credit.

Mr. President, we know that to place purchasing power in the hands of families becomes futile if there are too few or in many communities no child care facilities available, for there is nothing to purchase. In that situation the following question presents itself: What is the best means to increase the availability of safe and affordable child care? How do we create facilities? I think our success in forging a compromise hinges clearly on that question, and I submit that it is not necessary for us to stumble.

Though there are many different views in Congress on the issue of child care and how to better make it available, one thing that we can all agree upon is that the Federal Government has a role. Where we will disagree is what that role should be, just exactly the extent to which the Federal Government should be in local parentage, a substitute for the parent, exercising a wisdom that I do not think beyond any parent in the land.

Supporters of the wildly publicized ABC bill argue that the Federal Government is best able to provide the hand that feeds. With all respect, I disagree. I think the tax credit and the choice of the kind, the form of child care is best placed in the hand that rocks the cradle, not in the hands of a new, well-meaning but impersonal bureaucracy and one that with the best efforts cannot be knowledgeable of all that is available.

We must offer a flexibility that this legislation does not provide. A lending hand is one thing but putting it down the throats of the State is quite another. We do not need to do that. Just as we have allowed the States maximum flexibility to design and operate their education programs under the recently passed welfare reform legislation, so must we now in the area of child care allow the States that same flexibility in developing and providing child care services.

Accordingly, the KIDS bill would expand Federal assistance to States for child care programs and activities but would not dictate Federal standards as a condition of the receipt of funding. That does not mean that States would not be required to establish their own standards.

To the contrary, under the KIDS bill States would be required to develop accreditation and licensing standards for family based and group child care providers in addition to methods of inspection and certification based on such standards as, indeed, several States have done already.

Minimum competency requirements for child care workers and supervisors would also be established. In essence, the States, not Uncle Sam, would develop standards through consultation with parents, units of local government, community-based groups, business, educators, labor representatives, and others.

With tax credits for low- and modest-income families and standards of care, the next piece in the puzzle is to increase Federal funding to assist States in the provision of child care services. Therefore, the KIDS bill would expand the funding authorization for the dependent care and development program under the Department of Health and Human Services from the present inadequate $20 million to $400 million. This funding level will serve as a sufficient impetus to increasing child care availability while remaining within the boundaries of fiscal responsibility.

Under the greatly expanded dependent care program, States could provide a wide range of activities designed to increase the availability of child care, from a voucher or scholarship program for low-income families to afterschool programs, from training senior citizens as child-care providers to establishing and operating community or neighborhood child care centers—a wide variety of activities could and I am certain would be offered.

Further, any State which has already taken the initiative to establish child care programs which meet the purpose of the KIDS bill would be allowed to use Federal funds to expand their current programs. For example, the State of California spends over $450 million annually in State funds and tax credits, providing a wide variety of child care programs similar to those authorized in the KIDS bill. Under the KIDS bill, California could utilize Federal funding to build upon its current network of services.

Mr. President, briefly what we have discussed is Government's responsibilities in the child care arena, but what of the private sector's involvement? Certainly any comprehensive response must involve those businesses that seek to provide for their employees the kind of child care that their employees are seeking.

Recent studies have shown that business has been slow to establish child care facilities for their employees. The services provided to employees usually consist solely of information and referral services.

Those businesses across the Nation that have taken the initiative to establish child care facilities are truly pioneers. While the number of employer-sponsored child care facilities is rising, supply has not nearly kept pace with demand. After a review of the Internal Revenue Code, one finds few, if any, provisions which provide incentive to a corporation, let alone a small business with limited capital, to establish and operate a child care facility.

Consider that fact, Mr. President, and examine the astronomical costs of liability insurance; if you do, I am sure you would be surprised to find any employer-sponsored day care facilities anywhere in America. Clearly, if we are going to maximize access to child care for working families, we must offer incentives at the work place just as we provide tax credits to the individual and matching grants to the States.

I believe we must especially focus our efforts upon the small business sector of our economy because that is where America increasingly is employed. The 17 million new jobs created in our economy in the last 6 years have been, some 90 percent, created by small business. That is where tomorrow's jobs will be created as well. It is small business which will offer job opportunity to the great influx of working mothers expected in the job market by the year 2000.

Mr. President, I am confident that we can create an investment in which many of the barriers to child care can be removed and the road to employer-sponsored child care facilities paved, first, by creating, as the KIDS bill would, a small business tax credit of 25 percent up to $100,000 for expenses related to the establishment and operation of an on or near-site child care facility; second, to address the critical problem of liability, that barrier which is preventing small businesses and those that wish to be in the business of providing child care from doing so; third, the KIDS legislation would reduce that liability barrier by authorizing $100 million in funding to the States to assist in the establishment of liability risk retention groups, a pooling of the risk, a sharing of the risk so that no single small business, no facility seeking to be in the business of child care is overwhelmed by the threat of liability.

Mr. President, other provisions of this legislation include the establishment of a $25 million revolving fund to improve day care facilities, a study on the feasibility of offering child care as a benefit to Federal employees, and a comprehensive examination of Federal day care efforts, and to enlist the support of one of the Nation's valuable resources, our senior citizens, the KIDS bill would exempt earnings received by them for their provision of child care under Social Security's earnings test for recipients aged 62 through 69.

Finally, Mr. President, to ensure that Federal programs and tax incentives are directed toward those families with the greatest need, the KIDS bill would gradually reduce the dependent care tax credit for those taxpayers whose adjusted gross incomes exceed $65,000 per year, eliminating the credit completely for those families with adjusted gross incomes over $93,000 per year.

Let me, once again, indicate that I have introduced the KIDS bill as an amendment to the parental leave bill with one purpose in mind and that is to provide a vehicle for compromise.

I have been collective in seeking the best provisions that I have been able to find in the efforts of others. I do not pretend to satisfy all who have been involved in this child-care debate but simply stated it is an attempt to combine what I believe to be the best and less contentious provisions as well as those most relevant to the creation of child-care facilities, and the creation of that peace of mind that we should be able to give the working parents of America.

Having said that, I again challenge my colleagues to prove our critics wrong, to show the American people that this Congress and not the 101st or the 102d or the 103d can and will take the kind of prudent action on the child-care issue that they have been demanding.

Mr. President, I thank the Chair. I yield the floor.

Mr. KERRY. Mr. President, I am proud to be a cosponsor of the Omnibus Drug Act of 1988. As an original member of the Democratic Substance Abuse Working Group, I have worked closely with my colleagues, both Democrat and Republican, for the last several months in drafting a bill which I feel represents a balanced approach to the drug problem. The bill incorporates strategic thinking, something missing for far too long, on eradication, interdiction, enforcement, treatment, education and prevention. For the first time, we are addressing the demand side of the drug issue in a serious fashion, and yet, we continue to recognize the supply side of the problem.

Even though I am cosponsoring this legislation, I cannot in good conscience support the death penalty which, at the 11th hour, has been included in the bill. The death penalty is an extremely difficult issue and one with which I continue to wrestle. I have always said that from the perspective of retribution, there is a legitimate argument for the death penalty. However, there are two things that I have not been able to resolve with respect to the death penalty and they are discriminatory application and the possibility of mistake.

Numerous research studies in jurisdictions around the country have shown that the death penalty is imposed in a racially biased manner, based either upon the race of the defendant or the victim. On the issue of mistake, I know firsthand because after I left the district attorney's office in Massachusetts I represented an individual who spent 15½ years in prison for a murder that he did not commit. That individual, thankfully, was eventually set free.

Mr. President, this is a good bill. My only thought is that if we had left the death penalty out it would have been a better bill.

Mr. CHILES. Mr. President, it is a sad and frightening fact that illegal drugs have become far more than a menace worldwide. Indeed, drug use has spread like a contagious disease and those who deal in drugs are threatening to rule in many regions of the world.

Clearly, the United States has not escaped this plague.

Drug abuse has become one of our most serious and dangerous problems. We are all affected by its impact.

Families across the country have been torn apart by drug abuse. These same families struggle to find help and most often fail.

Employers have seen good, productive employees change into uncaring, unreliable addicts with diminished productivity.

Many of our neighborhoods have become arcades for drugs, dealers on almost every corner taking control over the streets with their corruption and their gang warfare.

Crime rates have increased in most communities, especially robberies and breakins which often are associated with drugs. The crimes associated with drugs have become more vicious as today's traffickers often deal in weapons as well as drugs.

Drug and crime rates have burdened law enforcement agencies at every level of government; increased forces have had to be supported by the taxpayer.

Worldwide, the drug industries have become financiers of terrorist and guerrilla operations. The marriage of these factions has caused a demonic threat to peoples' security everywhere. No one goes untouched. It behooves responsible people everywhere to work toward drug-free societies.

With the Omnibus Anti-Substance Abuse Act of 1988, Congress continues its effort to meet the demand of the American people to combat drug traffickers and to provide assistance to the drug user. The bill goes far to meet these demands and builds upon the foundation provided in the Anti-Drug Abuse Act of 1986.

The 1986 law gave law enforcement stiffer penalties and hardware to use in its fight against drugs but left gaps in the legal system. The Omnibus Anti-Substance Abuse Act of 1988 closes these gaps by providing for additional personnel to enforce and prosecute drug laws and for additional prisons to detain those convicted.

In addition, the bill emphasizes prevention by substantially increasing the funding and scope for the treatment and education programs established in the 1986 law. The demand for such programs and the magnitude of the problem certainly justifies this emphasis.

The Omnibus Anti-Substance Abuse Act of 1988 is a bipartisan effort to address the problems associated with drug abuse and trafficking as we know them today. The bill is the product of Democratic and Republican working groups which were appointed by the leadership to produce a comprehensive package. The bill does address the major areas of coordination of drug programs, law enforcement and interdiction, treatment and education and international cooperation in narcotics control.

Title I of the bill provides for a Director for National Drug Control Policy who will be directly responsible to the President. The Director will be responsible for a National Drug Control Policy Office in the Executive Office of the President and for developing, implementing and enforcing drug policy and budgetary decisions.

In the law enforcement area under title II, the substance abuse working group took an accounting of our past antidrug efforts with an eye toward planning future strategy. In practical terms, this meant making adjustments to or improving upon what Congress did in 1986. In 1986 Congress gave law enforcement agencies the tools it needed in the way of tougher penalties for drug offenders. In 1988 Congress is directing additional funds to all levels of the legal system that process narcotics offenders. In the Omnibus Anti-Substance Abuse Act, we provide funding increases for U.S. attorneys to prosecute cases, the Federal court system, and for prison construction in anticipation of the rise in prison population.

In 1986 we focused primarily on hardware for law enforcement agencies. Now we are beefing up the personnel of agencies charged with the drug enforcement responsibilities such as the Federal Bureau of Investigation [FBI], the Drug Enforcement Administration [DEA], the Immigration and Naturalization Service [INS], the Customs air interdiction and cargo inspection forces, and our Border Patrol drug interdiction forces.

Another component of our law enforcement title acknowledges a fairly recent development in narcotics trafficking; that is, the connection between illegal aliens and drug trafficking. I am pleased that members of the working group accepted as part of its initiative my package of bills which sets up a statutory scheme to ensure that illegal aliens convicted of drug or violent crimes are incarcerated until they are returned to their homeland, thus denying them any kind of parole or voluntary departure. This package requires incarceration of any convicted alien felon and allows for an expedited deportation hearing at the place of confinement upon completion of the alien's sentence. My proposals would also impose stiff penalties against aliens who repeat a cycle where, after return to their homeland, they attempt to reenter the United States.

Under title II, we also try to fine-tune the forfeiture process, an important law enforcement weapon which gets drug traffickers where it hurts—their pocketbooks. Stricter controls or improved oversight of the forfeiture funds becomes especially important as Congress continues to provide agencies with the tools to enlarge that body of forfeitable assets. In fact, we can see that the value and number of assets and cash seizures is growing by leaps and bounds. Several of my proposals included in this bill would streamline the forfeiture process, imposing stricter annual reporting requirements on the Department of Justice and the Customs Service as well as requiring annual audits of the forfeiture funds.

The Omnibus Anti-Substance Abuse Act builds upon my proposal in the recently passed Defense Authorization Act creating a commission to designate military facilities that will be utilized for incarceration and drug rehabilitation of nonviolent prisoners with substance abuse problems. Under the drug bill, the Bureau of Prisons and the National Institute of Drug Abuse would be authorized to develop drug treatment programs for facilities designated by the commission as underutilized or closed for military purposes.

Title III provides for an expansion of drug treatment programs with the doubling of funds for the block grant programs to the States. Most States are like Florida, where there are waiting lists of thousands seeking help. This bill would provide services to a projected 20 percent of drug abusers compared to the current programs which reach only 8 percent.

The treatment title also provides for special attention to women and infant children, adolescents, and minorities who abuse drugs. There is also recognition of the need for trained personnel in the drug treatment field and I am pleased that the bill has incorporated my provision to support training grants and additional research training.

This title also expands support for the Drug Free Schools and Communities Act established in the 1986 bill. This act provides for block grants to the States to develop drug education programs throughout their education systems. The Anti-Substance Abuse Act supports existing education programs and places a focus on high-risk youths and school dropouts. Further, the bill provides for training of educators in the prevention of drugs and for better evaluation of these programs which are still new and struggling within the realms of reading, writing and arithmetic.

Title IV strengthens the U.S. role in international narcotics control by clearly defining actions foreign countries must take in the control of narcotis to be able to be certified for receipt of U.S. assistance. The bill expands the areas of cooperation beyond eradication of drug crops to law enforcement efforts which lead to the seizures of drugs and to prevention of money laundering, the activities of senior government officials, the investigation of crimes against U.S. drug enforcement agents and cooperation with such agents.

The bill also recognizes the extent of the drug trafficking problem worldwide by seeking criteria from the administration to define a drug transit country under the law. Also, the bill supports and calls upon multilateral and regional organizations worldwide to focus on narcotics control and to provide assistance and cooperation in their regions of the world.

This bill is total authorizes a comprehensive structure to the foundation created in the Anti-Drug Abuse Act of 1986. It is a secret to on one that we need additional resources, personnel, and treatment to respond to the needs associated with drug abuse and drug trafficking in this country. Most American people rate the drug issue as our No. 1 domestic as well as international priority.

The working groups have crafted a fine, comprehensive package to deal with the issue. However, we were also given the charge of finding revenues to pay for this bill. Under the terms of the budget resolution for this year, every Senator voted for a provision which states that any drug bill could surpass those spending levels established by the economic summit but not add to the deficit. In other words, we have to find the money to pay for this bill. We have not yet located our pot at the end of the rainbow but we are searching. We've received some cooperation from the Treasury Department and the OMB on one provision and are carefully analyzing others. Time is a crucial factor and to delay could prove fatal, and that would be a tragedy for the families, neighborhoods and workplaces so traumatized by illegal drugs and drug abuse.

● Mr. BENTSEN. Mr. President, I am pleased to join many of my colleagues today in introducing the Omnibus Anti-Substance Abuse Act of 1988. I know that Members of this body, indeed all of America, are worried and deeply concerned about the problem of illegal drugs. Unlike President Reagan, who earlier this year inexplicably called our war on drugs "an untold American success story," we know that current efforts simply are not good enough. We must do a better job of seizing drugs being smuggled into this country, and we must do a better job of educating American children about the dangers of drug use. This bill is not a cure-all, but it will help us achieve these goals.

One of the biggest deficiencies in our drug enforcement effort to date has been a lack of coordination and central direction. We've had a war without a general. Interdiction and investigation activities are scattered between 8 separate Federal departments and 26 different agencies, and bureaucratic infighting is all too common. Most troubling of all is the fact that this infighting allows more drugs into the country, drugs that poison our youth and ruin promising lives.

The bill we introduce today will erase this dificiency and provide for a full-time public official who will cut through jurisdictional disputes, order priorities, and provide leadership and responsibility for the drug war.

A drug czar alone will not win this war. That will require the efforts of every neighborhood and school, every church and synagogue in our Nation. Government simply cannot win this war on its own. But its resources must not be wasted and, through the creation of a national drug czar, this bill will move us forward in the battle against drugs.

Today we also take an important step toward solving other problems hampering our drug enforcement effort. The long delays in our Federal courts and the overcrowding in our prisons will be alleviated through the additional funding provided in this bill for more prosecutors and new prisons. Funding for Federal drug enforcement agencies, including DEA and FBI, will be increased to beef up their efforts. And, despite attempts by the Reagan-Bush administration to eliminate the program, the bill reauthorizes and increases funding for the grant program to State and local law enforcement agencies.

But perhaps most importantly, the bill we introduce today focuses a great deal of attention on the demand side of our drug problem. Drug education and prevention programs will be expanded. And we undertake the ambitious goal of providing treatmemt on request to persons seeking help to get off drugs and receive the assistance they need. Only through strong efforts to prevent young Americans from using drugs in the first place, and strong efforts aimed at helping drug addicts kick their habit, will we prevail in our war against drugs. This bill will help us do just that.

Mr. President, I am pleased to be a cosponsor of the Anti-Substance Act of 1988, and hope that this measure receives prompt and favorable consideration here in the Senate. The drug problem in this Nation demands our attention. Our children need our help. Let us give it to them, and pass this bill.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON ENVIRONMENTAL QUALITY—MESSAGE FROM THE PRESIDENT—PM 162

The **PRESIDING OFFICER** laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Environment and Public Works.

To the Congress of the United States:

All over the world, America is known as a "land of liberty." For the settlers who first came to America by ship in the 17th century, this new land promised a New World, and a new chance to make possible the oldest of dreams—the dream of personal liberty. The early settlers and explorers found an abundance of land—virgin forests, untouched meadows, bountiful streams, and sweet-smelling air—that vastly exceeded anything the kings of the old world could have ever imagined. In his first inaugural address, Thomas Jefferson spoke of a country with land sufficient to "the thousand thousandth generation." There was so much land in America that there was no way to restrict it to a privileged few. Instead of locking it up for the exclusive use of royalty, the Founding Fathers made possible the widespread ownership of the lands west of the original colonies by anyone brave enough to take the risk, to grasp the main chance, and to hope for a better tomorrow.

The settlement of this great and generous land and the development of its resources created a diverse and expansive American republic of hope, opportunity, experimentation, mobility, and personal freedom. Americans created so much wealth, and shared it so widely, that eventually ordinary men and women could afford to travel West just for pleasure. American's fascination with the West, and advances in transportation, education, and science, contributed to a successful popular movement to restore and beautify cities with public parks, arboreta and gardens, and to preserve other places of natural beauty or curiosity. The Federal government began to set aside wondrous places "for the benefit and enjoyment of the people," such as Yellowstone in 1872, when the Congress established it as the first national park. Today the National Park Service manages 341 units on 76 million acres preserved as parks, monuments, historic, cultural, and recreation sites. A philosophy of conservation and wise use was championed by Theodore Roosevelt, who signed legislation in 1905 that created the Forest Service and brought about the national forest system that today includes 191 million acres of national forests and grasslands, managed under multiple-use principles.

The first unit of the modern National Wildlife Refuge System dates back to President Roosevelt's designation in 1903 of Florida's three-acre Pelican Island as a refuge for colonial nesting birds. Popular interest in the conservation of native birds at that time led to the establishment of independent Audubon societies in many States, and a national association was formed in 1905. By 1910, most States had an agency protecting wildlife and fisheries. The Migratory Bird Act of 1918 authorized international agreements and Federal management for migrating waterfowl and other birds. Today the Fish and Wildlife Service manages 443 refuges on nearly 90 million acres, and administers the Endangered Species Act of 1973, that further protects native animal and plant species whose survival is threatened or endangered. Private organizations dedicated to the restoration of viable populations of such species, to the conservancy of rare habitats, or to the protection of wetlands that are critical to waterfowl have continued to enlarge their contribution to the preservation of natural systems. In recent years, the idea of protection of natural habitat has also been extended to marine environments through the establishment of marine sanctuaries.

Earlier in our Nation's history, the cause of liberty was well served by the government making a rapid and flexible divestiture of its land, out of which our people created a prosperous and generous nation of communities. The preservation of parks, wilderness, and wildlife has also aided liberty by keeping alive the 19th century sense of adventure and awe with which our forefathers greeted the American West. Many laws protecting environmental quality have promoted liberty by securing property against the destructive trespass of pollution. In our own time, the nearly universal appreciation of these preserved landscapes, restored waters, and cleaner air through outdoor recreation is a modern expression of our freedom and leisure to enjoy the wonderful life that generations past have built for us.

This Administration has understood the necessary relationship between freedom and opportunity, between opportunity and growth, between growth and progress, including progress in restoring and maintaining the quality of the human environment. The same spirit of creativity and innovation that has created 17 million jobs has also benefited the land itself, making America the beautiful more beautiful still.

The accompanying report of the Council on Environmental Quality, which I am pleased to transmit today, provides an accounting of the natural systems and resources that Americans have accorded special protection by government agencies and by private voluntary associations active in States and communities all over this country. No other nation in the world has done more to preserve and improve its natural environment. We are a people who take pride in America, and in the environmental quality of the communities we helped to build, and who will continue to build our future as we did our past, in freedom.

RONALD REAGAN.

THE WHITE HOUSE, *October 3, 1988.*

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 2:16 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 2846. An act to provide for the awarding of grants for the purchase of drugs used in the treatment of AIDS.

The enrolled bill was subsequently signed by the Deputy President pro tempore (Mr. MITCHELL).

At 3:56 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to House Resolution 552, stating that the bill of the Senate (S. 2763) entitled the "Prevention of Genocide Act of 1988", in the opinion of the House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of the House and that such bill be respectfully returned to the Senate.

ENROLLED BILL SIGNED

The Deputy President pro tempore (Mr. MITCHELL) reported that on today, October 3, 1988, he had signed the following enrolled bill which had previously been signed by the Speaker of the House:

S. 1518 An act to amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of methanol and ethanol, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October, 3, 1988, he had presented to the President of the United States the following enrolled bills:

S. 1518 An act to amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of methanol and ethanol, and for other purposes; and

S. 2846. An act to provide for the awarding of grants for the purchase of drugs used in the treatment of AIDS.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment:

S. 2853. An original bill to amend the Safe Drinking Water Act and the Federal Insecticide, Fungicide and Rodenticide Act to protect ground water resources from contamination by pesticides, to transfer the liability for pesticide damages in certain circumstances from the user to the registrant, and to preserve the authority of State governments to establish standards for pesticide residues in food (Rept. No. 100-583).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 2746. A bill to amend the Federal Aviation Act of 1958 relating to aviation research (Rept. No. 100-584).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2777. A bill to authorize a certificate of documentation for the vessel Gipsy (Rept. No. 100-585).

H.R. 2032. A bill to authorize the conveyance of the Liberty ship PROTECTOR (Rept. No. 100-586).

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

H.R. 2835. A bill to direct the Secretary of Agriculture to release certain restrictions on a parcel of land located in Henderson, Tennessee.

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment:

H.R. 4365. A bill to designate the Sunderland National Salmon Station located in Sunderland, Massachusetts, as the "Richard Cronin National Salmon Station".

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute:

S. 2437. A bill to direct the Secretary of Agriculture to release a reversionary interest of the United States in certain land located in Oktibbeha County, Mississippi.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. NUNN (for himself, Mr. BYRD, Mr. DOLE, Mr. MOYNIHAN, Mr. RUDMAN, Mr. D'AMATO, Mr. WILSON, Mr. GRAMM, Mr. FOWLER, Mr. BUMPERS, Mr. MURKOWSKI, Mr. TRIBLE, Mr. THURMOND, Mr. GRAHAM, Mr. LAUTENBERG, Mr. CHILES, Mr. DECONCINI, Mr. DIXON, Mr. BENTSEN, Mr. BINGAMAN, Mr. EXON, Mr. SASSER, Mr. ROTH, Mr. RIEGLE, Mr. BREAUX, Mr. SPECTER, Mr. CONRAD, Mr. GORE, Mr. DASCHLE, Mr. HOLLINGS, Mr. METZENBAUM, Mr. QUAYLE, Mr. BOSCHWITZ, Mr. CHAFEE, Mr. COCHRAN, Mr. DOMENICI, Mr. GRASSLEY, Mr. HATCH, Mr. HEINZ, Mr. KARNES, Mr. MCCONNELL, Mr. PACKWOOD, Mr. PRESSLER, Mr. SIMPSON, and Mr. STEVENS):

S. 2852. A bill to provide for an omnibus Federal, State, and local effort against substance abuse, to provide for a cabinet-level position to centralize and streamline Federal activities with respect to both drug supply—(interdiction and law enforcement)—and drug demand (prevention, education, and treatment), to expand Federal support to ensure a long-term commitment of resources and personnel for substance abuse education, treatment, and rehabilitation efforts, to strengthen and improve the enforcement of Federal drug laws and enhance the interdiction of illicit drug shipments, and for other purposes; placed on the calendar.

By Mr. BURDICK from the Committee on Environment and Public Works:

S. 2853. An original bill to amend the Safe Drinking Water Act and the Federal Insecticide, Fungicide and Rodenticide Act to protect ground water resources from contamination by pesticides, to transfer the liability for pesticide damages in certain circumstances from the user to the registrant, and to preserve the authority of State governments to establish standards for pesticide residues in food; placed on the calendar.

By Mr. HATFIELD:

S. 2854. A bill to authorize the Environmental Protection Agency to take certain action to protect the environment; to mitigate water pollution; to reduce solid waste and the cost in connection with the disposal of such waste through recycling; and for other purposes; to the Commission on Commerce, Science, and Transportation.

By Mr. HEINZ:

S. 2855. A bill to designate Lock and Dam 7 on the Monongahela River in the Commonwealth of Pennsylvania the "Albert Gallatin Lock and Dam"; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE for Mr. KARNES (for himself and Mr. GRASSLEY):

S. Res. 484. A resolution to ensure corn gluten exports to the European Community; to the Committee on Finance.

By Mr. DOLE (for himself, Mr. ADAMS, Mr. ARMSTRONG, Mr. BAUCUS, Mr. BENTSEN, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mr. BOREN, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. BREAUX, Mr. BUMPERS, Mr. BURDICK, Mr. CHAFEE, Mr. CHILES, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. CRANSTON, Mr. D'AMATO, Mr. DANFORTH, Mr. DASCHLE, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. DOMENICI, Mr. DURENBERGER, Mr. EVANS, Mr. EXON, Mr. FORD, Mr. FOWLER, Mr. GARN, Mr. GLENN, Mr. GORE, Mr. GRAHAM, Mr. GRAMM, Mr. GRASSLEY, Mr. HARKIN, Mr. HATCH, Mr. HATFIELD, Mr. HECHT, Mr. HEFLIN, Mr. HEINZ, Mr. Helms, Mr. Hollings, Mr. Humphrey, Mr. Inouye, Mr. Johnston, Mr. Karnes, Mrs. Kassebaum, Mr. Kasten, Mr. Kennedy, Mr. Kerry, Mr. Lautenberg, Mr. Leahy, Mr. Levin, Mr. Lugar, Mr. Matsunaga, Mr. McCain, Mr. McClure, Mr. McConnell, Mr. Melcher, Mr. Metzenbaum, Ms. Mikulski, Mr. Mitchell, Mr. Moynihan, Mr. Murkowski, Mr. Nickles, Mr. Nunn, Mr. Packwood, Mr. Pell, Mr. Pressler, Mr. Proxmire, Mr. Pryor, Mr. Quayle, Mr. Reid, Mr. Riegel, Mr. Rockefeller, Mr. Roth, Mr. Rudman, Mr. Sanford, Mr. Sarbanes, Mr. Sasser, Mr. Shelby, Mr. Simon, Mr. Simpson, Mr. Specter, Mr. Stafford, Mr. Stennis, Mr. Stevens, Mr. Symms, Mr. Thurmond, Mr. Trible, Mr. Wallop, Mr. Warner, Mr. Weicker, Mr. Wilson, and Mr. Wirth):

S. Res. 485. A resolution commending Robert C. Byrd for his exemplary service to the United States Senate, the Congress, and the people of the United States; considered and agreed to.

By Mr. BYRD (for Mr. Hollings (for himself, Mr. Riegle, Mr. Danforth, Mr. Pressler, Mr. Wirth, Mr. Ford, and Mr. Garn)):

S. Res. 486. A resolution to congratulate the crew of the space shuttle Discovery on the successful completion of its mission; considered and agreed to.

By Mr. BOSCHWITZ:

S. Con. Res. 150. A concurrent resolution concerning human rights of the Sikhs in the Punjab of India; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NUNN (for himself, Mr. Byrd, Mr. Dole, Mr. Moynihan, Mr. Rudman, Mr. D'Amato, Mr. Wilson, Mr. Gramm, Mr. Fowler, Mr. Bumpers, Mr. Murkowski, Mr. Trible, Mr. Thurmond, Mr. Graham, Mr. Lautenberg, Mr. Chiles, Mr. DeConcini, Mr. Dixon, Mr. Bentsen, Mr. Bingaman, Mr. Exon, Mr. Sasser, Mr. Roth, Mr. Riegle, Mr. Breaux, Mr. Specter, Mr. Conrad, Mr. Gore, Mr. Daschle, Mr. Hollings, Mr. Metzenbaum, Mr. Quayle, Mr. Boschwitz, Mr. Chafee, Mr. Cochran, Mr. Domenici, Mr. Grassley, Mr. Hatch, Mr. Hecht, Mr. Heinz, Mr. Karnes, Mr. McConnell, Mr. Packwood, Mr. Pressler, Mr. Simpson, and Mr. Stevens):

S. 2852. A bill to provide for an omnibus Federal, State, and local effort against substance abuse, to provide for a cabinet-level position to centralize and streamline Federal activities with respect to both drug supply—interdiction and law enforcement—and drug demand—(prevention, education, and treatment)—to expand Federal support to ensure a long-term commitment of resources and personnel for substance abuse education, treatment, and rehabilitation efforts, to strengthen improve the enforcement of Federal drug laws and enhance the interdiction of illicit drug shipments, and for other purposes; placed on the calendar.

Statements on the introduction of this legislation and a section-by-section anaylsis of the bill appear elsewhere in today's Record. The text of the bill is as follows:

S. 2852

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Anti-Substance Abuse Act of 1988".

SEC. 2. ORGANIZATION OF ACT.

The organization of this Act is as follows:

Title I. Organization.
Title II. Crimes and Penalties and Law Enforcement.
Title III. Prevention, Education, and Treatment.
Title IV. International Narcotics Control and Assistance to Foreign Countries.
Title V. User Accountability.
Title VI. Sense of the Congress on drug funding.
Title VII. Death Penalty in Case of Drug Related Killings.

TITLE I—ORGANIZATION

SEC. 1000. TABLE OF CONTENTS.

The table of contents for this title is as follows:

TITLE I—ORGANIZATION

Sec. 1000. Table of contents.

Subtitle A—National Drug Control Program

Sec. 1001. Short title.
Sec. 1002. Findings.
Sec. 1003. Purposes.
Sec. 1004. Definitions.
Sec. 1005. Establishment of office.
Sec. 1006. Appointment and duties of the director, deputy director and associate director.
Sec. 1007. Duties and responsibilities of the heads of executive branch departments and agencies.
Sec. 1008. Development and submission of national drug control strategy.
Sec. 1009. Submission of national drug control program budget with the annual budget request of the President.
Sec. 1010. High-intensity drug areas.
Sec. 1011. Termination of the National Drug Enforcement Policy Board, the National Narcotics Border Interdiction System, and the White House Drug Abuse Policy Office.
Sec. 1012. Executive reorganization authority.
Sec. 1013. Termination of the Office of National Drug Control Policy.
Sec. 1014. Authorization of appropriations.
Sec. 1015. Effective date.

Subtitle B—Department of Justice Civil Enforcement Enhancement

Sec. 1051. Short title.
Sec. 1052. Findings.
Sec. 1053. Civil enforcement report.
Sec. 1054. Civil enforcement enhancement.
Sec. 1055. Coordination and enhancement of field activities.

Subtitle A—National Drug Control Program

SEC. 1001. SHORT TITLE.

This subtitle may be cited as the "National Narcotics Leadership Act of 1988".

SEC. 1002. FINDINGS.

The Congress finds that—

(1) the problem of illegal drug activity and drug abuse falls across the entire spectrum of Federal activities, both domestically and internationally;

(2) any effective solution to the drug problem of the Nation must involve a comprehensive approach from all levels of government, combining reduction of the demand for drugs through education, research and treatment with rigorous law enforcement and supply reduction initiatives;

(3) an effective solution to the drug problem of the Nation is severely hampered by the large number of Federal agencies with overlapping jurisdiction and fragmented authority which does not encourage effective strategic planning, coordination and cooperation without centralized leadership;

(4) the magnitude and scope of the problem requires a Director of National Drug Control Policy with the responsibility for the coordination and direction of all Federal efforts by the numerous agencies; and

(5) such a director must have sufficient authority and responsibility to lead Federal agencies in making management, policy, and budgetary decisions with respect to all Federal agencies so that a unified and efficient effort can be made to substantially reduce the illegal drug problem.

SEC. 1003. PURPOSES.

The purposes of this subtitle are to—

(1) develop a comprehensive, long-range national drug control strategy for substantially reducing drug trafficking and abuse, particularly among young people;

(2) authorize one official to direct the national drug control policy of the Federal Government, coordinate all United States policy, resources, and operations with respect to drug control, and report directly to the President on all drug control matters;

(3) make such official accountable to the Congress and the people of the United States for the effectiveness of the national drug control strategy; and

(4) provide that the national drug control strategy ensures that Federal, State, and local governments are fully coordinated and efforts are designed to maximize the effectiveness of such strategy.

SEC. 1004. DEFINITIONS.

As used in this subtitle the term—

(1) "drug" shall have the same meaning as the term "controlled substance" as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6));

(2) "drug control" means any activity of a program conducted by a National Drug Control Program agency designed to reduce, directly or indirectly, the availability and use of drugs, including all efforts to decrease the production, manufacture, importation, distribution, or use of drugs through supply reduction and demand reduction programs;

(3) "supply reduction" means any activity of a program conducted by a National Drug Control Program agency that is designed to reduce, directly or indirectly, the supply of drugs in the United States and abroad, including, but not limited to—

(A) international drug control;

(B) foreign and domestic drug enforcement intelligence;

(C) interdiction; and

(D) domestic drug law enforcement;

(4) "demand reduction" means any activity of a program conducted by a National Drug Control Program agency that is designed to reduce, directly or indirectly, the demand for and use of drugs, including, but not limited to—

(A) drug abuse education;

(B) prevention;

(C) treatment;

(D) research; and

(E) private sector initiatives;

(5) "National Drug Control Program" means the drug control programs, policies and activities that—

(A) the National Drug Control Program agencies undertake pursuant to the responsibilities of each such agency under the national drug control strategy; and

(B) are subject to review by the Director and modification by the President;

(6) "National Drug Control Program agencies" mean the agencies and all dedicated units thereof with responsibilities under the national drug control strategy including the—

(A) Department of Justice, including—

(i) the Drug Enforcement Administration;

(ii) the Federal Bureau of Investigation;

(iii) the United States Attorneys;

(iv) the United States Marshals Service;

(v) the Immigration and Naturalization Service;

(vi) National Central Bureau Interpol; and

(vii) the Criminal and Tax Divisions;

(B) Department of the Treasury, including—

(i) the United States Customs Service;

(ii) the Internal Revenue Service;

(iii) the Bureau of Alcohol, Tobacco and Firearms; and

(iv) the United States Secret Service;

(C) Department of Transportation, including—

(i) the Coast Guard; and

(ii) the Federal Aviation Administration;

(D) Department of State, including—

(i) the Bureau of International Narcotics Matters;

(ii) the Agency for International Development; and

(iii) the United States Information Agency;

(E) Department of Defense;

(F) Department of the Interior;

(G) Department of Agriculture;

(H) Food and Drug Administration;

(I) Department of Health and Human Services, including—

(i) the Alcohol, Drug Abuse and Mental Health Administration;

(ii) the Office for Substance Abuse Prevention;

(iii) the National Institute of Drug Abuse; and

(iv) the Indian Health Service;

(J) Department of Education;

(K) Department of Labor;

(L) ACTION;

(M) Office of Personnel Management;

(N) Central Intelligence Agency and all other intelligence community agencies;

(O) staff elements of the Director of National Drug Control Policy; and

(P) other departments or agencies with drug control responsibilities designated—

(i) jointly by the Director for National Drug Control Policy and the head of the relevant department or agency; or

(ii) by the President.

SEC. 1005. ESTABLISHMENT OF OFFICE.

(a) ESTABLISHMENT OF OFFICE.—There is established in the Executive Office of the President the "Office of National Drug Control Policy" (hereafter in this subtitle referred to as the "Office ").

(b) DIRECTOR AND DEPUTY DIRECTORS.—(1) There shall be at the head of the Office, a Director of National Drug Control Policy (hereafter in this subtitle referred to as the "Director").

(2) There shall be two deputy directors of the Office (hereafter in this subtitle referred to as the "Deputy Directors") as follows:

(A) A Deputy Director for Demand Reduction to be responsible for all programs to reduce the demand for drugs, including drug education, prevention, treatment, research, and private sector programs.

(B) A Deputy Director for Supply Reduction to be responsible for all programs to reduce the supply of drugs, including domestic drug law enforcement, interdiction, international and intelligence programs, and any other program designed to halt the production, importation, manufacture, distribution, or use of drugs.

(3) The Deputy Directors shall assist the Director in carrying out the functions of the Director under this Act.

(c) BUREAU OF STATE AND LOCAL AFFAIRS.—(1) There is established in the Office of National Drug Control Policy a Bureau of State and Local Affairs (hereafter in this subtitle referred to as the "Bureau").

(2) There shall be at the head of the Bureau an Associate Director for National Drug Control Policy.

SEC. 1006. APPOINTMENT AND DUTIES OF THE DIRECTOR, DEPUTY DIRECTORS AND ASSOCIATE DIRECTOR.

(a) APPOINTMENT.—(1) The Director, the Deputy Directors, and the Associate Director shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The Director, the Deputy Directors, and the Associate Director shall each serve at the pleasure of the President. No person may serve as Director, a Deputy Director, or Associate Director for a period of more than 4 years, unless such person is reappointed to that same office by the President, by and with the advice and consent of the Senate. No person shall serve as Director, a Deputy Director, or Associate Director while serving in any other position in the Federal Government.

(3) The Director shall have the rank of Ambassador Extraordinary and Plenipotentiary.

(4) Section 101(a) of the National Security Act of 1947 (50 U.S.C. 402(a)) is amended in the fourth paragraph—

(1) in clause (6) by striking out "and" at the end thereof;

(2) by redesignating clause (7) as clause (8) and inserting before such clause the following:

"(7) the Director of the Office of Drug Control; and".

(5)(A) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"Director of National Drug Control Policy.".

(B) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"Deputy Director for Demand Reduction for National Drug Control Policy.

"Deputy Director for Supply Reduction for National Drug Control Policy.".

(C) Section 5315 of title 5, United States Code, is amended by adding at the end thereof:

"Associate Director for National Drug Control Policy.".

(b) FUNCTION OF DIRECTOR.—The Director shall serve as the principal director and coordinator of United States drug control policy.

(c) AUTHORITIES AND RESPONSIBILITIES OF THE DIRECTOR.—(1) The Director is authorized and directed to notify any National Drug Control Program agency that its policies are not in compliance with the responsibilities of such agency under the National Drug Control Strategy.

(2) The head of each National Drug Control Program agency shall ensure that the agency is in compliance with the responsibilities of such agency under the National Drug Control Strategy, as notified pursuant to paragraph (1) of this subsection. The head of any National Drug Control Program agency may appeal to the President any decision of the Director issued under paragraph (1) of this subsection.

(3) The Director shall—

(A) develop, review, implement and enforce Federal Government policy with respect to drug control programs;

(B) direct and coordinate all Federal Government drug supply reduction efforts, including international, intelligence, interdiction, and domestic drug law enforcement and all other programs designed to halt the production, importation, manufacture, provided in section 1008 of this title;

(C) direct and coordinate efforts between the Federal, State, and local governments, including the review of State and local drug control strategies, and the development of a State and local component to the distribution, and use of drugs;

(D) direct and coordinate all Federal Government drug demand reduction efforts, including education, prevention, treatment, research, and private sector programs;

(E) prepare a national drug control strategy as national drug control strategy as provided in section 1008 of this title;

(F) direct and coordinate the collection and dissemination of information necessary to implement United States policy with respect to drug supply and demand reduction efforts; and

(G) develop a consolidated national drug control policy including—

(i) developing, with the advice of the program managers of departments and agencies with responsibilities under the National Drug Control Program, the consolidated National Drug Control Program budget, and presenting such budget proposal to the President for submission to the Congress; and

(ii) initiating, reviewing, and approving all agency requests for reprogramming National Drug Control Program funds, in accordance with guidelines which shall be established by the Office of Management and Budget.

(d) CONSOLIDATING NATIONAL DRUG CONTROL PROGRAM BUDGET.—(1) In developing the National Drug Control Program budget, the Director shall provide each Federal Government program manager, agency head and department head with responsibilities under the national drug control strategy. Each such program manager, agency head, or department head shall submit the drug control budget request of the program, agency, or department to the Director at the same time as such request is submitted to their superiors (and before submission to the Office of Management and Budget) in the preparation of the budget of the President submitted to the Congress under section 1105(a) of title 31, United States Code. The Director shall approve or revise such requests in consultation with the appropriate program manager, agency or department head.

(2) The Director may reprogram funds within National Drug Control Programs.

(3) The Director may transfer, after providing notification to the Committees on Appropriations of the Senate and the House of Representatives, an amount not to exceed 5 per centum of the funds appropriated for one such program to another such program within the same National Drug Control Program agency.

(4) The head of any National Drug Control Program agency may appeal to the President any decision of the Director on budget and reprogramming matters relating to such agency.

(e) POWERS OF DIRECTOR.—In carrying out the responsibilities described under subsection (c) the Director may—

(1) select, appoint, employ, and fix compensation of such officers and employees as shall be necessary to carry out the powers and duties of the Office under this title;

(2) direct, with the concurrence of the Secretary of a department or head of an agency employing such personnel, the temporary reassignment of personnel within the Federal Government in order to implement United States drug control policy;

(3) to use, on a reimbursable basis, the available services, equipment, personnel, and facilities of Federal, State, and local agencies to the extent the Director determines appropriate after considering the effectiveness of such existing services, equipment, personnel, and facilities;

(4) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, relating to appointments in the Federal Service, at rates of compensation for individuals not to exceed the daily equivalent of the rate of pay payable from time to time for GS-18 of the General Schedule under section 5332 of title 5, United States Code;

(5) accept and use donations of property from all government agencies;

(6) use the mails in the same manner as any other department or agency of the executive branch; and

(7) monitor National Drug Control Program implementation, including—

(A) conducting program and performance audits and evaluations; and

(B) requesting assistance from the Inspector General of the relevant agency in such audits and evaluations.

(f) PERSONNEL DETAILED TO THE OFFICE.—(1) Notwithstanding any provision of chapter 42 of title 5, United States Code, the Director shall provide the evaluation of the performance of any employee detailed to the Office of National Drug Control Policy for purposes of the applicable performance appraisal system established under chapter 43 of title 5, United States Code, for any rating period, or part thereof, that such employee is detailed to the Office.

(2)(A) Subject to the provisions of subparagraph (B), in filling a position within any Executive agency through promotion, the head of such agency shall give preference to any employee who was detailed to the Office of National Drug Control Policy and received satisfactory performance appraisals during such detail, if—

(i) such employee is otherwise qualified for such position; and

(ii) such employee is eligible for appointment to such position.

(B)(i) Notwithstanding the provisions of subparagraph (A), no preference may be given to any employee under such subparagraph, with respect to a preference eligible (as defined under section 2108(3) of title 5, United States Code) who is eligible for the same position.

(ii) The provisions of subparagraph (A) shall apply to no more than one promotion for any employee.

SEC. 1007. DUTIES AND RESPONSIBILITIES OF THE HEADS OF EXECUTIVE BRANCH DEPARTMENTS AND AGENCIES.

(a) ACCESS TO INFORMATION.—(1) The heads of all executive branch departments and agencies shall—

(A) provide the Director with all information necessary and relevant to the National Drug Control Program and the development of the national drug control strategy; and

(B) give complete consideration to the requests from the Director for appropriate support for National Drug Control Program activities.

(2) The Director of Central Intelligence shall prescribe such regulations as may be necessary to protect the sources and methods of intelligence program information provided to the Director of National Drug Control Policy under this section.

(b) BUDGET RESPONSIBILITIES OF EXECUTIVE DEPARTMENTS AND AGENCIES.—The heads of National Drug Control Program agencies shall ensure—

(1) timely development and submission to the Director by the program managers and heads of component activities of proposed drug control programs and budgets in the format designated by the Director; and

(2) that the Director is provided, in a timely and responsive manner, all information necessary to perform the program and budget responsibilities of the Director.

(c) CERTIFICATION BY THE DIRECTOR.—(1) The heads of National Drug Control Program agencies shall, unless exigent circumstances require otherwise, provide the Director in writing with any proposed changes in policies relating to the activities of such department or agency under the National Drug Control Program prior to implementation of such changes. The Director shall promptly review such proposals and certify to the department or agency head in writing whether such changes are consistent with the National Drug Control Program.

(2) If prior notice of a proposed change under paragraph (1) is not possible, the department or agency head shall notify the Director as soon as is practicable. The Director shall review such change and certify to the department or agency head in writing whether such change is consistent with the National Drug Control Program.

(d) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Director on a reimbursable basis such administrative support services as the Director may request.

SEC. 1008. DEVELOPMENT AND SUBMISSION OF NATIONAL DRUG CONTROL STRATEGY.

(a) DEVELOPMENT AND SUBMISSION OF THE NATIONAL DRUG CONTROL STRATEGY.—(1) No later than 180 days after the first Director is confirmed by the Senate, and in each fiscal year thereafter, the President shall submit to the Congress a National Drug Control Program budget and a complete national drug control strategy. Any part of such strategy that involves classified information may be presented to the Congress in closed proceedings.

(2) The national drug control strategy shall—

(A) be a comprehensive, research based, long-range plan for the Nation to follow in reducing drug abuse in the United States;

(B) indicate the balance between resources devoted to supply and demand reduction; and

(C) include a component on State and local drug control to ensure that the United States pursues a well-coordinated and effective drug control program at all levels of government.

(3)(A) In developing the national drug control strategy, the Director shall consult with—

(i) the National Drug Control Program agencies;

(ii) State and local officials;

(iii) private citizens with demonstrated experience and expertise in drug demand reduction; and

(iv) private citizens with experience and expertise in drug supply reduction.

(B) An initial draft of such strategy shall be circulated by the Director for a period of 30 days, during the 180-day period described under paragraph (1), for the purpose of obtaining comments from the National Drug Control program agencies.

(C) After reviewing the comments obtained under subparagraph (B), the Director shall—

(i) compose a final draft strategy;

(ii) circulate such final draft strategy to National Drug Control Program agencies for a period of 30 days; and

(iii) transmit such final draft strategy and all agency comments to the President.

(D) At the time the President submits the national drug control strategy the Director shall transmit a report to the Congress indicating the persons consulted under this paragraph.

(4) Beginning with the second submission of a budget and strategy described under paragraph (1), the Director shall include a complete evaluation of the effectiveness of United States drug control policy during the preceding year.

(b) GOALS AND PRIORITIES.—The strategy developed pursuant to subsection (a) shall include—

(1) a complete list of goals and priorities in—

(A) international narcotics control;

(B) intelligence efforts relating to drug supply reduction efforts;

(C) interdiction;

(D) domestic drug law enforcement;

(E) drug demand reduction efforts, including education, prevention, treatment, research, and private sector initiatives; and

(F) cooperative efforts between the Federal, State, and local governments in the area of drug control;

(2) 5 year projections for program and budget priorities and achievable projections for reductions of drug availability, purity, and usage;

(3) a complete assessment of the way the program and budget priorities developed under subsection (a) are intended to implement the strategy and whether such resource levels are sufficient to implement the strategy;

(4) a mechanism of independent, outside, annual assessment of the effectiveness of the national drug control strategy and all programs administered thereto;

(5) the designation of the division of authority in each of the major areas of the National Drug Control Program and a mechanism to ensure maximum coordination and cooperation among all involved agencies; and

(6) the designation of lead agencies with areas of principal responsibility for carrying out the strategy.

(c) Areas of Principal Responsibilities of Strategy.—(1) The Director shall require that any National Drug Control Program agency that conducts an activity which is in the area of principal responsibility of a lead agency as designated under subsection (b)(6) shall—

(A) notify such lead agency in writing of the activity; and

(B) provide such notification prior to conducting such activity, unless exigent circumstances require otherwise.

(2) If a lead agency objects to the conduct of an activity described under paragraph (1), the lead agency and the agency planning to conduct such activity shall refer the matter to the Director for resolution.

(3) Nothing in this subsection may be construed to limit the authority of the Director to establish policies relating to the responsibilities of any National Drug Control Program agency under the national drug control strategy.

SEC. 1009. SUBMISSION OF NATIONAL DRUG CONTROL PROGRAM BUDGET WITH THE ANNUAL BUDGET REQUEST OF THE PRESIDENT.

Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof the following:

"(26) a separate statement of the amount of appropriations requested for the Office of National Drug Control Policy and each program of the National Drug Control Program.".

SEC. 1010. HIGH-INTENSITY DRUG AREAS.

(a) Designation and Assistance.—The Director, upon consultation with the Attorney General, National Drug Control Program agencies, and the several Governors, is authorized to designate certain areas of the country as high intensity drug areas. Upon making such a designation and in order to provide Federal assistance to such area, the Director may—

(1) direct, with the concurrence of the Secretary of a department or head of an agency employing such personnel, the temporary reassignment of Federal personnel to such areas;

(2) transfer, after providing notification to the Committees on Appropriations of the Senate and the House of Representatives, an amount not to exceed 5 per centum of the funds appropriated for one such program to another such program; and

(3) take any other action authorized under section 1006 of this subtitle to provide increased Federal assistance to such areas.

(b) Coordination.—The Director shall coordinate any action taken under subsection (a) of this section with State and local officials.

SEC. 1011. TERMINATION OF THE NATIONAL DRUG ENFORCEMENT POLICY BOARD, THE NATIONAL NARCOTICS BORDER INTERDICTION SYSTEM, AND THE WHITE HOUSE DRUG ABUSE POLICY OFFICE.

(a) National Drug Enforcement Policy Board.—(1) The National Drug Enforcement Policy Board is terminated effective on March 1, 1989. Upon such termination, all records and property of the National Drug Enforcement Policy Board shall be transferred to the Director. The Director of the Office of Management and Budget shall take such actions as are necessary to facilitate such transfer.

(2) All strategies, implementation plans, memoranda of understanding and directives that have been issued or made by the National Drug Policy Board before the date of the enactment of this subtitle shall continue in effect until modified, terminated, superseded, set aside, or revoked by the President or the Director.

(3) The National Narcotics Act of 1984 (21 U.S.C. 1201 et seq.) is repealed effective on March 1, 1989.

(b) National Narcotics Border Interdiction System.—Notwithstanding any other provision of law, no funds may be expended for any activities or operations of the national narcotics border interdiction system after 180 days after the date on which the first Director appointed under this title is confirmed by the Senate. The Director shall provide that the functions of the national narcotics border interdiction system are transferred to other agencies to the extent such activities continue after the date of the enactment of this title. The Director of the Office of Management and Budget shall take such action as is necessary to facilitate such transfer.

(c) White House Office of Drug Abuse Policy.—(1) No later than 90 days after the date of enactment of this title, the White House Drug Abuse Policy Office established under Executive Order No. 12368 shall terminate.

(2) Sections 103, 201, 202, 203, 204, and 206 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act (21 U.S.C. 1103, 1111, 1112, 1113, 1114, and 1116) are repealed. Section 205 of such Act is redesignated as section 201.

SEC. 1012. EXECUTIVE REORGANIZATION AUTHORITY.

(a) Report to the Congress and the President.—No later than 1 year after the date of enactment of this title the Director shall submit a report to the President and the Congress on the necessity to group, coordinate, and consolidate agencies and functions of the Government involved in drug supply reduction and drug demand reduction in order to—

(1) promote better execution of the laws;

(2) provide more effective management of the executive branch;

(3) reduce expenditures and promote economy to the fullest extent consistent with the efficient operation of the executive branch; and

(4) reduce the number of agencies by consolidating agencies having similar functions under a single head, and to abolish such agencies or functions as may not be necessary for the efficient conduct of the executive branch.

(b) Legislative Recommendations.—The report submitted under subsection (a) shall include any appropriate legislative recommendations for the Congress.

(c) United States Coast Guard Study.—In addition, the report submitted under subsection (a) shall include a comprehensive review of all options for United States Coast Guard reorganization including the creation of a separate department for the purpose of enhancing the capabilities, manpower and equipment of the United States Coast Guard in order to substantially increase the long-term role of the Coast Guard in drug interdiction and enforcement efforts and to ensure a steady and assured source of funding for this important mission.

SEC. 1013. TERMINATION OF THE OFFICE OF NATIONAL DRUG CONTROL POLICY.

This subtitle and the amendments made by this subtitle are repealed effective on the date occurring 5 years after the date of the enactment of this subtitle.

SEC. 1014. AUTHORIZATION OF APPROPRIATIONS.

For the purposes of carrying out this subtitle, there are authorized to be appropriated $6,500,000 for fiscal year 1989 and such sums as may be necessary for each of the 4 succeeding fiscal years, to remain available until expended.

SEC. 1015. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall be effective on January 21, 1989.

Subtitle B—Department of Justice Civil Enforcement Enhancement

SEC. 1051. SHORT TITLE.

This subtitle may be cited as the "Justice Department Organized Crime and Drug Enforcement Enhancement Act of 1988".

SEC. 1052. FINDINGS.

The Congress finds that—

(1) organized criminal activity contributes significantly to the importation, distribution, and sale of illegal and dangerous drugs;

(2) trends in drug trafficking patterns necessitate a response that gives appropriate weight to—

(A) the prosecution of drug-related crimes; and

(B) the forfeiture and seizure of assets and other civil remedies used to strike at the inherent strength of the drug networks and organized crime groups;

(3) law enforcement components of the Department of Justice should give high priority to the enforcement of civil sanctions against drug networks and organized crime groups; and

(4) the structure of the Department of Justice Criminal Division needs to be reviewed in order to determine the most effective structure to address such drug-related problems.

SEC. 1053. CIVIL ENFORCEMENT REPORT.

(a) Report.—Not later than 1 year after the date of the enactment of this title, the Director of National Drug Control Policy (the Director) in consultation with the Attorney General, shall report to the Congress on the necessity to establish a new division or make other organizational changes within the Department of Justice in order to promote better civil and criminal law enforcement. In preparing such report, the Director shall consider restructuring and consolidating one or more of the following divisions and programs—

(1) the Organized Crime and Racketeering Section of the Criminal Division and all subordinate strike forces therein;

(2) the Narcotic and Dangerous Drug Section of the Criminal Division;

(3) the Asset Forfeiture Office of the Criminal Division; and

(4) the Organized Crime Drug Enforcement Task Force Program;

(b) Legislative Recommendations.—The report submitted under subsection (a) shall include appropriate legislative recommendations for the Congress.

SEC. 1054. CIVIL ENFORCEMENT ENHANCEMENT.

(a) Duty of Attorney General.—The Attorney General shall insure that each component of the Department of Justice having criminal law enforcement responsibilities with respect to the prosecution of organized crime and controlled substances violations, including each United States Attorney's Office, attaches a high priority to the enforcement of civil statutes creating ancillary sanctions and remedies for such violations, such as civil penalties and actions, forfeitures, injunctions and restraining orders, and collection of fines.

(b) DUTY OF ASSOCIATE ATTORNEY GENERAL.—The Associate Attorney General shall be responsible for implementing the policy set forth in this subsection.

(c) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $2,175,000 for salaries and expenses to the Department of Justice General Legal Activities Account and $2,175,000 for salaries and expenses for United States Attorneys for fiscal year 1989.

(2) Any appropriation of funds authorized under paragraph (1) shall be—

(A) in addition to any appropriations requested by the President in the 1989 fiscal year budget submitted by the President to the Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989; and

(B) used to increase the number of field attorneys and related support staff over such personnel levels employed at the Department of Justice on September 30, 1988.

(3) Any increase in full-time equivalent positions described under paragraph (2)(B) shall be exclusively used for asset forfeiture and civil enforcement and be assigned to appropriate field offices of the Organized Crime and Racketeering Section and the Organized Crime Drug Enforcement Task Forces.

(d) REPORTING REQUIREMENT.—The Attorney General, at the end of each such fiscal year, shall file a report with the Congress setting forth the extent of such enforcement efforts, as well as the need for any enhancements in resources necessary to carry out this policy.

SEC. 1055. COORDINATION AND ENHANCEMENT OF FIELD ACTIVITIES.

(a) FIELD OFFICFS.—To the greatest extent feasible, field offices of the Organized Crime and Racketeering Section and the Organized Crime Drug Enforcement Task Forces should be colocated with offices of the appropriate United States Attorney in order to enhance and coordinate their respective activities.

(b) TASK FORCE AGENTS.—To the greatest extent feasible, those agents assigned to the Organized Crime Drug Enforcement Task Force program shall be dedicated exclusively to and located with the Task Forces so that the Task Force personnel may develop increased expertise and function as a working unit. Those agents assigned to the Task Forces from the various participating agencies shall be given credit for the work of the Task Force, regardless of the statutory authority used to prosecute Task Force cases or the criminal or civil nature of the investigation.

(c) EXPENSES OF TASK FORCES.—(1) Beginning in fiscal year 1990, the Attorney General in his budget shall submit a separate appropriations request for expenses relating to all Federal agencies participating in the Organized Crime Drug Enforcement Task Forces. Such appropriations shall be made to the Department of Justice's Interagency Law Enforcement Appropriation Account for the Attorney General to make reimbursements to the involved agencies as necessary.

(2) The appropriations and reimbursements procedure described under paragraph (1) shall—

(A) provide for the flexibility of the Task Forces which is vital to success;

(B) permit Federal law enforcement resources to be shifted in response to changing patterns of organized criminal drug activities;

(C) permit the Attorney General to reallocate resources among the organizational components of the Task Forces and between regions without undue delay; and

(D) ensure that the Task Forces function as a unit, without the competition for resources among the participating agencies that would undermine the overall effort.

TITLE II—CRIMES AND PENALTIES AND LAW ENFORCEMENT

SEC. 2001. TABLE OF CONTENTS.

TITLE I—CRIMES AND PENALTIES

Sec. 2001. Table of contents.

Subtitle A—Career Criminals

Sec. 2101. Violent felonies by juveniles.
Sec. 2102. Life in prison for three-time drug offender.

Subtitle B—Public Corruption

Sec. 2151. Narcotics-related public corruption.

Subtitle C—Importation

Sec. 2201. Penalties for importation by aircraft and other vessels.

Subtitle D—Schools and Minors

Sec. 2251. Enhanced penalties for offenses involving children.
Sec. 2252. Exception to mandatory minimum penalty for first offense.
Sec. 2253. Elimination of exception to mandatory minimum for second offenses.
Sec. 2254. Possession with intent to distribute within 1,000 feet of a schoolyard.
Sec. 2254A. Playgrounds, youth centers, swimming pools, and video arcades.
Sec. 2255. Application of mandatory minimum penalties to purchase of controlled substances from minors.

Subtitle E—Firearms

Sec. 2302. Enhanced penalties for use of certain weapons in connection with a crime of violence or drug trafficking crime.
Sec. 2304. Prohibition of dangerous weapons in Federal facilities.
Sec. 2305. Inclusion of Federal firearms violations as predicate wiretap offenses.
Sec. 2306. Increased penalties for certain firearms offenses.

Subtitle F—Money Laundering

Sec. 2351. Money laundering forfeitures.
Sec. 2352. Forfeiture of substitute assets for money laundering offense.
Sec. 2353. Undercover "sting" operations in money laundering cases.
Sec. 2354. Specified unlawful activity.
Sec. 2355. Bank Secrecy Act Amendments.
Sec. 2356. Exception to requirement of actual presentation of financial records to grand jury.
Sec. 2357. Right to Financial Privacy Act amendment.

Subtitle G—Juvenile Justice

Sec. 2401. Minors convicted of drug trafficking.

Subtitle I—Prisons

Sec. 2501. Drug offenses within Federal prisons.
Sec. 2502. Payment of costs of incarceration by Federal prisoners.

Subtitle J—Drug Testing as a Condition of Probation and Supervised Release

Sec. 2551. Drug tests as a condition of probation and supervised release.
Sec. 2552. House probation as a condition for probation, parole or supervised release.

Subtitle K—Minor and Technical Criminal Law Amendments Act Amendments

Sec. 2601. Short title.
Sec. 2602. Correction of cross reference.
Sec. 2603. Correction of erroneous reference.
Sec. 2604. Correction of misprint.
Sec. 2605. Correction of typographical error in section 31.
Sec. 2606. Correction of typographical error in section 32.
Sec. 2607. Correction of typographical error in section 152.
Sec. 2608. Conspiracy against civil rights.
Sec. 2609. Deprivation of civil rights.
Sec. 2610. Designation of additional high level officials of the Department of Justice to perform certain functions relating to criminal and ancillary proceedings.
Sec. 2611. Off-highway vehicle identification offense.
Sec. 2612. Redesignation of paragraphs in section 831.
Sec. 2613. Identification fraud.
Sec. 2614. Transmission of wagering information.
Sec. 2615. Punctuation correction in section 1111.
Sec. 2616. Punctuation correction in section 1114.
Sec. 2617. Clarification of relation between two amendments made by public laws enacted in the 99th Congress.
Sec. 2618. Correction of subsection designation.
Sec. 2619. Obstruction of justice amendments.
Sec. 2620. Conforming amendment to table of sections.
Sec. 2621. Cross reference corrections and additions.
Sec. 2622. Cross reference correction and additions.
Sec. 2623. Syntax correction in section 1962.
Sec. 2624. Section 1963 amendments.
Sec. 2625. Clerical correction to table of contents for chapter 119.
Sec. 2626. Section 2516 amendments.
Sec. 2627. Correction of cross reference.
Sec. 2628. Governmental access to contents of electronic communications in and records of a remote computing service.
Sec. 2629. Definition of court for certain applications.
Sec. 2630. Section 3124 amendment.
Sec. 2631. Sentencing classification of offenses.
Sec. 2632. Correction of cross references.
Sec. 2633. Furlough of certain individuals ordered to be committed for insanity.
Sec. 2634. Periodic reports relating to certain hospitalized persons.
Sec. 2635. Insertion of missing close parenthesis.
Sec. 2636. Amendment to rules of evidence conforming terminology relating to sex offenses.
Sec. 2637. Extension of power to make certain examinations to psychologists.
Sec. 2638. Syntactical correction relating to certain counterfeit or forged items.
Sec. 2639. Form correction in Federal rules of civil procedure.

Sec. 2640. Punctuation correction in Federal rules of civil procedure.
Sec. 2641. Definition of 'United States' in reference to terrorist acts.
Sec. 2642. Cross references pertaining to arrest authority for violation of release conditions.
Sec. 2643. Renumbering of sections in chapter 95.
Sec. 2644. Addition of RICO predicate.
Sec. 2645. Asset forfeiture amendments.
Sec. 2646. Authorization of Postal Service to investigate money laundering.
Sec. 2647. Federal prison industries reform.
Sec. 2648. Controlled substances and related amendments.
Sec. 2649. Money laundering amendments.
Sec. 2650. Provision of misdemeanor penalty for certain escapes.
Sec. 2651. Clarification of predicate offense requirements for Armed Career Criminal Act.
Sec. 2652. Authority for the Federal Bureau of Investigation to investigate, upon request, felonious killings of State or local law enforcement officers.
Sec. 2653. Transportation and receipt of stolen securities.
Sec. 2654. Maximum penalty adjustments.
Sec. 2655. Ballistic Knife Act jurisdictional clarifications.
Sec. 2656. Common carrier operation amendments.
Sec. 2657. Explosives offenses amendments.
Sec. 2658. Interstate Agreement on Detainers Act amendments.
Sec. 2659. Clarification of prohibition of possession with intent to distribute controlled substances on aircraft.
Sec. 2660. Clarification of definition of drug trafficking crimes in which use of firearms and armor piercing ammunition is prohibited.
Sec. 2661. Clerical corrections relating to chapter 44.
Sec. 2662. Insertion of missing subsection heading.
Sec. 2663. Insertion of missing table.
Sec. 2664. Correction of items in table of chapters.
Sec. 2665. Insertion of missing letter.
Sec. 2666. Punctuation correction.
Sec. 2667. Reference correction.
Sec. 2668. Conforming amendment to table of sections.
Sec. 2669. Correction of item in table of sections for chapter 206.
Sec. 2670. Correction of items in table of sections for chapter 46.
Sec. 2671. Correction of typographical error.
Sec. 2672. Conforming amendment to table of sections for chapter 117.
Sec. 2673. Elimination of cross references to repealed section.
Sec. 2674. Insertion of missing word.
Sec. 2675. Insertion of missing comma.
Sec. 2676. Corrections of errors in Federal rules of evidence.
Sec. 2677. Supervised release.
Sec. 2678. Injunctions against fraud.
Sec. 2679. Obstruction of Federal audit.
Sec. 2680. Unauthorized use of the term "secret service".
Sec. 2681. Aggregation to permit prosecution of certain schemes to defraud multiple victims.
Sec. 2682. Time for refiling indictment or information following dismissal.
Sec. 2683. Restarting of Speedy Trial Act time period for defendants who abscond on eve of trial.
Sec. 2684. Criminal fines amendments.
Sec. 2685. Syntax correction to minimum sentence provision.
Sec. 2686. Refund of forfeited bail.
Sec. 2687. Special assessments on persons convicted of offenses for which collateral may be forfeited.
Sec. 2688. Conditions of probation.
Sec. 2689. Authority to obtain arrest warrant for foreign fugitive whose specific whereabouts are not known.
Sec. 2690. Misuse of social security number.
Sec. 2691. Petty offense amendments.
Sec. 2692. Nonmailability of locksmithing devices.
Sec. 2693. Assimilative Crimes Act amendments.
Sec. 2694. Protection of foreign officials.
Sec. 2695. Bail pending appeal.
Sec. 2696. Emergency pen register and trap and trace device installation.

Subtitle L—Sentencing Amendments

Sec. 2701. Prisoners transferred to the United States.
Sec. 2702. Records other than transcripts.
Sec. 2703. Standard of review.
Sec. 2704. Hiring outside counsel.
Sec. 2705. Powers of the Commission.
Sec. 2706. Granting incentive awards.
Sec. 2707. Technical correction.
Sec. 2708. Protection of public.
Sec. 2709. Authority to amend annual report.
Sec. 2710. Clarification of restitution provision.
Sec. 2711. Amendment to rule 4, rules of appellate procedure.

Subtitle M—Miscellaneous

Sec. 2751. Marihuana plants.
Sec. 2752. Fines for simple possession.
Sec. 2753. Continuing criminal enterprise.
Sec. 2754. Common carrier operation under the influence of alcohol or drugs.
Sec. 2756. Alien Witness Cooperation Act.
Sec. 2757. Amendment to the Federal rules of criminal procedure.
Sec. 2758. Jurisdiction over Federal lands.
Sec. 2759. Witness serving sentence abroad.
Sec. 2760. National Forest System Safety.
Sec. 2761. United States Marshals.
Sec. 2762. The National Advisory Commission on Law Enforcement.
Sec. 2763. Clarifications regarding drug paraphenalia.
Sec. 2764. Authorization to accept money, goods and services for the purpose of hosting the Interpol American Regional Conference and for the purpose of making a commemorative gift to Interpol General Secretariat.
Sec. 2765. Recovery of costs incurred by State and local law enforcement agencies.

Subtitle N—State and Local Narcotics Control and Justice Assistance Improvements

Chapter 1—State and Local Narcotics Control and Justice Assistance Improvements

Sec. 2821. Bureau of Justice Assistance and Unified Grant Programs.
Sec. 2822. Duties and functions of the Director of the Bureau of Justice Statistics.
Sec. 2823. Justice Assistance Act reauthorization.
Sec. 2824. Technical amendment.

Chapter 2—Juvenile Justice and Delinquency Prevention Programs

Sec. 2825. Prevention and treatment programs relating to juvenile gangs and juvenile drug abuse and drug trafficking.
Sec. 2826. Authority to make grants.
Sec. 2827. Allocation.
Sec. 2828. Technical assistance and training functions.
Sec. 2829. Technical and conforming amendments to parts B and C of title II.
Sec. 2830. Authorization of appropriations.
Sec. 2831. Technical amendments to part D of title II.

Chapter 3—Runaway and Homeless Youth

Sec. 2835. Runaway and Homeless Youth Act reauthorization.
Sec. 2836. Authorization of transitional living projects.
Sec. 2837. Grants for runaway and homeless youth centers.

Chapter 4—Missing Children's Assistance Act

Sec. 2841. Missing Children's Assistance Act.

Chapter 5—Family Violence Prevention Act of 1988

Sec. 2845. Short title.
Sec. 2846. Data collection and reporting.

Chapter 6—Regional Information Sharing Systems Grants

Sec. 2851. Regional information sharing systems grants.

Chapter 7—Public Safety Officers' Death Benefits Improvement

Sec. 2855. Public safety officers' death benefits improvement.
Sec. 2856. National programs for families of public safety officers who have died in the line of duty.

Chapter 8—Criminal History Record and Arrest Warrant and Stolen Vehicle Record Information Improvement

Sec. 2861. Short title.
Sec. 2862. Criminal history record, arrest warrant and stolen vehicle record information.
Sec. 2863. Criminal justice record information data quality research.
Sec. 2864. Technical amendments.

Chapter 9—College and Railroad Police Information

Sec. 2865. College and railroad police information.

Chapter 10—Assistance to State and Local Courts

Sec. 2871. State justice institute reauthorization.

Chapter 11—Victim Compensation and Assistance

Subchapter A—Victims of Crime Act of 1984 Reauthorization

Sec. 2875. Victims of Crime Act of 1984 reauthorization.
Sec. 2876. Victims Assistance Amendment.

Subchapter B—Establishment of office for victims of crime

Sec. 2881. Establishment of office.
Sec. 2882. Technical amendments to Victims of Crime Act.
Sec. 2883. Children's Justice Act Amendments.

Subchapter C—Other amendments to Victims of Crime Act of 1984

Sec. 2885. Other amendments to Victims of Crime Act of 1984.

Subtitle O—Chemical Diversion and Trafficking Act of 1988

Sec. 2901. Short title.
Sec. 2902. Regulation of listed chemicals and certain machines.
Sec. 2903. Import and export.
Sec. 2904. Definitions.
Sec. 2905. Amendments to section 401 of the Controlled Substances Act.
Sec. 2906. Amendments to section 402 of the Controlled Substances Act.
Sec. 2907. Amendments to section 403 of the Controlled Substances Act.
Sec. 2908. Subpoena power.
Sec. 2909. Forfeiture.
Sec. 2910. Active Department of Justice control program.
Sec. 2911. Effective date.

Subtitle P—Application of United States Immigration Laws and Deportation of Aliens Committing Aggravated Felonies

Sec. 2915. Short title.
Sec. 2916. Definition.
Sec. 2917. Deportation of aliens committing aggravated felonies.
Sec. 2918. Criminal penalties for reentry of certain deported aliens.
Sec. 2919. Criminal penalties for aiding or assisting certain aliens to enter the United States.
Sec. 2920. Criminal penalties for refusal of certain aliens to appear.
Sec. 2921. Special deportation proceedings for aliens convicted of aggravated felonies.
Sec. 2922. Expedited procedures for deportation of aliens convicted of committing aggravated felonies; grounds for appeal.
Sec. 2923. Restriction on withholding deportation.
Sec. 2924. Deportation for weapons violation.
Sec. 2925. Waiver of excludability.
Sec. 2926. Aiding or abetting illegal entry.
Sec. 2927. Bar on Reentry of convicted aggravated alien felons.
Sec. 2928. Forfeiture of instrumentalities used in bringing in and harboring certain aliens.
Sec. 2929. Control of certain aliens in custody.
Sec. 2930. Machine-readable document border security program.

Subtitle Q—Forfeiture and Customs

CHAPTER 1—DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND

Sec. 2931. Department of Justice Assets Forfeiture Fund.

CHAPTER 2—CUSTOMS FORFEITURE FUND

Sec. 2935. Customs Forfeiture Fund.

CHAPTER 4—MISCELLANEOUS FORFEITURE PROVISIONS

Sec. 2945. Transfer by the Attorney General of foreign property.
Sec. 2946. Innocent owner provisions.
Sec. 2947. Warrants.
Sec. 2948. Postal Service assistance.
Sec. 2949. Transfer by the Secretary of the Treasury of foreign property.

CHAPTER 5—ADMINISTRATIVE FORFEITURE

Sec. 2951. Administrative provision.

Subtitle R—United States Magistrates and Court Reforms

Sec. 2955. Felony pleas.
Sec. 2956. Sentencing jurisdiction.
Sec. 2957. Drug days.

Subtitle S—Military Institutions

Sec. 2961. Administration of confinement facilities located on military installations by the Bureau of Prisons.

Subtitle T—Customs Enforcement Amendments

Sec. 2965. Amendments to the Tariff Act of 1930.
Sec. 2966. Amendment to the Federal Aviation Act of 1958.

Subtitle U—Authorization of Additional Appropriations for Drug Enforcement and Interdiction

CHAPTER 1—AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR DRUG ENFORCEMENT PERSONNEL, FISCAL YEAR 1989

Sec. 2971. Immigration and Naturalization Service personnel enhancement.
Sec. 2972. Bureau of Alcohol, Tobacco, and Firearms armed career criminal apprehension program personnel enhancement.
Sec. 2973. Drug Enforcement Administration personnel enhancement.
Sec. 2974. Federal Bureau of Investigation drug enforcement personnel enhancement.
Sec. 2975. United States Marshals Service drug enforcement personnel enhancement.
Sec. 2976. Support of United States prisoners.
Sec. 2977. Federal Prison System.
Sec. 2978. United States Attorneys drug enforcement personnel enhancement.

CHAPTER 2—DRUG INTERDICTION ASSET AND PERSONNEL ENHANCEMENT

Sec. 2981. Short title.

SUBCHAPTER A—COAST GUARD

Sec. 2982. Coast Guard drug interdiction asset enhancement.
Sec. 2983. Coast Guard drug interdiction personnel enhancement.

SUBCHAPTER B—UNITED STATES CUSTOMS SERVICE

Sec. 2984. United States Customs Service drug interdiction asset enhancement.
Sec. 2985. United States Customs Service drug interdiction personnel enhancement.

SUBCHAPTER C—DRUG ENFORCEMENT ADMINISTRATION

Sec. 2986. Drug Enforcement Administration interdiction asset enhancement.

SUBCHAPTER D—IMMIGRATION AND NATURALIZATION SERVICE/BORDER PATROL

Sec. 2987. Border Patrol drug interdiction asset enhancement.
Sec. 2988. Immigration and Naturalization Service/Border Patrol drug interdiction personnel enhancement.

SUBCHAPTER E—RESEARCH AND DEVELOPMENT PROGRAMS TO ASSIST FEDERAL ENFORCEMENT AGENCIES

Sec. 2989. Use of existing Federal research and development facilities for civilian law enforcement.
Sec. 2990. Cargo container drug detection research and development.

SUBCHAPTER F—DRUG ENFORCEMENT TRAINING IMPROVEMENT

Sec. 2991. Federal Law Enforcement Training Center Improvement.
Sec. 2992. Federal law enforcement language training improvement.

SUBCHAPTER G—UNITED STATES-BAHAMAS DRUG INTERDICTION TASK FORCE

Sec. 2993. Interdiction task force programs.

SUBCHAPTER H—STANDARDS OF CARE IN DISCOVERING CONTRABAND

Sec. 2994. Standards of care in discovering contraband.

SUBCHAPTER I—INTERPOL—UNITED STATES NATIONAL CENTRAL BUREAU

Sec. 2995. Interpol—United States National Central Bureau.

SUBCHAPTER J—CIVIL AIR PATROL

Sec. 2996. Civil Air Patrol.

Subtitle A—Career Criminals

SEC. 2101. VIOLENT FELONIES BY JUVENILES.

Section 924(e) of title 18, United States Code, is amended—

(1) in paragraph (e)(2)(B), by inserting ", or any act of juvenile delinquency that would be punishable by imprisonment for such term if committed by an adult," after "one year"; and

(2) by adding at the end thereof the following:

"(C) the term 'conviction' includes a finding that a person has committed an act of juvenile delinquency involving a violent felony.".

SEC. 2102. LIFE IN PRISON FOR THREE-TIME DRUG OFFENDER.

(a) PENALTY FOR THIRD OFFENSE.—Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended—

(1) in the sentence beginning "If any person commits" by striking "one or more prior convictions" through "have become final" and inserting "a prior conviction for a felony drug offense has become final"; and

(2) adding after such sentence the following: "If any person commits a violation of this subparagraph or of sections 405, 405A, or 405B after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term 'felony drug offense' means an offense that is a felony under any provision of this title or any other Federal law that prohibits or restricts conduct relating to narcotic drugs, marihuana, or depressant or stimulant substances or a felony under any law of a State or a foreign country that prohibits or restricts conduct relating to narcotic drugs, marihuana, or depressant or stimulant substances.".

(b) CONFORMING AMENDMENTS.—(1) Sections 405(b), 405A(b) and 405B(c) of the Controlled Substances Act (21 U.S.C. 845(b), 845a(b) and 845b(c)) are amended—

(A) by striking "a prior conviction or convictions" and inserting "a prior conviction", and

(B) by inserting at the end thereof the following: "Penalties for third and subsequent convictions shall be governed by section 401(b)(1)(A).".

(2) Section 405(b) of the Controlled Substances Act (21 U.S.C. 845(b)) is amended by striking "or subsequent" from the caption.

Subtitle B—Public Corruption

SEC. 2151. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

"§ 220. Narcotics and public corruption.

"(a) Any public official who, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or non-performance of any official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State;

shall be guilty of a class B felony.

"(b) Any person who, directly or indirectly, corruptly gives, offers or promises anything of value to any public official, or offers or promises any public official to give anything of value to any other person, with intent—

"(1) to influence any official act;

"(2) to influence such public official to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

"(3) to influence such public official to do or to omit to do any act in violation of such official's lawful duty;

shall be guilty of a class B felony.

"(c) There shall be Federal jurisdiction over an offense described in this section if such offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) For the purpose of this section—

"(1) the term 'public official' means—

"(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror

"(C) an officer or employee or person acting for or on behalf of the government of any State, territory or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, territory, possession, or political subdivision; or

"(D) any person who has been nominated or appointed to be a public official as defined in subparagraph (A), (B), or (C), or has been officially informed that he or she will be so nominated or appointed;

"(2) the term 'official act' means any decision, action or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's official capacity, or in such official's place of trust or profit; and

"(3) the terms 'controlled substance' and 'controlled substance analogue' have the meaning set forth in section 102 of the Controlled Substances Act."

(b) Conforming Amendments.—(1) Section 1961(1) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery),"; and

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (bribery of public officials and witnesses),".

(c) Section Analysis.—The section analysis at the beginning of chapter 11, title 18, United States Code, is amended by inserting the following:

"220. Narcotics and public corruption.".

Subtitle C—Importation

SEC. 2201. PENALTIES FOR IMPORTATION BY AIRCRAFT AND OTHER VESSELS.

(a) In General.—Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 1010(a) of the Controlled Substances Import and Export Act (21 U.S.C. 960(a)) under circumstances in which—

(1) an aircraft other than a regularly scheduled commercial air carrier was used to import the controlled substance; or

(2) the defendant acted as a pilot, copilot, captain, navigator, flight officer, or any other operation officer aboard any craft or vessel carrying a controlled substance,

shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(A) two levels greater than the level that would have been assigned had the offense not been committed under circumstances set forth in (A) or (B) above; and

(B) in no event less than level 26.

(b) Effect of Amendment.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in subsection (a) so as to achieve a comparable result.

Subtitle D—Schools and Minors

SEC. 2251. ENHANCED PENALTIES FOR OFFENSES INVOLVING CHILDREN.

(a) In General.—Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating sections 405, 405A, or 405B of the Controlled Substances Act (21 U.S.C. 845, 845a or 845b) involving a person under 18 years of age shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(1) two levels greater than the level that would have been assigned for the underlying controlled substance offense; and

(2) in no event less than level 26.

(b) Effects of Amendment.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in subsection (a) so as to achieve a comparable result.

(c) Multiple Enhancements.—The guidelines referred to in subsection (a), as promulgated or amended under such subsection, shall provide that an offense that could be subject to multiple enhancements pursuant to such subsection is subject to not more than one such enhancement.

SEC. 2252. EXCEPTION TO MANDATORY MINIMUM PENALTY FOR FIRST OFFENSE.

Section 405(a) of the Controlled Substances Act (21 U.S.C. 845(a)) is amended by inserting at the end the following: "The mandatory minimum sentencing provisions of this subsection shall not apply to offenses involving 5 grams or less of marihuana.".

SEC. 2253. ELIMINATION OF EXCEPTION TO MANDATORY MINIMUM FOR SECOND OFFENSES.

Section 405(b) of the Controlled Substances Act (21 U.S.C. 845(b)) is amended by striking "The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.".

SEC. 2254. POSSESSION WITH INTENT TO DISTRIBUTE WITHIN 1,000 FEET OF A SCHOOLYARD.

Sections 405A (a) and (b) of the Controlled Substances Act (21 U.S.C. 845a(a) and (b)) are amended by inserting ", possessing with intent to distribute," after "distributing".

SEC. 2254A. PLAYGROUNDS, YOUTH CENTERS, SWIMMING POOLS AND VIDEO ARCADES.

(a) Sections 405A (a) and (b) of the Controlled Substances Act (21 U.S.C. 845a (a) and (b)) are amended by inserting ", or within 100 feet of a playground, public or private youth center, public swimming pool, or video arcade facility," after "university".

(b) Section 405A of the Controlled Substances Act (21 U.S.C. 845a) is amended by adding at the end thereof the following subsection:

"(d) For the purposes of this section—

"(1) The term 'playground' means any outdoor facility (including any parking lot appurtenant thereto) intended for recreation, open to the public, and with any portion thereof containing three or more separate apparatus intended for the recreation of children including, but not limited to, sliding boards, swingsets, and teeterboards.

"(2) The term 'youth center' means any recreational facility and/or gymnasium, (including any parking lot appurtenant thereto) intended primarily for use by persons under 18 years of age, which regularly provides athletic, civic, or cultural activities.

"(3) The term 'video arcade facility' means any facility, legally accessible to persons under 18 years of age, intended primarily for the use of pinball and video machines for amusement containing a minimum of ten pinball and/or video machines.

"(4) The term 'swimming pool' includes any parking lot appurtenant thereto.".

SEC. 2255. APPLICATION OF MANDATORY MINIMUM PENALTIES TO PURCHASE OF CONTROLLED SUBSTANCES FROM MINORS.

Section 405b(a) of the Controlled Substances Act (21 U.S.C. 845b(a)) is amended by—

(1) striking "or" after the semicolon in paragraph (1);

(2) striking the period at the end of paragraph (2) and inserting "; or"; and

(3) adding at the end thereof the following:

"(3) receive a controlled substance from a person under 18 years of age in violation of this title or title III.".

Subtitle E—Firearms

SEC. 2302. ENHANCED PENALTIES FOR USE OF CERTAIN WEAPONS IN CONNECTION WITH A CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.

Subsection (c)(1) of section 924 of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by striking "five years" and inserting "ten years"; and

(B) by striking "ten years" and inserting "thirty years"; and

(2) in the second sentence—

(A) by striking "ten years" and inserting "twenty years"; and

(B) by striking "20 years" and inserting "life imprisonment without release".

SEC. 2304. PROHIBITION OF DANGEROUS WEAPONS IN FEDERAL FACILITIES.

(a) Offense.—Chapter 44 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 930. Possession of firearms and dangerous weapons in a Federal facility

"(a) Except as provided in subsection (c), whoever knowingly possesses or causes to be present any firearm or dangerous weapon in a Federal facility, or attempts to do so, shall be sentenced to imprisonment for not more than 1 year, or fined in accordance with the provisions of this title, or both.

"(b) Whoever knowingly possesses or causes to be present any firearm or dangerous weapon in a Federal facility, or attempts to do so, with intent that the firearm or dangerous weapon be used in the commission of a crime, shall be sentenced to imprisonment for not more than 5 years, or fined in accordance with the provisions of this title, or both.

"(c) Subsection (a) shall not apply to any act performed in the lawful performance of official duties by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of law, and shall not apply to the authorized possession of a firearm or dangerous weapon by a Federal official or a member of the armed services.

"(d) Nothing in this section shall interfere with or prevent the exercise by any court of the United States of its power to punish for contempt; nor shall anything in this section interfere with or limit in any way the power of a court of the United States to promulgate rules or orders regulating, restricting, or prohibiting the possession of weapons within any building, or upon any grounds appurtenant thereto, housing any such court or any of its proceedings.

"(e) As used in this section—

"(1) the term 'Federal facility' means any building where Federal employees are regularly present for the purpose of performing their official duties;

"(2) the term 'dangerous weapon' means any weapon, device, instrument, material, or substance, animate or inanimate, that is used or is capable of use to cause death or serious bodily injury.

"(f) Notice to the effect of subsections (a) and (b), shall be posted conspicuously at each public entrance to each Federal facility, and no person shall be convicted of an offense under subsection (a) if such notice is not posted, unless such person had actual notice of the effect of subsection (a).".

(b) TABLE OF SECTIONS.—The analysis at the beginning of chapter 44 of title 18 of the United States Code is amended by adding at the end thereof the following:

"930. Possession of firearms and dangerous weapons in Federal facilities.".

SEC. 2305. INCLUSION OF FEDERAL FIREARMS VIOLATIONS AS PREDICATE WIRETAP OFFENSES.

Section 2516(1) of title 18, United States Code, is amended by adding at the end thereof the following:

"(m) any felony violation of sections 922 and 924 of title 18, United States Code (relating to firearms); and

"(n) any violation of section 5861 of the Internal Revenue Code of 1986 (relating to firearms).".

SEC. 2306. INCREASED PENALTIES FOR CERTAIN FIREARMS OFFENSES.

Section 924(a) of title 18, United States Code, is amended by—

(1) inserting "or 3" after "paragraph 2" in paragraph (1);

(2) striking out "(g), (i), (j)," in subparagraph (a)(1)(B);

(3) redesignating subsection (a)(2) as subsection (a)(3); and

(4) inserting a new subsection (a)(2) to read as follows:

"(2) Whoever knowingly violates subsections (d), (g), (h), (i), (j), or (o) of section 922 shall be fined as provided in this title, imprisoned not more than 10 years or both.".

Subtitle F—Money Laundering

SEC. 2351. MONEY LAUNDERING FORFEITURES.

(a) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended—

(1) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) Any property, real or personal, involved in a transaction or attempted transaction in violation of section 5313(a) or 5324 of title 31, or of section 1956 or 1957 of this title, or any property traceable to such property. However, no property shall be seized or forfeited in the case of a violation of section 5313(a) of title 31 by a domestic financial institution examined by a Federal bank supervisory agency or a financial institution regulated by the Securities and Exchange Commission or a partner, director, or employee thereof."; and

(2) by striking out subparagraph (C).

(b) CONFORMING AMENDMENT.—Section 981(b) of title 18, United States Code, is amended by striking out "involved in a violation of section 1956 or 1957 of this title investigated by the Secretary of the Treasury, and any property subject to forfeiture under subsection (a)(1)(C) of this section" and inserting in lieu thereof "involved in a violation of section 5313(a) or 5324 of title 31 or of section 1956 or 1957 of this title investigated by the Secretary of the Treasury".

(c) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended to read as follows:

"(a) The court, in imposing sentence on a person convicted of an offense in violation of section 5313(a) or 5324 of title 31, or of section 1956 or 1957 of this title, shall order that the person forfeit to the United States any property, real or personal, involved in such offense, or any property traceable to such property. However, no property shall be seized or forfeited in the case of a violation of section 5313(a) of title 31 by a domestic financial institution examined by a Federal bank supervisory agency or a financial institution regulated by the Securities and Exchange Commission or a partner, director, or employee thereof.".

SEC. 2352. FORFEITURE OF SUBSTITUTE ASSETS FOR MONEY LAUNDERING OFFENSE.

Section 982(b) of title 18, United States Code, is amended—

(1) by striking "(o)" both places it appears, and inserting "(p)" in lieu thereof; and

(2) by adding at the end the following: "However, the substitution of assets provisions of subsection 413(p) shall not be used to order a defendant to forfeit assets in place of the actual property laundered where such defendant acted merely as an intermediary who handled but did not retain the property in the course of the money laundering offense.".

SEC. 2353. UNDERCOVER "STING" OPERATIONS IN MONEY LAUNDERING CASES.

Section 1956(a) of title 18, United States Code, is amended by inserting after paragraph (a)(2) the following new paragraph:

"(3) Whoever, with the intent—

"(A) to promote the carrying on of specified unlawful activity;

"(B) to conceal or disguise the nature, location, source, ownership, or control of the proceeds of specified unlawful activity; or

"(C) to avoid a transaction reporting requirement under State or Federal law,

conducts or attempts to conduct a financial transaction involving property represented directly or indirectly by a law enforcement officer to be the proceeds of specified unlawful activity, or property used to conduct or facilitate specified unlawful activity, shall be fined under this title or imprisoned for not more than 20 years, or both. For purposes of this paragraph, the term 'law enforcement officer' includes any person who, at the time the representation was made, was acting at the direction of a Federal official authorized to investigate or prosecute violations of this section.".

SEC. 2354. SPECIFIED UNLAWFUL ACTIVITY.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by—

(1) inserting "section 542 (relating to entry of goods by means of false statements)," after "securities of States and private entities),";

(2) inserting "section 549 (relating to removing goods from Customs custody)," after "smuggling goods into the United States),"; and

(3) inserting "section 2319 (relating to copyright infringement), section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals), section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) (relating to aviation smuggling), section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207-51; 21 U.S.C. 857) (relating to transportation of drug paraphernalia)," after "postal robbery and theft) of this title,".

SEC. 2355. BANK SECRECY ACT AMENDMENTS.

(a) BUSINESS SIMILAR TO FINANCIAL INSTITUTIONS.—Section 5312(a)(2) of title 31, United States Code, is amended by striking subparagraphs (T) and (U) and inserting the following:

"(T) a business engaged in vehicle sales, including automobile, airplane, and boat sales;

"(U) persons involved in real estate closings and settlements;

"(V) the United States Postal Service;

"(W) an agency of the United States Government or of a State or local government carrying out a duty or power of a business described in this clause (2);

"(X) any other business or agency carrying out a similar, related, or substitute duty or power the Secretary prescribes; or

"(Y) any other business designated by the Secretary whose cash transactions have a high degree of usefulness in criminal, tax, or regulatory matters.".

(b) SECRETARY'S AUTHORITY.—Section 5313 of title 31, United States Code, is amended by adding a new paragraph (c) as follows:

"(c) The Secretary may prescribe that a financial institution, as defined in section 5312(a)(2)(Y) of this subchapter, file a report of receipt of coins or currency (or other monetary instruments as the Secretary prescribes) at a time and in the way the Secretary prescribes. However, the Secretary shall permit such business to comply with any reporting requirement under this section by filing a copy of the return required under section 6050I of the Internal Revenue Code of 1986.".

(c) AUTHORITY.—Section 5318(a)(2) of title 31, United States Code, is amended by inserting "and follow" after "maintain".

(d) Penalties for Violations.—Section 5321(a)(1) of title 31, United States Code, is amended to read as follows:

"(a)(1) A domestic financial institution, and a partner, director, officer, or employee of a domestic financial institution, willfully violating this subchapter or a regulation prescribed under this subchapter (except sections 5314, 5315 and 5318 of this title or a regulation prescribed under section 5314, 5315, or 5318) is liable to the United States Government for a civil penalty of not more than the greater of the amount (not to exceed $100,000) involved in the transaction or $25,000. A domestic financial institution, and a partner, director, officer, or employee of a domestic financial institution willfully violating section 5318(a)(2) of this title or a regulation thereunder is liable to the United States for civil penalty of not more than $10,000. For a violation of section 5318(a)(2) of this title or a regulation prescribed thereunder, a separate violation occurs for each day the violation continues and at each office, branch, or place of business at which a violation occurs or continues.".

(e) Identification Requirement for $3,000 Transaction.—(1) Chapter 53 of title 31, United States Code, is amended by adding at the end the following new section:

"§ 5325. Identification required to purchase certain monetary instruments

"(a) A financial institution that sells cashier's checks, traveler's checks, bank checks, money orders or similar instruments prescribed by the Secretary, for coin or currency to any person must, in the case of any such transaction or group of such contemporaneous transactions involving $3,000 or more—

"(1) if the person conducting the transaction has a transaction account with such financial institution, verify that fact through a signature card or other information maintained by such institution and record the method of verification, as prescribed by the Secretary; or

"(2) if the person conducting the transaction does not have a transaction account with such financial institution, require such forms of identification, as the Secretary shall prescribe, and verify and record such information, as the Secretary shall prescribe.

"(b) Information required to be recorded under subsection (a) of the section will be reported to the Secretary upon request.

"(c) For the purpose of this section, the term 'transaction account' shall have the same meaning as is provided in section 19(b)(1)(C) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(C)).".

(2) Conforming Amendment.—The table of sections at the beginning of chapter 53 of such title is amended by adding at the end thereof the following new item:

"5325. Identification required to purchase certain monetary instruments.".

(f) Regulations and Penalties.—Section 21(b) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(b)) is amended to read as follows:

"(b) Regulations and Penalties.—

"(1) Where the Secretary of the Treasury (referred to in this section as the 'Secretary') determines that the maintenance of appropriate types of records and other evidence by insured banks has a high degree of usefulness in criminal, tax or regulatory investigations or proceedings, he shall prescribe regulations to carry out the purposes of this section.

"(2) For each willful or grossly negligent violation of any regulation issued by the Secretary pursuant to paragraph (1) of this subsection, the Secretary may impose on any bank and partner, director, officer, or employee of a bank who participates in the violation, a civil penalty not to exceed $10,000, and for each negligent violation, a civil penalty not to exceed $500. A separate violation occurs for each day the violation continues at each office, branch, or place of business at which a violation occurs. Such penalties will be assessed, mitigated and collected in accordance with the provisions of section 5321 of title 31, United States Code.".

(g) Authority of Secretary.—Section 123(b) of title I of Public Law 91-508 (12 U.S.C. 1953(b)) is amended to read as follows:

"(b) The authority of the Secretary under this section extends to any financial institution and partner, officer, director or employee of a financial institution as defined in section 5312, title 31, United States Code, other than a bank subject to section 21(b) of the Federal Deposit Insurance Act (12 U.S.C. 1829b).".

(h) Monetary Fines.—Section 125 of title I of Public Law 91-508 (12 U.S.C. 1955(a)), is amended by—

(1) replacing "$1,000" with "$10,000';

(2) striking the period and adding at the end thereof the words, ", and for any negligent violation, a civil penalty not exceeding $500."; and

(3) inserting "or grossly negligent" after "willful".

SEC. 2356. EXCEPTION TO REQUIREMENT OF ACTUAL PRESENTATION OF FINANCIAL RECORDS TO GRAND JURY.

Section 1120(1) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 1120(1)) is amended by inserting before the semicolon "unless the volume of such records makes such return and actual presentation impractical in which case the grand jury shall be provided with a description of the contents of the records.".

SEC. 2357. RIGHT TO FINANCIAL PRIVACY ACT AMENDMENT.

Section 1103(c) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3403(c)) is amended by inserting the words "or corporation" after the word "individual".

Subtitle G—Juvenile Justice

SEC. 2401. MINORS CONVICTED OF DRUG TRAFFICKING.

(a) Delinquency Proceedings.—Section 5032 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph, by striking out "section 841, 952(a), 955, or 959 of title 21," and inserting in lieu thereof "section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1003, 1005, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b) (1), (2), (3)), or section 922(p) of this title,"; and

(2) in the fourth undesignated paragraph—

(A) by striking out "section 841, 952(a), 955, or 959 of title 21," and inserting in lieu thereof "section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959),"; and

(B) by inserting after "2275 of this title," the following: "subsection (b)(1) (A), (B), or (C), (D), or (E) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b) (1), (2), (3)),".

(b) Surrender to State Authorities.—The first undesignated paragraph of section 5001 of title 18, United States Code, is amended by inserting before the period at the end thereof the following: ", unless such surrender is precluded under section 5032 of this title".

Subtitle I—Prisons

SEC. 2501. DRUG OFFENSES WITHIN FEDERAL PRISONS.

(a) Twenty Year Maximum Penalty.—Section 1791(b) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (1) through (4) as (2) through (5), respectively;

(2) by inserting before paragraph (2), as so redesignated, the following new paragraph (1):

"(1) imprisonment for not more than 20 years, or both, if the object is specified in subsection (d)(1)(C) of this section;"; and

(3) in paragraph (3), as so redesignated, by striking "or (c)(1)(C)".

(b) Consecutive Sentences.—Section 1791 of title 18, United States Code, is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

"(c) Any punishment imposed under subsection (b) for a violation of this section by an inmate of a prison shall be consecutive to the sentence being served by such inmate at the time the inmate commits such violation.".

(c) Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 1791(a)(1) of title 18, United States Code, and punishable under section 1791(b)(1) of that title as so redesignated, shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(1) two levels greater than the level that would have been assigned had the offense not been committed in prison; and

(2) in no event less than level 26.

(d) If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in subsection (c) so as to achieve a comparable result.

SEC. 2502. PAYMENT OF COSTS OF INCARCERATION BY FEDERAL PRISONERS.

Not later than 1 year after the date of enactment of this section, the Attorney General shall study and, if appropriate, develop and submit to Congress proposed legislation which would require prisoners incarcerated in Federal correctional institutions to pay all costs incident to the prisoner's confinement, including, but not limited to, the costs of food, housing, and shelter. The legislation shall include measures which would allow prisoners unable to pay such costs to work at paid employment within the community, during incarceration or after release, in order to pay the costs incident to the prisoner's confinement. The legislation shall also include an estimate of budget authority necessary for implementation of the legislation.

Subtitle J—Drug Testing as a Condition of Probation and Supervised Release

SEC. 2551. DRUG TESTS AS A CONDITION OF PROBATION AND SUPERVISED RELEASE.

(a) Probation.—(1) Section 3563(a) of title 18, United States Code, is amended by—

(A) striking "and" after the semicolon in paragraph (1);

(B) striking the period at the end of paragraph (2) and inserting "; and";

(C) inserting after paragraph (2) the following:

"(3) for a felony, that the defendant submit to periodic drug tests for use of controlled substances at least once every 60 days, with the defendant to pay the actual cost of the testing unless the court determines it would be unreasonable to impose such cost."; and

(D) inserting after the second sentence the following: "The requirement that drug tests be administered at least once every 60 days under paragraph (3) may be suspended upon motion of the Attorney General if, after at least 1 year of probation, the defendant has passed all drug tests administered pursuant to this section.".

(2) Section 3563 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(e) Drug Testing.—In every case involving a misdemeanor, the court shall make a determination whether, in addition to any conditions of probation imposed under subsections (a) and (b), the defendant should be ordered to submit to periodic drug tests. If the court finds that a defendant committed a misdemeanor involving unlawful conduct with drugs, or that the defendant has a history of drug abuse, the court shall order the defendant to submit to periodic drug testing.".

(3) Section 3565(a) of title 18, United States Code, is amended by adding at the end thereof the following: "Notwithstanding any other provision of this section, if the defendant tests positive for illegal use of controlled substances, thereby violating the condition imposed by section 3563(a), on two separate tests taken at least 3 weeks apart, the court shall, in addition to any other action which may be taken pursuant to this section (A) revoke the sentence of probation and sentence the defendant to a period of imprisonment, (B) require the defendant to reside and participate in a residential community drug treatment center program, or participate in an out-patient drug treatment program if residential treatment is unavailable or impractical, or (C) require the defendant to remain at his place of residence pursuant to section 3563(b)(20). Notwithstanding any other provision of this section, if the defendant tests positive for the illegal use of controlled substances, thereby violating the condition set forth in section 3563 (a) or (e), on three separate tests taken at least 3 weeks apart, the court shall revoke the sentence of probation and sentence the defendant to not less than one third of the original sentence."

(4) Section 3565 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c) Limitation of Actions Based on Drug Testing.—(1) No action may be taken against a defendant pursuant to this section on the basis of a urine test administered to the defendant unless the test was a urine test conducted in accordance with—

"(A) requirements and procedures prescribed by the Director of the Administrative Office of the United States Courts which shall be substantially consistent with the Mandatory Guidelines on Federal Employee Drug Testing Programs issued by the Secretary of Health and Human Services on April 11, 1988; and

"(B) the procedures for urine specimen collection set out in section 2.2(a)-(d) and (f)-(h) of such guidelines.

"(2) The Director shall include in the regulations referred to in paragraph (1) the following requirements:

"(A) That the laboratory which conducts drug testing engage in urine drug testing in accordance with such regulations.

"(B) That the laboratory follow laboratory analysis procedures, including the chain of custody procedures, required by the guidelines referred to in paragraph (1)(A), except that positive initial tests may be confirmed using Gas Chromatography (GC) techniques or such test as the Secretary of Health and Human Services may determine to be of equivalent accuracy.

"(C) That the laboratory perform Gas Chromatography-Mass Spectrometry (GC-MS) reconfirmation, or such reconfirmation as the Secretary of Health and Human Services may determine to be of equivalent accuracy, in any case in which—

"(i) a defendant's urine specimen is tested using Gas Chromatography techniques for confirmation; and

"(ii) within 10 days after receiving notice of positive test results, the defendant notifies the Director that he disputes such results.

"(D) That the laboratory—

"(i) retain all records pertaining to each urine specimen for at least two years after the date on which the results of the testing of such specimen are transmitted to the court; and

"(ii) limit access to any such records in order to protect the confidentiality.

"(E) That, in the case of a urine specimen for which positive test results are obtained, the laboratory retain the specimen in properly secured, long-term frozen storage for a minimum of one year after the date on with the test results are transmitted to the court.

"(3) The actual cost of any testing performed in the case of a defendant under paragraph (2)(C) shall be paid by the defendant unless the court determines it would be unreasonable for the defendant to be required to pay such cost.

"(4) To the maximum extent practicable, the results of urine drug tests conducted pursuant to the regulations prescribed in accordance with this subsection shall be kept confidential.

"(5) Nothing in this subsection shall be construed to—

"(A) limit the authority of the Administrator to require that positive initial test results be confirmed using Gas Chromatography-Mass Spectometry (GS-MS) or equivalent techniques; or

"(B) limit the authority of the Administrator to institute alternative drug tests as an additional means of screening defendants.".

(b) Supervised Release.—(1) Section 3583(d) of title 18, United States Code, is amended in the first sentence by striking the period and inserting "and that, for any felony, or for a misdemeanor involving either unlawful conduct with drugs or a defendant having a history of drug use, the defendant submit to periodic drug tests for use of controlled substances at least once every 60 days. The defendant shall pay the actual costs of such testing unless the court determines it would be unreasonable to impose such cost. The minimum testing requirement of one test every 60 days may be suspended upon motion of the Attorney General if, after at least 1 year of supervised release, the defendant has passed all drug tests administered pursuant to this section."

(2) Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following:

"(g) Use of Controlled Substances.—Notwithstanding any other provision of this section, if the defendant tests positive for illegal use of controlled substances on two separate urine drug tests taken at least 3 weeks apart, the court shall, in addition to any other action which may be taken—

"(1) revoke the term of supervised release and require the defendant to serve a period of imprisonment pursuant to section (e)(4);

"(2) require defendant to reside and participate in the program of a residential community treatment center or participate in an out-patient drug treatment program if residential treatment is unavailable or impractical; or

"(3) require the defendant to remain at his place of residence during non-working hours pursuant to subsection (e)(5). Notwithstanding any other provision of this section, if the defendant tests positive for illegal use of controlled substances on three separate urine drug tests taken at least 3 weeks apart, the court shall revoke the term of supervised release pursuant to subsection (e)(4) and require the defendant to serve in prison not less than one-third of the term of supervised release.

"(h) No action may be taken against a defendant pursuant to subsection (g) on the basis of a drug test administered to the defendant unless the urine drug test was conducted by a laboratory which meets the requirements of section 3565(d) of this title and the Director of the Administrative Office of the United States Courts or his or her designee, or any person contracted to perform specimen collection has complied with the requirements of section 3565(e) of this title.".

(c) Effective Date.—The amendments in this section shall apply to offenses occurring or completed on or after January 1, 1989.

SEC. 2552. HOUSE PROBATION AS A CONDITION FOR PROBATION, PAROLE OR SUPERVISED RELEASE.

(a) Probation.—Section 3563(b) of title 18, United States Code, is amended by—

(1) striking "or" after the semicolon in paragraph (19);

(2) redesignating paragraph (20) as paragraph (21); and

(3) inserting after paragraph (19) the following new paragraph:

"(20) remain at his place of residence during non-working hours and, if the court finds it appropriate, that compliance with this condition be monitored by telephonic or electronic signaling devices; or".

(b) Supervised Release.—(1) Section 3583(d) of title 18, United States Code, is amended in the matter following paragraph (3) by striking "(b)(19)" and inserting "(b)(20)".

(2) Section 3583(e) is amended by—

(1) striking "or" at the end of paragraph (3);

(2) striking the period at the end of paragraph (4) and inserting "; or"; and

(3) inserting at the end the following new paragraph:

"(5) order the person to remain at his place of residence during non-working hours and, if the court so directs, to have compliance monitored by telephone or electronic signaling devices.".

(c) Parole.—Section 4209 of title 18, United States Code, is amended to read as follows;

"(c) Release on parole or release as if on parole (or probation, or supervised release where applicable) may as a condition of such release require—

"(1) a parolee to reside in or participate in the program of a residential community treatment center, or both, for all or part of the period of such parole; or

"(2) a parolee to remain at his place of residence during non-working hours and, if the Commission so directs, to have compliance with this condition monitored by telephone or electronic signaling devices.

A parolee residing in a residential community treatment center pursuant to this subsection or subject to a condition imposed under subparagraph (3) of this subsection, may be required to pay such costs incident to residence or to such condition as the Commission deems appropriate.".

Subtitle K—Minor and Technical Criminal Law Amendments Act Amendments

SEC. 2601. SHORT TITLE.

This subtitle may be cited as the "Minor and Technical Criminal Law Amendments Act of 1988".

SEC. 2602. CORRECTION OF CROSS REFERENCE.

Section 38 of the Criminal Law and Procedure Technical Amendments Act of 1986 is amended by striking "section 23" and inserting "section 34".

SEC. 2603. CORRECTION OF ERRONEOUS REFERENCE.

Section 50(a) of the Criminal Law and Procedure Technical Amendments Act of 1986 is amended by striking "1961(a)" and inserting "1961(l)".

SEC. 2604. CORRECTION OF MISPRINT.

Section 58(g) of the Criminal Law and Procedure Technical Amendments Act of 1986 is amended by striking "Section 3147 Amendments.—Section 3147 of title" and inserting "Repeal.—(1) Title".

SEC. 2605. CORRECTION OF TYPOGRAPHICAL ERROR IN SECTION 31.

Section 31 of title 18, United States Code, is amended by striking "door in opened" and inserting "door is opened".

SEC. 2606. CORRECTION OF TYPOGRAPHICAL ERROR IN SECTION 32.

Section 32(a)(3) of title 18, United States Code, is amended by striking "intefering" and inserting "interfering".

SEC. 2607. CORRECTION OF TYPOGRAPHICAL ERROR IN SECTION 152.

The third paragraph of section 152 of title 18, United States Code, is amended by striking "penalty or perjury" and inserting "penalty of perjury".

SEC. 2608. CONSPIRACY AGAINST CIVIL RIGHTS.

(a) In General.—Section 241 of title 18, United States Code, is amended by striking "citizen" and inserting "inhabitant of any State, Territory, or District".

(b) Conforming Amendments.—(1) The heading for section 241 of title 18, United States Code, is amended by striking "**of citizens**".

(2) The item relating to section 241 in the table of sections at the beginning of chapter 13 of title 18, United States Code, is amended by striking "of citizens".

SEC. 2609. DEPRIVATION OF CIVIL RIGHTS.

Section 242 of title 18, United States Code, is amended by inserting "and if bodily injury results shall be fined under this title or imprisoned not more than ten years, or both;" after "both;".

SEC. 2610. DESIGNATION OF ADDITIONAL HIGH LEVEL OFFICIALS OF THE DEPARTMENT OF JUSTICE TO PERFORM CERTAIN FUNCTIONS RELATING TO CRIMINAL AND ANCILLARY PROCEEDINGS.

(a) Approval of Certain Civil Rights Prosecutions.—Section 245(a)(1) of title 18, United States Code, is amended—

(1) by striking "or the Deputy" and inserting ", the Deputy";

(2) by inserting.—Section 1073 of title 18, United States Code, is amended by inserting ", the Deputy Attorney General, the Associate Attorney General," after "the Attorney General".

(c) Definition of "Attorney General" for Purposes of Certain Racketeer ", the Associate Attorney General, or any Assistant Attorney General specially designated by the Attorney General" after "Deputy Attorney General".

(b) Approval of Prosecutions for Flight To Avoid Service of Process and Related Proceedings.—Section 1961(10) of title 18, United States Code, is amended by inserting "the Associate Attorney General of the United States," after "Deputy Attorney General of the United States,".

(d) Summoning of Special Grand Juries.—Section 3331(a) of title 18, United States Code, is amended by inserting ", the Associate Attorney General" after "Deputy Attorney General".

(e) Requesting Judicial Grant of Immunity in General.—Section 6003(b) of title 18, United States Code, is amended—

(1) by inserting ", the Associate Attorney General" after "Deputy Attorney General"; and

(2) by inserting "or Deputy Assistant Attorney General" after "Assistant Attorney General".

(f) Requesting Judicial Grant of Immunity in Certain Drug Cases.—Section 514(c) of the Controlled Substances Act (21 U.S.C. 884(c)) is amended by inserting ", the Associate Attorney General" after "Deputy Attorney General".

(g) Objecting To Disclosure of Classified Information Under the Classified Information Procedures Act.—Section 14 of the Classified Information Procedures Act (18 U.S.C. App. 14) is amended by inserting ", the Associate Attorney General," after "Deputy Attorney General".

SEC. 2611. OFF-HIGHWAY VEHICLE IDENTIFICATION OFFENSE.

Section 553(b)(2) of title 18, United States Code, is amended to read as follows:

"(2)(A) in the case of a motor vehicle, is not a violation of section 511 of this title (relating to altering or removing motor vehicle identification numbers); or

"(B) in the case of off-highway mobile equipment, would not be a violation of section 511 of this title if such equipment were a motor vehicle.".

SEC. 2612. REDESIGNATION OF PARAGRAPHS IN SECTION 831.

Paragraphs (3) through (6) of section 831(e) of title 18, United States Code, are redesignated as paragraphs (2) through (5), respectively.

SEC. 2613. IDENTIFICATION FRAUD.

Section 1028(a)(6) of title 18, United States Code, is amended—

(1) by inserting "knowingly" before "possesses";

(2) by inserting "lawful" before "authority" the first place it appears; and

(3) by inserting "such" before "authority" the second place it appears.

SEC. 2614. TRANSMISSION OF WAGERING INFORMATION.

(a) Transmission of Information to Foreign Countries.—Section 1084(b) of title 18, United States Code, is amended by inserting "or foreign country" after "State" the second place it appears.

(b) Definition of "State".—(1) Section 1084 of title 18, United States Code, is amended by adding at the end the following:

"(e) As used in this section, the term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.".

(2) Section 1084(c) of title 18, United States Code, is amended by striking ", Commonwealth of Puerto Rico, territory, possession, or the District of Columbia".

SEC. 2615. PUNCTUATION CORRECTION IN cond comma after "terms of this section".

SEC. 2617. CLARIFICATION OF RELATION BETWEEN TWO AMENDMENTS MADE BY PUBLIC LAWS ENACTED IN THE 99TH CONGRESS.

Section 1153 of title 18, United States Code, is amended by striking "maiming" and all SECTION 1111.

Section 1111(a) of title 18, United States Code, is amended by inserting a comma after "arson".

SEC. 2616. PUNCTUATION CORRECTION IN SECTION 1114.

Section 1114 of title 18, United States Code, is amended by striking the sethat follows through "incest" and inserting "maiming, a felony under chapter 109A, incest".

SEC. 2618. CORRECTION OF SUBSECTION DESIGNATION.

Section 1203 of title 18, United States Code, is amended by striking "(C)" the last place it appears and inserting "(c)".

SEC. 2619. OBSTRUCTION OF JUSTICE AMENDMENTS.

(a) Expansion of Venue for Sections 1512 and 1503 Cases.—Section 1512 of title 18, United States Code, is amended by adding at the end the following:

"(h) A prosecution under this section or section 1503 may be brought in the district in which the official proceeding (whether or not pending or about to be instituted) was intended to be affected or in the district in which the conduct constituting the alleged offense occurred.".

(b) Definition Changes.—Section 1515(a)(1)(A) of title 18, United States Code, is amended by inserting "a judge of the United States Tax Court, a special trial judge of the Tax Court, a judge of the United States Claims Court," after "bankruptcy judge,".

(c) Corrupt Persuasion.—Section 1512(b) of title 18, United States Code, is amended by striking "or threatens" and inserting "threatens, or corruptly persuades".

(d) Definition.—Section 1515(a) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

(3) by adding at the end the following:

"(6) the term 'corruptly persuades' does not include conduct which would be misleading conduct but for a lack of a state of mind.".

SEC. 2620. CONFORMING AMENDMENT TO TABLE OF SECTIONS.

The item relating to section 1515 in the table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by inserting "; general provision" after "provisions".

SEC. 2621. CROSS REFERENCE CORRECTIONS AND ADDITIONS.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by—

(1) striking "section 511" and inserting "section 513";

(2) striking "section 543" and inserting "section 545"; and

(3) inserting "section 657 (relating to lending, credit, and insurance institutions), section 658 (relating to property mortgaged or pledged to farm credit agencies)," after "section 656 (relating to theft, embezzlement, or misapplication by bank officer or employee),".

SEC. 2622. CROSS REFERENCE CORRECTION AND ADDITIONS.

Section 1961(1) of title 18, United States Code, is amended by striking "section 2320" and inserting "section 2321".

SEC. 2623. SYNTAX CORRECTION IN SECTION 1962.

Section 1962(d) of title 18, United States Code, is amended by striking "subsections" and inserting "subsection".

SEC. 2624. SECTION 1963 AMENDMENTS.

(a) CORRECTION OF TYPOGRAPHICAL ERROR IN SUBSECTION (n).—Section 1963(n) of title 18, United States Code, is amended by striking "act of omission" and inserting "act or omission".

(b) REDESIGNATION.—Subsection (n) of section 1963 of title 18, United States Code, is redesignated as subsection (m).

SEC. 2625. CLERICAL CORRECTION TO TABLE OF CONTENTS FOR CHAPTER 119.

The table of sections at the beginning of chapter 119 of title 18, United States Code, is amended by striking "wire or oral" in the items relating to sections 2511, 2512, 2513, 2516, 2517, 2518, and 2519 and inserting "wire, oral, or electronic".

SEC. 2626. SECTION 2516 AMENDMENTS.

(a) SYNTAX CORRECTION.—Section 2516(1) of title 18, United States Code, is amended—

(1) by inserting "or" after "Associate Attorney General,", and

(2) by striking the comma that follows a comma.

(b) CORRECTION OF CROSS-REFERENCES.—Section 2516(1)(c) of title 18, United States Code, is amended—

(1) by striking "the second section 2320" and inserting "section 2321"; and

(2) by striking "section 2252 or 2253 (sexual exploitation of children),".

(c) PUNCTUATION CORRECTIONS.—

(1) section 2516(1)(a) is amended by striking "(relating to riots);" and inserting "(relating to riots),";

(2) section 2516(1)(j) is amended by striking "or;"; and

(3) section 2516(1)(k) is amended by inserting "or" at the end thereof.

SEC. 2627. CORRECTION OF CROSS REFERENCE.

Section 2702(b)(2) of title 18, United States Code, is amended by striking "2516" and inserting "2517".

SEC. 2628. GOVERNMENTAL ACCESS TO CONTENTS OF ELECTRONIC COMMUNICATIONS IN AND RECORDS OF A REMOTE COMPUTING SERVICE.

Sections 2703(b)(1)(B)(i) and 2703(c)(1)(B)(i) of title 18, United States Code, are amended by inserting "or trial" after "grand jury".

SEC. 2629. DEFINITION OF COURT FOR CERTAIN APPLICATIONS.

Section 2703(d) of title 18, United States Code, is amended by inserting "may be issued by any court that is a court of competent jurisdiction set forth in section 3126(2)(A) of this title and" before "shall issue".

SEC. 2630. SECTION 3124 AMENDMENT.

Section 3124(b) of title 18, United States Code, is amended by inserting "order" after "court" the last place it appears.

SEC. 2631. SENTENCING CLASSIFICATION OF OFFENSES.

(a) REDESIGNATION.—Section 3559(a) of title 18, United States Code, is amended—

(1) by striking "classified—" and all that follows through "is—" and inserting "classified if the maximum term of imprisonment authorized is—"; and

(2) by redesignating subparagraphs (A) through (I) as paragraphs (1) through (9).

(b) CLASS B CLASSIFICATION.—Section 3559(a) of title 18, United States Code, is amended in each of paragraphs (2) and (3) (as so redesignated by subsection (a)), by striking "twenty" and inserting "twenty-five".

SEC. 2632. CORRECTION OF CROSS REFERENCES.

Subsection (h) of section 3663 of title 18, United States Code, is amended to read as follows:

"(h) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter B of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.".

SEC. 2633. FURLOUGH OF CERTAIN INDIVIDUALS ORDERED TO BE COMMITTED FOR INSANITY.

Section 4243 of title 18, United States Code, is amended by adding at the end thereof the following:

"(h) LIMITATIONS ON FURLOUGHS.—An individual who is hospitalized under subsection (e) of this section after being found not guilty only by reason of insanity of an offense for which subsection (d) of this section creates a burden of proof of clear and convincing evidence, may leave temporarily the premises of the facility in which that individual is hospitalized only—

"(1) with the approval of the committing court, upon notice to the attorney for the Government and such individual, and after opportunity for a hearing;

"(2) in an emergency; or

"(3) when accompanied by a Federal law enforcement officer (as defined in section 115 of this title).".

SEC. 2634. PERIODIC REPORTS RELATING TO CERTAIN HOSPITALIZED PERSONS.

Section 4247(e)(1)(B) of title 18, United States Code, is amended by adding at the end thereof the following: "A copy of each such report concerning a person hospitalized after the beginning of a prosecution of that person for violation of section 871, 879, or 1751 of this title shall be submitted to the Director of the United States Secret Service. Except with the prior approval of the court, the Secret Service shall not use or disclose the information in these copies for any purpose other than carrying out protective duties under section 3056(a) of this title.".

SEC. 2635. INSERTION OF MISSING CLOSE PARENTHESIS.

The last paragraph of section 5034 of title 18, United States Code, is amended by striking "facility upon" and inserting "facility) upon".

SEC. 2636. AMENDMENT TO RULES OF EVIDENCE CONFORMING TERMINOLOGY RELATING TO SEX OFFENSES.

(a) IN GENERAL.—Rule 412 of the Federal Rules of Evidence is amended—

(1) in the heading of such rule, by striking "**Rape**" and inserting "**Sex Offense**";

(2) in subdivisions (a) and (b), by striking "rape or of assault with intent to commit rape" each place it appears and inserting "an offense under chapter 109A of title 18, United States Code";

(3) in subdivision (a), by striking "rape or assault" and inserting "offense";

(4) by striking "rape or assault with intent to commit rape" each place it appears and inserting "an offense under chapter 109A of title 18, United States Code"; and

(5) in subdivision (b)(2)(B), by striking "rape or assault" and inserting "such offense".

(b) CLERICAL AMENDMENT.—The item relating to rule 412 in the table of contents at the beginning of the Federal Rules of Evidence is amended by striking "Rape" and inserting "Sex Offense".

SEC. 2637. EXTENSION OF POWER TO MAKE CERTAIN EXAMINATIONS TO PSYCHOLOGISTS.

(a) SECTION 4247(b).—Section 4247(b) of title 18, United States Code, is amended by striking "clinical psychologist" and inserting "psychologist".

(b) CONFORMING AMENDMENT TO RULE 35.—Rule 35 of the Federal Rules of Civil Procedure is amended—

(1) in subdivision (a), by striking "physical or mental examination by a physician" and inserting "physical examination by a physician, or mental examination by a physician or psychologist";

(2) in subdivision (b), by inserting "or psychologist" after "physician" each time it appears, and by adding "or psychologist" to the heading of the subdivision; and

(3) by adding at the end the following new subdivision:

"(c) For the purpose of this rule, a psychologist is a psychologist licensed or certified by a State or the District of Columbia.".

SEC. 2638. SYNTACTICAL CORRECTION RELATING TO CERTAIN COUNTERFEIT OR FORGED ITEMS.

The second paragraph of section 2315 of title 18, United States Code, is amended by striking "which have crossed a State or United States boundary after being stolen, unlawfully converted, or taken" and inserting "moving as, or which are a part of, or which constitute interstate or foreign commerce".

SEC. 2639. FORM CORRECTION IN FEDERAL RULES OF CIVIL PROCEDURE.

Rule 17(a) of the Federal Rules of Civil Procedure is amended by striking "with him".

SEC. 2640. PUNCTUATION CORRECTION IN FEDERAL RULES OF CIVIL PROCEDURE.

Rule 71A(e) is amended by striking "taking of the defendants property" and inserting "taking of the defendant's property".

SEC. 2641. DEFINITION OF 'UNITED STATES' IN REFERENCE TO TERRORIST ACTS.

Section 3077(4) of title 18, United States Code, is amended to read as follows:

"(4) 'United States,' when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States;".

SEC. 2642. CROSS REFERENCES PERTAINING TO ARREST AUTHORITY FOR VIOLATION OF RELEASE CONDITIONS.

Section 3062 of title 18, United States Code, is amended by striking "a condition imposed on the person pursuant to section 3142 (c)(2)(D), (c)(2)(E), (c)(2)(H), (c)(2)(I), or (c)(2)(M), or, if the violation involves a failure to remain in a specified institution as required, a condition imposed pursuant to section 3142(c)(2)(J)" and inserting "a condition imposed on the person pursuant to section 3142(c)(1)(B) (iv), (v), (viii), (ix), or (xiii), or, if the violation involves a failure to remain in a specified institution as required, a condition imposed pursuant to section 3142(c)(1)(B)(x)".

SEC. 2643. RENUMBERING OF SECTIONS IN CHAPTER 95.

(a) SECTION 1958.—Section 1952A of title 18, United States Code, is redesignated as section 1958.

(b) SECTION 1959.—Section 1952B of title 18, United States Code, is redesignated as section 1959.

(c) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 95 of title 18, United States Code, is amended—

(1) by striking "1952A" and inserting "1958";

(2) by striking "1952B" and inserting "1959"; and

(3) by inserting the items for redesignated sections 1958 and 1959 at the end of the table.

(d) SECTION 2516(c).—Section 2516(c) of title 18, United States Code, is amended—

(1) by striking "1952A" and inserting "1958"; and

(2) by striking "1952B" and inserting "1959".

SEC. 2644. ADDITION OF RICO PREDICATE.

Section 1961(1)(B) of title 18, United States Code, is amended—

(1) by inserting after "section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity)" the following: ", section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire), sections 2251-2252 (relating to sexual exploitation of children)"; and

(2) by inserting after "sections 891-894 (relating to extortionate credit transactions)" the following: ", section 1029 (relative to fraud and related activity in connection with access devices)".

SEC. 2645. ASSET FORFEITURE AMENDMENTS.

(a) FORFEITURE OF PERSONAL PROPERTY IN NARCOTICS CASES.—Section 511(a)(7) of the Controlled Substances Act (21 U.S.C. 881(a)(7)) is amended by striking "All" and inserting "All tangible or intangible personal property, and all".

(b) RESTORATION OF EQUITABLE SHARING PROVISIONS.—Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended by redesignating paragraph (2) as paragraph (3) and inserting a new paragraph (2) as follows:

"(2) The Attorney General shall ensure the equitable transfer pursuant to paragraph (1)(A) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Attorney General pursuant to paragraph (1)(A) shall not be subject to review.".

SEC. 2646. AUTHORIZATION OF POSTAL SERVICE TO INVESTIGATE MONEY LAUNDERING.

(a) JURISDICTION.—(1) Section 1956 of title 18, United States Code, is amended by striking all that follows "appropriate" in subsection (e) and inserting the following: "and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postal Service. Such authority of the Secretary of the Treasury and the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Postal Service, and the Attorney General."

(2) Section 1957 of title 18, United States Code, is amended by striking all that follows "appropriate" in subsection (e) and inserting the following: "and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postal Service. Such authority of the Secretary of the Treasury and the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Postal Service, and the Attorney General."

(b) CONFORMING AMENDMENTS.—Section 981 of title 18, United States Code, is amended by—

(1) inserting "or the Postal Service" in subsection (b) following "Secretary of the Treasury" the first two times it appears;

(2) striking "the Attorney General or the Secretary of the Treasury" in subsections (b)(2) and (c) through (e) and inserting "the Attorney General, the Secretary of the Treasury, or the Postal Service";

(3) adding at the end of subsection (d) the following: "The Attorney General shall have sole responsibility for disposing of petitions for remission or mitigation with respect to property involved in a judicial forfeiture proceeding"; and

(4) adding at the end of subsection (e) the following: "The authority granted to the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited."

(c) POWERS OF THE SECRETARY.—Section 5318(a)(1) of title 31, United States Code, is amended by inserting "or the Postal Inspection Service" after "supervising agency".

SEC. 2647. AUTHORITY OF FEDERAL PRISON INDUSTRIES TO BORROW AND INVEST FUNDS.

(a) GRANT OF AUTHORITY.—Chapter 307 of title 18, United States Code, is amended by inserting after section 4128 the following new section:

"§ 4129. Authority to borrow and invest

"(a)(1) As approved by the board of directors, Federal Prison Industries, to such extent and in such amounts as are provided in appropriations Acts, is authorized to issue its obligations to the Secretary of the Treasury, and the Secretary of the Treasury, in the Secretary's discretion, may purchase or agree to purchase any such obligations, except that the aggregate amount of obligations issued by Federal Prison Industries under this paragraph that are outstanding at any time may not exceed 25 percent of the net worth of the corporation. For purchases of such obligations by the Secretary of the Treasury, the Secretary is authorized to use as a public debt transaction the proceeds of the sale of any securities issued under chapter 31 of title 31 after the date of the enactment of this section, and the purposes for which securities may be issued under that chapter are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. For purposes of the first sentence of this paragraph, the net worth of Federal Prison Industries is the amount by which its assets (including capital) exceed its liabilities.

"(2) The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as the Secretary shall determine, any of the obligations acquired by the Secretary under this subsection. All purchases and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

"(b) Federal Prison Industries may request the Secretary of the Treasury to invest excess moneys from the Prison Industries Fund. Such investments shall be in public debt securities with maturities suitable to the needs of the corporation as determined by the board directors, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 307 of title 18, United States Code, is amended by adding at the end the following new item:

"4129. Authority to borrow and invest.".

(c) USE OF FUNDS.—Section 4126 of title 18, United States Code, is amended—

(1) by designating the first through fifth paragraphs as subsections (a) through (e), respectively;

(2) by amending subsection (c), as designated by paragraph (1) of this section, to read as follows:

"(c) The corporation, in accordance with the laws generally applicable to the expenditures of the several departments, agencies, and establishments of the Government, is authorized to employ the fund, and any earnings that may accrue to the corporation—

"(1) as operating capital in performing the duties imposed by this chapter;

"(2) in the lease, purchase, other acquisition, repair, alteration, erection, and maintenance of industrial buildings and equipment;

"(3) in the vocational training of inmates without regard to their industrial or other assignments;

"(4) in paying, under rules and regulations promulgated by the Attorney General, compensation to inmates employed in any industry, or performing outstanding services in institutional operations, and compensation to inmates or their dependents for injuries suffered in any industry or in any work activity in connection with the maintenance or operation of the institution in which the inmates are confined.

In no event may compensation for such injuries be paid in an amount greater than that provided in chapter 81 of title 5."; and

(3) by adding at the end the following:

"(f) Funds available to the corporation may be used for the lease, purchase, other acquisition, repair, alteration, erection, or maintenance of facilities only to the extent such facilities are necessary for the industrial operations of the corporation under this chapter. Such funds may not be used for the construction or acquisition of penal or correctional institutions, including camps described in section 4125.".

(d) Reports to Congress.—Section 4127 of title 18, United States Code, is amended to read as follows:

"The board of directors of Federal Prison Industries shall submit an annual report to the Congress on the conduct of the business of the corporation during each fiscal year, and on the condition of its funds during such fiscal year. Such report shall include a statement of the amount of obligations issued under section 4129(a)(1) during such fiscal year, and an estimate of the amount of obligations that will be so issued in the following fiscal year.".

(e) Guidelines and Public Comment on New or Expanded Production by Federal Prison Industries.—Section 4122(b) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by striking out "all physically fit inmates in the United States penal and correctional institutions" and inserting in lieu thereof "the greatest number of those inmates in the United States penal and correctional institutions who are eligible to work as is reasonably possible"; and

(3) by adding at the end thereof the following:

"(2) Federal Prison Industries shall conduct its operations so as to produce products on an economic basis, but shall avoid capturing more than a reasonable share of the market among Federal departments, agencies, and institutions for any specific product. Federal Prison Industries shall concentrate on providing to the Federal Government only those products which permit employment of the greatest number of those inmates who are eligible to work as is reasonably possible.

"(3) Federal Prison Industries shall diversify its products so that its sales are distributed among its industries as broadly as possible.

"(4) Any decision by Federal Prison Industries to produce a new product or to significantly expand the production of an existing product shall be made by the board of directors of the corporation. Before the board of directors makes a final decision, the corporation shall do the following:

"(A) The corporation shall prepare a detailed written analysis of the probable impact on industry and free labor of the plans for new production or expanded production. In such written analysis the corporation shall, at a minimum, identify and consider—

"(i) the number of vendors currently meeting the requirements of the Federal Government for the product;

"(ii) the proportion of the Federal Government market for the product currently served by small businesses, small disadvantaged businesses, or businesses operating in labor surplus areas;

"(iii) the size of the Federal Government and non-Federal Government markets for the product;

"(iv) the projected growth in the Federal Government demand for the product; and

"(v) the projected ability of the Federal Government market to sustain both Federal Prison Industries and private vendors.

"(B) The corporation shall announce in a publication designed to most effectively provide notice to potentially affected private vendors the plans to produce any new product or to significantly expand production of an existing product. The announcement shall also indicate that the analysis prepared under subparagraph (A) is available through the corporation and shall invite comments from private industry regarding the new production or expanded production.

"(C) The corporation shall directly advise those affected trade associations that the corporation can reasonably identify of the plans for new production or expanded production, and the corporation shall invite such trade associations to submit comments on those plans.

"(D) The corporation shall provide to the board of directors—

"(i) the analysis prepared under subparagraph (A) on the proposal to produce a new product or to significantly expand the production of an existing product,

"(ii) comments submitted to the corporation on the proposal, and

"(iii) the corporation's recommendations for action on the proposal in light of such comments.

In addition, the board of directors, before making a final decision under this paragraph on a proposal, shall, upon the request of an established trade association or other interested representatives of private industry, provide a reasonable opportunity to such trade association or other representatives to present comments directly to the board of directors on the proposal.

"(5) Federal Prison Industries shall publish in the manner specified in paragraph (4)(B) the final decision of the board with respect to the production of a new product or the significant expansion of the production of an existing product.

"(6) Federal Prison Industries shall publish, after the end of each 6-month period, a list of sales by the corporation for that 6-month period. Such list shall be made available to all interested parties.".

SEC. 2648. CONTROLLED SUBSTANCES AND RELATED AMENDMENTS.

(a) Attempt and Conspiracy Amendments.—Section 406 of the Controlled Substance Act (21 U.S.C. 846) and section 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 963) are amended by striking "is punishable" and all that follows through "punishment" and inserting "shall be subject to the same penalties as those".

(b) Clarifying Amendments Relating to Forfeiture of Proceeds of a Foreign Drug Offense.—Subparagraph (B) of section 981(a)(1) of title 18, United States Code, is amended by—

(1) inserting ", real or personal," after "property";

(2) striking "which represents the proceeds of" and inserting "constituting, derived from, or traceable to, any proceeds obtained directly or indirectly from";

(3) striking "or activity" the first place it appears;

(4) inserting "under the laws of the United States" after "punishable" the second place it appears; and

(5) inserting "constituting the offense against the foreign nation" after "such act or activity".

(c) Clarification of Controlled Substance Analogue Provision.—Section 203 of the Controlled Substances Act (21 U.S.C. 813) is amended by striking "this title and title III" and inserting "any Federal law".

(d) Correction of Reference Relating to Mandatory Prison Terms for Juvenile Drug Trafficking.—Section 405B(e) of the Controlled Substances Act (21 U.S.C. 845b(e)) is amended by striking "required by section 401(b)".

(e) Correction of Typographical Error.—Section 981(a)(2) of title 18, United States Code, is amended by striking "emission" and inserting "omission".

(f) Correction of Reference to Subsection.—Section 981(i)(1) of title 18, United States Code, is amended by striking "subchapter" and inserting "subsection".

(g) Mandatory Minimum Penalty for Trafficking in Substantial Quantity of Methamphetamine.—Subparagraph (A) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended—

(1) by striking "or" at the end of clause (vi);

(2) by inserting "or" at the end of clause (vii); and

(3) by adding a new clause (viii), as follows:

"(viii) 100 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers;".

(h) Conforming Amendment.—Subparagraph (B) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended—

(1) by striking "or" at the end of clause (vi);

(2) by inserting "or" at the end of clause (vii); and

(3) by adding a new clause (viii), as follows:

"(viii) 10 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers;".

SEC. 2649. MONEY LAUNDERING AMENDMENTS.

(a) Insertion of Income Tax Predicate for Money Laundering Offense.—Section 1956(a)(1)(A) of title 18, United States Code, is amended to read as follows:

"(A)(i) with the intent to promote the carrying on of specified unlawful activity; or

"(ii) with intent to violate or promote a violation of section 7201 or 7206 of the Internal Revenue Code of 1986; or".

(b) Transmission or Transfer.—Section 1956(a)(2) of title 18, United States Code, is amended by striking "transports or attempts to transport" and inserting "transports, transmits, or transfers, or attempts to transport, transmit, or transfer".

(c) Clarification of Scope of Stay of Civil Forfeiture.—Section 981(g) of title 18, United States Code, is amended by inserting ", Federal, State or local," after "law".

SEC. 2650. PROVISION OF MISDEMEANOR PENALTY FOR CERTAIN ESCAPES.

Sections 751(a) and 752(a) of title 18, United States Code, are amended by inserting ", or for exclusion or expulsion proceedings under the immigration laws," after "extradition".

SEC. 2651. CLARIFICATION OF PREDICATE OFFENSE REQUIREMENTS FOR ARMED CAREER CRIMINAL ACT.

Section 924(e)(1) of title 18, United States Code, is amended by inserting "committed on occasions different from one another," after "for a violent felony or a serious drug offense, or both,".

SEC. 2652. AUTHORITY FOR THE FEDERAL BUREAU OF INVESTIGATION TO INVESTIGATE, UPON REQUEST, FELONIOUS KILLINGS OF STATE OR LOCAL LAW ENFORCEMENT OFFICERS.

(a) Authority.—Chapter 33 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 540. Investigation of felonious killings of State or local law enforcement officers

"The Attorney General and the Federal Bureau of Investigation may investigate felonious killings of officials and employees of a State or political subdivision thereof while engaged in or on account of the performance of official duties relating to the prevention, detection, investigation, or prosecution of an offense against the criminal laws of a State or political subdivision, when such investigation is requested by the head of the agency employing the official or employee killed, and under such guidelines as the Attorney General or his designee may establish.".

(b) Conforming Amendments.—The table of sections of such chapter is amended by adding at the end thereof the following item:

"540. Investigation of felonious killings of State or local law enforcement officers."

SEC. 2653. TRANSPORTATION AND RECEIPT OF STOLEN SECURITIES.

(a) Transmission or Transfer.—The first paragraph of section 2314 of title 18, United States Code, is amended by striking "transports" and inserting "transports, transmits, or transfers".

(b) Inapplicability of Section.—The final paragraphs of sections 2314 and 2315 of title 18, United States Code, are amended—

(1) by striking "or by a bank or corporation of any foreign country"; and

(2) by adding at the end thereof: "This section also shall not apply to any falsely made, forged, altered, counterfeited, or spurious representation of any bank note or bill issued by a bank or corporation of any foreign country which is intended by the laws or usage of such country to circulate as money.".

SEC. 2654. MAXIMUM PENALTY ADJUSTMENTS.

(a) Abusive Sexual Contact.—Section 2244(a) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "five years" and inserting "ten years"; and

(2) in paragraph (3) by striking "one year" and inserting "two years".

(b) Murder for Hire.—Section 1958 of title 18, United States Code, is amended by striking "five years" and inserting "ten years".

(c) Involuntary Manslaughter.—Section 1112(b) of title 18, United States Code, is amended by striking "shall be fined not more than $1,000 or imprisoned not more than three years, or both" and inserting "shall be imprisoned not more than five years, or fined under this title, or both".

(d) Attempted Murder.—Section 1113 of title 18, United States Code, is amended by striking "shall be fined not more than $1,000 or imprisoned not more than three years, or both" and inserting "shall, for an attempt to commit murder be imprisoned not more than twenty years, or fined under this title, or both, and for an attempt to commit manslaughter be imprisoned not more than three years, or fined under this title, or both."

(e) Accessory After the Fact.—Section 3 of title 18, United States Code, is amended by striking "ten" and inserting "twenty-five".

(f) Racketeering Influenced and Corrupt Organizations.—Section 1963(a) of title 18, United States Code, is amended by striking "shall be fined not more than $25,000 or imprisoned not more than twenty years, or both" and inserting "shall be fined under this title and imprisoned for not more than twenty years (or for life, if the violation is predicated on an offense for which the maximum penalty includes life in prison), or both".

SEC. 2655. BALLISTIC KNIFE ACT JURISDICTIONAL CLARIFICATIONS.

The Ballistic Knife Prohibition Act of 1986 (15 U.S.C. 1245) is amended—

(1) by striking "knowingly possesses, manufactures, sells, or imports" and inserting "in or affecting interstate commerce, within any Territory or possession of the United States, within Indian country (as defined in section 1151 of title 18), or within the special maritime and territorial jurisdiction of the United States (as defined in section 7 of title 18), knowingly possesses, manufactures, sells, or imports"; and

(2) by striking "or State" before "crime of violence".

SEC. 2656. COMMON CARRIER OPERATION AMENDMENTS.

(a) Definitional Refinement.—Section 342 of title 18, United States Code, is amended by striking "drugs" and inserting "any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))".

(b) Conformance of Fine Level.—Section 342 of title 18, United States Code, is amended by striking "fined not more than $10,000," and inserting "fined under this title,".

(c) Limitation and Clarification of Presumptions.—Section 343 of title 18, United States Code, is amended—

(1) in paragraph (1) by striking ".10" and inserting ".10 percent" and by striking "conclusively"; and

(2) in paragraph (2) by striking "conclusively".

SEC. 2657. EXPLOSIVES OFFENSES AMENDMENTS.

(a) Expansion of Offense to Certain Airports and Strengthening of Penalty.—Section 844(g) of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting "(1) Except as provided in paragraph (2), whoever";

(2) by inserting "in an airport that is subject to the regulatory authority of the Federal Aviation Administration, or" after "possesses an explosive";

(3) by inserting "or airport" after "such building";

(4) by striking "not more than one year, or fined not more than $1,000, or both" and inserting "not more than five years, or fined under this title, or both"; and

(5) by adding at the end thereof the following:

"(2) The provisions of this subsection shall not be applicable to—

"(A) the possession of ammunition (as that term is defined in regulations issued pursuant to this chapter) in an airport that is subject to the regulatory authority of the Federal Aviation Administration if such ammunition is either in checked baggage or in a closed container; or

"(B) the possession of an explosive in an airport if the packaging and transportation of such explosive is exempt from, or subject to and in accordance with, regulations of the Research and Special Projects Administration for the handling of hazardous materials pursuant to the Hazardous Materials Transportation Act (49 App. U.S.C. 1801, et seq.).".

(b) Strengthening Offense of Using or Carrying an Explosive in Commission of a Federal Felony.—Section 844(h) of title 18, United States Code, is amended—

(1) by striking "unlawfully" in paragraph (2); and

(2) by striking "shall be sentenced" through the remainder of the subsection and inserting the following:

"including a felony which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device shall, in addition to the punishment provided for such felony, be sentenced to imprisonment for five years. In the case of a second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for ten years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the felony in which the explosive was used or carried.".

(c) Conforming Definitional Change.—Section 842(d)(5) of title 18, United States Code, is amended to read as follows:

"(5) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).".

(d) Conforming Definitional Change.—Section 842(i)(3) of title 18, United States Code, is amended to read as follows:

"(3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).".

SEC. 2658. INTERSTATE AGREEMENT ON DETAINERS ACT AMENDMENTS.

The Interstate Agreement on Detainers Act (84 Stat. 1397) is amended by adding at the end thereof the following new section:

"§ 9. Special Provisions when United States is a Receiving State

Notwithstanding any provision of the agreement on detainers to the contrary, in a case in which the United States is a receiving State—

"(1) any order of a court dismissing any indictment, information, or complaint may be with or without prejudice. In determining whether to dismiss the case with or without prejudice, the court shall consider, among others, each of the following factors: The seriousness of the offense; the facts and circumstances of the case which led to the dismissal; and the impact of a reprosecution on the administration of the agreement on detainers and on the administration of justice; and

"(2) it shall not be a violation of the agreement on detainers if prior to trial the prisoner is returned to the custody of the sending State pursuant to an order of the appropriate court issued after reasonable notice to the prisoner and the United States and an opportunity for a hearing.".

SEC. 2659. CLARIFICATION OF PROHIBITION OF POSSESSION WITH INTENT TO DISTRIBUTE CONTROLLED SUBSTANCES ON AIRCRAFT.

Section 1010(a)(3) of the Controlled Substances Import and Export Act (21 U.S.C.

960(a)(3)) is amended by striking "manufactures or distributes a controlled substance" and inserting "manufactures, possesses with intent to distribute, or distributes a controlled substance".

SEC. 2660. CLARIFICATION OF DEFINITION OF DRUG TRAFFICKING CRIMES IN WHICH USE OF FIREARMS AND ARMOR PIERCING AMMUNITION IS PROHIBITED.

Paragraph (2) of subsection 924(c) of title 18, United States Code, and paragraph (2) of subsection 929(a) of title 18, United States Code, are each amended to read as follows:

"(2) for purposes of this subsection, the term 'drug trafficking crime' means any felony punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1901 et seq.)."

SEC. 2661. CLERICAL CORRECTIONS RELATING TO CHAPTER 44.

(a) SECTION 924(c) AMENDMENTS.—Paragraph (1) of section 924(c) of title 18, United States Code, is amended—

(1) by striking "crime,," the first place it appears and inserting "crime";

(2) by striking "crime,," each other place it appears and inserting "crime,";

(3) by striking "including a crime" and inserting "(including a crime";

(4) by striking "crime, which" and inserting "crime which";

(5) by striking "device, for" and inserting "device) for"; and

(6) by striking ", or drug trafficking crime".

(b) SECTION 929 AMENDMENT.—Paragraph (1) of section 929(a) of title 18, United States Code, is amended by striking "crime," each place it appears and inserting "crime".

(c) SECTION 922(g) AMENDMENT.—Section 922(g)(3) of title 18, United States Code, is amended by inserting "who" before "is an unlawful user".

(d) SECTION 923 AMENDMENTS.—Section 923 of title 18, United States Code, is amended—

(1) in subsection (a), by striking the period that follows "licensing"; and

(2) in subsection (f)(3), by striking the period that follows a period.

SEC. 2662. INSERTION OF MISSING SUBSECTION HEADING.

Section 2706(c) of title 18, United States Code, is amended by inserting "EXCEPTION.—" after "(c)".

SEC. 2663. INSERTION OF MISSING TABLE.

Chapter 113A of title 18, United States Code, is amended by inserting after the heading of such chapter the following table:

"Sec. 2331. Terrorist acts abroad against United States nationals.".

SEC. 2664. CORRECTION OF ITEMS IN TABLES OF CHAPTERS.

(a) CHAPTER 113A.—The item relating to chapter 113A in the table of sections at the beginning of part I of title 18, United States Code, is amended by striking the final period and inserting ".................2331".

(b) CHAPTER 121.—The item relating to chapter 121 in the table of sections at the beginning of part I of title 18, United States Code, is amended by striking "Wire and Electronic Communications and Transactional Records Access" and inserting "wire and electronic communications and transactional records access".

(c) CHAPTER 17A.—The item relating to chapter 17A in the table of sections at the beginning of part I of title 18, United States Code, is amended by striking "Carrier Operation Under the Influence of Alcohol or Drugs" and inserting "carrier operation under the influence of alcohol or drugs........341".

(d) CHAPTER 109A.—The item relating to chapter 109A in the table of sections at the beginning of part I of title 18, United States Code, is amended by striking "Abuse" and inserting "abuse".

(e) CHAPTER 11.—The item relating to chapter 11 in the table of sections at the beginning of part I of title 18, United States Code, is amended by striking "Bribery and graft" and inserting "Bribery, graft, and conflicts of interest".

SEC. 2665. INSERTION OF MISSING LETTER.

Section 794(d)(4) of title 18, United States Code, is amended by striking "amount" and inserting "amounts".

SEC. 2666. PUNCTUATION CORRECTION.

SECTION 1030.—Section 1030(a)(2) of title 18, United States Code, is amended—

(1) by striking the comma that follows a comma; and

(2) by inserting a comma after "financial institution".

SEC. 2667. REFERENCE CORRECTION.

Section 2232(c) of title 18, United States Code, is amended by inserting "of 1978" after "Surveillance Act".

SEC. 2668. CONFORMING AMENDMENT TO TABLE OF SECTIONS.

The item relating to section 2710 in the table of sections at the beginning of chapter 121 of title 18, United States Code, is amended by inserting "for chapter" after "Definitions".

SEC. 2669. CORRECTION OF ITEM IN TABLE OF SECTIONS FOR CHAPTER 206.

The item relating to section 3123 in the table of sections at the beginning of chapter 206 of title 18, United States Code, is amended by striking "trap or trace" and inserting "trap and trace".

SEC. 2670. CORRECTION OF ITEMS IN TABLE OF SECTIONS FOR CHAPTER 46.

The items in the table of sections at the beginning of chapter 46 of title 18, United States Code, are each amended by striking "Forfeiture" and inserting "forfeiture".

SEC. 2671. CORRECTION OF TYPOGRAPHICAL ERROR.

Section 2422 of title 18, United States Code, is amended by striking "of foreign commerce" and inserting "or foreign commerce".

SEC. 2672. CONFORMING AMENDMENT TO TABLE OF SECTIONS FOR CHAPTER 117.

The item relating to section 2424 in the table of sections at the beginning of chapter 117 of title 18, United States Code, is amended by striking "female" and inserting "individual".

SEC. 2673. ELIMINATION OF CROSS REFERENCES TO REPEALED SECTION.

(a) SECTION 3401.—Section 3401(g) of title 18, United States Code, is amended by striking "and section 4216".

(b) SECTION 3522.—Section 3522(c) of title 18, United States Code, is amended by striking "4216" and inserting "4215".

(c) SECTION 4106.—Section 4106(b) of title 18, United States Code, is amended by striking "4216" and inserting "4215".

SEC. 2674. INSERTION OF MISSING WORD.

Section 3142(c)(3) of title 18, United States Code, is amended by inserting "the" before "order".

SEC. 2675. INSERTION OF MISSING COMMA.

Section 351(a) of title 18, United States Code, is amended by inserting a comma after "(as defined in section 3056 of this title)".

SEC. 2676. CORRECTIONS OF ERRORS IN FEDERAL RULES OF EVIDENCE.

(a) INSERTION OF MISSING WORD.—Rule 615 of the Federal Rules of Evidence is amended by inserting "a" before "party which is not a natural person.".

(b) SYNTAX CORRECTION.—Rule 804(a)(5) of the Federal Rules of Evidence is amended by striking "subdivisions" and inserting "subdivision".

(c) CORRECTION OF CAPITALIZATION.—Rule 1101(a) of the Federal Rules of Evidence is amended—

(1) by striking "Rules" and inserting "rules"; and

(2) by striking "Courts of Appeals" and inserting "courts of appeals".

SEC. 2677. SUPERVISED RELEASE.

Rule 11(c)(1) of the Federal Rules of Criminal Procedure is amended by adding "or term of supervised release" after "special parole term".

SEC. 2678. INJUNCTIONS AGAINST FRAUD.

Section 1345 of title 18, United States Code, is amended by adding "or of section 287, 371 (insofar as it involves a conspiracy to defraud the United States or any agency thereof), or 1001 of this title" after "violation of this chapter,".

SEC. 2679. OBSTRUCTION OF FEDERAL AUDIT.

(a) OFFENSE.—Chapter 73 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1516. Obstruction of Federal audit

"(a) Whoever, with intent to deceive or defraud, endeavors to influence, obstruct, or impede a Federal auditor in the performance of official duties relating to a person receiving in excess of $100,000, directly or indirectly, from the United States in any 1 year period pursuant to a contract or subcontract, shall be fined under this title, or imprisoned not more than 5 years, or both.

"(b) For purposes of this section the term 'Federal auditor' means any person employed on a full or part time or contractual basis to perform an audit or a quality assurance inspection for or on behalf of the United States.".

(b) SECTION ANALYSIS.—The section analysis for chapter 73 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1516. Obstruction of Federal audit.".

SEC. 2680. UNAUTHORIZED USE OF THE TERM "SECRET SERVICE".

(a) UNAUTHORIZED USE.—Section 709 of title 18, United States Code, is amended by inserting after the undesignated paragraph relating to the Federal Bureau of Investigations the following new paragraph:

"Whoever, except with written permission of the Director of the United States Secret Service, knowingly uses the words 'Secret Service', 'Secret Service Uniformed Division', the initials 'U.S.S.S.', 'U.D.', or any colorable imitation of such words or initials, in connection with, or as a part of any advertisement, circular, book, pamphlet or other publication, play, motion picture, broadcast, telecast, other production, product, or item, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet or other publication, product, or item, is approved, endorsed, or authorized by or associated in any manner with, the United States Secret Service, or the United States Secret Service Uniformed Division; or".

(b) Effective Date.—This section shall take effect 90 days after the date of enactment of this Act.

SEC. 2681. AGGREGATION TO PERMIT PROSECUTION OF CERTAIN SCHEMES TO DEFRAUD MULTIPLE VICTIMS.

The second paragraph of section 2314 of title 18, United States Code, is amended by inserting "or persons" after "person" the first place it appears, and by inserting "or those persons" after "person" the second place it appears.

SEC. 2682. TIME FOR REFILING INDICTMENT OR INFORMATION FOLLOWING DISMISSAL.

(a) Indictment Where Defect Found After Period of Limitations.—Section 3288 of title 18, United States Code, is amended—

(1) by inserting after "within six calendar months of the date of the expiration of the applicable statute of limitations" the following: ", or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final";

(2) by striking all beginning with "Whenever" through "for any cause," and inserting "Whenever an indictment or information charging a felony is dismissed for any reason";

(3) by adding at the end thereof the following: "This section is not intended to permit the filing of a new indictment or information where the reason for the dismissal was the failure to file the indictment or information within the period prescribed by the applicable statute of limitations, or some other reason that would bar a new prosecution."; and

(4) by amending the section heading to read as follows:

"§ 3288. Indictments and informations dismissed after period of limitations.".

(b) Indictment Where Defect Found Before Period of Limitations.—Section 3289 of title 18, United States Code, is amended—

(1) by inserting after "within six calendar months of the date of the dismissal of the indictment or information" the following: "or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final";

(2) by striking all beginning with "Whenever" through "for any cause," and inserting "Whenever an indictment or information charging a felony is dismissed for any reason";

(3) by adding at the end thereof the following: "This section is not intended to permit the filing of a new indictment or information where the reason for the dismissal was the failure to file the indictment or information within the period prescribed by the applicable statute of limitations, or some other reason that would bar a new prosecution."; and

(4) by amending the section heading to read as follows:

"§ 3289. Indictments and informations dismissed before period of limitations.".

(c) Chapter Analysis.—The analysis for chapter 213 of title 18, United States Code, is amended by striking the items for sections 3288 and 3289 and inserting the following:

"3288. Indictments and information dismissed after period of limitations.

"3289. Indictments and information dismissed before period of limitations.".

SEC. 2683. RESTARTING OF SPEEDY TRIAL ACT TIME PERIOD FOR DEFENDANTS WHO ABSCOND ON EVE OF TRIAL.

Section 3161 of title 18, United States Code, is amended by adding at the end the following:

"(k)(1) If the defendant is absent (as defined by subsection (h)(3)) on the day set for trial, and the defendant's subsequent appearance before the court on a bench warrant or other process or surrender to the court occurs more than 21 days after the day set for trial, the defendant shall be deemed to have first appeared before a judicial officer of the court in which the information or indictment is pending within the meaning of subsection (c) on the date of the defendant's subsequent appearance before the court.

"(2) If the defendant is absent (as defined by subsection (h)(3)) on the day set for trial, and the defendant's subsequent appearance before the court on a bench warrant or other process or surrender to the court occurs not more than 21 days after the day set for trial, the time limit required by subsection (c), as extended by subsection (h), shall be further extended by 21 days.".

SEC. 2684. CRIMINAL FINES AMENDMENTS.

(a) Application of Government Petition for Modification or Remission of Fines to Old Fines.—Section 3573 of title 18, United States Code, is amended by adding at the end thereof the following: "This section shall apply to all fines and assessments irrespective of the date of imposition.".

(b) Application of Statute of Limitations for Special Assessments to Old Assessments.—Section 3013(c) of title 18, United States Code, is amended by adding at the end thereof the following: "This subsection shall apply to all assessments irrespective of the date of imposition.".

(c) Application of Waiver by Attorney General of Interest or Penalty Relating To Fines to Old Fines.—Section 3612(h) of title 18, United States Code, is amended by inserting "or any interest or penalty relating to a fine imposed under any prior law" after "under this section".

(d) Notice Requirements.—Sections 3612(d) and (e) of title 18, United States Code, are amended by striking ", by certified mail,".

SEC. 2685. SYNTAX CORRECTION TO MINIMUM SENTENCE PROVISION.

Section 994(n) of title 28, United States Code, is amended by striking "as minimum sentence" and inserting "as a minimum sentence".

SEC. 2686. REFUND OF FORFEITED BAIL.

(a) Offense.—Chapter 207 of title 18, United States Code, is amended by adding the following new section after section 3150:

"§ 3151. Refund of forfeited bail

"Appropriations available to refund money erroneously received and deposited in the Treasury are available to refund any part of forfeited bail deposited into the Treasury and ordered remitted under the Federal Rules of Criminal Procedure.".

(b) Section Analysis.—The section analysis for chapter 207 of title 18, United States Code, is amended by inserting at the appropriate place the following new item:

"Sec. 3151. Refund of forfeited bail.".

SEC. 2687. SPECIAL ASSESSMENTS ON PERSONS CONVICTED OF OFFENSES FOR WHICH COLLATERAL MAY BE FORFEITED.

Section 3013 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "The court" and inserting "Except as provided in subsection (d) of this section, the court"; and

(2) by inserting at the end the following new subsection:

"(e) No assessment shall be imposed on any person convicted of an offense for which the local rules of the district court in which the case is pending, or other Federal law, establishes that collateral may be posted in lieu of appearance in court.".

SEC. 2688. CONDITIONS OF PROBATION.

Section 3563(a)(2) of title 18, United States Code, is amended by inserting before the period ", unless the court finds on the record that extraordinary circumstances exist that would make such a condition plainly unreasonable, in which event the court shall impose one or more of the other conditions set forth under subsection (b)".

SEC. 2689. AUTHORITY TO OBTAIN ARREST WARRANT FOR FOREIGN FUGITIVE WHOSE SPECIFIC WHEREABOUTS ARE NOT KNOWN.

Section 3184 of title 18, United States Code, is amended by inserting after the first sentence the following: "Such complaint may be filed before and such warrant may be issued by a judge or magistrate of the United States District Court for the District of Columbia if the whereabouts within the United States of the person charged are not known.".

SEC. 2690. MISUSE OF SOCIAL SECURITY NUMBER.

Section 208 of the Social Security Act (42 U.S.C. 408) is amended—

(1) in the first undesignated paragraph, by striking "not more than $5,000" after "shall be fined";

(2) in the second undesignated paragraph, by striking "not more than $25,000" after "shall be fined"; and

(3) adding at the end the following: "For the purpose of subsection (g), the terms 'social security number' and 'social security account number' mean such numbers as are assigned by the Secretary under section 405(c)(2) of this title whether or not, in actual use, such numbers are called social security numbers.".

SEC. 2691. PETTY OFFENSE AMENDMENTS.

(a) Title 18.—Section 19 of title 18, United States Code, is amended by inserting ", for which the maximum fine is no greater than the amount set forth for such an offense in section 3571(b) (6) or (7) in the case of an individual or section 3571(c) (6) or (7) in the case of an organization" after "infraction".

(b) Rules of Procedure.—Rule 9 of the Rules of Procedure for the Trial of Misdemeanors before United States Magistrates is amended to read as follows:

"Rule 9. Definition

"As used in these rules, 'petty offense' has the meaning set forth in 18 U.S.C. §19.".

(c) Federal Rules of Criminal Procedure.—Rule 54 of the Federal Rules of Criminal Procedure is amended in the definition of "petty offense" to read as follows:

"'Petty offense' has the meaning set forth in 18 U.S.C. §19.".

SEC. 2692. NONMAILABILITY OF LOCKSMITHING DEVICES.

(a) In General.—Title 39, United States Code, is amended by inserting after section 3002 the following:

"§ 3002a. Nonmailability of locksmithing devices.

"(a) Any locksmithing device is nonmailable mail, shall not be carried or delivered by mail, and shall be disposed of as the

Postal Service directs, unless such device is mailed to—

"(1) a lock manufacturer or distributor;

"(2) a bona fide locksmith;

"(3) a bona fide repossessor; or

"(4) a motor vehicle manufacturer or dealer.

"(b) For the purpose of this section, 'locksmithing device' means—

"(1) a device or tool (other than a key) designed to manipulate the tumblers in a lock into the unlocked position through the keyway of such lock;

"(2) a device or tool (other than a key or a device or tool under paragraph (1)) designed for the unauthorized opening or bypassing of a lock or similar security device; and

"(3) a device or tool designed for making an impression of a key or similar security device to duplicate such key or device.".

(b) CHAPTER ANALYSIS.—The analysis for Chapter 30 of title 39, United States Code, is amended by inserting after the item relating to section 3002 the following:

"3002a. Nonmailability of locksmithing devices.".

(c) PENALTIES.—Title 18, United States Code, is amended by inserting after section 1716A the following:

"§ 1716B. Nonmailable locksmithing devices

"Whoever knowingly deposits for mailing or delivery, causes to be delivered by mail, or causes to be delivered by any interstate mailing or delivery other than by the United States Postal Service, any matter declared to be nonmailable by section 3002a of title 39, shall be guilty of a class A misdemeanor.".

(d) CHAPTER ANALYSIS.—The analysis for chapter 83 of title 18, United States Code, is amended by inserting after the item relating to section 1716A the following:

"1716B. Nonmailable locksmithing devices.".

(e) CONFORMING AMENDMENT.—Section 1716A of title 18, United States Code, is amended by striking "shall be fined not more than $1,000, or imprisoned not more than one year, or both" and inserting "shall be guilty of a class A misdemeanor".

SEC. 2693. ASSIMILATIVE CRIMES ACT AMENDMENTS.

(a) PENALTIES FOR OPERATING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF DRUGS OR ALCOHOL.—Section 13 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever"; and

(2) by adding at the end the following:

"(b) For purposes of subsection (a) of this section, that which may or shall be imposed through judicial or administrative action under the law of a State, territory, possession, or district, for a conviction for operating a motor vehicle under the influence of a drug or alcohol, shall be considered to be a punishment provided by that law. Any limitation on the right or privilege to operate a motor vehicle imposed under this subsection shall apply only to the special maritime and territorial jurisdiction of the United States.".

(b) IMPLIED CONSENT FOR CERTAIN TESTS.—(1) Chapter 205 of title 18, United States Code, is amended by adding at the end the following:

"§ 3117. Implied consent for certain tests

"(a) CONSENT.—Whoever operates a motor vehicle in the special maritime and territorial jurisdiction of the United States consents thereby to a chemical test or tests of such person's blood, breath, or urine, if arrested for any offense arising from such person's driving while under the influence of a drug or alcohol in such jurisdiction. The test or tests shall be administered upon the request of a police officer having reasonable grounds to believe the person arrested to have been driving a motor vehicle upon the special maritime and territorial jurisdiction of the United States while under the influence of drugs or alcohol in violation of the laws of a State, territory, possession, or district.

"(b) EFFECT OF REFUSAL.—Whoever, having consented to a test or tests by reason of subsection (a), refuses to submit to such a test or tests, after having first been advised of the consequences of such a refusal, shall be denied the privilege of operating a motor vehicle upon the special maritime and territorial jurisdiction of the United States during the period of a year commencing on the date of arrest upon which such test or tests was refused, and such refusal may be admitted into evidence in any case arising from such person's driving while under the influence of a drug or alcohol in such jurisdiction. Any person who operates a motor vehicle in the special maritime and territorial jurisdiction of the United States after having been denied such privilege under this subsection shall be treated for the purposes of any civil or criminal proceedings arising out of such operation as operating such vehicle without a license to do so.".

(2) The table of sections at the beginning of chapter 205 of title 18, United States Code, is amended by adding at the end the following:

"3117. Implied consent for certain tests."

SEC. 2694. PROTECTION OF FOREIGN OFFICIALS.

Section 112(b)(3) of title 18, United States Code, is amended by striking "but outside the District of Columbia".

SEC. 2695. BAIL PENDING APPEAL.

Section 3143(b) of title 18, United States Code, is amended by—

(1) striking subparagraph (2) and inserting the following:

"(2) that the appeal is not for the purpose of delay and raises a substantial question of law or fact likely to result in—

"(A) reversal,

"(B) an order for a new trial,

"(C) a sentence that does not include a term of imprisonment, or

"(D) a reduced sentence to a term of imprisonment less than the total of the time already served plus the expected duration of the appeal process."; and

(2) inserting before the final period the following: ", except that in the circumstance described in paragraph (b)(2)(D), the judicial officer shall order the detention terminated at the expiration of the likely reduced sentence".

SEC. 2696. EMERGENCY PEN REGISTER AND TRAP AND TRACE DEVICE INSTALLATION.

(a) Chapter 206 of title 18, United States Code is amended—

(1) by renumbering sections 3125 and 3126 as sections 3126 and 3127 respectively; and

(2) by adding after section 3124 the following new section:

"§ 3125 Emergency pen register and trap and trace device installation.

"(a) Notwithstanding any other provision of this chapter, any investigative or law enforcement officer, specially designated by the Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, any acting Assistant Attorney General, or any Deputy Assistant Attorney General, or by the principal prosecuting attorney of any State or subdivision thereof acting pursuant to a statute of that State, who reasonably determines that—

"(1) an emergency situation exists that involves—

"(A) immediate danger of death or serious bodily injury to any person; or

"(B) conspiratorial activities characteristic of organized crime,

that requires the installation and use of a pen register or a trap and trace device before an order authorizing such installation and use can, with due diligence, be obtained, and

"(2) there are grounds upon which an order could be entered under this chapter to authorize such installation and use 'may have installed and use a pen register or trap and trace device if, within forty-eight hours after the installation has occurred, or begins to occur, an order approving the installation or use is issued in accordance with section 3123 of this title.'

"(b) In the absence of an authorizing order, such use shall immediately terminate when the information sought is obtained, when the application for the order is denied or when forty-eight hours have lapsed since the installation of the pen register or trap and trace device, whichever is earlier.

"(c) The knowing installation or use by any investigative or law enforcement officer of a pen register or trap and trace device pursuant to subsection (a) without application for the authorizing order within forty-eight hours of the installation shall constitute a violation of this chapter.

"(d) A provider for a wire or electronic service, landlord, custodian, or other person who furnished facilities or technical assistance pursuant to this section shall be reasonably compensated for such reasonable expenses incurred in providing such facilities and assistance.".

(b)(1) Section 3124(d) of title 18, United States Code, is amended by adding after the words "court order under this chapter" the words "or request pursuant to section 3125 of this title".

(2) Section 3124(e) of title 18, United States Code, is amended by adding after the words "court order" the words "under this chapter, a request pursuant to section 3125 of this title".

(c) The table of sections for chapter 206 of title 18, United States Code, is amended—

(1) by renumbering the items for sections 3125 and 3126 as sections 3126 and 3127, respectively; and

(2) by inserting the following new item: "3125. Emergency pen register and trap and trace device installation".

(d) Section 3124(b) of title 18, United States Code, is amended by adding after the words "shall be furnished" the words ", pursuant to subsection 3123(b) or section 3125 of this title,".

Subtitle L—Sentencing Amendments

SEC. 2701. PRISONERS TRANSFERRED TO THE UNITED STATES.

(a) PRISONERS TRANSFERRED TO THE UNITED STATES.—Chapter 306 of title 18, United States Code, is amended by adding after section 4106 the following new section:

"§ 4106A. Transfer of offenders on parole; parole offenders transferred

"(a) Upon the receipt of an offender who is on parole from the authorities of a foreign country, the Attorney General shall assign the offender to the United States Parole Commission for supervision.

"(b)(1) An offender transferred to the United States to serve a sentence of imprisonment that is longer than the maximum period of time specified in the applicable sentencing guidelines promulgated pursuant to section 994(a)(1) of title 28, United States Code, as determined by the United States Parole Commission upon the recommendation of the United States Probation Service, shall serve in an official detention facility the maximum period of time specified in the applicable sentencing guidelines and shall serve the remainder of the term imposed as a term of supervised release.

"(2) The Parole Commission shall set conditions of supervised release in accordance with section 3583 of this title. Upon the release of the prisoner from confinement and the beginning of the period of supervised release, supervision of the prisoner shall be transferred to the district court of the district where the prisoner resides.

"(3) To the extent permitted by the applicable treaty, a final determination by the Parole Commission as to whether the transferred offender shall serve a term of supervised release and the length of such term may be appealed to the United States court of appeals for the district in which the offender is imprisoned after transfer to the United States, and the court of appeals shall decide and dispose of the appeal in accordance with section 3742 as though the determination appealed had been imposed by the United States district court.

"(4) A determination by the Parole Commission shall be made only after affording the transferred offender an opportunity to submit evidence or information as to the applicable sentencing guideline.

"(c) This section shall apply only to offenses completed on or after November 1, 1987, and the Parole Commission's performance of its responsibilities under this section shall be subject to section 235 of the Comprehensive Crime Control Act of 1984.".

(b) CONFORMING AMENDMENT.—The section analysis at the beginning of chapter 306 of title 18, United States Code, is amended by inserting the following after the item for section 4106:

"4106A. Transfer of offenders on parole; parole of offenders transferred.".

SEC. 2702. RECORDS OTHER THAN TRANSCRIPTS.

Section 3553(c) of title 18, United States Code, is amended by—

(1) inserting after "transcription" the following: "or other appropriate public record"; and

(2) striking "clerk of the" in the last sentence.

SEC. 2703. STANDARD OF REVIEW.

Section 3742 of title 18, United States Code, is amended—

(1) in subsections (a)(2) and (b)(2), by striking "was imposed as a result of an incorrect application of the sentencing guidelines issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)" and inserting "resulted from the use of an inapplicable sentencing guideline range";

(2) in subsection (d)(2), by striking "was imposed as a result of an incorrect application of the sentencing guidelines" and inserting "resulted from the use of an inapplicable sentencing guideline range";

(3) in subsection (e)(1), by striking "imposed as a result of an incorrect application of the sentencing guidelines" and inserting "resulted from the use of an inapplicable sentencing guideline range";

(4) by striking paragraph (3) of subsection (a) and inserting the following:

"(3) is greater than the sentence specified in the applicable guideline range to the extent that the sentence includes a greater fine or term of imprisonment or term of supervised release than the maximum established in the guideline range, or includes a more limiting condition of probation or supervised release under section 3563(b)(6) or (b)(11) than the maximum established in the guideline range; or";

(5) by striking paragraph (3) of subsection (b) and inserting the following:

"(3) is less than the sentence specified in the applicable guideline range to the extent that the sentence includes a lesser fine or term of imprisonment or term of supervised release than the minimum established in the guideline range, or includes a less limiting condition of probation or supervised release under section 3563(b)(6) or (b)(11) than the minimum established in the guideline range; or";

(6) by striking paragraph (4) of subsection (a) and inserting the following:

"(4) was imposed for an offense for which there is no sentencing guideline and is plainly unreasonable.";

(7) in subsection (b)—

(A) by striking paragraph (4) through the end and inserting the following:

"(4) was imposed for an offense for which there is no sentencing guideline and is plainly unreasonable."; and

(B) by inserting after "The Government" the following: ", with the personal approval of the Solicitor General or the Attorney General,";

(8) in subsections (d)(3) and (e)(2), by striking "range of the applicable sentencing guideline" and inserting "applicable sentencing guideline range";

(9) in the second sentence of subsection (d), by inserting "and shall give due deference to the district court's application of the guidelines to the facts" after "clearly erroneous"; and

(10) by inserting a new subsection (c), as follows, and by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively:

"(c) PLEA AGREEMENTS.—In the case of a plea agreement which includes a specific sentence under rule 11(e)(1)(B) or (e)(1)(C) of the Federal Rules of Criminal Procedure, a notice of appeal may not be filed—

"(1) by the defendant under paragraphs (3) or (4) of subsection (a) unless the sentence imposed is greater than the sentence specified in such agreement; and

"(2) by the Government under paragraph (3) or (4) of subsection (b) unless the sentence imposed is less than the sentence specified in such agreement."; and

(11) by adding at the end of the section the following new subsection:

"(h) GUIDELINE NOT EXPRESSED AS A RANGE.—For the purpose of this section, the term 'sentencing guideline range' includes a sentencing guideline range having the same upper and lower limits.".

SEC. 2704. HIRING OUTSIDE COUNSEL.

Section 995(a) of title 28, United States Code, is amended by—

(1) striking "and" at the end of paragraph (21);

(2) striking the period at the end of paragraph (22) and inserting "; and"; and

(3) adding at the end thereof the following:

"(23) retain private attorneys to provide legal advice to the Commission in the conduct of its work, or to appear for or represent the Commission in any case in which the Commission is authorized by law to represent itself, or in which the Commission is representing itself with the consent of the Department of Justice; and the Commission may in its discretion pay reasonable attorney's fees to private attorneys employed by it out of its appropriated funds. When serving as officers or employees of the United States, such private attorneys shall be considered special government employees as defined in section 202(a) of title 18; and".

SEC. 2705. POWERS OF THE COMMISSION.

Section 995(a)(2) of title 28, United States Code, is amended by striking "grade 18 of the General Schedule pay rates (5 U.S.C. §5332)" and inserting "Level 6 of the Senior Executive Service Schedule (5 U.S.C. §5382)".

SEC. 2706. GRANTING INCENTIVE AWARDS.

(a) DEFINED AS AGENCY.—Section 4501(1) of title 5, United States Code, is amended by—

(1) striking "and" at the end of subparagraph (F);

(2) adding "and" at the end of subparagraph (G); and

(3) adding at the end thereof the following:

"(H) the United States Sentencing Commission;".

(b) POWERS OF COMMISSION.—Section 995(a) of title 28, United States Code, is amended by adding at the end thereof the following:

"(24) grant incentive awards to its employees pursuant to chapter 45 of title 5, United States Code.".

(c) INCENTIVE AWARDS.—Section 996(b) of title 28, United States Code, is amended by inserting before "81", the following: "45 (Incentive Awards),".

SEC. 2707. TECHNICAL CORRECTION.

Section 3582(c) of title 18, United States Code, is amended by striking "28 U.S.C. 994(n)" and inserting "28 U.S.C. 994(o)".

SEC. 2708. PROTECTION OF PUBLIC.

(a) CONDITIONS.—Section 3583(d) of title 18, United States Code, is amended—

(1) in paragraph (1) by inserting "(a)(2)(C)," after "(a)(2)(B),"; and

(2) in paragraph (2) by inserting "(a)(2)(C)," after "(a)(2)(B),".

(b) MODIFICATIONS OR REVOCATION.—Section 3583(e) of title 18, United States Code, is amended by inserting "(a)(2)(C)," after "(a)(2)(B),".

SEC. 2709. AUTHORITY TO AMEND ANNUAL REPORT.

Section 994(p) of title 28, United States Code, is amended by adding at the end the following: "During the reporting period prescribed in this subsection, the Commission may submit more than one report, and may amend a report, in whole or in part. In the case of an amended report, the one hundred and eighty day period shall run from the date the amended report is submitted to Congress, except that the Commission may specify that the one hundred and eighty day period with respect to the unamended portion of a partially amended report shall run from the date of the initial submission.".

SEC. 2710. CLARIFICATION OF RESTITUTION PROVISION.

Section 3563(b)(3) of title 18, United States Code, is amended by striking "3556" and inserting "3663 and 3664 (but not subject to the limitations of 3663(a))".

SEC. 2711. AMENDMENT TO RULE 4, RULES OF APPELLATE PROCEDURE.

Rule 4(b) of the Rules of Appellate Procedure is amended—

(1) in the first sentence, by inserting "(i)" after "entry of", and inserting "or (ii) a notice of appeal by the Government" at the end; and

(2) in the sentence beginning "When an appeal by the government is authorized", by inserting "(i) after "entry of", and inserting "or (ii) a notice of appeal by any defendant" at the end.

Subtitle M—Miscellaneous

SEC. 2751. MARIHUANA PLANTS.

Section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended—

(1) in paragraph (A)(vii), by inserting ", or 1,000 or more marihuana plants regardless of weight" after "containing a detectable amount of marihuana";

(2) in paragraph (B)(vii), by inserting ", or 100 or more marihuana plants regardless of weight" after "containing a detectable amount of marihuana"; and

(3) in paragraph (D) by striking out "100 or more marihuana plants" and inserting in lieu thereof "50 or more marihuana plants".

SEC. 2752. FINES FOR SIMPLE POSSESSION.

Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended—

(1) in the second sentence—

(A) by striking out "but not more than $5,000";

(B) by striking out "but not more than $10,000"; and

(C) by striking out "but not more than $25,000".

SEC. 2753. CONTINUING CRIMINAL ENTERPRISE.

(a) INCREASED PENALTIES.—Section 408(a) of the Controlled Substances Act is amended by—

(1) striking "10 years" and inserting "20 years"; and

(2) striking "20 years" and inserting "30 years".

(b) REDESIGNATION.—Subsections (d) and (e) of section 408 of the Controlled Substances Act are redesignated as (c) and (d).

SEC. 2754. COMMON CARRIER OPERATION UNDER THE INFLUENCE OF ALCOHOL OR DRUGS.

(a) LOCOMOTIVES.—Section 341 of title 18, United States Code, is amended by adding after "means a" the following: "locomotive, a".

(b) MAXIMUM PENALTY.—Section 342 of title 18, United States Code, is amended by striking "five" and inserting "fifteen".

(c) SENTENCING GUIDELINES.—(1) Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that—

(A) a defendant convicted of violating section 342 of title 18, United States Code, under circumstances in which death results, shall be assigned an offense level under chapter 2 of the sentencing guidelines that is not less than level 26; and

(B) a defendant convicted of violating section 342 of title 18, United States Code, under circumstances in which serious bodily injury results, shall be assigned an offense level under chapter 2 of the sentencing guidelines that is not less than level 21.

(2) If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in paragraph (1) so as to achieve a comparable result.

SEC. 2756. ALIEN WITNESS COOPERATION ACT.

(a) IN GENERAL.—Chapter 204 of title 18, United States Code, is amended by—

(1) redesignating section 3077 as section 3078;

(2) adding at the end of section 3076 the following new sentence: "An officer or employee of any governmental entity is eligible for treatment under this section.";

(3) inserting a new section 3077 after section 3076:

"§ Aliens; waiver of admission requirements

"If the information which would justify a reward under this chapter or under section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708) is furnished by an alien, the Attorney General, after consulting with the Secretary of State, may determine that the admission of such alien into the United States is in the public interest and, in that event, such alien and the members of his immediate family may receive immigrant visas and may be admitted to the United States for permanent residence without regard to their inadmissibility under the immigration or any other laws or regulations or the failure to comply with such laws and regulations: *Provided,* That the number of aliens and members of their immediate families admitted to the United States under the authority of this section shall not exceed 50 individuals in any one fiscal year. An officer or employee of any governmental entity is eligible for treatment under this section."; and

(4) in section 3078(4)(B) as redesignated, striking the words "section 3073" and substituting in lieu thereof "section 3077".

(b) DEFINITIONS.—The analysis for chapter 204 of title 18, United States Code, is amended by—

(1) striking the word "Definitions"and substituting in lieu thereof "Aliens; waiver of admission requirements"; and

(2) adding at the end of the analysis this new item:

"3078. Definitions.".

(c) PAYMENT CLARIFICATION.—Subsection 201(d) of title 18, United States Code, is amended by striking the words "provided by law" and inserting in lieu thereof the phrase ", payments, benefits or otherwise which are authorized by and provided in accordance with provisions of law".

SEC. 2757. AMENDMENT TO THE FEDERAL RULES OF CRIMINAL PROCEDURE.

The Federal Rules of Criminal Procedure are amended by adding after Rule 12.2 the following:

"Rule 12.3. Notice of Defense Based Upon Public Authority

"(a) NOTICE BY DEFENDANT; GOVERNMENT RESPONSE; DISCLOSURE OF WITNESSES.—

"(1) DEFENDANT'S NOTICE AND GOVERNMENT'S RESPONSE.—A defendant intending to claim a defense of actual or believed exercise of public authority on behalf of a law enforcement or Federal intelligence agency at the time of the alleged offense shall, within the time provided for the filing of pretrial motions or at such later time as the court may direct, serve upon the attorney for the Government a written notice of such intention and file a copy of such notice with the clerk. Such notice shall identify the law enforcement or Federal intelligence agency and any member of such agency on behalf of which and the period of time in which the defendant claims the actual or believed exercise of public authority occurred. If the notice identifies a Federal intelligence agency, the copy filed with the clerk shall be under seal. Within ten days after receiving the defendant's notice, but in no event less than twenty days before the trial, the attorney for the Government shall serve upon the defendant or the defendant's attorney a written response which shall admit or deny that the defendant exercised the public authority identified in the defendant's notice.

"(2) DISCLOSURE OF WITNESSES.—At the time that the Government serves its response to the notice or thereafter, but in no event less than twenty days before the trial, the attorney for the Government may serve upon the defendant or the defendant's attorney a written demand for the names and addresses of the witnesses, if any, upon whom the defendant intends to rely in establishing the defense identified in the notice. Within seven days after receiving the Government's demand, the defendant shall serve upon the attorney for the Government a written statement of the names and addresses of any such witnesses. Within seven days after receiving the defendant's written statement, the attorney for the Government shall serve upon the defendant or the defendant's attorney a written statement of the names and addresses of the witnesses, if any, upon whom the Government intends to rely in opposing the defense identified in the notice.

"(3) ADDITIONAL TIME.—If good cause is shown, the court may allow a party additional time to comply with any obligation imposed by this rule.

"(b) CONTINUING DUTY TO DISCLOSE.—If, prior to or during trial, a party learns of any additional witness whose identity, if known, should have been included in the written statement furnished under subdivision (a)(2) of this rule, that party shall promptly notify in writing the other party or the other party's attorney of the name and address of any such witness.

"(c) FAILURE TO COMPLY.—If a party fails to comply with the requirements of this rule, the court may exclude the testimony of any undisclosed witness offered in support of or in opposition to the defense, or enter such other order as it deems just under the circumstances. This rule shall not limit the right of the defendant to testify.

"(d) PROTECTIVE PROCEDURES UNAFFECTED.—This rule shall be in addition to and shall not supersede the authority of the court to issue appropriate protective orders, or the authority of the court to order that any pleading be filed under seal.

"(e) INADMISSIBILITY OF WITHDRAWN DEFENSE BASED UPON PUBLIC AUTHORITY.—Evidence of an intention as to which notice was given under subdivision (a), later withdrawn, is not, in any civil or criminal proceeding, admissible against the person who gave notice of the intention.

SEC. 2758. JURISDICTION OVER FEDERAL LANDS.

(a) FINDINGS.—Congress finds that—

(1) the States have law enforcement jurisdiction over approximately 97 percent of federally owned property in the United States;

(2) the States lack jurisdiction to enforce the law on the remaining 3 percent of federally owned property which is subject to exclusive or partial Federal jurisdiction;

(3) to a large extent, exclusive Federal jurisdiction of these parcels results from historical accident, and is unrelated to the use of which the property is being put;

(4) the parcels of federally owned property comprising this 3 percent often are scat-

tered in checkerboard fashion almost at random throughout Federal properties intermixed almost at random with parcels subject to concurrent Federal and State jurisdiction and parcels subject solely to State jurisdiction;

(5) as a result, effective criminal law enforcement on these properties is seriously hampered;

(6) many problems resulting from the jurisdictional maze can be resolved by conferring upon the States criminal law enforcement jurisdiction over the 3 percent of properties currently under executive or partial Federal jurisdiction;

(7) for a very limited number of installations or portions of them, extension of such criminal law enforcement jurisdiction to the States may be inappropriate due to unique military concerns which require exclusive Federal jurisdiction to ensure the proper performance of military functions, missions, and tasks on those properties;

(8) the need for exclusive jurisdiction may change from time to time as the purposes to which installations are dedicated or other conditions change;

(9) on federally owned property over which both the United States and a State have law enforcement jurisdiction, enforcement emergencies arise periodically, albeit infrequently, which involve immediate danger of death or serious physical injury, e.g., a prison riot or hostage situation; and

(10) such law enforcement emergencies require decisive and coordinated action which is best achieved when a single level of government has clear-cut control over the law enforcement response.

(b) In General.—Chapter 1 of title 18, United States Code, is amended by adding after section 19 the following new section:

"§ 20. State criminal laws applicable on Federal enclaves

"(a) The criminal laws of a State and political subdivision thereof shall apply respectively on all Federal property within the State and subdivision thereof. For this purpose the States and their political subdivisions are hereby given jurisdiction to enforce such laws subject to the absolute discretion of a commanding officer of a military installation or the chief Federal operating officer of a nuclear facility of the Department of Energy to restrict the entry of persons, including law enforcement officers of a State or political subdivision thereof, upon the installation or facility.

"(b) The Secretary of Defense, the Secretary of a military department, or (with respect to a facility of the Coast Guard when it is operating as a Service in the Department of Transportation) the Secretary of Transportation, may from time to time exempt from the operation of subsection (a), by regulation, those military installations or parts thereof that are subject to the exclusive jurisdiction of the United States and with respect to which exclusive Federal criminal jurisdiction is required by the peculiar nature of the military operation conducted thereon or the need to avoid undue interference with the purpose of any activity or project at the installation.

"(c)(1) Nothing in this section shall, in any way, limit the existing jurisdiction of the United States over any property described herein or confer on a State or political subdivision thereof any power to interfere with Federal functions or any additional power to tax not expressly provided for elsewhere in Federal law. The laws of States and political subdivisions thereof made applicable on Federal property by this section shall not apply to the United States or any instrumentality thereof or to officials or employees of the United States while acting in the reasonable belief that they are acting in the performance of their duties or scope of employment.

"(2) Nothing in this section shall impose upon a State or political subdivision thereof any obligation to exercise jurisdiction over the Federal property described herein or create any right or defense for any person charged with a criminal offense in any Federal or State court.

"(d) When the criminal activity occurring on federally owned land involves immediate danger of death or serious physical injury to a person, and both the United States and a State have criminal law enforcement jurisdiction over that property, the Attorney General or the Deputy Attorney General of the United States is authorized to declare, based on his judgment, a law enforcement emergency, thereby suspending the exercise of police powers by the State over the particular criminal activity, except that the State may exercise those police powers necessary to respond to specific requests for assistance made by the Federal Bureau of Investigation. A declaration under this subsection shall be subject to the following conditions:

"(1) The authority to issue such a declaration may not be delegated.

"(2) The declaration is to be in writing and is to specify with particularity the criminal activity which constitutes the law enforcement emergency.

"(3) Unless sooner withdrawn, the declaration remains in effect for a period of 72 hours. In the event the particular criminal activity continues, the declaration may be renewed by the Attorney General or Deputy Attorney General, in increments not to exceed 72 hours, until the criminal activity has been brought to a conclusion.

"(4) The declaration of a law enforcement emergency does not deprive the State of its jurisdiction to prosecute persons responsible for the criminal activity which was the subject of such declaration.

"(e) For purposes of this section—

"(1) the term 'Federal property' includes all real property owned, leased, or used by the United States that is included within the part of the 'special maritime territorial jurisdiction of the United States' described in paragraph (3) of section 7 of this title, but does not include the Indian country as defined in section 1151 of this title;

"(2) the term 'criminal law' includes regulations which provide for a criminal sanction of for both a criminal and administrative sanction; and

"(3) the term 'military installation' means any property described in paragraph (1) that is under the administrative control of—

"(A) the Department of Defense or one or more military departments of the Department of Defense; or

"(B) the Coast Guard.".

(c) Amendment to Chapter Analysis.—The chapter analysis for chapter 1 of title 18, United States Code, is amended by adding after the item pertaining to section 19, the following:

"20. State criminal laws applicable on Federal enclaves.".

(d) Effective Date.—The provisions of this section, with the exception of proposed subsection 20(b) of title 18, United States Code, shall become effective 120 days after the date of enactment of this section.

SEC. 2759. WITNESS SERVING SENTENCE ABROAD.

(a) In General.—Chapter 223 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3508. Custody and return of foreign witnesses

"(a) When the testimony of a person who is serving a sentence, is in pretrial detention, or is otherwise being held in custody, in a foreign country, is needed in a State or Federal criminal proceeding, the Attorney General shall, when he deems it appropriate in the exercise of his discretion, have the authority to request the temporary transfer of that person to the United States for the purposes of giving such testimony, to transport such person to the United States in custody, to maintain the custody of such person while he is in the United States, and to return such person to the foreign country.

"(b) Where the transfer to the United States of a person in custody for the purposes of giving testimony is provided for by treaty or convention, by this section, or both, that person shall be returned to the foreign country from which he is transferred. In no event shall the return of such person require any request for extradition or extradition proceedings, or proceedings under the immigration laws.

"(c) Where there is a treaty or convention between the United States and the foreign country in which the witness is being held in custody which provides for the transfer, custody and return of such witnesses, the terms and conditions of that treaty shall apply. Where there is no such treaty or convention, the Attorney General may exercise the authority described in paragraph (a) if both the foreign country and the witness give their consent.".

(b) Table of Contents.—The table of contents for chapter 223 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"3508. Custody and return of foreign witnesses.".

SEC. 2760. NATIONAL FOREST SYSTEM SAFETY.

(a) Findings.—Congress finds that—

(1) National Forest System lands continue to be a haven for the unlawful production of marijuana and other controlled substances, which—

(A) endangers the public through their use of National Forest System lands;

(B) interferes with the ability of the Forest Service to effectively manage the natural resources and activities within the National Forest System; and

(C) causes damage and destruction of the natural resources and facilities managed by the Forest Service;

(2) the unlawful production of marijuana and other controlled substances often—

(A) is generally harmful to the environment and public health and safety;

(B) pollutes the air, soil, and water; and

(C) is harmful to wildlife;

(3) the Forest Service needs additional authority to adequately deal with the problem of controlled substance production that affect the administration of the National Forest System;

(4) the Forest Service needs to be able to exercise its investigative authorities outside the boundaries of the National Forest System for drug-related crimes arising from within the National Forest System in order to be effective in deterring such crime;

(5) the authority and powers of the Forest Service are not intended to be in conflict or interfere with the statutory authority,

powers, or responsibilities of any State or political subdivision thereof; and

(6) the Forest Service, in the exercise of the law enforcement powers possessed by such, should cooperate to every extent possible with any other Federal, State or local law enforcement having jurisdiction in areas where National Forests are located, particularly where coordinated investigative and enforcement actions can be effective to control crime which affects multiple agencies.

(b) POWERS.—Section 15003 of the National Forest System Drug Control Act of 1986 (16 U.S.C. 559c) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking out "500 officers and employees" and inserting in lieu thereof "1,000 special agents and law enforcement officers"; and

(B) by striking out "within the boundaries of the National Forest System;

(2) in paragraph (2)—

(A) by inserting after "conduct," the following: "within the exterior boundaries of the National Forest System,"; and

(B) by adding at the end thereof the following: "and to conduct such investigations and enforcement actions outside the exterior boundaries of the National Forest System when cross designated by the Attorney General and when in immediate pursuit of such persons suspected of such offenses who are fleeing the National Forest System to avoid arrest;" and

(3) in paragraph (3), by adding at the end the following: "except that such arrests must arise out of an offense committed within the National Forest System, or which affects the administration of the National Forest System;".

(c) COOPERATION.—Section 15004 of the National Forest System Drug Control Act of 1986 (16 U.S.C. 559d) is amended—

(1) in paragraph (1), by striking out "and" at the end thereof;

(2) in paragraph (2), by striking out within the boundaries of the National Forest System." and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(3) the Forest Service shall cooperate with the Attorney General in carrying out the seizure and forfeiture provisions of section 881 of the Controlled Substances Act (21 U.S.C. 841) as such activity relates to the manufacture, distribution, or dispensing of marijuana or other controlled substances within the National Forest System;

"(4) the Secretary of Agriculture is authorized to designate law enforcement officers of any other Federal agency, when the Secretary determines such to be economical and in the public interest, and with the concurrence of that agency, to exercise the powers and authorities of the Forest Service while assisting the Forest Service in the National Forest System, or for activities administered by the Forest Service; and

"(5) the Forest Service is authorized to accept law enforcement designation from any other Federal or State agency or political subdivision thereof for the purpose of cooperating, as part of multi-agency task force operations, in the investigation and enforcement of laws and regulations of any other Federal or State agency or political subdivision thereof that when violated involve dual jurisdictions.".

(d) PENALTY.—Chapter 91 of Title 18, United States Code, is amended by adding at the end thereof the following new section:

"SEC. 1864. HAZARDOUS, INJURIOUS DEVICES ON PUBLIC LANDS.

"(a) PROHIBITED ACTS.—

"(1) IN GENERAL.—Any individual who—

"(A) places or causes to be placed on any Federal lands, or on any Indian reservation, or any Indian allotment while the title to such shall be held in trust by the Federal government or while the same shall remain inalienable by the allottee without the consent of the United States, any hazardous or injurious device that is designed to cause bodily injury or property damage as a result of the action of any person who comes into contact with such device; or

"(B) disrupts or interferes, or attempts to disrupt or interfere with the administration of any Federal public lands, or the authorized use of such lands, or with the lawful use, removal, harvest, or processing of any timber, mineral, soil, water, or other natural resource belonging to, or under the control of the United States, by placing or causing to be placed any hazardous or injurious device at any place where any person may be injured or the property of another damaged while any such individual or property is engaged in the administration or lawful use of such lands, or the lawful removal, harvest, or processing of any such timber, mineral, soil, water, or other natural resource;

shall be fined not more than $30,000 or imprisoned for not more than 5 years, or both.

"(2) INJURY OR DAMAGE.—Any individual who, in violating paragraph (1), injures any individual or damages the property of another, shall be fined not more than $200,000 or imprisoned for not more than 10 years, or both.

"(3) PRIOR CONVICTIONS.—If an individual commits a violation under paragraphs (1) or (2) after one or more prior convictions under such subsection, such person shall be fined not more than $500,000 or imprisoned for not more than 20 years, or both.

"(b) DEFINITION.—As used in this section, the term 'hazardous or injurious device' shall mean any device, which when assembled or placed, is designed to cause bodily injury, or damage to property by the action of any person making contact with such device. Such term includes guns attached to trip wires or other triggering mechanisms, ammunition attached to trip wires or other triggering mechanisms, or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, lines or wires, lines or wires with hooks attached, nails placed so that the sharpened ends are positioned in an upright manner, or tree spiking devices including spikes, nails, or other objects hammered, driven, fastened, or otherwise placed into or on any timber, whether or not severed from the stump.

"(c) EXCEPTION.—This section shall not apply to the use of any hazardous or injurious device authorized by State or Federal law.".

(e) CRIMINAL PENALTY FOR POLLUTING.—Section 401(e) of the Controlled Substances Act (21 U.S.C. 841(e)) is amended by adding at the end thereof the following new paragraph:

"(4) Any person who, in the course of committing or attempting to commit an act in violation of subsection (a)(1), places or causes to be placed any poison or other chemical substance that pollutes or could pollute a stream, river, pond, lake, or other body of water, or that is harmful to humans, wildlife, domestic animals, natural resources, or the environment on Federal lands, shall be sentenced to a term of not more than 5 years or shall be fined not more than $10,000, or both.".

SEC. 2761. UNITED STATES MARSHAL.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Chapter 37 of title 28, United States Code, is amended by striking out sections 561 through 571 and inserting in lieu thereof the following:

"§ 561. United States Marshals Service

"(a) There is hereby established a United States Marshals Service as a bureau within the Department of Justice under the authority and direction of the Attorney General. There shall be at the head of the United States Marshals Service (hereafter in this chapter referred to as the 'Service') a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

"(b) The Director of the United States Marshals Service (hereafter in this chapter referred to as the 'Director') shall, in addition to the powers and duties set forth in this chapter, exercise such other functions as may be delegated by the Attorney General.

"(c) The President shall appoint, by and with the advice and consent of the Senate, a United States marshal for each judicial district of the United States and for the Superior Court of the District of Columbia, except that any marshal appointed for the Northern Mariana Islands may at the same time serve as marshal in another judicial district. Each United States marshal shall be an official of the Service and shall serve under the direction of the Director.

"(d) Each marshal shall be appointed for a term of four years. A marshal shall, unless that marshal has resigned or been removed by the President, continue to perform the duties of that office after the end of that 4-year term until a successor is appointed and qualifies.

"(e) The Director shall designate places within a judicial district for the official station and offices of each marshal. Each marshal shall reside within the district for which such marshal is appointed, except that—

"(1) the marshal for the District of Columbia, for the Superior Court of the District of Columbia, and for the Southern District of New York may reside within 20 miles of the district for which the marshal is appointed; and

"(2) any marshal appointed for the Northern Mariana Islands who at the same time is serving as marshal in another district may reside in such other district.

"(f) The Director is authorized to appoint and fix the compensation of such employees as are necessary to carry out the powers and duties of the Service and may designate such employees as law enforcement officers in accordance with such policies and procedures as the Director shall establish pursuant to the applicable provisions of title 5 and regulations issued thereunder.

"(g) The Director shall supervise and direct the United States Marshals Service in the performance of its duties.

"(h) The Director may administer oaths and may take affirmations of officials and employees of the Service, but shall not demand or accept any fee or compensation therefor.

"(i) There are authorized to be appropriated such sums as may be necessary to carry out the functions of the Service.

"§ 562. Vacancies

"(a) In the case of a vacancy in the office of a United States marshal, the Attorney General may designate a person to perform the functions of and act as marshal, except that the Attorney General may not designate to act as marshal any person who was appointed by the President to that office but with respect to such appointment the Senate has refused to give its advice and consent.

"(b) A person designated by the Attorney General under subsection (a) may serve until the earliest of the following events:

"(1) The entry into office of a United States marshal appointed by the President, pursuant to section 561(c).

"(2) The expiration of the thirtieth day following the end of the next session of the Senate.

"(3) If such designee of the Attorney General is appointed by the President pursuant to section 561(c), but the Senate refuses to give its advice and consent to the appointment, the expiration of the thirtieth day following such refusal.

"§ 563. Oath of office

"The Director and each United States marshal and law enforcement officer of the Service, before taking office, shall take an oath or affirmation to faithfully execute the duties of that office.

"§ 564. Powers as sheriff

"United States marshals, deputy marshals and such other officials of the Service as may be designated by the Director, in executing the laws of the United States within a State, may exercise the same powers which a sheriff of the State may exercise in executing the laws thereof.

"§ 565. Expenses of the service

"The Director is authorized to use funds appropriated for the Service to make payments for expenses incurred pursuant to personal services contracts and cooperative agreements, authorized by the Attorney General, for security guards and for the service of summons on complaints, subpoenas, and notices in lieu of services by United States marshals and deputy marshals.

"§ 566. Powers and duties

"(a) It is the primary role and mission of the United States Marshals Service to provide for the security and to obey, execute, and enforce all orders of the United States District Courts, the United States Courts of Appeals and the Court of International Trade.

"(b) The United States marshal of each district is the marshal of the district court and of the court of appeals when sitting in that district, and of the Court of International Trade holding sessions in that district, and may, in the discretion of the respective courts, be required to attend any session of court.

"(c) Except as otherwise provided by law or Rule of Procedure, the United States Marshals Service shall execute all lawful writs, process, and orders issued under the authority of the United States, and shall command all necessary assistance to execute its duties.

"(d) Each United States marshal, deputy marshal, and any other official of the Service as may be designated by the Director may carry firearms and make arrests without warrant for any offense against the United States committed in his or her presence, or for any felony cognizable under the laws of the United States if he or she has reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

"(e)(1) The United States Marshals Service is authorized to—

"(A) provide for the personal protection of Federal jurists, court officers, witnesses, and other threatened persons in the interests of justice where criminal intimidation impedes on the functioning of the judicial process or any other official proceeding; and

"(B) investigate such fugitive matters, both within and outside the United States, as directed by the Attorney General.

"(2) Nothing in this subsection shall be construed to interfere with or supersede the authority of other Federal agencies or bureaus.

"(f) In accordance with procedures established by the Director, and except for public money deposited under section 2041 of this title, each United States marshal shall deposit public moneys that the marshal collects into the Treasury, subject to disbursement by the marshal. At the end of each accounting period, the earned part of public moneys accruing to the United States shall be deposited in the Treasury to the credit of the appropriate receipt accounts.

"(g) Prior to resignation, retirement, or removal from office—

"(1) a United States marshal shall deliver to the marshal's successor all prisoners in his custody and all unserved process; and

"(2) a deputy marshal shall deliver to the marshal all process in the custody of the deputy marshal.

"(h) The United States marshals shall pay such office expenses of United States Attorneys as may be directed by the Attorney General.".

(2) ADDITIONAL AMENDMENTS.—Chapter 37 of title 28, United States Code, is amended—

(A) by striking out sections 572a, 573, and 574; and

(B) by redesignating sections 572, 575, and 576 as sections 567, 568, and 569, respectively.

(3) CONFORMING AMENDMENTS.—The chapter heading for chapter 37 of title 28, United States Code, and the table of sections at the beginning of such chapter, are amended to read as follows:

"Chapter 37—United States Marshals Service

"Sec.

"561. United States Marshals Service.
"562. Vacancies.
"563. Oath of office.
"564. Powers as sheriff.
"565. Expenses of the Service.
"566. Powers and duties.
"567. Collection of fees; accounting.
"568. Practice of law prohibited.
"569. Reemployment rights.".

(b) OTHER AMENDMENT.—Section 755 of title 28, United States Code, is amended by striking out the third paragraph.

(c) MARSHALS' FEES.—Section 1921 of title 28, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (e); and

(2) by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a)(1) The United States marshals or deputy marshals shall routinely collect, and a court may tax as costs, fees for the following:

"(A) Serving a writ of possession, partition, execution, attachment in rem, or libel in admiralty, warrant, attachment, summons, complaints, or any other writ, order or process in any case or proceeding.

"(B) Serving a subpoena or summons for a witness or appraiser.

"(C) Forwarding any writ, order, or process to another judicial district for service.

"(D) The preparation of any notice of sale, proclamation in admiralty, or other public notice or bill of sale.

"(E) The keeping of attached property (including boats, vessels, or other property attached or libeled), actual expenses incurred, such as storage, moving, boat hire, or other special transportation, watchmen's or keepers' fees, insurance, and an hourly rate, including overtime, for each deputy marshal required for special services, such as guarding, inventorying, and moving.

"(F) Copies of writs or other papers furnished at the request of any party.

"(G) Necessary travel in serving or endeavoring to serve any process, writ, or order, except in the District of Columbia, with mileage to be computed from the place where service is returnable to the place of service or endeavor.

"(H) Overtime expenses incurred by deputy marshals in the course of serving or executing civil process.

"(2) The marshals shall collect, in advance, a deposit to cover the initial expenses for special services required under paragraph (1)(E), and periodically thereafter such amounts as may be necessary to pay such expenses until the litigation is concluded. This paragraph applies to all private litigants, including seamen proceeding pursuant to section 1916 of this title.

"(3) For purposes of paragraph (1)(G), if two or more services or endeavors, or if an endeavor and a service, are made in behalf of the same party in the same case on the same trip, mileage shall be computed to the place of service or endeavor which is most remote from the place where service is returnable, adding thereto any additional mileage traveled in serving or endeavoring to serve in behalf of the party. If two or more writs of any kind, required to be served in behalf of the same party on the same person in the same case or proceeding, may be served at the same time, mileage on only one such writ shall be collected.

"(b) The Attorney General shall from time to time prescribe by regulation the fees to be taxed and collected under subsection (a). Such fees shall, to the extent practicable, reflect the actual and reasonable cost of the service provided.

"(c)(1) The United States Marshals Service shall collect a commission of 3 percent of the first $1,000 collected and 1½ percent on the excess of any sum over $1,000, for seizing or levying on property (including seizures in admiralty), disposing of such property by sale, setoff, or otherwise, and receiving and paying over money, except that the amount of commission shall be within the range set by the Attorney General. If the property is to be disposed of by marshal's sale, the commission shall be in such amount, within the range set by the Attorney General, as may be allowed by the court. In any case in which the vessel or other property is sold by a public auctioneer, or by some party other than a marshal or deputy marshal, the commission authorized under this subsection shall be reduced by the amount paid to such auctioneer or other party. This subsection applies to any judicially ordered sale or execution sale, without regard to whether the judicial order of sale constitutes a seizure or levy within the meaning of State law. This subsection shall not apply to any seizure, forfeiture, sale, or other disposition of property pursuant to the applicable provisions of law amended by the Comprehensive Forfeiture Act of 1984 (98 Stat. 2040).

"(2) The Attorney General shall prescribe from time to time regulations which establish a minimum and maximum amount for the commission collected under paragraph (1).

"(d) The United States marshals may require a deposit to cover the fees and expenses prescribed under this section.".

(d) Support of United States Prisoners in Non-Federal Institutions.—

(1) In general.—Chapter 301 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 4013. Support of United States prisoners in non-Federal institutions

"(a) The Attorney General, in support of United States prisoners in non-Federal institutions, is authorized to make payments from funds appropriated to the United States Marshals Service for—

"(1) necessary clothing;

"(2) medical care and necessary guard hire;

"(3) payment of rewards for assistance in the capture or information leading to the capture of a Federal fugitive;

"(4) the housing, care, and security of persons held in custody of a United States marshal pursuant to Federal law under agreements with State or local units of government or contracts with private entities; and

"(5) entering into contracts or cooperative agreements with any State, territory, or political subdivision thereof, for the necessary construction, physical renovation, acquisition of equipment, supplies, or materials required to establish acceptable conditions of confinement and detention services in any State or local jurisdiction which agrees to provide guaranteed bed space for Federal detainees within that correctional system, in accordance with regulations which are issued by the Attorney General and are comparable to the regulations issued under section 4006 of this title, except that—

"(A) amounts made available for purposes of this paragraph shall not exceed the average per-inmate cost of constructing similar confinement facilities for the Federal prison population,

"(B) the availability of such federally assisted facility shall be assured for housing Federal prisoners, and

"(C) the per diem rate charged for housing such Federal prisoners shall not exceed allowable costs or other conditions specified in the contract or cooperative agreement.".

(2) Conforming amendment.—The table of sections at the beginning of chapter 301 of title 18, United States Code, is amended by adding at the end the following:

"4013. Support of United States prisoners in non-Federal institutions.".

(e) Pay of Director of Service.—Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"Director, United States Marshals Service.".

SEC. 2762. THE NATIONAL ADVISORY COMMISSION ON LAW ENFORCEMENT.

(a) Definitions.—As used in this section—

(1) the term "Commission" means the National Advisory Commission on Law Enforcement;

(2) the term "Commissioner" means a member of the National Advisory Commission on Law Enforcement; and

(3) the term "law enforcement officer" has the same meaning as provided in section 8401(17) of title 5, United States Code.

(b) Establishment.—There is established as an independent commission in the legislative branch of the United States a National Advisory Commission on Law Enforcement, which shall consist of the following members:

(1) four members of the United States Senate, 2 of whom shall be selected by the Majority Leader and 2 of whom shall be selected by the Minority Leader;

(2) four members of the United States House of Representatives, 2 of whom shall be selected by the Speaker and 2 of whom shall be selected by the Minority Leader;

(3) the Comptroller General of the United States, who shall also serve as Chairman of the Commission;

(4) the Director of the Office of Personnel Management;

(5) the Attorney General of the United States and three other officials of the Department of Justice who shall be designated by the Attorney General;

(6) the Secretary of the Treasury and 2 other officials of the Department of the Treasury who shall be designated by the Secretary of the Treasury;

(7) the Inspector Generals of 3 departments or agencies of the executive branch of the United States who shall be designated by the President of the United States; and

(8) three representatives from Federal employee groups to be selected by the Office of Personnel Management after consultation with the Speaker of the House and the Majority Leader of the Senate.

(c) Study.—The Commission shall study the methods and rates of compensation, including salary, overtime pay, retirement policies, and other benefits of law enforcement officers in all Federal agencies, as well as the methods and rates of compensation of State and local law enforcement officers in a representative number of areas where Federal law enforcement officers are assigned, in order to determine—

(1) the differences which exist among Federal agencies with regard to the methods and rates of compensation for law enforcement officers;

(2) the rational basis, if any, for such differences, considering the nature of the responsibilities of the law enforcement officers in each agency; the qualifications and training required to perform such responsibilities; the degree of personal risk to which the law enforcement officers in each agency are normally exposed in the performance of their duties; and such other factors as the Commission deems relevant in evaluating the differences in compensation among the various agencies;

(3) the extent to which inequities appear to exist among Federal agencies with regard to the methods and rates of compensation of law enforcement officers, based on consideration of the factors mentioned in paragraph (2) of this subsection;

(4) the feasibility of devising a uniform system of overtime compensation for law enforcement officers in all or most Federal agencies, with due regard for both the special needs of law enforcement officers and the relative cost effectiveness to the Government of such a system compared to those currently in use;

(5) how the salaries paid to Federal law enforcement officers compare to those of State and local officers in the same geographical area, especially those in "high cost-of-living" areas;

(6) the impact of the rates of compensation paid by various Federal agencies on the lifestyle, morale, and general well-being of law enforcement officers, including their ability to subsist;

(7) the recruiting and retention problems experienced by Federal agencies due to: inequities in compensation among such agencies; the differences between rates of compensation paid to Federal law enforcement officers and State and local officers in the same geographical areas; and other factors related to compensation;

(8) the extent to which Federal legislation and administrative regulations may be necessary or appropriate to rectify inequities among Federal agencies in the methods and rates of compensation for law enforcement officers; to address the lack of uniformity among agencies with regard to overtime pay; to provide premiums or special rates of pay for Federal law enforcement officers in high cost-of-living areas; to ensure that the levels of compensation paid to Federal law enforcement officers will be competitive with those paid to State and local officers in the same geographical areas; and to address such other matters related to the determinations made under this subsection as the Commission deems appropriate in the interests of enhancing the ability of Federal agencies to recruit and retain the most qualified and capable law enforcement officers; and

(9) the average retirement age of the Federal agencies and the retirement and benefits policies of Federal agencies.

(d) Powers of the Commission—The Commission shall have the power to—

(1) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

(2) enter into and perform, without regard to section 3324 of title 31, United States Code, such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the Commission, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization;

(3) request such information, data, and reports from any Federal agency or instrumentality as the Commission may from time to time require and as may be produced consistent with other law; and

(4) hold hearings and call witnesses that might assist the Commission in the exercise of its powers or duties.

The Commission shall have such other powers as may be necessary to carry out its functions under this Act and may delegate to any member or designated person such powers as may be appropriate in the conduct of its functions.

(e) Resources.—(1) Upon the request of the Commission, each Federal agency is authorized and directed to make its resources, services, equipment, personnel, facilities, and information available to the greatest practicable extent to the Commission in the execution of its functions.

(2) Each Commissioner may utilize the resources, services, equipment, personnel, information, and facilities of his or her Federal agency or, in the case of the Commissioners who are Members of Congress, his or her congressional office, as may be necessary in the conduct of the Commissioner's respective functions as a member of the Commission.

(f) Quorum.—A simple majority of the Commissioners then serving shall constitute a quorum for the conduct of business by the

Commission, and the Commission may exercise its powers and fulfill its duties by the vote of a simple majority of the Commissioners present.

(g) MEETING.—The Chairman of the Commission shall call and preside at meetings of the Commission, but the Chairman may delegate to any other Commissioner the authority to preside at meetings of the Commission.

(h) REPORT AND DISSOLUTION OF COMMISSION.—(1) Within 6 months following the date of enactment of this Act, the Commission shall prepare and deliver to the President of the United States, the President of the Senate, and the Speaker of the House of Representatives, a written report setting forth—

(A) the findings and determinations made by the Commission pursuant to section 176(b); and

(B) specific proposals for such legislation and administrative regulations as the Commission has determined to be necessary or appropriate pursuant to section 176(b)(8).

(2) The Commission shall be terminated 60 days following submission of the report mandated by this section.

SEC. 2763. CLARIFICATIONS REGARDING DRUG PARAPHERNALIA.

Section 1822 of the Anti-Drug Abuse Act of 1986 (Public Law 99-570; 21 U.S.C. 857) is amended—

(1) in subsection (d), by striking out "in violation of the Controlled Substances Act" and inserting ", possession of which is unlawful under the Controlled Substances Act"; and

(2) in subsection (f)(2) by striking out "primarily intended for use with" and inserting "traditionally used with".

SEC. 2764. AUTHORIZATION TO ACCEPT MONEY, GOODS AND SERVICES FOR THE PURPOSE OF HOSTING THE INTERPOL AMERICAN REGIONAL CONFERENCE AND FOR THE PURPOSE OF MAKING A COMMEMORATIVE GIFT TO THE INTERPOL GENERAL SECRETARIAT.

(a) Notwithstanding the provisions of section 1342 of title 31, United States Code, the Attorney General is hereby authorized to accept, receive, hold, and administer on behalf of the United States, gifts of money, personal property and services, for the purpose of hosting the International Criminal Police Organization's (INTERPOL) American Regional Conference in the United States in May and June 1989.

(b) The Attorney General is authorized to accept, receive, hold, and administer on behalf of the United States, gifts of money, personal property and services, for the purpose of making a commemorative gift, the value of which shall not exceed $10,000 without the prior concurrence of the Secretary of State, to the INTERPOL General Secretariat on the opening of its headquarters in Lyon, France.

(c) All moneys received for the purposes provided in this section shall be credited to the appropriation "Salaries and Expenses, general legal activities" for fiscal year 1989 as he deems necessary, to pay expenses of such commemorative gift and hosting such conference, including but not limited to reception and representation expenses. The authority of the Attorney General under this section shall continue through September 30, 1989.

SEC. 2765. RECOVERY OF COSTS INCURRED BY STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

(a) IN GENERAL.—Subchapter B of chapter 78 of the Internal Revenue Code of 1986 (relating to general powers and duties) is amended by adding at the end thereof the following new section:

"SEC. 7624. REIMBURSEMENT TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

"(a) AUTHORIZATION OF REIMBURSEMENT.—

"(1) IN GENERAL.—Whenever a State or local law enforcement agency provides information to the Internal Revenue Service that substantially contributes to the recovery of Federal taxes, such agency shall be reimbursed by the Internal Revenue Service for costs incurred in the investigation (including but not limited to reasonable expenses, per diem, salary, and overtime) not to exceed 10 percent of the sum recovered.

"(2) RECORDS; 10 PERCENT LIMITATION.—The Internal Revenue Service shall maintain records of the receipt of information from a contributing agency and shall notify the agency when monies have been recovered as the result of such information. Following such notification, the agency shall submit a statement detailing the investigative costs it incurred. Where more than 1 State or local agency has given information that substantially contributes to the recovery of Federal taxes, the Internal Revenue Service shall equitably allocate investigative costs among such agencies not to exceed an aggregate amount of 10 percent of the taxes recovered.

"(3) NO REIMBURSEMENT WHERE DUPLICATIVE.—No State or local agency shall be entitled to reimbursement under this section if reimbursement has been received by such agency under a Federal or State forfeiture program or under State revenue laws.".

(b) ESTABLISHMENT OF LAW ENFORCEMENT AGENCY ACCOUNT.—Section 7809 of the Internal Revenue Code of 1986 (relating to deposit of collections) is amended by adding at the end thereof the following new subsection:

"(d) DEPOSIT OF FUNDS FOR LAW ENFORCEMENT AGENCY ACCOUNT.—

"(1) IN GENERAL.—In the case of any amounts recovered as the result of information provided by State and local law enforcement agencies, an amount equal to 10 percent of such amounts shall be deposited in a separate account which shall be used to make the reimbursements required under section 7624.

"(2) DEPOSIT IN TREASURY AS INTERNAL REVENUE COLLECTIONS.—If any amounts remain in such account after payment of any qualified costs incurred under section 7624, such amounts shall be withdrawn from such account and deposited in the Treasury of the United States as internal revenue collections.".

(c) DISCLOSURE OF RETURN INFORMATION.—Section 6103(d) of the Internal Revenue Code of 1986 (relating to disclosure to State tax officials) is amended by adding at the end the following new paragraph:

"(3) EXCEPTION FOR REIMBURSEMENT UNDER SECTION 7624.—Return and return information with respect to taxes described in paragraph (1) may be disclosed to State and local law enforcement agencies for the purpose of, and only to the extent necessary to provide reimbursement of costs pursuant to section 7624.".

(d) CONFORMING AMENDMENTS.—(1) The table of sections for subchapter B of chapter 78 is amended by adding at the end thereof the following new item:

"Sec. 7624. Reimbursement to State and local law enforcement agencies.".

(2) The heading for section 6103(d) is amended to read as follows:

"(d) DISCLOSURE TO STATE TAX OFFICIALS AND STATE AND LOCAL LAW ENFORCEMENT AGENCIES.".

(e) REGULATIONS.—The Secretary of the Treasury shall not later than 90 days after the date of enactment of this Act prescribe such rules and regulations as shall be necessary and proper to carry out the provisions of this section. Any rule or regulation prescribed pursuant to this subsection shall be made on the record after opportunity for a hearing.

Subtitle N—State and Local Narcotics Control and Justice Assistance Improvements

CHAPTER 1—STATE AND LOCAL NARCOTICS CONTROL AND JUSTICE ASSISTANCE IMPROVEMENTS

SEC. 2821. BUREAU OF JUSTICE ASSISTANCE AND UNIFIED GRANT PROGRAMS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) striking part M; and

(2) striking parts D and E (42 U.S.C. 3741-3766) and inserting the following:

"PART D—ESTABLISHMENT OF BUREAU OF JUSTICE ASSISTANCE

"SEC. 401. ESTABLISHMENT OF BUREAU OF JUSTICE ASSISTANCE.

"(a) There is established within the Department of Justice, under the general authority of the Attorney General, a Bureau of Justice Assistance (hereafter in this part referred to as the 'Bureau').

"(b) The Bureau shall be headed by a Director (hereafter in this part referred to as the 'Director') who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall report to the Attorney General through the Assistant Attorney General. The Director shall have final authority for all grants, cooperative agreements, and contracts awarded by the Bureau. The Director shall not engage in any employment other than that of serving as the Director, nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Bureau makes any contract or other arrangement under this title.

"SEC. 402. DUTIES AND FUNCTIONS OF THE DIRECTOR.

"The Director shall have the following duties:

"(1) Providing funds to eligible States, units of local government, for-profit organizations, and private, nonprofit organizations pursuant to part D.

"(2) Establishing programs in accordance with subpart 2 of part E and, following public announcement of such programs, awarding and allocating funds and technical assistance in accordance with the criteria of subpart 2, and on terms and conditions determined by the Director to be consistent with subpart 2.

"(3) Cooperating with and providing technical assistance to States, units of local government, and other public and private organizations or international agencies involved in criminal justice activities.

"(4) Providing for the development of technical assistance and training programs for State and local criminal justice agencies and fostering local participation in such activities.

"(5) Encouraging the targeting of State and local resources on efforts to reduce the incidence of drug abuse and crime and on programs relating to the apprehension and prosecution of drug offenders.

"(6) Establishing and carrying on a specific and continuing program of cooperation with the States and units of local government designed to encourage and promote consultation and coordination concerning decisions made by the Bureau affecting State and local drug control and criminal justice priorities.

"(7) Preparing recommendations on the State and local drug enforcement component of the National Drug Control Strategy which shall be submitted to the Associate Director of the Office on National Drug Control Policy. In making such recommendations, the Director shall review the statewide strategies submitted by such States under part E, and shall obtain input from State and local drug enforcement officials. The recommendations made under this paragraph shall be provided at such time and in such form as the Director of National Drug Control Policy shall require.

"(8) Exercising such other powers and functions as may be vested in the Director pursuant to this title or by delegation of the Attorney General or Assistant Attorney General.

"PART E—BUREAU OF JUSTICE ASSISTANCE GRANT PROGRAMS

"Subpart 1—Drug Control and System Improvement Grant Program

"SEC. 501. DESCRIPTION OF THE DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM.

"(a) It is the purpose of this subpart to assist States and units of local government in carrying out specific programs which offer a high probability of improving the functioning of the criminal justice system, with special emphasis on a nationwide and multilevel drug control strategy by developing programs and projects to assist multijurisdictional and multi-State organizations in the drug control problem and to support national drug control priorities.

"(b) The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the 'Director') is authorized to make grants to States, for the use by States and units of local government in the States, for the purpose of enforcing State and local laws that establish offenses similar to offenses established in the Controlled Substances Act (21 U.S.C. 801 et seq.) and to improve the functioning of the criminal justice system with emphasis on violent crime and serious offenders. Such grants shall provide additional personnel, equipment, training, technical assistance, and information systems for the more widespread apprehension, prosecution, adjudication, and detention and rehabilitation of persons who violate these laws, and to assist the victims of such crimes (other than compensation), including—

"(1) demand reduction education programs in which law enforcement officers participate;

"(2) multijurisdictional task force programs that integrate Federal, State, and local drug law enforcement agencies and prosecutors for the purpose of enhancing interagency coordination, intelligence, and facilitating multijurisdictional investigations;

"(3) programs designed to target the domestic sources of controlled and illegal substances, such as precursor chemicals, diverted pharmaceuticals, clandestine laboratories, and cannabis cultivations;

"(4) providing programs that assist citizens in preventing and controlling crime to include special programs that address the problems of crimes committed against the elderly and rural jurisdictions;

"(5) disrupting illicit commerce in stolen goods and property;

"(6) improving the investigation and prosecution of white-collar crime, organized crime, public corruption crimes, and fraud against the government with priority attention to cases involving drug-related official corruption;

"(7) improving the operational effectiveness of law enforcement through the use of crime analysis techniques, street sales enforcement, schoolyard violator programs, gang-related and low-income housing drug control programs;

"(8) career criminal prosecution programs including the enactment of model drug control legislation;

"(9) financial investigative programs that target the identification of money laundering operations and assets obtained through illegal drug trafficking, including the enactment of model legislation, financial investigative training, and financial information sharing systems;

"(10) improving the operational effectiveness of the court process through programs such as court delay reduction programs and enhancement programs;

"(11) programs designed to provide additional public correctional resources and improve the corrections system, including treatment in prisons and jails, intensive supervision programs, and long-range corrections and sentencing strategies;

"(12) providing prison industry projects designed to place inmates in a realistic working and training environment which will enable them to acquire marketable skills and to make financial payments for restitution to their victims, for support of their own families, and for support of themselves in the institution;

"(13) providing programs which identify and meet the treatment needs of adult and juvenile drug-dependent offenders;

"(14) developing and implementing programs which provide assistance to jurors and witnesses, and assistance (other than compensation) to victims of crimes;

"(15)(A) developing programs to improve drug control technology, such as pretrial drug testing programs, programs which provide for the identification, assessment, referral to treatment, case management and monitoring of drug dependent offenders, enhancement of State and local forensic laboratories, and (B) criminal and justice information systems to assist law enforcement, prosecution, courts, and corrections organization;

"(16) innovative programs that demonstrate new and different approaches to enforcement, prosecution, and adjudication of drug control activities;

"(17) improving the criminal and juvenile justice system's response to domestic and family violence, including spouse abuse, child abuse, and abuse of the elderly; and

"(18) drug control evaluation programs which the State and local units of government may utilize to evaluate programs and projects directed at State drug control activities.

"(c) Each program funded under this section shall contain an evaluation component, developed pursuant to guidelines established by the National Institute of Justice, in consultation with the Bureau of Justice Assistance. The Director of the Bureau of Justice Assistance may waive this requirement when, in the opinion of the Director—

"(1) the program is not of sufficient size to justify a full evaluation report; or

"(2) the program is designed primarily to provide material resources and supplies, such as laboratory equipment, that would not justify a full evaluation report.

"SEC. 502. ELIGIBILITY.

"The Bureau is authorized to make financial assistance under this subpart available to a State to enable it to carry out all or a substantial part of a program or project submitted and approved in accordance with the provisions of this subpart.

"SEC. 503. STATE APPLICATIONS.

"To request a grant under this subpart, the chief executive officer of a State shall submit to the Director an application at such time and in such form as the Director may require. Such application shall include the following:

"(1) A statewide strategy for drug control and programs which improve the functioning of the criminal justice system with emphasis on violent crime and serious offenders. The combined strategy shall be prepared after consultation with State and local officials with emphasis on those whose duty it is to enforce drug laws and direct the administration of justice and shall contain—

"(A) a definition and analysis of the drug problem in the State, and an analysis of the problems in each of the major counties and municipalities with major drug control problems;

"(B) an assessment of the efforts existing as of the time of the application to address the drug control problems at the State and local level;

"(C) coordination requirements;

"(D) resource needs;

"(E) the establishment of statewide priorities for drug control activities and programs;

"(F) an analysis of the relationship of the proposed State efforts to the national drug control strategy; and

"(G) a plan for coordinating the programs to be funded under this subpart with federally funded State and local drug abuse education, prevention, research, and treatment programs.

"(2) A certification that Federal funds made available under the formula grant of this subpart will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for law enforcement activities.

"(3) A certification that funds required to pay the non-Federal portion of the cost of each program and project for which such grant is made shall be in addition to funds that would otherwise be made available for law enforcement by the recipients of grant funds.

"(4) An assurance that the State application described in this section, and any amendment to such application, has been submitted for review to the State legislature or its designated body (for purposes of this section, such application or amendment shall be deemed to be reviewed if the State legislature or such body does not review such application or amendment within the 30-day period beginning on the date such application or amendment is so submitted).

"(5) An assurance that the State application and any amendment thereto was made public before submission to the Bureau and, to the extent provided under State law or established procedure, an opportunity to comment thereon was provided to citizens and to neighborhood and community groups.

"(6) An assurance that following the first fiscal year covered by an application and for each fiscal year thereafter, a performance evaluation and assessment report concerning the activities carried out pursuant to this section will be submitted to the Bureau.

"(7) A provision for fund accounting, auditing, monitoring, and such evaluation procedures as may be necessary to keep such records that the Bureau shall prescribe to assure fiscal control, proper management, and efficient disbursement of funds reviewed under this section.

"(8) An assurance that the applicant shall maintain such data and information and submit such reports in such form, at such times, and containing such data and information as the Bureau may reasonably require to administer other provisions of this subpart.

"(9) A certification that its programs meet all the requirements of this section, that all the information contained in the application is correct, that there has been appropriate coordination with affected agencies, and that the applicant will comply with all provisions of this subpart and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Bureau and shall be executed by the chief executive or such other officer of the applicant qualified under regulations promulgated by the Office.

"SEC. 504. GRANT LIMITATIONS.

"(a) A grant made under this subpart may not—

"(1) for fiscal years 1989 and 1990 appropriations be expended for more than 75 percent; and

"(2) for fiscal years 1991 and 1992 appropriations be expended for more than 50 percent,

of the cost of the identified uses for which such grant is received to carry out any purpose specified in section 502, except that in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any such program or project, the amount of such grant shall be equal to 100 percent of such cost. The non-Federal portion of the expenditures for such uses shall be paid in cash.

"(b) Not more than 10 percent of a grant made to an eligible State under section 506 may be used for costs incurred to administer such grant.

"(c) States and units of local government or combinations thereof are authorized to use a grant made under section 506 for the expenses associated with participation in the State and Local Task Force Program established by the Drug Enforcement Administration.

"(d) States and local units of government are authorized to use a grant made under section 506 for the expenses associated with conducting the evaluations required under section 501(c) of this part.

"(e) The non-Federal portion of the cost of such program or project shall be in cash. State and local units of government may use cash received under the equitable sharing program to cover the non-Federal portion of the costs of programs funded under section 506.

"(f) No funds may be awarded under this subpart to a grant recipient for a program or project for which funds have been awarded under this title for 4 years (in the aggregate), including any period occurring before the effective date of this subsection.

"SEC. 505. REVIEW OF STATE APPLICATIONS.

"(a) The Bureau shall provide financial assistance to each State applicant under this subpart to carry out the programs or projects submitted by such applicant upon determining that—

"(1) the application or amendment thereto is consistent with the requirements of this subpart; and

"(2) before the approval of the application and any amendment thereto the Bureau has made an affirmative finding in writing that the program or project has been reviewed in accordance with this subpart.

"(b) Each application or amendment made and submitted for approval to the Bureau pursuant to section 503 shall be deemed approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) Grant funds awarded under this subpart shall not be used for land acquisition or construction projects, other than penal and correctional institutions.

"(d) The Bureau shall not finally disapprove any application, or any amendment thereto, submitted to the Director under this section without first affording the applicant reasonable notice and opportunity for reconsideration.

"SEC. 506. ALLOCATION AND DISTRIBUTION OF FUNDS UNDER FORMULA GRANTS.

"(a) Of the total amount appropriated for this part in any fiscal year, less amounts set aside for evaluation pursuant to section 520 and section 1001(a)(6), 80 percent shall be set aside for section 502 and allocated to States as follows:

"(1) $750,000 shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State bears to the population of all the States.

"(b) Of the amounts set aside for this section, not less than 10 percent shall be used to fund street sales enforcement programs of which the primary goal is to strengthen urban enforcement and prosecution efforts targeted at street level narcotics activity in areas of high-intensity drug trafficking. The Director may, in his discretion, waive this requirement at the request of a State, where the imposition of this requirement is clearly inappropriate given the States documented needs as specified in their statewide strategy. Such projects may include—

"(1) the early involvement of prosecution and court functions in order to ensure that both citizen rights and system impact issues are addressed;

"(2) the training and utilization of uniformed personnel and the certification of uniformed officers as narcotics experts for testifying in court;

"(3) the deployment of street teams for on-going investigations and arrests of street narcotics dealers and buyers, and the involvement of law enforcement personnel to ensure that citizen concerns regarding narcotics conditions are addressed;

"(4) the enhancement of prosecution, adjudication, and corrections resources to accommodate the increased case loads generated through intensive, street-level enforcement programs;

"(5) the organization and deployment of mobile task forces to target those areas of the city where street sales of drugs have become blatant;

"(6) the development and implementation of innovative law enforcement programs, such as undercover buy programs aimed at the street retailer and the enforcement of asset seizure and forfeiture laws; and

"(7) the coordination of such projects with forensic laboratory services.

"(c)(1) Each State which received funds under subsection (a) of this section in a fiscal year shall distribute among units of local government, or combinations of units of local government, in such State for the purposes specified in section 501(b) that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for criminal justice in such preceding fiscal year.

"(2) Each State which receives funds under subsection (a) shall provide to units of local government or combinations thereof with a minimum population of 500,000, or if the largest such unit or combination has less than 500,000, to the largest such unit or combination thereof in the State, of the pass through formula, a percentage of such funds which is not less than a portion of such funds which bears the same ratio to the amount of funds expended by such local government or combination thereof to the aggregate amount of funds expended by all units of local government for criminal justice in the preceding fiscal year.

"(3) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State involved.

"(4) For purposes of determining the distribution of funds under paragraph (1), the most accurate and complete data available for the fiscal year involved shall be used. If data for such fiscal year are not available, then the most accurate and complete data available for the most recent fiscal year preceding such fiscal year shall be used.

"(d) No funds allocated to a State under subsection (a) or received by a State for distribution under subsections (b) and (c) may be distributed by the Director or by the State involved for any program other than a program contained in an approved application.

"(e) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for that fiscal year will not be required or that a State will be unable to qualify or receive funds under section 502, or that a State chooses not to participate in the program established under such section, then such portion shall be awarded by the Director to urban, rural, and suburban units of local government or combinations thereof within such State giving priority to those jurisdictions with greatest need.

"(f) Any funds allocated under subsection (a) or (e) that are not distributed under this section shall be available for obligation under subpart 2.

"SEC. 507. STATE OFFICE.

"(a) The chief executive of each participating State shall designate a State office for purposes of—

"(1) preparing an application to obtain funds under section 503;

"(2) administering funds received under such section from the Director, including receipt, review, processing, monitoring, progress and financial report review, technical assistance, grant adjustments, accounting, auditing and fund disbursements; and

"(3) coordinating the distribution of funds provided under this part with State agencies receiving Federal funds for drug abuse education, prevention, treatment, and research activities and programs.

"(b) An office or agency performing other functions within the executive branch of a State may be designated to carry out the functions specified in subsection (a).

"SEC. 508. DISTRIBUTION OF GRANTS TO LOCAL GOVERNMENT.

"(a) Each application made by a local unit of government, or a combination of units of local government, to a State for funds under this subchapter shall be deemed approved, in whole or in part, by the State not later than 45 days after first received unless the State informs the applicant in writing of specific reasons for disapproval. The State shall not finally disapprove any application submitted to the State without first affording the applicant reasonable notice and opportunity for reconsideration.

"(b)(1) Except as provided in paragraph (2), each State which receives funds under section 506 in a fiscal year shall make such funds available to local units of government, or combinations of units of local government, whose application has been submitted to, approved and awarded by the State, within 90-days after the Bureau has approved the State application and has made funds available to such State. If the State does not distribute such funds to any local unit of government, or combination thereof, within that time, the State shall return such funds to the Director who shall directly award such funds to the local unit of government, or combination thereof. The Director shall have the authority to waive the 90-day requirement in this section upon a finding that the State cannot satisfy that requirement consistent with State statutes.

"(2) Each State which receives funds under section 506 in a fiscal year shall make such funds available to local units of government, or combinations thereof, with a minimum population of 500,000, or if the largest such unit or combination has less than 500,000, to the largest such unit or combination thereof in the State, whose application has been submitted to, approved, and awarded by the State, within 45 days after the Bureau has approved the State application and has made funds available to such State. If the State does not distribute such funds within that time, the State shall return such funds to the Director who shall directly award such funds to the local unit of government, or combination thereof. The Director shall have the authority to waive the 45-day requirement in this section upon a finding that the State cannot satisfy that requirement consistent with State statutes.

"Subpart 2—Discretionary Grants

"SEC. 510. PURPOSE.

"(a) The purpose of this subpart is to provide additional Federal financial assistance to public or private agencies and private nonprofit organizations for purposes of—

"(1) undertaking educational and training programs for criminal justice personnel;

"(2) providing technical assistance to States and local units of governments;

"(3) undertaking projects which are national or multijurisdictional in scope and which address the purposes specified in section 502; and

"(4) providing financial assistance to public agencies and private nonprofit organizations for demonstration programs which, in view of previous research or experience, are likely to be a success in more than one jurisdiction.

"(b) In carrying out this subpart, the Director is authorized to make grants to, or enter into contracts with public or private agencies, institutions, or organizations or individuals to carry out any purpose specified in section 501(b). The Director shall have final authority over all funds awarded under this subpart.

"SEC. 511. ALLOCATION OF FUNDS FOR DISCRETIONARY GRANTS.

"Of the total amount appropriated for this part in any fiscal year less amounts set aside for evaluation and research pursuant to section 520 and section 1001(a)(6), 20 percent shall be reserved and set aside for this section in a special discretionary fund for use by the Director in carrying out the purposes specified in section 503. Grants under this section may be made for amounts up to 100 percent of the costs of the programs or projects contained in the approved application.

"SEC. 512. LIMITATION ON USE OF DISCRETIONARY GRANT FUNDS.

"Grant funds awarded under section 511 shall not be used for land acquisition or construction projects.

"SEC. 513. APPLICATION REQUIREMENTS.

"(a) No grant may be made under this subpart unless an application has been submitted to the Director in which the applicant—

"(1) sets forth a program or project which is eligible for funding pursuant to section 511;

"(2) describes the services to be provided, performance goals, and the manner in which the program is to be carried out;

"(3) describes the method to be used to evaluate the program or project in order to determine its impact and effectiveness in achieving the stated goals; and

"(4) agrees to conduct such evaluation according to the procedures and terms established by the Bureau.

"(b) Each applicant for funds under this subpart shall certify that its program or project meets all the requirements of this section, that all the information contained in the application is correct, and that the applicant will comply with all the provisions of this subpart and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Director.

"SEC. 514. PERIOD OF AWARD.

"The Bureau may provide financial aid and assistance to programs or projects under this subpart for a period of not to exceed 4 years. Grants made pursuant to this subpart may be extended or renewed by the Bureau for an additional period of up go 2 years if—

"(1) an evaluation of the program or project indicates that it has been effective in achieving the stated goals or offers the potential for improving the functioning of the criminal justice system; and

"(2) the public agency or private nonprofit organization within which the program or project has been conducted agrees to provide at least one-half of the total cost of such program or project from any source of funds, including Federal grants, available to the eligible jurisdiction.

"Subpart 3—Administrative Provisions

"SEC. 520. PROGRAM AND PROJECT EVALUATION; RESEARCH.

"(a) Of the total amounts appropriated for this part in any fiscal year, 4 percent or $10,000,000, whichever is less, shall be transferred to the National Institute of Justice as follows:

"(1) Fifty percent of the funds transferred to the National Institute of Justice under this section shall be used for program and project evaluation—

"(A) to develop guidelines, in cooperation with the Bureau of Justice Assistance, to assist State and local units of government to conduct the program evaluations as required by section 501(c) of this part; and

"(B) to conduct a reasonable number of comprehensive evaluations of programs funded under section 506 (formula grants) and section 511 (discretionary grants) of this part.

In selecting programs for review, the Director of the National Institute of Justice should consider—

"(i) whether the program establishes or demonstrates a new and innovative approach to drug or crime control;

"(ii) the cost of the program to be evaluated and the number of similar programs funded under section 506 (formula grants) and section 511 (discretionary grants);

"(iii) whether the program has a high potential to be replicated in other jurisdictions; and

"(iv) whether there is substantial public awareness and community involvement in the program. Routine auditing, monitoring, and internal assessment of a State and local drug control program's progress shall be the sole responsibility of the Bureau of Justice Assistance.

"(2) Fifty percent of the funds transferred to the National Institute of Justice under this section shall be used to conduct research and development programs on drug and drug-related crime control programs. The primary focus of such research should be on practical approaches to drug and drug-related crime control to assist State and local law enforcement agencies in their response to these problems.

"(b) The Director of the National Institute of Justice shall annually report to the President, the Attorney General and the Congress on the nature and findings of the evaluation and research and development activities funded under this section.

"SEC. 521. GENERAL PROVISIONS.

"(a) The Bureau shall prepare both a 'Program Brief' and 'Implementation Guide' document for proven programs and projects to be funded under this part.

"(b) The functions, powers, and duties specified in this part to be carried out by the Bureau shall not be transferred elsewhere in the Department of Justice unless specifically hereafter authorized by the Congress by law.

"SEC. 522. REPORTS.

"(a) Each State which receives a grant under section 506 shall submit to the Director, for each year in which any part of such grant is expended by a State or unit of local government, a report which contains—

"(1) a summary of the activities carried out with such grant and an assessment of the impact of such activities on meeting the needs identified in the State strategy submitted under section 503;

"(2) a summary of the activities carried out in such year with any grant received under subpart 2 by such State;

"(3) the evaluation result of programs and projects;

"(4) an explanation of how the Federal funds provided under this part were coordinated with State agencies receiving Federal funds for drug abuse education, prevention, treatment, and research activities; and

"(5) such other information as the Director may require by rule.

Such report shall be submitted in such form and by such time as the Director may require by rule.

"(b) Not later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that includes with respect to each State—

"(1) the aggregate amount of grants made under subpart 1 and subpart 2 to such State for such fiscal year;

"(2) the amount of such grants awarded for each of the purposes specified in subpart 1;

"(3) a summary of the information provided in compliance with paragraphs (1) and (2) of subsection (a);

"(4) an explanation of how Federal funds provided under this part have been coordinated with Federal funds provided to States for drug abuse education, prevention, treatment, and research activities; and

"(5) evaluation results of programs and projects and State strategy implementation.".

(b) Amendment to Table of Contents.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the items relating to parts D and E and inserting the following:

TABLE OF CONTENTS

"Part D—Establishment of Bureau of Justice Assistance

"Sec. 401. Establishment of Bureau of Justice Assistance.
"Sec. 402. Duties and functions of the Director.

"Part E—Bureau of Justice Assistance Grant Programs

"subpart 1—drug control and system improvement grant program

"Sec. 501. Description of the Drug Control and System Improvement Grant program.
"Sec. 502. Eligibility.
"Sec. 503. State applications.
"Sec. 504. Grant limitations.
"Sec. 505. Review of State applications.
"Sec. 506. Allocation and distribution of funds under formula grants.
"Sec. 507. State office.
"Sec. 508. Distribution of grants to local government.

"subpart 2—discretionary grants

"Sec. 510. Purpose.
"Sec. 511. Allocation of funds for discretionary grants.
"Sec. 512. Limitation on use of discretionary grant funds.
"Sec. 513. Application requirements.
"Sec. 514. Period of award.

"subpart 3—administrative provisions

"Sec. 520. Program and project evaluation; research.
"Sec. 521. General provisions.
"Sec. 522. Reports.".

SEC. 2822. DUTIES AND FUNCTIONS OF THE DIRECTOR OF THE BUREAU OF JUSTICE STATISTICS.

(a) In General.—Section 302 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. section 3732) is amended in subsection (c) by redesignating paragraphs (16), (17), (18) and (19) as paragraphs (19), (20), (21) and (22), respectively, and inserting the following new paragraphs:

"(16) provide for the collection, compilation, analysis, publication and dissemination of information and statistics about the prevalence, incidence, rates, extent, distribution and attributes of drug offenses, drug related offenses and drug dependent offenders and further provide for the establishment of a national clearinghouse to maintain and update a comprehensive and timely data base on all criminal justice aspects of the drug crisis and to disseminate such information.

"(17) provide for the collection, analysis, dissemination and publication of statistics on the condition and progress of drug control activities at the Federal, State and local levels with particular attention to programs and intervention efforts demonstrated to be of value in the overall national anti-drug strategy and to provide for the establishment of a national clearinghouse for the gathering of data generated by Federal, State, and local criminal justice agencies on their drug enforcement activities.

"(18) provide for the development and enhancement of State and local criminal justice information systems, and the standardization of data reporting relating to the collection, analysis or dissemination of data and statistics about drug offenses, drug related offenses, or drug dependent offenders.".

(b) Technical Amendment.—Section 901(a)(2) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "407(a)" and inserting "506(a)".

SEC. 2823. JUSTICE ASSISTANCE ACT REAUTHORIZATION.

Section 1001 of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 1001. (a)(1) There are authorized to be appropriated $21,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992 to carry out the functions (other than the functions described in section 305 of part C) of the Bureau of Justice Statistics.

"(2) There are authorized to be appropriated $24,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992 to carry out the functions of the National Institute of Justice.

"(3) There are authorized to be appropriated $25,500,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992 to carry out the remaining functions of the Office of Justice Programs and the Bureau of Justice Assistance, other than functions under parts D, E, F, G, L, and M.

"(4) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out part L of this title.

"(5) There is authorized to be appropriated $275,000,000 for fiscal year 1989; $350,000,000 for fiscal year 1990; $400,000,000 for fiscal year 1991; and such sums as may be necessary for fiscal year 1992 to carry out the programs under parts D and E of this title.

"(6) There is authorized to be appropriated $5,000,000 for each of the fiscal years 1989, 1990, 1991, and 1992 to carry out section 305 of part C of this title: *Provided*, That 1 percent of the amount appropriated for paragraph (5) of this subsection shall be used to carry out the functions specified in subparagraphs (16), (17), and (18) of section 302(c) of part C of this title.

"(7) There are authorized to be appropriated $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992 to carry out the programs under part M of this title.

"(b) Funds appropriated for any fiscal year may remain available for obligation until expended.

"(c) Notwithstanding any other provision of law, no funds appropriated under this section for part E of this title may be transferred or reprogrammed for carrying out any activity which is not authorized under such parts.".

SEC. 1824. TECHNICAL AMENDMENT.

Section 403(a)(12) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3743(a)(12)) is amended by inserting "(including automated fingerprint identification systems)" after "systems" the first place it appears.

CHAPTER 2—JUVENILE JUSTICE AND DELINQUENCY PREVENTION PROGRAMS

SEC. 2825. PREVENTION AND TREATMENT PROGRAMS RELATING TO JUVENILE GANGS AND JUVENILE DRUG ABUSE AND DRUG TRAFFICKING.

(a) Authorization of Appropriations.—

(1) Funds authorized for fiscal years.—Section 261(a) of part D of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(a)) is amended—

(A) by inserting "(1)" after "(a)";

(B) by inserting "(other than part D)" after "this title"; and

(C) by adding at the end the following:

"(2) subject to subparagraph (B), to carry out part D, there are authorized to be appropriated $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992.".

(2) Allocations.—Section 261(b) of part D of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(b)) is amended by inserting "(other than part D)" after "this title".

(b) Technical Amendments to Part D of Title II.—Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671-5672 note) is amended—

(1) by amending the heading of such part to read as follows:

"Part E—General and Administrative Provisions";

and

(2) by redesignating sections 261 and 262 as sections 291 and 292, respectively.

(c) Prevention and Treatment Programs Relating to Juvenile Gangs and Juvenile Drug Abuse and Drug Trafficking.—Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671-5672 note) is amended by inserting after part C the following:

"Part D—Prevention and Treatment Programs Relating to Juvenile Gangs and Drug Abuse and Drug Trafficking

"AUTHORITY TO MAKE GRANTS AND CONTRACTS

"Sec. 281. The Administrator shall, by making grants to and entering into contracts with public and private non-profit agencies, organizations, institutions, and individuals, establish and support programs and activities that involve families and communities and that are designed to carry out any of the following purposes:

"(1) To strengthen the juvenile justice system's ability to deal with juveniles involved in drug trafficking, either individually or as part of distribution networks.

"(2) To develop new and innovative sanctions within the juvenile justice system against juveniles convicted of serious drug trafficking offenses.

"(3) To reduce juvenile involvement in gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles.

"(4) To promote the involvement of juveniles in lawful activities in geographical areas in which gangs commit crimes.

"(5) To provide treatment to juveniles who are members of such gangs, including members who are accused of committing a serious crime and members who have been adjudicated as being delinquent.

"(6) To facilitate Federal and State cooperation with local school officials to identify and assist juveniles who are likely to participate in the activities of gangs that commit crimes and to establish and support programs that facilitate coordination and cooperation among local education, juvenile justice, employment, and social service agencies, for the purpose of preventing or reducing the participation of juveniles in activities of gangs that commit crimes.

"(7) To reduce the incidence of drug-related crime and drug trafficking in elementary and secondary schools.

"(8) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system.

"(9) To provide drug abuse education, prevention and treatment involving police and juvenile justice officials in demand reduction programs.

"(10) To provide additional personnel, equipment, personnel training, and supplies to assist in improving the adjudicative and corrections components of the juvenile justice system.

In making grants and entering into contracts under this section, the Administrator shall give a preference to entities that have been successful in helping juvenile gangs and preventing juvenile drug abuse and drug trafficking.

"APPROVAL OF APPLICATIONS.

"SEC. 282. (a) Any agency, institution, or individual desiring to receive a grant, or to enter into a contract, under this part shall submit an application at such time, in such manner, and containing or accompanied by such information as the Administrator may prescribe.

"(b) In accordance with guidelines established by the Administrator, each application for assistance under this part shall—

"(1) set forth a program or activity for carrying out one or more of the purposes specified in section 281 and specifically identify each such purpose, such program or activity is designed to carry out;

"(2) provide that such program or activity shall be administered by or under the supervision of the applicant;

"(3) provide for the proper and efficient administration of such program or activity;

"(4) provide for regular evaluation of such program or activity;

"(5) certify that the applicant has requested the State planning agency and local agency designated in section 223, if any, to review and comment on such application and indicate the responses of such State planning agency and local agency to such request;

"(6) attach a copy of the responses of such State planning agency and local agency to such request;

"(7) provide that regular reports on such program or activity shall be sent to the Administrator and to such State planning agency and local agency; and

"(8) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this title.

"(c) In reviewing applications for grants and contracts under this part, the Administrator shall give priority to applications—

"(1) based on the incidence and severity of crimes committed by gangs whose membership is composed primarily of juveniles or the incidence of juvenile drug abuse and drug trafficking, in the geographical area in which the applicants propose to carry out the programs and activities for which such grants and contracts are requested; and

"(2) for assistance for programs and activities that have the broad support of organizations operating in such geographical areas, as demonstrated by the applicants.

"REPORT TO CONGRESS

"SEC. 283. The Administrator shall annually report to Congress on the status and accomplishments of the programs and activities funded under this part. Such report shall include a detailed evaluation of each program or activity.".

SEC. 2826. AUTHORITY TO MAKE GRANTS.

Section 221 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631) is amended—

(1) by amending the heading to read as follows:

"AUTHORITY TO MAKE GRANTS AND CONTRACTS",

(2) by inserting "(a)" after "SEC. 221.", and

(3) by adding at the end the following:

"(b)(1) With not to exceed 2 percent of the funds available in a fiscal year to carry out this part, the Administrator shall make grants to and enter into contracts with public and private agencies, organizations, and individuals to provide technical assistance to States, units of general local governments (and combinations thereof), and local private agencies to facilitate compliance with section 223 and implementation of the State plan approved under section 223(c).

"(2) Grants and contracts may be made under paragraph (1) only to public and private agencies, organizations, and individuals that have experience in providing such technical assistance. In providing such technical assistance, the recipient of a grant or contract under this subsection shall coordinate its activities with the State agency described in section 291(c)(1).".

SEC. 2827. ALLOCATION.

(a) MINIMUM ALLOCATION.—Section 222(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632(a)) is amended—

(1) by striking "In" and inserting "(1) Subject to paragraph (2) and in",

(2) by striking the last sentence, and

(3) by adding at the end the following:

"(2)(A) Subject to paragraph (3), if the aggregate amount appropriated for a fiscal year to carry out this title (other than part D) is less than $75,000,000, then the amount allotted to each State for such fiscal year shall be not less than $325,000, except that the amount allotted to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $75,000 each.

"(B) Subject to paragraph (3), if the aggregate amount appropriated for a fiscal year to carry out this title (other than part D) equals or exceeds $75,000,000, then the amount allotted to each State for such fiscal year shall be not less than $400,000, except that the amount allotted to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $100,000 each.

"(3) If, as a result of paragraph (2), the amount allotted to a State for a fiscal year would be less than the amount allotted to such State for fiscal year 1988, then the amounts allotted to satisfy the requirements of such paragraph shall be reduced pro rata to the extent necessary to allot to such State for the fiscal year the amount allotted to such State for fiscal year 1988.".

(b) TECHNICAL AMENDMENTS.—Section 222(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632(b)) is amended—

(1) in the first sentence by striking "Except for funds appropriated for fiscal year 1975, if" and inserting "If", and

(2) by striking the second sentence.

SEC. 2828. TECHNICAL ASSISTANCE AND TRAINING FUNCTIONS.

Section 244 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5654) is amended—

(1) by amending the heading to read as follows: "TECHNICAL ASSISTANCE AND TRAINING FUNCTIONS",

(2) by striking "National Institute for Juvenile Justice and Delinquency Prevention" and inserting "Administrator, acting through the National Institute for Juvenile Justice and Delinquency Prevention",

(3) by striking paragraph (3),

(4) in paragraph (2) by adding "and" at the end,

(5) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and

(6) by inserting before paragraph (2), as so redesignated, the following:

"(1) provide technical assistance and training assistance to Federal, State, and local governments and to courts, public and private agencies, institutions, and individuals in the planning, establishment, funding, operation, and evaluation of juvenile delinquency programs;".

SEC. 2829. TECHNICAL AND CONFORMING AMENDMENTS TO PARTS B AND C OF TITLE II.

(a) TECHNICAL AMENDMENTS.—Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended—

(1) in part B—

(A) by striking the heading for subpart I, and

(B) by striking subpart II, and

(2) in part C—

(A) by striking the heading for such part and inserting the following:

"PART C—NATIONAL PROGRAMS",

(B) by inserting after the heading for part C the following:

"Subpart I—National Institute for Juvenile Justice and Delinquency Prevention",

(C) by striking sections 245 and 246,

(D) in section 249—

(i) in subsection (a) by striking "section 248" and inserting "section 245",

(ii) in subsection (b) by striking "section 248(b)" and inserting "section 245(b)", and

(iii) in subsection (c) by striking "section 246" and inserting "section 245",

(E) by redesignating sections 247, 248, and 249 as sections 245, 246, and 247, respectively, and

(F) by adding at the end the following:

"Subpart II—Special Emphasis Prevention and Treatment Programs

"AUTHORITY TO MAKE GRANTS AND CONTRACTS

"SEC. 261. (a) The Administrator shall, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals provide for each of the following during each fiscal year:

"(1) Establishing or maintaining community-based alternatives to traditional forms of institutionalization of juvenile offenders.

"(2) Establishing or implementing effective means of diverting juveniles from the traditional juvenile justice and correctional system, including restitution and reconciliation projects which test and validate selected arbitration models, such as neighborhood courts or panels, and increase victim satisfaction while providing alternatives to incarceration for detained or adjudicated delinquents.

"(3) Establishing or supporting programs stressing advocacy activities aimed at improving services to juveniles impacted by the juvenile justice system, including services which encourage the improvement of due process available to juveniles in the juvenile justice system, which improve the quality of legal representation of such juveniles, and which provide for the appointment of special advocates by courts for such juveniles.

"(4) Developing or supporting model programs to strengthen and maintain the family unit in order to prevent or treat juvenile delinquency.

"(5) Establishing or implementing special emphasis prevention and treatment programs relating to juveniles who commit serious crimes (including such crimes committed in schools), including programs designed to deter involvement in illegal activities or to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of juveniles.

"(6) Developing or implementing further a coordinated, national law-related education program of—

"(A) delinquency prevention in elementary and secondary schools, and other local sites;

"(B) training for persons responsible for the implementation of law-related education programs; and

"(C) disseminating information regarding model, innovative, law-related education programs to juvenile delinquency programs, including those that are community based, and to law enforcement and criminal justice agencies for activities related to juveniles.

"(7) Addressing efforts to reduce the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups if such proportion exceeds the proportion such groups represent in the general population.

"(b) The Administrator is authorized, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals, to develop and implement new approaches, techniques, and methods designed to—

"(1) improve the capability of public and private agencies and organizations to provide services for delinquents and other juveniles to help prevent juvenile delinquency;

"(2) develop and implement, in coordination with the Secretary of Education, model programs and methods to keep students in elementary and secondary schools, to prevent unwarranted and arbitrary suspensions and expulsions, and to encourage new approaches and techniques with respect to the prevention of school violence and vandalism;

"(3) develop, implement, and support, in conjunction with the Secretary of Labor, other public and private agencies, organizations, business, and industry, programs for the employment of juveniles;

"(4) develop and support programs designed to encourage and assist State legislatures to consider and establish policies consistent with this title, both by amending State laws, if necessary, and devoting greater resources to effectuate such policies;

"(5) develop and implement programs relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist law enforcement personnel and juvenile justice personnel to more effectively recognize and provide for learning-disabled and other handicapped juveniles;

"(6) develop statewide programs through the use of subsidies or other financial incentives designed to—

"(A) remove juveniles from jails and lockups for adults;

"(B) replicate juvenile programs designated as exemplary by the National Institute of Justice; or

"(C) establish and adopt, based upon the recommendations of the National Advisory Committee for Juvenile Justice and Delinquency Prevention made before the date of the enactment of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984, standards for the improvement of juvenile justice within each State involved; and

"(7) develop and implement model programs, relating to the special education needs of delinquent and other juveniles, which develop locally coordinated policies and programs among education, juvenile justice, and social service agencies.

"(c) Not less than 30 percent of the funds available for grants and contracts under this section shall be available for grants to and contracts with private nonprofit agencies, organizations, and institutions which have experience in dealing with juveniles.

"(d) Assistance provided under this section shall be available on an equitable basis to deal with female, minority, and disadvantaged juveniles, including juveniles who are mentally, emotionally, or physically handicapped.

"(e) Not less than 5 percent of the funds available for grants and contracts under this section shall be available for grants and contracts designed to address the special needs and problems of juvenile delinquency in the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

"CONSIDERATIONS FOR APPROVAL OF APPLICATIONS

"SEC. 262. (a) Any agency, institution, or individual desiring to receive a grant, or enter into a contract, under this part shall submit an application at such time, in such manner, and containing or accompanied by such information as the Administrator may prescribe.

"(b) In accordance with guidelines established by the Administrator, each application for assistance under this part shall—

"(1) set forth a program for carrying out one or more of the purposes set forth in this part and specifically identify each such purpose such program is designed to carry out;

"(2) provide that such program shall be administered by or under the supervision of the applicant;

"(3) provide for the proper and efficient administration of such program;

"(4) provide for regular evaluation of such program;

"(5) certify that the applicant has requested the State planning agency and local agency designated in section 223, if any, to review and comment on such application and indicate the responses of such State planning agency and local agency to such request;

"(6) attach a copy of the responses of such State planning agency and local agency to such request;

"(7) provide that regular reports on such program shall be sent to the Administrator and to such State planning agency and local agency; and

"(8) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this title.

"(c) In determining whether or not to approve applications for grants and for contracts under this part, the Administrator shall consider—

"(1) the relative cost and effectiveness of the proposed program in carrying out this part;

"(2) the extent to which such program will incorporate new or innovative techniques;

"(3) if a State plan has been approved by the Administrator under section 223(c), the extent to which such program meets the objectives and priorities of the State plan, taking into consideration the location and scope of such program;

"(4) the increase in capacity of the public and private agency, institution, or individual involved to provide services to address juvenile delinquency and juvenile delinquency prevention;

"(5) the extent to which such program serves communities which have high rates of juvenile unemployment, school dropout, and delinquency; and

"(6) the adverse impact that may result from the restriction of eligibility, based upon population, for cities with a population greater than 40,000 located within States which have no city with a population over 250,000.

"(d)(1)(A) Programs selected for assistance through grants or contracts under this part (other than section 241(f)) shall be selected through a competitive process to be established by rule by the Administrator. As part of such a process, the Administrator shall announce in the Federal Register—

"(i) the availability of funds for such assistance;

"(ii) the general criteria applicable to the selection of applicants to receive such assistance; and

"(iii) a description of the procedures applicable to submitting and reviewing applications for such assistance.

"(B) The competitive process described in subparagraph (A) shall not be required if the Administrator makes a written determination that—

"(i)(I) the proposed program is not within the scope of any announcement issued, or expected to be issued, by the Administrator regarding the availability of funds to carry out programs under this part, but can be supported by a grant or contract in accordance with this part; and

"(II) such program is of such outstanding merit, as determined through peer review conducted under paragraph (2), that the award of a grant or contract without competition is justified; or

"(ii) the applicant is uniquely qualified to provide proposed training services as provided in section 244 and other qualified sources are not capable of providing such services, and includes in such determination the factual and other bases thereof.

"(C) If a program is selected for assistance without competition pursuant to the exception provided in subparagraph (B), the Administrator shall promptly so notify the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate. Such notification shall include copies of the Administrator's determination made under such subparagraph and the peer review determination required by paragraph (2).

"(2)(A) Programs selected for assistance through grants or contracts under this part (other than section 241(f)) shall be reviewed before selection, and thereafter as appropriate, through a formal peer review process utilizing experts (other than officers and employees of the Department of Justice) in fields related to the subject matter of the proposed program.

"(B) Such process shall be established by the Administrator in consultation with the Directors and other appropriate officials of the National Science Foundation and the National Institute of Mental Health. Before implementation of such process, the Administrator shall submit such process to such Directors, each of whom shall prepare and furnish to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate a final report containing their comments on such process as proposed to be established.

"(3) The Administrator, in establishing the processes required under paragraphs (1) and (2), shall provide for emergency expedited consideration of the proposed programs if necessary to avoid any delay which would preclude carrying out such programs.

"(e) A city shall not be denied assistance under this part solely on the basis of its population.

"(f) Notification of grants and contracts made under this part (and the applications submitted for such grants and contracts) shall, upon being made, be transmitted by the Administrator, to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate.".

(b) CONFORMING AMENDMENTS.—(1) Section 223(a)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(1)) is amended by striking "section 261(c)(1)" and inserting "section 291(c)(1)".

(2) Section 246 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 3639), as so redesignated by section (a)(2)(E), is amended by striking "section 248" and inserting "section 245".

SEC. 2830. AUTHORIZATION OF APPROPRIATIONS.

(a) FUNDS AUTHORIZED FOR FISCAL YEARS.—Section 261(a) of part D of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(a)) is amended—

(1) by inserting "(1)" after "(a)",

(2) by inserting "(other than part D)" after "this title",

(3) by striking "1985, 1986, 1987, and",

(4) by inserting ", 1989, 1990, 1991, and 1992" after "1988", and

(5) by adding at the end the following:

"(2) No funds may be appropriated to carry out part D of this title for a fiscal year unless the aggregate amount appropriated to carry out this title (other than part D) for such fiscal year is not less than the aggregate amount appropriated to carry out this title (other than part D) for the preceding fiscal year.".

(b) ALLOCATIONS.—Section 261(b) of part D of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(b)) is amended—

(1) by inserting "(other than part D)" after "this title",

(2) in paragraph (1) by striking "7.5 percent" and inserting "5 percent",

(3) in paragraph (2) by striking "81.5 percent" and inserting "70 percent", and

(4) in paragraph (3) by striking "11 percent" and inserting "25 percent".

SEC. 2831. TECHNICAL AMENDMENTS TO PART D OF TITLE II.

Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671-5672 note) is amended—

(1) by amending the heading of such part to read as follows:

"PART E—GENERAL AND ADMINISTRATIVE PROVISIONS",

(2) by striking section 263,

(3) by redesignating sections 261 and 262 as sections 291 and 292, respectively, and

(4) by adding at the end the following:

"WITHHOLDING

"SEC. 293. Whenever the Administrator, after giving reasonable notice and opportunity for hearing to a recipient of financial assistance under this title, finds that—

"(1) the program or activity for which the grant or contract involved was made has been so changed that it no longer complies with this title; or

"(2) in the operation of such program or activity there is failure to comply substantially with any provision of this title;

the Administrator shall initiate such proceedings as are appropriate.

"USE OF FUNDS

"SEC. 294. (a) Funds paid pursuant to this title to any public or private agency, organization, or institution, or to any individual (either directly or through a State planning agency) may be used for—

"(1) planning, developing, or operating the program designed to carry out this title; and

"(2) not more than 50 percent of the cost of the construction of any innovative community-based facility for fewer than 20 persons which, in the judgment of the Administrator, is necessary to carry out this title.

"(b) Except as provided in subsection (a), no funds paid to any public or private agency, or institution or to any individual under this title (either directly or through a State agency or local agency) may be used for construction.

"(c)(1) Funds paid pursuant to section 223(a)(10)(D) and section 261(a)(3) to any public or private agency, organization, or institution or to any individual shall not be used to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device intended or designed to influence a Member of Congress or any other Federal, State, or local elected official to favor or oppose any Acts, bills, resolutions, or similar legislation, or any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council, or any similar governing body, except that this paragraph shall not preclude such funds from being used in connection with communications to Federal, State, or local elected officials, upon the request of such officials through proper official channels, pertaining to authorization, appropriation, or oversight measures directly affecting the operation of the program involved.

"(2) The Administrator shall take such action as may be necessary to ensure that no funds paid under section 223(a)(10)(D) or section 261(a)(3) are used either directly or indirectly in any manner prohibited in this paragraph.

"PAYMENTS

"SEC. 295. (a) Payments under this title, pursuant to a grant or contract, may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions as the Administrator may determine.

"(b) Except as provided in the second sentence of section 222(c), financial assistance extended under this title shall be 100 percent of the approved costs of the program or activity involved.

"(c)(1) In the case of a grant under this title to an Indian tribe, if the Administrator determines that the tribe does not have sufficient funds available to meet the local share of the cost of any program or activity to to be funded under the grant, the Administrator may increase the Federal share of the cost thereof to the extent the Administrator deems necessary.

"(2) If a State does not have an adequate forum to enforce grant provisions imposing any liability on Indian tribes, the Administrator may waive State liability attributable to the liability of such tribes and may pursue such legal remedies as are necessary.

"(d) If the Administrator determines, on the basis of information available to the Administrator during any fiscal year, that a portion of the funds granted to an applicant under part C for such fiscal year will not be required by the applicant or will become available by virtue of the application of the provisions of section 802 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended from time to time, that portion shall be available for reallocation in an equitable manner to States which comply with the requirements in paragraphs (12)(A) and (13) of section 223(a), under section 261(b)(6).

"CONFIDENTIALITY OF PROGRAM RECORDS

"SEC. 296. Except as authorized by law, program records containing the identity of individual juveniles gathered for purposes pursuant to this title may not be disclosed without the consent of the service recipient or legally authorized representative, or as may be necessary to carry out this title. Under no circumstances may program reports or findings available for public dissemination contain the actual names of individual service recipients.".

CHAPTER 3—RUNAWAY AND HOMELESS YOUTH

SEC. 2835. RUNAWAY AND HOMELESS YOUTH ACT REAUTHORIZATION.

Section 336(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5751(a)), as redesignated by section 2836(a)(2) of this Act, is amended by striking out "1985, 1986, 1987, and 1988" and inserting in lieu thereof "1989, 1990, 1991, and 1992".

SEC. 2836. AUTHORIZATION OF TRANSITIONAL LIVING PROJECTS.

(a) ASSISTANCE TO POTENTIAL GRANTEES.—Section 315 of the Runaway and Homeless Youth Act (42 U.S.C. 5714a) is amended—

(1) by inserting "and transitional living youth projects" after "homeless youth centers",

(2) in paragraph (1) by inserting "or transitional living youth project" after "homeless youth center",

(3) by inserting "or such project" after "such center" each place it appears, and

(4) in paragraph (3) by inserting "and homeless" after "runaway".

(b) LEASE OF SURPLUS FEDERAL FACILITIES.—Section 316 of the Runaway and Homeless Youth Act (42 U.S.C. 5714b) is amended—

(1) in the heading of such section by inserting "OR AS TRANSITIONAL LIVING YOUTH SHELTER FACILITIES" after "HOMELESS YOUTH CENTERS", and

(2) in subsection (a)—

(A) by inserting "or as transitional living youth shelter facilities" after "homeless youth centers", and

(B) in paragraph (1) by inserting "or transitional living youth project, as the case may be, under this title" after "homeless youth center".

(c) REPORTS.—Section 317 of the Runaway and Homeless Youth Act (42 U.S.C. 5715) is amended—

(1) by inserting "(a)" after "SEC. 317.",

(2) by striking "this part" and inserting "part A", and

(3) by adding at the end thereof the following:

"(b) The Secretary shall annually report to the Congress on the status and accomplishments of the transitional living youth projects which are funded under part B, with particular attention to—

"(1) the number and characteristics of homeless youth served by such projects;

"(2) describing the types of activities carried out under such projects;

"(3) the effectiveness of such projects in alleviating the immediate problems of homeless youth;

"(4) the effectiveness of such projects in preparing homeless youth for self sufficiency;

"(5) the effectiveness of such projects in helping youth decide upon future education, employment, and independent living; and

"(6) the ability of such projects to strengthen family relationships, and encourage the resolution of intra-family problems through counseling and the development of self-sufficient living skills.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 331 of the Runaway and Homeless Youth Act (42 U.S.C. 5751) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and

(2) by inserting after subsection (a) the following:

"(b)(1) Subject to paragraph (2), to carry out the purposes of part B of this title, there are authorized to be appropriated $5,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992.

"(2) No funds may be appropriated to carry out part B of this title for a fiscal year unless the aggregate amount appropriated for such fiscal year to carry out part A of this title exceeds $26,100,000.".

(e) TECHNICAL AMENDMENTS.—The Runaway and Homeless Youth Act (42 U.S.C. 5701-5751) is amended—

(1) by inserting before the heading for section 315 the following:

"PART C—GENERAL PROVISIONS"

and

(2) by redesignating sections 315, 316, 317, 318, 321, and 331, and all references to such sections, as sections 341, 342, 361, 362, 363, and 366, respectively.

(f) GRANTS FOR TRANSITIONAL LIVING YOUTH PROJECTS.—The Runaway and Homeless Youth Act (42 U.S.C. 5701-5751) is amended by inserting between section 314 and section 341, as redesignated herein, the following:

"PART B—TRANSITIONAL LIVING GRANT PROGRAM

"PURPOSE AND AUTHORITY FOR PROGRAM

"SEC. 321. (a) The Secretary is authorized to make grants and to provide technical assistance to public and nonprofit private entities to establish and operate transitional living youth projects for homeless youth.

"(b) For purposes of this part—

"(1) the term 'homeless youth' means any individual—

"(A) who is not less than 16 years of age and not more than 21 years of age;

"(B) for whom it is not possible to live in a safe environment with a relative; and

"(C) who has no other safe alternative living arrangement; and

"(2) the term 'transitional living youth project' means a project that provides shelter and services designed to promote a transition to self-sufficient living and to prevent long-term dependency on social services.

"ELIGIBILITY

"SEC. 322. (a) To be eligible for assistance under this part, an applicant shall propose to establish, strengthen, or fund a transitional living youth project for homeless youth and shall submit to the Secretary a plan in which such applicant agrees, as part of such project—

"(1) to provide, directly or indirectly, shelter (such as group homes, host family homes, and supervised apartments) and services (including information and counseling services in basic life skills, interpersonal skill building, educational advancement, job attainment skills, and mental and physical health care) to homeless youth;

"(2) to provide such shelter and such services to individual homeless youth throughout a continuous period not to exceed 540 days;

"(3) to provide, directly or indirectly, on-site supervision at each shelter facility that is not a family home;

"(4) that such shelter facility used to carry out such project shall have the capacity to accommodate not more than 20 individuals (excluding staff);

"(5) to provide a number of staff sufficient to ensure that all homeless youth participating in such project receive adequate supervision and services;

"(6) to provide a written transitional living plan to each youth based on an assessment of such youth's needs, designed to help the transition from supervised participation in such project to independent living or another appropriate living arrangement;

"(7) to develop an adequate plan to ensure proper referral of homeless youth to social service, law enforcement, educational, vocational, training, welfare, legal service, and health care programs and to help integrate and coordinate such services for youths;

"(8) to provide for the establishment of outreach programs designed to attract individuals who are eligible to participate in the project;

"(9) to submit to the Secretary an annual report that includes information regarding the activities carried out with funds under this part, the achievements of the project under this part carried out by the applicant and statistical summaries describing the number and the characteristics of the homeless youth who participate in such project in the year for which the report is submitted;

"(10) to implement such accounting procedures and fiscal control devices as the Secretary may require;

"(11) to submit to the Secretary an annual budget that estimates the itemized costs to be incurred in the year for which the applicant requests a grant under this part;

"(12) to keep adequate statistical records profiling homeless youth which it serves and not to disclose the identity of individual homeless youth in reports or other documents based on such statistical records;

"(13) not to disclose records maintained on individual homeless youth without the consent of the individual youth and parent or legal guardian to anyone other than an agency compiling statistical records or a government agency involved in the disposition of criminal charges against youth; and

"(14) to provide to the Secretary such other information as the Secretary may reasonably require.

"(b) In selecting eligible applicants to receive grants under this part, the Secretary shall give priority to entities that have experience in providing to homeless youth shelter and services of the types described in subsection (a)(1).".

SEC. 2837. GRANTS FOR RUNAWAY AND HOMELESS YOUTH CENTERS.

(a) TECHNICAL AMENDMENT.—The heading for section 311 of the Runaway and Homeless Youth Act (42 U.S.C. 5711) is amended to read as follows:

"AUTHORITY TO MAKE GRANTS".

(b) GRANT PROGRAM.—Subsections (a) and (b) of section 311 of the Runaway and Homeless Youth Act (42 U.S.C. 5711) are amended to read as follows:

"(a) The Secretary shall make grants to public and private entities (and combinations of such entities) to establish and operate (including renovation) local runaway and homeless youth centers to provide services to deal primarily with the immediate needs of runaway or otherwise homeless youth, and their families, in a manner which is outside the law enforcement structure and the juvenile justice system.

"(b)(1) Subject to paragraph (2) and in accordance with regulations promulgated under this title, funds for grants under subsection (a) shall be allotted annually with respect to the States on the basis of their relative population of individuals who are less than 18 years of age.

"(2) Subject to paragraph (3), the amount allotted under paragraph (1) with respect to each State for a fiscal year shall be not less than $75,000, except that the amount allotted to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $30,000 each.

"(3) If, as a result of paragraph (2), the amount allotted under paragraph (1) with respect to a State for a fiscal year would be less than the aggregate amount of grants made under this part to recipients in such State for fiscal year 1988, then the amounts allotted to satisfy the requirements of such paragraph shall be reduced pro rata to the extent necessary to allot under paragraph (1) with respect to such State for the fiscal year an amount equal to the aggregate amount of grants made under this part to recipients in such State for fiscal year 1988.

"(4) In selecting among applicants for grants under subsection (a), the Secretary shall give priority to private entities that have experience in providing the services described in such subsection.

"(5) Not less than 90 percent of the funds appropriated under paragraph (1) for a fiscal year shall be available to carry out section 311(a) in such fiscal year.".

(c) CONFORMING AMENDMENTS.—(1) Sections 312 and 313 of the Runaway and Homeless Youth Act (42 U.S.C. 5712, 5713) are each amended by striking "this part" each place it appears and inserting "section 311(a)".

(2) Section 312(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5712(a)) is amended by inserting "and homeless youth" after "proposed runaway".

(3) Section 312(b) of the Runaway and Homeless Youth Act (42 U.S.C. 5712(b)) is amended—

(A) in the matter preceding paragraph (1) by striking "meeting" and all that follows through "center—", and inserting "including assurances that the applicant—",

(B) in paragraph (1)—

(i) by striking "shall be" and inserting "shall operate a runaway and homeless youth center", and

(ii) by inserting "and homeless" after "by runaway", and

(C) in paragraphs (3) and (5) by striking "runaway center" each place it appears and inserting "runaway and homeless youth center",

(D) in paragraphs (4) and (6) by striking "runaway youths" each place it appears and inserting "runaway and homeless youth", and

(E) in paragraphs (5) and (6) by striking "runaway youth" each place it appears and inserting "runaway and homeless youth".

(4) Section 314 of the Runaway and Homeless Youth Act (42 U.S.C. 5714) is amended by striking "runaway center" and inserting "runaway and homeless youth center".

(5) Section 317 of the Runaway and Homeless Youth Act (42 U.S.C. 5715) is amended—

(A) by striking "runaway centers" and inserting "runaway and homeless youth centers", and

(B) by striking "runaway youth" and inserting "runaway and homeless youth".

(6) Section 318(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5716(a)) is amended by striking "acquisition and".

CHAPTER 4—MISSING CHILDREN'S ASSISTANCE ACT

SEC. 2841. MISSING CHILDREN'S ASSISTANCE ACT.

(a) REAUTHORIZATION.—Section 408 of the Missing Children's Assistance Act (42 U.S.C. 5777) is amended by—

(1) striking out "$10,000,000 for fiscal year 1985, and"; and

(2) striking out "1986, 1987, and 1988" and inserting "1989, 1990, 1991, and 1992".

(b) NATIONAL CLEARINGHOUSE.—Section 404(b)(2)(D) of the Juvenile Justice and Delinquency Prevention Act is amended by inserting "and training" after "technical assistance".

(c) COMPETITION AMENDMENT.—Section 407 of the Juvenile Justice and Delinquency Prevention Act of 1974 is amended to read as follows:

"SEC. 407. (a) In carrying out the programs by this title (42 U.S.C. 3701, et seq.), the Administrator shall establish—

"(1) annual research, demonstration, and service program priorities for making grants and contracts pursuant to section 406; and

"(2) criteria based on merit for making such grants and contracts.

Not less than 60 days before establishing such priorities and criteria, the Administrator shall publish in the Federal Register for public comment a statement of such proposed priorities and criteria.

"(b) No grant or contract exceeding $50,000 shall be made under this title unless the grantee or contractor has been selected by a competitive process which includes public announcement of the availability of funds for such grant or contract, general criteria for the selection of recipients or contractors, and a description of the application process and application review process.

"(c) Multiple grants or contracts to the same grantee or contractor within any 1 year to support activities having the same general purpose shall be deemed to be a single grant for the purpose of this subsection, but multiple grants or contracts to the same grantee or contractor to support clearly distinct activities shall be considered separate grants or contractors.".

CHAPTER 5—FAMILY VIOLENCE PREVENTION ACT OF 1988

SEC. 2845. SHORT TITLE.

This chapter may be cited as the "Family Violence Prevention Act of 1988".

SEC. 2846. DATA COLLECTION AND REPORTING.

(a) FAMILY VIOLENCE REPORTING.—Under the authority of section 534 of title 28, United States Code, the Attorney General shall require, and include in uniform crime reports, data that indicate—

(1) the age of the victim; and

(2) the relationship of the victim to the offender, for crimes of murder, aggravated assault, simple assault, rape, sexual offenses, and offenses against children.

(b) NATIONAL CRIME SURVEY.—The Director of the Bureau of Justice Statistics, through the annual National Crime Survey, shall collect and publish data that more accurately measures the extent of domestic violence in America, especially the physical and sexual abuse of children and the elderly.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated in fiscal years 1989, 1990, 1991, and 1992, such sums as are necessary to carry out the purposes of this section.

CHAPTER 6—REGIONAL INFORMATION SHARING SYSTEMS GRANTS

SEC. 2851. REGIONAL INFORMATION SHARING SYSTEMS GRANTS.

(a) GRANT AUTHORIZED.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by this subtitle, is amended by inserting after part L the following new part:

"PART M—REGIONAL INFORMATION SHARING SYSTEMS GRANTS

"SEC. 1301. REGIONAL INFORMATION SHARING SYSTEMS GRANTS.

"(a) The Director of the Bureau of Justice Assistance is authorized to make grants and enter into contracts with State and local criminal justice agencies and nonprofit organizations for the purposes of identifying, targeting, and removing criminal conspiracies and activities spanning jurisdictional boundaries.

"(b) Grants and contracts awarded under this part shall be made for—

"(1) maintaining and operating information sharing systems that are responsive to the needs of participating enforcement agencies in addressing multijurisdictional offenses and conspiracies, and that are capable of providing controlling input, dissemination, rapid retrieval, and systematized updating of information to authorized agencies;

"(2) establishing and operating an analytical component to assist participating agencies and projects in the compilation, interpretation, and presentation of information provided to a project;

"(3) establishing and maintaining a telecommunication of the information sharing and analytical programs in clauses (1) and (2); and

"(4) other programs designated by the Director that are designed to further the purposes of this part.

"(c) The Director is authorized to promulgate such rules and regulations as are necessary to carry out the purposes of this section, including rules and regulations for submitting and reviewing applications."

(b) TECHNICAL AMENDMENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking out the items relating to part N and section 1401, and inserting in lieu thereof the following new items:

"PART M—REGIONAL INFORMATION SHARING SYSTEMS GRANTS

"Sec. 1301. Regional information sharing systems grants.

"PART N—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1401. Continuation of rules, authorities, and proceedings."

CHAPTER 7—PUBLIC SAFETY OFFICERS' DEATH BENEFITS IMPROVEMENT

SEC. 2855. PUBLIC SAFETY OFFICERS' DEATH BENEFITS IMPROVEMENT.

(a) BASIC LEVEL OF DEATH BENEFIT PAYABLE.—Section 1201(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended by striking out "$50,000" and inserting in lieu thereof "$100,000, adjusted in accordance with subsection (g)".

(b) ANNUAL ADJUSTMENT OF BENEFIT LEVEL.—Section 1201 of title I of the Omnibus Crime Control Act of 1968 (42 U.S.C. 3796) is amended by adding at the end thereof the following new subsections:

"(g) On October 1 of each fiscal year beginning after the effective date of this subsection, the Bureau shall adjust the level of the benefit payable immediately before such October 1 under subsection (a), to reflect the annual percentage change in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, occurring in the 1-year period ending on June 1 immediately preceding such October 1.

"(h) The amount payable under subsection (a) with respect to the death of a public safety officer shall be the amount payable under subsection (a) as of the date of death of such officer.".

(c) PARENTS AS BENEFICIARIES.—Section 1201(a)(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796(a)(4)) is amended by striking out "dependent".

(d) TECHNICAL AMENDMENT.—Section 1203 of title I of the Omnibus Crime Control Act of 1968 (42 U.S.C. 3796b) is amended by striking out paragraph (2) and redesignating paragraphs (3), (4), (5), (6), and (7), as paragraphs (2), (3), (4), (5), and (6), respectively.

SEC. 2856. NATIONAL PROGRAMS FOR FAMILIES OF PUBLIC SAFETY OFFICERS WHO HAVE DIED IN THE LINE OF DUTY.

PROGRAM AUTHORIZATION.—Part L of title I of the Omnibus Crime Control and Safe Streets Act (42 U.S.C. 3796a) is amended by—

(1) redesignating sections 1203 and 1204 as sections 1204 and 1205, respectively; and

(2) adding after section 1202 the following new section:

"NATIONAL PROGRAMS FOR FAMILIES OF PUBLIC SAFETY OFFICERS WHO HAVE DIED IN THE LINE OF DUTY

"SEC. 1203. The Director is authorized and directed to use up to $150,000 of the funds appropriated for this part to establish national programs to assist the families of public safety officers who have died in the line of duty.".

(b) TECHNICAL AMENDMENT.—The table of contents for title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by—

(1) redesignating the items for section 1203 and 1204 as sections 1204 and 1205, respectively; and

(2) inserting after section 1203 the following:

"Sec. 1203. National and regional program for families of public safety officers who have died in the line of duty.".

CHAPTER 8—CRIMINAL HISTORY RECORD, ARREST WARRANT, AND STOLEN VEHICLE RECORD INFORMATION IMPROVEMENT

SEC. 2861. SHORT TITLE.

This part may be cited as the "Criminal History Record Information Improvement Act of 1987".

SEC. 2862. CRIMINAL HISTORY RECORD, ARREST WARRANT AND STOLEN VEHICLE RECORD INFORMATION.

(a) GRANT AUTHORIZED.—Part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3731-3735) is amended by adding at the end thereof the following new section:

"GRANTS TO IMPROVE CRIMINAL HISTORY RECORD, ARREST WARRANT AND STOLEN VEHICLE RECORD INFORMATION

"SEC. 305. (a) With funds appropriated under section 1001(a)(6) of this title, the Director shall establish and carry out a program to make grants to improve criminal history record information, arrest warrant information and stolen vehicle record information compiled and maintained by State and local criminal justice agencies. Under such program, grants may be made in order to improve the accuracy, inclusiveness, or completeness of criminal history record, arrest record, and stolen vehicle record information, including grants, to develop, establish, or enhance—

"(1) uniform documents, forms, and procedures for reporting, integrating and maintaining such information;

"(2) an editing and verification system in order to identify errors;

"(3) a tracking system to match arrest and charge entries with dispositions;

"(4) a delinquent disposition monitoring system to identify aged entries;

"(5) a capability to audit information systems for the accuracy, or completeness or otherwise to measure the quality of such information;

"(6) an error notification system to facilitate the exchange of updated or corrected information among criminal justice agencies;

"(7) a capability to query the appropriate State central repository or source agency;

"(8) a transaction log system to record and describe the instances of dissemination;

"(9) automated criminal justice information systems, especially integrated systems, that assist in accomplishing information quality objectives or provide the means to measure the accomplishment of such objectives;

"(10) communications with the courts and other parts of the criminal justice system in order to assist in accomplishing information quality objectives;

"(11) initiatives to enhance the use of positive identification techniques;

"(12) programs for verification, validation, and purging of information that is not accurate; or

"(13) such other programs that, as determined by the Director, can reasonably be expected to assist in accomplishing information quality objectives.

"(b) No grant may be made under subsection (a) to an applicant unless the application for such grant—

"(1) contains a detailed summary of the results of an audit of the component or aspect of the criminal justice information system for which the grant is being sought;

"(2) identifies each of the activities specified in subsection (a) for which such grant will be expended and describes in detail how such activities will be carried out;

"(3) specifies with respect to the component or aspect of the criminal justice information system for which the grant is being sought, numeric goals of accuracy, inclusiveness, or completeness that will be achieved as a result of carrying out such activities and the period of time, but not more than 2 years, within which such goals will be achieved;

"(4) provides an assurance that such applicant will conduct an audit, at the applicant's expense, to determine whether the goals established pursuant to paragraph (3) have been achieved; and

"(5) identifies the State or local agency, as the case may be, that will be responsible for administering such grant.

"(c) Any State or unit of local government that—

"(1) receives a grant under subsection (a); and

"(2) fails to achieve each goal of accuracy, inclusiveness, or completeness specified in the application for such grant, as required by subsection (b)(3) within the period to which such goal applies;

is ineligible to receive any other grant under subsection (a) unless the Director determines that the failure to achieve such goal was caused by circumstances beyond the control of the State or unit of local government involved.".

(b) TECHNICAL AMENDMENTS.—Section 303 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3733) is amended—

(1) by striking out "A grant" and inserting in lieu thereof "(a) Except as provided in subsection (b), a grant", and by inserting after the words "for which such grant is made." the following new language: "The Director, in his discretion, may waive the requirements in subsection 305(b) with respect to 100 percent grants awarded under section 305.", and

(2) by adding at the end the following:

"(b) From 80 percent of the funds appropriated for a fiscal year to carry out section 305, each grant may be up to 50 percent of the total cost of the project for which such grant is made. The amount expended by the grant applicant to conduct the audit required by section 305(b)(1) shall be treated as a part of the cost of such project paid by such applicant.".

SEC. 2863. CRIMINAL JUSTICE RECORD INFORMATION DATA QUALITY RESEARCH.

With funds appropriated under section 1001(a)(6) of this title, the Bureau is authorized to conduct or make grants to support research to determine the accuracy, inclusiveness, or completeness of criminal justice record information held by State or local law enforcement agencies, prosecutors, the courts or correctional agencies.

SEC. 2864. TECHNICAL AMENDMENTS.

The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the item relating to section 304 the following new item:

"Sec. 305. Grants to improve criminal history record, arrest warrant and stolen vehicle information.".

CHAPTER 9—COLLEGE AND RAILROAD POLICE INFORMATION

SEC. 2865. COLLEGE AND RAILROAD POLICE INFORMATION.

Section 534 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) For purposes of this section, the term 'other institutions' includes—

"(1) railroad police departments which perform the administration of criminal justice pursuant to a State statute and which allocate a substantial part of their annual budget to the administration of criminal justice; and

"(2) police departments of private colleges or universities which perform the administration of criminal justice pursuant to a State statute and which allocate a substantial part of their annual budget to the administration of criminal justice.".

CHAPTER 10—ASSISTANCE TO STATE AND LOCAL COURTS

SEC. 2871. STATE JUSTICE INSTITUTE REAUTHORIZATION.

(a) AUTHORIZATION.—Section 215 of the State Justice Institute Act of 1984 (Public Law 98-620; 42 U.S.C. 10713) is amended to read as follows:

"SEC. 215. There are authorized to be appropriated $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992 to carry out the purposes of this chapter.".

(b) TECHNICAL AMENDMENTS.—(1) Section 203(f) of the State Justice Institute Act of 1984 is amended by striking ", at least thirty days prior to their effective date," and by adding to the end thereof: "The publication of a substantive rule shall not be made less than thirty days before the effective date of such rule, except as otherwise provided by the Institute, for good cause found and published with the rule.".

(2) Section 205(d)(2) of the State Justice Institute Act of 1984 is amended by striking "chapter 83" and inserting in lieu thereof "chapters 83 and 84".

(3) Section 206(c) of the State Justice Institute Act of 1984 is amended by—

(A) inserting "judicial and" before "nonjudicial" in paragraph (3);

(B) repealing paragraph (4); and

(C) redesignating paragraphs (5) through (15) as paragraphs (4) through (14), respectively.

(4) Section 206(d) of the State Justice Institute Act of 1984 is amended by striking out judicial system" and inserting in lieu thereof "court (or other unit of State or local government)".

(5) Section 207(a) of the State Justice Institute Act of 1984 is amended by—

(A) inserting "and" at the end of paragraph (1)(B);

(B) striking "; and" at the end of paragraph (2) and inserting in lieu thereof a period; and

(C) repealing paragraph (3).

(c) ADMINISTRATIVE PROVISIONS.—Section 209 of the State Justice Institute Act of 1984 is amended to read as follows:

"ADMINISTRATIVE PROVISIONS

"SEC. 209. (a) The Institute shall prescribe procedures to ensure that financial assistance under this title shall not be suspended unless the grantee, contractor, person, or entity receiving financial assistance under this title has been given reasonable notice and opportunity to show cause why such actions should not be taken.

"(b) Except as provided by Federal law other than this title, no officer or employee of the Institute, and no recipient of assistance under the provisions of this title shall use or reveal any research or statistical information furnished under this title by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained in accordance with this title. Such information and copies thereof shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceedings.".

CHAPTER 11—VICTIM COMPENSATION AND ASSISTANCE

SUBCHAPTER A—VICTIMS OF CRIME ACT OF 1984 REAUTHORIZATION

SEC. 2875. VICTIMS OF CRIME ACT OF 1984 REAUTHORIZATION.

Paragraph (2) of subsection (c) of section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended by striking out "September 30, 1988" and inserting in lieu thereof "September 30, 1992.".

SEC. 2876. VICTIMS ASSISTANCE AMENDMENT.

Section 1404(a)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(2)) is amended by adding a new subparagraph (B) and redesignating the other subparagraphs as appropriate:

"(B) certify that funds shall be made available for grants to programs designed to serve previously underserved populations victims. The Director shall issue guidelines to implement this section, after consultation with State and local officials and representatives from private organizations, that provide flexibility to the States in determining the victims populations that may be underserved in their respective States;".

SUBCHAPTER B—ESTABLISHMENT OF OFFICE FOR VICTIMS OF CRIME

SEC. 2881. ESTABLISHMENT OF OFFICE.

The Victims of Crime Act of 1984 is amended by inserting after section 1401, the following new section:

"SEC. 1401A. ESTABLISHMENT OF OFFICE FOR VICTIMS OF CRIME.

"(a) There is established within the Department of Justice, under the general authority of the Attorney General, an Office for Victims of Crime (hereafter in this part referred to as the 'Office').

"(b) The Office shall be headed by a Director (hereafter in this part referred to as the 'Director') who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall report to the Attorney General through the Assistant Attorney General for the Office of Justice Programs. The Director shall have final authority for all grants, cooperative agreements, and contracts awarded by the Office. The Director shall not engage in any employment other than that of serving as the Director, nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Office makes any contract or other agreement under this part.

"(c) The Director shall have the following duties:

"(1) Administering funds made available by section 1402.

"(2) Providing funds to eligible States pursuant to sections 1403 and 1404.

"(3) Establishing programs in accordance with section 1404(c) on terms and conditions determined by the Director to be consistent with that subsection.

"(4) Cooperating with and providing technical assistance to States, units of local government, and other public and private organizations or international agencies involved in activities related to crime victims.

"(5) Such other functions as the Attorney General may delegate.".

SEC. 2882. TECHNICAL AMENDMENTS TO VICTIMS OF CRIME ACT.

(a) Section 1403(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by striking "Attorney General" and inserting "Director".

(b) Section 1403(a)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by striking "Attorney General" and inserting "Director".

(c) Section 1403(b)(6) of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by striking "Attorney General" and inserting "Director".

(d) Section 1404(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10603) is amended by striking "Attorney General" and inserting "Director".

(e) Section 1404(a)(2)(C) of the Victims of Crime Act of 1984 (42 U.S.C. 10603) is amended by striking "Attorney General" and inserting "Director".

(f) Section 1404(c)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10603) is amended by striking "Attorney General, acting through the Assistant Attorney General for the Office of Justice Programs" and inserting "Director".

(g) Section 1404(c)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10603) is amended by striking "Assistant Attorney General for the Office of Justice Programs" and inserting "Director".

(h) Section 1404(c)(3)(D) of the Victims of Crime Act of 1984 (42 U.S.C. 10603) is amended by striking "Attorney General may assign" and inserting "Director deems appropriate".

(i) Section 1404(c)(4) of the Victims of Crime Act of 1984 (42 U.S.C. 10603) is amended by striking "Attorney General" and inserting "Director".

(j) Section 1407(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by—

(1) striking "Attorney General" and inserting "Director";

(2) striking "Attorney General" and inserting "Director"; and

(3) striking "and may delegate to any officer or employee of the Department of Justice any such function as the Attorney General deems appropriate".

(k) Section 1407(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by striking "Attorney General" and inserting "Director".

(l) Section 1407(c) of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by striking "Attorney General or any duly authorized representative of the Attorney General" and inserting "Director".

(m) Section 1407(f) of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by—

(1) striking "Attorney General" the first place it appears and inserting "Director"; and

(2) striking "Attorney General" and inserting "Director" in paragraph (3).

(n) Section 1407(g) of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by—

(1) striking "Attorney General" the first place it appears and inserting "Director"; and

(2) striking "no later than December 31, 1987" and inserting "on December 31, 1990, and on December 31 every 2 years thereafter".

SEC. 2883. CHILDREN'S JUSTICE ACT AMENDMENTS.

(a) Section 10 of the Child Abuse Prevention and Treatment Act (Public Law 100-294) is stricken and sections 11, 12, 13, 14, and 15 are redesignated as sections 10, 11, 12, 13, and 14, respectively.

(b) Section 1404A (42 U.S.C. 10603A) of the Victims of Crime Act of 1984 is amended to read as follows:

"SEC. 1404A. (a) GRANT AUTHORITY.—(1) Amounts made available by section 1402(d)(2) for the purposes of this section shall be obligated and expended by the Attorney General, acting through the Director, to make grants to the States for the purpose of assisting States in developing, establishing, and operating programs designed to improve—

"(A) the handling of child abuse cases, particularly cases of child sexual abuse, in a manner which limits additional trauma to the child victim; and

"(B) the investigation and prosecution of cases of child abuse, particularly child sexual abuse.

"(2) To ensure that programs funded under this section involve a multidisciplinary approach, representatives from a variety of disciplines, the Director shall, in consultation with the representatives from the Department of Health and Human Services and other Federal agencies, develop for each fiscal year, before December 31 of each year, a proposed plan describing the criteria that shall be used in selecting programs for grants under this section. Such report shall also be provided to the appropriate committees of Congress.".

"(b) ELIGIBILITY REQUIREMENTS FOR STATES.—In order for a State to qualify for assistance under this section, such State shall—

"(1) fulfill the eligibility requirements for victim assistance funds under section 1404(a) of the Victims of Crime Act (42 U.S.C. 10603);

"(2) establish a task force as provided in subsection (c);

"(3) fulfill the requirements of subsection (d); and

"(4) submit an application to the Attorney General at such time and containing such information and assurances as the Attorney General considers necessary, including an assurance that the State will—

"(A) make such reports to the Attorney General as may reasonably be required; and

"(B) maintain and provide access to records relating to activities under subsections (a) and (b).

"(c) State Task Forces.—

"(1) General rule.—Except as provided in paragraph (2), a State requesting assistance under this section shall establish or designate a State multidisciplinary task force on children's justice (hereinafter referred to as 'State task force') composed of professionals with knowledge and experience relating to the criminal justice system and issues of child abuse. The State task force shall include—

"(A) individuals representing the law enforcement community;

"(B) judicial and legal officers (including individuals involved with the defense as well as the prosecution of such cases);

"(C) child advocates;

"(D) health and mental health professionals;

"(E) individuals representing child protective service agencies;

"(F) individuals experienced in working with children with handicaps;

"(G) parents; and

"(H) representatives of parents' groups.

"(2) Existing task force.—As determined by the Attorney General, a State commission or task force established after January 1, 1983, with substantially comparable membership and functions, may be considered the State task force for purposes of this subsection.

"(d) State Task Force Study.—Before a State receives assistance under this section, the State task force shall—

"(1) review and evaluate State investigative, administrative, and judicial handling of cases of child abuse, particularly child sexual abuse; and

"(2) make recommendations in each of the categories described in subsection (e).

The task force may make such other comments and recommendations as are considered relevant and useful.

"(e) Adoption of State Task Force Recommendations.—

"(1) General rule.—Subject to the provisions of paragraph (2), before a State receives assistance under this section, a State shall adopt recommendations of the State task force in each of the following categories:

"(A) investigative, administrative, and judicial handling of cases of child abuse, particularly child sexual abuse cases, in a manner which reduces the additional trauma to the child victim and which also ensures procedural fairness to the accused;

"(B) experimental, model, and demonstration programs for testing innovative approaches and techniques which may improve the rate of successful prosecution or enhance the effectiveness of judicial and administrative action in child abuse cases, particularly child sexual abuse cases, and which also ensure procedural fairness to the accused; and

"(C) reform of State laws, ordinances, regulations, and procedures to provide comprehensive protection for children from abuse, particularly child sexual abuse, while ensuring fairness to all affected persons.

"(2) Exemption.—As determined by the Attorney General, a State shall be considered to be in fulfillment of the requirements of this subsection if—

"(A) the State adopts an alternative to the recommendations of the State task force, which carries out the purpose of this section, in each of the categories under paragraph (1) for which the State task force's recommendations are not adopted; or

"(B) the State is making substantial progress toward adopting recommendations of the State task force or a comparable alternative to such recommendations.

"(f) Grants for Indian Country.—The Attorney General, acting through the Director, is authorized to use not more than 15 percent of the funds available for this section to make grants for the purpose of assisting Native American Indian tribes in developing, establishing, and operating programs designed to improve—

"(1) the handling of child abuse cases, particularly cases of child sexual abuse, in a manner which limits additional trauma to the child victim; and

"(2) the investigation and prosecution of cases of child abuse, particularly child sexual abuse.

"(g) Report.—The Director shall include a summary of States funded under this section and the programmatic results when reporting to the President and Congress as required under section 1407(g) of the Victims of Crime Act (42 U.S.C. 10604).".

(c) The amendments made by this section shall not affect the administration of grants made on or before September 30, 1988.

SUBCHAPTER C—OTHER AMENDMENTS TO VICTIMS OF CRIME ACT OF 1984

SEC. 2885. OTHER AMENDMENTS TO VICTIMS OF CRIME ACT OF 1984.

(a) Adding Victims of Drunk Driving and Domestic Violence.—Section 1403(b)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(b)(1)) is amended to read as follows:

"(1) such program is operated by a State and offers compensation to victims and survivors of victims of criminal violence, including drunk driving and domestic violence by December 30, 1991, for—".

(b) Denial of Compensation.—Section 1403(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(b)) is amended by—

(1) redesignating paragraph (6) as paragraph (7); and

(2) adding the following new paragraph (6):

"(6) such program does not deny compensation to any victim because of a familial relationship with the offender or because the victim lived with the offender at the time of the crime, except that the program may establish reasonable regulations, pursuant to Department of Justice guidelines, to prevent the unjust enrichment of the offender;".

(c) Change in Victim Compensation Criteria.—Section 1403(b)(5) (42 U.S.C. 10602(b)(5)) of the Victims of Crime Act of 1984 is amended to read as follows:

"(5) such program provides compensation to victims of Federal crimes occurring within the State on the same basis that such program provides compensation to victims of State crimes.".

(d) Removal of "Grandfather" Clause.—Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by striking subsection (c) and redesignating subsection (d) as subsection (c).

(e) Eyeglasses.—(1) Section 1403(d)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(d)(1)) is amended by adding after "does not include damage to" the following: "eyeglasses and other corrective lenses or".

(2) Section 1403(d)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(d)(2)) is amended by adding after "crime victim compensation program, expenses for" the following: "eyeglasses and other corrective lenses, and for".

Subtitle O—Chemical Diversion and Trafficking Act of 1988

SEC. 2901. SHORT TITLE.

This subtitle may be cited as the "Chemical Diversion and Trafficking Act of 1988".

SEC. 2902. REGULATION OF LISTED CHEMICALS AND CERTAIN MACHINES.

(a) In General.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended to read as follows:

"REGULATION OF LISTED CHEMICALS AND CERTAIN MACHINES

"Sec. 310. (a)(1) Each regulated person who engages in a regulated transaction involving a listed chemical shall keep a record of the transaction—

"(A) for 4 years after the date of the transaction, if the listed chemical is a precursor chemical; and

"(B) for 2 years after the date of the transaction, if the listed chemical is an essential chemical.

"(2) A record under this subsection shall be readily retrievable and shall include the date of the regulated transaction, the identity of each party to the regulated transaction, a statement of the quantity and form of the listed chemical, and a description of the method of transfer. Such records shall be kept and made available for inspection and copying by officers or employees of the United States authorized by the Attorney General.

"(3) It is the duty of each regulated person who engages in a regulated transaction to identify each other party to the transaction. It is the duty of such other party to present proof of identity to the regulated person. The Attorney General shall specify by regulation the types of documents or other evidence that constitute proof of identity for purposes of this paragraph.

"(4) Paragraphs (1), (2), and (3) shall also apply to any regulated transaction involving tableting machines or encapsulating machines except that—

"(A) records shall be kept for 2 years after the date of the transaction; and

"(B) records shall also include the purpose for which the machine is intended, and the serial numbers and make and model of the machine.

"(b) Each regulated person shall report to the Attorney General, in such form and manner as the Attorney General shall prescribe by regulation—

"(1) any regulated transaction involving an extraordinary quantity of a listed chemical, an uncommon method of payment or delivery, or any other circumstance that the regulated person believes may indicate that the listed chemical may be used in violation of this title;

"(2) any regulated transaction involving a tableting machine or an encapsulating machine that the regulated persons believes may be used in violation of this title;

"(3) any proposed regulated transaction with a person whose description or other identifying characteristics the Attorney General furnishes in advance to the regulated person; and

"(4) any unusual or excessive loss or disappearance of a listed chemical under the control of the regulated person.

For paragraphs (1) and (4), the Attorney General shall issue consultative guidance documents as may be necessary. Each report under paragraphs (1) and (2) shall be made at the earliest practicable opportunity and as much in advance of the actual delivery as possible after the regulated person becomes aware of the circumstance involved. A regulated person may not complete a transaction with a person whose description or identifying characteristic is furnished to the regulated person under paragraph (3) unless the transaction is approved by the Attorney General.

"(c)(1) Except as provided in paragraph (2), any information obtained by the Attorney General under this section which is exempt from disclosure under section 552(a) of title 5, United States Code, by reason of section 552(b)(4) of such title, is confidential and may not be disclosed to any person.

"(2) Information referred to in paragraph (1) may be disclosed only—

"(A) to an officer or employee of the United States engaged in carrying out this title, title III, or the customs laws;

"(B) when relevant in any investigation or proceeding for the enforcement of this title, title III, or customs laws;

"(C) when necessary to comply with an obligation of the United States under a treaty or other international agreement; or

"(D) to a State or local law enforcement, prosecutorial, or judicial officer in conjunction with the enforcement of controlled substance or precursor laws.

"(3) The Attorney General shall—

"(A) take such action as may be necessary to prevent unauthorized disclosure of information by any person to whom such information is disclosed under paragraph (2); and

"(B) issue guidelines that limit, to the maximum extent feasible, the disclosure of proprietary business information, including the names or identities of United States exporters of listed chemicals, to any person to whom such information is disclosed under paragraph (2).".

(b) CLERICAL AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking out the item relating to section 310 and inserting in lieu thereof the following:

"310. Regulation of listed chemicals and certain machines.".

SEC. 2903. IMPORT AND EXPORT.

(a) EXPORT.—(1) Section 1003 of the Controlled Substances Import and Export Act (21 U.S.C. 953) is amended by adding at the end thereof the following new subsection:

"(f)(1) Except as provided in paragraph (2), it shall be unlawful for a regulated person involved in a regulated transaction to export from the United States to any other country any listed chemical, tableting machine, or encapsulating machine unless there is furnished to the Attorney General, at least 15 days prior to export, in a manner which the Attorney General may by regulation prescribe, a declaration that the exportation is for medical, commercial, scientific, or other legitimate purposes.

"(2) The Attorney General shall provide by regulation for circumstances in which the 15-day requirement does not apply to a transaction between a regulated person and a regular customer of the regulated person.

"(3) A regulated person may not export any listed chemical, tableting machine, or encapsulating machine in any case following notification by the Attorney General that such export may not occur. Such notification shall be communicated in an expeditious manner consistent with the circumstances; and a written statement setting forth the reason that such shipment may not be made shall be provided to the exporter at the earliest practicable opportunity.

"(4) Following the receipt of a notification not to export listed chemicals, tableting machine or encapsulating machine pursuant to paragraph (1), the exporter may file a request for a hearing with the Attorney General. Such hearings will be conducted in conformance with subchapter II of chapter 5 of title 5, United States Code, and will be conducted on an expedited basis no later than 45 days following receipt of a request for a hearing, unless a delay is requested by the exporter.".

(2) Section 1010 of such Act (21 U.S.C. 960) is amended—

(A) in paragraph (a)(1) by adding "or listed chemical, chemical mixture created for the purpose of evading the notification requirements of sections 1002 and 1003, tableting machine or encapsulating machine," following "controlled substance"; and

(B) in paragraph (b)(4) by adding "or listed chemical, chemical mixture created for the purpose of evading the notification requirements of sections 1002 and 1003, tableting machine or encapsulating machine" following "schedule III, IV, or V,".

(3)(A) No later than 45 days after the date of the enactment of this Act, the Attorney General shall forward proposed regulations relating to paragraph (1) to the Office of Management and Budget for review.

(B) No later than 55 days after the date of the enactment of this Act, the Office of Management and Budget shall—

(i) review such proposed regulations of the Attorney General; and

(ii) forward any comments and recommendations for modifications to the Attorney General.

(C) Not later than 60 days after the date of enactment of this Act, the Attorney General shall publish the proposed final regulations as required by the amendments made by paragraphs (1) and (2).

(D) No later than 120 days after the date of the enactment of this Act, the Attorney General shall promulgate final regulations as required by the amendments made by paragraphs (1) and (2).

(E) The provisions of the amendments made by paragraph (1) of this subsection shall take effect 60 days after the promulgation of the final regulations required under paragraphs (1) and (2).

(b) IMPORT.—(1) Section 1002 of the Controlled Substances Import and Export Act (21 U.S.C. 952) is amended by adding at the end thereof the following new subsection:

"(d)(1) Except as provided in paragraph (2), it shall be unlawful for a regulated person involved in a regulated transaction to import into the customs territory of the United States from any place outside thereof (but within the United States) or to import into the United States from any place outside thereof, any listed chemical, tableting machine, or encapsulating machine (including those for the purpose of transshipment) unless there is furnished to the Attorney General at least 15 days prior to import, in a manner which the Attorney General may be regulation prescribe, a declaration that the importation is for medical, commercial, scientific, or other legitimate purposes.

"(2) The Attorney General shall provide by regulation for circumstances in which the 15-day requirement does not apply to a transaction between a regulated person and a regular customer of the regulated person.

"(3) The importer may not import any listed chemical tableting machine or encapsulating machine in any case following notification by the Attorney General that such import may not occur. Such notification shall be communicated in an expeditious manner consistent with the circumstances; and a written statement setting forth the reason that such shipment may not be made shall be provided to the importer at the earliest practicable opportunity.

"(4) Following the receipt of a notice not to import listed chemicals, tableting machines, or encapsulating machines pursuant to paragraph (1), the importer may file a request for a hearing with the Attorney General. Such hearings will be conducted in conformance with subchapter II of chapter 5 of title 5, United States Code, and will be conducted on an expedited basis no later than 45 days following receipt of a request for a hearing, unless a delay is requested by the importer.".

(2) The provisions of the amendments made by paragraph (1) of this subsection shall take effect in the same manner and on the same date as provided in subsection (a)(3).

SEC. 2904. DEFINITIONS.

Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (8), by inserting "or a listed chemical, tableting machine or encapsulating machine" after "a controlled substance";

(2) in paragraph (11), by inserting "or a listed chemical, tableting machine or encapsulating machine" after "a controlled substance" both places it appears; and

(3) by adding at the end the following new paragraphs:

"(33) The term 'listed chemical' means any listed precursor chemical or listed essential chemical.

"(34) The term 'listed precursor chemical' means a chemical specified by regulation of the Attorney General as a chemical that is used in manufacturing a controlled substance in violation of this title and is critical to the creation of the controlled substances, and such term includes (until otherwise specified by regulation of the Attorney General) the following chemicals:

"(A) Anthranilic acid, plus salts.

"(B) Benzyl cynide.

"(C) Ephedrine, plus salts, optical isomers and salts of optical isomers.

"(D) Ergonovine, plus salts.

"(E) Ergotamine, plus salts.

"(F) 3,4-Methylenedioxyphenyl-2-propanone.

"(G) N-acetylanthranilic acid, plus salts.

"(H) Phenylacetic acid, plus salts.

"(I) Piperidine, plus salts.

"(J) Pseudoephedrin, plus salts, optical isomers and salts of optical isomers.

"(35) The term 'listed essential chemical' means a chemical specified by regulation of the Attorney General as a chemical that is used as a solvent, reagent, or catalyst in manufacturing a controlled substance in violation of this title, and such term includes (until otherwise specified by regulation of the Attorney General) the following chemicals:

"(A) Acetic anhydride.

"(B) Acetone.

"(C) Benzyl chloride.

"(D) Ethyl ether.

"(E) Potassium permanganate.

"(F) 2-butanone (Methyl ethyl ketone).

"(G) Toluene.

"(36) The term 'regular customer' means, with respect to a regulated person, a customer with whom the regulated person has an established business relationship that is reported according to regulations prescribed by the Attorney General. The reports filed according to such regulations shall include—

"(A) the names and street addresses of the regulated person and the regular customer;

"(B) the phone number and contact person for the regulated person;

"(C) a list of the listed chemicals involved in regulated transactions between the regulated person and the regular customer; and

"(D) such other information that is necessary for the effective implementation of sections 1002 and 1003 of the Controlled Substances Import and Export Act.

"(37) The term 'regulated person' means a person who manufactures, distributes, imports, or exports a listed chemical, a tableting machine or encapsulating machine.

"(38) The term 'regulated transaction' means—

"(A) a distribution, receipt, sale, importation or exportation of a threshold amount, including a cumulative threshold amount for multiple transactions (as determined by the Attorney General, in consultation with the chemical industry and taking into consideration the quantities normally used for lawful purposes), of a listed chemical, except that such term does not include—

"(i) a domestic distribution in the lawful and usual course of business between agents and employees of a single regulated person;

"(ii) the delivery of listed substances to or by a common or contract carrier for carriage in the lawful and usual course of its business, or to or by a warehouseman for storage in the lawful and usual course of its business; but where such carriage or storage is in connection with the distribution, importation, or exportation of substances to a third person, this subparagraph shall not relieve the distributor, importer, or exporter from compliance with section 310(a)(3);

"(iii) any category of transaction specified by regulation of the Attorney General as excluded from this definition as unnecessary for enforcement of this title or title III;

"(iv) any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act; or

"(v) any transaction in a chemical mixture.

"(B) a distribution, importation or exportation of a tableting machine or an encapsulating machine except that such term does not include transactions excluded under subsections (A) (i) and (ii).

"(39) the term 'chemical mixture' means a combination of two or more chemical substances, at least one of which is not a listed precursor chemical or a listed essential chemical, except that such term does not include any combination of a listed precursor chemical or a listed essential chemical with another chemical that is present solely as an impurity.".

SEC. 2905. AMENDMENTS TO SECTION 401 OF THE CONTROLLED SUBSTANCES ACT.

(a) ADDITIONAL OFFENSES.—Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended by striking out subsection (d) and inserting in lieu thereof the following new subsections:

"(d) Any person who knowingly or intentionally—

"(1) possesses a listed chemical with intent to manufacture a controlled substance except as authorized by this title;

"(2) possesses or distributes a listed chemical knowing that the listed chemical will be used to manufacture a controlled substance except as authorized by this title;

"(3) with the intent of causing the evasion of the recordkeeping or reporting requirements of section 310(a) or the regulations issued thereunder, receives or distributes a reportable amount of any listed chemical in units small enough so that the making of records or filing of reports under section 310(a) is not required;

"(4) with the intent of causing the evasion of the recordkeeping or reporting requirements of section 310(a) or the regulations issued thereunder, creates a chemical mixture in such proportions so that the making of records or filing of reports under section 310(a) is not required;

"(5) possesses any three-neck round-bottom flask, tableting or encapsulating machines, gelatin capsules, or any equipment specially designed or modified to manufacture a controlled substance, knowing that it will be used to manufacture a controlled substance except as authorized by this title; or

"(6) manufactures, distributes, or imports any three-neck round-bottom flask, tableting or encapsulating machines, gelatin capsules, or any equipment specially designed or modified to manufacture a controlled substance, knowing that it will be used to manufacture a controlled substance except as authorized by this title.

shall be fined in accordance with title 18, United States Code, or imprisoned not more than 10 years, or both.

"(e)(1) Whoever knowingly distributes a listed chemical in violation of this title (other than in violation of a recordkeeping or reporting requirement of section 310) shall be fined under title 18, United States Code, or imprisoned not more than 10 years, or both.

"(2) Whoever possesses any listed chemical, tableting machine or encapsulating machine, with knowledge that the recordkeeping or reporting requirements of section 310 have not been adhered to, if, after such knowledge is acquired, such person does not take immediate steps to remedy the violation shall be fined under title 18, United States Code, or imprisoned not more than 1 year, or both.".

(b) ADDITIONAL PENALTY.—Section 401 of the Controlled Substances Act (21 U.S.C. 841), as amended by subsection (a) of this section, is further amended by adding at the end the following new subsection:

"(f) In addition to any other applicable penalty, any person convicted of a violation of this section relating to the receipt, distribution, or importation of a listed chemical, tableting machine or encapsulating machine punishable by imprisonment for more than 1 year may be enjoined from conducting business activities with such chemical, tableting machine or encapsulating machine for not more than 10 years.".

SEC. 2906. AMENDMENTS TO SECTION 402 OF THE CONTROLLED SUBSTANCES ACT.

(a) CONFIDENTIAL INFORMATION AMENDMENT.—Section 402(a)(8) of the Controlled Substances Act (21 U.S.C. 842(a)(8)) is amended by inserting after "protection" the following: ", or to use to his own advantage or reveal (other than as authorized by section 310) any information that is confidential under such section".

(b) IDENTIFICATION AMENDMENT.—Section 402(a)(9) of the Controlled Substances Act (21 U.S.C. 842(a)(9)) is amended to read as follows:

"(9) who is a regulated person to engage in a regulated transaction without obtaining the proof of identity required by 310(a)(3).".

(c) TECHNICAL AMENDMENT.—Section 402(c)(2) of the Controlled Substances Act (21 U.S.C. 842(c)(2)) is amended by striking out subparagraph (C).

(d) RECORDS VIOLATIONS.—Section 402(a) of the Controlled Substances Act (21 U.S.C. 842(a)) is amended—

(1) in paragraph (8), as amended by subsection (a) of this section, by striking out "or" at the end of the paragraph;

(2) in paragraph (9), as amended by subsection (b) of this section, by striking out the period at the end of the paragraph and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new paragraph:

"(10) to fail to keep a record or make a report under section 310.".

SEC. 2907. AMENDMENTS TO SECTION 403 OF THE CONTROLLED SUBSTANCES ACT.

(a) ADDITIONAL OFFENSES.—Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) in paragraph (4)(B), by striking "piperidine" and inserting in lieu thereof "a listed chemical, tableting machine or encapsulating machine";

(2) in paragraph (4)(B), by striking out "or" after the semicolon; and

(3) in paragraph (5), by striking out the period at the end and inserting in lieu thereof a semicolon.

(b) ADDITIONAL PENALTY.—Section 403 of the Controlled Substances Act (21 U.S.C. 843), is amended by adding at the end the following new subsection:

"(d) In addition to any other applicable penalty, any person convicted of a violation of this section relating to the receipt, distribution, or importation of a listed chemical punishable by imprisonment for more than 1 year may be enjoined from conducting business activity with such chemical for not more than 10 years.".

SEC. 2908. SUBPOENA POWER.

The first sentence of section 506(a) of the Controlled Substances Act (21 U.S.C. 876(a)) is amended by inserting "or listed chemicals, tableting machines or encapsulating machines" after "with respect to controlled substances".

SEC. 2909. FORFEITURE.

(a) IN GENERAL.—Section 511(a) of the Controlled Substances Act (21 U.S.C. 881) is amended by adding at the end the following new paragraph:

"(9) All listed chemicals, all drug manufacturing equipment, all tableting machines, all encapsulating machines, and all gelative capsules, which have been imported, exported, manufactured, possessed, distributed, or intended to be distributed, imported, or exported, in violation of a felony provision of this title or title III.".

(b) TECHNICAL AMENDMENT.—Paragraph (3) and paragraph (4) of section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a) and (4)) are each amended by striking out "paragraph (1) or (2)" and inserting in lieu thereof "paragraph (1), (2), or (9)".

SEC. 2910. ACTIVE DEPARTMENT OF JUSTICE CONTROL PROGRAM.

The Attorney General shall maintain an active program, both domestic and international, to curtail the diversion of precursor chemicals and essential chemicals used in the illicit manufacture of controlled substances. The Attorney General through rulemaking is authorized to add chemicals to, and delete chemicals from the lists specified in section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) and to promulgate rules and regulations necessary to the administration of this subtitle.

SEC. 2911. EFFECTIVE DATE.

Except as provided in section 1203 (a) and (b), this subtitle shall take effect 120 days after the date of enactment of this subtitle.

Subtitle P—Application Of United States Immigration Laws and Deportation Of Aliens Committing Aggravated Felonies

SEC. 2915. SHORT TITLE.

This subtitle may be cited as the "Violent Criminal Alien Deportation Act".

SEC. 2916. DEFINITION.

Section 101(a) of the Immigration and Nationality Act is amended by adding at the end thereof the following new paragraph:

"(43) The term 'aggravated felony' means murder, kidnapping, rape, or any attempt thereof, or any illicit trafficking in any controlled substance as defined in section 102 of the Controlled Substances Act or any illicit trafficking in any firearms or destructive devices as defined in section 921 of title 18, United States Code. An alien convicted of such felony shall be termed an 'aggravated alien felon'."

SEC. 2917. DEPORTATION OF ALIENS COMMITTING AGGRAVATED FELONIES.

(a) Retention in Custody Upon Arrest.—Section 242(a) of the Immigration and Nationality Act is amended—

(1) in the second sentence, by striking out "Any" and inserting in lieu thereof "Except as provided in paragraph (2), any";

(2) by redesignating clauses (1), (2), and (3) as clauses (A), (B), and (C), respectively;

(3) by inserting "(1)" immediately after "(a)"; and

(4) by adding at the end thereof the following new paragraph:

"(2) Any alien arrested under paragraph (1) pending a determination of whether such alien is deportable on grounds of having been convicted of an aggravated felony shall not be released from custody and shall not be entitled to conditional parole. An alien held in custody under this paragraph by State or local authorities shall promptly be transferred to the custody of the Attorney General.".

(b) Inapplicability of Voluntary Departure.—Section 244(e) of such Act is amended—

(1) by striking out "(e) The" and inserting in lieu thereof "(e)(1) Subject to paragraph (2), the";

(2) by adding at the end thereof the following new paragraph:

"(2) The authority contained in paragraph (1) shall not apply to any alien who is deportable for having been convicted of an aggravated felony.".

(c) Applicability of Amendments.—The amendments made by this section apply to aliens who have been convicted, on or after the date of enactment of this Act, of an aggravated felony.

SEC. 2918. CRIMINAL PENALTIES FOR REENTRY OF CERTAIN DEPORTED ALIENS.

Section 276 of the Immigration and Nationality Act is amended—

(1) by striking out "Any alien" and inserting in lieu thereof "(a) Subject to subsection (b), any alien";

(2) by adding at the end thereof the following:

"(b) Notwithstanding subsection (a), in the case of any alien described in subsection (a)—

"(1) whose deportation was subsequent to a conviction for commission of a felony (other than an aggravated felony), such alien shall be punishable by imprisonment for not more than 5 years, or a fine of not more than $10,000, or both; or

"(2) whose deportation was subsequent to a conviction for commission of an aggravated felony, such alien shall be punishable by imprisonment for at least 15 years and by a fine of not more than $20,000.".

SEC. 2919. CRIMINAL PENALTIES FOR AIDING OR ASSISTING CERTAIN ALIENS TO ENTER THE UNITED STATES.

(a) In General.—Section 277 of the Immigration and Nationality Act is amended by inserting "(9), (10), (23) (insofar as an alien excludable under this paragraph has in addition been convicted of an aggravated felony)," immediately after "212(a)".

(b) Conforming Amendments.—(1) The section heading for section 277 of such Act is amended by striking out "SUBVERSIVE ALIEN" and inserting in lieu thereof "CERTAIN ALIENS".

(2) The table of contents of such Act is amended by amending the item relating to section 277 to read as follows:

"Sec. 277. Aiding or assisting certain aliens to enter the United States.".

SEC. 2920. CRIMINAL PENALTIES FOR REFUSAL OF CERTAIN ALIENS TO APPEAR.

(a) In General.—Chapter 8 of the Immigration and Nationality Act is amended by adding at the end thereof the following new section:

"CRIMINAL PENALTIES FOR REFUSAL OF CERTAIN ALIENS TO APPEAR

"Sec. 280A. Whoever, having been convicted of an aggravated felony and having been subpoenaed under the provision of the Immigration and Nationality Act (or any other law or regulation relating to the expulsion of aliens) to appear and testify at any proceeding held to determine the deportability or excludability of the alien on grounds of that conviction, neglects or refuses to so appear and testify, if in the power of such person to do so, shall be fined not more than $250,000 or imprisoned not more than five years, or both.".

(b) Amendment to Table of Contents.—The table of contents of such Act is amended by inserting after the item relating to section 280 the following new item:

"Sec. 280A. Criminal penalties for refusal of certain aliens to appear.".

SEC. 2921. SPECIAL DEPORTATION PROCEEDINGS FOR ALIENS CONVICTED OF AGGRAVATED FELONIES.

(a) In General.—The Attorney General shall provide for the availability of special deportation proceedings pursuant to this subtitle at certain Federal, State, and local correctional facilities for aliens convicted of aggravated felonies as defined in this subtitle. Such proceedings shall be conducted in accordance with this subtitle and in such manner which eliminates the need for additional detention at an Immigration and Naturalization Service special processing center and assures expeditious deportation, where warranted, following the end of the sentence.

(b) Implementation.—The Attorney General shall endeavor, to the extent possible, to incarcerate aliens convicted of committing aggravated felonies in select facilities that have a significant number of inmates who are aliens convicted of aggravated felonies. The deportation proceedings held in correctional facilities shall be consistent with sections 242, 291, 292, as amended by this subtitle and any other provision of the Immigration and Nationality Act.

(c) Review.— The Attorney General shall review and evaluate the provision of deportation hearings within correctional facilities and within 18 months submit a report to the appropriate committees of the Congress on the effectiveness of such special deportation proceedings.

SEC. 2922. EXPEDITED PROCEDURES FOR DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES; GROUNDS FOR APPEAL.

(a) The Immigration and Nationality Act is amended by inserting after section 241 the following new section:

"EXPEDITED PROCEDURES FOR DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES; GROUNDS FOR APPEAL

"Sec. 241A. (a) Notwithstanding any other provision of law, including section 208 but excluding section 243(h) of this Act, any alien in the United States (including an alien crewman) shall, upon the order of the Attorney General, be deported as an aggravated alien felon if such alien has been convicted and sentenced in a United States district court or in a court of record of any State, territory, possession, or in the District of Columbia for an aggravated felony and such conviction and sentence shall revoke by operation of law the permanent resident status of any alien and such conviction and sentence shall serve as conclusive evidence of the deportability of any alien.

"(b)(1) Notwithstanding any other provision of law, the District Director of the Service for the district in which it appears that an alien was convicted and sentenced for an aggravated felony shall, on behalf of the Attorney General, issue, upon sentencing, an order of deportation for the alleged aggravated alien felon which shall be effective as of the date of termination of sentence.

"(2) Nothing in this section shall be construed as requiring the Attorney General to effect the immediate deportation of any alien sentenced to actual incarceration, prior to release from the penitentiary or correctional institution where confined, unless at the request, in writing, of the sentencing judge, the chief prosecutor in whose jurisdiction conviction occurred, or the chief correctional official of the system in which the alien is confined.

"(c) Notwithstanding any other provision of law, an order of deportation for an aggravated alien felon in his native language, shall be personally served on the alleged aggravated alien felon named therein. Such deportation order shall be simply worded to inform the alleged aggravated alien felon of at least the following information:

"(1) the date and the court in which the subject of the order of deportation was convicted and sentenced for an alleged aggravated felony;

"(2) a description, including the citation, of the crime alleged to be the aggravated felony;

"(3) a notice that the order of deportation will become a final order of deportation unless the subject of the order petitions a United States district court to vacate the order of deportation within 30 days of its personal service on the alleged aggravated alien felon; and

"(4) an explanation of the procedure to vacate the order of deportation.

"(d)(1) Notwithstanding any other provision of law, a person alleged to be an alien who committed an aggravated felony may petition a United States district court to vacate an order of deportation on the grounds that he is a United States citizen and therefore not subject to an order of deportation, that he is not the person named in the order of deportation as having been convicted and sentenced for the aggravated felony which is the basis for the order of deportation, or that the conviction which is the basis for the order of deportation is not an aggravated felony.

"(2) A petition to vacate an order of deportation by the person named therein as an aggravated alien felon must set forth under oath the ground or grounds, set forth in subsection (d)(1), upon which the alleged aggravated alien felon seeks to vacate his order of deportation. If petitioner claims United States citizenship, he must allege the names of his natural mother and father and the date and place of his birth.

"(3) A petition by an alleged aggravated alien felon to vacate an order of deportation must be served on the United States Attorney for the judicial district in which the petition is filed. Within 30 days of service upon the appropriate United States Attorney, a reply shall be filed with the district court and served upon the alleged aggravated alien felon or his attorney acknowledging or disputing, with appropriate documentary evidence, the ground or grounds alleged in the petition as the basis to vacate the order of deportation.

"(4) Within 30 days of the service on the alleged aggravated alien felon or his attorney of the reply of the United States Attorney, a United States district judge may conduct a hearing, without a jury, to resolve any disputed questions of fact as to whether the person alleged to be an aggravated alien felon is a United States citizen, or as to whether the person who is the subject of the order of deportation was convicted and sentenced for an aggravated felony, or as to whether the crime alleged in the order of deportation is an aggravated felony. The burden of proof by a preponderance of the evidence is upon the petitioner to establish United States citizenship and the burden of proof by a preponderance of evidence is upon the United States to establish that the person named in the order of deportation is petitioner or that petitioner was convicted and sentenced for an aggravated felony. The Federal Rules of Evidence shall apply to this hearing. At the conclusion of the hearing the United States district court shall make a finding as to whether petitioner is a aggravated alien felon and thus subject to deportation pursuant to this section. If petitioner is adjudicated a aggravated alien felon, the court shall issue a final order of deportation.

"(5) Petitioner may appeal a final order of deportation, issued pursuant to this section, to the appropriate United States court of appeals, and such deportation order shall be stayed pending the decision and order of the court of appeals. The United States may appeal the vacatur of an order of deportation, issued pursuant to this section, to the appropriate United States court of appeals.

"(e) Notwithstanding any other provision of law, when the conviction and sentence of an aggravated felony, which served as the basis for the deportation of a person who had previously been lawfully admitted for permanent residence, is reversed by a United States district court or by a court of record of any State, territory, possession, or in the District of Columbia, the alien may petition the Attorney General from his native country for discretionary reinstatement of the status of an alien lawfully admitted for permanent residence.

"(f) Nothing in this section shall be construed as altering the authority of a special inquiry officer with respect to proceedings to determine the deportability of aliens other than aggravated alien felons.".

(b) The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 241 the following new item:

"Sec. 241A. Expedited Procedures for deportation of Aliens convicted of committing aggravated felonies; grounds for appeal.".

SEC. 2923. RESTRICTION ON WITHHOLDING DEPORTATION.

Section 243(h)(2) of the Immigration and Nationality Act is amended—

(1) by striking out "or" at the end of clause (C);

(2) by redesignating clause (D) as clause (E); and

(3) by inserting after clause (C) the following:

"(D) the alien has been previously convicted for trafficking in controlled substances as defined in section 102 of the Controlled Substances Act; or".

SEC. 2924. DEPORTATION FOR WEAPONS VIOLATION.

Section 241(a)(14) of the Immigration and Nationality Act is amended by inserting the following: "any firearm or destructive device (as defined in paragraphs (3) and (4), respectively, of section 921(a), title 18, United States Code, or any revolver or" after "law".

SEC. 2925. WAIVER OF EXCLUDABILITY.

Section 212(h) of the Immigration and Nationality Act is amended by striking out "or (12)" and inserting in lieu thereof "(12), or (31)".

SEC. 2926. AIDING OR ABETTING ILLEGAL ENTRY.

(a) Section 212(a)(31) of the Immigration and Nationality Act is amended by striking out ", knowingly and for gain," and inserting in lieu thereof "knowingly".

(b) Section 241(a)(13) of such Act is amended by striking out ", knowingly and for gain," and inserting in lieu thereof "knowingly".

SEC. 2927. BAR ON REENTRY OF CONVICTED AGGRAVATED ALIEN FELONS.

Section 212(a)(17) of the Immigration and Nationality Act is amended by inserting "(or ten years in the case of an alien convicted of an aggravated felony)" after "within five years".

SEC. 2928. FORFEITURE OF INSTRUMENTALITIES USED IN BRINGING IN AND HARBORING CERTAIN ALIENS.

Section 274(b) of the Immigration and Nationality Act is amended—

(1) in paragraph (1), by inserting ", or instrumentality, including any personal or real property, monies, negotiable instruments, or other things of value," after "vessel, vehicle, or aircraft";

(2) in paragraph (1), by inserting ", proceeds from, facilitates, or is intended to be used" after "is being used";

(3) by inserting "or instrumentality" after "conveyance" each place it appears in subparagraph (B); and

(4) in paragraph (4), by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

"(B) transfer custody and ownership of the conveyance or instrumentality to any Federal, State, or local agency pursuant to the Tariff Act of 1930 (19 U.S.C. 1616); or

"(C) place the forfeited monies or proceeds of sale of forfeited conveyances or instrumentalities in the Department of Justice Assets Forfeiture Fund, pursuant to the Comprehensive Crime Control Act of 1984 (28 U.S.C. 524(c)).".

SEC. 2929. CONTROL OF CERTAIN ALIENS IN CUSTODY.

(a) Section 751(a) of title 18, United States Code, is amended by inserting ", or exclusion, deportation, or removal under title 8," after "confinement is for extradition".

(b) Section 752(a) of title 18, United States Code, is amended by inserting ", or exclusion, deportation, or removal under title 8," after "confinement is for extradition".

(c) Section 1791 of title 18, United States Code, is amended by inserting "or any immigration detention facility operated directly by or under contract to the Immigration and Naturalization Service" after "any Federal penal or correctional facility".

(d) Section 1792 of title 18, United States Code, is amended by inserting "or any immigration detention facility operated directly by or under contract to the Immigration and Naturalization Service" after "any Federal penal or correctional facility".

Subtitle Q—Forfeiture and Customs

CHAPTER 1—DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND

SEC. 2931. DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.

Section 524(c) of title 28, United States Code, is amended to read as follows:

"(c)(1) There is established in the United States Treasury a special fund to be known as the Department of Justice Assets Forfeiture Fund (hereafter in this subsection referred to as the 'Fund') which shall be available to the Attorney General without fiscal year limitation for the following purposes of the Department of Justice—

"(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, or sell property under seizure, detention, or forfeited pursuant to any law enforced or administered by the Department of Justice, or of any other necessary expenses including overtime salaries leading to or incident to the seizure, detention, or forfeiture of such property; such payments may include—

"(i) payments for contract services, the employment of outside contractors to operate and manage properties or provide other specialized services as necessary to dispose of such properties in an effort to maximize the return from such properties, and payments to reimburse any Federal, State, or local agency for any expenditures made to perform the foregoing functions, including expenditures resulting from the participation in a Federal task force or a Federal law enforcement network; and

"(ii) payments made pursuant to regulations promulgated by the Attorney General, that are necessary and direct program-related expenses for the purchase or lease of automatic data processing equipment (not less than 90 percent of which use will be program related), training, printing, contracting for services directly related to the identification of forfeitable assets processing of and accounting for forfeitures, and the storage, protection, and destruction of controlled substances;

"(B) the payment of awards for information or assistance directly relating to violations of the criminal drug laws of the United States;

"(C) the payment of awards for information or assistance leading to a civil or criminal forfeiture under the Comprehensive Drug Abuse Prevention and Control Act of

1970 (21 U.S.C. 800 et seq.) or a criminal forfeiture under the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. 1961 et seq.), at the discretion of the Attorney General;

"(D) the compromise and payment of valid liens and mortgages against property that has been forfeited pursuant to any law enforced or administered by the Department of Justice, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

"(E) disbursements authorized in connection with remission or mitigation procedures relating to property forfeited under any law enforced or administered by the Department of Justice;

"(F) for equipping for drug law enforcement functions any government-owned or leased vessels, vehicles, and aircraft available for official use by the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, or the United States Marshals Service;

"(G) for purchase of evidence of any violation of the Controlled Substances Act, the Controlled Substances Import and Export Act, chapter 96 of title 18, or sections 1956 and 1957 of title 18; and

"(H) after all reimbursements and program-related expenses have been met at the end of each fiscal year, the Attorney General may transfer deposits from the Fund to the building and facilities account of the Federal prison system for the construction of correctional institutions.

Amounts for paying the expenses authorized by subparagraphs (A)(ii), (B), (C), (F), and (G) shall be specified in appropriations acts. Amounts for other authorized expenditures and payments from the Fund, including equitable sharing payments, are not required to be specified in appropriations acts. The Attorney General may exempt the procurement of contract services under subparagraph (A) under the fund from section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 and following), and other provisions of law as may be necessary to maintain the security and confidentiality of related criminal investigations.

"(2) Any award paid from the Fund for information, as provided in paragraphs (1) (B) or (C), shall be paid at the discretion of the Attorney General or his delegate, under existing departmental delegation policies for the payment of awards, except that the authority to pay an award of $250,000 or more shall not be delegated to any person other than the Deputy Attorney General, the Associate Attorney General, the Director of the Federal Bureau of Investigation, or the Administrator of the Drug Enforcement Administration. Any award for information pursuant to paragraph (1)(B) shall not exceed $250,000. Any award for information pursuant to paragraph (1)(C) shall not exceed the lesser of $250,000 or one-fourth of the amount realized by the United States from the property forfeited.

"(3) Any amount under subparagraph (F) of paragraph (1) shall be paid at the discretion of the Attorney General or his delegate, except that the authority to pay $100,000 or more may be delegated only to the respective head of the agency involved.

"(4) There shall be deposited in the Fund all amounts from the forfeiture of property under any law enforced or administered by the Department of Justice, except all proceeds of forfeitures available for use by the Secretary of the Treasury or the Secretary of the Interior pursuant to section 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)) or section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)) or the Postmaster General of the United States pursuant to section 2003(b)(7) of title 39.

"(5) Amounts in the Fund which are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States and all earnings on such investments shall be deposited in the Fund.

"(6) The Attorney General shall transmit to the Congress, not later than 4 months after the end of each fiscal year, two detailed reports as follows:

"(A) a report on—

"(i) the estimated total value of property forfeited under any law enforced or administered by the Department of Justice with respect to which funds were not deposited in the Fund; and

"(ii) the estimated total value of all such property transferred to any State or local law enforcement agency; and

"(B) a report on—

"(i) the Fund's beginning balance;

"(ii) sources of receipts (seized cash, conveyances, and others);

"(iii) liens and mortgages paid and amount of money shared with State and local law enforcement agencies;

"(iv) the net amount realized from the year's operations, amount of seized cash being held as evidence, and the amount of money legally allowed to be carried over to next year;

"(v) any defendant's equity in property valued at $1,000,000 or more; and

"(vi) year-end Fund balance.

"(7) The Fund shall be subject to annual financial audits conducted consistent with generally accepted Government auditing standards.

"(8) The provisions of this subsection relating to deposits in the Fund shall apply to all property in the custody of the Department of Justice on or after the effective date of the Comprehensive Forfeiture Act of 1983.

"(9) There are authorized to be appropriated such sums as necessary for the purposes described in subparagraphs (A)(ii), (B), (C), (F), and (G) of paragraph (1).

"(10) For the purposes of this subsection, property is forfeited pursuant to a law enforced or administered by the Department of Justice if it is forfeited pursuant to—

"(A) any criminal forfeiture proceeding;

"(B) any civil judicial forfeiture proceeding; or

"(C) any civil administrative forfeiture proceeding conducted by the Department of Justice,

except to the extent that the seizure was effected by a Customs officer or that custody was maintained by the United States Customs Service in which case the provisions of section 613A of the Tariff Act of 1930 (19 U.S.C. 1613a) shall apply.".

CHAPTER 2—CUSTOMS FORFEITURE FUND

SEC. 2935. CUSTOMS FORFEITURE FUND.

Section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended to read as follows:

"SEC. 613A. CUSTOMS FORFEITURE FUND.

"(a) IN GENERAL.—

"(1) There is established in the Treasury of the United States a fund to be known as the 'Customs Forfeiture Fund' (hereafter in this section referred to as the 'Fund'), which shall be available to the United States Customs Service and the United States Coast Guard, subject to appropriation, with respect to seizures and forfeitures by the United States Customs Service and the United States Coast Guard under any law enforced or administered by those agencies for payment, or for reimbursement to the appropriation from which payment was made, for—

"(A) all proper expenses of the seizure (including investigative costs incurred by the United States Customs Service leading to seizures) or the proceedings of forfeiture and sale, including, but not limited to, the expenses of inventory, security, and maintenance of custody of the property, advertisement and sale of the property, and if condemned by the court and a bond for such costs was not given, the costs as taxed by the court;

"(B) awards of compensation to informers under section 619;

"(C) satisfaction of—

"(i) liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate customs officer according to law, and

"(ii) other liens against forfeited property;

"(D) amounts authorized by law with respect to remission and mitigation; and

"(E) claims of parties in interest to property disposed of under section 612(b), in the amounts applicable to such claims at the time of seizure.

(2) Any payment made under subparagraph (C) or (D) of paragraph (1) with respect to a seizure or a forfeiture of property shall not exceed the value of the property at the time of the seizure.

(3) In addition to the purposes described in paragraph (1), the Fund shall be available for—

"(A) purchases by the United States Customs Service of evidence of—

"(i) smuggling of controlled substances, and

"(ii) violations of the currency and foreign transaction reporting requirements of chapter 51 of title 31, United States Code, if there is a substantial probability that the violations of these requirements are related to the smuggling of controlled substances;

"(B) equipment for any vessel, vehicle, or aircraft available for official use by the United States Customs Service to enable the vessel, vehicle, or aircraft to assist in law enforcement functions;

"(C) the reimbursement, at the discretion of the Secretary, of private persons for expenses incurred by such persons in cooperating with the United States Customs Service in investigations and undercover law enforcement operations;

"(D) publication of the availability of rewards under section 619;

"(E) equipment for any vessel, vehicle, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the conveyance will be used in joint law enforcement operations with the United States Customs Service; and

"(F) payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint law enforcement operations with the United States Customs Service.

"(b) UNITED STATES COAST GUARD.—Proceeds in the Fund derived from seizures by the United States Coast Guard shall be available to the United States Coast Guard for—

"(1) equipment for any vessel, vehicle, or aircraft available for official use by the United States Coast Guard to enable the vessel, vehicle, or aircraft to assist in law enforcement functions;

"(2) equipment for any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the conveyance will be used in joint law enforcement operations with the United States Coast Guard;

"(3) payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint law enforcement operations with the United States Coast Guard;

"(4) expenses incurred in bringing vessels into compliance with applicable environmental laws prior to disposal by sinking, and

"(5) sharing with State and local law enforcement agencies that cooperate with the United States Coast Guard in joint drug enforcement operations.

"(c) Deposits.—There shall be deposited into the Fund all proceeds from forfeiture under any law enforced or administered by the United States Customs Service or the United States Coast Guard and all income from investments made under subsection (d).

"(d) Investment.—Amounts in the Fund which are not currently needed for the purposes of this section shall be invested in obligations of, or guaranteed by, the United States.

"(e) Annual Reports; Audits.—

"(1) The Commissioner of Customs shall transmit to the Congress, by no later than February 1 of each fiscal year the following detailed reports:

"(A) a report on—

"(i) the estimated total value of property forfeited under any law enforced or administered by the United States Customs Service with respect to which funds were not deposited in the Fund during the previous fiscal year, and

"(ii) the estimated total value of all such property transferred to any State or local law enforcement agency; and

"(B) a report on—

"(i) the balance of the Fund at the beginning of the preceding fiscal year;

"(ii) sources of receipts (seized cash, conveyances, and others) of the Fund during the previous fiscal year;

"(iii) liens and mortgages paid and amount of money shared with State and local law enforcement agencies during the previous fiscal year;

"(iv) the net amount realized from the operations of the Fund during the previous fiscal year, the amount of seized cash being held as evidence, and the amount of money that has been carried over to the current fiscal year;

"(v) any defendant's equity in property valued at $1,000,000 or more; and

"(vi) the balance of the Fund at the end of the previous fiscal year.

"(2) The Fund shall be subject to annual financial audits that are conducted in a manner consistent with generally accepted Government auditing standards.

"(f) Authorization of Appropriations.—

"(1) There are hereby appropriated from the Fund such sums as may be necessary to carry out the purposes set forth in subsection (a)(1).

"(2) There are authorized to be appropriated from the Fund for each fiscal year such sums as are necessary to carry out the purposes set forth in subsection (a)(3) for such fiscal year.

"(3) There are authorized to be appropriated from the Fund for each fiscal year such sums as are necessary to carry out the purposes set forth in subsection (b) for such fiscal year.

"(4) At the end of each fiscal year, any unobligated amount in excess of $15,000,000 remaining in the Fund shall be deposited into the general fund of the Treasury of the United States.".

CHAPTER 4—MISCELLANEOUS FORFEITURE PROVISIONS

SEC. 2945. TRANSFER BY THE ATTORNEY GENERAL OF FOREIGN PROPERTY.

Section 511(e)(1) of the Controlled Substance Act (21 U.S.C. 881(e)) is amended by—

(1) striking "or" after the semicolon in subparagraph (C);

(2) striking the period at the end of subparagraph (D) and inserting "; or"; and

(3) adding at the end thereof the following:

"(E) transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer—

"(i) has been agreed to by the Secretary of State;

"(ii) is authorized in an international agreement between the United States and the foreign country or where there is an international agreement between the United States and the foreign country which includes an obligation to provide mutual assistance in forfeiture procedures; and

"(iii) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961.".

SEC. 2946. INNOCENT OWNER PROVISIONS.

(a) In General.—Not later than 90 days after the date of enactment of this Act, the Attorney General and the Secretary of the Treasury shall consult and prescribe regulations for expedited administrative procedures for seizures under section 511(a) (4), (6), and (7) of the Controlled Substances Act (21 U.S.C. 881(a) (4), (6), and (7)), section 595 of the Tariff Act of 1930 (19 U.S.C. 1595a(a)), and section 2 of the Act of August 9, 1939 (53 Stat. 1291; 49 U.S.C. app. 782) for violations involving the possession of personal use quantities of a controlled substance.

(b) Specifications.—The regulations prescribed pursuant to subsection (a) shall minimize the adverse impact caused by prolonged detention and provide for a final administrative determination of the case within 21 days of seizure or provide a procedure by which the defendant can obtain release of the property pending a final determination of the case. Such regulations shall provide that the appropriate agency official rendering such determination shall immediately return the property if the following conditions are established:

(1) the owner or interested party did not know of or consent to the violation; and

(2) reasonable steps were taken by the owner or interested party to prevent the illegal use of the property.

SEC. 2947. WARRANTS.

Section 603 of the Tariff Act of 1930 (19 U.S.C. 1603) is amended by striking out "Whenever a seizure of merchandise" and inserting in lieu thereof the following:

"(a) Any property subject to forfeiture to the United States under this subtitle and which is not subject to search and seizure in accordance with the provisions of section 1595 of this chapter, may be seized by the appropriate officer or person upon process issued in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure. This authority is in addition to any seizure authority otherwise authorized by law.

"(b) Whenever a seizure of merchandise".

SEC. 2948. POSTAL SERVICE ASSISTANCE.

(a) Duties of Customs Officers.—Subsection (d) of section 511 of the Controlled Substances Act (21 U.S.C. 881(d)) is amended by striking "except that such duties as are imposed upon the customs officer" and all that follows and inserting "such duties imposed on the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws may be performed with respect to seizures and forfeitures of property under this subchapter by such officers, agents, or employees of any agency or department of the United States as may be designated for that purpose by the Attorney General, except to the extent that such duties arise from seizures and forfeitures effected by any customs officer.".

(b) Powers of Postal Personnel.—Section 3061 of title 18, is amended to read as follows:

"§ 3061. Powers of postal personnel

"(a) Subject to subsection (b) of this section, Postal Inspectors or other agents, authorized by the Board of Governors to investigate criminal matters related to the Postal Service and the mails, may—

"(1) serve warrants and subpoenas issued under the authority of the United States;

"(2) make arrests without warrant for offenses against the United States committed in their presence;

"(3) make arrests without warrant for felonies cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such a felony;

"(4) carry firearms; and

"(5) make seizures of property authorized pursuant to law.

"(b) The powers granted by subsection (a) of this section shall be exercised only in the enforcement of laws regarding property of the United States in the custody of the Postal Service, including property of the Postal Service, the use of the mails, other postal offenses; and in the enforcement of those offenses contained in the Controlled Substances laws of the United States which effect the operation of the Postal Service, as determined by and pursuant to limitations contained in an agreement which may be entered into by the Attorney General and the Postmaster General.".

SEC. 2949. TRANSFER BY THE SECRETARY OF THE TREASURY OF FOREIGN PROPERTY.

Subsection (c) of section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a(c)), as amended by section 1936 of this Act, is further amended—

(1) by striking out "The Secretary of the Treasury" and inserting in lieu thereof "(1) The Secretary", and

(2) by adding at the end thereof the following:

"(2) The Secretary may transfer any forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer—

"(A) has been agreed to by the Secretary of State;

"(B) is authorized in an international agreement between the United States and the foreign country or where there is an international agreement between the United States and the foreign country which includes an obligation to provide mutual assistance in forfeiture procedures; and

"(C) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961.".

CHAPTER 5—ADMINISTRATIVE FORFEITURE

SEC. 2951. ADMINISTRATIVE PROVISION.

Subsection (a)(1) of section 607 of the Tariff Act of 1930 (19 U.S.C. 1607(a)(1)) is amended by striking "$100,000" and inserting in lieu thereof "$500,000".

Subtitle R—United States Magistrates and Court Reforms

SEC. 2956. FELONY PLEAS.

Section 636 of title 28, United States Code, is amended by inserting at the end thereof the following new subsection:

"(i) Under such regulations as the Judicial Conference shall provide and upon designation by the district court, magistrates may accept a plea of guilty for any offense against the United States.".

SEC. 2957. SENTENCING JURISDICTION.

Section 636(a) of title 28, United States Code, is amended by—

(1) striking the period at the end of paragraph (3) and inserting ", and"; and

(2) inserting at the end thereof the following paragraph:

"(4) the power to enter a sentence for a misdemeanor or infraction with the consent of the parties.".

SEC. 2958. DRUG DAYS.

Section 332(d)(1) of title 28, United States Code, is amended by striking the period at the end thereof and inserting the following: "including orders designating certain days in which the courts within the circuit shall only conduct proceedings relating to drug offenses.".

Subtitle S—Military Institutions

SEC. 2961. ADMINISTRATION OF CONFINEMENT FACILITIES LOCATED ON MILITARY INSTALLATIONS BY THE BUREAU OF PRISONS.

In conjunction with the Department of Defense and the Commission on Alternative Utilization of Military Facilities as established in the National Defense Authorization Act of Fiscal Year 1989, the Bureau of Prisons shall be responsible for—

(1) administering the confinement facilities located on military installations in cooperation with the Secretary of Defense;

(2) establishing and regulating drug treatment programs for inmates held in such facilities in coordination and cooperation with the National Institute on Drug Abuse; and

(3) establishing and managing work programs for persons held in such facilities in cooperation with the installation commander.

Subtitle T—Customs Enforcement Amendments

SEC. 2965. AMENDMENTS TO THE TARIFF ACT OF 1930.

(a) REPORTING REQUIREMENTS.—Section 433 of the Tariff Act of 1930 (19 U.S.C. 1433) is amended by—

(1) striking out the section heading and inserting in lieu thereof:

"SEC. 433. VESSELS, VEHICLES, AND AIRCRAFT REPORTING REQUIREMENTS.";

(2) striking out "ARRIVAL" in the heading of subsection (c) and inserting in lieu thereof "REPORTING REQUIREMENTS";

(3) striking out "The pilot" in subsection (c) and inserting in lieu thereof "(1) The pilot"; and

(4) adding at the end of subsection (c) the following:

"(2) The pilot of any aircraft shall, prior to departing the United States, comply with such advance notification and reporting requirements as the Secretary may by regulation prescribe.".

(b) PENALTIES.—Section 436 of the Tariff Act of 1930 (19 U.S.C. 1436) is amended by—

(1) inserting "(other than a violation of section 433(c)(2))" after "listed in subsection (a)" in subsection (b); and

(2) adding at the end thereof the following new subsection:

"(e) Any aircraft pilot who commits any violation of section 433(c)(2) of this Act, or any regulations promulgated thereunder, is liable for a civil penalty of $25,000 for the first violation, and $100,000 for each subsequent violation, and any conveyance used in connection with any such violation is subject to seizure and forfeiture.".

(c) PENALTY FOR FAILURE TO DECLARE.—Section 497(a)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1497), is amended by striking out "200 percent " and inserting in lieu thereof "1,000 percent".

(d) EFFECT OF A DECLARATION OF FORFEITURE.—Section 609 of the Tariff Act of 1930 (19 U.S.C. 1609) is amended to read as follows:

"SEC. 609. SEIZURE; SUMMARY OF FORFEITURE AND SALE.

"(a) IN GENERAL.—If no such claim is filed or bond given within the twenty days hereinbefore specified, the appropriate customs officer shall declare the vessel, vehicle, aircraft, merchandise, or baggage forfeited, and shall sell the same at public auction in the same manner as merchandise abandoned to the United States is sold or otherwise disposed of the same according to law, and shall deposit the proceeds of sale, after deducting the expenses described in section 613, into the Customs Forfeiture Fund.

"(b) EFFECT.—A declaration of forfeiture under this section shall have the same force and effect as a final decree and order of forfeiture in a judicial forfeiture proceeding in a district court of the United States. Title shall be deemed to vest in the United States free and clear of any liens or encumbrances (except for first preferred ship mortgages pursuant to subsection (o) of section 30 of the Ship Mortgage Act, 1920 (46 Appendix U.S.C. 961)) from the date of the act for which the forfeiture was incurred. Officials of the various States, insular possessions, territories, and commonwealths of the United States shall, upon application of the appropriate customs officer accompanied by a certified copy of the declaration of forfeiture, remove any recorded liens or encumbrances which apply to such property and issue or reissue the necessary certificates of title, registration certificates, or similar documents to the United States or to any transferee of the United States.".

(e) FINES IN CERTAIN CASES.—Part V of title IV of the Tariff Act of 1930 is amended by adding at the end thereof the following new section:

"SEC. 630. FINES IN CERTAIN CASES.

"(a) IN GENERAL.—Any person who is convicted of a criminal offense under any law administered or enforced by the United States Customs Service involving subchapter II of chapter 53 of title 31, United States Code, sections 1956 and 1957 of title 18, United States Code, or the Controlled Substances Act (21 U.S.C. 801 et seq.), shall, in addition to any other criminal penalties provided for such offense, be fined the reasonable costs of the investigation and prosecution of the offense, including the costs of prosecution of an offense as defined in sections 1918 and 1920 of title 28, United States Code.

"(b) EXCEPTION.—This section shall not apply, and a fine under this section shall not be imposed, if the court determines under the provision of title 18, United States Code, that the defendant lacks the ability to pay a fine.".

(g) OATHS AND SUBPOENAS.—Part V of title IV of the Tariff Act of 1930, as amended by the preceding subsection, is further amended by adding at the end thereof the following new section:

"SEC. 631. OATHS AND SUBPOENAS.

"(a) IN GENERAL.—For the purpose of any investigation which, in the opinion of the Secretary of the Treasury, is necessary and proper to the enforcement of any law that prohibits the importation or exportation of any merchandise, the Secretary of the Treasury may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of records (including books, papers, documents, and tangible property which constitute or contain evidence) relevant or material to the investigation. The attendance of witnesses and the production of records may be required from any place within the customs territory of the United States, except that a witness shall not be required to appear at any hearing that is held at a place that is more than 100 miles from the place where the witness was served with the subpoena. Witnesses summoned by the Secretary shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. Oaths and affirmations may be made at any place that is subject to the jurisdiction of the United States.

"(b) SERVICE OF SUBPOENAS.—A subpoena issued by the Secretary of the Treasury may be served by any person designated in the subpoena to serve it. Service upon an individual may be made by personal delivery of the subpoena to such individual. Service may be made upon a domestic or foreign corporation, or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpoena to an officer, a managing or general agent, or to any other agent of the corporation, partnership, or association who is authorized by appointment, or by law, to receive service of process. The affidavit of the person serving the subpoena entered on a copy of the subpoena by the person serving it shall be proof of service.

"(c) ORDERS TO COMPEL COMPLIANCE.—In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary of the Treasury may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on, or of which the subpoenaed person is an inhabitant, carries on business, or may be found, to compel compliance with the subpoena issued by the Secretary of the

Treasury. The court may issue an order requiring the subpoenaed person to appear before the Secretary of the Treasury to produce records, if so ordered, or to give testimony touching the matter under investigation, and pay the costs of the proceeding. Any failure to obey the order of the court may be punished by the court as a contempt of court. All process in any such case may be served in the judicial district in which the subpoenaed person is an inhabitant or wherever he may be found.".

(h) Technical Corrections.—

(1) Section 431(c)(1)(G) of the Tariff Act of 1930 (19 U.S.C. 1431(c)(1)(G)) is amended by striking out "or" and inserting in lieu thereof "of".

(2) Section 608 of the Tariff Act of 1930 (19 U.S.C. 1608) is amended to read as follows:

"SEC. 608. SEIZURE; CLAIMS; JUDICIAL CONDEMNATION.

"Any person claiming such vessel, vehicle, aircraft, merchandise, or baggage may at any time within twenty days from the date of the first publication of the notice of seizure file with the appropriate customs officer a claim stating his interest therein. Upon the filing of such claim, and the giving of a bond to the United States in the penal sum of $5,000 or 10 percent of the value of the claimed property, whichever is lower, but not less than $250, with sureties to be approved by such customs officer, conditioned that in case of condemnation of the articles so claimed the obligor shall pay all the costs and expenses of the proceedings to obtain such condemnation, such customs officer shall transmit such claim and bond, with a duplicate list and description of the articles seized, to the United States attorney for the district in which seizure was made, who shall proceed to a condemnation of the merchandise or other property in the manner prescribed by law.".

(3) Section 610 of the Tariff Act of 1930 (19 U.S.C. 1610) is amended to read as follows:

"SEC. 610. SEIZURE; JUDICIAL FORFEITURE PROCEEDINGS.

"If any vessel, vehicle, aircraft, merchandise, or baggage is not subject to section 607, the appropriate customs officer shall transmit a report of the case, with the names of available witnesses, to the United States attorney for the district in which the seizure was made for the institution of the proper proceedings for the condemnation of such property.".

(4) Section 612 of the Tariff Act of 1930 (19 U.S.C. 1612) is amended to read as follows:

"SEC. 612. SEIZURE; SUMMARY SALE.

"(a) Whenever it appears to the appropriate customs officer that any vessel, vehicle, aircraft, merchandise, or baggage seized under the customs laws is liable to perish or to waste or to be greatly reduced in value by keeping, or that the expense of keeping the same is disproportionate to the value thereof, and such vessel, vehicle, aircraft, merchandise, or baggage is subject to section 607, and such vessel, vehicle, aircraft, merchandise, or baggage has not been delivered under bond, such officer shall proceed forthwith to advertise and sell the same at auction under regulations to be prescribed by the Secretary of the Treasury. If such vessel, vehicle, aircraft, merchandise, or baggage is not subject to section 607, such officer shall forthwith transmit the appraiser's return and his report of the seizure to the United States attorney, who shall petition the court to order an immediate sale of such vessel, vehicle, aircraft, merchandise, or baggage, and if the ends of justice require it the court shall order such immediate sale, the proceeds thereof to be deposited with the court to await the final determination of the condemnation proceedings. Whether such sale be made by the customs officer or by order of the court, the proceeds thereof shall be held subject to claims of parties in interest to the same extent as the vessel, vehicle, aircraft, merchandise, or baggage so sold would have been subject to such claim.

"(b) If the expense of keeping the vessel, vehicle, aircraft, merchandise, or baggage is disproportionate to the value thereof, and such value is less than $1,000, such officer may proceed forthwith to order destruction or other appropriate disposition of such property, under regulations prescribed by the Secretary of the Treasury.".

(5) Section 589 of the Tariff Act of 1930 (19 U.S.C. 1589), as added by section 320 of title II of Public Law 98-473 (98 Stat. 2056), is hereby repealed.

(6) Section 627 of the Tariff Act of 1930 (19 U.S.C. 1627), as added by section 302 of the Motor Vehicle Theft Law Enforcement Act of 1984 (98 Stat. 2771), is hereby repealed.

SEC. 2966. AMENDMENT TO THE FEDERAL AVIATION ACT OF 1958.

Subsection (f) of section 1109 of the Federal Aviation Act of 1958 (49 Appendix U.S.C. 1509(f)) is amended by adding the following sentence to the end thereof:

"Any person who violates this subsection or any regulation promulgated thereunder shall be subject to a civil penalty of $10,000, and any aircraft for which a report required under this subsection or any regulation promulgated thereunder is not filed, or is filed with material false statements or omissions, shall be subject to seizure and forfeiture as provided for in Customs laws.".

Subtitle U—Authorization of Additional Appropriations for Drug Enforcement and Interdiction

Chapter 1—Authorization of Additional Appropriations for Drug Enforcement Personnel, Fiscal Year 1989

SEC. 2971. IMMIGRATION AND NATURALIZATION SERVICE PERSONNEL ENHANCEMENT.

(a) Salaries and Expenses.—There is authorized to be appropriated for salaries and expenses for the Immigration and Naturalization Service for fiscal year 1989, $12,300,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That of such additional appropriations authorized in this section, $4,100,000 shall be used to increase the number of inspectors of the Immigration and Naturalization Service by no fewer than 70 over such personnel levels on board at the Service as of September 30, 1988, and for related equipment.

(b) Organized Crime Drug Enforcement Task Force Pilot Project and Report.—(1) There are authorized to be appropriated out of amounts authorized to be appropriated to the Immigration and Naturalization Service in the Department of Justice under this section for fiscal year 1989, $8,200,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided,* That such additional appropriation shall be used to increase the commitment of Immigration and Naturalization Service personnel to the Organized Crime Drug Enforcement Task Forces (OCDETF) for additional special agent and support positions; and for associated training and equipment; and for costs incurred during INS agent participation in OCDETF operations with other Federal, State, and local law enforcement agencies.

(2) The positions described in paragraph (1) shall, under the supervision of a director for the pilot project, be used exclusively to assist Federal and local law enforcement agencies in combatting illegal alien involvement in drug trafficking and crimes of violence.

(3) The Director of the pilot project shall report to the Assistant Commissioner—Investigations and will have the authority to—

(A) hire a limited number of non-Federal law enforcement officers with substantive experience in narcotics investigations should insufficient senior Federal agents be available. Non-Federal law enforcement officers hired under this provision may be over the age of 35, but in that event would only be eligible for nonlaw enforcement retirement benefits;

(B) grant extensions of stay and other discretionary immigration benefits and waivers to witnesses, informants, and others whose presence in the United States is essential to the investigation and prosecution of criminal aliens involved in drug trafficking and crimes of violence.

(4) After the first year of the establishment of this pilot project the Attorney General will provide for an evaluation of its effectiveness, including an assessment by Federal, State, and local prosecutors and enforcement agencies.

(c) Local Office Capabilities Improvement Pilot Project.—From the sums appropriated to carry out this section, the Attorney General, through the Investigative Division of the Immigration and Naturalization Service, shall provide a pilot program in 4 cities to establish or improve the capabilities of the local offices of the Service and of local law enforcement agencies to respond to inquiries concerning aliens who have been arrested or convicted for, or are the subject criminal investigation relating to, a violation of any law relating to controlled substances. The Attorney General shall select cities in a manner that provides special consideration for cities located near the land borders of the United States and for large cities which have major concentrations of aliens. Some of the sums made available under the pilot program shall be used to increase the personnel level of the Investigative Division.

SEC. 2972. BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS ARMED CAREER CRIMINAL APPREHENSION PROGRAM PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the Bureau of Alcohol, Tobacco, and Firearms for fiscal year 1989, $10,660,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriations shall be used to increase the number of Armed Career Criminal Apprehension enforcement personnel at the Bureau by no fewer than 244 full-time equivalent positions over such personnel levels onboard at the Bureau as of September 30, 1988, and for related equipment: *Provided further,* That of the amount authorized to be appropriated by this section, $615,000 shall be available for—

(1) the equipping of any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency if the conveyance will be used in drug-related joint law enforcement operations with the Bureau of Alcohol, Tobacco, and Firearms; and

(2) the payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint operations with the Bureau of Alcohol, Tobacco, and Firearms.

SEC. 2973. DRUG ENFORCEMENT ADMINISTRATION PERSONNEL ENHANCEMENT.

(a) IN GENERAL.—There is authorized to be appropriated for salaries and expenses of the Drug Enforcement Administration for fiscal year 1989, $49,200,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That $44,280,000 of the additional appropriation authorized in this section shall be used to increase Drug Enforcement Administration enforcement personnel by no fewer than 609 full-time equivalent positions over personnel levels onboard at the Drug Enforcement Administration as of September 30, 1988, and for related equipment and drug enforcement operations, including agents and other personnel engaged in criminal intelligence activities, asset forfeiture, and related support activities: *Provided further,* That $4,920,000 of such additional appropriation authorized in this section shall be used to increase Drug Enforcement Administration operations against criminals involved in youth gang-related organized crime.

(b) DEA DRUG EDUCATION PROGRAM.—There is authorized to be appropriated, out of any funds made available by this or any other Act for the Drug Enforcement Administration, for the fiscal year ending September 30, 1989, such sums as may be necessary to establish and maintain a Drug Enforcement Administration Drug Education Program.

(c) COMPENSATION OF DEPUTY DIRECTOR.—The Deputy Administrator of the Drug Enforcement Administration shall receive compensation at the rate now or hereafter prescribed by law for positions of Level IV of the Executive Schedule Pay Rate (5 U.S.C. 5315).

SEC. 2974. FEDERAL BUREAU OF INVESTIGATION DRUG ENFORCEMENT PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the Federal Bureau of Investigation for fiscal year 1989, $24,600,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used to increase the number of drug enforcement agents, including related support staff, at the Bureau by no fewer than 522 full-time equivalent positions over such personnel levels onboard at the Bureau as of September 30, 1988, and for related equipment and drug enforcement operations including asset forfeiture.

SEC. 2975. UNITED STATES MARSHALS SERVICE DRUG ENFORCEMENT PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the U.S. Marshals Service for the fiscal year 1989, $16,400,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used as follows:

(1) $4,920,000 for 100 full-time equivalent positions for asset seizure and forfeiture activities;

(2) $5,740,000 for 82 full-time equivalent positions for criminal justice support activities, including prisoner production and transportation;

(3) $3,280,000 for 45 full-time equivalent positions for protection of the Federal judiciary and court facilities resulting from increased drug-related trials; and

(4) $2,460,000 for 26 full-time equivalent positions for increased workloads of the Marshals Service Witness Security Program.

SEC. 2976. SUPPORT OF UNITED STATES PRISONERS.

There is authorized to be appropriated for fiscal year 1989, for support of United States prisoners in non-Federal institutions, $16,400,000 to remain available until expended, of which not to exceed $4,100,000 shall be available under the Cooperative Agreement Program for the purpose of renovating, constructing, and equipping State and local correctional facilities: *Provided,* That the appropriation authorized under this section shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That amounts made available for constructing any local correctional facility shall not exceed the cost of constructing space for the average Federal prisoner population to be housed in the facility, or in other facilities in the same correctional system, as projected by the Attorney General: *Provided further,* That following agreement on or completion of any federally assisted correctional facility construction, the availability of the space required for Federal prisoners with authorized Federal funds shall be assured and the per diem rate charged for housing Federal prisoners in the assured space shall not exceed operating costs for the period of time specified in the cooperative agreement.

SEC. 2977. FEDERAL PRISON SYSTEM.

There is authorized to be appropriated in fiscal year 1989 to the buildings and facilities account, Federal Prison System, Department of Justice, $205,000,000 for planning; acquisition of sites, construction of new facilities; purchase and acquisition of existing facilities and remodeling and equipping of such facilities for penal and correctional use, to alleviate overcrowding in existing prisons and to meet the increased demand for prison space resulting from drug-related offenses: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989.

SEC. 2978. UNITED STATES ATTORNEYS DRUG ENFORCEMENT PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the United States Attorneys, Department of Justice for fiscal year 1989, $36,080,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used to increase the number of United States Attorneys, including related support staff by no fewer than 757 full-time equivalent positions over such personnel levels onboard at the Department of Justice as of September 30, 1988.

SEC. 2979. FEDERAL JUDICIARY.

(a) IN GENERAL.—There is authorized to be appropriated to the Federal courts for salaries and expenses of the Courts of Appeals, District Courts, and other Judicial Services, $43,132,000 to remain available until expended: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That the additional funds authorized to be appropriated under this section, shall be made available for the following:

(1) $30,340,000 for probation and pretrial services, including pretrial social services;

(2) $1,640,000 for additional deputy clerks;

(3) $656,000 for additional law clerks and clerical support staff;

(4) $4,100,000 for additional renovation of court facilities;

(5) $4,756,000 for additional United States magistrates; and

(6) $1,640,000 for the Drug Dependent Offenders program.

(b) JUDICIAL CONFERENCE.—(1) The Judicial Conference of the United States shall prepare a report evaluating the impact of drug-related criminal activity on the Federal Judiciary. The Judicial Conference shall make its recommendations on the basis of the drug-related resource needs of the district courts. The report shall further contain a complete explanation of the specific criteria used in making its recommendations, including the officials and sources consulted on the impact of drug-related cases in specific judicial district courts. The report shall further contain a complete explanation of the specific criteria used in making its recommendations, including the officials and sources consulted on the impact of drug-related cases in specific judicial districts.

(2) The report required by paragraph (1) shall be transmitted to the United States House of Representatives and the Committee on the Judiciary of the United States Senate not later than 120 days after the date of enactment of this section.

(c) FEDERAL PUBLIC DEFENDER AND COMMUNITY DEFENDER.—There is authorized to be appropriated for the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act, the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, $28,700,000 to remain available until expended: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989.

(d) JURORS FEES AND EXPENSES.—There is authorized to be appropriated to the Federal courts for fees and expenses of jurors and compensation of jury commissioners, $2,378,000 to remain available until expended: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989.

(e) SECURITY EQUIPMENT.—There is authorized to be appropriated to the Federal courts for necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities, $4,920,000 to remain available until expended: *Provided*, That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989.

CHAPTER 2—DRUG INTERDICTION ASSET AND PERSONNEL ENHANCEMENT

SEC. 2981. SHORT TITLE.

This chapter may be cited as the "National Drug Interdiction Asset and Personnel Enhancement Act of 1988".

Subchapter A—Coast Guard

SEC. 2982. COAST GUARD DRUG INTERDICTION ASSET ENHANCEMENT.

There is authorized to be appropriated for Acquisition, Construction, and Improvement expenses of the Coast Guard for fiscal year 1989, $68,060,000: *Provided*, That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such appropriation authorized under this section shall be allocated only for procurement of marine and air drug interdiction assets, and operation and maintenance expenses of the Coast Guard.

SEC. 2983. COAST GUARD DRUG INTERDICTION PERSONNEL ENHANCEMENT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for Operating Expenses of the Coast Guard for fiscal year 1989, $16,400,000: *Provided*, That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriations shall be used to increase Coast Guard drug enforcement personnel by no less than 435 full-time equivalent positions over personnel levels onboard in the Coast Guard as of September 30, 1988.

(b) LIMITATION.—Nothing in this section shall require the Coast Guard to recruit, compensate, train, purchase, or deploy any personnel or equipment except to the extent that—

(1) additional appropriations are made available in appropriations Acts for that purpose; or

(2) funds are transferred to the Secretary of Transportation for that purpose pursuant to this Act.

Subchapter B—United States Customs Service

SEC. 2984. UNITED STATES CUSTOMS SERVICE DRUG INTERDICTION ASSET ENHANCEMENT.

There is authorized to be appropriated for Operation and Maintenance, Air Interdiction Program for fiscal year 1989, $57,400,000: *Provided*, That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriation shall be available for the procurement of helicopters; tracking, and interceptor aircraft; and operation and maintenance expenses for these and other assets of the United States Customs Service's air interdiction program.

SEC. 2985. UNITED STATES CUSTOMS SERVICE DRUG INTERDICTION PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the United States Customs Service for fiscal year 1989, $30,340,000: *Provided*, That such appropriation shall be in addition to any appropriation appropriated in any regular appropriations Act or continuing resolution for the fiscal year ending on September 30, 1989: *Provided further*, That of such additional appropriation, $26,240,000 shall be used to increase the number of Customs inspectors for contraband enforcement teams and other drug cargo interdiction personnel at the Customs Service by no fewer than 435 full-time equivalent positions over the level of such personnel onboard at the Customs Service as of September 30, 1988, and for related equipment.

Subchapter C—Drug Enforcement Administration

SEC. 2986. DRUG ENFORCEMENT ADMINISTRATION INTERDICTION ASSET ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the Drug Enforcement Administration for fiscal year 1989, $3,280,000: *Provided*, That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriation shall be used for additional analysts and equipment for the enhancement of the El Paso Intelligence Center (EPIC) to provide more tactical intelligence to the Drug Enforcement Administration and all other United States drug enforcement and interdiction agencies.

Subchapter D—Immigration and Naturalization Service/Border Patrol

SEC. 2987. BORDER PATROL DRUG INTFRDICTION ASSET ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the Border Patrol within the Department of Justice for fiscal year 1989, $16,400,000: *Provided*, That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriation shall be used only for the procurement of drug interdiction-related equipment for Border Patrol drug enforcement personnel, including spare parts for helicopters; 4-wheel drive law enforcement vehicles; and initial procurement of mobile sensor response system and electronic intrusion detection, and for related operation and maintenance expenses.

SEC. 2988. IMMIGRATION AND NATURALIZATION SERVICE/BORDER PATROL DRUG INTERDICTION PERSONNEL ENHANCEMENT.

(a) SALARIES AND EXPENSES.—There is authorized to be appropriated for salaries and expenses of the Border Patrol within the Department of Justice for fiscal year 1989, $16,400,000: *Provided*, That such appropriation shall be in addition to any appropriations appropriated in any regular appropriations Acts or continuing resolutions for the fiscal year ending on September 30, 1989: *Provided further*, That such additional appropriation shall be used to increase drug interdiction officers of the Border Patrol by no fewer than 435 full-time equivalent positions over the level of such personnel onboard at the Border Patrol as of Septembers 30, 1988, and for related equipment.

(b) SAN CLEMENTE BORDER PATROL STATION.—There is authorized to be appropriated, out of any funds made available by section 2987, for the fiscal year ending September 30, 1989, $2,706,000 for the design of improvements for the Immigration and Naturalization Service border patrol station at San Clemente, California.

(c) DRUG EDUCATION OFFICERS PROGRAM.—There is authorized to be appropriated, out of any funds made available by sections 4401 and 4402 of this Act, for the fiscal year ending September 30, 1989, such sums as may be necessary to establish and maintain an Immigration and Naturalization Service Drug Education Officers program, featuring the demonstration of drug detection canine unit capabilities along the southwest border region of the United States.

Subchapter E—Research and Development Programs to Assist Federal Enforcement Agencies

SEC. 2989. USE OF EXISTING FEDERAL RESEARCH AND DEVELOPMENT FACILITIES FOR CIVILIAN LAW ENFORCEMENT.

(a) COMPREHENSIVE PLAN.—The President of the United States shall direct the Office of National Drug Control Policy, established in title I of this Act, to develop a comprehensive plan for utilizing no fewer than eight existing facilities of the Department of Defense, the Department of Justice, the Department of Energy, National Security Agency, and the Central Intelligence Agency, to develop technologies for application to Federal law enforcement agency missions, and to provide research, development, technology, and evaluation support to the law enforcement agencies of the Federal Government. Such plan shall be prepared and submitted to the Congress by no later than 90 days from the date of enactment of this Act.

(b) EXISTING FACILITIES TO BE EXAMINED.—The following existing United States Government facilities shall be examined in developing the comprehensive plan mandated in subsection (a):

(1) For night vision research and development—Department of Defense, Army Materiel Command, Night Vision Laboratory at Fort Belvoir, Virginia;

(2) For ground sensor research and development—Department of Defense, Army Materiel Command, Communications Electronic Command, Fort Monmouth, New Jersey;

(3) For physical/electronic security research and development—Department of Defense, Air Force Systems Command, Electronic Systems Division, Hanscom Field, Massachusetts;

(4) For imaging/electronic surveillance research and development—Central Intelligence Agency and National Security Agency, Washington, DC;

(5) For chemical/biosensor research and development—Department of Defense, Army Materiel Command, Chemical Research Development and Engineering Center, Aberdeen, Maryland;

(6) For chemical/molecular detector research and development—Department of Energy, Sandia National Laboratories, Albuquerque, New Mexico;

(7) For physical/electronic surveillance an tracking, research and development—Department of Justice, Federal Bureau of Investigation and Drug Enforcement Administration, Washington, DC; and

(8) For explosives ordnance detection research and development—Department of Defense, Naval Ordinance Station, Indian Head, Maryland.

(c) Participation.—In developing the plan mandated in subsection (a), the Director of National Drug Control Policy shall ensure that representatives of the Federal law enforcement agencies are provided an opportunity to participate in the formulation of the comprehensive plan and that their views and recommendations are integrated into the planning process.

(d) Comptroller General Oversight.—The Comptroller General of the United States shall monitor the development of the plan mandated in subsection (a) and report periodically to the appropriate Committees of the Congress on the progress of the development of this research and development program.

SEC. 2990. CARGO CONTAINER DRUG DETECTION RESEARCH AND DEVELOPMENT.

(a) Authorization of Appropriations.—There is authorized to be appropriated to the United States Customs Service for fiscal year 1989, $4,100,000: *Provided*, That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriation shall be used only for accelerating the development and availability of X-ray detection, nitrate detection, or other technologies to be utilized for the detection of illegal narcotics in cargo containers entering the United States at seaports, airports, and land borders.

(b) Coordination.—The Commissioner of Customs shall coordinate and share the findings of the research and development authorized in subsection (a) with other Federal departments and agencies with possible mission requirements for such technology, including the Federal Aviation Administration and United States Coast Guard in the Department of Transportation; the Drug Enforcement Administration in the Department of Justice; and the appropriate State, and local law enforcement agencies, including airport authorities, port authorities, and other interested parties.

(c) Report.—The Commissioner of Customs shall report his findings in either classified, or unclassified form, to the appropriate Committees of Congress in conjunction with the President's submission of his fiscal year 1990 Budget of the United States.

Subchapter F—Drug Enforcement Training Improvement

SEC. 2991. FEDERAL LAW ENFORCEMENT TRAINING CENTER IMPROVEMENT.

(a) Authorization of Appropriations for the Federal Law Enforcement Training Center.—(1) There is authorized to be appropriated for salaries and expenses of the Federal Law Enforcement Training Center for fiscal year 1989, $5,740,000: *Provided*, That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That $4,100,000 of such additional appropriation shall be used by the Federal Law Enforcement Training Center only to accommodate the advanced in-Service training requirements of the Drug Enforcement Administration that cannot otherwise be met at the Department of Justice training facilities: *Provided further*, That $1,640,000 of such additional appropriation shall be used by the Center to increase the level of drug enforcement training, including basic and advanced training, for Federal, State, and local law enforcement officers: *Provided further*, That the Center shall hire 44 additional direct full-time equivalent positions and maintain an average of not less than 469 direct full-time equivalent positions by the end of fiscal year 1990: *Provided further*, That, on a space available, cost reimbursable basis, the Center shall, to the extent practical, increase the level of training for drug enforcement officers from foreign countries that are cooperating with the law enforcement agencies of the United States Government.

(2) There are authorized to be appropriated for salaries and expenses of the Federal Law Enforcement Training Center, $45,000,000 for the fiscal year ending September 30, 1990, and $50,000,000 for the fiscal year ending September 30, 1991: *Provided*, That in each fiscal year addressed in this paragraph, support for the State and local law enforcement training program and the training programs for drug enforcement officers from foreign countries shall be maintained at no less than the level of support in the fiscal year ending September 30, 1989.

(b) Expanded Training.—The Secretary of the Treasury is directed to expand the advanced training programs for Federal law enforcement agencies at the Marana, Arizona, satellite facility of the Federal Law Enforcement Training Center, within the total amount of appropriations authorized for fiscal years 1989, 1990, and 1991.

(c) Report.—The Secretary of the Treasury is directed to report in writing to the appropriate committees of the Congress by no later than 90 days from the date of enactment of this Act with his preliminary plans for the increased training activities at the Federal Law Enforcement Training Center facilities to be funded with the additional appropriations authorized in subsection (a)(1) of this section, and the authorized level of appropriations contained in subsection (a)(2).

SEC. 2992. FEDERAL LAW ENFORCEMENT LANGUAGE TRAINING IMPROVEMENT.

(a) Department of Defense.—The Department of Defense is authorized to provide, on a cost reimbursable basis, foreign language training at the Defense Language Institute to special agents of Federal civilian agencies involved in drug law enforcement.

(b) Department of State.—The Department of State is authorized to provide, on a cost reimbursable basis, foreign language training at the Foreign Service Institute to special agents of Federal civilian agencies involved in drug law enforcement.

(c) Drug Enforcement Administration.—The Drug Enforcement Administration is authorized to—

(1) detail special agent personnel for foreign language training to the Defense Language Institute or the Foreign Service Institute; and

(2) reimburse, from appropriated funds, the Departments of Defense and State for the cost of training provided.

(d) Customs Service.—The Customs Service is authorized to—

(1) detail special agent personnel for foreign language training to the Defense Language Institute or the Foreign Service Institute, or both; and

(2) reimburse, from appropriated funds, the Departments of Defense and State for the cost of training provided.

(e) INS.—The Immigration and Naturalization Service is authorized to—

(1) detail investigative personnel for foreign language training to the Defense Language Institute or the Foreign Service Institute; and

(2) reimburse, from appropriated funds, the Departments of Defense and State for the cost of training provided.

(f) Authorization of Appropriations.—The following amounts are authorized to be appropriated to implement the provisions of this section:

(1) to the Commissioner of Customs, only for obligation for special agent foreign language training, $273,000;

(2) to the Administrator of the Drug Enforcement Administration, only for obligation for special agent foreign language training, $273,000; and

(3) to the Commissioner of the Immigration and Naturalization Service, only for obligation for special agent foreign language training, $273,000.

(g) Rules Applicable to Appropriations.—Moneys appropriated pursuant to this section shall—

(1) remain available until expended; and

(2) shall be made available by the United States Customs Service, the Immigration and Naturalization Service, and the Drug Enforcement Administration out of the total amount of additional funds authorized to be appropriated in this Act.

Subchapter G—United States-Bahamas Drug Interdiction Task Force

SEC. 2993. INTERDICTION TASK FORCE PROGRAMS.

(a) Authorization of Appropriations.—There is authorized to be appropriated for salaries and expenses if the Drug Enforcement Administration for fiscal year 1989, $4,920,000: *Provided*, That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such appropriations shall be made available for the United States-Bahamas Drug Interdiction Task Force established by section 3301 of subtitle E of title III of the Antidrug Abuse Act of 1986 (21 U.S.C. 801 note) and related activities: *Provided further*, That of these amounts made available for the United States-Bahamas Drug Interdiction Task Force under this section, the Drug Enforcement Administration is authorized to provide grants or other financial assistance to the Commonwealth of the Bahamas in the establishment of a Bahamian Enforcement Strike Team that will conduct unilateral Bahamian Government drug interdiction operations in the southern Bahamian Islands: *Provided further*, That the appropriations authorized under this section shall only be made available for United States-Bahamian drug interdiction operations upon receipt of a $410,000 contribution toward such joint operations by the Commonwealth of the Bahamas in fiscal year 1989.

(b) Sense of Congress.—It is the sense of the Congress that—

(1) the Commonwealth of the Bahamas should aggressively pursue the extradition of Nigel Bowe and the consummation of the pending extradition treaty with the United States by the end of 1988;

(2) the Government of the United States should cooperate fully with the Commonwealth of the Bahamas in providing information to the Bahamas regarding allegations of corruption and cooperate in responding to requests from the Commonwealth of the Bahamas for the extradition of United States citizens who have been indicted for drug-related offenses in the Bahamas; and

(3) agents of the Drug Enforcement Agency should be physically present when

confiscated or seized illegal drug contraband is destroyed by personnel of the Commonwealth of the Bahamas.

Subchapter H—Standards of Care in Discovering Contraband

SEC. 2994. STANDARDS OF CARE IN DISCOVERING CONTRABAND.

(a) IN GENERAL.—By no later than the date that is 120 days after the date of enactment of this Act and after an opportunity for public comment, the Secretary of the Treasury shall prescribe regulations which sets forth criteria for use by the owner, master, pilot, operator, or officer of, or other employee in charge of, any conveyance in meeting the standards under sections 584 and 594 of the Tariff Act of 1930 (19 U.S.C. 1584; 1594) for the exercise of the highest degree of care and diligence to know whether controlled substances imported into the United States are onboard the conveyance.

(b) AIR CARRIER SMUGGLING PREVENTION PROGRAM.—(1) The Secretary of the Treasury, in consultation with the Secretary of Transportation, shall issue controlled substances regulations for a 2-year demonstration program within 6 months of the enactment of this section. The regulations shall apply to at least three United States International Airports classified as high-risk by Customs and based upon the volume of cargo and number of aircraft arriving from high-risk points of departure. Such regulations shall establish procedures for air carrier development and Customs Service approval of foreign and domestic security and inspection practices. The regulations shall permit air carriers to request the Secretary of the Treasury to permit air carriers, the Customs Service, or an approved agent of the United States Customs Service to inspect at United States airports of entry, and aircraft arriving from foreign locations. The Secretary of the Treasury shall approve such request if the applicant meets the requirements of the regulations. Taking into account all considerations of security, law enforcement, and commercial needs, inspections of aircraft, and cargo shall be conducted and completed within a reasonable period of time.

(2) Air carriers which have applied to the Secretary of the Treasury and which the Secretary determines to be in compliance with the regulations and inspection requirements promulgated under paragraph (1) shall be considered participating air carriers. The Secretary of the Treasury shall establish by regulation a procedure for finding a carrier to be a participating carrier and procedures for subsequent removal of that status. The Secretary shall not remove an air carrier from the status of participating air carrier unless he or she shall first have provided it a written notice that the air carrier is not in compliance with the regulations or inspection requirements promulgated under paragraph (1), which notice shall include the reasons for that determination, and shall have provided the air carrier a reasonable opportunity to correct such noncompliance.

(3) Participating air carriers shall be considered to have met the test of the highest degree of care and diligence required under law, and shall not be subject to the penalty or seizure provisions of this Act, if a controlled substance is discovered aboard an aircraft that they may own or operate or in the cargo they carried, if the participating air carrier establishes at an oral presentation that the air carrier was not grossly negligent nor engaged in willful misconduct, and complied with the applicable procedures established in the regulations promulgated under paragraph (1).

(4) For the purpose of this subsection, the term "air carrier" shall mean air carrier or foreign air carrier as those terms are defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301).

(5) No provision of this section shall have any effect on air transportation security requirements prescribed pursuant to the Federal Aviation Act of 1958, as amended.

Subchapter I—Interpol—United States National Central Bureau

SEC. 2995. INTERPOL—UNITED STATES NATIONAL CENTRAL BUREAU.

There is authorized to be appropriated for the United States National Central Bureau for fiscal year 1989 $820,000: *Provided*, That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such appropriation shall be used to increase personnel by no fewer than 23 full-time equivalent positions over personnel levels as of September 30, 1988 for the purpose of maintaining no fewer than 24-hour operations and for upgrading telecommunications equipment.

Subchapter J—Civil Air Patrol

SEC. 2996. CIVIL AIR PATROL.

(a) REGULATIONS.—Within 45 days, the Secretary of the Air Force shall issue such regulations as are necessary to ensure that the Civil Air Patrol has an integral role in drug interdiction and eradication activities.

(b) REPORTS.—The Secretary of the Air Force shall submit to the Committees on Appropriations and the Committee on Armed Services of the Senate and the House of Representatives, quarterly reports which include a detailed description of the activities of the Civil Air Patrol in support of the Federal, State, and local government agencies' drug interdiction and eradication programs. The first report shall be submitted on the last day of the first quarter ending not less than 150 days after the date of the enactment.

TITLE III—PREVENTION, EDUCATION, AND TREATMENT

SEC. 3001. SHORT TITLE, TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 3001. Short title, table of contents.
Sec. 3002. Findings.
Sec. 3003. Purposes.
Sec. 3004 Sense of Congress.
Sec. 3005. References to the Public Health Service Act.

SUBTITLE A—ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICES BLOCK GRANTS

Sec. 3011. Authorization of appropriations.
Sec. 3012. State comprehensive mental health service plan.
Sec. 3013. Alcohol and drug abuse and mental health services block grants.
Sec. 3014. Data collection.
Sec. 3015. Model plan for seriously mentally ill individuals.
Sec. 3016. Comprehensive substance abuse treatment assistance program.
Sec. 3017. Conforming amendments.

SUBTITLE B—NATIONAL INSTITUTES OF ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

Sec. 3021. Alcohol, Drug Abuse, and Mental Health Administration.
Sec. 3022. National Institute of Mental Health.
Sec. 3023. Office of Substance Abuse Prevention; demonstration projects for high risk youths.
Sec. 3024. National Institute on Alcohol Abuse and Alcoholism.
Sec. 3025. Drug abuse research.
Sec. 3026. National Institute on Drug Abuse.
Sec. 3027. Drug abuse treatment demonstration projects.
Sec. 3028. Research on alcohol and drug abuse treatment programs.
Sec. 3029. Comprehensive community prevention initiatives.
Sec. 3030. Authorization of appropriations.

SUBTITLE C—INSTITUTE OF MEDICINE

Sec. 3031. Study by the Institute of Medicine.

SUBTITLE D—ALTERNATIVE UTILIZATION OF MILITARY FACILITIES

Sec. 3041. Action by national institute on drug abuse and states concerning military facilities.
Sec. 3042. Amendment to title 41.
Sec. 3043. Commission on alternative utilization of military facilities.

SUBTITLE E—ACQUIRED IMMUNODEFICIENCY SYNDROME BLOCK GRANTS.

Sec. 3051. Acquired immunodeficiency syndrome block grants.

SUBTITLE F—MISCELLANEOUS

Sec. 3061. Establishment of the Office of Associate Director for Special Populations.
Sec. 3062. Model drug abuse insurance plan.
Sec. 3063. Training awards.
Sec. 3064. Grants for training of personnel to treat drug abuse.
Sec. 3065. Drug testing certification program requirements.
Sec. 3066. Employ assistance programs.
Sec. 3067. Domestic Volunteer Service Act.
Sec. 3068. Reports.
Sec. 3069. Lease purchase authority.

SUBTITLE G—DRUG EDUCATION

Sec. 3081. Short title.
Sec. 3082. Authorization of appropriations.
Sec. 3083. New State programs.
Sec. 3084. State applications.
Sec. 3085. Responsibility of State agencies.
Sec. 3086. Local drug and alcohol abuse education and prevention programs.
Sec. 3087. Reports.
Sec. 3088. Teacher training.
Sec. 3089. Federal activities.
Sec. 3090. Drug-free schools model criteria and forms.
Sec. 3091. Development or early childhood education drug abuse prevention curriculum materials.

SUBTITLE H—EFFECTIVE DATE

Sec. 3092. Effective date.

SEC. 3002. FINDINGS.

Congress finds that—

(1) there are large number of substance abusers in the United States seriously enough impaired to require treatment;

(2) of these abusers, only a small fraction is currently receiving treatment;

(3) substance abuse treatment facilities in the United States are operating above full capacity and many individuals who desire treatment must wait long periods of time before they receive treatment;

(4) drug abuse and the lack of adequate treatment programs poses a threat to our most precious resource, our young people, with almost two-thirds of the graduating high school class of 1985 having used an illicit drug and 17 percent having used cocaine;

(5) increased drug use is strongly linked to violent, gang-related and addiction-related crime; and

(6) treatment for substance abuse is cost-effective and in the best interest of society and the individual.

SEC. 3003. PURPOSES.

(a) ALCOHOL AND DRUG ABUSE.—It is the purpose of this title to—

(1) continue and expand the partnership that exists between the Federal Government and the States in the development, maintenance, and improvement of the national network of comprehensive, community-based alcohol and drug abuse programs;

(2) provide financial and technical assistance to States and communities to assist in the development and maintenance of a core of prevention services that will significantly reduce the number and scope of alcohol and drug abuse problems;

(3) assist and encourage States in the initiation and expansion of prevention and treatment services for underserved populations;

(4) increase the understanding of the public concerning the extent of alcohol and other forms of drug abuse throughout the United States and the need for appropriate treatment services through—

(A) the expansion of data collection activities; and

(B) the support of research on the comparative cost and efficacy of existing alcohol and drug abuse prevention and treatment services; and

(5) increase to the greatest extent possible the availability and quality of treatment services so that treatment on request may be provided to all individuals desiring to rid themselves of their substance abuse problem.

(b) MENTAL HEALTH.—It is the purpose of this title to—

(1) encourage the development and provision of community mental health services by the States;

(2) encourage the development of a comprehensive community mental health system within each State;

(3) encourage the implementation of new and expanded community mental health services;

(4) encourage States to provide community mental health services in the least restrictive appropriate environment, and to involve the families of individuals undergoing mental health treatment in the development and provision of such services;

(5) encourage States to ensure respect for the rights and needs of recipients of mental health services and to involve such recipients in the development and provision of services, including the development of client-run services;

(6) foster interagency coordination and integration among a broad range of human service providers, support groups, and advocates to ensure that mental health, rehabilitation, vocational, educational, health, and residential services are available to individuals who need such services;

(7) provide Federal assistance to expand community mental health services within each State; and

(8) increase the understanding of the public concerning the extent of mental illness throughout the United States and the need for appropriate treatment services through—

(A) the expansion of data collection activities; and

(B) the support of research on the comparative cost and efficacy of existing mental health services.

SEC. 3004. SENSE OF CONGRESS.

(a) FINDINGS.—Congress finds that—

(1) alcoholism and other drug dependencies are problems of grave concern and consequence in American society;

(2) the social and economic costs of alcoholism and other drug dependencies, particularly to the health care system, are staggering;

(3) the health consequences of alcoholism and other drug dependencies can be as formidable as those of other diseases;

(4) in 1970, the National Institute on Alcohol Abuse and Alcoholism was created within the Public Health Service, to finance treatment, research, and prevention initiatives;

(5) in 1973, the National Institute on Drug Abuse was created to focus on issues concerning drug abuse treatment, research and prevention;

(6) in 1976, alcoholics and other drug dependent individuals were included within the definition of disabled persons under the Rehabilitation Act of 1973;

(7) Congress itself, as well as organizations such as the American Medical Association, the National Council on Alcoholism, the National Association of Addiction Treatment Providers and the American Medical Society on Alcoholism and Other Drug Dependencies have recognized that alcoholism and other drug dependencies are treatable diseases; and

(8) the public and private sectors endeavor to treat Americans who suffer from these diseases.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) alcoholism and drug dependencies are treatable diseases; and

(2) treatment opportunities, in both the public and private sectors can provide a successful means of recovery from alcoholism and other drug dependencies and are essential elements to solving the nation's drug problem.

SEC. 3005. REFERENCES TO THE PUBLIC HEALTH SERVICE ACT.

Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201n et seq.).

Subtitle A—Alcohol and Drug Abuse and Mental Health Services Block Grants

SEC. 3011. AUTHORIZATION OF APPROPRIATIONS.

Section 1911 (42 U.S.C. 300x) is amended—

(1) by striking out "and"; and

(2) by inserting before the period the following: ", $550,500,000 for fiscal year 1988, $700,000,000 for fiscal year 1989, $868,000,000 for fiscal year 1990, and $952,000,000 for fiscal year 1991".

SEC. 3012. STATE COMPREHENSIVE MENTAL HEALTH SERVICE PLAN.

(a) ADMINISTRATIVE EXPENSES.—Subsection (d) of section 1920D (42 U.S.C. 300x-9D(d)) is amended to read as follows:

"(d) The amount referred to in subsections (a), (b), and (c) with respect to a State is the total amount that the State is permitted to expend for administrative expenses under section 1915(d) for fiscal year 1986 from amounts paid to the State under subpart 1 for such fiscal year. If in the judgment of the Secretary the State is making a good faith effort to comply with this subpart, the Secretary may assess the State a penalty that is less than the maximum penalty, but in no event shall the penalty be less than 2 percent of the amount the State is permitted to expend for administrative expenses.".

(b) REPORT.—Not later than September 30, 1990, the Comptroller General of the General Accounting Office shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report that—

(1) evaluates the status of the implementation of section 1920C of the Public Health Service Act (42 U.S.C. 300x-11) requiring State Mental Health Services Plans; and

(2) includes an assessment of—

(A) the number of States that have submitted such plans;

(B) the number of States that have implemented the plans submitted by such States;

(C) the efficacy of the plans that have been implemented in achieving effective, organized community-based systems of care for seriously mentally ill individuals; and

(D) recommendations on additional legislation that is necessary to facilitate the achievement of the goals of this title.

SEC. 3013. ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICES BLOCK GRANTS.

(a) EVALUATION.—Section 1912 (42 U.S.C. 300x-1) is amended by adding at the end thereof the following new subsection:

"(c) The Secretary may use not to exceed 1 percent of the amounts appropriated under section 1911 in each of the fiscal years 1988 through 1991 to conduct evaluations, and prepare reports for submission to Congress, concerning the functioning and effectiveness of block grant programs conducted under this subpart.".

(b) ALLOTMENTS.—Section 1913 (42 U.S.C. 300x-1a) is amended to read as follows:

"SEC. 1913. ALLOTMENTS.

"(a) RESERVATIONS.—

"(1) TERRITORIES AND POSSESSIONS.—The Secretary shall reserve not to exceed $5,025,000 from the amounts appropriated under section 1911 in each of the fiscal years 1989 through 1991 for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, the Commonwealth of Puerto Rico, and the Northern Mariana Islands, in amounts that bear the same ratio to the amount specified above as the population of the territory or possession bears to the total population of all such territories and possessions, but notwithstanding such allocation, no territory or possession shall receive, subject to the availability of appropriations, the lesser of $100,000, or 105 percent of the combined amount the territory or possession received under this section (as such section existed before the effective date of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988) in fiscal year 1987, and for emergency treatment purposes under section 1921(b)(1) (as such section existed before the effective date of such Act), whichever is less.

"(2) INDIANS.—

"(A) IN GENERAL.—If the Secretary—

"(i) receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under this part be provided directly by the Secretary to such tribe or organization; and

"(ii) determines that the members of such tribe or tribal organization would be better served by means of grants made directly by the Secretary under this part;

the Secretary shall reserve from amounts which would otherwise be allotted to such State under subsection (b) for the fiscal year the amount determined under subparagraph (B).

"(B) ALLOTMENT.—The Secretary shall reserve for the purpose of subparagraph (A), from amounts that would otherwise be allotted to such State under subsection (b), an amount equal to the amount which bears the same ratio to the State's allotment for the fiscal year involved as the total amount provided or allotted for fiscal year 1987 by the Secretary to such tribe or tribal organization under the existing alcohol and drug abuse, and mental health block grant bears to the total amount provided or allotted for such fiscal year by the Secretary to the States and entities (including Indian tribes and tribal organizations) in the State under such provisions of law.

"(C) RECIPIENT.—The amount reserved by the Secretary on the basis of a determination under this subsection shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

"(D) PLAN.—In order for an Indian tribe or tribal organization to be eligible for a grant under this paragraph, such tribe or organization shall submit to the Secretary a plan for such fiscal year that meets such criteria as the Secretary may prescribe.

"(E) DEFINITION.—As used in this subparagraph the terms 'Indian tribe' and 'tribal organization' have the same meaning given such terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act.

"(3) INITIAL ALLOTMENT.—Out of the amounts appropriated under section 1911 in each of the fiscal years 1989 through 1991, the Secretary shall reserve $329,975,000 in each such fiscal year unless amounts appropriated are less than such amount, for payments to States, territories, and possessions based on the fiscal year 1984 proportionate share of each State, territory or possession as determined under this section (as such section existed before the effective date of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988).

"(b) STATE ALLOTMENT.—

"(1) GENERAL RULE.—From the remainder of the sums appropriated under section 1911 for each of the fiscal years 1989 through 1991, the Secretary shall allot to each State (excluding jurisdictions referred to in subsection (a)(1)) an amount equal to the product obtained by multiplying—

"(A) the State need; by

"(B) the State fiscal capacity.

"(2) STATE NEED.—For purposes of this subsection, the State need of a State shall be an amount equal to the sum of—

"(A) the amount equal to the product of .4 multiplied by the amount equal to the sum of—

"(i) the amount equal to the product of .5 multiplied by the total population of the State residing in urbanized areas, as determined by the Secretary;

"(ii) the amount equal to the product of .3 multiplied by the total population of the State between the ages of 18 and 24 years; and

"(iii) the amount equal to the product of .2 multiplied by the total population of the State between the ages of 25 and 44 years;

"(B) the amount equal to the product of .2 multiplied by the total population of the State between the ages of 25 and 64 years; and

"(C) the amount equal to the product of .4 multiplied by amount equal to the sum of—

"(i) the amount equal to the product of .4 multiplied by the total population of the State between the ages of 18 and 24 years; and

"(ii) the amount equal to the product of .6 multiplied by the total population of the State between the ages of 25 and 44 years.

"(3) STATE FISCAL CAPACITY.—

"(A) GENERAL FORMULA.—For purposes of this subsection, the State fiscal capacity of a State shall be an amount equal to the sum of—

"(i) one; minus

"(ii) the percentage equal to the product of 20 percent multiplied by the amount equal to the quotient obtained by dividing—

"(I) the total taxable resources per person in need of a State; by

"(II) the total taxable resources per person in need for all States.

"(B) TAXABLE RESOURCES PER PERSON IN NEED OF A STATE.—For purposes of subparagraph (A)(ii)(I), the total taxable resources per person in need of a State shall be an amount equal to the average total taxable resources of the State, as determined by the Secretary of the Treasury based on State gross product as reported by the Bureau of Economic Analysis, for the period of the 3 most recently completed calendar years ending before the date on which an application is submitted under section 1916, divided by the State need as determined under paragraph (2).

"(C) TAXABLE RESOURCES PER PERSON IN NEED OF ALL STATES.—For purposes of subparagraph (A)(ii)(II), the total taxable resources per person in need of all States shall be an amount equal to the average total taxable resources per person in need in all States, as determined by the Secretary of the Treasury based on State gross product, as reported by the Bureau of Economic Analysis, for the period of the 3 most recently completed calendar years ending before the date on which an application is submitted under section 1916, divided by the State need as determined under paragraph (2).

"(4) MINIMUM ALLOTMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no State shall receive, subject to the availability of appropriations, an allotment of less than $7,000,000, or 105 percent of the combined amount the State received under this section (as such section existed before the effective date of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988) in fiscal year 1987, and for emergency treatment purposes under section 1921(b)(1) (as such section existed before the effective date of such Act), whichever is less.

"(B) SPECIAL RULE.—In the case of each of the fiscal years 1990 and 1991, amounts paid to States under subparagraph (A) shall increase by the same percentage as the remainder of the sums appropriated under section 1911 for purposes of allotments increases as compared to such sums available for allotment in fiscal year 1989.

"(c) DATA AND INFORMATION.—Except as provided in subsection (b)(3), the Secretary shall obtain from each appropriate Federal agency, the most recent data and information necessary to determine the allotments provided for in subsection (b).

"(d) REALLOTMENTS.—

"(1) IN GENERAL.—Any portion of the allotment to a State under subsection (b) that the Secretary determines is not required to carry out activities described in the application approved under section 1916, in the period that the allotment is made available, shall be reallocated by the Secretary to other States in proportion to the original allotment to such States.

"(2) LIMITATION.—The amount that another State is entitled to under paragraph (1) shall be reduced to the extent that such amount exceeds the sum that the Secretary estimates will be used in that other State to carry out activities described in the application submitted in accordance with the requirements of a State plan approved under section 1916. The amount of such reduction shall be similarly reallotted among States in which the proportionate amount is not reduced.

"(3) AMOUNTS REALLOTTED.—Any amount reallotted to a State under this subsection shall be deemed to be part of the original State allotment under subsection (b) for that year.".

(c) USE OF ALLOTMENTS.—

(1) IN GENERAL.—Paragraph (2) of section 1915(a) (42 U.S.C. 300x-3(a)(2)) is amended to read as follows:

"(2) planning, developing, and providing community mental health services and related support services with—

"(A) emphasis on the initiation and provision of new or expanded services that contribute to the development of a comprehensive community mental health system as described in section 1916(e); and

"(B) continued support for community mental health center services funded with Federal block grants prior to 1989 to the extent consistent with section 1916(c), and with the State Mental Health Planning Council priorities and the State Comprehensive Mental Health Plan.

(2) REPEAL.—Section 1915 (42 U.S.C. 300x-3) is amended by repealing subsection (c).

(d) APPLICATION.—Section 1916 (42 U.S.C. 300x-4) is amended to read as follows:

"SEC. 1916. APPLICATION AND DESCRIPTION OF ACTIVITIES.

"(a) Application.—

"(1) In general.—In order to receive an allotment for a fiscal year under section 1913(b) each State shall submit an application to the Secretary.

"(2) Form.—An application submitted under this subsection shall be in such form and submitted by such date as the Secretary shall require.

"(3) Assurances.—An application submitted under this subsection shall contain assurances that the legislature of the State has complied with subsection (b) and that the State will meet the requirements of subsection (c).

"(b) Public Hearings.—After the expiration of the first fiscal year in which a State receives an allotment under section 1913(b), no funds shall be allotted to such State for any fiscal year under such section unless the legislature of the State conducts public hearings on the proposed use and distribution of funds to be provided under section 1914 for such fiscal year.

"(c) Contents of Application.—As part of the annual application required by subsection (a), the chief executive officer of each State shall certify as follows:

"(1) General use of funds.—The State agrees to use the funds allotted to it under section 1913 in accordance with this part.

"(2) Comprehensive mental health services.—The State agrees, to the extent practicable, that grants made to community mental health centers and other entities in the State shall be used for the provision of comprehensive mental health services—

"(A) principally to individuals residing in a defined geographic area (hereinafter in this section referred to as a 'mental health service area'), with special attention to individuals who are seriously mentally ill;

"(B) within the limits of its capacity, to any individual residing or employed in a mental health service area in the State regardless of ability to pay for such services, current or past health condition, or any other factor; and

"(C) that are available and accessible promptly, as appropriate and in a manner that preserves human dignity and assures continuity and high quality care.

"(3) Community mental health centers.—The State agrees to require that any community mental health center in the State receiving a grant prior to fiscal year 1989 from the State under this part provide—

"(A) outpatient services, including specialized outpatient services for children, the elderly, individuals who are seriously mentally ill, and residents of a mental health service area of the State who have been discharged from inpatient treatment at a mental health facility;

"(B) 24-hour-a-day emergency care services;

"(C) day treatment or other partial hospitalization services, or psychosocial rehabilitation services;

"(D) screening for patients being considered for admission to State mental health facilities to determine the appropriateness of such admission; and

"(E) consultation and education services.

"(4) Evaluation criteria.—The State agrees to establish reasonable—

"(A) criteria to evaluate the effective performance of entities that receive funds from the State under this part; and

"(B) procedures for procedural and substantive independent State review of the failure by the State to provide funds for any such entity.

"(5) Specific use of funds.—

"(A) In general.—The State agrees to use the funds allotted to the State under section 1913 to carry out the mental health and alcohol drug abuse activities prescribed by section 1915(a) in accordance with this paragraph. The relative amounts provided for mental health activities and drug and alcohol abuse activities shall not exceed an amount that bears the same relationship to the funds allotted to the State for such fiscal year as the funds that would have been received by the State and entities in the State in fiscal year 1987 for mental health activities and drug and alcohol activities (including amounts received from funds allocated under section 1913 and section 1921(b)(1) (as such sections existed before the enactment of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988)).

"(B) Percent of funds.—The State may transfer not more than 10 percent of the amounts distributed under subparagraph (A)—

"(i) for mental health activities to amounts used for alcohol and drug abuse activities; and

"(ii) for alcohol and drug abuse activities to amounts used for mental health activities.

"(6) Alcohol and drug abuse uses.—In any fiscal year, the State agrees to use funds for the alcohol and drug abuse activities prescribed by section 1915(a) as follows:

"(A) Not less than 35 percent of the amount to be made available for such activities relating to alcoholism and alcohol abuse.

"(B) Not less than 35 percent of the amount to be made available for such activities shall be used for programs and activities relating to drug abuse.

"(7) Federal investigations.—The State agrees to permit and cooperate with Federal investigations undertaken in accordance with section 1918.

"(8) Identification of needs.—The State has identified those populations, areas, and localities in the State with a need for mental health, alcohol abuse and alcoholism, and drug abuse services.

"(9) Federal funds.—The Federal funds made available under section 1914 for any periods will be so used as to supplement and increase the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under that section and will in no event supplant such State, local, and other non-Federal funds.

"(10) Disclosure.—The State has in effect a system to protect from inappropriate disclosure patient records maintained by the State in connection with an activity funded under this part or by any entity that is receiving payments from the allotment of State under this part.

"(11) Job location.—The State shall develop and implement arrangements, that are not excessively burdensome on the State, to locate jobs for employees affected adversely by actions taken by the State mental health authority to emphasize outpatient mental health services.

"(12) Women.—Of the amount allotted to a State in any fiscal year under this part, the State shall use not less than 5 percent of such amount to provide alcohol and drug abuse services designed specifically for women. Services implemented under paragraph (14) (as such paragraph existed before the effective date of section 103 of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments of 1988) may be continued under this paragraph.

"(13) Children.—Of the amounts allotted in any fiscal year for mental health services, the State agrees to use not less than 10 percent of such amount to provide services and programs for seriously emotionally disturbed children and adolescents. The State shall use not less than 50 percent of the amounts set aside in the preceding sentence by the end of fiscal year 1990 to provide new or expanded services and programs that were not available prior to October 1, 1988, which shall apply to the requirement in paragraph (14).

"(14) New mental health services and programs.—Of the amounts allotted to a State for mental health activities under this part for fiscal year 1991, the State agrees to use, not less than 55 percent of such amount, to develop and provide community mental health services and programs, not available on October 1, 1988, and shall, with respect to each such service provided pursuant to this paragraph, provide funds for each service only for a limited period of time (as determined by the State), except that funds expended under this part for new services developed between October 1, 1984, and October 1, 1988, may be treated as a new service under this paragraph.

"(d) Description of intended use.—

"(1) In general.—The chief executive officer of a State shall, as part of the application required by subsection (a), also prepare and furnish the Secretary (in such form as the Secretary may require) with a description of the intended use of the payments the State will receive under section 1914 for the fiscal year for which the application is submitted, including information on the programs and activities to be supported and services to be provided.

"(2) Publication.—The description shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and after its transmittal.

"(3) Revision.—The description shall be revised (consistent with this section) throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the State under this part. Any revision shall be subject to the requirement of publication.

"(e) Receipt of Payments.—To receive payments under section 1914, a State shall agree that the State, in carrying out the purposes of this part, will facilitate coordination among institutions offering mental health services in the State to establish a State comprehensive community mental health system that—

"(1) provides for the development of a continuum of community mental health services within identified geographic areas;

"(2) ensures that mental health services offered by the system are accessible to individuals of all ages in the State who need the services provided by the system;

"(3) provides mental health services according to the particular needs of the individual for whom the services are sought, including developing plans of care and providing services in the context most appropriate to the age, sex, and cultural background of the individual;

"(4) encourages individuals receiving mental health services to be independent, and encourages the families of such individuals to be supportive of the individual in the attempts of the individual to achieve the optimal level of independence;

"(5) ensures that mental health services are provided in the least restrictive appropriate environment;

"(6) ensures that the mental health services provided by the system meet applicable professional standards for the provision of such services; and

"(7) emphasizes services for individuals who have serious mental illnesses and who—

"(A) are homeless;

"(B) have been institutionalized or at risk of institutionalization;

"(C) are children or youth with serious emotional disturbances;

"(D) are elderly individuals;

"(E) are young adults with diagnoses of both mental illness and alcohol or drug abuse;

"(F) are racial and ethnic minorities;

"(G) are women;

"(H) are people living in poverty; or

"(I) are residents of rural areas.

"The State may use funds provided under section 1914 to develop plans to implement this subsection.

"(f) State Mental Health Services Planning Council.—

"(1) Establishment.—Not later than 6 months after the effective date of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988, or 6 months after the opening of the first State legislative session after the enactment of such Act if legislative action by the State is required to implement this subsection, the chief executive officer of a State shall establish a State mental health services planning council that shall—

"(A) serve as an advocate for seriously mentally ill individuals, seriously mentally ill children, adolescents, elderly individuals, and other individuals with a mental illness or emotional problem; and

"(B) monitor, review, and evaluate, at least once a year, the allocation and adequacy of mental health services within the State.

"(2) Composition.—The Council shall, subject to paragraph (3), be composed of residents of the State, including at least one representative of—

"(A) the principal State agencies that have jurisdiction over—

"(i) mental health, education, vocational rehabilitation, children's services, criminal justice, housing, and social services; and

"(ii) the development of the State plan submitted pursuant to title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(B) public and private entities concerned with the need, planning, operation, funding, and use of mental health services and related support services;

"(C) seriously mentally ill adults who are receiving (or have received) mental health services and the families of such adults or of seriously emotionally disturbed children;

"(D) minorities; and

"(E) organizations functioning as advocates for the mentally ill and for mental health services.

"(3) Restriction.—Not less than 50 percent of the members of the Council shall be individuals who are not State employees or providers of mental health services.

"(4) Plan preparation.—The Council may assist the State in the preparation the plan required by section 1920C.

"(g) Report.—

"(1) In general.—The Secretary shall report annually to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on the new services initiated and provided in accordance with paragraphs (13) and (14) of subsection (c).

"(2) Contents.—The report shall include—

"(A) a detailed description of such programs and services;

"(B) an assessment of the adequacy of such programs and services in meeting the alcohol and drug abuse treatment needs of women and mental health needs of severely disturbed children and adolescents; and

"(C) such other information, including legislative and administrative recommendations, as the Secretary considers appropriate.".

(d) Effective Date.—The amendments made by this section shall become effective on October 1, 1988.

SEC. 3014. DATA COLLECTION.

Title V is amended by inserting after section 509C (42 U.S.C. 290aa-10) the following new section:

"SEC. 509D. DATA COLLECTION.

"(a) Mental Health.—The Secretary, in cooperation with the mental health agencies of the State and the respective national organizations concerning such, shall collect data on—

"(1) the number and variety of public and nonprofit private treatment programs available for mental health;

"(2) the number and demographic characteristics of individuals receiving treatment through the programs referred to in paragraph (1);

"(3) the type of care received by the individuals referred to in paragraph (2); and

"(4) other programs and activities as may be appropriate.

"(b) Alcohol and Drug Abuse and Treatment.—The Secretary, in cooperation with the alcohol and drug agencies of the State and the respective national organizations concerning such, shall develop specifications for the provision of data that is to be reported by State alcohol and drug abuse agencies, and publish such specifications for comment in the Federal Register. Subsequent to the comment period and the publication of final specifications, the Secretary shall, in consultation with the alcohol and drug abuse agencies of the State and the respective organizations concerning such, collect such data that shall include at a minimum—

"(1) the number and variety of public and private treatment programs available for alcohol or drug abuse, including the number and type of patient slots available;

"(2) the number and demographic characteristics of individuals receiving treatment through the programs referred to in paragraph (1) and, to the extent feasible, the number of times per year individuals use such treatment services;

"(3) the type of care received by the individuals referred to in paragraph (2);

"(4) the number of individuals receiving some form of public assistance for treatment;

"(5) the percentage of individuals that complete the appropriate course of treatment through programs referred to in paragraph (1);

"(6) the cost of the different types of treatment modalities referred to in paragraph (1) and the aggregate cost of each treatment modality provided within a State in each fiscal year;

"(7) the estimated level of need for programs referred to in paragraph (1) that is not being served by such programs;

"(8) the number of treated individuals that have private insurance coverage for the costs of the treatment programs referred to in paragraph (1), to the extent such information is available;

"(9) the number of alcohol or drug abuse counselors and other treatment personnel employed in public and private treatment facilities;

"(10) to the extent feasible, the effectiveness of treatment programs referred to in paragraph (1); and

"(11) other programs and activities as may be appropriate.

"(c) State Submission of Data.—

"(1) In general.—The Secretary shall establish guidelines that require States, to the extent practical, to provide information of the type required under subsections (a) and (b) subsequent to the specifications procedure described in subsection (b). The provision of such information shall be required as a condition of receiving a grant under sections 1913 and 1921.

"(2) Comprehensive substance abuse treatment assistance.—In order to receive funds under the program authorized under section 1921, a State shall provide to the Secretary such information as the Secretary may require.

"(3) Cooperation with States.—The Secretary shall consult and cooperate with States in developing data elements and designing mechanisms to collect the information and data required under this section.

"(d) Report.—The Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate every 2 years, a report that describes—

"(1) the scope of drug and alcohol and mental health services being provided by public and private entities;

"(2) the identification of alcohol and drug abuse and mental health service shortage areas and of gaps in such services;

"(3) the number of alcohol and drug abuse and mental health treatment settings;

"(4) the number and characteristics of the individuals served by the services described in paragraphs (1) and (2); and

"(5) other information that is considered appropriate by the Secretary.".

SEC. 3015. MODEL PLAN FOR SERIOUSLY MENTALLY ILL INDIVIDUALS.

Section 1920E (42 U.S.C. 300x-12) is amended to read as follows:

"SEC. 1920E. MODEL PLAN FOR SERIOUSLY MENTALLY ILL INDIVIDUALS.

"(a) In General.—The Secretary, acting through the Director of the National Institute of Mental Health, shall develop and make available from time to time, a model plan for a community-based system of care for seriously mentally ill individuals.

"(b) Consultation.—The plan referred to in subsection (a) shall be developed in consultation with State mental health directors, providers of mental health services, seriously mentally ill individuals, advocates for such individuals, and other interested parties.".

SEC. 3016. COMPREHENSIVE SUBSTANCE ABUSE TREATMENT ASSISTANCE PROGRAM.

Section 1921 (42 U.S.C. 300y) is amended to read as follows:

"SEC. 1921. COMPREHENSIVE SUBSTANCE ABUSE TREATMENT ASSISTANCE PROGRAM.

"(a) Authorization of Appropriations.—

"(1) In general.—To carry out this section and sections 1922, 508, and 509A there are authorized to be appropriated $959,000,000 for fiscal year 1989, $2,000,000,000 for fiscal year 1990, $3,000,000,000 for fiscal year 1991, such sums as may be necessary for each of the fiscal years 1992 and 1993.

"(2) Allotments.—Of the total amount appropriated under paragraph (1) for a fiscal year—

"(A) 4.5 percent shall be available to carry out section 1922 for such fiscal year; and

"(B) the remainder shall be available for allotments to States under this section for such fiscal year.

"(b) Allotments of States.—

"(1) In general.—The allotment of a State under this section for a fiscal year shall be the sum of the amounts allotted to such State under paragraphs (2) and (3).

"(2) Population.—Forty-five percent of the amount available for allotment under this section for a fiscal year shall be allotted in accordance with this paragraph. The allotment of a State under this paragraph for a fiscal year shall be an amount that bears the same ratio to the total amount required pursuant to the preceding sentence to be allotted under this paragraph for such fiscal year as the population of such State bears to the population of all States, except that no such allotment shall be less than $50,000.

"(3) Need.—Fifty-five percent of the amount available for allotment under this section for a fiscal year shall be allotted by the Secretary to States on the basis of the need of each State for amounts for programs and activities for the treatment and rehabilitation of substance abusers. In determining such need for each State under this paragraph, the Secretary shall consider—

"(A) the nature and extent, in the State and in particular areas of the State, of the demand for effective programs and activities for the treatment and rehabilitation of alcohol abuse and drug abuse;

"(B) the number of individuals in the State who abuse drugs or alcohol and the capacity of the State to provide treatment and rehabilitation for such individuals (as determined by the Secretary on the basis of the number of individuals who requested treatment for substance abuse in the State during the most recent calendar year ending prior to the date on which a statement is submitted by the State under subsection (d)); and

"(C) the ability of the State to provide additional services for the treatment and rehabilitation of substance abuse.

"(4) Timing.—The Secretary shall make allotments to States under paragraphs (2) and (3) for a fiscal year, and shall make payments to States under subsection (c) from such allotments, at the same time that the Secretary makes allotments and payments under sections 1913 and 1914, respectively, for such fiscal year.

"(c) Payments.—

"(1) Payments.—For each fiscal year, the Secretary shall make payments, as provided by section 6503 of title 31, United States Code, to each State from its allotment under paragraphs (2) and (3) of subsection (b) from amounts that are appropriated for that fiscal year and available for such allotments.

"(2) Carryover.—Any amount paid to a State under paragraph (1) for a fiscal year and remaining unobligated at the end of such fiscal year shall remain available to such State for the purposes for which it was made for the next fiscal year.

"(3) Applicability of other provisions.—The provisions of part B that are not inconsistent with this part shall apply with respect to allotments made under this section.

"(d) Applications.—

"(1) In general.—In order to receive an allotment for a fiscal year under subsection (b), each State shall submit an application to the Secretary, which the Secretary must find satisfactory, requesting an allotment under subsection (b)(2) or (b)(3) or both. Each such application shall contain—

"(A) a description of the manner in which the State will periodically (at an interval to be determined by the Secretary but not less frequently than once a year)—

"(i) evaluate programs and activities conducted with payments made to the State under subsection (c), including an evaluation of—

"(I) the number of additional individuals entering treatment;

"(II) the length of the treatment;

"(III) the number of individuals completing the treatment program;

"(IV) the average cost of the treatment per individual for different types of treatment; and

"(V) any other information the Secretary considers necessary;

"(ii) report to the Secretary on the results of such evaluation;

"(iii) develop standards, in consultation with the States, for the evaluation requirements, subsequent to the first grant cycle, and publish such in the Federal Register for comment;

"(B) assurances that current level of efforts in treating substance abusers shall be maintained and that payments made to the State under subsection (c) shall not be used to support existing State and local efforts, but should be used to fund or create new treatment opportunities;

"(C) assurances that such payments shall be targeted to communities with the highest prevalence of substance abuse, in accordance with criteria established by the Secretary to determine those communities with the greatest need, which shall include—

"(i) a demand for services or a need for services that exceeds existing capacity;

"(ii) a high prevalence of substance abuse;

"(iii) a high incidence of drug-related criminal activities; and

"(iv) a high incidence of communicable diseases spread through IV drug use;

"(D) assurances that in developing new treatment opportunities under programs conducted with payments made to the State under subsection (c), the State shall give priority to treatment of abusers of illegal drugs, and treatment for individuals who abuse both alcohol and illegal drugs;

"(E) assurances that populations in greatest need of services, including pregnant women, adolescents, minorities, and women and infants, shall be served;

"(F) assurances that, in fulfilling the priority for pregnant women, the State will assure timely treatment for good post partum care;

"(G) assurances that a State will devise and make available to the Secretary not later than 9 months after receipt of the such payments, a plan that describes how a State can provide services to all individuals seeking treatment services if sufficient resources are available and an estimate of the resource needs to provide such treatment, with such plan and estimates to be in such form as the Secretary may prescribe;

"(H) assurances that the State will provide at least $1 in new State funds or in-kind contributions for every $3 in Federal funds received by the State under subsection (c), and that such funds shall supplement rather than replace existing funds, except that such requirement may be waived by the Secretary for fiscal year 1989 if the chief executive officer of the State certifies that—

"(i) such match cannot be made in such fiscal year because of legislative commitments made by the State prior to the date of enactment of this section; and

"(ii) the State will provide such matching funds as required in subsequent fiscal years;

"(I) such information as the Secretary may prescribe, including information necessary for the Secretary to consider the matters specified in subparagraphs (A) through (D) of subsection (b)(3);

"(J) a description of the manner in which programs and activities conducted with payments under subsection (c) will be coordinated with other public and private programs and activities directed toward individuals who abuse alcohol and drugs; and

"(K) assurances that, in the preparation of any statement under this section, the State will consult with local governments and public and private entities, including community based organizations, involved in the provision of services for the treatment, prevention, and rehabilitation of substance abuse.

"(2) Reporting and Evaluation.—The reporting and evaluation required under paragraph (1)(A) shall be implemented in a manner that is satisfactory to the Secretary, and the Secretary shall, to the extent feasible, assure standardized reporting across the various States. The Secretary shall develop standards, in consultation with the States, for the evaluation requirements, subsequent to the first awarding of grants, and publish such standards in the Federal Register for comment.

"(e) State Treatment Plans.—A State shall submit to the Secretary as part of an application for the grant a State treatment plan that describes the proposed use of amounts paid to a State under subsection (c). The plan shall include a description of—

"(1) the total number of existing treatment slots by modality, type of abused substance, providers, community and target populations;

"(2) the number of treatment slots to be created by modality, providers, community and target populations;

"(3) the manpower involved in providing existing treatment and plans for increasing staffing levels to meet the projected increase in treatment slots;

"(4) the projected number of new clients, including the nature of the abused substance and subpopulations to be targeted (including adolescents, minorities, women and infants); and

"(5) methods of outreach to targeted populations (including adolescents, minorities, women and infants).

"(f) Use of Treatment Funds.—

"(1) In general.—Except as otherwise provided in this section, a State may use amounts made available under subsection (c) for—

"(A) treatment programs for individuals who are abusing or who are addicted to opiods, non-opiod abused drugs, and alcohol, including individuals abusing both alcohol and drugs;

"(B) support services for such individuals, including assistance in seeking and maintaining employment, family education and counseling, and other services designed to rehabilitate such individuals;

"(C) referral to support services needed by such individuals, such as employment and education counseling, income support programs, nutritional support, medical care, and other services;

"(D) outreach to individuals in need of such services; and

"(E) treatment programs for special populations, including adolescents, women, children born with addictions or born to addicted parents.

"(2) PROHIBITIONS.—A State may not use amounts paid to the State under its allotment under this section to—

"(A) provide inpatient hospitalization;

"(B) make cash payments to intended recipients of health services;

"(C) enroll individuals in for-profit treatment programs or provide reimbursement for for-profit treatment programs;

"(D) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds;

"(E) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment, except as provided in paragraph (3); or

"(F) provide financial assistance to any entity other than a public or nonprofit private entity.

"(3) WAIVER FOR CONSTRUCTION.—The Secretary may grant a waiver to a State to use amounts made available under this section for purchase and construction of a new facility or rehabilitation of existing facility, but not for land acquisition, if the State demonstrates to the Secretary that adequate treatment cannot be provided through the use of existing facilities and that alternative facilities in existing suitable buildings are not available. In granting such a waiver, the Secretary shall allow the use of a specified amount of funds to construct or rehabilitate a specified number of beds for residential treatment, and a specified number of slots for out-patient treatment, based on reasonable estimates by the State of the cost of construction or rehabilitation. In considering waiver applications, the Secretary shall insure that the State has carefully designed a program that will minimize the costs of additional beds

"(4) ADMINISTRATION.—Of the total amount paid to any State under subsection (c) for a fiscal year, not more than 5 percent may be used for administering the funds made available under such subsection. The State will pay from non-Federal sources the remaining costs of administering such funds.

"(g) ASSISTANCE.—The Secretary, on the request of a State, shall provide training and technical assistance to such State in planning and operating activities to be carried out under this section.

"(h) DATA.—The Secretary shall conduct data collection activities to enable the Secretary to carry out this section.".

SEC. 3017. CONFORMING AMENDMENTS.

(a) Section 508(d) (42 U.S.C. 290aa-6(d)) is amended by striking out "the second sentence of section 1921(a)" and inserting in lieu thereof "section 1921(a)(2)".

(b) Section 1917(a)(1) (42 U.S.C. 300x-5(a)(1)) is amended by striking out "(14) and (15)" and inserting in lieu thereof "(13) and (14)".

(c) Part B of title XIX (42 U.S.C. 300x et seq.) is amended by striking out "chronically mentally ill" each place it appears and inserting in lieu thereof "seriously mentally ill" in each such place.

SUBTITLE B—NATIONAL INSTITUTES OF ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

SEC. 3021. ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION.

(a) IN GENERAL.—Section 501 (42 U.S.C. 290aa) is amended—

(1) in subsection (b), by adding at the end thereof the following new paragraph:

"(4) The Office for Substance Abuse Prevention.";

(2) in subsection (c), by adding at the end thereof the following new paragraph:

"(3) The Administrator shall evaluate substance abuse prevention and education programs and assist communities and organizations in such evaluation efforts.".

(3) in subsection (e)(1), by striking out "and the National Institute on Drug Abuse" and inserting in lieu thereof "the National Institute on Drug Abuse, and the Office for Substance Abuse Prevention";

(4) in the first sentence of subsection (e)(2)—

(A) by striking out "The" and inserting in lieu thereof "Not less than once every 3 years, the"; and

(B) by striking out "annually";

(5) in subsection (f), by striking out "fraud" each place it appears and inserting in lieu thereof "misconduct";

(6) in subsection (k)(2)(A), by striking out "the National Institute on Drug Abuse" and inserting in lieu thereof "the National Institute on Drug Abuse, the Office of Substance Abuse Prevention"; and

(7) by adding at the end thereof the following new subsections:

"(l) The Administrator may accept voluntary and uncompensated services.

"(m) The Administrator may conduct and support research training—

"(1) for which fellowship support is not provided under section 487; and

"(2) that is not residency training of physicians or other health professionals.".

(b) RENAMING OF ADMINISTRATION.—

(1) PUBLIC HEALTH SERVICE ACT.—The Act is amended—

(A) in sections 227, 319(a), 487, 489(a)(2), 501(a) through (c), 1920A, and (1923) (42 U.S.C. 236, 247d(a), 288, 288b(a)(2), 290aa(a)-(c), 300x-9, and 300y-2), by striking out "Alcohol, Drug Abuse, and Mental Health Administration" each place it appears and inserting in lieu thereof "National Institutes of Alcohol, Drug Abuse, and Mental Health"; and

(B) in sections 501, 504(d), 508(a), 509B(a), 509C(a)(1), and 509C(d) (42 U.S.C. 290aa, 290aa-3(d), 290aa-6(a), 290aa-9(a), 290aa-10(a)(1), and 290aa-10(d)), by striking out "Administration" each place it appears and inserting in lieu thereof "National Institutes of Alcohol, Drug Abuse, and Mental Health".

(2) CONFORMING AMENDMENT.—Part A of title V (42 U.S.C. 290aa et seq.) is amended—

(A) by striking out the part heading and inserting in lieu thereof the following new heading:

"PART A—NATIONAL INSTITUTES OF MENTAL HEALTH, DRUGS, AND ALCOHOL AND INDIVIDUAL INSTITUTES"; AND

(B) in section 501, by striking out the section heading and inserting in lieu thereof the following new heading:

"NATIONAL INSTITUTES OF ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH".

SEC. 3022. NATIONAL INSTITUTE OF MENTAL HEALTH.

(a) MENTAL HEALTH DEMONSTRATION PROJECT GRANTS.—Part A of title V is amended by inserting after section 504 (42 U.S.C. 290aa-3) the following new section:

"SEC. 504A. MENTAL HEALTH SERVICE GRANTS AND DEMONSTRATION PROJECTS.

"(a) MENTAL HEALTH DEMONSTRATION PROJECTS.—The Secretary, acting through the Director, may make grants to States, political subdivisions of States, and private nonprofit entities for—

"(1) mental health services demonstration projects, (including self-help services), for the planning, coordination, and improvement of community services for seriously mentally ill individuals, seriously emotionally disturbed children and adolescents, elderly individuals (with special emphasis on areas with high concentrations of the elderly), residents of rural areas, and homeless seriously mentally ill individuals;

"(2) demonstration projects relating to the provision of prevention services to individuals who are at risk of developing mental illness;

"(3) demonstration projects for the prevention of youth suicide;

"(4) demonstration projects for the improvement of the recognition, assessment, treatment, and clinical management of depressive disorders;

"(5) demonstration projects for the improvement of post-legal adoption mental health and counseling services; and

"(6) demonstration projects for treatment and prevention relating to sex offenses.

"(b) GRANTS.—The Secretary may make a grant under subsection (a) for not more than 5 consecutive 1-year periods, except that the Secretary may waive the limitation of this paragraph with respect to a particular grant if the Secretary determines that extenuating circumstances exist that merit such waiver.

"(c) ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—The Secretary shall not make a grant to an applicant under paragraphs (2) through (7) of subsection (a) unless the applicant agrees that not more than 10 percent of the amount of such grant shall be used for administrative expenses.

"(2) MENTAL HEALTH DEMONSTRATION PROJECTS.—Not more than 25 percent of the total amount of a grant made to a State under subsection (a)(1) for a project for services for seriously mentally ill individuals, seriously emotionally disturbed children and adolescents, elderly individuals, residents of rural areas, and homeless seriously mentally ill individuals in any fiscal year may be used by the State for administrative expenses in carrying out such grant in such fiscal year.

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—In order to provide grants under subsection (a) there is authorized to be appropriated—

"(A) $57,700,000 for fiscal year 1988;

"(B) $60,400,000 for fiscal year 1989, of which at least 18 percent shall be used for demonstration projects for homeless individuals;

"(C) $63,400,000 for fiscal year 1990, of which at least 18 percent shall be used for demonstration projects for homeless individuals; and

"(D) such sums as are necessary in fiscal year 1991, of which at least 18 percent shall be used for demonstration projects for homeless individuals.

"(2) RURAL RESIDENT PROJECTS.—Of the amounts appropriated under paragraph (1), the Secretary may use not in excess of $5,000,000 in each of the fiscal years 1988 through 1990, to make grants for rural residents projects described in subsection (a)(1).

"(3) ELDERLY MENTAL HEALTH PROJECTS.—Of the amounts appropriated under paragraph (1), the Secretary may use not in excess of $4,500,000 in each of the fiscal years 1988 through 1990, to make grants for demonstration projects relating to mental health services for elderly individuals described in subsection (a)(1).

"(4) PREVENTION SERVICES PROJECTS.—Of the amounts appropriated under paragraph (1), the Secretary may use not in excess of $5,000,000 in each of the fiscal years 1988 through 1990, to make grants for projects described in subsection (a)(2).

"(5) SUICIDE PREVENTION PROJECTS.—Of the amounts appropriated under paragraph (1), the Secretary may use not in excess of $5,000,000 in each of the fiscal years 1988 through 1990, to make grants for projects described in subsection (a)(3).

"(6) DEPRESSIVE DISORDER PROJECTS.—Of the amounts appropriated under paragraph (1), the Secretary may use not in excess of $2,000,000 in fiscal year 1988, and $2,500,000 in each of the fiscal years 1989 and 1990, to make grants for projects described in subsection (a)(4).

"(7) POST-LEGAL ADOPTION SERVICES PROJECTS.—Of the amounts appropriated under paragraph (1), the Secretary may use not in excess of $2,000,000 in fiscal year 1988, and $2,500,000 in each of the fiscal years 1989 and 1990, to make grants for projects described in subsection (a)(5).

"(8) SEX OFFENSES.—Of the amounts appropriated under paragraph (1), the Secretary may use not in excess of $5,000,000 in fiscal year 1988, and $5,000,000 in each of the fiscal years 1989 and 1990, to make grants for projects described in subsection (a)(6).".

(b) CONFORMING AMENDMENT.—Effective October 1, 1988, section 504 (42 U.S.C. 290aa-3) is amended—

(1) by striking out subsections (f) and (g); and

(2) by redesignating subsections (h) and (i) as subsections (f) and (g), respectively.

(c) YOUTH SUICIDE.—The second sentence of section 504(g) (as redesignated by subsection (b)) is amended by striking out "age of 21" and inserting in lieu thereof "age of 24".

(d) MENTAL HEALTH SERVICES FOR THE HOMELESS.—Part C of title V is amended—

(1) in section 521(a) (42 U.S.C. 290cc-21(a)), by striking out "1987 and 1988" and inserting in lieu thereof "1987 through 1990"; and

(2) in section 535 (42 U.S.C. 290cc-35), by striking out "for fiscal year 1988" and inserting in lieu thereof "for each of the fiscal years 1988 through 1990".

(e) SERVICE RESEARCH OF COMMUNITY MENTAL HEALTH PROGRAMS.—Part A of title V (42 U.S.C. 290aa et seq.) is amended by inserting after section 504A (as added by subsection (a)) the following new section:

"SEC. 504B. SERVICE RESEARCH OF COMMUNITY MENTAL HEALTH PROGRAMS.

"(a) IN GENERAL.—The Secretary, acting through the Director of the National Institute of Mental Health, shall develop and maintain an ongoing program of service research of community mental health programs and services, that shall include the evaluation of—

"(1) the most effective methods of providing community-based prevention, treatment, and rehabilitation services for mentally ill individuals of all ages; and

"(2) the comparative cost-effectiveness of different methods of treatment utilized in community mental health programs.

"(b) FUNDING PROGRAM.—Research and evaluation required in subsection (a) may be carried out through grants, contracts, or cooperative agreements.

"(c) PLAN.—Not later than 6 months after the effective date of this section, the Director shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a plan for the program to be established under subsection (a).".

SEC. 3023. OFFICE OF SUBSTANCE ABUSE PREVENTION; DEMONSTRATION PROJECTS FOR HIGH RISK YOUTHS.

(a) DUTIES OF DIRECTOR.—Section 508(b) (42 U.S.C. 290aa-6(b)) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) provide assistance to communities to enable such communities to develop comprehensive, long-term substance abuse prevention strategies;";

(2) by striking out paragraph (5) and inserting in lieu thereof the following new paragraph:

"(5) support clinical training programs for substance abuse counselors and other health professionals involved in drug abuse education, prevention, and intervention;"; and

(3) in paragraph (9), by adding before the period the following: ", and coordinate activities to support and complement the private media efforts of the Partnership for a Drug-Free America".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 508(d) (42 U.S.C. 290aa-6(d)) is amended to read as follows—

"(d)(1) For the purpose of carrying out the activities described in this section and in section 509, and for administering the Office of Substance Abuse Prevention, there are authorized to be appropriated $39,000,000 for fiscal year 1989, $49,500,000 for fiscal year 1990, $54,450,000 for fiscal year 1991, $59,295,000 for fiscal year 1992, and $65,224,500 for fiscal year 1993.

"(2) For the purpose of carrying out the activities described in section 509A, there are authorized to be appropriated $52,000,000 for fiscal year 1989, $66,000,000 for fiscal year 1990, $72,600,000 for fiscal year 1991, $79,860,000 for fiscal year 1992, and $87,846,000 for fiscal year 1993.".

(c) HIGH RISK YOUTH.—Section 509A (42 U.S.C. 290aa-8(b)) is amended—

(1) in subsection (b), by adding at the end thereof the following new paragraph:

"(5) In making grants under this section, the Secretary shall give priority to applications that employ research designs adequate for evaluating the effectiveness of the program."; and

(2) in subsection (f)—

(A) in paragraph (8), by striking out "or";

(B) by striking out paragraph (9) and inserting in lieu thereof the following new paragraph:

"(9) has experienced long-term physical pain due to injury; or"; and

(C) by adding at the end thereof the following new paragraph:

"(10) has experienced chronic failure in school;".

(b) ALCOHOL INFORMATION PROGRAM.—Part A of title V is amended by adding after section 509D the following new section:

"SEC. 509E. FETAL ALCOHOL INFORMATION PROGRAM.

"(a) ESTABLISHMENT.—The Administrator shall establish and implement a public information program on fetal alcohol syndrome to educate the public concerning the syndrome and to reduce the incidence of the occurrence of the syndrome.

"(b) REPORT.—Not later than 24 months after the effective date of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988, the Administrator shall submit to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Labor and Human Resources of the Senate a report that describes the effect of the informational program established under subsection (a).".

(c) CONFORMING AMENDMENT.—Section 505(a)(1) (42 U.S.C. 290aa-3a(a)(1)) is amended by striking out "for the National Institute on Drug Abuse," and inserting in lieu thereof "for the National Institute on Drug Abuse, for the Office of Substance Abuse Prevention,"

SEC. 3024. NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM.

Section 513 (42 U.S.C. 290bb-1b) is amended—

(1) in subsection (a), by inserting before the period ", $83,000,000 for fiscal year 1988, and such sums as are necessary for each of the fiscal years 1989 through 1991"; and

(2) in subsection (b), by adding at the end thereof the following new sentence: "There are authorized to be appropriated $15,000,000 in fiscal year 1988, $20,000,000 in fiscal year 1989, $25,000,000 in fiscal year 1990, and such sums as are necessary in 1991, to carry out section 512(c).".

SEC. 3025. DRUG ABUSE RESEARCH.

Section 515(a) (42 U.S.C. 290cc) is amended by striking out paragraphs (5) and (6) and inserting in lieu thereof the following new paragraphs:

"(5) effective methods of drug abuse prevention;

"(6) effective methods of treatment and rehabilitation, including methods of intervention directed at treating the abuse of specific drugs; and

"(7) new and promising behavioral and chemical therapies for the treatment of drug abuse, including the development of chemical antidotes and narcotic antagonists for use in the treatment of cocaine and heroin addiction, that shall be conducted at intramural and extramural locations, and derived from basic and clinical research.".

SEC. 3026. NATIONAL INSTITUTE ON DRUG ABUSE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 517 (42 U.S.C. 290cc-2) is amended to read as follows:

"SEC. 517. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out this subpart, and sections 515A and 549, $165,000,000 for fiscal year 1989, and such sums as are necessary for each of the fiscal years 1990 and 1991. There are authorized to be appropriated $10,000,000 in fiscal year 1988, $10,000,000 in fiscal years 1989 and 1990, and such sums as are necessary in fiscal year 1991, to carry out section 516.".

(b) DISSEMINATION OF INFORMATION.—Subpart 2 of part B of title V is amended by adding after section 515 (42 U.S.C. 290cc.) the following new section:

"SEC. 515A. DRUG TREATMENT INFORMATION.

"The Secretary, in cooperation with the Administrator shall disseminate through publications, conferences, professional meetings, the development of curricular materials, and through other appropriate means, information concerning effective treatment methods for drug abuse.".

(c) EVALUATION OF THE VETERANS' ADMINISTRATION INPATIENT AND OUTPATIENT DRUG AND ALCOHOL DRUG TREATMENT PROGRAMS.—Subsection 620A of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Administrator of Veterans' Affairs shall conduct an evaluation of inpatient and outpatient drug and alcohol treatment programs operated by the Veterans' Administration. The evaluation shall include a determination of the medical advantages and cost-effectiveness of such programs, taking into consideration rates of readmission and rate of successful rehabilitation. There are authorized to be appropriated for the purpose of the conduct of such evaluation $1,000,000 in fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.".

(d) ANNUAL SURVEYS.—Subpart 2 of part D of title V (42 U.S.C. 290ee et seq.) is amended by adding at the end thereof the following new section:

"SEC. 549. ANNUAL SURVEYS BY NATIONAL INSTITUTE ON DRUG ABUSE.

"Notwithstanding any other provision of law, the Director of the National Institute on Drug Abuse shall conduct a national household survey on drug abuse and a high school senior survey on an annual basis. The Director shall collect additional information concerning certain groups of individuals who are not currently included or are undercounted in such surveys.".

SEC. 3027. DRUG ABUSE TREATMENT DEMONSTRATION PROJECTS.

Subpart 2 of part D of title V (42 U.S.C. 290ee et seq.) (as amended by section 3026(d) of this title) is further amended by adding at the end thereof the following new section:

"SEC. 550. DRUG ABUSE TREATMENT DEMONSTRATION PROJECTS.

"(a) ESTABLISHMENT.—The Secretary shall establish demonstration projects that provide grants to States for the purpose of enabling such States to provide effective treatment, and referrals for treatment, to individuals who abuse drugs.

"(b) AWARDING OF GRANTS.—

"(1) SELECTION AREAS.—The Secretary shall award grants under subsection (a) to projects that operate in areas—

"(A) in which a demand for drug treatment services exists, or a need for such services exists which exceeds the capacity of organizations operating in that area to provide such services;

"(B) that have a high prevalence of drug abuse;

"(C) that have a high incidence of drug related criminal activities; and

"(D) that meet any other requirements that the Secretary determines are appropriate.

"(2) FOCUS OF ORGANIZATIONS.—In awarding grants under subsection (a), the Secretary shall—

"(A) select three projects each of which focus on at least one of the following areas of treatment:

"(i) treatment of adolescents;

"(ii) treatment of minorities;

"(iii) treatment of pregnant women;

"(iv) treatment of female addicts and the children of such females; and

"(v) treatment of the residents of public housing projects; and

"(B) select at least one project that includes a centralized local referral unit that shall provide—

"(i) an initial analysis of the nature of the individual's problem and refer such individual to appropriate existing drug treatment programs; and

"(ii) assistance to school teachers and other individuals who come into contact with drug abusers when attempting to refer such abusers to appropriate drug treatment programs.

"(c) APPLICATION.—A State that desires to participate in a project established under subsection (a) shall submit a written application to the Secretary in such form and containing such information as the Secretary may by regulation request.

"(d) PREFERENCES.—In awarding grants under subsection (a), the Secretary shall give preference to projects that demonstrate a comprehensive approach to the problems associated with drug abuse and provide evidence of broad community involvement and support, including the support of private businesses, law enforcement authorities, health care providers, local school systems, and local governments in the proposed demonstration project.

"(e) TIME PERIOD FOR PROJECTS.—Projects funded under this section shall be for a period of at least three years but in no event to exceed five years.

"(f) EVALUATIONS.—The Secretary shall require, as a condition of awarding grants under this section, a systematic evaluation of the projects funded under this section on a long term basis to record the impact of such projects on treated individuals, and on the community as a whole. The methodology used in the evaluation shall be published in the Federal Register for comment before becoming effective.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorization to be appropriated to carry out this section $24,000,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 through 1993.".

SEC. 3028. RESEARCH ON ALCOHOL AND DRUG ABUSE TREATMENT PROGRAMS.

Part D of title V (42 U.S.C. 290dd et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart 3—Provisions Relating to Both Alcohol and Drug Abuse

"SEC. 560. SERVICES RESEARCH ON ALCOHOL AND DRUG ABUSE TREATMENT PROGRAMS.

"(a) IN GENERAL.—The Secretary, acting through the Directors of the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse, shall develop and maintain an ongoing program of research and evaluation of alcohol and drug abuse treatment programs to—

"(1) determine the most effective methods of treatment for alcohol and drug abuse; and

"(2) assess the comparative efficacy and cost-effectiveness of different methods of alcohol and drug abuse treatment.

"(b) FUNDING PROGRAM.—Research and evaluation required in subsection (a) may be carried out through grants, contracts, or cooperative agreements.

"(c) PLAN.—Not later than 6 months after the effective date of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a plan for the program to be established under subsection (a).".

SEC. 3029. COMPREHENSIVE COMMUNITY PREVENTION INITIATIVES.

Part D of title V (42 U.S.C. 290dd et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 561. THE COMMUNITY YOUTH ACTIVITY PROGRAM.

"(a) BLOCK GRANT PROGRAM.—The Secretary shall make grants to States to enable such States to carry out the activities described in subsection (e).

"(b) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section, a State shall submit to the Secretary an application that contains such information and is in such form as may be required by the Secretary.

"(2) DEMONSTRATION OF NEED.—In the application submitted under paragraph (1), the State shall demonstrate a need for the activities described in subsection (e) and provide a description of those programs that will receive assistance under this section.

"(c) AMOUNT OF GRANT.—

"(1) MINIMUM AMOUNT.—Each State that submits an application under subsection (b) that meets the requirements of the Secretary shall, subject to the availability of appropriations, receive a grant in an amount that equals at least $250,000 in each fiscal year.

"(2) PROGRAMS OF NATIONAL SIGNIFICANCE.—Of amounts appropriated or otherwise available to carry out this section for any fiscal year, the Secretary shall reserve 5% of such amounts to be provided for projects of national significance, such as activities authorized in section 681(a)(2)(F) of the Community Services Block Grant Act (42 U.S.C. Sec. 9910(a)(2)(F)) or other projects expected to have a significant impact in preventing use of drugs among youth.

"(3) SPECIFIED APPROPRIATIONS.—

"(A) IN GENERAL.—If the amount appropriated under subsection (f) is less than $50,000,000, the Secretary shall allot 25 percent of such amount equally among the 50 States with the remainder to be apportioned as described in subparagraph (B).

"(B) REMAINDER.—Amounts remaining after the allotment under subparagraph (A) shall be disbursed according to priorities developed by the Secretary that are designed to target funds to those States—

"(i) where the highest proportions of school aged children are at risk of substance abuse;

"(ii) where a tangible need has been identified by the State; and

"(iii) where the State has proposed the funding of additional programs targeted at the areas of highest need.

"(d) PRIORITY.—In making grants under this section, the Secretary shall give priority to—

"(1) projects aimed at youth not in school or who are at risk of dropping out of school;

"(2) projects that seek to reinvolve dropouts in educational programs, involve youth community-based activities, develop training or employment opportunities for dropouts, or provide youth with alternatives to substance abuse;

"(3) projects to provide after-school, vacation and weekend activities designed to give youth opportunities to actively participate in a variety of activities;

"(4) projects that include participation by the business community;

"(5) projects that provide outreach to individuals of all ages who are at high risk of involvement with substance abuse;

"(6) projects targeted to communities with the most serious drug problems to enable such communities to develop programs that coordinate Federal, State, and local efforts to develop comprehensive, long-term, community-wide prevention and education strategies; and

"(7) projects that seek to involve youth who are members of gangs or who may join a gang in educational programs, community-based activities, training or employment opportunities or other alternatives to gang involvement and that seek to inform such youth of such services.

"(e) Activities.—The following activities may be conducted with the assistance received under this section:

"(1) Substance abuse education centers.—Funding may be provided for State regional substance abuse education and prevention centers designed to provide technical assistance, outreach, consultation, training, and referral services to schools, organization, community members and individual grantees under this program.

"(2) Community services.—Funding may be provided for community services and partnerships designed to develop community activities targeted at substance abuse prevention through education, training, and recreation projects including local educational agencies, local or State health department or community health or mental health centers, law enforcement agencies, community-based organizations, community action agencies, local or State recreational departments, or business organizations. Applications for grants under this paragraph shall include a description of the method to be used in evaluating the impact the program is having on the drug problem within the community.

"(3) Other projects.—Funding may be provided to other projects or proposals that are consistent with the intent of the program authorized under this section.

"(f) Authorization of Appropriations.—There are authorized to be appropriated to make grants under this section, $40,00,000 for fiscal year 1989, $55,000,000 for fiscal year 1990, $60,000,000 for fiscal year 1991, $66,550,000 for fiscal year 1992, and $73,205,000 for fiscal year 1993.

"(g) Project evaluations.—The Secretary shall evaluate projects conducted with assistance received under this section and applications for grants under this section shall include a description of the method to be used in evaluating the impact the program is having on the drug problem within the community.

"SEC. 562. EVALUATION OF SUBSTANCE ABUSE EDUCATION AND PREVENTION EFFORT.

"(a) Method.—The Secretary, acting through the Administrator, shall develop and conduct a structured evaluation of the different approaches utilized across the Nation to reduce substance abuse.

"(b) Grants.—The Administrator may enter into grants or contracts with appropriate entities for the purpose of conducting the evaluations required under subsection (a).

"(c) Time of reports.—The Secretary shall submit reports based on the evaluations prepared under subsection (a) not later than 1 year after the effective date of this section, and another report based on such evaluations not later than 3 years after such date. A final report shall be submitted by the Secretary not later than January 1, 1994.

"(d) Authorization of appropriations.—There are authorized to be appropriated to carry out this section, $12,000,000 in fiscal year 1989, and $15,000,000 for each of the fiscal years 1990 through 1993.".

SEC. 3030. AUTHORIZATION OF APPROPRIATIONS.

(a) Technical Assistance.—Sections 541 (42 U.S.C. 290dd) and 545 are amended by adding at the end thereof the following new subsection:

"(c) There are authorized to be appropriated in each of the fiscal years 1988 through 1991, $15,000,000 to carry out this section and section 1920A(1).".

(b) Data Collection.—Section 509D (as added in section 3014 of this Act) is amended by adding at the end thereof the following new subsection:

"(c) Appropriations.—There is authorized to be appropriated in fiscal year 1989 $33,000,000, and for each of the fiscal years 1990 and 1991, $38,000,000 to be used by the Administration to carry out this section.".

Subtitle C—Institute of Medicine

SEC. 3031. STUDY BY THE INSTITUTE OF MEDICINE.

(a) Study.—The Secretary of Health and Human Services shall contract with the Institute of Medicine of the National Academy of Sciences to conduct a study concerning the effective and appropriate treatment, rehabilitation, and continuing care of persons suffering from severe and disabling mental illnesses.

(b) Report.—Not later than 18 months after the date of the signing of the contract with the Institute of Medicine, the Secretary of Health and Human Services shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report of the results of the study conducted under subsection (1).

(c) Authorization of Appropriations.—There is authorized to be appropriated $1,000,000 in fiscal year 1989 to carry out this section.

Subtitle D—Alternative Utilization of Military Facilities

SEC. 3041. ACTION BY NATIONAL INSTITUTE ON DRUG ABUSE AND STATES CONCERNING MILITARY FACILITIES.

Subpart 2 of part D of title V (42 U.S.C. 290ee et seq.) (as amended by sections 3026(d) and 3027 of this title) is further amended by adding at the end thereof the following new section:

"SEC. 551. ACTION BY NATIONAL INSTITUTE ON DRUG ABUSE AND STATES CONCERNING MILITARY FACILITIES.

"(a) National Institute on Drug Abuse.—The Director of the National Institute on Drug Abuse shall—

"(1) coordinate with the agencies represented on the Commission on Alternative Utilization of Military Facilities the utilization of military facilities or parts thereof, as identified by such Commission, established under the National Defense Authorization Act of 1989, that could be utilized or renovated to house nonviolent persons for drug treatment purposes;

"(2) notify State agencies responsible for the oversight of drug abuse treatment entities and programs of the availability of space at the installations identified in paragraph (1); and

"(3) assist State agencies responsible for the oversight of drug abuse treatment entities and programs in developing methods for adapting the installations described in paragraph (1) into residential treatment centers.

"(b) States.—With regard to military facilities or parts thereof, as identified by the Commission on Alternative Utilization of Military Facilities established under section 3042 of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988, that could be utilized or renovated to house nonviolent persons for drug treatment purposes, State agencies responsible for the oversight of drug abuse treatment entities and programs shall—

"(1) establish eligibility criteria for the treatment of individuals at such facilities;

"(2) select treatment providers to provide drug abuse treatment at such facilities;

"(3) provide assistance to treatment providers selected under paragraph (2) to assist such providers in securing financing to fund the cost of the programs at such facilities; and

"(4) establish, regulate, and coordinate with the military official in charge of the facility, work programs for individuals receiving treatment at such facilities.

"(c) Reservation of Space.—Prior to notifying States of the availability of space at military facilities under subsection (a)(2), the Director may reserve space at such facilities to conduct research or demonstration projects.".

SEC. 3042. AMENDMENT TO THE FEDERAL PROPERTIES AND ADMINISTRATIVE PROCEDURES ACT.

Section 203(j)(3)(B) of the Federal Property and Administrative Procedures Act of 1979 (40 U.S.C. 484(j)(3)(B)) is amended by inserting ", drug abuse treatment centers" after "health centers".

Subtitle E—Acquired Immunodeficiency Syndrome Block Grants

SEC. 3051. ACQUIRED IMMUNODEFICIENCY SYNDROME BLOCK GRANTS.

Part B of title XIX (42 U.S.C. 300x et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart 3—Acquired Immunodeficiency Syndrome Grants

"SEC. 1920F. GRANTS.

"(a) Authority.—To carry out this section, there are authorized to be appropriated $95,000,000 for fiscal year 1989, and such sums as are appropriate for each of the fiscal years 1990 through 1991, to make grants to public and nonprofit private entities for projects and programs that seek to reduce the transmission of the acquired immunodeficiency virus in and by users of illegal intravenous drugs.

"(b) Applications.—An allotment to a State shall not be made by the Secretary under subsection (a) unless the State has submitted an information and assurances section as designated in section 1920H(a), and such information and assurances section has been approved by the Secretary in consultation with the Director of the Centers for Disease Control, in accordance with section 1920H(a).

"SEC. 1920G. ALLOTMENTS.

"(a) Reservations.—The Secretary shall reserve $100,000 of the amount appropriated under section 1920F in each fiscal year for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs.

"(b) State Allotment.—The allotment of a State under this section shall be based on the State's proportionate share of the number of intravenous drug use related cases of AIDS as reported by the Centers for Disease Control, but, subject to the availability of appropriations, in no case shall a State receive less than $150,000.

"(c) PUERTO RICO.—Puerto Rico shall be treated as a State in the determination of allotments under subsection (b).

"(d) DATA AND INFORMATION.—The Secretary shall obtain from each appropriate Federal agency, the most recent data and information, for the 12-month period immediately preceding the determination of the allotment, necessary to determine the allotments for fiscal year 1988, and for subsequent fiscal years, the Secretary shall obtain the most recent data and information, for the 2-year period immediately preceding the determination of the allotment.

"SEC. 1920H. REQUIRED INFORMATION AND ASSURANCES.

"In order to receive an allotment for a fiscal year under section 1920G, each State shall submit to the Secretary, as part of the alcohol, drug abuse, and mental health block grant application required under section 1916, an information and assurances section that shall contain—

"(1) such information as the Directors of the National Institute on Drug Abuse and the Centers for Disease Control shall require;

"(2) a description of the programs that will be implemented or improved with the assistance given under this subpart and the manner in which such programs will be coordinated with other public and private programs and activities;

"(3) assurances that, in the preparation of any statement under this section, the State will consult with local governments and the public and private entities (including community-based organizations) involved in the provision of services under this subpart;

"(4) a description of the manner in which the State will evaluate the programs and activities conducted with assistance provided under this subpart;

"(5) assurances that the State will prepare and submit a report, as required by the Secretary, on the results of the evaluations referred to in paragraph (4);

"(6) assurances that the State will prepare and submit reports, as required by the Secretary, containing data necessary to monitor relevant epidemiological changes; and

"(7) assurances that assistance provided to the State under this subpart will supplement and not supplant any State or local expenditures for treatment, outreach, prevention, and educational efforts targeted for users of illegal intravenous drugs at risk of contracting acquired immunodeficiency syndrome.

"SEC. 1920I. USE OF ALLOTMENTS.

"Amounts paid to a State under this subpart may be used by the State according to such requirements as the Secretary, acting through the Director of the National Institute on Drug Abuse, and in consultation with the Directors of the Centers for Disease Control, to establish programs that provide—

"(1) treatment for users of illegal intravenous drugs that have contracted, or are at risk of contracting the acquired immunodeficiency syndrome virus;

"(2) outreach services to users of illegal intravenous drugs;

"(3) aggressive efforts to prevent the transmission of the acquired immunodeficiency syndrome virus among users of illegal intravenous drugs; and

"(4) the training and organizational efforts necessary to accomplish all of the above.

"SEC. 1920J. PAYMENTS.

"(a) IN GENERAL.—For each fiscal year, the Secretary shall make payments, as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), to each State that has complied with section 1920H from the allotment under section 1920G (other than any amount reserved under section 1920G) from amounts appropriated for that fiscal year.

"(b) UNEXPENDED AMOUNTS.—

"(1) IN GENERAL.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which the payment was made.

"(2) WITHHOLDING OF FUNDS.—If in the judgment of the Secretary, a State is unlikely to use funds that are available to that State during a fiscal year for the purposes prescribed by the Secretary under section 1920I, the Secretary may withhold the amount otherwise available to that State in subsequent fiscal year.

"(c) REDUCTION IN PAYMENTS.—

"(1) IN GENERAL.—The Secretary, at the request of a State, may reduce the amount of payments under subsection (a) by—

"(A) the fair market value of any supplies or equipment furnished the State by the Federal government for the convenience of and at the request of the State; and

"(B) the amount of the pay, allowances, and travel expenses of any officer or employee of the Federal government when detailed to the State, and the amount of any other costs incurred in connection with the detail of such officer or employee, if such amount is expended for the convenience of and at the request of the State.

"(2) REDUCED AMOUNTS.—The amount by which any payment is reduced under paragraph (1) shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based. The amount shall be considered to be part of the payment and to have been paid to the State.

"(d) REALLOCATIONS.—To the extent that all the funds appropriated under section 1920F for a fiscal year and available for allotment in such fiscal year are not otherwise allotted to States because—

"(1) one or more States have not submitted a satisfactory application with an information and assurances section in accordance with section 1920H for the fiscal year;

"(2) one or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(3) some State allotments are offset or repaid under subsection (c);

such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this subsection.

"SEC. 1920K. DEFINITION.

"As used in this subpart, the term 'illegal intravenous drug' includes any controlled substance as defined in section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)).".

Subtitle F—Miscellaneous

SEC. 3061. ESTABLISHMENT OF THE OFFICE OF ASSOCIATE DIRECTOR FOR SPECIAL POPULATIONS.

(a) NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM.—Section 502 (42 U.S.C. 290aa-1) is amended by adding at the end thereof the following new subsection:

"(e)(1) The Director shall designate an Associate Director for Special Populations.

"(2) The Secretary, acting through the Associate Director for Special Populations, shall—

"(A) develop and coordinate prevention, treatment, research, and administrative policies and programs to assure increased emphasis on the needs of women and minorities for the prevention and treatment of alcoholism and alcohol abuse and related problems;

"(B) support programs and projects relating to the delivery of services to women and minorities for the prevention and treatment of alcoholism and alcohol abuse and related problems, including demonstration programs and projects;

"(C) develop a plan to increase the representation of women and minorities in service delivery and manpower programs for the prevention and treatment of alcoholism and alcohol abuse and related problems;

"(D) support programs of basic and applied social and behavioral research on the problems of women and minorities relating to alcoholism and alcohol abuse;

"(E) study the effects of discrimination by institutions against alcoholics and alcohol abusers;

"(F) develop systems to assist women and minority individuals who are alcoholics or alcohol abusers in adapting to, and coping with, the effects of discrimination;

"(G) support and develop research, demonstration, and training programs designed to eliminate institutional discrimination against alcoholics and alcohol abusers; and

"(H) provide increased emphasis on the concerns of women and minorities in training programs, service delivery programs, and research activities of the Institute.".

(b) NATIONAL INSTITUTE ON DRUG ABUSE.—Section 503 (42 U.S.C. 290aa-2) is amended by adding at the end thereof the following new subsection:

"(e)(1) The Director shall designate an Associate Director for Special Populations.

"(2) The Secretary, acting through the Associate Director for Special Populations, shall—

"(A) develop and coordinate prevention, treatment, research, and administrative policies and programs to assure increased emphasis on the needs of women and minorities for the prevention and treatment of drug abuse and related problems;

"(B) support programs and projects relating to the delivery of services to women and minorities for the prevention and treatment of drug abuse and related problems, including demonstration programs and projects;

"(C) develop a plan to increase the representation of women and minorities in service delivery and manpower programs for the prevention and treatment of drug abuse and related problems;

"(D) support programs of basic and applied social and behavioral research on the problems of women and minorities relating to drug abuse;

"(E) study the effects of discrimination by institutions against drug abusers;

"(F) develop systems to assist women and minority individuals who are drug abusers in adapting to, and coping with, the effects of discrimination;

"(G) support and develop research, demonstration, and training programs designed to eliminate institutional discrimination against drug abusers; and

"(H) provide increased emphasis on the concerns of women and minorities in training programs, service delivery programs, and research activities of the Institute.".

SEC. 3062. MODEL DRUG ABUSE INSURANCE PLAN.

Subpart 2 of part D of title V (42 U.S.C. 290ee et seq.) (as amended by sections 3026(d), 3027, and 3043 of this title) is further amended by adding at the end thereof the following new section:

"SEC. 552. MODEL SUBSTANCE ABUSE INSURANCE PLAN.

"(a) Development.—The Secretary, in cooperation with the Directors of the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism, members of the insurance industry, the Director of the Office of Personnel Management, and members of the business community, shall develop a model insurance benefit plan for consideration for adoption by the Administrator of the Office of Personnel Management and the Congress. In developing such a plan, the Secretary shall consider the costs and benefits of alternative coverage designs.

"(b) Report.—Not later than 6 months after the effective date of this title, the Secretary shall prepare and submit, to the appropriate Committees of Congress, a report that contains recommendations concerning the type of insurance described under subsection (a) together with a model plan for the provision of such insurance. The Director of the Office of Personnel Management shall report to the appropriate Committees of Congress concerning the appropriateness of incorporating the model plan developed under this section in the Federal Employee Health Benefit Program.

"(c) Availability of Report.—The report submitted under subsection (b) shall be made available by the Secretary to members of the insurance industry and business community.".

SEC. 3063. TRAINING AWARDS.

Section 487(d) (42 U.S.C. 288) is amended by adding at the end thereof the following: "There are authorized to be appropriated for fiscal year 1989 for payments under National Research Service Awards as provided by the Secretary not less than $10,000,000 more than the amount made available to the National Institute on Drug Abuse under this section in fiscal year 1988.".

SEC. 3064. GRANTS FOR TRAINING OF PERSONNEL TO TREAT DRUG ABUSE.

Subpart 2 of part B of title V (42 U.S.C. 290cc et seq.) is amended by adding at the end thereof the following new section:

"SEC. 518. GRANTS FOR TRAINING OF PERSONNEL TO TREAT SUBSTANCE ABUSE.

"(a) In General.—The Secretary may make grants to or enter into contracts with schools of medicine and osteopathy, health professions schools, schools of allied health professions, nurse training institutions, and institutions or organizations that offer education or continuing medical or health education to enable such institutions or organization—

"(1) to train physicians, psychologists, social workers, nurses, and counselors in the treatment of substance abuse;

"(2) to train health professionals, including physicians, psychologists, social workers, nurses, and counselors in the recognition of substance abuse and in the appropriate diagnosis and manner of referral of individuals who abuse substances for treatment of such abuse;

"(3) to develop curriculum and curricula materials to enable institutions or organizations to engage in the training of the type described in paragraphs (1) and (2); and

"(4) to provide stipends to individuals receiving training of the type described in paragraphs (1) and (2).

"(b) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, $6,000,000 for fiscal year 1989.".

SEC. 3065. DRUG TESTING CERTIFICATION PROGRAM REQUIREMENTS.

(a) In General.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall establish a procedure to be used to certify certain clinical laboratories that analyze and determine the results of drug tests conducted by other entities or individuals, and to ensure that such laboratories maintain high quality and appropriate security concerning the results of such tests.

(b) Requirements.—Under the procedures referred to in subsection (a), a laboratory that conducts drug testing shall, as determined under guidelines prescribed by the Secretary of Health and Human Services—

(1) meet the mandatory guidelines, or be determined by the Secretary of Health and Human Services to have met the mandatory guidelines, established by the Secretary under subclauses (I) and (III) of section 503(a)(1)(A)(ii) of the supplemental Appropriations Act, 1987;

(2) have been inspected and accredited by national accrediting bodies approved for such purpose by the Secretary; or

(3) have been a State clinical laboratory certified under a State certification programs that is as least as stringent as that established by the Secretary under subsection (a).

(c) Spending Restriction.—The Secretary of Health and Human Services shall not expend any Federal funds for certification of individual laboratories to conduct drug testing of any Federal employees under this Act (or any amendments made by this Act). Costs associated with such certifications shall be the responsibility of the laboratories seeking the certification, except that this section shall not be construed to prohibit the use of such funds to develop standards, measurement instruments, or such other activities and functions as are necessary to establish and maintain a certification system.

SEC. 3066. EMPLOYEE ASSISTANCE PROGRAMS.

(a) Establishment.—The Secretary of Labor shall establish a program through which the Secretary shall provide grants to, or enter into contract with, employers to enable such employers to develop employee drug and alcohol abuse assistance programs.

(b) Applications.—Employers desiring to receive a grant or contract under this section shall submit to the Secretary of Labor, an application, in such form and containing such information as the Secretary may require.

(c) Regulations.—The Secretary of Labor shall promulgate regulations necessary to carry out this section.

(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, $4,000,000 for fiscal year 1989, and $5,000,000 for each of the fiscal years 1990 and 1991.

SEC. 3067. DOMESTIC VOLUNTEER SERVICE ACT.

Section 501(c) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5081(c)) is amended by adding at the end thereof the following new sentences: "In addition to the amounts authorized to be appropriated by the preceding sentence, there are authorized to be appropriated $4,000,000 in fiscal year 1989, and $5,000,000 for each of the fiscal years 1990 and 1991 to be available for support of drug abuse prevention, or which $500,000 may be used in each fiscal year for support programs. Notwithstanding any other provision of law, programs operated with funds appropriated under this subsection shall not be limited in time.".

SEC. 3068. REPORTS.

Not later than 1 year after the date of enactment of this title, the Secretary of Health and Human Services shall conduct a study, and prepare and submit, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report concerning the range of treatment programs for drug abuse utilized with funds provided under the Public Health Service Act (42 U.S.C. 201 et seq.), and other such programs utilized by State and local governments and private organizations. Such report shall identify those programs that demonstrate effective treatment for drug abuse.

SEC. 3069. LEASE PURCHASE AUTHORITY.

Section 301 of the Public Health Service Act (42 U.S.C. 241) is amended by adding at the end thereof the following new subsection:

"(j)(1) Notwithstanding any other provision of law, the Secretary is authorized to enter into lease-purchase contracts, for period not to exceed 30 years, for the acquisition by lease of buildings and facilities needed by the Public Health Service in the pursuit of its mission to continually improve the health of the nation. The authority of the Secretary to enter into any lease-purchase contract shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by Appropriations Acts.

"(2) Office and special purpose facilities acquired under paragraph (1) shall accommodate activities such as research, experiments, investigations, demonstrations, and case studies of the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and impairments of man, as well as the support function necessary for such activities.

"(3) If the lease-purchase contract involves new construction, the building may be built by a private party on land owned by the United States and under the jurisdiction of the Public Health Service or on land not owned by the United States. The title to such health facilities and the associated land leased under this authority, shall vest in the United States on the expiration of the contract term, or at the time the United States fulfills its financial obligation under the contract.

"(4) The Secretary shall notify Congress annually of the terms of the lease-purchase contracts.".

Subtitle G—Drug Education

SEC. 3081. SHORT TITLE.

This subtitle may be cited as the "Drug-Free Schools Amendments of 1988".

SEC. 3082. AUTHORIZATION OF APPROPRIATIONS.

Section 5111(a) of the Drug-Free Schools and Communities Act of 1986 (hereafter in this subtitle referred to as the "Act") is amended by striking out "$250,000,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993" and inserting in lieu thereof "$405,000,000 for fiscal year 1989, $489,500,000 for fiscal year 1990,

$538,450,000 for fiscal year 1991, $592,295,000 for fiscal year 1992, and $651,524,500 for fiscal year 1993".

SEC. 3083. NEW STATE PROGRAMS.

(a) Training Activities Priority.—Section 5122(a) of the Act is amended by inserting at the end thereof the following new flush sentence:

"Activities described in paragraph (2) of this subsection shall receive priority for the use of funds allocated under this section.".

(b) State Regional Centers Authorized.—Section 5122(a) of the Act is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new paragraph:

"(7) State regional drug and alcohol abuse education and prevention centers for providing outreach, consultation, training, and referral services to schools, organizations, and members of the community.".

(c) Innovative Programs.—Section 5122(b) of the Act is amended—

(1) by redesignating subparagraphs (B) through (I) as subparagraphs (C) through (J), respectively; and

(2) by adding after subparagraph (A) the following new subparagraph:

"(B) has experienced chronic failure in school;".

SEC. 3084. STATE APPLICATIONS.

Section 5123(b) of the Act is amended—

(1) by redesignating paragraphs (6) through (9) as paragraphs (7) through (10), respectively;

(2) by adding after paragraph (5) the following new paragraph:

"(6) include a detailed comprehensive plan describing how money allocated to the chief executive officer is to be used;";

(3) by striking out "and" at the end of paragraph (9) (as redesignated by this section);

(4) by striking out the period at the end of paragraph (10) (as redesignated by this section) and inserting in lieu thereof a semicolon; and

(5) by adding at the end thereof the following new paragraph:

"(11) provide a description of State Teacher Certification requirements, if applicable, regarding training in drug and alcohol abuse education and prevention including a description of the extent to which substance abuse education and prevention is included in teacher training curricula in the State.".

SEC. 3085. RESPONSIBILITY OF STATE AGENCIES.

(a) Model Curriculum.—Section 5124(b)(2) of the Act is amended to read as follows:

"(2) the development, identification, and dissemination of model curriculum materials for consideration by local educational agencies and for evaluation of the materials;".

(b) Teacher Training Priority.—Section 5124(b) of the Act is further amended by inserting at the end thereof the following new flush sentence:

"Activities described in paragraph (1) of this subsection shall receive priority for the use of funds allocated under this section.".

SEC. 3086. LOCAL DRUG AND ALCOHOL ABUSE EDUCATION AND PREVENTION PROGRAMS.

(a) Counseling Programs.—Section 5125(a)(4) of the Act is amended by striking out "and parents," and inserting in lieu thereof a comma and the following: "parents, and families,".

(b) Counseling and Referral Services.—Section 5125(a) of the Act is amended—

(1) by redesignating paragraphs (5) through (12) as paragraphs (7) through (14), respectively; and

(2) by adding after paragraph (4) the following new paragraphs:

"(5) outreach activities, drug and alcohol abuse prevention programs, and referral services, for school dropouts;

"(6) counseling programs and referral services for parents and siblings of drug and alcohol abusers;".

SEC. 3087. REPORTS.

Section 5127 of the Act is amended to read as follows:

"SEC. 5127. REPORTS.

"(a) State Reports.—Each State shall submit to the Secretary a biennial report that contains information on the State and local programs conducted with assistance furnished under this Act. Each such report shall be in a standard format and shall request standard information as prescribed by the Secretary and shall include—

"(1) a description of the extent of the current drug and alcohol problem in the elementary and secondary schools in the State;

"(2) a description of the drug and alcohol policy in the schools in the State;

"(3) the number of individuals served by this Act;

"(4) the characteristics of populations served;

"(5) types of service provided and duration of the services;

"(6) information on how the State has targeted the populations listed under section 5122(b)(2) of this Act; and

"(7) a description of the effectiveness of the drug and alcohol abuse education and prevention programs in the State.

"(b) Local Reports.—Each local educational agency receiving funds under this Act shall submit to the appropriate State educational agency such information as is requested by such State educational agency for purposes of preparing the biennial report required in subsection (a). Such information shall be requested by the State educational agency as part of the local educational agency application and progress reports required under section 5126.".

SEC. 3088. TEACHER TRAINING.

(a) In General.—The Act is amended—

(1) by redesignating part C, part D, and part E as part D, part E, and part F, respectively; and

(2) by inserting after part B the following new part:

"PART C—TEACHER TRAINING

"SEC. 5128. PROGRAM AND ALLOCATIONS.

"(a) In General.—From the sum available under section 5112(c), the Secretary shall make grants to State educational agencies, local educational agencies, and institutions of higher education for teacher training programs in accordance with this part.

"(b) Use of Funds.—Funds made available under this part shall be used to establish, expand, or enhance programs and activities for the training of teachers, administrators, counselors, and other educational personnel concerning drug and alcohol abuse education and prevention. Such programs shall be coordinated through the State agency for higher education or State educational agency, as appropriate, and, shall be coordinated, as appropriate, with the activities of the Regional Centers established under section 5135 of this title.

"(c) Applications.—(1) In order to be eligible to receive a grant under this section for any fiscal year, a State educational agency, a local or intermediate educational agency, an institution of higher education, or consortium thereof, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—

"(A) set forth the activities and programs to be carried out with funds paid under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case supplant such funds;

"(D) provide assurances of compliance with the provisions of this part; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.".

(b) Authorization for Part C.—Section 5111(a) of the Act is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by inserting after "title" the following: "(other than part C)"; and

(3) by adding at the end thereof the following:

"(2)(A) Subject to subparagraph (B), for the purpose of carrying out part C, there are authorized to be appropriated $16,000,000 for fiscal year 1989, and $20,000,000 for each of the succeeding fiscal years ending prior to October 1, 1993.

"(B) No funds may be appropriated for any fiscal year under subparagraph (A) unless the amount appropriated under paragraph (1) of this subsection exceeds $230,000,000 for such year.".

SEC. 3089. FEDERAL ACTIVITIES.

(a) In General.—Section 5132(b)(3) of the Act is amended by inserting before the semicolon a comma and the following: "and coordinate activities to support and complement private media efforts of the Partnership for a Drug-Free America".

(b) Studies.—(1) Section 5132(c) of the Act is amended—

(A) by inserting "(1)" before "The"; and

(B) by striking out the last sentence and inserting in lieu thereof the following:

"(2) The Secretary shall summarize and consolidate the reports submitted under section 5127(a) and shall transmit such summary and consolidation, together with recommendations for future education and prevention efforts to the Associate Director of the Office on National Drug Control Policy, and to the Congress.

"(3) The Secretary, in conjunction with the Secretary of Health and Human Services, shall conduct an independent evaluation, directly or by contract, of a representative sample of programs assisted under this title and shall identify successful projects which may be replicated by other local educational agencies throughout the country. The Secretary shall transmit—

"(A) an interim report containing the results of such evaluation and a description of such projects to the Congress not later than October 1, 1991, and

"(B) a final report containing such information not later than January 1, 1994.

In addition, the Secretary shall disseminate such information through the National Diffusion Network, and through the Regional Centers contained in section 5135.".

SEC. 3090. DRUG-FREE SCHOOLS MODEL CRITERIA AND FORMS.

Section 5142 of the Act is amended by redesignating subsection (b) as subsection (c) and inserting the following new subsection after subsection (a):

"(b) MODEL CRITERIA AND FORMS.—The Secretary, in consultation with national organizations, shall develop model criteria and forms for the collection of data and information with respect to programs assisted under this title. In order to enable schools and community-based organizations to share uniform data and information with respect to programs assisted under this part, the model criteria and forms shall be disseminated to the Regional Centers as a resource to State and local educational programs.".

SEC. 3091. DEVELOPMENT OF EARLY CHILDHOOD EDUCATION DRUG ABUSE PREVENTION CURRICULUM MATERIALS.

The Act is further amended—

(1) by redesignating part F as part G; and

(2) by inserting after part E the following new part:

"PART F—DEVELOPMENT OF EARLY CHILDHOOD EDUCATION DRUG ABUSE PREVENTION CURRICULUM MATERIALS

"SEC. 5151. PROGRAM AUTHORIZED.

"(a) GENERAL AUTHORITY.—The Secretary shall, in consultation with the Secretary of Health and Human Services, provide for the development of age-appropriate drug abuse education and prevention curricula, programs, and training materials for use in early child development programs, and provide for the dissemination of such materials to early child development programs, including Head Start programs, preschool programs funded under chapter 1 of title I of the Education Consolidation and Improvement Act, and such other preschool programs as the Secretary deems appropriate.

"(b) RESERVATION.—The Secretary shall, from sums appropriated under section 5112(a)(5), reserve not less than $1,000,000 to carry out the development and dissemination of the materials provided for in this part.".

SUBTITLE H—EFFECTIVE DATE

SEC. 3092. EFFECTIVE DATE.

This title and the amendments made by this title shall become effective on October 1, 1988, or on the date of the enactment of this Act, whichever occurs later.

TITLE IV—INTERNATIONAL NARCOTICS CONTROL AND ASSISTANCE TO FOREIGN COUNTRIES

SEC. 4001. TABLE OF CONTENTS.

The table of contents for this title is as follows:

TITLE V—INTERNATIONAL NARCOTICS CONTROL AND ASSISTANCE TO FOREIGN COUNTRIES

Sec. 4001. Table of contents.

Subtitle A—Authorization of Appropriations; Allocation of Funds

Sec. 4101. Authorizations of appropriations.
Sec. 4102. Authorizations of appropriations for multilateral and regional drug abuse control programs.
Sec. 4103. Machine-readable document border security program.
Sec. 4104. Cooperative nonmajor drug-transit countries.
Sec. 4105. Additional funds for rewards for information relating to international terrorism.
Sec. 4106. Reallocation of funds withheld from countries which fail to take adequate steps to halt illicit drug production or trafficking.
Sec. 4107. Pilot and aircraft maintenance training for narcotics control activities.
Sec. 4108. Procurement of weapons to defend aircraft involved in narcotics control efforts.

Subtitle B—Restrictions on Foreign Assistance and Trade Benefits

Sec. 4201. Certification procedures under the Trade Act of 1974 for drug producing and drug-transit countries.
Sec. 4202. Certification procedures for drug producing and drug-transit countries under the Foreign Assistance Act of 1961.
Sec. 4203. Criteria for certifications.
Sec. 4204. Permissible uses of aircraft and equipment.
Sec. 4205. Exemption for assistance for narcotics awareness.

Subtitle C—Reporting Requirements

Sec. 4301. Reports concerning certain countries.
Sec. 4302. Reporting on transfer of United States assets.
Sec. 4303. Information from other agencies in annual narcotics control reports.
Sec. 4304. Reports on assistance denied and on identities of corrupt officials.
Sec. 4305. Expression in numerical terms of maximum achievable reductions in illicit drug production.
Sec. 4306. Report on assistance to drug source countries.
Sec. 4307. Notification and report on drug producing and drug-transit countries.

Subtitle D—Latin American Anti-Drug Strike Force

Sec. 4401. Latin American anti-drug strike force.

Subtitle E—Miscellaneous Provisions

Sec. 4501. Contracting authority.
Sec. 4502. International currency transaction reporting.
Sec. 4503. Policy toward an international drug conference.
Sec. 4504. Sense of the Congress calling for negotiations to create an international drug force.
Sec. 4505. United States reliance on narcotics raw materials from foreign sources.

Subtitle A—Authorization of Appropriations; Allocation of Funds

SEC. 4101. AUTHORIZATIONS OF APPROPRIATIONS.

Section 482(a) of the Foreign Assistance Act of 1961 is amended—

(1) by amending paragraph (1) to read as follows:

"(1) To carry out the purposes of section 481, there are authorized to be appropriated to the President $101,000,000 for the fiscal year 1989."; and

(2) by striking out paragraph (3).

SEC. 4102. AUTHORIZATION OF APPROPRIATIONS FOR MULTILATERAL AND REGIONAL DRUG ABUSE CONTROL PROGRAMS.

Section 302 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(j) In addition to amounts otherwise available under this section for such purposes, there are authorized to be appropriated to the President $5,000,000 for fiscal year 1989 to be available only for the United States contribution to multilateral and regional drug abuse control programs. Of the amount authorized to be appropriated by the preceding sentence—

"(1) $3,000,000 shall be for the United States contribution to the United Nations Fund for Drug Abuse Control;

"(2) $600,000 shall be for the Organization of American States (OAS) Inter-American Drug Abuse Control Commission (CICAD) Legal Development Project, except that the proportion which such amount bears to the total amount of contributions to this specific project may not exceed the proportion which the United States contribution to the OAS budget for that fiscal year bears to the total contributions to the OAS budget for that fiscal year; and

"(3) $400,000 shall be for the Organization of American States (OAS) Inter-American Drug Abuse Control Commission (CICAD) Law Enforcement Training Project, except that the proportion which such amount bears to the total amount of contributions to this specific project may not exceed the proportion which the United States contribution to the OAS budget for that fiscal year bears to the total contributions to the OAS budget for that fiscal year.".

SEC. 4103. MACHINE-READABLE DOCUMENT BORDER SECURITY PROGRAM.

(a)(1) There are authorized to be appropriated for the development, procurement, and implementation of a machine-readable travel and identity document border security program for fiscal year 1989, $23,000,000, of which amount $7,000,000 shall be available only for the United States Customs Service, $7,000,000 shall be available only for the Immigration and Naturalization Service in the Department of Justice, and $9,000,000 shall be available only for the Department of State to carry out the provisions of this section.

(2) Appropriations made pursuant to paragraph (1) shall be in addition to any appropriations requested by the President in his budget presented to the Congress on February 18, 1988, or appropriated in any regular appropriations Acts or continuing resolutions for the fiscal year ending on September 30, 1989.

(b) The Department of State, the United States Customs Service, and the Immigration and Naturalization Service shall develop a comprehensive machine-readable travel and identity document border security program that will improve border entry and departure control through automated data capture of machine-readable travel and identity documents. Within 60 days of the date of enactment of this Act, the Department of State, the Customs Service, and the Immigration and Naturalization Service shall jointly submit a detailed implementation plan to the Congress and the President regarding how they intend to carry out the program authorized under this section. Such border security program shall include an integrated cooperative data exchange system that will incorporate law enforcement data on narcotics traffickers, terrorists, convicted criminals, fugitives, and others currently documented in the Lookout Systems of all three agencies and departments. In developing this border security program mandated in this section, the agencies and departments shall ensure that at least the following documents shall be integrated into the program and be machine-readable: border crossing cards; alien registration; pilots licenses; passports; and visas.

(c) The following agencies and organizations shall contribute appropriate law enforcement data to the integrated cooperative data exchange system mandated in subsection (b) and shall update such information into the system on no less than a monthly basis:

(1) the Drug Enforcement Administration in the Department of Justice;

(2) the Federal Bureau of Investigation in the Department of Justice;

(3) INTERPOL;

(4) the Bureau of Alcohol, Tobacco, and Firearms in the Department of Treasury;

(5) the Internal Revenue Service in the Department of Treasury;

(6) the Federal Aviation Administration in the Department of Transportation;

(7) the United States Marshals Service in the Department of Justice; and

(8) the United States Coast Guard in the Department of Transportation.

(d) All agencies participating in the development and implementation of the border security program and systems mandated and authorized in this section shall maintain their participation and contributions to the program and systems authorized under this section at full implementation levels in fiscal years 1990, 1991, and 1992, subject to the availability of appropriations.

SEC. 4104. COOPERATIVE NONMAJOR DRUG-TRANSIT COUNTRIES.

(a) The Assistant Secretary of State for International Narcotics Matters shall give greater attention, and provide more narcotics control assistance, to those countries which are drug-transit countries but are not major drug-transit countries (as defined in section 481(i)(5) of the Foreign Assistance Act of 1961) and which are cooperating fully with the United States in its international narcotics control efforts.

(b) Of the amounts made available for the fiscal year 1989 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control), not less than $2,500,000 shall be available only for assistance to countries described in subsection (a).

SEC. 4105. ADDITIONAL FUNDS FOR REWARDS FOR INFORMATION RELATING TO INTERNATIONAL TERRORISM.

Section 36(g) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(g)) is amended in the first sentence by striking out "$5,000,000" and inserting in lieu thereof "$6,000,000".

SEC. 4106. REALLOCATION OF FUNDS WITHHELD FROM COUNTRIES WHICH FAIL TO TAKE ADEQUATE STEPS TO HALT ILLICIT DRUG PRODUCTION OR TRAFFICKING.

(a) Chapter 8 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"SEC. 486. REALLOCATION OF FUNDS WITHHELD FROM COUNTRIES WHICH FAIL TO TAKE ADEQUATE STEPS TO HALT ILLICIT DRUG PRODUCTION OR TRAFFICKING.

"(a) Additional Assistance for Countries Taking Significant Steps.—If any funds authorized to be appropriated for any fiscal year for security assistance are not used for assistance for the country for which those funds were allocated because of the requirements of section 481(h) or any other provision of law requiring the withholding of assistance for countries that have not taken adequate steps to halt illicit drug production or trafficking, the President shall use those funds for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking, as follows:

"(1) International Narcotics Control Assistance.—Those funds may be transferred to and consolidated with the funds appropriated to carry out this chapter in order to provide additional narcotics control assistance for those countries. Funds transferred under this paragraph may only be used to provide increased funding for activities previously justified to the Congress. Transfers may be made under this paragraph without regard to the 20-percent increase limitation contained in section 610(a). This paragraph does not apply with respect to funds made available for assistance under the Arms Export Control Act.

"(2) Security Assistance.—Any such funds not used under paragraph (1) shall be reprogrammed within the account for which they were appropriated (subject to the regular reprogramming procedures under section 634A) in order to provide additional security assistance for those countries.

"(b) Definition of Security Assistance.—As used in this section, the term 'security assistance' means assistance under chapter 2 of part II of this Act (relating to the military assistance program), chapter 4 of part II of this Act (relating to the Economic Support Fund), chapter 5 of part II of this Act (relating to international military education and training), or the Arms Export Control Act (relating to foreign military sales credits).".

(b) The amendment made by subsection (a) does not apply with respect to funds appropriated prior to the date of enactment of this Act.

SEC. 4107. PILOT AND AIRCRAFT MAINTENANCE TRAINING FOR NARCOTICS CONTROL ACTIVITIES.

(a) Earmarking of Funds.—Not less than $2,000,000 of the funds made available for fiscal years 1989 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training) shall be available only for—

(1) education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts for countries in Latin America and the Caribbean; and

(2) the expenses of deploying, upon the request of the government of a foreign country, Department of Defense mobile training teams in that foreign country to conduct training in military-related individuals and collective skills that will enhance that country's ability to conduct tactical operations in narcotics interdiction.

(b) Relationship to International Narcotics Control Assistance Program.—Assistance under this section shall be coordinated with assistance provided under chapter 8 of part I of that Act (relating to international narcotics control).

(c) Waiver of Section 660.—Assistance may be provided pursuant to this section notwithstanding the prohibition contained in section 660 of the Foreign Assistance Act of 1961 (relating to police training).

SEC. 4108. PROCUREMENT OF WEAPONS TO DEFEND AIRCRAFT INVOLVED IN NARCOTICS CONTROL EFFORTS.

(a) Earmarking of MAP Funds.—Of the funds available to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to grant military assistance), $1,000,000 for the fiscal year 1989 shall be made available to arm, for defensive purposes, aircraft used in narcotic control eradication or interdiction efforts. These funds may only be used to arm aircraft already in the inventory of the recipient country and may not be used for the purchase of new aircraft.

(b) Notification to Congress.—The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate shall be notified of the use of any such funds for that purpose at least 15 days in advance in accordance with the reprogramming procedures applicable under section 634A of the Foreign Assistance Act of 1961.

Subtitle B—Restrictions on Foreign Assistance and Trade Benefits

SEC. 4201. CERTIFICATION PROCEDURES UNDER THE TRADE ACT OF 1974 FOR DRUG PRODUCING AND DRUG-TRANSIT COUNTRIES.

(a) In General.—Paragraph (1) of section 802(b) of the Trade Act of 1974 (19 U.S.C. 2492(b)(1)) is amended to read as follows:

"(1) Subsection (a) shall not apply with respect to a country if the President determines and so certifies to the Congress, at the time of the submission of the report required by section 481(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)), that—

"(A) during the previous year that country has cooperated fully with the United States, or has taken adequate steps on its own—

"(i) in preventing narcotic and psychotropic drugs and other controlled substances produced or processed, in whole or in part, in such country or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States;

"(ii) in preventing and punishing the laundering in that country of drug-related profits or drug-related monies; and

"(iii) in preventing and punishing bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts; or

"(B) for a country that would not otherwise qualify for certification under subparagraph (A), the vital national interests of the United States require exemption of such country from the provisions of subsection (a).".

(b) Conditions on Certification.—Paragraph (2) of section 802(b) of the Trade Act of 1974 (19 U.S.C. 2492(b)(2)) is amended to read as follows—

"(2) In making the certification required by paragraph (1) of this subsection, the President shall consider whether such government—

"(A) has taken actions that have resulted in maximum reductions in illicit drug production which were determined to be achievable pursuant to subsection (e)(4);

"(B) has taken the legal and law enforcement measures to enforce in its territory, to the maximum extent possible, the elimination of illicit cultivation and the suppression of illicit manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances, as evidenced by seizures of such drugs and substances, and the arrest, prosecution, conviction and incarceration of violators involved in the traffic in such drugs and substances affecting the United States;

"(C) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, the laundering in that country of drug-related profits or drug-related moneys, as evidenced by—

"(i) the enactment and enforcement of laws prohibiting such conduct,

"(ii) whether such government has entered into and is cooperating under the terms of mutual legal assistance agreements with the United States governing (but not limited to) money laundering, and

"(iii) the degree to which such government otherwise cooperates with United States law enforcement authorities on anti-money laundering efforts;

"(D) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts, as evidenced by the enactment and enforcement of laws prohibiting such conduct;

"(E) has, as a matter of government policy, encouraged or facilitated the production or distribution of illegal drugs;

"(F) has any senior official who engages in, encourages, or facilitates the production or distribution of illegal drugs;

"(G) has investigated aggressively all cases in which any member of an agency of the United States Government engaged in drug enforcement activities since January 1, 1985, has been the victim of acts or threats of violence, inflicted by or with the complicity of any law enforcement or other officer of such country or any political subdivision thereof, and has energetically sought to bring the perpetrators of such offense or offenses to justice; and

"(H) having been requested to do so by the United States Government, fails to provide reasonable cooperation to lawful activities of United States drug enforcement agents, including the refusal of permission to such agents engaged in interdiction of aerial smuggling into the United States to pursue suspected aerial smugglers a reasonable distance into the airspace of the requested country.

"(I) has made necessary changes in legal codes in order to enable law enforcement officials to move more effectively against narcotics traffickers, such as new conspiracy laws and new asset seizure laws;

"(J) has expeditiously processed United States extradition requests relating to narcotics trafficking; and

"(K) has not protected or given haven to any known drug traffickers and has expeditiously processed extradition requests relating to narcotics trafficking made by other countries.".

(c) Definition.—Section 805(3) of the Trade Act of 1974 (19 U.S.C. 2495(3)) is amended—

(1) by striking out "or" at the end of clause (B);

(2) by striking out the period at the end of clause (C) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new clause:

"(D) in which bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts, are a significant problem.".

(d) Miscellaneous Amendments.—Subsection (b) of section 802 of the Trade Act of 1974 (19 U.S.C. 2492(b)) is amended—

(1) by striking out "30" in paragraph (3) and inserting in lieu thereof "45";

(2) by striking out "30" each place it appears in paragraph (4) and inserting in lieu thereof "45"; and

(3) by adding at the end thereof the following new paragraph:

"(6) For purposes of this section, any country which was designated in the previous year as a major drug producing or drug transit country may not be considered to be cooperating fully with the United States unless it has entered into a bilateral narcotics agreement with the United States or multilateral agreement which achieves the objectives of this section.".

SEC. 4202. CERTIFICATION PROCEDURES FOR DRUG PRODUCING AND DRUG-TRANSIT COUNTRIES UNDER THE FOREIGN ASSISTANCE ACT OF 1961.

(a) Section 481(h)(2)(A)(i)(I) of the Foreign Assistance Act of 1961 is amended by inserting after "drug-related monies" the following: "and in preventing and punishing bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts".

(b) Section 481(h)(2)(A) of the Foreign Assistance Act of 1961 is amended by inserting "or a multilateral agreement which achieves the objectives of this subsection" after "(ii)".

(c) Section 585(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202), is hereby repealed.

SEC. 4203. CRITERIA FOR CERTIFICATIONS.

Subsection 481(h)(3) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(3) In making the certification required by paragraph (2) of this subsection, the President shall consider whether such government—

"(A) has taken actions that have resulted in maximum reductions in illicit drug production which were determined to be achievable pursuant to subsection (e)(4);

"(B) has taken the legal and law enforcement measures to enforce in its territory, to the maximum extent possible, the elimination of illicit cultivation and the suppression of illicit manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances, as evidenced by seizures of such drugs and substances, and the arrest, prosecution, conviction and incarceration of violators involved in the traffic in such drugs and substances affecting the United States;

"(C) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, the laundering in that country of drug-related profits or drug-related moneys, as evidenced by—

"(i) the enactment and enforcement of laws prohibiting such conduct,

"(ii) whether such government has entered into and is cooperating under the terms of mutual legal assistance agreements with the United States governing (but not limited to) money laundering, and

"(iii) the degree to which such government otherwise cooperates with United States law enforcement authorities on anti-money laundering efforts;

"(D) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts, as evidenced by the enactment and enforcement of laws prohibiting such conduct;

"(E) has, as a matter of government policy, encouraged or facilitated the production or distribution of illegal drugs;

"(F) has any senior official who engages in, encourages, or facilitates the production or distribution of illegal drugs;

"(G) has investigated aggressively all cases in which any member of an agency of the United States Government engaged in drug enforcement activities since January 1, 1985, has been the victim of acts or threats of violence, inflicted by or with the complicity of any law enforcement or other officer of such country or any political subdivision thereof, and has energetically sought to bring the perpetrators of such offense or offenses to justice; and

"(H) having been requested to do so by the United States Government, fails to provide reasonable cooperation to lawful activities of United States drug enforcement agents, including the refusal of permission to such agents engaged in interdiction of aerial smuggling into the United States to pursue suspected aerial smugglers a reasonable distance into the airspace of the requested country.

"(I) has made necessary changes in legal codes in order to enable law enforcement officials to move more effectively against narcotics traffickers, such as new conspiracy laws and new asset seizure laws;

"(J) has expeditiously processed United States extradition requests relating to narcotics trafficking; and

"(K) has not protected or given haven to any known drug traffickers and has expeditiously processed extradition requests relating to narcotics trafficking made by other countries.".

SEC. 4204. PERMISSIBLE USES OF AIRCRAFT AND EQUIPMENT.

(a) Certification Required.—Section 481(e)(3) of the Foreign Assistance Act of 1961 is amended—

(1) by redesignating clauses (C) and (D) as clauses (D) and (E), respectively; and

(2) by inserting after clause (B) the following:

"(C) A certification by the Secretary of State that such country has not engaged in a pattern of misuse of United States aircraft or equipment made available under this chapter, including but not limited to spraying of food crops and transportation of troops or munitions for military purposes.".

(b) Eligibility for Assistance.—Section 482 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(b) Assistance may be provided under this chapter to a foreign country only if the Secretary of State has made a certification with respect to that country under section 481(e)(3)(C).".

SEC. 4205. EXEMPTION FOR ASSISTANCE FOR NARCOTICS AWARENESS.

Section 481(i)(4) of the Foreign Assistance Act of 1961 is amended in the text below clause (E)—

(1) by redesignating subclause (vii) as subclause (viii); and

(2) by inserting "(vii) assistance for narcotics education and awareness activities under section 126 of this Act," after "this Act,".

Subtitle C—Reporting Requirements

SEC. 4301. REPORTS CONCERNING CERTAIN COUNTRIES.

Section 2013 of the Anti-Drug Abuse Act of 1986 is amended—

(1) in subsection (a), by striking out "Not later than 6 months after the date of enactment of this Act and every 6 months thereafter," and inserting in lieu thereof "As part of each report required by section 481(e) of the Foreign Assistance Act of 1961,"; and

(2) in subsection (b), before "unless" insert "during the one-year period beginning on the date on which the report in which it was listed was submitted to the Congress".

SEC. 4302. REPORTING ON TRANSFER OF UNITED STATES ASSETS.

Any transfer by the United States Government to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the United States Government in connection with narcotics-related criminal activity shall be subject to the regular reprogramming procedures applicable under section 634A of the Foreign Assistance Act of 1961. At the end of each fiscal year, the President shall submit a report to the Congress of all such transfers during that fiscal year, including an estimate of the fair market value and physical condition of each item of property transferred.

SEC. 4303. INFORMATION FROM OTHER AGENCIES IN ANNUAL NARCOTICS CONTROL REPORTS.

Section 481(e)(3) of the Foreign Assistance Act of 1961 is amended by adding after subparagraph (D) the following:

"(E) A section prepared by the Drug Enforcement Administration, a section prepared by the Customs Service, and a section prepared by the Coast Guard, which describes in detail—

"(i) the assistance provided or to be provided (as the case may be) to such country by that agency, and

"(ii) the assistance provided or to be provided (as the case may be) to that agency by such country,

with respect to narcotic control efforts during the preceding fiscal year, the current fiscal year, and the next fiscal year.".

SEC. 4304. REPORTS ON ASSISTANCE DENIED AND ON IDENTITIES OF CORRUPT OFFICIALS.

Section 481(e) of the Foreign Assistance Act of 1961 is amended by adding at the end the following new paragraphs:

"(8) Each report pursuant to this subsection shall describe the United States assistance for the preceding fiscal year which was denied, pursuant to subsection (h), to each major illicit drug producing country and each major drug-transit country.

"(9) Each report pursuant to this subsection shall describe, for each government evaluated under subparagraphs (D) through (G) of subsection (h)(3), the activities and identities of officials whose activities caused such government to be so evaluated.".

SEC. 4305. EXPRESSION IN NUMERICAL TERMS OF MAXIMUM ACHIEVABLE REDUCTIONS IN ILLICIT DRUG PRODUCTION.

Section 481(e)(4) of the Foreign Assistance Act of 1961 is amended by inserting after the second sentence the following: "Each determination of the President under the preceding sentence shall be expressed in numerical terms, such as the number of acres of illicitly cultivated controlled substances which can be eradicated.".

SEC. 4306. REPORT ON ASSISTANCE TO DRUG SOURCE COUNTRIES.

For the first report required pursuant to section 481(e) of the Foreign Assistance Act of 1961 after the date of enactment of this Act, the President shall include an assessment of what, if any, incentives may be appropriately provided to encourage each such country's further cooperation in an international strategy to prevent the illicit cultivation and manufacture of, and traffic in, narcotic and psychotropic drugs and other controlled substances.

SEC. 4307. NOTIFICATION AND REPORT ON DRUG PRODUCING AND DRUG-TRANSIT COUNTRIES.

Section 481(h) of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new paragraph:

"(6)(A) For purposes of identifying those countries which are subject to the restrictions of paragraph (1) and which are eligible for certification pursuant to paragraph (2), the Secretary of State shall prepare and transmit, not later than October 1 of each year, to the Congress a report identifying those countries which he determines, in accordance with subsection (i), to be major illicit drug producing countries and major drug-transit countries.

"(B) At least 30 days before the submission of such report, the Secretary of State shall notify the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives of those countries proposed to be identified in the report.

"(C) Each preliminary notification and report required by this paragraph shall include a description of the criteria used to define major drug-transit countries within the meaning of paragraph (5) of subsection (i).".

Subtitle D—Latin American Anti-Drug Strike Force

SEC. 4401. LATIN AMERICAN ANTI-DRUG STRIKE FORCE.

(a) The President shall direct the United States Ambassador to the Organization of American States, under the direction of the Secretary of State, to initiate diplomatic discussions with member states of the Organization of American States aimed at securing agreement to the formation of a multinational strike force to conduct operations against international illegal drug smuggling organizations wherever they may be found in the Western Hemisphere.

(b)(1) Not later than 6 months after the date of enactment of this Act, the Secretary of State shall report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on the progress United States diplomatic efforts have made toward achieving agreement on the establishment of such a multinational strike force.

(2) If diplomatic efforts toward achieving such a multinational strike force demonstrate progress or, if agreement has been reached, within 30 days after receipt of the report required under paragraph (1), the President shall submit to the Congress a supplemental budget request for the fiscal year ending September 30, 1989, and the fiscal year ending September 30, 1990, covering the United States share of the cost of operation and maintenance of the Latin American strike force established pursuant to this section.

Subtitle E—Miscellaneous Provisions

SEC. 4501. CONTRACTING AUTHORITY.

Section 482 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(e) All narcotics control program requirements for goods and services authorized to be funded pursuant to section 481 of this Act shall be considered, for purposes of chapter 1 of title 48 of the Code of Federal Regulations, to be of unusual and compelling urgency.".

SEC. 4502. INTERNATIONAL CURRENCY TRANSACTION REPORTING.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—The Congress finds that—

(A) the success of cash transaction and money laundering control statutes in the United States has been significant; and

(B) the United States should play a leadership role in the development of an international system of a similar kind.

(2) PURPOSE.—It is the purpose of this section to urge the United States Government, to the maximum extent practicable, to seek the active cooperation of other countries in the enforcement of these statutes, since only a truly multilateral approach can be effective in eliminating bank haven loopholes through which money launderers can escape.

(b) ESTABLISHMENT OF INTERNATIONAL AGENCY.—The Congress urges the Secretary of the Treasury to negotiate with finance ministers of foreign countries to establish an international currency control agency to—

(1) serve as a central source of information and database for international drug enforcement agencies;

(2) collect and analyze currency transaction reports filed by member countries; and

(3) encourage the adoption, by member countries, of uniform cash transaction and money laundering statutes.

(c) MAINTENANCE OF DOMESTIC EFFORT.—While establishing a multilateral agency will be the most effective method of combatting money laundering, the United States must itself continue to do everything it can to curb international money laundering.

SEC. 4503. POLICY TOWARD AN INTERNATIONAL DRUG CONFERENCE.

It is the sense of the Congress that—

(1) the President should convene as soon as possible an international conference to be known as the "International Conference on Combatting Illegal Drug Production, Trafficking, and Use in the Western Hemisphere";

(2) such conference should involve the heads of state, the highest-ranking law enforcement officers, and other appropriate officials from every government in the Western Hemisphere that is willing to combat the drug trade, and whose cooperation the President determines is essential to that goal; and

(3) such conference should focus exclusively on combatting the drug trade and, in particular, should emphasize enhancing cooperative efforts among the governments of the Western Hemisphere to—

(A) substantially reduce the production, cultivation, and processing of illicit drugs;

(B) eliminate the transshipment of such drugs through countries in the Western Hemisphere;

(C) curb the demand for and use of such drugs in every country in the Western Hemisphere;

(D) combat the problems of drug-related corruption and drug money laundering; and

(E) share intelligence information, extradite drug traffickers, and take other steps necessary to improve law enforcement efforts against the drug trade.

SEC. 4504. SENSE OF THE CONGRESS CALLING FOR NEGOTIATIONS TO CREATE AN INTERNATIONAL DRUG FORCE.

It is the sense of the Congress that the President should call for international negotiations for the purpose of agreeing on the establishment of an international drug force to pursue and apprehend major international drug traffickers.

SEC. 4505. UNITED STATES RELIANCE ON NARCOTICS RAW MATERIAL FROM FOREIGN SOURCES.

(a) REVIEW.—The President shall conduct a review of United States narcotics raw material policy to determine—

(1) the current and reserve international needs for opium-derived pharmaceutical and chemical products, and the relative capabilities for meeting those needs through the opium gum process and the concentrated poppy straw method of production;

(2) whether the United States should continue to rely on a single foreign country for all its licit opium gum;

(3) whether it should be United States policy to encourage all countries which produce licit opium to use the concentrated poppy straw method of production; and

(4) what options are available, consistent with treaties to which the United States is a party, to reduce United States reliance on licit opium gum from foreign sources.

The results of this review shall be reported to the Congress six months after the date of enactment of this Act.

(b) RESTRICTION ON PRESIDENTIAL CERTIFICATION.—Section 481(h)(2)(A) of the Foreign Assistance Act of 1961 is amended—

(1) in clause (i) by striking out "The" and inserting in lieu thereof "Subject to clause (iii), the"; and

(2) by adding at the end thereof the following new clause:

"(iii) The President may make a certification under clause (i)(I) with respect to any major drug producing or drug-transit country which is also a producer of licit narcotics raw materials, such as opium or coca, only if the President determines that such country has taken steps to prevent significant diversion of its licit cultivation and production into the illicit market, maintains production and stockpiles at levels no higher than those consistent with licit market demand, and prevents illicit cultivation and production.".

TITLE V—USER ACCOUNTABILITY

Subtitle A—Opposition to Legalization and Public Awareness

Sec. 5001. Sense of the Congress opposing legalization of drugs.
Sec. 5002. Public awareness campaign.

Subtitle B—National Commission on Drug-Free Schools

Sec. 5051. National commission on drug-free schools.

Subtitle C—Preventing Drug Abuse in Public Housing

CHAPTER 1—REGULATORY AND ENFORCEMENT PROVISIONS

Sec. 5101. Termination of tenancy in public housing.
Sec. 5102. Authority to hire investigators of drug crimes.
Sec. 5103. Amendment for bureau of justice assistance block grant program authorization.
Sec. 5104. Inclusion of a leasehold interest in property subject to forfeiture under the controlled substances act.

CHAPTER 2—PUBLIC HOUSING DRUG ELIMINATION PILOT PROGRAM

Sec. 5125. Short title.
Sec. 5126. Findings.
Sec. 5127. Program authorized.
Sec. 5128. Authorized activities.
Sec. 5129. Application.
Sec. 5130. Implementation.
Sec. 5131. Report to Congress.
Sec. 5132. Authorization.

CHAPTER 3—REPORT ON IMPACT OF PUBLIC HOUSING LEASE AND GRIEVANCE REGULATION ON THE ABILITY OF PHAS TO TAKE ACTION AGAINST TENANTS ENGAGING IN CRIMINAL ACTIVITY

Sec. 5141. Report on impact of public housing lease and grievance regulation on the ability of PHAS to take action against tenants engaging in criminal activity.

Subtitle D—Drug-Free Workplace Act of 1988

Sec. 5201. Short title.
Sec. 5202. Drug-free workplace requirements for Federal contractors.
Sec. 5203. Drug-free workplace requirements for Federal grant recipients.
Sec. 5204. Employee sanctions and remedies.
Sec. 5205. Waiver.
Sec. 5206. Authority of boards.
Sec. 5207. Definitions.
Sec. 5208. Construction of subtitle.
Sec. 5209. Effective date.

Subtitle E—Transportation Industry Alcohol and Controlled Substances Testing Program

Sec. 5251. Transportation industry alcohol and controlled substances testing program.

Subtitle F—Federal Privileges and Benefits

Sec. 5301. Federal privileges and benefits.

Subtitle G—Restrictions on Passports for Violators of Controlled Substance Laws and Other Laws

Sec. 5351. Restrictions on passports for violators of controlled substance laws and other laws.

Subtitle H—Authorization of Appropriations for President's Media Commission on Alcohol and Drug Abuse Prevention

Sec. 5401. Authorization of appropriations for President's Media Commission on Alcohol and Drug Abuse Prevention.

TITLE V—USER ACCOUNTABILITY

Subtitle A—Opposition to Legalization and Public Awareness

SEC. 5001. SENSE OF THE CONGRESS OPPOSING LEGALIZATION OF DRUGS.

The Congress finds that legalization of illegal drugs, on the Federal or State level, is an unconscionable surrender in a war in which, for the future of our country and the lives of our children, there can be no substitute for total victory.

SEC. 5002. PUBLIC AWARENESS CAMPAIGN.

The Drug Control Director shall within 90 days after confirmation by the Senate develop a program to inform the American public of the provisions of this Act pertaining to penalties for the use or possession of illegal drugs.

Subtitle B—National Commission on Drug-Free Schools

SEC. 5051. NATIONAL COMMISSION ON DRUG-FREE SCHOOLS.

(a) ESTABLISHMENT OF COMMISSION.—There is established a National Commission on Drug-Free Schools (hereinafter referred to as the "Commission").

(b) MEMBERSHIP OF THE COMMISSION.—(1) The Commission shall consist of the following 26 members:

(A) the Secretary of Education (hereinafter referred to as the "Secretary");

(B) the Director of National Drug Control Policy (hereinafter referred to as the "Director");

(C) 16 individuals appointed by the Secretary and the Director;

(D) 4 members of the House of Representatives, of which 2 members shall be appointed by the Speaker of the House of Representatives and 2 members shall be appointed by the Minority Leader of the House of Representatives; and

(E) 4 members of the Senate, of which 2 members shall be appointed by the Majority Leader of the Senate and 2 members shall be appointed by the Minority Leader of the Senate.

(2) The Secretary of Education and the Director of National Drug Control Policy shall cochair the Commission.

(3) The members of the Commission appointed under paragraph (1)(C) shall consist of—

(A) experts in the fields of drug abuse prevention and education;

(B) representatives of State and local school authorities;

(C) representatives of parent-teacher associations;

(D) representatives of national organizations;

(E) representatives of community groups;

(F) representatives of law enforcement officials; and

(G) other appropriate individuals as determined by the Secretary and the Director.

(c) APPOINTMENTS.—The members of the Commission who are to be appointed shall be appointed by no later than the date that is 30 days after the date of enactment of this subtitle.

(d) VACANCIES.—A vacancy in the Commission shall be filled in the same manner as the original appointment was made. A vacancy in the Commission shall not affect the powers of the Commission.

(e) QUORUM.—Fourteen members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) DUTIES OF THE COMMISSION.—The Commission shall—

(1) develop recommendations of criteria for identifying drug-free schools and campuses;

(2) develop recommendations for identifying model programs to meet such criteria;

(3) make such other findings, recommendations, and proposals as the Commission deems necessary to carry out the provisions of this section; and

(4) prepare and submit a final report pursuant to subsection (i).

(g) COMPENSATION.—(1) Each member of the Commission who is not an officer or employee of the United States shall be compensated at a rate established by the Commission not to exceed the daily equivalent of the annual rate of basic pay prescribed for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the actual performance of duties as a member of the Commission. Each member of the Commission who is an officer or employee of the United States shall receive no additional compensation for service on the Commission.

(2) While away from their homes or regular places of business in the performance of duties for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at a rate established by the Commission not to exceed the rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(h) ADMINISTRATIVE PROVISIONS.—(1) The Commission shall appoint an Executive Director who shall be compensated at a rate established by the Commission not to exceed the rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(3) Subject to such rules as may be issued by the Commission, the cochairmen may procure temporary and intermittent services of experts and consultants.

(4) Upon request of the cochairmen of the Commission, the head of any Federal department, agency, or instrumentality shall make any of the facilities and services of such department, agency, or instrumentality available to the Commission and detail any of the personnel of such department, agency, or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this section.

(5) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) Service of an individual as a member of the Commission, or employment of an individual by the Commission as an attorney or expert in any business or professional field, on a part-time or full-time basis, with or without compensation, shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Commission, or as an employee of the Commission, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

(i) REPORT OF COMMISSION.—The Commission shall report the findings and recommendations determined under subsection (f) as well as proposals for any legislative action necessary to implement the recommendations of the Commission to the President and the Congress no later than 1 year after the date of enactment of this Act. The final report of the Commission shall include—

(1) recommended criteria for schools to meet to be considered drug-free, which may include, but shall not be limited to—

(A) establishment of a drug education program for all students in kindergarten through grade 12;

(B) a code of student conduct;

(C) referral to treatment for students found to be using drugs; and

(D) coordinated programs for drug use prevention involving parents, teachers, counselors, local law enforcement personnel, businesses, and community organizations;

(2) a description of the potential benefits and liabilities of measured responses such as—

(A) the notification of parents or guardians and police when drug use by an unemancipated minor is discovered;

(B) the feasibility of separating drug offenders from drug-free students;

(C) the suspension of eligibility for student assistance under title IV of the Higher Education Act upon conviction of a drug-related offense;

(D) the withholding of Federal funds from education systems and institutions which do not meet established criteria for drug-free schools;

(E) the authorization of drug testing in schools; and

(F) any other measured response the Commission deems appropriate;

(3) an analysis of the effects of measured responses described in paragraph (2) on civil liberties, educational programs, nondrug using students, and the traditional family relationship;

(4) the findings of research on the effectiveness of the proposed response in rehabilitating drug using students and deterring use by non-drug-using students;

(5) a description of the assistance required by local school districts to establish drug-free schools and the manner in which local, State and Federal Government may provide such assistance; and

(6) a description of the feasibility of certain programs designed to enhance and raise self-esteem, self-confidence, independence, and responsibility among students.

(j) POWERS OF COMMISSION.—(1) For the purpose of carrying out this section, the Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) Any member or employee of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this subsection.

(3) The Commission may secure directly from any Federal agency such information as may be necessary to enable the Commission to carry out this Act. Upon request of the cochairmen of the Commission, the head of such agency shall furnish such information to the Commission.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Such sums shall remain available until expended. Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this section shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.

Subtitle C—Preventing Drug Abuse in Public Housing

CHAPTER 1—REGULATORY AND ENFORCEMENT PROVISIONS

SEC. 5101. TERMINATION OF TENANCY IN PUBLIC HOUSING.

Section 6(l) of the United States Housing Act of 1937 is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following:

"(5) provide that a public housing tenant, any member of the tenant's household, or a guest or other person under the tenant's control shall not engage in criminal activity, including drug-related criminal activity, on or near public housing premises, while the tenant is a tenant in public housing, and shall be cause for termination of tenancy.

For the purpose of paragraph (5), 'drug-related criminal activity' means the manufacturing, selling, distributing, using, or possessing with intent to manufacture, sell, distribute, or use a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).".

SEC. 5102. AUTHORITY TO HIRE INVESTIGATORS OF DRUG CRIMES.

(a) IN GENERAL.—Section 6 of the United States Housing Act of 1937 (as amended by section 5101 of this subtitle) is amended by adding at the end the following:

"(o) A public housing agency may, to the extent of funds availability, employ one or more individuals for the purpose of investigating the illegal use of and trafficking in controlled substances in public housing and providing evidence relating thereto in any administrative or court proceedings.".

(b) STUDY REQUIRED.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development shall conduct a study of the extent to which security activities in public housing projects are funded under the Performance Funding System. The study shall include an analysis of—

(A) the extent to which the Performance Funding System currently takes into account, and should take into account, costs associated with maintaining security, including the hiring of security personnel, investigators, and security liaisons with local law enforcement agencies;

(B) the extent to which public housing agencies have been compelled to shift funds from tenant services, building maintenance, or other eligible activities to security activities; and

(C) an estimate of the per unit additional cost necessary to enable all public housing agencies to provide adequate security.

(2) REPORT REQUIRED.—Not later than 6 months after the date of enactment of this Act, the Secretary of Housing and Urban Development shall transmit to the Congress a report on the study required by paragraph (1).

SEC. 5103. AMENDMENT FOR BUREAU OF JUSTICE ASSISTANCE BLOCK GRANT PROGRAM AUTHORIZATION.

Section 403 of the Omnibus Crime Control and Safe Streets Act of 1968 (Public Law 98-473; 42 U.S.C. 3743(a)) is amended by—

(1) striking "and" in paragraph (17) and all that follows the semicolon;

(2) striking "techniques." in paragraph (18) and inserting "techniques; and"; and

(3) inserting a new paragraph immediately after paragraph (18) as follows:

"(19) addressing the problems of drug trafficking and the manufacture of controlled substances in public housing.".

SEC. 5104. INCLUSION OF A LEASEHOLD INTEREST IN PROPERTY SUBJECT TO FORFEITURE UNDER THE CONTROLLED SUBSTANCES ACT.

Section 511(a)(7) of the Controlled Substances Act (21 U.S.C. 881(a)(7)) is amended by inserting "(including any leasehold interest)" after "right, title, and interest".

CHAPTER 2—PUBLIC HOUSING DRUG ELIMINATION PILOT PROGRAM

SEC. 5125. SHORT TITLE.

This chapter may be cited as the "Public Housing Drug Elimination Act of 1988".

SEC. 5126. FINDINGS.

The Congress finds that—

(1) the Federal Government has a duty to provide public housing that is decent, safe, and free from illegal drugs;

(2) public housing projects in many areas suffer from rampant drug-related crime;

(3) drug dealers are increasingly imposing a reign of terror on public housing tenants;

(4) the increase in drug-related crime not only leads to murders, muggings, and other forms of violence against tenants, but also to a deterioration of the physical environment that requires substantial government expenditures; and

(5) local law enforcement authorities often lack the resources to deal with the drug problem in public housing, particularly in light of the recent reductions in Federal aid to cities.

SEC. 5127. PROGRAM AUTHORIZED.

The Secretary of Housing and Urban Development, in accordance with the provisions of this chapter, is authorized to make grants to public housing agencies for use in eliminating drug-related crime in public housing projects.

SEC. 5128. AUTHORIZED ACTIVITIES.

A public housing agency may use a grant under this chapter for—

(1) the employment of security personnel in public housing projects;

(2) reimbursement of local law enforcement agencies for additional security and protective services for public housing projects;

(3) physical improvements in public housing projects which are specifically designed to enhance security;

(4) innovative programs designed to reduce use of drugs in and around public housing projects; and

(5) providing funding to nonprofit public housing resident management corporation and tenant councils to develop security and drug abuse prevention programs involving site residents.

SEC. 5129. APPLICATION.

(a) IN GENERAL.—To receive a grant under this chapter, a public housing agency shall submit an application to the Secretary of Housing and Urban Development, at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Such application shall include a plan for addressing the problem of drug-related crime on the premises of public housing projects administered by the public housing agency.

(b) CRITERIA.—The Secretary of Housing and Urban Development shall approve applications based upon—

(1) the extent of the crime problem in the facilities of the public housing project;

(2) the quality of the plan of the public housing agency to address crime in public housing projects; and

(3) the extent to which the local government and local community support the anticrime activities of the public housing agency.

SEC. 5130. IMPLEMENTATION.

The Secretary of Housing and Urban Development shall promulgate rules and regulations to implement this chapter within 180 days of enactment.

SEC. 5131. REPORT TO CONGRESS.

Not later than June 30, 1990, the Secretary of Housing and Urban Development, in consultation with the Director of National Drug Control Policy, shall report to Congress on the success of the program authorized by this chapter with any suggested changes necessary to make the program more effective.

SEC. 5132. AUTHORIZATION.

There are authorized to be appropriated to carry out the provisions of this chapter $8,200,000 for fiscal year 1989.

CHAPTER 3—REPORT ON IMPACT OF PUBLIC HOUSING LEASE AND GRIEVANCE REGULATION ON THE ABILITY OF PHAS TO TAKE ACTION AGAINST TENANTS ENGAGING IN CRIMINAL ACTIVITY.

SEC. 5141. REPORT ON IMPACT OF PUBLIC HOUSING LEASE AND GRIEVANCE REGULATION ON THE ABILITY OF PHAS TO TAKE ACTION AGAINST TENANTS ENGAGING IN CRIMINAL ACTIVITY.

No later than 9 months after the date of the effective date of the Public Housing Tenancy and Administrative Grievance Procedure regulations, implementing section 6(k) of the United States Housing Act of 1937, the Secretary of Housing and Urban Development shall submit to Congress a report on the impact of the implementation of those regulations on the ability of public housing agencies to evict or take other appropriate action against tenants engaging in criminal activity, especially with respect to the manufacture, sale, distribution, use, or possession of controlled substances, as defined in section 102 of the Controlled Substances Act.

Subtitle D—Drug-Free Workplace Act of 1988

SEC. 5201. SHORT TITLE.

This subtitle may be cited as the "Drug-Free Workplace Act of 1988".

SEC. 5202. DRUG-FREE WORKPLACE REQUIREMENTS FOR FEDERAL CONTRACTORS.

(a) DRUG-FREE WORKPLACE REQUIREMENT.—No person or organization shall be considered a responsible source, under the meaning of such term as defined in section 4(8) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(8)), for the purposes of being awarded a contract for the procurement of any property or services from any Federal agency unless such person or organization has certified to the contracting agency that it will provide a drug-free workplace by—

(1) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's or organization's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) establishing a drug-free awareness program to inform employees about—

(A) the dangers of drug abuse in the workplace;

(B) the person's or organization's policy of maintaining a drug-free workplace;

(C) any available drug counseling, rehabilitation, and employee assistance programs; and

(D) the penalties that may be imposed upon employees for drug abuse violations;

(3) making it a requirement that each employee to be engaged in the performance of such contract be given a copy of the statement required by paragraph (1) and that, as a condition of employment on such contract, the employee agree—

(A) to abide by the terms of the statement; and

(B) to notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction;

(4) notifying the contracting agency within 10 days after receiving notice under paragraph (3)(B) from an employee or otherwise receiving actual notice of such conviction;

(5) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by section 5204; and

(6) making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), (4), and (5).

(b) SUSPENSION, TERMINATION, OR DEBARMENT OF THE CONTRACTOR.—

(1) GROUNDS FOR SUSPENSION, TERMINATION, OR DEBARMENT.—Each contract awarded by a Federal agency shall be subject to suspension of payments under the contract or termination of the contract, or both, and the contractor thereunder shall be subject to debarment, in accordance with the requirements of this section if the board of contract appeals of the contracting agency determines that—

(A) the contractor has made a false certification under subsection (a);

(B) the contractor violates such certification by failing to carry out the requirements of paragraph (1), (2), (3), (4), or (5) of subsection (a); or

(C) such a number of employees of such contractor have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor has failed to make a good faith effort to provide a drug-free workplace as required by subsection (a).

(2) CONDUCT OF SUSPENSION, TERMINATION, AND DEBARMENT PROCEEDINGS.—If a contracting officer determines, in writing, that cause for suspension, termination, or debarment exists, a suspension, termination, or debarment proceeding subject to this subsection shall, on application by a contracting officer of an agency, be conducted by the board of contract appeals of the agency which conducts the procurement. The board of contract appeals shall, based upon a preponderance of the evidence presented, resolve all issues of fact, determine whether a basis exists for the suspension or termination of the contract or debarment of the contractor, and issue a final decision in favor of or against suspension or termination of the contract or debarment of the contractor. A proceeding, decision, or order of the board pursuant to this subsection shall not be subject to interlocutory appeal or review. Determinations and final decisions of the board of contract appeals shall be final unless appealed by the contractor to the United States Court of Appeals for the Federal Circuit within 60 days after the receipt by the contractor of a copy of a final decision of the board of contract appeals. Section 10(b) of the Contract Disputes Act of 1978 (41 U.S.C. 609(b)) shall apply with re-

spect to the finality of such board determinations and decisions under this paragraph.

(3) Conduct by GSA board.—In the case of an agency that has not established a board of contract appeals under section 8(a)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 607(a)(1)), the General Services Administration Board of Contract Appeals shall make the determinations and issue final decisions under paragraph (2) for such agencies. Section 10(b) of the Contract Disputes Act of 1978 (41 U.S.C. 609(b)) shall apply with respect to the finality of such Board determinations and decisions under this paragraph.

(4) Effect of debarment.—Upon issuance of any final decision under this subsection requiring debarment of a contractor, such contractor shall be ineligible for award of any contract by any Federal agency and for participation in any future procurement by any Federal agency for a period specified in the decision, not to exceed 5 years. Upon issuance of any final decision recommending against debarment of the contractor, the contractor shall be compensated as provided by law or regulations.

SEC. 5203. DRUG-FREE WORKPLACE REQUIREMENTS FOR FEDERAL GRANT RECIPIENTS.

(a) Drug-Free Workplace Requirement.—No person or organization shall receive a grant from any Federal agency unless such person or organization has certified to the granting agency that it will provide a drug-free workplace by—

(1) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) establishing a drug-free awareness program to inform employees about—

(A) the dangers of drug abuse in the workplace;

(B) the grantee's policy of maintaining a drug-free workplace;

(C) any available drug counseling, rehabilitation, and employee assistance programs; and

(D) the penalties that may be imposed upon employees for drug abuse violations;

(3) making it a requirement that each employee to be engaged in the performance of such grant be given a copy of the statement required by paragraph (1) and that, as a condition of employment on such grant, the employee agree—

(A) to abide by the terms of the statement; and

(B) to notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction;

(4) notifying the granting agency within 10 days after receiving notice of a conviction under paragraph (3)(B) from an employee or otherwise receiving actual notice of such conviction;

(5) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by section 5204; and

(6) making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), (4), and (5).

(b) Suspension, Termination, or Debarment of the Grantee.—

(1) Grounds for suspension, termination, or debarment.—Each grant awarded by a Federal agency shall be subject to suspension of payments under the grant or termination of the grant, or both, and the grantee thereunder shall be subject to debarment, in accordance with the requirements of this section if the agency head of the granting agency or his official designee determines, in writing, that—

(A) the grantee has made a false certification under subsection (a);

(B) the grantee violates such certification by failing to carry out the requirements of paragraph (1), (2), (3), (4), or (5) of subsection (a); or

(C) such a number of employees of such grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the grantee has failed to make a good faith effort to provide a drug-free workplace as required by subsection (a).

(2) Conduct of suspension, termination, and debarment proceedings.—A suspension, termination, or debarment proceeding subject to this subsection shall be conducted in accordance with applicable law, including Executive Order 12549 or any superseding Executive order and any regulations promulgated to implement such law or Executive order.

(3) Effect of debarment.—Upon issuance of any final decision under this subsection requiring debarment of a grantee, such grantee shall be ineligible for award of any grant from any Federal agency and for participation in any future grant from any Federal agency for a period specified in the decision, not to exceed 5 years. Upon issuance of any final decision recommending against debarment of the grantee, the grantee shall be compensated as provided by law or regulations.

SEC. 5204. EMPLOYEE SANCTIONS AND REMEDIES.

A grantee or contractor shall, within 30 days after receiving notice from an employee of a conviction pursuant to section 5202(a)(2)(B) or 5203(a)(2)(B)—

(1) take appropriate personnel action against such employee up to and including termination; or

(2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

SEC. 5205. WAIVER.

(a) In General.—A termination, suspension, or debarment under this Act may be waived by the head of an agency with respect to a particular contract or grant if—

(1) in the case of a waiver with respect to a contract, the head of the agency determines, after the issuance of a final determination under section 3(b) by a board of contract appeals regarding a contract entered into by that agency, that suspension or termination of the contract or debarment of the contractor, or refusal to permit a person or organization to be treated as a responsible source for a contract, as the case may be, would severely disrupt the operation of such agency to the detriment of the Federal Government or the general public; or

(2) in the case of a waiver with respect to a grant, the head of the agency determines that suspension or termination of the grant or debarment of the grantee would not be in the public interest.

(b) Exclusive Authority.—The authority of the head of an agency under this section to waive a termination, suspension, or debarment shall not be delegated.

SEC. 5206. AUTHORITY OF BOARDS.

Not later than 90 days after the date of enactment of this subtitle, the chairman of each board of contract appeals shall prescribe rules and procedures governing actions under this subtitle. Each judge of such board may administer oaths and affirmations and issue subpoenas.

SEC. 5207. DEFINITIONS.

For purposes of this subtitle—

(1) the term "drug-free workplace" means a site for the performance of work done in connection with a specific grant or contract described in section 5202 or 5203 of an entity at which employees of such entity are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in accordance with the requirements of this Act;

(2) the term "employee" means the employee of a grantee or contractor directly engaged in the performance of work pursuant to the provisions of the grant or contract described in section 5202 or 5203;

(3) the term "controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812);

(4) the term "conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

(5) the term "criminal drug statute" means a criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance;

(6) the term "grantee" means the department, division, or other unit of a person or organization responsible for the performance under the grant;

(7) the term "contractor" means the department, division, or other unit of a person or organization responsible for the performance under the contract; and

(8) the term "Federal agency" means an agency as that term is defined in section 552(f) of title 5, United States Code.

SEC. 5208. CONSTRUCTION OF SUBTITLE.

Nothing in this subtitle shall be construed to require law enforcement agencies, if the head of the agency determines it would be inappropriate in connection with the agency's undercover operations, to comply with the provisions of this subtitle.

SEC. 5209. EFFECTIVE DATE.

Sections 5202 and 5203 shall be effective 120 days after the date of the enactment of this subtitle.

Subtitle E—Transportation Industry Alcohol and Controlled Substances Testing Program

SEC. 5251. TRANSPORTATION INDUSTRY ALCOHOL AND CONTROLLED SUBSTANCES TESTING PROGRAM.

(a) Findings.—The Congress finds that—

(1) alcohol and drug abuse poses significant dangers to the safety and welfare of the Nation;

(2) millions of the Nation's citizens utilize transportation by aircraft, railroads, trucks, and buses, and depend on the operators of aircraft, railroads, trucks, and buses to perform in a safe and responsible manner;

(3) the greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs, whether on duty or off duty, by those individuals who are involved in the operation of aircraft, railroads, trucks, and buses;

(4) the use of alcohol and illegal drugs has been demonstrated to affect significantly the performance of individuals, and has been proven to have been a critical factor in transportation accidents;

(5) adequate safeguards can be implemented to ensure that testing for abuse of alcohol or use of illegal drugs is performed in a manner which protects an individual's right of privacy, ensures that no individual is harassed by being treated differently from other individuals, and ensures that no individual's reputation or career development is unduly threatened or harmed; and

(6) rehabilitation is a critical component of any testing program for abuse of alcohol or use of illegal drugs, and should be made available to individuals, as appropriate.

(b) TESTING PROGRAM.—(1) Title VI of the Federal Aviation Act of 1958 (49 App. U.S.C. 1421 et seq.) is amended by adding at the end thereof the following:

"ALCOHOL AND CONTROLLED SUBSTANCES TESTING

"TESTING PROGRAM

"SEC. 613. (a)(1) The Administrator shall, in the interest of aviation safety, prescribe regulations within twelve months after the date of enactment of this section. Such regulations shall establish a program which requires air carriers and foreign air carriers to conduct pre-employment, periodic recurring, random and post-accident testing of airmen, crewmembers, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions (as determined by the Administrator), and testing of such individuals upon a reasonable suspicion that they have used, without lawful authorization, alcohol or a controlled substance.

"(2) The Administrator shall establish a program applicable to employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions. Such program shall provide for pre-employment, periodic recurring, random and post-accident testing, and testing of such individuals upon a reasonable suspicion that they have used, without lawful authorization, alcohol or a controlled substance.

"(3) In prescribing regulations under the programs required by this subsection, the Administrator shall require, as the Administrator considers appropriate, the suspension or revocation of any certificate issued to such an individual, or the disqualification or dismissal of any such individual, in accordance with the provisions of this section, in any instance where a test conducted and confirmed under this section indicates that such individual has used, without lawful authorization, alcohol or a controlled substance.

"PROHIBITION ON SERVICE

"(b)(1) No person may use, without lawful authorization, alcohol or a controlled substance after the date of enactment of this section and serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions.

"(2) No individual who is determined to have used, without lawful authorization, alcohol or a controlled substance after the date of enactment of this section shall serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions unless such individual has completed a program of rehabilitation described in subsection (c) of this section.

"(3) Any such individual determined by the Administrator to have used, without lawful authorization, alcohol or a controlled substance after the date of enactment of this section who (A) refuses to undertake a rehabilitation program described in subsection (c), (B) fails to complete such a rehabilitation program, (C) has previously undertaken or completed such a rehabilitation program, or (D) has been determined by the Administrator to have served as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Adminstrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions while impaired by or under the influence of alcohol or a controlled substance, shall not be permitted to perform the duties relating to air transportation which such individual performed prior to the date of such determination.

"PROGRAM FOR REHABILITATION

"(c)(1) Each air carrier and foreign air carrier shall establish and maintain a rehabilitation program which at a minimum provides for the identification and opportunity for treatment of employees referred to in subsection (b) of this section in need of assistance in resolving problems with the use, without lawful authorization, of alcohol or controlled substances. Each air carrier and foreign air carrier is encouraged to make such program available to all of its employees other than employees referred to in subsection (b) of this section. Nothing in this subsection shall preclude any air carrier or foreign air carrier from establishing a program under this subsection in cooperation with any other air carrier or foreign air carrier.

"(2) The Administrator shall establish and maintain a rehabilitation program which at a minimum provides for the identification and opportunity for treatment of those employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions who are in need of assistance in resolving problems with the use of alcohol or controlled substances.

"PROCEDURES

"(d) In establishing the program required under subsection (a) of this section, the Administrator shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory drug testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimens collected for drug testing;

"(B) specify the drugs for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform drug testing in carrying out this section;

"(3) provide that all tests which indicate the use, without lawful authorization, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(4) require that all laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(5) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(6) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"EFFECT ON OTHER LAWS AND REGULATIONS

"(e)(1) No State or local government shall adopt or put into effect any law, rule, regulation, ordinance, standard or order that is inconsistent with the regulations promulgated under this section, except that the regulations promulgated under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury or damage to property, whether the provisions apply specifically to employees of an air carrier or foreign air carrier, or to the general public.

"(2) Nothing in this section shall preclude the Administrator from adopting or continuing in effect other regulations intended to protect persons or property on the ground or in the air from the hazards to safety associated with the potential use of alcohol or controlled substances by airmen, crewmembers, airport security screening contract personnel, air carrier employees responsible for safety-sensitive functions (as determined by the Administrator), or employees of the Federal Aviation Administration) with responsibility for safety-sensitive functions.

"(3) In prescribing regulations under this section, the Administrator shall only establish requirements applicable to foreign air carriers that are consistent with the international obligations of the United States, and the Administrator shall take into consideration any applicable laws and regulations of foreign countries. The Secretary of State and the Secretary of Transportation, jointly, shall call on the member countries of the International Civil Aviation Organization to strengthen and enforce existing standards to prohibit the use, without lawful authorization, of a controlled substance by crew members in international civil aviation.

"DEFINITION

"(f) For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) whose use the Administrator has determined poses a risk to transportation safety.".

(2) That portion of the table of contents of the Federal Aviation Act of 1958 relating to title VI is amended by adding at the end thereof the following:

"Sec. 613. Alcohol and controlled substances testing.
"(a) Testing program.
"(b) Prohibition on service.
"(c) Program for rehabilitation.
"(d) Procedures.
"(e) Effect on other laws and regulations.
"(f) Definition.".

(c) Federal Railroad Safety Act of 1970.—Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end thereof the following:

"(l)(1) The Secretary shall, within one year after the date of enactment of this subsection, review existing rules, regulations, standards, and orders governing alcohol and drug use in railroad operations for the purpose of determining whether they are adequate to ensure safety. In conducting such review, the Secretary shall specifically—

"(A) require that all railroad employees responsible for safety-sensitive functions (as determined by the Secretary) be subject to testing on a random basis for the use, without lawful authorization, of alcohol or a controlled substance;

"(B) consider application of existing rules, regulations, orders, and standards to other categories of employees, including employees responsible for the safety of passengers, railroad rolling stock, or track and related structures;

"(C) require, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used or to have been impaired by alcohol while on duty; and

"(D) require, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law and any rules, regulations, standards or orders issued under this Act.

Nothing in this subsection shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any rules, regulations, standards and orders governing alcohol and drug use in railroad operations issued before the date of enactment of this subsection.

"(2) In carrying out the provisions of this subsection, the Secretary shall develop requirements which shall—

"(A) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(B) with respect to laboratories and testing procedures, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(i) establish comprehensive standards for all aspects of laboratory drug testing and laboratory procedures to be applied in carrying out this Act, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimens collected for drug testing;

"(ii) specify the drugs for which individuals may be tested; and

"(iii) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform drug testing in carrying out this Act;

"(C) provide that all tests which indicate the use, without lawful authorization, of alcohol or a controlled substance by any employee shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(D) require that all laboratories involved in the testing of any employee under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(E) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this subparagraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(F) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(3) For the purposes of this subsection, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) whose use the Secretary has determined poses a risk to transportation safety.".

(d) Commercial Motor Vehicle Safety Act of 1986.—(1) The Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5223) is amended by adding at the end the following:

"SEC. 12020. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

"(a) Regulations.—The Secretary shall, in the interest of commercial motor vehicle safety, prescribe regulations within twelve months after the date of enactment of this section. Such regulations shall establish a program which requires motor carriers to conduct pre-employment, periodic recurring, random and post-accident testing of the operators of commercial motor vehicles, and testing upon a reasonable suspicion that they have used, without lawful authorization, alcohol or a controlled substance.

"(b) Testing.—(1) In promulgating such regulations, the Secretary shall require that post-accident testing of the operator of a commercial motor vehicle be conducted in the case of any accident involving a commercial motor vehicle in which occurs loss of human life, or, as determined by the Secretary, other serious accidents involving bodily injury or significant property damage.

"(2) Nothing in subsection (a) of this section shall preclude the Secretary from providing in such regulations that such testing be conducted as part of the medical examination required by subpart E of part 391 of title 49, Code of Federal Regulations, with respect to those operators of commercial motor vehicles to whom such part is applicable.

"(c) Program for Rehabilitation.—The Secretary shall promulgate regulations setting forth requirements for a rehabilitation program for the identification and opportunity for treatment of operators of commercial motor vehicles who are determined to have used, without lawful authorization, alcohol or a controlled substance. The Secretary shall determine the circumstances under which such operators shall be required to participate in such program. Nothing in this subsection shall preclude a motor carrier from establishing a program under this subsection in cooperation with any other motor carrier.

"(d) Procedures for Testing.—In establishing the program required under subsection (a) of this section, the Secretary shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory drug testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimens collected for drug testing;

"(B) specify the drugs for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform drug testing in carrying out this section;

"(3) provide that all tests which indicate the use, without lawful authorization, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(4) require that all laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(5) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) for employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(6) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(e) Effect on Other Laws and Regulations.—No State or local government shall adopt or put into effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations promulgated under this section, except that the regulations promulgated under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury or damage to property, whether the provisions apply specifically to commercial motor vehicle employees, or to the general public.

"(f) Application of Penalties.—(1) Nothing in this section shall be construed to supersede any penalty applicable to the operator of a commercial motor vehicle under this Act or any other provision of law.

"(2) The Secretary shall determine appropriate sanctions for commercial motor vehicle operators who are determined, as a result of tests conducted and confirmed under this section, to have used, without lawful authorization, alcohol or a controlled substance but are not under the influence of alcohol or a controlled substance, as provided in this title.

"(g) Definition.—For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) whose use the Secretary had determined poses a risk to transportation safety.".

(2) The table of contents of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5223) is amended by adding at the end thereof the following:

"Sec. 12020. Alcohol and controlled substances testing.".

(e) Commercial Motor Vehicles.—(1) The Secretary shall design, within nine months after the date of enactment of this section, and implement, within fifteen months after the date of enactment of this section, a pilot test program for the purpose of testing the operators of commercial motor vehicles on a random basis to determine whether an operator has used, without lawful authorization, alcohol or a controlled substance.

(2) The Secretary shall solicit the participation of States which are interested in participating in such program and shall select four States to participate in the program.

(3) The Secretary shall ensure that the selection made pursuant to this section is representative of varying geographical and population characteristics of the Nation, and takes into consideration the historical geographical incidence of commercial motor vehicle accidents involving loss of human life.

(4) The pilot program authorized by this section shall continue for a period of 1 year. The Secretary shall consider alternative methodologies for implementing a system of random testing of operators of commercial motor vehicles.

(5) Not later than 30 months after the date of enactment of this section, the Secretary shall prepare and submit to the Congress a comprehensive report setting forth the results of the pilot program conducted under this section. Such report shall include any recommendations of the Secretary concerning the desirability and implementation of a system for the random testing of operators of commercial motor vehicles.

(6) For purposes of carrying out this subsection, there shall be available to the Secretary $5,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 for fiscal year 1988.

(7) For purposes of this subsection, the term—

(1) "commercial motor vehicle" shall have the meaning given to such term in section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5241); and

(2) "Secretary" means the Secretary of Transportation.

(f) Urban Mass Transit.—(1) The Secretary of Transportation shall, in the interest of urban mass transportation safety, prescribe regulations within 12 months after the date of enactment of this section. Such regulations shall establish a program which requires urban mass transportation operations to conduct pre-employment, periodic recurring, random, and post-accident testing of urban mass transportation employees responsible for safety-sensitive functions (as determined by the Secretary), and testing of such employees upon a reasonable suspicion that they have used, without lawful authorization, alcohol or a controlled substance.

(2) In prescribing such regulations, the Secretary shall require that post-accident testing of such an urban mass transportation employee be conducted in the case of any accident involving urban mass transportation in which occurs loss of human life, or, as determined by the Secretary, other serious accidents involving bodily injury or significant property damage.

(3) The Secretary shall promulgate regulations setting forth requirements for a rehabilitation program for the identification and opportunity for treatment of urban mass transportation employees referred to in paragraph (1) of this subsection who are determined to have used, without lawful authorization, alcohol or a controlled substance. The Secretary shall determine the circumstances under which such employees shall be required to participate in such program. Nothing in this subsection shall preclude an urban mass transportation operation from establishing a program under this subsection in cooperation with any other such operation.

(4) In establishing the program required under paragraph (1) of this subsection, the Secretary shall develop requirements which shall—

(A) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

(B) with respect to the laboratory and testing procedures, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

(i) establish comprehensive standards for all aspects of laboratory drug testing and laboratory procedures to be applied in carrying out this subsection, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimens collected for drug testing;

(ii) specify the drugs for which individuals may be tested; and

(iii) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform drug testing in carrying out this subsection;

(C) provide that all tests which indicate the use, without lawful authorization, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

(D) require that all laboratories involved in the testing of any individual under this subsection shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

(E) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this subparagraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this subsection; and

(F) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(5) No State or local government shall adopt or put into effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations promulgated under this subsection, except that the regulations promulgated under this subsection shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to urban mass transportation employees, or to the general public.

(6)(A) As the Secretary considers appropriate, the Secretary shall require—

(i) disqualification for an established period of time or dismissal of any employee referred to in paragraph (1) of this subsection determined to have used or to have been impaired by alcohol while on duty; and

(ii) disqualification for an established period of time or dismissal of any such employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law or any regulation.

(B) Nothing in this subsection shall be construed to supersede any penalty applicable to an urban mass transportation employee under any other provision of law.

(7) For purposes of this subsection, the term—

(A) "controlled substance" means any substance under section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)) whose use the Secretary has determined poses a risk to transportation safety; and

(b) "urban mass transportation" means all forms of urban mass transportation whose employees are not covered by either section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) or section 12020 of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5223), as added by this section.

(8) A person shall not be eligible for Federal financial assistance under sections 3, 9, or 18 of the Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1602, 1607a, or 1604) or section 103(e)(4) of title 23, United States Code, if such person—

(A) is required, under regulations prescribed by the Secretary under section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), section 12020 of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5223), as added by this section, or subsection (e) of this section, to establish a program of alcohol and controlled substances testing; and

(B) fails to establish such a program in accordance with such regulations.

(g) For purposes of this section, the term—

(1) "person" includes any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of the United States, or any State, commonwealth, territory, district, or possession thereof, or of any foreign country; and

(2) "Secretary" means the Secretary of Transportation.

Subtitle F—Federal Privileges and Benefits

SEC. 5301. FEDERAL PRIVILEGES AND BENEFITS.

(a) List of Privileges and Benefits Recommended for Withholding.—(1) The Director of National Drug Control Policy shall, upon consultation with the Secretary of Health and Human Services and the Attorney General, submit to the Congress no later than 12 months after the enactment of this title a list of any Federal privileges, benefits, grants, and loans, which, if withheld from individuals convicted of a Federal or State drug offense, would significantly deter the use of illegal drugs in the United

States. The Director shall not include in the list any grants, loans, and benefits which the Director determines to be essential to the health or well being of the recipient or beneficiary.

(2) The Director shall accompany the list with a report exploring the potential benefits and liabilities of the withholding of privileges, benefits, grants, and loans in the Federal effort to fight substance abuse and explaining the reasoning behind the selection of each of the privileges, benefits, grants, and loans included in the list.

(b) PREPARATION OF LIST.—(1) In preparing the list and report provided for in subsection (a), the Director shall take into consideration the following factors:

(A) the extent to which the threat of punishment deters drug use among persons addicted to drugs.

(B) the extent to which the threat of withholding Federal privileges, benefits, grants, and loans would be likely to deter individuals from using illicit drugs.

(C) the effect that withholding benefits would have on an individual's efforts to overcome drug dependence.

(D) whether differing State laws with regard to possession of marijuana would result in the uneven application of sanctions imposed by the Federal government.

(E) the potential results of such a program in areas with limited treatment and rehabilitation opportunities.

(F) the burden that should appropriately be placed on individuals applying for Federal privileges, benefits, grants, and loans to prove they have not been convicted of a drug offense.

(G) the means by which Federal and State agencies, courts, and law enforcement agencies will exchange and share the data and information necessary to implement and enforce the withholding of benefits, privileges, grants, and loans.

(2) The Director is authorized to conduct public hearings and such other activities as may be necessary to fulfill this charge.

Subtitle G—Restrictions on Passports for Violators of Controlled Substance Laws and Other Laws

SEC. 5351. RESTRICTIONS ON PASSPORTS FOR VIOLATORS OF CONTROLLED SUBSTANCE LAWS AND OTHER LAWS.

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669 et seq.) is amended—

(1) by redesignating section 42 as section 43; and

(2) by inserting after section 41 the following:

"SEC. 42. RESTRICTIONS ON PASSPORTS FOR VIOLATORS OF CONTROLLED SUBSTANCE LAWS.

"(a) REVOCATION OF PASSPORTS.—Upon conviction for—

"(1) a violation of the Controlled Substances Import and Export Act (21 U.S.C. 951-970) punishable by imprisonment for more than 1 year;

"(2) a criminal violation of the Bank Secrecy Act (31 U.S.C. 5311-5324) punishable by imprisonment for more than 1 year; or

"(3) a criminal violation of the Money Laundering Control Act (18 U.S.C. 1956, 1957) and any criminal violation of provisions of title 31, United States Code, relating to money laundering, punishable by imprisonment for more than 1 year;

where the violator used a passport or otherwise crossed an international border in committing such violation, the Secretary of State shall revoke the violator's passport and other travel documents. Any person whose passport or other travel documents were revoked under this subsection, or any person convicted for any offense in paragraph (1), (2), or (3) of this section who does not possess a passport, shall not be eligible to receive a passport or other travel documents for 10 years. The period of revocation shall begin after the individual completes the period of incarceration, probation, or parole imposed for conviction of any offense in paragraphs (1), (2), and (3).

"(b) The Secretary of State is authorized to promulgate such rules and regulations as may be necessary to carry out the provisions of this section.".

Subtitle H—Authorization of Appropriations for President's Media Commission on Alcohol and Drug Abuse Prevention

SEC. 5401. AUTHORIZATION OF APPROPRIATIONS FOR PRESIDENT'S MEDIA COMMISSION ON ALCOHOL AND DRUG ABUSE PREVENTION.

There are hereby authorized to be appropriated for the President's Media Commission on Alcohol and Drug Abuse Prevention the following amounts:

(1) $1,000,000 for the fiscal year ending September 30, 1989;

(2) $1,000,000 for the fiscal year ending September 30, 1990; and

(3) $1,000,000 for the fiscal year ending September 30, 1991.

TITLE VI—SENSE OF THE CONGRESS ON DRUG FUNDING

SEC. 6001. SENSE OF THE CONGRESS ON DRUG FUNDING.

It is the Sense of the Congress that—

(1) total authorizations in this Act and subsequent fiscal year 1989 appropriations shall provide that 60 percent of these incremental anti-drug funds shall be provided for drug prevention, treatment, and education programs and that 40 percent of the funds shall be provided for anti-drug law enforcement programs;

(2) the fiscal year 1989 appropriations for these authorizations shall include obligation limitations to the extent necessary to avoid triggering a sequester in fiscal year 1989;

(3) if obligational limitations in appropriations Acts become necessary, they shall have the net effect of providing 50 percent of the available fiscal year 1989 outlays for anti-drug law enforcement programs (up to the amount authorized in this Act) and 50 percent (or any authorized amounts remaining in this Act after all amounts for law enforcement have been appropriated) for drug prevention, treatment, and education programs;

(4) should obligational limitations in appropriations Acts be imposed for fiscal year 1989, subsequent obligations of remaining budget authority provided in this Act shall be made so as to ensure that, overall, 60 percent of the budget authority will be provided for drug prevention, treatment and education programs and 40 percent shall be provided for anti-drug law enforcement programs; and

(5) revenues from an Internal Revenue Service enforcement and collections initiative and increased receipts from additional United States Attorneys used to improve processing of forfeited assets through the assets forefeiture fund should be used to offset spending associated with this Act.

TITLE VII A—DEATH PENALTY IN CASE OF DRUG RELATED KILLINGS

SEC. 7001. DEATH PENALTY FOR DRUG-RELATED KILLINGS.

(a) ELEMENTS OF OFFENSE.—Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended—

(1) by redesigning subsection (e) as subsection (f); and

(2) by adding a new subsection (e) as follows:

"Death Penalty

"(e)(1) In addition to the other penalties set forth in this section—

"(a) Any person engaging in a continuing criminal enterprise, or anyone working in furtherance of a continuing criminal enterprise who intentionally, or with reckless indifference to human life, kills or participates substantially in the killing of any individual, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death; and

"(b) Any person, during the commission of, in furtherance of, or while attempting to avoid apprehension, prosecution or service of a prison sentence for, a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.) who intentionally, or with reckless indifference to human life, kills or participates substantially in the killing of any federal, state, or local law enforcement officer engaged in, or on account of, the performance of such officer's official duties, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death.

"(2) As used in paragraph (1)(b), a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, prosecution or adjudication of an offense, and includes those engaged in corrections, probation, or parole functions.".

(b) PROCEDURE APPLICABLE WITH RESPECT TO THE DEATH PENALTY.—Section 408 of the Controlled Substances (21 U.S.C. 848) is amended by adding at the end the following:

"Hearing Required with Respect to the Death Penalty

"(g) A person shall be subjected to the penalty of death for any offense under this section only if a hearing is held in accordance with this section.

"Notice by the Government in Death Penalty Cases

"(h)(1) Whenever the Government intends to seek the death penalty for an offense under this section for which one of the sentences provided is death, the attorney for the Government, a reasonable time before trial or acceptance by the court of a plea of guilty, shall sign and file with the court, and serve upon the defendant, a notice—

"(A) that the Government in the event of conviction will seek the sentence of death; and

"(B) setting forth the aggravating factors enumerated in subsection (n) and any other aggravating factors which the Government will seek to prove as the basis for the death penalty.

"(2) The court may permit the attorney for the Government to amend this notice for good cause shown.

"Hearing Before Court or Jury

"(i)(1) When the attorney for the Government has filed a notice as required under subsection (h) and the defendant is found guilty of or pleads guilty to an offense under subsection (e), the judge who presided at the trial or before whom the guilty plea was entered, or any other judge if the judge who presided at the trial or before whom the guilty plea was entered is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(A) before the jury which determined the defendant's guilt;

"(B) before a jury impaneled for the purpose of the hearing if—

"(i) the defendant was convicted upon a plea of guilty;

"(ii) the defendant was convicted after a trial before the court sitting without a jury;

"(iii) the jury which determined the defendant's guilt has been discharged for good cause; or

"(iv) after initial imposition of a sentence under this section, redetermination of the sentence under this section is necessary; or

"(C) before the court alone, upon the motion of the defendant and with the approval of the Government.

"(2) A jury impaneled pursuant to paragraph (i)(B) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate with the approval of the court that it shall consist of any number less than 12.

"Proof of Aggravating and Mitigating Factors

"(j) Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty of or pleads guilty to an offense under subsection (e), no presentence report shall be prepared. In the sentencing hearing, information may be presented as to any matter relevant to the sentence and shall include matters relating to any of the aggravating or mitigating factors set forth in subsections (m) and (n), or any other mitigating factor. Where information is presented relating to any of the aggravating factors set forth in subsection (n), information may be presented relating to any other aggravating factor. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. The Government and the defendant shall be permitted to rebut any information received at the hearing and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the aggravating or mitigating factors and as to appropriateness in that case of imposing a sentence of death. The Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the Government, and is not satisfied unless established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless established by a preponderance of the evidence.

"Return of Findings

"(k) The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factors set forth in subsection (n), found to exist. If one of the aggravating factors set forth in subsection (n)(1) and another of the aggravating factors set forth in paragraphs (2) through (12) of subsection (n) is found to exist, a special finding identifying any other aggravating factor may be returned. A finding with respect to a mitigating factor may be made by one or more of the members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such a factor established for purposes of this subsection, regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If an aggravating factor set forth in subsection (n)(1) is not found to exist or an aggravating factor set forth in subsection (n)(1) is found to exist but no other aggravating factor set forth in subsection (n) is found to exist, the court shall impose a sentence, other than death, authorized by law. If an aggravating factor set forth in subsection (n)(1) and one or more of the other aggravating factors set forth in subsection (n) are found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of mitigating factors, whether the aggravating factors are themselves sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

"Imposition of Sentence

"(l) Upon a finding that a sentence of death is justified, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. A sentence of death shall not be carried out upon a person who is under 18 years of age at the time the crime was committed. A sentence of death shall not be carried out upon a person who, by reason of a mental disease or defect, is unable to understand his impending death or the reasons for it.

"Mitigating Factors

"(m) In determining whether a sentence of death is to be imposed on a defendant, the following mitigating factors shall be considered but are not exclusive:

"(1) The defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to the charge.

"(2) The defendant was under unusual and substantial duress, although not such duress as constitutes a defense to the charge.

"(3) The defendant is punishable as a principal (as defined in section 2(a) of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, although not so minor as to constitute a defense to the charge.

"(4) The defendant could not reasonably have foreseen that his conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"Aggravating Factors for Homicide

"(n) If the defendant is found guilty of or pleads guilty to an offense under subsection (e), the following aggravating factors shall be considered but are not exclusive:

"(1) The defendant—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury which resulted in the death of the victim;

"(C) intentionally engaged in conduct intending that the victim be killed or that lethal force be employed against the victim, which resulted in the death of the victim.

"(D) intentionally engaged in conduct which—

"(i) the defendant knew would create a grave risk of death to a person, other than one of the participants in the offense; and

"(ii) resulted in the death of the victim.

"(2) The defendant has been convicted of another Federal offense, or a State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(3) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury upon another person.

"(4) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(5) In the commission of the offense or in escaping apprehension for a violation of subsection (e), the defendant knowingly created a grave risk of death to one or more persons in addition to the victims of the offense.

"(6) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuriary value.

"(7) COMMISSION OF THE OFFENSE FOR PAYMENT.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(8) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(9) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(10) The defendant had previously been convicted of violating a provision of the Controlled Substances Act for which a sentence of five or more years may be imposed or was engaged in a continuing criminal enterprise.

"(11) The violation of this chapter in relation to which the conduct described in subsection (e) occurred was a violation of section 405.

"(12) The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"Right of the Defendant to Justice Without Discrimination

"(o)(1) In any hearing held before a jury under this section, the court shall instruct the jury that in its consideration of whether the sentence of death is justified it shall not consider the race, color, national origin, or sex of the defendant or the victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what race the defendant, or the victim, may be. The jury shall return to the court a certificate signed by each juror that consideration of race, color, national origin, creed, or sex of the defendant or the victim was not involved in reaching his or her individual decision, and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what race the defendant, or the victim, may be.

"(2) Not later than one year from the date of enactment of this section, the Comptroller General shall conduct a study of the various procedures used by the several States for determining whether or not to impose the death penalty in particular cases, and shall report to the Congress on whether or not any or all of the various procedures create a significant risk that the race of a defendant, or the race of a victim against whom a crime was committed, influence the likelihood that defendants in those States will be sentenced to death. In conducting the study required by this paragraph, the General Accounting Office shall—

"(A) use ordinary methods of statistical analysis, including methods comparable to those ruled admissible by the courts in race discrimination cases under Title VII of the Civil Rights Act of 1964;

"(B) study only crimes occurring after January 1, 1976; and

"(C) determine what, if any, other factors, including any relation between any aggravating or mitigating factors and the race of the victim or the defendant, may account for any evidence that the race of the defendant, or the race of the victim, influences the likelihood that defendants will be sentenced to death. In addition, the General Accounting Office shall examine separately and include in the report, death penalty cases involving crimes similar to those covered under this section.

"Sentencing in Capital Cases in Which Death Penalty is not Sought or Imposed

"(p) If a person is convicted for an offense under subsection (e) and the court does not impose the penalty of death, the court may impose a sentence of life imprisonment without the possibility of parole.

"Appeal in Capital Cases

"(q)(1) In any case in which the sentence of death is imposed under this section, the sentence of death shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time prescribed for appeal of judgment in section 2107 of title 28 of the United States Code. An appeal under this section may be consolidated with an appeal of the judgment of conviction. Such review shall have priority over all other cases.

"(2) On review of the sentence, the court of appeals shall consider the record, the evidence submitted during the trial, the information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under this section.

"(3) The court shall affirm the sentence if it determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of every aggravating factor upon which the sentence was based, together with or the failure to find any mitigating factors as set forth or allowed in this section.

In all other cases the court shall remand the case for reconsideration under this section. The court of appeals shall state in writing the reasons for its disposition of the review of the sentence.

"(4) In any post-conviction proceeding under section 2254 or 2255 of title 28, United States Code seeking to vacate or set aside a death sentence, the court shall appoint counsel to represent any defendant who is or becomes financially unable to obtain adequate representation.

"Refusal to Participate by State and Federal Correctional Employees

"(r) No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

Passed the Senate June 10 (legislative day, June 8), 1988.

TITLE VII B—DEATH PENALTY IN CASE OF DRUG-RELATED KILLINGS

SEC. 7001. DEATH PENALTY FOR DRUG-RELATED KILLINGS.

(a) Elements of Offense.—Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended—

(1) by redesigning subsection (e) as subsection (f); and

(2) by adding a new subsection (e) as follows:

"DEATH PENALTY

"(e)(1) In addition to the other penalties set forth in this section—

"(a) Any person engaging in a continuing criminal enterprise, or anyone working in furtherance of a continuing criminal enterprise who intentionally, or with reckless indifference to human life, kills or participates substantially in the killing of any individual, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death; and

"(b) Any person, during the commission of, in furtherance of, or while attempting to avoid apprehension, prosecution or service of a prison sentence for, a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.) who intentionally, or with reckless indifference to human life, kills or participates substantially in the killing of any federal, state, or local law enforcement officer engaged in, or on account of, the performance of such officer's official duties, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death.

"(2) As used in paragraph (1)(b), a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, prosecution or adjudication of an offense, and includes those engaged in corrections, probation, or parole functions.".

(b) Procedure Applicable With Respect to the Death Penalty.—Section 408 of the Controlled Substances (21 U.S.C. 848) is amended by adding at the end the following:

"HEARING REQUIRED WITH RESPECT TO THE DEATH PENALTY

"(g) A person shall be subjected to the penalty of death for any offense under this section only if a hearing is held in accordance with this section.

"NOTICE BY THE GOVERNMENT IN DEATH PENALTY CASES

"(h)(1) Whenever the Government intends to seek the death penalty for an offense under this section for which one of the sentences provided is death, the attorney for the Government, a reasonable time before trial or acceptance by the court of a plea of guilty, shall sign and file with the court, and serve upon the defendant, a notice—

"(A) that the Government in the event of conviction will seek the sentence of death; and

"(B) setting forth the aggravating factors enumerated in subsection (n) and any other aggravating factors which the Government will seek to prove as the basis for the death penalty.

"(2) The court may permit the attorney for the Government to amend this notice for good cause shown.

"HEARING BEFORE COURT OR JURY

"(i)(1) When the attorney for the Government has filed a notice as required under subsection (h) and the defendant is found guilty of or pleads guilty to an offense under subsection (e), the judge who presided at the trial or before whom the guilty plea was entered, or any other judge if the judge who presided at the trial or before whom the guilty plea was entered is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(A) before the jury which determined the defendant's guilt;

"(B) before a jury impaneled for the purpose of the hearing if—

"(i) the defendant was convicted upon a plea of guilty;

"(ii) the defendant was convicted after a trial before the court sitting without a jury;

"(iii) the jury which determined the defendant's guilt has been discharged for good cause; or

"(iv) after initial imposition of a sentence under this section, redetermination of the sentence under this section is necessary; or

"(C) before the court alone, upon the motion of the defendant and with the approval of the Government.

"(2) A jury impaneled pursuant to paragraph (i)(B) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate with the approval of the court that it shall consist of any number less than 12.

"PROOF OF AGGRAVATING AND MITIGATING FACTORS

"(j) Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty of or pleads guilty to an offense under subsection (e), no presentence report shall be prepared. In the sentencing hearing, information may be presented as to any matter relevant to the sentence and shall include matters relating to any of the aggravating or mitigating factors set forth in subsections (m) and (n), or any other mitigating factor. Where information is presented relating to any of the aggravating factors set forth in subsection (n), information may be presented relating to any other aggravating factor. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. The Government and the defendant shall be permitted to rebut any information received at the hearing and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the aggravating or mitigating factors and as to appropriateness in that case of imposing a sentence of death. The Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the Government, and is not satisfied unless established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless established by a preponderance of the evidence.

"RETURN OF FINDINGS

"(k) The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factors set forth in subsection (n), found to exist. If one of the aggravating factors set forth in subsection (n)(1) and another of the aggravating factors set forth in paragraphs (2) through (12) of subsection (n) is found to exist, a special finding identifying any other aggravating factor may be returned. A finding with respect to a mitigating factor may be made by one or more of the members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such a factor established for purposes of this subsection, regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If an aggravating factor set forth in subsection (n)(1) is not found to exist or an aggravating factor set forth in subsection (n)(1) is found to exist but no other aggravating factor set forth in subsection (n) is found to exist, the court shall impose a sentence, other than death, authorized by law. If an aggravating factor set forth in subsection (n)(1) and one or more of the other aggravating factors set forth in subsection (n) are found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of mitigating factors, whether the aggravating factors are themselves sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

"IMPOSITION OF SENTENCE

"(l) Upon a finding that a sentence of death is justified, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. A sentence of death shall not be carried out upon a person who is under 18 years of age at the time the crime was committed. A sentence of death shall not be carried out upon a person who, by reason of a mental disease or defect, is unable to understand his impending death or the reasons for it. A sentence of death shall not be carried out upon a person who is mentally retarded.

"MITIGATING FACTORS

"(m) In determining whether a sentence of death is to be imposed on a defendant, the following mitigating factors shall be considered but are not exclusive:

"(1) The defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to the charge.

"(2) The defendant was under unusual and substantial duress, although not such duress as constitutes a defense to the charge.

"(3) The defendant is punishable as a principal (as defined in section 2(a) of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, although not so minor as to constitute a defense to the charge.

"(4) The defendant could not reasonably have foreseen that his conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"AGGRAVATING FACTORS FOR HOMICIDE

"(n) If the defendant is found guilty of or pleads guilty to an offense under subsection (e), the following aggravating factors shall be considered but are not exclusive:

"(1) The defendant—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury which resulted in the death of the victim;

"(C) intentionally engaged in conduct intending that the victim be killed or that lethal force be employed against the victim, which resulted in the death of the victim.

"(D) intentionally engaged in conduct which—

"(i) the defendant knew would create a grave risk of death to a person, other than one of the participants in the offense; and

"(ii) resulted in the death of the victim.

"(2) The defendant has been convicted of another Federal offense, or a State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(3) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury upon another person.

"(4) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(5) In the commission of the offense or in escaping apprehension for a violation of subsection (e), the defendant knowingly created a grave risk of death to one or more persons in addition to the victims of the offense.

"(6) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(7) COMMISSION OF THE OFFENSE FOR PAYMENT.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(8) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(9) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(10) The defendant had previously been convicted of violating a provision of the Controlled Substances Act for which a sentence of five or more years may be imposed or was engaged in a continuing criminal enterprise.

"(11) The violation of this chapter in relation to which the conduct described in subsection (e) occurred was a violation of section 405.

"(12) The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"RIGHT OF THE DEFENDANT TO JUSTICE WITHOUT DISCRIMINATION

"(o)(1) In any hearing held before a jury under this section, the court shall instruct the jury that in its consideration of whether the sentence of death is justified it shall not consider the race, color, national origin, or sex of the defendant or the victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what race the defendant, or the victim, may be. The jury shall return to the court a certificate signed by each juror that consideration of race, color, national origin, creed, or sex of the defendant or the victim was not involved in reaching his or her individual decision, and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what race the defendant, or the victim, may be.

"(2) Not later than one year from the date of enactment of this section, the Comptroller General shall conduct a study of the various procedures used by the several States for determining whether or not to impose the death penalty in particular cases, and shall report to the Congress on whether or not any or all of the various procedures create a significant risk that the race of a defendant, or the race of a victim against whom a crime was committed, influence the likelihood that defendants in those States will be sentenced to death. In conducting the study required by this paragraph, the General Accounting Office shall—

"(A) use ordinary methods of statistical analysis, including methods comparable to those ruled admissible by the courts in race discrimination cases under Title VII of the Civil Rights Act of 1964;

"(B) study only crimes occurring after January 1, 1976; and

"(C) determine what, if any, other factors, including any relation between any aggravating or mitigating factors and the race of the victim or the defendant, may account for any evidence that the race of the defendant, or the race of the victim, influences the likelihood that defendants will be sentenced to death. In addition, the General Accounting Office shall examine separately and include in the report, death penalty cases involving crimes similar to those covered under this section.

"SENTENCING IN CAPITAL CASES IN WHICH DEATH PENALTY IS NOT SOUGHT OR IMPOSED

"(p) If a person is convicted for an offense under subsection (e) and the court does not impose the penalty of death, the court may impose a sentence of life imprisonment without the possibility of parole.

"COUNSEL FOR FINANCIALLY UNABLE DEFENDANTS

"(q)(1) Notwithstanding any other provision of law to the contrary, in every criminal action in which a defendant is charged with a crime may be punishable by death, a defendant who is or becomes financially unable to obtain adequate representation or investigative, expert or other reasonably necessary services at any time either—

"(A) before judgment; or

"(B) after the entry of a judgment imposing a sentence of death but before the execution of that judgment;

shall be entitled to the appointment of one or more attorneys and the furnishing of such other services in accordance with paragraphs (2), (3), (4), (5), and (6).

"(2) If the appointment is made before judgment, at least one attorney so appointed must have been admitted to practice in the court in which the prosecution is to be tried for not less than five years, and must have had not less than three years experience in the actual trial of felony prosecutions in that court.

"(3) If the appointment is made after judgment, at least one attorney so appointed must have been admitted to practice in the court of appeals for not less than five years, and must have had no less than three years experience in the handling of appeals in that court in felony cases.

"(4) Unless replaced by similarly qualified counsel upon the attorney's own motion or upon motion of the defendant, each attorney so appointed shall represent the defendant throughout every subsequent stage of available judicial proceedings, including pretrial proceedings, trial, sentencing, motions for new trial, appeals, applications, for writ of certiorari to the Supreme Court of the United States, and all available post-conviction process together with applications for stays of execution and other appropriate motions and procedures, and shall also represent the defendant in such competent proceedings and proceedings for executive or other clemency as may be available to the defendant.

"(5) Upon a finding in ex parte proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or sentence, the court shall authorize the defendant's attorney to obtain such services on behalf of the defendant and shall order the payment of fees and expenses therefore, under paragraph (6). Upon a finding that timely procurement of such services could not practicably await prior authorization, the court may authorize the provision of and payment for such services nunc pro tunc.

"(6) Notwithstanding the rates and maximum limits generally applicable to criminal cases and any other provision of law to the contrary, the court shall fix the compensation to be paid to attorneys appointed under this subsection and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under paragraph (5), at such rates or amounts as the court determines to be appropriate in order to provide such defendant with representation by counsel and other services as nearly equivalent as possible to those available to defendants who are financially able to obtain such representation and other services for their defense and appeal, and for the prosecution of any of the proceedings described in paragraph (4).

"REFUSAL TO PARTICIPATE BY STATE AND FEDERAL CORRECTIONAL EMPLOYEES

"(r) No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

Passed the Senate June 10 (legislative day, June 8), 1988.

By Mr. HATFIELD:

S. 2854. A bill to authorize the Environmental Protection Agency to take certain action to protect the environment; to mitigate water pollution; to reduce solid waste and the cost in connection with the disposal of such waste through recycling; and for other purposes; to the Committee on Commerce, Science, and Transportation.

BEVERAGE CONTAINER REUSE AND RECYCLING ACT

● Mr. HATFIELD. Mr. President, today I am pleased to introduce the Beverage Container Reuse and Recycling Act, as I have each session since 1977. At a time when we must conserve our environment and natural resources, this bottle bill legislation would enact a uniform national law that simultaneously addresses both of these pressing issues.

It is no longer economically and environmentally feasible to throw away over 100 billion beverage containers each year in this country. In addition to the incredible waste of our natural resources, beverage containers comprise approximately 30 to 40 percent of the litter by weight or volume. Our attitude must change from a no-deposit, no-return, no-responsibility approach to one treating beverage containers as recyclable and reusable.

Each year, over 380 trillion BTU's of energy are expanded in the manufacturing of beverage containers in the United States. Under this legislation, 32 to 43 percent of that figure would be saved through the return of bottles and cans. Through the mandatory deposit on beverage containers we will have the means to recycle 10.5 million tons of refuse each year. Currently 10 States; including Oregon, California, Michigan, Maine, New York, Massachusetts, Iowa, Connecticut, Delaware, and Vermont, have laws similar to the one I am introducing in this Congress. These States understand the fundamental importance and necessity of preserving our natural resources by eliminating waste and protecting our energy supply.

In the States which already have implemented beverage container laws, public support has been overwhelming. In Oregon, for example, there is a 90 percent approval rate, while Vermont has 97 percent public support. Rates of return are perhaps the best measures of public approval because they reflect how much the public actually participates in the program. In every State the return rates range between 90 and 95 percent, some as high as 99 percent. Partial credit for the high levels of support can be attributed to the incentive provided by the legislation for those who choose to participate in the recovery of resources, saving scarce energy, and maintaining a clean environment. While consumers still have the option of discarding beverage containers, they must pay to exercise this option.

The General Accounting Office [GAO], in a 1980 study of beverage container laws in 4 of the 10 States which have refund and recycling systems, reported that an 80 percent reduction in postconsumer solid waste and a reduction in energy and raw material use could be attributed to the enactment of the bottle bill legislation. As these figures show, it is not just beverage container refuse which has decreased—total litter has dropped significantly as well. The GAO report also projects a net increase of 96,000 new jobs if national legislation were enacted.

One interesting example of the trend toward a national bottle bill has been displayed by American industry. The reverse vending machine, a recent development, is a system which enables consumers to feed empty beverage containers into a machine and receive money or coupons in return. It meets the demands of supermarkets and convenience stores, entices even the most harried consumer, and has become a promising enterprise. This new technology is one more step toward increasing the possible efficacy of this act.

As stewards of the earth we have the responsibility to balance the consumption of our precious resources with renewal whenever it is achievable. This bill is a positive step in the direction of giving value for value and ultimately discouraging the continuation of a disposable and dispensible society.

Oregon has been a leader in this area and has clearly demonstrated, along with the other nine States, that a beverage container law can work. The remainder of our Nation must now share in the responsibility of protecting our environment in any possible manner. This legislation strives to address the growing dilemma presented by the 30 to 40 percent of solid litter attributed to beverage containers. In Oregon, the decrease in residential solid waste since the enactment of the bottle bill is estimated at 5 percent, a percentage that translates into an annual $657,000 savings in waste disposal. This legislation will obviously make a significant contribution to the concern of proper waste disposal and conservation.

It is my sincere hope that the 100th Congress will adopt national bottle bill legislation. I ask that the text of the Beverage Container Reuse and Recycling Act appear in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2854

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND PURPOSES

SECTION 1. Congress finds and declares that—

(1) solid waste resulting from such empty beverage containers constitutes a significant and rapidly growing proportion of municipal solid waste and increases the cost and problems of effectively managing the disposal of such waste;

(2) disposal of such solid waste, which imposes severe problems in both urban and rural aspects of our environment as well as a financial burden on local and State governments, could be carried out by a recycling of empty beverage containers;

(3) a uniform national system for requiring a refund value on the sale of all beverage containers would act as a positive incentive to individuals to clean up the environment and would result in a high level of reuse and recycling of such containers and help reduce the costs associated with solid waste;

(4) a national system for requiring a refund value on the sale of all beverage containers would result in significant energy conservation and resource recovery;

(5) the reuse and recycling of empty beverage containers would eliminate these unnecessary burdens on the Federal Government, local and State governments, and the environment;

(6) waste resulting from littering or discarding of certain containers constitutes a significant health hazard and poses a threat to children and others due to broken glass, detachable openings and other sharp objects present in recreation and other environments;

(7) several States have previously enacted and implemented State laws designed to protect the environment, conserve energy resources and natural resource recovery by requiring a refund value on the sale of all beverage containers, and these have proven effective as well as inexpensive to administer due to their self-enforcing nature; and

(8) nonbiodegradable beverage containers represent a continued threat to the environment.

DEFINITIONS

SEC. 2. For the purposes of this Act, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "beverage" means beer or other malt beverage, mineral water, soda water, a carbonated soft drink of any variety, or a drink in liquid form containing wine to which is added concentrated juice or flavoring material and containing not more than 7.5 percent alcohol by volume and intended for human consumption;

(3) "beverage container" means a container designed to contain a beverage;

(4) "refundable beverage container" means a beverage container which has clearly, prominently, and securely affixed to such container, or printed, embossed, or incised into such container, (in accordance with section 3) a statement of the amount of the refund value of the container;

(5) "consumer" means a person who purchases a beverage in a beverage container for any use other than resale;

(6) "distributor" means a person who sells or offers for sale in commerce beverages in beverage containers for resale;

(7) "retailer" means a person who purchases from a distributor beverages in beverage containers for sale to a consumer or who sells or offers to sell in commerce beverages in beverage containers to a consumer. The Administrator shall prescribe such regulations as may be necessary to establish what person is a retailer with respect to the sale of beverages in beverage containers to consumers through beverage vending machines;

(8) "commerce" means trade, traffic, or transportation—

(A) between a place in a State and any place outside thereof,

(B) within the District of Columbia or any territory or possession of the United States, or

(C) which affects trade, traffic, commerce, or transportation described in subparagraph (A) or (B); and

(9) "State" includes the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

REQUIRED BEVERAGE CONTAINER LABELING

SEC. 3. No distributor or retailer may sell or offer for sale a beverage in a beverage container unless there is clearly, prominently and securely affixed to such container, or printed, embossed, or incised into such container (in accordance with regulations prescribed by the Administrator) a statement of the amount of the refund value of the container, such amount being not less than 5 cents.

RETURN OF REFUND VALUE OF BEVERAGE CONTAINERS

SEC. 4. (a) If a consumer tenders for refund an empty and unbroken refundable beverage container to a retailer or distributor who sells (or has sold at any time during the period of three months ending on the date of such tender) a brand of beverage which was contained in the container, the retailer or distributor respectively shall promptly pay the consumer the amount of the refund value stated on the container.

(b) Subject to the provisions of subsection (a), nothing in this Act shall be construed as prohibiting any retailer or distributor from establishing refundable beverage container redemption centers to assist in carrying out the purposes of this Act.

(c) If a retailer or redemption center tenders for refund an empty and unbroken, refundable beverage container to a distributor who sells (or has sold at any time during the period of three months ending on the date of such tender) a brand of beverage which was contained in the container, the distributor shall promptly pay the retailer—

(A) the amount of the refund value stated on the container, plus

(B) an amount equal to 2 cents per container to help defray the retailer's cost of handling.

The payment amount specified in clause (B) may be adjusted by the Administrator, following evaluation and public comment, to reflect the true cost of recycling beverage containers. This paragraph shall not preclude a retailer from tendering refundable beverage containers to persons other than distributors.

REFUSAL TO ACCEPT CONTAINERS

SEC. 5. (a) If a retailer or redemption center is unable to process, under the regular means of processing used by such retailer or redemption center, a bent container, the retailer or redemption center may refuse to accept a bent beverage container, if such retailer or redemption center has prominently displayed on the premises a notice to that effect.

(b) A retailer, distributor, or redemption center may refuse to accept any beverage container which contains material foreign to the normal contents of the container.

(c) A retailer, redemption center, or distributor may refuse to accept any beverage container which does not have the refund value on such container in accordance with the requirements of section 3.

(d) The Administrator is authorized to promulgate rules and regulations establishing the right of (1) retailers to restrict the number of beverage containers redeemed, and (2) distributors to determine the form in which beverage containers are to be returned to such distributor from the retailer or redemption center.

RESTRICTIONS ON METAL BEVERAGE CONTAINERS WITH DETACHABLE OPENINGS

SEC. 6. No distributor or retailer may sell or offer for sale a beverage in a metal beverage container a part of which is designed to be detached in order to open such container.

PREEMPTION OF STATE AND LOCAL LAW

SEC. 7. (a) Except as otherwise provided in this Act no State or political subdivision thereof may establish or continue in effect any law respecting a refund value of beverage containers sold with a beverage to the extent the Administrator determines the law is inconsistent with this Act.

(b) No State or political subdivision thereof may, for the purposes of determining the amount of any tax imposed by such State or subdivision on the sale of any refundable beverage container, take into account any amount charged which is attributable to the refund value of such container.

(c) Subsection (a) does not prevent a State or political subdivision thereof from establishing or continuing in effect any law respecting a refund value on containers other than for beverages or from regulating redemption and other centers which purchase refundable beverage containers from retailers and consumers.

PENALTIES

SEC. 8. Whoever violates any provision of section 3, 4, 5, or 6, or regulation or rule issued pursuant thereto, shall be fined not more than $1,000 for each violation.

EFFECTIVE DATES

SEC. 9. (a) Except as otherwise provided in subsections (b) and (c), this Act shall take effect on the date of its enactment.

(b) The provisions of sections 3, 4, and 7 shall apply with respect to beverage containers sold or offered for sale in commerce on or after the expiration of the two-year period following the date of the enactment of this Act.

(c) The provisions of section 6 shall apply with respect to beverages in beverage containers sold or offered for sale in commerce on or after the expiration of the one-year period following the date of the enactment of this Act.

(d) The provisions of section 7(a) shall preempt State and local laws to the extent to which they are inconsistent with the provisions of this Act only on and after the effective date of such provisions.

By Mr. HEINZ:

S. 2855. A bill to designate lock and dam 7 on the Monongahela River in the Commonwealth of Pennsylvania the "Albert Gallatin Lock and Dam"; to the Committee on Environment and Public Works.

ALBERT GALLATIN LOCK AND DAM

● Mr. HEINZ. Mr. President, I rise today to introduce legislation which would designate and name lock and dam 7 on the Monongahela River, which is sometimes referred to as the Grays Landing Lock and Dam, as the Albert Gallatin Lock and Dam.

The Water Resources Development Act of 1986 authorized the U.S. Army Corps of Engineers to replace the aging lock and dam 7 on the Monongahela River in southwestern Pennsylvania. The new lock and dam will be located 3 miles upstream from the existing one. This relocation places the project much closer to Gallatin, PA, than to Grays Landing, PA.

Not only would the enactment of this act be consistent with the corps' policy of naming locks after the nearest community, the name Gallatin itself is very important historically to this area. As JoEllen Rawlings and Judith Sparks of Masontown, PA, wrote me, "Nearby Friendship Hill, now a National Park, was the home of Albert Gallatin, a man who almost two centuries ago understood the economic value of the Monongahela River."

Mr. President, I have received a large number of petitions, including many from residents of Grays Landing, urging Congress to redesignate lock and dam 7. I hope my colleagues will join me in agreeing that the rightful name is the "Albert Gallatin Lock and Dam."●

ADDITIONAL COSPONSORS

S. 1851

At the request of Mr. D'AMATO, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 1851, a bill to implement the International Convention on the Prevention and Punishment of Genocide.

S. 2445

At the request of Mr. HEINZ, the names of the Senator from Delaware [Mr. BIDEN] and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of S. 2445, a bill to amend the National Trails System Act to designate the Kosciuszko Trail as a study trail.

S. 2796

At the request of Mr. NUNN, the names of the Senator from Washington [Mr. ADAMS], the Senator from Delaware [Mr. BIDEN], the Senator from North Carolina [Mr. SANFORD], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of S. 2796, a bill to authorize funding for the Martin Luther King, Jr., Federal Holiday Commission.

SENATE JOINT RESOLUTION 371

At the request of Mr. SPECTER, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Joint Resolution 371, a joint resolution designating October 1988 as "National Domestic Violence Awareness Month."

SENATE JOINT RESOLUTION 373

At the request of Mr. BYRD, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Georgia [Mr. FOWLER], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of Senate Joint Resolution 373, a joint resolution to designate the week beginning November 13, 1988, as "National Craniofacial Deformity Awareness Week."

SENATE JOINT RESOLUTION 376

At the request of Mr. D'AMATO, the names of the Senator from New Mexico [Mr. DOMENICI], and the Senator from Nevada [Mr. REID] were added as cosponsors of Senate Joint Resolution 376, a joint resolution designating September 13, 1989, as "Uncle Sam Day."

SENATE JOINT RESOLUTION 381

At the request of Mr. BOND, the names of the Senator from Alaska [Mr. MURKOWSKI], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Delaware [Mr. ROTH] were added as cosponsors of Senate Joint Resolution 381, a joint resolution to designate October 30, 1988, as "Fire Safety at Home Day—Change Your Clock, Change Your Battery."

SENATE JOINT RESOLUTION 386

At the request of Mr. CONRAD, the names of the Senator from Ohio [Mr. GLENN], the Senator from Kentucky [Mr. FORD], the Senator from Washington [Mr. ADAMS], the Senator from Florida [Mr. CHILES], the Senator from Arkansas [Mr. PRYOR], the Senator from Michigan [Mr. LEVIN], the Senator from Nebraska [Mr. EXON], the Senator from Tennessee [Mr. SASSER], the Senator from Oregon [Mr. PACKWOOD], the Senator from Idaho [Mr. SYMMS], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Montana [Mr. BAUCUS], the Senator from Oklahoma [Mr. NICKLES], the Senator from North Carolina [Mr. HELMS], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of Senate Joint Resolution 386, a joint resolution to designate the week of June 18 through 24, 1989, as "National Grasslands Week."

SENATE CONCURRENT RESOLUTION 145

At the request of Mr. MITCHELL, the names of the Senator from Illinois [Mr. SIMON] and the Senator from Kansas [Mr. DOLE] were added as cosponsors of Senate Concurrent Resolution 145, a concurrent resolution expressing the sense of the Congress regarding the state of affairs in Lebanon and urging all parties in Lebanon to work together to resolve the constitutional crisis.

SENATE CONCURRENT RESOLUTION 150—RELATIVE TO HUMAN RIGHTS OF THE SIKHS IN THE PUNJAB OF INDIA

Mr. BOSCHWITZ submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 150

Whereas Amnesty International found in its 1987 report that India has failed to adequately protect the human rights of the Sikhs living in the Punjab;

Whereas due to the breakdown of law and order in the Punjab, India's central government has dismissed the elected state government and has introduced large numbers of police and paramilitary units;

Whereas these paramilitary units temporarily sealed off the Golden Temple, the most sacred religious shrine of the Sikh people, and for the first time in centuries, devotees could not offer prayers or bathe in the historic holy tank built around the Golden Temple; and

Whereas, historically, Sikhs have been a peaceful people, and most Sikhs still want a peaceful solution in the Punjab: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the Government of India should continue to allow Sikhs to have full access to the Golden Temple for the purpose of religious worship and should remove all military presence from the shrine as soon as possible;

(2) while the Congress condemns the use of terrorist tactics in the region, the Government of India should use restraint in resolving its dispute with the Sikh people in the Punjab; and

(3) the Congress supports the territorial integrity of India and respectfully urges Prime Minister Ghandi, and all responsible

leaders of the Sikh community, to renew their efforts to achieve a political solution that will permit the settlement of accumulated grievances, the restoration of law and order, and the return to home rule in the Punjab, while guaranteeing religious freedom and respect for the human rights of all the people of India.

● **Mr. BOSCHWITZ.** Mr. President, I rise today to submit a concurrent resolution dealing with the important issue of human rights. Tragically, human rights abuses occur all too frequently around the world and we, in this body, have a responsibility to speak out when we see them. This resolution concerns the problems of the Sikh community in India.

I must tell you, Mr. President, that I have been an admirer of Indian democracy and of the current Prime Minister, Mr. Gandhi. I welcome improving relations between our two countries. The Indian Government, of course, has never been shy in expressing its disagreements with certain aspects of U.S. policy, and it is in that spirit that I offer my resolution.

Over the past couple years, I have become increasingly concerned about the problem of the Sikhs living in the Punjab region of India. The Sikhs are a religious minority with a proud heritage. They seek to expand the expression of their own ethnic identity, but to this point have felt frustrated. Violence has erupted. During 1987, an average of three Sikhs were killed each day and so far this year more than 1,600 Sikhs have met a violent death. Amnesty International has reported evidence of abuses by Indian security forces that should not go unnoticed.

My concurrent resolution expresses the sense of the Senate in calling on the Indian Government to use restraint in its dealings with the Sikhs. While I understand that we must respond to terrorist acts swiftly and sharply, it is evident that only a small fraction of India's 17 million Sikhs have been involved in terrorist acts aimed at gaining independence from India.

India is the world's largest democracy. One of the most elemental tests of a democracy is its tolerance for minorities. It is, therefore, entirely appropriate that we express our concern to the Indian Government over the treatment of one of its own ethnic minorities. As the ranking member of the Foreign Relations Subcommittee on Near East and South Asian Affairs, I urge the Indian Government to reexamine its policy and its methods of dealing with an obviously sensitive issue, not only because to do so would ease a very tense situation that often results in violence, but because to do so is in keeping with India's own noble aspirations and democratic traditions.●

SENATE RESOLUTION 484—RELATIVE TO EXPORTS OF CORN GLUTEN

Mr. DOLE (for Mr. KARNES) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 484

Whereas—

(1) the French corn growers have proposed to file an antisubsidy petition against U.S. exports of corn gluten feed;

(2) the French corn growers contend that section 1326 of the U.S. trade bill, P.L. 100-418, represents a new form of U.S. protectionism;

(3) the French corn growers have urged the European Community (EC) to respond to section 1326 by applying a similarly broad definition of EC "industry" whenever U.S. agricultural exports to the EC are the subjects of antidumping or antisubsidy investigations;

(4) the test set out in section 1326 can be met only when the raw agricultural product is substantially or completely devoted to processing and the processing yields only a single processed product, which in the case of corn, not only has multiple uses but also multiple products;

(5) in addition, under section 1326, growers alone can never bring a case against processed agricultural products; thus, growers and producers, even if they are considered part of the industry, must be joined by the producers;

(6) under section 1326, there is a provision that would terminate the subparagraph if the U.S. Trade Representative notifies the administering authority and the Commission that the application of the subparagraph is inconsistent with the international obligations of the United States;

(7) the French corn growers do not have standing because the EC has consistently taken the position that the only parties who legitimately have standing to bring countervailing duty or antidumping cases are those which produce "like products" and that "like products" should be strictly and narrowly construed for the purpose of standing, therefore, growers by themselves would not have standing to bring cases against imported processed agricultural products;

(8) the EC was bound in the General Agreement on Tariffs and Trade (GATT) to impose no import duties on corn gluten feed and other corn by-products and such zero-tariff bindings were agreed to in return for the U.S. trade concessions to the EC during previous rounds of trade negotiations;

(9) the EC has not demonstrated sound economic justification for taking action to reduce the use of corn gluten feed and such actions would shift some part of the financial burden of EC Common Agricultural Policy from the EC to U.S. agricultural exporters; and

(10) the export of corn gluten feed is valued at $500 million dollars and restrictions on these imports would increase the U.S. trade deficit;

(11) the countervailing duty would force corn gluten feed into the domestic market, reducing corn and soybean prices at the expense of the American farmer and injuring the U.S. corn refining industry;

(12) the action of the EC is unjustifiable, unreasonable, discriminatory and inconsistent with an negotiated GATT concession, a breach of which would severely erode the basic GATT principle of comparative advantage and set a dangerous precedent which could threaten other previously negotiated concessions;

It is the Sense of the Senate that—

(A) the President should firmly oppose the imposition of any measures designed to restrict EC imports of non-grain feed ingredients, including corn gluten feed, and should support the current duty-free binding on such products;

(B) the President should vigorously oppose any EC proposals which would violate the intent of the existing duty-free binding in the GATT for corn gluten feed and corn by-products; and

(C) if unilateral action is taken by EC to inhibit the importation of corn gluten feed, the U.S. should act immediately to restrict imports from the EC of at least the aggregate value of the reduced and potentially reduced United States export products.

● **Mr. KARNES.** Mr. President, I rise today to speak out against a developing situation that will harm our Nation's corn producers. U.S. corn farmers stand to lose over $200 million if the European Community makes good on threats to cut off imports of corn gluten feed—a corn byproduct—from the United States. Corn, soybean, oat, and sorghum producers all will be hit if the European Commission approves a countervailing duty petition filed with the Commission by the European Federation of Corn Growers.

It is my understanding that the Europeans have been trying to institute this countervailing duty on corn gluten imports since 1980. We can't let that happen. Press reports from Brussels indicate that the petition alleges that various U.S. Government programs subsidize the export of corn gluten feed to the European Community. The only reason corn gluten feed is used so heavily by European Livestock Feeders is that the common agricultural policy—the agricultural laws that govern the farmers of the European Community—has priced most other feed ingredients out of the market according to the Corn Refiners Association of the United States.

A report by the Library of Congress, done in 1981, indicated that a 5-cent drop would occur in the price of corn if the European Community were successful in imposing the countervailing duty, along with slightly smaller drops in the price of oats and sorghum. Each of these crops is of vital importance to the farmers of Nebraska.

I have written a letter to Sir Roy Denman, the European Community's Ambassador to the United States urging them to show restraint and not to impose these countervailing duties. I ask that the text of that letter be included in the RECORD following this statement.

The letter, however, may not be enough. For that reason, I have drafted a sense of the Senate resolution calling for the European Community to resist and also calling for action on our part if they proceed. I hope that they will resist the action being called for by their corn producers. The imposition of a countervailing duty could substantially harm an important trading relationship. I am confident that the Europeans will see the folly of such action.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Committee on Agriculture,
Nutrition, and Forestry,
Washington, DC, September 28, 1988.

Sir Roy Denman,
Delegation of the Commission of the European Communities, Washington, DC.

Dear Sir Roy: I am writing about an issue of great importance to the people of the State of Nebraska. I am deeply disturbed by recent press reports indicating that the European Community may accept a countervailing duty petition against U.S. corn gluten feed imports filed with the Commission by the European Federation of Corn Growers.

Apparently, some in the Commission believe that acceptance of this petition will serve as "retaliation" for passage of the recent trade bill, and in particular, the section dealing with processed agricultural commodities. If true, I believe that this provision is being grossly misconstrued, and is being used merely as an excuse to shut off imports of one of the few remaining farm products freely traded between Europe and the United States.

I voted for and support the trade bill. When this section was written, the authors were extremely careful to include assurances that the provision would not be used to violate commitments the United States has made under the General Agreement on Tariffs and Trade. It is beginning to appear, however, that the Commission is preparing to do exactly that—bypass GATT procedures to unilaterally limit imports of a U.S. commodity.

I intend to urge the U.S. Trade Representative, Clayton Yeutter, that, if the Commission moves forward on this case, then he should respond in kind and institute restrictions on a comparable value of EC exports to the United States.

I hope that you will convey this Senator's strong feelings on this matter to the appropriate EC officials.

Sincerely.

David K. Karnes.●

SENATE RESOLUTION 485—COMMENDING ROBERT C. BYRD

Mr. DOLE (for himself, Mr. Adams, Mr. Armstrong, Mr. Baucus, Mr. Bentsen, Mr. Biden, Mr. Bingaman, Mr. Bond, Mr. Boren, Mr. Boschwitz, Mr. Bradley, Mr. Breaux, Mr. Bumpers, Mr. Burdick, Mr. Chafee, Mr. Chiles, Mr. Cochran, Mr. Cohen, Mr. Conrad, Mr. Cranston, Mr. D'Amato, Mr. Danforth, Mr. Daschle, Mr. DeConcini, Mr. Dixon, Mr. Dodd, Mr. Domenici, Mr. Durenberger, Mr. Evans, Mr. Exon, Mr. Ford, Mr. Fowler, Mr. Garn, Mr. Glenn, Mr. Gore, Mr. Graham, Mr. Gramm, Mr. Grassley, Mr. Harkin, Mr. Hatch, Mr. Hatfield, Mr. Hecht, Mr. Heflin, Mr. Heinz, Mr. Helms, Mr. Hollings, Mr. Humphrey, Mr. Inouye, Mr. Johnston, Mr. Karnes, Mrs. Kassebaum, Mr. Kasten, Mr. Kennedy, Mr. Kerry, Mr. Lautenberg, Mr. Leahy, Mr. Levin, Mr. Lugar, Mr. Matsunaga, Mr. McCain, Mr. McClure, Mr. McConnell, Mr. Melcher, Mr. Metzenbaum, Ms. Mikulski, Mr. Mitchell, Mr. Moynihan, Mr. Murkowski, Mr. Nickles, Mr. Nunn, Mr. Packwood, Mr. Pell, Mr. Pressler, Mr. Proxmire, Mr. Pryor, Mr. Quayle, Mr. Reid, Mr. Riegle, Mr. Rockefeller, Mr. Roth, Mr. Rudman, Mr. Sanford, Mr. Sarbanes, Mr. Sasser, Mr. Shelby, Mr. Simon, Mr. Simpson, Mr. Specter, Mr. Stafford, Mr. Stennis, Mr. Stevens, Mr. Symms, Mr. Thurmond, Mr. Trible, Mr. Wallop, Mr. Warner, Mr. Weicker, Mr. Wilson, and Mr. Wirth) submitted the following resolution; which was considered and agreed to:

S. Res. 485

Whereas the close of the 100th Congress represents the completion of the service of Robert C. Byrd as Majority Leader of the United States Senate; and

Whereas he has performed the duties of Majority Leader with diligence, grace, and consummate patience, thereby facilitating the important business of the Senate; and

Whereas Robert C. Byrd has demonstrated not only a mastery of the rules and procedures of the Senate, which he has used to promote the orderly debate and resolution of the complex public policy issues confronting our Nation, but also an unparalleled knowledge and appreciation of the history of the United States Senate and its role in our democracy; and

Whereas throughout his service in the Senate he has vigilantly defended the Constitutional prerogatives of the Congress; and

Whereas his efforts to work with the Speaker and other leaders of the House of Representatives has established a new level of cooperation and coordination between the two Houses; and

Whereas Robert C. Byrd has had a long and distinguished record of public service to the people of West Virginia and the United States, having held more elective offices than any other individual in the history of West Virginia, being the only West Virginian to have served in both Houses of the State legislature and in both Houses of the United States Congress, and having served in the leadership of the Senate for the past 21 years; and

Whereas in the long tradition of Leadership of the United States Senate, the service by Robert C. Byrd to the Senate, the Congress, and the Nation will stand as a benchmark for future leaders; and

Whereas the respect, trust, and confidence which his colleagues feel toward Robert C. Byrd is a testament to the integrity, humanity, and good will which he displays to all around him; Now therefore, be it

Resolved, That the Senate of the United States expresses its deep appreciation to Robert C. Byrd for his dedication to the ideals of representative democracy and for his outstanding service to the United States and its citizens.

SENATE RESOLUTION 486—CONGRATULATING THE CREW OF THE SPACE SHUTTLE "DISCOVERY"

Mr. BYRD (for Mr. Hollings, for himself, Mr. Riegle, Mr. Danforth, Mr. Pressler, Mr. Wirth, and Mr. Ford) submitted the following resolution; which was considered and agreed to:

S. Res. 486

Whereas, the return to flight of the space shuttle Discovery and the successful completion of its mission has been a source of great inspiration to America and has restored our faith in the Nation's space program;

Whereas, the flight of Discovery reflects the technological prowess of the United States and the dedication of the men and women of the Nation's space program; and

Whereas, the flight of Discovery represents a great ending for a new beginning of the space program: Now, therefore, be it

Resolved, That the Senate of the United States congratulates the men, women, and families of the National Aeronautics and Space Administration and its Contractor team, the Members of the National Research Council Panel on the Technical Evaluation of the Redesign of the Space Shuttle Solid Rocket Booster, and the crew of Discovery—Rick Hauck, Dick Covey, Mike Lounge, Pinky Nelson, and Dave Hilmers—for their efforts in support of the Nation's space program and for turning our visions of tomorrow into realities of today.

AMENDMENTS SUBMITTED

PARENTAL AND MEDICAL LEAVE ACT

ARMSTRONG AMENDMENTS NOS. 3363-3365

(Ordered to lie on the table.)

Mr. ARMSTRONG submitted three amendments intended to be proposed by him to the bill (S. 2488) to grant employees parental and temporary medical leave under certain circumstances, and for other purposes; as follows:

On page 14, strike out lines 11 through 13, and insert in lieu thereof:

(1) In general.—The employer may—

On page 15, between lines 11 and 12, insert the following new paragraph:

(3) Failure to obtain opinion.—An employee who refuses to obtain a second opinion after a request by an employer under paragraph (1) shall not be eligible for parental or medical leave pertaining to the claim for which such second opinion was requested.

In lieu of the matter proposed to be inserted, insert the following:

SEC. . HOMEWORK REGULATIONS.

This Act, and the amendments made by this Act, shall not become effective until the Secretary of Labor, using the existing authority of the Secretary under the Fair Labor Standards Act of 1938, promulgates regulations to remove the ban on industrial homework in effect on the date of enactment of this Act.

On page 29, strike out line 24 and all that follows through line 5 on page 30, and insert in lieu thereof the following new subparagraph:

(B) an additional amount of actual damages.

DOLE AMENDMENT NO. 3366

(Ordered to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to amendment No. 3309 proposed by Mr. BYRD to the bill S. 2488, supra; as follows:

At the end of the amendment 3309 add the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Omnibus Drug Initiative Act of 1988".

(b) TABLE OF CONTENTS.—

TABLE OF CONTENTS

Title I—Committee on Banking, Finance and Urban Affairs
Title II—Committee on Education and Labor
Title III—Committee on Foreign Affairs
Title IV—Committee on Government Operations
Title V—Committee on Interior and Insular Affairs
Title VI—Committee on the Judiciary
Title VII—Committee on Merchant Marine and Fisheries
Title VIII—Committee on Public Works and Transportation
Title IX—Committee on Ways and Means
Title X—Committee on Energy and Commerce
Title XI—Information on Illegal Foreign Drug Activities
Title XII—Organization

TITLE I—COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

Subtitle A—Money Laundering Control

SECTION 1001. SHORT TITLE.

This subtitle may be cited as the "Money Laundering Control Amendments of 1988".

SEC. 1002. IDENTIFICATION REQUIRED TO PURCHASE CERTAIN MONETARY INSTRUMENTS OF $3,000 OR MORE.

(a) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"§ 5325. Identification required to purchase certain monetary instruments

"(a) IN GENERAL.—No financial institution may issue or sell a bank check, cashier's check, traveler's check, or money order to any individual in connection with a transaction which involves United States coins or currency (or such other monetary instruments as the Secretary may prescribe) in amounts or denominations of $3,000 or more unless—

"(1) the individual has an account with such financial institution and the financial institution—

"(A) verifies that fact through a signature card or other information maintained by such institution in connection with the account of such individual; and

"(B) records the method of verification in accordance with regulations which the Secretary of the Treasury shall prescribe; or

"(2) the individual furnishes the financial institution with such forms of identification as the Secretary of the Treasury may require in regulations which the Secretary shall prescribe and the financial institution verifies and records such information in accordance with regulations which such Secretary shall prescribe.

"(b) REPORT TO SECRETARY UPON REQUEST.—Any information required to be recorded by any financial institution under paragraph (1) or (2) of subsection (a) shall be reported by such institution to the Secretary of the Treasury at the request of such Secretary.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"5325. Identification required to purchase certain monetary instruments.".

SEC. 1003. MONETARY TRANSACTION RECORDKEEPING AND REPORTING REQUIREMENTS FOR TARGETED INSTITUTIONS.

(a) SECRETARY AUTHORIZED TO REQUIRE RECORDKEEPING FOR DOMESTIC COIN AND CURRENCY TRANSACTIONS.—Subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after section 5325 (as added by section 2(a) of this Act) the following new section:

"§ 5326. Records of certain domestic coin and currency transactions

"Under such circumstances as the Secretary of the Treasury may prescribe by regulation, the Secretary may issue an order requiring any domestic financial institution—

"(1) to obtain such information as the Secretary may describe in such order concerning—

"(A) any transaction in which such financial institution is involved for the payment, receipt, or transfer of United States coins or currency (or such other monetary instruments as the Secretary may describe in such order) the total amounts or denominations of which are equal to or greater than an amount which the Secretary may prescribe; and

"(B) any other person participating in such transaction;

"(2) to maintain a record of such information for such period of time as the Secretary may require; and

"(3) to file a report with respect to any transaction described in paragraph (1)(A) in the manner and to the extent specified in the order.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5325 (as added by section 2(b) of this Act) the following new item:

"5326. Records of certain domestic coin and currency transactions.".

SEC. 1004. FINANCIAL RECORDS OF INSIDERS.

Section 1113 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413) is amended by adding at the end thereof the following new subsection:

"(l) CRIMES AGAINST FINANCIAL INSTITUTIONS BY INSIDERS.—Nothing in this title shall apply when any financial institution or supervisory agency provides any financial record of any officer, director, employee, or controlling shareholder (within the meaning of subparagraph (A) or (B) of section 2(a)(2) of the Bank Holding Company Act of 1956 or subparagraph (A) or (B) of section 408(a)(2) of the National Housing Act) of such institution, or of any major borrower from such institution who there is reason to believe may be acting in concert with any such officer, director, employee, or controlling shareholder, to the Attorney General of the United States, to a State law enforcement agency, or, in the case of a possible violation of subchapter II of chapter 53 of title 31, United States Code, to the Secretary of the Treasury if there is reason to believe that such record is relevant to a possible violation by such person of—

"(1) any law relating to crimes against financial institutions or supervisory agencies by directors, officers, employees, or controlling shareholders of, or by borrowers from, financial institutions; or

"(2) any provision of subchapter II of chapter 53 of title 31, United States Code.".

SEC. 1005. DELEGATION OF ENFORCEMENT POWER TO POSTAL SERVICE.

Section 5318(a)(1) of title 31, United States Code, is amended by inserting "and the Postal Service" after "appropriate supervising agency".

SEC. 1006. PENALTIES FOR FAILURE TO COMPLY WITH CERTAIN RECORDKEEPING REQUIREMENTS.

(a) INSURED BANKS.—Section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b) is amended by adding at the end thereof the following new subsection:

"(j) CIVIL PENALTIES.—

"(1) PENALTY IMPOSED.—Any insured bank and any director, officer, or employee of an insured bank who willfully violates any regulation prescribed under this section shall be liable to the United States for a civil penalty of not more than $10,000.

"(2) TREATMENT OF CONTINUING VIOLATION.—A separate violation of any regulation prescribed under subsection (b) of this section occurs for each day the violation continues and at each office, branch, or place of business at which such violation occurs.

"(3) ASSESSMENT.—Any penalty imposed under paragraph (1) shall be assessed, mitigated, and collected in the manner provided in subsections (b) and (c) of section 5321 of title 31, United States Code.".

(b) INSURED INSTITUTIONS.—Section 411 of the National Housing Act (12 U.S.C. 1730d) is amended—

(1) by striking out "The Secretary" and inserting in lieu thereof "(a) REGULATIONS.—The Secretary"; and

(2) by adding at the end thereof the following new subsection:

"(b) CIVIL PENALTIES.—

"(1) PENALTY IMPOSED.—Any insured institution and any director, officer, or employee of an insured institution who willfully violates any regulation prescribed under subsection (a) of this section shall be liable to the United States for a civil penalty of not more than $10,000.

"(2) TREATMENT OF CONTINUING VIOLATION.—A separate violation of any regulation prescribed under subsection (a) of this section occurs for each day the violation continues and at each office, branch, or place of business at which such violation occurs.

"(3) ASSESSMENT.—Any penalty imposed under paragraph (1) shall be assessed, mitigated, and collected in the manner provided in subsections (b) and (c) of section 5321 of title 31, United States Code.".

(c) OTHER FINANCIAL INSTITUTIONS.—

(1) INSTITUTIONS SUBJECT TO RECORDKEEPING REQUIREMENT.—Section 123(b) of Public Law 91-508 (12 U.S.C. 1953(b)) is amended to read as follows:

"(b) INSTITUTIONS SUBJECT TO RECORDKEEPING REQUIREMENTS.—The authority of the Secretary of the Treasury under subsection

(a) extends to any financial institution (as defined in section 5312(a)(2) of title 31, United States Code), other than an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act) and any insured institution (as defined in section 401(a) of the National Housing Act), and any partner, officer, director, or employee of any such financial institution.".

(2) Increase in Amount of Civil Penalties.—Section 125(a) of Public Law 91-508 (12 U.S.C. 1955(a)) is amended by striking out "$1,000" and inserting in lieu thereof "$10,000".

SEC. 1007. GOOD FAITH AS A DEFENSE FROM LIABILITY FOR DISCLOSURE OF FINANCIAL RECORDS OF INSIDERS.

Section 1117(c) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3417(c)) is amended—

(1) by inserting "or pursuant to the provisions of section 1113(l)" after "certificate by any Government authority"; and

(2) by inserting before the period at the end thereof the following: "under this title, the constitution of any State, or any law or regulation of any State or any political subdivision of any State".

SEC. 1008. TECHNICAL CORRECTIONS.

(a) Subparagraphs (T) and (U) of section 5312(a)(2) of title 31, United States Code, are amended to read as follows:

"(T) any agency of the United States, or of any State or political subdivision of any State, which engages in any activity in which any business described in this paragraph is authorized to engage, including the United States Postal Service; and

"(U) any business or agency which engages in any activity which the Secretary of the Treasury determines, by regulation, to be an activity which is similar to, related to, or a substitute for any activity in which any business described in this paragraph is authorized to engage.".

(b) Section 5312(a)(5) of title 31, United States Code, is amended—

(1) by inserting a comma after "Puerto Rico"; and

(2) by striking the second comma after "Pacific Islands".

(c) The first sentence of section 5321(a)(1) of title 31, United States Code, is amended by inserting "(if any)" after "transaction".

SEC. 1009. STUDY OF WITHDRAWAL OF LEGAL TENDER STATUS OF $100 FEDERAL RESERVE NOTES.

(a) Study Required.—The Secretary of the Treasury, in consultation with appropriate law enforcement agencies, shall conduct a study of the feasibility of withdrawing the legal tender status of $100 Federal Reserve notes.

(b) Factors To Be Considered.—The study conducted pursuant to subsection (a) by the Secretary of the Treasury shall include an analysis of the following factors:

(1) Whether $100 Federal Reserve notes are being used predominately for illegal activities, especially drug-related transactions.

(2) Whether withdrawing the legal tender status of $100 Federal Reserve notes would help deter such illegal activities.

(3) Whether withdrawing the legal tender status of $100 Federal Reserve notes would impair legitimate business transactions.

(4) Whether withdrawing the legal tender status of $50 Federal Reserve notes (in addition to the $100 notes) would result in even greater deterrence of illegal activities.

(c) Report Required.—Before the end of the 180-day period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall submit a report to the Congress on the study conducted pursuant to subsection (a).

SEC. 1010. TRANSFER BY GOVERNMENT AGENCY OF RECORDS TO THE DEPARTMENT OF JUSTICE FOR CRIMINAL INVESTIGATION.

Section 1112 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412) is amended by adding at the end thereof the following new subsection:

"(f) Nothing in this title shall apply when financial records obtained by an agency or department of the United States are disclosed or transferred to the Attorney General upon the certification by a supervisory level official of the transferring agency or department that there is reason to believe that the records may be relevant to a violation of Federal criminal law. Records so transferred shall be used only for criminal investigative or prosecutive purposes by the Department of Justice and shall, upon completion of the investigation or prosecution (including any appeal), be returned only to the transferring agency or department.".

SEC. 1011. AMENDMENT TO THE PRESENTATION OF RECORDS REQUIREMENT.

Section 1120(1) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3420(1)) is amended by inserting before the semicolon at the end the following: "unless the volume of such records makes such return and actual presentation impractical in which case the grand jury shall be provided with a description of the contents of the records".

Subtitle B—International Provisions

SEC. 1021. EXPORT-IMPORT BANK FINANCING FOR SALES OF DEFENSE ARTICLES AND SERVICES FOR ANTI-NARCOTICS PURPOSES.

Section 2(b)(6) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)) is amended—

(1) by inserting "(A)" before "The Bank";

(2) by striking "paragraph" and inserting in lieu thereof "subparagraph"; and

(3) by adding at the end the following new subparagraphs:

"(B) Subparagraph (A), and section 32 of the Arms Export Control Act, shall not apply to any sale of defense articles or services if—

"(i) the Bank is requested to provide a guarantee or insurance for the sale;

"(ii) the President determines, in accordance with subparagraph (C), that the sale is in the national interest of the United States;

"(iii) the Bank determines that, notwithstanding the provision of a guarantee or insurance for the sale, not more than 10 percent of the guarantee and insurance authority available to the Bank in any fiscal year will be used by the Bank to support the sale of defense articles and services; and

"(iv) the sale is made on or before September 30, 1992.

"(C) In determining whether a sale of defense articles or services would be in the national interest of the United States, the President shall take into account whether the sale would—

"(i) be consistent with the anti-narcotics policy of the United States;

"(ii) involve the end use of a defense article or service in a major illicit drug producing or major drug-transit country (as defined in section 481(i) of the Foreign Assistance Act of 1961); and

"(iii) be made to a country with a democratic form of government.

"(D) The Board shall not give approval to guarantee or insure a sale of defense articles or services unless the President determines, in accordance with subparagraph (C), that it is in the national interest of the United States for the Bank to provide such guarantee or insurance, and such determination has been reported to the Congress not less than 25 days of continuous session of the Congress before the date of such approval. For purposes of the preceding sentence, continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 25-day period referred to in such sentence.

"(E) The provision of a guarantee or insurance under subparagraph (B) shall be deemed to be the provision of security assistance for purposes of section 502B of the Foreign Assistance Act of 1961 (relating to governments which engage in a consistent pattern of gross violations of international recognized human rights).

"(F) To the extent that defense articles or services for which a guarantee or insurance is provided under subparagraph (B) are used for a purpose other than anti-narcotics purposes, they may be used only for those purposes for which defense articles and defense services sold under the Arms Export Control Act (relating to the foreign military sales program) may be used under section 4 of such Act.

"(G) As used in this paragraph, the term 'defense articles and services' means articles, services, and related technical data that are designated as defense articles and defense services pursuant to sections 38 and 47(7) of the Arms Export Control Act and listed on the United States Munitions List (part 121 of title 22 of the Code of Federal Regulations).".

SEC. 1022. LOAN PROGRAMS TO REDUCE ECONOMIC DEPENDENCE ON ILLICIT NARCOTICS.

The International Financial Institutions Act (22 U.S.C. 262 et seq.) is amended by redesignating section 1606 as section 1607 and by inserting after section 1605 the following new section:

"SEC. 1606. LOAN PROGRAMS TO REDUCE ECONOMIC DEPENDENCE ON ILLICIT NARCOTICS.

"(a) Findings.—The Congress finds that—

"(1) the illicit narcotics epidemic currently afflicting the United States represents a direct threat to the well-being of every United States citizen;

"(2) every effective means must be pursued to reduce the foreign production and subsequent importation into the United States of illicit narcotics;

"(3) the multilateral development banks can play an integral role in efforts to control the production of illicit narcotics;

"(4) producer country narcotics eradication programs will not be effective unless such programs provide an economic alternative to the production of narcotics;

"(5) efforts to address the illicit narcotics epidemic through production control are doomed to failure unless greater effort is applied to curb use of and demand for illicit narcotics; and

"(6) the appropriate role for the multilateral development banks in the 'War Against Drugs' is through coordinating and financing alternative economic opportunities in producer and trafficking countries.

"(b) Loan Programs to Reduce Economic Dependence on Illicit Narcotics.—The Secretary of the Treasury shall instruct the United States Executive Director of the

International Bank for Reconstruction and Development and the United States Executive Director of the Inter-American Development Bank to initiate discussions with other executive directors of such institutions and to advocate and support the creation, within such institutions, of specific country lending programs and policies (including crop substitution, creation of roads conducive to the expansion of markets for licit goods, other infrastructure development measures such as development projects generating employment, agricultural extension assistance, and region-specific development plans) which are particularly oriented to reducing or eliminating the economic dependence of regions of borrowing countries known to be areas in which illicit narcotics are produced or trafficked, on such production and trafficking.

"(c) Coordination Among Assistance Programs Designed to Reduce Economic Dependency on Illicit Narcotics.—In addition, the Secretary of the Treasury should instruct the United States Executive Director of the International Bank for Reconstruction and Development and the United States Executive Director of the Inter-American Development Bank to encourage such institutions to provide coordination among other multilateral and bilateral assistance programs designed to reduce the economic dependence of regions of borrowing countries known to be areas in which illicit narcotics are produced or trafficked, on such production and trafficking.".

Subtitle C—Drug-Free Public Housing

SEC. 1031. SHORT TITLE.

This subtitle may be cited as the "Drug-Free Public Housing Act of 1988".

SEC. 1032. PURPOSE.

The purpose of this subtitle is to reaffirm the principle that decent affordable shelter is a basic necessity, and the general welfare of the Nation and the health and living standards of its people require better coordination and training in drug prevention programs among the public officials and agencies responsible for administering the public housing programs of the Nation.

SEC. 1033. CLEARINGHOUSE ON DRUG ABUSE IN PUBLIC HOUSING.

(a) Establishment.—The Secretary of Housing and Urban Development shall establish, in the Office of Public Housing in the Department of Housing and Urban Development, a clearinghouse to receive, collect, process, and assemble information regarding the abuse of controlled substances in public housing projects.

(b) Functions.—The clearinghouse established under subsection (a) shall—

(1) respond to inquiries by members of the public requesting assistance in investigating, studying, and working on the problem of the abuse of controlled substances; and

(2) receive, collect, process, assemble, and provide information on programs, authorities, institutions, and agencies, that may further assist members of the public requesting information from the clearinghouse.

SEC. 1034. REGIONAL TRAINING PROGRAM ON DRUG ABUSE IN PUBLIC HOUSING.

(a) Establishment.—The Secretary of Housing and Urban Development shall establish a regional training program for the training of public housing officials, to better prepare and educate the officials to confront the widespread abuse of controlled substances in the communities in which the officials work.

(b) Operation.—The regional training program established under subsection (a) shall be conducted within 12 months after the date of the enactment of this Act by a national training unit established by the Secretary of Housing and Urban Development.

SEC. 1035. REGULATIONS.

Not later than 6 months after the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue any regulations necessary to carry out this subtitle.

Subtitle D—Elimination of Drug-Related Crime in Public Housing

SEC. 1041. GRANTS TO PUBLIC HOUSING AGENCIES FOR THE ELIMINATION OF DRUG-RELATED CRIME IN PUBLIC HOUSING.

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"GRANTS TO PUBLIC HOUSING AGENCIES FOR THE ELIMINATION OF DRUG-RELATED CRIME IN PUBLIC HOUSING

"Sec. 22. (a) Authority To Make Grants.—The Secretary may make grants to public housing agencies to enable the public housing agencies to carry out programs to eliminate drug-related crime in public housing projects.

"(b) Eligible Activities.—Any public housing agency receiving a grant under this section may use the grant only for the following purposes:

"(1) Employment of investigators.—The employment of 1 or more individuals—

"(A) to investigate the illegal manufacture, sale, distribution, use, or possession of controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) on or about the real property comprising any public housing project; and

"(B) to provide evidence relating to any such illegal activity in any administrative or judicial proceeding.

"(2) Assistance for tenant patrols.—The provision of training, communications equipment, and other related equipment for use by voluntary public housing tenant patrols acting under the supervision of local law enforcement officials.

"(c) Regulations.—The Secretary shall issue any regulations necessary to carry out this section.

"(d) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section. Any amount appropriated pursuant to this subsection shall remain available until expended.".

TITLE II—COMMITTEE ON EDUCATION AND LABOR

Subtitle A—Drug Education and Prevention Relating to Youth Gangs

SEC. 2001. ESTABLISHMENT OF DRUG ABUSE EDUCATION AND PREVENTION PROGRAM RELATING TO YOUTH GANGS.

The Secretary of Health and Human Services, through the Administration on Children, Youth, and Families, shall make grants to, and enter into contracts with, public and nonprofit private agencies, organizations (including community based organizations with demonstrated experience in this field), institutions, and individuals, to carry out projects and activities—

(1) to prevent and to reduce the participation of youth in the activities of gangs that engage in illicit drug-related activities,

(2) to promote the involvement of youth in lawful activities in communities in which such gangs commit drug-related crimes,

(3) to prevent the abuse of drugs by youth, to educate youth about such abuse, and to refer for treatment and rehabilitation members of such gangs who abuse drugs,

(4) to support activities of local police departments and other local law enforcement agencies to conduct educational outreach activities in communities in which gangs commit drug-related crimes,

(5) to inform gang members and their families of the availability of treatment and rehabilitation services for drug abuse,

(6) to facilitate Federal and State cooperation with local school officials to assist youth who are likely to participate in gangs that commit drug-related crimes,

(7) to facilitate coordination and cooperation among—

(A) local education, juvenile justice, employment and social service agencies, and

(B) drug abuse referral, treatment, and rehabilitation programs,

for the purpose of preventing or reducing the participation of youth in activities of gangs that commit drug-related crimes, and

(8) to provide technical assistance to eligible organizations in planning and implementing drug abuse education, prevention, rehabilitation, and referral programs for youth who are members of gangs that commit drug-related crimes.

SEC. 2002. APPLICATION FOR GRANTS AND CONTRACTS.

(a) Submission of Applications.—Any agency, organization, institution, or individual desiring to receive a grant, or to enter into a contract, under section 2001 shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require by rule.

(b) Contents of Application.—Each application for assistance under this subtitle shall—

(1) set forth a project or activity for carrying out one or more of the purposes specified in section 2001 and specifically identify each such purpose such project or activity is designed to carry out,

(2) provide that such project or activity shall be administered by or under the supervision of the applicant,

(3) provide for the proper and efficient administration of such project or activity,

(4) provide for regular evaluation of the operation of such project or activity,

(5) provide that regular reports on such project or activity shall be submitted to the Secretary, and

(6) provide such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this subtitle.

SEC. 2003. APPROVAL OF APPLICATIONS.

In selecting among applications submitted under section 2002(a), the Secretary shall give priority to applicants who propose to carry out projects and activities—

(1) for the purposes specified in section 2001 in geographical areas in which frequent and severe drug-related crimes are committed by gangs whose membership is composed primarily of youth, and

(2) that the applicant demonstrates that it has the broad support of community based organizations in such geographical areas.

SEC. 2004. COORDINATION WITH JUVENILE JUSTICE PROGRAMS.

The Secretary shall coordinate the program established by section 2001 with the programs and activities carried out under the Juvenile Justice and Delinquency Prevention Act of 1974 and with the programs and activities of the Attorney General, to ensure that all such programs and activities are complementary and not duplicative.

SEC. 2005. AUTHORIZATION OF APPROPRIATIONS.

To carry out this subtitle, there are authorized to be appropriated $30,000,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

Subtitle B—Alcohol Abuse Education Programs

SEC. 2101. INNOVATIVE ALCOHOL ABUSE EDUCATION PROGRAMS.

Part F of title IV of the Elementary and Secondary Education Act of 1965 is amended—

(1) by redesignating section 4607 as section 4608, and

(2) by inserting after section 4606 the following new section:

"SEC. 4607. INNOVATIVE ALCOHOL ABUSE EDUCATION PROGRAMS.

"(a) Programs for Children of Alcoholics.—The Secretary is authorized to develop materials for innovative programs of alcohol abuse education, especially programs that focus on the effect of the disease of alcoholism on families of alcoholics, particularly with respect to children of alcoholics. Programs for which materials are developed under the preceding sentence should be programs designed to benefit young children, particularly children in grades 5 through 8.

"(b) Training Programs for Educators.—The Secretary may make grants to programs for educators that are designed to—

"(1) increase awareness of children's problems that may be caused by an alcoholic parent;

"(2) enhance the ability of such educators to identify children at risk for alcohol abuse;

"(3) inform such educators concerning referral of children of alcoholics for appropriate professional treatment; and

"(4) train such educators to inform the public about the special problems of children who have an alcoholic parent.".

Subtitle C—Drug Abuse Education and Prevention Programs for Incarcerated Individuals

SEC. 2201. DRUG ABUSE EDUCATION AND PREVENTION FOR INCARCERATED INDIVIDUALS.

Section 326 of the Adult Education Act is amended—

(1) by inserting "(a) Mandatory Programs.—" before "Funds set aside",

(2) by redesignating subsection (b) as subsection (c),

(3) by inserting after subsection (a) the following new subsection (b):

"(b) Optional Programs.—Funds set aside under section 322(b)(1) by a State may be used for the cost of drug abuse education and prevention programs and referral to drug abuse treatment programs for criminal offenders in corrections institutions.", and

(4) by inserting "Definitions.—" after the subsection designation for subsection (c) (as redesignated by paragraph (2)).

Subtitle D—National Youth Sports Program

SEC. 2301. ESTABLISHMENT OF NATIONAL YOUTH SPORTS PROGRAM.

The Secretary of Health and Human Services may make grants to eligible entities in accordance with this section to carry out a national youth sports program to provide to disadvantaged youth—

(1) medical and nutrition services,

(2) exposure to college and university campuses,

(3) sports instruction and competition in settings that provide high quality facilities and supervision, and

(4) related educational and counseling services.

SEC. 2302. APPLICATIONS FOR GRANTS.

A grant may be made under section 2301 only to an eligible entity that—

(1) submits to the Secretary an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require, and

(2) provides to the Secretary satisfactory assurances that—

(A) not less than 90 percent of the youth who participate in each activity for which such grant will be expended to carry out the program established under such section will be from families with an income not exceeding the poverty line,

(B) to carry out its activities under such program, such entity will provide a non-Federal contribution (in cash or in kind) that equals or exceeds the amount of such grant, and

(C) such entity will comply with section 2303.

SEC. 2303. REQUIRED ACTIVITIES.

Each eligible entity that receives a grant under section 2301 shall expend such grant and the contribution required under section 2302(2)(B) to carry out activities for disadvantaged youth throughout a 1-year period, concentrating such activities in June, July, and August. Such activities shall include providing to all participating youth—

(1) access to the facilities and resources of all the institutions of higher education at which such activities are carried out;

(2) an initial medical examination and follow-up referral or treatment, without charge, while such youth participate in any of such activities in the 90-day period beginning on June 1;

(3) at least 1 nutritious meal per day, without charge, while such youth participate in any of such activities in the 90-day period beginning on June 1;

(4) high quality instruction in a variety of sports by college, high school, and junior high school coaches and teachers; and

(5) enrichment instruction and information on matters relating to the well-being of youth, such as drug and alcohol abuse prevention, educational and career opportunities, health and nutrition, study practices, and job responsibilities.

SEC. 2304. SPECIAL EMPHASIS ON DRUG ABUSE EDUCATION AND PREVENTION.

In selecting among applications submitted under section 2302, the Secretary—

(1) shall give special emphasis to the applications of eligible entities that propose to carry out activities relating to drug abuse education and prevention,

(2) may approve the use of such grant—

(A) to train in the most advanced and effective methods of drug abuse education and prevention the staff that will carry out such activities,

(B) to provide quality technical assistance to develop and implement drug education and prevention activities,

(C) to develop, implement, or operate a drug education and prevention program at sites where the applicant carries out the activities required by section 2303,

(D) involve in drug education and prevention activities the parents of youth who participate in the national youth sports program, and

(E) develop and provide anti-drug abuse educational materials, including videotapes and booklets, for use in carrying out activities under section 2301, and

(3) shall give priority to eligible entities that propose to carry out such activities in or near geographical areas in which drug abuse and related problems are concentrated.

SEC. 2305. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $15,000,000 for fiscal year 1989, $17,000,000 for fiscal year 1990, and $20,000,000 for fiscal year 1991 to carry out this subtitle.

Subtitle E—Programs Relating to Juvenile Delinquency and to Runaway and Homeless Youth

PART 1—PROGRAM TO ENHANCE JUVENILE DELINQUENCY PREVENTION

Subpart A—Projects and Activities of State and Local Governments

SEC. 2401. ESTABLISHMENT OF PROGRAM.

The Administrator shall make grants to States for purposes of planning, establishing, operating, coordinating, and evaluating projects, directly or through grants and contracts with public and private agencies—

(1) to develop more effective education, prevention, treatment, and rehabilitation services related to the illicit use of drugs by juveniles,

(2) to provide to juveniles and their families referral to such services and to other appropriate services available to them, and

(3) to coordinate the referral and services described in paragraphs (1) and (2).

SEC. 2402. ALLOTMENT.

(a) In General.—Except as provided in subsection (b), funds appropriated to carry out this part shall be allotted by the Administrator among the States based on the relative population of individuals who are less than 18 years of age.

(b) Minimum Allotments.—(1) Any allotment made under subsection (a) to a State shall be not less than $75,000, except that an allotment to the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands (other than the Northern Mariana Islands) shall be not less than $20,000 each.

SEC. 2403. APPLICATIONS FOR ALLOTMENTS.

(a) To receive an allotment under section 2402, a State shall submit an application that satisfies the requirements of section 2403 and that contains a plan that describes the drug abuse education, prevention, treatment, and rehabilitation projects and activities it proposes to carry out over a 3-year period with such grant. To the extent practicable, such projects and activities shall be designed to increase or enhance the programs and activities for which financial assistance is received under the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) and the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 4601-4663). Such plan shall be developed with the participation and review of the advisory group established pursuant to section 223(a)(3) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(3)).

(b) In expending the amounts allocated under subsection (b), each State shall give priority to projects which—

(1) propose innovative methods of preventing or reducing juvenile delinquency through drug abuse education, prevention, and treatment programs,

(2) assist or support families,

(3) cooperate and coordinate with other youth serving agencies and organizations in the community,

(4) demonstrate strong community support, and

(5) provide services in geographical areas with a high frequency of illicit drug use.

SEC. 2404. AUTHORIZATION OF APPROPRIATIONS.

(a) Authorization.—Subject to subsection (b), to carry out this subpart, there are authorized to be appropriated $30,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

(b) Limitation.—No funds are authorized to be appropriated for a fiscal year to carry out this subpart unless the aggregate amount appropriated to carry out title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611-5672) for such fiscal year is not less than the aggregate amount appropriated to carry out such title for the preceding fiscal year.

Subpart B—Other Projects and Activities

SEC. 2411. ESTABLISHMENT OF PROGRAM.

(a) In General.—The Administrator shall, on a competitive basis, make grants to and enter into contracts with public and private nonprofit agencies, organizations, institutions, and individuals to carry out activities designed—

(1) to prevent or to reduce juvenile delinquency by carrying out drug abuse education, prevention, and treatment projects,

(2) to support research on—

(A) the illicit use of drugs by juveniles,

(B) the effects on juveniles of the illicit use of drugs by family members,

(C) innovative and effective approaches to prevention and treatment of such use, and

(D) the correlation between delinquent behavior and such use,

(3) to develop community outreach and counseling projects related to reducing and preventing the illicit use of drugs, which involve providing services to juveniles by juveniles, and

(4) to provide training and technical assistance relating to innovative and effective drug abuse education, prevention, and treatment to persons and organizations involved in the prevention and treatment of juvenile delinquency.

(b) Limitation.—A grant or contract may be made under subsection (a) for a period not to exceed 3 years.

SEC. 2412. AUTHORIZATION OF APPROPRIATIONS.

(a) Authorization.—Subject to subsection (b), to carry out this subpart, there are authorized to be appropriated $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

(b) Limitation.—No funds are authorized to be appropriated for a fiscal year to carry out this subpart unless the aggregate amount appropriated to carry out title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611-5672) for such fiscal year is not less than the aggregate amount appropriated to carry out such title for the preceding fiscal year.

Subpart C—Reports

SEC. 2431. ANNUAL REPORT.

Not later than 180 days after the end of a fiscal year for which funds are appropriated to carry out this part, the Administrator shall submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate a report that contains—

(1) a description of—

(A) the projects and activities for which each State expended in such fiscal year funds received under subpart A, and

(B) how each State coordinated the projects and activities for which such funds were so expended with projects and activities for which funds were expended under the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601) and the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 4601-4663),

(2) a summary of each project or activity for which funds received for such fiscal year under subpart B were expended, an evaluation of the results of such project or activity, and a determination of the feasibility and advisability of replicating such project or activity in other locations, and

(3) a description of exemplary drug abuse education, prevention, and treatment projects and activities, with particular attention to community based juvenile delinquency prevention projects and activities that involve and assist families of juveniles.

PART 2—PROGRAM FOR RUNAWAY AND HOMELESS YOUTH

SEC. 2451. ESTABLISHMENT OF PROGRAM.

(a) The Secretary shall make grants to public and private nonprofit agencies, organizations, and institutions to carry out research, demonstration, and services projects designed—

(1) to provide individual, family, and group counseling to runaway youth and their families and to homeless youth for the purpose of preventing or reducing the illicit use of drugs by such youth,

(2) to develop and support peer counseling programs for runaway and homeless youth related to the illicit use of drugs,

(3) to develop and support community education activities related to illicit use of drugs by runaway and homeless youth, including outreach to youth individually,

(4) to provide to runaway and homeless youth in rural areas assistance (including the development of community support groups) related to the illicit use of drugs,

(5) to provide to individuals involved in providing services to runaway and homeless youth, information and training regarding issues related to the illicit use of drugs by runaway and homeless youth,

(6) to support research on the illicit drug use by runaway and homeless youth, and the effects on such youth of drug abuse by family members, and any correlation between such use and attempts at suicide, and

(7) to improve the availability and coordination of local services related drug abuse, for runaway and homeless youth.

(b) Priority.—In selecting among applicants for grants under subsection (a), the Secretary shall give priority to agencies and organizations that have experience in providing services to runaway and homeless youth.

(c) Limitation.—Grants under this section may be made for a period not to exceed 3 years.

SEC. 2452. ANNUAL REPORT.

Not later than 180 days after the end of a fiscal year for which funds are appropriated to carry out this part, the Secretary shall submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate a report that contains—

(1) a description of the types of projects and activities for which grants were made under this part for such fiscal year,

(2) a description of the number and characteristics of the youth and families served by such projects and activities, and

(3) a description of exemplary projects and activities for which grants were made under this part for such fiscal year.

SEC. 2453. AUTHORIZATION OF APPROPRIATIONS.

(a) Authorization.—Subject to subsection (b), to carry out this part, there are authorized to be appropriated $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

(b) Limitation.—No funds are authorized to be appropriated for a fiscal year to carry out this part unless the aggregate amount appropriated to carry out title III of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5701-5751) for such fiscal year is not less than the aggregate amount appropriated to carry out such title for the preceding fiscal year.

PART 3—GENERAL PROVISIONS

SEC. 2461. APPLICATIONS.

(a) Submission of Application.—Any State, unit of local government (or combination of units of local government), agency, organization, institution, or individual desiring to receive a grant, or enter into a contract, under this subtitle shall submit an application at such time, in such manner, and containing or accompanied by such information as may be prescribed by the Federal officer who is authorized to make such grant or enter into such contract (hereinafter in this part referred to as the "appropriate Federal officer").

(b) Contents of Application.—In accordance with guidelines established by the appropriate Federal officer, each application for assistance under this subtitle shall—

(1) set forth a project or activity for carrying out one or more of the purposes for which such grant or contract is authorized to be made and expressly identify each such purpose such project or activity is designed to carry out,

(2) provide that such project or activity shall be administered by or under the supervision of the applicant,

(3) provide for the proper and efficient administration of such project or activity,

(4) provide for regular evaluation of such project or activity,

(5) provide that regular reports on such project or activity shall be sent to the appropriate Federal officer, and

(6) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this subtitle.

SEC. 2462. REVIEW OF APPLICATIONS.

(a) Consideration of Factors.—In reviewing applications submitted under this subtitle, the appropriate Federal officer shall consider—

(1) the relative cost and effectiveness of the proposed project or activity in carrying out purposes for which the requested grant or contract is authorized to be made,

(2) the extent to which such project or activity will incorporate new or innovative techniques,

(3) the increase in capacity of the State or the public or nonprofit private agency, organization, institution, or individual involved to provide services to address—

(A) juvenile delinquency through drug abuse education, prevention, and treatment, in the case of a application submitted under part 1, and

(B) the illicit use of drugs by runaway and homeless youth, in the case of an application submitted under part 2,

(4) the extent to which such project or activity serves communities which have high rates of illicit drug use by juveniles (including runaway and homeless youth),

(5) the extent to which such project or activity will provide services in geographical areas where similar services are unavailable or in short supply, and

(6) the extent to which such project or activity will increase the level of services, or coordinate other services, in the community available to eligible youth.

(b) COMPETITIVE PROCESS.—(1) Applications submitted under this subtitle shall be selected for approval through a competitive process to be established by rule by the appropriate Federal officer. As part of such a process, such officer shall publish a notice in the Federal Register—

(A) announcing the availability of funds to carry out part 1 or 2, as the case may be,

(B) the general criteria applicable to the selection of applicants to receive such funds, and

(C) a description of the procedures applicable to submitting and reviewing applications for such funds.

(2) As part of such process, each application referred to in subsection (a) shall be subject to peer review by individuals (excluding officers and employees of the Department of Justice and the Department of Health and Human Services) who have expertise in the subject matter related to the project or activity proposed in such application.

(c) EXPEDITED REVIEW.—The appropriate Federal officer shall expedite the consideration of an application referred to in subsection (a) if the applicant demonstrates, to the satisfaction of the Administrator, that the failure to expedite such consideration would prevent the effective implementation of the project or activity set forth in such application.

Subtitle F—Drug Abuse Education for Participants in the Special Supplemental Food Program for Women, Infants, and Children

SEC. 2501. DRUG ABUSE EDUCATION FOR PARTICIPANTS IN THE SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended as follows:

(1) PURPOSE.—Subsection (a) is amended by striking "health problems" in the last sentence and inserting "health problems, including drug abuse,".

(2) EDUCATION.—Subsection (e)(1) is amended by inserting "and drug abuse education" after "nutrition education" each place it appears in the first and second sentences.

(3) STATE PLAN.—Subsection (f) is amended—

(A) in paragraph (1)(C)(iii), by inserting "drug abuse education," after "family planning,", and

(B) in paragraph (14)(A), by inserting "and instruction relating to drug abuse education and prevention" after "instruction".

(4) STUDY; AUTHORIZATON OF APPROPRIATIONS.—Subsection (g) is amended by adding at the end the following new paragraph:

"(4)(A) The Secretary, before the end of the 6-month period beginning on the date of the enactment of this Act, shall conduct a study with respect to appropriate methods of drug abuse education instruction.

"(B) There is authorized to be appropriated, for purposes of carrying out the study required by subparagraph (A) and for purposes of preparing and distributing drug abuse education materials under this section, $10,000,000 for fiscal year 1989 and such sums as may be necessary for each succeeding fiscal year.".

(5) NATIONAL ADVISORY COUNCIL ON MATERNAL, INFANT, AND FETAL NUTRITION.—Subsection (k)(1) is amended—

(A) in the first sentence, by striking "twenty-one" and inserting "twenty-three", and

(B) in the last sentence—

(i) by striking "and" the last place it appears, and

(ii) by striking the period at the end and inserting the following: "; one member shall be an expert in drug abuse education and prevention; and one member shall be an expert in alcohol abuse education and prevention.".

Subtitle G—Community-Based Volunteer Demonstration Projects for Drug Abuse Education and Prevention Services and Activities

SEC. 2601. COMMUNITY-BASED VOLUNTEER DEMONSTRATION PROJECTS FOR DRUG ABUSE EDUCATION AND PREVENTION SERVICES AND ACTIVITIES.

(a) PROGRAM AUTHORIZED.—

(1) GENERAL AUTHORITY.—Section 124 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.) is amended—

(A) by inserting "(a)" after the section designation, and

(B) by adding at the end the following new subsection:

"(b)(1) The Director is authorized to make grants to public and nonprofit organizations for innovative, community-based volunteer demonstration projects which provide comprehensive drug abuse education and prevention services and activities to youths during the summer months. Such projects may include—

"(A) extending effective school-based programs, or other programs operated during the school year, to the summer months;

"(B) developing or expanding summer recreational; volunteer service, and youth development activities to provide for youths positive alternatives to illicit drug use;

"(C) incorporating drug abuse education and prevention activities in public and private programs which serve youths during the summer months;

"(2) In awarding grants under this subsection, the Director shall give priority to projects that—

"(A) serve high-risk youths; and

"(B) provide opportunities for parent involvement.

"(3) For the purposes of this subsection, the term 'high-risk youth' has the same meaning given such term in section 5122(b)(2) of the Elementary and Secondary Education Act of 1965.".

(2) TECHNICAL AMENDMENT.—The table of contents contained in the first section of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 note) is amended by inserting after the item relating to section 123 the following new item:

"Sec. 124. Special initiatives.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 501 of the Domestic Volunteer Service Act (42 U.S.C. 5081) is amended—

(1) in the first sentence of subsection (c), by inserting "(other than section 124(b))" after "of this Act",

(2) in subsection (d)(1), by inserting "(other than section 124(b))" after "title I" the first place it appears, and

(3) by adding at the end the following new subsection:

"(f) There is authorized to be appropriated for each of the fiscal years 1989, 1990, and 1991 $5,000,000 for purposes of carrying out section 124(b).".

Subtitle H—Amendments to the Drug-Free Schools and Communities Act of 1986

SEC. 2701. LIMITATION ON ADMINISTRATIVE COSTS UNDER DRUG-FREE SCHOOLS AND COMMUNITIES ACT OF 1986.

Section 5121(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3191(a)) is amended—

(1) by inserting "(1)" after "PROGRAM.—"; and

(2) by adding at the end the following new paragraph:

"(2) Not more than 2.5 percent of the amount reserved under paragraph (1) may be used for administrative costs of the chief executive officer of the State incurred in carrying out the duties of the chief executive officer under this part.".

SEC. 2702. PARTICIPATION OF INDIVIDUALS OTHER THAN HIGH-RISK YOUTH IN INNOVATIVE STATE PROGRAMS UNDER THE DRUG-FREE SCHOOLS AND COMMUNITIES ACT OF 1986.

Section 5122(b) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3192(b)) is amended—

(1) in paragraph (1), by inserting "that are designed" after "coordinated services"; and

(2) by adding at the end the following new paragraph:

"(3) Not more than 10 percent of participants in programs under paragraph (1) may be individuals who are not high-risk youth if the Secretary determines that the participation of such individuals will not significantly diminish the amount or quality of services provided to high-risk youth.".

SEC. 2703. ACCURACY REQUIREMENT WITH RESPECT TO MATERIALS PROVIDED UNDER THE DRUG-FREE SCHOOLS AND COMMUNITIES ACT OF 1986.

(a) RESPONSIBILITIES OF STATE EDUCATIONAL AGENCIES.—Section 5124(b)(2) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3194(b)(2)) (hereafter in this section referred to as the "Act") is amended by inserting after "evaluation of" the following: "the most readily available, accurate, and up-to-date".

(b) LOCAL DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS.—Section 5125(a)(1) of the Act (20 U.S.C. 3195(a)(1)) is amended by striking "curricula" and all that follows through the semicolon and inserting the following: "curricula and textbooks and materials—

"(A) developed from the most readily available, accurate, and up-to-date information; and

"(B) which clearly and consistently teach that illicit drug use is wrong and harmful;".

(c) FEDERAL ACTIVITIES.—Section 5132(b)(3) of the Act (20 U.S.C. 3212(b)(3)) is amended by inserting after "disseminate" the following: "the most readily available, accurate, and up-to-date".

Subtitle I—Miscellaneous

SEC. 2801. DEFINITIONS.

For purposes of this title and the amendments made by this title—

(1) the term "Administrator" means the Administrator of the Office of Juvenile Justice and Delinquency Prevention,

(2) the term "community based" has the meaning given it in section 103(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(1)),

(3) the term "controlled substance" has the meaning given it in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)),

(4) the term "controlled substance analogue" has the meaning given it in section

102(32) of the Controlled Substances Act (21 U.S.C. 802(32)),

(5) the term "disadvantaged youth" means a youth whose family income does not exceed 130 percent of the poverty line,

(6) the term "drug" means—

(A) a beverage containing alcohol,

(B) a controlled substance, or

(C) a controlled substance analogue,

(7) the term "Director" means the Director of the ACTION Agency,

(8) the term "eligible entity" means an organization the members of which are institutions of higher education that have access to high-quality educational and sports facilities,

(9) the term "illicit" means unlawful or injurious,

(10) the term "institution of higher education" has the meaning given it in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)),

(11) the term "public agency" has the meaning given it in section 103(11) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(11)),

(12) the term "poverty line" has the meaning given it in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) and includes any revision required by such section,

(13) the term "Secretary" means—

(A) the Secretary of Health and Human Services for purposes of subtitles A, D, and E,

(B) the Secretary of Education for purposes of the amendments made by subtitles B and C, and

(C) the Secretary of Agriculture for purposes of the amendments made by subtitle F,

(14) the term "State" has the meaning given it in section 103(7) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(7)),

(15) the term "treatment" has the meaning given it in section 103(15) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(15)),

(16) the term "unit of general local government" has the meaning given it in section 103(8) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(8)), and

(17) the term "youth" means both boys and girls.

TITLE III—COMMITTEE ON FOREIGN AFFAIRS

Subtitle A—General Provisions

SEC. 3001. SHORT TITLE.

This title may be cited as the "International Narcotics Control Act of 1988".

SEC. 3002. TABLE OF CONTENTS.

The table of contents for this title is as follows:

Subtitle A—General Provisions
Sec. 3001. Short title.
Sec. 3002. Table of contents.
Sec. 3003. Definitions.
Subtitle B—Latin American Regional Anti-Narcotics Force and Integrated Plan To Fight the International Cocaine Trade
Sec. 3011. Need for Latin American regional anti-narcotics force.
Sec. 3012. Negotiations to establish Latin American regional anti-narcotics force.
Sec. 3013. United States assistance for Latin American regional anti-narcotics force.
Sec. 3014. Establishment of a regional anti-narcotics training center in the Caribbean.
Sec. 3015. United States effort to establish other regional anti-narcotic forces.
Sec. 3016. Need for an integrated regional plan to fight the international cocaine trade.
Subtitle C—Authorizations and Earmarkings of Foreign Assistance
Sec. 3021. Authorization for international narcotics control assistance.
Sec. 3022. Herbicides for aerial coca eradication.
Sec. 3023. Procurement of weapons to defend aircraft involved in narcotics control efforts.
Sec. 3024. Training for narcotics control activities.
Sec. 3025. Military assistance for anti-narcotics efforts.
Sec. 3026. Reallocation of funds withheld from countries which fail to take adequate steps to halt illicit drug production or trafficking.
Sec. 3027. Increased funding for AID drug education programs.
Subtitle D—Provisions Relating to Specific Countries
Sec. 3031. Cooperative nonmajor drug-transit countries.
Sec. 3032. Assistance for Bolivia.
Sec. 3033. Assistance for Peru.
Sec. 3034. Assistance for Mexico.
Sec. 3035. Assistance for Colombia.
Sec. 3036. Illicit drug production and trafficking in Pakistan.
Sec. 3037. United States reliance on licit opium gum from foreign sources.
Sec. 3038. Afghanistan as a source of heroin.
Sec. 3039. Involvement of the Government of Laos in illicit drug production and trafficking.
Subtitle E—Annual Reporting and Certification Process for Foreign Assistance Programs
Sec. 3041. Expression in numerical terms of maximum achievable reductions in illicit drug production.
Sec. 3042. Reports on assistance denied.
Sec. 3043. Drug-related corruption by foreign government officials.
Sec. 3044. Determining major drug-transit countries.
Sec. 3045. Requirement for bilateral narcotics agreements.
Sec. 3046. Waiver of restrictions on United States assistance for certain major drug-transit countries.
Sec. 3047. Clarification of assistance termination requirement; congressional review of recertifications.
Sec. 3048. Definition of United States assistance.
Sec. 3049. Reports and restrictions on certain countries.
Sec. 3050. Removal of certification procedure for MDB financing from Foreign Assistance Act.
Subtitle F—Miscellaneous Provisions Relating to Assistance Programs
Sec. 3051. Reporting on transfer of United States assets.
Sec. 3052. Importance of suppressing international narcotics trafficking.
Sec. 3053. Prohibition on assistance to drug traffickers.
Sec. 3054. Procurement for international narcotics control assistance.
Sec. 3055. Prohibition on use of narcotics control assistance to acquire real property.
Sec. 3056. Correction of technical errors in prior Acts.
Sec. 3057. Reimbursement for DOD services used in providing international narcotics control assistance.
Subtitle G—Department of State Activities
Sec. 3061. Coordination of all United States anti-narcotics assistance to foreign countries.
Sec. 3062. Rewards for certain information.
Sec. 3063. Denial of passports to certain convicted drug traffickers.
Sec. 3064. Machine readable visas.
Sec. 3065. Extradition and mutual legal assistance treaties and model comprehensive antidrug laws.
Sec. 3066. Overseas investigative program.
Sec. 3067. Assignment of more Drug Enforcement Administration Agents to United States embassies.
Subtitle H—Miscellaneous Provisions
Sec. 3071. Covert actions directed at illicit international drug trafficking.
Sec. 3072. Encouragement of United Nations efforts to establish an international force aimed at stopping the trafficking of illegal drugs.

SEC. 3003. DEFINITIONS.

As used in this title, the terms "drug" and "narcotic" mean narcotic and psychotropic drugs and other controlled substances as defined in section 481(i)(3) of the Foreign Assistance Act of 1961.

Subtitle B—Latin American Regional Anti-Narcotics Force and Integrated Plan To Fight the International Cocaine Trade

SEC. 3011. NEED FOR LATIN AMERICAN REGIONAL ANTI-NARCOTICS FORCE.

(a) Sense of Congress.—It is the sense of Congress that—

(1) the operations of international illegal drug smuggling organizations pose a direct threat to the national security of the member nations of the Organization of American States;

(2) illegal international drug smuggling organizations have grown so large and powerful that they threaten to overwhelm small nations standing alone against them;

(3) to preserve the national sovereignty, protect the public health, and maintain domestic law and order within their borders, member nations of the Organization of American States should coordinate their efforts to fight the illegal drug trade;

(4) recent events in drug source and transit countries in the Western Hemisphere make clear the requirement for international agreement on the formation of a multinational strike force intended to conduct operations against these illegal drug smuggling organizations;

(5) the United States should make every effort to initiate diplomatic discussions through the Organization of American States aimed at achieving agreement to establish and operate a Latin American anti-narcotics force; and

(6) sensitive to the legitimate concerns of other member nations of the Organization of American States, the United States stands ready to provide equipment, training, and financial resources to support the establishment and operation of such an anti-narcotics force, but believes that the personnel for such a force should be provided by those

nations facing the most serious threat from drug trafficking organizations.

(b) Purposes.—The purposes of this subtitle are—

(1) to authorize the appropriation of $10,000,000 for the United States share of the expenses of a Latin American regional anti-narcotics force;

(2) to encourage agreement within the Organization of American States on the establishment of Latin American regional anti-narcotics force;

(3) to encourage the establishment, under appropriate multilateral auspices, of regional anti-narcotic forces in other regions of the world; and

(4) to encourage the creation of a comprehensive, integrated, multinational plan whose objective would be the substantial reduction or elimination of the international cocaine trade.

SEC. 3012. NEGOTIATIONS CONCERNING A LATIN AMERICAN REGIONAL ANTI-NARCOTICS FORCE.

(a) United States Initiative.—The President shall direct the United States representative to the Organization of American States to seek the views of other member nations of the Organization on the feasibility of establishing a Latin American regional anti-narcotics force.

(b) Regional Summit Conference.—If there is a positive response within the Organization of American States to the United States initiative described in subsection (a), the President shall call for a meeting of heads of government of member nations of the Organization to conclude an agreement providing for the establishment of a regional anti-narcotics force, with appropriate contributions of personnel, training, equipment and financial resources for this force to be made by members of the Organization.

SEC. 3013. UNITED STATES ASSISTANCE FOR LATIN AMERICAN REGIONAL ANTI-NARCOTICS FORCE.

(a) DOD Assistance for Anti-Narcotics Force.—If an agreement is reached within the Organization of American States providing for the establishment of a regional anti-narcotics force, the President shall direct the Secretary of Defense to provide appropriate assistance for that force.

(b) Authorization of Appropriations.—In addition to amounts otherwise available for such purpose, there are authorized to be appropriated to the President, as supplemental appropriations for fiscal year 1988 (which are authorized to remain available until expended), $10,000,000 for the United States share of the expenses of a Latin American regional anti-narcotics force, including reimbursement to the Department of Defense for assistance provided pursuant to subsection (a).

(c) Notice to Congress.—Not less than 15 days before obligating funds authorized to be appropriated by subsection (b), the President shall notify the committees of Congress specified in section 634A of the Foreign Assistance Act of 1961 in accordance with the reprogramming procedures applicable under that section.

SEC. 3014. ESTABLISHMENT OF A REGIONAL ANTI-NARCOTICS TRAINING CENTER IN THE CARIBBEAN.

It is the sense of the Congress that the Assistant Secretary of State for International Narcotics Matters—

(1) should seek the establishment of a regional anti-narcotics training center in the Caribbean;

(2) should contribute funds or other resources to such a center; and

(3) should seek such contributions from other countries for such a center.

SEC. 3015. UNITED STATES EFFORT TO ESTABLISH OTHER REGIONAL ANTI-NARCOTIC FORCES.

The Congress urges the President to seek the establishment, in each of the relevant regions of the world, of a multilateral regional anti-narcotics force similar to the Latin America regional anti-narcotics force contemplated by this subtitle.

SEC. 3016. NEED FOR AN INTEGRATED REGIONAL PLAN TO FIGHT THE INTERNATIONAL COCAINE TRADE.

(a) Consultations Concerning Creation of an Integrated Plan.—The Secretary of State shall consult with—

(1) the heads of appropriate agencies and departments of the United States Government,

(2) the governments of those countries in the Western Hemisphere that cultivate, process, or traffick in cocaine, and

(3) the governments of other cocaine consuming countries,

about the feasibility of creating a comprehensive, integrated, multinational plan whose objective would be the substantial reduction or elimination of the international cocaine trade.

(b) Report on the Integrated Plan.—Not later than 6 months after the date of enactment of this Act, the Secretary of State shall report to the Congress on—

(1) the feasibility of creating a comprehensive, integrated, multinational plan whose objective would be the substantial reduction or elimination of the international cocaine trade;

(2) the measures in such areas as eradication, interdiction, crop substitution, economic development, extradition, money-laundering, precursor chemical control, and related fields, that would be required to achieve such an objective;

(3) the material resources, funding, and technological assistance each producer and transit country would require in order to achieve such an objective; and

(4) the resources, funding, and other assistance each producer, transit, and consuming country would be prepared to make available for such an effort.

Subtitle C—Authorizations and Earmarkings of Foreign Assistance

SEC. 3021. AUTHORIZATION FOR INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.

Section 482(a) of the Foreign Assistance Act of 1961 is amended by striking out paragraphs (1) and (3) and by inserting the following new paragraph (1) after "(a)":

"(1) To carry out the purposes of section 481, there are authorized to be appropriated to the President $101,000,000 for fiscal year 1989.".

SEC. 3022. HERBICIDES FOR AERIAL COCA ERADICATION.

The Secretary of State shall use not less than $500,000 of the funds made available for fiscal year 1989 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control) to finance the testing and use of safe and effective herbicides for use in the aerial eradication of coca.

SEC. 3023. PROCUREMENT OF WEAPONS TO DEFEND AIRCRAFT INVOLVED IN NARCOTICS CONTROL EFFORTS.

(a) Earmarking of MAP Funds.—Of the funds available to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to grant military assistance), $900,000 for fiscal year 1989 shall be made available to arm, for defensive purposes, aircraft used in narcotic control eradication or interdiction efforts. These funds may only be used to arm aircraft already in the inventory of the recipient country, and may not be used for the purchase of new aircraft.

(b) Notification to Congress.—The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate shall be notified of the use of any such funds for that purpose at least 15 days in advance in accordance with the reprogramming procedures applicable under section 634A of the Foreign Assistance Act of 1961.

SEC. 3024. TRAINING FOR NARCOTICS CONTROL ACTIVITIES.

(a) Earmarking of Funds.—Not less than $2,000,000 of the funds made available for fiscal year 1989 to carry out chapter 5 of part II of the Foreign Assistance Act (relating to international military education and training) shall be available only for—

(1) education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts of countries in Latin America and the Caribbean which are described in subsection (c); and

(2) the expenses of deploying, upon the request of the government of a foreign country described in subsection (c), Department of Defense mobile training teams in that foreign country to conduct training in military-related individual and collective skills that will enhance that country's ability to conduct tactical operations in narcotics interdiction.

(b) Units Eligible for Training.—Education and training may be provided under subsection (a)(1) and training may be provided under subsection (a)(2) only for foreign law enforcement agencies, or other units, that are organized for the specific purpose of narcotics enforcement.

(c) Eligible Countries.—Assistance may be provided under this section only for countries—

(1) which are major illicit drug producing or major drug-transit countries (as defined in section 481(i) of the Foreign Assistance Act of 1961);

(2) which have democratic governments; and

(3) whose law enforcement agencies do not engage in a consistent pattern of gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961).

(d) Coordination With International Narcotics Control Assistance Program.—Assistance under this section shall be coordinated with assistance provided under chapter 8 of part I of that Act (relating to international narcotics control).

(e) Waiver of Section 660.—Assistance may be provided pursuant to this section notwithstanding the prohibition contained in section 660 of the Foreign Assistance Act of 1961 (relating to police training).

SEC. 3025. MILITARY ASSISTANCE FOR ANTI-NARCOTICS EFFORTS.

(a) Purposes of Assistance.—Assistance provided under this section shall be designed to—

(1) enhance the ability of friendly governments to control illicit narcotics production and trafficking;

(2) strengthen the bilateral ties of the United States with friendly governments by offering concrete assistance in this area of great mutual concern; and

(3) strengthen respect for internationally recognized human rights and the rule of law

in efforts to control illicit narcotics production and trafficking.

(b) Waiver of Certain Provisions.—Section 660(a) of the Foreign Assistance Act of 1961 shall not apply with respect to assistance provided under chapter 2 of part II of that Act (relating to the grant military assistance program) to countries described in subsection (c) for the procurement, for use in narcotics control, eradication, and interdiction efforts, of weapons or ammunition for foreign law enforcement agencies, or other units, that are organized for the specific purpose of narcotics enforcement.

(c) Eligible Countries.—Assistance may be provided under this section only for countries—

(1) which are major illicit drug producing or major drug-transit countries (as defined in section 481(i) of the Foreign Assistance Act of 1961);

(2) which have democratic governments; and

(3) whose law enforcement agencies do not engage in a consistent pattern of gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961).

(d) Reports to Congress.—Not less than 15 days before funds are obligated to provide assistance authorized by this section, the President shall transmit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, in accordance with the procedures applicable under section 634A of the Foreign Assistance Act of 1961, a written notification which specifies—

(1) the country to which the assistance is to be provided;

(2) the type and value of the assistance to be provided;

(3) the law enforcement agencies or other units that will receive the assistance; and

(4) an explanation of how the proposed assistance will achieve the purposes specified in subsection (a) of this section.

(e) Reports on Human Rights Situation.—Section 502(c) of the Foreign Assistance Act of 1961 (relating to country-specific human rights reports upon the request of the foreign affairs committees) applies with respect to countries for which assistance authorized by this section is proposed or is being provided.

(f) Coordination With International Narcotics Control Assistance Program.—Assistance under this section shall be coordinated with assistance provided under chapter 8 of part I of that Act (relating to international narcotics control).

(g) Earmarking for Latin America and the Caribbean.—Of the amounts made available for fiscal year 1989 to carry out chapter 2 of part II of the Foreign Assistance Act of 1961, $3,500,000 shall be available only to provide assistance authorized by this section for countries in Latin America or the Caribbean.

SEC. 3026. REALLOCATION OF FUNDS WITHHELD FROM COUNTRIES WHICH FAIL TO TAKE ADEQUATE STEPS TO HALT ILLICIT DRUG PRODUCTION OR TRAFFICKING.

(a) Requirement to Reallocate.—Chapter 8 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"SEC. 486. REALLOCATION OF FUNDS WITHHELD FROM COUNTRIES WHICH FAIL TO TAKE ADEQUATE STEPS TO HALT ILLICIT DRUG PRODUCTION OR TRAFFICKING.

"(a) Additional Assistance for Countries Taking Significant Steps.—If any funds authorized to be appropriated for any fiscal year for security assistance are not used for assistance for the country for which those funds were allocated because of the requirements of section 481(h) or any other provision of law requiring the withholding of assistance for countries that have not taken adequate steps to halt illicit drug production or trafficking, the President shall use those funds for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking, as follows:

"(1) International narcotics control assistance.—Those funds may be transferred to and consolidated with the funds appropriated to carry out this chapter in order to provide additional narcotics control assistance for those countries. Funds transferred under this paragraph may only be used to provide increased funding for activities previously justified to the Congress. Transfers may be made under this paragraph without regard to the 20-percent increase limitation contained in section 610(a). This paragraph does not apply with respect to funds made available for assistance under the Arms Export Control Act.

"(2) Security assistance.—Any such funds not used under paragraph (1) shall be reprogrammed within the account for which they were appropriated (subject to the regular reprogramming procedures under section 634A) in order to provide additional security assistance for those countries.

"(b) Definition of Security Assistance.—As used in this section, the term 'security assistance' means assistance under chapter 2 of part II of this Act (relating to the military assistance program), chapter 4 of part II of this Act (relating to the Economic Support Fund), chapter 5 of part II of this Act (relating to international military education and training), or the Arms Export Control Act (relating to foreign military sales credits).".

(b) Effective Date.—The amendment made by subsection (a) does not apply with respect to funds appropriated prior to the date of enactment of this Act.

SEC. 3027. INCREASED FUNDING FOR AID DRUG EDUCATION PROGRAMS.

There are authorized to be appropriated to the President, as supplemental appropriations for fiscal year 1988 (which are authorized to remain available until expended), $1,000,000 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), which amount shall be used pursuant to section 126(b)(2) of that Act for additional activities aimed at increasing awareness of the effects of production and trafficking of illicit narcotics on source and transit countries.

Subtitle D—Provisions Relating to Specific Countries

SEC. 3031. COOPERATIVE NONMAJOR DRUG-TRANSIT COUNTRIES.

(a) Greater Attention.—The Congress urges the Assistant Secretary of State for International Narcotics Matters to give greater attention, and provide more narcotics control assistance, to those countries which are drug-transit countries but are not major drug-transit countries (as defined in section 481(i)(5) of the Foreign Assistance Act of 1961) and which are cooperating with the United States in its international narcotics control efforts.

(b) Earmarking of Assistance.—Of the amounts made available for fiscal year 1989 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control), not less than $1,000,000 shall be available only for assistance to countries described in subsection (a).

SEC. 3032. ASSISTANCE FOR BOLIVIA.

(a) Security Assistance.—For fiscal year 1989, assistance may be provided for Bolivia under chapter 2 (relating to grant military assistance), chapter 4 (relating to the economic support fund), and chapter 5 (relating to international military education and training) of part II of the Foreign Assistance Act of 1961 and under chapter 2 of the Arms Export Control Act (relating to foreign military sales financing) only if the President certifies to the Congress that the Government of Bolivia has enacted and is implementing legislation that—

(1) establishes its legal coca requirements,

(2) provides for the licensing of the number of hectares necessary to produce the legal requirement,

(3) makes unlicensed coca production illegal, and

(4) makes possession and distribution of coca leaf illegal (other than for licit purposes).

(b) Section 481 Certification.—

(1) Conditions on certification.—For fiscal year 1989, the President may make a certification with respect to Bolivia under clause (i) or (ii) of section 481(h)(2)(A) of the Foreign Assistance Act of 1961 only if the Government of Bolivia—

(A) has entered into the narcotics cooperation agreement with the United States specified in section 611(2)(B) of the International Security and Development Cooperation Act of 1985;

(B) has fully achieved the eradication targets contained in that agreement; and

(C) has begun a program of forced eradication of illicit coca cultivation if the targets for voluntary eradication are not being met or are not continued.

(2) Nonwaivability.—The authorities contained in section 614 of the Foreign Assistance Act of 1961 may not be used to waive the requirements of this subsection, and may not be used to waive the requirements of section 481(h) of that Act for fiscal year 1989 with respect to Bolivia.

(c) Development Assistance.—For fiscal year 1989, the project agreement document for a project carried out pursuant to chapter I of part I of the Foreign Assistance Act of 1961 (relating to development assistance) shall contain—

(1) in the case of the Chapare Regional Development Project, a clause requiring that project activities be suspended if the Government of Bolivia fails to achieve the coca eradication targets contained in the November 23, 1987, agreement concerning that project; and

(2) in the case of a project to be carried out in an area in Bolivia in which there is no known illicit coca cultivation as of the date of enactment of this Act, a clause requiring that project activities be suspended if the Government of Bolivia fails to keep the project area free of illicit coca cultivation.

(d) Fiscal Year 1988 Earmarking.—Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202), is amended in the paragraph under the heading "international narcotics control" by striking out "$15,000,000" and all that follows through "not less than" in the second proviso.

SEC. 3033. ASSISTANCE FOR PERU.

(a) Determinations Regarding Narcotics Control Cooperation.—In making determinations with respect to Peru pursuant to section 481(h)(2)(A)(i)(I) of the Foreign Assistance Act of 1961 for fiscal year 1989, the President shall give foremost consideration to whether the Government of Peru made substantial progress in meeting its coca eradication targets during the previous year.

(b) Upper Huallaga Valley Project.—Funds authorized to be appropriated for fiscal year 1989 to carry out chapter 1 of part I of that Act (relating to development assistance) may be made available for the project of the Agency for International Development in the Upper Huallaga Valley of Peru only if the Administrator of that Agency determines, and reports to the Congress, that such project continues to be effective in reducing and eradicating coca leaf production, distribution, and marketing in the Upper Huallaga Valley.

SEC. 3034. ASSISTANCE FOR MEXICO.

(a) Limitation on Assistance.—Of the amounts made available for fiscal year 1989 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control), not more than $15,000,000 may be made available for Mexico.

(b) Prosecution of Those Responsible for the Torture and Murder of DEA Agents.—Of the funds allocated for assistance for Mexico for fiscal year 1989 under that chapter, $1,000,000 shall be withheld from expenditure until the President reports to the Congress that the Government of Mexico—

(1) has fully investigated the 1985 murders of Drug Enforcement Administration agent Enrique Camarena Salazar and his pilot Alfredo Zavala Avelar;

(2) has fully investigated the 1986 detention and torture of Drug Enforcement Administration agent Victor Cortez, Junior; and

(3) has brought to trial and is effectively prosecuting those responsible for those murders and those responsible for that detention and torture.

(c) Joint Air Operations and Joint Crewing.—In making determinations with respect to Mexico pursuant to section 481(h)(2)(A)(i)(I) of the Foreign Assistance Act of 1961 for fiscal year 1989, the President shall consider whether the Government of Mexico has responded favorably to the United States proposals to establish, and is making measurable progress toward implementing—

(1) a joint United States-Mexico airborne apprehension capability (commonly referred to as "joint air operations"); and

(2) joint air surveillance operations (commonly referred to as "joint crewing").

(d) Banking Information Concerning Money Laundering.—The Congress encourages the Government of Mexico, upon ratification of the Mutual Legal Assistance Treaty between the United States and Mexico, to furnish banking information pursuant to that treaty which would permit the successful investigation and prosecution in the United States of major narco-terrorists who use Mexican financial institutions to "launder" their profits.

SEC. 3035. ASSISTANCE FOR COLOMBIA.

(a) Size of Military Assistance Group.—The third sentence of section 515(c)(1) of the Foreign Assistance Act of 1961 (relating to countries authorized to have more than 6 members of the Armed Forces assigned to carry out international security assistance programs) is amended by inserting "Colombia," after "Honduras,".

(b) Increased Military Assistance.—There are authorized to be appropriated to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to the grant military assistance) $15,000,000 as supplemental appropriations for fiscal year 1988, which are authorized to remain available until expended. These funds shall be available only to provide defense articles to the armed forces of Colombia to support their efforts to combat illicit narcotics production and trafficking.

(c) Protection from Narco-Terrorist Attacks.—

(1) Earmark of funds.—Of the funds made available for fiscal year 1989 to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), not less than $5,000,000 shall be used to provide to the Government of Colombia such assistance as it may request to provide protection against narco-terrorist attacks on judges, other government officials, and members of the press.

(2) Waiver of prohibition on assistance to police forces.—The assistance provided for in paragraph (1) may be provided without regard to section 660 of the Foreign Assistance Act of 1961.

(3) Notification to congress.—Funds made available pursuant to paragraph (1) may not be obligated until at least 15 days after the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified of the proposed obligation in accordance with the reprogramming procedures applicable under section 634A of the Foreign Assistance Act of 1961.

(4) Extension of period for obligation of funds.—Funds allocated to carry out this subsection shall remain available until expended, notwithstanding any other provision of law.

SEC. 3036. ILLICIT DRUG PRODUCTION AND TRAFFICKING IN PAKISTAN.

In making determinations with respect to Pakistan pursuant to section 481(h)(2)(A)(i)(I) of the Foreign Assistance Act of 1961, the President shall take into account the extent to which the Government of Pakistan—

(1) is reducing illicit narcotics cultivation;

(2) is increasing drug seizures;

(3) is increasing its suppression of the manufacture of illicit narcotics;

(4) is increasing the number of illicit laboratories destroyed;

(5) is increasing the number of arrests and successful prosecutions of violators, with particular emphasis on putting major traffickers out of business;

(6) has made changes in Pakistani legal codes in order to enable Pakistani law enforcement officials to move more effectively against narcotics traffickers, such as new conspiracy laws and new asset seizure laws; and

(7) is expeditiously processing United States extradition requests relating to narcotics trafficking.

SEC. 3037. UNITED STATES RELIANCE ON LICIT OPIUM GUM FROM FOREIGN SOURCES.

(a) Review.—The President shall conduct a review of United States narcotics raw material policy to determine—

(1) the current and reserve international needs for opium-derived pharmaceutical and chemical products, and the relative capabilities for meeting those needs through the opium gum process and the concentrated poppy straw method of production;

(2) whether the United States should continue to rely on a single foreign country for all its licit opium gum;

(3) whether it should be United States policy to encourage all countries which produce licit opium to use the concentrated poppy straw method of production; and

(4) what options are available, consistent with treaties to which the United States is a party, to reduce United States reliance on licit opium gum from foreign sources.

The results of this review shall be reported to the Congress by December 31, 1988.

(b) Section 481(h) Certifications With Respect to India.—For fiscal year 1989, the President may make a certification with respect to India under section 481(h)(2)(A)(i)(I) of the Foreign Assistance Act of 1961 only if the President determines that the Government of India has taken steps to prevent significant diversion of its licit opium cultivation and production into the illicit market, to reduce its licit opium stockpile, and to eliminate illicit opium cultivation and production. If that certification is made, the President shall include with that certification a detailed report on what steps were taken and an estimate of the amount of licit opium still being diverted to the illicit market.

SEC. 3038. AFGHANISTAN AS A HEROIN SOURCE.

(a) Finding.—The Congress finds that Afghanistan remains the source of most of the heroin exported from southwest Asia.

(b) Statement of Policy.—It is the sense of the Congress that—

(1) the United States Government should pursue efforts to press the Government of Afghanistan, and should work with the Mujahadeen—

(A) to reduce production and trafficking in areas under their respective control, and

(B) to encourage drug eradication, interdiction, and crop substitution in Afghanistan; and

(2) an initiative should be developed which could be put in place as the Mujahadeen and successors to the present Kabul regime begin to exert more civil authority.

SEC. 3039. INVOLVEMENT OF THE GOVERNMENT OF LAOS IN ILLICIT DRUG PRODUCTION AND TRAFFICKING.

(a) Quarterly Reports.—Not later than 3 months after the date of enactment of this Act and every 3 months thereafter, the President shall prepare and transmit to the Congress a report containing the following determinations:

(1) Does the Government of Laos, as a matter of government policy, encourage or facilitate the production or distribution of illegal drugs?

(2) Does any senior official of the Government of Laos engage in, encourage, or facilitate the production or distribution of illegal drugs?

(3) Do other governments in the region assist the distribution of illegal drugs from Laos?

(b) Information to be Included.—(1) If an affirmative determination is made under paragraph (1) or (2) of subsection (a), the report shall describe the activities and identities of officials whose activities caused that determination to be made.

(2) If an affirmative determination is made under paragraph (3) of subsection (a), the report shall describe the activities of other governments in the region which caused that determination to be made.

(c) Restrictions.—If an affirmative determination is reported under paragraph (1) or (2) of subsection (a), United States assistance may not be furnished to Laos, and the United States representative to any multilateral development bank shall vote to oppose any loan or other use of funds of such bank for the benefit of Laos, unless the President certifies to the Congress that—

(1) overriding vital national interests require that provision of such assistance; and

(2) such assistance would improve the prospects for cooperation with Laos in halting the flow of illegal drugs.

(d) RELATION TO OTHER PROVISIONS.—The restrictions contained in subsection (c) are in addition to the restrictions contained in section 481(h) of the Foreign Assistance Act of 1961 or any other provision of law.

Subtitle E—Annual Report and Certification Process for Foreign Assistance Programs

SEC. 3041. EXPRESSION IN NUMERICAL TERMS OF MAXIMUM ACHIEVABLE REDUCTIONS IN ILLICIT DRUG PRODUCTION.

Section 481(e)(4) of the Foreign Assistance Act of 1961 is amended by inserting after the second sentence the following: "Each determination of the President under the preceding sentence shall be expressed in numerical terms, such as the number of acres of illicitly cultivated controlled substances which can be eradicated.".

SEC. 3042. REPORTS ON ASSISTANCE DENIED.

Section 481(e) of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"(8) Each report pursuant to this subsection shall describe the United States assistance for the preceding fiscal year which was denied, pursuant to subsection (h), to each major illicit drug producing country and each major drug-transit country.".

SEC. 3043. DRUG-RELATED CORRUPTION BY FOREIGN GOVERNMENT OFFICIALS.

Section 481(h) of the Foreign Assistance Act of 1961 is amended—

(1) in paragraph (2)(A)(i)(I) by inserting "corruption by government officials and" after preventing and punishing"; and

(2) in paragraph (3)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(C) by inserting after subparagraph (B) the following:

"(C) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, corruption by government officials, with particular emphasis on the elimination of bribery.".

SEC. 3044. DETERMINING MAJOR DRUG-TRANSIT COUNTRIES.

(a) PROCEDURES FOR DETERMINING.—Section 481 of Foreign Assistance Act of 1961 is amended by adding at the end the following:

"(k)(1) For each calendar year, the Secretary of State, after consultation with the appropriate committees of the Congress, shall establish numerical standards and other guidelines for determining which countries will be considered to be major drug-transit countries under subsection (i)(5)(A) and (B) of this section.

"(2) Not later than September 1 of each year, the Secretary of State shall make a preliminary determination of the numerical standards and other guidelines to be used pursuant to paragraph (1) with respect to that year and shall notify the appropriate committees of the Congress of those standards and guidelines.

"(3) Not later than October 1 of each year, the Secretary of State shall notify the appropriate committees of the Congress of—

"(A) which countries appear likely, as of that date, to be determined to be major drug-transit countries for that year under the numerical standards and other guidelines developed pursuant to this subsection; and

"(B) which countries appear likely, as of that date, to be determined to be major illicit drug producing countries for that year.

"(4) Each report submitted pursuant to subsection (e) shall discuss—

"(A) any changes made, since the notification provided pursuant to paragraph (2), in the numerical standards and other guidelines used in determining which countries were major drug-transit countries under subsection (i)(5)(A) and (B) during the preceding year; and

"(B) any changes made, since the notification provided pursuant to paragraph (3)—

"(i) in the countries determined to be major drug-transit countries under subsection (i)(5)(A) and (B) during the preceding year; or

"(ii) in the countries determined to be major illicit drug producing countries for that year.".

(b) TRANSITION PROVISION.—For calendar year 1988, the Secretary of State—

(1) shall take the actions specified in subsection (k)(2) of section 481 of the Foreign Assistance Act of 1961 (as added by subsection (a) of this section) not later than 30 days after the date of enactment of this Act; and

(2) shall take the actions specified in subsection (k)(3) of that section (as added by subsection (a) of this section) not later than 60 days after the date of enactment of this Act.

SEC. 3045. REQUIREMENT FOR BILATERAL NARCOTICS AGREEMENTS.

(a) DEFINITION OF BILATERAL AGREEMENT.—Section 481(h)(2)(A)(ii) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(ii) A bilateral narcotics agreement referred to in clause (i)(I) is an agreement between the United States and a foreign country in which the foreign country agrees to take specific activities, including, where applicable, efforts to—

"(I) reduce drug production, drug consumption, and drug trafficking within its territory, including activities to address illicit crop eradication and crop substitution;

"(II) increase drug interdiction and enforcement;

"(III) increase drug treatment;

"(IV) increase the identification of and elimination of illicit drug laboratories;

"(V) increase the identification and elimination of the trafficking of precursor chemicals for the use in production of illegal drugs;

"(VI) increase cooperation with United States drug enforcement officials; and

"(VII) where applicable, increase participation in extradition treaties, mutual legal assistance provisions directed at money laundering, sharing of evidence, and other initiatives for cooperative drug enforcement.".

(b) MULTILATERAL AGREEMENTS.—Section 481(h)(2)(A)(i)(I) of that Act, as amended by subsection (c)(1) of the section of this title entitled "**CORRECTION OF TECHNICAL ERRORS IN PRIOR ACTS**", is amended by inserting "or a multilateral agreement which achieves the objectives of this subsection" after "(ii)".

(c) REQUIREMENT FOR AGREEMENT.—Effective October 1, 1988, section 481(h)(2)(A) of that Act is amended by adding at the end the following:

"(iii) A country which in the previous year was designated as a major illicit drug producing country or a major drug-transit country may not be determined to be cooperating fully under clause (i)(I) unless it has in place a bilateral narcotics agreement with the United States or a multilateral agreement which achieves the objectives of this subparagraph.".

(d) CONFORMING AMENDMENT.—Section 585(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202), is hereby superceded.

SEC. 3046. WAIVER OF RESTRICTIONS ON UNITED STATES ASSISTANCE FOR CERTAIN MAJOR DRUG-TRANSIT COUNTRIES.

Section 481(h) of the Foreign Assistance Act of 1961 shall not apply with respect to a major drug-transit country for fiscal year 1989 if the President certifies to the Congress, during that fiscal year, that—

(1) section 481(i)(5)(C) of that Act (relating to money laundering) does not apply to that country;

(2) the country previously was a major illicit drug producing country but, during each of the preceding two years, has effectively eliminated illicit drug production; and

(3) the country is cooperating fully with the United States or has taken adequate steps on its own—

(A) in satisfying the goals agreed to in an applicable bilateral narcotics agreement with the United States (as described in section 481(h)(1)(A)(ii) of that Act) or a multilateral agreement which achieves the objectives of subparagraph (A) of section 481(h)(1) of that Act;

(B) in preventing narcotic and psychotropic drugs and other controlled substances transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States; and

(C) in preventing and punishing corruption by government officials.

SEC. 3047. CLARIFICATION OF ASSISTANCE TERMINATION REQUIREMENT; CONGRESSIONAL REVIEW OF RECERTIFICATIONS.

Section 481(h) of the Foreign Assistance Act of 1961 is amended by striking out paragraphs (4) and (5) and inserting in lieu thereof the following:

"(4) Paragraph (1) shall apply without regard to paragraph (2) if, within 45 days of continuous session (within the meaning of section 601(b)(1) of the International Security Assistance and Arms Export Control Act of 1976) after receipt of a certification under paragraph (2), the Congress enacts a joint resolution disapproving the determination of the President contained in such certification.

"(5) If the President does not make a certification under paragraph (2) with respect to a country or the Congress enacts a joint resolution disapproving such certification, that country may not be provided with any of the United States assistance for the current fiscal year that was required to be withheld by paragraph (1), and may not be provided with any United States assistance for subsequent fiscal years, unless—

"(A) the President submits, at the time specified in paragraph (2)(A)(i) or at any other time, a certification under subclause (I) or (II) of that paragraph with respect to such country;

"(B) a period of 45 days of continuous session (within the meaning of section 601(b)(1) of the International Security Assistance and Arms Export Control Act of 1976) elapses after the Congress receives that certification; and

"(C) during that period, the Congress does not enact a joint resolution disapproving the determination of the President contained in such certification.

"(6)(A) Any joint resolution under paragraph (4) or (5) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(B) For the purpose of expediting the consideration and enactment of joint resolution under paragraphs (4) and (5), a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.".

SEC. 3048. DEFINITION OF UNITED STATES ASSISTANCE.

(a) Exclusion of Certain Narcotics Education and Awareness Activities.—Section 481(i)(4) of the Foreign Assistance Act of 1961 is amended by striking out "or (vii)" and inserting in lieu thereof "(vii) assistance for narcotics education and awareness activities pursuant to section 126(b)(2) of this Act (but any such assistance shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 634A of this Act), or (viii)".

(b) Conforming Amendment.—The amendment made by subsection (a) shall be in lieu of any amendment to section 481(i)(4) of the Foreign Assistance Act of 1961 that is contained in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, and that relates to assistance under section 126 of the Foreign Assistance Act of 1961; and any such amendment contained in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, shall not take effect.

SEC. 3049. REPORTS AND RESTRICTIONS CONCERNING CERTAIN COUNTRIES.

Section 2013(a) of the Anti-Drug Abuse Act of 1986 is amended—

(1) by striking out "Not later than 6 months after the date of enactment of this Act and every 6 months thereafter, the" and inserting in lieu thereof "The"; and

(2) by inserting ", as part of the report required by section 481(b)(2) of the Foreign Assistance Act of 1961," after "transmit to the Congress".

SEC. 3050. REMOVAL OF CERTIFICATION PROCEDURE FOR MDB FINANCING FROM FOREIGN ASSISTANCE ACT.

Section 481(h) of the Foreign Assistance Act of 1961 is amended—

(1) in paragraph (1)—

(A) by striking out "country—" through "50 percent" and inserting in lieu thereof "country, 50 percent";

(B) by striking out "; and" at the end of subparagraph (A) and inserting in lieu thereof a period; and

(C) by striking out subparagraph (B);

(2) in the text of paragraph (2)(A)(i) preceding subclause (I)—

(A) by striking out "(1)(A)" and inserting in lieu thereof "(1)"; and

(B) by striking out "and the provisions of paragraph (1)(B) shall not apply"; and

(3) in paragraph (2)(B)(i) by striking out "or financing".

Subtitle F—Miscellaneous Provisions Relating to Assistance Programs

SEC. 3051. REPORTING ON TRANSFER OF UNITED STATES ASSETS.

(a) 15-Day Advance Notification.—Any transfer by the United States Government to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the United States Government in connection with narcotics-related activity shall be subject to the regular reprogramming procedures applicable under section 634A of the Foreign Assistance Act of 1961.

(b) Annual Reports.—Section 2061 of this title requires that all such transfers be reported annually to the Congress.

SEC. 3052. IMPORTANCE OF SUPPRESSING INTERNATIONAL NARCOTICS TRAFFICKING.

Section 481(a)(1) of the Foreign Assistance Act of 1961 is amended—

(1) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(2) by inserting after subparagraph (A) the following:

"(B) suppression of international narcotics trafficking is among the most important foreign policy objectives of the United States;".

SEC. 3053. PROHIBITION ON ASSISTANCE TO DRUG TRAFFICKERS.

Chapter 8 of part I of the Foreign Assistance Act of 1961, as amended by section 3026 of this title, is further amended by adding at the end the following:

"SEC. 487. PROHIBITION ON ASSISTANCE TO DRUG TRAFFICKERS.

"(a) Prohibition.—The President shall take all reasonable steps to ensure that assistance under this Act and the Arms Export Control Act is not provided to or through any individual or entity that the President knows or has reason to believe—

"(1) has been convicted of a violation of, or a conspiracy to violate, any law or regulation of the United States, a State or the District of Columbia, or a foreign country relating narcotic or psychotropic drugs or other controlled substances (as defined in section 481(i)(3) of this Act); or

"(2) is or has been an illicit trafficker in any such controlled substance or is or has been a knowing assistor, abettor, conspirator, or colluder with others in the illicit trafficking in any such substance.

"(b) Regulations.—The President shall issue regulations specifying the steps to be taken in carrying out this section.

"(c) Congressional Review of Regulations.—Regulations issued pursuant to subsection (b) shall be submitted to the Congress before they take effect.".

SEC. 3054. PROCUREMENT FOR INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.

The Congress urges the Secretary of State to take appropriate corrective action to improve the Department of State's procurement operations in order to assure that the procurement of property or services for use in providing assistance under chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control assistance) is timely, efficient, and in accordance with applicable procurement statutes and regulations.

SEC. 3055. PROHIBITION ON USE OF NARCOTICS CONTROL ASSISTANCE TO ACQUIRE REAL PROPERTY.

Chapter 8 of part I of the Foreign Assistance Act of 1961, as amended by sections 3026 and 3053 of this title, is further amended by adding at the end the following:

"SEC. 488. PROHIBITION ON USE OF NARCOTICS CONTROL ASSISTANCE TO ACQUIRE REAL PROPERTY.

"Funds made available to carry out this chapter may not be used to acquire (by purchase, lease, or other means) any real property for use by foreign military, paramilitary, or law enforcement forces.".

SEC. 3056. CORRECTION OF TECHNICAL ERRORS IN PRIOR ACTS.

(a) Anti-Drug Abuse Act of 1986.—

(1) Section 2015(b)(1) of the Anti-Drug Abuse Act of 1986 is amended by striking out "effects" and inserting in lieu thereof "efforts".

(2) Section 2030(b) of that Act is amended by striking out "subsection (A)(4)" and inserting in lieu thereof "subsection (a)(4)".

(b) 1986 Drug Act Amendments to Foreign Assistance Act.—Section 481 of the Foreign Assistance Act of 1961 (as amended by section 2005 of the Anti-Drug Abuse Act of 1986) is amended—

(1) in subsection (h)(2)(A), by striking out ", or" at the end of clause (ii) and inserting in lieu thereof a period;

(2) in subsection (h)(4)(A), by inserting "a" before "joint resolution"; and

(3) in subsection (i)(4)(vi), by striking out "section 1049(c)(2)" and inserting in lieu thereof "section 104(c)(2)".

(c) FY 1988 Continuing Resolution Amendments to Foreign Assistance Act.—Section 481(h) of the Foreign Assistance Act of 1961 is amended—

(1) in paragraph (2)(A)(i)(I) by striking out ", (as described in (ii)) and," and inserting in lieu thereof "(as described in clause (ii)),";

(2) in paragraph (2)(A)(i)(II) by striking out "subclause (i)" and inserting in lieu thereof "subclause (I)"; and

(3) in paragraph (4) by striking out "clause (A)(ii)" and inserting in lieu thereof "subparagraph (A)(i)(II)".

SEC. 3057. REIMBURSEMENT FOR DOD SERVICES USED IN PROVIDING INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.

Section 632(c) of the Foreign Assistance Act of 1961 is amended by inserting after "actual cost," the following: "or, in the case of services procured from the Department of Defense to carry out chapter 8 of part I, the amount of the additional costs incurred by the Department of Defense in providing such services,".

Subtitle G—Department of State Activities

SEC. 3061. COORDINATION OF ALL UNITED STATES ANTI-NARCOTICS ASSISTANCE TO FOREIGN COUNTRIES.

(a) Coordination.—The Secretary of State shall be responsible for coordinating all assistance provided by the United States Government to support international efforts to combat illicit narcotics production or trafficking.

(b) Annual Reports.—

(1) Requirement for reports.—At the time that the report required by section 481(e) of the Foreign Assistance Act of 1961 is submitted each year, the Secretary of State, in consultation with appropriate United States Government agencies, shall report to the appropriate committees of the Congress on the assistance provided by the United States Government during the preceding fiscal year to support international efforts to combat illicit narcotics production or trafficking.

(2) Specific items to be included.—(A) Each report pursuant to this subsection

shall specify the amount and nature of the assistance provided.

(B) For each country which is a significant direct or indirect source of illicit narcotic and psychotropic drugs and other controlled substances significantly affecting the United States, each report pursuant to this subsection shall set forth separately the assistance with respect to narcotic control efforts provided or to be provided (as the case may be) to that country by the Drug Enforcement Administration, the Customs Service, and Coast Guard, respectively, during the preceding fiscal year, the current fiscal year, and the next fiscal year.

(C) Each report required by this subsection shall also list all transfers, which were made by the United States Government during the preceding fiscal year, to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the United States Government in connection with narcotics-related activity, including an estimate of the fair market value and physical condition of each item of property transferred.

(3) Reports may be classified.—The reports required by this subsection may be provided on a classified basis to the extent necessary.

(c) Rule of Construction.—Nothing contained in this section shall be construed to limit or impair the authority or responsibility of any other Federal agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.

SEC. 3062. REWARDS FOR INFORMATION CONCERNING NARCOTICS-RELATED OFFENSES COMMITTED OUTSIDE THE UNITED STATES.

Section 36(g) of the State Department Basic Authorities Act of 1956 is amended by amending the second sentence to read as follows: "In addition to the amount authorized to be appropriated by the preceding sentence, there are authorized to be appropriated, without fiscal year limitation, $5,000,000 for 'Administration of Foreign Affairs' for use in paying rewards for information described in subsection (b)(1).".

SEC. 3063. DENIAL OF PASSPORTS TO CERTAIN CONVICTED DRUG TRAFFICKERS.

(a) Ineligibility for Passport.—

(1) In general.—A passport may not be issued to an individual who is convicted of an offense described in subsection (b) during the period described in subsection (c) if the individual used a passport or otherwise crossed an international border in committing the offense.

(2) Passport revocation.—The Secretary of State shall revoke a passport previously issued to an individual who is ineligible to receive a passport under paragraph (1).

(b) Drug Law Offenses.—

(1) Felonies.—Subsection (a) applies with respect to any individual convicted of a Federal drug offense, or a State drug offense, if the offense is a felony.

(2) Certain misdemeanors.—Subsection (a) also applies with respect to an individual convicted of a Federal drug offense, or a State drug offense, if the offense is a misdemeanor, but only if the Secretary of State determines that subsection (a) should apply with respect to that individual on account of that offense. This paragraph does not apply to an individual's first conviction for a misdemeanor which involves only possession of a controlled substance.

(c) Period of Ineligibility.—Subsection (a) applies during the period that the individual—

(1) is imprisoned, or is legally required to be imprisoned, as the result of the conviction for the offense described in subsection (b); or

(2) is on parole or other supervised release after having been imprisoned as the result of that conviction.

(d) Emergency and Humanitarian Exceptions.—Notwithstanding subsection (a), the Secretary of State may issue a passport, in emergency circumstances or for humanitarian reasons, to an individual with respect to whom that subsection applies.

(e) Indicating Drug Law Violations On Travel Documents.—The President may, by regulation, prescribe procedures for indicating on—

(1) passports and other travel documents issued by the United States, and

(2) passports and other forms of personal identification presented during a United States immigration or customs inspection in order to establish the identity of an individual seeking admission or entry into the United States,

the fact that the holder has been convicted of, or has been assessed a civil penalty or has forfeited property on account of, a Federal drug offense or a State drug offense if, in committing the offense, the individual used the passport or other travel document or other form of personal identification in order to cross an international border.

(f) Definitions.—As used in this section—

(1) the term "controlled substance" has the same meaning as is provided in section 102 of the Controlled Substances Act (21 U.S.C. 802);

(2) the term "Federal drug offense" means a violation of—

(A) the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.);

(B) any other Federal law involving controlled substances; or

(C) subchapter II of chapter 53 of title 31, United States Code (commonly referred to as the "Bank Secrecy Act"), or section 1956 or section 1957 of title 18, United States Code (commonly referred to as the "Money Laundering Act"), if the Secretary of State determines that the violation is related to illicit production of or trafficking in a controlled substance;

(3) the term "felony" means a criminal offense punishable by death or imprisonment for more than one year;

(4) the term "imprisoned" means an individual is confined in or otherwise restricted to a jail-type institution, a half-way house, a treatment facility, or another institution, on a full or part-time basis, pursuant to the sentence imposed as the result of a conviction;

(5) the term "misdemeanor" means a criminal offense other than a felony;

(6) the term "State drug offense" means a violation of State law involving the manufacture, distribution, or possession of a controlled substance; and

(7) the term "State law" means the law of a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or a territory or possession of the United States.

SEC. 3064. MACHINE READABLE VISAS.

There are authorized to be appropriated to the Department of State for "Salaries and Expenses", in addition to amounts otherwise authorized, $15,000,000 as supplemental appropriations for fiscal year 1988, which are authorized to remain available until expended. Amounts authorized to be appropriated by this section shall be available only for expenses of the Department of State in developing and implementing a machine readable visa system.

SEC. 3065. EXTRADITION AND MUTUAL LEGAL ASSISTANCE TREATIES AND MODEL COMPREHENSIVE ANTIDRUG LAWS.

(a) Findings.—The Congress finds that—

(1) section 133 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (enacted August 16, 1985), directed the Secretary of State to increase United States efforts to negotiate updated extradition treaties relating to narcotics offenses with each major drug-producing country;

(2) section 803 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (enacted December 22, 1987) directed the Secretary of State to ensure that an objective of the United States diplomatic mission in each major illicit drug producing or major drug-transit country be to ensure that drug traffickers can be extradited to the United States; and

(3) although some progress has been made pursuant to these directives in increasing international law enforcement cooperation with respect to illicit drug production and trafficking, much greater international law enforcement cooperation is required in combating the illicit drug problem.

(b) Greater Emphasis Required.—Therefore, the Congress directs the Secretary of State to place greater emphasis on updating extradition treaties, and on negotiating mutual legal assistance treaties, with major illicit drug producing countries and major drug-transit countries.

(c) Model Treaties and Antidrug Laws.—The Secretary of State and the Attorney General shall jointly develop a model extradition treaty with respect to narcotics-related violations (including extradition of host country nationals), a model mutual legal assistance treaty, and model comprehensive anti-narcotics legislation. The Secretary of State shall distribute such treaties and legislation to each United States mission abroad.

(d) Report to Congress.—The Secretary of State shall report to the Congress, not later than six months after the date of enactment of this Act, on actions taken to carry out this section.

SEC. 3066. OVERSEAS INVESTIGATIVE PROGRAM.

It is the sense of the Congress that Regional Security Officers and other security personnel at United States embassies and other civilian posts abroad should be directed to expand their investigative activities with respect to illicit drug use and trafficking by United States Government personnel and their dependents.

SEC. 3067. ASSIGNMENT OF MORE DRUG ENFORCEMENT ADMINISTRATION AGENTS TO UNITED STATES EMBASSIES.

The Congress urges the Secretary of State to permit the assignment of additional Drug Enforcement Administration agents to United States diplomatic missions in those foreign countries where illicit narcotics production or trafficking is, or is likely to become, a significant problem.

Subtitle H—Miscellaneous Provisions

SEC. 3071. COVERT ACTIONS DIRECTED AT ILLICIT INTERNATIONAL DRUG TRAFFICKING.

It is the sense of the Congress that, given the magnitude of the illicit drug problem and the threat it poses to the national security of the United States, agencies of the intelligence community should, through the use of covert actions, be more actively involved in the effort to combat illicit international drug trafficking.

SEC. 3072. ENCOURAGEMENT OF UNITED NATIONS EFFORTS TO ESTABLISH AN INTERNATIONAL FORCE AIMED AT STOPPING THE TRAFFICKING OF ILLEGAL DRUGS.

The Congress encourages the United Nations to explore ways and means to establish an international force or mechanism aimed at stopping the trafficking of illegal drugs.

TITLE IV—COMMITTEE ON GOVERNMENT OPERATIONS

SEC. 4001. SHORT TITLE.

This title may be cited as the "Drug-Free Workplace Act of 1988".

SEC. 4002. DRUG-FREE WORKPLACE REQUIREMENTS FOR FEDERAL CONTRACTORS.

(a) DRUG-FREE WORKPLACE REQUIREMENT.—No person or organization shall be considered a responsible source, under the meaning of such term as defined in section 4(8) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(8)), for the purposes of being awarded a contract for the procurement of any property or services from any Federal agency unless such person or organization has certified to the contracting agency that it will provide a drug-free workplace by—

(1) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's or organization's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) establishing a drug-free awareness program to inform employees about—

(A) the dangers of drug abuse in the workplace;

(B) the person's or organization's policy of maintaining a drug-free workplace;

(C) any available drug counseling, rehabilitation, and employee assistance programs; and

(D) the penalties that may be imposed upon employees for drug abuse violations;

(3) making it a requirement that each employee to be engaged in the performance of such contract be given a copy of the statement required by paragraph (1) and that, as a condition of employment on such contract, the employee agree—

(A) to abide by the terms of the statement; and

(B) to notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction;

(4) notifying the contracting agency within 10 days after receiving notice under paragraph (3)(B) from an employee or otherwise receiving actual notice of such conviction;

(5) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by section 4004; and

(6) making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), (4), and (5).

(b) SUSPENSION, TERMINATION, OR DEBARMENT OF THE CONTRACTOR.—

(1) GROUNDS FOR SUSPENSION, TERMINATION, OR DEBARMENT.—Each contract awarded by a Federal agency shall be subject to suspension of payments under the contract or termination of the contract, or both, and the contractor thereunder shall be subject to debarment, in accordance with the requirements of this section if the board of contract appeals of the contracting agency determines that—

(A) the contractor has made a false certification under subsection (a);

(B) the contractor violates such certification by failing to carry out the requirements of paragraph (1), (2), (3), (4), or (5) of subsection (a); or

(C) such a number of employees of such contractor have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor has failed to make a good faith effort to provide a drug-free workplace as required by subsection (a).

(2) CONDUCT OF SUSPENSION, TERMINATION, AND DEBARMENT PROCEEDINGS.—If a contracting officer determines, in writing, that cause for suspension, termination, or debarment exists, a suspension, termination, or debarment proceeding subject to this subsection shall, on application by a contracting officer of an agency, be conducted by the board of contract appeals of the agency which conducts the procurement. The board of contract appeals shall, based upon a preponderance of the evidence presented, resolve all issues of fact, determine whether a basis exists for the suspension or termination of the contract or debarment of the contractor, and issue a final decision in favor of or against suspension or termination of the contract or debarment of the contractor. A proceeding, decision, or order of the board pursuant to this subsection shall not be subject to interlocutory appeal or review. Determinations and final decisions of the board of contract appeals shall be final unless appealed by the contractor to the United States Court of Appeals for the Federal Circuit within 60 days after the receipt by the contractor of a copy of a final decision of the board of contract appeals. Section 10(b) of the Contract Disputes Act of 1978 (41 U.S.C. 609(b)) shall apply with respect to the finality of such board determinations and decisions under this paragraph.

(3) CONDUCT BY GSA BOARD.—In the case of an agency that has not established a board of contract appeals under section 8(a)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 607(a)(1)), the General Services Administration Board of Contract Appeals shall make the determinations and issue final decisions under paragraph (2) for such agencies. Section 10(b) of the Contract Disputes Act of 1978 (41 U.S.C. 609(b)) shall apply with respect to the finality of such Board determinations and decisions under this paragraph.

(4) EFFECT OF DEBARMENT.—Upon issuance of any final decision under this subsection requiring debarment of a contractor, such contractor shall be ineligible for award of any contract by any Federal agency and for participation in any future procurement by any Federal agency for a period specified in the decision, not to exceed 5 years. Upon issuance of any final decision recommending against debarment of the contractor, the contractor shall be compensated as provided by law or regulations.

SEC. 4003. DRUG-FREE WORKPLACE REQUIREMENTS FOR FEDERAL GRANT RECIPIENTS.

(a) DRUG-FREE WORKPLACE REQUIREMENT.—No person or organization shall receive a grant from any Federal agency unless such person or organization has certified to the granting agency that it will provide a drug-free workplace by—

(1) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) establishing a drug-free awareness program to inform employees about—

(A) the dangers of drug abuse in the workplace;

(B) the grantee's policy of maintaining a drug-free workplace;

(C) any available drug counseling, rehabilitation, and employee assistance programs; and

(D) the penalties that may be imposed upon employees for drug abuse violations;

(3) making it a requirement that each employee to be engaged in the performance of such grant be given a copy of the statement required by paragraph (1) and that, as a condition of employment on such grant, the employee agree—

(A) to abide by the terms of the statement; and

(B) to notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction;

(4) notifying the granting agency within 10 days after receiving notice of a conviction under paragraph (3)(B) from an employee or otherwise receiving actual notice of such conviction;

(5) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by section 4004; and

(6) making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), (4), and (5).

(b) SUSPENSION, TERMINATION, OR DEBARMENT OF THE GRANTEE.—

(1) GROUNDS FOR SUSPENSION, TERMINATION, OR DEBARMENT.—Each grant awarded by a Federal agency shall be subject to suspension of payments under the grant or termination of the grant, or both, and the grantee thereunder shall be subject to debarment, in accordance with the requirements of this section if the agency head of the granting agency or his official designee determines, in writing, that—

(A) the grantee has made a false certification under subsection (a);

(B) the grantee violates such certification by failing to carry out the requirements of paragraph (1), (2), (3), (4), or (5) of subsection (a); or

(C) such a number of employees of such grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the grantee has failed to make a good faith effort to provide a drug-free workplace as required by subsection (a).

(2) CONDUCT OF SUSPENSION, TERMINATION, AND DEBARMENT PROCEEDINGS.—A suspension, termination, or debarment proceeding subject to this subsection shall be conducted in accordance with applicable law, including Executive Order 12549 or any superseding Executive order and any regulations promulgated to implement such law or Executive order.

(3) EFFECT OF DEBARMENT.—Upon issuance of any final decision under this subsection requiring debarment of a grantee, such grantee shall be ineligible for award of any grant from any Federal agency and for participation in any future grant from any Federal agency for a period specified in the decision, not to exceed 5 years. Upon issuance of any final decision recommending against

debarment of the grantee, the grantee shall be compensated as provided by law or regulations.

SEC. 4004. EMPLOYEE SANCTIONS AND REMEDIES.

A grantee or contractor shall, within 30 days after receiving notice from an employee of a conviction pursuant to section 4002(a)(3)(B) or 4003(a)(3)(B)—

(1) take appropriate personnel action against such employee up to and including termination; or

(2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

SEC. 4005. WAIVER.

(a) IN GENERAL.—A termination, suspension, or debarment under this title may be waived by the head of an agency with respect to a particular contract or grant if—

(1) in the case of a waiver with respect to a contract, the head of the agency determines, after the issuance of a final determination under section 4003(b) by a board of contract appeals regarding a contract entered into by that agency, that suspension or termination of the contract or debarment of the contractor, or refusal to permit a person or organization to be treated as a responsible source for a contract, as the case may be, would severely disrupt the operation of such agency to the detriment of the Federal Government or the general public; or

(2) in the case of a waiver with respect to a grant, the head of the agency determines that suspension or termination of the grant or debarment of the grantee would not be in the public interest.

(b) EXCLUSIVE AUTHORITY.—The authority of the head of an agency under this section to waive a termination, suspension, or debarment shall not be delegated.

SEC. 4006. AUTHORITY OF BOARDS.

Not later than 90 days after the date of enactment of this title, the chairman of each board of contract appeals shall prescribe rules and procedures governing actions under this title. Each judge of such board may administer oaths and affirmations and issue subpoenas.

SEC. 4007. DEFINITIONS.

For purposes of this title—

(1) the term "drug-free workplace" means a site for the performance of work done in connection with a specific grant or contract described in section 4002 or 4003 of an entity at which employees of such entity are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in accordance with the requirements of this title;

(2) the term "employee" means the employee of a grantee or contractor directly engaged in the performance of work pursuant to the provisions of the grant or contract described in section 4002 or 4003;

(3) the term "controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812);

(4) the term "conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

(5) the term "criminal drug statute" means a criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance;

(6) the term "grantee" means the department, division, or other unit of a person or organization responsible for the performance under the grant;

(7) the term "contractor" means the department, division, or other unit of a person or organization responsible for the performance under the contract; and

(8) the term "Federal agency" means an agency as that term is defined in section 552(f) of title 5, United States Code.

SEC. 4008. EFFECTIVE DATE.

Sections 4002 and 4003 shall be effective 120 days after the date of the enactment of this title.

TITLE V—COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Subtitle A—Indian Alcohol and Substance Abuse Prevention and Treatment

SEC. 5001. AMENDMENTS TO INDIAN ALCOHOL AND SUBSTANCE ABUSE PREVENTION AND TREATMENT ACT OF 1986.

Whenever in this subtitle a section or other provision is amended or repealed, such amendment or repeal shall be considered to be made to that section or other provision of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2401 et seq.).

SEC. 5002. MINIMUM PERFORMANCE STANDARDS.

(a) IN GENERAL.—Paragraph (3) of section 4205(a) (25 U.S.C. 2411(a)) is amended by striking out "minimum standards" and inserting in lieu thereof "minimum performance standards".

(b) PROVISIONS OF TRIBAL ACTION PLANS.—Subparagraph (B) of section 4206(c)(1) (25 U.S.C. 2412(c)(1)) is amended by striking out "minimum standards" and inserting in lieu thereof "minimum performance standards".

(c) REPORT REGARDING STANDARDS.—The Secretary of the Interior and the Secretary of Health and Human Services shall submit a joint report to the Committee on Interior and Insular Affairs and the Committee on Energy and Commerce of the House of Representatives and the Select Committee on Indian Affairs of the Senate on the minimum performance standards developed pursuant to section 4205 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411). Such report shall be submitted with the budget request submitted for fiscal year 1990.

SEC. 5003. REMEDIAL PLAN FOR COMPLYING WITH MINIMUM PERFORMANCE STANDARDS.

(a) DEVELOPMENT AND IMPLEMENTATION.—Subsection (c) of section 4206 (25 U.S.C. 2412) is amended by adding at the end thereof the following new paragraph:

"(3) Any Tribal Action Plan shall provide for developing and implementing remedial plan for complying with the minimum performance standards incorporated under paragraph (1)(B).".

(b) RESPONSIBILITY OF OFFICE OF ALCOHOL AND SUBSTANCE ABUSE.—Paragraph (2) of section 4207(b) (25 U.S.C. 2413(b)) is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and";

(3) by adding at the end thereof the following:

"(C) monitoring the performance in achieving compliance with the minimum performance standards through the remedial plans developed and implemented pursuant to section 4206(c)(3); and

"(D) submitting to the Congress reports in each case where remedial plans are necessary to address program deficiencies, but not tribal specific problems with compliance.".

SEC. 5004. DEFINITIONS.

Section 4204 (25 U.S.C. 2403) is amended by inserting at the end thereof the following new paragraph:

"(6) The terms 'Urban Indian', 'Urban Center', and 'Urban Indian Organization' shall have the same meaning as provided in section 4 of the Indian Health Care Improvement Act.".

SEC. 5005. AMENDMENT AND REVISION OF TRIBAL DEVELOPMENT PLAN.

Paragraph (2) of section 4206(c) (25 U.S.C. 2412(c)) is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new subparagraph (E):

"(E) the establishment of procedures for amendment and revision of the plan as may be determined necessary by the Tribal Coordinating Committee.".

SEC. 5006. AUTHORIZATION OF APPROPRIATIONS FOR GRANTS.

Paragraph (2) of section 4206(d) (25 U.S.C. 2412(d)(2)) is amended to read as follows:

"(2) There is authorized to be appropriated not to exceed $1,000,000 for each of the fiscal years 1990, 1991, and 1992 for grants under this subsection.".

SEC. 5007. LEASING OF TRIBAL PROPERTY.

Section 4209 is amended—

(1) by amending the heading to read as follows:

"SEC. 4209. FEDERAL FACILITIES, PROPERTY, AND EQUIPMENT; LEASING OF TRIBAL PROPERTY."; and

(2) by adding at the end thereof the following new subsection (c):

"(c) LEASES.—(1) The Secretary of the Interior and the Secretary of Health and Human Services are authorized to enter into long-term leases of tribally owned facilities to house programs established by this subtitle where they determine that there is no Federal facility reasonably available for such purpose and the cost of constructing a new Federal facility would exceed the cost of such lease unless they determine that mitigating factors favor such a lease.

"(2) A tribal facility may be leased pursuant to this authority to house a regional treatment center to be established pursuant to section 4227(b) only if all the tribes within the Indian Health Service area to be served by such regional treatment center initially consent to such lease.".

SEC. 5008. EMERGENCY SHELTERS AND HALFWAY HOUSES.

(a) HALFWAY HOUSES.—Subsection (a) of section 4213 (25 U.S.C. 2433) is amended by adding at the end thereof "Halfway houses may be used as either an intake facility or an aftercare facility for youth admitted, or to be admitted, for long-term treatment of substance abuse. The Indian Health Service, the Bureau of Indian Affairs, and the tribes are authorized to use their respective resources to adequately staff and operate any such facility.".

(b) AUTHORIZATION.—Subsection (e) of section 4213 (25 U.S.C. 2433) is amended to read as follows:

"(e) AUTHORIZATION.—(1) For the planning and design, construction, and renovation of emergency shelters or half-way houses to provide emergency care for Indian youth, there is authorized to be appropriated $3,000,000 for each of the fiscal years 1990, 1991, and 1992.

"(2) For the staffing and operation of emergency shelters and half-way houses, there is authorized to be appropriated $2,000,000 for fiscal year 1990. Such amount shall be included in the base budget of the Bureau of Indian Affairs and funding thereafter shall be as authorized by the Act of November 1, 1921 (25 U.S.C. 13).

"(3) The Secretary of the Interior shall allocate funds appropriated pursuant to this subsection on the basis of priority of need of the various Indian tribes and such funds, when allocated, shall be subject to contracting pursuant to the Indian Self-Determination Act.

SEC. 5009. CERTAIN ILLEGAL NARCOTICS TRAFFICKING.

(a) ASSISTANCE.—The section heading and subsection (a) of section 4216 (25 U.S.C. 2442) are amended to read as follows:

"SEC. 4216. ILLEGAL NARCOTICS TRAFFIC ON THE TOHONO O'ODHAM AND ST. REGIS RESERVATIONS; SOURCE ERADICATION.

"(a)(1) INVESTIGATION AND CONTROL.—The Secretary of the Interior shall provide assistance to—

"(A) the Tohono O'odham Tribe of Arizona for the investigation and control of illegal narcotics traffic on the Tohono O'odham Reservation along the border with Mexico, and

"(B) the St. Regis Band of Mohawk Indians of New York for the development of tribal law enforcement and judicial systems to aid in the investigation and control of illegal narcotics traffic on the St. Regis Reservation along the border with Canada.

"(2) The Secretary shall ensure that tribal efforts under this subsection are coordinated with appropriate Federal law enforcement agencies, including the United States Custom Service.

"(3) For the purpose of providing the assistance required by this subsection, there are authorized to be appropriated—

"(A) $500,000 under paragraph (1)(A) for each of the fiscal years 1990, 1991, and 1992, and

"(B) $450,000 under paragraph (1)(B) for each of the fiscal years 1989 and 1990.".

(b) AUTHORIZATION.—Subsection (b)(2) of section 4216 is amended to read as follows:

"(2) AUTHORIZATION.—For the purpose of establishing the program required by paragraph (1), there are authorized to be appropriated $500,000 for each of the fiscal years 1990, 1991, and 1992.".

SEC. 5010. LAW ENFORCEMENT AND JUDICIAL TRAINING.

Subsection (b) of section 4218 (25 U.S.C. 2451) is amended to read as follows:

"(b) AUTHORIZATION.—For the purpose of providing the training required by subsection (a), there are authorized to be appropriated $1,500,000 for each of the fiscal years 1990, 1991, and 1992.".

SEC. 5011. TREATMENT OF JUVENILE OFFENDERS.

Section 4219 (25 U.S.C. 2452) is amended—

(1) by inserting "(a)" before "The Memorandum"; and

(2) by adding at the end thereof the following new subsection (b):

"(b) TREATMENT OF CERTAIN COMMITTED YOUTH.—The Indian Health Service shall not refuse to provide necessary interim treatment for any Indian youth referred pursuant to subsection (a) who has been charged or is being prosecuted for any crime unless such referral is prohibited by a court of competent jurisdiction or the youth is determined by a court of competent jurisdiction to be a danger to others.".

SEC. 5012. JUVENILE DETENTION CENTERS.

Subsection (b) of section 4220 (25 U.S.C. 2453) is amended to read as follows:

"(b) AUTHORIZATION.—(1) For the purpose of constructing or renovating juvenile detention centers as provided in subsection (a), there is authorized to be appropriated $5,000,000 for each of the fiscal years 1990 and 1991.

"(2) For the purpose of staffing and operating juvenile detention centers, there is authorized to be appropriated $5,000,000 for fiscal year 1990. Such amount shall be included in the base budget of the Bureau of Indian Affairs and funding thereafter shall be as authorized by the Act of November 2, 1921 (25 U.S.C. 13).".

SEC. 5013. INDIAN HEALTH SERVICE YOUTH PROGRAM.

(a) DETOXIFICATION AND REHABILITATION.—Subsection (a) of section 4227 (25 U.S.C. 2474) is amended by inserting "of Health and Human Services" after the "Secretary".

(b) TREATMENT CENTERS.—Subsection (b) of section 4227 is amended to read as follows:

"(b) TREATMENT CENTERS OR FACILITIES.—(1) The Secretary shall construct or renovate, and appropriately staff and operate, a youth regional treatment center in each area under the jurisdiction of an Indian Health Service area office. For the purposes of this subsection, the area offices of the Indian Health Service in Tucson and Phoenix, Arizona, shall be considered one area office.

"(2)(A) For the purpose of constructing or renovating centers or facilities required by paragraph (1), there are authorized to be appropriated $5,000,000 for each of the fiscal years 1990 and 1991.

"(B) For the purpose of staffing and operating such centers or facilities, there are authorized to be appropriated $9,000,000 for fiscal year 1990. Such amount shall be included in the base budget of the Indian Health Service and funding thereafter shall be as provided in the Act of November 2, 1921 (25 U.S.C. 13).".

SEC. 5014. TRAINING AND COMMUNITY EDUCATION.

Section 4228 (25 U.S.C. 2475) is amended—

(1) by striking out subsection (c); and

(2) by amending subsection (d) to read as follows:

"(c) AUTHORIZATION.—There are authorized to be appropriated $5,000,000 for each of the fiscal years 1990, 1991, and 1992.".

SEC. 5015. NAVAJO ALCOHOL REHABILITATION PROGRAM.

Subsection (c) of section 4229 is amended to read as follows:

"(c) AUTHORIZATION.—There are authorized to be appropriated for the purposes of grants under subsection (a) $200,000 for each fiscal year. Not more than 10 percent of the funds appropriated for any fiscal year may be used for administrative purposes.".

SEC. 5016. URBAN INDIAN PROGRAM.

The subtitle is amended by adding at the end thereof the following new section 4231:

"SEC. 4231. URBAN INDIAN PROGRAM.

"(a) GRANTS.—The Secretary of Health and Human Services is authorized to make grants for the provision of health-related services in school and community-based education, prevention, treatment, or rehabilitation of alcohol and substance abuse in urban centers to those urban Indian organizations with whom the Secretary has entered into a contract under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.).

"(b) GOALS OF GRANT.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished pursuant to the grant. The goals shall be specific to each grant as agreed to between the Secretary and the grantee.

"(c) CRITERIA.—The Secretary shall establish criteria for the grants made under subsection (a), including criteria relating to the—

"(1) size of the urban Indian population;

"(2) accessibility to, and utilization of, other health resources available to such population;

"(3) duplication of existing Indian Health Service or other Federal grants or contracts;

"(4) capability of the organization to adequately perform the activities required under the grant;

"(5) satisfactory performance standards for organization in meeting the goals set forth in such grant, which standards shall be negotiated and agreed to between the Secretary and the grantee on a grant-by-grant basis; and

"(6) identification of need for services.

The Secretary shall develop a methodology for allocating grants made pursuant to this section based on such criteria.

"(d) TREATMENT OF MONEYS RECEIVED BY URBAN INDIAN ORGANIZATIONS.—Any moneys received by an urban Indian organization under this or any other Act for substance abuse prevention, treatment, and rehabilitation shall be subject to the criteria set forth in subsection (c).

"(e) AUTHORIZATION FOR GRANT PROGRAM.—There is authorized to be appropriated $5,000,000 for each of the fiscal years 1990, 1991, and 1992 to carry out the purposes of this section, other than subsection (f).

"(f) RESEARCH.—There is authorized to be appropriated for each fiscal year beginning with fiscal year 1990 to the Secretary of Health and Human Services $1,000,000 for research into substance abuse prevention, treatment, and rehabilitation and the development of strategies for combatting substance abuse. Such research shall include the collection, compilation, and analysis of epidemiological data on substance abuse among the Indian population.".

SEC. 5017. TREATMENT OF FUNDS APPROPRIATED TO CARRY OUT ACT.

(a) SECRETARY OF THE INTERIOR AND SECRETARY OF HEALTH AND HUMAN SERVICES.—Section 4207 (25 U.S.C. 2413) is amended by adding at the end thereof the following:

"(d) TREATMENT OF FUNDS.—(1) Amounts appropriated pursuant to this part shall be identified in the agency accounts separate from any other funds appropriated to the Secretary of the Interior or the Secretary of Health and Human Services.

"(2) The Secretary of the Interior and the Secretary of Health and Human Services shall each separately identify the funds needed to carry out this part in their budget requests submitted to the Congress under section 1105 of title 31, United States Code.".

(b) INDIAN HEALTH SERVICE.—Section 4225 (25 U.S.C. 2472) is amended—

(1) by inserting "(a)" before "The Memorandum"; and

(2) by adding at the end thereof the following:

"(b) TREATMENT OF FUNDS.—(1) Amounts appropriated pursuant to this part shall be identified in the Indian Health Service accounts separate from any other funds appropriated to the Indian Health Service.

"(2) The Indian Health Service shall separately identify the funds needed to carry out this part in its budget request submitted to the Congress under section 1105 of title 31, United States Code.".

Subtitle B—National Park System, Public Lands, and National Forest System

SEC. 5101. AMENDMENTS TO TITLE V OF THE ANTI-DRUG ABUSE ACT OF 1986.

(a) NATIONAL PARK SERVICE POLICE.—Section 5052 of title V of the Anti-Drug Abuse Act of 1986 is amended to read as follows:

"SEC. 5052. NATIONAL PARK AUTHORIZATION.

"In order to improve Federal law enforcement activities relating to the use and production of narcotics and prohibited substances in National Park System units, from amounts appropriated there are made available to the Secretary of the Interior, in addition to sums made available under other authority of law, $3,000,000 for the fiscal year 1989, and for each fiscal year thereafter, to be used for the employment and training of additional and existing National Park Service police, for equipment and facilities to be used by such personnel and for expenses related to such employment, training, equipment, and facilities.".

(b) BUREAU OF LAND MANAGEMENT.—Title V of the Anti-Drug Abuse Act of 1986 is amended by adding at the end thereof the following:

"Subtitle C—Bureau of Land Management Program

"SEC. 5063. SHORT TITLE.

"This subtitle may be cited as the Bureau of Land Management Drug Enforcement Supplemental Authority Act.

"SEC. 5064. BUREAU OF LAND MANAGEMENT AUTHORIZATION.

"In order to improve Federal law enforcement activities relating to the use and production of narcotics and prohibited substances on Bureau of Land Management public lands, from amounts appropriated there are made available to the Secretary of the Interior, in addition to sums made available under other authority of law, $1,500,000 for the fiscal year 1989, and for each fiscal year thereafter to be used for the employment and training of additional and existing Bureau of Land Management law enforcement personnel, for equipment and facilities to be used by such personnel, and for expenses related to such employment, training, equipment, and facilities.".

SEC. 5102. NATIONAL FOREST SYSTEM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 15006 of title XV of the Anti-Drug Abuse Act of 1986 is amended to read as follows:

"SEC. 15006. FOREST SERVICE AUTHORIZATION.

"In order to improve Federal law enforcement activities relating to the use and production of narcotics and prohibited substances on lands administered by the Forest Service, from amounts appropriated there are made available to the Secretary of Agriculture, in addition to sums made available under other authority of law, $10,000,000 for the fiscal year 1989, and for each fiscal year thereafter, to be used for employment and training of additional and existing Forest Service law enforcement personnel, for equipment and facilities to be used by such personnel, for expenses related to such employment, training, equipment, and facilities, and for cooperative programs with State and local law enforcement agencies.".

(b) CRIMINAL PENALTY.—Title XV of the Anti-Drug Abuse Act of 1986 is amended by adding at the end the following new section:

"SEC. 15008. CRIMINAL PENALTY FOR CREATING A HAZARD ON FEDERAL LANDS WHILE USING A POISON, CHEMICAL, OR HAZARDOUS SUBSTANCE IN MANUFACTURING, DISTRIBUTING, OR DISPENSING A CONTROLLED SUBSTANCE.

"Whoever, in violating section 401(a)(1) of the Controlled Substances Act, or in attempting to do so, knowingly uses a poison, chemical, or other hazardous substance on Federal land and, by such use, creates a serious hazard to humans, wildlife, domestic animals, or the environment shall be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.".

Subtitle C—Insular Areas

SECTION 5201. SHORT TITLE.

This subtitle may be cited as the "Insular Areas Drug Abuse Amendments of 1988".

SEC. 5202. AMERICAN SAMOA.

Section 5004(a) of the United States Insular Areas Drug Abuse Act of 1986 (48 U.S.C. 1494b(a)) is amended—

(1) in paragraph (2) by—

(A) striking "Secretary of" and inserting in lieu thereof "Secretaries of Education and";

(B) inserting ", as appropriate," after "States";

(C) inserting "and, upon request of the Government of American Samoa, shall" after "are authorized to";

(D) inserting "and other personnel" after "officers"; and

(E) inserting "or other substance" after "drug".

(2) in paragraph (3) by—

(A) striking "$700,000" and inserting in lieu thereof "$350,000 for fiscal year 1989 and annually thereafter for grants to the Government of American Samoa to be expended in accordance with a plan approved by the Secretary of Interior in consultation with the Attorney General and the Secretaries of Education and Health and Human Services"; and

(B) striking "subsection" and inserting in lieu thereof "Act"; and

(3) by adding at the end thereof the following:

"(4) The Secretary of the Treasury in consultation with the Secretary of the Interior shall provide the Government of American Samoa with a vessel to be used in the enforcement of narcotics and other laws. There are authorized to be appropriated $500,000 for this purpose.".

SEC. 5203. GUAM.

Section 5004(b) of the United States Insular Areas Drug Abuse Act of 1986 (48 U.S.C. 1494b(b)) is amended—

(1) in paragraph (1) by—

(A) striking "Secretary of" and inserting in lieu thereof "Secretaries of Education and";

(B) inserting "and, upon request of the Government of Guam shall, provide appropriate training," after "may provide"; and

(C) inserting "or other substance" after "drug";

(2) in paragraph (2) by striking "$1,000,000" and all that follows through "shall" and inserting in lieu thereof "$500,000 for fiscal year 1989 and annually thereafter for grants to the Government of Guam to be expended in accordance with a plan approved by the Secretary of the Interior in consultation with the Attorney General and the Secretaries of Education and Health and Human Services, to carry out the purposes of this Act, to"; and

(3) by adding at the end thereof the following:

"(3) There are authorized to be appropriated for a grant to the Government of Guam $500,000 to be expended in accordance with a plan approved by the Secretary of the Interior in consultation with the Attorney General for drug abuse law enforcement equipment.".

SEC. 5204. NORTHERN MARIANA ISLANDS.

Section 5004(c) of the United States Insular Areas Drug Abuse Act of 1986 (48 U.S.C. 1494b(c)) is amended—

(1) in paragraph (2) by—

(A) moving "of the United States" to after "Services";

(B) striking "Secretary of" and inserting in lieu thereof "Secretaries of Education and";

(C) inserting "and, upon request of the Government of the Northern Mariana Islands, shall" after "are authorized to";

(D) inserting "and other personnel" after "officers"; and

(E) inserting "or other substance" after "drug"; and

(2) in paragraph (3) by—

(A) striking "$250,000" and inserting in lieu thereof "$125,000 for fiscal year 1989 and annually thereafter for grants to the Government of the Northern Mariana Islands to be expended in accordance with a plan approved by the Secretary of the Interior in consultation with the Attorney General and the Secretaries of Education and Health and Human Services"; and

(B) striking "subsection" and inserting in lieu thereof "Act".

SEC. 5205. PUERTO RICO.

Section 5004(d) of the United States Insular Areas Drug Abuse Act of 1986 (48 U.S.C. 1494b(d)) is amended—

(1) in paragraph (1) by striking all after "Rico" and inserting in lieu thereof "$7,000,000 for fiscal year 1989 and $2,000,000 annually thereafter for grants to the Government of Puerto Rico to carry out the purposes of this Act to be expended in accordance with a plan approved by the Executive Director of White House Task Force on Puerto Rico in consultation with the Attorney General and the Secretaries of Education and Health and Human Services of the United States, to remain available until expended."; and

(2) in paragraph (4) by—

(A) striking "Secretary of" and inserting in lieu thereof "Secretaries of Education and";

(B) inserting "and, upon request of the Government of Puerto Rico, shall provide appropriate training," after "may provide"; and

(C) inserting "or other substance" after "drug".

SEC. 5206. VIRGIN ISLANDS.

Section 5004(e) of the United States Insular Areas Drug Abuse Act of 1986 (48 U.S.C. 1494b(e)) is amended—

(1) in paragraph (1) by striking all after "Islands" and inserting in lieu thereof a comma and "$2,000,000 for fiscal year 1990 and annually thereafter to carry out the purposes of this Act to be expended in accordance with a plan approved by the Secretary of the Interior in consultation with the Attorney General and the Secretaries of Education and Health and Human Services, to remain available until expended.";

(2) in paragraph (2) by striking "should" and inserting in lieu thereof "shall";

(3) in paragraph (3) by—

(A) striking "Secretary of" and inserting in lieu thereof "Secretaries of Education and"

(B) inserting "and, upon request of the Government of the Virgin Islands, shall provide appropriate training," after "may provide"; and

(C) inserting "or other substance" after "drug"; and

(4) by adding at the end thereof the following:

"(4) To assist in the prosecution of the violation of the narcotics laws of the United States, the Attorney General of the United States shall assign the necessary personnel to serve in the office of the United States Attorney for the Virgin Islands appointed pursuant to section 27 of the Revised Organic Act of the Virgin Islands, as amended (48 U.S.C. 1617).

"(5) Effective fiscal year 1989, there are authorized to be appropriated for a grant to the Government of the Virgin Islands $2,500,000 to be expended in accordance with a plan approved by the Secretary of the Interior in consultation with the Secretary of Health and Human Services for a substance abuse facility.".

SEC. 5207. PALAU.

Section 5004 of the United States Insular Areas Drug Abuse Act of 1986 (48 U.S.C. 1494b) is amended by adding at the end thereof the following:

"(f) PALAU.—(1) The Attorney General and the Secretaries of Education and Health and Human Services are authorized to and, upon request of the Government of Palau, shall provide appropriate training, technical assistance, and equipment to carry out the purposes of this Act and any other applicable Federal or insular drug or other substance abuse laws.

"(2) There are authorized to be appropriated $500,000 for fiscal year 1989 and annually thereafter for grants to the Government of Palau to be expended in accordance with a plan to be approved by the Secretary of the Interior in consultation with the Attorney General and the Secretaries of Education, State, and Health and Human Services to carry out the purposes of this Act.

"(3) To the extent not prohibited under the Constitution of Palau, upon written request of the President of Palau or by resolution of the Congress of Palau, the Drug Enforcement Administration, the Federal Bureau of Investigation, the Secret Service, the Immigration and Naturalization Service, and the Customs Service are authorized to investigate any United States criminal laws which are applicable in Palau in cooperation with law enforcement agencies of Palau.".

SEC. 5208. PURPOSES.

Section 5002 of the United States Insular Areas Drug Abuse Act of 1986 (48 U.S.C. 1494) is amended by—

(1) inserting "and the Trust Territory of the Pacific Islands (or successor governments)" after "States" where it first appears;

(2) inserting "and other substance" before "prevention" and

(3) inserting "and associated" before "insular areas.".

SEC. 5209. ANNUAL REPORTS.

Section 5003 of the United States Insular Areas Drug Abuse Act of 1986 (48 U.S.C. 1494a) is amended by—

(1) inserting "(a) IN GENERAL.—" before "The President";

(2) in such subsection (a) inserting ", the Trust Territory of the Pacific Islands," before "and states" in paragraph (1) and after "territories" each place in which it appears in paragraph (2); and

(3) adding at the end thereof the following new subsection:

"(b) TRANSMISSION DATE.—The annual reports required by subsection (a) shall be transmitted to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate not later than the first day of October each year. Notwithstanding any other provision of law, for any year that said report is not transmitted to said Committees on or before October 1, no funds shall be expended for the operation of the Office of Territorial and International Affairs of the Department of the Interior nor for the Office of Freely Associated State Affairs for the fiscal year which begins October 1 until said report is transmitted.".

SEC. 5210. DRUG ENFORCEMENT AGENCY PERSONNEL ASSIGNMENTS.

Title V of the United States Insular Areas Drug Abuse Act of 1986 (48 U.S.C. 1494 et seq.) is amended by adding at the end of Subtitle A the following new section:

"SEC. 5005. DRUG ENFORCEMENT AGENCY PERSONNEL ASSIGNMENTS.

"To assist in the enforcement of the controlled substances laws of the United States in coordination with law enforcement officers in insular areas in the eastern Caribbean and in the central and western Pacific, the Administrator of the Drug Enforcement Administration shall assign appropriate personnel and other resources to the Virgin Islands and Guam.".

TITLE VI—COMMITTEE ON THE JUDICIARY

SEC. 6001. SHORT TITLE.

This title may be cited as the "Anti-Drug Abuse Amendments Act of 1988".

Subtitle A—Chemical Diversion and Trafficking

SEC. 6051. SHORT TITLE.

This subtitle may be cited as the "Chemical Diversion and Trafficking Act of 1988".

SEC. 6052. REGULATION OF LISTED CHEMICALS AND CERTAIN MACHINES.

(a) IN GENERAL.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended to read as follows:

"REGULATION OF LISTED CHEMICALS AND CERTAIN MACHINES

"SEC. 310. (a)(1) Each regulated person who engages in a regulated transaction involving a listed chemical, a tableting machine, or an encapsulating machine shall keep a record of the transaction—

"(A) for 4 years after the date of the transaction, if the listed chemical is a precursor chemical or if the transaction involves a tableting machine or an encapsulating machine; and

"(B) for 2 years after the date of the transaction, if the listed chemical is an essential chemical.

"(2) Each regulated person who engages in a regulated transaction involving a listed chemical, a tableting machine, or an encapsulating machine shall retain as a record the certificate copy referred to in subsection (c) for two years after the date of the transaction.

"(3) A record under this subsection shall be retrievable and shall include the date of the regulated transaction, the identity of each party to the regulated transaction, a statement of the quantity and form of the listed chemical, a description of the tableting machine or encapsulating machine, and a description of the method of transfer.

"(4) It is the duty of each regulated person who engages in a regulated transaction to obtain identification of each other party to the transaction. It is the duty of such other party to present such identification to the regulated person. The Attorney General shall specify by regulation the types of documents and other evidence that constitute proof of identification for purposes of this paragraph.

"(b) Each regulated person shall report to the Attorney General, in such form and manner as the Attorney General shall prescribe by regulation—

"(1) any regulated transaction involving an extraordinary quantity of a listed chemical, an uncommon method of payment or delivery, or any other circumstance that the regulated person believes may indicate that the listed chemical will be used in violation of this title;

"(2) any proposed regulated transaction with a person whose description or other identifying characteristic the Attorney General furnishes in advance to the regulated person;

"(3) any unusual or excessive (as determined under guidelines prescribed by the Attorney General) loss or disappearance of a listed chemical under the control of the regulated person; and

"(4) any regulated transaction in a tableting machine or an encapsulating machine.

Each report under paragraph (1) shall be made at the earliest practicable opportunity after the regulated person becomes aware of the circumstance involved. A regulated person may not complete a transaction with a person whose description or identifying characteristic is furnished to the regulated person under paragraph (2) unless the transaction is approved by the Attorney General.

"(c) The transferee of a listed chemical in a regulated transaction shall furnish to the regulated person a certificate of lawful use, in such form and manner as the Attorney General may require. The regulated person—

"(1) not later than 15 working days after the transaction, shall transmit the certificate to the Attorney General; and

"(2) shall retain a copy of the certificate as provided in subsection (a)(2).

Not later than March 31 of each year, the Attorney General shall report to the Congress the number and types of certificates furnished during the preceding fiscal year and shall include in the report an analysis showing the law enforcement effectiveness of the certificate requirement.

"(d)(1) Except as provided in paragraph (2), any information obtained by the Attorney General under this section which is exempt from disclosure under section 552(a) of title 5, United States Code, by reason of section 552(b)(4) of such title, is confidential and may not be disclosed to any person.

"(2) Information referred to in paragraph (1) may be disclosed only—

"(A) to an officer or employee of the United States engaged in carrying out this title, title III, or the customs laws;

"(B) when relevant in any proceeding for the enforcement of this title, title III, or the customs laws;

"(C) when necessary to comply with an obligation of the United States under a treaty or other international agreement; or

"(D) to a State or local official or employee in conjunction with the enforcement of controlled substances laws.

"(3) The Attorney General shall take such action as may be necessary to prevent unauthorized disclosure of information by any person to whom such information is disclosed under paragraph (2).

"(4) Any person who is aggrieved by a disclosure of information in violation of this section may bring a civil action against the violator for appropriate relief.

"(e)(1) The Attorney General may prescribe such regulations as may be necessary to carry out this section.

"(2) A regulation relating to subsection (c) of this section—

"(A) shall be prescribed only upon a finding by the Attorney General that the regulation is necessary to provide information to enable the Attorney General to attain the goal of prevention of diversion of listed chemicals to unauthorized manufacture of a controlled substances;

"(B) shall be in force for a period of one year from the effective date of the regulation;

"(C) may be renewed for subsequent one-year periods, upon findings referred to in subparagraph (A);

"(D) shall impose only requirements that are based on factors directly related to the goal referred to in subparagraph (A);

"(E) shall not require a regulated person to verify any information on a certificate furnished by a transferee; and

"(F) shall provide that a regulated person need not obtain a certificate from a transferee who is a regular customer of the regulated person more than once.

"(3) Each finding of the Attorney General referred to in paragraph (2)(A) shall state in detail each type of (A) chemical, (B) location of a transaction, and (C) party to a transaction, to be covered by the regulation.".

(b) Clerical Amendment.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking out the item relating to section 310 and inserting in lieu thereof the following:

"310. Regulation of listed chemicals and certain machines.".

SEC. 6053. NOTIFICATION, SUSPENSION OF SHIPMENT, AND PENALTIES WITH RESPECT TO IMPORTATION AND EXPORTATION OF LISTED CHEMICALS.

(a) In General.—Part A of the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.) is amended by adding at the end the following new section:

"NOTIFICATION, SUSPENSION OF SHIPMENT, AND PENALTIES WITH RESPECT TO IMPORTATION AND EXPORTATION OF LISTED CHEMICALS

"Sec. 1018. (a) Each regulated person who imports or exports a listed chemical shall notify the Attorney General of the importation or exportation not later than 15 days before the transaction is to take place.

"(b)(1) The Attorney General shall provide by regulation for circumstances in which the requirement of subsection (a) does not apply to a transaction between a regulated person and a regular customer of the regulated person.

At the time of any importation or exportation constituting a transaction referred to in the preceding sentence, the regulated person shall notify the Attorney General of the transaction.

(2) The regulations under this subsection shall provide that the initial notification under subsection (a) with respect to a customer of a regulated person shall, upon the expiration of the 15-day period, qualify the customer as a regular customer, unless the Attorney General otherwise notifies the regulated person in writing.

"(c)(1) The Attorney General may order the suspension of any importation or exportation of a listed chemical (other than a regulated transaction to which the requirement of subsection (a) does not apply by reason of subsection (b)) or may disqualify any regular customer on the ground that the chemical may be diverted to the clandestine manufacture of a controlled substance. From and after the time when the Attorney General provides written notice of the order (including a statement of the legal and factual basis for the order) to the regulated person, the regulated person may not carry out the transaction.

"(2) Upon written request to the Attorney General, a regulated person to whom an order applies under paragraph (1) is entitled to an agency hearing on the record. The hearing shall be held not later than 45 days after the request is made, except that the hearing may be held at a later time, if so requested by the regulated person.".

(b) Effective Date and Special Rule.—Subsection (a) of section 1018 of the Controlled Substances Import and Export Act, as added by subsection (a) of this section, shall take effect 180 days after the Attorney General prescribes the regulations referred to in subsection (b) of such section 1018. Each regular customer whose identity is furnished to the Attorney General not later than 60 days after the Attorney General prescribes such regulations shall be a regular customer for purposes of any applicable exception from the requirement of subsection (a) of such section 1018, unless the Attorney General otherwise notifies the regulated person in writing.

(c) Penalty for Importation or Exportation.—Section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) is amended by adding at the end the following new subsection:

"(d) Any person who knowingly or intentionally—

"(1) imports or exports a listed chemical with intent to manufacture a controlled substance in violation of this title or, in the case of an exportation, in violation of the law of the country to which the chemical is exported; or

"(2) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the listed chemical will be used to manufacture a controlled substance in violation of this title or, in the case of an exportation, in violation of the law of the country to which the chemical is exported;

shall be fined in accordance with title 18, United States Code, or imprisoned not more than 10 years, or both.".

(d) Penalty for Failure to Notify.—Section 1011 of the Controlled Substances Import and Export Act (21 U.S.C. 961) is amended in the matter before paragraph (1) by inserting after "section 1004" the following: "or fails to notify the Attorney General of an importation or exportation under section 1018".

(e) Clerical Amendment.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by adding at the end of the items relating to part A of title III the following new item:

"Sec. 1018. Notification, suspension of shipment, and penalties with respect to importation and exportation of listed chemicals.".

SEC. 6054. DEFINITIONS.

Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (8), by inserting "or a listed chemical" after "a controlled substance";

(2) in paragraph (11), by inserting "or a listed chemical" after "a controlled substance" both places it appears; and

(3) by adding at the end the following new paragraphs:

"(33) The term 'listed chemical' means any listed precursor chemical or listed essential chemical.

"(34) The term 'listed precursor chemical' means a chemical specified by regulation of the Attorney General as a chemical that is used in manufacturing a controlled substance in violation of this title and is critical to the creation of the controlled substances, and such term includes (until otherwise specified by regulation of the Attorney General, as considered appropriate by the Attorney General or upon petition to the Attorney General by any person) the following:

"(A) Anthranilic acid and its salts.

"(B) Benzyl cyanide.

"(C) Ephedrine, its salts, optical isomers, and salts of optical isomers.

"(D) Ergonovine and its salts.

"(E) Ergotamine and its salts.

"(F) N-Acetylanthranilic acid and its salts.

"(G) Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers.

"(H) Phenylacetic acid and its salts.

"(I) Phenylpropanolamine, its salts, optical isomers, and salts of optical isomers.

"(J) Piperidine and its salts.

"(K) Pseudoephedrine, its salts, optical isomers, and salts of optical isomers.

"(L) 3,4-Methylenedioxyphenyl-2-propanone.

"(35) The term 'listed essential chemical' means a chemical specified by regulation of the Attorney General as a chemical that is used as a solvent, reagent, or catalyst in manufacturing a controlled substance in violation of this title, and such term includes (until otherwise specified by regulation of the Attorney General, as considered appropriate by the Attorney General or upon petition to the Attorney General by any person) the following chemicals:

"(A) Acetic anhydride.

"(B) Acetone.

"(C) Benzyl chloride.

"(D) Ethyl ether.

"(E) Hydriodic acid.

"(F) Potassium permanganate.

"(G) 2-Butanone.

"(H) Toluene.

"(36) The term 'regular customer' means, with respect to a regulated person, a customer with whom the regulated person has an established business relationship that is reported to the Attorney General.

"(37) The term 'regulated person' means a person who manufactures, distributes, imports, or exports a listed chemical, a tableting machine, or an encapsulating machine.

"(38) The term 'regulated transaction' means—

"(A) a distribution, receipt, sale, importation or exportation of a threshold amount, including a cumulative threshold amount for multiple transactions (as determined by the Attorney General, in consultation with the chemical industry and taking into consideration the quantities normally used for lawful purposes), of a listed chemical, except that such term does not include—

"(i) a lawful distribution in the usual course of business between agents or employees of a single regulated person;

"(ii) any category of transaction specified by regulation of the Attorney General as excluded from this definition as unnecessary for enforcement of this title or title III;

"(iii) any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act; or

"(iv) any transaction in a chemical mixture; and

"(B) a distribution, importation, or exportation of a tableting machine or encapsulating machine.

"(39) The term 'chemical mixture' means a combination of two or more chemical substances, at least one of which is not a listed precursor chemical or a listed essential chemical, except that such term does not include any combination of a listed precursor chemical or a listed essential chemical with another chemical that is present solely as an impurity.".

SEC. 6055. AMENDMENTS TO SECTION 401 OF THE CONTROLLED SUBSTANCES ACT.

(a) Additional Offenses.—Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended by striking out subsection (d) and inserting in lieu thereof the following new subsections:

"(d) Any person who knowingly or intentionally—

"(1) possesses a listed chemical with intent to manufacture a controlled substance except as authorized by this title;

"(2) possesses or distributes a listed chemical knowing, or having reasonable cause to believe, that the listed chemical will be used to manufacture a controlled substance except as authorized by this title; or

"(3) with the intent of causing the evasion of the recordkeeping or reporting requirements of section 310, or the regulations issued under that section, receives or distributes a reportable amount of any listed chemical in units small enough so that the making of records or filing of reports under that section is not required;

shall be fined in accordance with title 18, United States Code, or imprisoned not more than 10 years, or both.

"(e)(1) Whoever knowingly distributes a listed chemical in violation of this title (other than in violation of a recordkeeping or reporting requirement of section 310) shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

"(2) Whoever possesses any listed chemical, with knowledge that the recordkeeping or reporting requirements of section 310 have not been adhered to, if, after such knowledge is acquired, such person does not take immediate steps to remedy the violation shall be fined under title 18, United States Code, or imprisoned not more than one year, or both.".

(b) Additional Penalty.—Section 401 of the Controlled Substances Act (21 U.S.C. 841), as amended by subsection (a) of this section, is further amended by adding at the end the following new subsection:

"(f) In addition to any other applicable penalty, any person convicted of a felony violation of this section relating to the receipt, distribution, or importation of a listed chemical may be enjoined from engaging in any regulated transaction involving a listed chemical for not more than ten years.".

SEC. 6056. AMENDMENTS TO SECTION 402 OF THE CONTROLLED SUBSTANCES ACT.

(a) Confidential Information Amendment.—Section 402(a)(8) of the Controlled Substances Act (21 U.S.C. 842(a)(8)) is amended by inserting after "protection" the following: ", or to use to his own advantage or reveal (other than as authorized by section 310) any information that is confidential under such section".

(b) Identification Amendment.—Section 402(a)(9) of the Controlled Substances Act (21 U.S.C. 842(a)(9)) is amended to read as follows:

"(9) who is a regulated person to engage in a regulated transaction without obtaining the identification required by 310(a)(3).".

(c) Technical Amendment.—Section 402(c)(2) of the Controlled Substances Act (21 U.S.C. 842(c)(2)) is amended by striking out subparagraph (C).

(d) Records Violations.—Section 402(a) of the Controlled Substances Act (21 U.S.C. 842(a)) is amended—

(1) in paragraph (8), as amended by subsection (a) of this section, by striking out "or" at the end of the paragraph;

(2) in paragraph (9), as amended by subsection (b) of this section, by striking out the period at the end of the paragraph and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new paragraph:

"(10) to fail to keep a record or make a report under section 310.".

SEC. 6057. AMENDMENTS TO SECTION 403 OF THE CONTROLLED SUBSTANCES ACT.

(a) Additional Offenses.—Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) in paragraph (4)(B), by striking out "piperidine" and inserting in lieu thereof "a listed chemical";

(2) in paragraph (4)(B), by striking out "or" after the semicolon;

(3) in paragraph (5), by striking out the period at the end and inserting in lieu thereof a semicolon; and

(4) by adding after paragraph (5) the following new paragraphs:

"(6) to possess any three-neck round-bottom flask, tableting machine, encapsulating machine, gelatin capsule, or equipment specially designed or modified to manufacture a controlled substance, with intent to manufacture a controlled substance except as authorized by this title;

"(7) to manufacture, distribute, or import any three-neck round-bottom flask, tableting machine, encapsulating machine, gelatin capsule, or equipment specially designed or modified to manufacture a controlled substance, knowing that it will be used to manufacture a controlled substance except as authorized by this title; or

"(8) to create a chemical mixture for the purpose of evading a requirement of section 310 or to receive a chemical mixture created for that purpose.".

(b) Additional Penalty.—Section 403 of the Controlled Substances Act (21 U.S.C. 843), is amended by adding at the end the following new subsection:

"(d) In addition to any other applicable penalty, any person convicted of a felony violation of this section relating to the receipt, distribution, or importation of a listed chemical may be enjoined from engaging in any regulated transaction involving a listed chemical for not more than ten years.".

SEC. 6058. SUBPOENA POWER.

The first sentence of section 506(a) of the Controlled Substances Act (21 U.S.C. 876(a)) is amended by inserting "or listed chemicals" after "with respect to controlled substances".

SEC. 6059. FORFEITURE.

(a) In General.—Section 511(a) of the Controlled Substances Act (21 U.S.C. 881) is amended by adding at the end the following new paragraph:

"(9) All listed chemicals, all drug manufacturing equipment, all tableting machines, all encapsulating machines, and all gelatin capsules, which have been imported, exported, manufactured, possessed, distributed, or intended to be distributed, imported, or exported, in violation of a felony provision of this title or title III.".

(b) Technical Amendment.—Paragraph (3) and paragraph (4) of section 511(a) of the Controlled Substances Act (21 U.S.C. 881 (a) and (4)) are each amended by striking out "paragraph (1) or (2)" and inserting in lieu thereof "paragraph (1), (2), or (9)".

SEC. 6060. EFFECTIVE DATE.

Except as otherwise provided in this subtitle, this subtitle shall take effect 120 days after the enactment of this Act.

Subtitle B—Asset Forfeiture Amendments

SEC. 6071. SHORT TITLE.

This subtitle may be cited as the "Asset Forfeiture Amendments Act of 1988".

SEC. 6072. AUDITS AND REPORTS RELATING TO THE DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.

Section 524(c) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(9) The Comptroller General shall audit the fund annually.".

SEC. 6073. USE OF RESIDUAL AMOUNTS UNDER THE DEPARTMENT OF JUSTICE FORFEITURE FUND.

Section 524(c)(1)(H) of title 28, United States Code, is amended—

(1) by striking out "deposits from the Assets Forfeiture Fund to" and inserting in lieu thereof "from the fund, with respect to such fiscal year, not more than $150,000,000 for the following purposes (but not more than 25 percent of the amount so transferred may be transferred for any single purpose): (i)"; and

(2) By inserting after "institutions" the following: ", (ii) offices of United States attorneys, (iii) organized crime drug enforcement task forces under the Attorney General, (iv) foreign cooperative investigation programs under the Administrator of the Drug Enforcement Administration, and (v) diversion control programs under the Administrator of the Drug Enforcement Administration".

SEC. 6074. EXEMPTION OF CERTAIN CONTRACT SERVICES UNDER THE DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND FROM ADVERTISING AND PROCUREMENT REQUIREMENTS.

Section 524(c) of title 28, United States Code, as amended by section 6152 and section 6153, is further amended by adding at the end the following new paragraph:

"(11) The Attorney General may exempt contract services referred to in paragraph (1)(A) from section 3709 of the Revised Statutes of the United States and title III of the Federal Property and Administrative Services Act of 1949, if necessary to maintain the security and confidentiality of a criminal or civil investigation.".

SEC. 6075. USE OF DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND FOR SERVICES FOR CERTAIN INFORMATION SYSTEMS.

Section 524(c)(1)(A) of title 28, United States Code, is amended by striking out "90 percent" and inserting in lieu thereof "the majority".

SEC. 6076. INNOCENT OWNER PROVISIONS.

(a) In General.—Not later than 90 days after the date of enactment of this Act, the Attorney General and the Secretary of the Treasury shall consult and prescribe regulations for expedited administrative procedures for seizures under section 511(a) (4), (6), and (7) of the Controlled Substances Act (21 U.S.C. 881(a) (4), (6), and (7)), section 595 of the Tariff Act of 1930 (19 U.S.C. 1595a(a)), and section 2 of the Act of August 9, 1939 (53 Stat. 1291; 49 U.S.C. app. 782) for violations involving the possession of personal use quantities of a controlled substance.

(b) SPECIFICATIONS.—The regulations prescribed pursuant to subsection (a) shall minimize the adverse impact caused by prolonged detention and provide for a final administrative determination of the case within 21 days of seizure or provide a procedure by which the defendant can obtain release of the property pending a final determination of the case. Such regulations shall provide that the appropriate agency official rendering such determination shall immediately return the property if the following conditions are established:

(1) the owner or interested party did not know of or consent to the violation; and

(2) reasonable steps were taken by the owner or interested party to prevent the illegal use of the property.

SEC. 6077. RESTORATION OF EQUITABLE SHARING PRINCIPLE RELATING TO TRANSFER OF FORFEITED ASSETS TO STATE AND LOCAL AGENCIES UNDER THE CONTROLLED SUBSTANCES ACT.

(a) IN GENERAL.—Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended by adding at the end the following new paragraph:

"(3) The Attorney General shall assure that any property transferred to a State or local law enforcement agency under paragraph (1)(A)—

"(A) has a value that bears a reasonable relationship to the degree of direct participation of the State or local agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based; and

"(B) is not so transferred to circumvent any requirement of State law that prohibits forfeiture or limits use or disposition of property forfeited to State or local agencies.".

(b) TECHNICAL AMENDMENT.—Section 511(e)(1)(A) of the Controlled Substances Act (21 U.S.C. 881(e)(1)(A)) is amended to read as follows:

"(A) retain the property for official use or, in the manner provided with respect to transfers under section 616 of the Tariff Act of 1930, transfer the property to any Federal agency or to any State or local law enforcement agency which participated directly in the seizure or forfeiture of the property;".

SEC. 6078. EFFECTIVE DATE.

(a) IN GENERAL.—This subtitle shall take effect on the date of the enactment of this subtitle, except that the amendments made by sections 6153(a), 6153(b), and 6155, and the repeal made by section 6153(c) shall apply with respect to fiscal years beginning after September 30, 1988.

(b) EFFECTIVE DATE FOR SECTION 6159.—The amendments made by section 6159 shall apply with respect to seizures made more than 120 days after the date of the enactment of this Act.

Subtitle C—State and Local Assistance

SEC. 6081. SHORT TITLE.

This subtitle may be cited as the "State and Local Law Enforcement Assistance Act of 1988".

SEC. 6082. GRANTS TO IMPROVE CRIMINAL HISTORY INFORMATION.

(a) AUTHORITY TO MAKE GRANTS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after section 304 the following section:

"GRANTS TO IMPROVE CRIMINAL HISTORY INFORMATION

"SEC. 305. Not less than 5 per centum of the funds appropriated for a fiscal year to carry out this part shall be used by the Director to make grants under section 302(c) to States and units of local government to improve the accuracy and completeness of criminal history information.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the item relating to section 304 the following new item:

"Sec. 305. Grants to improve criminal history information.".

SEC. 6083. APPOINTMENT OF THE DIRECTOR OF THE BUREAU OF JUSTICE ASSISTANCE.

The first sentence of section 401(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3741(b)) is amended by striking "Attorney General" and inserting "President, by and with the advice and consent of the Senate".

SEC. 6084. ANTITERRORISM PLANS.

Section 403(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3743(a)) is amended—

(1) in paragraph (17) by striking "and" at the end,

(2) in paragraph (18) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(19) developing and implementing antiterrorism plans for deep draft ports, international airports, and other important facilities.".

SEC. 6085. CERTIFICATION REQUIREMENT.

Section 1303 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796j) is amended—

(1) in paragraph (4) by striking "and",

(2) in paragraph (5) by striking the period and inserting "; and", and

(3) by inserting after paragraph (5) the following:

"(6) a certification that the State is undertaking initiatives to reduce, through the enactment of innovative penalties or increasing law enforcement efforts, the demand for controlled substances by holding accountable those who unlawfully possess or use such substances.".

SEC. 6088. MATCHING REQUIREMENT.

Section 1307(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796n(a)) is amended by striking "75 per centum" and inserting "50 per centum".

SEC. 6089. DISCRETIONARY GRANTS.

(a) LIMITATION ON FUNDS FOR DISCRETIONARY GRANTS.—Section 1311 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796r) is amended by inserting "or $50,000,000, whichever is less" after "20 per centum".

(b) CONFORMING AMENDMENT.—Section 1305(a)(1) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796l(a)), as amended by section 6207(c) of this Act, is amended by striking "80 per centum" and inserting "the amount remaining after reserving the amount required to carry out section 1311 of this title".

SEC. 6090. DRUG LAW ENFORCEMENT PILOT PROJECT.

(a) AUTHORITY TO MAKE GRANTS.—Section 1309 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796p) is amended—

(1) by striking "The" and inserting "(a) Subject to subsection (b), the", and

(2) by adding at the end the following:

"(b) With funds set aside to carry out this subsection, the Director is authorized to make grants to States and units of local government to improve drug law enforcement programs by—

"(1) providing additional compensation and incentives (including overtime pay) not normally available to drug law enforcement officers;

"(2) providing additional training for drug law enforcement officers;

"(3) developing programs to recruit youth who reside in areas with a high level of drug-related crime, to become drug law enforcement officers; and

"(4) providing logistical support to increase the efficiency of drug law enforcement officers.".

(b) FUNDS SET ASIDE.—Section 1311 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796r) is amended—

(1) by striking "Of" and inserting "(a) Subject to subsection (b), of", and

(2) by adding at the end the following:

"(b) Of the amount required by subsection (a) to be reserved and set aside in any fiscal year, $5,000,000 shall be set aside for section 1309(b) of this title in a special discretionary fund for use by the Director in carrying out the purposes specified in such section.".

(c) DEFINITION.—Section 901 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended—

(1) in paragraph (20) by striking "and",

(2) in paragraph (21) by striking the period and inserting "; and", and

(3) by adding at the end thereof the following:

"(22) 'drug law enforcement officer' means a law enforcement officer, as defined in section 1203(5) of this title, who is engaged more than 50 percent of the time he or she is engaged in performing official duties, in enforcing State and local laws that establish offenses similar to offenses established in the Controlled Substances Act.".

SEC. 6091. AUTHORIZATION OF APPROPRIATIONS.

(a) BUREAU OF JUSTICE STATISTICS.—Section 1001(a)(1) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(1)) is amended—

(1) by striking "years 1984, 1985, 1986, 1987, and" and inserting "year", and

(2) by inserting after "necessary" the following: ", and $30,000,000 for each of the fiscal years 1989, 1990, 1991, and 1992,".

(b) NATIONAL INSTITUTE OF JUSTICE.—Section 1001(a)(2) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(2)) is amended—

(1) by striking "years 1984, 1985, 1986, 1987, and" and inserting "year", and

(2) by inserting after "necessary" the following: ", and $30,000,000 for each of the fiscal years 1989, 1990, 1991, and 1992,".

(c) Bureau of Justice Assistance.—(1) Section 1001(a)(3) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(3)) is amended—

(A) by striking "is" and inserting "are",

(B) by striking "each of the fiscal years 1984, 1985, 1986, 1987, and" and inserting "fiscal year", and

(C) by inserting "and $100,000,000 for each of the fiscal years 1989, 1990, 1991, and 1992" after "1988".

(2) Section 1001(a)(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(4)) is amended—

(A) by striking "1984, 1985, 1986, 1987, and", and

(B) by inserting ", 1989, 1990, 1991, and 1992" after "1988".

(3) Section 1001(a)(6) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(6)) is amended—

(A) by striking "$230,000,000" the first place it appears and all that follows through "and $230,000,000", and inserting "$250,000,000", and

(B) by inserting "and $500,000,000 for each of the fiscal years 1990, 1991, and 1992" after "1989".

SEC. 6092. AUTHORITY FOR PROGRAMS REGARDING ALCOHOL-DEPENDENT OFFENDERS AND FOR AUTOMATED FINGERPRINT IDENTIFICATION SYSTEMS.

(a) Alcohol-Dependent Offenders.—Section 403(a)(8) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3743(a)(8)) is amended by adding "and alcohol-dependent offenders" after "drug dependent offenders".

(b) Fingerprint Identification.—Section 403(a)(12) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3743(a)(12)) is amended by inserting "(including automated fingerprint identification systems)" after "systems" the first place it appears.

SEC. 6093. NAME OF PROGRAM.

Part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796h et seq.) is amended by inserting before section 1301 the following:

"NAME OF PROGRAM

"Sec. 1300. The grant program established under this part shall be known as the 'Edward Byrne Memorial State and Local Law Enforcement Assistance Program'."

SEC. 6094. EFFECTIVE DATES.

(a) General Effective Date.—Except as provided in subsection (b), this subtitle and the amendments made by this subtitle shall take effect on the date of the enactment of this Act.

(b) Effective Date of Sections 6206 Through 6210.—Sections 6206, 6207, 6208, 6209, and 6210 shall take effect on October 1, 1988.

Subtitle D—Authorizations of Appropriations for the Department of Justice and for Prisons

SEC. 6101. AUTHORIZATIONS OF APPROPRIATIONS FOR THE DEPARTMENT OF JUSTICE.

(a) Fiscal Year 1988.—There is authorized to be appropriated, in addition to any sums otherwise authorized to be appropriated, for fiscal year 1988 for the Department of Justice for the Drug Enforcement Administration, $4,900,000.

(b) Fiscal Year 1989.—(1) There is authorized to be appropriated for fiscal year 1989 for the Department of Justice for the Drug Enforcement Administration, $625,551,000, of which $800,000 shall be available for voice privacy equipment.

(2) There is authorized to be appropriated, in addition to any sums otherwise authorized to be appropriated, for fiscal year 1989 for the Department of Justice for Organized Crime Drug Enforcement, $9,000,000.

(3) There is authorized to be appropriated, in addition to any sums otherwise authorized to be appropriated, for fiscal year 1989 for the Department of Justice for the Immigration and Naturalization Service, $82,300,000, to be used for the purposes of interdiction activities, investigations, detention and deportation, training and orientation.

(4) There is authorized to be appropriated for fiscal year 1989 for the Department of Justice for the Federal Bureau of Investigation for drug enforcement and related activities, $148,893,000.

(5) There is authorized to be appropriated, in addition to any sums othewise authorized to be appropriated, for the fiscal year 1989 for the Department of Justice for the United States Marshals Service, $53,800,000.

(c) United States Attorneys.—In addition to any sums otherwise authorized to be appropriated, there are authorized to be appropriated for fiscal years 1989, 1990, and 1991, for the Department of Justice for the offices of United States Attorneys, $30,000,000.

SEC. 6102. AUTHORIZATION OF APPROPRIATIONS FOR PRISONS.

There is authorized to be appropriated $1,380,084,000 for fiscal year 1989 for the Federal prison system.

SEC. 6103. DRUG ENFORCEMENT ADMINISTRATION AIR WING FACILITY.

The Administrator of the Drug Enforcement Administration shall take such action (including site acquisition, purchase of equipment and fixtures, and relocation from any former facility) as may be necessary to establish, maintain, and operate a special purpose facility for the use of the Drug Enforcement Administration Air Wing, to be located at a site having direct aircraft access to public aviation facilities. To carry out this section, there is authorized to be appropriated for the Department of Justice for the Drug Enforcement Administration, $10,800,000.

Subtitle E—Money Laundering

SEC. 6111. SHORT TITLE.

This subtitle may be cited as the "Money Laundering Prosecution Improvements Act of 1988".

SEC. 6112. INVESTIGATIVE AUTHORITY.

(a) Section 1956 Violations.—Section 1956(e) of title 18, United States Code, is amended—

(1) by inserting "(including the Internal Revenue Service)" after "Department of the Treasury";

(2) by inserting after the first sentence the following: "Violations of this section involving specified unlawful activity which the United States Postal Service may investigate may also be investigated by the United States Postal Service."; and

(3) by inserting "and the United States Postal Service" after "the Secretary of the Treasury" each place it appears in the final sentence.

(b) Section 1957 Violations.—Section 1957(e) of title 18, United States Code, is amended—

(1) by inserting "(including the Internal Revenue Service)" after "Department of the Treasury";

(2) by inserting after the first sentence the following: "Violations of this section involving specified unlawful activity which the United States Postal Service may investigate may also be investigated by the United States Postal Service."; and

(3) by inserting "and the United States Postal Service" after "the Secretary of the Treasury" each place it appears in the final sentence.

(c) Conforming Amendments to Section 981.—Section 981 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting "or the United States Postal Service" after "Secretary of the Treasury" the first place it appears; and

(B) by inserting "or the United States Postal Service, as the case may be," after "Secretary of the Treasury" the second place it appears; and

(2) in each of subsections (c) through (e), by inserting "or the United States Postal Service" after "Secretary of the Treasury" each place it appears.

SEC. 6113. APPLICATION OF SECTION 1957 TO ATTORNEYS FEES.

Section 1957(a) of title 18, United States Code, is amended by adding at the end the following: "This subsection does not apply to monetary transactions involving the bona fide fees an attorney accepts for representing a client in a criminal investigation or any proceeding arising therefrom.".

SEC. 6114. CROSS REFERENCE TECHNICAL CORRECTIONS.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 38 of the Arms Export Control Act" and all that follows through "(50 U.S.C. App. 3)" and inserting in lieu thereof "section 38(c) (relating to criminal violations) of the Arms Export Control Act, section 11 (relating to violations) of the Export Administration Act of 1979, section 206 (relating to penalties) of the International Emergency Economic Powers Act, or section 16 (relating to offenses and punishment) of the Trading with the Enemy Act.".

SEC. 6115. DEFINITION OF MONETARY INSTRUMENT FOR MONEY LAUNDERING OFFENSES.

Section 1957 of title 18, United States Code, is amended by striking out "for the purposes of subchapter II of chapter 53 of title 31" and inserting "in section 1956(c)(5) of this title" in lieu thereof.

SEC. 6116. MONEY LAUNDERING WITH INTENT TO VIOLATE THE INTERNAL REVENUE CODE OF 1986.

Section 1956(a) of title 18, United States Code, is amended by adding at the end the following:

"(3) Whoever knowingly conducts or attempts to conduct a financial transaction that in whole or in part involves the proceeds of specified unlawful activity with intent to violate section 7201 or 7206 of the Internal Revenue Code of 1986 shall be sentenced to a fine under this title or in an amount not more than twice the value of the monetary instrument or funds involved in the transaction, whichever is greater, or imprisonment for not more than 20 years, or both.".

SEC. 6117. OPERATION STING AMENDMENTS TO MONEY LAUNDERING OFFENSES.

Section 1956 of title 18, United States Code, is amended—

(1) in paragraph 1956(a)(1), by inserting "or has been represented to be the proceeds of some form of unlawful activity", after ", knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity";

(2) by inserting "or has been represented, directly or indirectly, to be the proceeds of specified unlawful activity" after "in fact involves the proceeds of specified unlawful activity"; and

(3) in paragraph 1956(a)(2)(B)—

(A) by inserting "or have been represented to be the proceeds of some form of unlawful activity" after "transportation represent the proceeds of some form of unlawful activity"; and

(B) by inserting in paragraph 1956(a)(2)(B)(i) "or activity that has been represented to be unlawful activity" after "control of the proceeds of specified unlawful activity".

Subtitle F—Sense of Congress That Proposals To Legalize Illicit Drugs Should Be Rejected

SEC. 6121. SENSE OF CONGRESS THAT PROPOSALS TO LEGALIZE ILLICIT DRUGS SHOULD BE REJECTED.

It is the sense of Congress that—

(1) proposals to combat sale and use of illicit drugs by legalization should be rejected; and

(2) consideration should be given only to proposals to attack directly the supply of, and demand for, illicit drugs, such as proposals to strengthen and expand penalties for sale and use, proposals to encourage greater multinational cooperation in eradication and interdiction, and proposals to promote educational awareness programs for young people.

Subtitle G—Firearms Provisions

SEC. 6131. INTERDICTION OF SUPPLY OF FIREARMS TO DRUG TRAFFICKERS.

Section 924 of title 18, United States Code, is amended by adding at the end the following:

"(f) Whoever, with the intent to engage in conduct which—

"(1) constitutes an offense listed in section 1961(1),

"(2) is punishable under the Controlled Substances Act (21 U.S.C. 802 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.),

"(3) violates any State law relating to any controlled substance (as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6))), or

"(4) constitutes a crime of violence (as defined in subsection (c)(3)),

travels from any State or foreign country into any other State and acquires, transfers, or attempts to acquire or transfer, a firearm in such other State in furtherance of such purpose, shall be imprisoned not more than 10 years, fined in accordance with this title, or both.

"(g) Whoever knowingly transfers a firearm, knowing that such firearm will be used to commit a crime of violence (as defined in subsection (c)(3)) or drug trafficking crime (as defined in subsection (c)(2)) shall be imprisoned not more than 10 years, fined in accordance with this title, or both.".

SEC. 6132. CLARIFICATION OF DEFINITION OF DRUG TRAFFICKING CRIMES IN WHICH USE OR CARRYING OF FIREARMS AND ARMOR PIERCING AMMUNITION IS PROHIBITED.

Paragraph (2) of section 924(c) of title 18, United States Code, and paragraph (2) of section 929(a) of title 18, United States Code, are each amended to read as follows:

"(2) For purposes of this subsection, the term 'drug trafficking crime' means any felony punishable under the Controlled Substances Act (21 U.S.C. 802 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).".

SEC. 6133. SYSTEM TO IDENTIFY FELONS PURCHASING HANDGUNS.

(a) GUIDELINES AND STUDY.—(1) Section 302 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3731) is amended by adding at the end thereof the following:

"(f) The Bureau is authorized and directed to conduct studies of and develop guidelines for the use of identifying information used by the purchasers of firearms. Such study—

"(1) shall be done in consultation with representatives from Federal, State, municipal, and local agencies, and private organizations, and individuals involved with such information;

"(2) shall include the issuance of guidelines for the use of identifying information, including biometric information such as fingerprints, which may be used by federally licensed firearms dealers to identify individuals seeking to purchase a firearm; and

"(3) shall identify and develop means of accessing an exchange of information about prohibited persons listed in section 922(d)(4).".

(2) The study authorized by paragraph (1) shall begin within 2 months after the date of enactment of this Act and shall be completed within 2 years after such date.

(3)(A) The Director of the Bureau shall issue the guidelines mandated by paragraph (1) within 6 months after the date of the completion of such study.

(B)(i) When prescribing guidelines under subparagraph (A), the Bureau shall proceed in accordance with section 553 of title 5, United States Code, regarding the issuance of proposed rules, and shall publish a notice of proposed guidelines as well as a notice of a hearing and an opportunity to submit written data, arguments, and views.

(ii) Prior to the publication of any notice of proposed guidelines pursuant to clause (i), the Bureau shall publish an advance notice of proposed rulemaking in the Federal Register. Such advance notice shall—

(I) contain a brief description of the guidelines under consideration, and the objectives which the Bureau seeks to achieve; and

(II) invite the response of interested parties with respect to such proposed guidelines, including any suggestions or alternative methods for achieving such objectives.

(III) The Bureau shall submit such advance notice of proposed guidelines to the Committees on the Judiciary of the Senate and the House of Representatives. The Bureau may use such additional mechanisms as the Bureau considers useful to obtain suggestions regarding the content of the area of inquiry before the publication of a general notice of proposed guidelines under subparagraph (B)(i).

(iii) The Bureau shall, 30 days before the publication of a notice of proposed rulemaking pursuant to subparagraph (B)(i), submit such notice to the Committees on the Judiciary of the Senate and the House of Representatives.

(C) The Bureau may prescribe such reasonable rules concerning proceedings in the hearing required by this section as may avoid unnecessary costs or delay.

(b) VERIFICATION PROCESS.—(1) The Bureau shall carry out demonstration programs in cooperation with Federal, State, and local law enforcement and identification agencies, to determine the feasibility of using telecommunication systems to verify information submitted to federally licensed firearms dealers by prospective purchasers. The Bureau shall design a system which may be accessed by use of agreed upon individual identification descriptors and which provides that such information may be subject to verification through the use of biometric information.

(2) The Bureau shall conduct periodic evaluations of such demonstration projects for purposes of determining the effectiveness and value of the demonstration project in providing information and in protecting the privacy of persons involved.

(3) Not later than the date 2 years after the date of enactment of this Act, the Bureau shall prepare and submit to the Congress a detailed report setting forth the findings and conclusions of the Bureau as a result of the demonstration program established in this subsection. Such report shall include any recommendations of the Bureau with respect to the establishment of a permanent program of using such access system.

(4) The Bureau shall take all steps necessary to provide procedures which will assure the confidentiality of information in such system and to protect the privacy of persons involved.

(5) Any person who is a perspective purchaser and as such is not allowed to purchase a firearm on the basis of information obtained pursuant to the access system established by this subsection shall be allowed access to his or her personal files in such system. Such individual may inspect such records and may submit data or other information to be included in such file to verify, update or correct the information in such file.

(6) Any person who is not allowed to purchase a firearm after submitting information pursuant to paragraph (5) may obtain administrative review of such determination pursuant to the provisions of chapter 5 of title 5 of the United States Code and shall be given a decision on the record after an opportunity for an agency hearing, but no trial of the law or facts de novo in a court.

(c) NO NATIONAL IDENTIFICATION SYSTEM.—Nothing in this section shall be construed as authorizing the creation of a national system for the identification or registration of firearms or owners, or for a State or local registration system.

SEC. 6134. REVOCATION OF PROBATION.

Section 3565 of title 18, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of probation, the court shall, after a hearing pursuant to Rule 32.1 of the Federal Rules of Criminal Procedure, revoke the sentence of probation and impose any other sentence that was available under subchapter A at the time of the initial sentencing.".

Subtitle H—Investigative Powers of Postal Service Personnel and National Forest System Drug Control

SEC. 6141. INVESTIGATIVE POWERS OF POSTAL SERVICE PERSONNEL.

(a) IN GENERAL.—Section 3061 of title 18, United States Code, is amended to read as follows:

"§ 3061. Investigative powers of Postal Service personnel

"(a) Subject to subsection (b) of this section, Postal Inspectors and other agents of the United States Postal Service designated by the Board of Governors to investigate criminal matters related to the Postal Service and the mails may—

"(1) serve warrants and subpoenas issued under the authority of the United States;

"(2) make arrests without warrant for offenses against the United States committed in their presence;

"(3) make arrests without warrant for felonies cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such a felony;

"(4) carry firearms; and

"(5) make seizures of property as provided by law.

"(b) The powers granted by subsection (a) of this section shall be exercised only—

"(1) in the enforcement of laws regarding property in the custody of the Postal Service, property of the Postal Service, the use of the mails, and other postal offenses; and

"(2) to the extent authorized by the Attorney General pursuant to agreement between the Attorney General and the Postal Service, in the enforcement of other laws of the United States, if the Attorney General determines that violations of such laws have a detrimental effect upon the operations of the Postal Service.".

(b) CLERICAL AMENDMENT.—The item relating to section 3061 in the table of sections of chapter 203 of title 18, United States Code, is amended to read as follows:

"3061. Investigative powers of Postal Service personnel.

SEC. 6142. POSTAL SERVICE FUND AMENDMENTS.

Section 2003(b)(7) of title 39, United States Code, is amended—

(1) by striking out "administrative"; and

(2) by striking out "under title 18".

SEC. 6143. CIVIL FORFEITURE AUTHORITY OF THE POSTAL SERVICE UNDER THE CONTROLLED SUBSTANCES ACT.

(a) IN GENERAL.—Section 511 of the Controlled Substances Act (21 U.S.C. 881), as amended by section 6159, is further amended by adding at the end the following new subsection:

"(l) The functions of the Attorney General under this section shall be carried out by the Postal Service pursuant to such agreement as may be entered into between the Attorney General and the Postal Service.".

(b) DEPOSITS OF PROCEEDS IN POSTAL SERVICE FUND.—Section 511(e)(2)(B) of the Controlled Substances Act (21 U.S.C. 881(e)(2)(B)) is amended by striking out the period at the end and inserting in lieu thereof the following: ", except that, with respect to forfeitures conducted by the Postal Service, the Postal Service shall deposit in the Postal Service Fund, under section 2003(b)(7) of title 39, United States Code, such moneys and proceeds.".

SEC. 6144. NATIONAL FOREST SYSTEM DRUG CONTROL.

(a) OFFICERS.—Section 15003 of the National Forest System Drug Control Act of 1986 (16 U.S.C. 559c) is amended to read as follows:

"SEC. 15003. ENFORCEMENT.

"(a) The Secretary of Agriculture may designate and specially train employees of the Forest Service as officers to enforce—

"(1) criminal laws relating to controlled substances that are manufactured or distributed on National Forest System lands; and

"(2) any other Federal criminal law relating to the administration of the National Forest System lands.

"(b) The Secretary may authorize such officers, in the performance of duties under subsection (a)—

"(1) to carry firearms and conduct investigations;

"(2) to make arrests with a warrant in the case of any felony or misdemeanor;

"(3) to make arrests without a warrant in the case of any misdemeanor committed in the presence of the officer and in the case of any felony;

"(4) to serve warrants and other process; and

"(5) to conduct searches and seizures.".

(b) ASSISTANCE FROM OTHER DEPARTMENTS AND AGENCIES.—Section 15004 of the National Forest System Drug Control Act of 1986 (16 U.S.C. 559d) is amended—

(1) in paragraph (1), by striking out "and" after the semicolon;

(2) in paragraph (2), by striking out the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(3) the Secretary of Agriculture is authorized to designate law enforcement officers of any other Federal agency, when the Secretary determines such to be economical and in the public interest, and with the concurrence of that agency, to exercise the powers and authority of the Forest Service while assisting the Forest Service in the National Forest System, or for activities administered by the Forest Service.".

(c) AGREEMENT.—Section 15007 of the National Forest System Drug Control Act of 1986 (16 U.S.C. 559f) is amended by striking out "conferred herein" and inserting in lieu thereof "under section 15003(a)(1)".

(d) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Attorney General and the Secretary of Agriculture shall each submit a report to the Committee on Agriculture, the Committee on Interior and Insular Affairs, and the Committee on the Judiciary of the House of Representatives, and to the Committee on Agriculture, the Committee on Energy and Natural Resources, and the Committee on the Judiciary of the Senate on the activities of the Attorney General and the Secretary of Agriculture in expediting investigations referred to in section 15003(a)(1) of the National Forest System Drug Control Act of 1986 (16 U.S.C. 559b et seq.).

Subtitle I—Travel Expenses and Health Care of Department of Justice Personnel Serving Abroad

SEC. 6151. AUTHORIZATION OF APPROPRIATIONS FOR TRAVEL AND RELATED EXPENSES AND FOR HEALTH CARE OF DEPARTMENT OF JUSTICE PERSONNEL SERVING ABROAD.

(a) IN GENERAL.—Chapter 31 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 530A. Authorization of appropriations for travel and related expenses and for health care of personnel serving abroad

"There are authorized to be appropriated, for any fiscal year, for the Department of Justice, such sums as may be necessary—

"(1) for travel and related expenses of employees of the Department of Justice serving abroad and their families, to be payable in the same manner as applicable with respect to the Foreign Service under paragraphs (3), (5), (6), (8), (9), (11), and (15) of section 901 of the Foreign Service Act of 1980, and under the regulations issued by the Secretary of State; and

"(2) for health care for such employees and families, to be provided under section 904 of that Act.".

(b) CLERICAL AMENDMENT.—The table of section for chapter 31 of title 28, United States Code, is amended by adding at the end the following new item:

"530A. Authorization of appropriations for travel and related expenses and for health care of personnel serving abroad.".

Subtitle J—Program-Related and Study Provisions

SEC. 6161. ENHANCEMENT OF THE DRUG AFTERCARE PROGRAM OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.

Section 4(a) of the Contract Services for Drug Dependent Federal Offenders Act of 1978 (18 U.S.C. 4255 note) is amended by—

(1) striking out "$14,000,000" and inserting "$24,000,000" in lieu thereof, and

(2) striking out "$16,000,000" and inserting "$26,000,000" in lieu thereof.

SEC. 6162. DEMONSTRATION PROGRAM FOR DRUG TESTING OF ARRESTED PERSONS.

(a) ESTABLISHMENT.—The Director of the Administrative Office of the United States Courts shall establish a demonstration program of mandatory testing of criminal defendants.

(b) LENGTH OF PROGRAM.—The demonstration program shall begin not later than January 1, 1989, and shall last one year.

(c) SELECTION OF DISTRICTS.—The Judicial Conference of the United States shall select 5 Federal judicial districts in which to carry out the demonstration program, so that the group selected represents a mix of districts on the basis of criminal caseload and the types of cases in that caseload.

(d) INCLUSION IN PRETRIAL SERVICES.—In each of the districts in which the demonstration program takes place, pretrial services under chapter 207 of title 18, United States Code, shall arrange for the drug testing of defendants in criminal cases. To the extent feasible, such testing shall be completed before the defendant makes the defendant's initial appearance in the case before a judicial officer. The results of such testing shall be included in the report to the judicial officer under section 3154 of title 18, United States Code.

(e) MANDATORY CONDITION OF PROBATION.—In each of the judicial districts in which the demonstration program is in effect, it shall be an additional, mandatory condition of probation for any defendant convicted of a drug-related offense, as determined by the judge, that such defendant refrain from any use of any controlled substance (as defined in section 102 of the Controlled Substances Act) without a prescription by a licensed medical practitioner. Each probation officer shall provide for the random testing of probationers who are under that probation officer's supervision and to whom this condition applies, for the illicit use of such substances.

(f) REPORT TO CONGRESS.—Not later than 90 days after the end of the demonstration program, the Director of the Administrative Office of the United States Courts shall report to Congress on the effectiveness of the demonstration program and include in such report recommendations as to whether mandatory drug testing of defendants should be made more general and permanent.

SEC. 6163. NATIONAL TRAINING CENTER FOR PRISON DRUG REHABILITATION PROGRAM PERSONNEL.

(a) IN GENERAL.—The Director of the National Institute of Corrections, in consultation with persons with expertise in the field of community-based drug rehabilitation, shall establish and operate, at any suitable location, a national training center (hereinafter in this section referred to as the "center") for training Federal, State, and local prison or jail officials to conduct drug rehabilitation programs for criminals convicted of drug-related crimes and for drug-dependent criminals. Programs conducted at the center shall include training for correctional officers, administrative staff, and correctional mental health professionals (including subcontracting agency personnel).

(b) DESIGN AND CONSTRUCTION OF FACILITIES.—The Director of the National Institute of Corrections shall design and construct facilities for the center.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated with respect to the National Institute of Corrections, there are authorized to be appropriated to the Director of the National Institute of Corrections—

(1) for establishment and operation of the center, for curriculum development for the center, and for salaries and expenses of personnel at the center, not more than $4,000,000 for each of fiscal years 1989, 1990, and 1991; and

(2) for design and construction of facilities for the center, not more than $10,000,000 for fiscal years 1989, 1990, and 1991.

SEC. 6164. STUDY OF ALTERNATIVE JUDICIAL SYSTEM.

The Attorney General shall study the feasibility of prosecuting Federal drug-related offenses in a manner alternative or supplemental to the current criminal justice system. The Attorney General shall report the results of such study to Congress not later than 180 days after the date of the enactment of this Act.

Subtitle K—Manufacturing Offenses

SEC. 6171. CRIMINAL PENALTY FOR ENDANGERING HUMAN LIFE WHILE ILLEGALLY MANUFACTURING A CONTROLLED SUBSTANCE.

(a) IN GENERAL.—Part D of the Controlled Substances Act is amended by adding at the end the following new section:

"ENDANGERING HUMAN LIFE WHILE ILLEGALLY MANUFACTURING A CONTROLLED SUBSTANCE

"SEC. 417. Whoever, while manufacturing a controlled substance in violation of this title, or attempting to do so, creates a substantial risk of harm to human life shall be fined in accordance with title 18, United States Code, or imprisoned not more than 10 years, or both.".

(b) CLERICAL AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by adding at the end of the items relating to part D of title II the following new items:

"416. Establishment of manufacturing operations.

"417. Endangering human life while illegally manufacturing a controlled substance.".

Subtitle L—Common Carrier, Locomotive, and Motor Vehicle Offenses

SEC. 6181. AMENDMENT RELATING TO CERTAIN PRESUMPTIONS.

Section 343(1) of title 18, United States Code, is amended by inserting "percent" after ".10".

SEC. 6182. INCREASED PENALTY FOR OPERATION OF LOCOMOTIVE OR COMMON CARRIER WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS.

Section 342 of title 18, United States Code, is amended—

(1) by inserting "locomotive or" after "operation of a"; and

(2) by striking out "drugs," and all that follows through the end of the section and inserting in lieu thereof the following:

"drugs—

"(1) if death results, shall be fined under this title or imprisoned not more than 20 years, or both;

"(2) if serious bodily injury results, shall be fined under this title or imprisoned not more than 10 years, or both; and

"(3) in any other case, shall be fined under this title or imprisoned not more than 5 years, or both.".

SEC. 6183. LICENSE SUSPENSION AND OTHER PENALTIES FOR DRUNK AND DRUGGED DRIVING IN FEDERAL AREAS.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 36. License suspension and other penalties for drunk and drugged driving in Federal areas

"(a) Any penalty that, under the law of a State, territory, possession, or district, may be imposed pursuant to a conviction for drunk driving or drugged driving is, for purposes of section 13 of this title, a punishment provided by that law.

"(b) Any driving restriction imposed pursuant to a conviction for drunk driving or drugged driving under such section 13 shall apply only with respect to the special maritime and territorial jurisdiction of the United States.

"(c) As used in this section—

"(1) the term 'penalty' means, with respect to the offense of drunk driving or drugged driving, any criminal penalty or administrative or other sanction (including a driving restriction) that may be imposed for the offense under the law of a State, territory, possession, or district;

"(2) the term 'drunk driving' means the offense of operating a motor vehicle while impaired by, or under the influence of, alcohol, however such offense is denominated and defined under applicable law;

"(3) the term 'drugged driving' means the offense of operating a motor vehicle while impaired by, or under the influence of, a drug, however such offense is denominated and defined under applicable law; and

"(4) the term 'driving restriction' means a license suspension or other penalty that restricts the privilege of operating a motor vehicle.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 2 of title 18, United States Code, is amended by adding at the end the following new item:

"36. License suspension and other penalties for drunk or drugged driving in Federal areas.".

SEC. 6184. CONSENT OF MOTOR VEHICLE OPERATORS TO ALCOHOL AND DRUG TESTS IN FEDERAL AREAS.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, as amended by section 1403, is further amended by adding at the end the following new section:

"§ 37. Consent of motor vehicle operators to alcohol and drug tests in Federal areas

"(a)(1) An individual who operates a motor vehicle in the special maritime and territorial jurisdiction of the United States consents, by reason of such operation, to submit to alcohol tests and drug tests, to be administered upon a determination by the appropriate law enforcement officer that there are reasonable grounds to believe the individual has committed the offense of drunk driving or drugged driving in that jurisdiction.

"(2) An individual may revoke the consent referred to in paragraph (1) by declining to submit to a test.

"(b) Before administration of a test under this section, the appropriate law enforcement officer shall inform the individual of—

"(A) the right of revocation under this section; and

"(B) the matters described in subsection (c).

"(c)(1) The results of any test and evidence of the circumstances of any revocation of consent under this section are admissible in any criminal, civil, or administrative proceeding to the extent provided by applicable law or rule.

"(2) An individual who, after having been informed under subsection (b), declines to submit to a test under subsection (a), may not operate a motor vehicle in the special maritime and territorial jurisdiction of the United States for one year, beginning on the date the individual so declines.

"(3) An individual who operates a motor vehicle in the special maritime and territorial jurisdiction of the United States in violation of paragraph (2) shall be considered for all purposes to have so operated such vehicle without a license or other authority to do so.

"(d) As used in this section—

"(1) the term 'alcohol test' means a chemical test of the blood, breath, or urine of an individual to determine if the individual is impaired by, or under the influence of, alcohol;

"(2) the term 'drug test' means a chemical test of the blood, breath, or urine of an individual to determine if the individual is impaired by, or under the influence of, a drug;

"(3) the term 'drunk driving' means the offense of operating a motor vehicle while impaired by, or under the influence of, alcohol, however such offense is denominated and defined under applicable law."; and

"(4) the term 'drugged driving' means the offense of operating a motor vehicle while impaired by, or under the influence of, a drug, however such offense is denominated and defined under applicable law.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 205 of title 18, United States Code, as amended by section 1403, is further amended by adding at the end the following new item:

"37. Consent of motor vehicle operators to alcohol and drug tests in Federal areas.".

Subtitle M—Death Penalty

SEC. 6191. DEATH PENALTY FOR DRUG-RELATED KILLINGS.

(a) ELEMENTS OF OFFENSE.—Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended—

(1) by redesigning subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"Death Penalty

"(e) in addition to the other penalties set forth in this section any person who, during the commission of, in furtherance of, or while attempting to avoid apprehension, prosecution or service of a prison sentence for, a felony violation of this title or title III, intentionally kills any law enforcement officer or any other person, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death.".

(b) PROCEDURE APPLICABLE WITH RESPECT TO THE DEATH PENALTY.—Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended by adding at the end the following:

"Hearing Required with Respect to the Death Penalty

"(g) A person shall be subjected to the penalty of death for any offense under this section only if a hearing is held under this section.

"Notice by the Government in Death Penalty Cases

"(h)(1) Whenever the Government intends to seek the death penalty for an offense under this section for which one of the sentences provided is death, the attorney for the Government, a reasonable time before trial or acceptance by the court of a plea of guilty, shall sign and file with the court, and serve upon the defendant, a notice—

"(A) that the Government in the event of conviction will seek the sentence of death; and

"(B) setting forth the aggravating factors enumerated in subsection (n) and any other aggravating factors which the Government will seek to prove as the basis for the death penalty.

"(2) The court may permit the attorney for the Government to amend this notice for good cause shown.

"Hearing Before Court or Jury

"(i)(1) When the attorney for the Government has filed a notice as required under subsection (h) and the defendant is found guilty of or pleads guilty to an offense under subsection (e), the judge who presided at the trial or before whom the guilty plea was entered, or any other judge if the judge who presided at the trial or before whom the guilty plea was entered is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(A) before the jury which determined the defendant's guilt;

"(B) before a jury impaneled for the purpose of the hearing if—

"(i) the defendant was convicted upon a plea of guilty;

"(ii) the defendant was convicted after a trial before the court sitting without a jury;

"(iii) the jury which determined the defendant's guilt has been discharged for good cause; or

"(iv) after initial imposition of a sentence under this section, redetermination of the sentence under this section is necessary; or

"(C) before the court alone, upon the motion of the defendant and with the approval of the Government.

"(2) A jury impaneled under paragraph (1)(B) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate with the approval of the court that it shall consist of any number less than 12.

"Proof of Aggravating and Mitigating Factors

"(j) Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty of or pleads guilty to an offense under subsection (e), no presentence report shall be prepared. In the sentencing hearing, information may be presented as to any matter relevant to the sentence and shall include matters relating to any of the aggravating or mitigating factors set forth in subsections (m) and (n), or any other mitigating factor. Where information is presented relating to any of the aggravating factors set forth in subsection (n), information may be presented relating to any other aggravating factor. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. The Government and the defendant shall be permitted to rebut any information received at the hearing and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the aggravating or mitigating factors and as to appropriateness in that case of imposing a sentence of death. The Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the Government, and is not satisfied unless established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless established by a preponderance of the evidence.

"Return of Findings

"(k) The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factors set forth in subsection (n), found to exist. If one of the aggravating factors set forth in subsection (n)(1) and another of the aggravating factors set forth in paragraphs (2) through (12) of subsection (n) is found to exist, a special finding identifying any other aggravating factor may be returned. A finding with respect to a mitigating factor may be made by one or more of the members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such a factor established for purposes of this subsection, regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If an aggravating factor set forth in subsection (n)(1) is not found to exist or an aggravating factor set forth in subsection (n)(1) is found to exist but no other aggravating factor set forth in subsection (n) is found to exist, the court shall impose a sentence, other than death, authorized by law. If an aggravating factor set forth in subsection (n)(1) and one or more of the other aggravating factors set forth in subsection (n) are found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of mitigating factors, whether the aggravating factors are themselves sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified. The jury or the court, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence and the jury shall be so instructed.

"Imposition of Sentence

"(l) Upon a finding that a sentence of death is justified, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. A sentence of death shall not be carried out upon a person who is under 18 years of age at the time the crime was committed. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

"(1) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

"(2) lacks the capacity to recognize or understand facts which would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

"Mitigating Factors

"(m) In determining whether a sentence of death is to be imposed on a defendant, the following mitigating factors shall be considered but are not exclusive:

"(1) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to the charge.

"(2) The defendant was under unusual and substantial duress, although not such duress as constitutes a defense to the charge.

"(3) The defendant is punishable as a principal (as defined in section 2(a) of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, although not so minor as to constitute a defense to the charge.

"(4) The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) The defendant was youthful, although not under the age of 18.

"(6) The defendant did not have a significant prior criminal record.

"(7) The defendant committed the offense under severe mental or emotional disturbance.

"(8) Another defendant or defendants, equally culpable in the crime, will not be punished by death.

"(9) Other defendants in other cases who were equally culpable have not been sentenced to death.

"(10) The victim consented to the criminal conduct that resulted in the victim's death.

"(11) That other factors in the defendant's background or character mitigate against imposition of the death sentence.

"Aggravating Factors for Homicide

"(n) If the defendant is found guilty of or pleads guilty to an offense under subsection (e), the following aggravating factors shall be considered but are not exclusive:

"(1) The defendant—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury which resulted in the death of the victim;

"(C) intentionally engaged in conduct intending that the victim be killed or that lethal force be employed against the victim, which resulted in the death of the victim.

"(D) intentionally engaged in conduct which—

"(i) the defendant knew would create a grave risk of death to a person, other than one of the participants in the offense; and

"(ii) resulted in the death of the victim.

"(2) The defendant has been convicted of another Federal offense, or a State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(3) The defendant has previously been convicted of two or more State of Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury upon another person.

"(4) The defendant has previously been convicted of two or more State or Federal offense punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(5) In the commission of the offense or in escaping apprehension for a violation of subsection (e), the defendant knowingly created a grave risk of death to one or more persons in addition to the victims of the offense.

"(6) The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(7) The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(8) The defendant committed the offense after substantial planning and premeditation.

"(9) The victim was particularly vulnerable due to old age, youth, or infirmity.

"(10) The defendant had previously been convicted of violating this title or title III for which a sentence of five or more years may be imposed or was engaged in a continuing criminal enterprise.

"(11) The violation of this title in relation to which the conduct described in subsection (e) occurred was a violation of section 405.

"(12) The defendant committed the offense in an especially heinous, cruel, or depraved manner.

"Right of the Defendant to Justice Without Discrimination

"(o)(1) In any hearing held before a jury under this section, the court shall instruct the jury that in its consideration of whether the sentence of death is justified it shall not consider the race, color, national origin, or sex of the defendant or the victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what race the defendant, or the victim, may be. The jury shall return to the court a certificate signed by each juror that consideration of race, color, national origin, creed, or sex of the defendant or the victim was not involved in reaching his or her individual decision, and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what race the defendant, or the victim, may be.

"(2) Not later than one year from the date of enactment of the Anti-Drug Abuse Amendments Act of 1988, the Comptroller General shall conduct a study of the various procedures used by the several States for determining whether or not to impose the death penalty in particular cases, and shall report to the Congress on whether or not any or all of the various procedures create a significant risk that the race of a defendant, or the race of a victim against whom a crime was committed, influence the likelihood that defendants in those States will be sentenced to death. In conducting the study required by this paragraph, the General Accounting Office shall—

"(A) use ordinary methods of statistical analysis, including methods comparable to those ruled admissible by the courts in race discrimination cases under title VII of the Civil Rights Act of 1964;

"(B) study only crimes occurring after January 1, 1986; and

"(C) determine what, if any, other factors, including any relation between any aggravating or mitigating factors and the race of the victim or the defendant, may account for any evidence that the race of the defendant, or the race of the victim, influences the likelihood that defendants will be sentenced to death. In addition, the General Accounting Office shall examine separately and include in the report, death penalty cases involving crimes similar to those covered under this section.

"Sentencing in Capital Cases in Which Death Penalty Is Not Sought or Imposed

"(p) If a person is convicted for an offense under subsection (e) and the court does not impose the penalty of death, the court may impose a sentence of life imprisonment without the possibility of parole.

"Counsel for Financially Unable Defendants

"(q)(1) Notwithstanding any other provision of law to the contrary, in every criminal action in which a defendant is charged with a crime which may be punishable by death, a defendant who is or becomes financially unable to obtain adequate representation or investigative, expert or other reasonably necessary services at any time either—

(A) before judgment; or

(B) after the entry of a judgment imposing a sentence of death but before the execution of that judgment;

shall be entitled to the appointment of one or more attorneys and the furnishing of such other services in accordance with paragraphs (2), (3), (4), (5), and (6).

"(2) If the appointment is made before judgment, at least one attorney so appointed must have been admitted to practice in the court in which the prosecution is to be tried for not less than five years, and must have had not less than three years experience in the actual trial of felony prosecutions in that court.

"(3) If the appointment is made after judgment, at least one attorney so appointed must have been admitted to practice in the court of appeals for not less than five years, and must have had not less than three years experience in the handling of appeals in that court in felony cases.

"(4) With respect to paragraphs 2 and 3, the court, for good cause, may appoint another attorney whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration to the seriousness of the possible penalty and to the unique and complex nature of the litigation.

"(5) Unless replaced by similarly qualified counsel upon the attorney's own motion or upon motion of the defendant, each attorney so appointed shall represent the defendant throughout every subsequent stage of available judicial proceedings, including pretrial proceedings, trial, sentencing, motions for new trial, appeals, applications, for writ of certiorari to the Supreme Court of the United States, and all available post-conviction process, together with applications for stays of execution and other appropriate motions and procedures, and shall also represent the defendant in such competency proceedings and proceedings for executive or other clemency as may be available to the defendant.

"(6) Upon a finding in ex parte proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or sentence, the court shall authorize the defendant's attorneys to obtain such services on behalf of the defendant and shall order the payment of fees and expenses therefore, under paragraph (7). Upon a finding that timely procurement of such services could not practicably await prior authorization, the court may authorize the provision of and payment for such services nunc pro tunc.

"(7) Notwithstanding the rates and maximum limits generally applicable to criminal cases and any other provision of law to the contrary, the court shall fix the compensation to be paid to attorneys appointed under this subsection and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under paragraph (6), at such rates or amounts as the court determines to be appropriate in order to provide such defendant with representation by counsel and other services as nearly equivalent as possible to those available to defendants who are financially able to obtain such representation and other services for their defense and appeal, and for the prosecution of any of the proceedings described in paragraph (5).

"Refusal To Participate by State and Federal Correctional Employees

"(r) No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

SEC. 6192. GAO STUDY OF THE COST OF EXECUTIONS.

(a) Study.—No later than three years after the date of the enactment of this Act, the Comptroller General shall carry out a study to review the cost of implementing the procedures for imposing and carrying out a death sentence prescribed by this title.

(b) Specific Requirement.—Such study shall consider, but not be limited to, information concerning impact on workload of the Federal prosecutors and judiciary and law enforcement necessary to obtain capital sentences and executions under this Act.

(c) Submission of Report.—Not later than four years after date of the enactment of this Act, the Comptroller General shall submit to Congress a report describing the results of the study.

Subtitle N—User Accountability

SEC. 6201. INELIGIBILITY FOR FEDERAL BENEFITS.

(a) In General.—Any individual—

(1) who is—

(A) convicted of a drug or narcotic offense that consists of the distribution of a controlled substance; and

(B) sentenced to a term of imprisonment that is not suspended or made probationary and exceeds one year; or

(2) who is convicted of two or more drug or narcotic offenses within a ten year period;

shall be ineligible for any Federal benefit during the period described in subsection (b).

(b) Period of Ineligibility.—The period of ineligibility referred to in subsection (a) begins on the date of the conviction creating the ineligibility and ends—

(1) ten years thereafter if the ineligibility is under subsection (a)(1);

(2) five years thereafter if the ineligibility is under subsection (a)(2); or

(3) the date (not later than the date otherwise provided under paragraph (1) or (2)) determined to be appropriate by the head of the Federal agency administering the benefit program in question, in the case of an individual who—

(A) completes a supervised drug rehabilitation program after becoming ineligible under this section; or

(B) has otherwise been rehabilitated.

(c) Definitions.—As used in this section—

(1) the term "Federal benefit"—

(A) means any grant, contract, loan, license, or public housing provided by an agency of the United States or by appropriated funds of the United States;

(B) includes a veteran's benefit (other than a benefit described in subpargraph (C)), but only if the offense giving rise to the ineligibility consisted of the distribution of a controlled substance; and

(C) does not include any retirement, welfare, health, disability, or other similar benefit; and

(2) the term "drug or narcotic offense" means an offense defined as a drug or narcotic offense in section 404(c) of the Controlled Substances Act, and includes conduct relating to narcotic drugs, marijuana, or a depressant or stimulant substance which results in the imposition of civil penalties and which, if prosecuted under the Controlled Substances Act, would be a crime.

(d) Rules.—The Attorney General shall make rules to carry out this section.

Subtitle O—Limitation of the Fourth Amendment Exclusionary Rule

SEC. 6211. LIMITATION OF THE FOURTH AMENDMENT EXCLUSIONARY RULE.

(a) In General.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3508. Limitation of the fourth amendment exclusionary rule

"Except as specifically provided by law, evidence which is obtained as a result of a search or seizure and which is otherwise admissible shall not be excluded in a proceeding in a court of the United States if the search or seizure was undertaken in an objective, reasonable, good faith belief that it was in conformity with the fourth amendment to the Constitution. A showing that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of such an objective, reasonable, good faith belief, unless the warrant was obtained through intentional and material misrepresentation.".

(b) Clerical Amendment.—The table of sections for chapter 223 of title 18, United States Code, is amended by adding at the end the following new item:

"3508. Limitation of the fourth amendment exclusionary rule.".

Subtitle P—Civil Penalty

SEC. 6221. CIVIL PENALTY FOR POSSESSION OF SMALL AMOUNTS OF CERTAIN CONTROLLED SUBSTANCES.

(a) In General.—Any individual who possesses a controlled substance that is listed in section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) in an amount that, as specified by regulation of the Attorney General, is a personal use amount shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each such violation. In determining the amount of a penalty under this subsection, the income and net assets of the individual shall be considered.

(b) Assessment.—A civil penalty under this section may be assessed by the Attorney General only by an order made on the record after opportunity for a hearing in accordance with section 554 of title 5, United States Code. The Attorney General shall provide written notice to the individual who is the subject of the proposed order informing the individual of the opportunity to receive such a hearing with respect to the proposed order. The hearing may be held only if the individual makes a request for the hearing before the expiration of the 30-day period beginning on the date such notice is issued.

(c) Compromise.—The Attorney General may compromise, modify, or remit, with or without conditions, any civil penalty imposed under this section.

(d) Judicial Review.—If the Attorney General issues an order pursuant to subsection (b) after a hearing described in such paragraph, the individual who is the subject of the order may, before the expiration of the 30-day period beginning on the date the order is issued, seek judicial review of the order pursuant to section 1331 of title 28, United States Code, and chapter 7 of title 5, United States Code.

(e) Civil Action.—If an individual does not request a hearing pursuant to subsection (b) and the Attorney General issues an order pursuant to such subsection, or if an individual does not under subsection (d) seek judicial review of such an order, the Attorney General may commence a civil action in any appropriate district court of the United States for the purpose of recovering the amount assessed and an amount representing interest at a rate computed in accordance with section 1961 of title 28, United States Code. Such interest shall accrue from the expiration of the 30-day period described in subsection (d). In such an action, the decision of the Attorney General to issue the order, and the amount of the penalty assessed by the Attorney General, shall not be subject to review.

(f) Limitation.—The Attorney General may not under this subsection commence proceeding against an individual after the expiration of the 5-year period beginning on the date on which the individual allegedly violated subsection (a).

Subtitle S—Serious Crack Possession Offenses

SEC. 6251. INCREASED PENALTIES FOR CERTAIN SERIOUS CRACK POSSESSION OFFENSES.

Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended by inserting after the second sentence the following new sentence: "Notwithstanding the preceding sentence, a person convicted under this subsection for the possession of a mixture or substance which contains cocaine base shall be fined under title 18, United States Code, or imprisoned not less than 5 years and not more than 20 years, or both, if the conviction is a first conviction under this subsection and the amount of the mixture or substance exceeds 5 grams, if the conviction is after a prior conviction for the possession of such a mixture or substance under this subsection becomes final and the amount of the mixture or substance exceeds 3 grams, or if the conviction is after 2 or more prior convictions for the possession of such a mixture or substance under this subsection become final and the amount of the mixture or substance exceeds 1 gram.".

Subtitle T—United States Marshals Service

SEC. 6261. SHORT TITLE.

This subtitle may be cited as the "United States Marshals Service Act of 1988".

SEC. 6262. ESTABLISHMENT OF THE MARSHALS SERVICE.

(a) In General.—Chapter 37 of title 28, United States Code, is amended by striking out sections 561 through 571 and inserting in lieu thereof the following:

"§ 561. United States Marshals Service

"(a) There is hereby established a United States Marshals Service as a bureau within the Department of Justice under the authority and direction of the Attorney General. There shall be at the head of the United States Marshals Service (hereafter in this chapter referred to as the 'Service') a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

"(b) The Director of the Service (hereafter in this chapter referred to as the 'Director') shall, in addition to the powers and duties set forth in this chapter, exercise such other functions as may be delegated by the Attorney General.

"(c) The Attorney General shall appoint a United States marshal for each judicial district of the United States and for the Superior Court of the District of Columbia, except that any marshal appointed for the Northern Mariana Islands may at the same time serve as marshal in another judicial district. United States marshals shall be appointed subject to the provisions of title 5 governing appointments in the civil service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Each United States marshal shall be an official of the Service and shall serve under the direction of the Director.

"(d) The Director shall designate places within a judicial district for the official station and offices of each marshal. Each marshal shall reside within the district for which such marshal is appointed, except that—

"(1) the marshal for the District of Columbia, for the Superior Court of the District of Columbia, and for the Southern District of New York may reside within 20 miles of the district for which the marshal is appointed; and

"(2) any marshal appointed for the Northern Mariana Islands who at the same time is serving as marshal in another district may reside in such other district.

"(e) The Director is authorized to appoint and fix the compensation of such employees as are necessary to carry out the powers and duties of the Service and may designate such employees as law enforcement officers, in accordance with such policies and procedures as the Director shall establish. Employees appointed under this subsection shall be appointed subject to the provisions of title 5 governing appointments in the civil service, and shall be paid in accordance with the provisions of chapter 51 and suchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(f) The Director shall supervise and direct the Service in the performance of its duties, including accounting for public moneys.

"(g) The Director may administer oaths and may take affirmations of officials and employees of the Service, but shall not demand or accept any fee or compensation therefor.

"(h) The Director may delegate to other officials of the Service the authority to carry out any functions of the Director.

"(i) There are authorized to be appropriated such sums as may be necessary to carry out the functions of the Service.

"§ 562. Vacancies

"In the case of a vacancy in the office of a United States marshal, the Director may designate a person to perform the functions of and act as marshal until a marshal is appointed in accordance with the provisions of section 561(c).

"§ 563. Oath of office

"The Director and each United States marshal and law enforcement officer of the Service, before taking office, shall take an oath or affirmation to faithfully execute the duties of that office.

"§ 564. Powers as sheriff

"United States marshals, deputy marshals, and such other officials of the Service as may be designated by the Director, in executing the laws of the United States within a State, may exercise the same powers which a sheriff of the State may exercise in executing the laws thereof.

"§ 565. Expenses of the service

"The Director is authorized to use funds appropriated for the Service to make payments for the conduct of its activities, including payments for—

"(1) the actual and necessary expenses associated with the offices established under section 561;

"(2) the expense of transporting prisoners, including the transporting between the United States and foreign countries of persons charged with crimes, and including the cost of necessary guards and the travel and subsistence expenses of prisoners and guards;

"(3) the lease, acquisition, maintenance, and operation of aircraft and vessels, and the lease and acquisition of law enforcement and passenger motor vehicles without regard to the general purchase price limitation for any current fiscal year and including the operation and maintenance for official use of vehicles seized and forfeited to the United States Government;

"(4) the supervision and care of United States prisoners in non-Federal institutions;

"(5) the purchase of firearms and ammunition and attendance at firearms matches and law enforcement competitions;

"(6) the payment of rewards, and payments for information;

"(7) expenses incurred for the use of facilities in the protection of witnesses, and planning, acquisition, construction, renovation, maintenance, remodeling, and repair of buildings, and the purchase of equipment incident thereto, for protected witness safesites;

"(8) expenses incurred pursuant to personal services contracts and cooperative agreements, authorized by the Attorney General, for security guards and for the service of summons upon complaints, subpoenas, and notices in lieu of service by United States marshals and deputy marshals; and

"(9) other necessary expenditures authorized by law.

"§ 566. Powers and duties

"(a) It is the primary role and mission of the Service to provide for the security of, and to obey, execute, and enforce all orders of, the United States district courts, the United States courts of appeals, and the Court of International Trade.

"(b) The United States marshal of each district is the marshal of the district court and of the court of appeals when sitting in that district, and of the Court of International Trade holding sessions in that district, and may, in the discretion of the respective courts, be required to attend any session of court.

"(c) Except as otherwise provided by law, the Service shall execute all lawful writs, process, and orders issued under the authority of the United States, and shall command all necessary assistance to execute its duties.

"(d) Each United States marshal, deputy marshal, and any other official of the Service as may be designated by the Director may carry firearms and make arrests without warrant for any offense against the United States committed in his or her presence, or for any felony cognizable under the laws of the United States if he or she has reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

"(e) The Service is authorized to provide such protective services to judges and other persons, and to investigate such fugitive matters, as may be directed by the Attorney General. Nothing in this subsection shall be construed to interfere with or supersede the authority of other Federal agencies, bureaus, or services.

"(f) In accordance with procedures established by the Director, and except for public money deposited under section 2041 of this title, each United States marshal shall deposit public moneys that the marshal collects into the Treasury, subject to disbursement by the marshal. At the end of each accounting period, the earned part of public moneys accruing to the United States shall be deposited in the Treasury to the credit of the appropriate receipt accounts.

"(g) Before leaving office on account of resignation, retirement, or removal from office—

"(1) a United States marshal shall deliver to the marshal's successor all prisoners and all unserved process in the custody of the marshal; and

"(2) a deputy marshal of a district shall deliver to the marshal of that district all process in the custody of the deputy marshal.

"(h) The United States marshals shall pay such office expenses of United States Attorneys as may be directed by the Attorney General.".

(b) TRANSITIONAL PROVISIONS FOR PRESIDENTIAL APPOINTMENT OF CERTAIN MARSHALS.—

(1) INCUMBENT MARSHALS.—Notwithstanding the amendments made by this subtitle, each marshal appointed under chapter 37 of title 28, United States Code, before the enactment of this Act, for a term of four years by the President, by and with the advice and consent of the Senate, shall, unless that marshal resigns or is removed from office by the President, continue to perform the duties of that office until the expiration of that term and the appointment of a successor.

(2) FIRST VACANCIES AFTER ENACTMENT.—Notwithstanding the amendments made by this subtitle, with respect to the first vacancy which occurs in the office of United States marshal in any State during the period beginning on the date of the enactment of this Act and ending on December 31, 1992, the President shall appoint, by and with the consent of the Senate, a marshal to fill that vacancy for a term of four years. A vacancy may be filled in the manner prescribed in the preceding sentence in only one judicial district in each State, and any vacancy in the office of United States marshal occurring in a State after the first such vacancy in that State, and before January 1, 1993, and any vacancy occurring in the office of United States marshal on and after January 1, 1993, shall be filled in accordance with section 562 of title 28, United States Code, as amended by subsection (a) of this section. Any marshal appointed by the President under this paragraph shall, unless that marshal resigns or is removed from office by the President, continue to perform the duties of that office after the end of the 4-year term to which such marshal was appointed until a successor is appointed in accordance with the provisions of section 561(c) of title 28, United States Code, as amended by subsection (a) of this section.

(c) ADDITIONAL AMENDMENTS.—Chapter 37 of title 28, United States Code, is amended—

(1) by striking out sections 572a, 573, and 574; and

(2) by redesignating sections 572, 575, and 576 as sections 567, 568, and 569, respectively.

(d) CONFORMING AMENDMENTS.—The chapter heading for chapter 37 of title 28, United States Code, and the table of sections at the beginning of such chapter, are amended to read as follows:

"CHAPTER 37—UNITED STATES MARSHALS SERVICE

"Sec.
"561. United States Marshals Service.
"562. Vacancies.
"563. Oath of office.

"564. Powers as sheriff.
"565. Expenses of the Service.
"566. Powers and duties.
"567. Collection of fees; accounting.
"568. Practice of law prohibited.
"569. Reemployment rights.".

SEC. 6263. OTHER AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.—Section 524(c)(1)(A) of title 28, United States Code, is amended by adding at the end thereof the following: "the Attorney General may, after appropriate notification to the Congress, exempt the procurement of contract services under the fund from section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 and following), and other provisions of law as may be necessary to maintain the security and confidentiality of related criminal investigations;".

(b) COMPENSATION OF BAILIFFS.—Section 755 of title 28, United States Code, is amended by striking out the third paragraph.

SEC. 6264. MARSHALS' FEES.

Section 1921 of title 28, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (e); and

(2) by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a)(1) The United States marshals or deputy marshals shall routinely collect, and a court may tax as costs, fees for the following:

"(A) Serving a writ of possession, partition, execution, attachment in rem, or libel in admiralty, warrant, attachment, summons, complaints, or any other writ, order, or process in any case or proceeding.

"(B) Serving a subpoena or summons for a witness or appraiser.

"(C) Forwarding any writ, order, or process to another judicial district for service.

"(D) The preparation of any notice of sale, proclamation in admiralty, or other public notice or bill of sale.

"(E) The keeping of attached property (including boats, vessels, or other property attached or libeled), actual expenses incurred, such as storage, moving, boat hire, or other special transportation, watchmen's or keepers' fees, insurance, and an hourly rate, including overtime, for each deputy marshal required for special services, such as guarding, inventorying, and moving.

"(F) Copies of writs or other papers furnished at the request of any party.

"(G) Necessary travel in serving or endeavoring to serve any process, writ, or order, except in the District of Columbia, with mileage to be computed from the place where service is returnable to the place of service or endeavor.

"(H) Overtime expenses incurred by deputy marshals in the course of serving or executing civil process.

"(2) The marshals shall collect, in advance, a deposit to cover the initial expenses for special services required under paragraph (1)(E), and periodically thereafter such amounts as may be necessary to pay such expenses until the litigation is concluded. This paragraph applies to all private litigants, including seamen proceeding pursuant to section 1916 of this title.

"(3) For purposes of paragraph (1)(G), if two or more services or endeavors, or if an endeavor and a service, are made in behalf of the same party in the same case on the same trip, mileage shall be computed to the place of service or endeavor which is most remote from the place where service is returnable, adding thereto any additional mileage traveled in serving or endeavoring to serve in behalf of the party. If two or more writs of any kind, required to be served in behalf of the same party on the same person in the same case or proceeding, may be served at the same time, mileage on only one such writ shall be collected.

"(b) The Attorney General shall from time to time prescribe by regulation the fees to be taxed and collected under subsection (a). Such fees shall, to the extent practicable, reflect the actual and reasonable cost of the service provided.

"(c)(1) The United States Marshals Service shall collect a commission of 3 percent of the first $1,000 collected and 1½ percent on the excess of any sum over $1,000, for seizing or levying on property (including seizures in admiralty), disposing of such property by sale, setoff, or otherwise, and receiving and paying over money, except that the amount of commission shall be within the range set by the Attorney General. If the property is to be disposed of by marshal's sale, the commission shall be in such amount, within the range set by the Attorney General, as may be allowed by the court. In any case in which the vessel or other property is sold by a public auctioneer, or by some party other than a marshal or deputy marshal, the commission authorized under this subsection shall be reduced by the amount paid to such auctioneer or other party. This subsection applies to any judicially ordered sale or execution sale, without regard to whether the judicial order of sale constitutes a seizure or levy within the meaning of State law. This subsection shall not apply to any seizure, forfeiture, sale, or other disposition of property pursuant to the applicable provisions of law amended by the Comprehensive Forfeiture Act of 1984.

"(2) The Attorney General shall prescribe from time to time regulations which establish a minimum and maximum amount for the commission collected under paragraph (1).

"(d) The United States marshals may require a deposit to cover the fees and expenses prescribed under this section.".

SEC. 6265. SUPPORT OF UNITED STATES PRISONERS IN NON-FEDERAL INSTITUTIONS.

(a) IN GENERAL.—Chapter 301 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 4013. Support of United States prisoners in non-Federal institutions

"(a) The Attorney General, in support of United States prisoners in non-Federal institutions, is authorized to make payments from funds appropriated to the United States Marshals Service for—

"(1) necessary clothing;

"(2) medical care and necessary guard hire;

"(3) payment of rewards for assistance in the capture or information leading to the capture of a Federal fugitive;

"(4) the housing, care, and security of persons held in custody of a United States marshal pursuant to Federal law under agreements with State or local units of government or contracts with private entities; and

"(5) entering into contracts or cooperative agreements with any State, territory, or political subdivision thereof, for the necessary construction, physical renovation, acquisition of equipment, supplies, or materials required to establish acceptable conditions of confinement and detention services in any State or local jurisdiction which agrees to provide guaranteed bed space for Federal detainees within that correctional system, in accordance with regulations which are issued by the Attorney General and are comparable to the regulations issued under section 4006 of this title, except that—

"(A) amounts made available for purposes of this paragraph shall not exceed the average per-inmate cost of constructing similar confinement facilities for the Federal prison population,

"(B) the availability of such federally assisted facility shall be assured for housing Federal prisoners, and

"(C) the per diem rate charged for housing such Federal prisoners shall not exceed allowable costs or other conditions specified in the contract or cooperative agreement.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 301 of title 18, United States Code, is amended by adding at the end the following:

"4013. Support of United States prisoners in non-Federal institutions.".

SEC. 6266. PAY OF DIRECTOR OF THE SERVICE.

Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"Director, United States Marshals Service.".

Subtitle U—Miscellaneous Drug Enforcement

SEC. 6271. REQUIREMENT OF ENVIRONMENTAL IMPACT STATEMENT WITH RESPECT TO USE OF WEED OIL IN CANNABIS ERADICATION EFFORTS IN HAWAII.

(a) REQUIREMENT OF PREPARATION.—The Attorney General, acting through the Administrator of the Drug Enforcement Administration, shall ensure that a detailed statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is prepared with respect to the use in the State of Hawaii, in cannabis eradication efforts authorized by law, of the substance known as weed oil.

(b) COMMENCEMENT OF PROCESS OF PREPARATION.—Not later than 60 days after the date of the enactment of this Act, the Attorney General, acting through the Administrator of the Drug Enforcement Administration, shall commence the process of preparing the detailed statement described in subsection (a) by publishing in the Federal Register a notice of intent with respect to the preparation of such statement.

(c) COMPLETION OF PREPARATION.—The detailed statement required in subsection (a) shall, in accordance with regulations issued for such statements, be completed as soon as is practicable after the commencement, pursuant to subsection (b), of the process of preparing the statement.

SEC. 6272. PAYMENT OF BONUSES FOR FOREIGN LANGUAGE CAPABILITIES.

Notwithstanding any other provision of law, the Drug Enforcement Administration is authorized on and after October 1, 1988, to pay bonuses up to 25 percent of base pay to employees of the Drug Enforcement Administration who possess and make substantial use of one or more languages, other than English, in the performance of their official duties. The Administrator of the Drug Enforcement Administration will develop such policies as necessary to implement the payment of these bonuses.

TITLE VII—COMMITTEE ON MERCHANT MARINE AND FISHERIES

SEC. 7001. SHORT TITLE.

This title may be cited as the "Coast Guard Drug Enforcement Act of 1988".

SEC. 7002. AUTHORITY AND PROTECTION OF COMMANDING OFFICERS ON NAVAL VESSELS TO WHICH COAST GUARD PERSONNEL ARE ASSIGNED.

(a) IN GENERAL.—Section 637 of title 14, United States Code, is amended to read as follows:

"§ 637. Stopping vessels; immunity for firing at or into vessel

"(a) Whenever any vessel liable to seizure or examination does not stop on being ordered to do so or on being pursued by an authorized vessel or authorized aircraft which has displayed the ensign, pennant, or other identifying insignia prescribed for an authorized vessel or authorized aircraft, the person in command or in charge of the authorized vessel or authorized aircraft may, after a gun has been fired by the authorized vessel or authorized aircraft as a warning signal, fire at or into the vessel which does not stop.

"(b) The person in command of an authorized vessel or authorized aircraft and all persons acting under that person's direction shall be indemnified from any penalties or actions for damages for firing at or into a vessel pursuant to subsection (a). If any person is killed or wounded by the firing, and the person in command of the authorized vessel or authorized aircraft or any person acting pursuant to their orders is prosecuted or arrested therefor, they shall be forthwith admitted to bail.

"(c) A vessel or aircraft is an authorized vessel or authorized aircraft for purposes of this section if—

"(1) it is a Coast Guard vessel or aircraft; or

"(2) it is a surface naval vessel on which one or more members of the Coast Guard are assigned pursuant to section 379 of title 10.".

(b) CONFORMING AMENDMENT.—The item relating to section 637 in the table of sections at the beginning of chapter 17 of title 14, United States Code, is amended to read as follows:

"637. Stopping vessels; immunity for firing at or into vessel.".

SEC. 7003. MARITIME DRUG LAW ENFORCEMENT ACT AMENDMENTS.

(a) SECTION 3(a) AMENDMENT.—Section 3(a) of the Act entitled "An Act to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes", approved September 15, 1980 (46 U.S.C. App. 1903(a)), is amended by inserting after "jurisdiction of the United States," the following: "or who is a citizen of the United States or a resident alien of the United States on board any vessel,".

(b) SECTION 3(b) AMENDMENT.—Section 3(b)(2) of such Act (46 U.S.C. App. 1903(b)(2)) is amended by inserting after "High Seas" the following: "and a claim of nationality or registry for the vessel is made by the master or individual in charge at the time of the enforcement action by an officer or employee of the United States authorized to enforce applicable provisions of United States law".

SEC. 7004. INDEMNIFICATION OF COAST GUARD MEMBERS AND EMPLOYEES.

(a) IN GENERAL.—Title 14, United States Code, is amended by inserting after section 644 the following:

"§ 645. Indemnification of Coast Guard members and employees.

"The Commandant may indemnify any member or employee of the Coast Guard against any claim or judgment against the member or employee if the claim or judgment arises out of an act committed, as determined by the Commandant, within the scope of the official duties of the member or employee in carrying out law enforcement activities.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 17 of title 14, United States Code, is amended by inserting after the item relating to section 644 the following:

"645. Indemnification of Coast Guard members and employees.".

SEC. 7005. COAST GUARD LAW ENFORCEMENT DUTIES.

Section 2 of title 14, United States Code, is amended—

(1) by striking "on and under" the first time it appears and inserting in lieu thereof "on, under, and over"; and

(2) by striking "United States;" the first place it appears and inserting in lieu thereof "United States; shall engage in maritime air surveillance or interdiction to enforce or assist in the enforcement of the laws of the United States;".

SEC. 7006. GREAT LAKES DRUG INTERDICTION.

(a) INTERAGENCY AGREEMENT.—The Secretary of Transportation and the Secretary of the Treasury shall enter into an agreement for the purpose of increasing the effectiveness of maritime drug interdiction activities of the Coast Guard and the Customs Service in the Great Lakes area.

(b) NEGOTIATIONS WITH CANADA ON DRUG ENFORCEMENT COOPERATION.—The Secretary of State is encouraged to enter into negotiations with appropriate officials of the Government of Canada for the purpose of establishing an agreement between the United States and Canada which provides for increased cooperation and sharing of information between United States and Canadian law enforcement officials with respect to law enforcement efforts conducted on the Great Lakes between the United States and Canada.

SEC. 7008. AUTHORIZATION OF APPROPRIATIONS.

(a) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR THE COAST GUARD.—

(1) ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS.—There are authorized to be appropriated for acquisition, construction, and improvements of the Coast Guard $264,000,000 for fiscal year 1989, to remain available until expended.

(2) OPERATING EXPENSES.—There are authorized to be appropriated for operating expenses of the Coast Guard $82,000,000 for fiscal year 1989 and $30,000,000 for each of fiscal years 1990, 1991, and 1992, to remain available until expended. Amounts appropriated pursuant to this paragraph shall be used to increase by 500 the full-time equivalent strength level for the Coast Guard for active duty personnel for fiscal years 1989, 1990, 1991, and 1992, and to procure, enhance, relocate, operate, and maintain vessels, aircraft, radar, equipment, and structures by the Coast Guard for drug interdiction purposes.

(b) AMOUNTS IN ADDITION TO OTHER AMOUNTS.—Amounts and personnel authorized by this section are in addition to any other amounts or personnel strengths authorized for the Coast Guard for any fiscal year.

(c) AUTHORIZATION ENHANCEMENT.—Nothing in this Act shall require the Coast Guard to recruit, compensate, train, purchase, or deploy any personnel or equipment except to the extent that—

(1) additional appropriations are made available in appropriations Acts for that purpose; or

(2) funds are transferred to the Secretary of Transportation for that purpose pursuant to this Act.

SEC. 7009. VESSEL IDENTIFICATION SYSTEM.

(a) CHAPTER 125, TITLE 46.—

(1) Title 46, United States Code, is amended by adding the following new chapter 125 after chapter 123:

"CHAPTER 125—VESSEL IDENTIFICATION SYSTEM

"Sec.
"12501. Establishment of a vessel identification system.
"12502. Identification numbers, signal letters, and markings.
"12503. Information available to the system.
"12504. Information available from the system.
"12505. Fees.
"12506. Delegation of authority.
"12507. Penalties.

"§ 12501. Establishment of a vessel identification system

"(a) The Secretary of Transportation shall maintain a vessel identification system to make available information under section 12503 of this title for use by the public for law enforcement and other purposes including—

"(1) the ownership of documented vessels;

"(2) the ownership of vessels numbered under chapter 123 of this title; and

"(3) the ownership of vessels titled under the law of a State.

"(b) The vessel identification system shall include information prescribed by the Secretary including—

"(1) identifying a vessel;

"(2) identifying the owner of the vessel;

"(3) identifying the State in which it is titled or numbered;

"(4) indicating whether the vessel is numbered or titled, or both;

"(5) if titled in a State, indicating where a lien or other security interest is recorded against the vessel in that State; and

"(6) information assisting law enforcement officials.

"(c) The Secretary may maintain information under this chapter in connection with any other information system maintained by the Secretary.

"§ 12502. Identification numbers, signal letters, and markings

"(a) For the identification of a vessel of the United States, the Secretary of Transportation—

"(1) shall maintain a unique numbering system and assign a number to each vessel of the United States;

"(2) may maintain a system of signal letters for a documented vessel;

"(3) shall record a name selected by the owner of a documented vessel approved by the Secretary as the vessel's name of record; and

"(4) may establish other identification markings.

"(b) The manufacturer or owner of a vessel shall affix to the vessel and maintain in the manner prescribed by the Secretary the number assigned and any other markings the Secretary may require.

"(c) Once a number is assigned under this section, it may not be used by another vessel.

"(d) Once a documented vessel's name is established, the name may not be changed without the approval of the Secretary.

"(e) A person may not tamper with or falsify a number or other marking required under this section.

"§ 12503. Information available to the system

"(a) Except as provided in subsections (b) and (c) of this section, a State or a State's delegee approved by the Secretary may make information available to the Secretary of Transportation if, in a manner and form prescribed by the Secretary, the State—

"(1) identifies the vessel;

"(2) identifies the owner of the vessel;

"(3) identifies the State in which it is titled or numbered;

"(4) indicates whether the vessel is numbered or titled, or both;

"(5) if titled in a State, indicates where a lien or other security interest is recorded against the vessel in that State;

"(6) includes information to assist law enforcement; and

"(7) includes other information agreed to by the Secretary and the State.

"(b) Except as provided in subsection (c) of this section, the Secretary also may accept information under conditions and in a manner and form prescribed by the Secretary.

"(c) The Secretary shall—

"(1) retain information on a vessel with a preferred mortgage under section 31322(d) of this title that is no longer titled in a State making information available to the Secretary under this chapter until the mortgage is discharged or the vessel is sold; and

"(2) accept information under section 31321(g) of this title only if that information cannot be provided to a State.

"§ 12504. Information available from the system

"For law enforcement or other purposes and under conditions prescribed by the Secretary, the Secretary—

"(1) shall make available information in the vessel identification system to a State making information available under section 12503(a) of this title; and

"(2) may make available information in the vessel identification system to others.

"§ 12505. Fees

"(a) The Secretary of Transportation may charge a fee under section 9701 of title 31 for providing information to or requesting information from the vessel identification system, except to—

"(1) an agency; or

"(2) a State making information available to the Secretary of Transportation under section 12503(a) of this title.

"(b) The Secretary may collect an annual fee of not more than $1.00 from the owner of each vessel of the United States under 9701 of title 31 for the vessel identification system. However, the collection of that fee may be delayed under conditions prescribed by the Secretary.

"(c) The Secretary may employ any agency, State, or person to collect the fee established under subsection (b) of this section.

"(d) If a State is employed to collect a fee under subsection (c) of this section, the State may retain one-half of the amounts collected. A State shall transfer one-half of the amounts collected under subsection (b) of this section to the Secretary.

"(e) The Secretary shall deposit amounts transferred or collected under this section in the general fund of the Treasury as proprietary receipts of the Secretary and ascribed to the vessel identification system.

"(f) The amounts retained by a State under this section may be used to make information available to the Secretary and to pay incremental administrative costs.

"§ 12506. Delegation of authority

"The Secretary of Transportation may delegated to an agency, a State, or a qualified person the authority to—

"(1) establish and maintain the vessel identification system; and

"(2) charge fees under section 12505 of this title to a person making information available to or requesting information from the vessel identification system.

"§ 12507. Penalties

"(a) A person shall be fined under title 18, imprisoned for not more than two years, or both, if the person with the intent to defraud—

"(1) provides false information to the Secretary or a State issuing authority regarding the identification of a vessel under this chapter; or

"(2) tampers with, removes, or falsifies the unique vessel identification number assigned to a vessel under section 12502 of this title.

"(b) A person is liable to the United States Government for a civil penalty of not more than $10,000 if the person—

"(1) provides false information to the Secretary or a state issuing authority regarding the identification of a vessel under this chapter;

"(2) violates section 12502 of this title; or

"(3) fails to comply with regulations prescribed by the Secretary under section 12505 of this title.

"(c) A vessel involved in a violation of this chapter, or regulation under this chapter, and its equipment, may be seized by, and forfeited to, the Government.

"(d) If a person, not an individual, is involved in a violation of this chapter, the president or chief executive of the person also is subject to any penalty provided under this section.

(2) The title analysis at the beginning of subtitle II of title 46, United States Code, is amended by adding after item 123 in part H:

"125. Vessel Identification System............ 12501".

(b) CHAPTERS 301 AND 313 OF TITLE 46.—

(1) Certain general and permanent laws of the United States, related to definitions and maritime commercial instruments and liens, are revised, consolidated, and enacted by paragraph (3) of this subsection as subtitle III of title 46, United States Code, "Shipping".

(2) The title analysis at the beginning of title 46, United States Code, is amended to read as follows:

"Subtitle	Sec.
"I. GENERAL	101
"II. VESSELS AND SEAMEN	2101
"III. MARITIME LIABILITY	30101
"[BALANCE OF TITLE RESERVED]"	

(3) Title 46, United States Code, is amended by adding at the end of the following new subtitle:

"SUBTITLE III—MARITIME LIABILITY

"Chapter	Sec.
"301. GENERAL	30101
"[CHAPTERS 303-311—RESERVED]	
"313. COMMERCIAL INSTRUMENTS AND MARITIME LIENS	31301
"[CHAPTER 315—RESERVED]	

"CHAPTER 301—GENERAL

"Sec.

"30101. Definitions.

"§ 30101. Definitions

"In this subtitle—

"(1) 'documented vessel' means a vessel documented under chapter 121 of this title.

"(2) 'foreign vessel' means a vessel of foreign registry or operated under the authority of a foreign country.

"(3) 'public vessel' means (except in chapter 315 of this title) a vessel that is owned, demise chartered, or operated by the United States Government or a government of a foreign country.

"(4) 'recreational vessel' means a vessel—

"(A) operated primarily for pleasure; or

"(B) leased, rented, or demise chartered to another for the latter's pleasure.

"(5) 'seaman' means a master or a crewmember of a vessel in operation.

"(6) 'State' means a State of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States.

"(7) 'State vessel' means a vessel owned or demise chartered by the government of a State or an authority or a political subdivision of a State.

"(8) 'United States', when used in a geographic sense, means the States of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States.

"(9) 'vessel of the United States' means a vessel documented under chapter 121 of this title, numbered under chapter 123 of this title, or titled under the law of a State.

"[CHAPTERS 303-311—RESERVED]

"CHAPTER 313—COMMERCIAL INSTRUMENTS AND MARITIME LIENS

"SUBCHAPTER I—GENERAL

"Sec.
"31301. Definitions.
"31302. Availability of instruments, copies, and information.
"31303. Certain civil actions not authorized.
"31304. Liability for noncompliance.
"31305. Waiver of lien rights.
"31306. Declaration of citizenship.
"31307. State statutes superseded.
"31308. Secretary of Commerce or Transportation as mortgagee.
"31309. General civil penalty.

"SUBCHAPTER II—COMMERCIAL INSTRUMENTS

"31321. Filing, recording, and discharge.
"31322. Preferred mortgages.
"31323. Disclosing and incurring obligations before executing preferred mortgages.
"31324. Retention and examination of mortgages and documents of vessels covered by preferred mortgages.
"31325. Preferred mortgage liens and enforcement.
"31326. Court sales to enforce preferred mortgage liens and maritime liens and priority of claims.
"31327. Forfeiture of mortgagee interest.
"31328. Limitations on parties serving as trustees of mortgaged vessel interests.
"31329. Court sales of documented vessels.
"31330. Penalties.

"SUBCHAPTER III—MARITIME LIENS

"31341. Persons presumed to have authority to procure necessaries.
"31342. Establishing maritime liens.
"31343. Recording and discharging liens on preferred mortgage vessels.

"SUBCHAPTER I—GENERAL

"§ 31301. Definitions

"In this chapter—

"(1) 'acknowledge' means making—

"(A) an acknowledgement or notarization before a notary public or other official authorized by a law of the United States or a State to take acknowledgments of deeds; or

"(B) a certificate issued under the Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents, 1961.

"(2) 'district court' means—

"(A) a district court of the United States (as defined in section 451 of title 28);

"(B) the District Court of Guam;

"(C) the District Court of the Virgin Islands;

"(D) the District Court for the Northern Mariana Islands;

"(E) the High Court of American Samoa; and

"(F) any other court of original jurisdiction of a territory or possession of the United States.

"(3) 'mortgagee' means—

"(A) a person to whom property is mortgaged; or

"(B) when a mortgage on a vessel involves a trust, the trustee that is designated in the trust agreement.

"(4) 'necessaries' includes repairs, supplies, towage, and the use of a dry dock or marine railway.

"(5) 'preferred maritime lien' means a maritime lien on a vessel—

"(A) arising before a preferred mortgage was filed under section 31321 of this title;

"(B) for damage arising out of maritime tort;

"(C) for wages of a stevedore when employed directly by a person listed in section 31341 of this title;

"(D) for wages of the crew of the vessel;

"(E) for general average; or

"(F) for salvage, including contact salvage.

"(6) 'preferred mortgage'—

"(A) means a mortgage that is a preferred mortgage under section 31322 of this title; and

"(B) also means in sections 31325 and 31326 of this title, a mortgage, hypothecation, or similar charge that is established as a security on a foreign vessel if the mortgage, hypothecation, or similar charge was executed under the laws of the foreign country under whose laws the ownership of the vessel is documented and has been registered under those laws in a public register at the port of registry of the vessel or at a central office.

"§ 31302. Availability of instruments, copies, and information

"The Secretary of Transportation shall—

"(1) make any instrument filed or recorded with the Secretary under this chapter available for public inspection;

"(2) on request, provide a copy, including a certified copy, of any instrument made available for public inspection under this chapter; and

"(3) on request, provide a certificate containing information included in an instrument filed or recorded under this chapter.

"§ 31303. Certain civil actions not authorized

"If a mortgage covers a vessel and additional property that is not a vessel, this chapter does not authorize a civil action in rem to enforce the rights of the mortgagee under the mortgage against the additional property.

"§ 31304. Liability for noncompliance

"(a) If a person makes a contract secured by, or on the credit of, a vessel covered by a mortgage filed or recorded under this chapter and sustains a monetary loss because the mortgagor or the master or other individual in charge of the vessel does not comply with a requirement imposed on the mortgagor, master, or individual under this chapter, the mortgagor is liable for the loss.

"(b) A civil action may be brought to recover for losses referred to in subsection (a) of this section. The district courts have original jurisdiction of the action, regardless of the amount in controversy or the citizenship of the parties. If the plaintiff prevails, the court shall award costs and attorney fees to the plaintiff.

"§ 31305. Waiver of lien rights

"This chapter does not prevent a mortgagee or other lien holder waiving or subordinating at any time by agreement or otherwise the lien holder's right to a lien, the priority or, if a preferred mortgage lien, the preferred status of the lien.

"§ 31306. Declaration of citizenship

"(a) When an instrument transferring an interest in a vessel is presented to the Secretary of Transportation for filing or recording, the transferee shall file with the instrument a declaration, in the form the Secretary may prescribe by regulation, stating information about citizenship and other information the Secretary may require to show the transaction involved does not violate section 9 or 37 of the Shipping Act, 1916 (46 App. U.S.C. 808, 835).

"(b) A declaration under this section filed by a corporation must be signed by its president, secretary, treasurer, or other official authorized by the corporation to execute the declaration.

"(c) An instrument transferring an interest in a vessel is not valid against any person until the declaration required by this section has been filed.

"(d) A person knowingly making a false statement of a material fact in a declaration filed under this section shall be fined under title 18, imprisoned for not more than 5 years, or both.

"§ 31307. State statutes superseded

"This chapter supersedes any State statute conferring a lien on a vessel to the extent the statute establishes a claim to be enforced by a civil action in rem against the vessel for necessaries.

"§ 31308. Secretary of Commerce or Transportation as mortgagee

"When the Secretary of Commerce or Transportation is a mortgagee under this chapter, the Secretary may foreclose on a lien arising from a right established under a mortgage under title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241 et seq.), subject to section 362(b) of title 11.

"§ 31309. General civil penalty

"Except as otherwise provided in this chapter, a person violating this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than $10,000.

"SUBCHAPTER II—COMMERCIAL INSTRUMENTS

"§ 31321. Filing, recording, and discharge

"(a)(1) A bill of sale, conveyance, mortgage, assignment, or related instrument, whenever made, that includes any part of a documented vessel or a vessel for which an application for documentation is filed, must be filed with the Secretary of Transportation to be valid, to the extent the vessel is involved, against any person except—

"(A) the grantor, mortgagor, or assignor;

"(B) the heir or devisee of the grantor, mortgagor, or assignor; and

"(C) a person having actual notice of the sale, conveyance, mortgage, assignment, or related instrument.

"(2) Each bill of sale, conveyance, mortgage, assignment, or related instrument that is filed in substantial compliance with this section is valid against any person from the time it is filed with the Secretary.

"(3) The parties to an instrument or an application for documentation shall use diligence to ensure that the parts of the instrument or application for which they are responsible are in substantial compliance with the filing and documentation requirements.

"(b) To be filed, a bill of sale, conveyance, mortgage, assignment, or related instrument must—

"(1) identify the vessel;

"(2) state the name and address of each party to the instrument;

"(3) state, if a mortgage, the amount of the direct or contingent obligations (in one or more units of account as agreed to by the parties) that is or may become secured by the mortgage, excluding interest, expenses, and fees;

"(4) state the interest of the grantor, mortgagor, or assignor in the vessel;

"(5) state the interest sold, conveyed, mortgaged, or assigned; and

"(6) be signed and acknowledged.

"(c) If a bill of sale, conveyance, mortgage, assignment, or related document is filed that involves a vessel that has not yet been documented, and the Secretary decides that the vessel cannot be doumented by an applicant—

"(1) the Secretary shall send notice of the Secretary's decision, including reasons for the decision, to each party whose name and address is stated on the instrument filed for recording; and

"(2) 90 days after sending the notice as provided under clause (1) of this subsection, the Secretary—

"(A) may terminate the filing; and

"(B) may return the instrument filed without recording it under subsection (d) of this section.

"(d) A person may withdraw an application for documentation of a vessel for which a mortgage has been filed under this section only if the mortgagee consents.

"(e) The Secretary shall—

"(1) record the bills of sale, conveyances, mortgages, assignments, and related instruments of a documented vessel complying with subsection (b) of this section in the order they are filed; and

"(2) maintain appropriate indexes, for use by the public, of instruments filed or recorded, or both.

"(f) On full and final discharge of the indebtedness under a mortgage recorded under subsection (e)(1) of this section, a mortgagee, on request of the Secretary or mortgagor, shall provide the Secretary with an acknowledged certificate of discharge of the indebtedness in a form prescribed by the Secretary. The Secretary shall record the certificate.

"(g) On full and final discharge of the indebtedness under a mortgage filed under section 31322(d) of this title, a mortgagee, on request of the Secretary, a State, or mortgagor, shall provide the Secretary or the State, as appropriate, with an acknowledged certificate of discharge of the indebtedness in a form prescribed by the Secretary or the State, as applicable. If filed with the Secretary, the Secretary shall enter that information in the vessel identification system under chapter 125 of this title.

"§ 31322. Preferred mortgages

"(a)(1) A preferred mortgage is a mortgage, whenever made, that—

"(A) includes the whole of a vessel;

"(B) is filed in substantial compliance with section 31321 of this title;

"(C)(i) covers a documented vessel; or

"(ii) covers a vessel for which an application for documentation is filed that is in substantial compliance with the requirements of chapter 121 of this title and the regulations prescribed under that chapter; and

"(D) has as the mortgagee—

"(i) a State;

"(ii) the United States Government;

"(iii) a federally insured depository institution, unless disapproved by the Secretary;

"(iv) an individual who is a citizen of the United States;

"(v) a person qualifying as a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802); or

"(vi) a person approved by the Secretary of Transportation.

"(2) Paragraph (1)(D) of this subsection does not apply to a vessel operated only as a fishing vessel, fish processing vessel, or a fish tender vessel (as defined in section 2101 of this title) or to a vessel operated only for pleasure.

"(b) A preferred mortgage filed or recorded under this chapter may have any rate of interest that the parties to the mortgage agree to.

"(c)(1) If a preferred mortgage includes more than one vessel or property that is not a vessel, the mortgage may provide for the separate discharge of each vessel and all property not a vessel by the payment of a part of the mortgage indebtedness.

"(2) If a vessel covered by a preferred mortgage that includes more than one vessel or property that is not a vessel is to be sold on the order of a district court in a civil action in rem, and the mortgage does not provide for separate discharge as provided under paragraph (1) of this subsection—

"(A) the mortgage constitutes a lien on that vessel in the full amount of the outstanding mortgage indebtedness; and

"(B) an allocation of mortgage indebtedness for purposes of separate discharge may not be made among the vessel and other property covered by the mortgage.

"(d)(1) A mortgage or instrument representing financing of a vessel under State law that is filed under applicable State law covering the whole of a vessel titled in a State is deemed to be a preferred mortgage if—

"(A) the Secretary certifies that the State titling system complies with the Secretary's guidelines for a titling system under section 13106(b)(8) of this title; and

"(B) information on the vessel covered by the mortgage or instrument is made available to the Secretary under chapter 125 of this title.

"(2) This subsection applies to mortgages or instruments covering vessels titled in a State after—

"(A) the Secretary's certification under paragraph (1)(A) of this subsection; and

"(B) the State begins making information available to the Secretary under chapter 125 of this title.

"§ 31323. Disclosing and incurring obligations before executing preferred mortgages

"(a) On request of the mortgagee and before executing a preferred mortgage, the mortgagor shall disclose in writing to the mortgagee the existence of any obligation known to the mortgagor on the vessel to be mortgaged.

"(b) After executing a preferred mortgage and before the mortgagee has had a reasonable time to file the mortgage, the mortgagor may not incur, without the consent of the mortgagee, any contractual obligation establishing a lien on the vessel except a lien for—

"(1) wages of a stevedore when employed directly by a person listed in section 31341 of this title.

"(2) wages for the crew of the vessel.

"(3) general average.

"(4) salvage, including contract salvage.

"(c) On conviction of a mortgagor under section 31330(a)(1) (A) or (B) of this title for violating this section, the mortgage indebtedness, at the option of the mortgagee, is payable immediately.

"§ 31324. Retention and examination of mortgages of vessels covered by preferred mortgages

"(a) On request, the owner, master, or individual in charge of a vessel covered by a preferred mortgage shall permit a person to examine the mortgage if the person has business with the vessel that may give rise to a maritime lien or the sale, conveyance, mortgage, or assignment of a mortgage of the vessel.

"(b) A mortgagor of a preferred mortgage covering a self-propelled vessel shall use diligence in keeping a certified copy of the mortgage on the vessel.

"§ 31325. Preferred mortgage liens and enforcement

"(a) A preferred mortgage is a lien on the mortgaged vessel in the amount of the outstanding mortgage indebtedness secured by the vessel.

"(b) On default of any term of the preferred mortgage, the mortgagee may enforce the preferred mortgage lien in—

"(1) a civil action in rem for a documented vessel or a vessel to be documented under chapter 121 of this title;

"(2) a civil action in personam in admiralty against the mortgagor, comaker, or guarantor for the amount of the outstanding indebtedness secured by the mortgaged vessel or any deficiency in full payment of that indebtedness; and

"(3) a civil action against the mortgagor, comaker, or guarantor for the amount of the outstanding indebtedness secured by the mortgaged vessel or any deficiency in full payment of that indebtedness.

"(c) The district courts have original jurisdiction of a civil action brought under subsection (b) of this section. However, for documented vessels or vessels to be documented under chapter 121 of this title, this jurisdiction is exclusive of the courts of the states for a civil action under subsection (b)(1) of this section.

"(d)(1) Actual notice of a civil action brought under subsection (b)(1) of this section, or to enforce a maritime lien, must be given in the manner directed by the court to—

"(A) the master or individual in charge of the vessel;

"(B) any person that recorded under section 31343 (a) or (d) of this title a notice of a claim of an undischarged lien on the vessel; and

"(C) a mortgagee of a mortgage filed or recorded under section 31321 of this title that is an undischarged mortgage on the vessel.

"(2) Notice under paragraph (1) of this subsection is not required if, after search satisfactory to the court, the person entitled to the notice has not been found in the United States.

"(3) Failure to give notice required by this subsection does not affect the jurisdiction of the court in which the civil action is brought. However, unless notice is not required under paragraph (2) of this subsection, the party required to give notice is liable to the person not notified for damages in the amount of that person's interest in the vessel terminated by the action brought under subsection (b)(1) of this section. A civil action may be brought to recover the amount of the terminated interest. The district courts have original jurisdiction of the action, regardless of the amount in controversy or the citizenship of the parties. If the plaintiff prevails, the court may award costs and attorney fees to the plaintiff.

"(e) In a civil action brought under subsection (b)(1) of this section—

"(1) the court may appoint a receiver and authorize the receiver to operate the mortgaged vessel and shall retain in rem jurisdiction over the vessel even if the receiver operates the vessel outside the district in which the court is located; and

"(2) when directed by the the court, a United States marshal may take possession of a mortgaged vessel even if the vessel is in the possession or under the control of a person claiming a possessory common law lien.

"§ 31326. Court sales to enforce preferred mortgage liens and maritime liens and priority of claims

"(a) When a vessel is sold by order of a district court in a civil action in rem brought to enforce a preferred mortgage lien or a maritime lien, any claim in the vessel existing on the date of sale is terminated, including a possessory common law lien of which a person is deprived under section 31325(e)(2) of this title, and the vessel is sold free of all those claims.

"(b) Each of the claims terminated under subsection (a) of this section attaches, in the same amount and in accordance with their priorities to the proceeds of the sale, except that—

"(1) the preferred mortgage lien has priority over all claims against the vessel (except for expenses and fees allowed by the court, costs imposed by the court, and preferred maritime liens); and

"(2) for a foreign vessel, the preferred mortgage lien is subordinate to a maritime lien for necessaries provided in the United States.

"§ 31327. Forfeiture of mortgagee interest

"The interest of a mortgagee in a documented vessel or a vessel covered by a preferred mortgage under section 31322(d) of this title may be terminated by a forfeiture of the vessel for a violation of a law of the United States only if the mortgagee authorized, consented, or conspired to do the act, failure, or omission that is the basis of the violation.

"§ 31328. Limitations on parties serving as trustees of mortgaged vessel interests

"(a) Without the approval of the Secretary of Transportation, an instrument or evidence of indebtedness secured by a mortgage of a vessel to a trustee may not be issued, assigned, or transferred to, or held in trust for, a person not qualifying as a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802), unless the trustee—

"(1) is a State;

"(2) is the United States Government;

"(3) is a person approved by the Secretary and qualifying as a citizen of the United States under that section 2; or

"(4) has been approved by the Secretary.

"(b) The Secretary shall approve a trustee under subsection (a) (3) or (4) of this section if the trustee—

"(1) is organized as a corporation, and is doing business, under the laws of the United States or of a State;

"(2) is authorized under those laws to exercise corporate trust powers;

"(3) is subject to supervision or examination by an official of the United States Government or a State;

"(4) has a combined capital and surplus (as stated in its most recent published report of condition) of at least $3,000,000; and

"(5) if the trustee is to be approved under subsection (a)(4) of this section, meets any other requirements prescribed by the Secretary.

"(c) If the trustee at any time does not satisfy the qualifications of subsection (b) of this section, the Secretary shall disapprove the trustee.

"(d) Except as provided in subsection (a) of this section, a right under a mortgage of a documented vessel may be issued, assigned, or transferred to a person not eligible to be a mortgagee of that vessel under section 31322 of this title only with the approval of the Secretary.

"(e) The vessel may be operated by the trustee only with the approval of the Secretary.

"(f) The issuance, assignment, or transfer of an instrument or evidence of indebtedness contrary to this section is void.

"§ 31329. Court sales of documented vessels

"(a) A documented vessel may be sold by order of a district court only to—

"(1) a person eligible to own a documented vessel under section 12102 of this title; or

"(2) a mortgagee of that vessel.

"(b) When a vessel is sold to a mortgagee not eligible to own a documented vessel—

"(1) the vessel must be held by the mortgagee for resale;

"(2) the vessel held by the mortgagee is subject to section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242); and

"(3) the sale of the vessel to the mortgagee is not a sale foreign within the terms of the first proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883).

"(c) Unless waived by the Secretary of Transportation, a person purchasing a vessel by court order under subsection (a)(1) of this section or from a mortgagee under subsection (a)(2) of this section must document the vessel under chapter 121 of this title.

"(d) The vessel may be operated by the mortgagee not eligible to own a documented vessel only with the approval of the Secretary.

"(e) A sale of a vessel contrary to this section is void.

"§ 31330. Penalties

"(a)(1) A mortgagor shall be fined under title 18, imprisoned for not more than 2 years, or both, if the mortgagor—

"(A) with intent to defraud, does not disclose an obligation on a vessel as required by section 31323(a) of this title;

"(B) with intent to defraud, incurs a contractual obligation in violation of section 31323(b) of this title;

"(C) with intent to hinder or defraud an existing or future creditor of the mortgagor or a lienor of the vessel, files a mortgage with the Secretary of Transportation; or

"(D) with intent to defraud, does not comply with section 31321 (f) or (g) of this title.

"(2) A mortgagor is liable to the United States Government for a civil penalty of not more than $10,000 if the mortgagor—

"(A) does not disclose an obligation on a vessel as required by section 31323(a) of this title;

"(B) incurs a contractual obligation in violation of section 31323(b) of this title;

"(C) files with the Secretary a mortgage made not in good faith; or

"(D) does not comply with section 31321 (f) or (g) or with section 31322(d)(3)(A) of this title.

"(b)(1) A person that knowingly violates section 31328 or 31329 of this title shall be fined under title 18, imprisoned for not more than 3 years, or both.

"(2) A person violating section 31328 or 31329 of this title is liable to the Government for a civil penalty of not more than $25,000.

"(3) A vessel involved in a violation under section 31328 or 31329 of this title and its equipment may be seized by, and forfeited to, the Government.

"(c) If a person not an individual violates this section, the president or chief executive of the person also is subject to any penalty provided under this section.

"SUBCHAPTER III—MARITIME LIENS

"§ 31341. Persons presumed to have authority to procure necessaries

"(a) The following persons are presumed to have authority to procure necessaries for a vessel:

"(1) the owner.

"(2) the master.

"(3) A person entrusted with the management of the vessel at the port of supply.

"(4) an officer or agent appointed by—

"(A) the owner;

"(B) a charterer;

"(C) an owner pro hac vice; or

"(D) an agreed buyer in possession of the vessel.

"(b) A person tortuously or unlawfully in possession or charge of a vessel has no authority to procure necessaries for the vessel.

"§ 31342. Establishing maritime liens

"A person providing necessaries to a vessel (except a public vessel) on the order of a person listed in section 31341 of this title or a person authorized by the owner—

"(1) has a maritime lien on the vessel;

"(2) may bring a civil action in rem to enforce the lien; and

"(3) is not required to allege or prove in the action that credit was given to the vessel.

"§ 31343. Recording and discharging liens on preferred mortgage vessels

"(a) Except as provided under subsection (d) of this section, a person claiming a lien on a vessel covered by a preferred mortgage filed or recorded under this chapter may record with the Secretary of Transportation a notice of that person's lien claim on the vessel. To be recordable, the notice must—

"(1) state the nature of the lien;

"(2) state the date the lien was established;

"(3) state the amount of the lien;

"(4) state the name and address of the person; and

"(5) be signed and acknowledged.

"(b) The Secretary shall record a notice complying with subsection (a) of this section.

"(c) On full and final discharge of the indebtedness that is the basis for a claim recorded under subsection (b) of this section, on request of the Secretary or owner, the person having the claim shall provide the Secretary with an acknowledged certificate of discharge of the indebtedness. The Secretary shall record the certificate.

"(d) A person claiming a lien on a vessel covered by a preferred mortgage filed under section 31322(d) of this title must record and discharge the lien as provided by the law of the state in which the vessel is titled.

"[CHAPTER 315—RESERVED]".

(c) SURRENDER AND INVALIDATION OF CERTIFICATES OF DOCUMENTATION.—

(1) Section 12111 of title 46, United States Code, is amended—

"(A) by striking the catchline and substituting the following:

"§ 12111. Surrender and invalidation of certificates of documentation"; and

"(B) by striking subsection (b) and substituting the following:

"(b) An invalid certificate of documentation must be surrendered as provided by regulations prescribed by the Secretary of Transportation.

"(c)(1) Notwithstanding subsection (a) of this section, until the certificate of documentation is surrendered with the approval of the Secretary, a documented vessel is deemed to continue to be documented under this chapter for purposes of—

"(A) chapter 313 of this title for an instrument filed or recorded before the date of invalidation and an assignment after that date;

"(B) section 9 and 37(b) of the Shipping Act, 1916 (46 App. U.S.C. 808, 835(b));

"(C) section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242); and

"(D) any other law of the United States identified by the Secretary by regulation as a law to which the Secretary applies this subsection.

"(2) This subsection does not apply when a vessel is forfeited or sold by order of a district court of the United States.

"(3) The Secretary may approve the surrender of the certificate of documentation of a documented vessel covered by a mortgate filed or recorded under section 31321 of this title only if the mortgagee consents.".

(2) Item 12111 in the analysis of chapter 121 of title 46, United States Code, is amended to read as follows:

"12111. Surrender and invalidation of certificates of documentation.".

(d) MISCELLANEOUS AND CONFORMING PROVISIONS.—(1) Title 46, United States Code, is amended as follows:

(A) In section 2101(46), strike the period at the end and add "or titled under the law of a State.".

(B) In section 2110, strike "the licensing of masters, mates, pilots, and engineers, and the documentation of vessel," and substitute "and the licensing of masters, mates, pilots, and engineers,".

(C) In sections 12102(b), 12103(a), 12105(c), 12110(a), 12112(a), (b), and (c), 12117, 12119, and 12120, insert "of Transportation" after "Secretary" the first time it appears.

(D) Section 12103(c)(1) is amended to read as follows:

"(1) identify and describe the vessel;".

(2) The third paragraph of section 9 of the Shipping Act, 1916 (46 App. U.S.C. 808), is amended to read as follows:

"Except as provided in section 611 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1181), and sections 31322(a)(1)(D) and 31328 of title 46, United States Code, a person may not, without the approval of the Secretary of Transportation—

"(1) sell, mortgage, lease, charter, deliver, or in any manner transfer, or agree to sell, mortgage, lease, charter, deliver, or in any manner transfer, to a person not a citizen of the United States, any interest in or control of a documented vessel (except in a vessel operated only as a fishing vessel, fish processing vessel, or fish tender vessel (as defined in section 2101 of this title) or in a vessel operated only for pleasure) owned by a citizen of the United States; or

"(2) place a documented vessel under foreign registry or operate that vessel under the authority of a foreign country.".

(3) The first sentence of section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242), is amended by striking "or under construction" and substituting "a documented vessel, or a vessel under construction".

(4) Section 1101(a) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271(a)), is amended to read as follows:

"(a) The term 'mortgage' includes—

"(1) a preferred mortgage as defined in section 31301 of title 46, United State Code; and

"(2) a mortgage on a vessel that will become a preferred mortgage when filed or recorded under chapter 313 of title 46, United States Code;".

(5)(A) Before January 1, 1992, the annual fee under section 12505 of title 46, United States Code (as enacted by this section), is $1.00.

(B) To establish, centralize, and computerize records and other information maintained under chapters 121, 125, and 313 of title 46, United States Code, from the effective date of this Act through September 30, 1993, the Secretary of Transportation shall spend (out of amounts appropriated for the Department of Transportation under an appropriations law) not less than an amount that is equal to the amounts estimated to be—

(i) collected under section 9701 of title 31, United States Code, for fees paid for services and things of value provided under chapter 313 of title 46, United States Code, (as enacted by this section) and for documenting vessels under chapter 121 of title 46; and

(ii) transferred to or collected by the Secretary under chapter 125 of title 46, United States Code (as enacted by this section).

(6) Chapter 313 of title 46 (enacted by this section), United States Code, does not affect the rules of law in existence on June 5, 1920, about—

(A) the right to proceed against a vessel for advances;

(B) laches in enforcing liens on a vessel;

(C) the right to proceed in personam;

(D) the rank of preferred maritime liens among themselves; and

(E) priorities between maritime liens and mortgages (except preferred mortgages) on documented vessels.

(7) Section 12502(a)(1) of title 46, United States Code (as enacted by this section), applies to a vessel of the United States that does not have a unique number as prescribed by the Secretary of Transportation under that section until the earlier of the following:

(A) the next time the vessel is documented, numbered, or titled.

(B) January 1, 1995.

(8) Nothing in this section requires the Coast Guard to recruit, compensate, train, purchase, or deploy any personnel or equipment to carry out chapter 125 of title 46, United States Code (as enacted by this section), except to the extent that appropriations are made available in an appropriations law for the Department of Transportation.

(e) LEGISLATIVE PURPOSE AND CONSTRUCTION.—

(1) A reference to a law replaced by subsection (b) of this section, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision of this section.

(2) An order, rule, or regulation in effect under a law replaced by subsection (b) of this section continues in effect under the corresponding provision of this section until repealed, amended, or superseded.

(3) An action taken or an offense committed under a law replaced by subsection (b) of this section is deemed to have been taken or committed under the corresponding provision of subsection (b) of this section.

(4) An inference of legislative construction is not to be drawn by reason of the caption or catch line of a provision enacted by subsection (b) of this section.

(5) If a provision of subsection (b) of this section is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of subsection (b) of this section is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

(f) REPEALS.—

(1) The repeal of a law by subsection (b) of this section may not be construed as a legislative implication that the provision was or was not in effect before its repeal.

(2) The following laws are repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun, before the effective date of subsection (b) of this section:

(A) sections 9(4th par.) and 40 of the Shipping Act, 1916 (46 App. U.S.C. 808(4th par.), 838).

(B) section 30 of the Merchant Marine Act, 1920 (46 App. U.S.C. 911-984).

(C) the Act of February 16, 1925 (46 App. U.S.C. 1011-1014).

(D) Reorganization Plan No. 1 of 1967 (46 App. U.S.C. 961 (note)).

(E) Sections 12109(c), 12113, 12114, 12115, 12116, 12118, and 12121 of title 46, United States Code.

(g) EFFECTIVE DATES.—

(1) Subsection (b) of this section and amendments made by subsection (b) of this section take effect on January 1, 1989. However, sections 31321 and 31322 of title 46 (enacted by subsection (b) of this section, United States Code (as sections 31321 and 32322 apply to vessels for which an application for documentation has been filed), take effect on January 1, 1990.

(2) An instrument filed before January 1, 1989, but not recorded before that date, is deemed to comply with section 31321 of title 46, United States Code, if it is in substantial compliance with the provisions in that section that had corresponding requirements under the law on December 31, 1988. However, the mortgage may not become a preferred mortgage until the vessel is documented.

(3) This section and the amendments made by this section do not affect the validity of any instrument filed or recorded before January 1, 1989 if there was a corresponding requirement under the law on December 31, 1988.

(4) An instrument filed or recorded before January 1, 1989 is deemed to comply with any new requirement under chapter 313 of title 46, United States Code (as enacted by subsection (b) of this section), affecting the validity of that instrument.

(5) Subsection (b) of this section and amendments made by subsection (b) of this section do not affect any civil action filed before January 1, 1989.

(6) The Secretary of Transportation shall establish the vessel identification system required under chapter 125 of title 46, United States Code (as enacted by subsection (a) of this section) before January 1, 1994.

(h) COASTWISE AND FISHERIES DOCUMENTATION.—Notwithstanding sections 12106-12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for the following vessels:

(1) ALEUTIAN TRAWLER, United States official number 236979;

(2) ENCORE, United States official number 545162;

(3) FAIR TIDE, United States official number 644363;

(4) FREEDOM, United States official number 569163;

(5) PAVLOF, United States official number 597532;

(6) SUVA, United States official number 225008;

(7) RA, United States official number 655181;

(8) TE DE II, United States official number 572205;

(9) FRE-N-EZE, United States official number 659826;

(10) BETA LYRA, United States official number 679226;

(11) POLAR ICE, United States official number 604676;

(12) COMPASS ROSE III, United States official number 559647;

(13) SCOTCH 'N WATER, United States official number 264090;

(14) ERSA, United States official number 229511;

(15) GILBERT, United States official number 230568, with a restriction that this vessel may engage in the coastwise trade of the United States only for the purpose of moving barges filled with seafood waste and wastewater to designated ocean disposal sites from Port Canaveral, Florida;

(16) MARY L, United States official number 275311;

(17) ZB-6, United States official number 505317; and

(18) KUT N OUT, hull identification number BERL1087M-80A-385-80 and Florida registration number FL7665FG.

(i) FISHERIES DOCUMENTATION.—Notwithstanding sections 508 and 510(g) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158, 1160(g)), and United States Department of Transportation Contract MA 6772 (IFB PD-X-945) and its amendments, the vessel OCEAN TEMPEST, United States official number 248773, may engage in the coastwise trade and fisheries of the United States. The vessel may only be scrapped in the domestic market, and only with the approval of the Secretary of Transportation.

(j) Repeal of Obsolete Laws.—The following laws related to shipping are repealed:

(1) The paragraph immediately before the heading "UNITED STATES VETERANS' BUREAU" in the first section of the Independent Offices Act, 1928 (46 App. U.S.C. 810a).

(2) The Act of July 3, 1926 (46 App. U.S.C. 817a).

(3) Sections 3 and 4 of the Act of July 7, 1960 (46 App. U.S.C. 817b, 817c).

(4) Sections 2, 4, 5, 16, and 23 of the Merchant Marine Act, 1920 (46 App. U.S.C. 862-864, 874, 878, 879).

(5) Section 2 of the Act of March 4, 1927 (46 App. U.S.C. 870a).

(6) The Act of April 16, 1934 (46 App. U.S.C. 870b-870d).

(7) Section 2 of the Act of April 24, 1944 (46 App. U.S.C. 1128e-1).

(8) Sections 203, 401-404, 716, 904, 907, 1001-1005, and 1010-1012 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1113, 1141-1144, 1206, 1243, 1246, 1251-1255, 1260-1262).

(9) The first section and sections 2 and 3 of the Act of February 6, 1941 (46 App. U.S.C. 1119a, 1119b, 1214).

(10) The Act of June 12, 1960 (46 App. U.S.C. 1401-1413).

(11) Section 7 of the Martime Act of 1981 (46 App. U.S.C. 1606).

TITLE VIII—COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

Subtitle A—Federal Aviation Administration Drug Enforcement Assistance

SEC. 8001. SHORT TITLE.

This subtitle may be cited as the "Federal Aviation Administration Drug Enforcement Assistance Act of 1988".

SEC. 8002. FINDINGS AND POLICY.

(a) Findings.—Congress makes the following findings:

(1) Illegal drug consumption and the trafficking in illegal drugs is a major problem in the United States.

(2) The smuggling of drugs into the United States through the use of general aviation aircraft is a major contributing factor in the illegal drug crisis facing our Nation.

(3) The Federal Government has a significant role in combatting such drug crisis.

(4) The Federal Aviation Administration has played an important role in assisting law enforcement agencies in certain aspects of drug interdiction and enforcement activities.

(5) The current systems of registering aircraft, certificating pilots, and processing major aircraft repair and alteration forms and enforcement of the requirements associated with such systems need to be improved in order to more effectively contribute to drug interdiction and enforcement efforts.

(6) Improving such systems and enforcement of such requirements will require providing the Federal Aviation Administration with additional funding and other resources.

(7) Improved systems of registering aircraft, certificating pilots, and processing major aircraft repair and alteration forms and increased enforcement of requirements associated with such systems will benefit all users of such systems (including law enforcement officials) and the general public.

(b) Policy.—Section 103 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1303) is amended by redesignating paragraphs (a), (b), (c), (d), and (e) (and any references thereto) as paragraphs (1), (2), (3), (4), and (5), respectively, by striking out the semicolons at the end of each of paragraphs (1), (2), (3), and (4) (as so redesignated) and inserting in lieu thereof a period, and by adding at the end thereof the following new paragraph:

"(6) The provision of assistance to law enforcement agencies in the enforcement of laws relating to the regulation of controlled substances, to the extent consistent with aviation safety.".

SEC. 8003. AIRCRAFT REGISTRATION SYSTEM.

(a) Modification Authority.—Section 501 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401) is amended by adding at the end thereof the following new subsection:

"(h) Modification of System.—The Administrator is authorized and directed to make such modifications in the system established under this title for registration and recordation of aircraft as may be necessary to make such system more effective in serving the needs of buyers and sellers of aircraft, officials responsible for enforcement of laws relating to the regulation of controlled substances (as defined in section 102 of the Controlled Substances Act), and other users of such system. Such modifications may include a system of titling aircraft or of registering all aircraft whether or not operated, shall assure positive, verifiable, and timely identification of the true owner, and shall address, at a minimum, each of the following deficiencies in and abuses of the existing system:

"(1) The registration of aircraft to fictitious persons.

"(2) The use of false or nonexistent addresses by persons registering aircraft.

"(3) The use by a person registering an aircraft of a post office box or 'mail drop' as a return address for the purpose of evading identification of such person's address.

"(4) The registration of aircraft to corporations and other entities established to facilitate unlawful activities.

"(5) The submission of names of individuals on applications for registration of aircraft which are not identifiable.

"(6) The ability to make frequent legal changes in the registration markings which are assigned to aircraft.

"(7) The use of false registration markings on aircraft.

"(8) The illegal use of 'reserved' registration markings on aircraft.

"(9) The large number of aircraft which are classified as being in 'self-reported status'.

"(10) The lack of a system to assure timely and adequate notice of the transfer of ownership of aircraft.

"(11) The practice of allowing temporary operation and navigation of aircraft without issuance of a certificate of registration under this section.".

(b) Conforming Amendment to Table of Contents.—That portion of the table of contents contained in section 1 of such Act relating to section 501 of such Act is amended by adding at the end thereof the following:

"(h) Modification of system.".

SEC. 8004. REVOCATION OF AIRMAN CERTIFICATES.

(a) Limitation on Reissuance of Revoked Certificates.—Section 602(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1422(b)) is amended by striking out subparagraphs (A) and (B) of paragraph (2) and inserting in lieu thereof the following:

"(2) Limitation on reissuance of revoked certificates.—

"(A) General rule.—Except as provided in subparagraphs (B) and (C), the Administrator shall not issue an airman certificate to any person whose airman certificate has been revoked under section 609(c).

"(B) Special rule for law enforcement purposes.—The Administrator may issue an airman certificate to any person whose airman certificate has been revoked under section 609(c) if the Administrator determines that issuance of such certificate will facilitate law enforcement efforts.".

(b) Waiver of Revocation Requirement.—Section 609(c) of such Act (49 U.S.C. 1429(c)) is amended by adding at the end thereof the following new paragraph:

"(5) Waiver of revocation requirement.—Upon request of a Federal or State law enforcement official, the Administrator may waive the requirements of paragraphs (1) and (2) that an airman certificate of any person be revoked if the Administrator determines that such waiver will facilitate law enforcement efforts.".

SEC. 8005. MODIFICATION OF SYSTEM FOR ISSUING AIRMAN'S CERTIFICATES TO PILOTS.

(a) Modification Authority.—Section 602 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1422) is amended by adding at the end thereof the following new subsection:

"(d) Modification of System.—The Administrator is authorized and directed to make such modifications in the system established under this title for issuance of airman's certificates to pilots as may be necessary to make such system more effective in serving the needs of pilots and officials responsible for enforcement of laws relating to the regulation of controlled substances (as defined in section 102 of the Controlled Substances Act). Such modifications shall assure positive and verifiable identification of each person applying for or holding such a certificate and shall address, at a minimum, each of the following deficiencies in and abuses of the existing system:

"(1) The use of fictitious names and addresses by applicants for such certificates.

"(2) The use of stolen or fraudulent identification in applying for such certificates.

"(3) The use by a person applying for such a certificate of a post office box or 'mail drop' as a return address for the purpose of evading identification of such person's address.

"(4) The use of counterfeit and stolen airman's certificates by pilots.

"(5) The absence of information concerning physical characteristics of holders of such certificates.".

(b) Conforming Amendment to Table of Contents.—That portion of the table of contents contained in section 1 of such Act relating to section 602 of such Act is amended by adding at the end thereof the following:

"(d) Modification of system.".

SEC. 8006. MODIFICATION OF SYSTEM FOR PROCESSING FORMS FOR ALTERATIONS OF FUEL SYSTEMS.

(a) Modification Authority.—Section 605 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1425) is amended by adding at the end thereof the following new subsection:

"(c) Modification of System.—The Administrator is authorized and directed to make such modifications in the system established under this title for processing forms for major repairs or alterations of fuel tanks and fuel systems of aircraft as may be necessary to make such system more effective in serving the needs of users of such system, including officials responsible for enforcement of laws relating to the regulation of controlled substances (as defined in section 102 of the Controlled Substances Act). Such modifications shall address, at a minimum, each of the following deficiencies in and abuses of the existing system:

"(1) The lack of a special identification feature to permit such forms to be easily distinguished from other major repair and alteration forms.

"(2) The excessive amount of time required for receiving such forms at the Airmen and Aircraft Registry of the Federal Aviation Administration.

"(3) The backlog of such forms which are awaiting processing at the Airmen and Aircraft Registry.

"(4) The lack of ready access by law enforcement officials to information contained on such forms.".

(b) Conforming Amendment to Table of Contents.—That portion of the table of contents contained in section 1 of such Act relating to section 605 of such Act is amended by adding at the end thereof the following:

"(c) Modification of system.".

SEC. 8007. REGISTRATION, CERTIFICATION, AND FUEL SYSTEM ALTERATION REGULATIONS.

(a) Rulemaking.—Not later than 10 months after the date of the enactment of this subtitle, the Administrator shall issue final regulations for carrying out the objectives of sections 501(h), 602(d), and 605(c) of the Federal Aviation Act of 1958 and provide a written explanation of how such regulations address each of the deficiencies and abuses required to be addressed by such sections. Such regulations shall include, but not limited to, a requirement that each individual listed in an application for registration of an aircraft provide, together with such application, his or her driver's license number and each person (other than an individual) listed in such an application provide, together with such application, its Federal tax identification number.

(b) Consultation Requirement.—In issuing regulations in accordance with this section, the Administrator shall consult the Drug Enforcement Administration of the Department of Justice, the United States Customs Service, other Federal law enforcement officials, representatives of State and local law enforcement officials, representatives of the general aviation aircraft industry, representatives of users of general aviation aircraft, and other interested persons.

(c) Fees.—

(1) General rules.—Section 313 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1354) is amended by adding at the end thereof the following new subsection:

"(f) Processing Fees.—

"(1) Establishment and collection.—The Administrator may establish and collect such fees as may be necessary to cover the costs associated with issuance of certificates of registration of aircraft, issuance of airman certificates to pilots, and processing of forms for major repairs and alterations of fuel tanks and fuel systems of aircraft.

"(2) Maximum fee schedule.—The amount of any fee which may be collected under this subsection—

"(A) with respect to issuance of an airman's certificate to a pilot may not exceed $12;

"(B) with respect to registration of an aircraft after transfer of ownership may not exceed $25;

"(C) with respect to renewal of an aircraft registration may not exceed $15; and

"(D) with respect to processing of a form for a major repair or alteration of a fuel tank or fuel system of an aircraft may not exceed $7.50.

The amounts established by this paragraph shall be adjusted by the Administrator for changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

"(3) Limitation.—No fee may be collected under this subsection before the date on which the final regulations referred to in section 6(a) of the Federal Aviation Administration Drug Enforcement Assistance Act of 1988 take effect.

"(4) Credit to account; availability.—The amount of fees collected under this subsection shall be credited to the account in the United States Treasury from which expenses were incurred by the Administrator for carrying out titles V and VI of this Act and shall be available to the Administrator for paying expenses for which such fees are collected.".

(2) Conforming amendment to table of contents.—That portion of the table of contents contained in section 1 of such Act relating to section 313 is amended by adding at the end thereof the following:

"(f) Processing fees.".

(3) Conforming amendment to section 334 of title 49.—The first sentence of section 334 of title 49, United States Code, is amended by striking out "only when" and all that follows through the period and inserting in lieu thereof the following:

"only when—

"(1) the charge—

"(A) was in effect on January 1, 1973, and

"(B) is not more than the charge that was in effect on such date, adjusted in proportion to changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor between January 1, 1973, and the date the charge is imposed; or

"(2) the charge is a fee established and collected in accordance with section 313(f) of the Federal Aviation Act of 1958.".

(4) GAO audit.—During the 5-year period beginning after the date on which fees are first collected under section 313(f) of the Federal Aviation Act of 1958, the Comptroller General shall conduct an annual audit of the collection and use of such fees for the purpose of ensuring that such fees do not exceed the costs for which they are collected and submit to Congress a report on the results of such audit.

(e) Report.—Not later than 180 days after the date of the enactment of this subtitle and annually thereafter during the 5-year period beginning on such 180th day, the Administrator shall prepare and transmit to Congress a report on the following:

(1) The status of the rulemaking process, issuance of regulations, and implementation of regulations in accordance with this section.

(2) The progress being made in reducing the number of aircraft classified by the Federal Aviation Administration as being in "sale-reported status".

(3) The progress being made in expediting the filing and processing of forms for major repairs and alterations of fuel tanks and fuel systems of aircraft.

(4) The status of establishing and collecting fees under section 313(f) of the Federal Aviation Act.

(f) Definitions.—For purposes of this subtitle—

(1) Administrator.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(2) Aircraft.—The term "aircraft" has the meaning such term has under section 101 of the Federal Aviation Act of 1958.

SEC. 8008. CIVIL PENALTIES.

(a) Relating to Ownership and Registration.—Section 901(a)(1) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1471(a)(1)) is amended by inserting before the period at the end of the first sentence the following: "and for each such violation which relates to registration or recordation of an aircraft under title V".

(b) Administrative Assessment.—Section 901(a) of such Act (49 U.S.C. App. 1471(a)) is amended by adding at the end thereof the following new paragraph:

"(3) Administrative assessment of certain registration and recordation violations.—

"(A) General authority.—The Administrator, or his delegate, may assess a civil penalty for a violation of title V, or a rule, regulation, or order issued thereunder, which relates to registration or recordation of an aircraft upon written notice and finding of violation by the Administrator.

"(B) No reexamination of liability or amount.—In the case of a civil penalty assessed by the Administrator under this paragraph, the issue of liability or amount of civil penalty shall not be reexamined in any subsequent suit for collection of such civil penalty.

"(C) Continuing jurisdiction of district courts.—Notwithstanding subparagraph (A), the United States district courts shall have exclusive jurisdiction of any civil penalty action initiated by the Administrator—

"(i) which involves an amount in controversy in excess of $50,000;

"(ii) which is an in rem action or in which an in rem action based on the same violation has been brought;

"(iii) regarding which an aircraft subject to lien has been seized by the United States; and

"(iv) in which a suit for injunctive relief based on the violation giving rise to the civil penalty has also been brought.

"(D) Limitations.—

"(i) Hearing.—A civil penalty may be assessed by the Administrator under this paragraph only after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

"(ii) Violations.—This paragraph only applies to civil penalties initiated by the Administrator after the date of the enactment of this paragraph.

"(iii) Maximum amount.—The maximum amount of a civil penalty which may be assessed by the Administrator under this paragraph in any case may not exceed $50,000.".

SEC. 8009. CRIMINAL PENALTIES.

(a) In General.—Subsection (b) of section 902 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472) is amended by redesignating paragraph (3) as paragraph (5) and by striking out the subsection heading and paragraphs (1) and (2) and inserting in lieu thereof the following:

"(b) Forgery of Certificates, False Marking of Aircraft, and Other Aircraft Registration Violations.—

"(1) Description of violations.—It shall be unlawful for any person—

"(A) to knowingly and willfully forge, counterfeit, alter, or falsely make any certificate authorized to be issued under this Act, or to knowingly sell, use, attempt to use, or possess with the intent to use any such fraudulent certificate;

"(B) to obtain any certificate authorized to be issued under this Act by knowingly and willfully falsifying, concealing, or covering up a material fact, or making a false, fictitious, or fraudulent statement or representation, or making or using any false writing or document knowing the writing or document to contain any false, fictitious, or fraudulent statement or entry;

"(C) who is the owner of an aircraft eligible for registration under section 501, to knowingly and willfully operate, attempt to operate, or permit any other person to operate such aircraft if such aircraft is not registered under section 501 or the certificate of registration of such aircraft is suspended or revoked, or if such owner knows or has reason to know that such person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

"(D) to knowingly and willfully operate or attempt to operate an aircraft eligible for registration under section 501 knowing that such aircraft is not registered under section 501, that the certificate of registration of such aircraft is suspended or revoked, or that such person does not have proper authorization to operate or navigate such aircraft without registration for a period of time after transfer of ownership;

"(E) to knowingly and willfully serve, or attempt to serve, in any capacity as an airman without a valid airman certificate authorizing such person to serve in such capacity;

"(F) to knowingly and willfully employ for service or utilize any airman who does not possess a valid airman certificate authorizing such person to serve in such capacity;

"(G) to operate an aircraft with a fuel tank or fuel system which has been installed or modified on the aircraft knowing that such tank or system or the installation or modification of such tank or system is not in accordance with all applicable rules, regulations, and requirements of the Administrator; or

"(H) to knowingly and willfully display or cause to be displayed on any aircraft any marks which are false or misleading as to the nationality or registration of the aircraft.

"(2) Penalties.—Any person who commits a violation of paragraph (1) shall be, upon conviction, subject to—

"(A) a fine of not more than $15,000 or imprisonment for a term of not more than 3 years, or both; or

"(B) a fine of not more than $25,000 or imprisonment for a term of not more than 5 years, or both, if such violation was in connection with the act of transportation by aircraft of a controlled substance or of the aiding or facilitating of a controlled substance offense where such act is punishable by death or imprisonment for a term exceeding 1 year under a State or Federal law or is provided in connection with any act which is punishable by death or imprisonment for a term exceeding 1 year under a State or Federal law relating to a controlled substance (other than a law relating to simple possession of a controlled substance). Any term of imprisonment imposed under subparagraph (B) shall be in addition to, and shall not be served concurrently with, any other term of imprisonment imposed on such person.

"(3) Seizure of aircraft.—

"(A) By DEA or customs.—An aircraft used in connection with, or in aiding or facilitating, a violation of paragraph (1) whether or not a person is charged in connection with such violation, may be seized and forfeited by the Drug Enforcement Administration of the Department of Justice or the United States Customs Service in accordance with the customs laws.

"(B) Presumptions.—For purposes of subparagraph (A), an aircraft shall be presumed to have been used in connection with, or to aid or facilitate a violation of—

"(i) paragraph (1)(B) if the aircraft is registered to a fictitious or false person;

"(ii) paragraph (1)(B) if the application form used to obtain the aircraft registration certificate contains a material false statement;

"(iii) paragraph (1)(A) if the registration for the aircraft has been forged, counterfeited, altered, or falsely made;

"(iv) paragraph (1)(C) if the aircraft has been operated while it is not registered under section 501;

"(v) paragraph (1)(H) if there is an external display of false or misleading registration numbers or false or misleading country of registration;

"(vi) paragraph (1)(G) if there is on the aircraft a fuel tank or fuel system which has not been installed or modified in accordance with all applicable rules, regulations, and requirements of the Administrator; and

"(vii) paragraph (1)(G) if, in the case of an aircraft on which a fuel tank or fuel system has been installed or modified, a certificate required to be issued by the Administrator for such installation or modification is not carried aboard the aircraft.

"(C) Memorandum of understanding.—The Federal Aviation Administration, the Drug Enforcement Administration, and the United States Customs Service shall enter into a memorandum of understanding for the purpose of establishing procedures for carrying out the objectives of this paragraph.

"(4) Controlled substance defined.—For purposes of this section, the term 'controlled substance' has the meaning that such term has under section 102 of the Controlled Substances Act (21 U.S.C. 802).".

(b) Conforming Amendments.—

(1) Section 902(b)(5).—Paragraph (5) of section 902(b) of such Act, as redesignated by subsection (a) of this section, is amended by inserting "Effect on state law.—" before "Nothing" and by aligning such paragraph with paragraph (2) of such subsection, as inserted by subsection (a) of this section.

(2) Table of contents.—That portion of the table of contents contained in section 1 of such Act relating to section 902 is amended by striking out

"(b) Forgery of certificates and false marking of aircraft."

and by inserting in lieu thereof

"(b) Forgery of certificates, false marking of aircraft, and other aircraft registration violations.".

(c) Lighting Violations.—

(1) In general.—Subsection (q) of section 902 of such Act (49 U.S.C. App. 1472) is amended—

(A) by striking out the section heading and paragraph (1) and inserting in lieu thereof the following:

"(q) Lighting Violations in Connection With Transportation of Controlled Substances.—

"(1) Description of violation.—It shall be unlawful, in connection with an act described in paragraph (2) and with knowledge of such act, for any person to knowingly and willfully operate an aircraft in violation of any rule, regulation, or requirement issued by the Administrator with respect to the display of navigation or anticollision lights."; and

(B) by striking out paragraphs (4), (5), and (6).

(2) Conforming amendments.—

(A) Section 902(q).—Section 902(q) of such Act is amended—

(i) in paragraph (2) by inserting "Relationship to controlled substance offenses.—" before "The act";

(ii) in paragraph (3) by inserting "Penalty.—" before "A person"; and

(iii) by aligning such paragraphs with paragraph (1) of such section, as amended by paragraph (1) of this subsection.

(B) Table of contents.—That portion of the table of contents contained in section 1 of such Act relating to section 902 is amended by striking out

"(q) Violations in connection with transportation of controlled substances."

and by inserting in lieu thereof

"(q) Lighting violations in connection with transportation of controlled substances.".

SEC. 8010. INFORMATION COORDINATION.

Not later than 180 days after the date of the enactment of this subtitle and annually thereafter during the 3-year period beginning on such 180th day, the Administrator shall prepare and transmit to Congress a report on the following:

(1) The progress made in establishing a process for provision of informational assistance by such Administration to officials of Federal, State, and local law enforcement agencies.

(2) The progress made in establishing a process for effectively pursuing suspensions and revocations of certificates of registration and airman certificates in accordance with the amendments made to the Federal Aviation Act of 1958 by the Aviation Drug-Trafficking Control Act, section 3401 of the Anti-Drug Abuse Act of 1986, and this subtitle.

(3) The efforts of such Administration in assessing and defining the appropriate relationship of such Administration's informational assistance resources (including the El Paso Intelligence Center and the Law Enforcement Assistance Unit of the Aeronautical Center of such Administration).

(4) The progress made in issuing guidelines on (A) the reporting of aviation sensitive drug-related information, and (B) the development, in coordination with the Drug Enforcement Administration of the Department of Justice and the United States Customs Service, of training and educational policies to assist employees of such Administration to better understand (i) the trafficking of controlled substances (as defined in section 102 of the Controlled Substances

Act), and (ii) the role of such Administration with respect to such trafficking.

(5) The progress made in improving and expanding such Administration's role in the El Paso Intelligence Center.

SEC. 8011. FUNDING AND OTHER RESOURCES.

(a) 5-Year Cost Report.—No later than 30 days after the date on which the final regulations referred to in section 8006(a) of this subtitle are issued, the Administrator shall prepare and transmit to Congress a report on the resources (including funding and positions) which will be necessary on an annual basis during the 5-year period beginning after such 30th day to implement the objectives of this subtitle (including the amendments made by this subtitle).

(b) Transmittal of Budget Estimates.—Whenever—

(1) the Airmen and Aircraft Registry of the Federal Aviation Administration submits or transmits any budget estimate, budget request, supplemental budget estimate, or other budget information, legislative recommendation, or comment on legislation to the Administrator or the Secretary of Transportation; and

(2) the Administrator submits or transmits any budget estimate, budget request, supplemental budget estimate, or other budget information, legislative recommendation, or comment on legislation to the Secretary of Transportation, the President of the United States, or the Office of Management and Budget;

pertaining to funding to carry out the objectives of this subtitle (including the amendments made by this subtitle), it shall concurrently transmit a copy thereof to the Speaker of the House of Representatives, the Committees on Public Works and Transportation and Appropriations of the House of Representatives, the President of the Senate, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate.

(c) Exemption From Paperwork Reduction Act.—No information collection requests necessary to carry out the objectives of this subtitle (including the amendments made by this subtitle) shall be subject to review or approval of the Director of the Office of Management and Budget under chapter 35 of title 44, United States Code.

(d) Review of Certain Grade-Level Classifications.—

(1) Applicability.—This subsection applies with respect to—

(A) positions within the Airmen and Aircraft Registry of the Federal Aviation Administration; and

(B) positions within the Law Enforcement Assistance Unit of the Aeronautical Center of the Federal Aviation Administration.

(2) Review; remedy; report.—Not later than 120 days after the date of the enactment of this subtitle, the Office of Personnel Management shall—

(A) in accordance with section 5110(a) of title 5, United States Code, review a sufficient number of positions under paragraphs (1)(A) and (1)(B), respectively, to determine whether positions under those respective paragraphs are being placed in appropriate classes and grades;

(B) if the Office finds that positions have not been placed in appropriate classes and grades, and after consulting with appropriate officials of the Federal Aviation Administration, exercise any authority under section 5110(b) of title 5, United States Code, which may be necessary to ensure that those positions are placed in their appropriate classes and grades; and

(C) transmit to Congress a report on the results of such review and any actions taken in accordance with subparagraph (B).

SEC. 8012. USE OF TRANSPONDERS ON AIRCRAFT ENTERING THE UNITED STATES.

(a) Study.—The Secretary of Transportation shall study the feasibility, costs, and benefits with respect to drug interdiction of requiring each aircraft entering the continental United States—

(1) to have installed an operating transponder;

(2) to have a flight plan filed with the Federal Aviation Administration before such entry;

(3) to have the signal from such transponder identify, in the most efficient manner, such aircraft; and

(4) to have the signal from such transponder which identifies such aircraft provide information which ensures that such aircraft is following its filed flight plan.

(b) Report.—Not later than 180 days after the date of the enactment of this subtitle, the Secretary of Transportation shall transmit to Congress a report on the results of the study conducted under this section.

SEC. 8013. ESTABLISHMENT OF FLIGHT CORRIDORS.

(a) Study.—The Secretary of Transportation, in consultation with the Attorney General and the Secretary of the Treasury, shall study—

(1) the feasibility of establishing flight corridors across the borders of the continental United States and intercepting any aircraft which deviate from such corridors; and

(2) the impact of the establishment of such corridors on the safe and efficient movement of aircraft and on drug interdiction.

(b) Report.—Not later than 180 days after the date of the enactment of this subtitle, the Secretary of Transportation shall transmit to Congress a report on the results of the study conducted under this section.

SEC. 8014. LIMITATION ON APPLICABILITY.

This subtitle (including any amendments made by this subtitle) shall only apply to aircraft which are not used to provide air transportation (as defined in section 101 of the Federal Aviation Act of 1958).

SEC. 8015. DRUG ENFORCEMENT PROGRAMS.

(a) General Authority.—Subject to the provisions of this section, the Secretary of Transportation shall make grants to those States which adopt and implement drug enforcement programs which include measures described in this section to improve the effectiveness of drug enforcement laws. Such grants may only be used by recipient States to implement such programs.

(b) Maintenance of Effort.—No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for drug enforcement programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of the enactment of this Act.

(c) Federal Share.—No State may receive grants under this section in more than 3 fiscal years. The Federal share payable for any grant under this section shall not exceed—

(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the drug enforcement program adopted by the State pursuant to subsection (a) of this section;

(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

(3) in the third fiscal year the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

(d) Maximum Amount of Grants.—Subject to subsection (c) of this section, the amount of a grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) of this section shall not exceed 50 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of title 23, United States Code.

(e) Eligibility for Grants.—A State is eligible for a grant under this section if such State—

(1) provides for suspension or revocation for a period of not less than 6 months of the driver's license of a person who—

(A) is convicted after the date of the enactment of this Act of a violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), or

(B) is convicted after such date of enactment for any drug or narcotic offense chargeable under the law of such State or any other State;

(2) provides for suspension or revocation for a period of not less than 1 year of the driver's license of a person who, in a 5-year period, is convicted of more than one of the offenses described in paragraph (1); and

(3) establishes and implements a program which permits the issuance, under such terms and conditions (including drug rehabilitation) as such State establishes, of a restrictive driver's license to a person whose driver's license has been suspended or revoked as a result of a conviction described in paragraph (1).

(f) Authorizations of Appropriations.—There is authorized to be appropriated to carry out this section $25,000,000 for fiscal year 1989 and $50,000,000 per fiscal year for each of fiscal years 1990 and 1991. Such sums shall remain available until expended.

(g) Definitions.—As used in this section—

(1) Driver's license.—The term "driver's license" means a license issued by a State to any individual which authorizes the individual to operate a motor vehicle on highways.

(2) Drug.—The term "drug" means any substance the possession of which is prohibited under the Controlled Substance Act.

(3) Drug or narcotic offense.—The term "drug or narcotic offense" means any offense which proscribes the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any drug.

(4) State.—The term "State" has the meaning such term has when it is used in section 402 of title 23, United States Code.

SEC. 8016. DRUG RECOGNITION EXPERT REGIONAL TRAINING PROGRAM.

(a) Establishment.—The Secretary of Transportation, acting through the National Highway Traffic Safety Administration, shall establish a regional program for training law enforcement officers to recognize and identify individuals who are operating a motor vehicle while under the influence of alcohol, controlled substance, or other drugs.

(b) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $10,000,000 per fiscal year for each of fiscal years 1989, 1990, 1991, 1992, and 1993. Such sums shall remain available until expended.

Subtitle B—Alcohol and Drug Traffic Safety

SEC. 8101. SHORT TITLE.

This subtitle may be cited as the "Alcohol and Drug Traffic Safety Act of 1988".

SEC. 8102. ENFORCEMENT PROGRAMS.

(a) GENERAL RULES.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"§ 410. Drunk driving enforcement programs

"(a) GENERAL AUTHORITY.—Subject to the provisions of this section, the Secretary shall make basic and supplemental grants to those States which adopt and implement drunk driving enforcement programs which include measures described in this section to improve the effectiveness of the enforcement of laws the purpose of which are to discourage individuals from operating motor vehicles while under the influence of alcohol. Such grants may only be used by recipient States to implement such programs.

"(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for drunk driving enforcement programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this section.

"(c) FEDERAL SHARE.—No State may receive grants under this section in more than 3 fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the drunk driving enforcement program adopted by the State pursuant to subsection (a) of this section;

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third fiscal year the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) MAXIMUM AMOUNT OF GRANTS.—

"(1) BASIC GRANTS.—Subject to subsection (c) of this section, the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e)(1) of this section shall not exceed 30 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title.

"(2) SUPPLEMENTAL GRANTS.—Subject to subsection (c) of this section, the amount of a supplemental grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (f) of this section shall not exceed 20 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title. Such supplemental grant shall be in addition to any basic grant received by such State.

"(e) ELIGIBILITY FOR BASIC GRANTS.—For purposes of this section, a State is eligible for a basic grant if such State provides—

"(1) for an expedited driver's license suspension or revocation system for individuals who operate motor vehicles while under the influence of alcohol which requires that—

"(A) when a law enforcement officer has probable cause under State law to believe an individual has committed an alcohol-related traffic offense and such individual is determined, on the basis of one or more chemical tests, to have been under the influence of alcohol while operating the motor vehicle or refuses to submit to such a test as proposed by the officer, the officer serve such individual with a written notice of suspension or revocation of the driver's license of such individual and take possession of such driver's license;

"(B) the notice of suspension or revocation referred to in subparagraph (A) provide information on the administrative procedures under which the State may suspend or revoke in accordance with the objectives of this section a driver's license of an individual for operating a motor vehicle while under the influence of alcohol and specify any rights of the operator under such procedures;

"(C) the State establish in the administrative procedures referred to in subparagraph (B) so as to ensure due process of law;

"(D) after serving notice and taking possession of a driver's license in accordance with subparagraph (A), the law enforcement officer immediately report to the State entity responsible for administering drivers' licenses all information relevant to the action taken in accordance with this paragraph;

"(E) in the case of an individual who, in a 5-year period beginning after the date of the enactment of this section, is determined on the basis of one or more chemical tests to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as proposed by the law enforcement officer, the State entity responsible for administering driver's licenses, upon receipt of the report of the law enforcement officer—

"(i) suspend the driver's license of such individual for a period of not less than 90 days if such individual is a first offender in such 5-year period; and

"(ii) suspend the driver's license of such individual for a period of not less than 1 year, or revoke such license, if such individual is a repeat offender in such 5-year period; and

"(F) the suspension and revocation referred to under subparagraph (D) take effect not later than 15 days after the day on which the individual first received notice of the suspension or revocation in accordance with subparagraph (B).

"(2) for a self-sustaining drunk driving enforcement program under which the fines or surcharges collected from individuals convicted of operating a motor vehicle while under the influence of alcohol are returned, or an equivalent amount of non-Federal funds are provided, to those communities which have comprehensive programs for the prevention of such operations of motor vehicles or such other programs for the prevention of such operations of motor vehicles as the Secretary approves; and

"(3) that any person with a blood alcohol concentration of 0.10 percent or greater when operating a motor vehicle shall be deemed to be driving while under the influence of alcohol.

"(f) ELIGIBILITY FOR SUPPLEMENTAL GRANTS.—For purposes of this section, a State is eligible for a supplemental grant if such State is eligible for a basic grant and in addition such State—

"(1) provides for mandatory blood alcohol content testing whenever a law enforcement officer has probable cause under State law to believe that a driver of a motor vehicle involved in an accident resulting in the loss of human life or, as determined by the Secretary, serious bodily injury, has committed an alcohol-related traffic offense;

"(2) provides for an effective system for preventing operators of motor vehicles under age 21 from obtaining alcoholic beverages, which may include the issuance of drivers' licenses to individuals under age 21 that are easily distinguishable in appearance from drivers' licenses issued to individuals 21 years of age and older; and

"(3) makes unlawful the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway, except as allowed in the passenger area, by persons (other than the driver), of any motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers.

"(g) DEFINITIONS.—As used in this section—

"(1) ALCOHOLIC BEVERAGE.—The term 'alcoholic beverage' has the meaning such term has under section 158(c) of this title.

"(2) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning such term has under section 154(b) of this title.

"(3) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term 'open alcoholic beverage container' means any bottle, can, or other receptacle—

"(A) which contains any amount of an alcoholic beverage; and

"(B)(i) which is open or has a broken seal, or

"(ii) the contents of which are partially removed.

"(h) AUTHORIZATIONS OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for fiscal year 1989 and $50,000,000 per fiscal year for each of fiscal years 1990 and 1991. Such sums shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United States Code, is amended by adding at the end the following:

"409. Drunk driving enforcement programs.".

(c) REGULATIONS.—The Secretary of Transportation shall issue and publish in the Federal Register proposed regulations to implement section 410 of title 23, United States Code, not later than 6 months after the date of the enactment of this section. The final regulations for such implementation shall be issued, published in the Federal Register, and transmitted to Congress not later than 1 year after such date of enactment.

SEC. 8102. ALCOHOL AND DRUG IMPAIRMENT STANDARDS.

(a) STUDY.—Not later than 30 days after the date of enactment of this Act, the Secretary of Transportation shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct—

(1) a study to determine whether or not the blood alcohol concentration level at or about which an individual when operating a motor vehicle is deemed to be driving while under the influence of alcohol should be reduced below 0.10 percent and if so to what level; and

(2) a study to establish standards for determining whether or not an individual

when operating a motor vehicle is impaired by a controlled substance or any other drug.

(b) Report.—In entering into any arrangement with the National Academy of Sciences for conducting the study under this section, the Secretary shall request the National Academy of Sciences to submit, not later than 1 year after the date of enactment of this Act, to the Secretary a report on the results of such study. Upon its receipt, the Secretary shall immediately transmit the report to Congress.

(c) Authorization of Appropriation.—There is authorized to be appropriated to carry out this section $100,000 for fiscal year 1989.

TITLE IX—COMMITTEE ON WAYS AND MEANS

Subtitle A—Authorization of Appropriations for the United States Customs Service

SEC. 9001. AUTHORIZATION OF APPROPRIATIONS.

Section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)) is amended to read as follows:

"(b) Authorization of Appropriations.—

"(1) For noncommercial operations.—There are authorized to be appropriated for fiscal year 1989 not to exceed $417,068,000 for the salaries and expenses of the United States Customs Service that are incurred in noncommercial operations.

"(2) For commercial operations.—There are authorized to be appropriated for fiscal year 1989 not to exceed $622,753,000 from the Customs User Fee Account for the salaries and expenses of the United States Customs Service that are incurred in commercial operations.

"(3) For air interdiction.—There are authorized to be appropriated for fiscal year 1989 not to exceed $197,262,000 for the operation (including salaries and expenses) and maintenance of the air interdiction program of the United States Customs Service.

"(4) For Advanced technology interdiction.—There are authorized to be appropriated for fiscal year 1989 not to exceed $15,000,000 for the purchase and construction of an x-ray imagery vapor sensitive cargo scanning device for use by the United States Customs Service.".

Subtitle B—Other Customs Provisions

SEC. 9011. INCREASED PENALTY FOR FAILURE TO DECLARE CONTROLLED SUBSTANCES.

(a) Amendment.—Section 497(a)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1497(a)(2)(A)) is amended by striking out "200 percent" and inserting "1,000 percent".

(b) Effective Date.—The amendment made by subsection (a) applies with respect to violations of section 497(a) of the Tariff Act of 1930 occurring on or after the date of the enactment of this title.

SEC. 9012. DISPOSITION OF FORFEITED PROPERTY.

(a) Amendment.—Section 616(c) of the Tariff Act of 1930 (19 U.S.C. 1616a(c)) is amended to read as follows:

"(c) The Secretary of the Treasury may apply property forfeited under this Act in accordance with paragraph (1) or (2), or both:

"(1) Retain any of the property for official use.

"(2) Transfer any of the property to any—

"(A) other Federal agency;

"(B) State or local law enforcement agency; or

"(C) foreign government;

that cooperates with the United States Customs Service in joint law enforcement operations.".

(b) Effective Date.—The amendment made by subsection (a) applies with respect to property forfeited under the Tariff Act of 1930 on or after the date of the enactment of this title.

SEC. 9013. TECHNICAL AMENDMENTS.

(a) Deposit Authority Conformed to Effective Period of Customs Forfeiture Fund.—Section 609(b) of the Tariff Act of 1930 (19 U.S.C. 1609(b)) is amended by striking out "September 30, 1987," and inserting "September 30, 1991,".

(b) Manifest Information Available for Public Disclosure.—Section 431(c)(1)(B) of the Tariff Act of 1930 (19 U.S.C. 1431(c)(1)(G)) is amended to read as follows:

"(G) The country of origin of the shipment.".

SEC. 9014. AIR CARRIER SMUGGLING PREVENTION PROGRAM.

(a) The Secretary of the Treasury, in consultation with the Secretary of Transportation, shall issue controlled substances regulations for a 2-year demonstration program within 6 months of the enactment of this section. The regulations shall apply to at least three United States International Airports classified as high-risk by Customs and based upon the volume of cargo and number of aircraft arriving from high-risk points of departure. Such regulations shall establish procedures for air carrier development and Customs Service approval of foreign and domestic security and inspection practices. The regulations shall permit air carriers to request the Secretary of the Treasury to permit air carriers, the Customs Service, or an approved agent of the United States Customs to inspect at United States airports of entry, aircraft arriving from foreign locations. The Secretary of the Treasury shall approve such request if the applicant meets the requirements of the regulations. Taking into account all considerations of security, law enforcement, and commercial needs, inspections of aircraft, and cargo shall be conducted and completed within a reasonable period of time.

(b) Air carriers which have applied to the Secretary of the Treasury and which the Secretary determines to be in compliance with the regulations and inspection requirements promulgated under subsection (a) shall be considered participating air carriers. The Secretary of the Treasury shall establish by regulation a procedure for finding a carrier to be a participating carrier and procedures for subsequent removal of that status. The Secretary shall not remove an air carrier from the status of participating air carrier unless he or she shall first have provided it a written notice that the air carrier is not in compliance with the regulations or inspection requirements promulgated under subsection (a), which notice shall include the reasons for that determination, and shall have provided the air carrier a reasonable opportunity to correct such noncompliance.

(c) Participating air carriers shall be considered to have met the test of the highest degree of care and diligence required under law, and shall not be subject to the penalty or seizure provisions of this section, if a controlled substance is discovered aboard an aircraft that they may own or operate or in the cargo they carried, if the participating air carrier establishes at an oral presentation that the air carrier was not grossly negligent nor engaged in willful misconduct, and complied with the applicable procedures established in the regulations promulgated under subsection (a).

(d) For the purpose of this section, the term "air carrier" shall mean air carrier or foreign air carrier as those terms are defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301).

(e) No provision of this section shall have any effect on air transportation security requirements prescribed pursuant to the Federal Aviation Act of 1958, as amended.

SEC. 9015. TRANSFER OF AIRCRAFT.

The Secretary of the Treasury shall transfer to the office of the sheriff of Marion County, Indiana, for use by that office for drug enforcement and prisoner transportation purposes, a light twin engine or high-performance single engine aircraft having a capacity of not less than 4 passengers that—

(1) was forfeited to the United States under the customs laws;

(2) is not transferred to any Federal agency or State or local law enforcement agency under section 616 of the Tariff Act of 1930; and

(3) would, but for this section, be sold at public auction under section 609 of the Tariff Act of 1930.

Section 616(d) of the Tariff Act of 1930 applies to the aircraft transferred under this section.

Subtitle C—Annual Certification Procedures

SEC. 9021. TRADE AND AVIATION SANCTIONS.

(a) Congressional Review Period.—Section 802(b) of the Trade Act of 1974 (19 U.S.C. 2492(b)) is amended—

(1) in paragraph (3) by striking out "30 days" and inserting in lieu thereof "45 days";

(2) in paragraph (4)(A) by striking out "30 days" and inserting in lieu thereof "45 days"; and

(3) in paragraph (4)(B) by striking out "30 days" and inserting in lieu thereof "45 days".

(b) Criteria for Cooperation.—(1) Section 802(b)(1) of that Act is amended—

(A) by inserting after "on its own," the following: "in satisfying the goals agreed to in an applicable bilateral narcotics agreement with the United States (as described in subparagraph (B) or a multilateral agreement which achieves the objectives of this paragraph,";

(B) by inserting "(A)" after "(1)"; and

(C) by adding at the end the following:

"(B) A bilateral narcotics agreement referred to in this paragraph is an agreement between the United States and a foreign country in which the foreign country agrees to take specific activities, including, where applicable, efforts to—

"(i) reduce drug production, drug consumption, and drug trafficking within its territory, including activities to address illicit crop eradication and crop substitution;

"(ii) increase drug interdiction and enforcement;

"(iii) increase drug treatment;

"(iv) increase the identification of and elimination of illicit drug laboratories;

"(v) increase the identification and elimination of the trafficking of precursor chemicals for the use in production of illegal drugs;

"(vi) increase cooperation with United States drug enforcement officials; and

"(vii) where applicable, increase participation in extradition treaties, mutual legal assistance provisions directed at money laundering, sharing of evidence, and other initiatives for cooperative drug enforcement.".

(2) The amendments made by paragraph (1) (A) and (C) apply with respect to any certification which is made by the President

under section 802 of the Trade Act of 1974 on or after March 1, 1989.

(c) Requirement for Bilateral Narcotics Agreement.—Effective October 1, 1988, section 802(b)(1) of that Act is further amended by adding at the end the following:

"(C) A country which in the previous year was designated as a major drug producing country or a major drug-transit country may not be determined to be cooperating fully under subparagraph (A) unless it has in place a bilateral narcotics agreement with the United States or a multilateral agreement which achieves the objectives of this paragraph.".

(d) National Interest Waiver.—Section 802(b)(1)(A) of that Act, as amended by subsection (b) of this section, is further amended—

(1) by inserting "(i)" after "1961, that"; and

(2) by inserting before the period at the end the following: "or, (ii) for a country that would not otherwise qualify for certification under clause (i), the vital national interests of the United States require that subsection (a) not be applied with respect to that country.".

(e) Determining Major Drug-Transit Countries.—Section 802 of that Act is amended by adding at the end the following:

"(e) For each calendar year, the Secretary of State, after consultation with the appropriate committees of the Congress, shall establish numerical standards and other guidelines for determining which countries will be considered to be major drug-transit countries under section 805(3) (A) and (B).".

TITLE X—COMMITTEE ON ENERGY AND COMMERCE

SEC. 10001. SHORT TITLE.

This title may be cited as the "Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988".

SEC. 10002. PURPOSES.

(a) Substance Abuse.—The purposes of this title with respect to substance abuse are—

(1) to continue the Federal Government's partnership with the States in the development, maintenance, and improvement of community-based alcohol and drug abuse programs;

(2) to provide financial and technical assistance to the States and communities in their efforts to develop and maintain a core of prevention services for the purpose of reducing the incidence of substance abuse and the demand for alcohol and drug abuse treatment;

(3) to assist and encourage States in the initiation and expansion of prevention and treatment services to underserved populations; and

(4) to increase understanding about the extent of alcohol abuse and other forms of drug abuse by expanding data collection activities and supporting research on the comparative cost and efficacy of substance abuse prevention and treatment services.

(b) Mental Health.—The purposes of this title with respect to mental health are—

(1) to encourage the development and provision by the States of community mental health services;

(2) to encourage the development of a comprehensive community mental health system within each State;

(3) to encourage the implementation of new and innovative community mental health services;

(4) to encourage the provision of community mental health services in the least restrictive appropriate environment and to involve the families of individuals undergoing treatment in the development and provision of such services;

(5) to foster interagency coordination and integration among a broad range of human service providers, support groups, and advocates for the purpose of ensuring that mental health, rehabilitation, health, vocational, educational, and residential services are available to individuals who need them;

(6) to expend Federal funds for the purpose of expanding community mental health services within each State; and

(7) to increase understanding about the extent of mental illness and the need for appropriate treatment services by expanding data collection activities and supporting research on the comparative cost and efficacy of mental health services.

SEC. 10003. REVISION AND EXTENSION OF DRUG ABUSE, ALCOHOL ABUSE, AND MENTAL HEALTH PROGRAMS.

Title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended by striking parts B and C and inserting after part A the following new parts:

"PART B—ALCOHOL AND DRUG ABUSE PREVENTION, TREATMENT, AND REHABILITATION SERVICES

"SEC. 1931. ESTABLISHMENT OF PROGRAM OF GRANTS TO STATES.

"(a) Requirement of Allotments.—For the purpose described in subsection (b), the Secretary, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, shall for each fiscal year make an allotment for each State in an amount determined in accordance with section 1934. The Secretary shall make payments each fiscal year to each State from the allotment for the State if the Secretary approves for the fiscal year involved an application submitted by the State pursuant to section 1933.

"(b) Purpose of Allotments.—The Secretary may not make payments under subsection (a) to a State for a fiscal year unless the State agrees that amounts paid under such subsection will be expended only for the purposes of establishing and carrying out programs of prevention, treatment, and rehabilitation with respect to substance abuse and activities relating to such programs, including—

"(1) planning, establishing, maintaining, coordinating, and evaluating projects for the development of more effective prevention, treatment, and rehabilitation programs and activities to deal with the abuse of alcohol and other drugs;

"(2) activities to expand the capacity of treatment and rehabilitation programs and facilities to provide services to individuals suffering from the abuse of alcohol and other drugs; and

"(3) activities to provide access to vocational training, job counseling, and education equivalency programs for individuals at risk of, or undergoing treatment for, the abuse of alcohol or other drugs.

"SEC. 1932. REQUIREMENTS WITH RESPECT TO CARRYING OUT PURPOSE OF GRANTS.

"(a) In General.—The Secretary may not make payments under section 1931(a) for a fiscal year unless the State involved agrees that—

"(1) not less than 35 percent of amounts received under such section for a fiscal year will be expended for the purposes of programs and activities relating to alcoholism and alcohol abuse;

"(2) not less than 35 percent of amounts received under such section for a fiscal year will be expended for the purposes of programs and activities relating to drug abuse;

"(3) not less than 20 percent of amounts received under such section for a fiscal year will be expended for the purposes of programs and activities relating to preventing the abuse of alcohol and drugs, including early intervention programs and activities directed to children and adolescents;

"(4) not less than 10 percent of the amounts received under such section for a fiscal year will be expended for the purposes of programs and services described in paragraphs (1) through (3) that are designed for women (including women with dependent children); and

"(5) from the amounts received under such section for a fiscal year, grants will be made for demonstration projects for the provision of residential treatment services to expectant mothers.

"(b) Group Homes for Recovering Substance Abusers.—

"(1) For fiscal year 1989, the Secretary may not make payments under section 1931(a) unless the State involved agrees—

"(A) to establish, directly or through the provision of a grant or contract to a nonprofit private entity, a revolving fund to make loans for the costs of establishing programs for the provision of housing in which individuals recovering from alcohol or drug abuse may reside in groups of not less than 4 individuals;

"(B) to ensure that the programs are carried out in accordance with guidelines issued under paragraph (3);

"(C) to deposit not less than $100,000 in the revolving fund;

"(D) to ensure that each loan made from the revolving fund does not exceed $4000 and that each such loan is repaid to the revolving fund not later than 2 years after the date on which the loan is made;

"(E) to ensure that each such loan is repaid through monthly installments and that a reasonable penalty is assessed for each failure to pay such periodic installments by the date specified in the loan agreement involved; and

"(F) to ensure that such loans are made only to nonprofit private entities agreeing that, in the operation of the program established pursuant to the loan—

"(i) the use of alcohol or any illegal drug in the housing provided by the program will be prohibited;

"(ii) any resident of the housing who violates such prohibition will be expelled from the housing;

"(iii) the costs of the housing, including fees for rent and utilities, will be paid by the residents of the housing; and

"(iv) the residents of the housing will, through a majority vote of the residents, otherwise establish policies governing residence in the housing, including the manner in which applications for residence in the housing are approved.

"(2) For fiscal year 1990 and subsequent fiscal years, the Secretary may not make payments under section 1931(a) unless the State involved provides assurances satisfactory to the Secretary that the State has provided for the establishment and ongoing operation of a revolving fund in accordance with paragraph (1).

"(3) Not later than 90 days after the date of the enactment of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988, the Secretary, acting through the Director of the National Institute on Alcohol Abuse and Alcoholism, shall issue guidelines for the operation of programs described in paragraph (1).

"SEC. 1933. REQUIREMENT OF SUBMISSION OF APPLICATION CONTAINING CERTAIN AGREEMENTS AND ASSURANCES.

"The Secretary may not make payments under section 1931(a) to a State for a fiscal year unless—

"(1) the State submits to the Secretary an application for the payments containing agreements in accordance with sections 1931 and 1932 and with sections 1952 through 1954;

"(2) the agreements are made through certification from the chief executive officer of the State;

"(3) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary;

"(4) the application contains the description of intended expenditures required in section 1951; and

"(5) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"SEC. 1934. DETERMINATION OF AMOUNT OF ALLOTMENTS.

"(a) States.—

"(1) Subject to subsection (b), the Secretary shall determine the amount of the allotment required in section 1931(a) for a State for a fiscal year in accordance with the following formula:

$$A\left(\frac{X}{U}\right)$$

"(2) For purposes of the formula described in paragraph (1), the term 'A' means the difference between—

"(A) an amount equal to the amount appropriated pursuant to section 1937(a) for allotments under section 1931(a) for the fiscal year involved; and

"(B) an amount equal to 1.5 percent of the amount referred to in subparagraph (A).

"(3) For purposes of the formula described in paragraph (1), the term 'U' means the sum of the respective terms 'X' determined for each State under paragraph (4).

"(4)(A) For purposes of the formula described in paragraph (1), the term 'X' means the product of—

"(i) an amount equal to the term 'P' as determined under subparagraph (B); and

"(ii) the greater of—

"(I) 0.4; and

"(II) an amount equal to an amount determined in accordance with the following formula:

$$1-.5\left(\frac{S}{N}\right)$$

"(B) For purposes of subparagraph (A)(i), the term 'P' means the sum of—

"(i) an amount equal to the product of—

"(I) 0.3; and

"(II) an amount equal to the number of individuals in the State who are between 18 and 24 years of age, as indicated by the most recent data collected by the Bureau of the Census;

"(ii) an amount equal to the product of—

"(I) 0.2; and

"(II) an amount equal to the number of individuals in the State who are between 25 and 44 years of age, as indicated by the most recent data collected by the Bureau of the Census; and

"(iii) an amount equal to the product of—

"(I) 0.5; and

"(II) an amount equal to the number of individuals in the State who are between 25 and 64 years of age, as indicated by the most recent data collected by the Bureau of the Census.

"(C) For purposes of the formula described in subparagraph (A)(ii)(II), the term 'S' means the quotient of—

"(i) an amount equal to the most recent 3-year average of the total taxable resources of the State, as determined by the Secretary of the Treasury; divided by

"(ii) an amount equal to the term 'P' as determined under subparagraph (B).

"(D) For purposes of the formula described in subparagraph (A)(ii)(II), the term 'N' means the quotient of—

"(i) an amount equal to the sum of the respective amounts determined for each State under subparagraph (C)(i); divided by

"(ii) an amount equal to the sum of the respective terms 'P' determined for each State under subparagraph (B).

"(b) Minimum Allotment for States.—Subject to the extent of amounts made available in appropriation Acts, the amount of an allotment under section 1931(a) for a State for a fiscal year shall be the greater of—

"(1) an amount determined in accordance with subsection (a); and

"(2) an amount equal to the amount of the allotment for substance abuse services under former section 1913 for the State for fiscal year 1986.

"(c) Territories.—

"(1) Subject to subsection (d), the allotment for a territory of the United States under section 1931(a) for a fiscal year shall be the greater of—

"(A) $50,000; and

"(B) an amount determined in accordance with paragraph (2).

"(2) The amount referred to in paragraph (1)(B) is the product of—

"(A) an amount equal to the amounts reserved under paragraph (3); and

"(B) a percentage equal to the quotient of—

"(i) the population of the territory involved, as indicated by the most recently available data; divided by

"(ii) the aggregate population of the territories of the United States, as indicated by such data.

"(3) The Secretary shall reserve for the territories of the United States 1.5 percent of the amounts appropriated pursuant to section 1937(a) for allotments under section 1931(a) for the fiscal year involved.

"(d) Transition Rules for Territories.—

"(1) For fiscal year 1989, the amount of the allotment required in section 1931(a) for a territory of the United States shall be the greater of—

"(A) an amount determined in accordance with subsection (c); and

"(B) an amount equal to 80 percent of the amount of the allotment for substance abuse services under former section 1913 for the territory for fiscal year 1987.

"(2) For fiscal year 1990, the amount of the allotment required in section 1931(a) for a territory of the United States shall be the greater of—

"(A) an amount determined in accordance with subsection (c); and

"(B) an amount equal to 60 percent of the amount of the allotment for substance abuse services under former section 1913 for the territory for fiscal year 1987.

"(e) Indian Tribes.—

"(1) Upon the request of the governing body of an eligible Indian tribe or tribal organization within a State, the Secretary shall—

"(A) reserve from the amount that otherwise would be allotted for the fiscal year to the State under subsection (a) an amount determined in accordance with paragraph (2); and

"(B) grant the amount reserved under subparagraph (A) to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

"(2)(A) The amount reserved under paragraph (1)(A) shall be an amount equal to the product of—

"(i) the amount that otherwise would be allotted to the State under subsection (a) for the fiscal year; and

"(ii) the percentage described in subparagraph (B).

"(B) The percentage referred to in subparagraph (A)(ii) is a percentage equal to the quotient of—

"(i) an amount equal to the amount the Indian tribe or tribal organization received under former section 1913 for fiscal year 1987; divided by

"(ii) an amount equal to the total aggregate amount received under such section in fiscal year 1987 by the State, Indian tribes in the State, and tribal organizations in the State.

"(3) The Secretary may not make a grant under paragraph (1)(B) to an Indian tribe or tribal organization unless the Indian tribe or tribal organization submits to the Secretary a plan for expending the grant that meets such criteria as the Secretary may establish.

"(f) Disposition of Certain Funds Appropriated for Allotments.—

"(1) Amounts described in paragraph (2) shall be allotted by the Secretary to States receiving allotments under section 1931(a) for the fiscal year (other than any State described in paragraph (2)(C)). Such amounts shall be allotted according to a formula established by the Secretary. The formula shall be equivalent to the formula described in this section under which the allotment of the State for the fiscal year involved was determined.

"(2) The amounts referred to in paragraph (1) are any amounts made available in appropriations Acts for allotments under this part that are not allotted under section 1931(a) as a result of—

"(A) the failure of any State to submit an application under section 1933;

"(B) the failure, in the determination of the Secretary, of any State to prepare within a reasonable period of time such application in compliance with such section; or

"(C) any State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State.

"SEC. 1935. EVALUATION OF PROGRAMS.

"The Secretary, acting through the Director of the National Institute on Alcohol Abuse and Alcoholism and the Director of the National Institute on Drug Abuse, shall evaluate alcohol and drug abuse treatment programs to determine the quality and appropriateness of various forms of treatment, including the effect of living in housing provided by programs established pursuant to section 1932(b)(1). Such programs shall be carried out through grants, contracts, or cooperative agreements provided to public and nonprofit private entities. In carrying out this section, the Secretary shall assess the quality, appropriateness, and costs of various treatment forms for specific patient groups.

"SEC. 1936. DEFINITIONS.

"For the purposes of this part:

"(1) The term 'former section 1913' means section 1913 of this Act as in effect on the day before the date of the enactment of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988.

"(2)(A) The term 'State' means, except as provided in subparagraph (B), each of the several States, the District of Columbia, and the territories of the United States.

"(B) For purposes of subsections (a) and (b) of section 1934, the term 'State' means each of the several States and the District of Columbia.

"(3) The term 'territories of the United States' means each of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"SEC. 1937. FUNDING.

"(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part, part E, and section 509D(c), there are authorized to be appropriated $475,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

"(b) ALLOCATION OF FUNDS FOR CERTAIN PROGRAMS OF NATIONAL SIGNIFICANCE.—For the purpose of carrying out sections 509D(c), 1935, and 1958(a), the Secretary shall obligate not less than 5 percent, and not more than 15 percent, of the amounts appropriated pursuant to subsection (a) for a fiscal year.

"(c) AVAILABILITY TO STATES.—Any amounts paid to a State under section 1931(a), obligated by the State, and remaining unexpended at the end of the fiscal year for which the amounts were paid shall remain available during the succeeding fiscal year to the State for carrying out the purpose described in section 1931(b).

"PART C—COMMUNITY MENTAL HEALTH SERVICES

"SEC. 1941. ESTABLISHMENT OF PROGRAM OF GRANTS TO STATES.

"(a) REQUIREMENT OF ALLOTMENTS.—For the purpose described in subsection (b), the Secretary, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, shall for each fiscal year make an allotment for each State in an amount determined in accordance with section 1945. The Secretary shall make payments each fiscal year to each State from the allotment for the State if the Secretary approves for the fiscal year involved an application submitted by the State pursuant to section 1944.

"(b) PURPOSE OF ALLOTMENTS.—The Secretary may not make payments under subsection (a) for a fiscal year unless the State involved agrees that amounts paid under such subsection will be expended only for the purpose of planning, developing, and providing, in accordance with section 1942, community mental health services and related support services.

"SEC. 1942. REQUIREMENTS WITH RESPECT TO CARRYING OUT PURPOSE OF GRANTS.

"(a) CERTAIN PRIORITIES WITH RESPECT TO DEVELOPMENT AND PROVISION OF SERVICES.—

"(1) The Secretary may not make payments under section 1941(a) for a fiscal year unless the State involved agrees that, in carrying out the purpose described in section 1941(b), the State—

"(A) will give priority to the development and provision of community mental health services not available on October 1, 1988;

"(B) except as provided in paragraph (2), will, for fiscal year 1991 and subsequent fiscal years, expend not less than 55 percent of such payments for the development, implementation, and operation of services not available on October 1, 1988;

"(C) will, with respect to each service provided pursuant to subparagraph (A), provide funds for each such service only for a limited period of time (the duration of which period may be determined by the State);

"(D) will expend not less than 10 percent of such payments for services and programs for severely disturbed children and adolescents; and

"(E) will, if the amounts appropriated under section 1947(a) for the fiscal year exceed $260,000,000, expend not less than a specified percentage of such payments for services and programs for individuals not less than 65 years of age who are not inpatients or residents of mental institutions, which specified percentage is the percentage of the population of the State that the number of individuals not less than 65 years of age constitutes.

"(2) If the amount of the allotment under section 1941(a) for a State for a fiscal year is less than the amount of the allotment for mental health services under former section 1913 for the State for fiscal year 1986, the Secretary may waive the requirement established in paragraph (1)(B) for the State for the fiscal year upon a determination by the Secretary that such requirement will result in a significant reduction in the level of mental health services available in the State relative to such level on October 1, 1988.

"(b) REQUIREMENT OF DEVELOPMENT OF STATE COMPREHENSIVE COMMUNITY MENTAL HEALTH SYSTEM.—The Secretary may not make payments under section 1941(a) for a fiscal year unless the State involved agrees that, in carrying out the purpose described in section 1941(b), the State will facilitate the coordination among institutions offering mental health services in the State in order to establish a State community mental health system that—

"(1) provides for the development of a continuum of community mental health services within identified geographic areas;

"(2) ensures that mental health services offered by the system are accessible to all individuals in the State who need the services;

"(3) provides mental health services according to the particular needs of the individual for whom services are sought, including developing plans of care and providing services in the context most appropriate to the age, sex, and cultural background of the individual;

"(4) encourages such individual to be independent and encourages the family of the individual to provide emotional support to the individual with respect to achieving the optimal level of independence;

"(5) ensures that mental health services are provided in the least restrictive appropriate environment; and

"(6) ensures that the mental health services provided by the system meet applicable professional standards for such services.

"SEC. 1943. REQUIREMENT OF ESTABLISHMENT OF MENTAL HEALTH SERVICES PLANNING COUNCIL.

"(a) IN GENERAL.—The Secretary may not make payments under section 1941(a) for a fiscal year unless the State involved agrees to establish and maintain a State mental health planning council in accordance with subsections (b) and (c).

"(b) DUTIES.—The duties of the Council will be—

"(1) to serve as an advocate for chronically mentally ill individuals, severely emotionally disturbed children and youth, and other individuals with mental illnesses or emotional problems; and

"(2) to monitor, review, and evaluate, not less than once each year, the allocation and adequacy of mental health services within the State.

"(c) MEMBERSHIP.—

"(1) The Council will, subject to paragraph (2), be composed of residents of the State, including representatives of—

"(A) the principal State agencies with respect to—

"(i) mental health, education, vocational rehabilitation, criminal justice, housing, and social services; and

"(ii) the development of the plan submitted pursuant to title XIX of the Social Security Act;

"(B) public and private entities concerned with the need, planning, operation, funding, and use of mental health services and related support services; and

"(C)(i) chronically mentally ill individuals who are receiving (or have received) mental health services; and

"(ii) the families of such individuals.

"(2) Not less than 50 percent of the members of the Council will be individuals who are not State employees or providers of mental health services.

"(3) The Council may assist the State in the preparation of the description of intended expenditures required in section 1951.

"SEC. 1944. REQUIREMENT OF SUBMISSION OF APPLICATION CONTAINING CERTAIN AGREEMENTS AND ASSURANCES.

"The Secretary may not make payments under section 1941(a) to a State for a fiscal year unless—

"(1) the State submits to the Secretary an application for the payments containing agreements in accordance with sections 1941 through 1943 and with sections 1952 through 1954;

"(2) the agreements are made through certification from the chief executive officer of the State;

"(3) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary;

"(4) the application contains the description of intended expenditures required in section 1951; and

"(5) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"SEC. 1945. DETERMINATION OF AMOUNT OF ALLOTMENTS.

"(a) STATES.—

"(1) Subject to subsection (d), the Secretary shall determine the amount of the allotment required in section 1941(a) for a State for a fiscal year in accordance with the following formula:

$$A\left(\frac{X}{U}\right)$$

"(2) For purposes of the formula described in paragraph (1), the term 'A' means an amount equal to the difference between—

"(A) an amount equal to the amount appropriated pursuant to section 1948(a) for allotments under section 1941(a) for the fiscal year involved; and

"(B) an amount equal to 1.5 percent of the amount referred to in subparagraph (A).

"(3) For purposes of the formula described in paragraph (1), the term 'U' means the sum of the respective terms 'X' determined for each State under paragraph (4).

"(4)(A) For purposes of the formula described in paragraph (1), the term 'X' means the product of—

"(i) amount equal to the term 'P' as determined under subparagraph (B); and

"(ii) the greater of—

"(I) 0.3; and

"(II) an amount equal to an amount determined in accordance with the following formula:

$$1-.6\left(\frac{S}{N}\right)$$

"(B) For purposes of subparagraph (A)(i), the term 'P' means the sum of—

"(i) an amount equal to the product of—

"(I) 0.4; and

"(II) an amount equal to the number of individuals in the State who are between 18 and 24 years of age, as indicated by the most recent data collected by the Bureau of the Census; and

"(ii) an amount equal to the product of—

"(I) 0.6; and

"(II) an amount equal to the number of individuals in the State who are between 25 and 44 years of age, as indicated by the most recent data collected by the Bureau of the Census.

"(C) For purposes of the formula described in subparagraph (A)(ii)(II), the term 'S' means the quotient of—

"(i) an amount equal to the most recent 3-year average of the total taxable resources of the State, as determined by the Secretary of the Treasury; divided by

"(ii) an amount equal to the term 'P' as determined under subparagraph (B).

"(D) For purposes of the formula described in subparagraph (A)(ii)(II), the term 'N' means the quotient of—

"(i) an amount equal to the sum of the respective amounts determined for each State under subparagraph (C)(i); divided by

"(ii) an amount equal to the sum of the respective terms 'P' determined for each State under subparagraph (B).

"(b) TERRITORIES.—

"(1) The amount of an allotment under section 1941(a) for a territory of the United States for a fiscal year shall be the greater of—

"(A) an amount equal to 80 percent of the amount of the allotment for mental health services under former section 1913 for the territory for fiscal year 1987; and

"(B) an amount determined in accordance with paragraph (2).

"(2) The amount referred to in paragraph (1)(B) is the product of—

"(A) an amount equal to the amounts reserved pursuant to paragraph (3); and

"(B) a percentage equal to the quotient of—

"(i) the population of the territory involved, as indicated by the most recently available data; divided by

"(ii) the aggregate population of the territories of the United States, as indicated by such data.

"(3) The Secretary shall reserve for the territories of the United States 1.5 percent of the amounts appropriated pursuant to section 1948(a) for allotments under section 1941(a) for the fiscal year involved.

"(c) INDIAN TRIBES.—

"(1) Upon the request of the governing body of an eligible Indian tribe or tribal organization within a State, the Secretary shall—

"(A) reserve from the amount that otherwise would be allotted for the fiscal year to the State under subsection (a) an amount determined in accordance with paragraph (2); and

"(B) grant the amount reserved under subparagraph (A) to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

"(2)(A) The amount reserved under paragraph (1)(A) shall be an amount equal to the product of—

"(i) the amount that otherwise would be allotted to the State under subsection (a) for the fiscal year; and

"(ii) the percentage described in subparagraph (B).

"(B) The percentage referred to in subparagraph (A)(ii) is a percentage equal to the quotient of—

"(i) an amount equal to the amount the Indian tribe or tribal organization received under former section 1913 for fiscal year 1987; divided by

"(ii) the aggregate amount received under such section in fiscal year 1987 by the State, Indian tribes in the State, and tribal organizations in the State.

"(3) The Secretary may not make a grant under paragraph (1)(B) to an Indian tribe or tribal organization unless the Indian tribe or tribal organization submits to the Secretary a plan for expending the grant that meets such criteria as the Secretary may establish.

"(d) TRANSITION RULES FOR STATES.—

"(1) For fiscal year 1989, the amount of the allotment required in section 1941(a) for a State shall be the greater of—

"(A) an amount determined in accordance with subsection (a); and

"(B) an amount equal to 90 percent of the amount of the allotment for mental health services under former section 1913 for the State for fiscal year 1986.

"(2) For fiscal year 1990, the amount of the allotment required in section 1941(a) for a State shall be the greater of—

"(A) an amount determined in accordance with subsection (a); and

"(B) an amount equal to 70 percent of the amount of the allotment for mental health services under former section 1913 for the State for fiscal year 1986.

"(3) For fiscal year 1991, the amount of the allotment required in section 1941(a) for a State shall be the greater of—

"(A) an amount determined in accordance with subsection (a); and

"(B) an amount equal to 50 percent of the amount of the allotment for mental health services under former section 1913 for the State for fiscal year 1986.

"(e) DISPOSITION OF CERTAIN FUNDS APPROPRIATED FOR ALLOTMENTS.—

"(1) Amounts described in paragraph (2) shall be allotted by the Secretary to States receiving allotments under section 1941(a) for the fiscal year (other than any State referred to in paragraph (2)(C)). Such amounts shall be allotted according to a formula established by the Secretary. The formula shall be equivalent to the formula described in this section under which the allotment for the State for the fiscal year involved was determined.

"(2) The amounts referred to in paragraph (1) are any amounts that are not paid to States under section 1941(a) as a result of—

"(A) the failure of any State to submit an application under section 1944;

"(B) the failure, in the determination of the Secretary, of any State to prepare within a reasonable period of time such application in compliance with such section; or

"(C) any State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State.

"SEC. 1946. EVALUATION OF PROGRAMS.

"(a) IN GENERAL.—

"(1) The Secretary, acting through the Director of the National Institute of Mental Health, shall evaluate community mental health programs and services, including evaluations of—

"(A) the most effective methods of providing community-based prevention, treatment, and rehabilitation services for the mentally ill; and

"(B) the quality, appropriateness, and costs of different methods of treatment utilized in such programs with respect to diagnoses of mental illness for which such programs provided treatment.

"(2) Evaluations required in paragraph (1) may be carried out through grants, contracts, or cooperative agreements.

"(b) USE OF RESEARCH CENTERS.—The Director of the National Institute of Mental Health may, to the extent practicable, establish research centers to carry out the evaluations required in subsection (a)(1). Such research centers shall establish and maintain liaisons with community mental health systems that provide services to the mentally ill.

"(c) MODEL PLAN WITH RESPECT TO CHRONICALLY MENTALLY ILL INDIVIDUALS.—The Secretary, acting through the Director of the National Institute of Mental Health, shall develop and make available, from time to time, a model plan for a community-based system of care for chronically mentally ill individuals. Such plan shall be developed in consultation with State mental health directors, providers of mental health services, chronically mentally ill individuals, advocates for such individuals, and other interested parties.

"SEC. 1947. DEFINITIONS.

"For purposes of this part:

"(1) The term 'Council' means the State mental health services planning council required in section 1944(a).

"(2) The term 'former section 1913' has the meaning given such term in section 1936(1).

"(3)(A) The term 'State' means, except as provided in subparagraph (B), each of the several States, the District of Columbia, and the territories of the United States.

"(B) For purposes of subsections (a) and (d) of section 1945, the term 'State' means each of the several States and the District of Columbia.

"(4) The term 'territories of the United States' means each of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"SEC. 1948. FUNDING.

"(a) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this part, part E, and section 509D(b), there are authorized to be appropriated $350,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

"(b) ALLOCATION OF FUNDS FOR CERTAIN NATIONAL PROGRAMS.—For the purposes of carrying out sections 1946, 1958(a), and 509D(b), the Secretary shall obligate not less than 5 percent, and not more than 15 percent, of the amounts appropriated pursuant to subsection (a) for a fiscal year.

"(c) AVAILABILITY TO STATES.—Any amounts paid to a State under section 1941(a), obligated by the State, and remaining unexpended at the end of the fiscal year for which the amounts were paid shall remain available during the succeeding fiscal year to the State for carrying out the purpose described in section 1941(b).

"PART D—GENERAL PROVISIONS

"SEC. 1951. REQUIREMENT OF SUBMISSION OF DESCRIPTION OF INTENDED USES OF BLOCK GRANT.

"(a) IN GENERAL.—The Secretary may not make payments under any of parts B and C to a State for a fiscal year unless—

"(1) the State submits to the Secretary a description of the purposes for which the State intends to expend such payments for the fiscal year;

"(2) such description provides information relating to the programs and activities to be supported and services to be provided, including a description of the manner in which such programs and activities will be coordinated with any similar programs and activities of public and private entities; and

"(3) the State agrees that such description will be revised throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the State pursuant to the program involved.

"(b) PROGRAM SPECIFIC REQUIREMENTS.—

"(1) The Secretary may not make payments under part B to a State for a fiscal year unless the description required in subsection (a) identifies the populations and the geographic areas in the State that are at risk with respect to the abuse of alcohol or other drugs and that have a need for prevention, treatment, or rehabilitation services.

"(2) The Secretary may not make payments under part C to a State for a fiscal year unless the description required in subsection (a)—

"(A) describes intended expenditures for the provision of services described in section 1942(a)(1)(A); and

"(B) identifies the populations and the geographic areas in the State with a need for mental health services, including a description of the number of chronically mentally ill individuals and the number of severely emotionally disturbed children and youth in the State.

"(c) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary may not make payments under any of parts B and D for a fiscal year unless the State involved agrees that, in developing and carrying out the description required in subsection (a), the State will provide public notice with respect to the description (including any revisions) and will facilitate comments from interested persons.

"SEC. 1952. RESTRICTIONS ON USE OF PAYMENTS.

"(a) IN GENERAL.—

"(1) The Secretary may not, except as provided in paragraph (2), make payments under any of parts B and C for a fiscal year unless the State involved agrees that the payments will not be expended—

"(A) to provide inpatient services, except with respect to short-term residential treatment for substance abuse provided in settings other than hospitals;

"(B) to make cash payments to intended recipients of services under the program involved;

"(C) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical equipment;

"(D) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or

"(E) to provide financial assistance to any entity other than a public or nonprofit private entity.

"(2) If the Secretary finds that the purpose of the program involved cannot otherwise be carried out, the Secretary may, with respect to an otherwise qualified State, waive the restriction established in paragraph (1)(C).

"(b) LIMITATION ON ADMINISTRATIVE EXPENSES.—The Secretary may not make payments under any of parts B and C for a fiscal year unless the State involved agrees that the State will not expend more than 5 percent of the payments for administrative expenses with respect to carrying out the purpose of the program involved.

"SEC. 1953. ADDITIONAL REQUIRED AGREEMENTS.

"(a) IN GENERAL.—The Secretary may not, except as provided in subsection (c), make payments under any of parts B and C for a fiscal year unless the State involved agrees that—

"(1) the legislature of the State will conduct public hearings on the proposed use and distribution of the payments to be received for the fiscal year;

"(2) the State will, to the maximum extent practicable, ensure that services provided to an individual pursuant to the program involved will be provided without regard to the ability of the individual to pay for such services and without regard to the current or past health condition of the individual;

"(3) the State will provide for periodic independent peer review to assess the quality and appropriateness of treatment services provided by entities that receive funds from the State pursuant to the program involved;

"(4) the State will permit and cooperate with Federal investigations undertaken in accordance with section 1955;

"(5) the State will maintain State expenditures for services provided pursuant to the program involved at a level equal to not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying to receive payments; and

"(6) the State will provide to the Secretary any data required by the Secretary pursuant to section 509D.

"(b) PROGRAM SPECIFIC REQUIREMENTS.—

"(1) The Secretary may not make payments under part B for a fiscal year unless the State involved agrees to ensure that any entity in the State receiving funds with respect to carrying out the purpose described in section 1931(b) will comply with sections 544 and 548.

"(2) The Secretary may not make payments under part C for a fiscal year unless the State involved agrees that, to the maximum extent practicable, the State will develop and implement arrangements to locate jobs for employees affected adversely by actions taken by the State mental health authority with respect to emphasizing outpatient health services.

"(c) CERTAIN WAIVER.—The Secretary may, upon the request of a State, waive the requirement established in subsection (a)(5) if the Secretary determines that extraordinary economic conditions in the State justify the waiver.

"SEC. 1954. REQUIREMENT OF REPORTS BY STATES.

"(a) IN GENERAL.—The Secretary may not make payments under any of parts B and C for a fiscal year unless the State involved agrees to prepare and submit to the Secretary an annual report in such form and containing such information as the Secretary determines (after consultation with the States and the Comptroller General of the United States) to be necessary for—

"(1) securing a record and a description of the purposes for which payments received by the State pursuant to any of parts B and C were expended and of the recipients of such payments;

"(2) determining whether the payments were expended in accordance with the needs within the State required to be identified pursuant to section 1951(b);

"(3) determining whether the payments were expended in accordance with the purpose of the program involved; and

"(4) determining the percentage of payments received pursuant to any of parts B and C that were expended by the State for administrative expenses during the preceding fiscal year.

"(b) AVAILABILITY TO PUBLIC OF REPORTS.—The Secretary may not make payments under any of parts B and C unless the State involved agrees to make copies of the report described in subsection (a) available for public inspection.

"(c) EVALUATIONS BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall, from time to time, evaluate the expenditures by States of payments under any of parts B and C in order to assure that expenditures are consistent with the provisions of the program involved.

"SEC. 1955. FAILURE TO COMPLY WITH AGREEMENTS.

"(a) REPAYMENT OF PAYMENTS.—

"(1) The Secretary may, in accordance with subsection (b), require a State to repay any payments received by the State pursuant to any of parts B and C that the Secretary determines were not expended by the State in accordance with the agreements required to be made by the State as a condition of the receipt of payments under the program involved.

"(2) If a State fails to make a repayment required in paragraph (1), the Secretary may offset the amount of the repayment against the amount of any payment due to be paid to the State under the program involved.

"(b) OPPORTUNITY FOR A HEARING.—Before requiring repayment of payments under subsection (a)(1), the Secretary shall provide to the State an opportunity for a hearing.

"SEC. 1956. PROHIBITION AGAINST CERTAIN FALSE STATEMENTS.

"(a) IN GENERAL.—

"(1) A person may not knowingly make or cause to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payments may be made by a State from amounts paid to the State under any of parts B and C.

"(2) A person with knowledge of the occurrence of any event affecting the right of the person to receive any payments from amounts paid to the State under any of parts B and C may not conceal or fail to disclose any such event with the intent of fraudulently securing such amount.

"(b) CRIMINAL PENALTY FOR VIOLATION OF PROHIBITION.—Any person who violates a prohibition established in subsection (a) may for each violation be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

"SEC. 1957. NONDISCRIMINATION.

"(a) IN GENERAL.—

"(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under the program involved shall be considered to be programs and activities receiving Federal financial assistance.

"(2) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under the program involved.

"(b) ENFORCEMENT.—

"(1) Whenever the Secretary finds that a State, or an entity that has received a payment pursuant to the program involved, has failed to comply with a provision of law referred to in subsection (a)(1), with subsection (a)(2), or with an applicable regulation (including one prescribed to carry out subsection (a)(2)), the Secretary shall notify the chief executive officer of the State and shall request the chief executive officer to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

"(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

"(B) exercise the powers and functions provided by the Age Discrimination Act of 1975, section 504 of the Rehabilitation Act of 1973, title IX of the Education Amendments of 1972, or title VI of the Civil Rights Act of 1964, as may be applicable; or

"(C) take such other actions as may be authorized by law.

"(2) When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever the Attorney General has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of subsection (a)(2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

"SEC. 1958. TECHNICAL ASSISTANCE AND PROVISION BY SECRETARY OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.

"(a) TECHNICAL ASSISTANCE.—The Secretary shall, without charge to a State receiving payments under any of parts B and C, provide to the State (or to any public or nonprofit private entity designated by the State) technical assistance with respect to the planning, development, and operation of any program or service carried out pursuant to the program involved. The Secretary may provide such technical assistance directly, through contract, or through grants.

"(b) PROVISION BY SECRETARY OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.—

"(1) Upon the request of a State receiving payments under any of parts B and C, the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the State in carrying out the program involved and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

"(2) With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments under the program involved to the State by an amount equal to the fair market value of any supplies, equipment, or services provided by the Secretary and shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

"SEC. 1959. REPORT BY SECRETARY.

"Not later than October 1, 1990, the Secretary shall report to the Congress on the activities of the States carried out pursuant to any of parts B and C. Such report may include any recommendations of the Secretary for appropriate administrative and legislative initiatives.

"SEC. 1960. DEFINITIONS.

"For purposes of this part:

"(1) The term 'program involved' means the program of allotments established in part B, or in part C, or any or all of such programs, as indicated by whether the State involved is receiving or is applying to receive payments under part B, or part C, or under any or all of such parts.

"(2) The term 'State' has the meaning given such term in the program involved.".

SEC. 10005. CONTINGENT AUTHORITY FOR TRANSFERS BETWEEN CERTAIN BLOCK GRANTS.

(a) TRANSFER TO PART C.—If, under part C of title XIX of the Public Health Service Act (as added by section 10003 of this Act), the amount of the allotment for a State for a fiscal year is less than the amount of the allotment for mental health services under former section 1913 (as defined in section 1928(2) of such part) for the State for fiscal year 1986, the State may transfer to its allotment under such part C not more than 25 percent of the amount of the allotment for the State under part B of such title (as added by section 10003 of this Act).

(b) TRANSFER TO PART B.—If, under part B of title XIX of the Public Health Service Act (as added by section 10003 of this Act), the amount of allotment for a State for a fiscal year is less than the amount of the allotment for substance abuse services under former section 1913 (as defined in section 1937(1) of such part) for the State for fiscal year 1986, the State may transfer to its allotment under such part B not more than 25 percent of the amount of the allotment under part C of such title (as added by section 10003 of this Act).

SEC. 10006. DRUG TESTING CERTIFICATION PROGRAM REQUIREMENTS.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall establish a procedure to be used to certify certain clinical laboratories that analyze and determine the results of drug tests conducted by other entities or individuals, and to ensure that such laboratories maintain high quality and appropriate security concerning the results of such tests.

(b) REQUIREMENTS.—Under the procedures referred to in subsection (a), a laboratory that conducts drug testing shall, as determined under guidelines prescribed by the Secretary of Health and Human Services—

(1) meet the mandatory guidelines, or be determined by the Secretary of Health and Human Services to have met the mandatory guidelines, established by the Secretary under subclauses (I) and (III) of section 503(a)(1)(A)(ii) of the supplemental Appropriations Act, 1987;

(2) have been inspected and accredited by national accrediting bodies approved for such purpose by the Secretary; or

(3) have been a State clinical laboratory certified under a State certification programs that is as least as stringent as that established by the Secretary under subsection (a).

(c) SPENDING RESTRICTION.—The Secretary of Health and Human Services shall not expend any Federal funds for certification of individual laboratories to conduct drug testing of any Federal employees under this Act (or any amendments made by this Act). Costs associated with such certifications shall be the responsibility of the laboratories seeking the certification, except that this section shall not be construed to prohibit the use of such funds to develop standards, measurement instruments, or such other activities and functions as are necessary to establish and maintain a certification system.

SEC. 10006A. EMPLOYEE ASSISTANCE PROGRAMS.

(a) ESTABLISHMENT.—The Secretary of Labor shall establish a program through which the Secretary shall provide grants to, or enter into contract with, employers to enable such employers to develop employee drug and alcohol abuse assistance programs.

(b) APPLICATIONS.—Employers desiring to receive a grant or contract under this section shall submit to the Secretary of Labor, an application, in such form and containing such information as the Secretary may require.

(c) REGULATIONS.—The Secretary of Labor shall promulgate regulations necessary to carry out this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $4,000,000 for fiscal year 1989, and $5,000,000 for each of the fiscal years 1990 and 1991.

SEC. 10007. FUNDING FOR OFFICE FOR SUBSTANCE ABUSE PREVENTION.

Section 508(d) of the Public Health Service Act (42 U.S.C. 290cc-2(d)) is amended to read as follows:

"(d)(1) For the purpose of carrying out this section and sections 509, 509A, and 509E, there are authorized to be appropriated $75,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

"(2) Of the amounts appropriated pursuant to paragraph (1), the Secretary shall make available not less than 5 percent to carry out subsection (b)(5) and not less than 10 percent to carry out section 509E.".

SEC. 10008. REQUIREMENT OF ANNUAL COLLECTION BY SECRETARY OF CERTAIN DATA WITH RESPECT TO MENTAL ILLNESS AND SUBSTANCE ABUSE.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following new section:

"DATA COLLECTION

"SEC. 509D. (a) The Secretary, acting through the Administrator, shall collect data each year on—

"(1) the national incidence and prevalence of the various forms of mental illness and substance abuse; and

"(2) the incidence and prevalence of such various forms in major metropolitan areas selected by the Administrator.

"(b) With respect to the activities of the Administrator under subsection (a) relating to mental health, the Administrator, acting through the Director of the National Institute of Mental Health, shall ensure that such activities include the collection of data on—

"(1) the number and variety of public and nonprofit private treatment programs;

"(2) the number of individuals receiving treatment through such programs and the diagnoses of such individuals; and

"(3) demographic characteristics of the population of such individuals.

"(c)(1) With respect to the activities of the Administrator under subsection (a) relating to substance abuse, the Administrator, acting through the Director of the National Institute on Alcoholism and Alcohol Abuse and the Director of the National Institute on Drug Abuse, shall ensure that such activities include the collection of data on—

"(A) the number of individuals admitted to the emergency rooms of hospitals as a result of the abuse of alcohol and other drugs;

"(B) the number of deaths occurring as a result of substance abuse, as indicated in reports by coroners;

"(C) the number and variety of public and private nonprofit treatment programs;

"(D) the number of individuals seeking treatment through such programs, the number and demographic characteristics of individuals receiving such treatment, and, with respect to individuals receiving such treatment, the length of time between an individual's request for treatment and the commencement of that treatment; and

"(E) the number of such individuals who return for treatment after the completion of a prior treatment in such programs and the method of treatment utilized during the prior treatment.

"(2) With respect to the collection of data under paragraph (1), the Director shall conduct annual surveys.".

SEC. 10009. MODEL PROJECTS FOR PREGNANT AND POST PARTUM WOMEN AND THEIR INFANTS.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.), as amended by section 10008 of this Act, is further amended by adding at the end the following new section:

"MODEL PROJECTS FOR PREGNANT AND POST PARTUM WOMEN AND THEIR INFANTS

"SEC. 509E. (a) The Secretary, acting through the Director of the Office, shall make grants to establish projects for prevention, education, and treatment regarding drug and alcohol abuse relating to pregnant and post partum women and their infants.

"(b) In making grants under subsection (a), the Director of the Office shall give priority to projects—

"(1) for low-income women and their infants; and

"(2) designed to develop innovative approaches to prevention, education, and treatment regarding the use of the drugs with respect to which there exists insufficient information (including cocaine and the cocaine derivative known as crack).

"(c) In making grants under subsection (a) for projects that provide treatment, the Director of the Office shall ensure that grants are reasonably distributed among projects that provide inpatient, outpatient, and residential treatment.

"(d) The Director of the Office may not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Director of the Office determines to be necessary to carry out this section.

"(e) The Director of the Office shall evaluate projects conducted with grants under this section.".

SEC. 10010. ESTABLISHMENT OF PROGRAM OF GRANTS WITH RESPECT TO REDUCTION OF WAITING PERIOD FOR DRUG ABUSE TREATMENT.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.), as amended by section 10009 of this Act, is further amended by adding at the end the following new section:

"REDUCTION OF WAITING PERIOD FOR DRUG ABUSE TREATMENT

"SEC. 509F. (a) The Secretary may make grants to public and nonprofit private entities for the purpose of expanding the capacity of grantees to carry out programs of treatment for drug abuse.

"(b) The Secretary may not make a grant under subsection (a) unless the applicant for the grant—

"(1) is experienced in the delivery of treatment services for drug abuse;

"(2) is, on the date the application is submitted, carrying out a program for the delivery of such services;

"(3) as a result of the number of requests for admission into the program, is unable to admit any individual into the program any earlier than one month after the date on which the individual makes a request for such admission; and

"(4) provides assurances satisfactory to the Secretary that, after funding is no longer available under this section, the applicant will have access to financial resources sufficient to continue the program.

"(c) The Secretary may not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(d)(1) For the purpose of carrying out this section, there is authorized to be appropriated $100,000,000.

"(2) Amounts made available pursuant to paragraph (1) shall remain available until expended.

"(3) No grant may be made under this section after the aggregate amounts obligated by the Secretary pursuant to this section are equal to $100,000,000.".

SEC. 10011. REQUIREMENT OF EVALUATIONS OF FEDERALLY FUNDED PROGRAMS OF TREATMENT FOR DRUG ABUSE.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.), as amended by section 10010 of this Act, is further amended by adding at the end the following new section:

"EVALUATIONS OF PROGRAMS FOR TREATMENT OF DRUG ABUSE

"SEC. 509G. (a) The Secretary shall, directly or by contract, provide for an independent evaluation of federally funded programs of treatment for drug abuse and for independent evaluations of federally funded programs of research into methods of such treatment.

"(b) In carrying out the evaluations required in subsection (a), the Secretary shall—

"(1) assess the comparative effectiveness and costs of the various methods of treatment utilized for specific patient groups served by programs described in subsection (a);

"(2) clarify research and treatment objectives of such programs;

"(3) clarify research and treatment methodologies of such programs;

"(4) determine whether entities carrying out such programs have organizational biases with respect to providing treatment for drug abuse; and

"(5) determine the extent to which such programs are contributing to progress in the development of effective methods of treatment for drug abuse.

"(c) The Secretary shall, not later than 1 year after the date of the enactment of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988, complete the evaluation required in subsection (a) and submit to the Congress a report describing the findings made as a result of the evaluation.".

SEC. 10012. AUTHORIZATION OF APPROPRIATIONS FOR RESEARCH WITH RESPECT TO ALCOHOL ABUSE AND ALCOHOLISM.

Section 513(a) of the Public Health Service Act (42 U.S.C. 290bb-2(a)) is amended by striking "1987." and inserting the following: "1987, and such sums as may be necessary for each of the fiscal years 1989 through 1991.".

SEC. 10013. FUNDING FOR RESEARCH WITH RESPECT TO DRUG ABUSE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 517 of the Public Health Service Act (42 U.S.C. 290cc-2) is amended by striking "1987." and inserting "1987, and such sums as may be necessary for each of the fiscal years 1989 through 1991.".

(b) SET-ASIDE WITH RESPECT TO PREGNANT WOMEN AND INFANTS.—Section 517 of the Public Health Service Act (42 U.S.C. 290cc-2) is amended—

(1) by redesignating such section as section 518;

(2) by inserting "(a)" after the section designation; and

(3) by adding at the end the following new subsection:

"(b) Of the amounts appropriated pursuant to subsection (a), the Secretary shall make available 5 percent to carry out section 516(b) and not less than 10 percent to carry out section 517.".

SEC. 10015. ESTABLISHMENT OF GRANT PROGRAMS FOR RESEARCH WITH RESPECT TO MENTAL HEALTH SERVICES.

Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended—

(1) by amending section 504(f) to read as follows:

"(f)(1) The Secretary, acting through the Director, shall—

"(A) develop and publish information with respect to the causes of suicide and the means of preventing suicide; and

"(B) make such information generally available to the public and to health professionals.

"(2) Information described in paragraph (1) shall especially relate to suicide among individuals under 24 years of age.";

(2) by striking subsections (g) through (i) of section 504; and

(3) by adding at the end of part B the following new subpart:

"Subpart 3—Mental Health Research

"ESTABLISHMENT OF PROGRAM FOR MENTAL HEALTH RESEARCH

"SEC. 519. The Secretary, acting through the Director, may make grants to, and enter into cooperative agreements and contracts with, public and nonprofit private entities for the conduct of, promotions of, coordination of, research, investigation, experiments, demonstrations, and studies relative to the cause, diagnosis, treatment, control, and prevention of mental illness.

"NATIONAL MENTAL HEALTH EDUCATION PROGRAM

"SEC. 520. The Secretary, acting through the Director, shall establish a National Mental Health Education Program for the purpose of—

"(1) developing improved methods of treating individuals with mental health problems and improved methods of assisting the families of such individuals;

"(2) supporting programs of biomedical and behavioral research, training, and education with respect to the causes, diagnosis, and treatment of mental health problems;

"(3) collecting and making available, through publication and other appropriate methods, information on, and the practical application of, such research and other activities;

"(4) providing technical assistance to public and private entities that are providers of mental health services;

"(5) disseminating to such providers and to the public information with respect to mental health, including information on programs that provide financial assistance in obtaining mental health services; and

"(6) establishing a clearinghouse in order to collect information developed in mental health research and treatment programs and to make such information available to providers of mental health services, to individuals with mental health problems, and to the general public.

"ESTABLISHMENT OF GRANT PROGRAM FOR DEMONSTRATION PROJECTS

"SEC. 520A. (a) CHRONICALLY MENTALLY ILL INDIVIDUALS AND SERIOUSLY MENTALLY DISTURBED CHILDREN.—The Secretary, acting through the Director, may make grants to States, political subdivisions of States, and nonprofit private agencies for mental health services demonstration projects for the planning, coordination, and improvement of community services (including outreach and self-help services) for chronically mentally ill individuals, seriously emotionally disturbed children and youth, elderly individuals, and homeless chronically mentally ill individuals, and for the conduct of research concerning such services.

"(b) INDIVIDUALS AT RISK OF MENTAL ILLNESS.—

"(1) The Secretary, acting through the Director, may make grants to States, political subdivisions of States, and private nonprofit agencies for prevention services demonstration projects for the provision of prevention services for individuals who, in the determination of the Secretary, are at risk of developing mental illness.

"(2) Demonstration projects under paragraph (1) may include—

"(A) prevention services for populations at risk of developing mental illness, particularly displaced workers, young children, and adolescents;

"(B) the development and dissemination of education materials;

"(C) the sponsoring of local, regional, or national workshops or conferences;

"(D) the conducting of training programs with respect to the provision of mental health services to individuals described in paragraph (1); and

"(E) the provision of technical assistance to providers of such services.

"(c) LIMITATION ON DURATION OF GRANT.—The Secretary may make a grant under subsection (a) or (b) for not more than three consecutive one-year periods.

"(d) LIMITATION ON ADMINISTRATIVE EXPENSES.—The Secretary may not make a grant under subsection (a) or (b) to an applicant unless the applicant agrees that not more than 10 percent of such a grant will be expended for administrative expenses.

"(e) AUTHORIZATIONS OF APPROPRIATIONS.—

"(1) For the purposes of carrying out this section, there are authorized to be appropriated $32,000,000 for each of the fiscal years 1989 and 1990.

"(2) Of the amounts appropriated pursuant to paragraph (1), the Secretary shall make available 25 percent for demonstration projects to carry out the purpose of this section in rural areas.".

SEC. 10016. MISCELLANEOUS AMENDMENTS.

(a) TITLE V OF PUBLIC HEALTH SERVICE ACT.—

(1) The title of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended so as to read: "TITLE V—ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH PROGRAMS".

(2) Section 501 of the Public Health Service Act (42 U.S.C. 290aa) is amended—

(A) by adding at the end of subsection (b) the following new paragraph:

"(4) The Office of Substance Abuse Prevention.";

(B) in the first sentence of subsection (e)(2)—

(i) by striking "The" and inserting the following: "Not less than once each three years, the"; and

(ii) by striking "annually";

(C) by striking "fraud" each place it appears in subsection (f) and inserting "misconduct";

(D) by striking subsection (k); and

(E) by adding at the end the following new subsections:

"(k) The Administrator may accept voluntary and uncompensated services.

"(l) The Administrator may conduct and support research training—

"(1) for which fellowship support is not provided under section 487; and

"(2) that is not residency training of physicians or other health professionals.

"(m)(1) The Secretary, acting through the Administrator, may make grants to public and nonprofit private entities for the acquisition of small instrumentation necessary for carrying out the purpose of this title with respect to research.

"(2) The Secretary may not make a grant under paragraph (1) unless the small instrumentation acquired pursuant to the grant will be available for use in more than one grant under this title with respect to research.

"(3) Grants under paragraph (1) shall be subject to technical and scientific peer review under section 507.

"(4) A grant under paragraph (1) for a fiscal year may not exceed $100,000.

"(5) For the purpose of carrying out this subsection, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1989 through 1991.".

(3) Section 515(a) of the Public Health Service Act (42 U.S.C. 290cc) is amended in the matter after and below paragraph (6) by inserting before the period the following: "(particularly with respect to pregnant women and their children)".

(4) Section 516 of the Public Health Service Act (42 U.S.C. 290cc-1) is amended—

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(B) by inserting after subsection (a) the following new subsection:

"(b) In making grants under subsection (a), the Secretary shall give special consideration to projects for determining the effects of drug abuse among pregnant women and the resulting effects on the infants of such women, including the relationship between drug abuse during pregnancy and the birthweight of infants.".

(b) SECTION 303.—Section 303(d)(1) of the Public Health Service Act (42 U.S.C. 242a(d)(1)) is amended by inserting "marital and family therapy," after "nursing,".

(c) ANTI-DRUG ABUSE ACT OF 1986.—Section 6005(b) of the Anti-Drug Abuse Act of 1986 (Public Law 99-570) is amended by striking "one year" and all that follows through "Act" and inserting "18 months after the execution of the contract referred to in subsection (a),".

SEC. 10017. BANNING OF BUTYL NITRITE.

(a) IN GENERAL.—Except as provided in subsection (b), butyl nitrite shall be considered a banned hazardous product under section 8 of the Consumer Product Safety Act (15 U.S.C. 2057).

(b) LAWFUL PURPOSES.—For the purposes of section 8 of the Consumer Product Safety Act, it shall not be unlawful for any person to manufacture for sale, offer for sale, distribute in commerce, or import into the United States butyl nitrite for any commercial purpose or any other purpose approved under the Federal Food, Drug, and Cosmetic Act.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "butyl nitrite" includes n-butyl nitrite, isobutyl nitrite, secondary butyl nitrite, tertiary butyl nitrite, and mixtures containing these chemicals.

(2) The term "commercial purpose" means any commercial purpose other than for the production of consumer products containing butyl nitrite that may be used for inhaling or otherwise introducing butyl nitrite into the human body for euphoric or physical effects.

(d) EFFECTIVE DATE.—This section shall take effect 90 days after the date of the enactment of this Act.

SEC. 10018. FORFEITURE AND ILLEGAL TRAFFICKING IN STEROIDS.

Any conviction of a person for a violation of the Federal Food, Drug, and Cosmetic Act involving anabolic steroids or human growth hormone which is punishable by imprisonment for more than one year shall for purposes of section 413 of the Controlled Substances Act be considered a conviction for a violation of that Act.

SEC. 10019. PROHIBITED DISTRIBUTION OF ANABOLIC STEROIDS.

Section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333) is amended by adding at the end the following new subsection.

"(e) Whoever distributes or possesses with the intent to distribute any anabolic steroid for any purpose other than the treatment of disease pursuant to the order of a physician shall be imprisoned for not more than three years, or fined under title 18, United States Code, or both.".

SEC. 10020. ESTABLISHMENT OF TASK FORCE AND PROTECTION OF PUBLIC HEALTH WITH RESPECT TO ILLEGAL DRUG LABORATORIES.

(a) ESTABLISHMENT OF TASK FORCE.—There is established the Joint Federal Task Force on Illegal Drug Laboratories (hereafter in this section referred to as the "Task Force").

(b) APPOINTMENT AND MEMBERSHIP OF TASK FORCE.—The members of the Task Force shall be appointed by the Administrators of the Environmental Protection Agency and the Drug Enforcement Administration (hereafter in this section referred to as the "Administrators"). The Task Force shall consist of at least 6 and not more than 20 members. Each Administrator shall appoint one-half of the members as follows: (1) the Adminstrator of the Environmental Protection Agency shall appoint members from among Emergency Response Technicians and other appropriate employees of the Agency; and (2) the Administrator of the Drug Enforcement Administration shall appoint members from among Special Agents assigned to field divisions and other appropriate employees of the Administration.

(c) DUTIES OF TASK FORCE.—The Task Force shall formulate, establish, and implement a program for the cleanup and disposal of hazardous waste produced by illegal drug laboratories. In formulating such program, the Task Force shall consider the following factors:

(1) The volume of hazardous waste produced by illegal drug laboratories.

(2) The cost of cleaning up and disposing of hazardous waste produced by illegal drug laboratories.

(3) The effectiveness of the various methods of cleaning up and disposing of hazardous waste produced by illegal drug laboratories.

(4) The coordination of the efforts of the Environmental Protection Agency and the Drug Enforcement Administration in cleaning up and disposing of hazardous waste produced by illegal drug laboratories.

(5) The dissemination of information to law enforcement agencies that have responsibility for enforcement of drug laws.

(d) GUIDELINES.—The Task Force shall recommend to the Administrators guidelines for cleanup of illegal drug laboratories to protect the public health and environment. Not later than 180 days after the date of the enactment of this Act, the Administrators shall formulate and publish such guidelines.

(e) DEMONSTRATION PROJECTS.—

(1) The Attorney General shall make grants to, and enter into contracts with, State and local governments for demonstration projects to clean up and safely dispose of substances associated with illegal drug laboratories which may present a danger to public health or the environment.

(2) The Attorney General may not under this subsection make a grant or enter into a contract unless the applicant for such assistance agrees to comply with the guidelines issued pursuant to subsection (d).

(3) The Attorney General shall, through grant or contract, provide for independent evaluations of the activities carried out pursuant to this subsection and shall recommend appropriate legislation to the Congress.

(f) FUNDING.—Of the amounts made available to carry out the Controlled Substances Act for fiscal year 1989, not less than $5,000,000 shall be made available to carry out subsections (d) and (e).

(g) REPORTS.—After consultation with the Task Force, the Administrators shall—

(1) transmit to the President and to each House of Congress not later than 270 days after the date of the enactment of this Act a report describing the program established by the Task Force under subsection (c) (including an analysis of the factors specified in paragraphs (1) through (5) of that subsection);

(2) periodically transmit to the President and to each House of Congress reports describing the implementation of the program established by the Task Force under subsection (c) (including an analysis of the factors specified in paragraphs (1) through (5) of that subsection) and the progress made in the cleanup and disposal of hazardous waste produced by illegal drug laboratories; and

(3) transmit to each House of Congress a report describing the findings made as a result of the evaluations referred to in subsection (e)(3).

SEC. 10021. EFFECTIVE DATE.

Except as provided in section 10004(c) and 10017(d), this title and the amendments made by this title shall take effect October 1, 1988, or upon the date of the enactment of this Act, whichever occurs later.

TITLE XI—TRANSPORTATION INDUSTRY ALCOHOL AND CONTROLLED SUBSTANCES TESTING PROGRAM

SEC. 11001. TRANSPORTATION INDUSTRY ALCOHOL AND CONTROLLED SUBSTANCES TESTING PROGRAM.

(a) FINDINGS.—The Congress finds that—

(1) alcohol and drug abuse poses significant dangers to the safety and welfare of the Nation;

(2) millions of the Nation's citizens utilize transportation by aircraft, railroads, trucks, and buses, and depend on the operators of aircraft, railroads, trucks, and buses to perform in a safe and responsible manner;

(3) the greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs, whether on duty or off duty, by those individuals who are involved in the operation of aircraft, railroads, trucks, and buses;

(4) the use of alcohol and illegal drugs has been demonstrated to affect significantly the performance of individuals, and has been proven to have been a critical factor in transportation accidents;

(5) the testing of uniformed personnel of the armed forces has shown that the most effective deterrent to abuse of alcohol and use of illegal drugs is increased testing, including random testing;

(6) adequate safeguards can be implemented to ensure that testing for abuse of alcohol or use of illegal drugs is performed in a manner which protects an individual's right of privacy, ensures that no individual is harassed by being treated differently from other individuals, and ensures that no individual's reputation or career development is unduly threatened or harmed; and

(7) rehabilitation is a critical component of any testing program for abuse of alcohol or use of illegal drugs, and should be made available to individuals, as appropriate.

(b) TESTING PROGRAM.—(1) Title VI of the Federal Aviation Act of 1958 (49 App. U.S.C. 1421 et seq.) is amended by adding at the end thereof the following:

"ALCOHOL AND CONTROLLED SUBSTANCES TESTING

"TESTING PROGRAM

"SEC. 613. (a)(1) The Administrator shall, in the interest of aviation safety, prescribe regulations within twelve months after the date of enactment of this section. Such regulations shall establish a program which requires air carriers and foreign air carriers to conduct pre-employment, periodic recurring, random and post-accident testing of airmen, crewmembers, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions (as determined by the Administrator), and testing of such individuals upon a reasonable suspicion that they have used, without lawful authorization, alcohol or a controlled substance.

"(2) The Administrator shall establish a program applicable to employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions. Such program shall provide for pre-employment, periodic recurring, random and post-accident testing, and testing of such individuals upon a reasonable suspicion that they have used, without lawful authorization, alcohol or a controlled substance.

"(3) In prescribing regulations under the programs required by this subsection, the Administrator shall require, as the Administrator considers appropriate, the suspension or revocation of any certificate issued to such an individual, or the disqualification or dismissal of any such individual, in accordance with the provisions of this section, in any instance where a test conducted and confirmed under this section indicates that such individual has used, without lawful authorization, alcohol or a controlled substance.

"PROHIBITION ON SERVICE

"(b)(1) No person may use, without lawful authorization, alcohol or a controlled substance after the date of enactment of this section and serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions.

"(2) No individual who is determined to have used, without lawful authorization, alcohol or a controlled substance after the date of enactment of this section shall serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions unless such individual has completed a program of rehabilitation described in subsection (c) of this section.

"(3) Any such individual determined by the Administrator to have used, without lawful authorization, alcohol or a controlled substance after the date of enactment of this section who (A) refuses to undertake a rehabilitation program described in subsection (c), (B) fails to complete such a rehabilitation program, (C) has previously undertaken or completed such a rehabilitation program, or (D) has been determined by the Administrator to have served as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Adminstrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions while impaired by or under the influence of alcohol or a controlled substance, shall not be permitted to perform the duties relating to air transportation which such individual performed prior to the date of such determination.

"PROGRAM FOR REHABILITATION

"(c)(1) Each air carrier and foreign air carrier shall establish and maintain a rehabilitation program which at a minimum provides for the identification and opportunity for treatment of employees referred to in subsection (b) of this section in need of assistance in resolving problems with the use, without lawful authorization, of alcohol or controlled substances. Each air carrier and foreign air carrier is encouraged to make such program available to all of its employees other than employees referred to in subsection (b) of this section. Nothing in this subsection shall preclude any air carrier or foreign air carrier from establishing a program under this subsection in cooperation with any other air carrier or foreign air carrier.

"(2) The Administrator shall establish and maintain a rehabilitation program which at a minimum provides for the identification and opportunity for treatment of those employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions who are in need of assistance in resolving problems with the use of alcohol or controlled substances.

"PROCEDURES

"(d) In establishing the program required under subsection (a) of this section, the Administrator shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory drug testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimens collected for drug testing;

"(B) specify the drugs for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform drug testing in carrying out this section;

"(3) provide that all tests which indicate the use, without lawful authorization, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(4) require that all laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(5) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(6) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"EFFECT ON OTHER LAWS AND REGULATIONS

"(e)(1) No State or local government shall adopt or put into effect any law, rule, regulation, ordinance, standard or order that is inconsistent with the regulations promulgated under this section, except that the regulations promulgated under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury or damage to property, whether the provisions apply specifically to employees of an air carrier or foreign air carrier, or to the general public.

"(2) Nothing in this section shall preclude the Administrator from adopting or continuing in effect other regulations intended to protect persons or property on the ground or in the air from the hazards to safety associated with the potential use of alcohol or controlled substances by airmen, crewmembers, airport security screening contract personnel, air carrier employees responsible for safety-sensitive functions (as determined by the Administrator), or employees of the Federal Aviation Administration) with responsibility for safety-sensitive functions.

"(3) In prescribing regulations under this section, the Administrator shall only establish requirements applicable to foreign air carriers that are consistent with the international obligations of the United States, and the Administrator shall take into consideration any applicable laws and regulations of foreign countries. The Secretary of State and the Secretary of Transportation, jointly, shall call on the member countries of the International Civil Aviation Organization to strengthen and enforce existing standards to prohibit the use, without lawful authorization, of a controlled substance by crew members in international civil aviation.

"DEFINITION

"(f) For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) whose use the Administrator has determined poses a risk to transportation safety.".

(2) That portion of the table of contents of the Federal Aviation Act of 1958 relating to title VI is amended by adding at the end thereof the following:

"Sec. 613. Alcohol and controlled substances testing.
"(a) Testing program.
"(b) Prohibition on service.
"(c) Program for rehabilitation.
"(d) Procedures.
"(e) Effect on other laws and regulations.
"(f) Definition.".

(c) FEDERAL RAILROAD SAFETY ACT OF 1970.—Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end thereof the following:

"(l)(1) The Secretary shall, within one year after the date of enactment of this subsection, review existing rules, regulations, standards, and orders governing alcohol and drug use in railroad operations for the purpose of determining whether they are adequate to ensure safety. In conducting such review, the Secretary shall specifically—

"(A) require that all railroad employees responsible for safety-sensitive functions (as determined by the Secretary) by subject to testing on a random basis for the use, without lawful authorization, of alcohol or a controlled substance;

"(B) consider application of existing rules, regulations, orders, and standards to other categories of employees, including employees responsible for the safety of passengers, railroad rolling stock, or track and related structures;

"(C) require, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used or to have been impaired by alcohol while on duty; and

"(D) require, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law and any rules, regulations, standards or orders issued under this Act.

Nothing in this subsection shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any rules, regulations, standards and orders governing alcohol and drug use in railroad operations issued before the date of enactment of this subsection.

"(2) In carrying out the provisions of this subsection, the Secretary shall develop requirements which shall—

"(A) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(B) with respect to laboratories and testing procedures, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(i) establish comprehensive standards for all aspects of laboratory drug testing and laboratory procedures to be applied in carrying out this Act, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimens collected for drug testing;

"(ii) specify the drugs for which individuals may be tested; and

"(iii) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform drug testing in carrying out this Act;

"(C) provide that all tests which indicate the use, without lawful authorization, of alcohol or a controlled substance by any employee shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(D) require that all laboratories involved in the testing of any employee under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(E) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this subparagraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(F) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(3) For the purposes of this subsection, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) whose use the Secretary has determined poses a risk to transportation safety.".

(d) Commercial Motor Vehicle Safety Act of 1986.—(1) The Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5223) is amended by adding at the end the following:

"SEC. 12020. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

"(a) Regulations.—The Secretary shall, in the interest of commercial motor vehicle safety, prescribe regulations within twelve months after the date of enactment of this section. Such regulations shall establish a program which requires motor carriers to conduct pre-employment, periodic recurring, random and post-accident testing of the operators of commercial motor vehicles, and testing upon a reasonable suspicion that they have used, without lawful authorization, alcohol or a controlled substance.

"(b) Testing.—(1) In promulgating such regulations, the Secretary shall require that post-accident testing of the operator of a commercial motor vehicle be conducted in the case of any accident involving a commercial motor vehicle in which occurs loss of human life, or, as determined by the Secretary, other serious accidents involving bodily injury or significant property damage.

"(2) Nothing in subsection (a) of this section shall preclude the Secretary from providing in such regulations that such testing be conducted as part of the medical examination required by subpart E of part 391 of title 49, Code of Federal Regulations, with respect to those operators of commercial motor vehicles to whom such part is applicable.

"(c) Program for Rehabilitation.—The Secretary shall promulgate regulations setting forth requirements for a rehabilitation program for the identification and opportunity for treatment of operators of commercial motor vehicles who are determined to have used, without lawful authorization, alcohol or a controlled substance. The Secretary shall determine the circumstances under which such operators shall be required to participate in such program. Nothing in this subsection shall preclude a motor carrier from establishing a program under this subsection in cooperation with any other motor carrier.

"(d) Procedures for Testing.—In establishing the program required under subsection (a) of this section, the Secretary shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory drug testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimens collected for drug testing;

"(B) specify the drugs for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform drug testing in carrying out this section;

"(3) provide that all tests which indicate the use, without lawful authorization, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(4) require that all laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(5) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) for employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(6) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(e) Effect on Other Laws and Regulations.—No State or local government shall adopt or put into effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations promulgated under this section, except that the regulations promulgated under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury or damage to property, whether the provisions apply specifically to commercial motor vehicle employees, or to the general public.

"(f) Application of Penalties.—(1) Nothing in this section shall be construed to supersede any penalty applicable to the operator of a commercial motor vehicle under this Act or any other provision of law.

"(2) The Secretary shall determine appropriate sanctions for commercial motor vehicle operators who are determined, as a result of tests conducted and confirmed under this section, to have used, without lawful authorization, alcohol or a controlled substance but are not under the influence of alcohol or a controlled substance, as provided in this title.

"(g) Definition.—For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) whose use the Secretary had determined poses a risk to transportation safety.".

(2) The table of contents of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5223) is amended by adding at the end thereof the following:

"Sec. 12020. Alcohol and controlled substances testing.".

(e) Commercial Motor Vehicles.—(1) The Secretary shall design, within nine months after the date of enactment of this section, and implement, within fifteen months after the date of enactment of this section, a pilot test program for the purpose of testing the operators of commercial motor vehicles on a random basis to determine whether an operator has used, without lawful authorization, alcohol or a controlled substance.

(2) The Secretary shall solicit the participation of States which are interested in participating in such program and shall select four States to participate in the program.

(3) The Secretary shall ensure that the selection made pursuant to this section is representative of varying geographical and population characteristics of the Nation, and takes into consideration the historical geographical incidence of commercial motor vehicle accidents involving loss of human life.

(4) The pilot program authorized by this section shall continue for a period of 1 year. The Secretary shall consider alternative methodologies for implementing a system of random testing of operators of commercial motor vehicles.

(5) Not later than 30 months after the date of enactment of this section, the Secretary shall prepare and submit to the Congress a comprehensive report setting forth the results of the pilot program conducted under this section. Such report shall include any recommendations of the Secretary concerning the desirability and implementation of a system for the random testing of operators of commercial motor vehicles.

(6) For purposes of carrying out this subsection, there shall be available to the Secretary $5,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 for fiscal year 1988.

(7) For purposes of this subsection, the term—

(1) "commercial motor vehicle" shall have the meaning given to such term in section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5241); and

(2) "Secretary" means the Secretary of Transportation.

(f) Urban Mass Transit.—(1) The Secretary of Transportation shall, in the interest of urban mass transportation safety, prescribe regulations within 12 months after the date of enactment of this section. Such regulations shall establish a program which requires urban mass transportation operations to conduct pre-employment, periodic recurring, random, and post-accident testing of urban mass transportation employees responsible for safety-sensitive functions (as determined by the Secretary), and testing of such employees upon a reasonable suspicion that they have used, without lawful authorization, alcohol or a controlled substance.

(2) In prescribing such regulations, the Secretary shall require that post-accident testing of such an urban mass transportation employee be conducted in the case of any accident involving urban mass transportation in which occurs loss of human life, or, as determined by the Secretary, other serious accidents involving bodily injury or significant property damage.

(3) The Secretary shall promulgate regulations setting forth requirements for a rehabilitation program for the identification and opportunity for treatment of urban mass transportation employees referred to

in paragraph (1) of this subsection who are determined to have used, without lawful authorization, alcohol or a controlled substance. The Secretary shall determine the circumstances under which such employees shall be required to participate in such program. Nothing in this subsection shall preclude an urban mass transportation operation from establishing a program under this subsection in cooperation with any other such operation.

(4) In establishing the program required under paragraph (1) of this subsection, the Secretary shall develop requirements which shall—

(A) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

(B) with respect to the laboratory and testing procedures, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

(i) establish comprehensive standards for all aspects of laboratory drug testing and laboratory procedures to be applied in carrying out this subsection, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimens collected for drug testing;

(ii) specify the drugs for which individuals may be tested; and

(iii) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform drug testing in carrying out this subsection;

(C) provide that all tests which indicate the use, without lawful authorization, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

(D) require that all laboratories involved in the testing of any individual under this subsection shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

(E) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this subparagraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this subsection; and

(F) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(5) No State or local government shall adopt or put into effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations promulgated under this subsection, except that the regulations promulgated under this subsection shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to urban mass transportation employees, or to the general public.

(6)(A) As the Secretary considers appropriate, the Secretary shall require—

(i) disqualification for an established period of time or dismissal of any employee referred to in paragraph (1) of this subsection determined to have used or to have been impaired by alcohol while on duty; and

(ii) disqualification for an established period of time or dismissal of any such employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law or any regulation.

(B) Nothing in this subsection shall be construed to supercede any penalty applicable to an urban mass transportation employee under any other provision of law.

(7) For purposes of this subsection, the term—

(A) "controlled substance" means any substance under section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)) whose use the Secretary has determined poses a risk to transportation safety; and

(b) "urban mass transportation" means all forms of urban mass transportation whose employees are not covered by either section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) or section 12020 of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 State. 5223), as added by this section.

(8) A person shall not be eligible for Federal financial assistance under sections 3, 9, or 18 of the Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1602, 1607a, or 1604) or section 103(e)(4) of title 23, United States Code, if such person—

(A) is required, under regulations prescribed by the Secretary under section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), section 12020 of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100; Stat. 5223), as added by this section, or subsection (e) of this section, to establish a program of alcohol and controlled substances testing; and

(B) fails to establish such a program in accordance with such regulations.

(g) For purposes of this section, the term—

(1) "person" includes any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of the United States, or any State, commonwealth, territory, district, or possession thereof, or of any foreign country; and

(2) "Secretary" means the Secretary of Transportation.

TITLE XII—ORGANIZATION

SEC. 12000. TABLE OF CONTENTS.

The table of contents for this title is as follows:

TITLE I—ORGANIZATION

Sec. 12000. Table of contents.

Subtitle A—National Drug Control Program

Sec. 12001. Short title.
Sec. 12002. Findings.
Sec. 12003. Purposes.
Sec. 12004. Definitions.
Sec. 12005. Establishment of office.
Sec. 12006. Appointment and duties of the director, deputy director and associate director.
Sec. 12007. Duties and responsibilities of the heads of executive branch departments and agencies.
Sec. 12008. Development and submission of national drug control strategy.
Sec. 12009. Submission of national drug control program budget with the annual budget request of the President.
Sec. 12010. High-intensity drug areas.
Sec. 12011. Termination of the National Drug Enforcement Policy Board, the National Narcotics Border Interdiction System, and the White House Drug Abuse Policy Office.
Sec. 12012. Executive reorganization authority.
Sec. 12013. Termination of the Office of National Drug Control Policy.
Sec. 12014. Authorization of appropriations.
Sec. 12015. Effective date.

Subtitle B—Department of Justice Civil Enforcement Enhancement

Sec. 12051. Short title.
Sec. 12052. Findings.
Sec. 12053. Civil enforcement report.
Sec. 12054. Civil enforcement enhancement.
Sec. 12055. Coordination and enhancement of field activities.

Subtitle A—National Drug Control Program

SEC. 12001. SHORT TITLE.

This subtitle may be cited as the "National Narcotics Leadership Act of 1988".

SEC. 12002. FINDINGS.

The Congress finds that—

(1) the problem of illegal drug activity and drug abuse falls across the entire spectrum of Federal activities, both domestically and internationally;

(2) any effective solution to the drug problem of the Nation must involve a comprehensive approach from all levels of government, combining reduction of the demand for drugs through education, research and treatment with rigorous law enforcement and supply reduction initiatives;

(3) an effective solution to the drug problem of the Nation is severely hampered by the large number of Federal agencies with overlapping jurisdiction and fragmented authority which does not encourage effective strategic planning, coordination and cooperation without centralized leadership;

(4) the magnitude and scope of the problem requires a Director of National Drug Control Policy with the responsibility for the coordination and direction of all Federal efforts by the numerous agencies; and

(5) such a director must have sufficient authority and responsibility to lead Federal agencies in making management, policy, and budgetary decisions with respect to all Federal agencies so that a unified and efficient effort can be made to substantially reduce the illegal drug problem.

SEC. 12003. PURPOSES.

The purposes of this subtitle are to—

(1) develop a comprehensive, long-range national drug control strategy for substantially reducing drug trafficking and abuse, particularly among young people;

(2) authorize one official to direct the national drug control policy of the Federal Government, coordinate all United States policy, resources, and operations with respect to drug control, and report directly to the President on all drug control matters;

(3) make such official accountable to the Congress and the people of the United States for the effectiveness of the national drug control strategy; and

(4) provide that the national drug control strategy ensures that Federal, State, and local governments are fully coordinated and efforts are designed to maximize the effectiveness of such strategy.

SEC. 12004. DEFINITIONS.

As used in this subtitle the term—

(1) "drug" shall have the same meaning as the term "controlled substance" as defined

in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6));

(2) "drug control" means any activity of a program conducted by a National Drug Control Program agency designed to reduce, directly or indirectly, the availability and use of drugs, including all efforts to decrease the production, manufacture, importation, distribution, or use of drugs through supply reduction and demand reduction programs;

(3) "supply reduction" means any activity of a program conducted by a National Drug Control Program agency that is designed to reduce, directly or indirectly, the supply of drugs in the United States and abroad, including, but not limited to—

(A) international drug control;

(B) foreign and domestic drug enforcement intelligence;

(C) interdiction; and

(D) domestic drug law enforcement;

(4) "demand reduction" means any activity of a program conducted by a National Drug Control Program agency that is designed to reduce, directly or indirectly, the demand for and use of drugs, including, but not limited to—

(A) drug abuse education;

(B) prevention;

(C) treatment;

(D) research; and

(E) private sector initiatives;

(5) "National Drug Control Program" means the drug control programs, policies and activities that—

(A) the National Drug Control Program agencies undertake pursuant to the responsibilities of each such agency under the national drug control strategy; and

(B) are subject to review by the Director and modification by the President;

(6) "National Drug Control Program agencies" mean the agencies and all dedicated units thereof with responsibilities under the national drug control strategy including the—

(A) Department of Justice, including—

(i) the Drug Enforcement Administration;

(ii) the Federal Bureau of Investigation;

(iii) the United States Attorneys;

(iv) the United States Marshals Service;

(v) the Immigration and Naturalization Service;

(vi) National Central Bureau Interpol; and

(vii) the Criminal and Tax Divisions;

(B) Department of the Treasury, including—

(i) the United States Customs Service;

(ii) the Internal Revenue Service;

(iii) the Bureau of Alcohol, Tobacco and Firearms; and

(iv) the United States Secret Service;

(C) Department of Transportation, including—

(i) the Coast Guard; and

(ii) the Federal Aviation Administration;

(D) Department of State, including—

(i) the Bureau of International Narcotics Matters;

(ii) the Agency for International Development; and

(iii) the United States Information Agency;

(E) Department of Defense;

(F) Department of the Interior;

(G) Department of Agriculture;

(H) Food and Drug Administration;

(I) Department of Health and Human Services, including—

(i) the Alcohol, Drug Abuse and Mental Health Administration;

(ii) the Office for Substance Abuse Prevention;

(iii) the National Institute of Drug Abuse; and

(iv) the Indian Health Service;

(J) Department of Education;

(K) Department of Labor;

(L) ACTION;

(M) Office of Personnel Management;

(N) Central Intelligence Agency and all other intelligence community agencies;

(O) staff elements of the Director of National Drug Control Policy; and

(P) other departments or agencies with drug control responsibilities designated—

(i) jointly by the Director for National Drug Control Policy and the head of the relevant department or agency; or

(ii) by the President.

SEC. 12005. ESTABLISHMENT OF OFFICE.

(a) ESTABLISHMENT OF OFFICE.—There is established in the Executive Office of the President the "Office of National Drug Control Policy" (hereafter in this subtitle referred to as the "Office ").

(b) DIRECTOR AND DEPUTY DIRECTORS.—(1) There shall be at the head of the Office, a Director of National Drug Control Policy (hereafter in this subtitle referred to as the "Director").

(2) There shall be two deputy directors of the Office (hereafter in this subtitle referred to as the "Deputy Directors") as follows:

(A) A Deputy Director for Demand Reduction to be responsible for all programs to reduce the demand for drugs, including drug education, prevention, treatment, research, and private sector programs.

(B) A Deputy Director for Supply Reduction to be responsible for all programs to reduce the supply of drugs, including domestic drug law enforcement, interdiction, international and intelligence programs, and any other program designed to halt the production, importation, manufacture, distribution, or use of drugs.

(3) The Deputy Directors shall assist the Director in carrying out the functions of the Director under this Act.

(c) BUREAU OF STATE AND LOCAL AFFAIRS.—(1) There is established in the Office of National Drug Control Policy a Bureau of State and Local Affairs (hereafter in this subtitle referred to as the "Bureau").

(2) There shall be at the head of the Bureau an Associate Director for National Drug Control Policy.

SEC. 12006. APPOINTMENT AND DUTIES OF THE DIRECTOR, DEPUTY DIRECTORS AND ASSOCIATE DIRECTOR.

(a) APPOINTMENT.—(1) The Director, the Deputy Directors, and the Associate Director shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The Director, the Deputy Directors, and the Associate Director shall each serve at the pleasure of the President. No person may serve as Director, a Deputy Director, or Associate Director for a period of more than 4 years, unless such person is reappointed to that same office by the President, by and with the advice and consent of the Senate. No person shall serve as Director, a Deputy Director, or Associate Director while serving in any other position in the Federal Government.

(3) The Director shall have the rank of Ambassador Extraordinary and Plenipotentiary.

(4) Section 101(a) of the National Security Act of 1947 (50 U.S.C. 402(a)) is amended in the fourth paragraph—

(1) in clause (6) by striking out "and" at the end thereof;

(2) by redesignating clause (7) as clause (8) and inserting before such clause the following:

"(7) the Director of the Office of Drug Control; and".

(5)(A) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"Director of National Drug Control Policy.".

(B) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"Deputy Director for Demand Reduction for National Drug Control Policy.

"Deputy Director for Supply Reduction for National Drug Control Policy.".

(C) Section 5315 of title 5, United States Code, is amended by adding at the end thereof:

"Associate Director for National Drug Control Policy.".

(b) FUNCTION OF DIRECTOR.—The Director shall serve as the principal director and coordinator of United States drug control policy.

(c) AUTHORITIES AND RESPONSIBILITIES OF THE DIRECTOR.—(1) The Director is authorized and directed to notify any National Drug Control Program agency that its policies are not in compliance with the responsibilities of such agency under the National Drug Control Strategy.

(2) The head of each National Drug Control Program agency shall ensure that the agency is in compliance with the responsibilities of such agency under the National Drug Control Strategy, as notified pursuant to paragraph (1) of this subsection. The head of any National Drug Control Program agency may appeal to the President any decision of the Director issued under paragraph (1) of this subsection.

(3) The Director shall—

(A) develop, review, implement and enforce Federal Government policy with respect to drug control programs;

(B) direct and coordinate all Federal Government drug supply reduction efforts, including international, intelligence, interdiction, and domestic drug law enforcement and all other programs designed to halt the production, importation, manufacture, provided in section 12008 of this title;

(C) direct and coordinate efforts between the Federal, State, and local governments, including the review of State and local drug control strategies, and the development of a State and local component to the distribution, and use of drugs;

(D) direct and coordinate all Federal Government drug demand reduction efforts, including education, prevention, treatment, research, and private sector programs;

(E) prepare a national drug control strategy as national drug control strategy as provided in section 12008 of this title;

(F) direct and coordinate the collection and dissemination of information necessary to implement United States policy with respect to drug supply and demand reduction efforts; and

(G) develop a consolidated national drug control policy including—

(i) developing, with the advice of the program managers of departments and agencies with responsibilities under the National Drug Control Program, the consolidated National Drug Control Program budget, and presenting such budget proposal to the President for submission to the Congress; and

(ii) initiating, reviewing, and approving all agency requests for reprogramming National Drug Control Program funds, in accordance with guidelines which shall be established by the Office of Management and Budget.

(d) Consolidating National Drug Control Program Budget.—(1) In developing the National Drug Control Program budget, the Director shall provide each Federal Government program manager, agency head and department head with responsibilities under the national drug control strategy. Each such program manager, agency head, or department head shall submit the drug control budget request of the program, agency, or department to the Director at the same time as such request is submitted to their superiors (and before submission to the Office of Management and Budget) in the preparation of the budget of the President submitted to the Congress under section 1105(a) of title 31, United States Code. The Director shall approve or revise such requests in consultation with the appropriate program manager, agency or department head.

(2) The Director may reprogram funds within National Drug Control Programs.

(3) The Director may transfer, after providing notification to the Committees on Appropriations of the Senate and the House of Representatives, an amount not to exceed 5 per centum of the funds appropriated for one such program to another such program within the same National Drug Control Program agency.

(4) The head of any National Drug Control Program agency may appeal to the President any decision of the Director on budget and reprogramming matters relating to such agency.

(e) Powers of Director.—In carrying out the responsibilities described under subsection (c) the Director may—

(1) select, appoint, employ, and fix compensation of such officers and employees as shall be necessary to carry out the powers and duties of the Office under this title;

(2) direct, with the concurrence of the Secretary of a department or head of an agency employing such personnel, the temporary reassignment of personnel within the Federal Government in order to implement United States drug control policy;

(3) to use, on a reimbursable basis, the available services, equipment, personnel, and facilities of Federal, State, and local agencies to the extent the Director determines appropriate after considering the effectiveness of such existing services, equipment, personnel, and facilities;

(4) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, relating to appointments in the Federal Service, at rates of compensation for individuals not to exceed the daily equivalent of the rate of pay payable from time to time for GS-18 of the General Schedule under section 5332 of title 5, United States Code;

(5) accept and use donations of property from all government agencies;

(6) use the mails in the same manner as any other department or agency of the executive branch; and

(7) monitor National Drug Control Program implementation, including—

(A) conducting program and performance audits and evaluations; and

(B) requesting assistance from the Inspector General of the relevant agency in such audits and evaluations.

(f) Personnel Detailed to the Office.—(1) Notwithstanding any provision of chapter 42 of title 5, United States Code, the Director shall provide the evaluation of the performance of any employee detailed to the Office of National Drug Control Policy for purposes of the applicable performance appraisal system established under chapter 43 of title 5, United States Code, for any rating period, or part thereof, that such employee is detailed to the Office.

(2)(A) Subject to the provisions of subparagraph (B), in filling a position within any Executive agency through promotion, the head of such agency shall give preference to any employee who was detailed to the Office of National Drug Control Policy and received satisfactory performance appraisals during such detail, if—

(i) such employee is otherwise qualified for such position; and

(ii) such employee is eligible for appointment to such position.

(B)(i) Notwithstanding the provisions of subparagraph (A), no preference may be given to any employee under such subparagraph, with respect to a preference eligible (as defined under section 2108(3) of title 5, United States Code) who is eligible for the same position.

(ii) The provisions of subparagraph (A) shall apply to no more than one promotion for any employee.

SEC. 12007. DUTIES AND RESPONSIBILITIES OF THE HEADS OF EXECUTIVE BRANCH DEPARTMENTS AND AGENCIES.

(a) Access to Information.—(1) The heads of all executive branch departments and agencies shall—

(A) provide the Director with all information necessary and relevant to the National Drug Control Program and the development of the national drug control strategy; and

(B) give complete consideration to the requests from the Director for appropriate support for National Drug Control Program activities.

(2) The Director of Central Intelligence shall prescribe such regulations as may be necessary to protect the sources and methods of intelligence program information provided to the Director of National Drug Control Policy under this section.

(b) Budget Responsibilities of Executive Departments and Agencies.—The heads of National Drug Control Program agencies shall ensure—

(1) timely development and submission to the Director by the program managers and heads of component activities of proposed drug control programs and budgets in the format designated by the Director; and

(2) that the Director is provided, in a timely and responsive manner, all information necessary to perform the program and budget responsibilities of the Director.

(c) Certification by the Director.—(1) The heads of National Drug Control Program agencies shall, unless exigent circumstances require otherwise, provide the Director in writing with any proposed changes in policies relating to the activities of such department or agency under the National Drug Control Program prior to implementation of such changes. The Director shall promptly review such proposals and certify to the department or agency head in writing whether such changes are consistent with the National Drug Control Program.

(2) If prior notice of a proposed change under paragraph (1) is not possible, the department or agency head shall notify the Director as soon as is practicable. The Director shall review such change and certify to the department or agency head in writing whether such change is consistent with the National Drug Control Program.

(d) General Services Administration.—The Administrator of General Services shall provide to the Director on a reimbursable basis such administrative support services as the Director may request.

SEC. 12008. DEVELOPMENT AND SUBMISSION OF NATIONAL DRUG CONTROL STRATEGY.

(a) Development and Submission of the National Drug Control Strategy.—(1) No later than 180 days after the first Director is confirmed by the Senate, and in each fiscal year thereafter, the President shall submit to the Congress a National Drug Control Program budget and a complete national drug control strategy. Any part of such strategy that involves classified information may be presented to the Congress in closed proceedings.

(2) The national drug control strategy shall—

(A) be a comprehensive, research based, long-range plan for the Nation to follow in reducing drug abuse in the United States;

(B) indicate the balance between resources devoted to supply and demand reduction; and

(C) include a component on State and local drug control to ensure that the United States pursues a well-coordinated and effective drug control program at all levels of government.

(3)(A) In developing the national drug control strategy, the Director shall consult with—

(i) the National Drug Control Program agencies;

(ii) State and local officials;

(iii) private citizens with demonstrated experience and expertise in drug demand reduction; and

(iv) private citizens with experience and expertise in drug supply reduction.

(B) An initial draft of such strategy shall be circulated by the Director for a period of 30 days, during the 180-day period described under paragraph (1), for the purpose of obtaining comments from the National Drug Control program agencies.

(C) After reviewing the comments obtained under subparagraph (B), the Director shall—

(i) compose a final draft strategy;

(ii) circulate such final draft strategy to National Drug Control Program agencies for a period of 30 days; and

(iii) transmit such final draft strategy and all agency comments to the President.

(D) At the time the President submits the national drug control strategy the Director shall transmit a report to the Congress indicating the persons consulted under this paragraph.

(4) Beginning with the second submission of a budget and strategy described under paragraph (1), the Director shall include a complete evaluation of the effectiveness of United States drug control policy during the preceding year.

(b) Goals and Priorities.—The strategy developed pursuant to subsection (a) shall include—

(1) a complete list of goals and priorities in—

(A) international narcotics control;

(B) intelligence efforts relating to drug supply reduction efforts;

(C) interdiction;

(D) domestic drug law enforcement;

(E) drug demand reduction efforts, including education, prevention, treatment, research, and private sector initiatives; and

(F) cooperative efforts between the Federal, State, and local governments in the area of drug control;

(2) 5 year projections for program and budget priorities and achievable projections for reductions of drug availability, purity, and usage;

(3) a complete assessment of the way the program and budget priorities developed under subsection (a) are intended to implement the strategy and whether such resource levels are sufficient to implement the strategy;

(4) a mechanism of independent, outside, annual assessment of the effectiveness of the national drug control strategy and all programs administered thereto;

(5) the designation of the division of authority in each of the major areas of the National Drug Control Program and a mechanism to ensure maximum coordination and cooperation among all involved agencies; and

(6) the designation of lead agencies with areas of principal responsibility for carrying out the strategy.

(c) Areas of Principal Responsibilities of Strategy.—(1) The Director shall require that any National Drug Control Program agency that conducts an activity which is in the area of principal responsibility of a lead agency as designated under subsection (b)(6) shall—

(A) notify such lead agency in writing of the activity; and

(B) provide such notification prior to conducting such activity, unless exigent circumstances require otherwise.

(2) If a lead agency objects to the conduct of an activity described under paragraph (1), the lead agency and the agency planning to conduct such activity shall refer the matter to the Director for resolution.

(3) Nothing in this subsection may be construed to limit the authority of the Director to establish policies relating to the responsibilities of any National Drug Control Program agency under the national drug control strategy.

SEC. 12009. SUBMISSION OF NATIONAL DRUG CONTROL PROGRAM BUDGET WITH THE ANNUAL BUDGET REQUEST OF THE PRESIDENT.

Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof the following:

"(26) a separate statement of the amount of appropriations requested for the Office of National Drug Control Policy and each program of the National Drug Control Program.".

SEC. 12010. HIGH-INTENSITY DRUG AREAS.

(a) Designation and Assistance.—The Director, upon consultation with the Attorney General, National Drug Control Program agencies, and the several Governors, is authorized to designate certain areas of the country as high intensity drug areas. Upon making such a designation and in order to provide Federal assistance to such area, the Director may—

(1) direct, with the concurrence of the Secretary of a department or head of an agency employing such personnel, the temporary reassignment of Federal personnel to such areas;

(2) transfer, after providing notification to the Committees on Appropriations of the Senate and the House of Representatives, an amount not to exceed 5 per centum of the funds appropriated for one such program to another such program; and

(3) take any other action authorized under section 12006 of this subtitle to provide increased Federal assistance to such areas.

(b) Coordination.—The Director shall coordinate any action taken under subsection (a) of this section with State and local officials.

SEC. 12011. TERMINATION OF THE NATIONAL DRUG ENFORCEMENT POLICY BOARD, THE NATIONAL NARCOTICS BORDER INTERDICTION SYSTEM, AND THE WHITE HOUSE DRUG ABUSE POLICY OFFICE.

(a) National Drug Enforcement Policy Board.—(1) The National Drug Enforcement Policy Board is terminated effective on March 1, 1989. Upon such termination, all records and property of the National Drug Enforcement Policy Board shall be transferred to the Director. The Director of the Office of Management and Budget shall take such actions as are necessary to facilitate such transfer.

(2) All strategies, implementation plans, memoranda of understanding and directives that have been issued or made by the National Drug Policy Board before the date of the enactment of this subtitle shall continue in effect until modified, terminated, superseded, set aside, or revoked by the President or the Director.

(3) The National Narcotics Act of 1984 (21 U.S.C. 1201 et seq.) is repealed effective on March 1, 1989.

(b) National Narcotics Border Interdiction System.—Notwithstanding any other provision of law, no funds may be expended for any activities or operations of the national narcotics border interdiction system after 180 days after the date on which the first Director appointed under this title is confirmed by the Senate. The Director shall provide that the functions of the national narcotics border interdiction system are transferred to other agencies to the extent such activities continue after the date of the enactment of this title. The Director of the Office of Management and Budget shall take such action as is necessary to facilitate such transfer.

(c) White House Office of Drug Abuse Policy.—(1) No later than 90 days after the date of enactment of this title, the White House Drug Abuse Policy Office established under Executive Order No. 12368 shall terminate.

(2) Sections 103, 201, 202, 203, 204, and 206 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act (21 U.S.C. 1103, 1111, 1112, 1113, 1114, and 1116) are repealed. Section 205 of such Act is redesignated as section 201.

SEC. 12012. EXECUTIVE REORGANIZATION AUTHORITY.

(a) Report to the Congress and the President.—No later than 1 year after the date of enactment of this title the Director shall submit a report to the President and the Congress on the necessity to group, coordinate, and consolidate agencies and functions of the Government involved in drug supply reduction and drug demand reduction in order to—

(1) promote better execution of the laws;

(2) provide more effective management of the executive branch;

(3) reduce expenditures and promote economy to the fullest extent consistent with the efficient operation of the executive branch; and

(4) reduce the number of agencies by consolidating agencies having similar functions under a single head, and to abolish such agencies or functions as may not be necessary for the efficient conduct of the executive branch.

(b) Legislative Recommendations.—The report submitted under subsection (a) shall include any appropriate legislative recommendations for the Congress.

(c) United States Coast Guard Study.—In addition, the report submitted under subsection (a) shall include a comprehensive review of all options for United States Coast Guard reorganization including the creation of a separate department for the purpose of enhancing the capabilities, manpower and equipment of the United States Coast Guard in order to substantially increase the long-term role of the Coast Guard in drug interdiction and enforcement efforts and to ensure a steady and assured source of funding for this important mission.

SEC. 12013. TERMINATION OF THE OFFICE OF NATIONAL DRUG CONTROL POLICY.

This subtitle and the amendments made by this subtitle are repealed effective on the date occurring 5 years after the date of the enactment of this subtitle.

SEC. 12014. AUTHORIZATION OF APPROPRIATIONS.

For the purposes of carrying out this subtitle, there are authorized to be appropriated $7,500,000 for fiscal year 1989 and such sums as may be necessary for each of the 4 succeeding fiscal years, to remain available until expended.

SEC. 12015. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall be effective on January 21, 1989.

Subtitle B—Department of Justice Civil Enforcement Enhancement

SEC. 12051. SHORT TITLE.

This subtitle may be cited as the "Justice Department Organized Crime and Drug Enforcement Enhancement Act of 1988".

SEC. 12052. FINDINGS.

The Congress finds that—

(1) organized criminal activity contributes significantly to the importation, distribution, and sale of illegal and dangerous drugs;

(2) trends in drug trafficking patterns necessitate a response that gives appropriate weight to—

(A) the prosecution of drug-related crimes; and

(B) the forfeiture and seizure of assets and other civil remedies used to strike at the inherent strength of the drug networks and organized crime groups;

(3) law enforcement components of the Department of Justice should give high priority to the enforcement of civil sanctions against drug networks and organized crime groups; and

(4) the structure of the Department of Justice Criminal Division needs to be reviewed in order to determine the most effective structure to address such drug-related problems.

SEC. 12053. CIVIL ENFORCEMENT REPORT.

(a) Report.—Not later than 1 year after the date of the enactment of this title, the Director of National Drug Control Policy (the Director) in consultation with the Attorney General, shall report to the Congress on the necessity to establish a new division or make other organizational changes within the Department of Justice in order to promote better civil and criminal law enforcement. In preparing such report, the Director shall consider restructuring and consolidating one or more of the following divisions and programs—

(1) the Organized Crime and Racketeering Section of the Criminal Division and all subordinate strike forces therein;

(2) the Narcotic and Dangerous Drug Section of the Criminal Division;

(3) the Asset Forfeiture Office of the Criminal Division; and

(4) the Organized Crime Drug Enforcement Task Force Program;

(b) LEGISLATIVE RECOMMENDATIONS.—The report submitted under subsection (a) shall include appropriate legislative recommendations for the Congress.

SEC. 12054. CIVIL ENFORCEMENT ENHANCEMENT.

(a) DUTY OF ATTORNEY GENERAL.—The Attorney General shall insure that each component of the Department of Justice having criminal law enforcement responsibilities with respect to the prosecution of organized crime and controlled substances violations, including each United States Attorney's Office, attaches a high priority to the enforcement of civil statutes creating ancillary sanctions and remedies for such violations, such as civil penalties and actions, forfeitures, injunctions and restraining orders, and collection of fines.

(b) DUTY OF ASSOCIATE ATTORNEY GENERAL.—The Associate Attorney General shall be responsible for implementing the policy set forth in this subsection.

(c) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $2,175,000 for salaries and expenses to the Department of Justice General Legal Activities Account and $2,175,000 for salaries and expenses for United States Attorneys for fiscal year 1989.

(2) Any appropriation of funds authorized under paragraph (1) shall be—

(A) in addition to any appropriations requested by the President in the 1989 fiscal year budget submitted by the President to the Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989; and

(B) used to increase the number of field attorneys and related support staff over such personnel levels employed at the Department of Justice on September 30, 1988.

(3) Any increase in full-time equivalent positions described under paragraph (2)(B) shall be exclusively used for asset forfeiture and civil enforcement and be assigned to appropriate field offices of the Organized Crime and Racketeering Section and the Organized Crime Drug Enforcement Task Forces.

(d) REPORTING REQUIREMENT.—The Attorney General, at the end of each such fiscal year, shall file a report with the Congress setting forth the extent of such enforcement efforts, as well as the need for any enhancements in resources necessary to carry out this policy.

SEC. 12055. COORDINATION AND ENHANCEMENT OF FIELD ACTIVITIES.

(a) FIELD OFFICES.—To the greatest extent feasible, field offices of the Organized Crime and Racketeering Section and the Organized Crime Drug Enforcement Task Forces should be colocated with offices of the appropriate United States Attorney in order to enhance and coordinate their respective activities.

(b) TASK FORCE AGENTS.—To the greatest extent feasible, those agents assigned to the Organized Crime Drug Enforcement Task Force program shall be dedicated exclusively to and located with the Task Forces so that the Task Force personnel may develop increased expertise and function as a working unit. Those agents assigned to the Task Forces from the various participating agencies shall be given credit for the work of the Task Force, regardless of the statutory authority used to prosecute Task Force cases or the criminal or civil nature of the investigation.

(c) EXPENSES OF TASK FORCES.—(1) Beginning in fiscal year 1990, the Attorney General in his budget shall submit a separate appropriations request for expenses relating to all Federal agencies participating in the Organized Crime Drug Enforcement Task Forces. Such appropriations shall be made to the Department of Justice's Interagency Law Enforcement Appropriation Account for the Attorney General to make reimbursements to the involved agencies as necessary.

(2) The appropriations and reimbursements procedure described under paragraph (1) shall—

(A) provide for the flexibility of the Task Forces which is vital to success;

(B) permit Federal law enforcement resources to be shifted in response to changing patterns of organized criminal drug activities;

(C) permit the Attorney General to reallocate resources among the organizational components of the Task Forces and between regions without undue delay; and

(D) ensure that the Task Forces function as a unit, without the competition for resources among the participating agencies that would undermine the overall effort.

TECHNICAL CORRECTIONS ACT

KASTEN AMENDMENT NO. 3367

(Ordered to lie on the table.)

Mr. KASTEN submitted an amendment intended to be proposed by him to the bill (S. 2238) to make technical corrections relating to the Tax Reform Act of 1986, and for other purposes; as follows:

In section 795 of the bill, as proposed to be added by the amendment, strike subsection (e) and insert:

(e) REPEAL OF SUSPENSE ACCOUNT FOR FARM CORPORATIONS WITH GROSS RECEIPTS IN EXCESS OF $100,000,000.—

(1) IN GENERAL.—Section 447(i) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(7) CORPORATION TO WHICH SUBSECTION APPLIES.—This subsection applies to any family corporation if, for each prior taxable year beginning after December 31, 1985, such corporation (or any predecessor corporation) did not have gross receipts exceeding $100,000,000. For purposes of the preceding sentence, all corporations which are members of the same controlled groups of corporations (within the meaning of section 1563(a)) shall be treated as 1 corporation and the rules of subsection (d)(2)(B) shall apply."

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 447(i) of such Code is amended by inserting "to which this subsection applies" after "family corporation".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in subsection (c) or (d) or this subsection, the amendments made by this section shall take effect as if included in the amendments made by section 803 of the Tax Reform Act of 1986.

(2) SUBSECTION (e).—The amendment made by subsection (e) shall take effect as if included in the amendments made by section 10205 of the Revenue Act of 1987.

● Mr. KASTEN. Mr. President, the Senate Finance Committee's amendment to the Technical Corrections Act of 1988 repeals the so-called heifer tax. The committee's action reflects a consensus in the Congress that the 1986 Tax Reform Act's capitalization requirement is a truly burdensome and unfair tax on America's livestock farmers—and that it should be repealed.

However, the effective date of this provision would apply only to costs incurred after December 31, 1988. For tax year 1988, family farmers will continue to be liable for the additional tax and enormous recordkeeping requirements imposed by a provision of the Tax Code that no one disagrees should be repealed. Moreover, retroactive repeal of the heifer tax will get the Internal Revenue Service out of the absurd position of having to enforce compliance with tax law that was effective for only 2 years.

I intend to offer an amendment to the Senate Finance Committee's amendment to the Technical Corrections Act of 1988 that would repeal the heifer tax retroactive to December 31, 1986. The revenue loss would be offset by repealing a provision in the Tax Code that permits large farming corporations to avoid their obligation to pay their taxes on a current basis. The 1987 reconciliation bill correctly required large farming corporations to switch from cash to accrual account. However, these corporations were allowed to suspend their obligation to pay hundreds of millions of dollars in taxes on previously earned income. My amendment would repeal the suspense account for farm corporations with annual receipts in excess of $100 million and require full payment of the deferred taxes over the next 10 years.

My amendment would return simplicity and credibility to the tax treatment of livestock production and it will also restore tax equity and fairness between small- to medium-sized family farms and large farming corporations.●

PARENTAL AND EMERGENCY MEDICAL LEAVE

DOLE AMENDMENT NO. 3368

(Ordered to lie on the table.)

Mr. DOLE submitted an amendment to amendment No. 3309 proposed by Mr. BYRD to the bill S. 2488, supra; as follows:

At the end of amendment 3309 add the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.60 an hour during the year beginning January 1, 1989, not less than $3.85 an hour during the year beginning January 1, 1990, and not less than $4.10 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) In General.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) Preservation of Coverage.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS

(a) Special Industry Committees.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) Minimum Wage.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(b) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) Wage Orders.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b).

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) Employment Under Special Certificates.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. 5. TIP CREDIT.

The third sentence of section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)) is amended by striking out "in excess of 40 per centum of the applicable minimum wage rate, except that" and inserting in lieu thereof the following: "in excess of—

"(1) 45 percent of the applicable minimum wage rate during the period ending December 31, 1988, or

"(2) 50 percent of the applicable minimum wage rate after December 31, 1988,

except that".

SEC. 6. NEW HIRE WAGE.

(a) Amendment.—Section 15 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end thereof the following new subsection:

"(e)(1)(A) Any employer may, in lieu of the minimum wage prescribed by section 6, pay any employee the wage prescribed by subparagraph (B) if such employee has not been previously employed by such employer.

"(B) The wage referred to in subparagraph (A) shall be at least a wage equal to 80 percent of the wage prescribed by section 6, but at least $3.35 per hour.

"(2) An employer may pay an employee the minimum wage authorized by paragraph (1) for a period not to exceed 90 days beginning with the day the employee began employment with the employer.

"(3) No employee may be displaced by any employer (including partial displacement such as reduction in hours, wages, or employment benefits) as a result of an employer paying the rate described in this subsection.".

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to employees first employed by an employer on or after January 1, 1989.

BYRD AMENDMENTS NOS. 3369 AND 3370

(Ordered to lie on the table.)

Mr. BYRD submitted two amendments intended to be proposed by him to the bill S. 2488, supra; as follows:

Amendment No. 3369

At the appropriate place add the following: None of the provisions of this act shall become effective until the following has become enacted:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Anti-Substance Abuse Act of 1988".

SEC. 2. ORGANIZATION OF ACT.

The organization of this Act is as follows:

Title I. Organization.
Title II. Crimes and Penalties and Law Enforcement.
Title III. Prevention, Education, and Treatment.
Title IV. International Narcotics Control and Assistance to Foreign Countries.
Title V. User Accountability.
Title VI. Sense of the Congress on drug funding.
Title VII. Death Penalty in Case of Drug Related Killings.

TITLE I—ORGANIZATION

SEC. 1000. TABLE OF CONTENTS.

The table of contents for this title is as follows:

TITLE I—ORGANIZATION

Sec. 1000. Table of contents.
Subtitle A—National Drug Control Program
Sec. 1001. Short title.
Sec. 1002. Findings.
Sec. 1003. Purposes.
Sec. 1004. Definitions.
Sec. 1005. Establishment of office.
Sec. 1006. Appointment and duties of the director, deputy director and associate director.
Sec. 1007. Duties and responsibilities of the heads of executive branch departments and agencies.
Sec. 1008. Development and submission of national drug control strategy.
Sec. 1009. Submission of national drug control program budget with the annual budget request of the President.
Sec. 1010. High-intensity drug areas.
Sec. 1011. Termination of the National Drug Enforcement Policy Board, the National Narcotics Border Interdiction System, and the White House Drug Abuse Policy Office.
Sec. 1012. Executive reorganization authority.
Sec. 1013. Termination of the Office of National Drug Control Policy.
Sec. 1014. Authorization of appropriations.
Sec. 1015. Effective date.
Subtitle B—Department of Justice Civil Enforcement Enhancement
Sec. 1051. Short title.
Sec. 1052. Findings.
Sec. 1053. Civil enforcement report.
Sec. 1054. Civil enforcement enhancement.
Sec. 1055. Coordination and enhancement of field activities.

Subtitle A—National Drug Control Program

SEC. 1001. SHORT TITLE.

This subtitle may be cited as the "National Narcotics Leadership Act of 1988".

SEC. 1002. FINDINGS.

The Congress finds that—

(1) the problem of illegal drug activity and drug abuse falls across the entire spectrum

of Federal activities, both domestically and internationally;

(2) any effective solution to the drug problem of the Nation must involve a comprehensive approach from all levels of government, combining reduction of the demand for drugs through education, research and treatment with rigorous law enforcement and supply reduction initiatives;

(3) an effective solution to the drug problem of the Nation is severely hampered by the large number of Federal agencies with overlapping jurisdiction and fragmented authority which does not encourage effective strategic planning, coordination and cooperation without centralized leadership;

(4) the magnitude and scope of the problem requires a Director of National Drug Control Policy with the responsibility for the coordination and direction of all Federal efforts by the numerous agencies; and

(5) such a director must have sufficient authority and responsibility to lead Federal agencies in making management, policy, and budgetary decisions with respect to all Federal agencies so that a unified and efficient effort can be made to substantially reduce the illegal drug problem.

SEC. 1003. PURPOSES.

The purposes of this subtitle are to—

(1) develop a comprehensive, long-range national drug control strategy for substantially reducing drug trafficking and abuse, particularly among young people;

(2) authorize one official to direct the national drug control policy of the Federal Government, coordinate all United States policy, resources, and operations with respect to drug control, and report directly to the President on all drug control matters;

(3) make such official accountable to the Congress and the people of the United States for the effectiveness of the national drug control strategy; and

(4) provide that the national drug control strategy ensures that Federal, State, and local governments are fully coordinated and efforts are designed to maximize the effectiveness of such strategy.

SEC. 1004. DEFINITIONS.

As used in this subtitle the term—

(1) "drug" shall have the same meaning as the term "controlled substance" as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6));

(2) "drug control" means any activity of a program conducted by a National Drug Control Program agency designed to reduce, directly or indirectly, the availability and use of drugs, including all efforts to decrease the production, manufacture, importation, distribution, or use of drugs through supply reduction and demand reduction programs;

(3) "supply reduction" means any activity of a program conducted by a National Drug Control Program agency that is designed to reduce, directly or indirectly, the supply of drugs in the United States and abroad, including, but not limited to—

(A) international drug control;

(B) foreign and domestic drug enforcement intelligence;

(C) interdiction; and

(D) domestic drug law enforcement;

(4) "demand reduction" means any activity of a program conducted by a National Drug Control Program agency that is designed to reduce, directly or indirectly, the demand for and use of drugs, including, but not limited to—

(A) drug abuse education;

(B) prevention;

(C) treatment;

(D) research; and

(E) private sector initiatives;

(5) "National Drug Control Program" means the drug control programs, policies and activities that—

(A) the National Drug Control Program agencies undertake pursuant to the responsibilities of each such agency under the national drug control strategy; and

(B) are subject to review by the Director and modification by the President;

(6) "National Drug Control Program agencies" mean the agencies and all dedicated units thereof with responsibilities under the national drug control strategy including the—

(A) Department of Justice, including—

(i) the Drug Enforcement Administration;

(ii) the Federal Bureau of Investigation;

(iii) the United States Attorneys;

(iv) the United States Marshals Service;

(v) the Immigration and Naturalization Service;

(vi) National Central Bureau Interpol; and

(vii) the Criminal and Tax Divisions;

(B) Department of the Treasury, including—

(i) the United States Customs Service;

(ii) the Internal Revenue Service;

(iii) the Bureau of Alcohol, Tobacco and Firearms; and

(iv) the United States Secret Service;

(C) Department of Transportation, including—

(i) the Coast Guard; and

(ii) the Federal Aviation Administration;

(D) Department of State, including—

(i) the Bureau of International Narcotics Matters;

(ii) the Agency for International Development; and

(iii) the United States Information Agency;

(E) Department of Defense;

(F) Department of the Interior;

(G) Department of Agriculture;

(H) Food and Drug Administration;

(I) Department of Health and Human Services, including—

(i) the Alcohol, Drug Abuse and Mental Health Administration;

(ii) the Office for Substance Abuse Prevention;

(iii) the National Institute of Drug Abuse; and

(iv) the Indian Health Service;

(J) Department of Education;

(K) Department of Labor;

(L) ACTION;

(M) Office of Personnel Management;

(N) Central Intelligence Agency and all other intelligence community agencies;

(O) staff elements of the Director of National Drug Control Policy; and

(P) other departments or agencies with drug control responsibilities designated—

(i) jointly by the Director for National Drug Control Policy and the head of the relevant department or agency; or

(ii) by the President.

SEC. 1005. ESTABLISHMENT OF OFFICE.

(a) Establishment of Office.—There is established in the Executive Office of the President the "Office of National Drug Control Policy" (hereafter in this subtitle referred to as the "Office ").

(b) Director and Deputy Directors.—(1) There shall be at the head of the Office, a Director of National Drug Control Policy (hereafter in this subtitle referred to as the "Director").

(2) There shall be two deputy directors of the Office (hereafter in this subtitle referred to as the "Deputy Directors") as follows:

(A) A Deputy Director for Demand Reduction to be responsible for all programs to reduce the demand for drugs, including drug education, prevention, treatment, research, and private sector programs.

(B) A Deputy Director for Supply Reduction to be responsible for all programs to reduce the supply of drugs, including domestic drug law enforcement, interdiction, international and intelligence programs, and any other program designed to halt the production, importation, manufacture, distribution, or use of drugs.

(3) The Deputy Directors shall assist the Director in carrying out the functions of the Director under this Act.

(c) Bureau of State and Local Affairs.—(1) There is established in the Office of National Drug Control Policy a Bureau of State and Local Affairs (hereafter in this subtitle referred to as the "Bureau").

(2) There shall be at the head of the Bureau an Associate Director for National Drug Control Policy.

SEC. 1006. APPOINTMENT AND DUTIES OF THE DIRECTOR, DEPUTY DIRECTORS AND ASSOCIATE DIRECTOR.

(a) Appointment.—(1) The Director, the Deputy Directors, and the Associate Director shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The Director, the Deputy Directors, and the Associate Director shall each serve at the pleasure of the President. No person may serve as Director, a Deputy Director, or Associate Director for a period of more than 4 years, unless such person is reappointed to that same office by the President, by and with the advice and consent of the Senate. No person shall serve as Director, a Deputy Director, or Associate Director while serving in any other position in the Federal Government.

(3) The Director shall have the rank of Ambassador Extraordinary and Plenipotentiary.

(4) Section 101(a) of the National Security Act of 1947 (50 U.S.C. 402(a)) is amended in the fourth paragraph—

(1) in clause (6) by striking out "and" at the end thereof;

(2) by redesignating clause (7) as clause (8) and inserting before such clause the following:

"(7) the Director of the Office of Drug Control; and".

(5)(A) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"Director of National Drug Control Policy.".

(B) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"Deputy Director for Demand Reduction for National Drug Control Policy.

"Deputy Director for Supply Reduction for National Drug Control Policy.".

(C) Section 5315 of title 5, United States Code, is amended by adding at the end thereof:

"Associate Director for National Drug Control Policy.".

(b) Function of Director.—The Director shall serve as the principal director and coordinator of United States drug control policy.

(c) Authorities and Responsibilities of the Director.—(1) The Director is authorized and directed to notify any National Drug Control Program agency that its policies are not in compliance with the responsibilities of such agency under the National Drug Control Strategy.

(2) The head of each National Drug Control Program agency shall ensure that the agency is in compliance with the responsibilities of such agency under the National Drug Control Strategy, as notified pursuant to paragraph (1) of this subsection. The head of any National Drug Control Program agency may appeal to the President any decision of the Director issued under paragraph (1) of this subsection.

(3) The Director shall—

(A) develop, review, implement and enforce Federal Government policy with respect to drug control programs;

(B) direct and coordinate all Federal Government drug supply reduction efforts, including international, intelligence, interdiction, and domestic drug law enforcement and all other programs designed to halt the production, importation, manufacture, provided in section 1008 of this title;

(C) direct and coordinate efforts between the Federal, State, and local governments, including the review of State and local drug control strategies, and the development of a State and local component to the distribution, and use of drugs;

(D) direct and coordinate all Federal Government drug demand reduction efforts, including education, prevention, treatment, research, and private sector programs;

(E) prepare a national drug control strategy as national drug control strategy as provided in section 1008 of this title;

(F) direct and coordinate the collection and dissemination of information necessary to implement United States policy with respect to drug supply and demand reduction efforts; and

(G) develop a consolidated national drug control policy including—

(i) developing, with the advice of the program managers of departments and agencies with responsibilities under the National Drug Control Program, the consolidated National Drug Control Program budget, and presenting such budget proposal to the President for submission to the Congress; and

(ii) initiating, reviewing, and approving all agency requests for reprogramming National Drug Control Program funds, in accordance with guidelines which shall be established by the Office of Management and Budget.

(d) Consolidating National Drug Control Program Budget.—(1) In developing the National Drug Control Program budget, the Director shall provide each Federal Government program manager, agency head and department head with responsibilities under the national drug control strategy. Each such program manager, agency head, or department head shall submit the drug control budget request of the program, agency, or department to the Director at the same time as such request is submitted to their superiors (and before submission to the Office of Management and Budget) in the preparation of the budget of the President submitted to the Congress under section 1105(a) of title 31, United States Code. The Director shall approve or revise such requests in consultation with the appropriate program manager, agency or department head.

(2) The Director may reprogram funds within National Drug Control Programs.

(3) The Director may transfer, after providing notification to the Committees on Appropriations of the Senate and the House of Representatives, an amount not to exceed 5 per centum of the funds appropriated for one such program to another such program within the same National Drug Control Program agency.

(4) The head of any National Drug Control Program agency may appeal to the President any decision of the Director on budget and reprogramming matters relating to such agency.

(e) Powers of Director.—In carrying out the responsibilities described under subsection (c) the Director may—

(1) select, appoint, employ, and fix compensation of such officers and employees as shall be necessary to carry out the powers and duties of the Office under this title;

(2) direct, with the concurrence of the Secretary of a department or head of an agency employing such personnel, the temporary reassignment of personnel within the Federal Government in order to implement United States drug control policy;

(3) to use, on a reimbursable basis, the available services, equipment, personnel, and facilities of Federal, State, and local agencies to the extent the Director determines appropriate after considering the effectiveness of such existing services, equipment, personnel, and facilities;

(4) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, relating to appointments in the Federal Service, at rates of compensation for individuals not to exceed the daily equivalent of the rate of pay payable from time to time for GS-18 of the General Schedule under section 5332 of title 5, United States Code;

(5) accept and use donations of property from all government agencies;

(6) use the mails in the same manner as any other department or agency of the executive branch; and

(7) monitor National Drug Control Program implementation, including—

(A) conducting program and performance audits and evaluations; and

(B) requesting assistance from the Inspector General of the relevant agency in such audits and evaluations.

(f) Personnel Detailed to the Office.—(1) Notwithstanding any provision of chapter 42 of title 5, United States Code, the Director shall provide the evaluation of the performance of any employee detailed to the Office of National Drug Control Policy for purposes of the applicable performance appraisal system established under chapter 43 of title 5, United States Code, for any rating period, or part thereof, that such employee is detailed to the Office.

(2)(A) Subject to the provisions of subparagraph (B), in filling a position within any Executive agency through promotion, the head of such agency shall give preference to any employee who was detailed to the Office of National Drug Control Policy and received satisfactory performance appraisals during such detail, if—

(i) such employee is otherwise qualified for such position; and

(ii) such employee is eligible for appointment to such position.

(B)(i) Notwithstanding the provisions of subparagraph (A), no preference may be given to any employee under such subparagraph, with respect to a preference eligible (as defined under section 2108(3) of title 5, United States Code) who is eligible for the same position.

(ii) The provisions of subparagraph (A) shall apply to no more than one promotion for any employee.

SEC. 1007. DUTIES AND RESPONSIBILITIES OF THE HEADS OF EXECUTIVE BRANCH DEPARTMENTS AND AGENCIES.

(a) Access to Information.—(1) The heads of all executive branch departments and agencies shall—

(A) provide the Director with all information necessary and relevant to the National Drug Control Program and the development of the national drug control strategy; and

(B) give complete consideration to the requests from the Director for appropriate support for National Drug Control Program activities.

(2) The Director of Central Intelligence shall prescribe such regulations as may be necessary to protect the sources and methods of intelligence program information provided to the Director of National Drug Control Policy under this section.

(b) Budget Responsibilities of Executive Departments and Agencies.—The heads of National Drug Control Program agencies shall ensure—

(1) timely development and submission to the Director by the program managers and heads of component activities of proposed drug control programs and budgets in the format designated by the Director; and

(2) that the Director is provided, in a timely and responsive manner, all information necessary to perform the program and budget responsibilities of the Director.

(c) Certification by the Director.—(1) The heads of National Drug Control Program agencies shall, unless exigent circumstances require otherwise, provide the Director in writing with any proposed changes in policies relating to the activities of such department or agency under the National Drug Control Program prior to implementation of such changes. The Director shall promptly review such proposals and certify to the department or agency head in writing whether such changes are consistent with the National Drug Control Program.

(2) If prior notice of a proposed change under paragraph (1) is not possible, the department or agency head shall notify the Director as soon as is practicable. The Director shall review such change and certify to the department or agency head in writing whether such change is consistent with the National Drug Control Program.

(d) General Services Administration.—The Administrator of General Services shall provide to the Director on a reimbursable basis such administrative support services as the Director may request.

SEC. 1008. DEVELOPMENT AND SUBMISSION OF NATIONAL DRUG CONTROL STRATEGY.

(a) Development and Submission of the National Drug Control Strategy.—(1) No later than 180 days after the first Director is confirmed by the Senate, and in each fiscal year thereafter, the President shall submit to the Congress a National Drug Control Program budget and a complete national drug control strategy. Any part of such strategy that involves classified information may be presented to the Congress in closed proceedings.

(2) The national drug control strategy shall—

(A) be a comprehensive, research based, long-range plan for the Nation to follow in reducing drug abuse in the United States;

(B) indicate the balance between resources devoted to supply and demand reduction; and

(C) include a component on State and local drug control to ensure that the United States pursues a well-coordinated and effective drug control program at all levels of government.

(3)(A) In developing the national drug control strategy, the Director shall consult with—

(i) the National Drug Control Program agencies;

(ii) State and local officials;

(iii) private citizens with demonstrated experience and expertise in drug demand reduction; and

(iv) private citizens with experience and expertise in drug supply reduction.

(B) An initial draft of such strategy shall be circulated by the Director for a period of 30 days, during the 180-day period described under paragraph (1), for the purpose of obtaining comments from the National Drug Control program agencies.

(C) After reviewing the comments obtained under subparagraph (B), the Director shall—

(i) compose a final draft strategy;

(ii) circulate such final draft strategy to National Drug Control Program agencies for a period of 30 days; and

(iii) transmit such final draft strategy and all agency comments to the President.

(D) At the time the President submits the national drug control strategy the Director shall transmit a report to the Congress indicating the persons consulted under this paragraph.

(4) Beginning with the second submission of a budget and strategy described under paragraph (1), the Director shall include a complete evaluation of the effectiveness of United States drug control policy during the preceding year.

(b) GOALS AND PRIORITIES.—The strategy developed pursuant to subsection (a) shall include—

(1) a complete list of goals and priorities in—

(A) international narcotics control;

(B) intelligence efforts relating to drug supply reduction efforts;

(C) interdiction;

(D) domestic drug law enforcement;

(E) drug demand reduction efforts, including education, prevention, treatment, research, and private sector initiatives; and

(F) cooperative efforts between the Federal, State, and local governments in the area of drug control;

(2) 5 year projections for program and budget priorities and achievable projections for reductions of drug availability, purity, and usage;

(3) a complete assessment of the way the program and budget priorities developed under subsection (a) are intended to implement the strategy and whether such resource levels are sufficient to implement the strategy;

(4) a mechanism of independent, outside, annual assessment of the effectiveness of the national drug control strategy and all programs administered thereto;

(5) the designation of the division of authority in each of the major areas of the National Drug Control Program and a mechanism to ensure maximum coordination and cooperation among all involved agencies; and

(6) the designation of lead agencies with areas of principal responsibility for carrying out the strategy.

(c) AREAS OF PRINCIPAL RESPONSIBILITIES OF STRATEGY.—(1) The Director shall require that any National Drug Control Program agency that conducts an activity which is in the area of principal responsibility of a lead agency as designated under subsection (b)(6) shall—

(A) notify such lead agency in writing of the activity; and

(B) provide such notification prior to conducting such activity, unless exigent circumstances require otherwise.

(2) If a lead agency objects to the conduct of an activity described under paragraph (1), the lead agency and the agency planning to conduct such activity shall refer the matter to the Director for resolution.

(3) Nothing in this subsection may be construed to limit the authority of the Director to establish policies relating to the responsibilities of any National Drug Control Program agency under the national drug control strategy.

SEC. 1009. SUBMISSION OF NATIONAL DRUG CONTROL PROGRAM BUDGET WITH THE ANNUAL BUDGET REQUEST OF THE PRESIDENT.

Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof the following:

"(26) a separate statement of the amount of appropriations requested for the Office of National Drug Control Policy and each program of the National Drug Control Program.".

SEC. 1010. HIGH-INTENSITY DRUG AREAS.

(a) DESIGNATION AND ASSISTANCE.—The Director, upon consultation with the Attorney General, National Drug Control Program agencies, and the several Governors, is authorized to designate certain areas of the country as high intensity drug areas. Upon making such a designation and in order to provide Federal assistance to such area, the Director may—

(1) direct, with the concurrence of the Secretary of a department or head of an agency employing such personnel, the temporary reassignment of Federal personnel to such areas;

(2) transfer, after providing notification to the Committees on Appropriations of the Senate and the House of Representatives, an amount not to exceed 5 per centum of the funds appropriated for one such program to another such program; and

(3) take any other action authorized under section 1006 of this subtitle to provide increased Federal assistance to such areas.

(b) COORDINATION.—The Director shall coordinate any action taken under subsection (a) of this section with State and local officials.

SEC. 1011. TERMINATION OF THE NATIONAL DRUG ENFORCEMENT POLICY BOARD, THE NATIONAL NARCOTICS BORDER INTERDICTION SYSTEM, AND THE WHITE HOUSE DRUG ABUSE POLICY OFFICE.

(a) NATIONAL DRUG ENFORCEMENT POLICY BOARD.—(1) The National Drug Enforcement Policy Board is terminated effective on March 1, 1989. Upon such termination, all records and property of the National Drug Enforcement Policy Board shall be transferred to the Director. The Director of the Office of Management and Budget shall take such actions as are necessary to facilitate such transfer.

(2) All strategies, implementation plans, memoranda of understanding and directives that have been issued or made by the National Drug Policy Board before the date of the enactment of this subtitle shall continue in effect until modified, terminated, superseded, set aside, or revoked by the President or the Director.

(3) The National Narcotics Act of 1984 (21 U.S.C. 1201 et seq.) is repealed effective on March 1, 1989.

(b) NATIONAL NARCOTICS BORDER INTERDICTION SYSTEM.—Notwithstanding any other provision of law, no funds may be expended for any activities or operations of the national narcotics border interdiction system after 180 days after the date on which the first Director appointed under this title is confirmed by the Senate. The Director shall provide that the functions of the national narcotics border interdiction system are transferred to other agencies to the extent such activities continue after the date of the enactment of this title. The Director of the Office of Management and Budget shall take such action as is necessary to facilitate such transfer.

(c) WHITE HOUSE OFFICE OF DRUG ABUSE POLICY.—(1) No later than 90 days after the date of enactment of this title, the White House Drug Abuse Policy Office established under Executive Order No. 12368 shall terminate.

(2) Sections 103, 201, 202, 203, 204, and 206 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act (21 U.S.C. 1103, 1111, 1112, 1113, 1114, and 1116) are repealed. Section 205 of such Act is redesignated as section 201.

SEC. 1012. EXECUTIVE REORGANIZATION AUTHORITY.

(a) REPORT TO THE CONGRESS AND THE PRESIDENT.—No later than 1 year after the date of enactment of this title the Director shall submit a report to the President and the Congress on the necessity to group, coordinate, and consolidate agencies and functions of the Government involved in drug supply reduction and drug demand reduction in order to—

(1) promote better execution of the laws;

(2) provide more effective management of the executive branch;

(3) reduce expenditures and promote economy to the fullest extent consistent with the efficient operation of the executive branch; and

(4) reduce the number of agencies by consolidating agencies having similar functions under a single head, and to abolish such agencies or functions as may not be necessary for the efficient conduct of the executive branch.

(b) LEGISLATIVE RECOMMENDATIONS.—The report submitted under subsection (a) shall include any appropriate legislative recommendations for the Congress.

(c) UNITED STATES COAST GUARD STUDY.—In addition, the report submitted under subsection (a) shall include a comprehensive review of all options for United States Coast Guard reorganization including the creation of a separate department for the purpose of enhancing the capabilities, manpower and equipment of the United States Coast Guard in order to substantially increase the long-term role of the Coast Guard in drug interdiction and enforcement efforts and to ensure a steady and assured source of funding for this important mission.

SEC. 1013. TERMINATION OF THE OFFICE OF NATIONAL DRUG CONTROL POLICY.

This subtitle and the amendments made by this subtitle are repealed effective on the date occurring 5 years after the date of the enactment of this subtitle.

SEC. 1014. AUTHORIZATION OF APPROPRIATIONS.

For the purposes of carrying out this subtitle, there are authorized to be appropriated $6,500,000 for fiscal year 1989 and such sums as may be necessary for each of the 4 succeeding fiscal years, to remain available until expended.

SEC. 1015. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall be effective on January 21, 1989.

Subtitle B—Department of Justice Civil Enforcement Enhancement

SEC. 1051. SHORT TITLE.

This subtitle may be cited as the "Justice Department Organized Crime and Drug Enforcement Enhancement Act of 1988".

SEC. 1052. FINDINGS.

The Congress finds that—

(1) organized criminal activity contributes significantly to the importation, distribution, and sale of illegal and dangerous drugs;

(2) trends in drug trafficking patterns necessitate a response that gives appropriate weight to—

(A) the prosecution of drug-related crimes; and

(B) the forfeiture and seizure of assets and other civil remedies used to strike at the inherent strength of the drug networks and organized crime groups;

(3) law enforcement components of the Department of Justice should give high priority to the enforcement of civil sanctions against drug networks and organized crime groups; and

(4) the structure of the Department of Justice Criminal Division needs to be reviewed in order to determine the most effective structure to address such drug-related problems.

SEC. 1053. CIVIL ENFORCEMENT REPORT.

(a) REPORT.—Not later than 1 year after the date of the enactment of this title, the Director of National Drug Control Policy (the Director) in consultation with the Attorney General, shall report to the Congress on the necessity to establish a new division or make other organizational changes within the Department of Justice in order to promote better civil and criminal law enforcement. In preparing such report, the Director shall consider restructuring and consolidating one or more of the following divisions and programs—

(1) the Organized Crime and Racketeering Section of the Criminal Division and all subordinate strike forces therein;

(2) the Narcotic and Dangerous Drug Section of the Criminal Division;

(3) the Asset Forfeiture Office of the Criminal Division; and

(4) the Organized Crime Drug Enforcement Task Force Program;

(b) LEGISLATIVE RECOMMENDATIONS.—The report submitted under subsection (a) shall include appropriate legislative recommendations for the Congress.

SEC. 1054. CIVIL ENFORCEMENT ENHANCEMENT.

(a) DUTY OF ATTORNEY GENERAL.—The Attorney General shall insure that each component of the Department of Justice having criminal law enforcement responsibilities with respect to the prosecution of organized crime and controlled substances violations, including each United States Attorney's Office, attaches a high priority to the enforcement of civil statutes creating ancillary sanctions and remedies for such violations, such as civil penalties and actions, forfeitures, injunctions and restraining orders, and collection of fines.

(b) DUTY OF ASSOCIATE ATTORNEY GENERAL.—The Associate Attorney General shall be responsible for implementing the policy set forth in this subsection.

(c) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $2,175,000 for salaries and expenses to the Department of Justice General Legal Activities Account and $2,175,000 for salaries and expenses for United States Attorneys for fiscal year 1989.

(2) Any appropriation of funds authorized under paragraph (1) shall be—

(A) in addition to any appropriations requested by the President in the 1989 fiscal year budget submitted by the President to the Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989; and

(B) used to increase the number of field attorneys and related support staff over such personnel levels employed at the Department of Justice on September 30, 1988.

(3) Any increase in full-time equivalent positions described under paragraph (2)(B) shall be exclusively used for asset forfeiture and civil enforcement and be assigned to appropriate field offices of the Organized Crime and Racketeering Section and the Organized Crime Drug Enforcement Task Forces.

(d) REPORTING REQUIREMENT.—The Attorney General, at the end of each such fiscal year, shall file a report with the Congress setting forth the extent of such enforcement efforts, as well as the need for any enhancements in resources necessary to carry out this policy.

SEC. 1055. COORDINATION AND ENHANCEMENT OF FIELD ACTIVITIES.

(a) FIELD OFFICES.—To the greatest extent feasible, field offices of the Organized Crime and Racketeering Section and the Organized Crime Drug Enforcement Task Forces should be colocated with offices of the appropriate United States Attorney in order to enhance and coordinate their respective activities.

(b) TASK FORCE AGENTS.—To the greatest extent feasible, those agents assigned to the Organized Crime Drug Enforcement Task Force program shall be dedicated exclusively to and located with the Task Forces so that the Task Force personnel may develop increased expertise and function as a working unit. Those agents assigned to the Task Forces from the various participating agencies shall be given credit for the work of the Task Force, regardless of the statutory authority used to prosecute Task Force cases or the criminal or civil nature of the investigation.

(c) EXPENSES OF TASK FORCES.—(1) Beginning in fiscal year 1990, the Attorney General in his budget shall submit a separate appropriations request for expenses relating to all Federal agencies participating in the Organized Crime Drug Enforcement Task Forces. Such appropriations shall be made to the Department of Justice's Interagency Law Enforcement Appropriation Account for the Attorney General to make reimbursements to the involved agencies as necessary.

(2) The appropriations and reimbursements procedure described under paragraph (1) shall—

(A) provide for the flexibility of the Task Forces which is vital to success;

(B) permit Federal law enforcement resources to be shifted in response to changing patterns of organized criminal drug activities;

(C) permit the Attorney General to reallocate resources among the organizational components of the Task Forces and between regions without undue delay; and

(D) ensure that the Task Forces function as a unit, without the competition for resources among the participating agencies that would undermine the overall effort.

TITLE II—CRIMES AND PENALTIES AND LAW ENFORCEMENT

SEC. 2001. TABLE OF CONTENTS.

TITLE I—CRIMES AND PENALTIES

Sec. 2001. Table of contents.

Subtitle A—Career Criminals

Sec. 2101. Violent felonies by juveniles.
Sec. 2102. Life in prison for three-time drug offender.

Subtitle B—Public Corruption

Sec. 2151. Narcotics-related public corruption.

Subtitle C—Importation

Sec. 2201. Penalties for importation by aircraft and other vessels.

Subtitle D—Schools and Minors

Sec. 2251. Enhanced penalties for offenses involving children.
Sec. 2252. Exception to mandatory minimum penalty for first offense.
Sec. 2253. Elimination of exception to mandatory minimum for second offenses.
Sec. 2254. Possession with intent to distribute within 1,000 feet of a schoolyard.
Sec. 2254A. Playgrounds, youth centers, swimming pools, and video arcades.
Sec. 2255. Application of mandatory minimum penalties to purchase of controlled substances from minors.

Subtitle E—Firearms

Sec. 2302. Enhanced penalties for use of certain weapons in connection with a crime of violence or drug trafficking crime.
Sec. 2304. Prohibition of dangerous weapons in Federal facilities.
Sec. 2305. Inclusion of Federal firearms violations as predicate wiretap offenses.
Sec. 2306. Increased penalties for certain firearms offenses.

Subtitle F—Money Laundering

Sec. 2351. Money laundering forfeitures.
Sec. 2352. Forfeiture of substitute assets for money laundering offense.
Sec. 2353. Undercover "sting" operations in money laundering cases.
Sec. 2354. Specified unlawful activity.
Sec. 2355. Bank Secrecy Act Amendments.
Sec. 2356. Exception to requirement of actual presentation of financial records to grand jury.
Sec. 2357. Right to Financial Privacy Act amendment.

Subtitle G—Juvenile Justice

Sec. 2401. Minors convicted of drug trafficking.

Subtitle I—Prisons

Sec. 2501. Drug offenses within Federal prisons.
Sec. 2502. Payment of costs of incarceration by Federal prisoners.

Subtitle J—Drug Testing as a Condition of Probation and Supervised Release

Sec. 2551. Drug tests as a condition of probation and supervised release.
Sec. 2552. House probation as a condition for probation, parole or supervised release.

Subtitle K—Minor and Technical Criminal Law Amendments Act Amendments

Sec. 2601. Short title.
Sec. 2602. Correction of cross reference.

Sec. 2603. Correction of erroneous reference.
Sec. 2604. Correction of misprint.
Sec. 2605. Correction of typographical error in section 31.
Sec. 2606. Correction of typographical error in section 32.
Sec. 2607. Correction of typographical error in section 152.
Sec. 2608. Conspiracy against civil rights.
Sec. 2609. Deprivation of civil rights.
Sec. 2610. Designation of additional high level officials of the Department of Justice to perform certain functions relating to criminal and ancillary proceedings.
Sec. 2611. Off-highway vehicle identification offense.
Sec. 2612. Redesignation of paragraphs in section 831.
Sec. 2613. Identification fraud.
Sec. 2614. Transmission of wagering information.
Sec. 2615. Punctuation correction in section 1111.
Sec. 2616. Punctuation correction in section 1114.
Sec. 2617. Clarification of relation between two amendments made by public laws enacted in the 99th Congress.
Sec. 2618. Correction of subsection designation.
Sec. 2619. Obstruction of justice amendments.
Sec. 2620. Conforming amendment to table of sections.
Sec. 2621. Cross reference corrections and additions.
Sec. 2622. Cross reference correction and additions.
Sec. 2623. Syntax correction in section 1962.
Sec. 2624. Section 1963 amendments.
Sec. 2625. Clerical correction to table of contents for chapter 119.
Sec. 2626. Section 2516 amendments.
Sec. 2627. Correction of cross reference.
Sec. 2628. Governmental access to contents of electronic communications in and records of a remote computing service.
Sec. 2629. Definition of court for certain applications.
Sec. 2630. Section 3124 amendment.
Sec. 2631. Sentencing classification of offenses.
Sec. 2632. Correction of cross references.
Sec. 2633. Furlough of certain individuals ordered to be committed for insanity.
Sec. 2634. Periodic reports relating to certain hospitalized persons.
Sec. 2635. Insertion of missing close parenthesis.
Sec. 2636. Amendment to rules of evidence conforming terminology relating to sex offenses.
Sec. 2637. Extension of power to make certain examinations to psychologists.
Sec. 2638. Syntactical correction relating to certain counterfeit or forged items.
Sec. 2639. Form correction in Federal rules of civil procedure.
Sec. 2640. Punctuation correction in Federal rules of civil procedure.
Sec. 2641. Definition of 'United States' in reference to terrorist acts.
Sec. 2642. Cross references pertaining to arrest authority for violation of release conditions.
Sec. 2643. Renumbering of sections in chapter 95.
Sec. 2644. Addition of RICO predicate.
Sec. 2645. Asset forfeiture amendments.
Sec. 2646. Authorization of Postal Service to investigate money laundering.
Sec. 2647. Federal prison industries reform.
Sec. 2648. Controlled substances and related amendments.
Sec. 2649. Money laundering amendments.
Sec. 2650. Provision of misdemeanor penalty for certain escapes.
Sec. 2651. Clarification of predicate offense requirements for Armed Career Criminal Act.
Sec. 2652. Authority for the Federal Bureau of Investigation to investigate, upon request, felonious killings of State or local law enforcement officers.
Sec. 2653. Transportation and receipt of stolen securities.
Sec. 2654. Maximum penalty adjustments.
Sec. 2655. Ballistic Knife Act jurisdictional clarifications.
Sec. 2656. Common carrier operation amendments.
Sec. 2657. Explosives offenses amendments.
Sec. 2658. Interstate Agreement on Detainers Act amendments.
Sec. 2659. Clarification of prohibition of possession with intent to distribute controlled substances on aircraft.
Sec. 2660. Clarification of definition of drug trafficking crimes in which use of firearms and armor piercing ammunition is prohibited.
Sec. 2661. Clerical corrections relating to chapter 44.
Sec. 2662. Insertion of missing subsection heading.
Sec. 2663. Insertion of missing table.
Sec. 2664. Correction of items in table of chapters.
Sec. 2665. Insertion of missing letter.
Sec. 2666. Punctuation correction.
Sec. 2667. Reference correction.
Sec. 2668. Conforming amendment to table of sections.
Sec. 2669. Correction of item in table of sections for chapter 206.
Sec. 2670. Correction of items in table of sections for chapter 46.
Sec. 2671. Correction of typographical error.
Sec. 2672. Conforming amendment to table of sections for chapter 117.
Sec. 2673. Elimination of cross references to repealed section.
Sec. 2674. Insertion of missing word.
Sec. 2675. Insertion of missing comma.
Sec. 2676. Corrections of errors in Federal rules of evidence.
Sec. 2677. Supervised release.
Sec. 2678. Injunctions against fraud.
Sec. 2679. Obstruction of Federal audit.
Sec. 2680. Unauthorized use of the term "secret service".
Sec. 2681. Aggregation to permit prosecution of certain schemes to defraud multiple victims.
Sec. 2682. Time for refiling indictment or information following dismissal.
Sec. 2683. Restarting of Speedy Trial Act time period for defendants who abscond on eve of trial.
Sec. 2684. Criminal fines amendments.
Sec. 2685. Syntax correction to minimum sentence provision.
Sec. 2686. Refund of forfeited bail.
Sec. 2687. Special assessments on persons convicted of offenses for which collateral may be forfeited.
Sec. 2688. Conditions of probation.
Sec. 2689. Authority to obtain arrest warrant for foreign fugitive whose specific whereabouts are not known.
Sec. 2690. Misuse of social security number.
Sec. 2691. Petty offense amendments.
Sec. 2692. Nonmailability of locksmithing devices.
Sec. 2693. Assimilative Crimes Act amendments.
Sec. 2694. Protection of foreign officials.
Sec. 2695. Bail pending appeal.
Sec. 2696. Emergency pen register and trap and trace device installation.

Subtitle L—Sentencing Amendments

Sec. 2701. Prisoners transferred to the United States.
Sec. 2702. Records other than transcripts.
Sec. 2703. Standard of review.
Sec. 2704. Hiring outside counsel.
Sec. 2705. Powers of the Commission.
Sec. 2706. Granting incentive awards.
Sec. 2707. Technical correction.
Sec. 2708. Protection of public.
Sec. 2709. Authority to amend annual report.
Sec. 2710. Clarification of restitution provision.
Sec. 2711. Amendment to rule 4, rules of appellate procedure.

Subtitle M—Miscellaneous

Sec. 2751. Marihuana plants.
Sec. 2752. Fines for simple possession.
Sec. 2753. Continuing criminal enterprise.
Sec. 2754. Common carrier operation under the influence of alcohol or drugs.
Sec. 2756. Alien Witness Cooperation Act.
Sec. 2757. Amendment to the Federal rules of criminal procedure.
Sec. 2758. Jurisdiction over Federal lands.
Sec. 2759. Witness serving sentence abroad.
Sec. 2760. National Forest System Safety.
Sec. 2761. United States Marshals.
Sec. 2762. The National Advisory Commission on Law Enforcement.
Sec. 2763. Clarifications regarding drug paraphernalia.
Sec. 2764. Authorization to accept money, goods and services for the purpose of hosting the Interpol American Regional Conference and for the purpose of making a commemorative gift to Interpol General Secretariat.
Sec. 2765. Recovery of costs incurred by State and local law enforcement agencies.

Subtitle N—State and Local Narcotics Control and Justice Assistance Improvements

CHAPTER 1—STATE AND LOCAL NARCOTICS CONTROL AND JUSTICE ASSISTANCE IMPROVEMENTS

Sec. 2821. Bureau of Justice Assistance and Unified Grant Programs.
Sec. 2822. Duties and functions of the Director of the Bureau of Justice Statistics.
Sec. 2823. Justice Assistance Act reauthorization.
Sec. 2824. Technical amendment.

CHAPTER 2—JUVENILE JUSTICE AND DELINQUENCY PREVENTION PROGRAMS

Sec. 2825. Prevention and treatment programs relating to juvenile gangs and juvenile drug abuse and drug trafficking.

Sec. 2826. Authority to make grants.
Sec. 2827. Allocation.
Sec. 2828. Technical assistance and training functions.
Sec. 2829. Technical and conforming amendments to parts B and C of title II.
Sec. 2830. Authorization of appropriations.
Sec. 2831. Technical amendments to part D of title II.

CHAPTER 3—RUNAWAY AND HOMELESS YOUTH

Sec. 2835. Runaway and Homeless Youth Act reauthorization.
Sec. 2836. Authorization of transitional living projects.
Sec. 2837. Grants for runaway and homeless youth centers.

CHAPTER 4—MISSING CHILDREN'S ASSISTANCE ACT

Sec. 2841. Missing Children's Assistance Act.

CHAPTER 5—FAMILY VIOLENCE PREVENTION ACT OF 1988

Sec. 2845. Short title.
Sec. 2846. Data collection and reporting.

CHAPTER 6—REGIONAL INFORMATION SHARING SYSTEMS GRANTS

Sec. 2851. Regional information sharing systems grants.

CHAPTER 7—PUBLIC SAFETY OFFICERS' DEATH BENEFITS IMPROVEMENT

Sec. 2855. Public safety officers' death benefits improvement.
Sec. 2856. National programs for families of public safety officers who have died in the line of duty.

CHAPTER 8—CRIMINAL HISTORY RECORD AND ARREST WARRANT AND STOLEN VEHICLE RECORD INFORMATION IMPROVEMENT

Sec. 2861. Short title.
Sec. 2862. Criminal history record, arrest warrant and stolen vehicle record information.
Sec. 2863. Criminal justice record information data quality research.
Sec. 2864. Technical amendments.

CHAPTER 9—COLLEGE AND RAILROAD POLICE INFORMATION

Sec. 2865. College and railroad police information.

CHAPTER 10—ASSISTANCE TO STATE AND LOCAL COURTS

Sec. 2871. State justice institute reauthorization.

CHAPTER 11—VICTIM COMPENSATION AND ASSISTANCE

SUBCHAPTER A—VICTIMS OF CRIME ACT OF 1984 REAUTHORIZATION

Sec. 2875. Victims of Crime Act of 1984 reauthorization.
Sec. 2876. Victims Assistance Amendment.

SUBCHAPTER B—ESTABLISHMENT OF OFFICE FOR VICTIMS OF CRIME

Sec. 2881. Establishment of office.
Sec. 2882. Technical amendments to Victims of Crime Act.
Sec. 2883. Children's Justice Act Amendments.

SUBCHAPTER C—OTHER AMENDMENTS TO VICTIMS OF CRIME ACT OF 1984

Sec. 2885. Other amendments to Victims of Crime Act of 1984.

Subtitle O—Chemical Diversion and Trafficking Act of 1988

Sec. 2901. Short title.
Sec. 2902. Regulation of listed chemicals and certain machines.
Sec. 2903. Import and export.
Sec. 2904. Definitions.
Sec. 2905. Amendments to section 401 of the Controlled Substances Act.
Sec. 2906. Amendments to section 402 of the Controlled Substances Act.
Sec. 2907. Amendments to section 403 of the Controlled Substances Act.
Sec. 2908. Subpoena power.
Sec. 2909. Forfeiture.
Sec. 2910. Active Department of Justice control program.
Sec. 2911. Effective date.

Subtitle P—Application of United States Immigration Laws and Deportation of Aliens Committing Aggravated Felonies

Sec. 2915. Short title.
Sec. 2916. Definition.
Sec. 2917. Deportation of aliens committing aggravated felonies.
Sec. 2918. Criminal penalties for reentry of certain deported aliens.
Sec. 2919. Criminal penalties for aiding or assisting certain aliens to enter the United States.
Sec. 2920. Criminal penalties for refusal of certain aliens to appear.
Sec. 2921. Special deportation proceedings for aliens convicted of aggravated felonies.
Sec. 2922. Expedited procedures for deportation of aliens convicted of committing aggravated felonies; grounds for appeal.
Sec. 2923. Restriction on withholding deportation.
Sec. 2924. Deportation for weapons violation.
Sec. 2925. Waiver of excludability.
Sec. 2926. Aiding or abetting illegal entry.
Sec. 2927. Bar on Reentry of convicted aggravated alien felons.
Sec. 2928. Forfeiture of instrumentalities used in bringing in and harboring certain aliens.
Sec. 2929. Control of certain aliens in custody.
Sec. 2930. Machine-readable document border security program.

Subtitle Q—Forfeiture and Customs

CHAPTER 1—DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND

Sec. 2931. Department of Justice Assets Forfeiture Fund.

CHAPTER 2—CUSTOMS FORFEITURE FUND

Sec. 2935. Customs Forfeiture Fund.

CHAPTER 4—MISCELLANEOUS FORFEITURE PROVISIONS

Sec. 2945. Transfer by the Attorney General of foreign property.
Sec. 2946. Innocent owner provisions.
Sec. 2947. Warrants.
Sec. 2948. Postal Service assistance.
Sec. 2949. Transfer by the Secretary of the Treasury of foreign property.

CHAPTER 5—ADMINISTRATIVE FORFEITURE

Sec. 2951. Administrative provision.

Subtitle R—United States Magistrates and Court Reforms

Sec. 2955. Felony pleas.
Sec. 2956. Sentencing jurisdiction.
Sec. 2957. Drug days.

Subtitle S—Military Institutions

Sec. 2961. Administration of confinement facilities located on military installations by the Bureau of Prisons.

Subtitle T—Customs Enforcement Amendments

Sec. 2965. Amendments to the Tariff Act of 1930.
Sec. 2966. Amendment to the Federal Aviation Act of 1958.

Subtitle U—Authorization of Additional Appropriations for Drug Enforcement and Interdiction

CHAPTER 1—AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR DRUG ENFORCEMENT PERSONNEL, FISCAL YEAR 1989

Sec. 2971. Immigration and Naturalization Service personnel enhancement.
Sec. 2972. Bureau of Alcohol, Tobacco, and Firearms armed career criminal apprehension program personnel enhancement.
Sec. 2973. Drug Enforcement Administration personnel enhancement.
Sec. 2974. Federal Bureau of Investigation drug enforcement personnel enhancement.
Sec. 2975. United States Marshals Service drug enforcement personnel enhancement.
Sec. 2976. Support of United States prisoners.
Sec. 2977. Federal Prison System.
Sec. 2978. United States Attorneys drug enforcement personnel enhancement.

CHAPTER 2—DRUG INTERDICTION ASSET AND PERSONNEL ENHANCEMENT

Sec. 2981. Short title.

SUBCHAPTER A—COAST GUARD

Sec. 2982. Coast Guard drug interdiction asset enhancement.
Sec. 2983. Coast Guard drug interdiction personnel enhancement.

SUBCHAPTER B—UNITED STATES CUSTOMS SERVICE

Sec. 2984. United States Customs Service drug interdiction asset enhancement.
Sec. 2985. United States Customs Service drug interdiction personnel enhancement.

SUBCHAPTER C—DRUG ENFORCEMENT ADMINISTRATION

Sec. 2986. Drug Enforcement Administration interdiction asset enhancement.

SUBCHAPTER D—IMMIGRATION AND NATURALIZATION SERVICE/BORDER PATROL

Sec. 2987. Border Patrol drug interdiction asset enhancement.
Sec. 2988. Immigration and Naturalization Service/Border Patrol drug interdiction personnel enhancement.

SUBCHAPTER E—RESEARCH AND DEVELOPMENT PROGRAMS TO ASSIST FEDERAL ENFORCEMENT AGENCIES

Sec. 2989. Use of existing Federal research and development facilities for civilian law enforcement.
Sec. 2990. Cargo container drug detection research and development.

SUBCHAPTER F—DRUG ENFORCEMENT TRAINING IMPROVEMENT

Sec. 2991. Federal Law Enforcement Training Center Improvement.
Sec. 2992. Federal law enforcement language training improvement.

SUBCHAPTER G—UNITED STATES-BAHAMAS DRUG INTERDICTION TASK FORCE

Sec. 2993. Interdiction task force programs.

SUBCHAPTER H—STANDARDS OF CARE IN DISCOVERING CONTRABAND

Sec. 2994. Standards of care in discovering contraband.

SUBCHAPTER I—INTERPOL—UNITED STATES NATIONAL CENTRAL BUREAU

Sec. 2995. Interpol—United States National Central Bureau.

SUBCHAPTER J—CIVIL AIR PATROL

Sec. 2996. Civil Air Patrol.

Subtitle A—Career Criminals

SEC. 2101. VIOLENT FELONIES BY JUVENILES.

Section 924(e) of title 18, United States Code, is amended—

(1) in paragraph (e)(2)(B), by inserting ", or any act of juvenile delinquency that would be punishable by imprisonment for such term if committed by an adult," after "one year"; and

(2) by adding at the end thereof the following:

"(C) the term 'conviction' includes a finding that a person has committed an act of juvenile delinquency involving a violent felony.".

SEC. 2102. LIFE IN PRISON FOR THREE-TIME DRUG OFFENDER.

(a) PENALTY FOR THIRD OFFENSE.—Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended—

(1) in the sentence beginning "If any person commits" by striking "one or more prior convictions" through "have become final" and inserting "a prior conviction for a felony drug offense has become final"; and

(2) adding after such sentence the following: "If any person commits a violation of this subparagraph or of sections 405, 405A, or 405B after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term 'felony drug offense' means an offense that is a felony under any provision of this title or any other Federal law that prohibits or restricts conduct relating to narcotic drugs, marihuana, or depressant or stimulant substances or a felony under any law of a State or a foreign country that prohibits or restricts conduct relating to narcotic drugs, marihuana, or depressant or stimulant substances.".

(b) CONFORMING AMENDMENTS.—(1) Sections 405(b), 405A(b) and 405B(c) of the Controlled Substances Act (21 U.S.C. 845(b), 845a(b) and 845b(c)) are amended—

(A) by striking "a prior conviction or convictions" and inserting "a prior conviction", and

(B) by inserting at the end thereof the following: "Penalties for third and subsequent convictions shall be governed by section 401(b)(1)(A).".

(2) Section 405(b) of the Controlled Substances Act (21 U.S.C. 845(b)) is amended by striking "or subsequent" from the caption.

Subtitle B—Public Corruption

SEC. 2151. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

"§ 220. Narcotics and public corruption.

"(a) Any public official who, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or non-performance of any official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State;

shall be guilty of a class B felony.

"(b) Any person who, directly or indirectly, corruptly gives, offers or promises anything of value to any public official, or offers or promises any public official to give anything of value to any other person, with intent—

"(1) to influence any official act;

"(2) to influence such public official to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

"(3) to influence such public official to do or to omit to do any act in violation of such official's lawful duty;

shall be guilty of a class B felony.

"(c) There shall be Federal jurisdiction over an offense described in this section if such offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) For the purpose of this section—

"(1) the term 'public official' means—

"(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror

"(C) an officer or employee or person acting for or on behalf of the government of any State, territory or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, territory, possession, or political subdivision; or

"(D) any person who has been nominated or appointed to be a public official as defined in subparagraph (A), (B), or (C), or has been officially informed that he or she will be so nominated or appointed;

"(2) the term 'official act' means any decision, action or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's official capacity, or in such official's place of trust or profit; and

"(3) the terms 'controlled substance' and 'controlled substance analogue' have the meaning set forth in section 102 of the Controlled Substances Act."

(b) CONFORMING AMENDMENTS.—(1) Section 1961(1) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery),"; and

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (bribery of public officials and witnesses),".

(c) SECTION ANALYSIS.—The section analysis at the beginning of chapter 11, title 18, United States Code, is amended by inserting the following:

"220. Narcotics and public corruption.".

Subtitle C—Importation

SEC. 2201. PENALTIES FOR IMPORTATION BY AIRCRAFT AND OTHER VESSELS.

(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 1010(a) of the Controlled Substances Import and Export Act (21 U.S.C. 960(a)) under circumstances in which—

(1) an aircraft other than a regularly scheduled commercial air carrier was used to import the controlled substance; or

(2) the defendant acted as a pilot, copilot, captain, navigator, flight officer, or any other operation officer aboard any craft or vessel carrying a controlled substance,

shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(A) two levels greater than the level that would have been assigned had the offense not been committed under circumstances set forth in (A) or (B) above; and

(B) in no event less than level 26.

(b) EFFECT OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in subsection (a) so as to achieve a comparable result.

Subtitle D—Schools and Minors

SEC. 2251. ENHANCED PENALTIES FOR OFFENSES INVOLVING CHILDREN.

(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating sections 405, 405A, or 405B of the Controlled Substances Act (21 U.S.C. 845, 845a or 845b) involving a person under 18 years of age shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(1) two levels greater than the level that would have been assigned for the underlying controlled substance offense; and

(2) in no event less than level 26.

(b) EFFECTS OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in subsection (a) so as to achieve a comparable result.

(c) MULTIPLE ENHANCEMENTS.—The guidelines referred to in subsection (a), as promulgated or amended under such subsection, shall provide that an offense that could be subject to multiple enhancements pursuant to such subsection is subject to not more than one such enhancement.

SEC. 2252. EXCEPTION TO MANDATORY MINIMUM PENALTY FOR FIRST OFFENSE.

Section 405(a) of the Controlled Substances Act (21 U.S.C. 845(a)) is amended by inserting at the end the following: "The mandatory minimum sentencing provisions of this subsection shall not apply to offenses involving 5 grams or less of marihuana.".

SEC. 2253. ELIMINATION OF EXCEPTION TO MANDATORY MINIMUM FOR SECOND OFFENSES.

Section 405(b) of the Controlled Substances Act (21 U.S.C. 845(b)) is amended by striking "The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.".

SEC. 2254. POSSESSION WITH INTENT TO DISTRIBUTE WITHIN 1,000 FEET OF A SCHOOLYARD.

Sections 405A (a) and (b) of the Controlled Substances Act (21 U.S.C. 845a(a) and (b)) are amended by inserting ", possessing with intent to distribute," after "distributing".

SEC. 2254A. PLAYGROUNDS, YOUTH CENTERS, SWIMMING POOLS AND VIDEO ARCADES.

(a) Sections 405A (a) and (b) of the Controlled Substances Act (21 U.S.C. 845a (a) and (b)) are amended by inserting ", or within 100 feet of a playground, public or private youth center, public swimming pool, or video arcade facility," after "university".

(b) Section 405A of the Controlled Substances Act (21 U.S.C. 845a) is amended by adding at the end thereof the following subsection:

"(d) For the purposes of this section—

"(1) The term 'playground' means any outdoor facility (including any parking lot appurtenant thereto) intended for recreation, open to the public, and with any portion thereof containing three or more separate apparatus intended for the recreation of children including, but not limited to, sliding boards, swingsets, and teeterboards.

"(2) The term 'youth center' means any recreational facility and/or gymnasium, (including any parking lot appurtenant thereto) intended primarily for use by persons under 18 years of age, which regularly provides athletic, civic, or cultural activities.

"(3) The term 'video arcade facility' means any facility, legally accessible to persons under 18 years of age, intended primarily for the use of pinball and video machines for amusement containing a minimum of ten pinball and/or video machines.

"(4) The term 'swimming pool' includes any parking lot appurtenant thereto.".

SEC. 2255. APPLICATION OF MANDATORY MINIMUM PENALTIES TO PURCHASE OF CONTROLLED SUBSTANCES FROM MINORS.

Section 405b(a) of the Controlled Substances Act (21 U.S.C. 845b(a)) is amended by—

(1) striking "or" after the semicolon in paragraph (1);

(2) striking the period at the end of paragraph (2) and inserting "; or"; and

(3) adding at the end thereof the following:

"(3) receive a controlled substance from a person under 18 years of age in violation of this title or title III.".

Subtitle E—Firearms

SEC. 2302. ENHANCED PENALTIES FOR USE OF CERTAIN WEAPONS IN CONNECTION WITH A CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.

Subsection (c)(1) of section 924 of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by striking "five years" and inserting "ten years"; and

(B) by striking "ten years" and inserting "thirty years"; and

(2) in the second sentence—

(A) by striking "ten years" and inserting "twenty years"; and

(B) by striking "20 years" and inserting "life imprisonment without release".

SEC. 2304. PROHIBITION OF DANGEROUS WEAPONS IN FEDERAL FACILITIES.

(a) OFFENSE.—Chapter 44 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 930. Possession of firearms and dangerous weapons in a Federal facility

"(a) Except as provided in subsection (c), whoever knowingly possesses or causes to be present any firearm or dangerous weapon in a Federal facility, or attempts to do so, shall be sentenced to imprisonment for not more than 1 year, or fined in accordance with the provisions of this title, or both.

"(b) Whoever knowingly possesses or causes to be present any firearm or dangerous weapon in a Federal facility, or attempts to do so, with intent that the firearm or dangerous weapon be used in the commission of a crime, shall be sentenced to imprisonment for not more than 5 years, or fined in accordance with the provisions of this title, or both.

"(c) Subsection (a) shall not apply to any act performed in the lawful performance of official duties by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of law, and shall not apply to the authorized possession of a firearm or dangerous weapon by a Federal official or a member of the armed services.

"(d) Nothing in this section shall interfere with or prevent the exercise by any court of the United States of its power to punish for contempt; nor shall anything in this section interfere with or limit in any way the power of a court of the United States to promulgate rules or orders regulating, restricting, or prohibiting the possession of weapons within any building, or upon any grounds appurtenant thereto, housing any such court or any of its proceedings.

"(e) As used in this section—

"(1) the term 'Federal facility' means any building where Federal employees are regularly present for the purpose of performing their official duties;

"(2) the term 'dangerous weapon' means any weapon, device, instrument, material, or substance, animate or inanimate, that is used or is capable of use to cause death or serious bodily injury.

"(f) Notice to the effect of subsections (a) and (b), shall be posted conspicuously at each public entrance to each Federal facility, and no person shall be convicted of an offense under subsection (a) if such notice is not posted, unless such person had actual notice of the effect of subsection (a).".

(b) TABLE OF SECTIONS.—The analysis at the beginning of chapter 44 of title 18 of the United States Code is amended by adding at the end thereof the following:

"930. Possession of firearms and dangerous weapons in Federal facilities.".

SEC. 2305. INCLUSION OF FEDERAL FIREARMS VIOLATIONS AS PREDICATE WIRETAP OFFENSES.

Section 2516(1) of title 18, United States Code, is amended by adding at the end thereof the following:

"(m) any felony violation of sections 922 and 924 of title 18, United States Code (relating to firearms); and

"(n) any violation of section 5861 of the Internal Revenue Code of 1986 (relating to firearms).".

SEC. 2306. INCREASED PENALTIES FOR CERTAIN FIREARMS OFFENSES.

Section 924(a) of title 18, United States Code, is amended by—

(1) inserting "or 3" after "paragraph 2" in paragraph (1);

(2) striking out "(g), (i), (j)," in subparagraph (a)(1)(B);

(3) redesignating subsection (a)(2) as subsection (a)(3); and

(4) inserting a new subsection (a)(2) to read as follows:

"(2) Whoever knowingly violates subsections (d), (g), (h), (i), (j), or (o) of section 922 shall be fined as provided in this title, imprisoned not more than 10 years or both.".

Subtitle F—Money Laundering

SEC. 2351. MONEY LAUNDERING FORFEITURES.

(a) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended—

(1) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) Any property, real or personal, involved in a transaction or attempted transaction in violation of section 5313(a) or 5324 of title 31, or of section 1956 or 1957 of this title, or any property traceable to such property. However, no property shall be seized or forfeited in the case of a violation of section 5313(a) of title 31 by a domestic financial institution examined by a Federal bank supervisory agency or a financial institution regulated by the Securities and Exchange Commission or a partner, director, or employee thereof."; and

(2) by striking out subparagraph (C).

(b) CONFORMING AMENDMENT.—Section 981(b) of title 18, United States Code, is amended by striking out "involved in a violation of section 1956 or 1957 of this title investigated by the Secretary of the Treasury, and any property subject to forfeiture under subsection (a)(1)(C) of this section" and inserting in lieu thereof "involved in a violation of section 5313(a) or 5324 of title 31 or of section 1956 or 1957 of this title investigated by the Secretary of the Treasury".

(c) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended to read as follows:

"(a) The court, in imposing sentence on a person convicted of an offense in violation of section 5313(a) or 5324 of title 31, or of section 1956 or 1957 of this title, shall order that the person forfeit to the United States any property, real or personal, involved in such offense, or any property traceable to such property. However, no property shall be seized or forfeited in the case of a violation of section 5313(a) of title 31 by a domestic financial institution examined by a Federal bank supervisory agency or a financial institution regulated by the Securities and Exchange Commission or a partner, director, or employee thereof.".

SEC. 2352. FORFEITURE OF SUBSTITUTE ASSETS FOR MONEY LAUNDERING OFFENSE.

Section 982(b) of title 18, United States Code, is amended—

(1) by striking "(o)" both places it appears, and inserting "(p)" in lieu thereof; and

(2) by adding at the end the following: "However, the substitution of assets provisions of subsection 413(p) shall not be used to order a defendant to forfeit assets in place of the actual property laundered where such defendant acted merely as an intermediary who handled but did not retain the property in the course of the money laundering offense.".

SEC. 2353. UNDERCOVER "STING" OPERATIONS IN MONEY LAUNDERING CASES.

Section 1956(a) of title 18, United States Code, is amended by inserting after paragraph (a)(2) the following new paragraph:

"(3) Whoever, with the intent—

"(A) to promote the carrying on of specified unlawful activity;

"(B) to conceal or disguise the nature, location, source, ownership, or control of the proceeds of specified unlawful activity; or

"(C) to avoid a transaction reporting requirement under State or Federal law,

conducts or attempts to conduct a financial transaction involving property represented directly or indirectly by a law enforcement officer to be the proceeds of specified unlawful activity, or property used to conduct or facilitate specified unlawful activity, shall be fined under this title or imprisoned for not more than 20 years, or both. For purposes of this paragraph, the term 'law enforcement officer' includes any person who, at the time the representation was made, was acting at the direction of a Federal official authorized to investigate or prosecute violations of this section.".

SEC. 2354. SPECIFIED UNLAWFUL ACTIVITY.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by—

(1) inserting "section 542 (relating to entry of goods by means of false statements)," after "securities of States and private entities),";

(2) inserting "section 549 (relating to removing goods from Customs custody)," after "smuggling goods into the United States),"; and

(3) inserting "section 2319 (relating to copyright infringement), section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals), section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) (relating to aviation smuggling), section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207-51; 21 U.S.C. 857) (relating to transportation of drug paraphernalia)," after "postal robbery and theft) of this title,".

SEC. 2355. BANK SECRECY ACT AMENDMENTS.

(a) BUSINESS SIMILAR TO FINANCIAL INSTITUTIONS.—Section 5312(a)(2) of title 31, United States Code, is amended by striking subparagraphs (T) and (U) and inserting the following:

"(T) a business engaged in vehicle sales, including automobile, airplane, and boat sales;

"(U) persons involved in real estate closings and settlements;

"(V) the United States Postal Service;

"(W) an agency of the United States Government or of a State or local government carrying out a duty or power of a business described in this clause (2);

"(X) any other business or agency carrying out a similar, related, or substitute duty or power the Secretary prescribes; or

"(Y) any other business designated by the Secretary whose cash transactions have a high degree of usefulness in criminal, tax, or regulatory matters.".

(b) SECRETARY'S AUTHORITY.—Section 5313 of title 31, United States Code, is amended by adding a new paragraph (c) as follows:

"(c) The Secretary may prescribe that a financial institution, as defined in section 5312(a)(2)(Y) of this subchapter, file a report of receipt of coins or currency (or other monetary instruments as the Secretary prescribes) at a time and in the way the Secretary prescribes. However, the Secretary shall permit such business to comply with any reporting requirement under this section by filing a copy of the return required under section 6050I of the Internal Revenue Code of 1986.".

(c) AUTHORITY.—Section 5318(a)(2) of title 31, United States Code, is amended by inserting "and follow" after "maintain".

(d) PENALTIES FOR VIOLATIONS.—Section 5321(a)(1) of title 31, United States Code, is amended to read as follows:

"(a)(1) A domestic financial institution, and a partner, director, officer, or employee of a domestic financial institution, willfully violating this subchapter or a regulation prescribed under this subchapter (except sections 5314, 5315 and 5318 of this title or a regulation prescribed under section 5314, 5315, or 5318) is liable to the United States Government for a civil penalty of not more than the greater of the amount (not to exceed $100,000) involved in the transaction or $25,000. A domestic financial institution, and a partner, director, officer, or employee of a domestic financial institution willfully violating section 5318(a)(2) of this title or a regulation thereunder is liable to the United States for civil penalty of not more than $10,000. For a violation of section 5318(a)(2) of this title or a regulation prescribed thereunder, a separate violation occurs for each day the violation continues and at each office, branch, or place or business at which a violation occurs or continues.".

(e) IDENTIFICATION REQUIREMENT FOR $3,000 TRANSACTION.—(1) Chapter 53 of title 31, United States Code, is amended by adding at the end the following new section:

"§ 5325. Identification required to purchase certain monetary instruments

"(a) A financial institution that sells cashier's checks, traveler's checks, bank checks, money orders or similar instruments prescribed by the Secretary, for coin or currency to any person must, in the case of any such transaction or group of such contemporaneous transactions involving $3,000 or more—

"(1) if the person conducting the transaction has a transaction account with such financial institution, verify that fact through a signature card or other information maintained by such institution and record the method of verification, as prescribed by the Secretary; or

"(2) if the person conducting the transaction does not have a transaction account with such financial institution, require such forms of identification, as the Secretary shall prescribe, and verify and record such information, as the Secretary shall prescribe.

"(b) Information required to be recorded under subsection (a) of the section will be reported to the Secretary upon request.

"(c) For the purpose of this section, the term 'transaction account' shall have the same meaning as is provided in section 19(b)(1)(C) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(C)).".

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 53 of such title is amended by adding at the end thereof the following new item:

"5325. Identification required to purchase certain monetary instruments.".

(f) REGULATIONS AND PENALTIES.—Section 21(b) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(b)) is amended to read as follows:

"(b) REGULATIONS AND PENALTIES.—

"(1) Where the Secretary of the Treasury (referred to in this section as the 'Secretary') determines that the maintenance of appropriate types of records and other evidence by insured banks has a high degree of usefulness in criminal, tax or regulatory investigations or proceedings, he shall prescribe regulations to carry out the purposes of this section.

"(2) For each willful or grossly negligent violation of any regulation issued by the Secretary pursuant to paragraph (1) of this subsection, the Secretary may impose on any bank and partner, director, officer, or employee of a bank who participates in the violation, a civil penalty not to exceed $10,000, and for each negligent violation, a civil penalty not to exceed $500. A separate violation occurs for each day the violation continues at each office, branch, or place of business at which a violation occurs. Such penalties will be assessed, mitigated and collected in accordance with the provisions of section 5321 of title 31, United States Code.".

(g) AUTHORITY OF SECRETARY.—Section 123(b) of title I of Public Law 91-508 (12 U.S.C. 1953(b)) is amended to read as follows:

"(b) The authority of the Secretary under this section extends to any financial institution and partner, officer, director or employee of a financial institution as defined in section 5312, title 31, United States Code, other than a bank subject to section 21(b) of the Federal Deposit Insurance Act (12 U.S.C. 1829b).".

(h) MONETARY FINES.—Section 125 of title I of Public Law 91-508 (12 U.S.C. 1955(a)), is amended by—

(1) replacing "$1,000" with "$10,000';

(2) striking the period and adding at the end thereof the words, ", and for any negligent violation, a civil penalty not exceeding $500."; and

(3) inserting "or grossly negligent" after "willful".

SEC. 2356. EXCEPTION TO REQUIREMENT OF ACTUAL PRESENTATION OF FINANCIAL RECORDS TO GRAND JURY.

Section 1120(1) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 1120(1)) is amended by inserting before the semicolon "unless the volume of such records makes such return and actual presentation impractical in which case the grand jury shall be provided with a description of the contents of the records.".

SEC. 2357. RIGHT TO FINANCIAL PRIVACY ACT AMENDMENT.

Section 1103(c) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3403(c)) is amended by inserting the words "or corporation" after the word "individual".

Subtitle G—Juvenile Justice

SEC. 2401. MINORS CONVICTED OF DRUG TRAFFICKING.

(a) DELINQUENCY PROCEEDINGS.—Section 5032 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph, by striking out "section 841, 952(a), 955, or 959 of title 21," and inserting in lieu thereof "section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1003, 1005, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b) (1), (2), (3)), or section 922(p) of this title,"; and

(2) in the fourth undesignated paragraph—

(A) by striking out "section 841, 952(a), 955, or 959 of title 21," and inserting in lieu thereof "section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959),"; and

(B) by inserting after "2275 of this title," the following: "subsection (b)(1) (A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b) (1), (2), (3)),".

(b) SURRENDER TO STATE AUTHORITIES.—The first undesignated paragraph of section 5001 of title 18, United States Code, is amended by inserting before the period at the end thereof the following: ", unless such surrender is precluded under section 5032 of this title".

Subtitle I—Prisons

SEC. 2501. DRUG OFFENSES WITHIN FEDERAL PRISONS.

(a) TWENTY YEAR MAXIMUM PENALTY.—Section 1791(b) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (1) through (4) as (2) through (5), respectively;

(2) by inserting before paragraph (2), as so redesignated, the following new paragraph (1):

"(1) imprisonment for not more than 20 years, or both, if the object is specified in subsection (d)(1)(C) of this section;"; and

(3) in paragraph (3), as so redesignated, by striking "or (c)(1)(C)".

(b) CONSECUTIVE SENTENCES.—Section 1791 of title 18, United States Code, is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

"(c) Any punishment imposed under subsection (b) for a violation of this section by an inmate of a prison shall be consecutive to the sentence being served by such inmate at the time the inmate commits such violation.".

(c) Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 1791(a)(1) of title 18, United States Code, and punishable under section 1791(b)(1) of that title as so redesignated, shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(1) two levels greater than the level that would have been assigned had the offense not been committed in prison; and

(2) in no event less than level 26.

(d) If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in subsection (c) so as to achieve a comparable result.

SEC. 2502. PAYMENT OF COSTS OF INCARCERATION BY FEDERAL PRISONERS.

Not later than 1 year after the date of enactment of this section, the Attorney General shall study and, if appropriate, develop and submit to Congress proposed legislation which would require prisoners incarcerated in Federal correctional institutions to pay all costs incident to the prisoner's confinement, including, but not limited to, the costs of food, housing, and shelter. The legislation shall include measures which would allow prisoners unable to pay such costs to work at paid employment within the community, during incarceration or after release, in order to pay the costs incident to the prisoner's confinement. The legislation shall also include an estimate of budget authority necessary for implementation of the legislation.

Subtitle J—Drug Testing as a Condition of Probation and Supervised Release

SEC. 2551. DRUG TESTS AS A CONDITION OF PROBATION AND SUPERVISED RELEASE.

(a) PROBATION.—(1) Section 3563(a) of title 18, United States Code, is amended by—

(A) striking "and" after the semicolon in paragraph (1);

(B) striking the period at the end of paragraph (2) and inserting "; and";

(C) inserting after paragraph (2) the following:

"(3) for a felony, that the defendant submit to periodic drug tests for use of controlled substances at least once every 60 days, with the defendant to pay the actual cost of the testing unless the court determines it would be unreasonable to impose such cost."; and

(D) inserting after the second sentence the following: "The requirement that drug tests be administered at least once every 60 days under paragraph (3) may be suspended upon motion of the Attorney General if, after at least 1 year of probation, the defendant has passed all drug tests administered pursuant to this section.".

(2) Section 3563 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(e) DRUG TESTING.—In every case involving a misdemeanor, the court shall make a determination whether, in addition to any conditions of probation imposed under subsections (a) and (b), the defendant should be ordered to submit to periodic drug tests. If the court finds that a defendant committed a misdemeanor involving unlawful conduct with drugs, or that the defendant has a history of drug abuse, the court shall order the defendant to submit to periodic drug testing.".

(3) Section 3565(a) of title 18, United States Code, is amended by adding at the end thereof the following: "Notwithstanding any other provision of this section, if the defendant tests positive for illegal use of controlled substances, thereby violating the condition imposed by section 3563(a), on two separate tests taken at least 3 weeks apart, the court shall, in addition to any other action which may be taken pursuant to this section (A) revoke the sentence of probation and sentence the defendant to a period of imprisonment, (B) require the defendant to reside and participate in a residential community drug treatment center program, or participate in an out-patient drug treatment program if residential treatment is unavailable or impractical, or (C) require the defendant to remain at his place of residence pursuant to section 3563(b)(20). Notwithstanding any other provision of this section, if the defendant tests positive for the illegal use of controlled substances, thereby violating the condition set forth in section 3563 (a) or (e), on three separate tests taken at least 3 weeks apart, the court shall revoke the sentence of probation and sentence the defendant to not less than one third of the original sentence."

(4) Section 3565 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c) LIMITATION OF ACTIONS BASED ON DRUG TESTING.—(1) No action may be taken against a defendant pursuant to this section on the basis of a urine test administered to the defendant unless the test was a urine test conducted in accordance with—

"(A) requirements and procedures prescribed by the Director of the Administrative Office of the United States Courts which shall be substantially consistent with the Mandatory Guidelines on Federal Employee Drug Testing Programs issued by the Secretary of Health and Human Services on April 11, 1988; and

"(B) the procedures for urine specimen collection set out in section 2.2(a)-(d) and (f)-(h) of such guidelines.

"(2) The Director shall include in the regulations referred to in paragraph (1) the following requirements:

"(A) That the laboratory which conducts drug testing engage in urine drug testing in accordance with such regulations.

"(B) That the laboratory follow laboratory analysis procedures, including the chain of custody procedures, required by the guidelines referred to in paragraph (1)(A), except that positive initial tests may be confirmed using Gas Chromatography (GC) techniques or such test as the Secretary of Health and Human Services may determine to be of equivalent accuracy.

"(C) That the laboratory perform Gas Chromatography-Mass Spectrometry (GC-MS) reconfirmation, or such reconfirmation as the Secretary of Health and Human Services may determine to be of equivalent accuracy, in any case in which—

"(i) a defendant's urine specimen is tested using Gas Chromatography techniques for confirmation; and

"(ii) within 10 days after receiving notice of positive test results, the defendant notifies the Director that he disputes such results.

"(D) That the laboratory—

"(i) retain all records pertaining to each urine specimen for at least two years after the date on which the results of the testing of such specimen are transmitted to the court; and

"(ii) limit access to any such records in order to protect the confidentiality.

"(E) That, in the case of a urine specimen for which positive test results are obtained, the laboratory retain the specimen in properly secured, long-term frozen storage for a minimum of one year after the date on with the test results are transmitted to the court.

"(3) The actual cost of any testing performed in the case of a defendant under paragraph (2)(C) shall be paid by the defendant unless the court determines it would be unreasonable for the defendant to be required to pay such cost.

"(4) To the maximum extent practicable, the results of urine drug tests conducted pursuant to the regulations prescribed in accordance with this subsection shall be kept confidential.

"(5) Nothing in this subsection shall be construed to—

"(A) limit the authority of the Administrator to require that positive initial test results be confirmed using Gas Chromatography-Mass Spectometry (GS-MS) or equivalent techniques; or

"(B) limit the authority of the Administrator to institute alternative drug tests as an additional means of screening defendants.".

(b) SUPERVISED RELEASE.—(1) Section 3583(d) of title 18, United States Code, is amended in the first sentence by striking the period and inserting "and that, for any felony, or for a misdemeanor involving either unlawful conduct with drugs or a defendant having a history of drug use, the defendant submit to periodic drug tests for use of controlled substances at least once every 60 days. The defendant shall pay the actual costs of such testing unless the court determines it would be unreasonable to impose such cost. The minimum testing requirement of one test every 60 days may be suspended upon motion of the Attorney General if, after at least 1 year of supervised release, the defendant has passed all drug tests administered pursuant to this section."

(2) Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following:

"(g) USE OF CONTROLLED SUBSTANCES.—Notwithstanding any other provision of this section, if the defendant tests positive for illegal use of controlled substances on two separate urine drug tests taken at least 3 weeks apart, the court shall, in addition to any other action which may be taken—

"(1) revoke the term of supervised release and require the defendant to serve a period of imprisonment pursuant to section (e)(4);

"(2) require defendant to reside and participate in the program of a residential community treatment center or participate in an out-patient drug treatment program if residential treatment is unavailable or impractical; or

"(3) require the defendant to remain at his place of residence during non-working hours pursuant to subsection (e)(5).

Notwithstanding any other provision of this section, if the defendant tests positive for illegal use of controlled substances on three separate urine drug tests taken at least 3 weeks apart, the court shall revoke the term of supervised release pursuant to subsection (e)(4) and require the defendant to serve in prison not less than one-third of the term of supervised release.

"(h) No action may be taken against a defendant pursuant to subsection (g) on the basis of a drug test administered to the defendant unless the urine drug test was conducted by a laboratory which meets the requirements of section 3565(d) of this title and the Director of the Administrative Office of the United States Courts or his or her designee, or any person contracted to perform specimen collection has complied with the requirements of section 3565(e) of this title.".

(c) EFFECTIVE DATE.—The amendments in this section shall apply to offenses occurring or completed on or after January 1, 1989.

SEC. 2552. HOUSE PROBATION AS A CONDITION FOR PROBATION, PAROLE OR SUPERVISED RELEASE.

(a) PROBATION.—Section 3563(b) of title 18, United States Code, is amended by—

(1) striking "or" after the semicolon in paragraph (19);

(2) redesignating paragraph (20) as paragraph (21); and

(3) inserting after paragraph (19) the following new paragraph:

"(20) remain at his place of residence during non-working hours and, if the court finds it appropriate, that compliance with this condition be monitored by telephonic or electronic signaling devices; or".

(b) SUPERVISED RELEASE.—(1) Section 3583(d) of title 18, United States Code, is amended in the matter following paragraph (3) by striking "(b)(19)" and inserting "(b)(20)".

(2) Section 3583(e) is amended by—

(1) striking "or" at the end of paragraph (3);

(2) striking the period at the end of paragraph (4) and inserting "; or"; and

(3) inserting at the end the following new paragraph:

"(5) order the person to remain at his place of residence during non-working hours and, if the court so directs, to have compliance monitored by telephone or electronic signaling devices.".

(c) PAROLE.—Section 4209 of title 18, United States Code, is amended to read as follows;

"(c) Release on parole or release as if on parole (or probation, or supervised release where applicable) may as a condition of such release require—

"(1) a parolee to reside in or participate in the program of a residential community treatment center, or both, for all or part of the period of such parole; or

"(2) a parolee to remain at his place of residence during non-working hours and, if the Commission so directs, to have compliance with this condition monitored by telephone or electronic signaling devices.

A parolee residing in a residential community treatment center pursuant to this subsection or subject to a condition imposed under subparagraph (3) of this subsection, may be required to pay such costs incident to residence or to such condition as the Commission deems appropriate.".

Subtitle K—Minor and Technical Criminal Law Amendments Act Amendments

SEC. 2601. SHORT TITLE.

This subtitle may be cited as the "Minor and Technical Criminal Law Amendments Act of 1988".

SEC. 2602. CORRECTION OF CROSS REFERENCE.

Section 38 of the Criminal Law and Procedure Technical Amendments Act of 1986 is amended by striking "section 23" and inserting "section 34".

SEC. 2603. CORRECTION OF ERRONEOUS REFERENCE.

Section 50(a) of the Criminal Law and Procedure Technical Amendments Act of 1986 is amended by striking "1961(a)" and inserting "1961(l)".

SEC. 2604. CORRECTION OF MISPRINT.

Section 58(g) of the Criminal Law and Procedure Technical Amendments Act of 1986 is amended by striking "SECTION 3147 AMENDMENTS.—Section 3147 of title" and inserting "REPEAL.—(1) Title".

SEC. 2605. CORRECTION OF TYPOGRAPHICAL ERROR IN SECTION 31.

Section 31 of title 18, United States Code, is amended by striking "door in opened" and inserting "door is opened".

SEC. 2606. CORRECTION OF TYPOGRAPHICAL ERROR IN SECTION 32.

Section 32(a)(3) of title 18, United States Code, is amended by striking "intefering" and inserting "interfering".

SEC. 2607. CORRECTION OF TYPOGRAPHICAL ERROR IN SECTION 152.

The third paragraph of section 152 of title 18, United States Code, is amended by striking "penalty or perjury" and inserting "penalty of perjury".

SEC. 2608. CONSPIRACY AGAINST CIVIL RIGHTS.

(a) IN GENERAL.—Section 241 of title 18, United States Code, is amended by striking "citizen" and inserting "inhabitant of any State, Territory, or District".

(b) CONFORMING AMENDMENTS.—(1) The heading for section 241 of title 18, United States Code, is amended by striking "**of citizens**".

(2) The item relating to section 241 in the table of sections at the beginning of chapter 13 of title 18, United States Code, is amended by striking "of citizens".

SEC. 2609. DEPRIVATION OF CIVIL RIGHTS.

Section 242 of title 18, United States Code, is amended by inserting "and if bodily injury results shall be fined under this title or imprisoned not more than ten years, or both;" after "both;".

SEC. 2610. DESIGNATION OF ADDITIONAL HIGH LEVEL OFFICIALS OF THE DEPARTMENT OF JUSTICE TO PERFORM CERTAIN FUNCTIONS RELATING TO CRIMINAL AND ANCILLARY PROCEEDINGS.

(a) APPROVAL OF CERTAIN CIVIL RIGHTS PROSECUTIONS.—Section 245(a)(1) of title 18, United States Code, is amended—

(1) by striking "or the Deputy" and inserting ", the Deputy";

(2) by inserting.—Section 1073 of title 18, United States Code, is amended by inserting ", the Deputy Attorney General, the Associate Attorney General," after "the Attorney General".

(c) DEFINITION OF "ATTORNEY GENERAL" FOR PURPOSES OF CERTAIN RACKETEER ", THE ASSOCIATE ATTORNEY GENERAL, OR ANY ASSISTANT ATTORNEY GENERAL SPECIALLY DESIGNATED BY THE ATTORNEY GENERAL" AFTER "DEPUTY ATTORNEY GENERAL".

(b) APPROVAL OF PROSECUTIONS FOR FLIGHT TO AVOID SERVICE OF PROCESS AND RELATED PROCEEDINGS.—Section 1961(10) of title 18, United States Code, is amended by inserting "the Associate Attorney General of the United States," after "Deputy Attorney General of the United States,".

(d) SUMMONING OF SPECIAL GRAND JURIES.—Section 3331(a) of title 18, United States Code, is amended by inserting ", the Associate Attorney General" after "Deputy Attorney General".

(e) REQUESTING JUDICIAL GRANT OF IMMUNITY IN GENERAL.—Section 6003(b) of title 18, United States Code, is amended—

(1) by inserting ", the Associate Attorney General" after "Deputy Attorney General"; and

(2) by inserting "or Deputy Assistant Attorney General" after "Assistant Attorney General".

(f) REQUESTING JUDICIAL GRANT OF IMMUNITY IN CERTAIN DRUG CASES.—Section 514(c) of the Controlled Substances Act (21 U.S.C. 884(c)) is amended by inserting ", the Associate Attorney General" after "Deputy Attorney General".

(g) OBJECTING TO DISCLOSURE OF CLASSIFIED INFORMATION UNDER THE CLASSIFIED INFORMATION PROCEDURES ACT.—Section 14 of the Classified Information Procedures Act (18 U.S.C. App. 14) is amended by inserting ", the Associate Attorney General," after "Deputy Attorney General".

SEC. 2611. OFF-HIGHWAY VEHICLE IDENTIFICATION OFFENSE.

Section 553(b)(2) of title 18, United States Code, is amended to read as follows:

"(2)(A) in the case of a motor vehicle, is not a violation of section 511 of this title (relating to altering or removing motor vehicle identification numbers); or

"(B) in the case of off-highway mobile equipment, would not be a violation of section 511 of this title if such equipment were a motor vehicle.".

SEC. 2612. REDESIGNATION OF PARAGRAPHS IN SECTION 831.

Paragraphs (3) through (6) of section 831(e) of title 18, United States Code, are redesignated as paragraphs (2) through (5), respectively.

SEC. 2613. IDENTIFICATION FRAUD.

Section 1028(a)(6) of title 18, United States Code, is amended—

(1) by inserting "knowingly" before "possesses";

(2) by inserting "lawful" before "authority" the first place it appears; and

(3) by inserting "such" before "authority" the second place it appears.

SEC. 2614. TRANSMISSION OF WAGERING INFORMATION.

(a) Transmission of Information to Foreign Countries.—Section 1084(b) of title 18, United States Code, is amended by inserting "or foreign country" after "State" the second place it appears.

(b) Definition of "State".—(1) Section 1084 of title 18, United States Code, is amended by adding at the end the following:

"(e) As used in this section, the term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.".

(2) Section 1084(c) of title 18, United States Code, is amended by striking ", Commonwealth of Puerto Rico, territory, possession, or the District of Columbia".

SEC. 2615. PUNCTUATION CORRECTION IN cond comma after "terms of this section".

SEC. 2617. CLARIFICATION OF RELATION BETWEEN TWO AMENDMENTS MADE BY PUBLIC LAWS ENACTED IN THE 99TH CONGRESS.

Section 1153 of title 18, United States Code, is amended by striking "maiming" and all SECTION 1111.

Section 1111(a) of title 18, United States Code, is amended by inserting a comma after "arson".

SEC. 2616. PUNCTUATION CORRECTION IN SECTION 1114.

Section 1114 of title 18, United States Code, is amended by striking the sethat follows through "incest" and inserting "maiming, a felony under chapter 109A, incest".

SEC. 2618. CORRECTION OF SUBSECTION DESIGNATION.

Section 1203 of title 18, United States Code, is amended by striking "(C)" the last place it appears and inserting "(c)".

SEC. 2619. OBSTRUCTION OF JUSTICE AMENDMENTS.

(a) Expansion of Venue for Sections 1512 and 1503 Cases.—Section 1512 of title 18, United States Code, is amended by adding at the end the following:

"(h) A prosecution under this section or section 1503 may be brought in the district in which the official proceeding (whether or not pending or about to be instituted) was intended to be affected or in the district in which the conduct constituting the alleged offense occurred.".

(b) Definition Changes.—Section 1515(a)(1)(A) of title 18, United States Code, is amended by inserting "a judge of the United States Tax Court, a special trial judge of the Tax Court, a judge of the United States Claims Court," after "bankruptcy judge,".

(c) Corrupt Persuasion.—Section 1512(b) of title 18, United States Code, is amended by striking "or threatens" and inserting "threatens, or corruptly persuades".

(d) Definition.—Section 1515(a) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

(3) by adding at the end the following:

"(6) the term 'corruptly persuades' does not include conduct which would be misleading conduct but for a lack of a state of mind.".

SEC. 2620. CONFORMING AMENDMENT TO TABLE OF SECTIONS.

The item relating to section 1515 in the table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by inserting "; general provision" after "provisions".

SEC. 2621. CROSS REFERENCE CORRECTIONS AND ADDITIONS.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by—

(1) striking "section 511" and inserting "section 513";

(2) striking "section 543" and inserting "section 545"; and

(3) inserting "section 657 (relating to lending, credit, and insurance institutions), section 658 (relating to property mortgaged or pledged to farm credit agencies)," after "section 656 (relating to theft, embezzlement, or misapplication by bank officer or employee),".

SEC. 2622. CROSS REFERENCE CORRECTION AND ADDITIONS.

Section 1961(1) of title 18, United States Code, is amended by striking "section 2320" and inserting "section 2321".

SEC. 2623. SYNTAX CORRECTION IN SECTION 1962.

Section 1962(d) of title 18, United States Code, is amended by striking "subsections" and inserting "subsection".

SEC. 2624. SECTION 1963 AMENDMENTS.

(a) Correction of Typographical Error in Subsection (n).—Section 1963(n) of title 18, United States Code, is amended by striking "act of omission" and inserting "act or omission".

(b) Redesignation.—Subsection (n) of section 1963 of title 18, United States Code, is redesignated as subsection (m).

SEC. 2625. CLERICAL CORRECTION TO TABLE OF CONTENTS FOR CHAPTER 119.

The table of sections at the beginning of chapter 119 of title 18, United States Code, is amended by striking "wire or oral" in the items relating to sections 2511, 2512, 2513, 2516, 2517, 2518, and 2519 and inserting "wire, oral, or electronic".

SEC. 2626. SECTION 2516 AMENDMENTS.

(a) Syntax Correction.—Section 2516(1) of title 18, United States Code, is amended—

(1) by inserting "or" after "Associate Attorney General,", and

(2) by striking the comma that follows a comma.

(b) Correction of Cross-References.—Section 2516(1)(c) of title 18, United States Code, is amended—

(1) by striking "the second section 2320" and inserting "section 2321"; and

(2) by striking "section 2252 or 2253 (sexual exploitation of children),".

(c) Punctuation Corrections.—

(1) section 2516(1)(a) is amended by striking "(relating to riots);" and inserting "(relating to riots),";

(2) section 2516(1)(j) is amended by striking "or;"; and

(3) section 2516(1)(k) is amended by inserting "or" at the end thereof.

SEC. 2627. CORRECTION OF CROSS REFERENCE.

Section 2702(b)(2) of title 18, United States Code, is amended by striking "2516" and inserting "2517".

SEC. 2628. GOVERNMENTAL ACCESS TO CONTENTS OF ELECTRONIC COMMUNICATIONS IN AND RECORDS OF A REMOTE COMPUTING SERVICE.

Sections 2703(b)(1)(B)(i) and 2703(c)(1)(B)(i) of title 18, United States Code, are amended by inserting "or trial" after "grand jury".

SEC. 2629. DEFINITION OF COURT FOR CERTAIN APPLICATIONS.

Section 2703(d) of title 18, United States Code, is amended by inserting "may be issued by any court that is a court of competent jurisdiction set forth in section 3126(2)(A) of this title and" before "shall issue".

SEC. 2630. SECTION 3124 AMENDMENT.

Section 3124(b) of title 18, United States Code, is amended by inserting "order" after "court" the last place it appears.

SEC. 2631. SENTENCING CLASSIFICATION OF OFFENSES.

(a) Redesignation.—Section 3559(a) of title 18, United States Code, is amended—

(1) by striking "classified—" and all that follows through "is—" and inserting "classified if the maximum term of imprisonment authorized is—"; and

(2) by redesignating subparagraphs (A) through (I) as paragraphs (1) through (9).

(b) Class B Classification.—Section 3559(a) of title 18, United States Code, is amended in each of paragraphs (2) and (3) (as so redesignated by subsection (a)), by striking "twenty" and inserting "twenty-five".

SEC. 2632. CORRECTION OF CROSS REFERENCES.

Subsection (h) of section 3663 of title 18, United States Code, is amended to read as follows:

"(h) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter B of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.".

SEC. 2633. FURLOUGH OF CERTAIN INDIVIDUALS ORDERED TO BE COMMITTED FOR INSANITY.

Section 4243 of title 18, United States Code, is amended by adding at the end thereof the following:

"(h) Limitations on Furloughs.—An individual who is hospitalized under subsection (e) of this section after being found not guilty only by reason of insanity of an offense for which subsection (d) of this section creates a burden of proof of clear and convincing evidence, may leave temporarily the premises of the facility in which that individual is hospitalized only—

"(1) with the approval of the committing court, upon notice to the attorney for the Government and such individual, and after opportunity for a hearing;

"(2) in an emergency; or

"(3) when accompanied by a Federal law enforcement officer (as defined in section 115 of this title).".

SEC. 2634. PERIODIC REPORTS RELATING TO CERTAIN HOSPITALIZED PERSONS.

Section 4247(e)(1)(B) of title 18, United States Code, is amended by adding at the end thereof the following: "A copy of each such report concerning a person hospitalized after the beginning of a prosecution of that person for violation of section 871, 879, or 1751 of this title shall be submitted to the Director of the United States Secret Service. Except with the prior approval of the court, the Secret Service shall not use or disclose the information in these copies for any purpose other than carrying out protective duties under section 3056(a) of this title.".

SEC. 2635. INSERTION OF MISSING CLOSE PARENTHESIS.

The last paragraph of section 5034 of title 18, United States Code, is amended by striking "facility upon" and inserting "facility) upon".

SEC. 2636. AMENDMENT TO RULES OF EVIDENCE CONFORMING TERMINOLOGY RELATING TO SEX OFFENSES.

(a) In General.—Rule 412 of the Federal Rules of Evidence is amended—

(1) in the heading of such rule, by striking "**Rape**" and inserting "**Sex Offense**";

(2) in subdivisions (a) and (b), by striking "rape or of assault with intent to commit rape" each place it appears and inserting "an offense under chapter 109A of title 18, United States Code";

(3) in subdivision (a), by striking "rape or assault" and inserting "offense";

(4) by striking "rape or assault with intent to commit rape" each place it appears and inserting "an offense under chapter 109A of title 18, United States Code"; and

(5) in subdivision (b)(2)(B), by striking "rape or assault" and inserting "such offense".

(b) Clerical Amendment.—The item relating to rule 412 in the table of contents at the beginning of the Federal Rules of Evidence is amended by striking "Rape" and inserting "Sex Offense".

SEC. 2637. EXTENSION OF POWER TO MAKE CERTAIN EXAMINATIONS TO PSYCHOLOGISTS.

(a) Section 4247(b).—Section 4247(b) of title 18, United States Code, is amended by striking "clinical psychologist" and inserting "psychologist".

(b) Conforming Amendment to Rule 35.—Rule 35 of the Federal Rules of Civil Procedure is amended—

(1) in subdivision (a), by striking "physical or mental examination by a physician" and inserting "physical examination by a physician, or mental examination by a physician or psychologist";

(2) in subdivision (b), by inserting "or psychologist" after "physician" each time it appears, and by adding "or psychologist" to the heading of the subdivision; and

(3) by adding at the end the following new subdivision:

"(c) For the purpose of this rule, a psychologist is a psychologist licensed or certified by a State or the District of Columbia.".

SEC. 2638. SYNTACTICAL CORRECTION RELATING TO CERTAIN COUNTERFEIT OR FORGED ITEMS.

The second paragraph of section 2315 of title 18, United States Code, is amended by striking "which have crossed a State or United States boundary after being stolen, unlawfully converted, or taken" and inserting "moving as, or which are a part of, or which constitute interstate or foreign commerce".

SEC. 2639. FORM CORRECTION IN FEDERAL RULES OF CIVIL PROCEDURE.

Rule 17(a) of the Federal Rules of Civil Procedure is amended by striking "with him".

SEC. 2640. PUNCTUATION CORRECTION IN FEDERAL RULES OF CIVIL PROCEDURE.

Rule 71A(e) is amended by striking "taking of the defendants property" and inserting "taking of the defendant's property".

SEC. 2641. DEFINITION OF 'UNITED STATES' IN REFERENCE TO TERRORIST ACTS.

Section 3077(4) of title 18, United States Code, is amended to read as follows:

"(4) 'United States,' when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States;".

SEC. 2642. CROSS REFERENCES PERTAINING TO ARREST AUTHORITY FOR VIOLATION OF RELEASE CONDITIONS.

Section 3062 of title 18, United States Code, is amended by striking "a condition imposed on the person pursuant to section 3142 (c)(2)(D), (c)(2)(E), (c)(2)(H), (c)(2)(I), or (c)(2)(M), or, if the violation involves a failure to remain in a specified institution as required, a condition imposed pursuant to section 3142(c)(2)(J)" and inserting "a condition imposed on the person pursuant to section 3142(c)(1)(B) (iv), (v), (viii), (ix), or (xiii), or, if the violation involves a failure to remain in a specified institution as required, a condition imposed pursuant to section 3142(c)(1)(B)(x)".

SEC. 2643. RENUMBERING OF SECTIONS IN CHAPTER 95.

(a) Section 1958.—Section 1952A of title 18, United States Code, is redesignated as section 1958.

(b) Section 1959.—Section 1952B of title 18, United States Code, is redesignated as section 1959.

(c) Table of Sections.—The table of sections at the beginning of chapter 95 of title 18, United States Code, is amended—

(1) by striking "1952A" and inserting "1958";

(2) by striking "1952B" and inserting "1959"; and

(3) by inserting the items for redesignated sections 1958 and 1959 at the end of the table.

(d) Section 2516(c).—Section 2516(c) of title 18, United States Code, is amended—

(1) by striking "1952A" and inserting "1958"; and

(2) by striking "1952B" and inserting "1959".

SEC. 2644. ADDITION OF RICO PREDICATE.

Section 1961(1)(B) of title 18, United States Code, is amended—

(1) by inserting after "section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity)" the following: ", section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire), sections 2251-2252 (relating to sexual exploitation of children)"; and

(2) by inserting after "sections 891-894 (relating to extortionate credit transactions)" the following: ", section 1029 (relative to fraud and related activity in connection with access devices)".

SEC. 2645. ASSET FORFEITURE AMENDMENTS.

(a) Forfeiture of Personal Property in Narcotics Cases.—Section 511(a)(7) of the Controlled Substances Act (21 U.S.C. 881(a)(7)) is amended by striking "All" and inserting "All tangible or intangible personal property, and all".

(b) Restoration of Equitable Sharing Provisions.—Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended by redesignating paragraph (2) as paragraph (3) and inserting a new paragraph (2) as follows:

"(2) The Attorney General shall ensure the equitable transfer pursuant to paragraph (1)(A) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Attorney General pursuant to paragraph (1)(A) shall not be subject to review.".

SEC. 2646. AUTHORIZATION OF POSTAL SERVICE TO INVESTIGATE MONEY LAUNDERING.

(a) Jurisdiction.—(1) Section 1956 of title 18, United States Code, is amended by striking all that follows "appropriate" in subsection (e) and inserting the following: "and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postal Service. Such authority of the Secretary of the Treasury and the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Postal Service, and the Attorney General."

(2) Section 1957 of title 18, United States Code, is amended by striking all that follows "appropriate" in subsection (e) and inserting the following: "and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postal Service. Such authority of the Secretary of the Treasury and the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Postal Service, and the Attorney General."

(b) Conforming Amendments.—Section 981 of title 18, United States Code, is amended by—

(1) inserting "or the Postal Service" in subsection (b) following "Secretary of the Treasury" the first two times it appears;

(2) striking "the Attorney General or the Secretary of the Treasury" in subsections (b)(2) and (c) through (e) and inserting "the Attorney General, the Secretary of the Treasury, or the Postal Service";

(3) adding at the end of subsection (d) the following: "The Attorney General shall have sole responsibility for disposing of petitions for remission or mitigation with respect to property involved in a judicial forfeiture proceeding"; and

(4) adding at the end of subsection (e) the following: "The authority granted to the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited."

(c) Powers of the Secretary.—Section 5318(a)(1) of title 31, United States Code, is amended by inserting "or the Postal Inspection Service" after "supervising agency".

SEC. 2647. AUTHORITY OF FEDERAL PRISON INDUSTRIES TO BORROW AND INVEST FUNDS.

(a) Grant of Authority.—Chapter 307 of title 18, United States Code, is amended by inserting after section 4128 the following new section:

"§ 4129. Authority to borrow and invest

"(a)(1) As approved by the board of directors, Federal Prison Industries, to such extent and in such amounts as are provided in appropriations Acts, is authorized to issue its obligations to the Secretary of the Treasury, and the Secretary of the Treasury, in the Secretary's discretion, may purchase or agree to purchase any such obligations, except that the aggregate amount of obligations issued by Federal Prison Industries under this paragraph that are outstanding at any time may not exceed 25 percent of the net worth of the corporation. For purchases of such obligations by the Secretary of the Treasury, the Secretary is authorized to use as a public debt transaction the proceeds of the sale of any securities issued under chapter 31 of title 31 after the date of the enactment of this section, and the purposes for which securities may be issued under that chapter are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. For purposes of the first sentence of this paragraph, the net worth of Federal Prison Industries is the amount by which its assets (including capital) exceed its liabilities.

"(2) The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as the Secretary shall determine, any of the obligations acquired by the Secretary under this subsection. All purchases and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

"(b) Federal Prison Industries may request the Secretary of the Treasury to invest excess moneys from the Prison Industries Fund. Such investments shall be in public debt securities with maturities suitable to the needs of the corporation as determined by the board directors, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.".

(b) Conforming Amendment.—The table of sections at the beginning of chapter 307 of title 18, United States Code, is amended by adding at the end the following new item:

"4129. Authority to borrow and invest.".

(c) Use of Funds.—Section 4126 of title 18, United States Code, is amended—

(1) by designating the first through fifth paragraphs as subsections (a) through (e), respectively;

(2) by amending subsection (c), as designated by paragraph (1) of this section, to read as follows:

"(c) The corporation, in accordance with the laws generally applicable to the expenditures of the several departments, agencies, and establishments of the Government, is authorized to employ the fund, and any earnings that may accrue to the corporation—

"(1) as operating capital in performing the duties imposed by this chapter;

"(2) in the lease, purchase, other acquisition, repair, alteration, erection, and maintenance of industrial buildings and equipment;

"(3) in the vocational training of inmates without regard to their industrial or other assignments;

"(4) in paying, under rules and regulations promulgated by the Attorney General, compensation to inmates employed in any industry, or performing outstanding services in institutional operations, and compensation to inmates or their dependents for injuries suffered in any industry or in any work activity in connection with the maintenance or operation of the institution in which the inmates are confined.

In no event may compensation for such injuries be paid in an amount greater than that provided in chapter 81 of title 5."; and

(3) by adding at the end the following:

"(f) Funds available to the corporation may be used for the lease, purchase, other acquisition, repair, alteration, erection, or maintenance of facilities only to the extent such facilities are necessary for the industrial operations of the corporation under this chapter. Such funds may not be used for the construction or acquisition of penal or correctional institutions, including camps described in section 4125.".

(d) Reports to Congress.—Section 4127 of title 18, United States Code, is amended to read as follows:

"The board of directors of Federal Prison Industries shall submit an annual report to the Congress on the conduct of the business of the corporation during each fiscal year, and on the condition of its funds during such fiscal year. Such report shall include a statement of the amount of obligations issued under section 4129(a)(1) during such fiscal year, and an estimate of the amount of obligations that will be so issued in the following fiscal year.".

(e) Guidelines and Public Comment on New or Expanded Production by Federal Prison Industries.—Section 4122(b) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by striking out "all physically fit inmates in the United States penal and correctional institutions" and inserting in lieu thereof "the greatest number of those inmates in the United States penal and correctional institutions who are eligible to work as is reasonably possible"; and

(3) by adding at the end thereof the following:

"(2) Federal Prison Industries shall conduct its operations so as to produce products on an economic basis, but shall avoid capturing more than a reasonable share of the market among Federal departments, agencies, and institutions for any specific product. Federal Prison Industries shall concentrate on providing to the Federal Government only those products which permit employment of the greatest number of those inmates who are eligible to work as is reasonably possible.

"(3) Federal Prison Industries shall diversify its products so that its sales are distributed among its industries as broadly as possible.

"(4) Any decision by Federal Prison Industries to produce a new product or to significantly expand the production of an existing product shall be made by the board of directors of the corporation. Before the board of directors makes a final decision, the corporation shall do the following:

"(A) The corporation shall prepare a detailed written analysis of the probable impact on industry and free labor of the plans for new production or expanded production. In such written analysis the corporation shall, at a minimum, identify and consider—

"(i) the number of vendors currently meeting the requirements of the Federal Government for the product;

"(ii) the proportion of the Federal Government market for the product currently served by small businesses, small disadvantaged businesses, or businesses operating in labor surplus areas;

"(iii) the size of the Federal Government and non-Federal Government markets for the product;

"(iv) the projected growth in the Federal Government demand for the product; and

"(v) the projected ability of the Federal Government market to sustain both Federal Prison Industries and private vendors.

"(B) The corporation shall announce in a publication designed to most effectively provide notice to potentially affected private vendors the plans to produce any new product or to significantly expand production of an existing product. The announcement shall also indicate that the analysis prepared under subparagraph (A) is available through the corporation and shall invite comments from private industry regarding the new production or expanded production.

"(C) The corporation shall directly advise those affected trade associations that the corporation can reasonably identify of the plans for new production or expanded production, and the corporation shall invite such trade associations to submit comments on those plans.

"(D) The corporation shall provide to the board of directors—

"(i) the analysis prepared under subparagraph (A) on the proposal to produce a new product or to significantly expand the production of an existing product,

"(ii) comments submitted to the corporation on the proposal, and

"(iii) the corporation's recommendations for action on the proposal in light of such comments.

In addition, the board of directors, before making a final decision under this paragraph on a proposal, shall, upon the request of an established trade association or other interested representatives of private industry, provide a reasonable opportunity to such trade association or other representatives to present comments directly to the board of directors on the proposal.

"(5) Federal Prison Industries shall publish in the manner specified in paragraph (4)(B) the final decision of the board with respect to the production of a new product or the significant expansion of the production of an existing product.

"(6) Federal Prison Industries shall publish, after the end of each 6-month period, a list of sales by the corporation for that 6-month period. Such list shall be made available to all interested parties.".

SEC. 2648. CONTROLLED SUBSTANCES AND RELATED AMENDMENTS.

(a) Attempt and Conspiracy Amendments.—Section 406 of the Controlled Substance Act (21 U.S.C. 846) and section 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 963) are amended by striking "is punishable" and all that follows through "punishment" and inserting "shall be subject to the same penalties as those".

(b) Clarifying Amendments Relating to Forfeiture of Proceeds of a Foreign Drug Offense.—Subparagraph (B) of section 981(a)(1) of title 18, United States Code, is amended by—

(1) inserting ", real or personal," after "property";

(2) striking "which represents the proceeds of" and inserting "constituting, derived from, or traceable to, any proceeds obtained directly or indirectly from";

(3) striking "or activity" the first place it appears;

(4) inserting "under the laws of the United States" after "punishable" the second place it appears; and

(5) inserting "constituting the offense against the foreign nation" after "such act or activity".

(c) Clarification of Controlled Substance Analogue Provision.—Section 203 of the Controlled Substances Act (21 U.S.C. 813) is amended by striking "this title and title III" and inserting "any Federal law".

(d) Correction of Reference Relating to Mandatory Prison Terms for Juvenile Drug Trafficking.—Section 405B(e) of the Controlled Substances Act (21 U.S.C. 845b(e)) is amended by striking "required by section 401(b)".

(e) Correction of Typographical Error.—Section 981(a)(2) of title 18, United States Code, is amended by striking "emission" and inserting "omission".

(f) Correction of Reference to Subsection.—Section 981(i)(1) of title 18, United States Code, is amended by striking "subchapter" and inserting "subsection".

(g) Mandatory Minimum Penalty for Trafficking in Substantial Quantity of Methamphetamine.—Subparagraph (A) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended—

(1) by striking "or" at the end of clause (vi);

(2) by inserting "or" at the end of clause (vii); and

(3) by adding a new clause (viii), as follows:

"(viii) 100 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers;".

(h) Conforming Amendment.—Subparagraph (B) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended—

(1) by striking "or" at the end of clause (vi);

(2) by inserting "or" at the end of clause (vii); and

(3) by adding a new clause (viii), as follows:

"(viii) 10 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers;".

SEC. 2649. MONEY LAUNDERING AMENDMENTS.

(a) Insertion of Income Tax Predicate for Money Laundering Offense.—Section 1956(a)(1)(A) of title 18, United States Code, is amended to read as follows:

"(A)(i) with the intent to promote the carrying on of specified unlawful activity; or

"(ii) with intent to violate or promote a violation of section 7201 or 7206 of the Internal Revenue Code of 1986; or".

(b) Transmission or Transfer.—Section 1956(a)(2) of title 18, United States Code, is amended by striking "transports or attempts to transport" and inserting "transports, transmits, or transfers, or attempts to transport, transmit, or transfer".

(c) Clarification of Scope of Stay of Civil Forfeiture.—Section 981(g) of title 18, United States Code, is amended by inserting ", Federal, State or local," after "law".

SEC. 2650. PROVISION OF MISDEMEANOR PENALTY FOR CERTAIN ESCAPES.

Sections 751(a) and 752(a) of title 18, United States Code, are amended by inserting ", or for exclusion or expulsion proceedings under the immigration laws," after "extradition".

SEC. 2651. CLARIFICATION OF PREDICATE OFFENSE REQUIREMENTS FOR ARMED CAREER CRIMINAL ACT.

Section 924(e)(1) of title 18, United States Code, is amended by inserting "committed on occasions different from one another," after "for a violent felony or a serious drug offense, or both,".

SEC. 2652. AUTHORITY FOR THE FEDERAL BUREAU OF INVESTIGATION TO INVESTIGATE, UPON REQUEST, FELONIOUS KILLINGS OF STATE OR LOCAL LAW ENFORCEMENT OFFICERS.

(a) Authority.—Chapter 33 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 540. Investigation of felonious killings of State or local law enforcement officers

"The Attorney General and the Federal Bureau of Investigation may investigate felonious killings of officials and employees of a State or political subdivision thereof while engaged in or on account of the performance of official duties relating to the prevention, detection, investigation, or prosecution of an offense against the criminal laws of a State or political subdivision, when such investigation is requested by the head of the agency employing the official or employee killed, and under such guidelines as the Attorney General or his designee may establish.".

(b) Conforming Amendments.—The table of sections of such chapter is amended by adding at the end thereof the following item:

"540. Investigation of felonious killings of State or local law enforcement officers."

SEC. 2653. TRANSPORTATION AND RECEIPT OF STOLEN SECURITIES.

(a) Transmission or Transfer.—The first paragraph of section 2314 of title 18, United States Code, is amended by striking "transports" and inserting "transports, transmits, or transfers".

(b) Inapplicability of Section.—The final paragraphs of sections 2314 and 2315 of title 18, United States Code, are amended—

(1) by striking "or by a bank or corporation of any foreign country"; and

(2) by adding at the end thereof: "This section also shall not apply to any falsely made, forged, altered, counterfeited, or spurious representation of any bank note or bill issued by a bank or corporation of any foreign country which is intended by the laws or usage of such country to circulate as money.".

SEC. 2654. MAXIMUM PENALTY ADJUSTMENTS.

(a) Abusive Sexual Contact.—Section 2244(a) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "five years" and inserting "ten years"; and

(2) in paragraph (3) by striking "one year" and inserting "two years".

(b) Murder for Hire.—Section 1958 of title 18, United States Code, is amended by striking "five years" and inserting "ten years".

(c) Involuntary Manslaughter.—Section 1112(b) of title 18, United States Code, is amended by striking "shall be fined not more than $1,000 or imprisoned not more than three years, or both" and inserting "shall be imprisoned not more than five years, or fined under this title, or both".

(d) Attempted Murder.—Section 1113 of title 18, United States Code, is amended by striking "shall be fined not more than $1,000 or imprisoned not more than three years, or both" and inserting "shall, for an attempt to commit murder be imprisoned not more than twenty years, or fined under this title, or both, and for an attempt to commit manslaughter be imprisoned not more than three years, or fined under this title, or both."

(e) Accessory After the Fact.—Section 3 of title 18, United States Code, is amended by striking "ten" and inserting "twenty-five".

(f) Racketeering Influenced and Corrupt Organizations.—Section 1963(a) of title 18, United States Code, is amended by striking "shall be fined not more than $25,000 or imprisoned not more than twenty years, or both" and inserting "shall be fined under this title and imprisoned for not more than twenty years (or for life, if the violation is predicated on an offense for which the maximum penalty includes life in prison), or both".

SEC. 2655. BALLISTIC KNIFE ACT JURISDICTIONAL CLARIFICATIONS.

The Ballistic Knife Prohibition Act of 1986 (15 U.S.C. 1245) is amended—

(1) by striking "knowingly possesses, manufactures, sells, or imports" and inserting "in or affecting interstate commerce, within any Territory or possession of the United States, within Indian country (as defined in section 1151 of title 18), or within the special maritime and territorial jurisdiction of the United States (as defined in section 7 of title 18), knowingly possesses, manufactures, sells, or imports"; and

(2) by striking "or State" before "crime of violence".

SEC. 2656. COMMON CARRIER OPERATION AMENDMENTS.

(a) Definitional Refinement.—Section 342 of title 18, United States Code, is amended by striking "drugs" and inserting "any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))".

(b) Conformance of Fine Level.—Section 342 of title 18, United States Code, is amended by striking "fined not more than $10,000," and inserting "fined under this title,".

(c) Limitation and Clarification of Presumptions.—Section 343 of title 18, United States Code, is amended—

(1) in paragraph (1) by striking ".10" and inserting ".10 percent" and by striking "conclusively"; and

(2) in paragraph (2) by striking "conclusively".

SEC. 2657. EXPLOSIVES OFFENSES AMENDMENTS.

(a) Expansion of Offense to Certain Airports and Strengthening of Penalty.—Section 844(g) of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting "(1) Except as provided in paragraph (2), whoever";

(2) by inserting "in an airport that is subject to the regulatory authority of the Federal Aviation Administration, or" after "possesses an explosive";

(3) by inserting "or airport" after "such building";

(4) by striking "not more than one year, or fined not more than $1,000, or both" and inserting "not more than five years, or fined under this title, or both"; and

(5) by adding at the end thereof the following:

"(2) The provisions of this subsection shall not be applicable to—

"(A) the possession of ammunition (as that term is defined in regulations issued pursuant to this chapter) in an airport that is subject to the regulatory authority of the Federal Aviation Administration if such ammunition is either in checked baggage or in a closed container; or

"(B) the possession of an explosive in an airport if the packaging and transportation of such explosive is exempt from, or subject to and in accordance with, regulations of the Research and Special Projects Administration for the handling of hazardous materials pursuant to the Hazardous Materials Transportation Act (49 App. U.S.C. 1801, et seq.).".

(b) Strengthening Offense of Using or Carrying an Explosive in Commission of a Federal Felony.—Section 844(h) of title 18, United States Code, is amended—

(1) by striking "unlawfully" in paragraph (2); and

(2) by striking "shall be sentenced" through the remainder of the subsection and inserting the following:

"including a felony which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device shall, in addition to the punishment provided for such felony, be sentenced to imprisonment for five years. In the case of a second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for ten years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the felony in which the explosive was used or carried.".

(c) Conforming Definitional Change.—Section 842(d)(5) of title 18, United States Code, is amended to read as follows:

"(5) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).".

(d) Conforming Definitional Change.—Section 842(i)(3) of title 18, United States Code, is amended to read as follows:

"(3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).".

SEC. 2658. INTERSTATE AGREEMENT ON DETAINERS ACT AMENDMENTS.

The Interstate Agreement on Detainers Act (84 Stat. 1397) is amended by adding at the end thereof the following new section:

"§ 9. Special Provisions when United States is a Receiving State

Notwithstanding any provision of the agreement on detainers to the contrary, in a case in which the United States is a receiving State—

"(1) any order of a court dismissing any indictment, information, or complaint may be with or without prejudice. In determining whether to dismiss the case with or without prejudice, the court shall consider, among others, each of the following factors: The seriousness of the offense; the facts and circumstances of the case which led to the dismissal; and the impact of a reprosecution on the administration of the agreement on detainers and on the administration of justice; and

"(2) it shall not be a violation of the agreement on detainers if prior to trial the prisoner is returned to the custody of the sending State pursuant to an order of the appropriate court issued after reasonable notice to the prisoner and the United States and an opportunity for a hearing.".

SEC. 2659. CLARIFICATION OF PROHIBITION OF POSSESSION WITH INTENT TO DISTRIBUTE CONTROLLED SUBSTANCES ON AIRCRAFT.

Section 1010(a)(3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(a)(3)) is amended by striking "manufactures or distributes a controlled substance" and inserting "manufactures, possesses with intent to distribute, or distributes a controlled substance".

SEC. 2660. CLARIFICATION OF DEFINITION OF DRUG TRAFFICKING CRIMES IN WHICH USE OF FIREARMS AND ARMOR PIERCING AMMUNITION IS PROHIBITED.

Paragraph (2) of subsection 924(c) of title 18, United States Code, and paragraph (2) of subsection 929(a) of title 18, United States Code, are each amended to read as follows:

"(2) for purposes of this subsection, the term 'drug trafficking crime' means any felony punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1901 et seq.)."

SEC. 2661. CLERICAL CORRECTIONS RELATING TO CHAPTER 44.

(a) Section 924(c) Amendments.—Paragraph (1) of section 924(c) of title 18, United States Code, is amended—

(1) by striking "crime,," the first place it appears and inserting "crime";

(2) by striking "crime,," each other place it appears and inserting "crime,";

(3) by striking "including a crime" and inserting "(including a crime";

(4) by striking "crime, which" and inserting "crime which";

(5) by striking "device, for" and inserting "device) for"; and

(6) by striking ", or drug trafficking crime".

(b) Section 929 Amendment.—Paragraph (1) of section 929(a) of title 18, United States Code, is amended by striking "crime," each place it appears and inserting "crime".

(c) Section 922(g) Amendment.—Section 922(g)(3) of title 18, United States Code, is amended by inserting "who" before "is an unlawful user".

(d) Section 923 Amendments.—Section 923 of title 18, United States Code, is amended—

(1) in subsection (a), by striking the period that follows "licensing"; and

(2) in subsection (f)(3), by striking the period that follows a period.

SEC. 2662. INSERTION OF MISSING SUBSECTION HEADING.

Section 2706(c) of title 18, United States Code, is amended by inserting "Exception.—" after "(c)".

SEC. 2663. INSERTION OF MISSING TABLE.

Chapter 113A of title 18, United States Code, is amended by inserting after the heading of such chapter the following table:

"Sec. 2331. Terrorist acts abroad against United States nationals.".

SEC. 2664. CORRECTION OF ITEMS IN TABLES OF CHAPTERS.

(a) Chapter 113A.—The item relating to chapter 113A in the table of sections at the beginning of part I of title 18, United States Code, is amended by striking the final period and inserting ".................2331".

(b) Chapter 121.—The item relating to chapter 121 in the table of sections at the beginning of part I of title 18, United States Code, is amended by striking "Wire and Electronic Communications and Transactional Records Access" and inserting "wire and electronic communications and transactional records access".

(c) Chapter 17A.—The item relating to chapter 17A in the table of sections at the beginning of part I of title 18, United States Code, is amended by striking "Carrier Operation Under the Influence of Alcohol or Drugs" and inserting "carrier operation under the influence of alcohol or drugs........341".

(d) Chapter 109A.—The item relating to chapter 109A in the table of sections at the beginning of part I of title 18, United States Code, is amended by striking "Abuse" and inserting "abuse".

(e) Chapter 11.—The item relating to chapter 11 in the table of sections at the beginning of part I of title 18, United States Code, is amended by striking "Bribery and graft" and inserting "Bribery, graft, and conflicts of interest".

SEC. 2665. INSERTION OF MISSING LETTER.

Section 794(d)(4) of title 18, United States Code, is amended by striking "amount" and inserting "amounts".

SEC. 2666. PUNCTUATION CORRECTION.

Section 1030.—Section 1030(a)(2) of title 18, United States Code, is amended—

(1) by striking the comma that follows a comma; and

(2) by inserting a comma after "financial institution".

SEC. 2667. REFERENCE CORRECTION.

Section 2232(c) of title 18, United States Code, is amended by inserting "of 1978" after "Surveillance Act".

SEC. 2668. CONFORMING AMENDMENT TO TABLE OF SECTIONS.

The item relating to section 2710 in the table of sections at the beginning of chapter 121 of title 18, United States Code, is amended by inserting "for chapter" after "Definitions".

SEC. 2669. CORRECTION OF ITEM IN TABLE OF SECTIONS FOR CHAPTER 206.

The item relating to section 3123 in the table of sections at the beginning of chapter 206 of title 18, United States Code, is amended by striking "trap or trace" and inserting "trap and trace".

SEC. 2670. CORRECTION OF ITEMS IN TABLE OF SECTIONS FOR CHAPTER 46.

The items in the table of sections at the beginning of chapter 46 of title 18, United States Code, are each amended by striking "Forfeiture" and inserting "forfeiture".

SEC. 2671. CORRECTION OF TYPOGRAPHICAL ERROR.

Section 2422 of title 18, United States Code, is amended by striking "of foreign commerce" and inserting "or foreign commerce".

SEC. 2672. CONFORMING AMENDMENT TO TABLE OF SECTIONS FOR CHAPTER 117.

The item relating to section 2424 in the table of sections at the beginning of chapter 117 of title 18, United States Code, is amended by striking "female" and inserting "individual".

SEC. 2673. ELIMINATION OF CROSS REFERENCES TO REPEALED SECTION.

(a) Section 3401.—Section 3401(g) of title 18, United States Code, is amended by striking "and section 4216".

(b) Section 3522.—Section 3522(c) of title 18, United States Code, is amended by striking "4216" and inserting "4215".

(c) Section 4106.—Section 4106(b) of title 18, United States Code, is amended by striking "4216" and inserting "4215".

SEC. 2674. INSERTION OF MISSING WORD.

Section 3142(c)(3) of title 18, United States Code, is amended by inserting "the" before "order".

SEC. 2675. INSERTION OF MISSING COMMA.

Section 351(a) of title 18, United States Code, is amended by inserting a comma after "(as defined in section 3056 of this title)".

SEC. 2676. CORRECTIONS OF ERRORS IN FEDERAL RULES OF EVIDENCE.

(a) INSERTION OF MISSING WORD.—Rule 615 of the Federal Rules of Evidence is amended by inserting "a" before "party which is not a natural person.".

(b) SYNTAX CORRECTION.—Rule 804(a)(5) of the Federal Rules of Evidence is amended by striking "subdivisions" and inserting "subdivision".

(c) CORRECTION OF CAPITALIZATION.—Rule 1101(a) of the Federal Rules of Evidence is amended—

(1) by striking "Rules" and inserting "rules"; and

(2) by striking "Courts of Appeals" and inserting "courts of appeals".

SEC. 2677. SUPERVISED RELEASE.

Rule 11(c)(1) of the Federal Rules of Criminal Procedure is amended by adding "or term of supervised release" after "special parole term".

SEC. 2678. INJUNCTIONS AGAINST FRAUD.

Section 1345 of title 18, United States Code, is amended by adding "or of section 287, 371 (insofar as it involves a conspiracy to defraud the United States or any agency thereof), or 1001 of this title" after "violation of this chapter,".

SEC. 2679. OBSTRUCTION OF FEDERAL AUDIT.

(a) OFFENSE.—Chapter 73 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1516. Obstruction of Federal audit

"(a) Whoever, with intent to deceive or defraud, endeavors to influence, obstruct, or impede a Federal auditor in the performance of official duties relating to a person receiving in excess of $100,000, directly or indirectly, from the United States in any 1 year period pursuant to a contract or subcontract, shall be fined under this title, or imprisoned not more than 5 years, or both.

"(b) For purposes of this section the term 'Federal auditor' means any person employed on a full or part time or contractual basis to perform an audit or a quality assurance inspection for or on behalf of the United States.".

(b) SECTION ANALYSIS.—The section analysis for chapter 73 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1516. Obstruction of Federal audit.".

SEC. 2680. UNAUTHORIZED USE OF THE TERM "SECRET SERVICE".

(a) UNAUTHORIZED USE.—Section 709 of title 18, United States Code, is amended by inserting after the undesignated paragraph relating to the Federal Bureau of Investigations the following new paragraph:

"Whoever, except with written permission of the Director of the United States Secret Service, knowingly uses the words 'Secret Service', 'Secret Service Uniformed Division', the initials 'U.S.S.S.', 'U.D.', or any colorable imitation of such words or initials, in connection with, or as a part of any advertisement, circular, book, pamphlet or other publication, play, motion picture, broadcast, telecast, other production, product, or item, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet or other publication, product, or item, is approved, endorsed, or authorized by or associated in any manner with, the United States Secret Service, or the United States Secret Service Uniformed Division; or".

(b) EFFECTIVE DATE.—This section shall take effect 90 days after the date of enactment of this Act.

SEC. 2681. AGGREGATION TO PERMIT PROSECUTION OF CERTAIN SCHEMES TO DEFRAUD MULTIPLE VICTIMS.

The second paragraph of section 2314 of title 18, United States Code, is amended by inserting "or persons" after "person" the first place it appears, and by inserting "or those persons" after "person" the second place it appears.

SEC. 2682. TIME FOR REFILING INDICTMENT OR INFORMATION FOLLOWING DISMISSAL.

(a) INDICTMENT WHERE DEFECT FOUND AFTER PERIOD OF LIMITATIONS.—Section 3288 of title 18, United States Code, is amended—

(1) by inserting after "within six calendar months of the date of the expiration of the applicable statute of limitations" the following: ", or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final";

(2) by striking all beginning with "Whenever" through "for any cause," and inserting "Whenever an indictment or information charging a felony is dismissed for any reason";

(3) by adding at the end thereof the following: "This section is not intended to permit the filing of a new indictment or information where the reason for the dismissal was the failure to file the indictment or information within the period prescribed by the applicable statute of limitations, or some other reason that would bar a new prosecution."; and

(4) by amending the section heading to read as follows:

"§ 3288. Indictments and informations dismissed after period of limitations.".

(b) INDICTMENT WHERE DEFECT FOUND BEFORE PERIOD OF LIMITATIONS.—Section 3289 of title 18, United States Code, is amended—

(1) by inserting after "within six calendar months of the date of the dismissal of the indictment or information" the following: "or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final";

(2) by striking all beginning with "Whenever" through "for any cause," and inserting "Whenever an indictment or information charging a felony is dismissed for any reason";

(3) by adding at the end thereof the following: "This section is not intended to permit the filing of a new indictment or information where the reason for the dismissal was the failure to file the indictment or information within the period prescribed by the applicable statute of limitations, or some other reason that would bar a new prosecution."; and

(4) by amending the section heading to read as follows:

"§ 3289. Indictments and informations dismissed before period of limitations.".

(c) CHAPTER ANALYSIS.—The analysis for chapter 213 of title 18, United States Code, is amended by striking the items for sections 3288 and 3289 and inserting the following:

"3288. Indictments and information dismissed after period of limitations.

"3289. Indictments and information dismissed before period of limitations.".

SEC. 2683. RESTARTING OF SPEEDY TRIAL ACT TIME PERIOD FOR DEFENDANTS WHO ABSCOND ON EVE OF TRIAL.

Section 3161 of title 18, United States Code, is amended by adding at the end the following:

"(k)(1) If the defendant is absent (as defined by subsection (h)(3)) on the day set for trial, and the defendant's subsequent appearance before the court on a bench warrant or other process or surrender to the court occurs more than 21 days after the day set for trial, the defendant shall be deemed to have first appeared before a judicial officer of the court in which the information or indictment is pending within the meaning of subsection (c) on the date of the defendant's subsequent appearance before the court.

"(2) If the defendant is absent (as defined by subsection (h)(3)) on the day set for trial, and the defendant's subsequent appearance before the court on a bench warrant or other process or surrender to the court occurs not more than 21 days after the day set for trial, the time limit required by subsection (c), as extended by subsection (h), shall be further extended by 21 days.".

SEC. 2684. CRIMINAL FINES AMENDMENTS.

(a) APPLICATION OF GOVERNMENT PETITION FOR MODIFICATION OR REMISSION OF FINES TO OLD FINES.—Section 3573 of title 18, United States Code, is amended by adding at the end thereof the following: "This section shall apply to all fines and assessments irrespective of the date of imposition.".

(b) APPLICATION OF STATUTE OF LIMITATIONS FOR SPECIAL ASSESSMENTS TO OLD ASSESSMENTS.—Section 3013(c) of title 18, United States Code, is amended by adding at the end thereof the following: "This subsection shall apply to all assessments irrespective of the date of imposition.".

(c) APPLICATION OF WAIVER BY ATTORNEY GENERAL OF INTEREST OR PENALTY RELATING TO FINES TO OLD FINES.—Section 3612(h) of title 18, United States Code, is amended by inserting "or any interest or penalty relating to a fine imposed under any prior law" after "under this section".

(d) NOTICE REQUIREMENTS.—Sections 3612(d) and (e) of title 18, United States Code, are amended by striking ", by certified mail,".

SEC. 2685. SYNTAX CORRECTION TO MINIMUM SENTENCE PROVISION.

Section 994(n) of title 28, United States Code, is amended by striking "as minimum sentence" and inserting "as a minimum sentence".

SEC. 2686. REFUND OF FORFEITED BAIL.

(a) OFFENSE.—Chapter 207 of title 18, United States Code, is amended by adding the following new section after section 3150:

"§ 3151. Refund of forfeited bail

"Appropriations available to refund money erroneously received and deposited in the Treasury are available to refund any part of forfeited bail deposited into the Treasury and ordered remitted under the Federal Rules of Criminal Procedure.".

(b) SECTION ANALYSIS.—The section analysis for chapter 207 of title 18, United States Code, is amended by inserting at the appropriate place the following new item:

"Sec. 3151. Refund of forfeited bail.".

SEC. 2687. SPECIAL ASSESSMENTS ON PERSONS CONVICTED OF OFFENSES FOR WHICH COLLATERAL MAY BE FORFEITED.

Section 3013 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "The court" and inserting "Except as provided in subsection (d) of this section, the court"; and

(2) by inserting at the end the following new subsection:

"(e) No assessment shall be imposed on any person convicted of an offense for which the local rules of the district court in which the case is pending, or other Federal law, establishes that collateral may be posted in lieu of appearance in court.".

SEC. 2688. CONDITIONS OF PROBATION.

Section 3563(a)(2) of title 18, United States Code, is amended by inserting before the period ", unless the court finds on the record that extraordinary circumstances exist that would make such a condition plainly unreasonable, in which event the court shall impose one or more of the other conditions set forth under subsection (b)".

SEC. 2689. AUTHORITY TO OBTAIN ARREST WARRANT FOR FOREIGN FUGITIVE WHOSE SPECIFIC WHEREABOUTS ARE NOT KNOWN.

Section 3184 of title 18, United States Code, is amended by inserting after the first sentence the following: "Such complaint may be filed before and such warrant may be issued by a judge or magistrate of the United States District Court for the District of Columbia if the whereabouts within the United States of the person charged are not known.".

SEC. 2690. MISUSE OF SOCIAL SECURITY NUMBER.

Section 208 of the Social Security Act (42 U.S.C. 408) is amended—

(1) in the first undesignated paragraph, by striking "not more than $5,000" after "shall be fined";

(2) in the second undesignated paragraph, by striking "not more than $25,000" after "shall be fined"; and

(3) adding at the end the following: "For the purpose of subsection (g), the terms 'social security number' and 'social security account number' mean such numbers as are assigned by the Secretary under section 405(c)(2) of this title whether or not, in actual use, such numbers are called social security numbers.".

SEC. 2691. PETTY OFFENSE AMENDMENTS.

(a) Title 18.—Section 19 of title 18, United States Code, is amended by inserting ", for which the maximum fine is no greater than the amount set forth for such an offense in section 3571(b) (6) or (7) in the case of an individual or section 3571(c) (6) or (7) in the case of an organization" after "infraction".

(b) Rules of Procedure.—Rule 9 of the Rules of Procedure for the Trial of Misdemeanors before United States Magistrates is amended to read as follows:

"Rule 9. Definition

"As used in these rules, 'petty offense' has the meaning set forth in 18 U.S.C. §19.".

(c) Federal Rules of Criminal Procedure.—Rule 54 of the Federal Rules of Criminal Procedure is amended in the definition of "petty offense" to read as follows:

"'Petty offense' has the meaning set forth in 18 U.S.C. §19.".

SEC. 2692. NONMAILABILITY OF LOCKSMITHING DEVICES.

(a) In General.—Title 39, United States Code, is amended by inserting after section 3002 the following:

"§ 3002a. Nonmailability of locksmithing devices.

"(a) Any locksmithing device is nonmailable mail, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless such device is mailed to—

"(1) a lock manufacturer or distributor;

"(2) a bona fide locksmith;

"(3) a bona fide repossessor; or

"(4) a motor vehicle manufacturer or dealer.

"(b) For the purpose of this section, 'locksmithing device' means—

"(1) a device or tool (other than a key) designed to manipulate the tumblers in a lock into the unlocked position through the keyway of such lock;

"(2) a device or tool (other than a key or a device or tool under paragraph (1)) designed for the unauthorized opening or bypassing of a lock or similar security device; and

"(3) a device or tool designed for making an impression of a key or similar security device to duplicate such key or device.".

(b) Chapter Analysis.—The analysis for Chapter 30 of title 39, United States Code, is amended by inserting after the item relating to section 3002 the following:

"3002a. Nonmailability of locksmithing devices.".

(c) Penalties.—Title 18, United States Code, is amended by inserting after section 1716A the following:

"§ 1716B. Nonmailable locksmithing devices

"Whoever knowingly deposits for mailing or delivery, causes to be delivered by mail, or causes to be delivered by any interstate mailing or delivery other than by the United States Postal Service, any matter declared to be nonmailable by section 3002a of title 39, shall be guilty of a class A misdemeanor.".

(d) Chapter Analysis.—The analysis for chapter 83 of title 18, United States Code, is amended by inserting after the item relating to section 1716A the following:

"1716B. Nonmailable locksmithing devices.".

(e) Conforming Amendment.—Section 1716A of title 18, United States Code, is amended by striking "shall be fined not more than $1,000, or imprisoned not more than one year, or both" and inserting "shall be guilty of a class A misdemeanor".

SEC. 2693. ASSIMILATIVE CRIMES ACT AMENDMENTS.

(a) Penalties for Operating a Motor Vehicle While Under the Influence of Drugs or Alcohol.—Section 13 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever"; and

(2) by adding at the end the following:

"(b) For purposes of subsection (a) of this section, that which may or shall be imposed through judicial or administrative action under the law of a State, territory, possession, or district, for a conviction for operating a motor vehicle under the influence of a drug or alcohol, shall be considered to be a punishment provided by that law. Any limitation on the right or privilege to operate a motor vehicle imposed under this subsection shall apply only to the special maritime and territorial jurisdiction of the United States.".

(b) Implied Consent for Certain Tests.—(1) Chapter 205 of title 18, United States Code, is amended by adding at the end the following:

"§ 3117. Implied consent for certain tests

"(a) Consent.—Whoever operates a motor vehicle in the special maritime and territorial jurisdiction of the United States consents thereby to a chemical test or tests of such person's blood, breath, or urine, if arrested for any offense arising from such person's driving while under the influence of a drug or alcohol in such jurisdiction. The test or tests shall be administered upon the request of a police officer having reasonable grounds to believe the person arrested to have been driving a motor vehicle upon the special maritime and territorial jurisdiction of the United States while under the influence of drugs or alcohol in violation of the laws of a State, territory, possession, or district.

"(b) Effect of Refusal.—Whoever, having consented to a test or tests by reason of subsection (a), refuses to submit to such a test or tests, after having first been advised of the consequences of such a refusal, shall be denied the privilege of operating a motor vehicle upon the special maritime and territorial jurisdiction of the United States during the period of a year commencing on the date of arrest upon which such test or tests was refused, and such refusal may be admitted into evidence in any case arising from such person's driving while under the influence of a drug or alcohol in such jurisdiction. Any person who operates a motor vehicle in the special maritime and territorial jurisdiction of the United States after having been denied such privilege under this subsection shall be treated for the purposes of any civil or criminal proceedings arising out of such operation as operating such vehicle without a license to do so.".

(2) The table of sections at the beginning of chapter 205 of title 18, United States Code, is amended by adding at the end the following:

"3117. Implied consent for certain tests."

SEC. 2694. PROTECTION OF FOREIGN OFFICIALS.

Section 112(b)(3) of title 18, United States Code, is amended by striking "but outside the District of Columbia".

SEC. 2695. BAIL PENDING APPEAL.

Section 3143(b) of title 18, United States Code, is amended by—

(1) striking subparagraph (2) and inserting the following:

"(2) that the appeal is not for the purpose of delay and raises a substantial question of law or fact likely to result in—

"(A) reversal,

"(B) an order for a new trial,

"(C) a sentence that does not include a term of imprisonment, or

"(D) a reduced sentence to a term of imprisonment less than the total of the time already served plus the expected duration of the appeal process."; and

(2) inserting before the final period the following: ", except that in the circumstance described in paragraph (b)(2)(D), the judicial officer shall order the detention terminated at the expiration of the likely reduced sentence".

SEC. 2696. EMERGENCY PEN REGISTER AND TRAP AND TRACE DEVICE INSTALLATION.

(a) Chapter 206 of title 18, United States Code is amended—

(1) by renumbering sections 3125 and 3126 as sections 3126 and 3127 respectively; and

(2) by adding after section 3124 the following new section:

"§ 3125 Emergency pen register and trap and trace device installation.

"(a) Notwithstanding any other provision of this chapter, any investigative or law enforcement officer, specially designated by the Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, any acting Assistant Attorney General, or any Deputy Assistant Attorney General, or by the principal prosecuting attorney of any State or subdivision thereof acting pursuant to a statute of that State, who reasonably determines that—

"(1) an emergency situation exists that involves—

"(A) immediate danger of death or serious bodily injury to any person; or

"(B) conspiratorial activities characteristic of organized crime,

that requires the installation and use of a pen register or a trap and trace device before an order authorizing such installation and use can, with due diligence, be obtained, and

"(2) there are grounds upon which an order could be entered under this chapter to authorize such installation and use 'may have installed and use a pen register or trap and trace device if, within forty-eight hours after the installation has occurred, or begins to occur, an order approving the installation or use is issued in accordance with section 3123 of this title.'

"(b) In the absence of an authorizing order, such use shall immediately terminate when the information sought is obtained, when the application for the order is denied or when forty-eight hours have lapsed since the installation of the pen register or trap and trace device, whichever is earlier.

"(c) The knowing installation or use by any investigative or law enforcement officer of a pen register or trap and trace device pursuant to subsection (a) without application for the authorizing order within forty-eight hours of the installation shall constitute a violation of this chapter.

"(d) A provider for a wire or electronic service, landlord, custodian, or other person who furnished facilities or technical assistance pursuant to this section shall be reasonably compensated for such reasonable expenses incurred in providing such facilities and assistance.".

(b)(1) Section 3124(d) of title 18, United States Code, is amended by adding after the words "court order under this chapter" the words "or request pursuant to section 3125 of this title".

(2) Section 3124(e) of title 18, United States Code, is amended by adding after the words "court order" the words "under this chapter, a request pursuant to section 3125 of this title".

(c) The table of sections for chapter 206 of title 18, United States Code, is amended—

(1) by renumbering the items for sections 3125 and 3126 as sections 3126 and 3127, respectively; and

(2) by inserting the following new item: "3125. Emergency pen register and trap and trace device installation".

(d) Section 3124(b) of title 18, United States Code, is amended by adding after the words "shall be furnished" the words ", pursuant to subsection 3123(b) or section 3125 of this title,".

Subtitle L—Sentencing Amendments

SEC. 2701. PRISONERS TRANSFERRED TO THE UNITED STATES.

(a) PRISONERS TRANSFERRED TO THE UNITED STATES.—Chapter 306 of title 18, United States Code, is amended by adding after section 4106 the following new section:

"§ 4106A. Transfer of offenders on parole; parole offenders transferred

"(a) Upon the receipt of an offender who is on parole from the authorities of a foreign country, the Attorney General shall assign the offender to the United States Parole Commission for supervision.

"(b)(1) An offender transferred to the United States to serve a sentence of imprisonment that is longer than the maximum period of time specified in the applicable sentencing guidelines promulgated pursuant to section 994(a)(1) of title 28, United States Code, as determined by the United States Parole Commission upon the recommendation of the United States Probation Service, shall serve in an official detention facility the maximum period of time specified in the applicable sentencing guidelines and shall serve the remainder of the term imposed as a term of supervised release.

"(2) The Parole Commission shall set conditions of supervised release in accordance with section 3583 of this title. Upon the release of the prisoner from confinement and the beginning of the period of supervised release, supervision of the prisoner shall be transferred to the district court of the district where the prisoner resides.

"(3) To the extent permitted by the applicable treaty, a final determination by the Parole Commission as to whether the transferred offender shall serve a term of supervised release and the length of such term may be appealed to the United States court of appeals for the district in which the offender is imprisoned after transfer to the United States, and the court of appeals shall decide and dispose of the appeal in accordance with section 3742 as though the determination appealed had been imposed by the United States district court.

"(4) A determination by the Parole Commission shall be made only after affording the transferred offender an opportunity to submit evidence or information as to the applicable sentencing guideline.

"(c) This section shall apply only to offenses completed on or after November 1, 1987, and the Parole Commission's performance of its responsibilities under this section shall be subject to section 235 of the Comprehensive Crime Control Act of 1984.".

(b) CONFORMING AMENDMENT.—The section analysis at the beginning of chapter 306 of title 18, United States Code, is amended by inserting the following after the item for section 4106:

"4106A. Transfer of offenders on parole; parole of offenders transferred.".

SEC. 2702. RECORDS OTHER THAN TRANSCRIPTS.

Section 3553(c) of title 18, United States Code, is amended by—

(1) inserting after "transcription" the following: "or other appropriate public record"; and

(2) striking "clerk of the" in the last sentence.

SEC. 2703. STANDARD OF REVIEW.

Section 3742 of title 18, United States Code, is amended—

(1) in subsections (a)(2) and (b)(2), by striking "was imposed as a result of an incorrect application of the sentencing guidelines issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)" and inserting "resulted from the use of an inapplicable sentencing guideline range";

(2) in subsection (d)(2), by striking "was imposed as a result of an incorrect application of the sentencing guidelines" and inserting "resulted from the use of an inapplicable sentencing guideline range";

(3) in subsection (e)(1), by striking "imposed as a result of an incorrect application of the sentencing guidelines" and inserting "resulted from the use of an inapplicable sentencing guideline range";

(4) by striking paragraph (3) of subsection (a) and inserting the following:

"(3) is greater than the sentence specified in the applicable guideline range to the extent that the sentence includes a greater fine or term of imprisonment or term of supervised release than the maximum established in the guideline range, or includes a more limiting condition of probation or supervised release under section 3563 (b)(6) or (b)(11) than the maximum established in the guideline range; or";

(5) by striking paragraph (3) of subsection (b) and inserting the following:

"(3) is less than the sentence specified in the applicable guideline range to the extent that the sentence includes a lesser fine or term of imprisonment or term of supervised release than the minimum established in the guideline range, or includes a less limiting condition of probation or supervised release under section 3563 (b)(6) or (b)(11) than the minimum established in the guideline range; or";

(6) by striking paragraph (4) of subsection (a) and inserting the following:

"(4) was imposed for an offense for which there is no sentencing guideline and is plainly unreasonable.";

(7) in subsection (b)—

(A) by striking paragraph (4) through the end and inserting the following:

"(4) was imposed for an offense for which there is no sentencing guideline and is plainly unreasonable."; and

(B) by inserting after "The Government" the following: ", with the personal approval of the Solicitor General or the Attorney General,";

(8) in subsections (d)(3) and (e)(2), by striking "range of the applicable sentencing guideline" and inserting "applicable sentencing guideline range";

(9) in the second sentence of subsection (d), by inserting "and shall give due deference to the district court's application of the guidelines to the facts" after "clearly erroneous"; and

(10) by inserting a new subsection (c), as follows, and by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively:

"(c) PLEA AGREEMENTS.—In the case of a plea agreement which includes a specific sentence under rule 11(e)(1)(B) or (e)(1)(C) of the Federal Rules of Criminal Procedure, a notice of appeal may not be filed—

"(1) by the defendant under paragraphs (3) or (4) of subsection (a) unless the sentence imposed is greater than the sentence specified in such agreement; and

"(2) by the Government under paragraph (3) or (4) of subsection (b) unless the sentence imposed is less than the sentence specified in such agreement."; and

(11) by adding at the end of the section the following new subsection:

"(h) GUIDELINE NOT EXPRESSED AS A RANGE.—For the purpose of this section, the term 'sentencing guideline range' includes a sentencing guideline range having the same upper and lower limits.".

SEC. 2704. HIRING OUTSIDE COUNSEL.

Section 995(a) of title 28, United States Code, is amended by—

(1) striking "and" at the end of paragraph (21);

(2) striking the period at the end of paragraph (22) and inserting "; and"; and

(3) adding at the end thereof the following:

"(23) retain private attorneys to provide legal advice to the Commission in the conduct of its work, or to appear for or represent the Commission in any case in which the Commission is authorized by law to represent itself, or in which the Commission is representing itself with the consent of the Department of Justice; and the Commission may in its discretion pay reasonable attorney's fees to private attorneys employed by it out of its appropriated funds. When serving as officers or employees of the United States, such private attorneys shall be considered special government employees as defined in section 202(a) of title 18; and".

SEC. 2705. POWERS OF THE COMMISSION.

Section 995(a)(2) of title 28, United States Code, is amended by striking "grade 18 of the General Schedule pay rates (5 U.S.C. § 5332)" and inserting "Level 6 of the Senior Executive Service Schedule (5 U.S.C. § 5382)".

SEC. 2706. GRANTING INCENTIVE AWARDS.

(a) Defined as Agency.—Section 4501(1) of title 5, United States Code, is amended by—

(1) striking "and" at the end of subparagraph (F);

(2) adding "and" at the end of subparagraph (G); and

(3) adding at the end thereof the following:

"(H) the United States Sentencing Commission;".

(b) Powers of Commission.—Section 995(a) of title 28, United States Code, is amended by adding at the end thereof the following:

"(24) grant incentive awards to its employees pursuant to chapter 45 of title 5, United States Code.".

(c) Incentive Awards.—Section 996(b) of title 28, United States Code, is amended by inserting before "81", the following: "45 (Incentive Awards),".

SEC. 2707. TECHNICAL CORRECTION.

Section 3582(c) of title 18, United States Code, is amended by striking "28 U.S.C. 994(n)" and inserting "28 U.S.C. 994(o)".

SEC. 2708. PROTECTION OF PUBLIC.

(a) Conditions.—Section 3583(d) of title 18, United States Code, is amended—

(1) in paragraph (1) by inserting "(a)(2)(C)," after "(a)(2)(B),"; and

(2) in paragraph (2) by inserting "(a)(2)(C)," after "(a)(2)(B),".

(b) Modifications or Revocation.—Section 3583(e) of title 18, United States Code, is amended by inserting "(a)(2)(C)," after "(a)(2)(B),".

SEC. 2709. AUTHORITY TO AMEND ANNUAL REPORT.

Section 994(p) of title 28, United States Code, is amended by adding at the end the following: "During the reporting period prescribed in this subsection, the Commission may submit more than one report, and may amend a report, in whole or in part. In the case of an amended report, the one hundred and eighty day period shall run from the date the amended report is submitted to Congress, except that the Commission may specify that the one hundred and eighty day period with respect to the unamended portion of a partially amended report shall run from the date of the initial submission.".

SEC. 2710. CLARIFICATION OF RESTITUTION PROVISION.

Section 3563(b)(3) of title 18, United States Code, is amended by striking "3556" and inserting "3663 and 3664 (but not subject to the limitations of 3663(a))".

SEC. 2711. AMENDMENT TO RULE 4, RULES OF APPELLATE PROCEDURE.

Rule 4(b) of the Rules of Appellate Procedure is amended—

(1) in the first sentence, by inserting "(i)" after "entry of", and inserting "or (ii) a notice of appeal by the Government" at the end; and

(2) in the sentence beginning "When an appeal by the government is authorized", by inserting "(i) after "entry of", and inserting "or (ii) a notice of appeal by any defendant" at the end.

Subtitle M—Miscellaneous

SEC. 2751. MARIHUANA PLANTS.

Section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended—

(1) in paragraph (A)(vii), by inserting ", or 1,000 or more marihuana plants regardless of weight" after "containing a detectable amount of marihuana";

(2) in paragraph (B)(vii), by inserting ", or 100 or more marihuana plants regardless of weight" after "containing a detectable amount of marihuana"; and

(3) in paragraph (D) by striking out "100 or more marihuana plants" and inserting in lieu thereof "50 or more marihuana plants".

SEC. 2752. FINES FOR SIMPLE POSSESSION.

Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended—

(1) in the second sentence—

(A) by striking out "but not more than $5,000";

(B) by striking out "but not more than $10,000"; and

(C) by striking out "but not more than $25,000".

SEC. 2753. CONTINUING CRIMINAL ENTERPRISE.

(a) Increased Penalties.—Section 408(a) of the Controlled Substances Act is amended by—

(1) striking "10 years" and inserting "20 years"; and

(2) striking "20 years" and inserting "30 years".

(b) Redesignation.—Subsections (d) and (e) of section 408 of the Controlled Substances Act are redesignated as (c) and (d).

SEC. 2754. COMMON CARRIER OPERATION UNDER THE INFLUENCE OF ALCOHOL OR DRUGS.

(a) Locomotives.—Section 341 of title 18, United States Code, is amended by adding after "means a" the following: "locomotive, a".

(b) Maximum Penalty.—Section 342 of title 18, United States Code, is amended by striking "five" and inserting "fifteen".

(c) Sentencing Guidelines.—(1) Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that—

(A) a defendant convicted of violating section 342 of title 18, United States Code, under circumstances in which death results, shall be assigned an offense level under chapter 2 of the sentencing guidelines that is not less than level 26; and

(B) a defendant convicted of violating section 342 of title 18, United States Code, under circumstances in which serious bodily injury results, shall be assigned an offense level under chapter 2 of the sentencing guidelines that is not less than level 21.

(2) If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in paragraph (1) so as to achieve a comparable result.

SEC. 2756. ALIEN WITNESS COOPERATION ACT.

(a) In General.—Chapter 204 of title 18, United States Code, is amended by—

(1) redesignating section 3077 as section 3078;

(2) adding at the end of section 3076 the following new sentence: "An officer or employee of any governmental entity is eligible for treatment under this section.";

(3) inserting a new section 3077 after section 3076:

"§ Aliens; waiver of admission requirements

"If the information which would justify a reward under this chapter or under section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708) is furnished by an alien, the Attorney General, after consulting with the Secretary of State, may determine that the admission of such alien into the United States is in the public interest and, in that event, such alien and the members of his immediate family may receive immigrant visas and may be admitted to the United States for permanent residence without regard to their inadmissibility under the immigration or any other laws or regulations or the failure to comply with such laws and regulations: *Provided,* That the number of aliens and members of their immediate families admitted to the United States under the authority of this section shall not exceed 50 individuals in any one fiscal year. An officer or employee of any governmental entity is eligible for treatment under this section."; and

(4) in section 3078(4)(B) as redesignated, striking the words "section 3073" and substituting in lieu thereof "section 3077".

(b) Definitions.—The analysis for chapter 204 of title 18, United States Code, is amended by—

(1) striking the word "Definitions"and substituting in lieu thereof "Aliens; waiver of admission requirements"; and

(2) adding at the end of the analysis this new item:

"3078. Definitions.".

(c) Payment Clarification.—Subsection 201(d) of title 18, United States Code, is amended by striking the words "provided by law" and inserting in lieu thereof the phrase ", payments, benefits or otherwise which are authorized by and provided in accordance with provisions of law".

SEC. 2757. AMENDMENT TO THE FEDERAL RULES OF CRIMINAL PROCEDURE.

The Federal Rules of Criminal Procedure are amended by adding after Rule 12.2 the following:

"Rule 12.3. Notice of Defense Based Upon Public Authority

"(a) Notice by Defendant; Government Response; Disclosure of Witnesses.—

"(1) Defendant's notice and government's response.—A defendant intending to claim a defense of actual or believed exercise of public authority on behalf of a law enforcement or Federal intelligence agency at the time of the alleged offense shall, within the time provided for the filing of pretrial motions or at such later time as the court may direct, serve upon the attorney for the Government a written notice of such intention and file a copy of such notice with the clerk. Such notice shall identify the law enforcement or Federal intelligence agency and any member of such agency on behalf of which and the period of time in which the defendant claims the actual or believed exercise of public authority occurred. If the notice identifies a Federal intelligence agency, the copy filed with the clerk shall be under seal. Within ten days after receiving the defendant's notice, but in no event less than twenty days before the trial, the attorney for the Government shall serve upon the defendant or the defendant's attorney a written response which shall admit or deny that the defendant exercised the public authority identified in the defendant's notice.

"(2) Disclosure of Witnesses.—At the time that the Government serves its response to the notice or thereafter, but in no event less than twenty days before the trial, the attorney for the Government may serve upon the defendant or the defendant's attorney a written demand for the names and addresses of the witnesses, if any, upon whom the defendant intends to rely in establishing the defense identified in the notice. Within seven days after receiving the Government's demand, the defendant shall serve upon the attorney for the Government a written statement of the names and addresses of any such witnesses. Within seven days after receiving the defendant's written statement, the attorney for the Government shall serve upon the defendant or the defendant's attorney a written statement of the names and addresses of the witnesses, if any, upon whom the Government intends to rely in opposing the defense identified in the notice.

"(3) Additional Time.—If good cause is shown, the court may allow a party additional time to comply with any obligation imposed by this rule.

"(b) Continuing Duty to Disclose.—If, prior to or during trial, a party learns of any additional witness whose identity, if known, should have been included in the written statement furnished under subdivision (a)(2) of this rule, that party shall promptly notify in writing the other party or the other party's attorney of the name and address of any such witness.

"(c) Failure to Comply.—If a party fails to comply with the requirements of this rule, the court may exclude the testimony of any undisclosed witness offered in support of or in opposition to the defense, or enter such other order as it deems just under the circumstances. This rule shall not limit the right of the defendant to testify.

"(d) Protective Procedures Unaffected.—This rule shall be in addition to and shall not supersede the authority of the court to issue appropriate protective orders, or the authority of the court to order that any pleading be filed under seal.

"(e) Inadmissibility of Withdrawn Defense Based Upon Public Authority.—Evidence of an intention as to which notice was given under subdivision (a), later withdrawn, is not, in any civil or criminal proceeding, admissible against the person who gave notice of the intention.

SEC. 2758. JURISDICTION OVER FEDERAL LANDS.

(a) Findings.—Congress finds that—

(1) the States have law enforcement jurisdiction over approximately 97 percent of federally owned property in the United States;

(2) the States lack jurisdiction to enforce the law on the remaining 3 percent of federally owned property which is subject to exclusive or partial Federal jurisdiction;

(3) to a large extent, exclusive Federal jurisdiction of these parcels results from historical accident, and is unrelated to the use of which the property is being put;

(4) the parcels of federally owned property comprising this 3 percent often are scattered in checkerboard fashion almost at random throughout Federal properties intermixed almost at random with parcels subject to concurrent Federal and State jurisdiction and parcels subject solely to State jurisdiction;

(5) as a result, effective criminal law enforcement on these properties is seriously hampered;

(6) many problems resulting from the jurisdictional maze can be resolved by conferring upon the States criminal law enforcement jurisdiction over the 3 percent of properties currently under executive or partial Federal jurisdiction;

(7) for a very limited number of installations or portions of them, extension of such criminal law enforcement jurisdiction to the States may be inappropriate due to unique military concerns which require exclusive Federal jurisdiction to ensure the proper performance of military functions, missions, and tasks on those properties;

(8) the need for exclusive jurisdiction may change from time to time as the purposes to which installations are dedicated or other conditions change;

(9) on federally owned property over which both the United States and a State have law enforcement jurisdiction, enforcement emergencies arise periodically, albeit infrequently, which involve immediate danger of death or serious physical injury, e.g., a prison riot or hostage situation; and

(10) such law enforcement emergencies require decisive and coordinated action which is best achieved when a single level of government has clear-cut control over the law enforcement response.

(b) In General.—Chapter 1 of title 18, United States Code, is amended by adding after section 19 the following new section:

"§ 20. State criminal laws applicable on Federal enclaves

"(a) The criminal laws of a State and political subdivision thereof shall apply respectively on all Federal property within the State and subdivision thereof. For this purpose the States and their political subdivisions are hereby given jurisdiction to enforce such laws subject to the absolute discretion of a commanding officer of a military installation or the chief Federal operating officer of a nuclear facility of the Department of Energy to restrict the entry of persons, including law enforcement officers of a State or political subdivision thereof, upon the installation or facility.

"(b) The Secretary of Defense, the Secretary of a military department, or (with respect to a facility of the Coast Guard when it is operating as a Service in the Department of Transportation) the Secretary of Transportation, may from time to time exempt from the operation of subsection (a), by regulation, those military installations or parts thereof that are subject to the exclusive jurisdiction of the United States and with respect to which exclusive Federal criminal jurisdiction is required by the peculiar nature of the military operation conducted thereon or the need to avoid undue interference with the purpose of any activity or project at the installation.

"(c)(1) Nothing in this section shall, in any way, limit the existing jurisdiction of the United States over any property described herein or confer on a State or political subdivision thereof any power to interfere with Federal functions or any additional power to tax not expressly provided for elsewhere in Federal law. The laws of States and political subdivisions thereof made applicable on Federal property by this section shall not apply to the United States or any instrumentality thereof or to officials or employees of the United States while acting in the reasonable belief that they are acting in the performance of their duties or scope of employment.

"(2) Nothing in this section shall impose upon a State or political subdivision thereof any obligation to exercise jurisdiction over the Federal property described herein or create any right or defense for any person charged with a criminal offense in any Federal or State court.

"(d) When the criminal activity occurring on federally owned land involves immediate danger of death or serious physical injury to a person, and both the United States and a State have criminal law enforcement jurisdiction over that property, the Attorney General or the Deputy Attorney General of the United States is authorized to declare, based on his judgment, a law enforcement emergency, thereby suspending the exercise of police powers by the State over the particular criminal activity, except that the State may exercise those police powers necessary to respond to specific requests for assistance made by the Federal Bureau of Investigation. A declaration under this subsection shall be subject to the following conditions:

"(1) The authority to issue such a declaration may not be delegated.

"(2) The declaration is to be in writing and is to specify with particularity the criminal activity which constitutes the law enforcement emergency.

"(3) Unless sooner withdrawn, the declaration remains in effect for a period of 72 hours. In the event the particular criminal activity continues, the declaration may be renewed by the Attorney General or Deputy Attorney General, in increments not to exceed 72 hours, until the criminal activity has been brought to a conclusion.

"(4) The declaration of a law enforcement emergency does not deprive the State of its jurisdiction to prosecute persons responsible for the criminal activity which was the subject of such declaration.

"(e) For purposes of this section—

"(1) the term 'Federal property' includes all real property owned, leased, or used by the United States that is included within the part of the 'special maritime territorial jurisdiction of the United States' described in paragraph (3) of section 7 of this title, but does not include the Indian country as defined in section 1151 of this title;

"(2) the term 'criminal law' includes regulations which provide for a criminal sanction of for both a criminal and administrative sanction; and

"(3) the term 'military installation' means any property described in paragraph (1) that is under the administrative control of—

"(A) the Department of Defense or one or more military departments of the Department of Defense; or

"(B) the Coast Guard.".

(c) Amendment to Chapter Analysis.—The chapter analysis for chapter 1 of title 18, United States Code, is amended by adding after the item pertaining to section 19, the following:

"20. State criminal laws applicable on Federal enclaves.".

(d) Effective Date.—The provisions of this section, with the exception of proposed subsection 20(b) of title 18, United States Code, shall become effective 120 days after the date of enactment of this section.

SEC. 2759. WITNESS SERVING SENTENCE ABROAD.

(a) In General.—Chapter 223 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3508. Custody and return of foreign witnesses

"(a) When the testimony of a person who is serving a sentence, is in pretrial detention, or is otherwise being held in custody, in a foreign country, is needed in a State or Federal criminal proceeding, the Attorney General shall, when he deems it appropriate in the exercise of his discretion, have the authority to request the temporary transfer of that person to the United States for the purposes of giving such testimony, to transport such person to the United States in custody, to maintain the custody of such person while he is in the United States, and to return such person to the foreign country.

"(b) Where the transfer to the United States of a person in custody for the purposes of giving testimony is provided for by treaty or convention, by this section, or both, that person shall be returned to the foreign country from which he is transferred. In no event shall the return of such person require any request for extradition or extradition proceedings, or proceedings under the immigration laws.

"(c) Where there is a treaty or convention between the United States and the foreign country in which the witness is being held in custody which provides for the transfer, custody and return of such witnesses, the terms and conditions of that treaty shall apply. Where there is no such treaty or convention, the Attorney General may exercise the authority described in paragraph (a) if both the foreign country and the witness give their consent.".

(b) Table of Contents.—The table of contents for chapter 223 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"3508. Custody and return of foreign witnesses.".

SEC. 2760. NATIONAL FOREST SYSTEM SAFETY.

(a) Findings.—Congress finds that—

(1) National Forest System lands continue to be a haven for the unlawful production of marijuana and other controlled substances, which—

(A) endangers the public through their use of National Forest System lands;

(B) interferes with the ability of the Forest Service to effectively manage the natural resources and activities within the National Forest System; and

(C) causes damage and destruction of the natural resources and facilities managed by the Forest Service;

(2) the unlawful production of marijuana and other controlled substances often—

(A) is generally harmful to the environment and public health and safety;

(B) pollutes the air, soil, and water; and

(C) is harmful to wildlife;

(3) the Forest Service needs additional authority to adequately deal with the problem of controlled substance production that affect the administration of the National Forest System;

(4) the Forest Service needs to be able to exercise its investigative authorities outside the boundaries of the National Forest System for drug-related crimes arising from within the National Forest System in order to be effective in deterring such crime;

(5) the authority and powers of the Forest Service are not intended to be in conflict or interfere with the statutory authority, powers, or responsibilities of any State or political subdivision thereof; and

(6) the Forest Service, in the exercise of the law enforcement powers possessed by such, should cooperate to every extent possible with any other Federal, State or local law enforcement having jurisdiction in areas where National Forests are located, particularly where coordinated investigative and enforcement actions can be effective to control crime which affects multiple agencies.

(b) Powers.—Section 15003 of the National Forest System Drug Control Act of 1986 (16 U.S.C. 559c) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking out "500 officers and employees" and inserting in lieu thereof "1,000 special agents and law enforcement officers"; and

(B) by striking out "within the boundaries of the National Forest System;

(2) in paragraph (2)—

(A) by inserting after "conduct," the following: "within the exterior boundaries of the National Forest System,"; and

(B) by adding at the end thereof the following: "and to conduct such investigations and enforcement actions outside the exterior boundaries of the National Forest System when cross designated by the Attorney General and when in immediate pursuit of such persons suspected of such offenses who are fleeing the National Forest System to avoid arrest;" and

(3) in paragraph (3), by adding at the end the following: "except that such arrests must arise out of an offense committed within the National Forest System, or which affects the administration of the National Forest System;".

(c) Cooperation.—Section 15004 of the National Forest System Drug Control Act of 1986 (16 U.S.C. 559d) is amended—

(1) in paragraph (1), by striking out "and" at the end thereof;

(2) in paragraph (2), by striking out within the boundaries of the National Forest System." and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(3) the Forest Service shall cooperate with the Attorney General in carrying out the seizure and forfeiture provisions of section 881 of the Controlled Substances Act (21 U.S.C. 841) as such activity relates to the manufacture, distribution, or dispensing of marijuana or other controlled substances within the National Forest System;

"(4) the Secretary of Agriculture is authorized to designate law enforcement officers of any other Federal agency, when the Secretary determines such to be economical and in the public interest, and with the concurrence of that agency, to exercise the powers and authorities of the Forest Service while assisting the Forest Service in the National Forest System, or for activities administered by the Forest Service; and

"(5) the Forest Service is authorized to accept law enforcement designation from any other Federal or State agency or political subdivision thereof for the purpose of cooperating, as part of multi-agency task force operations, in the investigation and enforcement of laws and regulations of any other Federal or State agency or political subdivision thereof that when violated involve dual jurisdictions.".

(d) Penalty.—Chapter 91 of Title 18, United States Code, is amended by adding at the end thereof the following new section:

"SEC. 1864. HAZARDOUS, INJURIOUS DEVICES ON PUBLIC LANDS.

"(a) Prohibited Acts.—

"(1) In general.—Any individual who—

"(A) places or causes to be placed on any Federal lands, or on any Indian reservation, or any Indian allotment while the title to such shall be held in trust by the Federal government or while the same shall remain inalienable by the allottee without the consent of the United States, any hazardous or injurious device that is designed to cause bodily injury or property damage as a result of the action of any person who comes into contact with such device; or

"(B) disrupts or interferes, or attempts to disrupt or interfere with the administration of any Federal public lands, or the authorized use of such lands, or with the lawful use, removal, harvest, or processing of any timber, mineral, soil, water, or other natural resource belonging to, or under the control of the United States, by placing or causing to be placed any hazardous or injurious device at any place where any person may be injured or the property of another damaged while any such individual or property is engaged in the administration or lawful use of such lands, or the lawful removal, harvest, or processing of any such timber, mineral, soil, water, or other natural resource;

shall be fined not more than $30,000 or imprisoned for not more than 5 years, or both.

"(2) Injury or damage.—Any individual who, in violating paragraph (1), injures any individual or damages the property of another, shall be fined not more than $200,000 or imprisoned for not more than 10 years, or both.

"(3) Prior convictions.—If an individual commits a violation under paragraphs (1) or (2) after one or more prior convictions under such subsection, such person shall be fined not more than $500,000 or imprisoned for not more than 20 years, or both.

"(b) Definition.—As used in this section, the term 'hazardous or injurious device' shall mean any device, which when assembled or placed, is designed to cause bodily injury, or damage to property by the action of any person making contact with such device. Such term includes guns attached to trip wires or other triggering mechanisms, ammunition attached to trip wires or other triggering mechanisms, or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, lines or wires, lines or wires with hooks attached, nails placed so that the sharpened ends are positioned in an upright manner, or tree spiking devices including spikes, nails, or other objects hammered, driven, fastened, or otherwise placed into or on any timber, whether or not severed from the stump.

"(c) Exception.—This section shall not apply to the use of any hazardous or injurious device authorized by State or Federal law.".

(e) Criminal Penalty for Polluting.—Section 401(e) of the Controlled Substances Act (21 U.S.C. 841(e)) is amended by adding at the end thereof the following new paragraph:

"(4) Any person who, in the course of committing or attempting to commit an act in violation of subsection (a)(1), places or causes to be placed any poison or other chemical substance that pollutes or could pollute a stream, river, pond, lake, or other body of water, or that is harmful to humans, wildlife, domestic animals, natural resources, or the environment on Federal lands, shall be sentenced to a term of not more than 5 years or shall be fined not more than $10,000, or both.".

SEC. 2761. UNITED STATES MARSHAL.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Chapter 37 of title 28, United States Code, is amended by striking out sections 561 through 571 and inserting in lieu thereof the following:

"§ 561. United States Marshals Service

"(a) There is hereby established a United States Marshals Service as a bureau within the Department of Justice under the authority and direction of the Attorney General. There shall be at the head of the United States Marshals Service (hereafter in this chapter referred to as the 'Service') a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

"(b) The Director of the United States Marshals Service (hereafter in this chapter referred to as the 'Director') shall, in addition to the powers and duties set forth in this chapter, exercise such other functions as may be delegated by the Attorney General.

"(c) The President shall appoint, by and with the advice and consent of the Senate, a United States marshal for each judicial district of the United States and for the Superior Court of the District of Columbia, except that any marshal appointed for the Northern Mariana Islands may at the same time serve as marshal in another judicial district. Each United States marshal shall be an official of the Service and shall serve under the direction of the Director.

"(d) Each marshal shall be appointed for a term of four years. A marshal shall, unless that marshal has resigned or been removed by the President, continue to perform the duties of that office after the end of that 4-year term until a successor is appointed and qualifies.

"(e) The Director shall designate places within a judicial district for the official station and offices of each marshal. Each marshal shall reside within the district for which such marshal is appointed, except that—

"(1) the marshal for the District of Columbia, for the Superior Court of the District of Columbia, and for the Southern District of New York may reside within 20 miles of the district for which the marshal is appointed; and

"(2) any marshal appointed for the Northern Mariana Islands who at the same time is serving as marshal in another district may reside in such other district.

"(f) The Director is authorized to appoint and fix the compensation of such employees as are necessary to carry out the powers and duties of the Service and may designate such employees as law enforcement officers in accordance with such policies and procedures as the Director shall establish pursuant to the applicable provisions of title 5 and regulations issued thereunder.

"(g) The Director shall supervise and direct the United States Marshals Service in the performance of its duties.

"(h) The Director may administer oaths and may take affirmations of officials and employees of the Service, but shall not demand or accept any fee or compensation therefor.

"(i) There are authorized to be appropriated such sums as may be necessary to carry out the functions of the Service.

"§ 562. Vacancies

"(a) In the case of a vacancy in the office of a United States marshal, the Attorney General may designate a person to perform the functions of and act as marshal, except that the Attorney General may not designate to act as marshal any person who was appointed by the President to that office but with respect to such appointment the Senate has refused to give its advice and consent.

"(b) A person designated by the Attorney General under subsection (a) may serve until the earliest of the following events:

"(1) The entry into office of a United States marshal appointed by the President, pursuant to section 561(c).

"(2) The expiration of the thirtieth day following the end of the next session of the Senate.

"(3) If such designee of the Attorney General is appointed by the President pursuant to section 561(c), but the Senate refuses to give its advice and consent to the appointment, the expiration of the thirtieth day following such refusal.

"§ 563. Oath of office

"The Director and each United States marshal and law enforcement officer of the Service, before taking office, shall take an oath or affirmation to faithfully execute the duties of that office.

"§ 564. Powers as sheriff

"United States marshals, deputy marshals and such other officials of the Service as may be designated by the Director, in executing the laws of the United States within a State, may exercise the same powers which a sheriff of the State may exercise in executing the laws thereof.

"§ 565. Expenses of the service

"The Director is authorized to use funds appropriated for the Service to make payments for expenses incurred pursuant to personal services contracts and cooperative agreements, authorized by the Attorney General, for security guards and for the service of summons on complaints, subpoenas, and notices in lieu of services by United States marshals and deputy marshals.

"§ 566. Powers and duties

"(a) It is the primary role and mission of the United States Marshals Service to provide for the security and to obey, execute, and enforce all orders of the United States District Courts, the United States Courts of Appeals and the Court of International Trade.

"(b) The United States marshal of each district is the marshal of the district court and of the court of appeals when sitting in that district, and of the Court of International Trade holding sessions in that district, and may, in the discretion of the respective courts, be required to attend any session of court.

"(c) Except as otherwise provided by law or Rule of Procedure, the United States Marshals Service shall execute all lawful writs, process, and orders issued under the authority of the United States, and shall command all necessary assistance to execute its duties.

"(d) Each United States marshal, deputy marshal, and any other official of the Service as may be designated by the Director may carry firearms and make arrests without warrant for any offense against the United States committed in his or her presence, or for any felony cognizable under the laws of the United States if he or she has reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

"(e)(1) The United States Marshals Service is authorized to—

"(A) provide for the personal protection of Federal jurists, court officers, witnesses, and other threatened persons in the interests of justice where criminal intimidation impedes on the functioning of the judicial process or any other official proceeding; and

"(B) investigate such fugitive matters, both within and outside the United States, as directed by the Attorney General.

"(2) Nothing in this subsection shall be construed to interfere with or supersede the authority of other Federal agencies or bureaus.

"(f) In accordance with procedures established by the Director, and except for public money deposited under section 2041 of this title, each United States marshal shall deposit public moneys that the marshal collects into the Treasury, subject to disbursement by the marshal. At the end of each accounting period, the earned part of public moneys accruing to the United States shall be deposited in the Treasury to the credit of the appropriate receipt accounts.

"(g) Prior to resignation, retirement, or removal from office—

"(1) a United States marshal shall deliver to the marshal's successor all prisoners in his custody and all unserved process; and

"(2) a deputy marshal shall deliver to the marshal all process in the custody of the deputy marshal.

"(h) The United States marshals shall pay such office expenses of United States Attorneys as may be directed by the Attorney General.".

(2) ADDITIONAL AMENDMENTS.—Chapter 37 of title 28, United States Code, is amended—

(A) by striking out sections 572a, 573, and 574; and

(B) by redesignating sections 572, 575, and 576 as sections 567, 568, and 569, respectively.

(3) CONFORMING AMENDMENTS.—The chapter heading for chapter 37 of title 28, United States Code, and the table of sections at the beginning of such chapter, are amended to read as follows:

"Chapter 37—United States Marshals Service

"Sec.
"561. United States Marshals Service.
"562. Vacancies.
"563. Oath of office.
"564. Powers as sheriff.
"565. Expenses of the Service.
"566. Powers and duties.
"567. Collection of fees; accounting.
"568. Practice of law prohibited.
"569. Reemployment rights.".

(b) OTHER AMENDMENT.—Section 755 of title 28, United States Code, is amended by striking out the third paragraph.

(c) MARSHALS' FEES.—Section 1921 of title 28, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (e); and

(2) by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a)(1) The United States marshals or deputy marshals shall routinely collect, and a court may tax as costs, fees for the following:

"(A) Serving a writ of possession, partition, execution, attachment in rem, or libel in admiralty, warrant, attachment, summons, complaints, or any other writ, order or process in any case or proceeding.

"(B) Serving a subpoena or summons for a witness or appraiser.

"(C) Forwarding any writ, order, or process to another judicial district for service.

"(D) The preparation of any notice of sale, proclamation in admiralty, or other public notice or bill of sale.

"(E) The keeping of attached property (including boats, vessels, or other property attached or libeled), actual expenses incurred, such as storage, moving, boat hire, or other special transportation, watchmen's or keepers' fees, insurance, and an hourly rate, including overtime, for each deputy marshal required for special services, such as guarding, inventorying, and moving.

"(F) Copies of writs or other papers furnished at the request of any party.

"(G) Necessary travel in serving or endeavoring to serve any process, writ, or order, except in the District of Columbia, with mileage to be computed from the place where service is returnable to the place of service or endeavor.

"(H) Overtime expenses incurred by deputy marshals in the course of serving or executing civil process.

"(2) The marshals shall collect, in advance, a deposit to cover the initial expenses for special services required under paragraph (1)(E), and periodically thereafter such amounts as may be necessary to pay such expenses until the litigation is concluded. This paragraph applies to all private litigants, including seamen proceeding pursuant to section 1916 of this title.

"(3) For purposes of paragraph (1)(G), if two or more services or endeavors, or if an endeavor and a service, are made in behalf of the same party in the same case on the same trip, mileage shall be computed to the place of service or endeavor which is most remote from the place where service is returnable, adding thereto any additional mileage traveled in serving or endeavoring to serve in behalf of the party. If two or more writs of any kind, required to be served in behalf of the same party on the same person in the same case or proceeding, may be served at the same time, mileage on only one such writ shall be collected.

"(b) The Attorney General shall from time to time prescribe by regulation the fees to be taxed and collected under subsection (a). Such fees shall, to the extent practicable, reflect the actual and reasonable cost of the service provided.

"(c)(1) The United States Marshals Service shall collect a commission of 3 percent of the first $1,000 collected and 1½ percent on the excess of any sum over $1,000, for seizing or levying on property (including seizures in admiralty), disposing of such property by sale, setoff, or otherwise, and receiving and paying over money, except that the amount of commission shall be within the range set by the Attorney General. If the property is to be disposed of by marshal's sale, the commission shall be in such amount, within the range set by the Attorney General, as may be allowed by the court. In any case in which the vessel or other property is sold by a public auctioneer, or by some party other than a marshal or deputy marshal, the commission authorized under this subsection shall be reduced by the amount paid to such auctioneer or other party. This subsection applies to any judicially ordered sale or execution sale, without regard to whether the judicial order of sale constitutes a seizure or levy within the meaning of State law. This subsection shall not apply to any seizure, forfeiture, sale, or other disposition of property pursuant to the applicable provisions of law amended by the Comprehensive Forfeiture Act of 1984 (98 Stat. 2040).

"(2) The Attorney General shall prescribe from time to time regulations which establish a minimum and maximum amount for the commission collected under paragraph (1).

"(d) The United States marshals may require a deposit to cover the fees and expenses prescribed under this section.".

(d) Support of United States Prisoners in Non-Federal Institutions.—

(1) In general.—Chapter 301 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 4013. Support of United States prisoners in non-Federal institutions

"(a) The Attorney General, in support of United States prisoners in non-Federal institutions, is authorized to make payments from funds appropriated to the United States Marshals Service for—

"(1) necessary clothing;

"(2) medical care and necessary guard hire;

"(3) payment of rewards for assistance in the capture or information leading to the capture of a Federal fugitive;

"(4) the housing, care, and security of persons held in custody of a United States marshal pursuant to Federal law under agreements with State or local units of government or contracts with private entities; and

"(5) entering into contracts or cooperative agreements with any State, territory, or political subdivision thereof, for the necessary construction, physical renovation, acquisition of equipment, supplies, or materials required to establish acceptable conditions of confinement and detention services in any State or local jurisdiction which agrees to provide guaranteed bed space for Federal detainees within that correctional system, in accordance with regulations which are issued by the Attorney General and are comparable to the regulations issued under section 4006 of this title, except that—

"(A) amounts made available for purposes of this paragraph shall not exceed the average per-inmate cost of constructing similar confinement facilities for the Federal prison population,

"(B) the availability of such federally assisted facility shall be assured for housing Federal prisoners, and

"(C) the per diem rate charged for housing such Federal prisoners shall not exceed allowable costs or other conditions specified in the contract or cooperative agreement.".

(2) Conforming amendment.—The table of sections at the beginning of chapter 301 of title 18, United States Code, is amended by adding at the end the following:

"4013. Support of United States prisoners in non-Federal institutions.".

(e) Pay of Director of Service.—Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"Director, United States Marshals Service.".

SEC. 2762. THE NATIONAL ADVISORY COMMISSION ON LAW ENFORCEMENT.

(a) Definitions.—As used in this section—

(1) the term "Commission" means the National Advisory Commission on Law Enforcement;

(2) the term "Commissioner" means a member of the National Advisory Commission on Law Enforcement; and

(3) the term "law enforcement officer" has the same meaning as provided in section 8401(17) of title 5, United States Code.

(b) Establishment.—There is established as an independent commission in the legislative branch of the United States a National Advisory Commission on Law Enforcement, which shall consist of the following members:

(1) four members of the United States Senate, 2 of whom shall be selected by the Majority Leader and 2 of whom shall be selected by the Minority Leader;

(2) four members of the United States House of Representatives, 2 of whom shall be selected by the Speaker and 2 of whom shall be selected by the Minority Leader;

(3) the Comptroller General of the United States, who shall also serve as Chairman of the Commission;

(4) the Director of the Office of Personnel Management;

(5) the Attorney General of the United States and three other officials of the Department of Justice who shall be designated by the Attorney General;

(6) the Secretary of the Treasury and 2 other officials of the Department of the Treasury who shall be designated by the Secretary of the Treasury;

(7) the Inspector Generals of 3 departments or agencies of the executive branch of the United States who shall be designated by the President of the United States; and

(8) three representatives from Federal employee groups to be selected by the Office of Personnel Management after consultation with the Speaker of the House and the Majority Leader of the Senate.

(c) Study.—The Commission shall study the methods and rates of compensation, including salary, overtime pay, retirement policies, and other benefits of law enforcement officers in all Federal agencies, as well as the methods and rates of compensation of State and local law enforcement officers in a representative number of areas where Federal law enforcement officers are assigned, in order to determine—

(1) the differences which exist among Federal agencies with regard to the methods and rates of compensation for law enforcement officers;

(2) the rational basis, if any, for such differences, considering the nature of the responsibilities of the law enforcement officers in each agency; the qualifications and training required to perform such responsibilities; the degree of personal risk to which the law enforcement officers in each agency are normally exposed in the performance of their duties; and such other factors as the Commission deems relevant in evaluating the differences in compensation among the various agencies;

(3) the extent to which inequities appear to exist among Federal agencies with regard to the methods and rates of compensation of law enforcement officers, based on consideration of the factors mentioned in paragraph (2) of this subsection;

(4) the feasibility of devising a uniform system of overtime compensation for law enforcement officers in all or most Federal agencies, with due regard for both the special needs of law enforcement officers and the relative cost effectiveness to the Government of such a system compared to those currently in use;

(5) how the salaries paid to Federal law enforcement officers compare to those of State and local officers in the same geographical area, especially those in "high cost-of-living" areas;

(6) the impact of the rates of compensation paid by various Federal agencies on the lifestyle, morale, and general well-being of law enforcement officers, including their ability to subsist;

(7) the recruiting and retention problems experienced by Federal agencies due to: inequities in compensation among such agencies; the differences between rates of compensation paid to Federal law enforcement officers and State and local officers in the same geographical areas; and other factors related to compensation;

(8) the extent to which Federal legislation and administrative regulations may be necessary or appropriate to rectify inequities among Federal agencies in the methods and rates of compensation for law enforcement officers; to address the lack of uniformity among agencies with regard to overtime pay; to provide premiums or special rates of pay for Federal law enforcement officers in high cost-of-living areas; to ensure that the levels of compensation paid to Federal law enforcement officers will be competitive with those paid to State and local officers in the same geographical areas; and to address such other matters related to the determinations made under this subsection as the Commission deems appropriate in the interests of enhancing the ability of Federal agencies to recruit and retain the most qualified and capable law enforcement officers; and

(9) the average retirement age of the Federal agencies and the retirement and benefits policies of Federal agencies.

(d) POWERS OF THE COMMISSION—The Commission shall have the power to—

(1) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

(2) enter into and perform, without regard to section 3324 of title 31, United States Code, such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the Commission, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization;

(3) request such information, data, and reports from any Federal agency or instrumentality as the Commission may from time to time require and as may be produced consistent with other law; and

(4) hold hearings and call witnesses that might assist the Commission in the exercise of its powers or duties.

The Commission shall have such other powers as may be necessary to carry out its functions under this Act and may delegate to any member or designated person such powers as may be appropriate in the conduct of its functions.

(e) RESOURCES.—(1) Upon the request of the Commission, each Federal agency is authorized and directed to make its resources, services, equipment, personnel, facilities, and information available to the greatest practicable extent to the Commission in the execution of its functions.

(2) Each Commissioner may utilize the resources, services, equipment, personnel, information, and facilities of his or her Federal agency or, in the case of the Commissioners who are Members of Congress, his or her congressional office, as may be necessary in the conduct of the Commissioner's respective functions as a member of the Commission.

(f) QUORUM.—A simple majority of the Commissioners then serving shall constitute a quorum for the conduct of business by the Commission, and the Commission may exercise its powers and fulfill its duties by the vote of a simple majority of the Commissioners present.

(g) MEETING.—The Chairman of the Commission shall call and preside at meetings of the Commission, but the Chairman may delegate to any other Commissioner the authority to preside at meetings of the Commission.

(h) REPORT AND DISSOLUTION OF COMMISSION.—(1) Within 6 months following the date of enactment of this Act, the Commission shall prepare and deliver to the President of the United States, the President of the Senate, and the Speaker of the House of Representatives, a written report setting forth—

(A) the findings and determinations made by the Commission pursuant to section 176(b); and

(B) specific proposals for such legislation and administrative regulations as the Commission has determined to be necessary or appropriate pursuant to section 176(b)(8).

(2) The Commission shall be terminated 60 days following submission of the report mandated by this section.

SEC. 2763. CLARIFICATIONS REGARDING DRUG PARAPHERNALIA.

Section 1822 of the Anti-Drug Abuse Act of 1986 (Public Law 99-570; 21 U.S.C. 857) is amended—

(1) in subsection (d), by striking out "in violation of the Controlled Substances Act" and inserting ", possession of which is unlawful under the Controlled Substances Act"; and

(2) in subsection (f)(2) by striking out "primarily intended for use with" and inserting "traditionally used with".

SEC. 2764. AUTHORIZATION TO ACCEPT MONEY, GOODS AND SERVICES FOR THE PURPOSE OF HOSTING THE INTERPOL AMERICAN REGIONAL CONFERENCE AND FOR THE PURPOSE OF MAKING A COMMEMORATIVE GIFT TO THE INTERPOL GENERAL SECRETARIAT.

(a) Notwithstanding the provisions of section 1342 of title 31, United States Code, the Attorney General is hereby authorized to accept, receive, hold, and administer on behalf of the United States, gifts of money, personal property and services, for the purpose of hosting the International Criminal Police Organization's (INTERPOL) American Regional Conference in the United States in May and June 1989.

(b) The Attorney General is authorized to accept, receive, hold, and administer on behalf of the United States, gifts of money, personal property and services, for the purpose of making a commemorative gift, the value of which shall not exceed $10,000 without the prior concurrence of the Secretary of State, to the INTERPOL General Secretariat on the opening of its headquarters in Lyon, France.

(c) All moneys received for the purposes provided in this section shall be credited to the appropriation "Salaries and Expenses, general legal activities" for fiscal year 1989 as he deems necessary, to pay expenses of such commemorative gift and hosting such conference, including but not limited to reception and representation expenses. The authority of the Attorney General under this section shall continue through September 30, 1989.

SEC. 2765. RECOVERY OF COSTS INCURRED BY STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

(a) IN GENERAL.—Subchapter B of chapter 78 of the Internal Revenue Code of 1986 (relating to general powers and duties) is amended by adding at the end thereof the following new section:

"SEC. 7624. REIMBURSEMENT TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

"(a) AUTHORIZATION OF REIMBURSEMENT.—

"(1) IN GENERAL.—Whenever a State or local law enforcement agency provides information to the Internal Revenue Service that substantially contributes to the recovery of Federal taxes, such agency shall be reimbursed by the Internal Revenue Service for costs incurred in the investigation (including but not limited to reasonable expenses, per diem, salary, and overtime) not to exceed 10 percent of the sum recovered.

"(2) RECORDS; 10 PERCENT LIMITATION.—The Internal Revenue Service shall maintain records of the receipt of information from a contributing agency and shall notify the agency when monies have been recovered as the result of such information. Following such notification, the agency shall submit a statement detailing the investigative costs it incurred. Where more than 1 State or local agency has given information that substantially contributes to the recovery of Federal taxes, the Internal Revenue Service shall equitably allocate investigative costs among such agencies not to exceed an aggregate amount of 10 percent of the taxes recovered.

"(3) NO REIMBURSEMENT WHERE DUPLICATIVE.—No State or local agency shall be entitled to reimbursement under this section if reimbursement has been received by such agency under a Federal or State forfeiture program or under State revenue laws.".

(b) ESTABLISHMENT OF LAW ENFORCEMENT AGENCY ACCOUNT.—Section 7809 of the Internal Revenue Code of 1986 (relating to deposit of collections) is amended by adding at the end thereof the following new subsection:

"(d) DEPOSIT OF FUNDS FOR LAW ENFORCEMENT AGENCY ACCOUNT.—

"(1) IN GENERAL.—In the case of any amounts recovered as the result of information provided by State and local law enforcement agencies, an amount equal to 10 percent of such amounts shall be deposited in a separate account which shall be used to make the reimbursements required under section 7624.

"(2) DEPOSIT IN TREASURY AS INTERNAL REVENUE COLLECTIONS.—If any amounts remain in such account after payment of any qualified costs incurred under section 7624, such amounts shall be withdrawn from such account and deposited in the Treasury of the United States as internal revenue collections.".

(c) DISCLOSURE OF RETURN INFORMATION.—Section 6103(d) of the Internal Revenue Code of 1986 (relating to disclosure to State tax officials) is amended by adding at the end the following new paragraph:

"(3) EXCEPTION FOR REIMBURSEMENT UNDER SECTION 7624.—Return and return information with respect to taxes described in paragraph (1) may be disclosed to State and local law enforcement agencies for the purpose of, and only to the extent necessary to provide reimbursement of costs pursuant to section 7624.".

(d) CONFORMING AMENDMENTS.—(1) The table of sections for subchapter B of chapter 78 is amended by adding at the end thereof the following new item:

"Sec. 7624. Reimbursement to State and local law enforcement agencies.".

(2) The heading for section 6103(d) is amended to read as follows:

"(d) Disclosure to State Tax Officials and State and Local Law Enforcement Agencies.".

(e) Regulations.—The Secretary of the Treasury shall not later than 90 days after the date of enactment of this Act prescribe such rules and regulations as shall be necessary and proper to carry out the provisions of this section. Any rule or regulation prescribed pursuant to this subsection shall be made on the record after opportunity for a hearing.

Subtitle N—State and Local Narcotics Control and Justice Assistance Improvements

CHAPTER 1—STATE AND LOCAL NARCOTICS CONTROL AND JUSTICE ASSISTANCE IMPROVEMENTS

SEC. 2821. BUREAU OF JUSTICE ASSISTANCE AND UNIFIED GRANT PROGRAMS.

(a) In General.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) striking part M; and

(2) striking parts D and E (42 U.S.C. 3741-3766) and inserting the following:

"PART D—ESTABLISHMENT OF BUREAU OF JUSTICE ASSISTANCE

"SEC. 401. ESTABLISHMENT OF BUREAU OF JUSTICE ASSISTANCE.

"(a) There is established within the Department of Justice, under the general authority of the Attorney General, a Bureau of Justice Assistance (hereafter in this part referred to as the 'Bureau').

"(b) The Bureau shall be headed by a Director (hereafter in this part referred to as the 'Director') who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall report to the Attorney General through the Assistant Attorney General. The Director shall have final authority for all grants, cooperative agreements, and contracts awarded by the Bureau. The Director shall not engage in any employment other than that of serving as the Director, nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Bureau makes any contract or other arrangement under this title.

"SEC. 402. DUTIES AND FUNCTIONS OF THE DIRECTOR.

"The Director shall have the following duties:

"(1) Providing funds to eligible States, units of local government, for-profit organizations, and private, nonprofit organizations pursuant to part D.

"(2) Establishing programs in accordance with subpart 2 of part E and, following public announcement of such programs, awarding and allocating funds and technical assistance in accordance with the criteria of subpart 2, and on terms and conditions determined by the Director to be consistent with subpart 2.

"(3) Cooperating with and providing technical assistance to States, units of local government, and other public and private organizations or international agencies involved in criminal justice activities.

"(4) Providing for the development of technical assistance and training programs for State and local criminal justice agencies and fostering local participation in such activities.

"(5) Encouraging the targeting of State and local resources on efforts to reduce the incidence of drug abuse and crime and on programs relating to the apprehension and prosecution of drug offenders.

"(6) Establishing and carrying on a specific and continuing program of cooperation with the States and units of local government designed to encourage and promote consultation and coordination concerning decisions made by the Bureau affecting State and local drug control and criminal justice priorities.

"(7) Preparing recommendations on the State and local drug enforcement component of the National Drug Control Strategy which shall be submitted to the Associate Director of the Office on National Drug Control Policy. In making such recommendations, the Director shall review the statewide strategies submitted by such States under part E, and shall obtain input from State and local drug enforcement officials. The recommendations made under this paragraph shall be provided at such time and in such form as the Director of National Drug Control Policy shall require.

"(8) Exercising such other powers and functions as may be vested in the Director pursuant to this title or by delegation of the Attorney General or Assistant Attorney General.

"PART E—BUREAU OF JUSTICE ASSISTANCE GRANT PROGRAMS

"Subpart 1—Drug Control and System Improvement Grant Program

"SEC. 501. DESCRIPTION OF THE DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM.

"(a) It is the purpose of this subpart to assist States and units of local government in carrying out specific programs which offer a high probability of improving the functioning of the criminal justice system, with special emphasis on a nationwide and multilevel drug control strategy by developing programs and projects to assist multijurisdictional and multi-State organizations in the drug control problem and to support national drug control priorities.

"(b) The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the 'Director') is authorized to make grants to States, for the use by States and units of local government in the States, for the purpose of enforcing State and local laws that establish offenses similar to offenses established in the Controlled Substances Act (21 U.S.C. 801 et seq.) and to improve the functioning of the criminal justice system with emphasis on violent crime and serious offenders. Such grants shall provide additional personnel, equipment, training, technical assistance, and information systems for the more widespread apprehension, prosecution, adjudication, and detention and rehabilitation of persons who violate these laws, and to assist the victims of such crimes (other than compensation), including—

"(1) demand reduction education programs in which law enforcement officers participate;

"(2) multijurisdictional task force programs that integrate Federal, State, and local drug law enforcement agencies and prosecutors for the purpose of enhancing interagency coordination, intelligence, and facilitating multijurisdictional investigations;

"(3) programs designed to target the domestic sources of controlled and illegal substances, such as precursor chemicals, diverted pharmaceuticals, clandestine laboratories, and cannabis cultivations;

"(4) providing programs that assist citizens in preventing and controlling crime to include special programs that address the problems of crimes committed against the elderly and rural jurisdictions;

"(5) disrupting illicit commerce in stolen goods and property;

"(6) improving the investigation and prosecution of white-collar crime, organized crime, public corruption crimes, and fraud against the government with priority attention to cases involving drug-related official corruption;

"(7) improving the operational effectiveness of law enforcement through the use of crime analysis techniques, street sales enforcement, schoolyard violator programs, gang-related and low-income housing drug control programs;

"(8) career criminal prosecution programs including the enactment of model drug control legislation;

"(9) financial investigative programs that target the identification of money laundering operations and assets obtained through illegal drug trafficking, including the enactment of model legislation, financial investigative training, and financial information sharing systems;

"(10) improving the operational effectiveness of the court process through programs such as court delay reduction programs and enhancement programs;

"(11) programs designed to provide additional public correctional resources and improve the corrections system, including treatment in prisons and jails, intensive supervision programs, and long-range corrections and sentencing strategies;

"(12) providing prison industry projects designed to place inmates in a realistic working and training environment which will enable them to acquire marketable skills and to make financial payments for restitution to their victims, for support of their own families, and for support of themselves in the institution;

"(13) providing programs which identify and meet the treatment needs of adult and juvenile drug-dependent offenders;

"(14) developing and implementing programs which provide assistance to jurors and witnesses, and assistance (other than compensation) to victims of crimes;

"(15)(A) developing programs to improve drug control technology, such as pretrial drug testing programs, programs which provide for the identification, assessment, referral to treatment, case management and monitoring of drug dependent offenders, enhancement of State and local forensic laboratories, and (B) criminal and justice information systems to assist law enforcement, prosecution, courts, and corrections organization;

"(16) innovative programs that demonstrate new and different approaches to enforcement, prosecution, and adjudication of drug control activities;

"(17) improving the criminal and juvenile justice system's response to domestic and family violence, including spouse abuse, child abuse, and abuse of the elderly; and

"(18) drug control evaluation programs which the State and local units of government may utilize to evaluate programs and projects directed at State drug control activities.

"(c) Each program funded under this section shall contain an evaluation component, developed pursuant to guidelines established by the National Institute of Justice, in consultation with the Bureau of Justice Assistance. The Director of the Bureau of Justice Assistance may waive this requirement when, in the opinion of the Director—

"(1) the program is not of sufficient size to justify a full evaluation report; or

"(2) the program is designed primarily to provide material resources and supplies, such as laboratory equipment, that would not justify a full evaluation report.

"SEC. 502. ELIGIBILITY.

"The Bureau is authorized to make financial assistance under this subpart available to a State to enable it to carry out all or a substantial part of a program or project submitted and approved in accordance with the provisions of this subpart.

"SEC. 503. STATE APPLICATIONS.

"To request a grant under this subpart, the chief executive officer of a State shall submit to the Director an application at such time and in such form as the Director may require. Such application shall include the following:

"(1) A statewide strategy for drug control and programs which improve the functioning of the criminal justice system with emphasis on violent crime and serious offenders. The combined strategy shall be prepared after consultation with State and local officials with emphasis on those whose duty it is to enforce drug laws and direct the administration of justice and shall contain—

"(A) a definition and analysis of the drug problem in the State, and an analysis of the problems in each of the major counties and municipalities with major drug control problems;

"(B) an assessment of the efforts existing as of the time of the application to address the drug control problems at the State and local level;

"(C) coordination requirements;

"(D) resource needs;

"(E) the establishment of statewide priorities for drug control activities and programs;

"(F) an analysis of the relationship of the proposed State efforts to the national drug control strategy; and

"(G) a plan for coordinating the programs to be funded under this subpart with federally funded State and local drug abuse education, prevention, research, and treatment programs.

"(2) A certification that Federal funds made available under the formula grant of this subpart will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for law enforcement activities.

"(3) A certification that funds required to pay the non-Federal portion of the cost of each program and project for which such grant is made shall be in addition to funds that would otherwise be made available for law enforcement by the recipients of grant funds.

"(4) An assurance that the State application described in this section, and any amendment to such application, has been submitted for review to the State legislature or its designated body (for purposes of this section, such application or amendment shall be deemed to be reviewed if the State legislature or such body does not review such application or amendment within the 30-day period beginning on the date such application or amendment is so submitted).

"(5) An assurance that the State application and any amendment thereto was made public before submission to the Bureau and, to the extent provided under State law or established procedure, an opportunity to comment thereon was provided to citizens and to neighborhood and community groups.

"(6) An assurance that following the first fiscal year covered by an application and for each fiscal year thereafter, a performance evaluation and assessment report concerning the activities carried out pursuant to this section will be submitted to the Bureau.

"(7) A provision for fund accounting, auditing, monitoring, and such evaluation procedures as may be necessary to keep such records that the Bureau shall prescribe to assure fiscal control, proper management, and efficient disbursement of funds reviewed under this section.

"(8) An assurance that the applicant shall maintain such data and information and submit such reports in such form, at such times, and containing such data and information as the Bureau may reasonably require to administer other provisions of this subpart.

"(9) A certification that its programs meet all the requirements of this section, that all the information contained in the application is correct, that there has been appropriate coordination with affected agencies, and that the applicant will comply with all provisions of this subpart and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Bureau and shall be executed by the chief executive or such other officer of the applicant qualified under regulations promulgated by the Office.

"SEC. 504. GRANT LIMITATIONS.

"(a) A grant made under this subpart may not—

"(1) for fiscal years 1989 and 1990 appropriations be expended for more than 75 percent; and

"(2) for fiscal years 1991 and 1992 appropriations be expended for more than 50 percent,

of the cost of the identified uses for which such grant is received to carry out any purpose specified in section 502, except that in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any such program or project, the amount of such grant shall be equal to 100 percent of such cost. The non-Federal portion of the expenditures for such uses shall be paid in cash.

"(b) Not more than 10 percent of a grant made to an eligible State under section 506 may be used for costs incurred to administer such grant.

"(c) States and units of local government or combinations thereof are authorized to use a grant made under section 506 for the expenses associated with participation in the State and Local Task Force Program established by the Drug Enforcement Administration.

"(d) States and local units of government are authorized to use a grant made under section 506 for the expenses associated with conducting the evaluations required under section 501(c) of this part.

"(e) The non-Federal portion of the cost of such program or project shall be in cash. State and local units of government may use cash received under the equitable sharing program to cover the non-Federal portion of the costs of programs funded under section 506.

"(f) No funds may be awarded under this subpart to a grant recipient for a program or project for which funds have been awarded under this title for 4 years (in the aggregate), including any period occurring before the effective date of this subsection.

"SEC. 505. REVIEW OF STATE APPLICATIONS.

"(a) The Bureau shall provide financial assistance to each State applicant under this subpart to carry out the programs or projects submitted by such applicant upon determining that—

"(1) the application or amendment thereto is consistent with the requirements of this subpart; and

"(2) before the approval of the application and any amendment thereto the Bureau has made an affirmative finding in writing that the program or project has been reviewed in accordance with this subpart.

"(b) Each application or amendment made and submitted for approval to the Bureau pursuant to section 503 shall be deemed approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) Grant funds awarded under this subpart shall not be used for land acquisition or construction projects, other than penal and correctional institutions.

"(d) The Bureau shall not finally disapprove any application, or any amendment thereto, submitted to the Director under this section without first affording the applicant reasonable notice and opportunity for reconsideration.

"SEC. 506. ALLOCATION AND DISTRIBUTION OF FUNDS UNDER FORMULA GRANTS.

"(a) Of the total amount appropriated for this part in any fiscal year, less amounts set aside for evaluation pursuant to section 520 and section 1001(a)(6), 80 percent shall be set aside for section 502 and allocated to States as follows:

"(1) $750,000 shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State bears to the population of all the States.

"(b) Of the amounts set aside for this section, not less than 10 percent shall be used to fund street sales enforcement programs of which the primary goal is to strengthen urban enforcement and prosecution efforts targeted at street level narcotics activity in areas of high-intensity drug trafficking. The Director may, in his discretion, waive this requirement at the request of a State, where the imposition of this requirement is clearly inappropriate given the States documented needs as specified in their statewide strategy. Such projects may include—

"(1) the early involvement of prosecution and court functions in order to ensure that both citizen rights and system impact issues are addressed;

"(2) the training and utilization of uniformed personnel and the certification of uniformed officers as narcotics experts for testifying in court;

"(3) the deployment of street teams for on-going investigations and arrests of street narcotics dealers and buyers, and the involvement of law enforcement personnel to ensure that citizen concerns regarding narcotics conditions are addressed;

"(4) the enhancement of prosecution, adjudication, and corrections resources to accommodate the increased case loads generated through intensive, street-level enforcement programs;

"(5) the organization and deployment of mobile task forces to target those areas of the city where street sales of drugs have become blatant;

"(6) the development and implementation of innovative law enforcement programs, such as undercover buy programs aimed at the street retailer and the enforcement of asset seizure and forfeiture laws; and

"(7) the coordination of such projects with forensic laboratory services.

"(c)(1) Each State which received funds under subsection (a) of this section in a fiscal year shall distribute among units of local government, or combinations of units of local government, in such State for the purposes specified in section 501(b) that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for criminal justice in such preceding fiscal year.

"(2) Each State which receives funds under subsection (a) shall provide to units of local government or combinations thereof with a minimum population of 500,000, or if the largest such unit or combination has less than 500,000, to the largest such unit or combination thereof in the State, of the pass through formula, a percentage of such funds which is not less than a portion of such funds which bears the same ratio to the amount of funds expended by such local government or combination thereof to the aggregate amount of funds expended by all units of local government for criminal justice in the preceding fiscal year.

"(3) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State involved.

"(4) For purposes of determining the distribution of funds under paragraph (1), the most accurate and complete data available for the fiscal year involved shall be used. If data for such fiscal year are not available, then the most accurate and complete data available for the most recent fiscal year preceding such fiscal year shall be used.

"(d) No funds allocated to a State under subsection (a) or received by a State for distribution under subsections (b) and (c) may be distributed by the Director or by the State involved for any program other than a program contained in an approved application.

"(e) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for that fiscal year will not be required or that a State will be unable to qualify or receive funds under section 502, or that a State chooses not to participate in the program established under such section, then such portion shall be awarded by the Director to urban, rural, and suburban units of local government or combinations thereof within such State giving priority to those jurisdictions with greatest need.

"(f) Any funds allocated under subsection (a) or (e) that are not distributed under this section shall be available for obligation under subpart 2.

"SEC. 507. STATE OFFICE.

"(a) The chief executive of each participating State shall designate a State office for purposes of—

"(1) preparing an application to obtain funds under section 503;

"(2) administering funds received under such section from the Director, including receipt, review, processing, monitoring, progress and financial report review, technical assistance, grant adjustments, accounting, auditing and fund disbursements; and

"(3) coordinating the distribution of funds provided under this part with State agencies receiving Federal funds for drug abuse education, prevention, treatment, and research activities and programs.

"(b) An office or agency performing other functions within the executive branch of a State may be designated to carry out the functions specified in subsection (a).

"SEC. 508. DISTRIBUTION OF GRANTS TO LOCAL GOVERNMENT.

"(a) Each application made by a local unit of government, or a combination of units of local government, to a State for funds under this subchapter shall be deemed approved, in whole or in part, by the State not later than 45 days after first received unless the State informs the applicant in writing of specific reasons for disapproval. The State shall not finally disapprove any application submitted to the State without first affording the applicant reasonable notice and opportunity for reconsideration.

"(b)(1) Except as provided in paragraph (2), each State which receives funds under section 506 in a fiscal year shall make such funds available to local units of government, or combinations of units of local government, whose application has been submitted to, approved and awarded by the State, within 90-days after the Bureau has approved the State application and has made funds available to such State. If the State does not distribute such funds to any local unit of government, or combination thereof, within that time, the State shall return such funds to the Director who shall directly award such funds to the local unit of government, or combination thereof. The Director shall have the authority to waive the 90-day requirement in this section upon a finding that the State cannot satisfy that requirement consistent with State statutes.

"(2) Each State which receives funds under section 506 in a fiscal year shall make such funds available to local units of government, or combinations thereof, with a minimum population of 500,000, or if the largest such unit or combination has less than 500,000, to the largest such unit or combination thereof in the State, whose application has been submitted to, approved, and awarded by the State, within 45 days after the Bureau has approved the State application and has made funds available to such State. If the State does not distribute such funds within that time, the State shall return such funds to the Director who shall directly award such funds to the local unit of government, or combination thereof. The Director shall have the authority to waive the 45-day requirement in this section upon a finding that the State cannot satisfy that requirement consistent with State statutes.

"Subpart 2—Discretionary Grants

"SEC. 510. PURPOSE.

"(a) The purpose of this subpart is to provide additional Federal financial assistance to public or private agencies and private nonprofit organizations for purposes of—

"(1) undertaking educational and training programs for criminal justice personnel;

"(2) providing technical assistance to States and local units of governments;

"(3) undertaking projects which are national or multijurisdictional in scope and which address the purposes specified in section 502; and

"(4) providing financial assistance to public agencies and private nonprofit organizations for demonstration programs which, in view of previous research or experience, are likely to be a success in more than one jurisdiction.

"(b) In carrying out this subpart, the Director is authorized to make grants to, or enter into contracts with public or private agencies, institutions, or organizations or individuals to carry out any purpose specified in section 501(b). The Director shall have final authority over all funds awarded under this subpart.

"SEC. 511. ALLOCATION OF FUNDS FOR DISCRETIONARY GRANTS.

"Of the total amount appropriated for this part in any fiscal year less amounts set aside for evaluation and research pursuant to section 520 and section 1001(a)(6), 20 percent shall be reserved and set aside for this section in a special discretionary fund for use by the Director in carrying out the purposes specified in section 503. Grants under this section may be made for amounts up to 100 percent of the costs of the programs or projects contained in the approved application.

"SEC. 512. LIMITATION ON USE OF DISCRETIONARY GRANT FUNDS.

"Grant funds awarded under section 511 shall not be used for land acquisition or construction projects.

"SEC. 513. APPLICATION REQUIREMENTS.

"(a) No grant may be made under this subpart unless an application has been submitted to the Director in which the applicant—

"(1) sets forth a program or project which is eligible for funding pursuant to section 511;

"(2) describes the services to be provided, performance goals, and the manner in which the program is to be carried out;

"(3) describes the method to be used to evaluate the program or project in order to determine its impact and effectiveness in achieving the stated goals; and

"(4) agrees to conduct such evaluation according to the procedures and terms established by the Bureau.

"(b) Each applicant for funds under this subpart shall certify that its program or project meets all the requirements of this section, that all the information contained in the application is correct, and that the applicant will comply with all the provisions of this subpart and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Director.

"SEC. 514. PERIOD OF AWARD.

"The Bureau may provide financial aid and assistance to programs or projects under this subpart for a period of not to exceed 4 years. Grants made pursuant to this subpart may be extended or renewed by the Bureau for an additional period of up go 2 years if—

"(1) an evaluation of the program or project indicates that it has been effective in achieving the stated goals or offers the potential for improving the functioning of the criminal justice system; and

"(2) the public agency or private nonprofit organization within which the program or project has been conducted agrees to provide at least one-half of the total cost of such program or project from any source of funds, including Federal grants, available to the eligible jurisdiction.

"Subpart 3—Administrative Provisions

"SEC. 520. PROGRAM AND PROJECT EVALUATION; RESEARCH.

"(a) Of the total amounts appropriated for this part in any fiscal year, 4 percent or

$10,000,000, whichever is less, shall be transferred to the National Institute of Justice as follows:

"(1) Fifty percent of the funds transferred to the National Institute of Justice under this section shall be used for program and project evaluation—

"(A) to develop guidelines, in cooperation with the Bureau of Justice Assistance, to assist State and local units of government to conduct the program evaluations as required by section 501(c) of this part; and

"(B) to conduct a reasonable number of comprehensive evaluations of programs funded under section 506 (formula grants) and section 511 (discretionary grants) of this part.

In selecting programs for review, the Director of the National Institute of Justice should consider—

"(i) whether the program establishes or demonstrates a new and innovative approach to drug or crime control;

"(ii) the cost of the program to be evaluated and the number of similar programs funded under section 506 (formula grants) and section 511 (discretionary grants);

"(iii) whether the program has a high potential to be replicated in other jurisdictions; and

"(iv) whether there is substantial public awareness and community involvement in the program. Routine auditing, monitoring, and internal assessment of a State and local drug control program's progress shall be the sole responsibility of the Bureau of Justice Assistance.

"(2) Fifty percent of the funds transferred to the National Institute of Justice under this section shall be used to conduct research and development programs on drug and drug-related crime control programs. The primary focus of such research should be on practical approaches to drug and drug-related crime control to assist State and local law enforcement agencies in their response to these problems.

"(b) The Director of the National Institute of Justice shall annually report to the President, the Attorney General and the Congress on the nature and findings of the evaluation and research and development activities funded under this section.

"SEC. 521. GENERAL PROVISIONS.

"(a) The Bureau shall prepare both a 'Program Brief' and 'Implementation Guide' document for proven programs and projects to be funded under this part.

"(b) The functions, powers, and duties specified in this part to be carried out by the Bureau shall not be transferred elsewhere in the Department of Justice unless specifically hereafter authorized by the Congress by law.

"SEC. 522. REPORTS.

"(a) Each State which receives a grant under section 506 shall submit to the Director, for each year in which any part of such grant is expended by a State or unit of local government, a report which contains—

"(1) a summary of the activities carried out with such grant and an assessment of the impact of such activities on meeting the needs identified in the State strategy submitted under section 503;

"(2) a summary of the activities carried out in such year with any grant received under subpart 2 by such State;

"(3) the evaluation result of programs and projects;

"(4) an explanation of how the Federal funds provided under this part were coordinated with State agencies receiving Federal funds for drug abuse education, prevention, treatment, and research activities; and

"(5) such other information as the Director may require by rule.

Such report shall be submitted in such form and by such time as the Director may require by rule.

"(b) Not later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that includes with respect to each State—

"(1) the aggregate amount of grants made under subpart 1 and subpart 2 to such State for such fiscal year;

"(2) the amount of such grants awarded for each of the purposes specified in subpart 1;

"(3) a summary of the information provided in compliance with paragraphs (1) and (2) of subsection (a);

"(4) an explanation of how Federal funds provided under this part have been coordinated with Federal funds provided to States for drug abuse education, prevention, treatment, and research activities; and

"(5) evaluation results of programs and projects and State strategy implementation.".

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the items relating to parts D and E and inserting the following:

TABLE OF CONTENTS

"PART D—ESTABLISHMENT OF BUREAU OF JUSTICE ASSISTANCE

"Sec. 401. Establishment of Bureau of Justice Assistance.
"Sec. 402. Duties and functions of the Director.

"PART E—BUREAU OF JUSTICE ASSISTANCE GRANT PROGRAMS

"SUBPART 1—DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM

"Sec. 501. Description of the Drug Control and System Improvement Grant program.
"Sec. 502. Eligibility.
"Sec. 503. State applications.
"Sec. 504. Grant limitations.
"Sec. 505. Review of State applications.
"Sec. 506. Allocation and distribution of funds under formula grants.
"Sec. 507. State office.
"Sec. 508. Distribution of grants to local government.

"SUBPART 2—DISCRETIONARY GRANTS

"Sec. 510. Purpose.
"Sec. 511. Allocation of funds for discretionary grants.
"Sec. 512. Limitation on use of discretionary grant funds.
"Sec. 513. Application requirements.
"Sec. 514. Period of award.

"SUBPART 3—ADMINISTRATIVE PROVISIONS

"Sec. 520. Program and project evaluation; research.
"Sec. 521. General provisions.
"Sec. 522. Reports.".

SEC. 2822. DUTIES AND FUNCTIONS OF THE DIRECTOR OF THE BUREAU OF JUSTICE STATISTICS.

(a) IN GENERAL.—Section 302 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. section 3732) is amended in subsection (c) by redesignating paragraphs (16), (17), (18) and (19) as paragraphs (19), (20), (21) and (22), respectively, and inserting the following new paragraphs:

"(16) provide for the collection, compilation, analysis, publication and dissemination of information and statistics about the prevalence, incidence, rates, extent, distribution and attributes of drug offenses, drug related offenses and drug dependent offenders and further provide for the establishment of a national clearinghouse to maintain and update a comprehensive and timely data base on all criminal justice aspects of the drug crisis and to disseminate such information.

"(17) provide for the collection, analysis, dissemination and publication of statistics on the condition and progress of drug control activities at the Federal, State and local levels with particular attention to programs and intervention efforts demonstrated to be of value in the overall national anti-drug strategy and to provide for the establishment of a national clearinghouse for the gathering of data generated by Federal, State, and local criminal justice agencies on their drug enforcement activities.

"(18) provide for the development and enhancement of State and local criminal justice information systems, and the standardization of data reporting relating to the collection, analysis or dissemination of data and statistics about drug offenses, drug related offenses, or drug dependent offenders.".

(b) TECHNICAL AMENDMENT.—Section 901(a)(2) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "407(a)" and inserting "506(a)".

SEC. 2823. JUSTICE ASSISTANCE ACT REAUTHORIZATION.

Section 1001 of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1001. (a)(1) There are authorized to be appropriated $21,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992 to carry out the functions (other than the functions described in section 305 of part C) of the Bureau of Justice Statistics.

"(2) There are authorized to be appropriated $24,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992 to carry out the functions of the National Institute of Justice.

"(3) There are authorized to be appropriated $25,500,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992 to carry out the remaining functions of the Office of Justice Programs and the Bureau of Justice Assistance, other than functions under parts D, E, F, G, L, and M.

"(4) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out part L of this title.

"(5) There is authorized to be appropriated $275,000,000 for fiscal year 1989; $350,000,000 for fiscal year 1990; $400,000,000 for fiscal year 1991; and such sums as may be necessary for fiscal year 1992 to carry out the programs under parts D and E of this title.

"(6) There is authorized to be appropriated $5,000,000 for each of the fiscal years 1989, 1990, 1991, and 1992 to carry out section 305 of part C of this title: *Provided*, That 1 percent of the amount appropriated for paragraph (5) of this subsection shall be used to carry out the functions specified in subparagraphs (16), (17), and (18) of section 302(c) of part C of this title.

"(7) There are authorized to be appropriated $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992 to carry out the programs under part M of this title.

"(b) Funds appropriated for any fiscal year may remain available for obligation until expended.

"(c) Notwithstanding any other provision of law, no funds appropriated under this section for part E of this title may be transferred or reprogrammed for carrying out any activity which is not authorized under such parts.".

SEC. 1824. TECHNICAL AMENDMENT.

Section 403(a)(12) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3743(a)(12)) is amended by inserting "(including automated fingerprint identification systems)" after "systems" the first place it appears.

CHAPTER 2—JUVENILE JUSTICE AND DELINQUENCY PREVENTION PROGRAMS

SEC. 2825. PREVENTION AND TREATMENT PROGRAMS RELATING TO JUVENILE GANGS AND JUVENILE DRUG ABUSE AND DRUG TRAFFICKING.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) FUNDS AUTHORIZED FOR FISCAL YEARS.—Section 261(a) of part D of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(a)) is amended—

(A) by inserting "(1)" after "(a)";

(B) by inserting "(other than part D)" after "this title"; and

(C) by adding at the end the following:

"(2) subject to subparagraph (B), to carry out part D, there are authorized to be appropriated $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992.".

(2) ALLOCATIONS.—Section 261(b) of part D of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(b)) is amended by inserting "(other than part D)" after "this title".

(b) TECHNICAL AMENDMENTS TO PART D OF TITLE II.—Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671-5672 note) is amended—

(1) by amending the heading of such part to read as follows:

"PART E—GENERAL AND ADMINISTRATIVE PROVISIONS";

and

(2) by redesignating sections 261 and 262 as sections 291 and 292, respectively.

(c) PREVENTION AND TREATMENT PROGRAMS RELATING TO JUVENILE GANGS AND JUVENILE DRUG ABUSE AND DRUG TRAFFICKING.—Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671-5672 note) is amended by inserting after part C the following:

"PART D—PREVENTION AND TREATMENT PROGRAMS RELATING TO JUVENILE GANGS AND DRUG ABUSE AND DRUG TRAFFICKING

"AUTHORITY TO MAKE GRANTS AND CONTRACTS

"SEC. 281. The Administrator shall, by making grants to and entering into contracts with public and private non-profit agencies, organizations, institutions, and individuals, establish and support programs and activities that involve families and communities and that are designed to carry out any of the following purposes:

"(1) To strengthen the juvenile justice system's ability to deal with juveniles involved in drug trafficking, either individually or as part of distribution networks.

"(2) To develop new and innovative sanctions within the juvenile justice system against juveniles convicted of serious drug trafficking offenses.

"(3) To reduce juvenile involvement in gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles.

"(4) To promote the involvement of juveniles in lawful activities in geographical areas in which gangs commit crimes.

"(5) To provide treatment to juveniles who are members of such gangs, including members who are accused of committing a serious crime and members who have been adjudicated as being delinquent.

"(6) To facilitate Federal and State cooperation with local school officials to identify and assist juveniles who are likely to participate in the activities of gangs that commit crimes and to establish and support programs that facilitate coordination and cooperation among local education, juvenile justice, employment, and social service agencies, for the purpose of preventing or reducing the participation of juveniles in activities of gangs that commit crimes.

"(7) To reduce the incidence of drug-related crime and drug trafficking in elementary and secondary schools.

"(8) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system.

"(9) To provide drug abuse education, prevention and treatment involving police and juvenile justice officials in demand reduction programs.

"(10) To provide additional personnel, equipment, personnel training, and supplies to assist in improving the adjudicative and corrections components of the juvenile justice system.

In making grants and entering into contracts under this section, the Administrator shall give a preference to entities that have been successful in helping juvenile gangs and preventing juvenile drug abuse and drug trafficking.

"APPROVAL OF APPLICATIONS.

"SEC. 282. (a) Any agency, institution, or individual desiring to receive a grant, or to enter into a contract, under this part shall submit an application at such time, in such manner, and containing or accompanied by such information as the Administrator may prescribe.

"(b) In accordance with guidelines established by the Administrator, each application for assistance under this part shall—

"(1) set forth a program or activity for carrying out one or more of the purposes specified in section 281 and specifically identify each such purpose, such program or activity is designed to carry out;

"(2) provide that such program or activity shall be administered by or under the supervision of the applicant;

"(3) provide for the proper and efficient administration of such program or activity;

"(4) provide for regular evaluation of such program or activity;

"(5) certify that the applicant has requested the State planning agency and local agency designated in section 223, if any, to review and comment on such application and indicate the responses of such State planning agency and local agency to such request;

"(6) attach a copy of the responses of such State planning agency and local agency to such request;

"(7) provide that regular reports on such program or activity shall be sent to the Administrator and to such State planning agency and local agency; and

"(8) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this title.

"(c) In reviewing applications for grants and contracts under this part, the Administrator shall give priority to applications—

"(1) based on the incidence and severity of crimes committed by gangs whose membership is composed primarily of juveniles or the incidence of juvenile drug abuse and drug trafficking, in the geographical area in which the applicants propose to carry out the programs and activities for which such grants and contracts are requested; and

"(2) for assistance for programs and activities that have the broad support of organizations operating in such geographical areas, as demonstrated by the applicants.

"REPORT TO CONGRESS

"SEC. 283. The Administrator shall annually report to Congress on the status and accomplishments of the programs and activities funded under this part. Such report shall include a detailed evaluation of each program or activity.".

SEC. 2826. AUTHORITY TO MAKE GRANTS.

Section 221 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631) is amended—

(1) by amending the heading to read as follows:

"AUTHORITY TO MAKE GRANTS AND CONTRACTS",

(2) by inserting "(a)" after "SEC. 221.", and

(3) by adding at the end the following:

"(b)(1) With not to exceed 2 percent of the funds available in a fiscal year to carry out this part, the Administrator shall make grants to and enter into contracts with public and private agencies, organizations, and individuals to provide technical assistance to States, units of general local governments (and combinations thereof), and local private agencies to facilitate compliance with section 223 and implementation of the State plan approved under section 223(c).

"(2) Grants and contracts may be made under paragraph (1) only to public and private agencies, organizations, and individuals that have experience in providing such technical assistance. In providing such technical assistance, the recipient of a grant or contract under this subsection shall coordinate its activities with the State agency described in section 291(c)(1).".

SEC. 2827. ALLOCATION.

(a) MINIMUM ALLOCATION.—Section 222(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632(a)) is amended—

(1) by striking "In" and inserting "(1) Subject to paragraph (2) and in",

(2) by striking the last sentence, and

(3) by adding at the end the following:

"(2)(A) Subject to paragraph (3), if the aggregate amount appropriated for a fiscal year to carry out this title (other than part D) is less than $75,000,000, then the amount allotted to each State for such fiscal year shall be not less than $325,000, except that the amount allotted to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $75,000 each.

"(B) Subject to paragraph (3), if the aggregate amount appropriated for a fiscal year to carry out this title (other than part

D) equals or exceeds $75,000,000, then the amount allotted to each State for such fiscal year shall be not less than $400,000, except that the amount allotted to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $100,000 each.

"(3) If, as a result of paragraph (2), the amount allotted to a State for a fiscal year would be less than the amount allotted to such State for fiscal year 1988, then the amounts allotted to satisfy the requirements of such paragraph shall be reduced pro rata to the extent necessary to allot to such State for the fiscal year the amount allotted to such State for fiscal year 1988.".

(b) TECHNICAL AMENDMENTS.—Section 222(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632(b)) is amended—

(1) in the first sentence by striking "Except for funds appropriated for fiscal year 1975, if" and inserting "If", and

(2) by striking the second sentence.

SEC. 2828. TECHNICAL ASSISTANCE AND TRAINING FUNCTIONS.

Section 244 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5654) is amended—

(1) by amending the heading to read as follows: "TECHNICAL ASSISTANCE AND TRAINING FUNCTIONS",

(2) by striking "National Institute for Juvenile Justice and Delinquency Prevention" and inserting "Administrator, acting through the National Institute for Juvenile Justice and Delinquency Prevention",

(3) by striking paragraph (3),

(4) in paragraph (2) by adding "and" at the end,

(5) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and

(6) by inserting before paragraph (2), as so redesignated, the following:

"(1) provide technical assistance and training assistance to Federal, State, and local governments and to courts, public and private agencies, institutions, and individuals in the planning, establishment, funding, operation, and evaluation of juvenile delinquency programs;".

SEC. 2829. TECHNICAL AND CONFORMING AMENDMENTS TO PARTS B AND C OF TITLE II.

(a) TECHNICAL AMENDMENTS.—Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended—

(1) in part B—

(A) by striking the heading for subpart I, and

(B) by striking subpart II, and

(2) in part C—

(A) by striking the heading for such part and inserting the following:

"PART C—NATIONAL PROGRAMS".

(B) by inserting after the heading for part C the following:

"Subpart I—National Institute for Juvenile Justice and Delinquency Prevention",

(C) by striking sections 245 and 246,

(D) in section 249—

(i) in subsection (a) by striking "section 248" and inserting "section 245",

(ii) in subsection (b) by striking "section 248(b)" and inserting "section 245(b)", and

(iii) in subsection (c) by striking "section 246" and inserting "section 245",

(E) by redesignating sections 247, 248, and 249 as sections 245, 246, and 247, respectively, and

(F) by adding at the end the following:

"Subpart II—Special Emphasis Prevention and Treatment Programs

"AUTHORITY TO MAKE GRANTS AND CONTRACTS

"SEC. 261. (a) The Administrator shall, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals provide for each of the following during each fiscal year:

"(1) Establishing or maintaining community-based alternatives to traditional forms of institutionalization of juvenile offenders.

"(2) Establishing or implementing effective means of diverting juveniles from the traditional juvenile justice and correctional system, including restitution and reconciliation projects which test and validate selected arbitration models, such as neighborhood courts or panels, and increase victim satisfaction while providing alternatives to incarceration for detained or adjudicated delinquents.

"(3) Establishing or supporting programs stressing advocacy activities aimed at improving services to juveniles impacted by the juvenile justice system, including services which encourage the improvement of due process available to juveniles in the juvenile justice system, which improve the quality of legal representation of such juveniles, and which provide for the appointment of special advocates by courts for such juveniles.

"(4) Developing or supporting model programs to strengthen and maintain the family unit in order to prevent or treat juvenile delinquency.

"(5) Establishing or implementing special emphasis prevention and treatment programs relating to juveniles who commit serious crimes (including such crimes committed in schools), including programs designed to deter involvement in illegal activities or to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of juveniles.

"(6) Developing or implementing further a coordinated, national law-related education program of—

"(A) delinquency prevention in elementary and secondary schools, and other local sites;

"(B) training for persons responsible for the implementation of law-related education programs; and

"(C) disseminating information regarding model, innovative, law-related education programs to juvenile delinquency programs, including those that are community based, and to law enforcement and criminal justice agencies for activities related to juveniles.

"(7) Addressing efforts to reduce the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups if such proportion exceeds the proportion such groups represent in the general population.

"(b) The Administrator is authorized, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals, to develop and implement new approaches, techniques, and methods designed to—

"(1) improve the capability of public and private agencies and organizations to provide services for delinquents and other juveniles to help prevent juvenile delinquency;

"(2) develop and implement, in coordination with the Secretary of Education, model programs and methods to keep students in elementary and secondary schools, to prevent unwarranted and arbitrary suspensions and expulsions, and to encourage new approaches and techniques with respect to the prevention of school violence and vandalism;

"(3) develop, implement, and support, in conjunction with the Secretary of Labor, other public and private agencies, organizations, business, and industry, programs for the employment of juveniles;

"(4) develop and support programs designed to encourage and assist State legislatures to consider and establish policies consistent with this title, both by amending State laws, if necessary, and devoting greater resources to effectuate such policies;

"(5) develop and implement programs relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist law enforcement personnel and juvenile justice personnel to more effectively recognize and provide for learning-disabled and other handicapped juveniles;

"(6) develop statewide programs through the use of subsidies or other financial incentives designed to—

"(A) remove juveniles from jails and lockups for adults;

"(B) replicate juvenile programs designated as exemplary by the National Institute of Justice; or

"(C) establish and adopt, based upon the recommendations of the National Advisory Committee for Juvenile Justice and Delinquency Prevention made before the date of the enactment of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984, standards for the improvement of juvenile justice within each State involved; and

"(7) develop and implement model programs, relating to the special education needs of delinquent and other juveniles, which develop locally coordinated policies and programs among education, juvenile justice, and social service agencies.

"(c) Not less than 30 percent of the funds available for grants and contracts under this section shall be available for grants to and contracts with private nonprofit agencies, organizations, and institutions which have experience in dealing with juveniles.

"(d) Assistance provided under this section shall be available on an equitable basis to deal with female, minority, and disadvantaged juveniles, including juveniles who are mentally, emotionally, or physically handicapped.

"(e) Not less than 5 percent of the funds available for grants and contracts under this section shall be available for grants and contracts designed to address the special needs and problems of juvenile delinquency in the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

"CONSIDERATIONS FOR APPROVAL OF APPLICATIONS

"SEC. 262. (a) Any agency, institution, or individual desiring to receive a grant, or enter into a contract, under this part shall submit an application at such time, in such manner, and containing or accompanied by such information as the Administrator may prescribe.

"(b) In accordance with guidelines established by the Administrator, each application for assistance under this part shall—

"(1) set forth a program for carrying out one or more of the purposes set forth in this part and specifically identify each such purpose such program is designed to carry out;

"(2) provide that such program shall be administered by or under the supervision of the applicant;

"(3) provide for the proper and efficient administration of such program;

"(4) provide for regular evaluation of such program;

"(5) certify that the applicant has requested the State planning agency and local agency designated in section 223, if any, to review and comment on such application and indicate the responses of such State planning agency and local agency to such request;

"(6) attach a copy of the responses of such State planning agency and local agency to such request;

"(7) provide that regular reports on such program shall be sent to the Administrator and to such State planning agency and local agency; and

"(8) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this title.

"(c) In determining whether or not to approve applications for grants and for contracts under this part, the Administrator shall consider—

"(1) the relative cost and effectiveness of the proposed program in carrying out this part;

"(2) the extent to which such program will incorporate new or innovative techniques;

"(3) if a State plan has been approved by the Administrator under section 223(c), the extent to which such program meets the objectives and priorities of the State plan, taking into consideration the location and scope of such program;

"(4) the increase in capacity of the public and private agency, institution, or individual involved to provide services to address juvenile delinquency and juvenile delinquency prevention;

"(5) the extent to which such program serves communities which have high rates of juvenile unemployment, school dropout, and delinquency; and

"(6) the adverse impact that may result from the restriction of eligibility, based upon population, for cities with a population greater than 40,000 located within States which have no city with a population over 250,000.

"(d)(1)(A) Programs selected for assistance through grants or contracts under this part (other than section 241(f)) shall be selected through a competitive process to be established by rule by the Administrator. As part of such a process, the Administrator shall announce in the Federal Register—

"(i) the availability of funds for such assistance;

"(ii) the general criteria applicable to the selection of applicants to receive such assistance; and

"(iii) a description of the procedures applicable to submitting and reviewing applications for such assistance.

"(B) The competitive process described in subparagraph (A) shall not be required if the Administrator makes a written determination that—

"(i)(I) the proposed program is not within the scope of any announcement issued, or expected to be issued, by the Administrator regarding the availability of funds to carry out programs under this part, but can be supported by a grant or contract in accordance with this part; and

"(II) such program is of such outstanding merit, as determined through peer review conducted under paragraph (2), that the award of a grant or contract without competition is justified; or

"(ii) the applicant is uniquely qualified to provide proposed training services as provided in section 244 and other qualified sources are not capable of providing such services, and includes in such determination the factual and other bases thereof.

"(C) If a program is selected for assistance without competition pursuant to the exception provided in subparagraph (B), the Administrator shall promptly so notify the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate. Such notification shall include copies of the Administrator's determination made under such subparagraph and the peer review determination required by paragraph (2).

"(2)(A) Programs selected for assistance through grants or contracts under this part (other than section 241(f)) shall be reviewed before selection, and thereafter as appropriate, through a formal peer review process utilizing experts (other than officers and employees of the Department of Justice) in fields related to the subject matter of the proposed program.

"(B) Such process shall be established by the Administrator in consultation with the Directors and other appropriate officials of the National Science Foundation and the National Institute of Mental Health. Before implementation of such process, the Administrator shall submit such process to such Directors, each of whom shall prepare and furnish to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate a final report containing their comments on such process as proposed to be established.

"(3) The Administrator, in establishing the processes required under paragraphs (1) and (2), shall provide for emergency expedited consideration of the proposed programs if necessary to avoid any delay which would preclude carrying out such programs.

"(e) A city shall not be denied assistance under this part solely on the basis of its population.

"(f) Notification of grants and contracts made under this part (and the applications submitted for such grants and contracts) shall, upon being made, be transmitted by the Administrator, to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate.".

(b) CONFORMING AMENDMENTS.—(1) Section 223(a)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(1)) is amended by striking "section 261(c)(1)" and inserting "section 291(c)(1)".

(2) Section 246 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 3639), as so redesignated by section (a)(2)(E), is amended by striking "section 248" and inserting "section 245".

SEC. 2830. AUTHORIZATION OF APPROPRIATIONS.

(a) FUNDS AUTHORIZED FOR FISCAL YEARS.—Section 261(a) of part D of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(a)) is amended—

(1) by inserting "(1)" after "(a)",

(2) by inserting "(other than part D)" after "this title",

(3) by striking "1985, 1986, 1987, and",

(4) by inserting ", 1989, 1990, 1991, and 1992" after "1988", and

(5) by adding at the end the following:

"(2) No funds may be appropriated to carry out part D of this title for a fiscal year unless the aggregate amount appropriated to carry out this title (other than part D) for such fiscal year is not less than the aggregate amount appropriated to carry out this title (other than part D) for the preceding fiscal year.".

(b) ALLOCATIONS.—Section 261(b) of part D of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(b)) is amended—

(1) by inserting "(other than part D)" after "this title",

(2) in paragraph (1) by striking "7.5 percent" and inserting "5 percent",

(3) in paragraph (2) by striking "81.5 percent" and inserting "70 percent", and

(4) in paragraph (3) by striking "11 percent" and inserting "25 percent".

SEC. 2831. TECHNICAL AMENDMENTS TO PART D OF TITLE II.

Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671-5672 note) is amended—

(1) by amending the heading of such part to read as follows:

"PART E—GENERAL AND ADMINISTRATIVE PROVISIONS",

(2) by striking section 263,

(3) by redesignating sections 261 and 262 as sections 291 and 292, respectively, and

(4) by adding at the end the following:

"WITHHOLDING

"SEC. 293. Whenever the Administrator, after giving reasonable notice and opportunity for hearing to a recipient of financial assistance under this title, finds that—

"(1) the program or activity for which the grant or contract involved was made has been so changed that it no longer complies with this title; or

"(2) in the operation of such program or activity there is failure to comply substantially with any provision of this title;

the Administrator shall initiate such proceedings as are appropriate.

"USE OF FUNDS

"SEC. 294. (a) Funds paid pursuant to this title to any public or private agency, organization, or institution, or to any individual (either directly or through a State planning agency) may be used for—

"(1) planning, developing, or operating the program designed to carry out this title; and

"(2) not more than 50 percent of the cost of the construction of any innovative community-based facility for fewer than 20 persons which, in the judgment of the Administrator, is necessary to carry out this title.

"(b) Except as provided in subsection (a), no funds paid to any public or private agency, or institution or to any individual under this title (either directly or through a State agency or local agency) may be used for construction.

"(c)(1) Funds paid pursuant to section 223(a)(10)(D) and section 261(a)(3) to any public or private agency, organization, or institution or to any individual shall not be used to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device intended or designed to influence a Member of Congress or any other Federal, State, or local elected official to favor or oppose any Acts, bills, resolutions, or similar legislation, or any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council, or any similar governing body, except that this paragraph shall not preclude such funds from being used in connection with communications to Federal, State, or local elected officials, upon the request of such officials through proper official channels, pertaining to authorization, appropriation, or oversight measures directly affecting the operation of the program involved.

"(2) The Administrator shall take such action as may be necessary to ensure that no funds paid under section 223(a)(10)(D) or section 261(a)(3) are used either directly or indirectly in any manner prohibited in this paragraph.

"PAYMENTS

"SEC. 295. (a) Payments under this title, pursuant to a grant or contract, may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions as the Administrator may determine.

"(b) Except as provided in the second sentence of section 222(c), financial assistance extended under this title shall be 100 percent of the approved costs of the program or activity involved.

"(c)(1) In the case of a grant under this title to an Indian tribe, if the Administrator determines that the tribe does not have sufficient funds available to meet the local share of the cost of any program or activity to to be funded under the grant, the Administrator may increase the Federal share of the cost thereof to the extent the Administrator deems necessary.

"(2) If a State does not have an adequate forum to enforce grant provisions imposing any liability on Indian tribes, the Administrator may waive State liability attributable to the liability of such tribes and may pursue such legal remedies as are necessary.

"(d) If the Administrator determines, on the basis of information available to the Administrator during any fiscal year, that a portion of the funds granted to an applicant under part C for such fiscal year will not be required by the applicant or will become available by virtue of the application of the provisions of section 802 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended from time to time, that portion shall be available for reallocation in an equitable manner to States which comply with the requirements in paragraphs (12)(A) and (13) of section 223(a), under section 261(b)(6).

"CONFIDENTIALITY OF PROGRAM RECORDS

"SEC. 296. Except as authorized by law, program records containing the identity of individual juveniles gathered for purposes pursuant to this title may not be disclosed without the consent of the service recipient or legally authorized representative, or as may be necessary to carry out this title. Under no circumstances may program reports or findings available for public dissemination contain the actual names of individual service recipients.".

CHAPTER 3—RUNAWAY AND HOMELESS YOUTH

SEC. 2835. RUNAWAY AND HOMELESS YOUTH ACT REAUTHORIZATION.

Section 336(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5751(a)), as redesignated by section 2836(a)(2) of this Act, is amended by striking out "1985, 1986, 1987, and 1988" and inserting in lieu thereof "1989, 1990, 1991, and 1992".

SEC. 2836. AUTHORIZATION OF TRANSITIONAL LIVING PROJECTS.

(a) ASSISTANCE TO POTENTIAL GRANTEES.—Section 315 of the Runaway and Homeless Youth Act (42 U.S.C. 5714a) is amended—

(1) by inserting "and transitional living youth projects" after "homeless youth centers",

(2) in paragraph (1) by inserting "or transitional living youth project" after "homeless youth center",

(3) by inserting "or such project" after "such center" each place it appears, and

(4) in paragraph (3) by inserting "and homeless" after "runaway".

(b) LEASE OF SURPLUS FEDERAL FACILITIES.—Section 316 of the Runaway and Homeless Youth Act (42 U.S.C. 5714b) is amended—

(1) in the heading of such section by inserting "OR AS TRANSITIONAL LIVING YOUTH SHELTER FACILITIES" after "HOMELESS YOUTH CENTERS", and

(2) in subsection (a)—

(A) by inserting "or as transitional living youth shelter facilities" after "homeless youth centers", and

(B) in paragraph (1) by inserting "or transitional living youth project, as the case may be, under this title" after "homeless youth center".

(c) REPORTS.—Section 317 of the Runaway and Homeless Youth Act (42 U.S.C. 5715) is amended—

(1) by inserting "(a)" after "SEC. 317.",

(2) by striking "this part" and inserting "part A", and

(3) by adding at the end thereof the following:

"(b) The Secretary shall annually report to the Congress on the status and accomplishments of the transitional living youth projects which are funded under part B, with particular attention to—

"(1) the number and characteristics of homeless youth served by such projects;

"(2) describing the types of activities carried out under such projects;

"(3) the effectiveness of such projects in alleviating the immediate problems of homeless youth;

"(4) the effectiveness of such projects in preparing homeless youth for self sufficiency;

"(5) the effectiveness of such projects in helping youth decide upon future education, employment, and independent living; and

"(6) the ability of such projects to strengthen family relationships, and encourage the resolution of intra-family problems through counseling and the development of self-sufficient living skills.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 331 of the Runaway and Homeless Youth Act (42 U.S.C. 5751) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and

(2) by inserting after subsection (a) the following:

"(b)(1) Subject to paragraph (2), to carry out the purposes of part B of this title, there are authorized to be appropriated $5,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992.

"(2) No funds may be appropriated to carry out part B of this title for a fiscal year unless the aggregate amount appropriated for such fiscal year to carry out part A of this title exceeds $26,100,000.".

(e) TECHNICAL AMENDMENTS.—The Runaway and Homeless Youth Act (42 U.S.C. 5701-5751) is amended—

(1) by inserting before the heading for section 315 the following:

"PART C—GENERAL PROVISIONS"

and

(2) by redesignating sections 315, 316, 317, 318, 321, and 331, and all references to such sections, as sections 341, 342, 361, 362, 363, and 366, respectively.

(f) GRANTS FOR TRANSITIONAL LIVING YOUTH PROJECTS.—The Runaway and Homeless Youth Act (42 U.S.C. 5701-5751) is amended by inserting between section 314 and section 341, as redesignated herein, the following:

"PART B—TRANSITIONAL LIVING GRANT PROGRAM

"PURPOSE AND AUTHORITY FOR PROGRAM

"SEC. 321. (a) The Secretary is authorized to make grants and to provide technical assistance to public and nonprofit private entities to establish and operate transitional living youth projects for homeless youth.

"(b) For purposes of this part—

"(1) the term 'homeless youth' means any individual—

"(A) who is not less than 16 years of age and not more than 21 years of age;

"(B) for whom it is not possible to live in a safe environment with a relative; and

"(C) who has no other safe alternative living arrangement; and

"(2) the term 'transitional living youth project' means a project that provides shelter and services designed to promote a transition to self-sufficient living and to prevent long-term dependency on social services.

"ELIGIBILITY

"SEC. 322. (a) To be eligible for assistance under this part, an applicant shall propose to establish, strengthen, or fund a transitional living youth project for homeless youth and shall submit to the Secretary a plan in which such applicant agrees, as part of such project—

"(1) to provide, directly or indirectly, shelter (such as group homes, host family homes, and supervised apartments) and services (including information and counseling services in basic life skills, interpersonal skill building, educational advancement, job attainment skills, and mental and physical health care) to homeless youth;

"(2) to provide such shelter and such services to individual homeless youth throughout a continuous period not to exceed 540 days;

"(3) to provide, directly or indirectly, onsite supervision at each shelter facility that is not a family home;

"(4) that such shelter facility used to carry out such project shall have the capacity to accommodate not more than 20 individuals (excluding staff);

"(5) to provide a number of staff sufficient to ensure that all homeless youth participating in such project receive adequate supervision and services;

"(6) to provide a written transitional living plan to each youth based on an assessment of such youth's needs, designed to help the transition from supervised participation in such project to independent living or another appropriate living arrangement;

"(7) to develop an adequate plan to ensure proper referral of homeless youth to social service, law enforcement, educational, vocational, training, welfare, legal service, and health care programs and to help integrate and coordinate such services for youths;

"(8) to provide for the establishment of outreach programs designed to attract individuals who are eligible to participate in the project;

"(9) to submit to the Secretary an annual report that includes information regarding the activities carried out with funds under this part, the achievements of the project under this part carried out by the applicant and statistical summaries describing the number and the characteristics of the homeless youth who participate in such project in the year for which the report is submitted;

"(10) to implement such accounting procedures and fiscal control devices as the Secretary may require;

"(11) to submit to the Secretary an annual budget that estimates the itemized costs to be incurred in the year for which the applicant requests a grant under this part;

"(12) to keep adequate statistical records profiling homeless youth which it serves and not to disclose the identity of individual homeless youth in reports or other documents based on such statistical records;

"(13) not to disclose records maintained on individual homeless youth without the consent of the individual youth and parent or legal guardian to anyone other than an agency compiling statistical records or a government agency involved in the disposition of criminal charges against youth; and

"(14) to provide to the Secretary such other information as the Secretary may reasonably require.

"(b) In selecting eligible applicants to receive grants under this part, the Secretary shall give priority to entities that have experience in providing to homeless youth shelter and services of the types described in subsection (a)(1).".

SEC. 2837. GRANTS FOR RUNAWAY AND HOMELESS YOUTH CENTERS.

(a) Technical Amendment.—The heading for section 311 of the Runaway and Homeless Youth Act (42 U.S.C. 5711) is amended to read as follows:

"AUTHORITY TO MAKE GRANTS".

(b) Grant Program.—Subsections (a) and (b) of section 311 of the Runaway and Homeless Youth Act (42 U.S.C. 5711) are amended to read as follows:

"(a) The Secretary shall make grants to public and private entities (and combinations of such entities) to establish and operate (including renovation) local runaway and homeless youth centers to provide services to deal primarily with the immediate needs of runaway or otherwise homeless youth, and their families, in a manner which is outside the law enforcement structure and the juvenile justice system.

"(b)(1) Subject to paragraph (2) and in accordance with regulations promulgated under this title, funds for grants under subsection (a) shall be allotted annually with respect to the States on the basis of their relative population of individuals who are less than 18 years of age.

"(2) Subject to paragraph (3), the amount allotted under paragraph (1) with respect to each State for a fiscal year shall be not less than $75,000, except that the amount allotted to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $30,000 each.

"(3) If, as a result of paragraph (2), the amount allotted under paragraph (1) with respect to a State for a fiscal year would be less than the aggregate amount of grants made under this part to recipients in such State for fiscal year 1988, then the amounts allotted to satisfy the requirements of such paragraph shall be reduced pro rata to the extent necessary to allot under paragraph (1) with respect to such State for the fiscal year an amount equal to the aggregate amount of grants made under this part to recipients in such State for fiscal year 1988.

"(4) In selecting among applicants for grants under subsection (a), the Secretary shall give priority to private entities that have experience in providing the services described in such subsection.

"(5) Not less than 90 percent of the funds appropriated under paragraph (1) for a fiscal year shall be available to carry out section 311(a) in such fiscal year.".

(c) Conforming Amendments.—(1) Sections 312 and 313 of the Runaway and Homeless Youth Act (42 U.S.C. 5712, 5713) are each amended by striking "this part" each place it appears and inserting "section 311(a)".

(2) Section 312(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5712(a)) is amended by inserting "and homeless youth" after "proposed runaway".

(3) Section 312(b) of the Runaway and Homeless Youth Act (42 U.S.C. 5712(b)) is amended—

(A) in the matter preceding paragraph (1) by striking "meeting" and all that follows through "center—", and inserting "including assurances that the applicant—",

(B) in paragraph (1)—

(i) by striking "shall be" and inserting "shall operate a runaway and homeless youth center", and

(ii) by inserting "and homeless" after "by runaway", and

(C) in paragraphs (3) and (5) by striking "runaway center" each place it appears and inserting "runaway and homeless youth center",

(D) in paragraphs (4) and (6) by striking "runaway youths" each place it appears and inserting "runaway and homeless youth", and

(E) in paragraphs (5) and (6) by striking "runaway youth" each place it appears and inserting "runaway and homeless youth".

(4) Section 314 of the Runaway and Homeless Youth Act (42 U.S.C. 5714) is amended by striking "runaway center" and inserting "runaway and homeless youth center".

(5) Section 317 of the Runaway and Homeless Youth Act (42 U.S.C. 5715) is amended—

(A) by striking "runaway centers" and inserting "runaway and homeless youth centers", and

(B) by striking "runaway youth" and inserting "runaway and homeless youth".

(6) Section 318(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5716(a)) is amended by striking "acquisition and".

CHAPTER 4—MISSING CHILDREN'S ASSISTANCE ACT

SEC. 2841. MISSING CHILDREN'S ASSISTANCE ACT.

(a) Reauthorization.—Section 408 of the Missing Children's Assistance Act (42 U.S.C. 5777) is amended by—

(1) striking out "$10,000,000 for fiscal year 1985, and"; and

(2) striking out "1986, 1987, and 1988" and inserting "1989, 1990, 1991, and 1992".

(b) National Clearinghouse.—Section 404(b)(2)(D) of the Juvenile Justice and Delinquency Prevention Act is amended by inserting "and training" after "technical assistance".

(c) Competition Amendment.—Section 407 of the Juvenile Justice and Delinquency Prevention Act of 1974 is amended to read as follows:

"Sec. 407. (a) In carrying out the programs by this title (42 U.S.C. 3701, et seq.), the Administrator shall establish—

"(1) annual research, demonstration, and service program priorities for making grants and contracts pursuant to section 406; and

"(2) criteria based on merit for making such grants and contracts.

Not less than 60 days before establishing such priorities and criteria, the Administrator shall publish in the Federal Register for public comment a statement of such proposed priorities and criteria.

"(b) No grant or contract exceeding $50,000 shall be made under this title unless the grantee or contractor has been selected by a competitive process which includes public announcement of the availability of funds for such grant or contract, general criteria for the selection of recipients or contractors, and a description of the application process and application review process.

"(c) Multiple grants or contracts to the same grantee or contractor within any 1 year to support activities having the same general purpose shall be deemed to be a single grant for the purpose of this subsection, but multiple grants or contracts to the same grantee or contractor to support clearly distinct activities shall be considered separate grants or contractors.".

CHAPTER 5—FAMILY VIOLENCE PREVENTION ACT OF 1988

SEC. 2845. SHORT TITLE.

This chapter may be cited as the "Family Violence Prevention Act of 1988".

SEC. 2846. DATA COLLECTION AND REPORTING.

(a) Family Violence Reporting.—Under the authority of section 534 of title 28, United States Code, the Attorney General shall require, and include in uniform crime reports, data that indicate—

(1) the age of the victim; and

(2) the relationship of the victim to the offender, for crimes of murder, aggravated assault, simple assault, rape, sexual offenses, and offenses against children.

(b) National Crime Survey.—The Director of the Bureau of Justice Statistics, through the annual National Crime Survey, shall collect and publish data that more accurately measures the extent of domestic violence in America, especially the physical and sexual abuse of children and the elderly.

(c) Authorization of Appropriations.—There are authorized to be appropriated in fiscal years 1989, 1990, 1991, and 1992, such sums as are necessary to carry out the purposes of this section.

CHAPTER 6—REGIONAL INFORMATION SHARING SYSTEMS GRANTS

SEC. 2851. REGIONAL INFORMATION SHARING SYSTEMS GRANTS.

(a) Grant Authorized.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by this subtitle, is amended by inserting after part L the following new part:

"PART M—REGIONAL INFORMATION SHARING SYSTEMS GRANTS

"SEC. 1301. REGIONAL INFORMATION SHARING SYSTEMS GRANTS.

"(a) The Director of the Bureau of Justice Assistance is authorized to make grants and enter into contracts with State and local criminal justice agencies and nonprofit organizations for the purposes of identifying, targeting, and removing criminal conspiracies and activities spanning jurisdictional boundaries.

"(b) Grants and contracts awarded under this part shall be made for—

"(1) maintaining and operating information sharing systems that are responsive to the needs of participating enforcement agencies in addressing multijurisdictional offenses and conspiracies, and that are capable of providing controlling input, dissemination, rapid retrieval, and systematized updating of information to authorized agencies;

"(2) establishing and operating an analytical component to assist participating agencies and projects in the compilation, interpretation, and presentation of information provided to a project;

"(3) establishing and maintaining a telecommunication of the information sharing and analytical programs in clauses (1) and (2); and

"(4) other programs designated by the Director that are designed to further the purposes of this part.

"(c) The Director is authorized to promulgate such rules and regulations as are necessary to carry out the purposes of this section, including rules and regulations for submitting and reviewing applications."

(b) TECHNICAL AMENDMENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking out the items relating to part N and section 1401, and inserting in lieu thereof the following new items:

"PART M—REGIONAL INFORMATION SHARING SYSTEMS GRANTS

"Sec. 1301. Regional information sharing systems grants.

"PART N—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1401. Continuation of rules, authorities, and proceedings."

CHAPTER 7—PUBLIC SAFETY OFFICERS' DEATH BENEFITS IMPROVEMENT

SEC. 2855. PUBLIC SAFETY OFFICERS' DEATH BENEFITS IMPROVEMENT.

(a) BASIC LEVEL OF DEATH BENEFIT PAYABLE.—Section 1201(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended by striking out "$50,000" and inserting in lieu thereof "$100,000, adjusted in accordance with subsection (g)".

(b) ANNUAL ADJUSTMENT OF BENEFIT LEVEL.—Section 1201 of title I of the Omnibus Crime Control Act of 1968 (42 U.S.C. 3796) is amended by adding at the end thereof the following new subsections:

"(g) On October 1 of each fiscal year beginning after the effective date of this subsection, the Bureau shall adjust the level of the benefit payable immediately before such October 1 under subsection (a), to reflect the annual percentage change in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, occurring in the 1-year period ending on June 1 immediately preceding such October 1.

"(h) The amount payable under subsection (a) with respect to the death of a public safety officer shall be the amount payable under subsection (a) as of the date of death of such officer.".

(c) PARENTS AS BENEFICIARIES.—Section 1201(a)(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796(a)(4)) is amended by striking out "dependent".

(d) TECHNICAL AMENDMENT.—Section 1203 of title I of the Omnibus Crime Control Act of 1968 (42 U.S.C. 3796b) is amended by striking out paragraph (2) and redesignating paragraphs (3), (4), (5), (6), and (7), as paragraphs (2), (3), (4), (5), and (6), respectively.

SEC. 2856. NATIONAL PROGRAMS FOR FAMILIES OF PUBLIC SAFETY OFFICERS WHO HAVE DIED IN THE LINE OF DUTY.

PROGRAM AUTHORIZATION.—Part L of title I of the Omnibus Crime Control and Safe Streets Act (42 U.S.C. 3796a) is amended by—

(1) redesignating sections 1203 and 1204 as sections 1204 and 1205, respectively; and

(2) adding after section 1202 the following new section:

"NATIONAL PROGRAMS FOR FAMILIES OF PUBLIC SAFETY OFFICERS WHO HAVE DIED IN THE LINE OF DUTY

"SEC. 1203. The Director is authorized and directed to use up to $150,000 of the funds appropriated for this part to establish national programs to assist the families of public safety officers who have died in the line of duty.".

(b) TECHNICAL AMENDMENT.—The table of contents for title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by—

(1) redesignating the items for section 1203 and 1204 as sections 1204 and 1205, respectively; and

(2) inserting after section 1203 the following:

"Sec. 1203. National and regional program for families of public safety officers who have died in the line of duty.".

CHAPTER 8—CRIMINAL HISTORY RECORD, ARREST WARRANT, AND STOLEN VEHICLE RECORD INFORMATION IMPROVEMENT

SEC. 2861. SHORT TITLE.

This part may be cited as the "Criminal History Record Information Improvement Act of 1987".

SEC. 2862. CRIMINAL HISTORY RECORD, ARREST WARRANT AND STOLEN VEHICLE RECORD INFORMATION.

(a) GRANT AUTHORIZED.—Part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3731-3735) is amended by adding at the end thereof the following new section:

"GRANTS TO IMPROVE CRIMINAL HISTORY RECORD, ARREST WARRANT AND STOLEN VEHICLE RECORD INFORMATION

"SEC. 305. (a) With funds appropriated under section 1001(a)(6) of this title, the Director shall establish and carry out a program to make grants to improve criminal history record information, arrest warrant information and stolen vehicle record information compiled and maintained by State and local criminal justice agencies. Under such program, grants may be made in order to improve the accuracy, inclusiveness, or completeness of criminal history record, arrest record, and stolen vehicle record information, including grants, to develop, establish, or enhance—

"(1) uniform documents, forms, and procedures for reporting, integrating and maintaining such information;

"(2) an editing and verification system in order to identify errors;

"(3) a tracking system to match arrest and charge entries with dispositions;

"(4) a delinquent disposition monitoring system to identify aged entries;

"(5) a capability to audit information systems for the accuracy, or completeness or otherwise to measure the quality of such information;

"(6) an error notification system to facilitate the exchange of updated or corrected information among criminal justice agencies;

"(7) a capability to query the appropriate State central repository or source agency;

"(8) a transaction log system to record and describe the instances of dissemination;

"(9) automated criminal justice information systems, especially integrated systems, that assist in accomplishing information quality objectives or provide the means to measure the accomplishment of such objectives;

"(10) communications with the courts and other parts of the criminal justice system in order to assist in accomplishing information quality objectives;

"(11) initiatives to enhance the use of positive identification techniques;

"(12) programs for verification, validation, and purging of information that is not accurate; or

"(13) such other programs that, as determined by the Director, can reasonably be expected to assist in accomplishing information quality objectives.

"(b) No grant may be made under subsection (a) to an applicant unless the application for such grant—

"(1) contains a detailed summary of the results of an audit of the component or aspect of the criminal justice information system for which the grant is being sought;

"(2) identifies each of the activities specified in subsection (a) for which such grant will be expended and describes in detail how such activities will be carried out;

"(3) specifies with respect to the component or aspect of the criminal justice information system for which the grant is being sought, numeric goals of accuracy, inclusiveness, or completeness that will be achieved as a result of carrying out such activities and the period of time, but not more than 2 years, within which such goals will be achieved;

"(4) provides an assurance that such applicant will conduct an audit, at the applicant's expense, to determine whether the goals established pursuant to paragraph (3) have been achieved; and

"(5) identifies the State or local agency, as the case may be, that will be responsible for administering such grant.

"(c) Any State or unit of local government that—

"(1) receives a grant under subsection (a); and

"(2) fails to achieve each goal of accuracy, inclusiveness, or completeness specified in the application for such grant, as required by subsection (b)(3) within the period to which such goal applies;

is ineligible to receive any other grant under subsection (a) unless the Director determines that the failure to achieve such goal was caused by circumstances beyond the control of the State or unit of local government involved.".

(b) TECHNICAL AMENDMENTS.—Section 303 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3733) is amended—

(1) by striking out "A grant" and inserting in lieu thereof "(a) Except as provided in subsection (b), a grant", and by inserting after the words "for which such grant is made." the following new language: "The Director, in his discretion, may waive the requirements in subsection 305(b) with re-

spect to 100 percent grants awarded under section 305.", and

(2) by adding at the end the following:

"(b) From 80 percent of the funds appropriated for a fiscal year to carry out section 305, each grant may be up to 50 percent of the total cost of the project for which such grant is made. The amount expended by the grant applicant to conduct the audit required by section 305(b)(1) shall be treated as a part of the cost of such project paid by such applicant.".

SEC. 2863. CRIMINAL JUSTICE RECORD INFORMATION DATA QUALITY RESEARCH.

With funds appropriated under section 1001(a)(6) of this title, the Bureau is authorized to conduct or make grants to support research to determine the accuracy, inclusiveness, or completeness of criminal justice record information held by State or local law enforcement agencies, prosecutors, the courts or correctional agencies.

SEC. 2864. TECHNICAL AMENDMENTS.

The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the item relating to section 304 the following new item:

"Sec. 305. Grants to improve criminal history record, arrest warrant and stolen vehicle information.".

CHAPTER 9—COLLEGE AND RAILROAD POLICE INFORMATION

SEC. 2865. COLLEGE AND RAILROAD POLICE INFORMATION.

Section 534 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) For purposes of this section, the term 'other institutions' includes—

"(1) railroad police departments which perform the administration of criminal justice pursuant to a State statute and which allocate a substantial part of their annual budget to the administration of criminal justice; and

"(2) police departments of private colleges or universities which perform the administration of criminal justice pursuant to a State statute and which allocate a substantial part of their annual budget to the administration of criminal justice.".

CHAPTER 10—ASSISTANCE TO STATE AND LOCAL COURTS

SEC. 2871. STATE JUSTICE INSTITUTE REAUTHORIZATION.

(a) AUTHORIZATION.—Section 215 of the State Justice Institute Act of 1984 (Public Law 98-620; 42 U.S.C. 10713) is amended to read as follows:

"SEC. 215. There are authorized to be appropriated $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992 to carry out the purposes of this chapter.".

(b) TECHNICAL AMENDMENTS.—(1) Section 203(f) of the State Justice Institute Act of 1984 is amended by striking ", at least thirty days prior to their effective date," and by adding to the end thereof: "The publication of a substantive rule shall not be made less than thirty days before the effective date of such rule, except as otherwise provided by the Institute, for good cause found and published with the rule.".

(2) Section 205(d)(2) of the State Justice Institute Act of 1984 is amended by striking "chapter 83" and inserting in lieu thereof "chapters 83 and 84".

(3) Section 206(c) of the State Justice Institute Act of 1984 is amended by—

(A) inserting "judicial and" before "nonjudicial" in paragraph (3);

(B) repealing paragraph (4); and

(C) redesignating paragraphs (5) through (15) as paragraphs (4) through (14), respectively.

(4) Section 206(d) of the State Justice Institute Act of 1984 is amended by striking out judicial system" and inserting in lieu thereof "court (or other unit of State or local government)".

(5) Section 207(a) of the State Justice Institute Act of 1984 is amended by—

(A) inserting "and" at the end of paragraph (1)(B);

(B) striking "; and" at the end of paragraph (2) and inserting in lieu thereof a period; and

(C) repealing paragraph (3).

(c) ADMINISTRATIVE PROVISIONS.—Section 209 of the State Justice Institute Act of 1984 is amended to read as follows:

"ADMINISTRATIVE PROVISIONS

"SEC. 209. (a) The Institute shall prescribe procedures to ensure that financial assistance under this title shall not be suspended unless the grantee, contractor, person, or entity receiving financial assistance under this title has been given reasonable notice and opportunity to show cause why such actions should not be taken.

"(b) Except as provided by Federal law other than this title, no officer or employee of the Institute, and no recipient of assistance under the provisions of this title shall use or reveal any research or statistical information furnished under this title by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained in accordance with this title. Such information and copies thereof shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceedings.".

CHAPTER 11—VICTIM COMPENSATION AND ASSISTANCE

SUBCHAPTER A—VICTIMS OF CRIME ACT OF 1984 REAUTHORIZATION

SEC. 2875. VICTIMS OF CRIME ACT OF 1984 REAUTHORIZATION.

Paragraph (2) of subsection (c) of section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended by striking out "September 30, 1988" and inserting in lieu thereof "September 30, 1992.".

SEC. 2876. VICTIMS ASSISTANCE AMENDMENT.

Section 1404(a)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(2)) is amended by adding a new subparagraph (B) and redesignating the other subparagraphs as appropriate:

"(B) certify that funds shall be made available for grants to programs designed to serve previously underserved populations victims. The Director shall issue guidelines to implement this section, after consultation with State and local officials and representatives from private organizations, that provide flexibility to the States in determining the victims populations that may be underserved in their respective States;".

SUBCHAPTER B—ESTABLISHMENT OF OFFICE FOR VICTIMS OF CRIME

SEC. 2881. ESTABLISHMENT OF OFFICE.

The Victims of Crime Act of 1984 is amended by inserting after section 1401, the following new section:

"SEC. 1401A. ESTABLISHMENT OF OFFICE FOR VICTIMS OF CRIME.

"(a) There is established within the Department of Justice, under the general authority of the Attorney General, an Office for Victims of Crime (hereafter in this part referred to as the 'Office').

"(b) The Office shall be headed by a Director (hereafter in this part referred to as the 'Director') who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall report to the Attorney General through the Assistant Attorney General for the Office of Justice Programs. The Director shall have final authority for all grants, cooperative agreements, and contracts awarded by the Office. The Director shall not engage in any employment other than that of serving as the Director, nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Office makes any contract or other agreement under this part.

"(c) The Director shall have the following duties:

"(1) Administering funds made available by section 1402.

"(2) Providing funds to eligible States pursuant to sections 1403 and 1404.

"(3) Establishing programs in accordance with section 1404(c) on terms and conditions determined by the Director to be consistent with that subsection.

"(4) Cooperating with and providing technical assistance to States, units of local government, and other public and private organizations or international agencies involved in activities related to crime victims.

"(5) Such other functions as the Attorney General may delegate.".

SEC. 2882. TECHNICAL AMENDMENTS TO VICTIMS OF CRIME ACT.

(a) Section 1403(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by striking "Attorney General" and inserting "Director".

(b) Section 1403(a)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by striking "Attorney General" and inserting "Director".

(c) Section 1403(b)(6) of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by striking "Attorney General" and inserting "Director".

(d) Section 1404(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10603) is amended by striking "Attorney General" and inserting "Director".

(e) Section 1404(a)(2)(C) of the Victims of Crime Act of 1984 (42 U.S.C. 10603) is amended by striking "Attorney General" and inserting "Director".

(f) Section 1404(c)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10603) is amended by striking "Attorney General, acting through the Assistant Attorney General for the Office of Justice Programs" and inserting "Director".

(g) Section 1404(c)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10603) is amended by striking "Assistant Attorney General for the Office of Justice Programs" and inserting "Director".

(h) Section 1404(c)(3)(D) of the Victims of Crime Act of 1984 (42 U.S.C. 10603) is amended by striking "Attorney General may assign" and inserting "Director deems appropriate".

(i) Section 1404(c)(4) of the Victims of Crime Act of 1984 (42 U.S.C. 10603) is amended by striking "Attorney General" and inserting "Director".

(j) Section 1407(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by—

(1) striking "Attorney General" and inserting "Director";

(2) striking "Attorney General" and inserting "Director"; and

(3) striking "and may delegate to any officer or employee of the Department of Justice any such function as the Attorney General deems appropriate".

(k) Section 1407(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by striking "Attorney General" and inserting "Director".

(l) Section 1407(c) of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by striking "Attorney General or any duly authorized representative of the Attorney General" and inserting "Director".

(m) Section 1407(f) of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by—

(1) striking "Attorney General" the first place it appears and inserting "Director"; and

(2) striking "Attorney General" and inserting "Director" in paragraph (3).

(n) Section 1407(g) of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by—

(1) striking "Attorney General" the first place it appears and inserting "Director"; and

(2) striking "no later than December 31, 1987" and inserting "on December 31, 1990, and on December 31 every 2 years thereafter".

SEC. 2883. CHILDREN'S JUSTICE ACT AMENDMENTS.

(a) Section 10 of the Child Abuse Prevention and Treatment Act (Public Law 100-294) is stricken and sections 11, 12, 13, 14, and 15 are redesignated as sections 10, 11, 12, 13, and 14, respectively.

(b) Section 1404A (42 U.S.C. 10603A) of the Victims of Crime Act of 1984 is amended to read as follows:

"Sec. 1404A. (a) Grant Authority.—(1) Amounts made available by section 1402(d)(2) for the purposes of this section shall be obligated and expended by the Attorney General, acting through the Director, to make grants to the States for the purpose of assisting States in developing, establishing, and operating programs designed to improve—

"(A) the handling of child abuse cases, particularly cases of child sexual abuse, in a manner which limits additional trauma to the child victim; and

"(B) the investigation and prosecution of cases of child abuse, particularly child sexual abuse.

"(2) To ensure that programs funded under this section involve a multidisciplinary approach, representatives from a variety of disciplines, the Director shall, in consultation with the representatives from the Department of Health and Human Services and other Federal agencies, develop for each fiscal year, before December 31 of each year, a proposed plan describing the criteria that shall be used in selecting programs for grants under this section. Such report shall also be provided to the appropriate committees of Congress.".

"(b) Eligibility Requirements for States.—In order for a State to qualify for assistance under this section, such State shall—

"(1) fulfill the eligibility requirements for victim assistance funds under section 1404(a) of the Victims of Crime Act (42 U.S.C. 10603);

"(2) establish a task force as provided in subsection (c);

"(3) fulfill the requirements of subsection (d); and

"(4) submit an application to the Attorney General at such time and containing such information and assurances as the Attorney General considers necessary, including an assurance that the State will—

"(A) make such reports to the Attorney General as may reasonably be required; and

"(B) maintain and provide access to records relating to activities under subsections (a) and (b).

"(c) State Task Forces.—

"(1) General rule.—Except as provided in paragraph (2), a State requesting assistance under this section shall establish or designate a State multidisciplinary task force on children's justice (hereinafter referred to as 'State task force') composed of professionals with knowledge and experience relating to the criminal justice system and issues of child abuse. The State task force shall include—

"(A) individuals representing the law enforcement community;

"(B) judicial and legal officers (including individuals involved with the defense as well as the prosecution of such cases);

"(C) child advocates;

"(D) health and mental health professionals;

"(E) individuals representing child protective service agencies;

"(F) individuals experienced in working with children with handicaps;

"(G) parents; and

"(H) representatives of parents' groups.

"(2) Existing task force.—As determined by the Attorney General, a State commission or task force established after January 1, 1983, with substantially comparable membership and functions, may be considered the State task force for purposes of this subsection.

"(d) State Task Force Study.—Before a State receives assistance under this section, the State task force shall—

"(1) review and evaluate State investigative, administrative, and judicial handling of cases of child abuse, particularly child sexual abuse; and

"(2) make recommendations in each of the categories described in subsection (e).

The task force may make such other comments and recommendations as are considered relevant and useful.

"(e) Adoption of State Task Force Recommendations.—

"(1) General rule.—Subject to the provisions of paragraph (2), before a State receives assistance under this section, a State shall adopt recommendations of the State task force in each of the following categories:

"(A) investigative, administrative, and judicial handling of cases of child abuse, particularly child sexual abuse cases, in a manner which reduces the additional trauma to the child victim and which also ensures procedural fairness to the accused;

"(B) experimental, model, and demonstration programs for testing innovative approaches and techniques which may improve the rate of successful prosecution or enhance the effectiveness of judicial and administrative action in child abuse cases, particularly child sexual abuse cases, and which also ensure procedural fairness to the accused; and

"(C) reform of State laws, ordinances, regulations, and procedures to provide comprehensive protection for children from abuse, particularly child sexual abuse, while ensuring fairness to all affected persons.

"(2) Exemption.—As determined by the Attorney General, a State shall be considered to be in fulfillment of the requirements of this subsection if—

"(A) the State adopts an alternative to the recommendations of the State task force, which carries out the purpose of this section, in each of the categories under paragraph (1) for which the State task force's recommendations are not adopted; or

"(B) the State is making substantial progress toward adopting recommendations of the State task force or a comparable alternative to such recommendations.

"(f) Grants for Indian Country.—The Attorney General, acting through the Director, is authorized to use not more than 15 percent of the funds available for this section to make grants for the purpose of assisting Native American Indian tribes in developing, establishing, and operating programs designed to improve—

"(1) the handling of child abuse cases, particularly cases of child sexual abuse, in a manner which limits additional trauma to the child victim; and

"(2) the investigation and prosecution of cases of child abuse, particularly child sexual abuse.

"(g) Report.—The Director shall include a summary of States funded under this section and the programmatic results when reporting to the President and Congress as required under section 1407(g) of the Victims of Crime Act (42 U.S.C. 10604).".

(c) The amendments made by this section shall not affect the administration of grants made on or before September 30, 1988.

SUBCHAPTER C—OTHER AMENDMENTS TO VICTIMS OF CRIME ACT OF 1984

SEC. 2885. OTHER AMENDMENTS TO VICTIMS OF CRIME ACT OF 1984.

(a) Adding Victims of Drunk Driving and Domestic Violence.—Section 1403(b)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(b)(1)) is amended to read as follows:

"(1) such program is operated by a State and offers compensation to victims and survivors of victims of criminal violence, including drunk driving and domestic violence by December 30, 1991, for—".

(b) Denial of Compensation.—Section 1403(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(b)) is amended by—

(1) redesignating paragraph (6) as paragraph (7); and

(2) adding the following new paragraph (6):

"(6) such program does not deny compensation to any victim because of a familial relationship with the offender or because the victim lived with the offender at the time of the crime, except that the program may establish reasonable regulations, pursuant to Department of Justice guidelines, to prevent the unjust enrichment of the offender;".

(c) Change in Victim Compensation Criteria.—Section 1403(b)(5) (42 U.S.C. 10602(b)(5)) of the Victims of Crime Act of 1984 is amended to read as follows:

"(5) such program provides compensation to victims of Federal crimes occurring within the State on the same basis that such program provides compensation to victims of State crimes.".

(d) Removal of "Grandfather" Clause.—Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by striking subsection (c) and redesignating subsection (d) as subsection (c).

(e) EYEGLASSES.—(1) Section 1403(d)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(d)(1)) is amended by adding after "does not include damage to" the following: "eyeglasses and other corrective lenses or".

(2) Section 1403(d)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(d)(2)) is amended by adding after "crime victim compensation program, expenses for" the following: "eyeglasses and other corrective lenses, and for".

Subtitle O—Chemical Diversion and Trafficking Act of 1988

SEC. 2901. SHORT TITLE.

This subtitle may be cited as the "Chemical Diversion and Trafficking Act of 1988".

SEC. 2902. REGULATION OF LISTED CHEMICALS AND CERTAIN MACHINES.

(a) IN GENERAL.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended to read as follows:

"REGULATION OF LISTED CHEMICALS AND CERTAIN MACHINES

"SEC. 310. (a)(1) Each regulated person who engages in a regulated transaction involving a listed chemical shall keep a record of the transaction—

"(A) for 4 years after the date of the transaction, if the listed chemical is a precursor chemical; and

"(B) for 2 years after the date of the transaction, if the listed chemical is an essential chemical.

"(2) A record under this subsection shall be readily retrievable and shall include the date of the regulated transaction, the identity of each party to the regulated transaction, a statement of the quantity and form of the listed chemical, and a description of the method of transfer. Such records shall be kept and made available for inspection and copying by officers or employees of the United States authorized by the Attorney General.

"(3) It is the duty of each regulated person who engages in a regulated transaction to identify each other party to the transaction. It is the duty of such other party to present proof of identity to the regulated person. The Attorney General shall specify by regulation the types of documents or other evidence that constitute proof of identity for purposes of this paragraph.

"(4) Paragraphs (1), (2), and (3) shall also apply to any regulated transaction involving tableting machines or encapsulating machines except that—

"(A) records shall be kept for 2 years after the date of the transaction; and

"(B) records shall also include the purpose for which the machine is intended, and the serial numbers and make and model of the machine.

"(b) Each regulated person shall report to the Attorney General, in such form and manner as the Attorney General shall prescribe by regulation—

"(1) any regulated transaction involving an extraordinary quantity of a listed chemical, an uncommon method of payment or delivery, or any other circumstance that the regulated person believes may indicate that the listed chemical may be used in violation of this title;

"(2) any regulated transaction involving a tableting machine or an encapsulating machine that the regulated persons believes may be used in violation of this title;

"(3) any proposed regulated transaction with a person whose description or other identifying characteristics the Attorney General furnishes in advance to the regulated person; and

"(4) any unusual or excessive loss or disappearance of a listed chemical under the control of the regulated person.

For paragraphs (1) and (4), the Attorney General shall issue consultative guidance documents as may be necessary. Each report under paragraphs (1) and (2) shall be made at the earliest practicable opportunity and as much in advance of the actual delivery as possible after the regulated person becomes aware of the circumstance involved. A regulated person may not complete a transaction with a person whose description or identifying characteristic is furnished to the regulated person under paragraph (3) unless the transaction is approved by the Attorney General.

"(c)(1) Except as provided in paragraph (2), any information obtained by the Attorney General under this section which is exempt from disclosure under section 552(a) of title 5, United States Code, by reason of section 552(b)(4) of such title, is confidential and may not be disclosed to any person.

"(2) Information referred to in paragraph (1) may be disclosed only—

"(A) to an officer or employee of the United States engaged in carrying out this title, title III, or the customs laws;

"(B) when relevant in any investigation or proceeding for the enforcement of this title, title III, or customs laws;

"(C) when necessary to comply with an obligation of the United States under a treaty or other international agreement; or

"(D) to a State or local law enforcement, prosecutorial, or judicial officer in conjunction with the enforcement of controlled substance or precursor laws.

"(3) The Attorney General shall—

"(A) take such action as may be necessary to prevent unauthorized disclosure of information by any person to whom such information is disclosed under paragraph (2); and

"(B) issue guidelines that limit, to the maximum extent feasible, the disclosure of proprietary business information, including the names or identities of United States exporters of listed chemicals, to any person to whom such information is disclosed under paragraph (2).".

(b) CLERICAL AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking out the item relating to section 310 and inserting in lieu thereof the following:

"310. Regulation of listed chemicals and certain machines.".

SEC. 2903. IMPORT AND EXPORT.

(a) EXPORT.—(1) Section 1003 of the Controlled Substances Import and Export Act (21 U.S.C. 953) is amended by adding at the end thereof the following new subsection:

"(f)(1) Except as provided in paragraph (2), it shall be unlawful for a regulated person involved in a regulated transaction to export from the United States to any other country any listed chemical, tableting machine, or encapsulating machine unless there is furnished to the Attorney General, at least 15 days prior to export, in a manner which the Attorney General may by regulation prescribe, a declaration that the exportation is for medical, commercial, scientific, or other legitimate purposes.

"(2) The Attorney General shall provide by regulation for circumstances in which the 15-day requirement does not apply to a transaction between a regulated person and a regular customer of the regulated person.

"(3) A regulated person may not export any listed chemical, tableting machine, or encapsulating machine in any case following notification by the Attorney General that such export may not occur. Such notification shall be communicated in an expeditious manner consistent with the circumstances; and a written statement setting forth the reason that such shipment may not be made shall be provided to the exporter at the earliest practicable opportunity.

"(4) Following the receipt of a notification not to export listed chemicals, tableting machine or encapsulating machine pursuant to paragraph (1), the exporter may file a request for a hearing with the Attorney General. Such hearings will be conducted in conformance with subchapter II of chapter 5 of title 5, United States Code, and will be conducted on an expedited basis no later than 45 days following receipt of a request for a hearing, unless a delay is requested by the exporter.".

(2) Section 1010 of such Act (21 U.S.C. 960) is amended—

(A) in paragraph (a)(1) by adding "or listed chemical, chemical mixture created for the purpose of evading the notification requirements of sections 1002 and 1003, tableting machine or encapsulating machine," following "controlled substance"; and

(B) in paragraph (b)(4) by adding "or listed chemical, chemical mixture created for the purpose of evading the notification requirements of sections 1002 and 1003, tableting machine or encapsulating machine" following "schedule III, IV, or V,".

(3)(A) No later than 45 days after the date of the enactment of this Act, the Attorney General shall forward proposed regulations relating to paragraph (1) to the Office of Management and Budget for review.

(B) No later than 55 days after the date of the enactment of this Act, the Office of Management and Budget shall—

(i) review such proposed regulations of the Attorney General; and

(ii) forward any comments and recommendations for modifications to the Attorney General.

(C) Not later than 60 days after the date of enactment of this Act, the Attorney General shall publish the proposed final regulations as required by the amendments made by paragraphs (1) and (2).

(D) No later than 120 days after the date of the enactment of this Act, the Attorney General shall promulgate final regulations as required by the amendments made by paragraphs (1) and (2).

(E) The provisions of the amendments made by paragraph (1) of this subsection shall take effect 60 days after the promulgation of the final regulations required under paragraphs (1) and (2).

(b) IMPORT.—(1) Section 1002 of the Controlled Substances Import and Export Act (21 U.S.C. 952) is amended by adding at the end thereof the following new subsection:

"(d)(1) Except as provided in paragraph (2), it shall be unlawful for a regulated person involved in a regulated transaction to import into the customs territory of the United States from any place outside thereof (but within the United States) or to import into the United States from any place outside thereof, any listed chemical, tableting machine, or encapsulating machine (including those for the purpose of transshipment) unless there is furnished to the Attorney General at least 15 days prior to import, in a manner which the Attorney General may by regulation prescribe, a declaration that the importation is for medical, commercial, scientific, or other legitimate purposes.

"(2) The Attorney General shall provide by regulation for circumstances in which the 15-day requirement does not apply to a transaction between a regulated person and a regular customer of the regulated person.

"(3) The importer may not import any listed chemical tableting machine or encapsulating machine in any case following notification by the Attorney General that such import may not occur. Such notification shall be communicated in an expeditious manner consistent with the circumstances; and a written statement setting forth the reason that such shipment may not be made shall be provided to the importer at the earliest practicable opportunity.

"(4) Following the receipt of a notice not to import listed chemicals, tableting machines, or encapsulating machines pursuant to paragraph (1), the importer may file a request for a hearing with the Attorney General. Such hearings will be conducted in conformance with subchapter II of chapter 5 of title 5, United States Code, and will be conducted on an expedited basis no later than 45 days following receipt of a request for a hearing, unless a delay is requested by the importer.".

(2) The provisions of the amendments made by paragraph (1) of this subsection shall take effect in the same manner and on the same date as provided in subsection (a)(3).

SEC. 2904. DEFINITIONS.

Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (8), by inserting "or a listed chemical, tableting machine or encapsulating machine" after "a controlled substance";

(2) in paragraph (11), by inserting "or a listed chemical, tableting machine or encapsulating machine" after "a controlled substance" both places it appears; and

(3) by adding at the end the following new paragraphs:

"(33) The term 'listed chemical' means any listed precursor chemical or listed essential chemical.

"(34) The term 'listed precursor chemical' means a chemical specified by regulation of the Attorney General as a chemical that is used in manufacturing a controlled substance in violation of this title and is critical to the creation of the controlled substances, and such term includes (until otherwise specified by regulation of the Attorney General) the following chemicals:

"(A) Anthranilic acid, plus salts.

"(B) Benzyl cynide.

"(C) Ephedrine, plus salts, optical isomers and salts of optical isomers.

"(D) Ergonovine, plus salts.

"(E) Ergotamine, plus salts.

"(F) 3,4-Methylenedioxyphenyl-2-propanone.

"(G) N-acetylanthranilic acid, plus salts.

"(H) Phenylacetic acid, plus salts.

"(I) Piperidine, plus salts.

"(J) Pseudoephedrin, plus salts, optical isomers and salts of optical isomers.

"(35) The term 'listed essential chemical' means a chemical specified by regulation of the Attorney General as a chemical that is used as a solvent, reagent, or catalyst in manufacturing a controlled substance in violation of this title, and such term includes (until otherwise specified by regulation of the Attorney General) the following chemicals:

"(A) Acetic anhydride.

"(B) Acetone.

"(C) Benzyl chloride.

"(D) Ethyl ether.

"(E) Potassium permanganate.

"(F) 2-butanone (Methyl ethyl ketone).

"(G) Toluene.

"(36) The term 'regular customer' means, with respect to a regulated person, a customer with whom the regulated person has an established business relationship that is reported according to regulations prescribed by the Attorney General. The reports filed according to such regulations shall include—

"(A) the names and street addresses of the regulated person and the regular customer;

"(B) the phone number and contact person for the regulated person;

"(C) a list of the listed chemicals involved in regulated transactions between the regulated person and the regular customer; and

"(D) such other information that is necessary for the effective implementation of sections 1002 and 1003 of the Controlled Substances Import and Export Act.

"(37) The term 'regulated person' means a person who manufactures, distributes, imports, or exports a listed chemical, a tableting machine or encapsulating machine.

"(38) The term 'regulated transaction' means—

"(A) a distribution, receipt, sale, importation or exportation of a threshold amount, including a cumulative threshold amount for multiple transactions (as determined by the Attorney General, in consultation with the chemical industry and taking into consideration the quantities normally used for lawful purposes), of a listed chemical, except that such term does not include—

"(i) a domestic distribution in the lawful and usual course of business between agents and employees of a single regulated person;

"(ii) the delivery of listed substances to or by a common or contract carrier for carriage in the lawful and usual course of its business, or to or by a warehouseman for storage in the lawful and usual course of its business; but where such carriage or storage is in connection with the distribution, importation, or exportation of substances to a third person, this subparagraph shall not relieve the distributor, importer, or exporter from compliance with section 310(a)(3);

"(iii) any category of transaction specified by regulation of the Attorney General as excluded from this definition as unnecessary for enforcement of this title or title III;

"(iv) any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act; or

"(v) any transaction in a chemical mixture.

"(B) a distribution, importation or exportation of a tableting machine or an encapsulating machine except that such term does not include transactions excluded under subsections (A) (i) and (ii).

"(39) the term 'chemical mixture' means a combination of two or more chemical substances, at least one of which is not a listed precursor chemical or a listed essential chemical, except that such term does not include any combination of a listed precursor chemical or a listed essential chemical with another chemical that is present solely as an impurity.".

SEC. 2905. AMENDMENTS TO SECTION 401 OF THE CONTROLLED SUBSTANCES ACT.

(a) ADDITIONAL OFFENSES.—Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended by striking out subsection (d) and inserting in lieu thereof the following new subsections:

"(d) Any person who knowingly or intentionally—

"(1) possesses a listed chemical with intent to manufacture a controlled substance except as authorized by this title;

"(2) possesses or distributes a listed chemical knowing that the listed chemical will be used to manufacture a controlled substance except as authorized by this title;

"(3) with the intent of causing the evasion of the recordkeeping or reporting requirements of section 310(a) or the regulations issued thereunder, receives or distributes a reportable amount of any listed chemical in units small enough so that the making of records or filing of reports under section 310(a) is not required;

"(4) with the intent of causing the evasion of the recordkeeping or reporting requirements of section 310(a) or the regulations issued thereunder, creates a chemical mixture in such proportions so that the making of records or filing of reports under section 310(a) is not required;

"(5) possesses any three-neck round-bottom flask, tableting or encapsulating machines, gelatin capsules, or any equipment specially designed or modified to manufacture a controlled substance, knowing that it will be used to manufacture a controlled substance except as authorized by this title; or

"(6) manufactures, distributes, or imports any three-neck round-bottom flask, tableting or encapsulating machines, gelatin capsules, or any equipment specially designed or modified to manufacture a controlled substance, knowing that it will be used to manufacture a controlled substance except as authorized by this title.

shall be fined in accordance with title 18, United States Code, or imprisoned not more than 10 years, or both.

"(e)(1) Whoever knowingly distributes a listed chemical in violation of this title (other than in violation of a recordkeeping or reporting requirement of section 310) shall be fined under title 18, United States Code, or imprisoned not more than 10 years, or both.

"(2) Whoever possesses any listed chemical, tableting machine or encapsulating machine, with knowledge that the recordkeeping or reporting requirements of section 310 have not been adhered to, if, after such knowledge is acquired, such person does not take immediate steps to remedy the violation shall be fined under title 18, United States Code, or imprisoned not more than 1 year, or both.".

(b) ADDITIONAL PENALTY.—Section 401 of the Controlled Substances Act (21 U.S.C. 841), as amended by subsection (a) of this section, is further amended by adding at the end the following new subsection:

"(f) In addition to any other applicable penalty, any person convicted of a violation of this section relating to the receipt, distribution, or importation of a listed chemical, tableting machine or encapsulating machine punishable by imprisonment for more than 1 year may be enjoined from conducting business activities with such chemical, tableting machine or encapsulating machine for not more than 10 years.".

SEC. 2906. AMENDMENTS TO SECTION 402 OF THE CONTROLLED SUBSTANCES ACT.

(a) CONFIDENTIAL INFORMATION AMENDMENT.—Section 402(a)(8) of the Controlled Substances Act (21 U.S.C. 842(a)(8)) is amended by inserting after "protection" the following: ", or to use to his own advantage or reveal (other than as authorized by section 310) any information that is confidential under such section".

(b) IDENTIFICATION AMENDMENT.—Section 402(a)(9) of the Controlled Substances Act (21 U.S.C. 842(a)(9)) is amended to read as follows:

"(9) who is a regulated person to engage in a regulated transaction without obtaining the proof of identity required by 310(a)(3).".

(c) TECHNICAL AMENDMENT.—Section 402(c)(2) of the Controlled Substances Act (21 U.S.C. 842(c)(2)) is amended by striking out subparagraph (C).

(d) RECORDS VIOLATIONS.—Section 402(a) of the Controlled Substances Act (21 U.S.C. 842(a)) is amended—

(1) in paragraph (8), as amended by subsection (a) of this section, by striking out "or" at the end of the paragraph;

(2) in paragraph (9), as amended by subsection (b) of this section, by striking out the period at the end of the paragraph and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new paragraph:

"(10) to fail to keep a record or make a report under section 310.".

SEC. 2907. AMENDMENTS TO SECTION 403 OF THE CONTROLLED SUBSTANCES ACT.

(a) ADDITIONAL OFFENSES.—Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) in paragraph (4)(B), by striking "piperidine" and inserting in lieu thereof "a listed chemical, tableting machine or encapsulating machine";

(2) in paragraph (4)(B), by striking out "or" after the semicolon; and

(3) in paragraph (5), by striking out the period at the end and inserting in lieu thereof a semicolon.

(b) ADDITIONAL PENALTY.—Section 403 of the Controlled Substances Act (21 U.S.C. 843), is amended by adding at the end the following new subsection:

"(d) In addition to any other applicable penalty, any person convicted of a violation of this section relating to the receipt, distribution, or importation of a listed chemical punishable by imprisonment for more than 1 year may be enjoined from conducting business activity with such chemical for not more than 10 years.".

SEC. 2908. SUBPOENA POWER.

The first sentence of section 506(a) of the Controlled Substances Act (21 U.S.C. 876(a)) is amended by inserting "or listed chemicals, tableting machines or encapsulating machines" after "with respect to controlled substances".

SEC. 2909. FORFEITURE.

(a) IN GENERAL.—Section 511(a) of the Controlled Substances Act (21 U.S.C. 881) is amended by adding at the end the following new paragraph:

"(9) All listed chemicals, all drug manufacturing equipment, all tableting machines, all encapsulating machines, and all gelative capsules, which have been imported, exported, manufactured, possessed, distributed, or intended to be distributed, imported, or exported, in violation of a felony provision of this title or title III.".

(b) TECHNICAL AMENDMENT.—Paragraph (3) and paragraph (4) of section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a) and (4)) are each amended by striking out "paragraph (1) or (2)" and inserting in lieu thereof "paragraph (1), (2), or (9)".

SEC. 2910. ACTIVE DEPARTMENT OF JUSTICE CONTROL PROGRAM.

The Attorney General shall maintain an active program, both domestic and international, to curtail the diversion of precursor chemicals and essential chemicals used in the illicit manufacture of controlled substances. The Attorney General through rulemaking is authorized to add chemicals to, and delete chemicals from the lists specified in section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) and to promulgate rules and regulations necessary to the administration of this subtitle.

SEC. 2911. EFFECTIVE DATE.

Except as provided in section 1203 (a) and (b), this subtitle shall take effect 120 days after the date of enactment of this subtitle.

Subtitle P—Application Of United States Immigration Laws and Deportation Of Aliens Committing Aggravated Felonies

SEC. 2915. SHORT TITLE.

This subtitle may be cited as the "Violent Criminal Alien Deportation Act".

SEC. 2916. DEFINITION.

Section 101(a) of the Immigration and Nationality Act is amended by adding at the end thereof the following new paragraph:

"(43) The term 'aggravated felony' means murder, kidnapping, rape, or any attempt thereof, or any illicit trafficking in any controlled substance as defined in section 102 of the Controlled Substances Act or any illicit trafficking in any firearms or destructive devices as defined in section 921 of title 18, United States Code. An alien convicted of such felony shall be termed an 'aggravated alien felon'."

SEC. 2917. DEPORTATION OF ALIENS COMMITTING AGGRAVATED FELONIES.

(a) RETENTION IN CUSTODY UPON ARREST.—Section 242(a) of the Immigration and Nationality Act is amended—

(1) in the second sentence, by striking out "Any" and inserting in lieu thereof "Except as provided in paragraph (2), any";

(2) by redesignating clauses (1), (2), and (3) as clauses (A), (B), and (C), respectively;

(3) by inserting "(1)" immediately after "(a)"; and

(4) by adding at the end thereof the following new paragraph:

"(2) Any alien arrested under paragraph (1) pending a determination of whether such alien is deportable on grounds of having been convicted of an aggravated felony shall not be released from custody and shall not be entitled to conditional parole. An alien held in custody under this paragraph by State or local authorities shall promptly be transferred to the custody of the Attorney General.".

(b) INAPPLICABILITY OF VOLUNTARY DEPARTURE.—Section 244(e) of such Act is amended—

(1) by striking out "(e) The" and inserting in lieu thereof "(e)(1) Subject to paragraph (2), the";

(2) by adding at the end thereof the following new paragraph:

"(2) The authority contained in paragraph (1) shall not apply to any alien who is deportable for having been convicted of an aggravated felony.".

(c) APPLICABLITY OF AMENDMENTS.—The amendments made by this section apply to aliens who have been convicted, on or after the date of enactment of this Act, of an aggravated felony.

SEC. 2918. CRIMINAL PENALTIES FOR REENTRY OF CERTAIN DEPORTED ALIENS.

Section 276 of the Immigration and Nationality Act is amended—

(1) by striking out "Any alien" and inserting in lieu thereof "(a) Subject to subsection (b), any alien";

(2) by adding at the end thereof the following:

"(b) Notwithstanding subsection (a), in the case of any alien described in subsection (a)—

"(1) whose deportation was subsequent to a conviction for commission of a felony (other than an aggravated felony), such alien shall be punishable by imprisonment for not more than 5 years, or a fine of not more than $10,000, or both; or

"(2) whose deportation was subsequent to a conviction for commission of an aggravated felony, such alien shall be punishable by imprisonment for at least 15 years and by a fine of not more than $20,000.".

SEC. 2919. CRIMINAL PENALTIES FOR AIDING OR ASSISTING CERTAIN ALIENS TO ENTER THE UNITED STATES.

(a) IN GENERAL.—Section 277 of the Immigration and Nationality Act is amended by inserting "(9), (10), (23) (insofar as an alien excludable under this paragraph has in addition been convicted of an aggravated felony)," immediately after "212(a)".

(b) CONFORMING AMENDMENTS.—(1) The section heading for section 277 of such Act is amended by striking out "SUBVERSIVE ALIEN" and inserting in lieu thereof "CERTAIN ALIENS".

(2) The table of contents of such Act is amended by amending the item relating to section 277 to read as follows:

"Sec. 277. Aiding or assisting certain aliens to enter the United States.".

SEC. 2920. CRIMINAL PENALTIES FOR REFUSAL OF CERTAIN ALIENS TO APPEAR.

(a) IN GENERAL.—Chapter 8 of the Immigration and Nationality Act is amended by adding at the end thereof the following new section:

"CRIMINAL PENALTIES FOR REFUSAL OF CERTAIN ALIENS TO APPEAR

"SEC. 280A. Whoever, having been convicted of an aggravated felony and having been subpoenaed under the provision of the Immigration and Nationality Act (or any other law or regulation relating to the expulsion of aliens) to appear and testify at any proceeding held to determine the deportability or excludability of the alien on grounds of that conviction, neglects or refuses to so appear and testify, if in the power of such person to do so, shall be fined not more than $250,000 or imprisoned not more than five years, or both.".

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of such Act is amended by inserting after the item relating to section 280 the following new item:

"Sec. 280A. Criminal penalties for refusal of certain aliens to appear.".

SEC. 2921. SPECIAL DEPORTATION PROCEEDINGS FOR ALIENS CONVICTED OF AGGRAVATED FELONIES.

(a) IN GENERAL.—The Attorney General shall provide for the availability of special deportation proceedings pursuant to this subtitle at certain Federal, State, and local correctional facilities for aliens convicted of aggravated felonies as defined in this subtitle. Such proceedings shall be conducted in accordance with this subtitle and in such manner which eliminates the need for additional detention at an Immigration and Naturalization Service special processing center and assures expeditious deportation, where warranted, following the end of the sentence.

(b) IMPLEMENTATION.—The Attorney General shall endeavor, to the extent possible, to incarcerate aliens convicted of committing aggravated felonies in select facilities that have a significant number of inmates who are aliens convicted of aggravated felonies. The deportation proceedings held in correctional facilities shall be consistent with sections 242, 291, 292, as amended by this subtitle and any other provision of the Immigration and Nationality Act.

(c) REVIEW.— The Attorney General shall review and evaluate the provision of deportation hearings within correctional facilities and within 18 months submit a report to the appropriate committees of the Congress on the effectiveness of such special deportation proceedings.

SEC. 2922. EXPEDITED PROCEDURES FOR DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES: GROUNDS FOR APPEAL.

(a) The Immigration and Nationality Act is amended by inserting after section 241 the following new section:

"EXPEDITED PROCEDURES FOR DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES; GROUNDS FOR APPEAL

"SEC. 241A. (a) Notwithstanding any other provision of law, including section 208 but excluding section 243(h) of this Act, any alien in the United States (including an alien crewman) shall, upon the order of the Attorney General, be deported as an aggravated alien felon if such alien has been convicted and sentenced in a United States district court or in a court of record of any State, territory, possession, or in the District of Columbia for an aggravated felony and such conviction and sentence shall revoke by operation of law the permanent resident status of any alien and such conviction and sentence shall serve as conclusive evidence of the deportability of any alien.

"(b)(1) Notwithstanding any other provision of law, the District Director of the Service for the district in which it appears that an alien was convicted and sentenced for an aggravated felony shall, on behalf of the Attorney General, issue, upon sentencing, an order of deportation for the alleged aggravated alien felon which shall be effective as of the date of termination of sentence.

"(2) Nothing in this section shall be construed as requiring the Attorney General to effect the immediate deportation of any alien sentenced to actual incarceration, prior to release from the penitentiary or correctional institution where confined, unless at the request, in writing, of the sentencing judge, the chief prosecutor in whose jurisdiction conviction occurred, or the chief correctional official of the system in which the alien is confined.

"(c) Notwithstanding any other provision of law, an order of deportation for an aggravated alien felon in his native language, shall be personally served on the alleged aggravated alien felon named therein. Such deportation order shall be simply worded to inform the alleged aggravated alien felon of at least the following information:

"(1) the date and the court in which the subject of the order of deportation was convicted and sentenced for an alleged aggravated felony;

"(2) a description, including the citation, of the crime alleged to be the aggravated felony;

"(3) a notice that the order of deportation will become a final order of deportation unless the subject of the order petitions a United States district court to vacate the order of deportation within 30 days of its personal service on the alleged aggravated alien felon; and

"(4) an explanation of the procedure to vacate the order of deportation.

"(d)(1) Notwithstanding any other provision of law, a person alleged to be an alien who committed an aggravated felony may petition a United States district court to vacate an order of deportation on the grounds that he is a United States citizen and therefore not subject to an order of deportation, that he is not the person named in the order of deportation as having been convicted and sentenced for the aggravated felony which is the basis for the order of deportation, or that the conviction which is the basis for the order of deportation is not an aggravated felony.

"(2) A petition to vacate an order of deportation by the person named therein as an aggravated alien felon must set forth under oath the ground or grounds, set forth in subsection (d)(1), upon which the alleged aggravated alien felon seeks to vacate his order of deportation. If petitioner claims United States citizenship, he must allege the names of his natural mother and father and the date and place of his birth.

"(3) A petition by an alleged aggravated alien felon to vacate an order of deportation must be served on the United States Attorney for the judicial district in which the petition is filed. Within 30 days of service upon the appropriate United States Attorney, a reply shall be filed with the district court and served upon the alleged aggravated alien felon or his attorney acknowledging or disputing, with appropriate documentary evidence, the ground or grounds alleged in the petition as the basis to vacate the order of deportation.

"(4) Within 30 days of the service on the alleged aggravated alien felon or his attorney of the reply of the United States Attorney, a United States district judge may conduct a hearing, without a jury, to resolve any disputed questions of fact as to whether the person alleged to be an aggravated alien felon is a United States citizen, or as to whether the person who is the subject of the order of deportation was convicted and sentenced for an aggravated felony, or as to whether the crime alleged in the order of deportation is an aggravated felony. The burden of proof by a preponderance of the evidence is upon the petitioner to establish United States citizenship and the burden of proof by a preponderance of evidence is upon the United States to establish that the person named in the order of deportation is petitioner or that petitioner was convicted and sentenced for an aggravated felony. The Federal Rules of Evidence shall apply to this hearing. At the conclusion of the hearing the United States district court shall make a finding as to whether petitioner is a aggravated alien felon and thus subject to deportation pursuant to this section. If petitioner is adjudicated a aggravated alien felon, the court shall issue a final order of deportation.

"(5) Petitioner may appeal a final order of deportation, issued pursuant to this section, to the appropriate United States court of appeals, and such deportation order shall be stayed pending the decision and order of the court of appeals. The United States may appeal the vacatur of an order of deportation, issued pursuant to this section, to the appropriate United States court of appeals.

"(e) Notwithstanding any other provision of law, when the conviction and sentence of an aggravated felony, which served as the basis for the deportation of a person who had previously been lawfully admitted for permanent residence, is reversed by a United States district court or by a court of record of any State, territory, possession, or in the District of Columbia, the alien may petition the Attorney General from his native country for discretionary reinstatement of the status of an alien lawfully admitted for permanent residence.

"(f) Nothing in this section shall be construed as altering the authority of a special inquiry officer with respect to proceedings to determine the deportability of aliens other than aggravated alien felons.".

(b) The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 241 the following new item:

"Sec. 241A. Expedited Procedures for deportation of Aliens convicted of committing aggravated felonies; grounds for appeal.".

SEC. 2923. RESTRICTION ON WITHHOLDING DEPORTATION.

Section 243(h)(2) of the Immigration and Nationality Act is amended—

(1) by striking out "or" at the end of clause (C);

(2) by redesignating clause (D) as clause (E); and

(3) by inserting after clause (C) the following:

"(D) the alien has been previously convicted for trafficking in controlled substances as defined in section 102 of the Controlled Substances Act; or".

SEC. 2924. DEPORTATION FOR WEAPONS VIOLATION.

Section 241(a)(14) of the Immigration and Nationality Act is amended by inserting the following: "any firearm or destructive device (as defined in paragraphs (3) and (4), respectively, of section 921(a), title 18, United States Code, or any revolver or" after "law".

SEC. 2925. WAIVER OF EXCLUDABILITY.

Section 212(h) of the Immigration and Nationality Act is amended by striking out "or (12)" and inserting in lieu thereof "(12), or (31)".

SEC. 2926. AIDING OR ABETTING ILLEGAL ENTRY.

(a) Section 212(a)(31) of the Immigration and Nationality Act is amended by striking out ", knowingly and for gain," and inserting in lieu thereof "knowingly".

(b) Section 241(a)(13) of such Act is amended by striking out ", knowingly and for gain," and inserting in lieu thereof "knowingly".

SEC. 2927. BAR ON REENTRY OF CONVICTED AGGRAVATED ALIEN FELONS.

Section 212(a)(17) of the Immigration and Nationality Act is amended by inserting "(or ten years in the case of an alien convicted of an aggravated felony)" after "within five years".

SEC. 2928. FORFEITURE OF INSTRUMENTALITIES USED IN BRINGING IN AND HARBORING CERTAIN ALIENS.

Section 274(b) of the Immigration and Nationality Act is amended—

(1) in paragraph (1), by inserting ", or instrumentality, including any personal or real property, monies, negotiable instruments, or other things of value," after "vessel, vehicle, or aircraft";

(2) in paragraph (1), by inserting ", proceeds from, facilitates, or is intended to be used" after "is being used";

(3) by inserting "or instrumentality" after "conveyance" each place it appears in subparagraph (B); and

(4) in paragraph (4), by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

"(B) transfer custody and ownership of the conveyance or instrumentality to any

Federal, State, or local agency pursuant to the Tariff Act of 1930 (19 U.S.C. 1616); or

"(C) place the forfeited monies or proceeds of sale of forfeited conveyances or instrumentalities in the Department of Justice Assets Forfeiture Fund, pursuant to the Comprehensive Crime Control Act of 1984 (28 U.S.C. 524(c)).".

SEC. 2929. CONTROL OF CERTAIN ALIENS IN CUSTODY.

(a) Section 751(a) of title 18, United States Code, is amended by inserting ", or exclusion, deportation, or removal under title 8," after "confinement is for extradition".

(b) Section 752(a) of title 18, United States Code, is amended by inserting ", or exclusion, deportation, or removal under title 8," after "confinement is for extradition".

(c) Section 1791 of title 18, United States Code, is amended by inserting "or any immigration detention facility operated directly by or under contract to the Immigration and Naturalization Service" after "any Federal penal or correctional facility".

(d) Section 1792 of title 18, United States Code, is amended by inserting "or any immigration detention facility operated directly by or under contract to the Immigration and Naturalization Service" after "any Federal penal or correctional facility".

Subtitle Q—Forfeiture and Customs

CHAPTER 1—DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND

SEC. 2931. DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.

Section 524(c) of title 28, United States Code, is amended to read as follows:

"(c)(1) There is established in the United States Treasury a special fund to be known as the Department of Justice Assets Forfeiture Fund (hereafter in this subsection referred to as the 'Fund') which shall be available to the Attorney General without fiscal year limitation for the following purposes of the Department of Justice—

"(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, or sell property under seizure, detention, or forfeited pursuant to any law enforced or administered by the Department of Justice, or of any other necessary expenses including overtime salaries leading to or incident to the seizure, detention, or forfeiture of such property; such payments may include—

"(i) payments for contract services, the employment of outside contractors to operate and manage properties or provide other specialized services as necessary to dispose of such properties in an effort to maximize the return from such properties, and payments to reimburse any Federal, State, or local agency for any expenditures made to perform the foregoing functions, including expenditures resulting from the participation in a Federal task force or a Federal law enforcement network; and

"(ii) payments made pursuant to regulations promulgated by the Attorney General, that are necessary and direct program-related expenses for the purchase or lease of automatic data processing equipment (not less than 90 percent of which use will be program related), training, printing, contracting for services directly related to the identification of forfeitable assets processing of and accounting for forfeitures, and the storage, protection, and destruction of controlled substances;

"(B) the payment of awards for information or assistance directly relating to violations of the criminal drug laws of the United States;

"(C) the payment of awards for information or assistance leading to a civil or criminal forfeiture under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 800 et seq.) or a criminal forfeiture under the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. 1961 et seq.), at the discretion of the Attorney General;

"(D) the compromise and payment of valid liens and mortgages against property that has been forfeited pursuant to any law enforced or administered by the Department of Justice, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

"(E) disbursements authorized in connection with remission or mitigation procedures relating to property forfeited under any law enforced or administered by the Department of Justice;

"(F) for equipping for drug law enforcement functions any government-owned or leased vessels, vehicles, and aircraft available for official use by the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, or the United States Marshals Service;

"(G) for purchase of evidence of any violation of the Controlled Substances Act, the Controlled Substances Import and Export Act, chapter 96 of title 18, or sections 1956 and 1957 of title 18; and

"(H) after all reimbursements and program-related expenses have been met at the end of each fiscal year, the Attorney General may transfer deposits from the Fund to the building and facilities account of the Federal prison system for the construction of correctional institutions.

Amounts for paying the expenses authorized by subparagraphs (A)(ii), (B), (C), (F), and (G) shall be specified in appropriations acts. Amounts for other authorized expenditures and payments from the Fund, including equitable sharing payments, are not required to be specified in appropriations acts. The Attorney General may exempt the procurement of contract services under subparagraph (A) under the fund from section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 and following), and other provisions of law as may be necessary to maintain the security and confidentiality of related criminal investigations.

"(2) Any award paid from the Fund for information, as provided in paragraphs (1) (B) or (C), shall be paid at the discretion of the Attorney General or his delegate, under existing departmental delegation policies for the payment of awards, except that the authority to pay an award of $250,000 or more shall not be delegated to any person other than the Deputy Attorney General, the Associate Attorney General, the Director of the Federal Bureau of Investigation, or the Administrator of the Drug Enforcement Administration. Any award for information pursuant to paragraph (1)(B) shall not exceed $250,000. Any award for information pursuant to paragraph (1)(C) shall not exceed the lesser of $250,000 or one-fourth of the amount realized by the United States from the property forfeited.

"(3) Any amount under subparagraph (F) of paragraph (1) shall be paid at the discretion of the Attorney General or his delegate, except that the authority to pay $100,000 or more may be delegated only to the respective head of the agency involved.

"(4) There shall be deposited in the Fund all amounts from the forfeiture of property under any law enforced or administered by the Department of Justice, except all proceeds of forfeitures available for use by the Secretary of the Treasury or the Secretary of the Interior pursuant to section 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)) or section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)) or the Postmaster General of the United States pursuant to section 2003(b)(7) of title 39.

"(5) Amounts in the Fund which are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States and all earnings on such investments shall be deposited in the Fund.

"(6) The Attorney General shall transmit to the Congress, not later than 4 months after the end of each fiscal year, two detailed reports as follows:

"(A) a report on—

"(i) the estimated total value of property forfeited under any law enforced or administered by the Department of Justice with respect to which funds were not deposited in the Fund; and

"(ii) the estimated total value of all such property transferred to any State or local law enforcement agency; and

"(B) a report on—

"(i) the Fund's beginning balance;

"(ii) sources of receipts (seized cash, conveyances, and others);

"(iii) liens and mortgages paid and amount of money shared with State and local law enforcement agencies;

"(iv) the net amount realized from the year's operations, amount of seized cash being held as evidence, and the amount of money legally allowed to be carried over to next year;

"(v) any defendant's equity in property valued at $1,000,000 or more; and

"(vi) year-end Fund balance.

"(7) The Fund shall be subject to annual financial audits conducted consistent with generally accepted Government auditing standards.

"(8) The provisions of this subsection relating to deposits in the Fund shall apply to all property in the custody of the Department of Justice on or after the effective date of the Comprehensive Forfeiture Act of 1983.

"(9) There are authorized to be appropriated such sums as necessary for the purposes described in subparagraphs (A)(ii), (B), (C), (F), and (G) of paragraph (1).

"(10) For the purposes of this subsection, property is forfeited pursuant to a law enforced or administered by the Department of Justice if it is forfeited pursuant to—

"(A) any criminal forfeiture proceeding;

"(B) any civil judicial forfeiture proceeding; or

"(C) any civil administrative forfeiture proceeding conducted by the Department of Justice,

except to the extent that the seizure was effected by a Customs officer or that custody was maintained by the United States Customs Service in which case the provisions of section 613A of the Tariff Act of 1930 (19 U.S.C. 1613a) shall apply.".

CHAPTER 2—CUSTOMS FORFEITURE FUND

SEC. 2935. CUSTOMS FORFEITURE FUND.

Section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended to read as follows:

"SEC. 613A. CUSTOMS FORFEITURE FUND.

"(a) IN GENERAL.—

"(1) There is established in the Treasury of the United States a fund to be known as the 'Customs Forfeiture Fund' (hereafter in this section referred to as the 'Fund'), which shall be available to the United States Customs Service and the United States Coast Guard, subject to appropriation, with respect to seizures and forfeitures by the United States Customs Service and the United States Coast Guard under any law enforced or administered by those agencies for payment, or for reimbursement to the appropriation from which payment was made, for—

"(A) all proper expenses of the seizure (including investigative costs incurred by the United States Customs Service leading to seizures) or the proceedings of forfeiture and sale, including, but not limited to, the expenses of inventory, security, and maintenance of custody of the property, advertisement and sale of the property, and if condemned by the court and a bond for such costs was not given, the costs as taxed by the court;

"(B) awards of compensation to informers under section 619;

"(C) satisfaction of—

"(i) liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate customs officer according to law, and

"(ii) other liens against forfeited property;

"(D) amounts authorized by law with respect to remission and mitigation; and

"(E) claims of parties in interest to property disposed of under section 612(b), in the amounts applicable to such claims at the time of seizure.

(2) Any payment made under subparagraph (C) or (D) of paragraph (1) with respect to a seizure or a forfeiture of property shall not exceed the value of the property at the time of the seizure.

(3) In addition to the purposes described in paragraph (1), the Fund shall be available for—

"(A) purchases by the United States Customs Service of evidence of—

"(i) smuggling of controlled substances, and

"(ii) violations of the currency and foreign transaction reporting requirements of chapter 51 of title 31, United States Code, if there is a substantial probability that the violations of these requirements are related to the smuggling of controlled substances;

"(B) equipment for any vessel, vehicle, or aircraft available for official use by the United States Customs Service to enable the vessel, vehicle, or aircraft to assist in law enforcement functions;

"(C) the reimbursement, at the discretion of the Secretary, of private persons for expenses incurred by such persons in cooperating with the United States Customs Service in investigations and undercover law enforcement operations;

"(D) publication of the availability of rewards under section 619;

"(E) equipment for any vessel, vehicle, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the conveyance will be used in joint law enforcement operations with the United States Customs Service; and

"(F) payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint law enforcement operations with the United States Customs Service.

"(b) UNITED STATES COAST GUARD.—Proceeds in the Fund derived from seizures by the United States Coast Guard shall be available to the United States Coast Guard for—

"(1) equipment for any vessel, vehicle, or aircraft available for official use by the United States Coast Guard to enable the vessel, vehicle, or aircraft to assist in law enforcement functions;

"(2) equipment for any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the conveyance will be used in joint law enforcement operations with the United States Coast Guard;

"(3) payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint law enforcement operations with the United States Coast Guard;

"(4) expenses incurred in bringing vessels into compliance with applicable environmental laws prior to disposal by sinking, and

"(5) sharing with State and local law enforcement agencies that cooperate with the United States Coast Guard in joint drug enforcement operations.

"(c) DEPOSITS.—There shall be deposited into the Fund all proceeds from forfeiture under any law enforced or administered by the United States Customs Service or the United States Coast Guard and all income from investments made under subsection (d).

"(d) INVESTMENT.—Amounts in the Fund which are not currently needed for the purposes of this section shall be invested in obligations of, or guaranteed by, the United States.

"(e) ANNUAL REPORTS; AUDITS.—

"(1) The Commissioner of Customs shall transmit to the Congress, by no later than February 1 of each fiscal year the following detailed reports:

"(A) a report on—

"(i) the estimated total value of property forfeited under any law enforced or administered by the United States Customs Service with respect to which funds were not deposited in the Fund during the previous fiscal year, and

"(ii) the estimated total value of all such property transferred to any State or local law enforcement agency; and

"(B) a report on—

"(i) the balance of the Fund at the beginning of the preceding fiscal year;

"(ii) sources of receipts (seized cash, conveyances, and others) of the Fund during the previous fiscal year;

"(iii) liens and mortgages paid and amount of money shared with State and local law enforcement agencies during the previous fiscal year;

"(iv) the net amount realized from the operations of the Fund during the previous fiscal year, the amount of seized cash being held as evidence, and the amount of money that has been carried over to the current fiscal year;

"(v) any defendant's equity in property valued at $1,000,000 or more; and

"(vi) the balance of the Fund at the end of the previous fiscal year.

"(2) The Fund shall be subject to annual financial audits that are conducted in a manner consistent with generally accepted Government auditing standards.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) There are hereby appropriated from the Fund such sums as may be necessary to carry out the purposes set forth in subsection (a)(1).

"(2) There are authorized to be appropriated from the Fund for each fiscal year such sums as are necessary to carry out the purposes set forth in subsection (a)(3) for such fiscal year.

"(3) There are authorized to be appropriated from the Fund for each fiscal year such sums as are necessary to carry out the purposes set forth in subsection (b) for such fiscal year.

"(4) At the end of each fiscal year, any unobligated amount in excess of $15,000,000 remaining in the Fund shall be deposited into the general fund of the Treasury of the United States.".

CHAPTER 4—MISCELLANEOUS FORFEITURE PROVISIONS

SEC. 2945. TRANSFER BY THE ATTORNEY GENERAL OF FOREIGN PROPERTY.

Section 511(e)(1) of the Controlled Substance Act (21 U.S.C. 881(e)) is amended by—

(1) striking "or" after the semicolon in subparagraph (C);

(2) striking the period at the end of subparagraph (D) and inserting "; or"; and

(3) adding at the end thereof the following:

"(E) transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer—

"(i) has been agreed to by the Secretary of State;

"(ii) is authorized in an international agreement between the United States and the foreign country or where there is an international agreement between the United States and the foreign country which includes an obligation to provide mutual assistance in forfeiture procedures; and

"(iii) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961.".

SEC. 2946. INNOCENT OWNER PROVISIONS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Attorney General and the Secretary of the Treasury shall consult and prescribe regulations for expedited administrative procedures for seizures under section 511(a) (4), (6), and (7) of the Controlled Substances Act (21 U.S.C. 881(a) (4), (6), and (7)), section 595 of the Tariff Act of 1930 (19 U.S.C. 1595a(a)), and section 2 of the Act of August 9, 1939 (53 Stat. 1291; 49 U.S.C. app. 782) for violations involving the possession of personal use quantities of a controlled substance.

(b) SPECIFICATIONS.—The regulations prescribed pursuant to subsection (a) shall minimize the adverse impact caused by prolonged detention and provide for a final administrative determination of the case within 21 days of seizure or provide a procedure by which the defendant can obtain release of the property pending a final determination of the case. Such regulations shall provide that the appropriate agency official rendering such determination shall immediately return the property if the following conditions are established:

(1) the owner or interested party did not know of or consent to the violation; and

(2) reasonable steps were taken by the owner or interested party to prevent the illegal use of the property.

SEC. 2947. WARRANTS.

Section 603 of the Tariff Act of 1930 (19 U.S.C. 1603) is amended by striking out "Whenever a seizure of merchandise" and inserting in lieu thereof the following:

"(a) Any property subject to forfeiture to the United States under this subtitle and which is not subject to search and seizure in accordance with the provisions of section 1595 of this chapter, may be seized by the appropriate officer or person upon process issued in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure. This authority is in addition to any seizure authority otherwise authorized by law.

"(b) Whenever a seizure of merchandise".

SEC. 2948. POSTAL SERVICE ASSISTANCE.

(a) Duties of Customs Officers.—Subsection (d) of section 511 of the Controlled Substances Act (21 U.S.C. 881(d)) is amended by striking "except that such duties as are imposed upon the customs officer" and all that follows and inserting "such duties imposed on the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws may be performed with respect to seizures and forfeitures of property under this subchapter by such officers, agents, or employees of any agency or department of the United States as may be designated for that purpose by the Attorney General, except to the extent that such duties arise from seizures and forfeitures effected by any customs officer.".

(b) Powers of Postal Personnel.—Section 3061 of title 18, is amended to read as follows:

"§ 3061. Powers of postal personnel

"(a) Subject to subsection (b) of this section, Postal Inspectors or other agents, authorized by the Board of Governors to investigate criminal matters related to the Postal Service and the mails, may—

"(1) serve warrants and subpoenas issued under the authority of the United States;

"(2) make arrests without warrant for offenses against the United States committed in their presence;

"(3) make arrests without warrant for felonies cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such a felony;

"(4) carry firearms; and

"(5) make seizures of property authorized pursuant to law.

"(b) The powers granted by subsection (a) of this section shall be exercised only in the enforcement of laws regarding property of the United States in the custody of the Postal Service, including property of the Postal Service, the use of the mails, other postal offenses; and in the enforcement of those offenses contained in the Controlled Substances laws of the United States which effect the operation of the Postal Service, as determined by and pursuant to limitations contained in an agreement which may be entered into by the Attorney General and the Postmaster General.".

SEC. 2949. TRANSFER BY THE SECRETARY OF THE TREASURY OF FOREIGN PROPERTY.

Subsection (c) of section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a(c)), as amended by section 1936 of this Act, is further amended—

(1) by striking out "The Secretary of the Treasury" and inserting in lieu thereof "(1) The Secretary", and

(2) by adding at the end thereof the following:

"(2) The Secretary may transfer any forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer—

"(A) has been agreed to by the Secretary of State;

"(B) is authorized in an international agreement between the United States and the foreign country or where there is an international agreement between the United States and the foreign country which includes an obligation to provide mutual assistance in forfeiture procedures; and

"(C) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961.".

CHAPTER 5—ADMINISTRATIVE FORFEITURE

SEC. 2951. ADMINISTRATIVE PROVISION.

Subsection (a)(1) of section 607 of the Tariff Act of 1930 (19 U.S.C. 1607(a)(1)) is amended by striking "$100,000" and inserting in lieu thereof "$500,000".

Subtitle R—United States Magistrates and Court Reforms

SEC. 2956. FELONY PLEAS.

Section 636 of title 28, United States Code, is amended by inserting at the end thereof the following new subsection:

"(i) Under such regulations as the Judicial Conference shall provide and upon designation by the district court, magistrates may accept a plea of guilty for any offense against the United States.".

SEC. 2957. SENTENCING JURISDICTION.

Section 636(a) of title 28, United States Code, is amended by—

(1) striking the period at the end of paragraph (3) and inserting ", and"; and

(2) inserting at the end thereof the following paragraph:

"(4) the power to enter a sentence for a misdemeanor or infraction with the consent of the parties.".

SEC. 2958. DRUG DAYS.

Section 332(d)(1) of title 28, United States Code, is amended by striking the period at the end thereof and inserting the following: "including orders designating certain days in which the courts within the circuit shall only conduct proceedings relating to drug offenses.".

Subtitle S—Military Institutions

SEC. 2961. ADMINISTRATION OF CONFINEMENT FACILITIES LOCATED ON MILITARY INSTALLATIONS BY THE BUREAU OF PRISONS.

In conjunction with the Department of Defense and the Commission on Alternative Utilization of Military Facilities as established in the National Defense Authorization Act of Fiscal Year 1989, the Bureau of Prisons shall be responsible for—

(1) administering the confinement facilities located on military installations in cooperation with the Secretary of Defense;

(2) establishing and regulating drug treatment programs for inmates held in such facilities in coordination and cooperation with the National Institute on Drug Abuse; and

(3) establishing and managing work programs for persons held in such facilities in cooperation with the installation commander.

Subtitle T—Customs Enforcement Amendments

SEC. 2965. AMENDMENTS TO THE TARIFF ACT OF 1930.

(a) Reporting Requirements.—Section 433 of the Tariff Act of 1930 (19 U.S.C. 1433) is amended by—

(1) striking out the section heading and inserting in lieu thereof:

"SEC. 433. VESSELS, VEHICLES, AND AIRCRAFT REPORTING REQUIREMENTS.";

(2) striking out "Arrival" in the heading of subsection (c) and inserting in lieu thereof "Reporting Requirements";

(3) striking out "The pilot" in subsection (c) and inserting in lieu thereof "(1) The pilot"; and

(4) adding at the end of subsection (c) the following:

"(2) The pilot of any aircraft shall, prior to departing the United States, comply with such advance notification and reporting requirements as the Secretary may by regulation prescribe.".

(b) Penalties.—Section 436 of the Tariff Act of 1930 (19 U.S.C. 1436) is amended by—

(1) inserting "(other than a violation of section 433(c)(2))" after "listed in subsection (a)" in subsection (b); and

(2) adding at the end thereof the following new subsection:

"(e) Any aircraft pilot who commits any violation of section 433(c)(2) of this Act, or any regulations promulgated thereunder, is liable for a civil penalty of $25,000 for the first violation, and $100,000 for each subsequent violation, and any conveyance used in connection with any such violation is subject to seizure and forfeiture.".

(c) Penalty for Failure to Declare.—Section 497(a)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1497), is amended by striking out "200 percent " and inserting in lieu thereof "1,000 percent".

(d) Effect of a Declaration of Forfeiture.—Section 609 of the Tariff Act of 1930 (19 U.S.C. 1609) is amended to read as follows:

"SEC. 609. SEIZURE; SUMMARY OF FORFEITURE AND SALE.

"(a) In General.—If no such claim is filed or bond given within the twenty days hereinbefore specified, the appropriate customs officer shall declare the vessel, vehicle, aircraft, merchandise, or baggage forfeited, and shall sell the same at public auction in the same manner as merchandise abandoned to the United States is sold or otherwise disposed of the same according to law, and shall deposit the proceeds of sale, after deducting the expenses described in section 613, into the Customs Forfeiture Fund.

"(b) Effect.—A declaration of forfeiture under this section shall have the same force and effect as a final decree and order of forfeiture in a judicial forfeiture proceeding in a district court of the United States. Title shall be deemed to vest in the United States free and clear of any liens or encumbrances (except for first preferred ship mortgages pursuant to subsection (o) of section 30 of the Ship Mortgage Act, 1920 (46 Appendix U.S.C. 961)) from the date of the act for which the forfeiture was incurred. Officials of the various States, insular possessions, territories, and commonwealths of the United States shall, upon application of the appropriate customs officer accompanied by a certified copy of the declaration of forfeiture, remove any recorded liens or encumbrances which apply to such property and issue or reissue the necessary certificates of title, registration certificates, or similar documents to the United States or to any transferee of the United States.".

(e) FINES IN CERTAIN CASES.—Part V of title IV of the Tariff Act of 1930 is amended by adding at the end thereof the following new section:

"SEC. 630. FINES IN CERTAIN CASES.

"(a) IN GENERAL.—Any person who is convicted of a criminal offense under any law administered or enforced by the United States Customs Service involving subchapter II of chapter 53 of title 31, United States Code, sections 1956 and 1957 of title 18, United States Code, or the Controlled Substances Act (21 U.S.C. 801 et seq.), shall, in addition to any other criminal penalties provided for such offense, be fined the reasonable costs of the investigation and prosecution of the offense, including the costs of prosecution of an offense as defined in sections 1918 and 1920 of title 28, United States Code.

"(b) EXCEPTION.—This section shall not apply, and a fine under this section shall not be imposed, if the court determines under the provision of title 18, United States Code, that the defendant lacks the ability to pay a fine.".

(g) OATHS AND SUBPOENAS.—Part V of title IV of the Tariff Act of 1930, as amended by the preceding subsection, is further amended by adding at the end thereof the following new section:

"SEC. 631. OATHS AND SUBPOENAS.

"(a) IN GENERAL.—For the purpose of any investigation which, in the opinion of the Secretary of the Treasury, is necessary and proper to the enforcement of any law that prohibits the importation or exportation of any merchandise, the Secretary of the Treasury may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of records (including books, papers, documents, and tangible property which constitute or contain evidence) relevant or material to the investigation. The attendance of witnesses and the production of records may be required from any place within the customs territory of the United States, except that a witness shall not be required to appear at any hearing that is held at a place that is more than 100 miles from the place where the witness was served with the subpoena. Witnesses summoned by the Secretary shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. Oaths and affirmations may be made at any place that is subject to the jurisdiction of the United States.

"(b) SERVICE OF SUBPOENAS.—A subpoena issued by the Secretary of the Treasury may be served by any person designated in the subpoena to serve it. Service upon an individual may be made by personal delivery of the subpoena to such individual. Service may be made upon a domestic or foreign corporation, or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpoena to an officer, a managing or general agent, or to any other agent of the corporation, partnership, or association who is authorized by appointment, or by law, to receive service of process. The affidavit of the person serving the subpoena entered on a copy of the subpoena by the person serving it shall be proof of service.

"(c) ORDERS TO COMPEL COMPLIANCE.—In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary of the Treasury may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on, or of which the subpoenaed person is an inhabitant, carries on business, or may be found, to compel compliance with the subpoena issued by the Secretary of the Treasury. The court may issue an order requiring the subpoenaed person to appear before the Secretary of the Treasury to produce records, if so ordered, or to give testimony touching the matter under investigation, and pay the costs of the proceeding. Any failure to obey the order of the court may be punished by the court as a contempt of court. All process in any such case may be served in the judicial district in which the subpoenaed person is an inhabitant or wherever he may be found.".

(h) TECHNICAL CORRECTIONS.—

(1) Section 431(c)(1)(G) of the Tariff Act of 1930 (19 U.S.C. 1431(c)(1)(G)) is amended by striking out "or" and inserting in lieu thereof "of".

(2) Section 608 of the Tariff Act of 1930 (19 U.S.C. 1608) is amended to read as follows:

"SEC. 608. SEIZURE; CLAIMS; JUDICIAL CONDEMNATION.

"Any person claiming such vessel, vehicle, aircraft, merchandise, or baggage may at any time within twenty days from the date of the first publication of the notice of seizure file with the appropriate customs officer a claim stating his interest therein. Upon the filing of such claim, and the giving of a bond to the United States in the penal sum of $5,000 or 10 percent of the value of the claimed property, whichever is lower, but not less than $250, with sureties to be approved by such customs officer, conditioned that in case of condemnation of the articles so claimed the obligor shall pay all the costs and expenses of the proceedings to obtain such condemnation, such customs officer shall transmit such claim and bond, with a duplicate list and description of the articles seized, to the United States attorney for the district in which seizure was made, who shall proceed to a condemnation of the merchandise or other property in the manner prescribed by law.".

(3) Section 610 of the Tariff Act of 1930 (19 U.S.C. 1610) is amended to read as follows:

"SEC. 610. SEIZURE; JUDICIAL FORFEITURE PROCEEDINGS.

"If any vessel, vehicle, aircraft, merchandise, or baggage is not subject to section 607, the appropriate customs officer shall transmit a report of the case, with the names of available witnesses, to the United States attorney for the district in which the seizure was made for the institution of the proper proceedings for the condemnation of such property.".

(4) Section 612 of the Tariff Act of 1930 (19 U.S.C. 1612) is amended to read as follows:

"SEC. 612. SEIZURE; SUMMARY SALE.

"(a) Whenever it appears to the appropriate customs officer that any vessel, vehicle, aircraft, merchandise, or baggage seized under the customs laws is liable to perish or to waste or to be greatly reduced in value by keeping, or that the expense of keeping the same is disproportionate to the value thereof, and such vessel, vehicle, aircraft, merchandise, or baggage is subject to section 607, and such vessel, vehicle, aircraft, merchandise, or baggage has not been delivered under bond, such officer shall proceed forthwith to advertise and sell the same at auction under regulations to be prescribed by the Secretary of the Treasury. If such vessel, vehicle, aircraft, merchandise, or baggage is not subject to section 607, such officer shall forthwith transmit the appraiser's return and his report of the seizure to the United States attorney, who shall petition the court to order an immediate sale of such vessel, vehicle, aircraft, merchandise, or baggage, and if the ends of justice require it the court shall order such immediate sale, the proceeds thereof to be deposited with the court to await the final determination of the condemnation proceedings. Whether such sale be made by the customs officer or by order of the court, the proceeds thereof shall be held subject to claims of parties in interest to the same extent as the vessel, vehicle, aircraft, merchandise, or baggage so sold would have been subject to such claim.

"(b) If the expense of keeping the vessel, vehicle, aircraft, merchandise, or baggage is disproportionate to the value thereof, and such value is less than $1,000, such officer may proceed forthwith to order destruction or other appropriate disposition of such property, under regulations prescribed by the Secretary of the Treasury.".

(5) Section 589 of the Tariff Act of 1930 (19 U.S.C. 1589), as added by section 320 of title II of Public Law 98-473 (98 Stat. 2056), is hereby repealed.

(6) Section 627 of the Tariff Act of 1930 (19 U.S.C. 1627), as added by section 302 of the Motor Vehicle Theft Law Enforcement Act of 1984 (98 Stat. 2771), is hereby repealed.

SEC. 2966. AMENDMENT TO THE FEDERAL AVIATION ACT OF 1958.

Subsection (f) of section 1109 of the Federal Aviation Act of 1958 (49 Appendix U.S.C. 1509(f)) is amended by adding the following sentence to the end thereof:

"Any person who violates this subsection or any regulation promulgated thereunder shall be subject to a civil penalty of $10,000, and any aircraft for which a report required under this subsection or any regulation promulgated thereunder is not filed, or is filed with material false statements or omissions, shall be subject to seizure and forfeiture as provided for in Customs laws.".

Subtitle U—Authorization of Additional Appropriations for Drug Enforcement and Interdiction

Chapter 1—Authorization of Additional Appropriations for Drug Enforcement Personnel, Fiscal Year 1989

SEC. 2971. IMMIGRATION AND NATURALIZATION SERVICE PERSONNEL ENHANCEMENT.

(a) SALARIES AND EXPENSES.—There is authorized to be appropriated for salaries and expenses for the Immigration and Naturalization Service for fiscal year 1989, $12,300,000: *Provided*, That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That of such additional appropriations authorized in this section, $4,100,000 shall be used to increase the number of inspectors of the Immigration and Naturalization Service by no fewer than 70 over such personnel levels on board at the Service as of September 30, 1988, and for related equipment.

(b) ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE PILOT PROJECT AND REPORT.—(1) There are authorized to be appropriated out of amounts authorized to be appropriated to the Immigration and Naturalization Service in the Department of Justice under this section for fiscal year 1989, $8,200,000: *Provided*, That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided*, That such additional appropriation shall be used to increase the commitment of Immigration and Naturalization Service personnel to the Organized Crime Drug Enforcement Task Forces (OCDETF) for additional special agent and support positions; and for associated training and equipment; and for costs incurred during INS agent participation in OCDETF operations with other Federal, State, and local law enforcement agencies.

(2) The positions described in paragraph (1) shall, under the supervision of a director for the pilot project, be used exclusively to assist Federal and local law enforcement agencies in combatting illegal alien involvement in drug trafficking and crimes of violence.

(3) The Director of the pilot project shall report to the Assistant Commissioner—Investigations and will have the authority to—

(A) hire a limited number of non-Federal law enforcement officers with substantive experience in narcotics investigations should insufficient senior Federal agents be available. Non-Federal law enforcement officers hired under this provision may be over the age of 35, but in that event would only be eligible for nonlaw enforcement retirement benefits;

(B) grant extensions of stay and other discretionary immigration benefits and waivers to witnesses, informants, and others whose presence in the United States is essential to the investigation and prosecution of criminal aliens involved in drug trafficking and crimes of violence.

(4) After the first year of the establishment of this pilot project the Attorney General will provide for an evaluation of its effectiveness, including an assessment by Federal, State, and local prosecutors and enforcement agencies.

(c) LOCAL OFFICE CAPABILITIES IMPROVEMENT PILOT PROJECT.—From the sums appropriated to carry out this section, the Attorney General, through the Investigative Division of the Immigration and Naturalization Service, shall provide a pilot program in 4 cities to establish or improve the capabilities of the local offices of the Service and of local law enforcement agencies to respond to inquiries concerning aliens who have been arrested or convicted for, or are the subject criminal investigation relating to, a violation of any law relating to controlled substances. The Attorney General shall select cities in a manner that provides special consideration for cities located near the land borders of the United States and for large cities which have major concentrations of aliens. Some of the sums made available under the pilot program shall be used to increase the personnel level of the Investigative Division.

SEC. 2972. BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS ARMED CAREER CRIMINAL APPREHENSION PROGRAM PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the Bureau of Alcohol, Tobacco, and Firearms for fiscal year 1989, $10,660,000: *Provided*, That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriations shall be used to increase the number of Armed Career Criminal Apprehension enforcement personnel at the Bureau by no fewer than 244 full-time equivalent positions over such personnel levels onboard at the Bureau as of September 30, 1988, and for related equipment: *Provided further*, That of the amount authorized to be appropriated by this section, $615,000 shall be available for—

(1) the equipping of any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency if the conveyance will be used in drug-related joint law enforcement operations with the Bureau of Alcohol, Tobacco, and Firearms; and

(2) the payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint operations with the Bureau of Alcohol, Tobacco, and Firearms.

SEC. 2973. DRUG ENFORCEMENT ADMINISTRATION PERSONNEL ENHANCEMENT.

(a) IN GENERAL.—There is authorized to be appropriated for salaries and expenses of the Drug Enforcement Administration for fiscal year 1989, $49,200,000: *Provided*, That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That $44,280,000 of the additional appropriation authorized in this section shall be used to increase Drug Enforcement Administration enforcement personnel by no fewer than 609 full-time equivalent positions over personnel levels onboard at the Drug Enforcement Administration as of September 30, 1988, and for related equipment and drug enforcement operations, including agents and other personnel engaged in criminal intelligence activities, asset forfeiture, and related support activities: *Provided further*, That $4,920,000 of such additional appropriation authorized in this section shall be used to increase Drug Enforcement Administration operations against criminals involved in youth gang-related organized crime.

(b) DEA DRUG EDUCATION PROGRAM.—There is authorized to be appropriated, out of any funds made available by this or any other Act for the Drug Enforcement Administration, for the fiscal year ending September 30, 1989, such sums as may be necessary to establish and maintain a Drug Enforcement Administration Drug Education Program.

(c) COMPENSATION OF DEPUTY DIRECTOR.—The Deputy Administrator of the Drug Enforcement Administration shall receive compensation at the rate now or hereafter prescribed by law for positions of Level IV of the Executive Schedule Pay Rate (5 U.S.C. 5315).

SEC. 2974. FEDERAL BUREAU OF INVESTIGATION DRUG ENFORCEMENT PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the Federal Bureau of Investigation for fiscal year 1989, $24,600,000: *Provided*, That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriation shall be used to increase the number of drug enforcement agents, including related support staff, at the Bureau by no fewer than 522 full-time equivalent positions over such personnel levels onboard at the Bureau as of September 30, 1988, and for related equipment and drug enforcement operations including asset forfeiture.

SEC. 2975. UNITED STATES MARSHALS SERVICE DRUG ENFORCEMENT PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the U.S. Marshals Service for the fiscal year 1989, $16,400,000: *Provided*, That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriation shall be used as follows:

(1) $4,920,000 for 100 full-time equivalent positions for asset seizure and forfeiture activities;

(2) $5,740,000 for 82 full-time equivalent positions for criminal justice support activities, including prisoner production and transportation;

(3) $3,280,000 for 45 full-time equivalent positions for protection of the Federal judiciary and court facilities resulting from increased drug-related trials; and

(4) $2,460,000 for 26 full-time equivalent positions for increased workloads of the Marshals Service Witness Security Program.

SEC. 2976. SUPPORT OF UNITED STATES PRISONERS.

There is authorized to be appropriated for fiscal year 1989, for support of United States prisoners in non-Federal institutions, $16,400,000 to remain available until expended, of which not to exceed $4,100,000 shall be available under the Cooperative Agreement Program for the purpose of renovating, constructing, and equipping State and local correctional facilities: *Provided*, That the appropriation authorized under this section shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That amounts made available for constructing any local correctional facility shall not exceed the cost of constructing space for the average Federal prisoner population to be housed in the facility, or in other facilities in the same correctional system, as projected by the Attorney General: *Provided further*, That following agreement on or completion of any federally assisted correctional facility construction, the availability of the space required for Federal prisoners with authorized Federal funds shall be assured and the per diem rate charged for housing Federal prisoners in the assured space shall not exceed operating costs for the period of time specified in the cooperative agreement.

SEC. 2977. FEDERAL PRISON SYSTEM.

There is authorized to be appropriated in fiscal year 1989 to the buildings and facilities account, Federal Prison System, Department of Justice, $205,000,000 for planning; acquisition of sites, construction of new facilities; purchase and acquisition of existing facilities and remodeling and equipping of such facilities for penal and correctional use, to alleviate overcrowding in existing prisons and to meet the increased demand for prison space resulting from drug-related offenses: *Provided*, That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989.

SEC. 2978. UNITED STATES ATTORNEYS DRUG ENFORCEMENT PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the United States Attorneys, Department of Justice for fiscal year 1989, $36,080,000: *Provided*, That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used to increase the number of United States Attorneys, including related support staff by no fewer than 757 full-time equivalent positions over such personnel levels onboard at the Department of Justice as of September 30, 1988.

SEC. 2979. FEDERAL JUDICIARY.

(a) IN GENERAL.—There is authorized to be appropriated to the Federal courts for salaries and expenses of the Courts of Appeals, District Courts, and other Judicial Services, $43,132,000 to remain available until expended: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That the additional funds authorized to be appropriated under this section, shall be made available for the following:

(1) $30,340,000 for probation and pretrial services, including pretrial social services;

(2) $1,640,000 for additional deputy clerks;

(3) $656,000 for additional law clerks and clerical support staff;

(4) $4,100,000 for additional renovation of court facilities;

(5) $4,756,000 for additional United States magistrates; and

(6) $1,640,000 for the Drug Dependent Offenders program.

(b) JUDICIAL CONFERENCE.—(1) The Judicial Conference of the United States shall prepare a report evaluating the impact of drug-related criminal activity on the Federal Judiciary. The Judicial Conference shall make its recommendations on the basis of the drug-related resource needs of the district courts. The report shall further contain a complete explanation of the specific criteria used in making its recommendations, including the officials and sources consulted on the impact of drug-related cases in specific judicial district courts. The report shall further contain a complete explanation of the specific criteria used in making its recommendations, including the officials and sources consulted on the impact of drug-related cases in specific judicial districts.

(2) The report required by paragraph (1) shall be transmitted to the United States House of Representatives and the Committee on the Judiciary of the United States Senate not later than 120 days after the date of enactment of this section.

(c) FEDERAL PUBLIC DEFENDER AND COMMUNITY DEFENDER.—There is authorized to be appropriated for the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act, the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, $28,700,000 to remain available until expended: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989.

(d) JURORS FEES AND EXPENSES.—There is authorized to be appropriated to the Federal courts for fees and expenses of jurors and compensation of jury commissioners, $2,378,000 to remain available until expended: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989.

(e) SECURITY EQUIPMENT.—There is authorized to be appropriated to the Federal courts for necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities, $4,920,000 to remain available until expended: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989.

CHAPTER 2—DRUG INTERDICTION ASSET AND PERSONNEL ENHANCEMENT

SEC. 2981. SHORT TITLE.

This chapter may be cited as the "National Drug Interdiction Asset and Personnel Enhancement Act of 1988".

Subchapter A—Coast Guard

SEC. 2982. COAST GUARD DRUG INTERDICTION ASSET ENHANCEMENT.

There is authorized to be appropriated for Acquisition, Construction, and Improvement expenses of the Coast Guard for fiscal year 1989, $68,060,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such appropriation authorized under this section shall be allocated only for procurement of marine and air drug interdiction assets, and operation and maintenance expenses of the Coast Guard.

SEC. 2983. COAST GUARD DRUG INTERDICTION PERSONNEL ENHANCEMENT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for Operating Expenses of the Coast Guard for fiscal year 1989, $16,400,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriations shall be used to increase Coast Guard drug enforcement personnel by no less than 435 full-time equivalent positions over personnel levels onboard in the Coast Guard as of September 30, 1988.

(b) LIMITATION.—Nothing in this section shall require the Coast Guard to recruit, compensate, train, purchase, or deploy any personnel or equipment except to the extent that—

(1) additional appropriations are made available in appropriations Acts for that purpose; or

(2) funds are transferred to the Secretary of Transportation for that purpose pursuant to this Act.

Subchapter B—United States Customs Service

SEC. 2984. UNITED STATES CUSTOMS SERVICE DRUG INTERDICTION ASSET ENHANCEMENT.

There is authorized to be appropriated for Operation and Maintenance, Air Interdiction Program for fiscal year 1989, $57,400,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be available for the procurement of helicopters; tracking, and interceptor aircraft; and operation and maintenance expenses for these and other assets of the United States Customs Service's air interdiction program.

SEC. 2985. UNITED STATES CUSTOMS SERVICE DRUG INTERDICTION PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the United States Customs Service for fiscal year 1989, $30,340,000: *Provided,* That such appropriation shall be in addition to any appropriation appropriated in any regular appropriations Act or continuing resolution for the fiscal year ending on September 30, 1989: *Provided further,* That of such additional appropriation, $26,240,000 shall be used to increase the number of Customs inspectors for contraband enforcement teams and other drug cargo interdiction personnel at the Customs Service by no fewer than 435 full-time equivalent positions over the level of such personnel onboard at the Customs Service as of September 30, 1988, and for related equipment.

Subchapter C—Drug Enforcement Administration

SEC. 2986. DRUG ENFORCEMENT ADMINISTRATION INTERDICTION ASSET ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the Drug Enforcement Administration for fiscal year 1989, $3,280,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used for additional analysts and equipment for the enhancement of the El Paso Intelligence Center (EPIC) to provide more tactical intelligence to the Drug Enforcement Administration and all other United States drug enforcement and interdiction agencies.

Subchapter D—Immigration and Naturalization Service/Border Patrol

SEC. 2987. BORDER PATROL DRUG INTERDICTION ASSET ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the Border Patrol within the Department of Justice for fiscal year 1989, $16,400,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used only for the procurement of drug interdiction-related equipment for Border Patrol drug enforcement personnel, including spare parts for helicopters; 4-wheel drive law enforcement vehicles; and initial procurement of mobile sensor response system and electronic intrusion detection, and for related operation and maintenance expenses.

SEC. 2988. IMMIGRATION AND NATURALIZATION SERVICE/BORDER PATROL DRUG INTERDICTION PERSONNEL ENHANCEMENT.

(a) SALARIES AND EXPENSES.—There is authorized to be appropriated for salaries and expenses of the Border Patrol within the Department of Justice for fiscal year 1989, $16,400,000: *Provided,* That such appropriation shall be in addition to any appropriations appropriated in any regular appropriations Acts or continuing resolutions for the fiscal year ending on September 30, 1989: *Provided further,* That such additional appropriation shall be used to increase drug interdiction officers of the Border Patrol by no fewer than 435 full-time equivalent positions over the level of such personnel onboard at the Border Patrol as of September 30, 1988, and for related equipment.

(b) SAN CLEMENTE BORDER PATROL STATION.—There is authorized to be appropriated, out of any funds made available by section 2987, for the fiscal year ending September 30, 1989, $2,706,000 for the design of improvements for the Immigration and Naturalization Service border patrol station at San Clemente, California.

(c) DRUG EDUCATION OFFICERS PROGRAM.—There is authorized to be appropriated, out of any funds made available by sections 4401 and 4402 of this Act, for the fiscal year ending September 30, 1989, such sums as may be necessary to establish and maintain an Immigration and Naturalization Service Drug Education Officers program, featuring the demonstration of drug detection canine unit capabilities along the southwest border region of the United States.

Subchapter E—Research and Development Programs to Assist Federal Enforcement Agencies

SEC. 2989. USE OF EXISTING FEDERAL RESEARCH AND DEVELOPMENT FACILITIES FOR CIVILIAN LAW ENFORCEMENT.

(a) COMPREHENSIVE PLAN.—The President of the United States shall direct the Office of National Drug Control Policy, established in title I of this Act, to develop a comprehensive plan for utilizing no fewer than eight existing facilities of the Department of Defense, the Department of Justice, the Department of Energy, National Security Agency, and the Central Intelligence Agency, to develop technologies for application to Federal law enforcement agency missions, and to provide research, development, technology, and evaluation support to the law enforcement agencies of the Federal Government. Such plan shall be prepared and submitted to the Congress by no later than 90 days from the date of enactment of this Act.

(b) EXISTING FACILITIES TO BE EXAMINED.—The following existing United States Government facilities shall be examined in developing the comprehensive plan mandated in subsection (a):

(1) For night vision research and development—Department of Defense, Army Materiel Command, Night Vision Laboratory at Fort Belvoir, Virginia;

(2) For ground sensor research and development—Department of Defense, Army Materiel Command, Communications Electronic Command, Fort Monmouth, New Jersey;

(3) For physical/electronic security research and development—Department of Defense, Air Force Systems Command, Electronic Systems Division, Hanscom Field, Massachusetts;

(4) For imaging/electronic surveillance research and development—Central Intelligence Agency and National Security Agency, Washington, DC;

(5) For chemical/biosensor research and development—Department of Defense, Army Materiel Command, Chemical Research Development and Engineering Center, Aberdeen, Maryland;

(6) For chemical/molecular detector research and development—Department of Energy, Sandia National Laboratories, Albuquerque, New Mexico;

(7) For physical/electronic surveillance an tracking, research and development—Department of Justice, Federal Bureau of Investigation and Drug Enforcement Administration, Washington, DC; and

(8) For explosives ordnance detection research and development—Department of Defense, Naval Ordinance Station, Indian Head, Maryland.

(c) PARTICIPATION.—In developing the plan mandated in subsection (a), the Director of National Drug Control Policy shall ensure that representatives of the Federal law enforcement agencies are provided an opportunity to participate in the formulation of the comprehensive plan and that their views and recommendations are integrated into the planning process.

(d) COMPTROLLER GENERAL OVERSIGHT.—The Comptroller General of the United States shall monitor the development of the plan mandated in subsection (a) and report periodically to the appropriate Committees of the Congress on the progress of the development of this research and development program.

SEC. 2990. CARGO CONTAINER DRUG DETECTION RESEARCH AND DEVELOPMENT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the United States Customs Service for fiscal year 1989, $4,100,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used only for accelerating the development and availability of X-ray detection, nitrate detection, or other technologies to be utilized for the detection of illegal narcotics in cargo containers entering the United States at seaports, airports, and land borders.

(b) COORDINATION.—The Commissioner of Customs shall coordinate and share the findings of the research and development authorized in subsection (a) with other Federal departments and agencies with possible mission requirements for such technology, including the Federal Aviation Administration and United States Coast Guard in the Department of Transportation; the Drug Enforcement Administration in the Department of Justice; and the appropriate State, and local law enforcement agencies, including airport authorities, port authorities, and other interested parties.

(c) REPORT.—The Commissioner of Customs shall report his findings in either classified, or unclassified form, to the appropriate Committees of Congress in conjunction with the President's submission of his fiscal year 1990 Budget of the United States.

Subchapter F—Drug Enforcement Training Improvement

SEC. 2991. FEDERAL LAW ENFORCEMENT TRAINING CENTER IMPROVEMENT.

(a) AUTHORIZATION OF APPROPRIATIONS FOR THE FEDERAL LAW ENFORCEMENT TRAINING CENTER.—(1) There is authorized to be appropriated for salaries and expenses of the Federal Law Enforcement Training Center for fiscal year 1989, $5,740,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That $4,100,000 of such additional appropriation shall be used by the Federal Law Enforcement Training Center only to accommodate the advanced in-Service training requirements of the Drug Enforcement Administration that cannot otherwise be met at the Department of Justice training facilities: *Provided further,* That $1,640,000 of such additional appropriation shall be used by the Center to increase the level of drug enforcement training, including basic and advanced training, for Federal, State, and local law enforcement officers: *Provided further,* That the Center shall hire 44 additional direct full-time equivalent positions and maintain an average of not less than 469 direct full-time equivalent positions by the end of fiscal year 1990: *Provided further,* That, on a space available, cost reimbursable basis, the Center shall, to the extent practical, increase the level of training for drug enforcement officers from foreign countries that are cooperating with the law enforcement agencies of the United States Government.

(2) There are authorized to be appropriated for salaries and expenses of the Federal Law Enforcement Training Center, $45,000,000 for the fiscal year ending September 30, 1990, and $50,000,000 for the fiscal year ending September 30, 1991: *Provided,* That in each fiscal year addressed in this paragraph, support for the State and local law enforcement training program and the training programs for drug enforcement officers from foreign countries shall be maintained at no less than the level of support in the fiscal year ending September 30, 1989.

(b) EXPANDED TRAINING.—The Secretary of the Treasury is directed to expand the advanced training programs for Federal law enforcement agencies at the Marana, Arizona, satellite facility of the Federal Law Enforcement Training Center, within the total amount of appropriations authorized for fiscal years 1989, 1990, and 1991.

(c) REPORT.—The Secretary of the Treasury is directed to report in writing to the appropriate committees of the Congress by no later than 90 days from the date of enactment of this Act with his preliminary plans for the increased training activities at the Federal Law Enforcement Training Center facilities to be funded with the additional appropriations authorized in subsection (a)(1) of this section, and the authorized level of appropriations contained in subsection (a)(2).

SEC. 2992. FEDERAL LAW ENFORCEMENT LANGUAGE TRAINING IMPROVEMENT.

(a) DEPARTMENT OF DEFENSE.—The Department of Defense is authorized to provide, on a cost reimbursable basis, foreign language training at the Defense Language Institute to special agents of Federal civilian agencies involved in drug law enforcement.

(b) DEPARTMENT OF STATE.—The Department of State is authorized to provide, on a cost reimbursable basis, foreign language training at the Foreign Service Institute to special agents of Federal civilian agencies involved in drug law enforcement.

(c) DRUG ENFORCEMENT ADMINISTRATION.—The Drug Enforcement Administration is authorized to—

(1) detail special agent personnel for foreign language training to the Defense Language Institute or the Foreign Service Institute; and

(2) reimburse, from appropriated funds, the Departments of Defense and State for the cost of training provided.

(d) CUSTOMS SERVICE.—The Customs Service is authorized to—

(1) detail special agent personnel for foreign language training to the Defense Language Institute or the Foreign Service Institute, or both; and

(2) reimburse, from appropriated funds, the Departments of Defense and State for the cost of training provided.

(e) INS.—The Immigration and Naturalization Service is authorized to—

(1) detail investigative personnel for foreign language training to the Defense Language Institute or the Foreign Service Institute; and

(2) reimburse, from appropriated funds, the Departments of Defense and State for the cost of training provided.

(f) Authorization of Appropriations.—The following amounts are authorized to be appropriated to implement the provisions of this section:

(1) to the Commissioner of Customs, only for obligation for special agent foreign language training, $273,000;

(2) to the Administrator of the Drug Enforcement Administration, only for obligation for special agent foreign language training, $273,000; and

(3) to the Commissioner of the Immigration and Naturalization Service, only for obligation for special agent foreign language training, $273,000.

(g) Rules Applicable to Appropriations.—Moneys appropriated pursuant to this section shall—

(1) remain available until expended; and

(2) shall be made available by the United States Customs Service, the Immigration and Naturalization Service, and the Drug Enforcement Administration out of the total amount of additional funds authorized to be appropriated in this Act.

Subchapter G—United States-Bahamas Drug Interdiction Task Force

SEC. 2993. INTERDICTION TASK FORCE PROGRAMS.

(a) Authorization of Appropriations.—There is authorized to be appropriated for salaries and expenses if the Drug Enforcement Administration for fiscal year 1989, $4,920,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such appropriations shall be made available for the United States-Bahamas Drug Interdiction Task Force established by section 3301 of subtitle E of title III of the Antidrug Abuse Act of 1986 (21 U.S.C. 801 note) and related activities: *Provided further,* That of these amounts made available for the United States-Bahamas Drug Interdiction Task Force under this section, the Drug Enforcement Administration is authorized to provide grants or other financial assistance to the Commonwealth of the Bahamas in the establishment of a Bahamian Enforcement Strike Team that will conduct unilateral Bahamian Government drug interdiction operations in the southern Bahamian Islands: *Provided further,* That the appropriations authorized under this section shall only be made available for United States-Bahamian drug interdiction operations upon receipt of a $410,000 contribution toward such joint operations by the Commonwealth of the Bahamas in fiscal year 1989.

(b) Sense of Congress.—It is the sense of the Congress that—

(1) the Commonwealth of the Bahamas should aggressively pursue the extradition of Nigel Bowe and the consummation of the pending extradition treaty with the United States by the end of 1988;

(2) the Government of the United States should cooperate fully with the Commonwealth of the Bahamas in providing information to the Bahamas regarding allegations of corruption and cooperate in responding to requests from the Commonwealth of the Bahamas for the extradition of United States citizens who have been indicted for drug-related offenses in the Bahamas; and

(3) agents of the Drug Enforcement Agency should be physically present when confiscated or seized illegal drug contraband is destroyed by personnel of the Commonwealth of the Bahamas.

Subchapter H—Standards of Care in Discovering Contraband

SEC. 2994. STANDARDS OF CARE IN DISCOVERING CONTRABAND.

(a) In General.—By no later than the date that is 120 days after the date of enactment of this Act and after an opportunity for public comment, the Secretary of the Treasury shall prescribe regulations which sets forth criteria for use by the owner, master, pilot, operator, or officer of, or other employee in charge of, any conveyance in meeting the standards under sections 584 and 594 of the Tariff Act of 1930 (19 U.S.C. 1584; 1594) for the exercise of the highest degree of care and diligence to know whether controlled substances imported into the United States are onboard the conveyance.

(b) Air Carrier Smuggling Prevention Program.—(1) The Secretary of the Treasury, in consultation with the Secretary of Transportation, shall issue controlled substances regulations for a 2-year demonstration program within 6 months of the enactment of this section. The regulations shall apply to at least three United States International Airports classified as high-risk by Customs and based upon the volume of cargo and number of aircraft arriving from high-risk points of departure. Such regulations shall establish procedures for air carrier development and Customs Service approval of foreign and domestic security and inspection practices. The regulations shall permit air carriers to request the Secretary of the Treasury to permit air carriers, the Customs Service, or an approved agent of the United States Customs Service to inspect at United States airports of entry, and aircraft arriving from foreign locations. The Secretary of the Treasury shall approve such request if the applicant meets the requirements of the regulations. Taking into account all considerations of security, law enforcement, and commercial needs, inspections of aircraft, and cargo shall be conducted and completed within a reasonable period of time.

(2) Air carriers which have applied to the Secretary of the Treasury and which the Secretary determines to be in compliance with the regulations and inspection requirements promulgated under paragraph (1) shall be considered participating air carriers. The Secretary of the Treasury shall establish by regulation a procedure for finding a carrier to be a participating carrier and procedures for subsequent removal of that status. The Secretary shall not remove an air carrier from the status of participating air carrier unless he or she shall first have provided it a written notice that the air carrier is not in compliance with the regulations or inspection requirements promulgated under paragraph (1), which notice shall include the reasons for that determination, and shall have provided the air carrier a reasonable opportunity to correct such noncompliance.

(3) Participating air carriers shall be considered to have met the test of the highest degree of care and diligence required under law, and shall not be subject to the penalty or seizure provisions of this Act, if a controlled substance is discovered aboard an aircraft that they may own or operate or in the cargo they carried, if the participating air carrier establishes at an oral presentation that the air carrier was not grossly negligent nor engaged in willful misconduct, and complied with the applicable procedures established in the regulations promulgated under paragraph (1).

(4) For the purpose of this subsection, the term "air carrier" shall mean air carrier or foreign air carrier as those terms are defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301).

(5) No provision of this section shall have any effect on air transportation security requirements prescribed pursuant to the Federal Aviation Act of 1958, as amended.

Subchapter I—Interpol—United States National Central Bureau

SEC. 2995. INTERPOL—UNITED STATES NATIONAL CENTRAL BUREAU.

There is authorized to be appropriated for the United States National Central Bureau for fiscal year 1989 $820,000: *Provided,* That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such appropriation shall be used to increase personnel by no fewer than 23 full-time equivalent positions over personnel levels as of September 30, 1988 for the purpose of maintaining no fewer than 24-hour operations and for upgrading telecommunications equipment.

Subchapter J—Civil Air Patrol

SEC. 2996. CIVIL AIR PATROL.

(a) Regulations.—Within 45 days, the Secretary of the Air Force shall issue such regulations as are necessary to ensure that the Civil Air Patrol has an integral role in drug interdiction and eradication activities.

(b) Reports.—The Secretary of the Air Force shall submit to the Committees on Appropriations and the Committee on Armed Services of the Senate and the House of Representatives, quarterly reports which include a detailed description of the activities of the Civil Air Patrol in support of the Federal, State, and local government agencies' drug interdiction and eradication programs. The first report shall be submitted on the last day of the first quarter ending not less than 150 days after the date of the enactment.

TITLE III—PREVENTION, EDUCATION, AND TREATMENT

SEC. 3001. SHORT TITLE, TABLE OF CONTENTS.

(a) Short Title.—This title may be cited as the "Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988".

(b) Table of Contents.—The table of contents is as follows:

Sec. 3001. Short title, table of contents.
Sec. 3002. Findings.
Sec. 3003. Purposes.
Sec. 3004 Sense of Congress.
Sec. 3005. References to the Public Health Service Act.

SUBTITLE A—ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICES BLOCK GRANTS

Sec. 3011. Authorization of appropriations.
Sec. 3012. State comprehensive mental health service plan.
Sec. 3013. Alcohol and drug abuse and mental health services block grants.
Sec. 3014. Data collection.
Sec. 3015. Model plan for seriously mentally ill individuals.
Sec. 3016. Comprehensive substance abuse treatment assistance program.
Sec. 3017. Conforming amendments.

SUBTITLE B—NATIONAL INSTITUTES OF ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

Sec. 3021. Alcohol, Drug Abuse, and Mental Health Administration.
Sec. 3022. National Institute of Mental Health.
Sec. 3023. Office of Substance Abuse Prevention; demonstration projects for high risk youths.
Sec. 3024. National Institute on Alcohol Abuse and Alcoholism.
Sec. 3025. Drug abuse research.
Sec. 3026. National Institute on Drug Abuse.
Sec. 3027. Drug abuse treatment demonstration projects.
Sec. 3028. Research on alcohol and drug abuse treatment programs.
Sec. 3029. Comprehensive community prevention initiatives.
Sec. 3030. Authorization of appropriations.

SUBTITLE C—INSTITUTE OF MEDICINE

Sec. 3031. Study by the Institute of Medicine.

SUBTITLE D—ALTERNATIVE UTILIZATION OF MILITARY FACILITIES

Sec. 3041. Action by national institute on drug abuse and states concerning military facilities.
Sec. 3042. Amendment to title 41.
Sec. 3043. Commission on alternative utilization of military facilities.

SUBTITLE E—ACQUIRED IMMUNODEFICIENCY SYNDROME BLOCK GRANTS.

Sec. 3051. Acquired immunodeficiency syndrome block grants.

SUBTITLE F—MISCELLANEOUS

Sec. 3061. Establishment of the Office of Associate Director for Special Populations.
Sec. 3062. Model drug abuse insurance plan.
Sec. 3063. Training awards.
Sec. 3064. Grants for training of personnel to treat drug abuse.
Sec. 3065. Drug testing certification program requirements.
Sec. 3066. Employ assistance programs.
Sec. 3067. Domestic Volunteer Service Act.
Sec. 3068. Reports.
Sec. 3069. Lease purchase authority.

SUBTITLE G—DRUG EDUCATION

Sec. 3081. Short title.
Sec. 3082. Authorization of appropriations.
Sec. 3083. New State programs.
Sec. 3084. State applications.
Sec. 3085. Responsibility of State agencies.
Sec. 3086. Local drug and alcohol abuse education and prevention programs.
Sec. 3087. Reports.
Sec. 3088. Teacher training.
Sec. 3089. Federal activities.
Sec. 3090. Drug-free schools model criteria and forms.
Sec. 3091. Development or early childhood education drug abuse prevention curriculum materials.

SUBTITLE H—EFFECTIVE DATE

Sec. 3092. Effective date.

SEC. 3002. FINDINGS.

Congress finds that—

(1) there are large number of substance abusers in the United States seriously enough impaired to require treatment;

(2) of these abusers, only a small fraction is currently receiving treatment;

(3) substance abuse treatment facilities in the United States are operating above full capacity and many individuals who desire treatment must wait long periods of time before they receive treatment;

(4) drug abuse and the lack of adequate treatment programs poses a threat to our most precious resource, our young people, with almost two-thirds of the graduating high school class of 1985 having used an illicit drug and 17 percent having used cocaine;

(5) increased drug use is strongly linked to violent, gang-related and addiction-related crime; and

(6) treatment for substance abuse is cost-effective and in the best interest of society and the individual.

SEC. 3003. PURPOSES.

(a) ALCOHOL AND DRUG ABUSE.—It is the purpose of this title to—

(1) continue and expand the partnership that exists between the Federal Government and the States in the development, maintenance, and improvement of the national network of comprehensive, community-based alcohol and drug abuse programs;

(2) provide financial and technical assistance to States and communities to assist in the development and maintenance of a core of prevention services that will significantly reduce the number and scope of alcohol and drug abuse problems;

(3) assist and encourage States in the initiation and expansion of prevention and treatment services for underserved populations;

(4) increase the understanding of the public concerning the extent of alcohol and other forms of drug abuse throughout the United States and the need for appropriate treatment services through—

(A) the expansion of data collection activities; and

(B) the support of research on the comparative cost and efficacy of existing alcohol and drug abuse prevention and treatment services; and

(5) increase to the greatest extent possible the availability and quality of treatment services so that treatment on request may be provided to all individuals desiring to rid themselves of their substance abuse problem.

(b) MENTAL HEALTH.—It is the purpose of this title to—

(1) encourage the development and provision of community mental health services by the States;

(2) encourage the development of a comprehensive community mental health system within each State;

(3) encourage the implementation of new and expanded community mental health services;

(4) encourage States to provide community mental health services in the least restrictive appropriate environment, and to involve the families of individuals undergoing mental health treatment in the development and provision of such services;

(5) encourage States to ensure respect for the rights and needs of recipients of mental health services and to involve such recipients in the development and provision of services, including the development of client-run services;

(6) foster interagency coordination and integration among a broad range of human service providers, support groups, and advocates to ensure that mental health, rehabilitation, vocational, educational, health, and residential services are available to individuals who need such services;

(7) provide Federal assistance to expand community mental health services within each State; and

(8) increase the understanding of the public concerning the extent of mental illness throughout the United States and the need for appropriate treatment services through—

(A) the expansion of data collection activities; and

(B) the support of research on the comparative cost and efficacy of existing mental health services.

SEC. 3004. SENSE OF CONGRESS.

(a) FINDINGS.—Congress finds that—

(1) alcoholism and other drug dependencies are problems of grave concern and consequence in American society;

(2) the social and economic costs of alcoholism and other drug dependencies, particularly to the health care system, are staggering;

(3) the health consequences of alcoholism and other drug dependencies can be as formidable as those of other diseases;

(4) in 1970, the National Institute on Alcohol Abuse and Alcoholism was created within the Public Health Service, to finance treatment, research, and prevention initiatives;

(5) in 1973, the National Institute on Drug Abuse was created to focus on issues concerning drug abuse treatment, research and prevention;

(6) in 1976, alcoholics and other drug dependent individuals were included within the definition of disabled persons under the Rehabilitation Act of 1973;

(7) Congress itself, as well as organizations such as the American Medical Association, the National Council on Alcoholism, the National Association of Addiction Treatment Providers and the American Medical Society on Alcoholism and Other Drug Dependencies have recognized that alcoholism and other drug dependencies are treatable diseases; and

(8) the public and private sectors endeavor to treat Americans who suffer from these diseases.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) alcoholism and drug dependencies are treatable diseases; and

(2) treatment opportunities, in both the public and private sectors can provide a successful means of recovery from alcoholism and other drug dependencies and are essen-

tial elements to solving the nation's drug problem.

SEC. 3005. REFERENCES TO THE PUBLIC HEALTH SERVICE ACT.

Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201n et seq.).

Subtitle A—Alcohol and Drug Abuse and Mental Health Services Block Grants

SEC. 3011. AUTHORIZATION OF APPROPRIATIONS.

Section 1911 (42 U.S.C. 300x) is amended—

(1) by striking out "and"; and

(2) by inserting before the period the following: ", $550,500,000 for fiscal year 1988, $700,000,000 for fiscal year 1989, $868,000,000 for fiscal year 1990, and $952,000,000 for fiscal year 1991".

SEC. 3012. STATE COMPREHENSIVE MENTAL HEALTH SERVICE PLAN.

(a) ADMINISTRATIVE EXPENSES.—Subsection (d) of section 1920D (42 U.S.C. 300x-9D(d)) is amended to read as follows:

"(d) The amount referred to in subsections (a), (b), and (c) with respect to a State is the total amount that the State is permitted to expend for administrative expenses under section 1915(d) for fiscal year 1986 from amounts paid to the State under subpart 1 for such fiscal year. If in the judgment of the Secretary the State is making a good faith effort to comply with this subpart, the Secretary may assess the State a penalty that is less than the maximum penalty, but in no event shall the penalty be less than 2 percent of the amount the State is permitted to expend for administrative expenses.".

(b) REPORT.—Not later than September 30, 1990, the Comptroller General of the General Accounting Office shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report that—

(1) evaluates the status of the implementation of section 1920C of the Public Health Service Act (42 U.S.C. 300x-11) requiring State Mental Health Services Plans; and

(2) includes an assessment of—

(A) the number of States that have submitted such plans;

(B) the number of States that have implemented the plans submitted by such States;

(C) the efficacy of the plans that have been implemented in achieving effective, organized community-based systems of care for seriously mentally ill individuals; and

(D) recommendations on additional legislation that is necessary to facilitate the achievement of the goals of this title.

SEC. 3013. ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICES BLOCK GRANTS.

(a) EVALUATION.—Section 1912 (42 U.S.C. 300x-1) is amended by adding at the end thereof the following new subsection:

"(c) The Secretary may use not to exceed 1 percent of the amounts appropriated under section 1911 in each of the fiscal years 1988 through 1991 to conduct evaluations, and prepare reports for submission to Congress, concerning the functioning and effectiveness of block grant programs conducted under this subpart.".

(b) ALLOTMENTS.—Section 1913 (42 U.S.C. 300x-1a) is amended to read as follows:

"SEC. 1913. ALLOTMENTS.

"(a) RESERVATIONS.—

"(1) TERRITORIES AND POSSESSIONS.—The Secretary shall reserve not to exceed $5,025,000 from the amounts appropriated under section 1911 in each of the fiscal years 1989 through 1991 for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, the Commonwealth of Puerto Rico, and the Northern Mariana Islands, in amounts that bear the same ratio to the amount specified above as the population of the territory or possession bears to the total population of all such territories and possessions, but notwithstanding such allocation, no territory or possession shall receive, subject to the availability of appropriations, the lesser of $100,000, or 105 percent of the combined amount the territory or possession received under this section (as such section existed before the effective date of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988) in fiscal year 1987, and for emergency treatment purposes under section 1921(b)(1) (as such section existed before the effective date of such Act), whichever is less.

"(2) INDIANS.—

"(A) IN GENERAL.—If the Secretary—

"(i) receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under this part be provided directly by the Secretary to such tribe or organization; and

"(ii) determines that the members of such tribe or tribal organization would be better served by means of grants made directly by the Secretary under this part;

the Secretary shall reserve from amounts which would otherwise be allotted to such State under subsection (b) for the fiscal year the amount determined under subparagraph (B).

"(B) ALLOTMENT.—The Secretary shall reserve for the purpose of subparagraph (A), from amounts that would otherwise be allotted to such State under subsection (b), an amount equal to the amount which bears the same ratio to the State's allotment for the fiscal year involved as the total amount provided or allotted for fiscal year 1987 by the Secretary to such tribe or tribal organization under the existing alcohol and drug abuse, and mental health block grant bears to the total amount provided or allotted for such fiscal year by the Secretary to the States and entities (including Indian tribes and tribal organizations) in the State under such provisions of law.

"(C) RECIPIENT.—The amount reserved by the Secretary on the basis of a determination under this subsection shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

"(D) PLAN.—In order for an Indian tribe or tribal organization to be eligible for a grant under this paragraph, such tribe or organization shall submit to the Secretary a plan for such fiscal year that meets such criteria as the Secretary may prescribe.

"(E) DEFINITION.—As used in this subparagraph the terms 'Indian tribe' and 'tribal organization' have the same meaning given such terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act.

"(3) INITIAL ALLOTMENT.—Out of the amounts appropriated under section 1911 in each of the fiscal years 1989 through 1991, the Secretary shall reserve $329,975,000 in each such fiscal year unless amounts appropriated are less than such amount, for payments to States, territories, and possessions based on the fiscal year 1984 proportionate share of each State, territory or possession as determined under this section (as such section existed before the effective date of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988).

"(b) STATE ALLOTMENT.—

"(1) GENERAL RULE.—From the remainder of the sums appropriated under section 1911 for each of the fiscal years 1989 through 1991, the Secretary shall allot to each State (excluding jurisdictions referred to in subsection (a)(1)) an amount equal to the product obtained by multiplying—

"(A) the State need; by

"(B) the State fiscal capacity.

"(2) STATE NEED.—For purposes of this subsection, the State need of a State shall be an amount equal to the sum of—

"(A) the amount equal to the product of .4 multiplied by the amount equal to the sum of—

"(i) the amount equal to the product of .5 multiplied by the total population of the State residing in urbanized areas, as determined by the Secretary;

"(ii) the amount equal to the product of .3 multiplied by the total population of the State between the ages of 18 and 24 years; and

"(iii) the amount equal to the product of .2 multiplied by the total population of the State between the ages of 25 and 44 years;

"(B) the amount equal to the product of .2 multiplied by the total population of the State between the ages of 25 and 64 years; and

"(C) the amount equal to the product of .4 multiplied by amount equal to the sum of—

"(i) the amount equal to the product of .4 multiplied by the total population of the State between the ages of 18 and 24 years; and

"(ii) the amount equal to the product of .6 multiplied by the total population of the State between the ages of 25 and 44 years.

"(3) STATE FISCAL CAPACITY.—

"(A) GENERAL FORMULA.—For purposes of this subsection, the State fiscal capacity of a State shall be an amount equal to the sum of—

"(i) one; minus

"(ii) the percentage equal to the product of 20 percent multiplied by the amount equal to the quotient obtained by dividing—

"(I) the total taxable resources per person in need of a State; by

"(II) the total taxable resources per person in need for all States.

"(B) TAXABLE RESOURCES PER PERSON IN NEED OF A STATE.—For purposes of subparagraph (A)(ii)(I), the total taxable resources per person in need of a State shall be an amount equal to the average total taxable resources of the State, as determined by the Secretary of the Treasury based on State gross product as reported by the Bureau of Economic Analysis, for the period of the 3 most recently completed calendar years ending before the date on which an application is submitted under section 1916, divided by the State need as determined under paragraph (2).

"(C) TAXABLE RESOURCES PER PERSON IN NEED OF ALL STATES.—For purposes of subparagraph (A)(ii)(II), the total taxable resources per person in need of all States shall be an amount equal to the average total taxable resources per person in need in all States, as determined by the Secretary of the Treasury based on State gross product, as reported by the Bureau of Economic Analysis, for the period of the 3 most recently completed calendar years ending before the date on which an application is submitted under section 1916, divided by the State need as determined under paragraph (2).

"(4) Minimum allotment.—

"(A) In general.—Except as provided in subparagraph (B), no State shall receive, subject to the availability of appropriations, an allotment of less than $7,000,000, or 105 percent of the combined amount the State received under this section (as such section existed before the effective date of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988) in fiscal year 1987, and for emergency treatment purposes under section 1921(b)(1) (as such section existed before the effective date of such Act), whichever is less.

"(B) Special rule.—In the case of each of the fiscal years 1990 and 1991, amounts paid to States under subparagraph (A) shall increase by the same percentage as the remainder of the sums appropriated under section 1911 for purposes of allotments increases as compared to such sums available for allotment in fiscal year 1989.

"(c) Data and Information.—Except as provided in subsection (b)(3), the Secretary shall obtain from each appropriate Federal agency, the most recent data and information necessary to determine the allotments provided for in subsection (b).

"(d) Reallotments.—

"(1) In general.—Any portion of the allotment to a State under subsection (b) that the Secretary determines is not required to carry out activities described in the application approved under section 1916, in the period that the allotment is made available, shall be reallocated by the Secretary to other States in proportion to the original allotment to such States.

"(2) Limitation.—The amount that another State is entitled to under paragraph (1) shall be reduced to the extent that such amount exceeds the sum that the Secretary estimates will be used in that other State to carry out activities described in the application submitted in accordance with the requirements of a State plan approved under section 1916. The amount of such reduction shall be similarly reallotted among States in which the proportionate amount is not reduced.

"(3) Amounts reallotted.—Any amount reallotted to a State under this subsection shall be deemed to be part of the original State allotment under subsection (b) for that year.".

(c) Use of Allotments.—

(1) In general.—Paragraph (2) of section 1915(a) (42 U.S.C. 300x-3(a)(2)) is amended to read as follows:

"(2) planning, developing, and providing community mental health services and related support services with—

"(A) emphasis on the initiation and provision of new or expanded services that contribute to the development of a comprehensive community mental health system as described in section 1916(e); and

"(B) continued support for community mental health center services funded with Federal block grants prior to 1989 to the extent consistent with section 1916(c), and with the State Mental Health Planning Council priorities and the State Comprehensive Mental Health Plan.

(2) Repeal.—Section 1915 (42 U.S.C. 300x-3) is amended by repealing subsection (c).

(d) Application.—Section 1916 (42 U.S.C. 300x-4) is amended to read as follows:

"SEC. 1916. APPLICATION AND DESCRIPTION OF ACTIVITIES.

"(a) Application.—

"(1) In general.—In order to receive an allotment for a fiscal year under section 1913(b) each State shall submit an application to the Secretary.

"(2) Form.—An application submitted under this subsection shall be in such form and submitted by such date as the Secretary shall require.

"(3) Assurances.—An application submitted under this subsection shall contain assurances that the legislature of the State has complied with subsection (b) and that the State will meet the requirements of subsection (c).

"(b) Public Hearings.—After the expiration of the first fiscal year in which a State receives an allotment under section 1913(b), no funds shall be allotted to such State for any fiscal year under such section unless the legislature of the State conducts public hearings on the proposed use and distribution of funds to be provided under section 1914 for such fiscal year.

"(c) Contents of Application.—As part of the annual application required by subsection (a), the chief executive officer of each State shall certify as follows:

"(1) General use of funds.—The State agrees to use the funds allotted to it under section 1913 in accordance with this part.

"(2) Comprehensive mental health services.—The State agrees, to the extent practicable, that grants made to community mental health centers and other entities in the State shall be used for the provision of comprehensive mental health services—

"(A) principally to individuals residing in a defined geographic area (hereinafter in this section referred to as a 'mental health service area'), with special attention to individuals who are seriously mentally ill;

"(B) within the limits of its capacity, to any individual residing or employed in a mental health service area in the State regardless of ability to pay for such services, current or past health condition, or any other factor; and

"(C) that are available and accessible promptly, as appropriate and in a manner that preserves human dignity and assures continuity and high quality care.

"(3) Community mental health centers.—The State agrees to require that any community mental health center in the State receiving a grant prior to fiscal year 1989 from the State under this part provide—

"(A) outpatient services, including specialized outpatient services for children, the elderly, individuals who are seriously mentally ill, and residents of a mental health service area of the State who have been discharged from inpatient treatment at a mental health facility;

"(B) 24-hour-a-day emergency care services;

"(C) day treatment or other partial hospitalization services, or psychosocial rehabilitation services;

"(D) screening for patients being considered for admission to State mental health facilities to determine the appropriateness of such admission; and

"(E) consultation and education services.

"(4) Evaluation criteria.—The State agrees to establish reasonable—

"(A) criteria to evaluate the effective performance of entities that receive funds from the State under this part; and

"(B) procedures for procedural and substantive independent State review of the failure by the State to provide funds for any such entity.

"(5) Specific use of funds.—

"(A) In general.—The State agrees to use the funds allotted to the State under section 1913 to carry out the mental health and alcohol drug abuse activities prescribed by section 1915(a) in accordance with this paragraph. The relative amounts provided for mental health activities and drug and alcohol abuse activities shall not exceed an amount that bears the same relationship to the funds allotted to the State for such fiscal year as the funds that would have been received by the State and entities in the State in fiscal year 1987 for mental health activities and drug and alcohol activities (including amounts received from funds allocated under section 1913 and section 1921(b)(1) (as such sections existed before the enactment of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988)).

"(B) Percent of funds.—The State may transfer not more than 10 percent of the amounts distributed under subparagraph (A)—

"(i) for mental health activities to amounts used for alcohol and drug abuse activities; and

"(ii) for alcohol and drug abuse activities to amounts used for mental health activities.

"(6) Alcohol and drug abuse uses.—In any fiscal year, the State agrees to use funds for the alcohol and drug abuse activities prescribed by section 1915(a) as follows:

"(A) Not less than 35 percent of the amount to be made available for such activities relating to alcoholism and alcohol abuse.

"(B) Not less than 35 percent of the amount to be made available for such activities shall be used for programs and activities relating to drug abuse.

"(7) Federal investigations.—The State agrees to permit and cooperate with Federal investigations undertaken in accordance with section 1918.

"(8) Identification of needs.—The State has identified those populations, areas, and localities in the State with a need for mental health, alcohol abuse and alcoholism, and drug abuse services.

"(9) Federal funds.—The Federal funds made available under section 1914 for any periods will be so used as to supplement and increase the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under that section and will in no event supplant such State, local, and other non-Federal funds.

"(10) Disclosure.—The State has in effect a system to protect from inappropriate disclosure patient records maintained by the State in connection with an activity funded under this part or by any entity that is receiving payments from the allotment of State under this part.

"(11) Job location.—The State shall develop and implement arrangements, that are not excessively burdensome on the State, to locate jobs for employees affected adversely by actions taken by the State mental health authority to emphasize outpatient mental health services.

"(12) Women.—Of the amount allotted to a State in any fiscal year under this part, the State shall use not less than 5 percent of such amount to provide alcohol and drug abuse services designed specifically for women. Services implemented under paragraph (14) (as such paragraph existed before the effective date of section 103 of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments of 1988) may be continued under this paragraph.

"(13) Children.—Of the amounts allotted in any fiscal year for mental health services, the State agrees to use not less than 10 percent of such amount to provide services and programs for seriously emotionally disturbed children and adolescents. The State shall use not less than 50 percent of the amounts set aside in the preceding sentence by the end of fiscal year 1990 to provide new or expanded services and programs that were not available prior to October 1, 1988, which shall apply to the requirement in paragraph (14).

"(14) New mental health services and programs.—Of the amounts allotted to a State for mental health activities under this part for fiscal year 1991, the State agrees to use, not less than 55 percent of such amount, to develop and provide community mental health services and programs, not available on October 1, 1988, and shall, with respect to each such service provided pursuant to this paragraph, provide funds for each service only for a limited period of time (as determined by the State), except that funds expended under this part for new services developed between October 1, 1984, and October 1, 1988, may be treated as a new service under this paragraph.

"(d) Description of intended use.—

"(1) In general.—The chief executive officer of a State shall, as part of the application required by subsection (a), also prepare and furnish the Secretary (in such form as the Secretary may require) with a description of the intended use of the payments the State will receive under section 1914 for the fiscal year for which the application is submitted, including information on the programs and activities to be supported and services to be provided.

"(2) Publication.—The description shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and after its transmittal.

"(3) Revision.—The description shall be revised (consistent with this section) throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the State under this part. Any revision shall be subject to the requirement of publication.

"(e) Receipt of Payments.—To receive payments under section 1914, a State shall agree that the State, in carrying out the purposes of this part, will facilitate coordination among institutions offering mental health services in the State to establish a State comprehensive community mental health system that—

"(1) provides for the development of a continuum of community mental health services within identified geographic areas;

"(2) ensures that mental health services offered by the system are accessible to individuals of all ages in the State who need the services provided by the system;

"(3) provides mental health services according to the particular needs of the individual for whom the services are sought, including developing plans of care and providing services in the context most appropriate to the age, sex, and cultural background of the individual;

"(4) encourages individuals receiving mental health services to be independent, and encourages the families of such individuals to be supportive of the individual in the attempts of the individual to achieve the optimal level of independence;

"(5) ensures that mental health services are provided in the least restrictive appropriate environment;

"(6) ensures that the mental health services provided by the system meet applicable professional standards for the provision of such services; and

"(7) emphasizes services for individuals who have serious mental illnesses and who—

"(A) are homeless;

"(B) have been institutionalized or at risk of institutionalization;

"(C) are children or youth with serious emotional disturbances;

"(D) are elderly individuals;

"(E) are young adults with diagnoses of both mental illness and alcohol or drug abuse;

"(F) are racial and ethnic minorities;

"(G) are women;

"(H) are people living in poverty; or

"(I) are residents of rural areas.

"The State may use funds provided under section 1914 to develop plans to implement this subsection.

"(f) State Mental Health Services Planning Council.—

"(1) Establishment.—Not later than 6 months after the effective date of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988, or 6 months after the opening of the first State legislative session after the enactment of such Act if legislative action by the State is required to implement this subsection, the chief executive officer of a State shall establish a State mental health services planning council that shall—

"(A) serve as an advocate for seriously mentally ill individuals, seriously mentally ill children, adolescents, elderly individuals, and other individuals with a mental illness or emotional problem; and

"(B) monitor, review, and evaluate, at least once a year, the allocation and adequacy of mental health services within the State.

"(2) Composition.—The Council shall, subject to paragraph (3), be composed of residents of the State, including at least one representative of—

"(A) the principal State agencies that have jurisdiction over—

"(i) mental health, education, vocational rehabilitation, children's services, criminal justice, housing, and social services; and

"(ii) the development of the State plan submitted pursuant to title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(B) public and private entities concerned with the need, planning, operation, funding, and use of mental health services and related support services;

"(C) seriously mentally ill adults who are receiving (or have received) mental health services and the families of such adults or of seriously emotionally disturbed children;

"(D) minorities; and

"(E) organizations functioning as advocates for the mentally ill and for mental health services.

"(3) Restriction.—Not less than 50 percent of the members of the Council shall be individuals who are not State employees or providers of mental health services.

"(4) Plan preparation.—The Council may assist the State in the preparation the plan required by section 1920C.

"(g) Report.—

"(1) In general.—The Secretary shall report annually to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on the new services initiated and provided in accordance with paragraphs (13) and (14) of subsection (c).

"(2) Contents.—The report shall include—

"(A) a detailed description of such programs and services;

"(B) an assessment of the adequacy of such programs and services in meeting the alcohol and drug abuse treatment needs of women and mental health needs of severely disturbed children and adolescents; and

"(C) such other information, including legislative and administrative recommendations, as the Secretary considers appropriate.".

(d) Effective Date.—The amendments made by this section shall become effective on October 1, 1988.

SEC. 3014. DATA COLLECTION.

Title V is amended by inserting after section 509C (42 U.S.C. 290aa-10) the following new section:

"SEC. 509D. DATA COLLECTION.

"(a) Mental Health.—The Secretary, in cooperation with the mental health agencies of the State and the respective national organizations concerning such, shall collect data on—

"(1) the number and variety of public and nonprofit private treatment programs available for mental health;

"(2) the number and demographic characteristics of individuals receiving treatment through the programs referred to in paragraph (1);

"(3) the type of care received by the individuals referred to in paragraph (2); and

"(4) other programs and activities as may be appropriate.

"(b) Alcohol and Drug Abuse and Treatment.—The Secretary, in cooperation with the alcohol and drug agencies of the State and the respective national organizations concerning such, shall develop specifications for the provision of data that is to be reported by State alcohol and drug abuse agencies, and publish such specifications for comment in the Federal Register. Subsequent to the comment period and the publication of final specifications, the Secretary shall, in consultation with the alcohol and drug abuse agencies of the State and the respective organizations concerning such, collect such data that shall include at a minimum—

"(1) the number and variety of public and private treatment programs available for alcohol or drug abuse, including the number and type of patient slots available;

"(2) the number and demographic characteristics of individuals receiving treatment through the programs referred to in paragraph (1) and, to the extent feasible, the number of times per year individuals use such treatment services;

"(3) the type of care received by the individuals referred to in paragraph (2);

"(4) the number of individuals receiving some form of public assistance for treatment;

"(5) the percentage of individuals that complete the appropriate course of treatment through programs referred to in paragraph (1);

"(6) the cost of the different types of treatment modalities referred to in paragraph (1) and the aggregate cost of each treatment modality provided within a State in each fiscal year;

"(7) the estimated level of need for programs referred to in paragraph (1) that is not being served by such programs;

"(8) the number of treated individuals that have private insurance coverage for the costs of the treatment programs referred to in paragraph (1), to the extent such information is available;

"(9) the number of alcohol or drug abuse counselors and other treatment personnel employed in public and private treatment facilities;

"(10) to the extent feasible, the effectiveness of treatment programs referred to in paragraph (1); and

"(11) other programs and activities as may be appropriate.

"(c) State Submission of Data.—

"(1) In general.—The Secretary shall establish guidelines that require States, to the extent practical, to provide information of the type required under subsections (a) and (b) subsequent to the specifications procedure described in subsection (b). The provision of such information shall be required as a condition of receiving a grant under sections 1913 and 1921.

"(2) Comprehensive substance abuse treatment assistance.—In order to receive funds under the program authorized under section 1921, a State shall provide to the Secretary such information as the Secretary may require.

"(3) Cooperation with States.—The Secretary shall consult and cooperate with States in developing data elements and designing mechanisms to collect the information and data required under this section.

"(d) Report.—The Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate every 2 years, a report that describes—

"(1) the scope of drug and alcohol and mental health services being provided by public and private entities;

"(2) the identification of alcohol and drug abuse and mental health service shortage areas and of gaps in such services;

"(3) the number of alcohol and drug abuse and mental health treatment settings;

"(4) the number and characteristics of the individuals served by the services described in paragraphs (1) and (2); and

"(5) other information that is considered appropriate by the Secretary.".

SEC. 3015. MODEL PLAN FOR SERIOUSLY MENTALLY ILL INDIVIDUALS.

Section 1920E (42 U.S.C. 300x-12) is amended to read as follows:

"SEC. 1920E. MODEL PLAN FOR SERIOUSLY MENTALLY ILL INDIVIDUALS.

"(a) In General.—The Secretary, acting through the Director of the National Institute of Mental Health, shall develop and make available from time to time, a model plan for a community-based system of care for seriously mentally ill individuals.

"(b) Consultation.—The plan referred to in subsection (a) shall be developed in consultation with State mental health directors, providers of mental health services, seriously mentally ill individuals, advocates for such individuals, and other interested parties.".

SEC. 3016. COMPREHENSIVE SUBSTANCE ABUSE TREATMENT ASSISTANCE PROGRAM.

Section 1921 (42 U.S.C. 300y) is amended to read as follows:

"SEC. 1921. COMPREHENSIVE SUBSTANCE ABUSE TREATMENT ASSISTANCE PROGRAM.

"(a) Authorization of Appropriations.—

"(1) In general.—To carry out this section and sections 1922, 508, and 509A there are authorized to be appropriated $959,000,000 for fiscal year 1989, $2,000,000,000 for fiscal year 1990, $3,000,000,000 for fiscal year 1991, such sums as may be necessary for each of the fiscal years 1992 and 1993.

"(2) Allotments.—Of the total amount appropriated under paragraph (1) for a fiscal year—

"(A) 4.5 percent shall be available to carry out section 1922 for such fiscal year; and

"(B) the remainder shall be available for allotments to States under this section for such fiscal year.

"(b) Allotments of States.—

"(1) In general.—The allotment of a State under this section for a fiscal year shall be the sum of the amounts allotted to such State under paragraphs (2) and (3).

"(2) Population.—Forty-five percent of the amount available for allotment under this section for a fiscal year shall be allotted in accordance with this paragraph. The allotment of a State under this paragraph for a fiscal year shall be an amount that bears the same ratio to the total amount required pursuant to the preceding sentence to be allotted under this paragraph for such fiscal year as the population of such State bears to the population of all States, except that no such allotment shall be less than $50,000.

"(3) Need.—Fifty-five percent of the amount available for allotment under this section for a fiscal year shall be allotted by the Secretary to States on the basis of the need of each State for amounts for programs and activities for the treatment and rehabilitation of substance abusers. In determining such need for each State under this paragraph, the Secretary shall consider—

"(A) the nature and extent, in the State and in particular areas of the State, of the demand for effective programs and activities for the treatment and rehabilitation of alcohol abuse and drug abuse;

"(B) the number of individuals in the State who abuse drugs or alcohol and the capacity of the State to provide treatment and rehabilitation for such individuals (as determined by the Secretary on the basis of the number of individuals who requested treatment for substance abuse in the State during the most recent calendar year ending prior to the date on which a statement is submitted by the State under subsection (d)); and

"(C) the ability of the State to provide additional services for the treatment and rehabilitation of substance abuse.

"(4) Timing.—The Secretary shall make allotments to States under paragraphs (2) and (3) for a fiscal year, and shall make payments to States under subsection (c) from such allotments, at the same time that the Secretary makes allotments and payments under sections 1913 and 1914, respectively, for such fiscal year.

"(c) Payments.—

"(1) Payments.—For each fiscal year, the Secretary shall make payments, as provided by section 6503 of title 31, United States Code, to each State from its allotment under paragraphs (2) and (3) of subsection (b) from amounts that are appropriated for that fiscal year and available for such allotments.

"(2) Carryover.—Any amount paid to a State under paragraph (1) for a fiscal year and remaining unobligated at the end of such fiscal year shall remain available to such State for the purposes for which it was made for the next fiscal year.

"(3) Applicability of other provisions.—The provisions of part B that are not inconsistent with this part shall apply with respect to allotments made under this section.

"(d) Applications.—

"(1) In general.—In order to receive an allotment for a fiscal year under subsection (b), each State shall submit an application to the Secretary, which the Secretary must find satisfactory, requesting an allotment under subsection (b)(2) or (b)(3) or both. Each such application shall contain—

"(A) a description of the manner in which the State will periodically (at an interval to be determined by the Secretary but not less frequently than once a year)—

"(i) evaluate programs and activities conducted with payments made to the State under subsection (c), including an evaluation of—

"(I) the number of additional individuals entering treatment;

"(II) the length of the treatment;

"(III) the number of individuals completing the treatment program;

"(IV) the average cost of the treatment per individual for different types of treatment; and

"(V) any other information the Secretary considers necessary;

"(ii) report to the Secretary on the results of such evaluation;

"(iii) develop standards, in consultation with the States, for the evaluation requirements, subsequent to the first grant cycle, and publish such in the Federal Register for comment;

"(B) assurances that current level of efforts in treating substance abusers shall be maintained and that payments made to the State under subsection (c) shall not be used to support existing State and local efforts, but should be used to fund or create new treatment opportunities;

"(C) assurances that such payments shall be targeted to communities with the highest prevalence of substance abuse, in accordance with criteria established by the Secretary to determine those communities with the greatest need, which shall include—

"(i) a demand for services or a need for services that exceeds existing capacity;

"(ii) a high prevalence of substance abuse;

"(iii) a high incidence of drug-related criminal activities; and

"(iv) a high incidence of communicable diseases spread through IV drug use;

"(D) assurances that in developing new treatment opportunities under programs conducted with payments made to the State under subsection (c), the State shall give priority to treatment of abusers of illegal drugs, and treatment for individuals who abuse both alcohol and illegal drugs;

"(E) assurances that populations in greatest need of services, including pregnant women, adolescents, minorities, and women and infants, shall be served;

"(F) assurances that, in fulfilling the priority for pregnant women, the State will assure timely treatment for good post partum care;

"(G) assurances that a State will devise and make available to the Secretary not later than 9 months after receipt of the such payments, a plan that describes how a State can provide services to all individuals seeking treatment services if sufficient resources are available and an estimate of the resource needs to provide such treatment, with such plan and estimates to be in such form as the Secretary may prescribe;

"(H) assurances that the State will provide at least $1 in new State funds or in-kind contributions for every $3 in Federal funds received by the State under subsection (c), and that such funds shall supplement rather than replace existing funds, except that such requirement may be waived by the Secretary for fiscal year 1989 if the chief executive officer of the State certifies that—

"(i) such match cannot be made in such fiscal year because of legislative commitments made by the State prior to the date of enactment of this section; and

"(ii) the State will provide such matching funds as required in subsequent fiscal years;

"(I) such information as the Secretary may prescribe, including information necessary for the Secretary to consider the matters specified in subparagraphs (A) through (D) of subsection (b)(3);

"(J) a description of the manner in which programs and activities conducted with payments under subsection (c) will be coordinated with other public and private programs and activities directed toward individuals who abuse alcohol and drugs; and

"(K) assurances that, in the preparation of any statement under this section, the State will consult with local governments and public and private entities, including community based organizations, involved in the provision of services for the treatment, prevention, and rehabilitation of substance abuse.

"(2) REPORTING AND EVALUATION.—The reporting and evaluation required under paragraph (1)(A) shall be implemented in a manner that is satisfactory to the Secretary, and the Secretary shall, to the extent feasible, assure standardized reporting across the various States. The Secretary shall develop standards, in consultation with the States, for the evaluation requirements, subsequent to the first awarding of grants, and publish such standards in the Federal Register for comment.

"(e) STATE TREATMENT PLANS.—A State shall submit to the Secretary as part of an application for the grant a State treatment plan that describes the proposed use of amounts paid to a State under subsection (c). The plan shall include a description of—

"(1) the total number of existing treatment slots by modality, type of abused substance, providers, community and target populations;

"(2) the number of treatment slots to be created by modality, providers, community and target populations;

"(3) the manpower involved in providing existing treatment and plans for increasing staffing levels to meet the projected increase in treatment slots;

"(4) the projected number of new clients, including the nature of the abused substance and subpopulations to be targeted (including adolescents, minorities, women and infants); and

"(5) methods of outreach to targeted populations (including adolescents, minorities, women and infants).

"(f) USE OF TREATMENT FUNDS.—

"(1) IN GENERAL.—Except as otherwise provided in this section, a State may use amounts made available under subsection (c) for—

"(A) treatment programs for individuals who are abusing or who are addicted to opiods, non-opiod abused drugs, and alcohol, including individuals abusing both alcohol and drugs;

"(B) support services for such individuals, including assistance in seeking and maintaining employment, family education and counseling, and other services designed to rehabilitate such individuals;

"(C) referral to support services needed by such individuals, such as employment and education counseling, income support programs, nutritional support, medical care, and other services;

"(D) outreach to individuals in need of such services; and

"(E) treatment programs for special populations, including adolescents, women, children born with addictions or born to addicted parents.

"(2) PROHIBITIONS.—A State may not use amounts paid to the State under its allotment under this section to—

"(A) provide inpatient hospitalization;

"(B) make cash payments to intended recipients of health services;

"(C) enroll individuals in for-profit treatment programs or provide reimbursement for for-profit treatment programs;

"(D) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds;

"(E) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment, except as provided in paragraph (3); or

"(F) provide financial assistance to any entity other than a public or nonprofit private entity.

"(3) WAIVER FOR CONSTRUCTION.—The Secretary may grant a waiver to a State to use amounts made available under this section for purchase and construction of a new facility or rehabilitation of existing facility, but not for land acquisition, if the State demonstrates to the Secretary that adequate treatment cannot be provided through the use of existing facilities and that alternative facilities in existing suitable buildings are not available. In granting such a waiver, the Secretary shall allow the use of a specified amount of funds to construct or rehabilitate a specified number of beds for residential treatment, and a specified number of slots for out-patient treatment, based on reasonable estimates by the State of the cost of construction or rehabilitation. In considering waiver applications, the Secretary shall insure that the State has carefully designed a program that will minimize the costs of additional beds

"(4) ADMINISTRATION.—Of the total amount paid to any State under subsection (c) for a fiscal year, not more than 5 percent may be used for administering the funds made available under such subsection. The State will pay from non-Federal sources the remaining costs of administering such funds.

"(g) ASSISTANCE.—The Secretary, on the request of a State, shall provide training and technical assistance to such State in planning and operating activities to be carried out under this section.

"(h) DATA.—The Secretary shall conduct data collection activities to enable the Secretary to carry out this section.".

SEC. 3017. CONFORMING AMENDMENTS.

(a) Section 508(d) (42 U.S.C. 290aa-6(d)) is amended by striking out "the second sentence of section 1921(a)" and inserting in lieu thereof "section 1921(a)(2)".

(b) Section 1917(a)(1) (42 U.S.C. 300x-5(a)(1)) is amended by striking out "(14) and (15)" and inserting in lieu thereof "(13) and (14)".

(c) Part B of title XIX (42 U.S.C. 300x et seq.) is amended by striking out "chronically mentally ill" each place it appears and inserting in lieu thereof "seriously mentally ill" in each such place.

SUBTITLE B—NATIONAL INSTITUTES OF ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

SEC. 3021. ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION.

(a) IN GENERAL.—Section 501 (42 U.S.C. 290aa) is amended—

(1) in subsection (b), by adding at the end thereof the following new paragraph:

"(4) The Office for Substance Abuse Prevention.";

(2) in subsection (c), by adding at the end thereof the following new paragraph:

"(3) The Administrator shall evaluate substance abuse prevention and education programs and assist communities and organizations in such evaluation efforts.".

(3) in subsection (e)(1), by striking out "and the National Institute on Drug Abuse" and inserting in lieu thereof "the National Institute on Drug Abuse, and the Office for Substance Abuse Prevention";

(4) in the first sentence of subsection (e)(2)—

(A) by striking out "The" and inserting in lieu thereof "Not less than once every 3 years, the"; and

(B) by striking out "annually";

(5) in subsection (f), by striking out "fraud" each place it appears and inserting in lieu thereof "misconduct";

(6) in subsection (k)(2)(A), by striking out "the National Institute on Drug Abuse" and inserting in lieu thereof "the National Institute on Drug Abuse, the Office of Substance Abuse Prevention"; and

(7) by adding at the end thereof the following new subsections:

"(l) The Administrator may accept voluntary and uncompensated services.

"(m) The Administrator may conduct and support research training—

"(1) for which fellowship support is not provided under section 487; and

"(2) that is not residency training of physicians or other health professionals.".

(b) RENAMING OF ADMINISTRATION.—

(1) PUBLIC HEALTH SERVICE ACT.—The Act is amended—

(A) in sections 227, 319(a), 487, 489(a)(2), 501(a) through (c), 1920A, and (1923) (42 U.S.C. 236, 247d(a), 288, 288b(a)(2), 290aa(a)-(c), 300x-9, and 300y-2), by striking out "Alcohol, Drug Abuse, and Mental Health Administration" each place it appears and inserting in lieu thereof "National Institutes of Alcohol, Drug Abuse, and Mental Health"; and

(B) in sections 501, 504(d), 508(a), 509B(a), 509C(a)(1), and 509C(d) (42 U.S.C. 290aa, 290aa-3(d), 290aa-6(a), 290aa-9(a), 290aa-10(a)(1), and 290aa-10(d)), by striking out "Administration" each place it appears and inserting in lieu thereof "National Institutes of Alcohol, Drug Abuse, and Mental Health".

(2) CONFORMING AMENDMENT.—Part A of title V (42 U.S.C. 290aa et seq.) is amended—

(A) by striking out the part heading and inserting in lieu thereof the following new heading:

"PART A—NATIONAL INSTITUTES OF MENTAL HEALTH, DRUGS, AND ALCOHOL AND INDIVIDUAL INSTITUTES"; AND

(B) in section 501, by striking out the section heading and inserting in lieu thereof the following new heading:

"NATIONAL INSTITUTES OF ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH".

SEC. 3022. NATIONAL INSTITUTE OF MENTAL HEALTH.

(a) MENTAL HEALTH DEMONSTRATION PROJECT GRANTS.—Part A of title V is amended by inserting after section 504 (42 U.S.C. 290aa-3) the following new section:

"SEC. 504A. MENTAL HEALTH SERVICE GRANTS AND DEMONSTRATION PROJECTS.

"(a) Mental Health Demonstration Projects.—The Secretary, acting through the Director, may make grants to States, political subdivisions of States, and private nonprofit entities for—

"(1) mental health services demonstration projects, (including self-help services), for the planning, coordination, and improvement of community services for seriously mentally ill individuals, seriously emotionally disturbed children and adolescents, elderly individuals (with special emphasis on areas with high concentrations of the elderly), residents of rural areas, and homeless seriously mentally ill individuals;

"(2) demonstration projects relating to the provision of prevention services to individuals who are at risk of developing mental illness;

"(3) demonstration projects for the prevention of youth suicide;

"(4) demonstration projects for the improvement of the recognition, assessment, treatment, and clinical management of depressive disorders;

"(5) demonstration projects for the improvement of post-legal adoption mental health and counseling services; and

"(6) demonstration projects for treatment and prevention relating to sex offenses.

"(b) Grants.—The Secretary may make a grant under subsection (a) for not more than 5 consecutive 1-year periods, except that the Secretary may waive the limitation of this paragraph with respect to a particular grant if the Secretary determines that extenuating circumstances exist that merit such waiver.

"(c) Administrative Expenses.—

"(1) In general.—The Secretary shall not make a grant to an applicant under paragraphs (2) through (7) of subsection (a) unless the applicant agrees that not more than 10 percent of the amount of such grant shall be used for administrative expenses.

"(2) Mental health demonstration projects.—Not more than 25 percent of the total amount of a grant made to a State under subsection (a)(1) for a project for services for seriously mentally ill individuals, seriously emotionally disturbed children and adolescents, elderly individuals, residents of rural areas, and homeless seriously mentally ill individuals in any fiscal year may be used by the State for administrative expenses in carrying out such grant in such fiscal year.

"(d) Authorization of Appropriations.—

"(1) In general.—In order to provide grants under subsection (a) there is authorized to be appropriated—

"(A) $57,700,000 for fiscal year 1988;

"(B) $60,400,000 for fiscal year 1989, of which at least 18 percent shall be used for demonstration projects for homeless individuals;

"(C) $63,400,000 for fiscal year 1990, of which at least 18 percent shall be used for demonstration projects for homeless individuals; and

"(D) such sums as are necessary in fiscal year 1991, of which at least 18 percent shall be used for demonstration projects for homeless individuals.

"(2) Rural resident projects.—Of the amounts appropriated under paragraph (1), the Secretary may use not in excess of $5,000,000 in each of the fiscal years 1988 through 1990, to make grants for rural residents projects described in subsection (a)(1).

"(3) Elderly mental health projects.—Of the amounts appropriated under paragraph (1), the Secretary may use not in excess of $4,500,000 in each of the fiscal years 1988 through 1990, to make grants for demonstration projects relating to mental health services for elderly individuals described in subsection (a)(1).

"(4) Prevention services projects.—Of the amounts appropriated under paragraph (1), the Secretary may use not in excess of $5,000,000 in each of the fiscal years 1988 through 1990, to make grants for projects described in subsection (a)(2).

"(5) Suicide prevention projects.—Of the amounts appropriated under paragraph (1), the Secretary may use not in excess of $5,000,000 in each of the fiscal years 1988 through 1990, to make grants for projects described in subsection (a)(3).

"(6) Depressive disorder projects.—Of the amounts appropriated under paragraph (1), the Secretary may use not in excess of $2,000,000 in fiscal year 1988, and $2,500,000 in each of the fiscal years 1989 and 1990, to make grants for projects described in subsection (a)(4).

"(7) Post-legal adoption services projects.—Of the amounts appropriated under paragraph (1), the Secretary may use not in excess of $2,000,000 in fiscal year 1988, and $2,500,000 in each of the fiscal years 1989 and 1990, to make grants for projects described in subsection (a)(5).

"(8) Sex offenses.—Of the amounts appropriated under paragraph (1), the Secretary may use not in excess of $5,000,000 in fiscal year 1988, and $5,000,000 in each of the fiscal years 1989 and 1990, to make grants for projects described in subsection (a)(6).".

(b) Conforming Amendment.—Effective October 1, 1988, section 504 (42 U.S.C. 290aa-3) is amended—

(1) by striking out subsections (f) and (g); and

(2) by redesignating subsections (h) and (i) as subsections (f) and (g), respectively.

(c) Youth Suicide.—The second sentence of section 504(g) (as redesignated by subsection (b)) is amended by striking out "age of 21" and inserting in lieu thereof "age of 24".

(d) Mental Health Services for the Homeless.—Part C of title V is amended—

(1) in section 521(a) (42 U.S.C. 290cc-21(a)), by striking out "1987 and 1988" and inserting in lieu thereof "1987 through 1990"; and

(2) in section 535 (42 U.S.C. 290cc-35), by striking out "for fiscal year 1988" and inserting in lieu thereof "for each of the fiscal years 1988 through 1990".

(e) Service Research of Community Mental Health Programs.—Part A of title V (42 U.S.C. 290aa et seq.) is amended by inserting after section 504A (as added by subsection (a)) the following new section:

"SEC. 504B. SERVICE RESEARCH OF COMMUNITY MENTAL HEALTH PROGRAMS.

"(a) In General.—The Secretary, acting through the Director of the National Institute of Mental Health, shall develop and maintain an ongoing program of service research of community mental health programs and services, that shall include the evaluation of—

"(1) the most effective methods of providing community-based prevention, treatment, and rehabilitation services for mentally ill individuals of all ages; and

"(2) the comparative cost-effectiveness of different methods of treatment utilized in community mental health programs.

"(b) Funding Program.—Research and evaluation required in subsection (a) may be carried out through grants, contracts, or cooperative agreements.

"(c) Plan.—Not later than 6 months after the effective date of this section, the Director shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a plan for the program to be established under subsection (a).".

SEC. 3023. OFFICE OF SUBSTANCE ABUSE PREVENTION; DEMONSTRATION PROJECTS FOR HIGH RISK YOUTHS.

(a) Duties of Director.—Section 508(b) (42 U.S.C. 290aa-6(b)) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) provide assistance to communities to enable such communities to develop comprehensive, long-term substance abuse prevention strategies;";

(2) by striking out paragraph (5) and inserting in lieu thereof the following new paragraph:

"(5) support clinical training programs for substance abuse counselors and other health professionals involved in drug abuse education, prevention, and intervention;"; and

(3) in paragraph (9), by adding before the period the following: ", and coordinate activities to support and complement the private media efforts of the Partnership for a Drug-Free America".

(b) Authorization of Appropriations.—Section 508(d) (42 U.S.C. 290aa-6(d)) is amended to read as follows—

"(d)(1) For the purpose of carrying out the activities described in this section and in section 509, and for administering the Office of Substance Abuse Prevention, there are authorized to be appropriated $39,000,000 for fiscal year 1989, $49,500,000 for fiscal year 1990, $54,450,000 for fiscal year 1991, $59,295,000 for fiscal year 1992, and $65,224,500 for fiscal year 1993.

"(2) For the purpose of carrying out the activities described in section 509A, there are authorized to be appropriated $52,000,000 for fiscal year 1989, $66,000,000 for fiscal year 1990, $72,600,000 for fiscal year 1991, $79,860,000 for fiscal year 1992, and $87,846,000 for fiscal year 1993.".

(c) High Risk Youth.—Section 509A (42 U.S.C. 290aa-8(b)) is amended—

(1) in subsection (b), by adding at the end thereof the following new paragraph:

"(5) In making grants under this section, the Secretary shall give priority to applications that employ research designs adequate for evaluating the effectiveness of the program."; and

(2) in subsection (f)—

(A) in paragraph (8), by striking out "or";

(B) by striking out paragraph (9) and inserting in lieu thereof the following new paragraph:

"(9) has experienced long-term physical pain due to injury; or"; and

(C) by adding at the end thereof the following new paragraph:

"(10) has experienced chronic failure in school;".

(b) Alcohol Information Program.—Part A of title V is amended by adding after section 509D the following new section:

"SEC. 509E. FETAL ALCOHOL INFORMATION PROGRAM.

"(a) Establishment.—The Administrator shall establish and implement a public information program on fetal alcohol syndrome to educate the public concerning the syndrome and to reduce the incidence of the occurrence of the syndrome.

"(b) Report.—Not later than 24 months after the effective date of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988, the Administrator shall submit to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Labor and Human Resources of the Senate a report that describes the effect of the informational program established under subsection (a).".

(c) Conforming Amendment.—Section 505(a)(1) (42 U.S.C. 290aa-3a(a)(1)) is amended by striking out "for the National Institute on Drug Abuse," and inserting in lieu thereof "for the National Institute on Drug Abuse, for the Office of Substance Abuse Prevention,".

SEC. 3024. NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM.

Section 513 (42 U.S.C. 290bb-1b) is amended—

(1) in subsection (a), by inserting before the period ", $83,000,000 for fiscal year 1988, and such sums as are necessary for each of the fiscal years 1989 through 1991"; and

(2) in subsection (b), by adding at the end thereof the following new sentence: "There are authorized to be appropriated $15,000,000 in fiscal year 1988, $20,000,000 in fiscal year 1989, $25,000,000 in fiscal year 1990, and such sums as are necessary in 1991, to carry out section 512(c).".

SEC. 3025. DRUG ABUSE RESEARCH.

Section 515(a) (42 U.S.C. 290cc) is amended by striking out paragraphs (5) and (6) and inserting in lieu thereof the following new paragraphs:

"(5) effective methods of drug abuse prevention;

"(6) effective methods of treatment and rehabilitation, including methods of intervention directed at treating the abuse of specific drugs; and

"(7) new and promising behavioral and chemical therapies for the treatment of drug abuse, including the development of chemical antidotes and narcotic antagonists for use in the treatment of cocaine and heroin addiction, that shall be conducted at intramural and extramural locations, and derived from basic and clinical research.".

SEC. 3026. NATIONAL INSTITUTE ON DRUG ABUSE.

(a) Authorization of Appropriations.—Section 517 (42 U.S.C. 290cc-2) is amended to read as follows:

"SEC. 517. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out this subpart, and sections 515A and 549, $165,000,000 for fiscal year 1989, and such sums as are necessary for each of the fiscal years 1990 and 1991. There are authorized to be appropriated $10,000,000 in fiscal year 1988, $10,000,000 in fiscal years 1989 and 1990, and such sums as are necessary in fiscal year 1991, to carry out section 516.".

(b) Dissemination of Information.—Subpart 2 of part B of title V is amended by adding after section 515 (42 U.S.C. 290cc.) the following new section:

"SEC. 515A. DRUG TREATMENT INFORMATION.

"The Secretary, in cooperation with the Administrator shall disseminate through publications, conferences, professional meetings, the development of curricular materials, and through other appropriate means, information concerning effective treatment methods for drug abuse.".

(c) Evaluation of the Veterans' Administration Inpatient and Outpatient Drug and Alcohol Drug Treatment Programs.—Subsection 620A of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Administrator of Veterans' Affairs shall conduct an evaluation of inpatient and outpatient drug and alcohol treatment programs operated by the Veterans' Administration. The evaluation shall include a determination of the medical advantages and cost-effectiveness of such programs, taking into consideration rates of readmission and rate of successful rehabilitation. There are authorized to be appropriated for the purpose of the conduct of such evaluation $1,000,000 in fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.".

(d) Annual Surveys.—Subpart 2 of part D of title V (42 U.S.C. 290ee et seq.) is amended by adding at the end thereof the following new section:

"SEC. 549. ANNUAL SURVEYS BY NATIONAL INSTITUTE ON DRUG ABUSE.

"Notwithstanding any other provision of law, the Director of the National Institute on Drug Abuse shall conduct a national household survey on drug abuse and a high school senior survey on an annual basis. The Director shall collect additional information concerning certain groups of individuals who are not currently included or are undercounted in such surveys.".

SEC. 3027. DRUG ABUSE TREATMENT DEMONSTRATION PROJECTS.

Subpart 2 of part D of title V (42 U.S.C. 290ee et seq.) (as amended by section 3026(d) of this title) is further amended by adding at the end thereof the following new section:

"SEC. 550. DRUG ABUSE TREATMENT DEMONSTRATION PROJECTS.

"(a) Establishment.—The Secretary shall establish demonstration projects that provide grants to States for the purpose of enabling such States to provide effective treatment, and referrals for treatment, to individuals who abuse drugs.

"(b) Awarding of Grants.—

"(1) Selection areas.—The Secretary shall award grants under subsection (a) to projects that operate in areas—

"(A) in which a demand for drug treatment services exists, or a need for such services exists which exceeds the capacity of organizations operating in that area to provide such services;

"(B) that have a high prevalence of drug abuse;

"(C) that have a high incidence of drug related criminal activities; and

"(D) that meet any other requirements that the Secretary determines are appropriate.

"(2) Focus of organizations.—In awarding grants under subsection (a), the Secretary shall—

"(A) select three projects each of which focus on at least one of the following areas of treatment:

"(i) treatment of adolescents;

"(ii) treatment of minorities;

"(iii) treatment of pregnant women;

"(iv) treatment of female addicts and the children of such females; and

"(v) treatment of the residents of public housing projects; and

"(B) select at least one project that includes a centralized local referral unit that shall provide—

"(i) an initial analysis of the nature of the individual's problem and refer such individual to appropriate existing drug treatment programs; and

"(ii) assistance to school teachers and other individuals who come into contact with drug abusers when attempting to refer such abusers to appropriate drug treatment programs.

"(c) Application.—A State that desires to participate in a project established under subsection (a) shall submit a written application to the Secretary in such form and containing such information as the Secretary may by regulation request.

"(d) Preferences.—In awarding grants under subsection (a), the Secretary shall give preference to projects that demonstrate a comprehensive approach to the problems associated with drug abuse and provide evidence of broad community involvement and support, including the support of private businesses, law enforcement authorities, health care providers, local school systems, and local governments in the proposed demonstration project.

"(e) Time Period for Projects.—Projects funded under this section shall be for a period of at least three years but in no event to exceed five years.

"(f) Evaluations.—The Secretary shall require, as a condition of awarding grants under this section, a systematic evaluation of the projects funded under this section on a long term basis to record the impact of such projects on treated individuals, and on the community as a whole. The methodology used in the evaluation shall be published in the Federal Register for comment before becoming effective.

"(g) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $24,000,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 through 1993.".

SEC. 3028. RESEARCH ON ALCOHOL AND DRUG ABUSE TREATMENT PROGRAMS.

Part D of title V (42 U.S.C. 290dd et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart 3—Provisions Relating to Both Alcohol and Drug Abuse

"SEC. 560. SERVICES RESEARCH ON ALCOHOL AND DRUG ABUSE TREATMENT PROGRAMS.

"(a) In General.—The Secretary, acting through the Directors of the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse, shall develop and maintain an ongoing program of research and evaluation of alcohol and drug abuse treatment programs to—

"(1) determine the most effective methods of treatment for alcohol and drug abuse; and

"(2) assess the comparative efficacy and cost-effectiveness of different methods of alcohol and drug abuse treatment.

"(b) Funding Program.—Research and evaluation required in subsection (a) may be carried out through grants, contracts, or cooperative agreements.

"(c) Plan.—Not later than 6 months after the effective date of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a plan for the program to be established under subsection (a).".

SEC. 3029. COMPREHENSIVE COMMUNITY PREVENTION INITIATIVES.

Part D of title V (42 U.S.C. 290dd et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 561. THE COMMUNITY YOUTH ACTIVITY PROGRAM.

"(a) Block Grant Program.—The Secretary shall make grants to States to enable such States to carry out the activities described in subsection (e).

"(b) Application.—

"(1) In general.—To be eligible to receive a grant under this section, a State shall submit to the Secretary an application that contains such information and is in such form as may be required by the Secretary.

"(2) Demonstration of need.—In the application submitted under paragraph (1), the State shall demonstrate a need for the activities described in subsection (e) and provide a description of those programs that will receive assistance under this section.

"(c) Amount of grant.—

"(1) Minimum amount.—Each State that submits an application under subsection (b) that meets the requirements of the Secretary shall, subject to the availability of appropriations, receive a grant in an amount that equals at least $250,000 in each fiscal year.

"(2) Programs of national significance.—Of amounts appropriated or otherwise available to carry out this section for any fiscal year, the Secretary shall reserve 5% of such amounts to be provided for projects of national significance, such as activities authorized in section 681(a)(2)(F) of the Community Services Block Grant Act (42 U.S.C. Sec. 9910(a)(2)(F)) or other projects expected to have a significant impact in preventing use of drugs among youth.

"(3) Specified appropriations.—

"(A) In general.—If the amount appropriated under subsection (f) is less than $50,000,000, the Secretary shall allot 25 percent of such amount equally among the 50 States with the remainder to be apportioned as described in subparagraph (B).

"(B) Remainder.—Amounts remaining after the allotment under subparagraph (A) shall be disbursed according to priorities developed by the Secretary that are designed to target funds to those States—

"(i) where the highest proportions of school aged children are at risk of substance abuse;

"(ii) where a tangible need has been identified by the State; and

"(iii) where the State has proposed the funding of additional programs targeted at the areas of highest need.

"(d) Priority.—In making grants under this section, the Secretary shall give priority to—

"(1) projects aimed at youth not in school or who are at risk of dropping out of school;

"(2) projects that seek to reinvolve dropouts in educational programs, involve youth community-based activities, develop training or employment opportunities for dropouts, or provide youth with alternatives to substance abuse;

"(3) projects to provide after-school, vacation and weekend activities designed to give youth opportunities to actively participate in a variety of activities;

"(4) projects that include participation by the business community;

"(5) projects that provide outreach to individuals of all ages who are at high risk of involvement with substance abuse;

"(6) projects targeted to communities with the most serious drug problems to enable such communities to develop programs that coordinate Federal, State, and local efforts to develop comprehensive, long-term, community-wide prevention and education strategies; and

"(7) projects that seek to involve youth who are members of gangs or who may join a gang in educational programs, community-based activities, training or employment opportunities or other alternatives to gang involvement and that seek to inform such youth of such services.

"(e) Activities.—The following activities may be conducted with the assistance received under this section:

"(1) Substance abuse education centers.—Funding may be provided for State regional substance abuse education and prevention centers designed to provide technical assistance, outreach, consultation, training, and referral services to schools, organization, community members and individual grantees under this program.

"(2) Community services.—Funding may be provided for community services and partnerships designed to develop community activities targeted at substance abuse prevention through education, training, and recreation projects including local educational agencies, local or State health department or community health or mental health centers, law enforcement agencies, community-based organizations, community action agencies, local or State recreational departments, or business organizations. Applications for grants under this paragraph shall include a description of the method to be used in evaluating the impact the program is having on the drug problem within the community.

"(3) Other projects.—Funding may be provided to other projects or proposals that are consistent with the intent of the program authorized under this section.

"(f) Authorization of Appropriations.—There are authorized to be appropriated to make grants under this section, $40,00,000 for fiscal year 1989, $55,000,000 for fiscal year 1990, $60,000,000 for fiscal year 1991, $66,550,000 for fiscal year 1992, and $73,205,000 for fiscal year 1993.

"(g) Project evaluations.—The Secretary shall evaluate projects conducted with assistance received under this section and applications for grants under this section shall include a description of the method to be used in evaluating the impact the program is having on the drug problem within the community.

"SEC. 562. EVALUATION OF SUBSTANCE ABUSE EDUCATION AND PREVENTION EFFORT.

"(a) Method.—The Secretary, acting through the Administrator, shall develop and conduct a structured evaluation of the different approaches utilized across the Nation to reduce substance abuse.

"(b) Grants.—The Administrator may enter into grants or contracts with appropriate entities for the purpose of conducting the evaluations required under subsection (a).

"(c) Time of reports.—The Secretary shall submit reports based on the evaluations prepared under subsection (a) not later than 1 year after the effective date of this section, and another report based on such evaluations not later than 3 years after such date. A final report shall be submitted by the Secretary not later than January 1, 1994.

"(d) Authorization of appropriations.—There are authorized to be appropriated to carry out this section, $12,000,000 in fiscal year 1989, and $15,000,000 for each of the fiscal years 1990 through 1993.".

SEC. 3030. AUTHORIZATION OF APPROPRIATIONS.

(a) Technical Assistance.—Sections 541 (42 U.S.C. 290dd) and 545 are amended by adding at the end thereof the following new subsection:

"(c) There are authorized to be appropriated in each of the fiscal years 1988 through 1991, $15,000,000 to carry out this section and section 1920A(1).".

(b) Data Collection.—Section 509D (as added in section 3014 of this Act) is amended by adding at the end thereof the following new subsection:

"(c) Appropriations.—There is authorized to be appropriated in fiscal year 1989 $33,000,000, and for each of the fiscal years 1990 and 1991, $38,000,000 to be used by the Administration to carry out this section.".

Subtitle C—Institute of Medicine

SEC. 3031. STUDY BY THE INSTITUTE OF MEDICINE.

(a) Study.—The Secretary of Health and Human Services shall contract with the Institute of Medicine of the National Academy of Sciences to conduct a study concerning the effective and appropriate treatment, rehabilitation, and continuing care of persons suffering from severe and disabling mental illnesses.

(b) Report.—Not later than 18 months after the date of the signing of the contract with the Institute of Medicine, the Secretary of Health and Human Services shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report of the results of the study conducted under subsection (1).

(c) Authorization of Appropriations.—There is authorized to be appropriated $1,000,000 in fiscal year 1989 to carry out this section.

Subtitle D—Alternative Utilization of Military Facilities

SEC. 3041. ACTION BY NATIONAL INSTITUTE ON DRUG ABUSE AND STATES CONCERNING MILITARY FACILITIES.

Subpart 2 of part D of title V (42 U.S.C. 290ee et seq.) (as amended by sections 3026(d) and 3027 of this title) is further amended by adding at the end thereof the following new section:

"SEC. 551. ACTION BY NATIONAL INSTITUTE ON DRUG ABUSE AND STATES CONCERNING MILITARY FACILITIES.

"(a) National Institute on Drug Abuse.—The Director of the National Institute on Drug Abuse shall—

"(1) coordinate with the agencies represented on the Commission on Alternative Utilization of Military Facilities the utilization of military facilities or parts thereof, as identified by such Commission, established under the National Defense Authorization Act of 1989, that could be utilized or renovated to house nonviolent persons for drug treatment purposes;

"(2) notify State agencies responsible for the oversight of drug abuse treatment entities and programs of the availability of space at the installations identified in paragraph (1); and

"(3) assist State agencies responsible for the oversight of drug abuse treatment entities and programs in developing methods for adapting the installations described in paragraph (1) into residential treatment centers.

"(b) States.—With regard to military facilities or parts thereof, as identified by the

Commission on Alternative Utilization of Military Facilities established under section 3042 of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988, that could be utilized or renovated to house nonviolent persons for drug treatment purposes, State agencies responsible for the oversight of drug abuse treatment entities and programs shall—

"(1) establish eligibility criteria for the treatment of individuals at such facilities;

"(2) select treatment providers to provide drug abuse treatment at such facilities;

"(3) provide assistance to treatment providers selected under paragraph (2) to assist such providers in securing financing to fund the cost of the programs at such facilities; and

"(4) establish, regulate, and coordinate with the military official in charge of the facility, work programs for individuals receiving treatment at such facilities.

"(c) RESERVATION OF SPACE.—Prior to notifying States of the availability of space at military facilities under subsection (a)(2), the Director may reserve space at such facilities to conduct research or demonstration projects.".

SEC. 3042. AMENDMENT TO THE FEDERAL PROPERTIES AND ADMINISTRATIVE PROCEDURES ACT.

Section 203(j)(3)(B) of the Federal Property and Administrative Procedures Act of 1979 (40 U.S.C. 484(j)(3)(B)) is amended by inserting ", drug abuse treatment centers" after "health centers".

Subtitle E—Acquired Immunodeficiency Syndrome Block Grants

SEC. 3051. ACQUIRED IMMUNODEFICIENCY SYNDROME BLOCK GRANTS.

Part B of title XIX (42 U.S.C. 300x et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart 3—Acquired Immunodeficiency Syndrome Grants

"SEC. 1920F. GRANTS.

"(a) AUTHORITY.—To carry out this section, there are authorized to be appropriated $95,000,000 for fiscal year 1989, and such sums as are appropriate for each of the fiscal years 1990 through 1991, to make grants to public and nonprofit private entities for projects and programs that seek to reduce the transmission of the acquired immunodeficiency virus in and by users of illegal intravenous drugs.

"(b) APPLICATIONS.—An allotment to a State shall not be made by the Secretary under subsection (a) unless the State has submitted an information and assurances section as designated in section 1920H(a), and such information and assurances section has been approved by the Secretary in consultation with the Director of the Centers for Disease Control, in accordance with section 1920H(a).

"SEC. 1920G. ALLOTMENTS.

"(a) RESERVATIONS.—The Secretary shall reserve $100,000 of the amount appropriated under section 1920F in each fiscal year for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs.

"(b) STATE ALLOTMENT.—The allotment of a State under this section shall be based on the State's proportionate share of the number of intravenous drug use related cases of AIDS as reported by the Centers for Disease Control, but, subject to the availability of appropriations, in no case shall a State receive less than $150,000.

"(c) PUERTO RICO.—Puerto Rico shall be treated as a State in the determination of allotments under subsection (b).

"(d) DATA AND INFORMATION.—The Secretary shall obtain from each appropriate Federal agency, the most recent data and information, for the 12-month period immediately preceding the determination of the allotment, necessary to determine the allotments for fiscal year 1988, and for subsequent fiscal years, the Secretary shall obtain the most recent data and information, for the 2-year period immediately preceding the determination of the allotment.

"SEC. 1920H. REQUIRED INFORMATION AND ASSURANCES.

"In order to receive an allotment for a fiscal year under section 1920G, each State shall submit to the Secretary, as part of the alcohol, drug abuse, and mental health block grant application required under section 1916, an information and assurances section that shall contain—

"(1) such information as the Directors of the National Institute on Drug Abuse and the Centers for Disease Control shall require;

"(2) a description of the programs that will be implemented or improved with the assistance given under this subpart and the manner in which such programs will be coordinated with other public and private programs and activities;

"(3) assurances that, in the preparation of any statement under this section, the State will consult with local governments and the public and private entities (including community-based organizations) involved in the provision of services under this subpart;

"(4) a description of the manner in which the State will evaluate the programs and activities conducted with assistance provided under this subpart;

"(5) assurances that the State will prepare and submit a report, as required by the Secretary, on the results of the evaluations referred to in paragraph (4);

"(6) assurances that the State will prepare and submit reports, as required by the Secretary, containing data necessary to monitor relevant epidemiological changes; and

"(7) assurances that assistance provided to the State under this subpart will supplement and not supplant any State or local expenditures for treatment, outreach, prevention, and educational efforts targeted for users of illegal intravenous drugs at risk of contracting acquired immunodeficiency syndrome.

"SEC. 1920I. USE OF ALLOTMENTS.

"Amounts paid to a State under this subpart may be used by the State according to such requirements as the Secretary, acting through the Director of the National Institute on Drug Abuse, and in consultation with the Directors of the Centers for Disease Control, to establish programs that provide—

"(1) treatment for users of illegal intravenous drugs that have contracted, or are at risk of contracting the acquired immunodeficiency syndrome virus;

"(2) outreach services to users of illegal intravenous drugs;

"(3) aggressive efforts to prevent the transmission of the acquired immunodeficiency syndrome virus among users of illegal intravenous drugs; and

"(4) the training and organizational efforts necessary to accomplish all of the above.

"SEC. 1920J. PAYMENTS.

"(a) IN GENERAL.—For each fiscal year, the Secretary shall make payments, as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), to each State that has complied with section 1920H from the allotment under section 1920G (other than any amount reserved under section 1920G) from amounts appropriated for that fiscal year.

"(b) UNEXPENDED AMOUNTS.—

"(1) IN GENERAL.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which the payment was made.

"(2) WITHHOLDING OF FUNDS.—If in the judgment of the Secretary, a State is unlikely to use funds that are available to that State during a fiscal year for the purposes prescribed by the Secretary under section 1920I, the Secretary may withhold the amount otherwise available to that State in subsequent fiscal year.

"(c) REDUCTION IN PAYMENTS.—

"(1) IN GENERAL.—The Secretary, at the request of a State, may reduce the amount of payments under subsection (a) by—

"(A) the fair market value of any supplies or equipment furnished the State by the Federal government for the convenience of and at the request of the State; and

"(B) the amount of the pay, allowances, and travel expenses of any officer or employee of the Federal government when detailed to the State, and the amount of any other costs incurred in connection with the detail of such officer or employee, if such amount is expended for the convenience of and at the request of the State.

"(2) REDUCED AMOUNTS.—The amount by which any payment is reduced under paragraph (1) shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based. The amount shall be considered to be part of the payment and to have been paid to the State.

"(d) REALLOCATIONS.—To the extent that all the funds appropriated under section 1920F for a fiscal year and available for allotment in such fiscal year are not otherwise allotted to States because—

"(1) one or more States have not submitted a satisfactory application with an information and assurances section in accordance with section 1920H for the fiscal year;

"(2) one or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(3) some State allotments are offset or repaid under subsection (c);

such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this subsection.

"SEC. 1920K. DEFINITION.

"As used in this subpart, the term 'illegal intravenous drug' includes any controlled substance as defined in section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)).".

Subtitle F—Miscellaneous

SEC. 3061. ESTABLISHMENT OF THE OFFICE OF ASSOCIATE DIRECTOR FOR SPECIAL POPULATIONS.

(a) NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM.—Section 502 (42 U.S.C. 290aa-1) is amended by adding at the end thereof the following new subsection:

"(e)(1) The Director shall designate an Associate Director for Special Populations.

"(2) The Secretary, acting through the Associate Director for Special Populations, shall—

"(A) develop and coordinate prevention, treatment, research, and administrative policies and programs to assure increased emphasis on the needs of women and minorities for the prevention and treatment of alcoholism and alcohol abuse and related problems;

"(B) support programs and projects relating to the delivery of services to women and minorities for the prevention and treatment of alcoholism and alcohol abuse and related problems, including demonstration programs and projects;

"(C) develop a plan to increase the representation of women and minorities in service delivery and manpower programs for the prevention and treatment of alcoholism and alcohol abuse and related problems;

"(D) support programs of basic and applied social and behavioral research on the problems of women and minorities relating to alcoholism and alcohol abuse;

"(E) study the effects of discrimination by institutions against alcoholics and alcohol abusers;

"(F) develop systems to assist women and minority individuals who are alcoholics or alcohol abusers in adapting to, and coping with, the effects of discrimination;

"(G) support and develop research, demonstration, and training programs designed to eliminate institutional discrimination against alcoholics and alcohol abusers; and

"(H) provide increased emphasis on the concerns of women and minorities in training programs, service delivery programs, and research activities of the Institute.".

(b) National Institute on Drug Abuse.—Section 503 (42 U.S.C. 290aa-2) is amended by adding at the end thereof the following new subsection:

"(e)(1) The Director shall designate an Associate Director for Special Populations.

"(2) The Secretary, acting through the Associate Director for Special Populations, shall—

"(A) develop and coordinate prevention, treatment, research, and administrative policies and programs to assure increased emphasis on the needs of women and minorities for the prevention and treatment of drug abuse and related problems;

"(B) support programs and projects relating to the delivery of services to women and minorities for the prevention and treatment of drug abuse and related problems, including demonstration programs and projects;

"(C) develop a plan to increase the representation of women and minorities in service delivery and manpower programs for the prevention and treatment of drug abuse and related problems;

"(D) support programs of basic and applied social and behavioral research on the problems of women and minorities relating to drug abuse;

"(E) study the effects of discrimination by institutions against drug abusers;

"(F) develop systems to assist women and minority individuals who are drug abusers in adapting to, and coping with, the effects of discrimination;

"(G) support and develop research, demonstration, and training programs designed to eliminate institutional discrimination against drug abusers; and

"(H) provide increased emphasis on the concerns of women and minorities in training programs, service delivery programs, and research activities of the Institute.".

SEC. 3062. MODEL DRUG ABUSE INSURANCE PLAN.

Subpart 2 of part D of title V (42 U.S.C. 290ee et seq.) (as amended by sections 3026(d), 3027, and 3043 of this title) is further amended by adding at the end thereof the following new section:

"SEC. 552. MODEL SUBSTANCE ABUSE INSURANCE PLAN.

"(a) Development.—The Secretary, in cooperation with the Directors of the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism, members of the insurance industry, the Director of the Office of Personnel Management, and members of the business community, shall develop a model insurance benefit plan for consideration for adoption by the Administrator of the Office of Personnel Management and the Congress. In developing such a plan, the Secretary shall consider the costs and benefits of alternative coverage designs.

"(b) Report.—Not later than 6 months after the effective date of this title, the Secretary shall prepare and submit, to the appropriate Committees of Congress, a report that contains recommendations concerning the type of insurance described under subsection (a) together with a model plan for the provision of such insurance. The Director of the Office of Personnel Management shall report to the appropriate Committees of Congress concerning the appropriateness of incorporating the model plan developed under this section in the Federal Employee Health Benefit Program.

"(c) Availability of Report.—The report submitted under subsection (b) shall be made available by the Secretary to members of the insurance industry and business community.".

SEC. 3063. TRAINING AWARDS.

Section 487(d) (42 U.S.C. 288) is amended by adding at the end thereof the following: "There are authorized to be appropriated for fiscal year 1989 for payments under National Research Service Awards as provided by the Secretary not less than $10,000,000 more than the amount made available to the National Institute on Drug Abuse under this section in fiscal year 1988.".

SEC. 3064. GRANTS FOR TRAINING OF PERSONNEL TO TREAT DRUG ABUSE.

Subpart 2 of part B of title V (42 U.S.C. 290cc et seq.) is amended by adding at the end thereof the following new section:

"SEC. 518. GRANTS FOR TRAINING OF PERSONNEL TO TREAT SUBSTANCE ABUSE.

"(a) In General.—The Secretary may make grants to or enter into contracts with schools of medicine and osteopathy, health professions schools, schools of allied health professions, nurse training institutions, and institutions or organizations that offer education or continuing medical or health education to enable such institutions or organization—

"(1) to train physicians, psychologists, social workers, nurses, and counselors in the treatment of substance abuse;

"(2) to train health professionals, including physicians, psychologists, social workers, nurses, and counselors in the recognition of substance abuse and in the appropriate diagnosis and manner of referral of individuals who abuse substances for treatment of such abuse;

"(3) to develop curriculum and curricula materials to enable institutions or organizations to engage in the training of the type described in paragraphs (1) and (2); and

"(4) to provide stipends to individuals receiving training of the type described in paragraphs (1) and (2).

"(b) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, $6,000,000 for fiscal year 1989.".

SEC. 3065. DRUG TESTING CERTIFICATION PROGRAM REQUIREMENTS.

(a) In General.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall establish a procedure to be used to certify certain clinical laboratories that analyze and determine the results of drug tests conducted by other entities or individuals, and to ensure that such laboratories maintain high quality and appropriate security concerning the results of such tests.

(b) Requirements.—Under the procedures referred to in subsection (a), a laboratory that conducts drug testing shall, as determined under guidelines prescribed by the Secretary of Health and Human Services—

(1) meet the mandatory guidelines, or be determined by the Secretary of Health and Human Services to have met the mandatory guidelines, established by the Secretary under subclauses (I) and (III) of section 503(a)(1)(A)(ii) of the supplemental Appropriations Act, 1987;

(2) have been inspected and accredited by national accrediting bodies approved for such purpose by the Secretary; or

(3) have been a State clinical laboratory certified under a State certification programs that is as least as stringent as that established by the Secretary under subsection (a).

(c) Spending Restriction.—The Secretary of Health and Human Services shall not expend any Federal funds for certification of individual laboratories to conduct drug testing of any Federal employees under this Act (or any amendments made by this Act). Costs associated with such certifications shall be the responsibility of the laboratories seeking the certification, except that this section shall not be construed to prohibit the use of such funds to develop standards, measurement instruments, or such other activities and functions as are necessary to establish and maintain a certification system.

SEC. 3066. EMPLOYEE ASSISTANCE PROGRAMS.

(a) Establishment.—The Secretary of Labor shall establish a program through which the Secretary shall provide grants to, or enter into contract with, employers to enable such employers to develop employee drug and alcohol abuse assistance programs.

(b) Applications.—Employers desiring to receive a grant or contract under this section shall submit to the Secretary of Labor, an application, in such form and containing such information as the Secretary may require.

(c) Regulations.—The Secretary of Labor shall promulgate regulations necessary to carry out this section.

(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, $4,000,000 for fiscal year 1989, and $5,000,000 for each of the fiscal years 1990 and 1991.

SEC. 3067. DOMESTIC VOLUNTEER SERVICE ACT.

Section 501(c) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5081(c)) is amended by adding at the end thereof the following new sentences: "In addition to the amounts authorized to be appropriated by the preceding sentence, there are authorized to be appropriated $4,000,000 in fiscal year 1989, and $5,000,000 for each of the fiscal years 1990 and 1991 to be available for support of drug abuse prevention, or which

$500,000 may be used in each fiscal year for support programs. Notwithstanding any other provision of law, programs operated with funds appropriated under this subsection shall not be limited in time.".

SEC. 3068. REPORTS.

Not later than 1 year after the date of enactment of this title, the Secretary of Health and Human Services shall conduct a study, and prepare and submit, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report concerning the range of treatment programs for drug abuse utilized with funds provided under the Public Health Service Act (42 U.S.C. 201 et seq.), and other such programs utilized by State and local governments and private organizations. Such report shall identify those programs that demonstrate effective treatment for drug abuse.

SEC. 3069. LEASE PURCHASE AUTHORITY.

Section 301 of the Public Health Service Act (42 U.S.C. 241) is amended by adding at the end thereof the following new subsection:

"(j)(1) Notwithstanding any other provision of law, the Secretary is authorized to enter into lease-purchase contracts, for a period not to exceed 30 years, for the acquisition by lease of buildings and facilities needed by the Public Health Service in the pursuit of its mission to continually improve the health of the nation. The authority of the Secretary to enter into any lease-purchase contract shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by Appropriations Acts.

"(2) Office and special purpose facilities acquired under paragraph (1) shall accommodate activities such as research, experiments, investigations, demonstrations, and case studies of the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and impairments of man, as well as the support function necessary for such activities.

"(3) If the lease-purchase contract involves new construction, the building may be built by a private party on land owned by the United States and under the jurisdiction of the Public Health Service or on land not owned by the United States. The title to such health facilities and the associated land leased under this authority, shall vest in the United States on the expiration of the contract term, or at the time the United States fulfills its financial obligation under the contract.

"(4) The Secretary shall notify Congress annually of the terms of the lease-purchase contracts.".

Subtitle G—Drug Education

SEC. 3081. SHORT TITLE.

This subtitle may be cited as the "Drug-Free Schools Amendments of 1988".

SEC. 3082. AUTHORIZATION OF APPROPRIATIONS.

Section 5111(a) of the Drug-Free Schools and Communities Act of 1986 (hereafter in this subtitle referred to as the "Act") is amended by striking out "$250,000,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993" and inserting in lieu thereof "$405,000,000 for fiscal year 1989, $489,500,000 for fiscal year 1990, $538,450,000 for fiscal year 1991, $592,295,000 for fiscal year 1992, and $651,524,500 for fiscal year 1993".

SEC. 3083. NEW STATE PROGRAMS.

(a) TRAINING ACTIVITIES PRIORITY.—Section 5122(a) of the Act is amended by inserting at the end thereof the following new flush sentence:

"Activities described in paragraph (2) of this subsection shall receive priority for the use of funds allocated under this section.".

(b) STATE REGIONAL CENTERS AUTHORIZED.—Section 5122(a) of the Act is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new paragraph:

"(7) State regional drug and alcohol abuse education and prevention centers for providing outreach, consultation, training, and referral services to schools, organizations, and members of the community.".

(c) INNOVATIVE PROGRAMS.—Section 5122(b) of the Act is amended—

(1) by redesignating subparagraphs (B) through (I) as subparagraphs (C) through (J), respectively; and

(2) by adding after subparagraph (A) the following new subparagraph:

"(B) has experienced chronic failure in school;".

SEC. 3084. STATE APPLICATIONS.

Section 5123(b) of the Act is amended—

(1) by redesignating paragraphs (6) through (9) as paragraphs (7) through (10), respectively;

(2) by adding after paragraph (5) the following new paragraph:

"(6) include a detailed comprehensive plan describing how money allocated to the chief executive officer is to be used;";

(3) by striking out "and" at the end of paragraph (9) (as redesignated by this section);

(4) by striking out the period at the end of paragraph (10) (as redesignated by this section) and inserting in lieu thereof a semicolon; and

(5) by adding at the end thereof the following new paragraph:

"(11) provide a description of State Teacher Certification requirements, if applicable, regarding training in drug and alcohol abuse education and prevention including a description of the extent to which substance abuse education and prevention is included in teacher training curricula in the State.".

SEC. 3085. RESPONSIBILITY OF STATE AGENCIES.

(a) MODEL CURRICULUM.—Section 5124(b)(2) of the Act is amended to read as follows:

"(2) the development, identification, and dissemination of model curriculum materials for consideration by local educational agencies and for evaluation of the materials;".

(b) TEACHER TRAINING PRIORITY.—Section 5124(b) of the Act is further amended by inserting at the end thereof the following new flush sentence:

"Activities described in paragraph (1) of this subsection shall receive priority for the use of funds allocated under this section.".

SEC. 3086. LOCAL DRUG AND ALCOHOL ABUSE EDUCATION AND PREVENTION PROGRAMS.

(a) COUNSELING PROGRAMS.—Section 5125(a)(4) of the Act is amended by striking out "and parents," and inserting in lieu thereof a comma and the following: "parents, and families,".

(b) COUNSELING AND REFERRAL SERVICES.—Section 5125(a) of the Act is amended—

(1) by redesignating paragraphs (5) through (12) as paragraphs (7) through (14), respectively; and

(2) by adding after paragraph (4) the following new paragraphs:

"(5) outreach activities, drug and alcohol abuse prevention programs, and referral services, for school dropouts;

"(6) counseling programs and referral services for parents and siblings of drug and alcohol abusers;".

SEC. 3087. REPORTS.

Section 5127 of the Act is amended to read as follows:

"SEC. 5127. REPORTS.

"(a) STATE REPORTS.—Each State shall submit to the Secretary a biennial report that contains information on the State and local programs conducted with assistance furnished under this Act. Each such report shall be in a standard format and shall request standard information as prescribed by the Secretary and shall include—

"(1) a description of the extent of the current drug and alcohol problem in the elementary and secondary schools in the State;

"(2) a description of the drug and alcohol policy in the schools in the State;

"(3) the number of individuals served by this Act;

"(4) the characteristics of populations served;

"(5) types of service provided and duration of the services;

"(6) information on how the State has targeted the populations listed under section 5122(b)(2) of this Act; and

"(7) a description of the effectiveness of the drug and alcohol abuse education and prevention programs in the State.

"(b) LOCAL REPORTS.—Each local educational agency receiving funds under this Act shall submit to the appropriate State educational agency such information as is requested by such State educational agency for purposes of preparing the biennial report required in subsection (a). Such information shall be requested by the State educational agency as part of the local educational agency application and progress reports required under section 5126.".

SEC. 3088. TEACHER TRAINING.

(a) IN GENERAL.—The Act is amended—

(1) by redesignating part C, part D, and part E as part D, part E, and part F, respectively; and

(2) by inserting after part B the following new part:

"PART C—TEACHER TRAINING

"SEC. 5128. PROGRAM AND ALLOCATIONS.

"(a) IN GENERAL.—From the sum available under section 5112(c), the Secretary shall make grants to State educational agencies, local educational agencies, and institutions of higher education for teacher training programs in accordance with this part.

"(b) USE OF FUNDS.—Funds made available under this part shall be used to establish, expand, or enhance programs and activities for the training of teachers, administrators, counselors, and other educational personnel concerning drug and alcohol abuse education and prevention. Such programs shall be coordinated through the State agency for higher education or State educational agency, as appropriate, and, shall be coordinated, as appropriate, with the activities of the Regional Centers established under section 5135 of this title.

"(c) APPLICATIONS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, a State educational agency, a local or intermediate educational agency, an institution of higher education, or consortium thereof, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—

"(A) set forth the activities and programs to be carried out with funds paid under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case supplant such funds;

"(D) provide assurances of compliance with the provisions of this part; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.".

(b) AUTHORIZATION FOR PART C.—Section 5111(a) of the Act is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by inserting after "title" the following: "(other than part C)"; and

(3) by adding at the end thereof the following:

"(2)(A) Subject to subparagraph (B), for the purpose of carrying out part C, there are authorized to be appropriated $16,000,000 for fiscal year 1989, and $20,000,000 for each of the succeeding fiscal years ending prior to October 1, 1993.

"(B) No funds may be appropriated for any fiscal year under subparagraph (A) unless the amount appropriated under paragraph (1) of this subsection exceeds $230,000,000 for such year.".

SEC. 3089. FEDERAL ACTIVITIES.

(a) IN GENERAL.—Section 5132(b)(3) of the Act is amended by inserting before the semicolon a comma and the following: "and coordinate activities to support and complement private media efforts of the Partnership for a Drug-Free America".

(b) STUDIES.—(1) Section 5132(c) of the Act is amended—

(A) by inserting "(1)" before "The"; and

(B) by striking out the last sentence and inserting in lieu thereof the following:

"(2) The Secretary shall summarize and consolidate the reports submitted under section 5127(a) and shall transmit such summary and consolidation, together with recommendations for future education and prevention efforts to the Associate Director of the Office on National Drug Control Policy, and to the Congress.

"(3) The Secretary, in conjunction with the Secretary of Health and Human Services, shall conduct an independent evaluation, directly or by contract, of a representative sample of programs assisted under this title and shall identify successful projects which may be replicated by other local educational agencies throughout the country. The Secretary shall transmit—

"(A) an interim report containing the results of such evaluation and a description of such projects to the Congress not later than October 1, 1991, and

"(B) a final report containing such information not later than January 1, 1994.

In addition, the Secretary shall disseminate such information through the National Diffusion Network, and through the Regional Centers contained in section 5135.".

SEC. 3090. DRUG-FREE SCHOOLS MODEL CRITERIA AND FORMS.

Section 5142 of the Act is amended by redesignating subsection (b) as subsection (c) and inserting the following new subsection after subsection (a):

"(b) MODEL CRITERIA AND FORMS.—The Secretary, in consultation with national organizations, shall develop model criteria and forms for the collection of data and information with respect to programs assisted under this title. In order to enable schools and community-based organizations to share uniform data and information with respect to programs assisted under this part, the model criteria and forms shall be disseminated to the Regional Centers as a resource to State and local educational programs.".

SEC. 3091. DEVELOPMENT OF EARLY CHILDHOOD EDUCATION DRUG ABUSE PREVENTION CURRICULUM MATERIALS.

The Act is further amended—

(1) by redesignating part F as part G; and

(2) by inserting after part E the following new part:

"PART F—DEVELOPMENT OF EARLY CHILDHOOD EDUCATION DRUG ABUSE PREVENTION CURRICULUM MATERIALS

"SEC. 5151. PROGRAM AUTHORIZED.

"(a) GENERAL AUTHORITY.—The Secretary shall, in consultation with the Secretary of Health and Human Services, provide for the development of age-appropriate drug abuse education and prevention curricula, programs, and training materials for use in early child development programs, and provide for the dissemination of such materials to early child development programs, including Head Start programs, preschool programs funded under chapter 1 of title I of the Education Consolidation and Improvement Act, and such other preschool programs as the Secretary deems appropriate.

"(b) RESERVATION.—The Secretary shall, from sums appropriated under section 5112(a)(5), reserve not less than $1,000,000 to carry out the development and dissemination of the materials provided for in this part.".

SUBTITLE H—EFFECTIVE DATE

SEC. 3092. EFFECTIVE DATE.

This title and the amendments made by this title shall become effective on October 1, 1988, or on the date of the enactment of this Act, whichever occurs later.

TITLE IV—INTERNATIONAL NARCOTICS CONTROL AND ASSISTANCE TO FOREIGN COUNTRIES

SEC. 4001. TABLE OF CONTENTS.

The table of contents for this title is as follows:

TITLE V—INTERNATIONAL NARCOTICS CONTROL AND ASSISTANCE TO FOREIGN COUNTRIES

Sec. 4001. Table of contents.

Subtitle A—Authorization of Appropriations; Allocation of Funds

Sec. 4101. Authorizations of appropriations.

Sec. 4102. Authorizations of appropriations for multilateral and regional drug abuse control programs.

Sec. 4103. Machine-readable document border security program.

Sec. 4104. Cooperative nonmajor drug-transit countries.

Sec. 4105. Additional funds for rewards for information relating to international terrorism.

Sec. 4106. Reallocation of funds withheld from countries which fail to take adequate steps to halt illicit drug production or trafficking.

Sec. 4107. Pilot and aircraft maintenance training for narcotics control activities.

Sec. 4108. Procurement of weapons to defend aircraft involved in narcotics control efforts.

Subtitle B—Restrictions on Foreign Assistance and Trade Benefits

Sec. 4201. Certification procedures under the Trade Act of 1974 for drug producing and drug-transit countries.

Sec. 4202. Certification procedures for drug producing and drug-transit countries under the Foreign Assistance Act of 1961.

Sec. 4203. Criteria for certifications.

Sec. 4204. Permissible uses of aircraft and equipment.

Sec. 4205. Exemption for assistance for narcotics awareness.

Subtitle C—Reporting Requirements

Sec. 4301. Reports concerning certain countries.

Sec. 4302. Reporting on transfer of United States assets.

Sec. 4303. Information from other agencies in annual narcotics control reports.

Sec. 4304. Reports on assistance denied and on identities of corrupt officials.

Sec. 4305. Expression in numerical terms of maximum achievable reductions in illicit drug production.

Sec. 4306. Report on assistance to drug source countries.

Sec. 4307. Notification and report on drug producing and drug-transit countries.

Subtitle D—Latin American Anti-Drug Strike Force

Sec. 4401. Latin American anti-drug strike force.

Subtitle E—Miscellaneous Provisions

Sec. 4501. Contracting authority.

Sec. 4502. International currency transaction reporting.

Sec. 4503. Policy toward an international drug conference.

Sec. 4504. Sense of the Congress calling for negotiations to create an international drug force.

Sec. 4505. United States reliance on narcotics raw materials from foreign sources.

Subtitle A—Authorization of Appropriations; Allocation of Funds

SEC. 4101. AUTHORIZATIONS OF APPROPRIATIONS.

Section 482(a) of the Foreign Assistance Act of 1961 is amended—

(1) by amending paragraph (1) to read as follows:

"(1) To carry out the purposes of section 481, there are authorized to be appropriated to the President $101,000,000 for the fiscal year 1989."; and

(2) by striking out paragraph (3).

SEC. 4102. AUTHORIZATION OF APPROPRIATIONS FOR MULTILATERAL AND REGIONAL DRUG ABUSE CONTROL PROGRAMS.

Section 302 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(j) In addition to amounts otherwise available under this section for such purposes, there are authorized to be appropriated to the President $5,000,000 for fiscal year 1989 to be available only for the United States contribution to multilateral and regional drug abuse control programs. Of the amount authorized to be appropriated by the preceding sentence—

"(1) $3,000,000 shall be for the United States contribution to the United Nations Fund for Drug Abuse Control;

"(2) $600,000 shall be for the Organization of American States (OAS) Inter-American Drug Abuse Control Commission (CICAD) Legal Development Project, except that the proportion which such amount bears to the total amount of contributions to this specific project may not exceed the proportion which the United States contribution to the OAS budget for that fiscal year bears to the total contributions to the OAS budget for that fiscal year; and

"(3) $400,000 shall be for the Organization of American States (OAS) Inter-American Drug Abuse Control Commission (CICAD) Law Enforcement Training Project, except that the proportion which such amount bears to the total amount of contributions to this specific project may not exceed the proportion which the United States contribution to the OAS budget for that fiscal year bears to the total contributions to the OAS budget for that fiscal year.".

SEC. 4103. MACHINE-READABLE DOCUMENT BORDER SECURITY PROGRAM.

(a)(1) There are authorized to be appropriated for the development, procurement, and implementation of a machine-readable travel and identity document border security program for fiscal year 1989, $23,000,000, of which amount $7,000,000 shall be available only for the United States Customs Service, $7,000,000 shall be available only for the Immigration and Naturalization Service in the Department of Justice, and $9,000,000 shall be available only for the Department of State to carry out the provisions of this section.

(2) Appropriations made pursuant to paragraph (1) shall be in addition to any appropriations requested by the President in his budget presented to the Congress on February 18, 1988, or appropriated in any regular appropriations Acts or continuing resolutions for the fiscal year ending on September 30, 1989.

(b) The Department of State, the United States Customs Service, and the Immigration and Naturalization Service shall develop a comprehensive machine-readable travel and identity document border security program that will improve border entry and departure control through automated data capture of machine-readable travel and identity documents. Within 60 days of the date of enactment of this Act, the Department of State, the Customs Service, and the Immigration and Naturalization Service shall jointly submit a detailed implementation plan to the Congress and the President regarding how they intend to carry out the program authorized under this section. Such border security program shall include an integrated cooperative data exchange system that will incorporate law enforcement data on narcotics traffickers, terrorists, convicted criminals, fugitives, and others currently documented in the Lookout Systems of all three agencies and departments. In developing this border security program mandated in this section, the agencies and departments shall ensure that at least the following documents shall be integrated into the program and be machine-readable: border crossing cards; alien registration; pilots licenses; passports; and visas.

(c) The following agencies and organizations shall contribute appropriate law enforcement data to the integrated cooperative data exchange system mandated in subsection (b) and shall update such information into the system on no less than a monthly basis:

(1) the Drug Enforcement Administration in the Department of Justice;

(2) the Federal Bureau of Investigation in the Department of Justice;

(3) INTERPOL;

(4) the Bureau of Alcohol, Tobacco, and Firearms in the Department of Treasury;

(5) the Internal Revenue Service in the Department of Treasury;

(6) the Federal Aviation Administration in the Department of Transportation;

(7) the United States Marshals Service in the Department of Justice; and

(8) the United States Coast Guard in the Department of Transportation.

(d) All agencies participating in the development and implementation of the border security program and systems mandated and authorized in this section shall maintain their participation and contributions to the program and systems authorized under this section at full implementation levels in fiscal years 1990, 1991, and 1992, subject to the availability of appropriations.

SEC. 4104. COOPERATIVE NONMAJOR DRUG-TRANSIT COUNTRIES.

(a) The Assistant Secretary of State for International Narcotics Matters shall give greater attention, and provide more narcotics control assistance, to those countries which are drug-transit countries but are not major drug-transit countries (as defined in section 481(i)(5) of the Foreign Assistance Act of 1961) and which are cooperating fully with the United States in its international narcotics control efforts.

(b) Of the amounts made available for the fiscal year 1989 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control), not less than $2,500,000 shall be available only for assistance to countries described in subsection (a).

SEC. 4105. ADDITIONAL FUNDS FOR REWARDS FOR INFORMATION RELATING TO INTERNATIONAL TERRORISM.

Section 36(g) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(g)) is amended in the first sentence by striking out "$5,000,000" and inserting in lieu thereof "$6,000,000".

SEC. 4106. REALLOCATION OF FUNDS WITHHELD FROM COUNTRIES WHICH FAIL TO TAKE ADEQUATE STEPS TO HALT ILLICIT DRUG PRODUCTION OR TRAFFICKING.

(a) Chapter 8 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"SEC. 486. REALLOCATION OF FUNDS WITHHELD FROM COUNTRIES WHICH FAIL TO TAKE ADEQUATE STEPS TO HALT ILLICIT DRUG PRODUCTION OR TRAFFICKING.

"(a) ADDITIONAL ASSISTANCE FOR COUNTRIES TAKING SIGNIFICANT STEPS.—If any funds authorized to be appropriated for any fiscal year for security assistance are not used for assistance for the country for which those funds were allocated because of the requirements of section 481(h) or any other provision of law requiring the withholding of assistance for countries that have not taken adequate steps to halt illicit drug production or trafficking, the President shall use those funds for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking, as follows:

"(1) INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.—Those funds may be transferred to and consolidated with the funds appropriated to carry out this chapter in order to provide additional narcotics control assistance for those countries. Funds transferred under this paragraph may only be used to provide increased funding for activities previously justified to the Congress. Transfers may be made under this paragraph without regard to the 20-percent increase limitation contained in section 610(a). This paragraph does not apply with respect to funds made available for assistance under the Arms Export Control Act.

"(2) SECURITY ASSISTANCE.—Any such funds not used under paragraph (1) shall be reprogrammed within the account for which they were appropriated (subject to the regular reprogramming procedures under section 634A) in order to provide additional security assistance for those countries.

"(b) DEFINITION OF SECURITY ASSISTANCE.—As used in this section, the term 'security assistance' means assistance under chapter 2 of part II of this Act (relating to the military assistance program), chapter 4 of part II of this Act (relating to the Economic Support Fund), chapter 5 of part II of this Act (relating to international military education and training), or the Arms Export Control Act (relating to foreign military sales credits).".

(b) The amendment made by subsection (a) does not apply with respect to funds appropriated prior to the date of enactment of this Act.

SEC. 4107. PILOT AND AIRCRAFT MAINTENANCE TRAINING FOR NARCOTICS CONTROL ACTIVITIES.

(a) EARMARKING OF FUNDS.—Not less than $2,000,000 of the funds made available for fiscal years 1989 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training) shall be available only for—

(1) education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts for countries in Latin America and the Caribbean; and

(2) the expenses of deploying, upon the request of the government of a foreign country, Department of Defense mobile training teams in that foreign country to conduct training in military-related individuals and collective skills that will enhance that country's ability to conduct tactical operations in narcotics interdiction.

(b) RELATIONSHIP TO INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance under this section shall be coordinated with assistance provided under chapter 8 of part I of that Act (relating to international narcotics control).

(c) WAIVER OF SECTION 660.—Assistance may be provided pursuant to this section notwithstanding the prohibition contained in section 660 of the Foreign Assistance Act of 1961 (relating to police training).

SEC. 4108. PROCUREMENT OF WEAPONS TO DEFEND AIRCRAFT INVOLVED IN NARCOTICS CONTROL EFFORTS.

(a) EARMARKING OF MAP FUNDS.—Of the funds available to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to grant military assistance), $1,000,000 for the fiscal year 1989 shall be made available to arm, for defensive purposes, aircraft used in narcotic control eradication or interdiction efforts. These funds may only be used to arm aircraft already in the inventory of the recipient country and may not be used for the purchase of new aircraft.

(b) Notification to Congress.—The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate shall be notified of the use of any such funds for that purpose at least 15 days in advance in accordance with the reprogramming procedures applicable under section 634A of the Foreign Assistance Act of 1961.

Subtitle B—Restrictions on Foreign Assistance and Trade Benefits

SEC. 4201. CERTIFICATION PROCEDURES UNDER THE TRADE ACT OF 1974 FOR DRUG PRODUCING AND DRUG-TRANSIT COUNTRIES.

(a) In General.—Paragraph (1) of section 802(b) of the Trade Act of 1974 (19 U.S.C. 2492(b)(1)) is amended to read as follows:

"(1) Subsection (a) shall not apply with respect to a country if the President determines and so certifies to the Congress, at the time of the submission of the report required by section 481(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)), that—

"(A) during the previous year that country has cooperated fully with the United States, or has taken adequate steps on its own—

"(i) in preventing narcotic and psychotropic drugs and other controlled substances produced or processed, in whole or in part, in such country or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States;

"(ii) in preventing and punishing the laundering in that country of drug-related profits or drug-related monies; and

"(iii) in preventing and punishing bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts; or

"(B) for a country that would not otherwise qualify for certification under subparagraph (A), the vital national interests of the United States require exemption of such country from the provisions of subsection (a).".

(b) Conditions on Certification.—Paragraph (2) of section 802(b) of the Trade Act of 1974 (19 U.S.C. 2492(b)(2)) is amended to read as follows—

"(2) In making the certification required by paragraph (1) of this subsection, the President shall consider whether such government—

"(A) has taken actions that have resulted in maximum reductions in illicit drug production which were determined to be achievable pursuant to subsection (e)(4);

"(B) has taken the legal and law enforcement measures to enforce in its territory, to the maximum extent possible, the elimination of illicit cultivation and the suppression of illicit manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances, as evidenced by seizures of such drugs and substances, and the arrest, prosecution, conviction and incarceration of violators involved in the traffic in such drugs and substances affecting the United States;

"(C) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, the laundering in that country of drug-related profits or drug-related moneys, as evidenced by—

"(i) the enactment and enforcement of laws prohibiting such conduct,

"(ii) whether such government has entered into and is cooperating under the terms of mutual legal assistance agreements with the United States governing (but not limited to) money laundering, and

"(iii) the degree to which such government otherwise cooperates with United States law enforcement authorities on anti-money laundering efforts;

"(D) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts, as evidenced by the enactment and enforcement of laws prohibiting such conduct;

"(E) has, as a matter of government policy, encouraged or facilitated the production or distribution of illegal drugs;

"(F) has any senior official who engages in, encourages, or facilitates the production or distribution of illegal drugs;

"(G) has investigated aggressively all cases in which any member of an agency of the United States Government engaged in drug enforcement activities since January 1, 1985, has been the victim of acts or threats of violence, inflicted by or with the complicity of any law enforcement or other officer of such country or any political subdivision thereof, and has energetically sought to bring the perpetrators of such offense or offenses to justice; and

"(H) having been requested to do so by the United States Government, fails to provide reasonable cooperation to lawful activities of United States drug enforcement agents, including the refusal of permission to such agents engaged in interdiction of aerial smuggling into the United States to pursue suspected aerial smugglers a reasonable distance into the airspace of the requested country.

"(I) has made necessary changes in legal codes in order to enable law enforcement officials to move more effectively against narcotics traffickers, such as new conspiracy laws and new asset seizure laws;

"(J) has expeditiously processed United States extradition requests relating to narcotics trafficking; and

"(K) has not protected or given haven to any known drug traffickers and has expeditiously processed extradition requests relating to narcotics trafficking made by other countries.".

(c) Definition.—Section 805(3) of the Trade Act of 1974 (19 U.S.C. 2495(3)) is amended—

(1) by striking out "or" at the end of clause (B);

(2) by striking out the period at the end of clause (C) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new clause:

"(D) in which bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts, are a significant problem.".

(d) Miscellaneous Amendments.—Subsection (b) of section 802 of the Trade Act of 1974 (19 U.S.C. 2492(b)) is amended—

(1) by striking out "30" in paragraph (3) and inserting in lieu thereof "45";

(2) by striking out "30" each place it appears in paragraph (4) and inserting in lieu thereof "45"; and

(3) by adding at the end thereof the following new paragraph:

"(6) For purposes of this section, any country which was designated in the previous year as a major drug producing or drug transit country may not be considered to be cooperating fully with the United States unless it has entered into a bilateral narcotics agreement with the United States or multilateral agreement which achieves the objectives of this section.".

SEC. 4202. CERTIFICATION PROCEDURES FOR DRUG PRODUCING AND DRUG-TRANSIT COUNTRIES UNDER THE FOREIGN ASSISTANCE ACT OF 1961.

(a) Section 481(h)(2)(A)(i)(I) of the Foreign Assistance Act of 1961 is amended by inserting after "drug-related monies" the following: "and in preventing and punishing bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts".

(b) Section 481(h)(2)(A) of the Foreign Assistance Act of 1961 is amended by inserting "or a multilateral agreement which achieves the objectives of this subsection" after "(ii)".

(c) Section 585(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202), is hereby repealed.

SEC. 4203. CRITERIA FOR CERTIFICATIONS.

Subsection 481(h)(3) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(3) In making the certification required by paragraph (2) of this subsection, the President shall consider whether such government—

"(A) has taken actions that have resulted in maximum reductions in illicit drug production which were determined to be achievable pursuant to subsection (e)(4);

"(B) has taken the legal and law enforcement measures to enforce in its territory, to the maximum extent possible, the elimination of illicit cultivation and the suppression of illicit manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances, as evidenced by seizures of such drugs and substances, and the arrest, prosecution, conviction and incarceration of violators involved in the traffic in such drugs and substances affecting the United States;

"(C) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, the laundering in that country of drug-related profits or drug-related moneys, as evidenced by—

"(i) the enactment and enforcement of laws prohibiting such conduct,

"(ii) whether such government has entered into and is cooperating under the terms of mutual legal assistance agreements with the United States governing (but not limited to) money laundering, and

"(iii) the degree to which such government otherwise cooperates with United States law enforcement authorities on anti-money laundering efforts;

"(D) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts, as evidenced by the enactment and enforcement of laws prohibiting such conduct;

"(E) has, as a matter of government policy, encouraged or facilitated the production or distribution of illegal drugs;

"(F) has any senior official who engages in, encourages, or facilitates the production or distribution of illegal drugs;

"(G) has investigated aggressively all cases in which any member of an agency of the United States Government engaged in drug enforcement activities since January 1, 1985, has been the victim of acts or threats of violence, inflicted by or with the complicity of any law enforcement or other officer of such country or any political subdivision thereof, and has energetically sought to bring the perpetrators of such offense or offenses to justice; and

"(H) having been requested to do so by the United States Government, fails to provide reasonable cooperation to lawful activities of United States drug enforcement agents, including the refusal of permission to such agents engaged in interdiction of aerial smuggling into the United States to pursue suspected aerial smugglers a reasonable distance into the airspace of the requested country.

"(I) has made necessary changes in legal codes in order to enable law enforcement officials to move more effectively against narcotics traffickers, such as new conspiracy laws and new asset seizure laws;

"(J) has expeditiously processed United States extradition requests relating to narcotics trafficking; and

"(K) has not protected or given haven to any known drug traffickers and has expeditiously processed extradition requests relating to narcotics trafficking made by other countries.".

SEC. 4204. PERMISSIBLE USES OF AIRCRAFT AND EQUIPMENT.

(a) CERTIFICATION REQUIRED.—Section 481(e)(3) of the Foreign Assistance Act of 1961 is amended—

(1) by redesignating clauses (C) and (D) as clauses (D) and (E), respectively; and

(2) by inserting after clause (B) the following:

"(C) A certification by the Secretary of State that such country has not engaged in a pattern of misuse of United States aircraft or equipment made available under this chapter, including but not limited to spraying of food crops and transportation of troops or munitions for military purposes.".

(b) ELIGIBILITY FOR ASSISTANCE.—Section 482 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(b) Assistance may be provided under this chapter to a foreign country only if the Secretary of State has made a certification with respect to that country under section 481(e)(3)(C).".

SEC. 4205. EXEMPTION FOR ASSISTANCE FOR NARCOTICS AWARENESS.

Section 481(i)(4) of the Foreign Assistance Act of 1961 is amended in the text below clause (E)—

(1) by redesignating subclause (vii) as subclause (viii); and

(2) by inserting "(vii) assistance for narcotics education and awareness activities under section 126 of this Act," after "this Act,".

Subtitle C—Reporting Requirements

SEC. 4301. REPORTS CONCERNING CERTAIN COUNTRIES.

Section 2013 of the Anti-Drug Abuse Act of 1986 is amended—

(1) in subsection (a), by striking out "Not later than 6 months after the date of enactment of this Act and every 6 months thereafter," and inserting in lieu thereof "As part of each report required by section 481(e) of the Foreign Assistance Act of 1961,"; and

(2) in subsection (b), before "unless" insert "during the one-year period beginning on the date on which the report in which it was listed was submitted to the Congress".

SEC. 4302. REPORTING ON TRANSFER OF UNITED STATES ASSETS.

Any transfer by the United States Government to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the United States Government in connection with narcotics-related criminal activity shall be subject to the regular reprogramming procedures applicable under section 634A of the Foreign Assistance Act of 1961. At the end of each fiscal year, the President shall submit a report to the Congress of all such transfers during that fiscal year, including an estimate of the fair market value and physical condition of each item of property transferred.

SEC. 4303. INFORMATION FROM OTHER AGENCIES IN ANNUAL NARCOTICS CONTROL REPORTS.

Section 481(e)(3) of the Foreign Assistance Act of 1961 is amended by adding after subparagraph (D) the following:

"(E) A section prepared by the Drug Enforcement Administration, a section prepared by the Customs Service, and a section prepared by the Coast Guard, which describes in detail—

"(i) the assistance provided or to be provided (as the case may be) to such country by that agency, and

"(ii) the assistance provided or to be provided (as the case may be) to that agency by such country,

with respect to narcotic control efforts during the preceding fiscal year, the current fiscal year, and the next fiscal year.".

SEC. 4304. REPORTS ON ASSISTANCE DENIED AND ON IDENTITIES OF CORRUPT OFFICIALS.

Section 481(e) of the Foreign Assistance Act of 1961 is amended by adding at the end the following new paragraphs:

"(8) Each report pursuant to this subsection shall describe the United States assistance for the preceding fiscal year which was denied, pursuant to subsection (h), to each major illicit drug producing country and each major drug-transit country.

"(9) Each report pursuant to this subsection shall describe, for each government evaluated under subparagraphs (D) through (G) of subsection (h)(3), the activities and identities of officials whose activities caused such government to be so evaluated.".

SEC. 4305. EXPRESSION IN NUMERICAL TERMS OF MAXIMUM ACHIEVABLE REDUCTIONS IN ILLICIT DRUG PRODUCTION.

Section 481(e)(4) of the Foreign Assistance Act of 1961 is amended by inserting after the second sentence the following: "Each determination of the President under the preceding sentence shall be expressed in numerical terms, such as the number of acres of illicitly cultivated controlled substances which can be eradicated.".

SEC. 4306. REPORT ON ASSISTANCE TO DRUG SOURCE COUNTRIES.

For the first report required pursuant to section 481(e) of the Foreign Assistance Act of 1961 after the date of enactment of this Act, the President shall include an assessment of what, if any, incentives may be appropriately provided to encourage each such country's further cooperation in an international strategy to prevent the illicit cultivation and manufacture of, and traffic in, narcotic and psychotropic drugs and other controlled substances.

SEC. 4307. NOTIFICATION AND REPORT ON DRUG PRODUCING AND DRUG-TRANSIT COUNTRIES.

Section 481(h) of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new paragraph:

"(6)(A) For purposes of identifying those countries which are subject to the restrictions of paragraph (1) and which are eligible for certification pursuant to paragraph (2), the Secretary of State shall prepare and transmit, not later than October 1 of each year, to the Congress a report identifying those countries which he determines, in accordance with subsection (i), to be major illicit drug producing countries and major drug-transit countries.

"(B) At least 30 days before the submission of such report, the Secretary of State shall notify the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives of those countries proposed to be identified in the report.

"(C) Each preliminary notification and report required by this paragraph shall include a description of the criteria used to define major drug-transit countries within the meaning of paragraph (5) of subsection (i).".

Subtitle D—Latin American Anti-Drug Strike Force

SEC. 4401. LATIN AMERICAN ANTI-DRUG STRIKE FORCE.

(a) The President shall direct the United States Ambassador to the Organization of American States, under the direction of the Secretary of State, to initiate diplomatic discussions with member states of the Organization of American States aimed at securing agreement to the formation of a multinational strike force to conduct operations against international illegal drug smuggling organizations wherever they may be found in the Western Hemisphere.

(b)(1) Not later than 6 months after the date of enactment of this Act, the Secretary of State shall report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on the progress United States diplomatic efforts have made toward achieving agreement on the establishment of such a multinational strike force.

(2) If diplomatic efforts toward achieving such a multinational strike force demonstrate progress or, if agreement has been reached, within 30 days after receipt of the report required under paragraph (1), the President shall submit to the Congress a supplemental budget request for the fiscal year ending September 30, 1989, and the fiscal year ending September 30, 1990, covering the United States share of the cost of operation and maintenance of the Latin American strike force established pursuant to this section.

Subtitle E—Miscellaneous Provisions

SEC. 4501. CONTRACTING AUTHORITY.

Section 482 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(e) All narcotics control program requirements for goods and services authorized to be funded pursuant to section 481 of this Act shall be considered, for purposes of chapter 1 of title 48 of the Code of Federal Regulations, to be of unusual and compelling urgency.".

SEC. 4502. INTERNATIONAL CURRENCY TRANSACTION REPORTING.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—The Congress finds that—

(A) the success of cash transaction and money laundering control statutes in the United States has been significant; and

(B) the United States should play a leadership role in the development of an international system of a similar kind.

(2) PURPOSE.—It is the purpose of this section to urge the United States Government, to the maximum extent practicable, to seek the active cooperation of other countries in the enforcement of these statutes, since only a truly multilateral approach can be effective in eliminating bank haven loopholes through which money launderers can escape.

(b) ESTABLISHMENT OF INTERNATIONAL AGENCY.—The Congress urges the Secretary of the Treasury to negotiate with finance ministers of foreign countries to establish an international currency control agency to—

(1) serve as a central source of information and database for international drug enforcement agencies;

(2) collect and analyze currency transaction reports filed by member countries; and

(3) encourage the adoption, by member countries, of uniform cash transaction and money laundering statutes.

(c) MAINTENANCE OF DOMESTIC EFFORT.—While establishing a multilateral agency will be the most effective method of combatting money laundering, the United States must itself continue to do everything it can to curb international money laundering.

SEC. 4503. POLICY TOWARD AN INTERNATIONAL DRUG CONFERENCE.

It is the sense of the Congress that—

(1) the President should convene as soon as possible an international conference to be known as the "International Conference on Combatting Illegal Drug Production, Trafficking, and Use in the Western Hemisphere";

(2) such conference should involve the heads of state, the highest-ranking law enforcement officers, and other appropriate officials from every government in the Western Hemisphere that is willing to combat the drug trade, and whose cooperation the President determines is essential to that goal; and

(3) such conference should focus exclusively on combatting the drug trade and, in particular, should emphasize enhancing cooperative efforts among the governments of the Western Hemisphere to—

(A) substantially reduce the production, cultivation, and processing of illicit drugs;

(B) eliminate the transshipment of such drugs through countries in the Western Hemisphere;

(C) curb the demand for and use of such drugs in every country in the Western Hemisphere;

(D) combat the problems of drug-related corruption and drug money laundering; and

(E) share intelligence information, extradite drug traffickers, and take other steps necessary to improve law enforcement efforts against the drug trade.

SEC. 4504. SENSE OF THE CONGRESS CALLING FOR NEGOTIATIONS TO CREATE AN INTERNATIONAL DRUG FORCE.

It is the sense of the Congress that the President should call for international negotiations for the purpose of agreeing on the establishment of an international drug force to pursue and apprehend major international drug traffickers.

SEC. 4505. UNITED STATES RELIANCE ON NARCOTICS RAW MATERIAL FROM FOREIGN SOURCES.

(a) REVIEW.—The President shall conduct a review of United States narcotics raw material policy to determine—

(1) the current and reserve international needs for opium-derived pharmaceutical and chemical products, and the relative capabilities for meeting those needs through the opium gum process and the concentrated poppy straw method of production;

(2) whether the United States should continue to rely on a single foreign country for all its licit opium gum;

(3) whether it should be United States policy to encourage all countries which produce licit opium to use the concentrated poppy straw method of production; and

(4) what options are available, consistent with treaties to which the United States is a party, to reduce United States reliance on licit opium gum from foreign sources.

The results of this review shall be reported to the Congress six months after the date of enactment of this Act.

(b) RESTRICTION ON PRESIDENTIAL CERTIFICATION.—Section 481(h)(2)(A) of the Foreign Assistance Act of 1961 is amended—

(1) in clause (i) by striking out "The" and inserting in lieu thereof "Subject to clause (iii), the"; and

(2) by adding at the end thereof the following new clause:

"(iii) The President may make a certification under clause (i)(I) with respect to any major drug producing or drug-transit country which is also a producer of licit narcotics raw materials, such as opium or coca, only if the President determines that such country has taken steps to prevent significant diversion of its licit cultivation and production into the illicit market, maintains production and stockpiles at levels no higher than those consistent with licit market demand, and prevents illicit cultivation and production.".

TITLE V—USER ACCOUNTABILITY

Subtitle A—Opposition to Legalization and Public Awareness

Sec. 5001. Sense of the Congress opposing legalization of drugs.
Sec. 5002. Public awareness campaign.

Subtitle B—National Commission on Drug-Free Schools

Sec. 5051. National commission on drug-free schools.

Subtitle C—Preventing Drug Abuse in Public Housing

CHAPTER 1—REGULATORY AND ENFORCEMENT PROVISIONS

Sec. 5101. Termination of tenancy in public housing.
Sec. 5102. Authority to hire investigators of drug crimes.
Sec. 5103. Amendment for bureau of justice assistance block grant program authorization.
Sec. 5104. Inclusion of a leasehold interest in property subject to forfeiture under the controlled substances act.

CHAPTER 2—PUBLIC HOUSING DRUG ELIMINATION PILOT PROGRAM

Sec. 5125. Short title.
Sec. 5126. Findings.
Sec. 5127. Program authorized.
Sec. 5128. Authorized activities.
Sec. 5129. Application.
Sec. 5130. Implementation.
Sec. 5131. Report to Congress.
Sec. 5132. Authorization.

CHAPTER 3—REPORT ON IMPACT OF PUBLIC HOUSING LEASE AND GRIEVANCE REGULATION ON THE ABILITY OF PHAS TO TAKE ACTION AGAINST TENANTS ENGAGING IN CRIMINAL ACTIVITY

Sec. 5141. Report on impact of public housing lease and grievance regulation on the ability of PHAS to take action against tenants engaging in criminal activity.

Subtitle D—Drug-Free Workplace Act of 1988

Sec. 5201. Short title.
Sec. 5202. Drug-free workplace requirements for Federal contractors.
Sec. 5203. Drug-free workplace requirements for Federal grant recipients.
Sec. 5204. Employee sanctions and remedies.
Sec. 5205. Waiver.
Sec. 5206. Authority of boards.
Sec. 5207. Definitions.
Sec. 5208. Construction of subtitle.
Sec. 5209. Effective date.

Subtitle E—Transportation Industry Alcohol and Controlled Substances Testing Program

Sec. 5251. Transportation industry alcohol and controlled substances testing program.

Subtitle F—Federal Privileges and Benefits

Sec. 5301. Federal privileges and benefits.

Subtitle G—Restrictions on Passports for Violators of Controlled Substance Laws and Other Laws

Sec. 5351. Restrictions on passports for violators of controlled substance laws and other laws.

Subtitle H—Authorization of Appropriations for President's Media Commission on Alcohol and Drug Abuse Prevention

Sec. 5401. Authorization of appropriations for President's Media Commission on Alcohol and Drug Abuse Prevention.

TITLE V—USER ACCOUNTABILITY

Subtitle A—Opposition to Legalization and Public Awareness

SEC. 5001. SENSE OF THE CONGRESS OPPOSING LEGALIZATION OF DRUGS.

The Congress finds that legalization of illegal drugs, on the Federal or State level, is an unconscionable surrender in a war in which, for the future of our country and the lives of our children, there can be no substitute for total victory.

SEC. 5002. PUBLIC AWARENESS CAMPAIGN.

The Drug Control Director shall within 90 days after confirmation by the Senate develop a program to inform the American public of the provisions of this Act pertaining to penalties for the use or possession of illegal drugs.

Subtitle B—National Commission on Drug-Free Schools

SEC. 5051. NATIONAL COMMISSION ON DRUG-FREE SCHOOLS.

(a) Establishment of Commission.—There is established a National Commission on Drug-Free Schools (hereinafter referred to as the "Commission").

(b) Membership of the Commission.—(1) The Commission shall consist of the following 26 members:

(A) the Secretary of Education (hereinafter referred to as the "Secretary");

(B) the Director of National Drug Control Policy (hereinafter referred to as the "Director");

(C) 16 individuals appointed by the Secretary and the Director;

(D) 4 members of the House of Representatives, of which 2 members shall be appointed by the Speaker of the House of Representatives and 2 members shall be appointed by the Minority Leader of the House of Representatives; and

(E) 4 members of the Senate, of which 2 members shall be appointed by the Majority Leader of the Senate and 2 members shall be appointed by the Minority Leader of the Senate.

(2) The Secretary of Education and the Director of National Drug Control Policy shall cochair the Commission.

(3) The members of the Commission appointed under paragraph (1)(C) shall consist of—

(A) experts in the fields of drug abuse prevention and education;

(B) representatives of State and local school authorities;

(C) representatives of parent-teacher associations;

(D) representatives of national organizations;

(E) representatives of community groups;

(F) representatives of law enforcement officials; and

(G) other appropriate individuals as determined by the Secretary and the Director.

(c) Appointments.—The members of the Commission who are to be appointed shall be appointed by no later than the date that is 30 days after the date of enactment of this subtitle.

(d) Vacancies.—A vacancy in the Commission shall be filled in the same manner as the original appointment was made. A vacancy in the Commission shall not affect the powers of the Commission.

(e) Quorum.—Fourteen members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) Duties of the Commission.—The Commission shall—

(1) develop recommendations of criteria for identifying drug-free schools and campuses;

(2) develop recommendations for identifying model programs to meet such criteria;

(3) make such other findings, recommendations, and proposals as the Commission deems necessary to carry out the provisions of this section; and

(4) prepare and submit a final report pursuant to subsection (i).

(g) Compensation.—(1) Each member of the Commission who is not an officer or employee of the United States shall be compensated at a rate established by the Commission not to exceed the daily equivalent of the annual rate of basic pay prescribed for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the actual performance of duties as a member of the Commission. Each member of the Commission who is an officer or employee of the United States shall receive no additional compensation for service on the Commission.

(2) While away from their homes or regular places of business in the performance of duties for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at a rate established by the Commission not to exceed the rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(h) Administrative Provisions.—(1) The Commission shall appoint an Executive Director who shall be compensated at a rate established by the Commission not to exceed the rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(3) Subject to such rules as may be issued by the Commission, the cochairmen may procure temporary and intermittent services of experts and consultants.

(4) Upon request of the cochairmen of the Commission, the head of any Federal department, agency, or instrumentality shall make any of the facilities and services of such department, agency, or instrumentality available to the Commission and detail any of the personnel of such department, agency, or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this section.

(5) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) Service of an individual as a member of the Commission, or employment of an individual by the Commission as an attorney or expert in any business or professional field, on a part-time or full-time basis, with or without compensation, shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Commission, or as an employee of the Commission, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

(i) Report of Commission.—The Commission shall report the findings and recommendations determined under subsection (f) as well as proposals for any legislative action necessary to implement the recommendations of the Commission to the President and the Congress no later than 1 year after the date of enactment of this Act. The final report of the Commission shall include—

(1) recommended criteria for schools to meet to be considered drug-free, which may include, but shall not be limited to—

(A) establishment of a drug education program for all students in kindergarten through grade 12;

(B) a code of student conduct;

(C) referral to treatment for students found to be using drugs; and

(D) coordinated programs for drug use prevention involving parents, teachers, counselors, local law enforcement personnel, businesses, and community organizations;

(2) a description of the potential benefits and liabilities of measured responses such as—

(A) the notification of parents or guardians and police when drug use by an unemancipated minor is discovered;

(B) the feasibility of separating drug offenders from drug-free students;

(C) the suspension of eligibility for student assistance under title IV of the Higher Education Act upon conviction of a drug-related offense;

(D) the withholding of Federal funds from education systems and institutions which do not meet established criteria for drug-free schools;

(E) the authorization of drug testing in schools; and

(F) any other measured response the Commission deems appropriate;

(3) an analysis of the effects of measured responses described in paragraph (2) on civil liberties, educational programs, nondrug using students, and the traditional family relationship;

(4) the findings of research on the effectiveness of the proposed response in rehabilitating drug using students and deterring use by non-drug-using students;

(5) a description of the assistance required by local school districts to establish drug-free schools and the manner in which local, State and Federal Government may provide such assistance; and

(6) a description of the feasibility of certain programs designed to enhance and raise self-esteem, self-confidence, independence, and responsibility among students.

(j) Powers of Commission.—(1) For the purpose of carrying out this section, the Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) Any member or employee of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this subsection.

(3) The Commission may secure directly from any Federal agency such information as may be necessary to enable the Commission to carry out this Act. Upon request of the cochairmen of the Commission, the head of such agency shall furnish such information to the Commission.

(k) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Such sums shall remain available until expended. Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this section shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.

Subtitle C—Preventing Drug Abuse in Public Housing

CHAPTER 1—REGULATORY AND ENFORCEMENT PROVISIONS

SEC. 5101. TERMINATION OF TENANCY IN PUBLIC HOUSING.

Section 6(l) of the United States Housing Act of 1937 is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following:

"(5) provide that a public housing tenant, any member of the tenant's household, or a guest or other person under the tenant's control shall not engage in criminal activity, including drug-related criminal activity, on or near public housing premises, while the tenant is a tenant in public housing, and shall be cause for termination of tenancy. For the purpose of paragraph (5), "drug-related criminal activity" means the manufacturing, selling, distributing, using, or possessing with intent to manufacture, sell, distribute, or use a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).".

SEC. 5102. AUTHORITY TO HIRE INVESTIGATORS OF DRUG CRIMES.

(a) In General.—Section 6 of the United States Housing Act of 1937 (as amended by section 5101 of this subtitle) is amended by adding at the end the following:

"(o) A public housing agency may, to the extent of funds availability, employ one or more individuals for the purpose of investigating the illegal use of and trafficking in controlled substances in public housing and providing evidence relating thereto in any administrative or court proceedings.".

(b) Study Required.—

(1) In general.—The Secretary of Housing and Urban Development shall conduct a study of the extent to which security activities in public housing projects are funded under the Performance Funding System. The study shall include an analysis of—

(A) the extent to which the Performance Funding System currently takes into account, and should take into account, costs associated with maintaining security, including the hiring of security personnel, investigators, and security liaisons with local law enforcement agencies;

(B) the extent to which public housing agencies have been compelled to shift funds from tenant services, building maintenance, or other eligible activities to security activities; and

(C) an estimate of the per unit additional cost necessary to enable all public housing agencies to provide adequate security.

(2) Report required.—Not later than 6 months after the date of enactment of this Act, the Secretary of Housing and Urban Development shall transmit to the Congress a report on the study required by paragraph (1).

SEC. 5103. AMENDMENT FOR BUREAU OF JUSTICE ASSISTANCE BLOCK GRANT PROGRAM AUTHORIZATION.

Section 403 of the Omnibus Crime Control and Safe Streets Act of 1968 (Public Law 98-473; 42 U.S.C. 3743(a)) is amended by—

(1) striking "and" in paragraph (17) and all that follows the semicolon;

(2) striking "techniques." in paragraph (18) and inserting "techniques; and"; and

(3) inserting a new paragraph immediately after paragraph (18) as follows:

"(19) addressing the problems of drug trafficking and the manufacture of controlled substances in public housing.".

SEC. 5104. INCLUSION OF A LEASEHOLD INTEREST IN PROPERTY SUBJECT TO FORFEITURE UNDER THE CONTROLLED SUBSTANCES ACT.

Section 511(a)(7) of the Controlled Substances Act (21 U.S.C. 881(a)(7)) is amended by inserting "(including any leasehold interest)" after "right, title, and interest".

CHAPTER 2—PUBLIC HOUSING DRUG ELIMINATION PILOT PROGRAM

SEC. 5125. SHORT TITLE.

This chapter may be cited as the "Public Housing Drug Elimination Act of 1988".

SEC. 5126. FINDINGS.

The Congress finds that—

(1) the Federal Government has a duty to provide public housing that is decent, safe, and free from illegal drugs;

(2) public housing projects in many areas suffer from rampant drug-related crime;

(3) drug dealers are increasingly imposing a reign of terror on public housing tenants;

(4) the increase in drug-related crime not only leads to murders, muggings, and other forms of violence against tenants, but also to a deterioration of the physical environment that requires substantial government expenditures; and

(5) local law enforcement authorities often lack the resources to deal with the drug problem in public housing, particularly in light of the recent reductions in Federal aid to cities.

SEC. 5127. PROGRAM AUTHORIZED.

The Secretary of Housing and Urban Development, in accordance with the provisions of this chapter, is authorized to make grants to public housing agencies for use in eliminating drug-related crime in public housing projects.

SEC. 5128. AUTHORIZED ACTIVITIES.

A public housing agency may use a grant under this chapter for—

(1) the employment of security personnel in public housing projects;

(2) reimbursement of local law enforcement agencies for additional security and protective services for public housing projects;

(3) physical improvements in public housing projects which are specifically designed to enhance security;

(4) innovative programs designed to reduce use of drugs in and around public housing projects; and

(5) providing funding to nonprofit public housing resident management corporation and tenant councils to develop security and drug abuse prevention programs involving site residents.

SEC. 5129. APPLICATION.

(a) In General.—To receive a grant under this chapter, a public housing agency shall submit an application to the Secretary of Housing and Urban Development, at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Such application shall include a plan for addressing the problem of drug-related crime on the premises of public housing projects administered by the public housing agency.

(b) Criteria.—The Secretary of Housing and Urban Development shall approve applications based upon—

(1) the extent of the crime problem in the facilities of the public housing project;

(2) the quality of the plan of the public housing agency to address crime in public housing projects; and

(3) the extent to which the local government and local community support the anti-crime activities of the public housing agency.

SEC. 5130. IMPLEMENTATION.

The Secretary of Housing and Urban Development shall promulgate rules and regulations to implement this chapter within 180 days of enactment.

SEC. 5131. REPORT TO CONGRESS.

Not later than June 30, 1990, the Secretary of Housing and Urban Development, in consultation with the Director of National Drug Control Policy, shall report to Congress on the success of the program authorized by this chapter with any suggested changes necessary to make the program more effective.

SEC. 5132. AUTHORIZATION.

There are authorized to be appropriated to carry out the provisions of this chapter $8,200,000 for fiscal year 1989.

CHAPTER 3—REPORT ON IMPACT OF PUBLIC HOUSING LEASE AND GRIEVANCE REGULATION ON THE ABILITY OF PHAS TO TAKE ACTION AGAINST TENANTS ENGAGING IN CRIMINAL ACTIVITY.

SEC. 5141. REPORT ON IMPACT OF PUBLIC HOUSING LEASE AND GRIEVANCE REGULATION ON THE ABILITY OF PHAS TO TAKE ACTION AGAINST TENANTS ENGAGING IN CRIMINAL ACTIVITY.

No later than 9 months after the date of the effective date of the Public Housing Tenancy and Administrative Grievance Procedure regulations, implementing section 6(k) of the United States Housing Act of 1937, the Secretary of Housing and Urban Development shall submit to Congress a report on the impact of the implementation of those regulations on the ability of public housing agencies to evict or take other appropriate action against tenants engaging in criminal activity, especially with respect to the manufacture, sale, distribution, use, or possession of controlled substances, as defined in section 102 of the Controlled Substances Act.

Subtitle D—Drug-Free Workplace Act of 1988

SEC. 5201. SHORT TITLE.

This subtitle may be cited as the "Drug-Free Workplace Act of 1988".

SEC. 5202. DRUG-FREE WORKPLACE REQUIREMENTS FOR FEDERAL CONTRACTORS.

(a) Drug-Free Workplace Requirement.—No person or organization shall be considered a responsible source, under the meaning of such term as defined in section 4(8) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(8)), for the purposes of being awarded a contract for the procurement of any property or services from any Federal agency unless such person or organization has certified to the contracting agency that it will provide a drug-free workplace by—

(1) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's or organization's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) establishing a drug-free awareness program to inform employees about—

(A) the dangers of drug abuse in the workplace;

(B) the person's or organization's policy of maintaining a drug-free workplace;

(C) any available drug counseling, rehabilitation, and employee assistance programs; and

(D) the penalties that may be imposed upon employees for drug abuse violations;

(3) making it a requirement that each employee to be engaged in the performance of such contract be given a copy of the statement required by paragraph (1) and that, as a condition of employment on such contract, the employee agree—

(A) to abide by the terms of the statement; and

(B) to notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction;

(4) notifying the contracting agency within 10 days after receiving notice under paragraph (3)(B) from an employee or otherwise receiving actual notice of such conviction;

(5) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by section 5204; and

(6) making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), (4), and (5).

(b) SUSPENSION, TERMINATION, OR DEBARMENT OF THE CONTRACTOR.—

(1) GROUNDS FOR SUSPENSION, TERMINATION, OR DEBARMENT.—Each contract awarded by a Federal agency shall be subject to suspension of payments under the contract or termination of the contract, or both, and the contractor thereunder shall be subject to debarment, in accordance with the requirements of this section if the board of contract appeals of the contracting agency determines that—

(A) the contractor has made a false certification under subsection (a);

(B) the contractor violates such certification by failing to carry out the requirements of paragraph (1), (2), (3), (4), or (5) of subsection (a); or

(C) such a number of employees of such contractor have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor has failed to make a good faith effort to provide a drug-free workplace as required by subsection (a).

(2) CONDUCT OF SUSPENSION, TERMINATION, AND DEBARMENT PROCEEDINGS.—If a contracting officer determines, in writing, that cause for suspension, termination, or debarment exists, a suspension, termination, or debarment proceeding subject to this subsection shall, on application by a contracting officer of an agency, be conducted by the board of contract appeals of the agency which conducts the procurement. The board of contract appeals shall, based upon a preponderance of the evidence presented, resolve all issues of fact, determine whether a basis exists for the suspension or termination of the contract or debarment of the contractor, and issue a final decision in favor of or against suspension or termination of the contract or debarment of the contractor. A proceeding, decision, or order of the board pursuant to this subsection shall not be subject to interlocutory appeal or review. Determinations and final decisions of the board of contract appeals shall be final unless appealed by the contractor to the United States Court of Appeals for the Federal Circuit within 60 days after the receipt by the contractor of a copy of a final decision of the board of contract appeals. Section 10(b) of the Contract Disputes Act of 1978 (41 U.S.C. 609(b)) shall apply with respect to the finality of such board determinations and decisions under this paragraph.

(3) CONDUCT BY GSA BOARD.—In the case of an agency that has not established a board of contract appeals under section 8(a)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 607(a)(1)), the General Services Administration Board of Contract Appeals shall make the determinations and issue final decisions under paragraph (2) for such agencies. Section 10(b) of the Contract Disputes Act of 1978 (41 U.S.C. 609(b)) shall apply with respect to the finality of such Board determinations and decisions under this paragraph.

(4) EFFECT OF DEBARMENT.—Upon issuance of any final decision under this subsection requiring debarment of a contractor, such contractor shall be ineligible for award of any contract by any Federal agency and for participation in any future procurement by any Federal agency for a period specified in the decision, not to exceed 5 years. Upon issuance of any final decision recommending against debarment of the contractor, the contractor shall be compensated as provided by law or regulations.

SEC. 5203. DRUG-FREE WORKPLACE REQUIREMENTS FOR FEDERAL GRANT RECIPIENTS.

(a) DRUG-FREE WORKPLACE REQUIREMENT.—No person or organization shall receive a grant from any Federal agency unless such person or organization has certified to the granting agency that it will provide a drug-free workplace by—

(1) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) establishing a drug-free awareness program to inform employees about—

(A) the dangers of drug abuse in the workplace;

(B) the grantee's policy of maintaining a drug-free workplace;

(C) any available drug counseling, rehabilitation, and employee assistance programs; and

(D) the penalties that may be imposed upon employees for drug abuse violations;

(3) making it a requirement that each employee to be engaged in the performance of such grant be given a copy of the statement required by paragraph (1) and that, as a condition of employment on such grant, the employee agree—

(A) to abide by the terms of the statement; and

(B) to notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction;

(4) notifying the granting agency within 10 days after receiving notice of a conviction under paragraph (3)(B) from an employee or otherwise receiving actual notice of such conviction;

(5) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by section 5204; and

(6) making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), (4), and (5).

(b) SUSPENSION, TERMINATION, OR DEBARMENT OF THE GRANTEE.—

(1) GROUNDS FOR SUSPENSION, TERMINATION, OR DEBARMENT.—Each grant awarded by a Federal agency shall be subject to suspension of payments under the grant or termination of the grant, or both, and the grantee thereunder shall be subject to debarment, in accordance with the requirements of this section if the agency head of the granting agency or his official designee determines, in writing, that—

(A) the grantee has made a false certification under subsection (a);

(B) the grantee violates such certification by failing to carry out the requirements of paragraph (1), (2), (3), (4), or (5) of subsection (a); or

(C) such a number of employees of such grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the grantee has failed to make a good faith effort to provide a drug-free workplace as required by subsection (a).

(2) CONDUCT OF SUSPENSION, TERMINATION, AND DEBARMENT PROCEEDINGS.—A suspension, termination, or debarment proceeding subject to this subsection shall be conducted in accordance with applicable law, including Executive Order 12549 or any superseding Executive order and any regulations promulgated to implement such law or Executive order.

(3) EFFECT OF DEBARMENT.—Upon issuance of any final decision under this subsection requiring debarment of a grantee, such grantee shall be ineligible for award of any grant from any Federal agency and for participation in any future grant from any Federal agency for a period specified in the decision, not to exceed 5 years. Upon issuance of any final decision recommending against debarment of the grantee, the grantee shall be compensated as provided by law or regulations.

SEC. 5204. EMPLOYEE SANCTIONS AND REMEDIES.

A grantee or contractor shall, within 30 days after receiving notice from an employee of a conviction pursuant to section 5202(a)(2)(B) or 5203(a)(2)(B)—

(1) take appropriate personnel action against such employee up to and including termination; or

(2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

SEC. 5205. WAIVER.

(a) IN GENERAL.—A termination, suspension, or debarment under this Act may be waived by the head of an agency with respect to a particular contract or grant if—

(1) in the case of a waiver with respect to a contract, the head of the agency determines, after the issuance of a final determination under section 3(b) by a board of contract appeals regarding a contract entered into by that agency, that suspension or termination of the contract or debarment of the contractor, or refusal to permit a person or organization to be treated as a responsible source for a contract, as the case may be, would severely disrupt the operation of such agency to the detriment of the Federal Government or the general public; or

(2) in the case of a waiver with respect to a grant, the head of the agency determines that suspension or termination of the grant or debarment of the grantee would not be in the public interest.

(b) EXCLUSIVE AUTHORITY.—The authority of the head of an agency under this section to waive a termination, suspension, or debarment shall not be delegated.

SEC. 5206. AUTHORITY OF BOARDS.

Not later than 90 days after the date of enactment of this subtitle, the chairman of each board of contract appeals shall prescribe rules and procedures governing actions under this subtitle. Each judge of such board may administer oaths and affirmations and issue subpoenas.

SEC. 5207. DEFINITIONS.

For purposes of this subtitle—

(1) the term "drug-free workplace" means a site for the performance of work done in connection with a specific grant or contract described in section 5202 or 5203 of an entity at which employees of such entity are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in accordance with the requirements of this Act;

(2) the term "employee" means the employee of a grantee or contractor directly engaged in the performance of work pursuant to the provisions of the grant or contract described in section 5202 or 5203;

(3) the term "controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812);

(4) the term "conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

(5) the term "criminal drug statute" means a criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance;

(6) the term "grantee" means the department, division, or other unit of a person or organization responsible for the performance under the grant;

(7) the term "contractor" means the department, division, or other unit of a person or organization responsible for the performance under the contract; and

(8) the term "Federal agency" means an agency as that term is defined in section 552(f) of title 5, United States Code.

SEC. 5208. CONSTRUCTION OF SUBTITLE.

Nothing in this subtitle shall be construed to require law enforcement agencies, if the head of the agency determines it would be inappropriate in connection with the agency's undercover operations, to comply with the provisions of this subtitle.

SEC. 5209. EFFECTIVE DATE.

Sections 5202 and 5203 shall be effective 120 days after the date of the enactment of this subtitle.

Subtitle E—Transportation Industry Alcohol and Controlled Substances Testing Program

SEC. 5251. TRANSPORTATION INDUSTRY ALCOHOL AND CONTROLLED SUBSTANCES TESTING PROGRAM.

(a) FINDINGS.—The Congress finds that—

(1) alcohol and drug abuse poses significant dangers to the safety and welfare of the Nation;

(2) millions of the Nation's citizens utilize transportation by aircraft, railroads, trucks, and buses, and depend on the operators of aircraft, railroads, trucks, and buses to perform in a safe and responsible manner;

(3) the greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs, whether on duty or off duty, by those individuals who are involved in the operation of aircraft, railroads, trucks, and buses;

(4) the use of alcohol and illegal drugs has been demonstrated to affect significantly the performance of individuals, and has been proven to have been a critical factor in transportation accidents;

(5) adequate safeguards can be implemented to ensure that testing for abuse of alcohol or use of illegal drugs is performed in a manner which protects an individual's right of privacy, ensures that no individual is harassed by being treated differently from other individuals, and ensures that no individual's reputation or career development is unduly threatened or harmed; and

(6) rehabilitation is a critical component of any testing program for abuse of alcohol or use of illegal drugs, and should be made available to individuals, as appropriate.

(b) TESTING PROGRAM.—(1) Title VI of the Federal Aviation Act of 1958 (49 App. U.S.C. 1421 et seq.) is amended by adding at the end thereof the following:

"ALCOHOL AND CONTROLLED SUBSTANCES TESTING

"TESTING PROGRAM

"SEC. 613. (a)(1) The Administrator shall, in the interest of aviation safety, prescribe regulations within twelve months after the date of enactment of this section. Such regulations shall establish a program which requires air carriers and foreign air carriers to conduct pre-employment, periodic recurring, random and post-accident testing of airmen, crewmembers, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions (as determined by the Administrator), and testing of such individuals upon a reasonable suspicion that they have used, without lawful authorization, alcohol or a controlled substance.

"(2) The Administrator shall establish a program applicable to employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions. Such program shall provide for pre-employment, periodic recurring, random and post-accident testing, and testing of such individuals upon a reasonable suspicion that they have used, without lawful authorization, alcohol or a controlled substance.

"(3) In prescribing regulations under the programs required by this subsection, the Administrator shall require, as the Administrator considers appropriate, the suspension or revocation of any certificate issued to such an individual, or the disqualification or dismissal of any such individual, in accordance with the provisions of this section, in any instance where a test conducted and confirmed under this section indicates that such individual has used, without lawful authorization, alcohol or a controlled substance.

"PROHIBITION ON SERVICE

"(b)(1) No person may use, without lawful authorization, alcohol or a controlled substance after the date of enactment of this section and serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions.

"(2) No individual who is determined to have used, without lawful authorization, alcohol or a controlled substance after the date of enactment of this section shall serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions unless such individual has completed a program of rehabilitation described in subsection (c) of this section.

"(3) Any such individual determined by the Administrator to have used, without lawful authorization, alcohol or a controlled substance after the date of enactment of this section who (A) refuses to undertake a rehabilitation program described in subsection (c), (B) fails to complete such a rehabilitation program, (C) has previously undertaken or completed such a rehabilitation program, or (D) has been determined by the Administrator to have served as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions while impaired by or under the influence of alcohol or a controlled substance, shall not be permitted to perform the duties relating to air transportation which such individual performed prior to the date of such determination.

"PROGRAM FOR REHABILITATION

"(c)(1) Each air carrier and foreign air carrier shall establish and maintain a rehabilitation program which at a minimum provides for the identification and opportunity for treatment of employees referred to in subsection (b) of this section in need of assistance in resolving problems with the use, without lawful authorization, of alcohol or controlled substances. Each air carrier and foreign air carrier is encouraged to make such program available to all of its employees other than employees referred to in subsection (b) of this section. Nothing in this subsection shall preclude any air carrier or foreign air carrier from establishing a program under this subsection in cooperation with any other air carrier or foreign air carrier.

"(2) The Administrator shall establish and maintain a rehabilitation program which at a minimum provides for the identification and opportunity for treatment of those employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions who are in need of assistance in resolving problems with the use of alcohol or controlled substances.

"PROCEDURES

"(d) In establishing the program required under subsection (a) of this section, the Administrator shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory drug testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimens collected for drug testing;

"(B) specify the drugs for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform drug testing in carrying out this section;

"(3) provide that all tests which indicate the use, without lawful authorization, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(4) require that all laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(5) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(6) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"EFFECT ON OTHER LAWS AND REGULATIONS

"(e)(1) No State or local government shall adopt or put into effect any law, rule, regulation, ordinance, standard or order that is inconsistent with the regulations promulgated under this section, except that the regulations promulgated under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury or damage to property, whether the provisions apply specifically to employees of an air carrier or foreign air carrier, or to the general public.

"(2) Nothing in this section shall preclude the Administrator from adopting or continuing in effect other regulations intended to protect persons or property on the ground or in the air from the hazards to safety associated with the potential use of alcohol or controlled substances by airmen, crewmembers, airport security screening contract personnel, air carrier employees responsible for safety-sensitive functions (as determined by the Administrator), or employees of the Federal Aviation Administration) with responsibility for safety-sensitive functions.

"(3) In prescribing regulations under this section, the Administrator shall only establish requirements applicable to foreign air carriers that are consistent with the international obligations of the United States, and the Administrator shall take into consideration any applicable laws and regulations of foreign countries. The Secretary of State and the Secretary of Transportation, jointly, shall call on the member countries of the International Civil Aviation Organization to strengthen and enforce existing standards to prohibit the use, without lawful authorization, of a controlled substance by crew members in international civil aviation.

"DEFINITION

"(f) For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) whose use the Administrator has determined poses a risk to transportation safety.".

(2) That portion of the table of contents of the Federal Aviation Act of 1958 relating to title VI is amended by adding at the end thereof the following:

"Sec. 613. Alcohol and controlled substances testing.
"(a) Testing program.
"(b) Prohibition on service.
"(c) Program for rehabilitation.
"(d) Procedures.
"(e) Effect on other laws and regulations.
"(f) Definition.".

(c) Federal Railroad Safety Act of 1970.—Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end thereof the following:

"(l)(1) The Secretary shall, within one year after the date of enactment of this subsection, review existing rules, regulations, standards, and orders governing alcohol and drug use in railroad operations for the purpose of determining whether they are adequate to ensure safety. In conducting such review, the Secretary shall specifically—

"(A) require that all railroad employees responsible for safety-sensitive functions (as determined by the Secretary) be subject to testing on a random basis for the use, without lawful authorization, of alcohol or a controlled substance;

"(B) consider application of existing rules, regulations, orders, and standards to other categories of employees, including employees responsible for the safety of passengers, railroad rolling stock, or track and related structures;

"(C) require, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used or to have been impaired by alcohol while on duty; and

"(D) require, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law and any rules, regulations, standards or orders issued under this Act.

Nothing in this subsection shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any rules, regulations, standards and orders governing alcohol and drug use in railroad operations issued before the date of enactment of this subsection.

"(2) In carrying out the provisions of this subsection, the Secretary shall develop requirements which shall—

"(A) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(B) with respect to laboratories and testing procedures, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(i) establish comprehensive standards for all aspects of laboratory drug testing and laboratory procedures to be applied in carrying out this Act, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimens collected for drug testing;

"(ii) specify the drugs for which individuals may be tested; and

"(iii) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform drug testing in carrying out this Act;

"(C) provide that all tests which indicate the use, without lawful authorization, of alcohol or a controlled substance by any employee shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(D) require that all laboratories involved in the testing of any employee under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(E) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this subparagraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(F) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(3) For the purposes of this subsection, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) whose use the Secretary has determined poses a risk to transportation safety.".

(d) Commercial Motor Vehicle Safety Act of 1986.—(1) The Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5223) is amended by adding at the end the following:

"SEC. 12020. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

"(a) Regulations.—The Secretary shall, in the interest of commercial motor vehicle safety, prescribe regulations within twelve months after the date of enactment of this section. Such regulations shall establish a program which requires motor carriers to conduct pre-employment, periodic recurring, random and post-accident testing of the operators of commercial motor vehicles, and testing upon a reasonable suspicion that they have used, without lawful authorization, alcohol or a controlled substance.

"(b) Testing.—(1) In promulgating such regulations, the Secretary shall require that post-accident testing of the operator of a commercial motor vehicle be conducted in the case of any accident involving a commercial motor vehicle in which occurs loss of human life, or, as determined by the Secretary, other serious accidents involving bodily injury or significant property damage.

"(2) Nothing in subsection (a) of this section shall preclude the Secretary from providing in such regulations that such testing be conducted as part of the medical examination required by subpart E of part 391 of title 49, Code of Federal Regulations, with respect to those operators of commercial motor vehicles to whom such part is applicable.

"(c) Program for Rehabilitation.—The Secretary shall promulgate regulations setting forth requirements for a rehabilitation program for the identification and opportunity for treatment of operators of commercial motor vehicles who are determined to have used, without lawful authorization, alcohol or a controlled substance. The Secretary shall determine the circumstances under which such operators shall be required to participate in such program. Nothing in this subsection shall preclude a motor carrier from establishing a program under this subsection in cooperation with any other motor carrier.

"(d) Procedures for Testing.—In establishing the program required under subsection (a) of this section, the Secretary shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory drug testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimens collected for drug testing;

"(B) specify the drugs for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform drug testing in carrying out this section;

"(3) provide that all tests which indicate the use, without lawful authorization, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(4) require that all laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(5) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) for employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(6) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(e) Effect on Other Laws and Regulations.—No State or local government shall adopt or put into effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations promulgated under this section, except that the regulations promulgated under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury or damage to property, whether the provisions apply specifically to commercial motor vehicle employees, or to the general public.

"(f) Application of Penalties.—(1) Nothing in this section shall be construed to supersede any penalty applicable to the operator of a commercial motor vehicle under this Act or any other provision of law.

"(2) The Secretary shall determine appropriate sanctions for commercial motor vehicle operators who are determined, as a result of tests conducted and confirmed under this section, to have used, without lawful authorization, alcohol or a controlled substance but are not under the influence of alcohol or a controlled substance, as provided in this title.

"(g) Definition.—For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) whose use the Secretary had determined poses a risk to transportation safety.".

(2) The table of contents of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5223) is amended by adding at the end thereof the following:

"Sec. 12020. Alcohol and controlled substances testing.".

(e) Commercial Motor Vehicles.—(1) The Secretary shall design, within nine months after the date of enactment of this section, and implement, within fifteen months after the date of enactment of this section, a pilot test program for the purpose of testing the operators of commercial motor vehicles on a random basis to determine whether an operator has used, without lawful authorization, alcohol or a controlled substance.

(2) The Secretary shall solicit the participation of States which are interested in participating in such program and shall select four States to participate in the program.

(3) The Secretary shall ensure that the selection made pursuant to this section is representative of varying geographical and population characteristics of the Nation, and takes into consideration the historical geographical incidence of commercial motor vehicle accidents involving loss of human life.

(4) The pilot program authorized by this section shall continue for a period of 1 year. The Secretary shall consider alternative methodologies for implementing a system of random testing of operators of commercial motor vehicles.

(5) Not later than 30 months after the date of enactment of this section, the Secretary shall prepare and submit to the Congress a comprehensive report setting forth the results of the pilot program conducted under this section. Such report shall include any recommendations of the Secretary concerning the desirability and implementation of a system for the random testing of operators of commercial motor vehicles.

(6) For purposes of carrying out this subsection, there shall be available to the Secretary $5,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 for fiscal year 1988.

(7) For purposes of this subsection, the term—

(1) "commercial motor vehicle" shall have the meaning given to such term in section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5241); and

(2) "Secretary" means the Secretary of Transportation.

(f) Urban Mass Transit.—(1) The Secretary of Transportation shall, in the interest of urban mass transportation safety, prescribe regulations within 12 months after the date of enactment of this section. Such regulations shall establish a program which requires urban mass transportation operations to conduct pre-employment, periodic recurring, random, and post-accident testing of urban mass transportation employees responsible for safety-sensitive functions (as determined by the Secretary), and testing of such employees upon a reasonable suspicion that they have used, without lawful authorization, alcohol or a controlled substance.

(2) In prescribing such regulations, the Secretary shall require that post-accident testing of such an urban mass transportation employee be conducted in the case of any accident involving urban mass transportation in which occurs loss of human life, or, as determined by the Secretary, other serious accidents involving bodily injury or significant property damage.

(3) The Secretary shall promulgate regulations setting forth requirements for a rehabilitation program for the identification and opportunity for treatment of urban mass transportation employees referred to in paragraph (1) of this subsection who are determined to have used, without lawful authorization, alcohol or a controlled substance. The Secretary shall determine the circumstances under which such employees shall be required to participate in such program. Nothing in this subsection shall preclude an urban mass transportation operation from establishing a program under this subsection in cooperation with any other such operation.

(4) In establishing the program required under paragraph (1) of this subsection, the Secretary shall develop requirements which shall—

(A) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

(B) with respect to the laboratory and testing procedures, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

(i) establish comprehensive standards for all aspects of laboratory drug testing and laboratory procedures to be applied in carrying out this subsection, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimens collected for drug testing;

(ii) specify the drugs for which individuals may be tested; and

(iii) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform drug testing in carrying out this subsection;

(C) provide that all tests which indicate the use, without lawful authorization, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

(D) require that all laboratories involved in the testing of any individual under this subsection shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

(E) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this subparagraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this subsection; and

(F) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(5) No State or local government shall adopt or put into effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations promulgated under this subsection, except that the regulations promulgated under this subsec-

tion shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to urban mass transportation employees, or to the general public.

(6)(A) As the Secretary considers appropriate, the Secretary shall require—

(i) disqualification for an established period of time or dismissal of any employee referred to in paragraph (1) of this subsection determined to have used or to have been impaired by alcohol while on duty; and

(ii) disqualification for an established period of time or dismissal of any such employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law or any regulation.

(B) Nothing in this subsection shall be construed to supercede any penalty applicable to an urban mass transportation employee under any other provision of law.

(7) For purposes of this subsection, the term—

(A) "controlled substance" means any substance under section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)) whose use the Secretary has determined poses a risk to transportation safety; and

(b) "urban mass transportation" means all forms of urban mass transportation whose employees are not covered by either section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) or section 12020 of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 State. 5223), as added by this section.

(8) A person shall not be eligible for Federal financial assistance under sections 3, 9, or 18 of the Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1602, 1607a, or 1604) or section 103(e)(4) of title 23, United States Code, if such person—

(A) is required, under regulations prescribed by the Secretary under section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), section 12020 of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100; Stat. 5223), as added by this section, or subsection (e) of this section, to establish a program of alcohol and controlled substances testing; and

(B) fails to establish such a program in accordance with such regulations.

(g) For purposes of this section, the term—

(1) "person" includes any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of the United States, or any State, commonwealth, territory, district, or possession thereof, or of any foreign country; and

(2) "Secretary" means the Secretary of Transportation.

Subtitle F—Federal Privileges and Benefits

SEC. 5301. FEDERAL PRIVILEGES AND BENEFITS.

(a) LIST OF PRIVILEGES AND BENEFITS RECOMMENDED FOR WITHHOLDING.—(1) The Director of National Drug Control Policy shall, upon consultation with the Secretary of Health and Human Services and the Attorney General, submit to the Congress no later than 12 months after the enactment of this title a list of any Federal privileges, benefits, grants, and loans, which, if withheld from individuals convicted of a Federal or State drug offense, would significantly deter the use of illegal drugs in the United States. The Director shall not include in the list any grants, loans, and benefits which the Director determines to be essential to the health or well being of the recipient or beneficiary.

(2) The Director shall accompany the list with a report exploring the potential benefits and liabilities of the withholding of privileges, benefits, grants, and loans in the Federal effort to fight substance abuse and explaining the reasoning behind the selection of each of the privileges, benefits, grants, and loans included in the list.

(b) PREPARATION OF LIST.—(1) In preparing the list and report provided for in subsection (a), the Director shall take into consideration the following factors:

(A) the extent to which the threat of punishment deters drug use among persons addicted to drugs.

(B) the extent to which the threat of withholding Federal privileges, benefits, grants, and loans would be likely to deter individuals from using illicit drugs.

(C) the effect that withholding benefits would have on an individual's efforts to overcome drug dependence.

(D) whether differing State laws with regard to possession of marijuana would result in the uneven application of sanctions imposed by the Federal government.

(E) the potential results of such a program in areas with limited treatment and rehabilitation opportunities.

(F) the burden that should appropriately be placed on individuals applying for Federal privileges, benefits, grants, and loans to prove they have not been convicted of a drug offense.

(G) the means by which Federal and State agencies, courts, and law enforcement agencies will exchange and share the data and information necessary to implement and enforce the withholding of benefits, privileges, grants, and loans.

(2) The Director is authorized to conduct public hearings and such other activities as may be necessary to fulfill this charge.

Subtitle G—Restrictions on Passports for Violators of Controlled Substance Laws and Other Laws

SEC. 5351. RESTRICTIONS ON PASSPORTS FOR VIOLATORS OF CONTROLLED SUBSTANCE LAWS AND OTHER LAWS.

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669 et seq.) is amended—

(1) by redesignating section 42 as section 43; and

(2) by inserting after section 41 the following:

"SEC. 42. RESTRICTIONS ON PASSPORTS FOR VIOLATORS OF CONTROLLED SUBSTANCE LAWS.

"(a) REVOCATION OF PASSPORTS.—Upon conviction for—

"(1) a violation of the Controlled Substances Import and Export Act (21 U.S.C. 951-970) punishable by imprisonment for more than 1 year;

"(2) a criminal violation of the Bank Secrecy Act (31 U.S.C. 5311-5324) punishable by imprisonment for more than 1 year; or

"(3) a criminal violation of the Money Laundering Control Act (18 U.S.C. 1956, 1957) and any criminal violation of provisions of title 31, United States Code, relating to money laundering, punishable by imprisonment for more than 1 year;

where the violator used a passport or otherwise crossed an international border in committing such violation, the Secretary of State shall revoke the violator's passport and other travel documents. Any person whose passport or other travel documents were revoked under this subsection, or any person convicted for any offense in paragraph (1), (2), or (3) of this section who does not possess a passport, shall not be eligible to receive a passport or other travel documents for 10 years. The period of revocation shall begin after the individual completes the period of incarceration, probation, or parole imposed for conviction of any offense in paragraphs (1), (2), and (3).

"(b) The Secretary of State is authorized to promulgate such rules and regulations as may be necessary to carry out the provisions of this section.".

Subtitle H—Authorization of Appropriations for President's Media Commission on Alcohol and Drug Abuse Prevention

SEC. 5401. AUTHORIZATION OF APPROPRIATIONS FOR PRESIDENT'S MEDIA COMMISSION ON ALCOHOL AND DRUG ABUSE PREVENTION.

There are hereby authorized to be appropriated for the President's Media Commission on Alcohol and Drug Abuse Prevention the following amounts:

(1) $1,000,000 for the fiscal year ending September 30, 1989;

(2) $1,000,000 for the fiscal year ending September 30, 1990; and

(3) $1,000,000 for the fiscal year ending September 30, 1991.

TITLE VI—SENSE OF THE CONGRESS ON DRUG FUNDING

SEC. 6001. SENSE OF THE CONGRESS ON DRUG FUNDING.

It is the Sense of the Congress that—

(1) total authorizations in this Act and subsequent fiscal year 1989 appropriations shall provide that 60 percent of these incremental anti-drug funds shall be provided for drug prevention, treatment, and education programs and that 40 percent of the funds shall be provided for anti-drug law enforcement programs;

(2) the fiscal year 1989 appropriations for these authorizations shall include obligation limitations to the extent necessary to avoid triggering a sequester in fiscal year 1989;

(3) if obligational limitations in appropriations Acts become necessary, they shall have the net effect of providing 50 percent of the available fiscal year 1989 outlays for anti-drug law enforcement programs (up to the amount authorized in this Act) and 50 percent (or any authorized amounts remaining in this Act after all amounts for law enforcement have been appropriated) for drug prevention, treatment, and education programs;

(4) should obligational limitations in appropriations Acts be imposed for fiscal year 1989, subsequent obligations of remaining budget authority provided in this Act shall be made so as to ensure that, overall, 60 percent of the budget authority will be provided for drug prevention, treatment and education programs and 40 percent shall be provided for anti-drug law enforcement programs; and

(5) revenues from an Internal Revenue Service enforcement and collections initiative and increased receipts from additional United States Attorneys used to improve processing of forfeited assets through the assets forefeiture fund should be used to offset spending associated with this Act.

TITLE VII B—DEATH PENALTY IN CASE OF DRUG RELATED KILLINGS

SEC. 7001. DEATH PENALTY FOR DRUG-RELATED KILLINGS.

(a) ELEMENTS OF OFFENSE.—Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by adding a new subsection (e) as follows:

"Death Penalty

"(e)(1) In addition to the other penalties set forth in this section—

"(a) Any person engaging in a continuing criminal enterprise, or anyone working in furtherance of a continuing criminal enterprise who intentionally, or with reckless indifference to human life, kills or participates substantially in the killing of any individual, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death; and

"(b) Any person, during the commission of, in furtherance of, or while attempting to avoid apprehension, prosecution or service of a prison sentence for, a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.) who intentionally, or with reckless indifference to human life, kills or participates substantially in the killing of any federal, state, or local law enforcement officer engaged in, or on account of, the performance of such officer's official duties, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death.

"(2) As used in paragraph (1)(b), a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, prosecution or adjudication of an offense, and includes those engaged in corrections, probation, or parole functions.".

(b) PROCEDURE APPLICABLE WITH RESPECT TO THE DEATH PENALTY.—Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended by adding at the end the following:

"Hearing Required with Respect to the Death Penalty

"(g) A person shall be subjected to the penalty of death for any offense under this section only if a hearing is held in accordance with this section.

"Notice by the Government in Death Penalty Cases

"(h)(1) Whenever the Government intends to seek the death penalty for an offense under this section for which one of the sentences provided is death, the attorney for the Government, a reasonable time before trial or acceptance by the court of a plea of guilty, shall sign and file with the court, and serve upon the defendant, a notice—

"(A) that the Government in the event of conviction will seek the sentence of death; and

"(B) setting forth the aggravating factors enumerated in subsection (n) and any other aggravating factors which the Government will seek to prove as the basis for the death penalty.

"(2) The court may permit the attorney for the Government to amend this notice for good cause shown.

"Hearing Before Court or Jury

"(i)(1) When the attorney for the Government has filed a notice as required under subsection (h) and the defendant is found guilty of or pleads guilty to an offense under subsection (e), the judge who presided at the trial or before whom the guilty plea was entered, or any other judge if the judge who presided at the trial or before whom the guilty plea was entered is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(A) before the jury which determined the defendant's guilt;

"(B) before a jury impaneled for the purpose of the hearing if—

"(i) the defendant was convicted upon a plea of guilty;

"(ii) the defendant was convicted after a trial before the court sitting without a jury;

"(iii) the jury which determined the defendant's guilt has been discharged for good cause; or

"(iv) after initial imposition of a sentence under this section, redetermination of the sentence under this section is necessary; or

"(C) before the court alone, upon the motion of the defendant and with the approval of the Government.

"(2) A jury impaneled pursuant to paragraph (i)(B) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate with the approval of the court that it shall consist of any number less than 12.

"Proof of Aggravating and Mitigating Factors

"(j) Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty of or pleads guilty to an offense under subsection (e), no presentence report shall be prepared. In the sentencing hearing, information may be presented as to any matter relevant to the sentence and shall include matters relating to any of the aggravating or mitigating factors set forth in subsections (m) and (n), or any other mitigating factor. Where information is presented relating to any of the aggravating factors set forth in subsection (n), information may be presented relating to any other aggravating factor. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. The Government and the defendant shall be permitted to rebut any information received at the hearing and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the aggravating or mitigating factors and as to appropriateness in that case of imposing a sentence of death. The Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the Government, and is not satisfied unless established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless established by a preponderance of the evidence.

"Return of Findings

"(k) The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factors set forth in subsection (n), found to exist. If one of the aggravating factors set forth in subsection (n)(1) and another of the aggravating factors set forth in paragraphs (2) through (12) of subsection (n) is found to exist, a special finding identifying any other aggravating factor may be returned. A finding with respect to a mitigating factor may be made by one or more of the members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such a factor established for purposes of this subsection, regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If an aggravating factor set forth in subsection (n)(1) is not found to exist or an aggravating factor set forth in subsection (n)(1) is found to exist but no other aggravating factor set forth in subsection (n) is found to exist, the court shall impose a sentence, other than death, authorized by law. If an aggravating factor set forth in subsection (n)(1) and one or more of the other aggravating factors set forth in subsection (n) are found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of mitigating factors, whether the aggravating factors are themselves sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

"Imposition of Sentence

"(l) Upon a finding that a sentence of death is justified, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. A sentence of death shall not be carried out upon a person who is under 18 years of age at the time the crime was committed. A sentence of death shall not be carried out upon a person who, by reason of a mental disease or defect, is unable to understand his impending death or the reasons for it. A sentence of death shall not be carried out upon a person who is mentally retarded.

"Mitigating Factors

"(m) In determining whether a sentence of death is to be imposed on a defendant, the following mitigating factors shall be considered but are not exclusive:

"(1) The defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to the charge.

"(2) The defendant was under unusual and substantial duress, although not such duress as constitutes a defense to the charge.

"(3) The defendant is punishable as a principal (as defined in section 2(a) of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, although not so minor as to constitute a defense to the charge.

"(4) The defendant could not reasonably have foreseen that his conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"Aggravating Factors for Homicide

"(n) If the defendant is found guilty of or pleads guilty to an offense under subsection (e), the following aggravating factors shall be considered but are not exclusive:

"(1) The defendant—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury which resulted in the death of the victim;

"(C) intentionally engaged in conduct intending that the victim be killed or that lethal force be employed against the victim, which resulted in the death of the victim.

"(D) intentionally engaged in conduct which—

"(i) the defendant knew would create a grave risk of death to a person, other than one of the participants in the offense; and

"(ii) resulted in the death of the victim.

"(2) The defendant has been convicted of another Federal offense, or a State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(3) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury upon another person.

"(4) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(5) In the commission of the offense or in escaping apprehension for a violation of subsection (e), the defendant knowingly created a grave risk of death to one or more persons in addition to the victims of the offense.

"(6) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(7) COMMISSION OF THE OFFENSE FOR PAYMENT.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(8) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(9) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(10) The defendant had previously been convicted of violating a provision of the Controlled Substances Act for which a sentence of five or more years may be imposed or was engaged in a continuing criminal enterprise.

"(11) The violation of this chapter in relation to which the conduct described in subsection (e) occurred was a violation of section 405.

"(12) The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"Right of the Defendant to Justice Without Discrimination

"(o)(1) In any hearing held before a jury under this section, the court shall instruct the jury that in its consideration of whether the sentence of death is justified it shall not consider the race, color, national origin, or sex of the defendant or the victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what race the defendant, or the victim, may be. The jury shall return to the court a certificate signed by each juror that consideration of race, color, national origin, creed, or sex of the defendant or the victim was not involved in reaching his or her individual decision, and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what race the defendant, or the victim, may be.

"(2) Not later than one year from the date of enactment of this section, the Comptroller General shall conduct a study of the various procedures used by the several States for determining whether or not to impose the death penalty in particular cases, and shall report to the Congress on whether or not any or all of the various procedures create a significant risk that the race of a defendant, or the race of a victim against whom a crime was committed, influence the likelihood that defendants in those States will be sentenced to death. In conducting the study required by this paragraph, the General Accounting Office shall—

"(A) use ordinary methods of statistical analysis, including methods comparable to those ruled admissible by the courts in race discrimination cases under Title VII of the Civil Rights Act of 1964;

"(B) study only crimes occurring after January 1, 1976; and

"(C) determine what, if any, other factors, including any relation between any aggravating or mitigating factors and the race of the victim or the defendant, may account for any evidence that the race of the defendant, or the race of the victim, influences the likelihood that defendants will be sentenced to death. In addition, the General Accounting Office shall examine separately and include in the report, death penalty cases involving crimes similar to those covered under this section.

"Sentencing in Capital Cases in Which Death Penalty is not Sought or Imposed

"(p) If a person is convicted for an offense under subsection (e) and the court does not impose the penalty of death, the court may impose a sentence of life imprisonment without the possibility of parole.

"Counsel for Financially Unable Defendants

"(q)(1) Notwithstanding any other provision of law to the contrary, in every criminal action in which a defendant is charged with a crime may be punishable by death, a defendant who is or becomes financially unable to obtain adequate representation or investigative, expert or other reasonably necessary services at any time either—

"(A) before judgment; or

"(B) after the entry of a judgment imposing a sentence of death but before the execution of that judgment;

shall be entitled to the appointment of one or more attorneys and the furnishing of such other services in accordance with paragraphs (2), (3), (4), (5), and (6).

"(2) If the appointment is made before judgment, at least one attorney so appointed must have been admitted to practice in the court in which the prosecution is to be tried for not less than five years, and must have had not less than three years experience in the actual trial of felony prosecutions in that court.

"(3) If the appointment is made after judgment, at least one attorney so appointed must have been admitted to practice in the court of appeals for not less than five years, and must have had no less than three years experience in the handling of appeals in that court in felony cases.

"(4) Unless replaced by similarly qualified counsel upon the attorney's own motion or upon motion of the defendant, each attorney so appointed shall represent the defendant throughout every subsequent stage of available judicial proceedings, including pretrial proceedings, trial, sentencing, motions for new trial, appeals, applications, for writ of certiorari to the Supreme Court of the United States, and all available post-conviction process together with applications for stays of execution and other appropriate motions and procedures, and shall also represent the defendant in such competent proceedings and proceedings for executive or other clemency as may be available to the defendant.

"(5) Upon a finding in ex parte proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or sentence, the court shall authorize the defendant's attorney to obtain such services on behalf of the defendant and shall order the payment of fees and expenses therefore, under paragraph (6). Upon a finding that timely procurement of such services could not practicably await prior authorization, the court may authorize the provision of and payment for such services nunc pro tunc.

"(6) Notwithstanding the rates and maximum limits generally applicable to criminal cases and any other provision of law to the contrary, the court shall fix the compensation to be paid to attorneys appointed under this subsection and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under paragraph (5), at such rates or amounts as the court determines to be appropriate in order to provide such defendant with representation by counsel and other services as nearly equivalent as possible to those available to defendants who are financially able to obtain such representation and other services for their defense and appeal, and for the prosecution of any of the proceedings described in paragraph (4).

"Refusal to Participate by State and Federal Correctional Employees

"(r) No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

Passed the Senate June 10 (legislative day, June 8), 1988.

AMENDMENT NO. 3370

At the appropriate place add the following:

None of the provisions of this Act shall become effective until the following becomes enacted:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) PRESERVATION OF COVERAGE.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) MINIMUM WAGE.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) WAGE ORDERS.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking and "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. . NEW WAGE FOR FULL-TIME STUDENTS

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this section.

(B) The wage referred to in subparagraph (A) is a wage 85% of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. This limitation shall not apply to any high school dropout who has returned to school full-time. No individual student covered by this program may work, except during vacation periods, more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

SPECTER AMENDMENTS NOS. 3371 AND 3372

(Ordered to lie on the table.)

Mr. SPECTER submitted two amendments intended to be proposed by him to the bill S. 2488, supra; as follows:

AMENDMENT NO. 3371

At the end of the amendment add the following new section:

SEC. . Notwithstanding Section 1460 of Title 18 of the United States Code as added by Section 526 of this Act, Section 1460 of Title 18 shall not constitute a violation of law for an adult merely to possess obscene material. It shall be illegal, as specified in Section 526(a) of this Act, for anyone to possess obscene material with the intent to sell.

AMENDMENT NO. 3372

At the end of the amendment add the following new sections:

SEC. . In any civil forfeiture action brought pursuant to Section 1470 of Title 18 of the United States Code as added by Section 527 of this Act, the defendant shall have a right to a trial by jury and the government shall have the burden of proof, beyond a reasonable doubt, that the article is obscene under the standards of the community in which the trial takes place.

SEC. . Notwithstanding Section 1471(c) of Title 18 of the United States Code as added by Section 528 of this Act in any civil action under this Section the government shall have the burden of proof, beyond a reasonable doubt, that the article is obscene under the standards of the community in which the trial takes place.

DOLE AMENDMENTS NOS. 3373 AND 3374

(Ordered to lie on the table.)

Mr. DOLE submitted two amendments intended to be proposed by him to the bill S. 2488, supra; as follows:

AMENDMENT NO. 3373

Notwithstanding any other provision of this Act, on page 6 lines 4 and 5, the figure is null and void and the figure "75" is substituted therefor.

AMENDMENT NO. 3374

Notwithstanding any other provision of this Act, on page 6 lines 4 and 5, the figure is null and void and the figure "100" is substituted therefor.

BYRD AMENDMENTS NOS. 3375 THROUGH 3379

(Ordered to lie on the table.)

Mr. BYRD submitted five amendments intended to be proposed by him to the bill S. 2488, supra; as follows:

AMENDMENT NO. 3375

At the appropriate place add the following: None of the provisions of this Act shall become effective until the following is enacted:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Anti-Substance Abuse Act of 1988".

SEC. 2. ORGANIZATION OF ACT.

The organization of this Act is as follows:

Title I. Organization.

Title II. Crimes and Penalties and Law Enforcement.
Title III. Prevention, Education, and Treatment.
Title IV. International Narcotics Control and Assistance to Foreign Countries.
Title V. User Accountability.
Title VI. Sense of the Congress on drug funding.
Title VII. Death Penalty in Case of Drug Related Killings.

TITLE I—ORGANIZATION

SEC. 1000. TABLE OF CONTENTS.

The table of contents for this title is as follows:

TITLE I—ORGANIZATION

Sec. 1000. Table of contents.

Subtitle A—National Drug Control Program

Sec. 1001. Short title.
Sec. 1002. Findings.
Sec. 1003. Purposes.
Sec. 1004. Definitions.
Sec. 1005. Establishment of office.
Sec. 1006. Appointment and duties of the director, deputy director and associate director.
Sec. 1007. Duties and responsibilities of the heads of executive branch departments and agencies.
Sec. 1008. Development and submission of national drug control strategy.
Sec. 1009. Submission of national drug control program budget with the annual budget request of the President.
Sec. 1010. High-intensity drug areas.
Sec. 1011. Termination of the National Drug Enforcement Policy Board, the National Narcotics Border Interdiction System, and the White House Drug Abuse Policy Office.
Sec. 1012. Executive reorganization authority.
Sec. 1013. Termination of the Office of National Drug Control Policy.
Sec. 1014. Authorization of appropriations.
Sec. 1015. Effective date.

Subtitle B—Department of Justice Civil Enforcement Enhancement

Sec. 1051. Short title.
Sec. 1052. Findings.
Sec. 1053. Civil enforcement report.
Sec. 1054. Civil enforcement enhancement.
Sec. 1055. Coordination and enhancement of field activities.

Subtitle A—National Drug Control Program

SEC. 1001. SHORT TITLE.

This subtitle may be cited as the "National Narcotics Leadership Act of 1988".

SEC. 1002. FINDINGS.

The Congress finds that—

(1) the problem of illegal drug activity and drug abuse falls across the entire spectrum of Federal activities, both domestically and internationally;

(2) any effective solution to the drug problem of the Nation must involve a comprehensive approach from all levels of government, combining reduction of the demand for drugs through education, research and treatment with rigorous law enforcement and supply reduction initiatives;

(3) an effective solution to the drug problem of the Nation is severely hampered by the large number of Federal agencies with overlapping jurisdiction and fragmented authority which does not encourage effective strategic planning, coordination and cooperation without centralized leadership;

(4) the magnitude and scope of the problem requires a Director of National Drug Control Policy with the responsibility for the coordination and direction of all Federal efforts by the numerous agencies; and

(5) such a director must have sufficient authority and responsibility to lead Federal agencies in making management, policy, and budgetary decisions with respect to all Federal agencies so that a unified and efficient effort can be made to substantially reduce the illegal drug problem.

SEC. 1003. PURPOSES.

The purposes of this subtitle are to—

(1) develop a comprehensive, long-range national drug control strategy for substantially reducing drug trafficking and abuse, particularly among young people;

(2) authorize one official to direct the national drug control policy of the Federal Government, coordinate all United States policy, resources, and operations with respect to drug control, and report directly to the President on all drug control matters;

(3) make such official accountable to the Congress and the people of the United States for the effectiveness of the national drug control strategy; and

(4) provide that the national drug control strategy ensures that Federal, State, and local governments are fully coordinated and efforts are designed to maximize the effectiveness of such strategy.

SEC. 1004. DEFINITIONS.

As used in this subtitle the term—

(1) "drug" shall have the same meaning as the term "controlled substance" as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6));

(2) "drug control" means any activity of a program conducted by a National Drug Control Program agency designed to reduce, directly or indirectly, the availability and use of drugs, including all efforts to decrease the production, manufacture, importation, distribution, or use of drugs through supply reduction and demand reduction programs;

(3) "supply reduction" means any activity of a program conducted by a National Drug Control Program agency that is designed to reduce, directly or indirectly, the supply of drugs in the United States and abroad, including, but not limited to—

(A) international drug control;

(B) foreign and domestic drug enforcement intelligence;

(C) interdiction; and

(D) domestic drug law enforcement;

(4) "demand reduction" means any activity of a program conducted by a National Drug Control Program agency that is designed to reduce, directly or indirectly, the demand for and use of drugs, including, but not limited to—

(A) drug abuse education;

(B) prevention;

(C) treatment;

(D) research; and

(E) private sector initiatives;

(5) "National Drug Control Program" means the drug control programs, policies and activities that—

(A) the National Drug Control Program agencies undertake pursuant to the responsibilities of each such agency under the national drug control strategy; and

(B) are subject to review by the Director and modification by the President;

(6) "National Drug Control Program agencies" mean the agencies and all dedicated units thereof with responsibilities under the national drug control strategy including the—

(A) Department of Justice, including—

(i) the Drug Enforcement Administration;

(ii) the Federal Bureau of Investigation;

(iii) the United States Attorneys;

(iv) the United States Marshals Service;

(v) the Immigration and Naturalization Service;

(vi) National Central Bureau Interpol; and

(vii) the Criminal and Tax Divisions;

(B) Department of the Treasury, including—

(i) the United States Customs Service;

(ii) the Internal Revenue Service;

(iii) the Bureau of Alcohol, Tobacco and Firearms; and

(iv) the United States Secret Service;

(C) Department of Transportation, including—

(i) the Coast Guard; and

(ii) the Federal Aviation Administration;

(D) Department of State, including—

(i) the Bureau of International Narcotics Matters;

(ii) the Agency for International Development; and

(iii) the United States Information Agency;

(E) Department of Defense;

(F) Department of the Interior;

(G) Department of Agriculture;

(H) Food and Drug Administration;

(I) Department of Health and Human Services, including—

(i) the Alcohol, Drug Abuse and Mental Health Administration;

(ii) the Office for Substance Abuse Prevention;

(iii) the National Institute of Drug Abuse; and

(iv) the Indian Health Service;

(J) Department of Education;

(K) Department of Labor;

(L) ACTION;

(M) Office of Personnel Management;

(N) Central Intelligence Agency and all other intelligence community agencies;

(O) staff elements of the Director of National Drug Control Policy; and

(P) other departments or agencies with drug control responsibilities designated—

(i) jointly by the Director for National Drug Control Policy and the head of the relevant department or agency; or

(ii) by the President.

SEC. 1005. ESTABLISHMENT OF OFFICE.

(a) ESTABLISHMENT OF OFFICE.—There is established in the Executive Office of the President the "Office of National Drug Control Policy" (hereafter in this subtitle referred to as the "Office").

(b) DIRECTOR AND DEPUTY DIRECTORS.—(1) There shall be at the head of the Office, a Director of National Drug Control Policy (hereafter in this subtitle referred to as the "Director").

(2) There shall be two deputy directors of the Office (hereafter in this subtitle referred to as the "Deputy Directors") as follows:

(A) A Deputy Director for Demand Reduction to be responsible for all programs to reduce the demand for drugs, including drug education, prevention, treatment, research, and private sector programs.

(B) A Deputy Director for Supply Reduction to be responsible for all programs to reduce the supply of drugs, including domestic drug law enforcement, interdiction, international and intelligence programs, and any other program designed to halt the production, importation, manufacture, distribution, or use of drugs.

(3) The Deputy Directors shall assist the Director in carrying out the functions of the Director under this Act.

(c) Bureau of State and Local Affairs.—(1) There is established in the Office of National Drug Control Policy a Bureau of State and Local Affairs (hereafter in this subtitle referred to as the "Bureau").

(2) There shall be at the head of the Bureau an Associate Director for National Drug Control Policy.

SEC. 1006. APPOINTMENT AND DUTIES OF THE DIRECTOR, DEPUTY DIRECTORS AND ASSOCIATE DIRECTOR.

(a) Appointment.—(1) The Director, the Deputy Directors, and the Associate Director shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The Director, the Deputy Directors, and the Associate Director shall each serve at the pleasure of the President. No person may serve as Director, a Deputy Director, or Associate Director for a period of more than 4 years, unless such person is reappointed to that same office by the President, by and with the advice and consent of the Senate. No person shall serve as Director, a Deputy Director, or Associate Director while serving in any other position in the Federal Government.

(3) The Director shall have the rank of Ambassador Extraordinary and Plenipotentiary.

(4) Section 101(a) of the National Security Act of 1947 (50 U.S.C. 402(a)) is amended in the fourth paragraph—

(1) in clause (6) by striking out "and" at the end thereof;

(2) by redesignating clause (7) as clause (8) and inserting before such clause the following:

"(7) the Director of the Office of Drug Control; and".

(5)(A) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"Director of National Drug Control Policy.".

(B) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"Deputy Director for Demand Reduction for National Drug Control Policy.

"Deputy Director for Supply Reduction for National Drug Control Policy.".

(C) Section 5315 of title 5, United States Code, is amended by adding at the end thereof:

"Associate Director for National Drug Control Policy.".

(b) Function of Director.—The Director shall serve as the principal director and coordinator of United States drug control policy.

(c) Authorities and Responsibilities of the Director.—(1) The Director is authorized and directed to notify any National Drug Control Program agency that its policies are not in compliance with the responsibilities of such agency under the National Drug Control Strategy.

(2) The head of each National Drug Control Program agency shall ensure that the agency is in compliance with the responsibilities of such agency under the National Drug Control Strategy, as notified pursuant to paragraph (1) of this subsection. The head of any National Drug Control Program agency may appeal to the President any decision of the Director issued under paragraph (1) of this subsection.

(3) The Director shall—

(A) develop, review, implement and enforce Federal Government policy with respect to drug control programs;

(B) direct and coordinate all Federal Government drug supply reduction efforts, including international, intelligence, interdiction, and domestic drug law enforcement and all other programs designed to halt the production, importation, manufacture, provided in section 1008 of this title;

(C) direct and coordinate efforts between the Federal, State, and local governments, including the review of State and local drug control strategies, and the development of a State and local component to the distribution, and use of drugs;

(D) direct and coordinate all Federal Government drug demand reduction efforts, including education, prevention, treatment, research, and private sector programs;

(E) prepare a national drug control strategy as national drug control strategy as provided in section 1008 of this title;

(F) direct and coordinate the collection and dissemination of information necessary to implement United States policy with respect to drug supply and demand reduction efforts; and

(G) develop a consolidated national drug control policy including—

(i) developing, with the advice of the program managers of departments and agencies with responsibilities under the National Drug Control Program, the consolidated National Drug Control Program budget, and presenting such budget proposal to the President for submission to the Congress; and

(ii) initiating, reviewing, and approving all agency requests for reprogramming National Drug Control Program funds, in accordance with guidelines which shall be established by the Office of Management and Budget.

(d) Consolidating National Drug Control Program Budget.—(1) In developing the National Drug Control Program budget, the Director shall provide each Federal Government program manager, agency head and department head with responsibilities under the national drug control strategy. Each such program manager, agency head, or department head shall submit the drug control budget request of the program, agency, or department to the Director at the same time as such request is submitted to their superiors (and before submission to the Office of Management and Budget) in the preparation of the budget of the President submitted to the Congress under section 1105(a) of title 31, United States Code. The Director shall approve or revise such requests in consultation with the appropriate program manager, agency or department head.

(2) The Director may reprogram funds within National Drug Control Programs.

(3) The Director may transfer, after providing notification to the Committees on Appropriations of the Senate and the House of Representatives, an amount not to exceed 5 per centum of the funds appropriated for one such program to another such program within the same National Drug Control Program agency.

(4) The head of any National Drug Control Program agency may appeal to the President any decision of the Director on budget and reprogramming matters relating to such agency.

(e) Powers of Director.—In carrying out the responsibilities described under subsection (c) the Director may—

(1) select, appoint, employ, and fix compensation of such officers and employees as shall be necessary to carry out the powers and duties of the Office under this title;

(2) direct, with the concurrence of the Secretary of a department or head of an agency employing such personnel, the temporary reassignment of personnel within the Federal Government in order to implement United States drug control policy;

(3) to use, on a reimbursable basis, the available services, equipment, personnel, and facilities of Federal, State, and local agencies to the extent the Director determines appropriate after considering the effectiveness of such existing services, equipment, personnel, and facilities;

(4) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, relating to appointments in the Federal Service, at rates of compensation for individuals not to exceed the daily equivalent of the rate of pay payable from time to time for GS-18 of the General Schedule under section 5332 of title 5, United States Code;

(5) accept and use donations of property from all government agencies;

(6) use the mails in the same manner as any other department or agency of the executive branch; and

(7) monitor National Drug Control Program implementation, including—

(A) conducting program and performance audits and evaluations; and

(B) requesting assistance from the Inspector General of the relevant agency in such audits and evaluations.

(f) Personnel Detailed to the Office.—(1) Notwithstanding any provision of chapter 42 of title 5, United States Code, the Director shall provide the evaluation of the performance of any employee detailed to the Office of National Drug Control Policy for purposes of the applicable performance appraisal system established under chapter 43 of title 5, United States Code, for any rating period, or part thereof, that such employee is detailed to the Office.

(2)(A) Subject to the provisions of subparagraph (B), in filling a position within any Executive agency through promotion, the head of such agency shall give preference to any employee who was detailed to the Office of National Drug Control Policy and received satisfactory performance appraisals during such detail, if—

(i) such employee is otherwise qualified for such position; and

(ii) such employee is eligible for appointment to such position.

(B)(i) Notwithstanding the provisions of subparagraph (A), no preference may be given to any employee under such subparagraph, with respect to a preference eligible (as defined under section 2108(3) of title 5, United States Code) who is eligible for the same position.

(ii) The provisions of subparagraph (A) shall apply to no more than one promotion for any employee.

SEC. 1007. DUTIES AND RESPONSIBILITIES OF THE HEADS OF EXECUTIVE BRANCH DEPARTMENTS AND AGENCIES.

(a) Access to Information.—(1) The heads of all executive branch departments and agencies shall—

(A) provide the Director with all information necessary and relevant to the National Drug Control Program and the development of the national drug control strategy; and

(B) give complete consideration to the requests from the Director for appropriate support for National Drug Control Program activities.

(2) The Director of Central Intelligence shall prescribe such regulations as may be necessary to protect the sources and methods of intelligence program information provided to the Director of National Drug Control Policy under this section.

(b) Budget Responsibilities of Executive Departments and Agencies.—The heads of National Drug Control Program agencies shall ensure—

(1) timely development and submission to the Director by the program managers and heads of component activities of proposed drug control programs and budgets in the format designated by the Director; and

(2) that the Director is provided, in a timely and responsive manner, all information necessary to perform the program and budget responsibilities of the Director.

(c) Certification by the Director.—(1) The heads of National Drug Control Program agencies shall, unless exigent circumstances require otherwise, provide the Director in writing with any proposed changes in policies relating to the activities of such department or agency under the National Drug Control Program prior to implementation of such changes. The Director shall promptly review such proposals and certify to the department or agency head in writing whether such changes are consistent with the National Drug Control Program.

(2) If prior notice of a proposed change under paragraph (1) is not possible, the department or agency head shall notify the Director as soon as is practicable. The Director shall review such change and certify to the department or agency head in writing whether such change is consistent with the National Drug Control Program.

(d) General Services Administration.—The Administrator of General Services shall provide to the Director on a reimbursable basis such administrative support services as the Director may request.

SEC. 1008. DEVELOPMENT AND SUBMISSION OF NATIONAL DRUG CONTROL STRATEGY.

(a) Development and Submission of the National Drug Control Strategy.—(1) No later than 180 days after the first Director is confirmed by the Senate, and in each fiscal year thereafter, the President shall submit to the Congress a National Drug Control Program budget and a complete national drug control strategy. Any part of such strategy that involves classified information may be presented to the Congress in closed proceedings.

(2) The national drug control strategy shall—

(A) be a comprehensive, research based, long-range plan for the Nation to follow in reducing drug abuse in the United States;

(B) indicate the balance between resources devoted to supply and demand reduction; and

(C) include a component on State and local drug control to ensure that the United States pursues a well-coordinated and effective drug control program at all levels of government.

(3)(A) In developing the national drug control strategy, the Director shall consult with—

(i) the National Drug Control Program agencies;

(ii) State and local officials;

(iii) private citizens with demonstrated experience and expertise in drug demand reduction; and

(iv) private citizens with experience and expertise in drug supply reduction.

(B) An initial draft of such strategy shall be circulated by the Director for a period of 30 days, during the 180-day period described under paragraph (1), for the purpose of obtaining comments from the National Drug Control program agencies.

(C) After reviewing the comments obtained under subparagraph (B), the Director shall—

(i) compose a final draft strategy;

(ii) circulate such final draft strategy to National Drug Control Program agencies for a period of 30 days; and

(iii) transmit such final draft strategy and all agency comments to the President.

(D) At the time the President submits the national drug control strategy the Director shall transmit a report to the Congress indicating the persons consulted under this paragraph.

(4) Beginning with the second submission of a budget and strategy described under paragraph (1), the Director shall include a complete evaluation of the effectiveness of United States drug control policy during the preceding year.

(b) Goals and Priorities.—The strategy developed pursuant to subsection (a) shall include—

(1) a complete list of goals and priorities in—

(A) international narcotics control;

(B) intelligence efforts relating to drug supply reduction efforts;

(C) interdiction;

(D) domestic drug law enforcement;

(E) drug demand reduction efforts, including education, prevention, treatment, research, and private sector initiatives; and

(F) cooperative efforts between the Federal, State, and local governments in the area of drug control;

(2) 5 year projections for program and budget priorities and achievable projections for reductions of drug availability, purity, and usage;

(3) a complete assessment of the way the program and budget priorities developed under subsection (a) are intended to implement the strategy and whether such resource levels are sufficient to implement the strategy;

(4) a mechanism of independent, outside, annual assessment of the effectiveness of the national drug control strategy and all programs administered thereto;

(5) the designation of the division of authority in each of the major areas of the National Drug Control Program and a mechanism to ensure maximum coordination and cooperation among all involved agencies; and

(6) the designation of lead agencies with areas of principal responsibility for carrying out the strategy.

(c) Areas of Principal Responsibilities of Strategy.—(1) The Director shall require that any National Drug Control Program agency that conducts an activity which is in the area of principal responsibility of a lead agency as designated under subsection (b)(6) shall—

(A) notify such lead agency in writing of the activity; and

(B) provide such notification prior to conducting such activity, unless exigent circumstances require otherwise.

(2) If a lead agency objects to the conduct of an activity described under paragraph (1), the lead agency and the agency planning to conduct such activity shall refer the matter to the Director for resolution.

(3) Nothing in this subsection may be construed to limit the authority of the Director to establish policies relating to the responsibilities of any National Drug Control Program agency under the national drug control strategy.

SEC. 1009. SUBMISSION OF NATIONAL DRUG CONTROL PROGRAM BUDGET WITH THE ANNUAL BUDGET REQUEST OF THE PRESIDENT.

Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof the following:

"(26) a separate statement of the amount of appropriations requested for the Office of National Drug Control Policy and each program of the National Drug Control Program.".

SEC. 1010. HIGH-INTENSITY DRUG AREAS.

(a) Designation and Assistance.—The Director, upon consultation with the Attorney General, National Drug Control Program agencies, and the several Governors, is authorized to designate certain areas of the country as high intensity drug areas. Upon making such a designation and in order to provide Federal assistance to such area, the Director may—

(1) direct, with the concurrence of the Secretary of a department or head of an agency employing such personnel, the temporary reassignment of Federal personnel to such areas;

(2) transfer, after providing notification to the Committees on Appropriations of the Senate and the House of Representatives, an amount not to exceed 5 per centum of the funds appropriated for one such program to another such program; and

(3) take any other action authorized under section 1006 of this subtitle to provide increased Federal assistance to such areas.

(b) Coordination.—The Director shall coordinate any action taken under subsection (a) of this section with State and local officials.

SEC. 1011. TERMINATION OF THE NATIONAL DRUG ENFORCEMENT POLICY BOARD, THE NATIONAL NARCOTICS BORDER INTERDICTION SYSTEM, AND THE WHITE HOUSE DRUG ABUSE POLICY OFFICE.

(a) National Drug Enforcement Policy Board.—(1) The National Drug Enforcement Policy Board is terminated effective on March 1, 1989. Upon such termination, all records and property of the National Drug Enforcement Policy Board shall be transferred to the Director. The Director of the Office of Management and Budget shall take such actions as are necessary to facilitate such transfer.

(2) All strategies, implementation plans, memoranda of understanding and directives that have been issued or made by the National Drug Policy Board before the date of the enactment of this subtitle shall continue in effect until modified, terminated, superseded, set aside, or revoked by the President or the Director.

(3) The National Narcotics Act of 1984 (21 U.S.C. 1201 et seq.) is repealed effective on March 1, 1989.

(b) National Narcotics Border Interdiction System.—Notwithstanding any other provision of law, no funds may be expended for any activities or operations of the national narcotics border interdiction system after 180 days after the date on which the first Director appointed under this title is confirmed by the Senate. The Director shall provide that the functions of the national narcotics border interdiction system are transferred to other agencies to the extent such activities continue after the date of the enactment of this title. The Director of the Office of Management and Budget shall take such action as is necessary to facilitate such transfer.

(c) White House Office of Drug Abuse Policy.—(1) No later than 90 days after the date of enactment of this title, the White House Drug Abuse Policy Office established under Executive Order No. 12368 shall terminate.

(2) Sections 103, 201, 202, 203, 204, and 206 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act (21 U.S.C. 1103, 1111, 1112, 1113, 1114, and 1116) are repealed. Section 205 of such Act is redesignated as section 201.

SEC. 1012. EXECUTIVE REORGANIZATION AUTHORITY.

(a) Report to the Congress and the President.—No later than 1 year after the date of enactment of this title the Director shall submit a report to the President and the Congress on the necessity to group, coordinate, and consolidate agencies and functions of the Government involved in drug supply reduction and drug demand reduction in order to—

(1) promote better execution of the laws;

(2) provide more effective management of the executive branch;

(3) reduce expenditures and promote economy to the fullest extent consistent with the efficient operation of the executive branch; and

(4) reduce the number of agencies by consolidating agencies having similar functions under a single head, and to abolish such agencies or functions as may not be necessary for the efficient conduct of the executive branch.

(b) Legislative Recommendations.—The report submitted under subsection (a) shall include any appropriate legislative recommendations for the Congress.

(c) United States Coast Guard Study.—In addition, the report submitted under subsection (a) shall include a comprehensive review of all options for United States Coast Guard reorganization including the creation of a separate department for the purpose of enhancing the capabilities, manpower and equipment of the United States Coast Guard in order to substantially increase the long-term role of the Coast Guard in drug interdiction and enforcement efforts and to ensure a steady and assured source of funding for this important mission.

SEC. 1013. TERMINATION OF THE OFFICE OF NATIONAL DRUG CONTROL POLICY.

This subtitle and the amendments made by this subtitle are repealed effective on the date occurring 5 years after the date of the enactment of this subtitle.

SEC. 1014. AUTHORIZATION OF APPROPRIATIONS.

For the purposes of carrying out this subtitle, there are authorized to be appropriated $6,500,000 for fiscal year 1989 and such sums as may be necessary for each of the 4 succeeding fiscal years, to remain available until expended.

SEC. 1015. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall be effective on January 21, 1989.

Subtitle B—Department of Justice Civil Enforcement Enhancement

SEC. 1051. SHORT TITLE.

This subtitle may be cited as the "Justice Department Organized Crime and Drug Enforcement Enhancement Act of 1988".

SEC. 1052. FINDINGS.

The Congress finds that—

(1) organized criminal activity contributes significantly to the importation, distribution, and sale of illegal and dangerous drugs;

(2) trends in drug trafficking patterns necessitate a response that gives appropriate weight to—

(A) the prosecution of drug-related crimes; and

(B) the forfeiture and seizure of assets and other civil remedies used to strike at the inherent strength of the drug networks and organized crime groups;

(3) law enforcement components of the Department of Justice should give high priority to the enforcement of civil sanctions against drug networks and organized crime groups; and

(4) the structure of the Department of Justice Criminal Division needs to be reviewed in order to determine the most effective structure to address such drug-related problems.

SEC. 1053. CIVIL ENFORCEMENT REPORT.

(a) Report.—Not later than 1 year after the date of the enactment of this title, the Director of National Drug Control Policy (the Director) in consultation with the Attorney General, shall report to the Congress on the necessity to establish a new division or make other organizational changes within the Department of Justice in order to promote better civil and criminal law enforcement. In preparing such report, the Director shall consider restructuring and consolidating one or more of the following divisions and programs—

(1) the Organized Crime and Racketeering Section of the Criminal Division and all subordinate strike forces therein;

(2) the Narcotic and Dangerous Drug Section of the Criminal Division;

(3) the Asset Forfeiture Office of the Criminal Division; and

(4) the Organized Crime Drug Enforcement Task Force Program;

(b) Legislative Recommendations.—The report submitted under subsection (a) shall include appropriate legislative recommendations for the Congress.

SEC. 1054. CIVIL ENFORCEMENT ENHANCEMENT.

(a) Duty of Attorney General.—The Attorney General shall insure that each component of the Department of Justice having criminal law enforcement responsibilities with respect to the prosecution of organized crime and controlled substances violations, including each United States Attorney's Office, attaches a high priority to the enforcement of civil statutes creating ancillary sanctions and remedies for such violations, such as civil penalties and actions, forfeitures, injunctions and restraining orders, and collection of fines.

(b) Duty of Associate Attorney General.—The Associate Attorney General shall be responsible for implementing the policy set forth in this subsection.

(c) Authorization of Appropriations.—(1) There are authorized to be appropriated $2,175,000 for salaries and expenses to the Department of Justice General Legal Activities Account and $2,175,000 for salaries and expenses for United States Attorneys for fiscal year 1989.

(2) Any appropriation of funds authorized under paragraph (1) shall be—

(A) in addition to any appropriations requested by the President in the 1989 fiscal year budget submitted by the President to the Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989; and

(B) used to increase the number of field attorneys and related support staff over such personnel levels employed at the Department of Justice on September 30, 1988.

(3) Any increase in full-time equivalent positions described under paragraph (2)(B) shall be exclusively used for asset forfeiture and civil enforcement and be assigned to appropriate field offices of the Organized Crime and Racketeering Section and the Organized Crime Drug Enforcement Task Forces.

(d) Reporting Requirement.—The Attorney General, at the end of each such fiscal year, shall file a report with the Congress setting forth the extent of such enforcement efforts, as well as the need for any enhancements in resources necessary to carry out this policy.

SEC. 1055. COORDINATION AND ENHANCEMENT OF FIELD ACTIVITIES.

(a) Field Offices.—To the greatest extent feasible, field offices of the Organized Crime and Racketeering Section and the Organized Crime Drug Enforcement Task Forces should be colocated with offices of the appropriate United States Attorney in order to enhance and coordinate their respective activities.

(b) Task Force Agents.—To the greatest extent feasible, those agents assigned to the Organized Crime Drug Enforcement Task Force program shall be dedicated exclusively to and located with the Task Forces so that the Task Force personnel may develop increased expertise and function as a working unit. Those agents assigned to the Task Forces from the various participating agencies shall be given credit for the work of the Task Force, regardless of the statutory authority used to prosecute Task Force cases or the criminal or civil nature of the investigation.

(c) Expenses of Task Forces.—(1) Beginning in fiscal year 1990, the Attorney General in his budget shall submit a separate appropriations request for expenses relating to all Federal agencies participating in the Organized Crime Drug Enforcement Task Forces. Such appropriations shall be made to the Department of Justice's Interagency Law Enforcement Appropriation Account for the Attorney General to make reimbursements to the involved agencies as necessary.

(2) The appropriations and reimbursements procedure described under paragraph (1) shall—

(A) provide for the flexibility of the Task Forces which is vital to success;

(B) permit Federal law enforcement resources to be shifted in response to changing patterns of organized criminal drug activities;

(C) permit the Attorney General to reallocate resources among the organizational components of the Task Forces and between regions without undue delay; and

(D) ensure that the Task Forces function as a unit, without the competition for resources among the participating agencies that would undermine the overall effort.

TITLE II—CRIMES AND PENALTIES AND LAW ENFORCEMENT

SEC. 2001. TABLE OF CONTENTS.

TITLE I—CRIMES AND PENALTIES

Sec. 2001. Table of contents.

Subtitle A—Career Criminals

Sec. 2101. Violent felonies by juveniles.
Sec. 2102. Life in prison for three-time drug offender.

Subtitle B—Public Corruption

Sec. 2151. Narcotics-related public corruption.

Subtitle C—Importation

Sec. 2201. Penalties for importation by aircraft and other vessels.

Subtitle D—Schools and Minors

Sec. 2251. Enhanced penalties for offenses involving children.
Sec. 2252. Exception to mandatory minimum penalty for first offense.
Sec. 2253. Elimination of exception to mandatory minimum for second offenses.
Sec. 2254. Possession with intent to distribute within 1,000 feet of a schoolyard.
Sec. 2254A. Playgrounds, youth centers, swimming pools, and video arcades.
Sec. 2255. Application of mandatory minimum penalties to purchase of controlled substances from minors.

Subtitle E—Firearms

Sec. 2302. Enhanced penalties for use of certain weapons in connection with a crime of violence or drug trafficking crime.
Sec. 2304. Prohibition of dangerous weapons in Federal facilities.
Sec. 2305. Inclusion of Federal firearms violations as predicate wiretap offenses.
Sec. 2306. Increased penalties for certain firearms offenses.

Subtitle F—Money Laundering

Sec. 2351. Money laundering forfeitures.
Sec. 2352. Forfeiture of substitute assets for money laundering offense.
Sec. 2353. Undercover "sting" operations in money laundering cases.
Sec. 2354. Specified unlawful activity.
Sec. 2355. Bank Secrecy Act Amendments.
Sec. 2356. Exception to requirement of actual presentation of financial records to grand jury.
Sec. 2357. Right to Financial Privacy Act amendment.

Subtitle G—Juvenile Justice

Sec. 2401. Minors convicted of drug trafficking.

Subtitle I—Prisons

Sec. 2501. Drug offenses within Federal prisons.
Sec. 2502. Payment of costs of incarceration by Federal prisoners.

Subtitle J—Drug Testing as a Condition of Probation and Supervised Release

Sec. 2551. Drug tests as a condition of probation and supervised release.
Sec. 2552. House probation as a condition for probation, parole or supervised release.

Subtitle K—Minor and Technical Criminal Law Amendments Act Amendments

Sec. 2601. Short title.
Sec. 2602. Correction of cross reference.
Sec. 2603. Correction of erroneous reference.
Sec. 2604. Correction of misprint.
Sec. 2605. Correction of typographical error in section 31.
Sec. 2606. Correction of typographical error in section 32.
Sec. 2607. Correction of typographical error in section 152.
Sec. 2608. Conspiracy against civil rights.
Sec. 2609. Deprivation of civil rights.
Sec. 2610. Designation of additional high level officials of the Department of Justice to perform certain functions relating to criminal and ancillary proceedings.
Sec. 2611. Off-highway vehicle identification offense.
Sec. 2612. Redesignation of paragraphs in section 831.
Sec. 2613. Identification fraud.
Sec. 2614. Transmission of wagering information.
Sec. 2615. Punctuation correction in section 1111.
Sec. 2616. Punctuation correction in section 1114.
Sec. 2617. Clarification of relation between two amendments made by public laws enacted in the 99th Congress.
Sec. 2618. Correction of subsection designation.
Sec. 2619. Obstruction of justice amendments.
Sec. 2620. Conforming amendment to table of sections.
Sec. 2621. Cross reference corrections and additions.
Sec. 2622. Cross reference correction and additions.
Sec. 2623. Syntax correction in section 1962.
Sec. 2624. Section 1963 amendments.
Sec. 2625. Clerical correction to table of contents for chapter 119.
Sec. 2626. Section 2516 amendments.
Sec. 2627. Correction of cross reference.
Sec. 2628. Governmental access to contents of electronic communications in and records of a remote computing service.
Sec. 2629. Definition of court for certain applications.
Sec. 2630. Section 3124 amendment.
Sec. 2631. Sentencing classification of offenses.
Sec. 2632. Correction of cross references.
Sec. 2633. Furlough of certain individuals ordered to be committed for insanity.
Sec. 2634. Periodic reports relating to certain hospitalized persons.
Sec. 2635. Insertion of missing close parenthesis.
Sec. 2636. Amendment to rules of evidence conforming terminology relating to sex offenses.
Sec. 2637. Extension of power to make certain examinations to psychologists.
Sec. 2638. Syntactical correction relating to certain counterfeit or forged items.
Sec. 2639. Form correction in Federal rules of civil procedure.
Sec. 2640. Punctuation correction in Federal rules of civil procedure.
Sec. 2641. Definition of 'United States' in reference to terrorist acts.
Sec. 2642. Cross references pertaining to arrest authority for violation of release conditions.
Sec. 2643. Renumbering of sections in chapter 95.
Sec. 2644. Addition of RICO predicate.
Sec. 2645. Asset forfeiture amendments.
Sec. 2646. Authorization of Postal Service to investigate money laundering.
Sec. 2647. Federal prison industries reform.
Sec. 2648. Controlled substances and related amendments.
Sec. 2649. Money laundering amendments.
Sec. 2650. Provision of misdemeanor penalty for certain escapes.
Sec. 2651. Clarification of predicate offense requirements for Armed Career Criminal Act.
Sec. 2652. Authority for the Federal Bureau of Investigation to investigate, upon request, felonious killings of State or local law enforcement officers.
Sec. 2653. Transportation and receipt of stolen securities.
Sec. 2654. Maximum penalty adjustments.
Sec. 2655. Ballistic Knife Act jurisdictional clarifications.
Sec. 2656. Common carrier operation amendments.
Sec. 2657. Explosives offenses amendments.
Sec. 2658. Interstate Agreement on Detainers Act amendments.
Sec. 2659. Clarification of prohibition of possession with intent to distribute controlled substances on aircraft.
Sec. 2660. Clarification of definition of drug trafficking crimes in which use of firearms and armor piercing ammunition is prohibited.
Sec. 2661. Clerical corrections relating to chapter 44.
Sec. 2662. Insertion of missing subsection heading.
Sec. 2663. Insertion of missing table.
Sec. 2664. Correction of items in table of chapters.
Sec. 2665. Insertion of missing letter.
Sec. 2666. Punctuation correction.
Sec. 2667. Reference correction.
Sec. 2668. Conforming amendment to table of sections.
Sec. 2669. Correction of item in table of sections for chapter 206.
Sec. 2670. Correction of items in table of sections for chapter 46.
Sec. 2671. Correction of typographical error.
Sec. 2672. Conforming amendment to table of sections for chapter 117.
Sec. 2673. Elimination of cross references to repealed section.
Sec. 2674. Insertion of missing word.
Sec. 2675. Insertion of missing comma.
Sec. 2676. Corrections of errors in Federal rules of evidence.
Sec. 2677. Supervised release.
Sec. 2678. Injunctions against fraud.
Sec. 2679. Obstruction of Federal audit.
Sec. 2680. Unauthorized use of the term "secret service".
Sec. 2681. Aggregation to permit prosecution of certain schemes to defraud multiple victims.
Sec. 2682. Time for refiling indictment or information following dismissal.
Sec. 2683. Restarting of Speedy Trial Act time period for defendants who abscond on eve of trial.
Sec. 2684. Criminal fines amendments.
Sec. 2685. Syntax correction to minimum sentence provision.
Sec. 2686. Refund of forfeited bail.
Sec. 2687. Special assessments on persons convicted of offenses for which collateral may be forfeited.
Sec. 2688. Conditions of probation.
Sec. 2689. Authority to obtain arrest warrant for foreign fugitive whose specific whereabouts are not known.
Sec. 2690. Misuse of social security number.
Sec. 2691. Petty offense amendments.
Sec. 2692. Nonmailability of locksmithing devices.
Sec. 2693. Assimilative Crimes Act amendments.
Sec. 2694. Protection of foreign officials.
Sec. 2695. Bail pending appeal.

Sec. 2696. Emergency pen register and trap and trace device installation.

Subtitle L—Sentencing Amendments

Sec. 2701. Prisoners transferred to the United States.
Sec. 2702. Records other than transcripts.
Sec. 2703. Standard of review.
Sec. 2704. Hiring outside counsel.
Sec. 2705. Powers of the Commission.
Sec. 2706. Granting incentive awards.
Sec. 2707. Technical correction.
Sec. 2708. Protection of public.
Sec. 2709. Authority to amend annual report.
Sec. 2710. Clarification of restitution provision.
Sec. 2711. Amendment to rule 4, rules of appellate procedure.

Subtitle M—Miscellaneous

Sec. 2751. Marihuana plants.
Sec. 2752. Fines for simple possession.
Sec. 2753. Continuing criminal enterprise.
Sec. 2754. Common carrier operation under the influence of alcohol or drugs.
Sec. 2756. Alien Witness Cooperation Act.
Sec. 2757. Amendment to the Federal rules of criminal procedure.
Sec. 2758. Jurisdiction over Federal lands.
Sec. 2759. Witness serving sentence abroad.
Sec. 2760. National Forest System Safety.
Sec. 2761. United States Marshals.
Sec. 2762. The National Advisory Commission on Law Enforcement.
Sec. 2763. Clarifications regarding drug paraphenalia.
Sec. 2764. Authorization to accept money, goods and services for the purpose of hosting the Interpol American Regional Conference and for the purpose of making a commemorative gift to Interpol General Secretariat.
Sec. 2765. Recovery of costs incurred by State and local law enforcement agencies.

Subtitle N—State and Local Narcotics Control and Justice Assistance Improvements

Chapter 1—State and Local Narcotics Control and Justice Assistance Improvements

Sec. 2821. Bureau of Justice Assistance and Unified Grant Programs.
Sec. 2822. Duties and functions of the Director of the Bureau of Justice Statistics.
Sec. 2823. Justice Assistance Act reauthorization.
Sec. 2824. Technical amendment.

Chapter 2—Juvenile Justice and Delinquency Prevention Programs

Sec. 2825. Prevention and treatment programs relating to juvenile gangs and juvenile drug abuse and drug trafficking.
Sec. 2826. Authority to make grants.
Sec. 2827. Allocation.
Sec. 2828. Technical assistance and training functions.
Sec. 2829. Technical and conforming amendments to parts B and C of title II.
Sec. 2830. Authorization of appropriations.
Sec. 2831. Technical amendments to part D of title II.

Chapter 3—Runaway and Homeless Youth

Sec. 2835. Runaway and Homeless Youth Act reauthorization.
Sec. 2836. Authorization of transitional living projects.
Sec. 2837. Grants for runaway and homeless youth centers.

Chapter 4—Missing Children's Assistance Act

Sec. 2841. Missing Children's Assistance Act.

Chapter 5—Family Violence Prevention Act of 1988

Sec. 2845. Short title.
Sec. 2846. Data collection and reporting.

Chapter 6—Regional Information Sharing Systems Grants

Sec. 2851. Regional information sharing systems grants.

Chapter 7—Public Safety Officers' Death Benefits Improvement

Sec. 2855. Public safety officers' death benefits improvement.
Sec. 2856. National programs for families of public safety officers who have died in the line of duty.

Chapter 8—Criminal History Record and Arrest Warrant and Stolen Vehicle Record Information Improvement

Sec. 2861. Short title.
Sec. 2862. Criminal history record, arrest warrant and stolen vehicle record information.
Sec. 2863. Criminal justice record information data quality research.
Sec. 2864. Technical amendments.

Chapter 9—College and Railroad Police Information

Sec. 2865. College and railroad police information.

Chapter 10—Assistance to State and Local Courts

Sec. 2871. State justice institute reauthorization.

Chapter 11—Victim Compensation and Assistance

Subchapter A—Victims of Crime Act of 1984 Reauthorization

Sec. 2875. Victims of Crime Act of 1984 reauthorization.
Sec. 2876. Victims Assistance Amendment.

Subchapter B—Establishment of office for victims of crime

Sec. 2881. Establishment of office.
Sec. 2882. Technical amendments to Victims of Crime Act.
Sec. 2883. Children's Justice Act Amendments.

Subchapter C—Other amendments to Victims of Crime Act of 1984

Sec. 2885. Other amendments to Victims of Crime Act of 1984.

Subtitle O—Chemical Diversion and Trafficking Act of 1988

Sec. 2901. Short title.
Sec. 2902. Regulation of listed chemicals and certain machines.
Sec. 2903. Import and export.
Sec. 2904. Definitions.
Sec. 2905. Amendments to section 401 of the Controlled Substances Act.
Sec. 2906. Amendments to section 402 of the Controlled Substances Act.
Sec. 2907. Amendments to section 403 of the Controlled Substances Act.
Sec. 2908. Subpoena power.
Sec. 2909. Forfeiture.
Sec. 2910. Active Department of Justice control program.
Sec. 2911. Effective date.

Subtitle P—Application of United States Immigration Laws and Deportation of Aliens Committing Aggravated Felonies

Sec. 2915. Short title.
Sec. 2916. Definition.
Sec. 2917. Deportation of aliens committing aggravated felonies.
Sec. 2918. Criminal penalties for reentry of certain deported aliens.
Sec. 2919. Criminal penalties for aiding or assisting certain aliens to enter the United States.
Sec. 2920. Criminal penalties for refusal of certain aliens to appear.
Sec. 2921. Special deportation proceedings for aliens convicted of aggravated felonies.
Sec. 2922. Expedited procedures for deportation of aliens convicted of committing aggravated felonies; grounds for appeal.
Sec. 2923. Restriction on withholding deportation.
Sec. 2924. Deportation for weapons violation.
Sec. 2925. Waiver of excludability.
Sec. 2926. Aiding or abetting illegal entry.
Sec. 2927. Bar on Reentry of convicted aggravated alien felons.
Sec. 2928. Forfeiture of instrumentalities used in bringing in and harboring certain aliens.
Sec. 2929. Control of certain aliens in custody.
Sec. 2930. Machine-readable document border security program.

Subtitle Q—Forfeiture and Customs

Chapter 1—Department of Justice Assets Forfeiture Fund

Sec. 2931. Department of Justice Assets Forfeiture Fund.

Chapter 2—Customs Forfeiture Fund

Sec. 2935. Customs Forfeiture Fund.

Chapter 4—Miscellaneous Forfeiture Provisions

Sec. 2945. Transfer by the Attorney General of foreign property.
Sec. 2946. Innocent owner provisions.
Sec. 2947. Warrants.
Sec. 2948. Postal Service assistance.
Sec. 2949. Transfer by the Secretary of the Treasury of foreign property.

Chapter 5—Administrative Forfeiture

Sec. 2951. Administrative provision.

Subtitle R—United States Magistrates and Court Reforms

Sec. 2955. Felony pleas.
Sec. 2956. Sentencing jurisdiction.
Sec. 2957. Drug days.

Subtitle S—Military Institutions

Sec. 2961. Administration of confinement facilities located on military installations by the Bureau of Prisons.

Subtitle T—Customs Enforcement Amendments

Sec. 2965. Amendments to the Tariff Act of 1930.
Sec. 2966. Amendment to the Federal Aviation Act of 1958.

Subtitle U—Authorization of Additional Appropriations for Drug Enforcement and Interdiction

Chapter 1—Authorization of Additional Appropriations for Drug Enforcement Personnel, Fiscal Year 1989

Sec. 2971. Immigration and Naturalization Service personnel enhancement.
Sec. 2972. Bureau of Alcohol, Tobacco, and Firearms armed career criminal apprehension program personnel enhancement.

Sec. 2973. Drug Enforcement Administration personnel enhancement.
Sec. 2974. Federal Bureau of Investigation drug enforcement personnel enhancement.
Sec. 2975. United States Marshals Service drug enforcement personnel enhancement.
Sec. 2976. Support of United States prisoners.
Sec. 2977. Federal Prison System.
Sec. 2978. United States Attorneys drug enforcement personnel enhancement.

CHAPTER 2—DRUG INTERDICTION ASSET AND PERSONNEL ENHANCEMENT

Sec. 2981. Short title.

SUBCHAPTER A—COAST GUARD

Sec. 2982. Coast Guard drug interdiction asset enhancement.
Sec. 2983. Coast Guard drug interdiction personnel enhancement.

SUBCHAPTER B—UNITED STATES CUSTOMS SERVICE

Sec. 2984. United States Customs Service drug interdiction asset enhancement.
Sec. 2985. United States Customs Service drug interdiction personnel enhancement.

SUBCHAPTER C—DRUG ENFORCEMENT ADMINISTRATION

Sec. 2986. Drug Enforcement Administration interdiction asset enhancement.

SUBCHAPTER D—IMMIGRATION AND NATURALIZATION SERVICE/BORDER PATROL

Sec. 2987. Border Patrol drug interdiction asset enhancement.
Sec. 2988. Immigration and Naturalization Service/Border Patrol drug interdiction personnel enhancement.

SUBCHAPTER E—RESEARCH AND DEVELOPMENT PROGRAMS TO ASSIST FEDERAL ENFORCEMENT AGENCIES

Sec. 2989. Use of existing Federal research and development facilities for civilian law enforcement.
Sec. 2990. Cargo container drug detection research and development.

SUBCHAPTER F—DRUG ENFORCEMENT TRAINING IMPROVEMENT

Sec. 2991. Federal Law Enforcement Training Center Improvement.
Sec. 2992. Federal law enforcement language training improvement.

SUBCHAPTER G—UNITED STATES-BAHAMAS DRUG INTERDICTION TASK FORCE

Sec. 2993. Interdiction task force programs.

SUBCHAPTER H—STANDARDS OF CARE IN DISCOVERING CONTRABAND

Sec. 2994. Standards of care in discovering contraband.

SUBCHAPTER I—INTERPOL—UNITED STATES NATIONAL CENTRAL BUREAU

Sec. 2995. Interpol—United States National Central Bureau.

SUBCHAPTER J—CIVIL AIR PATROL

Sec. 2996. Civil Air Patrol.

Subtitle A—Career Criminals

SEC. 2101. VIOLENT FELONIES BY JUVENILES.

Section 924(e) of title 18, United States Code, is amended—

(1) in paragraph (e)(2)(B), by inserting ", or any act of juvenile delinquency that would be punishable by imprisonment for such term if committed by an adult," after "one year"; and

(2) by adding at the end thereof the following:

"(C) the term 'conviction' includes a finding that a person has committed an act of juvenile delinquency involving a violent felony.".

SEC. 2102. LIFE IN PRISON FOR THREE-TIME DRUG OFFENDER.

(a) PENALTY FOR THIRD OFFENSE.—Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended—

(1) in the sentence beginning "If any person commits" by striking "one or more prior convictions" through "have become final" and inserting "a prior conviction for a felony drug offense has become final"; and

(2) adding after such sentence the following: "If any person commits a violation of this subparagraph or of sections 405, 405A, or 405B after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term 'felony drug offense' means an offense that is a felony under any provision of this title or any other Federal law that prohibits or restricts conduct relating to narcotic drugs, marihuana, or depressant or stimulant substances or a felony under any law of a State or a foreign country that prohibits or restricts conduct relating to narcotic drugs, marihuana, or depressant or stimulant substances.".

(b) CONFORMING AMENDMENTS.—(1) Sections 405(b), 405A(b) and 405B(c) of the Controlled Substances Act (21 U.S.C. 845(b), 845a(b) and 845b(c)) are amended—

(A) by striking "a prior conviction or convictions" and inserting "a prior conviction", and

(B) by inserting at the end thereof the following: "Penalties for third and subsequent convictions shall be governed by section 401(b)(1)(A).".

(2) Section 405(b) of the Controlled Substances Act (21 U.S.C. 845(b)) is amended by striking "or subsequent" from the caption.

Subtitle B—Public Corruption

SEC. 2151. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

"§ 220. Narcotics and public corruption.

"(a) Any public official who, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or non-performance of any official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State;

shall be guilty of a class B felony.

"(b) Any person who, directly or indirectly, corruptly gives, offers or promises anything of value to any public official, or offers or promises any public official to give anything of value to any other person, with intent—

"(1) to influence any official act;

"(2) to influence such public official to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

"(3) to influence such public official to do or to omit to do any act in violation of such official's lawful duty;

shall be guilty of a class B felony.

"(c) There shall be Federal jurisdiction over an offense described in this section if such offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) For the purpose of this section—

"(1) the term 'public official' means—

"(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror

"(C) an officer or employee or person acting for or on behalf of the government of any State, territory or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, territory, possession, or political subdivision; or

"(D) any person who has been nominated or appointed to be a public official as defined in subparagraph (A), (B), or (C), or has been officially informed that he or she will be so nominated or appointed;

"(2) the term 'official act' means any decision, action or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's official capacity, or in such official's place of trust or profit; and

"(3) the terms 'controlled substance' and 'controlled substance analogue' have the meaning set forth in section 102 of the Controlled Substances Act."

(b) CONFORMING AMENDMENTS.—(1) Section 1961(1) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery),"; and

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (bribery of public officials and witnesses),".

(c) SECTION ANALYSIS.—The section analysis at the beginning of chapter 11, title 18, United States Code, is amended by inserting the following:

"220. Narcotics and public corruption.".

Subtitle C—Importation

SEC. 2201. PENALTIES FOR IMPORTATION BY AIRCRAFT AND OTHER VESSELS.

(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 1010(a) of the Controlled Substances Import and Export Act (21 U.S.C. 960(a)) under circumstances in which—

(1) an aircraft other than a regularly scheduled commercial air carrier was used to import the controlled substance; or

(2) the defendant acted as a pilot, copilot, captain, navigator, flight officer, or any other operation officer aboard any craft or vessel carrying a controlled substance,

shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(A) two levels greater than the level that would have been assigned had the offense not been committed under circumstances set forth in (A) or (B) above; and

(B) in no event less than level 26.

(b) EFFECT OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in subsection (a) so as to achieve a comparable result.

Subtitle D—Schools and Minors

SEC. 2251. ENHANCED PENALTIES FOR OFFENSES INVOLVING CHILDREN.

(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating sections 405, 405A, or 405B of the Controlled Substances Act (21 U.S.C. 845, 845a or 845b) involving a person under 18 years of age shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(1) two levels greater than the level that would have been assigned for the underlying controlled substance offense; and

(2) in no event less than level 26.

(b) EFFECTS OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in subsection (a) so as to achieve a comparable result.

(c) MULTIPLE ENHANCEMENTS.—The guidelines referred to in subsection (a), as promulgated or amended under such subsection, shall provide that an offense that could be subject to multiple enhancements pursuant to such subsection is subject to not more than one such enhancement.

SEC. 2252. EXCEPTION TO MANDATORY MINIMUM PENALTY FOR FIRST OFFENSE.

Section 405(a) of the Controlled Substances Act (21 U.S.C. 845(a)) is amended by inserting at the end the following: "The mandatory minimum sentencing provisions of this subsection shall not apply to offenses involving 5 grams or less of marihuana.".

SEC. 2253. ELIMINATION OF EXCEPTION TO MANDATORY MINIMUM FOR SECOND OFFENSES.

Section 405(b) of the Controlled Substances Act (21 U.S.C. 845(b)) is amended by striking "The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.".

SEC. 2254. POSSESSION WITH INTENT TO DISTRIBUTE WITHIN 1,000 FEET OF A SCHOOLYARD.

Sections 405A (a) and (b) of the Controlled Substances Act (21 U.S.C. 845a(a) and (b)) are amended by inserting ", possessing with intent to distribute," after "distributing".

SEC. 2254A. PLAYGROUNDS, YOUTH CENTERS, SWIMMING POOLS AND VIDEO ARCADES.

(a) Sections 405A (a) and (b) of the Controlled Substances Act (21 U.S.C. 845a (a) and (b)) are amended by inserting ", or within 100 feet of a playground, public or private youth center, public swimming pool, or video arcade facility," after "university".

(b) Section 405A of the Controlled Substances Act (21 U.S.C. 845a) is amended by adding at the end thereof the following subsection:

"(d) For the purposes of this section—

"(1) The term 'playground' means any outdoor facility (including any parking lot appurtenant thereto) intended for recreation, open to the public, and with any portion thereof containing three or more separate apparatus intended for the recreation of children including, but not limited to, sliding boards, swingsets, and teeterboards.

"(2) The term 'youth center' means any recreational facility and/or gymnasium, (including any parking lot appurtenant thereto) intended primarily for use by persons under 18 years of age, which regularly provides athletic, civic, or cultural activities.

"(3) The term 'video arcade facility' means any facility, legally accessible to persons under 18 years of age, intended primarily for the use of pinball and video machines for amusement containing a minimum of ten pinball and/or video machines.

"(4) The term 'swimming pool' includes any parking lot appurtenant thereto.".

SEC. 2255. APPLICATION OF MANDATORY MINIMUM PENALTIES TO PURCHASE OF CONTROLLED SUBSTANCES FROM MINORS.

Section 405b(a) of the Controlled Substances Act (21 U.S.C. 845b(a)) is amended by—

(1) striking "or" after the semicolon in paragraph (1);

(2) striking the period at the end of paragraph (2) and inserting "; or"; and

(3) adding at the end thereof the following:

"(3) receive a controlled substance from a person under 18 years of age in violation of this title or title III.".

Subtitle E—Firearms

SEC. 2302. ENHANCED PENALTIES FOR USE OF CERTAIN WEAPONS IN CONNECTION WITH A CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.

Subsection (c)(1) of section 924 of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by striking "five years" and inserting "ten years"; and

(B) by striking "ten years" and inserting "thirty years"; and

(2) in the second sentence—

(A) by striking "ten years" and inserting "twenty years"; and

(B) by striking "20 years" and inserting "life imprisonment without release".

SEC. 2304. PROHIBITION OF DANGEROUS WEAPONS IN FEDERAL FACILITIES.

(a) OFFENSE.—Chapter 44 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 930. Possession of firearms and dangerous weapons in a Federal facility

"(a) Except as provided in subsection (c), whoever knowingly possesses or causes to be present any firearm or dangerous weapon in a Federal facility, or attempts to do so, shall be sentenced to imprisonment for not more than 1 year, or fined in accordance with the provisions of this title, or both.

"(b) Whoever knowingly possesses or causes to be present any firearm or dangerous weapon in a Federal facility, or attempts to do so, with intent that the firearm or dangerous weapon be used in the commission of a crime, shall be sentenced to imprisonment for not more than 5 years, or fined in accordance with the provisions of this title, or both.

"(c) Subsection (a) shall not apply to any act performed in the lawful performance of official duties by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of law, and shall not apply to the authorized possession of a firearm or dangerous weapon by a Federal official or a member of the armed services.

"(d) Nothing in this section shall interfere with or prevent the exercise by any court of the United States of its power to punish for contempt; nor shall anything in this section interfere with or limit in any way the power of a court of the United States to promulgate rules or orders regulating, restricting, or prohibiting the possession of weapons within any building, or upon any grounds appurtenant thereto, housing any such court or any of its proceedings.

"(e) As used in this section—

"(1) the term 'Federal facility' means any building where Federal employees are regularly present for the purpose of performing their official duties;

"(2) the term 'dangerous weapon' means any weapon, device, instrument, material, or substance, animate or inanimate, that is used or is capable of use to cause death or serious bodily injury.

"(f) Notice to the effect of subsections (a) and (b), shall be posted conspicuously at each public entrance to each Federal facility, and no person shall be convicted of an offense under subsection (a) if such notice is not posted, unless such person had actual notice of the effect of subsection (a).".

(b) TABLE OF SECTIONS.—The analysis at the beginning of chapter 44 of title 18 of the United States Code is amended by adding at the end thereof the following:

"930. Possession of firearms and dangerous weapons in Federal facilities.".

SEC. 2305. INCLUSION OF FEDERAL FIREARMS VIOLATIONS AS PREDICATE WIRETAP OFFENSES.

Section 2516(1) of title 18, United States Code, is amended by adding at the end thereof the following:

"(m) any felony violation of sections 922 and 924 of title 18, United States Code (relating to firearms); and

"(n) any violation of section 5861 of the Internal Revenue Code of 1986 (relating to firearms).".

SEC. 2306. INCREASED PENALTIES FOR CERTAIN FIREARMS OFFENSES.

Section 924(a) of title 18, United States Code, is amended by—

(1) inserting "or 3" after "paragraph 2" in paragraph (1);

(2) striking out "(g), (i), (j)," in subparagraph (a)(1)(B);

(3) redesignating subsection (a)(2) as subsection (a)(3); and

(4) inserting a new subsection (a)(2) to read as follows:

"(2) Whoever knowingly violates subsections (d), (g), (h), (i), (j), or (o) of section 922 shall be fined as provided in this title, imprisoned not more than 10 years or both.".

Subtitle F—Money Laundering

SEC. 2351. MONEY LAUNDERING FORFEITURES.

(a) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended—

(1) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) Any property, real or personal, involved in a transaction or attempted transaction in violation of section 5313(a) or 5324 of title 31, or of section 1956 or 1957 of this title, or any property traceable to such property. However, no property shall be seized or forfeited in the case of a violation of section 5313(a) of title 31 by a domestic financial institution examined by a Federal bank supervisory agency or a financial institution regulated by the Securities and Exchange Commission or a partner, director, or employee thereof."; and

(2) by striking out subparagraph (C).

(b) CONFORMING AMENDMENT.—Section 981(b) of title 18, United States Code, is amended by striking out "involved in a violation of section 1956 or 1957 of this title investigated by the Secretary of the Treasury, and any property subject to forfeiture under subsection (a)(1)(C) of this section" and inserting in lieu thereof "involved in a violation of section 5313(a) or 5324 of title 31 or of section 1956 or 1957 of this title investigated by the Secretary of the Treasury".

(c) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended to read as follows:

"(a) The court, in imposing sentence on a person convicted of an offense in violation of section 5313(a) or 5324 of title 31, or of section 1956 or 1957 of this title, shall order that the person forfeit to the United States any property, real or personal, involved in such offense, or any property traceable to such property. However, no property shall be seized or forfeited in the case of a violation of section 5313(a) of title 31 by a domestic financial institution examined by a Federal bank supervisory agency or a financial institution regulated by the Securities and Exchange Commission or a partner, director, or employee thereof.".

SEC. 2352. FORFEITURE OF SUBSTITUTE ASSETS FOR MONEY LAUNDERING OFFENSE.

Section 982(b) of title 18, United States Code, is amended—

(1) by striking "(o)" both places it appears, and inserting "(p)" in lieu thereof; and

(2) by adding at the end the following: "However, the substitution of assets provisions of subsection 413(p) shall not be used to order a defendant to forfeit assets in place of the actual property laundered where such defendant acted merely as an intermediary who handled but did not retain the property in the course of the money laundering offense.".

SEC. 2353. UNDERCOVER "STING" OPERATIONS IN MONEY LAUNDERING CASES.

Section 1956(a) of title 18, United States Code, is amended by inserting after paragraph (a)(2) the following new paragraph:

"(3) Whoever, with the intent—

"(A) to promote the carrying on of specified unlawful activity;

"(B) to conceal or disguise the nature, location, source, ownership, or control of the proceeds of specified unlawful activity; or

"(C) to avoid a transaction reporting requirement under State or Federal law,

conducts or attempts to conduct a financial transaction involving property represented directly or indirectly by a law enforcement officer to be the proceeds of specified unlawful activity, or property used to conduct or facilitate specified unlawful activity, shall be fined under this title or imprisoned for not more than 20 years, or both. For purposes of this paragraph, the term 'law enforcement officer' includes any person who, at the time the representation was made, was acting at the direction of a Federal official authorized to investigate or prosecute violations of this section.".

SEC. 2354. SPECIFIED UNLAWFUL ACTIVITY.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by—

(1) inserting "section 542 (relating to entry of goods by means of false statements)," after "securities of States and private entities),";

(2) inserting "section 549 (relating to removing goods from Customs custody)," after "smuggling goods into the United States),"; and

(3) inserting "section 2319 (relating to copyright infringement), section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals), section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) (relating to aviation smuggling), section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207-51; 21 U.S.C. 857) (relating to transportation of drug paraphernalia)," after "postal robbery and theft) of this title,".

SEC. 2355. BANK SECRECY ACT AMENDMENTS.

(a) BUSINESS SIMILAR TO FINANCIAL INSTITUTIONS.—Section 5312(a)(2) of title 31, United States Code, is amended by striking subparagraphs (T) and (U) and inserting the following:

"(T) a business engaged in vehicle sales, including automobile, airplane, and boat sales;

"(U) persons involved in real estate closings and settlements;

"(V) the United States Postal Service;

"(W) an agency of the United States Government or of a State or local government carrying out a duty or power of a business described in this clause (2);

"(X) any other business or agency carrying out a similar, related, or substitute duty or power the Secretary prescribes; or

"(Y) any other business designated by the Secretary whose cash transactions have a high degree of usefulness in criminal, tax, or regulatory matters.".

(b) SECRETARY'S AUTHORITY.—Section 5313 of title 31, United States Code, is amended by adding a new paragraph (c) as follows:

"(c) The Secretary may prescribe that a financial institution, as defined in section 5312(a)(2)(Y) of this subchapter, file a report of receipt of coins or currency (or other monetary instruments as the Secretary prescribes) at a time and in the way the Secretary prescribes. However, the Secretary shall permit such business to comply with any reporting requirement under this section by filing a copy of the return required under section 6050I of the Internal Revenue Code of 1986.".

(c) AUTHORITY.—Section 5318(a)(2) of title 31, United States Code, is amended by inserting "and follow" after "maintain".

(d) PENALTIES FOR VIOLATIONS.—Section 5321(a)(1) of title 31, United States Code, is amended to read as follows:

"(a)(1) A domestic financial institution, and a partner, director, officer, or employee of a domestic financial institution, willfully violating this subchapter or a regulation prescribed under this subchapter (except sections 5314, 5315 and 5318 of this title or a regulation prescribed under section 5314, 5315, or 5318) is liable to the United States Government for a civil penalty of not more than the greater of the amount (not to exceed $100,000) involved in the transaction or $25,000. A domestic financial institution, and a partner, director, officer, or employee of a domestic financial institution willfully violating section 5318(a)(2) of this title or a regulation thereunder is liable to the United States for civil penalty of not more than $10,000. For a violation of section 5318(a)(2) of this title or a regulation prescribed thereunder, a separate violation occurs for each day the violation continues and at each office, branch, or place or business at which a violation occurs or continues.".

(e) IDENTIFICATION REQUIREMENT FOR $3,000 TRANSACTION.—(1) Chapter 53 of title 31, United States Code, is amended by adding at the end the following new section:

"§ 5325. Identification required to purchase certain monetary instruments

"(a) A financial institution that sells cashier's checks, traveler's checks, bank checks, money orders or similar instruments prescribed by the Secretary, for coin or currency to any person must, in the case of any such transaction or group of such contemporaneous transactions involving $3,000 or more—

"(1) if the person conducting the transaction has a transaction account with such financial institution, verify that fact through a signature card or other information maintained by such institution and record the method of verification, as prescribed by the Secretary; or

"(2) if the person conducting the transaction does not have a transaction account with such financial institution, require such forms of identification, as the Secretary shall prescribe, and verify and record such information, as the Secretary shall prescribe.

"(b) Information required to be recorded under subsection (a) of the section will be reported to the Secretary upon request.

"(c) For the purpose of this section, the term 'transaction account' shall have the same meaning as is provided in section 19(b)(1)(C) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(C)).".

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 53 of such title is amended by adding at the end thereof the following new item:

"5325. Identification required to purchase certain monetary instruments.".

(f) REGULATIONS AND PENALTIES.—Section 21(b) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(b)) is amended to read as follows:

"(b) REGULATIONS AND PENALTIES.—

"(1) Where the Secretary of the Treasury (referred to in this section as the 'Secretary') determines that the maintenance of appropriate types of records and other evidence by insured banks has a high degree of usefulness in criminal, tax or regulatory investigations or proceedings, he shall prescribe regulations to carry out the purposes of this section.

"(2) For each willful or grossly negligent violation of any regulation issued by the Secretary pursuant to paragraph (1) of this subsection, the Secretary may impose on any bank and partner, director, officer, or employee of a bank who participates in the violation, a civil penalty not to exceed $10,000, and for each negligent violation, a civil penalty not to exceed $500. A separate violation occurs for each day the violation continues at each office, branch, or place of business at which a violation occurs. Such penalties will be assessed, mitigated and collected in accordance with the provisions of section 5321 of title 31, United States Code.".

(g) AUTHORITY OF SECRETARY.—Section 123(b) of title I of Public Law 91-508 (12 U.S.C. 1953(b)) is amended to read as follows:

"(b) The authority of the Secretary under this section extends to any financial institution and partner, officer, director or employee of a financial institution as defined in section 5312, title 31, United States Code, other than a bank subject to section 21(b) of the Federal Deposit Insurance Act (12 U.S.C. 1829b).".

(h) MONETARY FINES.—Section 125 of title I of Public Law 91-508 (12 U.S.C. 1955(a)), is amended by—

(1) replacing "$1,000" with "$10,000";

(2) striking the period and adding at the end thereof the words, ", and for any negligent violation, a civil penalty not exceeding $500."; and

(3) inserting "or grossly negligent" after "willful".

SEC. 2356. EXCEPTION TO REQUIREMENT OF ACTUAL PRESENTATION OF FINANCIAL RECORDS TO GRAND JURY.

Section 1120(1) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 1120(1)) is amended by inserting before the semicolon "unless the volume of such records makes such return and actual presentation impractical in which case the grand jury shall be provided with a description of the contents of the records.".

SEC. 2357. RIGHT TO FINANCIAL PRIVACY ACT AMENDMENT.

Section 1103(c) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3403(c)) is amended by inserting the words "or corporation" after the word "individual".

Subtitle G—Juvenile Justice

SEC. 2401. MINORS CONVICTED OF DRUG TRAFFICKING.

(a) DELINQUENCY PROCEEDINGS.—Section 5032 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph, by striking out "section 841, 952(a), 955, or 959 of title 21," and inserting in lieu thereof "section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1003, 1005, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b) (1), (2), (3)), or section 922(p) of this title,"; and

(2) in the fourth undesignated paragraph—

(A) by striking out "section 841, 952(a), 955, or 959 of title 21," and inserting in lieu thereof "section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959),"; and

(B) by inserting after "2275 of this title," the following: "subsection (b)(1) (A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b) (1), (2), (3)),".

(b) SURRENDER TO STATE AUTHORITIES.—The first undesignated paragraph of section 5001 of title 18, United States Code, is amended by inserting before the period at the end thereof the following: ", unless such surrender is precluded under section 5032 of this title".

Subtitle I—Prisons

SEC. 2501. DRUG OFFENSES WITHIN FEDERAL PRISONS.

(a) TWENTY YEAR MAXIMUM PENALTY.—Section 1791(b) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (1) through (4) as (2) through (5), respectively;

(2) by inserting before paragraph (2), as so redesignated, the following new paragraph (1):

"(1) imprisonment for not more than 20 years, or both, if the object is specified in subsection (d)(1)(C) of this section;"; and

(3) in paragraph (3), as so redesignated, by striking "or (c)(1)(C)".

(b) CONSECUTIVE SENTENCES.—Section 1791 of title 18, United States Code, is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

"(c) Any punishment imposed under subsection (b) for a violation of this section by an inmate of a prison shall be consecutive to the sentence being served by such inmate at the time the inmate commits such violation.".

(c) Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 1791(a)(1) of title 18, United States Code, and punishable under section 1791(b)(1) of that title as so redesignated, shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(1) two levels greater than the level that would have been assigned had the offense not been committed in prison; and

(2) in no event less than level 26.

(d) If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in subsection (c) so as to achieve a comparable result.

SEC. 2502. PAYMENT OF COSTS OF INCARCERATION BY FEDERAL PRISONERS.

Not later than 1 year after the date of enactment of this section, the Attorney General shall study and, if appropriate, develop and submit to Congress proposed legislation which would require prisoners incarcerated in Federal correctional institutions to pay all costs incident to the prisoner's confinement, including, but not limited to, the costs of food, housing, and shelter. The legislation shall include measures which would allow prisoners unable to pay such costs to work at paid employment within the community, during incarceration or after release, in order to pay the costs incident to the prisoner's confinement. The legislation shall also include an estimate of budget authority necessary for implementation of the legislation.

Subtitle J—Drug Testing as a Condition of Probation and Supervised Release

SEC. 2551. DRUG TESTS AS A CONDITION OF PROBATION AND SUPERVISED RELEASE.

(a) PROBATION.—(1) Section 3563(a) of title 18, United States Code, is amended by—

(A) striking "and" after the semicolon in paragraph (1);

(B) striking the period at the end of paragraph (2) and inserting "; and";

(C) inserting after paragraph (2) the following:

"(3) for a felony, that the defendant submit to periodic drug tests for use of controlled substances at least once every 60 days, with the defendant to pay the actual cost of the testing unless the court determines it would be unreasonable to impose such cost."; and

(D) inserting after the second sentence the following: "The requirement that drug tests be administered at least once every 60 days under paragraph (3) may be suspended upon motion of the Attorney General if, after at least 1 year of probation, the defendant has passed all drug tests administered pursuant to this section.".

(2) Section 3563 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(e) DRUG TESTING.—In every case involving a misdemeanor, the court shall make a determination whether, in addition to any conditions of probation imposed under subsections (a) and (b), the defendant should be ordered to submit to periodic drug tests. If the court finds that a defendant committed a misdemeanor involving unlawful conduct with drugs, or that the defendant has a history of drug abuse, the court shall order the defendant to submit to periodic drug testing.".

(3) Section 3565(a) of title 18, United States Code, is amended by adding at the end thereof the following: "Notwithstanding any other provision of this section, if the defendant tests positive for illegal use of controlled substances, thereby violating the condition imposed by section 3563(a), on two separate tests taken at least 3 weeks apart, the court shall, in addition to any other action which may be taken pursuant to this section (A) revoke the sentence of probation and sentence the defendant to a period of imprisonment, (B) require the defendant to reside and participate in a residential community drug treatment center program, or participate in an out-patient drug treatment program if residential treatment is unavailable or impractical, or (C) require the defendant to remain at his place of residence pursuant to section 3563(b)(20). Notwithstanding any other provision of this section, if the defendant tests positive for the illegal use of controlled substances, thereby violating the condition set forth in section 3563 (a) or (e), on three separate tests taken at least 3 weeks apart, the court shall revoke the sentence of probation and sentence the defendant to not less than one third of the original sentence."

(4) Section 3565 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c) LIMITATION OF ACTIONS BASED ON DRUG TESTING.—(1) No action may be taken against a defendant pursuant to this section on the basis of a urine test administered to the defendant unless the test was a urine test conducted in accordance with—

"(A) requirements and procedures prescribed by the Director of the Administrative Office of the United States Courts which shall be substantially consistent with the Mandatory Guidelines on Federal Employee Drug Testing Programs issued by the Secretary of Health and Human Services on April 11, 1988; and

"(B) the procedures for urine specimen collection set out in section 2.2(a)-(d) and (f)-(h) of such guidelines.

"(2) The Director shall include in the regulations referred to in paragraph (1) the following requirements:

"(A) That the laboratory which conducts drug testing engage in urine drug testing in accordance with such regulations.

"(B) That the laboratory follow laboratory analysis procedures, including the chain of custody procedures, required by the guidelines referred to in paragraph (1)(A), except that positive initial tests may be confirmed using Gas Chromatography (GC) techniques or such test as the Secretary of Health and Human Services may determine to be of equivalent accuracy.

"(C) That the laboratory perform Gas Chromatography-Mass Spectrometry (GC-MS) reconfirmation, or such reconfirmation as the Secretary of Health and Human

Services may determine to be of equivalent accuracy, in any case in which—

"(i) a defendant's urine specimen is tested using Gas Chromatography techniques for confirmation; and

"(ii) within 10 days after receiving notice of positive test results, the defendant notifies the Director that he disputes such results.

"(D) That the laboratory—

"(i) retain all records pertaining to each urine specimen for at least two years after the date on which the results of the testing of such specimen are transmitted to the court; and

"(ii) limit access to any such records in order to protect the confidentiality.

"(E) That, in the case of a urine specimen for which positive test results are obtained, the laboratory retain the specimen in properly secured, long-term frozen storage for a minimum of one year after the date on with the test results are transmitted to the court.

"(3) The actual cost of any testing performed in the case of a defendant under paragraph (2)(C) shall be paid by the defendant unless the court determines it would be unreasonable for the defendant to be required to pay such cost.

"(4) To the maximum extent practicable, the results of urine drug tests conducted pursuant to the regulations prescribed in accordance with this subsection shall be kept confidential.

"(5) Nothing in this subsection shall be construed to—

"(A) limit the authority of the Administrator to require that positive initial test results be confirmed using Gas Chromatography-Mass Spectometry (GS-MS) or equivalent techniques; or

"(B) limit the authority of the Administrator to institute alternative drug tests as an additional means of screening defendants.".

(b) Supervised Release.—(1) Section 3583(d) of title 18, United States Code, is amended in the first sentence by striking the period and inserting "and that, for any felony, or for a misdemeanor involving either unlawful conduct with drugs or a defendant having a history of drug use, the defendant submit to periodic drug tests for use of controlled substances at least once every 60 days. The defendant shall pay the actual costs of such testing unless the court determines it would be unreasonable to impose such cost. The minimum testing requirement of one test every 60 days may be suspended upon motion of the Attorney General if, after at least 1 year of supervised release, the defendant has passed all drug tests administered pursuant to this section."

(2) Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following:

"(g) Use of Controlled Substances.—Notwithstanding any other provision of this section, if the defendant tests positive for illegal use of controlled substances on two separate urine drug tests taken at least 3 weeks apart, the court shall, in addition to any other action which may be taken—

"(1) revoke the term of supervised release and require the defendant to serve a period of imprisonment pursuant to section (e)(4);

"(2) require defendant to reside and participate in the program of a residential community treatment center or participate in an out-patient drug treatment program if residential treatment is unavailable or impractical; or

"(3) require the defendant to remain at his place of residence during non-working hours pursuant to subsection (e)(5).

Notwithstanding any other provision of this section, if the defendant tests positive for illegal use of controlled substances on three separate urine drug tests taken at least 3 weeks apart, the court shall revoke the term of supervised release pursuant to subsection (e)(4) and require the defendant to serve in prison not less than one-third of the term of supervised release.

"(h) No action may be taken against a defendant pursuant to subsection (g) on the basis of a drug test administered to the defendant unless the urine drug test was conducted by a laboratory which meets the requirements of section 3565(d) of this title and the Director of the Administrative Office of the United States Courts or his or her designee, or any person contracted to perform specimen collection has complied with the requirements of section 3565(e) of this title.".

(c) Effective Date.—The amendments in this section shall apply to offenses occurring or completed on or after January 1, 1989.

SEC. 2552. HOUSE PROBATION AS A CONDITION FOR PROBATION, PAROLE OR SUPERVISED RELEASE.

(a) Probation.—Section 3563(b) of title 18, United States Code, is amended by—

(1) striking "or" after the semicolon in paragraph (19);

(2) redesignating paragraph (20) as paragraph (21); and

(3) inserting after paragraph (19) the following new paragraph:

"(20) remain at his place of residence during non-working hours and, if the court finds it appropriate, that compliance with this condition be monitored by telephonic or electronic signaling devices; or".

(b) Supervised Release.—(1) Section 3583(d) of title 18, United States Code, is amended in the matter following paragraph (3) by striking "(b)(19)" and inserting "(b)(20)".

(2) Section 3583(e) is amended by—

(1) striking "or" at the end of paragraph (3);

(2) striking the period at the end of paragraph (4) and inserting "; or"; and

(3) inserting at the end the following new paragraph:

"(5) order the person to remain at his place of residence during non-working hours and, if the court so directs, to have compliance monitored by telephone or electronic signaling devices.".

(c) Parole.—Section 4209 of title 18, United States Code, is amended to read as follows;

"(c) Release on parole or release as if on parole (or probation, or supervised release where applicable) may as a condition of such release require—

"(1) a parolee to reside in or participate in the program of a residential community treatment center, or both, for all or part of the period of such parole; or

"(2) a parolee to remain at his place of residence during non-working hours and, if the Commission so directs, to have compliance with this condition monitored by telephone or electronic signaling devices.

A parolee residing in a residential community treatment center pursuant to this subsection or subject to a condition imposed under subparagraph (3) of this subsection, may be required to pay such costs incident to residence or to such condition as the Commission deems appropriate.".

Subtitle K—Minor and Technical Criminal Law Amendments Act Amendments

SEC. 2601. SHORT TITLE.

This subtitle may be cited as the "Minor and Technical Criminal Law Amendments Act of 1988".

SEC. 2602. CORRECTION OF CROSS REFERENCE.

Section 38 of the Criminal Law and Procedure Technical Amendments Act of 1986 is amended by striking "section 23" and inserting "section 34".

SEC. 2603. CORRECTION OF ERRONEOUS REFERENCE.

Section 50(a) of the Criminal Law and Procedure Technical Amendments Act of 1986 is amended by striking "1961(a)" and inserting "1961(1)".

SEC. 2604. CORRECTION OF MISPRINT.

Section 58(g) of the Criminal Law and Procedure Technical Amendments Act of 1986 is amended by striking "Section 3147 Amendments.—Section 3147 of title" and inserting "Repeal.—(1) Title".

SEC. 2605. CORRECTION OF TYPOGRAPHICAL ERROR IN SECTION 31.

Section 31 of title 18, United States Code, is amended by striking "door in opened" and inserting "door is opened".

SEC. 2606. CORRECTION OF TYPOGRAPHICAL ERROR IN SECTION 32.

Section 32(a)(3) of title 18, United States Code, is amended by striking "intefering" and inserting "interfering".

SEC. 2607. CORRECTION OF TYPOGRAPHICAL ERROR IN SECTION 152.

The third paragraph of section 152 of title 18, United States Code, is amended by striking "penalty or perjury" and inserting "penalty of perjury".

SEC. 2608. CONSPIRACY AGAINST CIVIL RIGHTS.

(a) In General.—Section 241 of title 18, United States Code, is amended by striking "citizen" and inserting "inhabitant of any State, Territory, or District".

(b) Conforming Amendments.—(1) The heading for section 241 of title 18, United States Code, is amended by striking "**of citizens**".

(2) The item relating to section 241 in the table of sections at the beginning of chapter 13 of title 18, United States Code, is amended by striking "of citizens".

SEC. 2609. DEPRIVATION OF CIVIL RIGHTS.

Section 242 of title 18, United States Code, is amended by inserting "and if bodily injury results shall be fined under this title or imprisoned not more than ten years, or both;" after "both;".

SEC. 2610. DESIGNATION OF ADDITIONAL HIGH LEVEL OFFICIALS OF THE DEPARTMENT OF JUSTICE TO PERFORM CERTAIN FUNCTIONS RELATING TO CRIMINAL AND ANCILLARY PROCEEDINGS.

(a) Approval of Certain Civil Rights Prosecutions.—Section 245(a)(1) of title 18, United States Code, is amended—

(1) by striking "or the Deputy" and inserting ", the Deputy";

(2) by inserting.—Section 1073 of title 18, United States Code, is amended by inserting ", the Deputy Attorney General, the Associate Attorney General," after "the Attorney General".

(c) Definition of "Attorney General" for Purposes of Certain Racketeer ", the Associate Attorney General, or any Assistant Attorney General specially designated by the Attorney General" after "Deputy Attorney General".

(b) Approval of Prosecutions for Flight To Avoid Service of Process and Related Proceedings.—Section 1961(10) of title 18, United States Code, is amended by inserting "the Associate Attorney General of the United States," after "Deputy Attorney General of the United States,".

(d) Summoning of Special Grand Juries.—Section 3331(a) of title 18, United States Code, is amended by inserting ", the Associate Attorney General" after "Deputy Attorney General".

(e) Requesting Judicial Grant of Immunity in General.—Section 6003(b) of title 18, United States Code, is amended—

(1) by inserting ", the Associate Attorney General" after "Deputy Attorney General"; and

(2) by inserting "or Deputy Assistant Attorney General" after "Assistant Attorney General".

(f) Requesting Judicial Grant of Immunity in Certain Drug Cases.—Section 514(c) of the Controlled Substances Act (21 U.S.C. 884(c)) is amended by inserting ", the Associate Attorney General" after "Deputy Attorney General".

(g) Objecting To Disclosure of Classified Information Under the Classified Information Procedures Act.—Section 14 of the Classified Information Procedures Act (18 U.S.C. App. 14) is amended by inserting ", the Associate Attorney General," after "Deputy Attorney General".

SEC. 2611. OFF-HIGHWAY VEHICLE IDENTIFICATION OFFENSE.

Section 553(b)(2) of title 18, United States Code, is amended to read as follows:

"(2)(A) in the case of a motor vehicle, is not a violation of section 511 of this title (relating to altering or removing motor vehicle identification numbers); or

"(B) in the case of off-highway mobile equipment, would not be a violation of section 511 of this title if such equipment were a motor vehicle.".

SEC. 2612. REDESIGNATION OF PARAGRAPHS IN SECTION 831.

Paragraphs (3) through (6) of section 831(e) of title 18, United States Code, are redesignated as paragraphs (2) through (5), respectively.

SEC. 2613. IDENTIFICATION FRAUD.

Section 1028(a)(6) of title 18, United States Code, is amended—

(1) by inserting "knowingly" before "possesses";

(2) by inserting "lawful" before "authority" the first place it appears; and

(3) by inserting "such" before "authority" the second place it appears.

SEC. 2614. TRANSMISSION OF WAGERING INFORMATION.

(a) Transmission of Information to Foreign Countries.—Section 1084(b) of title 18, United States Code, is amended by inserting "or foreign country" after "State" the second place it appears.

(b) Definition of "State".—(1) Section 1084 of title 18, United States Code, is amended by adding at the end the following:

"(e) As used in this section, the term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.".

(2) Section 1084(c) of title 18, United States Code, is amended by striking ", Commonwealth of Puerto Rico, territory, possession, or the District of Columbia".

SEC. 2615. PUNCTUATION CORRECTION IN cond comma after "terms of this section".

SEC. 2617. CLARIFICATION OF RELATION BETWEEN TWO AMENDMENTS MADE BY PUBLIC LAWS ENACTED IN THE 99TH CONGRESS.

Section 1153 of title 18, United States Code, is amended by striking "maiming" and all SECTION 1111.

Section 1111(a) of title 18, United States Code, is amended by inserting a comma after "arson".

SEC. 2616. PUNCTUATION CORRECTION IN SECTION 1114.

Section 1114 of title 18, United States Code, is amended by striking the sethat follows through "incest" and inserting "maiming, a felony under chapter 109A, incest".

SEC. 2618. CORRECTION OF SUBSECTION DESIGNATION.

Section 1203 of title 18, United States Code, is amended by striking "(C)" the last place it appears and inserting "(c)".

SEC. 2619. OBSTRUCTION OF JUSTICE AMENDMENTS.

(a) Expansion of Venue for Sections 1512 and 1503 Cases.—Section 1512 of title 18, United States Code, is amended by adding at the end the following:

"(h) A prosecution under this section or section 1503 may be brought in the district in which the official proceeding (whether or not pending or about to be instituted) was intended to be affected or in the district in which the conduct constituting the alleged offense occurred.".

(b) Definition Changes.—Section 1515(a)(1)(A) of title 18, United States Code, is amended by inserting "a judge of the United States Tax Court, a special trial judge of the Tax Court, a judge of the United States Claims Court," after "bankruptcy judge,".

(c) Corrupt Persuasion.—Section 1512(b) of title 18, United States Code, is amended by striking "or threatens" and inserting "threatens, or corruptly persuades".

(d) Definition.—Section 1515(a) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

(3) by adding at the end the following:

"(6) the term 'corruptly persuades' does not include conduct which would be misleading conduct but for a lack of a state of mind.".

SEC. 2620. CONFORMING AMENDMENT TO TABLE OF SECTIONS.

The item relating to section 1515 in the table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by inserting "; general provision" after "provisions".

SEC. 2621. CROSS REFERENCE CORRECTIONS AND ADDITIONS.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by—

(1) striking "section 511" and inserting "section 513";

(2) striking "section 543" and inserting "section 545"; and

(3) inserting "section 657 (relating to lending, credit, and insurance institutions), section 658 (relating to property mortgaged or pledged to farm credit agencies)," after "section 656 (relating to theft, embezzlement, or misapplication by bank officer or employee),".

SEC. 2622. CROSS REFERENCE CORRECTION AND ADDITIONS.

Section 1961(1) of title 18, United States Code, is amended by striking "section 2320" and inserting "section 2321".

SEC. 2623. SYNTAX CORRECTION IN SECTION 1962.

Section 1962(d) of title 18, United States Code, is amended by striking "subsections" and inserting "subsection".

SEC. 2624. SECTION 1963 AMENDMENTS.

(a) Correction of Typographical Error in Subsection (n).—Section 1963(n) of title 18, United States Code, is amended by striking "act of omission" and inserting "act or omission".

(b) Redesignation.—Subsection (n) of section 1963 of title 18, United States Code, is redesignated as subsection (m).

SEC. 2625. CLERICAL CORRECTION TO TABLE OF CONTENTS FOR CHAPTER 119.

The table of sections at the beginning of chapter 119 of title 18, United States Code, is amended by striking "wire or oral" in the items relating to sections 2511, 2512, 2513, 2516, 2517, 2518, and 2519 and inserting "wire, oral, or electronic".

SEC. 2626. SECTION 2516 AMENDMENTS.

(a) Syntax Correction.—Section 2516(1) of title 18, United States Code, is amended—

(1) by inserting "or" after "Associate Attorney General,", and

(2) by striking the comma that follows a comma.

(b) Correction of Cross-References.—Section 2516(1)(c) of title 18, United States Code, is amended—

(1) by striking "the second section 2320" and inserting "section 2321"; and

(2) by striking "section 2252 or 2253 (sexual exploitation of children),".

(c) Punctuation Corrections.—

(1) section 2516(1)(a) is amended by striking "(relating to riots);" and inserting "(relating to riots),";

(2) section 2516(1)(j) is amended by striking "or;"; and

(3) section 2516(1)(k) is amended by inserting "or" at the end thereof.

SEC. 2627. CORRECTION OF CROSS REFERENCE.

Section 2702(b)(2) of title 18, United States Code, is amended by striking "2516" and inserting "2517".

SEC. 2628. GOVERNMENTAL ACCESS TO CONTENTS OF ELECTRONIC COMMUNICATIONS IN AND RECORDS OF A REMOTE COMPUTING SERVICE.

Sections 2703(b)(1)(B)(i) and 2703(c)(1)(B)(i) of title 18, United States Code, are amended by inserting "or trial" after "grand jury".

SEC. 2629. DEFINITION OF COURT FOR CERTAIN APPLICATIONS.

Section 2703(d) of title 18, United States Code, is amended by inserting "may be issued by any court that is a court of competent jurisdiction set forth in section 3126(2)(A) of this title and" before "shall issue".

SEC. 2630. SECTION 3124 AMENDMENT.

Section 3124(b) of title 18, United States Code, is amended by inserting "order" after "court" the last place it appears.

SEC. 2631. SENTENCING CLASSIFICATION OF OFFENSES.

(a) Redesignation.—Section 3559(a) of title 18, United States Code, is amended—

(1) by striking "classified—" and all that follows through "is—" and inserting "classified if the maximum term of imprisonment authorized is—"; and

(2) by redesignating subparagraphs (A) through (I) as paragraphs (1) through (9).

(b) Class B Classification.—Section 3559(a) of title 18, United States Code, is amended in each of paragraphs (2) and (3) (as so redesignated by subsection (a)), by striking "twenty" and inserting "twenty-five".

SEC. 2632. CORRECTION OF CROSS REFERENCES.

Subsection (h) of section 3663 of title 18, United States Code, is amended to read as follows:

"(h) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter B of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.".

SEC. 2633. FURLOUGH OF CERTAIN INDIVIDUALS ORDERED TO BE COMMITTED FOR INSANITY.

Section 4243 of title 18, United States Code, is amended by adding at the end thereof the following:

"(h) Limitations on Furloughs.—An individual who is hospitalized under subsection (e) of this section after being found not guilty only by reason of insanity of an offense for which subsection (d) of this section creates a burden of proof of clear and convincing evidence, may leave temporarily the premises of the facility in which that individual is hospitalized only—

"(1) with the approval of the committing court, upon notice to the attorney for the Government and such individual, and after opportunity for a hearing;

"(2) in an emergency; or

"(3) when accompanied by a Federal law enforcement officer (as defined in section 115 of this title).".

SEC. 2634. PERIODIC REPORTS RELATING TO CERTAIN HOSPITALIZED PERSONS.

Section 4247(e)(1)(B) of title 18, United States Code, is amended by adding at the end thereof the following: "A copy of each such report concerning a person hospitalized after the beginning of a prosecution of that person for violation of section 871, 879, or 1751 of this title shall be submitted to the Director of the United States Secret Service. Except with the prior approval of the court, the Secret Service shall not use or disclose the information in these copies for any purpose other than carrying out protective duties under section 3056(a) of this title.".

SEC. 2635. INSERTION OF MISSING CLOSE PARENTHESIS.

The last paragraph of section 5034 of title 18, United States Code, is amended by striking "facility upon" and inserting "facility) upon".

SEC. 2636. AMENDMENT TO RULES OF EVIDENCE CONFORMING TERMINOLOGY RELATING TO SEX OFFENSES.

(a) In General.—Rule 412 of the Federal Rules of Evidence is amended—

(1) in the heading of such rule, by striking "**Rape**" and inserting "**Sex Offense**";

(2) in subdivisions (a) and (b), by striking "rape or of assault with intent to commit rape" each place it appears and inserting "an offense under chapter 109A of title 18, United States Code";

(3) in subdivision (a), by striking "rape or assault" and inserting "offense";

(4) by striking "rape or assault with intent to commit rape" each place it appears and inserting "an offense under chapter 109A of title 18, United States Code"; and

(5) in subdivision (b)(2)(B), by striking "rape or assault" and inserting "such offense".

(b) Clerical Amendment.—The item relating to rule 412 in the table of contents at the beginning of the Federal Rules of Evidence is amended by striking "Rape" and inserting "Sex Offense".

SEC. 2637. EXTENSION OF POWER TO MAKE CERTAIN EXAMINATIONS TO PSYCHOLOGISTS.

(a) Section 4247(b).—Section 4247(b) of title 18, United States Code, is amended by striking "clinical psychologist" and inserting "psychologist".

(b) Conforming Amendment to Rule 35.—Rule 35 of the Federal Rules of Civil Procedure is amended—

(1) in subdivision (a), by striking "physical or mental examination by a physician" and inserting "physical examination by a physician, or mental examination by a physician or psychologist";

(2) in subdivision (b), by inserting "or psychologist" after "physician" each time it appears, and by adding "or psychologist" to the heading of the subdivision; and

(3) by adding at the end the following new subdivision:

"(c) For the purpose of this rule, a psychologist is a psychologist licensed or certified by a State or the District of Columbia.".

SEC. 2638. SYNTACTICAL CORRECTION RELATING TO CERTAIN COUNTERFEIT OR FORGED ITEMS.

The second paragraph of section 2315 of title 18, United States Code, is amended by striking "which have crossed a State or United States boundary after being stolen, unlawfully converted, or taken" and inserting "moving as, or which are a part of, or which constitute interstate or foreign commerce".

SEC. 2639. FORM CORRECTION IN FEDERAL RULES OF CIVIL PROCEDURE.

Rule 17(a) of the Federal Rules of Civil Procedure is amended by striking "with him".

SEC. 2640. PUNCTUATION CORRECTION IN FEDERAL RULES OF CIVIL PROCEDURE.

Rule 71A(e) is amended by striking "taking of the defendants property" and inserting "taking of the defendant's property".

SEC. 2641. DEFINITION OF 'UNITED STATES' IN REFERENCE TO TERRORIST ACTS.

Section 3077(4) of title 18, United States Code, is amended to read as follows:

"(4) 'United States,' when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States;".

SEC. 2642. CROSS REFERENCES PERTAINING TO ARREST AUTHORITY FOR VIOLATION OF RELEASE CONDITIONS.

Section 3062 of title 18, United States Code, is amended by striking "a condition imposed on the person pursuant to section 3142 (c)(2)(D), (c)(2)(E), (c)(2)(H), (c)(2)(I), or (c)(2)(M), or, if the violation involves a failure to remain in a specified institution as required, a condition imposed pursuant to section 3142(c)(2)(J)" and inserting "a condition imposed on the person pursuant to section 3142(c)(1)(B) (iv), (v), (viii), (ix), or (xiii), or, if the violation involves a failure to remain in a specified institution as required, a condition imposed pursuant to section 3142(c)(1)(B)(x)".

SEC. 2643. RENUMBERING OF SECTIONS IN CHAPTER 95.

(a) Section 1958.—Section 1952A of title 18, United States Code, is redesignated as section 1958.

(b) Section 1959.—Section 1952B of title 18, United States Code, is redesignated as section 1959.

(c) Table of Sections.—The table of sections at the beginning of chapter 95 of title 18, United States Code, is amended—

(1) by striking "1952A" and inserting "1958";

(2) by striking "1952B" and inserting "1959"; and

(3) by inserting the items for redesignated sections 1958 and 1959 at the end of the table.

(d) Section 2516(c).—Section 2516(c) of title 18, United States Code, is amended—

(1) by striking "1952A" and inserting "1958"; and

(2) by striking "1952B" and inserting "1959".

SEC. 2644. ADDITION OF RICO PREDICATE.

Section 1961(1)(B) of title 18, United States Code, is amended—

(1) by inserting after "section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity)" the following: ", section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire), sections 2251-2252 (relating to sexual exploitation of children)"; and

(2) by inserting after "sections 891-894 (relating to extortionate credit transactions)" the following: ", section 1029 (relative to fraud and related activity in connection with access devices)".

SEC. 2645. ASSET FORFEITURE AMENDMENTS.

(a) Forfeiture of Personal Property in Narcotics Cases.—Section 511(a)(7) of the Controlled Substances Act (21 U.S.C. 881(a)(7)) is amended by striking "All" and inserting "All tangible or intangible personal property, and all".

(b) Restoration of Equitable Sharing Provisions.—Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended by redesignating paragraph (2) as paragraph (3) and inserting a new paragraph (2) as follows:

"(2) The Attorney General shall ensure the equitable transfer pursuant to paragraph (1)(A) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Attorney General pursuant to paragraph (1)(A) shall not be subject to review.".

SEC. 2646. AUTHORIZATION OF POSTAL SERVICE TO INVESTIGATE MONEY LAUNDERING.

(a) Jurisdiction.—(1) Section 1956 of title 18, United States Code, is amended by striking all that follows "appropriate" in subsection (e) and inserting the following: "and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postal Service. Such authority of the Secretary of the Treasury and the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Postal Service, and the Attorney General."

(2) Section 1957 of title 18, United States Code, is amended by striking all that follows "appropriate" in subsection (e) and inserting the following: "and, with respect to of-

fenses over which the United States Postal Service has jurisdiction, by the Postal Service. Such authority of the Secretary of the Treasury and the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Postal Service, and the Attorney General."

(b) CONFORMING AMENDMENTS.—Section 981 of title 18, United States Code, is amended by—

(1) inserting "or the Postal Service" in subsection (b) following "Secretary of the Treasury" the first two times it appears;

(2) striking "the Attorney General or the Secretary of the Treasury" in subsections (b)(2) and (c) through (e) and inserting "the Attorney General, the Secretary of the Treasury, or the Postal Service";

(3) adding at the end of subsection (d) the following: "The Attorney General shall have sole responsibility for disposing of petitions for remission or mitigation with respect to property involved in a judicial forfeiture proceeding"; and

(4) adding at the end of subsection (e) the following: "The authority granted to the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited."

(c) POWERS OF THE SECRETARY.—Section 5318(a)(1) of title 31, United States Code, is amended by inserting "or the Postal Inspection Service" after "supervising agency".

SEC. 2647. AUTHORITY OF FEDERAL PRISON INDUSTRIES TO BORROW AND INVEST FUNDS.

(a) GRANT OF AUTHORITY.—Chapter 307 of title 18, United States Code, is amended by inserting after section 4128 the following new section:

"§ 4129. Authority to borrow and invest

"(a)(1) As approved by the board of directors, Federal Prison Industries, to such extent and in such amounts as are provided in appropriations Acts, is authorized to issue its obligations to the Secretary of the Treasury, and the Secretary of the Treasury, in the Secretary's discretion, may purchase or agree to purchase any such obligations, except that the aggregate amount of obligations issued by Federal Prison Industries under this paragraph that are outstanding at any time may not exceed 25 percent of the net worth of the corporation. For purchases of such obligations by the Secretary of the Treasury, the Secretary is authorized to use as a public debt transaction the proceeds of the sale of any securities issued under chapter 31 of title 31 after the date of the enactment of this section, and the purposes for which securities may be issued under that chapter are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. For purposes of the first sentence of this paragraph, the net worth of Federal Prison Industries is the amount by which its assets (including capital) exceed its liabilities.

"(2) The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as the Secretary shall determine, any of the obligations acquired by the Secretary under this subsection. All purchases and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

"(b) Federal Prison Industries may request the Secretary of the Treasury to invest excess moneys from the Prison Industries Fund. Such investments shall be in public debt securities with maturities suitable to the needs of the corporation as determined by the board directors, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 307 of title 18, United States Code, is amended by adding at the end the following new item:

"4129. Authority to borrow and invest.".

(c) USE OF FUNDS.—Section 4126 of title 18, United States Code, is amended—

(1) by designating the first through fifth paragraphs as subsections (a) through (e), respectively;

(2) by amending subsection (c), as designated by paragraph (1) of this section, to read as follows:

"(c) The corporation, in accordance with the laws generally applicable to the expenditures of the several departments, agencies, and establishments of the Government, is authorized to employ the fund, and any earnings that may accrue to the corporation—

"(1) as operating capital in performing the duties imposed by this chapter;

"(2) in the lease, purchase, other acquisition, repair, alteration, erection, and maintenance of industrial buildings and equipment;

"(3) in the vocational training of inmates without regard to their industrial or other assignments;

"(4) in paying, under rules and regulations promulgated by the Attorney General, compensation to inmates employed in any industry, or performing outstanding services in institutional operations, and compensation to inmates or their dependents for injuries suffered in any industry or in any work activity in connection with the maintenance or operation of the institution in which the inmates are confined.

In no event may compensation for such injuries be paid in an amount greater than that provided in chapter 81 of title 5."; and

(3) by adding at the end the following:

"(f) Funds available to the corporation may be used for the lease, purchase, other acquisition, repair, alteration, erection, or maintenance of facilities only to the extent such facilities are necessary for the industrial operations of the corporation under this chapter. Such funds may not be used for the construction or acquisition of penal or correctional institutions, including camps described in section 4125.".

(d) REPORTS TO CONGRESS.—Section 4127 of title 18, United States Code, is amended to read as follows:

"The board of directors of Federal Prison Industries shall submit an annual report to the Congress on the conduct of the business of the corporation during each fiscal year, and on the condition of its funds during such fiscal year. Such report shall include a statement of the amount of obligations issued under section 4129(a)(1) during such fiscal year, and an estimate of the amount of obligations that will be so issued in the following fiscal year.".

(e) GUIDELINES AND PUBLIC COMMENT ON NEW OR EXPANDED PRODUCTION BY FEDERAL PRISON INDUSTRIES.—Section 4122(b) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by striking out "all physically fit inmates in the United States penal and correctional institutions" and inserting in lieu thereof "the greatest number of those inmates in the United States penal and correctional institutions who are eligible to work as is reasonably possible"; and

(3) by adding at the end thereof the following:

"(2) Federal Prison Industries shall conduct its operations so as to produce products on an economic basis, but shall avoid capturing more than a reasonable share of the market among Federal departments, agencies, and institutions for any specific product. Federal Prison Industries shall concentrate on providing to the Federal Government only those products which permit employment of the greatest number of those inmates who are eligible to work as is reasonably possible.

"(3) Federal Prison Industries shall diversify its products so that its sales are distributed among its industries as broadly as possible.

"(4) Any decision by Federal Prison Industries to produce a new product or to significantly expand the production of an existing product shall be made by the board of directors of the corporation. Before the board of directors makes a final decision, the corporation shall do the following:

"(A) The corporation shall prepare a detailed written analysis of the probable impact on industry and free labor of the plans for new production or expanded production. In such written analysis the corporation shall, at a minimum, identify and consider—

"(i) the number of vendors currently meeting the requirements of the Federal Government for the product;

"(ii) the proportion of the Federal Government market for the product currently served by small businesses, small disadvantaged businesses, or businesses operating in labor surplus areas;

"(iii) the size of the Federal Government and non-Federal Government markets for the product;

"(iv) the projected growth in the Federal Government demand for the product; and

"(v) the projected ability of the Federal Government market to sustain both Federal Prison Industries and private vendors.

"(B) The corporation shall announce in a publication designed to most effectively provide notice to potentially affected private vendors the plans to produce any new product or to significantly expand production of an existing product. The announcement shall also indicate that the analysis prepared under subparagraph (A) is available through the corporation and shall invite comments from private industry regarding the new production or expanded production.

"(C) The corporation shall directly advise those affected trade associations that the corporation can reasonably identify of the plans for new production or expanded production, and the corporation shall invite such trade associations to submit comments on those plans.

"(D) The corporation shall provide to the board of directors—

"(i) the analysis prepared under subparagraph (A) on the proposal to produce a new product or to significantly expand the production of an existing product, "(ii) comments submitted to the corporation on the proposal, and

"(iii) the corporation's recommendations for action on the proposal in light of such comments.

In addition, the board of directors, before making a final decision under this paragraph on a proposal, shall, upon the request of an established trade association or other interested representatives of private industry, provide a reasonable opportunity to such trade association or other representatives to present comments directly to the board of directors on the proposal.

"(5) Federal Prison Industries shall publish in the manner specified in paragraph (4)(B) the final decision of the board with respect to the production of a new product or the significant expansion of the production of an existing product.

"(6) Federal Prison Industries shall publish, after the end of each 6-month period, a list of sales by the corporation for that 6-month period. Such list shall be made available to all interested parties.".

SEC. 2648. CONTROLLED SUBSTANCES AND RELATED AMENDMENTS.

(a) Attempt and Conspiracy Amendments.—Section 406 of the Controlled Substance Act (21 U.S.C. 846) and section 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 963) are amended by striking "is punishable" and all that follows through "punishment" and inserting "shall be subject to the same penalties as those".

(b) Clarifying Amendments Relating to Forfeiture of Proceeds of a Foreign Drug Offense.—Subparagraph (B) of section 981(a)(1) of title 18, United States Code, is amended by—

(1) inserting ", real or personal," after "property";

(2) striking "which represents the proceeds of" and inserting "constituting, derived from, or traceable to, any proceeds obtained directly or indirectly from";

(3) striking "or activity" the first place it appears;

(4) inserting "under the laws of the United States" after "punishable" the second place it appears; and

(5) inserting "constituting the offense against the foreign nation" after "such act or activity".

(c) Clarification of Controlled Substance Analogue Provision.—Section 203 of the Controlled Substances Act (21 U.S.C. 813) is amended by striking "this title and title III" and inserting "any Federal law".

(d) Correction of Reference Relating to Mandatory Prison Terms for Juvenile Drug Trafficking.—Section 405B(e) of the Controlled Substances Act (21 U.S.C. 845b(e)) is amended by striking "required by section 401(b)".

(e) Correction of Typographical Error.—Section 981(a)(2) of title 18, United States Code, is amended by striking "emission" and inserting "omission".

(f) Correction of Reference to Subsection.—Section 981(i)(1) of title 18, United States Code, is amended by striking "subchapter" and inserting "subsection".

(g) Mandatory Minimum Penalty for Trafficking in Substantial Quantity of Methamphetamine.—Subparagraph (A) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended—

(1) by striking "or" at the end of clause (vi);

(2) by inserting "or" at the end of clause (vii); and

(3) by adding a new clause (viii), as follows:

"(viii) 100 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers;".

(h) Conforming Amendment.—Subparagraph (B) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended—

(1) by striking "or" at the end of clause (vi);

(2) by inserting "or" at the end of clause (vii); and

(3) by adding a new clause (viii), as follows:

"(viii) 10 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers;".

SEC. 2649. MONEY LAUNDERING AMENDMENTS.

(a) Insertion of Income Tax Predicate for Money Laundering Offense.—Section 1956(a)(1)(A) of title 18, United States Code, is amended to read as follows:

"(A)(i) with the intent to promote the carrying on of specified unlawful activity; or

"(ii) with intent to violate or promote a violation of section 7201 or 7206 of the Internal Revenue Code of 1986; or".

(b) Transmission or Transfer.—Section 1956(a)(2) of title 18, United States Code, is amended by striking "transports or attempts to transport" and inserting "transports, transmits, or transfers, or attempts to transport, transmit, or transfer".

(c) Clarification of Scope of Stay of Civil Forfeiture.—Section 981(g) of title 18, United States Code, is amended by inserting ", Federal, State or local," after "law".

SEC. 2650. PROVISION OF MISDEMEANOR PENALTY FOR CERTAIN ESCAPES.

Sections 751(a) and 752(a) of title 18, United States Code, are amended by inserting ", or for exclusion or expulsion proceedings under the immigration laws," after "extradition".

SEC. 2651. CLARIFICATION OF PREDICATE OFFENSE REQUIREMENTS FOR ARMED CAREER CRIMINAL ACT.

Section 924(e)(1) of title 18, United States Code, is amended by inserting "committed on occasions different from one another," after "for a violent felony or a serious drug offense, or both,".

SEC. 2652. AUTHORITY FOR THE FEDERAL BUREAU OF INVESTIGATION TO INVESTIGATE, UPON REQUEST, FELONIOUS KILLINGS OF STATE OR LOCAL LAW ENFORCEMENT OFFICERS.

(a) Authority.—Chapter 33 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 540. Investigation of felonious killings of State or local law enforcement officers

"The Attorney General and the Federal Bureau of Investigation may investigate felonious killings of officials and employees of a State or political subdivision thereof while engaged in or on account of the performance of official duties relating to the prevention, detection, investigation, or prosecution of an offense against the criminal laws of a State or political subdivision, when such investigation is requested by the head of the agency employing the official or employee killed, and under such guidelines as the Attorney General or his designee may establish.".

(b) Conforming Amendments.—The table of sections of such chapter is amended by adding at the end thereof the following item:

"540. Investigation of felonious killings of State or local law enforcement officers."

SEC. 2653. TRANSPORTATION AND RECEIPT OF STOLEN SECURITIES.

(a) Transmission or Transfer.—The first paragraph of section 2314 of title 18, United States Code, is amended by striking "transports" and inserting "transports, transmits, or transfers".

(b) Inapplicability of Section.—The final paragraphs of sections 2314 and 2315 of title 18, United States Code, are amended—

(1) by striking "or by a bank or corporation of any foreign country"; and

(2) by adding at the end thereof: "This section also shall not apply to any falsely made, forged, altered, counterfeited, or spurious representation of any bank note or bill issued by a bank or corporation of any foreign country which is intended by the laws or usage of such country to circulate as money.".

SEC. 2654. MAXIMUM PENALTY ADJUSTMENTS.

(a) Abusive Sexual Contact.—Section 2244(a) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "five years" and inserting "ten years"; and

(2) in paragraph (3) by striking "one year" and inserting "two years".

(b) Murder for Hire.—Section 1958 of title 18, United States Code, is amended by striking "five years" and inserting "ten years".

(c) Involuntary Manslaughter.—Section 1112(b) of title 18, United States Code, is amended by striking "shall be fined not more than $1,000 or imprisoned not more than three years, or both" and inserting "shall be imprisoned not more than five years, or fined under this title, or both".

(d) Attempted Murder.—Section 1113 of title 18, United States Code, is amended by striking "shall be fined not more than $1,000 or imprisoned not more than three years, or both" and inserting "shall, for an attempt to commit murder be imprisoned not more than twenty years, or fined under this title, or both, and for an attempt to commit manslaughter be imprisoned not more than three years, or fined under this title, or both."

(e) Accessory After the Fact.—Section 3 of title 18, United States Code, is amended by striking "ten" and inserting "twenty-five".

(f) Racketeering Influenced and Corrupt Organizations.—Section 1963(a) of title 18, United States Code, is amended by striking "shall be fined not more than $25,000 or imprisoned not more than twenty years, or both" and inserting "shall be fined under this title and imprisoned for not more than twenty years (or for life, if the violation is predicated on an offense for which the maximum penalty includes life in prison), or both".

SEC. 2655. BALLISTIC KNIFE ACT JURISDICTIONAL CLARIFICATIONS.

The Ballistic Knife Prohibition Act of 1986 (15 U.S.C. 1245) is amended—

(1) by striking "knowingly possesses, manufactures, sells, or imports" and inserting "in or affecting interstate commerce, within any Territory or possession of the United

States, within Indian country (as defined in section 1151 of title 18), or within the special maritime and territorial jurisdiction of the United States (as defined in section 7 of title 18), knowingly possesses, manufactures, sells, or imports"; and

(2) by striking "or State" before "crime of violence".

SEC. 2656. COMMON CARRIER OPERATION AMENDMENTS.

(a) DEFINITIONAL REFINEMENT.—Section 342 of title 18, United States Code, is amended by striking "drugs" and inserting "any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))".

(b) CONFORMANCE OF FINE LEVEL.—Section 342 of title 18, United States Code, is amended by striking "fined not more than $10,000," and inserting "fined under this title,".

(c) LIMITATION AND CLARIFICATION OF PRESUMPTIONS.—Section 343 of title 18, United States Code, is amended—

(1) in paragraph (1) by striking ".10" and inserting ".10 percent" and by striking "conclusively"; and

(2) in paragraph (2) by striking "conclusively".

SEC. 2657. EXPLOSIVES OFFENSES AMENDMENTS.

(a) EXPANSION OF OFFENSE TO CERTAIN AIRPORTS AND STRENGTHENING OF PENALTY.—Section 844(g) of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting "(1) Except as provided in paragraph (2), whoever";

(2) by inserting "in an airport that is subject to the regulatory authority of the Federal Aviation Administration, or" after "possesses an explosive";

(3) by inserting "or airport" after "such building";

(4) by striking "not more than one year, or fined not more than $1,000, or both" and inserting "not more than five years, or fined under this title, or both"; and

(5) by adding at the end thereof the following:

"(2) The provisions of this subsection shall not be applicable to—

"(A) the possession of ammunition (as that term is defined in regulations issued pursuant to this chapter) in an airport that is subject to the regulatory authority of the Federal Aviation Administration if such ammunition is either in checked baggage or in a closed container; or

"(B) the possession of an explosive in an airport if the packaging and transportation of such explosive is exempt from, or subject to and in accordance with, regulations of the Research and Special Projects Administration for the handling of hazardous materials pursuant to the Hazardous Materials Transportation Act (49 App. U.S.C. 1801, et seq.).".

(b) STRENGTHENING OFFENSE OF USING OR CARRYING AN EXPLOSIVE IN COMMISSION OF A FEDERAL FELONY.—Section 844(h) of title 18, United States Code, is amended—

(1) by striking "unlawfully" in paragraph (2); and

(2) by striking "shall be sentenced" through the remainder of the subsection and inserting the following:

"including a felony which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device shall, in addition to the punishment provided for such felony, be sentenced to imprisonment for five years. In the case of a second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for ten years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the felony in which the explosive was used or carried.".

(c) CONFORMING DEFINITIONAL CHANGE.—Section 842(d)(5) of title 18, United States Code, is amended to read as follows:

"(5) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).".

(d) CONFORMING DEFINITIONAL CHANGE.—Section 842(i)(3) of title 18, United States Code, is amended to read as follows:

"(3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)),".

SEC. 2658. INTERSTATE AGREEMENT ON DETAINERS ACT AMENDMENTS.

The Interstate Agreement on Detainers Act (84 Stat. 1397) is amended by adding at the end thereof the following new section:

"§ 9. Special Provisions when United States is a Receiving State

Notwithstanding any provision of the agreement on detainers to the contrary, in a case in which the United States is a receiving State—

"(1) any order of a court dismissing any indictment, information, or complaint may be with or without prejudice. In determining whether to dismiss the case with or without prejudice, the court shall consider, among others, each of the following factors: The seriousness of the offense; the facts and circumstances of the case which led to the dismissal; and the impact of a reprosecution on the administration of the agreement on detainers and on the administration of justice; and

"(2) it shall not be a violation of the agreement on detainers if prior to trial the prisoner is returned to the custody of the sending State pursuant to an order of the appropriate court issued after reasonable notice to the prisoner and the United States and an opportunity for a hearing.".

SEC. 2659. CLARIFICATION OF PROHIBITION OF POSSESSION WITH INTENT TO DISTRIBUTE CONTROLLED SUBSTANCES ON AIRCRAFT.

Section 1010(a)(3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(a)(3)) is amended by striking "manufactures or distributes a controlled substance" and inserting "manufactures, possesses with intent to distribute, or distributes a controlled substance".

SEC. 2660. CLARIFICATION OF DEFINITION OF DRUG TRAFFICKING CRIMES IN WHICH USE OF FIREARMS AND ARMOR PIERCING AMMUNITION IS PROHIBITED.

Paragraph (2) of subsection 924(c) of title 18, United States Code, and paragraph (2) of subsection 929(a) of title 18, United States Code, are each amended to read as follows:

"(2) for purposes of this subsection, the term 'drug trafficking crime' means any felony punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1901 et seq.)."

SEC. 2661. CLERICAL CORRECTIONS RELATING TO CHAPTER 44.

(a) SECTION 924(c) AMENDMENTS.—Paragraph (1) of section 924(c) of title 18, United States Code, is amended—

(1) by striking "crime,," the first place it appears and inserting "crime";

(2) by striking "crime,," each other place it appears and inserting "crime,";

(3) by striking "including a crime" and inserting "(including a crime";

(4) by striking "crime, which" and inserting "crime which";

(5) by striking "device, for" and inserting "device) for"; and

(6) by striking ", or drug trafficking crime".

(b) SECTION 929 AMENDMENT.—Paragraph (1) of section 929(a) of title 18, United States Code, is amended by striking "crime," each place it appears and inserting "crime".

(c) SECTION 922(g) AMENDMENT.—Section 922(g)(3) of title 18, United States Code, is amended by inserting "who" before "is an unlawful user".

(d) SECTION 923 AMENDMENTS.—Section 923 of title 18, United States Code, is amended—

(1) in subsection (a), by striking the period that follows "licensing"; and

(2) in subsection (f)(3), by striking the period that follows a period.

SEC. 2662. INSERTION OF MISSING SUBSECTION HEADING.

Section 2706(c) of title 18, United States Code, is amended by inserting "EXCEPTION.—" after "(c)".

SEC. 2663. INSERTION OF MISSING TABLE.

Chapter 113A of title 18, United States Code, is amended by inserting after the heading of such chapter the following table:

"Sec. 2331. Terrorist acts abroad against United States nationals.".

SEC. 2664. CORRECTION OF ITEMS IN TABLES OF CHAPTERS.

(a) CHAPTER 113A.—The item relating to chapter 113A in the table of sections at the beginning of part I of title 18, United States Code, is amended by striking the final period and inserting ".................2331".

(b) CHAPTER 121.—The item relating to chapter 121 in the table of sections at the beginning of part I of title 18, United States Code, is amended by striking "Wire and Electronic Communications and Transactional Records Access" and inserting "wire and electronic communications and transactional records access".

(c) CHAPTER 17A.—The item relating to chapter 17A in the table of sections at the beginning of part I of title 18, United States Code, is amended by striking "Carrier Operation Under the Influence of Alcohol or Drugs" and inserting "carrier operation under the influence of alcohol or drugs........341".

(d) CHAPTER 109A.—The item relating to chapter 109A in the table of sections at the beginning of part I of title 18, United States Code, is amended by striking "Abuse" and inserting "abuse".

(e) CHAPTER 11.—The item relating to chapter 11 in the table of sections at the beginning of part I of title 18, United States Code, is amended by striking "Bribery and graft" and inserting "Bribery, graft, and conflicts of interest".

SEC. 2665. INSERTION OF MISSING LETTER.

Section 794(d)(4) of title 18, United States Code, is amended by striking "amount" and inserting "amounts".

SEC. 2666. PUNCTUATION CORRECTION.

Section 1030.—Section 1030(a)(2) of title 18, United States Code, is amended—

(1) by striking the comma that follows a comma; and

(2) by inserting a comma after "financial institution".

SEC. 2667. REFERENCE CORRECTION.

Section 2232(c) of title 18, United States Code, is amended by inserting "of 1978" after "Surveillance Act".

SEC. 2668. CONFORMING AMENDMENT TO TABLE OF SECTIONS.

The item relating to section 2710 in the table of sections at the beginning of chapter 121 of title 18, United States Code, is amended by inserting "for chapter" after "Definitions".

SEC. 2669. CORRECTION OF ITEM IN TABLE OF SECTIONS FOR CHAPTER 206.

The item relating to section 3123 in the table of sections at the beginning of chapter 206 of title 18, United States Code, is amended by striking "trap or trace" and inserting "trap and trace".

SEC. 2670. CORRECTION OF ITEMS IN TABLE OF SECTIONS FOR CHAPTER 46.

The items in the table of sections at the beginning of chapter 46 of title 18, United States Code, are each amended by striking "Forfeiture" and inserting "forfeiture".

SEC. 2671. CORRECTION OF TYPOGRAPHICAL ERROR.

Section 2422 of title 18, United States Code, is amended by striking "of foreign commerce" and inserting "or foreign commerce".

SEC. 2672. CONFORMING AMENDMENT TO TABLE OF SECTIONS FOR CHAPTER 117.

The item relating to section 2424 in the table of sections at the beginning of chapter 117 of title 18, United States Code, is amended by striking "female" and inserting "individual".

SEC. 2673. ELIMINATION OF CROSS REFERENCES TO REPEALED SECTION.

(a) Section 3401.—Section 3401(g) of title 18, United States Code, is amended by striking "and section 4216".

(b) Section 3522.—Section 3522(c) of title 18, United States Code, is amended by striking "4216" and inserting "4215".

(c) Section 4106.—Section 4106(b) of title 18, United States Code, is amended by striking "4216" and inserting "4215".

SEC. 2674. INSERTION OF MISSING WORD.

Section 3142(c)(3) of title 18, United States Code, is amended by inserting "the" before "order".

SEC. 2675. INSERTION OF MISSING COMMA.

Section 351(a) of title 18, United States Code, is amended by inserting a comma after "(as defined in section 3056 of this title)".

SEC. 2676. CORRECTIONS OF ERRORS IN FEDERAL RULES OF EVIDENCE.

(a) Insertion of Missing Word.—Rule 615 of the Federal Rules of Evidence is amended by inserting "a" before "party which is not a natural person.".

(b) Syntax Correction.—Rule 804(a)(5) of the Federal Rules of Evidence is amended by striking "subdivisions" and inserting "subdivision".

(c) Correction of Capitalization.—Rule 1101(a) of the Federal Rules of Evidence is amended—

(1) by striking "Rules" and inserting "rules"; and

(2) by striking "Courts of Appeals" and inserting "courts of appeals".

SEC. 2677. SUPERVISED RELEASE.

Rule 11(c)(1) of the Federal Rules of Criminal Procedure is amended by adding "or term of supervised release" after "special parole term".

SEC. 2678. INJUNCTIONS AGAINST FRAUD.

Section 1345 of title 18, United States Code, is amended by adding "or of section 287, 371 (insofar as it involves a conspiracy to defraud the United States or any agency thereof), or 1001 of this title" after "violation of this chapter,".

SEC. 2679. OBSTRUCTION OF FEDERAL AUDIT.

(a) Offense.—Chapter 73 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1516. Obstruction of Federal audit

"(a) Whoever, with intent to deceive or defraud, endeavors to influence, obstruct, or impede a Federal auditor in the performance of official duties relating to a person receiving in excess of $100,000, directly or indirectly, from the United States in any 1 year period pursuant to a contract or subcontract, shall be fined under this title, or imprisoned not more than 5 years, or both.

"(b) For purposes of this section the term 'Federal auditor' means any person employed on a full or part time or contractual basis to perform an audit or a quality assurance inspection for or on behalf of the United States.".

(b) Section Analysis.—The section analysis for chapter 73 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1516. Obstruction of Federal audit.".

SEC. 2680. UNAUTHORIZED USE OF THE TERM "SECRET SERVICE".

(a) Unauthorized Use.—Section 709 of title 18, United States Code, is amended by inserting after the undesignated paragraph relating to the Federal Bureau of Investigations the following new paragraph:

"Whoever, except with written permission of the Director of the United States Secret Service, knowingly uses the words 'Secret Service', 'Secret Service Uniformed Division', the initials 'U.S.S.S.', 'U.D.', or any colorable imitation of such words or initials, in connection with, or as a part of any advertisement, circular, book, pamphlet or other publication, play, motion picture, broadcast, telecast, other production, product, or item, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet or other publication, product, or item, is approved, endorsed, or authorized by or associated in any manner with, the United States Secret Service, or the United States Secret Service Uniformed Division; or".

(b) Effective Date.—This section shall take effect 90 days after the date of enactment of this Act.

SEC. 2681. AGGREGATION TO PERMIT PROSECUTION OF CERTAIN SCHEMES TO DEFRAUD MULTIPLE VICTIMS.

The second paragraph of section 2314 of title 18, United States Code, is amended by inserting "or persons" after "person" the first place it appears, and by inserting "or those persons" after "person" the second place it appears.

SEC. 2682. TIME FOR REFILING INDICTMENT OR INFORMATION FOLLOWING DISMISSAL.

(a) Indictment Where Defect Found After Period of Limitations.—Section 3288 of title 18, United States Code, is amended—

(1) by inserting after "within six calendar months of the date of the expiration of the applicable statute of limitations" the following: ", or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final";

(2) by striking all beginning with "Whenever" through "for any cause," and inserting "Whenever an indictment or information charging a felony is dismissed for any reason";

(3) by adding at the end thereof the following: "This section is not intended to permit the filing of a new indictment or information where the reason for the dismissal was the failure to file the indictment or information within the period prescribed by the applicable statute of limitations, or some other reason that would bar a new prosecution."; and

(4) by amending the section heading to read as follows:

"§ 3288. Indictments and informations dismissed after period of limitations.".

(b) Indictment Where Defect Found Before Period of Limitations.—Section 3289 of title 18, United States Code, is amended—

(1) by inserting after "within six calendar months of the date of the dismissal of the indictment or information" the following: "or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final";

(2) by striking all beginning with "Whenever" through "for any cause," and inserting "Whenever an indictment or information charging a felony is dismissed for any reason";

(3) by adding at the end thereof the following: "This section is not intended to permit the filing of a new indictment or information where the reason for the dismissal was the failure to file the indictment or information within the period prescribed by the applicable statute of limitations, or some other reason that would bar a new prosecution."; and

(4) by amending the section heading to read as follows:

"§ 3289. Indictments and informations dismissed before period of limitations.".

(c) Chapter Analysis.—The analysis for chapter 213 of title 18, United States Code, is amended by striking the items for sections 3288 and 3289 and inserting the following:

"3288. Indictments and information dismissed after period of limitations.
"3289. Indictments and information dismissed before period of limitations.".

SEC. 2683. RESTARTING OF SPEEDY TRIAL ACT TIME PERIOD FOR DEFENDANTS WHO ABSCOND ON EVE OF TRIAL.

Section 3161 of title 18, United States Code, is amended by adding at the end the following:

"(k)(1) If the defendant is absent (as defined by subsection (h)(3)) on the day set for trial, and the defendant's subsequent appearance before the court on a bench warrant or other process or surrender to the court occurs more than 21 days after the day set for trial, the defendant shall be deemed to have first appeared before a judicial officer of the court in which the information or indictment is pending within the meaning of subsection (c) on the date of the defendant's subsequent appearance before the court.

"(2) If the defendant is absent (as defined by subsection (h)(3)) on the day set for trial, and the defendant's subsequent appearance before the court on a bench warrant or other process or surrender to the court occurs not more than 21 days after the day set for trial, the time limit required by subsection (c), as extended by subsection (h), shall be further extended by 21 days.".

SEC. 2684. CRIMINAL FINES AMENDMENTS.

(a) APPLICATION OF GOVERNMENT PETITION FOR MODIFICATION OR REMISSION OF FINES TO OLD FINES.—Section 3573 of title 18, United States Code, is amended by adding at the end thereof the following: "This section shall apply to all fines and assessments irrespective of the date of imposition.".

(b) APPLICATION OF STATUTE OF LIMITATIONS FOR SPECIAL ASSESSMENTS TO OLD ASSESSMENTS.—Section 3013(c) of title 18, United States Code, is amended by adding at the end thereof the following: "This subsection shall apply to all assessments irrespective of the date of imposition.".

(c) APPLICATION OF WAIVER BY ATTORNEY GENERAL OF INTEREST OR PENALTY RELATING TO FINES TO OLD FINES.—Section 3612(h) of title 18, United States Code, is amended by inserting "or any interest or penalty relating to a fine imposed under any prior law" after "under this section".

(d) NOTICE REQUIREMENTS.—Sections 3612(d) and (e) of title 18, United States Code, are amended by striking ", by certified mail,".

SEC. 2685. SYNTAX CORRECTION TO MINIMUM SENTENCE PROVISION.

Section 994(n) of title 28, United States Code, is amended by striking "as minimum sentence" and inserting "as a minimum sentence".

SEC. 2686. REFUND OF FORFEITED BAIL.

(a) OFFENSE.—Chapter 207 of title 18, United States Code, is amended by adding the following new section after section 3150:

"§ 3151. Refund of forfeited bail

"Appropriations available to refund money erroneously received and deposited in the Treasury are available to refund any part of forfeited bail deposited into the Treasury and ordered remitted under the Federal Rules of Criminal Procedure.".

(b) SECTION ANALYSIS.—The section analysis for chapter 207 of title 18, United States Code, is amended by inserting at the appropriate place the following new item:

"Sec. 3151. Refund of forfeited bail.".

SEC. 2687. SPECIAL ASSESSMENTS ON PERSONS CONVICTED OF OFFENSES FOR WHICH COLLATERAL MAY BE FORFEITED.

Section 3013 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "The court" and inserting "Except as provided in subsection (d) of this section, the court"; and

(2) by inserting at the end the following new subsection:

"(e) No assessment shall be imposed on any person convicted of an offense for which the local rules of the district court in which the case is pending, or other Federal law, establishes that collateral may be posted in lieu of appearance in court.".

SEC. 2688. CONDITIONS OF PROBATION.

Section 3563(a)(2) of title 18, United States Code, is amended by inserting before the period ", unless the court finds on the record that extraordinary circumstances exist that would make such a condition plainly unreasonable, in which event the court shall impose one or more of the other conditions set forth under subsection (b)".

SEC. 2689. AUTHORITY TO OBTAIN ARREST WARRANT FOR FOREIGN FUGITIVE WHOSE SPECIFIC WHEREABOUTS ARE NOT KNOWN.

Section 3184 of title 18, United States Code, is amended by inserting after the first sentence the following: "Such complaint may be filed before and such warrant may be issued by a judge or magistrate of the United States District Court for the District of Columbia if the whereabouts within the United States of the person charged are not known.".

SEC. 2690. MISUSE OF SOCIAL SECURITY NUMBER.

Section 208 of the Social Security Act (42 U.S.C. 408) is amended—

(1) in the first undesignated paragraph, by striking "not more than $5,000" after "shall be fined";

(2) in the second undesignated paragraph, by striking "not more than $25,000" after "shall be fined"; and

(3) adding at the end the following: "For the purpose of subsection (g), the terms 'social security number' and 'social security account number' mean such numbers as are assigned by the Secretary under section 405(c)(2) of this title whether or not, in actual use, such numbers are called social security numbers.".

SEC. 2691. PETTY OFFENSE AMENDMENTS.

(a) TITLE 18.—Section 19 of title 18, United States Code, is amended by inserting ", for which the maximum fine is no greater than the amount set forth for such an offense in section 3571(b) (6) or (7) in the case of an individual or section 3571(c) (6) or (7) in the case of an organization" after "infraction".

(b) RULES OF PROCEDURE.—Rule 9 of the Rules of Procedure for the Trial of Misdemeanors before United States Magistrates is amended to read as follows:

"Rule 9. Definition

"As used in these rules, 'petty offense' has the meaning set forth in 18 U.S.C. §19.".

(c) FEDERAL RULES OF CRIMINAL PROCEDURE.—Rule 54 of the Federal Rules of Criminal Procedure is amended in the definition of "petty offense" to read as follows: "'Petty offense' has the meaning set forth in 18 U.S.C. §19.".

SEC. 2692. NONMAILABILITY OF LOCKSMITHING DEVICES.

(a) IN GENERAL.—Title 39, United States Code, is amended by inserting after section 3002 the following:

"§ 3002a. Nonmailability of locksmithing devices.

"(a) Any locksmithing device is nonmailable mail, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless such device is mailed to—

"(1) a lock manufacturer or distributor;

"(2) a bona fide locksmith;

"(3) a bona fide repossessor; or

"(4) a motor vehicle manufacturer or dealer.

"(b) For the purpose of this section, 'locksmithing device' means—

"(1) a device or tool (other than a key) designed to manipulate the tumblers in a lock into the unlocked position through the keyway of such lock;

"(2) a device or tool (other than a key or a device or tool under paragraph (1)) designed for the unauthorized opening or bypassing of a lock or similar security device; and

"(3) a device or tool designed for making an impression of a key or similar security device to duplicate such key or device.".

(b) CHAPTER ANALYSIS.—The analysis for Chapter 30 of title 39, United States Code, is amended by inserting after the item relating to section 3002 the following:

"3002a. Nonmailability of locksmithing devices.".

(c) PENALTIES.—Title 18, United States Code, is amended by inserting after section 1716A the following:

"§ 1716B. Nonmailable locksmithing devices

"Whoever knowingly deposits for mailing or delivery, causes to be delivered by mail, or causes to be delivered by any interstate mailing or delivery other than by the United States Postal Service, any matter declared to be nonmailable by section 3002a of title 39, shall be guilty of a class A misdemeanor.".

(d) CHAPTER ANALYSIS.—The analysis for chapter 83 of title 18, United States Code, is amended by inserting after the item relating to section 1716A the following:

"1716B. Nonmailable locksmithing devices.".

(e) CONFORMING AMENDMENT.—Section 1716A of title 18, United States Code, is amended by striking "shall be fined not more than $1,000, or imprisoned not more than one year, or both" and inserting "shall be guilty of a class A misdemeanor".

SEC. 2693. ASSIMILATIVE CRIMES ACT AMENDMENTS.

(a) PENALTIES FOR OPERATING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF DRUGS OR ALCOHOL.—Section 13 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever"; and

(2) by adding at the end the following:

"(b) For purposes of subsection (a) of this section, that which may or shall be imposed through judicial or administrative action under the law of a State, territory, possession, or district, for a conviction for operating a motor vehicle under the influence of a drug or alcohol, shall be considered to be a punishment provided by that law. Any limitation on the right or privilege to operate a motor vehicle imposed under this subsection shall apply only to the special maritime and territorial jurisdiction of the United States.".

(b) IMPLIED CONSENT FOR CERTAIN TESTS.—(1) Chapter 205 of title 18, United States Code, is amended by adding at the end the following:

"§ 3117. Implied consent for certain tests

"(a) CONSENT.—Whoever operates a motor vehicle in the special maritime and territorial jurisdiction of the United States consents thereby to a chemical test or tests of such person's blood, breath, or urine, if arrested for any offense arising from such person's driving while under the influence of a drug or alcohol in such jurisdiction. The test or tests shall be administered upon the request of a police officer having reasonable grounds to believe the person arrested to have been driving a motor vehicle upon the special maritime and territorial jurisdiction of the United States while under the influence of drugs or alcohol in violation of the laws of a State, territory, possession, or district.

"(b) EFFECT OF REFUSAL.—Whoever, having consented to a test or tests by reason of subsection (a), refuses to submit to such a test or tests, after having first been advised of the consequences of such a refusal, shall be denied the privilege of operating a motor vehicle upon the special maritime and territorial jurisdiction of the United States during the period of a year commencing on the date of arrest upon which such test or tests was refused, and such refusal may be admitted into evidence in any case arising from such person's driving while under the influence of a drug or alcohol in such jurisdiction. Any person who operates a motor vehicle in the special maritime and territorial jurisdiction of the United States after having been denied such privilege under this subsection shall be treated for the purposes of any civil or criminal proceedings arising out of such operation as operating such vehicle without a license to do so.".

(2) The table of sections at the beginning of chapter 205 of title 18, United States Code, is amended by adding at the end the following:

"3117. Implied consent for certain tests."

SEC. 2694. PROTECTION OF FOREIGN OFFICIALS.

Section 112(b)(3) of title 18, United States Code, is amended by striking "but outside the District of Columbia".

SEC. 2695. BAIL PENDING APPEAL.

Section 3143(b) of title 18, United States Code, is amended by—

(1) striking subparagraph (2) and inserting the following:

"(2) that the appeal is not for the purpose of delay and raises a substantial question of law or fact likely to result in—

"(A) reversal,

"(B) an order for a new trial,

"(C) a sentence that does not include a term of imprisonment, or

"(D) a reduced sentence to a term of imprisonment less than the total of the time already served plus the expected duration of the appeal process."; and

(2) inserting before the final period the following: ", except that in the circumstance described in paragraph (b)(2)(D), the judicial officer shall order the detention terminated at the expiration of the likely reduced sentence".

SEC. 2696. EMERGENCY PEN REGISTER AND TRAP AND TRACE DEVICE INSTALLATION.

(a) Chapter 206 of title 18, United States Code is amended—

(1) by renumbering sections 3125 and 3126 as sections 3126 and 3127 respectively; and

(2) by adding after section 3124 the following new section:

"§ 3125 Emergency pen register and trap and trace device installation.

"(a) Notwithstanding any other provision of this chapter, any investigative or law enforcement officer, specially designated by the Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, any acting Assistant Attorney General, or any Deputy Assistant Attorney General, or by the principal prosecuting attorney of any State or subdivision thereof acting pursuant to a statute of that State, who reasonably determines that—

"(1) an emergency situation exists that involves—

"(A) immediate danger of death or serious bodily injury to any person; or

"(B) conspiratorial activities characteristic of organized crime,

that requires the installation and use of a pen register or a trap and trace device before an order authorizing such installation and use can, with due diligence, be obtained, and

"(2) there are grounds upon which an order could be entered under this chapter to authorize such installation and use 'may have installed and use a pen register or trap and trace device if, within forty-eight hours after the installation has occurred, or begins to occur, an order approving the installation or use is issued in accordance with section 3123 of this title.'

"(b) In the absence of an authorizing order, such use shall immediately terminate when the information sought is obtained, when the application for the order is denied or when forty-eight hours have lapsed since the installation of the pen register or trap and trace device, whichever is earlier.

"(c) The knowing installation or use by any investigative or law enforcement officer of a pen register or trap and trace device pursuant to subsection (a) without application for the authorizing order within forty-eight hours of the installation shall constitute a violation of this chapter.

"(d) A provider for a wire or electronic service, landlord, custodian, or other person who furnished facilities or technical assistance pursuant to this section shall be reasonably compensated for such reasonable expenses incurred in providing such facilities and assistance.".

(b)(1) Section 3124(d) of title 18, United States Code, is amended by adding after the words "court order under this chapter" the words "or request pursuant to section 3125 of this title".

(2) Section 3124(e) of title 18, United States Code, is amended by adding after the words "court order" the words "under this chapter, a request pursuant to section 3125 of this title".

(c) The table of sections for chapter 206 of title 18, United States Code, is amended—

(1) by renumbering the items for sections 3125 and 3126 as sections 3126 and 3127, respectively; and

(2) by inserting the following new item: "3125. Emergency pen register and trap and trace device installation".

(d) Section 3124(b) of title 18, United States Code, is amended by adding after the words "shall be furnished" the words ", pursuant to subsection 3123(b) or section 3125 of this title,".

Subtitle L—Sentencing Amendments

SEC. 2701. PRISONERS TRANSFERRED TO THE UNITED STATES.

(a) PRISONERS TRANSFERRED TO THE UNITED STATES.—Chapter 306 of title 18, United States Code, is amended by adding after section 4106 the following new section:

"§ 4106A. Transfer of offenders on parole; parole offenders transferred

"(a) Upon the receipt of an offender who is on parole from the authorities of a foreign country, the Attorney General shall assign the offender to the United States Parole Commission for supervision.

"(b)(1) An offender transferred to the United States to serve a sentence of imprisonment that is longer than the maximum period of time specified in the applicable sentencing guidelines promulgated pursuant to section 994(a)(1) of title 28, United States Code, as determined by the United States Parole Commission upon the recommendation of the United States Probation Service, shall serve in an official detention facility the maximum period of time specified in the applicable sentencing guidelines and shall serve the remainder of the term imposed as a term of supervised release.

"(2) The Parole Commission shall set conditions of supervised release in accordance with section 3583 of this title. Upon the release of the prisoner from confinement and the beginning of the period of supervised release, supervision of the prisoner shall be transferred to the district court of the district where the prisoner resides.

"(3) To the extent permitted by the applicable treaty, a final determination by the Parole Commission as to whether the transferred offender shall serve a term of supervised release and the length of such term may be appealed to the United States court of appeals for the district in which the offender is imprisoned after transfer to the United States, and the court of appeals shall decide and dispose of the appeal in accordance with section 3742 as though the determination appealed had been imposed by the United States district court.

"(4) A determination by the Parole Commission shall be made only after affording the transferred offender an opportunity to submit evidence or information as to the applicable sentencing guideline.

"(c) This section shall apply only to offenses completed on or after November 1, 1987, and the Parole Commission's performance of its responsibilities under this section shall be subject to section 235 of the Comprehensive Crime Control Act of 1984.".

(b) CONFORMING AMENDMENT.—The section analysis at the beginning of chapter 306 of title 18, United States Code, is amended by inserting the following after the item for section 4106:

"4106A. Transfer of offenders on parole; parole of offenders transferred.".

SEC. 2702. RECORDS OTHER THAN TRANSCRIPTS.

Section 3553(c) of title 18, United States Code, is amended by—

(1) inserting after "transcription" the following: "or other appropriate public record"; and

(2) striking "clerk of the" in the last sentence.

SEC. 2703. STANDARD OF REVIEW.

Section 3742 of title 18, United States Code, is amended—

(1) in subsections (a)(2) and (b)(2), by striking "was imposed as a result of an incorrect application of the sentencing guidelines issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)" and inserting "resulted from the use of an inapplicable sentencing guideline range";

(2) in subsection (d)(2), by striking "was imposed as a result of an incorrect application of the sentencing guidelines" and inserting "resulted from the use of an inapplicable sentencing guideline range";

(3) in subsection (e)(1), by striking "imposed as a result of an incorrect application of the sentencing guidelines" and inserting "resulted from the use of an inapplicable sentencing guideline range";

(4) by striking paragraph (3) of subsection (a) and inserting the following:

"(3) is greater than the sentence specified in the applicable guideline range to the extent that the sentence includes a greater fine or term of imprisonment or term of supervised release than the maximum established in the guideline range, or includes a more limiting condition of probation or supervised release under section 3563 (b)(6) or (b)(11) than the maximum established in the guideline range; or";

(5) by striking paragraph (3) of subsection (b) and inserting the following:

"(3) is less than the sentence specified in the applicable guideline range to the extent that the sentence includes a lesser fine or term of imprisonment or term of supervised release than the minimum established in the guideline range, or includes a less limiting condition of probation or supervised release under section 3563 (b)(6) or (b)(11) than the minimum established in the guideline range; or";

(6) by striking paragraph (4) of subsection (a) and inserting the following:

"(4) was imposed for an offense for which there is no sentencing guideline and is plainly unreasonable.";

(7) in subsection (b)—

(A) by striking paragraph (4) through the end and inserting the following:

"(4) was imposed for an offense for which there is no sentencing guideline and is plainly unreasonable."; and

(B) by inserting after "The Government" the following: ", with the personal approval of the Solicitor General or the Attorney General,";

(8) in subsections (d)(3) and (e)(2), by striking "range of the applicable sentencing guideline" and inserting "applicable sentencing guideline range";

(9) in the second sentence of subsection (d), by inserting "and shall give due deference to the district court's application of the guidelines to the facts" after "clearly erroneous"; and

(10) by inserting a new subsection (c), as follows, and by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively:

"(c) Plea Agreements.—In the case of a plea agreement which includes a specific sentence under rule 11(e)(1)(B) or (e)(1)(C) of the Federal Rules of Criminal Procedure, a notice of appeal may not be filed—

"(1) by the defendant under paragraphs (3) or (4) of subsection (a) unless the sentence imposed is greater than the sentence specified in such agreement; and

"(2) by the Government under paragraph (3) or (4) of subsection (b) unless the sentence imposed is less than the sentence specified in such agreement."; and

(11) by adding at the end of the section the following new subsection:

"(h) Guideline Not Expressed as a Range.—For the purpose of this section, the term 'sentencing guideline range' includes a sentencing guideline range having the same upper and lower limits.".

SEC. 2704. HIRING OUTSIDE COUNSEL.

Section 995(a) of title 28, United States Code, is amended by—

(1) striking "and" at the end of paragraph (21);

(2) striking the period at the end of paragraph (22) and inserting "; and"; and

(3) adding at the end thereof the following:

"(23) retain private attorneys to provide legal advice to the Commission in the conduct of its work, or to appear for or represent the Commission in any case in which the Commission is authorized by law to represent itself, or in which the Commission is representing itself with the consent of the Department of Justice; and the Commission may in its discretion pay reasonable attorney's fees to private attorneys employed by it out of its appropriated funds. When serving as officers or employees of the United States, such private attorneys shall be considered special government employees as defined in section 202(a) of title 18; and".

SEC. 2705. POWERS OF THE COMMISSION.

Section 995(a)(2) of title 28, United States Code, is amended by striking "grade 18 of the General Schedule pay rates (5 U.S.C. §5332)" and inserting "Level 6 of the Senior Executive Service Schedule (5 U.S.C. §5382)".

SEC. 2706. GRANTING INCENTIVE AWARDS.

(a) Defined as Agency.—Section 4501(1) of title 5, United States Code, is amended by—

(1) striking "and" at the end of subparagraph (F);

(2) adding "and" at the end of subparagraph (G); and

(3) adding at the end thereof the following:

"(H) the United States Sentencing Commission;".

(b) Powers of Commission.—Section 995(a) of title 28, United States Code, is amended by adding at the end thereof the following:

"(24) grant incentive awards to its employees pursuant to chapter 45 of title 5, United States Code.".

(c) Incentive Awards.—Section 996(b) of title 28, United States Code, is amended by inserting before "81", the following: "45 (Incentive Awards),".

SEC. 2707. TECHNICAL CORRECTION.

Section 3582(c) of title 18, United States Code, is amended by striking "28 U.S.C. 994(n)" and inserting "28 U.S.C. 994(o)".

SEC. 2708. PROTECTION OF PUBLIC.

(a) Conditions.—Section 3583(d) of title 18, United States Code, is amended—

(1) in paragraph (1) by inserting "(a)(2)(C)," after "(a)(2)(B),"; and

(2) in paragraph (2) by inserting "(a)(2)(C)," after "(a)(2)(B),".

(b) Modifications or Revocation.—Section 3583(e) of title 18, United States Code, is amended by inserting "(a)(2)(C)," after "(a)(2)(B),".

SEC. 2709. AUTHORITY TO AMEND ANNUAL REPORT.

Section 994(p) of title 28, United States Code, is amended by adding at the end the following: "During the reporting period prescribed in this subsection, the Commission may submit more than one report, and may amend a report, in whole or in part. In the case of an amended report, the one hundred and eighty day period shall run from the date the amended report is submitted to Congress, except that the Commission may specify that the one hundred and eighty day period with respect to the unamended portion of a partially amended report shall run from the date of the initial submission.".

SEC. 2710. CLARIFICATION OF RESTITUTION PROVISION.

Section 3563(b)(3) of title 18, United States Code, is amended by striking "3556" and inserting "3663 and 3664 (but not subject to the limitations of 3663(a))".

SEC. 2711. AMENDMENT TO RULE 4, RULES OF APPELLATE PROCEDURE.

Rule 4(b) of the Rules of Appellate Procedure is amended—

(1) in the first sentence, by inserting "(i)" after "entry of", and inserting "or (ii) a notice of appeal by the Government" at the end; and

(2) in the sentence beginning "When an appeal by the government is authorized", by inserting "(i) after "entry of", and inserting "or (ii) a notice of appeal by any defendant" at the end.

Subtitle M—Miscellaneous

SEC. 2751. MARIHUANA PLANTS.

Section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended—

(1) in paragraph (A)(vii), by inserting ", or 1,000 or more marihuana plants regardless of weight" after "containing a detectable amount of marihuana";

(2) in paragraph (B)(vii), by inserting ", or 100 or more marihuana plants regardless of weight" after "containing a detectable amount of marihuana"; and

(3) in paragraph (D) by striking out "100 or more marihuana plants" and inserting in lieu thereof "50 or more marihuana plants".

SEC. 2752. FINES FOR SIMPLE POSSESSION.

Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended—

(1) in the second sentence—

(A) by striking out "but not more than $5,000";

(B) by striking out "but not more than $10,000"; and

(C) by striking out "but not more than $25,000".

SEC. 2753. CONTINUING CRIMINAL ENTERPRISE.

(a) Increased Penalties.—Section 408(a) of the Controlled Substances Act is amended by—

(1) striking "10 years" and inserting "20 years"; and

(2) striking "20 years" and inserting "30 years".

(b) Redesignation.—Subsections (d) and (e) of section 408 of the Controlled Substances Act are redesignated as (c) and (d).

SEC. 2754. COMMON CARRIER OPERATION UNDER THE INFLUENCE OF ALCOHOL OR DRUGS.

(a) Locomotives.—Section 341 of title 18, United States Code, is amended by adding after "means a" the following: "locomotive, a".

(b) Maximum Penalty.—Section 342 of title 18, United States Code, is amended by striking "five" and inserting "fifteen".

(c) Sentencing Guidelines.—(1) Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that—

(A) a defendant convicted of violating section 342 of title 18, United States Code, under circumstances in which death results, shall be assigned an offense level under chapter 2 of the sentencing guidelines that is not less than level 26; and

(B) a defendant convicted of violating section 342 of title 18, United States Code, under circumstances in which serious bodily injury results, shall be assigned an offense level under chapter 2 of the sentencing guidelines that is not less than level 21.

(2) If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in paragraph (1) so as to achieve a comparable result.

SEC. 2756. ALIEN WITNESS COOPERATION ACT.

(a) In General.—Chapter 204 of title 18, United States Code, is amended by—

(1) redesignating section 3077 as section 3078;

(2) adding at the end of section 3076 the following new sentence: "An officer or employee of any governmental entity is eligible for treatment under this section.";

(3) inserting a new section 3077 after section 3076:

"§ Aliens; waiver of admission requirements

"If the information which would justify a reward under this chapter or under section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708) is furnished by an alien, the Attorney General, after consulting with the Secretary of State, may determine that the admission of such alien into the United States is in the public interest and, in that event, such alien and the members of his immediate family may receive immigrant visas and may be admitted to the United States for permanent residence without regard to their inadmissibility under the immigration or any other laws or regulations or the failure to comply with such laws and regulations: *Provided*, That the number of aliens and members of their immediate families admitted to the United States under the authority of this section shall not exceed 50 individuals in any one fiscal year. An officer or employee of any governmental entity is eligible for treatment under this section."; and

(4) in section 3078(4)(B) as redesignated, striking the words "section 3073" and substituting in lieu thereof "section 3077".

(b) Definitions.—The analysis for chapter 204 of title 18, United States Code, is amended by—

(1) striking the word "Definitions"and substituting in lieu thereof "Aliens; waiver of admission requirements"; and

(2) adding at the end of the analysis this new item:

"3078. Definitions.".

(c) Payment Clarification.—Subsection 201(d) of title 18, United States Code, is amended by striking the words "provided by law" and inserting in lieu thereof the phrase ", payments, benefits or otherwise which are authorized by and provided in accordance with provisions of law".

SEC. 2757. AMENDMENT TO THE FEDERAL RULES OF CRIMINAL PROCEDURE.

The Federal Rules of Criminal Procedure are amended by adding after Rule 12.2 the following:

"Rule 12.3. Notice of Defense Based Upon Public Authority

"(a) Notice by Defendant; Government Response; Disclosure of Witnesses.—

"(1) Defendant's notice and government's response.—A defendant intending to claim a defense of actual or believed exercise of public authority on behalf of a law enforcement or Federal intelligence agency at the time of the alleged offense shall, within the time provided for the filing of pretrial motions or at such later time as the court may direct, serve upon the attorney for the Government a written notice of such intention and file a copy of such notice with the clerk. Such notice shall identify the law enforcement or Federal intelligence agency and any member of such agency on behalf of which and the period of time in which the defendant claims the actual or believed exercise of public authority occurred. If the notice identifies a Federal intelligence agency, the copy filed with the clerk shall be under seal. Within ten days after receiving the defendant's notice, but in no event less than twenty days before the trial, the attorney for the Government shall serve upon the defendant or the defendant's attorney a written response which shall admit or deny that the defendant exercised the public authority identified in the defendant's notice.

"(2) Disclosure of witnesses.—At the time that the Government serves its response to the notice or thereafter, but in no event less than twenty days before the trial, the attorney for the Government may serve upon the defendant or the defendant's attorney a written demand for the names and addresses of the witnesses, if any, upon whom the defendant intends to rely in establishing the defense identified in the notice. Within seven days after receiving the Government's demand, the defendant shall serve upon the attorney for the Government a written statement of the names and addresses of any such witnesses. Within seven days after receiving the defendant's written statement, the attorney for the Government shall serve upon the defendant or the defendant's attorney a written statement of the names and addresses of the witnesses, if any, upon whom the Government intends to rely in opposing the defense identified in the notice.

"(3) Additional time.—If good cause is shown, the court may allow a party additional time to comply with any obligation imposed by this rule.

"(b) Continuing Duty to Disclose.—If, prior to or during trial, a party learns of any additional witness whose identity, if known, should have been included in the written statement furnished under subdivision (a)(2) of this rule, that party shall promptly notify in writing the other party or the other party's attorney of the name and address of any such witness.

"(c) Failure to Comply.—If a party fails to comply with the requirements of this rule, the court may exclude the testimony of any undisclosed witness offered in support of or in opposition to the defense, or enter such other order as it deems just under the circumstances. This rule shall not limit the right of the defendant to testify.

"(d) Protective Procedures Unaffected.—This rule shall be in addition to and shall not supersede the authority of the court to issue appropriate protective orders, or the authority of the court to order that any pleading be filed under seal.

"(e) Inadmissibility of Withdrawn Defense Based Upon Public Authority.—Evidence of an intention as to which notice was given under subdivision (a), later withdrawn, is not, in any civil or criminal proceeding, admissible against the person who gave notice of the intention.

SEC. 2758. JURISDICTION OVER FEDERAL LANDS.

(a) Findings.—Congress finds that—

(1) the States have law enforcement jurisdiction over approximately 97 percent of federally owned property in the United States;

(2) the States lack jurisdiction to enforce the law on the remaining 3 percent of federally owned property which is subject to exclusive or partial Federal jurisdiction;

(3) to a large extent, exclusive Federal jurisdiction of these parcels results from historical accident, and is unrelated to the use of which the property is being put;

(4) the parcels of federally owned property comprising this 3 percent often are scattered in checkerboard fashion almost at random throughout Federal properties intermixed almost at random with parcels subject to concurrent Federal and State jurisdiction and parcels subject solely to State jurisdiction;

(5) as a result, effective criminal law enforcement on these properties is seriously hampered;

(6) many problems resulting from the jurisdictional maze can be resolved by conferring upon the States criminal law enforcement jurisdiction over the 3 percent of properties currently under executive or partial Federal jurisdiction;

(7) for a very limited number of installations or portions of them, extension of such criminal law enforcement jurisdiction to the States may be inappropriate due to unique military concerns which require exclusive Federal jurisdiction to ensure the proper performance of military functions, missions, and tasks on those properties;

(8) the need for exclusive jurisdiction may change from time to time as the purposes to which installations are dedicated or other conditions change;

(9) on federally owned property over which both the United States and a State have law enforcement jurisdiction, enforcement emergencies arise periodically, albeit infrequently, which involve immediate danger of death or serious physical injury, e.g., a prison riot or hostage situation; and

(10) such law enforcement emergencies require decisive and coordinated action which is best achieved when a single level of government has clear-cut control over the law enforcement response.

(b) In General.—Chapter 1 of title 18, United States Code, is amended by adding after section 19 the following new section:

"§ 20. State criminal laws applicable on Federal enclaves

"(a) The criminal laws of a State and political subdivision thereof shall apply respectively on all Federal property within the State and subdivision thereof. For this purpose the States and their political subdivisions are hereby given jurisdiction to enforce such laws subject to the absolute discretion of a commanding officer of a military installation or the chief Federal operating officer of a nuclear facility of the Department of Energy to restrict the entry of persons, including law enforcement officers of a State or political subdivision thereof, upon the installation or facility.

"(b) The Secretary of Defense, the Secretary of a military department, or (with respect to a facility of the Coast Guard when it is operating as a Service in the Department of Transportation) the Secretary of Transportation, may from time to time exempt from the operation of subsection (a), by regulation, those military installations or parts thereof that are subject to the exclusive jurisdiction of the United States and with respect to which exclusive Federal criminal jurisdiction is required by the peculiar nature of the military operation conducted thereon or the need to avoid undue interference with the purpose of any activity or project at the installation.

"(c)(1) Nothing in this section shall, in any way, limit the existing jurisdiction of the United States over any property described herein or confer on a State or political subdivision thereof any power to interfere with Federal functions or any additional power to tax not expressly provided for elsewhere in Federal law. The laws of States and political subdivisions thereof made applicable on Federal property by this section shall not apply to the United States or any instrumentality thereof or to officials or employees of the United States while acting in the reasonable belief that they are acting in the performance of their duties or scope of employment.

"(2) Nothing in this section shall impose upon a State or political subdivision thereof any obligation to exercise jurisdiction over the Federal property described herein or create any right or defense for any person charged with a criminal offense in any Federal or State court.

"(d) When the criminal activity occurring on federally owned land involves immediate danger of death or serious physical injury to a person, and both the United States and a State have criminal law enforcement jurisdiction over that property, the Attorney General or the Deputy Attorney General of the United States is authorized to declare, based on his judgment, a law enforcement emergency, thereby suspending the exercise of police powers by the State over the particular criminal activity, except that the State may exercise those police powers necessary to respond to specific requests for assistance made by the Federal Bureau of Investigation. A declaration under this subsection shall be subject to the following conditions:

"(1) The authority to issue such a declaration may not be delegated.

"(2) The declaration is to be in writing and is to specify with particularity the criminal activity which constitutes the law enforcement emergency.

"(3) Unless sooner withdrawn, the declaration remains in effect for a period of 72 hours. In the event the particular criminal activity continues, the declaration may be renewed by the Attorney General or Deputy Attorney General, in increments not to exceed 72 hours, until the criminal activity has been brought to a conclusion.

"(4) The declaration of a law enforcement emergency does not deprive the State of its jurisdiction to prosecute persons responsible for the criminal activity which was the subject of such declaration.

"(e) For purposes of this section—

"(1) the term 'Federal property' includes all real property owned, leased, or used by the United States that is included within the part of the 'special maritime territorial jurisdiction of the United States' described in paragraph (3) of section 7 of this title, but does not include the Indian country as defined in section 1151 of this title;

"(2) the term 'criminal law' includes regulations which provide for a criminal sanction of for both a criminal and administrative sanction; and

"(3) the term 'military installation' means any property described in paragraph (1) that is under the administrative control of—

"(A) the Department of Defense or one or more military departments of the Department of Defense; or

"(B) the Coast Guard.".

(c) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 1 of title 18, United States Code, is amended by adding after the item pertaining to section 19, the following:

"20. State criminal laws applicable on Federal enclaves.".

(d) EFFECTIVE DATE.—The provisions of this section, with the exception of proposed subsection 20(b) of title 18, United States Code, shall become effective 120 days after the date of enactment of this section.

SEC. 2759. WITNESS SERVING SENTENCE ABROAD.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3508. Custody and return of foreign witnesses

"(a) When the testimony of a person who is serving a sentence, is in pretrial detention, or is otherwise being held in custody, in a foreign country, is needed in a State or Federal criminal proceeding, the Attorney General shall, when he deems it appropriate in the exercise of his discretion, have the authority to request the temporary transfer of that person to the United States for the purposes of giving such testimony, to transport such person to the United States in custody, to maintain the custody of such person while he is in the United States, and to return such person to the foreign country.

"(b) Where the transfer to the United States of a person in custody for the purposes of giving testimony is provided for by treaty or convention, by this section, or both, that person shall be returned to the foreign country from which he is transferred. In no event shall the return of such person require any request for extradition or extradition proceedings, or proceedings under the immigration laws.

"(c) Where there is a treaty or convention between the United States and the foreign country in which the witness is being held in custody which provides for the transfer, custody and return of such witnesses, the terms and conditions of that treaty shall apply. Where there is no such treaty or convention, the Attorney General may exercise the authority described in paragraph (a) if both the foreign country and the witness give their consent.".

(b) TABLE OF CONTENTS.—The table of contents for chapter 223 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"3508. Custody and return of foreign witnesses.".

SEC. 2760. NATIONAL FOREST SYSTEM SAFETY.

(a) FINDINGS.—Congress finds that—

(1) National Forest System lands continue to be a haven for the unlawful production of marijuana and other controlled substances, which—

(A) endangers the public through their use of National Forest System lands;

(B) interferes with the ability of the Forest Service to effectively manage the natural resources and activities within the National Forest System; and

(C) causes damage and destruction of the natural resources and facilities managed by the Forest Service;

(2) the unlawful production of marijuana and other controlled substances often—

(A) is generally harmful to the environment and public health and safety;

(B) pollutes the air, soil, and water; and

(C) is harmful to wildlife;

(3) the Forest Service needs additional authority to adequately deal with the problem of controlled substance production that affect the administration of the National Forest System;

(4) the Forest Service needs to be able to exercise its investigative authorities outside the boundaries of the National Forest System for drug-related crimes arising from within the National Forest System in order to be effective in deterring such crime;

(5) the authority and powers of the Forest Service are not intended to be in conflict or interfere with the statutory authority, powers, or responsibilities of any State or political subdivision thereof; and

(6) the Forest Service, in the exercise of the law enforcement powers possessed by such, should cooperate to every extent possible with any other Federal, State or local law enforcement having jurisdiction in areas where National Forests are located, particularly where coordinated investigative and enforcement actions can be effective to control crime which affects multiple agencies.

(b) POWERS.—Section 15003 of the National Forest System Drug Control Act of 1986 (16 U.S.C. 559c) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking out "500 officers and employees" and inserting in lieu thereof "1,000 special agents and law enforcement officers"; and

(B) by striking out "within the boundaries of the National Forest System;

(2) in paragraph (2)—

(A) by inserting after "conduct," the following: "within the exterior boundaries of the National Forest System,"; and

(B) by adding at the end thereof the following: "and to conduct such investigations and enforcement actions outside the exterior boundaries of the National Forest System when cross designated by the Attorney General and when in immediate pursuit of such persons suspected of such offenses who are fleeing the National Forest System to avoid arrest;" and

(3) in paragraph (3), by adding at the end the following: "except that such arrests must arise out of an offense committed within the National Forest System, or which affects the administration of the National Forest System;".

(c) COOPERATION.—Section 15004 of the National Forest System Drug Control Act of 1986 (16 U.S.C. 559d) is amended—

(1) in paragraph (1), by striking out "and" at the end thereof;

(2) in paragraph (2), by striking out within the boundaries of the National Forest System." and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(3) the Forest Service shall cooperate with the Attorney General in carrying out the seizure and forfeiture provisions of section 881 of the Controlled Substances Act (21 U.S.C. 841) as such activity relates to the manufacture, distribution, or dispensing of marijuana or other controlled substances within the National Forest System;

"(4) the Secretary of Agriculture is authorized to designate law enforcement officers of any other Federal agency, when the Secretary determines such to be economical and in the public interest, and with the concurrence of that agency, to exercise the powers and authorities of the Forest Service while assisting the Forest Service in the National Forest System, or for activities administered by the Forest Service; and

"(5) the Forest Service is authorized to accept law enforcement designation from any other Federal or State agency or political subdivision thereof for the purpose of cooperating, as part of multi-agency task force operations, in the investigation and enforcement of laws and regulations of any other Federal or State agency or political subdivision thereof that when violated involve dual jurisdictions.".

(d) PENALTY.—Chapter 91 of Title 18, United States Code, is amended by adding at the end thereof the following new section:

"SEC. 1864. HAZARDOUS, INJURIOUS DEVICES ON PUBLIC LANDS.

"(a) PROHIBITED ACTS.—

"(1) IN GENERAL.—Any individual who—

"(A) places or causes to be placed on any Federal lands, or on any Indian reservation, or any Indian allotment while the title to such shall be held in trust by the Federal government or while the same shall remain inalienable by the allottee without the consent of the United States, any hazardous or injurious device that is designed to cause bodily injury or property damage as a result of the action of any person who comes into contact with such device; or

"(B) disrupts or interferes, or attempts to disrupt or interfere with the administration of any Federal public lands, or the authorized use of such lands, or with the lawful use, removal, harvest, or processing of any timber, mineral, soil, water, or other natural resource belonging to, or under the control of the United States, by placing or causing to be placed any hazardous or injurious device at any place where any person may be injured or the property of another damaged while any such individual or property is engaged in the administration or lawful use of such lands, or the lawful removal, harvest, or processing of any such timber, mineral, soil, water, or other natural resource;

shall be fined not more than $30,000 or imprisoned for not more than 5 years, or both.

"(2) INJURY OR DAMAGE.—Any individual who, in violating paragraph (1), injures any individual or damages the property of another, shall be fined not more than $200,000 or imprisoned for not more than 10 years, or both.

"(3) PRIOR CONVICTIONS.—If an individual commits a violation under paragraphs (1) or (2) after one or more prior convictions under such subsection, such person shall be fined not more than $500,000 or imprisoned for not more than 20 years, or both.

"(b) DEFINITION.—As used in this section, the term 'hazardous or injurious device' shall mean any device, which when assembled or placed, is designed to cause bodily injury, or damage to property by the action of any person making contact with such device. Such term includes guns attached to trip wires or other triggering mechanisms, ammunition attached to trip wires or other triggering mechanisms, or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, lines or wires, lines or wires with hooks attached, nails placed so that the sharpened ends are positioned in an upright manner, or tree spiking devices including spikes, nails, or other objects hammered, driven, fastened, or otherwise placed into or on any timber, whether or not severed from the stump.

"(c) EXCEPTION.—This section shall not apply to the use of any hazardous or injurious device authorized by State or Federal law.".

(e) CRIMINAL PENALTY FOR POLLUTING.—Section 401(e) of the Controlled Substances Act (21 U.S.C. 841(e)) is amended by adding at the end thereof the following new paragraph:

"(4) Any person who, in the course of committing or attempting to commit an act in violation of subsection (a)(1), places or causes to be placed any poison or other chemical substance that pollutes or could pollute a stream, river, pond, lake, or other body of water, or that is harmful to humans, wildlife, domestic animals, natural resources, or the environment on Federal lands, shall be sentenced to a term of not more than 5 years or shall be fined not more than $10,000, or both.".

SEC. 2761. UNITED STATES MARSHAL.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Chapter 37 of title 28, United States Code, is amended by striking out sections 561 through 571 and inserting in lieu thereof the following:

"§ 561. United States Marshals Service

"(a) There is hereby established a United States Marshals Service as a bureau within the Department of Justice under the authority and direction of the Attorney General. There shall be at the head of the United States Marshals Service (hereafter in this chapter referred to as the 'Service') a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

"(b) The Director of the United States Marshals Service (hereafter in this chapter referred to as the 'Director') shall, in addition to the powers and duties set forth in this chapter, exercise such other functions as may be delegated by the Attorney General.

"(c) The President shall appoint, by and with the advice and consent of the Senate, a United States marshal for each judicial district of the United States and for the Superior Court of the District of Columbia, except that any marshal appointed for the Northern Mariana Islands may at the same time serve as marshal in another judicial district. Each United States marshal shall be an official of the Service and shall serve under the direction of the Director.

"(d) Each marshal shall be appointed for a term of four years. A marshal shall, unless that marshal has resigned or been removed by the President, continue to perform the duties of that office after the end of that 4-year term until a successor is appointed and qualifies.

"(e) The Director shall designate places within a judicial district for the official station and offices of each marshal. Each marshal shall reside within the district for which such marshal is appointed, except that—

"(1) the marshal for the District of Columbia, for the Superior Court of the District of Columbia, and for the Southern District of New York may reside within 20 miles of the district for which the marshal is appointed; and

"(2) any marshal appointed for the Northern Mariana Islands who at the same time is serving as marshal in another district may reside in such other district.

"(f) The Director is authorized to appoint and fix the compensation of such employees as are necessary to carry out the powers and duties of the Service and may designate such employees as law enforcement officers in accordance with such policies and procedures as the Director shall establish pursuant to the applicable provisions of title 5 and regulations issued thereunder.

"(g) The Director shall supervise and direct the United States Marshals Service in the performance of its duties.

"(h) The Director may administer oaths and may take affirmations of officials and employees of the Service, but shall not demand or accept any fee or compensation therefor.

"(i) There are authorized to be appropriated such sums as may be necessary to carry out the functions of the Service.

"§ 562. Vacancies

"(a) In the case of a vacancy in the office of a United States marshal, the Attorney General may designate a person to perform the functions of and act as marshal, except that the Attorney General may not designate to act as marshal any person who was appointed by the President to that office but with respect to such appointment the Senate has refused to give its advice and consent.

"(b) A person designated by the Attorney General under subsection (a) may serve until the earliest of the following events:

"(1) The entry into office of a United States marshal appointed by the President, pursuant to section 561(c).

"(2) The expiration of the thirtieth day following the end of the next session of the Senate.

"(3) If such designee of the Attorney General is appointed by the President pursuant to section 561(c), but the Senate refuses to give its advice and consent to the appointment, the expiration of the thirtieth day following such refusal.

"§ 563. Oath of office

"The Director and each United States marshal and law enforcement officer of the Service, before taking office, shall take an oath or affirmation to faithfully execute the duties of that office.

"§ 564. Powers as sheriff

"United States marshals, deputy marshals and such other officials of the Service as may be designated by the Director, in executing the laws of the United States within a State, may exercise the same powers which a sheriff of the State may exercise in executing the laws thereof.

"§ 565. Expenses of the service

"The Director is authorized to use funds appropriated for the Service to make payments for expenses incurred pursuant to personal services contracts and cooperative agreements, authorized by the Attorney General, for security guards and for the service of summons on complaints, subpoenas, and notices in lieu of services by United States marshals and deputy marshals.

"§ 566. Powers and duties

"(a) It is the primary role and mission of the United States Marshals Service to provide for the security and to obey, execute, and enforce all orders of the United States District Courts, the United States Courts of Appeals and the Court of International Trade.

"(b) The United States marshal of each district is the marshal of the district court and of the court of appeals when sitting in that district, and of the Court of International Trade holding sessions in that district, and may, in the discretion of the respective courts, be required to attend any session of court.

"(c) Except as otherwise provided by law or Rule of Procedure, the United States Marshals Service shall execute all lawful writs, process, and orders issued under the authority of the United States, and shall command all necessary assistance to execute its duties.

"(d) Each United States marshal, deputy marshal, and any other official of the Service as may be designated by the Director may carry firearms and make arrests without warrant for any offense against the United States committed in his or her presence, or for any felony cognizable under the laws of the United States if he or she has reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

"(e)(1) The United States Marshals Service is authorized to—

"(A) provide for the personal protection of Federal jurists, court officers, witnesses, and other threatened persons in the interests of justice where criminal intimidation impedes on the functioning of the judicial process or any other official proceeding; and

"(B) investigate such fugitive matters, both within and outside the United States, as directed by the Attorney General.

"(2) Nothing in this subsection shall be construed to interfere with or supersede the authority of other Federal agencies or bureaus.

"(f) In accordance with procedures established by the Director, and except for public money deposited under section 2041 of this title, each United States marshal shall deposit public moneys that the marshal collects into the Treasury, subject to disbursement by the marshal. At the end of each accounting period, the earned part of public moneys accruing to the United States shall be deposited in the Treasury to the credit of the appropriate receipt accounts.

"(g) Prior to resignation, retirement, or removal from office—

"(1) a United States marshal shall deliver to the marshal's successor all prisoners in his custody and all unserved process; and

"(2) a deputy marshal shall deliver to the marshal all process in the custody of the deputy marshal.

"(h) The United States marshals shall pay such office expenses of United States Attorneys as may be directed by the Attorney General.".

(2) ADDITIONAL AMENDMENTS.—Chapter 37 of title 28, United States Code, is amended—

(A) by striking out sections 572a, 573, and 574; and

(B) by redesignating sections 572, 575, and 576 as sections 567, 568, and 569, respectively.

(3) CONFORMING AMENDMENTS.—The chapter heading for chapter 37 of title 28, United States Code, and the table of sections at the beginning of such chapter, are amended to read as follows:

"Chapter 37—United States Marshals Service

"Sec.
"561. United States Marshals Service.
"562. Vacancies.
"563. Oath of office.
"564. Powers as sheriff.
"565. Expenses of the Service.
"566. Powers and duties.
"567. Collection of fees; accounting.
"568. Practice of law prohibited.
"569. Reemployment rights.".

(b) OTHER AMENDMENT.—Section 755 of title 28, United States Code, is amended by striking out the third paragraph.

(c) MARSHALS' FEES.—Section 1921 of title 28, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (e); and

(2) by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a)(1) The United States marshals or deputy marshals shall routinely collect, and a court may tax as costs, fees for the following:

"(A) Serving a writ of possession, partition, execution, attachment in rem, or libel in admiralty, warrant, attachment, summons, complaints, or any other writ, order or process in any case or proceeding.

"(B) Serving a subpoena or summons for a witness or appraiser.

"(C) Forwarding any writ, order, or process to another judicial district for service.

"(D) The preparation of any notice of sale, proclamation in admiralty, or other public notice or bill of sale.

"(E) The keeping of attached property (including boats, vessels, or other property attached or libeled), actual expenses incurred, such as storage, moving, boat hire, or other special transportation, watchmen's or keepers' fees, insurance, and an hourly rate, including overtime, for each deputy marshal required for special services, such as guarding, inventorying, and moving.

"(F) Copies of writs or other papers furnished at the request of any party.

"(G) Necessary travel in serving or endeavoring to serve any process, writ, or order, except in the District of Columbia, with mileage to be computed from the place where service is returnable to the place of service or endeavor.

"(H) Overtime expenses incurred by deputy marshals in the course of serving or executing civil process.

"(2) The marshals shall collect, in advance, a deposit to cover the initial expenses for special services required under paragraph (1)(E), and periodically thereafter such amounts as may be necessary to pay such expenses until the litigation is concluded. This paragraph applies to all private litigants, including seamen proceeding pursuant to section 1916 of this title.

"(3) For purposes of paragraph (1)(G), if two or more services or endeavors, or if an endeavor and a service, are made in behalf of the same party in the same case on the same trip, mileage shall be computed to the place of service or endeavor which is most remote from the place where service is returnable, adding thereto any additional mileage traveled in serving or endeavoring to serve in behalf of the party. If two or more writs of any kind, required to be served in behalf of the same party on the same person in the same case or proceeding, may be served at the same time, mileage on only one such writ shall be collected.

"(b) The Attorney General shall from time to time prescribe by regulation the fees to be taxed and collected under subsection (a). Such fees shall, to the extent practicable, reflect the actual and reasonable cost of the service provided.

"(c)(1) The United States Marshals Service shall collect a commission of 3 percent of the first $1,000 collected and 1½ percent on the excess of any sum over $1,000, for seizing or levying on property (including seizures in admiralty), disposing of such property by sale, setoff, or otherwise, and receiving and paying over money, except that the amount of commission shall be within the range set by the Attorney General. If the property is to be disposed of by marshal's sale, the commission shall be in such amount, within the range set by the Attorney General, as may be allowed by the court. In any case in which the vessel or other property is sold by a public auctioneer, or by some party other than a marshal or deputy marshal, the commission authorized under this subsection shall be reduced by the amount paid to such auctioneer or other party. This subsection applies to any judicially ordered sale or execution sale, without regard to whether the judicial order of sale constitutes a seizure or levy within the meaning of State law. This subsection shall not apply to any seizure, forfeiture, sale, or other disposition of property pursuant to the applicable provisions of law amended by the Comprehensive Forfeiture Act of 1984 (98 Stat. 2040).

"(2) The Attorney General shall prescribe from time to time regulations which establish a minimum and maximum amount for the commission collected under paragraph (1).

"(d) The United States marshals may require a deposit to cover the fees and expenses prescribed under this section.".

(d) SUPPORT OF UNITED STATES PRISONERS IN NON-FEDERAL INSTITUTIONS.—

(1) IN GENERAL.—Chapter 301 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 4013. Support of United States prisoners in non-Federal institutions

"(a) The Attorney General, in support of United States prisoners in non-Federal institutions, is authorized to make payments from funds appropriated to the United States Marshals Service for—

"(1) necessary clothing;

"(2) medical care and necessary guard hire;

"(3) payment of rewards for assistance in the capture or information leading to the capture of a Federal fugitive;

"(4) the housing, care, and security of persons held in custody of a United States marshal pursuant to Federal law under agreements with State or local units of government or contracts with private entities; and

"(5) entering into contracts or cooperative agreements with any State, territory, or political subdivision thereof, for the necessary construction, physical renovation, acquisition of equipment, supplies, or materials required to establish acceptable conditions of confinement and detention services in any State or local jurisdiction which agrees to provide guaranteed bed space for Federal detainees within that correctional system, in accordance with regulations which are issued by the Attorney General and are comparable to the regulations issued under section 4006 of this title, except that—

"(A) amounts made available for purposes of this paragraph shall not exceed the average per-inmate cost of constructing similar confinement facilities for the Federal prison population,

"(B) the availability of such federally assisted facility shall be assured for housing Federal prisoners, and

"(C) the per diem rate charged for housing such Federal prisoners shall not exceed allowable costs or other conditions specified in the contract or cooperative agreement.".

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 301 of title 18, United States Code, is amended by adding at the end the following:

"4013. Support of United States prisoners in non-Federal institutions.".

(e) PAY OF DIRECTOR OF SERVICE.—Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"Director, United States Marshals Service.".

SEC. 2762. THE NATIONAL ADVISORY COMMISSION ON LAW ENFORCEMENT.

(a) DEFINITIONS.—As used in this section—

(1) the term "Commission" means the National Advisory Commission on Law Enforcement;

(2) the term "Commissioner" means a member of the National Advisory Commission on Law Enforcement; and

(3) the term "law enforcement officer" has the same meaning as provided in section 8401(17) of title 5, United States Code.

(b) ESTABLISHMENT.—There is established as an independent commission in the legislative branch of the United States a National Advisory Commission on Law Enforcement, which shall consist of the following members:

(1) four members of the United States Senate, 2 of whom shall be selected by the Majority Leader and 2 of whom shall be selected by the Minority Leader;

(2) four members of the United States House of Representatives, 2 of whom shall be selected by the Speaker and 2 of whom shall be selected by the Minority Leader;

(3) the Comptroller General of the United States, who shall also serve as Chairman of the Commission;

(4) the Director of the Office of Personnel Management;

(5) the Attorney General of the United States and three other officials of the Department of Justice who shall be designated by the Attorney General;

(6) the Secretary of the Treasury and 2 other officials of the Department of the Treasury who shall be designated by the Secretary of the Treasury;

(7) the Inspector Generals of 3 departments or agencies of the executive branch of the United States who shall be designated by the President of the United States; and

(8) three representatives from Federal employee groups to be selected by the Office of Personnel Management after consultation with the Speaker of the House and the Majority Leader of the Senate.

(c) Study.—The Commission shall study the methods and rates of compensation, including salary, overtime pay, retirement policies, and other benefits of law enforcement officers in all Federal agencies, as well as the methods and rates of compensation of State and local law enforcement officers in a representative number of areas where Federal law enforcement officers are assigned, in order to determine—

(1) the differences which exist among Federal agencies with regard to the methods and rates of compensation for law enforcement officers;

(2) the rational basis, if any, for such differences, considering the nature of the responsibilities of the law enforcement officers in each agency; the qualifications and training required to perform such responsibilities; the degree of personal risk to which the law enforcement officers in each agency are normally exposed in the performance of their duties; and such other factors as the Commission deems relevant in evaluating the differences in compensation among the various agencies;

(3) the extent to which inequities appear to exist among Federal agencies with regard to the methods and rates of compensation of law enforcement officers, based on consideration of the factors mentioned in paragraph (2) of this subsection;

(4) the feasibility of devising a uniform system of overtime compensation for law enforcement officers in all or most Federal agencies, with due regard for both the special needs of law enforcement officers and the relative cost effectiveness to the Government of such a system compared to those currently in use;

(5) how the salaries paid to Federal law enforcement officers compare to those of State and local officers in the same geographical area, especially those in "high cost-of-living" areas;

(6) the impact of the rates of compensation paid by various Federal agencies on the lifestyle, morale, and general well-being of law enforcement officers, including their ability to subsist;

(7) the recruiting and retention problems experienced by Federal agencies due to: inequities in compensation among such agencies; the differences between rates of compensation paid to Federal law enforcement officers and State and local officers in the same geographical areas; and other factors related to compensation;

(8) the extent to which Federal legislation and administrative regulations may be necessary or appropriate to rectify inequities among Federal agencies in the methods and rates of compensation for law enforcement officers; to address the lack of uniformity among agencies with regard to overtime pay; to provide premiums or special rates of pay for Federal law enforcement officers in high cost-of-living areas; to ensure that the levels of compensation paid to Federal law enforcement officers will be competitive with those paid to State and local officers in the same geographical areas; and to address such other matters related to the determinations made under this subsection as the Commission deems appropriate in the interests of enhancing the ability of Federal agencies to recruit and retain the most qualified and capable law enforcement officers; and

(9) the average retirement age of the Federal agencies and the retirement and benefits policies of Federal agencies.

(d) Powers of the Commission—The Commission shall have the power to—

(1) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

(2) enter into and perform, without regard to section 3324 of title 31, United States Code, such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the Commission, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization;

(3) request such information, data, and reports from any Federal agency or instrumentality as the Commission may from time to time require and as may be produced consistent with other law; and

(4) hold hearings and call witnesses that might assist the Commission in the exercise of its powers or duties.

The Commission shall have such other powers as may be necessary to carry out its functions under this Act and may delegate to any member or designated person such powers as may be appropriate in the conduct of its functions.

(e) Resources.—(1) Upon the request of the Commission, each Federal agency is authorized and directed to make its resources, services, equipment, personnel, facilities, and information available to the greatest practicable extent to the Commission in the execution of its functions.

(2) Each Commissioner may utilize the resources, services, equipment, personnel, information, and facilities of his or her Federal agency or, in the case of the Commissioners who are Members of Congress, his or her congressional office, as may be necessary in the conduct of the Commissioner's respective functions as a member of the Commission.

(f) Quorum.—A simple majority of the Commissioners then serving shall constitute a quorum for the conduct of business by the Commission, and the Commission may exercise its powers and fulfill its duties by the vote of a simple majority of the Commissioners present.

(g) Meeting.—The Chairman of the Commission shall call and preside at meetings of the Commission, but the Chairman may delegate to any other Commissioner the authority to preside at meetings of the Commission.

(h) Report and Dissolution of Commission.—(1) Within 6 months following the date of enactment of this Act, the Commission shall prepare and deliver to the President of the United States, the President of the Senate, and the Speaker of the House of Representatives, a written report setting forth—

(A) the findings and determinations made by the Commission pursuant to section 176(b); and

(B) specific proposals for such legislation and administrative regulations as the Commission has determined to be necessary or appropriate pursuant to section 176(b)(8).

(2) The Commission shall be terminated 60 days following submission of the report mandated by this section.

SEC. 2763. CLARIFICATIONS REGARDING DRUG PARAPHERNALIA.

Section 1822 of the Anti-Drug Abuse Act of 1986 (Public Law 99-570; 21 U.S.C. 857) is amended—

(1) in subsection (d), by striking out "in violation of the Controlled Substances Act" and inserting ", possession of which is unlawful under the Controlled Substances Act"; and

(2) in subsection (f)(2) by striking out "primarily intended for use with" and inserting "traditionally used with".

SEC. 2764. AUTHORIZATION TO ACCEPT MONEY, GOODS AND SERVICES FOR THE PURPOSE OF HOSTING THE INTERPOL AMERICAN REGIONAL CONFERENCE AND FOR THE PURPOSE OF MAKING A COMMEMORATIVE GIFT TO THE INTERPOL GENERAL SECRETARIAT.

(a) Notwithstanding the provisions of section 1342 of title 31, United States Code, the Attorney General is hereby authorized to accept, receive, hold, and administer on behalf of the United States, gifts of money, personal property and services, for the purpose of hosting the International Criminal Police Organization's (INTERPOL) American Regional Conference in the United States in May and June 1989.

(b) The Attorney General is authorized to accept, receive, hold, and administer on behalf of the United States, gifts of money, personal property and services, for the purpose of making a commemorative gift, the value of which shall not exceed $10,000 without the prior concurrence of the Secretary of State, to the INTERPOL General Secretariat on the opening of its headquarters in Lyon, France.

(c) All moneys received for the purposes provided in this section shall be credited to the appropriation "Salaries and Expenses, general legal activities" for fiscal year 1989 as he deems necessary, to pay expenses of such commemorative gift and hosting such conference, including but not limited to reception and representation expenses. The authority of the Attorney General under this section shall continue through September 30, 1989.

SEC. 2765. RECOVERY OF COSTS INCURRED BY STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

(a) In General.—Subchapter B of chapter 78 of the Internal Revenue Code of 1986 (relating to general powers and duties) is amended by adding at the end thereof the following new section:

"SEC. 7624. REIMBURSEMENT TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

"(a) Authorization of Reimbursement.—

"(1) In general.—Whenever a State or local law enforcement agency provides information to the Internal Revenue Service that substantially contributes to the recovery of Federal taxes, such agency shall be reimbursed by the Internal Revenue Service for costs incurred in the investigation (including but not limited to reasonable expenses, per diem, salary, and overtime) not to exceed 10 percent of the sum recovered.

"(2) Records; 10 percent limitation.—The Internal Revenue Service shall maintain records of the receipt of information from a contributing agency and shall notify the agency when monies have been recovered as the result of such information. Following such notification, the agency shall submit a statement detailing the investigative costs it incurred. Where more than 1 State or local agency has given information that substantially contributes to the recovery of Federal taxes, the Internal Revenue

Service shall equitably allocate investigative costs among such agencies not to exceed an aggregate amount of 10 percent of the taxes recovered.

"(3) No reimbursement where duplicative.—No State or local agency shall be entitled to reimbursement under this section if reimbursement has been received by such agency under a Federal or State forfeiture program or under State revenue laws.".

(b) Establishment of Law Enforcement Agency Account.—Section 7809 of the Internal Revenue Code of 1986 (relating to deposit of collections) is amended by adding at the end thereof the following new subsection:

"(d) Deposit of Funds for Law Enforcement Agency Account.—

"(1) In general.—In the case of any amounts recovered as the result of information provided by State and local law enforcement agencies, an amount equal to 10 percent of such amounts shall be deposited in a separate account which shall be used to make the reimbursements required under section 7624.

"(2) Deposit in treasury as internal revenue collections.—If any amounts remain in such account after payment of any qualified costs incurred under section 7624, such amounts shall be withdrawn from such account and deposited in the Treasury of the United States as internal revenue collections.".

(c) Disclosure of Return Information.—Section 6103(d) of the Internal Revenue Code of 1986 (relating to disclosure to State tax officials) is amended by adding at the end the following new paragraph:

"(3) Exception for reimbursement under section 7624.—Return and return information with respect to taxes described in paragraph (1) may be disclosed to State and local law enforcement agencies for the purpose of, and only to the extent necessary to provide reimbursement of costs pursuant to section 7624.".

(d) Conforming Amendments.—(1) The table of sections for subchapter B of chapter 78 is amended by adding at the end thereof the following new item:

"Sec. 7624. Reimbursement to State and local law enforcement agencies.".

(2) The heading for section 6103(d) is amended to read as follows:

"(d) Disclosure to State Tax Officials and State and Local Law Enforcement Agencies.".

(e) Regulations.—The Secretary of the Treasury shall not later than 90 days after the date of enactment of this Act prescribe such rules and regulations as shall be necessary and proper to carry out the provisions of this section. Any rule or regulation prescribed pursuant to this subsection shall be made on the record after opportunity for a hearing.

Subtitle N—State and Local Narcotics Control and Justice Assistance Improvements

CHAPTER 1—STATE AND LOCAL NARCOTICS CONTROL AND JUSTICE ASSISTANCE IMPROVEMENTS

SEC. 2821. BUREAU OF JUSTICE ASSISTANCE AND UNIFIED GRANT PROGRAMS.

(a) In General.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) striking part M; and

(2) striking parts D and E (42 U.S.C. 3741-3766) and inserting the following:

"PART D—ESTABLISHMENT OF BUREAU OF JUSTICE ASSISTANCE

"SEC. 401. ESTABLISHMENT OF BUREAU OF JUSTICE ASSISTANCE.

"(a) There is established within the Department of Justice, under the general authority of the Attorney General, a Bureau of Justice Assistance (hereafter in this part referred to as the 'Bureau').

"(b) The Bureau shall be headed by a Director (hereafter in this part referred to as the 'Director') who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall report to the Attorney General through the Assistant Attorney General. The Director shall have final authority for all grants, cooperative agreements, and contracts awarded by the Bureau. The Director shall not engage in any employment other than that of serving as the Director, nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Bureau makes any contract or other arrangement under this title.

"SEC. 402. DUTIES AND FUNCTIONS OF THE DIRECTOR.

"The Director shall have the following duties:

"(1) Providing funds to eligible States, units of local government, for-profit organizations, and private, nonprofit organizations pursuant to part D.

"(2) Establishing programs in accordance with subpart 2 of part E and, following public announcement of such programs, awarding and allocating funds and technical assistance in accordance with the criteria of subpart 2, and on terms and conditions determined by the Director to be consistent with subpart 2.

"(3) Cooperating with and providing technical assistance to States, units of local government, and other public and private organizations or international agencies involved in criminal justice activities.

"(4) Providing for the development of technical assistance and training programs for State and local criminal justice agencies and fostering local participation in such activities.

"(5) Encouraging the targeting of State and local resources on efforts to reduce the incidence of drug abuse and crime and on programs relating to the apprehension and prosecution of drug offenders.

"(6) Establishing and carrying on a specific and continuing program of cooperation with the States and units of local government designed to encourage and promote consultation and coordination concerning decisions made by the Bureau affecting State and local drug control and criminal justice priorities.

"(7) Preparing recommendations on the State and local drug enforcement component of the National Drug Control Strategy which shall be submitted to the Associate Director of the Office on National Drug Control Policy. In making such recommendations, the Director shall review the statewide strategies submitted by such States under part E, and shall obtain input from State and local drug enforcement officials. The recommendations made under this paragraph shall be provided at such time and in such form as the Director of National Drug Control Policy shall require.

"(8) Exercising such other powers and functions as may be vested in the Director pursuant to this title or by delegation of the Attorney General or Assistant Attorney General.

"PART E—BUREAU OF JUSTICE ASSISTANCE GRANT PROGRAMS

"Subpart 1—Drug Control and System Improvement Grant Program

"SEC. 501. DESCRIPTION OF THE DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM.

"(a) It is the purpose of this subpart to assist States and units of local government in carrying out specific programs which offer a high probability of improving the functioning of the criminal justice system, with special emphasis on a nationwide and multilevel drug control strategy by developing programs and projects to assist multijurisdictional and multi-State organizations in the drug control problem and to support national drug control priorities.

"(b) The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the 'Director') is authorized to make grants to States, for the use by States and units of local government in the States, for the purpose of enforcing State and local laws that establish offenses similar to offenses established in the Controlled Substances Act (21 U.S.C. 801 et seq.) and to improve the functioning of the criminal justice system with emphasis on violent crime and serious offenders. Such grants shall provide additional personnel, equipment, training, technical assistance, and information systems for the more widespread apprehension, prosecution, adjudication, and detention and rehabilitation of persons who violate these laws, and to assist the victims of such crimes (other than compensation), including—

"(1) demand reduction education programs in which law enforcement officers participate;

"(2) multijurisdictional task force programs that integrate Federal, State, and local drug law enforcement agencies and prosecutors for the purpose of enhancing interagency coordination, intelligence, and facilitating multijurisdictional investigations;

"(3) programs designed to target the domestic sources of controlled and illegal substances, such as precursor chemicals, diverted pharmaceuticals, clandestine laboratories, and cannabis cultivations;

"(4) providing programs that assist citizens in preventing and controlling crime to include special programs that address the problems of crimes committed against the elderly and rural jurisdictions;

"(5) disrupting illicit commerce in stolen goods and property;

"(6) improving the investigation and prosecution of white-collar crime, organized crime, public corruption crimes, and fraud against the government with priority attention to cases involving drug-related official corruption;

"(7) improving the operational effectiveness of law enforcement through the use of crime analysis techniques, street sales enforcement, schoolyard violator programs, gang-related and low-income housing drug control programs;

"(8) career criminal prosecution programs including the enactment of model drug control legislation;

"(9) financial investigative programs that target the identification of money laundering operations and assets obtained through illegal drug trafficking, including the enactment of model legislation, financial investigative training, and financial information sharing systems;

"(10) improving the operational effectiveness of the court process through programs such as court delay reduction programs and enhancement programs;

"(11) programs designed to provide additional public correctional resources and improve the corrections system, including treatment in prisons and jails, intensive supervision programs, and long-range corrections and sentencing strategies;

"(12) providing prison industry projects designed to place inmates in a realistic working and training environment which will enable them to acquire marketable skills and to make financial payments for restitution to their victims, for support of their own families, and for support of themselves in the institution;

"(13) providing programs which identify and meet the treatment needs of adult and juvenile drug-dependent offenders;

"(14) developing and implementing programs which provide assistance to jurors and witnesses, and assistance (other than compensation) to victims of crimes;

"(15)(A) developing programs to improve drug control technology, such as pretrial drug testing programs, programs which provide for the identification, assessment, referral to treatment, case management and monitoring of drug dependent offenders, enhancement of State and local forensic laboratories, and (B) criminal and justice information systems to assist law enforcement, prosecution, courts, and corrections organization;

"(16) innovative programs that demonstrate new and different approaches to enforcement, prosecution, and adjudication of drug control activities;

"(17) improving the criminal and juvenile justice system's response to domestic and family violence, including spouse abuse, child abuse, and abuse of the elderly; and

"(18) drug control evaluation programs which the State and local units of government may utilize to evaluate programs and projects directed at State drug control activities.

"(c) Each program funded under this section shall contain an evaluation component, developed pursuant to guidelines established by the National Institute of Justice, in consultation with the Bureau of Justice Assistance. The Director of the Bureau of Justice Assistance may waive this requirement when, in the opinion of the Director—

"(1) the program is not of sufficient size to justify a full evaluation report; or

"(2) the program is designed primarily to provide material resources and supplies, such as laboratory equipment, that would not justify a full evaluation report.

"SEC. 502. ELIGIBILITY.

"The Bureau is authorized to make financial assistance under this subpart available to a State to enable it to carry out all or a substantial part of a program or project submitted and approved in accordance with the provisions of this subpart.

"SEC. 503. STATE APPLICATIONS.

"To request a grant under this subpart, the chief executive officer of a State shall submit to the Director an application at such time and in such form as the Director may require. Such application shall include the following:

"(1) A statewide strategy for drug control and programs which improve the functioning of the criminal justice system with emphasis on violent crime and serious offenders. The combined strategy shall be prepared after consultation with State and local officials with emphasis on those whose duty it is to enforce drug laws and direct the administration of justice and shall contain—

"(A) a definition and analysis of the drug problem in the State, and an analysis of the problems in each of the major counties and municipalities with major drug control problems;

"(B) an assessment of the efforts existing as of the time of the application to address the drug control problems at the State and local level;

"(C) coordination requirements;

"(D) resource needs;

"(E) the establishment of statewide priorities for drug control activities and programs;

"(F) an analysis of the relationship of the proposed State efforts to the national drug control strategy; and

"(G) a plan for coordinating the programs to be funded under this subpart with federally funded State and local drug abuse education, prevention, research, and treatment programs.

"(2) A certification that Federal funds made available under the formula grant of this subpart will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for law enforcement activities.

"(3) A certification that funds required to pay the non-Federal portion of the cost of each program and project for which such grant is made shall be in addition to funds that would otherwise be made available for law enforcement by the recipients of grant funds.

"(4) An assurance that the State application described in this section, and any amendment to such application, has been submitted for review to the State legislature or its designated body (for purposes of this section, such application or amendment shall be deemed to be reviewed if the State legislature or such body does not review such application or amendment within the 30-day period beginning on the date such application or amendment is so submitted).

"(5) An assurance that the State application and any amendment thereto was made public before submission to the Bureau and, to the extent provided under State law or established procedure, an opportunity to comment thereon was provided to citizens and to neighborhood and community groups.

"(6) An assurance that following the first fiscal year covered by an application and for each fiscal year thereafter, a performance evaluation and assessment report concerning the activities carried out pursuant to this section will be submitted to the Bureau.

"(7) A provision for fund accounting, auditing, monitoring, and such evaluation procedures as may be necessary to keep such records that the Bureau shall prescribe to assure fiscal control, proper management, and efficient disbursement of funds reviewed under this section.

"(8) An assurance that the applicant shall maintain such data and information and submit such reports in such form, at such times, and containing such data and information as the Bureau may reasonably require to administer other provisions of this subpart.

"(9) A certification that its programs meet all the requirements of this section, that all the information contained in the application is correct, that there has been appropriate coordination with affected agencies, and that the applicant will comply with all provisions of this subpart and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Bureau and shall be executed by the chief executive or such other officer of the applicant qualified under regulations promulgated by the Office.

"SEC. 504. GRANT LIMITATIONS.

"(a) A grant made under this subpart may not—

"(1) for fiscal years 1989 and 1990 appropriations be expended for more than 75 percent; and

"(2) for fiscal years 1991 and 1992 appropriations be expended for more than 50 percent,

of the cost of the identified uses for which such grant is received to carry out any purpose specified in section 502, except that in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any such program or project, the amount of such grant shall be equal to 100 percent of such cost. The non-Federal portion of the expenditures for such uses shall be paid in cash.

"(b) Not more than 10 percent of a grant made to an eligible State under section 506 may be used for costs incurred to administer such grant.

"(c) States and units of local government or combinations thereof are authorized to use a grant made under section 506 for the expenses associated with participation in the State and Local Task Force Program established by the Drug Enforcement Administration.

"(d) States and local units of government are authorized to use a grant made under section 506 for the expenses associated with conducting the evaluations required under section 501(c) of this part.

"(e) The non-Federal portion of the cost of such program or project shall be in cash. State and local units of government may use cash received under the equitable sharing program to cover the non-Federal portion of the costs of programs funded under section 506.

"(f) No funds may be awarded under this subpart to a grant recipient for a program or project for which funds have been awarded under this title for 4 years (in the aggregate), including any period occurring before the effective date of this subsection.

"SEC. 505. REVIEW OF STATE APPLICATIONS.

"(a) The Bureau shall provide financial assistance to each State applicant under this subpart to carry out the programs or projects submitted by such applicant upon determining that—

"(1) the application or amendment thereto is consistent with the requirements of this subpart; and

"(2) before the approval of the application and any amendment thereto the Bureau has made an affirmative finding in writing that the program or project has been reviewed in accordance with this subpart.

"(b) Each application or amendment made and submitted for approval to the Bureau pursuant to section 503 shall be deemed approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) Grant funds awarded under this subpart shall not be used for land acquisition or construction projects, other than penal and correctional institutions.

"(d) The Bureau shall not finally disapprove any application, or any amendment thereto, submitted to the Director under this section without first affording the applicant reasonable notice and opportunity for reconsideration.

"SEC. 506. ALLOCATION AND DISTRIBUTION OF FUNDS UNDER FORMULA GRANTS.

"(a) Of the total amount appropriated for this part in any fiscal year, less amounts set aside for evaluation pursuant to section 520 and section 1001(a)(6), 80 percent shall be set aside for section 502 and allocated to States as follows:

"(1) $750,000 shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State bears to the population of all the States.

"(b) Of the amounts set aside for this section, not less than 10 percent shall be used to fund street sales enforcement programs of which the primary goal is to strengthen urban enforcement and prosecution efforts targeted at street level narcotics activity in areas of high-intensity drug trafficking. The Director may, in his discretion, waive this requirement at the request of a State, where the imposition of this requirement is clearly inappropriate given the States documented needs as specified in their statewide strategy. Such projects may include—

"(1) the early involvement of prosecution and court functions in order to ensure that both citizen rights and system impact issues are addressed;

"(2) the training and utilization of uniformed personnel and the certification of uniformed officers as narcotics experts for testifying in court;

"(3) the deployment of street teams for on-going investigations and arrests of street narcotics dealers and buyers, and the involvement of law enforcement personnel to ensure that citizen concerns regarding narcotics conditions are addressed;

"(4) the enhancement of prosecution, adjudication, and corrections resources to accommodate the increased case loads generated through intensive, street-level enforcement programs;

"(5) the organization and deployment of mobile task forces to target those areas of the city where street sales of drugs have become blatant;

"(6) the development and implementation of innovative law enforcement programs, such as undercover buy programs aimed at the street retailer and the enforcement of asset seizure and forfeiture laws; and

"(7) the coordination of such projects with forensic laboratory services.

"(c)(1) Each State which received funds under subsection (a) of this section in a fiscal year shall distribute among units of local government, or combinations of units of local government, in such State for the purposes specified in section 501(b) that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for criminal justice in such preceding fiscal year.

"(2) Each State which receives funds under subsection (a) shall provide to units of local government or combinations thereof with a minimum population of 500,000, or if the largest such unit or combination has less than 500,000, to the largest such unit or combination thereof in the State, of the pass through formula, a percentage of such funds which is not less than a portion of such funds which bears the same ratio to the amount of funds expended by such local government or combination thereof to the aggregate amount of funds expended by all units of local government for criminal justice in the preceding fiscal year.

"(3) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State involved.

"(4) For purposes of determining the distribution of funds under paragraph (1), the most accurate and complete data available for the fiscal year involved shall be used. If data for such fiscal year are not available, then the most accurate and complete data available for the most recent fiscal year preceding such fiscal year shall be used.

"(d) No funds allocated to a State under subsection (a) or received by a State for distribution under subsections (b) and (c) may be distributed by the Director or by the State involved for any program other than a program contained in an approved application.

"(e) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for that fiscal year will not be required or that a State will be unable to qualify or receive funds under section 502, or that a State chooses not to participate in the program established under such section, then such portion shall be awarded by the Director to urban, rural, and suburban units of local government or combinations thereof within such State giving priority to those jurisdictions with greatest need.

"(f) Any funds allocated under subsection (a) or (e) that are not distributed under this section shall be available for obligation under subpart 2.

"SEC. 507. STATE OFFICE.

"(a) The chief executive of each participating State shall designate a State office for purposes of—

"(1) preparing an application to obtain funds under section 503;

"(2) administering funds received under such section from the Director, including receipt, review, processing, monitoring, progress and financial report review, technical assistance, grant adjustments, accounting, auditing and fund disbursements; and

"(3) coordinating the distribution of funds provided under this part with State agencies receiving Federal funds for drug abuse education, prevention, treatment, and research activities and programs.

"(b) An office or agency performing other functions within the executive branch of a State may be designated to carry out the functions specified in subsection (a).

"SEC. 508. DISTRIBUTION OF GRANTS TO LOCAL GOVERNMENT.

"(a) Each application made by a local unit of government, or a combination of units of local government, to a State for funds under this subchapter shall be deemed approved, in whole or in part, by the State not later than 45 days after first received unless the State informs the applicant in writing of specific reasons for disapproval. The State shall not finally disapprove any application submitted to the State without first affording the applicant reasonable notice and opportunity for reconsideration.

"(b)(1) Except as provided in paragraph (2), each State which receives funds under section 506 in a fiscal year shall make such funds available to local units of government, or combinations of units of local government, whose application has been submitted to, approved and awarded by the State, within 90-days after the Bureau has approved the State application and has made funds available to such State. If the State does not distribute such funds to any local unit of government, or combination thereof, within that time, the State shall return such funds to the Director who shall directly award such funds to the local unit of government, or combination thereof. The Director shall have the authority to waive the 90-day requirement in this section upon a finding that the State cannot satisfy that requirement consistent with State statutes.

"(2) Each State which receives funds under section 506 in a fiscal year shall make such funds available to local units of government, or combinations thereof, with a minimum population of 500,000, or if the largest such unit or combination has less than 500,000, to the largest such unit or combination thereof in the State, whose application has been submitted to, approved, and awarded by the State, within 45 days after the Bureau has approved the State application and has made funds available to such State. If the State does not distribute such funds within that time, the State shall return such funds to the Director who shall directly award such funds to the local unit of government, or combination thereof. The Director shall have the authority to waive the 45-day requirement in this section upon a finding that the State cannot satisfy that requirement consistent with State statutes.

"Subpart 2—Discretionary Grants

"SEC. 510. PURPOSE.

"(a) The purpose of this subpart is to provide additional Federal financial assistance to public or private agencies and private nonprofit organizations for purposes of—

"(1) undertaking educational and training programs for criminal justice personnel;

"(2) providing technical assistance to States and local units of governments;

"(3) undertaking projects which are national or multijurisdictional in scope and which address the purposes specified in section 502; and

"(4) providing financial assistance to public agencies and private nonprofit organizations for demonstration programs which, in view of previous research or experience, are likely to be a success in more than one jurisdiction.

"(b) In carrying out this subpart, the Director is authorized to make grants to, or enter into contracts with public or private agencies, institutions, or organizations or individuals to carry out any purpose specified in section 501(b). The Director shall have final authority over all funds awarded under this subpart.

"SEC. 511. ALLOCATION OF FUNDS FOR DISCRETIONARY GRANTS.

"Of the total amount appropriated for this part in any fiscal year less amounts set aside for evaluation and research pursuant to section 520 and section 1001(a)(6), 20 percent shall be reserved and set aside for this section in a special discretionary fund for use by the Director in carrying out the purposes specified in section 503. Grants under this section may be made for amounts up to 100 percent of the costs of the programs or projects contained in the approved application.

"SEC. 512. LIMITATION ON USE OF DISCRETIONARY GRANT FUNDS.

"Grant funds awarded under section 511 shall not be used for land acquisition or construction projects.

"SEC. 513. APPLICATION REQUIREMENTS.

"(a) No grant may be made under this subpart unless an application has been submitted to the Director in which the applicant—

"(1) sets forth a program or project which is eligible for funding pursuant to section 511;

"(2) describes the services to be provided, performance goals, and the manner in which the program is to be carried out;

"(3) describes the method to be used to evaluate the program or project in order to determine its impact and effectiveness in achieving the stated goals; and

"(4) agrees to conduct such evaluation according to the procedures and terms established by the Bureau.

"(b) Each applicant for funds under this subpart shall certify that its program or project meets all the requirements of this section, that all the information contained in the application is correct, and that the applicant will comply with all the provisions of this subpart and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Director.

"SEC. 514. PERIOD OF AWARD.

"The Bureau may provide financial aid and assistance to programs or projects under this subpart for a period of not to exceed 4 years. Grants made pursuant to this subpart may be extended or renewed by the Bureau for an additional period of up go 2 years if—

"(1) an evaluation of the program or project indicates that it has been effective in achieving the stated goals or offers the potential for improving the functioning of the criminal justice system; and

"(2) the public agency or private nonprofit organization within which the program or project has been conducted agrees to provide at least one-half of the total cost of such program or project from any source of funds, including Federal grants, available to the eligible jurisdiction.

"Subpart 3—Administrative Provisions

"SEC. 520. PROGRAM AND PROJECT EVALUATION; RESEARCH.

"(a) Of the total amounts appropriated for this part in any fiscal year, 4 percent or $10,000,000, whichever is less, shall be transferred to the National Institute of Justice as follows:

"(1) Fifty percent of the funds transferred to the National Institute of Justice under this section shall be used for program and project evaluation—

"(A) to develop guidelines, in cooperation with the Bureau of Justice Assistance, to assist State and local units of government to conduct the program evaluations as required by section 501(c) of this part; and

"(B) to conduct a reasonable number of comprehensive evaluations of programs funded under section 506 (formula grants) and section 511 (discretionary grants) of this part.

In selecting programs for review, the Director of the National Institute of Justice should consider—

"(i) whether the program establishes or demonstrates a new and innovative approach to drug or crime control;

"(ii) the cost of the program to be evaluated and the number of similar programs funded under section 506 (formula grants) and section 511 (discretionary grants);

"(iii) whether the program has a high potential to be replicated in other jurisdictions; and

"(iv) whether there is substantial public awareness and community involvement in the program. Routine auditing, monitoring, and internal assessment of a State and local drug control program's progress shall be the sole responsibility of the Bureau of Justice Assistance.

"(2) Fifty percent of the funds transferred to the National Institute of Justice under this section shall be used to conduct research and development programs on drug and drug-related crime control programs. The primary focus of such research should be on practical approaches to drug and drug-related crime control to assist State and local law enforcement agencies in their response to these problems.

"(b) The Director of the National Institute of Justice shall annually report to the President, the Attorney General and the Congress on the nature and findings of the evaluation and research and development activities funded under this section.

"SEC. 521. GENERAL PROVISIONS.

"(a) The Bureau shall prepare both a 'Program Brief' and 'Implementation Guide' document for proven programs and projects to be funded under this part.

"(b) The functions, powers, and duties specified in this part to be carried out by the Bureau shall not be transferred elsewhere in the Department of Justice unless specifically hereafter authorized by the Congress by law.

"SEC. 522. REPORTS.

"(a) Each State which receives a grant under section 506 shall submit to the Director, for each year in which any part of such grant is expended by a State or unit of local government, a report which contains—

"(1) a summary of the activities carried out with such grant and an assessment of the impact of such activities on meeting the needs identified in the State strategy submitted under section 503;

"(2) a summary of the activities carried out in such year with any grant received under subpart 2 by such State;

"(3) the evaluation result of programs and projects;

"(4) an explanation of how the Federal funds provided under this part were coordinated with State agencies receiving Federal funds for drug abuse education, prevention, treatment, and research activities; and

"(5) such other information as the Director may require by rule.

Such report shall be submitted in such form and by such time as the Director may require by rule.

"(b) Not later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that includes with respect to each State—

"(1) the aggregate amount of grants made under subpart 1 and subpart 2 to such State for such fiscal year;

"(2) the amount of such grants awarded for each of the purposes specified in subpart 1;

"(3) a summary of the information provided in compliance with paragraphs (1) and (2) of subsection (a);

"(4) an explanation of how Federal funds provided under this part have been coordinated with Federal funds provided to States for drug abuse education, prevention, treatment, and research activities; and

"(5) evaluation results of programs and projects and State strategy implementation.".

(b) **Amendment to Table of Contents.**—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the items relating to parts D and E and inserting the following:

TABLE OF CONTENTS

"PART D—ESTABLISHMENT OF BUREAU OF JUSTICE ASSISTANCE

"Sec. 401. Establishment of Bureau of Justice Assistance.
"Sec. 402. Duties and functions of the Director.

"PART E—BUREAU OF JUSTICE ASSISTANCE GRANT PROGRAMS

"SUBPART 1—DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM

"Sec. 501. Description of the Drug Control and System Improvement Grant program.
"Sec. 502. Eligibility.
"Sec. 503. State applications.
"Sec. 504. Grant limitations.
"Sec. 505. Review of State applications.
"Sec. 506. Allocation and distribution of funds under formula grants.
"Sec. 507. State office.
"Sec. 508. Distribution of grants to local government.

"SUBPART 2—DISCRETIONARY GRANTS

"Sec. 510. Purpose.
"Sec. 511. Allocation of funds for discretionary grants.
"Sec. 512. Limitation on use of discretionary grant funds.
"Sec. 513. Application requirements.
"Sec. 514. Period of award.

"SUBPART 3—ADMINISTRATIVE PROVISIONS

"Sec. 520. Program and project evaluation; research.
"Sec. 521. General provisions.
"Sec. 522. Reports.".

SEC. 2822. DUTIES AND FUNCTIONS OF THE DIRECTOR OF THE BUREAU OF JUSTICE STATISTICS.

(a) **In General.**—Section 302 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. section 3732) is amended in subsection (c) by redesignating paragraphs (16), (17), (18) and (19) as paragraphs (19), (20), (21) and (22), respectively, and inserting the following new paragraphs:

"(16) provide for the collection, compilation, analysis, publication and dissemination of information and statistics about the prevalence, incidence, rates, extent, distribution and attributes of drug offenses, drug related offenses and drug dependent offenders and further provide for the establishment of a national clearinghouse to maintain and update a comprehensive and timely data base on all criminal justice aspects of the drug crisis and to disseminate such information.

"(17) provide for the collection, analysis, dissemination and publication of statistics on the condition and progress of drug control activities at the Federal, State and local levels with particular attention to programs and intervention efforts demonstrated to be of value in the overall national anti-drug strategy and to provide for the establishment of a national clearinghouse for the gathering of data generated by Federal, State, and local criminal justice agencies on their drug enforcement activities.

"(18) provide for the development and enhancement of State and local criminal justice information systems, and the standardization of data reporting relating to the collection, analysis or dissemination of data and statistics about drug offenses, drug related offenses, or drug dependent offenders.".

(b) TECHNICAL AMENDMENT.—Section 901(a)(2) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "407(a)" and inserting "506(a)".

SEC. 2823. JUSTICE ASSISTANCE ACT REAUTHORIZATION.

Section 1001 of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1001. (a)(1) There are authorized to be appropriated $21,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992 to carry out the functions (other than the functions described in section 305 of part C) of the Bureau of Justice Statistics.

"(2) There are authorized to be appropriated $24,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992 to carry out the functions of the National Institute of Justice.

"(3) There are authorized to be appropriated $25,500,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992 to carry out the remaining functions of the Office of Justice Programs and the Bureau of Justice Assistance, other than functions under parts D, E, F, G, L, and M.

"(4) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out part L of this title.

"(5) There is authorized to be appropriated $275,000,000 for fiscal year 1989; $350,000,000 for fiscal year 1990; $400,000,000 for fiscal year 1991; and such sums as may be necessary for fiscal year 1992 to carry out the programs under parts D and E of this title.

"(6) There is authorized to be appropriated $5,000,000 for each of the fiscal years 1989, 1990, 1991, and 1992 to carry out section 305 of part C of this title: *Provided,* That 1 percent of the amount appropriated for paragraph (5) of this subsection shall be used to carry out the functions specified in subparagraphs (16), (17), and (18) of section 302(c) of part C of this title.

"(7) There are authorized to be appropriated $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992 to carry out the programs under part M of this title.

"(b) Funds appropriated for any fiscal year may remain available for obligation until expended.

"(c) Notwithstanding any other provision of law, no funds appropriated under this section for part E of this title may be transferred or reprogrammed for carrying out any activity which is not authorized under such parts.".

SEC. 1824. TECHNICAL AMENDMENT.

Section 403(a)(12) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3743(a)(12)) is amended by inserting "(including automated fingerprint identification systems)" after "systems" the first place it appears.

CHAPTER 2—JUVENILE JUSTICE AND DELINQUENCY PREVENTION PROGRAMS

SEC. 2825. PREVENTION AND TREATMENT PROGRAMS RELATING TO JUVENILE GANGS AND JUVENILE DRUG ABUSE AND DRUG TRAFFICKING.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) FUNDS AUTHORIZED FOR FISCAL YEARS.—Section 261(a) of part D of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(a)) is amended—

(A) by inserting "(1)" after "(a)";

(B) by inserting "(other than part D)" after "this title"; and

(C) by adding at the end the following:

"(2) subject to subparagraph (B), to carry out part D, there are authorized to be appropriated $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992.".

(2) ALLOCATIONS.—Section 261(b) of part D of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(b)) is amended by inserting "(other than part D)" after "this title".

(b) TECHNICAL AMENDMENTS TO PART D OF TITLE II.—Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671-5672 note) is amended—

(1) by amending the heading of such part to read as follows:

"PART E—GENERAL AND ADMINISTRATIVE PROVISIONS";

and

(2) by redesignating sections 261 and 262 as sections 291 and 292, respectively.

(c) PREVENTION AND TREATMENT PROGRAMS RELATING TO JUVENILE GANGS AND JUVENILE DRUG ABUSE AND DRUG TRAFFICKING.—Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671-5672 note) is amended by inserting after part C the following:

"PART D—PREVENTION AND TREATMENT PROGRAMS RELATING TO JUVENILE GANGS AND DRUG ABUSE AND DRUG TRAFFICKING

"AUTHORITY TO MAKE GRANTS AND CONTRACTS

"SEC. 281. The Administrator shall, by making grants to and entering into contracts with public and private non-profit agencies, organizations, institutions, and individuals, establish and support programs and activities that involve families and communities and that are designed to carry out any of the following purposes:

"(1) To strengthen the juvenile justice system's ability to deal with juveniles involved in drug trafficking, either individually or as part of distribution networks.

"(2) To develop new and innovative sanctions within the juvenile justice system against juveniles convicted of serious drug trafficking offenses.

"(3) To reduce juvenile involvement in gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles.

"(4) To promote the involvement of juveniles in lawful activities in geographical areas in which gangs commit crimes.

"(5) To provide treatment to juveniles who are members of such gangs, including members who are accused of committing a serious crime and members who have been adjudicated as being delinquent.

"(6) To facilitate Federal and State cooperation with local school officials to identify and assist juveniles who are likely to participate in the activities of gangs that commit crimes and to establish and support programs that facilitate coordination and cooperation among local education, juvenile justice, employment, and social service agencies, for the purpose of preventing or reducing the participation of juveniles in activities of gangs that commit crimes.

"(7) To reduce the incidence of drug-related crime and drug trafficking in elementary and secondary schools.

"(8) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system.

"(9) To provide drug abuse education, prevention and treatment involving police and juvenile justice officials in demand reduction programs.

"(10) To provide additional personnel, equipment, personnel training, and supplies to assist in improving the adjudicative and corrections components of the juvenile justice system.

In making grants and entering into contracts under this section, the Administrator shall give a preference to entities that have been successful in helping juvenile gangs and preventing juvenile drug abuse and drug trafficking.

"APPROVAL OF APPLICATIONS.

"SEC. 282. (a) Any agency, institution, or individual desiring to receive a grant, or to enter into a contract, under this part shall submit an application at such time, in such manner, and containing or accompanied by such information as the Administrator may prescribe.

"(b) In accordance with guidelines established by the Administrator, each application for assistance under this part shall—

"(1) set forth a program or activity for carrying out one or more of the purposes specified in section 281 and specifically identify each such purpose, such program or activity is designed to carry out;

"(2) provide that such program or activity shall be administered by or under the supervision of the applicant;

"(3) provide for the proper and efficient administration of such program or activity;

"(4) provide for regular evaluation of such program or activity;

"(5) certify that the applicant has requested the State planning agency and local agency designated in section 223, if any, to review and comment on such application and indicate the responses of such State planning agency and local agency to such request;

"(6) attach a copy of the responses of such State planning agency and local agency to such request;

"(7) provide that regular reports on such program or activity shall be sent to the Administrator and to such State planning agency and local agency; and

"(8) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this title.

"(c) In reviewing applications for grants and contracts under this part, the Administrator shall give priority to applications—

"(1) based on the incidence and severity of crimes committed by gangs whose membership is composed primarily of juveniles or the incidence of juvenile drug abuse and drug trafficking, in the geographical area in which the applicants propose to carry out the programs and activities for which such grants and contracts are requested; and

"(2) for assistance for programs and activities that have the broad support of organizations operating in such geographical areas, as demonstrated by the applicants.

"REPORT TO CONGRESS

"SEC. 283. The Administrator shall annually report to Congress on the status and accomplishments of the programs and activities funded under this part. Such report shall include a detailed evaluation of each program or activity.".

SEC. 2826. AUTHORITY TO MAKE GRANTS.

Section 221 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631) is amended—

(1) by amending the heading to read as follows:

"AUTHORITY TO MAKE GRANTS AND CONTRACTS",

(2) by inserting "(a)" after "SEC. 221.", and

(3) by adding at the end the following:

"(b)(1) With not to exceed 2 percent of the funds available in a fiscal year to carry out this part, the Administrator shall make grants to and enter into contracts with public and private agencies, organizations, and individuals to provide technical assistance to States, units of general local governments (and combinations thereof), and local private agencies to facilitate compliance with section 223 and implementation of the State plan approved under section 223(c).

"(2) Grants and contracts may be made under paragraph (1) only to public and private agencies, organizations, and individuals that have experience in providing such technical assistance. In providing such technical assistance, the recipient of a grant or contract under this subsection shall coordinate its activities with the State agency described in section 291(c)(1).".

SEC. 2827. ALLOCATION.

(a) MINIMUM ALLOCATION.—Section 222(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632(a)) is amended—

(1) by striking "In" and inserting "(1) Subject to paragraph (2) and in",

(2) by striking the last sentence, and

(3) by adding at the end the following:

"(2)(A) Subject to paragraph (3), if the aggregate amount appropriated for a fiscal year to carry out this title (other than part D) is less than $75,000,000, then the amount allotted to each State for such fiscal year shall be not less than $325,000, except that the amount allotted to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $75,000 each.

"(B) Subject to paragraph (3), if the aggregate amount appropriated for a fiscal year to carry out this title (other than part D) equals or exceeds $75,000,000, then the amount allotted to each State for such fiscal year shall be not less than $400,000, except that the amount allotted to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $100,000 each.

"(3) If, as a result of paragraph (2), the amount allotted to a State for a fiscal year would be less than the amount allotted to such State for fiscal year 1988, then the amounts allotted to satisfy the requirements of such paragraph shall be reduced pro rata to the extent necessary to allot to such State for the fiscal year the amount allotted to such State for fiscal year 1988.".

(b) TECHNICAL AMENDMENTS.—Section 222(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632(b)) is amended—

(1) in the first sentence by striking "Except for funds appropriated for fiscal year 1975, if" and inserting "If", and

(2) by striking the second sentence.

SEC. 2828. TECHNICAL ASSISTANCE AND TRAINING FUNCTIONS.

Section 244 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5654) is amended—

(1) by amending the heading to read as follows: "TECHNICAL ASSISTANCE AND TRAINING FUNCTIONS",

(2) by striking "National Institute for Juvenile Justice and Delinquency Prevention" and inserting "Administrator, acting through the National Institute for Juvenile Justice and Delinquency Prevention",

(3) by striking paragraph (3),

(4) in paragraph (2) by adding "and" at the end,

(5) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and

(6) by inserting before paragraph (2), as so redesignated, the following:

"(1) provide technical assistance and training assistance to Federal, State, and local governments and to courts, public and private agencies, institutions, and individuals in the planning, establishment, funding, operation, and evaluation of juvenile delinquency programs;".

SEC. 2829. TECHNICAL AND CONFORMING AMENDMENTS TO PARTS B AND C OF TITLE II.

(a) TECHNICAL AMENDMENTS.—Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended—

(1) in part B—

(A) by striking the heading for subpart I, and

(B) by striking subpart II, and

(2) in part C—

(A) by striking the heading for such part and inserting the following:

"PART C—NATIONAL PROGRAMS",

(B) by inserting after the heading for part C the following:

"Subpart I—National Institute for Juvenile Justice and Delinquency Prevention",

(C) by striking sections 245 and 246,

(D) in section 249—

(i) in subsection (a) by striking "section 248" and inserting "section 245",

(ii) in subsection (b) by striking "section 248(b)" and inserting "section 245(b)", and

(iii) in subsection (c) by striking "section 246" and inserting "section 245",

(E) by redesignating sections 247, 248, and 249 as sections 245, 246, and 247, respectively, and

(F) by adding at the end the following:

"Subpart II—Special Emphasis Prevention and Treatment Programs

"AUTHORITY TO MAKE GRANTS AND CONTRACTS

"SEC. 261. (a) The Administrator shall, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals provide for each of the following during each fiscal year:

"(1) Establishing or maintaining community-based alternatives to traditional forms of institutionalization of juvenile offenders.

"(2) Establishing or implementing effective means of diverting juveniles from the traditional juvenile justice and correctional system, including restitution and reconciliation projects which test and validate selected arbitration models, such as neighborhood courts or panels, and increase victim satisfaction while providing alternatives to incarceration for detained or adjudicated delinquents.

"(3) Establishing or supporting programs stressing advocacy activities aimed at improving services to juveniles impacted by the juvenile justice system, including services which encourage the improvement of due process available to juveniles in the juvenile justice system, which improve the quality of legal representation of such juveniles, and which provide for the appointment of special advocates by courts for such juveniles.

"(4) Developing or supporting model programs to strengthen and maintain the family unit in order to prevent or treat juvenile delinquency.

"(5) Establishing or implementing special emphasis prevention and treatment programs relating to juveniles who commit serious crimes (including such crimes committed in schools), including programs designed to deter involvement in illegal activities or to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of juveniles.

"(6) Developing or implementing further a coordinated, national law-related education program of—

"(A) delinquency prevention in elementary and secondary schools, and other local sites;

"(B) training for persons responsible for the implementation of law-related education programs; and

"(C) disseminating information regarding model, innovative, law-related education programs to juvenile delinquency programs, including those that are community based, and to law enforcement and criminal justice agencies for activities related to juveniles.

"(7) Addressing efforts to reduce the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups if such proportion exceeds the proportion such groups represent in the general population.

"(b) The Administrator is authorized, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals, to develop and implement new approaches, techniques, and methods designed to—

"(1) improve the capability of public and private agencies and organizations to provide services for delinquents and other juveniles to help prevent juvenile delinquency;

"(2) develop and implement, in coordination with the Secretary of Education, model programs and methods to keep students in elementary and secondary schools, to prevent unwarranted and arbitrary suspensions and expulsions, and to encourage new approaches and techniques with respect to the prevention of school violence and vandalism;

"(3) develop, implement, and support, in conjunction with the Secretary of Labor, other public and private agencies, organizations, business, and industry, programs for the employment of juveniles;

"(4) develop and support programs designed to encourage and assist State legislatures to consider and establish policies consistent with this title, both by amending State laws, if necessary, and devoting greater resources to effectuate such policies;

"(5) develop and implement programs relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist law enforcement personnel and juvenile justice personnel to more effectively recognize and provide for learning-disabled and other handicapped juveniles;

"(6) develop statewide programs through the use of subsidies or other financial incentives designed to—

"(A) remove juveniles from jails and lockups for adults;

"(B) replicate juvenile programs designated as exemplary by the National Institute of Justice; or

"(C) establish and adopt, based upon the recommendations of the National Advisory Committee for Juvenile Justice and Delinquency Prevention made before the date of the enactment of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984, standards for the improvement of juvenile justice within each State involved; and

"(7) develop and implement model programs, relating to the special education needs of delinquent and other juveniles, which develop locally coordinated policies and programs among education, juvenile justice, and social service agencies.

"(c) Not less than 30 percent of the funds available for grants and contracts under this section shall be available for grants to and contracts with private nonprofit agencies, organizations, and institutions which have experience in dealing with juveniles.

"(d) Assistance provided under this section shall be available on an equitable basis to deal with female, minority, and disadvantaged juveniles, including juveniles who are mentally, emotionally, or physically handicapped.

"(e) Not less than 5 percent of the funds available for grants and contracts under this section shall be available for grants and contracts designed to address the special needs and problems of juvenile delinquency in the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

"CONSIDERATIONS FOR APPROVAL OF APPLICATIONS

"SEC. 262. (a) Any agency, institution, or individual desiring to receive a grant, or enter into a contract, under this part shall submit an application at such time, in such manner, and containing or accompanied by such information as the Administrator may prescribe.

"(b) In accordance with guidelines established by the Administrator, each application for assistance under this part shall—

"(1) set forth a program for carrying out one or more of the purposes set forth in this part and specifically identify each such purpose such program is designed to carry out;

"(2) provide that such program shall be administered by or under the supervision of the applicant;

"(3) provide for the proper and efficient administration of such program;

"(4) provide for regular evaluation of such program;

"(5) certify that the applicant has requested the State planning agency and local agency designated in section 223, if any, to review and comment on such application and indicate the responses of such State planning agency and local agency to such request;

"(6) attach a copy of the responses of such State planning agency and local agency to such request;

"(7) provide that regular reports on such program shall be sent to the Administrator and to such State planning agency and local agency; and

"(8) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this title.

"(c) In determining whether or not to approve applications for grants and for contracts under this part, the Administrator shall consider—

"(1) the relative cost and effectiveness of the proposed program in carrying out this part;

"(2) the extent to which such program will incorporate new or innovative techniques;

"(3) if a State plan has been approved by the Administrator under section 223(c), the extent to which such program meets the objectives and priorities of the State plan, taking into consideration the location and scope of such program;

"(4) the increase in capacity of the public and private agency, institution, or individual involved to provide services to address juvenile delinquency and juvenile delinquency prevention;

"(5) the extent to which such program serves communities which have high rates of juvenile unemployment, school dropout, and delinquency; and

"(6) the adverse impact that may result from the restriction of eligibility, based upon population, for cities with a population greater than 40,000 located within States which have no city with a population over 250,000.

"(d)(1)(A) Programs selected for assistance through grants or contracts under this part (other than section 241(f)) shall be selected through a competitive process to be established by rule by the Administrator. As part of such a process, the Administrator shall announce in the Federal Register—

"(i) the availability of funds for such assistance;

"(ii) the general criteria applicable to the selection of applicants to receive such assistance; and

"(iii) a description of the procedures applicable to submitting and reviewing applications for such assistance.

"(B) The competitive process described in subparagraph (A) shall not be required if the Administrator makes a written determination that—

"(i)(I) the proposed program is not within the scope of any announcement issued, or expected to be issued, by the Administrator regarding the availability of funds to carry out programs under this part, but can be supported by a grant or contract in accordance with this part; and

"(II) such program is of such outstanding merit, as determined through peer review conducted under paragraph (2), that the award of a grant or contract without competition is justified; or

"(ii) the applicant is uniquely qualified to provide proposed training services as provided in section 244 and other qualified sources are not capable of providing such services, and includes in such determination the factual and other bases thereof.

"(C) If a program is selected for assistance without competition pursuant to the exception provided in subparagraph (B), the Administrator shall promptly so notify the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate. Such notification shall include copies of the Administrator's determination made under such subparagraph and the peer review determination required by paragraph (2).

"(2)(A) Programs selected for assistance through grants or contracts under this part (other than section 241(f)) shall be reviewed before selection, and thereafter as appropriate, through a formal peer review process utilizing experts (other than officers and employees of the Department of Justice) in fields related to the subject matter of the proposed program.

"(B) Such process shall be established by the Administrator in consultation with the Directors and other appropriate officials of the National Science Foundation and the National Institute of Mental Health. Before implementation of such process, the Administrator shall submit such process to such Directors, each of whom shall prepare and furnish to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate a final report containing their comments on such process as proposed to be established.

"(3) The Administrator, in establishing the processes required under paragraphs (1) and (2), shall provide for emergency expedited consideration of the proposed programs if necessary to avoid any delay which would preclude carrying out such programs.

"(e) A city shall not be denied assistance under this part solely on the basis of its population.

"(f) Notification of grants and contracts made under this part (and the applications submitted for such grants and contracts) shall, upon being made, be transmitted by the Administrator, to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate.".

(b) CONFORMING AMENDMENTS.—(1) Section 223(a)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(1)) is amended by striking "section 261(c)(1)" and inserting "section 291(c)(1)".

(2) Section 246 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 3639), as so redesignated by section (a)(2)(E), is amended by striking "section 248" and inserting "section 245".

SEC. 2830. AUTHORIZATION OF APPROPRIATIONS.

(a) FUNDS AUTHORIZED FOR FISCAL YEARS.—Section 261(a) of part D of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(a)) is amended—

(1) by inserting "(1)" after "(a)",

(2) by inserting "(other than part D)" after "this title",

(3) by striking "1985, 1986, 1987, and",

(4) by inserting ", 1989, 1990, 1991, and 1992" after "1988", and

(5) by adding at the end the following:

"(2) No funds may be appropriated to carry out part D of this title for a fiscal year unless the aggregate amount appropriated to carry out this title (other than part D) for such fiscal year is not less than the aggregate amount appropriated to carry out this title (other than part D) for the preceding fiscal year.".

(b) ALLOCATIONS.—Section 261(b) of part D of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(b)) is amended—

(1) by inserting "(other than part D)" after "this title",

(2) in paragraph (1) by striking "7.5 percent" and inserting "5 percent",

(3) in paragraph (2) by striking "81.5 percent" and inserting "70 percent", and

(4) in paragraph (3) by striking "11 percent" and inserting "25 percent".

SEC. 2831. TECHNICAL AMENDMENTS TO PART D OF TITLE II.

Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671-5672 note) is amended—

(1) by amending the heading of such part to read as follows:

"PART E—GENERAL AND ADMINISTRATIVE PROVISIONS",

(2) by striking section 263,

(3) by redesignating sections 261 and 262 as sections 291 and 292, respectively, and

(4) by adding at the end the following:

"WITHHOLDING

"SEC. 293. Whenever the Administrator, after giving reasonable notice and opportunity for hearing to a recipient of financial assistance under this title, finds that—

"(1) the program or activity for which the grant or contract involved was made has been so changed that it no longer complies with this title; or

"(2) in the operation of such program or activity there is failure to comply substantially with any provision of this title;

the Administrator shall initiate such proceedings as are appropriate.

"USE OF FUNDS

"SEC. 294. (a) Funds paid pursuant to this title to any public or private agency, organization, or institution, or to any individual (either directly or through a State planning agency) may be used for—

"(1) planning, developing, or operating the program designed to carry out this title; and

"(2) not more than 50 percent of the cost of the construction of any innovative community-based facility for fewer than 20 persons which, in the judgment of the Administrator, is necessary to carry out this title.

"(b) Except as provided in subsection (a), no funds paid to any public or private agency, or institution or to any individual under this title (either directly or through a State agency or local agency) may be used for construction.

"(c)(1) Funds paid pursuant to section 223(a)(10)(D) and section 261(a)(3) to any public or private agency, organization, or institution or to any individual shall not be used to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device intended or designed to influence a Member of Congress or any other Federal, State, or local elected official to favor or oppose any Acts, bills, resolutions, or similar legislation, or any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council, or any similar governing body, except that this paragraph shall not preclude such funds from being used in connection with communications to Federal, State, or local elected officials, upon the request of such officials through proper official channels, pertaining to authorization, appropriation, or oversight measures directly affecting the operation of the program involved.

"(2) The Administrator shall take such action as may be necessary to ensure that no funds paid under section 223(a)(10)(D) or section 261(a)(3) are used either directly or indirectly in any manner prohibited in this paragraph.

"PAYMENTS

"SEC. 295. (a) Payments under this title, pursuant to a grant or contract, may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions as the Administrator may determine.

"(b) Except as provided in the second sentence of section 222(c), financial assistance extended under this title shall be 100 percent of the approved costs of the program or activity involved.

"(c)(1) In the case of a grant under this title to an Indian tribe, if the Administrator determines that the tribe does not have sufficient funds available to meet the local share of the cost of any program or activity to to be funded under the grant, the Administrator may increase the Federal share of the cost thereof to the extent the Administrator deems necessary.

"(2) If a State does not have an adequate forum to enforce grant provisions imposing any liability on Indian tribes, the Administrator may waive State liability attributable to the liability of such tribes and may pursue such legal remedies as are necessary.

"(d) If the Administrator determines, on the basis of information available to the Administrator during any fiscal year, that a portion of the funds granted to an applicant under part C for such fiscal year will not be required by the applicant or will become available by virtue of the application of the provisions of section 802 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended from time to time, that portion shall be available for reallocation in an equitable manner to States which comply with the requirements in paragraphs (12)(A) and (13) of section 223(a), under section 261(b)(6).

"CONFIDENTIALITY OF PROGRAM RECORDS

"SEC. 296. Except as authorized by law, program records containing the identity of individual juveniles gathered for purposes pursuant to this title may not be disclosed without the consent of the service recipient or legally authorized representative, or as may be necessary to carry out this title. Under no circumstances may program reports or findings available for public dissemination contain the actual names of individual service recipients.".

CHAPTER 3—RUNAWAY AND HOMELESS YOUTH

SEC. 2835. RUNAWAY AND HOMELESS YOUTH ACT REAUTHORIZATION.

Section 336(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5751(a)), as redesignated by section 2836(a)(2) of this Act, is amended by striking out "1985, 1986, 1987, and 1988" and inserting in lieu thereof "1989, 1990, 1991, and 1992".

SEC. 2836. AUTHORIZATION OF TRANSITIONAL LIVING PROJECTS.

(a) ASSISTANCE TO POTENTIAL GRANTEES.—Section 315 of the Runaway and Homeless Youth Act (42 U.S.C. 5714a) is amended—

(1) by inserting "and transitional living youth projects" after "homeless youth centers",

(2) in paragraph (1) by inserting "or transitional living youth project" after "homeless youth center",

(3) by inserting "or such project" after "such center" each place it appears, and

(4) in paragraph (3) by inserting "and homeless" after "runaway".

(b) LEASE OF SURPLUS FEDERAL FACILITIES.—Section 316 of the Runaway and Homeless Youth Act (42 U.S.C. 5714b) is amended—

(1) in the heading of such section by inserting "OR AS TRANSITIONAL LIVING YOUTH SHELTER FACILITIES" after "HOMELESS YOUTH CENTERS", and

(2) in subsection (a)—

(A) by inserting "or as transitional living youth shelter facilities" after "homeless youth centers", and

(B) in paragraph (1) by inserting "or transitional living youth project, as the case may be, under this title" after "homeless youth center".

(c) REPORTS.—Section 317 of the Runaway and Homeless Youth Act (42 U.S.C. 5715) is amended—

(1) by inserting "(a)" after "SEC. 317.",

(2) by striking "this part" and inserting "part A", and

(3) by adding at the end thereof the following:

"(b) The Secretary shall annually report to the Congress on the status and accomplishments of the transitional living youth projects which are funded under part B, with particular attention to—

"(1) the number and characteristics of homeless youth served by such projects;

"(2) describing the types of activities carried out under such projects;

"(3) the effectiveness of such projects in alleviating the immediate problems of homeless youth;

"(4) the effectiveness of such projects in preparing homeless youth for self sufficiency;

"(5) the effectiveness of such projects in helping youth decide upon future education, employment, and independent living; and

"(6) the ability of such projects to strengthen family relationships, and encourage the resolution of intra-family problems through counseling and the development of self-sufficient living skills.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 331 of the Runaway and Homeless Youth Act (42 U.S.C. 5751) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and

(2) by inserting after subsection (a) the following:

"(b)(1) Subject to paragraph (2), to carry out the purposes of part B of this title, there are authorized to be appropriated $5,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992.

"(2) No funds may be appropriated to carry out part B of this title for a fiscal year unless the aggregate amount appropriated for such fiscal year to carry out part A of this title exceeds $26,100,000.".

(e) TECHNICAL AMENDMENTS.—The Runaway and Homeless Youth Act (42 U.S.C. 5701-5751) is amended—

(1) by inserting before the heading for section 315 the following:

"PART C—GENERAL PROVISIONS"

and

(2) by redesignating sections 315, 316, 317, 318, 321, and 331, and all references to such sections, as sections 341, 342, 361, 362, 363, and 366, respectively.

(f) GRANTS FOR TRANSITIONAL LIVING YOUTH PROJECTS.—The Runaway and Homeless Youth Act (42 U.S.C. 5701-5751) is amended by inserting between section 314 and section 341, as redesignated herein, the following:

"PART B—TRANSITIONAL LIVING GRANT PROGRAM

"PURPOSE AND AUTHORITY FOR PROGRAM

"SEC. 321. (a) The Secretary is authorized to make grants and to provide technical assistance to public and nonprofit private entities to establish and operate transitional living youth projects for homeless youth.

"(b) For purposes of this part—

"(1) the term 'homeless youth' means any individual—

"(A) who is not less than 16 years of age and not more than 21 years of age;

"(B) for whom it is not possible to live in a safe environment with a relative; and

"(C) who has no other safe alternative living arrangement; and

"(2) the term 'transitional living youth project' means a project that provides shelter and services designed to promote a transition to self-sufficient living and to prevent long-term dependency on social services.

"ELIGIBILITY

"SEC. 322. (a) To be eligible for assistance under this part, an applicant shall propose to establish, strengthen, or fund a transitional living youth project for homeless youth and shall submit to the Secretary a plan in which such applicant agrees, as part of such project—

"(1) to provide, directly or indirectly, shelter (such as group homes, host family homes, and supervised apartments) and services (including information and counseling services in basic life skills, interpersonal skill building, educational advancement, job attainment skills, and mental and physical health care) to homeless youth;

"(2) to provide such shelter and such services to individual homeless youth throughout a continuous period not to exceed 540 days;

"(3) to provide, directly or indirectly, on-site supervision at each shelter facility that is not a family home;

"(4) that such shelter facility used to carry out such project shall have the capacity to accommodate not more than 20 individuals (excluding staff);

"(5) to provide a number of staff sufficient to ensure that all homeless youth participating in such project receive adequate supervision and services;

"(6) to provide a written transitional living plan to each youth based on an assessment of such youth's needs, designed to help the transition from supervised participation in such project to independent living or another appropriate living arrangement;

"(7) to develop an adequate plan to ensure proper referral of homeless youth to social service, law enforcement, educational, vocational, training, welfare, legal service, and health care programs and to help integrate and coordinate such services for youths;

"(8) to provide for the establishment of outreach programs designed to attract individuals who are eligible to participate in the project;

"(9) to submit to the Secretary an annual report that includes information regarding the activities carried out with funds under this part, the achievements of the project under this part carried out by the applicant and statistical summaries describing the number and the characteristics of the homeless youth who participate in such project in the year for which the report is submitted;

"(10) to implement such accounting procedures and fiscal control devices as the Secretary may require;

"(11) to submit to the Secretary an annual budget that estimates the itemized costs to be incurred in the year for which the applicant requests a grant under this part;

"(12) to keep adequate statistical records profiling homeless youth which it serves and not to disclose the identity of individual homeless youth in reports or other documents based on such statistical records;

"(13) not to disclose records maintained on individual homeless youth without the consent of the individual youth and parent or legal guardian to anyone other than an agency compiling statistical records or a government agency involved in the disposition of criminal charges against youth; and

"(14) to provide to the Secretary such other information as the Secretary may reasonably require.

"(b) In selecting eligible applicants to receive grants under this part, the Secretary shall give priority to entities that have experience in providing to homeless youth shelter and services of the types described in subsection (a)(1).".

SEC. 2837. GRANTS FOR RUNAWAY AND HOMELESS YOUTH CENTERS.

(a) TECHNICAL AMENDMENT.—The heading for section 311 of the Runaway and Homeless Youth Act (42 U.S.C. 5711) is amended to read as follows:

"AUTHORITY TO MAKE GRANTS".

(b) GRANT PROGRAM.—Subsections (a) and (b) of section 311 of the Runaway and Homeless Youth Act (42 U.S.C. 5711) are amended to read as follows:

"(a) The Secretary shall make grants to public and private entities (and combinations of such entities) to establish and operate (including renovation) local runaway and homeless youth centers to provide services to deal primarily with the immediate needs of runaway or otherwise homeless youth, and their families, in a manner which is outside the law enforcement structure and the juvenile justice system.

"(b)(1) Subject to paragraph (2) and in accordance with regulations promulgated under this title, funds for grants under subsection (a) shall be allotted annually with respect to the States on the basis of their relative population of individuals who are less than 18 years of age.

"(2) Subject to paragraph (3), the amount allotted under paragraph (1) with respect to each State for a fiscal year shall be not less than $75,000, except that the amount allotted to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $30,000 each.

"(3) If, as a result of paragraph (2), the amount allotted under paragraph (1) with respect to a State for a fiscal year would be less than the aggregate amount of grants made under this part to recipients in such State for fiscal year 1988, then the amounts allotted to satisfy the requirements of such paragraph shall be reduced pro rata to the extent necessary to allot under paragraph (1) with respect to such State for the fiscal year an amount equal to the aggregate amount of grants made under this part to recipients in such State for fiscal year 1988.

"(4) In selecting among applicants for grants under subsection (a), the Secretary shall give priority to private entities that have experience in providing the services described in such subsection.

"(5) Not less than 90 percent of the funds appropriated under paragraph (1) for a fiscal year shall be available to carry out section 311(a) in such fiscal year.".

(c) CONFORMING AMENDMENTS.—(1) Sections 312 and 313 of the Runaway and Homeless Youth Act (42 U.S.C. 5712, 5713) are each amended by striking "this part" each place it appears and inserting "section 311(a)".

(2) Section 312(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5712(a)) is amended by inserting "and homeless youth" after "proposed runaway".

(3) Section 312(b) of the Runaway and Homeless Youth Act (42 U.S.C. 5712(b)) is amended—

(A) in the matter preceding paragraph (1) by striking "meeting" and all that follows through "center—", and inserting "including assurances that the applicant—",

(B) in paragraph (1)—

(i) by striking "shall be" and inserting "shall operate a runaway and homeless youth center", and

(ii) by inserting "and homeless" after "by runaway", and

(C) in paragraphs (3) and (5) by striking "runaway center" each place it appears and inserting "runaway and homeless youth center",

(D) in paragraphs (4) and (6) by striking "runaway youths" each place it appears and inserting "runaway and homeless youth", and

(E) in paragraphs (5) and (6) by striking "runaway youth" each place it appears and inserting "runaway and homeless youth".

(4) Section 314 of the Runaway and Homeless Youth Act (42 U.S.C. 5714) is amended by striking "runaway center" and inserting "runaway and homeless youth center".

(5) Section 317 of the Runaway and Homeless Youth Act (42 U.S.C. 5715) is amended—

(A) by striking "runaway centers" and inserting "runaway and homeless youth centers", and

(B) by striking "runaway youth" and inserting "runaway and homeless youth".

(6) Section 318(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5716(a)) is amended by striking "acquisition and".

CHAPTER 4—MISSING CHILDREN'S ASSISTANCE ACT

SEC. 2841. MISSING CHILDREN'S ASSISTANCE ACT.

(a) REAUTHORIZATION.—Section 408 of the Missing Children's Assistance Act (42 U.S.C. 5777) is amended by—

(1) striking out "$10,000,000 for fiscal year 1985, and"; and

(2) striking out "1986, 1987, and 1988" and inserting "1989, 1990, 1991, and 1992".

(b) NATIONAL CLEARINGHOUSE.—Section 404(b)(2)(D) of the Juvenile Justice and Delinquency Prevention Act is amended by inserting "and training" after "technical assistance".

(c) COMPETITION AMENDMENT.—Section 407 of the Juvenile Justice and Delinquency Prevention Act of 1974 is amended to read as follows:

"SEC. 407. (a) In carrying out the programs by this title (42 U.S.C. 3701, et seq.), the Administrator shall establish—

"(1) annual research, demonstration, and service program priorities for making grants and contracts pursuant to section 406; and

"(2) criteria based on merit for making such grants and contracts.

Not less than 60 days before establishing such priorities and criteria, the Administrator shall publish in the Federal Register for public comment a statement of such proposed priorities and criteria.

"(b) No grant or contract exceeding $50,000 shall be made under this title unless the grantee or contractor has been selected by a competitive process which includes public announcement of the availability of funds for such grant or contract, general criteria for the selection of recipients or contractors, and a description of the application process and application review process.

"(c) Multiple grants or contracts to the same grantee or contractor within any 1 year to support activities having the same general purpose shall be deemed to be a single grant for the purpose of this subsection, but multiple grants or contracts to the same grantee or contractor to support clearly distinct activities shall be considered separate grants or contractors.".

CHAPTER 5—FAMILY VIOLENCE PREVENTION ACT OF 1988

SEC. 2845. SHORT TITLE.

This chapter may be cited as the "Family Violence Prevention Act of 1988".

SEC. 2846. DATA COLLECTION AND REPORTING.

(a) FAMILY VIOLENCE REPORTING.—Under the authority of section 534 of title 28, United States Code, the Attorney General shall require, and include in uniform crime reports, data that indicate—

(1) the age of the victim; and

(2) the relationship of the victim to the offender, for crimes of murder, aggravated assault, simple assault, rape, sexual offenses, and offenses against children.

(b) NATIONAL CRIME SURVEY.—The Director of the Bureau of Justice Statistics, through the annual National Crime Survey, shall collect and publish data that more accurately measures the extent of domestic violence in America, especially the physical and sexual abuse of children and the elderly.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated in fiscal years 1989, 1990, 1991, and 1992, such sums as are necessary to carry out the purposes of this section.

CHAPTER 6—REGIONAL INFORMATION SHARING SYSTEMS GRANTS

SEC. 2851. REGIONAL INFORMATION SHARING SYSTEMS GRANTS.

(a) GRANT AUTHORIZED.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by this subtitle, is amended by inserting after part L the following new part:

"PART M—REGIONAL INFORMATION SHARING SYSTEMS GRANTS

"SEC. 1301. REGIONAL INFORMATION SHARING SYSTEMS GRANTS.

"(a) The Director of the Bureau of Justice Assistance is authorized to make grants and enter into contracts with State and local criminal justice agencies and nonprofit organizations for the purposes of identifying, targeting, and removing criminal conspiracies and activities spanning jurisdictional boundaries.

"(b) Grants and contracts awarded under this part shall be made for—

"(1) maintaining and operating information sharing systems that are responsive to the needs of participating enforcement agencies in addressing multijurisdictional offenses and conspiracies, and that are capable of providing controlling input, dissemination, rapid retrieval, and systematized updating of information to authorized agencies;

"(2) establishing and operating an analytical component to assist participating agencies and projects in the compilation, interpretation, and presentation of information provided to a project;

"(3) establishing and maintaining a telecommunication of the information sharing and analytical programs in clauses (1) and (2); and

"(4) other programs designated by the Director that are designed to further the purposes of this part.

"(c) The Director is authorized to promulgate such rules and regulations as are necessary to carry out the purposes of this section, including rules and regulations for submitting and reviewing applications."

(b) TECHNICAL AMENDMENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking out the items relating to part N and section 1401, and inserting in lieu thereof the following new items:

"PART M—REGIONAL INFORMATION SHARING SYSTEMS GRANTS

"Sec. 1301. Regional information sharing systems grants.

"PART N—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1401. Continuation of rules, authorities, and proceedings."

CHAPTER 7—PUBLIC SAFETY OFFICERS' DEATH BENEFITS IMPROVEMENT

SEC. 2855. PUBLIC SAFETY OFFICERS' DEATH BENEFITS IMPROVEMENT.

(a) BASIC LEVEL OF DEATH BENEFIT PAYABLE.—Section 1201(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended by striking out "$50,000" and inserting in lieu thereof "$100,000, adjusted in accordance with subsection (g)".

(b) ANNUAL ADJUSTMENT OF BENEFIT LEVEL.—Section 1201 of title I of the Omnibus Crime Control Act of 1968 (42 U.S.C. 3796) is amended by adding at the end thereof the following new subsections:

"(g) On October 1 of each fiscal year beginning after the effective date of this subsection, the Bureau shall adjust the level of the benefit payable immediately before such October 1 under subsection (a), to reflect the annual percentage change in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, occurring in the 1-year period ending on June 1 immediately preceding such October 1.

"(h) The amount payable under subsection (a) with respect to the death of a public safety officer shall be the amount payable under subsection (a) as of the date of death of such officer.".

(c) PARENTS AS BENEFICIARIES.—Section 1201(a)(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796(a)(4)) is amended by striking out "dependent".

(d) TECHNICAL AMENDMENT.—Section 1203 of title I of the Omnibus Crime Control Act of 1968 (42 U.S.C. 3796b) is amended by striking out paragraph (2) and redesignating paragraphs (3), (4), (5), (6), and (7), as paragraphs (2), (3), (4), (5), and (6), respectively.

SEC. 2856. NATIONAL PROGRAMS FOR FAMILIES OF PUBLIC SAFETY OFFICERS WHO HAVE DIED IN THE LINE OF DUTY.

PROGRAM AUTHORIZATION.—Part L of title I of the Omnibus Crime Control and Safe Streets Act (42 U.S.C. 3796a) is amended by—

(1) redesignating sections 1203 and 1204 as sections 1204 and 1205, respectively; and

(2) adding after section 1202 the following new section:

"NATIONAL PROGRAMS FOR FAMILIES OF PUBLIC SAFETY OFFICERS WHO HAVE DIED IN THE LINE OF DUTY

"SEC. 1203. The Director is authorized and directed to use up to $150,000 of the funds appropriated for this part to establish national programs to assist the families of public safety officers who have died in the line of duty.".

(b) TECHNICAL AMENDMENT.—The table of contents for title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by—

(1) redesignating the items for section 1203 and 1204 as sections 1204 and 1205, respectively; and

(2) inserting after section 1203 the following:

"Sec. 1203. National and regional program for families of public safety officers who have died in the line of duty."

CHAPTER 8—CRIMINAL HISTORY RECORD, ARREST WARRANT, AND STOLEN VEHICLE RECORD INFORMATION IMPROVEMENT

SEC. 2861. SHORT TITLE.

This part may be cited as the "Criminal History Record Information Improvement Act of 1987".

SEC. 2862. CRIMINAL HISTORY RECORD, ARREST WARRANT AND STOLEN VEHICLE RECORD INFORMATION.

(a) GRANT AUTHORIZED.—Part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3731-3735) is amended by adding at the end thereof the following new section:

"GRANTS TO IMPROVE CRIMINAL HISTORY RECORD, ARREST WARRANT AND STOLEN VEHICLE RECORD INFORMATION

"SEC. 305. (a) With funds appropriated under section 1001(a)(6) of this title, the Director shall establish and carry out a program to make grants to improve criminal history record information, arrest warrant information and stolen vehicle record information compiled and maintained by State and local criminal justice agencies. Under such program, grants may be made in order to improve the accuracy, inclusiveness, or completeness of criminal history record, arrest record, and stolen vehicle record information, including grants, to develop, establish, or enhance—

"(1) uniform documents, forms, and procedures for reporting, integrating and maintaining such information;

"(2) an editing and verification system in order to identify errors;

"(3) a tracking system to match arrest and charge entries with dispositions;

"(4) a delinquent disposition monitoring system to identify aged entries;

"(5) a capability to audit information systems for the accuracy, or completeness or otherwise to measure the quality of such information;

"(6) an error notification system to facilitate the exchange of updated or corrected information among criminal justice agencies;

"(7) a capability to query the appropriate State central repository or source agency;

"(8) a transaction log system to record and describe the instances of dissemination;

"(9) automated criminal justice information systems, especially integrated systems, that assist in accomplishing information quality objectives or provide the means to measure the accomplishment of such objectives;

"(10) communications with the courts and other parts of the criminal justice system in order to assist in accomplishing information quality objectives;

"(11) initiatives to enhance the use of positive identification techniques;

"(12) programs for verification, validation, and purging of information that is not accurate; or

"(13) such other programs that, as determined by the Director, can reasonably be expected to assist in accomplishing information quality objectives.

"(b) No grant may be made under subsection (a) to an applicant unless the application for such grant—

"(1) contains a detailed summary of the results of an audit of the component or aspect of the criminal justice information system for which the grant is being sought;

"(2) identifies each of the activities specified in subsection (a) for which such grant will be expended and describes in detail how such activities will be carried out;

"(3) specifies with respect to the component or aspect of the criminal justice information system for which the grant is being sought, numeric goals of accuracy, inclusiveness, or completeness that will be achieved as a result of carrying out such activities and the period of time, but not more than 2 years, within which such goals will be achieved;

"(4) provides an assurance that such applicant will conduct an audit, at the applicant's expense, to determine whether the goals established pursuant to paragraph (3) have been achieved; and

"(5) identifies the State or local agency, as the case may be, that will be responsible for administering such grant.

"(c) Any State or unit of local government that—

"(1) receives a grant under subsection (a); and

"(2) fails to achieve each goal of accuracy, inclusiveness, or completeness specified in the application for such grant, as required by subsection (b)(3) within the period to which such goal applies;

is ineligible to receive any other grant under subsection (a) unless the Director determines that the failure to achieve such goal was caused by circumstances beyond the control of the State or unit of local government involved.".

(b) Technical Amendments.—Section 303 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3733) is amended—

(1) by striking out "A grant" and inserting in lieu thereof "(a) Except as provided in subsection (b), a grant", and by inserting after the words "for which such grant is made." the following new language: "The Director, in his discretion, may waive the requirements in subsection 305(b) with respect to 100 percent grants awarded under section 305.", and

(2) by adding at the end the following:

"(b) From 80 percent of the funds appropriated for a fiscal year to carry out section 305, each grant may be up to 50 percent of the total cost of the project for which such grant is made. The amount expended by the grant applicant to conduct the audit required by section 305(b)(1) shall be treated as a part of the cost of such project paid by such applicant.".

SEC. 2863. CRIMINAL JUSTICE RECORD INFORMATION DATA QUALITY RESEARCH.

With funds appropriated under section 1001(a)(6) of this title, the Bureau is authorized to conduct or make grants to support research to determine the accuracy, inclusiveness, or completeness of criminal justice record information held by State or local law enforcement agencies, prosecutors, the courts or correctional agencies.

SEC. 2864. TECHNICAL AMENDMENTS.

The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the item relating to section 304 the following new item:

"Sec. 305. Grants to improve criminal history record, arrest warrant and stolen vehicle information.".

CHAPTER 9—COLLEGE AND RAILROAD POLICE INFORMATION

SEC. 2865. COLLEGE AND RAILROAD POLICE INFORMATION.

Section 534 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) For purposes of this section, the term 'other institutions' includes—

"(1) railroad police departments which perform the administration of criminal justice pursuant to a State statute and which allocate a substantial part of their annual budget to the administration of criminal justice; and

"(2) police departments of private colleges or universities which perform the administration of criminal justice pursuant to a State statute and which allocate a substantial part of their annual budget to the administration of criminal justice.".

CHAPTER 10—ASSISTANCE TO STATE AND LOCAL COURTS

SEC. 2871. STATE JUSTICE INSTITUTE REAUTHORIZATION.

(a) Authorization.—Section 215 of the State Justice Institute Act of 1984 (Public Law 98-620; 42 U.S.C. 10713) is amended to read as follows:

"Sec. 215. There are authorized to be appropriated $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992 to carry out the purposes of this chapter.".

(b) Technical Amendments.—(1) Section 203(f) of the State Justice Institute Act of 1984 is amended by striking ", at least thirty days prior to their effective date," and by adding to the end thereof: "The publication of a substantive rule shall not be made less than thirty days before the effective date of such rule, except as otherwise provided by the Institute, for good cause found and published with the rule.".

(2) Section 205(d)(2) of the State Justice Institute Act of 1984 is amended by striking "chapter 83" and inserting in lieu thereof "chapters 83 and 84".

(3) Section 206(c) of the State Justice Institute Act of 1984 is amended by—

(A) inserting "judicial and" before "nonjudicial" in paragraph (3);

(B) repealing paragraph (4); and

(C) redesignating paragraphs (5) through (15) as paragraphs (4) through (14), respectively.

(4) Section 206(d) of the State Justice Institute Act of 1984 is amended by striking out judicial system" and inserting in lieu thereof "court (or other unit of State or local government)".

(5) Section 207(a) of the State Justice Institute Act of 1984 is amended by—

(A) inserting "and" at the end of paragraph (1)(B);

(B) striking "; and" at the end of paragraph (2) and inserting in lieu thereof a period; and

(C) repealing paragraph (3).

(c) Administrative Provisions.—Section 209 of the State Justice Institute Act of 1984 is amended to read as follows:

"ADMINISTRATIVE PROVISIONS

"Sec. 209. (a) The Institute shall prescribe procedures to ensure that financial assistance under this title shall not be suspended unless the grantee, contractor, person, or entity receiving financial assistance under this title has been given reasonable notice and opportunity to show cause why such actions should not be taken.

"(b) Except as provided by Federal law other than this title, no officer or employee of the Institute, and no recipient of assistance under the provisions of this title shall use or reveal any research or statistical information furnished under this title by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained in accordance with this title. Such information and copies thereof shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceedings.".

CHAPTER 11—VICTIM COMPENSATION AND ASSISTANCE

SUBCHAPTER A—VICTIMS OF CRIME ACT OF 1984 REAUTHORIZATION

SEC. 2875. VICTIMS OF CRIME ACT OF 1984 REAUTHORIZATION.

Paragraph (2) of subsection (c) of section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended by striking out "September 30, 1988" and inserting in lieu thereof "September 30, 1992.".

SEC. 2876. VICTIMS ASSISTANCE AMENDMENT.

Section 1404(a)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(2)) is amended by adding a new subparagraph (B) and redesignating the other subparagraphs as appropriate:

"(B) certify that funds shall be made available for grants to programs designed to serve previously underserved populations victims. The Director shall issue guidelines to implement this section, after consultation with State and local officials and representatives from private organizations, that provide flexibility to the States in determining the victims populations that may be underserved in their respective States;".

SUBCHAPTER B—ESTABLISHMENT OF OFFICE FOR VICTIMS OF CRIME

SEC. 2881. ESTABLISHMENT OF OFFICE.

The Victims of Crime Act of 1984 is amended by inserting after section 1401, the following new section:

"SEC. 1401A. ESTABLISHMENT OF OFFICE FOR VICTIMS OF CRIME.

"(a) There is established within the Department of Justice, under the general authority of the Attorney General, an Office for Victims of Crime (hereafter in this part referred to as the 'Office').

"(b) The Office shall be headed by a Director (hereafter in this part referred to as the 'Director') who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall report to the Attorney General through the Assistant Attorney General for the Office of Justice Programs. The Director shall have final authority for all grants, cooperative agreements, and contracts awarded by the Office. The Director shall not engage in any employment other than that of serving as the Director, nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Office makes any contract or other agreement under this part.

"(c) The Director shall have the following duties:

"(1) Administering funds made available by section 1402.

"(2) Providing funds to eligible States pursuant to sections 1403 and 1404.

"(3) Establishing programs in accordance with section 1404(c) on terms and conditions determined by the Director to be consistent with that subsection.

"(4) Cooperating with and providing technical assistance to States, units of local government, and other public and private organizations or international agencies involved in activities related to crime victims.

"(5) Such other functions as the Attorney General may delegate.".

SEC. 2882. TECHNICAL AMENDMENTS TO VICTIMS OF CRIME ACT.

(a) Section 1403(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by striking "Attorney General" and inserting "Director".

(b) Section 1403(a)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by striking "Attorney General" and inserting "Director".

(c) Section 1403(b)(6) of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by striking "Attorney General" and inserting "Director".

(d) Section 1404(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10603) is amended by striking "Attorney General" and inserting "Director".

(e) Section 1404(a)(2)(C) of the Victims of Crime Act of 1984 (42 U.S.C. 10603) is amended by striking "Attorney General" and inserting "Director".

(f) Section 1404(c)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10603) is amended by striking "Attorney General, acting through the Assistant Attorney General for the Office of Justice Programs" and inserting "Director".

(g) Section 1404(c)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10603) is amended by striking "Assistant Attorney General for the Office of Justice Programs" and inserting "Director".

(h) Section 1404(c)(3)(D) of the Victims of Crime Act of 1984 (42 U.S.C. 10603) is amended by striking "Attorney General may assign" and inserting "Director deems appropriate".

(i) Section 1404(c)(4) of the Victims of Crime Act of 1984 (42 U.S.C. 10603) is amended by striking "Attorney General" and inserting "Director".

(j) Section 1407(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by—

(1) striking "Attorney General" and inserting "Director";

(2) striking "Attorney General" and inserting "Director"; and

(3) striking "and may delegate to any officer or employee of the Department of Justice any such function as the Attorney General deems appropriate".

(k) Section 1407(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by striking "Attorney General" and inserting "Director".

(l) Section 1407(c) of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by striking "Attorney General or any duly authorized representative of the Attorney General" and inserting "Director".

(m) Section 1407(f) of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by—

(1) striking "Attorney General" the first place it appears and inserting "Director"; and

(2) striking "Attorney General" and inserting "Director" in paragraph (3).

(n) Section 1407(g) of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by—

(1) striking "Attorney General" the first place it appears and inserting "Director"; and

(2) striking "no later than December 31, 1987" and inserting "on December 31, 1990, and on December 31 every 2 years thereafter".

SEC. 2883. CHILDREN'S JUSTICE ACT AMENDMENTS.

(a) Section 10 of the Child Abuse Prevention and Treatment Act (Public Law 100-294) is stricken and sections 11, 12, 13, 14, and 15 are redesignated as sections 10, 11, 12, 13, and 14, respectively.

(b) Section 1404A (42 U.S.C. 10603A) of the Victims of Crime Act of 1984 is amended to read as follows:

"Sec. 1404A. (a) Grant Authority.—(1) Amounts made available by section 1402(d)(2) for the purposes of this section shall be obligated and expended by the Attorney General, acting through the Director, to make grants to the States for the purpose of assisting States in developing, establishing, and operating programs designed to improve—

"(A) the handling of child abuse cases, particularly cases of child sexual abuse, in a manner which limits additional trauma to the child victim; and

"(B) the investigation and prosecution of cases of child abuse, particularly child sexual abuse.

"(2) To ensure that programs funded under this section involve a multidisciplinary approach, representatives from a variety of disciplines, the Director shall, in consultation with the representatives from the Department of Health and Human Services and other Federal agencies, develop for each fiscal year, before December 31 of each year, a proposed plan describing the criteria that shall be used in selecting programs for grants under this section. Such report shall also be provided to the appropriate committees of Congress.".

"(b) Eligibility Requirements for States.—In order for a State to qualify for assistance under this section, such State shall—

"(1) fulfill the eligibility requirements for victim assistance funds under section 1404(a) of the Victims of Crime Act (42 U.S.C. 10603);

"(2) establish a task force as provided in subsection (c);

"(3) fulfill the requirements of subsection (d); and

"(4) submit an application to the Attorney General at such time and containing such information and assurances as the Attorney General considers necessary, including an assurance that the State will—

"(A) make such reports to the Attorney General as may reasonably be required; and

"(B) maintain and provide access to records relating to activities under subsections (a) and (b).

"(c) State Task Forces.—

"(1) General rule.—Except as provided in paragraph (2), a State requesting assistance under this section shall establish or designate a State multidisciplinary task force on children's justice (hereinafter referred to as 'State task force') composed of professionals with knowledge and experience relating to the criminal justice system and issues of child abuse. The State task force shall include—

"(A) individuals representing the law enforcement community;

"(B) judicial and legal officers (including individuals involved with the defense as well as the prosecution of such cases);

"(C) child advocates;

"(D) health and mental health professionals;

"(E) individuals representing child protective service agencies;

"(F) individuals experienced in working with children with handicaps;

"(G) parents; and

"(H) representatives of parents' groups.

"(2) Existing task force.—As determined by the Attorney General, a State commission or task force established after January 1, 1983, with substantially comparable membership and functions, may be considered the State task force for purposes of this subsection.

"(d) State Task Force Study.—Before a State receives assistance under this section, the State task force shall—

"(1) review and evaluate State investigative, administrative, and judicial handling of cases of child abuse, particularly child sexual abuse; and

"(2) make recommendations in each of the categories described in subsection (e).

The task force may make such other comments and recommendations as are considered relevant and useful.

"(e) Adoption of State Task Force Recommendations.—

"(1) General rule.—Subject to the provisions of paragraph (2), before a State receives assistance under this section, a State shall adopt recommendations of the State task force in each of the following categories:

"(A) investigative, administrative, and judicial handling of cases of child abuse, particularly child sexual abuse cases, in a manner which reduces the additional trauma to the child victim and which also ensures procedural fairness to the accused;

"(B) experimental, model, and demonstration programs for testing innovative approaches and techniques which may improve the rate of successful prosecution or enhance the effectiveness of judicial and administrative action in child abuse cases, particularly child sexual abuse cases, and which also ensure procedural fairness to the accused; and

"(C) reform of State laws, ordinances, regulations, and procedures to provide comprehensive protection for children from abuse, particularly child sexual abuse, while ensuring fairness to all affected persons.

"(2) Exemption.—As determined by the Attorney General, a State shall be considered to be in fulfillment of the requirements of this subsection if—

"(A) the State adopts an alternative to the recommendations of the State task force, which carries out the purpose of this section, in each of the categories under paragraph (1) for which the State task force's recommendations are not adopted; or

"(B) the State is making substantial progress toward adopting recommendations of the State task force or a comparable alternative to such recommendations.

"(f) Grants for Indian Country.—The Attorney General, acting through the Director, is authorized to use not more than 15 percent of the funds available for this section to make grants for the purpose of assisting Native American Indian tribes in developing, establishing, and operating programs designed to improve—

"(1) the handling of child abuse cases, particularly cases of child sexual abuse, in a manner which limits additional trauma to the child victim; and

"(2) the investigation and prosecution of cases of child abuse, particularly child sexual abuse.

"(g) Report.—The Director shall include a summary of States funded under this section and the programmatic results when reporting to the President and Congress as required under section 1407(g) of the Victims of Crime Act (42 U.S.C. 10604).".

(c) The amendments made by this section shall not affect the administration of grants made on or before September 30, 1988.

SUBCHAPTER C—OTHER AMENDMENTS TO VICTIMS OF CRIME ACT OF 1984

SEC. 2885. OTHER AMENDMENTS TO VICTIMS OF CRIME ACT OF 1984.

(a) Adding Victims of Drunk Driving and Domestic Violence.—Section 1403(b)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(b)(1)) is amended to read as follows:

"(1) such program is operated by a State and offers compensation to victims and survivors of victims of criminal violence, including drunk driving and domestic violence by December 30, 1991, for—".

(b) Denial of Compensation.—Section 1403(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(b)) is amended by—

(1) redesignating paragraph (6) as paragraph (7); and

(2) adding the following new paragraph (6):

"(6) such program does not deny compensation to any victim because of a familial relationship with the offender or because the victim lived with the offender at the time of the crime, except that the program may establish reasonable regulations, pursuant to Department of Justice guidelines, to prevent the unjust enrichment of the offender;".

(c) Change in Victim Compensation Criteria.—Section 1403(b)(5) (42 U.S.C. 10602(b)(5)) of the Victims of Crime Act of 1984 is amended to read as follows:

"(5) such program provides compensation to victims of Federal crimes occurring within the State on the same basis that such program provides compensation to victims of State crimes.".

(d) Removal of "Grandfather" Clause.—Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by striking subsection (c) and redesignating subsection (d) as subsection (c).

(e) Eyeglasses.—(1) Section 1403(d)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(d)(1)) is amended by adding after "does not include damage to" the following: "eyeglasses and other corrective lenses or".

(2) Section 1403(d)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(d)(2)) is amended by adding after "crime victim compensation program, expenses for" the following: "eyeglasses and other corrective lenses, and for".

Subtitle O—Chemical Diversion and Trafficking Act of 1988

SEC. 2901. SHORT TITLE.

This subtitle may be cited as the "Chemical Diversion and Trafficking Act of 1988".

SEC. 2902. REGULATION OF LISTED CHEMICALS AND CERTAIN MACHINES.

(a) In General.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended to read as follows:

"REGULATION OF LISTED CHEMICALS AND CERTAIN MACHINES

"Sec. 310. (a)(1) Each regulated person who engages in a regulated transaction involving a listed chemical shall keep a record of the transaction—

"(A) for 4 years after the date of the transaction, if the listed chemical is a precursor chemical; and

"(B) for 2 years after the date of the transaction, if the listed chemical is an essential chemical.

"(2) A record under this subsection shall be readily retrievable and shall include the date of the regulated transaction, the identity of each party to the regulated transaction, a statement of the quantity and form of the listed chemical, and a description of the method of transfer. Such records shall be kept and made available for inspection and copying by officers or employees of the United States authorized by the Attorney General.

"(3) It is the duty of each regulated person who engages in a regulated transaction to identify each other party to the transaction. It is the duty of such other party to present proof of identity to the regulated person. The Attorney General shall specify by regulation the types of documents or other evidence that constitute proof of identity for purposes of this paragraph.

"(4) Paragraphs (1), (2), and (3) shall also apply to any regulated transaction involving tableting machines or encapsulating machines except that—

"(A) records shall be kept for 2 years after the date of the transaction; and

"(B) records shall also include the purpose for which the machine is intended, and the serial numbers and make and model of the machine.

"(b) Each regulated person shall report to the Attorney General, in such form and manner as the Attorney General shall prescribe by regulation—

"(1) any regulated transaction involving an extraordinary quantity of a listed chemical, an uncommon method of payment or delivery, or any other circumstance that the regulated person believes may indicate that the listed chemical may be used in violation of this title;

"(2) any regulated transaction involving a tableting machine or an encapsulating machine that the regulated persons believes may be used in violation of this title;

"(3) any proposed regulated transaction with a person whose description or other identifying characteristics the Attorney General furnishes in advance to the regulated person; and

"(4) any unusual or excessive loss or disappearance of a listed chemical under the control of the regulated person.

For paragraphs (1) and (4), the Attorney General shall issue consultative guidance documents as may be necessary. Each report under paragraphs (1) and (2) shall be made at the earliest practicable opportunity and as much in advance of the actual delivery as possible after the regulated person becomes aware of the circumstance involved. A regulated person may not complete a transaction with a person whose description or identifying characteristic is furnished to the regulated person under paragraph (3) unless the transaction is approved by the Attorney General.

"(c)(1) Except as provided in paragraph (2), any information obtained by the Attorney General under this section which is exempt from disclosure under section 552(a) of title 5, United States Code, by reason of section 552(b)(4) of such title, is confidential and may not be disclosed to any person.

"(2) Information referred to in paragraph (1) may be disclosed only—

"(A) to an officer or employee of the United States engaged in carrying out this title, title III, or the customs laws;

"(B) when relevant in any investigation or proceeding for the enforcement of this title, title III, or customs laws;

"(C) when necessary to comply with an obligation of the United States under a treaty or other international agreement; or

"(D) to a State or local law enforcement, prosecutorial, or judicial officer in conjunction with the enforcement of controlled substance or precursor laws.

"(3) The Attorney General shall—

"(A) take such action as may be necessary to prevent unauthorized disclosure of information by any person to whom such information is disclosed under paragraph (2); and

"(B) issue guidelines that limit, to the maximum extent feasible, the disclosure of proprietary business information, including the names or identities of United States exporters of listed chemicals, to any person to whom such information is disclosed under paragraph (2).".

(b) Clerical Amendment.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking out the item relating to section 310 and inserting in lieu thereof the following:

"310. Regulation of listed chemicals and certain machines.".

SEC. 2903. IMPORT AND EXPORT.

(a) Export.—(1) Section 1003 of the Controlled Substances Import and Export Act (21 U.S.C. 953) is amended by adding at the end thereof the following new subsection:

"(f)(1) Except as provided in paragraph (2), it shall be unlawful for a regulated person involved in a regulated transaction to export from the United States to any other country any listed chemical, tableting machine, or encapsulating machine unless there is furnished to the Attorney General, at least 15 days prior to export, in a manner which the Attorney General may by regulation prescribe, a declaration that the exportation is for medical, commercial, scientific, or other legitimate purposes.

"(2) The Attorney General shall provide by regulation for circumstances in which the 15-day requirement does not apply to a transaction between a regulated person and a regular customer of the regulated person.

"(3) A regulated person may not export any listed chemical, tableting machine, or encapsulating machine in any case following notification by the Attorney General that such export may not occur. Such notification shall be communicated in an expeditious manner consistent with the circumstances; and a written statement setting forth the reason that such shipment may not be made shall be provided to the exporter at the earliest practicable opportunity.

"(4) Following the receipt of a notification not to export listed chemicals, tableting machine or encapsulating machine pursuant to paragraph (1), the exporter may file a request for a hearing with the Attorney General. Such hearings will be conducted in conformance with subchapter II of chapter 5 of title 5, United States Code, and will be conducted on an expedited basis no later than 45 days following receipt of a request for a hearing, unless a delay is requested by the exporter.".

(2) Section 1010 of such Act (21 U.S.C. 960) is amended—

(A) in paragraph (a)(1) by adding "or listed chemical, chemical mixture created for the purpose of evading the notification requirements of sections 1002 and 1003, tableting machine or encapsulating machine," following "controlled substance"; and

(B) in paragraph (b)(4) by adding "or listed chemical, chemical mixture created for the purpose of evading the notification requirements of sections 1002 and 1003, tableting machine or encapsulating machine" following "schedule III, IV, or V,".

(3)(A) No later than 45 days after the date of the enactment of this Act, the Attorney General shall forward proposed regulations relating to paragraph (1) to the Office of Management and Budget for review.

(B) No later than 55 days after the date of the enactment of this Act, the Office of Management and Budget shall—

(i) review such proposed regulations of the Attorney General; and

(ii) forward any comments and recommendations for modifications to the Attorney General.

(C) Not later than 60 days after the date of enactment of this Act, the Attorney General shall publish the proposed final regulations as required by the amendments made by paragraphs (1) and (2).

(D) No later than 120 days after the date of the enactment of this Act, the Attorney General shall promulgate final regulations as required by the amendments made by paragraphs (1) and (2).

(E) The provisions of the amendments made by paragraph (1) of this subsection shall take effect 60 days after the promulgation of the final regulations required under paragraphs (1) and (2).

(b) IMPORT.—(1) Section 1002 of the Controlled Substances Import and Export Act (21 U.S.C. 952) is amended by adding at the end thereof the following new subsection:

"(d)(1) Except as provided in paragraph (2), it shall be unlawful for a regulated person involved in a regulated transaction to import into the customs territory of the United States from any place outside thereof (but within the United States) or to import into the United States from any place outside thereof, any listed chemical, tableting machine, or encapsulating machine (including those for the purpose of transshipment) unless there is furnished to the Attorney General at least 15 days prior to import, in a manner which the Attorney General may be regulation prescribe, a declaration that the importation is for medical, commercial, scientific, or other legitimate purposes.

"(2) The Attorney General shall provide by regulation for circumstances in which the 15-day requirement does not apply to a transaction between a regulated person and a regular customer of the regulated person.

"(3) The importer may not import any listed chemical tableting machine or encapsulating machine in any case following notification by the Attorney General that such import may not occur. Such notification shall be communicated in an expeditious manner consistent with the circumstances; and a written statement setting forth the reason that such shipment may not be made shall be provided to the importer at the earliest practicable opportunity.

"(4) Following the receipt of a notice not to import listed chemicals, tableting machines, or encapsulating machines pursuant to paragraph (1), the importer may file a request for a hearing with the Attorney General. Such hearings will be conducted in conformance with subchapter II of chapter 5 of title 5, United States Code, and will be conducted on an expedited basis no later than 45 days following receipt of a request for a hearing, unless a delay is requested by the importer.".

(2) The provisions of the amendments made by paragraph (1) of this subsection shall take effect in the same manner and on the same date as provided in subsection (a)(3).

SEC. 2904. DEFINITIONS.

Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (8), by inserting "or a listed chemical, tableting machine or encapsulating machine" after "a controlled substance";

(2) in paragraph (11), by inserting "or a listed chemical, tableting machine or encapsulating machine" after "a controlled substance" both places it appears; and

(3) by adding at the end the following new paragraphs:

"(33) The term 'listed chemical' means any listed precursor chemical or listed essential chemical.

"(34) The term 'listed precursor chemical' means a chemical specified by regulation of the Attorney General as a chemical that is used in manufacturing a controlled substance in violation of this title and is critical to the creation of the controlled substances, and such term includes (until otherwise specified by regulation of the Attorney General) the following chemicals:

"(A) Anthranilic acid, plus salts.

"(B) Benzyl cynide.

"(C) Ephedrine, plus salts, optical isomers and salts of optical isomers.

"(D) Ergonovine, plus salts.

"(E) Ergotamine, plus salts.

"(F) 3,4-Methylenedioxyphenyl-2-propanone.

"(G) N-acetylanthranilic acid, plus salts.

"(H) Phenylacetic acid, plus salts.

"(I) Piperidine, plus salts.

"(J) Pseudoephedrin, plus salts, optical isomers and salts of optical isomers.

"(35) The term 'listed essential chemical' means a chemical specified by regulation of the Attorney General as a chemical that is used as a solvent, reagent, or catalyst in manufacturing a controlled substance in violation of this title, and such term includes (until otherwise specified by regulation of the Attorney General) the following chemicals:

"(A) Acetic anhydride.

"(B) Acetone.

"(C) Benzyl chloride.

"(D) Ethyl ether.

"(E) Potassium permanganate.

"(F) 2-butanone (Methyl ethyl ketone).

"(G) Toluene.

"(36) The term 'regular customer' means, with respect to a regulated person, a customer with whom the regulated person has an established business relationship that is reported according to regulations prescribed by the Attorney General. The reports filed according to such regulations shall include—

"(A) the names and street addresses of the regulated person and the regular customer;

"(B) the phone number and contact person for the regulated person;

"(C) a list of the listed chemicals involved in regulated transactions between the regulated person and the regular customer; and

"(D) such other information that is necessary for the effective implementation of sections 1002 and 1003 of the Controlled Substances Import and Export Act.

"(37) The term 'regulated person' means a person who manufactures, distributes, imports, or exports a listed chemical, a tableting machine or encapsulating machine.

"(38) The term 'regulated transaction' means—

"(A) a distribution, receipt, sale, importation or exportation of a threshold amount, including a cumulative threshold amount for multiple transactions (as determined by the Attorney General, in consultation with the chemical industry and taking into consideration the quantities normally used for lawful purposes), of a listed chemical, except that such term does not include—

"(i) a domestic distribution in the lawful and usual course of business between agents and employees of a single regulated person;

"(ii) the delivery of listed substances to or by a common or contract carrier for carriage in the lawful and usual course of its business, or to or by a warehouseman for storage in the lawful and usual course of its business; but where such carriage or storage is in connection with the distribution, importation, or exportation of substances to a third person, this subparagraph shall not relieve the distributor, importer, or exporter from compliance with section 310(a)(3);

"(iii) any category of transaction specified by regulation of the Attorney General as excluded from this definition as unnecessary for enforcement of this title or title III;

"(iv) any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act; or

"(v) any transaction in a chemical mixture.

"(B) a distribution, importation or exportation of a tableting machine or an encapsulating machine except that such term does not include transactions excluded under subsections (A) (i) and (ii).

"(39) the term 'chemical mixture' means a combination of two or more chemical substances, at least one of which is not a listed precursor chemical or a listed essential chemical, except that such term does not include any combination of a listed precursor chemical or a listed essential chemical with another chemical that is present solely as an impurity.".

SEC. 2905. AMENDMENTS TO SECTION 401 OF THE CONTROLLED SUBSTANCES ACT.

(a) ADDITIONAL OFFENSES.—Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended by striking out subsection (d) and inserting in lieu thereof the following new subsections:

"(d) Any person who knowingly or intentionally—

"(1) possesses a listed chemical with intent to manufacture a controlled substance except as authorized by this title;

"(2) possesses or distributes a listed chemical knowing that the listed chemical will be used to manufacture a controlled substance except as authorized by this title;

"(3) with the intent of causing the evasion of the recordkeeping or reporting requirements of section 310(a) or the regulations issued thereunder, receives or distributes a reportable amount of any listed chemical in units small enough so that the making of records or filing of reports under section 310(a) is not required;

"(4) with the intent of causing the evasion of the recordkeeping or reporting requirements of section 310(a) or the regulations issued thereunder, creates a chemical mixture in such proportions so that the making of records or filing of reports under section 310(a) is not required;

"(5) possesses any three-neck round-bottom flask, tableting or encapsulating machines, gelatin capsules, or any equipment specially designed or modified to manufacture a controlled substance, knowing that it will be used to manufacture a controlled substance except as authorized by this title; or

"(6) manufactures, distributes, or imports any three-neck round-bottom flask, tableting or encapsulating machines, gelatin capsules, or any equipment specially designed or modified to manufacture a controlled substance, knowing that it will be used to manufacture a controlled substance except as authorized by this title.

shall be fined in accordance with title 18, United States Code, or imprisoned not more than 10 years, or both.

"(e)(1) Whoever knowingly distributes a listed chemical in violation of this title (other than in violation of a recordkeeping or reporting requirement of section 310) shall be fined under title 18, United States Code, or imprisoned not more than 10 years, or both.

"(2) Whoever possesses any listed chemical, tableting machine or encapsulating machine, with knowledge that the recordkeeping or reporting requirements of section 310 have not been adhered to, if, after such knowledge is acquired, such person does not take immediate steps to remedy the violation shall be fined under title 18, United States Code, or imprisoned not more than 1 year, or both.".

(b) Additional Penalty.—Section 401 of the Controlled Substances Act (21 U.S.C. 841), as amended by subsection (a) of this section, is further amended by adding at the end the following new subsection:

"(f) In addition to any other applicable penalty, any person convicted of a violation of this section relating to the receipt, distribution, or importation of a listed chemical, tableting machine or encapsulating machine punishable by imprisonment for more than 1 year may be enjoined from conducting business activities with such chemical, tableting machine or encapsulating machine for not more than 10 years.".

SEC. 2906. AMENDMENTS TO SECTION 402 OF THE CONTROLLED SUBSTANCES ACT.

(a) Confidential Information Amendment.—Section 402(a)(8) of the Controlled Substances Act (21 U.S.C. 842(a)(8)) is amended by inserting after "protection" the following: ", or to use to his own advantage or reveal (other than as authorized by section 310) any information that is confidential under such section".

(b) Identification Amendment.—Section 402(a)(9) of the Controlled Substances Act (21 U.S.C. 842(a)(9)) is amended to read as follows:

"(9) who is a regulated person to engage in a regulated transaction without obtaining the proof of identity required by 310(a)(3).".

(c) Technical Amendment.—Section 402(c)(2) of the Controlled Substances Act (21 U.S.C. 842(c)(2)) is amended by striking out subparagraph (C).

(d) Records Violations.—Section 402(a) of the Controlled Substances Act (21 U.S.C. 842(a)) is amended—

(1) in paragraph (8), as amended by subsection (a) of this section, by striking out "or" at the end of the paragraph;

(2) in paragraph (9), as amended by subsection (b) of this section, by striking out the period at the end of the paragraph and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new paragraph:

"(10) to fail to keep a record or make a report under section 310.".

SEC. 2907. AMENDMENTS TO SECTION 403 OF THE CONTROLLED SUBSTANCES ACT.

(a) Additional Offenses.—Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) in paragraph (4)(B), by striking "piperidine" and inserting in lieu thereof "a listed chemical, tableting machine or encapsulating machine";

(2) in paragraph (4)(B), by striking out "or" after the semicolon; and

(3) in paragraph (5), by striking out the period at the end and inserting in lieu thereof a semicolon.

(b) Additional Penalty.—Section 403 of the Controlled Substances Act (21 U.S.C. 843), is amended by adding at the end the following new subsection:

"(d) In addition to any other applicable penalty, any person convicted of a violation of this section relating to the receipt, distribution, or importation of a listed chemical punishable by imprisonment for more than 1 year may be enjoined from conducting business activity with such chemical for not more than 10 years.".

SEC. 2908. SUBPOENA POWER.

The first sentence of section 506(a) of the Controlled Substances Act (21 U.S.C. 876(a)) is amended by inserting "or listed chemicals, tableting machines or encapsulating machines" after "with respect to controlled substances".

SEC. 2909. FORFEITURE.

(a) In General.—Section 511(a) of the Controlled Substances Act (21 U.S.C. 881) is amended by adding at the end the following new paragraph:

"(9) All listed chemicals, all drug manufacturing equipment, all tableting machines, all encapsulating machines, and all gelative capsules, which have been imported, exported, manufactured, possessed, distributed, or intended to be distributed, imported, or exported, in violation of a felony provision of this title or title III.".

(b) Technical Amendment.—Paragraph (3) and paragraph (4) of section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a) and (4)) are each amended by striking out "paragraph (1) or (2)" and inserting in lieu thereof "paragraph (1), (2), or (9)".

SEC. 2910. ACTIVE DEPARTMENT OF JUSTICE CONTROL PROGRAM.

The Attorney General shall maintain an active program, both domestic and international, to curtail the diversion of precursor chemicals and essential chemicals used in the illicit manufacture of controlled substances. The Attorney General through rulemaking is authorized to add chemicals to, and delete chemicals from the lists specified in section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) and to promulgate rules and regulations necessary to the administration of this subtitle.

SEC. 2911. EFFECTIVE DATE.

Except as provided in section 1203 (a) and (b), this subtitle shall take effect 120 days after the date of enactment of this subtitle.

Subtitle P—Application Of United States Immigration Laws and Deportation Of Aliens Committing Aggravated Felonies

SEC. 2915. SHORT TITLE.

This subtitle may be cited as the "Violent Criminal Alien Deportation Act".

SEC. 2916. DEFINITION.

Section 101(a) of the Immigration and Nationality Act is amended by adding at the end thereof the following new paragraph:

"(43) The term 'aggravated felony' means murder, kidnapping, rape, or any attempt thereof, or any illicit trafficking in any controlled substance as defined in section 102 of the Controlled Substances Act or any illicit trafficking in any firearms or destructive devices as defined in section 921 of title 18, United States Code. An alien convicted of such felony shall be termed an 'aggravated alien felon'."

SEC. 2917. DEPORTATION OF ALIENS COMMITTING AGGRAVATED FELONIES.

(a) Retention in Custody Upon Arrest.—Section 242(a) of the Immigration and Nationality Act is amended—

(1) in the second sentence, by striking out "Any" and inserting in lieu thereof "Except as provided in paragraph (2), any";

(2) by redesignating clauses (1), (2), and (3) as clauses (A), (B), and (C), respectively;

(3) by inserting "(1)" immediately after "(a)"; and

(4) by adding at the end thereof the following new paragraph:

"(2) Any alien arrested under paragraph (1) pending a determination of whether such alien is deportable on grounds of having been convicted of an aggravated felony shall not be released from custody and shall not be entitled to conditional parole. An alien held in custody under this paragraph by State or local authorities shall promptly be transferred to the custody of the Attorney General.".

(b) Inapplicability of Voluntary Departure.—Section 244(e) of such Act is amended—

(1) by striking out "(e) The" and inserting in lieu thereof "(e)(1) Subject to paragraph (2), the";

(2) by adding at the end thereof the following new paragraph:

"(2) The authority contained in paragraph (1) shall not apply to any alien who is deportable for having been convicted of an aggravated felony.".

(c) Applicablity of Amendments.—The amendments made by this section apply to aliens who have been convicted, on or after the date of enactment of this Act, of an aggravated felony.

SEC. 2918. CRIMINAL PENALTIES FOR REENTRY OF CERTAIN DEPORTED ALIENS.

Section 276 of the Immigration and Nationality Act is amended—

(1) by striking out "Any alien" and inserting in lieu thereof "(a) Subject to subsection (b), any alien";

(2) by adding at the end thereof the following:

"(b) Notwithstanding subsection (a), in the case of any alien described in subsection (a)—

"(1) whose deportation was subsequent to a conviction for commission of a felony (other than an aggravated felony), such alien shall be punishable by imprisonment for not more than 5 years, or a fine of not more than $10,000, or both; or

"(2) whose deportation was subsequent to a conviction for commission of an aggravated felony, such alien shall be punishable by imprisonment for at least 15 years and by a fine of not more than $20,000.".

SEC. 2919. CRIMINAL PENALTIES FOR AIDING OR ASSISTING CERTAIN ALIENS TO ENTER THE UNITED STATES.

(a) In General.—Section 277 of the Immigration and Nationality Act is amended by inserting "(9), (10), (23) (insofar as an alien excludable under this paragraph has in addition been convicted of an aggravated felony)," immediately after "212(a)".

(b) Conforming Amendments.—(1) The section heading for section 277 of such Act is amended by striking out "SUBVERSIVE

ALIEN" and inserting in lieu thereof "CERTAIN ALIENS".

(2) The table of contents of such Act is amended by amending the item relating to section 277 to read as follows:

"Sec. 277. Aiding or assisting certain aliens to enter the United States.".

SEC. 2920. CRIMINAL PENALTIES FOR REFUSAL OF CERTAIN ALIENS TO APPEAR.

(a) IN GENERAL.—Chapter 8 of the Immigration and Nationality Act is amended by adding at the end thereof the following new section:

"CRIMINAL PENALTIES FOR REFUSAL OF CERTAIN ALIENS TO APPEAR

"SEC. 280A. Whoever, having been convicted of an aggravated felony and having been subpoenaed under the provision of the Immigration and Nationality Act (or any other law or regulation relating to the expulsion of aliens) to appear and testify at any proceeding held to determine the deportability or excludability of the alien on grounds of that conviction, neglects or refuses to so appear and testify, if in the power of such person to do so, shall be fined not more than $250,000 or imprisoned not more than five years, or both.".

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of such Act is amended by inserting after the item relating to section 280 the following new item:

"Sec. 280A. Criminal penalties for refusal of certain aliens to appear.".

SEC. 2921. SPECIAL DEPORTATION PROCEEDINGS FOR ALIENS CONVICTED OF AGGRAVATED FELONIES.

(a) IN GENERAL.—The Attorney General shall provide for the availability of special deportation proceedings pursuant to this subtitle at certain Federal, State, and local correctional facilities for aliens convicted of aggravated felonies as defined in this subtitle. Such proceedings shall be conducted in accordance with this subtitle and in such manner which eliminates the need for additional detention at an Immigration and Naturalization Service special processing center and assures expeditious deportation, where warranted, following the end of the sentence.

(b) IMPLEMENTATION.—The Attorney General shall endeavor, to the extent possible, to incarcerate aliens convicted of committing aggravated felonies in select facilities that have a significant number of inmates who are aliens convicted of aggravated felonies. The deportation proceedings held in correctional facilities shall be consistent with sections 242, 291, 292, as amended by this subtitle and any other provision of the Immigration and Nationality Act.

(c) REVIEW.— The Attorney General shall review and evaluate the provision of deportation hearings within correctional facilities and within 18 months submit a report to the appropriate committees of the Congress on the effectiveness of such special deportation proceedings.

SEC. 2922. EXPEDITED PROCEDURES FOR DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES; GROUNDS FOR APPEAL.

(a) The Immigration and Nationality Act is amended by inserting after section 241 the following new section:

"EXPEDITED PROCEDURES FOR DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES; GROUNDS FOR APPEAL

"SEC. 241A. (a) Notwithstanding any other provision of law, including section 208 but excluding section 243(h) of this Act, any alien in the United States (including an alien crewman) shall, upon the order of the Attorney General, be deported as an aggravated alien felon if such alien has been convicted and sentenced in a United States district court or in a court of record of any State, territory, possession, or in the District of Columbia for an aggravated felony and such conviction and sentence shall revoke by operation of law the permanent resident status of any alien and such conviction and sentence shall serve as conclusive evidence of the deportability of any alien.

"(b)(1) Notwithstanding any other provision of law, the District Director of the Service for the district in which it appears that an alien was convicted and sentenced for an aggravated felony shall, on behalf of the Attorney General, issue, upon sentencing, an order of deportation for the alleged aggravated alien felon which shall be effective as of the date of termination of sentence.

"(2) Nothing in this section shall be construed as requiring the Attorney General to effect the immediate deportation of any alien sentenced to actual incarceration, prior to release from the penitentiary or correctional institution where confined, unless at the request, in writing, of the sentencing judge, the chief prosecutor in whose jurisdiction conviction occurred, or the chief correctional official of the system in which the alien is confined.

"(c) Notwithstanding any other provision of law, an order of deportation for an aggravated alien felon in his native language, shall be personally served on the alleged aggravated alien felon named therein. Such deportation order shall be simply worded to inform the alleged aggravated alien felon of at least the following information:

"(1) the date and the court in which the subject of the order of deportation was convicted and sentenced for an alleged aggravated felony;

"(2) a description, including the citation, of the crime alleged to be the aggravated felony;

"(3) a notice that the order of deportation will become a final order of deportation unless the subject of the order petitions a United States district court to vacate the order of deportation within 30 days of its personal service on the alleged aggravated alien felon; and

"(4) an explanation of the procedure to vacate the order of deportation.

"(d)(1) Notwithstanding any other provision of law, a person alleged to be an alien who committed an aggravated felony may petition a United States district court to vacate an order of deportation on the grounds that he is a United States citizen and therefore not subject to an order of deportation, that he is not the person named in the order of deportation as having been convicted and sentenced for the aggravated felony which is the basis for the order of deportation, or that the conviction which is the basis for the order of deportation is not an aggravated felony.

"(2) A petition to vacate an order of deportation by the person named therein as an aggravated alien felon must set forth under oath the ground or grounds, set forth in subsection (d)(1), upon which the alleged aggravated alien felon seeks to vacate his order of deportation. If petitioner claims United States citizenship, he must allege the names of his natural mother and father and the date and place of his birth.

"(3) A petition by an alleged aggravated alien felon to vacate an order of deportation must be served on the United States Attorney for the judicial district in which the petition is filed. Within 30 days of service upon the appropriate United States Attorney, a reply shall be filed with the district court and served upon the alleged aggravated alien felon or his attorney acknowledging or disputing, with appropriate documentary evidence, the ground or grounds alleged in the petition as the basis to vacate the order of deportation.

"(4) Within 30 days of the service on the alleged aggravated alien felon or his attorney of the reply of the United States Attorney, a United States district judge may conduct a hearing, without a jury, to resolve any disputed questions of fact as to whether the person alleged to be an aggravated alien felon is a United States citizen, or as to whether the person who is the subject of the order of deportation was convicted and sentenced for an aggravated felony, or as to whether the crime alleged in the order of deportation is an aggravated felony. The burden of proof by a preponderance of the evidence is upon the petitioner to establish United States citizenship and the burden of proof by a preponderance of evidence is upon the United States to establish that the person named in the order of deportation is petitioner or that petitioner was convicted and sentenced for an aggravated felony. The Federal Rules of Evidence shall apply to this hearing. At the conclusion of the hearing the United States district court shall make a finding as to whether petitioner is a aggravated alien felon and thus subject to deportation pursuant to this section. If petitioner is adjudicated a aggravated alien felon, the court shall issue a final order of deportation.

"(5) Petitioner may appeal a final order of deportation, issued pursuant to this section, to the appropriate United States court of appeals, and such deportation order shall be stayed pending the decision and order of the court of appeals. The United States may appeal the vacatur of an order of deportation, issued pursuant to this section, to the appropriate United States court of appeals.

"(e) Notwithstanding any other provision of law, when the conviction and sentence of an aggravated felony, which served as the basis for the deportation of a person who had previously been lawfully admitted for permanent residence, is reversed by a United States district court or by a court of record of any State, territory, possession, or in the District of Columbia, the alien may petition the Attorney General from his native country for discretionary reinstatement of the status of an alien lawfully admitted for permanent residence.

"(f) Nothing in this section shall be construed as altering the authority of a special inquiry officer with respect to proceedings to determine the deportability of aliens other than aggravated alien felons.".

(b) The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 241 the following new item:

"Sec. 241A. Expedited Procedures for deportation of Aliens convicted of committing aggravated felonies; grounds for appeal.".

SEC. 2923. RESTRICTION ON WITHHOLDING DEPORTATION.

Section 243(h)(2) of the Immigration and Nationality Act is amended—

(1) by striking out "or" at the end of clause (C);

(2) by redesignating clause (D) as clause (E); and

(3) by inserting after clause (C) the following:

"(D) the alien has been previously convicted for trafficking in controlled substances as defined in section 102 of the Controlled Substances Act; or".

SEC. 2924. DEPORTATION FOR WEAPONS VIOLATION.

Section 241(a)(14) of the Immigration and Nationality Act is amended by inserting the following: "any firearm or destructive device (as defined in paragraphs (3) and (4), respectively, of section 921(a), title 18, United States Code, or any revolver or" after "law".

SEC. 2925. WAIVER OF EXCLUDABILITY.

Section 212(h) of the Immigration and Nationality Act is amended by striking out "or (12)" and inserting in lieu thereof "(12), or (31)".

SEC. 2926. AIDING OR ABETTING ILLEGAL ENTRY.

(a) Section 212(a)(31) of the Immigration and Nationality Act is amended by striking out ", knowingly and for gain," and inserting in lieu thereof "knowingly".

(b) Section 241(a)(13) of such Act is amended by striking out ", knowingly and for gain," and inserting in lieu thereof "knowingly".

SEC. 2927. BAR ON REENTRY OF CONVICTED AGGRAVATED ALIEN FELONS.

Section 212(a)(17) of the Immigration and Nationality Act is amended by inserting "(or ten years in the case of an alien convicted of an aggravated felony)" after "within five years".

SEC. 2928. FORFEITURE OF INSTRUMENTALITIES USED IN BRINGING IN AND HARBORING CERTAIN ALIENS.

Section 274(b) of the Immigration and Nationality Act is amended—

(1) in paragraph (1), by inserting ", or instrumentality, including any personal or real property, monies, negotiable instruments, or other things of value," after "vessel, vehicle, or aircraft";

(2) in paragraph (1), by inserting ", proceeds from, facilitates, or is intended to be used" after "is being used";

(3) by inserting "or instrumentality" after "conveyance" each place it appears in subparagraph (B); and

(4) in paragraph (4), by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

"(B) transfer custody and ownership of the conveyance or instrumentality to any Federal, State, or local agency pursuant to the Tariff Act of 1930 (19 U.S.C. 1616); or

"(C) place the forfeited monies or proceeds of sale of forfeited conveyances or instrumentalities in the Department of Justice Assets Forfeiture Fund, pursuant to the Comprehensive Crime Control Act of 1984 (28 U.S.C. 524(c)).".

SEC. 2929. CONTROL OF CERTAIN ALIENS IN CUSTODY.

(a) Section 751(a) of title 18, United States Code, is amended by inserting ", or exclusion, deportation, or removal under title 8," after "confinement is for extradition".

(b) Section 752(a) of title 18, United States Code, is amended by inserting ", or exclusion, deportation, or removal under title 8," after "confinement is for extradition".

(c) Section 1791 of title 18, United States Code, is amended by inserting "or any immigration detention facility operated directly by or under contract to the Immigration and Naturalization Service" after "any Federal penal or correctional facility".

(d) Section 1792 of title 18, United States Code, is amended by inserting "or any immigration detention facility operated directly by or under contract to the Immigration and Naturalization Service" after "any Federal penal or correctional facility".

Subtitle Q—Forfeiture and Customs

CHAPTER 1—DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND

SEC. 2931. DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.

Section 524(c) of title 28, United States Code, is amended to read as follows:

"(c)(1) There is established in the United States Treasury a special fund to be known as the Department of Justice Assets Forfeiture Fund (hereafter in this subsection referred to as the 'Fund') which shall be available to the Attorney General without fiscal year limitation for the following purposes of the Department of Justice—

"(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, or sell property under seizure, detention, or forfeited pursuant to any law enforced or administered by the Department of Justice, or of any other necessary expenses including overtime salaries leading to or incident to the seizure, detention, or forfeiture of such property; such payments may include—

"(i) payments for contract services, the employment of outside contractors to operate and manage properties or provide other specialized services as necessary to dispose of such properties in an effort to maximize the return from such properties, and payments to reimburse any Federal, State, or local agency for any expenditures made to perform the foregoing functions, including expenditures resulting from the participation in a Federal task force or a Federal law enforcement network; and

"(ii) payments made pursuant to regulations promulgated by the Attorney General, that are necessary and direct program-related expenses for the purchase or lease of automatic data processing equipment (not less than 90 percent of which use will be program related), training, printing, contracting for services directly related to the identification of forfeitable assets processing of and accounting for forfeitures, and the storage, protection, and destruction of controlled substances;

"(B) the payment of awards for information or assistance directly relating to violations of the criminal drug laws of the United States;

"(C) the payment of awards for information or assistance leading to a civil or criminal forfeiture under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 800 et seq.) or a criminal forfeiture under the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. 1961 et seq.), at the discretion of the Attorney General;

"(D) the compromise and payment of valid liens and mortgages against property that has been forfeited pursuant to any law enforced or administered by the Department of Justice, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

"(E) disbursements authorized in connection with remission or mitigation procedures relating to property forfeited under any law enforced or administered by the Department of Justice;

"(F) for equipping for drug law enforcement functions any government-owned or leased vessels, vehicles, and aircraft available for official use by the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, or the United States Marshals Service;

"(G) for purchase of evidence of any violation of the Controlled Substances Act, the Controlled Substances Import and Export Act, chapter 96 of title 18, or sections 1956 and 1957 of title 18; and

"(H) after all reimbursements and program-related expenses have been met at the end of each fiscal year, the Attorney General may transfer deposits from the Fund to the building and facilities account of the Federal prison system for the construction of correctional institutions.

Amounts for paying the expenses authorized by subparagraphs (A)(ii), (B), (C), (F), and (G) shall be specified in appropriations acts. Amounts for other authorized expenditures and payments from the Fund, including equitable sharing payments, are not required to be specified in appropriations acts. The Attorney General may exempt the procurement of contract services under subparagraph (A) under the fund from section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 and following), and other provisions of law as may be necessary to maintain the security and confidentiality of related criminal investigations.

"(2) Any award paid from the Fund for information, as provided in paragraphs (1) (B) or (C), shall be paid at the discretion of the Attorney General or his delegate, under existing departmental delegation policies for the payment of awards, except that the authority to pay an award of $250,000 or more shall not be delegated to any person other than the Deputy Attorney General, the Associate Attorney General, the Director of the Federal Bureau of Investigation, or the Administrator of the Drug Enforcement Administration. Any award for information pursuant to paragraph (1)(B) shall not exceed $250,000. Any award for information pursuant to paragraph (1)(C) shall not exceed the lesser of $250,000 or one-fourth of the amount realized by the United States from the property forfeited.

"(3) Any amount under subparagraph (F) of paragraph (1) shall be paid at the discretion of the Attorney General or his delegate, except that the authority to pay $100,000 or more may be delegated only to the respective head of the agency involved.

"(4) There shall be deposited in the Fund all amounts from the forfeiture of property under any law enforced or administered by the Department of Justice, except all proceeds of forfeitures available for use by the Secretary of the Treasury or the Secretary of the Interior pursuant to section 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)) or section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)) or the Postmaster General of the United States pursuant to section 2003(b)(7) of title 39.

"(5) Amounts in the Fund which are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States and all earnings on such investments shall be deposited in the Fund.

"(6) The Attorney General shall transmit to the Congress, not later than 4 months after the end of each fiscal year, two detailed reports as follows:

"(A) a report on—

"(i) the estimated total value of property forfeited under any law enforced or administered by the Department of Justice with respect to which funds were not deposited in the Fund; and

"(ii) the estimated total value of all such property transferred to any State or local law enforcement agency; and

"(B) a report on—

"(i) the Fund's beginning balance;

"(ii) sources of receipts (seized cash, conveyances, and others);

"(iii) liens and mortgages paid and amount of money shared with State and local law enforcement agencies;

"(iv) the net amount realized from the year's operations, amount of seized cash being held as evidence, and the amount of money legally allowed to be carried over to next year;

"(v) any defendant's equity in property valued at $1,000,000 or more; and

"(vi) year-end Fund balance.

"(7) The Fund shall be subject to annual financial audits conducted consistent with generally accepted Government auditing standards.

"(8) The provisions of this subsection relating to deposits in the Fund shall apply to all property in the custody of the Department of Justice on or after the effective date of the Comprehensive Forfeiture Act of 1983.

"(9) There are authorized to be appropriated such sums as necessary for the purposes described in subparagraphs (A)(ii), (B), (C), (F), and (G) of paragraph (1).

"(10) For the purposes of this subsection, property is forfeited pursuant to a law enforced or administered by the Department of Justice if it is forfeited pursuant to—

"(A) any criminal forfeiture proceeding;

"(B) any civil judicial forfeiture proceeding; or

"(C) any civil administrative forfeiture proceeding conducted by the Department of Justice,

except to the extent that the seizure was effected by a Customs officer or that custody was maintained by the United States Customs Service in which case the provisions of section 613A of the Tariff Act of 1930 (19 U.S.C. 1613a) shall apply.".

CHAPTER 2—CUSTOMS FORFEITURE FUND

SEC. 2935. CUSTOMS FORFEITURE FUND.

Section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended to read as follows:

"SEC. 613A. CUSTOMS FORFEITURE FUND.

"(a) In General.—

"(1) There is established in the Treasury of the United States a fund to be known as the 'Customs Forfeiture Fund' (hereafter in this section referred to as the 'Fund'), which shall be available to the United States Customs Service and the United States Coast Guard, subject to appropriation, with respect to seizures and forfeitures by the United States Customs Service and the United States Coast Guard under any law enforced or administered by those agencies for payment, or for reimbursement to the appropriation from which payment was made, for—

"(A) all proper expenses of the seizure (including investigative costs incurred by the United States Customs Service leading to seizures) or the proceedings of forfeiture and sale, including, but not limited to, the expenses of inventory, security, and maintenance of custody of the property, advertisement and sale of the property, and if condemned by the court and a bond for such costs was not given, the costs as taxed by the court;

"(B) awards of compensation to informers under section 619;

"(C) satisfaction of—

"(i) liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate customs officer according to law, and

"(ii) other liens against forfeited property;

"(D) amounts authorized by law with respect to remission and mitigation; and

"(E) claims of parties in interest to property disposed of under section 612(b), in the amounts applicable to such claims at the time of seizure.

(2) Any payment made under subparagraph (C) or (D) of paragraph (1) with respect to a seizure or a forfeiture of property shall not exceed the value of the property at the time of the seizure.

(3) In addition to the purposes described in paragraph (1), the Fund shall be available for—

"(A) purchases by the United States Customs Service of evidence of—

"(i) smuggling of controlled substances, and

"(ii) violations of the currency and foreign transaction reporting requirements of chapter 51 of title 31, United States Code, if there is a substantial probability that the violations of these requirements are related to the smuggling of controlled substances;

"(B) equipment for any vessel, vehicle, or aircraft available for official use by the United States Customs Service to enable the vessel, vehicle, or aircraft to assist in law enforcement functions;

"(C) the reimbursement, at the discretion of the Secretary, of private persons for expenses incurred by such persons in cooperating with the United States Customs Service in investigations and undercover law enforcement operations;

"(D) publication of the availability of rewards under section 619;

"(E) equipment for any vessel, vehicle, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the conveyance will be used in joint law enforcement operations with the United States Customs Service; and

"(F) payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint law enforcement operations with the United States Customs Service.

"(b) United States Coast Guard.—Proceeds in the Fund derived from seizures by the United States Coast Guard shall be available to the United States Coast Guard for—

"(1) equipment for any vessel, vehicle, or aircraft available for official use by the United States Coast Guard to enable the vessel, vehicle, or aircraft to assist in law enforcement functions;

"(2) equipment for any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the conveyance will be used in joint law enforcement operations with the United States Coast Guard;

"(3) payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint law enforcement operations with the United States Coast Guard;

"(4) expenses incurred in bringing vessels into compliance with applicable environmental laws prior to disposal by sinking, and

"(5) sharing with State and local law enforcement agencies that cooperate with the United States Coast Guard in joint drug enforcement operations.

"(c) Deposits.—There shall be deposited into the Fund all proceeds from forfeiture under any law enforced or administered by the United States Customs Service or the United States Coast Guard and all income from investments made under subsection (d).

"(d) Investment.—Amounts in the Fund which are not currently needed for the purposes of this section shall be invested in obligations of, or guaranteed by, the United States.

"(e) Annual Reports; Audits.—

"(1) The Commissioner of Customs shall transmit to the Congress, by no later than February 1 of each fiscal year the following detailed reports:

"(A) a report on—

"(i) the estimated total value of property forfeited under any law enforced or administered by the United States Customs Service with respect to which funds were not deposited in the Fund during the previous fiscal year, and

"(ii) the estimated total value of all such property transferred to any State or local law enforcement agency; and

"(B) a report on—

"(i) the balance of the Fund at the beginning of the preceding fiscal year;

"(ii) sources of receipts (seized cash, conveyances, and others) of the Fund during the previous fiscal year;

"(iii) liens and mortgages paid and amount of money shared with State and local law enforcement agencies during the previous fiscal year;

"(iv) the net amount realized from the operations of the Fund during the previous fiscal year, the amount of seized cash being held as evidence, and the amount of money that has been carried over to the current fiscal year;

"(v) any defendant's equity in property valued at $1,000,000 or more; and

"(vi) the balance of the Fund at the end of the previous fiscal year.

"(2) The Fund shall be subject to annual financial audits that are conducted in a manner consistent with generally accepted Government auditing standards.

"(f) Authorization of Appropriations.—

"(1) There are hereby appropriated from the Fund such sums as may be necessary to carry out the purposes set forth in subsection (a)(1).

"(2) There are authorized to be appropriated from the Fund for each fiscal year such sums as are necessary to carry out the purposes set forth in subsection (a)(3) for such fiscal year.

"(3) There are authorized to be appropriated from the Fund for each fiscal year such sums as are necessary to carry out the purposes set forth in subsection (b) for such fiscal year.

"(4) At the end of each fiscal year, any unobligated amount in excess of $15,000,000 remaining in the Fund shall be deposited into the general fund of the Treasury of the United States.".

CHAPTER 4—MISCELLANEOUS FORFEITURE PROVISIONS

SEC. 2945. TRANSFER BY THE ATTORNEY GENERAL OF FOREIGN PROPERTY.

Section 511(e)(1) of the Controlled Substance Act (21 U.S.C. 881(e)) is amended by—

(1) striking "or" after the semicolon in subparagraph (C);

(2) striking the period at the end of subparagraph (D) and inserting "; or"; and

(3) adding at the end thereof the following:

"(E) transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer—

"(i) has been agreed to by the Secretary of State;

"(ii) is authorized in an international agreement between the United States and the foreign country or where there is an international agreement between the United States and the foreign country which includes an obligation to provide mutual assistance in forfeiture procedures; and

"(iii) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961.".

SEC. 2946. INNOCENT OWNER PROVISIONS.

(a) In General.—Not later than 90 days after the date of enactment of this Act, the Attorney General and the Secretary of the Treasury shall consult and prescribe regulations for expedited administrative procedures for seizures under section 511(a) (4), (6), and (7) of the Controlled Substances Act (21 U.S.C. 881(a) (4), (6), and (7)), section 595 of the Tariff Act of 1930 (19 U.S.C. 1595a(a)), and section 2 of the Act of August 9, 1939 (53 Stat. 1291; 49 U.S.C. app. 782) for violations involving the possession of personal use quantities of a controlled substance.

(b) Specifications.—The regulations prescribed pursuant to subsection (a) shall minimize the adverse impact caused by prolonged detention and provide for a final administrative determination of the case within 21 days of seizure or provide a procedure by which the defendant can obtain release of the property pending a final determination of the case. Such regulations shall provide that the appropriate agency official rendering such determination shall immediately return the property if the following conditions are established:

(1) the owner or interested party did not know of or consent to the violation; and

(2) reasonable steps were taken by the owner or interested party to prevent the illegal use of the property.

SEC. 2947. WARRANTS.

Section 603 of the Tariff Act of 1930 (19 U.S.C. 1603) is amended by striking out "Whenever a seizure of merchandise" and inserting in lieu thereof the following:

"(a) Any property subject to forfeiture to the United States under this subtitle and which is not subject to search and seizure in accordance with the provisions of section 1595 of this chapter, may be seized by the appropriate officer or person upon process issued in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure. This authority is in addition to any seizure authority otherwise authorized by law.

"(b) Whenever a seizure of merchandise".

SEC. 2948. POSTAL SERVICE ASSISTANCE.

(a) Duties of Customs Officers.—Subsection (d) of section 511 of the Controlled Substances Act (21 U.S.C. 881(d)) is amended by striking "except that such duties as are imposed upon the customs officer" and all that follows and inserting "such duties imposed on the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws may be performed with respect to seizures and forfeitures of property under this subchapter by such officers, agents, or employees of any agency or department of the United States as may be designated for that purpose by the Attorney General, except to the extent that such duties arise from seizures and forfeitures effected by any customs officer.".

(b) Powers of Postal Personnel.—Section 3061 of title 18, is amended to read as follows:

"§ 3061. Powers of postal personnel

"(a) Subject to subsection (b) of this section, Postal Inspectors or other agents, authorized by the Board of Governors to investigate criminal matters related to the Postal Service and the mails, may—

"(1) serve warrants and subpoenas issued under the authority of the United States;

"(2) make arrests without warrant for offenses against the United States committed in their presence;

"(3) make arrests without warrant for felonies cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such a felony;

"(4) carry firearms; and

"(5) make seizures of property authorized pursuant to law.

"(b) The powers granted by subsection (a) of this section shall be exercised only in the enforcement of laws regarding property of the United States in the custody of the Postal Service, including property of the Postal Service, the use of the mails, other postal offenses; and in the enforcement of those offenses contained in the Controlled Substances laws of the United States which effect the operation of the Postal Service, as determined by and pursuant to limitations contained in an agreement which may be entered into by the Attorney General and the Postmaster General.".

SEC. 2949. TRANSFER BY THE SECRETARY OF THE TREASURY OF FOREIGN PROPERTY.

Subsection (c) of section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a(c)), as amended by section 1936 of this Act, is further amended—

(1) by striking out "The Secretary of the Treasury" and inserting in lieu thereof "(1) The Secretary", and

(2) by adding at the end thereof the following:

"(2) The Secretary may transfer any forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer—

"(A) has been agreed to by the Secretary of State;

"(B) is authorized in an international agreement between the United States and the foreign country or where there is an international agreement between the United States and the foreign country which includes an obligation to provide mutual assistance in forfeiture procedures; and

"(C) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961.".

CHAPTER 5—ADMINISTRATIVE FORFEITURE

SEC. 2951. ADMINISTRATIVE PROVISION.

Subsection (a)(1) of section 607 of the Tariff Act of 1930 (19 U.S.C. 1607(a)(1)) is amended by striking "$100,000" and inserting in lieu thereof "$500,000".

Subtitle R—United States Magistrates and Court Reforms

SEC. 2956. FELONY PLEAS.

Section 636 of title 28, United States Code, is amended by inserting at the end thereof the following new subsection:

"(i) Under such regulations as the Judicial Conference shall provide and upon designation by the district court, magistrates may accept a plea of guilty for any offense against the United States.".

SEC. 2957. SENTENCING JURISDICTION.

Section 636(a) of title 28, United States Code, is amended by—

(1) striking the period at the end of paragraph (3) and inserting ", and"; and

(2) inserting at the end thereof the following paragraph:

"(4) the power to enter a sentence for a misdemeanor or infraction with the consent of the parties.".

SEC. 2958. DRUG DAYS.

Section 332(d)(1) of title 28, United States Code, is amended by striking the period at the end thereof and inserting the following: "including orders designating certain days in which the courts within the circuit shall only conduct proceedings relating to drug offenses.".

Subtitle S—Military Institutions

SEC. 2961. ADMINISTRATION OF CONFINEMENT FACILITIES LOCATED ON MILITARY INSTALLATIONS BY THE BUREAU OF PRISONS.

In conjunction with the Department of Defense and the Commission on Alternative Utilization of Military Facilities as established in the National Defense Authorization Act of Fiscal Year 1989, the Bureau of Prisons shall be responsible for—

(1) administering the confinement facilities located on military installations in cooperation with the Secretary of Defense;

(2) establishing and regulating drug treatment programs for inmates held in such facilities in coordination and cooperation with the National Institute on Drug Abuse; and

(3) establishing and managing work programs for persons held in such facilities in cooperation with the installation commander.

Subtitle T—Customs Enforcement Amendments

SEC. 2965. AMENDMENTS TO THE TARIFF ACT OF 1930.

(a) Reporting Requirements.—Section 433 of the Tariff Act of 1930 (19 U.S.C. 1433) is amended by—

(1) striking out the section heading and inserting in lieu thereof:

"SEC. 433. VESSELS, VEHICLES, AND AIRCRAFT REPORTING REQUIREMENTS.";

(2) striking out "Arrival" in the heading of subsection (c) and inserting in lieu thereof "Reporting Requirements";

(3) striking out "The pilot" in subsection (c) and inserting in lieu thereof "(1) The pilot"; and

(4) adding at the end of subsection (c) the following:

"(2) The pilot of any aircraft shall, prior to departing the United States, comply with such advance notification and reporting requirements as the Secretary may by regulation prescribe.".

(b) Penalties.—Section 436 of the Tariff Act of 1930 (19 U.S.C. 1436) is amended by—

(1) inserting "(other than a violation of section 433(c)(2))" after "listed in subsection (a)" in subsection (b); and

(2) adding at the end thereof the following new subsection:

"(e) Any aircraft pilot who commits any violation of section 433(c)(2) of this Act, or any regulations promulgated thereunder, is liable for a civil penalty of $25,000 for the first violation, and $100,000 for each subsequent violation, and any conveyance used in connection with any such violation is subject to seizure and forfeiture.".

(c) Penalty for Failure to Declare.—Section 497(a)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1497), is amended by striking out "200 percent " and inserting in lieu thereof "1,000 percent".

(d) Effect of a Declaration of Forfeiture.—Section 609 of the Tariff Act of 1930 (19 U.S.C. 1609) is amended to read as follows:

"SEC. 609. SEIZURE; SUMMARY OF FORFEITURE AND SALE.

"(a) In General.—If no such claim is filed or bond given within the twenty days hereinbefore specified, the appropriate customs officer shall declare the vessel, vehicle, aircraft, merchandise, or baggage forfeited, and shall sell the same at public auction in the same manner as merchandise abandoned to the United States is sold or otherwise disposed of the same according to law, and shall deposit the proceeds of sale, after deducting the expenses described in section 613, into the Customs Forfeiture Fund.

"(b) Effect.—A declaration of forfeiture under this section shall have the same force and effect as a final decree and order of forfeiture in a judicial forfeiture proceeding in a district court of the United States. Title shall be deemed to vest in the United States free and clear of any liens or encumbrances (except for first preferred ship mortgages pursuant to subsection (o) of section 30 of the Ship Mortgage Act, 1920 (46 Appendix U.S.C. 961)) from the date of the act for which the forfeiture was incurred. Officials of the various States, insular possessions, territories, and commonwealths of the United States shall, upon application of the appropriate customs officer accompanied by a certified copy of the declaration of forfeiture, remove any recorded liens or encumbrances which apply to such property and issue or reissue the necessary certificates of title, registration certificates, or similar documents to the United States or to any transferee of the United States.".

(e) Fines in Certain Cases.—Part V of title IV of the Tariff Act of 1930 is amended by adding at the end thereof the following new section:

"SEC. 630. FINES IN CERTAIN CASES.

"(a) In General.—Any person who is convicted of a criminal offense under any law administered or enforced by the United States Customs Service involving subchapter II of chapter 53 of title 31, United States Code, sections 1956 and 1957 of title 18, United States Code, or the Controlled Substances Act (21 U.S.C. 801 et seq.), shall, in addition to any other criminal penalties provided for such offense, be fined the reasonable costs of the investigation and prosecution of the offense, including the costs of prosecution of an offense as defined in sections 1918 and 1920 of title 28, United States Code.

"(b) Exception.—This section shall not apply, and a fine under this section shall not be imposed, if the court determines under the provision of title 18, United States Code, that the defendant lacks the ability to pay a fine.".

(g) Oaths and Subpoenas.—Part V of title IV of the Tariff Act of 1930, as amended by the preceding subsection, is further amended by adding at the end thereof the following new section:

"SEC. 631. OATHS AND SUBPOENAS.

"(a) In General.—For the purpose of any investigation which, in the opinion of the Secretary of the Treasury, is necessary and proper to the enforcement of any law that prohibits the importation or exportation of any merchandise, the Secretary of the Treasury may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of records (including books, papers, documents, and tangible property which constitute or contain evidence) relevant or material to the investigation. The attendance of witnesses and the production of records may be required from any place within the customs territory of the United States, except that a witness shall not be required to appear at any hearing that is held at a place that is more than 100 miles from the place where the witness was served with the subpoena. Witnesses summoned by the Secretary shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. Oaths and affirmations may be made at any place that is subject to the jurisdiction of the United States.

"(b) Service of Subpoenas.—A subpoena issued by the Secretary of the Treasury may be served by any person designated in the subpoena to serve it. Service upon an individual may be made by personal delivery of the subpoena to such individual. Service may be made upon a domestic or foreign corporation, or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpoena to an officer, a managing or general agent, or to any other agent of the corporation, partnership, or association who is authorized by appointment, or by law, to receive service of process. The affidavit of the person serving the subpoena entered on a copy of the subpoena by the person serving it shall be proof of service.

"(c) Orders To Compel Compliance.—In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary of the Treasury may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on, or of which the subpoenaed person is an inhabitant, carries on business, or may be found, to compel compliance with the subpoena issued by the Secretary of the Treasury. The court may issue an order requiring the subpoenaed person to appear before the Secretary of the Treasury to produce records, if so ordered, or to give testimony touching the matter under investigation, and pay the costs of the proceeding. Any failure to obey the order of the court may be punished by the court as a contempt of court. All process in any such case may be served in the judicial district in which the subpoenaed person is an inhabitant or wherever he may be found.".

(h) Technical Corrections.—

(1) Section 431(c)(1)(G) of the Tariff Act of 1930 (19 U.S.C. 1431(c)(1)(G)) is amended by striking out "or" and inserting in lieu thereof "of".

(2) Section 608 of the Tariff Act of 1930 (19 U.S.C. 1608) is amended to read as follows:

"SEC. 608. SEIZURE; CLAIMS; JUDICIAL CONDEMNATION.

"Any person claiming such vessel, vehicle, aircraft, merchandise, or baggage may at any time within twenty days from the date of the first publication of the notice of seizure file with the appropriate customs officer a claim stating his interest therein. Upon the filing of such claim, and the giving of a bond to the United States in the penal sum of $5,000 or 10 percent of the value of the claimed property, whichever is lower, but not less than $250, with sureties to be approved by such customs officer, conditioned that in case of condemnation of the articles so claimed the obligor shall pay all the costs and expenses of the proceedings to obtain such condemnation, such customs officer shall transmit such claim and bond, with a duplicate list and description of the articles seized, to the United States attorney for the district in which seizure was made, who shall proceed to a condemnation of the merchandise or other property in the manner prescribed by law.".

(3) Section 610 of the Tariff Act of 1930 (19 U.S.C. 1610) is amended to read as follows:

"SEC. 610. SEIZURE; JUDICIAL FORFEITURE PROCEEDINGS.

"If any vessel, vehicle, aircraft, merchandise, or baggage is not subject to section 607, the appropriate customs officer shall transmit a report of the case, with the names of available witnesses, to the United States attorney for the district in which the seizure was made for the institution of the proper proceedings for the condemnation of such property.".

(4) Section 612 of the Tariff Act of 1930 (19 U.S.C. 1612) is amended to read as follows:

"SEC. 612. SEIZURE; SUMMARY SALE.

"(a) Whenever it appears to the appropriate customs officer that any vessel, vehicle, aircraft, merchandise, or baggage seized under the customs laws is liable to perish or to waste or to be greatly reduced in value by keeping, or that the expense of keeping the same is disproportionate to the value thereof, and such vessel, vehicle, aircraft, merchandise, or baggage is subject to section 607, and such vessel, vehicle, aircraft, merchandise, or baggage has not been delivered under bond, such officer shall proceed forthwith to advertise and sell the same at auction under regulations to be prescribed by the Secretary of the Treasury. If such vessel, vehicle, aircraft, merchandise, or baggage is not subject to section 607, such officer shall forthwith transmit the appraiser's return and his report of the seizure to the United States attorney, who shall petition the court to order an immediate sale of such vessel, vehicle, aircraft, merchandise, or baggage, and if the ends of justice require it the court shall order such immediate sale, the proceeds thereof to be deposited with the court to await the final determination of the condemnation proceedings. Whether such sale be made by the customs officer or by order of the court, the proceeds thereof shall be held subject to claims of parties in interest to the same extent as the vessel, vehicle, aircraft, merchandise, or baggage so sold would have been subject to such claim.

"(b) If the expense of keeping the vessel, vehicle, aircraft, merchandise, or baggage is disproportionate to the value thereof, and such value is less than $1,000, such officer may proceed forthwith to order destruction or other appropriate disposition of such property, under regulations prescribed by the Secretary of the Treasury.".

(5) Section 589 of the Tariff Act of 1930 (19 U.S.C. 1589), as added by section 320 of title II of Public Law 98-473 (98 Stat. 2056), is hereby repealed.

(6) Section 627 of the Tariff Act of 1930 (19 U.S.C. 1627), as added by section 302 of the Motor Vehicle Theft Law Enforcement Act of 1984 (98 Stat. 2771), is hereby repealed.

SEC. 2966. AMENDMENT TO THE FEDERAL AVIATION ACT OF 1958.

Subsection (f) of section 1109 of the Federal Aviation Act of 1958 (49 Appendix U.S.C. 1509(f)) is amended by adding the following sentence to the end thereof:

"Any person who violates this subsection or any regulation promulgated thereunder shall be subject to a civil penalty of $10,000, and any aircraft for which a report required under this subsection or any regulation promulgated thereunder is not filed, or is filed with material false statements or omissions, shall be subject to seizure and forfeiture as provided for in Customs laws.".

Subtitle U—Authorization of Additional Appropriations for Drug Enforcement and Interdiction

Chapter 1—Authorization of Additional Appropriations for Drug Enforcement Personnel, Fiscal Year 1989

SEC. 2971. IMMIGRATION AND NATURALIZATION SERVICE PERSONNEL ENHANCEMENT.

(a) SALARIES AND EXPENSES.—There is authorized to be appropriated for salaries and expenses for the Immigration and Naturalization Service for fiscal year 1989, $12,300,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That of such additional appropriations authorized in this section, $4,100,000 shall be used to increase the number of inspectors of the Immigration and Naturalization Service by no fewer than 70 over such personnel levels on board at the Service as of September 30, 1988, and for related equipment.

(b) ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE PILOT PROJECT AND REPORT.—(1) There are authorized to be appropriated out of amounts authorized to be appropriated to the Immigration and Naturalization Service in the Department of Justice under this section for fiscal year 1989, $8,200,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided,* That such additional appropriation shall be used to increase the commitment of Immigration and Naturalization Service personnel to the Organized Crime Drug Enforcement Task Forces (OCDETF) for additional special agent and support positions; and for associated training and equipment; and for costs incurred during INS agent participation in OCDETF operations with other Federal, State, and local law enforcement agencies.

(2) The positions described in paragraph (1) shall, under the supervision of a director for the pilot project, be used exclusively to assist Federal and local law enforcement agencies in combatting illegal alien involvement in drug trafficking and crimes of violence.

(3) The Director of the pilot project shall report to the Assistant Commissioner—Investigations and will have the authority to—

(A) hire a limited number of non-Federal law enforcement officers with substantive experience in narcotics investigations should insufficient senior Federal agents be available. Non-Federal law enforcement officers hired under this provision may be over the age of 35, but in that event would only be eligible for nonlaw enforcement retirement benefits;

(B) grant extensions of stay and other discretionary immigration benefits and waivers to witnesses, informants, and others whose presence in the United States is essential to the investigation and prosecution of criminal aliens involved in drug trafficking and crimes of violence.

(4) After the first year of the establishment of this pilot project the Attorney General will provide for an evaluation of its effectiveness, including an assessment by Federal, State, and local prosecutors and enforcement agencies.

(c) LOCAL OFFICE CAPABILITIES IMPROVEMENT PILOT PROJECT.—From the sums appropriated to carry out this section, the Attorney General, through the Investigative Division of the Immigration and Naturalization Service, shall provide a pilot program in 4 cities to establish or improve the capabilities of the local offices of the Service and of local law enforcement agencies to respond to inquiries concerning aliens who have been arrested or convicted for, or are the subject criminal investigation relating to, a violation of any law relating to controlled substances. The Attorney General shall select cities in a manner that provides special consideration for cities located near the land borders of the United States and for large cities which have major concentrations of aliens. Some of the sums made available under the pilot program shall be used to increase the personnel level of the Investigative Division.

SEC. 2972. BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS ARMED CAREER CRIMINAL APPREHENSION PROGRAM PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the Bureau of Alcohol, Tobacco, and Firearms for fiscal year 1989, $10,660,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriations shall be used to increase the number of Armed Career Criminal Apprehension enforcement personnel at the Bureau by no fewer than 244 full-time equivalent positions over such personnel levels onboard at the Bureau as of September 30, 1988, and for related equipment: *Provided further,* That of the amount authorized to be appropriated by this section, $615,000 shall be available for—

(1) the equipping of any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency if the conveyance will be used in drug-related joint law enforcement operations with the Bureau of Alcohol, Tobacco, and Firearms; and

(2) the payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint operations with the Bureau of Alcohol, Tobacco, and Firearms.

SEC. 2973. DRUG ENFORCEMENT ADMINISTRATION PERSONNEL ENHANCEMENT.

(a) IN GENERAL.—There is authorized to be appropriated for salaries and expenses of the Drug Enforcement Administration for fiscal year 1989, $49,200,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That $44,280,000 of the additional appropriation authorized in this section shall be used to increase Drug Enforcement Administration enforcement personnel by no fewer than 609 full-time equivalent positions over personnel levels onboard at the Drug Enforcement Administration as of September 30, 1988, and for related equipment and drug enforcement operations, including agents and other personnel engaged in criminal intelligence activities, asset forfeiture, and related support activities: *Provided further,* That $4,920,000 of such additional appropriation authorized in this section shall be used to increase Drug Enforcement Administration operations against criminals involved in youth gang-related organized crime.

(b) DEA DRUG EDUCATION PROGRAM.—There is authorized to be appropriated, out of any funds made available by this or any other Act for the Drug Enforcement Administration, for the fiscal year ending September 30, 1989, such sums as may be necessary to establish and maintain a Drug Enforcement Administration Drug Education Program.

(c) COMPENSATION OF DEPUTY DIRECTOR.—The Deputy Administrator of the Drug Enforcement Administration shall receive compensation at the rate now or hereafter prescribed by law for positions of Level IV of the Executive Schedule Pay Rate (5 U.S.C. 5315).

SEC. 2974. FEDERAL BUREAU OF INVESTIGATION DRUG ENFORCEMENT PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the Federal Bureau of Investigation for fiscal year 1989, $24,600,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used to increase the number of drug enforcement agents, including related support staff, at the Bureau by no fewer than 522 full-time equivalent positions over such personnel levels onboard at the Bureau as of September 30, 1988, and for related equipment and drug enforcement operations including asset forfeiture.

SEC. 2975. UNITED STATES MARSHALS SERVICE DRUG ENFORCEMENT PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the U.S. Marshals Service for the fiscal year 1989, $16,400,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used as follows:

(1) $4,920,000 for 100 full-time equivalent positions for asset seizure and forfeiture activities;

(2) $5,740,000 for 82 full-time equivalent positions for criminal justice support activities, including prisoner production and transportation;

(3) $3,280,000 for 45 full-time equivalent positions for protection of the Federal judiciary and court facilities resulting from increased drug-related trials; and

(4) $2,460,000 for 26 full-time equivalent positions for increased workloads of the Marshals Service Witness Security Program.

SEC. 2976. SUPPORT OF UNITED STATES PRISONERS.

There is authorized to be appropriated for fiscal year 1989, for support of United States prisoners in non-Federal institutions, $16,400,000 to remain available until expended, of which not to exceed $4,100,000 shall be available under the Cooperative Agreement Program for the purpose of renovating, constructing, and equipping State and local correctional facilities: *Provided,* That the appropriation authorized under this section shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That amounts made available for constructing any local correctional facility shall not exceed the cost of constructing space for the average Federal prisoner population to be housed in the facility, or in other facilities in the same correctional system, as projected by the Attorney General: *Provided further,* That following agreement on or completion of any federally assisted correctional facility construction, the availability of the space required for Federal prisoners with authorized Federal funds shall be assured and the per diem rate charged for housing Federal prisoners in the assured space shall not exceed operating costs for the period of time specified in the cooperative agreement.

SEC. 2977. FEDERAL PRISON SYSTEM.

There is authorized to be appropriated in fiscal year 1989 to the buildings and facilities account, Federal Prison System, Department of Justice, $205,000,000 for planning; acquisition of sites, construction of new facilities; purchase and acquisition of existing facilities and remodeling and equipping of such facilities for penal and correctional use, to alleviate overcrowding in existing prisons and to meet the increased demand for prison space resulting from drug-related offenses: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989.

SEC. 2978. UNITED STATES ATTORNEYS DRUG ENFORCEMENT PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the United States Attorneys, Department of Justice for fiscal year 1989, $36,080,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used to increase the number of United States Attorneys, including related support staff by no fewer than 757 full-time equivalent positions over such personnel levels onboard at the Department of Justice as of September 30, 1988.

SEC. 2979. FEDERAL JUDICIARY.

(a) In General.—There is authorized to be appropriated to the Federal courts for salaries and expenses of the Courts of Appeals, District Courts, and other Judicial Services, $43,132,000 to remain available until expended: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That the additional funds authorized to be appropriated under this section, shall be made available for the following:

(1) $30,340,000 for probation and pretrial services, including pretrial social services;

(2) $1,640,000 for additional deputy clerks;

(3) $656,000 for additional law clerks and clerical support staff;

(4) $4,100,000 for additional renovation of court facilities;

(5) $4,756,000 for additional United States magistrates; and

(6) $1,640,000 for the Drug Dependent Offenders program.

(b) Judicial Conference.—(1) The Judicial Conference of the United States shall prepare a report evaluating the impact of drug-related criminal activity on the Federal Judiciary. The Judicial Conference shall make its recommendations on the basis of the drug-related resource needs of the district courts. The report shall further contain a complete explanation of the specific criteria used in making its recommendations, including the officials and sources consulted on the impact of drug-related cases in specific judicial district courts. The report shall further contain a complete explanation of the specific criteria used in making its recommendations, including the officials and sources consulted on the impact of drug-related cases in specific judicial districts.

(2) The report required by paragraph (1) shall be transmitted to the United States House of Representatives and the Committee on the Judiciary of the United States Senate not later than 120 days after the date of enactment of this section.

(c) Federal Public Defender and Community Defender.—There is authorized to be appropriated for the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act, the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, $28,700,000 to remain available until expended: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989.

(d) Jurors Fees and Expenses.—There is authorized to be appropriated to the Federal courts for fees and expenses of jurors and compensation of jury commissioners, $2,378,000 to remain available until expended: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989.

(e) Security Equipment.—There is authorized to be appropriated to the Federal courts for necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities, $4,920,000 to remain available until expended: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989.

CHAPTER 2—DRUG INTERDICTION ASSET AND PERSONNEL ENHANCEMENT

SEC. 2981. SHORT TITLE.

This chapter may be cited as the "National Drug Interdiction Asset and Personnel Enhancement Act of 1988".

Subchapter A—Coast Guard

SEC. 2982. COAST GUARD DRUG INTERDICTION ASSET ENHANCEMENT.

There is authorized to be appropriated for Acquisition, Construction, and Improvement expenses of the Coast Guard for fiscal year 1989, $68,060,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such appropriation authorized under this section shall be allocated only for procurement of marine and air drug interdiction assets, and operation and maintenance expenses of the Coast Guard.

SEC. 2983. COAST GUARD DRUG INTERDICTION PERSONNEL ENHANCEMENT.

(a) Authorization of Appropriations.—There is authorized to be appropriated for Operating Expenses of the Coast Guard for fiscal year 1989, $16,400,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriations shall be used to increase Coast Guard drug enforcement personnel by no less than 435 full-time equivalent positions over personnel levels onboard in the Coast Guard as of September 30, 1988.

(b) Limitation.—Nothing in this section shall require the Coast Guard to recruit, compensate, train, purchase, or deploy any personnel or equipment except to the extent that—

(1) additional appropriations are made available in appropriations Acts for that purpose; or

(2) funds are transferred to the Secretary of Transportation for that purpose pursuant to this Act.

Subchapter B—United States Customs Service

SEC. 2984. UNITED STATES CUSTOMS SERVICE DRUG INTERDICTION ASSET ENHANCEMENT.

There is authorized to be appropriated for Operation and Maintenance, Air Interdiction Program for fiscal year 1989, $57,400,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be available for the procurement of helicopters; tracking, and interceptor aircraft; and operation and maintenance expenses for these and other assets of the United States Customs Service's air interdiction program.

SEC. 2985. UNITED STATES CUSTOMS SERVICE DRUG INTERDICTION PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the United States Customs Service for fiscal year 1989, $30,340,000: *Provided,* That such appropriation shall be in addition to any appropriation appropriated in any regular appropriations Act or continuing resolution for the fiscal year ending on September 30, 1989:

Provided further, That of such additional appropriation, $26,240,000 shall be used to increase the number of Customs inspectors for contraband enforcement teams and other drug cargo interdiction personnel at the Customs Service by no fewer than 435 full-time equivalent positions over the level of such personnel onboard at the Customs Service as of September 30, 1988, and for related equipment.

Subchapter C—Drug Enforcement Administration

SEC. 2986. DRUG ENFORCEMENT ADMINISTRATION INTERDICTION ASSET ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the Drug Enforcement Administration for fiscal year 1989, $3,280,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used for additional analysts and equipment for the enhancement of the El Paso Intelligence Center (EPIC) to provide more tactical intelligence to the Drug Enforcement Administration and all other United States drug enforcement and interdiction agencies.

Subchapter D—Immigration and Naturalization Service/Border Patrol

SEC. 2987. BORDER PATROL DRUG INTERDICTION ASSET ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the Border Patrol within the Department of Justice for fiscal year 1989, $16,400,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used only for the procurement of drug interdiction-related equipment for Border Patrol drug enforcement personnel, including spare parts for helicopters; 4-wheel drive law enforcement vehicles; and initial procurement of mobile sensor response system and electronic intrusion detection, and for related operation and maintenance expenses.

SEC. 2988. IMMIGRATION AND NATURALIZATION SERVICE/BORDER PATROL DRUG INTERDICTION PERSONNEL ENHANCEMENT.

(a) SALARIES AND EXPENSES.—There is authorized to be appropriated for salaries and expenses of the Border Patrol within the Department of Justice for fiscal year 1989, $16,400,000: *Provided,* That such appropriation shall be in addition to any appropriations appropriated in any regular appropriations Acts or continuing resolutions for the fiscal year ending on September 30, 1989: *Provided further,* That such additional appropriation shall be used to increase drug interdiction officers of the Border Patrol by no fewer than 435 full-time equivalent positions over the level of such personnel onboard at the Border Patrol as of Septembers 30, 1988, and for related equipment.

(b) SAN CLEMENTE BORDER PATROL STATION.—There is authorized to be appropriated, out of any funds made available by section 2987, for the fiscal year ending September 30, 1989, $2,706,000 for the design of improvements for the Immigration and Naturalization Service border patrol station at San Clemente, California.

(c) DRUG EDUCATION OFFICERS PROGRAM.—There is authorized to be appropriated, out of any funds made available by sections 4401 and 4402 of this Act, for the fiscal year ending September 30, 1989, such sums as may be necessary to establish and maintain an Immigration and Naturalization Service Drug Education Officers program, featuring the demonstration of drug detection canine unit capabilities along the southwest border region of the United States.

Subchapter E—Research and Development Programs to Assist Federal Enforcement Agencies

SEC. 2989. USE OF EXISTING FEDERAL RESEARCH AND DEVELOPMENT FACILITIES FOR CIVILIAN LAW ENFORCEMENT.

(a) COMPREHENSIVE PLAN.—The President of the United States shall direct the Office of National Drug Control Policy, established in title I of this Act, to develop a comprehensive plan for utilizing no fewer than eight existing facilities of the Department of Defense, the Department of Justice, the Department of Energy, National Security Agency, and the Central Intelligence Agency, to develop technologies for application to Federal law enforcement agency missions, and to provide research, development, technology, and evaluation support to the law enforcement agencies of the Federal Government. Such plan shall be prepared and submitted to the Congress by no later than 90 days from the date of enactment of this Act.

(b) EXISTING FACILITIES TO BE EXAMINED.—The following existing United States Government facilities shall be examined in developing the comprehensive plan mandated in subsection (a):

(1) For night vision research and development—Department of Defense, Army Materiel Command, Night Vision Laboratory at Fort Belvoir, Virginia;

(2) For ground sensor research and development—Department of Defense, Army Materiel Command, Communications Electronic Command, Fort Monmouth, New Jersey;

(3) For physical/electronic security research and development—Department of Defense, Air Force Systems Command, Electronic Systems Division, Hanscom Field, Massachusetts;

(4) For imaging/electronic surveillance research and development—Central Intelligence Agency and National Security Agency, Washington, DC;

(5) For chemical/biosensor research and development—Department of Defense, Army Materiel Command, Chemical Research Development and Engineering Center, Aberdeen, Maryland;

(6) For chemical/molecular detector research and development—Department of Energy, Sandia National Laboratories, Albuquerque, New Mexico;

(7) For physical/electronic surveillance an tracking, research and development—Department of Justice, Federal Bureau of Investigation and Drug Enforcement Administration, Washington, DC; and

(8) For explosives ordnance detection research and development—Department of Defense, Naval Ordinance Station, Indian Head, Maryland.

(c) PARTICIPATION.—In developing the plan mandated in subsection (a), the Director of National Drug Control Policy shall ensure that representatives of the Federal law enforcement agencies are provided an opportunity to participate in the formulation of the comprehensive plan and that their views and recommendations are integrated into the planning process.

(d) COMPTROLLER GENERAL OVERSIGHT.—The Comptroller General of the United States shall monitor the development of the plan mandated in subsection (a) and report periodically to the appropriate Committees of the Congress on the progress of the development of this research and development program.

SEC. 2990. CARGO CONTAINER DRUG DETECTION RESEARCH AND DEVELOPMENT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the United States Customs Service for fiscal year 1989, $4,100,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used only for accelerating the development and availability of X-ray detection, nitrate detection, or other technologies to be utilized for the detection of illegal narcotics in cargo containers entering the United States at seaports, airports, and land borders.

(b) COORDINATION.—The Commissioner of Customs shall coordinate and share the findings of the research and development authorized in subsection (a) with other Federal departments and agencies with possible mission requirements for such technology, including the Federal Aviation Administration and United States Coast Guard in the Department of Transportation; the Drug Enforcement Administration in the Department of Justice; and the appropriate State, and local law enforcement agencies, including airport authorities, port authorities, and other interested parties.

(c) REPORT.—The Commissioner of Customs shall report his findings in either classified, or unclassified form, to the appropriate Committees of Congress in conjunction with the President's submission of his fiscal year 1990 Budget of the United States.

Subchapter F—Drug Enforcement Training Improvement

SEC. 2991. FEDERAL LAW ENFORCEMENT TRAINING CENTER IMPROVEMENT.

(a) AUTHORIZATION OF APPROPRIATIONS FOR THE FEDERAL LAW ENFORCEMENT TRAINING CENTER.—(1) There is authorized to be appropriated for salaries and expenses of the Federal Law Enforcement Training Center for fiscal year 1989, $5,740,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That $4,100,000 of such additional appropriation shall be used by the Federal Law Enforcement Training Center only to accommodate the advanced in-Service training requirements of the Drug Enforcement Administration that cannot otherwise be met at the Department of Justice training facilities: *Provided further,* That $1,640,000 of such additional appropriation shall be used by the Center to increase the level of drug enforcement training, including basic and advanced training, for Federal, State, and local law enforcement officers: *Provided further,* That the Center shall hire 44 additional direct full-time equivalent positions and maintain an average of not less than 469 direct full-time equivalent positions by the end of fiscal year 1990: *Provided further,* That, on a space available, cost reimbursable basis, the Center shall, to the extent practical, increase the level of training for drug enforcement officers from foreign countries that are cooperating with the law enforcement agencies of the United States Government.

(2) There are authorized to be appropriated for salaries and expenses of the Federal Law Enforcement Training Center, $45,000,000 for the fiscal year ending Sep-

tember 30, 1990, and $50,000,000 for the fiscal year ending September 30, 1991: *Provided,* That in each fiscal year addressed in this paragraph, support for the State and local law enforcement training program and the training programs for drug enforcement officers from foreign countries shall be maintained at no less than the level of support in the fiscal year ending September 30, 1989.

(b) Expanded Training.—The Secretary of the Treasury is directed to expand the advanced training programs for Federal law enforcement agencies at the Marana, Arizona, satellite facility of the Federal Law Enforcement Training Center, within the total amount of appropriations authorized for fiscal years 1989, 1990, and 1991.

(c) Report.—The Secretary of the Treasury is directed to report in writing to the appropriate committees of the Congress by no later than 90 days from the date of enactment of this Act with his preliminary plans for the increased training activities at the Federal Law Enforcement Training Center facilities to be funded with the additional appropriations authorized in subsection (a)(1) of this section, and the authorized level of appropriations contained in subsection (a)(2).

SEC. 2992. FEDERAL LAW ENFORCEMENT LANGUAGE TRAINING IMPROVEMENT.

(a) Department of Defense.—The Department of Defense is authorized to provide, on a cost reimbursable basis, foreign language training at the Defense Language Institute to special agents of Federal civilian agencies involved in drug law enforcement.

(b) Department of State.—The Department of State is authorized to provide, on a cost reimbursable basis, foreign language training at the Foreign Service Institute to special agents of Federal civilian agencies involved in drug law enforcement.

(c) Drug Enforcement Administration.—The Drug Enforcement Administration is authorized to—

(1) detail special agent personnel for foreign language training to the Defense Language Institute or the Foreign Service Institute; and

(2) reimburse, from appropriated funds, the Departments of Defense and State for the cost of training provided.

(d) Customs Service.—The Customs Service is authorized to—

(1) detail special agent personnel for foreign language training to the Defense Language Institute or the Foreign Service Institute, or both; and

(2) reimburse, from appropriated funds, the Departments of Defense and State for the cost of training provided.

(e) INS.—The Immigration and Naturalization Service is authorized to—

(1) detail investigative personnel for foreign language training to the Defense Language Institute or the Foreign Service Institute; and

(2) reimburse, from appropriated funds, the Departments of Defense and State for the cost of training provided.

(f) Authorization of Appropriations.—The following amounts are authorized to be appropriated to implement the provisions of this section:

(1) to the Commissioner of Customs, only for obligation for special agent foreign language training, $273,000;

(2) to the Administrator of the Drug Enforcement Administration, only for obligation for special agent foreign language training, $273,000; and

(3) to the Commissioner of the Immigration and Naturalization Service, only for obligation for special agent foreign language training, $273,000.

(g) Rules Applicable to Appropriations.—Moneys appropriated pursuant to this section shall—

(1) remain available until expended; and

(2) shall be made available by the United States Customs Service, the Immigration and Naturalization Service, and the Drug Enforcement Administration out of the total amount of additional funds authorized to be appropriated in this Act.

Subchapter G—United States-Bahamas Drug Interdiction Task Force

SEC. 2993. INTERDICTION TASK FORCE PROGRAMS.

(a) Authorization of Appropriations.—There is authorized to be appropriated for salaries and expenses if the Drug Enforcement Administration for fiscal year 1989, $4,920,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such appropriations shall be made available for the United States-Bahamas Drug Interdiction Task Force established by section 3301 of subtitle E of title III of the Antidrug Abuse Act of 1986 (21 U.S.C. 801 note) and related activities: *Provided further,* That of these amounts made available for the United States-Bahamas Drug Interdiction Task Force under this section, the Drug Enforcement Administration is authorized to provide grants or other financial assistance to the Commonwealth of the Bahamas in the establishment of a Bahamian Enforcement Strike Team that will conduct unilateral Bahamian Government drug interdiction operations in the southern Bahamian Islands: *Provided further,* That the appropriations authorized under this section shall only be made available for United States-Bahamian drug interdiction operations upon receipt of a $410,000 contribution toward such joint operations by the Commonwealth of the Bahamas in fiscal year 1989.

(b) Sense of Congress.—It is the sense of the Congress that—

(1) the Commonwealth of the Bahamas should aggressively pursue the extradition of Nigel Bowe and the consummation of the pending extradition treaty with the United States by the end of 1988;

(2) the Government of the United States should cooperate fully with the Commonwealth of the Bahamas in providing information to the Bahamas regarding allegations of corruption and cooperate in responding to requests from the Commonwealth of the Bahamas for the extradition of United States citizens who have been indicted for drug-related offenses in the Bahamas; and

(3) agents of the Drug Enforcement Agency should be physically present when confiscated or seized illegal drug contraband is destroyed by personnel of the Commonwealth of the Bahamas.

Subchapter H—Standards of Care in Discovering Contraband

SEC. 2994. STANDARDS OF CARE IN DISCOVERING CONTRABAND.

(a) In General.—By no later than the date that is 120 days after the date of enactment of this Act and after an opportunity for public comment, the Secretary of the Treasury shall prescribe regulations which sets forth criteria for use by the owner, master, pilot, operator, or officer of, or other employee in charge of, any conveyance in meeting the standards under sections 584 and 594 of the Tariff Act of 1930 (19 U.S.C. 1584; 1594) for the exercise of the highest degree of care and diligence to know whether controlled substances imported into the United States are onboard the conveyance.

(b) Air Carrier Smuggling Prevention Program.—(1) The Secretary of the Treasury, in consultation with the Secretary of Transportation, shall issue controlled substances regulations for a 2-year demonstration program within 6 months of the enactment of this section. The regulations shall apply to at least three United States International Airports classified as high-risk by Customs and based upon the volume of cargo and number of aircraft arriving from high-risk points of departure. Such regulations shall establish procedures for air carrier development and Customs Service approval of foreign and domestic security and inspection practices. The regulations shall permit air carriers to request the Secretary of the Treasury to permit air carriers, the Customs Service, or an approved agent of the United States Customs Service to inspect at United States airports of entry, and aircraft arriving from foreign locations. The Secretary of the Treasury shall approve such request if the applicant meets the requirements of the regulations. Taking into account all considerations of security, law enforcement, and commercial needs, inspections of aircraft, and cargo shall be conducted and completed within a reasonable period of time.

(2) Air carriers which have applied to the Secretary of the Treasury and which the Secretary determines to be in compliance with the regulations and inspection requirements promulgated under paragraph (1) shall be considered participating air carriers. The Secretary of the Treasury shall establish by regulation a procedure for finding a carrier to be a participating carrier and procedures for subsequent removal of that status. The Secretary shall not remove an air carrier from the status of participating air carrier unless he or she shall first have provided it a written notice that the air carrier is not in compliance with the regulations or inspection requirements promulgated under paragraph (1), which notice shall include the reasons for that determination, and shall have provided the air carrier a reasonable opportunity to correct such noncompliance.

(3) Participating air carriers shall be considered to have met the test of the highest degree of care and diligence required under law, and shall not be subject to the penalty or seizure provisions of this Act, if a controlled substance is discovered aboard an aircraft that they may own or operate or in the cargo they carried, if the participating air carrier establishes at an oral presentation that the air carrier was not grossly negligent nor engaged in willful misconduct, and complied with the applicable procedures established in the regulations promulgated under paragraph (1).

(4) For the purpose of this subsection, the term "air carrier" shall mean air carrier or foreign air carrier as those terms are defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301).

(5) No provision of this section shall have any effect on air transportation security requirements prescribed pursuant to the Federal Aviation Act of 1958, as amended.

Subchapter I—Interpol—United States National Central Bureau

SEC. 2995. INTERPOL—UNITED STATES NATIONAL CENTRAL BUREAU.

There is authorized to be appropriated for the United States National Central Bureau for fiscal year 1989 $820,000: *Provided*, That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such appropriation shall be used to increase personnel by no fewer than 23 full-time equivalent positions over personnel levels as of September 30, 1988 for the purpose of maintaining no fewer than 24-hour operations and for upgrading telecommunications equipment.

Subchapter J—Civil Air Patrol

SEC. 2996. CIVIL AIR PATROL.

(a) REGULATIONS.—Within 45 days, the Secretary of the Air Force shall issue such regulations as are necessary to ensure that the Civil Air Patrol has an integral role in drug interdiction and eradication activities.

(b) REPORTS.—The Secretary of the Air Force shall submit to the Committees on Appropriations and the Committee on Armed Services of the Senate and the House of Representatives, quarterly reports which include a detailed description of the activities of the Civil Air Patrol in support of the Federal, State, and local government agencies' drug interdiction and eradication programs. The first report shall be submitted on the last day of the first quarter ending not less than 150 days after the date of the enactment.

TITLE III—PREVENTION, EDUCATION, AND TREATMENT

SEC. 3001. SHORT TITLE, TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 3001. Short title, table of contents.
Sec. 3002. Findings.
Sec. 3003. Purposes.
Sec. 3004 Sense of Congress.
Sec. 3005. References to the Public Health Service Act.

SUBTITLE A—ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICES BLOCK GRANTS

Sec. 3011. Authorization of appropriations.
Sec. 3012. State comprehensive mental health service plan.
Sec. 3013. Alcohol and drug abuse and mental health services block grants.
Sec. 3014. Data collection.
Sec. 3015. Model plan for seriously mentally ill individuals.
Sec. 3016. Comprehensive substance abuse treatment assistance program.
Sec. 3017. Conforming amendments.

SUBTITLE B—NATIONAL INSTITUTES OF ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

Sec. 3021. Alcohol, Drug Abuse, and Mental Health Administration.
Sec. 3022. National Institute of Mental Health.
Sec. 3023. Office of Substance Abuse Prevention; demonstration projects for high risk youths.
Sec. 3024. National Institute on Alcohol Abuse and Alcoholism.
Sec. 3025. Drug abuse research.
Sec. 3026. National Institute on Drug Abuse.
Sec. 3027. Drug abuse treatment demonstration projects.
Sec. 3028. Research on alcohol and drug abuse treatment programs.
Sec. 3029. Comprehensive community prevention initiatives.
Sec. 3030. Authorization of appropriations.

SUBTITLE C—INSTITUTE OF MEDICINE

Sec. 3031. Study by the Institute of Medicine.

SUBTITLE D—ALTERNATIVE UTILIZATION OF MILITARY FACILITIES

Sec. 3041. Action by national institute on drug abuse and states concerning military facilities.
Sec. 3042. Amendment to title 41.
Sec. 3043. Commission on alternative utilization of military facilities.

SUBTITLE E—ACQUIRED IMMUNODEFICIENCY SYNDROME BLOCK GRANTS.

Sec. 3051. Acquired immunodeficiency syndrome block grants.

SUBTITLE F—MISCELLANEOUS

Sec. 3061. Establishment of the Office of Associate Director for Special Populations.
Sec. 3062. Model drug abuse insurance plan.
Sec. 3063. Training awards.
Sec. 3064. Grants for training of personnel to treat drug abuse.
Sec. 3065. Drug testing certification program requirements.
Sec. 3066. Employ assistance programs.
Sec. 3067. Domestic Volunteer Service Act.
Sec. 3068. Reports.
Sec. 3069. Lease purchase authority.

SUBTITLE G—DRUG EDUCATION

Sec. 3081. Short title.
Sec. 3082. Authorization of appropriations.
Sec. 3083. New State programs.
Sec. 3084. State applications.
Sec. 3085. Responsibility of State agencies.
Sec. 3086. Local drug and alcohol abuse education and prevention programs.
Sec. 3087. Reports.
Sec. 3088. Teacher training.
Sec. 3089. Federal activities.
Sec. 3090. Drug-free schools model criteria and forms.
Sec. 3091. Development or early childhood education drug abuse prevention curriculum materials.

SUBTITLE H—EFFECTIVE DATE

Sec. 3092. Effective date.

SEC. 3002. FINDINGS.

Congress finds that—

(1) there are large number of substance abusers in the United States seriously enough impaired to require treatment;

(2) of these abusers, only a small fraction is currently receiving treatment;

(3) substance abuse treatment facilities in the United States are operating above full capacity and many individuals who desire treatment must wait long periods of time before they receive treatment;

(4) drug abuse and the lack of adequate treatment programs poses a threat to our most precious resource, our young people, with almost two-thirds of the graduating high school class of 1985 having used an illicit drug and 17 percent having used cocaine;

(5) increased drug use is strongly linked to violent, gang-related and addiction-related crime; and

(6) treatment for substance abuse is cost-effective and in the best interest of society and the individual.

SEC. 3003. PURPOSES.

(a) ALCOHOL AND DRUG ABUSE.—It is the purpose of this title to—

(1) continue and expand the partnership that exists between the Federal Government and the States in the development, maintenance, and improvement of the national network of comprehensive, community-based alcohol and drug abuse programs;

(2) provide financial and technical assistance to States and communities to assist in the development and maintenance of a core of prevention services that will significantly reduce the number and scope of alcohol and drug abuse problems;

(3) assist and encourage States in the initiation and expansion of prevention and treatment services for underserved populations;

(4) increase the understanding of the public concerning the extent of alcohol and other forms of drug abuse throughout the United States and the need for appropriate treatment services through—

(A) the expansion of data collection activities; and

(B) the support of research on the comparative cost and efficacy of existing alcohol and drug abuse prevention and treatment services; and

(5) increase to the greatest extent possible the availability and quality of treatment services so that treatment on request may be provided to all individuals desiring to rid themselves of their substance abuse problem.

(b) MENTAL HEALTH.—It is the purpose of this title to—

(1) encourage the development and provision of community mental health services by the States;

(2) encourage the development of a comprehensive community mental health system within each State;

(3) encourage the implementation of new and expanded community mental health services;

(4) encourage States to provide community mental health services in the least restrictive appropriate environment, and to involve the families of individuals undergoing mental health treatment in the development and provision of such services;

(5) encourage States to ensure respect for the rights and needs of recipients of mental health services and to involve such recipients in the development and provision of services, including the development of client-run services;

(6) foster interagency coordination and integration among a broad range of human service providers, support groups, and advocates to ensure that mental health, rehabilitation, vocational, educational, health, and

residential services are available to individuals who need such services;

(7) provide Federal assistance to expand community mental health services within each State; and

(8) increase the understanding of the public concerning the extent of mental illness throughout the United States and the need for appropriate treatment services through—

(A) the expansion of data collection activities; and

(B) the support of research on the comparative cost and efficacy of existing mental health services.

SEC. 3004. SENSE OF CONGRESS.

(a) Findings.—Congress finds that—

(1) alcoholism and other drug dependencies are problems of grave concern and consequence in American society;

(2) the social and economic costs of alcoholism and other drug dependencies, particularly to the health care system, are staggering;

(3) the health consequences of alcoholism and other drug dependencies can be as formidable as those of other diseases;

(4) in 1970, the National Institute on Alcohol Abuse and Alcoholism was created within the Public Health Service, to finance treatment, research, and prevention initiatives;

(5) in 1973, the National Institute on Drug Abuse was created to focus on issues concerning drug abuse treatment, research and prevention;

(6) in 1976, alcoholics and other drug dependent individuals were included within the definition of disabled persons under the Rehabilitation Act of 1973;

(7) Congress itself, as well as organizations such as the American Medical Association, the National Council on Alcoholism, the National Association of Addiction Treatment Providers and the American Medical Society on Alcoholism and Other Drug Dependencies have recognized that alcoholism and other drug dependencies are treatable diseases; and

(8) the public and private sectors endeavor to treat Americans who suffer from these diseases.

(b) Sense of Congress.—It is the sense of Congress that—

(1) alcoholism and drug dependencies are treatable diseases; and

(2) treatment opportunities, in both the public and private sectors can provide a successful means of recovery from alcoholism and other drug dependencies and are essential elements to solving the nation's drug problem.

SEC. 3005. REFERENCES TO THE PUBLIC HEALTH SERVICE ACT.

Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201n et seq.).

Subtitle A—Alcohol and Drug Abuse and Mental Health Services Block Grants

SEC. 3011. AUTHORIZATION OF APPROPRIATIONS.

Section 1911 (42 U.S.C. 300x) is amended—

(1) by striking out "and"; and

(2) by inserting before the period the following: ", $550,500,000 for fiscal year 1988, $700,000,000 for fiscal year 1989, $868,000,000 for fiscal year 1990, and $952,000,000 for fiscal year 1991".

SEC. 3012. STATE COMPREHENSIVE MENTAL HEALTH SERVICE PLAN.

(a) Administrative Expenses.—Subsection (d) of section 1920D (42 U.S.C. 300x-9D(d)) is amended to read as follows:

"(d) The amount referred to in subsections (a), (b), and (c) with respect to a State is the total amount that the State is permitted to expend for administrative expenses under section 1915(d) for fiscal year 1986 from amounts paid to the State under subpart 1 for such fiscal year. If in the judgment of the Secretary the State is making a good faith effort to comply with this subpart, the Secretary may assess the State a penalty that is less than the maximum penalty, but in no event shall the penalty be less than 2 percent of the amount the State is permitted to expend for administrative expenses.".

(b) Report.—Not later than September 30, 1990, the Comptroller General of the General Accounting Office shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report that—

(1) evaluates the status of the implementation of section 1920C of the Public Health Service Act (42 U.S.C. 300x-11) requiring State Mental Health Services Plans; and

(2) includes an assessment of—

(A) the number of States that have submitted such plans;

(B) the number of States that have implemented the plans submitted by such States;

(C) the efficacy of the plans that have been implemented in achieving effective, organized community-based systems of care for seriously mentally ill individuals; and

(D) recommendations on additional legislation that is necessary to facilitate the achievement of the goals of this title.

SEC. 3013. ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICES BLOCK GRANTS.

(a) Evaluation.—Section 1912 (42 U.S.C. 300x-1) is amended by adding at the end thereof the following new subsection:

"(c) The Secretary may use not to exceed 1 percent of the amounts appropriated under section 1911 in each of the fiscal years 1988 through 1991 to conduct evaluations, and prepare reports for submission to Congress, concerning the functioning and effectiveness of block grant programs conducted under this subpart.".

(b) Allotments.—Section 1913 (42 U.S.C. 300x-1a) is amended to read as follows:

"SEC. 1913. ALLOTMENTS.

"(a) Reservations.—

"(1) Territories and possessions.—The Secretary shall reserve not to exceed $5,025,000 from the amounts appropriated under section 1911 in each of the fiscal years 1989 through 1991 for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, the Commonwealth of Puerto Rico, and the Northern Mariana Islands, in amounts that bear the same ratio to the amount specified above as the population of the territory or possession bears to the total population of all such territories and possessions, but notwithstanding such allocation, no territory or possession shall receive, subject to the availability of appropriations, the lesser of $100,000, or 105 percent of the combined amount the territory or possession received under this section (as such section existed before the effective date of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988) in fiscal year 1987, and for emergency treatment purposes under section 1921(b)(1) (as such section existed before the effective date of such Act), whichever is less.

"(2) Indians.—

"(A) In general.—If the Secretary—

"(i) receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under this part be provided directly by the Secretary to such tribe or organization; and

"(ii) determines that the members of such tribe or tribal organization would be better served by means of grants made directly by the Secretary under this part;

the Secretary shall reserve from amounts which would otherwise be allotted to such State under subsection (b) for the fiscal year the amount determined under subparagraph (B).

"(B) Allotment.—The Secretary shall reserve for the purpose of subparagraph (A), from amounts that would otherwise be allotted to such State under subsection (b), an amount equal to the amount which bears the same ratio to the State's allotment for the fiscal year involved as the total amount provided or allotted for fiscal year 1987 by the Secretary to such tribe or tribal organization under the existing alcohol and drug abuse, and mental health block grant bears to the total amount provided or allotted for such fiscal year by the Secretary to the States and entities (including Indian tribes and tribal organizations) in the State under such provisions of law.

"(C) Recipient.—The amount reserved by the Secretary on the basis of a determination under this subsection shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

"(D) Plan.—In order for an Indian tribe or tribal organization to be eligible for a grant under this paragraph, such tribe or organization shall submit to the Secretary a plan for such fiscal year that meets such criteria as the Secretary may prescribe.

"(E) Definition.—As used in this subparagraph the terms 'Indian tribe' and 'tribal organization' have the same meaning given such terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act.

"(3) Initial allotment.—Out of the amounts appropriated under section 1911 in each of the fiscal years 1989 through 1991, the Secretary shall reserve $329,975,000 in each such fiscal year unless amounts appropriated are less than such amount, for payments to States, territories, and possessions based on the fiscal year 1984 proportionate share of each State, territory or possession as determined under this section (as such section existed before the effective date of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988).

"(b) State Allotment.—

"(1) General Rule.—From the remainder of the sums appropriated under section 1911 for each of the fiscal years 1989 through 1991, the Secretary shall allot to each State (excluding jurisdictions referred to in subsection (a)(1)) an amount equal to the product obtained by multiplying—

"(A) the State need; by

"(B) the State fiscal capacity.

"(2) State need.—For purposes of this subsection, the State need of a State shall be an amount equal to the sum of—

"(A) the amount equal to the product of .4 multiplied by the amount equal to the sum of—

"(i) the amount equal to the product of .5 multiplied by the total population of the State residing in urbanized areas, as determined by the Secretary;

"(ii) the amount equal to the product of .3 multiplied by the total population of the State between the ages of 18 and 24 years; and

"(iii) the amount equal to the product of .2 multiplied by the total population of the State between the ages of 25 and 44 years;

"(B) the amount equal to the product of .2 multiplied by the total population of the State between the ages of 25 and 64 years; and

"(C) the amount equal to the product of .4 multiplied by amount equal to the sum of—

"(i) the amount equal to the product of .4 multiplied by the total population of the State between the ages of 18 and 24 years; and

"(ii) the amount equal to the product of .6 multiplied by the total population of the State between the ages of 25 and 44 years.

"(3) STATE FISCAL CAPACITY.—

"(A) GENERAL FORMULA.—For purposes of this subsection, the State fiscal capacity of a State shall be an amount equal to the sum of—

"(i) one; minus

"(ii) the percentage equal to the product of 20 percent multiplied by the amount equal to the quotient obtained by dividing—

"(I) the total taxable resources per person in need of a State; by

"(II) the total taxable resources per person in need for all States.

"(B) TAXABLE RESOURCES PER PERSON IN NEED OF A STATE.—For purposes of subparagraph (A)(ii)(I), the total taxable resources per person in need of a State shall be an amount equal to the average total taxable resources of the State, as determined by the Secretary of the Treasury based on State gross product as reported by the Bureau of Economic Analysis, for the period of the 3 most recently completed calendar years ending before the date on which an application is submitted under section 1916, divided by the State need as determined under paragraph (2).

"(C) TAXABLE RESOURCES PER PERSON IN NEED OF ALL STATES.—For purposes of subparagraph (A)(ii)(II), the total taxable resources per person in need of all States shall be an amount equal to the average total taxable resources per person in need in all States, as determined by the Secretary of the Treasury based on State gross product, as reported by the Bureau of Economic Analysis, for the period of the 3 most recently completed calendar years ending before the date on which an application is submitted under section 1916, divided by the State need as determined under paragraph (2).

"(4) MINIMUM ALLOTMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no State shall receive, subject to the availability of appropriations, an allotment of less than $7,000,000, or 105 percent of the combined amount the State received under this section (as such section existed before the effective date of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988) in fiscal year 1987, and for emergency treatment purposes under section 1921(b)(1) (as such section existed before the effective date of such Act), whichever is less.

"(B) SPECIAL RULE.—In the case of each of the fiscal years 1990 and 1991, amounts paid to States under subparagraph (A) shall increase by the same percentage as the remainder of the sums appropriated under section 1911 for purposes of allotments increases as compared to such sums available for allotment in fiscal year 1989.

"(c) DATA AND INFORMATION.—Except as provided in subsection (b)(3), the Secretary shall obtain from each appropriate Federal agency, the most recent data and information necessary to determine the allotments provided for in subsection (b).

"(d) REALLOTMENTS.—

"(1) IN GENERAL.—Any portion of the allotment to a State under subsection (b) that the Secretary determines is not required to carry out activities described in the application approved under section 1916, in the period that the allotment is made available, shall be reallocated by the Secretary to other States in proportion to the original allotment to such States.

"(2) LIMITATION.—The amount that another State is entitled to under paragraph (1) shall be reduced to the extent that such amount exceeds the sum that the Secretary estimates will be used in that other State to carry out activities described in the application submitted in accordance with the requirements of a State plan approved under section 1916. The amount of such reduction shall be similarly reallotted among States in which the proportionate amount is not reduced.

"(3) AMOUNTS REALLOTTED.—Any amount reallotted to a State under this subsection shall be deemed to be part of the original State allotment under subsection (b) for that year.".

(c) USE OF ALLOTMENTS.—

(1) IN GENERAL.—Paragraph (2) of section 1915(a) (42 U.S.C. 300x-3(a)(2)) is amended to read as follows:

"(2) planning, developing, and providing community mental health services and related support services with—

"(A) emphasis on the initiation and provision of new or expanded services that contribute to the development of a comprehensive community mental health system as described in section 1916(e); and

"(B) continued support for community mental health center services funded with Federal block grants prior to 1989 to the extent consistent with section 1916(c), and with the State Mental Health Planning Council priorities and the State Comprehensive Mental Health Plan.

(2) REPEAL.—Section 1915 (42 U.S.C. 300x-3) is amended by repealing subsection (c).

(d) APPLICATION.—Section 1916 (42 U.S.C. 300x-4) is amended to read as follows:

"SEC. 1916. APPLICATION AND DESCRIPTION OF ACTIVITIES.

"(a) APPLICATION.—

"(1) IN GENERAL.—In order to receive an allotment for a fiscal year under section 1913(b) each State shall submit an application to the Secretary.

"(2) FORM.—An application submitted under this subsection shall be in such form and submitted by such date as the Secretary shall require.

"(3) ASSURANCES.—An application submitted under this subsection shall contain assurances that the legislature of the State has complied with subsection (b) and that the State will meet the requirements of subsection (c).

"(b) PUBLIC HEARINGS.—After the expiration of the first fiscal year in which a State receives an allotment under section 1913(b), no funds shall be allotted to such State for any fiscal year under such section unless the legislature of the State conducts public hearings on the proposed use and distribution of funds to be provided under section 1914 for such fiscal year.

"(c) CONTENTS OF APPLICATION.—As part of the annual application required by subsection (a), the chief executive officer of each State shall certify as follows:

"(1) GENERAL USE OF FUNDS.—The State agrees to use the funds allotted to it under section 1913 in accordance with this part.

"(2) COMPREHENSIVE MENTAL HEALTH SERVICES.—The State agrees, to the extent practicable, that grants made to community mental health centers and other entities in the State shall be used for the provision of comprehensive mental health services—

"(A) principally to individuals residing in a defined geographic area (hereinafter in this section referred to as a 'mental health service area'), with special attention to individuals who are seriously mentally ill;

"(B) within the limits of its capacity, to any individual residing or employed in a mental health service area in the State regardless of ability to pay for such services, current or past health condition, or any other factor; and

"(C) that are available and accessible promptly, as appropriate and in a manner that preserves human dignity and assures continuity and high quality care.

"(3) COMMUNITY MENTAL HEALTH CENTERS.—The State agrees to require that any community mental health center in the State receiving a grant prior to fiscal year 1989 from the State under this part provide—

"(A) outpatient services, including specialized outpatient services for children, the elderly, individuals who are seriously mentally ill, and residents of a mental health service area of the State who have been discharged from inpatient treatment at a mental health facility;

"(B) 24-hour-a-day emergency care services;

"(C) day treatment or other partial hospitalization services, or psychosocial rehabilitation services;

"(D) screening for patients being considered for admission to State mental health facilities to determine the appropriateness of such admission; and

"(E) consultation and education services.

"(4) EVALUATION CRITERIA.—The State agrees to establish reasonable—

"(A) criteria to evaluate the effective performance of entities that receive funds from the State under this part; and

"(B) procedures for procedural and substantive independent State review of the failure by the State to provide funds for any such entity.

"(5) SPECIFIC USE OF FUNDS.—

"(A) IN GENERAL.—The State agrees to use the funds allotted to the State under section 1913 to carry out the mental health and alcohol drug abuse activities prescribed by section 1915(a) in accordance with this paragraph. The relative amounts provided for mental health activities and drug and alcohol abuse activities shall not exceed an amount that bears the same relationship to the funds allotted to the State for such fiscal year as the funds that would have been received by the State and entities in the State in fiscal year 1987 for mental health activities and drug and alcohol activities (including amounts received from funds allocated under section 1913 and section 1921(b)(1) (as such sections existed before the enactment of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988)).

"(B) PERCENT OF FUNDS.—The State may transfer not more than 10 percent of the amounts distributed under subparagraph (A)—

“(i) for mental health activities to amounts used for alcohol and drug abuse activities; and

“(ii) for alcohol and drug abuse activities to amounts used for mental health activities.

“(6) ALCOHOL AND DRUG ABUSE USES.—In any fiscal year, the State agrees to use funds for the alcohol and drug abuse activities prescribed by section 1915(a) as follows:

“(A) Not less than 35 percent of the amount to be made available for such activities relating to alcoholism and alcohol abuse.

“(B) Not less than 35 percent of the amount to be made available for such activities shall be used for programs and activities relating to drug abuse.

“(7) FEDERAL INVESTIGATIONS.—The State agrees to permit and cooperate with Federal investigations undertaken in accordance with section 1918.

“(8) IDENTIFICATION OF NEEDS.—The State has identified those populations, areas, and localities in the State with a need for mental health, alcohol abuse and alcoholism, and drug abuse services.

“(9) FEDERAL FUNDS.—The Federal funds made available under section 1914 for any periods will be so used as to supplement and increase the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under that section and will in no event supplant such State, local, and other non-Federal funds.

“(10) DISCLOSURE.—The State has in effect a system to protect from inappropriate disclosure patient records maintained by the State in connection with an activity funded under this part or by any entity that is receiving payments from the allotment of State under this part.

“(11) JOB LOCATION.—The State shall develop and implement arrangements, that are not excessively burdensome on the State, to locate jobs for employees affected adversely by actions taken by the State mental health authority to emphasize outpatient mental health services.

“(12) WOMEN.—Of the amount allotted to a State in any fiscal year under this part, the State shall use not less than 5 percent of such amount to provide alcohol and drug abuse services designed specifically for women. Services implemented under paragraph (14) (as such paragraph existed before the effective date of section 103 of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments of 1988) may be continued under this paragraph.

“(13) CHILDREN.—Of the amounts allotted in any fiscal year for mental health services, the State agrees to use not less than 10 percent of such amount to provide services and programs for seriously emotionally disturbed children and adolescents. The State shall use not less than 50 percent of the amounts set aside in the preceding sentence by the end of fiscal year 1990 to provide new or expanded services and programs that were not available prior to October 1, 1988, which shall apply to the requirement in paragraph (14).

“(14) NEW MENTAL HEALTH SERVICES AND PROGRAMS.—Of the amounts allotted to a State for mental health activities under this part for fiscal year 1991, the State agrees to use, not less than 55 percent of such amount, to develop and provide community mental health services and programs, not available on October 1, 1988, and shall, with respect to each such service provided pursuant to this paragraph, provide funds for each service only for a limited period of time (as determined by the State), except that funds expended under this part for new services developed between October 1, 1984, and October 1, 1988, may be treated as a new service under this paragraph.

“(d) DESCRIPTION OF INTENDED USE.—

“(1) IN GENERAL.—The chief executive officer of a State shall, as part of the application required by subsection (a), also prepare and furnish the Secretary (in such form as the Secretary may require) with a description of the intended use of the payments the State will receive under section 1914 for the fiscal year for which the application is submitted, including information on the programs and activities to be supported and services to be provided.

“(2) PUBLICATION.—The description shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and after its transmittal.

“(3) REVISION.—The description shall be revised (consistent with this section) throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the State under this part. Any revision shall be subject to the requirement of publication.

“(e) RECEIPT OF PAYMENTS.—To receive payments under section 1914, a State shall agree that the State, in carrying out the purposes of this part, will facilitate coordination among institutions offering mental health services in the State to establish a State comprehensive community mental health system that—

“(1) provides for the development of a continuum of community mental health services within identified geographic areas;

“(2) ensures that mental health services offered by the system are accessible to individuals of all ages in the State who need the services provided by the system;

“(3) provides mental health services according to the particular needs of the individual for whom the services are sought, including developing plans of care and providing services in the context most appropriate to the age, sex, and cultural background of the individual;

“(4) encourages individuals receiving mental health services to be independent, and encourages the families of such individuals to be supportive of the individual in the attempts of the individual to achieve the optimal level of independence;

“(5) ensures that mental health services are provided in the least restrictive appropriate environment;

“(6) ensures that the mental health services provided by the system meet applicable professional standards for the provision of such services; and

“(7) emphasizes services for individuals who have serious mental illnesses and who—

“(A) are homeless;

“(B) have been institutionalized or at risk of institutionalization;

“(C) are children or youth with serious emotional disturbances;

“(D) are elderly individuals;

“(E) are young adults with diagnoses of both mental illness and alcohol or drug abuse;

“(F) are racial and ethnic minorities;

“(G) are women;

“(H) are people living in poverty; or

“(I) are residents of rural areas.

“The State may use funds provided under section 1914 to develop plans to implement this subsection.

“(f) STATE MENTAL HEALTH SERVICES PLANNING COUNCIL.—

“(1) ESTABLISHMENT.—Not later than 6 months after the effective date of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988, or 6 months after the opening of the first State legislative session after the enactment of such Act if legislative action by the State is required to implement this subsection, the chief executive officer of a State shall establish a State mental health services planning council that shall—

“(A) serve as an advocate for seriously mentally ill individuals, seriously mentally ill children, adolescents, elderly individuals, and other individuals with a mental illness or emotional problem; and

“(B) monitor, review, and evaluate, at least once a year, the allocation and adequacy of mental health services within the State.

“(2) COMPOSITION.—The Council shall, subject to paragraph (3), be composed of residents of the State, including at least one representative of—

“(A) the principal State agencies that have jurisdiction over—

“(i) mental health, education, vocational rehabilitation, children's services, criminal justice, housing, and social services; and

“(ii) the development of the State plan submitted pursuant to title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

“(B) public and private entities concerned with the need, planning, operation, funding, and use of mental health services and related support services;

“(C) seriously mentally ill adults who are receiving (or have received) mental health services and the families of such adults or of seriously emotionally disturbed children;

“(D) minorities; and

“(E) organizations functioning as advocates for the mentally ill and for mental health services.

“(3) RESTRICTION.—Not less than 50 percent of the members of the Council shall be individuals who are not State employees or providers of mental health services.

“(4) PLAN PREPARATION.—The Council may assist the State in the preparation the plan required by section 1920C.

“(g) REPORT.—

“(1) IN GENERAL.—The Secretary shall report annually to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on the new services initiated and provided in accordance with paragraphs (13) and (14) of subsection (c).

“(2) CONTENTS.—The report shall include—

“(A) a detailed description of such programs and services;

“(B) an assessment of the adequacy of such programs and services in meeting the alcohol and drug abuse treatment needs of women and mental health needs of severely disturbed children and adolescents; and

“(C) such other information, including legislative and administrative recommendations, as the Secretary considers appropriate.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1988.

SEC. 3014. DATA COLLECTION.

Title V is amended by inserting after section 509C (42 U.S.C. 290aa-10) the following new section:

"SEC. 509D. DATA COLLECTION.

"(a) Mental Health.—The Secretary, in cooperation with the mental health agencies of the State and the respective national organizations concerning such, shall collect data on—

"(1) the number and variety of public and nonprofit private treatment programs available for mental health;

"(2) the number and demographic characteristics of individuals receiving treatment through the programs referred to in paragraph (1);

"(3) the type of care received by the individuals referred to in paragraph (2); and

"(4) other programs and activities as may be appropriate.

"(b) Alcohol and Drug Abuse and Treatment.—The Secretary, in cooperation with the alcohol and drug agencies of the State and the respective national organizations concerning such, shall develop specifications for the provision of data that is to be reported by State alcohol and drug abuse agencies, and publish such specifications for comment in the Federal Register. Subsequent to the comment period and the publication of final specifications, the Secretary shall, in consultation with the alcohol and drug abuse agencies of the State and the respective organizations concerning such, collect such data that shall include at a minimum—

"(1) the number and variety of public and private treatment programs available for alcohol or drug abuse, including the number and type of patient slots available;

"(2) the number and demographic characteristics of individuals receiving treatment through the programs referred to in paragraph (1) and, to the extent feasible, the number of times per year individuals use such treatment services;

"(3) the type of care received by the individuals referred to in paragraph (2);

"(4) the number of individuals receiving some form of public assistance for treatment;

"(5) the percentage of individuals that complete the appropriate course of treatment through programs referred to in paragraph (1);

"(6) the cost of the different types of treatment modalities referred to in paragraph (1) and the aggregate cost of each treatment modality provided within a State in each fiscal year;

"(7) the estimated level of need for programs referred to in paragraph (1) that is not being served by such programs;

"(8) the number of treated individuals that have private insurance coverage for the costs of the treatment programs referred to in paragraph (1), to the extent such information is available;

"(9) the number of alcohol or drug abuse counselors and other treatment personnel employed in public and private treatment facilities;

"(10) to the extent feasible, the effectiveness of treatment programs referred to in paragraph (1); and

"(11) other programs and activities as may be appropriate.

"(c) State Submission of Data.—

"(1) In general.—The Secretary shall establish guidelines that require States, to the extent practical, to provide information of the type required under subsections (a) and (b) subsequent to the specifications procedure described in subsection (b). The provision of such information shall be required as a condition of receiving a grant under sections 1913 and 1921.

"(2) Comprehensive substance abuse treatment assistance.—In order to receive funds under the program authorized under section 1921, a State shall provide to the Secretary such information as the Secretary may require.

"(3) Cooperation with States.—The Secretary shall consult and cooperate with States in developing data elements and designing mechanisms to collect the information and data required under this section.

"(d) Report.—The Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate every 2 years, a report that describes—

"(1) the scope of drug and alcohol and mental health services being provided by public and private entities;

"(2) the identification of alcohol and drug abuse and mental health service shortage areas and of gaps in such services;

"(3) the number of alcohol and drug abuse and mental health treatment settings;

"(4) the number and characteristics of the individuals served by the services described in paragraphs (1) and (2); and

"(5) other information that is considered appropriate by the Secretary.".

SEC. 3015. MODEL PLAN FOR SERIOUSLY MENTALLY ILL INDIVIDUALS.

Section 1920E (42 U.S.C. 300x-12) is amended to read as follows:

"SEC. 1920E. MODEL PLAN FOR SERIOUSLY MENTALLY ILL INDIVIDUALS.

"(a) In General.—The Secretary, acting through the Director of the National Institute of Mental Health, shall develop and make available from time to time, a model plan for a community-based system of care for seriously mentally ill individuals.

"(b) Consultation.—The plan referred to in subsection (a) shall be developed in consultation with State mental health directors, providers of mental health services, seriously mentally ill individuals, advocates for such individuals, and other interested parties.".

SEC. 3016. COMPREHENSIVE SUBSTANCE ABUSE TREATMENT ASSISTANCE PROGRAM.

Section 1921 (42 U.S.C. 300y) is amended to read as follows:

"SEC. 1921. COMPREHENSIVE SUBSTANCE ABUSE TREATMENT ASSISTANCE PROGRAM.

"(a) Authorization of Appropriations.—

"(1) In general.—To carry out this section and sections 1922, 508, and 509A there are authorized to be appropriated $959,000,000 for fiscal year 1989, $2,000,000,000 for fiscal year 1990, $3,000,000,000 for fiscal year 1991, such sums as may be necessary for each of the fiscal years 1992 and 1993.

"(2) Allotments.—Of the total amount appropriated under paragraph (1) for a fiscal year—

"(A) 4.5 percent shall be available to carry out section 1922 for such fiscal year; and

"(B) the remainder shall be available for allotments to States under this section for such fiscal year.

"(b) Allotments of States.—

"(1) In general.—The allotment of a State under this section for a fiscal year shall be the sum of the amounts allotted to such State under paragraphs (2) and (3).

"(2) Population.—Forty-five percent of the amount available for allotment under this section for a fiscal year shall be allotted in accordance with this paragraph. The allotment of a State under this paragraph for a fiscal year shall be an amount that bears the same ratio to the total amount required pursuant to the preceding sentence to be allotted under this paragraph for such fiscal year as the population of such State bears to the population of all States, except that no such allotment shall be less than $50,000.

"(3) Need.—Fifty-five percent of the amount available for allotment under this section for a fiscal year shall be allotted by the Secretary to States on the basis of the need of each State for amounts for programs and activities for the treatment and rehabilitation of substance abusers. In determining such need for each State under this paragraph, the Secretary shall consider—

"(A) the nature and extent, in the State and in particular areas of the State, of the demand for effective programs and activities for the treatment and rehabilitation of alcohol abuse and drug abuse;

"(B) the number of individuals in the State who abuse drugs or alcohol and the capacity of the State to provide treatment and rehabilitation for such individuals (as determined by the Secretary on the basis of the number of individuals who requested treatment for substance abuse in the State during the most recent calendar year ending prior to the date on which a statement is submitted by the State under subsection (d)); and

"(C) the ability of the State to provide additional services for the treatment and rehabilitation of substance abuse.

"(4) Timing.—The Secretary shall make allotments to States under paragraphs (2) and (3) for a fiscal year, and shall make payments to States under subsection (c) from such allotments, at the same time that the Secretary makes allotments and payments under sections 1913 and 1914, respectively, for such fiscal year.

"(c) Payments.—

"(1) Payments.—For each fiscal year, the Secretary shall make payments, as provided by section 6503 of title 31, United States Code, to each State from its allotment under paragraphs (2) and (3) of subsection (b) from amounts that are appropriated for that fiscal year and available for such allotments.

"(2) Carryover.—Any amount paid to a State under paragraph (1) for a fiscal year and remaining unobligated at the end of such fiscal year shall remain available to such State for the purposes for which it was made for the next fiscal year.

"(3) Applicability of other provisions.—The provisions of part B that are not inconsistent with this part shall apply with respect to allotments made under this section.

"(d) Applications.—

"(1) In general.—In order to receive an allotment for a fiscal year under subsection (b), each State shall submit an application to the Secretary, which the Secretary must find satisfactory, requesting an allotment under subsection (b)(2) or (b)(3) or both. Each such application shall contain—

"(A) a description of the manner in which the State will periodically (at an interval to be determined by the Secretary but not less frequently than once a year)—

"(i) evaluate programs and activities conducted with payments made to the State under subsection (c), including an evaluation of—

"(I) the number of additional individuals entering treatment;

"(II) the length of the treatment;

"(III) the number of individuals completing the treatment program;

"(IV) the average cost of the treatment per individual for different types of treatment; and

"(V) any other information the Secretary considers necessary;

"(ii) report to the Secretary on the results of such evaluation;

"(iii) develop standards, in consultation with the States, for the evaluation requirements, subsequent to the first grant cycle, and publish such in the Federal Register for comment;

"(B) assurances that current level of efforts in treating substance abusers shall be maintained and that payments made to the State under subsection (c) shall not be used to support existing State and local efforts, but should be used to fund or create new treatment opportunities;

"(C) assurances that such payments shall be targeted to communities with the highest prevalence of substance abuse, in accordance with criteria established by the Secretary to determine those communities with the greatest need, which shall include—

"(i) a demand for services or a need for services that exceeds existing capacity;

"(ii) a high prevalence of substance abuse;

"(iii) a high incidence of drug-related criminal activities; and

"(iv) a high incidence of communicable diseases spread through IV drug use;

"(D) assurances that in developing new treatment opportunities under programs conducted with payments made to the State under subsection (c), the State shall give priority to treatment of abusers of illegal drugs, and treatment for individuals who abuse both alcohol and illegal drugs;

"(E) assurances that populations in greatest need of services, including pregnant women, adolescents, minorities, and women and infants, shall be served;

"(F) assurances that, in fulfilling the priority for pregnant women, the State will assure timely treatment for good post partum care;

"(G) assurances that a State will devise and make available to the Secretary not later than 9 months after receipt of the such payments, a plan that describes how a State can provide services to all individuals seeking treatment services if sufficient resources are available and an estimate of the resource needs to provide such treatment, with such plan and estimates to be in such form as the Secretary may prescribe;

"(H) assurances that the State will provide at least $1 in new State funds or in-kind contributions for every $3 in Federal funds received by the State under subsection (c), and that such funds shall supplement rather than replace existing funds, except that such requirement may be waived by the Secretary for fiscal year 1989 if the chief executive officer of the State certifies that—

"(i) such match cannot be made in such fiscal year because of legislative commitments made by the State prior to the date of enactment of this section; and

"(ii) the State will provide such matching funds as required in subsequent fiscal years;

"(I) such information as the Secretary may prescribe, including information necessary for the Secretary to consider the matters specified in subparagraphs (A) through (D) of subsection (b)(3);

"(J) a description of the manner in which programs and activities conducted with payments under subsection (c) will be coordinated with other public and private programs and activities directed toward individuals who abuse alcohol and drugs; and

"(K) assurances that, in the preparation of any statement under this section, the State will consult with local governments and public and private entities, including community based organizations, involved in the provision of services for the treatment, prevention, and rehabilitation of substance abuse.

"(2) REPORTING AND EVALUATION.—The reporting and evaluation required under paragraph (1)(A) shall be implemented in a manner that is satisfactory to the Secretary, and the Secretary shall, to the extent feasible, assure standardized reporting across the various States. The Secretary shall develop standards, in consultation with the States, for the evaluation requirements, subsequent to the first awarding of grants, and publish such standards in the Federal Register for comment.

"(e) STATE TREATMENT PLANS.—A State shall submit to the Secretary as part of an application for the grant a State treatment plan that describes the proposed use of amounts paid to a State under subsection (c). The plan shall include a description of—

"(1) the total number of existing treatment slots by modality, type of abused substance, providers, community and target populations;

"(2) the number of treatment slots to be created by modality, providers, community and target populations;

"(3) the manpower involved in providing existing treatment and plans for increasing staffing levels to meet the projected increase in treatment slots;

"(4) the projected number of new clients, including the nature of the abused substance and subpopulations to be targeted (including adolescents, minorities, women and infants); and

"(5) methods of outreach to targeted populations (including adolescents, minorities, women and infants).

"(f) USE OF TREATMENT FUNDS.—

"(1) IN GENERAL.—Except as otherwise provided in this section, a State may use amounts made available under subsection (c) for—

"(A) treatment programs for individuals who are abusing or who are addicted to opiods, non-opiod abused drugs, and alcohol, including individuals abusing both alcohol and drugs;

"(B) support services for such individuals, including assistance in seeking and maintaining employment, family education and counseling, and other services designed to rehabilitate such individuals;

"(C) referral to support services needed by such individuals, such as employment and education counseling, income support programs, nutritional support, medical care, and other services;

"(D) outreach to individuals in need of such services; and

"(E) treatment programs for special populations, including adolescents, women, children born with addictions or born to addicted parents.

"(2) PROHIBITIONS.—A State may not use amounts paid to the State under its allotment under this section to—

"(A) provide inpatient hospitalization;

"(B) make cash payments to intended recipients of health services;

"(C) enroll individuals in for-profit treatment programs or provide reimbursement for for-profit treatment programs;

"(D) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds;

"(E) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment, except as provided in paragraph (3); or

"(F) provide financial assistance to any entity other than a public or nonprofit private entity.

"(3) WAIVER FOR CONSTRUCTION.—The Secretary may grant a waiver to a State to use amounts made available under this section for purchase and construction of a new facility or rehabilitation of existing facility, but not for land acquisition, if the State demonstrates to the Secretary that adequate treatment cannot be provided through the use of existing facilities and that alternative facilities in existing suitable buildings are not available. In granting such a waiver, the Secretary shall allow the use of a specified amount of funds to construct or rehabilitate a specified number of beds for residential treatment, and a specified number of slots for out-patient treatment, based on reasonable estimates by the State of the cost of construction or rehabilitation. In considering waiver applications, the Secretary shall insure that the State has carefully designed a program that will minimize the costs of additional beds

"(4) ADMINISTRATION.—Of the total amount paid to any State under subsection (c) for a fiscal year, not more than 5 percent may be used for administering the funds made available under such subsection. The State will pay from non-Federal sources the remaining costs of administering such funds.

"(g) ASSISTANCE.—The Secretary, on the request of a State, shall provide training and technical assistance to such State in planning and operating activities to be carried out under this section.

"(h) DATA.—The Secretary shall conduct data collection activities to enable the Secretary to carry out this section.".

SEC. 3017. CONFORMING AMENDMENTS.

(a) Section 508(d) (42 U.S.C. 290aa-6(d)) is amended by striking out "the second sentence of section 1921(a)" and inserting in lieu thereof "section 1921(a)(2)".

(b) Section 1917(a)(1) (42 U.S.C. 300x-5(a)(1)) is amended by striking out "(14) and (15)" and inserting in lieu thereof "(13) and (14)".

(c) Part B of title XIX (42 U.S.C. 300x et seq.) is amended by striking out "chronically mentally ill" each place it appears and inserting in lieu thereof "seriously mentally ill" in each such place.

SUBTITLE B—NATIONAL INSTITUTES OF ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

SEC. 3021. ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION.

(a) IN GENERAL.—Section 501 (42 U.S.C. 290aa) is amended—

(1) in subsection (b), by adding at the end thereof the following new paragraph:

"(4) The Office for Substance Abuse Prevention.";

(2) in subsection (c), by adding at the end thereof the following new paragraph:

"(3) The Administrator shall evaluate substance abuse prevention and education programs and assist communities and organizations in such evaluation efforts.".

(3) in subsection (e)(1), by striking out "and the National Institute on Drug Abuse" and inserting in lieu thereof "the National Institute on Drug Abuse, and the Office for Substance Abuse Prevention";

(4) in the first sentence of subsection (e)(2)—

(A) by striking out "The" and inserting in lieu thereof "Not less than once every 3 years, the"; and

(B) by striking out "annually";

(5) in subsection (f), by striking out "fraud" each place it appears and inserting in lieu thereof "misconduct";

(6) in subsection (k)(2)(A), by striking out "the National Institute on Drug Abuse" and inserting in lieu thereof "the National Institute on Drug Abuse, the Office of Substance Abuse Prevention"; and

(7) by adding at the end thereof the following new subsections:

"(l) The Administrator may accept voluntary and uncompensated services.

"(m) The Administrator may conduct and support research training—

"(1) for which fellowship support is not provided under section 487; and

"(2) that is not residency training of physicians or other health professionals.".

(b) Renaming of Administration.—

(1) Public Health Service Act.—The Act is amended—

(A) in sections 227, 319(a), 487, 489(a)(2), 501(a) through (c), 1920A, and (1923) (42 U.S.C. 236, 247d(a), 288, 288b(a)(2), 290aa(a)-(c), 300x-9, and 300y-2), by striking out "Alcohol, Drug Abuse, and Mental Health Administration" each place it appears and inserting in lieu thereof "National Institutes of Alcohol, Drug Abuse, and Mental Health"; and

(B) in sections 501, 504(d), 508(a), 509B(a), 509C(a)(1), and 509C(d) (42 U.S.C. 290aa, 290aa-3(d), 290aa-6(a), 290aa-9(a), 290aa-10(a)(1), and 290aa-10(d)), by striking out "Administration" each place it appears and inserting in lieu thereof "National Institutes of Alcohol, Drug Abuse, and Mental Health".

(2) Conforming amendment.—Part A of title V (42 U.S.C. 290aa et seq.) is amended—

(A) by striking out the part heading and inserting in lieu thereof the following new heading:

"Part A—National Institutes of Mental Health, Drugs, and Alcohol and Individual Institutes"; and

(B) in section 501, by striking out the section heading and inserting in lieu thereof the following new heading:

"NATIONAL INSTITUTES OF ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH".

SEC. 3022. NATIONAL INSTITUTE OF MENTAL HEALTH.

(a) Mental Health Demonstration Project Grants.—Part A of title V is amended by inserting after section 504 (42 U.S.C. 290aa-3) the following new section:

"SEC. 504A. MENTAL HEALTH SERVICE GRANTS AND DEMONSTRATION PROJECTS.

"(a) Mental Health Demonstration Projects.—The Secretary, acting through the Director, may make grants to States, political subdivisions of States, and private nonprofit entities for—

"(1) mental health services demonstration projects, (including self-help services), for the planning, coordination, and improvement of community services for seriously mentally ill individuals, seriously emotionally disturbed children and adolescents, elderly individuals (with special emphasis on areas with high concentrations of the elderly), residents of rural areas, and homeless seriously mentally ill individuals;

"(2) demonstration projects relating to the provision of prevention services to individuals who are at risk of developing mental illness;

"(3) demonstration projects for the prevention of youth suicide;

"(4) demonstration projects for the improvement of the recognition, assessment, treatment, and clinical management of depressive disorders;

"(5) demonstration projects for the improvement of post-legal adoption mental health and counseling services; and

"(6) demonstration projects for treatment and prevention relating to sex offenses.

"(b) Grants.—The Secretary may make a grant under subsection (a) for not more than 5 consecutive 1-year periods, except that the Secretary may waive the limitation of this paragraph with respect to a particular grant if the Secretary determines that extenuating circumstances exist that merit such waiver.

"(c) Administrative Expenses.—

"(1) In general.—The Secretary shall not make a grant to an applicant under paragraphs (2) through (7) of subsection (a) unless the applicant agrees that not more than 10 percent of the amount of such grant shall be used for administrative expenses.

"(2) Mental health demonstration projects.—Not more than 25 percent of the total amount of a grant made to a State under subsection (a)(1) for a project for services for seriously mentally ill individuals, seriously emotionally disturbed children and adolescents, elderly individuals, residents of rural areas, and homeless seriously mentally ill individuals in any fiscal year may be used by the State for administrative expenses in carrying out such grant in such fiscal year.

"(d) Authorization of Appropriations.—

"(1) In general.—In order to provide grants under subsection (a) there is authorized to be appropriated—

"(A) $57,700,000 for fiscal year 1988;

"(B) $60,400,000 for fiscal year 1989, of which at least 18 percent shall be used for demonstration projects for homeless individuals;

"(C) $63,400,000 for fiscal year 1990, of which at least 18 percent shall be used for demonstration projects for homeless individuals; and

"(D) such sums as are necessary in fiscal year 1991, of which at least 18 percent shall be used for demonstration projects for homeless individuals.

"(2) Rural resident projects.—Of the amounts appropriated under paragraph (1), the Secretary may use not in excess of $5,000,000 in each of the fiscal years 1988 through 1990, to make grants for rural residents projects described in subsection (a)(1).

"(3) Elderly mental health projects.—Of the amounts appropriated under paragraph (1), the Secretary may use not in excess of $4,500,000 in each of the fiscal years 1988 through 1990, to make grants for demonstration projects relating to mental health services for elderly individuals described in subsection (a)(1).

"(4) Prevention services projects.—Of the amounts appropriated under paragraph (1), the Secretary may use not in excess of $5,000,000 in each of the fiscal years 1988 through 1990, to make grants for projects described in subsection (a)(2).

"(5) Suicide prevention projects.—Of the amounts appropriated under paragraph (1), the Secretary may use not in excess of $5,000,000 in each of the fiscal years 1988 through 1990, to make grants for projects described in subsection (a)(3).

"(6) Depressive disorder projects.—Of the amounts appropriated under paragraph (1), the Secretary may use not in excess of $2,000,000 in fiscal year 1988, and $2,500,000 in each of the fiscal years 1989 and 1990, to make grants for projects described in subsection (a)(4).

"(7) Post-legal adoption services projects.—Of the amounts appropriated under paragraph (1), the Secretary may use not in excess of $2,000,000 in fiscal year 1988, and $2,500,000 in each of the fiscal years 1989 and 1990, to make grants for projects described in subsection (a)(5).

"(8) Sex offenses.—Of the amounts appropriated under paragraph (1), the Secretary may use not in excess of $5,000,000 in fiscal year 1988, and $5,000,000 in each of the fiscal years 1989 and 1990, to make grants for projects described in subsection (a)(6).".

(b) Conforming Amendment.—Effective October 1, 1988, section 504 (42 U.S.C. 290aa-3) is amended—

(1) by striking out subsections (f) and (g); and

(2) by redesignating subsections (h) and (i) as subsections (f) and (g), respectively.

(c) Youth Suicide.—The second sentence of section 504(g) (as redesignated by subsection (b)) is amended by striking out "age of 21" and inserting in lieu thereof "age of 24".

(d) Mental Health Services for the Homeless.—Part C of title V is amended—

(1) in section 521(a) (42 U.S.C. 290cc-21(a)), by striking out "1987 and 1988" and inserting in lieu thereof "1987 through 1990"; and

(2) in section 535 (42 U.S.C. 290cc-35), by striking out "for fiscal year 1988" and inserting in lieu thereof "for each of the fiscal years 1988 through 1990".

(e) Service Research of Community Mental Health Programs.—Part A of title V (42 U.S.C. 290aa et seq.) is amended by inserting after section 504A (as added by subsection (a)) the following new section:

"SEC. 504B. SERVICE RESEARCH OF COMMUNITY MENTAL HEALTH PROGRAMS.

"(a) In General.—The Secretary, acting through the Director of the National Institute of Mental Health, shall develop and maintain an ongoing program of service research of community mental health programs and services, that shall include the evaluation of—

"(1) the most effective methods of providing community-based prevention, treatment, and rehabilitation services for mentally ill individuals of all ages; and

"(2) the comparative cost-effectiveness of different methods of treatment utilized in community mental health programs.

"(b) Funding Program.—Research and evaluation required in subsection (a) may be carried out through grants, contracts, or cooperative agreements.

"(c) Plan.—Not later than 6 months after the effective date of this section, the Director shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a plan for the program to be established under subsection (a).".

SEC. 3023. OFFICE OF SUBSTANCE ABUSE PREVENTION; DEMONSTRATION PROJECTS FOR HIGH RISK YOUTHS.

(a) Duties of Director.—Section 508(b) (42 U.S.C. 290aa-6(b)) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) provide assistance to communities to enable such communities to develop comprehensive, long-term substance abuse prevention strategies;";

(2) by striking out paragraph (5) and inserting in lieu thereof the following new paragraph:

"(5) support clinical training programs for substance abuse counselors and other health professionals involved in drug abuse education, prevention, and intervention;"; and

(3) in paragraph (9), by adding before the period the following: ", and coordinate activities to support and complement the private media efforts of the Partnership for a Drug-Free America".

(b) Authorization of Appropriations.—Section 508(d) (42 U.S.C. 290aa-6(d)) is amended to read as follows—

"(d)(1) For the purpose of carrying out the activities described in this section and in section 509, and for administering the Office of Substance Abuse Prevention, there are authorized to be appropriated $39,000,000 for fiscal year 1989, $49,500,000 for fiscal year 1990, $54,450,000 for fiscal year 1991, $59,295,000 for fiscal year 1992, and $65,224,500 for fiscal year 1993.

"(2) For the purpose of carrying out the activities described in section 509A, there are authorized to be appropriated $52,000,000 for fiscal year 1989, $66,000,000 for fiscal year 1990, $72,600,000 for fiscal year 1991, $79,860,000 for fiscal year 1992, and $87,846,000 for fiscal year 1993.".

(c) High Risk Youth.—Section 509A (42 U.S.C. 290aa-8(b)) is amended—

(1) in subsection (b), by adding at the end thereof the following new paragraph:

"(5) In making grants under this section, the Secretary shall give priority to applications that employ research designs adequate for evaluating the effectiveness of the program."; and

(2) in subsection (f)—

(A) in paragraph (8), by striking out "or";

(B) by striking out paragraph (9) and inserting in lieu thereof the following new paragraph:

"(9) has experienced long-term physical pain due to injury; or"; and

(C) by adding at the end thereof the following new paragraph:

"(10) has experienced chronic failure in school;".

(b) Alcohol Information Program.—Part A of title V is amended by adding after section 509D the following new section:

"SEC. 509E. FETAL ALCOHOL INFORMATION PROGRAM.

"(a) Establishment.—The Administrator shall establish and implement a public information program on fetal alcohol syndrome to educate the public concerning the syndrome and to reduce the incidence of the occurrence of the syndrome.

"(b) Report.—Not later than 24 months after the effective date of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988, the Administrator shall submit to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Labor and Human Resources of the Senate a report that describes the effect of the informational program established under subsection (a).".

(c) Conforming Amendment.—Section 505(a)(1) (42 U.S.C. 290aa-3a(a)(1)) is amended by striking out "for the National Institute on Drug Abuse," and inserting in lieu thereof "for the National Institute on Drug Abuse, for the Office of Substance Abuse Prevention,"

SEC. 3024. NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM.

Section 513 (42 U.S.C. 290bb-1b) is amended—

(1) in subsection (a), by inserting before the period ", $83,000,000 for fiscal year 1988, and such sums as are necessary for each of the fiscal years 1989 through 1991"; and

(2) in subsection (b), by adding at the end thereof the following new sentence: "There are authorized to be appropriated $15,000,000 in fiscal year 1988, $20,000,000 in fiscal year 1989, $25,000,000 in fiscal year 1990, and such sums as are necessary in 1991, to carry out section 512(c).".

SEC. 3025. DRUG ABUSE RESEARCH.

Section 515(a) (42 U.S.C. 290cc) is amended by striking out paragraphs (5) and (6) and inserting in lieu thereof the following new paragraphs:

"(5) effective methods of drug abuse prevention;

"(6) effective methods of treatment and rehabilitation, including methods of intervention directed at treating the abuse of specific drugs; and

"(7) new and promising behavioral and chemical therapies for the treatment of drug abuse, including the development of chemical antidotes and narcotic antagonists for use in the treatment of cocaine and heroin addiction, that shall be conducted at intramural and extramural locations, and derived from basic and clinical research.".

SEC. 3026. NATIONAL INSTITUTE ON DRUG ABUSE.

(a) Authorization of Appropriations.—Section 517 (42 U.S.C. 290cc-2) is amended to read as follows:

"SEC. 517. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out this subpart, and sections 515A and 549, $165,000,000 for fiscal year 1989, and such sums as are necessary for each of the fiscal years 1990 and 1991. There are authorized to be appropriated $10,000,000 in fiscal year 1988, $10,000,000 in fiscal years 1989 and 1990, and such sums as are necessary in fiscal year 1991, to carry out section 516.".

(b) Dissemination of Information.—Subpart 2 of part B of title V is amended by adding after section 515 (42 U.S.C. 290cc.) the following new section:

"SEC. 515A. DRUG TREATMENT INFORMATION.

"The Secretary, in cooperation with the Administrator shall disseminate through publications, conferences, professional meetings, the development of curricular materials, and through other appropriate means, information concerning effective treatment methods for drug abuse.".

(c) Evaluation of the Veterans' Administration Inpatient and Outpatient Drug and Alcohol Drug Treatment Programs.—Subsection 620A of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Administrator of Veterans' Affairs shall conduct an evaluation of inpatient and outpatient drug and alcohol treatment programs operated by the Veterans' Administration. The evaluation shall include a determination of the medical advantages and cost-effectiveness of such programs, taking into consideration rates of readmission and rate of successful rehabilitation. There are authorized to be appropriated for the purpose of the conduct of such evaluation $1,000,000 in fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.".

(d) Annual Surveys.—Subpart 2 of part D of title V (42 U.S.C. 290ee et seq.) is amended by adding at the end thereof the following new section:

"SEC. 549. ANNUAL SURVEYS BY NATIONAL INSTITUTE ON DRUG ABUSE.

"Notwithstanding any other provision of law, the Director of the National Institute on Drug Abuse shall conduct a national household survey on drug abuse and a high school senior survey on an annual basis. The Director shall collect additional information concerning certain groups of individuals who are not currently included or are undercounted in such surveys.".

SEC. 3027. DRUG ABUSE TREATMENT DEMONSTRATION PROJECTS.

Subpart 2 of part D of title V (42 U.S.C. 290ee et seq.) (as amended by section 3026(d) of this title) is further amended by adding at the end thereof the following new section:

"SEC. 550. DRUG ABUSE TREATMENT DEMONSTRATION PROJECTS.

"(a) Establishment.—The Secretary shall establish demonstration projects that provide grants to States for the purpose of enabling such States to provide effective treatment, and referrals for treatment, to individuals who abuse drugs.

"(b) Awarding of Grants.—

"(1) Selection areas.—The Secretary shall award grants under subsection (a) to projects that operate in areas—

"(A) in which a demand for drug treatment services exists, or a need for such services exists which exceeds the capacity of organizations operating in that area to provide such services;

"(B) that have a high prevalence of drug abuse;

"(C) that have a high incidence of drug related criminal activities; and

"(D) that meet any other requirements that the Secretary determines are appropriate.

"(2) Focus of organizations.—In awarding grants under subsection (a), the Secretary shall—

"(A) select three projects each of which focus on at least one of the following areas of treatment:

"(i) treatment of adolescents;

"(ii) treatment of minorities;

"(iii) treatment of pregnant women;

"(iv) treatment of female addicts and the children of such females; and

"(v) treatment of the residents of public housing projects; and

"(B) select at least one project that includes a centralized local referral unit that shall provide—

"(i) an initial analysis of the nature of the individual's problem and refer such individual to appropriate existing drug treatment programs; and

"(ii) assistance to school teachers and other individuals who come into contact with drug abusers when attempting to refer such abusers to appropriate drug treatment programs.

"(c) Application.—A State that desires to participate in a project established under subsection (a) shall submit a written application to the Secretary in such form and containing such information as the Secretary may by regulation request.

"(d) Preferences.—In awarding grants under subsection (a), the Secretary shall give preference to projects that demonstrate a comprehensive approach to the problems associated with drug abuse and provide evidence of broad community involvement and support, including the support of private businesses, law enforcement authorities, health care providers, local school systems, and local governments in the proposed demonstration project.

"(e) TIME PERIOD FOR PROJECTS.—Projects funded under this section shall be for a period of at least three years but in no event to exceed five years.

"(f) EVALUATIONS.—The Secretary shall require, as a condition of awarding grants under this section, a systematic evaluation of the projects funded under this section on a long term basis to record the impact of such projects on treated individuals, and on the community as a whole. The methodology used in the evaluation shall be published in the Federal Register for comment before becoming effective.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $24,000,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 through 1993.".

SEC. 3028. RESEARCH ON ALCOHOL AND DRUG ABUSE TREATMENT PROGRAMS.

Part D of title V (42 U.S.C. 290dd et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart 3—Provisions Relating to Both Alcohol and Drug Abuse

"SEC. 560. SERVICES RESEARCH ON ALCOHOL AND DRUG ABUSE TREATMENT PROGRAMS.

"(a) IN GENERAL.—The Secretary, acting through the Directors of the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse, shall develop and maintain an ongoing program of research and evaluation of alcohol and drug abuse treatment programs to—

"(1) determine the most effective methods of treatment for alcohol and drug abuse; and

"(2) assess the comparative efficacy and cost-effectiveness of different methods of alcohol and drug abuse treatment.

"(b) FUNDING PROGRAM.—Research and evaluation required in subsection (a) may be carried out through grants, contracts, or cooperative agreements.

"(c) PLAN.—Not later than 6 months after the effective date of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a plan for the program to be established under subsection (a).".

SEC. 3029. COMPREHENSIVE COMMUNITY PREVENTION INITIATIVES.

Part D of title V (42 U.S.C. 290dd et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 561. THE COMMUNITY YOUTH ACTIVITY PROGRAM.

"(a) BLOCK GRANT PROGRAM.—The Secretary shall make grants to States to enable such States to carry out the activities described in subsection (e).

"(b) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section, a State shall submit to the Secretary an application that contains such information and is in such form as may be required by the Secretary.

"(2) DEMONSTRATION OF NEED.—In the application submitted under paragraph (1), the State shall demonstrate a need for the activities described in subsection (e) and provide a description of those programs that will receive assistance under this section.

"(c) AMOUNT OF GRANT.—

"(1) MINIMUM AMOUNT.—Each State that submits an application under subsection (b) that meets the requirements of the Secretary shall, subject to the availability of appropriations, receive a grant in an amount that equals at least $250,000 in each fiscal year.

"(2) PROGRAMS OF NATIONAL SIGNIFICANCE.—Of amounts appropriated or otherwise available to carry out this section for any fiscal year, the Secretary shall reserve 5% of such amounts to be provided for projects of national significance, such as activities authorized in section 681(a)(2)(F) of the Community Services Block Grant Act (42 U.S.C. Sec. 9910(a)(2)(F)) or other projects expected to have a significant impact in preventing use of drugs among youth.

"(3) SPECIFIED APPROPRIATIONS.—

"(A) IN GENERAL.—If the amount appropriated under subsection (f) is less than $50,000,000, the Secretary shall allot 25 percent of such amount equally among the 50 States with the remainder to be apportioned as described in subparagraph (B).

"(B) REMAINDER.—Amounts remaining after the allotment under subparagraph (A) shall be disbursed according to priorities developed by the Secretary that are designed to target funds to those States—

"(i) where the highest proportions of school aged children are at risk of substance abuse;

"(ii) where a tangible need has been identified by the State; and

"(iii) where the State has proposed the funding of additional programs targeted at the areas of highest need.

"(d) PRIORITY.—In making grants under this section, the Secretary shall give priority to—

"(1) projects aimed at youth not in school or who are at risk of dropping out of school;

"(2) projects that seek to reinvolve dropouts in educational programs, involve youth community-based activities, develop training or employment opportunities for dropouts, or provide youth with alternatives to substance abuse;

"(3) projects to provide after-school, vacation and weekend activities designed to give youth opportunities to actively participate in a variety of activities;

"(4) projects that include participation by the business community;

"(5) projects that provide outreach to individuals of all ages who are at high risk of involvement with substance abuse;

"(6) projects targeted to communities with the most serious drug problems to enable such communities to develop programs that coordinate Federal, State, and local efforts to develop comprehensive, long-term, community-wide prevention and education strategies; and

"(7) projects that seek to involve youth who are members of gangs or who may join a gang in educational programs, community-based activities, training or employment opportunities or other alternatives to gang involvement and that seek to inform such youth of such services.

"(e) ACTIVITIES.—The following activities may be conducted with the assistance received under this section:

"(1) SUBSTANCE ABUSE EDUCATION CENTERS.—Funding may be provided for State regional substance abuse education and prevention centers designed to provide technical assistance, outreach, consultation, training, and referral services to schools, organization, community members and individual grantees under this program.

"(2) COMMUNITY SERVICES.—Funding may be provided for community services and partnerships designed to develop community activities targeted at substance abuse prevention through education, training, and recreation projects including local educational agencies, local or State health department or community health or mental health centers, law enforcement agencies, community-based organizations, community action agencies, local or State recreational departments, or business organizations. Applications for grants under this paragraph shall include a description of the method to be used in evaluating the impact the program is having on the drug problem within the community.

"(3) OTHER PROJECTS.—Funding may be provided to other projects or proposals that are consistent with the intent of the program authorized under this section.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section, $40,00,000 for fiscal year 1989, $55,000,000 for fiscal year 1990, $60,000,000 for fiscal year 1991, $66,550,000 for fiscal year 1992, and $73,205,000 for fiscal year 1993.

"(g) PROJECT EVALUATIONS.—The Secretary shall evaluate projects conducted with assistance received under this section and applications for grants under this section shall include a description of the method to be used in evaluating the impact the program is having on the drug problem within the community.

"SEC. 562. EVALUATION OF SUBSTANCE ABUSE EDUCATION AND PREVENTION EFFORT.

"(a) METHOD.—The Secretary, acting through the Administrator, shall develop and conduct a structured evaluation of the different approaches utilized across the Nation to reduce substance abuse.

"(b) GRANTS.—The Administrator may enter into grants or contracts with appropriate entities for the purpose of conducting the evaluations required under subsection (a).

"(c) TIME OF REPORTS.—The Secretary shall submit reports based on the evaluations prepared under subsection (a) not later than 1 year after the effective date of this section, and another report based on such evaluations not later than 3 years after such date. A final report shall be submitted by the Secretary not later than January 1, 1994.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $12,000,000 in fiscal year 1989, and $15,000,000 for each of the fiscal years 1990 through 1993.".

SEC. 3030. AUTHORIZATION OF APPROPRIATIONS.

(a) TECHNICAL ASSISTANCE.—Sections 541 (42 U.S.C. 290dd) and 545 are amended by adding at the end thereof the following new subsection:

"(c) There are authorized to be appropriated in each of the fiscal years 1988 through 1991, $15,000,000 to carry out this section and section 1920A(1).".

(b) DATA COLLECTION.—Section 509D (as added in section 3014 of this Act) is amended by adding at the end thereof the following new subsection:

"(c) APPROPRIATIONS.—There is authorized to be appropriated in fiscal year 1989 $33,000,000, and for each of the fiscal years 1990 and 1991, $38,000,000 to be used by the Administration to carry out this section.".

Subtitle C—Institute of Medicine

SEC. 3031. STUDY BY THE INSTITUTE OF MEDICINE.

(a) STUDY.—The Secretary of Health and Human Services shall contract with the Institute of Medicine of the National Academy of Sciences to conduct a study concerning the effective and appropriate treatment, rehabilitation, and continuing care of persons suffering from severe and disabling mental illnesses.

(b) Report.—Not later than 18 months after the date of the signing of the contract with the Institute of Medicine, the Secretary of Health and Human Services shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report of the results of the study conducted under subsection (1).

(c) Authorization of Appropriations.—There is authorized to be appropriated $1,000,000 in fiscal year 1989 to carry out this section.

Subtitle D—Alternative Utilization of Military Facilities

SEC. 3041. ACTION BY NATIONAL INSTITUTE ON DRUG ABUSE AND STATES CONCERNING MILITARY FACILITIES.

Subpart 2 of part D of title V (42 U.S.C. 290ee et seq.) (as amended by sections 3026(d) and 3027 of this title) is further amended by adding at the end thereof the following new section:

"SEC. 551. ACTION BY NATIONAL INSTITUTE ON DRUG ABUSE AND STATES CONCERNING MILITARY FACILITIES.

"(a) National Institute on Drug Abuse.—The Director of the National Institute on Drug Abuse shall—

"(1) coordinate with the agencies represented on the Commission on Alternative Utilization of Military Facilities the utilization of military facilities or parts thereof, as identified by such Commission, established under the National Defense Authorization Act of 1989, that could be utilized or renovated to house nonviolent persons for drug treatment purposes;

"(2) notify State agencies responsible for the oversight of drug abuse treatment entities and programs of the availability of space at the installations identified in paragraph (1); and

"(3) assist State agencies responsible for the oversight of drug abuse treatment entities and programs in developing methods for adapting the installations described in paragraph (1) into residential treatment centers.

"(b) States.—With regard to military facilities or parts thereof, as identified by the Commission on Alternative Utilization of Military Facilities established under section 3042 of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988, that could be utilized or renovated to house nonviolent persons for drug treatment purposes, State agencies responsible for the oversight of drug abuse treatment entities and programs shall—

"(1) establish eligibility criteria for the treatment of individuals at such facilities;

"(2) select treatment providers to provide drug abuse treatment at such facilities;

"(3) provide assistance to treatment providers selected under paragraph (2) to assist such providers in securing financing to fund the cost of the programs at such facilities; and

"(4) establish, regulate, and coordinate with the military official in charge of the facility, work programs for individuals receiving treatment at such facilities.

"(c) Reservation of Space.—Prior to notifying States of the availability of space at military facilities under subsection (a)(2), the Director may reserve space at such facilities to conduct research or demonstration projects.".

SEC. 3042. AMENDMENT TO THE FEDERAL PROPERTIES AND ADMINISTRATIVE PROCEDURES ACT.

Section 203(j)(3)(B) of the Federal Property and Administrative Procedures Act of 1979 (40 U.S.C. 484(j)(3)(B)) is amended by inserting ", drug abuse treatment centers" after "health centers".

Subtitle E—Acquired Immunodeficiency Syndrome Block Grants

SEC. 3051. ACQUIRED IMMUNODEFICIENCY SYNDROME BLOCK GRANTS.

Part B of title XIX (42 U.S.C. 300x et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart 3—Acquired Immunodeficiency Syndrome Grants

"SEC. 1920F. GRANTS.

"(a) Authority.—To carry out this section, there are authorized to be appropriated $95,000,000 for fiscal year 1989, and such sums as are appropriate for each of the fiscal years 1990 through 1991, to make grants to public and nonprofit private entities for projects and programs that seek to reduce the transmission of the acquired immunodeficiency virus in and by users of illegal intravenous drugs.

"(b) Applications.—An allotment to a State shall not be made by the Secretary under subsection (a) unless the State has submitted an information and assurances section as designated in section 1920H(a), and such information and assurances section has been approved by the Secretary in consultation with the Director of the Centers for Disease Control, in accordance with section 1920H(a).

"SEC. 1920G. ALLOTMENTS.

"(a) Reservations.—The Secretary shall reserve $100,000 of the amount appropriated under section 1920F in each fiscal year for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs.

"(b) State Allotment.—The allotment of a State under this section shall be based on the State's proportionate share of the number of intravenous drug use related cases of AIDS as reported by the Centers for Disease Control, but, subject to the availability of appropriations, in no case shall a State receive less than $150,000.

"(c) Puerto Rico.—Puerto Rico shall be treated as a State in the determination of allotments under subsection (b).

"(d) Data and Information.—The Secretary shall obtain from each appropriate Federal agency, the most recent data and information, for the 12-month period immediately preceding the determination of the allotment, necessary to determine the allotments for fiscal year 1988, and for subsequent fiscal years, the Secretary shall obtain the most recent data and information, for the 2-year period immediately preceding the determination of the allotment.

"SEC. 1920H. REQUIRED INFORMATION AND ASSURANCES.

"In order to receive an allotment for a fiscal year under section 1920G, each State shall submit to the Secretary, as part of the alcohol, drug abuse, and mental health block grant application required under section 1916, an information and assurances section that shall contain—

"(1) such information as the Directors of the National Institute on Drug Abuse and the Centers for Disease Control shall require;

"(2) a description of the programs that will be implemented or improved with the assistance given under this subpart and the manner in which such programs will be coordinated with other public and private programs and activities;

"(3) assurances that, in the preparation of any statement under this section, the State will consult with local governments and the public and private entities (including community-based organizations) involved in the provision of services under this subpart;

"(4) a description of the manner in which the State will evaluate the programs and activities conducted with assistance provided under this subpart;

"(5) assurances that the State will prepare and submit a report, as required by the Secretary, on the results of the evaluations referred to in paragraph (4);

"(6) assurances that the State will prepare and submit reports, as required by the Secretary, containing data necessary to monitor relevant epidemiological changes; and

"(7) assurances that assistance provided to the State under this subpart will supplement and not supplant any State or local expenditures for treatment, outreach, prevention, and educational efforts targeted for users of illegal intravenous drugs at risk of contracting acquired immunodeficiency syndrome.

"SEC. 1920I. USE OF ALLOTMENTS.

"Amounts paid to a State under this subpart may be used by the State according to such requirements as the Secretary, acting through the Director of the National Institute on Drug Abuse, and in consultation with the Directors of the Centers for Disease Control, to establish programs that provide—

"(1) treatment for users of illegal intravenous drugs that have contracted, or are at risk of contracting the acquired immunodeficiency syndrome virus;

"(2) outreach services to users of illegal intravenous drugs;

"(3) aggressive efforts to prevent the transmission of the acquired immunodeficiency syndrome virus among users of illegal intravenous drugs; and

"(4) the training and organizational efforts necessary to accomplish all of the above.

"SEC. 1920J. PAYMENTS.

"(a) In General.—For each fiscal year, the Secretary shall make payments, as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), to each State that has complied with section 1920H from the allotment under section 1920G (other than any amount reserved under section 1920G) from amounts appropriated for that fiscal year.

"(b) Unexpended Amounts.—

"(1) In general.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which the payment was made.

"(2) Withholding of funds.—If in the judgment of the Secretary, a State is unlikely to use funds that are available to that State during a fiscal year for the purposes prescribed by the Secretary under section 1920I, the Secretary may withhold the amount otherwise available to that State in subsequent fiscal year.

"(c) Reduction in Payments.—

"(1) In general.—The Secretary, at the request of a State, may reduce the amount of payments under subsection (a) by—

"(A) the fair market value of any supplies or equipment furnished the State by the Federal government for the convenience of and at the request of the State; and

"(B) the amount of the pay, allowances, and travel expenses of any officer or employee of the Federal government when detailed to the State, and the amount of any other costs incurred in connection with the detail of such officer or employee, if such amount is expended for the convenience of and at the request of the State.

"(2) REDUCED AMOUNTS.—The amount by which any payment is reduced under paragraph (1) shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based. The amount shall be considered to be part of the payment and to have been paid to the State.

"(d) REALLOCATIONS.—To the extent that all the funds appropriated under section 1920F for a fiscal year and available for allotment in such fiscal year are not otherwise allotted to States because—

"(1) one or more States have not submitted a satisfactory application with an information and assurances section in accordance with section 1920H for the fiscal year;

"(2) one or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(3) some State allotments are offset or repaid under subsection (c);

such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this subsection.

"SEC. 1920K. DEFINITION.

"As used in this subpart, the term 'illegal intravenous drug' includes any controlled substance as defined in section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)).".

Subtitle F—Miscellaneous

SEC. 3061. ESTABLISHMENT OF THE OFFICE OF ASSOCIATE DIRECTOR FOR SPECIAL POPULATIONS.

(a) NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM.—Section 502 (42 U.S.C. 290aa-1) is amended by adding at the end thereof the following new subsection:

"(e)(1) The Director shall designate an Associate Director for Special Populations.

"(2) The Secretary, acting through the Associate Director for Special Populations, shall—

"(A) develop and coordinate prevention, treatment, research, and administrative policies and programs to assure increased emphasis on the needs of women and minorities for the prevention and treatment of alcoholism and alcohol abuse and related problems;

"(B) support programs and projects relating to the delivery of services to women and minorities for the prevention and treatment of alcoholism and alcohol abuse and related problems, including demonstration programs and projects;

"(C) develop a plan to increase the representation of women and minorities in service delivery and manpower programs for the prevention and treatment of alcoholism and alcohol abuse and related problems;

"(D) support programs of basic and applied social and behavioral research on the problems of women and minorities relating to alcoholism and alcohol abuse;

"(E) study the effects of discrimination by institutions against alcoholics and alcohol abusers;

"(F) develop systems to assist women and minority individuals who are alcoholics or alcohol abusers in adapting to, and coping with, the effects of discrimination;

"(G) support and develop research, demonstration, and training programs designed to eliminate institutional discrimination against alcoholics and alcohol abusers; and

"(H) provide increased emphasis on the concerns of women and minorities in training programs, service delivery programs, and research activities of the Institute.".

(b) NATIONAL INSTITUTE ON DRUG ABUSE.—Section 503 (42 U.S.C. 290aa-2) is amended by adding at the end thereof the following new subsection:

"(e)(1) The Director shall designate an Associate Director for Special Populations.

"(2) The Secretary, acting through the Associate Director for Special Populations, shall—

"(A) develop and coordinate prevention, treatment, research, and administrative policies and programs to assure increased emphasis on the needs of women and minorities for the prevention and treatment of drug abuse and related problems;

"(B) support programs and projects relating to the delivery of services to women and minorities for the prevention and treatment of drug abuse and related problems, including demonstration programs and projects;

"(C) develop a plan to increase the representation of women and minorities in service delivery and manpower programs for the prevention and treatment of drug abuse and related problems;

"(D) support programs of basic and applied social and behavioral research on the problems of women and minorities relating to drug abuse;

"(E) study the effects of discrimination by institutions against drug abusers;

"(F) develop systems to assist women and minority individuals who are drug abusers in adapting to, and coping with, the effects of discrimination;

"(G) support and develop research, demonstration, and training programs designed to eliminate institutional discrimination against drug abusers; and

"(H) provide increased emphasis on the concerns of women and minorities in training programs, service delivery programs, and research activities of the Institute.".

SEC. 3062. MODEL DRUG ABUSE INSURANCE PLAN.

Subpart 2 of part D of title V (42 U.S.C. 290ee et seq.) (as amended by sections 3026(d), 3027, and 3043 of this title) is further amended by adding at the end thereof the following new section:

"SEC. 552. MODEL SUBSTANCE ABUSE INSURANCE PLAN.

"(a) DEVELOPMENT.—The Secretary, in cooperation with the Directors of the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism, members of the insurance industry, the Director of the Office of Personnel Management, and members of the business community, shall develop a model insurance benefit plan for consideration for adoption by the Administrator of the Office of Personnel Management and the Congress. In developing such a plan, the Secretary shall consider the costs and benefits of alternative coverage designs.

"(b) REPORT.—Not later than 6 months after the effective date of this title, the Secretary shall prepare and submit, to the appropriate Committees of Congress, a report that contains recommendations concerning the type of insurance described under subsection (a) together with a model plan for the provision of such insurance. The Director of the Office of Personnel Management shall report to the appropriate Committees of Congress concerning the appropriateness of incorporating the model plan developed under this section in the Federal Employee Health Benefit Program.

"(c) AVAILABILITY OF REPORT.—The report submitted under subsection (b) shall be made available by the Secretary to members of the insurance industry and business community.".

SEC. 3063. TRAINING AWARDS.

Section 487(d) (42 U.S.C. 288) is amended by adding at the end thereof the following: "There are authorized to be appropriated for fiscal year 1989 for payments under National Research Service Awards as provided by the Secretary not less than $10,000,000 more than the amount made available to the National Institute on Drug Abuse under this section in fiscal year 1988.".

SEC. 3064. GRANTS FOR TRAINING OF PERSONNEL TO TREAT DRUG ABUSE.

Subpart 2 of part B of title V (42 U.S.C. 290cc et seq.) is amended by adding at the end thereof the following new section:

"SEC. 518. GRANTS FOR TRAINING OF PERSONNEL TO TREAT SUBSTANCE ABUSE.

"(a) IN GENERAL.—The Secretary may make grants to or enter into contracts with schools of medicine and osteopathy, health professions schools, schools of allied health professions, nurse training institutions, and institutions or organizations that offer education or continuing medical or health education to enable such institutions or organization—

"(1) to train physicians, psychologists, social workers, nurses, and counselors in the treatment of substance abuse;

"(2) to train health professionals, including physicians, psychologists, social workers, nurses, and counselors in the recognition of substance abuse and in the appropriate diagnosis and manner of referral of individuals who abuse substances for treatment of such abuse;

"(3) to develop curriculum and curricula materials to enable institutions or organizations to engage in the training of the type described in paragraphs (1) and (2); and

"(4) to provide stipends to individuals receiving training of the type described in paragraphs (1) and (2).

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $6,000,000 for fiscal year 1989.".

SEC. 3065. DRUG TESTING CERTIFICATION PROGRAM REQUIREMENTS.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall establish a procedure to be used to certify certain clinical laboratories that analyze and determine the results of drug tests conducted by other entities or individuals, and to ensure that such laboratories maintain high quality and appropriate security concerning the results of such tests.

(b) REQUIREMENTS.—Under the procedures referred to in subsection (a), a laboratory that conducts drug testing shall, as determined under guidelines prescribed by the Secretary of Health and Human Services—

(1) meet the mandatory guidelines, or be determined by the Secretary of Health and Human Services to have met the mandatory guidelines, established by the Secretary under subclauses (I) and (III) of section 503(a)(1)(A)(ii) of the supplemental Appropriations Act, 1987;

(2) have been inspected and accredited by national accrediting bodies approved for such purpose by the Secretary; or

(3) have been a State clinical laboratory certified under a State certification programs that is as least as stringent as that established by the Secretary under subsection (a).

(c) Spending Restriction.—The Secretary of Health and Human Services shall not expend any Federal funds for certification of individual laboratories to conduct drug testing of any Federal employees under this Act (or any amendments made by this Act). Costs associated with such certifications shall be the responsibility of the laboratories seeking the certification, except that this section shall not be construed to prohibit the use of such funds to develop standards, measurement instruments, or such other activities and functions as are necessary to establish and maintain a certification system.

SEC. 3066. EMPLOYEE ASSISTANCE PROGRAMS.

(a) Establishment.—The Secretary of Labor shall establish a program through which the Secretary shall provide grants to, or enter into contract with, employers to enable such employers to develop employee drug and alcohol abuse assistance programs.

(b) Applications.—Employers desiring to receive a grant or contract under this section shall submit to the Secretary of Labor, an application, in such form and containing such information as the Secretary may require.

(c) Regulations.—The Secretary of Labor shall promulgate regulations necessary to carry out this section.

(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, $4,000,000 for fiscal year 1989, and $5,000,000 for each of the fiscal years 1990 and 1991.

SEC. 3067. DOMESTIC VOLUNTEER SERVICE ACT.

Section 501(c) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5081(c)) is amended by adding at the end thereof the following new sentences: "In addition to the amounts authorized to be appropriated by the preceding sentence, there are authorized to be appropriated $4,000,000 in fiscal year 1989, and $5,000,000 for each of the fiscal years 1990 and 1991 to be available for support of drug abuse prevention, or which $500,000 may be used in each fiscal year for support programs. Notwithstanding any other provision of law, programs operated with funds appropriated under this subsection shall not be limited in time.".

SEC. 3068. REPORTS.

Not later than 1 year after the date of enactment of this title, the Secretary of Health and Human Services shall conduct a study, and prepare and submit, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report concerning the range of treatment programs for drug abuse utilized with funds provided under the Public Health Service Act (42 U.S.C. 201 et seq.), and other such programs utilized by State and local governments and private organizations. Such report shall identify those programs that demonstrate effective treatment for drug abuse.

SEC. 3069. LEASE PURCHASE AUTHORITY.

Section 301 of the Public Health Service Act (42 U.S.C. 241) is amended by adding at the end thereof the following new subsection:

"(j)(1) Notwithstanding any other provision of law, the Secretary is authorized to enter into lease-purchase contracts, for period not to exceed 30 years, for the acquisition by lease of buildings and facilities needed by the Public Health Service in the pursuit of its mission to continually improve the health of the nation. The authority of the Secretary to enter into any lease-purchase contract shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by Appropriations Acts.

"(2) Office and special purpose facilities acquired under paragraph (1) shall accommodate activities such as research, experiments, investigations, demonstrations, and case studies of the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and impairments of man, as well as the support function necessary for such activities.

"(3) If the lease-purchase contract involves new construction, the building may be built by a private party on land owned by the United States and under the jurisdiction of the Public Health Service or on land not owned by the United States. The title to such health facilities and the associated land leased under this authority, shall vest in the United States on the expiration of the contract term, or at the time the United States fulfills its financial obligation under the contract.

"(4) The Secretary shall notify Congress annually of the terms of the lease-purchase contracts.".

Subtitle G—Drug Education

SEC. 3081. SHORT TITLE.

This subtitle may be cited as the "Drug-Free Schools Amendments of 1988".

SEC. 3082. AUTHORIZATION OF APPROPRIATIONS.

Section 5111(a) of the Drug-Free Schools and Communities Act of 1986 (hereafter in this subtitle referred to as the "Act") is amended by striking out "$250,000,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993" and inserting in lieu thereof "$405,000,000 for fiscal year 1989, $489,500,000 for fiscal year 1990, $538,450,000 for fiscal year 1991, $592,295,000 for fiscal year 1992, and $651,524,500 for fiscal year 1993".

SEC. 3083. NEW STATE PROGRAMS.

(a) Training Activities Priority.—Section 5122(a) of the Act is amended by inserting at the end thereof the following new flush sentence:

"Activities described in paragraph (2) of this subsection shall receive priority for the use of funds allocated under this section.".

(b) State Regional Centers Authorized.—Section 5122(a) of the Act is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new paragraph:

"(7) State regional drug and alcohol abuse education and prevention centers for providing outreach, consultation, training, and referral services to schools, organizations, and members of the community.".

(c) Innovative Programs.—Section 5122(b) of the Act is amended—

(1) by redesignating subparagraphs (B) through (I) as subparagraphs (C) through (J), respectively; and

(2) by adding after subparagraph (A) the following new subparagraph:

"(B) has experienced chronic failure in school;".

SEC. 3084. STATE APPLICATIONS.

Section 5123(b) of the Act is amended—

(1) by redesignating paragraphs (6) through (9) as paragraphs (7) through (10), respectively;

(2) by adding after paragraph (5) the following new paragraph:

"(6) include a detailed comprehensive plan describing how money allocated to the chief executive officer is to be used;";

(3) by striking out "and" at the end of paragraph (9) (as redesignated by this section);

(4) by striking out the period at the end of paragraph (10) (as redesignated by this section) and inserting in lieu thereof a semicolon; and

(5) by adding at the end thereof the following new paragraph:

"(11) provide a description of State Teacher Certification requirements, if applicable, regarding training in drug and alcohol abuse education and prevention including a description of the extent to which substance abuse education and prevention is included in teacher training curricula in the State.".

SEC. 3085. RESPONSIBILITY OF STATE AGENCIES.

(a) Model Curriculum.—Section 5124(b)(2) of the Act is amended to read as follows:

"(2) the development, identification, and dissemination of model curriculum materials for consideration by local educational agencies and for evaluation of the materials;".

(b) Teacher Training Priority.—Section 5124(b) of the Act is further amended by inserting at the end thereof the following new flush sentence:

"Activities described in paragraph (1) of this subsection shall receive priority for the use of funds allocated under this section.".

SEC. 3086. LOCAL DRUG AND ALCOHOL ABUSE EDUCATION AND PREVENTION PROGRAMS.

(a) Counseling Programs.—Section 5125(a)(4) of the Act is amended by striking out "and parents," and inserting in lieu thereof a comma and the following: "parents, and families,".

(b) Counseling and Referral Services.—Section 5125(a) of the Act is amended—

(1) by redesignating paragraphs (5) through (12) as paragraphs (7) through (14), respectively; and

(2) by adding after paragraph (4) the following new paragraphs:

"(5) outreach activities, drug and alcohol abuse prevention programs, and referral services, for school dropouts;

"(6) counseling programs and referral services for parents and siblings of drug and alcohol abusers;".

SEC. 3087. REPORTS.

Section 5127 of the Act is amended to read as follows:

"SEC. 5127. REPORTS.

"(a) State Reports.—Each State shall submit to the Secretary a biennial report that contains information on the State and local programs conducted with assistance furnished under this Act. Each such report shall be in a standard format and shall request standard information as prescribed by the Secretary and shall include—

"(1) a description of the extent of the current drug and alcohol problem in the elementary and secondary schools in the State;

"(2) a description of the drug and alcohol policy in the schools in the State;

"(3) the number of individuals served by this Act;

"(4) the characteristics of populations served;

"(5) types of service provided and duration of the services;

"(6) information on how the State has targeted the populations listed under section 5122(b)(2) of this Act; and

"(7) a description of the effectiveness of the drug and alcohol abuse education and prevention programs in the State.

"(b) LOCAL REPORTS.—Each local educational agency receiving funds under this Act shall submit to the appropriate State educational agency such information as is requested by such State educational agency for purposes of preparing the biennial report required in subsection (a). Such information shall be requested by the State educational agency as part of the local educational agency application and progress reports required under section 5126.".

SEC. 3088. TEACHER TRAINING.

(a) IN GENERAL.—The Act is amended—

(1) by redesignating part C, part D, and part E as part D, part E, and part F, respectively; and

(2) by inserting after part B the following new part:

"PART C—TEACHER TRAINING

"SEC. 5128. PROGRAM AND ALLOCATIONS.

"(a) IN GENERAL.—From the sum available under section 5112(c), the Secretary shall make grants to State educational agencies, local educational agencies, and institutions of higher education for teacher training programs in accordance with this part.

"(b) USE OF FUNDS.—Funds made available under this part shall be used to establish, expand, or enhance programs and activities for the training of teachers, administrators, counselors, and other educational personnel concerning drug and alcohol abuse education and prevention. Such programs shall be coordinated through the State agency for higher education or State educational agency, as appropriate, and, shall be coordinated, as appropriate, with the activities of the Regional Centers established under section 5135 of this title.

"(c) APPLICATIONS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, a State educational agency, a local or intermediate educational agency, an institution of higher education, or consortium thereof, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—

"(A) set forth the activities and programs to be carried out with funds paid under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case supplant such funds;

"(D) provide assurances of compliance with the provisions of this part; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.".

(b) AUTHORIZATION FOR PART C.—Section 5111(a) of the Act is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by inserting after "title" the following: "(other than part C)"; and

(3) by adding at the end thereof the following:

"(2)(A) Subject to subparagraph (B), for the purpose of carrying out part C, there are authorized to be appropriated $16,000,000 for fiscal year 1989, and $20,000,000 for each of the succeeding fiscal years ending prior to October 1, 1993.

"(B) No funds may be appropriated for any fiscal year under subparagraph (A) unless the amount appropriated under paragraph (1) of this subsection exceeds $230,000,000 for such year.".

SEC. 3089. FEDERAL ACTIVITIES.

(a) IN GENERAL.—Section 5132(b)(3) of the Act is amended by inserting before the semicolon a comma and the following: "and coordinate activities to support and complement private media efforts of the Partnership for a Drug-Free America".

(b) STUDIES.—(1) Section 5132(c) of the Act is amended—

(A) by inserting "(1)" before "The"; and

(B) by striking out the last sentence and inserting in lieu thereof the following:

"(2) The Secretary shall summarize and consolidate the reports submitted under section 5127(a) and shall transmit such summary and consolidation, together with recommendations for future education and prevention efforts to the Associate Director of the Office on National Drug Control Policy, and to the Congress.

"(3) The Secretary, in conjunction with the Secretary of Health and Human Services, shall conduct an independent evaluation, directly or by contract, of a representative sample of programs assisted under this title and shall identify successful projects which may be replicated by other local educational agencies throughout the country. The Secretary shall transmit—

"(A) an interim report containing the results of such evaluation and a description of such projects to the Congress not later than October 1, 1991, and

"(B) a final report containing such information not later than January 1, 1994.

In addition, the Secretary shall disseminate such information through the National Diffusion Network, and through the Regional Centers contained in section 5135.".

SEC. 3090. DRUG-FREE SCHOOLS MODEL CRITERIA AND FORMS.

Section 5142 of the Act is amended by redesignating subsection (b) as subsection (c) and inserting the following new subsection after subsection (a):

"(b) MODEL CRITERIA AND FORMS.—The Secretary, in consultation with national organizations, shall develop model criteria and forms for the collection of data and information with respect to programs assisted under this title. In order to enable schools and community-based organizations to share uniform data and information with respect to programs assisted under this part, the model criteria and forms shall be disseminated to the Regional Centers as a resource to State and local educational programs.".

SEC. 3091. DEVELOPMENT OF EARLY CHILDHOOD EDUCATION DRUG ABUSE PREVENTION CURRICULUM MATERIALS.

The Act is further amended—

(1) by redesignating part F as part G; and

(2) by inserting after part E the following new part:

"PART F—DEVELOPMENT OF EARLY CHILDHOOD EDUCATION DRUG ABUSE PREVENTION CURRICULUM MATERIALS

"SEC. 5151. PROGRAM AUTHORIZED.

"(a) GENERAL AUTHORITY.—The Secretary shall, in consultation with the Secretary of Health and Human Services, provide for the development of age-appropriate drug abuse education and prevention curricula, programs, and training materials for use in early child development programs, and provide for the dissemination of such materials to early child development programs, including Head Start programs, preschool programs funded under chapter 1 of title I of the Education Consolidation and Improvement Act, and such other preschool programs as the Secretary deems appropriate.

"(b) RESERVATION.—The Secretary shall, from sums appropriated under section 5112(a)(5), reserve not less than $1,000,000 to carry out the development and dissemination of the materials provided for in this part.".

SUBTITLE H—EFFECTIVE DATE

SEC. 3092. EFFECTIVE DATE.

This title and the amendments made by this title shall become effective on October 1, 1988, or on the date of the enactment of this Act, whichever occurs later.

TITLE IV—INTERNATIONAL NARCOTICS CONTROL AND ASSISTANCE TO FOREIGN COUNTRIES

SEC. 4001. TABLE OF CONTENTS.

The table of contents for this title is as follows:

TITLE V—INTERNATIONAL NARCOTICS CONTROL AND ASSISTANCE TO FOREIGN COUNTRIES

Sec. 4001. Table of contents.

Subtitle A—Authorization of Appropriations; Allocation of Funds

Sec. 4101. Authorizations of appropriations.
Sec. 4102. Authorizations of appropriations for multilateral and regional drug abuse control programs.
Sec. 4103. Machine-readable document border security program.
Sec. 4104. Cooperative nonmajor drug-transit countries.
Sec. 4105. Additional funds for rewards for information relating to international terrorism.
Sec. 4106. Reallocation of funds withheld from countries which fail to take adequate steps to halt illicit drug production or trafficking.
Sec. 4107. Pilot and aircraft maintenance training for narcotics control activities.
Sec. 4108. Procurement of weapons to defend aircraft involved in narcotics control efforts.

Subtitle B—Restrictions on Foreign Assistance and Trade Benefits

Sec. 4201. Certification procedures under the Trade Act of 1974 for drug producing and drug-transit countries.
Sec. 4202. Certification procedures for drug producing and drug-transit countries under the Foreign Assistance Act of 1961.
Sec. 4203. Criteria for certifications.
Sec. 4204. Permissible uses of aircraft and equipment.
Sec. 4205. Exemption for assistance for narcotics awareness.

Subtitle C—Reporting Requirements

Sec. 4301. Reports concerning certain countries.
Sec. 4302. Reporting on transfer of United States assets.
Sec. 4303. Information from other agencies in annual narcotics control reports.

Sec. 4304. Reports on assistance denied and on identities of corrupt officials.
Sec. 4305. Expression in numerical terms of maximum achievable reductions in illicit drug production.
Sec. 4306. Report on assistance to drug source countries.
Sec. 4307. Notification and report on drug producing and drug-transit countries.

Subtitle D—Latin American Anti-Drug Strike Force

Sec. 4401. Latin American anti-drug strike force.

Subtitle E—Miscellaneous Provisions

Sec. 4501. Contracting authority.
Sec. 4502. International currency transaction reporting.
Sec. 4503. Policy toward an international drug conference.
Sec. 4504. Sense of the Congress calling for negotiations to create an international drug force.
Sec. 4505. United States reliance on narcotics raw materials from foreign sources.

Subtitle A—Authorization of Appropriations; Allocation of Funds

SEC. 4101. AUTHORIZATIONS OF APPROPRIATIONS.

Section 482(a) of the Foreign Assistance Act of 1961 is amended—

(1) by amending paragraph (1) to read as follows:

"(1) To carry out the purposes of section 481, there are authorized to be appropriated to the President $101,000,000 for the fiscal year 1989."; and

(2) by striking out paragraph (3).

SEC. 4102. AUTHORIZATION OF APPROPRIATIONS FOR MULTILATERAL AND REGIONAL DRUG ABUSE CONTROL PROGRAMS.

Section 302 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(j) In addition to amounts otherwise available under this section for such purposes, there are authorized to be appropriated to the President $5,000,000 for fiscal year 1989 to be available only for the United States contribution to multilateral and regional drug abuse control programs. Of the amount authorized to be appropriated by the preceding sentence—

"(1) $3,000,000 shall be for the United States contribution to the United Nations Fund for Drug Abuse Control;

"(2) $600,000 shall be for the Organization of American States (OAS) Inter-American Drug Abuse Control Commission (CICAD) Legal Development Project, except that the proportion which such amount bears to the total amount of contributions to this specific project may not exceed the proportion which the United States contribution to the OAS budget for that fiscal year bears to the total contributions to the OAS budget for that fiscal year; and

"(3) $400,000 shall be for the Organization of American States (OAS) Inter-American Drug Abuse Control Commission (CICAD) Law Enforcement Training Project, except that the proportion which such amount bears to the total amount of contributions to this specific project may not exceed the proportion which the United States contribution to the OAS budget for that fiscal year bears to the total contributions to the OAS budget for that fiscal year.".

SEC. 4103. MACHINE-READABLE DOCUMENT BORDER SECURITY PROGRAM.

(a)(1) There are authorized to be appropriated for the development, procurement, and implementation of a machine-readable travel and identity document border security program for fiscal year 1989, $23,000,000, of which amount $7,000,000 shall be available only for the United States Customs Service, $7,000,000 shall be available only for the Immigration and Naturalization Service in the Department of Justice, and $9,000,000 shall be available only for the Department of State to carry out the provisions of this section.

(2) Appropriations made pursuant to paragraph (1) shall be in addition to any appropriations requested by the President in his budget presented to the Congress on February 18, 1988, or appropriated in any regular appropriations Acts or continuing resolutions for the fiscal year ending on September 30, 1989.

(b) The Department of State, the United States Customs Service, and the Immigration and Naturalization Service shall develop a comprehensive machine-readable travel and identity document border security program that will improve border entry and departure control through automated data capture of machine-readable travel and identity documents. Within 60 days of the date of enactment of this Act, the Department of State, the Customs Service, and the Immigration and Naturalization Service shall jointly submit a detailed implementation plan to the Congress and the President regarding how they intend to carry out the program authorized under this section. Such border security program shall include an integrated cooperative data exchange system that will incorporate law enforcement data on narcotics traffickers, terrorists, convicted criminals, fugitives, and others currently documented in the Lookout Systems of all three agencies and departments. In developing this border security program mandated in this section, the agencies and departments shall ensure that at least the following documents shall be integrated into the program and be machine-readable: border crossing cards; alien registration; pilots licenses; passports; and visas.

(c) The following agencies and organizations shall contribute appropriate law enforcement data to the integrated cooperative data exchange system mandated in subsection (b) and shall update such information into the system on no less than a monthly basis:

(1) the Drug Enforcement Administration in the Department of Justice;

(2) the Federal Bureau of Investigation in the Department of Justice;

(3) INTERPOL;

(4) the Bureau of Alcohol, Tobacco, and Firearms in the Department of Treasury;

(5) the Internal Revenue Service in the Department of Treasury;

(6) the Federal Aviation Administration in the Department of Transportation;

(7) the United States Marshals Service in the Department of Justice; and

(8) the United States Coast Guard in the Department of Transportation.

(d) All agencies participating in the development and implementation of the border security program and systems mandated and authorized in this section shall maintain their participation and contributions to the program and systems authorized under this section at full implementation levels in fiscal years 1990, 1991, and 1992, subject to the availability of appropriations.

SEC. 4104. COOPERATIVE NONMAJOR DRUG-TRANSIT COUNTRIES.

(a) The Assistant Secretary of State for International Narcotics Matters shall give greater attention, and provide more narcotics control assistance, to those countries which are drug-transit countries but are not major drug-transit countries (as defined in section 481(i)(5) of the Foreign Assistance Act of 1961) and which are cooperating fully with the United States in its international narcotics control efforts.

(b) Of the amounts made available for the fiscal year 1989 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control), not less than $2,500,000 shall be available only for assistance to countries described in subsection (a).

SEC. 4105. ADDITIONAL FUNDS FOR REWARDS FOR INFORMATION RELATING TO INTERNATIONAL TERRORISM.

Section 36(g) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(g)) is amended in the first sentence by striking out "$5,000,000" and inserting in lieu thereof "$6,000,000".

SEC. 4106. REALLOCATION OF FUNDS WITHHELD FROM COUNTRIES WHICH FAIL TO TAKE ADEQUATE STEPS TO HALT ILLICIT DRUG PRODUCTION OR TRAFFICKING.

(a) Chapter 8 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"SEC. 486. REALLOCATION OF FUNDS WITHHELD FROM COUNTRIES WHICH FAIL TO TAKE ADEQUATE STEPS TO HALT ILLICIT DRUG PRODUCTION OR TRAFFICKING.

"(a) ADDITIONAL ASSISTANCE FOR COUNTRIES TAKING SIGNIFICANT STEPS.—If any funds authorized to be appropriated for any fiscal year for security assistance are not used for assistance for the country for which those funds were allocated because of the requirements of section 481(h) or any other provision of law requiring the withholding of assistance for countries that have not taken adequate steps to halt illicit drug production or trafficking, the President shall use those funds for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking, as follows:

"(1) INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.—Those funds may be transferred to and consolidated with the funds appropriated to carry out this chapter in order to provide additional narcotics control assistance for those countries. Funds transferred under this paragraph may only be used to provide increased funding for activities previously justified to the Congress. Transfers may be made under this paragraph without regard to the 20-percent increase limitation contained in section 610(a). This paragraph does not apply with respect to funds made available for assistance under the Arms Export Control Act.

"(2) SECURITY ASSISTANCE.—Any such funds not used under paragraph (1) shall be reprogrammed within the account for which they were appropriated (subject to the regular reprogramming procedures under section 634A) in order to provide additional security assistance for those countries.

"(b) DEFINITION OF SECURITY ASSISTANCE.—As used in this section, the term 'security assistance' means assistance under chapter 2 of part II of this Act (relating to the military assistance program), chapter 4 of part II of this Act (relating to the Economic Support Fund), chapter 5 of part II of this Act (relating to international military education and training), or the Arms

Export Control Act (relating to foreign military sales credits).".

(b) The amendment made by subsection (a) does not apply with respect to funds appropriated prior to the date of enactment of this Act.

SEC. 4107. PILOT AND AIRCRAFT MAINTENANCE TRAINING FOR NARCOTICS CONTROL ACTIVITIES.

(a) EARMARKING OF FUNDS.—Not less than $2,000,000 of the funds made available for fiscal years 1989 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training) shall be available only for—

(1) education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts for countries in Latin America and the Caribbean; and

(2) the expenses of deploying, upon the request of the government of a foreign country, Department of Defense mobile training teams in that foreign country to conduct training in military-related individuals and collective skills that will enhance that country's ability to conduct tactical operations in narcotics interdiction.

(b) RELATIONSHIP TO INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance under this section shall be coordinated with assistance provided under chapter 8 of part I of that Act (relating to international narcotics control).

(c) WAIVER OF SECTION 660.—Assistance may be provided pursuant to this section notwithstanding the prohibition contained in section 660 of the Foreign Assistance Act of 1961 (relating to police training).

SEC. 4108. PROCUREMENT OF WEAPONS TO DEFEND AIRCRAFT INVOLVED IN NARCOTICS CONTROL EFFORTS.

(a) EARMARKING OF MAP FUNDS.—Of the funds available to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to grant military assistance), $1,000,000 for the fiscal year 1989 shall be made available to arm, for defensive purposes, aircraft used in narcotic control eradication or interdiction efforts. These funds may only be used to arm aircraft already in the inventory of the recipient country and may not be used for the purchase of new aircraft.

(b) NOTIFICATION TO CONGRESS.—The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate shall be notified of the use of any such funds for that purpose at least 15 days in advance in accordance with the reprogramming procedures applicable under section 634A of the Foreign Assistance Act of 1961.

Subtitle B—Restrictions on Foreign Assistance and Trade Benefits

SEC. 4201. CERTIFICATION PROCEDURES UNDER THE TRADE ACT OF 1974 FOR DRUG PRODUCING AND DRUG-TRANSIT COUNTRIES.

(a) IN GENERAL.—Paragraph (1) of section 802(b) of the Trade Act of 1974 (19 U.S.C. 2492(b)(1)) is amended to read as follows:

"(1) Subsection (a) shall not apply with respect to a country if the President determines and so certifies to the Congress, at the time of the submission of the report required by section 481(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)), that—

"(A) during the previous year that country has cooperated fully with the United States, or has taken adequate steps on its own—

"(i) in preventing narcotic and psychotropic drugs and other controlled substances produced or processed, in whole or in part, in such country or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States;

"(ii) in preventing and punishing the laundering in that country of drug-related profits or drug-related monies; and

"(iii) in preventing and punishing bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts; or

"(B) for a country that would not otherwise qualify for certification under subparagraph (A), the vital national interests of the United States require exemption of such country from the provisions of subsection (a).".

(b) CONDITIONS ON CERTIFICATION.—Paragraph (2) of section 802(b) of the Trade Act of 1974 (19 U.S.C. 2492(b)(2)) is amended to read as follows—

"(2) In making the certification required by paragraph (1) of this subsection, the President shall consider whether such government—

"(A) has taken actions that have resulted in maximum reductions in illicit drug production which were determined to be achievable pursuant to subsection (e)(4);

"(B) has taken the legal and law enforcement measures to enforce in its territory, to the maximum extent possible, the elimination of illicit cultivation and the suppression of illicit manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances, as evidenced by seizures of such drugs and substances, and the arrest, prosecution, conviction and incarceration of violators involved in the traffic in such drugs and substances affecting the United States;

"(C) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, the laundering in that country of drug-related profits or drug-related moneys, as evidenced by—

"(i) the enactment and enforcement of laws prohibiting such conduct,

"(ii) whether such government has entered into and is cooperating under the terms of mutual legal assistance agreements with the United States governing (but not limited to) money laundering, and

"(iii) the degree to which such government otherwise cooperates with United States law enforcement authorities on anti-money laundering efforts;

"(D) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts, as evidenced by the enactment and enforcement of laws prohibiting such conduct;

"(E) has, as a matter of government policy, encouraged or facilitated the production or distribution of illegal drugs;

"(F) has any senior official who engages in, encourages, or facilitates the production or distribution of illegal drugs;

"(G) has investigated aggressively all cases in which any member of an agency of the United States Government engaged in drug enforcement activities since January 1, 1985, has been the victim of acts or threats of violence, inflicted by or with the complicity of any law enforcement or other officer of such country or any political subdivision thereof, and has energetically sought to bring the perpetrators of such offense or offenses to justice; and

"(H) having been requested to do so by the United States Government, fails to provide reasonable cooperation to lawful activities of United States drug enforcement agents, including the refusal of permission to such agents engaged in interdiction of aerial smuggling into the United States to pursue suspected aerial smugglers a reasonable distance into the airspace of the requested country.

"(I) has made necessary changes in legal codes in order to enable law enforcement officials to move more effectively against narcotics traffickers, such as new conspiracy laws and new asset seizure laws;

"(J) has expeditiously processed United States extradition requests relating to narcotics trafficking; and

"(K) has not protected or given haven to any known drug traffickers and has expeditiously processed extradition requests relating to narcotics trafficking made by other countries.".

(c) DEFINITION.—Section 805(3) of the Trade Act of 1974 (19 U.S.C. 2495(3)) is amended—

(1) by striking out "or" at the end of clause (B);

(2) by striking out the period at the end of clause (C) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new clause:

"(D) in which bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts, are a significant problem.".

(d) MISCELLANEOUS AMENDMENTS.—Subsection (b) of section 802 of the Trade Act of 1974 (19 U.S.C. 2492(b)) is amended—

(1) by striking out "30" in paragraph (3) and inserting in lieu thereof "45";

(2) by striking out "30" each place it appears in paragraph (4) and inserting in lieu thereof "45"; and

(3) by adding at the end thereof the following new paragraph:

"(6) For purposes of this section, any country which was designated in the previous year as a major drug producing or drug transit country may not be considered to be cooperating fully with the United States unless it has entered into a bilateral narcotics agreement with the United States or multilateral agreement which achieves the objectives of this section.".

SEC. 4202. CERTIFICATION PROCEDURES FOR DRUG PRODUCING AND DRUG-TRANSIT COUNTRIES UNDER THE FOREIGN ASSISTANCE ACT OF 1961.

(a) Section 481(h)(2)(A)(i)(I) of the Foreign Assistance Act of 1961 is amended by inserting after "drug-related monies" the following: "and in preventing and punishing bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts".

(b) Section 481(h)(2)(A) of the Foreign Assistance Act of 1961 is amended by inserting "or a multilateral agreement which achieves the objectives of this subsection" after "(ii)".

(c) Section 585(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202), is hereby repealed.

SEC. 4203. CRITERIA FOR CERTIFICATIONS.

Subsection 481(h)(3) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(3) In making the certification required by paragraph (2) of this subsection, the President shall consider whether such government—

"(A) has taken actions that have resulted in maximum reductions in illicit drug production which were determined to be achievable pursuant to subsection (e)(4);

"(B) has taken the legal and law enforcement measures to enforce in its territory, to the maximum extent possible, the elimination of illicit cultivation and the suppression of illicit manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances, as evidenced by seizures of such drugs and substances, and the arrest, prosecution, conviction and incarceration of violators involved in the traffic in such drugs and substances affecting the United States;

"(C) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, the laundering in that country of drug-related profits or drug-related moneys, as evidenced by—

"(i) the enactment and enforcement of laws prohibiting such conduct,

"(ii) whether such government has entered into and is cooperating under the terms of mutual legal assistance agreements with the United States governing (but not limited to) money laundering, and

"(iii) the degree to which such government otherwise cooperates with United States law enforcement authorities on anti-money laundering efforts;

"(D) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts, as evidenced by the enactment and enforcement of laws prohibiting such conduct;

"(E) has, as a matter of government policy, encouraged or facilitated the production or distribution of illegal drugs;

"(F) has any senior official who engages in, encourages, or facilitates the production or distribution of illegal drugs;

"(G) has investigated aggressively all cases in which any member of an agency of the United States Government engaged in drug enforcement activities since January 1, 1985, has been the victim of acts or threats of violence, inflicted by or with the complicity of any law enforcement or other officer of such country or any political subdivision thereof, and has energetically sought to bring the perpetrators of such offense or offenses to justice; and

"(H) having been requested to do so by the United States Government, fails to provide reasonable cooperation to lawful activities of United States drug enforcement agents, including the refusal of permission to such agents engaged in interdiction of aerial smuggling into the United States to pursue suspected aerial smugglers a reasonable distance into the airspace of the requested country.

"(I) has made necessary changes in legal codes in order to enable law enforcement officials to move more effectively against narcotics traffickers, such as new conspiracy laws and new asset seizure laws;

"(J) has expeditiously processed United States extradition requests relating to narcotics trafficking; and

"(K) has not protected or given haven to any known drug traffickers and has expeditiously processed extradition requests relating to narcotics trafficking made by other countries.".

SEC. 4204. PERMISSIBLE USES OF AIRCRAFT AND EQUIPMENT.

(a) CERTIFICATION REQUIRED.—Section 481(e)(3) of the Foreign Assistance Act of 1961 is amended—

(1) by redesignating clauses (C) and (D) as clauses (D) and (E), respectively; and

(2) by inserting after clause (B) the following:

"(C) A certification by the Secretary of State that such country has not engaged in a pattern of misuse of United States aircraft or equipment made available under this chapter, including but not limited to spraying of food crops and transportation of troops or munitions for military purposes.".

(b) ELIGIBILITY FOR ASSISTANCE.—Section 482 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(b) Assistance may be provided under this chapter to a foreign country only if the Secretary of State has made a certification with respect to that country under section 481(e)(3)(C).".

SEC. 4205. EXEMPTION FOR ASSISTANCE FOR NARCOTICS AWARENESS.

Section 481(i)(4) of the Foreign Assistance Act of 1961 is amended in the text below clause (E)—

(1) by redesignating subclause (vii) as subclause (viii); and

(2) by inserting "(vii) assistance for narcotics education and awareness activities under section 126 of this Act," after "this Act,".

Subtitle C—Reporting Requirements

SEC. 4301. REPORTS CONCERNING CERTAIN COUNTRIES.

Section 2013 of the Anti-Drug Abuse Act of 1986 is amended—

(1) in subsection (a), by striking out "Not later than 6 months after the date of enactment of this Act and every 6 months thereafter," and inserting in lieu thereof "As part of each report required by section 481(e) of the Foreign Assistance Act of 1961,"; and

(2) in subsection (b), before "unless" insert "during the one-year period beginning on the date on which the report in which it was listed was submitted to the Congress".

SEC. 4302. REPORTING ON TRANSFER OF UNITED STATES ASSETS.

Any transfer by the United States Government to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the United States Government in connection with narcotics-related criminal activity shall be subject to the regular reprogramming procedures applicable under section 634A of the Foreign Assistance Act of 1961. At the end of each fiscal year, the President shall submit a report to the Congress of all such transfers during that fiscal year, including an estimate of the fair market value and physical condition of each item of property transferred.

SEC. 4303. INFORMATION FROM OTHER AGENCIES IN ANNUAL NARCOTICS CONTROL REPORTS.

Section 481(e)(3) of the Foreign Assistance Act of 1961 is amended by adding after subparagraph (D) the following:

"(E) A section prepared by the Drug Enforcement Administration, a section prepared by the Customs Service, and a section prepared by the Coast Guard, which describes in detail—

"(i) the assistance provided or to be provided (as the case may be) to such country by that agency, and

"(ii) the assistance provided or to be provided (as the case may be) to that agency by such country,

with respect to narcotic control efforts during the preceding fiscal year, the current fiscal year, and the next fiscal year.".

SEC. 4304. REPORTS ON ASSISTANCE DENIED AND ON IDENTITIES OF CORRUPT OFFICIALS.

Section 481(e) of the Foreign Assistance Act of 1961 is amended by adding at the end the following new paragraphs:

"(8) Each report pursuant to this subsection shall describe the United States assistance for the preceding fiscal year which was denied, pursuant to subsection (h), to each major illicit drug producing country and each major drug-transit country.

"(9) Each report pursuant to this subsection shall describe, for each government evaluated under subparagraphs (D) through (G) of subsection (h)(3), the activities and identities of officials whose activities caused such government to be so evaluated.".

SEC. 4305. EXPRESSION IN NUMERICAL TERMS OF MAXIMUM ACHIEVABLE REDUCTIONS IN ILLICIT DRUG PRODUCTION.

Section 481(e)(4) of the Foreign Assistance Act of 1961 is amended by inserting after the second sentence the following: "Each determination of the President under the preceding sentence shall be expressed in numerical terms, such as the number of acres of illicitly cultivated controlled substances which can be eradicated.".

SEC. 4306. REPORT ON ASSISTANCE TO DRUG SOURCE COUNTRIES.

For the first report required pursuant to section 481(e) of the Foreign Assistance Act of 1961 after the date of enactment of this Act, the President shall include an assessment of what, if any, incentives may be appropriately provided to encourage each such country's further cooperation in an international strategy to prevent the illicit cultivation and manufacture of, and traffic in, narcotic and psychotropic drugs and other controlled substances.

SEC. 4307. NOTIFICATION AND REPORT ON DRUG PRODUCING AND DRUG-TRANSIT COUNTRIES.

Section 481(h) of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new paragraph:

"(6)(A) For purposes of identifying those countries which are subject to the restrictions of paragraph (1) and which are eligible for certification pursuant to paragraph (2), the Secretary of State shall prepare and transmit, not later than October 1 of each year, to the Congress a report identifying those countries which he determines, in accordance with subsection (i), to be major illicit drug producing countries and major drug-transit countries.

"(B) At least 30 days before the submission of such report, the Secretary of State shall notify the Committee on Foreign Relations of the Senate and the Committee on

Foreign Affairs of the House of Representatives of those countries proposed to be identified in the report.

"(C) Each preliminary notification and report required by this paragraph shall include a description of the criteria used to define major drug-transit countries within the meaning of paragraph (5) of subsection (i).".

Subtitle D—Latin American Anti-Drug Strike Force

SEC. 4401. LATIN AMERICAN ANTI-DRUG STRIKE FORCE.

(a) The President shall direct the United States Ambassador to the Organization of American States, under the direction of the Secretary of State, to initiate diplomatic discussions with member states of the Organization of American States aimed at securing agreement to the formation of a multinational strike force to conduct operations against international illegal drug smuggling organizations wherever they may be found in the Western Hemisphere.

(b)(1) Not later than 6 months after the date of enactment of this Act, the Secretary of State shall report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on the progress United States diplomatic efforts have made toward achieving agreement on the establishment of such a multinational strike force.

(2) If diplomatic efforts toward achieving such a multinational strike force demonstrate progress or, if agreement has been reached, within 30 days after receipt of the report required under paragraph (1), the President shall submit to the Congress a supplemental budget request for the fiscal year ending September 30, 1989, and the fiscal year ending September 30, 1990, covering the United States share of the cost of operation and maintenance of the Latin American strike force established pursuant to this section.

Subtitle E—Miscellaneous Provisions

SEC. 4501. CONTRACTING AUTHORITY.

Section 482 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(e) All narcotics control program requirements for goods and services authorized to be funded pursuant to section 481 of this Act shall be considered, for purposes of chapter 1 of title 48 of the Code of Federal Regulations, to be of unusual and compelling urgency.".

SEC. 4502. INTERNATIONAL CURRENCY TRANSACTION REPORTING.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—The Congress finds that—

(A) the success of cash transaction and money laundering control statutes in the United States has been significant; and

(B) the United States should play a leadership role in the development of an international system of a similar kind.

(2) PURPOSE.—It is the purpose of this section to urge the United States Government, to the maximum extent practicable, to seek the active cooperation of other countries in the enforcement of these statutes, since only a truly multilateral approach can be effective in eliminating bank haven loopholes through which money launderers can escape.

(b) ESTABLISHMENT OF INTERNATIONAL AGENCY.—The Congress urges the Secretary of the Treasury to negotiate with finance ministers of foreign countries to establish an international currency control agency to—

(1) serve as a central source of information and database for international drug enforcement agencies;

(2) collect and analyze currency transaction reports filed by member countries; and

(3) encourage the adoption, by member countries, of uniform cash transaction and money laundering statutes.

(c) MAINTENANCE OF DOMESTIC EFFORT.—While establishing a multilateral agency will be the most effective method of combatting money laundering, the United States must itself continue to do everything it can to curb international money laundering.

SEC. 4503. POLICY TOWARD AN INTERNATIONAL DRUG CONFERENCE.

It is the sense of the Congress that—

(1) the President should convene as soon as possible an international conference to be known as the "International Conference on Combatting Illegal Drug Production, Trafficking, and Use in the Western Hemisphere";

(2) such conference should involve the heads of state, the highest-ranking law enforcement officers, and other appropriate officials from every government in the Western Hemisphere that is willing to combat the drug trade, and whose cooperation the President determines is essential to that goal; and

(3) such conference should focus exclusively on combatting the drug trade and, in particular, should emphasize enhancing cooperative efforts among the governments of the Western Hemisphere to—

(A) substantially reduce the production, cultivation, and processing of illicit drugs;

(B) eliminate the transshipment of such drugs through countries in the Western Hemisphere;

(C) curb the demand for and use of such drugs in every country in the Western Hemisphere;

(D) combat the problems of drug-related corruption and drug money laundering; and

(E) share intelligence information, extradite drug traffickers, and take other steps necessary to improve law enforcement efforts against the drug trade.

SEC. 4504. SENSE OF THE CONGRESS CALLING FOR NEGOTIATIONS TO CREATE AN INTERNATIONAL DRUG FORCE.

It is the sense of the Congress that the President should call for international negotiations for the purpose of agreeing on the establishment of an international drug force to pursue and apprehend major international drug traffickers.

SEC. 4505. UNITED STATES RELIANCE ON NARCOTICS RAW MATERIAL FROM FOREIGN SOURCES.

(a) REVIEW.—The President shall conduct a review of United States narcotics raw material policy to determine—

(1) the current and reserve international needs for opium-derived pharmaceutical and chemical products, and the relative capabilities for meeting those needs through the opium gum process and the concentrated poppy straw method of production;

(2) whether the United States should continue to rely on a single foreign country for all its licit opium gum;

(3) whether it should be United States policy to encourage all countries which produce licit opium to use the concentrated poppy straw method of production; and

(4) what options are available, consistent with treaties to which the United States is a party, to reduce United States reliance on licit opium gum from foreign sources.

The results of this review shall be reported to the Congress six months after the date of enactment of this Act.

(b) RESTRICTION ON PRESIDENTIAL CERTIFICATION.—Section 481(h)(2)(A) of the Foreign Assistance Act of 1961 is amended—

(1) in clause (i) by striking out "The" and inserting in lieu thereof "Subject to clause (iii), the"; and

(2) by adding at the end thereof the following new clause:

"(iii) The President may make a certification under clause (i)(I) with respect to any major drug producing or drug-transit country which is also a producer of licit narcotics raw materials, such as opium or coca, only if the President determines that such country has taken steps to prevent significant diversion of its licit cultivation and production into the illicit market, maintains production and stockpiles at levels no higher than those consistent with licit market demand, and prevents illicit cultivation and production.".

TITLE V—USER ACCOUNTABILITY

Subtitle A—Opposition to Legalization and Public Awareness

Sec. 5001. Sense of the Congress opposing legalization of drugs.
Sec. 5002. Public awareness campaign.

Subtitle B—National Commission on Drug-Free Schools

Sec. 5051. National commission on drug-free schools.

Subtitle C—Preventing Drug Abuse in Public Housing

CHAPTER 1—REGULATORY AND ENFORCEMENT PROVISIONS

Sec. 5101. Termination of tenancy in public housing.
Sec. 5102. Authority to hire investigators of drug crimes.
Sec. 5103. Amendment for bureau of justice assistance block grant program authorization.
Sec. 5104. Inclusion of a leasehold interest in property subject to forfeiture under the controlled substances act.

CHAPTER 2—PUBLIC HOUSING DRUG ELIMINATION PILOT PROGRAM

Sec. 5125. Short title.
Sec. 5126. Findings.
Sec. 5127. Program authorized.
Sec. 5128. Authorized activities.
Sec. 5129. Application.
Sec. 5130. Implementation.
Sec. 5131. Report to Congress.
Sec. 5132. Authorization.

CHAPTER 3—REPORT ON IMPACT OF PUBLIC HOUSING LEASE AND GRIEVANCE REGULATION ON THE ABILITY OF PHAS TO TAKE ACTION AGAINST TENANTS ENGAGING IN CRIMINAL ACTIVITY

Sec. 5141. Report on impact of public housing lease and grievance regulation on the ability of PHAS to take action against tenants engaging in criminal activity.

Subtitle D—Drug-Free Workplace Act of 1988

Sec. 5201. Short title.
Sec. 5202. Drug-free workplace requirements for Federal contractors.
Sec. 5203. Drug-free workplace requirements for Federal grant recipients.
Sec. 5204. Employee sanctions and remedies.
Sec. 5205. Waiver.

Sec. 5206. Authority of boards.
Sec. 5207. Definitions.
Sec. 5208. Construction of subtitle.
Sec. 5209. Effective date.
Subtitle E—Transportation Industry Alcohol and Controlled Substances Testing Program
Sec. 5251. Transportation industry alcohol and controlled substances testing program.
Subtitle F—Federal Privileges and Benefits
Sec. 5301. Federal privileges and benefits.
Subtitle G—Restrictions on Passports for Violators of Controlled Substance Laws and Other Laws
Sec. 5351. Restrictions on passports for violators of controlled substance laws and other laws.
Subtitle H—Authorization of Appropriations for President's Media Commission on Alcohol and Drug Abuse Prevention
Sec. 5401. Authorization of appropriations for President's Media Commission on Alcohol and Drug Abuse Prevention.

TITLE V—USER ACCOUNTABILITY

Subtitle A—Opposition to Legalization and Public Awareness

SEC. 5001. SENSE OF THE CONGRESS OPPOSING LEGALIZATION OF DRUGS.

The Congress finds that legalization of illegal drugs, on the Federal or State level, is an unconscionable surrender in a war in which, for the future of our country and the lives of our children, there can be no substitute for total victory.

SEC. 5002. PUBLIC AWARENESS CAMPAIGN.

The Drug Control Director shall within 90 days after confirmation by the Senate develop a program to inform the American public of the provisions of this Act pertaining to penalties for the use or possession of illegal drugs.

Subtitle B—National Commission on Drug-Free Schools

SEC. 5051. NATIONAL COMMISSION ON DRUG-FREE SCHOOLS.

(a) ESTABLISHMENT OF COMMISSION.—There is established a National Commission on Drug-Free Schools (hereinafter referred to as the "Commission").

(b) MEMBERSHIP OF THE COMMISSION.—(1) The Commission shall consist of the following 26 members:

(A) the Secretary of Education (hereinafter referred to as the "Secretary");

(B) the Director of National Drug Control Policy (hereinafter referred to as the "Director");

(C) 16 individuals appointed by the Secretary and the Director;

(D) 4 members of the House of Representatives, of which 2 members shall be appointed by the Speaker of the House of Representatives and 2 members shall be appointed by the Minority Leader of the House of Representatives; and

(E) 4 members of the Senate, of which 2 members shall be appointed by the Majority Leader of the Senate and 2 members shall be appointed by the Minority Leader of the Senate.

(2) The Secretary of Education and the Director of National Drug Control Policy shall cochair the Commission.

(3) The members of the Commission appointed under paragraph (1)(C) shall consist of—

(A) experts in the fields of drug abuse prevention and education;

(B) representatives of State and local school authorities;

(C) representatives of parent-teacher associations;

(D) representatives of national organizations;

(E) representatives of community groups;

(F) representatives of law enforcement officials; and

(G) other appropriate individuals as determined by the Secretary and the Director.

(c) APPOINTMENTS.—The members of the Commission who are to be appointed shall be appointed by no later than the date that is 30 days after the date of enactment of this subtitle.

(d) VACANCIES.—A vacancy in the Commission shall be filled in the same manner as the original appointment was made. A vacancy in the Commission shall not affect the powers of the Commission.

(e) QUORUM.—Fourteen members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) DUTIES OF THE COMMISSION.—The Commission shall—

(1) develop recommendations of criteria for identifying drug-free schools and campuses;

(2) develop recommendations for identifying model programs to meet such criteria;

(3) make such other findings, recommendations, and proposals as the Commission deems necessary to carry out the provisions of this section; and

(4) prepare and submit a final report pursuant to subsection (i).

(g) COMPENSATION.—(1) Each member of the Commission who is not an officer or employee of the United States shall be compensated at a rate established by the Commission not to exceed the daily equivalent of the annual rate of basic pay prescribed for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the actual performance of duties as a member of the Commission. Each member of the Commission who is an officer or employee of the United States shall receive no additional compensation for service on the Commission.

(2) While away from their homes or regular places of business in the performance of duties for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at a rate established by the Commission not to exceed the rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(h) ADMINISTRATIVE PROVISIONS.—(1) The Commission shall appoint an Executive Director who shall be compensated at a rate established by the Commission not to exceed the rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(3) Subject to such rules as may be issued by the Commission, the cochairmen may procure temporary and intermittent services of experts and consultants.

(4) Upon request of the cochairmen of the Commission, the head of any Federal department, agency, or instrumentality shall make any of the facilities and services of such department, agency, or instrumentality available to the Commission and detail any of the personnel of such department, agency, or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this section.

(5) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) Service of an individual as a member of the Commission, or employment of an individual by the Commission as an attorney or expert in any business or professional field, on a part-time or full-time basis, with or without compensation, shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Commission, or as an employee of the Commission, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

(i) REPORT OF COMMISSION.—The Commission shall report the findings and recommendations determined under subsection (f) as well as proposals for any legislative action necessary to implement the recommendations of the Commission to the President and the Congress no later than 1 year after the date of enactment of this Act. The final report of the Commission shall include—

(1) recommended criteria for schools to meet to be considered drug-free, which may include, but shall not be limited to—

(A) establishment of a drug education program for all students in kindergarten through grade 12;

(B) a code of student conduct;

(C) referral to treatment for students found to be using drugs; and

(D) coordinated programs for drug use prevention involving parents, teachers, counselors, local law enforcement personnel, businesses, and community organizations;

(2) a description of the potential benefits and liabilities of measured responses such as—

(A) the notification of parents or guardians and police when drug use by an unemancipated minor is discovered;

(B) the feasibility of separating drug offenders from drug-free students;

(C) the suspension of eligibility for student assistance under title IV of the Higher Education Act upon conviction of a drug-related offense;

(D) the withholding of Federal funds from education systems and institutions which do not meet established criteria for drug-free schools;

(E) the authorization of drug testing in schools; and

(F) any other measured response the Commission deems appropriate;

(3) an analysis of the effects of measured responses described in paragraph (2) on civil liberties, educational programs, nondrug using students, and the traditional family relationship;

(4) the findings of research on the effectiveness of the proposed response in rehabilitating drug using students and deterring use by non-drug-using students;

(5) a description of the assistance required by local school districts to establish drug-

free schools and the manner in which local, State and Federal Government may provide such assistance; and

(6) a description of the feasibility of certain programs designed to enhance and raise self-esteem, self-confidence, independence, and responsibility among students.

(j) POWERS OF COMMISSION.—(1) For the purpose of carrying out this section, the Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) Any member or employee of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this subsection.

(3) The Commission may secure directly from any Federal agency such information as may be necessary to enable the Commission to carry out this Act. Upon request of the cochairmen of the Commission, the head of such agency shall furnish such information to the Commission.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Such sums shall remain available until expended. Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this section shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.

Subtitle C—Preventing Drug Abuse in Public Housing

CHAPTER 1—REGULATORY AND ENFORCEMENT PROVISIONS

SEC. 5101. TERMINATION OF TENANCY IN PUBLIC HOUSING.

Section 6(l) of the United States Housing Act of 1937 is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following:

"(5) provide that a public housing tenant, any member of the tenant's household, or a guest or other person under the tenant's control shall not engage in criminal activity, including drug-related criminal activity, on or near public housing premises, while the tenant is a tenant in public housing, and shall be cause for termination of tenancy.

For the purpose of paragraph (5), 'drug-related criminal activity' means the manufacturing, selling, distributing, using, or possessing with intent to manufacture, sell, distribute, or use a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).".

SEC. 5102. AUTHORITY TO HIRE INVESTIGATORS OF DRUG CRIMES.

(a) IN GENERAL.—Section 6 of the United States Housing Act of 1937 (as amended by section 5101 of this subtitle) is amended by adding at the end the following:

"(o) A public housing agency may, to the extent of funds availability, employ one or more individuals for the purpose of investigating the illegal use of and trafficking in controlled substances in public housing and providing evidence relating thereto in any administrative or court proceedings.".

(b) STUDY REQUIRED.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development shall conduct a study of the extent to which security activities in public housing projects are funded under the Performance Funding System. The study shall include an analysis of—

(A) the extent to which the Performance Funding System currently takes into account, and should take into account, costs associated with maintaining security, including the hiring of security personnel, investigators, and security liaisons with local law enforcement agencies;

(B) the extent to which public housing agencies have been compelled to shift funds from tenant services, building maintenance, or other eligible activities to security activities; and

(C) an estimate of the per unit additional cost necessary to enable all public housing agencies to provide adequate security.

(2) REPORT REQUIRED.—Not later than 6 months after the date of enactment of this Act, the Secretary of Housing and Urban Development shall transmit to the Congress a report on the study required by paragraph (1).

SEC. 5103. AMENDMENT FOR BUREAU OF JUSTICE ASSISTANCE BLOCK GRANT PROGRAM AUTHORIZATION.

Section 403 of the Omnibus Crime Control and Safe Streets Act of 1968 (Public Law 98-473; 42 U.S.C. 3743(a)) is amended by—

(1) striking "and" in paragraph (17) and all that follows the semicolon;

(2) striking "techniques." in paragraph (18) and inserting "techniques; and"; and

(3) inserting a new paragraph immediately after paragraph (18) as follows:

"(19) addressing the problems of drug trafficking and the manufacture of controlled substances in public housing.".

SEC. 5104. INCLUSION OF A LEASEHOLD INTEREST IN PROPERTY SUBJECT TO FORFEITURE UNDER THE CONTROLLED SUBSTANCES ACT.

Section 511(a)(7) of the Controlled Substances Act (21 U.S.C. 881(a)(7)) is amended by inserting "(including any leasehold interest)" after "right, title, and interest".

CHAPTER 2—PUBLIC HOUSING DRUG ELIMINATION PILOT PROGRAM

SEC. 5125. SHORT TITLE.

This chapter may be cited as the "Public Housing Drug Elimination Act of 1988".

SEC. 5126. FINDINGS.

The Congress finds that—

(1) the Federal Government has a duty to provide public housing that is decent, safe, and free from illegal drugs;

(2) public housing projects in many areas suffer from rampant drug-related crime;

(3) drug dealers are increasingly imposing a reign of terror on public housing tenants;

(4) the increase in drug-related crime not only leads to murders, muggings, and other forms of violence against tenants, but also to a deterioration of the physical environment that requires substantial government expenditures; and

(5) local law enforcement authorities often lack the resources to deal with the drug problem in public housing, particularly in light of the recent reductions in Federal aid to cities.

SEC. 5127. PROGRAM AUTHORIZED.

The Secretary of Housing and Urban Development, in accordance with the provisions of this chapter, is authorized to make grants to public housing agencies for use in eliminating drug-related crime in public housing projects.

SEC. 5128. AUTHORIZED ACTIVITIES.

A public housing agency may use a grant under this chapter for—

(1) the employment of security personnel in public housing projects;

(2) reimbursement of local law enforcement agencies for additional security and protective services for public housing projects;

(3) physical improvements in public housing projects which are specifically designed to enhance security;

(4) innovative programs designed to reduce use of drugs in and around public housing projects; and

(5) providing funding to nonprofit public housing resident management corporation and tenant councils to develop security and drug abuse prevention programs involving site residents.

SEC. 5129. APPLICATION.

(a) IN GENERAL.—To receive a grant under this chapter, a public housing agency shall submit an application to the Secretary of Housing and Urban Development, at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Such application shall include a plan for addressing the problem of drug-related crime on the premises of public housing projects administered by the public housing agency.

(b) CRITERIA.—The Secretary of Housing and Urban Development shall approve applications based upon—

(1) the extent of the crime problem in the facilities of the public housing project;

(2) the quality of the plan of the public housing agency to address crime in public housing projects; and

(3) the extent to which the local government and local community support the anti-crime activities of the public housing agency.

SEC. 5130. IMPLEMENTATION.

The Secretary of Housing and Urban Development shall promulgate rules and regulations to implement this chapter within 180 days of enactment.

SEC. 5131. REPORT TO CONGRESS.

Not later than June 30, 1990, the Secretary of Housing and Urban Development, in consultation with the Director of National Drug Control Policy, shall report to Congress on the success of the program authorized by this chapter with any suggested changes necessary to make the program more effective.

SEC. 5132. AUTHORIZATION.

There are authorized to be appropriated to carry out the provisions of this chapter $8,200,000 for fiscal year 1989.

CHAPTER 3—REPORT ON IMPACT OF PUBLIC HOUSING LEASE AND GRIEVANCE REGULATION ON THE ABILITY OF PHAS TO TAKE ACTION AGAINST TENANTS ENGAGING IN CRIMINAL ACTIVITY.

SEC. 5141. REPORT ON IMPACT OF PUBLIC HOUSING LEASE AND GRIEVANCE REGULATION ON THE ABILITY OF PHAS TO TAKE ACTION AGAINST TENANTS ENGAGING IN CRIMINAL ACTIVITY.

No later than 9 months after the date of the effective date of the Public Housing Tenancy and Administrative Grievance Procedure regulations, implementing section 6(k) of the United States Housing Act of 1937, the Secretary of Housing and Urban Development shall submit to Congress a report on the impact of the implementation of those regulations on the ability of public housing agencies to evict or take other appropriate action against tenants engaging in criminal activity, especially with respect to the manufacture, sale, distribution, use, or possession of controlled substances, as defined in section 102 of the Controlled Substances Act.

Subtitle D—Drug-Free Workplace Act of 1988

SEC. 5201. SHORT TITLE.

This subtitle may be cited as the "Drug-Free Workplace Act of 1988".

SEC. 5202. DRUG-FREE WORKPLACE REQUIREMENTS FOR FEDERAL CONTRACTORS.

(a) Drug-Free Workplace Requirement.—No person or organization shall be considered a responsible source, under the meaning of such term as defined in section 4(8) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(8)), for the purposes of being awarded a contract for the procurement of any property or services from any Federal agency unless such person or organization has certified to the contracting agency that it will provide a drug-free workplace by—

(1) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's or organization's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) establishing a drug-free awareness program to inform employees about—

(A) the dangers of drug abuse in the workplace;

(B) the person's or organization's policy of maintaining a drug-free workplace;

(C) any available drug counseling, rehabilitation, and employee assistance programs; and

(D) the penalties that may be imposed upon employees for drug abuse violations;

(3) making it a requirement that each employee to be engaged in the performance of such contract be given a copy of the statement required by paragraph (1) and that, as a condition of employment on such contract, the employee agree—

(A) to abide by the terms of the statement; and

(B) to notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction;

(4) notifying the contracting agency within 10 days after receiving notice under paragraph (3)(B) from an employee or otherwise receiving actual notice of such conviction;

(5) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by section 5204; and

(6) making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), (4), and (5).

(b) Suspension, Termination, or Debarment of the Contractor.—

(1) Grounds for suspension, termination, or debarment.—Each contract awarded by a Federal agency shall be subject to suspension of payments under the contract or termination of the contract, or both, and the contractor thereunder shall be subject to debarment, in accordance with the requirements of this section if the board of contract appeals of the contracting agency determines that—

(A) the contractor has made a false certification under subsection (a);

(B) the contractor violates such certification by failing to carry out the requirements of paragraph (1), (2), (3), (4), or (5) of subsection (a); or

(C) such a number of employees of such contractor have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor has failed to make a good faith effort to provide a drug-free workplace as required by subsection (a).

(2) Conduct of suspension, termination, and debarment proceedings.—If a contracting officer determines, in writing, that cause for suspension, termination, or debarment exists, a suspension, termination, or debarment proceeding subject to this subsection shall, on application by a contracting officer of an agency, be conducted by the board of contract appeals of the agency which conducts the procurement. The board of contract appeals shall, based upon a preponderance of the evidence presented, resolve all issues of fact, determine whether a basis exists for the suspension or termination of the contract or debarment of the contractor, and issue a final decision in favor of or against suspension or termination of the contract or debarment of the contractor. A proceeding, decision, or order of the board pursuant to this subsection shall not be subject to interlocutory appeal or review. Determinations and final decisions of the board of contract appeals shall be final unless appealed by the contractor to the United States Court of Appeals for the Federal Circuit within 60 days after the receipt by the contractor of a copy of a final decision of the board of contract appeals. Section 10(b) of the Contract Disputes Act of 1978 (41 U.S.C. 609(b)) shall apply with respect to the finality of such board determinations and decisions under this paragraph.

(3) Conduct by GSA board.—In the case of an agency that has not established a board of contract appeals under section 8(a)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 607(a)(1)), the General Services Administration Board of Contract Appeals shall make the determinations and issue final decisions under paragraph (2) for such agencies. Section 10(b) of the Contract Disputes Act of 1978 (41 U.S.C. 609(b)) shall apply with respect to the finality of such Board determinations and decisions under this paragraph.

(4) Effect of debarment.—Upon issuance of any final decision under this subsection requiring debarment of a contractor, such contractor shall be ineligible for award of any contract by any Federal agency and for participation in any future procurement by any Federal agency for a period specified in the decision, not to exceed 5 years. Upon issuance of any final decision recommending against debarment of the contractor, the contractor shall be compensated as provided by law or regulations.

SEC. 5203. DRUG-FREE WORKPLACE REQUIREMENTS FOR FEDERAL GRANT RECIPIENTS.

(a) Drug-Free Workplace Requirement.—No person or organization shall receive a grant from any Federal agency unless such person or organization has certified to the granting agency that it will provide a drug-free workplace by—

(1) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) establishing a drug-free awareness program to inform employees about—

(A) the dangers of drug abuse in the workplace;

(B) the grantee's policy of maintaining a drug-free workplace;

(C) any available drug counseling, rehabilitation, and employee assistance programs; and

(D) the penalties that may be imposed upon employees for drug abuse violations;

(3) making it a requirement that each employee to be engaged in the performance of such grant be given a copy of the statement required by paragraph (1) and that, as a condition of employment on such grant, the employee agree—

(A) to abide by the terms of the statement; and

(B) to notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction;

(4) notifying the granting agency within 10 days after receiving notice of a conviction under paragraph (3)(B) from an employee or otherwise receiving actual notice of such conviction;

(5) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by section 5204; and

(6) making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), (4), and (5).

(b) Suspension, Termination, or Debarment of the Grantee.—

(1) Grounds for suspension, termination, or debarment.—Each grant awarded by a Federal agency shall be subject to suspension of payments under the grant or termination of the grant, or both, and the grantee thereunder shall be subject to debarment, in accordance with the requirements of this section if the agency head of the granting agency or his official designee determines, in writing, that—

(A) the grantee has made a false certification under subsection (a);

(B) the grantee violates such certification by failing to carry out the requirements of paragraph (1), (2), (3), (4), or (5) of subsection (a); or

(C) such a number of employees of such grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the grantee has failed to make a good faith effort to provide a drug-free workplace as required by subsection (a).

(2) Conduct of suspension, termination, and debarment proceedings.—A suspension, termination, or debarment proceeding subject to this subsection shall be conducted in accordance with applicable law, including Executive Order 12549 or any superseding Executive order and any regulations promulgated to implement such law or Executive order.

(3) Effect of debarment.—Upon issuance of any final decision under this subsection requiring debarment of a grantee, such grantee shall be ineligible for award of any grant from any Federal agency and for participation in any future grant from any Federal agency for a period specified in the decision, not to exceed 5 years. Upon issuance of any final decision recommending against debarment of the grantee, the grantee shall be compensated as provided by law or regulations.

SEC. 5204. EMPLOYEE SANCTIONS AND REMEDIES.

A grantee or contractor shall, within 30 days after receiving notice from an employee of a conviction pursuant to section 5202(a)(2)(B) or 5203(a)(2)(B)—

(1) take appropriate personnel action against such employee up to and including termination; or

(2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

SEC. 5205. WAIVER.

(a) In General.—A termination, suspension, or debarment under this Act may be waived by the head of an agency with respect to a particular contract or grant if—

(1) in the case of a waiver with respect to a contract, the head of the agency determines, after the issuance of a final determination under section 3(b) by a board of contract appeals regarding a contract entered into by that agency, that suspension or termination of the contract or debarment of the contractor, or refusal to permit a person or organization to be treated as a responsible source for a contract, as the case may be, would severely disrupt the operation of such agency to the detriment of the Federal Government or the general public; or

(2) in the case of a waiver with respect to a grant, the head of the agency determines that suspension or termination of the grant or debarment of the grantee would not be in the public interest.

(b) Exclusive Authority.—The authority of the head of an agency under this section to waive a termination, suspension, or debarment shall not be delegated.

SEC. 5206. AUTHORITY OF BOARDS.

Not later than 90 days after the date of enactment of this subtitle, the chairman of each board of contract appeals shall prescribe rules and procedures governing actions under this subtitle. Each judge of such board may administer oaths and affirmations and issue subpoenas.

SEC. 5207. DEFINITIONS.

For purposes of this subtitle—

(1) the term "drug-free workplace" means a site for the performance of work done in connection with a specific grant or contract described in section 5202 or 5203 of an entity at which employees of such entity are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in accordance with the requirements of this Act;

(2) the term "employee" means the employee of a grantee or contractor directly engaged in the performance of work pursuant to the provisions of the grant or contract described in section 5202 or 5203;

(3) the term "controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812);

(4) the term "conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

(5) the term "criminal drug statute" means a criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance;

(6) the term "grantee" means the department, division, or other unit of a person or organization responsible for the performance under the grant;

(7) the term "contractor" means the department, division, or other unit of a person or organization responsible for the performance under the contract; and

(8) the term "Federal agency" means an agency as that term is defined in section 552(f) of title 5, United States Code.

SEC. 5208. CONSTRUCTION OF SUBTITLE.

Nothing in this subtitle shall be construed to require law enforcement agencies, if the head of the agency determines it would be inappropriate in connection with the agency's undercover operations, to comply with the provisions of this subtitle.

SEC. 5209. EFFECTIVE DATE.

Sections 5202 and 5203 shall be effective 120 days after the date of the enactment of this subtitle.

Subtitle E—Transportation Industry Alcohol and Controlled Substances Testing Program

SEC. 5251. TRANSPORTATION INDUSTRY ALCOHOL AND CONTROLLED SUBSTANCES TESTING PROGRAM.

(a) Findings.—The Congress finds that—

(1) alcohol and drug abuse poses significant dangers to the safety and welfare of the Nation;

(2) millions of the Nation's citizens utilize transportation by aircraft, railroads, trucks, and buses, and depend on the operators of aircraft, railroads, trucks, and buses to perform in a safe and responsible manner;

(3) the greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs, whether on duty or off duty, by those individuals who are involved in the operation of aircraft, railroads, trucks, and buses;

(4) the use of alcohol and illegal drugs has been demonstrated to affect significantly the performance of individuals, and has been proven to have been a critical factor in transportation accidents;

(5) adequate safeguards can be implemented to ensure that testing for abuse of alcohol or use of illegal drugs is performed in a manner which protects an individual's right of privacy, ensures that no individual is harassed by being treated differently from other individuals, and ensures that no individual's reputation or career development is unduly threatened or harmed; and

(6) rehabilitation is a critical component of any testing program for abuse of alcohol or use of illegal drugs, and should be made available to individuals, as appropriate.

(b) Testing Program.—(1) Title VI of the Federal Aviation Act of 1958 (49 App. U.S.C. 1421 et seq.) is amended by adding at the end thereof the following:

"Alcohol and Controlled Substances Testing

"TESTING PROGRAM

"Sec. 613. (a)(1) The Administrator shall, in the interest of aviation safety, prescribe regulations within twelve months after the date of enactment of this section. Such regulations shall establish a program which requires air carriers and foreign air carriers to conduct pre-employment, periodic recurring, random and post-accident testing of airmen, crewmembers, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions (as determined by the Administrator), and testing of such individuals upon a reasonable suspicion that they have used, without lawful authorization, alcohol or a controlled substance.

"(2) The Administrator shall establish a program applicable to employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions. Such program shall provide for pre-employment, periodic recurring, random and post-accident testing, and testing of such individuals upon a reasonable suspicion that they have used, without lawful authorization, alcohol or a controlled substance.

"(3) In prescribing regulations under the programs required by this subsection, the Administrator shall require, as the Administrator considers appropriate, the suspension or revocation of any certificate issued to such an individual, or the disqualification or dismissal of any such individual, in accordance with the provisions of this section, in any instance where a test conducted and confirmed under this section indicates that such individual has used, without lawful authorization, alcohol or a controlled substance.

"PROHIBITION ON SERVICE

"(b)(1) No person may use, without lawful authorization, alcohol or a controlled substance after the date of enactment of this section and serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions.

"(2) No individual who is determined to have used, without lawful authorization, alcohol or a controlled substance after the date of enactment of this section shall serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions unless such individual has completed a program of rehabilitation described in subsection (c) of this section.

"(3) Any such individual determined by the Administrator to have used, without lawful authorization, alcohol or a controlled substance after the date of enactment of this section who (A) refuses to undertake a rehabilitation program described in subsection (c), (B) fails to complete such a rehabilitation program, (C) has previously undertaken or completed such a rehabilitation program, or (D) has been determined by the Administrator to have served as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions while impaired by or under the influence of alcohol or a controlled substance, shall not be permitted to perform the duties relating to air transportation which such individual performed prior to the date of such determination.

"PROGRAM FOR REHABILITATION

"(c)(1) Each air carrier and foreign air carrier shall establish and maintain a rehabilitation program which at a minimum provides for the identification and opportunity for treatment of employees referred to in subsection (b) of this section in need of assistance in resolving problems with the use, without lawful authorization, of alcohol or controlled substances. Each air carrier and foreign air carrier is encouraged to make such program available to all of its employees other than employees referred to in subsection (b) of this section. Nothing in this subsection shall preclude any air carrier or foreign air carrier from establishing a program under this subsection in cooperation with any other air carrier or foreign air carrier.

"(2) The Administrator shall establish and maintain a rehabilitation program which at a minimum provides for the identification and opportunity for treatment of those employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions who are in need of assistance in resolving problems with the use of alcohol or controlled substances.

"PROCEDURES

"(d) In establishing the program required under subsection (a) of this section, the Administrator shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory drug testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimens collected for drug testing;

"(B) specify the drugs for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform drug testing in carrying out this section;

"(3) provide that all tests which indicate the use, without lawful authorization, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(4) require that all laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(5) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(6) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"EFFECT ON OTHER LAWS AND REGULATIONS

"(e)(1) No State or local government shall adopt or put into effect any law, rule, regulation, ordinance, standard or order that is inconsistent with the regulations promulgated under this section, except that the regulations promulgated under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury or damage to property, whether the provisions apply specifically to employees of an air carrier or foreign air carrier, or to the general public.

"(2) Nothing in this section shall preclude the Administrator from adopting or continuing in effect other regulations intended to protect persons or property on the ground or in the air from the hazards to safety associated with the potential use of alcohol or controlled substances by airmen, crewmembers, airport security screening contract personnel, air carrier employees responsible for safety-sensitive functions (as determined by the Administrator), or employees of the Federal Aviation Administration) with responsibility for safety-sensitive functions.

"(3) In prescribing regulations under this section, the Administrator shall only establish requirements applicable to foreign air carriers that are consistent with the international obligations of the United States, and the Administrator shall take into consideration any applicable laws and regulations of foreign countries. The Secretary of State and the Secretary of Transportation, jointly, shall call on the member countries of the International Civil Aviation Organization to strengthen and enforce existing standards to prohibit the use, without lawful authorization, of a controlled substance by crew members in international civil aviation.

"DEFINITION

"(f) For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) whose use the Administrator has determined poses a risk to transportation safety.".

(2) That portion of the table of contents of the Federal Aviation Act of 1958 relating to title VI is amended by adding at the end thereof the following:

"Sec. 613. Alcohol and controlled substances testing.
"(a) Testing program.
"(b) Prohibition on service.
"(c) Program for rehabilitation.
"(d) Procedures.
"(e) Effect on other laws and regulations.
"(f) Definition.".

(c) FEDERAL RAILROAD SAFETY ACT OF 1970.—Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end thereof the following:

"(l)(1) The Secretary shall, within one year after the date of enactment of this subsection, review existing rules, regulations, standards, and orders governing alcohol and drug use in railroad operations for the purpose of determining whether they are adequate to ensure safety. In conducting such review, the Secretary shall specifically—

"(A) require that all railroad employees responsible for safety-sensitive functions (as determined by the Secretary) be subject to testing on a random basis for the use, without lawful authorization, of alcohol or a controlled substance;

"(B) consider application of existing rules, regulations, orders, and standards to other categories of employees, including employees responsible for the safety of passengers, railroad rolling stock, or track and related structures;

"(C) require, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used or to have been impaired by alcohol while on duty; and

"(D) require, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law and any rules, regulations, standards or orders issued under this Act.

Nothing in this subsection shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any rules, regulations, standards and orders governing alcohol and drug use in railroad operations issued before the date of enactment of this subsection.

"(2) In carrying out the provisions of this subsection, the Secretary shall develop requirements which shall—

"(A) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(B) with respect to laboratories and testing procedures, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(i) establish comprehensive standards for all aspects of laboratory drug testing and laboratory procedures to be applied in carrying out this Act, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimens collected for drug testing;

"(ii) specify the drugs for which individuals may be tested; and

"(iii) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform drug testing in carrying out this Act;

"(C) provide that all tests which indicate the use, without lawful authorization, of alcohol or a controlled substance by any employee shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(D) require that all laboratories involved in the testing of any employee under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(E) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this subparagraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(F) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(3) For the purposes of this subsection, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) whose use the Secretary has determined poses a risk to transportation safety.".

(d) Commercial Motor Vehicle Safety Act of 1986.—(1) The Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5223) is amended by adding at the end the following:

"SEC. 12020. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

"(a) REGULATIONS.—The Secretary shall, in the interest of commercial motor vehicle safety, prescribe regulations within twelve months after the date of enactment of this section. Such regulations shall establish a program which requires motor carriers to conduct pre-employment, periodic recurring, random and post-accident testing of the operators of commercial motor vehicles, and testing upon a reasonable suspicion that they have used, without lawful authorization, alcohol or a controlled substance.

"(b) TESTING.—(1) In promulgating such regulations, the Secretary shall require that post-accident testing of the operator of a commercial motor vehicle be conducted in the case of any accident involving a commercial motor vehicle in which occurs loss of human life, or, as determined by the Secretary, other serious accidents involving bodily injury or significant property damage.

"(2) Nothing in subsection (a) of this section shall preclude the Secretary from providing in such regulations that such testing be conducted as part of the medical examination required by subpart E of part 391 of title 49, Code of Federal Regulations, with respect to those operators of commercial motor vehicles to whom such part is applicable.

"(c) PROGRAM FOR REHABILITATION.—The Secretary shall promulgate regulations setting forth requirements for a rehabilitation program for the identification and opportunity for treatment of operators of commercial motor vehicles who are determined to have used, without lawful authorization, alcohol or a controlled substance. The Secretary shall determine the circumstances under which such operators shall be required to participate in such program. Nothing in this subsection shall preclude a motor carrier from establishing a program under this subsection in cooperation with any other motor carrier.

"(d) PROCEDURES FOR TESTING.—In establishing the program required under subsection (a) of this section, the Secretary shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory drug testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimens collected for drug testing;

"(B) specify the drugs for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform drug testing in carrying out this section;

"(3) provide that all tests which indicate the use, without lawful authorization, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(4) require that all laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(5) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) for employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(6) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(e) EFFECT ON OTHER LAWS AND REGULATIONS.—No State or local government shall adopt or put into effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations promulgated under this section, except that the regulations promulgated under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury or damage to property, whether the provisions apply specifically to commercial motor vehicle employees, or to the general public.

"(f) APPLICATION OF PENALTIES.—(1) Nothing in this section shall be construed to supersede any penalty applicable to the operator of a commercial motor vehicle under this Act or any other provision of law.

"(2) The Secretary shall determine appropriate sanctions for commercial motor vehicle operators who are determined, as a result of tests conducted and confirmed under this section, to have used, without lawful authorization, alcohol or a controlled substance but are not under the influence of alcohol or a controlled substance, as provided in this title.

"(g) DEFINITION.—For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) whose use the Secretary had determined poses a risk to transportation safety.".

(2) The table of contents of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5223) is amended by adding at the end thereof the following:

"Sec. 12020. Alcohol and controlled substances testing.".

(e) COMMERCIAL MOTOR VEHICLES.—(1) The Secretary shall design, within nine months after the date of enactment of this section, and implement, within fifteen months after the date of enactment of this section, a pilot test program for the purpose of testing the operators of commercial motor vehicles on a random basis to determine whether an operator has used, without lawful authorization, alcohol or a controlled substance.

(2) The Secretary shall solicit the participation of States which are interested in participating in such program and shall select four States to participate in the program.

(3) The Secretary shall ensure that the selection made pursuant to this section is representative of varying geographical and population characteristics of the Nation, and takes into consideration the historical geographical incidence of commercial motor vehicle accidents involving loss of human life.

(4) The pilot program authorized by this section shall continue for a period of 1 year. The Secretary shall consider alternative methodologies for implementing a system of random testing of operators of commercial motor vehicles.

(5) Not later than 30 months after the date of enactment of this section, the Secretary shall prepare and submit to the Congress a comprehensive report setting forth the results of the pilot program conducted under this section. Such report shall include any recommendations of the Secretary concerning the desirability and implementation of a system for the random testing of operators of commercial motor vehicles.

(6) For purposes of carrying out this subsection, there shall be available to the Secretary $5,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 for fiscal year 1988.

(7) For purposes of this subsection, the term—

(1) "commercial motor vehicle" shall have the meaning given to such term in section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5241); and

(2) "Secretary" means the Secretary of Transportation.

(f) URBAN MASS TRANSIT.—(1) The Secretary of Transportation shall, in the interest of urban mass transportation safety, prescribe regulations within 12 months after the date of enactment of this section. Such regulations shall establish a program which requires urban mass transportation operations to conduct pre-employment, periodic recurring, random, and post-accident testing of urban mass transportation employees responsible for safety-sensitive functions (as determined by the Secretary), and testing of such employees upon a reasonable suspicion that they have used, without lawful authorization, alcohol or a controlled substance.

(2) In prescribing such regulations, the Secretary shall require that post-accident testing of such an urban mass transportation employee be conducted in the case of any accident involving urban mass transportation in which occurs loss of human life, or, as determined by the Secretary, other serious accidents involving bodily injury or significant property damage.

(3) The Secretary shall promulgate regulations setting forth requirements for a rehabilitation program for the identification and opportunity for treatment of urban mass transportation employees referred to in paragraph (1) of this subsection who are determined to have used, without lawful authorization, alcohol or a controlled substance. The Secretary shall determine the circumstances under which such employees shall be required to participate in such program. Nothing in this subsection shall preclude an urban mass transportation operation from establishing a program under this subsection in cooperation with any other such operation.

(4) In establishing the program required under paragraph (1) of this subsection, the Secretary shall develop requirements which shall—

(A) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

(B) with respect to the laboratory and testing procedures, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

(i) establish comprehensive standards for all aspects of laboratory drug testing and laboratory procedures to be applied in carrying out this subsection, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimens collected for drug testing;

(ii) specify the drugs for which individuals may be tested; and

(iii) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform drug testing in carrying out this subsection;

(C) provide that all tests which indicate the use, without lawful authorization, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

(D) require that all laboratories involved in the testing of any individual under this subsection shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

(E) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this subparagraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this subsection; and

(F) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(5) No State or local government shall adopt or put into effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations promulgated under this subsection, except that the regulations promulgated under this subsection shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to urban mass transportation employees, or to the general public.

(6)(A) As the Secretary considers appropriate, the Secretary shall require—

(i) disqualification for an established period of time or dismissal of any employee referred to in paragraph (1) of this subsection determined to have used or to have been impaired by alcohol while on duty; and

(ii) disqualification for an established period of time or dismissal of any such employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law or any regulation.

(B) Nothing in this subsection shall be construed to supercede any penalty applicable to an urban mass transportation employee under any other provision of law.

(7) For purposes of this subsection, the term—

(A) "controlled substance" means any substance under section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)) whose use the Secretary has determined poses a risk to transportation safety; and

(b) "urban mass transportation" means all forms of urban mass transportation whose employees are not covered by either section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) or section 12020 of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 State. 5223), as added by this section.

(8) A person shall not be eligible for Federal financial assistance under sections 3, 9, or 18 of the Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1602, 1607a, or 1604) or section 103(e)(4) of title 23, United States Code, if such person—

(A) is required, under regulations prescribed by the Secretary under section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), section 12020 of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100; Stat. 5223), as added by this section, or subsection (e) of this section, to establish a program of alcohol and controlled substances testing; and

(B) fails to establish such a program in accordance with such regulations.

(g) For purposes of this section, the term—

(1) "person" includes any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of the United States, or any State, commonwealth, territory, district, or possession thereof, or of any foreign country; and

(2) "Secretary" means the Secretary of Transportation.

Subtitle F—Federal Privileges and Benefits

SEC. 5301. FEDERAL PRIVILEGES AND BENEFITS.

(a) List of Privileges and Benefits Recommended for Withholding.—(1) The Director of National Drug Control Policy shall, upon consultation with the Secretary of Health and Human Services and the Attorney General, submit to the Congress no later than 12 months after the enactment of this title a list of any Federal privileges, benefits, grants, and loans, which, if withheld from individuals convicted of a Federal or State drug offense, would significantly deter the use of illegal drugs in the United States. The Director shall not include in the list any grants, loans, and benefits which the Director determines to be essential to the health or well being of the recipient or beneficiary.

(2) The Director shall accompany the list with a report exploring the potential benefits and liabilities of the withholding of privileges, benefits, grants, and loans in the Federal effort to fight substance abuse and explaining the reasoning behind the selection of each of the privileges, benefits, grants, and loans included in the list.

(b) Preparation of List.—(1) In preparing the list and report provided for in subsection (a), the Director shall take into consideration the following factors:

(A) the extent to which the threat of punishment deters drug use among persons addicted to drugs.

(B) the extent to which the threat of withholding Federal privileges, benefits, grants, and loans would be likely to deter individuals from using illicit drugs.

(C) the effect that withholding benefits would have on an individual's efforts to overcome drug dependence.

(D) whether differing State laws with regard to possession of marijuana would result in the uneven application of sanctions imposed by the Federal government.

(E) the potential results of such a program in areas with limited treatment and rehabilitation opportunities.

(F) the burden that should appropriately be placed on individuals applying for Federal privileges, benefits, grants, and loans to prove they have not been convicted of a drug offense.

(G) the means by which Federal and State agencies, courts, and law enforcement agencies will exchange and share the data and information necessary to implement and enforce the withholding of benefits, privileges, grants, and loans.

(2) The Director is authorized to conduct public hearings and such other activities as may be necessary to fulfill this charge.

Subtitle G—Restrictions on Passports for Violators of Controlled Substance Laws and Other Laws

SEC. 5351. RESTRICTIONS ON PASSPORTS FOR VIOLATORS OF CONTROLLED SUBSTANCE LAWS AND OTHER LAWS.

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669 et seq.) is amended—

(1) by redesignating section 42 as section 43; and

(2) by inserting after section 41 the following:

"SEC. 42. RESTRICTIONS ON PASSPORTS FOR VIOLATORS OF CONTROLLED SUBSTANCE LAWS.

"(a) Revocation of Passports.—Upon conviction for—

"(1) a violation of the Controlled Substances Import and Export Act (21 U.S.C. 951-970) punishable by imprisonment for more than 1 year;

"(2) a criminal violation of the Bank Secrecy Act (31 U.S.C. 5311-5324) punishable by imprisonment for more than 1 year; or

"(3) a criminal violation of the Money Laundering Control Act (18 U.S.C. 1956, 1957) and any criminal violation of provisions of title 31, United States Code, relating to money laundering, punishable by imprisonment for more than 1 year;

where the violator used a passport or otherwise crossed an international border in committing such violation, the Secretary of State shall revoke the violator's passport and other travel documents. Any person whose passport or other travel documents were revoked under this subsection, or any person convicted for any offense in paragraph (1), (2), or (3) of this section who does not possess a passport, shall not be eligible to receive a passport or other travel documents for 10 years. The period of revocation shall begin after the individual completes the period of incarceration, probation, or parole imposed for conviction of any offense in paragraphs (1), (2), and (3).

"(b) The Secretary of State is authorized to promulgate such rules and regulations as may be necessary to carry out the provisions of this section.".

Subtitle H—Authorization of Appropriations for President's Media Commission on Alcohol and Drug Abuse Prevention

SEC. 5401. AUTHORIZATION OF APPROPRIATIONS FOR PRESIDENT'S MEDIA COMMISSION ON ALCOHOL AND DRUG ABUSE PREVENTION.

There are hereby authorized to be appropriated for the President's Media Commission on Alcohol and Drug Abuse Prevention the following amounts:

(1) $1,000,000 for the fiscal year ending September 30, 1989;

(2) $1,000,000 for the fiscal year ending September 30, 1990; and

(3) $1,000,000 for the fiscal year ending September 30, 1991.

TITLE VI—SENSE OF THE CONGRESS ON DRUG FUNDING

SEC. 6001. SENSE OF THE CONGRESS ON DRUG FUNDING.

It is the Sense of the Congress that—

(1) total authorizations in this Act and subsequent fiscal year 1989 appropriations shall provide that 60 percent of these incremental anti-drug funds shall be provided for drug prevention, treatment, and education programs and that 40 percent of the funds shall be provided for anti-drug law enforcement programs;

(2) the fiscal year 1989 appropriations for these authorizations shall include obligation

limitations to the extent necessary to avoid triggering a sequester in fiscal year 1989;

(3) if obligational limitations in appropriations Acts become necessary, they shall have the net effect of providing 50 percent of the available fiscal year 1989 outlays for anti-drug law enforcement programs (up to the amount authorized in this Act) and 50 percent (or any authorized amounts remaining in this Act after all amounts for law enforcement have been appropriated) for drug prevention, treatment, and education programs;

(4) should obligational limitations in appropriations Acts be imposed for fiscal year 1989, subsequent obligations of remaining budget authority provided in this Act shall be made so as to ensure that, overall, 60 percent of the budget authority will be provided for drug prevention, treatment and education programs and 40 percent shall be provided for anti-drug law enforcement programs; and

(5) revenues from an Internal Revenue Service enforcement and collections initiative and increased receipts from additional United States Attorneys used to improve processing of forfeited assets through the assets forefeiture fund should be used to offset spending associated with this Act.

TITLE VII A—DEATH PENALTY IN CASE OF DRUG RELATED KILLINGS

SEC. 7001. DEATH PENALTY FOR DRUG-RELATED KILLINGS.

(a) ELEMENTS OF OFFENSE.—Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended—

(1) by redesigning subsection (e) as subsection (f); and

(2) by adding a new subsection (e) as follows:

"Death Penalty

"(e)(1) In addition to the other penalties set forth in this section—

"(a) Any person engaging in a continuing criminal enterprise, or anyone working in furtherance of a continuing criminal enterprise who intentionally, or with reckless indifference to human life, kills or participates substantially in the killing of any individual, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death; and

"(b) Any person, during the commission of, in furtherance of, or while attempting to avoid apprehension, prosecution or service of a prison sentence for, a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.) who intentionally, or with reckless indifference to human life, kills or participates substantially in the killing of any federal, state, or local law enforcement officer engaged in, or on account of, the performance of such officer's official duties, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death.

"(2) As used in paragraph (1)(b), a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, prosecution or adjudication of an offense, and includes those engaged in corrections, probation, or parole functions.".

(b) PROCEDURE APPLICABLE WITH RESPECT TO THE DEATH PENALTY.—Section 408 of the Controlled Substances (21 U.S.C. 848) is amended by adding at the end the following:

"Hearing Required with Respect to the Death Penalty

"(g) A person shall be subjected to the penalty of death for any offense under this section only if a hearing is held in accordance with this section.

"Notice by the Government in Death Penalty Cases

"(h)(1) Whenever the Government intends to seek the death penalty for an offense under this section for which one of the sentences provided is death, the attorney for the Government, a reasonable time before trial or acceptance by the court of a plea of guilty, shall sign and file with the court, and serve upon the defendant, a notice—

"(A) that the Government in the event of conviction will seek the sentence of death; and

"(B) setting forth the aggravating factors enumerated in subsection (n) and any other aggravating factors which the Government will seek to prove as the basis for the death penalty.

"(2) The court may permit the attorney for the Government to amend this notice for good cause shown.

"Hearing Before Court or Jury

"(i)(1) When the attorney for the Government has filed a notice as required under subsection (h) and the defendant is found guilty of or pleads guilty to an offense under subsection (e), the judge who presided at the trial or before whom the guilty plea was entered, or any other judge if the judge who presided at the trial or before whom the guilty plea was entered is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(A) before the jury which determined the defendant's guilt;

"(B) before a jury impaneled for the purpose of the hearing if—

"(i) the defendant was convicted upon a plea of guilty;

"(ii) the defendant was convicted after a trial before the court sitting without a jury;

"(iii) the jury which determined the defendant's guilt has been discharged for good cause; or

"(iv) after initial imposition of a sentence under this section, redetermination of the sentence under this section is necessary; or

"(C) before the court alone, upon the motion of the defendant and with the approval of the Government.

"(2) A jury impaneled pursuant to paragraph (i)(B) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate with the approval of the court that it shall consist of any number less than 12.

"Proof of Aggravating and Mitigating Factors

"(j) Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty of or pleads guilty to an offense under subsection (e), no presentence report shall be prepared. In the sentencing hearing, information may be presented as to any matter relevant to the sentence and shall include matters relating to any of the aggravating or mitigating factors set forth in subsections (m) and (n), or any other mitigating factor. Where information is presented relating to any of the aggravating factors set forth in subsection (n), information may be presented relating to any other aggravating factor. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. The Government and the defendant shall be permitted to rebut any information received at the hearing and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the aggravating or mitigating factors and as to appropriateness in that case of imposing a sentence of death. The Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the Government, and is not satisfied unless established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless established by a preponderance of the evidence.

"Return of Findings

"(k) The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factors set forth in subsection (n), found to exist. If one of the aggravating factors set forth in subsection (n)(1) and another of the aggravating factors set forth in paragraphs (2) through (12) of subsection (n) is found to exist, a special finding identifying any other aggravating factor may be returned. A finding with respect to a mitigating factor may be made by one or more of the members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such a factor established for purposes of this subsection, regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If an aggravating factor set forth in subsection (n)(1) is not found to exist or an aggravating factor set forth in subsection (n)(1) is found to exist but no other aggravating factor set forth in subsection (n) is found to exist, the court shall impose a sentence, other than death, authorized by law. If an aggravating factor set forth in subsection (n)(1) and one or more of the other aggravating factors set forth in subsection (n) are found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of mitigating factors, whether the aggravating factors are themselves sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

"Imposition of Sentence

"(l) Upon a finding that a sentence of death is justified, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. A sentence of death shall not be carried out upon a person who is under 18 years of age at the time the crime was committed. A sentence of death shall not be carried out upon a person who, by reason of a mental disease or defect, is unable to understand his impending death or the reasons for it.

"Mitigating Factors

"(m) In determining whether a sentence of death is to be imposed on a defendant, the following mitigating factors shall be considered but are not exclusive:

"(1) The defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to the charge.

"(2) The defendant was under unusual and substantial duress, although not such duress as constitutes a defense to the charge.

"(3) The defendant is punishable as a principal (as defined in section 2(a) of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, although not so minor as to constitute a defense to the charge.

"(4) The defendant could not reasonably have foreseen that his conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"Aggravating Factors for Homicide

"(n) If the defendant is found guilty of or pleads guilty to an offense under subsection (e), the following aggravating factors shall be considered but are not exclusive:

"(1) The defendant—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury which resulted in the death of the victim;

"(C) intentionally engaged in conduct intending that the victim be killed or that lethal force be employed against the victim, which resulted in the death of the victim.

"(D) intentionally engaged in conduct which—

"(i) the defendant knew would create a grave risk of death to a person, other than one of the participants in the offense; and

"(ii) resulted in the death of the victim.

"(2) The defendant has been convicted of another Federal offense, or a State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(3) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury upon another person.

"(4) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(5) In the commission of the offense or in escaping apprehension for a violation of subsection (e), the defendant knowingly created a grave risk of death to one or more persons in addition to the victims of the offense.

"(6) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(7) COMMISSION OF THE OFFENSE FOR PAYMENT.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(8) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(9) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(10) The defendant had previously been convicted of violating a provision of the Controlled Substances Act for which a sentence of five or more years may be imposed or was engaged in a continuing criminal enterprise.

"(11) The violation of this chapter in relation to which the conduct described in subsection (e) occurred was a violation of section 405.

"(12) The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"Right of the Defendant to Justice Without Discrimination

"(o)(1) In any hearing held before a jury under this section, the court shall instruct the jury that in its consideration of whether the sentence of death is justified it shall not consider the race, color, national origin, or sex of the defendant or the victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what race the defendant, or the victim, may be. The jury shall return to the court a certificate signed by each juror that consideration of race, color, national origin, creed, or sex of the defendant or the victim was not involved in reaching his or her individual decision, and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what race the defendant, or the victim, may be.

"(2) Not later than one year from the date of enactment of this section, the Comptroller General shall conduct a study of the various procedures used by the several States for determining whether or not to impose the death penalty in particular cases, and shall report to the Congress on whether or not any or all of the various procedures create a significant risk that the race of a defendant, or the race of a victim against whom a crime was committed, influence the likelihood that defendants in those States will be sentenced to death. In conducting the study required by this paragraph, the General Accounting Office shall—

"(A) use ordinary methods of statistical analysis, including methods comparable to those ruled admissible by the courts in race discrimination cases under Title VII of the Civil Rights Act of 1964;

"(B) study only crimes occurring after January 1, 1976; and

"(C) determine what, if any, other factors, including any relation between any aggravating or mitigating factors and the race of the victim or the defendant, may account for any evidence that the race of the defendant, or the race of the victim, influences the likelihood that defendants will be sentenced to death. In addition, the General Accounting Office shall examine separately and include in the report, death penalty cases involving crimes similar to those covered under this section.

"SENTENCING IN CAPITAL CASES IN WHICH DEATH PENALTY IS NOT SOUGHT OR IMPOSED

"(p) If a person is convicted for an offense under subsection (e) and the court does not impose the penalty of death, the court may impose a sentence of life imprisonment without the possibility of parole.

"APPEAL IN CAPITAL CASES

"(q)(1) In any case in which the sentence of death is imposed under this section, the sentence of death shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time prescribed for appeal of judgment in section 2107 of title 28 of the United States Code. An appeal under this section may be consolidated with an appeal of the judgment of conviction. Such review shall have priority over all other cases.

"(2) On review of the sentence, the court of appeals shall consider the record, the evidence submitted during the trial, the information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under this section.

"(3) The court shall affirm the sentence if it determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of every aggravating factor upon which the sentence was based, together with or the failure to find any mitigating factors as set forth or allowed in this section.

In all other cases the court shall remand the case for reconsideration under this section. The court of appeals shall state in writing the reasons for its disposition of the review of the sentence.

"(4) In any post-conviction proceeding under section 2254 or 2255 of title 28, United States Code seeking to vacate or set aside a death sentence, the court shall appoint counsel to represent any defendant who is or becomes financially unable to obtain adequate representation.

"REFUSAL TO PARTICIPATE BY STATE AND FEDERAL CORRECTIONAL EMPLOYEES

"(r) No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

Passed the Senate June 10 (legislative day, June 8), 1988.

TITLE VII B—DEATH PENALTY IN CASE OF DRUG RELATED KILLINGS

SEC. 7001. DEATH PENALTY FOR DRUG-RELATED KILLINGS.

(a) ELEMENTS OF OFFENSE.—Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended—

(1) by redesigning subsection (e) as subsection (f); and

(2) by adding a new subsection (e) as follows:

"Death Penalty

"(e)(1) In addition to the other penalties set forth in this section—

"(a) Any person engaging in a continuing criminal enterprise, or anyone working in furtherance of a continuing criminal enterprise who intentionally, or with reckless indifference to human life, kills or participates substantially in the killing of any individual, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death; and

"(b) Any person, during the commission of, in furtherance of, or while attempting to avoid apprehension, prosecution or service of a prison sentence for, a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.) who intentionally, or with reckless indifference to human life, kills or participates substantially in the killing of any federal, state, or local law enforcement officer engaged in, or on account of, the performance of such officer's official duties, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death.

"(2) As used in paragraph (1)(b), a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, prosecution or adjudication of an offense, and includes those engaged in corrections, probation, or parole functions.".

(b) PROCEDURE APPLICABLE WITH RESPECT TO THE DEATH PENALTY.—Section 408 of the Controlled Substances (21 U.S.C. 848) is amended by adding at the end the following:

"Hearing Required with Respect to the Death Penalty

"(g) A person shall be subjected to the penalty of death for any offense under this section only if a hearing is held in accordance with this section.

"Notice by the Government in Death Penalty Cases

"(h)(1) Whenever the Government intends to seek the death penalty for an offense under this section for which one of the sentences provided is death, the attorney for the Government, a reasonable time before trial or acceptance by the court of a plea of guilty, shall sign and file with the court, and serve upon the defendant, a notice—

"(A) that the Government in the event of conviction will seek the sentence of death; and

"(B) setting forth the aggravating factors enumerated in subsection (n) and any other aggravating factors which the Government will seek to prove as the basis for the death penalty.

"(2) The court may permit the attorney for the Government to amend this notice for good cause shown.

"Hearing Before Court or Jury

"(i)(1) When the attorney for the Government has filed a notice as required under subsection (h) and the defendant is found guilty of or pleads guilty to an offense under subsection (e), the judge who presided at the trial or before whom the guilty plea was entered, or any other judge if the judge who presided at the trial or before whom the guilty plea was entered is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(A) before the jury which determined the defendant's guilt;

"(B) before a jury impaneled for the purpose of the hearing if—

"(i) the defendant was convicted upon a plea of guilty;

"(ii) the defendant was convicted after a trial before the court sitting without a jury;

"(iii) the jury which determined the defendant's guilt has been discharged for good cause; or

"(iv) after initial imposition of a sentence under this section, redetermination of the sentence under this section is necessary; or

"(C) before the court alone, upon the motion of the defendant and with the approval of the Government.

"(2) A jury impaneled pursuant to paragraph (i)(B) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate with the approval of the court that it shall consist of any number less than 12.

"Proof of Aggravating and Mitigating Factors

"(j) Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty of or pleads guilty to an offense under subsection (e), no presentence report shall be prepared. In the sentencing hearing, information may be presented as to any matter relevant to the sentence and shall include matters relating to any of the aggravating or mitigating factors set forth in subsections (m) and (n), or any other mitigating factor. Where information is presented relating to any of the aggravating factors set forth in subsection (n), information may be presented relating to any other aggravating factor. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. The Government and the defendant shall be permitted to rebut any information received at the hearing and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the aggravating or mitigating factors and as to appropriateness in that case of imposing a sentence of death. The Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the Government, and is not satisfied unless established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless established by a preponderance of the evidence.

"Return of Findings

"(k) The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factors set forth in subsection (n), found to exist. If one of the aggravating factors set forth in subsection (n)(1) and another of the aggravating factors set forth in paragraphs (2) through (12) of subsection (n) is found to exist, a special finding identifying any other aggravating factor may be returned. A finding with respect to a mitigating factor may be made by one or more of the members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such a factor established for purposes of this subsection, regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If an aggravating factor set forth in subsection (n)(1) is not found to exist or an aggravating factor set forth in subsection (n)(1) is found to exist but no other aggravating factor set forth in subsection (n) is found to exist, the court shall impose a sentence, other than death, authorized by law. If an aggravating factor set forth in subsection (n)(1) and one or more of the other aggravating factors set forth in subsection (n) are found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of mitigating factors, whether the aggravating factors are themselves sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

"Imposition of Sentence

"(l) Upon a finding that a sentence of death is justified, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. A sentence of death shall not be carried out upon a person who is under 18 years of age at the time the crime was committed. A sentence of death shall not be carried out upon a person who, by reason of a mental disease or defect, is unable to understand his impending death or the reasons for it. A sentence of death shall not be carried out upon a person who is mentally retarded.

"Mitigating Factors

"(m) In determining whether a sentence of death is to be imposed on a defendant, the following mitigating factors shall be considered but are not exclusive:

"(1) The defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to the charge.

"(2) The defendant was under unusual and substantial duress, although not such duress as constitutes a defense to the charge.

"(3) The defendant is punishable as a principal (as defined in section 2(a) of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, although not so minor as to constitute a defense to the charge.

"(4) The defendant could not reasonably have foreseen that his conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"Aggravating Factors for Homicide

"(n) If the defendant is found guilty of or pleads guilty to an offense under subsection (e), the following aggravating factors shall be considered but are not exclusive:

"(1) The defendant—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury which resulted in the death of the victim;

"(C) intentionally engaged in conduct intending that the victim be killed or that lethal force be employed against the victim, which resulted in the death of the victim.

"(D) intentionally engaged in conduct which—

"(i) the defendant knew would create a grave risk of death to a person, other than one of the participants in the offense; and

"(ii) resulted in the death of the victim.

"(2) The defendant has been convicted of another Federal offense, or a State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(3) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury upon another person.

"(4) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(5) In the commission of the offense or in escaping apprehension for a violation of subsection (e), the defendant knowingly created a grave risk of death to one or more persons in addition to the victims of the offense.

"(6) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(7) COMMISSION OF THE OFFENSE FOR PAYMENT.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(8) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(9) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(10) The defendant had previously been convicted of violating a provision of the Controlled Substances Act for which a sentence of five or more years may be imposed or was engaged in a continuing criminal enterprise.

"(11) The violation of this chapter in relation to which the conduct described in subsection (e) occurred was a violation of section 405.

"(12) The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"Right of the Defendant to Justice Without Discrimination

"(o)(1) In any hearing held before a jury under this section, the court shall instruct the jury that in its consideration of whether the sentence of death is justified it shall not consider the race, color, national origin, or sex of the defendant or the victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what race the defendant, or the victim, may be. The jury shall return to the court a certificate signed by each juror that consideration of race, color, national origin, creed, or sex of the defendant or the victim was not involved in reaching his or her individual decision, and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what race the defendant, or the victim, may be.

"(2) Not later than one year from the date of enactment of this section, the Comptroller General shall conduct a study of the various procedures used by the several States for determining whether or not to impose the death penalty in particular cases, and shall report to the Congress on whether or not any or all of the various procedures create a significant risk that the race of a defendant, or the race of a victim against whom a crime was committed, influence the likelihood that defendants in those States will be sentenced to death. In conducting the study required by this paragraph, the General Accounting Office shall—

"(A) use ordinary methods of statistical analysis, including methods comparable to those ruled admissible by the courts in race discrimination cases under Title VII of the Civil Rights Act of 1964;

"(B) study only crimes occurring after January 1, 1976; and

"(C) determine what, if any, other factors, including any relation between any aggravating or mitigating factors and the race of the victim or the defendant, may account for any evidence that the race of the defendant, or the race of the victim, influences the likelihood that defendants will be sentenced to death. In addition, the General Accounting Office shall examine separately and include in the report, death penalty cases involving crimes similar to those covered under this section.

"Sentencing in Capital Cases in Which Death Penalty is not Sought or Imposed

"(p) If a person is convicted for an offense under subsection (e) and the court does not impose the penalty of death, the court may impose a sentence of life imprisonment without the possibility of parole.

"Counsel for Financially Unable Defendants

"(q)(1) Notwithstanding any other provision of law to the contrary, in every criminal action in which a defendant is charged with a crime may be punishable by death, a defendant who is or becomes financially unable to obtain adequate representation or investigative, expert or other reasonably necessary services at any time either—

"(A) before judgment; or

"(B) after the entry of a judgment imposing a sentence of death but before the execution of that judgment;

shall be entitled to the appointment of one or more attorneys and the furnishing of such other services in accordance with paragraphs (2), (3), (4), (5), and (6).

"(2) If the appointment is made before judgment, at least one attorney so appointed must have been admitted to practice in the court in which the prosecution is to be tried for not less than five years, and must have had not less than three years experience in the actual trial of felony prosecutions in that court.

"(3) If the appointment is made after judgment, at least one attorney so appointed must have been admitted to practice in the court of appeals for not less than five years, and must have had no less than three years experience in the handling of appeals in that court in felony cases.

"(4) Unless replaced by similarly qualified counsel upon the attorney's own motion or upon motion of the defendant, each attorney so appointed shall represent the defendant throughout every subsequent stage of available judicial proceedings, including pretrial proceedings, trial, sentencing, motions for new trial, appeals, applications, for writ of certiorari to the Supreme Court of the United States, and all available post-conviction process together with applications for stays of execution and other appropriate motions and procedures, and shall also represent the defendant in such competent proceedings and proceedings for executive or other clemency as may be available to the defendant.

"(5) Upon a finding in ex parte proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or sentence, the court shall authorize the defendant's attorney to obtain such services on behalf of the defendant and shall order the payment of fees and expenses therefore, under paragraph (6). Upon a finding that timely procurement of such services could not practicably await prior authorization, the court may authorize the provision of and payment for such services nunc pro tunc.

"(6) Notwithstanding the rates and maximum limits generally applicable to criminal cases and any other provision of law to the contrary, the court shall fix the compensation to be paid to attorneys appointed under this subsection and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under paragraph (5), at such rates or amounts as the court determines to be appropriate in order to provide such defendant with representation by counsel and other services as nearly equivalent as possible to those available to defendants who are financially able to obtain such representation and other services for their defense and appeal, and for the prosecution of any of the proceedings described in paragraph (4).

"Refusal to Participate by State and Federal Correctional Employees

"(r) No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

AMENDMENT No. 3376

At the appropriate place add the following:

None of the provisions of this Act shall become effective until the following becomes enacted:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) PRESERVATION OF COVERAGE.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lieu thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) MINIMUM WAGE.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) WAGE ORDERS.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. . NEW WAGE FOR FULL-TIME STUDENTS

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

(B) The wage referred to in subparagraph (A) is a wage 85% of the wage prescribed in section 6, but at least $3.35 an hour.

(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. This limitation shall not apply to any high school dropout who has returned to school full-time. No individual student covered by this program may work, except during vacation periods, more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.

AMENDMENT NO. 3377

At the appropriate place add the following:

None of the provisions of this Act shall become effective until the following becomes enacted:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) PRESERVATION OF COVERAGE.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lie thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) MINIMUM WAGE.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) WAGE ORDERS.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

"(B) The wage referred to in subparagraph (A) is a wage 85% of the wage prescribed in section 6, but at least $3.35 an hour.

"(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. This limitation shall not apply to any high school dropout who has returned to school full-time. No individual student covered by this program may work, except during vacation periods, more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.".

AMENDMENT No. 3378

At the appropriate place add the following:

None of the provisions of this Act shall become effective until the following becomes enacted:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) PRESERVATION OF COVERAGE.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lie thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) MINIMUM WAGE.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) WAGE ORDERS.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

"(B) The wage referred to in subparagraph (A) is a wage 85% of the wage prescribed in section 6, but at least $3.35 an hour.

"(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. This limitation shall not apply to any high school dropout who has returned to school full-time. No individual student covered by this program may work, except during vacation periods, more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection. ".

AMENDMENT No. 3379

At the appropriate place add the following:

None of the provisions of this Act shall become effective until the following becomes enacted:

SECTION 1. SHORT TITLE

This Act may be cited as the "Minimum Wage Restoration Act of 1988".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1988, not less than $3.75 an hour during the year beginning January 1, 1989, not less than $4.15 an hour during the year beginning January 1, 1990, and not less than $4.55 an hour after December 31, 1990;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) PRESERVATION OF COVERAGE.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lie thereof "December 31, 1988";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1988"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) MINIMUM WAGE.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) WAGE ORDERS.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 214(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. . NEW WAGE FOR FULL-TIME STUDENTS.

(a) AMENDMENT.—Section 14 of the Fair Labor Standards Act of 1938 (29 U.S.C. 214) is amended by adding at the end the following:

"(e)(1)(A) Any retail, service, agricultural or higher education employer may, in lieu of the minimum wage prescribed in section 6, pay any employee the wage prescribed by subparagraph B if such employee is a full-time student and the employer has mailed an application form to the Secretary which gives the employer's name and business address and certification that the employment of such students will not reduce full-time employment opportunities of persons other than those employed pursuant to this subsection.

"(B) The wage referred to in subparagraph (A) is a wage 85% of the wage prescribed in section 6, but at least $3.35 an hour.

"(2) During any month in which full-time students are to be employed under this subsection the number of students may not exceed 12 and the proportion of these student hours of employment to the total hours of employment of all employees may not exceed one-tenth unless the Secretary has issued a certificate permitting a larger number or fraction. This limitation shall not apply to any high school dropout who has returned to school full-time. No individual student covered by this program may work, except during vacation periods, more than 20 hours per week. The Secretary may, pursuant to authority in 29 U.S.C. 214(b)(4), issue such a certificate upon finding that employment of such students will not create a substantial probability of reducing full-time employment opportunities of persons other than those employed pursuant to this subsection.".

WILSON AMENDMENT NO. 3380

(Ordered to lie on the table.)

Mr. WILSON submitted an amendment intended to be proposed by him to the bill S. 2488, supra, as follows:

Notwithstanding any other provision of this Act the language: on page 1, strike out line 6 and all that follows through the end of the amendment is deemed to be the following:

SEC. 502. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) 26,400,000 children have mothers who are employed in full and part time jobs, and 8,200,000 of such children are under the age of 5;

(2) more than 50 percent of new entrants into the labor force between the years 1986 and 2000 will be women in their childbearing years;

(3) the rapid influx of mothers into the workforce has made child care a primary concern of American families;

(4) safe and affordable child care has become a major problem for many families, including families with low and modest incomes;

(5) compliance with established quality, accreditation, and licensing standards is critical to ensuring the health and safety of children in family-based and group child care settings;

(6) there is a shortage of both trained child care providers and child care training programs where individuals can obtain the training necessary to become such a provider;

(7) difficulties in obtaining affordable liability insurance discourages individuals and small business from providing child care;

(8) there are persons between the ages of 62 and 69 who, though qualified and interested in working as child care providers, decline to do so for fear that their social security benefits would be reduced;

(9) the current Child and Dependent Care Tax Credit under section 21 of the Internal Revenue Code of 1986, is not of maximum benefit to families of low and modest incomes;

(10) the creation of additional child care tax incentives is essential to meeting the needs of children from low and modest income families; and

(11) coordination of Federal child care programs will greatly enhance the provision of child care services.

(b) PURPOSE.—It is the purpose of this title to—

(1) provide assistance and flexibility to States to increase the availability of safe

and affordable child care for working families;

(2) increase the access of families with low and modest incomes to affordable and quality child care;

(3) ensure the health and safety of children entrusted to child care providers;

(4) promote greater private sector involvement in the provision of child care; and

(5) remove barriers to the provision of child care.

Subtitle A—Dependent Care Planning and Development Program

SEC. 510. DEPENDENT CARE PLANNING AND DEVELOPMENT PROGRAM.

Title XX of the Social Security Act (42 U.S.C. 1397 et seq.) is amended—

(1) by inserting before the heading of section 2001 the following:

"SUBTITLE A—SOCIAL SERVICES GRANT PROGRAM"; AND

(2) by adding at the end thereof the following new subtitle:

"SUBTITLE B—DEPENDENT CARE PLANNING AND DEVELOPMENT PROGRAM.

"SEC. 2010. DEFINITIONS.

"As used in this subtitle:

"(1) CONSORTIUM OF SMALL BUSINESSES.—The term "consortium of small businesses" means two or more small businesses.

"(2) ELIGIBLE ENTITIES.—The term "eligible entity" means—

"(A) a unit of State or local government;

"(B) a local education agency;

"(C) a nonprofit organization, which qualifies as a nonprofit organization under section 501(c) or 501(d) for the Internal Revenue Code of 1986;

"(D) a professional employee association;

"(E) a consortium of small businesses;

"(F) an institution of higher education;

"(G) a hospital or health care facility;

"(H) a family care provider; and

"(I) any public, private, or nonprofit entity that the State considers able and appropriate to carry out a project under this part.

"(3) ELIGIBLE FAMILIES.—The term "eligible families" means families with one or more children who are under the age of 13 and whose family income does not exceed 100 percent of the State median income for a family of the same size;

"(4) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), as amended;

"(5) LOCAL EDUCATION AGENCY.—The term "local education agency" has the same meaning given that term by section 198(10) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854(10)), or any successor statute defining that term for the purposes of Federal assistance to elementary and secondary education;

"(6) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services;

"(7) SLIDING FEE SCHEDULE.—The term "sliding fee schedule" means a system of cost sharing between the State and a family based on the income and size of a family with very low income families having to pay no cost;

"(8) SMALL BUSINESS.—The term "small business" means any business entity that employs less than 50 individuals.

"(9) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

"SEC. 2011. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of making allotments to States to carry out the activities described in section 2014, there are authorized to be appropriated $400,000,000 for each of the fiscal years 1989, 1990, 1991, and 1992.

"SEC. 2012. ALLOTMENTS.

"(a) FORMULA.—

"(1) IN GENERAL.—The Secretary shall make an allotment to each State for each fiscal year, from amounts appropriated under section 2011 for such fiscal year, on the basis of a formula prescribed by the Secretary that is based equally—

"(A) on the population of each State as it compares to the population of all States; and

"(B) on the population of each State weighted by the relative per capita income of that State as such compares to the relative per capita income of all States.

"(2) DEFINITION.—For purposes of this subsection, the term 'relative per capita income' means—

"(A) the quotient of the per capita income of the United States and the per capita income of the State; or

"(B) in the case of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, the Commonwealth of Puerto Rico, or the Virgin Islands, the quotient shall be considered to be 1.

"(b) ADDITIONAL ALLOTMENT.—

"(1) METHOD OF ALLOTMENT.—Any amounts not allotted under subsection (a) shall be allotted among each of the States in proportion to the amount otherwise allotted to such States for such fiscal year under subsection (a).

"(2) DEFINITION.—For the purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(3) REDUCTIONS.—

"(A) IN GENERAL.—The amount that a State is entitled to receive under subsection (a) and under paragraph (1) shall be reduced to the extent that such amount exceeds the sum that the Secretary estimates will be used in such State to carry out a State plan approved by the Secretary under section 2015.

"(B) REALLOTMENT.—The amount of such reduction shall be reallotted among those remaining States that have not been subject to a reduction under this paragraph in the same manner in which the original allotment was made.

"SEC. 2013. PAYMENTS UNDER ALLOTMENTS TO STATES.

"(a) IN GENERAL.—The Secretary shall make payments from amounts appropriated for each fiscal year under section 2011, as provided by section 6503(a) of title 31, United States Code, to each State in an amount (not to exceed its allotment under section 2012 for such fiscal year) equal to the Federal share of the aggregate amount to be expended by the State under the State plan for such fiscal year.

"(b) FEDERAL SHARE.—The Federal share for each fiscal year shall be 75 percent.

"(c) STATE SHARE.—The State share shall equal 100 percent minus the Federal share.

"(d) CARRYOVER.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of that year shall remain available, for the next fiscal year, to the State for the purposes for which the payment to the State was made.

"SEC. 2014. STATE USE OF ALLOTMENTS.

"(a) PROJECT GRANTS.—Amounts paid to a State under section 2013 shall be used by the State to make grants to eligible entities for projects described in subsection (b) that meet at least one of the purposes of the Kids in Day-Care Services Act of 1988.

"(b) PROJECTS.—

"(1) PURPOSE.—A State may make a grant to an eligible entity—

"(A) for the provision of child care services through various programs, including a certificate or voucher program for eligible families;

"(B) for the expansion and operation of existing State child care programs, if such programs are consistent with the purposes of the Kids in Day-Care Services Act of 1988;

"(C) for the establishment or operation of community or neighborhood child care centers, including the renovation of public buildings for such purposes;

"(D) for the establishment or operation of after school child care programs;

"(E) for the establishment or operation of programs to recruit and train senior citizens to serve as child care providers;

"(F) for the establishment or operation of child care programs for children of migrant workers families;

"(G) to enable such entity to provide grants or loans to fund the start up costs of onsite child care offered by small business concerns;

"(H) for the establishment and operation of training programs for child care providers;

"(I) for the temporary care of children who are sick and unable to attend child care programs in which such children are enrolled; or

"(J) for any project consistent with the purposes of the Kids in Day-Care Services Act of 1988.

"(2) LIMITATIONS.—A State may not use amounts paid to the State under section 2013 to—

"(A) provide inpatient health care services or other such unrelated services, except temporary sick child care services as authorized under paragraph (1)(I);

"(B) make cash payments to intended recipients of services (other than pursuant to a certificate or voucher program to enable low income families to obtain adequate child care as authorized under paragraph (1)(A));

"(C) provide support to any project in which the provision of child care services is not based on a sliding fee schedule;

"(D) purchase major medical equipment (except as provided in paragraph (1)(I)); and

"(E) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

"(3) WAIVER OF LIMITATIONS.—The Secretary may waive the limitations contained in paragraph (2) on the request of a State if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this title.

"(c) TECHNICAL ASSISTANCE.—The Secretary, on the request of a State, shall provide technical assistance to the State in planning and operating activities to be carried out under this subtitle.

"(d) STATE ADMINISTRATION.—

"(1) LIMITATION OF EXPENDITURES.—No more than 7 percent of the total amount paid to a State under section 2013 for a fiscal year shall be used for administering the funds made available under such section. The State shall pay from non-Federal sources the remaining costs of administering such funds.

"(2) STATE RESPONSIBILITIES.—From the funds reserved by the State under paragraph (1) for the administration of the amounts paid to the State under section 2013, the State shall—

"(A) provide technical assistance to eligible entities participating in projects receiving assistance under this section;

"(B) conduct investigations of alleged child abuse in projects receiving assistance under this section;

"(C) coordinate projects receiving assistance under the Kids in Day-Care Services Act of 1988 with existing programs;

"(D) establish regular communications with registered, licensed, and accredited child care providers concerning regulatory standards, provider training opportunities, provider support groups, and nutrition assistance programs; and

"(E) establish a consumer education program designed to inform parents and the general public about regulatory standards, complaint procedures, and the importance of parental involvement in assuring quality child care.

"SEC. 2015. STATE PLAN.

"(a) STATE PLAN.—Not later than 12 months after the date of enactment of this subtitle, each State desiring to participate in the program authorized under this subtitle shall prepare and submit to the Secretary a State plan. Each such plan shall—

"(1) describe the State agency that will administer the programs authorized under this subtitle;

"(2) describe the authorized activities for which assistance is sought under this subtitle;

"(3) provide assurances that Federal funds under this subtitle for any fiscal year will be used to supplement, and to the extent practicable, to increase the level of funds, that would, in the absence of such Federal funds, be made available from non-Federal sources for the purpose described in section 2014 and in no case supplant such funds form non-Federal sources;

"(4) describe procedures that the State will use to require eligible providers to submit applications to the State in accordance with section 2017, and to approve such applications;

"(5) describe standards that the State has established pursuant to section 2016;

"(6) certify that the State will coordinate the provision of child care services made available with funds provided under this subtitle with other child care services provided in the State;

"(7) provide such fiscal control and accounting procedures as may be necessary—

"(A) to ensure the proper accounting of Federal funds paid to the State under this subtitle; and

"(B) to ensure the verification of reports required under this subtitle;

"(8) certify that the State will use the information contained in the report submitted to the Secretary pursuant to subsection (i) to regularly evaluate the impact of the distribution of funds received pursuant to section 2013 by the State on the quality and availability of child care services in the State; and

"(9) provide such additional assurances as the Secretary may reasonably require.

"(b) APPROVAL.—

"(1) TIME PERIOD.—Not later than 30 days after the receipt of a State plan under section 2018, the Secretary shall approve such plan if it meets the requirements of such subsection and this subtitle.

"(2) DISAPPROVAL.—In the case of a State plan that is not approved by the Secretary under this paragraph (1), the Secretary may withhold funds from such State until such time as the State plan meets the requirements of this subtitle.

"(3) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to a State, on request by the State, to ensure compliance with the provisions of this subtitle.

"SEC. 2106. STANDARDS.

"(a) ESTABLISHMENT.—To receive funds under this subtitle, a State shall establish standards for—

"(1) the accreditation and licensing of family-based and group child care providers;

"(2) inspection and certification of the providers referred to in paragraph (1) based on such standards; and

"(3) minimum competency requirements that child care providers must meet.

"(b) CONSULTATION.—In developing standards under paragraph (1), a State shall consult with child care providers, parents, community-based organizations, local government, social service agencies, religious organizations, educational institutions, business organizations, and labor and employee associations.

"SEC. 2017. APPLICATIONS FOR GRANTS BY ELIGIBLE PROVIDERS.

"(a) APPLICATION.—In order to receive a grant from a State under section 2014, an eligible entity shall submit an application to the State that—

"(1) describes the project for which assistance is sought;

"(2) contains assurances that the eligible provider will use funds furnished in accordance with the requirements of this subtitle;

"(3) provides assurances that—

"(A) an appropriate sliding fee schedule will be established in the case of any project in which child care services are furnished with assistance under this subtitle; and

"(B) such fee schedule will be based on the annual incomes of the participating families;

"(4) provides assurances that procedures will be established for parental involvement in the operation of a project receiving assistance under this subtitle;

"(5) provides assurances that the project will meet the standards established by the State under section 2016; and

"(6) includes any additional assurances that the State may reasonably require.

"(b) PRIORITY.—In making grants under this subtitle, a State shall give priority to applications from eligible providers that attempt to significantly expand or improve the provision of child care services to children of parents with low or modest incomes.

"(c) FUNDING REQUIREMENT.—An eligible entity receiving a grant under this section shall be required to fund at least 10 percent, but not more than 50 percent, of the project cost with non-Federal funds. The non-Federal funding may be in cash or in-kind based on fair market value.

"SEC. 2018. REPORTING REQUIREMENTS.

"(a) STATE REPORTS.—

"(1) IN GENERAL.—Not later than 12 months after a State receives funds under this subtitle, and at 12-month intervals thereafter, the chief executive officer of such State shall prepare and submit to the Secretary, in such form as the Secretary shall prescribe, a report describing the States' use of funds received under this subtitle.

"(2) REPORT REQUIREMENTS.—Reports submitted under paragraph (1) shall—

"(A) include a description of the programs, activities, and services supported or provided with the funds received under this subtitle;

"(B) include the number of children served by, the number of low-income families served by, and the Federal, State, local, and private costs incurred in, the programs, activities, and services supported or provided with the funds received under this subtitle;

"(C) include the number of individuals trained as child care providers and an examination of the impact of provider pay on the quality of child care and on provider and staff turnover in the State during the preceding year;

"(D) include the number of new child care programs established in part or in whole with funds provided this subtitle;

"(E) include any additional information that the chief executive officer of the State may consider appropriate; and

"(F) be made public in the State in a manner that will facilitate comment by persons desiring to do so.

"(b) REPORT TO CONGRESS.—Not later than 6 months after the receipt of State reports required under subsection (a), and at 12-month intervals thereafter, the Secretary shall prepare and submit, to the appropriate Committees of Congress, a report containing a summary of the information contained in the State reports submitted under subsection (a). Such summary shall include an analysis of those programs activities, and services supported or provided with the funds received by the States this subtitle that the Secretary considers particularly innovative and effective, and any additional information the Secretary considers appropriate.".

SEC. 511. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall become effective on the date that occurs 6 months after the date of enactment of this title.

Subtitle B—Child Care Liability Risk Reduction and Revolving Loan Fund

CHAPTER 1—LIABILITY RISK REDUCTION

SEC. 520. PURPOSE.

It is the purpose of this chapter—

(1) to increase the availability of child care by alleviating the serious difficulty faced by child care providers in obtaining affordable liability insurance; and

(2) to provide States with a sufficient capital base for liability insurance purposes that may be increased or maintained through mechanisms developed by the State.

SEC. 521. FORMATION OF CHILD CARE LIABILITY RISK RETENTION GROUP.

(a) ASSISTANCE IN FORMATION AND OPERATION OF GROUP.—Any State may assist in the establishment and operation of a child care liability risk retention group in the manner provided under this chapter.

(b) CHILD CARE LIABILITY RISK RETENTION GROUP DEFINED.—For purposes of this chapter, the "child care liability risk retention group" means any corporation (or other limited liability association)—

(1) whose members are child care providers licensed or accredited pursuant to State or local law or standards; and

(2) which otherwise satisfies the criteria for a risk retention group under section 2(4) of the Liability Risk Retention Act of 1986 (15 U.S.C. 3901(4)).

SEC. 522. STATE APPLICATIONS.

(a) Applications.—To qualify for assistance under this chapter, a State shall submit an application to the Secretary of Health and Human Services, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require, including a State plan which meets the requirements of subsection (b) of this section.

(b) State Plans.—

(1) Lead agency.—The plan shall identify the lead agency that has been designated and that is to be responsible for the administration of funds provided under this chapter.

(2) Participants in risk retention group.—The plan shall provide that all participants in the child care liability risk retention group are child care providers who are licensed or accredited pursuant to State or local law or standards. In addition, the plan shall provide for maximum membership of family-based child care providers in the group.

(3) Use of funds.—The plan shall provide that the State shall use at least the amount allotted to the State in any fiscal year to establish or operate a child care liability risk retention group.

(4) Continuation of risk retention group.—The plan shall set forth provisions that specify how the child care liability risk retention group will continue to be financed after fiscal year 1991, including financing through contributions by the State or by members of such group.

SEC. 523. FEDERAL ENFORCEMENT.

(a) Review of Plans.—The Secretary of Health and Human Services shall review and approve State plans submitted in accordance with this chapter and shall monitor State compliance with the provisions of this chapter.

(b) Finding of Noncompliance.—If the Secretary of Health and Human Services, after reasonable notice to a State and opportunity for a hearing, finds—

(1) that there has been a failure to comply substantially with any provision or any requirements set forth in the State plan of that State; or

(2) that there is a failure to comply substantially with any applicable provision of this chapter,

the Secretary shall notify such State of the findings and of the fact that no further payments may be made to such State under this chapter until the Secretary is satisfied that there is no longer any such failure to comply, or that the noncompliance will be promptly corrected.

SEC. 524. AUTHORIZATION OF APPROPRIATION.

(a) Authorization of Appropriations.—To carry out the provisions of this chapter, there are authorized to be appropriated $100,000,000 for fiscal year 1989.

(b) Amounts To Remain Available.—The amounts appropriated pursuant to subsection (a) shall remain available for assistance to States for fiscal years 1989, 1990, and 1991 without limitation.

SEC. 525. RESERVATIONS FOR TERRITORIES AND ADMINISTRATIVE COSTS.

From the sums appropriated to carry out the provisions of this chapter for each fiscal year, the Secretary of Health and Human Services shall reserve—

(1) 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs; and

(2) 3 percent for the administrative costs of carrying out the provisions of this chapter.

SEC. 526. ALLOTMENTS TO STATES.

(a) In General.—From the remainder of the amounts appropriated under section 524, the Secretary of Health and Human Services shall make an allotment to each State not referred to in section 525 for each fiscal year in accordance with subsection (b).

(b) Allotment Formula.—

(1) In General.—The amount of each State's allotment under subsection (a) shall be equal to the product of—

(A) an amount equal to the sums appropriated to carry out the provisions of this chapter for each fiscal year minus the amount reserved pursuant to section 525 for such fiscal year; and

(B) the percentage described in paragraph (2).

(2) Percentage.—The percentage referred to in paragraph (1)(B) is a percentage equal to the quotient of—

(A) an amount equal to the population of each State as it compares to the population of all States; divided by

(B) an amount equal to the population of each State weighted by the relative per capita income of that State as such compares to the relative per capita income of all States.

(c) State Administrative Costs.—Of the amount allotted to a State pursuant to subsection (a), an amount not to exceed 7 percent shall be used by such State to provide for the administrative costs of carrying out such program.

SEC. 527. PAYMENTS.

(a) Entitlement.—Each State having a plan approved by the Secretary of Health and Human Services under this chapter shall be entitled to payments under this section for each fiscal year in an amount not to exceed its allotment under section 526, to be expended by the State under the plan for the fiscal year for which the grant is to be made.

(b) Method of Payments.—The Secretary of Health and Human Services may make payments to a State in installments, and in advance or, subject to the requirement of section 524, by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(c) Carryover.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of that year shall remain available, for the next fiscal year, to the State for the purposes for which the payment to the State was made.

CHAPTER 2—REVOLVING LOAN FUND

SEC. 530. PURPOSE; DEFINITIONS.

(a) Purpose.—It is the purpose of this chapter to—

(1) increase the availability of family-based child care by enabling family-based child care providers to meet accreditation or licensing standards; and

(2) provide States with a sufficient capital base to make loans that may be increased or maintained through mechanisms developed by the State.

(b) Definitions.—As used in this chapter:

(1) Secretary.—The term "Secretary" means the Secretary of Health and Human Services.

(2) State.—The term "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

SEC. 531. STATE APPLICATIONS.

(a) Submission of Application.—

(1) Form of application.—To qualify for assistance under this chapter, a State shall submit an application to the Secretary, at such time, in such manner, and providing such information as the Secretary may require, including a plan which meets the requirements of paragraph (2).

(2) Qualifying for loan.—The State shall submit a plan that sets forth procedures and requirements whereby any person desiring to make capital improvements to the principal residence of such person (within the meaning of section 1034 of the Internal Revenue Code of 1986) in order to become a licensed or accredited family-based child care facility, pursuant to State or local law or standards, may obtain a loan from the State revolving loan fund (hereinafter called the "fund"). Such fund shall be administered by the State and shall provide loans to qualified applicants, pursuant to the terms and conditions established by such State, in an amount, determined by such State, which is not in excess of $1,500.

(b) State Plan.—

(1) Establishment of fund.—The State shall provide in its plan, that such State has established a revolving loan fund, and has provided procedures whereby—

(A) moneys are transferred to such fund to provide capital for making loans;

(B) interest and principal payments on loans and any other moneys, property, or assets derived from any action concerning such fund are deposited into such fund;

(C) all loans, expenses, and payments pursuant to the operation of this chapter are paid from such fund;

(D) loans made from such fund are made to qualified applicants for capital improvements to be made so that such applicant may obtain a State or local accreditation or a license for a family-based child care facility; and

(E) the plan shall set forth provisions which specify how any such revolving loan fund will continue to be financed after fiscal year 1990, such as through contributions by the State or by some other entity.

(2) Qualifications.—Such plan shall also set forth procedures and guidelines to carry out the purposes of this chapter, including provisions that assure that only applicants who obtain a license or accreditation for a child care facility in accordance with the provisions of State or local law or standards, benefit from loans made available pursuant to the provisions of this chapter.

SEC. 532. AUTHORIZATION OF APPROPRIATIONS.

(a) Authorization of Appropriations.—To carry out the provisions of this chapter, there are authorized to be appropriated $25,000,000 for fiscal year 1989.

(b) Amounts to Remain Available.—The amounts appropriated pursuant to subsection (a) shall remain available for assistance to States for fiscal years 1989, 1990, and 1991 without limitation.

SEC. 533. RESERVATIONS FOR TERRITORIES AND ADMINISTRATIVE COSTS.

From the sums appropriated to carry out the provisions of this chapter in each fiscal year, the Secretary shall reserve—

(1) 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be alloted in accordance with their respective needs; and

(2) 3 percent for the administrative costs of carrying out the provisions of this chapter.

SEC. 534. ALLOTMENTS TO STATES.

(a) In General.—From the remainder of the amounts appropriated under section 532, the Secretary shall make an allotment to each State not referred to in section 533 for each fiscal year to enable the State to carry out the provisions of this chapter for such fiscal year.

(b) Allotment Formula.—

(1) In general.—The amount of each State's allotment under subsection (a) shall be equal to the product of—

(A) an amount equal to the sums appropriated to carry out the provisions of this chapter for each fiscal year minus the amounts reserved pursuant to section 533 for such fiscal year; and

(B) the percentage described in paragraph (2).

(2) Percentage.—The percentage referred to in paragraph (1)(B) is a percentage equal to the quotient of—

(A) an amount equal to the population of each State as it compares to the population of all States; divided by

(B) an amount equal to the population of each State weighted by the relative per capita income of that State as such compares to the relative per capita income of all States.

(c) State Administrative Costs.—Of the amount allotted to a State pursuant to subsection (a), an amount not to exceed 10 percent shall be used by such State to provide for the administrative costs of carrying out such program.

Subtitle C—Social Security Act Provision

SEC. 540. CHILD CARE EARNINGS EXCLUDED FROM WAGES AND SELF-EMPLOYMENT INCOME FOR EXCESS EARNINGS TEST.

(a) Wages.—Section 203 (f)(5)(c) of the Social Security Act (42 U.S.C. 403(f)(5)(c)) is amended—

(1) by striking out "or" at the end of clause (i),

(2) by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new clause:

"(iii) the amount of any payment made to an employee by an employer for child care services performed by such employee after the month in which such employee initially becomes entitled to insurance benefits under this title.".

(b) Self-Employment Income.—Section 203(f)(5)(D) of such Act (42 U.S.C. 403(f)(5)(D)) is amended—

(1) by striking out "or" at the end of clause (i),

(2) by adding "or" at the end of clause (ii),

(3) by inserting immediately after clause (ii) the following new clause:

"(iii) an individual who has become entitled to insurance benefits under this title, any income attributable to child care services performed after the month in which such individual becomes entitled to such benefits,", and

(4) by striking out "royalties or other income" and inserting in lieu thereof "royalties or income".

(c) Effective Date.—The amendments made by this section shall apply to wages or income earned after the date of the enactment of this title.

Subtitle D—Internal Revenue Code Provisions

SEC. 550. CREDIT FOR SMALL BUSINESSES PROVIDING QUALIFIED CHILD CARE FACILITIES.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end thereof the following new section:

"SEC. 43. QUALIFIED SMALL BUSINESS-PROVIDED CHILD CARE FACILITY CREDIT.

"(a) In General.—For purposes of section 38, the qualified child care facility credit determined under this section for any taxable year is an amount equal to 25 percent of the qualified child care expenses for such taxable year.

"(b) Limitation.—The amount of the credit determined under subsection (a) for any taxable year shall not exceed $100,000.

"(c) Definitions.—For purposes of this section—

"(1) Qualified child care expenses.—The term 'qualified child care expenses' means any amount paid or incurred by a small business during the taxable year to acquire, construct, or otherwise establish a qualified child care facility and to operate such facility.

"(2) Qualified child care facility.—

"(A) In general.—The term 'qualified child care facility' means a facility—

"(i) operated by a small business for the care of enrollees, at least 30 percent of whom are dependents of employees of such small business,

"(ii) located on or near the business premises of such small business, and

"(iii) which is accredited or licensed to operate as a child care facility under applicable State and local laws and regulations.

"(B) Consortium of small businesses.—In the case of a facility operated by more than 1 small business, such facility shall be treated as a qualified child care facility of each small business with respect to which the requirements of subparagraph (A) are met separately.

"(3) Small business.—The term 'small business' means any person who employs less than 50 full-time employees in any 1 pay period.

"(d) Basis Adjustments.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(e) No Double Benefit.—No credit or deduction under any other provision of this chapter shall be allowed to a taxpayer for the taxable year for any expenditure with respect to which a credit is allowed under this section for such year.

"(f) Special Aggregation and Allocation Rules.—For purposes of this section—

"(1) Aggregation of expenditures.—

"(A) Controlled group of corporations.—In determining the amount of the credit under this section—

"(i) all members of the same controlled group of corporations shall be treated as a single taxpayer, and

"(ii) the credit (if any) allowable by this section to each such member shall be its proportionate share of the qualified child care expenses giving rise to the credit.

"(B) Common control.—Under regulations prescribed by the Secretary, in determining the amount of the credit under this section—

"(i) all trades or businesses (whether or not incorporated) which are under common control shall be treated as a single taxpayer, and

"(ii) the credit (if any) allowable by this section to each such person shall be its proportionate share of the qualified child care expenses giving rise to the credit.

The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(2) Allocations.—

"(A) Allocation in case of consortium of small businesses.—In the case of a consortium of small businesses described in subsection (c)(2)(B) in jointly operating a qualified child care facility, the credit allowable by this section to each such small business shall be its proportionate share of the qualified child care expenses giving rise to the credit.

"(B) Pass-thru in the case of estates and trusts.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(C) Allocation in the case of partnerships.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(3) Controlled group of corporations.—The term 'controlled group of corporations' has the same meaning given to such term by section 1563(a), except that—

"(A) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(g) Special Rule for Pass-Thru of Credit.—In the case of an individual who—

"(1) owns an interest in an unincorporated trade or business,

"(2) is a partner in a partnership,

"(3) is a beneficiary of an estate or trust, or

"(4) is a shareholder in an S corporation,

the amount allowable under subsection (a) for any taxable year shall not exceed an amount (separately computed with respect to such person's interest in such trade or business or entity) equal to the amount of tax attributable to that portion of a person's taxable income which is allocable or apportionable to the person's interest in such trade or business or entity.

"(h) Receipt of Child Care Project Grant.—A small business is not eligible for a credit under this section for a taxable year if such small business received a child care project grant pursuant to section 1934 of the Public Health Service Act during such taxable year.".

(b) Conforming Amendments.—

(1) Section 38(b) of the Internal Revenue Code of 1986 is amended—

(A) by striking out "plus" at the end of paragraph (4),

(B) by striking out the period at the end of paragraph (5), and inserting in lieu thereof a comma and "plus", and

(C) by adding at the end thereof the following new paragraph:

"(6) the qualified child care facility credit determined under section 43.".

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 43. Qualified small business-provided child care facility credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31 of the calendar year in which this title is enacted.

SEC. 551. CHILD AND DEPENDENT CARE CREDIT COMPLETELY PHASED OUT FOR ADJUSTED GROSS INCOMES ABOVE $93,500.

(a) IN GENERAL.—Paragraph (2) of section 21(a) of the Internal Revenue Code of 1986 (relating to expenses for household and dependent care services necessary for gainful employment) is amended to read as follows:

"(2) APPLICABLE PERCENTAGE DEFINED.—For purposes of paragraph (1), the term 'applicable percentage' means 30 percent reduced (but not below 0 percent) by the sum of—

"(A) 1 percentage point (but no more than a total of 10 percentage points) for each $2,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds $10,000, plus

"(B) 1 percentage point for each $1,500 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds $65,000.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31 of the calendar year in which this title is enacted.

SEC. 552. REFUNDABLE DEPENDENT CARE SERVICES TAX CREDIT.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to credits against tax) is amended—

(1) by redesignating section 35 as section 36, and

(2) by redesignating section 21 as section 35.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 35(a) of the Internal Revenue Code of 1986 (relating to allowance of credit), as redesignated by subsection (a), is amended by striking out "chapter" and inserting in lieu thereof "subtitle".

(2) Section 129 of such Code (relating to dependent care assistance programs) is amended—

(A) by striking out "section 21(d)(2)" in subsection (b)(2) and inserting in lieu thereof "section 35(d)(2)", and

(B) by striking out "section 21(b)(2)" in subsection (e)(1) and inserting in lieu thereof "section 35(b)(2)".

(3) Subsection (e) of section 213 of such Code (relating to deduction for medical, dental, etc., expenses) is amended by striking out "section 21" and inserting in lieu thereof "section 35".

(4) Paragraph (4) of section 6201(a) of such Code (relating to assessment authority) is amended—

(A) by striking out "or section 32 (relating to earned income)" and inserting in lieu thereof ", section 32 (relating to earned income), or section 35 (relating to dependent care services credit)", and

(B) by striking out the caption and inserting in lieu thereof the following:

"(4) OVERSTATEMENT OF CERTAIN CREDITS.—".

(5) Section 6513 of such Code (relating to time return deemed filed and tax considered paid) is amended by adding at the end thereof the following new subsection:

"(f) TIME TAX IS CONSIDERED PAID FOR DEPENDENT CARE SERVICES CREDIT.—For purposes of section 6511, the taxpayer shall be considered as paying an amount of tax on the last day prescribed for payment of the tax (determined without regard to any extension of time and without regard to any election to pay the tax in installments) equal to so much of the credit allowed by section 35 (relating to dependent care services credit) as is treated under section 6401(b) as an overpayment of tax.".

(6) Subsection (d) of section 6611 of such Code is amended by striking out the caption and inserting in lieu thereof the following:

"(d) ADVANCE PAYMENT OF TAX, PAYMENT OF ESTIMATED TAX, CREDIT FOR INCOME TAX WITHHOLDING, AND DEPENDENT CARE SERVICES CREDIT.—".

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking out the item relating to section 21.

(2) The table of sections for subpart C of such part IV is amended by striking out the item relating to section 35 and inserting in lieu thereof the following new items:

"Sec. 35. Expenses for household and dependent care services necessary for gainful employment.

"Sec. 36. Overpayments of tax.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31 of the calendar year in which this title is enacted.

SEC. 553. CHILDREN'S TAX CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986, as amended by section 552, is further amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

"SEC. 36. CHILDREN'S TAX CREDIT.

"(a) GENERAL RULE.—In the case of an individual who maintains a household which includes as a member 1 or more qualifying children, there is allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the child care expenses for each qualifying child for the taxable year.

"(b) LIMITATIONS.—

"(1) CHILD CARE EXPENSES.—The amount of child care expenses for each qualifying child incurred during any taxable year which may be taken into account under subsection (a) shall not exceed $750, and in no event shall a credit be taken for more than two qualifying children in any one year.

"(2) ADJUSTED GROSS INCOME OF TAXPAYER.—

"(A) IN GENERAL.—No credit shall be allowed under subsection (a) with respect to any taxpayer whose adjusted gross income for the taxable year exceeds the applicable amount.

"(B) APPLICABLE AMOUNT.—For purposes of subparagraph (A), the applicable amount shall be determined in accordance with the following table:

"In the case of any taxable year beginning in:	The applicable amount is:
1989	$16,000
1990	17,000
1991	18,000
1992	19,000
1993	20,000.

"(c) QUALIFYING CHILD.—For purposes of this section, the term 'qualifying child' means any individual—

"(1) who is a dependent (as defined in section 152) of the taxpayer,

"(2) who is a child (as defined in section 151(c)(3)) of the taxpayer, and

"(3) who has not attained age 4 at the close of the calendar year in which the taxable year of the taxpayer begins.

"(d) CHILD CARE EXPENSES.—

"(1) IN GENERAL.—The term 'child care expenses' means amounts paid for the care of a qualifying child, but only if such amounts are incurred to enable the taxpayer to be gainfully employed for any period for which there are 1 or more qualifying children with respect to the taxpayer. Such term shall not include any amount paid for services outside the taxpayer's household at a camp where the qualifying child stays overnight.

"(2) DEPENDENT CARE OUTSIDE THE TAXPAYERS HOUSEHOLD.—Child care expenses described in paragraph (1) that are incurred for services provided outside the taxpayer's household shall be taken into account only if such services comply with all applicable laws and regulations of a State or unit of local government.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) MAINTAINING HOUSEHOLD.—An individual shall be treated as maintaining a household for any period only if over half the cost of maintaining the household for such period is furnished by such individual (or, if such individual is married during such period, is furnished by such individual and his spouse).

"(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and his spouse file a joint return for the taxable year.

"(3) MARITAL STATUS.—An individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

"(4) CERTAIN MARRIED INDIVIDUALS LIVING APART.—If—

"(A) an individual who is married and who files a separate return—

"(i) maintains as his home a household which constitutes for more than one-half of the taxable year the principal place of abode of a qualifying child, and

"(ii) furnishes over half of the cost of maintaining such household during the taxable year, and

"(B) during the last 6 months of such taxable year such individual's spouse is not a member of such household,

such individual shall not be considered as married.

"(5) SPECIAL DEPENDENCY TEST IN CASE OF DIVORCED PARENTS, ETC.—If paragraph (2) or (4) of section 152(e) applies to any child with respect to any calendar year, in the case of any taxable year beginning in such calendar year, such child shall be treated as a qualifying child with respect to the custodial parent (within the meaning of section 152(e)(1)), and shall not be treated as a qualifying child with respect to the noncustodial parent.

"(6) PAYMENTS TO RELATED INDIVIDUALS.—No credit shall be allowed under subsection (a) for any amount paid by the taxpayer to an individual—

"(A) with respect to whom, for the taxable year, a deduction under section 151(c) (relating to deduction for personal exemptions for dependents) is allowable either to the taxpayer or his spouse, or

"(B) who is a child of the taxpayer (within the meaning of section 151(c)(3)) who has not attained the age of 19 at the close of the taxable year.

For purposes of this paragraph, the term 'taxable year' means the taxable year of the taxpayer in which the service is performed.

"(f) NO CREDIT ALLOWED IF DEPENDENT CARE CREDIT ALLOWED.—No credit shall be allowed under this section to a taxpayer for the taxable year if a credit is allowed to such taxpayer under section 35 for such year.".

(b) CLERICAL AMENDMENT.—The table sections for subpart C of part IV of subchapter A of chapter 1 of such Code, as amended by section 552, is further amended by striking the item relating to section 36 and inserting in lieu thereof the following new items:

"Sec. 36. Children's tax credit.

"Sec. 37. Overpayments of tax.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31 of the calendar year in which this title is enacted.

Subtitle E—Miscellaneous

SEC. 560. COMMUNITY SERVICES BLOCK GRANT ACT.

Section 674 of the Community Services Block Grant Act (42 U.S.C. 9903) is amended—

(1) in subsection (a)(1)(A), by inserting ", and makes the grants authorized under subsection (b)(3)" after "(b)(1)"; and

(2) in subsection (b), by adding at the end thereof the following new paragraph:

"(3) Of the amounts appropriated under section 672, the Secretary shall reserve $10,000,000 in each fiscal year to make grants to States that fund local child day care projects to enable such States to improve the provision of affordable and quality child care services within such State. To receive a grant under this paragraph, a State shall comply with the provisions of this Act.".

SEC. 561. CHILD CARE UNDER THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM.

Section 105(a)(8) of the Housing and Community Development Act of 1974 is amended—

(1) by inserting "(A)" after "except that"; and

(2) by inserting before the semicolon the following: "(B) an additional amount of any assistance under this title may be used for child care, but in no case may more than 20 percent of the amount of assistance under this title be used for activities under this paragraph".

SEC. 562. FEDERAL EMPLOYEE CHILD CARE STUDY.

Not later than 90 days after the date of the enactment of this title, the Director of the Office of Personnel Management shall conduct a study, and prepare and submit, to the appropriate Committees of Congress, a report concerning—

(1) the feasibility of offering child and adult day care as a benefit to Federal employees through health insurance plans under chapter 89 of title 5, United States Code;

(2) the ability of health insurance providers to subcontract the management of child and adult care facilities; and

(3) the approximate cost to the Federal Government, to Federal employees, and to health insurance providers of offering child and adult day care as a benefit of Federal employment.

SEC. 563. STUDY OF FEDERAL CHILD CARE EFFORTS.

(a) STUDY.—The Secretary of Health and Human Services, in conjunction with the heads of other relevant Federal agencies and departments, shall conduct a study of all child care programs and activities that receive assistance from the Federal Government.

(b) REPORT.—Not later than 1 year after the date of enactment of this title, the Secretary of Health and Human Services shall prepare and submit, to the appropriate Committees of Congress, a report based on the study conducted under subsection (a), that shall include—

(1) the number of families served under child care programs in effect on the date of enactment of this title;

(2) recommendations by the Secretary to improve the operation of such programs; and

(3) a plan for the coordination of all Federal child care efforts.

SEC. 564. SENSE OF THE SENATE.

It is the sense of the Senate that States should be required to assist low and moderate income families in finding affordable and quality child care services.

PACKWOOD AMENDMENT NO. 3381

(Ordered to lie on the table.)

Mr. PACKWOOD submitted an amendment intended to be proposed by him to the bill S. 2488, supra; as follows:

At the end, add the following new section:

SEC. . FEDERAL ROLE FOR ADMINISTRATION OF CHILD CARE PROVISIONS.

Notwithstanding any other provision of title V, the Secretary of Health and Human Services shall not—

(1) establish a National Advisory Committee on Child Care Standards under section 517;

(2) establish minimum child care standards under section 517 or any other provision of title V;

(3) condition the receipt of assistance under title V, reduce the amount such assistance, or condition the continued eligibility for such assistance on the basis of compliance with minimum child care standards established by the Secretary;

(4) appoint an Administrator of Federal Administration of Child Care under section 514; or

(5) take any other action under such title other than actions necessary to make payments to States to promote or provide child care as the State considers appropriate.

PACKWOOD (AND DOLE) AMENDMENT NO. 3382

(Ordered to lie on the table.)

Mr. PACKWOOD (for himself and Mr. DOLE) proposed an amendment to the bill S. 2488, supra; as follows:

At the end add:

SEC. 301. TAX-FREE PURCHASES OF CERTAIN FUELS.

(a) IN GENERAL.—Subsection (c) of section 4093 of the 1986 Code (relating to exceptions; special rule) is amended to read as follows:

"(c) EXEMPTION FOR NONTAXABLE USES AND BUS USES.—

"(1) IN GENERAL.—No tax shall be imposed by section 4091 on fuel sold by a producer or importer for use by the purchaser in a nontaxable use (as defined in section 6427(l)(2)) or a use described in section 6427(b)(1).

"(2) EXCEPTIONS.—

"(A) CERTAIN LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES.—In the case of fuel sold for use in—

"(i) a diesel-powered train, and

"(ii) an aircraft,

paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section.

"(B) CERTAIN BUS USES.—Paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is not refundable by reason of the application of section 6427(b)(2)(A).

"(3) REGISTRATION REQUIRED.—Except to the extent provided by the Secretary, paragraph (1) shall not apply to any sale unless—

"(A) both the seller and the purchaser are registered under section 4101, and

"(B) the purchaser's name, address, and registration number under such section are provided to the seller.

"(4) INFORMATION REPORTING.—

"(A) RETURNS BY PRODUCERS AND IMPORTERS.—Each producer or importer who makes a reduced-tax sale during the calendar year shall make a return (at such time and in such form as the Secretary may by regulations prescribe) showing with respect to each such sale—

"(i) the name, address, and registration number under section 4101 of the purchaser,

"(ii) the amount of fuel sold, and

"(iii) such other information as the Secretary may require.

"(B) STATEMENTS TO PURCHASERS.—Every person required to make a return under subparagraph (A) shall furnish to each purchaser whose name is required to be set forth on such return a written statement showing the name and address of the person required to make such return, the registration number under section 4101 of such person, and the information required to be shown on the return with respect to such purchaser. The written statement required under the preceding sentence shall be furnished to the purchaser on or before January 31 of the year following the calendar year for which the return under subparagraph (A) is required to be made.

"(C) RETURNS BY PURCHASERS.—Each person who uses during the calendar year fuel purchased in a reduced-tax sale shall make a return (at such time and in such form as the Secretary may by regulations prescribe) showing—

"(i) whether such use was a nontaxable use (as defined in section 6427(l)(2)) and the amount of fuel so used,

"(ii) the date of the sale of the fuel so used,

(iii) the name, address, and registration number under section 4101 of the seller, and

"(iv) such other information as the Secretary may require.

"(D) REDUCED-TAX SALE.—For purposes of this paragraph, the term 'reduced tax sale' means any sale of taxable fuel on which the amount of tax otherwise required to be paid under section 4091 is reduced by reason of paragraph (1) (other than sales described in subsections (a) and (b) of this section)."

(b) PENALTY FOR FAILING TO PROVIDE INFORMATION.—

(1) Subparagraph (B) of section 6724(d)(1) of the 1986 Code (defining information return) is amended by striking out "or" at the end of clause (ix), by striking out the period at the end of clause (x) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(xi) subparagraph (A) or (C) of subsection (c)(4), or subsection (d), of section 4093 (relating to information reporting with respect to tax on diesel and aviation fuels)."

(2) Paragraph (2) of section 6724(d) of the 1986 Code (defining payee statement) is amended by striking out "or" at the end of subparagraph (S), by striking out the period at the end of subparagraph (T) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(U) section 4093(c)(4)(B) (relating to certain purchasers of diesel and aviation fuels)."

(c) Effective Date.—

(1) In general.—The amendments made by ths section shall take effect on October 1, 1988.

(2) Refunds with interest for pre-effective date purchases.—

(A) In general.—In the case of fuel—

(i) which is purchased from a producer or importer during the period beginning on April 1, 1988, and ending on September 30, 1988, and

(ii) which is used (before the claim under this subparagraph is filed) by any person in a nontaxable use (as defined in section 6427(l)(2) of the 1986 Code),

The Secretary of the Treasury or the Secretary's delegate shall pay (with interest) to such person the amount of tax imposed on such fuel under section 4091 of the 1986 Code (to the extent not attributable to amounts described in section 6427(l)(3) of the 1986 Code) if claim therefor is filed not later than December 31, 1988. Not more than 1 claim may be filed under the preceding sentence and such claim shall not be taken into account under section 6427(i) of the 1986 Code. Any claim for refund filed under this paragraph shall be considered a claim for refund under section 6427(l) of the 1986 Code.

(B) Interest.—The amount of interest payable under subparagraph (A) shall be determined under section 6611 of the 1986 Code except that—

(i) the date of the overpayment with respect to fuel purchased during any month shall be treated as being the 1st day of the succeeding month, and

(ii) the rate of such interest shall be the underpayment rate determined under section 6621(a)(2) of the 1986 Code.

No interest shall be paid under this paragraph with respect to fuel used by any agency of this United States.

(C) Registration procedures required to be specificed before effective date.—Not later than October 1, 1988, the Secretary of the Treasury or the Secretary's delegate shall prescribe the procedures for complying with the requirements of section 4093(c)(3) of the 1986 Code (as added by this section).

SEC. 302. EXPEDITED REFUND OR INCOME TAX CREDIT ALLOWED FOR RETAIL SALES OF CERTAIN FUELS USED IN NONTAXABLE USES.

(a) Expedited Refund.—Section 6427(l) of the 1986 Code (relating to time for filing claims; period covered) is amended by adding at the end thereof the following new paragraph:

"(4) Special rule for nontaxable uses of diesel fuel and aviation fuel taxed under section 4091.—

"(A) In general.—Except as provided in subparagraph (B), a claim may be filed under subsection (l) by any person with respect to fuel used for any period of which $750 or more is payable under such subsection (l) (disregarding any amount for which a claim has been previously filed under this subsection).

"(B) Exception for certain uses.—Subparagraph (A) shall not apply with respect to any use of fuel—

"(i) by any agency of the United States,

"(ii) described in subsection (b),

"(iii) described in subsection (e), or

"(iv) described in section 4093(c).

"(C) Time for filing claim.—A claim may be filed under this paragraph on or after the last day of the quarter during which a period described in subparagraph (A) occurs."

(b) Claim Paid With Interest.—

(1) In general.—Section 6427(l) of the 1986 Code (relating to refunds for nontaxable uses of diesel fuel and aviation fuel taxed under section 4091) is amended by adding at the end thereof the following new paragraph:

"(4) Interest.—The amount of interest payable under paragraph (1) shall be determined under section 6611 except that the date of the overpayment with respect to fuel purchased during any month shall be treated as being the 1st day of the succeeding month."

(2) Conforming amendment.—Paragraph (1) of section 6427(l) of the 1986 Code is amended by striking out "(without interest)" and inserting in lieu thereof "(with interest)".

(c) Allowance of Income Tax Credit.—Paragraph (2) of section 6427(k) of the 1986 Code (relating to income tax credit in lieu of payment) is amended by striking out "subsection (i)(2) or (h)(3) and inserting in lieu thereof "subsection (i)(2), (i)(3), or (i)(4)".

(d) Conforming Amendments.—

(1) Paragraph (1) of section 6427(i) of the 1986 Code is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2), (3), and (4)".

(2) Paragraph (2)(A) of section 6427(i) of the 1986 Code is amended by striking out "(1),".

(e) Effective Date.—The amendments made by this section shall apply to fuel purchased for use in a nontaxable use (as defined in section 6427(l)(2) of the 1986 Code) after September 30, 1988.

(a) Treatment of Animals Produced in Farming Business.—

(1) In general.—Subparagraph (A) of section 263A(d)(1) of the 1986 Code (relating to exception for farming businesses) is amended to read as follows:

"(A) In general.—This section shall not apply to any of the following which is produced by the taxpayer in a farming business:

"(i) Any animal.

"(ii) Any plant which has a preproductive period of 2 years or less."

(2) Conforming amendments.—

(A) The heading of paragraph (1) of section 263A(d) of the 1986 Code is amended to read as follows:

"(1) Section not to apply to certain property.—".

(B) Subsections (d)(3) and (e) of section 263A of the 1986 Code are each amended by striking out "or animal" each place it appears.

(c) Treatment of Single Purpose Agricultural or Horticultural Structures.—

(1) In general.—Paragraph (3) of section 168(e) of the 1986 Code (relating to classification of property) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraphs:

"(D) 10.5-Year property.—The term '10.5-year property' means any single purpose agricultural or horticultural structure (within the meaning of section 48(p))."

(2) Technical amendments.—

(A) The table contained in paragraph (1) of section 168(c) of the 1986 Code (as amended by title I) is amended by striking out the item relating to 10-year property and inserting in lieu thereof the following new items:

"10-year property	10 years
10.5-year property	10.5 years".

(b) Subparagraph (C) of section 168(e)(3) of the 1986 Code is amended by adding "and" at the end of clause (i), by striking out clause (ii), and by redesignating clause (iii) as clause (ii).

(C) The table contained in subparagraph (B) of section 168(g)(3) of the 1986 Code is amended by striking out all that follows the item relating to subparagraph (C)(i) and inserting in lieu thereof the following new items:

"(D)	10.5
(E)(i)	24
(E)(ii)	24
(F)	50."

(D) The table contained in subparagraph (A) of section 467(e)(3) of the 1986 Code is amended by striking out the item relating to 10-year property and inserting in lieu thereof the following new items:

"10-year property	10 years
10.5-year property	10.5 years

(3) Effective date..

(A) In general.—Except as provided in subparagraph (b), the amendments made by this subsection shall apply to property placed in service after December 31, 1988.

(B) Exception.—The amendments made by this subsection shall not apply to any property if such property is placed in service before January 1, 1990, and if such property—

(i) is constructed, reconstructed, or acquired by the taxpayer pursuant to a written contract which was binding on July 14, 1988, or

(ii) is contracted or reconstructd by the taxpayer and such construction or reconstruction began by July 14, 1988.

(d) Treatment of Property Used in a Farming Business.—

(1) In general.—Paragraph (2) of section 168(b) of the 1986 Code (as amended by title I) is amended by striking out "or" at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

"(B) any property used in a farming business (within the meaning of section 263A9e)(4)), or".

(2) Effective date.—

(A) In general.—Except as provided in subparagraph (B), the amendments made by this section shall apply to property placed in service after December 31, 1988.

(B) Exception.—The amendments made by this section shall not apply to any property if such property is placed in service before July 1, 1989, and if such property—

(i) is constructed, reconstructed, or acquired by the taxpayer pursuant to a written contract which was binding on July 14, 1988, or

(ii) is constructed or reconstructed by the taxpayer and such construction or reconstruction began by July 14, 1988.

(e) Effective Dates.—

(1) In general.—Except as otherwise provided in subsections (c) or (d) or this para-

graph, the amendments made by this section shall take effect as if included in the amendments made by section 803 of the Tax Reform Act of 1986.

(2) Subsection (b).—

(A) In general.—The amendments made by subsection (b) shall apply to costs incurred after December 31, 1988, in taxable years ending after such date.

(B) Revocation of election.—If the taxpayer made an election under section 263A(d)(3) of the 1986 Code of a taxpayer year beginning before January 1, 1989, such taxpayer may, without the consent of the Secretary of the Treasury or his delegate, revoke such election effective for the taxpayer's 1st taxable year beginning after December 31, 1988.

SEC. 700. AMOUNT OF CORPORATE ESTIMATED TAX INSTALLMENT REDUCTION RECAPTURE INCREASED.

(a) In General.—Section 6655(e)(1) of the 1986 Code (relating to lower required installment where annualized income installment or adjusted seasonal installment is less than amount determined under subsection (d)) is amended by striking out "90 percent" and inserting in lieu thereof "100 percent".

(b) Effective Date.—The amendments made by this section shall apply to installments required to be made after September 30, 1988.

ANTI-APARTHEID ACT AMENDMENTS

SYMMS AMENDMENT NOS. 3383 THROUGH 3399

(Ordered to lie on the table.)

Mr. SYMMS submitted 17 amendments intended to be proposed by him to the bill (S. 2756) entitled the "Anti-Apartheid Act Amendments of 1988," as follows:

Amendment No. 3383

Strike line 17, page 35, through line 5, page 36.

Amendment No. 3384

On page 36, between line 22 and line 23, insert:

"(2) The President shall also develop a program to reduce the dependence, if any, of the United States on the importation of the materials identified in the report submitted under subsection (a) by Soviet-bloc countries. In the development of such a program, the President shall determine (in consultation with knowledgeable individuals in industry, government and academia) whether, to what extent, and in what time period adequate quantities of such materials could reasonably be obtained from (A) alternative reliable domestic and foreign sources, and (B) improved and effective methods of manufacturing, substitution, conservation, recovery, and recycling. Such determination shall include consideration of the quality and cost of such materials.";

On page 36, line 23, strike "(2)" and insert in lieu thereof "(3)";

On page 37, line 1, strike "paragraph (1)' and insert in lieu thereof "paragraphs (1) and (2)".

Amendment No. 3385

On page 18, strike line 23 through page 20, line 6.

Amendment No. 3386

On page 20, line 8, strike "180 days" and insert in lieu thereof "two years".

Amendment No. 3387

On page 26, strike lines 1 through 14.

Amendment No. 3388

On page 26, line 24, strike "112" and insert in lieu thereof "113";

On page 26, between lines 23 and 24, insert:

"SEC. 112. REPORT ON THE EFFECT OF THE COMPREHENSIVE ANTI-APARTHEID ACT OF 1986 ON EMPLOYMENT IN SOUTH AFRICA AND THE UNITED STATES.

"Not less than 90 days after the date of the enactment of this Act, the Secretary of State, the Secretary of Labor, and the Secretary of Commerce shall issue a report to Congress on the effect of this Act and the Comprehensive Anti-Apartheid Act of 1986 on (1) employment in South Africa, particularly with respect to South Africans disadvantaged by apartheid, and (2) employment in the United States, particularly with respect to industries and localities most likely to be affected."

Amendment No. 3389

On page 37, between lines 17 and 18, insert:

"SEC. 207. SANCTIONS AGAINST OTHER AFRICAN COUNTRIES.

"Within 180 days after the date of the enactment of this Act, the President, or the designee of the President, shall submit a report to Congress on other African nations with a human rights record comparable to or worse than South Africa's, together with recommendations for the imposition of sanctions by the United States against those countries."

Amendment No. 3390

On page 13, line 23, following "Africa." insert:

"This provision will not apply if the South African government is a signatory to the Nuclear Non-Proliferation Treaty."

Amendment No. 3391

On page 37, between line 17 and line 18, insert:

"SEC. 207. ADJUSTMENT OF IMMIGRATION QUOTAS.

"Effective with enactment of this Act, any person in South Africa disadvantaged by apartheid, who has been displaced by this Act or the Comprehensive Anti-Apartheid Act of 1986, and who desires to emigrate to the United States, shall be given first preference in United States immigration quotas, other laws notwithstanding."

Amendment. No. 3392

Throughout the bill, wherever the words "South Africa" appear, change to "Republic of South Africa".

Amendment No. 3393

On page 37, between lines 17 and 18, insert a new section:

"SEC. 207. ACCOUNTING.

Timely reporting on the expenditure of U.S. funds in and for South Africa shall begin no less than 50 days after enactment of this Act and shall continue every 60 days thereafter. Reports shall be filed with the chairman and ranking minority member of the Committee on Foreign Affairs in the House of Representatives and the Committee on Foreign Relations in the Senate. Such reports shall detail the person or organization receiving U.S. funds, the amount of the funds, and the audit condition of the account. The specific purpose of such funding shall be included in a sworn affidavit provided by the Administrator of the Agency for International Development or other appropriate official, with each original report and every subsequent report of account activity. If any portion of a report is classified, the Administrator, or designated official, shall provide a detailed explanation of why the classification was necessary.

"If, within 60 days, such report is deemed by the filing official not to be in the best interest of the United States, the assistance program in South Africa will be deemed to be a covert program. Administration of the program will then be shifted immediately to an agency of the United States government normally charged with the conduct of such a program.".

Amendment No. 3394

On page 37, lines 17 and 18, insert a new section:

"SEC. 207. ACCOUNTING.

"All accounts funded in South Africa, or available to South Africans and Namibians outside their home countries, shall be fully audited by the General Accounting Office at least once every 12 months to assure the funds are used properly and legally. These audits shall be filed not less than 60 days after the beginning of each U.S. fiscal year with the chairman and ranking minority member of the Committee on Appropriations and Committee on Foreign Affairs in the House of Representatives and of the Committee on Appropriations and the Committee on Foreign Relations in the Senate.

"If any recipient of funds under a program to assist disadvantaged persons or groups in South Africa refuses to cooperate with an audit, funds to that person or group will be terminated immediately and the appropriate committees of Congress so notified.".

Amendment No. 3395

On page 37, between lines 17 and 18, insert a new section:

"SEC. 207. ANTI-VIOLENCE CERTIFICATION.

"Any individual or organization receiving funds under this or other Acts regarding South Africa shall be required to certify in writing that 'I (we) do not advocate, practice, excuse, or justify the use of these funds for violent activities.' These certifications shall be submitted to all recipients of U.S. funds under this provision, not less than 60 days following enactment of this Act. Such reports shall be transmitted by the Administrator of the Agency for International Development to the chairman and ranking minority members of the Committee on Foreign Relations of the Senate in a timely fashion.

"Refusal to collect such certifications from recipients or to transmit said certifications to the congressional committees will result in immediate termination of all funding programs under this Act.".

Amendment No. 3396

On page 37, between lines 17 and 18, insert a new section:

"SEC. 207. BALANCE IN FUNDING.

"It is not in the interest of the United States to choose sides among anti-apartheid groups and individuals in South Africa competing for the funds authorized by this Act.

Therefore, funding shall be determined by an inter-agency organization, appointed by the President, which will meet in open session with public records. All groups established to screen applicants for U.S. funding will meet in public and will publish verbatim transcripts of proceedings. If such groups refuse such routine monitoring, they will be disbanded and be ineligible for further funding.".

AMENDMENT No. 3397

On page 38, line 25 strike "——" and insert in lieu thereof "continue to ——".

AMENDMENT No. 3398

On page 39, line 5, following "Congress" insert: "and all other anti-apartheid organizations as well as all religious leaders".

AMENDMENT No. 3399

On page 39, between lines 11 and 12 insert:

"(b) The Congress further finds that—

(1) no sanction contained in this Act shall be permitted to take effect if the President determines that the imposition of the sanction will cause an increase in unemployment in the United States;

(2) no sanction contained in this Act shall be permitted to take effect if the President determines that the sanction will increase non-white unemployment in South Africa;

(3) No sanction contained in this Act shall be permitted to take effect if the President determines that the sanction would increase United States dependence on the Soviet Bloc for strategic minerals vital to the national security of the United States;

(4) Nothing herein shall prohibit any United States person from investing in any enterprise owned or controlled by non-white persons in South Africa;

(5) Nothing contained herein shall prohibit the exchange of intelligence information with South Africa in cases of international or domestic terrorism, where the United States national security interest is involved, or where concerns about human safety are involved;

(6) nothing contained herein shall impair U.S. ability to monitor Soviet, Warsaw Pact and Cuban operations and activities throughout southern Africa;

(7) nothing contained herein shall prohibit military cooperation with the government of South Africa if such cooperation is in the national security interest of the United States, if humanitarian interests are involved, or where human safety is involved;

(8) no sanction contained herein shall be permitted to take effect if the President determines that the sanction would prohibit financial support for non-violent anti-apartheid activities in South Africa;

(9) nothing herein shall inhibit the President's ability to keep the sea lanes open to international shipping around the Cape of Good Hope;

(10) nothing herein shall be construed as authorizing the use of American military personnel or equipment in an effort to overturn the present government in South Africa.

CLEAN AIR ACT AMENDMENTS

HATFIELD AMENDMENT NO. 3400

(Ordered to lie on the table.)

Mr. **HATFIELD** submitted an amendment intended to be proposed by him to the bill (S. 8194) to amend the Clean Air Act to establish new requirements for areas that have not yet attained health-protective ambient air quality standards, to provide new deadlines for such attainment, to delay the imposition of sanctions, to better protection against interstate transport of pollutants, to control existing and new sources of acid deposition, and for other purposes, as follows:

At the end of the bill add the following:

TITLE VI—RECYCLING OF WASTE

FINDINGS AND PURPOSES

SEC. 601. Congress finds and declares that—

(1) solid waste resulting from such empty beverage containers constitutes a significant and rapidly growing proportion of municipal solid waste and increases the cost and problems of effectively managing the disposal of such waste;

(2) disposal of such solid waste, which imposes severe problems in both urban and rural aspects of our environment as well as a financial burden on local and State governments, could be carried out by a recycling of empty beverage containers;

(3) a uniform national system for requiring a refund value on the sale of all beverage containers would act as a positive incentive to individuals to clean up the environment and would result in a high level of reuse and recycling of such containers and help reduce the costs associated with solid waste;

(4) a national system for requiring a refund value on the sale of all beverage containers would result in significant energy conservation and resource recovery;

(5) the reuse and recycling of empty beverage containers would eliminate these unnecessary burdens on the Federal Government, local and State governments, and the environment;

(6) waste resulting from littering or discarding of certain containers constitutes a significant health hazard and poses a threat to children and others due to broken glass, detachable openings and other sharp objects present in recreation and other environments;

(7) several States have previously enacted and implemented State laws designed to protect the environment, conserve energy resources and natural resource recovery by requiring a refund value on the sale of all beverage containers, and these have proven effective as well as inexpensive to administer due to their self-enforcing nature; and

(8) nonbiodegradable beverage containers represent a continued threat to the environment.

DEFINITIONS

SEC. 602. For the purposes of this title, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "beverage" means beer or other malt beverage, mineral water, soda water, a carbonated soft drink of any variety, or a drink in liquid form containing wine to which is added concentrated juice or flavoring material and containing not more than 7.5 percent alcohol by volume and intended for human consumption;

(3) "beverage container" means a container designed to contain a beverage;

(4) "refundable beverage container" means a beverage container which has clearly, prominently, and securely affixed to such container, or printed, embossed, or incised into such container, (in accordance with section 603) a statement of the amount of the refund value of the container;

(5) "consumer" means a person who purchases a beverage in a beverage container for any use other than resale;

(6) "distributor" means a person who sells or offers for sale in commerce beverages in beverage containers for resale;

(7) "retailer" means a person who purchases from a distributor beverages in beverage containers for sale to a consumer or who sells or offers to sell in commerce beverages in beverage containers to a consumer. The Administrator shall prescribe such regulations as may be necessary to establish what person is a retailer with respect to the sale of beverages in beverage containers to consumers through beverage vending machines;

(8) "commerce" means trade, traffic, or transportation—

(A) between a place in a State and any place outside thereof,

(B) within the District of Columbia or any territory or possession of the United States, or

(C) which affects trade, traffic, commerce, or transportation described in subparagraph (A) or (B); and

(9) "State" includes the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

REQUIRED BEVERAGE CONTAINER LABELING

SEC. 603. No distributor or retailer may sell or offer for sale a beverage in a beverage container unless there is clearly, prominently and securely affixed to such container, or printed, embossed, or incised into such container (in accordance with regulations prescribed by the Administrator) a statement of the amount of the refund value of the container, such amount being not less than 5 cents.

RETURN OF REFUND VALUE OF BEVERAGE CONTAINERS

SEC. 604. (a) If a consumer tenders for refund an empty and unbroken refundable beverage container to a retailer or distributor who sells (or has sold at any time during the period of 3 months ending on the date of such tender) a brand of beverage which was contained in the container, the retailer or distributor respectively shall promptly pay the consumer the amount of the refund value stated on the container.

(b) Subject to the provisions of subsection (a), nothing in this title shall be construed as prohibiting any retailer or distributor from establishing refundable beverage container redemption centers to assist in carrying out the purposes of this title.

(c) If a retailer or redemption center tenders for refund an empty and unbroken, refundable beverage container to a distributor who sells (or has sold at any time during the period of 3 months ending on the date of such tender) a brand of beverage which was contained in the container, the distributor shall promptly pay the retailer—

(A) the amount of the refund value stated on the container, plus

(B) an amount equal to 2 cents per container to help defray the retailer's cost of handling.

The payment amount specified in clause (B) may be adjusted by the Administrator, following evaluation and public comment, to reflect the true cost of recycling beverage containers. This paragraph shall not preclude a retailer from tendering refundable beverage containers to persons other than distributors.

REFUSAL TO ACCEPT CONTAINERS

Sec. 605. (a) If a retailer or redemption center is unable to process, under the regular means of processing used by such retailer or redemption center, a bent container, the retailer or redemption center may refuse to accept a bent beverage container, if such retailer or redemption center has prominently displayed on the premises a notice to that effect.

(b) A retailer, distributor, or redemption center may refuse to accept any beverage container which contains material foreign to the normal contents of the container.

(c) A retailer, redemption center, or distributor may refuse to accept any beverage container which does not have the refund value on such container in accordance with the requirements of section 603.

(d) The Administrator is authorized to promulgate rules and regulations establishing the right of (1) retailers to restrict the number of beverage containers redeemed, and (2) distributors to determine the form in which beverage containers are to be returned to such distributor from the retailer or redemption center.

RESTRICTIONS ON METAL BEVERAGE CONTAINERS WITH DETACHABLE OPENINGS

Sec. 606. No distributor or retailer may sell or offer for sale a beverage in a metal beverage container a part of which is designed to be detached in order to open such container.

PREEMPTION OF STATE AND LOCAL LAW

Sec. 607. (a) Except as otherwise provided in this title no State or political subdivision thereof may establish or continue in effect any law respecting a refund value of beverage containers sold with a beverage to the extent the Administrator determines the law is inconsistent with this title.

(b) No State or political subdivision thereof may, for the purposes of determining the amount of any tax imposed by such State or subdivision on the sale of any refundable beverage container, take into account any amount charged which is attributable to the refund value of such container.

(c) Subsection (a) does not prevent a State or political subdivision thereof from establishing or continuing in effect any law respecting a refund value on containers other than for beverages or from regulating redemption and other centers which purchase refundable beverage containers from retailers and consumers.

PENALTIES

Sec. 608. Whoever violates any provision of section 603, 604, 605, or 606, or regulation or rule issued pursuant thereto, shall be fined not more than $1,000 for each violation.

EFFECTIVE DATES

Sec. 609. (a) Except as otherwise provided in subsections (b) and (c), this title shall take effect on the date of its enactment.

(b) The provisions of sections 603, 604, and 607 shall apply with respect to beverage containers sold or offered for sale in commerce on or after the expiration of the 2-year period following the date of the enactment of this title.

(c) The provisions of section 606 shall apply with respect to beverages in beverage containers sold or offered for sale in commerce on or after the expiration of the 1-year period following the date of the enactment of this title.

(d) The provisions of section 607(a) shall preempt State and local laws to the extent to which they are inconsistent with the provisions of this title only on and after the effective date of such provisions.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Monday, October 3, on the subject of regulatory reform: The structure and performance of the regulatory regime.

The PRESIDING OFFICER. Without objection, it is ordered.

ADDITIONAL STATEMENTS

CHILD HEALTH DAY

● Mr. BIDEN. Mr. President, today is Child Health Day, and I urge my colleagues to pause and take stock of our efforts to provide good health care for all of our children. While we have recently made some great strides in this area, much more remains to be done.

Nothing is more important than the health of our children. It has been said many times that our children are our future, but too often, we fail to understand that our children can not develop to their full potential unless they are healthy.

The statistics are grim: one of every four children born in this country today is born into poverty, and for the first time in this Nation's history, children are our poorest age group. Over the years, we have created a variety of programs intended to ensure adequate health care for these children. Unfortunately, there are signficiant gaps in this network which have left many children without adequate care.

The Omnibus Budget and Reconciliation Act of 1986 [OBRA] contained probably the most important recent Federal initiative. It allowed States to provide Medicaid benefits to all pregnant women and infants—and, on a phased-in basis, children under the age of 5—with incomes above the State-determined standard of need and below the Federal poverty level.

As helpful as this legislation was, however, it left many needs unmet. As of last March, only 31 States had implemented the optional coverage. Some of those still have a standard of need that is well below the Federal poverty line. The time has come to provide the children in every State with this crucial medical coverage. The health and future of millions of American children should not be an optional feature of State law.

More must be done even in those States which do provide the coverage made available by OBRA. My own State, for example, implemented the OBRA optional coverage for all children in families with incomes below 100 percent of the Federal poverty level. I congratulate Governor Castle and the State legislature for taking this important first step. Further challenges remain, however, as there are still serious gaps in health insurance coverage for poor children in Delaware.

Delaware is 1 of only 14 States that does not have a medically needy or State medical assistance program to complement the Federal Medicaid Program.

Delaware covers only 14 out of 32 possible optional Medicaid services, while the average State covers 21 options. Delaware does not cover such important services as dental care or occupational therapy.

OBRA provides only for the health of children up to the age of 5, neglecting the medical care of older children. Delaware places serious restrictions on its coverage of income-eligible children between the ages of 7 and 21. It is one of only 19 States that has chosen to restrict its coverage of these children to small groups, such as those in foster care.

That is why I have proposed providing free medical care to all poor children under the age of 12. Providing for their birth isn't enough. Every single American child—from every kind of background—deserves decent medical care throughout his or her formative years.

Even if Medicaid is extended to all children under the age of 12, however, other aspects of the program are in need of reform. Currently, roughly half of the States have delays in determining eligibity for Medicaid that prevent many women from receiving timely prenatal care. In addition, low payments for obstetrical services cause most doctors to avoid delivering Medicaid babies. My good friend Senator Bradley has introduced a bill to address these problems, the Infant Mortality Amendments of 1988. I am proud to be a cosponsor of this measure, and I hope that it can be enacted this year.

These two proposals would cost the Federal Government over $500 million to initiate, but they would make us far richer as a Nation. It is a tragedy and a disgrace that millions of American children are denied essential medical care, and it is shortsighted as well. Ensuring good health care for the one in four children who is born to a poor family will make us a stronger, smarter and more just Nation, better able to meet the challenges of the future.●

ST. VINCENT DEPAUL CENTER, SAN DIEGO, CA

● Mr. WILSON. Mr. President, I rise today to pay tribute to the outstanding accomplishments of an exemplary California institution, the St. Vincent DePaul Center in San Diego, CA. The center, run by and founded by Father Joe Carroll, is honored today with a presentation of a silver trophy and a $20,000 prize by the Building and Housing Foundation in England. This award is given as a part of the "U.N. International Year of the Shelter for the Homeless" to recognize the St. Vincent DePaul Center's Shelter Program as the best in the developed world. This is a richly deserved honor.

The driving force behind the center is Father Carroll, whose dedication to helping the homeless is unfaltering. He has been concerned about the plight of the homeless for many years in the San Diego area. Last year, in September 1987, the St. Vincent DePaul Center's Shelter Program began. This marked the culmination of Father Carroll's efforts to help these often forgotten people. One year later, his program has already been honored as the best in the developed world, an eloquent testimony to Father Carroll's tireless and successful efforts to help San Diego's homeless people.

The St. Vincent DePaul Center raises its money from both private and Government sources, with much of the funding coming from citizens of the San Diego community. His program is truly an inspiration for people across the world, proving that people can make a difference for the better in our society. It is my great priviledge to honor today, in this Chamber of the U.S. Senate, the St. Vincent DePaul Center and its remarkable leader, Father Joe Carroll.●

IN HONOR OF ALPHA DELTA KAPPA WEEK

● Mr. PELL. Mr. President, during the week of October 10-14, 1988, we will celebrate the fine work of the Alpha Delta Kappa Sorority. I am delighted to salute this outstanding organization of women educators. In view of the fact that we may not be in session at that time, I wanted to take this opportunity to offer the many members of this fine organization my most sincere congratulations.

The Alpha Delta Kappa Society was founded 41 years ago, and annually recognizes the excellent work of women educators throughout the country. In fact, this sorority has close to 2,000 chapters throughout our Nation, as well as several chapters in foreign countries. This professional organization establishes high teaching standards for its members, promoting excellence and dedication among its ranks. In so doing, it challenges all educators to strive for excellence.

To my mind, the true significance of the work teachers perform often goes unrecognized by many of us. Truly theirs is the most critical of professions, for they clearly hold the future of this country in their hands. I applaud the efforts of the Alpha Delta Kappa Society for providing this richly deserved recognition. But the Alpha Delta Kappa Society goes far beyond recognition. It nurtures a close fellowship among its members, enabling women educators to take pride in their work.

Rhode Island has now developed 8 such chapters in our State, boasting over 200 members, which actively promote charitable projects. Such projects include providing college scholarships and camperships as well as computer training programs for needy students. The Rhode Island chapters also provided support for St. Jude's Hospital Tumor Clinic and the Blackstone Valley Center for Advanced Children.

I am truly impressed by the great progress these chapters are making. I would encourage all of my colleagues to join me in celebration of National Alpha Delta Kappa Week. On its 41st anniversary we reserve the week of October 10-14 to commend this society nationally for the outstanding contribution its members make to education in the United States and around the world.●

LT. COL. ANN PAREY

● Mr. DOMENICI, Mr. President, on September 30, the Senate confirmed a number of nominations for military promotions. The men and women who have been selected for advancement in the military ranks deserve our congratulations, as well as our deepest thanks for outstanding service to this country.

Among the fine individuals receiving promotions is one in particular whom I wish to commend personally. Her name is Ann Parey. Ann works for me in my Albuquerque field office and is my representative for veterans and military affairs.

I am extremely proud of her most recent accomplishment. After 13 years as a major in the Air Force Reserves she has attained the rank of lieutenant colonel.

Lieutenant Colonel Parey's promotion is a culmination of her distinguished and dedicated service as a member of the U.S. Air Force. Her outstanding military record, experience, leadership, participation, and potential for further contributions to the Air Force make her especially well qualified for her new rank.

These are the same qualities that make her so effective in her work with New Mexico's veterans.

Ann began her military career in 1967 as a lieutenant stationed at Naha Air Force Base in Okinawa. In that post, Ann servied as a clinical nurse. She had the responsibility of supervising 15 medical corpsmen in emergency and general medical clinics and implementing training programs to enhance emergency capabilities. Ann remained in Okinawa until 1969.

In 1971, Ann left her job as a nursing instructor in Illinois and moved to New Mexico to become a nurse at the Veterans' Administration Hospital in Albuquerque. At the VA she was in charge of supervising the case of patients in the recovery room and the surgical intensive care units.

From 1972 until 1975, Ann served in the New Mexico Air National Guard, achieving the rank of captain. Once again, her expertise as a clinical nurse was demonstrated as she developed new training programs for mobilizing Guard personnel.

It was in 1975 that Ann joined the U.S. Air Force Reserve. As a member of the Reserve, Ann has typified the dedication and patriotism of reservists throughout the Nation, men and women who are ready to serve at a moment's notice.

As a reservist, Ann has worked to establish recruiting goals, developed training seminars, and supervised student applications for the Air Force Academy and Air Force ROTC programs. Additionally, for the past 6 years she has been the commander of the admission liaison officers for New Mexico and El Paso.

Additionally, Ann is the recipient of the Air Force Commendation Medal and the Air Force Meritorious Service Medal. She is also a member of the American Legion, the Vietnam Veterans of America, and is on the board of directors of the Vietman Veterans Leadership Program.

Since Ann came to work for me in January 1987, she has proven herself to be a most valuable member of my staff. Her personal knowledge of military and veterans issues and her genuine concern for those with whom she comes in contact have made her particularly effective.

Ann has done a marvelous job as my liaison with New Mexico's veterans. American veterans have shown tremendous dedication to our country. They have special needs and interests, and Ann has been instrumental in identifying and addressing issues that are of importance to the 172,000 veterans living in New Mexico. They are very fortunate to have her working with them and for them.

Ann Parey is an outstanding individual. Her husband Michael, her son Todd, and all those who know and work with her are very proud. She has demonstrated an important quality—one which is shared by the others who have been promoted today—a genuine concern and commitment to serve their country. I congratulate these fine service men and women on all they stand for and all they have accomplished. They are an integral part of what makes our country so great.

Lieutenant Colonel Parey, I congratulate you, America congratulates you.●

CITY OF NEWARK CELEBRATES COLUMBUS DAY

● Mr. LAUTENBERG. Mr. President, on Sunday, October 9, 1988, the city of Newark, N.J. will celebrate Columbus Day, commemorated by its 18th annual Christopher Columbus Day Parade. Newark enjoys the distinction of having the third largest Columbus Day Parade preceeded only by New York and San Francisco. Last year over 300,000 people participated in this festive event.

In honor of the celebration of Columbus Day, I would like to bring to my colleagues' attention the great contribution Columbus and Italian Americans have played in America.

On Columbus Day we pay tribute to Christopher Columbus as the first Italian who discovered America. We remember him for the daring and vision that propelled him on his extraordinary voyage of discovery. His ideals and actions epitomize the boundless energy and enthusiasm of the American spirit.

Columbus heard stories of the wealth to be gained and the civilizations to be discovered in foreign lands. Inspired by these tales, he left his home to sail to the Aegean and Ireland. Where others saw the edge of the Earth, Columbus saw a passageway and possibilities for greater trade. While others were content to continue trade by tedious land routes, he relished the prospect of a risky journey to the West.

For the journey he needed money, ship, and sailors. Despite setbacks, he persevered to find someone willing to take a risk on his vision. After 3 years of rejection, he and his crew set off. During their journey the crew was inspired by his strong will to reach the Orient. Once during the long 2-month journey, they tried to convince Columbus to turn back, but he resisted and on October 12, they reached the West Indies. Today, from the land Columbus discovered, we can appreciate him as a man of ambition and insight and as a man who knew what he wanted to achieve and convinced others to help him.

Since Columbus' time, other Americans have broken out of the mold made by society, and like him, their individuality has improved America. In honoring the first Italian in America, let us not forget the bravery and determination of the Italians who followed him. They too showed bravery in setting out for a new world.

Italian Americans put their industry and grit to work and prospered in America. Just as Columbus achieved greatness from humble beginnings, so too did Italian immigrants make their mark on the New World.

Their contributions to the richness of the mosaic of American life are numerous and well known. They helped build our industries, universities, manned our businesses and our professions. They helped build churches and made our Government work. Italian Americans even gave America its first saint, Francesca Cabrini. But more than anything else, their love of country and community has made the most difference in American life.

Mr. President, it is fitting that we honor Christopher Columbus and the world he discovered by gathering to make that world a better place.●

NEW MEXICO'S PROCLAMATION TO SUPPORT SEPTEMBER 16, 1988, AS "POW/MIA RECOGNITION DAY"

● Mr. DOMENICI. Mr. President, I would like to take a moment to commend the State of New Mexico and Gov. Garrey Carruters for proclaiming Friday, September 16, 1988, New Mexico's "POW/MIA Recognition Day."

September 16 is the day that was designated as "National POW/MIA Recognition Day" by House Joint Resolution 453, which President Reagan recently signed into law.

Our Nation must never forget the brave men and women who have defended American during times of conflict. We must especially remember and recognize the tremendous sacrifices of American prisoners of war and those who have not returned home. We owe these Americans far more than our deepest gratitude for their dedicated and faithful service to America.

It's not always easy to those of us who have not had a loved one missing in action to fully understand the pain and frustration experienced by those who do. For many families, the pain of the loss is intensified by the pain of not knowing.

We have an obligation, a deep moral responsibility, to continue to press for a full accounting of all POW's and MIA's. The POW/MIA issue has ranked as one of our Nation's highest priorities.

In this National POW/MIA Recognition Day Proclamation, President Reagan reemphasized our country's duty to "make every possible effort to account for and return missing Americans to their homeland and to their loved ones."

I'm proud that the great State of New Mexico has joined in honoring all former American prisoners of war, those still missing, and their families. Not only should we recognize their dedication, but, even closer to home, every American in every State, every city, and every household should remember the extraordinary sacrifices these individuals have made for our country. We owe them no less.

Mr. President, I ask that the New Mexico proclamation be printed in the RECORD.

The proclamation follows:

> Whereas, throughout history our prisoners of war have been called upon to make uncommon sacrifices in fulfilling their duty as citizens of the United States; and
>
> Whereas, prisoners of war have defended American ideals while suffering unimaginable indignities under the absolute control of the enemy, remaining steadfast even under conditions imposed which violate the basic consideration of compassion and morality; and
>
> Whereas, all Americans ought to recognize the special debt we owe to our fellow citizens who, in the act of serving our Nation, relinquished their freedom that we might enjoy the blessing of peace and liberty; and
>
> Whereas, all Americans must remember the unresolved casualties of war—our serviceman who are still missing and the anguish endured by the families and friends;
>
> Now, therefore, I, Garrey Carruthers, Governor of the State of New Mexico, do hereby proclaim September 16, 1988, as: "POW/MIA Recognition Day" in New Mexico.●

THE PATH TOWARD DEMOCRACY

● Mr. DECONCINI. Mr. President, I rise to address the historic occasion in Chile, the forthcoming presidential plebiscite.

On October 5, 1988, the people of Chile will have the opportunity to cast a ballot for the first time since the 1980 plebiscite. If a majority of "yes" votes prevail, then current leader Gen. Augusto Pinochet will serve in the capacity of President for the next 8 years. If those voting "no" prevail, a free and competitive Presidential election must take place in 1989. The stakes are high for Chileans and for Americans concerned about democracy.

General Pinochet, in calling for this plebiscite, has adhered to a constitutional mandate ratified by Chilean voters in 1980. The conditions of the new plebiscite provide that if Pinochet is awarded the majority vote, he will continue as President and will relinquish his military position. If he loses, he must step down as governing chief in favor of a new leader to be chosen next year. Congressional elections will take place in 1989, regardless of the outcome of the pending vote.

In allowing for this vote, General Pinochet has taken an important and long overdue step in the direction of democracy. Prior to 1973, Chile had the longest running democratic tradition of any country in Latin America. Yet the tragic coup, which propelled Pinochet to power, brought an abrupt end to Chilean liberty. Human and civil rights were trampled while the military dictatorship consolidated its position. Political parties were dissolved, and dissidents were jailed and exiled. Congress was disbanded and the press was tightly censored. This effectively served General Pinochet's goal of stifling alternative viewpoints and abusing human rights.

Apparently, General Pinochet has been forced to hear the calls from home and abroad demanding a return to a civilian, freely and fairly elected government. The upcoming plebiscite shows promise for the cause of reform, and is being viewed internationally with guarded optimism. For Chile, it is time to regain the democratic tradition that it lost in the illegal and violent attack that empowered the military junta. The repressed people of this nation deserve the right to freely elect their public officials instead of being subjected to the rule of a dictator.

I am encouraged by the fact that over 90 percent of those eligible to vote in the plebiscite have registered. The Government of Chile must follow through on their pledge to maintain a safe and judicious voting environment. It is similarly vital for the election committee to insure that the vote counting is done accurately and fairly. If this vote is perceived by opposition parties as being rigged, the potential for social unrest quite obviously increases. The best way to avoid a tragedy is to insure an honest plebiscite.

Recently, General Pinochet has lifted long-standing restrictions that he had unnecessarily imposed upon the Chilean people. He revoked the ban on all remaining political exiles; he is showing greater tolerance for political demonstrations; and he has finally ended the state of emergency in Chile. Each of these represent significant improvements, and are welcomed by supporters of freedom. It is good to see some of these reforms in this nation, and I hope the progress continues.

Although the plebiscite is an important event in the Chilean drive toward democracy, there is still a pressing need for further change. Opposition viewpoints must be allowed the same media coverage as is afforded to the ruling candidate. We must see less censorship and more electoral freedoms. Once these and other inhibiting factors are eradicated from the electoral process, true democracy can prevail.

Finally, I would like to encourage all eligible voters in Chile to cast their ballots on October 5. Although the plebiscite falls short of being a true election, it is nevertheless an opportunity for the people to register their choices. The results will carry ramifications for the future government and people of Chile. I consider this an important step for the direction of democracy in Chile. I strongly encourage my colleagues to pay careful attention to the electoral results and the process of electoral reform in Chile. Mr. President, I ask that the following articles be printed in the record as if read.

The article follows:

General Pinochet Forays for Votes

(By Eugene Robinson)

Santiago, Chile, October 2.—Photographs tell the tale; one shows a stern, ramrod-straight Army general who took power in a bloody coup and presided over a brutal period of repression. The other shows a silver-haired grandfather with a salesman's smile and a twinkle in his eye.

The image of Gen. Augusto Pinochet has evolved over his 15 years of authoritarian rule. President Pinochet has changed from a soldier ensconced in the strict but secure regimen of military life into a politician of sorts, whose shrewd instincts but still unpolished skills are now being put to their most crucial test.

The way Chileans will vote Wednesday, to accept or reject Pinochet's bid for another eight years in the presidency, will depend at least in part on whether they see in him the general or the grandfather.

Today, thousands of this supporters drove through the streets of Santiago in boisterous caravans honking their horns and shouting "Viva Pincohet." Many of their cars were plastered with posters of a grinning, relaxed Pincohet—hardly resembling the man who angrily warned Chileans on television last night that to vote against him would be to "allow Marxist sectors to take power."

People who know him say both images are part of the full portrait of the man. "He is neither an angel nor a devil," said Maria Eugenia Oyarzun, who has served in diplomatic and governmental posts under Pincohet.

Friends and associates describe a man who is a soldier first, last and always, fascinated with history and obsessed with his war—a very personal war, one he feels destined to lead—against communism. They describe a man who values loyalty above all, a man who according to published reports, recently said of a former ally who now opposes him in the coming vote; "Better that he were dead."

Pincohet, 72, has ruled longer than any head of state in Chile's history. He has drawn the opprobrium of human rights groups and democratic governments worldwide for curtailing human rights and abusing the power of the state to persecute his opponents.

But acquaintances also tell of a man generous in repaying the loyalty he demands, playful at times in dealing with his aides, and hurt and confused by the fact that so many democratic-minded Chileans oppose him.

"Now they attack me," he said in an interview several years ago, before he ended almost all contact with the foreign press. "But later, sometime in the iuture, I am going to be remembered as the man who fought against communism and did well for his country."

Friends say he has no love of politics. Yet it was he who decided to stand as the government's sole candidate in the plebiscite. Although the heads of the armed forces formally made the decision, Pincohet's was the only vote that really counted. And it is he who now travels up and down the country giving speeches and kissing babies.

One thing on which those who know him agree is that before Sept. 11, 1973, when a military coup overthrew Salvador Allende and Pinochet took power, no one imagined he would ever approach the station he occupies today.

"Never," said William Thayer, who has known Pinochet for 50 years, when asked if he foresaw such prominence for the man he knew in the Army in 1938 as Lt. Augusto Pinochet Ugarte.

Thayer and Pinochet developed a bond because they had attended sister schools, Pinochet in the port city of Valparaiso and Thayer in the adjacent, more affluent, resort town of Vina del Mar. Thayer currently heads a publishing house with connections to the government and is an important figure in the National Renovation, a rightist party that supports Pinochet in the plebiscite.

Thayer recalls an incident from their military days in which Pinochet's recruits gathered around and made fun of him. Reprisals might have been expected, Thayer said, but none came—illustrating, according to Thayer, that Pinochet does not harbor grudges or seek revenge.

Yet consider these off-the-cuff remarks, as quoted in the newsweekly Hoy, about an unnamed critic: "And twice I helped keep him from being put in prison. Here and now I wash my hands. . . . Now let's see if they put him in prison."

Pinochet was born Nov. 25, 1915, in Valparaiso, son of a customs official. His father wanted him to study medicine, but he entered the military academy instead, after twice being rejected because he was too young or physically weak.

Pinochet has portrayed himself as taking a leading role in planning the 1973 military coup. But it was Allende who named him head of the Army, barely a month before the coup, and Pinochet remained at least outwardly loyal until the end. Thayer declared that other officers were much more involved in the plotting than Pinochet. When Cuban leader Fidel Castro visited Allende in 1973, Pinochet was assigned as his local aide-de-camp.

Pinochet, as head of the preeminent Army, quickly overshadowed the other members of the junta, and evolved a highly personalized rule. Acquaintances say he sees as a personal mission ridding Chile of the "communist, totalitarian" forces that he insists had threatened to take power under Allende.

"We are at war!" Pinochet often says. The price Chile has paid for his war against the left is measured in lives, liberties, and the rupture of Chile's democratic traditions.

Hundreds were killed or are still listed as missing in the aftermath of the coup. A constant state of siege or emergency, lifted just weeks ago in anticipation of the plebiscite, kept Chileans from gathering in protest. The press was tightly controlled, and scores of journalists were jailed. Some kinds of criticism of the armed forces are still proscribed. The Communist Party is technically forbidden by law.

What Chileans got in return was relatively consistent economic policy and creation of a strong export sector. The telephones and the subways work, and the roads are well paved.

The general, by all accounts, rises early, retires early, drinks little, does not smoke. He is said to work out with weights and to be in excellent physical condition. Thayer describes him as an ascetic, although an opposition magazine has written of what it alleged were corrupt real estate deals through which Pinochet acquired an expensive private retreat. He and his wife Lucia have bought several other properties for themselves and some of their five children.

Pinochet in mufti has a trademark vanity, a large pearl tie tack, right below the knot. He is said to be devoted to his wife, who takes no official role in the government but has helped him politically with her work on behalf of social causes. She contributes to what polls show as Pinochet's disproportionate popularity among women.

His free-market economic policies and clampdown on political expression both figured in his biggest crisis, in 1983, when the economy collapsed and one out of six Chilean workers was out of a job. There were mass protests, as political tension that had built up over the years threatened to explode.

Pinochet came up with an unexpected response—he loosened his grip on expression and let thousands of exiles return. After the crisis subsided a year later, he declared another state of siege.

In September 1986, Pinochet survived an assassination attempt when he was ambushed along a mountain road near Santiago. That incident, too, contributes to the legend—official reports have him diving to the floor of his limousine to shelter his grandson from the would-be assassins' bullets.

But the plebiscite is a new kind of test. Opposition polls show the government would be enjoying more support with almost anyone else as its candidate. The old soldier presides over rallies, reminding supporters of the communist menace in a voice too squeaky for such an imposing personage, raising his hands in wooden gestures that seem practiced, but not practiced enough.

Polls show he is in trouble. But his opponents are haunted by the knowledge that he has been there before and somehow has managed to survive.

[From the Christian Science Monitor, Sept. 8, 1988]

CHILEANS REACH FOR DEMOCRACY

For a country whose politics in recent years have been marked by repression and authoritarian rule, last weekend's mostly peaceful anti-Pinochet rally in Santiago, Chile, came as a welcome break.

But it couldn't have occurred without General Pinochet's permission. The relatively low profile the police assumed at the rally was another sign of restraint from Pinochet. He needs to demonstrate that the upcoming presidential plebiscite will be conducted fairly if the results are to have any credibility at home or abroad.

Fairness isn't immediately obvious, however, from the structure of the Oct. 5 vote. His opponents have not been allowed to field candidates. It is a simple plebiscite on his rule: Vote "yes," and he gets eight more years in office; vote "no," and Pinochet must call for competitive presidential elections within a year and relinquish the reins of state when Chileans select a new chief executive.

To lend the campaign legitimacy, the general has lifted the state of emergency under which the country has been run; he has allowed prominent political exiles to return, including relatives of Salvador Allende Gossens, who was overthrown and killed during the coup that put Pinochet in power in 1973; he is allowing the opposition 15 minutes a night on TV in Santiago; and he allowed his opposition to hold their vote-no rally. These changes have their limits. Greater opposition access to the media in Santiago, for example, doesn't do much to get its message out to other parts of the country. The Pinochet regime still maintains overwhelming control of the media.

The 16-party opposition coalition must avoid giving the government an excuse for repression. So far, it has been fairly successful. Arrests during Sunday's rally were minimal given the more than 100,000 people taking part. This softens the stark choice Pinochet has been outlining: eight more years of his rule and a gradual return to democracy; or chaos, and with it the likelihood of more military rule.

Recent polls show 40 percent of the voters backing the "no" position, while 30 percent back "yes." That leaves 30 percent undecided. The overwhelming majority of Chileans want a return to democratic rule. But that desire is tempered by concern about venturing into the political unknown—a button Pinochet eagerly pushes. "Liberty," he has said, "can be an instrument of its own death." Chileans have vivid memories of the tumultuous year that led to the overthrow and death of Allende. They are not keen for a repeat performance.

The opposition has also mounted an intense voter registration drive. Out of a potential 8 million people eligible to register, the opposition says 6 million to 6.5 million registered voters would allow it to be a contender. So far 7 million to 7.5 million Chileans have registered.

With a campaign theme reminiscent of President Reagan's "Morning in America" during the 1980 U.S. presidential race, Pinochet is trying to capitalize on the country's remarkable economic recovery. Since 1984, Chile has experienced four straight years of substantial economic growth. But that has come at a substantial cost of wage cuts and high unemployment. Per capita income, after adjusting for inflation, is still 2 percent below what it was in 1980. In 1986, per capita GNP stood at 1970's level.

Before the 1973 coup, Chile had the longest democratic tradition of any Latin American country, yet it is the only major Latin American country ruled by a military dictator. Thus this election may hinge less on pocketbook issues than on the people's desire to return to a democracy. It's a tradition worth recapturing.●

THE STORY OF YURI AND TANYA ZIEMAN

● Mr. LEVIN. Mr. President, I have come forward many times to recount the difficulties that Soviet citizens face in their efforts to leave the Soviet Union. The lives of people who have been refused permission to leave are hard and the long years of waiting weight heavily upon them. My two visits to the Soviet Union, most recently in March 1988, have underscored for me the need to persevere in the campaign for freedom of emigration for Soviet citizens. I share in their anguish and continue to work for their freedom.

Today, I come before you to tell a tale which is all too rare. This is a tale of hope. A tale of dedication and determination. And, above, all, a tale of freedom.

Eleven years ago, Yuri and Tanya Zieman applied to emigrate from Moscow to Israel with their daughters, Galina and Vera. The decision to leave the Soviet Union was a decision to abandon their careers. The decision isolated them from family and friends. Though Yori holds a Ph.D. in mathematics, and worked as a computer scientist at the Institute of Precise Mechanics and Computer Engineering, he was forced to take a job as a plumber in a maternity hospital. Yuri could not have imagined that he would be there for over 10 years.

Yuri's work at the institute had never involved classified information. Nonetheless, the Zieman family was repeatedly denied permission to emigrate on the grounds of "state security considerations."

For 10 years they waited, worked quietly to reverse the Soviet decree. They pointed out that Yuri's dissertation had a routine security stamp and had already been published in open scientific literature. They noted that all of his subsequent work was not in any way secret. They met with officials and filed countless appeals. All to no avail.

As time passed, the notion that security considerations were preventing their departure became even more spurious. Though Yuri had managed to translate three books into Russian—books published in Israel, but not the Soviet Union—and compile a thesaurus of gynecological and obstetric terms while he worked full time as a plumber, he had not worked in his field for 10 years. His knowledge of science and computers had clearly become stale.

Perhaps more relevant to their refusal were the numerous attempts by the KGB to recruit Yuri to work for them. They visited him frequently at work and detained him twice. They wanted him to inform on others. If he refused, they threatened to prevent him from ever receiving a visa. A leader in the Jewish community of Moscow, he rejected all the KGB's proposals. The KGB officials continued their harrassment.

The Ziemans' desire to leave took on greater urgency when Yuri became sick. After an explosion in the maternity hospital several years ago, Yuri had medical problems with blood vessels in his brain. Then, his health took a decided turn for the worse. In November 1987, he was rushed to the hospital after suffering from what doctors believed to be a brain tumor or an aneurysm. His condition didn't improve, and only became more serious when he contracted hepatitus from hospital needles. Even the doctors in Moscow agreed that Western medical treatment was now necessary.

Finally, the Ziemans decided to go public with their story. And that is when I came to meet this remarkable family. In March of this year Tanya Zieman presented the family's case to a small group of Senators visiting in Moscow. I had the opportunity then to hear the Ziemans' misfortunes in detail. Her extraordinary courage and willingness to speak openly in the face of possible Soviet retribution were inspiring. The Ziemans have many friends in the West, including many Americans. These friends gave strength to the family and helped them in publicizing their story.

Their eldest daughter, Galina has been their most ardent advocate. Galina arrived in the United States in May 1987, with her husband and 2-year old daughter. She received permission to leave after she filed a new visa application, this time using her husband's name. A young woman of tremendous spirit and courage, she campaigned tirelessly to draw attention to her family's plight. She came to my office and the offices of many of our colleagues. She met with reporters and lobbied administration officials. On one occasion, I arranged a meeting for her with a high-ranking official from the Soviet Academy of Sciences. Though Galina was shaking at the thought of meeting this man who represented the very system she was fighting, as a result of their meeting, that official Roald Sagdeev was willing to state that he felt that Yuri's work should not be a barrier to the Ziemans' emigration. I have thanked him for doing so.

Galina left no stone unturned and she touched many of us with her dedication and determination. Her soft-spoken eloquence belies the national attention she was able to draw to the Zieman case. She was also able to arrange for free medical treatment for Yuri, and important step in bringing Yuri to the West for that treatment. The outpouring of support for the Zieman family is testimony to the battle she waged to win her family's freedom.

However, support from even the highest levels did not move the Soviets. The family received prominent coverage during the United States-Soviet summit in December 1987, yet, Soviet authorities continued to turn down their visa applications. I raised their case in meetings with Soviet officials and wrote letters on their behalf. Many in Congress and the administration took action in response to Galina's requests.

The youngest Zieman, Vera, often compared to "Annie" because of her curly locks and sunny disposition, decided to join in the family's appeals. This little girl, who endured her own harrassment from teachers and classmates, wrote to ask the Reagans to help her family during their trip to Moscow earlier this year. In response, the Reagans decided to visit the Ziemans' apartment and Soviet authorities rushed to spruce up the entire neighborhood in preparation.

The proposed visit seemed to jar the Soviets into action. Soviet officials contacted the Ziemans and told them that they had finally received permission to leave. They were cautioned to keep a low profile during the summit, and assured that everything would be worked out afterwards. The Reagans canceled their visit, for fear of jeopardizing the family's chances, and the Ziemans began to prepare for their departure. For the first time, the family was optimistic. Perhaps they would finally be together again—in a free country. They sent their cherished books abroad.

Unfortunately, the Ziemans' troubles were not over. After all the Americans at the summit had gone home, Tanya went to obtain the family's exit visas. Instead, she was informed that the family's appeal had been turned down by a review commission of the Supreme Soviet. In addition, they could not reapply to leave until 1992. The Ziemans were devastated.

With Yuri's health still in question, the family turned to their many friends in the West to make a final appeal on their behalf. Galina, depressed and unnerved, called to tell me the news. I and others worked behind the scenes to see that this seemingly duplicitous handling of their case was addressed at the highest levels. And, then, just as suddenly, word came that, yes, the Ziemans were finally to be released. The Ziemans arrived in the United States at the end of August and brought to a close their 11-year saga. A tearful reunion at Boston Logan Airport marked their first breath of freedom. Yuri has been receiving medical care at the New England Deaconess Hospital and we pray for his full recovery. Slowly, but surely, the Ziemans are becoming settled in their new home.

Now that the Ziemans' long wait is finally over and the family has come together again, it seems appropriate to pay tribute to their inspiring determination. For those of us fighting for free emigration, it is families like the Ziemans who make our stuggle worthwhile. For those of us urging the Soviets to extend the freedoms of glasnost to Soviet citizens who seek to emigrate, a right guaranteed under the Helsinki accords, it is families like the Ziemans who make our struggle all the more real.

Mr. President, I hope many of us will have a moment to come and meet the Ziemans on Thursday when they will be here to attend a reception in their honor. I know all of us join me in welcoming this special family to America.●

CHILD HEALTH DAY

● Mr. SIMON. Mr. President, today is National Child Health Day. I am pleased to be associated with the American Academy of Pediatrics and this annual effort to improve the quality of health care programs for pregnant women, infants, children, and adolescents. We have been celebrating Child Health Day for 60 years, but this year I feel special concern over these important issues.

We need to focus on such issues as the high number of uninsured children and families; child care and parental leave; homeless youth and teen suicide; the need for AIDS education and continued research into childhood diseases. In the Senate, we have been discussing the need for the Federal Government to ensure the quality and affordability of child care. There is a great deal of concern over this issue, more than 100 child care bills have been offered in this Congress. We have also had extensive debate over parental leave legislation.

When Congress passed the McKinney Homelessness Assistance Act, I was pleased that my colleagues accepted my amendment to include funding for youth shelters. We are facing an increase in the number of homeless and runaway youth, many of whom are too old for foster care and too young for adult shelters. We need to look for these gaps in services and do what we can to bridge them. While we have good programs like WIC, Head Start, and the Runaway and Homeless Youth Act there are many women, children and young people at risk who are not being served.

As we move into the 1990's, I hope that we will continue to take positive steps in addressing these and other serious issues which affect children, youth, and families. I commend the American Academy of Pediatrics on their efforts in these areas, and I urge my colleagues to join me in celebrating Child Health Day.●

OLYMPIC CHAMPION GREG BARTON

● Mr. LEVIN. Mr. President, a few days ago before this body, I praised the accomplishments of a very special Olympic champion named Jim Abbott. Today, I would like to honor another Olympic champion from Michigan who also deserves such praise.

Two days ago, on October 1, 1988, Greg Barton of Homer, MI, accomplished what no other American had accomplished before. In a photo finish, he won the Olympic Gold Medal in the 1,000-meter men's kayak singles. Just 90 minutes later, he teamed with Norman Bellingham to win a second gold medal in the 1,000-meter men's kayak pairs by only 29 hundredths of a second.

Before Saturday, no American had ever won an Olympic kayak event. In fact, the United States had struck gold in this style of rowing only twice before, most recently in 1952, 36 years ago.

But in one momentous day, Greg Barton changed all that. In a display of power and stamina, he brought home our first kayaking gold medals ever and doubled our Olympic victory total in kayaking and canoeing.

Greg and Jim are the only two of the many distinguished Olympic medalists from Michigan. Jeff Grayer of Flint, Han Won Lee of Ann Arbor, Dan Majerle of Traverse City, and Debbie Ochs of Howell have all represented the State of Michigan and our country proudly. They all deserve our congratulations and our thanks.

But Greg's and Jim's achievements are a little more special. While all champions have had to overcome challenges on their way to victory, the challenges Greg and Jim have faced have been a little tougher than for most. Like Jim, Greg was born with a physical disability. But as with all true champions, he concentrated on his strengths and abilities and worked around and through his limitations. He has responded with a will and a spirit that are inspirational.

The Olympics are a celebration of our ability to realize our dreams and of the boundless potential of the human spirit. Champions such as Greg Barton are powerful reminders of how much we all can accomplish.●

GRETCHEN CARLSON, MISS AMERICA 1988

● Mr. BOSCHWITZ. Mr. President, I come to the floor of the Senate to speak about a Minnesotan who represents the ideals of our Nation. In fact, she so represents those ideals that she has been given the honor of carrying the title, Miss America.

Years ago, the Miss America Pageant may have been for beauties only, but today's Miss America must combine intelligence, talent, grace, poise and charm with physical beauty. Just a short time ago, in Atlantic City, a panel of judges decided Minnesota's own Gretchen Carlson best combined these attributes in this year's pageant.

Gretchen hails from Anoka, Mr. President, a growing, thriving city just north of Minneapolis and St. Paul. This petite, blue-eyed blonde is a native Minnesotan who is extremely proud of her Scandinavian heritage. Her selection as Miss America is a tribute to her talent and hard work.

Gretchen is proof that the Miss America Pageant is more than a beauty contest. She is a senior at prestigious Stanford University where she carries a 3.6 grade point average. As a result of her excellent school record, Gretchen studied for a period of time at Oxford University in England. Another example of Gretchen's tremendous drive are her plans to attend Harvard Law School.

Gretchen's talents have succeeded in dazzling many audiences. Superb violin playing, which she has studied since the age of 6, has won Gretchen awards and it is no surprise that she charmed the judges of the Miss America Pageant.

In one of her first interviews after being crowned Miss America, Gretchen expressed her dream of being able to meet the President. I'm happy to report that we've been able to make that dream come true, and tomorrow I will have the pleasure of escorting her to the White House and presenting her to the President.

I might add, Mr. President, that Minnesota has had more than its fair share of Miss Americas. In 68 years, three outstanding Minnesota women have carried the crown. With 50 States in the Union, three out of 68 is certainly more than we might expect, and the number is a tribute to our great State.

The title of Miss America should only be trusted to an outstanding individual who will carry the crown with dignity. This young woman must always represent her country in a manner which is deserving of a great Nation like ours. Miss America, Gretchen Carlson, has demonstrated those qualities, and I have no doubt that she will represent our country with pride. I congratulate her on her remarkable achievements, and I take great pride in yet another impressive accomplishment by one of my constituents.●

CONGRATULATIONS FOR THE CREW OF THE SPACE SHUTTLE DISCOVERY

Mr. BYRD. Mr. President, on behalf of Mr. Hollings, Mr. Riegle, Mr. Danforth, Mr. Pressler, Mr. Wirth, and Mr. Ford, I send to the desk, and ask for its immediate consideration, a resolution congratulating the crew of the space shuttle *Discovery.*

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 486), to congratulate the crew of the space shuttle *Discovery* on the successful completion of its mission.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. HOLLINGS. Mr. President, last Thursday, America returned to space. At 11:37 a.m., *Discovery* lifted off the pad at the Kennedy Space Center, ending a 32-month hiatus in the Nation's Space Program. At that moment, America's prayers were answered, our hopes renewed. It was a day for all Americans to be proud.

Today, after a 4-day voyage, *Discovery* landed safely at Edwards Air Force Base in California to end this historic mission of the space shuttle.

The voyage of *Discovery* has taught us all some very important and difficult lessons. It has made us all aware of the fact that space is always going to be a high-risk adventure and that teamwork and dedication are the keys to success.

None of us will ever forget the tragedy that occurred on January 28, 1986. And we should not. Nor should we ever forget the dreams and goals of Dick Scobee, Mike Smith, Judy Resnik, Ellison Onizuka, Greg Jarvis, Christa McAuliffe, and Ron McNair. As Rick Hauck said on Sunday:

> Today, up here where the blue sky turns to black, we can say at long last to Dick, Mike and Judy, to Ron and El and Christa and Greg: Dear friends, we have resumed the journey that we promised to continue for you. Dear friends, your loss has meant that we could confidently begin anew. Dear friends, your spirit and your dream are still alive in our hearts.

A wise man, Dr. Benjamin Mays once said:

> The tragedy of life does not lie in not reaching your goal. The tragedy lies in having no goal to reach. It is not a disgrace not to reach for the stars, but it is a disgrace to have no stars to reach for.

Mr. President, it is most appropriate that on this day of jubilation for America's Space Program that the Congress enact a resolution congratulating the crew of STS-26, the members of the NASA/contractor team, and the members of the National Research Council's Technical Evaluation Panel for a job well done. Their combined efforts over the course of the last 32 months were responsible for the success of this mission and for the return to flight of a safer, more reliable space shuttle. We are all grateful to these dedicated men and women who turn dreams and the visions of the Nation into the realities of today.

I urge my colleagues to join me in support of this resolution.

Mr. RIEGLE. Mr. President, I rise as a cosponsor of this resolution which recognizes the achievement of NASA and of the crew of *Discovery* upon the successful conclusion of this mission.

Like many of us I have been involved in the efforts to return the space shuttle to flight. These last 2 years have been very difficult in many ways, and NASA is to be commended for setting their sights on the goal of a safe return to space. This mission proves to the world that NASA can and will live up to the challenges that it faces.

This mission is another first step in our continuing journey into space. The momentum that we gain from this mission must carry us forward to the next launch in November and beyond, and I think that it will. We all feel tremendous pride today, especially after witnessing the flawless end to a perfect space flight, and this resolution is one way for the Congress to express that pride and our thanks to the crew of the *Discovery* and to the hundreds of thousands of people who make space flight possible.

Mr. DANFORTH. Mr. President, the whole world witnessed today's successful return of the space shuttle *Discovery.* The United States is back in the space exploration business.

The causes of the *Challenger* accident have been analyzed thoroughly. Some questioned NASA's ability to overcome these problems. Today NASA proved its ability. The mission was flawless.

This return to flight represents over 2 years of hard work by dedicated public servants at NASA. In the past, we have taken this success for granted. The *Challenger* tragedy reminded us of the inherent danger when man seeks to expand the limits of his knowledge. But the human spirit forges ahead. Today's triumph is built on yesterday's losses and tomorrow's dreams.

This is a great moment for the *Discovery* crew, for NASA, and for the Nation. The shuttle is our stairway to space. Its success will lead to the deployment of a space station and the creation of the first permanent manned presence in space. The dream is alive. I congratulate all those involved in this great success story.

The **PRESIDING OFFICER.** The question is on agreeing to the resolution.

The resolution (S. Res. 486) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 486

Whereas, the return to flight of the space shuttle *Discovery* and the successful completion of its mission has been a source of great inspiration to America and has restored our faith in the Nation's space program;

Whereas, the flight of *Discovery* reflects the technological prowess of the United States and the dedication of the men and women of the Nation's space program; and

Whereas, the flight of *Discovery* represents a great ending for a new beginning of the space program: Now, therefore, be it

Resolved, That the Senate of the United States congratulates the men, women, and families of the National Aeronautics and Space Administration and its Contractor team, the Members of the National Research Council Panel on the Technical Evaluation of the Redesign of the Space Shuttle Solid Rocket Booster, and the crew of *Discovery*—Rick Hauck, Dick Covey, Mike Lounge, Pinky Nelson, and Dave Hilmers—for their efforts in support of the Nation's space program and for turning our visions of tomorrow into realities of today.

Mr. BYRD. Mr. President, I ask unanimous consent that the motion to reconsider en bloc be laid on the table.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, how much time has been charged against the 30 hours?

The **PRESIDING OFFICER.** Four hours and 35 minutes.

Mr. BYRD. The 30 hours began running at what time today?

The **PRESIDING OFFICER.** The hour of 1:34 p.m.

ADDITIONAL HOURS CHARGED AGAINST THE 30 HOURS

Mr. BYRD. Mr. President, I ask unanimous consent that an additional 6 hours be charged against the 30 hours.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

ORDERS FOR TUESDAY

RECESS UNTIL 10 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 o'clock tomorrow morning.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BYRD. Mr. President, does my friend across the aisle, the acting minority leader, wish to say anything further, or does he have further business to transact?

Mr. WILSON. We have no further business on the minority side.

Mr. BYRD. I thank the Senator.

Mr. President, there being no further business to come before the Senate, I move that the Senate stand in recess, in accordance with the order previously entered, until the hour of 10 a.m. tomorrow.

The motion was agreed to and the Senate at 6:10 p.m. recessed until tomorrow, Tuesday, October 4, 1988, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate October 3, 1988:

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE OF LIEUTENANT GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

ANTHONY LUKEMAN, [redacted]9903, U.S. MARINE CORPS.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE:

ARMY

To be colonel

LARRY D. AARON, [redacted]
DANNY L. ABBOTT, [redacted]
MICHAEL W. ACKERMAN, [redacted]
LAWRENCE J. ADAIR, [redacted]
TERRENCE L. ADKINS, [redacted]
MAURICE R. ALEXANDER, [redacted]
WILLIAM W. ALEXANDER, [redacted]
FREDRICK A. ALLEN, [redacted]
JOHN E. ALLEY, [redacted]
KENNETH L. ALLRED, [redacted]
JOHN F. ALTON, [redacted]
RONNIE D. ALTON, [redacted]
HAROLD F. ALVORD, [redacted]
DAVID M. ARCHER, [redacted]
JERRY N. ARMSTRONG, [redacted]
ANDREW J. BACEVICH, JR, [redacted]
VINCENT P. BAERMAN, [redacted]
JAMES J. BAHR, [redacted]
ARTHUR W. BAILEY, [redacted]
THOMAS W. BAKER, [redacted]
FLOYD T. BANKS, JR, [redacted]
ROBERT P. BARCLAY, [redacted]
EL C. BARNES, [redacted]
CHARLES D. BARTLETT, [redacted]
HOMER W. BAXLEY, [redacted]
LEO J. BAXTER, [redacted]
PETER J. BAZZEL, [redacted]
BRUCE S. BEALS, [redacted]
KENNETH M. BEAM, [redacted]
CHARLES E. BEAUCHAMP, JR, [redacted]
FREDERICK C. BEAUCHAMP, [redacted]
ROY E. BEAUCHAMP, [redacted]
CHARLES E. BECKWITH, [redacted]
PETER M. BECRAFT, [redacted]
CLARENCE L. BELINGE, [redacted]
BURWELL B. BELL, III, [redacted]
JOHN O. BENSON, [redacted]
ROBERT G. BERNIER, [redacted]
EDWARD E. BEVILL, [redacted]
RICHARD L. BEVINGTON, JR, [redacted]
PAUL A. BIGELMAN, [redacted]
GERALD P. BIJOLD, [redacted]
DAVID O. BIRD, [redacted]
CHARLES M. BLACK, [redacted]
RICHARD A. BLACK, [redacted]
GEORGE J. BLANC, [redacted]
BRUCE A. BLOCK, [redacted]
BARTHOLOMEW B. BOHN, [redacted]
WILLIAM D. BRISTOW, JR, [redacted]
DAVID E. BRONNER, [redacted]
CHARLES F. BROWER, IV, [redacted]
DANIEL G. BROWN, [redacted]
KEIRN C. BROWN, JR, [redacted]
ROGER F. BROWN, [redacted]
THOMAS L. BROWN, [redacted]
WILLIAM D. BROWN, [redacted]
SALVATORE M. BRUNI, [redacted]
JAMES M. BRUSITUS, [redacted]
EDWARD A. BRYLA, [redacted]
GEOFFREY J. BUCKLEY, [redacted]
JOHN L. BUCKLEY, JR, [redacted]
DAVID T. BULLOCK, JR, [redacted]
ROY J. BURDINE, [redacted]
CHARLES M. BURKE, [redacted]
TERRY L. BURNS, [redacted]
PHILIP R. BUTLER, [redacted]
RICHARD E. CADORETTE, [redacted]
JOHN E. CALDWELL, [redacted]
JOHN S. CALDWELL, JR, [redacted]
CHRISTOPHER D. CALHOON, [redacted]
ALEXANDER W. CAMERON, [redacted]
RONALD F. CAMERON, [redacted]
THOMAS B. CAMERON, [redacted]
CHARLES S. CAMPBELL, JR, [redacted]
JOHN G. CAMPBELL, [redacted]
MICHAEL A. CAMPBELL, [redacted]
ROBERT W. CAMPBELL, JR, [redacted]
MICHAEL A. CANAVAN, [redacted]
THOMAS J. CANNAVA, [redacted]
MICHAEL G. CARKHUFF, [redacted]
PHILIP W. CARROLL, III, [redacted]
FRANK L. CARSON, [redacted]
WILLIAM M. CAUSEY, JR, [redacted]
GUY E. CHAMPLIN, [redacted]
EDWARD D. CHANDLER, [redacted]
TED C. CHILCOTE, [redacted]
CRAIG M. CHILDRESS, [redacted]
JAMES P. CIMA, [redacted]
CHARLES G. CLARK, JR, [redacted]
ROY L. CLARK, III, [redacted]
ROBERT H. CLEGG, [redacted]
WILLIAM R. CLONTZ, [redacted]
THEODORE R. COBERLY, [redacted]
CHARLOTTE J. COCHARD, [redacted]
CHARLES D. COCHRAN, [redacted]
CORDIS B. COLBURN, [redacted]
JOHN M. COLE, JR, [redacted]
CARLOS M. COLLAT, [redacted]
GEORGE J. COMPTON, [redacted]
HAMPTON P. CONLEY, [redacted]
RICHARD A. CONROY, [redacted]
BRIAN P. COOPER, [redacted]
FREDERICK D. COOPER, [redacted]
JAMES W. COOPER, [redacted]
WALTER R. COOPER, [redacted]
KEVIN M. CORCORAN, [redacted]
TED D. CORDREY, [redacted]
JOSEPH M. COSUMANO, JR, [redacted]

WILLIAM R. COUSINS, III, [redacted]
JAMES E. COVINGTON, JR, [redacted]
DANNY C. COX, [redacted]
FRANK J. COX, [redacted]
JOSEPH T. COX, [redacted]
DOUGLAS W. CRAFT, [redacted]
GROVER O. CRAVEN, JR, [redacted]
GILES F. CRIDER, [redacted]
JAMES L. CROW, [redacted]
WILLIAM S. CROWDER, [redacted]
MICHAEL H. CRUTCHER, [redacted]
WILLIAM F. CULLEY, JR, [redacted]
KENNETH L. CULWELL, [redacted]
RONALD A. DABBIERI, [redacted]
WILLIAM E. DANIELS, [redacted]
LOUIS J. DARNELL, [redacted]
CHARLES D. DAVES, [redacted]
JOHN C. DAVIDSON, [redacted]
CECIL F. DAVIS, [redacted]
FLOYD J. DAVIS, [redacted]
GAYLERD E. DAVIS, [redacted]
MICHAEL T. DAWSON, [redacted]
CLIFFORD L. DEAL, JR, [redacted]
JOHN L. DELLOMO, JR, [redacted]
ROSS M. DEMPSEY, JR, [redacted]
WILLIAM J. DENSBERGER, [redacted]
EDWARD J. DEWEY, [redacted]
ALFRED L. DIBELLA, JR, [redacted]
DANA B. DILLON, [redacted]
RICHARD W. DIXON, [redacted]
ROY L. DIXON, [redacted]
MICHAEL L. DODSON, [redacted]
STANLEY D. DODSON, [redacted]
RAYMOND J. DOLAN, [redacted]
JAMES E. DOOLEY, III, [redacted]
PATRICK H. DOWNING, [redacted]
CURTIS H. DOWNS, III, [redacted]
GARY T. DOWNS, [redacted]
ROBERT A. DUCKWORTH, [redacted]
STANLEY L. DULIN, [redacted]
GREGORY M. DUNN, [redacted]
JOSEPH C. DYER, [redacted]
DAVID J. DYNNESON, [redacted]
DANIEL L. EBY, [redacted]
GILBERT H. EDMONDSON, [redacted]
THOMAS E. EDWARDS, [redacted]
WARREN C. EDWARDS, [redacted]
DONALD E. EGAN, [redacted]
KARL F. EICKEMEYER, [redacted]
GARY W. ELDRIDGE, [redacted]
WILMER O. ELLIOTT, [redacted]
JEFFREY L. ELLIS, [redacted]
JOHN J. ELLIS, [redacted]
ROBERT E. ELLIS, [redacted]
WILLIAM J. ELY, JR, [redacted]
RICHARD M. EPTING, [redacted]
WILLIAM J. ERVIN, III, [redacted]
PETER A. ESCHRIG, [redacted]
JOSEPH W. ESZES, [redacted]
RICHARD A. EVERETT, [redacted]
JOHN C. EVERSON, [redacted]
THOMAS W. FAGAN, [redacted]
JOHN R. FAIRLAMB, [redacted]
BENJAMIN A. FARQUHAR, [redacted]
CHARLES F. FELDMAYER, [redacted]
RICHARD L. FIELDS, [redacted]
FRANK R. FINCH, [redacted]
THOMAS M. FINNEGAN, [redacted]
ELBRIDGE G. FISH, II, [redacted]
MICHAEL F. FISHER, [redacted]
RICHARD C. FISHER, [redacted]
ROGER C. FISKE, [redacted]
THOMAS V. FLORES, JR, [redacted]
ROBERT B. FLOWERS, [redacted]
ROBERT L. FLOYD, III, [redacted]
KENT W. FONTAINE, [redacted]
JERRY D. FORD, [redacted]
ROBERT L. FORD, [redacted]
CHARLES N. FOWLER, JR, [redacted]
ZACHARY S. FOWLER, [redacted]
JOHN FRICAS, [redacted]
ROBERT A. FRIZZO, [redacted]
JERRY D. FROST, [redacted]
ROBERT R. FROUDE, [redacted]
LARRY R. FULBRIGHT, [redacted]
JOHN T. FULCHER, [redacted]
LEONARD J. FULLENKAMP, [redacted]
HAROLD W. FULLER, [redacted]
JOE D. FULLER, [redacted]
JAMES W. FULTON, JR, [redacted]
JOSEPH GAGLIA, JR, [redacted]
BRUCE R. GALE, [redacted]
JAMES J. GALLIVAN, [redacted]
ARCHIBALD M. GALLUP, [redacted]
WILLIAM H. GARDNER, JR, [redacted]
RICHARD L. GARLITZ, [redacted]
JOSEPH G. GARRETT, III, [redacted]
THOMAS W. GARRETT, [redacted]
JESSE C. GATLIN, III, [redacted]
JEFFREY R. GAYNOR, [redacted]
KENNETH W. GETTY, JR, [redacted]
RICHARD L. GIBSON, [redacted]
NORMAN A. GIDLEY, III, [redacted]
KENNETH J. GINGRAS, [redacted]
RONNIE B. GIPSON, [redacted]
ANTHONY GIUSTI, [redacted]
HARVEY J. GLOWASKI, [redacted]
LEROY R. GOFF, III, [redacted]
WILLIAM N. GORDON, [redacted]
KIRSTEN R. GRAHAM, [redacted]
JOHN P. GRAMICCIONI, [redacted]
RICHARD M. GRAVES, [redacted]
RANDALL T. GRAY, [redacted]
GERALD C. GREEN, [redacted]
JOSEPH L. GREENLEE, [redacted]
ROBERT J. GREENWALT, JR, [redacted]
GARY L. GRESH, [redacted]
FLOYD L. GRIFFIN, JR, [redacted]
STANLEY E. GRIFFITH, [redacted]
DENNIS L. GRIGGS, [redacted]
JOHN P. GRITZ, [redacted]
TONY B. GROSE, [redacted]
RICHARD A. GRUBE, [redacted]
FRIEDRICH L. GRUETZMACHER, [redacted]
CHARLES D. GUILLIAMS, [redacted]
STEPHEN M. GULYAS, [redacted]
DAVID R. GUST, [redacted]
JAMES M. GUY, [redacted]
EARL L. HALBROOK, [redacted]
RICHARD L. HALEY, [redacted]
GLYNNE R. HAMRICK, [redacted]
TERRY D. HAND, [redacted]
THOMAS E. HANLON, [redacted]
HOWARD K. HANSEN, JR, [redacted]
LOUIS J. HANSEN, [redacted]
WAYNE R. HANSOM, [redacted]
DUANE E. HARDESTY, [redacted]
LEE A. HARMON, [redacted]
MICHAEL V. HARPER, [redacted]
ROBERT R. HARPER, JR, [redacted]
KENNETH A. HARRIS, [redacted]
THOMAS W. HARRIS, [redacted]
WILLIAM L. HART, [redacted]
MICHAEL E. HAWK, [redacted]
LEONARD R. HAWLEY, [redacted]
HERMAN S. HEATH, [redacted]
CAROL M. HEMPHILL, [redacted]
WILLIAM J. HENDELL, [redacted]
ROBERT M. HENSLER, [redacted]
JEROME G. HERSH, [redacted]
RALPH J. HIATT, [redacted]
STEPHEN W. HICKOK, II, [redacted]
WARREN W. HIGGINS, [redacted]
JAMES C. HINEBAUGH, JR, [redacted]
CHARLES A. HINES, [redacted]
HARRY W. HIXON, JR, [redacted]
JOHN E. HOLLAND, JR, [redacted]
RICHARD P. HOLLEY, [redacted]
JOHN W. HOOK, [redacted]
GEORGE D. HOUSLEY, [redacted]
WILLIAM D. HUBBARD, [redacted]
OLIN HUDSON, JR, [redacted]
CHARLES R. HUGGINS, [redacted]
WILLIAM R. HUMBAUGH, [redacted]
NICHOLAS J. HUN, [redacted]
CARDELL S. HUNTER, [redacted]
ROBERT D. HURT, III, [redacted]
ARTHUR D. HURTADO, [redacted]
RICHARD H. IMHOF, [redacted]
ALLAN S. INGALLS, JR, [redacted]
JOSEPH R. INGE, [redacted]
DAVID L. INGLE, [redacted]
WALTER C. INGRAM, [redacted]
ROBERT R. IVANY, [redacted]
DAVID L. IVERSON, [redacted]
CHARLES M. JACKSON, JR, [redacted]
MICHAEL D. JACKSON, [redacted]
THOMAS P. JACOBUS, [redacted]
GERARD G. JAMES, [redacted]
JOHN R. JAMES, [redacted]
WILLIAM H. JANES, [redacted]
ALEXANDER R. JANSEN, [redacted]
KENNY J. JEFFERSON, [redacted]
JOE B. JENKINSON, [redacted]
WILLIAM L. JENNEWINE, JR, [redacted]
RICHARD C. JOHNS, [redacted]
JAY D. JOHNSON, [redacted]
JOHN J. JOHNSON, [redacted]
THOMAS E. JOHNSON, [redacted]
GEORGE JONES, JR, [redacted]
MICHAEL G. JONES, [redacted]
JAMES F. JORDAN, JR, [redacted]
GEORGE B. JOSEPHSON, [redacted]
JAMES N. JOYNER, JR, [redacted]
RICHARD KANDA, [redacted]
ALEXANDER M. KASSIM, [redacted]
DANIEL J. KAUFMAN, [redacted]
TIMOTHY B. KEATING, [redacted]
MICHAEL B. KECK, [redacted]
MICHAEL P. KEHOE, [redacted]
LEWIS C. KEITH, [redacted]
CHARLES G. KELLY, III, [redacted]
LESTER A. KELLY, III, [redacted]
JOSEPH W. KERNODLE, [redacted]
SAMUEL L. KINDRED, [redacted]
BOYD E. KING, JR, [redacted]
JAMES C. KING, [redacted]
ROBERT J. KLEIMON, [redacted]
MARTIN S. KLEINER, [redacted]
FOREST A. KLUMPH, JR, [redacted]
MICHAEL E. KOCH, [redacted]
BENJAMIN D. KOERSELMAN, [redacted]
JAMES S. KOONS, [redacted]
RONALD D. KOONTZ, [redacted]
ROY E. KORKALO, [redacted]
WENDELL D. KOT, [redacted]
PETER KRAFINSKI, JR, [redacted]
LOUIS KRONENBERGER, JR, [redacted]
PETER G. KUCERA, [redacted]
STANLEY G. KULLMAN, JR, [redacted]
KENNY J. KUNSTEL, [redacted]
JAMES H. KURTZ, [redacted]
MICHAEL F. KUSH, [redacted]
JOHN P. KUSPA, [redacted]
DAVID L. KYLE, [redacted]
JAMES A. LAKE, [redacted]
GORDON R. LAM, [redacted]
DAVID E. LAMBERT, [redacted]
RICHARD G. LANDIS, [redacted]
JOHN F. LANGOWSKI, JR, [redacted]
CARLOS C. LANGSTON, JR, [redacted]
DAVID L. LARSON, [redacted]
DONALD D. LATELLA, [redacted]
RUSSELL S. LEBARRON, [redacted]
MICHAEL K. LEGG, [redacted]
JOHN M. LEMOYNE, [redacted]
DUANE A. LEMPKE, [redacted]
PAUL E. LENZE, [redacted]
FREDERICK W. LIEBE, [redacted]
JAMES N. LIETEAU, [redacted]
EDWARD P. LIPINSKI, JR, [redacted]
MELVIN J. LITTIG, [redacted]
SAMUEL G. LIVECCHI, [redacted]
WILLIAM C. LLEWELLYN, [redacted]
DAVID J. LOFGREN, [redacted]
DENNIS H. LONG, [redacted]
FRANCIS A. LONG, JR, [redacted]
HARRY B. LOPER, [redacted]
ROGER L. LORBER, [redacted]
CHARLES D. LOVEJOY, JR, [redacted]
LARRY G. LOVELL, [redacted]
TOMMY A. LUNDBERG, [redacted]
PETER J. LUTHER, [redacted]
WILLIAM R. LYNCH, III, [redacted]
ROBERT L. LYTLE, [redacted]
BRIAN S. MAASS, [redacted]
JOHN D. MACINNES, [redacted]
JOHN J. MACNEILL, [redacted]
ALBERT J. MADORA, [redacted]
CHARLES S. MAHAN, JR, [redacted]
BARRY W. MAHEK, [redacted]
JOHN J. MAHER, III, [redacted]
DAVID M. MALLORY, [redacted]
BRUCE A. MALSON, [redacted]
RICHARD J. MALVESTI, [redacted]
STEPHEN R. MANESS, [redacted]
ROBERT B. MANGOLD, [redacted]
THOMAS R. MANN, [redacted]
THOMAS D. MANULA, [redacted]
JOHN N. MARSHALL, [redacted]
WILLIAM P. MARTINOUS, [redacted]
HENRY S. MATLOSZ, JR, [redacted]
TIMOTHY J. MAUDE, [redacted]
ALLAN M. MAUGHAN, [redacted]
LAWRENCE S. MCAFEE, JR, [redacted]
CHARLES A. MCANARNEY, II, [redacted]
BERNARD E. MCDANIEL, [redacted]
JAMES R. MCDONOUGH, [redacted]
WILLIAM D. MCGILL, II, [redacted]
KENNETH R. MCGINTY, [redacted]
FRANKLIN J. MCGLYNN, JR, [redacted]
PATRICK M. MCGOVERN, [redacted]
BILLY J. MCGOWAN, [redacted]
JAMES C. MCGRORY, JR, [redacted]
SAMUEL C. MCKENTY, [redacted]
WILLIAM R. MCKINNEY, [redacted]
NEIL A. MCLEAN, III, [redacted]
MALCOLM R. MCLELLAN, JR, [redacted]
CHARLES D. MCMILLIN, [redacted]
ROBERT G. MCWARD, [redacted]
ARLEN C. MELINE, [redacted]
MILTON R. MENJIVAR, [redacted]
HAROLD V. METZGER, JR, [redacted]
JOHN G. MEYER, JR, [redacted]
JOHN J. MEYER, III, [redacted]
PHILIP L. MICHAUD, [redacted]
ROBERT R. MICHAUD, [redacted]
ARLO J. MILDENSTEIN, [redacted]
GENE L. MILLER, [redacted]
JOHN R. MILLER, [redacted]
JAMES S. MILLING, [redacted]
CHARLES J. MILLS, [redacted]
DOUGLAS H. MILLS, [redacted]
JOHN A. MILLS, [redacted]
WILLIAM H. MITCHELL, JR, [redacted]
CHARLES F. MOLER, [redacted]
THEODORE A. MONETTE, JR, [redacted]
JOSEPH P. MONKO, JR, [redacted]
MARIO F. MONTERO, JR, [redacted]
DANIEL L. MONTGOMERY, [redacted]
EDWARD G. MOORE, JR, [redacted]
RAYMOND M. MOOT, [redacted]
ANTHONY A. MORENO, [redacted]
GARY E. MORGAN, [redacted]
TIMOTHY X. MORGAN, [redacted]
JOHN W. MORRIS, [redacted]
WAYNE H. MORRIS, [redacted]
JAMES L. MOWERY, [redacted]
RICHARD L. MULLIS, JR, [redacted]
THOMAS V. MULRINE, [redacted]
WILLIAM L. MULVEY, [redacted]
ROGER L. MUMBY, [redacted]
WAYNE K. MURPHY, [redacted]
JOHN C. MUTARELLI, [redacted]
ROBERT L. NABORS, [redacted]
KENNETH S. NADRAH, [redacted]
CHARLES W. NARBURGH, [redacted]
MICHAEL M. NEER, [redacted]
MICHAEL J. NEUMAN, [redacted]
GEORGE E. NEWMAN, III, [redacted]
DEAN H. NICHOLS, [redacted]
ROY L. NICHOLSON, [redacted]
JACK P. NIX, JR, [redacted]
JOHN W. NORRIS, [redacted]
FRANK NORTON, JR, [redacted]
PHARES E. NOYES, [redacted]

JOSEPH E. ODER, [redacted]
RAYMOND W. OKEEFE, [redacted]
BOWMAN M. OLDS, [redacted]
STEPHEN A. OLIVA, [redacted]
JAMES P. ONEAL, [redacted]
JOHN B. ONEILL, JR, [redacted]
IRA R. ORR, [redacted]
JOHN M. OSETH, [redacted]
CHARLES J. OSTERMAN, [redacted]
ALAN R. PACZKOWSKI, [redacted]
STEPHENSON W. PAGE, [redacted]
LEWIS A. PALUMBO, [redacted]
RICHARD O. PARHAM, [redacted]
FRED C. PARKER, IV, [redacted]
WILLIAM J. PARKER, JR, [redacted]
JERRY C. PATE, [redacted]
IAN T. PATTERSON, JR, [redacted]
ROBERT T. PAVLAK, [redacted]
DAVID L. PEEBLES, [redacted]
PALMER J. PENNY, III, [redacted]
WILLIAM B. PENZEL, [redacted]
ANDREW M. PERKINS, JR, [redacted]
WILLIAM E. PETERSON, [redacted]
DANIEL J. PETROSKY, [redacted]
RICHARD A. PEYTON, [redacted]
JOSEPH O. PFLANZ, JR, [redacted]
RICHARD A. PHALAN, [redacted]
JERRY F. PICKAR, [redacted]
MONTE L. PICKENS, [redacted]
JOHN W. PIERCE, JR, [redacted]
FRANCIS M. PITARO, [redacted]
CHARLES D. POCHE, [redacted]
DANNY S. PORTER, [redacted]
RAY E. PORTER, III, [redacted]
CHARLES D. POSTA, [redacted]
JACK H. PRYOR, [redacted]
STEPHEN J. PRYPLESH, [redacted]
STEPHEN R. PULLEN, [redacted]
JAMES G. PULLEY, [redacted]
JAMES M. PULLIAM, [redacted]
THOMAS C. PURCELL, [redacted]
THEODORE J. PURDOM, [redacted]
JOHN W. QUERFELD, [redacted]
JAMES E. QUINLAN, [redacted]
RICHARD L. QUINN, [redacted]
GEORGE T. RAACH, [redacted]
THOMAS E. RAMICK, [redacted]
CHARLES M. RANKIN, [redacted]
JOHNNIE O. RANKIN, [redacted]
JAMES G. RAYMOND, JR, [redacted]
RICHARD J. RAYMONT, [redacted]
RALPH G. REECE, [redacted]
HENLY E. REED, JR, [redacted]
HERBERT W. REICHERT, JR, [redacted]
THOMAS M. REISE, [redacted]
JOHN B. REISZ, [redacted]
GREGORY A. RENN, [redacted]
JOHN C. REPPERT, [redacted]
RICHARD T. RHOADES, [redacted]
DANNY L. RHODES, [redacted]
DAVID L. RICHEY, [redacted]
SANDRA L. RICHTER, [redacted]
RANDALL L. RIGBY, JR, [redacted]
JOHNNY M. RIGGS, [redacted]
JAMES C. RILEY, [redacted]
RALPH R. RIPLEY, [redacted]
JAMES R. RISER, [redacted]
WHARTON B. RIVERS, JR, [redacted]
JAMES S. ROACH, JR, [redacted]
JAN R. ROBERTS, [redacted]
THEODORE L. ROBERTS, II, [redacted]
WILLIAM J. ROBERTS, [redacted]
CECIL ROBINSON, JR, [redacted]
RICHARD W. ROCK, JR, [redacted]
ROBERT D. RODGERS, [redacted]
JEFFREY C. ROGERS, [redacted]
JUDSON F. ROGERS, [redacted]
RONALD F. ROKOSZ, [redacted]
EVERETTE L. ROPER, JR, [redacted]
HARRY E. ROTHMANN, JR, [redacted]
RICHARD N. ROY, [redacted]
JO B. RUSIN, [redacted]
JOHNNY D. RUSIN, [redacted]
LEONARD RUSS, [redacted]
JAMES R. RUSSELL, [redacted]
JAY S. RUSSELL, [redacted]
WILLIAM T. RUSSELL, JR, [redacted]
JOHN E. RYAN, JR, [redacted]
MICHAEL E. RYAN, [redacted]
JOHN J. RYNESKA, [redacted]
NED W. SALTER, [redacted]
DAVID P. SALVADORINI, [redacted]
ROBERT D. SANDER, [redacted]
TRANNIE W. SANDERSON, [redacted]
ROBERT B. SAUVE, [redacted]
JOHN B. SCARFO, JR, [redacted]
HEINZ A. SCHIEMANN, [redacted]
HAROLD W. SCHMID, JR, [redacted]
CHARLES G. SCHNAPP, [redacted]
JOHN SCHNEEBERGER, JR, [redacted]
PETER J. SCHOOMAKER, [redacted]
CARL A. SCHOTT, [redacted]
JEFFERY L. SCHWANDER, [redacted]
GEORGE B. SEARS, JR, [redacted]
RICHARD M. SEITZ, [redacted]
ROBERT N. SELTZER, [redacted]
EUGENE P. SEMMENS, [redacted]
RICHARD SEMON, [redacted]
THEODORE R. SEVERN, [redacted]
THOMAS K. SEWELL, [redacted]
JOHN A. SEYMOUR, JR, [redacted]
JAMES E. SHANE, JR, [redacted]
MICHAEL J. SHANE, [redacted]
DANIEL J. SHANNON, [redacted]
DAVID E. SHAVER, [redacted]
JOHN F. SHEEHAN, [redacted]
THOMAS J. SHEEHY, [redacted]
MICHAEL B. SHERFIELD, [redacted]
PETER S. SHOCKLEY, [redacted]
JAMES R. SIKET, [redacted]
CRAIG V. SILCOX, [redacted]
EARL M. SIMMS, [redacted]
JOHN E. SIMS, [redacted]
JERRY L. SINN, [redacted]
KEITH L. SKIDMORE, [redacted]
WILLIAM N. SLOANE, [redacted]
ALAN C. SMITH, [redacted]
GALE N. SMITH, [redacted]
JAMES B. SMITH, [redacted]
LEE G. SMITH, [redacted]
LOWELL J. SMITH, [redacted]
THURMAN R. SMITH, [redacted]
WILLIAM C. SMITH, [redacted]
ZANNIE O. SMITH, [redacted]
JAMES G. SNODGRASS, [redacted]
JAMES L. SOLOMON, [redacted]
RANCE D. SOPKO, [redacted]
ALEXANDER P. SOWA, JR, [redacted]
PETER T. SOWA, JR, [redacted]
JOSEPH P. SPIELBAUER, [redacted]
ROGER J. STALLINGS, [redacted]
PETER STANKOVICH, [redacted]
COURTNEY B. STARBIRD, [redacted]
LESTER C. STEARNS, JR, [redacted]
VICTOR J. STEMBERGER, [redacted]
JOHN N. STEWART, [redacted]
VIRGIL W. STONE, [redacted]
JOHN J. STRANGE, [redacted]
PREAS L. STREET, [redacted]
JULIAN A. SULLIVAN, JR, [redacted]
GEORGE L. SUMRALL, JR, [redacted]
DARRELL J. SUPAK, [redacted]
CARL C. SUTHERLAND, [redacted]
GARY W. SUTHERLAND, [redacted]
JOSEPH W. SUTTON, [redacted]
JAMES E. SWOFFORD, II, [redacted]
JOHN B. SYLVESTER, [redacted]
BURT S. TACKABERRY, [redacted]
KIEF S. TACKABERRY, [redacted]
WILLIAM P. TANGNEY, [redacted]
JAMES A. TANKOVICH, [redacted]
DAVID W. TAYLOR, [redacted]
JOHN M. TAYLOR, [redacted]
ROBERT H. TAYLOR, [redacted]
KENNETH W. TEASDALE, [redacted]
TREATIFELOM S. TEELE, [redacted]
STEPHEN L. THACHER, [redacted]
ARTHUR E. THEOBALD, JR, [redacted]
JOHN D. THOMAS, JR, [redacted]
LEE THOMPSON, [redacted]
SAMUEL S. THOMPSON, III, [redacted]
CHARLES R. THORNTON, [redacted]
JERRY W. THURMAN, [redacted]
MICHAEL F. THUSS, [redacted]
WALTER P. TIBBETTS, [redacted]
JOHN B. TIER, III, [redacted]
EARL L. TINGLE, JR, [redacted]
TYRON E. TISDALE, JR, [redacted]
RICHARD A. TODD, [redacted]
MEREDITH T. TOMLINSON, [redacted]
LAMAR TOOKE, [redacted]
RONALD E. TOWNSEND, [redacted]
PAUL TREOLO, JR, [redacted]
JOSEPH W. TREZ, [redacted]
JESSE J. TROTTER, JR, [redacted]
RALPH R. TUCCILLO, [redacted]
GARY C. TUCKER, [redacted]
WALTER S. TULLOCH, II, [redacted]
LARRY TURNAGE, [redacted]
BEAUFORD W. TUTON, III, [redacted]
DAVID L. TYE, [redacted]
GARY L. ULIANO, [redacted]
ERNEST W. UNDERWOOD, [redacted]
GEORGE J. VAKALIS, [redacted]
FRANK J. VALENTINE, JR, [redacted]
JAMES R. VANEPPS, [redacted]
JOHN E. VANNEST, JR, [redacted]
FRANCIS W. VARIN, [redacted]
ROBERT C. VASILE, [redacted]
WILLIAM R. VINCENT, JR, [redacted]
ALAN G. VITTERS [redacted]
GREGORY K. WADE, [redacted]
BRYCE H. WAGNER, [redacted]
PAUL R. WALKER, [redacted]
RICHARD R. WALKER, [redacted]
SAMUEL P. WALKER, [redacted]
WALLACE E. WALKER, [redacted]
JOHN R. WALSH, [redacted]
DOUGLAS D. WALTERHOUSE, [redacted]
MICHAEL L. WARNER, [redacted]
BRIAN C. WARREN, [redacted]
STUART H. WATKINS, [redacted]
STANLEY J. WEATHERS, [redacted]
BENNY E. WEDDING, [redacted]
TERRY M. WEEKLY, [redacted]
ROBERT M. WEIMER, [redacted]
JAMES D. WEISKOPF, [redacted]
DENNIS E. WELCH, [redacted]
DAVID R. WELLS, JR, [redacted]
GEOFFREY F. WELLS, [redacted]
PETER D. WELLS, [redacted]
STEPHEN D. WESBROOK, [redacted]
EMETT R. WHITE, IV, [redacted]
RICHARD H. WHITE, [redacted]
ROBERT C. WHITNEY, JR, [redacted]
JOHN T. WILDENBERG, [redacted]
CHARLES F. WILLIAMS, JR, [redacted]
CLINTON L. WILLIAMS, [redacted]
RICHARD A. WILLIAMS, [redacted]
EUGENE E. WILSON, JR, [redacted]
KENNETH E. WILSON, [redacted]
STEPHEN A. WINSOR, [redacted]
KAY B. WITT [redacted]
JAMES A. WITTER [redacted]
CHARLES A. WOKUTCH, [redacted]
JACK G. WOLF, [redacted]
CHARLES W. WOOD, [redacted]
GAIL W. WOOD, [redacted]
JOHN I. WOOD, III, [redacted]
LESS P. WRIGHT, [redacted]
MICHAEL L. WRIGHT, [redacted]
RICHARD K. WRIGHT, [redacted]
THOMAS J. WRIGHT, [redacted]
RICHARD Y. YAMAMOTO, [redacted]
WILLIAM N. YERKES, [redacted]
MICHAEL L. YOCOM, [redacted]
JOSEPH O. YORK, [redacted]
ANNA M. YOUNG, [redacted]
NATHANIEL L. YOUNG, JR, [redacted]
CHARLES E. ZAKSZESKI, [redacted]

HOUSE OF REPRESENTATIVES—*Monday, October 3, 1988*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we view our lives with their successes and failures, we know the circumstances in us and about us that contribute to the highs and lows of life. Remind us, O God, that at the great moments of life, those points of crisis or difficulty, of high joy or celebration, Your presence and power are available to correct us when we are wrong and to bless us when we are right. In Your name, we pray, Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Would the gentleman from California [Mr. BATES] come forward and lead the House in the Pledge of Allegiance.

Mr. BATES led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2266. An act to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for fiscal years 1988 and 1989, and for other purposes;

H.R. 2267. An act to establish procedures for review of tribal constitutions and bylaws or amendments thereto pursuant to the Act of June 18, 1934 (48 Stat. 987);

H.R. 4102. An act to provide for the settlement of the water rights claims of the Salt River Pima-Maricopa Indian Community in Maricopa County, AZ, and for other purposes; and

H.R. 4919. An act to approve the governing international fishery agreement between the United States and the Union of Soviet Socialist Republics, and for other purposes.

The message also announced that the Senate has passed bills, joint resolutions, and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 136. An act to improve the health status of Native Hawaiians, and for other purposes;

S. 2204. An act to implement the Inter-American Convention on International Commercial Arbitration;

S. 2723. An act to partition certain reservation lands between the Hoopa Valley Tribe and the Yurok Indians, to clarify the use of tribal timber proceeds, and for other purposes;

S.J. Res. 378. Joint resolution designating the week of October 2 through 8, 1988, as "National Wild and Scenic Rivers Act Week";

S.J. Res. 379. Joint resolution to establish as the policy of the United States the preservation, protection, and promotion of the rights of indigenous Americans to use, practice and develop Native American languages, and for other purposes;

S. Con. Res. 140. Concurrent resolution calling for the restoration of democracy in Panama and pledging economic assistance; and

S. Con. Res. 149. Concurrent resolution expressing the sense of the Congress regarding the restoration of democracy to Haiti and on conditions for the resumption of United States assistance to that country.

CONSENT CALENDAR

The SPEAKER. This is the day for the call of the Consent Calendar.

The Clerk will call the first eligible bill on the Consent Calendar.

C. CLIFTON YOUNG FEDERAL BUILDING

The Clerk called the Senate bill (S. 1827) to designate the Federal building located at 330 Booth Street in Reno, NV, as the "C. Clifton Young Federal Building."

There being no objection, the Clerk read the Senate bill, as follows:

S. 1827

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The Federal Building located at 330 Booth Street in Reno, Nevada, shall hereafter be known and designated as the "C. Clifton Young Federal Building".

SEC. 2. LEGAL REFERENCES TO BUILDING.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "C. Clifton Young Federal Building".

With the following committee amendment in the nature of a substitute.

Strike out all after the enacting clause and insert:

SECTION 2. DESIGNATION.

The Federal building and United States courthouse located at 330 Booth Street in Reno, Nevada, shall be known and designated as the "C. Clifton Young Federal Building and United States Courthouse".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "C. Clifton Young Federal Building and United States Courthouse".

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to designate the Federal building and United States courthouse located at 300 Booth Street in Reno, NV, as the 'C. Clifton Young Federal Building and United States Courthouse' ".

A motion to reconsider was laid on the table.

AUTHORIZING USE OF DEPOSITIONS IN CONNECTION WITH AN IMPEACHMENT INQUIRY OF THE COMMITTEE ON THE JUDICIARY

Mr. EDWARDS of California. Mr. Speaker, I offer a privileged resolution (H. Res. 562) authorizing the use of depositions in connection with an impeachment inquiry of the Committee on the Judiciary, and ask for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 562

Resolved, That the Committee on the Judiciary or its Subcommittee on Civil and Constitutional Rights, in connection with the inquiry into the conduct of United States District Judge Walter L. Nixon, Jr., may authorize the taking of affidavits and of depositions by counsel to such committee pursuant to notice or subpoena.

The SPEAKER. The gentleman from California [Mr. EDWARDS] is recognized for 1 hour.

Mr. EDWARDS of California. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER], pending which I yield myself such time as I may consume.

Mr. Speaker, the Committee on the Judiciary is conducting an inquiry to determine whether U.S. District Judge Walter L. Nixon, Jr., has engaged in conduct which would warrant im-

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

peachment. The judicial conference of the United States transmitted this matter to the Speaker of the House of Representatives on March 15, 1988, certifying that consideration of the impeachment of Judge Nixon may be warranted. The matter has been referred to the Subcommittee on Civil and Constitutional Rights, which I chair. The subcommittee is actively investigating whether Judge Nixon should remain on the bench, and the investigation has not yet been completed.

The subcommittee's inquiry into the conduct of Judge Nixon includes interviewing witnesses who may have information relevant to the investigation. Certain witnesses have indicated an unwillingness to respond to questioning unless they are subpoenaed. A number of these witnesses are located far from the District of Columbia and it is uncertain whether their testimony will be pertinent because of the exploratory nature of the questioning. It is desirable that these witnesses be questioned without the formality of subcommittee hearing.

On September 27, 1988, the Committee on the Judiciary unanimously reported favorably on the resolution now before the House. An identical resolution was passed by the House less than 1 year ago in connection with the impeachment inquiry involving Judge Alcee L. Hastings, and was of value to the committee in the Hastings investigation.

For these reasons, I urge you to support the resolution.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I concur in the remarks made by the gentleman from California [Mr. EDWARDS] as to the necessity of this resolution.

The Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary has had an ongoing investigation into whether Walter L. Nixon, Jr., chief judge of the U.S. District Court of the Southern District of Mississippi, should be impeached. That investigation is not yet complete, and it is important that the committee and the subcommittee be granted the authority that is proposed in this resolution to continue the investigation with the least possible cost to the Congress, and that can be done, rather than sending the subcommittee to the places to have a formal hearing of the witnesses, simply by authorizing our counsel to conduct depositions and to take affidavits of these witnesses. This is cost-effective. It will allow the subcommittee to more expeditiously complete its investigation on whether Judge Nixon should be impeached, and I am hopeful that the subcommittee will have a report early in the next Congress either recommending that Judge Nixon be impeached or recommending that his actions do not warrant impeachment.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. EDWARDS of California. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to clause 5 of rule I, further proceedings on this question will be postponed until later today following the Suspension Calendar. The Chair will have an announcement with respect to bills on suspension.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XVI.

The first 10 such rollcall votes, if postponed, will be taken after debate has been concluded on all motions to suspend the rules today.

The remaining votes will be taken tomorrow or Wednesday pursuant to the Chair's subsequent announcement under clause 5, rule I.

SALUTE TO SEYMOUR KNOX

(Mr. HOUGHTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOUGHTON. Mr. Speaker, here in Washington, we are exposed daily to issues of national concern, sometimes international concern, with orators holding forth on their own particular slant and philosophy. The longer I am here the more I realize that the good and the decent and the right things that happen in this country happen usually back home by special lifegivers who do not say much and do not toot their own horns, but somehow "make a difference", which I suppose is something which we all aspire to.

One such special lifegiver, one silent citizen, is Seymour Knox, age, 90; home, Buffalo. This extraordinary man, in his own way, has done more to enhance the Nation's sense of beauty and design and, frankly, the general uplifting of our standards than anyone I know. Great citizen, wonderful father, extraordinary athlete, deep believer in his hometown of Buffalo, Mr. Knox, on your 90th birthday, we salute you.

SUPPORT CONCURRENT RESOLUTION CONCERNING CHEMICAL WEAPONS

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, Senator DIXON and I introduce legislation which makes a statement from the U.S. Congress to the international community. The concurrent resolution we are introducing attacks what we see as an imminent threat to international trust and to the security of mankind throughout the world. To what do I refer? I am talking about chemical weapons.

Recent events have reminded us of the horrendous repercussions to the use of these hellish poisons. The ban on chemical weapons by the Geneva protocol of 1925, and the convention of 1949, give testimony to the nightmares witnessed by their use during World War I, a perverse use of weapons which over 110 nations have signed a treaty vowing not to repeat. Silent, deadly, and indiscriminate, chemical weapons attack civilians and other noncombatants with a ferocity, leaving them scarred and wounded, bleeding and blistered. It is clear that the use of chemical weapons violates recognized international law. More importantly, such use rebukes our understanding of human rights in general, and thus of more basic, and more important laws of mankind.

In his recent speech to the United Nations, the President emphasized his intentions to draw together a world conference to establish an effective means of achieving a world ban on the use of chemical weapons.

The concurrent resolution which Senator DIXON and I introduce intends to establish a unilateral enforcement clause for deterring the use of chemical weapons. Thus, the Congress can both support, and extend further, the diplomatic resolves which will take place amongst many nations.

As a world leader, the United States must stand in contempt of the offense against nations which the use of chemical weapons represents, must stand strong in confronting a threat which dares to drag us all down to the level of fighting the unknown enemy. There are no great powers in the face of the use of chemical weapons; there are no big guns; there are only the vulnerable faces of people.

Let Congress stand forward in their defense.

OUR COUNTRY HAS ITS OWN HORROR: AIDS

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I want to underscore the remarks of the last speaker, my colleague, on the horror of poison gas.

The world was stunned when the first pictures came out of a small city in the northeast corner of Iraq called Halabja; 5,000 people probably had been killed there because of poison gas.

But we have a horror occurring in our own country with an enormous death toll already, and it is the public-health plague of AIDS.

☐ 1215

If we adjourn this week, Mr. Speaker, and we all hope we do, when we next convene in January, 5,000 more people will be dead of AIDS. And that is a low figure. That will bring the death toll to 47,000, equal to the combat deaths in Vietnam over a 9-year period.

The problem is, deaths from ARC, AIDS-related complex, are not counted; deaths from direct attack upon the nervous system and the brain, by the HI virus are not counted. The doctors at the World Health Organization, CDC, and National Institutes of Health tell us that we probably will never have a cure. Probably the best we can do is medication to control the disease, much as we control diabetes with insulin. As if that weren't enough, Mr. Speaker, this House just passed a cowardly AIDs bill which contained no reporting requirements, no contact tracing, and no spousal notification. This is truly a nightmare, and this Congress has contributed to it.

NO NEED TO ASSIST THE COMMUNIST SANDINISTAS

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, on September 20, Speaker of the House JIM WRIGHT made headlines with attributed reports stating;

> We have received clear testimony from CIA people that they have deliberately done things to provoke an overreaction on the part of the government of Nicaragua.

Soon following the comment of the Speaker of the House, the Marxist Government of Nicaragua conveniently excused themselves from observing basic human rights and issued orders to stifle public demonstrations on the grounds that they were certainly inspired by the CIA.

After squelching one recent demonstration, Alberto Saborio, president of the Nicaraguan Bar Association, reacted by saying;

> To accuse the 6,000 to 7,000 people that were protesting on the streets, risking their lives to defend their liberty and fundamental rights, of being members of the CIA is the best service that JIM WRIGHT can give to Moscow, the Sandinista cause and the cause of international communism.

Mr. Speaker, America deserves and expects more from a Speaker of the House than abetting Communists and providing our adversaries political fodder whereby they can continue to oppress their own people. America, at the very least, deserves a Speaker of the House who can distinguish between the good guys and the bad.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
October 3, 1988.

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received at 12:15 a.m. on Saturday, October 1, 1988 the following message from the Secretary of Senate: That the Senate agreed to the conference report on H.R. 4587; agreed to the conference report and agreed to the House amendments to the Senate Amendments numbered 3, 12, 15, 19, 21, 22, 24, 26, and 29 to H.R. 4776; and that the Senate receded from its amendments to House amendments to Senate amendments numbered 176 and 182 to H.R. 4637.

With great respect, I am,
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bills on Saturday, October 1, 1988:

H.R. 4587. An act making appropriations for the legislative branch for the fiscal year ending September 30, 1989, and for other purposes;

H.R. 4637. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes;

H.R. 4776. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1989, and for other purposes; and

H.R. 4781. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes.

VETERANS' JUDICIAL REVIEW ACT

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5288) to amend title 38, United States Code, to provide an improved system of review of decisions of the Veterans' Administration with respect to claims for veterans' benefits, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5288

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Judicial Review Act".

SEC. 2. DECISIONS BY ADMINISTRATOR.

Section 211 of title 38, United States Code, is amended to read as follows:

"§ 211. Decisions by Administrator; opinions of Attorney General

"(a)(1) The Administrator shall decide all questions of law and fact necessary to a decision under a law affecting the provision of benefits to veterans and the dependents and survivors of veterans. Except as provided in paragraph (2) of this subsection, the decisions of the Administrator as to any such question shall be final and conclusive and may not be reviewed by any other official or by any court, whether by an action in the nature of mandamus or otherwise.

"(2) The second sentence of paragraph (1) of this subsection shall not apply to—

"(A) matters subject to section 223 of this title;

"(B) matters covered by sections 775 and 784 of this title;

"(C) matters arising under chapter 37 of this title; and

"(D) matters covered by chapter 71 of this title.

"(b) When requested by the Administrator, the Attorney General shall provide to the Administrator advice or the opinion of the Attorney General with regard to any question of law arising under the Constitution or under any law other than a law providing benefits for veterans and the survivors and dependents of veterans.".

SEC. 3. VETERANS' ADMINISTRATION RULEMAKING.

(b) APA PROCEDURES.—(1) Chapter 3 of title 38, United States Code, is amended by inserting after section 222 the following new section:

"§ 223. Rulemaking: procedures and judicial review

"(a) In applying section 552(a)(1) of title 5 to the Veterans' Administration, the Administrator shall take care to ensure that subparagraphs (C) and (D) of that section are complied with, particularly with respect to opinions and interpretations of the General Counsel.

"(b) The provisions of section 553 of title 5 (other than subsection (a)(2) of that section) shall apply, according to the provisions of that section, to any matter relating to loans, grants, or benefits under the jurisdiction of the Administrator.

"(c) An action of the Administrator to which section 552(a)(1) or 553 of title 5 (or both) refers (other than an action relating to the adoption or revision of the schedule of ratings for disabilities under section 355 of this title) is subject to judicial review. Such review shall be in accordance with chapter 7 of title 5, except that—

"(1) such review may be sought only in the Court of Appeals for the Federal Circuit; and

"(2) if such review is sought in connection with an appeal brought under the provisions of chapter 71 of this title, the provisions of that chapter shall apply rather than the provisions of chapter 7 of title 5.".

(2) The table of sections at the beginning of such chapter is amended—

(A) by striking out the item relating to section 211 and inserting in lieu thereof the following:

"211. Decisions by Administrator: opinion of Attorney General."; and.

(B) by inserting after the item relating to section 222 the following new item:

"223. Rulemaking: procedures and judicial review.".

SEC. 4. ATTORNEY FEES.

(a) REVISION OF ATTORNEY FEE LIMITATION.—Section 3404(c) of title 38, United States Code, is amended to read as follows:

"(c)(1) In connection with a case relating to benefits under laws administered by the Veterans' Administration, no fee may be charged, allowed, or paid for services of agents and attorneys with respect to proceedings occurring or services provided prior to the time the Administrator issues a statement of the case under section 4015 of this title with respect to the case in question.

"(2) A person who acting as agent or attorney represents a person before the Veterans' Administration with respect to any proceeding on matters occurring after the Administrator issues a statement of the case shall file a copy of any fee agreement between them with the Veterans' Administration at such time as may be specified by the Administrator. The Administrator may review such a fee arrangement and may order a reduction in the fee called for in the agreement if the Administrator finds that the fee is excessive or unreasonable. An order under this paragraph may be reviewed by the Court of Veterans Appeals.".

(b) VIOLATION TO BE A MISDEMEANOR.—Section 3405 of such title is amended by striking out "shall be fined not more than $500 or imprisoned at hard labor for not more than two years, or both" and inserting in lieu thereof "shall be fined as provided in title 18 or imprisoned for not more than one year, or both".

SEC. 5. COURT OF VETERANS APPEALS.

(a) ESTABLISHMENT OF COURT.—Chapter 71 of title 38, United States Code, is amended to read as follows:

"CHAPTER 71—COURT OF VETERANS APPEALS

"SUBCHAPTER I—ORGANIZATION AND JURISDICTION

"Sec.
"4001. Status.
"4002. Jurisdiction; finality of decisions.
"4003. Composition.
"4004. Organization.
"4005. Offices.
"4006. Times and places of sessions.

"SUBCHAPTER II—PROCEDURE

"4011. Fee for filing petition.
"4012. Representation of parties; fee agreements.
"4013. Rules of practice, procedure, and evidence.
"4014. Administration of oaths and procurement of testimony.
"4015. Filing of notice of disagreement and appeal.
"4016. Witness fees.
"4017. Hearings.
"4018. Decisions.
"4019. Availability of proceedings.
"4020. Publication of reports.

"SUBCHAPTER III—MISCELLANEOUS PROVISIONS

"4031. Employees.
"4032. Expenditures.
"4033. Disposition of fees.
"4034. Fee for transcript of record.
"4035. Practice fee.

"SUBCHAPTER IV—DECISIONS AND REVIEW

"4041. Date when Court of Veterans Appeals decision becomes final.
"4042. Review by Court of Appeals for the Federal Circuit.

"SUBCHAPTER I—ORGANIZATION AND JURISDICTION

"§ 4001. Status

"There is hereby established, under article I of the Constitution, a court of record to be known as the United States Court of Veterans Appeals.

"§ 4002. Jurisdiction; finality of decisions

"The Court of Veterans Appeals shall have exclusive jurisdiction to consider all questions involving benefits under laws administered by the Veterans' Administration. Decisions by the Court are subject to review as provided in section 4042 of this title. A determination by the Court of Veterans Appeals as to a factual matter may not be reviewed in any other court. The Court may not review the schedule of ratings for disabilities under section 355 of this title or any action of the Administrator in adopting or revising that schedule.

"§ 4003. Composition

"(a) The Court of Veterans Appeals shall be composed of a chief judge, two deputy chief judges, and not more than 62 associate judges.

"(b) The judges of the Court of Veterans Appeals shall be appointed by the President, by and with the advice and consent of the Senate, solely on the grounds of fitness to perform the duties of the office. A person may not be appointed to the Court who is not a member of the bar of a Federal court or of the highest court of a State.

"(c) The term of office of the chief judge and of the two deputy chief judges of the Court shall be 15 years. The term of office of an associate judge of the Court shall be 10 years.

"(d) The chief judge is the head of the Court. The deputy chief judges shall perform such functions as the chief judge directs.

"(e)(1) The chief judge and the two deputy chief judges shall each receive a salary at the same rate as is in effect for judges of the district courts of the United States.

"(2) The associate judges of the court shall each receive a salary at a rate not to exceed the rate of basic pay in effect for positions at Level IV of the Executive Schedule.

"(f)(1) A judge of the Court of Veterans Appeals may be removed from office by the President on grounds of misconduct, neglect of duty, engaging in the practice of law, or physical or mental disability which, in the opinion of the President, prevents the proper execution of the judge's duties. A judge of the Court may not be removed from office by the President on any other grounds.

"(2) Before a judge may be removed from office under this subsection, the judge shall be provided with a full specification of the reasons for the removal and an opportunity to be heard.

"(3) A judge of the Court who is removed from office under this subsection (other than for physical disability) shall not be permitted to practice before the Court.

"§ 4004. Organization

"(a) The Court of Veterans Appeals shall have a seal which shall be judicially noticed.

"(b) The Court may hear cases by judges sitting alone or in panels, as designated by the chief judge. Any such panel shall have not less than three judges. The chief judge shall assign the judges of the Court to such panels and shall designate the chief of each such panel.

"(c)(1) A majority of the judges of the Court shall constitute a quorum for the transaction of the business of the Court. A vacancy in the Court shall not impair the powers or affect the duties of the Court or of the remaining judges of the Court.

"(2) A majority of the judges of a panel of the Court shall constitute a quorum for the transaction of the business of the panel. A vacancy in a panel of the Court shall not impair the powers or affect the duties of the panel or of the remaining judges of the panel.

"§ 4005. Offices

"The principal office of the Court of Veterans Appeals shall be in the District of Columbia, but the Court and any panel of the Court may sit at any place within the United States.

"§ 4006. Times and places of sessions

"The times and places of sessions of the Court of Veterans Appeals shall be prescribed by the chief judge. Those times and places shall be prescribed with a view to securing reasonable opportunity to petitioners to appear before the Court with as little inconvenience and expense to petitioners as practicable.

"SUBCHAPTER II—PROCEDURE

"§ 4011. Fee for filing petition

"The Court of Veterans Appeals may impose a fee for the filing of any petition with the court. The amount of any such fee may not exceed $50. The court shall establish procedures under which such a fee may be waived in the case of a person who demonstrates that the requirement that such fee be paid will impose a hardship. A decision as to such a waiver is final and may not be not reviewed in any other court.

"§ 4012. Representation of parties; fee agreements

"(a) The Administrator shall be represented before the Court of Veterans Appeals by the General Counsel of the Veterans' Administration. A petitioner shall be represented in accordance with the rules of practice prescribed by the Court. A qualified person may not be denied admission to practice before the Court by reason of failure to be a member of any profession or calling.

"(b) A person who represents a petitioner before the Court shall file a copy of any fee agreement between the petitioner and that person with the Court at the time the petition is filed. The Court may review such a fee arrangement and may order a reduction in the fee called for in the agreement if it finds that the fee is excessive or unreasonable. An order under this subsection is final and may not be reviewed in any other court.

"§ 4013. Rules of practice, procedure, and evidence

"(a) The proceedings of the Court of Veterans Appeals shall be conducted in accordance with such rules of practice, procedure, and evidence as the Court prescribes.

"(b) The mailing of a pleading, decision, order, notice, or process in respect of proceedings before the Court shall be held sufficient service of such pleading, decision, order, notice, or process if it is properly addressed to the address furnished by the petitioner on the notice of appeal and it is mailed by certified or registered mail.

"§ 4014. Administration of oaths and procurement of testimony

"(a) Oaths may be administered by a judge of the Court of Veterans Appeals, the clerk of the Court and any deputy clerk of the Court, and any other employee of the Court designated in writing for such purpose by the chief judge.

"(b)(1) A judge of the Court and any employee of the Court designated for such purpose under section 4017(b) of this title may examine witnesses.

"(2) A judge of the Court may require by subpoena—

"(A) the attendance and testimony of witnesses, and the production of all necessary books, papers, documents, correspondence, and other evidence, from any place in the United States at any designated place of hearing, and

"(B) the taking of a deposition before any designated individual competent to administer oaths under this chapter.

"(3) In the case of a deposition, the testimony shall be reduced to writing by the individual taking the deposition or under that individual's direction and shall then be subscribed by the person giving the deposition.

"(4) A subpoena under this subsection shall be ordered by the Court of Veterans Appeals and shall be signed by the chief judge (or the clerk of the Court or any other employee of the Court when acting as deputy clerk).

"(c) The Court shall, upon a showing of good cause, require employees of the Veterans' Administration to testify at a hearing or to give a deposition in a proceeding before the Court.

"(d)(1) The Court shall have power to punish by fine or imprisonment such contempt of its authority as—

"(A) misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;

"(B) misbehavior of any of its officers in their official transactions; or

"(C) disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

"(2) The Court shall have such assistance in the carrying out of its lawful writ, process, order, rule, decree, or command as is available to a court of the United States. The United States marshal for a district in which the Court is sitting shall, if requested by the chief judge of the Court, attend any session of the Court in that district.

"§ 4015. Filing of notice of disagreement and appeal

"(a)(1) A petitioner may initiate review by the Court of Veterans Appeals by filing a notice of disagreement with the activity or office (hereinafter in this chapter referred to as the 'agency of original jurisdiction') which made the determination with which disagreement is expressed. Any such notice must be filed within 180 days of the mailing of the notice of decision. In simultaneously contested claims where one is allowed and one is denied, the time allowed for filing a notice of disagreement shall be 60 days from the date notice of the adverse decision is mailed. In such a case, the agency of original jurisdiction shall notify all interested persons of the shortened time period for filing a notice of disagreement.

"(2) A notice of disagreement shall be in writing and shall be filed by the petitioner.

"(3) If a notice of disagreement is not filed in accordance with this section within the prescribed period, the determination shall become final and the petitioner may not thereafter request reconsideration of the claim except as permitted by this title.

"(b) If a petitioner files a notice of disagreement within the prescribed period with the agency of original jurisdiction, the agency of original jurisdiction shall take such action to develop additional evidence or to review the case as it considers proper. If that action does not resolve the disagreement either by granting the benefit sought or through withdrawal of the notice of disagreement, the agency of original jurisdiction shall promptly issue to the petitioner a formal statement containing the matters specified in subsection (c) of this section and known as a statement of the case.

"(c) A statement of the case under subsection (b) of this section shall include the following:

"(1) A summary of the evidence in the case pertinent to the issue or issues with which disagreement has been expressed.

"(2) A citation to pertinent laws and regulations and a discussion of how such laws and regulations affect the agency's decision.

"(3) The decision on each issue and a summary of the reasons for such decision.

"(d)(1) In order to complete and perfect an appeal to the Court, the petitioner must file a formal appeal with the Court as prescribed by the rules of the Court within 90 days of the mailing of the statement of the case. Such time period may be extended by the Court for good cause shown.

"(2) An appeal shall be in such form as the Court shall by rule prescribe. An appeal shall set out specific allegations of error of fact or law which are related to issues presented by the petitioner's claim. The benefits sought on appeal shall be clearly identified.

"(e)(1) The Court shall base its decision on the entire record. The Court may dismiss an appeal which fails to allege a specific error of fact or law in the determination being appealed.

"(2) If the Court finds that the record sets forth insufficient evidence upon which to base a decision, the Court may remand the petition or take such other steps as it considers appropriate.

"(f) The agency of original jurisdiction and the Court shall adopt appropriate procedures to expedite decisions on simultaneous claims in order to assure a prompt and fair resolution of a disagreement.

"§ 4016. Witness fees

"(a) A witness who is summoned or whose deposition is taken under section 4015 of this title shall receive the same fees and mileage as witnesses in courts of the United States.

"(b) Such fees and mileage and the expenses of taking any such deposition shall be paid as follows:

"(1) In the case of a witness for the Administrator, such payments shall be made by the Administrator out of moneys appropriated for general operating expenses and may be paid in advance.

"(2) In the case of any other witness, such payments shall be made, subject to rules prescribed by the Court of Veterans Appeals, by the party at whose instance the witness appears or the deposition is taken.

"§ 4017. Hearings

"(a) Notice and opportunity to be heard upon a proceeding instituted before the Court of Veterans Appeals shall be given to the petitioner and to the Administrator. A hearing before the Court may be closed to the public upon the determination of the Court. The testimony and the argument at any such hearing shall be stenographically reported.

"(b) The Court may designate employees of the Court to conduct hearings relating to a case and to make recommendations to the Court with respect to the case.

"§ 4018. Decisions

"(a) A decision upon a proceeding before the Court of Veterans Appeals shall be made as quickly as practicable. In a case heard by a panel of the Court, the decision shall be made by a majority vote of the panel in accordance with the rules of the Court. The decision of the judge or panel hearing the case so made shall be the decision of the Court except as provided in subsection (d) of this section.

"(b) The Court shall include in its decision upon a proceeding a statement of its findings of fact and conclusions of law. Subject to such conditions as the Court may by rule provide, the requirements of this subsection are met if findings of fact or conclusions of law are stated orally and recorded in the transcript of the proceedings.

"(c) A judge or panel shall make a determination upon any proceeding before the Court, and any motion in connection therewith, that is assigned to the judge or panel by the chief judge. The judge or panel shall make a report of any such determination which constitutes its final disposition of the proceeding.

"(d) The decision of the judge or panel shall become the decision of the Court at the end of the 30-day period beginning on the date of the report by the judge or panel, unless within that period the chief judge, upon the motion of either party, at the request of the judge or panel, or at the chief judge's own initiative, directs that such decision shall be reviewed by an enlarged panel of the Court. The decision of a judge or panel shall not be a part of the record in any case in which the chief judge directs that such report shall be reviewed by an enlarged panel of the Court.

"(e) The Court shall designate in any such decision those specific records of the Government on which it relied (if any) in making its decision. The Administrator shall preserve records so designated for not less than the period of time designated by the Administrator of the National Archives and Records Administration.

"§ 4019. Availability of proceedings

"(a) Except as provided in subsection (b) of this section, all decisions of the Court of Veterans Appeals and all evidence received by the Court and its panels, including a transcript of the stenographic report of the hearings, shall be public records open to the inspection of the public.

"(b)(1) The Court may make any provision which is necessary to prevent the disclosure of confidential information, including a provision that any such document or information be placed under seal to be opened only as directed by the Court.

"(2) After the decision of the Court in a proceeding becomes final, the Court shall permit the withdrawal by the party entitled thereto of originals of books, documents, and records, and of models, diagrams, and other exhibits, introduced in evidence before the Court or any panel or the Court may, on its own motion, make such other disposition thereof as it considers advisable.

"§ 4020. Publication of reports

"(a) The Chief Judge shall designate in those decisions of the Court of Veterans Appeals which shall have value as a precedent.

"(b) The Court shall provide for the publication of decisions so designated in such form and manner as may be best adapted for public information and use.

"(c) Such authorized publication shall be competent evidence of the reports of the Court of Veterans Appeals therein contained in all courts of the United States and of the several States without any further proof or authentication thereof.

"(d) Such reports shall be subject to sale in the same manner and upon the same terms as other public documents.

"SUBCHAPTER III—MISCELLANEOUS PROVISIONS

"§ 4031. Employees

"(a) The Court of Veterans Appeals may appoint, in accordance with the provisions of title 5 governing appointment in the competitive service, and may fix the basic pay of, in accordance with chapter 51 and subchapter III of chapter 53 of such title, such employees as may be necessary to execute the functions vested in the Court. The Court may classify such positions based upon the classification of comparable positions in the judicial branch.

"(b) The Court may employ physicians and other health professionals to provide it with expert medical advice.

"§ 4032. Expenditures

"The Court of Veterans Appeals may make such expenditures (including expenditures for personal services and rent at the seat of Government and elsewhere, and for law books, books of reference, and periodicals) as may be necessary efficiently to execute the functions vested in the Court. Except as provided in section 4035 of this title, all expenditures of the Court shall be allowed and paid, out of any moneys appropriated for purposes of the Court, upon presentation of itemized vouchers signed by the certifying officer designated by the chief judge.

"§ 4033. Disposition of fees

"Except as provided in section 4035 of this title, all fees received by the Court of Veterans Appeals shall be covered into the Treasury as miscellaneous receipts.

"§ 4034. Fee for transcript of record

"The Court of Veterans Appeals may fix a fee, not in excess of the fee fixed by law to be charged and collected therefor by the clerks of the district courts, for comparing, or for preparing and comparing, a transcript of the record, or for copying any record, entry, or other paper and the comparison and certification thereof.

"§ 4035. Practice fee

"(a) The Court of Veterans Appeals may impose a periodic registration fee on persons admitted to practice before the Court. The frequency and amount of such fee shall be determined by the Court, except that such amount may not exceed $30 per year.

"(b) The fees described in subsection (a) of this section shall be available to the Court for the purpose of employing independent counsel to pursue disciplinary matters.

"SUBCHAPTER IV—DECISIONS AND REVIEW

"§ 4041. Date when Court of Veterans Appeals decision becomes final

"(a) A decision of the Court of Veterans Appeals shall become final—

"(1) upon the expiration of the time allowed for filing a notice of appeal from such decision, if no such notice is duly filed within such time; or

"(2) if such a notice is filed within such time—

"(A) upon the expiration of the time allowed for filing a petition for certiorari, if the decision of the Court of Veterans Appeals is affirmed or the appeal is dismissed by the United States Court of Appeals for the Federal Circuit and no petition for certiorari is duly filed;

"(B) upon the denial of a petition for certiorari, if the decision of the Court of Veterans Appeals is affirmed or the appeal is dismissed by the United States Court of Appeals for the Federal Circuit; or

"(C) upon the expiration of 30 days from the date of issuance of the mandate of the Supreme Court, if that Court directs that the decision of the Court of Veterans Appeals be affirmed or the appeal dismissed.

"(b)(1) If the Supreme Court directs that the decision of the Court of Veterans Appeals be modified or reversed, the decision of the Court of Veterans Appeals rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of 30 days from the time it was rendered, unless within such 30 days either the Administrator or the petitioner has instituted proceedings to have such decision corrected to accord with the mandate, in which event the decision of the Court of Veterans Appeals shall become final when so corrected.

"(2) If the decision of the Court of Veterans Appeals is modified or reversed by the United States Court of Appeals for the Federal Circuit and if—

"(A) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

"(B) the petition for certiorari has been denied, or

"(C) the decision of the United States Court of Appeals for the Federal Circuit has been affirmed by the Supreme Court,

then the decision of the Court of Veterans Appeals rendered in accordance with the mandate of the United States Court of Appeals for the Federal Circuit shall become final on the expiration of 30 days from the time such decision of the Court of Veterans Appeals was rendered, unless within such 30 days either the Administrator or the petitioner has instituted proceedings to have such decision corrected so that it will accord with the mandate, in which event the decision of the Court of Veterans Appeals shall become final when so corrected.

"(c) If the Supreme Court orders a rehearing, or if the case is remanded by the United States Court of Appeals for the Federal Circuit to the Court of Veterans Appeals for a rehearing, and if—

"(1) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

"(2) the petition for certiorari has been denied, or

"(3) the decision of the United States Court of Appeals for the Federal Circuit has been affirmed by the Supreme Court,

then the decision of the Court of Veterans Appeals rendered upon such rehearing shall become final in the same manner as though no prior decision of the Court of Veterans Appeals had been rendered.

"(d) As used in this section, the term 'mandate', in case a mandate has been recalled before the expiration of 30 days from the date of issuance thereof, means the final mandate.

"§ 4042. Review by Court of Appeals for the Federal Circuit

"(a)(1)(A) After a decision of the Court of Veterans Appeals is entered in a case, any party to the case may obtain a review of the decision with respect to the validity of any statute or regulation (other than the schedule of ratings for disabilities under section 355 of this title) or any interpretation thereof (other than a determination as to a factual matter) that was relied on by the Court in making the decision. Such a review shall be obtained by filing a notice of appeal within such time after the notice of such decision is mailed to the petitioner as may be prescribed by the Supreme Court under section 2072 of title 28.

"(B) The United States Courts of Appeals for the Federal Circuit shall have exclusive jurisdiction to review and decide any challenge to the validity of any statute or regulation or any interpretation thereof brought under this section, and to interpret constitutional and statutory provisions, to the extent presented and necessary to a decision. The judgment of such court shall be final subject to review by the Supreme Court upon certiorari, in the manner provided in section 1254 of title 28.

"(2)(A) When a judge or panel of the Court of Veterans Appeals determines that a controlling question of law is involved with respect to which there is a substantial ground for difference of opinion and that there is in fact a disagreement between the petitioner and the Veterans' Administration with respect to that question of law and that the ultimate termination of the case may be materially advanced by the immediate consideration of that question, the judge or panel shall notify the chief judge of that determination. Upon receiving such a notification, the chief judge shall certify that such a question is presented, and any party to the case may then petition the United States Court of Appeals for the Federal Circuit to decide the question. That court may permit an interlocutory appeal to be taken on that question if such a petition is filed with it within 10 days after the certification by the chief judge of the Court of Veterans Appeals. Neither the application for, nor the granting of, an appeal under this paragraph shall stay proceedings in the Court of Veterans Appeals, unless a stay is ordered by a judge of the Court of Veterans Appeals or by the United States Court of Appeals for the Federal Circuit.

"(B) For purposes of subsections (b) and (c) of this section, an order described in this paragraph shall be treated as a decision of the Court of Veterans Appeals.

"(b) The Court of Appeals for the Federal Circuit shall decide all relevant questions of law, including interpreting constitutional and statutory provisions. The court shall hold unlawful and set aside any statute or regulation or any interpretation thereof (other than a determination as to a factual matter) that was relied upon in the decision of the Court of Veterans Appeals that the Court of Appeals for the Federal Circuit finds to be—

"(1) contrary to constitutional right, power, privilege, or immunity;

"(2) in excess of statutory jurisdiction or authority;

"(3) without observance of procedure required by law; or

"(4) resting upon a policy judgment, reasoning, or factual premise so unacceptable as to render the matter arbitrary or capricious.

The Court of Appeals may not review the facts of the appeal or the application of any law or regulation to those facts unless there is presented a constitutional issue.

"(c)(1) Upon such review, the Court of Appeals for the Federal Circuit shall have power to affirm or, if the decision of the Court of Veterans Appeals is not in accordance with law, to modify or to reverse the decision of the Court of Veterans Appeals. If the decision is modified or reversed, the Court shall remand the case to the Court of Veterans Appeals for a rehearing, as justice may require.

"(2) Rules for review of decisions of the Court of Veterans Appeals shall be those prescribed by the Supreme Court under section 2072 of title 28.

"(3) The United States Court of Appeals for the Federal Circuit and the Supreme Court may impose damages in a case in which the decision of the Court of Veterans Appeals is affirmed and it appears that the notice of appeal was filed merely for delay.".

(b) CLERICAL AMENDMENT.—The items relating to chapter 71 in the tables of chapters before part I and at the beginning of part V are each amended to read as follows:

"71. Court of Veterans Appeals................. 4001".

SEC. 6. ADJUDICATIVE AUTHORITY OF VETERANS' ADMINISTRATION.

(a) IN GENERAL.—Chapter 51 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER IV—GENERAL ADJUDICATIVE AUTHORITY

"§ 3031. Right to reopen claims

"Upon the presentation of new and material evidence, the Administrator may review any previous determination of the Administrator with respect to benefits under laws administered by the Veterans' Administration. Any such review shall be carried out in accordance with regulations which the Administrator shall prescribe.

"§ 3032. Independent medical opinions

"(a) When, in the judgment of the Administrator, expert medical opinion, in addition to that available within the Veterans' Administration, is warranted by the medical complexity or controversy involved in a case being considered by the Veterans' Administration, the Administrator may secure an advisory medical opinion from one or more independent medical experts who are not employees of the Veterans' Administration.

"(b) The Administrator shall make necessary arrangements with recognized medical schools, universities, or clinics to furnish such advisory medical opinions at the request of the Administrator. Any such arrangement shall provide that the actual selection of the expert or experts to give the advisory opinion in an individual case shall be made by an appropriate official of such institution.

"§ 3033. Burden of proof; benefit of the doubt

"(a) Except when otherwise provided by the Administrator in accordance with the provisions of this title, a person who is a claimant for benefits under a law administered by the Veterans' Administration shall have the burden of submitting evidence sufficient to justify a belief by a fair and impartial individual that the claim is well grounded. The Administrator shall assist a claimant in developing the facts pertinent to such a claim. Such assistance shall include requesting information as described in section 3006 of this title.

"(b) When, upon considering all evidence and material of record in a proceeding before the Veterans' Administration involving a claim for benefits under a law administered by the Veterans' Administration, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of the claim, the benefit of the doubt in resolving each such issue shall be given to the claimant. Nothing in this subsection shall be construed as shifting from the claimant to the Administrator the burden specified in subsection (a) of this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"SUBCHAPTER IV—GENERAL ADJUDICATIVE AUTHORITY

"3031. Right to reopen claims.
"3032. Independent medical opinions.
"3033. Burden of proof; benefit of the doubt.".

SEC. 7. TRANSFER OF PERSONNEL AND ASSETS OF BOARD OF VETERANS APPEALS.

(a) TRANSFERS.—The personnel employed, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available, in connection with functions and offices of the Board of Veterans' Appeals shall be transferred to the Court of Veterans Appeals.

(b) PERSONNEL.—Personnel transferred pursuant to subsection (a) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions, except that the classification and compensation of such personnel may not be reduced for one year after such transfer.

(c) UNEXPENDED FUNDS.—Unexpended funds transferred pursuant to subsection (a) may be used only for the purposes for which the funds were originally authorized and appropriated.

(d) PRESERVATION OF EXISTING CASES.—Any matter which on the day before the effective date of this Act is pending before the Board of Veterans' Appeals shall be transferred to the Court of Veterans Appeals and shall be pending in the same manner before such Court.

SEC. 8. INITIAL APPOINTMENT OF JUDGES TO COURT OF VETERANS APPEALS.

(a) CHIEF JUDGE TO BE APPOINTED FIRST.—The President may not appoint an individual to be a deputy chief judge or associate judge of the Court of Veterans Appeals under section 4003(b) of title 38, United States Code, as added by this Act, until the chief judge of such Court has been appointed. The President shall nominate an individual for appointment to the position of chief judge of such Court not later than April 1, 1989.

(b) STAGGERING OF INITIAL APPOINTMENTS.—Of the persons first appointed to the Court of Veterans Appeals under section 4003(b) of title 38, United States Code, as added by this Act—

(1) one of the deputy chief judges shall be appointed for a term of seven years, as designated by the President at the time of appointment; and

(2) of the associate judges—

(A) one-third shall be appointed for a term of 4 years;

(B) one-third shall be appointed for a term of 7 years; and

(C) one-third shall be appointed for a term of 10 years;

as designated by the President at the time of appointment.

(c) JUDGES.—Judges of the Court of Veterans Appeals may be appointed before the effective date of this Act.

SEC. 9. EFFECTIVE DATE.

(a) EFFECTIVE DATE.—This Act shall take effect on June 1, 1989.

(b) APPLICABILITY TO CASES AFTER DATE OF ENACTMENT.—A person who on or after the date of the enactment of this Act files a notice of disagreement with the Veterans' Administration with respect to a matter is entitled to have the matter determined subject to the provisions of the amendments made by this Act. The Board of Veterans' Appeals may not hear or decide a matter with respect to which a notice of disagreement is filed with the Veterans' Administration on or after the date of the enactment of this Act.

(c) APPLICABILITY TO ATTORNEYS FEES.—The amendment to section 3404(c) of title 38, United States Code, made by section 4(a) shall apply with respect to services of agents and attorneys performed after the effective date of this Act.

The SPEAKER. Is a second demanded?

Mr. SOLOMON. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes and the gentleman from New York [Mr. SOLOMON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5288, the bill presently under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5288 would provide judicial review of decisions of the Veterans' Administration with respect to claims for veterans' benefits.

The bill enjoys bipartisan support and was ordered reported by our committee on September 15, 1988, by a vote of 29 to 4.

I am grateful to all Members of our committee who have worked hard to get this bill to the floor of the House.

I want to give special thanks to the ranking minority member of the committee, JERRY SOLOMON, for his cooperation and leadership.

I'm grateful to my good friend, and senior member of the committee, DON EDWARDS, for his willingness to work things out so that we can get a bill to the Senate and resolve our differences before the Congress adjourns.

DON EDWARDS has been one of the strongest advocates for judicial review of veterans' claims in the Congress.

He has worked for many years to obtain congressional approval.

He deserves much credit for getting this bill before the House, as does the gentleman from Illinois [Mr. EVANS], a member of the committee, who certainly has been interested in judicial review.

Mr. Speaker, I would also like to thank the Democratic leadership, the gentleman from California [Mr. COELHO] and the gentleman from Michigan [Mr. BONIOR], for their help and assistance. I appreciate the quick action of the Committee on the Judiciary, led by the gentleman from New Jersey [Mr. RODINO] and the gentleman from Massachusetts [Mr. FRANK], chairman of the Subcommittee on Administrative Law and Governmental Relations, for getting this bill to the floor today.

The issue of judicial review of veterans' claims has been around for some time.

The Committee on Veterans' Affairs first held hearings in 1952. Many hearings have followed over the years.

It is a complex and, sometimes, emotional issue.

For many years, there was no consensus among the veterans organizations on whether veterans' claims should be subject to judicial review; therefore, putting a bill together that organizations could support was very difficult.

Mr. Speaker, following extensive hearings in our committee in 1986, I stated my willingness to work with the various veterans' organizations in drafting a bill that would resolve this long-standing issue.

I believe this bill will do it.

I am pleased to say that H.R. 5288 has the support of the major veterans' organizations, including the American Legion, disabled American Veterans, Veterans of Foreign Wars, AMVETS, Jewish War Veterans, Blinded Veterans Association, American-Polish Veterans, Military Order of the Purple Heart, Non Commissioned Officers Association of U.S.A. and others.

The committee bill is also in accord with the recommendations of the judicial conference.

Mr. Speaker, since the provisions of H.R. 5288 are explained in some detail in our committee report, I will only outline the bill's major provisions.

In lieu of the Board of Veterans' Appeals, our bill would establish an article I Court of Veterans' Appeals.

We believe it is better for veterans that their cases be reviewed in a specialized court rather than the U.S. district courts.

U.S. district courts are not well equipped to make decisions that would be consistent from district to district.

In addition, they are already overburdened.

Why add to the workload?

Veterans should not have to wait years to get decisions on questions of law or fact.

A special court will expedite the decisionmaking process and its decisions will be more consistent.

The Court of Veterans' Appeals would not be bound by decisions of the administrator, VA regulations, or general counsel opinions.

Judges would be appointed by the President and confirmed by the Senate.

Each member of the court would be required to be a member in good standing of the bar of a State.

The court would be authorized to employ lawyers and doctors who would advise the court on all legal and medical matters.

The court would have authority to appoint hearing officers to hold hearings throughout the country for the convenience of veterans.

The field hearing record and the hearing officer's recommendation would be submitted to the court, which would make the decision in the case.

Under the committee bill, the veteran and his or her attorney would have a full review of the facts and law before the court on all issues raised by the veteran with the Veterans' Administration.

Determinations of fact would be final with this court.

Challenges to VA regulations, interpretation of statutes and constitutional questions could be appealed to the Court of Appeals for the Federal Circuit and on to the Supreme Court.

Mr. Speaker, the bill would repeal the $10 limitation on attorney fees under current law.

No fee would be allowed until the VA has denied a veteran's case and has issued a statement of the case.

However, veterans would then be free to negotiate a reasonable fee arrangement with an attorney.

The fee arrangement between the veteran and the attorney would be filed with the court and the court could reduce the fee if it was excessive or unreasonable.

Our committee would monitor the fee provision closely to make certain there are no abuses.

Mr. Speaker, we believe the approach we have taken will have minor impact the judicial system.

In addition, the veteran will get a prompt, independent review of the law and the facts in his or her case before a court of law. The veteran will not have to wait many years for a final decision.

This is a good bill and it deserves the strong support of the House.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all I would like to make two comments. One is to commend the gentleman from Mississippi [Mr. MONTGOMERY] for his leadership and finally getting this very important issue to the floor in a position that we can all support; and second, I wish to thank the gentleman from California [Mr. EDWARDS] because without his full cooperation, we never could have gotten this shaken loose from the Committee on the Judiciary and out here on the floor today. So on behalf of all veterans we thank the gentleman from California [Mr. EDWARDS].

Mr. Speaker, I rise in strong support of H.R. 5288 to provide for judicial review of Veterans' Administration claims decisions and for repeal of the $10 attorney fee limitation in veterans claim cases.

This is a matter of great interest and importance to veterans. The debate about judicial review of veteran's claims has gone on for many years, always without resolution. It is a complex issue. The term "judicial review" has meant many things to many veterans. And that has been a large part of the difficulty.

But in the past several months, for the first time, a compromise has become possible as positions on the issue have evolved. SONNY MONTGOMERY, as chairman of the Veterans' Affairs Committee, and I, as ranking member, have previously opposed the judicial review bills considered by our committee. I have opposed it in the past for several reasons.

First, I haven't believed and still don't believe that judicial review will effectively fix the most pressing problems existing in the VA's present claims adjudication system, which, on the whole, operates as well as can be expected given its sometimes inadequate staffing and its obsolete data processing equipment.

Timeliness and quality of decisions are perhaps sometimes not what they should be, but in my view, it is not likely that judicial review would help.

Second, I don't want any kind of judicial review to change the basic nonadversarial character of the relationship between the VA and the veteran, and to simply create more problems for veterans and more paperwork for the VA.

Third, I don't want activist Federal judges attempting to set veterans' policy, run the VA's claims system, and decide its cases for it. We've had enough problems in the past with a

U.S. Supreme Court legislating in its decisions.

And fourth, many major veterans service organizations, which speak for millions of veterans, have either opposed judicial review entirely, or have opposed the previous bills our committee was considering. I have consistently said that I would not support judicial review if it would drive a wedge into the veterans community. While I realize complete unanimity is probably not possible, a reasonable degree of consensus is necessary.

I think that the necessary degree of consensus has now been reached, and, while many of my reservations about judicial review remain, I believe a compromise is in order.

As a result, Chairman MONTGOMERY and I introduced H.R. 5288, a bipartisan compromise, endorsed by the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, AMVETS, and numerous other veterans groups.

Mr. Speaker, I am not a lawyer, so I do not approach judicial review from a lawyer's perspective. I approach it from a perspective if what is best and right for the veteran. This bill was overwhelmingly reported by our committee, 29-4. Its approach is intended to produce timely, consistent, and fair decisions for veterans in a truly independent court which will not be burdened by other cases having nothing to do with veterans.

While it is probably unavoidable that the VA will have to create more of a reviewable record, our proposed Court of Veterans Appeals would minimize any additional burdens on the VA and retain the most desirable features of the present system—informality, flexibility, and openness.

The new Court of Veterans Appeals would, like the Tax Court and the Court of Military Appeals, be a specialized court of the executive branch.

Although I have heard some theoretical criticisms of specialized courts in our committee hearings, I have not once heard them specifically applied to either court. So far as I know, they are both doing a thoroughly competent job. There is no reason why a Court of Veterans Appeals would not be just as successful.

And, Mr. Speaker, I want to make it very clear that the Veterans' Affairs Committee would exercise close oversight of the new court. We don't want a sweetheart court which would rubberstamp anything, and we wouldn't tolerate one.

The Court of Veterans Appeals would be empowered to rule on the facts in individual cases and on constitutional questions, as well as on the VA's regulations and compliance with legal requirements. Veterans would then have an appeal to the court of appeals for the Federal circuit on everything except the facts. The issue of factual review has been a pivotal one with the veterans groups, and most do not want it beyond a specialized court.

Lawyers would be kept out of the process until after the VA actually denies the claim. The Veterans Affairs Committee would also exercise close oversight over the fees paid by veterans to their attorneys, and attorneys would be required to file written fee agreements with the court for its review in order to protect veterans from exploitation by an lawyers inclined to be greedy.

We have found strong support for the approach taken by H.R. 5288, not only from veterans, but from eminent legal scholars, jurists, and the judicial conference.

Mr. Speaker, we have gone the extra mile with the Montgomery-Solomon compromise bill on judicial review. I realize that significant differences exist between the Senate bill, S. 11, and ours, yet I am confident that with the constructive attitude we are seeing on all sides, we can have a conference agreement and send a bill to the President before this 100th Congress concludes its business a few days from now.

Mr. Speaker, I urge all of my colleagues in the strongest possible terms to approve H.R. 5288 and send us on to a long-awaited resolution of the judicial review issue.

□ 1230

Mr. Speaker, I reserve the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Speaker, I rise in strong support of H.R. 5288, the Veterans Judicial Review Act.

This issue is a long-overdue subject of congressional action, and a longstanding concern of mine. I first cosponsored similar legislation in 1979, during the 96th Congress. In both the 97th and 98th Congresses I was the principal sponsor, and in the last Congress I was an original cosponsor. Once again, I seek to change the veterans' judicial review process as an original cosponsor of this legislation.

Mr. Speaker, the Administrative Procedures Act of 1947 contains safeguards to ensure that American citizens are treated fairly by the agencies that administer our Nation's laws. However, one class of citizens is conspicuously barred from the guarantees of the Administrative Procedures Act. That class is veterans. Under a 1933 law, veterans are denied the right to appeal the decisions of the Veterans' Administration regarding the benefits to which they are entitled under law.

This antiquated statute effectively bars veterans from independent appeal of VA decisions, and even independent legal counsel to advise them of their entitlements under the law. The prohibitions were originally intended to serve the interests of veterans, but in today's circumstances they are glaring anachronisms that unfairly discriminate against veterans, depriving them of the same rights to due process that have been granted to other citizens.

H.R. 5288 remedies the defects of current law while retaining certain strengths in the current system of adjudicating veterans' claims. The bill abolishes the existing Board of Veterans Appeals and establishes an independent Court of Veterans Appeals. The new court will rule on all disputes involving the VA and veterans.

Mr. Speaker, there is no question that a system without judicial review is simpler than a system with judicial review. However, the prospect of a few more cases in the courts, and of requiring VA personnel to go to court to correct mistakes in the VA's favor as well as mistakes in the favor of veterans, is overshadowed by the need to protect the real interests of veterans and the integrity of our system of administering laws.

It would be marginally more convenient for the government to continue its denial of judicial review for veterans. This convenience, though, is bought at a high cost. A small number of veterans pay with real hardship; all veterans pay with insecurity in their legal entitlements; and our Nation as a whole pays by compromising the equal right of all citizens to appeal to an independent judiciary for due process and fair treatment under the law.

Ending this aberration should be an urgent concern of this Congress. I respectfully urge the House to pass H.R. 5288 so that those who so selflessly served this country can receive the due process they deserve.

Mr. MONTGOMERY. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. EDWARDS], the ranking majority member and senior dean on our Committee on Veterans' Affairs.

Mr. EDWARDS of California. Mr. Speaker, I thank the distinguished chairman of the committee for his gracious remarks, and also the ranking minority member, the gentleman from New York [Mr. SOLOMON].

Mr. Speaker, I rise in support of H.R. 5288.

Mr. Speaker, for many years I have authored, along with many other members, legislation to provide judicial review for veterans. Indeed, H.R. 639, authored and introduced in the 100th Congress by the gentleman from Illinois [Mr. EVANS] and me, is essentially the same bill that has been before the House of Representatives for over 10 years, has been the subject of many hearings, and has enjoyed widespread support among our House colleagues. In this Congress, H.R. 639 has 149 cosponsors here in the House of Representatives. I offered H.R. 639 as a substitute to H.R. 5288 during the recent House Veterans' Affairs Committee markup, but did not prevail.

On July 11, 1988, S. 11 was passed—for the fifth time—in the Senate. S. 11 is almost identical to the language of H.R. 639, and is very different from the bill we have on the floor today.

H.R. 5288, the bill before us today, has not been the subject of any hearings and is completely different from any of the bills that have ever been introduced on the subject. I, along with many of my colleagues, have very serious problems with it.

However, I do have commitments from the distinguished chairman of the House Veterans' Affairs Committee, the gentleman from Mississippi [Mr. MONTGOMERY], and from Senator CRANSTON, the author of S. 11 and chairman of the Senate Veterans' Affairs Committee, that these problems in H.R. 5288 will be corrected in the conference committee in accordance with the many discussions and conversations I have had with Mr. MONTGOMERY and our Senate counterparts. Among other points, this includes scaling back substantially the article I court created by H.R. 5288, as well as maintaining and strengthening the Board of Veterans' Affairs, which H.R. 5288 would abolish.

Based on this agreement, and in the interest of making progress for veterans on this issue in this Congress, I will support the passage of H.R. 5288 today, and urge my colleagues to do so, too.

I thank the chairman, the gentleman from Mississippi [Mr. MONTGOMERY], and the ranking Republican member of the House Veterans' Affairs, the gentleman from New York [Mr. SOLOMON], for their many courtesies in working with us toward a harmonious solution. I believe that, based on our agreement, legislation that will truly improve the lot of American veterans can and will be enacted by the 100th Congress.

Mr. MONTGOMERY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. COELHO] and I thank him for the help he has given us in the Democratic leadership.

Mr. COELHO. Mr. Speaker, although there are a few more steps in the process, today's action on this judicial review legislation promises a historic breakthrough for veterans.

I want to commend several Members for that breakthrough. The gentleman from Mississippi, the chairman of the committee, and the gentleman from California brought to this legislation a strong friendship, and strong views.

They have worked those differences out, and with the leadership of the gentleman from New York, the ranking member of the committee, made judicial review legislation possible.

Two other Members have played a particularly important role in these negotiations, the gentleman from Michigan, the founding chairman of the Vietnam Veterans in Congress, and the gentleman from Illinois, a member of the committee, and the present chair of the Vietnam Veterans in Congress. They both spoke eloquently and forcefully to the need for reform.

As I mentioned there are still a few steps left in the process, but today's action promises to be historic, a testament above all to the leadership of the chairman of the committee and the gentleman from California. This body and our Nation's veterans are once again in their debt.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to a very valued member of the Committee on Veterans' Affairs, the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of H.R. 5288, to provide for an improved system of review of the decisions of the Veterans' Administration with respect to claims for veterans' benefits.

This is indeed a historical event. For a number of years, the Congress has grappled with the issue of judicial review for veterans. Today, we are about to approve legislation which would, once and for all, give America's veterans their day in court.

Mr. Speaker, we can all be proud of the legislation our great chairman, Mr. MONTGOMERY, has brought to the floor today. All of the major veterans' organizations support this legislation.

These service organizations include the American Legion, Veterans of Foreign Wars, Disabled American Veterans, and Amvets.

They represent veterans who served in World Wars I and II, Korea, and Vietnam.

SONNY MONTGOMERY, and our distinguished ranking member, JERRY SOLOMON, have forged a compromise bill which guarantees veterans a day in court without creating an adversarial method of factual decisionmaking at the VA.

The law now states that when there is the same amount of evidence for and against a veteran's case, the veterans, not the Government, is given the benefit of the doubt. This balance, which rightly favors America's veterans, will not be altered.

Our committee has a long history of consideration of court review of VA benefit decisions. In the past, we have rejected flawed legislation to permit wider judicial review of VA decision making.

However, we have also continually examined the procedure and substance of VA decisionmaking in order to determine whether the goals of timeliness, accuracy, and fairness were being met, and when appropriate, we have reported legislation designed to increase the VA's ability to achieve these goals.

The Montgomery-Solomon bill is a continuation of that long tradition, and I strongly request my colleagues to add their voices in support of the compromise on judicial review.

Mr. MONTGOMERY. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. BONIOR], former chairman of the Vietnam Veterans in Congress, who has been very helpful in getting this legislation to the floor.

Mr. BONIOR. Mr. Speaker, let me join the chorus of praises this afternoon to all of those who have worked to move this to the floor of the House. It has been many, many years in the making and it is an issue in which I am so very pleased that Members with diverse views and interests could come together.

Someone once said that compromise is indeed the glue which keeps the legislative process moving.

The diligence of so many people on this legislation I think is going to be fruitful when we reach the final step in conference with Senator CRANSTON in the Senate.

Mr. Speaker, I want to particularly thank the chairman of the committee, the gentleman from Mississippi [Mr. MONTGOMERY], who in all my dealings with him on this legislation over the years has indeed been fair and forthright and in the interest of moving progressive legislation ahead that would benefit the veterans community.

Mr. SOLOMON has my gratitude for his help in moving this forward as well as Mr. HAMMERSCHMIDT.

I particularly want to thank my fellow colleague in the leadership, Mr. COELHO, for taking a special interest in this and getting this on the agenda.

I would like to pay particular recognition to the gentleman from California [Mr. DON EDWARDS], who for many years has shepherded this legislation and worked with the chairman to put this together, and also, of course, LANE EVANS, who is the present chairman of the Vietnam Veterans in Congress and who has played an instrumental, important role in working this out.

Mr. Speaker, I look forward to this bill passing overwhelmingly and working out a reasonable compromise with our Senate colleagues in getting this issue behind us so that we can face other important veterans legislation in the 101st Congress.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I rise in support of this bill. I congratulate the gentleman from New York and the gentleman from Mississippi who brought this bill to the floor. I would say it is one of the few bills that is on the calendar out of some 43 today that is something that we should be considering here in the late hours of the session. It is a valuable piece of legislation.

Those who have put it together and brought it to the floor I think deserve to be congratulated for their hard work.

But let us understand why it is we will now begin to vote on some of these bills as well. I think it is important to vote on this bill and the bills that follow because normally some of these 43 bills would have been brought up here by unanimous consent.

What does that mean? That means that an awful lot of Members of Congress over the years have been going home and telling people, "Gee, I don't know how that passed. It was done by unanimous consent and none of us had any idea what we were doing."

□ 1245

Well, this year we are going to have some idea of what we are doing because we are going to have to pass each one of these bills by two-thirds in order for them to become law, because I am going to insist that we vote on a lot of these "dogs" and "ponies" that the committees are bringing to the floor and pouring out here, and in that way we will be assured that everybody's vote is recorded on that which is happening at the end of the session.

It is also important, I think, to note that out of 43 bills scheduled for today and 41 bills scheduled for tomorrow—and I understand a rule is going to be gotten so we can have additional suspension bills for even more votes—so far we have no indication we are going to vote on clean air, on technical corrections to the Tax Act, on the drug bill, and on a number of other important matters that this House should be considering. It is a question of priorities around here as well. We are going to be able to vote on a lot of things, a Congressional Award Act, a number of Indian bills, wilderness bills, and forest bills, but somehow we cannot get to the Clean Air Act. We are going to be able to vote on all these things, but somehow we cannot finish the drug bill. We are going to vote on all these things, but we cannot get the Technical Corrections Act to the tax bill finished.

Mr. Speaker, I think as we see the Members of Congress voting on these items over the next several days—and we are going to be doing a lot of voting—we ought to be thinking about our sense of priorities.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of this measure, H.R. 5288, the Veterans' Judicial Review Act, and I want to commend the gentleman from Mississippi [Mr. MONTGOMERY], the distinguished chairman of the Committee on Veterans' Affairs, and the ranking minority member of the committee, the gentleman from New York [Mr. SOLOMON], for forging this compromise that finally makes it possible for our Nation's veterans to be entitled to a Federal judicial review. I am pleased too that a consensus of our veterans organizations has been worked out in support of this measure.

I commend the gentleman from California [Mr. EDWARDS] for helping to bring the bill to the floor at this time. As we review the history of veterans benefits, we find that the courts initially had the responsibility for adjudicating claims for veterans benefits.

Therefore, The courts disclaimed any role in such determinations and over the years, Congress opposed any judicial remedy for veterans benefits. Now, finally, we are going to give back to the courts the final review process—a step which is long overdue. I commend the Committee on Veterans' Affairs for addressing this extremely important issue in a way that should aid our veterans, many of whom have a number of disability issues that are continually in contention.

Many of my colleagues are aware that the Veterans' Administration, unlike most other Government agencies, cannot be challenged in court by beneficiaries seeking higher benefits. The Board of Veterans Appeals is the sole and final arbiter in such cases. Although the Senate has adopted legislation several times over the past decade permitting veterans to take the VA to court under limited circumstance, until today, the House has been denied the opportunity to voice their opinion on this complex and controversial issue.

Mr. Speaker, H.R. 5288 establishes an independent Court of Veterans' Appeals to replace the existing Board of Veterans Appeals. The Court of Veterans Appeals will have exclusive jurisdiction to consider all questions on claims for benefits under laws administered by the VA, including factual, legal, and constitutional questions.

Mr. Speaker, hopefully the 100th Congress will be a monumental one for our veterans. After today, both the House and Senate would have adopted judicial review legislation. Let us hope that the conferees will work diligently to allow judicial review to become law before we adjourn, and also move ahead on the conference legislation elevating the VA to a Cabinet-level position.

H.R. 5288 has the endorsement of most of our major veterans organizations. Accordingly, I ask my colleagues to join in support of the Veterans' Judicial Review Act.

Mr. MONTGOMERY. Mr. Speaker, I am very pleased to yield 3 minutes to the gentleman from Illinois [Mr. EVANS], a member of our committee who has been very active in judicial review and who is also chairman of the Vietnam Veterans in Congress.

Mr. EVANS. Mr. Speaker, our current Veterans' Administration adjudication process has a fundamental flaw. VA claims decisions which go against the veteran are not subject to independent review. Veterans do not have the basic right to due process in their dealing with agency decisions.

DON EDWARDS and I introduced H.R. 639 which would repeal the bar to judicial review of decisions of the VA on claims by veterans for VA benefits and provide for reasonable attorney fees so that, if a veteran chooses, legal services can be retained at an affordable rate.

I want to commend DON EDWARDS for his persistent and tireless efforts to bring this issue to Congress' attention.

I also want to thank the chairman of the full Veterans' Affairs Committee, SONNY MONTGOMERY for holding hearings and a markup.

Since the passage of H.R. 5288 by the Veterans' Affairs Committee and Judiciary Committee we have worked together on a compromise which we can all support. With this agreement we will have a bill that will be an improvement for the rights of our veterans.

Veterans will be allowed their day in court with a review of fact before a smaller article I court and they will be provided the right to pay for reasonable attorney fees for legal counsel.

For the last several years, the Vietnam-era Veterans in Congress and Vietnam Veterans of America have pointed to judicial review as the most important step Congress can take to fulfill its promise to those who answered our country's call. For thousands of veterans, the right of judicial review is the only means they have to address the problems and complaints that remain unheard by our Government. The difficult factual issues that are posed by veterans claims will never be properly resolved if we allow the system to put a blindfold on and turn its back.

Our veterans are thankful for the parades, memorials, and tributes recognizing their service. Today, we take a big step in providing their fundamental constitutional right to judicial review.

Mr. FLORIO. Mr. Speaker, I rise in support of the effort to provide judicial review for veterans. Today, we are considering H.R. 5288, introduced by Veterans' Affairs Committee Chairman SONNY MONTGOMERY. I commend the efforts of Chairman MONTGOMERY, as well as Congressman DON EDWARDS and LANE EVANS for helping to bring attention to this important veterans' issue.

As a member of the Veterans' Affairs Committee, I was pleased to support efforts to provide veterans the right that every other resident of this Nation has—the right to pursue justice in a court of law. Current law prohibits veterans from going to the courts to seek review of a Veterans' Administration decision.

I have long held the belief that the Veterans' Administration is no different from any other agency of our Government, in terms of accountability. In order to guarantee that accountability, our Constitution clearly defined the role of the three branches of our Government and provided for court review of actions by the other two branches. With this right comes the right that any individual citizen has to go to court and seek a review.

One would think that our veterans—who have given so much to this country—would have the right, when the VA gives them an unsatisfactory decision to go to court. Any other citizen has that right. Well, it doesn't work that way because a veteran does not have that privilege.

Not only is the veteran limited to pursuing a case within the VA, but that veteran can only pay an attorney up to $10 to represent him. I don't know of too many attorneys who will take a case for 10 bucks.

As things stand, the last place a veteran can go if the VA turns him down on a claim is the Board of Veterans Appeals. This is the same Board that has an error rate of up to 8.4 percent on substantive matters, 18.2 percent on judgmental matters, and 21.5 percent on procedural matters.

This is the same Board that denied 72 percent of the cases in 1980 and 65 percent of the cases in 1987. This is the same Board that has a quota system to complete 40 cases per week in order to get a 5-percent salary bonus. It is the same Board that had some of its members deciding one case every 8 minutes. This is not the justice our veterans deserve.

I am pleased that we have legislation before us that, once the agreed upon changes are made during the conference with the other body, will guarantee the veteran actual judicial review of all VA decisions. I understand that the agreement calls for the creation of a small article I Court of Veterans Appeals to review all veterans questions, under a "clearly erroneous" standard. Further review of regulations and law would be provided by an article III court in the form of the Court of Appeals for the Federal Circuit. Last, the Chairman of the Board of Veterans Appeals, which will be retained, would be nominated by the President and confirmed by the Senate while further reforms of the BVA would be considered by the conference committee.

I wish to express my pleasure, on behalf of the veterans of my community, that this agreement has been reached. I commend my colleagues for their efforts and am pleased to join in this historical effort.

Mr. LAGOMARSINO. Mr. Speaker, I rise in strong support of H.R. 5288, the Veterans Judicial Review Act of 1988. I have long been an active supporter of veterans, for the benefits they were promised and to which they are entitled. I am pleased to see a bill, containing judicial review, finally reach the House floor for final consideration. This bill will give veterans their day in court, without creating an adversarial conflict between veterans and the Veterans' Administration.

H.R. 5288 will abolish the limitations on fees that attorneys may charge a veteran for representing them once the Veterans' Administration has made a final decision on a claim. It will establish an independent Court of Veterans' Appeals in lieu of the existing Board of Veterans Appeals, similar to the Court of Military Appeals and the U.S. Tax Court, to rule on disputes involving the Veterans' Administration and veterans. Finally, this legislation will provide for review by the Court of Appeals for the Federal Circuit of any legal matter relied on by the Court of Veterans Appeals in making a decision in a particular case. This would include constitutional, statutory, and regulatory matters, and interpretations of law. It will allow challenges by organizations or individuals of VA regulations and other interpretive rules under the Administrative Procedure Act by the Court of Appeals of the Federal Circuit.

I am pleased to support H.R. 5288. You may be sure that I will continue to support my fellow veterans, and the benefits to which they are entitled.

Mr. SOLOMON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, it goes further than some veterans' service organizations want to go. It does not go as far as a couple would like.

But that is what compromise is all about, Mr. Speaker.

We only have a few days left to pass the bill and try to work out our differences with the Senate on S. 11, which has passed the other body. I urge the adoption of the bill. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BROOKS). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 5288, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this moton will be postponed.

MAKING A CORRECTON IN THE EDUCATION AND TRAINING FOR A COMPETITIVE AMERICA ACT OF 1988

Mr. MARTINEZ. Mr. Speaker, I move to suspend the rule and pass the bill (H.R. 5408) to make a correction in the Education and Training for a Competitive America Act of 1988.

The Clerk read as follows:

H.R. 5408

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6142(b) of the Education and Training for a Competitive America Act of 1988 is amended by striking "fiscal year 1988" and inserting "fiscal year 1989 and such sums as may be necesary for fiscal years 1990, 1991, and 1992".

The SPEAKER pro tempore. Is a second demanded?

Mr. COLEMAN of Missouri. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. MARTINEZ] will be recognized for 20 minutes and the gentleman from Missouri [Mr. COLEMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MARTINEZ].

GENERAL LEAVE

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5408, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 5408. This legislation corrects a technical error that was made in the language of the conference report on H.R. 4848. The conference agreement on the Access Demonstration Program provided an authorization for this program through fiscal year 1992. However, when this bill was reported, this program was authorized for fiscal year 1988 only. H.R. 5408 would restore the authorization for the Access Demonstration Program through fiscal year 1992 as agreed to in conference. This is a nonconstroversial bill that has the support of the chairman of the Committee on Education and Labor.

Mr. Speaker, I yield back the balance of my time.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5408, a bill which I introduced on September 28 which makes a correction in the Education and Training for a Competitive America Act of 1988. H.R. 5408 corrects a technical error made in writing the conference report on the Omnibus Trade and Competitiveness Act of 1988, and I support its consideration under Suspension of the Rules.

In the report, the Access Demonstration Programs were inadvertently authorized for only 1 year, fiscal year 1988, rather than for the 4-year period of authorization, beginning in fiscal year 1989 and ending in fiscal year 1992, which was agreed to by both House and Senate conferees.

This bill makes a simple, purely technical change, correcting the drafting error and providing for the full, 4 years of authorization for the Access

Demonstration Program which was originally intended.

Access is a vitally needed program which is designed to expand the college, vocational, and career opportunities of rural high school students attending schools in agricultural communities which are encountering fundamental economic and social changes.

Access, now a pilot project in northwestern Missouri, provides in-school support services for counselors, teachers, and school administrators, targeting those rural schools with the greatest need, particularly those serving low-income, disadvantaged students. Access has been successful in involving parents, business and community leaders, and the resources of the State universities in providing counseling and educational programs for rural high school students.

This legislation is noncontroversial, making only a technical correction to an unintended drafting error. H.R. 5408 restores the originally agreed upon 4 years of authorization for this important rural educational program. I urge my colleagues to support this legislation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MARTINEZ] that the House suspend the rules and pass the bill, H.R. 5408.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

TECHNICAL AMENDMENTS TO THE JOB TRAINING PARTNERSHIP ACT

Mr. MARTINEZ. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4857) to amend the Job Training Partnership Act to make a technical change.

The Clerk read as follows:

Senate amendment: Page 1, after line 11, insert:

SEC. 2. The amendments made by this Act shall apply with respect to funds available for expenditure on or after June 30, 1988.

The SPEAKER pro tempore. Is a second demanded?

Mr. HENRY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. MARTINEZ] will be recognized for 20 minutes and the gentleman from Michigan [Mr. HENRY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MARTINEZ].

GENERAL LEAVE

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendment to H.R. 4857.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, H.R. 4857, a technical amendment to the Job Training Partnership Act, was approved unanimously under suspension by the House earlier this year on June 20, 1988.

This amendment was originally introduced to correct an oversight regarding whether Congress intended the general 3-year rollover cap on JTPA expenditures to apply to program research. Since Congress did not mean to hinder the continuation of multiyear research and other ongoing projects designed to make the program more efficient, the House unanimously approved this technical amendment. The Department of Labor fully approved of the waiver for JTPA sections 452 through 455 of title IV.

The Senate, however, was not able to act in a timely fashion on the amendment before the expiration of the program year, which for the JTPA, falls at the end of June annually. Thus, the only difference in this bill from the verison approved by the House on June 20, this year, is retroactive language making this effective from June 30, 1988, the beginning of this JTPA Program year. The Senate unanimously approved this bill on September 23, and I urge the House to do the same today.

Mr. Speaker, I yield back the balance of my time.

Mr. HENRY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4857—a bill which simply makes a technical correction to the Job Training Partnership Act to address an unforeseen problem that has arisen in the funding or research projects under that act.

And I support its consideration under Suspension of the Rules.

In fact, this legislation was already passed by the House in June of this year—and is only under consideration by the House again due to a technical amendment that was added to the bill by the Senate making its changes to the act retroactive.

When Congress enacted JTPA in 1982, in order to assure effective and timely delivery of services we specifically required that funding which is appropriated for the provision of services be expended during the program year for which the funds are appropriated or during the 2 succeeding years following that program year.

However, in crafting the language of the act, we did not specify that this time limit apply only to moneys appropriated for the delivery of services, and not to funds allotted for research and other activities which result in a product—that often requires more lengthy periods of time.

In a recent interpretation of the law, the Solicitor of Labor determined that as currently written, this time limit set forth in section 161(b) of the act also applies to moneys appropriated for research, which threatens ongoing activities being conducted under contract with the Department of Labor on our national employment training programs.

What this legislation does is amend JTPA to clarify the intent of Congress—that moneys alloted under the act for research and other activities as described under sections 452-455 of JTPA—are not subject to this time limitation as prescribed under section 161(b) of the act.

This legislation will solve the problem currently being encountered due to the Solicitor's recent interpretation of the act, and clarify what was the original intent of Congress.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MARTINEZ] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4857.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on the motion will be postponed.

AMERICA'S SPACE PROGRAM HAS NEW BEGINNING WITH SAFE LANDING OF "DISCOVERY"

(Mr. NELSON of Florida asked and was given permission to address the House for 1 minute.)

Mr. NELSON of Florida. Mr. Speaker, America is back in its Space Program. The space shuttle *Discovery* has just landed on the dry lake bed at Edwards Air Force Base in California, marking the conclusion of an almost flawless 4-day mission. It has been a psychological lifting of a burden that we have been carrying for almost 3 years, having suffered through the trauma of the *Challenger* accident, but with a renewed determination of this Nation and its space team.

We are back, and now we are going on to extraordinary accomplishments in America's Space Program.

With the gentleman from Pennsylvania [Mr. WALKER], who is my ranking member on my Space Subcommittee, we have had to fight a battle that was often very difficult in times of budgetary constraint, but we want to take this occasion to thank our colleagues for the support they have shown for our Nation's Space Program at a time when getting support was the most difficult.

Mr. Speaker, now that Americans have reclaimed the high ground, we will go on to an excellent Space Program.

□ 1300

PROMPT PAYMENT ACT OF 1987

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the concurrent resolution (H. Con. Res. 351) to correct errors in the enrollment in the bill S. 328.

The Clerk read as follows:

Senate amendment: Page 2, after line 4, insert:

(5) In section 3902(h)(2)(B) of title 31, United States Code (as added by section 3(c) of the bill), strike out clause (ii) and insert in lieu thereof the following:

"(ii) for a loan agreement, the 30th day beginning after the date of receipt of an application with all requisite documentation and signatures, unless the applicant requests that the disbursement be deferred;

The **SPEAKER** pro tempore (Mr. MONTGOMERY). Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this amendment simply makes a technical correction in the enrollment of the bill S. 328, the prompt pay bill which passed the House on July 26, 1988, and the Senate on October 9, 1987.

The technical correction is with reference to the due date for loan funds disbursed by the Commodity Credit Corporation. Specifically, the Senate amendment recognizes the applicant's right to request a deferral in the disbursement of those funds. I urge concurrence in the Senate amendment so that prompt pay bill can be cleared from the President's signature.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I, shall not take long on this simple concurrent resolution. Chairman BROOKS has already done an excellent job in summarizing what is essentially a technical correction to S. 328, the Prompt Payment Act Amendments of 1988.

Mr. Speaker, S. 328, as amended by the Committee on Government Operations, received unanimous support earlier this year both in committee and here on the House floor. It provided for much needed—and quite extensive—amendments to the original Prompt Pay Act of 1982. I was a sponsor of the original act and the amendments contained in S. 328. These amendments have the complete support of the small business community, the general contractors, the subcontractors and the Office of Management and Budget.

The concurrent resolution before us today simply makes technical changes in the manner in which the Commodity Credit Corporation is handled under the Prompt Payment Act. The necessity for its correction did not become apparent until after the bill was returned to the Senate. There is no controversy that I am aware of and so I urge my colleagues to approve this correction.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and concur in the Senate amendment to the concurrent resolution, (H. Con. Res. 351).

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The **SPEAKER** pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

COMPUTER MATCHING AND PRIVACY PROTECTION ACT OF 1988

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the House amendment to the Senate bill (S. 496) to amend title 5 of the United States Code, to ensure privacy, integrity, and verification of data disclosed for computer matching, to establish Data Integrity Boards within Federal agencies, and for other purposes. The Clerk read as follows:

Senate Amendment to House Amendment: In lieu of the matter proposed to be inserted by the House amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Computer Matching and Privacy Protection Act of 1988".

SEC. 2. MATCHING AGREEMENTS.

Section 552a of title 5, United States Code, is amended—

(1) by redesignating subsections (o), (p), and (q) as subsections (r), (s), and (t), respectively, and

(2) by inserting after subsection (n) the following new subsections:

"(o) MATCHING AGREEMENTS.—(1) No record which is contained in a system of records may be disclosed to a recipient agency or non-Federal agency for use in a computer matching program except pursuant to a written agreement between the source agency and the recipient agency or non-Federal agency specifying—

"(A) the purpose and legal authority for conducting the program;

"(B) the justification for the program and the anticipated results, including a specific estimate of any savings;

"(C) a description of the records that will be matched, including each data element that will be used, the approximate number of records that will be matched, and the projected starting and completion dates of the matching program;

"(D) procedures for providing individualized notice at the time of application, and notice periodically thereafter as directed by the Data Integrity Board of such agency (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)), to—

"(i) applicants for and recipients of financial assistance or payments under Federal benefit programs, and

"(ii) applicants for and holders of positions as Federal personnel,

that any information provided by such applicants, recipients, holders, and individuals may be subject to verification through matching programs;

"(E) procedures for verifying information produced in such matching program as required by subsection (p);

"(F) procedures for the retention and timely destruction of identifiable records created by a recipient agency or non-Federal agency in such matching program;

"(G) procedures for ensuring the administrative, technical, and physical security of the records matched and the results of such programs;

"(H) prohibitions on duplication and redisclosure of records provided by the source agency within or outside the recipient agency or the non-Federal agency, except where required by law or essential to the conduct of the matching program;

"(I) procedures governing the use by a recipient agency or non-Federal agency of records provided in a matching program by a source agency, including procedures governing return of the records to the source agency or destruction of records used in such program;

"(J) information on assessments that have been made on the accuracy of the records that will be used in such matching program; and

"(K) that the Comptroller General may have access to all records of a recipient agency or a non-Federal agency that the Comptroller General deems necessary in order to monitor or verify compliance with the agreement.

"(2)(A) A copy of each agreement entered into pursuant to paragraph (1) shall—

"(i) be transmitted to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives; and

"(ii) be available upon request to the public.

"(B) No such agreement shall be effective until 30 days after the date on which such a copy is transmitted pursuant to subparagraph (A)(i).

"(C) Such an agreement shall remain in effect only for such period, not to exceed 18 months, as the Data Integrity Board of the agency determines is appropriate in light of the purposes, and length of time necessary for the conduct, of the matching program.

"(D) Within 3 months prior to the expiration of such an agreement pursuant to subparagraph (C), the Data Integrity Board of the agency may, without additional review, renew the matching agreement for a current, ongoing matching program for not more than one additional year if—

"(i) such program will be conducted without any change; and

"(ii) each party to the agreement certifies to the Board in writing that the program has been conducted in compliance with the agreement.

"(p) Verification and Opportunity To Contest Findings.—(1) In order to protect any individual whose records are used in matching programs, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual as a result of information produced by such matching programs, until an officer or employee of such agency has independently verified such information. Such independent verification may be satisfied by verification in accordance with (A) the requirements of paragraph (2); and (B) any additional requirements governing verification under such Federal benefit program.

"(2) Independent verification referred to in paragraph (1) requires independent investigation and confirmation of any information used as a basis for an adverse action against an individual including, where applicable—

"(A) the amount of the asset or income involved,

"(B) whether such individual actually has or had access to such asset or income for such individual's own use, and

"(C) the period or periods when the individual actually had such asset or income.

"(3) No recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to any individual described in paragraph (1), or take other adverse action against such individual as a result of information produced by a matching program, (A) unless such individual has received notice from such agency containing a statement of its findings and informing the individual of the opportunity to contest such findings; and (B) until the subsequent expiration of any notice period provided by the program's law or regulations, or 30 days, whichever is later. Such opportunity to contest may be satisfied by notice, hearing, and appeal rights governing such Federal benefit program. The exercise of any such rights shall not affect any rights available under this section.

"(4) Notwithstanding paragraph (3), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during the notice period required by such paragraph.

"(q) Sanctions.—(1) Notwithstanding any other provision of law, no source agency may disclose any record which is contained in a system of records to a recipient agency or non-Federal agency for a matching program if such source agency has reason to believe that the requirements of subsection (p), or any matching agreement entered into pursuant to subsection (o), or both, are not being met by such recipient agency.

"(2) No source agency may renew a matching agreement unless—

"(A) the recipient agency or non-Federal agency has certified that it has complied with the provisions of that agreement; and

"(B) the source agency has no reason to believe that the certification is inaccurate.".

SEC. 3. NOTICE OF MATCHING PROGRAMS.

(a) Notice in Federal Register.—Subsection (e) of section 552a of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (10),

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(12) if such agency is a recipient agency or a source agency in a matching program with a non-Federal agency, with respect to any establishment or revision of a matching program, at least 30 days prior to conducting such program, publish in the Federal Register notice of such establishment or revision.".

(b) Report to Congress and Office of Management and Budget.—Subsection (r) of section 552a of title 5, United States Code, as redesignated by section 2(b)(1) of this Act, is amended to read as follows:

"(r) Report on New Systems and Matching Programs.—Each agency that proposes to establish or make a significant change in a system of records or a matching program shall provide adequate advance notice of any such proposal (in duplicate) to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget in order to permit an evaluation of the probable or potential effect of such proposal on the privacy or other rights of individuals.".

SEC. 4. DATA INTEGRITY BOARD.

Section 552a of title 5, United States Code, as amended by section 2(b)(1) of this Act, is amended by adding at the end thereof the following new subsection:

"(u) Data Integrity Boards.—(1) Every agency conducting or participating in a matching program shall establish a Data Integrity Board to oversee and coordinate among the various components of such agency the agency's implementation of this section.

"(2) Each Data Integrity Board shall consist of senior officials designated by the head of the agency, and shall include any senior official designated by the head of the agency as responsible for implementation of this section, and the inspector general of the agency, if any. The inspector general shall not serve as chairman of the Data Integrity Board.

"(3) Each Data Integrity Board—

"(A) shall review, approve, and maintain all written agreements for receipt or disclosure of agency records for matching programs to ensure compliance with subsection (o), and all relevant statutes, regulations, and guidelines;

"(B) shall review all matching programs in which the agency has participated during the year, either as a source agency or recipient agency, determine compliance with applicable laws, regulations, guidelines, and agency agreements, and assess the costs and benefits of such programs;

"(C) shall review all recurring matching programs in which the agency has participated during the year, either as a source agency or recipient agency, for continued justification for such disclosures;

"(D) shall compile an annual report, which shall be submitted to the head of the agency and the Office of Management and Budget and made available to the public on request, describing the matching activities of the agency, including—

"(i) matching programs in which the agency has participated as a source agency or recipient agency;

"(ii) matching agreements proposed under subsection (o) that were disapproved by the Board;

"(iii) any changes in membership or structure of the Board in the preceding year;

"(iv) the reasons for any waiver of the requirement in paragraph (4) of this section for completion and submission of a cost-benefit analysis prior to the approval of a matching program;

"(v) any violations of matching agreements that have been alleged or identified and any corrective action taken; and

"(vi) any other information required by the Director of the Office of Management and Budget to be included in such report;

"(E) shall serve as a clearinghouse for receiving and providing information on the accuracy, completeness, and reliability of records used in matching programs;

"(F) shall provide interpretation and guidance to agency components and personnel on the requirements of this section for matching programs;

"(G) shall review agency recordkeeping and disposal policies and practices for matching programs to assure compliance with this section; and

"(H) may review and report on any agency matching activities that are not matching programs.

"(4)(A) Except as provided in subparagraphs (B) and (C), a Data Integrity Board shall not approve any written agreement for a matching program unless the agency has completed and submitted to such Board a cost-benefit analysis of the proposed program and such analysis demonstrates that the program is likely to be cost effective.

"(B) The Board may waive the requirements of subparagraph (A) of this paragraph if it determines in writing, in accordance with guidelines prescribed by the Director of the Office of Management and Budget, that a cost-benefit analysis is not required.

"(C) A cost-benefit analysis shall not be required under subparagraph (A) prior to the initial approval of a written agreement for a matching program that is specifically required by statute. Any subsequent written agreement for such a program shall not be approved by the Data Integrity Board unless the agency has submitted a cost-benefit analysis of the program as conducted under the preceding approval of such agreement.

"(5)(A) If a matching agreement is disapproved by a Data Integrity Board, any party to such agreement may appeal the disapproval to the Director of the Office of Management and Budget. Timely notice of the filing of such an appeal shall be provided by the Director of the Office of Management and Budget to the Committee on Governmental Affairs of the Senate and the Com-

mittee on Government Operations of the House of Representatives.

"(B) The Director of the Office of Management and Budget may approve a matching agreement notwithstanding the disapproval of a Data Integrity Board if the Director determines that—

"(i) the matching program will be consistent with all applicable legal, regulatory, and policy requirements;

"(ii) there is adequate evidence that the matching agreement will be cost-effective; and

"(iii) the matching program is in the public interest.

"(C) The decision of the Director to approve a matching agreement shall not take effect until 30 days after it is reported to committees described in subparagraph (A).

"(D) If the Data Integrity Board and the Director of the Office of Management and Budget disapprove a matching program proposed by the inspector general of an agency, the inspector general may report the disapproval to the head of the agency and to the Congress.

"(6) The Director of the Office of Management and Budget shall, annually during the first 3 years after the date of enactment of this subsection and biennially thereafter, consolidate in a report to the Congress the information contained in the reports from the various Data Integrity Boards under paragraph (3)(D). Such report shall include detailed information about costs and benefits of matching programs that are conducted during the period covered by such consolidated report, and shall identify each waiver granted by a Data Integrity Board of the requirement for completion and submission of a cost-benefit analysis and the reasons for granting the waiver.

"(7) In the reports required by paragraphs (3)(D) and (6), agency matching activities that are not matching programs may be reported on an aggregate basis, if and to the extent necessary to protect ongoing law enforcement or counterintelligence investigations.".

SEC. 5. DEFINITIONS.

Subsection (a) of section 552a of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (6),

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon, and

(3) by adding at the end thereof the following new paragraphs:

"(8) the term 'matching program'—

"(A) means any computerized comparison of—

"(i) two or more automated systems of records or a system of records with non-Federal records for the purpose of—

"(I) establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements by, applicants for, recipients or beneficiaries of, participants in, or providers of services with respect to, cash or in-kind assistance or payments under Federal benefit programs, or

"(II) recouping payments or delinquent debts under such Federal benefit programs, or

"(ii) two or more automated Federal personnel or payroll systems of records or a system of Federal personnel or payroll records with non-Federal records,

"(B) but does not include—

"(i) matches performed to produce aggregate statistical data without any personal identifiers;

"(ii) matches performed to support any research or statistical project, the specific data of which may not be used to make decisions concerning the rights, benefits, or privileges of specific individuals;

"(iii) matches performed, by an agency (or component thereof) which performs as its principal function any activity pertaining to the enforcement of criminal laws, subsequent to the initiation of a specific criminal or civil law enforcement investigation of a named person or persons for the purpose of gathering evidence against such person or persons;

"(iv) matches of tax information (I) pursuant to section 6103(d) of the Internal Revenue Code of 1986, (II) for purposes of tax administration as defined in section 6103(b)(4) of such Code, (III) for the purpose of intercepting a tax refund due an individual under authority granted by section 464 or 1137 of the Social Security Act; or (IV) for the purpose of intercepting a tax refund due an individual under any other tax refund intercept program authorized by statute which has been determined by the Director of the Office of Management and Budget to contain verification, notice, and hearing requirements that are substantially similar to the procedures in section 1137 of the Social Security Act;

"(v) matches—

"(I) using records predominantly relating to Federal personnel, that are performed for routine administrative purposes (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)); or

"(II) conducted by an agency using only records from systems of records maintained by that agency;

if the purpose of the match is not to take any adverse financial, personnel, disciplinary, or other adverse action against Federal personnel; or

"(vi) matches performed for foreign counterintelligence purposes or to produce background checks for security clearances of Federal personnel or Federal contractor personnel;

"(9) the term 'recipient agency' means any agency, or contractor thereof, receiving records contained in a system of records from a source agency for use in a matching program;

"(10) the term 'non-Federal agency' means any State or local government, or agency thereof, which receives records contained in a system of records from a source agency for use in a matching program;

"(11) the term 'source agency' means any agency which discloses records contained in a system of records to be used in a matching program, or any State or local government, or agency thereof, which discloses records to be used in a matching program;

"(12) the term 'Federal benefit program' means any program administered or funded by the Federal Government, or by any agent or State on behalf of the Federal Government, providing cash or in-kind assistance in the form of payments, grants, loans, or loan guarantees to individuals; and

"(13) the term 'Federal personnel' means officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve Components), individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the Government of the United States (including survivor benefits).".

SEC. 6. FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

(a) AMENDMENT.—Section 552a of title 5, United States Code, is further amended by adding at the end thereof the following:

"(v) OFFICE OF MANAGEMENT AND BUDGET RESPONSIBILITIES.—The Director of the Office of Management and Budget shall—

"(1) develop and, after notice and opportunity for public comment, prescribe guidelines and regulations for the use of agencies in implementing the provisions of this section; and

"(2) provide continuing assistance to and oversight of the implementation of this section by agencies.".

(b) IMPLEMENTATION GUIDANCE FOR AMENDMENTS.—The Director shall, pursuant to section 552a(v) of title 5, United States Code, develop guidelines and regulations for the use of agencies in implementing the amendments made by this Act not later than 8 months after the date of enactment of this Act.

(c) CONFORMING AMENDMENT.—Section 6 of the Privacy Act of 1974 is repealed.

SEC. 7. COMPILATION OF RULES AND NOTICES.

Section 552a(f) of title 5, United States Code, is amended by striking out "annually" in the last sentence and inserting "biennially".

SEC. 8. ANNUAL REPORT.

Subsection (s) of section 552a of title 5, United States Code (as redesignated by section 2 of this Act), is amended—

(1) by striking out "ANNUAL" in the heading of such subsection and inserting "BIENNIAL";

(2) by striking out "annually submit" and inserting "biennially submit";

(3) by striking out "preceding year" and inserting "preceding 2 years"; and

(4) by striking out "such year" and inserting "such years".

SEC. 9. RULES OF CONSTRUCTION.

Nothing in the amendments made by this Act shall be construed to authorize—

(1) the establishment or maintenance by any agency of a national data bank that combines, merges, or links information on individuals maintained in systems of records by other Federal agencies;

(2) the direct linking of computerized systems of records maintained by Federal agencies;

(3) the computer matching of records not otherwise authorized by law; or

(4) the disclosure of records for computer matching except to a Federal, State, or local agency.

SEC. 10. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall take effect 9 months after the date of enactment of this Act.

(b) EXCEPTIONS.—The amendment made by sections 3(b), 6, 7, and 8 of this Act shall take effect upon enactment.

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **HORTON**. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes and the gentleman from New York [Mr.

HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House passed the computer matching bill on August 1, 1988. The Senate has agreed to the House bill with a few minor amendments. Overall I think the Senate amendments represent improvements to the House bill. I am aware of no controversy over the Senate's changes.

Mr. Speaker, I urge adoption of the Senate amendments.

Mr. Speaker, I ask unanimous consent that a detailed summary of the Senate amendments be included at this point in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BROOKS. Mr. Speaker, I include the summary referred to as follows:

The Senate amendment includes minor changes to the House-passed provisions of S. 496, the Computer Matching and Privacy Protection Act of 1988. The amendment, which takes the form of a substitute amendment, alters the following provisions of the House-passed bill:

1. TERMS OF MATCHING AGREEMENTS

The amendment modifies Section 2 of the House-passed version of S. 496, which sets forth elements that must be included in the written matching agreements required by the bill. The amendment modifies this section of the House bill in two respects:

First, the House bill requires that the matching agreements contain procedures for providing individualized notice at the time of application, and periodically thereafter as directed by the Data Integrity Board to applicants for and recipients of financial assistance or payments under Federal benefit programs and to applicants for and holders of positions as Federal personnel, that any information provided by them may be subject to verification through matching programs.

The requirement for notice to such individuals that their records may be matched was also a provision contained in the Senate-passed bill. There is concern, however, that the provision of the House bill that requires individualized notice periodically to all persons who are already receiving Federal benefits or persons who are already holding positions in the Federal government may be prohibitively expensive, especially if this provision is interpreted as requiring agencies to send separate notices to these persons that their records may be matched. Thus, the amendment modifies the House provision to require the matching agreement to include procedures for providing individualized notice at the time of application, and notice periodically thereafter as directed by the Data Integrity Board, to these persons that their records may be subject to verification in matching programs.

This amendment is intended to require individualized notice for all applicants for benefits and federal positions. Such notice can be included on the application form or with other notices provided to applicants. The amendment is intended to provide more flexibility for agencies when providing periodic notice to persons who are already receiving benefits or who already hold government positions. The specific procedures for giving periodic notice for a particular matching program should be directed by the Data Integrity Board, subject to guidance from the Office of Management and Budget. Constructive notice, such as publication of the matching program in the Federal Register, is not considered adequate to meet the periodic notice requirement except in very limited circumstances when actual notice would interfere with the essential purpose of the match. The mailing of separate periodic notices is not required by law, but could be required in specific instances either by the Data Integrity Board or through OMB guidance.

Second, the amendment reinstates the provision from the Senate-passed bill that matching agreements contain procedures for the retention and timely destruction of identifiable records created by matching programs. This provision recognizes that agencies must retain the information created by matching programs in order to conduct the matching program, and the verification and followup that is essential to the matching program. This would include the investigation and prosecution that may result from a matching program that uncovers activity that warrants civil or criminal investigation or prosecution. All records created by the match, however, should be destroyed as soon as the records are no longer needed for the match itself and directly related followup.

2. VERIFICATION

The amendment modifies section 2 of the House-passed bill to specify that independent verification of the information produced by the matching program must, at a minimum, meet the independent verification requirements as set forth in this bill. The House-passed version of S. 496 allowed verification to be satisfied by either requirements set forth in the bill or the verification requirements governing the particular Federal benefit program involved in the matching program.

The amendment is intended to assure that agencies will, at a minimum, meet the verification requirements set forth in S. 496, which include independent investigation and confirmation of any information used as a basis for adverse action against an individual. Both versions of the bill include specific elements that must be verified, when applicable to the matching program.

3. DELAY IN TAKING ADVERSE ACTIONS

Both bills prohibit agencies from suspending, terminating, reducing, making a final denial of any financial assistance or payment under a federal benefit program, or from taking any other adverse action against individuals based on the information produced by a matching program until the individual has received a notice of the findings and has been given an opportunity to contest the findings. The House-passed bill prohibits any such adverse action until 60 days after notice and opportunity to contest findings have been given to the individual, while the Senate bill does not specify a period of time for agencies to wait until taking adverse action.

A strict rule that agencies must wait 60 days before taking adverse action is too rigid to be applied to all matching programs covered by the bill, and may result in a significant number of erroneous payments being made to ineligible claimants under Federal benefit programs. In some cases, a 60 day delay may be longer than the waiting period required by the law or regulations governing the specific Federal benefit program involved in the matching program, thus causing confusion to agency officials over which waiting period they must follow prior to taking adverse action.

The amendment alters the delay period to provide that agencies may not take adverse action until the individual has been given notice of the findings of the match and an opportunity to contest the findings of the match and until the subsequent expiration of the notice period provided by the law or regulation governing the program, or 30 days after giving a notice of findings and of the opportunity to contest findings, whichever is later. This provision will shorten the delay to minimize the danger of allowing erroneous payments to continue, while ensuring a minimal notice period of 30 days, which is necessary to comport with due process rights. For programs in which a longer notice and contest period is allowed, this longer period would govern.

4. COST BENEFIT ANALYSIS

The House bill, but not the Senate-passed bill, requires agencies to submit a cost-benefit analysis of the proposed matching program before a matching agreement can be approved by the Data Integrity Board. A waiver of the cost-benefit analysis requirement is available from the Data Integrity Board in accordance with guidelines prescribed by OMB.

Mandating a pre-match cost-benefit analysis is inappropriate for those matching programs that are required by law. Thus, the Senate amendment specifically exempts these matches from the up-front cost-benefit analysis requirement.

Since the costs of matching programs should be considered for those matches that will be repeated to determine if the matching program is truly cost-effective, the Senate amendment further specifies that any subsequent matching agreement for a matching program specifically required by statute will not be approved by the Data Integrity Board unless the agency has submitted a cost-benefit analysis of the program as conducted.

5. CONFORMING AND TECHNICAL AMENDMENTS

The Senate amendment makes clarifying and conforming amendments, such as:

Providing that any reports on matching activities conducted outside the scope of this bill may present information on an aggregate basis in order to protect counterintelligence investigations, in addition to protecting law enforcement matching programs (as specified in the House bill);

Adding matches performed to produce background checks for security clearances of Federal contractor personnel to the list of matching programs exempted from the bill; and

Including any program administered by a state on behalf of the Federal government within the definition of "federal benefit program" in order to clarify that state-administered Federal benefit programs, such as AFDC and Medicaid, are included within this definition.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, these Senate amendments are consistent with and represent refinements of the House legislation. I urge my colleagues to support the Senate amendments.

Mr. Speaker, computer matching is a vital tool in discovering waste, fraud, and abuse.

It was a computer match that led to last week's indictment of 27 U.S. pilots. These pilots allegedly lied about drug- or alcohol-related convictions in order to get—or keep—their licenses.

According to Saturday's New York Times, the FAA matched the names of people applying for pilot medical certificates with the national driver registry. This registry lists people whose driver's licenses were suspended or revoked for alcohol-related violations.

Subsequently, the Department of Transportation matched pilot applications against FBI alcohol and drug conviction records.

As a result of the Department of Transportation's efforts, a Florida grand jury indicted those 27 pilots.

Clearly, responsible computer matching is in the public good.

The Government Operations Committee approved its version of the legislation by voice vote. These Senate amendments are consistent with and represent refinements of the House legislation. I urge my colleagues to support the Senate amendments.

Mr. Speaker, I yield back the balance of my time.

Mr. BROOKS. My Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and concur in the Senate amendment to the House amendment to the Senate bill, S. 496.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

TRANSFER OF CONTROL OF GENERAL ACCOUNTING OFFICE BUILDING

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5052) to amend title 31 of the United States Code to provide for a transfer of control of the General Accounting Office Building and to improve the administration of the General Accounting Office, as amended.

The Clerk read as follows:

H.R. 5052

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROPERTY MANAGEMENT AUTHORITY OF THE COMPTROLLER GENERAL.

Chapter 7 of title 31, United States Code, is amended by adding at the end thereof the following new subchapter:

"Subchapter VI—Property Management

"§ 781. Authority over the General Accounting Office Building

"(a) The Comptroller General shall have exclusive custody and control over the building located at 441 G Street, N.W., in the District of Columbia, that is generally known as the General Accounting Office Building, including operation, maintenance, protection, alteration, repair, and assignment of space therein. Such custody and control shall also extend to any machinery, equipment, spare parts and tools located in and usable for the operation and maintenance of the General Accounting Office Building. For the purposes of securing approval of any prospectus detailed proposed alterations of the General Accounting Office Building, as required by section 7 of the Public Buildings Act of 1959, as amended (40 U.S.C. 606), the Comptroller General shall perform the functions assigned to the Administrator of General Services by that section.

"(b) Upon request of the Comptroller General, the Administrator of General Services shall provide, to the extent resources are available, any necessary services for the protection of the property and persons in the General Accounting Office Building, including the provision of special police, responding to and investigating incidents, and the monitoring of the perimeter security system. Such services may be provided with or without reimbursement as the Comptroller General and the Administrator may agree.

"(c)(1) The Comptroller General is authorized to enter into agreements or contracts to acquire property or services on such terms and conditions and in such a manner as he deems necessary and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5); except that the Comptroller General may not acquire real property unless specifically authorized by law. In exercising the authority granted by this section, the Comptroller General shall obtain full and open competition in accordance with the principles and purposes of the Competition of Contracting Act of 1984.

"(2) To the extent that funds are otherwise available for obligation, agreements or contracts for utility services may be made for periods not exceeding 10 years.

"(3) The Comptroller General may make advance, progress, and other payments which relate to agreements or contracts entered into under authority of this section, without regard to the provisions of section 3324(a) and (b) of this title.

"§ 782. Leasing of space in the General Accounting Office Building

"The Comptroller General is authorized to lease or otherwise provide space and services with the General Accounting Office Building to persons, both public and private, or to any department, agency or instrumentality of the United States Government upon such terms and conditions as the Comptroller General deems necessary to protect the public interest. The Comptroller General shall establish a rental rate for such leased space equivalent to the prevailing commercial rate for comparable space devoted to a similar purpose in the vicinity of the General Accounting Office Building. Additionally, the Comptroller General may make available, on occasion, or may lease at such rates and on such other terms and conditions as the Comptroller General deems to be in the public interest, auditoriums, meeting rooms, and lobbies of the General Accounting Office Building to persons, firms, or organizations engaged in cultural, educational, or recreational activities (as defined in section 105 of the Public Buildings Cooperative Use Act of 1976 (40 U.S.C. 612a). The Comptroller General will consult with the Administratior of General Services and will give priority to Federal agencies in filling available space within the General Accounting Office Building. Payments for space or services may be made in advance or by way of reimbursement and shall be deposited to a special account and shall be available for expenditure for operation, maintenance, protection, alteration, or repair of the General Accounting Office Building in such amounts as are specified in annual appropriation Acts without regard to fiscal year limitations.

"§ 783. Rules and regulations

"(a) The Comptroller General is authorized to make all needful rules and regulations for the government of the General Accounting Office Building, and to annex to such rules and regulations such reasonable penalties, within the limits prescribed in subsection (b), as will ensure their enforcement. Such rules and regulations shall be posted and kept posted in a conspicuous place on such Federal property.

"(b) Whoever shall violate any rule or regulation promulgated pursuant to subsection (a) shall be fined not more than $500 or imprisoned not more than 6 months, or both.".

SEC. 2. CLERICAL AND CONFORMING AMENDMENTS.

"(a) CLERICAL AMENDMENT.—The table of subchapters for chapter 7 of title 31, United States Code, is amended by inserting after the item relating to subchapter V the following new subchapter:

"Subchapter VI—Property Management

"Sec.

"781. Authority over the General Accounting Office Building.

"782. Leasing of space in the General Accounting Office Building.

"783. Rules and regulations.".

"(b) CONFORMING AMENDMENTS.—Section 702 of title 31, United States Code, is amended—

"(1) by striking out subsection (c); and

"(2) by redesignating subsection (d) as subsection (c).

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes and the gentleman from Utah [Mr. NIELSON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the headquarters building of the General Accounting Office currently is under the custody and control of the General Services Administration. H.R. 5052 will transfer custody and control over that building to the Comptroller General of the United States. In addition, it provides authority and procedures that will allow the Comptroller General to carry out his responsibilities for management of this building.

At hearings conducted by our Government Activities and Transportation Subcommittee, GAO testified that it has sought to gain control over its headquarters building for a number of years. Its argument is based on two points:

First, GAO believes that it can better provide for care, maintenance, repair, and rehabilitation of the building. For instance, the building currently has a serious problem involving the removal and containment of asbestos. It will require outlays of several million dollars to cure this problem. While GAO would like to budget for this work itself and believes that it can do so on an expedited basis, GSA would have to fit the work into its own budgeted asbestos removal program.

The second point is the inappropriateness of the General Accounting Office, which has the mandate of overseeing operations of the executive branch budget and priority setting.

Both of these points argue in favor of transferring custody and control of the headquarters building to the Comptroller General. Such action will also be consistent with GSA's large-scale program of delegating to occupant agencies the operation of major office buildings.

Mr. Speaker, I urge adoption of H.R. 5052.

Mr. Speaker, I yield back the balance of my time.

Mr. NIELSON of Utah. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 5052, legislation that will transfer from GSA to GAO control of the General Accounting Office Building and the land on which it sits. This bill passed the Government Activities and Transportation Subcommittee and the full Government Operations Committee by unanimous votes. It makes sense that GAO, as a legislative branch agency, have control over its building space, and I urge that my colleagues join me in supporting this legislation.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 5052, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered and on the two preceding matters, Senate amendments to House Concurrent Resolution 351 and S. 496.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PROVIDING SECRETARY OF THE AIR FORCE AUTHORITY TO CONVEY CERTAIN LAND

Mr. HUTTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5291) to provide the Secretary of the Air Force with authority to convey certain land.

The Clerk read as follows:

H.R. 5291

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAND EXCHANGE, OKALOOSA COUNTY, FLORIDA

(a) TRANSFER.—Subject to subsections (b) through (h), the Secretary of the Air Force may convey to the State of Florida all right, title, and interests of the United States in and to four contiguous parcels of real property (and improvements thereon) described as parcels 5 through 8, respectively, in Air Force Final Disposal Directive AF/RED 84-171 and consisting of approximately 156 acres located in Okaloosa County, Florida.

(b) CONSIDERATION.—(1) In consideration for the conveyance by the Secretary under subsection (a), the State of Florida shall convey to the United States all right, title, and interest of such State in and to a tract of real property (and improvements thereon) consisting of approximately 85.8 acres and located south of United States Highway 98 near the west end of the Destin Bridge, Destin, Florida, adjacent to the property of Eglin Air Force Base. Such conveyance shall specifically include any claim of the State of Florida to any lands included in such tract as may have been created by natural accretion or dumping of dredge spoil, and the State shall specifically covenant not to claim any lands abutting such tract that may be created by natural accretion of dumping of dredge spoil in the future.

(2) In addition to the consideration described in paragraph (1), Okaloosa County, Florida, shall convey to the United States all right, title, and interest it may have in the property described in such paragraph, including claims based on natural accretion or dumping of dredge spoil in the past or that may occur in the future.

(c) CONTINUED PUBLIC ACCESS.—The Secretary may take appropriate action to ensure that public access for recreational purposes to the property described in subsection (b) is continued in the manner and to the extent permitted on the date of the enactment of this Act.

(d) EXISTING EASEMENTS.—Existing easements for roads and public utilities may be excepted from any conveyance under this Act, as determined by the Secretary.

(e) EXACT DESCRIPTION OF LAND.—The exact acreages and legal descriptions of the real property to be conveyed under this Act shall be determined by surveys which are satisfactory to the Secretary. The cost of any such survey shall be borne by the State of Florida.

(f) REVERSION FOR NONUSE.—(1) The Secretary shall, as part of the conveyance of the property described in subsection (a), provide that, at the end of the 10-year period beginning on the date of such conveyance, all of such property not being used for educational purposes at the end of such period shall revert to the United States.

(2) Any property that reverts as described in paragraph (1) shall be transferred to the Department of Agriculture, United States Forest Service, without reimbursement.

(g) TRANSFER TO NATIONAL PARK SERVICE.—Any of the land, or land accreting thereto, conveyed to the United States under subsection (b) that the Secretary determines is not needed by any department or other agency of the Department of Defense shall be transferred to the Department of the Interior, National Park Service, without reimbursement, for incorporation into the Gulf Islands National Seashore.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance authorized by subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida [Mr. HUTTO] will be recognized for 20 minutes and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill provides the Secretary of the Air Force authority to convey land between his Department and the State of Florida. Conveyance of the 156 acres of excess land at Eglin Air Force Base would permit the construction of joint use higher educational facilities for the Okaloosa-Walton Community College [OWCC] and the University of West Florida [UWF].

Florida legislative appropriations have a sunset provision which require the construction to begin prior to the beginning of the 101st Congress, hence, passage of this bill is necessary during this Congress.

Air Force officials have approved of and support this exchange. The 156 acres are a part of the 11 parcels listed in Air Force Final Disposal Directive AF/RED 84-171, parcels 5-8.

MAI appraisals for the parcels to be exchanged show the value of the 85.8-acre gulf-front parcel to be more than twice as valuable as the 156-acre parcel of Air Force land. The MAI appraisal for the Air Force land is $2.5 million, the MAI appraisal for the State-owned gulf-front property is $6 million.

The Air Force desires to have the 85.8 acres of gulf-front property to add to the NCO Beach Club and other facilities adjacent to it. Additionally, it completes the ownership of the entire eastern end of the island providing greater security for the Air Force.

The legislation provides reverter clauses to be placed on the respective parcels to have the 85.8 acres to become part of the Gulf Island National Seashore and the 156 acres to become part of the Choctawhatchee National Forest if they are not used for the purposes described in the act.

Mr. Speaker, I reserve the balance of my time.

Mr. STUMP. Mr. Speaker, I rise in support of H.R. 5291.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. MARTIN].

Mr. MARTIN of New York. Mr. Speaker, I thank the gentleman from Arizona [Mr. STUMP] for yielding.

From the point of view of the minority and the Subcommittee on Military Construction, we have viewed this legislation; it was introduced by the honorable gentleman from Florida [Mr. HUTTO], and we are satisfied that it is in the best interest of the U.S. Government and the Air Force to make this transfer. Not so incidentally it will have to be done in the 100th Congress, if we are going to get on with the construction, and we have no problems at all with this, and we salute the gentleman from Florida [Mr. HUTTO] for having worked through this legislative process in a most timely fashion.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HUTTO. Mr. Speaker, I appreciate the comments of the gentleman from New York [Mr. MARTIN] and the gentleman from Arizona [Mr. STUMP], and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. HUTTO] that the House suspend the rules and pass the bill, H.R. 5291.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. HUTTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

CONFERENCE REPORT ON H.R. 4174, SBA REAUTHORIZATION AND AMENDMENT ACT OF 1988

Mr. LAFALCE submitted the following conference report and statement on the bill (H.R. 4174) to amend the Small Business Act to establish programs and initiate efforts to assist the development of small business concerns owned and controlled by women, and for other purposes:

CONFERENCE REPORT (H. REPT. 1029)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4174) to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Administration Reauthorization and Amendment Act of 1988".

(b) TABLE OF CONTENTS.—

TITLE I—GENERAL REAUTHORIZATION PROVISIONS

Sec. 101. Program Levels and Authorizations.
Sec. 102. Form Simplification and Preferred Financing.
Sec. 103. Guarantee Percentages for Preferred Lenders.
Sec. 104. Examinations of Small Business Investment Companies.
Sec. 105. Minimum Life of Limited Partnership Small Business Investment Companies.
Sec. 106. Periodic Small Business Investment Company Debenture Sales.
Sec. 107. General Accounting Office Evaluation of the Service Corps of Retired Executives.
Sec. 108. Participation in the Small Business Innovation and Research Program.
Sec. 109. SBA Program Data and Evaluation.
Sec. 110. Breakout Procurement Center Representatives.
Sec. 111. Amendments Relating to Revolving Funds.
Sec. 112. Development Company Loan Program.
Sec. 113. Secondary Market in Development Company Loans.
Sec. 114. Development Company Debentures.
Sec. 115. Development Company Loans—Policy.
Sec. 116. Development Company Loans—Leased Premises.
Sec. 117. Development Companies—Staff and Overhead.
Sec. 118. Disaster Loan Policy.
Sec. 119. Definition of Disasters.
Sec. 120. Disaster Assistance.
Sec. 121. Disaster Mitigation Actions.
Sec. 122. Unsecured Disaster Loans.
Sec. 123. National Directory of Small Businesses.
Sec. 124. Ineligibility of Small Business Engaged in Business with South Africa.
Sec. 125. Women-owned Business.
Sec. 126. Analysis of Financing Sources.
Sec. 127. Effective Data Collection on Women-owned Business.
Sec. 128. Management and Technical Assistance for Women-owned Small Business.
Sec. 129. New Procurement Center Representatives.
Sec. 130. Rural Area Business Development Plans.
Sec. 131. Increased Contract Opportunities.
Sec. 132. Private Sector Cooperation.
Sec. 133. Background Check Policy—Fingerprinting.
Sec. 134. Amendments Relating to Program for Blind and Handicapped.
Sec. 135. Miscellaneous Amendments.
Sec. 136. Funding Extensions.
Sec. 137. Promulgation of Rules.
Sec. 138. Effective Date.

TITLE II—PREFERRED SURETY BOND GUARANTEE PROGRAM

Sec. 201. Short Title.
Sec. 202. Authority of the Administration.
Sec. 203. Indemnification.
Sec. 204. Reports and Audits of Participating Sureties.
Sec. 205. Regulations.
Sec. 206. Evaluation and Report.
Sec. 207. Sunset.
Sec. 208. Revolving Fund.
Sec. 209. Effective Date.

TITLE I—GENERAL REAUTHORIZATION PROVISIONS

SEC. 101 PROGRAM LEVELS AND AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by striking the first sentence of subsection (a), by striking subsections (b) through (x), by redesignating subsections (y) and (z) as subsections (b) and (c), and by adding the following new subsections:

"(d) The following program levels are authorized for fiscal year 1989:

"(1) for the programs authorized by section 7(a) of this Act, the Administration is authorized to make $62,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make $17,000,000 in loans as provided in paragraph (10), $24,000,000 in loans as provided in paragraph (11), and $21,000,000 in loans to disabled veterans and Vietnam era veterans as defined in section 1841, title 38, United States Code, under the general terms and conditions of section 7(a) of this Act;

"(2) for the programs authorized by section 7(a) of this Act and section 504 of the Small Business Investment Act of 1958, the Administration is authorized to make $3,407,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make $5,000,000 in loans as provided in paragraph (10), $65,000,000 in loans as provided in paragraph (11), $60,000,000 in loans as provided in paragraph (12), and $460,000,000 in loans as provided in paragraph (13) and guarantees of deventures as provided in section 504;

"(3) for the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $39,000,000 in direct purchases of debentures and preferred securities and to make $272,000,000 in guarantees of debentures;

"(4) for the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,500,000,000; and

"(5) for the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is not authorized to enter into any guarantees.

"(e) There are authorized to be appropriated to the Administration for fiscal year 1989 such sums as may be necessary to carry out the provisions of this Act and the Small Business Investment Act of 1958, including $228,000,000 for salaries and expenses of the Administration, of which up to $2,600,000 may be available for the operations of the Service Corps of Retired Executives. There also are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.

"(f) The following program levels are authorized for fiscal year 1990:

"(1) for the programs authorized by section 7(a) of this Act, the Administration is authorized to make $65,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make $18,000,000 in loans as provided in paragraph (10), $25,000,000 in loans as provided in paragraph (11), and $22,000,000 in loans to disabled veterans and Vietnam era veterans as defined in section 1841, title 38, United States Code, under the general terms and conditions of section 7(a) of this Act;

"(2) for the programs authorized by section 7(a) of this Act and section 504 of the Small Business Investment Act of 1958, the Administration is authorized to make $3,543,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make $5,000,000 in loans as provided in paragraph (10), $68,000,000 in loans as provided in paragraph (11), $62,000,000 in loans as provided in paragraph (12), and $478,000,000 in loans as provided in paragraph (13) and guarantees of debentures as provided in section 504;

"(3) for the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $41,000,000 in direct purchases of debentures and preferred securities and to make $283,000,000 in guarantees of debentures;

"(4) for the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,560,000,000; and

"(5) for the programs authorized in section 404 and 405 of the Small Business Investment Act of 1958, the Administration is not authorized to enter into any guarantees.

"(g) There are authorized to be appropriated to the Administration for fiscal year 1990 such sums as may be necessary to carry out the provisions of this Act and the Small Business Investment Act of 1958, including $238,000,000 for salaries and expenses of the Administration, of which $2,700,000 shall be available for the operations of the Service Corps of Retired Executives. There also are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.

"(h) There are authorized to be appropriated to the Administration for fiscal year 1991 such sums as may be necessary to carry out the provisions of this Act and the Small Business Investment Act of 1958. There also are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.".

SEC. 102. FORM SIMPLIFICATION AND PREFERRED FINANCING.

(a) Certified Loan Program.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding to subsection (a) the following new paragraph:

"(19) During fiscal years 1989, 1990 and 1991, in addition to the preferred lenders program authorized by the provision in section 5(b)(7), the Administration is authorized to establish a certified loan program for lenders who establish their knowledge of Administration laws and regulations concerning the loan guarantees program and their proficiency in program requirements. In order to encourage certified lenders and preferred leaders to provide loans of $50,000 or less in guarantees to eligible small business loan applicants, the Administration (A) shall develop and shall allow participating lenders in the certified loan program and in the preferred loan program to solely utilize a uniform and simplified loan form for such loans and (B) shall allow such lenders to retain one-half of the fee collected pursuant to section 7(a)(16) on such loans: Provided, That a participating lender may not retain any fee pursuant to this paragraph if the amount committed and outstanding to the applicant would exceed $50,000 unless such excess amount was not approved under the provisions of this paragraph. The designation of a lender as a certified lender shall be suspended or revoked at any time that the Administration determines that the lender is not adhering to its rules and regulations or if the Administration determines that the loss experience of the lender is excessive as compared to other lenders: Provided further, That any suspension or revocation of the designation shall not affect any outstanding guarantee: And, provided further, That the Administration may not reduce the per centum of guarantee as a criterion of eligibility for participation in this program, except as otherwise provided by law."; and

(b) Reports.—The Administration shall take appropriate steps to expand participation in the certified loan program and shall report to the Small Business Committees of the Senate and the House of Representatives on the amount of loans approved and the amount of losses sustained under the provisions of section 7(a)(19) of the Small Business Act. An interim report shall be submitted not later than one year after date of enactment of this Act and a final report shall be submitted not later than 18 months after the date of enactment.

SEC. 103. GUARANTEE PERCENTAGES FOR PREFERRED LENDERS.

Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by inserting after the word "thereto" in the second proviso, ", but any such reduction shall not exceed five points".

SEC. 104. EXAMINATIONS OF SMALL BUSINESS INVESTMENT COMPANIES.

Section 310 of the Small Business Investment Act of 1958 (15 U.S.C. 687b) is amended by striking the second sentence of subsection (b) and by adding the following new subsection to such section:

"(c) Each small business investment company shall be examined at least every two years in such detail so as to determine whether or not—

"(1) it has engaged solely in lawful activities and those contemplated by this title;

"(2) it has engaged in prohibited conflicts of interest;

"(3) it has acquired or exercised illegal control of an assisted small business;

"(4) it has made investments in small businesses for not less than four years in the case of section 301(d) licensees and in all other cases, not less than five years;

"(5) it has invested more than 20 per centum of its capital in any individual small business;

"(6) it has engaged in relending, foreign investments, or passive investments; or

"(7) it has charged an interest rate in excess of the maximum permitted by law: Provided, That the Administration may waive the examination (A) for up to one additional year if, in its discretion, it determines such a delay would be appropriate, based upon the amount of debentures being issued by the company and its repayment record, the prior operating experience of the company, the contents and results of the last examination and the management expertise of the company, or (B) if it is a company whose operations have been suspended while the company is involved in litigation or is in receivership.".

SEC. 105. MINIMUM LIFE OF LIMITED PARTNERSHIP SMALL BUSINESS INVESTMENT COMPANIES.

Section 301 of the Small Business Investment Act of 1958 (15 U.S.C. 681) is amended by striking from subsection (a) "has succession for a period of not less than thirty years unless sooner dissolved by its shareholders or partners" and inserting in lieu thereof ", if incorporated, has succession for a period of not less than thirty years unless sooner dissolved by its shareholders, and if a limited partnership, has succession for a period of not less than ten years,".

SEC. 106. PERIODIC SMALL BUSINESS INVESTMENT COMPANY DEBENTURE SALES.

(a) In General.—Title III of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new section:

"PERIODIC ISSUANCE OF GUARANTEES AND TRUST CERTIFICATES

"Sec. 322. The Administration shall issue guarantees under section 303 and trust certificates under section 321 at periodic intervals of not less than every three months and shall do so at such shorter intervals as it deems appropriate, taking into consideration the amount and number of such guarantees or trust certificates.".

(b) Clerical Amendment.—The table of sections for title III is amended by adding the following new item:

"Sec. 322 Periodic issuance of guarantees and trust certificates.".

SEC. 107. GENERAL ACCOUNTING OFFICE EVALUATION OF THE SERVICE CORPS OF RETIRED EXECUTIVES.

The Comptroller General shall, not later than December 1, 1989, transmit a report to the Small Business Committees of the Senate and the House of Representatives on the functions being performed by volunteers in the Service Corps of Retired Executives and the Active Corps of Executives. Such report shall include his evaluation of the programs and shall include conclusions and recommendations concerning the efficiency and cost effectiveness of such volunteers.

SEC. 108. PARTICIPATION IN THE SMALL BUSINESS INNOVATION AND RESEARCH PROGRAM.

Subsection (j) of section 9 of the Small Business Act (15 U.S.C. 638(j)) is amended as follows:

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding the following new paragraphs:

"(6) standardized and orderly withdrawal from program participation by an agency having a SBIR program; at the discretion of the Administration, such directives may require a phased withdrawal over a period of time sufficient in duration to minimize any adverse impact on small business concerns; and

"(7) the voluntary participation in a SBIR program by a Federal agency not required to establish such a program pursuant to subsection (f).".

SEC. 109. SBA PROGRAM DATA AND EVALUATION.

The Small Business Administration shall develop a comprehensive system to systematically acquire data on the number of small businesses which participate in Administration programs, the nature and extent of their participation, the type of business, the results of such participation, and such other information as the Administration deems appropriate. It shall also include the number and dollar amount of guaranteed loans by lender, and the interest rate thereon, and the number and dollar amount of sales in the secondary market both by lender and by purchaser. The data shall be compiled and maintained to permit a statistically valid analysis and computation and evaluation of costs and benefits. The Administration shall submit a report to the Small Business Committees of the Senate and the House of Representatives not later than March 31, 1989, such report to include its conclusions and recommendations and estimate of the costs involved in implementing such a program and shall implement the system for all program assistance made available on or after October 1, 1989.

SEC. 110. BREAKOUT PROCUREMENT CENTER REPRESENTATIVES

Subsection (D) of section 15 of the Small Business Act (15 U.S.C. 644) is amended—

(1) by striking the term "unrestricted" from subparagraph (D) of paragraph (2) each place such term appears;

(2) by amending subparagraph (E) of paragraph (2) to read as follows:

"(E) have access to procurement records and other data of the procurement center commensurate with the level of such representative's approved security clearance classification;";

(3) by amending paragraph (3) to read as follows:

"(3) A breakout procurement center representative is authorized to appeal the failure to act favorably on any recommendation made pursuant to paragraph (2). Such appeal shall be filed and processed in the same manner and subject to the same conditions and limitations as an appeal filed by the Administrator pursuant to subsection (a).";

(4) by amending paragraph (6) to read as follows:

"(6) For purposes of this subsection, the term 'major procurement center' means a procurement center that, in the opinion of the Administrator, purchases substantial dollar amounts of other than commercial items and which has the potential to incur significant savings as the result of the placement of a breakout procurement center representative"; and

(5) by adding the following new paragraph:

"(7)(A) At such times as the Administrator deems appropriate, the breakout procurement center representative shall conduct familiarization sessions for contracting officers and other appropriate personnel of the procurement center to which such representative is assigned. Such sessions shall acquaint the participants with the provisions of this subsection and shall instruct them in methods designed to further the purposes of such subsection.

"(B) The breakout procurement center representative shall prepare and personally deliver an annual briefing and report to the head of the procurement center to which such representative is assigned. Such briefing and report shall detail the past and planned activities of the representative and shall contain such recommendations for improvement in the operation of the center as may be appropriate. The head of such center shall personally receive such briefing and report and shall, within 60 calendar days after receipt, respond, in writing, to each recommendation made by such representative.".

SEC. 111. AMENDMENTS RELATING TO REVOLVING FUNDS.

(a) TECHNICAL AMENDMENT.—Section 4(c) of the Small Business Act (15 U.S.C. 633(c)) is amended—

(1) by striking from paragraph (1) "III" and inserting in lieu thereof "III, IV"; and

(2) by striking from paragraph (2) "III" and inserting in lieu thereof "III, IV"; and

(b) REPEALER.—Section 403 of the Small Business Investment Act of 1958 (15 U.S.C. 694) is hereby repealed. Any moneys remaining in the Lease Guarantee Fund on the date of enactment of this Act shall be transferred to the Small Business Administration's business loan and investment fund.

(c) POLLUTION CONTROL GUARANTEED LOANS.—Section 7(a)(12) of the Small Business Act (15 U.S.C. 636(a)(12) is amended—

(1) by inserting "(A)" after "(12)"; and

(2) by adding at the end thereof the following new subparagraph:

"(b) The Administration may provide deferred participation loans under this subsection to finance the planning, design, or installation of pollution control facilities for the purposes set forth in section 404 of the Small Business Investment Act of 1958. Notwithstanding the limitation expressed in paragraph (3) of this subsection, a loan made under this paragraph may not result in a total amount outstanding and committed to a borrower from the business loan and investment fund of more than $1,000,000.".

(d) TECHNICAL AMENDMENTS TO SECTION 505.—(1) Section 505 of the Small Business Investment Act of 1958 is amended by striking from subsection (a) "all of a" and by inserting in lieu thereof "all or a".

(2) Such section is further amended by inserting the following title at the beginning of such section:

"POOLING OF DEBENTURES".

(3) The table of contents for title V of such Act is amended by adding after the item relating to section 504 the following new item:

"Sec. 505. Pooling of debentures.".

SEC. 112. DEVELOPMENT COMPANY LOAN PROGRAM.

(a) PERMANENT EXTENSION OF PILOT PROGRAM.—Section 504 of the Small Business Investment Act of 1958 (15 U.S.C. 697a) is amended to read as follows:

"PRIVATE DEBENTURE SALES

"SEC. 504. (a) Notwithstanding any other law, rule, or regulation, the Administration shall sell to investors, either publicly or by private placement, debentures pursuant to section 503 of this title as follows:

"(1) Of the program levels otherwise authorized by law for fiscal year 1986, an amount not to exceed $200,000,000.

"(2) Of the program levels otherwise authorized by law for each of fiscal years 1987 and 1988, an amount not to exceed $425,000,000.

"(3) All of the program levels authorized for fiscal year 1989 and subsequent fiscal years.

"(b) Nothing in any provision of law shall be construed to authorize the Federal Financing Bank to acquire—

"(1) any obligation the payment of principal or interest on which at any time has been guaranteed in whole or in part under section 503 of this title and which is being sold pursuant to the provisions of the program authorized in this section;

"(2) any obligation which is an interest in any obligation described in paragraph (1); or

"(3) any obligation which is secured by, or substantially all of the value of which is attributable to, any obligation described in paragraph (1) or (2).".

(b) The table of contents for title V of such Act is amended by adding after the item relating to section 503 the following new item:

"Sec. 504. Private debenture sales.".

(c) COMMERCIAL LOAN INTEREST RATE.—

(1) IN GENERAL.—Section 503 of the Small Business Investment Act of 1958 (15 U.S.C. 697) is amended—

(A) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and

(B) by inserting after subsection (b) the following new subsection:

"(c)(1) The purpose of this subsection is to facilitate the orderly and necessary flow of long-term loans from certified development companies to small business concerns.

"(2) Notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest which may be charged, taken, received, or reserved, the maximum legal rate of interest on any commercial loan which funds any portion of the cost of the project financed pursuant to this section or section 503 which is not funded by a debenture guaranteed under this section shall be a rate which is established by the Administrator of the Small Business Administration under the authority of this section.

"(3) The Administrator is authorized and directed to establish and publish quarterly a maximum legal interest rate for any commercial loan which funds any portion of the cost of the project financed pursuant to this section or section 504 which is not funded by a debenture guaranteed under this section.".

(2) REPEALER.—The amendment made by paragraph (1) shall be repealed on October 1, 1990.

SEC. 113. SECONDARY MARKET IN DEVELOPMENT COMPANY LOANS.

Section 5 of the Small Business Act (15 U.S.C. 634) is amended by striking from subsection (g) "except those" and by inserting in lieu thereof "except separate trust certificates shall be issued for loan approved".

SEC. 114. DEVELOPMENT COMPANY DEBENTURES.

Section 503(a)(2) of the Small Business Investment Act of 1958 (15 U.S.C. 697(a)(2)) is amended by inserting before the period at the end thereof the following: ": Provided, That the Administration shall not decline to issue such guarantee when the ownership interests of the small business concern and the ownership interests of the property to be financed with the proceeds of a loan made pursuant to subsection (b)(1) are not identical because one or more of the following classes of relatives have an ownership interest in either the small business concern or the property: father, mother, son, daughter, wife, husband, brother, or sister: Provided further, That the Administrator or his designee has determined on a case-by-case basis that such ownership interest, such guarantee, and the proceeds of such loan, will substantially benefit the small business concern".

SEC. 115. DEVELOPMENT COMPANY LOANS—POLICY.

(a) POLICY.—Section 501 of the Small Business Investment Act of 1958 (15 U.S.C. 695) is amended by redesignating subsections (a) and (b) as subsections (b) and (c), respectively, and by adding the following new subsection prior thereto:

"(a) The Congress hereby finds and declares that the purpose of this title is to foster economic development in both urban and rural areas by providing long term financing for small business concerns through the development company program authorized by this title. In order to carry out this objective, the Administration is hereby directed to place greater emphasis on the needs of rural areas and the promotion of the development company program in such areas, and is further directed to develop a plan for greater outreach of procurement and export trade seminars in such areas. As used in this title, the term 'rural areas' means those localities with populations of less than 20,000.".

(b) TECHNICAL AMENDMENTS TO THE SECTION.—(1) Title V of such Act is further amended by inserting the following heading at the beginning of section 501:

"STATE DEVELOPMENT COMPANIES".

(2) The table of contents of such Act is amended by inserting before the item relating to section 502 the following new item:

"Sec. 502. State development companies.".

SEC. 116. DEVELOPMENT COMPANY LOANS—LEASED PREMISES.

(a) IN GENERAL.—Section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696) is further amended by adding the following at the end thereof:

"(4) If the project is to construct a new facility, up to 33 percentum of the total project may be leased, if reasonable projections of growth demonstrate that the assisted small business concern will need additional space within three years and will fully utilize such additional space within ten years.".

(b) Technical Amendments to the section.—(1) Title V of such Act is further amended by inserting the following heading at the beginning of section 502:

"LOANS FOR PLANT ACQUISITION, CONSTRUCTION, CONVERSION AND EXPANSION".

(2) The table of contents of such Act is amended by inserting before the item relating to section 503 the following new item:

"Sec. 502. Loans for plant acquisition, construction, conversion, and expansion.".

SEC. 117. DEVELOPMENT COMPANIES—STAFF AND OVERHEAD.

(a) STAFF.—Section 503(d) of the Small Business Investment Act of 1958 (15 U.S.C. 697(d)) is amended—

(1) by inserting "(1)" after "(d)";

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(3) by adding at the end thereof the following new paragraph:

(2) "A company in a rural area shall be deemed to have satisfied the requirements of a full-time professional staff and professional management ability if it contracts with another certified development company which has staff and management ability and which is located in the same general area to provide such services.".

(b) OVERHEAD.—The Small Business Investment Act of 1958 is amended by adding at the end thereof the following new section:

"RESTRICTIONS ON DEVELOPMENT COMPANY ASSISTANCE

"SEC. 506. Notwithstanding any other provision of law: (1) on or after May 1, 1991, no development company may accept funding from any source, including but not limited to any department or agency of the United States government, if such funding includes any conditions, priorities or restrictions upon the types of small businesses to which they may provide financial assistance under this title or if it includes any conditions or imposes any requirements, directly or indirectly, upon any recipient of assistance under this title; and (2) before such date, no department or agency of the United States government which provides funding to any development company shall impose any condition, priority or restriction upon the type of small business which receives financing under this title nor shall it include any condition or impose any requirement, directly or indirectly, upon any recipient of assistance under this title: Provided, That the foregoing shall not affect any such conditions, priorities or restrictions if the departament or agency also provides all of the financial assistance to be delivered by the development company to the small business and such conditions, priorities or restrictions are limited solely to the financial assistance so provided.".

(c) REPORT.—Not later than 180 days after the effective date of this Act, the Small Business Administration shall report to the Small Business Committees of the Senate and the House of Representatives on the amount and nature of all financial assistance or income being received by certified development companies from sources other than the Small Business Administration or those being assisted by the programs authorized in title V of the Small Business Investment Act of 1958. The report shall include any conditions or restrictions imposed on the development companies due to such financial assistance, a comparison of all sources of income which comprise the development companies' budgets, an analysis of the financial impact of various sources of financial assistance, and the feasibility of restricting assistance received from the Federal government solely to Small Business Administration funding.

(d) The table of contents of such Act is amended by inserting the following new item at the end thereof:

"Sec. 506. Restrictions on Development Company Assistance.".

SEC. 118. DISASTER LOAN POLICY.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by adding the following new subsection:

"(g) In administering the disaster loan program authorized by section 7 of this Act, to the maximum extent possible, the Administration shall provide assistance and counseling to disaster victims in filing applications, providing information relevant to loan processing, and in loan closing and prompt disbursement of loan proceeds and shall give the disaster program a high priority in allocating funds for administrative expenses.".

SEC. 119. DEFINITION OF DISASTERS.

(a) NATURAL DISASTERS.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended by striking from paragraph (1) of subsection (b) "floods, riots or civil disorders, or other catastrophes:" and inserting in lieu thereof "natural or other disasters:".

(b) IN GENERAL.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended—

(1) by adding the following new subsection:

"(k) For the purposes of this Act, the term "disaster" means a sudden event which causes severe damage including, but not limited to, floods, hurricanes, tornadoes, earthquakes, fires, explosions, volcanoes, windstorms, landslides or mudslides, tidal waves, ocean conditions resulting in the closure of customary fishing waters, riots, civil disorders or other catastrophes, except it does not include economic dislocations,"; and

(2) by redesignating the second subsection "(j)" as subsection "(l)".

SEC. 120. DISASTER ASSISTANCE.

(a) ECONOMIC INJURY.—Section 7(c) of the Small Business Act (15 U.S.C. 636(c)) is amended by adding the following new paragraph:

"(7) The Administration shall not withhold disaster assistance pursuant to this paragraph to nurseries who are victims of drought disasters. As used in section 7(b)(2) the term "an area affected by a disaster" includes any county, or country contiguous thereto, determined to be a disaster by the President, the Secretary of Agriculture or the Administrator of the Small Business Administration."

(b) INTEREST RATES.—Section 7(c) of the Act is further amended by striking "business concern" from paragraph (5)(C) and inserting in lieu thereof "business or other concern, including agricultural cooperatives,".

SEC. 121. DISASTER MITIGATION ACTIONS.

Section 7 of the Small Business Act (15 U.S.C. 636) is further amended by inserting prior to the semicolon at the end of subsection (b)(1)(A) the following: ": And provided further, That the Administration may increase the amount of the loan by up to an additional 20 per centum if it determines such increase to be necessary or appropriate in order to protect the damaged or destroyed property from possible future disasters by taking mitigating measures, including, but not limited to, construction of retaining walls and sea walls, grading and contouring land, relocating utilities and modifying structures".

SEC. 122. UNSECURED DISASTER LOANS.

Section 7(c) of the Small Business Act (15 U.S.C. 636(c)) is further amended by striking from paragraph (6) "refinancing." and inserting in lieu thereof "refinancing: Provided further, That the Administration shall not require collateral for loans of $10,000 or less which are made under paragraph (1) of subsection (b).".

SEC. 123. NATIONAL DIRECTOR OF SMALL BUSINESSES

The Small Business Administration shall undertake a study to determine the feasibility and need for developing an expanded national director of small businesses to effectuate fully the purposes of Section 145(a) of the Small Business Act. The Agency shall examine existing resources such as the PASS system, the advocacy data base, and other resources to ascertain the costs and other requirements necessary to effectuate such a directory, including a concern's capability, standard industrial codes and Federal supply numbers identifying such capability, and other data deemed relevant. The Small Business Administration shall submit a report to the Small Business Committees of the Senate and the House of Representatives not later than June 1, 1989. This report shall include conclusions and recommendations and an estimate of the costs involved in implementing such a system.

SEC. 124. INELIGIBILITY OF SMALL BUSINESS ENGAGED IN BUSINESS WITH SOUTH AFRICA.

(a) Denial of Participation.—Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) is amended by adding at the end the following new paragraph:

"(5)(A) Notwithstanding any other provision of law, a small business concern shall not be eligible for any program or activity conducted under the authority of this Act or the Small Business Investment Act of 1958 (15 U.S.C. 661 et. seq.) if such concern engages in trade or other commercial activity with—

"(i) the Government of South Africa;

"(ii) any South African entity; or

"(iii) any entity located in South Africa other than an entity (I) involved in anti-apartheid activity, or (II) which provides educational, housing, or humanitarian assistance to individuals throughout South Africa on a nondiscriminatory basis.

"(B) For purposes of this paragraph—

"(i) the term 'South Africa' includes—

"(I) the Republic of South Africa;

"(II) any territory under the administration (legal or illegal) of South Africa; and

"(III) the 'Bantustans' or 'homeland' to which South African blacks are assigned on the basis of ethnic origin, including the Transkei, Bophuthatswana, Ciskei, and Venda; and

"(ii) the term 'South African entity' means—

"(I) a corporation, partnership, or other business association or entity organized in South Africa; or

"(II) a branch office, agency, or sole proprietorship in South Africa or a person that resides or is organized outside of South Africa.

"(C) Any contract (or subcontract) awarded to a small business concern that violates this Act shall be revoked by the contracting agency after opportunity for a hearing on the record in accordance with chapter 5 of title 5, United States Code.

"(D) This paragraph shall cease to be effective on the date that the prohibitions described in the Comprehensive Anti-Apartheid Act of 1986 (Public Law 99-440) terminate under section 502 of such Act.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this title.

SEC. 125. WOMEN-OWNED BUSINESS.

Section 303 of Public Law 96-302 (15 U.S.C. 631b) is amended by adding the following new subsection:

"(e) The information and data required to be reported pursuant to subsection (a) shall separately detail those portions of such information and data that are relevant to—

"(1) small business concerns owned and controlled by socially and economically disadvantaged individuals as defined pursuant to section 8(d) of the Small Business Act; and

"(2) small business concerns owned and controlled by women.".

SEC. 126. ANALYSIS OF FINANCING SOURCES.

(a) Study.—Not later than June 1, 1989, or 180 days after the effective date of this section (whichever is later), the Office of the Chief Counsel for Advocacy of the Small Business Administration (hereinafter referred to in this section as the "Office") shall conduct and complete a study to determine, with respect to the service sector of the economy—

(1) the level of demand for debt capital by small business concerns;

(2) the level of availability of such capital for such concerns; and

(3) how new or innovative financing techniques or the improvement of existing techniques can be used to satisfy the unmet demand for such capital by such concerns consistent with acceptable standards of safety and soundness for loans and investments made by commercial and business lenders and institutional investors.

(b) Consultation and Cooperation.—In performing such study, the Office shall consult with the Federal Reserve Board, the Comptroller of the Currency, the Department of Commerce, other relevent agencies and departments of Government, trade and professional associations, and other organizations representing the interest of such business and service sector business concerns. Each department and agency shall afford the Office such assistance and cooperation as may be necessary to achieve the purposes of this subsection.

(c) Report.—The study performed pursuant to subsection (a) shall be reported to the Committees on Small Business of the Senate and House of Representatives within 180 days after the effective date of this section.

SEC. 127. EFFECTIVE DATA COLLECTION ON WOMEN-OWNED BUSINESS.

(a) Study.—Not later than June 1, 1989, or 180 days after the effective date of this section (whichever is later), the Office of the Chief Counsel for Advocacy of the Small Business Administration (hereinafter referred to in this section as the "Office") shall conduct and complete a study to determine the most cost effective and accurate means to gather and present data on women-owned businesses, including data on sole proprietorship, partnership, Sub S corporations and regular corporations.

(b) Consultation and Cooperation.—In performing such study, the Office shall consult with the Department of Labor, including the Bureau of Labor Statistics, the Department of Commerce, including the Bureau of the Census, the Internal Revenue Service, other relevant agencies and departments of Government, trade and professional associations, and other organizations representing the interest of women-owned businesses. Each department and agency shall afford the Office such assistance and cooperation as may be necessary to achieve the purposes of this subsection.

(c) Report.—The study performed pursuant to subsection (a), together with such recommendations for legislative or administrative change as may be appropriate, shall be reported to the Committees on Small Business of the Senate and House of Representatives within 180 days after the effective date of this section.

SEC. 128. MANAGEMENT AND TECHNICAL ASSISTANCE FOR WOMEN-OWNED SMALL BUSINESS.

(a) Establishment.—Subsection (c) of section 8 of the Small Business Act (15 U.S.C. 637(c)) is amended to read as follows:

"(c)(1) Subject to the requirements of paragraph (2), the Administration shall provide financial assistance to private organizations to conduct demonstration projects for the benefit of small business concerns owned and controlled by women.

"(2) No amount of financial assistance shall be provided pursuant to this subsection unless the recipient organization agrees, as a condition of receiving such assistance, that—

"(A) it will obtain, after its application has been approved but prior to the disbursement of funds pursuant to this subsection, cash contributions from private sector sources in an amount at least equal to the amount of funds such organization will receive under this subsection; and

"(B) it will provide the types of services and assistance to present and potential women owners of small business concerns as are described in paragraph (3). For the purposes of this subsection such concerns maybe either 'start-up' businesses or established 'on-going' concerns.

"(3) The types of services and assistance referred to in (2)(B) shall include the following:

"(A) Financial Assistance, which assistance shall include training and counseling in how to apply for and secure business credit and investment capital; prepare and present financial statements; manage cash flow and otherwise manage the financial operations of a business concern.

"(B) Management Assistance, which assistance shall include training and counseling in how to plan, organize, staff, direct and control each major activity and function of a small business concern; and

"(C) Marketing Assistance, which assistance shall include training and counseling in how to identify and segment domestic and international market opportunities; prepare and execute marketing plans; develop pricing strategies; locate contract opportunities; negotiate contracts; and utilize varying public relations and advertising techniques.

"(4) Applications for financial assistance pursuant to this subsection shall be evaluated and ranked in accordance with predetermined selection criteria that shall be stated in terms of relative importance. Such criteria and their relative importance shall be made publicly available and stated in each solicitation for applications made by the Administration. Such criteria shall include—

"(A) a criterion that specifically refers to the experience of the offering organization in conducting programs or on-going efforts designed to impact or upgrade the business skills of women business owners or potential owners;

"(B) a criterion that specifically refers to the present ability of the offering organiza-

tion to commence a demonstration project within a minimum amount of time; and

"(C) a criterion that specifically refers to the ability of the applicant organization to provide training and services to a representative number of women who are both socially and economically disadvantaged.

"(5) The financial assistance authorized pursuant to this subsection shall be made by grant, contract, or cooperative agreement and may contain such provision, as necessary, to provide for payments in lump sum or installments, and in advance or by way or reimbursement.

"(6)(A) The Administration shall prepare and transmit a report to the Committees on Small Business of the Senate and House of Representatives on the effectiveness of all demonstration projects conducted under the authority of this subsection. Such report shall provide information concerning—

"(i) the number of individuals receiving assistance;

"(ii) the number of start-up business concerns formed;

"(iii) the gross receipts of assisted concerns;

"(iv) increases or decreases in profits of assisted concerns; and

"(v) the employment increases or decreases of assisted concerns.

"(B) The report required pursuant to (A) shall cover at least a 24 month period and shall be submitted not later than 30 months after the effective date of this paragraph.

"(7) This subsection shall cease to be effective after September 30, 1991.".

(b) Technical.—Subsection (b) of section 8 of the Small Business Act (15 U.S.C. 637(b)) is amended by—

(1) striking out "and" at the end of paragraph (14);

(2) striking out "public." at the end of paragraph (15) and inserting in lieu thereof "public; and"; and

(3) by adding the following new paragraph:

"(16) to make studies of matters materially affecting the competitive strength of small business, and of the effect on small business of Federal laws, programs, and regulations, and to make recommendations to the appropriate Federal agency or agencies for the adjustment of such programs and regulations to the needs of small business.".

(c) Authorization.—There is authorized to be appropriated $10,000,000 to carry out the demonstration projects required pursuant to subsection (a). The initial projects authorized to be financed by this section shall be funded by January 31, 1989. Notwithstanding any other provision of law, the Small Business Administration may use such expedited acquisition methods as it deems appropriate to achieve the purposes of this subsection, except that it shall insure that all eligible sources are provided a reasonable opportunity to submit proposals.

(d) Definition.—For the purposes of this section, the term "small business concern owned and controlled by women" means any small business concern—

(1) that is at least 51 per centum owned by one or more women; and

(2) whose management and daily business operations are controlled by one or more of such women.

(e) New spending authority or authority to enter into contracts as authorized in this section shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

SEC. 129. NEW PROCUREMENT CENTER REPRESENTATIVES.

(a) Employment of Representative.—(1) Within 180 days after the effective date of this title, the Small Business Administration shall have completed such measures as may be necessary to employ seven procurement center representatives to be stationed in States where no such representatives are stationed or designated to be stationed as of such effective date.

(2) The representatives employed pursuant to paragraph (1) shall be in addition to and not in lieu of any representatives that may be employed pursuant to any other provision of law or under any exercise of administrative discretion and stationed in such states at the present time.

SEC. 130. RURAL AREA BUSINESS DEVELOPMENT PLANS.

Within six months of the effective date of this Act, the Administrator shall identify each Federal agency having substantial procurement or grant-making authority and shall notify each agency so identified. Within six months of notification, each agency shall develop rural area business enterprise development plans. Such plans shall establish rural areas enterprise development objectives for the agency and methods for encouraging prime contractors, subcontractors and grant recipients to use small business concerns located in rural areas as subcontractors, suppliers, and otherwise. Such plans shall, to the extent the agency deems appropriate and feasible, include incentive techniques as encouragement.

SEC. 131. INCREASED CONTRACT OPPORTUNITIES.

(1) Report.—Not later than 180 days after the effective date of this section, the Chief Counsel for Advocacy of the Small Business Administration (hereinafter referred to as the "Chief Counsel") shall report to the Small Business Committees of the Senate and the House of Representatives, including:

(a) an assessment (based on information available to him) of the extent to which the employees of Federal agencies and departments are performing professional and technical services for foreign governments (or other non-domestic entities) for which there are responsible domestic sources, and

(b) recommendations for specific steps by the Administration other agencies to develop further information with respect to the foregoing issue.

(2) Cooperation.—In preparing the report, the Chief Counsel shall consult with the Office of Management and Budget, the Department of Commerce, Department of the Interior, other relevant agencies of the government, and trade and professional associations representing the interests of small business concerns. Each agency and department head shall afford the Chief counsel assistance and cooperation to facilitate compilation and submission of his report.

SEC. 132. PRIVATE SECTOR COOPERATION.

(a) Extension of Effective Date.—Section 7(b) of the Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) is amended by striking the first sentence and inserting the following: "The amendments made to section 4(b)(3) of the Small Business Act by section 3 of this Act are repealed on October 1, 1988. The amendments made to section 8(b)(1)(A) of the Small Business Act by section 5(a)(2) of this Act are repealed on October 1, 1990."

(b) Cosponsored Events.—Section 8(b)(1)(A) of the Small Business Act (15 U.S.C. 637(b)(1)(A)) is amended—

(1) (by inserting after "Provided, That the Administration shall take such actions as it deems appropriate to ensure" the following: "that any Administration program participating in such cosponsored activities receives appropriate recognition and publicity, and",

(2) by adding at the end thereof the following: "In the case of cosponsored activities which include the participation of a Federal, State, or local public official or agency, the Administration shall take such actions as it deems necessary to ensure that the cooperation does not constitute or imply an endorsement by the Administration or give undue recognition to the pubic official or agency, and that the Administration is given primary recognition in all cosponsored printed materials, whether the participant is a profit-making concern or a governmental agency or official.";

(3) by inserting in clause (i) after "agreement" the following: ", executed on behalf of the agency by an employee of the agency in Washington, D.C., and who shall also approve, in advance, any printed materials to be distributed at the conference,"; and

(4) by striking from clause (ii) "a minimal amount to cover the direct cost of providing such assistance;" and inserting in lieu thereof the following: "an amount to cover the cost of any meal provided to such concerns plus a registration fee of not to exceed $10.00: Provided, That if any such fee is imposed, it shall be collected solely by the cosponsor who shall give a complete accounting to the Administration for all such fees collected and expenses paid therefrom: And provided further, That the Administration shall not cosponsor any activities with any entity which is delinquent in making a full and complete accounting of all fees collected and expenditures made;".

SEC. 133. BACKGROUND CHECK POLICY—FINGERPRINTING.

The Small Business Administration shall not require fingerprints to be obtained for background check purposes from any participant in any Administration program who is serving on a voluntary basis and without compensation unless the Administration has reasonable grounds to believe that the participant's record or background is such as to make the participant ineligible to participate in the relevant program.

SEC. 134. AMENDMENTS RELATING TO PROGRAMS FOR BLIND AND HANDICAPPED.

(a) In General.—Section 15(c) of the Small Business Act (15 U.S.C. 644(c)) is amended to read as follows:

"(c)(1) As used in this subsection:

"(A) The term 'Committee' means the Committee for Purchase from the Blind and Other Severely Handicapped established under the first section of the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (41 U.S.C. 46).

"(B) The term 'public or private organization for the handicapped' has the same meaning given such term in section 3(e).

"(C) The term 'handicapped individual' has the same meaning given such term in section 3(f).

"(2)(A) During each of fiscal years 1989 through 1993, public or private organizations for the handicapped shall be eligible to participate in programs authorized under this section in an agregate amount for each year as follows: in 1989 not more than $30,000,000, in 1990 not more than $40,000,000, and in each of 1991, 1992 and 1993 not more than $50,000,000.

"(B) None of the amounts authorized for participation by subparagraph (A) may be placed on the procurement list maintained by the Committee pursuant to section 2 of the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (41 U.S.C. 47).

"(3) The Administrator shall monitor and evaluate such participation.

"(4)(A) Not later than 10 days after the announcement of a proposed award of a contract by an agency or department to a public or private organization for the handicapped, a for-profit small business concern that has experienced or is likely to experience severe economic injury as the result of the proposed award may file an appeal of the proposed award with the Administrator.

"(B) If such a concern files an appeal of a proposed award under subparagraph (A) and the Administrator, after consultation with the Executive Director of the Committee, finds that the concern has experienced or is likely to experience severe economic injury as the result of the proposed award, not later than 30 days after the filing of the appeal, the Administrtion shall require each agency and department having procurement powers to take such action as may be appropriate to alleviate economic injury sustained or likely to be sustained by the concern.

"(5) Each agency and department having procurement powers shall report to the Office of Federal Procurement Policy each time a contract subject to paragraph (2)(A) is entered into, and shall include in its report the amount of the next higher bid submitted by a for-profit small business concern. The Office of Federal Procurement Policy shall collect data reported under the preceding sentence through the Federal procurement data system and shall report to the Administration which shall notify all such agencies and departments when the maximum amount of awards authorized under paragraph (2)(A) has been made during any fiscal year.

"(6) For the purpose of this subsection, a contract may be awarded only if at least 75 percent of the direct labor performed on each item being produced under the contract in the sheltered workshop or performed in providing each type of service under the contract by the sheltered workshop is performed by handicapped individuals.".

(b) REPORT.—Not later than September 30, 1992, the General Accounting Office shall prepare a report describing the impact that contracts awarded under section 15(c) of the Small Business Act have had on for-profit small business concerns for fiscal years 1989 through 1991. The report shall be transmitted to the Committees on Small Business of the Senate and the House of Representatives.

(c) TASK FORCE.—There is established within the Small Business Administration a task force on purchases from the blind and severely handicapped which shall consist of one representative of the small business community appointed by the Administrator of the Small Business Administration and one individual knowledgeable in the affairs of or experienced in the work of sheltered workshops appointed by the Executive Director of the Committee for Purchase from the Blind and Other Severely Handicapped established under the first section of the Act entitled "An Act to create a Committee on Purchases of Blind-made Products, and for other purposes", approved June 25, 1938 (41 U.S.C. 46). The task force shall meet at least once every 6 months for the purpose of reviewing the award of contracts under section 15(c) of the Small Business Act and recommending to the Small Business Administration such administrative or statutory changes as it deems appropriate.

SEC. 135. MISCELLANEOUS AMENDMENTS.

Section 21 of the Small Business Act (15 U.S.C. 648) is amended—

(1) by striking "Deputy Associate Administrator for Management Assistance" each place it appears in subsection (g) and inserting in lieu thereof "Associate Administrator for Small Business Development Centers";

(2) by striking in subsection (g) "the Associate Administrator for Management Assistance" and inserting "an official who is not more than one level below the Office of the Administrator"; and

(3) by inserting the following at the end of subsection (k): "After the administration has entered a contract, either as a grant or a cooperative agreement, with any applicant under this section, it shall not suspend, terminate or fail to renew or extend any such contract unless the Administration provides the applicant with written notification setting forth the reasons therefor and affording the applicant an opportunity for a hearing, appeal or other administrative proceeding under the provisions of the Administrative Procedures Act.".

SEC. 136. FUNDING EXTENSIONS.

The Small Business Act is amended as follows—

(1) by striking from subsection (z) of section 20 "1988 and 1989, $3,500,000" and by inserting in lieu thereof "1988 through 1990, $3,500,000";

(2) by striking from subsection (z) "1988 and 1989, $5,000,000" and by inserting in lieu thereof "1988 through 1990, $5,000,000"; and

(3) by inserting in section 21(c)(5) after "to such center" the following: "or the date the Administration notifies the grantee funded under subsection (a)(1) that funds are available for grant applications pursuant to subsection (a)(6), which ever date occurs last,".

SEC. 137. PROMULGATION OF RULES.

Notwithstanding any law, rule or regulation, the Small Business Administration shall promulgate final regulations to be effective on publication to carry out the provisions of this title within six months after the date of enactment.

SEC. 138. EFFECTIVE DATE.

This title shall be effective on the date of enactment, except that sections 118 through 122 shall be effective for all loan applications resulting from disaster declarations made on or after August 1, 1988 or from disaster declarations whose filing periods were open on October 1, 1988. Any new credit authority provided for in this Act is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

TITLE II—PREFERRED SURETY BOND GUARANTEE PROGRAM

SEC. 201. SHORT TITLE.

This title may be cited as the "Preferred Surety Bond Guarantee Program Act of 1988".

SEC. 202. AUTHORITY OF THE ADMINISTRATION.

Section 411(a) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(a)) is amended to read as follows:

"(a)(1) The Administration may, upon such terms and conditions as it may prescribe, guarantee and enter into commitments to guarantee any surety against loss resulting from a breach of the terms of a bid bond, payment bond, performance bond, or bonds ancillary thereto, by a principal on any contract up to $1,250,000.

"(2) The terms and conditions of said guarantees and commitments may vary from surety to surety on the basis of the Administration's experience with the particular surety.

"(3) The Administration may authorize any surety, without further Administration approval, to issue, monitor, and service such bonds subject to the Administration's guarantee.

"(4) No such guarantee may be issued, unless—

"(A) the person who would be principal under the bond is a small business concern;

"(B) the bond is required in order for such person to bid on a contract, or to serve as a prime contractor or subcontractor thereon;

"(C) such person is not able to obtain such bond on reasonable terms and conditions without a guarantee under this section; and

"(D) there is a reasonable expectation that such principal will perform the covenants and conditions of the contract with respect to which such bond is required, and the terms and conditions of such bond are reasonable in the light of the risks involved and the extent of the surety's participation.".

SEC. 203. INDEMNIFICATION.

(a) IN GENERAL.—Section 411(b) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(b)) is amended—

(1) by striking paragraph (3),

(2) by striking "; and" and inserting a period at the end of paragraph (2),

(3) by redesignating paragraph (2) as paragraph (3),

(4) by inserting after paragraph (1) the following new paragraph;

"(2) a surety must obtain approval from the Administration prior to making any payments pursuant to this subsection unless the surety is participating under the authority of subsection (a)(3); and", and

(5) by inserting at the end the following new sentence:

"In no event shall the Administration pay a surety pursuant to this subsection an amount exceeding the guaranteed share of the bond available to such surety pursuant to subsection (a).".

(b) AMOUNT OF INDEMNIFICATION.—Section 411(c) of the Small Business Investment Act of 1958 (15 U.S.C. 694(c)) is amended to read as follows:

"(c) Any guarantee or agreement to indemnify under this section shall obligate the Administration to pay to the surety a sum—

"(1) not to exceed 70 percent of the loss incurred and paid by a surety authorized to issue bonds subject to the Administration's guarantee under subsection (a)(3);

"(2) not to exceed 90 percent of the loss incurred and paid in the case of a surety requiring the Administration's specific approval for the issuance of such bond, but in no event may the Administration make any duplicate payment pursuant to subsection (b) or any other subsection;

"(3) equal to 90 percent of the loss incurred and paid in the case of a surety requiring the administration's specific approval for the issuance of a bond, if—

"(A) the total amount of the contract at the time of execution of the bond or bonds is $100,000 or less, or

"(B) the bond was issued to a small business concern owned and controlled by socially and economically disadvantaged indi-

viduals as defined by section 8(d) of the Small Business Act; or

"(4) determined pursuant to subsection (b), if applicable.".

(c) LIMITATION ON ADMINISTRATION'S LIABILITY.—Section 411(e) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(e)) is amended—

(1) by striking "or" at the end of paragraph (1),

(2) by striking the period at the end of paragraph (2) and inserting a comma, and

(3) by adding at the end thereof the following new paragraphs:

"(3) the surety has breached a material term or condition of such guarantee agreement, or

"(4) the surety has substantially violated the regulations promulgated by the Administration pursuant to subsection (d).".

SEC. 204. REPORTS AND AUDITS OF PARTICIPATING SURETIES.

Section 411(g) of the Small Business Investment Act (15 U.S.C. 694b(g)) is amended to read as follows:

"(g)(1) Each participating surety shall make reports to the Administration at such times and in such form as the Administration may require.

"(2) The Administration may at all reasonable times audit, in the offices of a participating surety, all documents, files, books, records, and other material relevant to the Administration's guarantee, commitments to guarantee, or agreements to indemnify any surety pursuant to this section.

"(3) Each surety participating under the authority of paragraph (3) of subsection (a) shall be audited at least once each year by examiners selected and approved by the Administration.".

SEC. 205. REGULATIONS.

The Administration shall promulgate final regulations to implement the amendments made by this title not later than 180 days after the date of the enactment of this Act.

SEC. 206. EVALUATION AND REPORT.

Not later than 3 years after the date of enactment of this Act the Comptroller General of the United States shall transmit a report to the Small Business Committees of the Senate and House of Representatives, which evaluates—

(1) the amendments made by this title,

(2) whether participation in the program by standard surety firms has been expanded, and

(3) whether access to bonds by small business concerns especially small business concerns owned and controlled by socially and economically disadvantaged individuals has been improved.

The report shall cover the first 2 full fiscal years following the date of enactment of this Act.

SEC. 207. SUNSET.

The provisions contained in section 411(a)(3) of the Small Business Investment Act of 1958 (15 U.S.C. 694(a)(3)), shall cease to be effective on September 30, 1991, or on the last day of the third full fiscal year after the date of enactment of this Act, whichever is later.

SEC. 208. REVOLVING FUND.

Section 412 of the Small Business Investment Act of 1958 (15 U.S.C. 694c) is amended—

(1) by inserting "(a)" before "There", and

(2) by adding at the end of subsection (a), the following new subsection:

"(b) Such sums as may be appropriated to the Fund to carry out the programs authorized by this part shall be without fiscal year limitation.".

SEC. 209. EFFECTIVE DATE.

Except as otherwise provided in this title, the provisions of this title shall become effective upon the expiration of 180 days after the date of its enactment.

And the Senate agree to the same.

JOHN J. LAFALCE,
NEAL SMITH,
HENRY GONZALEZ,
TOM LUKEN,
IKE SKELTON,
JOE MCDADE,
SILVIO O. CONTE,
WM. BROOMFIELD,
Managers on the Part of the House.

DALE BUMPERS,
SAM NUNN,
JIM SASSER,
LOWELL P. WEICKER, Jr.,
RUDY BOSCHWITZ,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4174) to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate Amendment. The principle differences among the House bill, the Senate Amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

ITEM 1—CITATION

The House Bill provides that this Act may be cited as the "Small Business Administration Reauthorization and Amendment Act of 1988."

The Senate Amendment provides that this Act may be cited as the "Small Business Administration Reauthorization and Amendments Act of 1988" and includes a Table of Contents.

The Conference Substitute provides that this Act may be cited as the "Small Business Administration Reauthorization and Amendment Act of 1988" and includes a Table of Contents.

ITEM 2—AUTHORIZATION AND PROGRAM LEVELS

The House Bill provides program levels, including salaries and expenses, for each of fiscal years 1989 thru 1991. For loan guarantees, these amounts are based upon the 1988 authorized levels with a four percent increase each year to cover inflation; for direct loans, pollution bonds and salaries, they are based upon 1988 appropriated levels; and for surety bonds, they are increased to $1.6 billion. It also provides budget authority to carry out these programs.

The Senate Amendment provides authorizations and program levels for fiscal year 1989 only. The Senate Amendment also provides an open-ended "such sums as necessary" authorization for the Business Loan and Investment Fund (BLIF) and for the Pollution Control Bond Guarantees Program, in lieu of a specific dollar authorization. Loan guarantee levels are basically a freeze based upon 1988 authorized levels, except that an additional $60 million would be added to the section 7(a) guaranteed business loan program for use as a new Pollution Control Loan Program in lieu of the Pollution Bond Guarantees Program which is being terminated as a separate program. No separate program level is provided for guarantees of energy loans under section 7(a)(12) due to a lack of demand for these loans, but the energy loan guarantee authority remains unchanged. Direct loans are frozen at the 1988 authorized level except that $10 million is shifted from Economic Opportunity Loans and divided between Handicapped loans and Veterans loans. Surety Bond Guarantees are increased to $1.4 billion. Salaries and expenses would be increased by approximately $30 million, primarily to cover minority assistance and more export assistance.

The Conference Substitute provides specific program levels, including salaries and expenses, for both of fiscal years 1989 and 1990, and provides budget authority to carry out these levels. It also provides budget authority for fiscal year 1991, but not specific program levels. The conferees note, however, that it is expected that additional legislation will be enacted to provide specific program levels for fiscal year 1991. The conference substitute includes the changes made in the pollution control financing program.

The specific levels of the House bill, the Senate amendment and the conference substitute are shown on the following chart.

SMALL BUSINESS ADMINISTRATION—PROGRAM LEVELS (SEPT. 28, 1988)

[In millions of dollars]

	1988 Authorization	1988 Appropriation	1989 House	1989 Senate	1989 Conference	1990 House	1990 Senate	1990 Conference	1991 House	1991 Senate	1991 Conference
General business loans: Guaranteed	$2,724	$2,421	$2,816	$2,725	$2,817	$2,930		$2,930	$3,047		
Handicapped loans	20	18	18	25	22	18		23	18		
Direct and IP	15	13	13	20	17	13		18	13		
Guaranteed	5	5	5	5	5	5		5	5		

SMALL BUSINESS ADMINISTRATION—PROGRAM LEVELS (SEPT. 28, 1988)—Continued

[In millions of dollars]

	1988 Authorization	1988 Appropriation	1989 House	1989 Senate	1989 Conference	1990 House	1990 Senate	1990 Conference	1991 House	1991 Senate	1991 Conference
Economic opportunity loans	105	59	84	95	89	84		93	84		
Direct and IP	40	19	19	30	24	19		25	19		
Guaranteed	65	40	65	65	65	65		68	65		
Energy loans: [1] Guaranteed	16	5	16	75	60	16		62	16		
Veterans loans: Direct and IP	20	17	17	25	21	17		22	17		
Development company loans: Guaranteed	450	450	468	450	460	487		478	506		
Investment company assistance	313	269	308	313	311	309		324	311		
Direct (MESBIC)	41	36	36	41	39	37		41	39		
Guaranteed (SBIC)	272	233	272	272	272	272		283	272		
Total business loans	3,648	3,239	3,728	3,708	3,780	3,861		3,932	3,999		
Direct and IP	116	85	85	116	101	86		106	88		
Guaranteed	3,532	3,154	3,643	3,592	3,679	3,775		3,826	3,911		
Disaster loans	(2)	350	(2)	(2)	(2)	(2)		(2)	(2)		
Surety bond guarantees	1,250	1,250	1,600	1,400	1,500	1,664		1,560	1,731		
Pollution control bond guarantees	75	50	50	0	0	50		0	50		

[1] Includes pollution control loans as proposed by the Senate for fiscal year 1989.

[2] Open-ended.

SMALL BUSINESS ADMINISTRATION—BUDGET AUTHORITY (SEPT. 28, 1988)

[In millions of dollars]

	1988 Appropriation	1989 House	1989 Senate	1989 Conference	1990 House	1990 Senate	1990 Conference	1991 House	1991 Senate	1991 Conference [1]
Business Loan and Investment Fund	$176	$228	Open	Open	$259		Open	$297		
R/E LG	0	0	0	0	0		0	1		
Surety bonds	9	20	18	Open	22		Open	22		
Salaries and expenses	[2] 226	208	248	228	219		238	232		
Pollution control	14	14	Open	Open	14		Open	14		
Total	425	470	?	?	514		?	566		

[1] The conference substitute provides an open-ended authorization for 1991.

[2] Includes $10.3 million disaster supplemental in Public Law 100-393.

ITEM 3—FORM SIMPLIFICATION AND PREFERRED FINANCING

The House Bill requires SBA to expand the "Certified lender" loan program and to provide an incentive to certified and preferred lenders to make small loans of up to $50,000 by allowing them to keep one-half of the 2 percent fee they now collect from borrowers and by allowing certified lenders to use their own loan forms, not SBA forms, for such loans. This will expedite loan processing and encourage lenders to make smaller loans which are less profitable.

The Senate Amendment provides a similar program, but it does not allow the bank to keep one-half of the guarantee fee as is authorized in the House provision.

The Conference Substitute requires SBA to expand the "Certified lender" loan program and to provide an incentive to certified and preferred lenders to make small loans of up to $50,000, first, by allowing them to keep one-half of the 2 percent guarantee fee they now collect from borrowers, and second, by requiring SBA to develop a uniform, simplified set of loan forms solely for use under this small loan program.

The conferees direct SBA to develop promptly a short, simplified loan form that addresses all administration requirements yet is concise and easily readable. The conferees use the term "loan form" in a broad sense and intend that it includes all forms used as part of the loan package. The conferees expect SBA to reduce overall paperwork by 50 percent or more; if it does not do so, they intend to revisit the issue of allowing lending institutions to use their own forms, a provision which was in both the House bill and the Senate amendment.

ITEM 4—GUARANTEE PERCENTAGES FOR PREFERRED LENDERS

The House Bill deletes the authority of SBA to limit the maximum guarantee percentage on loans under the preferred lenders program to less than the percentage approved for other loans. Under existing law, preferred lenders are limited to a 75 percent guarantee instead of the 85-90 percent guarantee made available to other participating lenders. This change eliminates a penalty now imposed on SBA's best lenders who are the only ones eligible for this program.

The Senate Amendment has no comparable provision.

The Conference Substitute allows SBA to continue its practice of limiting the loan guarantee if the loan is made under the preferred loan program. The Agency would be limited, however, to a 5-point reduction. Thus the small loans (those for $155,000 or less) made under the preferred loan program would have an 85 percent guarantee rather than a 90 percent guarantee if made under the regular program, and larger loans would have an 80 percent guarantee if made under the preferred program rather than 85 percent otherwise.

ITEM 5—SURETY BONDS—INDEMNIFICATION

The House Bill authorizes SBA to reimburse surety bond companies for amounts spent to prevent breach of contracts backed by surety bonds guaranteed by SBA or to minimize the losses due to such breach. This will permit the surety to mitigate damages rather than permit them to grow when a bonded contractor defaults. For example, if the builder goes bankrupt before installing windows, the program would pay for temporary closures rather than wait for permanent windows and then also have to repair resulting weather-related damage.

The Senate Amendment is similar, except that it requires SBA prior approval before the surety can make any such payments.

The Conference Substitute authorizes SBA to reimburse surety bond companies for amounts spent to prevent breach of contracts backed by surety bonds guaranteed by SBA or to minimize the losses due to such breach, but requires SBA's prior approval before the surety can make any such payments.

ITEM 6—GUARANTEE PERCENTAGES FOR SURETY BONDS

The House Bill requires that small surety bonds of $100,000 or less carry a guarantee of 90 percent while the larger bonds, at SBA's option, carry a guarantee of 80 percent. Current SBA practice is to limit guarantees to 80 percent. This increase will provide more incentive to surety companies to compensate for the higher cost of providing a smaller bond, and is similar to the higher guarantees now provided on small loans. SBA would not be authorized to reduce these amounts below the stated amounts even for bonds approved under the preferred program (see item 7).

The Senate Amendment restates the existing statutory provision authorizing up to a 90 percent guarantee (thus allowing SBA to continue at the 80 percent level by regulation) except: (1) guarantees under the preferred surety program would be limited to a maximum of 70 percent; and (2) if the bond was approved other than through the preferred surety program it would carry a mandatory 90 percent guarantee if on a contract of $150,000 or less or if it was made on behalf of a contract issued to a socially and economically disadvantaged individual regardless of the amount of the contract.

The Conference Substitute includes the Senate provision except that the 90 percent guarantee on small bonds is applicable to contracts of $100,000 or less.

ITEM 7—PREFERRED SURETY BOND GUARANTEES PROGRAM

The House Bill authorizes the establishment of a preferred surety bond program under which SBA would delegate the authority to surety companies to approve bonds without further Administration approval. This equates with the preferred lenders program for loans and is designed to encourage the standard sureties to participate in the program and to allow SBA to delegate more responsibility to the agency's better surety companies. SBA would be required to provide program evaluations in an interim report by February 1, 1990 and a final report by February 1, 1991.

The Senate Amendment authorizes, on a three-year pilot basis, a Preferred Surety Bond Guarantee Program ("Program"), similar to the preferred loan guarantee program already in place for SBA's guaranteed loan program. Under the program, firms obtaining "preferred surety" status would be freed from SBA prior approval of each decision relating to the issuance and administration of a guaranteed bond. SBA would only approve the firm's standards and procedures for bond underwriting and administration, including claims. Individual actions by the firm relating to the issuance or administration of a guaranteed bond would be handled without any prior approvals from SBA, presumably in the same manner as the firm's bonding activity outside the Program.

It also requires the General Accounting Office to monitor the implementation of the provisions of the "Preferred Surety Bond Guarantee Program Act of 1988" and to make a report to the Committees on Small Business of the Senate and the House of Representatives within three years after the date of enactment. The focus of the GAO evaluation is to determine if the two major objectives of the amendments have been accomplished: first, whether the standard surety companies have expanded their participation in the SBA Surety Bond Guarantee Program, and second, whether the expanded participation of the standard surety companies has improved the access to surety bonds for small business concerns. The GAO evaluation is to be based upon the first two years of experience under the Program.

The Conference Substitute includes the Senate provision.

ITEM 8—DEFENSES TO SURETY BOND CLAIMS

The Senate Amendment amends the Small Business Investment Act of 1958 by placing additional limitations on SBA's liability to sureties participating in either of the bond guarantee programs. Under this subsection, SBA's liability under the guarantee would be relieved if: (1) a surety has breached a material term or condition of the guarantee agreement, or (2) a surety has substantially violated the regulations issued by SBA to implement the bond guarantee programs.

The House Bill has no comparable provision.

The Conference Substitute includes this provision; however, the conferees note that these are not new defenses to claims against the bond guarantee; the language is merely a codification of existing law.

ITEM 9—MISCELLANEOUS SURETY BOND PROVISIONS

The Senate Amendment contains a surety bond revision that is designed to facilitate the operation of the Surety Bond Guarantee Fund as a revolving fund without fiscal year limitation, as specified in Section 412 of the Small Business Investment Act of 1958 (15 U.S.C. 694(c)). Presently, funds appropriated for the operation of the existing program are limited to a single fiscal year.

It also clarifies the relationship between the general SBA size standards which define the maximum size a firm may attain and still be considered a "small business concern", and the special size standard used to further define eligibility to participate in the Surety Bond Guarantee Program. It makes clear that to participate in the program a firm must be a "small business concern" and concurrently not exceed the program's special size standard of $3.5 million in average gross receipts during the prior fiscal year.

The House Bill has no comparable provision.

The Conference Substitute provides that appropriations to the surety bond guarantee revolving fund may be made available without fiscal year limitation.

The Conference Substitute does not include the size standard provision.

Also, the conferees are concerned with problems involved in the use of personal sureties. Accordingly, they request that the Comptroller General of the United States conduct an indepth study of personal sureties and issue a report with recommendations for government use within one year of date of enactment.

In addition to the GAO study required by Section 206, the conferees direct that the GAO conduct a preliminary survey and review of the bonding needs of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals. Such survey and review should address the extent to which such bonding needs are being met through the use of corporate sureties, the SBA Surety Bond Guarantee Program, or other forms of security such as personal sureties. The review should also encompass potential limitations in protections accorded to subcontractors and suppliers by the Miller Act, such as the ceiling on payment bonds. The conferees are especially concerned with problems relating to the use of personal sureties.

The report on the preliminary survey and review requested shall be furnished to the Committees on Small Business of the Senate and House of Representatives within one year of the date of enactment.

ITEM 10—SURETY BOND CHANGES—EFFECTIVE DATE

The Senate Amendment requires the SBA to issue final regulations to implement the amendments made by this title within 180 days after the date of enactment. It also makes the surety bond provisions of the Senate Amendment effective in 180 days.

The House Bill has no comparable provision.

The Conference Substitute includes the Senate provisions.

ITEM 11—EXAMINATION OF SBICS

The House Bill requires Inspector General audits of SBICs every two years on seven major regulatory items rather than every year as under existing law.

The Senate Amendment is similar, but does not specify the regulatory items to be reviewed.

The Conference Substitute requires Inspector General audits of SBICs every two years on seven major regulatory items rather than every year as under existing law. The conferees note that this provision doesn't restrict discretionary audits, but merely reduces the mandatory audit to free-up Inspector General resources to concentrate on major problems. Moreover, the specification of certain items to be reviewed is not intended to limit the Inspector General's authority to audit or examine other issues which, in his judgement, merit examination.

ITEM 12—MINIMUM LIFE LTD. PARTNERSHIP SBICS

The House Bill authorizes limited partnerships with ten-year lives to form SBICs as compared to the current requirement for 30-year lives. This is a technical amendment and will conform to a common practice today in the private venture capital industry of forming 10-year limited partnerships.

The Senate Amendment has no comparable provison.

The Conference Substitute includes this provision.

ITEM 13—PERIODIC SBIC DEBENTURE SALES

The House Bill requires SBA on a regular basis (at least two per year) to issue guarantees of SBIC debentures so that they may be sold to private investors on a regular basis. Sales today are sometimes sporadic and hinder SBICs from proper planning.

The Senate Amendment is similar, except that it requires SBA to issue the guarantees not less than every three months.

The Conference Substitute includes the Senate provision. Regularity and frequency of such issuances should promote better planning by Small Business Investment Companies and help reduce the cost of funds to the industry.

ITEM 14—GAO EVALUATION OF SCORE

The House Bill requires GAO to evaluate and report on the efficiency and cost effectiveness of the SCORE and ACE programs.

The Senate Amendment has no comparable provision.

The Conference Substitute includes this provision.

ITEM 15—AGENCY PARTICIPATION IN SBIR

The House Bill authorizes SBA to issue policy directives for agencies which want to voluntarily participate in the SBIR program or withdraw from the SBIR program due to a decrease in their R&D budgets. Under the SBIR program, Federal agencies with over $100 million in extramural R&D budgets are required to expend 1.25 percent of that budget through small business projects in the SBIR program.

The Senate Amendment has no comparable provision.

The Conference Substitute includes this provision.

ITEM 16—SBA PROGRAM DATA AND EVALUATION

The House Bill requires SBA to develop a program to provide statistical and analytical data on the assistance provided to small businesses. The new program will permit the "tracking" of individual assistance and an evaluation of its merits.

The Senate Amendment has no comparable provision.

The Conference Substitute includes this provision.

ITEM 17—AUTHORITY OF PROCUREMENT CENTER REPRESENTATIVES

The House Bill provides for greater participation in the Federal procurement process by breakout procurement center representatives (PCRs) by authorizing them to have access to procurement records commensurate with the level of their security clearance, improving the appeal process, allowing the Administration to modify staffing levels based on the number of procurement opportunities at a given center, and requiring them to report to the head of the buying activity annually on their activities and conducting training sessions.

The Senate Amendment is similar, except it omits the reporting and training requirement.

The Conference Substitute includes the House provision.

ITEM 18—MERGER OF REVOLVING FUNDS—POLLUTION CONTROL GUARANTEED LOANS

The House Bill merges into the business loan and investment revolving fund (BLIF) the separate revolving fund which handles income and pays claims for the now defunct real estate lease guarantees revolving fund.

The Senate Amendment eliminates both the lease guarantee and pollution control revolving funds, allowing losses in either type of guarantee to be paid out of BLIF. The pollution control fund has been used to finance pollution control facilities under a program in which SBA-guaranteed securities were marketed to investors. The program has not been effective in recent years, in part because of the rather large, 3.5 percent, guarantee fee charged to borrowers by SBA. Additionally, the prices of the securities have been inordinately high in comparison to either comparable Treasury issues or other government-guaranteed paper. Therefore, the Senate Amendment transfers the $75 million pollution control guarantee authority into the section 7(a) loan program.

It also authorizes pollution control loan guarantees of up to $1 million to be made to finance pollution control facilities. The current limit is $750,000.

The Conference Substitute merges into the business loan and investment revolving fund the separate revolving fund which handles income and pays claims for the now defunct real estate lease guarantee revolving fund.

The conferees agree to retain a separate revolving fund for pollution control contract guarantees, although the program no longer provides new guarantees. See program levels specified in item number 2. As a substitute for this program, the conference agreement authorizes loans of up to $1 million per borrower under the 7(a) guaranteed loan program, as provided in the Senate bill, through a separate paragraph which provides loan guarantees for both energy and pollution control purposes. This program will receive an annual program level of $60 million in guaranteed loan making authority in fiscal year 1989 and $62 million in fiscal year 1990.

ITEM 19—PERMANENT EXTENSION OF 504 PROGRAM

The House Bill clarifies that certified development companies shall continue to sell their debentures only to private investors under section 504 rather than to the Federal Financing Bank, thus permanently extending the section 504 pilot program instituted under Public Law 99-272.

The Senate Amendment is similar.

The Conference Substitute clarifies that certified development companies shall continue to sell their debentures only to private investors under section 504 rather than to the Federal Financing Bank, thus permanently extending the section 504 pilot program instituted under Public Law 99-272.

ITEM 20—SECTION 504 COMMERCIAL LOAN INTEREST RATE

The Senate Amendment authorizes the SBA Administrator to establish a maximum legal interest rate on the bank or commercial lender portion of the certified development company (CDC) loan package which will override state law and control all legal disputes. SBA has no such authority currently with respect to the commercial portion of the section 504 loan package and some state usury laws hamper the ability of CDC's to make loans in those states. This problem occurs when either the interest rate on the qualified debentures exceeds the state usury limit, or when the state usury law forces local lenders to decline to commit to a 10-year loan contract, as is required in section 504 program, or both. This would be a pilot program and would be repealed on October 1, 1990, unless Congress decides to extend the authority.

The House Bill has no comparable provision.

The Conference Substitute authorizes the SBA Administrator to establish a maximum legal interest rate on the bank or commercial lender portion of the development company loan package which will override state law and control all legal disputes. This provision is intended to encourage more section 504 loan making authority in states whose usury laws have discouraged banks from agreeing to the long term commitment which is a prerequisite to the section 504 program. This would be a pilot program and would be repealed on October 1, 1990, unless Congress decides to extend the authority.

Although the bill directs SBA to issue regulations within six months on all the bills, in this particular case SBA is directed to issue them within 90 days.

ITEM 21—TECHNICAL CORRECTIONS IN SECTION 505

The House Bill makes technical corrections by correcting a typographical error and inserting a heading in the table of contents.

The Senate Amendment only corrects the typo.

The Conference Substitute makes technical corrections by correcting a typographical error and inserting a heading in the table of contents.

ITEM 22—SECONDARY MARKET IN DEVELOPMENT COMPANY LOANS

The House Bill authorizes a secondary market in development company loan guarantees, the same as now exists for 7(a) loan guarantees. This will encourage banks to make development company loans and then sell them to investors and use the income to make more loans.

The Senate Amendment is similar.

The Conference Substitute authorizes a secondary market in development company loan guarantees, the same as now exists for 7(a) loan guarantees.

ITEM 23—REMOVAL OF OWNERSHIP RESTRICTION ON DEVELOPMENT COMPANY LOANS

The House Bill amends the development company loan program to authorize SBA, in the case of a close family relationship, to waive the usual requirement that a development company loan applicant must own 100 percent of the land on which the plant will be constructed or expanded.

The Senate Amendment is similar.

The Conference Substitute amends the development company loan program to authorize SBA, in the case of a close family relationship, to waive the usual requirement that a development company loan applicant must own 100 percent of the land on which the plant will be constructed or expanded. The conferees note that this will facilitate parents turning over the family business to their children and permit them to expand, thereby encourage the stability of family owned business.

ITEM 24—DCL POLICY TO FURTHER RURAL DEVELOPMENT

The House Bill states Congressional policy that the development company program should also be used to foster economic development in rural areas which are defined as those localities outside official urbanized areas with populations of less than 100,000.

The Senate Amendment has no comparable provision.

The Conference Substitute states Congressional policy that the development company program should also be used to foster economic development in rural areas which are defined as localities which populations of less then 20,000.

ITEM 25—DCL: LEASED PREMISES

The House Bill authorizes up to one third of a project constructed under the certified development company loan program to be leased if it is not immediately needed for use by the small business loan applicant. Current law restricts leasing out to 15 percent. The increase will permit the borrower to plan ahead for future expansion rather than merely building for today's needs.

The Senate Amendment has no comparable provision.

The Conference Substitute includes this provision.

ITEM 26—DCL: FULL TIME STAFF

The House Bill allows a certified development company in a rural area to contract out for professional staff and professional management ability rather than hiring the employees in-house. This will help development companies in rural areas which do not do a sufficient loan volume to justify a full time staff.

The Senate Amendment has no comparable provision.

The Conference Substitute allows a certified development company in a rural area to contract out for professional staff and professional management ability rather than hiring the employees in-house.

The conference substitute also allows these companies to continue accepting grant money from Federal departments and agencies to help defray operating costs, but prohibits the agencies from imposing restrictions upon SBA's program operations by targeting assistance toward certain classes of business. This temporary provision expires May 1, 1990 and is to permit the development companies to find alternative financing sources which do not impose restrictions or requirements.

ITEM 27—DISASTER LOAN POLICY—STATEMENT OF PURPOSE

The House Bill states Congressional policy that in administering the disaster loan program, SBA shall provide assistance and counseling to disaster victims in filing applications, providing information on loan processing and in loan closing and prompt disbursement of proceeds.

The Senate Amendment has no comparable provision.

The Conference Substitute includes this provision.

ITEM 28—DEFINITION OF DISASTER

The House Bill defines natural or other disasters for purposes of disaster loans under section 7(b) as including the usual catastrophes but also including conditions which result in the closure of customary fishing waters. This will clarify that damage such as is caused by red or brown tide or other similar problems is a disaster and those injured by it should be helped.

The Senate Amendment has no comparable provision.

The Conference Substitute defines natural or other disasters for purposes of disaster loans under section 7(b) as including the usual catastrophes but also including conditions which result in the closure of customary fishing waters; however, it expressly excludes economic dislocations. The conferees intended to clarify that damage such as is caused by red or brown tide or other similar problems is a disaster and those injured by it should be helped.

It is not the conferees intention to reopen programs now repealed which in the past provided disaster assistance to businesses adversely affected by foreseeable, planned or deliberate government actions or decisions (such as military base closings, displacement due to the use of eminent domain, regulatory compliance requirements, etc.) or to businesses similarly affected by price or market fluctuations (such as peso devaluations or energy shortages) or lack of snow, It is, however, the Conferees' intention that SBA not disqualify otherwise eligible Governor's requests for disaster assistance solely because those affected suffer economic injury due to events which may not result in physical damage (including ocean conditions such as the El Nino phenomenon or toxic algae blooms which result in the closing of customary fisheries, contamination of food or other products by agents of known or unknown origin, oil spills or other major industrial accidents and other unforeseeable and unintended events).

ITEM 29—ECONOMIC INJURY LOANS DUE TO DROUGHT

The Senate Amendment adds the term "droughts" to the list of disasters which are enumerated under Section 7(b)(2) of the Small Business Act. The stated purpose is to clarify that economic injury disaster loan assistance should be provided to victims of droughts.

The house Bill has no comparable provision.

The Conference Substitute eliminates SBA's artificial distinction based on county lines. The Agency is directed to provide disaster assistance to victims of the disaster who are in counties adjacent to disaster declared areas even if the damage was not so large as to warrant a declaration or designation in their county. Thus if a tornado strikes county A and County B but only county A has such extensive damage that that government (regardless of the Agency) makes disaster loan assistance available in it, victims of the tornado in county B are also to receive disaster loan assistance, both physical and economic injury. Inter alia, this change will direct the agency to provide economic injury loan assistance to agricultural cooperatives which have suffered business losses due to the drought but which are located in counties which are adjacent to counties which have been determined to be the primary counties of damage.

The conference substitute also provides that all non profit or charitable institutions, including agricultural cooperatives, which cannot obtain credit elsewhere should recieve the same interest rate as is made available to businesses which cannot obtain credit elsewhere.

Finally, the conference substitute also requires SBA to assist nurseries which have been injured by drought.

ITEM 30—DISASTER MITIGATION ACTIONS

The House Bill authorizes disaster victims to obtain additional financing in an amount equal to one-fifth of the disaster related damage, with the additional amount being used for changes in the property so as to mitigate or reduce the chances of future disaster damage.

The Senate Amendment is similar.

The Conference Substitute authorizes disaster victims to obtain additional financing in an amount equal to one-fifth of the disaster related damage, with the additional amount being used for changes in the property so as to mitigate or reduce the chances of future disaster damage. The conferees note that current law generally only permits reconstruction of what was destroyed. This change will encourage, for example, construction of sea walls or retaining walls.

ITEM 31—UNSECURED DISASTER LOANS

The House Bill authorizes SBA to make unsecured disaster loans of $10,000 or less.

The Senate Amendment is similar.

The Conference Substitute authorizes SBA to make unsecured disaster loans of $10,000 or less. Presently the Small Business Administration limits unsecured loans to $5,000. The Conferees believe that this increase simply recognizes inflation and will partially compensate for it and also should streamline loan processing and reduce red tape.

ITEM 32—NATIONAL DIRECTORY OF SMALL BUSINESSES

The House Bill requires SBA to study and report to Congress by January 1, 1989 on the feasibility of and need for developing an expanded national directory of small businesses which would include each company's capability, standard industrial code, federal supply number and other data.

The Senate Amendment has no comparable provision.

The Conference Substitute includes this provision.

ITEM 33—INELIGIBILITY OF SMALL BUSINESSES ENGAGED IN BUSINESS WITH SOUTH AFRICA

The House Bill amends section 3(a) of the Small Business Act to provide that a small business concern shall not be eligible for any program or activity conducted under the authority of this Act or the Small Business Investment Act of 1958 if such concern engages in trade or other commercial activity with the Government of South Africa; any South African entity; or any entity located in South Africa; any South African entity; or any entity located in South Africa other than an entity involved in anti-apartheid activity, or which provides educational, housing, or humanitarian assistance to individuals throughout South Africa on a nondiscriminatory basis.

The Senate Amendment has no comparable provision.

The Conference Substitute includes this provision.

ITEM 34—PRESIDENT'S ANNUAL REPORT ON SMALL BUSINESS—WOMEN AND MINORITY-OWNED BUSINESSES

The House Bill amends section 303 of Public Law 96-302 to require that the President's annual report on small business contain a breakout on businesses owned and controlled by women and socially and economically disadvantaged individuals.

The Senate Amendment has no comparable provision.

The Conference substitute includes this provision.

ITEM 35—OFFICE OF ADVOCACY STUDIES SERVICE-SECTOR BUSINESSES, WOMEN-OWNED BUSINESSES

The Senate Amendment requires that within 180 days of enactment the SBA Office of Advocacy conduct and complete two studies: one, to assess the demand and availability of debt financing for service sector businesses; and, two, to determine that the most cost effective and accurate means of gathering and presenting data on women-owned businesses. In the first study, SBA showed work closely with the Federal Reserve Board and other agencies.

The House Bill has no comparable provision.

The Conference Substitute includes this provision.

ITEM 36—MANAGEMENT ASSISTANCE FOR WOMEN-OWNED BUSINESSES

The House Bill requires SBA to provide financial assistance, on a matching funds basis, to private organizations for management training and technical assistance demonstration projects for women business owners. Such public/private sector initiatives would be established to assist both "start-ups" and established "on-going" concerns. Applicants for these funds would be solicited from organizations that have demonstrated their ability to conduct programs and on-going efforts designed to upgrade business skills, to conduct such demonstration projects within a minimum amount of time, and to provide such services to a representative number of socially and economically disadvantaged women.

Subsection (b) requires SBA to study matters that affect the competitive strength of small business, and the effect of laws, programs, and regulations on small businesses and to make recommendations to Federal agencies that appropriate adjustments be made to such programs and regulations to accomodate the needs of small businesses.

Subsection (c) authorizes $10 million to be appropriated to carry out the demonstration projects.

Subsection (d) defines a women owned business as one that is at least 51% owned by one or more women, with management and daily business operations of such concern controlled by one or more women.

The Senate Amendment has no comparable provision.

The Conference Substitute includes this provision. The Conferees intend that SBA move promptly implement this grantmaking authority and note that initial grants should be made by January 31, 1989. It is not, however, the conferees intention that all funds appropriated for fiscal year 1989 be obligated by January 31, only that SBA show its good faith and best efforts to fund the initial ground of qualified applicants by that date.

ITEM 37—PROCUREMENT CENTER REPRESENTATIVES

The House Bill requires the Small Business Administration to employ seven additional procurement center representatives to be stationed in states where no such representatives are stationed and authorizes specified amounts of funds to pay such representatives.

The Senate Amendment is similar, except it only requires SBA to employ two such persons, and it does not specifically authorize the appropriation of any money for their salaries.

The Conference Substitute requires the Small Business Administration to employ seven additional procurement center representatives to be stationed in states where no such representatives are stationed. Their salaries and expenses must be from overall agency funding; no new authorization is provided.

ITEM 38—DEBT COLLECTION

The House Bill requires the SBA to contract for debt collection services to recover indebtedness owed to the United States which arises out of an activity of the Small Business Administration and which is deliquent by more than three months and which the Administrator has not actively attempted to negotiate, litigate or reschedule. It also requires SBA to disclose to all credit reporting agencies all debts owed SBA which are more than 31 days delinquent.

The Senate Amendment has no comparable provision.

The Conference Substitute does not include this provision.

ITEM 39—SMALL BUSINESS EXPORT STRATEGY DEVELOPMENT PILOT PROGRAM

The House Bill requires the Administrator of SBA to establish for fiscal years 1989 through 1991, inclusive, a small business export strategy development pilot program involving comparative matching awards to small business concerns which have engaged in, or are seeking to engage in, export trade. These awards would be phased in similar to the phasing in of SBIR matching awards under the Small Business Innovation and Research Program. Phase I would be $25,000 per small business; Phase II would be $10,000 per small business. Each fiscal year $1.385 million dollars would be available to make Phase I matching grants; $500,000 would be available for promotion; and $115,000 would be available for program administration.

The Senate Amendment has no comparable provision.

The Conference Substitute does not include this provision.

ITEM 40—RURAL AREA BUSINESS DEVELOPMENT PLANS

The House Bill requires each Federal agency having substantial procurement or grant making authority to develop rural area enterprise development plans. The plans shall include methods to encourage prime contractors and grantees to use small businesses in rural areas.

The Senate Amendment has no comparable provision.

The Conference Substitute requires the Small Business Administration to identify and notify on those federal agencies having substantial procurement or grant making authority which could be used to promote rural small businesses. Agencies so notified, would then be required to develop plans to accomplish this purpose.

ITEM 41—PREFERENCES FOR AMERICAN MADE PRODUCTS IN SBA PROCUREMENTS

The House Bill requires the Administrator of SBA to award a domestic firm contracts which otherwise would be awarded to a foreign firm if the final product of the domestic firm would be assembled in the United States and when completely assembled, not less than 50 percent of the final product of the domestic firm would be domestically produced, and if the difference between the bids submitted by the foreign and the domestic firm is not more than 6 percent.

The Senate Amendment has no comparable provision.

The Conference Substitute does not include this provision.

ITEM 42—STUDY OF GOVERNMENT INFORMATION PROVIDED FOREIGN GOVERNMENTS

The House Bill requires the Chief Counsel for Advocacy of the Small Business Administration to conduct and complete a study of the extent to which the employees of Federal agencies and departments are performing services for foreign governments which are otherwise capable of performance by small business firms.

The Senate Amendment has no comparable provision.

The Conference Substitute requires the Chief Counsel for Advocacy of the Small Business Administration to assess the extent to which the employees of Federal agencies are performing professional and technical services for foreign governments (or other non-domestic entities) for which there are responsible domestic sources, and to submit a report thereon including recommendations for specific steps to be taken by SBA or other agencies to develop further information with respect to the foregoing issue.

In preparing the report the Chief Counsel is directed to consult with the Office of Management and Budget, the Department of Commerce, Department of the Interior, other relevant agencies of the government and trade and professional associations representing the interests of small business concerns.

ITEM 43—PRIVATE SECTOR COOPERATION

The Senate Amendment extends for two more years SBA's authority for a private sector cooperation program under which it cosponsors training and managerial assistance-type events with private, for profit businesses. This program was originally authorized by the Small Business and Computer Security Act of 1984. It modifies current law to make it clear that all SBA programs participating in a cosponsored activity shall receive appropriate recognition and further requires that SBA shall receive appropriate recognition in all such events and ensure that no endorsement of any elected official is made or implied.

Although current law requires SBA to ensure that its cosponsored activities do not constitute or imply an endorsement by the agency of the products or services of the cosponsor, this provision extends that requirement to any activity which SBA cosponsors with a Federal, state or local public official or agency.

The House Bill has no comparable provision.

The Conference Substitute includes this proposal but also requires tighter controls on all such activities.

The conferees are concerned that the Agency has not complied with previous statutory restrictions on the conduct of joint training sessions. For example, despite what current law requires:

(1) SBA has only been able to provide about ¼ of the mandatory agreements for 381 projects cosponsored by 259 cosponsors;

(2) many contracts are either deficient or unsigned;

(3) brochures lack the required disclaimer;

(4) businesses and some public officials have used materials for unwarranted self promotion; and

(5) SBA cannot account for any of the fees collected at the conferences and certain individuals have been reported to have made large personal profits on SBA cosponsored events.

The conferees stress that the agency must comply with the statutory requirements.

ITEM 44—REPORT ON BACKGROUND CHECK POLICY

The Senate Amendment requires the Administration to revaluate the agency's policy requiring criminal history background checks to be made on loan applicants, licensees, directors and other SBA program participants to determine eligibility, and to report its finding to the House and Senate Small Business Committees. The Federal Bureau of Investigation has historically provided a criminal file name check service to SBA and other federal agencies, but has recently announced that such services will no longer be provided unless the applicant's fingerprints are provided.

The House Bill has no comparable provision.

The Conference Substitute, to ensure that certain volunteer participants who are often well-known in their communities (such as directors of Certified Development Companies) will not be unreasonably subjected to fingerprint requirements under the agency's background check policy, prohibits SBA from requiring fingerprints of those who serve voluntarily and without compensation in SBA programs unless the agency has reasonabl grounds to suspect that a participant's record is such as to warrant the fingerprint check. These individuals include, but are not limited to, members of SCORE and ACE, directors of non-profit Certified Development Companies, and members of SBA advisory organizations.

If the Administration determines that the prohibition will adversely affect its ability to meet its statutory and regulatory responsibilities governing SBA program eligibility, then the Administration should report that concern to the House and Senate Committees on Small Business promptly, including in such report a complete description of SBA's needs with regard to access to criminal records of program participants and other procedures used to determine eligibility. Such a description shall take into account the relative risk involved with different programs and participants, including the magnitude of SBA's financial exposure, as well as the privacy interests of participants. Further, such report shall include reasons why alternative means of reviewing a participant's record or background other than by fingerprinting would not be available. And finally, it should evaluate the systems used by other Federal agencies with loan-making authority. If such agencies require fingerprint checks, the details should be included, including the number of fingerprint checks per year by the agency as compared to loan approval numbers; if the other agencies do not require fingerprint checks, SBA should explain why their system is not compatible or adaptable to SBA's needs and responsibilities.

ITEM 45—ELIGIBILITY OF HANDICAPPED ORGANIZATIONS FOR SMALL BUSINESS SET-ASIDES

The Senate Amendment amends the Small Business set-aside program to:

reauthorize a law allowing rehabilitation facilities to bid on small business set-aside contracts;

establish a maximum ceiling of $50 million in contracts that these rehabilitation facilities can be awarded;

permit only $8 million of the $50 million annual ceiling of contracts be converted to the Javits-Wagner-O'Day Act program;

establish a five year sunset provision;

provide small businesses with an expedited appeal to the SBA Administrator when they allege that they will suffer economic hardship from an award to rehabilitation facility; if the appeal has merit, the Administrator may require the contracting activity to take appropriate action; and

require the General Accounting Office to study and report back to Congress on the impact of the bidding by rehabilitation facilities before the program could be extended.

The House Bill has no comparable provision.

The Conference Substitute amends the Small Business set-aside program to:

reauthorize a law allowing rehabilitation facilities to bid on small business set-aside contracts;

establish maximum ceilings on the amount of contracts that these rehabilitation facilities can be awarded each year: $300 million in 1989, $40 million in 1990, and $50 million in each of 1991, 1992 and 1993;

prohibit any amounts from being converted to the Jarvits-Wagner-O'Day Act program;

establish a five year sunset provision;

provide small businesses with an expedited appeal to the SBA Administrator when they allege that they will suffer economic hardship from an award to a rehabilitation facility; if the appeal has merit, the Administrator may require the contracting activity to take appropriate action; and

require the General Accounting Office to study and report back to Congress on the impact of the bidding by rehabilitation facilities before the program could be extended.

The conferees recognize the need for vocational rehabilitation facilities to become more familiar with the Federal competitive procurement process, especially as it relates to bid preparation. Thus they encourage SBA to work with appropriate organizations in developing training programs.

ITEM 46—SBA OFFICIALS—TITLE CHANGES

The Senate Amendment changes the titles of the Associate and Deputy Associate Administrators for the Small Business Development Center Office as requested by SBA.

The House Bill has no comparable provision.

The Conference Substitute changes the title of the Deputy Associate Administrator for Management Assistance to the Associate Administrator for Small Business Development Centers. It also provides that this position shall not be more than two levels below the Administrator, that is, that this individual shall report to an individual who is not more than one level below the Administrator.

ITEM 47—PROMULGATION OF RULES

The House Bill requires SBA to issue final regulations to carry out this title within six months.

The Senate Amendment is similar.

The Conference Substitute requires SBA to issue final regulations to carry out this title within six months.

ITEM 48—WHITE HOUSE SMALL BUSINESS CONFERENCE

The Senate Amendment directs the President to call and conduct a National White House Conference on Small Business not less than every six years. It also authorizes $4 million to pay for each conference, with that amount to cover expenses over an expected two-year planning period per conference.

The House Bill has no comparable provision.

The Conference Substitute does not include this provision.

ITEM 49—INTERNATIONAL TRADE

The House Bill is identical with title VIII of H.R. 3 and H.R. 4848, except that the authorizations for SBA's Office of International Trade of $3.5 million and the authorization for the Small Business Development Centers for international trade of $5 million have been extended and also provided for fiscal years 1990 and 1991.

The Senate Amendment incorporates this title of the Trade Bill without change.

The Conference Substitute authorizes the appropriation of $3.5 million in fiscal year 1990 for SBA's Office of International Trade and $5 million for grants to SBDCs assistance to promote export trade in 1990, the same amounts as were provided in the Trade Bill for 1989. The conferees note that the other provisions were enacted into law as title VIII of H.R. 4848.

John J. LaFalce,
Neal Smith,
Henry Gonzalez,
Tom Luken,
Ike Skelton,
Joe McDade,
Silvio O. Conte,
Wm. Broomfield,
Managers on the Part of the House.
Dale Bumpers,
Sam Nunn,
Jim Sasser,
Lowell P. Weicker, Jr.,
Rudy Boschwitz,
Managers on the Part of the Senate.

WOMEN'S BUSINESS OWNERSHIP ACT OF 1988

Mr. LaFALCE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5050) to amend the Small Business Act to establish programs and initiate efforts to assist the development of small business concerns owned and controlled by women, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5050

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act, together with the following table of contents, may be cited as the "Women's Business Ownership Act of 1988".

TABLE OF CONTENTS

TITLE I—CONGRESSIONAL FINDINGS AND PURPOSES
Sec. 101. Findings and Purposes.
TITLE II—DEMONSTRATION PROJECTS
Sec. 201. Establishment.
Sec. 202. Technical.
Sec. 203. Authorization.
Sec. 204. Definition.
TITLE III—ACCESS TO CAPITAL
Sec. 301. Amendments to the Consumer Credit Protection Act.
Sec. 302. Form simplification and preferred financing.
Sec. 303. Analysis of financing sources.
TITLE IV—NATIONAL WOMEN'S BUSINESS COUNCIL
Sec. 401. Establishment.
Sec. 402. Duties of the Council.
Sec. 403. Membership.
Sec. 404. Director and staff of the Council.
Sec. 405. Powers of the Council.
Sec. 406. Reports.
Sec. 407. Authorization.
TITLE V—STATISTICAL DATA AND EFFECT ON OTHER PROGRAMS
Sec. 501. Census data.
Sec. 502. Procurement data.
Sec. 503. State of small business report.
Sec. 504. Disadvantaged small business.

TITLE I—CONGRESSIONAL FINDINGS AND PURPOSES

SEC. 101. FINDINGS AND PURPOSES.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by adding at the end thereof the following new subsection:

"(f)(1) With respect to the programs and activities authorized by this Act, the Congress finds that—

"(A) women owned business has become a major contributor to the American economy by providing goods and services, revenues, and jobs;

"(B) over the past two decades there have been substantial gains in the social and economic status of women as they have sought economic equality and independence;

"(C) despite such progress, women, as a group, are subjected to discrimination in entrepreneurial endeavors due to their gender;

"(D) such discrimination takes many overt and subtle forms adversely impacting the ability to raise or secure capital, to acquire managerial talents, and to capture market opportunities;

"(E) it is in the national interest to expeditiously remove discriminatory barriers to the creation and development of small business concerns owned and controlled by women;

"(F) the removal of such barriers is essential to provide a fair opportunity for full participation in the free enterprise system by women and to further increase the economic vitality of the Nation;

"(G) increased numbers of small business concerns owned and controlled by women will directly benefit the United States Government by expanding the potential number of suppliers of goods and services to the Government; and

"(H) programs and activities designed to assist small business concerns owned and controlled by women must be implemented in such a way as to remove such discriminatory barriers while not adversely affecting the rights of socially and economically disadvantaged individuals.

"(2) It is, therefore, the purpose of those programs and activities conducted under the authority of this Act that assist women entrepreneurs to—

"(A) vigorously promote the legitimate interests of small business concerns owned and controlled by women;

"(B) remove, insofar as possible, the discriminatory barriers that are encountered by women in accessing capital and other factors of production; and

"(C) require that the Government engage in a systematic and sustained effort to identify, define and analyze those discriminatory barriers facing women and that such effort directly involve the participation of women business owners in the public/private sector partnership.".

TITLE II—DEMONSTRATION PROJECTS

SEC. 201. ESTABLISHMENT.

Subsection (c) of section 8 of the Small Business Act (15 U.S.C. 637(c)) is amended to read as follows:

"(c)(1) Subject to the requirements of paragraph (2), the Administration shall provide financial assistance to private organizations to conduct demonstration projects for the benefit of small business concerns owned and controlled by women.

"(2) No amount of financial assistance shall be provided pursuant to this subsection unless the recipient organization agrees, as a condition of receiving such assistance, that—

"(A) it will obtain, after its application has been approved but prior to the disbursement of funds pursuant to this subsection, cash contributions from private sector sources in an amount at least equal to the amount of funds such organization will receive under this subsection; and

"(B) it will provide the types of services and assistance to present and potential women owners of small business concerns as are described in paragraph (3). For the purposes of this subsection such concerns may be either 'start-up' businesses or established 'on-going' concerns.

"(3) The types of services and assistance referred to in paragraph (2)(B) shall include the following:

"(A) Financial assistance, which assistance shall include training and counseling in how to apply for and secure business credit and investment capital; prepare and present financial statements; manage cash-flow and otherwise manage the financial operations of a business concern.

"(B) Management assistance, which assistance shall include training and counseling in how to plan, organize, staff, direct, and control each major activity and function of a small business concern; and

"(C) Marketing assistance, which assistance shall include training and counseling in how to identify and segment domestic and international market opportunities; prepare and execute marketing plans; develop pricing strategies; locate contract opportunities; negotiate contracts; and utilize varying public relations and advertising techniques.

"(4) Applications for financial assistance pursuant to this subsection shall be evaluated and ranked in accordance with predetermined selection criteria that shall be stated in terms of relative importance. Such criteria and their relative importance shall be made publicly available and stated in each solicitation for applications made by the Administration. Such criteria shall include—

"(A) a criterion that specifically refers to the experience of the offering organization in conducting programs or on-going efforts designed to impart or upgrade the business skills of women business owners or potential owners;

"(B) a criterion that specifically refers to the present ability of the offering organization to commence a demonstration project within a minimum amount of time; and

"(C) a criterion that specifically refers to the ability of the applicant organization to provide training and services to a representative number of women who are both socially and economically disadvantaged.

"(5) The financial assistance authorized pursuant to this subsection shall be made by grant, contract, or cooperative agreement and may contain such provision, as necessary, to provide for payments in lump sum or installments, and in advance or by way of reimbursement.

"(6)(A) The Administration shall prepare and transmit a report to the Committees on Small Business of the Senate and House of Representatives on the effectiveness of all demonstration projects conducted under the authority of this subsection. Such report shall provide information concerning—

"(i) the number of individuals receiving assistance;

"(ii) the number of start-up business concerns formed;

"(iii) the gross receipts of assisted concerns;

"(iv) increases or decreases in profits of assisted concerns; and

"(v) the employment increases or decreases of assisted concerns.

"(B) The report required pursuant to subparagraph (A) shall cover at least a twenty-four-month period and shall be submitted not later than thirty months after the effective date of this paragraph.

"(7) This subsection shall cease to be effective after September 30, 1991.".

SEC. 202. TECHNICAL.

Subsection (b) of section 8 of the Small Business Act (15 U.S.C. 637(b)) is amended by—

(1) striking out "and" at the end of paragraph (14);

(2) striking out "public." at the end of paragraph (15) and inserting in lieu thereof "public; and" and

(3) by adding the following new paragraph:

"(16) to make studies of matters materially affecting the competitive strength of small business, and of the effect on small business of Federal laws, programs, and regulations, and to make recommendations to the appropriate Federal agency or agencies for the adjustment of such programs and regulations to the needs of small business.".

SEC. 203. AUTHORIZATION.

There is authorized to be appropriated $10,000,000 to carry out the demonstration projects required pursuant to section 201. The initial projects authorized to be financed by this title shall be funded by January 31, 1989. Notwithstanding any other provision of law, the Small Business Administration may use such expedited acquisition methods as it deems appropriate to achieve the purposes of this section, except that it shall ensure that all eligible sources are provided a reasonable opportunity to submit proposals.

SEC. 204. DEFINITION.

For the purposes of this title, the term "small business concern owned and controlled by women" means any small business concern as defined pursuant to section 3 of the Small Business Act (15 U.S.C. 632)—

(1) that is at least 51 per centum owned by one or more women; and

(2) whose management and daily business operations are controlled by one or more of such women.

TITLE III—ACCESS TO CAPITAL

SEC. 301. AMENDMENTS TO THE CONSUMER CREDIT PROTECTION ACT.

Subsection (a) of section 703 of the Consumer Credit Protection Act (15 U.S.C. 1691b(a)) is amended to read as follows:

"(a)(1) The Board shall prescribe regulations to carry out the purposes of this title. These regulations may contain but are not limited to such classifications, differentiation, or other provision, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate or substantiate compliance therewith.

"(2) Such regulations may exempt from the provisions of this title any class of transactions that are not primarily for personal, family, or household purposes, or business or commercial loans made available by a financial institution, except that a particular type within a class of such transactions may be exempted if the Board determines, after making an express finding that the application of this title or of any provision of this title of such transaction would not contribute substantially to effecting the purposes of this title.

"(3) An exemption granted pursuant to paragraph (2) shall be for no longer than five years and shall be extended only if the Board makes a subsequent determination, in the manner described by such paragraph, that such exemption remains appropriate.

"(4) The Board shall require entities making business or commercial loans to maintain such records or other data relating to all such loans as may be necessary to evidence compliance with this subsection or enforce any action pursuant to the authority of this Act. In no event shall such records or data be maintained for a period of less than one year. The Board shall promulgate regulations to implement this paragraph in the manner prescribed by chapter 5 of title 5, United States Code.

"(5) The Board shall provide in regulations that an applicant for a business or commercial loan shall be provided a written notice of such applicant's right to receive a written statement of the reasons for the denial of such loan.".

SEC. 302. FORM SIMPLIFICATION AND PREFERRED FINANCING.

(a) CERTIFIED LOAN PROGRAM.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding to subsection (a) the following new paragraph:

"(19) During fiscal years 1989, 1990, and 1991, in addition to the preferred lenders program authorized by the provision in section 5(b)(7), the Administration is authorized to establish a certified loan program for lenders who establish their knowledge of Administration laws and regulations concerning the loan guarantee program and their proficiency in program requirements. In order to encourage certified lenders and preferred lenders to provide loans of $50,000 or less in guarantees to eligible small business loan applicants, the Administration shall allow participating lenders in the certified loan program and in the preferred loan program (A) to solely utilize a uniform simplified form developed by the Administration solely for use under this paragraph and (B) to retain one-half of the fee collected pursuant to section 7(a)(16) on such loans: *Provided*, That a participating lender may not retain any fee pursuant to this paragraph if the amount committed and outstanding to the applicant would exceed $50,000 unless such amount was not approved under the provisions of this paragraph. The designation of a lender as a certified or preferred lender shall be suspended or revoked at any time that the Administration determines that the lender is not adhering to its rules and regulations or if the Administration determines that the loss experience of the lender is excessive as compared to other lenders: *Provided further*, That any suspension or revocation of the designation shall not affect any outstanding guarantee: *And provided further*, That the Administration may not reduce the per centum of guarantee as a criterion of eligibility for such designation.".

(b) REPORTS.—The Administration shall take such steps as it deems appropriate to expand participation in the certified loan program and shall report to the Small Business Committees of the Senate and the House of Representatives on the amount of loans approved and the amount of losses sustained under the provisions of section 7(a)(19) of the Small Business Act. An interim report shall be submitted not later than one year after the date of enactment.

SEC. 303. ANALYSIS OF FINANCING SOURCES.

(a) JOINT STUDY.—Federal Reserve Board, the Comptroller of the Currency, the Department of Commerce and the Small Business Administration shall jointly conduct a study to determine, with respect to the service segment of the economy—

(1) the level of demand for both debt and equity capital by small business concerns;

(2) the level of availability of such capital for such concerns; and

(3) how new or innovative financing techniques or the improvement of existing techniques can be used to satisfy the unmet demand for capital by such concerns consistent with acceptable standards of safety and soundness for loans or investments made by commercial and business lenders and institutional investors.

(b) REPORT.—The study performed pursuant to subsection (a) shall be reported to the Committees on Small Business of the Senate and House of Representatives within one hundred and eighty days after the effective date of this section.

TITLE IV—NATIONAL WOMEN'S BUSINESS COUNCIL

SEC. 401. ESTABLISHMENT.

There is established a Council to be known as the "National Women's Business Council" (hereinafter in this title referred to as the Council).

SEC. 402. DUTIES OF THE COUNCIL.

(a) The Council shall review—

(1) the status of women owned business nationwide, including progress made and barriers that remain in order to assist such businesses to enter the mainstream of the American economy;

(2) the role of the Federal Government and State and local governments in assisting and promoting aid to, and the promotion of, women owned business;

(3) data collection procedures and the availability of data relating to (A) women owned businesses; (B) women owned small business, and (C) small business owned and controlled by socially and economically disadvantaged women; and

(4) such other government initiatives as may exist relating to women owned business including, but not limited to, those relating to Federal procurements.

(b) Based upon its review, the Council shall, by December 31, 1989, and every twelve months thereafter, recommend to the Congress and the President—

(1) new private sector initiatives that would provide management and technical assistance to women owned small business;

(2) ways to promote greater access to public and private sector financing and procurement opportunities for such businesses; and

(3) detailed multiyear plans of action, with specific goals and timetables, for both public and private sector actions needed to overcome discriminatory barriers to full participation in the economic mainstream.

(c) For the purposes of this title the term "small business concern owned and controlled by women" shall have the same meaning as that term is given in section 204 of this Act.

SEC. 403. MEMBERSHIP.

(a) The Council shall be composed of nine members to be selected as follows:

(1) the Administrator of the Small Business Administration, the Secretary of Commerce (or such Secretary's deputy) and the Chairman of the Federal Reserve Board (or such Chairman's designee, who shall be a member of the Board);

(2) two members shall be appointed by the majority leader, and one member shall be appointed by the minority leader of the Senate.

(3) two members shall be appointed by the Speaker, and one member shall be appointed by the minority leader of the House of Representatives.

(b)(1) Appointments under section (a) (2) and (3) shall be made from individuals who are specially qualified to serve on the Council by virtue of their education, training, and experience and who are not officers or employees of the Federal Government nor of the Congress.

(2)(A) Of the individuals to be appointed under subsection (a) (2) and (3)—

(i) no more than two members to be appointed under each such paragraph of such subsection shall be of the same political party;

(ii) at least two members appointed under each such paragraph of such subsection shall be women; and

(iii) at least two members to be appointed under each such paragraph of such subsection shall be owners of small business concerns as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

(B) Appointments made pursuant to subsection (a) (2) and (3) shall be made in the following sequence—

(i) appointments under (a)(2) shall be made within ninety days of the effective date of this title; and

(ii) appointments under (a)(3) shall be made within one hundred and twenty days of the effective date of this title.

(3) In making appointments under subsection (a), the appointing authorities shall give due consideration to achieving balanced geographical representation.

(C) Members appointed under subsection (a) (2) and (3) shall be appointed for a three-year term, except if any such appointee becomes an officer or employee of the Federal Government or of the Congress, such individual may continue as a member of the Council for not longer than the thirty-day period beginning on the date such individual becomes such an officer or employee.

(D) A vacancy on the Council shall be filled in the manner in which the original appointment was made.

(E) Members of the Council shall serve without pay for such membership, except members of the Council shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Council, in the same manner as persons employed intermittently in the Federal Government are allowed expenses under section 5703 of title 5, United States Code.

(F)(1) Two members of the Council shall constitute a quorum for the receipt of testimony and other evidence.

(2) A majority of the Council shall constitute a quorum for the approval of a recommendation or report submitted pursuant to section 402 or section 406.

(G) The Chairperson and Vice Chairperson of the Council shall be designated by the President. The term of office of the Chairperson and Vice Chairperson shall be at the discretion of the President.

(H) The Council shall meet not less than four times a year. Meetings shall be at the call of the Chairperson.

SEC. 404. DIRECTOR AND STAFF OF THE COUNCIL.

(a)(1) The Council shall have a Director who shall be appointed by the Chairperson. Upon recommendation by the Director, the Chairperson may appoint and fix the pay of four additional personnel.

(2) The Director and staff of the Council may be appointed without regard to section 5311(b) of title 5, United States Code, and without regard to the provisions of such title governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(b) The Council may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

(c) Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of such agency to the Council to assist the Council in carrying out its duties under this title without regard to section 3341 of title 5 of the United States Code.

SEC. 405. POWERS OF THE COUNCIL.

(a) The Council may, for the purpose of carrying out this title sit and act at such times and places, hold such hearings, take such testimony, receive such evidence, and consider such information, as the Council considers appropriate. The Council may administer oaths or affirmations for the receipt of such testimony.

(b) Any member or person within the employ of the Council may, if so authorized by the Council, take any action which the Council is authorized to take by this section.

(c) Except as otherwise prohibited by law, the Council may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties under this Act. Upon the request of the Chairperson of the Council, the head of such department or agency shall promptly furnish such information to the Council.

(d) The Council may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(e) The Administrator of the General Services Administration shall provide to the Council, on a reimbursable basis, such administrative support services as the Council may request. In addition, the Administrator shall, as appropriate, provide to the Council, upon its request, access to and use of such Federal facilities as may be necessary for the conduct of its business.

SEC. 406. REPORTS.

The Council shall transmit to the President and to each House of the Congress a report no less than once in every twelve-month period. The first such report shall be submitted no later than December 31, 1989. Such reports shall contain a detailed statement on the activities of the Council, and the findings and conclusions of the Council, together with its recommendations for such legislation and administrative actions as it considers appropriate based upon its reviews conducted under section 402.

SEC. 407. AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary to carry out this title and they may remain available until expended. New spending authority or authority to enter into contracts as authorized in this title shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

TITLE V—STATISTICAL DATA AND EFFECT ON OTHER PROGRAMS

SEC. 501. CENSUS DATA.

(a) Bureau of Labor Statistics.—The Bureau of Labor Statistics of the Department of Labor shall include in any census report it may prepare on women owned business data on—

(1) sole proprietorships;

(2) partnerships; and

(3) corporations.

(b) Bureau of the Census.—The Bureau of the Census of the Department of Commerce shall include in its Business Census for 1992 and each such succeeding census data on the number of corporations which are 51 per centum or more owned by women.

(c) Combined Study.—Not later than one hundred and eighty days after the effective date of this section, the Office of the Chief Counsel for Advocacy of the Small Business Administration (hereinafter referred to in this subsection as the "Office") shall conduct a study and prepare a report recommending the most cost effective and accurate means to gather and present the data required to be collected pursuant to subsections (a) and (b). The Department of Commerce and the Department of Labor shall provide the Office such assistance and cooperation as may be necessary and appropriate to achieve the purposes of this subsection.

SEC. 502. PROCUREMENT DATA.

(a) Reporting.—Each Federal agency shall report to the Office of Federal Procurement Policy the number of small businesses owned and controlled by women and the number of small business concerns owned and controlled by socially and economically disadvantaged businesses that are first time recipients of contracts from such agency. The Office of Federal Procurement Policy shall take such actions as may be appropriate to ascertain for each fiscal year the number of such small businesses that have newly entered the Federal market.

(b) Definitions.—For purposes of this section the terms "small business concern owned and controlled by women" and "small business concerns owned and controlled by socially and economically disadvantaged individuals" shall be given the same meaning as those terms are given under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and section 204 of this Act.

SEC. 503. STATE OF SMALL BUSINESS REPORT.

Section 303 of Public Law 96-302 (15 U.S.C. 631(b)) is amended by adding the following new subsection:

"(e) The information and data required to be reported pursuant to subsection (a) shall separately detail those portions of such information and data that are relevant to—

"(1) small business concerns owned and controlled by socially and economically disadvantaged individuals as defined pursuant to section 8(d) of the Small Business Act; and

"(2) small business concerns owned and controlled by women.".

SEC. 504. DISADVANTAGED SMALL BUSINESSES.

Nothing contained in this Act is intended to reduce or limit any programs, benefit, or activity that is authorized by law to assist small business concerns owned and controlled by socially and economically disadvantaged individuals as defined pursuant to section 8(d)(3) of the Small Business Act (15 U.S.C. 637 (d)(3)).

The SPEAKER pro tempore. Is a second demanded?

Mr. IRELAND. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York [Mr. La Falce] will be recognized for 20 minutes and the gentleman from Florida [Mr. Ireland] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. La Falce].

Mr. LaFALCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the amazing growth of women's business ownership has been called the most significant economic development of recent years. Women have suffered from centuries of prejudice, discrimination, and exploitation. But the last half century, and particularly the last 20 years has been a period of revolutionary change in the social and economic status of American women.

Most of the attention has focused on the social aspects of women in the work force. But the explosive rise of women entrepreneurs, and what this phenomenon means to our present day economy, has not been given the attention it deserves.

During April and May of this year, the Small Business Committee held 6 days of hearings on the achievements and special problems of women business owners. We were amazed by what the hearings revealed. Women owned business is the fastest growing segment of our economy. Women are starting their own businesses at a rate twice that of men, and now own approximately 30 percent of our Nation's businesses. If the present rate continues, the Government estimates that by the year 2000 they could own as many as one half.

Unfortunately it is still more difficult for women to achieve the same level of business success as men—but for reasons unrelated to talent or enterpreneurial skill. Women face the same problems that confront all small businesses, but they face more of them and to a greater degree. Nevertheless, women are succeeding in business—in all industry classifications. The committee witnesses included a number of "myth-busters" who are succeeding in industries that have been, traditionally, the sole province of men. But they are succeeding against great odds. And business receipts lag substantially behind those for male owned business.

The problems have been well-documented. During our committee hearings, we heard from a total of 26 witnesses and received additional testimony from many others. Following the hearings, the committee issued an investigative report entitled "New Economic Realities: The Rise of Women Entrepreneurs." The report included a series of findings and policy recommendations that formed the basis for this much needed legislation.

During the hearings, the committee identified several major problem areas. H.R. 5050 addresses those problems by proposing action relating to the following specific needs: management training and technical assistance; access to capital; improved statistical information and data; and Federal policies and programs in support of women entrepreneurs. The bill follows recommendations contained in the committee report.

MANAGEMENT TRAINING PROJECTS

It is generally agreed that lack of management skill is a primary cause of business failure. The committee found that one of the principal needs of women business owners is high quality sustained management training and technical assistance to improve entrepreneurial skills and increase profitability. It is the position of the committee that the private sector has by far the greatest business expertise and the most effective person to teach entrepreneurship is the entrepreneur. Public/private partnerships to provide effective management and technical assistance, therefore, could significantly enhance business opportunities for women.

Title II of the bill would provide matching funds to establish demonstration projects in a limited number of geographical test areas. These projects would provide sustained management training and technical assistance to women business owners based on model programs that have demonstrated high levels of success in the private sector.

ACCESS TO CAPITAL

Small businesses generally cite limited access to capital as a primary detriment ot business success. Capital is essential for business formation, operation, and expansion. The committee found that women suffer the same disadvantages in seeking traditional sources of capital as all small business owners. But they also face additional barriers, including outright discrimination, that severely limit their access to business credit, and affect negatively the terms and conditions under which women are able to obtain such credit.

The Equal Credit Opportunity Act of 1974 [ECOA] prohibits discrimination in credit transactions on the basis of race, color, national origin, sex, marital status, or age. Provisions contained in the Act are designed to permit the monitoring of credit transactions and to prevent discriminatory practices.

The ECOA provides for the promulgation of regulations by the Federal Reserve Board and authorizes the Fed to make classifications and distinctions and to exempt from the act any class of business or commercial transactions under certain conditions. Regulation B, which was promulgated under this authority, in effect, exempts all business and commercial credit transactions from the ECOA provisions relating to the following: First, notification of the right to receive a statement of reasons for adverse action; second, retention of records, including information used in evaluating the application; and third, information concerning marital status.

I do not believe that Congress intended the Fed to exempt business credit from the procedural requirements in such a broad manner. The legislative report accompanying the ECOA of 1974 is quite clear that business and commercial credit were intended to be afforded the same protections against discrimination as other types of credit activities.

H.R. 5050 addresses this problem by amending the Equal Credit Opportunity Act to require the Federal Reserve Board to reexamine and revise regulations that exempt business loans from key protections of the act.

The bill would require the Board to make express determinations and findings prior to making any exemptions. It would also provide guidance relating to the restoration of important rights waived by present regulations. It is the intention of this legislation that the Fed could not again exempt all business loans from the procedural requirements of the ECOA.

The requirement for formal hearings by the Federal Reserve Board has been dropped. The Fed has made it clear that this provision is not necessary, because it will make the necessary adjustments by its usual notice and comment rulemaking procedures, if this bill is enacted.

The committee recognizes that some forms of commercial loan transactions and extensions of credit may require specialized rules. For example, the committee believes that loans and credit extensions incidental to trade credit, factoring arrangements, and sophisticated asset-based loans should continue to be exempted from the record retention and automatic notification requirements. It would be literally impossible to provide notice for requests for demand-basis advances and the hundreds or thousands of factoring transactions and instant-answer decisions made daily—even hourly—under such credit relationships. But the committee wants to make clear that the initial transaction to set up such loans, contractual credit agreements, or lines of credit should be subject to ECOA protections.

Nor does the committee believe that record retention and automatic notice requirements should apply to informal or undocumented applications such as those made over the telephone or in conversations between a banker and clients.

In recent years, the financial community has developed creative financing arrangements, revolving loans, asset-based lending, and many other hybrids that may not fit the mold of the traditional loan. It is the intention of the legislation that the Fed carefully examine such transactions and develop procedures which will protect the borrower without unnecessarily hampering such financial transactions by imposing unworkable requirements. Moreover, to require paperwork and automatic written notice for each individual credit decision which follows the initial entry into arrangements between the borrower and the lender may be very difficult and not necessary to accomplish the goals of this legislation.

Concern has also been expressed by financial institutions concerning any requirement to divulge sources of confidential and sensitive credit information. It is expected that the Fed is in a position to strike an appropriate balance between a client's right to know and the need to preserve free flow of information among creditors necessary to assess risk.

The Fed should also take into account the size and nature of loan transactions in determining the kinds of records that must be maintained. For example, there is no need or intent to require lenders to retain volumes of records concerning complicated transactions of major corporations involving millions and millions of dollars. However, in providing guidance on this issue, the committee notes that the Small Business Administration has recently been granted authority to guarantee loan packages to small businesses of up to $1.5 million in value.

Finally, the committee understands that any regulation to be established pursuant to this legislation will eliminate the rule that permits inquiry into marital status except in cases where the spouse could conceivably assert an interest in the collateral used to secure the transaction, or in some way lessen the ability of the creditor to assert its rightful claim. For example, if property to be used as collateral for a loan is wholly owned by the business, there would be no need for inquiry into marital status; in community property states, on the other hand, such inquiry would be permissible.

The ECOA has been instrumental in providing equal access to consumer credit. Similar progress is needed for business loans as well. H.R. 5050 would clarify the law by requiring the same types of protection for commercial loans that are presently enjoyed for consumer credit transactions. We are convinced that they will benefit not only women business owners, but all small businesses, without imposing an undue burden upon the financial community.

This title of our bill relating to access to capital also would create an SBA guaranteed miniloan program for amounts up to $50,000 utilizing simplified application and evaluation procedures. These loans would serve all small businesses, but would be especially useful for the service sector of the economy where women owned businesses are concentrated.

NATIONAL WOMEN'S BUSINESS COUNCIL

Unfortunately, programs and policies of the Federal Government in support of women owned business, according to the findings of the committee, have been ineffectual in advancing the status of such concerns to any significant degree. Most such efforts have been superficial, unimaginative, and lacking in long-term commitment. Government efforts to aid and encourage women entrepreneurs need strong direction from high levels in order to receive the sustained attention that produces bottom line results.

The bill would establish a high level policymaking body that would develop a comprehensive plan of action, with specific goals and timetables, to be submitted to Congress and the President. The National Women's Business Council would include representatives from the highest levels of both public and private sectors, to examine issues and make recommendations in support of women owned business.

STATISTICAL INFORMATION AND DATA

As a result of our hearings, the committee concluded that present statistical information and data are inadequate for present needs. Reliable data is needed to assist public policy makers in dealing with the special problems facing women business owners. Private sector officers and leaders need such data also in order to make informed business judgments that affect business and the economy. Lack of information relative to corporations owned and controlled by women may have skewed perceptions as to the relative strengths and capacities of women owned businesses among policymakers, capital sources, and procurement officials.

The bill addresses the problem of incomplete and inconsistent data and requires improved data collection and reporting procedures by the Federal Government. In general, information sources that supply business statistics would be required to capture data and report on women owned business sole proprietorships, partnerships, and corporations.

PROCUREMENT ASSISTANCE

The committee has agreed to withdraw from consideration the title that would have provided procurement assistance for women owned businesses. We remain convinced, however, that this is an extremely important issue, and legislative action is badly needed. In spite of the fact that women owned business is the fastest growing sector of the business community, these firms have a $250 billion annual impact upon our economy, they receive less than 1 percent of Government contracts. This figure is far too low, and is representative of neither the potential of women owned business nor their reasonable share.

The Government Operations Committee has an interest in procurement issues, and given the lateness of the hour, the chairman of that committee has requested that this title be dropped. We are accommodating their request. We intend, however, to again bring up this issue for consideration in the next Congress.

It is my firm belief that H.R. 5050 will strengthen the competitive position of women entrepreneurs specifically, and all other entrepreneurs as well. It will provide assistance in the service industries—the cutting edge of our changing economy where women predominate—but also in all other industry classifications.

It is imperative that we take immediate action to remove the remaining barriers to women's entrepreneurship. This is not a special interest issue; it is not a social issue; it is an economic issue. Women entrepreneurs represent a gold mine of untapped resources. The economic future of this Nation demands that we release the business potential resident within the female half of our population.

I want to acknowledge the able assistance and widespread bipartisan support of my colleagues on the committee. I sincerely appreciate the interest shown by both minority and majority members during the hearings and throughout our legislative efforts. Letters sent to our colleagues in the House by ranking minority members JOSEPH M. McDADE and SILVIO CONTE resulted in many additional cosponsors. On September 22 when our legislative report was filed, the bill had 129 cosponsors, including Representative LINDY BOGGS, Cochair PAT SCHROEDER, and OLYMPIA SNOWE, and many other members of the Caucus on Women's Issues. During the past week I have received expressions of sponsorship and support from Mrs. ROUKEMA of New Jersey, Mrs. BYRON of Maryland, Mr. DIXON of California, Mr. PASHAYAN of California, Mr. QUILLEN of Tennessee, Mr. FLORIO of New Jersey, and Mr. HOYER of Maryland.

This bill has been endorsed by all the major small business groups and organizations, including the National Federation of Independent Businesses [NFIB], National Small Business United [NSBU], and the Small Business Legislative Council [SBLC], and national women's organizations including the National Association of Women Business Owners [NAWBO], the Women's Equity Action League [WEAL], the National Federation of Business and Professional Women's Clubs of America [BPW], the American Association of University Women [AAUW], and many others.

Mr. Speaker, I applaud the support of my distinguished colleagues, and strongly urge the passage of this important legislation.

□ 1315

Mr. IRELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation.

Mr. Speaker, I would like to call the attention of our colleagues to the work done by our chairman, the gentleman from New York [Mr. LAFALCE], in spearheading this legislation. He is the new chairman in this Congress of the Small Business Committee and has done an outstanding job. This is just one of the gold stars he deserves.

Mr. Speaker, I strongly urge my colleagues to support this legislation.

Mr. McDADE. Mr. Speaker, the Women's Business Ownership Act is numbered H.R. 5050 to emphasize our objective—giving women an even chance at success in small business.

This bill recognizes the rise of the woman entrepreneur as an important new economic reality in America.

Women make up almost 30 percent of small business owners in America today, and could own half of all small businesses by the year 2000.

They are starting new businesses at a rate twice as fast as men, despite subtle and overt forms of gender-based discrimination against women striking out for success in the challenging world of small business.

H.R. 5050 seeks to eliminate that discrimination and put women on an equal footing with men without government handouts.

The bill addresses the main problem areas identified in our committee's hearings on women entrepreneurs: A need for management training and technical assistance; a need to clarify the Consumer Credit Protection Act to cover both commercial and business lending; and a need to gather timely statistics on women-owned businesses.

These provisions will go a long way toward removing the barriers that have traditionally confronted women in their business endeavors. H.R. 5050 will allow even more women to compete on an equal basis and pursue full economic participation in the American dream.

Mr. IRELAND. Mr. Speaker, I reserve the balance of my time.

Mr. LAFALCE. Mr. Speaker, I yield 3 minutes to the gentlewoman from Louisiana [Mrs. BOGGS].

Mrs. BOGGS. Mr. Speaker, I rise in strong and enthusiastic support of H.R. 5050.

The bill provides an important boost to the development and expansion of women-owned businesses. It is the result of a thorough series of hearings and careful study by the small business Committee. That examination found that women-owned businesses represent one of the most rapidly growing sectors of our economy—but that women continue to experience significant disadvantages as entrepreneurs. The legislation we have before us is designed to combat some of those difficulties and thereby—to remove unnecessary obstacles to the flourishing of this promising component of our national economy.

I am particularly pleased that the bill contains in its section dealing with access to credit, the major components of another bill that I joined Chairman LAFALCE in introducing. That bill would clarify the application of the 1974 Equal Credit Opportunity Act to business credit as well as to personal credit. Regulations implementing the 1974 act and its 1976 amendments made certain exceptions for business credit situations and apparently left the impression that the act did not fully apply to business credit. Women entrepreneurs and would-be entrepreneurs have indicated that access to credit on the same basis as their male counterparts has continued to be a problem.

I am pleased that the same provisions as are in H.R. 5050 to address this concern, are also included in the banking reform legislation that has been reported by the House Banking Committee.

Small business has always been the most important source of vitality and jobs for our economy. Entrepreneurship has been our economy's cornerstone, and its spirit and vitality have always been prized qualities in our Nation. H.R. 5050 will go a long way toward permitting full participation of women in that entrepreneurial spirit. In so doing, it will foster important economic growth and vitality.

My congratulations to Chairman LaFalce, to ranking minority member Joe McDade, and to the members of the Small Business Committee for producing a bill that recognizes the contributions and potential contributions of women entrepreneurs to our national enrichment. I urge the support of all my colleagues.

Mr. IRELAND. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. Frenzel].

Mr. FRENZEL. Mr. Speaker, I rise in very strong support of this fine bill. Today will be, I think, a double victory, for a little later in the process we will be dealing with legislation, in this case the House rules, through which we hope we are going to prevent discrimination in employment in the U.S. House of Representatives. It is not for women exclusively, but arises largely as a result of complaints which have arisen from complaints of discrimination against women.

This bill before us now is far broader. In that sense, it is of greater, nationwide importance, but the bill concerned with discrimination in the House is of greater significance as a symbol. Both bills are extremely important, and I am sure that Members will want to pass both of them unanimously.

Mr. LaFALCE. Mr. Speaker, I yield 3 minutes to the gentlewoman from Colorado [Mrs. Schroeder].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, we have all heard the discussions of falling and rising productivity of the need to think globally in business and compete worldwide. In those discussions we seldom hear much about the fastest growing segment of the entrepreneurial community.

Women are going into business twice as fast as men.

Before the 1970's, women owned less than 5 percent of U.S. businesses, they now own 30 percent and it is estimated that they will own 50 percent by the year 2000.

This bill contains some important initiatives to help those women entrepreneurs face the barriers that they, as women, face in the business world. The bill provides direction and funds for public/private demonstration projects to provide management training programs for women currently in business and for potential women business owners. The bill at long last requires that the Equal Credit Opportunity Act of 1974 apply to commercial credit as well as to the consumer credit. And the bill establishes practices for better data collection by the Bureau of the Census and the Bureau of Labor Statistics, so that we can better judge how to address the needs of this growing sector of our economy.

I would like to compliment the Chair of the Small Business Committee, Mr. LaFalce, for his hard work on this legislation and the indepth series of hearings he held to investigate the status of women entrepreneurs. I look forward to continuing to work with him to update Federal policy to recognize this dynamic business community.

Mr. McDADE. Mr. Speaker, today I am pleased to rise in support of the Women's Business Ownership Act of 1988, which Chairman LaFalce and I introduced jointly. Our committee gave overwhelming approval to this landmark legislation to spur increased entrepreneurship among women and to promote the development and growth of women-owned businesses in America. I want to commend Chairman LaFalce for his leadership in focusing attention on women in business, exploring critical issues and problems confronting women business owners, and developing a legislative action plan and agenda for assisting women in business. I want to thank the other members of the committee and other cosponsors whose support of this bill had made its consideration possible. Also, I want to express my appreciation for the fine staff work that is represented in this legislative initiative.

Women are having a profound impact on the economy as an increasing number leave their current jobs and employers to become their own bosses by starting and managing small businesses. Women's business ownership continues to expand more rapidly than ownership by men. According to one estimate based on Internal Revenue Service data, women-owned businesses grew 47 percent between 1980 and 1985. In comparison, men-owned firms grew 31 percent during the same period. Today, 3.7 million of the more than 13 million sole proprietorships nationwide are owned by women, nearly double the 1.9 million such firms they owned 10 years ago. Female-owned businesses are making substantial contributions to the U.S. economy. It is estimated that the revenues generated by these enterprises exceed $100 billion annually. Firms started and operated by women pay approximately $37 billion in Federal taxes and contribute an additional $13 billion in combined State and Federal levies. Such businesses are a major source of employment for women and other groups. According to one estimate by the U.S. Small Business Administration, one-half of all self-employed people will be women by the end of this century. The emergence of these future entrepreneurs will not only increase the ranks of women business owners, but will also increase their participation and importance in the American free enterprise system.

Mothers, daughters, grandmothers, wives, housewives, and single females from all strata of American society have caught the spirit and vision of entrepreneurial ownership. They are challenging anew old assumptions about women and shattering myths about their abilities as they meet the challenges of owning and operating businesses with determination, tenacity, and a will to succeed. They have built new-found confidence in their abilities to manage, to lead, and to achieve bottom-line results. Today's woman in business belongs to a new breed of American entrepreneur—she is a can-do, tough-minded, goal-oriented entrepreneur who also brings compassion and caring to the workplace and demonstrates concern for employees. As women puruse opportunities and compete, they are setting new standards of performance and are reaching for and achieving new plateaus of excellence and success. Women in business are infusing America with a new entrepreneurial energy and infectious enthusiasm. They are literally changing the face of the American economy as they travel the high road leading to success. Today's women in business exhibit the highest ideals and aspirations of the American tradition of free enterprise.

Our Nation is enriched by the increased participation of women in the free enterprise system. That is the purpose of the legislation that we are considering today. Government, if it is to serve, and serve it should, must facilitate the development and growth of women-owned business. Yet, it must do more. It must remove barriers that impede the development and growth of female-owned enterprises and restrain their participation in the free enterprise system. The women's business ownership act of 1988 will broaden the participation of women in business by guaranteeing opportunity and eliminating obstacles.

Our legislation addresses problems and needs identified by women business owners and seeks to enhance female entrepreneurship by providing new opportunities. The bill authorizes the creation of a 3-year, $10 million program to finance public/private partnerships aimed at providing management training and technical assistance to women business owners. Barriers blocking women's access to capital and credit are also addressed. The legislation authorizes the creation of a National Women's Business Council that will be required to submit a comprehensive plan of action, with specific goals and timetables, to support women in business. Futhermore, improved collection of data will ensure that Congress and the administration can adequately review the progress of the program and the women it serves.

I'd like to say to the women of this Nation that your country has a need for your talents, your expertise, and your leadership. Enactment of this legislation will ensure greater participation of women in the economic mainstream and provide more opportunity than ever before. It is my hope it will stimulate women entrepreneurship in America so that women-owned businesses will grow and prosper like never before. I urge my colleagues to support the bill.

Ms. PELOSI. Mr. Speaker, I rise in support of H.R. 5050, the Women Business Ownership Act of 1988. Women-owned businesses are the fastest growing sector of the American economy. Prior to the 1970's, women owned less than 5 percent of all American businesses. Currently, they own approximately 30 percent. They are starting businesses at over twice the rate of men and could well own and operate 50 percent of the Nation's businesses by the year 2000.

This past April and May the House Committee on Small Business held a series of six hearings on women's business issues, and issued a bipartisan report entitled, "New Economic Realities: The Rise of Women Entrepreneurs." The hearings demonstrated that despite their large numbers, women still face substantial barriers in the business community.

The committee identified four barriers to women-owned businesses that merited special attention: First, the need for management and technical training; second, the inequality of access to commercial credit; third, the virtual exclusion of women-owned businesses from Government procurement activities; and fourth, the inadequacy of information and data relative to women-owned businesses.

H.R. 5050, which I am privileged to cosponsor, was introduced to overcome these barriers. Its highlights are:

First. It would amend the Equal Credit Opportunity Act of 1974 to eliminate the current exemption for business loans which have been promulgated by the Federal Reserve Board. Among other things, this would require financial institutions to refrain from inquiring into the marital status of loan applicants.

Second. It would establish a 3-year $10 million program to finance demonstration projects to provide management training and technical assistance to women business owners.

Third. It would create a special Small Business Administration guaranteed miniloan program for amounts up to $50,000. These loans would serve all small businesses, but would be especially useful for the service sector of the economy where women-owned businesses are concentrated.

Fourth. It would improve statistical data on women-owned businesses now compiled by the Federal Government.

Finally, the bill would establish a National Women's Business Council made up of high-level private sector representatives and Government policymakers. This council would be charged with submitting recommendations to Congress and the President by the end of December 1989 for a multiyear plan of action to support women business owners.

H.R. 5050 is vital if the women business owners of this country are to continue to build on their recent progress. I urge you to vote in favor of H.R. 5050.

Mr. BEREUTER. Mr. Speaker, I rise today in support of H.R. 5050 and commend the leadership on both sides for the cooperative effort in bringing this measure to the House floor. As a cosponsor of this measure, I wish to express my sincere appreciation to the Small Business Committee chairman, the distinguished gentleman from New York [Mr. LaFalce], and to the distinguished ranking minority member, the gentleman from Pennsylvania [Mr. McDade].

The astonishing increase in the number of women entrepreneurs has been called the most significant economic development of recent years. Women now own approximately 30 percent of all American businesses and make an enormous contribution to our present-day economy creating millions of new jobs.

The women's business ownership bill implements the recommendations of the House Small Business Committee report, "New Economic Realities: The Rise of Women Entrepreneurs." The report addresses four main areas of need for women business owners:

First, management training and technical assistance;

Second, access to business credit;

Third, increase participation in Federal procurement activities; and

Fourth, improved statistical information and data.

Our Nation needs the business skills of the women in our population. Women business owners represent an untapped resource for economic vitality and prosperity. This measure will amend the Small Business Act to establish programs and initiate efforts to assist the development of small business concerns owned and controlled by women.

I urge my colleagues to support the Women's Business Ownership Act.

Mr. PRICE. Mr. Speaker, I rise today in support of H.R. 5050, the Women's Business Ownership Act of 1988. I am pleased to be an original cosponsor of this bill, and I hope my colleagues will join me in voting for this timely and important legislation.

Under Chairman John LaFalce's leadership, 6 days of hearings were held examining barriers to female entrepreneurship and policy solutions necessary to break down those barriers. We heard from a number of talented women entrepreneurs, including Carey I. Stacy from my district. As the owner of DiaLogos International Corp., a foreign language center in Raleigh, NC, and coowner of Globex, Inc., an export management company, Ms. Stacy lent considerable expertise to these proceedings. She presented valuable perceptions and experience, expecially regarding her difficulties in obtaining a loan for the foreign language center and her efforts in promoting international trade for small service businesses.

I believe H.R. 5050 will substantially increase opportunities for women business owners. The bill authorizes a 3-year $10 million demonstration program to finance public/private sector initiatives providing management training, and technical assistance to women business owners. The bill also works to ensure that women entrepreneurs are not overlooked in the procurement process. It requires Federal agencies to improve outreach programs for women business owners and include these owners in goal-setting for prime contracts and subcontracts.

H.R. 5050 gives women fair consideration in commercial credit applications. The bill amends the Equal Credit Opportunity Act to eliminate the business loan exemption, blocking financial institutions from asking about women's marital status when applying for a business loan. Under the bill, financial institutions must also inform applicants that they have the right to request the reasons for commercial credit denials.

In addition, the bill will work to improve data and statistical information about businesses owned by women. And it establishes a National Women's Business Council to develop a plan of action to support women entrepreneurs.

This bill is an important step toward fulfilling the creative potential and developing the talents of women business owners. I strongly urge my colleagues to support H.R. 5050.

Mr. CONTE. Mr. Speaker, I rise today in support of H.R. 5050, the Women's Business Ownership Act of 1988 and to commend the chairman of the Small Business Committee, John LaFalce and my good friend Joe McDade, the ranking minority for initiating this bold and visionary legislation. I am proud to be an original cosponsor.

More and more, Mr. Speaker, women are finding that small business self-employment is the major pathway to full economic participation in our economic system. Any barrier to that, be it stereotyping, statute of sex discrimination needs to be eliminated now.

I wish to thank all the individual women and women's organizations who have worked with the small business committee in developing this legislation. Your untiring efforts and concerns were critical in formulating this bill and many of your ideas have also been incorporated into H.R. 4174, the SBA reauthorization bill.

Central to this bill is Title IV—Access to Capital, which protects against discrimination and stereotyping of women by financial institutions. This closes a loophole in the Equal Credit Opportunity Act of 1974 that prevented equal access to commercial credit by women and minorities.

I am, however, disappointed that Title III—Procurement Assistance was dropped from the bill. Women own almost 30 percent of all small business yet they receive only 1 percent of the Federal procurement dollars. Affirmative efforts and outreach programs are desperately needed if the Federal Government is going to utilize the expanding capabilities of women business enterprises. Federal contracting should support and reflect the diversity of the business community in America. I do not support dropping this title and will continue to fight for increased participation by women enterprises in the Federal procurement system.

Mr. Speaker, this bill has overwhelming support in the Small Business Committee and in the House. I urge all my colleagues to vote in support of H.R. 5050 and to continue the fight for equality in the 101st Congress.

Mrs. MEYERS of Kansas. Mr. Speaker, I rise today in favor of H.R. 5050, the Women's Business Ownership Act. Today's vote marks the culmination of a long series of hearings held by the Small Business Committee on the problems faced by women in business.

Women businessowners neither want nor need a Federal Government handout. The testimony the committee heard from women businessowners from all across the country made it clear that they just want a fair chance, a fair opportunity.

Many of us do not realize the vital and significant role women play in our work force. For instance, 52 million women age 16 and over are currently in the American labor force.

Working women constitute 44 percent of the labor force, and by the year 2000, they are projected to comprise 47 percent of the labor force.

Women businessowners comprised less than 5 percent of American businesses prior to the 1970's, yet today women own roughly 30 percent of American small businesses, including half of the retail establishments and three-fourths of the service companies.

As these statistics show, women contribute significantly to our economy, which helps us to reduce our deficit and to improve our standard of living.

Even so, missing are certain mechanisms which are needed to ensure that women not only continue to contribute greatly to our economy, but do so at a much greater pace.

That is the impetus for the bill being considered today. Women businessowners are in great need of proper access to credit, assistance in the Federal contract bidding process, and business representation and advocacy at the highest levels of Government.

Mr. Speaker, during the hearings held on this issue, I can remember my surprise in hearing a woman businessowner talk about her problems in obtaining credit to start a business. She talked about her experience with banks, and the fact that her husband had to cosign every time she applied for a loan.

I found this surprising, because it was the same concern being expressed to me 10 years ago when I was in the Kansas Senate. To make so little progress in this area in 10 years points toward the need for action, which is why I am so enthusiastic about this bill, and look forward to the impact it will have in improving the business climate for women.

Mr. Speaker, I urge my colleagues to vote for H.R. 5050.

Mr. ROTH. Mr. Speaker, I rise to support enactment of H.R. 5050, the Women's Business Ownership Act. As a cosponsor of this important legislation, I urge my colleagues to vote for this measure.

H.R. 5050 is an important step forward in opening up new opportunities for the millions of American women who are in the forefront of entrepreneurship. This bill is dedicated to the fulfillment of one of our Nation's most cherished principles: That every American has a right to equal opportunity in making the best use of one's energy, talent, and hard work in pursuing economic success.

This legislation would make several important strides toward the realization of that right by American women. By amending the Small Business Act, this bill would establish separate goals for women business enterprises in government contracts and subcontracts, and would charge every Federal agency with the responsibility to reach out to women-owned businesses in their competitive procurement programs.

Moreover, this bill would broaden the Equal Credit Opportunity Act to ensure that commercial lending practices are applied equally to all businesses. Since access to capital is a crucial element of any business strategy, this provision will greatly improve access to credit based on the financial merits of a business, not its ownership.

In addition, the legislation would establish a new Small Business Administration Loan Program specifically geared to helping women-owned businesses in the service sector.

Mr. Speaker, the people of northeast Wisconsin believe deeply in the American dream, and share an abiding faith that one's future is determined by hard work, traditional values, and a dedication to new business opportunities. This legislation is consistent with that philosophy, and I am pleased to be a cosponsor of the Women's Business Ownership Act.

Ms. COLLINS. Mr. Speaker, I rise in support of H.R. 5050, the Women's Business Ownership Act, but I do so with mixed feelings. On one hand I am very glad to see the House considering legislation that, at least at its inception, was designed to be a giant step toward increasing opportunities for millions of women business owners and for women who wished to start or expand their businesses. However, in the course of committee consideration, one very key provision of the bill was removed, and another was amended, thereby greatly diminishing the measure's potential impact.

I originally had concerns about whether the bill stated clearly enough its applicability to minority women. Further, I had urged a clarification of the bill's intent to include socially and economically disadvantaged women in the procurement goals and reporting requirements. Although the measure was not amended to reflect these concerns, they were addressed in the report accompanying H.R. 5050.

In an earlier version, the bill attempted to extract a serious commitment to the growth and development of women-owned businesses from the Federal Government. H.R. 5050 had required that each Federal agency establish procurement goals for purchasing from women-owned businesses and further required that prime and subcontractors of the agency adhere to those goals as well. However, this provision was removed from the bill. The Federal Government is the largest purchaser of goods and services and has enacted a body of laws to ensure that small and minority businesses are allowed to actively participate in providing those goods and services. It would have been entirely appropriate for the Federal Government to include women-owned businesses, and businesses owned by socially and economically disadvantaged women in their procurement goals.

Such goals for women-owned businesses would have been in addition to any procurement goals for minority-owned businesses. There would have been no numerical standards set, such as 5 percent or 10 percent. Rather, the goals would have been set through neg otiations between the Small Business Administration and each agency. The procurement language that was removed from the bill—and is expected to be seen again in legislation next session—specifically stated that nothing in H.R. 5050 was intended to reduce or limit any program, benefit, or activity to assist small, disadvantaged businesses, and the language of the report makes clear the intent of the bill.

The provision in the original bill that was weakened would have strengthened the provisions of the Equal Credit Opportunity Act of 1974 [ECOA], to provide equal access to consumer credit in much the same way equal access is provided for consumer credit. While the bill as it stands now does not provide the clear prohibitions against discrimination in obtaining commercial credit, it does close many of the loopholes in the ECOA that had allowed women business owners to be denied commercial credit, often on specious grounds.

While the version of H.R. 5050 being considered today does not go far enough in ensuring equality for women-owned businesses, it is a step in the right direction. It does provide for training and managerial assistance to women business owners and creates a National Women's Council which would, among other things, help the Federal Government establish timetables and goals for increased contracting opportunities for women-owned businesses.

I will support H.R. 5050, but with less enthusiasm than I had earlier anticipated. I look forward to revisiting this issue in the next Congress and building on the foundation laid with this measure.

Mr. IRELAND. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LAFALCE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from New York [Mr. LAFALCE] that the House suspend the rules and pass the bill, H.R. 5050, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1330

GENERAL LEAVE

Mr. LAFALCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter of H.R. 5050, the bill just considered.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from New York?

There was no objection.

SMALL BUSINESS INVESTMENT ACT OF 1958 AMENDMENTS

Mr. LAFALCE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 437) to amend the Small Business Investment Act of 1958 to permit prepayment of loans made to State and local development companies, as amended.

The Clerk read as follows:

S. 437

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

In title V of the Small Business Investment Act of 1958, insert the following section:

SEC. 506. (a) DEFINITIONS.—(1) As used in this section, "issuer" means the issuer of a debenture which has been purchased by the Federal Financing Bank pursuant to section 503 of this Act.

(2) "Borrower" means the small business concern whose loan secures a debenture issued pursuant to section 503 of this Act.

(b) The issuer of a debenture purchased by the Federal Financing Bank and guaranteed under section 503 of this Act may at the election of the borrower prepay such debenture by paying to the Federal Financing Bank the outstanding principal balance and accured interest due on the debenture at the coupon rate on the debenture plus a prepayment penalty as described in subparagraph: *Provided*, That:

(1) the loan that secures the debenture is not in default on the date the prepayment is made;

(2) private capital, with or without the existing debenture guarantee, is used to prepay the debenture: *and provided further*, that if private capital with the existing debenture guarantee is used, such refinancing may be done solely pursuant to section 504 and 505 of this Act;

(3) the issuer of the debenture certifies that the benefit associated with prepayment of the debenture are entirely passed through to the borrower.

(c) The Federal Financing Bank may impose a prepayment penalty on issuers of debentures who elect to pay those debentures before maturity according to the following schedule:

(1) For debentures with ten years or less remaining before maturity, a penalty not to exceed 40 percent of an amount equal to the annual interest on the outstanding principal balance of the debenture at the coupon rate;

(2) For debentures with more than 10 years but less than 15 years remaining before maturity, a penalty not to exceed 50 percent of an amount equal to the annual interest on the outstanding principal balance of the debenture at the coupon rate;

(3) For debentures with more than 15 years but less than 20 years before maturity, a penalty not to exceed 60 percent of an amount equal to the annual interest on the outstanding principal balance of the debenture at the coupon rate;

(4) For debentures with more than 20 years remaining before maturity, a penalty not to exceed 70 percent of an amount equal to the annual interest on the outstanding balance of the debenture at the coupon rate;

(d) No fees other than those specified in this section may be imposed as a condition on such prepayment against the issuer of the debentures, or the borrower, or the Small Business Administration or any fund or account administerd by the Small Business Administration. If a debenture is refinanced without the existing debenture guarantee, the borrower may be required to pay a fee to the issuer of the debenture in the amount of one percent of the outstanding principal amount of the loan which secures the debenture. If a debenture is refinanced with the existing guarantee pursuant to section 504 of this Act, the borrower shall be subject to imposition of a fee by the issuer of the debenture in the amount of one-half of one percent of the outstanding principal amount of the loan which secures the debenture. Debentures refinanced under section 504 otherwise shall be subject to all of the provisions of such section and section 505 of this Act and the rules and regulations of the Administration promulgated thereunder, including but not limited to payment of authorized expenses and commissions, fees or discounts to brokers and dealers in trust certificates issued pursuant to section 505: *Provided, however,* That the issuer shall be deemed to have waived any origination fee on the new debenture to which it would have otherwise been entitled under 13 Code of Federal Regulations section 108.503-6(a)(1).

(e) Any debenture refinanced under section 504 pursuant to this section shall have a term of either 10 or 20 years, as determined by the Administration.

(f) In the event of default by a borrower, the Administration's guarantee shall be extinguished by payment by the Administration of the remaining principal balance plus accured interest.

(g) Notwithstanding any other law, rule or regulations, the guarantee by the Administration under section 503 of this Act of existing debentures purchased by the Federal Financing Bank which are refinanced pursuant to this section under section 504 of this Act shall continue in full force and effect and the full faith and credit of the United States shall continue to be pledged to the payment of all amounts which may be required to be paid under any guarantee of debentures or trust certificates (representing ownership of all or a fractional part of such debentures) issued by the Administration or its agent pursuant to section 505 of this Act.

(h) The Administration shall issue regulations to implement this section and to facilitate the prepayment of debentures and loans made with the proceeds of such debentures within 60 days of the date of enactment of this section.

The SPEAKER pro tempore. Is a second demanded?

Mr. IRELAND. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York [Mr. LAFALCE] will be recognized for 20 minutes and the gentleman from Florida [Mr. IRELAND] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 437 a bill which will go a long way towards eliminating the predicament facing some small businesses which are burdened with very high interest rates on debentures guaranteed by the Small Business Administration. Many of these firms want to prepay or refinance their loans but cannot do so due to exorbitant prepayment penalties charged by the Government, prepayment penalties which far exceed those charged by the private sector under similar circumstances.

Certified Development Companies [CDC's] issue debentures, with an SBA guarantee, and use the proceeds to provide funds to small businesses for plant and equipment. Since Public Law 99-272, these debentures are now sold to private investors and are not a problem; however, those issued prior to this Public Law were guaranteed by SBA and then sold to the Federal Financing Bank. Some of these debentures, issued in the early 1980's, bear interest at 13 to 15 percent rates and many of the small businesses now would like to refinance these loans at lower interest rates. Others need additional capital and thus need to prepay in order to provide clear title to the underlying security which they must pledge to secure prepayment of the new larger loan. However, the Federal Financing Bank imposes prepayment penalties, sometimes equal to 30 or 40 percent of the amount of the loan, thus effectively precluding prepayment.

For example a small business in Florida participated in the CDC Program in 1982 and borrowed $500,000 for 20 years at 15 percent interest. The loan is now paid down to slightly more than $400,000 and yet SBA has computed the prepayment penalty at an additional $142,000. This amounts to a penalty of 35 percent.

A similar problem affects another SBA program, the Minority Enterprise Small Business Investment Company [MESBIC] Program, under which a MESBIC issues debentures, which SBA holds in-house, and uses the proceeds to provide venture capital to socially or economically disadvantaged small businesses. Some of them also have interest rates in the 15 percent range. Although SBA permits prepayment of them without penalty, it will not purchase any new debentures from any MESBIC which prepays until the expiration of the original term of the prepaid debentures unless the MESBIC voluntarily pays a similarly high penalty.

This very important provision is being added to the Senate bill by my amendment. An example of this is a New York MESBIC was funded for $600,000 for 10 years in 1981 at an interest rate of slightly under 15 percent. The prepayment penalty for that business, should it elect to prepay this year, would be approximately $150,000 or 25 percent of the amount of the loan.

The prepayment penalties illustrated in the above examples are, of course, in addition to the amount of interest owed on these loans.

Although I do not believe that these small businesses should be able to walk away from their obligations, I believe that we ought to be reasonable in the amount of a penalty we are going to charge them to prepay the loan.

The private sector today purchases the financings previously purchased by the Federal financing bank through the CDC Program. The program serves the same purpose, and the debentures are still guaranteed by

SBA, but the difference is that these loans or debentures are sold to private investors rather than to the Federal financing bank. Each of these loans or debentures carries a provision to permit prepayment, upon the payment of a reasonable penalty. That penalty, if the loan is prepaid within 1 year from the date of issuance, is the equivalent of 1 year's interest. Should it be prepaid in later years, the amount of the penalty goes down and is completely eliminated if the remaining life of the loan is less than one-half.

I do not believe that we should extract substantially more from those who do business with the Government than the private sector would require.

Accordingly, our bill (S. 437) provides that any participant in the CDC or Certified Development Company Loan Program may prepay the debentures within the next 3 years and that any participant in the MESBIC or Minority Enterprise Small Business Investment Company program may obtain a write-down of the interest rate within the next year providing they pay a penalty for this privilege. This penalty would be the equivalent of 1 year's interest payments, with a reduction being made for each year of the maturity of the loan which has already elapsed.

Thus in the case of the Florida small business cited above, the penalty under my bill would be $56,250 as compared to $142,000 under existing law. And in the case of the New York MESBIC would be $36,000 as compared to $150,000.

Mr. Speaker, I want to stress that these are not just nameless, faceless small businesses; they are real people. These are not just hypothetical problems, they are real problems and they have a dramatic impact on people's lives. For example, I recently received a letter from a 65-year-old widow who owns a diaper service in San Francisco. She purchased the building which houses it with a first mortgage from an Illinois bank and a second mortgage through an SBA program. Now that she is ready to retire, she has a prospective purchaser for the business, but basically cannot afford to sell out. Although the Illinois bank will release the first mortgage upon payment of a penalty of 1 percent of the amount of the outstanding loan, SBA estimates that the prepayment penalty on her SBA assisted financing would be more than $100,000 on outstanding indebtedness of less than $500,000, or more than 20 percent.

Mr. Speaker, lest those small businesses which are suffering due to these onerous interest rates think that this bill will cure their problems immediately, I must point out that some of them may have to wait up 3 years to obtain assistance. If the small businesses have obtained their assistance through the Certified Development Company Loan Program and if they are financially sound enough to be able to pay off their indebtedness from their own funds or from privately obtained funds, they will be able to pay off their debentures or loans immediately. If, however, they need to obtain new financing through the 504 program in order to pay off the old loan, they may be required to wait.

Due to budget restraints imposed by Gramm-Rudman we simply cannot provide the needed refinancing all in 1 year. Thus we have had to amend the bill to restrict the amount of money under the 504 program which might be used annually to refinance these existing debentures; otherwise, we would not have any money left for new borrowers. The amount of this limitation is $75 million per year of the $450 million which is authorized to these loans each year. Our best estimates are that borrowers owing some $200 million at high interest rates will want to prepay but need additional SBA financial help. Thus we must assume that SBA will approve refinancing of the first $75 million of applications each year and at that rate it may take up to 3 fiscal years before the backlog can be cleared. This is an unfortunate situation, and we have delayed floor consideration of this measure while we sought another solution. But none has been forthcoming.

Mr. Speaker, I want to take this opportunity to thank my colleagues on the Small Business Committee who have cooperated and facilitated consideration, and ultimately passage, of this much needed legislation. I particularly want to thank my ranking minority member, JOE MCDADE.

Mr. Speaker, I reserve the balance of my time.

Mr. IRELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 437. This measure will help to reduce the very high interest rates on debentures guaranteed by the Small Business Administration and help to further reduce the debt burden on small business that have outstanding loans. Many of these firms want to prepay or refinance their loans but cannot do so due to excessively high prepayment penalties charged by the Government. These penalties are higher than those charged by the private sector.

Certified Development Companies [CEC's] issue debentures, with an SBA guarantee, and use the proceeds to provide funds to small businesses for plant and equipment. Since the enactment of Public Law 99-272, these debetures are now sold to private investors. However, all debentures prior to this Public Law were guaranteed by SBA and then sold to the Federal Financing Bank. Some of these debentures, issued in the early 1980's, have interest at 13 to 15 percent rates. Many of these small businesses now would like to refinance these loans at lower interest rates. Others are seeking additional capital and thus need to prepay in order to provide clear title to the underlying security which they must pledge to secure prepayment of the new larger loan. However, the Federal Financing Bank imposes prepayment penalties, sometimes equal to 30 to 40 percent of the amount of the loan, thus effectively precluding the possibility of prepayment.

The private sector today buys the financings previously purchased by the Federal Financing Bank through the CDC program. The program serves the same purpose, and the debentures are still guaranteed by SBA. Today, however, these loans or debentures are sold to private investors rather than to the Federal Financing Bank. Each of these loans or debentures carries a provision to permit prepayment, upon the payment of a reasonable penalty. If the loan is prepaid within 1 year from the date of issuance, the penalty is the equivalent of 1 year's interest. Should it be prepaid in later years, the amount of the penalty is reduced and is completely eliminated if the remaining life of the loan is less than one-half.

S. 437 allows any participant in the CDC or Certified Development Company Loan Program to prepay the debentures within the next 3 years and further enables any participant in the MESBIC or Minority Enterprise Small Business Investment Company Program to obtain a writedown of the interest rate within the next year, providing they pay a penalty for this privilege. This penalty would be equivalent of 1 year's interest payments, with a reduction being made for each year of the maturity of the loan which has already elapsed.

The bill before you today will bring a measure of needed relief to small businesses that are confronting high interest rates and which want to expand their current operations.

I urge my colleagues to support the bill.

Mr. CHANDLER. Mr. Speaker, I rise in strong support of this bill, which would allow refinancing of Small Business Administration loans at fixed interest rates of over 12 percent.

Just a few years ago, when interest rates were at their highest levels, many small businesses took out SBA 503 loans. Now with interest rates down, they wish to refinance these notes, but cannot because of heavy prepayment premiums charged by the Federal Financing Bank—often as high as 35 percent of the remaining principal.

Even SBA itself has been hurt by this policy, unable to refinance 503's that it now holds.

This problem affects less than 25 percent of the $500 million in existing 503 loans. The rest were made during periods of reasonable interest rates.

H.R. 3718 reduces the prepayment penalties imposed on the certified development companies and minority enterprise small business investment companies which hold the 503 loans.

Under the bill, the penalty would now be limited to 1 year's interest on the loan, multiplied by the percentage of time remaining on the loan compared with its original price.

For example, the penalty for a 20-year loan, which was paid off 10 years early, would be 6 months' interest. The penalty would diminish as the loan neared maturity.

The bill permits only $75 million of loans to be prepaid each year, on a first-come-first-served basis, so that the entire outstanding principal could not be prepaid in less than 3 years.

This isn't a perfect solution. Many approaches have been taken here in the House and in the other body, including H.R. 3835, which the gentleman from Washington [Mr. MILLER] and I introduced last year.

And this isn't necessarily the most timely solution. Because of its late consideration, this bill may not be sent to the President before we adjourn for the year. Already, many businesses have failed, including one in my district, because we have not addressed this serious inequity in the 503 loan program.

But a solution is desperately needed, and I strongly urge my colleagues to support passage of this important legislation.

Mr. CONTE. Mr. Speaker, I rise today in support of passage of H.R. 3718 and to commend the chairman of the Small Business Committee, JOHN LAFALCE and the ranking minority, my good friend JOE MCDADE for their foresight and effort on behalf of certified development corporations and minority enterprise small business investment companies.

This bill allows CDC's and MESBIC's to prepay debentures or obtain a write down of interest rates provided that they pay a penalty, a penalty that is just and reasonable.

Mr. Speaker, I am fortunate to have not one but there excellent CDC's serving my district and I know all three welcome this legislation. Therefore, I urge all my colleagues in the House to support the activities of their colleagues on the Small Business Committee and pass H.R. 3718.

Mr. IRELAND. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. LAFALCE] that the House suspend the rules and pass the Senate bill, S. 437, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PUBLIC SAFETY OFFICERS' DEATH BENEFITS AMENDMENTS OF 1988

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4758) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to increase the level of benefits payable with respect to the death of public safety officers and to provide that nondependent parents may be beneficiaries, as amended.

The Clerk read as follows:

H.R. 4758

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Safety Officers' Death Benefits Amendments of 1988".

SEC. 2. AMENDMENTS.

Section 1201(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796(a)) is amended—

(1) by striking "$50,000" and inserting "$100,000", and

(2) in paragraph (4) by striking "dependent".

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall apply with respect to injuries sustained after June 21, 1988.

The SPEAKER pro tempore. Is a second demanded?

Mr. GEKAS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. CONYERS] will be recognized for 20 minutes and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4758, the Public Safety Officers' Death Benefits Amendments of 1988, is a simple bill designed to make two important changes in the Public Safety Officers' Benefits Act. First, it increases the amount of the death benefit paid to the survivors of public safety officers killed in the line of duty from $50,000 to $100,000. Second, it eliminates the requirement that parents establish financial dependency on the deceased in order to qualify as beneficiaries.

This bill has no opposition that I am aware of. It has the support of all of the organizations which comprise the public safety community: the police, probation officers, corrections officers, firefighters, and emergency medical technicians.

The Public Safety Officers' Benefits Program was created by the Congress in 1976 to reduce the economic hardship experienced by the immediate families of slain public safety officers. In addition, the Congress sought to demonstrate the high value that our National Government places on the sacrifice that is all too often made by these public servants.

Since its inception, in excess of 2,500 claims have been paid under this program. As of August 31, 176 had been paid in the current fiscal year, amounting to $8.8 million in benefit payments. An average of about 20 claims are paid out each month.

Because of the high risk nature of public safety jobs, the individuals that hold them sometimes encounter problems in obtaining life insurance coverage. Modest salaries often make it difficult for officers to accumulate significant saving that could be used to meet future family needs.

This legislation has become necessary because the cost-of-living has gone up over 90 percent during the past decade and this has reduced the real dollar value of the death benefit to half of what it once was. The Subcommittee on Criminal Justice held a hearing on this legislation on October 29, 1987. We received testimony that in the eleven years since the benefits program was created, the cost of home ownership has risen approximately 150 percent in many areas, and the cost of college tuition has increased 135 percent. During the same period, however, no adjustment has been made in the amount of the death benefit.

One witness, Irene Sudano, the mother of a slain Niles, OH, police officer, testified that all surviving parents of deceased officers, even officers living away from home, should be eligible to receive the death benefit. Under the current statute, if there is no surviving spouse or children, parents who can show that they were financially dependent upon the deceased officer can collect the benefit payment. Parents very often become dependent upon their children for financial support after they reach their senior years. By allowing parents to collect this death benefit, regardless of whether they were dependent at the time of death, we can help make those later years less difficult to endure alone.

The enactment of H.R. 4758 will produce a significant increase in the level of expenditures made annually under the Public Safety Officers' Benefits Act. The program's cost will increase from $10 million to aproximately $20 million per year. I believe, however, that it is imperative that we provide those persons willing to sacrifice themselves protecting our lives and property, the assurance that their families will be provided for if they are killed. The additional $10 million, measured against the security and comfort it can bring, is really a small price to pay.

The protection of the public is a difficult and challenging profession. There are many rewards, but there are also great risks involved. The many thousands of men and women who responsibly carry out their duties in law enforcement, firefighting, rescue, and emergency medicine, deserve this small measure of increased support. Therefore, I urge all of my colleagues to join me and cast their vote in favor of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

The gentleman from Michigan [Mr. CONYERS] has quite adequately described the contents of the bill, and indeed what this is is an updating of the current law. There is no question about the basic fundamental principles imposed in the law as it now is on the books, and what this does is really modernize it, keeping in mind that the cost figures, inflation figures and so forth have to be met from time to time.

The Congress meets its responsibilities in those regards and so many other arenas that it is more than appropriate for it to do so for this piece of legislation.

☐ 1345

The other facet of the presentation made by the gentleman from Michigan [Mr. CONYERS] which is absolutely true is that the support for this legislation is as broad as our interest in law enforcement and covers the proverbial waterfront in the number of organizations and public interest groups that feel that this legislation ought to be passed forthwith.

So I will join with the gentleman from Michigan and hope that the measure receives unanimous support.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I thank my friend for yielding time to me.

Mr. Speaker, I rise in support of H.R. 4758, Public Safety Officers Death Benefits Amendments of 1988.

This bill will double the death benefit paid to eligible survivors of public safety officers—police and firemen—killed in the line of duty, from $50,000 to $100,000. In addition, it will eliminate the current requirement that parents show they were financially dependent on the deceased officer to qualify for the benefit.

I was a strong supporter and minority floor manager of the original public safety officers benefit bill, enacted into law during the 94th Congress (1976). I felt then and continue to believe, we should demonstrate our concern for those who put their lives on the line to preserve public order and provide for public safety.

Since the act became law in 1976, 2,450 claims have been approved and $122.5 million in benefits have been paid (about $10.5 million a year).

In the past 12 years, there has been no increase in the amount of the death benefit payment which survivors are entitled to receive. Continued increase in the cost of living has meant a 90-percent increase in the Consumer Price Index and a 150 percent increase in the cost of home ownership. To demonstrate the same level of appreciation to our public safety officers, we need to update the level of benefit payable to their survivors just to reflect the realities of life.

In addition, H.R. 4758 would extend the lump-sum benefit to nondependent parents of deceased officers.

Mr. Speaker, this legislation is supported by virtually all police and public safety groups in the country, including: the Fraternal Order of the Police, the Police Executive Research Forum, the National Sheriffs' Association, the International Association of Fire Fighters, the International Association of Fire Chiefs, the International Association of Correctional Officers, and AFSCME. I urge my colleagues' support.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. I thank the gentleman for yielding.

Mr. Speaker, today the House is restoring some simple justice. Since 1976 the real value of the $50,000 death benefit for firemen and law enforcement officers has been eroded because of inflation by half. That is justice, simply just reward.

But today the House does one more thing too.

While this bill was being debated in my district in Hackensack, NJ, five firemen responded to the call of duty. Before that fire was concluded, five men lost their lives.

Because of the leadership of our chairmen, Mr. CONYERS and Mr. RODINO, and because of the assistance of the minority, the gentleman from Pennsylvania, Mr. GEKAS, we can bring justice today not only to those people across the country who in the future might love their lives, but to those five men and others like them who, while we waited for this change, tragically lost their lives as well.

I today, on behalf of their families, would like to thank the committee and Mr. CONYERS in particular for the tremendous sensitivity they have shown to helping these families to cope with their tragic loss.

Mr. Speaker, once again I thank the gentleman for his leadership.

Mr. GEKAS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of H.R. 4758, the Public Safety Officers' Death Benefits Amendments of 1988. I would like to commend the distinguished chairman of the Subcommittee on Crime, the gentleman from Michigan [Mr. CONYERS] and the gentleman from Pennsylvania [Mr. GEKAS] for introducing this bill and for their continued service to our public safety officers.

I was pleased to support the Public Safety Officers' Death Benefits Act when it was first initiated.

Over the years it has provided $50,000 of compensation to the surviving spouses and dependents upon the duty-related death of a public service officer. This modest token of appreciation has not been increased since the enactment of the original law. H.R. 4758 doubles the benefits from $50,000 to $100,000. The bill also drops the dependency requirement for parents of a public safety officer to collect death benefits.

Mr. Speaker, increasing the death benefit for Federal, State, and local public safety officers is the least we can do to commemorate these selfless and dedicated men and women. H.R. 4758 was adopted unanimously by the Judiciary Committee. Accordingly, I urge my colleagues to join in support of this bill.

Mr. RODINO. Mr. Speaker, public safety officers are among the most vital members of any community. Every day, these brave men and women risk their lives to help protect us all. Over 20 years ago, I sponsored legislation to help provide for the financial security of the eligible survivors of officers killed in the line of duty by paying a benefit of $50,000. H.R. 4758, the Public Safety Officers Benefits Amendments of 1988, increases the amount of this death benefit to $100,000. It also eliminates the requirement that surviving parents establish that they were financially dependent on a deceased officer in order to qualify for the benefit.

An increase in the death benefit has become necessary because the cost of living has almost doubled since the law was enacted in 1977, yet, to date, there has been no adjustment in the benefit amount. I believe that the real dollar value of the benefit should be restored to the level at which the Congress originally intended. This will better enable survivors to cope with the sudden loss of their loved ones income as well as provide for future family financial needs.

Parents faced with the loss of a son or daughter engaged in public safety work should not have to document that they were receiving substantial support from the officer before receiving the death benefit. Few parents keep records of the financial help they get from or give to their children. Having to try and meet such a requirement will only add to their emotional distress.

At a time when our Nation is increasing its efforts to combat illegal drugs, and, as a result, the risks associated with law enforcement and other public safety work are also increasing, we cannot fail to provide this additional security to the families of officers who daily place their lives on the line to protect our communities.

Mr. TRAFICANT. Mr. Speaker, I rise in strong support of H.R. 4758, the Public Safety Officers Death Benefits Act. As an original cosponsor of an earlier version of this legislation, I urge my colleagues to lend their support to this much needed bill. I want to applaud Chairman CONYERS for bringing this legislation to the floor and for working so diligently on this initiative. Almost 1 year ago I appeared before this subcommittee on behalf of this initiative and I am pleased to see that the chairman has worked hard to craft a bill that directly meets such an urgent need.

As a former sheriff I understand the unique risks public safety officers take each and every day. I also know the tremendous emotional suffering that results when a public safety officer is killed while on the job. As sheriff of Mahoning County, OH, I had one of my deputies slain in the line of duty.

In addition to the emotional suffering a family must endure when a loved one is killed in the line of duty, many survivors have a difficult time making ends meet financially. Since 1976, when Congress first established a death benefit to eligible survivors of Federal, State, or local public safety officers, the payment level of $50,000 has not been adjusted to account for inflation.

H.R. 4758 attempts to compensate for inflation and reaffirm this Nation's commitment to our public safety officers. H.R. 4758 would raise the benefit to $100,000. It would also allow parents of the deceased to collect death benefits whether or not they were dependent on the slain officer for support.

As a former sheriff, I recognize the immense commitment public safety officers make to their communities. The families of those officers who have made the supreme sacrifice should not have to flounder in financial difficulty. In the 10 years since Congress first established this death benefit prices have gone up 90 percent—compounding the problems of surviving families. Clearly, there is an urgent need for this legislation.

Mr. Speaker, today I would also like to pay tribute to a truly remarkable woman from my congressional district—a woman who has been the moving force behind this legislative initiative: Mrs. Irene Sudano of Niles, OH. Irene's son, Niles Police Detective John Utlak, was killed in December 1982 while doing undercover work on a narcotics case. John's tragic and senseless murder has had a lasting impact on Irene. Mrs. Sudano has shown remarkable courage and fortitude in dealing with this terrible loss. She has dedicated her life to assisting the families of law enforcement officers killed in the line of duty. I want to once again thank her for her courage and commitment to providing much needed help to the law enforcement community and their families.

H.R. 4758 is a good bill and I once again urge my colleagues to support this much needed and long overdue legislation.

Mr. TRAXLER. Mr. Speaker, I am extremely happy that H.R. 4758, the public safety officers death benefit bill, is finally being brought to the floor for consideration. I would like to recognize the leadership of Congressman CONYERS in bringing this legislation to the floor and to thank the many law enforcement, firefighters, and correctional organizations, as well as the active support of the National Rifle Association, for their efforts which are vital to the passage of this legislation.

Early in the 99th Congress, Deputy Dennis R. Martin of the Saginaw County Sheriff's Department in Saginaw brought to my attention the erosion of this benefit by half over the last 10 years due to inflation. I introduced this legislation in the 99th Congress and then again, in the 100th when I introduced H.R. 1016, the Public Safety Officers' Death Benefits Amendments of 1987. I would like to thank Dennis for his tireless efforts in support of this legislation.

Public safety officers risk their lives on a daily basis. It is all for the benefit and safety of you and me. If your house is on fire, firefighters come with equipment, training, and experience to rescue you, your family, and your property.

Law enforcement officers work to apprehend terrorists, murderers, and other dangerous criminal to name just a few of the perils, in addition to the more routine tasks of traffic safety and emergency management.

Emergency medical technicians and ambulance drivers perform rescues and transport the sick and injured at a risk to themselves by speeding to and from accidents.

Correction officers live and work under the threat of violence. Every working day is spent managing the most dangerous elements of society in our overcrowded prisons.

Public safety officers leave personal consideration behind when they go on the job. They are society's first line of defense against threats to public and personal safety. Tragically, these risks mean that several hundred safety officers die in the line of duty every year.

According to Justice Department statistics, 2,134 public safety officers' families have been awarded the death benefit between fiscal year 1977, when the program began, and fiscal year 1986. That is an average of roughly 213 approved claims a year since the program's inception. The current death benefit is $50,000, payable to the surviving spouse, children, or dependent parents of the officer.

According to the Congressional Budget Office, the cost of living has nearly doubled since the program was established. This bill increased the death benefit to $100,000.

Current law requires that the surviving parents of an unmarried officer killed in the line of duty must prove that they are dependent on that officer in order to receive the death benefit. This bill removes the dependency clause and guarantees parents a measure of financial security that might have been provided by the officer in later years if the officer would have survived.

While we can never fully compensate the families' loss, we can help by restoring the death benefit to its original value by increasing it to $100,000, and removing the dependency clause for parents. This bill deserves the support of every Member of the House. I urge my colleagues to support it.

Mr. OXLEY. Mr. Speaker, I wish today to express my strong support for H.R. 4758, the Public Safety Officers' Death Benefits Amendments of 1988. I introduced a similar bill during the 1st session of the 100th Congress, and I am pleased to support this measure. H.R. 4758 would increase the current death benefit for public safety officers who are killed in the line of duty from $50,000 to $100,000. With more illegal drugs on our streets than ever before and the increased threat to law enforcement officials brought about by illegal narcotics, this change is long overdue.

I would like to take a few moments to tell my colleagues how I became involved in this issue. During the fall of 1984, Jeffrey Phegley, from Cincinnati, OH, interned in my Washington office. Jeff was one of those bright, eager young men who you knew was headed for success. During his internship with us, he was willing to do whatever was asked of him—and always with a smile. It was a real pleasure to have this friendly and enthusiastic young man working in my office each day. At the conclusion of his internship with us, he devoted his time working on President Reagan's 1985 inauguration celebration.

Jeff Phegley's dream was to become a police officer. I know it was a proud moment for Jeff and his family when he became an officer with the Morrow, OH, police department. Jeff was well aware of the difficulties and dangers which police officers face, but that did not deter him from the goods he felt he could achieve. Unfortunately, Jeff's opportunities to help his community were cut short. On January 21 1987, Officer Phegley stopped an automobile for a routine traffic citation. While writing the citation, Jeff Phegley was shot and killed. All of us who knew Jeff, but particularly the members of his family, were overwhelmed with shock and despair. We grieved not only for our personal loss, but that this fine young man was deprived of fulfilling what certainly would have been a fine career in law enforcement.

Mr. Speaker, public safety officers go to work daily with the uncertainty that they may not come home. This legislation would not have eased the loss and despair the Phegley family felt, nor will it ease the burden other families feel when an officer makes the supreme sacrifice. However, its passage will certainly ease the financial burden so as not to add to their personal tragedy. I urge my colleagues to support H.R. 4758.

Mr. GEKAS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and pass the bill, H.R. 4758, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4758, the bill just considered.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

COMMISSION ON RACIALLY MOTIVATED VIOLENCE ACT OF 1988

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3914) to establish a commission to investigate racially motivated violence, as amended.

The Clerk read as follows:

H.R. 3914

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commission on Racially Motivated Violence Act of 1988".

SEC. 2. ESTABLISHMENT OF THE COMMISSION.

There is hereby established a commission to be known as the Commission on Racially Motivated Violence (hereinafter in this Act referred to as the "Commission").

SEC. 3. DUTIES OF THE COMMISSION.

(a) INVESTIGATION.—The Commission shall investigate and make recommendations regarding issues related to racially motivated violence, including—

(1) whether the incidence of acts of racially motivated violence is increasing in the United States,

(2) the causes of, and factors leading to, racially motivated violence and the influence, if any, of specific groups of organizations in causing such violence,

(3) methods and techniques to avert and eliminate racially motivated violence and to achieve racial harmony in the United States, and

(4) the appropriate role of the Federal Government, the States, local governmental units, and community organizations in dealing with racially motivated violence.

(b) INFORMATION COLLECTION; CONSULTATION.—As part of the investigation conducted under subsection (a), the Commission shall—

(1) collect and analyze information and statistics concerning acts of racially motivated violence, and

(2) consult with representatives of groups involved or interested in the protection of the rights of racial minorities.

(c) REPORT.—The Commission shall prepare a report—

(1) specifying the results of the investigation conducted under subsection (a), and

(2) containing such recommendations as the Commission considers appropriate regarding actions to reduce racially motivated violence, including actions that should be undertaken by the Federal Government, the States, local governmental units, and community organizations.

SEC. 4. MEMBERSHIP OF THE COMMISSION.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 12 members.

(1) Six members shall be appointed by the President as follows:

(A) One member who is the chief executive officer of a State.

(B) One member who is the chief executive officer of a city in which racially motivated violence has occurred.

(C) One member who is an officer or employee of the United States.

(D) One member who is a local law enforcement officer in a city in which racially motivated violence has occurred.

(E) Two members who are representatives of organizations in the United States that promote the interest of racial minorities.

Not more than 3 members appointed by the President shall be members of the same political party.

(2) Three members shall be appointed by the Speaker of the House of Representatives, in consultation with the minority leader of the House of Representatives, as follows:

(A) Two members, not members of the same political party, of the Committee on the Judiciary of the House of Representatives.

(B) One member who is not a Member of Congress and is specially qualified to serve on the Commission by virtue of such member's education, training, or knowledge, or such member's experience with respect to incidents of racially motivated violence, the consequences of such violence for victims of such violence, or the effect of such violence on society.

(3) Three members shall be appointed by the majority leader of the Senate, in consultation with the minority leader of the Senate, as follows:

(A) Two members, not members of the same political party, of the Committee on the Judiciary of the Senate.

(B) One member who is not a Member of Congress and is specially qualified to serve on the Commission by virtue of such member's education, training, or knowledge, or such member's experience with respect to incidents of racially motivated violence, the consequences of such violence for victims of such violence, or the effect of such violence on society.

(b) FIRST APPOINTMENTS.—Members of the Commission required by subsection (a) to be appointed shall be first appointed not later than 90 days after the date of the enactment of this Act.

(c) CONTINUATION OF MEMBERSHIP.—If a member of the Commission who is appointed under subsection (a)(1), subsection (a)(2)(A), or subsection (a)(3)(A) leaves the office or position that is the basis for appointment, such member may continue as a member of the Commission for not longer than the 60-day period beginning on the date such member leaves such office or position.

(d) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment is made.

(e) TERMS.—Members shall be appointed for the life of the Commission.

(f) PAY.—Members of the Commission shall serve without pay.

(g) REIMBURSEMENT OF EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed travel expenses under section 5703 of title 5, United States Code.

(h) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(i) CHAIRPERSON.—The Commission shall select a chairperson of the Commission from among the members of the Commission.

(j) MEETINGS.—The Commission shall meet the call of the chairperson or a majority of the members. The Commission shall hold its first meeting not later than 45 days after the members of the Commission are first appointed.

SEC. 5. STAFF OF COMMISSION; EXPENSES AND CONSULTANTS; PERSONNEL OF FEDERAL AGENCIES.

(a) DIRECTOR.—The chairperson may, without regard to section 5311(b) of title 5, United States Code, appoint a Director who shall be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) STAFF.—The chairperson may appoint and fix the pay of such additional staff as the chairperson considers appropriate. Such staff of the Commission may be appointed and paid without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the minimum rate of basic pay payable for grade GS-16 of the General Schedule under section 5332 of title 5, United States Code.

(c) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but not to exceed a rate of $200 per day per individual.

(d) PERSONNEL OF FEDERAL AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

SEC. 6. POWERS OF THE COMMISSION.

(a) HEARINGS AND SESSIONS.—For the purpose of carrying out this Act, the Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any agency (as defined in section 5520(c)(4) of title 5, United States Code), from any State, and from any political subdivision of a State information necessary to enable the Commission to carry out this Act. Upon request of the chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(e) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 7. REPORT.

Not later than 1 year after the first meeting of the Commission, the Commission *shall transmit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate the report required by section 3(c).*

SEC. 8. TERMINATION.

The Commission shall cease to exist 60 days after submitting the report required by section 3(c).

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act not to exceed $1,000,000 for each fiscal year during which the Commission is in existence.

SEC. 10. DEFINITIONS.

As used in this Act—

(1) the term "Member of Congress" means a Senator or Representative in, or a Delegate or Resident Commissioner to, the Congress; and

(2) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

The SPEAKER pro tempore. Is a second demanded?

Mr. GEKAS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. CONYERS] will be recognized for 20 minutes and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3914 would establish a national Commission to investigate the causes of racial violence and methods to eliminate it. The Subcommittee on Criminal Justice, which I chair, has heard repeatedly from witnesses about the rising incidence of racially motivated attacks around the country. These are not, however, accurate statistics about hate crimes.

A few private agencies have been collecting data in this area. The Anti-Defamation League of B'nai B'rith [ADL] reported last year, for example, that there was more criminal violence by extremists in the last 3 years than in the previous two decades. A report from the Center for Democratic Renewal documented nearly 3,000 incidents between 1980 and 1986. These reports, however, did not purport to be comprehensive and indicated that a national reporting system was needed to gather accurate data.

The House has already addressed the issue of collecting accurate statistics on hate crimes. On June 24, 1988, the House passed H.R. 3193, the Hate Crimes Statistics Act, by an overwhelming margin of 383 to 29. That legislation requires that the Department of Justice collect and publish statistics on hate crimes for a period of 5 years. The Senate should act soon on a similar measure.

Beyond the issue of collecting data, however, a number of vital questions must be answered. Is there, in fact, an actual increase in racial violence? Why is such an increase occurring at this time? Finally, what steps can be taken to stem further incidents of racial violence, particularly on the part of the Federal, State, and local governments?

H.R. 3914 directs the Commission to address these issues and to report its findings to Congress and the President. The Commission is to consist of 12 members, six appointed by Congress and six by the President. These members would include a State and city executive officer, representatives of organizations promoting minorities' rights, and Members of the House and Senate Judiciary Committees from different political parties. The Commission's fiscal year expenses are limited to $1 million, the average cost for a commission of this size.

The bill was introduced with bipartisan support by Congressman RODINO and FISH, and a wide variety of groups support the legislation, including the American Council on Education, the National Organization of Black Law Enforcement Executives, and the National Association for the Advancement of Colored People.

Twenty years ago, the Kerner Commission explored the roots of the civil unrest and demonstrations in 1967 and recommended an agenda of community outreach, welfare reform, and active desegregation. Much of that agenda was carried out in the next several years. The Kerner Commission showed that a commission, like the one called for in this legislation, can have a significant impact on public attitudes and policy.

The recommendations developed by a Commission on Racially Motivated Violence would provide a new agenda for national action during the next decade, much as the Kerner Commission did 20 years ago. In examining the nature and scope of racial violence, the proposed Commission might recommend tangible solutions and, at the least, draw necessary national attention to the issue.

I urge support for the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation. I could not help but hark back to the days of the Kerner Commission and what followed the rendering of its report, a tremendous impact on the lawmakers of the day.

Back then I recall very vividly that in Pennsylvania in the general assembly after the Kerner Commission report was made public that several committees sprang into action to try to reflect the needs as outlined in that Commission. And one of the quotas from the Kerner Commission that looms, I suppose, larger than most of the other themes that were expounded in that report was one which said that every American yearns for his or her own home and that the minorities felt that yearning because of the conditions in which they found themselves in most of their early lives.

□ 1400

So what did Pennsylvania do? Its legislature went full speed into the crafting of legislation that accommodated that yearning for meeting the needs of people who wanted to live in their own homes or in their own apartments.

So having said that, we have pronounced the Kerner Commission as a success, and it brought about other successes. I look to this present Commission for a similar report which will in the near future provide us with even more fundamental themes upon which this legislative body, as well as all others in our country, can proceed for legislation that will meet the new needs that are going to be pronounced in that document.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I rise in support of H.R. 3914, a bill that provides for the creation of a Commission to examine the causes of racially motivated violence and to recommend preventive solutions.

My distinguished colleague from New Jersey, the chairman of the Judiciary Committee, and I introduced this bill on February 4 of this year because we were struck by clear evidence that racially motivated violence was on the rise in all parts of our country. In January, the Center for Democratic Renewal of the National Council of Churches of Christ reported that it had documented 121 bigotry-motivated murders in our Nation between 1980 and 1986. During that period it also reported there were 145 shootings, 138 bombings, and more than 300 crossburnings. The center noted that there was in fact an average of more than one racial incident per day during these 6 years. The U.S. Community Relations Service of the Department of Justice indicates that race-hate incidents have increased fourfold since 1980 and a shocking 55 percent between 1986 and 1987.

Mr. Speaker, we must appreciate that ours is a multiracial and multiethnic society. It is not our common ancestry or common religion that bonds us together as a nation but instead it is our political culture and our democratic system relying as it does on consent of the governed. To preserve this fragile compact, we must insure that differences between us do not become the cause for violent division.

Mr. Speaker, we can contribute immeasurably to our society in passing this bill providing for the creation of a panel of distinguished Americans to confront current racial violence and to propose solutions. We need reasoned recommendations for Federal, State, local, and private prevention of racism and this Commission will do just that. Not only will this bill be a strong signal of our commitment against racism, and focus national attention on a serious national problem, it will in addition provide the framework that can facilitate strong leadership in the effort to keep our Nation one.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think this is very appropriate, and I thank the ranking minority member of the Subcommittee on Criminal Justice, the gentleman from Pennsylvania [Mr. Gekas] for his help in bringing this legislation forward. And, of course, the gentleman from New York [Mr. Fish] is the coauthor of the legislation. I think this bipartisan sentiment makes it very clear that the subcommittee does not have its head in the sand with reference to the tenor of the times.

We are in some fragile territory. Twenty years ago, when we had members of the Kerner Commission testify before us, we learned where we were. I remember Detroit when it was going up in flames, and I think that the statements and the understandings we got from the witnesses were very, very helpful. It is ironic that we now need to go back and revisit the current scene in terms of race relations, in terms of gender relations, and in terms of community relations, but I think that the times require that it occur, and I am very, very pleased that this subcommittee has moved forward in such a very expeditious manner.

Mr. Speaker, I thank my colleagues who have participated in this.

Mr. Speaker, I have no further requests for time.

Mr. GEKAS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. Gilman].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I am pleased to rise in strong support of H.R. 3914, the Commission on Racially Motivated Violence Act of 1988. I would like to comment the distinguished chairman of the committee, the gentleman from New Jersey [Mr. Rodino], the chairman of the Subcommittee on Crime, the gentleman from Michigan [Mr. Conyers] and the ranking minority member, my good friend, the gentleman from New York [Mr. Fish] and the subcommittee ranking member, the gentleman from Pennsylvania [Mr. Gekas] for their bipartisan efforts to eliminate racial violence. I would like to take this opportunity to commend the Judiciary Committee chairman, Mr. Rodino, for his countless contributions to the Congress and to the civil rights community, and wish him good health and happiness in his many years ahead.

This year marks the 20th anniversary of the Kerner Commission Report, the first report to examine the nature of race relations and racial violence. In 1987, the Department of Justice received more than 2,000 complaints of hate crimes. In response to an alleged rise in racially oriented violence, H.R. 3914 creates a 12-member Commission to investigate the causes of racial violence and explore methods of eliminating them. Membership shall include six bipartisan members chosen by Congress and six members appointed by the President, including at least one law enforcement officer in a city in which racially motivated violence has occurred, and two members of organizations promoting the interests of racial minorities.

Mr. Speaker, Congress must send a clear signal to all people that racial violence, or any other hate crimes, will not be tolerated. H.R. 3914 was adopted unanimously by the Judiciary Committee. Accordingly, I urge our colleagues to join today in support of this bill.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, the gentleman mentioned the chairman of our committee. I am hopeful that the gentleman from New Jersey [Mr. Rodino] in his next public incarnation would have an opportunity to serve on this Commission, if it is the will of the other body to have this passed into law, and if his name were submitted, I think he would be one very highly appropriate person to bring his experience to bear in this continued way to serve and in this way to help race relations in America.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for this appropriate comments. I am in full support of such a proposal and I know that a substantial number of Members on this side of the aisle would also also support Mr. Rodino's chairmanship of this Commission.

I hope that the gentleman, in making that suggestion, would also consider including the gentleman from New York [Mr. Fish] for appointment to this proposed Commission. Both the gentleman from New Jersey [Mr. Rodino] and the gentleman from New York [Mr. Fish] have strong connections and concerns about racial violence. I know they would diligently serve and would be outstanding representatives of this body on that Commission.

Mr. Speaker, I thank the gentleman for his comments.

Mr. RODINO. Mr. Speaker, H.R. 3914 is a bill I introduced with Mr. Fish to establish a Commission to study racial violence. It is distressing that, nearly three decades since the civil rights movement, such a Commission would be needed. Twenty-five years ago, Martin Lugher King, Jr., envisioned a society of peace and harmony, where people were judged not "by the color of their skin but by the content of their character." But race relations in America are far from such ideals.

In the last several years, reports of racially motivated violence have become more pervasive and more frequent. Attacks against persons because of their race, religion, or creed have occurred in all parts of the United States and against all minority groups. In my own State of New Jersey, black students at Ramapo College demonstrated against the resurgence of racist remarks and graffiti on the predominantly white campus. In Jersey City, the Asian Indian community has been protesting the violent acts of racist individuals who call themselves the "dotbusters."

H.R. 3914 requires the Commission to collect and anaylze statistics on hate crimes and issue a report on its findings 1 year after its first meeting. Its objective is to evaluate the nature of the recent outbreaks of racial violence. With such knowledge, the Commission might then be able to determine causes behind such violent activity and purpose steps to stem the problem. Equally important, it will focus attention on the severity of racial violence.

If we are to fulfill the promise of America as a land where people of all races live and work together in peace and harmony, racially motivated violence must be eliminated. A Commission such as the one proposed in H.R. 3914 is a first step toward that goal.

Mr. GEKAS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Bennett). The question is on the motion offered by the gentleman from Michigan [Mr. Conyers] that the House suspend the rules and pass the bill, H.R. 3914, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further, proceedings on ths motion will be postponed.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3914, the bill just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

MARIEL CUBAN DETENTION REVIEW ACT OF 1988

Mr. MAZZOLI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5164) to provide for a hearing before an administrative law judge respecting the release of certain Mariel Cuban detainees.

The Clerk read as follows:

H.R. 5164

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mariel Cuban Detention Review Act of 1988".

SEC. 2. HEARING ON RELEASE OF CERTAIN MARIEL CUBAN DETAINEES.

(a) Right to Hearing.—

(1) In general.—Each Mariel Cuban (as defined in subsection (g)) who is detained by or at the direction of the Immigration and Naturalization Service, on or after the date of the enactment of this Act, pending the alien's exclusion hearing or pending the alien's return under section 237 of the Immigration and Nationality Act to Cuba or another country, is entitled to a hearing under this section respecting the alien's continued detention.

(2) Timing of hearings.—A hearing under paragraph (1) shall be held with respect to a Mariel Cuban not later than—

(A) 90 days after the date of the alien's exhaustion of any procedures described in section 212.12 (and, if applicable, section 212.13) of title 8, Code of Federal Regulations (as amended on December 28, 1987, 52 Federal Register 48799, and as in effect on the date of the enactment of this Act) with respect to each review under that section, or

(B) if such procedures do not apply, 90 days after the date of the alien's detention by the Service.

(3) Notice of hearing rights.—The Attorney General shall provide each Mariel Cuban who is described in paragraph (1) with written notice in English and in Spanish of the hearing rights established under this section and methods for enforcing such rights. Such notice shall be provided—

(A) at the time of a final adverse decision under the procedures described in paragraph (2)(A), or

(B) if such procedures do not apply, at the time of the alien's detention by the Service.

The Attorney General shall secure from each such alien an acknowledgement in writing of the receipt of such notice.

(4) Waiver.—An alien may waive, before an administrative law judge, each of the following:

(A) The right to a hearing under paragraph (1).

(B) The deadline for such a hearing under paragraph (2).

(C) The assistance of counsel under subsection (b)(2).

(b) Nature of Hearing.—

(1) Hearing on the record before administrative law judge.—Each hearing under this section shall be conducted before an administrative law judge in accordance with the procedures of sections 554 and 556 of title 5, United States Code.

(2) Assistance of counsel.—In the case of a Mariel Cuban who is financially unable to obtain adequate representation for purposes of a hearing under this section, the Attorney General shall provide such assistance as may be necessary to obtain appropriate counsel from funds appropriated to Department of Justice. The provisions of section 3006A of title 18, United States Code (relating to adequate representation of defendants) shall apply to representation of Mariel Cubans in hearings under this section in the same manner as such section applies to persons charged with a felony and, for such purpose, references in such section to a United States district court or a judge thereof are deemed references to an administrative law judge in a hearing under this section.

(c) Standards for Release.—The Attorney General shall provide for the release from detention of a Mariel Cuban described in subsection (a) unless the administrative law judge determines that the Attorney General has established, by a preponderance of the evidence at a hearing under this section, that—

(1) the alien will pose a threat to the community or to others following the alien's release, or

(2) the alien would violate a reasonable condition of the alien's release, the violation of which would be serious enough to warrant a revocation of the alien's release.

(d) Circumstances of Release.—

(1) Sponsorship and placement.—A release under this section may only be made into suitable sponsorship or placement in the community and is subject to conditions of release approved by the administrative law judge at the time of the release. The Attorney General is authorized to use, in addition to funds otherwise available and in his discretion, funds appropriated to the Department of Justice for half-way housing and similar placement and sponsorship arrangements for Mariel Cubans who are released under this section. If a release would otherwise be effected under this section but for the inavailability of appropriate half-way housing or similar sponsorship, funds shall be made available from the amounts appropriated for the Department of Justice to assure such a release not later than 60 days after the date such release is ordered under this section.

(2) Stay of release.—Based upon—

(A) significant new evidence, not previously discoverable by the Attorney General with due diligence, bearing on the standards described in subsection (c), or

(B) actions of the alien bearing on such standards and occurring since the date of the hearing under this section,

the Attorney General may move, with notice to the alien and any counsel of the alien, to reopen a proceeding under this section. In such case, the filing of the motion shall act to stay the release of the alien for a period, not to exceed 30 days.

(3) Revocation of release.—The Attorney General, in his discretion, may revoke release provided under this section if the Mariel Cuban violates substantially any condition of release and if the Attorney General determines it is appropriate to enforce an order of exclusion or to commence proceedings against the Mariel Cuban. A Mariel Cuban whose release is so revoked and who is subsequently detained is again entitled to a hearing under subsection (a).

(e) Annual Review of Files.—In the case of a Mariel Cuban not released under this section, an administrative law judge shall not less often than annually review the files and other records concerning the alien to determine if there have been changes of circumstances since the most recent hearing under this section to justify the reopening of such a hearing with respect to the alien. The alien shall be given notice and opportunity to submit information for the record before each such review.

(f) No Judicial Review.—There shall be no judicial review of any determination by an administrative law judge under this section. Nothing in this subsection shall be construed as restricting the right of habeas corpus.

(g) Mariel Cuban Defined.—In this section, the term "Mariel Cuban" means an alien who is a native of Cuba and last came to the United States between April 15, 1980, and October 20, 1980, and who has not acquired the status of an alien lawfully admitted for permanent residence.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Kentucky [Mr. Mazzoli] will be recognized for 20 minutes and the gentleman from Georgia [Mr. Swindell] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. Mazzoli].

Mr. MAZZOLI. Mr. Speaker, H.R. 5164 has its genesis in the Mariel Cuban Prison riots which took place in Atlanta and Oakdale last November. My colleagues will recall that the riots broke out when the administration announced that it has entered into an agreement with the Cuban Government under which approximately 2,500 detained Mariel Cubans would be deported to Cuba.

The prison riots were peacefully terminated when the Department of Justice assured the Mariel detainees that each would be reviewed de novo to determine, first, whether the individual was sufficiently dangerous to warrant continued detention, and second, whether the particular individual should be put on the list for deportation.

The administration's "Cuban review plan" was announced in December 1987. Under it, each Mariel Cuban detainee case is reviewed by a panel of Immigration and Naturalization Service Officers to determine releaseability. If the panel recommends against release, the individual is entitled to a second review before a Department of Justice panel which can reverse the INS panel's decision.

When the Cuban review plan went into operation earlier this year it soon became apparent that it did not incorporate a sufficient measure of due process. Specifically, the Cuban review plan:

Does not permit the detainee to call witnesses;

Does not permit the detainee to confront witnesses;

Does not permit the detainee to contest adverse evidence;

Does not place the release power in a neutral or detached adjudicator;

Does not include the right to counsel; and

Places the burden of proof of releaseability on the detainee rather than on the Government.

Mr. Speaker, there can be little doubt that among the 125,000 Mariel Cubans who arrived here in 1980 some were hardened criminals. But even such persons deserve at least a modified form of appropriate due process.

H.R. 5164 would restore such due process to the Mariel detainee. The Bill would:

Give each Mariel detainee the right to a hearing before an administrative law judge;

Provide that the hearing be conducted under the Administrative Procedure Act, which means with the right to call witnesses and test evidence;

Provide for the appointment of counsel; and

Place the burden of proof of detention on the Government.

No dangerous individual would be released under H.R. 5164, since the bill specifically states that detention will be continued if the ALJ finds that "the alien will pose a threat to the community or to others following the alien's release."

Finally, Mr. Speaker, H.R. 5164 deals with releaseability, not with whether an individual should or should not be allowed to remain in the United States, and it would be totally inappropriate to infer from the bill any congressional intent on the question whether a Mariel Cuban should be expelled or permitted to stay.

Mr. Speaker, H.R. 5164 has broad bipartisan support. It was approved unanimously by the Subcommittee on Immigration, Refugees, and International Law and the full Judiciary Committee. I wish to commend the gentleman from Wisconsin [Mr. KASTENMEIER] and the gentleman from Georgia [Mr. SWINDALL] for their extremely valuable contribution to the development of this measure. I urge my colleagues to add their support to this bill so that Mariel Cuban detainees, under our legal system, will receive due process in the review of their detention cases.

□ 1415

Mr. SWINDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all let me commend the chairman of the Subcommittee on Immigration, Refugees, and International Law as well as the chairman of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice for their efforts to make certain that this legislation not only passed through the committees, but also reached the floor in time to pass during the 100th Congress. It is critical because what we deal with in this legislation is in effect whether or not individuals who are now incarcerated will receive the type of due process that the fifth amendment guarantees to citizens and noncitizens alike.

Mr. Speaker, I think we all remember very vividly what occurred roughly 1 year ago. It was an unprecedented situation because frankly we have never had to face the situation where this number of individuals will not be received back into a country when they are to be deported. Fidel Castro, as you recall, refused to accept these individuals, and, as a result, it placed our immigration system in an unprecedented crisis.

This bill addresses that in this respect: I do not think it would be fair to this Congress to criticize it for a law that was passed at a time that it would have been impossible to have foreseen these circumstances. I do want to say for those individuals like myself who believe that individuals who pose a clear and present threat to society they ought not be released and ought to be deported, that this legislation does not in any way change that.

What it does do is to assure that due process of law attaches in order to answer the question of whether or not they pose any type of threat to society and ought to be deported.

So, it is in that vein that I say this is a remedial piece of legislation that protects both the rights of the individuals incarcerated as well as the rights of the citizens of the United States who may, if they were to be released, be jeopardized or threatened.

Having said all that, I would encourage my colleagues who value the Constitution, who value the principles of the fifth amendment, to vote in favor of this important piece of legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I rise in support of H.R. 5164, a bill designed to give Mariel Cuban detainees the basic due process rights to which they are currently not entitled under present law. This bill, of which I am proud to have been an original cosponsor with the chairman and ranking minority member of the Immigration Subcommittee, has enjoyed bipartisan support since its inception. I commend the chairman and members of the Immigration Subcommittee for their attention to this critical matter through their action on both H.R. 5164 and H.R. 5200, a companion bill to H.R. 5164 that would represent a more sweeping improvement of current immigration law as it pertains to detention.

Last February, my subcommittee held the first hearing on the Cuban detainee riots that had occurred in Oakdale and Atlanta during November 1987. During this hearing, it became clear that the two most significant factors contributing to the riots were, first, the indefinite detention of the Cuban detainees and, second, the threat of being returned to Cuba. A couple of months ago, detainees housed at the Federal Correctional Institution in Oxford, WI, staged a hunger strike that, in large part, was motivated by similar concerns. These acts of desperation by the detainees, no matter how ill-advised, personify the frustration they feel being confined to their cells for at least 23 hours each day with no hope of a fair and equitable hearing through which to determine their fates. H.R. 5164 responds to these frustrations by providing the detainees with a fair parole hearing that incorporates minimum standards of due process.

The problems the detainees face need not have required a legislative response. Rather, they could have been addressed through the review plan that the Attorney General implemented shortly after last November's riots—a plan that the Attorney General had promised to be "full, fair, and equitable." Unfortunately, even though more than half of the detainees reviewed under this plan have been deemed releasable, the plan as it exists now is significantly flawed. Under the current plan, review panels are often unprepared or misinformed, the representation of detainees by outside parties, when permitted, is substantially limited, and the quality of translators when requested or required is often substandard.

H.R. 5164 is designed to address these and other procedural inadequacies in the Attorney General's review plan. The final review process that would be added by this bill would ensure that each detainee is protected by the minimum standards of due process. Such minimal due process protections are warranted, in fact demanded, in light of what is at stake for the detainees, namely, deportation to Cuba.

I want to be very clear: H.R. 5164 would not prevent this country from deporting detainees to Cuba. It recognizes, however, the extreme significance of a deportation decision. We must keep in mind that many of the detainees have family and friends in the United States from whom they will be permanently separated if they are deported. In addition, if past experience is any indication, at least one third of the detainees who are returned to Cuba can expect to serve additional time in Cuban prisons upon their return—the same prisons, I might add, that this country condemns as being brutal and inhumane. Accordingly, before we deport any Mariel Cuban detainee to Cuba, we must feel confident that we have provided that detainee with a truly full, fair, and equitable opportunity to demonstrate why he or she should remain in America. I do not believe that we, a country that prides itself in being a leader of human rights throughout the world, could settle for anything less.

In closing, I simply would like to acknowledge all of those people who have given their time and effort on behalf of the detainees. It is through their endless dedication that so many detainees have successfully overcome the obstacles of years of indefinite incarceration and inadequate review plans. It is my hope that the commitment of these volunteers to the rights of the detainees will be matched by our own.

I, therefore, urge passage of both H.R. 5164 and H.R. 5200.

Mr. MAZZOLI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SWINDALL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Bennett). The question is on the motion offered by the gentleman from Kentucky [Mr. Mazzoli] that the House suspend the rules and pass the bill, H.R. 5164.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

LIMITING PERIOD OF DETENTION OF EXCLUDABLE ALIENS PENDING REMOVAL

Mr. MAZZOLI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5200) to amend the Immigration and Nationality Act to limit the period of detention of excludable aliens pending removal in a manner similar to that provided in the case of deportable aliens pending deportation.

The Clerk read as follows:

H.R. 5200

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITING DETENTION OF EXCLUDABLE ALIENS.

(a) In General.—Section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a)) is amended by adding at the end the following new paragraph:

"(3) The provisions of subsections (c) and (d) of section 242 (relating to period for effecting deportation and detention, release on bond, or on other conditions, and release under supervision) shall apply to an alien against whom an order of exclusion has been made under this Act in the same manner as they apply to an alien against whom a final order of deportation has been entered under this Act; except that the Attorney General may continue the custody of such an alien if the Attorney General has reason to believe, with respect to that particular alien, that—

"(A) the release of the alien would pose a danger to any other person or to the community,

"(B) the alien meets a condition described in one of the subparagraphs of section 234(h)(2),

"(C) the alien is subject to temporary exclusion under section 235(c) or is inadmissible under section 212(a)(33),

"(D) the alien has violated terms of the alien's release, or

"(E) there is a reasonable likelihood that the alien will abscond.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect 90 days after the date of the enactment of this Act and shall apply to orders of exclusions made before, on, or after the date of the enactment of this Act; except that such amendment shall not apply to an alien if the alien, pursuant to the Mariel Cuban Detention Review Act of 1988, becomes entitled to a hearing under section 2 of such Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Kentucky [Mr. Mazzoli] will be recognized for 20 minutes and the gentleman from Georgia [Mr. Swindall] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. Mazzoli].

Mr. MAZZOLI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Georgia [Mr. Swindall] is the prime sponsor of H.R. 5200 and has eloquently stated why this bill, H.R. 5200, is so important. In fact, during the consideration of the so-called ins efficiency bill in the 99th Congress the House approved a provision virtually identical to H.R. 5200, a bill, by the way, I have been proud to cosponsor.

Basically, the bill establishes a presumption that after 6 months an excludable alien is releasable. The presumption that an exludable alien is releasable is not new to our immigration law: From 1954 to 1981 it had been Government policy to routinely release arriving aliens on parole, so long as they posed no danger to the community.

In fact, by 1958 our Supreme Court could state in the case of Len Ma V. Barker, that "physical detention of aliens is now the exception, not the rule, and that "certaintly this policy reflects the humane qualities of an enlightened civilization."

H.R. 5200 would return our Government to a more enlightened policy, so that an alien will not be required to remain in indefinite detention simply because his own government, for reasons of its own, will not accept him.

Mr. Speaker, it is important to note that H.R. 5200 would not allow the release of dangerous individuals. It simply creates the proper presumption that an alien is releasable after 6 months. Unless the government shows an appropriate reason to detain him or her.

H.R. 5200 was reported unanimously out of both the Subcomittee on Immigration, Refugees and International Law on August 3 and the full Judiciary Committee on September 28 of this year.

Mr. Speaker, I urge the support of my colleagues for H.R. 5200, and I commend the gentleman from Georgia for his valuable contribution in introducing this bill and in working with the subcommittee and full committee to bring it before the House.

Mr. Speaker, I reserve the balance of my time.

Mr. SWINDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all let me again commend the chairmen of the two committees for their work on this bill.

As the gentleman from Kentucky [Mr. Mazzoli] stated, this bill is slightly different than the one that preceded it only inasmuch as it addresses the broader, more generic problem. I stated in my statement with respect to the preceding bill that Congress was really with, I think, total exposure for not having been able to anticipate what occurred with respect to the unique situation presented when Fidel Castro refused to accept back these individuals. That, combined with the unprecedented decision by President Jimmy Carter to accept them without entry papers, made for a very unpredictable situation. Now, however, we know that that is within the realm of possibility.

One example that comes to mind is the nation of Nicaragua. I think that we could easily see the exact type situation that we have here attaching in the future with respect to a nation like Nicaragua.

So, the purpose of this bill is to recognize that it is possible for a group of individuals to find themselves in that legal fiction of not being here when, in fact, they are here. As the gentleman from Kentucky [Mr. Mazzoli] stated, when an individual like the Mariel Cubans arrived on our shores without papers and the President of the United States signs an Executive order waiving the requirement for those papers, they are here. But they are in terms of the eyes of the law excludables rather than deportables. Had they arrived with papers, they would be deportables.

Ordinarily that distinction would be a meaningless one. However, if they violate the terms of the conditions under which they are allowed to come into this country and it is deemed necessary to deport them, and the nation of origin refuses to accept the deportation, you have a situation that we had here in the United States from 1980 until present.

The purpose of this bill is to say that after these individuals remain continuously incarcerated for 6 months, they will be recognized as people who are here, and at that point they will have the same rights as deportable aliens. Specifically, they will have the right of due process of law in much the same fashion that individuals who are out on parole from prison are entitled to a parole revocation hearing before their parole is revoked.

One other point that I would like to make is that the administration had raised issue with respect to the fact that these excludables would obtain by virtue of this legislation the same rights as deportables. Their point is that they are concerned that that would mandate the release of these individuals even if they pose a threat to society. We have taken into account their concerns. We have placed language in the bill that allows the Attorney General to take into consideration those problems and not release them.

Mr. Speaker, I understand that the administration still has some reservations about this, but I would say to the administration and to my colleagues who are concerned about that that it is important here to recognize that these individuals without this type of legislation will basically be placed in the same type of frustrating environment that we have seen with respect to the Mariel Cubans, and, more importantly, we will be giving no more than lipservice to what the fifth amendment says.

Mr. Speaker, the fifth amendment guarantees due process of law to citizens and noncitizens alike, if they are here. And for us to simply say they are not here when we know they are because we have created a legal fiction is not only irresponsible, I think it is unconscionable.

So, I would urge my colleagues to vote for this so we do not find ourselves somewhere down the road, perhaps next year or two decades from now, facing a similar disastrous situation where we cannot say that we could not anticipate it. Mark my words, we have anticipated it. This legislation is the remedy in futura.

With those remarks, Mr. Speaker, I reserve the balance of my time.

Mr. MAZZOLI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SWINDALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. MAZZOLI] that the House suspend the rules and pass the bill, H.R. 5200.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

MUNICIPAL BANKRUPTCY LAW AMENDMENTS OF 1988

Mr. EDWARDS of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5347) to amend title 11 of the United States Code with respect to claims payable from special revenues by municipalities that are debtors; and for other purposes, as amended.

The Clerk read the bill as follows:

H.R. 5347

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITION OF MUNICIPALITY.

Section 101(31) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) by inserting "and a municipality" after "partnership"; and

(B) in clause (ii) by striking "and" at the end;

(2) in subparagraph (B)(ii) by adding "and" at the end; and

(3) by adding at the end the following:

"(C) with reference to a municipality, financial condition such that the municipality is—

"(i) generally not paying its debts as they become due unless such debts are the subject of a bona fide dispute; or

"(ii) unable to pay its debts as they become due;".

SEC. 2. WHO MAY BE A DEBTOR.

Section 109(c)(3) of title 11, United States Code, is amended by striking "or unable to meet such entity's debts as such debts mature".

SEC. 3. APPLICABILITY OF SECTIONS.

Section 901(a) of title 11, United States Code, is amended by inserting "1129(a)(6)," after "1129(a)(3),".

SEC. 4. DEFINITION OF SPECIAL REVENUES.

Section 902 of title 11, United States Code, is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(2) by inserting after paragraph (1) the following:

"(2) 'special revenues' means—

"(A) receipts derived from the ownership, operation, or disposition of projects or systems of the debtor that are primarily used or intended to be used primarily to provide transportation, utility, or other services, including the proceeds of borrowings to finance the projects or systems;

"(B) special excise taxes imposed on particular activities or transactions;

"(C) incremental tax receipts from the benefited area in the case of tax-increment financing;

"(D) other revenues or receipts derived from particular functions of the debtor, whether or not the debtor has other functions; or

"(E) taxes specifically levied to finance one or more projects or systems, excluding receipts from general property, sales, or income taxes (other than tax-increment financing) levied to finance the general purposes of the debtor;".

SEC. 5. AUTOMATIC STAY.

Section 922 of title 11, United States Code, is amended by adding at the end the following:

"(c) If the debtor provides, under section 362, 364, or 922 of this title, adequate protection of the interest of the holder of a claim secured by a lien on property of the debtor and if, notwithstanding such protection such creditor has a claim arising from the stay of action against such property under section 362 or 922 of this title or from the granting of a lien under section 364(d) of this title, then such claim shall be allowable as an administrative expense under section 503(b) of this title.

"(d) Notwithstanding section 362 of this title and subsection (a) of this section, a petition filed under this chapter does not operate as a stay of application of pledged special revenues in a manner consistent with section 927 of this title to payment of indebtedness secured by such revenues.".

SEC. 6. AVOIDING POWERS.

Section 926 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "If"; and

(2) by adding at the end the following:

"(b) A transfer of property of the debtor to or for the benefit of any holder of a bond or note, on account of such bond or note, may not be avoided under section 547 of this title.".

SEC. 7. CLAIMS PAYABLE SOLELY FROM SPECIAL REVENUES.

Chapter 9 of title 11, United States Code, is amended—

(1) by redesignating section 927 as section 930; and

(2) by inserting after section 926 the following:

"§ 927. Limitation on recourse

"The holder of a claim payable solely from special revenues of the debtor under applicable nonbankruptcy law shall not be treated as having recourse against the debtor on account of such claim pursuant to section 1111(b) of this title.".

SEC. 8. POST PETITION EFFECT OF SECURITY INTEREST.

Title 11 of the United States Code is amended by inserting after section 927, as added by section 7, the following:

"§ 928. Post petition effect of security interest

"(a) Notwithstanding section 552(a) of this title and subject to subsection (b) of this section, special revenues acquired by the debtor after the commencement of the case shall remain subject to any lien resulting from any security agreement entered into by the debtor before the commencement of the case.

"(b) Any such lien on special revenues, other than municipal betterment assessments, derived from a project or system shall be subject to the necessary operating expenses of such project or system, as the case may be.".

SEC. 9. MUNICIPAL LEASES.

Title 11 of the United States Code is amended by inserting after section 928, as added by section 8, the following:

"§ 929. Municipal leases

"A lease to a municipality shall not be treated as an executory contract or unexpired lease for the purposes of section 365 or 502(b)(6) of this title solely by reason of its being subject to termination in the event the debtor fails to appropriate rent.".

SEC. 10. CONFIRMATION.

Section 943(b) of title 11, United States Code, is amended—

(1) in paragraph (5) by striking "and" at the end;

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5) the following:

"(6) any regulatory or electoral approval necessary under applicable nonbankruptcy law in order to carry out any provision of the plan has been obtained, or such provision is expressly conditioned on such approval; and".

SEC. 11. TECHNICAL AMENDMENT.

The table of sections of chapter 9 of title 11, United States Code, is amended by striking the item relating to section 927 and inserting the following:

"Sec. 927. Limitation on recourse.
"Sec. 928. Post petition effect of security interest.
"Sec. 929. Municipal leases.
"Sec. 930. Dismissal.".

SEC. 12. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. FISH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. EDWARDS] will be recognized for 20 minutes and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5347 is legislation I introduced to amend the bankruptcy laws so they will be in conformance with principles of municipal finance. Chapter 9 of the Bankruptcy Code, the primary portion of the code affected by this legislation, is a special part of the bankruptcy laws designed to keep municipalities in existence. A municipality can be a city, a town, or some other public agency. Since many residents depend upon a municipality for their protection, their education, and other necessities of life, a municipality cannot simply be permitted to "go out of business."

It was brought to my attention by members of both the bankruptcy and the municipal finance communities that the current state of the chapter 9 bankruptcy provisions may make it hard for some municipalities to obtain additional financing from lenders. For instance, great concern was expressed about the possibility that a lien held by revenue bondholders could be extinguished if the municipality filed bankruptcy.

H.R. 5347 eliminates this possibility, and provides the assurance that the chapter 9 bankruptcy laws will treat lenders in a manner consistent with applicable principles of municipal finance. The bill was reported by the Committee on the Judiciary by unanimous voice vote on September 27, 1988. It is supported by bankruptcy groups, municipal finance experts, the municipalities themselves, and the State governments.

The amendment to H.R. 5347 is merely a technical change to one of the table of sections in the Bankruptcy Code affected by the legislation.

Mr. Speaker, I urge my colleagues to pass H.R. 5347, as amended.

□ 1430

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to speak in support of H.R. 5347, legislation designed to anticipate serious potential problems that may result from the application to municipal bankruptcy of certain commercial bankruptcy concepts.

Current bankruptcy law fails to recognize the unique features of municipal finance. The National Bankruptcy Conference points out:

> Because the worlds of commercial finance and municipal finance are so diverse, the simple incorporation by reference of the 1978 commercial finance concepts into the municipal bankruptcy arena simply did not work.

Without remedial legislation, distinctions between revenue bonds and general obligation bonds may be compromised and municipalities may find themselves unable to market their securities.

If we fail to act, a revenue bondholder may lose the benefit of a lien on special revenues once a bankruptcy case commences. Such a potential result of Bankruptcy Code section 552's incorporation by reference into the municipal bankruptcy chapter is fundamentally unfair to the bondholder. The bondholder, after all, generally cannot acquire a security interest in municipal assets but rather pays for a pledge of future revenues.

H.R. 5347 rectifies the section 552 problem by providing for the continued viability of a lien on special revenues resulting from a prebankruptcy security agreement. In deference to the overriding importance of facilitating a project's continued operations, the legislation subordinates certain liens to necessary operating expenses.

Current law may be interpreted to terminate the operation of a bondholder's lien on revenues 90 days before a bankruptcy filing. This is a potential consequence of the application of Bankruptcy Code, section 547—the preference section—to municipal bankruptcy cases.

H.R. 5347 includes explicit language designed to eliminate the prospect that payments to a holder of a municipal bond or note—during the 90-day period—will constitute an avoidable preference with the potential for recovery by the debtor. By protecting these payments, this legislation recognizes the legitimate interests of holders of municipal securities and removes a possible impediment to the marketability of bonds and notes.

H.R. 5347 also is needed to prevent a holder of a revenue bond from acquiring rights to the general tax revenues of a municipality in a bankruptcy case. Such a conversion of revenue bonds into general obligation bonds may result from an application of Bankruptcy Code section 1111(b).

The necessary legislative response, incorporated in H.R. 5347, is language specifying that a revenue bondholder "shall not be treated as having recourse against the debtor." The result is that a municipality's taxpayers will be protected from an inappropriate burden and State law limitations on general obligation bonds will be respected.

This legislation enjoys overwhelming support. The Subcommittee on Monopolies and Commercial law received favorable testimony presented on behalf of the National League of Cities, the National Bankruptcy Conference, and the National Association of Bond Lawyers. Other organizations endorsing municipal bankruptcy reform include the National Governors' Association, the U.S. Conference of Mayors, the National Conference of State Legislatures, and the National Association of Counties.

This bill is needed to safeguard the legitimate expectations of bondholders and preserve the access of municipalities to necessary financing. I urge my colleagues to join me in supporting H.R. 5347.

Mr. Speaker, I compliment my friend, the gentleman from California [Mr. EDWARDS], for bringing this bill before us, and I urge my colleagues to join me in supporting this measure.

Mr. FISH. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Speaker, this legislation makes important Bankruptcy Code changes in recognition of the fact that some bankruptcy principles may be appropriate for commercial financial arrangements but do not make sense in the very different context of municipal financing. The other body has passed a similar bill.

H.R. 5347 is needed to protect the access of municipalities to financing—financing that is essential to a range of public services and projects. The record of our hearing in the Subcommittee on Monopolies and Commercial Law is very instructive.

Iola Williams, a council member and vice mayor from San Jose, CA, explains the urgency of the problem:

[A] single adjudication of a municipal bankruptcy under existing law could have serious impacts on the entire municipal bond market. Because the prospect of bankruptcy under existing laws adds so much additional risk to both general obligation and revenue bonds, it imposes an unnecessary risk premium on our cost of issuing bonds. It means that smaller municipalities or agencies deemed to have greater fiscal problems may well have lost access to the market entirely—impeding their ability to provide schools, streets, jails, and other public facilities.

Chicago attorney James Spiotto, another subcommittee witness, concludes:

It is clear that in practice [Bankruptcy Code Sections] 547, 552(a) and 1111(b) * * *, if strictly applied, could seriously impair not only the ability of the municipality in a chapter 9 [municipal bankruptcy] proceeding to obtain continued financing, but also the ability of other municipalities to obtain needed municipal financing.

A report of the National Bankruptcy Conference warns us:

Chapter 9 as currently written could easily be read to terminate a lien on revenues upon the filing of a municipal bankruptcy by the bond issuer and could also be read to convert bonds payable solely from specific revenues into general obligations of the debtor municipality. These results are wholly inconsistent with municipal finance principles and many State and local constitutional and statutory provisions authorizing the issuance of bonds.

There is a wide consensus on the need for congressional action. Municipal bankruptcy legislation is endorsed enthusiastically by a number of organizations. It treats both municipalities and bondholders fairly.

Mr. Speaker, I want to congratulate the gentleman from Califorinia [Mr. EDWARDS] and the gentleman from New York [Mr. FISH] for their work on this legislation.

Mr. Speaker, I am pleased to cosponsor this bill, and I plan to vote for its passage.

Mr. RODINO. Mr. Speaker, H.R. 5347 is legislation to amend the municipal bankruptcy laws. The legislation was ordered favorably reported to the House by the Committee on the Judiciary by unanimous voice vote on September 27, 1988.

A municipal bankruptcy is the bankruptcy of a city, town, or other public agency or instrumentality. A municipality is different from other debtors who file bankruptcy, because unlike other debtors, a municipality cannot simply go out of business. It must continue to provide its residents with essential services such as sewage and garbage removal, police and fire protection, and schools. Chapter 9 of the Bankruptcy Code is designed to keep municipalities in existence, therefore. It adjusts the debts of a bankrupt municipality.

H.R. 5347, introduced by Mr. EDWARDS of California, is a response to concern voiced by some that several of the general provisions of the Bankruptcy Code may jeopardize the ability of financially troubled debtors to obtain future financing. The Subcommittee on Monopolies and Commercial Law held a hearing on H.R. 3845, the predecessor to H.R. 5347, on September 8, 1988, at which time representatives on behalf of cities and other municipalities, municipal finance groups, and bankruptcy experts uniformly supported the bill.

H.R. 5347 is legislation that will benefit municipalities having financial difficulties. I commend Mr. EDWARDS for his work on this measure, and I urge my colleagues to support it.

Mr. FISH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. EDWARDS of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. EDWARDS] that the House suspend the rules and pass the bill, H.R. 5347, as amended.

The question was taken.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. EDWARDS OF California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5347, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDING THE BANKRUPTCY LAWS WITH RESPECT TO THE REJECTION OF INTELLECTUAL PROPERTY LICENSES

Mr. EDWARDS of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5348) to amend title 11 of the United States Code with respect to the rejection of executory contracts licensing rights to intellectual property.

The Clerk read as follows:

H.R. 5348

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO TITLE 11 OF THE UNITED STATES CODE

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by redesignating paragraphs (34) through (51) as paragraphs (36) through (53), respectively,

(2) by inserting after paragraph (33) the following:

"(35) 'mask work' has the meaning given it in section 901(a)(2) of title 17;",

(3) by redesignating paragraphs (32) and (33) as paragraphs (33) and (34), respectively, and

(4) by inserting after paragraph (31) the following:

"(32) 'intellectual property' means—

"(A) trade secret;

"(B) invention, process, design, or plant protected under title 35;

"(C) patent application;

"(D) plant variety;

"(E) work of authorship protected under title 17; or

"(F) mask work protected under chapter 9 of title 17;

to the extent protected by applicable nonbankruptcy law;".

(b) EXECUTORY CONTRACTS LICENSING RIGHTS TO INTELLECTUAL PROPERTY.—Section 365 of title 11, United States Code, is amended by adding at the end the following:

"(n)(1) If the trustee rejects an executory contract under which the debtor is a licensor of a right to intellectual property, the licensee under such contract may elect—

"(A) to treat such contract as terminated by such rejection if such rejection by the trustee amounts to such a breach as would entitle the licensee to treat such contract as terminated by virtue of its own terms, applicable nonbankruptcy law, or an agreement made by the licensee with another entity; or

"(B) to retain its rights (including a right to enforce any exclusivity provision of such contract, but excluding any other right under applicable nonbankruptcy law to specific performance of such contract) under such contract, and any agreement supplementary to such contract, to such intellectual property (including any embodiment of such intellectual property to the extent protected by applicable nonbankruptcy law), as such rights existed immediately before the case commenced, for—

"(i) the duration of such contract; and

"(ii) any period for which such contract may be extended by the licensee as of right under applicable nonbankruptcy law.

"(2) If the licensee elects to retain its rights, as described in paragraph (1)(B) of this subsection, under such contract—

"(A) the trustee shall allow the licensee to exercise such rights;

"(B) the licensee shall make all royalty payments due under such contract for the duration of such contract and for any period described in paragraph (1)(B) of this subsection for which the licensee extends such contract; and

"(C) the licensee shall be deemed to waive—

"(i) any right of setoff it may have with respect to such contract under this title or applicable nonbankruptcy law; and

"(ii) any claim allowable under section 503(b) of this title arising from the performance of such contract.

"(3) If the licensee elects to retain its rights, as described in paragraph (1)(B) of this subsection, then on the written request of the licensee the trustee shall—

"(A) to the extent provided in such contract, or any agreement supplementary to such contract, provide to the licensee any intellectual property (including such embodiment) held by the trustee; and

"(B) not interfere with the rights of the licensee as provided in such contract, or any agreement supplementary to such contract, to such intellectual property (including such embodiment), including any right to obtain such intellectual property (or such embodiment for another entity.

"(4) Unless and until the trustee rejects such contract, on the written request of the licensee the trustee shall—

"(A) to the extent provided in such contract or any agreement supplementary to such contract—

"(i) perform such contract; or

"(ii) provide to the licensee such intellectual property (including any embodiment of such intellectual property to the extent protected by applicable nonbankruptcy law) held by the trustee; and

"(B) not interfere with the rights of the licensee as provided in such contract, or any agreement supplementary to such contract, to such intellectual property (including such embodiment), including any right to obtain such intellectual property (or such embodiment) from another entity.".

SEC. 2. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to any case commenced under title 11 of the United States Code before the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. EDWARDS] will be recognized for 20 minutes and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5348 is legislation introduced by me and the gentleman from California [Mr. MOORHEAD] relating to the treatment of intellectual property licenses by the bankruptcy laws. It was favorably reported to the House by the Committee on the Judiciary by unanimous voice vote on September 27, 1988.

Interest in this issue was in large measure sparked by the decision in the Lubrizol case,[1] in which the U.S. Court of Appeals for the Fourth Circuit upheld the bankrupt debtor's rejection of an executory license agreement involving intellectual property, terminating the licensee's use of the technology, without regard to the effect that rejection would have on the licensee or the estate.

At the June 3, 1988, hearing held by the Subcommittee on Monopolies and Commercial Law on this issue, it was made clear by industries that rely heavily on licensing arrangements—particularly high technology companies whose products are vital to our economy—that the Lubrizol case may have a chilling effect on transactions involving the licensing of intellectual property, and, correspondingly, on the development of new technology. H.R. 5348, which applies only to executory contracts under which the debtor is a licensor of a right to intellectual property, eliminates this possibility.

If an executory contract under which the debtor is a licensor of a right to intellectual property is rejected, the bill permits a licensee to continue to use the licensed technology. However, the debtor is relieved from the burdens of performing this contract, other than having to comply with any exclusivity provision as might be included in the contract.

On behalf of Chairman RODINO and the Judiciary Committee, I can state that although the committee is always very reluctant to create any exception to the general treatment of executory contracts by section 365 of the bankruptcy laws, the committee believes the importance of licensing transactions and the development of new technology to our economy justifies granting the exception in H.R. 5348 now.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5348 is important legislation designed to protect intellectual property licenses in bankruptcy cases. The bill is needed to safeguard the licensing process itself, a process that is essential to the development of new technologies and to the promotion of U.S. competitiveness in international markets. Congressional testimony on behalf of Intellectual Property Owners, Inc. emphasizes that "[l]icensing is important to every type of industry which relies on intellectual property, including chemicals, computers and software, electronics, entertainment, pharmaceuticals, and many others."

Licensing may be advantageous for a number of reasons:

First, licensing encourages inventors to devote enormous time and effort to creative endeavors—allowing them to share in the profits.

Second, licensing permits companies to utilize new ideas without the enormous expense associated with outright purchases.

Third, licensing facilitates the application of inventions to a range of products that may be manufactured by a number of different companies.

Under current law, a licensee may lose the use of intellectual property as a result of rejection of the licensing contract in bankruptcy. Concern about the severe consequences of rejection may discourage reliance on licensing arrangements—which can have very serious economic repercussions.

Bankruptcy Code section 365 generally permits assumption or rejection of executory contracts subject to approval of the bankruptcy court. The Court of Appeals for the Fourth Circuit, in *Lubrizol Enterprises* v. *Richmond Metal Finishers,* 756 F.2d 1043 (4th Cir. 1985), concluded that a specific licensing agreement was executory by applying Professor Vern Countryman's test of whether the "obligations of both the bankrupt and the other party to the contract are so far unperformed that the failure of either to complete the performance would constitute a material breach excusing the performance of the others." Id. at 1045.

A debtor-licensor can reject an executory licensing contract. The business judgment standard for judicial approval or rejection, articulated by the Lubrizol court, accords great deference to the licensor's decision. The opinion states: "the issued * * * presented for * * * judicial determination by the bankruptcy court is whether the decision of the debtor that rejection will be advantageous is so manifestly unreasonable that it could not be based on sound business judgment, but only on bad faith or whim or caprice." Id. at 1047. Rejection, under the Lubrizol decision, terminates the licensee's right to use the licensed property and relegates the licensee to a claim for damages.

The unfortunate consequences of the Lubrizol decision justify a congressional response. New York lawyer George Hahn, in a statement presented to the Subcommittee on Monopolies and Commercial Law on behalf of the National Bankruptcy Conference, refers to Lubrizol as creating "a general chilling effect upon the system of licensing rights in intellectual property."

The termination of a licensee's right to use intellectual property may destroy the licensee's business. The intellectual property may be unique—negating the possibility of obtaining an adequate replacement. Intellectual property licensees have special needs that our bankruptcy law must not ignore.

The licensee's right to use intellectual property merits legal protection. It is unfair to strip licensees of rights to use that already have been conveyed to them. Debtor-licensors can be relieved of such future affirmative obligations as servicing the contract or providing training—obligations that may impede reorganization—without disregarding the legitimate interests of licensees in having continued access to intellectual property.

What legislative options are available for correcting the deficiencies of current law?

A comprehensive redrafting of Bankruptcy Code section 365—which covers rejection of a wide range of contracts and contains a number of exceptions—may be an appropriate long-range goal. This cannot, however, be accomplished quickly. The impact of current law on intellectual property requires expeditious action.

---

[1] *Lubrizol Enterprises, Inc.* v. *Richmond Metal Finishers, Inc.,* 756 F.2d 1043 (4th Cir. 1985), *cert. denied,* 106 S. Ct. 1285 (1986).

Legislation articulating a more balanced standard for court review of contract rejections—in place of the business judgment test of the Lubrizol case—is another possibility. The Judiciary Committee, however, has not had an opportunity to consider the advantages and disadvantages of various standards or the implications of particular formulations for the many different kinds of contracts. In addition, the desirability of replacing the business judgment test by legislation rather than awaiting judicial developments—which may offer greater flexibility—is subject to question. Legislation replacing the standard for approving rejections, in any event, does not address—and, therefore, cannot ameliorate—the potentially disastrous consequences of rejection.

H.R. 5348 incorporates language specifically focusing on a rejection's consequences. The bill is tailored to safeguard a licensee's right to use intellectual property. The licensee, in return, must pay for that use-waiving setoffs and claims for administrative expenses that can interfere with the cash flow needed for reorganization. The licensor is relieved of requirements to perform future services—requirements that may prove inconsistent with effectuating the goal of reorganization.

Mr. Speaker, H.R. 5348 fairly reconciles the interests of the participants in licensing arrangements. I urge my colleagues to support it.

□ 1445

Again, I congratulate my friend and colleague, the gentleman from California [Mr. EDWARDS], for bringing this measure before us.

Mr. EDWARDS of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FISH. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Speaker, I welcome the opportunity to speak in support of H.R. 5348.

Our bankrupcty law, as interpreted in Lubrizol Enterprises versus Richmond Metal Finishers, discourages intellectual property licensing. This can have unfortunate consequences for the development of American technology—consequences that our Nation cannot afford. Testimony by James Burger of Apple Computer, Inc. describes licensing as "key to the way our [information technology] industry functions."

Remedial legislation is needed to remove the cloud that now hangs over the licensing process. George Hahn, a bankruptcy lawyer appearing on behalf of the National Bankruptcy Conference before the Subcommittee on Monopolies and Commercial Law, explains that "the Lubrizol court wrongly permitted rejection to strip Lubrizol of rights to the use of technology which the debtor, prior to bankruptcy, had conveyed to it."

The bill we are considering today will protect a licensee's use of intellectual property in bankruptcy cases—and at the same time recognize the needs of a debtor-licensor for continued payments. The Senate recently passed similar legislation.

I am delighted to be a cosponsor of H.R. 5348. The bill is meritorious and should be enacted into law.

Mr. FISH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BENNETT). The question is on the motion offered by the gentleman from California [Mr. EDWARDS] that the House suspend the rules and pass the bill, H.R. 5348.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5348, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

BICENTENNIAL OF THE UNITED STATES CONGRESS COMMEMORATIVE COIN ACT

Mr. ANNUNZIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5280) to require the Secretary of the Treasury to mint coins in commemoration of the Bicentennial of the United States Congress, as amended.

The clerk read as follows:

H.R. 5280

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bicentennial of the United States Congress Commemorative Coin Act".

SEC. 2. SPECIFICATIONS OF COINS.

(a) FIVE DOLLAR GOLD COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall mint and issue not more than 1,000,000 five dollar coins each of which shall—

(A) weigh 8.359 grams;

(B) have a diameter of .850 inches; and

(C) be composed of 90 percent gold and 10 percent alloy.

(2) DESIGN.—The design of the five dollar coins shall, in accordance with section 4, be emblematic of the Bicentennial of the United States Congress. Each five dollar coin shall bear a designation of the value of the coin, an inscription of the year "1989", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall mint and issue not more than 3,000,000 one dollar coins each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of the one dollar coins shall, in accordance with section 4, be emblematic of the Bicentennial of the United States Congress. Each one dollar coin shall bear a designation of the value of the coin, an inscription of the year "1989", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) HALF DOLLAR CLAD COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than 4,000,000 half dollar coins each of which shall—

(A) weigh 11.34 grams;

(B) have a diameter of 1.205 inches; and

(C) be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(2) DESIGN.—The design of the half dollar coins shall, in accordance with section 4, be emblematic of the Bicentennial of the United States Congress. On each half dollar coin shall be a designation of the value of the coin, an inscription of the year "1989", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(d) LEGAL TENDER.—The coins minted under this Act shall be legal tender as provided in section 5103 of title 31, United States Code.

(e) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 3. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for minting coins under this Act pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 4. DESIGN OF COINS.

Notwithstanding any other provision of law, the design for each coin authorized by this Act shall be selected by the Secretary after consultation with the Speaker of the House of Representatives and the President pro tempore of the Senate.

SEC. 5. ISSUANCE OF COINS.

(a) FIVE DOLLAR COINS.—The five dollar coins minted under this Act may be issued in uncirculated and proof qualities and shall be struck at the United States Mint at West Point, New York.

(b) ONE DOLLAR AND HALF DOLLAR COINS.—The one dollar and half dollar coins minted under this Act may be issued in uncirculated and proof qualities, except that not more than one facility of the United States Mint may be used to strike any particular combination of denomination and quality.

(c) Commencement of Issuance.—The Secretary may issue the coins minted under this Act beginning January 1, 1989.

(d) Termination of Authority.—Coins may not be minted under this Act after June 30, 1990.

SEC. 6. SALE OF COINS.

(a) In General.—Notwithstanding any other provision of law, the Secretary shall sell the coins minted under this Act at a price equal to the face value, plus the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) Bulk Sales.—The Secretary shall make any bulk sales of the coins minted under this Act at a reasonable discount to reflect the lower costs of such sales.

(c) Prepaid Orders.—The Secretary shall accept prepaid orders for the coins minted under this Act prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(d) Surcharges.—All sales of coins minted under this Act shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $1 per coin for the half dollar coins.

SEC. 7. FINANCIAL ASSURANCES.

(a) No Net Cost to the Government.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) Payment for Coins.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board.

SEC. 8. USE OF SURCHARGES.

An amount equal to the amount of all surcharges that are received by the Secretary from the sale of coins minted under this Act shall be deposited in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.

SEC. 9. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) In General.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) Equal Employment Opportunity.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

The SPEAKER pro tempore. Is a second demanded?

Mr. HILER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. Annunzio] will be recognized for 20 minutes and the gentleman from Indiana [Mr. Hiler] will be recognized for 20 minutes.

The Chairman recognizes the gentleman from Illinois [Mr. Annunzio].

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5280, the Bicentennial of the Congress Commemorative Coin Act is virtually identical to H.R. 3251, which passed both Houses and was signed by the President earlier this year. Unfortunately, for parliamentary reasons unrelated to the merits of the legislation it contained a one day sunset provision, necessitating that we reenact this legislation.

The gentleman from Florida [Mr. Fascell] is to be congratulated for sponsoring this legislation. He was the author of H.R. 3251 and has been an eloquent proponent of this most worthy coin program. I was proud to be a cosponsor of H.R. 3251, and I am proud to be a cosponsor of H.R. 5280.

H.R. 5280 authorizes the minting of gold, silver, and copper-nickel coins in 1989 in commemoration of the Bicentennial of the Congress. The First Congress met on March 4, 1789. On that day the Constitution went into effect, and our Nation began its glorious history as the world's greatest democracy. If the Constitutional Convention was composed of the architects of our Nation, the Members of the First Congress were the builders who erected the structure of our Government.

Under the legislation, the Mint is authorized to strike up to 1 million gold coins, 3 million silver dollars and 4 million copper-nickel half dollars. The coins will commemorate the work of the First Congress, which created the offices of the executive and judicial branches, and met the people's desire for a Bill of Rights. The coins will be sold to the public by the mint, both singly and in bulk. Advance purchasers will be eligible for a discount, as will bulk purchasers. The coins will also be available to the public through financial institutions, coin dealers, and retailers.

This legislation will also help raise funds to reduce the deficit. I can think of no finer use for the funds raised by the sale of Congress coins than the reduction of the Federal deficit.

Mr. Speaker, this legislation is most worthy of support by this House, and I urge the passage of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. HILER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first I want to thank my chairman, the gentleman from Illinois [Mr. Annunzio], for those very kind comments and want to applaud him for his efforts on getting this bill before the Congress in the waning days so that this coin bill can move forward.

Mr. Speaker, the bill before us, H.R. 5280, is similar to H.R. 3251 as passed by this House on September 29, 1987. H.R. 3251 was used by the Senate as a procedural mechanism to pass important savings and loan legislation, and the coinage provisions that were part of that bill sunset in a single day. The coinage provisions of H.R. 5280 are, as amended identical to those of H.R. 3251 which I wholeheartedly endorsed.

This bill provides for the U.S. Mint to strike three types of coins to commemorate the 200th anniversary of the Congress celebrated in 1989. The Mint may strike up to 1 million five dollar gold coins, 3 million one dollar silver coins, and 4 million half dollar clad coins. A surcharge will exist of $35 per five dollar coin, $7 per one dollar coin and $1 per half dollar coin. The minting of these coins will be done at no cost to the U.S. Government.

In 1976, the Congress commemorated the Bicentennial of the Declaration of Independence by the use of a special design on the obverse of all quarters that year. Last year we commemorated the Bicentennial of the Constitution by having the Mint strike a special issue of gold and silver coins. The Bicentennial of the Congress represents the next major event in the 5-year long celebration of our Constitution. It is appropriate to recognize the 200th anniversary of this important institution through the issuance of commemorative coins. The U.S. Congress represents the cornerstone of our democracy. It is the forum where the representatives of the American people meet to decide the major issues of the day. This coin legislation would give the American people a way by which they can join in celebrating the history of their institution. The coin is designed to be as affordable as possible so that everyone of this great country can join in the celebration.

Mr. Speaker, I might say to my colleagues who are listening, in this bill, H.R. 5280, as now amended, it is different than the original H.R. 5280 that was going to be debated on the floor this day.

The money that will be the surcharges that will be earned by the selling of the commemorative coins will go to retire the national debt and will not go to the U.S. Capitol Preservation Committee, which there was some controversy about. The administration had originally expressed its concerns about H.R. 5280, with the money going to the Capitol Preservation Commission, and it indicated it would have vetoed that bill, but with the amendment that has now been put in place, I am certain that the administration will have no problem with strictly the commemorative coin part of this bill, and it is with great pleasure that I endorse this excellent coinage package that the chairman, the gentleman from Illinois [Mr. ANNUNZIO], and the gentleman from Florida [Mr. FASCELL] have put together.

I encourage the Members to join me in passing H.R. 5280.

Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I rise to reemphasize a point made by the distinguished gentleman from Indiana, and that is that although the administration in its statement of policy dated September 29 indicated that it opposed this bill, it did so in the other form. In the form that this bill is now before the House, I am very confident, as is the gentleman from Indiana, that there will be no objection to it, and I recommend that this bill be passed.

It was the original bill that the distinguished subcommittee chairman brought to us some months ago. Whatever profits are made from the sale of these medals will go directly to the Treasury and will, therefore, be a subtraction from the national debt.

Mr. Speaker, I endorse that kind of policy.

Mr. HILER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of H.R. 5280, to require the Secretary of the Treasury to mint coins in commemoration of the Bicentennial of the United States Congress and I commend the distinguished chairman of the House Administration Committee the gentleman from Illinois [Mr. ANNUNZIO] for bringing this measure to the floor at this time.

The minting of new coins is an appropriate way in which to celebrate the bicentennial of the Congress. This legislation would provide for the minting of $5 gold coins, $1 silver coins and half-dollar clad coins. The designs would all be emblematic of the Bicentennial of the United States Congress.

It should be pointed out that all coins minted under this act shall be considered numismatic items and as such will not result in any cost to the U.S. Government.

I am especially pleased that this legislation provides for the $5 gold coins to be struck at the U.S. Mint at West Point, NY. This outstanding minting facility has just completed minting the commemorative Olympic coins and stands ready to honor the U.S. Congress as directed by this act.

Accordingly Mr. Speaker, I urge my colleagues to support H.R. 5280, authorizing coins commemorating the Congress.

Mr. ANNUNZIO. Mr. Speaker, I yield such time as he may consume to the author of this legislation, the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of this bill, and I rise to pay my appreciation for the determination and the skill of the members of this subcommittee as well as the staff. I do not believe I have ever seen a bill, Mr. Speaker, that would rival the Perils of Pauline in this Congress, and I cannot do anything except express a deep sense of thanks to all of the Members for being so determined to get a very good bill passed.

Mr. Speaker, I rise in support of H.R. 5280, which I introduced along with our distinguished colleague and chairman of the Consumer Affairs and Coinage Subcommittee, Mr. ANNUNZIO. I would like to thank and commend Chairman ANNUNZIO for his leadership in this effort, and I would also like to recognize his staff for all their hard work on this legislation. As a sponsor of this bill, I fully appreciate the historic and artistic value of commemorative coins, as well as the satisfaction and knowledge which comes from their collection.

The U.S. Mint maintains that one way of reading American history is to study the faces of our country's coins and medals. I agree with this assertion and, as an intermittent and modest collector myself, I realize the educational impact which coin collecting can have, particularly on a youngster. I am still intrigued by a depiction of a great historic figure or event on the face of an American commemorative coin.

Mr. Speaker, in the past, the Congress has authorized commemorative gold and silver coins in celebration of such important events as the anniversaries of the signing of the U.S. Constitution and the Statue of Liberty, as well as the American Eagle coin. In this, the 100th Congress, and in celebration of the upcoming bicentennial of the first session of the newly created Congress in 1989, I strongly believe that this would be a particularly appropriate time to demonstrate the significance of the role which has been played by the Congress in America's history and of its continuing importance. I urge your support for this measure.

Mr. ANNUNZIO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HILER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ANNUNZIO] that the House suspend the rules and pass the bill, H.R. 5280, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5280, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

□ 1500

AUTHORIZING USE OF ROTUNDA OF CAPITOL IN HONOR OF JOHN F. KENNEDY

Ms. OAKAR. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 137) to provide the use of the rotunda of the Capitol in honor of John F. Kennedy.

The Clerk read as follows:

S. CON. RES. 137

Resolved by the Senate (the House of Representatives concurring), That permission is conferred on the National Council of Returned Peace Corps Volunteers to use the Rotunda of the Capitol, from 12:00 noon, November 21, 1988, until 12:00 noon, November 22, 1988, for a vigil of readings from personal Peace Corps journals by Returned Peace Corps Volunteers in honor of John F. Kennedy, the founder of the Peace Corps, on the 25th anniversary of his death.

The SPEAKER pro tempore (Mr. BENNETT). Pursuant to the rule, a second is not required on this motion.

The gentlewoman from Ohio [Ms. OAKAR] will be recognized for 20 minutes and the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate Concurrent Resolution 137 was introduced in order to provide for the use of the rotunda of the Capitol in honor of John F. Kennedy, the founder of the Peace Corps, on the 25th anniversary of his death on behalf of the National Council of Returned Peace Corps volunteers.

The use of the rotunda will provide for a vigil of readings from personal Peace Corps journals by returned Peace Corps volunteers from 12 noon, November 21, 1988, until 12 noon, November 22, 1988.

Mr. Speaker, 121,000 returned Peace Corps volunteers have been invited to attend. Each individual who would like to participate will be asked to speak of a single experience that crystallizes what the Peace Corps meant to them.

The vigil will be followed by a commemorative service at 1 p.m., November 22, 1988, at St. Matthew's Cathedral with Sargent Shriver, Senator EDWARD KENNEDY, Rev. Theodore Hesburgh, and Bill Moyers.

Mr. Speaker, it is only fitting and appropriate that we honor this great man and recognize one of his greatest legacies, the Peace Corps. The program has done so much for so many countries in need around the world. Because of the Peace Corps, hundreds of thousands of people have been given a new opportunity.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill is as described by the distinguished gentlewoman from Ohio [Ms. OAKAR]. It is a wholly appropriate use of the rotunda. The minority urges that the bill be passed.

Mr. Speaker, I yield back the balance of my time.

Ms. OAKAR. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Ohio [Ms. OAKAR] that the House suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 137).

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

FAIR EMPLOYMENT PRACTICES RESOLUTION

Mr. PANETTA. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 558) providing for fair employment practices in the House of Representatives.

The Clerk read as follows:

H. RES. 558

Resolved,

SECTION 1. SHORT TITLE.

This resolution may be cited as the "Fair Employment Practices Resolution".

SEC. 2. NONDISCRIMINATION IN HOUSE OF REPRESENTATIVES EMPLOYMENT.

(a) IN GENERAL.—Personnel actions affecting employment positions in the House of Representatives shall be made free from discrimination based on race, color, national origin, religion, sex (including marital or parental status), handicap, or age.

(b) INTERPRETATIONS.—Interpretations under subsection (a) shall reflect the principles of current law, as generally applicable to employment.

(c) CONSTRUCTION.—Subsection (a) does not prohibit the taking into consideration of—

(1) the domicile of an individual with respect to a position under the clerk-hire allowance; or

(2) the political affiliation of an individual with respect to a position under the clerk-hire allowance or a position on the staff of a committee.

SEC. 3. PROCEDURE FOR CONSIDERATION OF ALLEGED VIOLATIONS.

The procedure for consideration of alleged violations of section 2 consists of 3 steps as follows:

(1) Step I, Counseling and Mediation, as set forth in section 5.

(2) Step II, Formal Complaint, Hearing, and Review by the Office of Fair Employment Practices, as set forth in section 6.

(3) Step III, Final Review by Review Panel, as set forth in section 7.

SEC. 4. ESTABLISHMENT OF OFFICE OF FAIR EMPLOYMENT PRACTICES.

There is established an Office of Fair Employment Practices (hereafter in this resolution referred to as the "Office"), which shall carry out functions assigned under this resolution. Employees of the Office shall be appointed by, and serve at the pleasure of, the Chairman and the ranking minority party member of the Committee on House Administration, acting jointly, and shall be under the administrative direction of the Clerk of the House of Representatives. The Office shall be located in the District of Columbia and shall begin operation not more than 30 days after the date on which this resolution is agreed to.

SEC. 5. STEP I: COUNSELING AND MEDIATION.

(a) COUNSELING.—An individual aggrieved by an alleged violation of section 2 may request counseling by counselors in the Office, who shall provide information with respect to rights and related matters under that section. A request for counseling shall be made not later than 180 days after the alleged violation and may be oral or written, at the option of the individual. The period for counseling is 30 days. The Office may not notify the employing authority of the counseling before the beginning of mediation or the filing of a formal complaint, whichever occurs first.

(b) MEDIATION.—If, after counseling, the individual desires to proceed, the Office shall attempt to resolve the alleged violation through mediation between the individual and the employing authority.

SEC. 6. STEP II: FORMAL COMPLAINT, HEARING, AND REVIEW BY THE OFFICE OF FAIR EMPLOYMENT PRACTICES.

(a) FORMAL COMPLAINT AND REQUEST FOR HEARING.—Not later than 15 days after the end of the counseling period, the individual may file a formal complaint with the Office. Not later than 10 days after filing the formal complaint, the individual may file with the Office a written request for a hearing on the complaint.

(b) HEARING.—The hearing shall be conducted—

(1) not later than 10 days after filing of the written request under subsection (a), except that the Office may authorize a delay of not more than 30 days for investigation;

(2) on the record by an employee of the Office, and

(3) to the greatest extent practicable, in accordance with the principles and procedures set forth in sections 555 and 556 of title 5, United States Code.

(c) DECISION.—Not later than 20 days after the hearing, the Office shall issue a written decision to the parties. The decision shall clearly state the issues raised by the complaint, and shall contain a determination as to whether a violation of section 2 has occurred.

SEC. 7. STEP III: FINAL REVIEW BY REVIEW PANEL.

(a) IN GENERAL.—Not later than 20 days after issuance of the decision under section 6, any party may seek final review of the decision by filing a written request with the Office. The final review shall be conducted by a panel constituted at the beginning of each Congress and composed of—

(1) 2 elected officers of the House of Representatives, appointed by the Speaker;

(2) 2 employees of the House of Representatives appointed by the minority leader of the House of Representatives;

(3) 2 members of the Committee on House Administration (one of whom shall be appointed as chairman of the panel), appointed by the Chairman of that Committee; and

(4) 2 members of the Committee on House Administration, appointed by the ranking minority party member of that Committee.

If any member of the panel withdraws from a particular review, the appointing authority for such member shall appoint another officer, employee, or Member of the House of Representatives, as the case may be, to be a temporary member of the panel for purposes of that review only.

(b) REVIEW AND DECISION.—The review under this section shall consist of a hearing (conducted in the manner described in section 6(b)(3)), if such hearing is considered necessary by the panel, and an examination of the record, together with any statements or other documents the panel deems appropriate. A tie vote by the panel is an affirmation of the decision of the Office. The panel shall complete the review and submit a written decision to the parties and to the Committee on House Administration not later than 30 days after filing of the request under subsection (a).

SEC. 8. RESOLUTION BY AGREEMENT.

If, after a formal complaint is filed under section 6, the parties resolve the issues involved, the parties shall enter into a written agreement, which shall be effective—

(1) in the case of a matter under review by the Office under section 6, if approved by the Office; and

(2) in the case of a matter under review by a panel under section 7, if approved by the panel.

SEC. 9. REMEDIES.

The Office or a review panel, as the case may be, may order the following remedies:

(1) Monetary compensation, to be paid from the contingent fund of the House of Representatives.

(2) In the case of a serious violation, a payment in addition to compensation under paragraph (2), to be paid from the clerk-hire allowance of a Member of the House, or from personnel funds of a committee of the House or other entity, as appropriate.

(3) Injunctive relief.

(4) Costs and attorney fees.

(5) Employment, reinstatement to employment, or promotion (with or without back pay).

SEC. 10. COSTS OF ATTENDING HEARINGS.

An individual with respect to whom a hearing is held under this resolution shall be reimbursed for actual and reasonable costs of attending the hearing, if the individual resides outside the District of Columbia.

SEC. 11. PROHIBITION OF INTIMIDATION.

Any intimidation of, or reprisal against, any person by an employing authority because of the exercise of a right under this resolution is a violation of section 2.

SEC. 12. CLOSED HEARING AND CONFIDENTIALITY.

All hearings under this resolution shall be closed. All information relating to any procedure under this resolution is confidential, except that a decision of the Office under section 6 or a decision of a review panel under section 7 shall be published, if the decision constitutes a final disposition of the matter.

SEC. 13. EXCLUSIVITY OF PROCEDURES AND REMEDIES.

The procedures and remedies under this resolution are exclusive except to the extent that the Rules of the House of Representatives and the rules of the House Committee on Standards of Official Conduct provide for additional procedures and remedies.

SEC. 14. DEFINITIONS.

As used in this resolution—

(1) the term "employment position" means, with respect to the House of Representatives, a position the pay for which is disbursed by the Clerk of the House of Representatives, and any employment position in a legislative service organization or other entity that is paid through funds derived from the clerk-hire allowance;

(2) the term "employing authority" means, the Member of the House of Representatives or elected officer of the House of Representatives with the power to appoint the employee;

(3) the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress; and

(4) the term "elected officer of the House of Representatives" means an elected officer of the House of Representatives (other than the Speaker and the Chaplain).

The SPEAKER pro tempore. Is a second demanded?

Mr. ROBERTS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. PANETTA] will be recognized for 20 minutes and the gentleman from Kansas [Mr. ROBERTS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, fair employment practices resolutions (H. Res. 558) is landmark legislation that applies basic Civil Rights protection to employees in the House of Representatives for the first time in history. It is the product of contributions by the authors of employee protection legislation introduced in the 100th Congress: Chairman HAWKINS (H.R. 5060), Representative SCHROEDER (H.R. 4821), Representative MARTIN (H.R. 4576) and Representative BARTLETT (H.R. 4821) and Representatives ECKART and DURBIN were helpful in developing the final compromise.

I want to extend my personal thanks to these Members for their help and cooperation over the past 2 months in developing House Resolution 558.

The following is a brief summary of the resolution:

PROTECTION AGAINST DISCRIMINATION

The resolution provides all House employees and applicants for employment with protection against discrimination based on race, color, national origin, religion, sex (including marital or parental status), handicap, or age. It is based on the Civil Rights Act of 1964's interpretation. This prohibition will not prevent a Member from taking into account an individual's domicile or political affiliation in making employment decisions.

OFFICE OF FAIR EMPLOYMENT PRACTICES AND REVIEW PANEL

An Office of Fair Employment Practices (the Office) is created to counsel, mediate, investigate and hear alleged violations. Personnel in the office will be appointed by the chairman and ranking member of the House Administration Committee.

PROCESS

The process to resolve complaints of violations of the antidiscrimination provision involves three steps.

1. COUNSELING AND MEDIATION

An employee has 180 days from the time of an alleged violation to contact the Office of Fair Employment Practices to request counseling. The counseling period lasts for thirty days. At the end of the thirty day period the individual may proceed to mediation, which is also conducted by the Office.

2. FORMAL COMPLAINT AND A REQUEST FOR A HEARING

Not later than 15 days after the end of the counseling period, the individual may file a formal complaint with the Office. This may be followed by a request for a hearing, which will be on the record and which will allow the individual to be represented. A written decision is issued by the hearing officer within 20 days after completion of the hearing.

3. FINAL REVIEW BY REVIEW PANEL

Either party may seek a final review by the Review Panel. The Review Panel is made up of 4 members of the House Administration Committee—2 Democrats and 2 Republicans—2 House officers appointed by the Speaker and 2 minority employees appointed by the Minority Leader. The Review Panel will examine the record of the hearing by the Office, statements from the parties, and, if necessary, may hold its own hearing. After reviewing the record a written decision is submitted to both parties.

REMEDIES

The remedy options provided by the resolution for application by both the Office and the Review Panel are:

(1) Monetary compensation, to be paid from the contingent fund of the House of Representatives, or from clerk-hire if a serious violation is found.

(2) Injunctive relief.

(3) Costs and attorney fees.

(4) Employment, reinstatement to employment, or promotion (with or without back pay).

The first step in this area was taken last March when the Committee on House Administration adopted a procedure which provides similar protection to employees under the House Officers. This "Adverse Action Procedure" was created because of a commitment to authors of legislation in the 99th Congress to begin developing employee protections for the House of Representatives. A hearing held in August by the Personnel and Police Subcommittee on employee protection legislation marked the beginning of discussions on the next step: extending protection to all House employees. Meetings and negotiations involving the authors of the key legislation continued over the next six weeks and H. Res. 558 is the result.

There is a clear need for the establishment of an employee protection procedure.

First, it is right, there is a basic issue of fairness raised when this body passes laws relating to employment which apply to the private sector and executive branch agencies but excludes the U.S. Congress. Discrimination is just as wrong inside the Congress as outside the Congress. The House is admittedly a unique institution, but that is no reason to exempt it from those basic standards which we apply by law to other Americans. The Civil Rights Act, which the fair employment practices resolution reflects, was passed 24 years ago. It is time that the House adopt those basic civil rights protections which the rest of America has been enjoying for over two decades.

Second, lawsuits against Members of the House are possible because no internal procedure exists to remedy employee complaints of discrimination. With this procedure in place the courts will not accept jurisdiction of discrimination lawsuits by House employees.

Today the only alternative in these situations other than a lawsuit is to go to the news media. But this option does not necessarily lead to a solution of a personnel problem. The fair employment practices resolution will give the employee time for counseling and mediation—which will likely resolve most cases. If the process continues to a hearing or to the Review Panel a written decision on the complaint will exist to establish the facts in the case.

Finally, without this procedure the pressure on the House will increase to adopt proposals which apply Federal employee protection laws to the House with enforcement by Federal agencies. One proposal which could result in the enforcement of the Fair Labor Standards Act by the Labor Department against the House of Representatives has already been adopted by the House Education and Labor Committee as part of the minimum wage amendments (H.R. 1834).

There are strong arguments based on the Constitution's speech or debate clause and the separation of powers doctrine that executive branch agencies should not be allowed to interfere with the essential functions of the legislative branch. The fair employment practices resolution places the responsibility of enforcement within the House of Representatives, thereby preventing executive branch interference and avoiding constitutional problems.

The fair employment practices resolution is a very positive and long overdue step for the House of Representatives. The resolution represents a consensus among the authors of current legislation and it has the endorsement of the Democratic and Republican leadership. It is a long overdue step in the march for equal rights. I hope Members will join us in supporting the resolution.

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a cosponsor of House Resolution 558, I rise in support of the Fair Employment Practices Resolution. I would like to congratulate the chairman of the full committee, the gentleman from Illinois [Mr. ANNUNZIO] and the chairman of our Subcommittee on Personnel and Police, the gentleman from California [Mr. PANETTA].

Mr. Speaker, while everyone agrees that we need this legislation, I can tell you everyone has not agreed to the specifics. We have had many different proposals before our subcommittee. What Mr. PANETTA has done has been to sort out these various proposals into one piece of legislation that has broad support from both sides of the aisle. He has been working diligently in this regard for many months, and I cannot tell you how many hours have been spent with staff and other Members in countless informal and formal meetings.

And, Mr. Speaker, in this regard I would like to thank Mrs. MARTIN and Mr. BARTLETT for their extensive work. It should be pointed out that not only is it important what legislation is considered in this body, but when as well. Mrs. MARTIN has long been a champion, of equal pay and employee rights within this Congress, resulting in progress in both areas. Mr. BARTLETT saw an opportunity to address the problem of this body passing laws while exempting the Congress from the same requirements we mandate for others. It is accurate to say that this legislation would not be on the suspension calendar had it not been for the leadership efforts of my two colleagues.

Mr. Speaker, this is obviously a concensus solution which may not meet everyone's standards or wishes, but it is a good first step in the right direction.

As our subcommittee chairman, Mr. PANETTA, has described this resolution, it provides for protection against discrimination for the employees of the House of Representatives. It establishes an office of Fair Employment Practices which shall conduct mediation and counseling, and investigate formal complaints, and conduct hearings and reviews.

Now, Mr. Speaker, all of this represents a good first step and we need to pass this resolution and then address the business of statutory legislation in the next session. But, Mr. Speaker, this is an issue that will demand continued oversight and accountability. And, with all due respect, this outfit is long on perception and, in too many instances, mighty short of accountability. If we do not make this procedure work, it will only add to current employee and employer frustrations and concern. Just as important, the Congress is a unique body and we certainly do not wish to cause serious practical and even constitutional problems just so we can wave a banner of reform.

There are practical problems that I anticipate and that we will have to deal with next year. In establishing this office of Fair Employment Practices, we for the first time, have employees appointed by the Committee on House Administration but under the administration of the Clerk. Who is really responsible for this office? Who is going to be accountable?

Mr. Speaker, "counsel" as provided for in the resolution is defined as providing information with respect to rights and related matters. Is that as far as the counseling will go? How far should it go? Will the counseling office become one of de facto arbitration, binding on the employee or employer?

We should thoroughly look at the remedies section. What is a serious violation? What happens if the employer is instructed to reinstate someone but all 18 staff positions are filled? What is injunctive relief? How will we enforce injunctive relief? And, Mr. Speaker, if this is in fact a good first step, have we embarked upon a slow but sure treadmill leading to the point where alphabet soup agencies all over this town will converge on this Congress in and about Member's offices enforcing what we impose on private industry. That, of course, would satisfy the longstanding demagoguery we have witnesssed within this "Glass House." But, what actually happens in terms of practical effect and constitutional problems may be another matter entirely.

So, Mr. Speaker, despite these concerns and the obvious need for careful oversight work, this bill must be, should be, and will be passed. I urge a favorable vote on this resolution, and when we address the issue again in the next Congress, I urge a commitment to make sure we make this overdue legislation work in terms of practical effect.

☐ 1515

Mr. Speaker, I yield 2 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of House Resolution 558, the Fair Employment Practices Resolution. This resolution provides all House employees and applicants for House employment with basic civil rights protections. It protects against discrimination based on race, color, national origin, religion, sex, handicap, or age. However, it permits a Member to employ individuals from their district or State, and permits taking an individual's political affiliation into account when making employment decisions.

The measure further establishes the Office of Fair Employment Practices to mediate, counsel, investigate, and review alleged violations. In addition, it provides a series of remedies for violations.

I believe that this is an important bill because of the lack of employee protections on Capitol Hill, in part, because Congress has exempted itself from antidiscrimination laws. We owe it to our employees to provide basic protections enjoyed by other employees throughout the country.

Mr. Speaker, I urge my colleagues to support passage of this measure.

Mr. ROBERTS. Mr. Speaker, I thank the gentlewoman for her contribution.

Mr. Speaker, I reserve the balance of my time.

Mr. PANETTA. Mr. Speaker, I yield 2 minutes to one of the authors of the legislation with whom we worked and who has been very cooperative in this effort, the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. I thank the gentleman for yielding.

Mr. Speaker, I want to thank the gentleman from California [Mr. PANETTA] very, very much for moving this legislation.

Mr. Speaker, first of all I think it is very important that the House do this. When we pass this we will have put ourselves under some very, very important legislation. If you are going to ask for the public trust as we do every two years, you ought to be acting in the public interest.

Since we go around defining that every day, it ought to apply to us, too. That is what this is all about.

A group of us, started by Congressman ROSE in North Carolina, Congressman UDALL in Arizona and myself, about 10 years ago started doing this. There have been about 100 Members of Congress for the last 10 years who have belonged to the Fair Employment Practices Committee where we have put ourselves under these laws.

I think those 100-plus Members should be very proud of the fact that there has been a group of us who have not been afraid to abide by the laws we extended to others. We should point out that those 100-plus Members should get a lot of credit for being ahead of their time, about 10 years ahead of their time.

So we are happy that the rest of the body will be catching up where many Members have been all along.

It is great to have this apply across-the-board because one of the frustrations of that group was that we would hear from staff people whom we could not help because their Members had not signed our agreement to comply. Now Members will not have the option to opt in or opt out of the agreement; they will all be under it when this legislation passes.

So I really compliment the committees for doing this because I know how hard it has been to do it. Having been out there for 10 years with this in trying to get Members to sign up, I know it is like being the skunk at the garden party. I know the chairman has not had an easy time getting this going, but it is the right thing to do and it is saying we will practice what we preach and it is saying that we will go forward with our head held high saying what we impose on others we too can live by.

After all, it is what America is about, equal opportunity, fairness, civil rights and equal rights for every single human being.

So I compliment the gentleman from California and his making this happen. Believe me, I did not think it ever would happen.

So congratulations and thanks for his patience in putting this all together.

Mr. ROBERTS. Mr. Speaker, I yield 2½ minutes to the gentleman from Texas [Mr. Bartlett] without whose help this never would have happened.

Mr. BARTLETT. First of all, I thank the gentleman from Kansas for his kind words. This is legislation that is long overdue. It is bipartisan legislation. It is not perfect legislation perhaps, but it is legislation that will work, that will do its job, that will provide both a sense of confidentiality and justice for both sides of the issue.

I would also take note of what the gentleman from Kansas said on the issue and that is that this legislation is more than just adopting a title of a bill, but, in fact, this legislation is substantive and has been designed to get the job done.

I congratulate the gentleman from Kansas without whose leadership this legislation would not have occurred. Also, the gentleman from California [Mr. Panetta] for his hard work on the proposal to make certain that it is drafted correctly.

I will note that this is one of several items of legislation that at some point will need to be passed.

Even with this legislation passed, Congress will still continue to be exempt from a variety of Federal laws that apply to the rest of the country but it does seem to me that this is the correct one to start with and this is one that is surely a problem in need of a solution.

I would like to take just a moment to comment on several of the items that will make this legislation, the Fair Employment Practices Resolution, work.

First of all, it does track the Equal Employment Opportunity Commission explicitly. Every question that one can ask as to how it will work can be answered by saying it will work in roughly the same way as EEOC works today.

Second, it is enforced, however, internally. I think there is a good deal of support for that in this body in terms of the internal enforcement so that the review panel and the general counsel will take the place of the EEOC and the courts so that they will track the enforcement patterns of the EEOC but it will avoid any constitutional questions.

Second, in section 2(a), it does provide that the principles of current law as it applies to employment practices will also be held to apply here.

So that as Members of Congress are looking to determine what exactly applies to them, then in fact it will track the same principles that are in current law under EEOC law.

It does explicitly grant employees and applicants alike protection against discrimination based on race, color, national origin, religion, sex, including marital or parental status, handicap or age. That is an explicit granting of rights.

It provides for both counsel and mediation but does not exclude the right of an aggrieved employee or applicant the absolute right to file a complaint regardless of the outcome of the counseling or mediation.

One other note, and that is I want to make careful mention that the remedies in this legislation are precisely the same as the remedies that are available under EEOC. The implementation or decision for those remedies will be made by the review panel but those remedies could include some or all of monetary compensation. In the case of a serious violation, a payment in addition to compensation under paragraph 2 to be paid from clerk hire. It includes injunctive relief costs and attorney's fees to be paid from the contingent fund, employment reinstatement to employment or promotion. The legislation also includes a key provision against intimidation so that no employer can come back and provide some sort of ex parte intimidation on the aggrieved or alleged aggrieved employee.

It has been said for some time with legislation such as this that—the words are always spoken "the time has come for Congress to include itself in the laws that apply to the rest of the country." It seems to me that today at least with regard to EEOC law we can justifiably say that the time has arrived.

Mr. ROBERTS. I thank the gentleman for his contribution.

Mr. Speaker, I yield 1 minute to my friend and colleague, the gentleman from Minnesota [Mr. Stangeland].

Mr. STANGELAND. Mr. Speaker, I rise in strong support of House Resolution 558, the Fair Employment Practices Resolution. I wish to commend the gentleman from California [Mr. Panetta], and the gentleman from Kansas [Mr. Roberts] for bringing House Resolution 558 to the floor—I also want to commend the gentlewoman from Illinois [Mrs. Martin] for her leadership. In this landmark 100th Congress, it is indeed fitting that the House of Representatives enacts such sweeping House administration policy.

Monthly, in major newspapers throughout the country, we have read the shocking accounts of discriminatory and harassing treatment of Members' personal staffs. Staff members, caught in these untenable situations say nothing about these inequitable office practices for fear of jeopardizing future employment opportunities on Capitol Hill.

Do these dedicated and hardworking men and women, who daily serve their country, deserve any less than the fair redress of offensive grievances? I think not!

No one should be exempt from the laws of our Nation—particularly Members of Congress. House Resolution 558 issues a new rule for the House of Representatives, that is an old rule for the rest of the country, prohibiting discrimination against House employees on grounds of race, color, national origin, sex, age or handicap. Members may require that their own staff members share their political affiliation and come from their home districts. The legislation also establishes an independent Office of Fair Employment Practices which will investigate, mediate, counsel and review alleged violations.

Many employees of the House face frustrating uncertainty every 2 years about the continuity and longevity of their positions. With the passage of House Resolution 558, House employees will have the peace of mind that for however long they may have their jobs, there will be an avenue to air all employment discrimination.

I urge my colleagues to support and pass this commendable legislative measure.

Mr. ROBERTS. Mr. Speaker, I yield 5 minutes to my good friend, the gentlewoman from Illinois [Mrs. Martin]. I said before this legislation would not have taken place without her help. I cannot count the number of times that she has appeared before the Committee on House Administration with regard to the whole pay issue, with regard to the quality. I thank the gentlewoman for her contribution.

Mr. Speaker, she has been a force in this legislation. If, in fact, it were not for the case that her force had been with us, if you will pardon that terrible pun, we would not be here today.

Mrs. MARTIN of Illinois. My thanks to the gentleman from Kansas [Mr. ROBERTS].

Often when we are busy thanking each other, I am reminded of what we used to call sort of the doughnut committee back at school where you thanked so many people you lost track of the meeting. But I must say when you are being thanked it is rather nice. So that was extraordinarily kind.

Mr. Speaker, I wonder if the gentleman from California would rise so that we may engage in a colloquy about House Resolution 558.

Mr. PANETTA. I would be pleased to do that.

Mrs. MARTIN of Illinois. Mr. Speaker, on June 1, 1989, the House will have had 6 months to assess the Office Fair Employment Practices and the complaint and resolution procedures which this resolution provides.

It is my understanding that as soon after that date as possible and before the end of that month, the majority leadership of the House will bring to the floor legislation to carry today's accomplishment forward by providing for an extension of title VII of the Civil Rights Act of 1964 to include in its coverage all employees of Congress, House, and Senate, as well as employees of the judiciary. Is this understanding correct?

Mr. PANETTA. Mr. Speaker, will the gentlewoman yield?

Mrs. MARTIN of Illinois. I yield to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. I thank the gentlewoman for yielding.

Mr. Speaker, the gentlewoman's understanding is correct. We certainly will move in that direction.

Mrs. MARTIN of Illinois. I thank the gentleman. I would like to say something about the gentleman from California and the gentleman from Kansas. I am not sure this is allowed under House rules, but I did not believe the gentleman from California when he came forward to talk about trying to work out an accommodation. I thought it would not occur. I thought it was another reason to wait another year, reasons I have been hearing for a long time on bill after bill.

That was not true. The gentleman acted not only in good faith but with rare ability. He should have a public thanks from me who has differed with him on the speed with which this has occurred often, that he entered the discussion well and handled a difficult problem with ability.

That can be seconded for the gentleman from Kansas who had reluctance on many issues because of his concern for the House and its institution. He handled those concerns always, in not just a mature way but made me rethink through things better and both of them make me proud to be their colleague.

Thanks which they are not expecting, also, to two members of the committee, the gentlewoman from Nevada, Mrs. VUCANOVICH and the gentlewoman from Ohio, MARY ROSE OAKAR who, though they did not wish to, had special responsibilities. It is something that we understand and I think it ultimately proved to be of great help.

And to the Congresswoman from Colorado [Mrs. SCHROEDER] who had to work a long time. Sometimes it is easier for the minority ultimately to bang around the majority. I understand the difficulties that they had.

□ 1530

And here is the last "Thank you": This is not meant to take 5 minutes, and it is not a prepared speech. To the person who works on the elevator, to the person who works downstairs in the mail room, to the bright young black man who has come to work here on the D.C. Committee, to every bright young woman who has tried to work here and has sometimes worked under circumstances that are difficult to really appreciate, because they are few, but they were there, to everyone who phoned me and said, "Please continue," to everyone who still stayed loyal to us and continued to work for us and for the House as an institution, to all of you who waited when deep down there was no reason you should have had to, on behalf of the House, I say, "Thank you." This bill is for you, and we are going to pass it today for you.

Mr. LAGOMARSINO. Mr. Speaker, will the gentlewoman yield?

Mrs. MARTIN of Illinois. I am happy to yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I want to commend the gentlewoman from Illinois for her efforts on behalf of this subject and other subjects related to the topic of what the House does not do to itself as is required of the general public and business and everyone else. It seems to me, although this is not perfect legislation, that it is a good start, and I think the gentlewoman in the well deserved a lot of credit for what has happened here. I just want to pay tribute to the gentlewoman in that respect.

Mrs. MARTIN of Illinois. Mr. Speaker, before I finish, just let me say that there is a note on this one that we can share on the President's desk—"If you don't care who gets the credit, we can get a lot accomplished."

I think we can all agree with that, Mr. Speaker.

Mr. ROBERTS. Mr. Speaker, I thank the gentleman from Illinois for her pertinent and very eloquent remarks.

Mr. Speaker, I yield 2 minutes to the ranking member of the full committee, the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, more than a dozen years ago I made a motion in a now defunct commission in the House of Representatives to have the antidiscrimination laws apply to all employees of the House. I was told at the time that that was a dishonorable motion, and that the House should not be involved in such things. Subsequent to that time, the gentlewoman from Colorado [Mrs. SCHROEDER] and the gentleman from Arizona [Mr. UDALL] built their own voluntary operation. Later on we had judicial steps in the field, but now we are taking the first legislative step of the House of Representatives to remove these vestiges of a perception that discrimination is a profitable business in the House of Representatives.

I give most of the credit to our friend, the gentlewoman from Illinois [Mrs. MARTIN], but she does not labor alone. There have been many people helping her, certainly among them the subcommittee chairman, the gentleman from California [Mr. PANETTA]. This is a very small step we are taking, but it is a powerful signal that the House will not falter in the march toward a more perfect democracy.

This House has been perfectly willing in all sorts of legislation to make people responsible for things that often they had very great difficulty controlling, including the Foreign Corrupt Practices Act and various antidiscrimination acts, and now we are finally beginning to lay it on ourselves.

Standing alone, House Resolution 558 will do little or nothing. As a matter of fact, it has to be followed by a new rule next year or a new law. It has to be enforced, and it must be extended if we are to do what we say we mean to do. I think we do, and I think this is a proud day for the House of Representatives.

Mr. Speaker, I am especially pleased that the gentlewoman from Illinois, who could have had a fun issue to play with, has really made it a goal, not an issue, and we have had a true bipartisan achievement in bringing House Resolution 558 before the Members.

Mr. Speaker, I hope the resolution will be swiftly passed.

Mr. ROBERTS. Mr. Speaker, I reserve the balance of my time.

Mr. PANETTA. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Ohio [Ms. OAKAR], who has also provided a great deal of leadership on this issue.

Ms. OAKAR. Mr. Speaker, I want to join with my colleagues in congratulating the chairman of the subcommittee, the gentlewoman from Illinois [Mrs. MARTIN], as well as the gentleman from Arizona [Mr. UDALL] and others who have consistently spoken out on this issue. I commend the gentlewoman from Illinois and the gentlewoman from Colorado [Mrs. SCHROEDER]. We do not want to leave anybody out.

I think there are some points that need to be made here, and one is that this really is based on an idea that the gentleman from Minnesota [Mr. FRENZEL] pioneered, an idea that the gentlewoman from Colorado [Mrs. SCHROEDER] and the gentleman from Arizona [Mr. UDALL] and others had, that we ought to sign up and give our employees the same kind of grievance procedure under the law that other employees in the private and public sector can get. That is simply what we are doing here, no more and no less. We do not cast any aspersions on Congress, because I am personally of the opinion that the majority of individuals in this country, let alone Congress, really intend to treat their employees fairly. However, there ought to be a vehicle by which our employees have an opportunity to voice concerns with respect to their employment.

In this resolution we are very, very clear that we are talking about something that is very fundamental, that under the law we cannot discriminate. That is basically what this is. We do not talk about what people should be paid or in terms of how many people within the context of the rules we have to hire or what types of people we have to hire and for what jobs. We have to make that very, very clear.

This piece of legislation fundamentally is different from the pay equity bill that we passed last week. The bill that passed last week affects the almost 2 million Federal employees who are not part of the legislative branch but are part of a classification system. I would hope that the same Members who would support this bill would have supported that bill, because they both deal with fairness.

Mr. Speaker, I would hope that the Senate would follow our example on this bill, and I hope they will also follow our example on the bill that we passed last week as well.

Mr. HAWKINS. Mr. Speaker, as an original cosponsor of House Resolution 558, I rise in very strong support of this long-overdue proposal. The measure before us today is not as extensive as that I proposed in H.R. 5060 but it is a very well presented first step and I urge all my colleagues to support its passage.

I wish to take this opportunity as well to commend my friend and colleague, Congressman LEON PANETTA for his diligence in pursuing this bipartisan compromise. As my colleagues well know, there were many and varied views on how best to provide civil rights and labor law protections for our employees, and from these Mr. PANETTA had the difficult task of forging the compromise now before you. I believe he has accomplished much in this effort.

The resolution before you creates a right in each employee of the House of Representatives to be free from discrimination based on race, color, national origin, religion, sex, including marital or parental status, handicap or age. It further provides, what I believe to be, a fair and workable complaint and review procedure by which to enforce these rights. It reflects a sensitive balance between protecting the employee's rights and the employer's concern with frivolous charges.

Providing congressional employees with the guarantees and protections of our civil rights laws that are now and have been for decades afforded employees in the private sector is, in my view, something this institution should have done years ago.

While affirming with the passage of the Civil Rights Act of 1964, and its progeny, the principle that moneys appropriated and distributed by the U.S. Congress as a whole could not support, directly or indirectly, any act of discrimination, we have continually left Members of Congress themselves free to discriminate. While imposing a nondiscrimination duty on employers engaging in interstate commerce, the Congress as an employer failed to see its own responsibility in this area. It is now time to reaffirm our commitment to civil rights generally by specifically insuring basic civil rights to our own employees. In principle and in practice we can do no less.

With the passage of this House resolution, we can for the first time legitimately hang out the sign that says we are equal opportunity employers and that is good; but, my colleagues, it is, as I have indicated, only a first step, as there are other protections and rights which must be afforded congressional employees if they are to stand equally protected to those in the private sector. While these additional protections need to be reviewed and considered further I today urge my colleagues to stand and unanimously take this important first step by passing House Resolution 558.

Mr. SMITH of Texas. Mr. Speaker, I am pleased that the House is about to act on the Fair Employment Practices Act, which will give some measure of protection to staff members in the exercise of their duties here in Congress.

For too long, House employees have had no avenue of appeal when they feel an injustice has occurred in the course of their employment. It is unconscionable that we in Congress have been unwilling to apply to ourselves the same principles of fairness and accountability that we place upon private employers and the executive branch of Government.

Americans expect honesty, integrity, and accountability from Members of Congress. The Fair Employment Practices Act is a good beginning in restoring American's faith in their public institutions.

Ms. SNOWE. Mr. Speaker, I rise in support of House Resolution 558, the House Fair Employment Practices Act.

In 1964, Congress passed landmark legislation, the Civil Rights Act, which provided basic civil rights protections for most American citizens. However, this did not cover our own employees.

Most recently, this Congress passed the Civil Rights Restoration Act which reiterated our responsibility to see that Federal funds do not in any form support discriminatory actions. However, again, we did not protect our own employees.

For over 24 years, our employees have not been provided protection from discrimination guaranteed all other American citizens. The question we must raise is why should Congress not have to comply with the laws Congress passes?

The answer is simply that Congress should comply with these laws. Our employees provide us with valuable service, yet currently have no recourse when confronted with discrimination. Entering employment of Congress shouldn't be tantamount to entering a black hole of employment rights.

Today we have the opportunity to pass legislation to rectify this situation, and I urge my colleagues to support this long-overdue step.

Mr. PANETTA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROBERTS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from California [Mr. PANETTA] that the House suspend the rules and agree to the resolution, House Resolution 558.

The question was taken.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. PANETTA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 558, the resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California [Mr. PANETTA]?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Kalbaugh, one of his secretaries.

WHISTLEBLOWER PROTECTION ACT OF 1988

Mrs. SCHROEDER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 508) to amend title 5, United States Code, to strengthen the protections available to Federal employees against prohibited personnel practices, and for other purposes, as amended.

The Clerk read as follows:

S. 508

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Whistleblower Protection Act of 1988".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) Federal employees who make disclosures described in section 2302(b)(8) of title 5, United States Code, serve the public interest by assisting in the elimination of fraud, waste, abuse, and unnecessary Government expenditures;

(2) protecting employees who disclose Government illegality, waste, and corruption is a major step toward a more effective civil service; and

(3) in passing the Civil Service Reform Act of 1978, Congress established the Office of Special Counsel to protect whistleblowers (those individuals who make disclosures described in such section 2302(b)(8)) from reprisal.

(b) PURPOSE.—The purpose of this Act is to strengthen and improve protection for the rights of Federal employees, to prevent reprisals, and to help eliminate wrongdoing within the Government by—

(1) mandating that employees should not suffer adverse consequences as a result of prohibited personnel practices; and

(2) establishing—

(A) that the primary role of the Office of Special Counsel is to protect employees, especially whistleblowers, from prohibited personnel practices;

(B) that the Office of Special Counsel shall act in the interests of employees who seek assistance from the Office of Special Counsel; and

(C) that while disciplining those who commit prohibited personnel practices may be used as a means by which to help accomplish that goal, the protection of individuals who are the subject of prohibited personnel practices remains the paramount consideration.

SEC. 3. MERIT SYSTEMS PROTECTION BOARD; OFFICE OF SPECIAL COUNSEL; INDIVIDUAL RIGHT OF ACTION.

(a) IN GENERAL.—Chapter 12 of title 5, United States Code, is amended to read as follows:

"CHAPTER 12—MERIT SYSTEMS PROTECTION BOARD, OFFICE OF SPECIAL COUNSEL, AND EMPLOYEE RIGHT OF ACTION

"SUBCHAPTER I—MERIT SYSTEMS PROTECTION BOARD

"Sec. 1201. Appointment of members of the Merit Systems Protection Board.
"Sec. 1202. Term of office; filling vacancies; removal.
"Sec. 1203. Chairman; Vice Chairman.
"Sec. 1204. Powers and functions of the Merit Systems Protection Board.
"Sec. 1205. Transmittal of information to Congress.
"Sec. 1206. Annual report.

"SUBCHAPTER II—OFFICE OF SPECIAL COUNSEL

"Sec. 1211. Establishment.
"Sec. 1212. Powers and functions of the Office of Special Counsel.
"Sec. 1213. Provisions relating to disclosures of violations of law, mismanagement, and certain other matters.
"Sec. 1214. Investigation of prohibited personnel practices; corrective action.
"Sec. 1215. Disciplinary action.
"Sec. 1216. Other matters within the jurisdiction of the Office of Special Counsel.
"Sec. 1217. Transmittal of information to Congress.
"Sec. 1218. Annual report.
"Sec. 1219. Public information.

"SUBCHAPTER III—INDIVIDUAL RIGHT OF ACTION IN CERTAIN REPRISAL CASES

"Sec. 1221. Individual right of action in certain reprisal cases.
"Sec. 1222. Availability of other remedies.

"SUBCHAPTER I—MERIT SYSTEMS PROTECTION BOARD

"§ 1201. Appointment of members of the Merit Systems Protection Board

"The Merit Systems Protection Board is composed of 3 members appointed by the President, by and with the advice and consent of the Senate, not more than 2 of whom may be adherents of the same political party. The members of the Board shall be individuals who, by demonstrated ability, background, training, or experience are especially qualified to carry out the functions of the Board. No member of the Board may hold another office or position in the Government of the United States, except as otherwise provided by law or at the direction of the President. The Board shall have an official seal which shall be judicially noticed. The Board shall have its principal office in the District of Columbia and may have field offices in other appropriate locations.

"§ 1202. Term of office; filling vacancies; removal

"(a) The term of office of each member of the Merit Systems Protection Board is 7 years.

"(b) A member appointed to fill a vacancy occurring before the end of a term of office of the member's predecessor serves for the remainder of that term. Any appointment to fill a vacancy is subject to the requirements of section 1201.

"(c) Any member appointed for a 7-year term may not be reappointed to any following term but may continue to serve beyond the expiration of the term until a successor is appointed and has qualified, except that such member may not continue to serve for more than 1 year after the date on which the term of the member would otherwise expire under this section.

"(d) Any member may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office.

"§ 1203. Chairman; Vice Chairman

"(a) The President shall from time to time appoint, by and with the advice and consent of the Senate, one of the members of the Merit Systems Protection Board as the Chairman of the Board. The Chairman is the chief executive and administrative officer of the Board.

"(b) The President shall from time to time designate one of the members of the Board as Vice Chairman of the Board. During the absence or disability of the Chairman, or when the office of Chairman is vacant, the Vice Chairman shall perform the functions vested in the Chairman.

"(c) During the absence or disability of both the Chairman and the Vice Chairman, or when the offices of Chairman and Vice Chairman are vacant, the remaining Board member shall perform the functions vested in the Chairman.

"§ 1204. Powers and functions of the Merit Systems Protection Board

"(a) The Merit Systems Protection Board shall—

"(1) hear, adjudicate, or provide for the hearing or adjudication, of all matters within the jurisdiction of the Board under this title, section 2023 of title 38, or any other law, rule, or regulation, and, subject to otherwise applicable provisions of law, take final action on any such matter;

"(2) order any Federal agency or employee to comply with any order or decision issued by the Board under the authority granted under paragraph (1) and enforce compliance with any such order;

"(3) conduct, from time to time, special studies relating to the civil service and to other merit systems in the executive branch, and report to the President and to the Congress as to whether the public interest in a civil service free of prohibited personnel practices is being adequately protected; and

"(4) review, as provided in subsection (f), rules and regulations of the Office of Personnel Management.

"(b)(1) Any member of the Merit Systems Protection Board, any administrative law judge appointed by the Board under section 3105, and any employee of the Board designated by the Board may administer oaths, examine witnesses, take depositions, and receive evidence.

"(2) Any member of the Board, any administrative law judge appointed by the Board under section 3105, and any employee of the Board designated by the Board may, with respect to any individual—

"(A) issue subpoenas requiring the attendance and presentation of testimony of any such individual, and the production of documentary or other evidence from any place in the United States, any territory or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia; and

"(B) order the taking of depositions from, and responses to written interrogatories by, any such individual.

"(3) Witnesses (whether appearing voluntarily or under subpoena) shall be paid the same fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States.

"(c) In the case of contumacy or failure to obey a subpoena issued under subsection (b)(2)(A), upon application by the Board, the United States district court for the district in which the person to whom the subpoena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(d) A subpoena referred to in subsection (b)(2)(A) may, in the case of any individual outside the territorial jurisdiction of any court of the United States, be served in such manner as the Federal Rules of Civil Procedure prescribe for service of a subpoena in a foreign country. To the extent that the courts of the United States can assert jurisdiction over such individual, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance under this subsection by such individual that such court would have if such individual were personally within the jurisdiction of such court.

"(e)(1)(A) In any proceeding under subsection (a)(1), any member of the Board may request from the Director of the Office of Personnel Management an advisory opinion concerning the interpretation of any rule, regulation, or other policy directive promulgated by the Office of Personnel Management.

"(B)(i) The Merit Systems Protection Board may, during an investigation by the Office of Special Counsel or during the pendency of any proceeding before the Board, issue any order which may be necessary to protect a witness or other individual from harassment, except that an agency (other than the Office of Special Counsel) may not request any such order with regard to an investigation by the Office of Special Counsel from the Board during such investigation.

"(ii) An order issued under this subparagraph may be enforced in the same manner as provided for under paragraph (2) with respect to any order under subsection (a)(2).

"(2)(A) In enforcing compliance with any order under subsection (a)(2), the Board may order that any employee charged with complying with such order, other than an employee appointed by the President by and with the advice and consent of the Senate, shall not be entitled to receive payment for service as an employee during any period that the order has not been complied with. The Board shall certify to the Comptroller General of the United States that such an order has been issued, and no payment shall be made out of the Treasury of the United States for any service specified in such order.

"(B) The Board shall prescribe regulations under which any employee who is aggrieved by the failure of any other employee to comply with an order of the Board may petition the Board to exercise its authority under subparagraph (A).

"(3) In carrying out any study under subsection (a)(3), the Board shall make such inquiries as may be necessary and, unless otherwise prohibited by law, shall have access to personnel records or information collected by the Office of Personnel Management and may require additional reports from other agencies as needed.

"(f)(1) At any time after the effective date of any rule or regulation issued by the Director of the Office of Personnel Management in carrying out functions under section 1103, the Board shall review any provision of such rule or regulation—

"(A) on its own motion;

"(B) on the granting by the Board, in its sole discretion, of any petition for such review filed with the Board by any interested person, after consideration of the petition by the Board; or

"(C) on the filing of a written complaint by the Special Counsel requesting such review.

"(2) In reviewing any provision of any rule or regulation pursuant to this subsection, the Board shall declare such provision—

"(A) invalid on its face, if the Board determines that such provision would, if implemented by any agency, on its face, require any employee to violate section 2302(b); or

"(B) invalidly implemented by any agency, if the Board determines that such provision, as it has been implemented by the agency through any personnel action taken by the agency or through any policy adopted by the agency in conformity with such provision, has required any employee to violate section 2302(b).

"(3) The Director of the Office of Personnel Management, and the head of any agency implementing any provision of any rule or regulation under review pursuant to this subsection, shall have the right to participate in such review.

"(4) The Board shall require any agency—

"(A) to cease compliance with any provisions of any rule or regulation which the Board declares under this subsection to be invalid on its face; and

"(B) to correct any invalid implementation by the agency of any provision of any rule or regulation which the Board declares under this subsection to have been invalidly implemented by the agency.

"(g) The Board may delegate the performance of any of its administrative functions under this title to any employee of the Board.

"(h) The Board shall have the authority to prescribe such regulations as may be necessary for the performance of its functions. The Board shall not issue advisory opinions. All regulations of the Board shall be published in the Federal Register.

"(i) Except as provided in section 518 of title 28, United States Code, relating to litigation before the Supreme Court, attorneys designated by the Chairman of the Board may appear for the Board, and represent the Board, in any civil action brought in connection with any function carried out by the Board pursuant to this title or as otherwise authorized by law.

"(j) The Chairman of the Board may appoint such personnel as may be necessary to perform the functions of the Board. Any appointment made under this subsection shall comply with the provisions of this title, except that such appointment shall not be subject to the approval or supervision of the Office of Personnel Management or the Executive Office of the President (other than approval required under section 3324 or subchapter VIII of chapter 33).

"(k) The Board shall prepare and submit to the President, and, at the same time, to the appropriate committees of Congress, an annual budget of the expenses and other items relating to the Board which shall, as revised, be included as a separate item in the budget required to be transmitted to the Congress under section 1105 of title 31.

"(l) The Board shall submit to the President, and, at the same time, to each House of the Congress, any legislative recommendations of the Board relating to any of its functions under this title.

"(m) Whenever it considers alternative places for conducting a hearing or other proceeding brought by or on behalf of an employee, former employee, or applicant for employment, the Board shall, to the extent practicable, select the place closest to the location of the position held, formerly held, or sought by the individual involved, unless the total administrative costs to the Government in conducting such proceeding would be lesser elsewhere.

"§ 1205. Transmittal of information to Congress

"Notwithstanding any other provision of law or any rule, regulation, or policy directive, any member of the Board, or any employee of the Board designated by the Board, may transmit to the Congress on the request of any committee or subcommittee thereof, by report, testimony, or otherwise, information and views on functions, responsibilities, or other matters relating to the Board, without review, clearance, or approval by any other administrative authority.

"§ 1206. Annual report

"The Board shall submit an annual report to the President and the Congress on its activities, which shall include a description of significant actions taken by the Board to carry out its functions under this title. The report shall also review the significant actions of the Office of Personnel Management, including an analysis of whether the actions of the Office of Personnel Management are in accord with merit system principles and free from prohibited personnel practices.

"SUBCHAPTER II—OFFICE OF SPECIAL COUNSEL

"§ 1211. Establishment

"(a) There is established the Office of Special Counsel, which shall be headed by the Special Counsel. The Office shall have an official seal which shall be judicially noticed. The Office shall have its principal office in the District of Columbia and shall have field offices in other appropriate locations.

"(b) The Special Counsel shall be appointed by the President, by and with the advice and consent of the Senate, for a term of 5 years. The Special Counsel shall be an attorney who, by demonstrated ability, background, training, or experience, is especially qualified to carry out the functions of the position. A Special Counsel appointed to fill a vacancy occurring before the end of a term of office of the Special Counsel's predecessor serves for the remainder of the term. The Special Counsel may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office. The Special Counsel may not hold another office or position in the Government of the United States, except as otherwise provided by law or at the direction of the President.

"§ 1212. Powers and functions of the Office of Special Counsel

"(a) The Office of Special Counsel shall—

"(1) in accordance with section 1214(a) and other applicable provisions of this subchapter, protect employees, former employees, and applicants for employment from prohibited personnel practices;

"(2) receive and investigate allegations of prohibited personnel practices, and, where appropriate—

"(A) bring petitions for stays, and petitions for corrective action, under section 1214; and

"(B) file a complaint or make recommendations for disciplinary action under section 1215;

"(3) receive, review, and, where appropriate, forward to the Attorney General or an agency head under section 1213, disclosures of violations of any law, rule, or regulation, or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

"(4) review rules and regulations issued by the Director of the Office of Personnel Management in carrying out functions under section 1103 and, where the Special Counsel finds that any such rule or regulation would, on its face or as implemented, require the commission of a prohibited personnel practice, file a written complaint with the Board; and

"(5) investigate and, where appropriate, bring actions concerning allegations of violations of other laws within the jurisdiction of the Office of Special Counsel (as referred to in section 1216).

"(b)(1) The Special Counsel and any employee of the Office of Special Counsel designated by the Special Counsel may administer oaths, examine witnesses, take depositions, and receive evidence.

"(2) The Special Counsel may—

"(A) issue subpoenas; and

"(B) order the taking of depositions and order responses to written interrogatories;
in the same manner as provided under section 1204.

"(3)(A) In the case of contumacy or failure to obey a subpoena issued under paragraph (2)(A), upon application by the Special Counsel, the United States district court for the district in which the person to whom the subpoena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(B) A subpoena under paragraph (2)(A) may, in the case of any individual outside the territorial jurisdiction of any court of the United States, be served in the manner referred to in subsection (d) of section 1204, and the United States District Court for the District of Columbia may, with respect to any such individual, compel compliance in accordance with such subsection.

"(4) Witnesses (whether appearing voluntarily or under subpoena) shall be paid the same fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States.

"(c) Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Special Counsel may appear for the Office of Special Counsel, and represent the Office, in any civil action brought in connection with any function carried out by the Office pursuant to this title or as otherwise authorized by law.

"(d)(1) Except as provided in paragraph (2), the Special Counsel may as a matter of right intervene or otherwise participate in any proceeding before the Merit Systems Protection Board, except that the Special Counsel shall comply with the rules of the Board.

"(2)(A) The Special Counsel may not intervene in an action brought by an individual under section 1221, or in an appeal brought by an individual under section 7701, without the consent of such individual, except as provided in subparagraph (B).

"(B) The Special Counsel may intervene as a matter of right in an action or appeal referred to in subparagraph (A) if—

"(i) the individual bringing such action or appeal has been charged with conduct constituting a prohibited personnel practice, and the Special Counsel has reasonable grounds to believe that the prohibited personnel practice has occurred, exists, or is to be taken; or

"(ii) the agency initiated the contested personnel action against the individual with the approval of the Special Counsel under section 1214(f).

"(3)(A) The Special Counsel may obtain judicial review of any final order or decision of the Merit Systems Protection Board in any proceeding in which the Special Counsel was a party (other than an order or decision in an action brought under section 1215, unless or to the extent that the order or decision involves conduct covered by section 2302(b)(8)).

"(B) A petition for review under this paragraph shall be filed with such court, and within such time, as provided for under section 7703(b).

"(e)(1) The Special Counsel may appoint the legal, administrative, and support personnel necessary to perform the functions of the Special Counsel.

"(2) Any appointment made under this subsection shall be made in accordance with the provisions of this title, except that such appointment shall not be subject to the approval or supervision of the Office of Personnel Management or the Executive Office of the President (other than approval required under section 3324 or subchapter VIII of chapter 33).

"(f) The Special Counsel may prescribe such regulations as may be necessary to perform the functions of the Special Counsel. Such regulations shall be published in the Federal Register.

"(g) The Special Counsel may not issue any advisory opinion concerning any law(rule(or regulation (other than an advisory opinion concerning chapter 15 or subchapter III of chapter 73).

"(h)(1) The Special Counsel may not respond to any inquiry or provide information concerning any person making an allegation under section 1214(a), except in accordance with the provisions of section 552a of title 5, United States Code, or as required by any other applicable Federal law.

"(2) Notwithstanding the exception under paragraph (1), the Special Counsel may not respond to any inquiry concerning a matter described in subparagraph (A) or (B) of section 2302(b)(2) in connection with a person described in paragraph (1)—

"(A) unless the consent of the individual as to whom the information pertains is obtained in advance; or

"(B) except upon request of an agency which requires such information in order to make a determination concerning an individual's having access to information the unauthorized disclosure of which could be expected to cause exceptionally grave damage to the national security.

"§ 1213. Provisions relating to disclosures of violations of law, gross mismanagement, and certain other matters

"(a) This section applies with respect to—

"(1) any disclosure of information by an employee, former employee, or applicant for employment which the employee, former employee, or applicant reasonably believes evidences—

"(A) a violation of any law, rule, or regulation; or

"(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;
if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; and

"(2) any disclosure by an employee, former employee, or applicant for employment to the Special Counsel or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures of information which the employee, former employee, or applicant reasonably believes evidences—

"(A) a violation of any law, rule, or regulation; or

"(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

"(b) Whenever the Special Counsel receives information of a type described in subsection (a) of this section, the Special Counsel shall review such information and, within 15 days after receiving the information, determine whether there is a substantial likelihood that the information discloses a violation of any law, rule, or regulation, or gross mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health and safety.

"(c)(1) Subject to paragraph (2), if the Special Counsel makes a positive determination under subsection (b) of this section, the Special Counsel shall promptly transmit the information with respect to which the determination was made to the appropriate agency head and require that the agency head—

"(A) conduct an investigation with respect to the information and any related matters transmitted by the Special Counsel to the agency head; and

"(B) submit a written report setting forth the findings of the agency head within 60 days after the date on which the information is transmitted to the agency head or within any longer period of time agreed to in writing by the Special Counsel.

"(2) The Special Counsel may require an agency head to conduct an investigation and submit a written report under paragraph (1) only if the information was transmitted to the Special Counsel by—

"(A) an employee, former employee, or applicant for employment in the agency which the information concerns; or

"(B) an employee who obtained the information in connection with the performance of the employee's duties and responsibilities.

"(d) Any report required under subsection (c) shall be reviewed and signed by the head of the agency and shall include—

"(1) a summary of the information with respect to which the investigation was initiated;

"(2) a description of the conduct of the investigation;

"(3) a summary of any evidence obtained from the investigation;

"(4) a listing of any violation or apparent violation of any law, rule, or regulation; and

"(5) a description of any action taken or planned as a result of the investigation, such as—

"(A) changes in agency rules, regulations, or practices;

"(B) the restoration of any aggrieved employee;

"(C) disciplinary action against any employee; and

"(D) referral to the Attorney General of any evidence of a criminal violation.

"(e)(1) Any such report shall be submitted to the Special Counsel, and the Special Counsel shall transmit a copy to the complainant, except as provided under subsection (f) of this section. The complainant may submit comments to the Special Counsel on the agency report within 15 days of having received a copy of the report.

"(2) Upon receipt of any report of the head of an agency required under subsection (c) of this section, the Special Counsel shall review the report and determine whether—

"(A) the findings of the head of the agency appear reasonable; and

"(B) the report of the agency under subsection (c)(1) of this section contains the information required under subsection (d) of this section.

"(3) The Special Counsel shall transmit any agency report received pursuant to subsection (c) of this section, any comments provided by the complainant pursuant to subsection (e)(1), and any appropriate comments or recommendations by the Special Counsel to the President, the congressional committees with jurisdiction over the agency which the disclosure involves, and the Comptroller General.

"(4) Whenever the Special Counsel does not receive the report of the agency within the time prescribed in subsection (c)(2) of this section, the Special Counsel shall transmit a copy of the information which was transmitted to the agency head to the President, the congressional committees with jurisdiction over the agency which the disclosure involves, and the Comptroller General together with a statement noting the failure of the head of the agency to file the required report.

"(f) In any case in which evidence of a criminal violation obtained by an agency in an investigation under subsection (c) of this section is referred to the Attorney General—

"(1) the report shall not be transmitted to the complainant; and

"(2) the agency shall notify the Office of Personnel Management and the Office of Management and Budget of the referral.

"(g)(1) If the Special Counsel receives information of a type described in subsection (a) from an individual other than an individual described in subparagraph (A) or (B) of subsection (c)(2), the Special Counsel may transmit the information to the head of the agency which the information concerns. The head of such agency shall, within a reasonable time after the information is transmitted, inform the Special Counsel in writing of what action has been or is being taken and when such action shall be completed. The Special Counsel shall inform the individual of the report of the agency head. If the Special Counsel does not transmit the information to the head of the agency, the Special Counsel shall return any documents and other matter provided by the individual who made the disclosure.

"(2) If the Special Counsel receives information of a type described in subsection (a) from an individual described in subparagraph (A) or (B) of subsection (c)(2), but does not make a positive determination under subsection (b), the Special Counsel may transmit the information to the head of the agency which the information concerns, except that the information may not be transmitted to the head of the agency without the consent of the individual. The head of such agency shall, within a reasonable time after the information is transmitted, inform the Special Counsel in writing of what action has been or is being taken and when such action will be completed. The Special Counsel shall inform the individual of the report of the agency head.

"(3) If the Special Counsel does not transmit the information to the head of the agency under paragraph (2), the Special Counsel shall—

"(A) return any documents and other matter provided by the individual who made the disclosure; and

"(B) inform the individual of—

"(i) the reasons why the disclosure may not be further acted on under this chapter; and

"(ii) other offices available for receiving disclosures, should the individual wish to pursue the matter further.

"(h) The identity of any individual who makes a disclosure described in subsection (a) may not be disclosed by the Special Counsel without such individual's consent unless the Special Counsel determines—

"(1) that the disclosure of the individual's identity is necessary in order to carry out the functions of the Special Counsel; or

"(2) that the disclosure of the individual's identity is necessary because of an imminent danger to public health or safety or imminent violation of any criminal law.

"(i) Except as specifically authorized under this section, the provisions of this section shall not be considered to authorize disclosure of any information by any agency or any person which is—

"(1) specifically prohibited from disclosure by any other provision of law; or

"(2) specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

"(j) With respect to any disclosure of information described in subsection (a) which involves foreign intelligence or counterintelligence information, if the disclosure is specifically prohibited by law or by Executive order, the Special Counsel shall transmit such information to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

"§ 1214. Investigation of prohibited personnel practices; corrective action

"(a)(1)(A) The Special Counsel shall receive any allegation of a prohibited personnel practice and shall investigate the allegation to the extent necessary to determine whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken.

"(B) Within 15 days after the date of receiving an allegation of a prohibited personnel practice under paragraph (1), the Special Counsel shall provide written notice to the person who made the allegation that—

"(i) the allegation has been received by the Special Counsel; and

"(ii) shall include the name of a person at the Office of Special Counsel who shall serve as a contact with the person making the allegation.

"(C) Unless an investigation is terminated under paragraph (2), the Special Counsel shall—

"(i) within 90 days after notice is provided under subparagraph (B), notify the person who made the allegation of the status of the investigation and any action taken by the Office of the Special Counsel since the filing of the allegation;

"(ii) notify such person of the status of the investigation and any action taken by the Office of the Special Counsel since the last notice, at least every 60 days after notice is given under clause (i); and

"(iii) notify such person of the status of the investigation and any action taken by the Special Counsel at such time as determined appropriate by the Special Counsel.

"(2)(A) If the Special Counsel terminates any investigation under paragraph (1), the Special Counsel shall prepare and transmit to any person on whose allegation the investigation was initiated a written statement notifying the person of—

"(i) the termination of the investigation;

"(ii) a summary of relevant facts ascertained by the Special Counsel, including the facts that support, and the facts that do not support, the allegations of such person; and

"(iii) the reasons for terminating the investigation.

"(B) A written statement under subparagraph (A) may not be admissible as evidence in any judicial or administrative proceeding, without the consent of the person who received such statement under subparagraph (A).

"(3) Except in a case in which an employee, former employee, or applicant for employment has the right to appeal directly to the Merit Systems Protection Board under any law, rule, or regulation, any such employee, former employee, or applicant shall seek corrective action from the Special Counsel before seeking corrective action from the Board. An employee, former employee, or applicant for employment may seek corrective action from the Board under section 1221, if such employee, former employee, or applicant seeks corrective action for a prohibited personnel practice described in section 2302(b)(8) from the Special Counsel and—

"(A)(i) the Special Counsel notifies such employee, former employee, or applicant that an investigation concerning such employee, former employee, or applicant has been terminated; and

"(ii) no more than 60 days have elapsed since notification was provided to such employee, former employee, or applicant for employment that such investigation was terminated; or

"(B) 120 days after seeking corrective action from the Special Counsel, such employee, former employee, or applicant has not been notified by the Special Counsel that the Special Counsel shall seek corrective action on behalf of such employee, former employee, or applicant.

"(4) If an employee, former employee, or applicant seeks a corrective action from the Board under section 1221, pursuant to the provisions of paragraph (3)(B), the Special Counsel may continue to seek corrective action personal to such employee, former employee, or applicant only with the consent of such employee, former employee, or applicant.

"(5) In addition to any authority granted under paragraph (1), the Special Counsel may, in the absence of an allegation, conduct an investigation for the purpose of determining whether there are reasonable grounds to believe that a prohibited personnel practice (or a pattern of prohibited personnel practices) has occurred, exists, or is to be taken.

"(b)(1)(A)(i) The Special Counsel may request any member of the Merit Systems Protection Board to order a stay of any personnel action for 45 days if the Special Counsel determines that there are reasonable grounds to believe that the personnel action was taken, or is to be taken, as a result of a prohibited personnel practice.

"(ii) Any member of the Board requested by the Special Counsel to order a stay under clause (i) shall order such stay unless the member determines that, under the facts and circumstances involved, such a stay would not be appropriate.

"(iii) Unless denied under clause (ii), any stay under this subparagraph shall be granted within 3 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date of the request for the stay by the Special Counsel.

"(B) The Board may extend the period of any stay granted under subparagraph (A) for any period which the Board considers appropriate.

"(C) The Board shall allow any agency which is the subject of a stay to comment to the Board on any extension of stay proposed under subparagraph (B).

"(D) A stay may be terminated by the Board at any time, except that a stay may not be terminated by the Board—

"(i) on its own motion or on the motion of an agency, unless notice and opportunity for oral or written comments are first provided to the Special Counsel and the individual on whose behalf the stay was ordered; or

"(ii) on motion of the Special Counsel, unless notice and opportunity for oral or written comments are first provided to the individual on whose behalf the stay was ordered.

"(2)(A) If, in connection with any investigation, the Special Counsel determines that there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken which requires corrective action, the Special Counsel shall report the determination together with any findings or recommendations to the Board, the agency involved and to the Office of Personnel Management, and may report such determination, findings and recommendations to the President. The Special Counsel may include in the report recommendations for corrective action to be taken.

"(B) If, after a reasonable period of time, the agency does not act to correct the prohibited personnel practice, the Special Counsel may petition the Board for corrective action.

"(C) If the Special Counsel finds, in consultation with the individual subject to the prohibited personnel practice, that the agency has acted to correct the prohibited personnel practice, the Special Counsel shall file such finding with the Board, together with any written comments which the individual may provide.

"(3) Whenever the Special Counsel petitions the Board for corrective action, the Board shall provide an opportunity for—

"(A) oral or written comments by the Special Counsel, the agency involved, and the Office of Personnel Management; and

"(B) written comments by any individual who alleges to be the subject of the prohibited personnel practice.

"(4)(A) The Board shall order such corrective action as the Board considers appropriate, if the Board determines that the Special Counseh has demonstrated that a prohibited personnel practice, other than one described in section 2302(b)(8), has occurred, exists, or is to be taken.

"(B)(i) Subject to the provisions of clause (ii), in any case involving an alleged prohibited personnel practice as described under section 2302(b)(8), the Board shall order such corrective action as the Board cojsiders appropriate if the Special Counseh has deionstrated that a disclosure described under section 2302(b)(8) was a factor in the personnel action which was taken or is to be taken against the individual.

"(ii) Corrective action under clause (i) may not be ordered if the agency demonstrates by clear and convincing evidence that it would have taken the same personnel action in the absence of such disclosure.

"(c)(1) Judicial review of any final order or decision of the Board under this section may be obtained—

"(A) by any employee, former employee, or applicant for employment adversely affected by such order or decision; or

"(B) by the Special Counsel.

"(2) A petition for review under this subsection shall be filed with such court, and within such time, as provided for under section 7703(b).

"(d)(1) If, in connection with any investigation under this subchapter, the Special Counsel determines that there is reasonable cause to believe that a criminal violation has occurred, the Special Counsel shall report the determination to the Attorney General and to the head of the agency involved, and shall submit a copy of the report to the Director of the Office of Personnel Management and the Director of the Office of Management and Budget.

"(2) In any case in which the Special Counsel determines that there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken, the Special Counsel shall proceed with any investigation or proceeding unless—

"(A) the alleged violation has been reported to the Attorney General; and

"(B) the Attorney General is pursuing an investigation, in which case the Special Counsel has discretion as to whether to proceed.

"(e) If, in connection with any investigation under this subchapter, the Special Counsel determines that there is reasonable cause to believe that any violation of any law, rule, or regulation has occurred other than one referred to in subsection (b) or (d), the Special Counsel shall report such violation to the head of the agency involved. The Special Counsel shall require, within 30 days after the receipt of the report by the agency, a certification by the head of the agency which states—

"(1) that the head of the agency has personally reviewed the report; and

"(2) what action has been or is to be taken, and when the action will be completed.

"(f) During any investigation initiated under this subchapter, no disciplinary action shall be taken against any employee for any alleged prohibited activity under investigation or for any related activity without the approval of the Special Counsel.

"§ 1215. Disciplinary action

"(a)(1) Except as provided in subsection (b), if the Special Counsel determines that disciplinary action should be taken against any employee for having—

"(A) committed a prohibited personnel practice,

"(B) violated the provisions of any law, rule, or regulation, or engaged in any other conduct within the jurisdiction of the Special Counsel as described in section 1216, or

"(C) knowingly and willfully refused or failed to comply with an order of the Merit Systems Protection Board,

the Special Counsel shall prepare a written complaint against the employee containing the Special Counsel's determination, together with a statement of supporting facts, and present the complaint and statement to the employee and the Board, in accordance with this subsection.

"(2) Any employee against whom a complaint has been presented to the Merit Systems Protection Board under paragraph (1) is entitled to—

"(A) a reasonable time to answer orally and in writing, and to furnish affidavits and other documentary evidence in support of the answer;

"(B) be represented by an attorney or other representative;

"(C) a hearing before the Board or an administrative law judge appointed under section 3105 and designated by the Board;

"(D) have a transcript kept of any hearing under subparagraph (C); and

"(E) a written decision and reasons therefor at the earliest practicable date, including a copy of any final order imposing disciplinary action.

"(3) A final order of the Board may impose disciplinary action consisting of removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, reprimand, or an assessment of a civil penalty not to exceed $1,000.

"(4) There may be no administrative appeal from an order of the Board. An employee subject to a final order imposing disciplinary action under this subsection may obtain judicial review of the order by filing a petition therefor with such court, and within such time, as provided for under section 7703(b).

"(5) In the case of any State or local officer or employee under chapter 15, the Board shall consider the case in accordance with the provisions of such chapter.

"(b) In the case of an employee in a confidential, policy-making, policy-determining, or policy-advocating position appointed by the President, by and with the advice and consent of the Senate (other than an individual in the Foreign Service of the United States), the complaint and statement referred to in subsection (a)(1), together with any response of the employee, shall be presented to the President for appropriate action in lieu of being presented under subsection (a).

"(c)(1) In the case of members of the uniformed services and individuals employed by any person under contract with an agency to provide goods or services, the Special Counsel may transmit recommendations for disciplinary or other appropriate action (including the evidence on which such recommendations are based) to the head of the agency concerned.

"(2) In any case in which the Special Counsel transmits recommendations to an agency head under paragraph (1), the agency head shall, within 60 days after receiving such recommendations, transmit a report to the Special Counsel on each recommendation and the action taken, or proposed to be taken, with respect to each such recommendation.

"§ 1216. Other matters within the jurisdiction of the Office of Special Counsel

"(a) In addition to the authority otherwise provided in this chapter, the Special Counsel shall, except as provided in subsection (b), conduct an investigation of any allegation concerning—

"(1) political activity prohibited under subchapter III of chapter 73, relating to political activities by Federal employees;

"(2) political activity prohibited under chapter 15, relating to political activities by certain State and local officers and employees;

"(3) arbitrary or capricious withholding of information prohibited under section 552, except that the Special Counsel shall make no investigation of any withholding of foreign intelligence or counterintelligence information the disclosure of which is specifically prohibited by law or by Executive order;

"(4) activities prohibited by any civil service law, rule, or regulation, including any activity relating to political intrusion in personnel decisionmaking; and

"(5) involvement by any employee in any prohibited discrimination found by any court or appropriate administrative authority to have occurred in the course of any personnel action.

"(b) The Special Counsel shall make no investigation of any allegation of any prohibited activity referred to in subsection (a)(5), if the Special Counsel determines that the allegation may be resolved more appropriately under an administrative appeals procedure.

"(c)(1) If an investigation by the Special Counsel under subsection (a)(1) substantiates an allegation relating to any activity prohibited under section 7324, the Special Counsel may petition the Merit Systems Protection Board for any penalties provided for under section 7325.

"(2) If the Special Counsel receives an allegation concerning any matter under paragraph (3), (4), or (5) of subsection (a), the Special Counsel may investigate and seek corrective action under section 1214 in the same way as if a prohibited personnel practice were involved.

"§ 1217. Transmittal of information to Congress

"Notwithstanding any other provision of law or any rule, regulation, or policy directive, the Special Counsel or any employee of the Special Counsel designated by the Special Counsel, may transmit to the Congress on the request of any committee or subcommittee thereof, by report, testimony, or otherwise, information and views on functions, responsibilities, or other matters relating to the Office, without review, clearance, or approval by any other administrative authority.

"§ 1218. Annual report

"The Special Counsel shall submit an annual report to the Congress on the activities of the Special Counsel, including the number, types, and disposition of allegations of prohibited personnel practices filed with it, investigations conducted by it, and actions initiated by it before the Merit Systems Protection Board, as well as a description of the recommendations and reports made by it to other agencies pursuant to this subchapter, and the actions taken by the agencies as a result of the reports or recommendations. The report required by this section shall include whatever recommendations for legislation or other action by Congress the Special Counsel may consider appropriate.

"§ 1219. Public information

"(a) The Special Counsel shall maintain and make available to the public—

"(1) a list of noncriminal matters referred to heads of agencies under subsection (c) of section 1213, together with reports from heads of agencies under subsection (c)(1)(B) of such section relating to such matters;

"(2) a list of matters referred to heads of agencies under section 1215(c)(2);

"(3) a list of matters referred to heads of agencies under subsection (f) of section 1214, together with certifications from heads of agencies under such subsection; and

"(4) reports from heads of agencies under section 1213(g)(1).

"(b) The Special Counsel shall take steps to ensure that any list or report made available to the public under this section does not contain any information the disclosure of which is prohibited by law or by Executive order requiring that information be kept secret in the interest of national defense or the conduct of foreign affairs.

"SUBCHAPTER III—INDIVIDUAL RIGHT OF ACTION IN CERTAIN REPRISAL CASES

"§ 1221. Individual right of action in certain reprisal cases

"(a) Subject to the provisions of subsection (b) of this section and subsection 1214(a)(3), an employee, former employee, or applicant for employment may, with respect to any personnel action taken, or proposed to be taken, against such employee, former employee, or applicant for employment, as a result of a prohibited personnel practice described in section 2302(b)(8), seek corrective action from the Merit Systems Protection Board.

"(b) This section may not be construed to prohibit any employee, former employee, or applicant for employment from seeking corrective action from the Merit Systems Protection Board before seeking corrective action from the Special Counsel, if such employee, former employee, or applicant for employment has the right to appeal directly to the Board under any law, rule, or regulation.

"(c)(1) Any employee, former employee, or applicant for employment seeking corrective action under subsection (a) may request that the Board order a stay of the personnel action involved.

"(2) Any stay requested under paragraph (1) shall be granted within 10 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date the request is made, if the Board determines that such a stay would be appropriate.

"(3)(A) The Board shall allow any agency which would be subject to a stay under this subsection to comment to the Board on such stay request.

"(B) Except as provided in subparagraph (C), a stay granted under this subsection shall remain in effect for such period as the Board determines to be appropriate.

"(C) The Board may modify or dissolve a stay under this subsection at any time, if the Board determines that such a modification or dissolution is appropriate.

"(d)(1) At the request of an employee, former employee, or applicant for employment seeking corrective action under subsection (a), the Board may issue a subpoena for the attendance and testimony of any person or the production of documentary or other evidence from any person if the Board finds that such subpoena is necessary for the development of relevant evidence.

"(2) A subpoena under this subsection may be issued, and shall be enforced, in the same manner as applies in the case of subpoenas under section 1204.

"(e)(1) Subject to the provisions of paragraph (2), in any case involving an alleged prohibited personnel practice as described under section 2302(b)(8), the Board shall order such corrective action as the Board considers appropriate if the employee, former employee, or applicant for employment has demonstrated that a disclosure described under section 2302(b)(8) was a factor in the personnel action which was taken or is to be taken against such employee, former employee, or applicant.

"(2) Corrective action under paragraph (1) may not be ordered if the agency demonstrates by clear and convincing evidence that it would have taken the same personnel action in the absence of such disclosure.

"(f)(1) A final order or decision shall be rendered by the Board as soon as practicable after the commencement of any proceeding under this section.

"(2) A decision to terminate an investigation under subchapter II may not be considered in any action or other proceeding under this section.

"(g) If an employee, former employee, or applicant for employment is the prevailing party, and the decision is based on a finding of a prohibited personnel practice, the agency involved shall be liable to the employee, former employee, or applicant for reasonable attorney's fees and any other reasonable costs incurred.

"(h)(1) An employee, former employee, or applicant for employment adversely affected or aggrieved by a final order or decision of the Board under this section may obtain judicial review of the order or decision.

"(2) A petition for review under this subsection shall be filed with such court, and within such time, as provided for under section 7703(b).

"(i) Subsections (a) through (h) shall apply in any proceeding brought under section 7513(d) if, or to the extent that, a prohibited personnel practice as defined in section 2302(b)(8) is alleged.

"(j) In determining the appealability of any case involving an allegation made by an individual under the provisions of this chapter, neither the status of an individual under any retirement system established under a Federal statute nor any election made by such individual under any such system may be taken into account.

"§ 1222. Availability of other remedies

"Except as provided in section 1221(i), nothing in this chapter or chapter 23 shall be construed to limit any right or remedy available under a provision of statute which is outside of both this chapter and chapter 23.".

(b) CONFORMING AMENDMENT.—The analysis for part II of title 5 of the United States Code is amended by striking the item relating to chapter 12 and inserting the following:

"12. Merit Systems Protection Board, Office of Special Counsel, and Individual Right of Action 1201".

SEC. 4. REPRISALS.

(a) AMENDMENTS TO SECTION 2302(b)(8).—Section 2302 (b)(8) of title 5, United States Code, is amended—

(1) by inserting ", or threaten to take or fail to take," after "take or fail to take";

(2) by striking out "as a reprisal for" and inserting in lieu thereof "because of";

(3) in subparagraph (A) by striking out "a disclosure" and inserting in lieu thereof "any disclosure";

(4) in subparagraph (A)(ii) by inserting "gross" before "mismanagement";

(5) in subparagraph (B) by striking out "a disclosure" and inserting in lieu thereof "any disclosure"; and

(6) in subparagraph (B)(ii) by inserting "gross" before "mismanagement".

(b) AMENDMENT TO SECTION 2302(b)(9).—Section 2302(b)(9) of title 5, United States Code, is amended to read as follows:

"(9) take or fail to take, or threaten to take or fail to take, any personnel action against any employee or applicant for employment because of—

"(A) the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation;

"(B) testifying for or otherwise lawfully assisting any individual in the exercise of any right referred to in subparagraph (A);

"(C) cooperating with or disclosing information to the Inspector General of an agency, or the Special Counsel, in accordance with applicable provisions of law; or

"(D) for refusing to obey an order that would require the individual to violate a law;".

SEC. 5. PREFERENCE IN TRANSFERS FOR WHISTLEBLOWERS.

(a) In General.—Subchapter IV of chapter 33 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 3352. Preference in transfers for employees making certain disclosures

"(a) Subject to the provisions of subsections (d) and (e), in filling a position within any Executive agency, the head of such agency may give preference to any employee of such agency, or any other Executive agency, to transfer to a position of the same status and tenure as the position of such employee on the date of applying for a transfer under subsection (b) if—

"(1) such employee is otherwise qualified for such position;

"(2) such employee is eligible for appointment to such position; and

"(3) the Merit Systems Protection Board makes a determination under the provisions of chapter 12 that a prohibited personnel action described under section 2302(b)(8) was taken against such employee.

"(b) An employee who meets the conditions described under subsection (a)(1), (2), and (3) may voluntarily apply for a transfer to a position, as described in subsection (a), within the Executive agency employing such employee or any other Executive agency.

"(c) If an employee applies for a transfer under the provisions of subsection (b) and the selecting official rejects such application, the selecting official shall provide the employee with a written notification of the reasons for the rejection within 30 days after receiving such application.

"(d) An employee whose application for transfer is rejected under the provisions of subsection (c) may request the head of such agency to review the rejection. Such request for review shall be submitted to the head of the agency within 30 days after the employee receives notification under subsection (c). Within 30 days after receiving a request for review, the head of the agency shall complete the review and provide a written statement of findings to the employee and the Merit Systems Protection Board.

"(e) The provisions of subsection (a) shall apply with regard to any employee—

"(1) for no more than 1 transfer;

"(2) for a transfer from or within the agency such employee is employed at the time of a determination by the Merit Systems Protection Board that a prohibited personnel action as described under section 2302(b)(8) was taken against such employee; and

"(3) no later than 18 months after such a determination is made by the Merit Systems Protection Board.

"(f) Notwithstanding the provisions of subsection (a), no preference may be given to any employee applying for a transfer under subsection (b), with respect to a preference eligible (as defined under section 2108(3)) applying for the same position.".

(b) Technical Amendment.—The table of sections for chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3351 the following:

"3352. Preference in transfers for employees making certain disclosures.".

SEC. 6. INTERIM RELIEF.

Section 7701 of title 5, United States Code, is amended—

(1) by redesignating subsection (b) as paragraph (1) of subsection (b); and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) If an employee or applicant for employment is the prevailing party in an appeal under this subsection, the employee or applicant shall be granted the relief provided in the decision effective upon the making of the decision, and remaining in effect pending the outcome of any petition for review under subsection (e), unless—

"(i) the deciding official determines that the granting of such relief is not appropriate; or

"(ii)(I) the relief granted in the decision provides that such employee or applicant shall return or be present at the place of employment during the period pending the outcome of any petition for review under subsection (e); and

"(II) the employing agency, subject to the provisions of subparagraph (B), determines that the return or presence of such employee or applicant is unduly disruptive to the work environment.

"(B) If an agency makes a determination under subparagraph (A)(ii)(II) that prevents the return or presence of an employee at the place of employment, such employee shall receive pay, compensation, and all other benefits as terms and conditions of employment during the period pending the outcome of any petition for review under subsection (e).

"(C) Nothing in the provisions of this paragraph may be construed to require any award of back pay or attorney fees be paid before the decision is final.".

SEC. 7. SAVINGS PROVISIONS.

(a) Orders, Rules, and Regulations.—All orders, rules, and regulations issued by the Merit Systems Protection Board or the Special Counsel before the effective date of this Act shall continue in effect, according to their terms, until modified, terminated, superseded, or repealed.

(b) Administrative Proceedings.—No provision of this Act shall affect any administrative proceeding pending at the time such provisions take effect. Orders shall be issued in such proceedings, and appeals shall be taken therefrom, as if this Act had not been enacted.

(c) Suits and Other Proceedings.—No suit, action, or other proceeding lawfully commenced by or against the members of the Merit Systems Protection Board, the Special Counsel, or officers or employees thereof, in their official capacity or in relation to the discharge of their official duties, as in effect immediately before the effective date of this Act, shall abate by reason of the enactment of this Act. Determinations with respect to any such suit, action, or other proceeding shall be made as if this Act had not been enacted.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS; RESTRICTION RELATING TO APPROPRIATIONS UNDER THE CIVIL SERVICE REFORM ACT OF 1978; TRANSFER OF FUNDS.

(a) Authorization of Appropriations.—There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated—

(1) for each of fiscal years 1989, 1990, 1991, 1992, and 1993, $20,000,000 to carry out subchapter I of chapter 12 of title 5, United States Code (as amended by this Act); and

(2) for each of fiscal years 1989, 1990, and 1991, $5,000,000 to carry out subchapter II of chapter 12 of title 5, United States Code (as amended by this Act).

(b) Restriction Relating to Appropriations Under the Civil Service Reform Act of 1978.—No funds may be appropriated to the Merit Systems Protection Board or the Office of Special Counsel pursuant to section 903 of the Civil Service Reform Act of 1978 (5 U.S.C. 5509 note).

(c) Transfer of Funds.—The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available to the Special Counsel of the Merit Systems Protection Board are, subject to section 1531 of title 31, United States Code, transferred to the Special Counsel referred to in section 1211 of title 5, United States Code (as added by section 3(a) of this Act), for appropriate allocation.

SEC. 9. TECHNICAL AND CONFORMING AMENDMENTS.

(a)(1) Section 2303(c) of title 5, United States Code, is amended by striking "the provisions of section 1206" and inserting "applicable provisions of sections 1214 and 1221".

(2) Sections 7502, 7512(E), 7521(b)(C), and 7542 of title 5, United States Code, are amended by striking "1206" and inserting "1215".

(3) Section 1109(a) of the Foreign Service Act of 1980 (22 U.S.C. 4139(a)) is amended by striking "1206" and inserting "1214 or 1221".

(b) Section 3393(g) of title 5, United States Code, is amended by striking "1207" and inserting "1215".

SEC. 10. BOARD RESPONDENT.

Section 7703(a)(2) of title 5, United States Code, is amended to read as follows:

"(2) The Board shall be named respondent in any proceeding brought pursuant to this subsection, unless the employee or applicant for employment seeks review of a final order or decision on the merits on the underlying personnel action or on a request for attorney fees, in which case the agency responsible for taking the personnel action shall be the respondent.".

SEC. 11. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 90 days following the date of enactment of this Act.

The SPEAKER pro tempore. Is a second damanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Colorado [Mrs. Schroeder] will be recognized for 20 minutes and the gentleman from New York [Mr. Horton] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Colorado [Mrs. Schroeder].

Mrs. SCHROEDER. Mr. Speaker, If there were an Olympic event in legislative compromise—a sport in which perserverance, intelligence, charm, and steadfastness played pivotal roles—the Gold Medalist would be Frank Horton. Because of Frank Horton's efforts, we are able to present to the House a whistleblower protection bill supported by both the Reagan administration and the ACLU; a bill endorse by Federal unions and managers.

The Committee on Post Office and Civil Service reported H.R. 25, strong whistleblower legislation, 14 months ago. The administration opposed that bill. Representative Horton told them that was not good enough. He convinced OMB Deputy Director Joe Wright that good whistleblower protection legislation which the administration could support could be developed. Frankly, I was a doubter: I was not sure a good compromise could be reached. Well, Frank Horton forced us to negotiate. It was long, it was not pleasant; but, it resulted in a good bill which everyone can support.

Congress in 1978 created statutory whistleblower protection for Federal employees in the Civil Service Reform Act. That scheme has failed for two basic reasons: first, the Merit Systems Protection Board and the courts have construed the law very narrowly, virtually wiping out recourse for whistleblowers. Second, the Special Counsel—the official established to protect employees—misunderstood its job. The Special Counsel said it was trying to protect the merit system. But, instead of trying to protect victims of prohibited personnel practices, the Special Counsel started attacking the very people who came to the office for help.

In this bill, we deal with both problems. We specifically reverse or modify a number of MSPB and judicial decisions. Most importantly, the Board created an affirmative defense for agencies which provided that if an agency could show that there were other grounds to take a personnel action, the action would stand even if the action was taken largely for improper, retaliatory motives. We rewrite the test to make it quite easy for a whistleblower to prove a prima facie case of retaliation and to force the agency to prove, by clear and convincing evidence, that the action would have been taken in the absence of the protected disclosure.

Courts held that, where an employee went to the Special Counsel and the Special Counsel decided not to help, the employee was out of luck. We eliminate that problem by giving employees an individual right of action to take their cases to the Board. MSPB decided it had no power to issue orders to protect witnesses during Special Counsel investigations, that it had no power to order interim relief for employees winning at the administrative judge level, and that an employee who decided to take his or her retirement when faced with an adverse action, could not then appeal the adverse action, All these decisions were bad and we reverse them in this bill. The courts said that MSPB could not defend its own jurisdiction or procedures in court on appeal. That decision was silly, so we reverse that decision as well.

As for the conduct of the Office of Special Counsel, correction required precise provisions limiting the authority of the Special Counsel. We made the office an independent agency to avoid any possibility of undue influence. We limited the Special Counsel's ability to intervene in cases, and release information, and we stripped away the office's power to block employees' access to the MSPB. And, we wrote in a purposes section to clearly communicate that the job of the Special Counsel is to represent and protect employees and never act to their detriment. To hold the Special Counsel accountable to do the job right, we wrote a 3-year sunset into the bill. If Special Counsel returns to the sort of antiemployee conduct it has so frequently exhibited in the past, the office will be terminated on September 30, 1991.

Because of the imminent end of the session, we skipped conference and worked out an agreed version with the Senate, which is the bill we are presenting today. To explain the compromises contained in this version, we developed a joint explanatory statement which follows:

JOINT EXPLANATORY STATEMENT

INTRODUCTION

The Senate, on August 8, 1988, passed S. 508, the Whistleblower Protection Act (See S. Rpt. 100-413). One year earlier, on August 5, 1987, the House Committee on Post Office and Civil Service favorably reported H.R. 25 (See H. Rpt. 100-274).

From the time that the House Committee reported the legislation in August 1987 to the present, there have been extensive negotiations to develop a version of H.R. 25 which would be acceptable to the Administration and address the serious problems with the current federal employee whistleblower protection scheme. The negotiations culminated in a draft dated September 22, 1988. Due to the imminent end of the 100th Congress, Rep. Pat Schroeder and Rep. Frank Horton, the House sponsors of the legislation, decided that it would expedite consideration if differences between S. 508, as passed, and the September 22 draft of H.R. 25 could be resolved prior to House consideration.

The amendment brought to the House today, October 3, is the result of those negotiations with the Senate. If the House passes the Senate bill with the amendment, the same language will be presented to the Senate. Senate passage will clear the legislation for the President.

This joint explanatory statement explains new provisions of the version being considered. Some provisions in the amendment were contained in both H.R. 25, as reported, and S. 508, as passed. Those provisions are not discussed in this document but are fully discussed in the Senate report, the House report, or both.

Code sections cited are in title 5, United States Code, as amended by the House amendment.

1. Purpose

Section 2(b) of the bill lays out the purpose of the bill. Simply stated, the bill seeks to eliminate two types of impediments which have made it unduly difficult for whistleblowers and other victims of prohibited personnel practices to win redress. One category of impediments is a string of restrictive Merit Systems Protection Board and federal court decisions. Specific provisions of the bill modify or overturn inappropriate administrative or judicial determinations and make it more likely that whistleblowers and other victims of prohibited personnel practices will win their cases.

The second category of impediments are due to the policies of the Office of Special Counsel and stem from the Special Counsel's view of its role. The clear intent of the Civil Service Reform Act of 1978 (P.L. 94-454) was that the Special Counsel should protect and defend the rights of employees who were the victims of prohibited personnel practices. Nevertheless, the Office of Special Counsel determined that its role was to protect the merit system. And, as the General Accounting Office pointed out in its 1985 report on the operations of the Office of Special Counsel (GAO/GGD-85-53), the law could be read to support the Special Counsel's view.

The two divergent views of the role of the Office of Special Counsel—protection of the victims of prohibited personnel practices and protection of the merit system—do not conflict in most cases. However, the Special Counsel's view of the role of the Office—protecting the merit system—can and has led to instances in which the Special Counsel has acted to the actual detriment of employees seeking help from that Office. Such instances are at odds with our view of the very purpose of this Office. The purpose set out in section 2, as well as a number of operative provisions contained in the bill, is intended to foreclose the possibility that the Special Counsel will act to the detriment of an employee who comes to the Special Counsel for help.

There should be no doubt about legislative intent in passing this bill. Individuals should be able to go to the Special Counsel to make a disclosure under section 1213 of title 5, United States Code, to complain about a prohibited personnel practice under section 1214, or to allege a violation of another law within the jurisdiction of the Special Counsel under section 1216, without any fear that the information they provide or the investigation their disclosure triggers is used against them. Simply put, the Special Counsel must never act to the detriment of employees who legitimately seek the help of the Special Counsel. Unless employees have confidence that they will not be hurt by going to the Special Counsel—that the Special Counsel is a safe haven—the Office can never be as effective as Congress intends in protecting victims of prohibited personnel practices.

Language in the Senate-passed bill saying that the Special Counsel may not act contrary to the interests of employees was deleted as unnecessary.

2. Antiharassment authority of Board

Section 1204(e)(1)(B) authorizes the Merit Systems Protection Board to grant protective orders to protect a witness or other individual from harassment either during a proceeding before the Board or during a

Special Counsel investigation. Such an order may be granted upon a request from the Special Counsel or any other person, whether or not a party to the case, or on the Board's own motion except that an agency may not request a protective order concerning an investigation by the Office of Special Counsel during the course of such investigation.

This provision is intended to protect witnesses in order to aid the fact-finding process. Without the candid and honest testimony of those involved in the underlying relevant facts, unimpeded by threats or intimidation, prohibited personnel practice cases could easily be undermined by the defendent agency. The authority granted to the Board under this provision is intended to protect employees who are cooperating with such investigation from harassment by other employees.

3. Special Counsel intervention in adverse action and independent right of action cases

Section 1212(d) establishes the rules under which the Special Counsel may intervene in proceedings before the Merit Systems Protection Board. Where the proceeding is an appeal from an adverse action under section 7701 of title 5, United States Code, or an individual right of action, created by newly added section 1221 of title 5, United States Code, the general rule is that the Special Counsel may not intervene without the consent of the individual bringing the action.

Two exceptions are provided. One exception, contained in section 1212(d)(2)(B)(i) provides that the Special Counsel may intervene where the individual has been charged by the agency with conduct constituting a prohibited personnel practice and the Special Counsel has reasonable grounds to believe that such a prohibited personnel practice has occurred, exists, or is to be taken. The Special Counsel could only have such reasonable grounds where through its independent investigation, the Special Counsel has uncovered probative evidence concerning the employee's alleged prohibited personnel practice. Under no other circumstances is intervention, without the consent of the individual bringing the action, permitted.

It should be noted that the Special Counsel can intervene to argue that the conduct alleged by the agency constitutes a prohibited personnel practice other than the one alleged by the agency. It is not permissible, however, for the Special Counsel to intervene and assert a prohibited personnel practice based on different conduct from the conduct which serves as the basis of the agency's action.

The other exception, spelled out in section 1212(d)(2)(B)(ii) concerns cases in which the Special Counsel has granted a waiver to an agency to proceed with disciplinary action notwithstanding the pendency of a Special Counsel investigation.

In addition, this provision authorizes the Special Counsel to "otherwise participate" in proceedings before the Board. This language is intended to authorize the Special Counsel to file amicus briefs on points of law. It is not intended to permit the Special Counsel to examine witnesses, introduce evidence, or otherwise participate in the development of the facts of the case, without the consent of the individual bringing the action.

Under no circumstances may the Special Counsel engage in ex parte contacts with the agency or supply information to agency management which would serve as the basis for agency action against an employee. Once again, the Special Counsel should not act to the deteriment of employees who legitimately seek the Office's help.

4. Special Counsel release of information about investigations

Section 1212(h) governs the Special Counsel's response to inquiries and provision of information concerning individuals who come to the Special Counsel for help. Again, the policy behind this provision is that employees should be able to go to the Special Counsel without fear of information being used against them. Section 1212(h)(1) provides that disclosures can only be made in accordance with the provisions of the Privacy Act. The language "as required by any other applicable Federal law" is intended to apply only in cases in which a statute specifically requires the Special Counsel to provide information otherwise protected by this section. It does not authorize the Special Counsel to disclose such information simply because the Special Counsel believes that such disclosure would facilitate the operation of another statute.

Section 1212(h)(2) states that, regardless of what the Privacy Act or some future enactment may provide, the Special Counsel can only release information concerning an employee's work performance, ability, aptitude, general qualifications, character, loyalty, or suitability under one of two circumstances. First, the information can be released with the advance written consent of the individual to whom the information pertains. Second, the information can be released to a federal agency when that agency is conducting a background check to clear an employee for access to Top Secret information, Sensitive Compartmented Information (SCI), or Q restricted data relating to atomic energy. The statutory language "information the unauthorized disclosure of which could be expected to cause exceptionally grave danger to the national security" comes directly from Executive Order No. 12356 and constitutes the definition of Top Secret information. The Special Counsel may not provide any information for a suitability check, a preemployment screening, whether by a private or governmental employer, or a background investigation for a clearance to Secret, Confidential or R restricted data.

It is assumed that agencies conducting security clearance background checks will not establish procedures under which the Special Counsel is queried for any and all information it possesses on any individual who is being investigated for a high level clearance. Rather, inquiries will only be made when the investigators are following a lead otherwise uncovered which takes them to the Office of Special Counsel.

The restrictions on the disclosure of information cover both the period during which the investigation is occurring and the period after the investigation is complete.

5. Protection of identity of individuals making whistleblowing disclosures to Special Counsel

Section 1213(h)(2) provides that the Special Counsel may disclose the identity of an individual who discloses information to the Special Counsel only (1) with the individual's consent; (2) where necessary to carry out the functions of the Special Counsel; and (3) where "necessary because of an imminent danger to public health or safety or imminent violation of any criminal law." Again, the overriding purpose of the bill is to protect individuals who seek the assistance of the Special Counsel; they should not be subject to harm because they sought help. These exceptions are to be defined narrowly.

The exception concerning the carrying out of the functions of the Special Counsel means that a specific statutory of the Special Counsel that a specific disclosure of the individual's name. For example, a decision by the Special Counsel to initiate an action before the MSPB may necessitate the disclosure of the identity of the individual on whose behalf the action is initiated. This provision is not intended to permit the Special Counsel to disclose an individual's identity, without that individual's consent, merely because such disclosure could be helpful in an investigation.

The imminent danger exception recognizes the countervailing public interest in protecting health and safety. The exception is quite narrow: it might be used, for example, where the Special Counsel learns that the individual making the disclosure plans to take violent action against a supervisor.

6. Exhaustion requirement prior to filing individual right of action

Section 1214(a)(3) provides that employees, former employees, and applicants for employment must first seek the assistance of the Office of Special Counsel before bringing an individual right of action under section 1221. If the Special Counsel notifies the individual that the investigation has been terminated, the individual has 60 days in which to file an independent right of action. If the individual receives no notice of termination of the investigation within 120 days of filing the complaint, he or she may file an individual right of action at any time after the 120 day period has elapsed.

7. Burden of proof

The bill makes it easier for an individual (or the Special Counsel on the individual's behalf) to prove that a whistleblower reprisal has taken place. To establish a prima facie case, an individual must prove that the whistleblowing was a factor in the personnel action. This supersedes the existing requirement that the whistleblowing was a substantial, motivating or predominant factor in the personnel action.

One of many possible ways to show that the whistleblowing was a factor in the personnel action is to show that the official taking the action knew (or had constructive knowledge) of the disclosure and acted within such a period of time that a reasonable person could conclude that the disclosure was a factor in the personnel action.

The bill establishes an affirmative defense for an agency. Once the prima facie case has been established, corrective action would not be ordered if the agency demonstrates by clear and convincing evidence that it would have taken the same personnel action in the absence of the disclosure. Clear and convincing evidence is a higher standard of proof than the preponderance of the evidence standard now used.

With respect to the agency's affirmative defense, it is our intention to codify the test set out by the Supreme Court in the case of *Mt. Healthy City School District* v. *Doyle*, 429 U.S. 274, 287 (1977). The only change made by this bill as to that defense is to increase the level of proof which an agency must offer from "preponderance of the evidence" to "clear and convincing evidence"

8. Other responsibilities of Special Counsel

Section 1216 clarifies the existing ancillary responsibilities of the Special Counsel. The authority of the Special Counsel to investigate allegations under section 1216(a)(4) is meant to cover major abuses of the civil service processes, such as political intrusion in personnel decisionmaking. The Special Counsel would be expected to investigate allegations of the type of wholesale politicization of civil service appointment procedures as occurred in the early 1970's under this authority. In such cases, the Special Counsel is authorized to seek corrective action, but not disciplinary action.

9. Special Counsel public information

The bill establishes a new section of law (section 1219 of title 5, United States Code) which sets out the requirements on the Office of Special Counsel to maintain and make available to the public certain information. The public files of the Special Counsel should include the comments of the individual who discloses the information under section 1213 which leads to the agency report unless the individual does not consent to the public availability of such comments.

10. Standards for stays in individual right of action cases

Section 1221(c) establishes the standards for stays and their dissolution in individual right of action cases. The bill provides that the Board shall determine whether the stay is appropriate, shall set the duration of the stay, as appropriate, and shall dissolve or modify the stay if appropriate. In making these determinations of appropriateness, the Board shall primarily consider whether there is a substantial likelihood that the individual will prevail on the merits and whether the stay would result in extreme hardship to the agency subject to the stay.

11. Time limit for MSPB decisions in individual right of action cases

Section 1221(f)(1) provides that the Board shall issue a decision on an individual right of action as soon as practicable after it is filed. While prompt decisions are strongly encouraged, and, it should be noted, the Board has done a commendable job in meeting time limits in adverse action cases, such prompt decisions should not come at the expense of full discovery. No litigant, whether in an individual right of action or in an appeal from an adverse action, should be deprived of the right to find the information needed to prove his or her case because to permit such discovery would result in the case not being decided within the regulatory time limits.

12. Attorneys fees

Section 1221(g) provides for the payment of reasonable attorneys fees in all types of proceedings before the MSPB or the courts where the employee, former employee, or applicant for employment prevails and the decison is based on the finding of a prohibited personnel practice. This provision is not limited to inadequate right of action cases.

MSPB and the courts have established substantial case law on what constitutes reasonable attorneys fees. The additional phrase "and any other reasonable costs incurred" is meant to include costs directly related to the litigation, such as photocopying, long distance telephone calls, and production of evidence, but is not meant to include other extraneous costs resulting from the prohibited personnel practice but not directly related to the litigation such as job counseling and retraining.

13. Election of remedies

The House version of the legislation contained a provision requiring an election of remedies between an appeal from an adverse action and an individual right of action. This provision was deleted because of concern that a jurisdictional loss in an adverse action appeal could bar an individual pursuing an individual right of action. Nevertheless, it is not intended that the MSPB hear the same case twice. If an individual has pursued the matter before MSPB on the merits under one right of action, the Board is expected to dismiss a case brought under another authority concerning the same matter under the doctrine of *stare decisis*.

14. Retirement does not cut off adverse action right

Section 1221(j) provides that the decision of an employee to retire when faced with a proposed adverse action does not cut off that employee's right to appeal to MSPB to challenge the adverse action. This section is not limited to individual right of action cases. If an individual who has retired or received a lump sum refund is subsequently reinstated pursuant to a MSPB or court decison with back pay, the Back Pay Act (5 U.S.C. 5596) provides that adjustments shall be made to provide that the individual is treated as if the unjustified personnel action had never occurred. Under this theory, the individual receives back pay. If that happens, the money received from the retirement fund should be treated as if it were erroneously paid and the Office of Personnel Management should recover the erroneous payment. The waiver provisions under sections 8346(b) and 8470(b) of title 5 should not be applicable.

15. Availability of other remedies

The bill contains a new section 1222 of title 5, United States Code, which provides that the network of rights and remedies created under chapter 12 and chapter 23 of title 5 is not meant to limit any right or remedy which might be avilable under any other statute. Other statutes which might provide relief for whistleblowers include the Privacy Act, a large number of environmental and labor statutes which provide specific protections to employees who cooperate with federal agencies, and civil rights statutes under title 42, United States Code. Section 1222 is not intended to create a cause of action where none otherwise exists or to reverse any court decision. Rather, section 1222 says it is not the intent of Congress that the procedures under chapters 12 and 23 of title 5, United States Code, are meant to provide exclusive remedies.

16. Changes in whistleblowing prohibited personnel practice

The bill makes certain changes in the definition of reprisal for whistleblowing (5 U.S.C. 2302(b)(8)). Among the changes or the inclusion of threats as a prohibited personnel practice, both with relation to whistleblowing and in relation to prohibited personnel practices defined in section 2302(b)(9). Mere harassment and threats, without any formally proposed personnel action, can constitute a prohibited personnel practice under this language.

It is obvious, but worth noting, that no Executive order, regulation, or contract can extinguish the rights provided under section 2302 of title 5. Employees have been required to sign security agreements as a condition for gaining access to classified information which seem to suggest that the signers of such agreements could be punished for disclosures protected by 5 U.S.C. 2302(b)(8). Insofar as these agreements seem to limit the ability of whistleblowers to exercise rights provided under chapters 12 and 23 of title 5, the security agreements are not valid.

Nevertheless, nothing in this bill permits the disclosure of classified information to any uncleared individual. Sections 2302 and 1213 set out clear channels for disclosure of wrongdoing in classified form. Such information can be properly and legally disclosed to the Special Counsel, to the Inspector General of an agency, or to a member of Congress.

17. Changes in appeal right prohibited personnel practice

The bill establishes a new prohibited personnel practice which protects employees in their right to refuse to obey an order that would require the individual to violate a law. This is a narrower form of a provision that was in H.R. 25, as reported. The establishment of this protection is meant to achieve a balance between the right of American citizens to a law-abiding government and the desire of management to prevent insubordination.

Executive Office of the President, Office of Management and Budget,
Washington, DC, October 3, 1988.
Hon. Patricia Schroeder,
House of Representatives,
Washington, DC.

Dear Congresswoman Schroeder: I would like to commend you for the hard work you have put in over the last eight months on S. 508, the "Whistleblower Protection Act of 1988." While the bill does not provide everything we wanted it will enhance the protection of whistleblowers—a goal which the Administration shares with you.

For the first time a whisleblower will have an independent right to take his case to the Merit System Protection Board (MSPB) and to request that MSPB issue a stay order on his behalf. The bill would also establish threats to take or not take an action as a prohibited personnel practice and would grant whistleblowers preferential treatment in certain transfer actions. Further, the Office of Special Counsel would be established as an agency separate from the MSPB with enhanced authorities.

Pat, thank you for working with Congressman Horton and the Administration on this important legislation.

Best Regards,

Joseph R. Wright, Jr.,
Deputy Director.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this legislation. It is an excellent bill that I believe will vastly improve our Government's ability to protect those Federal employees who disclose waste and wrongdoing in the Federal bureaucracy. It will help protect these employees from adverse actions that they sometimes endure as a result of their disclosures.

The bill accomplishes this in a number of ways, but principally, it improves the operational and authority structure of the Office of Special Counsel, which is the Federal entity responsible for whistleblower protection. One of the principal functions of this office, upon its establishment by the 1978 Civil Service Reform Act, was to protect whistleblowers and investigate their allegations.

Hearings conducted by our Civil Service Subcommittee, both in this and in the previous 99th Congress, identified operational deficiencies in the Office of Special Counsel. They also highlighted problems about the mission of the special counsel. This bill, S. 508, addresses both of these areas. It makes very clear that both whistleblower protection and the investigation of whistleblower allegations are principal responsibilities of the Office. It also gives broader authority to the special counsel to exercise its responsibilities.

The bill restricts and specifies the conditions under which disclosures to the special counsel can be released. It makes it easier for whistleblowers to prove a connection between their disclosures of wrongdoing and resultant adverse actions taken against them. The bill requires the regular reporting to whistleblowers of the status of their case. Further, and of great importance is a provision of the bill granting the special counsel the authority to stay actions taken against employees.

Legitimate whistleblowers deserve the fullest protection we can provide. This bill makes great strides forward in providing that protection. And, I might add, it does this without diminishing the ability of agencies and departments to fulfill their respective missions.

It has taken literally two Congress' to reach this point, a point where we now have legislation acceptable to the House, the Senate and the administration. This was no easy task; it took many many hours of hard and sometimes strained negotiation. Two individuals deserve credit for this accomplishment. They are the chair of my Civil Service Subcommittee Pat Schroeder and the Deputy Director—soon to be Director—of the Office of Management and Budget, Joe Wright. Both of these individuals and their staffs worked countless hours and overcame countless frustrations to reach this point.

I have the highest regard for Joe Wright, who made a commitment to me and Chairwoman Schroeder in early 1987 that he would work with us to fashion a good bill. He did just that. Without his leadership, we would not be here today with the consensus we enjoy. I also want to thank Don Upson, my staff director of the Government Operations Committee, and Andy Feinstein, the staff director of the Civil Service Subcommittee. They worked countless hours, right up until this morning, to bring this bill to the floor.

And finally, to the chairperson of the Civil Service Subcommittee, Pat Schroeder. You and I have worked on this bill now for 4 years. Clearly, we are here today because of your leadership, your commitment to whistleblowers, and your ability to negotiate and strike a fair compromise. My hat goes off to you and your staff. It is to your credit that we will pass legislation today that does not just pass the House and die, but that will, I am sure, pass the House, the Senate, and finally, be signed into law by the President.

Congratulations, it has been and is a pleasure to work with you.

Office of Management and Budget,
Washington, DC, October 3, 1988.

Hon. Frank Horton,
U.S. House of Representatives, Washington, DC.

Dear Congressman Horton: I would like to congratulate you on the fine work you have done over the last eight months to develop the "Whistleblower Protection Act of 1988." While this bill does not include everything we wanted, it will significantly improve protection for whistleblowers—a goal which the Administration shares with you.

For the first time a whistleblower will have an independent right to take his case to the Merit Systems Protection Board (MSPB) and to request that MSPB issue a stay order on his behalf. The bill would also establish threats to take or not take an action as a prohibited personnel practice and would grant whistleblowers preferential treatment in certain transfer actions. Further, the Office of Special Counsel would be established as an agency separate from the MSPB with enhanced authorities.

These new authorities are significant and I would like to thank you personally for the repeated efforts you have made to work with the Administration on developing S. 508.

Best regards,

Joseph R. Wright, Jr.,
Deputy Director.

□ 1545

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. SCHROEDER. Mr. Speaker, I want to thank the gentleman from New York [Mr. Horton] again, and I thank the staff as well for their patience. I appreciate the time, the effort, and the conviction of all these people. This has been an absolutely amazing effort.

Mr. GILMAN. Mr. Speaker, I rise in support of the Whistleblower Protection Act and I commend the gentlelady from Colorado Mrs. Schroeder for crafting this bill. The bill provides stronger protection to Federal employees who disclose waste, mismanagement, danger to public safety, and violations of law. It changes the primary role and focus of the Office of Special Counsel [OSC] to protection of employees who claim to be the victims of reprisals for whistleblowing.

Ninety days after enactment, the bill strengthens rights of civil service employees by:

Expanding the OSC role to act as an advocate for individual whistleblowers—similar to the role of attorney-client—rather than an independent enforcer of the Federal personnel merit system;

Establishing the OSC as an independent agency with authorizations of $5 million in each of fiscal years 1989-91;

Not disclosing the identity of an informant without the informant's permission;

Creating an individual right of action allowing' employees to seek stays and corrective actions directly from MSPB instead of going through the OSC;

Providing judicial review for individuals adversely affected by a decision or order of the MSPB; and

Permitting individuals who are the prevailing party in an adverse action appeal to receive interim relief based on an administrative judge's decision rather than waiting for the outcome of any petition for reveiw of the decision.

The time has come to ensure that whistleblowers are completely protected by Federal law. This bill goes a long way toward that end. Accordingly, I urge my colleagues to support S. 508.

Mrs. SCHROEDER. Mr. Speaker, I have no further requests for time, and I yield back the balance of time.

The SPEAKER pro tempore (Mr. Montgomery). The question is on the motion offered by the gentlewoman from Colorado [Mrs. Schroeder] that the House suspend the rules and pass the Senate bill, S. 508, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

AGRICULTURAL QUARANTINE ENFORCEMENT ACT

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5199) to make nonmailable any plant, fruit, vegetable, or other matter, the movement of which in interstate commerce has been prohibited or restricted by the Secretary of Agriculture in order to prevent the dissemination of dangerous plant diseases or pests, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5199

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NONMAILABLE PLANTS.

(a) AMENDMENTS TO TITLE 39.—

(1) IN GENERAL.—Chapter 30 of title 39, United States Code, is amended by adding at the end the following:

"§ 3014. Nonmailable plants

"(a)(1) Whenever the Secretary of Agriculture establishes a quarantine under section 8 of the Plant Quarantine Act, prohibiting the transportation by common carrier of any plant from any State or other geographic area, the Secretary shall give notice of the establishment of such quarantine to the Postal Service in writing.

"(2) Upon receiving any such notice under paragraph (1), the Postal Service shall ensure that copies of such notice are prominently displayed at post offices located within each State or area covered by the quarantine, and shall take any other measures which the Postal Service considers necessary in order to inform the public both of the establishment of such quarantine and of relevant provisions of this section and sections 1716B and 1716C of title 18 in connection therewith.

"(b) Any plant, the transportation of which by common carrier from any State or other area is prohibited or restricted under any quarantine referred to in subsection (a), is nonmailable matter, and may not be accepted by the Postal Service or conveyed in the mails, if the matter involved is tendered for transmission through the mails from such State or area or if such matter first enters the mails within such State or area.

"(c) The Postal Service shall, after consultation with the Secretary of Agriculture, prescribe rules and regulations permitting the mailing of a plant, and otherwise making subsection (b) of this section inapplicable with respect to such plant, if the method or manner of mailing such plant would be consistent with the procedures set forth in the rules and regulations prescribed under the fourth sentence of section 8 of the Plant Quarantine Act (relating to the inspection, disinfection, and certification of, and other conditions for, the delivery and shipment of plants otherwise subject to quarantine).

"(d) For the purposes of this section—

"(1) 'Plant Quarantine Act' means the Act entitled 'An Act to regulate the importation of nursery stock and other plants and plant products; to enable the Secretary of Agriculture to establish and maintain quarantine districts for plant diseases and insect pests; to permit and regulate the movement of fruits, plants, and vegetables therefrom, and for other purposes', enacted August 20, 1912 (37 Stat. 315 et seq.); and

"(2) 'plant' means any class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products, any class of nursery stock (as defined by section 6 of the Plant Quarantine Act), and any other article or matter which is capable of carrying any dangerous plant disease or pest.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 30 of title 39, United States Code, is amended by adding after the item relating to section 3013 the following:

"3014. Nonmailable plants.".

(b) AMENDMENTS TO TITLE 18.—

(1) IN GENERAL.—Title 18, United States Code, is amended by inserting after section 1716A the following:

"§ 1716B. Nonmailable plants

"Whoever knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail, according to the direction thereon, or at any place at which it is directed to be delivered by the person to whom it is addressed, anything declared nonmailable by section 3014(b) of title 39, unless in accordance with the rules and regulations prescribed by the Postal Service under section 3014(c) of such title, shall be fined under this title, or imprisoned not more than one year, or both.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 83 of title 18, United States Code, is amended by inserting after the item relating to section 1716A the following:

"1716B. Nonmailable plants.".

SEC. 2. FORGED AGRICULTURAL CERTIFICATIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after section 1716B, as added by section 1(b)(1), the following:

"§ 1716C. Forged agricultural certifications

"Whoever forges or counterfeits any certification authorized under any rules or regulations prescribed under section 3014(c) of title 39 with intent to make it appear that such is a genuine certification, or makes or knowingly uses or sells, or possesses with intent to use or sell, any forged or counterfeited certification so authorized, or device for imprinting any such certification, shall be fined under this title, or imprisoned not more than one year, or both.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 83 of title 18, United States Code, is amended by inserting after the item relating to section 1716B, as added by section 2(b)(2), the following:

"1716C. Forged agricultural certifications.".

SEC. 3. SENSE OF THE CONGRESS.

It is the sense of the Congress that the United States Postal Service and the Department of Agriculture should, using the resources and methods available to each, engage in a joint effort to educate the public as to the types of harm which can result from the transmission to different parts of the country of plants, fruits, vegetables, and other matter which may be carrying dangerous plant diseases or pests. To that end, particular emphasis should be placed on such matters as—

(1) the potential for injury to crops and other agricultural products, and the economic consequences to farmers, the consumer, and the Nation's balance of trade, likely to result therefrom;

(2) the environmental impact associated with the spread of plant diseases and pests, including the potentially catastrophic consequences which can result if a natural predator or other inhibiting factor which is present in one area is absent in an area to which the disease or pest has spread; and

(3) the economic and other costs associated with attempting to eliminate or control plant diseases and pests.

SEC. 4. EFFECTIVE DATE.

(a) IN GENERAL.—This Act and the amendments made by this Act shall become effective on the earlier of—

(1) the 366th day after the date of the enactment of this Act; or

(2) the first date as of which all rules and regulations required to be prescribed under the amendments made by this Act have first been published in the Federal Register.

(b) REGULATIONS.—Nothing in this section shall prevent the United States Postal Service from taking any action which may be necessary to prepare and issue, as soon as possible after the date of the enactment of this Act, any rules and regulations which the Postal Service is required to prescribe under any of the amendments made by this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. McCLOSKEY] will be recognized for 20 minutes and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. MCCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I move to suspend the rules and pass the bill H.R. 5199 with amendments. H.R. 5199, amends Title 39, United States Code, to make nonmailable any plant, fruit, vegetable, or other matter, the movement of which in interstate commerce has been prohibited or restricted by the Secretary of Agriculture in order to prevent the dissemination of dangerous plant diseases or pests.

The Post Office and Civil Service Committee unanimously passed this legislation and the Agriculture and Judiciary Committees have waived jurisdiction. Before I discuss the bill, I would state that the amendments to this legislation make technical corrections to the bill and reduces the maximum penalty for forging a postal certification from 5 years imprisonment to 1 year imprisonment.

Last month, the Los Angeles County agricultural commissioner announced that a $1 million eradication effort had apparently been successful in eliminating a Mediterranean fruit fly infestation in the San Fernando Valley. However, a quarantine remains in effect over a 62-square-mile area. Clearly, fruit flies threaten California's No. 1 industry—agriculture. It is vital that all actions be taken to prevent future infestations. This legislation, H.R. 5199, will provide another weapon to block the spread of agricultural pests and diseases.

Half of the Nation's fruits, vegetables, and nuts are produced by California agricultrue with an annual production value of over $14 billion. This most recent fruit fly infestation is quite probably the result of a plant being transported from Hawaii to California through the U.S. mail.

Last fall, the subcommittee on Postal Personnel and Modernization and the Subcommittee on Postal Operations and Services held hearings on two similar bills, H.R. 1986, introduced by Representative COELHO and H.R. 3223, sponsored by Representative PASHAYAN. Plant diseases and pests represent a serious threat to American agricultural interests and consumers. Pest infestation not only increases costs and crop loss, but, in addition, reduces the quality of crops and disrupts markets when quarantines are imposed by other States and countries.

H.R. 5199 introduced by Representative COELHO, Congressman PASHAYAN and myself, will stem the mail pathway for plant pests and diseases by prohibiting the mailing of any package which contains a plant which has been listed by the Secretary of Agriculture under the Plant Quarantine Act. At the same time, the bill does not diminish fourth amendment protections of citizens concerning the privacy of the mails.

Packages will be allowed to be mailed, if the package has been certified by the Postal Service, in consultation with the Department of Agriculture, that the package is disease and pest free. This bill includes a criminal penalty for mailing a plant which has not been certified by the U.S. Postal Service. Finally the bill provides that it is the sense of the Congress that the Postal Service and the Department of Agriculture should engage in a joint effort to educate the public relative to the harm that can result from the dissemination of plant diseases and pests.

I would like to commend my colleagues, for their work on this bill which is necessary to prevent the spread of such pests as the Mediterranean and oriental fruit flies. I would especially like to acknowledge the hard work and leadership which Representative TONY COELHO has provided.

Clearly this legislation is long overdue and necessary and will assist in preventing the spread of plant diseases and pests. I urge my colleagues to support H.R. 5199.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to support this important legislation introducted by my colleagues CHIP PASHAYAN, TONY COELHO, and FRANK MCCLOSKEY.

Passage of the bill is necessary to prevent the transmission of harmful agricultural pests and diseases through domestic first-class mail. The bill would make nonmailable any plant, fruit, vegetable, or other matter that has been restricted by the Secretary of Agriculture under the Plant Quarantine Act.

California agriculture is presently facing a crisis, that crisis in the infestation of serious agricultural pests and diseases entering the State via first-class mail.

The legislation before us today is essential for the control of destructive pests and plant and animal diseases. Should the infestation of pests and diseases continue it will have a serious economic impact not only on California but on the United States as a whole.

This is bipartisan legislation that has a long legislative history. I believe, and the other parties involved with the legislation firmly believe that this legislation is the answer to the problem of pests entering the United States via first-class mail.

The Congressional Budget Office has said this legislation will not result in any significant cost to the Federal Government, and no cost to State and local governments.

Mr. McCLOSKEY. Mr. Speaker, I thank the distinguished gentleman from New York [Mr. HORTON], and I yield such time as he may consume to the gentleman from California [Mr. COELHO].

Mr. COELHO. Mr. Speaker, I would like to take this opportunity to thank my colleagues for their consideration of H.R. 5199, legislation I introduced to make nonmailable through first-class mail any quarantined plant, fruit, or vegetable, proven hosts of dangerous and destructive insects. This bill addresses the mailing of this quarantined material in an effort to prevent the dissemination of dangerous plant diseases or pests from one region into another by making it a criminal violation subject to fines up to $1,000, a jail term of 1 year, or both.

The need for this legislation is greater than ever. I was informed earlier this morning that 19 confirmed cases of Mediterranean fruit fly infestations were detected in the Culver City area of California over the weekend. Thirteen additional cases are currently being investigated for suspected infestations.

This is considered a major infestation which will cost anywhere from $2 to $3 million to eradicate. Spraying will begin Wednesday on a 36-square-mile region consisting mainly of residences and businesses.

In recent years, the detection and eradication of pests introduced to the mainland United States via mail parcels from exotic locations such as Hawaii and Puerto Rico has become common news. Six Mediterranean fruit flies were discovered in southern California in July and August of this year.

Eradication efforts have included the spraying of 10,000 acres by air as well as the release of 4 million sterile Mediterranean fruit flies. The cost of this eradication program alone is expected to exceed $1.2 million.

These pests are capable of destroying millions of dollars worth of agricultural goods. According to recent California Department of Food and Agriculture data, the eradication costs associated with the introduction of these pests into California through first-class mail has exceeded $110 million since 1980. Agriculture producers sustained losses of as much as $400 million due to the pest infestations of the early 1980's. Over the past several years, 28 of the 45 congressional districts of California have evidenced the detection and subsequent eradication of dangerous pests.

My legislation addresses this problem giving the U.S. Postal Service the tools it needs to effectively intercept infested packages. By placing a criminal penalty on the mailing of quarantined fruits and vegetables, suspected packages can be profiled and held until sufficient time has been allotted to obtaining a criminal search warrant enabling authorities to inspect the contents of the package. In addition to inspection provisions, the bill also includes language encouraging the U.S. Postal Service and the U.S. Department of Agriculture to initiate an education campaign directed at alerting the general public of the harm which can be sustained due to the mailing of quarantined materials. The inspection authority, in conjunction with the public education campaign, should greatly assist current efforts to curb further mainland infestations of such pests as the Mediterranean and oriental fruit flies.

As I said before, the need for this legislation could not be greater with the discovery of additional Med-fly infestations over the weekend. I would like to thank Mr. FORD, Mr. MCCLOSKEY, and their staff for the attention given this legislation. I appreciate the cooperation of all involved and would like to urge my colleagues to support the passage of H.R. 5199 at this time.

Mr. PASHAYAN. Mr. Speaker, I am pleased to support this important legislation and I want to thank you for your help in bringing the bill to the floor. I support H.R. 5199, and should like to thank my colleague FRANK MCCLOSKEY, the chairman of the Subcommittee on Postal Personnel and Modernization, for his patience and leadership on this measure. I should also like to thank my colleague TONY COELHO who has worked with me for years on finding a solution to this problem. I should also like to thank the State of California's Department of Food and Agriculture for their assistance throughout the drafting and redrafting of this legislation.

Passage of the bill is necessary to prevent the transmission of harmful agricultural pests and diseases through domestic first-class mail. The bill would make nonmailable any plant, fruit, vegetable, or other matter that has been restricted by the Secretary of Agriculture under the Plant Quarantine Act.

We presently face a serious difficulty in California agriculture, the infestation of serious agricultural pests and diseases entering the State via first-class mail.

The legislation before us today is essential to control destructive pests and plant and animal diseases. Should the infestation of pests and disease grow it will have a serious economic impact not only on California, but on the United States as a whole.

Mr. Speaker, this is bipartisan legislation that has a long legislative history. The other parties involved with the legislation and I firmly believe that this legislation is the answer to the problem of pests entering the United States via first-class mail. I hope that may colleagues will be able to support this measure.

Mr. HORTON. Mr. Speaker, I yield back the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. McCloskey] that the House suspend the rules and pass the bill, H.R. 5199, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

PROVIDING FOR CONGRESSIONAL DELEGATION IN CEREMONIES FOR THE 200TH ANNIVERSARY OF THE U.S. CONSTITUTION

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 115) providing for participation by delegations of members of both Houses of Congress in ceremonies to be held in April 1989 in New York City marking the 200th anniversaries of the implementation of the Constitution as the form of government of the United States, the inauguration of President George Washington, and the proposal of the Bill of Rights as the first 10 amendments to the Constitution.

The Clerk read as follows:

H. Con. Res. 115

Whereas the Constitution officially became the form of government of the United States on March 4, 1789;

Whereas New York City served as the first capital of the United States;

Whereas the first Congress convened in New York City in April 1789;

Whereas George Washington was inaugurated as the first President of the United States in New York City on April 30, 1789;

Whereas while meeting in New York City, the first Congress passed legislation creating the executive departments of the Federal government and the Federal court system; and

Whereas while meeting in New York City, the first Congress, under the leadership of Representative James Madison of Virginia, framed and proposed to the states the ten constitutional amendments known today as the Bill of Rights: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Speaker of the House of Representatives and the Majority Leader of the Senate, in consultation with the Minority Leaders of their respective Houses, are authorized and directed to appoint members of their respective Houses to serve on a delegation of members of the Congress which will take part in ceremonies to be held in New York City in April 1989 commemorating the 200th anniversaries of the implementation of the Constitution as the form of government of the United States, the inauguration of George Washington as the first President of the United States, and the proposal of the Bill of Rights as the first ten amendments to the Constitution, and shall invite the President to join this delegation in participating in these ceremonies.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Indiana [Mr. McCloskey] will be recognized for 20 minutes and the gentleman from New York [Mr. Horton] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. McCloskey].

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge passage of House Conference Resolution 115, which provides for participation of a delegation of House Members in a Bicentennial celebration in New York City next April 30. This celebration would commemorate the convening of the First Congress, the inauguration of George Washington in New York City and the sending out of the Bill of Rights.

It seems only fitting that the leadership be authorized to recognize and honor the Members of the First Congress and their extraordinary accomplishments.

This resolution has over 150 cosponsors and the support of the Bicentennial Commission.

Mr. Speaker, I reserve the balance of my time.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a senior member of the New York delegation to this body, I am proud to voice my support for House Concurrent Resolution 115. The State of New York has served as a cornerstone in the building of this country. From pre-Revolutionary War days through today, New York has witnessed countless historical events which have enriched the American legacy.

House Concurrent Resolution 115 commemorates the bicentennial of the implementation of our Constitution and the introduction of the 10 constitutional amendments which comprise our Bill of Rights. New York City served as the site of this Nation's first Capital and it was here that George Washington was inaugurated as the first President of the United States. The bill directs a congressional delegation be appointed to participate in ceremonies commemorating these great events. I know I speak for all my colleagues from New York when I urge all Members to support this legislation.

Mr. GILMAN. Mr. Speaker, I rise in support of House Concurrent Resolution 115, the bicentennial resolution. The year 1989 will be the 200th anniversary of the establishment of the Federal Government under the Constitution. Our constitutional form of Government is the keystone of our American culture. It is essential that Congress participate in honoring our first Members by participating in these commemorative events in New York City next year.

Accordingly, I urge my colleagues to support House Concurrent Resolution 115 and to attend the festivities of the inaugural, honoring the first Congress and our Bill of Rights.

Mr. SCHEUER. Mr. Speaker, I would like to commend Chairman Ford and the members of the Post Office and Civil Service Committee for their leadership in bringing House Concurrent Resolution 115 to the floor today.

I am hopeful that the House will express the bipartisan support of over 160 cosponsors by passing this resolution.

As my colleague from Indiana, Mr. McCloskey has stated, House Concurrent Resolution 115 provides for participation of a delegation of House Members at the bicentennial celebration in New York City next April.

The celebration will commemorate the inauguration of George Washington, the convening of the first Congress, and the introduction of the Bill of Rights in that Congress.

In New York City, the first Capital of the United States, the first Congress met and passed legislation creating the executive departments of the Federal Government and the Federal court system.

Under the leadership of James Madison of Virginia, they also framed and proposed to the States the first 10 amendments to the Constitution—the Bill of Rights.

It is only fitting that we should send a delegation to recognize and honor the Members of the First Congress and their extraordinary accomplishments.

This resolution would authorize the leadership of each House to appoint Members to serve in the delegation to this historic event.

The resolution has the support of the Bicentennial Commission, which is planning to take an active role in the New York City events.

This resolution does not ask Congress to pay for the events of the celebration. The city of New York, working with distinguished members of the city's legal, academic, and business communities, is raising private funds to pay for all of the events and the restoration of Federal Hall.

In addition, the city is planning programs to promote discussions on the Bill of Rights in its schools and communities.

I would like to commend the city of New York and its Washington staff for their outstanding work in planning this celebration.

Mr. HORTON. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. McCloskey] that the House suspend the rules and agree to the concurrent resolution, (H. Con. Res. 115).

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1600

GENERAL LEAVE

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on House Concurrent Resolution 115, the concurrent resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

OFFICE OF GOVERNMENT ETHICS REAUTHORIZATION

Mr. SIKORSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4712) to reauthorize the Office of Government Ethics, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4712

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Ethics in Government Act of 1978 (5 U.S.C. App.).

SEC. 2. REAUTHORIZATION.

Section 405 is amended to read as follows: "There are authorized to be appropriated to carry out the provisions of this title and for no other purpose—

"(1) not to exceed $2,500,000 for the fiscal year ending September 30, 1989; and

"(4) such sums as may be necessary for each of the five fiscal years thereafter.".

SEC. 3. OFFICE OF GOVERNMENT ETHICS TO FUNCTION INDEPENDENTLY.

(a) ESTABLISHMENT AS A SEPARATE EXECUTIVE AGENCY.—Section 401(a) is amended by striking "in the Office of Personnel Management an office to be known as" and inserting "an executive agency to be known as".

(b) APPOINTMENT AND CONTRACTING AUTHORITY.—Section 401 is amended by adding at the end of the following:

"(c) The Director may—

"(1) appoint officers and employees, including attorneys, in accordance with chapter 51 and subchapter III of chapter 53 of title 5, United States Code; and

"(2) contract for financial and administrative services (including those related to budget and accounting, financial reporting, personnel, and procurement) with the General Services Administration, or such other Federal agency as the Director determines appropriate, for which payment shall be made in advance, or by reimbursement, from funds of the Office of Government Ethics in such amounts as may be agreed upon by the Director and the head of the agency providing such services.

Contract authority under paragraph (2) shall be effective for any fiscal year only to the extent that appropriations are available for that purpose.".

SEC. 4. REPORTS TO CONGRESS.

The Ethics in Government Act of 1978 is amended by adding after section 407 the following:

"REPORTS TO CONGRESS

"SEC. 408. The Director shall, not later than January 21 of each year in which the first session of a Congress begins, submit to the Congress a report containing—

"(1) a summary of the actions taken by the Director during the 2-year period ending on December 31 of the preceding year in order to carry out the Director's functions and responsibilities under this title; and

"(2) such other information as the Director may consider appropriate.".

SEC. 5. AGENCY PROCEDURES RELATING TO FINANCIAL DISCLOSURE STATEMENTS.

Section 402 is amended by adding after subsection (c) the following:

"(d)(1) The Director shall, by the exercise of any authority otherwise available to the Director under this title, ensure that each executive agency has established written procedures relating to how the agency is to collect, review, evaluate, and, if applicable, make publicly available, financial disclosure statements filed by any of its officers or employees.

"(2) In carrying out paragraph (1), the Director shall ensure that each agency's procedures are in conformance with all applicable requirements, whether established by law, rule, regulation, or Executive order.".

SEC. 6. INFORMATION TO BE REPORTED ANNUALLY BY EXECUTIVE AGENCIES.

Section 402 is amended by adding after subsection (d) (as added by section 5) the following:

"(e)(1) In carrying out subsection (b)(10), the Director shall prescribe regulations under which—

"(A) each executive agency shall be required to submit to the Office an annual report containing—

"(i) a description and evaluation of the agency's ethics program, particularly—

"(I) the various elements comprising the agency's program (including any educational, counseling, or other services provided to officers and employees), as in effect during the period covered by the report; and

"(II) any other matter which the Director may require in order to carry out the functions and responsibilities of the Director under this title; and

"(ii) the position title, and duties of—

"(I) each official who was designated by the agency head to have primary responsibility for the administration, coordination, and management of the agency's ethics program during any portion of the period covered by the report; and

"(II) each officer or employee who was designated to serve as an alternate to the official having primary responsibility during any portion of such period; and

"(B) each executive agency shall be required to inform the Director as to the disposition of any matter referred to in subparagraph (A).

"(2) For the purpose of this title, the term 'ethics program', as used in connection with an agency, means any procedures established, services offered, and other activities carried out by the agency, as part of a program designed to promote compliance by officers and employees of such agency with requirements established by or under law, rule, regulation, or Executive order relating to conflicts of interest, financial disclosure, and standards of conduct.".

SEC. 7. CORRECTIVE ACTION.

Section 402 is amended by adding after subsection (e) (as added by section 6) the following:

"(f)(1) In carrying out subsection (b)(9) with respect to executive agencies, the Director—

"(A) may—

"(i) order specific corrective action on the part of an agency based on the failure of such agency to establish a system for the collection, filing, review, and, when applicable, public inspection of financial disclosure statements, in accordance with aplicable requirements, or to modify an existing system in order to meet applicable requirements; or

"(ii) order specific corrective action involving the establishment or modification of an agency ethics program (other than with respect to any matter under clause (i)) in accordance with applicable requirements; and

"(B) shall, if an agency has not complied with an order under subparagraph (A) within a reasonable period of time, notify the President and the Congress of the agency's non-compliance in writing (including, with the notification, any written comments which the agency may provide).

"(2)(A) In carrying out subsection (b)(9) with respect to individual officers and employees—

"(i) if the Director finds that an officer or employee is violating any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct, the Director—

"(I) may order the officer or employee to take specific action (such as divestiture, recusal, or the establishment of a blind trust) to end such violation; and

"(II) shall, if the officer or employee has not complied with the order under subclause (I) within a reasonable period of time, notify, in writing, the head of the officer's or employee's agency of the officer's or employee's noncompliance, except that, if the officer or employee involved is the agency head, the notification shall instead be submitted to the President; and

"(ii) if the Director finds that an officer or employee is violating, or has violated, any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct, the Director may recommend to the head of the officer's or employee's agency that appropriate disciplinary action (such as reprimand, suspension, demotion, or dismissal) be brought against the officer or employee, except that, if the officer or employee involved is the agency head, any such recommendations may instead be submitted to the President.

"(B)(i) In order to carry out the Director's duties and responsibilities under subparagraph (A) with respect to individual officers and employees, the Director may make findings concerning potential violations of any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct applicable to officers and employees of the executive branch.

"(ii) Before any such finding is made, the officer or employee involved shall be afforded—

"(I) notification of the alleged violation;

"(II) an opportunity to comment, either orally or in writing, on the alleged violation; and

"(III) an opportunity for a hearing, if requested by such officer or employee, except that any such hearing shall be conducted on the record.

"(3) The Director shall send a copy of any order under paragraph (2)(A)(i)(I) to—

"(A) the officer or employee who is the subject of such order; and

"(B) the head of the officer's or employee's agency or, if the officer or employee is the agency head, to the President.

"(4) For purposes of paragraphs (2)(A)(i)(II), (2)(A)(ii), and (3)(B), in the case of an officer or employee within an agency which is headed by a board, committee, or other group of individuals (rather than by a single individual), any notification, recommendation, or other matter which would otherwise be sent to an agency head shall instead be sent to the officer's or employee's appointing authority.

"(5) Nothing in this title shall be considered to allow the Director (or any designee)—

"(A) to make any finding that a provision of title 18, United States Code, or any criminal law of the United States outside of such title, has been or is being violated; or

"(B) to issue any order, or make any recommendation for disciplinary action, based on any provision of title 18, United States Code, or any criminal law of the United States outside of such title.".

SEC. 8. EFFECTIVE DATE.

(a) In General.—Except as provided in subsection (b), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) Exception.—The amendments made by section 3 shall take effect on October 1, 1989.

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **HORTON**. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Minnesota [Mr. Sikorski] will be recognized for 20 minutes and the gentleman from New York [Mr. Horton] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Sikorski].

Mr. **SIKORSKI**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4712 reauthorizes the Office of Government Ethics for 6 additional years, establishes it as a separate agency within the executive branch, and makes several other important changes to improve its operation.

It was reported by the Committee on Post Office and Civil Service on August 10 of this year and was jointly referred to the Committee on the Judiciary which had in February of this year reported H.R. 3997, which provided for a straight 6-year reauthorization.

The Office of Government Ethics was established within the Office of Personnel Management [OPM] by title IV of the Ethics in Government Act of 1978. It was originally authorized for 5 years then reauthorized for 5 more years in 1983. In order for OGE to continue its vital work, especially important in this Presidential transition year, we need to work quickly to pass this reauthorization legislation.

As the centralized executive branch ethics office, OGE has the important responsibility of providing overall direction of executive branch policies aimed at preventing conflicts of interest and certain other "ethics" violations by officers and employees of every executive branch agency. Under the Ethics Act, the OGE Director was charged with 15 significant responsibilities. The Director was given the responsibility for:

Developing rules and regulations regarding conflicts of interest, financial disclosure and ethical conduct by executive branch employees;

Monitoring and investigating individual and agency compliance with financial disclosure requirements;

Interpreting conflict of interest rules and regulations;

Providing information on and promoting understanding of ethicals standards in executive agencies; and

Ordering action by agencies and employees to comply with any laws, rules, regulations, and Executive orders, related to conflicts of interest or employee standards of conduct.

Although under the current decentralized executive branch ethics system each agency has front line responsiblity for ensuring that its own employees comply with applicable ethics laws, rules, and regulations, and that its own ethics program is properly administered, OGE is supposed to be the overseer, the important backup or fail-safe mechanism which kicks in to ensure that the ethics system doesn't break down.

Over the past 3 years, the two Post Office and Civil Service Subcommittees I have chaired have devoted a substantial amount of time to examine the inner workings of OGE. We have held a series of hearings and requested several studies looking at agency ethics programs, cases of alleged misconduct, and the mandate, structure, and performance of the Office of Government Ethics. The changes proposed to current law which are contained in the amendment reflect the concerns and findings developed during this detailed 3-year review.

Beyond merely reauthorizing OGE for 6 years, this measure carefully responds to some of OGE's shortcomings. Rather than making sweeping or dramatic changes which would ultimately be unworkable or expensive, the amendment addresses certain problem areas within the context of the current ethics system. The amendment clarifies and refines the current statute, modifying only those portions which clearly need to be changed.

Most importantly, the amendment removes OGE from within OPM and establishes it as a separate excecutive agency. This change is important to ensure that OGE has the stature, visibility, respect, and independence necessary for it to be truly effective. This provision will also provide OGE with the needed administrative freedom and flexibility to enhance its efficiency and effectiveness. Both the current OGE Director and his immediate predecessor, in addition to many others in the Government ethics community, strongly support removing OGE from OPM.

In order to increase OGE and agency accountability, the amendment requires the OGE Director to submit biennial reports to Congress and to promulgate regulations requiring agencies to submit annual reports to OGE. OGE's report to Congress will contain a summary of the actions taken by the Director to carry out his or her statutory responsibilities under Title IV of the Ethics Act, and any other information the Director may consider appropriate. Agency reports to OGE will describe and evaluate the various elements comprising an agency's eithics program, list the titles and duties of agency ethics officials, and contain any other information the Director may require. The agency reports will provide OGE and agencies with management data necessary for ensuring effective overall ethics programs.

Another important provision of the amendment clarifies current statutory language which the gives the OGE Director the responsibility for "ordering corrective action on the part of agencies and employees which the Director deems necessary." Since 1983, many questions have been raised about the precise meaning and scope of this corrective action authority. The confusion surrounding this authority had impeded OGE's effectiveness and needed to be cleared up. Section 7 clarifies the authority by expounding on the current statute to reflect Congress' original intent. In order to utilize this corrective action authority, the Director is given the authority to make findings concerning employees violations of any rule, regulation, or Executive order relating to conflicts of interest and standards of conduct.

The amendment also requires the OGE Director to ensure that each executive agency has established written procedures for the collection, filing, review, and public availability, if applicable, of financial disclosure reports. These written procedures must be reviewed and approved by the Director. The confidential and public financial disclosure systems can only be effective in preventing and helping to identify potential conflicts of interest if agency officials develop and follow such established procedures. Without them, laxity, inconsistency, and ad hoc determinations render the disclosure system ineffective.

If we are to have a truly effective executive branch ethics system, it is crucial that we have a strong, visible, competent and independent OGE and OGE Director whose policies and actions promote public confidence in government. OGE must do more to ensure that executive branch officials' and employees' decisions are not tainted by conflict of interest and that public servants are acting in the public's interest. This measure will help achieve that end. I strongly urge that it be adopted.

RESPONSE TO HOSTAGE RELEASE

(By unanimous consent, Mr. BLOOMFIELD was allowed to speak out of order for 2 minutes.)

Mr. BLOOMFIELD. Mr. Speaker, I want to take this time to notify the Members that it has just been reported by CNN that an Indian-born American resident being held hostage in Beirut has been released by his captors.

Now, if this report is true, I am sure it pleases all of us.

One can only hope that this is the first step in the eventual release of all the hostages. The terrorists who have taken these hostages should certainly understand by now there is nothing further to be gained from holding these men.

The inescapable fact is that after years of terrorists violence, they have nothing, absolutely nothing to show for it.

We should hope that this release is the first indication that these groups have finally realized that the most effective, the most civilized and the most humane way to resolve differences is through peaceful negotiations.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman and hope that he is right with regard to the disclosure he just made.

Mr. Speaker, I rise in favor of H.R. 4712, a bill reauthorizing the Office of Government Ethics. The Office of Government Ethics provides a crucial role in assuring that the highest officers of the land along with all employees of the Federal Government comply with the financial disclosure and other ethical obligations that the citizens of this country expect of their public officials. I share with many of my colleagues here today deep concern with the litany of media reports dealing with many public officials' failure to strictly observe the ethical and financial disclosure obligations the law imposes upon them. This legislation before us today should serve to strengthen enforcement procedures that are needed to remedy our present ethics dilemma in the excutive branch.

Under this bill, the Office of Government Ethics is established as a separate executive agency. The bill enhances the enforcement functions of the Director of the Office of Government Ethics and provides for the Office's involvement in enforcing any corrective actions. The reauthorization provides for $2.5 million for the first year with such sums as may be necessary for the next five.

Mr. Speaker, this bill should command broad bipartisan support. This carefully drafted compromise represents hours of hard labor on both the part of the Committee on Post Office and Civil Service and the Committee on the Judiciary. I commend the sponsors of this bill and urge all my colleagues to support this legislation.

Mr. SIKORSKI. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I think both the floor managers had a similar purpose in mind, that the gentleman from North Carolina and I are the ranking member and chairman of the Administrative Law Subcommittee of the Committee on the Judiciary, which has shared jurisdiction here.

The way this has evolved, we in the Judiciary Committee have been dealing on several occasions in the past Congress with the substantive nature of the Ethics in Government Act. We have deferred on the whole to our colleagues in the Committee on Post Office and Civil Service to deal with the structure. Obviously, there are mutual interests and there has been interaction. I know the chairman of the full Judiciary Committee has had some interest in the restructuring.

I simply want to say that I think the gentleman from Minnesota and the gentleman from New York and others have done an excellent job in this restructuring of the Office of Government Ethics. It is a shared jurisdiction, as I said, and I believe that on behalf of the Judiciary Committee we feel they have dealt very fairly with the issues involved.

I hope that I will be back on Thursday on the aforementioned subject of the substance of ethics, talking about the postemployment lobbying bill; but at this time I wanted to convey what I believe is the sentiment of the Judiciary Committee that this is a job well done.

Mr. SIKORSKI. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Minnesota.

Mr. SIKORSKI. Mr. Speaker, I thank the gentleman for yielding, and commend him for his hard work and assistance and that of the Judiciary Committee.

Mr. HORTON. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. COBLE] a member of the Committee on the Judiciary.

Mr. COBLE. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, the Office of Government Ethics [OGE], as has been stated today, was created in 1978 pursuant to the Ethics in Government Act. When it was initially created, OGE was made a part of the Office of Personnel Management and was authorized for 5 years.

In 1983, OGE was reauthorized for 5 more years. Consequently, it is incumbent upon us to reauthorize it again before the end of the current calendar year.

H.R. 4712, now before us, was reported by the Post Office and Civil Service Committee, and it does in fact remove the OGE from the Office of Personnel Management and creates a new and separate executive agency to be known as the Office of Government Ethics.

The Judiciary Committee shares joint jurisdiction with the Post Office and Civil Service Committee over the Office of Government Ethics, and while these two committees have different approaches and viewpoints towards the OGE, I believe that H.R. 4712 does represent a compromise.

H.R. 4712 reauthorizes the OGE for 6 more years in part, so that the next time we reauthorize this important agency we will not be forced to do so during a Presidential election year.

As an aside, Mr. Speaker, I do want to point out that when we in the Judiciary Committee considered this matter back in March of this year, the authorization was $1.8 million, which is what the President requested.

I notice now that a separate independent agency having been created consisting of only 26 employees, the authorization has increased to $2.5 million.

In closing, Mr. Speaker, I want to assure the body that I am in favor of ethics, but this appears to be awfully inflationary ethics. I think the Appropriations Committee would be well advised to keep a sharp lookout on it subsequently.

I do endorse the bill, however.

Mr. SIKORSKI. Mr. Speaker, I want to commend the gentleman from New York and thank him for his able assistance.

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 4712, a bill to reauthorize the Office of Government Ethics [OGE]. I urge my colleagues to support this important ethics-in-Government legislation to make OGE a stronger, more effective agency, and I commend the distinguished chairman of the Human Resources Subcommittee, the gentleman from Minnesota [Mr. Sikorski] for his leadership in crafting this bill.

The Office of Government Ethics was established by the Ethics in Government Act of 1978 to administer, enforce, and oversee compliance with ethics laws throughout the executive branch.

H.R. 4712 contains vital improvements in current law. One of its more important features is that it takes OGE out of the framework of the Office of Personnel Management and makes it an independent agency within the executive branch with the Director removable "only for good cause." Ethics should be a high governmental priority, and the office designed to oversee ethics programs and enforce ethical standards must be seen as having both stature and independence. As an independent entity, the Office of Government Ethics and its Director will have a stronger, more respected voice in the protection of ethical standards in the U.S. Government.

Accordingly, I urge my colleagues to support H.R. 4712.

Mr. HORTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SIKORSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The **SPEAKER** pro tempore (Mr. Bennett). The question is on the motion offered by the gentleman from Minnesota [Mr. Sikorski] that the House suspend the rules and pass the bill, H.R. 4712, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The **SPEAKER** pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SIKORSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4712, the bill just considered.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

ESTABLISHING SPECIAL FEES FOR OCEAN DUMPING OF SEWAGE SLUDGE AND INDUSTRIAL WASTE

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5430) to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to establish special fees for the ocean dumping of sewage sludge and industrial waste, and for other purposes.

The Clerk read as follows:

H.R. 5430

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF FEES AND PENALTIES FOR OCEAN DUMPING OF SEWAGE SLUDGE AND INDUSTRIAL WASTE.

The Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.) is amended by striking out the second section 104A and inserting in lieu thereof the following:

"SEC. 104B. OCEAN DUMPING OF SEWAGE SLUDGE AND INDUSTRIAL WASTE.

"(a) Prohibitions.—Notwithstanding any other provision of law—

"(1) after the 180th day after the date of the enactment of this section, no person (including a person described in section 104A(a)(1)(C)) shall dump, or transport for the purpose of dumping, sewage sludge or industrial waste into ocean waters unless such person has obtained a permit issued under section 102 which authorizes such transportation and dumping; and

"(2) it shall be unlawful for any person to dump, or transport for the purposes of dumping, any sewage sludge or industrial waste into ocean waters after December 31, 1992.

"(b) Special Disposal Fees.—

"(1) In general.—Subject to subsection (c)(2)(B), any person who dumps, or transports for the purpose of dumping, sewage sludge or industrial waste into ocean waters shall be liable for a fee equal to—

"(A) $200 for each dry ton (or equivalent) of sewage sludge or industrial waste transported or dumped by the person after the 180th day after the date of the enactment of this section and before January 1, 1990;

"(B) $300 for each dry ton (or equivalent) of sewage sludge or industrial waste transported or dumped by the person on or after January 1, 1990, and before January 1, 1991; and

"(C) $400 for each dry ton (or equivalent) of sewage sludge or industrial waste transported or dumped by the person on or after January 1, 1991, and before January 1, 1993.

"(2) Payment of fees.—(A) A person who has established a trust account in accordance with subsection (e)—

"(i) shall deposit into the account an amount equal to 85 percent of any fees for which the person is liable under paragraph (1); and

"(ii) shall pay an amount equal to 15 percent of such fees to the Administrator, for use by the Administrator as provided in subsection (g).

"(B) If a person has not established a trust account in accordance with subsection (e), or if such a trust account established by a person has been terminated under subsection (e)(2)(C)(i), all fees under this subsection shall be paid by the person to the Administrator, for use by the Administrator as provided in subsection (g).

"(c) Compliance Agreements and Enforcement Agreements.—

"(1) In general.—As a condition of issuing a permit under section 102 which authorizes a person to transport or dump sewage sludge or industrial waste, the Administrator shall require that the person enter into—

"(A) a compliance agreement with the Administrator which meets the requirements of paragraph (2); or

"(B) an enforcement agreement with the Administrator which meets the requirements of paragraph (3).

"(2) Compliance agreements.—(A) An agreement shall be a compliance agreement for purposes of this subsection only if it includes—

"(i) a plan negotiated by the person entering into the agreement and the Administrator that will, in the opinion of the Administrator, if adhered to by the person in good faith, result in the phasing out and cessation of ocean dumping, and transportation for the purpose of ocean dumping, of sewage sludge and industrial waste by such person by not later than December 31, 1992, through the design, construction, and full implementation of a system of environmentally sound alternatives for the management of sewage sludge and industrial waste transported or dumped by the person; and

"(ii) a schedule which—

"(I) in the opinion of the Administrator, specifies reasonable dates by which the person shall complete the various activities that are necessary for the timely implementation of the system referred to in clause (i);

"(II) may include interim measures to be employed by the person for disposal of sewage sludge and industrial waste until completion of such various activities; and

"(III) meets the requirements of paragraph (4).

"(B)(i) The Administrator shall waive fees under subsection (b) with respect to any person who enters into a compliance agreement which meets the requirements of this paragraph.

"(ii) The Administrator shall reimpose fees under subsection (b) with respect to any person for whom such fees are waived under clause (i) if the Administrator determines that the person has failed to comply with the terms of a compliance agreement which the person entered into under this subsection, and that such failure is likely to result in the person not being able to cease dumping, and transportation for the purpose of dumping, of sewage sludge and industrial waste into ocean waters by December 31, 1992. After any such reimposition of fees, the Administrator may waive such fees at such time as the Administrator determines that the person is in compliance with the compliance agreement.

"(3) Enforcement agreements.—An agreement shall be an enforcement agreement for purposes of this subsection only if it includes—

"(A) a plan negotiated by the person entering into the agreement and the Administrator that will, in the opinion of the Administrator, if adhered to by the person in good faith, result in the phasing out and cessation of ocean dumping, and transportation for the purpose of ocean dumping, of sewage sludge and industrial waste by such person through the design, construction, and full implementation of a system of environmentally sound alternatives for the management of sewage sludge and industrial waste transported or dumped by the person;

"(B) a schedule which—

"(i) in the opinion of the Administrator, specifies reasonable dates by which the person shall complete the various activities that are necessary for the timely implementation of the system referred to in subparagraph (A); and

"(ii) may include interim measures to be employed by the person for the disposal of sewage sludge and industrial waste until completion of such various activities; and

"(iii) meets the requirements of paragraph (4).

"(4) Schedules.—Each schedule included in a compliance agreement under paragraph

(2) or an enforcement agreement under paragraph (3) shall provide for, in addition to such other activities that the Administrator considers necessary or appropriate—

"(A) preparation of engineering designs and related specifications for the system referred to in paragraph (2)(A)(i) or paragraph (3)(A), as applicable;

"(B) compliance with appropriate Federal, State, and local regulatory requirements;

"(C) site and equipment acquisitions for such system;

"(D) construction and testing of such system; and

"(E) operation of such system at full capacity.

"(d) PENALTY.—

"(1) IN GENERAL.—In lieu of any other civil penalty under this Act, any person who dumps or transports sewage sludge or industrial waste in violation of subsection (a) shall be liable for a civil penalty, to be assessed by the Administrator, as follows:

"(A) For each dry ton (or equivalent) of sewage sludge or industrial waste dumped or transported by the person in violation of this subsection in calendar year 1993, $800.

"(B) For each dry ton (or equivalent) of sewage sludge or industrial waste dumped or transported by the person in violation of this subsection in any year after calendar year 1993, a sum equal to—

"(i) the amount of penalty per dry ton (or equivalent) for a violation occurring in the preceding calendar year, plus

"(ii) a percentage of such amount equal to 11 percent of such amount, plus an additional 1 percent of such amount for each full calendar year since December 31, 1993.

"(2) PAYMENT OF PENALTY.—(A) Of the total amount of penalties under paragraph (1) for which a person is liable for violations occurring in calendar year 1993, such person—

"(i) shall pay into a trust account established by the person in accordance with subsection (e) 90 percent of such total amount; and

"(ii) shall pay to the Administrator the portion of such total amount which is not paid into such a trust account.

"(B) Of the total amount of penalties under paragraph (1) for which a person is liable for violations occurring in any year after calendar year 1993, such person—

"(i) shall pay into a trust account established by the person in accordance with subsection (e) a percentage of such total amount equal to the difference between—

"(I) 90 percent of such total amount, reduced by

"(II) 5 percent of such total amount for each full calendar year since December 31, 1992; and

"(ii) shall pay to the Administrator the portion of such total amount which is not paid into such a trust account.

"(e) TRUST ACCOUNT.—

"(1) IN GENERAL.—A person who enters into a compliance agreement or an enforcement agreement under this section shall establish a trust account into which the person shall deposit fees and penalties for which the person is liable under this section.

"(2) TRUST ACCOUNT REQUIREMENTS.—An account shall be a trust account for purposes of this subsection only if it meets, to the satisfaction of the Administrator, the following requirements:

"(A) Amounts in the account may be withdrawn only with the concurrence of the person who establishes the account and the Administrator.

"(B) Amounts in the account may be expended only for projects which will identify, develop, and implement—

"(i) environmentally sound alternatives to the disposal of sewage sludge and industrial waste by ocean dumping, including but not limited to alternatives utilizing resource recovery, recycling, thermal reduction, or composting techniques; or

"(ii) improvements in pretreatment, treatment, and storage techniques for sewage sludge and industrial waste to facilitate the implementation of such alternatives.

"(C) Upon a finding by the Administrator that a person did not deposit fees or penalties into an account as required by this subsection, or did not expend amounts from the account in accordance with this subsection, the balance of the amounts in the account shall be paid to the Administrator.

"(3) USE OF UNEXPENDED BALANCE.—Upon a determination by the Administrator that a person has ceased ocean dumping of sewage sludge and industrial waste, the balance of the amounts in an account established by the person under this subsection shall be paid to the person for use in meeting the requirements of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) which apply to the person.

"(f) PROGRESS REPORTS.—

"(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, and not later than December 31 of 1989, 1990, 1991, and 1992, the Administrator shall prepare and submit to the Congress a report on—

"(A) progress being made by persons issued permits for transportation or dumping of sewage sludge or industrial waste under section 102 in developing and implementing environmentally sound methods for managing sewage sludge and industrial waste;

"(B) progress being made by the Administrator and others in identifying and implementing environmentally sound alternatives to the disposal of sewage sludge and industrial waste by ocean dumping; and

"(C) progress being made toward the cessation of ocean dumping of sewage sludge and industrial waste.

"(2) REFERRAL TO CONGRESSIONAL COMMITTEES.—(A) Each report submitted to the Congress under this paragraph shall be referred to each standing committee of the House of Representatives and of the Senate having jurisdiction over any part of the subject matter of the report.

"(3) CONGRESSIONAL HEARINGS.—If the Administrator makes a finding in the final report submitted to the Congress under this subsection that a permittee under this title cannot reasonably complete the cessation of ocean dumping of sewage sludge or industrial waste by December 31, 1992, each committee of the House of Representatives and of the Senate to which such report is referred—

"(A) not later than 90 days after the date of the referral of the report to that committee, shall hold hearings regarding the findings of the report and appropriate action that should be taken to end ocean dumping of sewage sludge and industrial waste; and

"(B) not later than 270 days after that date of referral, shall issue a report which describes the findings and recommendations of the committee regarding such appropriate action.

"(g) USE OF FEES AND PENALTIES.—

"(1) IN GENERAL.—Of the amount of fees and penalties paid to the Administrator pursuant to each of subsection, (b) and (d) in a fiscal year—

"(A) not to exceed one-third of such amount shall be used by the Administrator, subject to the limitations described in paragraph (2), for—

"(i) costs incurred or expected to be incurred in undertaking activities directly associated with the issuance under this Act of permits for the transportation or dumping of sewage sludge and industrial waste, including an environmental assessment of the direct effects of dumping under the permits:

"(ii) preparation of reports required under subsection (f); and

"(iii) such other research, studies, and projects the Administrator considers necessary for, and consistent with, the development implementation of suitable environmentally sound alternatives for the management of sewage sludge and industrial waste;

"(B) not to exceed one-third of such amount shall be transferred to the Secretary of the department in which the Coast Guard is operating for use, subject to the limitations described in paragraph (2), for—

"(i) Coast Guard surveillance of transportation and dumping of sewage sludge and industrial waste subject to this Act; and

"(ii) such enforcement activities conducted by the Coast Guard with respect to such transportation and dumping as may be necessary to ensure to the maximum extent practicable complete compliance with the requirements of this Act; and

"(C) not to exceed one-third of such amount shall be transferred to the Under Secretary of Commerce for Oceans and Atmosphere for use, subject to the limitations described in paragraph (2), for—

"(i) monitoring and research regarding the effects of the dumping of sewage sludge and industrial waste in, or processing of sewage sludge and industrial waste on, ocean waters; and

"(ii) preparation of annual reports to the Congress describing the results of such monitoring and research.

"(2) LIMITATION ON USE OF AMOUNTS.—The amount of the fees and penalties paid to the Administrator pursuant to each of subsections (b) and (d) in a fiscal year which is used, or transferred for use, by an agency pursuant to paragraph (1) shall not exceed the amount necessary for use by the agency in that fiscal year for activities described in that paragraph, and in no case shall exceed the following:

"(A) For each of fiscal years 1989 and 1990, the amount expended by such agency for such activities in the preceding fiscal year, plus an additional 20 percent of such amount.

"(B) For each of fiscal years 1991 and 1992, the amount expended by such agency for such activities in the preceding fiscal year, plus an additional 15 percent of such amount.

"(C) For each fiscal year after fiscal year 1992, the amount expended by such agency for such activities in the preceding fiscal year, plus an additional 10 percent of such amount.

"(3) WATER POLLUTION CONTROL REVOLVING LOAN FUND CAPITALIZATION GRANTS.—(A) Any amount of the fees and penalties paid to the Administrator pursuant to each of subsections (b) and (d) in a fiscal year which are not necessary for use in accordance with paragraph (1) in such fiscal year shall be used by the Administrator for making capitalization grants to the States of New York and New Jersey for the purpose of establishing a water pollution control revolving fund for providing assistance in any area of such

State for which such fees or penalties were not paid—

"(i) for construction of treatment works (as defined in section 212 of the Federal Water Pollution Control Act) which are publicly owned,

"(ii) for implementing a management program under section 319 of such Act, and

"(iii) for developing and implementing a conservation and management plan under section 320 of such Act.

"(B) Any funds made available by the Administrator for capitalization grants under this paragraph shall be used in the same manner and subject to the same requirements as amounts made available to the Administrator for capitalization grants under title VI of the Federal Water Pollution Control Act; except that the second sentence of section 201(g)(1) of such Act shall not be applicable to such funds and such funds shall be apportioned between the States of New York and New Jersey in the same ratio as the fees and penalties from which such amounts were derived from permittees of each of such States.

"(4) Deposit into treasury as offsetting collections.—Any amount of the fees and penalties paid to the Administrator pursuant to each of subsections (b) and (d) which is used by an agency, or transferred for use by an agency, in accordance with paragraph (1) shall be deposited into the Treasury as offsetting collections of the agency.

"(h) Enforcement.—

"(1) In general.—Whenever on the basis of any information available the Administrator finds that a person is dumping or transporting sewage sludge or industrial waste in violation of subsection (a)(1), the Administrator shall issue an order requiring such person to cease such dumping or transporting (as applicable) until such person—

"(A) enters into a compliance agreement or an enforcement agreement under subsection (c); and

"(B) obtains a permit under section 102 which authorizes such dumping or transporting.

"(2) Requirements of order.—Any order issued by the Administrator under this subsection—

"(A) shall be delivered by personal service to the person named in the order;

"(B) shall state with reasonable specificity the nature of the violation for which the order is issued; and

"(C) shall require that the person named in the order, as a condition of dumping, or transporting for the purpose of dumping, sewage sludge or industrial waste into ocean waters—

"(i) shall enter into a compliance agreement or an enforcement agreement under subsection (c); and

"(ii) shall obtain a permit under section 102 which authorizes such dumping or transporting.

"(3) Actions.—The Administrator may request the Attorney General to commence a civil action for appropriate relief, including a temporary or permanent injunction, for any violation of subsection (a) or of an order issued by the Administrator under this section. Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and require compliance.

"(i) Definitions.—

"(1) In general.—Subject to paragraph (2), for purposes of this section—

"(A) the term 'industrial waste' means any solid, semisolid, or liquid waste generated by a manufacturing or processing plant; and

"(B) the term 'sewage sludge' means any solid, semisolid, or liquid waste generated by a municipal wastewater treatment plant.

"(2) Excluded materials.—The terms 'industrial waste' and 'sewage sludge' do not include—

"(A) any dredged material discharged by the United States Army Corps of Engineers or discharged pursuant to a permit issued by the Secretary in accordance with section 103; or

"(B) any waste from a tuna cannery operation located in American Samoa or Puerto Rico discharged pursuant to a permit issued by the Administrator under section 102.

"(j) Limitation on Environmentally Sound Alternative.—For purposes of this section, an environmentally sound alternative to the dumping of sewage sludge or industrial waste does not include dumping of such material into ocean waters.".

SEC. 2. CONFORMING AMENDMENT.

(a) Amendment.—Section 4 of Public Law 95-153 (33 U.S.C. 1412a) is amended—

(1) by striking subsection (a);

(2) by striking subsection (b);

(3) by redesignating subsection (c) as subsection (a);

(4) in subsection (a) (as so redesignated) by striking "such title I" and inserting "title I of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1411 et seq.)";

(5) by striking subsection (d); and

(6) by adding at the end the following:

"(b) For purposes of this section, the term 'industrial waste' means any solid, semisolid, or liquid waste generated by a manufacturing or processing plant.".

(b) Effective Date.—The amendment made by this section shall be effective after the 180th day after the date of the enactment of this section.

SEC. 3. DISPOSAL OF SEWAGE SLUDGE AT LANDFILLS ON STATEN ISLAND.

The Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.), as amended by this Act, is amended by inserting after section 104B the following:

"SEC. 104C. PROHIBITION ON DISPOSAL OF SEWAGE SLUDGE AT LANDFILLS ON STATEN ISLAND.

"(a) In General.—No person shall dispose of sewage sludge at any landfill located on Staten Island, New York.

"(b) Exclusion From Penalties.—

"(1) In general.—Subject to paragraph (2), a person who violates this section shall not be subject to any penalty under this Act.

"(2) Injunction.—Paragraph (1) shall not prohibit the bringing of an action for, or the granting of, an injunction under section 105 with respect to a violation of this section.

"(c) Definition.—For purposes of this section, the term 'sewage sludge' has the meaning such term has in section 104B.".

SEC. 4 USE OF STATE WATER POLLUTION CONTROL REVOLVING FUND GRANTS FOR DEVELOPING ENVIRONMENTALLY SOUND ALTERNATIVES TO OCEAN DUMPING.

Title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381-1387) is amended by adding at the end the following:

"SEC. 608. USE OF CAPITALIZATION GRANTS FOR DEVELOPING ENVIRONMENTALLY SOUND ALTERNATIVES TO OCEAN DUMPING.

"(a) General Requirement.—Notwithstanding any other provision of this title, each of the States of New York and New Jersey shall use at least 20 percent of the amount of each grant payment made to such State under this title and 20 percent of the State's contribution associated with such grant payment in the 6-month period beginning on the date of receipt of such grant payment for assisting any person (including any governmental entity) in such State who has entered into a compliance agreement or enforcement agreement under section 104(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 with identifying, developing, and implementing environmentally sound alternatives to ocean dumping of sewage sludge and industrial waste.

"(b) Limitation.—If, after the last day of the 6-month period beginning on the date of receipt of a grant payment by the State of New York or New Jersey under this title, 20 percent of the amount of such grant payment and the State's contribution associated with such grant payment has not been used for providing assistance described in subsection (a) as a result of insufficient applications for such assistance from persons eligible for such assistance, the 20 percent limitations set forth in subsection (a) shall not be applicable with respect to such grant payment and associated State contribution.".

SEC. 5. OCEAN DISCHARGES.

(a) Comprehensive Report.—Within six months after the date of the enactment of this Act, the Administrator shall transmit to the Congress a report on the implementation of section 403(c) of the Federal Water Pollution Control Act. The report shall contain an accounting of discharges into the waters of the territorial sea, the contiguous zone, and the ocean, including—

(1) the total number of discharges;

(2) the location, source, volume, and potential environmental effects of each discharge;

(3) the date of original issuance, review, and reissuance of each discharge permit;

(4) the number of discharges that have been determined by the Administrator to be in compliance with the ocean discharge criteria regulations promulgated pursuant to section 403(c); and

(5) recommendations for any additional legislative authorities needed to achieve compliance with section 403(c).

(b) Implementation Schedule.—The President, in submitting his budget for fiscal year 1990, shall include a schedule for implementing section 403(c) of the Federal Water Pollution Control Act and achieving compliance with such guidelines as expeditiously as practicable, and an estimate of the resources required to meet such schedule.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina [Mr. Jones] will be recognized for 20 minutes and the gentleman from New York [Mr. Lent] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. Jones].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5430 is a compromise bill that has been worked out between the Merchant Marine and Fisheries Committee and the Public Works and Transportation Committee.

It involves the very difficult issue of ocean dumping—an issue with which my committee has been dealing for many years.

Because so many Members on our side desire to speak on this matter today, I will not take any further time to discuss the bill.

I am submitting for the RECORD, at the end of my remarks, a section-by-section analysis of H.R. 5430 so that all interested Members will have an opportunity to know what is contained in the compromise.

During the next 40 minutes, a number of Members will discuss the features of the bill. After passage, I will make a number of procedural motions that will lead to the calling of a conference with the Senate.

It is the intent of all of us who have been involved in the ocean dumping issue to resolve our differences with the Senate this week and bring back a conference report before we adjourn.

I would like to thank the leadership of the Public Works Committee for their cooperation on this matter. I am particularly proud of the members of the Merchant Marine Committee who have worked so hard on this compromise.

In particular, I want to commend the gentleman from New Jersey [Mr. HUGHES] who has devoted much of his congressional career to finding a solution to this tough issue.

I believe we have before us that solution.

SECTION-BY-SECTION ANALYSIS OF H.R. 5430

Section 1. Establishment of Fees and Penalties for Ocean Dumping of Sewage Sludge and Industrial Waste:

Section 1 of H.R. 5430 amends the Marine Protection, Research, and Sanctuaries Act of 1972 (MPRSA, 33 U.S.C. 1401 et seq.) by establishing new terms and conditions for phasing out and ceasing the ocean dumping of sewage sludge and industrial waste.

Subsection (a) prohibits the dumping, or transporting for the purpose of dumping, sewage sludge and industrial waste into ocean waters (1) without a permit issued by the Administrator of the Environmental Protection Agency (EPA); and (2) after December 31, 1992. A person who has an existing permit to dump under the MPRSA need not obtain a new permit from EPA provided the existing permit meets all the terms and conditions of this Act and the person enters into a compliance agreement or enforcement agreement with EPA in accordance with subsection (c).

Subsection (b) establishes *special disposal fees* to be paid by any person who dumps, or transports for the purpose of dumping, sewage sludge or industrial waste into the ocean. The fees commence within six months of enactment of this Act and are set at $200 a dry ton (or equivalent) for sewage sludge or industrial waste dumped before January 1, 1990; $300 a dry ton (or equivalent) for sewage sludge or industrial waste dumped after January 1, 1990, and before January 1, 1991; and $400 a dry ton (or equivalent) for sewage sludge or industrial waste dumped after January 1, 1991, and before January 1, 1993.

Subsection (b)(2) requires the dumper to deposit 85 percent of the fees into a trust account to be set up by the dumper and to pay 15 percent to the Administrator of EPA. If the dumper has not established a trust account, or the Administrator finds that the dumper has not expended money in the trust account on authorized uses, all fees shall be paid to EPA.

The special disposal fees will be waived if a person enters into a compliance agreement with EPA and ceases all ocean dumping by December 31, 1992.

Subsection (c) authorizes the Administrator to enter into two types of agreements with dumpers—*Compliance agreements and enforcement agreements.* Municipalities dumping sewage sludge and companies dumping industrial waste must obtain a permit from EPA and enter into one of these agreements if they want to continue dumping after six months from enactment of this Act. If, in the opinion of the Administrator, the person can reasonably be expected to cease all dumping by December 31, 1992, the Administrator may enter into a compliance agreement with the person. In all other cases, the Administrator and dumper must enter into an enforcement agreement. Although the burden of proof is on the dumper to establish their qualifications (including financial qualifications) for a particular agreement, the decision whether to enter into the agreement lies ultimately with the Administrator.

A compliance agreement must contain a plan negotiated by the dumper and EPA which will result in the phasing out and cessation of all ocean dumping by December 31, 1992, and a schedule which specifies dates for implementing a system of environmentally sound alternatives for the management of sewage sludge or industrial waste, as the case may be. The plan may contain interim as well as long-term measures for the disposal of sludge and industrial waste other than by ocean dumping. The Committees encourage the dumpers to use short-term, environmentally sound measures so as to meet the December 31, 1992, deadline. The Administrator must waive the special disposal fees for those persons who enter into a compliance agreement, except that the fees will be reimposed if the person is not complying with the terms of the agreement.

An enforcement agreement must contain all the elements of a compliance agreement, but the special disposal fees are not waived.

Subsection (d) establishes a new schedule of *civil penalties* for persons who violate the prohibition on ocean dumping after December 31, 1992, and the prohibition on dumping without a permit. These penalties replace the existing civil penalties in section 105(a) of the MPRSA for violations of subsection (a).

For each dry ton (or equivalent) of sewage sludge or industrial waste that a person dumps into the ocean after December 31, 1992, the person must pay a civil penalty of $800. For each calendar year after 1993, the penalty increases by an amount equal to 11 percent of the penalty assessed in the previous calendar year plus one additional percent. For example, the penalty in 1995 will be the penalty per dry ton in 1994 plus 12 percent.

In calendar year 1993, the person must deposit 90 percent of the penalty assessed into a trust account established under subsection (e) and pay the remaining 10 percent to the Administrator of EPA. In each subsequent year, the amount to be paid by the person into the trust account for the dumper's use is reduced by 5 percent. Therefore, in calendar year 1994, the amount deposited in the trust account is 85 percent of the total penalties; in 1995, 80 percent, and so forth. The remainder of the penalties each year is paid to the Administrator.

Subsection (e) provides for the establishment of *trust accounts* by the dumpers. Each person who enters into a compliance agreement or an enforcement agreement must establish a trust account for the deposit of fees and penalties assessed under this Act. Amounts in the trust account may only be withdrawn with the concurrence of EPA and may only be expended on the development of environmentally sound alternatives to ocean dumping, including improvements in pretreatment and treatment of sewage sludge and industrial waste. (Environmentally sound alternatives do not include dumping the sewage sludge or industrial waste into the ocean.) Funds remaining in the trust account after the person has ceased all ocean dumping shall be used by the person to meet the applicable requirements of the Federal Water Pollution Control Act.

Subsection (f) requires EPA to submit *progress reports* to the Congress. Within 6 months after the date of enactment and by December 31, 1989, 1990, 1991, and 1992, the Administrator must report to Congress on programs being made by persons to cease ocean dumping. If in the final report submitted to Congress, the Administrator finds that a permittee cannot reasonably cease ocean dumping by December 31, 1992, each House and Senate Committee with jurisdiction over the matter shall, within 90 days, hold hearings and, within 270 days, issue a report describing the Committee's findings and recommendations.

Subsection (g) describes the *use of the fees and penalties* paid to the Administrator and the *limitation on the Federal Government's expenditure of these payments.* In general, one-third of the amount shall be used by EPA to pay for costs EPA incurs in permitting ocean dumping, assessing its environmental effects, preparing progress reports, and carrying out research on environmentally sound alternatives. EPA must transfer another one-third of the amount received to the Coast Guard for its use in surveillance and enforcement of ocean dumping activities. EPA must transfer the final one-third to the Administrator of the National Oceanic and Atmospheric Administration (NOAA) for NOAA's monitoring and research efforts.

The agencies are limited in the amount of money they can expend in any particular fiscal year to the amount necessary to carry out their tasks, subject to specific percentage increases in any one year. Funds paid to the Administrator which are not necessary to carry out the agencies' specific tasks related to ocean dumping shall be used by the Administrator to make grants to the states of New York and New Jersey for deposit in those states' revolving loan funds established under title VI of the Federal Water Pollution Control Act. New York and New Jersey can then use the money in their revolving funds to assist municipalities (other than those which have paid the fees and penalties) in constructing publicly owned treatment works, implementing a nonpoint source management program, and developing and implementing a management plan for a national estuary within the state.

Subsection (h) provides EPA with additional *enforcement authority* to enforce the terms of this Act. If the Administrator finds that a person is violating the prohibitions on ocean dumping, the Administrator may issue an administrative order requiring the person to comply with the prohibitions and to enter into a compliance agreement or enforcement agreement as a condition of continued dumping. The Administrator may request the Attorney General to bring a civil action to enforce the terms of the order or any prohibitions in this Act.

Subsection (i) contains new *definitions of industrial waste and sewage sludge* for purposes of this Act. These definitions are technical descriptions only and eliminate the proviso in P.L. 95-153 that industrial waste and sewage sludge may be dumped if it does not "unreasonably degrade" the marine environment. Excepted from the scope of these definitions and the prohibitions of this Act are: (1) dredged material disposed of under a permit issued by the Corps of Engineers under section 103 of the MPRSA; and (2) wastes from tuna cannery operations in American Samoa or Puerto Rico for which the Administrator has issued a permit under section 102 of the MPRSA.

Subsection (j) provides a *limitation on the term "environmentally sound alternative"*. The Committees intend to proscribe any dumping of sewage sludge or industrial waste into the ocean as an environmentally sound alternative. However, the Committees do not intend by this act to prohibit consideration of other alternatives, such as ocean incineration, provided the alternative meets all applicable legal requirements and EPA finds the alternative to be "environmentally sound".

Section 2. Conforming Amendments:

Section 2 contains conforming amendments to P.L. 95-153, the 1977 amendments to the Ocean Dumping Act. The amendments repeal subsections (a), (b), and (d) of P.L. 95-153 pertaining to ending ocean dumping after December 31, 1981, authorizing research permits for dumping of industrial waste and defining the terms "sewage sludge" and "industrial waste". The authority to issue emergency permits for dumping of industrial waste would remain in the Act.

Section 3. Staten Island Landfills:

Section 3 prohibits any person from disposing of sewage sludge, as defined in this Act, at any landfill located on Staten Island, New York. Persons who violate this prohibition are not subject to any civil or criminal penalty under the Act but may be enjoined from continuing the dumping.

Section 4. Use of State Water Pollution Control Revolving Funds:

Section 4 amends title VI of the Federal Water Pollution Control Act concerning the use of state water pollution control revolving fund grants. It requires the states of New York and New Jersey to use at least 20 percent of their federal grant payments under title IV and 20 percent of the state's contribution to the title VI revolving fund to assist persons within those states, who have entered into compliance or enforcement agreements with EPA, with identifying, developing, and implementing environmentally sound alternatives to ocean dumping. If a state has received insufficient requests for assistance from dumpers within six months from receipt of its title VI grant payment, the 20 percent limitation is removed.

Section 5. Ocean Discharges.

Section 5 pertains to EPA's implementation of the ocean discharge requirements of section 403 of the Federal Water Pollution Control Act (43 U.S.C. 1343). Section 403 requires EPA to promulgate guidelines for determining the harmful effects of discharging pollutants into the ocean and to ensure that no permit is issued under section 402 of the Clean Water Act if the discharge would be inconsistent with the guidelines. Although ocean discharge guidelines were promulgated by EPA in 1981, to date, EPA has required only oil and gas companies operating on the outer continental shelf, and a very limited number of other specific dischargers, including fish processing and timber operations, to comply with the guidelines. Information provided by EPA suggests that well in excess of 2,000 facilities nationwide are discharging into ocean waters without having been reviewed for compliance with the ocean discharge guidelines. Section 5 of this Act requires EPA to report to Congress within six months on its implementation of section 403 and to include in the President's FY 1990 budget request a schedule and estimate of resources needed to implement section 403. The report and schedule apply only to those dischargers that, under current law, are subject to section 403.

Mr. LENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is a pleasure for me to rise in support of H.R. 5430, a bill that establishes the terms and conditions for ending the ocean dumping of sewage sludge and industrial waste. I am pleased, because as a representative from the South Shore of Long Island, NY, this is a very important bill for my constituents.

As many of our colleagues are aware, this legislation has been under development for quite some time. It's borne of the realization that man can no longer continue to degrade our seas and marine life by disposing sludge and industrial wastes in the ocean. I remember all too clearly how the 12-mile dump site, the New York Bight, turned into a virtual wasteland, devoid of marine life. Unfortunately, our current practice of shipping treated sludge further out to the 106-mile site only postpones the day of reckoning.

H.R. 5430 is the result of growing concern over the continued dumping of treated sewage sludge in the Atlantic Ocean at the designated site 106 miles offshore. This site for sewage sludge disposal was selected by the Environmental Protection Agency [EPA] after long debate several years ago as a substitute for dumping sewage sludge in the New York Bight. At the time the 106-mile site was chosen, there was a belief that the waters were so deep and the site so far offshore that it would allow for the dispersal of this treated sewage sludge in an environmentally sound manner.

Some maintain that there is no credible evidence that dumping of treated sludge has caused any significant environmental degradation in the area. Nevertheless, in the abundance of caution, it's time to bring this activity to an end. This country must lead the world in ending practices that can have adverse impacts on our environment.

Finding an environmentally safe alternative to ocean disposal of treated sewage sludge may be difficult—and certainly will be expensive. But this legislation sets in motion a process that will lead to appropriate alternatives to ocean dumping.

It does so by offering a long-term solution to the sludge disposal dilemma. Most of the fees and civil penalties assessed under the bill will be turned back to help local government find and implement environmentally sound alternatives to ocean dumping of sewage sludge and industrial wastes. That is the key to making this program work.

This bipartisan compromise is the product of intense negotiations between Congress and affected State and local municipalities. In fact, my home county of Nassau on Long Island is one of the nine municipalities that has been legally disposing of its treated sewage sludge at the dumpsite 106 miles offshore. Nassau County officials have been working for quite some time with the EPA and private contractors to develop a plan to phase out the county's Ocean Dumping Program. They are optimistic that they will be able to eliminate this practice and that the bill we are considering today will help in that effort.

At this point, I would like to compliment the members of the House Public Works and Transportation Committee for their diligent efforts in working with members of the Merchant Marine and Fisheries Committee and State and local officials to help craft this compromise legislation. I am pleased that the two committees have now been able to come to grips with this problem and to develop a rational legislative response.

Mr. Speaker, this legislation represents one more constructive step in helping our Nation deal with its waste disposal crisis. And, as we approach the end of the 100th Congress, the enactment of this legislation should be viewed as just the beginning of the congressional effort to come to grips with the monumental problems that our Nation faces not only for the disposal of sewage sludge, but also for medical, industrial, municipal, and household wastes.

I hope that all Members of this distinguished body realize that, for the next several years, the solving of the country's waste disposal problems must be at the top of our legislative agenda. I applaud the efforts of the Members who have worked on this particular compromise and hope that we will be able to continue this bipartisan effort to solve the rest of our national waste disposal problems.

Mr. Speaker, I urge all my colleagues to join with us to enact this bill.

□ 1615

At the top of the agenda, I applaud the Members who have worked on this particular compromise and hope we will be able to continue this bipartisan effort to solve the rest of our national waste disposal problems.

Mr. Speaker, I want to commend the distinguished chairman of the Committee on Merchant Marine and Fisheries, the gentleman from North Carolina [Mr. Jones]; the gentleman from New Jersey [Mr. Saxton]; the gentleman from New Jersey [Mr. Hughes], who are the original cosponsors of the bill, the gentleman from New York [Mr. Manton], and the gentlewoman from Rhode Island [Miss Schneider] for their leadership in crafting this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. Nowak].

Mr. NOWAK. Mr. Speaker, H.R. 5430, a bill to impose special fees on the ocean disposal of sewage sludge and industrial waste and to prohibit such dumping after December 31, 1992, represents the combined efforts of our Committee on Public Works and Transportation and the Committee on Merchant Marine and Fisheries. We worked together to fashion a bill that is tough but fair, one that rewards early action in finding alternatives to ocean disposal and punishes delay. I want to commend the chairman of the full committee, the gentleman from California [Mr. Anderson] for his leadership in these efforts and I particularly want to thank the two gentlemen from New Jersey [Mr. Roe and Mr. Hughes] for the crucial role they played in bringing this bill to the floor. As well as the gentleman from Arkansas [Mr. Hammerschmidt] and the gentleman from Minnesota [Mr. Stangeland] representing the minority.

Ocean disposal of sewage sludge and industrial waste is prohibited after December 31, 1992. During the period beginning 6 months after the date of enactment and ending on December 31, 1992, special fees are imposed for ocean disposal. The fees start at $200 a dry ton or equivalent in 1989 and increase to $300 a dry ton in 1990 and $400 a dry ton in 1991 and 1992. No ocean disposal may take place without a permit after 6 months after enactment. In order to obtain a permit, a person must enter into a compliance agreement or an enforcement agreement. A compliance agreement is one which contains a plan which in the opinion of the Administrator will result in the phasing out and cessation of ocean disposal by December 31, 1992. Ocean dumping fees are waived for a person entering into such an agreement. Persons not able to enter into a compliance agreement must enter into an enforcement agreement which sets forth a schedule for the phasing out and cessation of ocean disposal by a subsequent date.

For any ocean disposal which continues beyond the December 31, 1992, date, substantial and escalating penalties are imposed, starting at $800 a dry ton or equivalent and increasing each year by ten percent plus an additional percent for each year after 1993.

Each permittee is to establish a trust account into which 85 percent of the fees are deposited. Also, beginning in 1993, 90 percent of the penalties is deposited in the account, with this percentage declining 5 percent in each succeeding year. The remainder of the penalties and fees is paid to EPA and is available for use by EPA for administration and research, the Coast Guard for enforcement, and NOAA for monitoring and research. The amounts available to these agencies are limited to the amount expended in fiscal year 1988 plus a 20-percent increase over the prior year's amount in 1989 and 1990, a 15-percent increase over the prior year's amount for 1991 and 1992, and for 1993 and beyond a 10-percent increase over the prior year's amount.

There are three important provisions in the bill which are designed to facilitate the implementation of environmentally sound alternatives to ocean disposal and to assist generally in the cleanup of navigable waters and coastal waters. The first of these provides that the funds in the trust account may be withdrawn with the concurrence of EPA and expended for the identification, development and implementation of alternatives to ocean disposal. The second provides that the amounts of the penalties and fees which are paid to EPA and not used by the three agencies for administration, monitoring and enforcement are to be used by EPA to make grants to the States of New York and New Jersey for deposit in their revolving loan funds established under title VI of the Federal Water Pollution Control Act. Last funds remaining in the trust account after ocean disposal has stopped are to be paid to the permittee for use in meeting the requirements of the Federal Water Pollution Control Act.

The penalties and fines are thus used both to hasten the end of ocean disposal and to clean up navigable and coastal waters.

Mr. Speaker, this bill is needed, it is justified, it is equitable, and it will work. I strongly urge its passage.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the principal author of this bill and the one who has been the chief sponsor, the gentleman from New Jersey [Mr. Hughes].

Mr. HUGHES. Mr. Speaker, I thank the distinguished chairman of the Committee on Merchant Marine and Fisheries, the gentleman from North Carolina [Mr. Jones], and I thank him and the ranking Republican on the committee, the gentleman from New York [Mr. Lent], the gentleman from California [Mr. Anderson], the chairman of the full Committee on Public Works, my good friend and colleague, the gentleman from New York [Mr. Nowak], the chairman of the Water Resources Committee and his ranking member, the gentleman from Minnesota [Mr. Stangeland] for their work and, in particular, I want to commend my colleague, the gentleman from New Jersey [Mr. Saxton], who has worked diligently with me in crafting this legislation, and the gentlewoman from Rhode Island [Miss Schneider].

Basically we began working on this legislation early in the hunt this Congress. It is a good bill. I also want to thank our colleagues, the gentleman from New Jersey [Mr. Roe], who played a very key role as well as the gentleman from New Jersey [Mr. Gallo], the gentleman from Delaware [Mr. Carper], who has worked with me on ocean dumping for many years, the 6 years that he has been in the Congress, the gentleman from Maryland [Mr. Dyson], and so many others who have worked very hard on this legislation.

Mr. Speaker, the goal of this bill is to end ocean dumping and clean up our waters. Although ocean dumping may not be the only source of marine pollution, it is a major one. It is harming our fisheries and jeopardizing multibillion-dollar tourist industries in a number of States along the eastern seaboard. It has been estimated that New Jersey alone has lost over $1 billion this past summer because of the perception that our waters are not clean or safe for swimming.

H.R. 5430, the Ocean Dumping Ban Act reflects the strong bipartisan support of both the Merchant Marine and Public Works Committees in bringing a long-overdue end to the dumping of sewage sludge and industrial waste into our Nation's oceans. This legislation is strong and comprehensive in scope—combining a ban on ocean dumping by December 31, 1992, with funding and enforcement mechanisms necessary to ensure that the ban will be effective.

When Congress first enacted the ocean dumping ban that our late colleague E.S. Forsythe and I wrote in 1977, there were more than 100 municipalities and 300 industrial dumpers that had permits or were seeking permits to dump in the ocean. As the December 31, 1981, deadline approached, nearly all of those, including Philadelphia, had found alternatives.

But the ocean dumping ban was never fully implemented because of a successful last-minute legal challenge brought by New York City—the granddaddy of the dumpers—and supported by several other New York and Northern New Jersey communities.

Today, just one industry and nine municipalities continue to dump waste in the ocean. This legislation will, at long last, put a stop to all ocean dumping.

Six months after the date of enactment of this act, no one will be allowed to dump sewage sludge or industrial waste into ocean waters unless they have obtained a permit. The permit will impose an escalating per dry ton special disposal fee.

The special disposal fees will be waived if the permittee enters into a compliance agreement and agrees to develop and implement environmentally sound alternatives by December 31, 1992.

The dumpers that do not enter into a compliance agreement will enter into an enforcement agreement and pay the special disposal fees: $200 per dry ton during calendar year 1989; $300 per dry ton during calendar year 1990; and $400 per dry ton during calendar years 1991 and 1992.

If a permittee violates the law and dumps after December 31, 1992, penalties beginning at $800 per dry ton will be imposed, increasing by 11 percent in 1994, 12 percent in 1995, 13 percent in 1996, and so forth. For example, if New York City dumped its sewage sludge beyond the deadline, it would pay over $116 million dollars in 1993. If New York City continued to dump in 1994, it would pay approximately $130 million.

And, 85 percent of the fees and a portion of the penalties will be placed into a trust account that the dumpers may use for the development and implementation of environmentally sound alternatives. The amount of the penalties placed into this trust account will decrease by 5 percent each year. Therefore, the amount the dumpers could recoup would decrease each year. New York City, for example, would lose approximately $11 million in 1993, increasing to a loss of approximately $20 million in 1994, and $30 million in 1995.

In addition, 20 percent of the grants used for the revolving loan fund pursuant to the Clean Water Act will be earmarked for assisting permittees in changing to more environmentally sound alternatives.

The fees and penalties paid to the Administrator that are not necessary for carrying out its activities, will supplement this revolving loan fund. Therefore, those municipalities using alternatives other than ocean dumping will be assured of having sufficient funds for upgrading their sewage treatment plants and carrying out the necessary programs pursuant to the Clean Water Act.

This legislation offers a sensible strategy for ceasing ocean dumping and addressing our ocean pollution concerns. It is a good bill. I urge your support.

Mr. Speaker, I want to thank, in addition to the Members who have worked very hard to bring us to this day, the staffs of the Committee on Merchant Marine and Fisheries and the staff of the Committee on Public Works for doing an excellent job. We started the process back in 1977. We thought we had them out again, and this is going to finish the job.

Mr. JONES of North Carolina. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. Roe].

Mr. ROE. Mr. Speaker, I want to thank the distinguished chairman, and I want to join in.

I am putting my statement in the Record rather than take the time, because I think my colleague, the gentleman from New Jersey [Mr. Hughes], has done a very, very commendable job as he always has done in explaining the background and facts of this particular legislation. I want to pay my high regards to the chairman of the Committee on Merchant Marine and Fisheries, the gentleman from North Carolina [Mr. Jones], and the chairman of the Committee on Public Works, the gentleman from California [Mr. Anderson], and I think we boiled it really down to one point, that I think it is time we did something about it.

Mr. Speaker, today we have the opportunity to correct an environmental travesty; the dumping of damaging sewage sludge into our most valuable oceans. By passing H.R. 5430, we can finally put an end to this obnoxious practice, which has thwarted the obvious intent of Congress for the past 10 years. Since 1978 when this body enacted legislation which became law calling for the cessation of dumping, we have met with nothing but foot dragging and legal maneuvering to delay and circumvent the law.

Mr. Speaker, I rise in support of the bill. It addresses a situation which has become increasingly unacceptable—the disposal of sewage sludge in ocean waters. This bill represents the efforts of two committees—Public Works and Transportation and Merchant Marine and Fisheries. These two committees have worked hard and successfully to arrive at legislation which will finally end the practice of disposing of sewage sludge and industrial waste at sea.

The bill makes it unlawful to dispose of sewage sludge and industrial waste in the ocean after December 31, 1992. Prior to that date, no disposal is allowed unless it is permitted by EPA. In order to obtain a permit, a person must enter into either a compliance agreement or an enforcement agreement. A compliance agreement is one which sets forth a plan of action that will result in the cessation of ocean dumping by December 31, 1992. An enforcement agreement is entered into by those who cannot meet the 1992 date, and sets forth a schedule for the cessation of dumping.

The bill contains very strong incentives for the cessation of ocean dumping. Prior to the December 31, 1992 date, permittees must pay a special ocean disposal fee which starts at $200 a dry ton in 1989 and increases to $300 a dry ton in 1990 and $400 a dry ton in 1991 and 1992. These fees are waived for those who have entered into a compliance agreement.

After December 31, 1992, the fees are replaced by much higher penalties for those who are still dumping in the ocean. The penalties start at $800 a dry ton and increase each year by 10 percent plus an additional one percent for each year beyond 1993.

An innovative feature of the bill is the use to which fees and penalties are put. Permittees paying fees are to establish a trust account into which 85 percent of the fees are deposited. Also, starting in 1993, 90 percent of any penalties is deposited in the account, with the amount decreasing by 5 percent each year. The remainder of the fees and penalties is paid to EPA.

The money in the trust account may be withdrawn with EPA's concurrence, and may be used for the identification, development, and implementation of alternatives to ocean dumping.

The fees and penalties paid to EPA are made available to that agency and to the Coast Guard and NOAA for administration, enforcement and monitoring and research within specified ceilings. Funds over and above this amount are available to make grants to the States of New York and New Jersey—the only States from which sludge is disposed of in the ocean—for deposit in those States revolving loan funds established under the Federal Water Pollution Control Act.

Finally, any funds left over in an account after the cessation of ocean dumping may be used by the permittee to meet its requirements under the Federal Water Pollution Control Act.

Finally, 20 percent of a State's grant for its revolving loan fund, plus 20 percent of the associated State share, is available only to make loans to a permittee for alternatives to ocean dumping. If not so utilized within 6 months of the grant, the funds may be loaned to other communities in the State. This provision is designed to ensure adequate State involvement in the process of bringing a halt to ocean disposal of sewage sludge.

The bill uses a combination of incentives and assistance to end ocean dumping at an early date. Its provisions are fair and workable. It will provide for an effective way to implement environmentally sound alternatives to ocean dumping. I strongly urge its passage.

I have vigorously supported legislation during this time calling for the end of ocean dumping, and yet some 8 million wet tons of sludge a year are still being dumped. With this bill we can look these people directly in the eye and say, "Nobody has the right to dump their slop in the ocean. Period."

This summer has demonstrated beyond a shadow of a doubt that the ocean is not a bottomless pit for our garbage. It has given us fair warning by spewing needles and bloody bandages on our beaches and by littering our shores with sick and dying dolphins—if we continue to defile the ocean with our sewage, with our medical waste, and with whatever garbage we neglect to dispose of properly, the vast ocean which we once thought of as immeasurable will choke and die. Our shores will be nothing more than a polluted bathtub ring.

This legislation is the result of a bipartisan compromise worked out by interested members of the Public Works and Merchant Marine Committees. It is a tough but balanced measure which penalizes dumpers for their actions and yet gives them the means and incentives for doing what should have been done 10 years ago. It will insure these agencies will stop dumping their sewage sludge in the ocean by December 31, 1992.

Fines and penalties will be placed into a trust account that may be used by the dumper to plan and implement environmentally sound alternatives to ocean dumping. The States will also be involved in aiding the municipalities in other methods of solid waste disposal. The bill requires them to earmark up to 20 percent of their grant payments under the Clean Water Act to aid in the construction of land facilities and implementing compliance plans. I believe this is an extremely important point. It is essential that the States become intimately involved in getting the dumpers in their jurisdiction out of the ocean. This is not just a problem for the municipalities themselves. It must be addressed by the entire State, and this provision insures the State will give the problem due consideration.

This measure is important not only to spell out what Congress thought it had mandated in 1978, but it is the next major step in treating our environment with the respect it deserves and now has begun to demand. Mr. Speaker, my colleagues are aware of my long history of dealing with environmentally sensitive legislation, especially on the issue of water resources. Let me say that I feel this to be a matter of vital concern, and this is a strong and effective answer.

In closing, I wish to commend all my colleagues who contributed to bringing this bill to the floor, Messrs. Hughes, Saxton, Gallo, Nowak, Stangeland, Anderson, Jones, Molinari, Miss Schneider, and the members of both the Public Works and Merchant Marine Committees. In particular I wish to single out Mr. Hughes who has been battling this issue for 10 years. He is to be highly commended for his patience and perseverance. It took a great deal of time and effort to bring this legislation to the floor, but I feel we have a good bill, and I would hope that we can move this measure through both bodies and into law in the short time we have left.

Mr. LENT. Mr. Speaker, I yield 4 minutes to a member of the Committee on Merchant Marine and Fisheries, a coauthor and original sponsor of this legislation, the gentleman from New Jersey [Mr. Saxton].

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. SAXTON. I am happy to yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I rise in strong support of this measure. It is long overdue.

Mr. Speaker, I rise in support of H.R. 5430, the Ocean Dumping Ban Act of 1988. Permit me to commend the Chairmen and Members of the Committee on Merchant Marine and Fisheries and the Committee on Public Works and Transportation who have diligently labored to prohibit the ocean dumping of sewage sludge. In particular, I would like to cite the leadership of my colleagues from New Jersey, Mr. Hughes, Mr. Roe, Mr. Gallo, and Mr. Saxton, the gentlelady from Rhode Island, Miss Schneider, and my distinguished friends from New York, Mr. Nowak and Mr. Manton, for their efforts to negotiate a reasonable compromise which is cost-effective and environmentally sound.

Mr. Speaker, I am pleased to be an original cosponsor of this measure which conclusively affirms our Federal prohibition against continued dumping of sludge. Our legislation will establish environmental trust funds to provide incentives for state and local governments to expedite their development of sound alternatives to ocean sludge disposal. The fees and penalties collected in the trusts will finance Federal research and compliance activities, as well as provide a revenue base for the development and construction of new, alternative sludge disposal facilities.

The enactment of this legislation sends a strong signal to the American public that Congress has recognized the ill-fated expediency of continued ocean dumping. As my colleagues are aware, a portion of my own 22d Congressional District is affected by this legislation, and I am pleased that my constituents are willing to accept the challenge of ending ocean pollution. In particular, I am pleased that this proposal will accomplish our task in manner which is realistic and feasible from the perspective of both technology and the economy.

Accordingly, I urge my colleagues to support the Ocean Dumping Ban Act so that we all might enjoy the majestic beauty of untainted ocean shores and I request that the attached Reporter Dispatch editorial indicating some of the views in my district, be inserted at this point in the Record:

[From the Reporter Dispatch, Oct. 3, 1988]

Fair Compromise on Sludge Dumping

Relying heavily on a compromise that Gov. Cuomo worked out with Gov. Thomas Kean of New Jersey, the House of Representatives has finally put together a bill that would ban dumping sewage sludge at sea.

It will not happen as soon as some environmentalists and many ocean swimmers would like, but it will happen.

Sludge—the residue of sewage treatment—is the largest single cause of ocean pollution and beachfront contamination. While no responsible arguments were raised against the dumping ban, reasonable appeals were made to delay implementation.

Mayor Edward I. Koch of New York was among the most worried, probably because he has more sludge to get rid of than anyone else. His point, that it would take more than a year or two to develop alternatives to ocean dumping, was well taken, and the concern applies to Westchester County as well.

Under the original proposal, the ban would have gone into effect at the end of 1990. Municipalities faced hefty fines for continued ocean dumping even if they had nowhere else to go.

The danger in imposing an artificially unrealistic deadline was twofold. First, it could be challenged in court, possibly jeopardizing the ban altogether. Second, the fines would divert money needed to find alternatives to ocean dumping.

The compromise, which has been embraced by two key House committees answers those issues.

I postponed the ban until 1993, allowing time for an expeditious quest for alternatives. While the bill does not drop the fines for continued ocean dumping, it requires that any money paid in penalty fees be set aside to research those alternative means of sludge disposal.

No, 1993 is not soon enough. But it is as soon as possible. That, after all, is why it was called a compromise.

Mr. McGRATH. Mr. Speaker, will the gentleman yield?

Mr. SAXTON. I am happy to yield to the gentleman from New York.

Mr. McGRATH. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of this legislation.

Mr. Speaker, I want to take this opportunity to express my strong support for H.R. 5430, the Ocean Dumping Act amendments. The situation involving the disposal of the waste generated by the metropolitan New York area is unique. Limited land space has forced the metropolitan area to dump its municipal treatment plants' sewage sludge into the ocean beyond a 105-mile line. This legislation is designed to eliminate sewage sludge ocean dumping and alleviate pollution levels currently found in our Nation's waters.

One option would be to open more land sites. However, the scarcity of available land poses even a larger problem for area residents to confront. The recent garbage barge incident has become a reflection on the situation of Long Island's refuse problem. While the barge has been the brunt of many cruel jokes, it has made this Nation's citizens aware of the enigma facing many communities where land is scarce.

H.R. 5430 is a realistic approach to combat the sewage sludge problem. Most importantly, the bill bans the dumping of sewage sludge into the ocean after December 31, 1992. In addition, H.R. 5430 creates a Federal trust fund to finance the development and implementation of environmentally sound alternatives to ocean dumping. Trust funds, comprised of fees and penalties imposed on communities that continue to dump sewage sludge in the ocean, could also be used for monitoring and enforcement of the ocean dumping law.

I want to thank the members of the Merchant Marine and Fisheries, and the Public Works and Transportation committees for developing a bipartisan piece of legislation acceptable to the State of New York and the delegation. I urge my colleagues to cast a vote in favor of our oceans and support the passage of H.R. 5430.

Mr. SAXTON. Mr. Speaker, I thank the gentleman from New York [Mr. LENT] for yielding me this time.

Mr. Speaker, we have always shared the common goal of protecting the environment, both landward and seaward, of the beautiful coastline we both share. I believe that we have today come up with a fine and workable mechanism to accomplish that goal.

This bill represents the culmination of countless hours of negotiation and many years of dedicated work, particularly by my friend and colleague from New Jersey, BILL HUGHES, as well as my colleagues on Merchant Marine and Fisheries, CLAUDINE SCHNEIDER, and TOM CARPER, and our Chairman, Mr. JONES.

Many of the residents of my district—and of the districts of many Members here today—grew up, lived full lives, and operated successful businesses, and even retired along the shoreline. The ocean, to them, became a symbol of awesome power and yet a trusted friend. But they have increasingly had to live in fear of that friend. I am proud of the individual and collective efforts of many of my own constituents—Karen Kiss, Cindy Zipf, the Long Island Beach Garden Club, and others—in keeping the pressure on this Congress to act.

We must deliver.

Just hours ago we all witnessed an inspiring return of this Nation's journey into the frontiers of space—man that was exciting! Now we must turn with the same respect to the last frontier here on Earth, our ocean frontier. We must return our coastlines to their former glory.

The bill before us today cannot, on its own, return us to that glory—but it is a clear sign of hope and a first step in that direction. Its passage would signal a significant shift in this Nation's attitude toward responsible waste management.

The respective floor managers have outlined the contents of this bill. I wish simply to add that the bill is well structured to achieve its intended goals—to bring an end to ocean dumping; to provide a mechanism for a local, State, and Federal partnership in reaching that end; and to reassess and strengthen the guidelines by which we judge ocean discharges.

Though the latter is addressed in an important amendment to this bill contributed in subcommittee by Mr. MANTON, it is my hope that the same protections will be afforded our Nation's estuaries—and I will work toward that end in the next Congress.

The Committee had also hoped to include provisions holding dumpers of medical waste responsible for their actions. Though I do not believe there is any controversy over their content, we simply did not have sufficient time to add them—and it is my hope that they will be the subject of discussion in the House/Senate conference.

Mr. Speaker, this bill represents a renewed promise to all coastal residents. Again, we must deliver on that promise. I urge you all to support it.

☐ 1630

Mr. JONES of North Carolina. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I am pleased to join my colleagues today in bringing to the floor H.R. 5430, a bill imposing special fees on the ocean disposal of sewage sludge and prohibiting such disposal after December 31, 1992.

This bill is a result of extensive discussions between our Committee on Public Works and Transportation and the Committee on Merchant Marine and Fisheries. I wish to commend the chairman of our Subcommittee on Water Resources, the gentleman from New York [Mr. NOVAK] for his fine efforts on this bill, and the gentlemen from New Jersey [Mr. ROE and Mr. HUGHES] for their excellent efforts in arriving at the compromise bill. It provides for a combination of measures to force the cessation of the dumping of sewage sludge and industrial waste into the oceans. Ocean dumping after December 31, 1992, is prohibited. Any dumping prior to that date will require a permit from EPA and special dumping fees are imposed starting at $200 a dry ton of sewage sludge or industrial waste in 1989 and escalating to $300 in 1990 and $400 in 1991 and 1992. For any dumping which occurs after December 31, 1992, a penalty of $800 a dry ton is imposed, and each year the dumping continues, this penalty goes up 10 percent plus an additional percent for each year after 1993. Under this scheme, the longer the dumping continues the more costly it becomes.

In order to further ensure that dumping in the ocean ceases, compliance and enforcement agreements are called for which will specify schedules which must be followed to end ocean dumping.

To hasten the conversion to alternatives to ocean dumping, each permittee is to establish a trust account from which funds may be withdrawn with the concurrence of EPA for the identification, development, and implementation of environmentally sound alternatives to ocean dumping. Eighty-five percent of the dumping fees are deposited in these accounts. A percentage of the penalties collected is also deposited in these trust accounts, starting at 90 percent in 1993 and decreasing 5 percent each year thereafter. Fees and penalties not deposited in the accounts are paid to EPA and are available to EPA, NOAA, and the Coast Guard for administration, research, and enforcement associated with the ocean dumping of sewage sludge. Funds not utilized for these purposes are made available to the States of New York and New Jersey, for deposit in their revolving loan funds established pursuant to the Federal Water Pollution Control Act for the purpose of making loans to communities for the construction of sewage treatment facilities. The funds made available can be used for all types of sewage treatment works including correction of combined sewer overflow problems.

The provisions in the bill as agreed to by our two committees constitute a significant step forward in our efforts to achieve and maintain a high degree of water quality in the oceans. These provisions are strong, they are fair, and they will work. This is an extremely important bill and I urge its passage.

Mr. LENT. Mr. Speaker, I yield 2 minutes to the gentlewoman from Rhode Island [Miss SCHNEIDER].

Miss SCHNEIDER. Mr. Speaker, let me say as we discuss this ocean dumping bill and the thrust of it which says that it shall be unlawful for any person to dump any sewage or industrial waste into ocean waters after December 31, 1992, that it is very clear that this provision is absolute. Anyone who dumps after this date is in violation of the law and will be subject to severe penalties and fines, as my colleagues from the Committee on Government Operations have articulated, but it is important for us to look at the effort to get here, and I commend my friend, the gentleman from New Jersey [Mr. HUGHES], for his tireless effort in assuring that we would reach this point at long last, but I will say that as recently as a year ago everyone was saying this bill would never pass, that Mayor Koch and Senator

D'AMATO, as well as other dumpers and the EPA also insisted that this bill would not survive the legislative process.

Well, I stand here today and say they were all wrong. This onerous practice now will end once and for all, and Congress will be responsible for bringing it to an end.

I would like to say that ocean dumping could stop immediately. However, procedural and technical realities have made that an impossible task. The fishing industry, which has suffered greatly over the past couple of years and which is one of the most important industries in our balance of trade, as we in particular export, have a surplus with Japan of more than $1 billion, and it is very important for our own individual States and community, and the State of Rhode Island itself, having three-quarters of a billion industry in fisheries.

So now as we call for an end to ocean dumping, I believe this is a historic moment because this is an opportunity now for us to once again place attention on the role of our oceans and environment.

Mr. LENT. Mr. Speaker, I yield the balance of my time to the distinguished gentleman from Arkansas [Mr. HAMMERSCHMIDT], the minority leader of the Committee on Public Works and Transportation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in strong support of H.R. 5430, which amends the Ocean Dumping Act of 1972 to prohibit the dumping of sewage sludge and industrial waste after 1992.

The bill which we bring to the floor today represents a carefully crafted compromise between the two committees with jurisdiction over this issue, the Committees on Merchant Marine and Fisheries and Public Works and Transportation. Perhaps more importantly, the bill represents a compromise between those who want to see an immediate end to ocean dumping and those few remaining municipalities which are seeking ways to end such dumping.

This has not been an easy compromise to forge. The difficulty stems from the high level of commitment on the part of those who want to see an end to ocean dumping of sewage sludge as quickly as posible versus the concern by some that we must give current dumpers enough time to develop environmentally acceptable alternatives to ocean dumping.

Most of the credit for the excellent compromise which we bring to the House goes to the willingness of the leadership of our two committees to strive for a solution that is fair to all parties. I want to express my thanks to Chairman ANDERSON, and to the chairman and ranking Republican of our Water Resources Subcommittee, Mr. NOWAK and Mr. STANGELAND, for their hard work and perseverance.

Certainly, the leadership of the committee on Merchant Marine and Fisheris, in particular Chairman JONES and the ranking member BOB DAVIS, deserves our thanks as well. But I especially want to thank the members of our two committees who are most directly affected, BOB ROE, BILL HUGHES, GUY MOLINARI, TOM MANTON, DEAN GALLO, and EDOLPHUS TOWNS for their hard work and commitment to finding a workable solution.

Mr. Speaker, the solution that we have developed is fair to all points of view. It ensures that the ocean dumping of all sewage sludge and industrial waste will end as quickly as possible. It provides for maximum protection of our precious marine environment while providing the strong incentive and commitment needed for communities that still dispose of wastes in the ocean to find enviornmentally acceptable alternatives.

The compromise we have developed is balanced yet fully protective of the environment. I urge all of my colleagues to support it.

Mr. Speaker, I ask unanimous consent that the gentleman from New Jersey [Mr. GALLO] be allowed to handle the balance of our time.

The SPEAKER pro tempore (Mr. BENNETT). Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. GALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today on behalf of people everywhere who care deeply about our common environment to celebrate House passage of the Ocean Dumping Ban Act of 1988.

The dedication of my colleagues on the Merchant Marine and Fisheries Committee and the Public Works and Transportation Committee, in particular New Jersey Representatives JIM SAXTON and WILLIAM HUGHES, as well as our esteemed colleagues from other delegations, especially those individuals from New York, have made this day possible.

This legislation prohibits ocean dumping after December 31, 1992, and imposes penalties for noncompliance. Most of the money collected will be used to develop land-based alternatives to ocean dumping and to cover the costs of enforcement.

As an original cosponsor of this legislation, I believe that this is a reasonable approach that will end an environmentally hazardous practice and protect our oceans for our children and grandchildren. This legislation has been subject to a great deal of review and it reflects the concerns we have without creating a new Federal bureaucracy. It puts teeth in current law by funding enforcement, rather than creating new laws that would be difficult to administer.

After a great deal of discussion, we have come to one unavoidable conclusion. Without the strict deadlines and significant fines and penalties for missing those deadlines contained in this legislation, we will never see an end to this environmentally destructive practice.

Because most of the penalties contained in this bill are held for use in the development of land-based alternatives to ocean dumping, I believe that we have developed a bill that is both tough and fair. This is both a carrot and a stick.

We must avoid the mistakes of the past, when good intentions were negated by court orders and parochial interests became more important than environmental protection.

Our goal is clear. For the first time in the 50 years that we have wrestled with this problem, we are within reach of that goal.

Ongoing negotiations to produce consent agreements with authorities and municipalities on these issues must be based on the clear understanding by the participants in these negotiations that we are not kidding about banning all dumping by a date certain provided in Federal law.

If we weaken our resolve, these negotiations will languish, as they have in the past, and we will be fighting about this for the rest of our lives.

This problem didn't arrive on the scene yesterday and it will never go away if we do not hold everybody's feet to the fire. That is what this bill does and it should move forward on a fast track. I urge my colleagues in the House and Senate to pass this bill for the end of the 100th Congress.

Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. MOLINARI].

Mr. MOLINARI. Mr. Speaker, I rise in support of the bill, H.R. 5430, to cease the ocean dumping of sewage sludge by 1993.

This bill, Mr. Speaker, is a recognition of two factors: first, that from an environmental perspective, ocean dumping of sewage sludge should stop; and second, that there are viable alternatives available for the disposal of sewage sludge.

Congress had previously set a cutoff of 1981 for ocean dumping and some municipalities followed that edict. The city of Philadelphia, for example, set up a 5-year phase-in plan, testing 10 different possible long-term alternatives to ocean dumping; then decide which of the alternatives was feasible and most cost effective. Other municipalities, such as New York City and some in New Jersey, challenged and did not follow Congress' 1981 order. The bill before us is crafted so that there are no options for delay.

While cessation of ocean dumping is imperative, we must also be sure that the specific alternatives chosen are not worse for public health. If you know the city of New York, the option of choice tends to be the cheapest alternative. For this reason, I introduced an amendment in the Water Resources Subcommittee, which is included in this bill, that prohibits the dumping of sewage sludge in any landfill on Staten Island—in particular, the Fresh Kills landfill. During testimony before the Subcommittee on Water Resources, New York City officials said that Fresh Kills would be looked to as an alternative to ocean dumping. Given the current condition and operation of Fresh Kills landfill, the addition of sewage sludge could dramatically increase the health risk already posed by the landfill—not only to Staten Islanders, but to people in New Jersey as well.

A more responsible city administration would have moved to cease ocean dumping long ago. The attitude New York City has shown on disposing of sewage sludge is the same attitude it has shown with solid waste disposal. And I would say, as somewhat of an aside, that while the city of New York might think it has a problem disposing of sewage sludge, it is facing an absolute crisis with regard to solid waste disposal. For 11 years, we have seen no progress made in addressing this problem; and while we now act to accommodate sewage sludge disposal, our city administration is doing an even greater injustice to the city's future by continuing its inaction on solid waste disposal.

Once again, Mr. Speaker, I urge support of the bill.

Mr. Speaker, I pay tribute to the gentleman from New York [Mr. NOWAK] who worked very, very hard on this; the gentleman from New Jersey [Mr. GALLO]; the gentleman from New Jersey [Mr. HUGHES]; and the gentleman from Arkansas [Mr. HAMMERSCHMIDT], who worked together in a bipartisan way for something that has solid teeth in it.

☐ 1645

Mr. GALLO. Mr. Speaker, I yield 1 minute to the gentlewoman from New Jersey [Mrs. ROUKEMA] who has been very involved and very supportive in this effort.

Mrs. ROUKEMA. I thank my colleague, the gentleman from New Jersey, Mr. GALLO, and other members of the New Jersey delegation, particularly Mr. HUGHES and Mr. SAXTON, who have been in the forefront on this effort. They have been diligent leaders in this effort. And surely we must not forget the gentlewoman from Rhode Island, Miss CLAUDINE SCHNEIDER, who when first proposing this legislation was told it could not be done but here we are making a major step forward today.

Mr. Speaker, I rise in enthusiastic support of this legislation. My constituents have waited for over a year for this legislation, so for this reason, I commend the Merchant Marine and Public Works Committee for giving the House an opportunity to pass this much-needed bill today. I would be remiss if I did not applaud the sponsors of this measure, Mr. HUGHES, Mr. SAXTON, Mr. GALLO and Ms. SCHNEIDER, for their diligent efforts on behalf of their own and several other east coast States.

Mr. Speaker, the last two summers have proven beyond a shadow of a doubt that it is high time we put a stop to all forms of ocean dumping! Whether it is sludge dumping at the 106 mile site off New Jersey's coast, which this legislation specifically concerns, illegal medical waste dumping, combined sewer overflows, or agricultural runoff, we can no longer afford to use the ocean as a mere cesspool!

My district is not located along the Atlantic Ocean. Nevertheless, all New Jersey people cherish the ocean and their vacations at the New Jersey shore. Let me tell my colleagues, quite frankly, that my constituents are outraged by the assault on the ocean and, after two lost summers, are demanding firm action from this Congress.

This landmark legislation before us would ban the ocean dumping of sewage sludge and industrial waste after December 31, 1992. However, 6 months after enactment, dumping would no longer occur without the imposition of escalating fees. The fees would help accelerate the implementation of safe land-based alternatives to the insidious practice of ocean dumping. If dumping were to occur after 1992, the legislation would hit the dumpers where it hurts most—in their pockets. Clearly, Congress must assess severe civil penalties in order to take the profit out a practice that heretofore has been profitable, at the expense of the economy and the environment. In my estimation, the fees and the penalties give the dumpers ample incentives to get out of the ocean within the timeframe legislation provides.

Let there be no mistake about it: my State will pay its fair share of the price for this legislation. There are six municipal authorities in New Jersey which are presently dumping at the 106 site. However, the leadership in New Jersey stands ready and committed to make the financial sacrifice to protect the ocean for future generations. In fact, the New Jersey State Legislature has already enacted legislation which is even stricter than the legislation we are debating today.

But, to repeat my statement before the Merchant Marine Committee at a hearing on this issue in February, New York, and New Jersey must not point fingers. Together, we should point to a way out! Therefore, it is encouraging that Gov. Mario Cuomo finally agrees with my Governor, Tom Kean, that it is time to end the degradation of the ocean.

Mr. Speaker, the House will pass this legislation today. But, before the session closes, we must move quickly to final enactment of this bill and related measures to crack down on medical waste dumping. Therefore, I would hope that all of my colleagues will join me and the New Jersey congressional delegation in support of this critical effort.

Mr. GALLO. Mr. Speaker, I yield 1 minute to the gentlewoman from Hawaii [Mrs. SAIKI].

Mrs. SAIKI. Mr. Speaker, I rise today in strong support of H.R. 5430, the Ocean Dumping Ban Act of 1988.

I believe that this is the strong yet positive legislation we need to stop municipalities from thinking of the ocean as a convenient sewer.

This summer we saw human waste, medical waste and industrial wastes poision our fisheries, kill marine mammals, and contaminate our shores. We cannot continue along this path. We can no longer assume that our oceans have an infinite capacity to absorb, cleanse or hide whatever wastes and toxins we choose to dump in it.

During the Merchant Marine and Fisheries Committee's consideration of this issue, I supported H.R. 4338, the predecessor to this measure. H.R. 5430 is an improved, tougher bill with greater incentives than its predecessor; and I support it wholeheartedly.

While retaining language to prohibit the ocean dumping of sludge and industrial wastes after 1992, H.R. 5430 mandates fees and penalties to be paid, and trust accounts for individual municipalities, to be used toward the development and implementation of land based disposal alternatives.

I feel H.R. 5430 is judicious in its approach and, I urge my colleagues to support this bill. It will be a good faith effort to clean up our oceans and coastal areas.

Mr. JONES of North Carolina. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER], a longtime advocate of this particular legislation.

Mr. CARPER. I thank the gentleman for yielding time to me.

Mr. Speaker, more than a decade ago, Congress passed legislation they believe would soon end ocean dumping of sewage sludge and chemical wastes. At that time, approximately 100 American cities and 200 companies were using our oceans as their sewer. Many more wished to join them.

Thanks to that legislation adopted in the 1970's, those who wished to join the dumpers never got to do so. Little by little, those who had used the ocean as their sewer for years ended that practice.

Today, fewer than a dozen cities dump their sewage sludge in the ocean.

Today, only one firm still has a permit to dump chemical wastes in the sea. Much has been accomplished, but the job is not yet finished. With the adoption of this bill today, we take a big step forward to end the job that was begun so many years ago.

Today, we write what should be the final chapter of a bitter and at times, divisive struggle.

By the end of this century, 75 percent of our population will live within 50 miles of the coast. The pressure and stress on our coastal waters, already intense, will grow even more with the passage of time. Despite the fact that roughly 100 cities have gotten out of the ocean dumping during the past decade, the hard truth is that those who remain, dump as much sludge today than all the others combined when this decade began.

With the adoption of this bill today, finally we will say enough is enough. We're tired of coastal waters so polluted that it's not safe to eat many of the shellfish that live along our shore. We're tired of dolphins dying by the hundreds and washing up on our shores, and we're tired of bacteria level so high in our coastal waters that on some days it isn't safe for our children and families to swim there.

The compromise before us is not a panacea, nor will it end all of our ocean pollution problems. It is a carefully crafted combination of carrots and sticks that has even won the endorsement of the dumpers themselves. While this bill makes it clear that ocean dumping must cease, it also acknowledges that it won't be easy for some.

A reasonable phaseout period and an escalating fee schedule are incorporated. A trust fund is created to help find safe land-based alternatives, and, more effective use is made of a revolving loan fund to help build the facilities to ease the transition for the dumpers.

I especially want to commend today our leader in this crusade for the past dozen years, Representative BILL HUGHES of New Jersey.

I also want to commend my colleagues—Democrats and Republicans from Chairman WALTER JONES of North Carolina to Representative CLAUDINE SCHNEIDER of Rhode Island—for their efforts in crafting this compromise. And, I want to commend the Public Works and Transportation Committee for taking a very good bill reported out of the Merchant Marine and Fisheries Committee and making it a little better.

I ride home on the train most evenings to Delaware where my wife Martha and I make our home. There are some evenings when I make that ride frustrated and disappointed at the opportunities lost here because of partisan strife, regional differences, and parochial interests. There are also times when I make that trip buoyed by the knowledge that we still can put aside partisanship, our regional differences, and our parochial interests.

This is one such evening, and I salute each of you who have put the interest of our environment, our oceans, and our country ahead—in some cases—of our own interests so that the many creatures that live in the sea and those of us who love the sea can breathe a little easier.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I rise in strong support of the bill.

Mr. Speaker, I rise to voice my strong support for H.R. 5430 and to urge its swift passage.

Mr. Speaker, more than a decade has passed since the U.S. Congress decided to end the dumping of sewage sludge into the oceans off the Northeast; a decision that has since been frustrated by lawsuits and administrative delays. Once again, however, the House has an opportunity to vote on the question, and once again, I urge the House to vote yes; to end the shortsighted and wasteful practice of dumping millions of tons of sludge into our marine environment yearly.

Mr. Speaker, the key question before us is not whether to end ocean dumping, but when: the queston is not if, but now quickly. Our public role and responsibility is to force a waste management strategy that protects renewable resources and the marine environment and that puts our sludges to good use. Current waste disposal practices are driven by short-sighted economics that are blind to environmental impacts. Because nobody owns the oceans, ocean dumping is a cheap buy for those looking for a dump.

Yet our fisheries are placed at risk by an operation about which we are largely ignorant: the site is not adequately monitored and we are—and will be—largely blind to the damage we may be causing.

Why should fishermen and those who live by—and off—the sea bear the risk of error? They should not.

If we fail to act today and in the coming days on this, 8 million tons a year of sewage sludge will continue to overload the oceans off the Northeast. Look at the barren seascape of the old 12 mile site, and ask yourself if we should repeat it again at the 106 site. The answer is "No."

Mr. Speaker, the House has before it an opportunity to close the issue of ocean dumping after more than a decade of effort. H.R. 5430 will force those municipalities that have for too long refused to recognize the obvious that the time has come to end ocean dumping. The bill before us represents a careful blend of incentive and sanction, and I believe it represents a major achievement that deserves our full support.

In closing, I believe that several of our colleagues deserve our praise for their constructive labours, including Congressmen HUGHES and ROE of New Jersey and Congressman NOWAK of New York for their efforts I extend my thanks.

Mr. JONES of North Carolina. Mr. Speaker, I yield 1½ minutes to the gentleman from New York [Mr. MANTON].

Mr. MANTON. Mr. Speaker, I am an original cosponsor of H.R. 5430. I have worked during the past several months to develop a realistic policy for bringing to an end the ocean disposal of treated municipal sludge and industrial waste. I strongly support this legislation and ask my colleagues to vote in favor of its passage under suspension of the rules.

This measure is a bipartisan, multistate effort to enact an orderly and environmentally sound cessation of the ocean disposal of municipal sewage sludge and industrial waste. H.R. 5430 represents a true compromise which for the first time clearly establishes the policy of the United States with regard to ocean disposal. With the passage of this legislation, the Congress is stating that our marine waters are considered to be too valuable to allow the continued disposal of any wastes which might pose a threat to their health and viability.

Mr. Speaker this is a strong bill. The goal of this legislation is to provide for the cessation of all ocean disposal of sewage sludge and industrial waste at the earliest practicable date and in an environmentally sound manner. To ensure this goal is met, the legislation provides for special disposal fees and substantial civil penalties for those communities who dump their wastes in violation of the provisions of this bill. At the same time, the legislation also provides the necesary resources to aid local communities to facilitate their fulfillment of the mandated requirements to cease ocean disposal. The bill mandates that a certain percentage of the new disposal fees and civil penalties be used by the affected communities to enable them to cease ocean disposal through the construction, implementation, and operation of alternative disposal methods.

Mr. Speaker, it is clear our Nation's estuarine, near coastal and open ocean waters are severely distressed and continuing to receive substantial quantities of pollutants on a daily basis. Events over the past two summers have served dramatically to focus national attention on coastal pollution. I hope this legislation will mark the first of many steps in a renewed awareness and a renewed effort on the part of Congress to develop a multifaceted policy to protect our valuable marine environment.

We must not allow ourselves to be deceived into thinking the passage of this particular piece of legislation will solve the problems of beach wash-ups, dolphin deaths, and high bacterial counts. We must have the foresight and determination to address the many other sources of marine pollution in the next Congress, such as combined sewer overflows and nonpoint sources of pollution.

I am pleased the final version of this legislation which we are considering today has maintained three provisions I was successful in having included in the original bill when it was marked-up in the Merchant Marine and Fisheries Committee. These provisions address ongoing pollution problems faced by our oceans.

The first provision requires the Environmental Protection Agency to report to Congress early next year on their implementation of section 403 of the Clean Water Act regarding the regulation of pollutant discharges into marine waters. To date, this program has been poorly enforced and undoubtedly allows vast volumes of pollutants to enter our marine environment.

The second provision I offered included industrial dumpers in the ban on ocean disposal. I firmly believe this effort was instrumental in the recent decisions by the two remaining industrial dumpers to cease their ocean disposal practices in the near future.

My third amendment requires the Congress to review the progress of this legislation 4 years after its enactment to determine if this law is accomplishing its goals. The respective committees of jurisdiction would be required to make recommendations on what additional legislative or regulatory actions might be necessary to ensure the goals of this legislation are met.

Mr. Speaker, I commend the distinguished chairman of the Merchant Marine and Fisheries Committee, Mr. Jones of North Carolina, my colleague and good friend from New York, the chairman of the Water Resources Subcommittee, Mr. Nowak, the chairman of the Public Works and Transportation Committee, Mr. Adnderson, the gentlemen from New Jersey, [Mr. Hughes, Mr. Roe, and Mr. Saxton, the gentlelady from Rhode Island, Miss Schneider, the gentleman from Delaware, Mr. Carper, and the many other Members and their staffs for their untiring efforts to protect our marine environment which has culminated in the development of this important legislation.

The gentleman from New Jersey, Mr. Hughes, has fought long and hard for well over a decade to ensure our Nation's ocean waters are not used as a common repository for society's wastes. His unwavering belief in the need to guarantee the integrity of our marine waters is one of the reasons we are here today. I appreciate his cooperation in developing this compromise which will serve our mutual goals.

I would especially like to thank the staff of the Merchant Marine Committee—Tom Kitsos, Joan Bondareff, Dan Ashe, and Ed Welch—and the staff of the Public Works Committee—Dick Sullivan, Errol Tyler, and Cathy Evans—for their dedicated and professional work on behalf of this bill.

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to point out for the Record the gentleman from New York [Mr. Manton], the gentleman just leaving the well, has been a foremost fighter representing his district and his State very well in this movement.

Mr. Speaker, I will conclude by yielding 1½ minutes to the gentleman from New York [Mr. Hochbrueckner].

Mr. HOCHBRUECKNER. I thank the gentleman very much.

Mr. Speaker, I rise as a cosponsor of H.R. 5430, the legislation which will end ocean dumping of sewage sludge. I represent the eastern half of Long Island and I, like many Long Islanders was shocked at the summer of 1988 when many of our beaches were closed. I share the concerns of my colleagues from New Jersey [Mr. Hughes] in terms of the outrage at having sludge and other floatable wastes wash up on our beautiful beaches along the east coast.

So this is very important legislation. Much work has been done and there is much that is yet to be done in order to solve this overall problem that we share. This bill goes a long way toward helping clean up our beaches and clean up our ocean by banning the dumping of wastes into the ocean.

Certainly the bill which bans the dumping of plastics in the ocean, was developed and passed by the Committee on Merchant Marine and Fisheries and is now law. It is an important element in keeping our beaches clean. The restoration of funding for the Coast Guard in order to see that they can properly enforce existing laws is very important to this nation and to our coasts.

Tomorrow we will be dealing with legislation that will put in place medical waste tracking program which is also important. And my own bill, H.R. 5000, which is the most comprehensive waste reduction bill that concentrates on recycling of garbage, is very important.

The purpose of H.R. 5000 is to reduce the quantity of our waste stream and to change its composition. I believe the combination of all these things is what we need to do as a nation in order to clean up our beaches, clean up our oceans and provide a much cleaner environment for the people of our Nation.

So I would like to recognize the work that was done by the chairman of the committee, the gentleman from North Carolina, Mr. Jones. Clearly the gentleman from New Jersey [Mr. Hughes], has made a tremendous effort along with the gentleman from Rhode Island, Congresswoman Claudine Schneider.

I thank you all. We have done good work today and I urge my colleagues to pass this legislation.

Mr. GALLO. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. Lent].

Mr. LENT. I thank the gentleman for yielding time to me.

Mr. Speaker, I would like to engage the chairman of the Committee on Merchant Marine and Fisheries, the gentleman from North Carolina [Mr. Jones] in a colloquy.

Mr. Chairman, I note that the fees imposed by this legislation would be earmarked, among other things for the development of alternative means of sludge disposal. Would, for example, a project, in which sludge is pelletized aboard a vessel for later safe disposal or recycling, qualify for grant funds under this legislation?

Mr. JONES of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. LENT. I yield to the chairman of the committee, the gentleman from North Carolina.

Mr. JONES of North Carolina. I thank the gentleman for yielding.

Mr. Speaker, I say to the gentleman the legislation does not provide for direct grants, but does contemplate the possibility that municipalities could use fee-created trust funds for alternative technologies. Construction or development of a facility such as you describe for use as an alternative means of disposing of municipal sludge without discharging pollutants into the water would be the type of alternative to ocean dumping that could be pursued by the permittee. It would, of course, have to be an "environmentally sound" process, under the terms of the bill.

Mr. LENT. I thank the chairman.

Mr. GALLO. Mr. Speaker, I yield this last minute to the gentlewoman from Rhode Island, Miss Claudine Schneider.

Miss SCHNEIDER. Mr. Speaker, I would like to have a brief colloquy with my colleague, the gentleman from New Jersey, Bill Hughes.

Mr. Speaker, I would like to just briefly ask the gentleman from New Jersey: I think many of our constituents are concerned that oftentimes we have legal cases where there are loopholes, where things fall through the cracks.

Mr. Speaker, could the gentleman from New Jersey state in an unequivocal way that it will in fact be illegal to dump sewage and industrial waste into the ocean after 1992?

Mr. HUGHES. Mr. Speaker, will the gentlewoman yield?

Miss SCHNEIDER. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentlewoman for yielding.

Mr. Speaker, first let me congratulate the gentlewoman on her tremendous leadership.

Mr. Speaker, I want to say it is the intent of the authors of the legislation to make it unlawful to violate the law to dump beyond December 31, 1992. It would be a violation of the law.

Mr. DOWNEY of New York. Mr. Speaker, will the gentlewoman yield?

Miss SCHNEIDER. I yield to the gentleman from New York.

Mr. DOWNEY of New York. I thank the gentlewoman for yielding.

Mr. Speaker, I want to congratulate the gentlewoman from Rhode Island on her work and also our colleagues here.

I rise in strong support of this legislation. If there is one thing only that people feel strongly about it is the ending of ocean dumping in as timely a manner as is possible. I congratulate the gentlewoman on her work.

Mr. STANGELAND. Mr. Speaker, I rise in support of H.R. 5430, a bill to prohibit ocean dumping or sewage sludge and industrial waste.

First, let me congratulate the key players and committees who made this legislation possible. Chairman Glenn Anderson, ranking minority member, John Paul Hammerschmidt, subcommittee chairman Henry Nowak, and other members of the House Public Works and Transportation Committee have been very helpful. Congressmen Bob Roe, Guy Molinari, Dean Gallo, and Edolphus Towns have also played crucial roles in forging this compromise. And, of course, let me thank the leadership of the Merchant Marine and Fisheries Committee, particularly the bill's chief sponsor, Congressman Bill Hughes, for their hard work and cooperation.

H.R. 5430 embodies a compromise hammered out among the Public Works and Merchant Marine Committees, the New York and New Jersey congressional delegations, and municipal, industrial, and environmental interests. In light of the strong public sentiment and the growing consensus to stop ocean dumping, we have retained all the major features in the committee-reported bills involving deadlines and prohibitions.

We have also resolved the differences between the Merchant Marine Committee's bill and the Public Works Committee's bill. The compromise adopts the Public Works Committee's provisions regarding, among other things, EPA's discretion to waive special permit fees, the ban on disposal at Staten Island's landfills, and my amendment regarding "environmentally sound" alternatives.

The amendment I offered to the bill reported by the Committee on Public Works and Transportation focuses primarily on the original bill's reference to "land-based alternatives." My amendment is intended to avoid placing inappropriate limits, either too loose or too stringent, on the alternatives which may be considered to the direct ocean dumping of sewage sludge.

Our concern was twofold. First, we did not wish to see unsound ocean disposal give way to equally indefensible land disposal practices. For example, uncontrolled dumping of inadequately pretreated sludge in an unlined, low-technology landfill would be a dubious improvement over ocean dumping of sludge as practiced by New York area municipalities.

Second, we did not wish to see sludge management approaches foreclosed from consideration simply because they did not happen to be "land-based." Although no such proposals are formally pending before EPA, we know of at least two sea-based technologies, which do not involve dumping, but which under the original version of H.R. 4338, as reported by the Merchant Marine and Fisheries Committee would be precluded from consideration as sludge management alternatives.

One is shipboard incineration of sewage sludge in conjunction with nonhazardous municipal solid waste at a suitable offshore site designated by EPA. The other is the subseabed injection of concentrated sludge into tight geologic formations.

In both cases, that is, pursuing unsound disposal on land and foreclosing potentially desirable non-dumping options at sea, it seemed more important to ensure that a sludge management alternative to replace ocean dumping was "environmentally sound" than merely to require that it be "land-based."

The term "environmentally sound" is meant primarily to convey the concept that there is a "hierarchy" of waste management options which is equally applicable to all disposal media. This widely accepted "waste management hierarchy" encompasses the full array of waste management approaches on a descending scale of environmental acceptability or soundness. The most preferred tiers of the hierarchy include waste minimization, source reduction, resource recovery/recycling, and energy recovery. Intermediate on the scale are such techniques as waste treatment, waste destruction, isolation/containment, and perpetual storage.

Finally, the least favored options, which constitute the lowest rung on the waste management hierarchy, are dilution/dispersal and disposal practices.

A major objective of my amendment was to discourage sludge dumping municipalities from shifting from dumping at sea unsound dumping on land.

It should be emphasized, however, that the directive to implement "environmentally sound" alternatives cannot in any way be construed as an excuse for continued ocean dumping beyond the deadlines specified in the bill. If, for example, a municipality can only meet the bill's deadlines by temporarily placing sludge in a municipal landfill pending the completion of environmentally preferable longer term alternatives, this would not be precluded by my amendments.

The compromise also adopts a modified version of the Public Work's provisions on industrial waste. This addresses the disposal of hydrochloric acid, which if uncontaminated by other wastes, apparently turns into table salt upon contact with marine waters.

We have also agreed to modify the provisions in the Merchant Marine and Fisheries' bill regarding ocean discharge criteria requirements in section 403(c) of the Clean Water Act. The Public Works Committee is the committee with jurisdiction over the Clean Water Act. We recognize a serious problem may exist with the implementation of section 403(c). Therefore, we have agreed to look at the problem closely and to require EPA to include a report in its fiscal year 1990 budget request.

The compromise also includes new provisions on availability and use of the State revolving loan funds established in title VI of the Clean Water Act by the Water Quality Act of 1987. The Public Works Committee, which is the committee with jurisdiction over the Clean Water Act, believes title VI capitalization grants have a role to play in developing environmentally sound alternatives to ocean dumping. Unused fees and penalties collected under this act are also to be used for capitalization grants to New York and New Jersey's revolving loan funds.

Mr. Speaker, this legislation presents a timely response to growing concerns about our coastal and marine environments. It mandates an end to ocean dumping of sewage sludge. At the same time, though, it recognizes the Nation's emerging waste management crisis by not precluding other disposal options.

For all of these reasons, I urge my colleagues to support H.R. 5430.

Mr. DE LUGO. Mr. Speaker, I commend my friends, the gentlemen from North Carolina and New Jersey for bringing this important bill to the floor of the House.

I would also like to thank them for their kind consideration in resolving my concerns with the original language on ocean discharge and for making clear that section 5 of the bill calls for a report and implementation schedule with respect only to those discharges which are required to comply with the ocean discharge criteria promulgated by the EPA under section 403(c) of the Federal Water Pollution Control Act. The bill's section-by-section analysis for section 5—which the committee staff developed, in part, at the request of and with input from my office—makes clear the committee's intent that the required report and compliance schedule should not even make reference to discharges which are exempt under current law from compliance with the requirements of section 403.

Again, I appreciate the consideration of my colleagues and commend them for their efforts on this important legislation.

☐ 1700

The SPEAKER pro tempore (Mr. Montgomery). All time has expired.

The question is on the motion offered by the gentleman from North Carolina [Mr. Jones] that the House suspend the rules and pass the bill, H.R. 5430.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

A QUESTION OF PERSONAL PRIVILEGE—NEWSPAPER ACCOUNTS RELATING TO REPRESENTATIVE SWINDALL

Mr. SWINDALL. Mr. Speaker, I rise to make a point of personal privilege.

The SPEAKER pro tempore (Mr. Montgomery). The Chair has examined the press accounts mentioned earlier by the gentleman from Georgia [Mr. SWINDALL] and recognizes the gentleman on a question of personal privilege.

Mr. SWINDALL. Mr. Speaker, first of all, I thank my colleagues for accommodating me on this very important point.

I rise today because of a front page headline that appeared in the Atlanta Journal Constitution, Saturday's paper, quote: "Swindall Aides Called To Testify."

This is just the latest in a series of front page stories that have printed various leaks of grand jury testimony regarding a grand jury that apparently has been recently reconvened in Atlanta roughly 36 days before the November 8 election.

I would like to read at this point a letter that I am sending by hand to the Attorney General of the United States, the Honorable Dick Thornburgh. The text of the letter is as follows:

> It is with deep personal regret that I make the unprecedented request to be indicted immediately on all charges that may be under consideration by a Federal Grand Jury recently re-convened in the Northern District of Georgia.
>
> Simple justice and fairness demand that I be allowed to prove my innocence in a court of law rather than in the media. Simple justice and fairness also demand that I be allowed to prove my innocence before rather than after the November 8 election.
>
> Ordinarily every citizen, including every public official is entitled to a presumption of innocence and a trial by jury rather than a trial on the front page of a hostile newspaper.
>
> The injustices recently suffered by former Secretary of Labor, Ray Donovan, and by me as a result of countless leaks of grand jury evidence, including heavily edited excerpts from tapes presumably made as part of an IRS sting operation that ended more than a year ago, serve as stark and shameful evidence that these rights no longer exist for public officials.
>
> Until last week I thought I could successfully defend myself against charges made by unnamed "federal sources", but the most recent press accounts stating that this Grand Jury has now re-convened just 36 days before the November 8 election preclude my continuing to stand by while I'm tried in a forum where I can not adequately defend myself.
>
> While a "not guilty" verdict can never repair all of the damages I've already sustained, it will at least stop future damages from occurring.
>
> I stand ready, willing and able to go to trial on the day following the indictment which I now request.
>
> My family, my constituents, and the thousands of Americans who have made the ultimate sacrifice to protect these fundamental constitutional rights deserve nothing less.
>
> Respectfully, Pat Swindall, Member of Congress.

Mr. Speaker, by way of further explanation, I would like to say that this is not the first time this has occurred. On June 18, the Atlanta Journal Constitution printed excerpts of leaked tapes that resulted apparently from a sting operation that ended about a year ago. Counted in those excerpts were over 200 editorial deletions and admissions. At this time I would like to offer for the RECORD just a handful of some of the more obvious deletions.

For example, one of the excerpts that was printed in the paper read as follows:

> As I mentioned to you the last time we met * * * (indicating an omission) I would love to be able to tell you that the money has no connection with drugs * * * cannot do that.

That was a quote apparently from a tape where an IRS undercover agent made that statement reportedly to me. Here is what the statement actually said if you read the tapes in their entirety from the transcript:

> As I mentioned to you the last time we met, the money is actually generated here in the United States. Now as I told you I do not partake of drug deals. I would love to be able to tell you that the money has no connection with drugs and I understand that that is something that concerns you and that you cannot do that.

Needless to say, Mr. Speaker, that is a substantial change. The difficulty presented to me and others who find themselves in the posture of being tried on the front page of a newspaper and on the 6 o'clock news is that we are in a forum where we simply cannot fight back and we are not afforded the basic protections that any individual citizen would have in a court of law, including the right to have all the evidence presented in context.

Mr. Speaker, if someone were to stand outside my home today with a gun and threaten the lives of my wife and my children, needless to say, I would go out and I would do whatever I could, including risking bodily harm and risking my life, to stop it. What is happening in Atlanta today, what has happened to Mayor Andrew Young last year, what has happened to the Coca-Cola Co., and what has happened to Georgia Power is a pattern of seeing individuals being tried by innuendo and leaks.

That has got to stop, and the only way I know to stop it is for me to throw myself on the mercy of the court and say, "I waive my rights, and I want an immediate trial." I will try the case myself; I will walk into the courtroom with a simple yellow pad, and I will prove my innocence in a forum where I can prove it.

In closing, Mr. Speaker, I can say that if there is any semblance of justice left, if there is any semblance of the constitutional protections that guarantee us the right of a presumption of innocence and a right to a trial by jury where we can face our accusers and have the evidence fairly presented, then the Attorney General owes it to me to immediately demand that the U.S. attorney in Atlanta indict me tomorrow and put me on trial on Monday in Atlanta. I will be there, and I would hope that the Attorney General would agree that simple justice and fairness requires nothing else.

Mr. Speaker, I thank the Chair, I thank my colleagues.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5430, the bill previously considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 2642, COLORADO UTE INDIAN WATER RIGHTS SETTLEMENT ACT OF 1988

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 550 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

> H. Res. 550
>
> *Resolved,* That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2642) to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and rank minority member of the Committee on Interior and Insular Affairs, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interior and Insular affairs now printed in the bill, as modified by the amendment in section 2 of this resolution, as an original bill for the purpose of amendment under the five-minute rule, and each section shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote on any amendment adopted in the Committee of the Whole to the bill or to the Committee amendment in the nature of a substitute, as modified. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.
>
> SEC. 2. On page 9, line 13, of H.R. 2642, as reported, after "Act" strike "and shall be repaid in 30 equal annual installments from the date that the water if first available for use".

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, I yield the customary 30 minutes, for the purposes of debate only, to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 550 is an open rule providing for the consideration of the bill H.R. 2642, Colorado Ute Indian Water Rights Settlement Act of 1988. The rule provides for one hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs.

The rule makes in order the Interior and Insular Affairs Committee amendment in the nature of a substitute as modified by the amendment in section 2 of this resolution as original text to be considered by sections, with each section considered as read.

The resolution does not contain any waivers.

Finally, Mr. Speaker, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, I want to commend the gentleman from Colorado for his efforts on this bill and for his efforts on behalf of the Ute Mountain Ute Tribe and Southern Ute Tribe.

The tribes have been struggling for an equal opportunity to enjoy the water which they have graciously shared with their non-Indian neighbors for 120 years.

My colleague from Colorado, and the tribes have chosen to negotiate, not litigate their outstanding water rights. With their cooperation we have been able to reach a compromise satisfactory to their neighbors, the States involved and the U.S. Government.

This legislation will fulfill a long awaited commitment to the Indian people of southern Colorado and northern New Mexico.

These Indian people have waited a long time to secure the water rights they need to help them begin to realize their social and economic independence.

I urge the House to join me in adopting House Resolution 550 so that we may proceed with passage of this legislation.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the bill made in order by this rule implements the settlement of Colorado Ute Indian water rights claims in southwest Colorado.

According to the testimony received in the Rules Committee, this agreement is satisfactory both to the parties to the agreement in Colorado, and also to interested parties in the surrounding States. Both sides of the aisle were represented in the Rules Committee hearing.

Mr. Speaker, I should note that the administration opposes enactment of H.R. 2642 because the bill does not require 30-year, straightline amortization of the Federal irrigation assistance costs of the project.

Mr. Speaker, the rule before us is an open rule which permits the House to make changes in the bill if it wishes. There are no waivers of the Budget Act or the House rules included. Therefore, Mr. Speaker, I will support this rule so that the House may proceed to consider the Colorado Ute Indian Water Rights Settlement Act.

Mr. Speaker, I yield back the balance of my time.

Mr. GORDON. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FURTHER ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair wishes to supplement his statement of earlier today on postpone votes:

Pursuant to the provisions of clause 5 of rule 1, the Chair has announced that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote of the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule 15.

The first 10 postponed rollcall votes will be taken after consideration today of H.R. 2642.

Any other suspension votes, whether demanded prior to consideration of H.R. 2642 or later in the day as the House proceeds to further suspensions, will be postponed until tomorrow or Wednesday pursuant to the Chair's subsequent announcement.

□ 1715

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman will state it.

Mr. WALKER. Regarding the Chair's announcement, could the Chair tell us when tomorrow those votes will be taken? Will they be taken at the end of the day, after other suspensions have been taken care of, or at the beginning of the day? Just when might we expect those votes?

The SPEAKER pro tempore. The Chair could not answer that at this time, and, as soon as the decision is made, the gentleman will be informed.

Mr. WALKER. I thank the Chair.

COLORADO UTE INDIAN WATER RIGHTS SETTLEMENT ACT OF 1988

The SPEAKER pro tempore. Pursuant to House Resolution 550 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2642.

□ 1716

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2642) to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado, and for other purposes, with Mr. HUGHES in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Arizona [Mr. UDALL] will be recognized for 30 minutes and the gentleman from Arizona [Mr. RHODES] will be recognized for 30 minutes.

The Chair recognizes the distinguished gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I come to the floor this afternoon in support of H.R. 2642, the Colorado Ute Indian Water Rights Settlement Act of 1988.

This bill will ratify and implement an agreement entered into by the Ute Mountain Ute and the Southern Ute Indian Tribes of Colorado with the United States, the State of Colorado and other participating parties. That agreement settles the claims of these two tribes to the use of water based upon the so-called Winters doctrine.

I have long urged Indian tribes to try to negotiate agreements settling their water claims rather than engage in expensive, lengthy, divisive litigation. I have urged the parties on the other side to do likewise.

The parties in this case have done just that and, from that standpoint, I support enactment of this bill.

In large part, this settlement is dependent upon the construction of the Animas-La Plata irrigation project, a participating project under the Colorado River Storage Project Act. While questions have been raised about the viability of this project and its environmental impact, I have weighed the competing interests, including its benefits in settling the Indians' water claims, and have concluded that this bill is worthy of passage.

Mr. Chairman, I support passage of this bill.

Mr. Chairman, I want to commend all of those who have worked to get us to this day on the floor, and I particularly want to commend the gentleman from Colorado [Mr. CAMPBELL] without whose tedious and unbelievably detailed work this bill would still be buried in the back bedroom or storage room of the Committee on Interior and Insular Affairs.

Mr. Chairman, I yield 5 minutes to the gentleman from Colorado [Mr. CAMPBELL].

Mr. CAMPBELL. Mr. Chairman, before I make my statement, I yield to my distinguished colleague, the gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. Mr. Chairman, the bill we are considering today is an important one. It deals with one of the most difficult and longstanding problems in our Nation—keeping our commitment to native Americans. Before you is an opportunity to respond to the interests and needs of two tribes—the Ute Mountain and Southern Ute Tribes—who seek the ability to claim the water that is their right, but who wish to do so in harmony and cooperation with their non-Indian neighbors.

I have had the pleasure of visiting southwestern Colorado and meeting with the two tribal councils. I have personally witnessed the arid lands and the people who will benefit from the Animas-La Plata project. This is not just a Western water project: It is an opportunity to restore dignity and the heritage of our native Americans in a manner that is in peace with their non-Indian neighbors.

This body must, at all reasonable costs, seek to foster this cooperative and most beneficial proposal.

Let me emphasize that I am extremely impressed by the willingness of the State of Colorado and the non-Indian water users to enter into a most equitable costsharing agreement that ensures their upfront financial participation in the construction of the project, and also includes repayment of operating and maintenance costs. This very real financial commitment demonstrates the cooperation between the tribes and their non-Indian neighbors on an issue which might have been very divisive.

I strongly urge your support of this bill.

Mr. CAMPBELL. Mr. Chairman, all the Members of this body know that people bring their problems to Congress and say "solve them." In the case of the Colorado Ute Indian Water Rights Settlement Act, the people in Colorado and New Mexico have come to Congress and said "Here's a solution to a problem, please let us resolve it."

Colorado Ute Indian Water Rights Final Settlement Agreement of December 10, 1986, was entered into by the Southern Ute Indian Tribe, the Ute Mountain Ute Indian Tribe, the United States, the State of Colorado, and 10 other entities representing water users. It is the culmination of 2 years of intensive negotiations.

The reserved water rights claims of the two tribes would have disrupted the established economy of the non-Indian water users in southwestern Colorado had they been litigated. Instead, a lasting and equitable settlement of the tribes' claims which harmonizes with non-Indian interests has been achieved through compromise and accommodation.

Federal legislation is required to implement selected provisions of the agreement. That is why I introduced H.R. 2642.

The Final Settlement Agreement with the tribes came about because the United States filed applications for reserved water rights for the tribes in 1976 in Colorado District Court.

The two Ute Indian Tribes water rights claims cover more than 25 rivers and streams in southwest Colorado. Among those rivers and streams are the Animas and La Plata Rivers. The tribes' claims also extend to the east of the main city in the area, in the case of the Southern Ute Tribe and to the west in the case of the Ute Mountain Tribe. Water users on other streams, such as the Mancos River, are similarly jeopardized by the tribal claims.

In essence, what the parties have done is agree on the decree, which they will ask the Colorado court to enter. The decree will qualify water rights for the tribes and define the terms and conditions of their use and administering to avoid litigating these issues.

The agreement provides a comprehensive settlement of the Tribes' claims for water which will enable the economic development of their reservations. It has several major components:

First, the tribes will receive water from the Animas-La Plata and Dolores projects and additional rights to water from various streams which pass through their reservations.

Second, in exchange for these water rights, the tribes will waive all of their reserved rights claims and any claims which they may have against the United States for breach of trust in the United States' capacity as the tribes' trustee.

Third, $60.5 million will be placed in development funds for the tribes to enable them to develop their water resources and to otherwise make their reservations the tribal development funds.

The settlement of tribes water rights claims cannot be accomplished without the construction of the Animas-La Plata project. The people who have been engaged in the efforts to resolve the tribes claims have been unable to identify any feasible settlement without the project. The two Ute Tribes are convinced that the present settlement, with its reliance on construction of the project, is the only viable option for a negotiated settlement.

A study published in 1984 by an economist with Fort Lewis College, CO, estimated that if the tribes were to litigate their water rights claims, the surrounding non-Indian communities would suffer substantial economic injury. Land values in the area would decline by over $9 million, and the property tax base would erode. The study also suggested the farming community would suffer an annual loss of over $2.5 million per year.

Under these circumstances, the keystone of the settlement is the construction of the Dolores and Animas-La Plata projects to provide an augmented water supply so that existing non-Indian uses can be preserved and future tribal needs met. The two projects provide a reliable water supply, and will provide the cushion which helped all parties reaching a settlement on all the streams subject to the litigation.

The checkerboard nature of the Southern Ute Indian Reservation, however, makes it virtually impossible to be economically self-sufficient.

Fifth, non-Federal parties will contribute money to the settlement for: The financing of the Animas-La Plata project, and the tribal development funds.

The financial aspects of the settlement are complex and rely upon a significant non-Federal commitment to the tribes. The non-Federal financial contributions to the settlement take two forms: First, upfront financing for the Animas-La Plata project, which will provide a sizeable portion of the tribes' water; and second, payments by the State of Colorado to tribal development funds.

Federal budgetary outlays for the Animas-La Plata project have been reduced by 39 percent. This reduction was accomplished through cash contributions by the non-Federal parties in the amount of $68 million toward the construction of the first phase of the project, and because the non-Federal parties are assuming the responsibility for the $133 million needed to construct the second phase of the project.

The State of Colorado is also providing $11 million of the $60.5 million Tribal Development Fund. The first $6 million of this will be provided for the construction by the State of a pipeline which will deliver the Ute Mountain Ute Tribe's domestic water supply from the Dolores project to its reservation. This is critical because the Ute Mountain Tribe must truck water in daily to meet the needs of its 1,400 members. The remaining $5 million will be paid in cash to design a project which would serve only Indian lands of that reservation. Moreover, a substantial amount of non-Indian land is located between the lands of the Ute Mountain Tribe and those of the Southern Ute Indian Tribe.

Given these geographic facts, it is not surprising that various studies conducted for the tribes have not revealed any method to deliver water to them and maintain non-Indian supplies that is more efficient than the Animas-La Plata project.

In conclusion, the tribal claims cannot be settled without providing additional water supplies to the area. As a result, it is a critical part of the settlement.

Unfortunately, several parties are now arguing that this project will have adverse environmental impacts. I believe this settlement recognizes those concerns because the project, which is an off-channel storage reservoir, was designed to be the least environmentally damaging. The Animas project will not dam or inundate any stream flows in the Animas River during the spring runoff months when water is pumped from the river to a natural basin. There will also be minimum flow bypasses at the pumping plant in order to protect the fishery in the Animas River.

Some environmental groups feel the project is too power intensive and wasteful because of the pumping required to lift water into Ridges Basin Reservoir. They raise the argument that the project is power intensive. May be true, but the argument that the project utilizes an off-channel reservoir in order to avoid the negative impacts of damming the Animas River upstream of Durango and having a gravity flow system. That was the tradeoff for not damming the Animas River Canyon, as was originally contemplated.

The pumping plant will be built within the city limits of Durango, CO, near the parking lot of a warehouse. If you walked about 800 yards up a slope from the parking lot, you would be standing in a natural, treeless basin criss-crossed with dirt roads. The area has never been managed as a wildlife habitat, or used for any purpose. On the contrary, for the last 20 years it has been reserved for use as a storage reservoir.

Once completed, the State of Colorado will manage the Ridges Basin area as a recreation area and as a wildlife management area.

Accusations about salinity are also exaggerated. While it may be true that Colorado is behind on its salinity control program, it is behind because there has been little commitment to fund the salinity control projects which Congress authorized. Each year, I must go to the Appropriations Committee to request additional funding to ensure Western States do not fall further behind in their efforts to supply clean water to their neighbors.

My friends must also know that any water project, from a small agricultural diversion on private property to a Federal reclamation project, increases salinity in the river. It is an unavoidable consequence of water development.

The Animas River is not one of the last free flowing rivers in the West. The stretch of the Animas River we are discussing here runs directly through the city of Durango, CO. Most of the river runs adjacent to private lands. Farmers and ranchers throughout the area draw upon it daily, which is exactly why this bill must be passed.

Any argument that this project will harm the rafting industry in the area is not viable, because the river is not a premier white water experience, but rather a half day, take-the-family sort of mild river float. The Bureau of Reclamation and the sponsoring water districts are attempting to negotiate a contractual agreement on the release of water into the river from the reservoir to preserve adequate flows to support the existing rafting industry.

All environmental laws, the National Environmental Policy Act [NEPA] and the Endangered Species Act have been complied with. Adverse impacts will be mitigated pursuant to section 8 of the Colorado River Storage Projects Act.

Since the introduction of the bill, all the controversy surrounding this bill has been focused on one issue: whether the Law of the River allows the out-of-state leasing of Colorado River water by Indian tribes or if the tribes should be specifically prohibited from leasing in this bill.

I am glad to say that all seven of the Colorado River Basin States have come to an agreement on legislative language that will protect their interests. At the appropriate time, I will offer an amendmemt and an explanation of the leasing controversy and how my amendments will resolve the controversy.

The most outstanding feature of the project is its ability to resolve the differences of many different constituencies in a peaceful, cooperative manner.

Settlement implementation by Congress will mean water supplies for the tribes as well as the non-Indian water users. Lengthy and expensive litigation will surely result in the drying up of non-Indian lands in southwestern Colorado and northern New Mexico.

Without a true commitment to provide water to reservations that were promised water 120 years ago, the tribes of southwestern Colorado and northern New Mexico would not be a party to this agreement.

I hope you will join me in voting to pass this important bill.

Mr. RHODES. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Chairman, I rise in opposition to this measure. I have a number of concerns about the Animas La Plata agreement—not the least of which is its half-a-billion-dollar price tag and that's just for construction. I will speak only to a concern that is of particular interest to farmers in Wisconsin, and in other States where farmers pay the full costs of production of their crops.

I have long supported legislation to require farmers who grow surplus crops on federally irrigated lands to pay the full cost of the water they receive. For Animas La Plata, such a requirement would make producing surplus crops ridiculous. It will cost $5,800 an acre to provide water to the land that will be irrigated after completion of this project.

Moreover, it's expected that the land will be used to produce crops that are already in surplus. It is simply wrong to ask the taxpayers to invest this kind of money in a project that will only cost them more money when the new crops go in. I am opposed to the contradictory policy of paying farmers not to grow crops on the one hand and building irrigation projects to bring more land into production on the other hand.

There will be times in the 101st Congress to address this and other problems in the bill. For this reason, I urge my colleagues to vote "no" on H.R. 2642.

Mr. UDALL. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. MILLER], the ranking member of our committee.

Mr. MILLER of California. Mr. Chairman, I rise in opposition to H.R. 2646.

This bill, and the Indian water rights settlement it approves, are both seriously flawed. Despite the hard work and sincere intentions of everyone who helped put this package together, the bill will not accomplish what its proponents claim it will.

First, let's be honest about what we are buying if this bill is enacted. Are we really buying an Indian water rights settlement?

Although H.R. 2642 has long been characterized as an "Indian water rights settlement bill," it is well known that implementation of the settlement is totally dependent on completion of the Animas-La Plata water project.

We are buying a Bureau of Reclamation water project. Not just your ordinary, run-of-the-mill water project. We are buying a water project that will make Rube Goldberg look like he did his training at M.I.T. It will make Reddy Kilowatt do cartwheels in celebration of all the electricity this project will consume.

And perhaps most importantly, we are buying a water project that will benefit non-Indian alfalfa farmers much more than it will ever benefit the Ute Mountain Utes and the Southern Utes.

I believe this bill is flawed because it forces the American taxpayer to settle legitimate Indian water rights claims by bootstrapping construction of a $600 million water project that will primarily benefit non-Indians—a water project that is ill-conceived, overdesigned, wasteful of energy, and environmentally destructive.

I have no quarrel with the water rights claims of the two tribes. I am concerned, however, that non-Indian supporters of the Animas-La Plata project, knowing their project was in trouble because of congressional and environmental opposition, sold the tribes on the idea of using the project as a way to settle their claims.

For the non-Indian beneficiaries of the Animas-La Plata project, it's a great deal. They put their project on the back of an Indian settlement. It is a no-cost way to ensure construction, and to make sure somebody else pays the bill.

But the taxpayers—and perhaps even the tribes—will be the losers.

Here are some of the problems we are buying if we pass H.R. 2642 and build this project.

First. Even though the so-called cost-sharing agreement splits the project into two phases, with the State of Colorado responsible for construction of phase II, the Bureau of Reclamation's authority to build phase II remains on the books. I'm sure you can guess who will be asked to bail out the State and build phase II sometime in the future?

Second. The environmental problems this project will cause are classics:

It is a huge user of electric energy. Water for the main storage reservoir must be pumped over 500 feet uphill, and then more pumping is required to get the water, under pressure, to irrigable lands. Yearly project pumping power requirements total 135 million kilowatt hours.

The main project dam and reservoir will destroy important elk and mule deer habitat.

Irrigation water will be used primarily as a supplemental water supply to enable mostly non-Indians to grow relatively low-value crops, such as alfalfa, at high elevations.

Project diversions from the Animas River will severely impair—maybe eliminate—a fast-growing whitewater rafting industry, worth millions of dollars each year to the local economy.

Third. Operation and maintenance costs of this project will be so high that many non-Indian farmers won't be able to afford the water. High pumping costs and the fancy, buried pipe, pressurized distribution system are to blame.

Fourth. This bill perpetuates the worst of the repayment myths associated with reclamation projects. It allows power users to subsidize irrigation costs and delay repayment to the Treasury for many years to come. A provision which would have tightened the repayment process has now been stripped from the bill. The taxpayer is once again the loser.

Any one of the major problem categories I have described should be enough to make us question the wisdom of proceeding with this project and H.R. 2642. Taken together, the evidence against this bill is overwhelming.

I would also like to point out for my colleagues on the other side that the administration has stated it is opposed to the substitute.

Mr. Chairman, I am prepared to assist my colleague, Mr. Campbell, in finding a permanent, reliable, and equitable solution to the water rights claims of these two tribes. But I cannot support the solution contemplated in H.R. 2642, for the many reasons I have described.

I urge my colleagues to join me in voting to defeat this bill.

□ 1730

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I am delighted to yield to the gentleman from Colorado.

Mr. CAMPBELL. Mr. Chairman, I would like to say that my friend, the gentleman from California, brings up some important points. It is interesting to me that the gentleman knows so much about that project, since he was invited to come out and visit a couple times, but to my knowledge, have never even been there to see it.

Be that as it may, I am sure the gentleman is basing his judgment on a lot of material the gentleman has gotten from a variety of people.

Let me tell the gentleman something. If my friend, the gentleman from California, had 1,400 people in his district who without drinking water, with the gentleman's record for human rights, his very outstanding record for helping people that are down and out that need help, I think the gentleman might have a different opinion.

Mr. MILLER of California. Mr. Chairman, let me take back my time. It is my time.

Let me say to the gentleman that we have settled these Indian water rights in other fashions in other areas to bring in a drinking water supply and safe and healthy water without having to piggyback it on the back of a project that did not have an adequate supply.

Mr. RHODES. Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Chairman, I rise today in support of H.R. 2642.

There are a variety of reasons why I should be supporting it, but I think you just heard a good one expressed by my colleague, the gentleman from California, a minute ago, and the argument goes like this: Oppose H.R. 2642 because we have ours and we do not want them to have theirs. Now, that is the fundamental argument that we heard just a few minutes ago.

The bottom line of this legislation is the result of long-term negotiations that finally have culminated in what we believe to be balanced legislation to solve the problem.

We could have seen this issue in court. It did not go to court. The reason it did not go to court is because the Ute tribes in Colorado and the United States agreed they would attempt to negotiate and arrive at a solution, and the solution we believe today is embodied in H.R. 2642.

I come from a State that is wealthy today and in large part it is wealthy because of reclamation projects, and I surely understand that most people east of the Mississippi do not appreciate the phenomenal value of reclamation projects and the abundance that they have brought to the American consumer in cheap food and a variety of products.

What we see here today and what we have struggled for in the West for a good many years is to try to bring a solution to the age old question of whose water is whose, and in the case of the Indians a long time ago we decided that most of the water was not theirs. It was all ours.

Now in the last decade most everyone has worked very hard to try to arrive at equitable and balanced solutions to theirs and our, because that is what we are charged with here.

H.R. 2642, in my opinion, brings about that solution. It basically says that there is water, there is adequate water if it is properly balanced in a program that we believe is devised in H.R. 2642. To suggest it is perfect is not perfect. To suggest that it is balanced is true.

The CHAIRMAN. The time of the gentleman from Idaho has expired.

Mr. UDALL. Mr. Chairman, I yield 2 additional minutes to the gentleman from our side.

Mr. CRAIG. Mr. Chairman, I thank my colleague for yielding this time to me, and I yield to my colleague, the gentleman from Colorado, who a few moments ago was attempting to make a couple points.

Mr. CAMPBELL. Mr. Chairman, I appreciate this time from my colleague, the gentleman from Idaho, and I appreciate his support of this bill.

Coming from the West as I do, we are very well aware of what we face in some areas where we store up to 261 percent of our yearly needs and still worry about whether we are going to have enough.

It did concern me about some of the comments that have already been made by my colleague, the gentleman from California.

This is not just an Indian bill. I think that is what we are confusing. This is a bill really that is going to help 2 states resolve problems with Indian tribes who have very early priority rights and very clearly could go to court and go through litigation and get that water. What we have tried to do is acknowledge that they do have a very early right, and the question is do we want to really let it go to court and end up fighting and spending millions of dollars of taxpayers money, maybe more than what we are actually going to build the project with, or do we want to settle it in some kind of good fellowship and try to share the water we have. That is the conclusion we have come to.

If this project does not get built, we stand to have over a hundred ranchers lose their homes, lose their farms, when we take the water off that to supply water to the Indian claims.

Who is going to be the recipient of those losses? The old U.S. taxpayer again, because there is no question everyone who losts his farm is also going to sue the Federal Government.

I would just ask my colleagues when they vote on this to think of the concerns they would have if families in their areas had no drinking water, if the communities in their areas could not develop because of lack of water. I would ask them to apply the same kind of concerns on a nationwide basis and support this bill.

Mr. CRAIG. Mr. Chairman, I thank my colleague, the gentleman from Colorado for those remarks.

One of the misconceptions in the West is that there is no more water. There is an abundance of water if it is properly stored and properly managed.

Here is what we are suggesting with this legislation, that we develop the capacity to utilize that which we have so that all can share and that we develop a balanced program.

Mr. RHODES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 2642, the Colorado Ute Indian Water Rights Settlement Act.

Negotiated settlements provide a cost-effective method for resolving complex issues. Indian water rights are among the most complex legal issues in the West, and uncertainty of case law causes economic and social hardship on both the Indian and non-Indian communities affected by these water claims. The parties are to be commended for reaching this settlement among themselves, and finally with the other States of the Colorado River Basin.

Over the past weeks representatives from the lower basin States of Arizona, California, and Nevada have met with the Colorado parties, and with Members and staff of the appropriate House and Senate committees. The result is the final settlement as represented in the amendment to be offered by gentleman from Colorado. I strongly support that compromise, but I note that my support is for this particular settlement alone; and it does not set a precedent for future negotiated settlements.

In Arizona we have wrestled with these same water rights issues; fortunately for Arizona our settlements have been intrastate instead of interstate.

Earlier versions of H.R. 2642 would have allowed the tribes to market their water outside of State law, and possibly against the Law of the River. The Law of the River is the result of several acts of Congress, Supreme Court decisions and basin compacts among the basin States. It provides for the allocation of water between the upper and lower Colorado River Basins, and between the various States in the basin. Additionally, it is based on the assumption of "use it or lose it." In other words water not put to beneficial use by an upstream water right holder may become surplus to the system and may be diverted by a lower basin water right holder. In the earlier versions, the tribes could have marketed water interstate and would have had the affect of disrupting the allocation systems of the individual States.

The compromise provides that the tribes water rights will have the characteristics of a State water right for off-reservation use; and would have to follow State procedural law for making use or other disposition of that water. Therefore, the allocation systems of the individual States are not impacted by this legislation. However, if another water right holder can prove that the Law of the River, and Colorado State law is not a bar to interstate marketing, then the tribes can also exercise that marketing procedure. This is only fair in treating water rights in an equal fashion.

I believe that this is a good settlement. The tribes are quantifying a large amount of water that can actually be used, and the Federal Government will be providing trust funds so that the tribes can develop systems to use this water. Finally, this bill will make it possible for us to finally fulfill a promise made to the people of Colorado and to the Indian tribes some 20 years ago, by furthering the construction of the Animas-LaPlata multipurpose water project.

Mr. Chairman, this is a good package, a compromise, and I urge my colleagues to support H.R. 2642.

Mr. UDALL. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I join in support for this legislation. For many years this has been a very troublesome issue in the West, and Indian and non-Indians and all kinds of communities and the States of Colorado and New Mexico have been trying to work this out.

I think for the first time what we have here is an instance where Indians and non-Indians and various government entities in these two States have worked out their problems. It is not a perfect solution.

I think the gentleman from California [Mr. MILLER] raised some of the issues relating to the payment. In my judgment he has made some very valuable contributions in the past to the cost-sharing issue.

This bill that we are voting on is not the construction of anything. We are not talking about large expenditures or dams. We are talking about a settlement act that paves the way for ultimately a project that the chairman, the gentleman from Alabama [Mr. BEVIL] and others on the Appropriations Committee will have to scrutinize.

There is no divisive issue in the West than the dispute between Indians and non-Indians over water. This has been resolved in a way that is amicable, it is positive, it is a positive step forward.

I would urge my colleagues in the House to follow the lead of the gentleman from Arizona [Mr. UDALL], follow the gentleman from Arizona [Mr. CAMPBELL], follow the minority for a piece of legislation that makes sense and hopefully will be approved.

This bill will settle an Indian water rights dispute to the benefit of the Ute Indian Tribes and the people of southwestern Colorado and northwestern New Mexico. This bill is very important to the people in San Juan County, NM, in my congressional district. After years of negotiations they have settled a very complicated dispute to avoid the costly litigation that is normally part of Indian water rights claims. This bill will provide water to the Indian tribes and to the arid part of New Mexico. It is supported by the San Juan Commission and the cities of Aztec and Farmington who are dependent on this water.

I want to commend the gentleman from Colorado for his excellent work on fashioning this bill which advances the interests of Indians and non-Indians alike. I strongly urge my colleagues to support H.R. 2642.

Mr. RHODES. Mr. Chairman, I yield 1 minute to my friend and colleague, the gentleman from New Mexico [Mr. SKEEN].

Mr. SKEEN. Mr. Chairman, I, too, rise in support of this legislation.

Based on the fact that if we do not come to grips legislatively with some of these water questions, particularly when they deal with us who live in the West, in New Mexico, Colorado, Arizona, and other Western States, and we leave it to the judicial side of this governmental triad, I think it is a mistake.

This is a good solution to one that could otherwise be terribly imperiled by going through a judicial system that takes a long, almost forever, period of time to settle, because this country is growing. This is a good solution environmentally in every other consideration. It has no real drawbacks. It is a good approach and it is one that I think we should totally support.

Mr. RHODES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as has been said by most of the speakers, this is a solution to a problem whose time has come.

I want to congratulate and thank the chairman of the full committee, the gentleman from Arizona [Mr. UDALL], and especially extend my congratulations to my colleague, the gentleman from Colorado [Mr. CAMPBELL].

I urge adoption of the bill.

Mr. UDALL. Mr. Chairman, to close the debate on our side, I yield 4 minutes to the gentleman from Colorado [Mr. CAMPBELL].

Mr. CAMPBELL. Mr. Chairman, I agree with my colleagues from Arizona that this is a bill that is long overdue.

We have denied some parts of our population from water, one of the singlemost important ingredients a person could have in their lives, and I think it is time that we rectified that.

Congress saw that mistake in 1968 when they authorized the Animas-La Plata project. We never have fulfilled that obligation made in 1968 by our predecessors.

This bill, even though we have heard things about how bad it is on the environment, conforms to all the national environment protection agencies standards.

In addition to that, we are not asking the Federal Government to pay for this whole thing. We are coming up with 39 percent of the total cost of the project, and therefore we conform to the 1985 supplemental appropriations act, which requires some local funding.

We think we have done everything possible to make sure that people in Congress are aware of our commitment to the settling of our disagreements amicably and out of court.

Mr. Chairman, I would hope that my colleagues would see fit to vote for this bill.

Mr. SCHAEFER. Mr. Chairman, I thank the gentleman for yielding time to me. I rise in strong support of H.R. 2642, the Colorado Ute Indian Water Rights Settlement Act of 1988.

After 2 years of negotiation and 10 years of litigation, the States of Colorado and New Mexico, the Ute Mountain Ute Indian Tribe, the Southern Ute Indian Tribe, and the United States signed a comprehensive settlement agreement on December 10, 1986. This historic agreement clarifies tribal water rights on 25 streams in southwest Colorado. While the agreement will reserve to the tribes a dependable supply of water, they cannot develop these water resources or receive the benefits of this settlement until the enactment of Federal legislation to ratify and implement its terms.

H.R. 2642 will carry out the Colorado Ute Indian water rights settlement and thereby allow delivery of water to the Indian reservations for domestic as well as agricultural uses. Further, this legislation will protect existing nontribal water users and local economies.

A key provision of the agreement is a cost-sharing plan for the construction of the Animas-La Plata project, authorized by Congress in 1968, which will be funded with 38 percent non-Federal funds. This off-stream reservoir will store both Indian and nontribal water and will contribute to economic growth in southwestern Colorado.

Water is the subject of many heated debates in Colorado, primarily because it is one of our, most valuable resources. When Indian water rights are involved, the issue becomes even more complex. Therefore, I would like to commend the many people who labored long and hard to reach this agreement, as well as my colleagues who were a part of the legislative process to bring this measure to the floor. Because the many people involved chose to negotiate, we have the opportunity today to honor our commitment to the Indian people made over 100 years ago and thereby avoid costly and divisive litigation.

Failure to adopt this act will result in continued conflict over future water supplies for southwestern Colorado and northern New Mexico. The Colorado Ute Indian Water Rights Settlement Act will provide much-needed agricultural, industrial, and municipal water to Indian and nontribal users and I urge my colleagues to support this act.

Mr. COELHO. Mr. Speaker, I rise in support of the Colorado Ute Indian Water Rights Settlement Act. This legislation would implement an historic agreement on the settlement of Indian water rights claims to seven rivers and streams in southwest Colorado. Through negotiation and cooperation, two Indian tribes, the States of Colorado and New Mexico and scores of non-Indian water users have fashioned a settlement that meets everyone's needs and avoids long and costly litigation.

I want to commend my colleague from Colorado, Mr. CAMPBELL, for his tireless efforts on behalf of this legislation. He has worked extremely hard to iron out the problems with the bill and to make sure that it was brought before the full House. I offer my congratulations on a job well done.

A key element of the bill we have before us is a compromise on the very complex question of off-reservation use of water by the tribes.

The agreement worked out with the States of the lower Colorado River Basin, including my own State of California, makes it absolutely clear that the law of the river is the rule for the courts to follow in judging any attempt to transfer water to the lower basin. This compromise has made it possible for my State and the other lower basin States to support the settlement.

I urge my colleagues to vote for passage of the bill.

Mr. RHODES. Mr. Chairman, I yield back the balance of my time.

Mr. UDALL. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill, as modified by the amendment printed in section 2 of House Resolution 550, is considered as an original bill for the purpose of amendment, and each section is considered as having been read.

The Clerk will designate section 1.

Mr. UDALL. Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute, as modified, be printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The text of the committee amendment in the nature of a substitute as modified, is as follows:

H.R. 2642

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Colorado Ute Indian Water Rights Settlement Act of 1988".

SEC. 2. FINDINGS.

The Congress finds that—

(1) The Federal reserved water rights claims of the Ute Mountain Ute Indian Tribe and the Southern Ute Indian Tribe are the subject of existing and prospective lawsuits involving the United States, the State of Colorado, and numerous parties in southwestern Colorado.

(2) These lawsuits will prove expensive and time consuming to the Indian and non-Indian communities of southwestern Colorado.

(3) The major parties to the lawsuits and others interested in the settlement of the water rights claims of the Ute Mountain Ute Indian Tribe and the Southern Ute Indian Tribe have worked diligently to settle these claims, resulting in the June 30, 1986, Binding Agreement for Animas-La Plata Project Cost Sharing which was executed in compliance with the cost sharing requirements of chapter IV of Public Law 99-88 (99 Stat. 293), and the December 10, 1986, Colorado Ute Indian Water Rights Final Settlement Agreement.

(4) The Ute Mountain Ute Indian Tribe and the Southern Ute Indian Tribe, by resolution of their respective tribal councils, which are the duly recognized governing

bodies of each Tribe, have approved the December 10, 1986, Agreement and sought Federal implementation of its terms.

(5) This Act is required to implement portions of the above two agreements.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) The term "Agreement" means the Colorado Ute Indian Water Rights Final Settlement Agreement dated December 10, 1986, among the State of Colorado, the Ute Mountain Ute Indian Tribe, the Southern Ute Indian Tribe, the United States, and other participating parties.

(2) The term "Animas-La Plata Project" means the Animas-La Plata Project, Colorado and New Mexico, a participating project under the Act of April 11, 1956 (70 Stat. 105; 43 U.S.C. 620; commonly referred to as the "Colorado River Storage Project Act") and the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501 et seq.).

(3) The term "Dolores Project" means the Dolores Project, Colorado, a participating project under the Act of April 11, 1956 (70 Stat. 105; 43 U.S.C. 620; commonly referred to as the "Colorado River Storage Project Act"), the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501 et seq.), and as further authorized by the Colorado River Basin Salinity Control Act (98 Stat. 2933; 43 U.S.C. 1591).

(4) The term "final consent decree" means the consent decree contemplated to be entered after the date of enactment of this Act in the District Court, Water Division No. 7, State of Colorado, which will implement certain provisions of the Agreement.

(5) The term "Secretary" means the Secretary of the Interior.

(6) The terms "Tribe" and "Tribes" mean the Ute Mountain Ute Indian Tribe, the Southern Ute Indian Tribe, or both Tribes, as the context may require.

(7) The term "water year" means a year commencing on October 1 each year and running through the following September 30.

SEC. 4. TRIBAL RESERVED WATERS.

(a) WATER FROM ANIMAS-LA PLATA AND DOLORES PROJECTS.—The Secretary is hereby authorized to use the Animas-La Plata and Dolores Projects to supply reserved water to the Tribes in accordance with the Agreement.

(b) APPLICATION OF FEDERAL RECLAMATION LAWS.—The reserved water supplied to the Tribes or their lessees from the Dolores and Animas-La Plata Projects shall be treated in all respects in the same manner, except as provided in the Agreement, as the Tribes' other reserved waters.

SEC. 5. NONAPPLICABILITY OF THE INDIAN INTERCOURSE ACT.

The provisions of section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any water rights confirmed in the Agreement and the final consent decree. Nothing in this section shall be considered to amend, construe, supersede or preempt any State law, Federal law, interstate compact, or international treaty that pertains to the Colorado River or its tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters.

SEC. 6. REPAYMENT OF PROJECT COSTS.

(a) MUNICIPAL AND INDUSTRIAL WATER.—(1) The Secretary shall defer, without interest, the repayment of the construction costs allocable to each Tribe's municipal and industrial water allocation from the Animas-La Plata and Dolores Projects until water is first used either by the Tribe or pursuant to a water use contract with the Tribe. Until such water is first used either by a Tribe or pursuant to a water use contract with the Tribe, the Secretary shall bear the annual operation, maintenance, and replacement costs allocable to the Tribe's municipal and industrial water allocation from the Animas-La Plata and Dolores Projects, which costs shall not be reimbursable by the Tribe.

(2) As an increment of such water is first used by a Tribe or is first used pursuant to the terms of a water use contract with the Tribe, repayment of that increment's pro rata share of such allocable construction costs shall commence by the Tribe and the Tribe shall commence bearing that increment's pro rata share of the allocable annual operation, maintenance, and replacement costs.

(b) AGRICULTURAL IRRIGATION WATER.—(1) The Secretary shall defer, without interest, the repayment of the construction costs within the capability of the land to repay, which are allocable to each Tribe's agricultural irrigation water allocation from the Animas-La Plata and Dolores Projects in accordance with the Act of July 1, 1932 (25 U.S.C. 386a; commonly referred to as the "Leavitt Act"), and section 4 of the Act of April 11, 1956 (70 Stat. 107; 43 U.S.C. 620c; commonly referred to as the "Colorado River Storage Project Act"). Such allocated construction costs which are beyond the capability of the land to repay shall be repaid as provided in subsection (g) of this section. Until such water is first used either by a Tribe or pursuant to a water use contract with the Tribe, the Secretary shall bear the annual operation, maintenance, and replacement costs allocable to the Tribe's agricultural irrigation allocation from the Animas-La Plata Project, which costs shall not be reimbursable by the Tribe.

(2) As an increment of such water is first used by a Tribe or is first used pursuant to the terms of a water use contract with the Tribe, the Tribe shall commence bearing that increment's pro rata share of the allocable annual operation, maintenance, and replacement costs. During any period in which water is used by a tribal lessee on land owned by non-Indians, the Tribe shall bear that increment's pro rata share of the allocated agricultural irrigation construction costs within the capability of the land to repay as established in subsection (b)(1).

(c) ANNUAL COSTS WITH RESPECT TO RIDGES BASIN PUMPING PLANT.—(1) The Secretary shall bear any increased annual operation, maintenance, and replacement costs to Animas-La Plata Project water users occasioned by a decision of either Tribe not to take delivery of its Animas-La Plata Project water allocations from Ridges Basin Pumping Plant through the Long Hollow Tunnel and the Dry Side Canal pursuant to Article III, section A, subsection 2.i and Article III, section B, subsection 1.i of the Agreement until such water is first used either by a Tribe or pursuant to a water use contract with the Tribe. Such costs shall not be reimbursable by the Tribe.

(2) As an increment of its water from the Animas-La Plata Project is first used by a Tribe or is first used pursuant to the terms of a water use contract with the Tribe, the Tribe shall commence bearing that increment's pro rata share of such increased annual operation, maintenance, and replacement costs, if any.

(d) SECRETARIAL DEFERRAL.—The Secretary may further defer all or a part of the tribal construction cost obligations and bear all or a part of the tribal operation, maintenance, and replacement obligations described in this section in the event a Tribe demonstrates that it is unable to satisfy those obligations in whole or in part from the gross revenues which could be generated from a water use contract for the use of its water either from the Dolores or the Animas-La Plata Projects or from the Tribe's own use of such water.

(e) USE OF WATER.—For the purpose of this section, use of water shall be deemed to occur in any water year in which a Tribe actually uses water or during the term of any water use contract. A water use contract pursuant to which the only income to a Tribe is in the nature of a standby charge is deemed not to be a use of water for the purposes of this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated such funds as may be necessary for the Secretary to pay the annual operation, maintenance, and replacement costs as provided in this section.

(g) COSTS IN EXCESS OF ABILITY OF THE IRRIGATORS TO REPAY.—The portion of the costs of the Animas-La Plata Project in excess of the ability of the irrigators to repay shall be repaid from the Upper Colorado River Basin Fund pursuant to the Colorado River Storage Project Act and the Colorado River Basin Project Act.

SEC. 7. TRIBAL DEVELOPMENT FUNDS.

(a) ESTABLISHMENT.—There is hereby authorized to be appropriated the total amount of $49,500,000 for three annual installment payments to the Tribal Development Funds which the Secretary is authorized and directed to establish for each Tribe. Subject to appropriation, and within 60 days of availability of the appropriation to the Secretary, the Secretary shall allocate and make payment to the Tribal Development Funds as follows:

(1) To the Southern Ute Tribal Development Fund, in the first year, $7,500,000; in the two succeeding years, $5,000,000 and $5,000,000, respectively.

(2) To the Ute Mountain Ute Tribal Development Fund, in the first year, $12,000,000; in the two succeeding years, $10,000,000 and $10,000,000, respectively.

(b) ADJUSTMENT.—To the extent that any portion of such amount is contributed after the period described above or in amounts less than described above, the Tribes shall, subject to appropriation Acts, receive, in addition to the full contribution to the Tribal Development Funds, an adjustment representing the interest income as determined by the Secretary in his sole discretion that would have been earned on any unpaid amount had that amount been placed in the fund as set forth in section 7(a).

(c) TRIBAL DEVELOPMENT.—(1) The Secretary shall, in the absence of an approved tribal investment plan provided for in paragraph (2), invest the moneys in each Tribal Development Fund in accordance with the Act entitled "An Act to authorize the deposit and investment of Indian funds" approved June 24, 1938 (25 U.S.C. 162a). Separate accounts shall be maintained for each Tribe's development fund. The Secretary shall disburse, at the request of a Tribe, the principal and income in its development fund, or any part thereof, in accordance with an economic development plan approved under paragraph (3).

(2) Each Tribe may submit a tribal investment plan for all or part of its Tribal Development Fund as an alternative to the investment provided for in paragraph (1). The Sec-

retary shall approve such investment plan within 60 days of its submission if the Secretary finds the plan to be reasonable and sound. If the Secretary does not approve such investment plan, the Secretary shall set forth in writing and with particularity the reasons for such disapproval. If such investment plan is approved by the Secretary, the Tribal Development Fund shall be disbursed to the Tribe to be invested by the Tribe in accordance with the approved investment plan. The Secretary may take such steps as he deems necessary to monitor compliance with the approved investment plan. The United States shall not be responsible for the review, approval, or audit of any individual investment under the plan. The United States shall not be directly or indirectly liable with respect to any such investment, including any act or omission of the Tribe in managing or investing such funds. The principal and income from tribal investments under an approved investment plan shall be subject to the provisions of this section and shall be expended in accordance with an economic development plan approved under paragraph (3).

(3) Each Tribe shall submit an economic development plan for all or any portion of its Tribal Development Fund to the Secretary. The Secretary shall approve such plan within 60 days of its submission if the Secretary finds that it is reasonably related to the economic development of the Tribe. If the Secretary does not approve such plan, the Secretary shall, at the time of decision, set forth in writing and with particularity the reasons for such disapproval. Each Tribe may alter the economic development plan, subject to the appoval of the Secretary as set forth in this subsection. The Secretary shall not be directly or indirectly liable for any claim or cause of action arising from the approval of an economic development plan or from the use and expenditure by the Tribe of the principal of the funds and income accruing to the funds, or any portion thereof, following the approval by the Secretary of an economic development plan.

(d) PER CAPITA DISTRIBUTIONS.—Under no circumstances shall any part of the principal of the funds, or of the income accruing to such funds, or the revenue from any water use contract, be distributed to any member of either Tribe on a per capita basis.

(e) LIMITATION ON SETTING ASIDE FINAL CONSENT DECREE.—Neither the Tribes nor the United States shall have the right to set aside the final consent decree solely because subsection (c) is not satisfied or implemented.

SEC. 8. WAIVER OF CLAIMS.

(a) GENERAL AUTHORITY.—The Tribes are authorized to waive and release claims concerning or related to water rights as described in the Agreement.

(b) CONDITION ON PERFORMANCE BY SECRETARY.—Performance by the Secretary of his obligations under this Act and payment of the moneys authorized to be paid to the Tribes by this Act shall be required only when the Tribes execute a waiver and release as provided in the Agreement.

SEC. 9. ADMINISTRATION.

In exercising his authority to administer water rights on the Ute Mountain Ute and Southern Ute Indian Reservations, the Secretary, on behalf of the United States, shall comply with the administrative procedures governing the water rights confirmed in the Agreement and the Final Consent Decree to the extent provided in Article IV of the Agreement.

SEC. 10. INDIAN SELF-DETERMINATION ACT.

(a) IN GENERAL.—The design and construction functions of the Bureau of Reclamation with respect to the Dolores and Animas-La Plata Projects shall be subject to the provisions of the Indian Self-Determination and Education Assistance Act (88 Stat. 2203; 25 U.S.C. 450 et seq.) to the same extent as if such functions were performed by the Bureau of Indian Affairs.

(b) APPLICATION.—This section shall not apply if the application of this section would detrimentally affect the construction schedules of the Dolores and Animas-La Plata Projects.

SEC. 11. RULE OF CONSTRUCTION.

(a) IN GENERAL.—If there is an inconsistency between any provision of this Act and the provisions of the Agreement, the provisions of this Act shall control.

(b) WATER MARKETING.—Nothing in this Act nor in the Agreement shall—

(1) constitute authority for the Tribes to market off-reservation and outside of the State of Colorado any water or water right secured to them by the Agreement, or

(2) be deemed a congressional determination that the Tribes do or do not have authority under existing law to market such water or water rights off-reservation.

SEC. 12. INDIVIDUAL MEMBERS OF TRIBES.

Any entitlement to reserved water of any individual member of either Tribe shall be satisfied from the water secured to that member's Tribe.

SEC. 13. EFFECTIVE DATE.

(a) Sections 4(b), 5, and 6 of this Act shall take effect on the date on which the final consent decree contemplated by the Agreement is entered by the District Court, Water Division No. 7, State of Colorado. Any moneys appropriated under section 7 of this Act shall be placed into the Ute Mountain Ute and Southern Ute Tribal Development Funds in the Treasury of the United States together with other parties' contributions to the Tribal Development Funds, but shall not be available for disbursement pursuant to section 7 until such time as the final consent decree is entered. If the final consent decree is not entered by December 31, 1991, the moneys so deposited shall be returned, together with a ratable share of accrued interest, to the respective contributors and the Ute Mountain Ute and Southern Ute Tribal Development Funds shall be terminated and the Agreement may be voided by any party to the Agreement. Upon such termination, the amount contributed thereto by the United States shall be deposited in the general fund of the Treasury.

(b) No provision of this Act shall be of any force or effect if the final consent decree is not executed and approved by the court.

□ 1745

AMENDMENTS EN BLOC OFFERED BY MR. CAMPBELL

Mr. CAMPBELL. Mr. Chairman, I offer a series of amendments and I ask unanimous consent that the amendments be considered en bloc, be considered as read, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The text of the amendments is as follows:

Amendments offered by Mr. CAMPBELL: Page 5, strike lines 1 through 10 (all of section 4), and insert the following:

SEC. 4. PROVISION OF WATER TO TRIBES.

(a) WATER FROM THE ANIMAS-LA PLATA AND DOLORES PROJECTS.—The Secretary is authorized to supply water to the Tribes from the Animas-La Plata and Dolores Projects in accordance with the Agreement: *Provided*, That nothing in this subsection or in the authorized purposes of the projects may be construed to permit or prohibit the sale, exchange, lease, use, or other disposal of such water by the Tribes. Any such sale, exchange, lease, use, or other disposal of water from these projects shall be governed solely by the other provisions of this Act and the Agreement as modified pursuant to section 11 of this Act.

(b) APPLICATION OF FEDERAL RECLAMATION LAWS.—Except as provided in section 5 of this Act, the water supplied to the Tribes from the Animas-La Plata Project and the Dolores Project shall be subject to Federal reclamation laws only to the extent needed to effectuate the terms and conditions contained in article III, section A, subsection 1 and 2 and article III, section B, subsection 1 of the agreement.

Page 5, strike lines 11 through 20 (all of section 5), and insert the following:

SEC. 5. DISPOSAL OF WATER.

(a) INDIAN INTERCOURSE ACT.—The provisions of section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any water rights confirmed in the Agreement and the final consent decree: *Provided*, That nothing in this subsection shall be considered to amend, construe, supersede, or preempt any State law, Federal law, interstate compact, or international treaty that pertains to the Colorado River or its tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters.

(b) RESTRICTION ON DISPOSAL OF WATERS INTO LOWER COLORADO RIVER BASIN.—None of the waters from the Animas-La Plata or Dolores Projects may be sold, exchanged, leased, used, or otherwise disposed of into or in the Lower Colorado River Basin unless water within the Colorado River Basin held by non-Federal, non-Indian holders of that water pursuant to any water rights could be so sold, exchanged, leased, used, or otherwise disposed of under State law, Federal law, interstate compacts, or international treaty pursuant to a final, nonappealable order of a Federal court or pursuant to an agreement of the seven States signatory to the Colorado River Compact.

(c) USE OF WATER RIGHTS.—(1) The use of the rights referred to in subsection (a) within the State of Colorado shall be governed solely as provided in the Agreement as modified pursuant to section 11 of this Act and this subsection. The Agreement is hereby modified to provide that as a condition precedent to the use of any water right confirmed in the Agreement and the final consent decree off the reservation of the respective Tribe, any such water right shall become a Colorado State water right during use of that right off the reservation fully subject to State laws, Federal laws, interstate compacts, and international treaties applicable to the Colorado River and its tributaries including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters.

(2) The characterizations in the Agreement of any water rights which may be used

off the reservation of the respective Tribe as either "project reserved water right" or "nonproject reserved water right" are hereby expressly disapproved and any claim to water rights so characterized shall be extinguished when the final consent decree is entered.

(d) RULES OF CONSTRUCTION.—Nothing in this Act or in the Agreement shall—

(1) constitute authority for the sale, exchange, lease, use, or other disposal of any Federal reserved water right off the reservations;

(2) constitute authority for the sale, exchange, lease, use, or other disposal of any water held pursuant to a Colorado State water right, or of any Colorado State water right, outside the State of Colorado; or

(3) be deemed a congressional determination that any holders of water rights do or do not have authority under existing law to sell, exchange, lease, use, or otherwise dispose of such water or water rights outside the State of Colorado.

Page 9, after line 15, insert the following:

(h) DEFERRAL OF CERTAIN CONSTRUCTION COSTS.—Repayment of the portion of the construction costs of the Florida Project which have been allocated to the 563 acre-feet of agricultural irrigation water for which the Southern Ute Tribe is responsible shall be deferred by the Secretary pursuant to the Act of July 1, 1932 (25 U.S.C. 386a; 47 Stat. 564) as provided in section 4(d) of the Act of April 11, 1956 (43 U.S.C. 620c; 70 Stat. 107), and the Florida Water Conservancy District's current repayment obligation shall not change.

Page 14, strike lines 5 through 18 (all of section 11), insert the following:

SEC. 11. MODIFICATION OF AGREEMENT; RULE OF CONSTRUCTION.

(a) MODIFICATION.—The Agreement shall be deemed to have been modified to conform to this Act.

(b) RULE OF CONSTRUCTION.—The Agreement shall be construed in a manner consistent with this Act. This Act is intended solely to permit settlement of existing and prospective litigation among the signatory parties to the Agreement.

Page 15, after line 19, add the following:

SEC. 14. VOIDING OF AGREEMENT.

The United States shall not exercise its right to void the Agreement pursuant to article VI, section C, subsection 2 thereof.

Mr. CAMPBELL. Mr. Chairman, my amendments to H.R. 2642, as reported by the Committee on Interior and Insular Affairs, reflect changes sought both by Upper Colorado River Basin Members of Congress and the Lower Colorado River Basin States of California, Arizona, and Nevada. With these changes, none of the seven Colorado River Basin States object to the passage of H.R. 2642.

The amendments address the only controversial aspect of the legislation in the Interior Committee. The controversy entered around the conditions that would permit the two Colorado Ute Indian Tribes to use their water rights off of the reservations.

The amendments clarify the tribes' rights by providing that if the tribes' water is used off-reservation, then their rights are to be treated as if they were non-Indian water rights arising under Colorado State law. In addition, whenever the tribes' water is used off reservation, it will be subject to State law, as well as that body of law commonly referred to as the "Law of the River" which governs the use of water from the Colorado River as well as all Federal and Ute treaties. In short, the tribes' ability to use their water off their Reservations will be the same as their non-Indian neighbors. These amendments are intended to guarantee that this act and the agreement cannot be read to convey any special rights to the tribes. Neither the act or the agreement, however, are placing the tribes at a disadvantage in comparison to their neighbors.

The amendments change the bill reported by the Interior Committee by modifying section 4(a) to clarify that the Secretary of the Interior is authorized to act in accordance with the agreement. However, this authorization does not provide the authority to allow, nor does it prohibit, the marketing of the tribes' water from the Animas-LaPlata or Dolores projects.

Section 4(b) was changed to confirm that the storage of the tribes' water in the two projects does not trigger the full extent of reclamation law, except as required by section 5.

Section 5(b) was amended to provide that water from the two projects, whether held by Indians or non-Indians, cannot be transferred into the lower basin unless other holders of non-Indian, non-Federal water rights won the right to transfer or market water first.

Section 5(c) was changed to establish that water the tribes use or lease off-reservation will be considered a "State water right" and will be subject to State law and the "Law of the River." This subsection also eliminates the use of the terms "project reserved" and "Non-Project reserved" water rights. As a result of these changes, the tribes continue to have their water rights confirmed as Indian reserved water rights, subject to and controlled by the agreement whenever their water is used on the reservations. Thus, the Tribes retain the ability to return to the reservations as Indian reserved water rights any water rights that have previously been transferred off the reservation as State water rights. Further, because the tribes' water rights continue to be controlled by the agreement, in the event the Dolores or the Animas-La Plata Projects are not timely completed as described in the agreement, the tribes' existing reserved water rights legal claims on the Mancos, Animas, and La Plata Rivers remain intact as the agreement currently requires.

Section 11 is amended to ensure that the agreement is appropriately modified and that the purpose of the act is to permit the settlement of disputes among the parties to the agreement.

A new section 14 has been added in order to make certain that once the President signs this legislation, neither the Department of the Interior or the Department of Justice void the agreement simply because of the changes made by Congress.

This amendment resolves the controversy surrounding this legislation from the Colorado River Basin States' perspective. The amendment took countless hours to draft and to be approved. I have attached a copy of a letter signed by the water resources managers of the respective states for inclusion in the record.

I also wish to especially thank Mike Jackson of the Interior Committee for putting so much effort into resolving this upper and lower basin dispute.

I urge my colleagues to support the adoption of this amendment and I ask that the amendment be agreed to.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I am happy to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, these amendments en bloc strengthen the understanding we have on the bill and are meritorious and ought to be adopted.

Mr. CAMPBELL. The gentleman from Arizona [Mr. UDALL] is absolutely right. They do strengthen the agreement, and that is the reason that all seven of the States that deal with the Colorado River water are now in agreement on this bill.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding.

Since we are considering them en bloc, could the gentleman tell me specifically how many amendments there are and what each of them does individually?

Mr. CAMPBELL. There are five amendments. I do not know if you received a copy of them. I can read them at length if the gentleman wants.

Mr. WALKER. No. If the gentleman would just explain them briefly, what each one of them specifically does.

Mr. CAMPBELL. I already explained part of it, and that is, the main, central, focal point of the amendments is that it defines what Indians can do with their water if it left the reservation.

Mr. WALKER. How does that differ from what is in the bill?

Mr. CAMPBELL. It does not really differ from it. When we originally turned in the bill, the bill was neutral on the subject. The lower basin States were a little bit concerned, because the water flowing out of the Colorado goes down into Arizona and California. They were concerned that if the tribes sold their water out of basin that it might reflect on their future water needs even though they do not have all that water in use now, and this new language simply defines that the tribes will also conform to the same laws and rules as everybody else.

Mr. WALKER. If the gentleman would yield further, in other words, each of the specific five amendments is something which says how the tribes may use the water?

Mr. CAMPBELL. Yes, that is true.

Mr. WALKER. Mr. Chairman, I thank the gentleman.

Mr. LUJAN. Mr. Chairman, I rise in support of the amendments en bloc.

Mr. Chairman, I rise in strong support of H.R. 2642, the Colorado Ute Indian Water Rights Settlement Act. This legislation has the support of the entire delegations from Colorado and New Mexico, the two States most affected by the bill.

H.R. 2642 fulfills a promise made 120 years ago to two Colorado Indian tribes. It represents a settlement that came about through lengthy negotiations between the Southern Ute and Ute Mountain Ute Indian Tribes, the States of Colorado and New Mexico, the Federal Government and a number of water user agencies in southwestern Colorado and northern New Mexico.

The act will provide much needed water for domestic, industrial, and agricultural purposes on the reservations. It will also assure sufficient flow and storage of water for the nontribal residents of the region.

The agreement includes a 38-percent non-Federal cost-sharing plan for the construction of the off-stream reservoir which will store both Indian and nontribal water. This financial commitment from local sources indicates the strong support this settlement has in Colorado and New Mexico.

Mr. Chairman, this bill represents much give-and-take from those most concerned with the project. It shows what can be accomplished when there are good-faith negotiations on a wide range of complex issues.

I urge my colleagues to vote in favor of H.R. 2642.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Colorado [Mr. CAMPBELL].

The amendments were agreed to.

The CHAIRMAN. Are there other amendments to the bill? If not, the question is on the other committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as amended, as modified, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. GRAY of Illinois] having assumed the chair, Mr. HUGHES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 2642) to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado, and for other purposes, pursuant to House Resolution 550, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 249, nays 146, not voting 36, as follows:

[Roll No. 376]

YEAS—249

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
Badham
Baker
Ballenger
Barnard
Bateman
Bates
Bennett
Bereuter
Bevill
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Brennan
Brooks
Brown (CA)
Brown (CO)
Buechner
Bunning
Bustamante
Callahan
Campbell
Chandler
Chapman
Chappell
Cheney
Clarke
Clement
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Costello
Coyne
Craig
Crockett
Darden
Daub
Davis (MI)
de la Garza
Dickinson
Dicks
Dingell
Dixon
Dorgan (ND)
Dreier
Dwyer
Dymally
Dyson
Edwards (OK)
Emerson
English
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Foley
Frost
Gallegly
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Hamilton
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (LA)
Hefley
Herger
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hunter
Hutto
Inhofe
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kildee
Kolbe
Kolter
Kyl
LaFalce
Lancaster
Lantos
Latta
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Lujan
Luken, Thomas
Madigan
Manton
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCurdy
McDade
McHugh
McMillan (NC)
McMillen (MD)
Mfume
Mica
Michel
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moorhead
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nichols
Nielson
Oakar
Oberstar
Obey
Ortiz
Owens (UT)
Parris
Pashayan
Patterson
Pease
Penny
Pepper
Perkins
Pickle
Price
Quillen
Rangel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Roberts
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Rowland (GA)
Roybal
Savage
Sawyer
Schaefer
Schroeder
Shuster
Skaggs
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (OR)
Spence
Stallings
Stangeland
Stenholm
Stratton
Swift
Synar
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Volkmer
Vucanovich
Watkins
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wylie
Yatron
Young (AK)

NAYS—146

Archer
Armey
AuCoin
Bartlett
Barton
Beilenson
Bentley
Bilbray
Bilirakis
Bliley
Boxer
Broomfield
Bruce
Bryant
Burton
Byron
Cardin
Carper
Carr
Coble
Combest
Coughlin
Crane
Dannemeyer
Davis (IL)
DeFazio
DeLay
Dellums
DeWine
DioGuardi
Dornan (CA)
Downey
Durbin
Early
Edwards (CA)
Erdreich
Evans
Fascell
Fawell
Fields
Florio
Frank
Frenzel
Gallo
Gekas
Gilman
Gingrich
Gonzalez
Guarini
Gunderson
Hall (TX)
Hammerschmidt
Henry
Hertel
Hiler
Hochbrueckner
Hopkins
Hughes
Hyde
Ireland
Jeffords
Jontz
Kennelly
Konnyu
Kostmayer
Lagomarsino
Leach (IA)
Lewis (FL)
Lloyd
Lukens, Donald
Markey
Martin (IL)
McCrery
McGrath
Meyers
Miller (CA)
Mollohan
Moody
Morella
Nagle
Nelson
Nowak
Olin
Owens (NY)
Packard
Panetta
Payne
Pelosi
Petri
Pickett
Porter
Pursell
Rahall
Ravenel
Ray
Ritter
Robinson
Roukema
Rowland (CT)
Russo
Sabo
Saiki
Saxton
Scheuer
Schneider
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Sikorski
Sisisky
Slaughter (VA)
Smith (TX)
Smith, Robert (NH)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stark
Stokes
Studds
Stump
Sundquist
Tallon
Tauke
Torres
Upton
Vander Jagt
Vento
Visclosky
Walgren

Walker
Weber
Weldon
Wolf
Wolpe
Wortley
Wyden
Yates
Young (FL)

NOT VOTING—36

Berman
Boulter
Clay
Courter
Derrick
Donnelly
Dowdy
Eckart
Espy
Ford (MI)
Ford (TN)
Gregg
Hall (OH)
Hayes (IL)
Hefner
Holloway
Jacobs
Kasich
Kemp
Kleczka
Levin (MI)
Levine (CA)
Lott
Lowry (WA)
Lungren
Mack
MacKay
McCollum
McEwen
Morrison (CT)
Oxley
Slaughter (NY)
Sweeney
Swindall
Waxman
Weiss

□ 1815

The Clerk announced the following pair:

On this vote:

Mr. Hayes of Illinois for, with Mr. Eckart against.

Mrs. SAIKI, Miss SCHNEIDER, Ms. SNOWE and Messrs. WELDON, GONZALEZ, BRYANT, ARMEY, HILER, CARR, LAGOMARSINO, STAGGERS, GUARINI, RAHALL, WALGREN, DeLAY, LEWIS of Florida, PORTER, SUNDQUIST, HYDE, SLAUGHTER of Virginia, PURSELL, and RAVENEL changed their vote from "yea" to "nay."

Messrs. KANJORSKI, TAYLOR, HANSEN, and HARRIS changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION AUTHORIZING THE SPEAKER TO ENTERTAIN MOTIONS TO SUSPEND THE RULES ON ANY DAY FOR THE REMAINDER OF THIS CONGRESS

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 100-1035) on the resolution (H. Res. 563) to authorize the Speaker to entertain motions to suspend the rules of the House on any day for the remainder of this Congress, which was referred to the House Calendar and ordered to be printed.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2642, the bill just passed.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Arizona?

There was no objection.

PERMISSION TO INCLUDE IN THE RECORD CERTAIN CORRECTIONS RELATIVE TO CONFERENCE REPORT ON H.R. 4481, DEFENSE SAVINGS ACT OF 1988

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to include in the RECORD at this point the correct version of four tables and minor text changes in the conference report on H.R. 4481, the Department of Defense authorization bill for fiscal year 1989, that were incorrectly printed in the CONGRESSIONAL RECORD for September 28, 1988. These items were correct as filed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The tables and corrections referred to are as follows:

Specifically, the tables appearing at page H8647 (Missile Procurement, Army); H8725 (Research and Development, Air Force); H8730 (Research and Development, Air Force); and H8840 (Family Housing, Army) were incorrect as printed. Correct copies, as filed, are attached.

In addition, in the material relating to section 202 on ICBM Modernization appearing on page H8738 the words, "be made" should be inserted in lieu of the stars shown; and the word "undistributed" should be substituted for "unidispersed". All of these changes are to conform the RECORD copy to the copy as filed.

P-1		FY 1988 Estimate		-----Revised----- FY 1989 Request		-----House----- Authorization		-----Senate----- Authorization		House +/- Senate		---Conference--- Change to Request		---Conference--- Authorization	
LINE	ITEM	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
	MISSILE PROCUREMENT, ARMY														
1	CHAPARRAL	122	30,189	368	57,907	368	57,907	368	57,907		0			368	57,907
2	NON LINE OF SIGHT AIR DEFENSE SYSTEM	0	0				0		0		0				0
3	ADVANCE PROCUREMENT (CY)	0	0				0		0		0				0
4	ADS HVY MSL SYSTEM	0	0	60	118,500	60	118,500		33,500	60	85,000		0	60	118,500
4	LESS: ADVANCE PROCUREMENT (PY)	0	0		(33,500)		(33,500)		(33,500)		0				(33,500)
5	ADVANCE PROCUREMENT (CY)	0	33,500		23,750		23,750		23,750		0				23,750
6	CLASSIFIED PROGRAM	0	0				0		0		0				0
7	OTHER MISSILE SUPPORT	0	4,505		4,540		4,540		4,540		0				4,540
8	PATRIOT(MYP)	715	867,142	815	828,435	815	828,435	815	828,435		0			815	828,435
8	LESS: ADVANCE PROCUREMENT (PY)	0	(34,700)		(47,100)		(47,100)		(47,100)		0				(47,100)
9	ADVANCE PROCUREMENT (CY)	0	40,100		37,400		37,400		37,400		0				37,400
10	STINGER(MYP)	4,200	159,626	6,750	281,248	6,750	281,248	6,750	281,248		0			6,750	281,248
10	LESS: ADVANCE PROCUREMENT (PY)	0	(22,064)		(38,780)		(38,780)		(38,780)		0				(38,780)
11	ADVANCE PROCUREMENT (CY)	0	33,891				0		0		0				0
12	STINGER PEDESTAL MOUNT	0	43,633		92,242		92,242		117,242		(25,000)		0		92,242
13	LASER HELLFIRE SYSTEM	5,000	168,358	5,000	180,502	6,000	215,502	5,000	180,502	1,000	35,000	1,000	25,000	6,000	205,502
14	TOW 2 (MYP)	12,000	159,739	12,000	143,682	12,000	143,682	12,000	143,682		0			12,000	143,682
14a	TOW 2 RETROFIT						24,400		0		24,400		0		0
15	PERSHING	0	6,710				0		0		0				0
16	MULTIPLE LAUNCH ROCKET SYSTEM (MYP)	72,000	487,443	48,000	426,041	72,000	483,341	48,000	426,041	24,000	57,300		(5,000)	48,000	421,041
16a	MLRS BINARY WARHEAD				16,600		0		16,600		(16,600)		(16,600)		0
16	LESS: ADVANCE PROCUREMENT (PY)	0	(82,700)		(56,600)		(56,600)		(56,600)		0				(56,600)
17	ADVANCE PROCUREMENT (CY)	0	0		20,800		20,800		20,800		0				20,800
18	ARMY TACTICAL MISSILE SYS (ATACMS)	0	7,325	66	78,100	66	78,100	66	78,100		0			66	78,100
18	LESS: ADVANCE PROCUREMENT (PY)	0	0		(1,800)		(1,800)		(1,800)		0				(1,800)
19	ADVANCE PROCUREMENT (CY)	0	1,800		4,300		4,300		4,300		0				4,300
	MODIFICATION OF MISSILES														
20	PATRIOT MODS	0	29,000		40,185		40,185		40,185		0				40,185
21	CHAPARRAL MODS	0	31,228		8,129		8,129		8,129		0				8,129
22	HAWK MODS	0	35,671		27,592		27,592		27,592		0				27,592
23	TOW MODS	0	18,021		19,097		19,097		34,297		(15,200)		15,200		34,297
24	DRAGON MODS	0	7,258		17,281		17,281		17,281		0				17,281
25	LANCE MODS	0	0		15,359		15,359		15,359		0				15,359
26	PERSHING MODS	0	9,293		980		980		980		0				980
27	MLRS MODS	0	4,506		32,860		32,860		32,860		0				32,860
28	AN/TSQ-73 MODS	0	0		1,289		1,289		1,289		0				1,289
	SPARES AND REPAIR PARTS										0				
29	SPARES AND REPAIR PARTS	0	246,600		264,302		264,302		264,302		0				264,302
30	AIR DEFENSE TARGETS	0	21,363		22,076		22,076		22,076		0				22,076
31	ITEMS LESS THAN $2.0M (MISSILES)	0	1,740		2,148		2,148		2,148		0				2,148
32	PRODUCTION BASE SUPPORT	0	11,574		9,036		9,036		9,036		0				9,036
	TOTAL MISSILE PROCUREMENT ARMY		2,320,751		2,586,600		2,686,700		2,541,800		144,900		18,600		2,605,200

R-1 Line	PE	Program	FY 1988 Estimate	Revised FY 1989 Request	House		Senate		House +/- Senate	Conference	
					Change to Request	Authorized	Change to Request	Authorized		Change to Request	Authorized
46	0603723F	CIVIL AND ENVIRONMENTAL ENGINEERING TECH	11,827	9,014		9,014		9,014	0		9,014
47	0603726F	C3I SUBSYSTEM INTEGRATION	5,220	8,026		8,026		8,026	0		8,026
48	0603727F	ADVANCED COMMUNICATIONS TECHNOLOGY (H)	0	0		0		0	0		0
49	0603728F	ADVANCED COMPUTER TECHNOLOGY	4,128	10,239		10,239		10,239	0		10,239
50	0603743F	ELECTRONIC COMBAT TECHNOLOGY	0	0		0		0	0		0
51	0603745F	CHEMICAL WARFARE DEFENSE (H)	0	0		0		0	0		0
52	0603750F	COUNTER-COUNTERMEASURES (CCM) (H)	0	0		0		0	0		0
53	0603751F	TRAINING SYSTEMS TECHNOLOGY	276	470		470		470	0		470
54	0603752F	DOD SOFTWARE ENGINEERING INSTITUTE	18,929	0		0		0	0		0
55	0603789F	C3I TECHNOLOGY DEVELOPMENT	30,000	18,795		18,795		18,795	0		18,795
56	0603110F	SPECIAL EVALUATION PROGRAM	[ ]	[ ]		[ ]	[-10,000]	[ ]	[10,000]	0	[ ]
57	0603111F	MERIDIAN	[ ]	[ ]		[ ]		[ ]	0		[ ]
58	0603265F	LONG RANGE CONVENTIONAL CRUISE MISSILE	0	50,000	(40,000)	10,000		50,000	(40,000)	(20,000)	30,000
59	0603311F	ADVANCED STRATEGIC MISSILE SYSTEMS	133,640	151,836		151,836		151,836	0		151,836
60	0603312F	ADVANCED CONCEPTS	[ ]	[ ]		[ ]		[ ]	0		[ ]
61	0603364F	SHORT RANGE ATTACK MISSILE II (SRAM II)	174,320	231,467		231,467	(30,000)	201,467	30,000	(30,000)	201,467
62	0603367F	RELOCATABLE TARGET CAPABILITY PROGRAM	9,961	19,705		19,705		19,705	0		19,705
63	0603368F	AIR DEFENSE BATTLE MANAGEMENT TECHNOLOGY	0	0		0		0	0		0
64	0603369F	CRUISE MISSILE ENGAGEMENT SYSTEMS TECH	0	0		0		0	0		0
65	0603424F	CRUISE MISSILE SURVEILLANCE TECHNOLOGY	0	0		0		0	0		0
66	0603716F	ATMOSPHERIC SURVEILLANCE TECHNOLOGY	0	0		0		0	0		0
67	0603717F	TECHNICAL ON-SITE INSPECTION PROGRAM	10,627	9,291		9,291		9,291	0		9,291
68	0603735F	WWMCCS ARCHITECTURE	0	0		0		0	0		0
69	0603738F	ADI SURVEILLANCE TECHNOLOGY	0	0		0		0	0		0
70	0604216F	WWABNCP SYSTEM REPLACEMENT	0	0		0		0	0		0
71	0604226F	B-1B	366,841	221,591		221,591		221,591	0		221,591
71a		INTEGRATION ACTIVITIES							0	15,000	15,000
72	0604234F	COMMON STRATEGIC ROTARY LAUNCHER	5,693	946		946		946	0		946
73	0604240F	B-2 ADVANCED TECHNOLOGY BOMBER	[ ]	[ ]		[ ]		[ ]	0		[ ]
74	0604312F	ICBM MODERNIZATION	1,068,268	1,032,891	(300,000)	732,891	(242,891)	790,000	(57,109)	(142,891)	890,000
74	0604312F	(PEACEKEEPER)	36,000	40,000	(7,109)	32,891		40,000	(7,109)	0	40,000
74	0604312F	(SMALL ICBM)	700,000	200,000	400,000	600,000	(150,000)	50,000	550,000	50,000	250,000
74	0604312F	(MX RAIL GARRISON)	332,268	792,891	(692,891)	100,000	(92,891)	700,000	(600,000)	(192,891)	600,000
75	0604326F	STRATEGIC CONV STANDOFF CAPABILITY (SCSC	7,969	10,000		10,000		10,000	0		10,000
76	0604361F	AIR LAUNCHED CRUISE MISSILE (ALCM)	3,577	957		957		957	0		957
77	0604406F	SPACE DEFENSE SYSTEM (PY SAVINGS)	131,852	0	(16,000)	(16,000)	(16,000)	(16,000)	0	(16,000)	(16,000)
78	0604711F	SYSTEMS SURVIVABILITY (NUCLEAR EFFECTS)	12,926	8,333		8,333		8,333	0		8,333
79	0101120F	ADVANCED CRUISE MISSILE	[ ]	[ ]		[ ]		[ ]	0		[ ]
80	0101135F	AIRCRAFT SURVIVABILITY ENHANCEMENTS	[ ]	[ ]		[ ]		[ ]	0		[ ]
81	0101142F	KC-135 SQUADRONS	4,019	3,176		3,176		3,176	0		3,176
82	0101213F	MINUTEMAN SQUADRONS	84,295	61,069		61,069		61,069	0		61,069
83	0101312F	PACCS AND WWABNCP SYSTEM EC-135 CLASS V	939	1,210		1,210		1,210	0		1,210
84	0101313F	WAR PLANNING AUTOMATED DATA PROCESSING (	20,321	20,298		20,298		20,298	0		20,298
85	0101316F	SAC COMMUNICATIONS	0	0		0		0	0		0
86	0102310F	NCMC - TW/AA SYSTEMS	57,624	70,616		70,616		70,616	0		70,616
87	0102311F	NCMC - SPACE DEFENSE SYSTEMS	23,410	22,982		22,982		22,982	0		22,982
88	0102313F	BALLISTIC MISSILE TACTICAL WARNING/ATTAC	2,256	2,533		2,533		2,533	0		2,533
89	0102325F	JOINT SURVEILLANCE SYSTEM	2,147	1,751		1,751		1,751	0		1,751
90	0102411F	SURVEILLANCE RADAR STATIONS/SITES	5,204	1,667		1,667		1,667	0		1,667

R-1 Line	PE	Program	FY 1988 Estimate	Revised FY 1989 Request	House		Senate		House +/- Senate	Conference	
					Change to Request	Authorized	Change to Request	Authorized		Change to Request	Authorized
235	0603402F	SPACE TEST PROGRAM	53,887	72,796	20,000	92,796	(20,000)	52,796	40,000	3,000	75,796
236	0603438F	SATELLITE SYSTEMS SURVIVABILITY	3,264	3,784		3,784		3,784	0	1,516	5,300
		SATELLITE SYSTEMS SURVIVABILITY			5,300	5,300		0	5,300	0	0
237	0603790F	NATO RESEARCH AND DEVELOPMENT	0	0		0		0	0		0
238	0604211F	ADVANCED AERIAL TARGET DEVELOPMENT	9,848	3,711		3,711		3,711	0		3,711
239	0604227F	FLIGHT SIMULATOR DEVELOPMENT	56,778	72,800		72,800		72,800	0		72,800
240	0604609F	R&M MATURATION/TECHNOLOGY INSERTION	14,942	20,760		20,760		20,760	0		20,760
241	0604707F	WEATHER SYSTEMS - ENG DEV	12,488	8,761		8,761		8,761	0		8,761
242	0604735F	RANGE IMPROVEMENT	55,782	40,065		40,065	(20,000)	20,065	20,000	(20,000)	20,065
243	0604747F	ELECTROMAGNETIC RADIATION TEST FACILITIE	5,919	5,233		5,233		5,233	0		5,233
244	0604755F	IMPROVED CAPABILITY FOR DEVELOPMENT TEST	52,296	50,708		50,708		50,708	0		50,708
245	0605101F	PROJECT AIR FORCE	22,020	21,992		21,992		21,992	0		21,992
246	0605304F	ACQUISITION & COMMAND SUPPORT (ACS) - TE	0	0		0		0	0		0
247	0605306F	RANCH HAND II EPIDEMIOLOGY STUDY	5,754	1,747		1,747		1,747	0		1,747
248	0605502F	SMALL BUSINESS INNOVATIVE RESEARCH	0	0		0		0	0		0
249	0605708F	NAVIGATION/RADAR/SLED TRACK TEST SUPPORT	24,122	20,545	4,414	24,959		20,545	4,414	0	20,545
250	0605806F	ACQUISITION AND COMMAND SUPPORT	0	0		0		0	0		0
251	0605807F	TEST AND EVALUATION SUPPORT	295,106	298,087		298,087		298,087	0		298,087
252	0605808F	ADVANCED SYSTEMS ENGINEERING/PLANNING	13,093	14,431		14,431		14,431	0	(1,000)	13,431
253	0605809F	DYCOMS	7,471	9,191		9,191		9,191	0		9,191
254	0605863F	RDT&E AIRCRAFT SUPPORT	50,000	57,826		57,826		57,826	0		57,826
255	0605872F	PRODUCTIVITY INVESTMENTS	0	0		0		0	0		0
256	0605874F	PRODUCT PERFORMANCE AGREEMENT CENTER	0	0		0		0	0		0
257	0605894F	REAL PROPERTY MAINTENANCE - RDT&E	74,465	81,881		81,881		81,881	0		81,881
258	0605896F	BASE OPERATIONS - RDT&E	56,809	61,543		61,543		61,543	0		61,543
259	0305110F	SATELLITE CONTROL FACILITY	95,458	100,803		100,803		100,803	0		100,803
260	0305119F	SPACE BOOSTERS	454,865	488,785		488,785		488,785	0	(16,000)	472,785
261	0305130F	CONSOLIDATED SPACE OPERATIONS CENTER	39,864	44,085		44,085		44,085	0		44,085
262	0305160F	DEFENSE METEOROLOGICAL SATELLITE PROGRAM	42,675	53,364		53,364		53,364	0		53,364
263	0305171F	SPACE SHUTTLE OPERATIONS	51,205	58,715		58,715		58,715	0	(17,100)	41,615
264	0701112F	INVENTORY CONTROL POINT OPERATIONS	4,329	4,476		4,476		4,476	0		4,476
265	0702207F	DEPOT MAINTENANCE (NON-IF)	0	973		973		973	0		973
266	0708011F	INDUSTRIAL PREPAREDNESS	84,670	97,911		97,911		97,911	0		97,911
267	0708026F	PRODUCTIVITY, RELIABILITY, AVAILABILITY,	14,706	16,398		16,398		16,398	0		16,398
268	1001004F	INTERNATIONAL ACTIVITIES	3,107	3,737		3,737		3,737	0		3,737
		UNDISTRIBUTED REDUCTION			5,500	5,500	5,000	5,000	500	(100,000)	(100,000)
		TOTAL RDT&E, AIR FORCE	15,165,388	14,932,100	(218,286)	14,713,814	(210,391)	14,721,709	(7,895)	(251,275)	14,680,825

INSTALLATION	PROJECT	Revised FY89 Request	-------House------- Change to Request	Authorized	------Senate------- Change to Request	Senate Authorized	House +/- Senate	Conference Agreement Change to Request	Authorized
	FAMILY HOUSING								
	FAMILY HOUSING ARMY								
	ALASKA								
FORT WAINWRIGHT	NEW CONSTRUCTION (150)	27,000		27,000		27,000	0		27,000
	CALIFORNIA								
FORT IRWIN	NEW CONSTRUCTION (263)	24,000		24,000		24,000	0		24,000
	HAWAII								
SCHOFIELD BARRACKS	NEW CONSTRUCTION (40)	4,450		4,450		4,450	0		4,450
HELEMANO	NEW CONSTRUCTION (100)	11,400		11,400		11,400	0		11,400
	KANSAS								
FORT LEAVENWORTH	NEW CONSTRUCTION (272)	20,000		20,000		20,000	0		20,000
	NEW YORK								
FORT DRUM	NEW CONSTRUCTION (100)	10,000		10,000		10,000	0		10,000
	TEXAS								
FORT BLISS	NEW CONSTRUCTION (108)		9,100	9,100		0	9,100	9,100	9,100
	GERMANY								
HOENFELS	NEW CONSTRUCTION (88)	8,400		8,400		8,400	0		8,400
	WORLWIDE UNSPECIFIED								
UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING	10,628		10,628		10,628	0		10,628
UNSPECIFIED WORLDWIDE LOCATIONS	CONSTRUCTION IMPROVEMENTS	72,300		72,300		72,300	0		72,300
	OPERATING EXPENSES:								
UNSPECIFIED WORLDWIDE LOCATIONS	LEASING	227,700		227,700		227,700	0	8,090	235,790
UNSPECIFIED WORLDWIDE LOCATIONS	INTEREST PAYMENTS	49		49		49	0		49
UNSPECIFIED WORLDWIDE LOCATIONS	MAINTENANCE OF REAL PROPERTY	548,061		548,061		548,061	0		548,061
UNSPECIFIED WORLDWIDE LOCATIONS	MANAGEMENT ACCOUNT	83,137		83,137		83,137	0		83,137
UNSPECIFIED WORLDWIDE LOCATIONS	FURNISHINGS ACCOUNT	139,769		139,769	(5,000)	134,769	5,000	(8,090)	131,679
UNSPECIFIED WORLDWIDE LOCATIONS	MORTGAGE INSURANCE PREMIUMS	31		31		31	0		31
UNSPECIFIED WORLDWIDE LOCATIONS	MISCELLANEOUS ACCOUNT	1,510		1,510		1,510	0		1,510
UNSPECIFIED WORLDWIDE LOCATIONS	DEBT REDUCTION	371		371		371	0		371
UNSPECIFIED WORLDWIDE LOCATIONS	UTILITIES ACCOUNT	284,265		284,265		284,265	0		284,265
UNSPECIFIED WORLDWIDE LOCATIONS	SERVICES ACCOUNT	55,200		55,200		55,200	0		55,200
	--------	--------	--------	--------	--------	--------	--------	--------	--------
	TOTAL FAMILY HOUSING ARMY	1,528,271	9,100	1,537,371	(5,000)	1,523,271	14,100	9,100	1,537,371
	RECAP:								
	CONSTRUCTION & ACQUISITION	188,178	9,100	197,278	0	188,178	9,100	9,100	197,278
	SUPPORT/OPERATING EXPENSE	1,340,093	0	1,340,093	(5,000)	1,335,093	5,000	0	1,340,093

CONFERENCE REPORT ON H.R. 3471, DEPARTMENT OF VETERANS AFFAIRS ACT

Mr. BROOKS submitted the following conference report and statement on the bill (H.R. 3471) to establish the Veterans' Administration as an executive department:

CONFERENCE REPORT (H. Rept. 100-1036)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3471) to establish the Veterans' Administration as an executive department, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Veterans Affairs Act".

SEC. 2. ESTABLISHMENT OF VETERANS' ADMINISTRATION AS AN EXECUTIVE DEPARTMENT.

The Veterans' Administration is hereby redesignated as the Department of Veterans Affairs and shall be an executive department in the executive branch of the Government. There shall be at the head of the Department a Secretary of Veterans Affairs, who shall be appointed by the President, by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

SEC. 3. PRINCIPAL OFFICERS.

(a) DEPUTY SECRETARY.—There shall be in the Department of Veterans Affairs a Deputy Secretary of Veterans Affairs, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall perform such functions as the Secretary shall prescribe.

(b) CHIEF MEDICAL DIRECTOR.—(1) There shall be in the Department a Chief Medical Director, who shall be a doctor of medicine and shall, subject to subsection (f), be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation or activity and solely on the basis of integrity and demonstrated ability in the medical profession, in health-care administration and policy formulation, and in health-care fiscal management, and on the basis of substantial experience in connection with the programs of the Veterans Health Services and Research Administration or programs of similar content and scope. The Chief Medical Director shall be the head of, and shall be directly responsible to the Secretary for the operations of, the Veterans Health Services and Research Administration. The Chief Medical Director shall be appointed for a period of four years, with reappointment permissible for successive like periods. If the President removes the Chief Medical Director prior to the completion of the term for which the Chief Medical Director is appointed, the President shall communicate the reasons for such removal to both Houses of Congress.

(2)(A) Whenever a vacancy in the position of Chief Medical Director occurs or is anticipated, the Secretary of Veterans Affairs shall establish a commission to recommend individuals to the President for appointment to the position.

(B) A commission established under this paragraph shall be composed of the following members appointed by the Secretary:

(i) Three persons representing clinical care and medical research and education activities affected by the Veterans Health Services and Research Administration.

(ii) Two persons representing veterans served by the Veterans Health Services and Research Administration.

(iii) Two persons who have experience in the management of veterans health services and research programs, or programs of similar content and scope.

(iv) The Deputy Secretary of Veterans Affairs.

(v) The Chairman of the Special Medical Advisory Group established under section 4112 of title 38, United States Code.

(vi) One person who has held the position of Chief Medical Director, if the Secretary determines that it is desirable for such person to be a member of the Commission.

(C) A commission established under this paragraph shall recommend at least three individuals for appointment to the position of Chief Medical Director. Such commission shall submit all recommendations to the Secretary. The Secretary shall forward such recommendations to the President with any comments the Secretary considers appropriate. Thereafter, the President may request such commission to recommend additional individuals for appointment.

(D) The Assistant Secretary or Deputy Assistant Secretary of Veterans Affairs who performs personnel management and labor relations functions shall serve as the executive secretary of a commission established under this paragraph.

(c) CHIEF BENEFITS DIRECTOR.—(1) There shall be in the Department a Chief Benefits Director, who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation or activity and solely on the basis of integrity and demonstrated ability in fiscal management and the administration of programs within the Veterans Benefits Administration or programs of similar content and scope. The Chief Benefits Director shall be the head of, and shall be directly responsible to the Secretary for the operations of, the Veterans Benefits Administration. The Chief Benefits Director shall be appointed for a period of four years, with reappointment permissible for successive like periods. If the President removes the Chief Benefits Director prior to the completion of the term for which the Chief Benefits Director is appointed, the President shall communicate the reasons for such removal to both Houses of Congress.

(2)(A) Whenever a vacancy in the position of Chief Benefits Director occurs or is anticipated, the Secretary of Veterans Affairs shall establish a commission to recommend individuals to the President for appointment to the position.

(B) A commission established under this paragraph shall be composed of the following members appointed by the Secretary:

(i) Three persons representing education and training, real estate, mortgage finance, and related industries, and survivor benefits activities affected by the Veterans Benefits Administration.

(ii) Two persons representing veterans served by the Veterans Benefits Administration.

(iii) Two persons who have experience in the management of veterans benefits programs or programs of similar content and scope.

(iv) The Deputy Secretary of Veterans Affairs.

(v) The Chairman of the Veterans' Advisory Committee on Education formed under section 1792 of title 38, United States Code.

(vi) One person who has held the position of Chief Benefits Director, if the Secretary determines that it is desirable for such person to be a member of the Commission.

(C) A commission established under this paragraph shall recommend at least three individuals for appointment to the position of Chief Benefits Director. Such commission shall submit all recommendations to the Secretary. The Secretary shall forward such recommendations to the President with any comments the Secretary considers appropriate. Thereafter, the President may request such commission to recommend additional individuals for appointment.

(D) The Assistant Secretary or Deputy Assistant Secretary of Veterans Affairs who performs personnel management and labor relations functions shall serve as the executive secretary of a commission established under this paragraph.

(d) DIRECTOR OF NATIONAL CEMETERY SYSTEM.—There shall be in the Department of Veterans Affairs a Director of the National Cemetery System, who—

(1) shall be appointed by the President, by and with the advice and consent of the Senate;

(2) shall serve as the head of the National Cemetery System provided for in section 1000 of title 38, United States Code; and

(3) shall perform such functions as may be assigned by the Secretary.

(e) CONTINUATION OF SERVICE OF ADMINISTRATOR AND DEPUTY ADMINISTRATOR.—The individuals serving as Administrator and Deputy Administrator of Veterans' Affairs on the effective date of this Act may act as Secretary and Deputy Secretary of the Department, respectively, until the date an individual is appointed under this Act to the office concerned, or until the end of the 120-day period provided for in section 3348 of title 5, United States Code (relating to limitations on the period of time a vacancy may be filled temporarily), whichever is earlier.

(f) CONTINUATION OF SERVICE OF CHIEF MEDICAL DIRECTOR.—The individual serving as Chief Medical Director on the effective date of this Act may continue to serve in that capacity until the expiration of the term prescribed by section 4103(b)(1) of title 38, United States Code, unless removed by the Secretary of Veterans Affairs for cause in accordance with section 4103(b)(3) of such title.

(g) CONTINUATION OF SERVICE OF CHIEF BENEFITS DIRECTOR.—The individual serving as Chief Benefits Director on the effective date of this Act may continue to serve in that capacity until an individual is appointed under this Act to that office.

(h) CONTINUATION OF SERVICE OF DIRECTOR, NATIONAL CEMETERY SYSTEM.—The individual serving as Director, National Cemetery System on the effective date of this Act may act as the Director of the National Cemetery System until an individual is appointed under this Act to that office.

SEC. 4. ASSISTANT SECRETARIES.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department of Veterans Affairs not more than 6 Assistant Secretaries, each of whom shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS OF ASSISTANT SECRETARIES.—The Secretary shall assign to Assistant Sec-

retaries such functions as the Secretary considers appropriate, including the following functions:

(1) Budgetary and financial functions.

(2) Personnel management and labor relations functions.

(3) Planning, studies, and evaluations.

(4) Management, productivity, and logistic support functions.

(5) Information management functions as required by section 3506 of title 44, United States Code.

(6) Capital facilities and real property program functions.

(7) Equal opportunity functions.

(8) Functions regarding the investigation and adjudication of complaints of employment discrimination within the Department.

(9) Functions regarding intergovernmental, public, and consumer information and affairs.

(10) Procurement functions.

(c) Chief Financial Officer.—(1) The Secretary shall designate the Assistant Secretary whose functions include budgetary and financial functions as the Chief Financial Officer of the Department.

(2) The Chief Financial Officer shall—

(A) advise the Secretary on financial management of the Department;

(B) develop and maintain a financial management system for the Department (including accounting and related transaction systems, internal control systems, and financial reporting systems) which provides for—

(i) development and maintenance of consistent, compatible, and useful data;

(ii) development and reporting of cost information; and

(iii) integration of accounting and budgeting information;

(C) supervise and coordinate all financial management system activities and operations of the Department; and

(D) direct and manage financial management activities and operations of the Department, including—

(i) the development of financial management budgets; and

(ii) the approval and management of financial management system design or enhancement projects.

(d) Chief Information Resources Officer.—(1) The Secretary shall designate the Assistant Secretary whose functions include information management functions as required by section 3506 of title 44, United States Code, as the Chief Information Resources Officer of the Department.

(2) The Chief Information Resources Officer shall—

(A) advise the Secretary on information management activities of the Department as required by section 3506 of title 44, United States Code;

(B) develop and maintain an information resources management system for the Department which provides for—

(i) the conduct of and accountability for any acquisitions made pursuant to a delegation of authority under section 759 of title 40, United States Code;

(ii) the implementation of all applicable government-wide and Department information policies, principles, standards, and guidelines with respect to information collection, paperwork reduction, privacy and security of records, sharing and dissemination of information, acquisition and use of information technology, and other information resource management functions;

(iii) the periodic evaluation of and, as needed, the planning and implementation of improvements in the accuracy, completeness, and reliability of data and records contained within Department information systems; and

(iv) the development and annual revision of a five-year plan for meeting the Department's information technology needs; and

(C) report to the Secretary as required by section 3506 of title 44, United States Code.

(e) Designation of Functions Prior to Confirmation.—Whenever the President submits the name of an individual to the Senate for confirmation as Assistant Secretary under this section, the President shall state the particular functions of the Department such individual will exercise upon taking office.

(f) Continuing Performance of Assistant Secretary Functions Pending Confirmation.—An individual who, on the effective date of this Act, is performing any of the functions required by this section to be performed by an Assistant Secretary of the Department may continue to perform such functions until such functions are assigned to an individual appointed under this Act as an Assistant Secretary of the Department.

SEC. 5. DEPUTY ASSISTANT SECRETARIES.

(a) Establishment of Positions.—There shall be in the Department of Veterans Affairs such number of Deputy Assistant Secretaries, not exceeding 18, as the Secretary may determine.

(b) Appointments.—Each Deputy Assistant Secretary—

(1) shall be appointed by the Secretary; and

(2) shall perform such functions as the Secretary shall prescribe.

(c) Minimum Number of Deputy Assistant Secretaries With Continuous Service in Civil Service.—(1) At least two-thirds of the number of positions established under subsection (a) and filled under subsection (b) shall be filled by individuals who have at least 5 years of continuous service in the Federal civil service in the executive branch immediately preceding their appointment under subsection (b) as a Deputy Assistant Secretary.

(2) For purposes of determining the continuous service of an individual pursuant to paragraph (1), there shall not be included any service by such individual in a position—

(A) of a confidential, policy-determining, policy-making, or policy-advocating character;

(B) in which such individual served as a noncareer appointee in the Senior Executive Service, as such term is defined in section 3132(a)(7) of title 5, United States Code; or

(C) to which such individual was appointed by the President, with or without the advice and consent of the Senate.

SEC. 6. VETERANS HEALTH SERVICES AND RESEARCH ADMINISTRATION.

The establishment within the Veterans' Administration known as the Department of Medicine and Surgery is hereby redesignated as the Veterans Health Services and Research Administration of the Department of Veterans Affairs.

SEC. 7. VETERANS BENEFITS ADMINISTRATION.

The establishment within the Veterans' Administration known as the Department of Veterans' Benefits is hereby redesignated as the Veterans Benefits Administration of the Department of Veterans Affairs. The primary function of the Veterans Benefits Administration shall be to administer nonmedical benefits programs which provide assistance to veterans, their dependents, and their survivors.

SEC. 8. OFFICE OF THE GENERAL COUNSEL.

(a) In General.—There shall be in the Department of Veterans Affairs the Office of the General Counsel. There shall be at the head of such office a General Counsel who shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall be the chief legal officer of the Department and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

(b) Continuation of Service of General Counsel.—The individual serving on the effective date of this Act as the General Counsel of the Veterans' Administration may act as the General Counsel of the Department of Veterans Affairs until a person is appointed under this Act to that office.

SEC. 9. OFFICE OF THE INSPECTOR GENERAL.

(a) Redesignation.—The Office of Inspector General of the Veterans' Administration, established in accordance with the Inspector General Act of 1978, is hereby redesignated as the Office of Inspector General of the Department of Veterans Affairs.

(b) Staff Level.—(1) The Secretary shall provide for not less than 40 full-time positions in the Office of Inspector General in addition to the number of such positions in that office on the effective date of this Act.

(2) Of the number of additional full-time positions in the Office of Inspector General required by paragraph (1), the Secretary shall provide for one-half by not later than September 30, 1990, and shall provide for the remainder by not later than September 30, 1991.

(3) The President shall include in the budget transmitted to the Congress for each fiscal year after fiscal year 1989 pursuant to section 1105 of title 31, United States Code, an estimate of the amount for the Office of Inspector General that is sufficient to provide for not less than the number of full-time positions in that office on the effective date of this Act and the additional number of such positions required by paragraph (1) to be provided for by the Secretary.

SEC. 10. REFERENCES.

Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Veterans' Administration—

(1) to the Administrator of Veterans' Affairs shall be deemed to refer to the Secretary of Veterans Affairs;

(2) to the Veterans' Administration shall be deemed to refer to the Department of Veterans Affairs;

(3) to the Deputy Administrator of Veterans' Affairs shall be deemed to refer to the Deputy Secretary of Veterans Affairs;

(4) to the Chief Medical Director of the Veterans' Administration shall be deemed to refer to the Chief Medical Director of the Department of Veterans Affairs;

(5) to the Department of Medicine and Surgery of the Veterans' Administration shall be deemed to refer to the Veterans Health Services and Research Administration of the Department of Veterans Affairs;

(6) to the Chief Benefits Director of the Veterans' Administration shall be deemed to refer to the Chief Benefits Director of the Department of Veterans Affairs;

(7) to the Department of Veterans' Benefits of the Veterans' Administration shall be deemed to refer to the Veterans Benefits Administration of the Department of Veterans Affairs;

(8) to the Chief Memorial Affairs Director of the Veterans Administration shall be

deemed to refer to the Director of the National Cemetery System of the Department of Veterans Affairs; and

(9) to the Department of Memorial Affairs of the Veterans Administration shall be deemed to refer to the National Cemetery System of the Department of Veterans Affairs.

SEC. 11. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, by the Administrator of Veterans' Affairs, or by a court of competent jurisdiction, in the performance of functions of the Administrator or the Veterans' Administration; and

(2) which are in effect on the effective date of this Act;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized official, by a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—The provisions of this Act shall not affect any proceedings or any application for any benefits, service, license, permit, certificate, or financial assistance pending before the Veterans' Administration at the time this Act takes effect, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(c) SUITS NOT AFFECTED.—The provisions of this Act shall not affect suits commenced before the effective date of this Act, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Veterans' Administration, or by or against any individual in the official capacity of such individual as an officer of the Veterans' Administration, shall abate by reason of the enactment of this Act.

(e) PROPERTY AND RESOURCES.—The contracts, liabilities, records, property, and other assets and interests of the Veterans' Administration shall, after the effective date of this Act, be considered to be the contracts, liabilities, records, property, and other assets and interests of the Department of Veterans Affairs.

(f) COMPENSATION FOR CONTINUED SERVICE.—Any person—

(1) who acts as Secretary or Deputy Secretary of the Department of Veterans Affairs under section 3(e);

(2) who continues to serve as Chief Medical Director or Chief Benefits Director of such department under section 3(f) or (g), respectively;

(3) who acts as the Director of the National Cemetery System under section 3(h); or

(4) who acts as General Counsel of the Department of Veterans Affairs under section 8(b);

after the effective date of this Act and before the first appointment of a person to such position after such date shall continue to be compensated for so serving or acting at the rate at which such person was compensated before the effective date of this Act.

SEC. 12. MISCELLANEOUS EMPLOYMENT RESTRICTIONS.

(a) LIMITATION ON NUMBER OF NONCAREER SENIOR EXECUTIVES.—(1) Notwithstanding section 3134(d) of title 5, United States Code, the number of Senior Executive Service positions in the Department of Veterans Affairs which are filled by noncareer appointees in any fiscal year may not at any time exceed 5 percent of the average number of senior executives employed in Senior Executive Service positions in the Department during the preceding fiscal year.

(2) For purposes of this subsection, the average number of senior executives employed in Senior Executive Service positions in the Department during a fiscal year shall be equal to 25 percent of the sum of the total number of senior executives employed in Senior Executive Service positions in the Department on the last day of each quarter of such fiscal year.

(b) LIMITATION ON NUMBER OF SCHEDULE C EMPLOYEES.—The number of positions in the Department of Veterans Affairs which may be excepted from the competitive service, on a temporary or permanent basis, because of their confidential or policy-determining character may not at any time exceed the equivalent of 15 positions.

(c) PROHIBITED EMPLOYMENT AND ADVANCEMENT CONSIDERATIONS.—(1) Political affiliation or activity may not be taken into account in connection with the appointment of any person to any position in or to perform any service for the Department of Veterans Affairs, or in the assignment or advancement of any employee in the Department.

(2) Paragraph (1) shall not apply to the appointment of any person by the President under this Act, other than the appointment of the Chief Medical Director, the Chief Benefits Director, and the Inspector General of the Department of Veterans Affairs.

SEC. 13. CONFORMING AMENDMENTS.

(a) PRESIDENTIAL SUCCESSION.—Section 19(d)(1) of title 3, United States Code, is amended by inserting before the period at the end thereof the following: ", Secretary of Veterans Affairs".

(b) DEFINITION OF DEPARTMENT, CIVIL SERVICE LAWS.—Section 101 of title 5, United States Code, is amended by adding at the end thereof the following:

"The Department of Veterans Affairs.".

(c) COMPENSATION, LEVEL I.—Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"Secretary of Veterans Affairs.".

(d) COMPENSATION, LEVEL II.—Section 5313 of title 5, United States Code, is amended by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Deputy Secretary of Veterans Affairs".

(e) COMPENSATION, LEVEL III.—Section 5314 of title 5, United States Code, is amended—

(1) by striking out "Deputy Administrator of Veterans' Affairs."; and

(2) by adding at the end thereof the following:

"Chief Medical Director, Department of Veterans Affairs.

"Chief Benefits Director, Department of Veterans Affairs.".

(f) COMPENSATION, LEVEL IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking out "Inspector General, Veterans' Administration" and inserting in lieu thereof "Inspector General, Department of Veterans Affairs"; and

(2) by adding at the end thereof the following:

"Assistant Secretaries, Department of Veterans Affairs (6).

"General Counsel, Department of Veterans Affairs.

"Director of the National Cemetery System.".

(g) COMPENSATION, LEVEL V.—Section 5316 of title 5, United States Code, is amended—

(1) by striking out "Associate Deputy Administrator of Veterans' Affairs.";

(2) by striking out "Chief Benefits Director, Veterans' Administration.";

(3) by striking out "General Counsel of the Veterans' Administration."; and

(4) by striking out "Director, National Cemetery System, Veterans' Administration.".

(h) INSPECTOR GENERAL ACT.—The Inspector General Act of 1978 is amended—

(1) in section 2(1)—

(A) by inserting "the Department of Veterans Affairs," after "Transportation,";

(B) by striking out "the Veterans' Administration,";

(2) in section 11(1)—

(A) by striking out "or Transportation" and inserting in lieu thereof "Transportation, or Veterans Affairs,";

(B) by striking out "Small Business, or Veterans' Affairs" and inserting in lieu thereof "or Small Business"; and

(3) in section 11(2)—

(A) by striking out "or Transportation" and inserting in lieu thereof "Transportation, or Veterans Affairs,"; and

(B) by striking out "the United States Information Agency or the Veterans' Administration" and inserting in lieu thereof "or the United States Information Agency".

(i) NATIONAL CEMETERY SYSTEM.—Section 1000 of title 38, United States Code, is amended in subsection (a) by striking out the second sentence and inserting in lieu thereof the following: "Such system shall be headed by the Director of the National Cemetery System, who shall perform such functions as may be assigned by the Secretary.".

SEC. 14. ADDITIONAL CONFORMING AMENDMENTS.

After consultation with the appropriate committees of the Congress, the Secretary of Veterans Affairs shall prepare and submit to the Congress proposed legislation containing technical and conforming amendments to title 38, United States Code, and to other provisions of law, which reflect the changes made by this Act. Such legislation shall be submitted not later than 6 months after the date of enactment of this Act.

SEC. 15. ADMINISTRATIVE REORGANIZATIONS.

(a) MODIFICATIONS OF COVERAGE.—Section 210(b)(2) of title 38, United States Code, is amended—

(1) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) An administrative reorganization described in this subparagraph is an administrative reorganization of—

"(i) a covered field office or facility which involves a reduction during any fiscal year in the number of full-time equivalent employees with permanent duty stations at such office or facility—

"(I) by 10 percent or more, or

"(II) by a percent which, when added to the percent reduction made in the number of *such employees with permanent duty stations at such office or facility during the preceding fiscal year, is 15 percent or more; or*

"(ii) a covered Central Office unit which involves a reduction during any fiscal year in the number of full-time equivalent employees with permanent duty stations at such unit—

"(I) by 25 percent or more, or

"(II) by a percent which, when added to the percent reduction made in the number of such employees with permanent duty stations at such unit during the preceding fiscal year, is 30 percent or more.";

(2) in subparagraph (C)—

(A) by striking out "(C) For" and inserting in lieu thereof "(D) For";

(B) by redesignating division (iii) as division (iv); and

(C) by striking out division (ii) and inserting in lieu thereof the following new divisions:

"(ii) The term 'covered Central Office unit' means an office in the Veterans' Administration's Central Office that is the permanent duty station for 100 or more employees.

"(iii) The term 'covered field office or facility' means a Veterans' Administration office or facility outside the Veterans' Administration Central Office that is the permanent duty station for 25 or more employees or that is a free-standing outpatient clinic."; and

(3) by inserting after subparagraph (B) the following new subparagraph (C):

"(C) Not less than 30 days before the date on which the implementation of any reorganization described in this subparagraph is to begin, the Administrator shall transmit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a notification regarding the reorganization. This subparagraph applies to the reorganization of any unit of the Central Office of the Veterans' Administration that is the duty station for more than 25 but less than 100 employees if the reorganization involves a reduction in any fiscal year in the number of full-time equivalent employees with permanent duty station in such unit—

"(i) by 10 percent or more, or

"(ii) by a percent which, when added to the percent reduction made in the number of such employees with permanent duty station in such unit during the preceding fiscal year, is 15 percent or more.".

(b) INAPPLICABILITY OF RESTRICTIONS.—Section 210(b) of title 38, United States Code (as amended by subsection (a)), shall not apply to a reorganization of a unit of the Central Office of the Department of Veterans' Affairs if the reorganization—

(1) is necessary in order to carry out the provisions of or amendments made by this Act; and

(2) is initiated within 6 months after the effective date of this Act.

(c) CONSTRUCTION.—References to the Administrator of Veterans' Affairs and the Veterans' Administration are used in the amendments made by subsection (a) in order to maintain conformity with the references appearing in the provisions of section 210 of title 38, United States Code, that are not amended by subsection (a). The references appearing in such amendments are subject to the reference rules provided in section 10 of this Act.

SEC. 16. SPENDING AUTHORITY SUBJECT TO APPROPRIATIONS.

The authority to make payments or to enter into other obligations under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

SEC. 17. NATIONAL COMMISSION ON EXECUTIVE ORGANIZATION.

(a) ESTABLISHMENT.—(1) Within 30 days after the effective date of this Act, the President shall make a determination as to whether the national interest would be served by the establishment of a commission to review the structural organization of the executive branch of the Federal Government. If the President makes a determination that such establishment is in the national interest, the President shall transmit to the Congress written notification of his intent to establish the National Commission on Executive Organization under this section.

(2) If the President fails to transmit notification under paragraph (1), this section shall cease to be effective 30 days after the effective date of this Act.

(b) MEMBERSHIP OF THE COMMISSION.—A commission established under this section shall be composed of 16 members appointed not later than 90 days after the effective date of this Act. The members shall be appointed as follows:

(1) Six citizens of the United States appointed by the President, one of whom shall be designated by the President to be the Chairman of the Commission. Not more than four of the members appointed by the President may be from the same political party as the President.

(2) Two members of the Senate and one citizen of the United States appointed by the President pro tempore of the Senate upon the recommendation of the majority leader of the Senate.

(3) One Member of the Senate and one citizen of the United States appointed by the President pro tempore of the Senate upon the recommendation of the minority leader of the Senate.

(4) Two members of the House of Representatives and one citizen of the United States appointed by the Speaker of the House of Representatives upon the recommendation of the majority leader of the House of Representatives.

(5) One Member of the House of Representatives and one citizen of the United States appointed by the Speaker of the House of Representatives upon the recommendation of the minority leader of the House of Representatives.

(c) RESTRICTIONS ON PAY AND ALLOWANCES.—(1) Except as provided in paragraph (2), members of the Commission shall receive no pay, allowances, or benefits by reason of service on the Commission.

(2) Members of the Commission appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of subsistence, as authorized by law for persons serving intermittently in the Federal Government.

(d) FUNCTIONS OF COMMISSION.—The Commission shall examine and make recommendations with respect to—

(1) criteria for use by the President and Congress in evaluating proposals for changes in the structure of the executive branch of the Federal Government, including criteria for use by the President and Congress in evaluating and overseeing Government-sponsored enterprises and Government corporations;

(2) the organization of the executive branch, including the number of departments and the organizational structure of each such department, the advisability of reorganizing or abolishing any such department, and the advisability of establishing any new executive department;

(3) the most effective and practicable structure of the Executive Office of the President for conducting oversight of the executive branch, and criteria for use by such Office in evaluating and overseeing the performance of the executive branch; and

(4) the most effective and practicable structure of the President's cabinet and means of operation of such cabinet, including recommendations concerning the number, composition, and duties of the members of such cabinet.

(e) REPORT.—(1) Not later than 12 months after the completion of appointment of the members of the Commission, the Commission shall submit to the President, the Senate, and the House of Representatives a report which contains a detailed statement of the recommendations of the Commission.

(2) The date on which the report is due may be extended to such date as the President may prescribe in an Executive order, except that such date may not be later than six months after the date on which such report is otherwise due under paragraph (1).

(f) POWERS OF COMMISSION.—(1) The Commission may, for the purpose of carrying out this section, hold such hearings and sit and act at such times and places, as the Commission considers appropriate.

(2) The Commission may adopt such rules and regulations as may be necessary to establish procedures and to govern the manner of the operation, organization, and personnel of the Commission.

(3)(A) The Commission may request from the head of any department, agency, or other instrumentality of the Federal Government such information as the Commission may require for the purpose of carrying out this section. The head of such department, agency, or instrumentality shall, to the extent otherwise permitted by law, furnish such information to the Commission upon request made by the Chairman.

(B) Upon request of the Chairman of the Commission, the head of any department, agency, or other instrumentality of the Federal Government shall, to the extent possible and subject to the discretion of such head—

(i) make any of the facilities and services of such department, agency, or instrumentality available to the Commission; and

(ii) detail any of the personnel of such department, agency, or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out the duties of the Commission under this section.

(4) The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the Federal Government.

(5) The Commission may, to such extent and in such amounts as are provided in appropriations Acts, enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge the duties of the Commission under this section.

(6) Subject to such rules and regulations as may be adopted by the Commission, the Chairman of the Commission may appoint, terminate, and fix the pay of an Executive Director and of such additional staff as the Chairman considers appropriate to assist the Commission. The Chairman may fix the pay of personnel appointed under this paragraph without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code (relating to the

number or classification of employees and to rates of pay), the provisions of such title governing appointments in the competitive service, and any other similar provision of law; except that no rate of pay fixed under this paragraph may exceed a rate equal to the rate of pay payable for grade GS-18 of the General Schedule under section 5332 of such title.

(g) APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Commission shall be an advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App. 2).

(h) TERMINATION OF COMMISSION.—The Commission shall cease to exist on the date that is 30 days after the date on which the Commission submits the report required under subsection (e).

(i) PREPARATION FOR THE COMMISSION.—Not later than 90 days after the effective date of this Act, the Comptroller General of the United States, the Director of the Congressional Research Service, the Director of the Congressional Budget Office, and the Director of the Office of Technology Assessment shall each submit to a commission established under this section an index to and synopses of materials of the organization of the official that such official considers useful to the Commission. Subject to laws governing the disclosure of classified or otherwise restricted information, such materials may include reports, analyses, recommendations, and results of research of such organization.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission not more than $1,500,000 for carrying out this section.

SEC. 18. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall take effect on March 15, 1989.

(b) APPOINTMENT OF SECRETARY.—Notwithstanding any other provision of law or of this Act, the President may, any time after January 21, 1989, appoint an individual to serve as Secretary of the Department of Veterans Affairs.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment to the title of the bill insert the following: "An Act to establish the Veterans' Administration as an executive department, and for other purposes.".

And the Senate agree to the same.

JACK BROOKS,
JOHN CONYERS, JR.,
TED WEISS,
STEPHEN L. NEAL,
BARNEY FRANK,
G.V. MONTGOMERY,
DON EDWARDS,
FRANK HORTON,
ROBERT S. WALKER,
JIM LIGHTFOOT,
JERRY SOLOMON,

Managers on the Part of the House.

JOHN GLENN,
JIM SASSER,
CARL LEVIN,
GEORGE MITCHELL,
WILLIAM V. ROTH, JR.,
TED STEVENS,
JOHN HEINZ,

From the Committee on Veterans' Affairs.

ALAN CRANSTON,
FRANK H. MURKOWSKI,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the bill (H.R. 3471) to establish the Veterans' Administration as an executive department, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in this conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, structural changes, conforming changes made necessary by amendments reached by the conferees, and minor drafting and clarifying changes.

SECTION 2. ESTABLISHMENT OF VETERANS' ADMINISTRATION AS AN EXECUTIVE DEPARTMENT

House bill

The House bill redesignates the Veterans' Administration as the Department of Veterans Affairs under the supervision and authority of the Secretary.

Senate amendment

The Senate amendment also redesignates the Veterans' Administration as the Department of Veterans Affairs under the supervision and authority of the Secretary, but limits the Secretary's authority to delegate and assign duties to others and designates the personnel who may compose the Office of the Secretary.

Conference agreement

The Senate recedes from its disagreement to the House bill.

It is the intent of the conferees that the Secretary not create a chief of staff with line supervisory responsibilities over persons appointed by the President with the advice and consent of the Senate. Further, the conferees agree that any temporary vacancy in the positions of Secretary or Deputy Secretary caused by the transition to cabinet status be covered by the time limitations in Section 3348 of Title 5, United States Code.

SECTION 3. PRINCIPAL OFFICERS

House bill

The House bill provides for a Deputy Secretary, a Chief Medical Director who shall be responsible to the Secretary for the operations of the Veterans Health Services Administration, and a Chief Benefits Director who shall be responsible to the Secretary for the operations of the Veterans Benefits Administration, and provides that the Chief Medical Director and the Chief Benefits Director shall be selected without regard to political affiliation and solely on the basis of criteria specified in the bill. The bill also requires the Secretary to designate the order in which officials of the Department would act for and perform the functions of the Secretary in case of disability or absence of both the Secretary and Deputy Secretary.

The House bill provides that the individuals serving as Administrator and Deputy Administrator of Veterans' Affairs on the date of enactment of this Act may act as Secretary and Deputy Secretary of the Department, respectively, until an individual is appointed to the office concerned.

Senate amendment

The Senate amendment also provides for a Deputy Secretary, Chief Medical Director, and Chief Benefits Director each directly responsible to the Secretary. The Senate amendment specifies additional criteria for the appointment of both the Chief Benefits Director and the Chief Medical Director and requires the Secretary of the Department to establish a commission to recommend to the President three individuals for each vacancy whenever a vacancy occurs in either the chief Medical Director or Chief Benefits Director position. The Commission would recommend to the President three individuals for each vacancy. The composition of the Commission to be established for each position is specified in the Senate amendment.

The Senate amendment provides for two Deputy Chief Benefits Directors, one of whom would perform the Memorial Affairs functions, which the Senate amendment places under the Chief Benefits Director. In addition, the Senate amendment provides for not to exceed six Assistant Chief Benefits Directors, to be appointed by the Chief Benefits Director after consultation with the Secretary.

Conference agreement

The House recedes from its disagreement to the Senate amendment, which deletes the provision authorizing the Secretary to designate the order in which officials would perform the functions of the Secretary in case of disability or absence of the Secretary. This provision of the House bill is superseded by the enactment of Public Law 100-398, which establishes the order of succession for executive departments and agencies.

The conferees agree to follow the Senate amendment with regard to the additional criteria for the appointment of the Chief Medical Director and the Chief Benefits Director. The conferees also agree to follow the Senate amendment with regard to the establishment of a Commission to recommend individuals to fill vacancies in the Chief Benefits Director and the Chief Medical Director positions. The conferees agree to reduce the number of members of such Commission to not to exceed 10. In addition, the conferees agree to specify that each commission established to recommend individuals for the position of Chief Medical Director shall include the Chairman of the Special Medical Advisory Group established under section 4112 of title 38, United States Code, and each commission established to recommend individuals for the position of Chief Benefits Director shall include the Chairman of the Veterans' Advisory Committee on Education formed under section 1792 of title 38, United States Code.

The conferees agree to follow the House bill with regard to the Deputy Chief Benefits Director positions and the Assistant Chief Benefits Director positions by not providing statutory authority for or restrictions concerning such positions.

The conferees agree to provide for a Director of the National Cemetery System who shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at Executive Level IV. It is the intent of the conferees that the Director of the National Cemetery System report to the Office of the Secretary.

The conferees follow the House bill with regard to the individuals serving as Administrator and Deputy Administrator acting as Secretary and Deputy Secretary, respectively, until a Secretary and Deputy Secretary are appointed.

The conferees agree that, should the Administrator or Deputy Administrator act as Secretary or Deputy Secretary, pursuant to Section 3(e), or the Director, National Cemetery System act as Director of the National Cemetery System, pursuant to section 3(h), or the Chief Medical Director, the Chief Benefits Director or the General Counsel continue to serve in their respective capacities in the Department of Veterans Affairs, pursuant to section 3(f), 3(g), or 8(b), these individuals shall continue to be compensated at the rate by which they were compensated prior to enactment of this Act.

SECTION 4. ASSISTANT SECRETARIES

House bill

The House provides for 8 Assistant Secretaries, one of whom is to perform functions regarding the National Cemetery System and State cemetery grant program, and delineates other functions to be assigned by the Secretary to the Assistant Secretaries.

Senate amendment

The Senate amendment establishes not to exceed four Assistant Secretaries. The Assistant Secretary whose functions include budgetary and financial functions is to be designated the Chief Financial Officer of the Department. The Senate amendment specifies other functions of the Chief Financial Officer. In addition, the Senate amendment deletes from the functions specified for performance by the Assistant Secretaries in the House bill the functions regarding congressional affairs.

Conference agreement

The conferees agree to establish not more than six Assistant Secretaries and to follow the Senate amendment with regard to the functions to be performed by the Assistant Secretaries. The conferees agree to follow the Senate amendment with regard to designation of the Assistant Secretary whose functions include budgetary and financial functions as the Chief Financial Officer of the Department. The conferees agree that the duties and responsibilities assigned to this position are not intended to require or to encourage the compilation of agency financial statements. In addition, the conferees agree that one of the Assistant Secretaries, whose functions include information management, shall be designated as Chief Information Resources Officer of the Department. This individual will perform functions specified in the conference report.

SECTION 5. DEPUTY ASSISTANT SECRETARIES

House bill

The House bill does not provide for Deputy Assistant Secretaries.

Senate amendment

The Senate amendment provides for up to 15 Deputy Assistant Secretaries to be appointed by the Secretary to perform functions assigned by the Secretary. At least two-thirds of the Deputy Assistant Secretary positions that are filled shall be in the Career-reserved service. Certain specified functions assigned to an Assistant Secretary may be performed by a Deputy Assistant Secretary only if such Deputy Assistant Secretary is in a Career-reserved service position.

Conference agreement

The conferees agree to follow the Senate amendment with respect to providing for Deputy Assistant Secretary positions. The conferees agree to set the number of such positions at not to exceed 18 and to require that two-thirds of the number of positions filled shall be filled by individuals who have at least 5 years continuous service in the Federal civil service in the executive branch immediately preceding their appointment as a Deputy Assistant Secretary. The position or positions held during that service shall not have been positions of a confidential or policy determining character that have been exempted from the competitive service on that basis, positions in which the individual served as a noncareer appointee in the Senior Executive Service, or positions to which such individual was appointed by the President, with or without the advice and consent of the Senate. The conferees agree not to limit the functions required to be performed by Assistant Secretaries that may be assigned to the Deputy Assistant Secretaries. The conferees do not express a view as to how functions should be assigned among the Deputy Assistant Secretaries.

SECTION 7. VETERANS BENEFITS ADMINISTRATION

House bill

The House bill redesignates the Department of Veterans' Benefits as the Veterans Benefits Administration and requires that its programs be administered through at least one office in every state.

Senate amendment

The Senate amendment contains the same redesignation but does not contain the requirement for the administration of the benefits programs through at least one office in every state.

Conference agreement

The House recedes to the Senate with respect to the offices required to administer the benefits programs.

SECTION 9. OFFICE OF THE INSPECTOR GENERAL

House bill

The House bill redesignates the Office of Inspector General of the Veterans' Administration as the Office of Inspector General of the Department of Veterans Affairs.

Senate amendment

In addition to the redesignation, the Senate amendment provides an increase in the staff level of the Office of Inspector General by requiring for that office not less than one full-time position for every 367 full-time positions in the Department of Veterans Affairs. The expansion of staff is to be phased in during Fiscal Years 1990, 1991, and 1992.

Conference agreement

The conferees agree to provide for an increase in the staff level of the Office of Inspector General of an additional 40 full-time positions to be phased on one half in Fiscal Year 1990 and one half in Fiscal year 1991.

The conferees direct the Comptroller General of the United States (1) to conduct a review of the resources available to the Office of Inspector General of the Department of Veterans Affairs, (2) to include as part of such review an analysis of the resources needed by such office to carry out the mandates of the Inspector General Act of 1978, (3) to include in the report issued as a result of such review recommendations regarding the resources required by the Office of Inspector General to effectively carry out its statutory responsibilities, and (4) to include in detail in such recommendations the resources required for the conduct of specifically described functions in such office. The conferees intend that this direction not in any way be construed to require or to encourage the use of Inspector General personnel or other Inspector General resources to audit agency financial statements.

The Secretary of Veterans Affairs, in the Secretary's response to the recommendations in the report of the Comptroller General, is directed by the conferees to include in such response a plan of implementation with regard to such recommendations.

SECTION 12. MISCELLANEOUS EMPLOYMENT RESTRICTIONS

House bill

The House bill contains no miscellaneous employment restrictions.

Senate amendment

The Senate amendment provides for temporary details to fill senior staff positions. In addition, the Senate amendment would limit the number of Senior Executive Service positions in the Department of Veterans Affairs which are filled by noncareer appointees in any fiscal year to not to exceed 5 percent of the total number of senior executives employed in Senior Executive Service positions in the Department at the end of the preceding fiscal year. The Senate amendment also limits the number of positions which may be excepted from the competitive service to not more than 15 full-time positions and prohibits the consideration of political affiliation or political qualification in connection with the appointment, assignment or advancement of any employee in the Department or the appointment of any person to perform any service for the Department.

Conference agreement

The conferees agree to follow the House bill by not providing for temporary details to fill senior staff positions. The conferees agree to follow the Senate amendment limitation on the number of noncareer senior executives employed in Senior Executive Service positions. The conferees also agree to follow the Senate amendment with regard to the limitation on the number of positions which may be excepted from the competitive service. Further, the conferees agree to follow the Senate amendment to prohibit the taking into consideration of political affiliation or activity in connection with the appointment, assignment or advancement of any employee in the Department, or the appointment of any person to perform any service for the Department, exempting Presidential appointees from such prohibition (with the exception of the Chief Medical Director, the Chief Benefits Director, and the Inspector General).

SECTION 15. ADMINISTRATIVE REORGANIZATIONS

House bill

The House bill contains no provisions amending Section 210(b)(2) of title 38, United States Code.

Senate amendment

The Senate amendment amends Section 210(b)(2) of title 38, United States Code to provide, in lieu of the more restrictive provision of that section applicable to other reorganizations, that the Committees on Veterans' Affairs of the Senate and the House of Representatives be notified of any significant reorganizations, as defined in the amendment, in field offices and in the central office of the Department of Veterans Affairs not less than 30 days before the date on which the implementation of any such reorganization is to begin.

Conference agreement

The conferees agree to follow the Senate amendment with regard to amending Section 210(b)(2) of title 38, United States Code.

SECTION 17. NATIONAL COMMISSION ON EXECUTIVE ORGANIZATION

House bill

The House bill contains no provisions to establish a commission to study the organization of the executive branch.

Senate amendment

The Senate amendment establishes a National Commission on Executive Organization and Management authorized to determine matters concerning the most appropriate organization of the executive branch, including the departments thereof, the Executive Offfice of the President and the president's cabinet, as well as to determine matters concerning appropriate management systems and procedures. The Commission would be required to report its determinations within 18 months after its members are appointed. The Comptroller General of the United States, the Director of the Congressional Research Service, the Director of the Congressional Budget Office, and the Director of the Office of Technology Assessment are required to submit specified materials to the Commission not later than 120 days after the effective date of this Act. In addition, the Senate amendment contains provisions which would require implementation of the determinations made by the Commission. Expenses of the Commission shall be paid from such funds as may be available to the Secretary of the Treasury, and may not exceed $1,500,000.

Conference agreement

The conferees agree to follow the Senate amendment with certain modifications with respect to a commission to study government organization.

The conferees agree to require the president to notify the Congress with 30 days after the effective date of this Act of his determination as to whether the establishment of a National Commission on Executive Organization to review the structural organization of the executive branch of the Federal Government is in the national interest. The conferees agree that if the President fails to so notify the Congress within 30 days after the effective date, this section shall cease to be effective.

The conferees agree to require that the Commission examine and make recommendations with respect to criteria for use in the evaluation of proposals to change the structure of the executive branch, the organization of the executive branch, the structure of the Executive Office of the President, and the President's cabinet.

The conferees agree to require the Comptroller General of the United States, the Director of the Congressional Research Service, the Director of the Congressional Budget Office, and the Director of the Office of Technology Assessment to submit specified materials to the Commission within 90 days after the effective date of this Act and to require the Commission to issue its report within 12 months after completion of appointment of the members of the Commission.

The conferees agree to authorize to be appropriated to the Commission not more than $1,500,000 for carrying out this section.

SECTION 18. EFFECTIVE DATE

House bill

The House bill provides that the provisions of this Act shall take effect on such date as the president prescribes by Executive order, but not later than six months after the date of enactment of this Act, and provides for the appointment of any of the officers provided for in this Act at any time after the date of enactment of this Act.

Senate amendment

The Senate amendment provides that the provisions of this Act shall take effect on any date set by the President in an Executive Order during the 6-month period beginning on January 21, 1989, but not later than July 21, 1989.

Conference agreement

The conferees agree that the effective date of this Act is March 15, 1989. Further, the conferees agree to authorize the President to appoint an individual as Secretary of the Department any time after January 21, 1989.

OTHER PROVISIONS

The Senate amendment contains a provision requiring that the Secretary of Veterans Affairs submit annual reports for five years after enactment of this Act. The annual reports would contain an estimate of the additional cost resulting from the implementation of this act over the cost of continuing the operation of the Veterans' Administration as an independent establishment in the executive branch.

The Senate amendment also contains a provision amending title II of the Treasury, Postal Service and General Government Appropriations Act, 1988 (as contained in section 101(m) of Public law 100-202 (101 Stat. 1329-400).

The House bill has no such provisions.

Conference agreement

The conferees agree to follow the House bill as to these provisions.

JACK BROOKS,
JOHN CONYERS, Jr.,
TED WEISS,
STEPHEN L. NEAL,
BARNEY FRANK,
G.V. MONTGOMERY,
DON EDWARDS,
FRANK HORTON,
ROBERT S. WALKER,
JIM LIGHTFOOT,
JERRY SOLOMON,
Managers of the Part of the House.
JOHN GLENN,
JIM SASSER,
CARL LEVIN,
GEORGE MITCHELL,
WILLIAM V. ROTH, Jr.,
TED STEVENS,
JOHN HEINZ,
From the Committee on Veterans' Affairs:
ALAN CRANSTON,
FRANK H. MURKOWSKI,
Managers on the Part of the Senate.

PERSONAL EXPLANATION

Mr. TRAXLER. Mr. Speaker. I rise today to inform the House that on the vote agreeing to the conference report on H.R. 1720, Family Welfare Reform Act (roll No. 373), I was recorded as having voted in the negative. I had intended to vote in support of the conference report.

I ask unanimous consent that this statement appear in the permanent RECORD immediately following the vote.

The SPEAKER pro tempore. Is there objectoin to the request of the gentleman from Michigan?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind Members that the first rollcall vote on House Resolution 562, called up by the gentleman from California [Mr. EDWARDS], will precede the 9 suspension votes. That vote will be a 15-minute vote, and the postponed suspension votes will be 5-minute votes.

Pursuant to clause 5, rule I, the Chair will now put the question on House Resolution 562 and then on 9 motions to suspend the rules on which further proceedings were postponed, in the order in which that motion was entertained.

Votes will be taken in the following order:

House Resolution 562, by the yeas and nays; H.R. 5288, by the yeas and nays; H.R. 5408, by the yeas and nays; H.R. 4857, by the yeas and nays; House Concurrent Resolution 351, by the yeas and nays; S. 496, by the yeas and nays; H.R. 5052, by the yeas and nays; H.R. 5291, by the yeas and nays; H.R. 5050, by the yeas and nays; and S. 437, by the yeas and nays.

Debate on other motions to suspend the rules will follow these votes.

AUTHORIZING USE DEPOSITIONS IN CONNECTION WITH AN IMPEACHMENT INQUIRY OF THE COMMITTEE ON THE JUDICIARY

The SPEAKER pro tempore. The pending business is the vote on House Resolution 562.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution (H. Res. 562) on which the yeas and nays are ordered.

The Chair would remind Members this is a 15-minute vote and the subsequent votes on the suspensions will be 5 minutes each.

The vote was taken by electronic device, and there were—yeas 401, nays 0, not voting 30, as follows:

[Roll No. 377]

YEAS—401

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill

Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—30

Boulter
Clay
Courter
Donnelly
Dowdy
Eckart
Espy
Ford (MI)
Ford (TN)
Gregg
Hayes (IL)
Hefner
Holloway
Jacobs
Kasich
Kemp
Kleczka
Levin (MI)
Levine (CA)
Lott
Lowry (WA)
Lungren
Mack
MacKay
McCollum
McEwen
Morrison (CT)
Slaughter (NY)
Sweeney
Weiss

□ 1838

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

VACATION OF SPECIAL ORDER AND REQUEST FOR SPECIAL ORDER

Mr. CONTE. Mr. Speaker, I had a special order reserved for 60 minutes for tonight for my good friend, Ed Boland.

Because of the legislative schedule, I ask unanimous consent to cancel my 60-minute special order for tonight and ask for 60 minutes on October 5, 1988.

The SPEAKER pro tempore (Mr. Gray of Illinois). Is there objection to the request of the gentleman from Massachusetts.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the nine motions to suspend the rules on which the Chair has postponed further proceedings.

VETERANS' JUDICIAL REVIEW ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 5288, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. Montgomery] that the House suspend the rules and pass the bill, H.R. 5288, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 400, nays 0, not voting 31, as follows:

[Roll No. 378]

YEAS—400

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd

Lujan
Luken, Thomas
Lukens, Donald
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi

Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)

Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—0

NOT VOTING—31

Boulter
Clay
Courter
Donnelly
Dowdy
Eckart
Espy
Ford (MI)
Ford (TN)
Gregg
Hayes (IL)

Hefner
Holloway
Kasich
Kemp
Kleczka
Levin (MI)
Levine (CA)
Lewis (CA)
Lott
Lowery (CA)
Lowry (WA)

Lungren
Mack
MacKay
McCollum
McEwen
Morrison (CT)
Slaughter (NY)
Sweeney
Weiss

□ 1847

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The results of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that the Committee on Veterans' Affairs be discharged from further consideration of the Senate bill (S. 11) to amend title 38, United States Code, to establish certain procedures for the adjudication of claims for benefits under laws administered by the Veterans' Administration; to apply the provisions of section 553 of title 5, United States Code, to rulemaking procedures of the Veterans' Administration; to provide for judicial review of certain final decisions of the Board of Veterans' Appeals; to provide for the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the Veterans' Administration, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 11

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Veterans' Administration Adjudication Procedure and Judicial Review Act".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—VETERANS' ADMINISTRATION ADJUDICATION

SEC. 101. (a) Chapter 51 is amended by adding at the end of subchapter I the following new section:

"§ 3007. Burden of proof; benefit of the doubt

"(a) Except when otherwise provided by the Administrator in accordance with the provisions of this title, a claimant for benefits under laws administered by the Veterans' Administration shall have the burden of submitting evidence sufficient to justify a belief by a fair and impartial individual that the claim is well grounded. The Administrator shall assist a claimant in developing the facts pertinent to his or her claim.

"(b) When, after consideration of all evidence and material of record in any proceeding before the Veterans' Administration involving a claim for benefits under laws administered by the Veterans' Administration, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of such claim, the benefit of the doubt in resolving each such issue will be given to the claimant, but nothing in this section shall be construed as shifting from a claimant to the Administrator the burden described in subsection (a) of this section.".

(b)(1) The table of chapters at the beginning of title 38, United States Code, and the table of chapters at the beginning of part IV of such title are each amended in the item relating to chapter 51 by striking out "Applications" and inserting in lieu thereof "Claims".

(2) The heading of such chapter is amended to read as follows:

"CHAPTER 51—CLAIMS, EFFECTIVE DATES, AND PAYMENTS".

(c)(1) The table of sections at the beginning of such chapter is amended in the item relating to subchapter I by striking out "APPLICATIONS" and inserting in lieu thereof "CLAIMS".

(2) The heading of subchapter I of such chapter is amended to read as follows:

"SUBCHAPTER I—CLAIMS".

(d) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 3006 the following new item:

"3007. Burden of proof; benefit of the doubt.".

SEC. 102. Section 3311 is amended by adding at the end the following new sentences: "Subpenas authorized under this section shall be served by any individual authorized by the Administrator by (1) delivering a copy thereof to the individual named therein, or (2) mailing a copy thereof by registered or certified mail addressed to such individual at such individual's last known dwelling place or principal place of business. A verified return by the individual so serving the subpena setting forth the manner of service, or, in the case of service by registered or certified mail, the return post office receipt therefor signed by the individual so served, shall be proof of service.".

SEC. 103. (a) Section 4001(a) is amended—

(1) by striking out "directly responsible to the Administrator" in the first sentence and inserting in lieu thereof '(hereinafter referred to as the 'Chairman')"; and

(2) by inserting before the period at the end of the second sentence "in a timely manner".

(b)(1) Section 4001(b) is amended to read as follows:

"(b)(1) The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, for a term of five years. An individual may serve as Chairman for not more than three complete terms. The Chairman may be removed by the President for good cause.

"(2)(A) The members of the Board shall be appointed by the Chairman for a term of nine years. A member appointed to fill a vacancy resulting from the resignation, death, or removal of a member before the end of the term for which the original appointment was made shall serve for the remainder of the unexpired term. Members may be reappointed without limitation. The Chairman shall designate one member as Vice Chairman. Such member shall serve as Vice Chairman at the pleasure of the Chairman.

"(B) A member of the Board may be removed only by the Chairman and only for good cause established and determined by the Merit Systems Protection Board on the record after opportunity for hearing before the Merit Systems Protection Board. Section 554(a)(2) of title 5 shall not apply to a removal action under this subparagraph. In such a removal action, a member shall have the rights set out in section 7513(b) of title 5.".

(2) The President shall appoint a Chairman of the Board of Veterans' Appeals under section 4001(b)(1) of title 38, United States Code (as amended by paragraph (1)), not later than one year after the date of the enactment of this Act. The individual who is serving as Chairman of the Board of Veterans' Appeals on the date of the enactment of this Act may continue to serve as Chairman until a successor is appointed. If such

individual is appointed as Chairman under such section, none of the service of such individual as Chairman before the date of that appointment shall be considered for the purpose of determining the term of appointment or eligibility for reappointment under such section.

(3) Appointments of members of the Board of Veterans' Appeals under subsection (b)(2)(A) of section 4001 of title 38, United States Code (as amended by paragraph (1)), may not be made until a Chairman has been appointed under subsection (b)(1) of such section. An individual who is serving as a member of the Board on the date of the enactment of this Act may continue to serve as a member until the earlier of the date on which the individual's successor is appointed under subsection (b)(2)(A) of such section or the expiration of the 180-day period that begins on the day after the Chairman is appointed under subsection (b)(1) of such section.

(4) Notwithstanding the provision in section 4001(b)(2) of title 38, United States Code (as amended by paragraph (1)), that specifies the term for which members of the Board of Veterans' Appeals shall be appointed, of the first members appointed under such section—

(1) 21 members shall be appointed for a term of three years;

(2) 22 members shall be appointed for a term of six years; and

(3) 22 members shall be appointed for a term of nine years.

The first Vice Chairman of the Board designated under such section shall be selected from among the members appointed for terms of six years or nine years.

(5) Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Chairman, Board of Veterans' Appeals.".

(c) Section 4001 is further amended by adding at the end the following new subsections:

"(d) The Chairman shall submit a report to the Committees on Veterans' Affairs of the Senate and the House of Representatives, not later than December 31, 1988, and annually thereafter, on the experience of the Board during the prior fiscal year together with projections for the fiscal year in which the report is submitted and the subsequent fiscal year. Such report shall contain, as a minimum, information specifying the number of cases appealed to the Board during the prior fiscal year, the number of cases pending before the Board at the beginning and end of such fiscal year, the number of such cases which were filed during each of the 36 months preceding the then current fiscal year, the average length of time a case was before the Board between the time of the filing of an appeal and the disposition during the prior fiscal year, and the number of members of, and the professional, administrative, clerical, stenographic, and other personnel employed by, the Board at the end of the prior fiscal year. The projections for the current fiscal year and subsequent fiscal year shall include, for each such year, estimates of the number of cases to be appealed to the Board and an evaluation of the Board's ability, based on existing and projected personnel levels, to ensure timely disposition of such appeals as provided for by subsection (a) of this section.

"(e) Notwithstanding any other provision of law, no member or temporary or acting member of the Board shall be eligible for or receive, directly or indirectly, bonuses (in addition to salary) relating to service on the Board.".

SEC. 104. Section 4003 is amended to read as follows:

"§ 4003. Determinations by the Board

"(a)(1) A determination, when concurred in by the requisite number of members of a section, shall be the final decision of the Branch.

"(2) The requisite number of members of a section that must concur in a determination for it to be considered a final decision is—

"(A) for an allowance of a claim, a majority of the members of the section; or

"(B) for a denial of a claim, all members of the section.

"(b) When there is a disagreement among the members of the section in any case in which unanimity is required for a final decision, the concurrence of the Chairman with the majority of the members of such section shall constitute the final decision of the Board. The Chairman may, instead of voting, expand the size of the section for determination of that case, and the concurrence of a majority of the members of the expanded section shall constitute the final decision of the Board.

"(c) If, without the vote of a temporary member designated under section 4001(c)(1) of this title or the vote of an acting member designated under section 4002(a)(2)(A)(ii) of this title, a section would be evenly divided in the determination of any claim—

"(1) such member shall not vote; and

"(2) the Chairman shall expand, by not less than two members, the size of the section for determination of that claim.

"(d) Notwithstanding subsection (a) and (b) of this section, the Board on its own motion may correct an obvious error in the record or may reach a contrary conclusion upon the basis of additional information from the department of the Secretary concerned after notice of such additional information is furnished to the claimant and the claimant is provided an opportunity to be heard in connection with such information.".

SEC. 105. Section 4004 is amended—

(1) in subsection (a)—

(A) by striking out "involving" in the first sentence and inserting in lieu thereof "for"; and

(B) by inserting before the period at the end of the second sentence "after affording the claimant an opportunity for a hearing and shall be based exclusively on evidence and material of record in the proceeding and on applicable provisions of law";

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b)(1) Except as provided in paragraph (2) of this subsection, when a claim is disallowed by the Board, it may not thereafter be reopened and allowed and no claim based upon the same factual basis shall be considered.

"(2) Following such a disallowance, the Board (directly or through the agency of original jurisdiction, as described in section 4005(b)(1) of this title)—

"(A) when new and material evidence is presented or secured, shall authorize the reopening of a claim and a review of the Board's former decision; and

"(B) for good cause shown, may authorize the reopening of a claim and a review of the Board's former decision.

"(3) A judicial decision under subchapter II of chapter 71 of this title, upholding, in whole or in part, the disallowance of a claim shall not diminish the Board's authority set forth in paragraph (2) of this subsection to authorize the reopening of a claim and a review of the former decision."; and

(3) by striking out subsection (d) and inserting in lieu thereof the following:

"(d) After reaching a decision in a case, the Board shall promptly mail notice of its decision to the claimant and the claimant's authorized representative, if any, at the last known address of the claimant and at the last known address of the claimant's authorized representative, if any. Each decision of the Board shall include—

"(1) a written statement of the Board's findings and conclusions, and reasons or bases therefor, on all material issues of fact and law and on matters of discretion presented on the record; and

"(2) an order granting appropriate relief or denying relief.".

SEC. 106. Section 4005(d) is amended—

(1) by striking out paragraph (4) and inserting in lieu thereof the following:

"(4) The claimant may not be presumed to agree with any statement of fact or law contained in the statement of the case to which the claimant does not specifically express agreement."; and

(2) in paragraph (5), by striking out "will base its decision on the entire record and".

SEC. 107. (a) Section 4009 is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"§ 4009. Medical opinions";

and

(2) by adding at the end the following new subsections:

"(c)(1) Whenever there exists in the evidence of record in an appeal case a substantial disagreement between the substantiated findings or opinions of two physicians with respect to an issue material to the outcome of the case, the Board shall, upon the request of the claimant and after taking appropriate action to attempt to resolve the disagreement, arrange for an advisory medical opinion in accordance with the procedure prescribed in subsection (b) of this section. The claimant may appeal a denial of a request for such an opinion to the Chairman.

"(2) If the Board or the Chairman upon appeal denies a request for an advisory medical opinion, the Board, or the Chairman after the appeal, shall prepare and provide to the claimant and the claimant's authorized representative, if any, a statement setting forth the basis for the denial and, in the case of a denial of such request by the Board, a notice of the claimant's right to appeal the denial to the Chairman.

"(3) Actions of the Board under this subsection, including any such denial concurred in by the Chairman (if appealed), shall be final and conclusive, and no other official or any court of the United States shall have the power or jurisdiction to review any aspect of any such action by an action in the nature of mandamus or otherwise, the provisions of subchapter II of chapter 71 of this title to the contrary notwithstanding.

"(d) If a member of the Board receives the medical opinion of any physician relating to any appeal under consideration by such member (other than a medical opinion of a physician on the section of the Board considering such appeal) or an employee of the Board in the consideration of such appeal receives such an opinion, the Board shall furnish such opinion to the claimant and shall afford the claimant 60 days in which to submit a response to such opinion before the Board issues a final decision on the appeal. The Board shall consider any such response and shall include in the final decision a discussion of such opinion, the response (if any), and the effect of such opinion and response on the Board's decision.".

(b) The table of sections at the beginning of chapter 71 is amended by striking out the item relating to section 4009 and inserting in lieu thereof the following:

"4009. Medical opinions.".

SEC. 108. (a) Chapter 71 is further amended by adding at the end the following new sections:

"§ 4010. Adjudication procedures

"(a) For purposes of conducting any hearing, investigation, or other proceeding in connection with the consideration of a claim for benefits under laws administered by the Veterans' Administration, the Administrator and the members of the Board may administer oaths and affirmations, examine witnesses, and receive evidence.

"(b) Any oral, documentary, or other evidence, even though inadmissible under the rules of evidence applicable to judicial proceedings, may be admitted in a hearing, investigation, or other proceeding in connection with the consideration of a claim for benefits under laws administered by the Veterans' Administration, but the Administrator and the Chairman, under regulations which the Administrator and the Chairman shall jointly prescribe, may provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence.

"(c)(1) In the course of any proceeding before the Board, any party to such proceeding or such party's authorized representative shall be afforded opportunities—

"(A) to examine and, on payment of a fee prescribed pursuant to section 3302(b) of this title (not to exceed the direct cost of duplication), obtain copies of the contents of the case files and all documents and records to be used by the Veterans' Administration at such proceeding;

"(B) to present witnesses and evidence, subject only to such restrictions as may be set forth in regulations prescribed pursuant to subsection (b) of this section, as to materiality, relevance, and undue repetition;

"(C) to make oral argument and submit written contentions, in the form of a brief or similar document, on substantive and procedural issues;

"(D) to submit rebuttal evidence;

"(E) to present medical opinions and request an independent advisory medical opinion pursuant to section 4009(c) of this title; and

"(F) to serve written interrogatories on any person, including any employee of the Veterans' Administration, which interrogatories shall be answered separately and fully in writing and under oath unless written objection thereto, in whole or in part, is filed with the Chairman by the person to whom the interrogatories are directed or such person's representative.

"(2) The fee provided for in paragraph (1)(A) of this subsection may be waived by the Chairman, pursuant to regulations which the Administrator shall prescribe, on the basis of the party's inability to pay or for other good cause shown.

"(3) In the event of any objection filed under paragraph (1)(F) of this subsection, the Chairman shall, pursuant to regulations which the Chairman shall prescribe establishing standards consistent with standards for protective orders applicable in the United States District Courts, evaluate such objection and issue an order (A) directing that, within such period as the Chairman shall specify, the interrogatory or interrogatories objected to be answered as served or answered after modification, or (B) indicating that the interrogatory or interrogatories are no longer required to be answered.

"(4) If any person upon whom interrogatories are served under paragraph (1)(F) of this subsection fails to answer or fails to provide responsive answers to all of the interrogatories within 30 days after service or such additional time as the Chairman may allow, the Chairman, upon determining that the party propounding such interrogatories has shown the general relevance and reasonableness of the scope of the interrogatories, shall issue a subpena under section 3311 of this title (with enforcement of such subpena to be available under section 3313 of this title) for such person's appearance and testimony on such interrogatories at a deposition on written questions, at a location within 100 miles of where such person resides, is employed, or transacts business.

"(d)(1) A claimant may request a hearing before a traveling section of the Board. Cases shall be scheduled for hearing before such a section in the order in which the requests for hearing are received by the Board.

"(2) If a claimant makes a request for a hearing before a traveling section of the Board and, by reason of limited time for the conduct of hearings by such section at the location for the requested hearing, such claimant's appeal is not scheduled for hearing or the hearing is not conducted, the Board shall afford such claimant an opportunity to present the case to the Board in a hearing conducted by telephone or video connection before a section of the Board or in a videotape of a hearing conducted for the Board by Veterans' Administration adjudication personnel at a regional office of the Veterans' Administration. An audiotape or videotape of such hearing shall be included in the record of the appeal and considered by the Board in the same manner as recordings of testimony and documentary evidence are considered.

"(e) In the course of any hearing, investigation, or other proceeding in connection with the consideration of a claim for benefits under laws administered by the Veterans' Administration, an employee of the Veterans' Administration (including an employee of the Board of Veterans' Appeals) may at any time disqualify himself or herself, on the basis of personal bias or other cause, from adjudicating the claim. On the filing by a party in good faith of a timely and sufficient affidavit averring personal bias or other cause for disqualification on the part of such an employee, the Administrator, as to proceedings other than proceedings before the Board, or the Chairman, as to proceedings before the Board, shall determine the matter as a part of the record and decision in the case, pursuant to regulations prescribed jointly by the Administrator and the Chairman.

"(f) The transcript or recording of testimony and the exhibits, together with all papers and requests filed in the proceeding, and the decision of the Board (1) shall constitute the exclusive record for decision in accordance with section 4004(a) of this title, (2) shall be available for inspection by any party to such proceeding, or such party's authorized representative, at reasonable times and places, and (3) on the payment of a fee prescribed under section 3302(b) of this title (not to exceed the direct cost of duplication), shall be copied for the claimant or such claimant's authorized representative within a reasonable time. Such fee may be waived by the Chairman, pursuant to regulations which the Administrator shall prescribe, on the basis of the party's inability to pay or for other good cause shown.

"(g) Notwithstanding section 4004(a) of this title, section 554(a) of title 5, or any other provision of law, adjudication and hearing procedures prescribed in this title and in regulations prescribed by the Administrator, as to proceedings other than proceedings before the Board, or by the Chairman, as to proceedings before the Board, or by the Administrator and the Chairman jointly, under this title for the purpose of administering veterans' benefits shall be exclusive with respect to hearings, investigations, and other proceedings in connection with the consideration of a claim for benefits under laws administered by the Veterans' Administration.

"§ 4011. Notice of procedural rights and other information

"In the case of any disallowance, in whole or in part, of a claim for benefits under laws administered by the Veterans' Administration, the Administrator, as to proceedings other than proceedings before the Board, or the Chairman, as to proceedings before the Board, shall, at each procedural stage relating to the disposition of such a claim, beginning with disallowance after an initial review or determination, and including the furnishing of a statement of the case and the making of a final decision by the Board, provide to the claimant and such claimant's authorized representative, if any, written notice of the procedural rights of the claimant. Such notice shall be on such forms as the Administrator or the Chairman, respectively, shall prescribe by regulation and shall include, in easily understandable language, with respect to proceedings before the Veterans' Administration and the Board (1) descriptions of all subsequent procedural stages provided for by statute, regulation, or Veterans' Administration policy, (2) descriptions of all rights of the claimant expressly provided for in or pursuant to this chapter, of the claimant's rights to a hearing, to reconsideration, to appeal, and to representation, and of any specific procedures necessary to obtain the various forms of review available for consideration of the claim, (3) in the case of an appeal to the Board, the rights to and opportunities for a hearing provided in section 4010(d) of this title, and (4) such other information as the Administrator or the Chairman, respectively, as a matter of discretion, determines would be useful and practical to assist the claimant in obtaining full consideration of the claim.".

(b) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 4009 the following new items:

"4010. Adjudication procedures.
"4011. Notice of procedural rights and other information.".

SEC. 109. (a) In order to evaluate the feasibility and desirability of alternative methods of (1) seeking to ensure the resolution of claims before the Administrator of Veterans' Affairs or the Board of Veterans' Appeals for benefits under laws administered by the Veterans' Administration as promptly and efficiently as feasible following the filing of a notice of disagreement pursuant to section 4005 (as amended by section 106 of this Act) or 4005A of title 38, United States Code, and (2) affording claimants the opportunity for a hearing before or review by a disinterested authority at a location as convenient and on as timely a basis as possible for each claimant, the Administrator and the Chairman of the Board of Veterans' Appeals are each authorized to conduct a study commencing not later than 1 year after the date of the enactment of this Act, for a period of 24 months, involving either or both of the alternative methods described in subsection (b) of this section for resolution of claims.

(b)(1) In not more than three geographic areas, the Administrator is authorized to provide an intermediate-level adjudication process whereby each claimant may, within the time afforded such claimant under paragraph (3) of section 4005(d) or 4005A(b) of title 38, United States Code, to file an appeal, request a de novo hearing at the agency of original jurisdiction (as described in section 4005(b)(1) of such title) before a panel of three Veterans' Administration employees, each of whose primary responsibilities include adjudicative functions but none of whom shall have previously considered the merits of the claim at issue. Following such hearing, such panel shall render a decision and prepare a new statement of the case in accordance with the requirements of paragraphs (1) and (2) of section 4005(d) of such title. Such new statement of the case shall, for all purposes relating to appeals under chapter 71 of such title, be considered to be a statement of the case as required by such paragraph (1).

(2) In not more than three other geographic areas, the Chairman is authorized to provide for an enhanced schedule of visits, on at least a quarterly basis each year, by a panel or panels of the Board to conduct formal recorded hearings pursuant to section 4002 of such title in such areas.

(c) Not later than 6 months after the completion of such study, the Administrator and the Chairman, as appropriate, shall report to the Committees on Veterans' Affairs of the Senate and the House of Representatives on the results of the study, including an evaluation of the cost factors associated with each alternative studied and with any appropriate further implementation thereof, the impact on the workload of each regional office involved in such study, and the impact on the annual caseload of the Board resulting from each alternative studied, together with any recommendations for administrative or legislative action, or both, as may be indicated by such results.

SEC. 110. Section 3010(i) is amended—

(1) by inserting "(1)" after "(i)"; and

(2) by adding at the end the following new paragraph:

"(2) Whenever any disallowed claim is reopened and thereafter allowed on the basis of new and material evidence in the form of official reports from the department of the Secretary concerned, the effective date of commencement of the benefits so awarded shall be the date on which an award of benefits under the disallowed claim would have been effective had the claim been allowed on the date it was disallowed.".

TITLE II—VETERANS'
ADMINISTRATION RULE MAKING

SEC. 201. (a) Subchapter II of chapter 3 is amended by adding at the end the following new section:

"§ 223. Rule making

"(a) For the purposes of this section—

"(1) the term 'regulation' includes—

"(A) statements of general policy, instructions, and guidance issued or adopted by the Administrator; and

"(B) interpretations of general applicability issued or adopted by the Administrator; and

"(2) the term 'rule' has the same meaning as is provided in section 551(4) of title 5.

"(b) Notwithstanding the provisions of subsection (a)(2) of section 553 of title 5, the promulgation of rules and regulations by the Administrator, other than rules or regulations pertaining to agency management or personnel or to public property or contracts, shall be subject to the requirements of section 553 of title 5.

"(c) Rules and regulations issued or adopted by the Administrator shall be subject to judicial review as provided in subchapter II of chapter 71 of this title.".

(b) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 222 the following new item:

"223. Rule making.".

TITLE III—JUDICIAL REVIEW

SEC. 301. Section 211(a) is amended by striking out "sections 775, 784" and inserting in lieu thereof "sections 775 and 784 and subchapter II of chapter 71 of this title".

SEC. 302. (a) Chapter 71 is further amended—

(1) by inserting after the table of sections the following new heading:

"SUBCHAPTER I—GENERAL";

and

(2) by adding at the end thereof the following new subchapter:

"SUBCHAPTER II—JUDICIAL REVIEW

"§ 4025. Right of review; commencement of action

"(a) For the purposes of this chapter—

"(1) 'final decision of the Board of Veterans' Appeals' means—

"(A) a final decision of the Board pursuant to section 4004 (a) or (b) of this title; or

"(B) a dismissal of an appeal by the Board pursuant to section 4005 or 4008 of this title;

"(2) 'claim for benefits' means—

"(A) an initial claim filed under section 3001 of this title;

"(B) a challenge to a decision of the Administrator reducing, suspending, or terminating benefits; or

"(C) any request by or on behalf of the claimant for reopening, reconsideration, or further consideration in a matter described in clause (A) or (B) of this paragraph;

"(3) 'interested party', with respect to a rule or regulation issued or adopted by the Administrator, means any person substantially affected by such rule or regulation; and

"(4) 'disability rating schedule' means the schedule of ratings adopted and readjusted under section 355 of this title and any provision made by the Administrator under section 357 of this title for the combination of ratings.

"(b)(1)(A) Subject to subparagraph (B) of this paragraph, the following matters are subject to judicial review under this subchapter:

"(i) A final decision of the Board of Veterans' Appeals in accordance with subsection (c).

"(ii) A rule or regulation issued or adopted by the Administrator when review of such regulation is requested by a claimant in connection with an action under subsection (c).

"(iii) A rule or regulation so issued or adopted when review of such regulation is requested by any interested party in an action brought only for the purpose of obtaining review of such rule or regulation.

"(B) In an action involving any matter subject to judicial review under this subchapter, a court may not direct or otherwise order that any disability rating schedule issued or adopted by the Administrator be modified.

"(2) Any action for judicial review authorized by this subchapter shall be brought by a claimant or an interested party in the United States Court of Appeals for the circuit in which the plaintiff resides or the plaintiff's principal place of business is located, or in the United States Court of Appeals for the District of Columbia Circuit.

"(c) Except as provided in subsection (g) of this section, after any final decision of the Board of Veterans' Appeals adverse to a claimant in a matter involving a claim for benefits under any law administered by the Veterans' Administration, such claimant may obtain a review of such decision in a civil action commenced within 180 days after notice of such decision is mailed to such claimant pursuant to section 4004(d) of this title.

"(d) The complaint initiating an action under subsection (c) of this section shall contain sufficient information to permit the Administrator to identify and locate the plaintiff's records in the custody or control of the Veterans' Administration.

"(e) Not later than 30 days after filing the answer to a complaint filed pursuant to subsection (d) of this section, the Administrator shall file a certified copy of the records upon which the decision complained of is based or, if the Administrator determines that the cost of filing copies of all such records is unduly expensive, the Administrator shall file a complete index of all documents, transcripts, or other materials comprising such records. After such index is filed and after considering requests from all parties, the court shall require the Administrator to file certified copies of such indexed items as the court considers relevant to its consideration of the case.

"(f) In an action brought under subsection (c) of this section, the court shall have the power, upon the pleadings and the records specified in subsection (e) of this section, to enter judgment in accordance with section 4026 of this title or remand the case in accordance with such section or section 4027 of this title.

"(g)(1) No action may be brought under this section unless (A) the initial claim for benefits is filed pursuant to section 3001 of this title on or before the last day of the fifth fiscal year beginning after the effective date of this section, and (B) the complaint initiating such action is filed not more than 180 days after notice of the first final decision of the Board of Veterans' Appeals rendered after the last day of such fiscal year is mailed to the claimant pursuant to section 4004(d) of this title. If the case is reopened pursuant to section 4004(b)(2)(A) of this title within 180 days after such notice is mailed, the next final decision shall, for purposes of this subsection, be considered the first final decision of the Board.

"(2) No action may be brought under this section with respect to matters arising under chapters 19 and 37 of this title.

"§ 4026. Scope of review

"(a)(1) In any action brought under section 4025 of this title, the court, to the extent necessary to its decision and when presented, shall, except as provided for in section 4025(b)(1)(B) of this title—

"(A) decide all relevant questions of law, interpret constitutional, statutory, and regulatory provisions, and determine the meaning or applicability of the terms of an action of the Administrator;

"(B) compel action of the Administrator unlawfully withheld;

"(C) hold unlawful and set aside decisions, findings (other than those described in clause (D) of this paragraph), conclusions, rules, and regulations issued or adopted by the Administrator, the Board of Veterans' Appeals, the Administrator and the Chairman of the Board jointly, or the Chairman found to be—

"(i) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(ii) contrary to constitutional right, power, privilege, or immunity;

"(iii) in excess of statutory jurisdiction, authority, or limitations, or in violation of a statutory right; or

"(iv) without observance of procedure required by law; and

"(D) in the case of a finding of material fact made in reaching a decision on a claim for benefits under laws administered by the Veterans' Administration, hold unlawful and set aside such finding when it is so utterly lacking in a rational basis in the evidence that a manifest and grievous injustice would result if such finding were not set aside.

"(2) Before setting aside any finding of fact under paragraph (1)(D) of this subsection, the court shall specify the deficiencies in the record upon which the court would set aside such finding and shall remand the case one time to the Board of Veterans' Appeals for further action not inconsistent with the order of the court in remanding the case. In remanding a case under the first sentence of this paragraph, the court shall specify a reasonable period of time within which the Board shall complete the ordered action. If the Board does not complete action on the case within the specified period of time, the case shall be returned to the court for its further action.

"(b) In any action brought under section 4025 of this title, the whole record before the court pursuant to subsection (e) of such section shall be subject to review, the court shall review those parts of such record cited by a party, and due account shall be taken of the rule of prejudicial error.

"(c) In no event shall findings of fact made by the Administrator or the Board of Veterans' Appeals be subject to trial de novo by the court.

"(d) When a final decision of the Board of Veterans' Appeals is adverse to a party and the sole stated basis for such decision is the failure of such party to comply with any applicable regulation issued or adopted by the Administrator or the Board, the court shall review only questions raised as to compliance with and the validity of the regulation.

"§ 4027. Remands

"(a) If either party to an action brought under section 4025 of this title applies to the court for leave to adduce additional evidence and shows to the satisfaction of the court that such additional evidence is material and that there is good cause for granting such leave, the court shall remand the case to the Board of Veterans' Appeals and order such additional evidence to be taken by the Board. The court may specify a reasonable period of time within which the Board shall complete the required action.

"(b) After a case is remanded to the Board of Veterans' Appeals under subsection (a) of this section, and after further action by the Board, including consideration of any additional evidence, the Board shall modify, supplement, affirm, or reverse the findings of fact or decision, or both, and shall file with the court any such modification, supplementation, affirmation, or reversal of the findings of fact or decision or both, as the case may be, and certified copies of any additional records and evidence upon which such modification, supplementation, affirmation, or reversal was based.

"§ 4028. Survival of actions

"Any action brought under section 4025 of this title shall survive notwithstanding any change in the person occupying the office of Administrator or any vacancy in such office.

"§ 4029. Appellate review

"The decisions of a court of appeals pursuant to this chapter shall be subject to appellate review by the Supreme Court of the United States in the same manner as judgments in other civil actions.".

(b) The table of sections at the beginning of such chapter is amended—

(1) by inserting before the item relating to section 4001 the following new item:

"SUBCHAPTER I—GENERAL";

and

(2) by adding after the item (added by section 108(b) of this Act) relating to section 4011 the following new items:

"SUBCHAPTER II—JUDICIAL REVIEW

"4025. Right of review; commencement of action.
"4026. Scope of review.
"4027. Remands.
"4028. Survival of actions.
"4029. Appellate review.".

SEC. 303. Section 1346(d) of title 28, United States Code, is amended by inserting before the period at the end thereof a comma and "except as provided in subchapter II of chapter 71 of title 38".

TITLE IV—ATTORNEYS' FEES

SEC. 401. Section 3404 is amended by striking out subsection (c) and inserting in lieu thereof the following:

"(c) The Chairman of the Board of Veterans' Appeals shall approve reasonable attorneys' fees to be paid by the claimant to attorneys for representation, other than in an action brought under section 4025 of this title, in connection with a claim for benefits under laws administered by the Veterans' Administration. In no event may such attorneys' fees exceed—

"(1) for any claim resolved prior to or at the time that a final decision of the Board is first rendered, $10; or

"(2) for any claim resolved after such time—

"(A) if the claimant and an attorney have entered into an agreement under which no fee is payable to such attorney unless the claim is resolved in a manner favorable to the claimant, 25 percent of the total amount of any past-due benefits awarded on the basis of the claim; or

"(B) if the claimant and an attorney have not entered into such an agreement, the lesser of—

"(i) the fee agreed upon by the claimant and the attorney; or

"(ii) $500, or such greater amount as may be specified from time to time in regulations which the Chairman of the Board shall prescribe based on changed national economic conditions subsequent to the date of the enactment of this subsection, except that the Chairman may determine and approve a fee in excess of $500, or such greater amount if so specified, in an individual case involving extraordinary circumstances warranting a higher fee.

"(d)(1) If, in an action brought under section 4025 of this title, the matter is resolved in a manner favorable to a claimant who was represented by an attorney, the court shall determine and allow a reasonable fee for such representation to be paid to the attorney by the claimant. When the claimant and an attorney have entered into an agreement under which the amount of the fee payable to such attorney is to be paid from any past-due benefits awarded on the basis of the claim and the amount of the fee is contingent on whether or not the matter is resolved in a manner favorable to the claimant, the fee so determined and allowed shall not exceed 25 percent of the total amount of any past-due benefits awarded on the basis of the claim.

"(2) If, in an action brought under section 4025 of this title, the matter is not resolved in a manner favorable to the claimant, the court shall ensure that only a reasonable fee, not in excess of $750, is paid to the attorney by the claimant for the representation of such claimant.

"(e) To the extent that past-due benefits are awarded in proceedings before the Administrator, the Board of Veterans' Appeals, or a court, the Administrator shall direct that payment of any attorneys' fee that has been determined and allowed under this section be made out of such past-due benefits, but in no event shall the Administrator withhold for the purpose of such payment any portion of benefits payable for a period subsequent to the date of the final decision of the Administrator, the Board of Veterans' Appeals, or the court making such award.

"(f) The provisions of this section shall apply only to cases involving claims for benefits under the laws administered by the Veterans' Administration, and such provisions shall not apply in cases in which the Veterans' Administration is the plaintiff or in which other attorneys' fee statutes are applicable.

"(g) For the purposes of this section—

"(1) the terms 'final decision of the Board of Veterans' Appeals' and 'claim for benefits' shall have the same meaning provided for such terms, respectively, in section 4025 (a) of this title; and

"(2) claims shall be considered as resolved in a manner favorable to the claimant when all or any part of the relief sought is granted.

"(h) In an action brought under section 4025 of this title, the court may award to a prevailing party, other than the Administrator, reasonable attorneys' fees and costs in accordance with the provisions of section 2412(d) of title 28.".

SEC. 402. Section 3405 is amended—

(1) by striking out "or" after "title,"; and

(2) by inserting a comma and "or (3) with intent to defraud, in any manner willfully and knowingly deceives, misleads, or threatens a claimant or beneficiary or prospective claimant or beneficiary under this title with reference to any matter covered by this title" before "shall".

TITLE V—EFFECTIVE DATES

SEC. 501. This Act and the amendments made by this Act shall take effect on the first day of the first month beginning not less than 180 days after the date of the enactment of this Act.

SEC. 502. A civil action authorized in subchapter II of chapter 71 of title 38, United States Code (as added by section 302(a) of this Act) may be instituted to review final decisions of the Board of Veterans' Appeals rendered on or after April 1, 1987.

MOTION OFFERED BY MR. MONTGOMERY

Mr. MONTGOMERY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MONTGOMERY moves to strike all after the enacting clause of the Senate bill, S. 11 and insert in lieu thereof the provisions of H.R. 5288, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed. The title of the bill was amended so as to read: "A bill to amend title 38, United States Code, to provide an improved system of review of decisions of the Veterans' Administration with respect to claims for veterans' benefits, and for other purposes."

Mr. PANETTA. Mr. Speaker, I rise today to lend my support to H.R. 5288, which will extend to veterans the right to judicial review. I am pleased that a bipartisan compromise has been reached in the House and the Senate so that this fundamental constitutional right will finally be available to our Nation's veterans.

The Congress of the United States has provided a strong system of benefits for our Nation's veterans. These benefits represent a fundamental right for our veterans. But there is no right without a remedy. And current law provides no true remedy for a veteran who feels his rights have been violated.

A veteran should be able to go to an unbiased third party for an impartial review of any adverse bureaucratic decision. But this is not available to our veterans.

Right now, a veteran is virtually helpless if the Veterans' Administration makes an adverse decision regarding his rights or benefits. The only appeal he can make is to the office that made the decision in the first place. Obviously, the chance of a reversal in these circumstances is extremely slim. Three out of every four appeals of VA decisions are denied, and it is no wonder. The reality is that our veterans have no true right of appeal.

This violates not only the trust between this Nation and our veterans but also the principle of judicial review of bureaucratic decisions that applies virtually across the board for other groups and is a cornerstone of our judicial system. Ironically, we deny a fundamental right belonging to all Americans to those who have fought and sacrificed to protect all of our rights.

The basic principle of this legislation is that judicial review of decisions by the Veterans' Administration ought to be available to our veterans. I believe that it addresses this serious imbalance in the relationship between our Nation's veterans and the Federal Government.

This legislation does not provide an unusual right or benefit. The right of judicial appeal is a right afforded to Social Security recipients, to undocumented aliens, and to prisoners, but it is denied to the men and women who have served this country in uniform.

Today, veterans simply have no remedy. Current law stipulates that a veteran's claim for benefits is decided only by the VA. No veteran's claim may be brought before a Federal court for adjudication.

In addition, current law places a $10 limit on the amount a veteran may pay for a lawyer's services in his claims appeal with the VA. This provision, enacted in 1862, makes it virtually impossible for a veteran to obtain the help of an attorney.

The time has come to treat our veterans fairly. We ought to give them the right to take their claims and appeals to the courts. This measure that we are voting on today will give them that right. In addition, it provides for reasonable attorney fees so that a veteran has a fair opportunity to obtain legal counsel. This compromise addresses two important issues. First, it allows for a review of fact by a court after the Board of Veterans Appeals [BVA] has made a decision. Second, it provides that appeals may ultimately be made to the Federal circuit court, thus making the appeal process more easily accessible to all veterans.

One of our Nation's first priorities is to ensure that our veterans get the fair treatment they deserve. The time has come to give this Nation's veterans a right which most other Americans possess, the right to judicial review. I hope that my colleagues will join me in supporting this important legislation.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 5288) was laid on the table.

MAKING A CORRECTION IN THE EDUCATION AND TRAINING FOR A COMPETITIVE AMERICA ACT OF 1988

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 5408.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MARTINEZ] that the House suspend the rules and pass the bill, H.R. 5408, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 393, nays 9, not voting 29, as follows:

[Roll No. 379]

YEAS—393

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Coyne
Craig
Crockett
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers

Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—9

Archer
Armey
Barton
Burton
Crane
Dannemeycr
DeLay
Shumway
Stump

NOT VOTING—29

Boulter
Clay
Courter
Donnelly
Dowdy
Eckart
Espy
Ford (MI)
Ford (TN)
Gregg
Hayes (IL)
Hefner
Holloway
Kasich
Kemp
Kleczka
Levin (MI)
Levine (CA)
Lott
Lowry (WA)
Lungren
Mack
MacKay
McCollum
McEwen
Morrison (CT)
Slaughter (NY)
Sweeney
Weiss

□ 1855

Mr. BURTON of Indiana changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

VACATION OF SPECIAL ORDER AND REQUEST FOR SPECIAL ORDER

Mr. HORTON. Mr. Speaker, I have a 60-minute special order this evening to give our appreciation to the retiring gentleman from New York [Mr. STRATTON].

Because of the lateness of the hour, I ask unanimous consent to reschedule it for Thursday, October 6, 1988.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

TECHNICAL AMENDMENTS TO THE JOB TRAINING PARTNERSHIP ACT

The SPEAKER pro tempore. The pending business is on the question of suspending the rules and concurring in the Senate amendment to the bill, H.R. 4857.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MARTINEZ] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4857, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 399, nays 2, not voting 30, as follows:

[Roll No. 380]

YEAS—399

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—2

DeLay
Stump

NOT VOTING—30

Boulter
Clay
Courter
Donnelly
Dowdy
Eckart
Espy
Ford (MI)
Ford (TN)
Gregg
Hayes (IL)
Hefner
Holloway
Kasich
Kemp
Kleczka
Levin (MI)
Levine (CA)
Lott
Lowry (WA)
Lungren
Mack
MacKay
McCollum
McEwen
Morrison (CT)
Slaughter (NY)
Sweeney
Weiss
Weldon

□ 1904

Mr. CRANE changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof), the rules were suspended and the Senate amendment to H.R. 4857 was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROMPT PAYMENT ACT OF 1987

The SPEAKER pro tempore. The pending business is the question of suspending the rules and concurring in the Senate amendment to the concurrent resolution (H. Con. Res. 351).

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and concur in the Senate amendment to the concurrent resolution (H. Con. Res. 351), on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 399, nays 0, not voting 32, as follows:

[Roll No. 381]

YEAS—399

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—32

Boulter
Clay
Courter
Donnelly
Dowdy
Eckart
Espy
Ford (MI)
Ford (TN)
Gregg
Hayes (IL)
Hefner
Holloway
Kasich
Kemp
Kleczka
Levin (MI)
Levine (CA)
Lott
Lowry (WA)
Lungren
Mack
MacKay
McCollum
McEwen
Mica
Morrison (CT)
Schulze
Slaughter (NY)
Sweeney
Weiss
Weldon

□ 1911

So two-thirds having voted in favor thereof, the rules were suspended and the Senate amendment to House Concurrent Resolution 351 was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COMPUTER MATCHING AND PRIVACY PROTECTION ACT OF 1988

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and concurring in the Senate amendment to the House amendment to the Senate bill, S. 496.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. Brooks] that the House suspend the rules and concur in the Senate amendment to the House amendment to the Senate bill, S. 496, on which the yeas and nays are ordered.

The vote was taken by electronic device and there were—yeas 393, nays 8, not voting 30, as follows:

[Roll No. 382]

YEAS—393

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Coyne
Craig
Crane
Crockett
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (LA)
Hefley
Henry
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Konnyu
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar

Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weber
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—8

Burton
Dannemeyer
DeLay
Herger
Kyl
Shumway
Stump
Walker

NOT VOTING—30

Boulter
Clay
Courter
Donnelly
Dowdy
Eckart
Espy
Ford (MI)
Ford (TN)
Gregg
Hayes (IL)
Hefner
Holloway
Kasich
Kemp
Kleczka
Levin (MI)
Levine (CA)
Lott
Lowry (WA)
Lungren
Mack
MacKay
McCollum
McEwen
Morrison (CT)
Slaughter (NY)
Sweeney
Weiss
Weldon

□ 1918

Mr. BURTON of Indiana changed his vote from "yea" to "nay."

So (two-thirds having vote in favor thereof) the rules were suspended and the Senate amendment to the House amendment to the Senate bill S. 496, was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

TRANSFER OF CONTROL OF GENERAL ACCOUNTING OFFICE BUILDING

The SPEAKER pro tempore. (Mr. GRAY of Illinois). The pending business is the question of suspending the rules and passing the bill, H.R. 5052, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspended the rules and pass the bill. H.R. 5052, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 400, nays 0, not voting 31, as follows:

[Roll No. 383]

YEAS—400

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—31

Boulter
Clay
Courter
Donnelly
Dowdy
Eckart
Espy
Ford (MI)
Ford (TN)
Gregg
Hayes (IL)
Hefner
Holloway
Kasich
Kemp
Kleczka
Levin (MI)
Levine (CA)
Lott
Lowry (WA)
Lungren
Mack
MacKay
McCollum
McEwen
Morrison (CT)
Murphy
Slaughter (NY)
Sweeney
Weiss
Weldon

□ 1926

Mr. UDALL changed his vote from "present" to "yea."

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING SECRETARY OF THE AIR FORCE AUTHORITY TO CONVEY CERTAIN LAND

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 5291.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. Hutto] that the House suspend the rules and pass the bill, H.R. 5291, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 398, nays 1, not voting 32, as follows:

[Roll No. 384]

YEAS—398

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—1

Vento

NOT VOTING—32

Badham
Boulter
Clay
Courter
Donnelly
Dowdy
Eckart
Espy
Ford (MI)
Ford (TN)
Gregg
Hayes (IL)
Hefner
Holloway
Kasich
Kemp
Kleczka
Levin (MI)
Levine (CA)
Lott
Lowry (WA)
Lungren
Mack
MacKay
McCollum
McEwen
Morrison (CT)
Rangel
Slaughter (NY)
Sweeney
Weiss
Weldon

☐ 1934

So (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

WOMEN'S BUSINESS OWNERSHIP ACT OF 1988

The SPEAKER pro tempore (Mr. Gray of Illinois). The pending business is the question of suspending the rules and passing the bill, H.R. 5050, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. LaFalce] that the House suspend the rules and pass the bill, H.R. 5050, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 389, nays 7, not voting 35, as follows:

[Roll No. 385]

YEAS—389

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Costello
Coughlin
Coyne
Craig
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Flake
Flippo
Florio
Foglietta
Foley
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson

Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—7

Combest
Crane
DeLay
Hunter
Sensenbrenner
Shumway
Stump

NOT VOTING—35

Badham
Boulter
Clay
Courter
Davis (MI)
Donnelly
Dowdy
Eckart
Espy
Fish
Ford (MI)
Ford (TN)
Gregg
Hawkins
Hayes (IL)
Hefner
Holloway
Kasich
Kemp
Kleczka
Levin (MI)
Levine (CA)
Lott
Lowry (WA)
Lungren
Mack
MacKay
McCollum
McEwen
Mica
Morrison (CT)
Slaughter (NY)
Sweeney
Weiss
Weldon

☐ 1940

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SMALL BUSINESS INVESTMENT ACT OF 1958 AMENDMENTS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 437, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. LaFalce] that the House suspend the rules and pass the Senate bill, S. 437, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 372, nays 28, not voting 31, as follows:

[Roll No. 386]

YEAS—372

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Baker
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Buechner
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Chandler
Chapman
Chappell
Clarke
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Costello
Coughlin
Coyne
Craig
Crane
Crockett
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Frank
Frenzel
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Grandy
Grant
Gray (IL)
Gray (PA)
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (LA)
Hefley
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—28

Armey
Ballenger
Boehlert
Brown (CO)
Bunning
Carr
Cheney
Combest
Dannemeyer
Dornan (CA)
Dreier
Fawell
Gallegly
Gradison
Green
Hammerschmidt
Hansen
Hastert
Henry
Herger
Nielson
Packard
Regula
Shumway
Smith, Denny (OR)
Smith, Robert (NH)
Stump
Wortley

NOT VOTING—31

Badham
Boulter
Clay
Courter
Donnelly
Dowdy
Eckart
Espy
Ford (MI)
Ford (TN)
Gregg
Hawkins
Hayes (IL)
Hefner
Kasich
Kemp
Kleczka
Levin (MI)
Levine (CA)
Lott
Lowry (WA)
Lungren
Mack
MacKay
McCollum
McEwen
Morrison (CT)
Slaughter (NY)
Sweeney
Weiss
Weldon

☐ 1947

The Clerk announced the following pair:

On this vote:

Mr. Eckart and Mr. Hayes of Illinois for, with Mr. Boulter against.

So (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the Senate bill was amended so as to read: "An act to authorize the refinancing of certain small business debentures, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3718) was laid on the table.

PERSONAL EXPLANATION

Mr. ROE. Mr. Speaker, as chairman of the Science, Space, and Technology Committee, I led a delegation of distinguished Members of the House down to observe the rebirth of our manned space flight program. With the launch of the space shuttle *Discovery* last Thursday and its safe return today, the United States has continued its journey toward the heavens. We have suffered many wounds in the 32 months since the *Challenger* disaster, but with this flight we have begun to heal those wounds and again find direction for our dreams and actions.

This was truly an inspiring moment not only for the space program, but for the entire Nation. The return of the *Discovery* to space marks a revitalization of America's pride. Cheers and smiles for the *Discovery* have replaced the tears and shock the *Challenger* accident wrought. Mr. Speaker, we have seen the bleakness and felt the despair of our failures, now we have the opportunity to renew our energy and reach out to the future.

We have signed an agreement with our allies to work together building a permanent presence in space. The space station Freedom is the next step in the exploration of our final frontier. I hope my colleagues share my enthusiasm for the future and will work with me to seize this moment and carry it forward in providing our space program with the means and direction necessary to again make the United States the undisputed champion of space exploration.

Mr. Speaker, in attending that launch of the space shuttle, I and several of my colleagues were unable to record our positions on several votes. I would take this opportunity to record how I would have voted on these issues had I been present.

On the evening of September 28 rollcall No. 362, I would have voted "nay" on the Burton amendment to the Federal Equitable Pay Practices Act; and rollcall No. 363, I would have voted "yea" on the Bartlett amendment to that same bill.

On September 29 rollcall No. 364, I would have voted "yea" on the Agriculture Appropriations Conference Report; rollcall No. 365, I would have voted "yea" on the legislative branch appropriations conference report; rollcall No. 366, I would have voted "yea" on the resolution to provide for a motion to concur in the Senate amendment No. 119 to the foreign aid appropriation conference report; rollcall No. 267, I would have voted "yea" on concurring in this same Senate amendment; rollcall No. 370, I would have voted "nay" on the Burton amendment to the Federal Equitable Pay Practices act; and rollcall No. 371, I would have voted "yea" on passage of that same bill.

APPOINTMENT OF CONFEREES ON H.R. 515, FAIR CREDIT AND CHARGE CARD DISCLOSURE ACT OF 1987

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 515) to provide for more detailed and uniform disclosure by credit and charge card issuers with respect to information relating to interest rates and other fees which may be incurred by consumers through the use of any credit or charge card, with a Senate amendment thereto, disagree with the Senate amendment and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Rhode Island?

Mr. WALKER. Mr. Speaker, reserving the right to object, if I understand correctly, the committee is simply going to conference on the bill?

Mr. ST GERMAIN. Mr. Speaker, if the gentleman will yield, that is correct.

The SPEAKER. The gentleman is correct.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Rhode Island? The Chair hears none, and appoints the following conferees: Messrs: ST GERMAIN, ANNUNZIO, GONZALEZ, Ms. PELOSI, and Messrs: BARNARD, SCHUMER, WYLIE, SHUMWAY, HILER, and RIDGE.

NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1989

Mr. ASPIN. Mr. Speaker, pursuant to the provisions of House Resolution 557, I call up from the Speaker's table the Senate bill (S. 2749) to authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, for military construction and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, and ask for its immediate consideration in the House.

MOTION OFFERED BY MR. ASPIN

Mr. ASPIN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ASPIN moves to strike all after the enacting clause of the Senate bill, S. 2749, and insert the provisions of H.R. 4481 as passed by the House on July 12, 1988, as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Defense Savings Act of 1988".

SEC. 2. CLOSURE AND REALIGNMENT OF MILITARY INSTALLATIONS.

The Secretary of Defense shall—

(a) close all the military installations that are recommended for closure by the Commission on Base Realignment and Closure in the report transmitted to the Secretary pursuant to the charter establishing such Commission;

(b) realign all the military installations that are recommended for realignment by such Commission in such report; and

(c) initiate all such closures and realignments no later than September 30, 1991, and complete all of them no later than September 30, 1995, except that no such closure or realignment may be initiated before January 1, 1990.

SEC. 3. CONDITIONS.

(a) IN GENERAL.—The Secretary may not carry out any closure or realignment of a military installation under this Act unless—

(1) no later than January 16, 1989, the Secretary transmits to the Committees on Armed Services of the Senate and House of Representatives a report containing a statement that the Secretary has decided to accept and implement all of the closures and realignments of military installations that were recommended by the Commission in the report described in section 2; and

(2) the installation is recommended for closure or realignment, as the case may be, by the Commission in the report described in section 2.

(b) JOINT RESOLUTION.—(1) The Secretary may not carry out any closures or realignment under this Act if, within the 45-day period beginning on March 1, 1989, a joint resolution described in paragraph (2) is enacted disapproving the recommendations of the Commission. The days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of such 45-day period.

(2) For the purpose of paragraph (1), the term "joint resolution" means only a joint resolution which is introduced after the date on which the report of the Secretary referred to in section (2) is received by Congress and—

(A) which does not have a preamble;

(B) the matter after the resolving clause of which is as follows: "That Congress disapproves the recommendations of the Commission on Base Realignment and Closure established by the Secretary of Defense as submitted to the Secretary of Defense on ", the blank space being appropriately filled in; and

(C) the title of which is as follows: "Joint resolution disapproving the recommendations of the Commission on Base Realignment and Closure.".

(3) A resolution described in paragraph (2) introduced in the House of Representatives shall be referred to the Committee on Armed Services of the House of Representatives. A resolution described in paragraph (2) introduced in the Senate shall be referred to the Committee on Armed Services of the Senate.

(4) If the committee to which a resolution described in paragraph (2) is referred has not reported such resolution (or an identical resolution) by March 15, 1989, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(5)(A) On or after the third day after the date on which the committee to which such a resolution is referred has reported, or has been deemed to be discharged (under paragraph (4)) from further consideration of, such a resolution, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House, on the next day after the day on which such Member gives notice to the presiding officer thereof, to move to proceed to the consideration of the resolution, and

all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. An amendment to the resolution is not in order. A motion further to limit debate is in order and not debatable. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a resolution described in paragraph (2), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (2) shall be decided without debate.

(6) If, before the passage by one House of a resolution of that House described in paragraph (2) that House receives from the other House a resolution described in paragraph (2), then the following procedures shall apply:

(A) The resolution of the other House shall not be referred to a committee.

(B) With respect to a resolution described in paragraph (2) of the House receiving the resolution—

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the voice on final passage shall be on the resolution of the other House.

(7) The procedures contained in paragraphs (3) through (6) are enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (2), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(c) TERMINATION.—The authority of the Secretary to carry out any closure or realignment under this Act shall terminate on October 1, 1995.

SEC. 4. THE COMMISSION.

(a) IN GENERAL.—The Commission—

(1) shall transmit the report described in section (2) to the Secretary no later than December 31, 1988, including a description of the Commission's recommendations of the military installations to which functions will be transferred as a result of the realignments and closures recommended by the Commission; and

(2) on the same date on which the Commission transmits such report to the Secretary, transmit to the Committees on Armed Services of the Senate and House of Representatives—

(A) a copy of such report; and

(B) a statement by which the Commission certifies that it has identified the military installations to be closed or realigned by reviewing all military installations inside the United States, including those under construction or planned, and has considered the equitable geographic distribution throughout the United States of such recommended closures and realignments.

(b) STAFF.—

(1) Subject to paragraph (2), the professional staff of the Commission should be selected on the basis of their training, experience, and attainments and in a manner that will assure the impartiality and independence of the Commission to the maximum extent feasible. Each such professional staff member should be appointed on the basis of the individual's ability to perform the professional duties required by the Commission.

(2) Not more than one-half of the professional staff of the Commission shall be individuals who have been employed by the Department of Defense during calendar year 1988.

SEC. 5. IMPLEMENTATION.

(a) IN GENERAL.—In closing or realigning a military installation under this Act, the Secretary—

(1) subject to the availability of funds authorized and appropriated to the Department of Defense for use in planning and design, minor construction, or operation and maintenance, and the availability of funds in the Account, may carry out actions necessary to implement such closure or realignment, including acquiring land, constructing replacement facilities, relocating activities, and conducting advance planning and design as may be required to transfer functions from such military installation to another;

(2) subject to the availability of funds authorized and appropriated to the Department of Defense for economic adjustment assistance or community planning assistance and the availability of funds in the Account shall provide—

(A) economic adjustment assistance to any community located near an installation being closed or realigned; and

(B) community planning assistance to any community located near an installation to which functions will be transferred as a result of such closure or realignment;

if the Secretary determines that the financial resources available to the community (by grant or otherwise) for such purposes are inadequate; and

(3) subject to the availability of funds authorized and appropriated to the Department of Defense for environmental restoration and the availability of funds in the Account, may carry out activities for the purpose of environmental restoration, including reducing, removing, and recycling hazardous wastes and removing unsafe buildings and debris.

(b) MANAGEMENT AND DISPOSAL OF PROPERTY.—(1) Before any real property or facility under the control of the Department of Defense and located at a military installation to be closed or realigned under this Act is transferred to the General Services Administration for disposal, the Secretary shall notify all military departments, agencies, and other instrumentalities (including nonappropriated fund instrumentalities) within the Department of Defense of the availability of such property or facility and may transfer, without reimbursement, such property or facility to any such department, agency, or instrumentality, except that the Secretary shall give a priority to any such department, agency, or other instrumentality that offers to pay fair market value for the property or facility. For purposes of this paragraph, fair market value shall be determined on the basis of the value of the property as it is being used at the time of such notification.

(2) All proceeds—

(A) from any transfer under paragraph (1); and

(B) from the disposal of any property or facility that was transferred to the General Services Administration by the Secretary as a result of a closure or realignment under this Act, shall be deposited into the Account established by section 8(a)(1), except that the General Services Administration shall be reimbursed from such proceeds for any expenses incurred in disposing of such property or facility.

(3) After the General Services Administration has accepted any real property or facility located at a military installation closed or realigned, or to be closed or realigned, under this Act, the Secretary may not expend funds to maintain, secure, or operate the property or facility unless such maintenance, security, or operation is carried out pursuant to an agreement entered into between the Secretary and the Administrator of the General Services Administration that provides for reimbursement by such Administration to the Department of Defense of all expenses incurred by the Department in providing such maintenance, security, or operation.

(c) APPLICABILITY OF OTHER LAW.—(1) The provisions of the National Environmental Policy Act of 1969 shall not apply to—

(A) the actions of the Commission, including selecting the military installations which it recommends for closure or realignment under this Act, selecting any military installation to receive functions from an installation to be closed or realigned, and making its report to the Secretary and the Congress under section 4(a); and

(B) the actions of the Secretary in establishing the Commission, in determining whether to accept the recommendations of the Commission, in selecting any military installation to receive functions from an installation to be closed or realigned, and in transmitting the report to the Congress under section (3).

(2) The provisions of the National Environmental Policy Act of 1969 shall apply to the actions of the Secretary (A) during the process of the closing or realigning of a military installation after such military installation has been selected for closure or realignment but before the installation is closed or realigned and the functions relocated, and (B) during the process of the relocating of functions from a military installation being closed or realigned to another military installation after the receiving installation has been selected but before the functions are relocated. In applying the provisions of such Act, the Secretary shall not have to consider—

(i) the need for closing or realigning a military installation which has been selected for closure or realignment by the Commission;

(ii) the need for transfering functions to another military installation which has been selected as the receiving installation; or

(iii) alternative military installations to those selected.

(3) A civil action for judicial review, with respect to any requirement of the National Environmental Policy Act of 1969 to the extent such Act is applicable under paragraph (2), or with respect to any requirement of the Commission made by this Act, of any action or failure to act by the Secretary during the closing, realigning, or relocating referred to in clauses (A) and (B) of paragraph (2), or of any action or failure to act by the Commission under this Act, may not be brought later than the 60th day after the date of such action or failure to act, except that, with respect to any such action or failure to act by the Secretary, if a party shows that he did not know of the act or failure to act by the Secretary and that a reasonable person acting under the circumstances would not have known, such party may bring a civil action not later than the 60th day after the date such party acquired actual or constructive knowledge of such action or failure to act.

SEC. 6. WAIVER.

The Secretary may carry out this Act without regard to—

(a) laws restricting the use of funds for closing or realigning military installations included in appropriation or authorization Acts, other than this Act; and

(b) the procedures set forth in sections 2662 and 2687 of title 10, United States Code.

SEC. 7. REPORTS.

As part of each annual request for authorization of appropriations, the Secretary shall transmit to the Committees on Armed Services of the Senate and the House of Representatives—

(a)(1) a schedule of the closure and realignment actions to be carried out under this Act in the fiscal year for which the request is made and an estimate of the total cost savings to be achieved by each such closure and realignment and of the time period in which these savings are to be achieved in each case, together with an assessment of the environmental effects of such actions; and

(2) a description of the military installations, including those under construction or planned, to which functions will be transferred as a result of such closures and realignments, together with the Secretary's assessment of the environmental effects of such transfers.

(b) The Secretary shall conduct a study of actions planned with respect to military installations of the United States outside the United States which may affect the recommendations of the Commission and shall, no later than September 15, 1988, transmit a report of the findings and conclusions of such study to the Commission and to the Committees on Armed Services of the Senate and House of Representatives.

SEC. 8. FUNDING.

(a) Account.—(1) There is hereby established on the books of the Treasury the Department of Defense Base Closure Account which shall be administered by the Secretary as a single account.

(2) There shall be deposited into the Account—

(A) funds appropriated to the Account;

(B) any funds that the Secretary may, subject to approval in an appropriation Act, transfer to the Account from funds appropriated to the Department of Defense for any purpose, except that such funds may be transferred only after the date on which the Secretary transmits written notice of, and justification for, such transfer to the appropriate committees of Congress; and

(C) proceeds described in section 5(b)(2).

(3) Not more than $300,000,000 is authorized to be appropriated and transferred to the Account in any fiscal year.

(4) The Secretary may use the funds in the Account only for the purposes described in section 5(a). When a decision is made to use funds in the Account to carry out a construction project under section 5(A)(1) and the cost of the project will be greater than the maximum amount for a minor construction project, the Secretary shall notify in writing the appropriate committees of Congress of the nature of and justification for the project and the amount of expenditures for it.

(5) No later than 60 days after the end of each fiscal year in which the Secretary carries out activities under this Act, the Secretary shall transmit a report to the appropriate committees of Congress of the amount and nature of the deposits into, and the expenditures from, the accounting during such fiscal year and of the amount of other expenditures made pursuant to section 5(a) during such fiscal year.

(6) Unobligated funds which remain in the Account after the termination of the authority of the Secretary to carry out a closure or realignment under this Act shall be held in the Account until transferred by law after the appropriate committees of Congress receive the report transmitted under paragraph (7).

(7) No later than 60 days after the termination of the authority of the Secretary to carry out a closure or realignment under this Act, the Secretary shall transmit to the appropriate committees of Congress a report containing an accounting of—

(A) all the funds deposited into and expended from the Account or otherwise expended under this Act; and

(B) any amount remaining in the Account.

SEC. 9. DEFINITIONS.

In this Act:

(1) The term "Account" means the Department of Defense Base Closure Account established by section 8(A)(1).

(2) The term "appropriate committees of Congress" means the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives.

(3) The terms "Commission on Base Realignment and Closure" and "Commission" means the Commission established by the Secretary of Defense in the charter signed by the Secretary on May 3, 1988.

(4) The term "charter establishing such Commission" means the charter referred to in paragraph (3).

(5) The term "initiate" includes any action reducing functions or civilian personnel positions but does not include studies, planning, or similar activities carried out before there is a reduction of such functions or positions.

(6) The term "military installation" means a base, camp, post, station, yard, center, or other activity under the jurisdiction of the Secretary of a military department.

(7) The term "realignment" means any action which both reduces and relocates functions and civilian personnel positions.

(8) The term "Secretary" means the Secretary of Defense.

(9) The term "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and any other Commonwealth, territory, or possession of the United States.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to provide for the closing and realigning of certain military installations during a certain period."

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2749, NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1989

Mr. ASPIN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Aspin moves that the House insist on its amendment to S. 2749 and requests a conference with the Senate thereon.

The motion was agreed to.

The SPEAKER. The Chair appoints the following conferees:

From the Committee on Armed Services, for consideration of the Senate bill, and the House amendment, and modifications committed to conference: Messrs. Aspin, Dellums, Montgomery, Hutto, Skelton, Leath of Texas, McCurdy, Foglietta, Hertel, Ortiz, Robinson, Dickinson, and Martin of New York, Mrs. Martin of Illinois, and Messrs. Blaz, Ravenel, and Weldon.

From the Committee on Government Operations, for consideration of section 921 of the Senate bill, and the House amendment, and modifications committed to conference: Mr. Brooks, Mr. Conyers, Mrs. Collins, Mr. Horton, and Mr. Walker.

From the Committee on Merchant Marine and Fisheries, for consideration of section 921 of the Senate bill, and the House amendment, and modifications committed to conference: Messrs. Jones of North Carolina, Studds, Hutto, Davis of Michigan, and Young of Alaska.

From the Committee on Rules, for consideration of section 921 of the Senate bill, and the House amendment, and modifications committed to conference: Messrs. Pepper, Moakley, Derrick, Beilenson, Frost, Quillen, and Taylor.

As additional conferees, for consideration of section 921 of the Senate bill, and the House amendment, and modifications committed to conference: Mr. Foley and Mr. Armey.

APPOINTMENT OF CONFEREES ON H.R. 3235, HEALTH MAINTENANCE ORGANIZATION AMENDMENTS OF 1987

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3235) to amend the Public Health Service Act and to revise the program of assistance for Health Maintenance Organizations, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from California? The Chair hears none, and appoints the following conferees: Messrs. DINGELL, WAXMAN, WYDEN, LENT, and MADIGAN.

RESIGNATION AS MEMBER OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION AND AS MEMBER OF COMMITTEE ON VETERANS' AFFAIRS

The SPEAKER laid before the House the following resignation as a member of the Committee on Public Works and Transportation and as a Member of the Committee on Veterans Affairs:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 3, 1988.

Hon. JIM WRIGHT, Jr.,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: After twenty-four years, it is with deep regret that I tender my resignation from the House Committee on Public Works and Transportation and the House Committee on Veterans Affairs effective immediately.

Sincerely yours,
KENNETH J. GRAY,
U.S. Congressman.

The SPEAKER. Without objection, the resignations are accepted.

There was no objection.

RESIGNATION AS MEMBER OF THE SELECT COMMITTEE ON AGING AND ITS SUBCOMMITTEE ON HEALTH AND LONG-TERM CARE

The SPEAKER laid before the House the following resignation as a member of the Select Committee on Aging and its Subcommittee on Health and Long-Term Care:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 3, 1988.

Hon. JIM WRIGHT,
Speaker of The House,
Washington, DC.

DEAR MR. SPEAKER: I respectfully submit my resignation from the Select Committee on Aging, and its Subcommittee on Health and Long Term Care, effective on October 3rd, 1988.

As always, if there is anything I can do for you, please don't hesitate to contact me.

With kind regards,
Sincerely,

DANIEL A. MICA,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

APPOINTMENT AS MEMBER OF SELECT COMMITTEE ON AGING

The SPEAKER. Pursuant to clause 6 (f) and (i) of rule X, the Chair appoints to the Select Committee on Aging the gentleman from Illinois, [Mr. COSTELLO], to fill the existing vacancy thereon.

MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972 AUTHORIZATION FOR FISCAL YEARS 1989 AND 1990

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4210) to reauthorize title II of the Marine Protection, Research, and Sanctuaries Act of 1972, for fiscal years 1989 an 1990, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4210

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—COMPREHENSIVE OCEAN DUMPING RESEARCH PROGRAM AMENDMENTS AND AUTHORIZATION

SEC. 101. RESEARCH TO BE CONSISTENT WITH COMPREHENSIVE PLAN.

Subsection (a) of section 202 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1442(a)) is amended by adding at the end the following:

"(3) The Secretary of Commerce shall ensure that the comprehensive and continuing research program conducted under this subsection is consistent with the comprehensive plan for ocean pollution research and development and monitoring prepared under section 4 of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1703).".

SEC. 102. ANNUAL REPORT.

Section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1444) is amended by adding at the end the following:

"(c) On October 31 of each year, the Under Secretary shall report to the Congress the specific programs that the National Oceanic and Atmospheric Administration and the Environmental Protection Agency carried out pursuant to this title in the previous fiscal year, specifically listing the amount of funds allocated to those specific programs in the previous fiscal year.".

SEC. 103. AUTHORIZATION.

Section 205 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1445) is amended—

(1) by striking "and" immediately following "fiscal year 1986,"; and

(2) by striking "1987." and inserting in lieu thereof "1987, not to exceed $13,500,000 for fiscal year 1989, and not to exceed $14,500,000 for fiscal year 1990.".

TITLE II—NATIONAL MARINE SANCTUARIES PROGRAM AMENDMENTS AND AUTHORIZATION

SEC. 201. DEFINITION OF ACT.

For purposes of this title, the term "Act" means title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431-1439).

SEC. 202. SANCTUARY DESIGNATION PROCEDURE AMENDMENTS.

Paragraph (1) of section 304(b) of the Act (16 U.S.C. 1434(b)(1)) is amended by inserting after the second sentence the following: "The Secretary shall issue a notice of designation with respect to a proposed national marine sanctuary site not later than 30 months after the date a notice declaring the site to be an active candidate for sanctuary designation is published in the Federal Register under regulations issued under this Act, or shall publish not later than such date in the Federal Register findings regarding why such notice has not been published.".

SEC. 203. PROMOTION AND COORDINATION OF RESEARCH; SPECIAL USE PERMITS; USE OF DONATIONS.

The Act is amended—

(1) by striking section 308;

(2) by redesignating section 309 as section 308; and

(3) by adding at the end the following:

"SEC. 309. PROMOTION AND COORDINATION OF RESEARCH.

"The Secretary shall take such action as is necessary to promote and coordinate the use of national marine sanctuaries for research purposes, including—

"(1) requiring that the National Oceanic and Atmospheric Administration, in conducting or supporting marine research, give priority to research involving national marine sanctuaries; and

"(2) consulting with other Federal and State agencies to promote use by such agencies of one or more sanctuaries for marine research.

"SEC. 310. SPECIAL USE PERMITS.

"(a) ISSUANCE OF PERMITS.—The Secretary may issue special use permits which authorize the conduct of specific activities in a national marine sanctuary if the Secretary determines such authorization is necessary—

"(1) to establish conditions of access to and use of any sanctuary resource; or

"(2) to promote public use and understanding of a sanctuary resource.

"(b) PERMIT TERMS.—A permit issued under this section—

"(1) shall authorize the conduct of an activity only if that activity is compatible with the purposes for which the sanctuary is designated and with protection of sanctuary resources;

"(2) shall not authorize the conduct of any activity for a period of more than 5 years unless renewed by the Secretary;

"(3) shall require that activities carried out under the permit be conducted in a manner that does not destroy, cause the loss of, or injure sanctuary resources; and

"(4) shall require the permittee to purchase and maintain comprehensive general liability insurance against claims arising out of activities conducted under the permit and to agree to hold the United States harmless against such claims.

"(c) FEES.—

"(1) ASSESSMENT AND COLLECTION.—The Secretary may assess and collect fees for the conduct of any activity under a permit issued under this section.

"(2) Amount.—The amount of a fee under this subsection shall be equal to the sum of—

"(A) costs incurred, or expected to be incurred, by the Secretary in issuing the permit;

"(B) costs incurred, or expected to be incurred, by the Secretary as a direct result of the conduct of the activity for which the permit is issued, including costs of monitoring the conduct of the activity; and

"(C) an amount which represents the fair market value of the use of the sanctuary resource and a reasonable return to the United States Government.

"(3) Use of fees.—Amounts collected by the Secretary in the form of fees under this section may be used by the Secretary—

"(A) for issuing and administering permits under this section; and

"(B) for expenses of designating and managing national marine sanctuaries.

"(d) Violations.—Upon violation of a term or condition of a permit issued under this section, the Secretary may—

"(1) suspend or revoke the permit without compensation to the permittee and without liability to the United States;

"(2) assess a civil penalty in accordance with section 307; or

"(3) both.

"(e) Reports.—Each person issued a permit under this section shall submit an annual report to the Secretary not later than December 31 of each year which describes activities conducted under that permit and revenues derived from such activities during the year.

"(f) Fishing.—Nothing in this section shall be considered to require a person to obtain a permit under this section for the conduct of any fishing activities in a national marine sanctuary.

"SEC. 311. COOPERATIVE AGREEMENTS AND DONATIONS.

"(a) Cooperative Agreements.—The Secretary may enter into cooperative agreements with any nonprofit organization—

"(1) to aid and promote interpretive, historical, scientific, and educational activities; and

"(2) for the solicitation of private donations for the support of such activities.

"(b) Donations.—The Secretary may accept donations of funds, property, and services for use in designating and administering national marine sanctuaries under this title.".

SEC. 204. DESTRUCTION OR LOSS OF, OR INJURY TO, SANCTUARY RESOURCES.

(a) Liability for Destruction or Loss of, or Injury to, Sanctuary Resources.—The Act is amended by adding at the end the following:

"SEC. 312. DESTRUCTION OR LOSS OF, OR INJURY TO, SANCTUARY RESOURCES.

"(a) Liability.—

"(1) In general.—Subject to paragraph (3), any person who destroys, causes the loss of, or injures any sanctuary resource is liable to the United States for response costs and damages resulting from such destruction, loss, or injury.

"(2) Liability in rem.—Any vessel used to destroy, cause the loss of, or injure any sanctuary resource shall be liable in rem to the United States for response costs and damages resulting from such destruction, loss, or injury.

"(3) Defenses.—A person is not liable under this subsection if that person establishes that—

"(A) the destruction or loss of, or injury to, the sanctuary resource was caused solely by an act of God, an act of war, or an act or omission of a third party, and the person acted with due care;

"(B) the destruction, loss, or injury was caused by an activity authorized by Federal or State law; or

"(C) the destruction, loss, or injury was negligible.

"(b) Response Actions and Damage Assessment.—

"(1) Response actions.—The Secretary may undertake all necessary actions to prevent or minimize the destruction or loss of, or injury to, sanctuary resources, or to minimize the imminent risk of such destruction, loss, or injury.

"(2) Damage assessment.—The Secretary shall assess damages to sanctuary resources in accordance with section 302(6).

"(c) Civil Actions for Response Costs and Damages.—The Attorney General, upon request of the Secretary, may commence a civil action in the United States district court for the appropriate district against any person or vessel who may be liable under subsection (a) for response costs and damages. The Secretary, acting as trustee for sanctuary resources for the United States, shall submit a request for such an action to the Attorney General whenever a person may be liable for such costs or damages.

"(d) Use of Recovered Amounts.—Response costs and damages recovered by the Secretary under this section and civil penalties under section 307 shall be retained by the Secretary in the manner provided for in section 107(f)(1) of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9607(f)(1)), and used as follows:

"(1) Response costs and damage assessments.—Twenty percent of amounts recovered under this section, up to a maximum balance of $750,000, shall be used to finance response actions and damage assessments by the Secretary.

"(2) Restoration, replacement, management, and improvement.—Amounts remaining after the operation of paragraph (1) shall be used, in order of priority—

"(A) to restore, replace, or acquire the equivalent of the sanctuary resources which were the subject of the action;

"(B) to manage and improve the national marine sanctuary within which are located the sanctuary resources which were the subject of the action; and

"(C) to manage and improve any other national marine sanctuary.

"(3) Use of civil penalties.—Amounts recovered under section 307 in the form of civil penalties shall be used by the Secretary in accordance with section 307(e) and paragraphs (2)(B) and (C) of this subsection.

"(4) Federal-state coordination.—Amounts recovered under this section with respect to sanctuary resources lying within the jurisdiction of a State shall be used under paragraphs (2)(A) and (B) in accordance with an agreement entered into by the Secretary and the Governor of that State.".

(b) Damages, Response Costs, and Sanctuary Resource Defined.—Section 302 of the Act (16 U.S.C. 1432) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period in paragraph (5) and inserting "; and"; and

(3) by adding at the end the following:

"(6) 'damages' includes—

"(A) compensation for—

"(i)(I) the cost of replacing, restoring, or acquiring the equivalent of a sanctuary resource; and

"(II) the value of the lost use of a sanctuary resource pending its restoration or replacement or the acquisition of an equivalent sanctuary resource; or

"(ii) the value of a sanctuary resource if the sanctuary resource cannot be restored or replaced or if the equivalent of such resource cannot be acquired; and

"(B) the cost of damage assessments under section 312(b)(2);

"(7) 'response costs' means the costs of actions taken by the Secretary to minimize destruction or loss of, or injury to, sanctuary resources, or to minimize the imminent risks of such destruction, loss, or injury; and

"(8) 'sanctuary resource' means any living or nonliving resource of a national marine sanctuary that contributes to the conservation, recreational, ecological, historical, research, educational, or aesthetic value of the sanctuary.".

(c) Effective Date.—Amounts in the form of damages received by the United States after November 30, 1986, for destruction or loss of, or injury to, a sanctuary resource (as that term is defined in section 302(8) of the Act (as amended by this Act)) shall be subject to section 312 of the Act (as amended by this Act).

SEC. 205. ACTIONS WITH RESPECT TO NEW SANCTUARIES.

(a) Issuance of Notice of Designation.—The Secretary of Commerce shall issue a notice of designation under section 304(b)(1) of the Act (16 U.S.C. 1434(b)(1))—

(1) with respect to the proposed Cordell Banks National Marine Sanctuary as generally described in the Federal Register notice of June 30, 1983, not later than December 31, 1988;

(2) with respect to the Flower Garden Banks National Marine Sanctuary as generally described in the Federal Register notice of August 2, 1984, not later than March 31, 1989;

(3) with respect to the Monterey Bay National Marine Sanctuary as generally described in the Federal Register notice of December 31, 1979, not later than December 31, 1989; and

(4) with respect to the Western Washington Outer Coast National Marine Sanctuary as generally described in the Federal Register notice of August 4, 1983, not later than June 30, 1990.

(b) Submission of Prospectuses.—The Secretary of Commerce shall submit a prospectus under section 304(a)(1)(C) of the Act (16 U.S.C. 1434(a)(1)(C)) to the Committee on Merchant Marine and Fisheries of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate—

(1) with respect to the Stellwagen Bank National Marine Sanctuary, as generally described in the Federal Register notice of August 4, 1983, not later than September 30, 1990; and

(2) with respect to the Northern Puget Sound National Marine Sanctuary, as generally described as the Washington State Nearshore area in the Federal Register notice of August 4, 1983, not later than March 31, 1991.

SEC. 206. STUDY OF AREAS FOR DESIGNATION AS OR INCLUSION IN NATIONAL MARINE SANCTUARIES.

(a) Study.—

(1) In general.—The Secretary of Commerce shall conduct a study of the areas described in subsection (c) for purposes of making determinations and findings in ac-

cordance with section 303(a) of the Act (16 U.S.C. 1433(a))—

(A) regarding whether or not all or any part of such areas are appropriate for designation as national marine sanctuaries in accordance with the Act; and

(B) regarding whether or not all or any part of the areas described in subsection (c)(1), (2), and (3) should be added to and administered as part of the Key Largo National Marine Sanctuary or the Looe Key National Marine Sanctuary.

(2) Report.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Commerce shall submit a report to the Committee on Merchant Marine and Fisheries of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate which sets forth the determinations and findings referred to in paragraph (1).

(b) Designation or Expansion of Marine Sanctuaries.—If as a result of a study conducted pursuant to subsection (a) the Secretary of Commerce makes the determinations and findings set forth in section 303(a) of the Act (16 U.S.C. 1433(a)) with respect to all or any part of the areas described in subsection (c), the Secretary of Commerce, in accordance with the procedures for the designation of national marine sanctuaries set forth in section 304 of the Act (16 U.S.C. 1434)—

(1) shall designate such areas or parts of such areas as national marine sanctuaries; or

(2) shall, with respect to all or any part of the areas described in subsections (c) (1), (2), and (3), add such areas or parts of such areas to the Key Largo National Marine Sanctuary or the Looe Key National Marine Sanctuary;

as the Secretary of Commerce considers appropriate.

(c) Areas Described.—The areas referred to in subsections (a) and (b) are the following:

(1) American shoal.—The portion of the marine environment in the Florida Keys in the vicinity of American Shoal, including the part of such environment located generally between such shoal and the Marquesas Keys.

(2) Sombrero key.—The portion of the marine environment in the Florida Keys in the vicinity of and surrounding Sombrero Key.

(3) Alligator reef.—The portion of the marine environment in the Florida Keys in the vicinity of and surrounding Alligator Reef, including the portion located generally between such reef and the Key Largo National Marine Sanctuary.

(4) Santa monica bay.—The portion of the marine environment off the coast of California commonly referred to as Santa Monica Bay, consisting of an area described generally as follows: Beginning at the point known as Point Dume near the western extent of Santa Monica Bay, proceed generally southeast along the shoreline to the point known as Point Vincente near the southern extent of Santa Monica Bay; then west to the 900 meter bathymetric contour; then generally northwest along the 900 meter bathymetric contour to a point due west of Point Dume; then east to Point Dume at the point of beginning.

(d) Definition of Marine Environment.—For the purposes of this section, the term "marine environment" has the meaning such term has in section 302(3) of the Act (16 U.S.C. 1432(b)).

SEC. 207. ENFORCEMENT AMENDMENTS.

Section 307 of the Act (16 U.S.C. 1437) is amended to read as follows:

"SEC. 307. ENFORCEMENT.

"(a) In General.—The Secretary shall conduct such enforcement activities as are necessary and reasonable to carry out this title.

"(b) Powers of Authorized Officers.—Any person who is authorized to enforce this title may—

"(1) board, search, inspect, and seize any vessel suspected of being used to violate this title or any regulation or permit issued under this title and any equipment, stores, and cargo of such vessel;

"(2) seize wherever found any sanctuary resource taken or retained in violation of this title or any regulation or permit issued under this title;

"(3) seize any evidence of a violation of this title or of any regulation or permit issued under this title;

"(4) execute any warrant or other process issued by any court of competent jurisdiction; and

"(5) exercise any other lawful authority.

"(c) Civil Penalties.—

"(1) Civil penalty.—Any person subject to the jurisdiction of the United States who violates this title or any regulation or permit issued under this title shall be liable to the United States for a civil penalty of not more than $50,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

"(2) Notice.—No penalty shall be assessed under this subsection until after the person charged has been given notice and an opportunity for a hearing.

"(3) In rem jurisdiction.—A vessel used in violating this title or any regulation or permit issued under this title shall be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any district court of the United States having jurisdiction.

"(4) Review of civil penalty.—Any person against whom a civil penalty is assessed under this subsection may obtain review in the United States district court for the appropriate district by filing a complaint in such court not later than 30 days after the date of such order.

"(5) Collection of penalties.—If any person fails to pay an assessment of a civil penalty under this section after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

"(6) Compromise or other action by secretary.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is or may be imposed under this section.

"(d) Forfeiture.—

"(1) In general.—Any vessel (including the vessel's equipment, stores, and cargo) and other item used, and any sanctuary resource taken or retained, in any manner, in connection with or as a result of any violation of this title or of any regulation or permit issued under this title shall be subject to forfeiture to the United States pursuant to a civil proceeding under this subsection.

"(2) Application of the customs laws.—The Secretary may exercise the authority of any United States official granted by any relevant customs law relating to the seizure, forfeiture, condemnation, disposition, remission, and mitigation of property in enforcing this title.

"(3) Disposal of sanctuary resources.—Any sanctuary resource seized pursuant to this title may be disposed of pursuant to an order of the appropriate court, or, if perishable, in a manner prescribed by regulations promulgated by the Secretary. Any proceeds from the sale of such sanctuary resource shall for all purposes represent the sanctuary resource so disposed of in any subsequent legal proceedings.

"(4) Presumption.—For the purposes of this section there is a rebuttable presumption that all sanctuary resources found on board a vessel that is used or seized in connection with a violation of this title or of any regulation or permit issued under this title were taken or retained in violation of this title or of a regulation or permit issued under this title.

"(e) Payment of Storage, Care, and Other Costs.—

"(1) In general.—Notwithstanding any other law, the Secretary may use amounts received under this section in the form of civil penalties, forfeitures of property, and costs imposed under paragraph (2) to pay—

"(A) the reasonable and necessary costs incurred by the Secretary in providing temporary storage, care, and maintenance of any sanctuary resource or other property seized under this section pending disposition of any civil proceeding relating to any alleged violation with respect to which such property or sanctuary resource was seized; and

"(B) a reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of property, for a violation of this title or of any regulation or permit issued under this title.

"(2) Liability for costs.—Any person assessed a civil penalty for a violation of this title or of any regulation or permit issued under this title, and any claimant in a forfeiture action brought for such a violation, shall be liable for the reasonable costs incurred by the Secretary in storage, care, and maintenance of any sanctuary resource or other property seized in connection with the violation.

"(f) Subpoenas.—In the case of any hearing under this section which is determined on the record in accordance with the procedures provided for under section 554 of title 5, United States Code, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths.

"(g) Use of Resources of State and Other Federal Agencies.—The Secretary shall, whenever appropriate, use by agreement the personnel, services, and facilities of State and other Federal departments, agencies, and instrumentalities, on a reimbursable or nonreimbursable basis, to carry out the Secretary's responsibilities under this section.

"(h) Coast Guard Authority Not Limited.—Nothing in this section shall be considered to limit the authority of the Coast Guard to enforce this or any other Federal law under section 89 of title 14, United States Code.

"(i) Injunctive Relief.—If the Secretary determines that there is an imminent risk of destruction or loss of or injury to a sanctuary resource, or that there has been actual destruction or loss of, or injury to, a sanctuary resource which may give rise to liability under section 312, the Attorney General, upon request of the Secretary, shall seek to obtain such relief as may be necessary to abate such risk or actual destruction, loss, or injury, or to restore or replace the sanctuary resource, or both. The district courts of the United States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.".

SEC. 208. AUTHORIZATION OF APPROPRIATIONS; U.S.S. MONITOR ARTIFACTS AND MATERIALS.

The Act is amended by adding at the end the following:

"SEC. 313. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Secretary to carry out this title the following:

"(1) General administration.—For general administration of this title—

"(A) $1,800,000 for fiscal year 1989;

"(B) $1,900,000 for fiscal year 1990;

"(C) $2,000,000 for fiscal year 1991; and

"(D) $2,100,000 for fiscal year 1992.

"(2) Management of sanctuaries.—For management of national marine sanctuaries designated under this title—

"(A) $2,000,000 for fiscal year 1989;

"(B) $2,500,000 for fiscal year 1990;

"(C) $3,000,000 for fiscal year 1991; and

"(D) $3,250,000 for fiscal year 1992.

"(3) Site review and analysis.—For review and analysis of sites for designation under this title as national marine sanctuaries—

"(A) $450,000 for fiscal year 1989;

"(B) $500,000 for fiscal year 1990;

"(C) $550,000 for fiscal year 1991; and

"(D) $600,000 for fiscal year 1992.

"SEC. 314. U.S.S. MONITOR ARTIFACTS AND MATERIALS.

"(a) Congressional Policy.—In recognition of the historical significance of the wreck of the United States ship Monitor to coastal North Carolina and to the area off the coast of North Carolina known as the Graveyard of the Atlantic, the Congress directs that a suitable display of artifacts and materials from the United States ship Monitor be maintained permanently at an appropriate site in coastal North Carolina.

"(b) Interpretation and Display of Artifacts.—

"(1) Submission of plan.—The Secretary shall, within six months after the date of the enactment of this section, submit to the Committee on Merchant Marine and Fisheries of the House of Representatives a plan for a suitable display in coastal North Carolina of artifacts and materials of the United States ship Monitor.

"(2) Contents of plan.—The plan submitted under subsection (a) shall, at a minimum, contain—

"(A) an identification of appropriate sites in coastal North Carolina, either existing or proposed, for display of artifacts and materials of the United States ship Monitor;

"(B) an identification of suitable artifacts and materials, including artifacts recovered or proposed for recovery, for display in coastal North Carolina;

"(C) an interpretive plan for the artifacts and materials which focuses on the sinking, discovery, and subsequent management of the wreck of the United States ship Monitor; and

"(D) a draft cooperative agreement with the State of North Carolina to implement the plan.

"(c) Disclaimer.—This section shall not affect the following:

"(1) Responsibilities of secretary.—The responsibilities of the Secretary to provide for the protection, conservation, and display of artifacts and materials from the United States ship Monitor.

"(2) Authority of secretary.—The authority of the Secretary to designate the Mariner's Museum, located at Newport News, Virginia, as the principal museum for coordination of activities referred to in paragraph (1).".

SEC. 209. CHANNEL ISLANDS NATIONAL MARINE SANCTUARY PROTECTION.

(a) Report.—The Secretary of Transportation, not later than 6 months after the date of the enactment of this Act, shall transmit to Congress—

(1) the provisions of international conventions and United States laws and regulations which reduce the risk of a vessel collision or incident resulting in damage to the environment in the Channel Islands National Marine Sanctuary;

(2) the provisions of the National Contingency Plan for removal of oil and hazardous substances prepared under section 311(c) of the Federal Water Pollution Control Act (33 U.S.C. 1321(c)) which enable the Secretary to effectively respond to an oil pollution incident in or affecting the Channel Islands National Marine Sanctuary;

(3) a list of pollution exercises conducted under that National Contingency Plan in the Santa Barbara Channel before the date of the enactment of this Act, and a schedule of pollution exercises scheduled to be conducted under that plan in that channel during the 12 months following the date of the enactment of this Act; and

(4) a report on the establishment—

(A) under the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.) of safety fairways off the coast of California; and

(B) of the Long Beach NAVTEX in Long Beach, California.

(b) Study Review and Report.—The Secretary of Transportation shall review all Federal, State, and local studies conducted on the hazards of shipping operations and the risks those operations pose to the environment and natural resources of the Channel Islands National Marine Sanctuary, and report to the Congress not later than 6 months after the date of the enactment of this Act on the status and recommendations of each of those studies. The Secretary shall include in the report a recommendation on whether an alternate vessel traffic separation scheme would reduce the risks of shipping operations to the environment and natural resources in the Channel Islands National Marine Sanctuary.

(c) Proposal of Designation of Area to be Avoided.—The Secretary of Transportation shall prepare and submit a proposal to the International Maritime Organization to designate the portion of the Channel Islands National Marine Sanctuary which is outside of the Santa Barbara Channel Traffic Separation Scheme, as an area to be avoided. The Secretary shall ensure that the proposal would not result in undue interference with international vessel traffic in the Santa Barbara Channel, with operations associated with the United States Navy Pacific Missile Test Range, or with enjoyment of the Channel Islands National Marine Sanctuary under title III of the National Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.).

SEC. 210. REGULATIONS.

Not later than one year after the date of the enactment of this Act, the Secretary of Commerce—

(1) shall propose regulations implementing the amendments made by this title; and

(2) shall issue final regulations implementing the amendments made by the Marine Sanctuaries Amendments of 1984.

TITLE III—NATIONAL OCEANS POLICY COMMISSION.

SEC. 301. SHORT TITLE.

This title may be cited as the "National Oceans Policy Commission Act of 1988.".

SEC. 302. FINDINGS.

The Congress finds that—

(1) the manner in which the oceans and the Great Lakes are used affects the national security, transportation needs, economy, food resources, energy and raw materials needs, international leadership, and the quality of the environment of the people of the United States;

(2) Presidential Proclamation 5030 of March 10, 1983, which established the Exclusive Economic Zone of the United States of America and proclaimed the sovereign rights of the United States over ocean resources out to 200 nautical miles from the coastline of the United States, requires the development and implementation of a comprehensive exploration and monitoring plan to adequately address the conservation and development of the zone;

(3) the work of the Commission of Marine Science, Engineering, and Resources (known as the "Stratton Commission") in the 1960's was instrumental in initially defining the structure of United States oceans policy, and led to the enactment of major ocean-related legislation and the establishing of key oceanic and atmospheric institutions;

(4) recent concern regarding expanding Federal expenditures has resulted in the retrenchment of many ocean initiatives of the 1970's and, as a result, the complexion of United States ocean programs has changed significantly; and

(5) with Federal fiscal resources expected to be severely limited at least to the end of the century, a reexamination of the Nation's oceans, Great Lakes, and atmospheric activities is needed, and a new coordinated and comprehensive national oceans policy, based on that reexamination, must be developed in order that wise use of the oceans and the Great Lakes can be implemented in a peaceful and balanced fashion.

SEC. 303. PURPOSE.

The purpose of this Act is to establish a commission to propose to the Congress and the President a comprehensive oceans policy (and develop recommendations for the implementation of that policy) that will assist the Congress and the President in—

(1) developing domestic policies and laws to promote the wise use and conservation of marine resources, including Great Lakes resources;

(2) developing international policies and laws to promote the peaceful uses of the oceans and balance the interests of all nations;

(3) promoting United States leadership in marine scientific research, facilities, and technology;

(4) developing the role and capacity of the United States in the monitoring and prediction of global oceanic and atmospheric processes; and

(5) appropriately allocating the responsibilities for marine and atomospheric re-

search and marine resource understanding, conservation, management, and development among the various levels of government and the private sector and promoting the efficient use of limited fiscal resources for such activities.

SEC. 304. ESTABLISHMENT OF COMMISSION.

(a) In General.—There is established a commission to be known as the National Oceans Policy Commission (hereinafter referred to in this Act as the "Commission").

(b) Number of Members.—The Commission shall consist of 17 members who shall be appointed by the President in accordance with the provisions of this section not later than March 10, 1989.

(c) Member Qualifications.—The membership of the Commission shall be composed in such a manner as to provide that 14 of the members shall be appointed from the following qualification categories:

(1) 3 members shall be from private sector nonprofit organizations involved with national oceans policy (including, but not limited to, those with consumer and environmental interests).

(2) 5 members shall be from private sector commercial organizations involved with national oceans policy (including, but not limited to, those with marine transportation and living and nonliving marine resource interests).

(3) 2 members shall be Governors, not of the same political party, of coastal states in different geographical regions.

(4) 2 members shall be specialists in marine science from the academic community.

(5) 2 members shall be selected from at large, at least one of whom shall be knowledgeable in international oceans policy.

(d) Nominees for Membership.—(1)(A) The Majority Leader of the Senate (hereinafter in this Act referred to as the "Majority Leader") and the Speaker of the House of Representatives (hereinafter referred to in this Act as the "Speaker"), in consultation with the Minority Leader of each House, respectively, shall each prepare a list of 14 nominees for appointment to the Commission.

(B) Each list of nominees prepared under subparagraph (A)—

(i) shall contain nominees that meet the qualifications set forth in subsection (c); but

(ii) may not contain any of the same nominees. No more than half of the nominees on each list may be members of the same policy party.

(C) The Majority Leader and the Speaker shall submit the lists prepared under subparagraph (A) to the President no later than February 10, 1989.

(D) The President shall appoint 7 members of the Commission from the list submitted by the Majority Leader and 7 members from the list submitted by the Speaker. No more than 7 members of the Commission appointed under this paragraph may be members of the same political party.

(2) The President shall make 3 appointments to the Commission in addition to those appointed under paragraph (1). Federal officers or employees or individuals employed in the private sector are eligible for appointment under this paragraph. No more than 2 of the individuals appointed under this paragraph may be members of the same political party.

(3) The President, the Majority Leader, and the Speaker shall jointly select a Chairman and Vice Chairman of the Commission from members appointed under paragraph (1)(D). The Vice Chairman shall act as Chairman in the absence of the Chairman.

(e) Vacancies.—Except as may be required by electoral changes, members of the Commission shall be appointed to serve until the Commission terminates under section 312. In the event of a vacancy, a new member shall be appointed in the same manner in which the original appointment was made. In the case of the vacancy of a member appointed under subsection (d)(1)(D), the new member shall—

(1) be in the same qualification category under subsection (c) as the former member; and

(2) be appointed from a list of at least two nominees prepared by the Majority Leader or the Speaker, as appropriate.

(f) Meeting of Commission.—The Chairman or a majority of the members may call a meeting of the Commission.

SEC. 305. ADVISORS TO THE COMMISSION.

Sec. 5. (a) Congressional advisors.—(1) The Commission shall have 8 congressional advisors who shall advise the Commission in the formulation of findings and recommendations. Four of the advisors are Members of the Senate selected by the Majority Leader and 4 of the advisors are Members of the House of Representatives selected by the Speaker. Each congressional advisor must have knowledge appropriate to the concerns of the Commission.

(2) No more than 2 of the congressional advisors from each House may be members of the same political party.

(b) Military Advisor.—The Chairman of the Joint Chiefs of Staff, or his designee, shall serve in an advisory capacity to the Commission.

SEC. 1306. FUNCTIONS OF THE COMMISSION.

(a) Comprehensive Policy.—(1) The Commission shall propose to the President and to Congress a comprehensive national oceans policy to carry out the purpose of this Act.

(2) The Commission shall develop recommendations on the international and domestic ocean policies, laws, regulations, and activities of the United States that will define and implement the comprehensive policy proposed under paragraph (1). The recommendations shall—

(A) address domestic (including the Great Lakes) and international marine policy issues;

(B) include any modifications in existing United States policies, laws, regulations, and practices necessary to develop efficient long-range programs for—

(i) research in marine and atmospheric sciences;

(ii) the understanding, conservation, management, and development of, marine resources, including Great Lakes Resources; and

(iii) the protection of the ocean environment;

(C) address the most appropriate allocation of responsibilities for research in marine and atmospheric sciences and for the understanding, conservation, management, and development of marine resources among Federal agencies, State and local government, and the private sector; and

(D) consider any other aspects of United States related policies, laws, regulations, and practices considered necessary by the Commission in carrying out its duties pursuant to this subsection.

(d) Development of Recommendations.—In developing recommendations under subsection (a), the Commission shall—

(1) survey and review all existing and planning ocean-related activities of Federal agencies, including those relating to navigation, marine research, national security and the conservation, management, and development of marine resources, and the protection of the marine environment;

(2) survey and review all existing and planned marine facilities and equipment, including surface ships, undersea research vehicles and habitats, computers, oceanographic satellites, and other appropriate research tools;

(3) evaluate the relationship among Federal agencies, State and local government and the private sector for planning and carrying out the activities described in this subsection, considering areas of substantial coincidence of interest and responsibilities among the various levels of government, academia, industry, and the public interest community and other users of the marine environment, in order to enhance the efficient use of marine resources;

(4) consider Presidental Proclamation 5030 of March 10, 1983, on the Exclusive Economic Zone of the United States of America, including an examination of opportunities and the need for economic development within the exclusive economic zone which have a major impact on the coastal zone of the States and the adequacy of present laws to manage such development in such a way as to minimize conflict;

(5) consider the relationships of United States policies to the Convention law of the Sea and actions available to the United States to affect peaceful collaborations between the United States and other nations, including the development of cooperative international marine programs which will facilitate opportunities for United States and foreign scientists to work together in the waters of the cooperating nations and to provide for the development of such programs in the United States; and

(6) engage in any other preparatory work deemed necessary to carry out the duties of the Commission pursuant to this section.

SEC. 307. POWERS OF THE COMMISSION.

(a) Obtaining Information.—The Commission may secure directly from any department or agency of the United States any information it considers necessary to carry out its functions under this Act. Each department or agency shall cooperate with the Commission and, to the extent permitted by law, furnish information to the Commission upon request of the Chairman.

(b) Use of Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(c) Administrative Support.—The General Services Administration shall provide to the Commission on a reimbursable basis the administrative support services that the Commission may request.

(d) Contractual Authority.—The Commission may enter into contracts with Federal and State agencies, private firms, institutions, and individuals to assist the Commission in carrying out its duties. The Commission may purchase and contract without regard to sections 303 of the Federal Property and Administration Services Act of 1949 (41 U.S.C. 253), section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416), and section 8 of the Small Business Act (15 U.S.C. 637), pertaining to competition and publication requirements, and may arrange for printing without regard to the provisions of title 44, United States Code. The contracting authority of the Commission under this Act is effective only to the extent that appropriations are available for contracting purposes.

SEC. 303 ADMINISTRATIVE PROVISIONS.

(a) DETAIL OF PERSONNEL.—Upon request of the Commission, the head of any Federal agency shall detail any of the personnel of the agency to the Commission to assist the Commission in carrying out its functions under this Act. To the extent feasible, such detail shall be on a reimbursable basis.

(b) VOLUNTEER SERVICES.—The Commission may accept and use the services of volunteers serving without compensation, and to reimburse volunteers for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code

(c) CONSULTANTS.—To the extent that funds are available, and subject to the rules that may be prescribed by the Commission, the Director appointed under section 309(a) may procure the temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code, but at rates not to exceed the rate of pay for GS-18 of the General Schedule.

(d) CONDUCT OF MEETINGS.—(1) All meetings of the Commission shall be open to the public, except when the Chairman or a majority of the members of the Commission determine that the meeting or any portion of it may be closed to the public. Interested persons shall be permitted to appear at open meetings and present oral or written statements on the subject matter of the meeting. The Commission may administer oaths or affirmations to any person appearing before it.

(2) All open meetings of the Commission shall be preceded by timely public notice in the Federal Register of the time, place, and subject of the meeting.

(3) Minutes of each meeting shall be kept and shall contain a record of the people present, a description of the discussion that occurred, and copies of all statements filed. Subject to section 552 of title 5, United States Code, the minutes and records of all meetings and other documents that were made available to or prepared for the Commission shall be available for public inspection and copying at a single location in the office of the Commission.

(4) The Federal Advisory Committee Act (5 U.S.C. App. 1-15) does not apply to the Commission.

SEC. 309. DIRECTOR AND STAFF OF COMMISSION.

(a) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Chairman and who shall be paid at a rate not to exceed the rate of basic pay for GS-18 of the General Schedule. The Director shall be knowledgeable in administrative management and oceans policy.

(b) STAFF.—Subject to such rules as may be prescribed by the Commission, the Director may hire staff for the Commission and shall fix appropriate compensation. The hiring and compensation of the Director and staff under this section may occur without regard to the provision of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

SEC. 310. COMPENSATION OF MEMBERS.

(a) IN GENERAL.—Except as provided in subsection (b), members of the Commission shall be paid at a rate not to exceed the basic pay for a GS-18 of the General Schedule for each day, including traveltime, during which such members are engaged in the actual performance of the Commission duties.

(b) EXCEPTION.—A member of the Commission who is an officer or employee of the United States may not receive pay for service on the Commission, but shall be reimbursed from funds authorized by this Act for travel expenses including per diem in lieu of subsistence as may be authorized by law for persons in Government service employed intermittently.

SEC. 311. COMMISSION REPORT.

No later than 2 years after the Commission first meets, the Commission shall submit simultaneously to the President and to each House of the Congress a detailed final report regarding the comprehensive oceans policy and the recommendations required to be developed under section 306.

SEC. 312. TERMINATION OF THE COMMISSION.

The Commission shall cease to exist 30 days after the date of the submission of the final report under section 311.

SEC. 313. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums, but not to exceed $2,000,000, as are necessary to carry out this Act. Such sums are to remain available until expended.

TITLE IV—MISCELLANEOUS

The Secretary of the department in which the Coast Guard is operating shall transfer the Coast Guard cutter "INGHAM" to the Naval and Maritime Museum at Patriots Point, South Carolina. The Secretary shall transfer the "INGHAM" along with such equipment and in such condition as the Secretary considers appropriate. The Secretary shall make the transfer upon the decommissioning of the "INGHAM" or at a later time as determined appropriate by the Secretary.

The SPEAKER. Is a second demanded?

Mr. SAXTON. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes and the gentleman from New Jersey [Mr. SAXTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker. I rise today to urge my colleagues to support H.R. 4210, a bill to reauthorize titles II and III of the Marine Protection, Research, and Sanctuaries Act to create a National Ocean Policy Commission, and other purposes.

H.R. 4210 will reauthorize title II of the MPRSA for fiscal year 1989, and fiscal year 1990. Title II authorizes the National Oceanic and Atmospheric Administration [NOAA] to conduct a comprehensive monitoring and research program of the effects of ocean dumping as well as the effects of pollution on the marine environment. By reauthorizing title II, we will be giving NOAA the necessary authorization to monitor and assess the health of our Nation's coastal waters and estuaries. I need not remind my colleagues of the importance of this effort at a time when we are all concerned with the fate of our marine and coastal environment.

Title II of H.R. 4210 reauthorizes NOAA's National Marine Sanctuaries Program for 4 years, from fiscal year 1989 through fiscal year 1992. It is very similar to H.R. 4208, which the House passed under suspension of the rules on July 26.

The amendments made by this bill will put the Marine Sanctuaries Program back on track by requiring the Secretary of Commerce to designate one new sanctuary each year for the next 4 years and to submit a proposal of designation, or prospectus, for two other sanctuaries.

In addition, H.R. 4210 gives the Secretary of Commerce the explicit authority to recover damages from persons who have destroyed or injured protected sanctuary resources and to use the damages on restoration of those resources.

Title III of H.R. 4210 establishes the National Oceans Policy Commission. This title is similar to H.R. 1171 which the House passed during the first session.

Title IV contains a provision regarding actions by the Secretary of Transportation to decommission a Coast Guard vessel.

H.R. 4210 has been developed in close consultation with the Senate. I am confident that this bill meets our objectives of providing needed authority for important marine research and management programs and will soon reach the President's desk and be signed into law.

For these reasons, I urge my colleagues to support H.R. 4210.

□ 2000

Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I rise in strong support of the committee amendment to H.R. 4210, the reauthorization of title II of the Marine Protection, Research, and Sanctuaries Act.

Mr. Speaker, my colleagues who have spoken before me have described well the principal components of the bill itself, which reauthorizes the program of marine environmental research that is conducted by the National Oceanic and Atmospheric Administration [NOAA], and of the amendment that includes the text of an agreement that has been developed by the Committee on Merchant Marine and Fisheries and the Senate Commerce Committee on reauthorizing the National Marine Sanctuary System. I will therefore confine my remarks to those portions of the amendment that will codify a system of liability for those who cause damage to the natural resources of a national marine sanctuary, and to an additional provision relating to Stellwagen Bank.

Mr. Speaker, section 204 of the committee amendment proposes to add several new sections to the national marine sanctuaries authorizing statute to codify what I believe is a startlingly simple proposition: that those who cause harm to the natural resources of a national marine sanctuary should be responsible for that harm. In short, section 204 will:

Impose liability on those who cause damage to the resources of a sanctuary;

Require the National Oceanic and Atmospheric Administration [NOAA] to evaluate the extent of the damage;

Then require NOAA to recover funds from those who caused the damage and plough them back into restoring the sanctuary itself.

The amendment also authorizes NOAA to proceed directly against those who are responsible through the use of injunctive relief.

Mr. Speaker, I am gratified that the Senate Commerce Committee has voted in favor of these provisions which were drawn from legislation I introduced earlier this Congress, and I am hopeful that they may receive the full support of the Senate as well in the coming days.

Mr. Speaker, the amendment before us today, like the bill that the House passed earlier this year, would require NOAA to prepare detailed reports—called prospectuses—on the possibility of designating certain additional areas as national marine sanctuaries. On the recommendation of Senator KERRY, the Senate Commerce Committee has proposed Stellwagen Bank as one area for which a prospectus would be required by September 30, 1990. We have included that requirement in the amendment before us today, and I believe that it deserves the full support of the House.

Stellwagen Bank is a highly productive fishery area located off Massachusetts between Cape Cod and Cape Ann. It includes approximately 480 square miles in entirely Federal waters with depths ranging from 70 to 120 feet.

The area is a seasonally important feeding site for at least seven species of marine mammals and is of particular importance to the western Atlantic population of humpback whales. The high productivity of the bank that draws the whales also sustains an important commercial and recreational fishery that is among the finest in the region.

Because of the importance of the living resources dependent upon Stellwagen Bank and the growing threats to the area from industrial activities and other shoreside development in the region, I believe a detailed review of the merits of designating the area as a national marine sanctuary deserves our support. First proposed as a sanctuary in 1983, the idea of designating Stellwagen Bank has languished since then, lost in the inaction that has generally characterized the administration's approach to marine issues.

I believe that our action today will begin again the process for examining the idea of the area as a sanctuary for its living resources. Throughout the process of developing a prospectus for Stellwagen Bank, I fully expect NOAA to conduct public hearings in the region to ensure that all who have an interest in the future of Stellwagen Bank have a chance to provide their guidance and recommendations on the potential designation. Knowing well the fundamental importance of local and regional support for the success of any marine sanctuary, I encourage NOAA to make every effort to solicit and heed the views of those who make their living by—and on—the extraordinary resources of Stellwagen Bank.

Finally, overall credit for the legislation is owed to the chairman of the Oceanography Subcommitee for his dedicated efforts to pursue a broad based reauthorization that will bring the Sanctuaries Program back on course and help reverse years of inaction and neglect by the administration. The designations of new sanctuaries that we propose here today should never have been necessary: the character of Monterey Bay, Cordell Bank and the other areas in the bill more than justify their inclusion into the system, and my friend from Washington deserves high praise for recognizing the need to override the intransigence of the NOAA officials who have for too long sought to tear down and destroy the program they were charged with nurturing.

Mr. Speaker, this is a good bill that will renew our commitment to the extraordinary marine areas that rim our coasts and I urge its passage.

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first may I just say that the gentleman from North Carolina [Mr. JONES], chairman of the committee, has certainly done a yeoman's job in getting H.R. 4210 to the floor. I commend him for that, and I commend as well our ranking member on our side, the gentleman from Alaska [Mr. YOUNG].

Mr. Speaker, as an original cosponsor of H.R. 4210, and the next bill we will consider H.R. 4211, I am proud of the promise these bills hold for the future of this Nation's coastal oceans. And I thank the chairman of the Subcommittee on Oceanography, Mr. LOWRY, for all of his effort in bringing these bills to the floor.

During hearings earlier this year in the Merchant Marine and Fisheries Committee, we learned a surprising fact and an important lesson. The fact we learned was that medical waste, unlike we had assumed for many years, is not rendered harmless in saltwater. The lesson we learned was the value of ongoing research.

At a field hearing of the Subcommittee on Oceanography held earlier this session in Surf City, NJ, on the subject of coastal pollution, Dr. Robert Abel—president of the New Jersey Marine Sciences Consortium and the first director of National Sea Grant College Program—testified that there remains a basic need to improve our understanding of coastal water movements if we are to solve the Nation's coastal ills. I am, therefore, very pleased to note that studies of estuarine and coastal circulation and the consequences of contamination are carried forward in this bill.

Also contained in the bill are the National Ocean Policy Commission and the Marine Sanctuaries Program. The latter has protected some of the most beautiful ecosystems in this Nation's marine waters—and the former provides an important function in assuring that all such waters are protected in the future. Again, I am very pleased to see them included.

Reauthorization of the Marine Protection, Research, and Sanctuaries Act and of the next bill we will consider, the National Ocean Pollution Planning Act, provide the opportunity to assure the continuance of a well coordinated national research effort to better understand and better protect our ocean resources.

I would like to explain our rationale about increasing the funding levels for the title II research and monitoring program. The administration supports reauthorization of much of the work done under this title, but requested funding which would have killed the National Status and Trends Program. Fortunately, Congress has restored this program by appropriating an additional $6 million for fiscal year 1989. However, this represents level funding and does not allow NOAA to expand its important pollutant assessment programs to the Great Lakes, a serious omission. Therefore, the authorization levels in H.R. 4210 add additional funds for this effort.

I am pleased to concur with this administration in supporting the reauthorization of both these programs, and I urge their passage.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of H.R. 4210, reauthorizing the Marine Sanctuaries Program. This legislation extends and revises the Marine Sanctuaries Program, providing important new enforcement authority to deal with pollution of our marine sanctuaries—one of which, the Channel Islands Marine Sanctuary, lies within my district. In addition, the committee has included several provisions of legislation I introduced earlier this year, H.R. 3772, the Santa Barbara Channel Protection Act, requiring the Secretary of Transportation to submit a proposal to the international maritime organization designating the Santa Barbara Channel as an area to be avoided; a report to Congress on the status of recommendations in previous Federal, State, and local studies of shipping hazards in the channel—including a recommendation on whether alternative traffic separation plans should be implemented; and a report on the establishment of a "Navtex" marine safety and navigation radio service to cover the channel.

Mr. Speaker, I want to express my thanks to members of the committee for their ongoing interest in improving safety and navigation conditions in the Santa Barbara Channel.

Mr. LOWRY of Washington. Mr. Speaker, H.R. 4210 would reauthorize title II of the Marine Protection, Research, and Sanctuaries Act [MPRSA] at levels of $13,500,000 and $14,500,000 for fiscal years 1989 and 1990, respectively. In addition, H.R. 4210 would require that the Secretary of Commerce ensure that the research program conducted under subsection (a) of title II be consistent with the comprehensive plan developed under section 4 of the National Ocean Pollution Planning Act of 1978, the reauthorization of which we will be considering later.

The primary purpose of title II of the MPRSA is to provide for short- and long-term research and monitoring on the effects of pollution, overfishing, and other activities on the marine environment including the specific effects of ocean dumping. The types of programs funded under title II include NOAA's Status and Trends Program, which monitors water quality data from various estuaries around the Nation; the Consequences of Contamination Program, which links the chemical data collected in the Status and Trends Program with the actual effects on marine life; the Strategic Assessment Branch, which prepared data atlases and maps of various estuaries; and the Hazardous Materials Response Program, which is NOAA's research and response capability for meeting hazardous material emergencies and conducting long-term resource assessments under the Superfund law.

As Members recently heard during NOAA's fiscal year 1989 budget testimony, the Status and Trends Program would be reduced by approximately $5.7 million in this year's budget. I believe that this authorization legislation is important to put this committee on record that it supports the Status and Trends Program, as well as other ocean pollution research efforts underway at NOAA to better understand the fate and effects of contaminants and other pollutants which we have discharged into our Nation's waterbodies for years.

Mr. Speaker, this bill also includes the text of H.R. 4208, legislation that I introduced on March 21, 1988, with my colleagues, Mr. Jones of North Carolina, Mr. Studds, Mr. Fascell, Mr. Alexander, and Mr. Hughes. The basic purpose of H.R. 4208 is to amend title III of the Marine Protection, Research, and Sanctuaries Act of 1972 to reauthorize the National Marine Sanctuary Program for 4 years with a modest expansion of funding based on the additional requirements of the legislation.

Nationally significant marine resource areas are of great value for research, education, and for promoting general public awareness of our marine environment. As our ocean waters are continuously threatened by pollution and other damaging incidents, the establishment and maintenance of marine sanctuaries for the protection of nationally significant resources is an essential priority if we are to continue to enjoy the benefits of unique ocean and coastal resources to which we have become accustomed. The amendments to the Marine Protection, Research, and Sanctuaries Act that have been incorporated into this piece of legislation recognize issues that require immediate attention. These include the need for: First, improved timeliness and predictability of the national marine sanctuary site designation process; second, clarification of liability for damages to these valuable marine resources; and third, movement toward a uniform enforcement authority to better protect marine resources.

To begin, I would like to point out that existing law contains no deadline regarding site designation. This creates a tremendous problem as too often NOAA has proposed active candidates for site designation, for example Cordell Banks or Flower Garden Banks National Marine Sanctuary, and never completes the process to finally designate the sanctuary. Section 102 amends title III to require the Secretary to publish a notice of designation with final regulations—or findings detailing reasons why one has not been published—within 30 months of the date which a site is determined to be an "active candidate" from the site evaluation list.

Mr. Speaker, these new provisions would force action that has been delayed in the past. The bill also mandates that decisions not to proceed with designation of a site be explained in writing and referred to the relevant House and Senate committees. This will in turn increase the predictability and accountability of the designation process.

The next section deals with the promotion and coordination of research, special use permits, and cooperative agreements and donations. Section 103 of this act strikes section 308 of the title and adds sections 309, 310, and 311 to deal with the above topics, respectively. Since national marine sanctuaries provide ideal environments for conducting marine research projects, section 309 requests that NOAA give priority to marine research within the marine sanctuaries and consult with Federal and State agencies to actively promote their use of the sanctuaries for research purposes.

Because not all activities can be adequately controlled under existing sanctuary regulations, such as those for research, education and other access requirements, section 310 establishes a special use permitting system to complement those existing regulations. If NOAA determines that a permit is necessary to promote public use and understanding of or to establish access to a sanctuary, it may issue such a permit with a 5-year maximum duration, renewable by the Secretary, under the specific terms established in this section. These terms require that the permittee's activities are compatible with the purposes for which the sanctuary was designated, not resulting in any destruction, loss, or injury to its resources, and that the permittee maintains general liability insurance. The permittee must submit an annual report describing the activities conducted by the end of each year. Should any of these terms be violated, the Secretary is authorized to revoke the permit. Section 310 also establishes a specific method of determining the permit fee and authorizes the Secretary to use these fees for management purposes and permit administration. Under section 311, the Secretary of Commerce is explicitly authorized to enter into cooperative agreements with any nonprofit organizations and to authorize those organizations to solicit private donations for the support of sanctuary activities. This section also allows the Secretary to accept any donations and to expend those donations for sanctuary purposes.

Section 104 establishes a system for restoring those marine sanctuary resources that are destroyed, injured, or lost. The section states that any person responsible for such destruction, injury, or loss will be held liable to the United States for damages and appropriate response costs. Likewise, any responsible vessels will be held liable in rem. Persons will not be liable if they can establish that the destruction, injury or loss was caused by and act of God, war, or a third party, that the causal activity was authorized by Federal or State law or that the damage is of a de minimus nature. The Secretary is directed to pursue civil actions against those persons who are liable to recover response costs and damages.

Recovered funds will be set aside in a separate account and used to remedy the damaged resources. This provision works in accordance with section 107(f)(1) of the Comprehensive Environmental Response, Liability and Compensation Act [CERCLA]. The set-aside may exist at a maximum of $750,000 to finance the relevant response actions. The bill requires that remaining funds be used to restore, replace, or acquire the equivalent of the damaged resources. In the event that this is not possible, the Secretary is authorized to use the funds for managing and improving the affected sanctuary and then managing other sanctuaries in need of funding.

Mr. Speaker, because of the slow pace of the designation process, specifically with respect to Cordell Banks and Flower Gardens, and because of nationally significant characteristics found in other areas, section 105 of this act establishes a specific schedule for the designation process for four sites: Cordell Banks, Flower Gardens, Monterey Bay, and western Washington outer coast. The section requires that a final notice of designation for the Cordell Banks National Marine Sanctuary be issued no later than December 31, 1988. It is my understanding that this is feasible and that the Administration actually intends to publish the notice prior to this deadline.

A notice of designation for the Flower Gardens National Marine Sanctuary is required by March 31, 1989. Although the designation process for this site has been underway for 10 years, I believe that this date is reasonable now that disputes between NOAA and the State Department regarding NOAA's authority to prohibit harmful anchoring of foreign flag vessels in that area have been resolved. Section 105 requires that Monterey Bay's final notice of designation be issued no later than December 31, 1989. Monterey Bay was previously an active candidate for designation, until NOAA remove it from the list for reasons which are somewhat unclear and inadequate. For example, NOAA felt that this was not a necessary sanctuary because two other sanctuaries in California protect similar resources and that the size of the proposed sanctuary would put a strain on NOAA's existing enforcement capabilities.

California's present sanctuary resources do not include submarine canyons, such as those found in Monterey Bay and are not as accessible to the public as Monterey Bay. In addition, NOAA did not know what the size of the Monterey Bay National Marine Sanctuary would be since the evaluation process was never completed. It turns out, in fact, that the Monterey Bay National Marine Sanctuary would most likely be considerably smaller than either of the two existing California sanctuaries. These facts, coupled with pollution, from various sources, that continues to pose serious health threats which cannot be controlled by existing conservation measures in the area, support my belief that Monterey Bay is certainly appropriate for designation.

The western Washington outer coast was placed on the site evaluation list in August 1983 and, under this act, would be finally designated by June 30, 1990. This site is adjacent to the Olympic National Park and holds a nationally significant collection of flora and fauna in addition to its variety of sea birds and marine mammals. However, the boundaries for this site as described when placed on the site evaluation list are not adequate for the protection of the rocky stacks used by the sea birds and marine mammals which are so integral to the significance of this site. Therefore, Mr. Speaker, I would like to make a strong point of directing NOAA to use initial boundary descriptions only as a general point from which further detailed review should stem. The boundaries should be subject to change upon review and open to development until the final notice of designation is issued.

Section 105 of this act also requires that the Secretary submit a prospectus to the Congress regarding the proposed Northern Puget Sound National Marine Sanctuary by March 31, 1991, and the Stellwagon Banks National Marine Sanctuary by September 30, 1990. These areas contain nationally significant characteristics that should be protected, but is also a source of various human recreational and research activities. Because of the multiple uses of the areas and the act that extensive consultation is necessary regarding the specific areas to be designated, I believe that these deadlines are appropriate for the prospectuses.

Section 106 of this act recognizes four new areas that should be studies for designation: American Shoal, Sombrero Key, Alligator Reef and Santa Monica Bay. This section requires the Secretary to conduct investigations of these areas and to submit, not later than 2 years after the enactment of the act, a report to Congress regarding a decision as to whether any of these areas, or parts thereof, are appropriate for designation as marine sanctuaries or, in the case of the Florida Key areas, for addition to the existing Key Largo or Looe Key National Marine Sanctuaries.

Section 107 makes some amendments regarding enforcement activities as a move toward uniform authority to diminish possible confusion by marine law enforcement agents. These amendments have been modeled after the enforcement provisions of the Magnuson Fishery Conservation and Management Act. Clarifications have been made with respect to civil penalty assessment, property seizure or forfeiture and storage costs. All are consistent with authorities found in the Magnuson Act.

In section 108 of this act, new sections are added to title III regarding the authorization of appropriations and U.S.S. *Monitor* artifacts and materials. In contrast to past plans, appropriation authorizations would be divided into three categories: First, "general administration," which includes any costs relating to NOAA headquarters operations; second, "management of sanctuaries," which includes any costs relating to onsite management and operations; and third, "site review and analysis," which includes any costs relating to the consideration of a site for national marine sanctuary designation.

Provisions regarding U.S. *Monitor* artifacts and materials require the Secretary to submit, within 6 months of the enactment of this act, a plan that identifies suitable artifacts and materials to be displayed as well as suitable display sites in coastal North Carolina.

Section 109 addresses the protection of the Channel Islands National Marine Sanctuary. It requires that the Secretary of Transportation transmit to Congress provisions that enable response to oil pollution incidents and other incidents which result in damage to the environment in the Channel Islands Sanctuary. The Secretary must also review all Federal, State, and local studies conducted on the hazards of shipping operations and submit recommendations on those studies.

Finally, Mr. Speaker, title III of this bill contains a provision to establish the National Oceans Policy Commission, and title IV contains a provision requiring the transfer of the Coast Guard cutter *Ingham*.

Mr. Speaker, I believe that this is a most worthwhile piece of legislation. Positive action must be taken to protect our important oceans and coastal resources and this bill is a major step in that direction. I would urge my colleagues to support it. Finally, Mr. Speaker, I would like to thank my colleagues on the Merchant Marine and Fisheries Committee, who have helped to improve this legislation, especially Mr. JONES and Mr. STUDDS, as well as Mr. YOUNG of Alaska, and Mr. DAVIS of Michigan. In addition, Mr. Speaker, I would like to compliment my colleagues from California, Mr. PANETTA and Mr. LEVINE, as well as Mr. FASCELL for their important work and leadership on this legislation.

Mr. DAVIS of Michigan. Mr. Speaker, H.R. 4210 contains many titles, all of which have merit. I would like to elaborate on certain provisions contained in this bill, which will improve the overall health of our marine and Great Lakes environment.

The first section of H.R. 4210 reauthorizes title II of the Marine, Protection, Research, and Sanctuaries Act. Although the administration requested only $4.8 million for this program for fiscal year 1989, the Congress has provided funds for the continuation of the important monitoring and research in our oceans and Great Lakes authorized by title II, specifically the Status and Trends Program. However, even these funding levels will not allow NOAA to expand its important pollutant assessment programs to the Great Lakes, a serious omission.

The Great Lakes region needs this vital information to assist in the cleanup of contaminated "hot spots", including the St. Mary's River, which has suffered pollution leaching from slag piles and other as yet unidentified sources. Federal officials in both the United States and Canada have explained that remedial action plans cannot be developed any faster because they don't have data at hand showing the types of pollutants entering the lakes, the amounts of these pollutants, or where the pollutants are coming from. NOAA has the capacity under title II, and indeed has used it for the east, west, and gulf coasts, to compile this information in a computerized inventory and to make it available to government entities and other users. NOAA also publishes this material in Data Atlases, which are also available to the public.

The small increase in authorization levels in the title II program therefore represents our hope that funds will be appropriated next year for NOAA to add the Great Lakes to its existing pollutant monitoring/assessment system. Earlier this Congress I introduced a bill, H.R. 3715, which would have created a freestanding program directing NOAA to compile an inventory of pollutants entering into the Lakes. Although the Public Works and Transportation Committee was unable to report out the bill this Congress, I urge NOAA, in cooperation with the Environmental Protection Agency's Great Lakes National Program Office, to pursue the program outlined in that bill under title II should funds allow.

The second title of this bill reauthorizes the National Marine Sanctuaries Program, also administered by NOAA. This section further specifies NOAA's enforcement powers so that the special maritime areas designated as national marine sanctuaries are better protected. I also note the extra safeguards in this title afforded the Channel Islands National Marine Sanctuary offshore Santa Barbara, CA. Congressman ROBERT LAGOMARSINO has fought to shield this fragile site from devastating oil spills, with the assistance of the U.S. Coast Guard. Section 209 of the bill guarantees that this protection will continue.

Finally, title III of the bill establishes a National Oceans Policy Commission. The House has already approved this measure last year, and we hope that the Senate has reexamined its position and is willing to support this approach to ensure that our oceans and the Great Lakes are given new hope in the coming years.

I urge my colleagues to support this bill, and thank my associates on the Science, Space, and Technology Committee for agreeing to its consideration in the House today.

Miss SCHNEIDER. Mr. Speaker, I rise today in support of H.R. 4210, the reauthorization of title II of the Marine Protection, Research and Sanctuaries Act [MPRSA]. This reauthorization is very important, especially in light of the fact that this body has just approved an amendment to MPRSA which bans ocean dumping.

I have been privileged to serve on the two committees which have jurisdiction over this reauthorization, the Merchant Marine and Fisheries Committee and the Science, Space, and Technology Committee. Through my position on these two key committees I recognize the importance of researching and monitoring the effects of ocean dumping even though this Congress is mandating an end to this harmful practice. I have worked to assure that both of these committees have given this reauthorization the proper attention and support.

I am glad to see the inclusion of a provision in this bill which creates a National Oceans Policy Commission [NOPC], which I recently introduced as an amendment to another bill along with Chairman WALTER JONES. I commend the action of WALTER JONES and MIKE LOWRY in incorporating NOPC into this bill.

The formation of such a commission is not a new idea. Over 20 years ago Congress established the Stratton Commission. The recommendations of that commission shaped the form and direction of our Nation's marine policy for the decade that followed. The 1970's saw many of the commission's forward looking recommendations implemented, such as the creation of NOAA; passage of the Coastal Zone Management Act; the Clean Water Act; the Ocean Dumping Act; and the Magnuson Fishery Conservation and Management Act.

We do not have a comprehensive approach to manage and utilize our Nation's most important natural resource—our oceans. The United States needs a coordinated, comprehensive oceans policy developed from our past efforts, current trends, and our future needs and expectations.

Now is the perfect time to reestablish a national oceans policy. The 17-member nonpartisan commission which is proposed in this bill will be chosen by a new President, and will begin its mission with a new administration. This commission will be setting our priorities for the challenges that this Nation will be facing in the 1990's and into the next century.

I strongly urge all of my colleagues to support this bill which will reauthorize a very important program and establish a mechanism for managing our marine resources into the 21st century.

Mr. SAXTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 4210, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Purusant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4210, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

NATIONAL OCEAN POLLUTION PLANNING ACT OF 1978 AUTHORIZATION, FISCAL YEARS 1989 AND 1990

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4211) to reauthorize the National Ocean Pollution Planning Act of 1978 for fiscal years 1989 and 1990, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4211

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Ocean Polution Planning Act of 1978 (33 U.S.C. 1701-1709) is amended as follows:

(1) Paragraph (1) of section 3 (33 U.S.C. 1702(1)) is amended to read as follows:

"(1) The term "Administration" means the National Oceanic and Atmospheric Administration of the United States Department of Commerce.".

(2) Paragraph (2) of section 3 (33 U.S.C. 1702(2)) is repealed.

(3) Paragraphs (3), (4), (5), (6), (7), and (8) of section 3 (33 U.S.C. 1702(3), (4), (5), (6), (7), and (8)) are redesignated as paragraphs (2), (3), (4), (5), (6), and (7), respectively.

(4) Section 3 is amended by inserting after paragraph (7) (as redesignated) the following:

"(8) The term "Under Secretary" means the Under Secretary for Oceans and Atmosphere, United States Department of Commerce.".

(5) The term "Administrator" is struck each place it appears and the term "Under Secretary" is inserted in lieu thereof.

(6) Subparagraph (B) of section 3A(a)(2) (33 U.S.C. 1702a(a)(2)(B)) is amended to read as follows:

"(B) be headed by a director who shall—

"(i) be appointed by the Under Secretary, and

"(ii) be the official responsible for the administration of the program;".

(7) Subparagraph (B) of section 3A(b)(2) (33 U.S.C. 1702a(b)(2)(B)) is amended to read as follows:

"(B) review all department and agency budget requests transmitted to it under section 4 of this Act and submit a report simultaneously to the Office of Management and Budget and to the Congress concerning those budget requests;". (8) Section 10 (33. U.S.C. 1709) is amended—

(A) by striking "and" immediately following "1986"; and

(B) by striking "1987." and inserting in lieu thereof "1987, not to exceed $3,750,000 for fiscal year 1989, and not to exceed $4,000,000 for fiscal year 1990.".

The SPEAKER pro tempore. Is a second demanded?

Mr. SAXTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes and the gentleman from New Jersey [Mr. SAXTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker. I rise today in support of H.R. 4211, a bill to reauthorize the National Ocean Pollution Planning Act of 1978 [NOPPA].

This bill will reauthorize NOPPA for fiscal years 1989 and 1990, at a level of $3.75 million for fiscal year 1989 and $4 million for fiscal year 1990. The bill also makes a few needed adjustments in the basic NOPPA program.

NOPPA is an important program administered by the National Oceanic and Atmospheric Administration [NOAA]. It requires NOAA to coordinate all Federal programs for ocean pollution research and monitoring, and to develop, every 3 years, a 5-year plan for ocean pollution research. The next 5-year plan is due to be released this year.

At this time of heightened concern for our Nation's coasts due to pollution, I urge my colleagues to support this program. It has, as its goal, the identification of key pollution issues and makes recommendations on how Federal agencies can coordinate their budgets to help solve these problems.

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as I mentioned in our deliberations on the previous bill, I believe that the passage of the National Ocean Pollution Planning Act serves an important function if there is any hope of improving the outlook for our coastal oceans.

We learned from years of suffering through continued ocean dumping that little is accomplished in the absence of planning. If you do not plan to stop polluting the ocean, you simply will not stop polluting the ocean. The years of difficulty in moving toward successful negotiation of the ocean dumping ban that this House passed only moments ago has also taught us the value of cooperation and coordination.

H.R. 4211 assures that such planning and cooperation will be carried throughout the Federal Government's diverse efforts to address our coastal pollution crisis, and I therefore urge its passage.

Mr. DAVIS of Michigan. Mr. Speaker, I rise in support of H.R. 4211, which reauthorizes the National Ocean Pollution Planning Act [NOPPA]. This small program has a big impact on our oceans, as it coordinates all our Federal ocean pollution activities and ensures that we have little overlap or other wasteful expenditures. This is exactly the right approach in this era of budget limitations but terrible marine pollution troubles.

I would also like to explain a provision in the bill which requires the interagency National Ocean Pollution Planning Board to submit its budget analysis of Federal agency marine pollution programs simultaneously to Congress and to the Office of Management and Budget [OMB]. The budget analysis was added to the duties of the Board in 1986, and the change made in the bill before us today confirms Congress' original expectation that the budget analysis would be available in a timely fashion to the authorizing and appropriating committees in both Houses to aid in the development of budgets for the following fiscal year. At present, the Board has interpreted the law to allow OMB, which sits on the Board, to first review, and consequently conform, the analysis with the President's budget. Not only does this delay the process, but the results serve no more than to highlight the ocean pollution programs already in the President's budget.

The administration has requested that we delete budget review authority from the Board, indicating an "inconsistency with the principal [SIC] of separation of powers for the Congress to direct an advisory board composed of executive branch employees to report to the Congress". I beg to differ with the administration's reading of the law.

While the President has wielded a great deal of authority over executive agency budgetary matters, the President has done so with the blessing of Congress. In fact, prior to the enactment of the Budget and Accounting Act of 1921, each executive branch agency submitted its annual budget request directly to Congress. Finding this process unwieldy and inefficient, Congress created the Bureau of the Budget to review the morass of agency budget submissions. After the Bureau was reformulated into OMB, it gained prominence as a tool implemented certain administration policies in the 1970's. In reaction, Congress created the Congressional Budget Office [CBO] and required Senate confirmation of high-level OMB officials. In addition, since the early 1970's, Congress has either eliminated the requirement that OMB clear agency budget requests or mandated that the requests be concurrently submitted to CBO. See e.g., 39 U.S.C. 2009; 19 U.S.C. 2232; 5 U.S.C. 522a App., at 318; 7 U.S.C. 4; 15 U.S.C. 2076; 49 U.S.C. 1903; 5 U.S.C. 1205; 31 U.S.C. 11; 42 U.S.C. 7172; 45 U.S.C. 601; and 45 U.S.C. 712(g).

Therefore, if Congress may request direct submission of agency budget requests, it follows, that it may request an "unpasteurized" budget analysis from an advisory panel in the Executive Branch.

I ask that Members support this bill because not only is it perfectly legal, but the contribution of NOPPA to our ocean pollution control efforts is invaluable.

Mr. LOWRY of Washington. Mr. Speaker, I rise in support of H.R. 4211, the primary purpose of which is to reauthorize the National Ocean Pollution Planning Act [NOPPA] at levels of $3.75 million and $4 million, respectively for fiscal years 1989 and 1990.

The National Ocean Pollution and Planning Act directed NOAA in consultation with other Federal agencies conducting ocean pollution research, to prepare a 5-year plan for ocean pollution research and monitoring, and update this plan every 3 years. The law requires that the plan include an inventory of existing Federal programs, and analysis to which the extent of which existing programs assist in meeting national needs and problems with respect to ocean and coastal pollution, and recommendations for changes in the overall Federal effort where necessary, and a report on budget coordination efforts. In fact, the documents which have been prepared by NOAA under this Act have been quite useful in terms of laying out what various Federal agencies have been doing and are currently doing in the area of ocean pollution research. And, although some coordination has been achieved as part of this consultation process, it is clear that the degree of coordination between the various Federal agencies could be improved upon.

In addition to reauthorizing NOPAA at the levels described above, H.R. 4211 would also make several technical changes to the legislation which I will not go into at this time. I would like to point out that I believe that this legislation is very noncontroversial, but it is important to reauthorize the program at this time.

Mr. SAXTON. Mr. Speaker, I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules, and pass the bill, H.R. 4211, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4211, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

FISHERY AGREEMENT BETWEEN THE UNITED STATES AND THE SOVIET UNION

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and disagree to the Senate amendment to the bill (H.R. 4919) to improve the Governing International Fishery Agreement between the United States and the Union of Soviet Socialist Republics, and for other purposes.

The Clerk read as follows:

Senate amendment: Page 6, after line 2, insert:

SECTION 8. AUTHORIZATION FOR CERTIFICATES OF DOCUMENTATION.

(a) Notwithstanding sections 12105, 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for the following vessels:

(1) Aleutian Trawler, United States official number 236979;

The SPEAKER pro tempore. Is a second demanded?

Mr. SAXTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes and the gentleman from New Jersey [Mr. SAXTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, last week the House approved H.R. 4919, as amended. It gives congressional approval to a governing international fisheries agreement signed between the United States and the Soviet Union.

This bill needs to be presented to the President for signature in the next day or so. However, last Friday the Senate approved the bill with a further amendment. We are not prepared to deal with the substance of this amendment today.

Accordingly this motion would send the bill back to the Senate in exactly the same form as it was approved by the House last week.

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4919 and urge its adoption.

H.R. 4919 is a bill ratifying the Governing International Fishery Agreement between the United States and the Soviet Union. In addition, the bill contains provisions that were adopted by the House Merchant Marine and Fisheries Committee regulating foreign fishing in our 200-mile Exclusive Economic Zone, authorizing establishment of a Woods Hole biomedical research facility, reauthorizing a mapping program for the Great Lakes, and transferring the U.S. Coast Guard cutter *Glacier* to the State of Oregon.

This bill was passed by the House under suspension of the rules last Monday. It was returned to the House by the Senate with an amendment at the end of last week. Our committee does not believe it can accept the Senate amendment in the context of this bill, and so we are returning it to the Senate with their language deleted.

Mr. Speaker, the House has already passed this measure, no changes have been made and I believe it should be adopted again without controversy.

Mr. DAVIS of Michigan. Mr. Speaker, I rise in support of H.R. 4919, legislation which provides congressional approval for the new Governing International Fishery Agreement [GIFA] between the United States and the Soviet Union. It is encouraging to see continued improvement between our two nations concerning fishery issues. This agreement establishes a framework to improve cooperation and management of fishery stocks of mutual concern.

Earlier this year Secretary of State Shultz and Foreign Minister Shevardnadze signed a new comprehensive fisheries agreement. This bill puts that agreement into motion and I congratulate those who have worked hard to accomplish this task.

Section 3 of H.R. 4919 reauthorizes the Great Lakes mapping plan through fiscal year 1989. This program was created last year, as part of Public Law 100-220, the United States-Japan Fishery Agreement Approval Act of 1987. The plan was to identify high-risk erosion and flooding areas, and estimate the costs of remapping the shoreline and near-shore waters. These updated maps are critical, as many of the Great Lakes navigation charts are over 50 years old.

The new maps would be designed to aid Federal, State, and local agencies, as well as private citizens and businesses, in preventing flooding and erosion, for public safety, and for commercial navigation. This measure has been widely supported by environmental groups, commercial shipping companies, and the Great Lakes States, and has received approval from many Federal agencies.

Because Public Law 100-220 was signed into law too late last year to benefit from the appropriations process, this program needs to be reauthorized through next year. Both the National Oceanic and Atmospheric Administration and the U.S. Geological Survey have begun preliminary work on this plan, and need our support through the next fiscal year. I have been working with the House and Senate conferees on the Department of Commerce Appropriations bill to ensure that funds are available, and I am confident that a small amount of money will be earmarked for this program that has the potential of saving millions of dollars and perhaps some lives.

Mr. SAXTON. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and disagree to the Senate amendment to the bill, H.R. 4919.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CONGRESSIONAL AWARD ACT AMENDMENTS OF 1988

Mr. OWENS of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5315) to amend the Congressional Award Act to extend the Congressional Award Program, as amended.

The Clerk read as follows:

H.R. 5315

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Congressional Award Act Amendments of 1988".

SEC. 2. AMENDMENTS TO THE CONGRESSIONAL AWARD ACT.

(a) ANNUAL REPORTS.—Section 3(e) of the Congressional Award Act (2 U.S.C. 802(e)) is amended—

(1) by redesignating paragraph (6) as paragraph (8); and

(2) by inserting after paragraph (5) the following new paragraphs:

"(6) A detailed description of the goals and objectives of the Board and the role of Congressional participation in fulfilling those goals and objectives.

"(7) Plans for activities to be conducted during the remainder of the duration of the program, consistent with the functions and requirements established under this Act.".

(b) MEMBERSHIP OF THE BOARD.—Section 4 of the Congressional Award Act (2 U.S.C. 803) is amended—

(1) in subsection (a)(1)—

(A) by striking "thirty-three" and inserting "25";

(B) by striking "Eight" each place it appears and inserting "Six";

(C) by inserting ", 1 of whom shall be a member of the Congressional Award Association" before the period in each of Subparagraphs (A) and (D); and

(D) by inserting ", 1 of whom shall be a representative of a local Congressional award Council" before the period in each of subparagrpahs (B) and (C); and

(2) by amending subsection (d) to read as follows: "(d)(1) A meeting of the Board may be convened only if—

"(A) notice of the meeting was provided to each member in accordance with the bylaws; and

"(B) not less than 11 members are present for the meeting at the time given in the notice.

"(2) A majority of the members present when a meeting is convened shall constitute a quorum for the remainder of the meeting.".

(C) POWERS, FUNCTIONS, AND LIMITATIONS.—(1) The heading of section 7 of the Congressional Award Act (2 U.S.C. 806) is amended to read as follows:

"POWERS, FUNCTIONS, AND LIMITATIONS".

(2) Section 7 of the Congressional Award Act (2 U.S.C. 806) is amended—

(A) by redesignating subsections (b) through (g) as subsections (c) through (h), respectively; and

(B) by inserting after subsection (a) the following new subsection:

"(b)(1) The Board shall establish such functions and procedures as may be necessary to carry out the provisions of this Act.

"(2) The functions established by the Board under paragraph (1) shall include—

"(A) communication with local Congressional Award Councils concerning the Congressional Award Program;

"(B) provision, upon the request of any local Congressional Award Council, of such technical assistance as may be necessary to assist such council with its responsibilities, including the provision of medals, the preparation and provision of applications, guidance on disposition of applications, arrangements with respect to local award ceremonies, and other responsibilities of such council;

"(C) conducting of outreach activities to establish new State and local Congressional Award Councils, particularly in inner-city areas and rural areas;

"(D) fundraising;

"(E) conducting of an annual Gold Medal Awards ceremony in the District of Columbia;

"(F) consideration of implementation of the provisions of this Act relating to scholarships; and

"(G) carrying out of duties relating to management of the national office of the Congressional Award Program, including supervision of office personnel and of the office budget.".

(d) REPORTS AND TERMINATION OF BOARD.—Section 9 of the Congressional Award is amended to read as follows:

"REPORTING AND TERMINATION PROVISIONS

"SEC. 9. (a) Except as provided in subsection (b), the Board shall terminate on November 15, 1989.

"(b)(1) If the Board fails to submit any report required by subsection (c), the Board shall terminate within 30 days of the failure.

"(2) Unless the Board is in compliance with subsection (b) of section 7 not later than September 30, 1989, the Board shall terminate on October 30, 1989.

"(3) If the Board makes the certification required by subsection (d), the Board shall terminate on September 30, 1990.

"(c)(1) The Board shall submit to the appropriate committees of the Congress 4 reports that each include at least—

"(A) a description of all fundraising activities conducted by the Board during—

"(i) in the case of the first report, the period beginning on the date of the enactment of the Congressional Award Act Amendments of 1988 and ending on the date of the report; and

"(ii) in the case of the second, third, and final reports, the period beginning on the date the previous report was submitted under this subsection and ending on the date of the report;

"(B) a description of the fiscal position of the Board as of the date of the report, including—

"(i) available cash;

"(ii) outstanding debts; and

"(iii) prospective operating expenses;

"(C) proposed fundraising activities to be carried out during the period beginning on the date of the report and ending on the date of the succeeding report;

"(D) the number and location of Congressional Award Councils established since the previous report in States or congressional districts where no such councils previously existed; and

"(E) any evidence of contacts between the Board or the Congressional Award Foundation and any congressional office, including copies of any correspondence between the Board or the Congressional Award Foundation and any congressional office.

"(2) The reports required by paragraph (1) shall be submitted as follows:

"(A) The first report shall be submitted not later than January 1, 1989.

"(B) The second report shall be submitted not later than April 1, 1989.

"(C) The third report shall be submitted not later than July 1, 1989.

"(D) The final report shall be submitted not later than September 30, 1989.

"(3) The date of the submission of a report under this subsection shall be considered to be the date the report is registered to be mailed by certified mail, return receipt requested.

"(d) Not later than September 30, 1989, the Director shall certify to the congressional leadership that the Board complied with the requirements of this section in a timely manner.

"(e) Within 30 days of the submission of each report required under subsection (c) and the submission of the certification required under subsection (d), the Comptroller General of the United States shall submit to the appropriate committees of the Congress a report verifying the information submitted in the report or certification, as appropriate.

"(f) Prior to termination of the Board under this section, the Board shall take such actions as may be required to provide for the dissolution of any corporation established by the Board under section 7(h). The board shall set forth, in its bylaws, the procedures for dissolution to be followed by the Board.".

(e) CONFORMING AMENDMENT.—Section 8(a) is amended by striking "section 7(g)" and inserting "section 7(h)".

SEC. 3. TRANSITION PROVISIONS.

Not later than 120 days after the date of the enactment of this Act, the congressional leadership shall appoint members to fill vacancies on the Congressional Award Board in accordance with section 4(a) of the Congressional Award Act (as amended by section 2(b)). In filling such vacancies, the congressional leadership shall first appoint members from the Congressional Award Association and local Congressional Award Councils in accordance with section 4(a) of the Congressional Award Act (as amended by section 2(b)).

SEC. 4. REPORT.

(a) IN GENERAL.—The Congressional Award Board shall submit to the appropriate committees and subcommittees of the Congress a report that describes in detail—

(1) the goals and objectives of the Board;

(2) the role of Congressional participation in fulfilling such goals and objectives; and

(3) plans for activities to be conducted during the remainder of the duration of the Congressional Award Program established under section 3 of the Congressional Award Act, consistent with the duties and requirements established under such Act.

(b) TIME FOR REPORT.—The report required by subsection (a) shall be submitted not later than 180 days after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. BARTLETT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York [Mr. OWENS] will be recognized for 20 minutes and the gentleman from Texas [Mr. BARTLETT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. OWENS].

GENERAL LEAVE

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

□ 2015

Mr. OWENS of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for nearly a decade the Congressional Awards Program has served to inspire the youth of our country toward the achievement of personal development and community service goals. While the administration of the program's first 10 years at the national level has at times been a troubled one, this should not obscure the tremendous volunteer efforts of thousands of young people who have been recognized by the award of bronze, silver, and gold medals.

It is appropriate to pause at this moment to give credit to the late Jim Howard, the original sponsor of the Congressional Awards Act. We know that this program was very close to his heart and that he nurtured it from the beginning. He would be pleased to know that the program will continue to serve and honor the young people of this country.

I also want to acknowledge at this time the work of the ranking Republican on the Subcommittee on Select Education, Mr. STEVE BARTLETT in helping to shape the bill that we are considering today, as well as the contribution of my other subcommittee colleagues.

It was Congressman Howard who at the Subcommittee on Select Education hearing which considered the original legislation set Congress the challenge of providing leadership for young people. Congressional award offered young adults, "a chance to participate in a program in which their success will be determined by their own initiative and industry and not in competition with others. We are confronted all too often by the spectre of lost youths in our society. More and more students are turning to the escapism and anonymity of drugs and alcohol."

Congressman Howard's words seem even truer today. There is no shortage of newspaper articles and statistics that we can use to paint a desperate picture of our young people. Whether we look at the approximately 1.2 million runaway children in the Nation, the nearly 300-percent increase in suicide rates among the 15- to 24-year-old population between 1950 and 1985, or the epidemic rise in youthful drug uses, future historians may well gain the impression that this was not the best era to be young in America. The Congressional Award Program will not, by itself, rapidly change that negative perception; bad headlines always have a tendency to edge out good news. But we hope that in the recognition at the local and national level of high standards of achievement this program has the potential to contribute to a more balanced picture.

The majority of our young people are anxious for an opportunity to serve the community in positive ways: Individuals like Richard Negron, a gold medal award winner, who testified before the Subcommittee on Select Education hearings this June. Mr. Negron grew up in a tough neighborhood in Chicago, rife with street gangs and high dropout rates. And now, in part due to the leadership skills he developed through the Congressional Award Program, he coordinates a 600-parent volunteer organization. Hundreds of other young people have volunteered to work in hospitals, to participate as big brothers and sisters, and in a host to other ways are helping to build better communities.

The reauthorization that we are considering today is an effort to ensure that the national leadership of the program fully complements the original goals that Congressman Howard set forth. These goals can only be fully achieved in a more active partnership with Congress than as previously been the case. For that partnership to work however, there must be increased communication. Further expansion of the program will be achieved as a result of individual Congressmen, Senators, and contributors, viewing the Congressional Award Board as a soundly managed organization—one that is equipped to meet the needs of the local district and statewide councils.

The Subcommittee on Select Education hearings revealed the need to ensure much closer oversight of the program's administration—it is for this reason that the National Office is required to submit quarterly reports. These reports will provide the Congress with a detailed and up-to-date picture of the Financial Health of the National Office as well as the Board's progress in developing new councils. We expect Board meetings to be held on a regular basis so that all those with a stake in the futue of the program, including past award winners. As well as the local councils, can be involved in policy decisions.

If there is compliance with the factual reporting requirements of the legislation the program is extended for another year. The requirements for gaining a second year reauthorization are intended to be capable of objective determination and will not involve the exercise of discretion of the execution of law. If the requirements are not met the subcommittee recognizes the need for subsequent legislative action.

This legislation is meant to help the program's national leadership turn a corner. Our Subcommittee on Select Education hearings revealed that the local and statewide councils are in fairly healthy shape, but that the National Office can and should do a much better job of managing its affairs so that program growth is possible. We hope that the new board structure will allow a new sense of purpose to emerge based on a consenses between the national, local, and alumni associations. We anticipate that Congress' more active role in the programs' development will be specified in the first annual report that will be submitted in 180 days after this legislation's enactment.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTLETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5315 as amended which will extend the Congressional Award Program for 1 year until November 15, 1989, subject to certain requirements. If these requirements are met, the Congressional Award Program will be extended for an additional year until September 30, 1990.

The Congressional Award Program was created in 1979 by the late Congressman Jim Howard and Senator WALLOP. It is the only award given by Congress in recognition of youth leadership in the areas of public service, personal development, and physical fitness. The award has given new direction and meaning to the lives of the young Americans who have received it. It is a program that has had the support of many Members of Congress and local community leaders.

The program is administered by the Congressional Award Board which has the authority to use the congressional seal, but the program's activities are not directed by Congress. While the program has achieved substantial success at the local level, the National Board which administers the program nationwide has not. The Board is composed of 22 well-intentioned and hard working members who are committed to the program but unfortunately they have not been able to achieve an acceptable level of success nationally. Since 1979 only 48 Local Congressional Award Councils have been established, and in a survey conducted by the Subcommittee on Select Education only 28 percent of congressional officers who responded participated in the program and 71 percent had never heard of the Congressional Award Program.

When the program was established the Congress intended that it be funded and operated through private sources. However, while local and State councils have been extremely successful in raising funds to operate the program at the local level, the National Board has not. In 1987, the Board had to request Federal funds because their fundraising efforts had not yielded enough money to run the program. Congress appropriated $189,000 in unauthorized dollars to the Congressional Award Board in order for the administration of the program to continue.

Due to this financial crisis, the GAO examined the financial position of the Congressional Award Program and testified before the Subcommittee on Select Education on June 28, 1988. The GAO found "the foundation has suffered losses from operations in 3 of the past 4 years. Its revenue from contributions decreased from $907,225 in 1984 to $204,379 in 1987. As of December 31, 1987, the foundation had a net deficit of $322,995. The foundation has not raised any funds during the first 4 months of 1988. The foundation is operating solely on an appropriation of $189,000. These facts raise substantial doubt concerning the entity's ability to continue as a going concern." Since that testimony, $300,000 of the outstanding debt has been forgiven and the Board is attempting to retire the remaining $22,995. However, due to the financial instability of the National Board the Subcommittee on Select Education believed that the Board must meet certain mandates in order for the program to continue.

In trying to continue this program for the benefit of our Nation's young people, many alternatives were discussed including the possibility of an outside organization administering the program on the national level. However, Representatives of the Board, Local Congressional Award Councils, and the Congressional Award Alumni Association opposed this approach. Thus, the subcommittee agreed to allow the Congressional Award Board continue to administer this program with no Federal funds and under certain conditions. Those conditions are included in this legislation. They are:

First. Submission of quarterly reports to the committees of jurisdiction during 1989 which describe in detail all fundraising activities conducted by the Board; a description of the fiscal position of the Board as of the date of each report including available cash, outstanding debts, and prospective operating expenses; the number and location of Congressional Award Councils established since the previous report in States or congressional districts where no such councils previously existed; and any evidence of contact between the Board or the Congressional Award Association with congressional offices.

Second, Certification by the Executive Director of the Board no later than September 30, 1989, to the congressional leadership that the Board is meeting its operating expenses, has no outstanding debts, and has complied with the requirements included in the quarterly reports. The GAO will verify that the information in the quarterly reports and the certification is accurate. If the reports are submitted by the dates required and the certification is given, the authorization for the program will continue for another year, and may only be revoked or changed by subsequent legislative action. If the Board fails to issue a quarterly report by the date specified or makes no certification to the leadership that they have met these requirements, the Board will cease to exist 30 days after the date upon which the report or certification was to have been submitted.

Third. The Board must meet certain standards to fulfill its mandate during 1989 and beyond. Those standards include communication with and provision of technical assistance to the local councils when they request such assistance; outreach programs to establish new councils particularly in inner-city and rural areas; fundraising which should be developed within the organization; conducting an annual gold medal award ceremony in Washington, DC; consideration of implementation of the scholarship program already established by the existing statute; and the management of the National Office including Supervision of Office Personnel and of the Office Budget.

Fourth. Within 6 months the Board must submit a plan to Congress which states their goals and objectives and plans to meet them, its view of the role of congressional participation in meeting these goals and objectives and its plans for meeting the above standards. This plan must show that the Congressional Award Program will have a measurable impact on our Nation's youth.

One of the recurring issues raised during the subcommittee's June 28 hearing was the lack of participation by representatives from Local Congressional Award Councils and the Congressional Award Alumni in decisions made by the Board at the national level. I believe a consensus of purpose of the program has been lacking between the Local Congressional Award Councils and the National Board. H.R. 5315 will require the House and Senate leadership to appoint two representatives from Local Congressional Award Councils and two representatives from the Congressional Award Alumni Association to be members of the Board within 120 days after enactment of this legislation. This will ensure that the Local Congressional Award Councils and Alumni of the program who understand it the best contribute their knowledge about the program to the National Board so that this program can grow and reach young Americans all over this country wishing to succeed in public service. In addition, the size of the Board will be reduced from 33 to 24 members and H.R. 5315 changes the statutory requirement for a quorum so that the Board can convene meetings and conduct business. It is our intent that the Board hold periodic meetings notifying the Congress of when such meetings take place.

These are no unreasonable requirements for the Congress to expect from the Board. These amendments to the Congressional Award Act will strengthen the Board and allow the program to expand and include as many young people in as many congressional districts as possible. All of us want to recognize our young people for achievements in public service and volunteerism and this program can do that through our guidance and direction.

I urge my colleagues to support H.R. 5315 which will allow the Congressional Award Board and National Office to meet the objectives of this program nationwide.

Mr. OWENS of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BARTLETT. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. Lewis]. I might say of the gentleman from Florida that he has had a very successful congressional award program in his district, one which has changed the lives of young people throughout his congressional district.

Mr. LEWIS of Florida. Mr. Speaker, I thank the gentleman from Texas for yielding time to me.

Mr. Speaker, I rise in strong support of H.R. 5315, the Congressional Award Act amendments. I would also like to thank the gentleman from New York [Mr. Owens] and the gentleman from Texas [Mr. Bartlett] for bringing this legislation to the floor.

More than 3 years ago, a Congressional Awards Council was initiated in my district, and since that time, I have had the pleasure of presenting nearly 200 awards to some of the best and brightest young people in the country. Just last month two young men from Florida's 12th District were awarded Gold Congressional Medals, and I was honored to present the medals to them.

Too often we focus on the problems in this country, and particularly in our young people. I think we all know that there are a tremendous amount of decent, intelligent, and capable young men and women in this Nation, and the Congressional Awards Program is one of the ways that we can recognize them. I think it is time for us to recognize the youth of our country, and thereby encourage other young people by letting them know that we care.

Mr. Speaker, I certainly hope that we can continue this highly beneficial program and continue to encourage the youth of this Nation to develop their talent to its full potential. I encourage my colleagues to vote for H.R. 5315, and help us to continue this worthwhile program.

Let us make every effort to show the positive side of our youth.

Mr. JEFFORDS. Mr. Speaker, I rise in support of the Congressional Award Act amendments of 1988. We originated this program in 1979. Its purpose was, and is, to recognize young men and women, in their teens and early twenties, who achieve exemplary levels of personal growth through scholarship, physical achievement, and community service.

With the exception of 1 year, this progam has never received Federal funding. Congressional Award Program sites are currently operating in over 40 congressional districts, and some are operating at the State level. The success of these awards progam sites is the result of a commitment by Members of Congress and State and community leaders to continue the program as a source of recognition for the efforts of special young men and women throughout the country. I am pleased to indicate that we have had such a program in the State of Vermont.

Although State and district-level Congressional Awards Program sites have received enthusiastic support within the States in which they have been established, such support has not always been forthcoming for the National Board of the Congressional Awards Program. Over several years, the effectiveness of the National Board, in fact the need for such a board, has been challenged. The reauthorization amendments we consider today would, if enacted, strengthen the Congressional Awards Program by giving the National Board a clear focus and mandate. If the Board responds aggressively and responsibly to its mandate, it would assist in creating many more Congressional Awards Program sites and establish a solid basis for its continuation as the national technical assistance arm of the Congressional Awards Program.

I hope that current Board members accept the opportunity and challenge imbedded in these amendments. All of us involved in drafting these amendments want the Congressional Awards Program to continue and to grow. I believe that the Board also wants the program to continue and to grow. Working together I am sure we can ensure that it does continue and does grow, so that every State and every congressional district has a functioning program with many alumni before the year 2,000.

In closing, I wish to commend my colleagues, Mr. Hawkins, Mr. Owens, and Mr. Bartlett for their work on these amendments. The reauthorization of the Congressional Awards Program does not include an authorization for Federal funding. The private sector has supported this program for most of its 9-year history, and we think it is appropriate for this tradition to continue.

I urge my collegues to join us in supporting these amendments. By doing so we will continue a recognition program that has made a positive difference in the lives of many of young Americans.

Mr. BARTLETT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. Gray of Illinois). The question is on the motion offered by the gentleman from New York [Mr. Owens] that the House suspend the rules and pass the bill, H.R. 5315, as amended.

The question was taken.

Mr. BARTLETT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

EGG RESEARCH AND CONSUMER INFORMATION ACT AMENDMENTS OF 1988

Mr. de la GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5318) to amend the Egg Research and Consumer Information Act to limit the total costs that may be incurred by the Egg Board in collecting producer assessments and having an administrative staff, to eliminate egg producer refunds, and to delay the conducting of any referendum by egg producers on the elimination of such refunds, as amended.

The Clerk read as follows:

H.R. 5318

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Egg Research and Consumer Information Act Amendments of 1988".

SEC. 2. LIMITING CERTAIN COSTS INCURRED BY THE EGG BOARD.

Section 8 of the Egg Research and Consumer Information Act (7 U.S.C. 2707) is amended by adding at the end thereof the following:

"(j) Providing that the total costs incurred by the Egg Board for a fiscal year in collecting producer assessments and having an administrative staff shall not exceed an amount of the projected total assessments to be collected by the Egg Board for such fisal year that the Secretary determines to be reasonable.".

SEC. 3. EGG PRODUCER REFUND REFERENDUM.

Section 13 of the Egg Research and Consumer Information Act (7 U.S.C. 2712) is amended by—

(1) inserting "(a)" after "Sec. 13.";

(2) inserting "except as provided in subsection (b)" after "Notwithstanding any other provisions of this Act"; and

(3) adding at the end thereof the following:

"(b)(1) With regard to each order issued under this Act that provides for a producer refund, the Secretary shall amend such order to eliminate such refund.

"(2) Notwithstanding sections 9 and 11 of this Act, an amendment made by the Secretary pursuant to paragraph (1)—

"(A) shall take effect on the date that the Secretary issues the amendment; and

"(B) shall not be subject to a referendum under section 9 or 10(b) until the end of the 18-month period beginning on such effective date.

"(3) During the period prior to the referendum of an amendment issued pursuant to paragraph (1) and beginning on the effective date of such amendment, the Egg Board shall—

"(A) establish an escrow account to be used for assessment refunds; and

"(B) place funds in such account in accordance with paragraph (4).

"(4) The Egg Board shall place in such account, from assessments collected during the period referred to in paragraph (3), an amount equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent.

"(5) Subject to paragraphs (6), (7), and (8), any producer shall have the right to demand and receive from the Egg Board a one-time refund of assessments collected from such producer during the period referred to in paragraph (3) if—

"(A) such producer is responsible for paying such assessments;

"(B) such producer does not support the program established under this Act; and

"(C) the amendment issued pursuant to paragraph (1) is not approved pursuant to a referendum under section 9 or 10(b).

"(6) Such demand shall be made in accordance with regulations, on a form, and within a time period prescribed by the Egg Board.

"(7) Such refund shall be made on submission of proof satisfactory to the Egg Board that such producer paid the assessment for which refund is demanded.

"(8) If the amount in the escrow account required to be established by paragraph (3) is not sufficient to refund the total amount of assessments demanded by all eligible producers under this subsection and the amendment issued pursuant to paragraph (1) is not approved pursuant to a referendum under section 9 or 10(b), the Egg Board shall prorate the amount of such refunds among all eligible producers who demand such refund.".

The SPEAKER pro tempore. Is a second demanded?

Mr. LEWIS of Florida. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes and the gentleman from Florida [Mr. LEWIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5318, the Egg Research and Consumer Information Act Amendments of 1988.

H.R. 5318 would provide the domestic egg industry with the ability to expand upon a self-help promotion program that was authorized more than a decade ago. The American Egg Board, created in 1975, has coordinated research, consumer information, and education to enhance the egg industry's position in the marketplace since that time. The board's activities are supported by an assessment that is paid by all egg producers and is tied to the quantity of eggs they produce.

The Egg Research and Consumer Information Act Amendments of 1988 would reaffirm the Secretary of Agriculture's authority to limit the total costs that may be incurred by the Egg Board in administering the promotion program. In addition, the bill as amended by the Committee on Agriculture would direct the Secretary to eliminate individual producer refunds of assessments subject to approval by a referendum of individual producers. The Secretary of Agriculture would be required to place into an escrow account 10 percent of the assessments received from egg producers. Then, 18 months from the date of the issuance of the amended order, the Secretary is to conduct a referendum of egg producers to determine the level of support for eliminating producer refunds. If two thirds of the producers voting in the referendum oppose the elimination of producer refunds, then the Secretary is to use the escrow account to pay refunds to eligible egg producers who request a refund. If the referendum is approved, the amount in the escrow account will revert to the Egg Board to be used in accordance with the purposes set forth in the Egg Research and Consumer Information Act.

Mr. Speaker, this bill borrows from the success of similar orders that exist for the beef, dairy, and pork industries. The committee believes that it is essential to authorize and provide for the establishment of an orderly procedure for developing and financing such research and consumer information programs, and to do so through such a self-help mechanism.

Mr. Speaker, more than two-thirds of all egg producers support eliminating refunds of producer assessments. They recognize the importance of providing sufficient funding for the Egg Research and Consumer Information Act as H.R. 5318 would do.

I urge my colleagues to support this important legislation.

Mr. Speaker, I yield such time as he may consume to my distinguished colleague the gentleman from Texas [Mr. STENHOLM], chairman of the subcommittee.

Mr. STENHOLM. Mr. Speaker, I rise in strong support of H.R. 5318, the Egg Research and Consumer Information Act Amendments of 1988.

This bill represents an effort to borrow from the success of the dairy, beef, and pork research and promotion programs and provide an opportunity for the U.S. egg industry to build a self-help program that will help strengthen the egg industry's position in the marketplace.

More specificially, this legislation provides an effective and coordinated method for assuring cooperative and collective action in providing for a financing program which can help meet the challenges that egg producers face today and in the future. The hallmark of such a program being all commercial egg producers contribute their fair share.

Thankfully, American consumers are becoming more aware of the nutritional value of the foods they eat. Eggs are natural candidates to meet emerging diet demands because of their high nutrient content and relatively low calorie value. In fact, egg proteins have traditionally been a standard by which other proteins are evaluated.

However, in spite of these attributes, there are still nagging issues—some real, some exaggerated, some imagined—facing the egg industry. Consequently, demand for eggs and egg products has plummeted.

According to the U.S. Department of Agriculture, the estimated number of egg producers in the United States for 1988 is 1,967. This number contrasts sharply with the 6,196 egg producers there were 9 years ago. Yet, in spite of this dramataic decrease, production of eggs has remained virtually constant—69.15 billion in 1988 versus 69.21 billion in 1979.

The Egg Research and Consumer Information Act (Public Law 93-428), although enacted in 1974, contains many of the tools needed to address the issues facing the egg industry today. The act established the Egg Board to carry out "an effective and coordinated program of research, consumer and producer education, advertising and promotion designed to strengthen the egg industry's position in the marketplace, and to maintain and expand domestic and foreign markets and uses for eggs, egg products, spent fowl and products of spent fowl of the United States." However, sufficient funding is needed to enable the tools provided by the act to be used.

The egg industry realizes the need to provide sufficient funding to research and address the problems facing them today. A poll was conducted by the Egg Board of all commercial egg producers and the ballots were counted by the U.S. Department of Agriculture. Sixty-nine percent of the egg industry, representing 79 percent of the total U.S. production, voted in favor of eliminating refunds of producer assessments.

It is anticipated that the Secretary may provide for notice of and allow for comment on the elimination of the producer refund provision. However, H.R. 5318 will require the Secretary to amend the current Egg Research and Consumer Information Act order to eliminate producer refunds, subject to a later referendum.

Furthermore, H.R. 5318 will delay the conducting of a referendum on the amendment to the order eliminating producer refunds for a period of 18 months. During this time, the Secretary will be required to place into an escrow account 10 percent of the assessments received from egg producers. If the amendment to the order is not approved in the referendum, the escrow account will be used to pay refunds to eligible egg producers who request a refund. If the escrow account does not contain sufficient amounts to refund all eligible producers demanding a refund, then the Egg Board will prorate the amount of refunds received by eligible producers demanding a refund. If the amendment to the order is approved, the amount in the escrow the purposes set forth in the Egg Research and Consumer Information Act.

H.R. 5318 also would amend the Egg Research and Consumer Information Act to reaffirm the Secretary's authority to limit, to reasonable amounts, the total costs that may be incurred by the Egg Board in collecting producer assessments and for administrative costs.

In summary, I urge my colleagues to support this important legislation which will effectively serve both the egg industry and American consumers.

□ 2030

Mr. LEWIS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before beginning on behalf of Mr. MADIGAN, Mr. JEFFORDS, and the rest of the members of the Agriculture Committee on this side, I would like to extend our appreciation to Chairman DE LA GARZA and CHARLIE STENHOLM for their efforts and expeditious manner in which they have brought this important legislation before the House.

This bill, H.R. 5318, is a modest effort to allow the egg industry to build a self-help program that will strengthen their position in the marketplace. In the midst of a severe economic crises, the egg industry has seen demand for their product plummets due to a variety of factors, including changing lifestyles and eating habits, cholesterol concerns, and most recently, salmonella outbreaks.

Borrowing from the success of similar programs for beef, dairy, and pork, the egg industry is in strong support of an industry funded program of egg promotion, research, and consumer and producer education. The intent is to provide an effective and coordinated method for a financing program which will help meet the challenges facing egg producers today and in the future. The hallmark of the program is its fairness. All commercial egg producers contribute their fair share.

Mr. Speaker, this legislation will provide an opportunity to build a program that brings out the facts and promotes eggs in a positive way. I urge may colleagues to support this important legislation which will effectively serve both the egg industry and the American consumer.

Mr. JEFFORDS. Mr. Speaker, I rise in support of H.R. 5318, the Egg Research and Consumer Information Amendments Act of 1988. I want to commend the subcommittee chairman, CHARLIE STENHOLM, for introducing this bill and steering it through the Agriculture Committee. As Mr. STENHOLM mentioned, this bill passed the committee unanimously and enjoys strong support within the egg industry.

H.R. 5318 would strengthen the egg promotion program by eliminating the provision in the current order that allows producers to receive a refund of the promotion assessment. Eighteen months after enactment, it provides for a producer referendum on whether or not to continue the promotion program. This will give producers an opportunity to evaluate the success of the promotion effort before deciding to make it permanent.

This legislation allows the egg industry to borrow from the success of similar promotion programs for the dairy, beef, and pork industries. The egg industry has been experiencing severe economic problems because—for a number of reasons—demand for eggs has dropped sharply. This measure will strengthen the self-help efforts of egg producers.

I urge all Members to support this legislation.

Mr. LEWIS of Florida. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 5318, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

MISSISSIPPI REVERSIONARY INTEREST RELEASE BILL

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4724) to direct the Secretary of Agriculture to release a reversionary interest of the United States in certain lands located in Oktibbeha County, MS, as amended.

The Clerk read as follows:

H.R. 4724

By it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELEASE OF REVERSIONARY INTEREST.

(a) RELEASE.—The Secretary of Agriculture (subject to the provisions of subsection (c)) shall take such actions as are necessary to release the restriction on the land described in subsection (b) that—

(1) requires that such land be used for public purposes; and

(2) is contained in a deed—

(A) granting such land from the United States to Mississippi State College (University),

(B) dated July 20, 1955, and

(C) recorded at page 293 of book 274 of the record of deeds at Oktibbeha County, Mississippi

(b) LEGAL DESCRIPTION.—The lands that are subject to this Act are—

(1) the East half (E½) of the Southeast Quarter (SE¼) of Section 9, Township 17 North, Range 13 East in Oktibbeha County, Mississippi, containing 80 acres more or less; and

(2) a strip of approximately 42.37 acres in section 10, T 17 N, R 13 E, Oktibbeha County, Mississippi, being located on part of the W½ of the W½ of the NE¼ and part of the E½ of the E½ of the NW¼ of said section, township, and range.

(c) AGREEMENT.—The Secretary of Agriculture, prior to releasing any of the restrictions contained in the deed described in subsection (a), shall enter into an agreement with Mississippi State College (University) which provides that the release of the restrictions contained in such deed shall be conditioned on the placing of identical restrictions on acceptable property of equal value acquired by the College (University) in exchange for the property described in subsection (b).

SEC. 2. SALE OF MINERAL RIGHTS.

(a) IN GENERAL.—Subject to any valid existing rights of third parties, the Secretary of the Interior shall convey to Mississippi State College (University) all of the undivided mineral interests of the United States in the lands described in section 1(b) as soon as practicable after the date of the compliance by Mississippi State College (University) with the provisions of subsection (b)(2).

(b) TERMS OF CONVEYANCE.—(1) Within 90 days after the date of the enactment of this Act, the Secretary of the Interior shall determine—

(A) the mineral character of the lands described in section 1(b); and

(B) the fair market value of the mineral interests referred to in subsection (a).

(2) Mississippi State College (University) shall pay to the United States—

(A) any administrative costs incurred by the United States in conveying such mineral interests to Mississippi State College (University), including costs of making the determinations required by paragraph (1); and

(B)(i) the fair market value of such mineral interests, or

(ii) $1, in the case of mineral interests in any land determined by the Secretary of the Interior to have no value and to be under no active mineral development or leasing.

The SPEAKER pro tempore. Is a second demanded?

Mr. MORRISON of Washington. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes and the gentleman from Washington [Mr. MORRISON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4724, which would direct the Secretary of Agriculture to release a reversionary interest of the United States in two parcels of land in the State of Mississippi, with certain conditions.

H.R. 4724 was introduced by our colleague from Mississippi, [Mr. MONTGOMERY] on June 1, 1988, and considered by the Subcommittee on Forests, Family Farms, and Energy of the Committee on Agriculture on September 22. The subcommittee and full committee subsequently approved the bill with two amendments suggested by the Department of Agriculture.

The lands affected by this bill consist of approximately 120 acres located along the exterior boundary of a Mississippi State University experimental forest. The land was deeded along with other lands by the United States to Mississippi State College—now Mississippi State University—in 1955 under the Bankhead-Jones Farm Tenant Act. In transferring the land, the United States retained a reversionary interest that provides that ownership will revert back to the United States if the land ceases to be used for public purposes.

Mississippi State University now seeks to exchange these tracts of land for a privately owned 120-acre parcel within the same forest, but is prevented from doing so by the public-use restriction. H.R. 4724 would allow the exchange to proceed by requiring the release of the reversionary interest. To protect the interests of the United States, this release is conditioned upon the placing of identical public-use restrictions on property of equal value acquired by the university in exchange for the subject lands.

The 1955 deed also reserved to the United States an undivided three-quarters interest in all minerals and mining rights associated with the property transferred to the university. H.R. 4724, as amended, provides for the sale of those mineral rights to the university for fair market value, or $1 if the mineral interests have no value. The university is required to pay any administrative costs incurred by the United States in determining the value of, and conveying, the mineral interests.

Mr. Speaker, I recommend that the House pass H.R. 4724, as amended.

Mr. MORRISON of Washington. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4724, legislation releasing a reversionary interest of the United States in land located in Oktibbeha County, MS.

The land, which totals approximately 122 acres, was acquired by the United States in the 1930's and was deeded to Mississippi State College, now university, in 1955 under the Bankhead-Jones Farm Tenant Act of 1937. These lands are now part of the John W. Starr Memorial Forest. The Bankhead-Jones law requires that these lands may only be sold, exchanged or granted to public authorities if the property is used for public purposes. When and if the land ceases to be used for public purposes, title reverts to the United States.

The university wishes to exchange this land for another tract. In order to accomplish this, the reversionary restriction must be removed.

H.R. 4724 requires the Secretary of Agriculture to enter an agreement with the State of Mississippi that ensures that the university places public use restriction on land it acquires in the exchange. It further directs the Secretary of the Interior to convey to Mississippi State University all of the undivided mineral rights of the United States in the land and requires that university pay the United States the fair market value of the mineral interests or $1 in the event the mineral interests have no value—a standard procedure.

On September 22, the bill was amended in the Subcommittee on Forests, Family Farms and Energy, as suggested by the Forest Service, to ensure that the reversionary interest is transferred to a suitable tract of equal value. Hence, the bill has the support of the administration. The bill passed the full Committee on Agriculture on September 29 by voice vote.

The Congressional Budget Office expects no significant additional costs to the Federal Government or to State and local governments resulting from the passage of this legislation.

Mr. Speaker, I urge my colleagues to suspend the rules and pass H.R. 4724, as amended.

Mr. MONTGOMERY. Mr. Speaker, I rise in support of H.R. 4724, the bill to direct the Secretary of Agriculture to release a reversionary interest of the United States in certain land located in Oktibbeha County, MS.

I introduced this legislation and want to thank Chairman DE LA GARZA, ranking member ED MADIGAN and the full Agriculture Committee for acting on the measure and bringing it to the floor for consideration today. I appreciate the work HAROLD VOLKMER did in moving the bill out of his subcommittee, and I also want to thank the ranking member of the subcommittee, SID MORRISON.

The purpose of the bill is very simple. We are exchanging 120 acres of publicly owned land for an equal acreage of privately owned land, to enable Mississippi State University to better administer its forest and wildlife research programs.

The United States conveyed title to 5,741 acres of land in northeast Mississippi to Mississippi State University in 1955. One provision in that conveyance stipulated that ownership of the land reverted to the United States if it ceased to be used for public purposes.

The problem is that there are 120 acres of privately owned land right in the middle of this public land. Having a tract of private land in the middle of MSU's research area has placed restrictions on how some of those research programs could be administered. This bill will solve that problem.

There is no controversy. The landowner and the university have worked together on this. I think approval of the bill will be in the best interest of everyone involved. I urge passage of H.R. 4724, and I again thank the Agriculture Committee for bringing it to the floor.

Mr. MORRISON of Washington. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 4724, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

CONCURRING IN SENATE AMENDMENT TO H.R. 4345, GRAIN STANDARDS ACT AMENDMENTS OF 1988, WITH AMENDMENT

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 564) providing for concurring in the Senate amendment to H.R. 4345, to amend the United States Grain Standards Act to extend through September 30, 1993, the authority contained in section 155 of the Omnibus Reconciliation Act of 1981 and Public Law 98-469 to charge and collect inspection and weighing fees, and for other purposes, with an amendment.

The Clerk read as follows:

H. Res. 564

Resolved, That, upon the adoption of this resolution, the House shall be considered to have taken from the Speaker's table the bill H.R. 4345, to amend the United States Grain Standards Act to extend through September 30, 1993, the authority contained in section 155 of the Omnibus Reconciliation Act of 1981 and Public Law 98-469 to charge and collect inspection and weighing fees, and for other purposes, with the Senate amendment thereto, and concurred in the Sente amendment to the text with an amendment as follows:

In lieu of the matter inserted by the Senate amendment to the text of the bill, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Grain Standards Act Amendments of 1988".

SEC. 2. GRAIN STANDARDS ACT.

Effective for the period October 1, 1988, through September 30, 1993, inclusive, the United States Grain Standards Act is amended—

(1) by amending subsection (j) of section (7 U.S.C. 79(j)) to read as follows:

"(j)(1) The Administrator shall, under such regulations as the Administrator may prescribe, charge and collect reasonable inspection fees to cover the estimated cost to the Service incident to the performance of official inspection except when the official inspection is performed by a designated official agency or by a State under a delegation of authority. The fees authorized by this subsection shall, as nearly as practicable and after taking into consideration any proceeds from the sale of samples, cover the costs of the Service incident to its performance of official inspection services in the United States and on United States grain in Canadian ports, including administrative and supervisory costs related to such official inspection of grain. Such fees, and the proceeds from the sale of samples obtained for purposes of official inspection which become the property of the United States, shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Service incident to providing services under this Act.

"(2) Each designated official agency and each State agency to which authority has been delegated under subsection (e) of this section shall pay to the Administrator fees in such amount as the Administrator determines fair and reasonable and as will cover the estimated costs incurred by the Service relating to supervision of official agency personnel and supervision by Service personnel of its field office personnel, except costs incurred under paragraph (3) of subsection (g) of this section and sections 9, 10, and 14 of this Act. The fees shall be payable after the services are performed at such times as specified by the Administrator and shall be deposited in the fund created in paragraph (1) of this subsection. Failure to pay the fee within thirty days after it is due shall result in automatic termination of the delegation or designation, which shall be reinstated upon payment, within such period as specified by the Administrator, of the fee currently due plus interest and any further expenses incurred by the Service because of such termination. The interest rate on overdue fees shall be as prescribed by the Secretary, but not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturity, plus an additional charge of not to exceed 1 per centum per annum as determined by the Secretary and adjusted to the nearest one-eighth of 1 per centum.

"(3) Any sums collected or received by the Administrator under this Act and deposited to the fund created in paragraph (1) of this subsection and any late payment penalties collected by the Administrator and credited to such fund may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. The interest earned on such sums and any late payment penalties collected by the Administrator shall be credited to the fund and shall be available without fiscal year limitation for the expenses of the Service incident to providing services under this Act.";

(2) by amending subsection (1) of section 7A (7 U.S.C. 79(a)(1)) to read as follows:

"(l)(1) The Administrator shall, under such regulations as the Administrator may prescribe, charge and collect reasonable fees to cover the estimated costs to the Service incident to the performance of the functions provided for under this section except as otherwise provided in paragraph (2) of this subsection. The fees authorized by this paragraph shall, as nearly as practicable, cover the costs of the Service incident to performance of its functions related to weighing, including administrative and supervisory costs directly related thereto. Such fees shall be deposited into the fund created in section 7(j) of this Act.

"(2) Each agency to which authority has been delegated under this section and each agency or other person which has been designated to perform functions related to weighing under this section shall pay to the Administrator fees in such amount as the Administrator determines fair and reasonable and as will cover the costs incurred by the Service relating to supervision of the agency personnel and supervision by Service personnel of its field office personnel incurred as a result of the functions performed by such agencies, except costs incurred under sections 7(g)(3), 9, 10, and 14 of this Act. The fees shall be payable after the services are performed at such times as specified by the Administrator and shall be deposited in the fund created in section 7(j) of this Act. Failure to pay the fee within thirty days after it is due shall result in automatic termination of the delegation or designation, which shall be reinstated upon payment, within such period as specified by the Administrator, of the fee currently due plus interest and any further expenses incurred by the Service because of such termination. The interest rate on overdue fees shall be as prescribed by the Secretary, but not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturity, plus an additional charge of not to exceed 1 per centum per annum as determined by the Secretary, and adjusted to the nearest one-eighth of 1 per centum.";

(3) by adding before section 8 (7 U.S.C. 84) the following new section:

"LIMITATION ON ADMINISTRATIVE AND SUPERVISORY COSTS

"Sec. 7D. The total administrative and supervisory costs which may be incurred under this Act for inspection and weighing (excluding standardization, compliance, and foreign monitoring activities) for each of the fiscal years 1989 through 1993 shall not exceed 40 per centum of the total costs for such activities carried out by the Service for such years.";

(4) by amending section 19 (7 U.S.C. 87h) to read as follows:

"APPROPRIATIONS

"Sec. 19. There are hereby authorized to be appropriated such sums as are necessary for standardization and compliance activities, monitoring in foreign ports grain officially inspected and weighed under this Act, and any other expenses necessary to carry out the provisions of this Act for each of the fiscal years during the period beginning October 1, 1988, and ending September 30, 1993, to the extent that financing is not obtained from fees and sales of samples as provided for in sections 7, 7A, and 17A of this Act."; and

(5) by adding at the end thereof the following new section:

"ADVISORY COMMITTEE

"Sec. 21. (a)(1) Not later than 90 days after the date of enactment of this section, the Secretary shall establish an advisory committee to provide advice to the Administrator with respect to implementation of this Act consistent with the declarations of policy in section 2 of this Act. The advisory committee shall consist of 15 members, appointed by the Secretary, who represent the interests of all segments of the grain producing, processing, storing, merchandising, consuming, and exporting industries, including grain inspection and weighing agencies and scientists with expertise in research related to the policies established in section 2 of this Act. Members of the advisory committee shall be appointed to 3-year terms, except that of the initial 15 members of the advisory committee first appointed following the enactment of this section, five shall be appointed for terms of 1 year and five shall be appointed for terms of 2 years. No member of the advisory committee may serve successive terms.

"(2) To ensure a smooth transition, the advisory committee established under section 20 (as in effect prior to October 1, 1988) shall continue in existence until all members of the advisory committee established under this section are appointed; and the Secretary may appoint members of the advisory committee established under section 20 to serve on the advisory committee established under this section, without regard to the time of service of such members on the advisory committee established under section 20.

"(b) The advisory committee shall be governed by the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2).

"(c) The Administrator shall provide the advisory committee with necessary clerical assistance and staff personnel.

"(d) Members of the advisory committee shall serve without compensation, if not otherwise officers or employees of the United States, except that members shall, while away from their homes or regular places of business in the performance of services under this Act, be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of title 5, United States Code.”.

SEC. 3. PILOT PROJECT ON CLEAN GRAIN PREMIUMS.

STUDY OF PREMIUMS AND DISCOUNTS.—

(1) AUTHORITY.—The Secretary of Agriculture (hereinafter in this section referred to as the “Secretary”) shall conduct a study of the schedule of premiums and discounts applied to loans made in accordance with the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) in order to determine how premiums and discounts can be used to encourage the production, marketing, and exporting of high quality, clean grain.

(2) REPORT BY SECRETARY.—Not later than May 1, 1989, the Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on the results of the study conducted under paragraph (1).

(3) RECOMMENDATIONS.—The Secretary shall include recommendations with respect to a schedule of premiums and discounts in the report prepared under paragraph (2).

(b) PILOT PROJECT.—

(1) ESTABLISHMENT BY SECRETARY.—The Secretary shall establish a pilot project for the 1989 crops of wheat, soybeans, and feed grains to test the effectiveness of the recommendations contained in the report prepared under subsection (a) in encouraging the production, marketing, and exporting of high quality, clean grain.

(2) SIX MULTI-COUNTY AREAS.—The pilot project established under paragraph (1) shall be conducted in no less than six multi-county areas, of which—

(A) two shall be areas that are predominantly wheat-producing areas;

(B) two shall be areas that are predominantly corn-producing areas; and

(C) two shall be areas that are predominantly soybean-producing areas.

(a) CONSULTATION.—The Secretary, prior to the implementation of the pilot project, shall consult with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(c) REVIEW OF PILOT PROJECT.—Not later than 180 days after the end of the 1989 marketing year for feed grains, the Secretary shall conduct a review of the pilot project established under subsection (b) and prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the result of the project. The report shall include recommendations for further encouraging the production, marketing, and exporting of high quality, clean grain.

SEC. 4. COTTON STANDARDS.

Subsection (a) of section 5 of the United States Cotton Standards Act (7 U.S.C. 55(a) is amended—

(1) by striking out the second sentence; and

(2) by adding at the end thereof the following new sentences: “Any fees or charges, late payment penalties, or proceeds from the sales of samples collected under this subsection, and any interest earned through the investment of such funds shall be credited to the current appropriation account that incurs the costs of the services provided under this Act, and shall remain available without fiscal year limitation to pay the expenses of the Secretary incident to providing services and standards under this Act and the United States Cotton Futures Act (7 U.S.C. 15b). Such funds may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts, or, at the discretion of the Secretary of the Treasury in United States Government debt instruments.”.

SEC. 5. STUDY OF EFFECTS OF INCLUDING DOCKAGE WITH FOREIGN MATERIAL AS A GRADING FACTOR FOR WHEAT.

Not later than June 1, 1989, the Secretary of Agriculture, through the Federal Grain Inspection Service, shall—

(1) conduct a study of the effects of including dockage with foreign material as a grading factor for wheat; and

(2) submit a report on the results of such study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

The SPEAKER pro tempore. Is a second demanded?

Mr. ROBERTS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes and the gentleman from Kansas [Mr. ROBERTS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4345 will extend, for 5 years, the authority for the Federal Grain Inspection Service to impose certain fees.

H.R. 4345 will extend until September 30, 1993: First, the authority under current law for the Federal Grain Inspection Service to charge user fees equal to the administrative and supervisory costs associated with official inspection and weighing services conducted under the U.S. Grain Standards Act; second, the authority for the FGIS Administrator to invest those fees in insured or collateralized interest-bearing accounts or in debt instruments issued by the U.S. Government; third, a limit on the amount of spending by the Administrator for administrative and supervisory activities related to inspection and weighing—excluding costs of standardization, compliance, and foreign monitoring activities—such spending cannot exceed an amount equal to 40 percent of the total costs for such activities; and fourth, the authorization of appropriations for expenses of FGIS not met by user fees and sales of samples.

Also, the legislation will establish a new Grain Inspection Advisory Committee and authorize a pilot project relating to grain quality premiums and discounts applicable to grain put under CCC loan.

The House passed H.R. 4345 on May 23, 1988. Then, last week, the Senate passed the bill with several revisions. The Senate amendment to H.R. 4345 added a study of grain quality premiums and discounts to the House pilot project provision, while at the same time making several technical revisions of the House pilot project provisions.

The Senate added new provisions: First, relating to haying and grazing on conserving use acreage; second, requiring a study of the effect of including dockage with foreign material as a grading factor for wheat; and third, to authorize the Secretary of Agriculture to invest fees collected under the U.S. Cotton Standards Act in interest-bearing accounts.

Finally, the Senate amendment made several technical changes in the language of the bill relating to the Grain Inspection Advisory Committee.

Today, I propose a House amendment to the Senate amendment that I believe is a fair compromise between the House and Senate versions of this important legislation. This compromise, which has the support of those Members working on this legislation, is designed to avert the need for a conference so that the current authority for fees, which expired on September 30, can be renewed as quickly as possible.

I would note that there are no House-Senate differences on key provisions of the bill, those relating to the fees. The bills are identical.

Under the compromise, the bill will include the Senate technical revisions of the Advisory Committee and the pilot program provisions.

Also, the compromise will include the Senate provisions on the premium and discount study—except for the provisions relating to the National Academy of Sciences—the dockage study, and the investment of cotton classing fees. As to the last, I note that the House has already approved a cotton fee investment provision in a separate bill, H.R. 4615, that it is not anticipated the Senate will act on.

The compromise does not include the Senate-proposed haying and grazing provisions. These provisions are not included simply because we do not have the time needed to resolve the serious issues that led to the Senate action on this issue. It is my hope that, at a later date, the matter will be pursued so that any problems with the haying and grazing program can be resolved.

Mr. Speaker, the compromise represented by the House amendment before us gives fair treatment to both the House and Senate positions on the legislation. I urge speedy action on the House amendment, to minimize any disruption of the operations of the Federal Grain Inspection Service.

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are considering under suspension of the rules a bill, H.R. 4345, previously passed by the House last May. Since that time, the other body passed H.R. 4345 with amendments. The bill under consideration today is further amended and should be acceptable to all interested parties.

Mr. Speaker, I would like to commend the chairman of the House Committee on Agriculture, Mr. DE LA GARZA, for his dedicated leadership on matters of grain quality. H.R. 4345 amends the U.S. Grain Standards Act to provide for a 5-year reauthorization of appropriations and fee collection authorities for the Federal Grain Inspection Service [FGIS]. FGIS constitutes one of the most important export oriented agencies available to our grain producers. The agency assures foreign purchasers that the grains they purchase meet the standards and quality specified for in their purchase contracts. I like to think of FGIS as a consumer protection agency for our foreign customers, and I think they have performed an admirable job.

We need to get this reauthorization through on a timely basis, Mr. Speaker. FGIS depends on the authorities provided for in this bill to assess inspection fees. Without this legislation their operating authority reverts to the pre 1981 version of the U.S. Grain Standards Act. That statute does not allow them to levy fees that recover supervisory and administrative costs related to their inspection operations.

In absence of passing a reauthorization bill the operating shortfall for FGIS would equate to a loss of $35,000 per day. Furthermore, the agency would lose their authority to invest in interest bearing Government issues, as well as the authority to continue the operation of an advisory panel composed of grain producers, processors, and exporters.

I urge the support of my colleagues for this noncontroversial bill.

Mr. BEREUTER. Mr. Speaker, I rise in strong support for final passage of H.R. 4345, the U.S. Grain Standards Act of 1988. It is important legislation that sends the right signal to our grain producers, consumers, and our export sector.

When the House Agriculture Committee took action on the Federal Grain Inspection Service Reauthorization Act (H.R. 4345), it added a proposal that this Member introduced last year in H.R. 3342, the Grain Quality Incentive Act of 1987. The amendment allows for a 1-year pilot project that will offer incentives for the delivery, storage, and exportation of clean, quality grain.

In this legislation this Member had proposed a 3-year pilot program as a reasonable period of time to conduct a demonstration and to allow producers in designated areas to take advantage of these incentives. Nevertheless, this is an important step that Congress is recommending.

It would also establish a Grain Advisory Board appointed by the Secretary of Agriculture for the purpose of developing economic incentives that will improve the performance and sanitation quality of grain. The pilot project would include no less than six multicounty areas as my proposal originally called for, designated by the Secretary after consulations with the Grain Advisory Committee, and represent our three major export commodities—wheat, corn, and soybeans.

I would like to thank the chairman of the subcommittee, the distinguished gentleman from Kansas [Mr. GLICKMAN] who represents half my relatives and my neighbor from Kansas [Mr. SLATTERY] who worked closely with the Member in suggesting these and other amendments to the original bill, and to still another distinguished gentleman from Kansas [Mr. ROBERTS] who also advised and assisted this member with his very extensive knowledge on these and other matters related to grain quality.

These provisions of H.R. 4345, as amended consistent with my initiative, are a good first step in assisting grain quality efforts. Surely some resources should be devoted for those interested in producing and marketing high quality grain. This initiative, if properly implemented, will go a long way in reestablishing or strengthening the reputation of establishing the United States as a dependable supplier in quality, as well as in quantity, in the increasingly competitive world grain market. It will also establish a base on which to study the premium program and to initiate a nationwide incentive for producers as well as exporters interested in maintaining and expanding quality grain exports into the 1990's.

The members intends to continue working with the leadership of the House Agriculture Committee, as well as the commodity and farm groups in Nebraska and other parts of our Nation, to strengthen an American Clean Grain Program and to send a message that Congress of the United States in particular is serious about delivering high quality, clean grain to domestic and foreign customers who demand and pay for that quality.

I urge support for H.R. 4345.

Mr. GRANDY. Mr. Speaker, I rise today in support of the Grain Standards Act Amendment of 1988. The Federal Grain Inspection Service [FGIS] provides an invaluable service to our agricultural and trade sector.

However, as passed by the Senate, this necessary legislation included language which would have required the National Academy of Sciences [NAS] to assist in a study of grain quality.

As passed in the Senate, this study would have called on the Academy to determine how premiums and discounts can be used to encourage the production, marketing, and exporting of high quality, clean grain. However, there is no indication that the NAS has any expertise in the area of grain quality.

The subject of grain premiums is much too sensitive to the future of production agriculture to be studied by anything less than the most experienced and highly qualified organization. Since there are literally hundreds of agriculture study groups, I feel that America's farmers and agribusinessmen are better served with a study conducted by the best qualified agricultural group. This is why I strongly objected to Congress specifying one particular organization that FGIS would coordinate with to conduct the study.

I am extremely pleased that the bill that we are sending back to the Senate does not contain any reference to the National Academy of Sciences. This important change in the bill will allow the Director of the Federal Grain Inspection Service to work with proven agricultural academic groups to conduct a study without forcing FGIS to work with a study group lacking any proven ability in grain quality issues.

The following agricultural-related groups are examples of organizations that the Director of FGIS should consider to conduct the grain premium study:

The Grain Quality Workshop, which produced the highly regarded report, 'Commitment to Quality."

The Council for Agricultural Science and Technology [CAST], based in Ames, IA.

Any of the individual land-grant universities such as Iowa State University, the University of Illinois, or Kansas State University.

In addition, I would like to commend Chairman DE LA GARZA and Vice Chairman MADIGAN of the Committee on Agriculture, and also Mr. ROBERTS, the ranking member of the Department Operations, Research, and Foreign Agriculture Subcommittee for their efforts in moving this legislation forward and for working out the differences between the House and Senate versions. I urge my colleagues to support the Grain Standards Act Amendments of 1988.

Mr. ROBERTS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and agreed to the resolution, House Resolution 564.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the 3 bills previously considered, H.R. 5318, H.R. 4724, and H.R. 4345, with House Resolution 564.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ADMIRALTY ISLAND NATIONAL MONUMENT LAND MANAGEMENT ACT OF 1987

Mr. VENTO. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 2596) to improve Federal management of lands on Admiralty Island, AK.

The clerk read as follows:

Senate amendment: Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE AND PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "Admiralty Island National Monument Land Management Act of 1987".

(b) PURPOSE.—The purpose of this Act is to improve Federal management of lands on Admiralty Island, Alaska, as provided herein.

SEC. 2. FINDINGS.

The Congress hereby finds that—

(a) Admiralty Island National Monument, Alaska, is an area of unparalleled natural beauty containing multiple values including, but not limited to, fish, wildlife, forestry, recreational, subsistence, educational, wilderness, historical, cultural, and scenic values of enduring benefit to the Nation and the Native peoples residing therein; and

(b) Land management and Federal administration of Admiralty Island National Monument may be enhanced by Federal land acquisitions, through land exchanges or otherwise, and by cooperative agreements between the Federal Government and the indigenous residents of the Island, the people of the City of Angoon and the Native Village Corporation, Kootznoowoo, Incorporated.

SEC. 3. LAND ACQUISITION AND EXCHANGE.

(a) Section 506(a) of the Alaska National Interest Lands Conservation Act (Public Law 96-487, as amended) is hereby amended by adding at the end thereof the following new paragraph:

"(9)(A) The Secretary is authorized and directed to: Enter into such cooperative agreements and agreements for land acquisitions, through exchange or otherwise, with Kootznoowoo as are deemed necessary by the Secretary to carry out the purposes specified in sections 101 and 503 of this Act and to improve the management of Federal lands on Admiralty Island.

"(B) The Secretary shall make every effort to complete agreements within eighteen months of the date of enactment of this paragraph.

"(C) The Secretary shall report to Congress before the end of such eighteen-month period on the status and results of negotiations with Kootznoowoo. The report shall include, but not be limited to, any Kootznoowoo properties proposed to be acquired by the United States, any Federal lands or other compensation to be offered in exchange, and the text of any proposed or executed agreements.

"(D) Any lands on Admiralty Island acquired by the United States pursuant to this paragraph shall be added to and incorporated within the Admiralty Island National Monument.

"(E) The inability of the Secretary and Kootznoowoo to reach agreement shall not preclude subsequent negotiations at any time for the purposes of land exchanges or other matters.

"(F) Enactment of this paragraph shall not create any right or cause of action by Kootznoowoo, Incorporated, or any other party against the United States.".

SEC. 4. LAND SELECTION CONSOLIDATION.

(a) Section 506(a)(5) of the Alaska National Interest Lands Conservation Act (Public Law 96-487, as amended) is hereby amended by adding at the end thereof the following new subparagraphs:

"(C) In order to consolidate Federal land ownership and improve management of land and timber resources in the area, lands within the sale area and lands between such sale area and lands lying to the east of such sale area which have been or may be conveyed to Kootznoowoo pursuant to this paragraph (5), and not otherwise committed by contract, shall be specifically considered by the Secretary for exchange with Kootznoowoo, Incorporated. Nothing in this section shall affect valid land selections which the State of Alaska has filed with the Federal Government under Public Law 85-508.

"(D) The Secretary of Agriculture may require as a condition precedent to any exchange of lands with Kootznoowoo, Incorporated, pursuant to this Act that any party (other than the United States) owning the subsurface estate in lands proposed to be transferred to the United States by Kootznoowoo, Incorporated, in furtherance of such exchange agree to transfer such subsurface estate to the United States in exchange for the subsurface estate in the lands proposed to be transferred to Kootznoowoo, Incorporated, in furtherance of such exchange.

"(E) Any transfers pursuant to subparagraphs (C) and (D) of this paragraph shall be subject to valid existing rights.

"Nothing in subparagraphs (C) and (D) shall create a right or cause of action by Kootznoowoo, Incorporated, or any other party against the United States.".

SEC. 6. ADMINISTRATIVE PROVISIONS.

(a) Section 703(a)(1) of the Act is amended by deleting the words "Admiralty Island National Monument Wilderness" and inserting in lieu thereof "Kootznoowoo Wilderness".

(b) Lands transferred, exchanged, or granted pursuant to provisions of section 506(a) of the Act shall be deemed to have been transferred, exchanged, or granted as of January 9, 1981: Provided, That this effective date not be construed in any way so as to obligate any payments by the United States, or as to require the escrow of any funds which may have been generated on such lands prior to December 2, 1980.

(c)(1) All rights, title, and interests to that portion of the approximately 17.34 acres comprising the Angoon Administrative Site which, pursuant to paragraph (c)(2) of this section, the Secretary dictates for uses related to the administration of the Tongass National Forest, are hereby confirmed in the United States, said parcel being a valid existing Federal administrative site as referenced in section 506(a)(3)(A) of the Alaska National Interest Lands Conservation Act (Public Law 96-487, as amended). Said administrative site is located on Admiralty Island in township 50 south, range 68 east, section 31, Copper River Meridian and township 50 south, range 67 east, section 36, Copper River Meridian.

(2) Within one year of enactment of this paragraph, the Secretary of Agriculture shall adjust, and resurvey as necessary, the boundaries of the Angoon Administrative Site to include only that portion of the site described as follows:

(A) those lands which lie within the following described boundaries, comprising 4.68 acres more or less:

Beginning at corner 1, also corner 9 of United States survey number 3756;

Thence north 45 degrees 30 minutes west 540.79 feet to corner 2,

Thence north 45 degrees 00 minutes east 376.60 feet to corner 3,

Thence south 45 degrees 30 minutes east 540.79 feet to corner 4,

Thence south 45 degrees 00 minutes west 376.60 feet to corner 1, also corner 9 of United States survey number 3756, the point of beginning.

(B) those lands which lie within that area adjoining the northeastern boundary of the 4.68 acre tract and the mean high tide line of Kootznoowoo Inlet, subject to a perpetual public easement for the existing Angoon-Killisnoo Road; and

(C) an easement for road and utility access to the 4.68 acre tract from the western or southern boundary of the 17.34 acre site. To the maximum extent feasible, the Secretary shall locate said easement to connect to and follow the existing right of way for Relay Road, which lies between lots 1 and 6 of the Samuel G. Johnson subdivision. Said easement shall be at a precise location and of dimensions which the Secretary determines is reasonably necessary for present and projected Federal uses of the site related to administration of Tongass National Forest. Said easement shall be subject to any valid existing rights except those of Kootznoowoo, Incorporated: Provided, That the easement shall not be located on any lands conveyed by Kootznoowoo, Incorporated to a third party prior to June 1, 1988, without the express consent of such party: Provided further, That the Secretary shall exclude from the lands so retained those lands which were occupied on June 1, 1988, by structures and improvements that were not constructed by or for the United States including easements related thereto, or which were constructed by or for the United States but which the Secretary determines are not reasonably necessary for present or projected Federal uses related to the administration of the Tongass National Forest: And provided further, That the Secretary shall not exclude from the 4.68 acre tract any lands occupied by existing power utility lines or poles, and the lands so occupied shall be subject to an easement to allow for their continued use, maintenance, and repair.

(3) Title to all lands within the 17.34 acre administrative site which are not included by the Secretary in the adjusted area provided by paragraph (c)(2) shall be conveyed by the Secretary of Agriculture by quitclaim deed to Kootznoowoo, Incorporated.

(4) The provisions of paragraphs (c)(2) and (c)(3) are subject to the condition precedent that Kootznoowoo, Incorporated executes an appropriate written agreement acceptable to the United States Attorney for the District of Alaska to dismiss, with prejudice, the pending litigation entitled Kootznoowoo, Inc. v. United States Department of Agriculture, Forest Service, Civil number A84-575, in the United States District Court for the District of Alaska, and agrees therein that Kootznoowoo, Incorporated and the United States shall each bear their own costs of said litigation, including attorney's fees.

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendment now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House passed H.R. 2596 over a year ago. It is a bill sponsored by Mr. YOUNG of Alaska and Mr. MILLER of California and deals with the Admiralty Island National Forest Monument, in southeast Alaska.

As passed by the House, the bill contained some of the noncontroversial elements that had earlier been included in legislation to improve the landownership and management situation on Admiralty Island in a more comprehensive way. That comprehensive bill passed in the House in the 99th Congress but unfortunately was not acted on by the Senate.

H.R. 2596 is a much more modest measure, limited in its scope to matters involving the relationship between the Forest Service and the village of Angoon and Kootznoowoo, Inc., the native corporation under the Alaska Native Claims Settlement Act whose shareholders are the people of Angoon. Angoon is the only village located on Admiralty Island.

The essence of the House-passed bill was a requirement that the Forest Service enter into serious negotiations with Kootznoowoo aimed at completing land acquisitions and cooperative agreements for the better management of the national forest monument. It also provided for a possible consolidation of land ownership elsewhere in the Tongass National Forest, in the event that an existing timber sale was voluntarily relinquished or canceled. It allowed Kootznoowoo to treat its lands as having been acquired on single date. And it renamed the wilderness area within the Admiralty Island National Forest Monument by adopting the Tlingit name for the island, Kootznoowoo, meaning "Fortress of the Bears."

Now the Senate has returned the bill to us in amended form. I must say that the Senate's version does not produce much enthusiasm as far as I am concerned. However, I believe that it is acceptable and worth enactment, and for this reason I am asking the House to concur in the Senate's amendment and thus clear the bill for the President.

Mr. Speaker, the overall theme of the Senate modifications is a softening of the directives to the Forest Service. Less is mandated; more is authorized and encouraged. Because of the constraint of the short remaining time in this Congress, I am asking the House to accept these changes. Nonetheless, I want to emphasize the intent which stands behind the bill.

Many of the Senate changes were included to secure the acceptance of H.R. 2596 by the administration. The Forest Service should recognize, however, that we expect that those issues which are referred to Kootznoowoo, the people of Nagoon, and the Forest Service for study, consultation, and negotiation will lead to actions through land acquisition, land exchanges, or cooperative management agreements. Much of the burden for this result falls on the Forest Service, and this is the reason H.R. 2596 requires a report to Congress by the Secretary. If action is not taken or is delayed unnecessarily, it will be necessary to take this matter up again in a future Congress.

Several aspects of the bill related to Alaska Native Claims Settlement Act [ANCSA] conveyances to Kootznoowoo. For a variety of reasons. Kootznoowoo has experienced difficulties with respect to its conveyance that are unique among native corporations. These problems, including delayed conveyances of selected lands, have made it difficult for the corporation to bring economic benefit to its native shareholders. Because this bill requires studies and negotiations, some may think it is a basis for further delaying the conveyance process. To the contrary, conveyances due to Kootznoowoo should be made expeditiously. We expect the Bureau of Land Management, the agency charged with making conveyances under ANCSA, to make every attempt to expedite the transfers to Kootznoowoo.

Mr. Speaker, Admiralty Island is both a conservation system unit, which preserves important values of national and international significance, and the traditional home for the people of Angoon. By facilitating cooperative planning and land acquisition between the Forest Service and Kootznoowoo, H.R. 2596 will establish a pattern of cooperative land management to serve both the national and local interests in Admiralty Island. In addition, the renaming of the wilderness area is an appropriate recognition of the Native American role in the island's history. I urge the House to concur in the Senate amendment.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the motion to suspend the rules and to concur in the Senate amendments to H.R. 2596, a bill to improve the Federal management of Admiralty Island, in southeast Alaska. This bill, introduced by me and my friend and colleague, Mr. MILLER, chairman of the Subcommittee on Water and Power Resources, passed the House about a year ago by an overwhelming margin. The bill has been referred back to the House with changes by the other body—changes which reduce some of the problems with the bill, and increase greatly its chances of becoming law this year. The intent of the bill before us at this time remains the same—to direct the U.S. Forest Service to negotiate with the good people of Kootznoowoo Native Corp. from Angoon on Admiralty Island about cooperative land use and land acquisitions agreements.

Admiralty Island is a beautiful island in southeast Alaska, home to the largest concentration of brown bears in America, and blessed with fish and wildlife and enormous timber and mineral resources. During the last Congress, the House passed legislation sponsored by me designed to strike an acceptable balance in the use of the island's diverse natural resources, but national environmental groups were unwilling to discuss any trades for lands important to them during the negotiations, and the bill died in the last days of the session without Senate consideration. The bill before us is a smaller part of that comprehensive effort at land management reform, and will result in improvements in land management for the United States and for Kootznoowoo.

I remain committed to an overall Admiralty Island solution which would include tradeoffs for all of the interest groups concerned with southeast Alaska, and meet my primary goal of creating stable land designations which will result in the economic progress so important to all Alaskans, while maintaining the quality of life we all seek. I congratulate my two Senators for their fine work on this legislation, and the Forest Service for their continuing interest in the management of the Tongass National Forest, our largest and most rich national forest.

Mr. MILLER of California. Mr. Speaker, I am pleased to be an original cosponsor of H.R. 2596 along with the gentleman from Alaska [Mr. YOUNG]. This bill is intended to improve management of the Admiralty Island National Monument, an integral part of the Tongass National Forest in southeast Alaska. H.R. 2596 also makes certain changes in existing law in recognition of the unique status of the Tlingit Indian residents of Angoon and their Native Village Corp., Kootznoowoo, Inc.

H.R. 2596 was passed by the Senate with some modifications. Because time is short in this Congress, there will be no conference to resolve our differences. However, Forest Service implementation of this legislation will be a matter of continued interest for myself and other members of the Committee on Interior and Insular Affairs.

A primary objective of H.R. 2529 is to foster a more cooperative working relationship between the Forest Service and Kootznoowoo. In the past, the Forest Service has been reluctant to give high-enough priority to addressing management issues related to Kootznoowoo's land holdings.

H.R. 2529 directs that, over the next 18 months, the Forest Service and Kootznoowoo seek cooperative agreements on land management actions and acquisitions. Among other goals, such agreements could help Kootznoowoo consolidate its property and the Forest Service to acquire lands to aid in protecting the national monument from possible development threats on private inholdings. Cooperative agreements could benefit both the community of Angoon and the national interest in wise management of Admiralty Island. We consider these matters to be of significant importance that the Forest Service is specifically directed to report back to Congress on its progress.

In a related matter, I am aware that the Bureau of Land Management [BLM] has been slow in completing the conveyance of Kootznoowoo's land selections. This has also disadvantaged the Village Corp's. ability to manage its Alaska Native Claims Settlement Act [ANCSA] entitlement. The intent of this legislation is to expedite a solution to Kootznoowoo's land management problems; it should not be used as an excuse by BLM for further delay.

Among the provisions of H.R. 2529, one is especially symbolic; the 900,000 acre wilderness within the Admiralty Island National Monument is renamed the "Kootznoowoo Wilderness." In Tlingit, Kootznoowoo means "Fortress of the Bears." This name change is most appropriate. It memorializes the long and proud Tlingit heritage of Angoon, the only permanent settlement on Admiralty Island.

While H.R. 2596 is an important step forward in addressing Admiralty Island's management problems, there is more to be done. Last year, I had the opportunity to visit the remarkable community of Angoon and to spend time in the spectacular natural setting of Mitchell Bay. I developed an appreciation of the importance that the people of Angoon place on preserving the subsistence values of their island home.

Yet only a few miles to the north of the village, native corporation logging operations at Cuba Cove threaten both the wilderness character of Admiralty Island National Monument and the traditional subsistence practices of the Tlingit Indians of Angoon. The Senate failed to approve House-passed legislation in the 99th Congress and some believe the Cube Cove issue to be dead. But having seen first hand the destructive effects of the massive clear cuts, I believe it is in the national interest to continue to work to acquire the private inholdings at Cube Cove. I urge the Forest Service and all affected parties to develop a comprehensive and equitable proposal that can serve as the basis for future legislation.

Mr. Speaker, I urge the passage of H.R. 2596.

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr Vento] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 2596.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to cluse 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

HOOPA-YUROK SETTLEMENT ACT

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2723) to partition certain reservation lands between the Hoopa Valley Tribe and the Yurok Indians, to clarify the use of tribal timber proceeds, and for other purposes.

The Clerk read as follows:

S. 2723

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND DEFINITIONS.

(a) Short Title.—This Act may be cited as the "Hoopa-Yurok Settlement Act".

(b) Definitions.—For the purposes of this Act, the term—

(1) "Escrow funds" means the moneys derived from the joint reservation which are held in trust by the Secretary in the accounts entitled—

(A) "Proceeds of Labor-Hoopa Valley Indians-California 70 percent Fund, account number J52-561-7197";

(B) "Proceeds of labor-Hoopa Valley Indians-California 30 percent Fund, account number J52-561-7236";

(C) "Proceeds of Klamath River Reservation, California, account number J52-562-7056";

(D) "Proceeds of labor-Yurok Indians of Lower Klamath River, California, account number J52-562-7153";

(E) "Proceeds of Labor-Yurok Indians of Upper Klamath River, California, account number J52-562-7154";

(F) "Proceeds of labor-Hoopa Reservation for Hoopa Valley and Yurok Tribes, account number J52-575-7256"; and

(G) "Klamath River Fisheries, account number 5628000001";

(2) "Hoopa Indian blood" means that degree of ancestry derived from an Indian of the Hunstang, Hupa, Miskut, Redwood, Saiaz, Sermalton, Tish-Tang-Atan, South Fork, or Grouse Creek Bands of Indians;

(3) "Hoopa Valley Reservation" means the reservation described in section 2(b) of this Act;

(4) "Hoopa Valley Tribe" means the Hoopa Valley Tribe, organized under the constitution and amendments approved by the Secretary on November 20, 1933, September 4, 1952, August 9, 1963, and August 18, 1972;

(5) "Indian of the Reservation" shall mean any person who meets the criteria to qualify as an Indian of the Reservation as established by the United States Court of Claims in its March 31, 1982, May 17, 1987, and March 1, 1988, decisions in the case of Jesse Short et al. v. United States, (Cl. Ct. No. 102-63);

(6) "Joint reservation" means the area of land defined as the Hoopa Valley Reservation in section 2(b) and the Yurok Reservation in section 2(c) of this Act.

(7) "Karuk Tribe" means the Karuk Tribe of California, organized under its constitution on April 6, 1985;

(8) "Secretary" means the Secretary of the Interior;

(9) "Settlement Fund" means the Hoopa-Yurok Settlement Fund established pursuant to section 4;

(10) "Settlement Roll" means the final roll prepared and published in the Federal Register by the Secretary pursuant to section 5;

(11) "Short cases" means the cases entitled Jesse Short et al. v. United States, (Cl. Ct. No. 102-63); Charlene Ackley v. United States, (Cl. Ct. No. 460-78); Bret Aanstadt v. United States, (Cl. Ct. No. 146-8S5L); and Norman Giffen v. United States, (Cl. Ct. No. 746-85L);

(12) "Short plaintiffs" means named plaintiffs in the Short cases;

(13) "trust land" means an interest in land the title to which is held in trust by the United States for an Indian or Indian tribe, or by an Indian or Indian tribe subject to a restriction by the United States against alienation;

(14) "unallotted trust land, property, resources or rights" means those lands, property, resources, or rights reserved for Indian purposes which have not been allotted to individuals under an allotment Act;

(15) "Yurok Reservation" means the reservation described in section 2(c) of this Act; and

(16) "Yurok Tribe" means the Indian tribe which is recognized and authorized to be organized pursuant to section 9 of this Act.

SEC. 2. RESERVATIONS; PARTITION AND ADDITIONS.

(a) Partition of the Joint Reservation.—(1) Effective with the publication in the Federal Register of the Hoopa tribal resolution as provided in paragraph (2), the joint reservation shall be partitioned as provided in subsections (b) and (c).

(2)(A) The partition of the joint reservation as provided in this paragraph, and the ratification and confirmation as provided by section 8, shall not become effective unless, within 60 days after the date of the enactment of this Act, the Hoopa Valley Tribe shall adopt, and transmit to the Secretary, a tribal resolution:

(i) waiving any claim such tribe may have against the United States arising out of the provisions of this Act, and

(ii) affirming tribal consent to the contribution of Hoopa Escrow monies to the Settlement Fund, and for their use as payments to the Yurok Tribe, and to individual Yuroks, as provided in this Act.

(B) The Secretary, after determining the validity of the resolution transmitted pursuant to subparagraph (A), shall cause such resolution to be printed in the Federal Register.

(b) Hoopa Valley Reservation.—Effective with the partition of the joint reservation as provided in subsection (a), the area of land known as the "square" (defined as the

Hoopa Valley Reservation established under section 2 of the Act of April 8, 1864 (13 Stat. 40), the Executive Order of June 23, 1876, and Executive Order 1480 of February 17, 1912) shall thereafter be recognized and established as the Hoopa Valley Reservation. The unallotted trust land and assets of the Hoopa Valley Reservation shall thereafter be held in trust by the United States for the benefit of the Hoopa Valley Tribe.

(c) Yurok Reservation.—(1) Effective with the partition of the joint reservation as provided in subsection (a), the area of land known as the "extension" (defined as the reservation extension under the Executive Order of October 16, 1891, but excluding the Resighini Rancheria) shall thereafter be recognized and established as the Yurok Reservation. The unallotted trust land and assets of the Yurok Reservation shall thereafter be held in trust by the United States for the benefit of the Yurok Tribe.

(2) Subject to all valid existing rights and subject to the adoption of a resolution of the Interim Council of the Yurok Tribe as provided in section 9(d)(2), all right, title, and interest of the United States—

(A) to all national forest system lands within the Yurok Reservation, and

(B) to that portion of the Yurok Experimental Forest described as Township 14 N., Range 1 E., Section 28, Lot 6: that portion of Lot 6 east of U.S. Highway 101 and west of the Yurok Experimental Forest, comprising 14 acres more or less and including all permanent structures thereon, shall thereafter be held in trust by the United States for the benefit of the Yurok Tribe and shall be part of the Yurok Reservation. Within six months after the date of enactment of this Act, the Secretary of the Interior shall submit a report to Congress concerning the advisability of conveying to the Yurok Tribe all right, title and interest of the United States to all National Park System lands within the Yurok Reservation. If the Secretary determines that such rights should not be immediately conveyed, his report shall include a proposed agreement for submission to the Interim Council of the Yurok Tribe that would assure tribal members of reasonable hunting, fishing and gathering rights and reasonable access to ceremonial and religious sites on such lands within the Yurok Reservation.

(3)(A) Pursuant to the authority of sections 5 and 7 of the Indian Reorganization Act of June 18, 1934 (25 U.S.C. 465, 467), the Secretary may acquire lands or interests in land, including rights-of-way for access to trust lands, for the Yurok Tribe or its members, and such lands may be declared to be part of the Yurok Reservation.

(B) From amounts authorized to be appropriated by the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13), the Secretary shall use not less than $5,000,000 for the purpose of acquiring lands or interests in lands pursuant to subparagraph (A). No lands or interests in lands may be acquired outside the Yurok Reservation with such funds except lands adjacent to and contiguous with the Yurok Reservation or for purposes of exchange for lands within the reservation.

(4) The—

(A) apportionment of funds to the Yurok Tribe as provided in sections 4 and 7;

(B) the land transfers pursuant to paragraph (2);

(C) the land acquisition authorities in paragraph (3); and

(D) the organizational authorities of section 9 shall not be effective unless and until the Interim Council of the Yurok Tribe has adopted a resolution waiving any claim such tribe may have against the United States arising out of the provisions of this Act.

(d) Boundary Clarifications or Corrections.—(1) The boundary between the Hoopa Valley Reservation and the Yurok Reservation, after the partition of the joint reservation as provided in this section, shall be the line established by the Bissel-Smith survey.

(2) Upon the partition of the joint reservation as provided in this section, the Secretary shall publish a description of the boundaries of the Hoopa Valley Reservation and Yurok Reservations in the Federal Register.

(e) Management of the Yurok Reservation.—The Secretary shall be responsible for the management of the unallotted trust land and assets of the Yurok Reservation until such time as the Yurok Tribe has been organized pursuant to section 9. Thereafter, those lands and assets shall be administered as tribal trust land and the Yurok reservation governed by the Yurok Tribe as other reservations are governed by the tribes of those reservations.

(f) Criminal and Civil Jurisdiction.—The Hoopa Valley Reservation and Yurok Reservation shall be subject to section 1360 of title 28, United States Code; section 1162 of title 18, United States Code, and section 403(a) of the Act of April 11, 1968 (82 Stat. 79; 25 U.S.C. 1232(a)).

SEC. 3. PRESERVATION OF SHORT CASES.

Nothing in this Act shall affect, in any manner, the entitlement established under decisions of the United States Claims Court in the Short cases or any final judgment which may be rendered in those cases.

SEC. 4. HOOPA-YUROK SETTLEMENT FUND.

(a) Establishment.—(1) There is hereby established the Hoopa-Yurok Settlement Fund. Upon enactment of this Act, the Secretary shall cause all the funds in the Escrow funds, together with all accrued income thereon, to be deposited into the Settlement Fund.

(2) Until the distribution is made to the Hoopa Valley Tribe pursuant to section (c), the Secretary may distribute to the Hoopa Valley Tribe, pursuant to the provision of title I of the Department of the Interior and related Agencies Appropriations Act, 1985, under the heading "Bureau of Indian Affairs" and subheading "Tribal Trust Funds" at 98 Stat. 1849 (25 U.S.C. 123c), not to exceed $3,500,000 each fiscal year out of the income or principal of the Settlement Fund for tribal, non per capita purposes: *Provided, however,* That the Settlement Fund apportioned under subsections (c) and (d) shall be calculated without regard to this subparagraph, but any amounts distributed under this subparagraph shall be deducted from the payment to the Hoopa Valley Tribe pursuant to subsection (c).

(3) Until the distribution is made to the Yurok Tribe pursuant to section (d), the Secretary may, in addition to providing Federal funding, distribute to the Yurok Transition Team, pursuant to provision of title I of the Department of the Interior and Related Agencies Appropriations Act, 1985, under the heading "Bureau of Indian Affairs" and subheading "tribal trust funds" at 98 Stat. 1849 (25 U.S.C. 123c), not to exceed $500,000 each fiscal year out of the income and principal of the Settlement Fund for tribal, non per capita purposes: *Provided, however,* That the Settlement Fund apportioned under subsections (c) and (d) shall be calculated without regard to this subparagraph, but any amounts distributed under this subparagraph shall be deducted from the payment to the Yurok Tribe pursuant to subsection (d).

(b) Distribution; Investment.—The Secretary shall make distribution from the Settlement Fund as provided in this Act and, pending payments under section 6 and dissolution of the fund as provided in section 7, shall invest and administer such fund as Indian trust funds pursuant to the first section of the Act of June 24, 1938 (52 Stat. 1037; 25 U.S.C. 162a).

(c) Hoopa Valley Tribe Portion.—Effective with the publication of the option election date pursuant to section 6(a)(4), the Secretary shall immediately pay out of the Settlement Fund into a trust account for the benefit of the Hoopa Valley Tribe a percentage of the Settlement Fund which shall be determined by dividing the number of enrolled members of the Hoopa Valley Tribe as of the date of the promulgation of the Settlement Roll, including any persons enrolled pursuant to section 6, by the sum of the number of such enrolled Hoopa Valley tribal members and the number of persons on the Settlement Roll.

(d) Yurok Tribe Portion.—Effective with the publication of the option election date pursuant to section 6(a)(4), the Secretary shall pay out of the Settlement Fund into a trust account for the benefit of the Yurok Tribe a percentage of the Settlement Fund which shall be determined by dividing the number of persons on the Settlement Roll electing the Yurok Tribal Membership Option pursuant to section 6(c) by the sum of the number of the enrolled Hoopa Valley tribal members established pursuant to subsection (c) and the number of persons on the Settlement Roll, less any amount paid out of the Settlement Fund pursuant to section 6(c)(3).

(e) Federal Share.—There is hereby authorized to be appropriated the sum of $10,000,000 which shall be deposited into the Settlement Fund after the payments are made pursuant to subsections (c) and (d) and section 6(c). The Settlement Fund, including the amount deposited pursuant to this subsection and all income earned subsequent to the payments made pursuant to subsections (c) and (d) and section 6(c), shall be available to make the payments authorized by section 6(d).

SEC. 5. HOOPA-YUROK SETTLEMENT ROLL.

(a) Preparation; Eligibility Criteria.—(1) The Secretary shall prepare a roll of all persons who can meet the criteria for eligibility as an Indian of the Reservation and—

(A) who were born on or prior to, and living upon, the date of enactment of this Act;

(B) who are citizens of the United States; and

(C) who were not, on August 8, 1988, enrolled members of the Hoopa Valley Tribe.

(2) The Secretary's determination of eligibility under this subsection shall be final except that any Short plaintiff determined by the United States Claims Court to be an Indian of the Reservation shall be included on the Settlement Roll if they meet the other requirements of this subsection and any Short plaintiff determined by the United States Claims Court not to be an Indian of the Reservation shall not be eligible for inclusion on such roll.

(b) Right to Apply; Notice.—Within thirty days after the date of enactment of this Act, the Secretary shall give such notice of the right to apply for enrollment as provided in subsection (a) as he deems reasonable except that such notice shall include, but shall not be limited to—

(1) actual notice by registered mail to every plaintiff in the Short cases at their last known address;

(2) notice to the attorneys for such plaintiffs; and

(3) publication in newspapers of general circulation in the vicinity of the Hoopa Valley Reservation and elsewhere in the State of California.

Contemporaneous with providing the notice required by this subsection, the Secretary shall publish such notice in the Federal Register.

(c) Application Deadline.—The deadline for application pursuant to this section shall be established at one hundred and twenty days after the publication of the notice by the Secretary in the Federal Register as required by subsection (b).

(d) Eligibility Determination; Final Roll.—(1) The Secretary shall make determinations of eligibility of applicants under this section and publish in the Federal Register the final Settlement Roll of such persons one hundred and eighty days after the date established pursuant to subsection (c).

(2) The Secretary shall develop such procedures and times as may be necessary for the consideration of appeals from applicants not included on the roll published pursuant to paragraph (1). Successful appellants shall be added to the Settlement Roll and shall be afforded the right to elect options as provided in section 6, with any payments to be made to such successful appellants out of the remainder of the Settlement Fund after payments have been made pursuant to section 6(d) and prior to division pursuant to section 7.

(3) Persons added to the Settlement Roll pursuant to appeals under this subsection shall not be considered in the calculations made pursuant to section 4.

(e) Effect of Exclusion From Roll.—No person whose name is not included on the Settlement Roll shall have any interest in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Hoopa Valley Tribe, the Hoopa Valley Reservation, the Yurok Tribe, or the Yurok Reservation or in the Settlement Fund unless such person is subsequently enrolled in the Hoopa Valley Tribe or the Yurok Tribe under the membership criteria and ordinances of such tribes.

SEC. 6. ELECTION OF SETTLEMENT OPTIONS.

(a) Notice of Settlement Options.—(1) Within sixty days after the publication of the Settlement Roll as provided in section 5(d), the Secretary shall give notice by certified mail to each person eighteen years or older on such roll of their right to elect one of the settlement options provided in this section.

(2) The notice shall be provided in easily understood language, but shall be as comprehensive as possible and shall provide an objective assessment of the advantages and disadvantages of each of the options offered. The notice shall also provide information about the counseling services which will be made available to inform individuals about the respective rights and benefits associated with each option presented under this section. It shall also clarify that an election of the Lump Sum Payment option requires the completion of a sworn affidavit certifying that the individual has been provided with complete information about the effects of such an election.

(3) With respect to minors on the Settlement Roll the notice shall state that minors shall be deemed to have elected the option of section 6(c), except that if the parent or guardian furnishes proof satisfactory to the Secretary that a minor is an enrolled member of a tribe that prohibits members from enrolling in other tribes, the parent or guardian shall make the election for such minor. A minor subject to the provisions of section 6(c) shall, notwithstanding any other law, be deemed to be a child of a member of an Indian tribe regardless of the option elected pursuant to this Act by the minor's parent. With respect to minors on the Settlement Roll whose parent or guardian is not also on the roll, notice shall be given to the parent or guardian of such minor. The funds to which such minors are entitled shall be held in trust by the Secretary until the minor reaches age 18. The Secretary shall notify and provide payment to such person including all interest accrued.

(4)(A) The notice shall also establish the date by which time the election of an option under this section must be made. The Secretary shall establish that date as the date which is one hundred and twenty days after the date of the publication in the Federal Register as required by section 5(d).

(B) Any person on the Settlement Roll who has not made an election by the date established pursuant to subparagraph (A) shall be deemed to have elected the option provided in subsection (c).

(b) Hoopa Tribal Membership Option.—(1) Any person on the Settlement Roll, eighteen years or older, who can meet any of the enrollment criteria of the Hoopa Valley Tribe set out in the decision of the United States Court of Claims in its March 31, 1982, decision in the Short case (No. 102-63) as "Schedule A", "Schedule B", or "Schedule C" and who—

(A) maintained a residence on the Hoopa Valley Reservation on the date of enactment of this Act;

(B) had maintained a residence on the Hoopa Valley Reservation at any time within the five year period prior to the enactment of this Act; or

(C) owns an interest in real property on the Hoopa Valley Reservation on the date of enactment of this Act, may elect to be, and, upon such election, shall be entitled to be, enrolled as a full member of the Hoopa Valley Tribe.

(2) Notwithstanding any provision of the constitution, ordinances or resolutions of the Hoopa Valley Tribe to the contrary, the Secretary shall cause any entitled person electing to be enrolled as a member of the Hoopa Valley Tribe to be so enrolled and such person shall thereafter be entitled to the same rights, benefits, and privileges as any other member of such tribe.

(3) The Secretary shall determine the quantum of "Indian blood" or "Hoopa Indian blood", if any, of each person enrolled in the Hoopa Valley Tribe under this subsection pursuant to the criteria established in the March 31, 1982, decision of the United States Court of Claims in the case of Jessie Short et al. v. United States, (Cl. Ct. No. 102-63).

(4) Any person making an election under this subsection shall no longer have any right or interest whatsoever in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Yurok Indian Reservation or the Yurok Tribe or in the Settlement Fund.

(c) Yurok Tribal Membership Option.—(1) Any person on the Settlement Roll may elect to become a member of the Yurok Tribe and shall be entitled to participate in the organization of such tribe as provided in section 9.

(2) All persons making an election under this subsection shall form the base roll of the Yurok Tribe for purposes of organization pursuant to section 9 and the Secretary shall determine the quantum of "Indian blood" if any pursuant to the criteria established in the March 31, 1982, decision of the United States Court of Claims in the case of Jessie Short et al. v. United States, (Cl. Ct. No. 102-63).

(3) The Secretary, subject to the provisions of section 7 of the Act of October 19, 1973 (87 Stat. 466), as amended (25 U.S.C. 1407), shall pay to each person making an election under this subsection, $5,000 out of the Settlement Fund for those persons who are, on the date established pursuant to section 6(a)(4), below the age of 50 years, and $7,500 out of the Settlement Fund for those persons who are, on that date, age 50 or older.

(4) Any person making an election under this subsection shall no longer have any right or interest whatsoever in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Hoopa Valley Reservation or the Hoopa Valley Tribe or, except to the extent authorized by paragraph (3), in the Settlement Fund. Any such person shall also be deemed to have granted to members of the Interim Council established under section 9 an irrevocable proxy directing them to approve a proposed resolution waiving any claim the Yurok Tribe may have against the United States arising out of the provisions of this Act, and granting tribal consent as provided in section 9(d)(2).

(d) Lump Sum Payment Option.—(1) Any person on the Settlement Roll may elect to receive a lump sum payment from the Settlement Fund and the Secretary shall pay to each such person the amount of $15,000 out of the Settlement Fund: *Provided*, That such individual completes a sworn affidavit certifying that he or she has been afforded the opportunity to participate in counseling which the Secretary, in consultation with the Hoopa Tribal Council or Yurok Transition Team, shall provide. Such counseling shall provide a comprehensive explanation of the effects of such election on the individual making such election, and on the tribal enrollment rights of that persons children and descendants who would otherwise be eligible for membership in either the Hoopa or Yurok Tribe.

(2) The option to elect a lump sum payment under this section is provided solely as a mechanism to resolve the complex litigation and other special circumstances of the Hoopa Valley Reservation and the tribes of the reservation, and shall not be construed or treated as a precedent for any future legislation.

(3) Any person making an election to receive, and having received, a lump sum payment under this subsection shall not thereafter have any interest or right whatsoever in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Hoopa Valley Reservation, the Hoopa Valley Tribe, the Yurok Reservation, or the Yurok Tribe or, except authorized by paragraph (1), in the Settlement Fund.

SEC. 7. DIVISION OF SETTLEMENT FUND REMAINDER.

(a) Any funds remaining in the Settlement Fund after the payments authorized to be made therefrom by subsections (c) and (d) of section 6 and any payments made to successful appellants pursuant to section 5(d) shall be paid to the Yurok Tribe and shall be held by the Secretary in trust for such tribe.

(b) Funds divided pursuant to this section and any funds apportioned to the Hoopa Valley Tribe and the Yurok Tribe pursuant to subsections (c) and (d) of section 4 shall not be distributed per capita to any individual before the date which is 10 years after the date on which the division is made under this section: *Provided, however*, That if the Hoopa Valley Business Council shall decide to do so it may distribute from the funds apportioned to it a per capita payment of $5,000 per member, pursuant to the Act of August 2, 1983 (25 U.S.C. 117a et seq.).

SEC. 8. HOOPA VALLEY TRIBE; CONFIRMATION OF STATUS.

The existing governing documents of the Hoopa Valley Tribe and the governing body established and elected thereunder, as heretofore recognized by the Secretary, are hereby ratified and confirmed.

SEC. 9. RECOGNITION AND ORGANIZATION OF THE YUROK TRIBE.

(a) YUROK TRIBE.—(1) Those persons on the Settlement Roll who made a valid election pursuant to subsection (c) of section 6 shall constitute the base membership roll for the Yurok Tribe whose status as an Indian tribe, subject to the adoption of the Interim Council resolution as required by subsection (d)(2), is hereby ratified and confirmed.

(2) The Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461 et seq.), as amended, is hereby made applicable to the Yurok Tribe and the tribe may organize under such Act as provided in this section.

(3) Within thirty (30) days after the enactment of this Act the Secretary, after consultation with the appropriate committees of Congress, shall appoint five (5) individuals who shall comprise the Yurok Transition Team which, pursuant to a budget approved by the Secretary, shall provide counseling, promote communication with potential members of the Yurok Tribe concerning the provisions of this Act, and shall study and investigate programs, resources, and facilities for consideration by the Interim Council. Any property acquired for or on behalf of the Yurok Transition Team shall be held in the name of the Yurok Tribe.

(b) INTERIM COUNCIL; ESTABLISHMENT.—There shall be established an Interim Council of the Yurok Tribe to be composed of five members. The Interim Council shall represent the Yurok Tribe in the implementation of provisions of this Act, including the organizational provisions of this section, and subject to subsection (d) shall be the governing body of the tribe until such time as a tribal council is elected under a constitution adopted pursuant to subsection (e).

(c) GENERAL COUNCIL; ELECTION OF INTERIM COUNCIL.—(1) Within 30 days after the date established pursuant to section 6(a)(4), the Secretary shall prepare a list of all persons eighteen years of age or older who have elected the Yurok Tribal Membership Option pursuant to section 6(c), which persons shall constitute the eligible voters of the Yurok Tribe for the purposes of this section, and shall provide written notice to such persons of the date, time, purpose, and order of procedure for the general council meeting to be scheduled pursuant to paragraph (2) for the consideration of the nomination of candidates for election to the Interim Council.

(2) Not earlier than 30 days before, nor later than 45 days after, the notice provided pursuant to paragraph (1), the Secretary shall convene a general council meeting of the eligible voters of the Yurok Tribe on or near the Yurok Reservation, to be conducted under such order of procedures as the Secretary determines appropriate, for the nomination of candidates for election of members of the Interim Council. No person shall be eligible for nomination who is not on the list prepared pursuant to this section.

(3) Within 45 days after the general council meeting held pursuant to paragraph (2), the Secretary shall hold an election by secret ballot, with absentee balloting and write-in voting to be permitted, to elect the five members of the Interim Council from among the nominations submitted to him from such general council meeting. The Secretary shall assure that notice of the time and place of such election shall be provided to eligible voters at least fifteen days before such election.

(4) The Secretary shall certify the results of such election and, as soon as possible, convene an organizational meeting of the newly-elected members of the Interim Council and shall provide such advice and assistance as may be necessary for such organization.

(5) Vacancies on the Interim Council shall be filled by a vote of the remaining members.

(d) INTERIM COUNCIL; AUTHORITIES AND DISSOLUTION.—(1) The Interim Council shall have no powers other than those given to it by this Act.

(2) The Interim Council shall have full authority to adopt a resolution—

(i) waiving any claim the Yurok Tribe may have against the United States arising out of the provision of this Act, and

(ii) affirming tribal consent to the contribution of Yurok Escrow monies to the Settlement Fund, and for their use as payments to the Hoopa Tribe, and to individual Hoopa members, as provided in this Act, and

(iii) to receive grants from, and enter into contracts for, Federal programs, including those administered by the Secretary and the Secretary of Health and Human Services, with respect to Federal services and benefits for the tribe and its members.

(3) The Interim Council shall have such other powers, authorities, functions, and responsibilities as the Secretary may recognize, except that any contract or legal obligation that would bind the Yurok Tribe for a period in excess of two years from the date of the certification of the election by the Secretary shall be subject to disapproval and cancellation by the Secretary if the Secretary determines that such a contract or legal obligation is unnecessary to improve housing conditions of members of the Yurok Tribe, or to obtain other rights, privileges or benefits that are in the long-term interest of the Yurok Tribe.

(4) The Interim Council shall appoint, as soon as practical, a drafting committee which shall be responsible, in consultation with the Interim Council, the Secretary and members of the tribe, for the preparation of a draft constitution for submission to the Secretary pursuant to subsection (e).

(5) The Interim Council shall be dissolved effective with the election and installation of the initial tribe governing body elected pursuant to the constitution adopted under subsection (e) or at the end of two years after such installation, whichever occurs first.

(e) ORGANIZATION OF YUROK TRIBE.—Upon written request of the Interim Council or the drafting committee and the submission of a draft constitution as provided in paragraph (4) of subsection (d), the Secretary shall conduct an election, pursuant to the provisions of the Indian Reorganization Act of June 18, 1934 (25 U.S.C. 461 et seq.) and rules and regulations promulgated thereunder, for the adoption of such constitution and, working with the Interim Council, the election of the initial tribal governing body upon the adoption of such constitution.

SEC. 10. ECONOMIC DEVELOPMENT.

(a) PLAN FOR ECONOMIC SELF-SUFFICIENCY.—The Secretary shall—

(1) enter into negotiations with the Yurok Transition Team and the Interim Council of the Yurok Tribe with respect to establishing a plan for economic development for the tribe;

(2) in accordance with this section and not later than two years after the date of enactment of this Act, develop such a plan; and

(3) upon the approval of such plan by the Interim Council or tribal governing body (and after consultation with the State and local officials pursuant to subsection (b) of this section), the Secretary shall submit such plan to the Congress.

(b) CONSULTATION WITH STATE AND LOCAL OFFICIALS REQUIRED.—To assure that legitimate State and local interests are not prejudiced by the proposed economic self-sufficiency plan, the Secretary shall notify and consult with the appropriate officials of the State and all appropriate local governmental officials in the State. The Secretary shall provide complete information on the proposed plan to such officials, including the restrictions on such proposed plan imposed by subsection (c) of this section. During any consultation by the Secretary under this subsection, the Secretary shall provide such information as the Secretary may possess, and shall request comments and additional information on the extent of any State or local service to the tribe.

(c) RESTRICTIONS TO BE CONTAINED IN PLAN.—Any plan developed by the Secretary under subsection (a) of this section shall provide that—

(1) any real property transferred by the tribe or any member of the Secretary shall be taken and held in the name of the United States for the benefit of the tribe;

(2) any real property taken in trust by the Secretary pursuant to such plan shall be subject to—

(A) all legal rights and interests in such land existing at the time of the acquisition of such land by the Secretary, including any lien, mortgage, or previously levied and outstanding State or local tax; and

(B) foreclosure or sale in accordance with the laws of the State pursuant to the terms of any valid obligation in existence at the time of the acquisition of such land by the Secretary; and

(3) any real property transferred pursuant to such plan shall be exempt from Federal, State, and local taxation of any kind.

(d) APPENDIX TO PLAN SUBMITTED TO THE CONGRESS.—The Secretary shall append to the plan submitted to the Congress under subsection (a) of this section a detailed statement—

(1) naming each individual and official consulted in accordance with subsection (b) of this section;

(2) summarizing the testimony received by the Secretary pursuant to any such consultation; and

(3) including any written comments or reports submitted to the Secretary by any party named in paragraph (1).

SEC. 11. SPECIAL CONSIDERATIONS.

(a) ESTATE FOR SMOKERS FAMILY.—The 20 acre land assignment on the Hoopa Valley Reservation made by the Hoopa Area Field Office of the Bureau of Indian Affairs on August 25, 1947, to the Smokers family shall continue in effect and may pass by descent or devise to any blood relative or relatives of one-fourth or more Indian blood of those family members domiciled on the assignment on the date of enactment of this Act.

(b) RANCHERIA MERGER WITH YUROK TRIBE.—If a majority of the adult members of any of the following Rancherias at the Resighini, Trinidad, or Big Lagoon, vote to merge with the Yurok Tribe in an election which shall be conducted by the Secretary within ninety days after the date of enactment of this Act, the tribes and reservations of those rancherias so voting shall be extinguished and the lands and members of such reservations shall be part of the Yurok Reservation with the unallotted trust land therein held in trust by the United States for the Yurok Tribe: *Provided, however,* That the existing governing documents and the elected governing bodies of any rancherias voting to merge shall continue in effect until the election of the Interim Council pursuant to section 9. The Secretary shall publish in the Federal Register a notice of the effective date of the merger.

(c) PRESERVATION OF LEASEHOLD AND ASSIGNMENT RIGHTS OF RANCHERIA RESIDENTS.—Real property on any rancheria that merges with the Yurok Reservation pursuant to subsection (b) that is, on the date of enactment of this Act, held by any individual under a lease shall continue to be governed by the terms of the lease, and any land assignment existing on the date of the enactment of this Act shall continue in effect and may pass by descent or devise to any blood relative or relatives of Indian blood of the assignee.

SEC. 12. KLAMATH RIVER BASIN FISHERIES TASK FORCE.

(a) IN GENERAL.—Section 4(c) of the Act entitled "An Act to provide for the restoration of the fishery resources in the Klamath River Basin, and for other purposes" (16 U.S.C. 460ss-3) is amended—

(A) in the matter preceding paragraph (1), by striking out "12" and inserting in lieu thereof "14"; and

(B) by inserting at the end thereof the following new paragraphs:

"(11) A representative of the Karuk Tribe, who shall be appointed by the governing body of the Tribe.

"(12) A representative of the Yurok Tribe, who shall be appointed by the Secretary until such time as the Yurok Tribe is organized upon which time the Yurok Tribe shall appoint such representative beginning with the first appointment ordinarily occurring after the Yurok Tribe is organized".

(b) SPECIAL RULE.—The initial term of the representative appointed pursuant to section 4(c) (11) and (12) of such Act (as added by the amendment made by subsection (a) shall be for that time which is the remainder of the terms of the members of the Task Force then serving. Thereafter, the term of such representatives shall be as provided in section 4(e) of such Act.

SEC. 13. TRIBAL TIMBER SALES PROCEEDS USE.

Section 7 of the Act of June 25, 1910 (36 Stat. 857; 25 U.S.C. 407) is amended to read as follows:

"SEC. 7. Under regulations prescribed by the Secretary of the Interior, the timber on unallotted trust land in Indian reservations or on other land held in trust for tribes may be sold in accordance with the principles of sustained-yield management or to convert the land to a more desirable use. After deduction, if any, for administrative expenses under the Act of February 14, 1920 (41 Stat. 415; 25 U.S.C. 413), the proceeds of the sale shall be used—

"(1) as determined by the governing bodies of the tribes concerned and approved by the Secretary, or

"(2) in the absence of such a governing body, as determined by the Secretary for the tribe concerned.

SEC. 14. LIMITATIONS OF ACTIONS; WAIVER OF CLAIMS.

(a) Any claim challenging the partition of the joint reservation pursuant to section 2 or any other provision of this Act as having effected a taking under the fifth amendment of the United States Constitution or as otherwise having provided inadequate compensation shall be brought, pursuant to 28 U.S.C. 1491 or 28 U.S.C. 1505, in the United States Claims Court.

(b)(1) Any such claim by any person or entity, other than the Hoopa Valley Tribe or the Yurok Tribe, shall be forever barred if not brought within the later of 210 days from the date of the partition of the joint reservation as provided in section 2 or 120 days after the publication in the Federal Register of the option election date as required by section 6(a)(4).

(2) Any such claim by the Hoopa Valley Tribe shall be barred 180 days after the date of enactment of this Act or such earlier date as may be established by the adoption of a resolution waiving such claims pursuant to section 2(a)(2).

(3) Any such claim by the Yurok Tribe shall be barred 180 days after the general council meeting of the Yurok Tribe as provided in section 9 or such earlier date as may be established by the adoption of a resolution waiving such claims as provided in section 9(d)(2).

(c)(1) The Secretary shall prepare and submit to the Congress a report describing the final decision in any claim brought pursuant to subsection (b) against the United States or its officers, agencies, or instrumentalities.

(2) Such report shall be submitted no later than 180 days after the entry of final judgment in such litigation. The report shall include any recommendations of the Secretary for action by Congress, including, but not limited to, any supplemental funding proposals necessary to implement the terms of this Act and any modifications to the resource and management authorities established by this Act. Notwithstanding the provisions of 28 U.S.C. 2517, any judgment entered against the United States shall not be paid for 180 days after the entry of judgment; and, if the Secretary of the Interior submits a report to Congress pursuant to this section, then payment shall be made no earlier than 120 days after submission of the report.

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am happy to bring this legislation before the House for consideration.

This legislation settles a long-standing dispute to the lands and resources of the Hoopa Valley Indian Reservation of northern California.

The Interior Committee had a thorough hearing on this matter and considerable debate during committee markup.

In settling this Indian land dispute, the bill will prevent the practical termination of the Hoopa Indian Tribe and will permit the Yurok Indian Tribe, now an empty shell, to come into being.

Mr. Speaker, one provision of the bill, relating to the Klamath River Fisheries Task Force, falls within the jurisdiction of the Merchant Marine and Fisheries Committee. Chairman JONES of that committee has kindly deferred to our committee on this matter with the request that we recognize their jurisdiction over that matter. I would like to thank him for his cooperation and understanding.

Mr. Bosco, the sponsor of the legislation, will speak in more detail on this bill. I would like to commend him for his very hard work on this important bill.

Mr. Speaker, I strongly urge passage of this bill.

□ 2045

Mr. Speaker, I yield 3 minutes to the sponsor of this legislation, the gentleman from California [Mr. BOSCO]. He has been deeply involved with this complicated matter.

Mr. BOSCO. Mr. Speaker, the legislation before us will divide the Hoopa Valley Reservation in northern California into two reservations—one for the use of the Hoopa Tribe, which has existed in its present homeland for centuries, the other for the Yurok Tribe, should they decide to organize. The legislation provides for the payment of moneys owed by the United States as the result of timber sales on the reservation. Some of these funds will go to individuals and some to the tribes. Provisions are made for tribal organization and for election on the part of individuals as to which tribes, if any, they want to join.

Mr. Speaker, I will not detail the saga that has brought us to the House floor today. Before the 1950's the Hoopas and Yuroks lived amicably, though for the most part separately along the banks of the Trinity and Klamath Rivers in some of the most remote and beautiful territory in northern California. As the Hoopa Tribe began to take advantage of a booming timber market, however, a dispute arose over the distribution of revenues from timber sales. This dispute turned the people againast each other. It brought them to the courtrooms of Eureka, San Francisco, and the U.S. Supreme Court in a legal battle that has lasted some 25 years.

Sadly, these people are some of the poorest in our country, suffering unemployment rates of over 60 percent. The money and energy expended on this protracted legal battle could better have been spent to strengthen these tribes and build the schools, health facilities, roads and other improvements needed by these people.

The legislation recognizes that some Yurok Indians prefer to live in an organized community and others would simply want to receive funds held in trust for the tribes. This legislation will make funds available to the organized tribes and to individuals who heretofore would not be entitled to a distribution of such funds.

The legislation before us deprives no one of benefits previously won in court. It will allow many to receive benefits they otherwise would not have received as individuals. It returns to these Indians land that was their ancestral home, and lays the groundwork for strong, healthy tribal communities. Each tribe will have sufficient financial resources to succeed, and each will be able to govern.

Mr. Speaker, section 2(c)(3) of the bill authorizes the Secretary to acquire for the Yurok Tribe lands or interests in land, including rights of way. Some lands within the reservation boundaries created by this Act are owned by private parties. As chief sponsor of the bill, it is my intention that any such acquisition from private parties occur only through voluntary negotiations and agreement with the private owners. No condemnation, power of eminent domain or other involuntary process should be used to acquire any lands, rights of way or other interests in land. This is consistent with the Indian Reorganization Act of 1934, which is referenced in section 2(c)(3) and which does not provide for involuntary taking from private parties.

This legislation will improve the lives, present and future, of thousands of people. I thank Chairman UDALL, his outstanding staff, especially Frank Ducheneaux, and Congressman RICHARD LEHMAN for their hard work on ths measure.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2723.

Passage of this legislation is necessary to resolve a longstanding Indian law dispute in northern California. There is opposition to the bill. The gentleman from California [Mr. PASHAYAN] has worked hard to protect the rights of those who are opposed to the passage of this legislation.

No settlement of a dispute such as this can satisfy all parties to the dispute. At the same time, the first steps must be taken to resolve these disputes to prevent them from festering through litigation year after year. These first steps may not be perfect—and may require corrections later—yet we should not hesitate to take the necessary steps when the opportunity is available.

I understand the concerns over this legislation. Land is in short supply in this part of California and the rights of many individual Indians are affected by this bill. However, I have become convinced that we should move forward with the legislation now and begin to resolve the legal issues that have been left unresolved for so many years.

I support this legislation and urge my colleagues to do the same.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona [Mr. RHODES].

Mr. RHODES. Mr. Speaker, I rise in support of S. 2723, the Hoopa-Yurok Settlement Act.

This legislation will partition the current Hoopa Valley Indian Reservation into two reservation—one for the Hoopa Valley Tribe and one for the soon to be organized Yurok Indian Tribe. This will resolve pending litigation for whose benefit this reservation was made, and leave in force our traditional political government-to-government relationship with Indian tribes.

The administration supports the concept of this bill, and I urge my colleagues to support S. 2723.

Mr. JONES of North Carolina. Mr. Speaker, I rise today with regard to S. 2723, a bill to partition certain reservation lands between the Hoopa Valley Tribe and the Yurok Indians. The companion bill, H.R. 4469, introduced by Congressman BOSCO, was jointly referred to the Committee on Merchant Marine and Fisheries because of a provision dealing with the Klamath River Basin Fisheries Task Force.

As introduced, H.R. 4469 added a representative of the newly organized Yurok Tribe to the task force. The Committee on Interior and Insular Affairs amended the bill and added another member to the task force—a representative of the Karuk Tribe.

I agree to waive further consideration of H.R. 4469 by my committee in deference to a request from Congressman BOSCO, a valued member of my committee, and Chairman UDALL. However, I would like to raise one caveat regarding my support for this bill and the addition of two new members to the Klamath River Basin Fisheries Task Force.

The Klamath River Basin Fisheries Task Force was established under the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460SS-3(c)). The task force advises the Secretary of the Interior in formulating, coordinating, and implementing the Klamath River Basin Conservation Area Restoration Program (16 U.S.C. 460SS-1(b)). At present, the task force is comprised of 12 members, including representatives of the commercial salmon fishing industry, the in-river sport fishing community, the Hoopa Indian Tribe, and various local, State, and Federal governmental agencies.

Our concern is that the addition of these two new members not be seen as setting a precedent that might lead to further expansion of this task force. In order for the task force to accomplish its goals and work efficiently, membership must be kept at a manageable number. Although we are willing to acquiesce to Congressman BOSCO's desires in this case, future additions to the task force will be stringently reviewed by the Committee on Merchant Marine and Fisheries. A compelling reason will be needed to justify further increases in membership.

The ability to influence the use of land and water is essential to an effective fishery habitat restoration effort. Membership on the task force has in the past been limited in large measure to entities with land management authority over extensive areas within the basin. The addition of the Yurok Tribe to the task force is consistent with this general criterion since they will exercise the necessary control within the new Yurok Reservation. The Karuk Tribe is lawfully organized and recognized by the Secretary of the Interior, but it does not have jurisdiction over any extensive land or water areas within the Klamath River Basin. Nevertheless, I understand that the Karuk Tribe has a strong interest in the restoration and conservation of fishery resources in the Klamath River Basin as demonstrated by tribal involvement in fishery management efforts over the past 8 years.

The Karuk Tribe has traditionally conducted a small dip net fishery on the Klamath River near Orleans, CA. As this fishery is an important element of the tribe's identity, they became increasingly concerned over declines in Klamath River salmon runs during the past 10 to 15 years. In response, the tribe initiated a cooperative fish rearing project in 1980 and has grown salmon fingerlings provided by the State of California in five small ponds along the river to supplement natural production. Because of this strong interest and self-generated involvement in fishery restoration efforts, it is both appropriate and desirable in this situation to make an exception to the general rule that the Klamath River Basin Fisheries Task Force consist primarily of entities with substantial land and water management authority and responsibilities. This should not be viewed, however, as a precedent for future expansion of the task force.

Having stated this one reservation, I would urge my colleagues to support the passage of S. 2723.

Mr. UDALL. Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Gray of Illinois). The question is on the motion offered by the gentleman from Arizona [Mr. Udall] that the House suspend the rules and pass the Senate bill, S. 2723.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Pennsylvania will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, the bill we have just ordered a vote on did not appear on the schedule for suspensions for the day. I understand there may be some, a couple more, coming up that were also not on the schedule. I am just curious how these are getting put on the schedule here at the last minute. It is hard enough for the Members to follow what we are doing without a program. If we are going to change the program, that makes it difficult.

Do we have any assurance that the Members are going to know about these bills in advance before they come rolling onto the floor?

The SPEAKER pro tempore. The Chair would state to the gentleman's parliamentary inquiry that there is no requirement that bills that are called up are on the calendar. That is a courtesy offered Memers to let them know what is on the program, but the Chair has the full right of recognition and the leadership schedules the bills. Of course, the present occupant of the Chair can only bring up what the chairman propounds to be brought up to suspend the rules, and each Member is protected by virtue of the fact that they can always object to the votes on the grounds that a quorum is not present, which the gentleman from Pennsylvania has been doing very well here this evening.

I hope that answers the gentleman's inquiry.

Mr. WALKER. Mr. Speaker, do I understand then correctly, in other words, the Suspension Calendars, and I understand we may have a rule to expand them, are kind of limitless then, and the Members may not know at all what is coming up on these calendars? Is that what the Chair is telling me?

The SPEAKER pro tempore. The Chair will state to the distinguished gentleman from Pennsylvania that he raises a good point. We are here in the last days of the session. The leadership is always under pressure from both sides of the aisle to get legislation scheduled. We are all doing the best we can to accommodate the requests of the various committee chairmen and the various Members. That is where we are now.

Mr. WALKER. Mr. Speaker, I thank the Chair.

NUCLEAR WASTE POLICY ACT AMENDMENTS

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2800) to amend the Nuclear Waste Policy Act of 1982 with respect to the Office of the Nuclear Waste Negotiator and the Monitored Retrievable Storage Commission.

The Clerk read as follows:

S. 2800

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NUCLEAR WASTE NEGOTIATOR.

Section 402(a) of the Nuclear Waste Policy Act of 1982 is amended to read as follows:

"Sec. 402. (a) Establishment.—There is established the Office of the Nuclear Waste Negotiator that shall be an independent establishment in the executive branch.".

SEC. 2. MONITORED RETRIEVABLE STORAGE COMMISSION.

Section 143(a)(3) of the Nuclear Waste Policy Act of 1982 is amended to read as follows:

"(3) The report under this subsection, together with the recommendation of the MRS Commission, shall be transmitted to Congress on November 1, 1989.".

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. Udall] will be recognized for 20 minutes and the gentleman from Alaska [Mr. Young] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. Udall].

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2800, the Senate bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a refreshingly simple bill. It makes two minor changes to the Nuclear Waste Policy Act of 1982. Section 1 removes the Office of the Nuclear Waste Negotiator from the Executive Office of the President. Section 2 gives the Monitored Retrievable Storage Commission 5 more months to complete its report to Congress.

Mr. Speaker, I'm sure all Members recall the sorry state of the nuclear waste program just 1 year ago. People were up in arms in every State in which the Department of Energy looked for a site for the nuclear waste repository. The public and many of us here in Congress had lost faith in the technical integrity of the site selection process. The program was in ruins.

To deal with this situation, last December, we enacted a major revision of the Nuclear Waste Policy Act. For better or for worse, we ended the Department of Energy's consideration of sites in Washington, Texas, and several Eastern States and told the Department to focus its attention on a site in Nevada. In addition, we directed the President to appoint a special negotiator to find a State willing to host the waste repository. We gave the negotiator authority to negotiate a benefits package and work out the terms and conditions under which Nevada or some other State would be willing to host the repository. The negotiator would then present this package to the Congress for consideration.

The negotiator was an essential part of the compromise legislation and enjoyed strong support on both sides of the aisle and both sides of the Hill. It offered a real opportunity to cut through the controversy, litigation, and political turmoil that has beset the nuclear waste program.

Today, more than 9 months after the President signed the nuclear waste amendments into law, he still hasn't appointed a negotiator. The problem seems to be that the law made the negotiator part of the Executive Office of the President. Apparently, the administration does not want the negotiator—with all the controversy the nuclear waste issue brings—tied too closely to the President.

S. 2800 simply takes the negotiator out of the Executive Office of the President and makes the negotiator an independent establishment within the executive branch. This should in no way compromise the stature or independence of the negotiator, but it will remove the last remaining obstacle to the appointment of the negotiator.

Mr. Speaker, a second major issue confronting us last year was whether or not to authorize construction of a monitored retrievable storage [MRS] facility. This was a hotly contested issue that was finally resolved by having the Speaker and the President pro tempore of the Senate appoint a three-member MRS Commission to reexamine the need for an MRS and give Congress the benefit of its expert advice within 18 months.

The problem is that, for reasons beyond anyone's control, the MRS Commission was not sworn in for nearly 6 months after the nuclear waste amendments were enacted, leaving the Commission too little time to conduct its examination and prepare its report before the June 1, 1989, deadline. Accordingly, S. 2800 extends the deadline for filing the Commission's report by 5 months, to November 1, 1989.

Mr. Speaker, the two amendments to the Nuclear Waste Policy Act made by this bill are very minor. Nonetheless, they are quite important to the successful implementation of our nuclear waste program. I urge the bill's adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2800.

This legislation would make necessary changes in the Nuclear Waste Policy Act. First, the bill would remove the Office of the Nuclear Waste Negotiator from the Office of the President.

Second, the bill would allow the Commission on the MRS facility an additional period of 5 months to complete its report to Congress. This report is important and I believe the Commission should be allowed the additional time it has requested to complete its mission.

Mr. Speaker, I know of no objection to this legislation and urge my colleagues to vote in favor of it.

Mr. SHARP. Mr. Speaker, I am pleased to speak in favor of S. 2800, a bill to improve the Implementation of the Nuclear Waste Policy Act.

This bill makes two minor but necessary changes to the legislation amending the Nuclear Waste Policy Act which was included in last December's continuing resolution. These changes can fairly be described as housekeeping matters which do not alter the substance of that important and controversial legislation. Although a similar bill was referred to the Energy and Commerce Committee and reported by the Interior Committee, the Commerce Committee agreed to take up the Senate bill in order to ensure passage of the legislation this year.

First, S. 2800 redesignates the Office of the Nuclear Waste Negotiator as an independent establishment within the executive branch, rather than including it within the Executive Office of the President as it currently is constituted. This provision is identical to the provisions of H.R. 4689, which was introduced by Chairman UDALL and has been reported by the House Interior Committee. It addresses concerns expressed by the administration, and I understand it is supported by the Nevada delegation.

Second, S. 2800 extends the term of the Monitored Retrievable Storage Commission from June 1, 1989, to November 1, 1989. This 5-month extension is necessary to compensate for a delay of several months in the appointment of the Commissioners, and ensures that the Commission will have the time Congress intended it to have to prepare its report to Congress.

I commend the Senate for producing a bill we all can support, and thank Chairman DINGELL for his assistance in moving the bill swiftly in the House. I also would like to thank Chairman UDALL for his continued leadership in getting the nuclear waste program back on track and, in particular, for spearheading the concept of a nuclear waste negotiator.

I urge my colleagues to support this bill.

Mr. MOORHEAD. Mr. Speaker, I rise in support of this bill.

This legislation grows out of the Nuclear Waste Policy Act Amendments of 1987. That bill made several significant changes to our high level nuclear waste program, with a view toward identifying a suitable site for such waste in the near future.

S. 2800 makes two minor amendments to last year's legislation. It moves the Office of Nuclear Waste Negotiator out of the Executive Office of the President, and establishes it as an independent office within the executive branch. Second, S. 2800 extends the deadline for the issuance by a final report by the Monitored Retrievable Storage Commission.

I believe these changes are in the best interests of the nuclear waste repository program, and I urge my colleagues to support them.

I wish to thank PHIL SHARP, chairman of the Energy and Power Subcommittee for his assistance in moving this bill forward.

Mr. YOUNG of Alaska. Mr. Speaker, I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and pass the Senate bill, S. 2800.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

NAVAJO AND HOPI INDIAN RELOCATION AMENDMENTS OF 1988

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1236) to reauthorize housing relocation under the Navajo-Hopi Relocation Program, and for other purposes as amended.

The Clerk read as follows:

S. 1236

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Navajo and Hopi Indian Relocation Amendments of 1988".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. Subsection (a) of section 25 of Public Law 93-531 (25 U.S.C. 640d-24(a)) is amended-

(1) by striking out "$7,7,000,000" in paragraph (4) and inserting in lieu thereof "$13,000,000", and

(2) by striking out "$15,000,000 annually for fiscal years 1983 through 1987" in paragraph (8) and inserting in lieu thereof "$30,000,000 annually for fiscal years 1989, 1990, and 1991".

USE OF DISCRETIONARY FUNDS

SEC. 3. Subsection (b) of section 27 of Public Law 93-531 (25 U.S.C. 640d-25) is amended to read as follows:

"(b) Funds appropriated under the authority of subsection (a) may be used by the Commissioner for grants, contracts, or expenditures which significantly assist the Commissioner or assist the Navajo Tribe or Hopi Tribe in meeting the burdens imposed by this Act.".

COMMISSIONER ON NAVAJO AND HOPI INDIAN RELOCATION

SEC. 4. (a) Section 12 of Public Law 93-531 (25 U.S.C. 640d-11) is amended to read as follows:

"(a) There is hereby established as an independent entity in the executive branch the Office of Navajo and Hopi Indian Relocation which shall be under the direction of the Commissioner on Navajo and Hopi Relocation (hereinafter in this Act referred to as the 'Commissioner').

"(b)(1) The Commissioner shall be appointed by the President by and with the advice and consent of the Senate.

"(2) The term of office of the Commissioner shall be 2 years. An individual may be appointed Commissioner for more than one term.

"(3) The Commissioner shall be a full time employee of the United States and shall be paid at the rate of GS-18 of the General Schedule under section 5332 of title 5, United States Code.

"(c)(1)(A) Except as otherwise provided by the Navajo and Hopi Relocation Amendments of 1988, the Commissioner shall have all the powers and be responsible for all the duties that the Navajo and Hopi Relocation Commission had before the enactment of such amendments.

"(B) All funds appropriated to the Navajo and Hopi Relocation Commission before the date on which the first Commissioner on Navajo and Hopi Relocation is confirmed by the Senate that have not been expended on such date shall become available to the Officer of the Navajo and Hopi Relocation on such date and shall remain available without fiscal year limitation.

"(2) There are hereby transferred to the Commissioner, on January 31, 1989—

"(A) all powers and duties of the Bureau of Indian Affairs derived from Public Law 99-190 (99 Stat. at 1236) that relate to the relocation of members of the Navajo Tribe from lands partitioned to the Hopi Tribe, and

"(B) all funds appropriated for activities relating to such relocation pursuant to P.L. 99-190 (99 Stat. at 1236): *Provided,* That such funds shall be used by the Commissioner for the purpose for which such funds were appropriated to the Bureau of Indian Affairs.

"(d)(1) The Commissioner shall have the power to—

"(A) appoint and fix the compensation of such staff and personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

"(B) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $200 a day for individuals.

"(2) The authority of the Commissioner to enter into contracts for the provision of legal services for the Commissioner or for the Office of Navajo and Hopi Indian Relocation shall be subject to the availability of funds provided for such purposes by appropriations Acts.

"(3) There are authorized to be appropriated for each fiscal year $100,000 to fund contracts described in paragraph (2).0

"(e)(1) The Commissioner is authorized to provide for the administrative, fiscal, and housekeeping services of the Office of Navajo and Hopi Indian Relocation and is authorized to call upon any department or agency of the United States to assist him in implementing the relocation plan, except that the control over and responsibility for completing relocation shall remain in the Commissioner. In any case in which the Office calls upon any such department or agency for assistance under this section, such department or agency shall provide reasonable assistance so requested.

"(2) On failure of any agency to provide reasonable assistance as required under paragraph (1) of this subsection, the Commissioner shall report such failure to the Congress.

"(f) The Office of Navajo and Hopi Indian Relocation shall cease to exist when the President determines that its functions have been fully discharged.".

(b) Public Law 93-531 is amended by striking out "the Commission" each place it appears and inserting in lieu thereof "the Commissioner".

(c)(1) Notwithstanding any other provisions of law or any amendment made by this Act—

(A) the Navajo and Hopi Indian Relocation Commission shall—

(i) continue to exist until the date on which the first Commissioner is confirmed by the Senate,

(ii) have the same structure, powers and responsibilities such Commission had before the enactment of this Act, and

(iii) assume responsibility for the powers and duties transferred to such Commissioner under section 12(c)(2) of Public Law 93-531, as amended by this Act, until the Commissioner is confirmed.

(B) the existing Commissioners shall serve until the new Commissioner is confirmed by the Senate, and

(C) the existing personnel of the Commission shall be transferred to the new Office of Navajo and Hopi Indian Relocation.

(2) The Navajo and Hopi Relocation Commission shall become known as the Office of Navajo and Hopi Indian Relocation on the date on which the first Commissioner is confirmed by the Senate.

(d) Section 13 of Public Law 93-531 (25 U.S.C. 640d-12) is amended to read as follows:

"(a) By no later than the date that is 6 months after the date on which the first Commissioner is confirmed by the Senate, the Commissioner shall prepare and submit to the Congress a report concerning the relocation of households and members thereof of each tribe and their personal property, including livestock, from lands partitioned to the other tribe pursuant to this Act.

"(b) The report required under subsection (a) shall contain, among other matters, the following:

"(1) the names of all members of the Navajo Tribe who reside within the areas partitioned to the Hopi Tribe and the names of all members of the Hopi Tribe who reside within the areas partitioned to the Navajo Tribe;

"(2) the names of all members of the Navajo Tribe, and other members of the Hopi Tribe, who are eligible for benefits provided under this Act and who have not received all the benefits for which such members are eligible under this Act;

"(3) the fair market value of the habitations and improvements owned by the head of households identified by the Commissioner as being among the persons named in clause (1) of this subsection; and

"(4) a report on how funds in the Navajo Rehabilitation Trust Funds will be expended to carry out the purposes described in section 32(d)."

LOBBYING

SEC. 5. Public Law 93-531 is amended by adding at the end thereof the following new section:

"SEC. 31. (a) Except as provided in subsection (b), no person or entity who has entered into a contract with the Commissioner to provide services under this Act may engage in activities designed to influence Federal legislation on any issue relating to the relocation required under this Act.

"(b) Subsection (a) shall not apply to the Navajo tribe or the Hopi tribe, except that such tribes shall not spend any funds received from the Office in any activities designed to influence Federal legislation."

NEW DEVELOPMENT ON CERTAIN LANDS

SEC. 6. Subsection (f) of section 10 of Public Law 93-531 (25 U.S.C. 640d-9(f)) is ameended—

(1) by striking out "Any development" and inserting in lieu thereof "(1) Any development", and

(2) by adding at the end thereof the following new paragraphs:

"(2) Each Indian tribe which receives a written request for the consent of the Indian tribe to a particular improvement, construction, or other develpment on the lands to which paragraph (1) applies shall respond in writing to such request by no later than the date that is 30 days after the date on which the Indian tribe receives the request. If the Indian tribe refuse to consent to the improvement, construction, or other development, the response shall include the reasons why consent is being refused.

"(3)(A) Paragraph (1) shall not apply to any improvement, construction, or other development if—

"(i) such improvement, construction, or development does not involve new housing construction, and

"(ii) after the Navajo Tribe or Hopi Tribe has refused to consent to such improvement, construction, or development (or after the close of the 30-day period described in paragraph (2), if the Indian tribe does not respond within such period in writing to a written request for such consent), the Secretary of the Interior determines that such improvement, construction, or development is necessary for the health or safety of the Navajo Tribe, the Hopi Tribe, or any individual who is a member of either tribe.

"(B) If a written request for a determination described in subpararaph (A)(ii) is submitted to the Secretary of the Interior after the Navajo Tribe or Hopi Tribe has refused to consent to any improvement, construction, or development (or after the close of the 30-day period described in paragraph (2), if the Indian tribe does not respond within such period in writing to a written request for such consent), the Secretary shall, no later than the date that is 45 days after the date on which such request is submitted to the Secretary, detemine whether such improvement, construction, or develpment is necessary for the health or safety of the Navajo Tribe, the Hopi Tribe, or any individual who is a member of either tribe.

"(C) Any development that is undertaken pursuant to this section shall be without prejudice to the rights of the parties in the civil action pending before the United States District Court for the District of Arizona commenced pursuant to section 8 of this Act, as amended.".

NAVAJO REHABILITATION TRUST FUND

SEC. 7. Public Law 93-531 is amended by adding at the end thereof the following new section:

"SEC. 32. (a) There is hereby established in the Treasury of the United States a trust fund to be known as the 'Navajo Rehabilitation Trust Fund', which shall consist of the funds transferred under subsection (b) and of the funds appropriated pursuant to subsection (f) and any interest or investment income accrued on such funds.

"(b) All of the net income derived by the Navajo Tribe from the surface and mineral estates of lands located in New Mexico that are acquired for the benefit of the Navajo Tribe under section 11 shall be deposited into the Navajo Rehabilitation Trust Fund.

"(c) The Secretary shall be the trustee of the Navajo Rehabilitation Trust Fund and shall be responsible for investment of the funds in such Trust Fund.

"(d) Funds in the Navajo Rehabilitation Trust Fund, including any interest or investment accruing thereon, shall be available to the Navajo Tribe, with the approval of the Secretary, solely for purposes which will contribute to the continuing rehabilitation and improvement of the economic, educational, and social condition of families, and Navajo communities, that have been affected by—

"(1) the decision in the Healing case, or related proceedings,

"(2) the provision of this Act, or

"(3) the establishment by the Secretary of the Interior of grazing district number 6 as land for the exclusive use of the Hopi Tribe.

"(e) The Navajo Rehabilitation Trust Fund shall terminate when, upon petition by the Navajo Tribe, the Secretary determines that the goals of the Trust Fund have been met and the United States has been reimbursed for funds appropriated under subsection (f). All funds in the Trust Fund on such date shall be transferred to the general trust funds of the Navajo Tribe.

"(f) There is hereby authorized to be appropriated for the Navajo Rehabilitation Trust Fund not to exceed $10,000,000 in each of fiscal years 1990, 1991, 1992, 1993, 1994 and 1995. The income from the land referred to in subsection (b) of this section shall be used to reimburse the General Fund of the United States Treasury for amounts appropriated to the Fund.".

LANDS TRANSFERRED OR ACQUIRED FOR THE NAVAJO TRIBE

SEC. 8. Subsection (h) of section 11 of Public Law 93-531 (25 U.S.C. 640d-10(h)) is amended by striking out "the date of this subsection who are awaiting relocation under this Act" and inserting in lieu thereof "the date of enactment of this Act: *Provided*, That the sole authority for final planning decisions regarding the development of lands acquired pursuant to this Act shall rest with the Commissioner until such time as the Commissioner has discharged his statutory responsibility under this Act".

PROVISION OF ATTORNEY FEES FOR THE SAN JUAN SOUTHERN PAIUTE TRIBE

SEC. 9. (a) Subsection (e) of section 8 of Public Law 93-531 (25 U.S.C. 640d-7 (e)) is amended by inserting a comma and the words "San Juan Southern Paiute" after the word "Navajo".

(b) Section 8 of Public Law 93-531 is amended by adding at the end thereof the following new subsection:

"(f)(1) Any funds made available for the San Juan Southern Paiute Tribe to pay for attorney's fees shall be paid directly to the tribe's attorneys of record until such tribe is acknowledged as an Indian tribe by the United States: *Provided*, That the tribe's eligibility for such payments shall cease once a decision by the Secretary of the Interior declining to acknowledge such tribe becomes final and no longer appealable.

"(2) Nothing in this subsection shall be interpreted as a Congressional acknowledgement of the San Juan Southern Paiute as an Indian tribe or as affecting in any way the San Juan Southern Paiute Tribe's Petition for Recognition currently pending with the Secretary of the Interior.

"(3) There is hereby authorized to be appropriated not to exceed $250,000 to pay for the legal expenses incurred by the Southern Paiute Tribe on legal action arising under this section prior to enactment of the Navajo and Hopi Indian Relocation Amendments of 1988.".

SEC. 10. Section 15 of Public Law 93-531 is amended by adding the following new subsection (g) at the end thereof:

"(g) Notwithstanding any other provision of law, appeals from any eligibility determination of the Relocation Commission, irrespective of the amount in controversy, shall be brought in the United States District Court for the District of Arizona."

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **RHODES**. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

Mr. **UDALL**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1236 is a bill to reauthorize the relocation programs authorized under Public Law 93-531. The bill was reported with an amendment. The amendment attempted to reconcile the concerns expressed by members of the committee on the bill. Following is a summary of the amendment:

First, like the Senate bill, the amendment provides for an authorization of $30 million annually. However, such authorization is limited to fiscal years 1989, 1990, and 1991.

Second, the Commission will still be headed by only one Commissioner but will remain an independent agency.

Third, the new Commissioner will still have to provide a report to the Congress but will not have to come up with a new plan for relocation.

Fourth, the section placing a limit on attorneys fees was dropped from the bill.

Fifth, the amendment authorizes the appropriation of $10 million for each fiscal year from 1990 until 1995 for the purpose of funding the Navajo Rehabilitation Trust Fund.

Sixth, the section providing for a priority in the provisions of relocation benefits among those families eligible for such benefits has been dropped from the bill.

Seventh, finally a section was included which would allow the payment of attorney fees to the San Juan Southern Paiute Tribe.

Mr. Speaker, I think this bill represents a reasonable compromise and I urge passage of this bill, as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. **RHODES**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1236, the Navajo and Hopi Relocation Amendments Act.

Over the last 3 years both the House and Senate committees have examined the current Navajo and Hopi Relocation Commission, reviewing its effectiveness and looking for improvements to ease the efforts of relocation of Navajos off of Hopi Lands.

These amendments are designed to increase the effectiveness of the program. The amendments would:

Increase the annual appropriations authorization from $15 million to $30 million, in an effort to more quickly provide benefits to the hundreds of Navajos awaiting their benefits.

Restructure the Commission by establishing a single full-time Commissioner, to be appointed by the President with the advice and consent of the Senate; limit the authority to hire lobbyists and outside attorneys; and call for an enumeration of those persons still residing on Hopi partition lands.

Partially lift what is referred to as the Bennett Freeze, to allow repair and construction for health and safety reasons, without prejudice to either tribe in their ongoing lawsuits.

Mr. Speaker, I view these amendments as a means to streamline the Commission so that the job of relocation can be completed in a more humane manner, and at a quicker pace. There are many families entitled to receive these benefits who have waited years. Now is the time to finish the job.

Mr. Speaker, for the purpose of entering into a colloquy, I yield to the gentleman from Arizona [Mr. UDALL].

It is my understanding that approximately 250 families still reside on the HPL and that a majority of these families have agreed to relocate. Is it the committee's intent that S. 1236, as amended by the House, neither delay nor disturb the priority of relocating such families?

Mr. **UDALL**. The gentleman is correct, the committee intended no changes in priority.

Mr. **RHODES**. Under section 8 of the bill, will the extended families of those physically residing on the HPL be able to relocate on the new lands even if such extended families did not reside on the HPL as of July 8, 1980?

Mr. **UDALL**. That is my understanding.

Mr. **RHODES**. I thank the gentleman, and would inquire further whether the committee intended that the restructuring of the current Commission might provide a new basis for challenging the relocation program?

Mr. **UDALL**. The committee does not intend the creation of the new position of commissioner to create or form a new basis for the suspension or delay of the relocation program.

Mr. **RHODES**. I thank the gentleman and would finally seek to clarify that the statutory modification in the Bennett Freeze area is not intended to impair deliberations by the U.S. District Court for the District of Arizona, currently set for trial in September of next year?

Mr. **UDALL**. That is my understanding.

Mr. **RHODES**. I thank the gentleman and am prepared to support this legislation based on these clarifications.

Mr. Speaker, I yield back the balance of my time.

Mr. RICHARDSON. Mr. Speaker, I rise in support of S. 1236.

I know that this is a very difficult issue for Members of this House to address. It is an emotional issue, it is complex, and frankly, most Members wish they did not have to confront it. But we can't do that. If anyone in this country has a duty to deal with a tragedy such as relocation, it is us. I hope that the Members will understand that regardless of what we do on this bill today, the larger tragedy of this dispute is not going to disappear, and it would be cheating the Navajo and Hopi peoples, the American taxpayer, and even ourselves to pretend that it will, or that it should, simply go away.

I think that we ought to pass this bill. In recent days, I have spoken with other Members and I have studied this legislation. For a much longer period of time, I have been personally very concerned with the whole Navajo-Hopi dispute, and I have serious personal convictions about this policy, what it has done to these people, and what needs to be done to resolve it. I agree with what Senator DeConcini and Senator McCain said about this legislation: it is by no means a solution to the real problem. It is only a short-term measure that will improve somewhat the conduct of current policy, and perhaps make some aspects of this policy a little less painful and a little more bearable for the thousands of human beings who have suffered.

The bill before us is not a great bill, and in some parts I do not feel that it is a really good bill. But in the sum of its parts, it is clearly better than allowing the current disastrous situation to continue, while the rest of America looks the other way. We must do something now, and in the few remaining days of this Congress, it appears that this is the best that we can do.

This bill will bring some relief. It is only a Band-Aid, however, we are fooling ourselves if we think that it is anything more than that. The massive litigation now pending between the Navajo and Hopi Tribes over the ownership of the 1.3 million-acre Bennett Freeze Area in the Western Navajo Reservation hangs over our heads like a great dark cloud. This issue is now in the courts, and it will remain in the courts for at least a decade or more to come, and it directly affects the lives of nearly 10,000 people.

I want to state for the record that I, along with many others of the committee, recognize that there is a need for safe and sanitary housing to withstand weather conditions on the Bennett Freeze Area. I want to make clear that repair or replacement of dilapidated structures is authorized under existing law. These repairs or replacements are justified at least to the extent that they restore a structure to its former safe and sanitary condition and size, or bring the living conditions of the family into conformity with Federal standards governing physical condition and adequacy of space. To condone anything less than this is to subject these families to continued suffering, and effectively relegates them to a standard less than that we apply to other American citizens. It was not the intent of Congress in 1974 to punish these people, and it is not the intent of Congress today to punish them.

The humiliation of the current self-defeating policy of relocation can only be brought to an end through legislation. Eleven years later, nearly $210 million later, relocation is not even half complete.

It is only through our efforts and the exercise of our conscience that this failed policy can be brought to an end. Mr. Chairman, in the next Congress, we must do precisely that. I intend to work with other Members of the Congress to see that it is done.

Mr. UDALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. Udall] that the House suspend the rules and pass the Senate bill, S. 1236, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

RELATING TO RECOGNITION OF THE CONTRIBUTIONS OF THE IROQUOIS CONFEDERACY OF NATIONS

Mr. UDALL. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 331) to acknowledge the contribution of the Iroquois Confederacy of Nations to the development of the United States Constitution and to reaffirm the continuing government-to-government relationship between Indian tribes and the United States established in the Constitution, as amended.

The Clerk read as follows:

H. Con. Res. 331

Whereas the original framers of the Constitution, including, most notably, George Washington and Benjamin Franklin, are known to have greatly admired the concepts of the Six Nations of the Iroquois Confederacy;

Whereas the confederation of the original Thirteen Colonies into one republic was influenced by the political system developed by the Iroquois Confederacy as were many of the democratic principles which were incorporated into the Constitution itself; and,

Whereas, since the formation of the United States, the Congress has recognized the sovereign status of Indian tribes and has, through the exercise of powers reserved to the Federal Government in the Commerce Clause of the Constitution (art. I, s.2, cl. 3), dealt with Indian tribes on a government-to-government basis and has, through the treaty clause (art. II, s.2, cl. 2) entered into three hundred and seventy treaties with Indian tribal Nations;

Whereas, from the first treaty entered into with an Indian Nation, the treaty with the Delaware Indians of September 17, 1778, the Congress has assumed a trust responsibility and obligation to Indian tribes and their members;

Whereas this trust responsibility calls for Congress to "exercise the utmost good faith in dealings with Indians" as provided for in the Northwest Ordinance of 1787, (1 Stat. 50);

Whereas the judicial system of the United States has consistently recognized and reaffirmed this special relationship: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That—

(1) the Congress, on the occasion of the two hundredth anniversary of the signing of the United States Constitution, acknowledges the contribution made by the Iroquois Confederacy and other Indian Nations to the formation and development of the United States;

(2) the Congress also hereby reaffirms the constitutionally recognized government-to-government relationship with Indian tribes which has been the cornerstone of this Nation's official Indian policy;

(3) the Congress specifically acknowledges and reaffirms the trust responsibility and obligation of the United States Government to Indian tribes, including Alaska Natives, for their preservation, protection, and enhancement, including the provision of health, education, social, and economic assistance programs as necessary, and including the duty to assist tribes in their performance of governmental responsibility to provide for the social and economic well-being of their members and to preserve tribal cultural identity and heritage; and

(4) the Congress also acknowledges the need to exercise the utmost good faith in upholding its treaties with the various tribes, as the tribes understood them to be, and the duty of a great Nation to uphold its legal and moral obligations for the benefit of all of its citizens so that they and their posterity may also continue to enjoy the rights they have enshrined in the United States Constitution for time immemorial.

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. Udall] will be recognized for 20 minutes and the gentleman from Arizona [Mr. Rhodes] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. Udall].

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of House Concurrent Resolution 331 is to acknowledge the contribution of the Iroquois Confederacy of Nations to the heritage of this country.

The resolution also reaffirms the continuing government-to-government relationship between the United States and the Indian Tribes and reaffirms the existence of a trust responsibility toward the Indian tribes.

Mr. Speaker, this resolution is mostly symbolic and noncontroversial but its symbolism is nevertheless very meaningful not only to the Iroquois Confederacy but to all Indian tribes. I urge passage of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 331, a resolution to acknowledge the contribution of the Iroquois Confederacy of Nations to the development of the U.S. Constitution and to reaffirm the continuing government-to-government relationship between Indian tribes and the United States established in the Constitution.

Indian tribal governments have a unique status in our political system.

They are dependent sovereigns that have a government-to-government relationship, not with the States but with the Federal Government. This resolution reaffirms that relationship. Additionally, it clarifies the trust relationship and acknowledges the need to respect Indian treaties. I believe this is a noncontroversial bill. The committee has received no comments against the resolution, and there are no costs associated with it. Therefore, I urge my colleagues to support House Concurrent Resolution 331.

Mr. CAMPBELL. Mr. Speaker, I rise in strong support of House Concurrent Resolution 331, a concurrent resolution which acknowledges the many contributions of the Iroquois Confederacy of Nations to the development of the U.S. Constitution. This resolution also reaffirms the continuing government-to-government relationship between Indian tribes and the United States.

This bill is very timely, a year in which that we have seen numerous activities and tributes in celebration of the bicentennial of the U.S. Constitution. Often our history books do not focus on the many achievements American Indians have contributed to our society and government, especially in the principles enunciated in the Constitution. Indeed, the Iroquois Confederacy was a model for the articles of the Confederacy. In addition, the Iroquois Confederacy was a source of the revolutionary political concept incorporated in the Declaration of Independence, that one purpose of government was to ensure to all individuals the right to pursue happiness.

This resolution also acknowledges the need to exercise good faith in honoring Indian treaties made between the United States and Indian tribes and that the trust responsibility includes the provision of health, education, social and economic assistance programs, and the duty to ensure the protection of cultural heritage and identity for all Indian people.

I urge my colleagues to support House Concurrent Resolution 331.

Mr. UDALL. Mr. Speaker, I yield back the balance of my time.

Mr. RHODES. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 331), as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

DECLARING THAT CERTAIN LANDS BE HELD IN TRUST FOR THE QUINAULT INDIAN NATION

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5203) to declare that certain lands be held in trust for the Quinault Indian Nation, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5203

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPANSION OF QUINAULT INDIAN RESERVATION.—The Quinault Indian Reservation is hereby expanded to include those lands consisting of more or less 11,905 acres and generally depicted on the map entitled, "North Boundary Expansion, Quinault Indian Nation," numbered 88-S2752-1 and dated, September 23, 1988, which shall be on file and available for public inspection in the offices of the Chief, Forest Service, and of the Assistant Secretary for Indian Affairs, Department of the Interior, and of the tribal offices of the Quinault Indian Nation. The boundary of the Olympic National Forest is hereby modified as depicted on the map referred to in this section.

SEC. 2. QUINAULT SPECIAL MANAGEMENT AREA.—The Secretary of Agriculture shall—

(a) manage those Federal lands within the boundaries of the Olympic National Forest consisting of more or less 5,460 acres and generally depicted on the map entitled "Quinault Special Management Area" numbered 88-S2752-2 and dated, September 23, 1988, which shall be on file and available for public inspection in the offices of the Chief, Forest Service, and of the Assistant Secretary for Indian Affairs, Department of the Interior, and of the tribal offices of the Quinault Indian Nation in a manner consistent with Section 3; and

(b) shall distribute the proceeds from the sale of forest products on lands referred to in subsection (a) as provided in Section 4.

SEC. 3. ADMINISTRATION OF LANDS.—(a) All right, title, and interest in lands owned by the United States and administered by the United States Forest Service and referred to in Section 1, shall hereafter—

(1) be administered by the Secretary of the Interior; and

(2) be held in trust by the United States for the Quinault Indian Nation and be part of the Quinault Indian Reservation.

(b) All right, title, and interest in lands which are owned by the United States and administered by the United States Forest Service which are referred to in Section 2 shall remain in the United States and, except as provided in section 4, shall continue to be administered by the United States Forest Service as other National Forest System lands are administered in accordance with all laws, rules and regulations applicable to the national forests.

(c) The rights of the Quinault Indian Nation to revenues under Section 4(b), shall not affect the management of these lands nor create a trust or fiduciary duty on the Secretary of Agriculture with respect to such management beyond that which the Secretary may have under existing law.

SEC. 4. RECEIPTS FROM NATIONAL FOREST SYSTEM LANDS.—(a) Notwithstanding any other provisions of law, the Secretary of Agriculture shall, without further appropriations, receive from the gross proceeds from the sale of forest products from lands referred to in Section 2 a reasonable fee not to exceed ten percent for preparation and administration of timber sales from such lands.

(b) Notwithstanding the requirements of the Act of March 4, 1907 (16 U.S.C. 499) concerning moneys received from revenues generated from the National Forests into the Treasury of the United States, moneys received from the lands referred to in Section 2 shall be distributed in the following manner:

(1) forty-five percent of all moneys received during any fiscal year from said land shall be paid into the accounts referred to in Section 8; and

(2) forty-five percent of all moneys received during any fiscal year from said lands shall be paid to the State of Washington pursuant to the Act of May 23, 1908 (C. 192, 35 Stat. 251 as amended; 16 U.S.C. 500).

SEC. 5. LIMITATIONS ON TIMBER HARVEST.—(a) The Secretary of the Interior shall not approve any sale of unprocessed timber from lands referred to in Section 1 which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser: *Provided*, That this limitation shall not apply to specific quantities of grades and species of timber which the Secretary determines are surplus to domestic lumber and plywood manufacturing needs.

(b) In addition to restrictions referred to in subsection (a), the Secretary of the Interior shall—

(1) limit the sale of timber from the lands referred to in Section 1 to a quantity equal to or less than a quantity which can be removed from such lands annually in perpetuity on a long term sustained-yield basis: *Provided*, That in order to meet overall multiple-use objectives, the Secretary may establish an allowable sale quantity for any decade which departs from the projected long-term average sale quantity that would otherwise be established. In addition, within any decade, the Secretary may sell a quantity in excess of the annual allowable sale quantity established pursuant to this section so long as the average sale quantity of timber over the decade covered does not exceed such quantity limitation; and

(2) administer all timber and forest products sold from the lands referred to in Section 1 in accordance with the conditions of the Policy Statement for the Grays Harbor Sustained Yield Unit as defined and administered by the Secretary of Agriculture as long as such policy statement remains in effect.

"SEC. 6. EXISTING RIGHTS-OF-WAY AND OTHER INTERESTS.—The Secretary of Agriculture shall reserve permanent easement for the purpose of continuing access, including public access, to National System lands on Forest Service roads numbers 21, 2110, 2120, 2130, 2140, 2190, 2191, and all numbered extensions or segments thereof. Such easements shall be in a form acceptable to the Secretary of Agriculture, including provisions for cooperative maintenance.

SEC. 7. ACCESS TO LANDS.—(a) The Secretary of the Interior shall allow such additional rights-of-way through lands referred to in Section 1 as the Secretary of Agriculture, in consultation with the Secretary of the Interior and the Quinault Indian Nation, considers necessary to provide access to and management of National Forest System lands, including public access. Such rights-of-way shall be located in such manner as the Secretary of the Interior, in consultation with the Secretary of Agriculture and the Quinault Indian Nation, determines to be appropriate.

(b) The Secretary of Agriculture shall allow such rights-of-way through National Forest lands, as the Secretary of the Interior, in consultation with the Secretary of Agriculture and the Quinault Indian Nation, considers necessary to provide access to lands referred to in Section 1. Such rights-of-way shall be located in such a manner as the Secretary of Agriculture, in consultation with the Secretary of the Interior and the Quinault Indian Nation determines to be appropriate.

SEC. 8. USE OF TIMBER SALE PROCEEDS.—The Secretary of the Interior shall maintain a segregated account and shall deposit in such account all funds derived from the sale of unprocessed timber from the lands referred to in Section 1. The Secretary shall make such funds available only for—

(a) costs incurred by the Quinault Indian Nation for the preparation and administration of timber sales, including road construction and maintenance on such lands;

(b) the mitigation of any adverse environmental impacts from timber harvest activities on such lands;

(c) reforestation of any lands referred to in Section 1 or any other lands within the external boundaries of the Quinault Indian Reservation: *Provided*, That nothing herein shall allow the Secretary of the Interior to substitute these funds for other appropriated funds or for Forest Management Deductions funds presently available for reforestation; or

(d) the purchase from willing sellers by the Quinault Indian Nation of any lands or interests in lands within the external boundaries of the Quinault Indian Reservation and any costs incurred by the Quinault Indian Nation incident thereto.

SEC. 9. SAVINGS PROVISIONS.—Nothing in this Act is intended to affect or modify—

(a) the proportional distributive shares of the respective counties of receipts from the sale of timber in the remaining lands of the Olympic National Forest;

(b) any property rights which may exist within the exterior boundaries of the Quinault Indian Reservation as it existed prior to enactment of this Act; and

(c) any valid existing rights-of-way, leases or permits of the Secretary of Agriculture or any person or entity in any of the lands referred to in Section 1.

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, H.R. 5203, which was introduced by my colleague, the Honorable AL SWIFT from the State of Washington, is a bill to transfer about 12,000 acres of land to the Secretary of the Interior to be held in trust for the benefit of the Quinault Indian Nation. This land is currently owned by the United States and managed by the Forest Service.

The Quinault Indian Reservation is located in the Olympic Peninsula. Although the Quinault Reservation consists of about 190,000 acres, most of the land has been allotted and the tribe today owns less than 10 percent of such lands.

The intent of this bill is to transfer some lands to the Quinault Indian Nation in order to provide such tribe with an adequate land base. It is not the purpose of this bill to settle any legal land claims or to alter the existing property rights within the Quinault Indian Reservation.

The committee adopted an amendment, the purpose of which was to satisfy the concerns raised by the Forest Service. The amendment reduces the amount of land to be transferred in trust to the Quinault Indian Nation by 5,460 acres.

Mr. Speaker, this bill was referred jointly to this committee and the Committee on Agriculture. This committee has worked closely with the Agriculture Committee and I want to include in the RECORD a letter from the Agriculture Committee advising us that they have no problems with the bill and no objection to the consideration of this bill.

I urge my colleagues to support the bill.

□ 2100

Mr. Speaker, I yield as much time as he may consume to the gentleman from Washington [Mr. SWIFT].

Mr. TORRICELLI. Mr. Speaker, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from New Jersey.

Mr. TORRICELLI. Mr. Speaker, it is my hope to enter into a colloquy with the author of the amendment, the gentleman from Washington [Mr. SWIFT].

It is my understanding that this legislation does not intend to terminate or diminish the treaty rights of any Indian tribe, either federally recognized or not federally recognized, is that correct?

Mr. SWIFT. That is correct, this is the intent of the regulations, and is so intended.

Mr. TORRICELLI. If the gentleman will yield further, I understand this does not intend to impair the rights of any tribe or even any individual Indian, is this correct?

Mr. SWIFT. Mr. Speaker, that is correct, that is also the intent of the bill and the intent of the committee.

Mr. TORRICELLI. Mr. Speaker, I thank the gentleman for entering into this colloquy and making his thoughts and interpretations clear in that regard.

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

This bill was referred jointly to our committee and the Committee on Agriculture, and I include in the RECORD a letter from the Committee on Agriculture advising us they have no problem with the bill and no objection to the consideration of the bill.

Again I urge my colleagues to support this.

The letter to which I referred is as follows:

COMMERCE ON AGRICULTURE,
Washington, DC, October 3, 1988.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: On September 28, 1988, the Committee on Interior and Insular Affairs ordered reported H.R. 5203, to declare that certain lands be held in trust for the Quinalt Indian Nation and for other purposes. You have asked that this bill be scheduled for floor consideration under suspension of the rules on Monday, October 3, 1988.

The Committee on Agriculture has jurisdiction over several matters set forth in H.R. 5203. Specifically, the bill would modify the boundary of the Olympic National Forest and provide for changes in the receipt-sharing formula on a portion of the Forest. I understand that H.R. 5203, as reported by the Committee on Interior and Insular Affairs, reflects modifications to H.R. 5203 that were suggested by the Committee on Agriculture and included in the bill to be considered on the suspension calendar by the House.

With these changes, I am agreeable to deferring consideration of H.R. 5203 by the Committee on Agriculture so that the bill can be considered expeditiously by the House. I do so without in any respect waiving jurisdiction with regard to substantive issues addressed in the bill. Should any provisions of the bill become an issue in the Senate, I intend to seek the Committee's representation in any conference that may be held.

Please make this letter a part of the record during consideration of H.R. 5203 by the House.

Sincerely,

E (KIKA) DE LA GARZA,
Chairman.

Mr. RHODES. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Unlike most of the legislation we have had before us today, there is considerable controversy about this particular bill and I think our colleagues should be aware there will be some "no" votes on this.

The administration, for example, opposed enactment of H.R. 5203 under which the tribe would have received gratuitously awarded timber rights where the courts determined they have no rightful claim and would establish an undesirable precedent that could lead to reopening of countless other Indian claims, and it is my information, if presented to the President, that the Secretary of Agriculture, Secretary of the Interior and the Director of the Office of Management and Budget as well as the Attorney General would recommend that this bill be vetoed, should it get that far.

So there will be, I think, considerable controversy with regard to this particular bill given the fact that the report's determination of rightful claims here is not really being represented by the particular legislation that we have.

Mr. SWIFT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Mr. Speaker, I yield to the gentleman from Washington.

Mr. SWIFT. I thank the gentleman for yielding.

I am not critical to the gentleman for the information he stated because this has moved very rapidly in the last 24 to 36 hours, but I believe at least this gentleman is informed that the objections from the Department of Agriculture have been met and that they have no position on the bill, and that the objections of the Interior Department have been overcome and that they support the bill. That is this gentleman's information as of late today, and that could be a very recent change since the gentleman received his information, not knowing exactly the timing. I do not want to say that the gentleman is wrong, but we do have different information from the administration.

Mr. WALKER. Mr. Speaker, I thank the gentleman for that information. My information is in printed form and he may have later information than I do, but I say to the gentleman that that is a problem with moving these bills so fast. None of the Members are operating very much in the way of information, period. The latest information I have is that this bill still does have a problem and that is obviously subject to change between now and the time we would vote, but it is still, I think, raising the question of whether the claims at the courts have not upheld them in the past.

Mr. DE LA GARZA. Mr. Speaker, I rise in support of H.R. 5203, a bill to declare that certain lands be held in trust for the Quinalt Indian Nation and for other purposes.

H.R. 5203 helps to resolve a dispute over the boundary of the Quinalt Indian Reservation in Washington that has existed since an erroneous survey was conducted in 1892. The bill would do so by transferring 12,000 acres of land currently contained in the Olympic National Forest to the Secretary of the Interior to be included in the Quinalt Indian Reservation.

Records indicate that a total of 15,038 acres of land were mistakenly excluded from the Quinalt Reservation at the time of the land survey. Of these 9,600 acres of land originally part of the Quinalt Reservation are currently within the Olympic National Forest and approximately 3,100 acres are within the Olympic National Park. Other lands, totaling 1,270 acres, are currently held by the State of Washington, and Grays Harbor and Jefferson Countries. Private land amounting to 1,065 acres was also erroneously excluded from the Quinalt Reservation.

The bill would also provide for the Forest Service to continue to manage a 5,400-acre tract of land in accordance with the provisions of the Olympic National Forest land and resource management plan, but requires that a portion of the timber receipts from this tract be given to the Quinalt Nation for certain land consolidation efforts. The income derived from this area is intended to compensate for revenues lost from lands erroneously excluded from the reservation which are currently administered as part of the Olympic National Park or in other public or private ownership.

This provision of the bill provides a unique and somewhat troubling solution to the problems created by the erroneous land survey. Although the Committee on Agriculture would have preferred to correct the previous survey error by returning all the lands determined to have been erroneously excluded from the reservation to the Quinalt Nation, the varied ownership of these lands made such a solution extremely difficult. Therefore the committee accepts the decision to use revenues from Forest Service lands to aid in compensating for revenues lost from lands erroneously excluded from the Quinalt Reservation.

The Committee on Agriculture accepts this solution with the understanding that these "section 2" lands will continue to be managed in accordance with all laws, rules, and regulations governing the administration of other segments of the National Forest System. Furthermore, the committee stresses that the receipts-sharing arrangement authorized by section 4 of H.R. 5203, shall not create a trust or fiduciary duty on the Secretary of Agriculture with respect to the management of these lands beyond any obligations that the Secretary may have under current law. These lands should continue to be managed in accordance with an approved forest plan for the Olympic National Forest, as they would if this receipt-sharing provision were not in effect.

Mr. Speaker, with the changes made in H.R. 5203 to address these concerns I urge my colleagues to support the bill.

Mr. BONKER. Mr. Speaker, H.R. 5203 authored by my colleague, Mr. SMITH, is designed to achieve a very worthwhile purpose. There are a few points, however, that I would like addressed. I would like to list them here and urge my friend to respond to them in a subsequent statement.

Section 8 of the legislation provides that the Quinault Indian Nation may use the proceeds from the lands being transferred to purchase land from willing sellers with the Quinault Indian Nation. I assume that all purchases under this legislation should strictly adhere to the requirements of 25 CFR section 152.22 which call for secretarial approval for the conveyance of individual owned trust or restricted land.

I am also aware that special relationships may exist between owners of individual allotments and coowners of the same parcels of land. It goes without saying that special relationships may exist between owners of individual allotments and their spouses, brothers and sisters and lineal descendants. I understand that these special relationships are protected by this legislation.

Finally, I am concerned about the implications of this legislation with respect to the rights of individuals with interests in the Quinault Indian Reservation as it exists prior to the enactment of this legislation. I am aware that some groups and individuals claim rights within the exterior boundaries of the Quinault Reservation as it currently exists. Nothing in this act is intended to affect the rights of such groups and individuals.

Mr. SWIFT. Mr. Speaker, I know the concerns of my colleague Mr. BONKER with H.R. 5203. As author of the bill I'm glad to be able to assure him of the intent regarding his points of sensitivity.

I intend that nothing in this legislation should be construed as modifying the applicability of the regulations which govern the sales of Indian lands of the reservation—more particularly, the applicability of 25 CFR section 152.25(a) as it requires the Indian owners receive fair market value for any sale of trust land under the provisions of the legislation.

I share the concerns of the gentleman from Washington State, Mr. BONKER, with regard to the special relationships which may exist between the owners and coowners of the same allotments. I can assure the gentleman that, as generally described in 25 CFR section 152, any purchaser of an allotment interest must pay the full market value for the parcel and that the secretary is obliged to provide notice to direct relatives of prospective grantors and to coowners of individual allotments prior to approving the sale of allotment interest.

I would like to point out that nothing in this legislation is intended to affect the rights of groups or individuals with interests in the Quinault Indian Nation as it exists prior to enactment of this legislation.

Finally, the savings clause—section 9—has been the subject of some concern, including the brief colloquy I had with Mr. TORRICELLI. To reiterate, the intent of the bill and the committee is to be neutral with respect to whatever property right claims, whether treaty or statute based, that individuals or groups may have within the boundaries of the Quinault Reservation before the addition of the land transferred by this bill in trust to the Quinault Indian Nation. The savings clause does not apply to the new lands. The savings clause does not and is not intended to confer any rights or provide any congressional recognition to any of the individuals or groups that informed the committee of possible litigation. Nothing in this bill is intended to encourage litigation in any way.

Mr. RHODES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and pass the bill. H.R. 5203, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY WATER RIGHTS SETTLEMENT ACT OF 1988

Mr. UDALL. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4102) to provide for the settlement of the water rights claims of the Salt River Pima-Maricopa Indian Community in Maricopa County, AZ, and for other purposes.

The Clerk read as follows:

Senate amendment: Page 29, strike out lines 16 to 20.

The **SPEAKER** pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to urge the House to approve H.R. 4102, the Salt River Indian Water Rights Settlement, as amended by the Senate.

On September 13, 1988, the House passed H.R. 4102 by a voice vote.

On September 30 the Senate passed the bill, also by a voice vote.

However, the Senate struck a provision intended to resolve a technical problem with an earlier settlement with the Ak-Chin Indian Community of Arizona.

This problem, which has no bearing whatsoever on the Salt River Settlement, can and will be resolved by other means.

Accordingly, Mr. Speaker, I ask the House to agree to the Senate amendment to H.R. 4102 and send this highly meritorious bill to the President.

Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of concurring the Senate amendment to H.R. 4102, the Salt River Pima-Maricopa Indian Community Water Settlement. The amendment is technical in nature, and H.R. 4102 previously passed the House without opposition. Therefore, I urge my colleagues to concur in the Senate amendment.

Mr. Speaker, I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4102.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The **SPEAKER** pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

DISAGREEING WITH SENATE AMENDMENT AND AGREEING TO CONFERENCE ON H.R. 5261, INDIAN HEALTH CARE AMENDMENTS OF 1988

Mr. UDALL. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 565) providing for taking from the Speaker's table the bill (H.R. 5261) to reauthorize and amend the Indian Health Care Improvement Act, and for other purposes, with Senate amendments thereto, disagreeing with the Senate amendments and agreeing to the conference requested by the Senate.

The Clerk read as follows:

H. RES. 565

Resolved, Upon the adoption of this resolution, the House of Representatives shall be considered to have taken from the Speaker's table the bill, H.R. 5261, to reauthorize and amend the Indian Health Care Improvement Act, and for other purposes, with Senate amendments thereto, to have disagreed with the Senate amendment and to have agreed to the conference requested by the Senate.

The **SPEAKER** pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consumer.

Mr. Speaker, I rise in support of this resolution.

The House passed H.R. 5261, the Indian Health Care Amendments of 1988, -September 13.

The Senate passed the bill on September 28 with numous amendments and requested a conference.

Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, I rise in support of the resolution insiting on going to conference on H.R. 5261, the Indian health care amendments. This bill has been expected for some 6 years, and I believe that the conference can be concluded expeditiously. Therefore, I urge my colleagues to support House Resolution 565.

The **SPEAKER**, I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I have no more requests for time, and I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and agree to the resolution, (H. Res. 565).

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The **SPEAKER** pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2723, S. 2800, S. 1236, House Concurrent Resolution 331, H.R. 5203, H.R. 4102, and House Resolution 565, the legislation just considered.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

AGREEING TO SENATE AMENDMENT TO H.R. 900, WEST VIRGINIA NATIONAL INTEREST RIVER CONSERVATION ACT OF 1987, WITH AN AMENDMENT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 566) providing for taking from the Speaker's table the bill (H.R. 900) to protect and enhance the natural, scenic, cultural, and recreational values of certain segments of the New, Gauley, Meadow, and Bluestone Rivers in West Virginia for the benefit of present and future generations, and for other purposes, with a Senate amendment thereto and agree to the Senate amendment with an amendment.

The Clerk read as follows:

H. RES. 566

Resolved, Upon the adoption of this resolution, the House of Representatives shall be considered to have taken from the Speaker's table the bill H.R. 900, to protect and enhance the natural, scenic, cultural, and recreational values of certain segments of the New, Gauley, Meadow, and Bluestone Rivers in West Virginia for the benefit of present and future generations, and for other purposes, with the Senate amendment thereto and to have agreed to the Senate amendment with an amendment as follows:

The House amendment to the Senate amendment: In lieu of the matter proposed to be stricken and the matter proposed to be inserted, strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the "West Virginia National Interest River Conservation Act of 1987".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Findings and purposes.

TITLE I—NEW RIVER GORGE NATIONAL RIVER

Sec. 101. Boundary modification.
Sec. 102. Cooperative agreements with State.
Sec. 103. Improvement of access at Cunard.
Sec. 104. Flow management.
Sec. 105. Visitor facility.

TITLE II—GAULEY RIVER NATIONAL RECREATION AREA

Sec. 201. Establishment.
Sec. 202. Administration.
Sec. 203. Miscellaneous.
Sec. 204. Authorization of appropriations.
Sec. 205. Special conditions.
Sec. 206. Advisory committee.

TITLE III—BLUESTONE NATIONAL SCENIC RIVER

Sec. 301. Designation of Lower Bluestone River.

TITLE IV—GENERAL PROVISIONS

Sec. 401. Coordination among recreational resources.
Sec. 402. Special provisions.
Sec. 403. Public awareness program.
Sec. 404. Consolidated management.
Sec. 405. New spending authority subject to appropriations.

TITLE V—TECHNICAL CHANGE TO WILD AND SCENIC RIVERS ACT

Sec. 501. Acreage limitations.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) The outstanding natural, scenic, cultural and recreational values of the segment of the New River in West Virginia within the boundaries of the New River Gorge National River have been preserved and enhanced by its inclusion in the National Park System.

(2) The establishment of the New River Gorge National River has provided the basis for increased recreation and tourism activities in southern West Virginia due to its nationally recognized status and has greatly contributed to the regional economy.

(3) Certain boundary modifications to the New River Gorge National River are necessary to further protect the scenic resources within the river's visual corridor and to provide for better management of the national park unit.

(4) Several tributaries of the New River in West Virginia also possess remarkable and outstanding features of national significance. The segment of the Gauley River below Summersville Dam has gained national recognition as a premier whitewater recreation resource. The lower section of the Bluestone River and the lower section of the Meadow River possess remarkable and outstanding natural, scenic, and recreational values due to their predominantly undeveloped condition.

(5) Portions of several of the New River tributaries, including segments of the Gauley River, the Meadow River, and the Bluestone River are suitable for inclusion in the National Park System or the National Wild and Scenic Rivers System.

(6) It is in the national interest to preserve the natural condition of certain segments of the New, Gauley, Meadow, and Bluestone Rivers in West Virginia and to enhance recreational opportunities available on the free-flowing segments.

(b) PURPOSE.—The purpose of this Act is to provide for the protection and enhancement of the natural, scenic, cultural, and recreational values on certain free-flowing segments of the New, Gauley, Meadow, and Bluestone Rivers in the State of West Virginia for the benefit and enjoyment of present and future generations.

TITLE I—NEW RIVER GORGE NATIONAL RIVER

SEC. 101. BOUNDARY MODIFICATION.

Section 1101 of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m-15) is amended by striking out "NERI-20,002, dated July 1978" and substituting "NERI-80,023, dated January 1987".

SEC. 102. COOPERATIVE AGREEMENTS WITH STATE.

Title XI of the National Parks and Recreation Act of 1978 is amended by adding the following new section at the end thereof:

"SEC. 1113. COOPERATIVE AGREEMENTS WITH STATE.

"In administering the national river, the Secretary is authorized to enter into cooperative agreements with the State of West Virginia, or any political subdivision thereof, for the rendering, on a reimbursable or nonreimbursable basis, of rescue, fire fighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.".

SEC. 103. IMPROVEMENT OF ACCESS AT CUNARD.

Title XI of the National Parks and Recreation Act of 1978 is amended by adding the following new section at the end thereof:

"SEC. 1114. IMPROVEMENT OF ACCESS AT CUNARD.

"(a) DEVELOPMENT AND IMPROVEMENT.—The Secretary shall expeditiously acquire such lands, and undertake such developments and improvements, as may be necessary to provide for commercial and noncommercial access to the river near Cunard. No restriction shall be imposed on such access based on the time of day, except to the extent required to protect public health and safety.

"(b) INTERIM MEASURES.—Pending completion of the developments and improvements referred to in subsection (a), the Secretary shall permit the motorized towing of whitewater rafts in the section of the national river between Thurmond and Cunard when the volume of flow in the river is less than three thousand cubic feet per second.".

SEC. 104. FLOW MANAGEMENT.

Title XI of the National Parks and Recreation Act of 1978 is amended by adding the following new section at the end:

"SEC. 1115. FLOW MANAGEMENT.

"(a) FINDINGS.—The Congress finds that adjustments of flows from Bluestone Lake project during periods of low flow are necessary to respond to the congressional mandate contained in section 1110 of this Act and that such adjustments could enhance the quality of the recreational experience in the segments of the river below the lake during those periods as well as protect the biological resources of the river.

"(b) REPORT TO CONGRESS REQUIRED.—The Secretary of the Army, in conjunction with the Secretary of the Interior, shall conduct a study and prepare a report under this section. The report shall be submitted to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives not later than December 31, 1989. Before submission of the report to these Committees, a draft of the report shall be made available for public comment. The final report shall include the comments submitted by the Secretary of the Interior and the public, together with the response of the Secretary of the Army to those comments.

"(c) CONTENTS OF STUDY.—The study under this section shall examine the feasibility of adjusting the timing of daily releases from Bluestone Lake project during periods when flows from the lake are less than three thousand cubic feet per second. The purpose of such adjustment shall be to improve recreation (including, but not limited to, fishing and whitewater recreation) in the New River Gorge National River. Any such adjustments in the timing of flows which are proposed in such report shall be consistent with other project purposes and shall not have significant adverse effects on fishing or on any other form of recreation in Bluestone Lake or in any segment of the river below Bluestone Lake. The study shall assess the effects of such flow adjustments on the quality of recreation on the river in the segments of the river between Hinton and Thurmond and between Thurmond and the downstream boundary of the New River Gorge National River, taking into account the levels of recreational visitation in each of such segments.

"(d) TEST PROCEDURES.—As part of the study under this section, the Secretary of the Army shall conduct test releases from Bluestone Lake project during twenty-four-hour periods during the summer of 1989 when flows are less than three thousand cubic feet per second from the project. All such adjustments shall conform to the criteria specified in subsection (c). The tests shall provide adjustments in the timing of daily flows from Bluestone Lake project which permit flows higher than the twenty-four-hour average to reach downstream recreational segments of the river during morning and afternoon hours. The tests shall develop specific data on the effects of flow adjustments on the speed of the current and on water surface levels in those segments. No test shall be conducted when flows from the lake are less than one thousand seven hundred cubic feet per second and no test shall reduce flows below that level.".

SEC. 105. VISITOR FACILITY.

Title XI of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m-15 and following) is amended by adding the following new section at the end thereof:

"SEC. 1116. GLADE CREEK VISITOR FACILITY.

"In order to provide for public use and enjoyment of the scenic and natural resources of the New River Gorge National River and and in order to provide public information to visitors with respect to the national river and associated State parklands, the Secretary is authorized and directed to construct a scenic overlook and visitor information facility at a suitable location accessible from Interstate 64 in the vicinity of Glade Creek within the boundary of the national river. There is authorized to be appropriated such sums as may be necessary to carry out construction (including all related planning and design) of the scenic overlook and visitor information facility.".

TITLE II–GAULEY RIVER NATIONAL RECREATION AREA

SEC. 201 ESTABLISHMENT

(a) IN GENERAL.—In order to protect and preserve the scenic, recreational, geological, and fish and wildlife resources of the Gauley River and its tributary, the Meadow River, there is hereby established the Gauley River National Recreation Area (hereinafter in this Act referrred to as the "recreation area").

(b) AREA INCLUDED.—The recreation area shall consist of the land, waters, and interests therein generally depicted on the boundary map entitled "Gauley River National Recreation Area", numbered NRA-GR/20,000A and dated July 1987 and on the boundary map depicting the Meadow River, numbered WSR-MEA/20,000A and dated July 1988. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(c) BOUNDARY MODIFICATIONS.—Within five years after the enactment of this Act, the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a report containing any boundary modifications which the Secretary recommends, together with the reasons therefor.

SEC. 202. ADMINISTRATION.

(a) IN GENERAL.—The recreation area shall be administered by the Secretary in accordance with this Act and with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1–4).

(b) HUNTING AND FISHING; FISH STOCKING.—The Secretary shall permit hunting, trapping and fishing on lands and waters within the recreation area in accordance with applicable Federal and State laws. The Secretary may, after consultation with the State of West Virginia Department of Natural Resources, designate zones where, and establish periods when, such activities will not be permitted for reasons of public safety, administration, fish and wildlife habitat or public use and enjoyment subject to such terms and conditions as he deems necessary in the furtherance of this Act. The Secretary shall permit the State of West Virginia to undertake or continue fish stocking activities carried out by the State in consultation with the Secretary on waters within the boundaries of the recreation area. Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of West Virginia with respect to fish and wildlife.

(c) COOPERATIVE AGREEMENTS WITH STATE.—In administering the recreation area the Secretary is authorized to enter into cooperative agreements with the State of West Virginia, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

(d) APPLICATION OF OTHER PROVISIONS.—The provisions of section 7(a) of the Act of October 2, 1968 (16 U.S.C. 1278(a)), shall apply to the recreation area in the same manner and to the same extent as such provisions apply to river segments referred to in such provisions.

(e) RECREATIONAL ACCESS.—

(1) EXISTING PUBLIC ROADS.—The Secretary may enter into a cooperative agreement with the State of West Virginia under which the Secretary shall be authorized to maintain and improve existing public roads and public rights-of-way within the boundaries of the national recreation area to the extent necessary to facilitate and improve reasonable access to the recreation area at existing access points where such actions would not unreasonably diminish the scenic and natural values of the area.

(2) FACILITIES ADJACENT TO DAM.—In order to accommodate visitation to the recreation area, the Secretary shall construct such facilities as necessary to enhance and improve access, vehicle·parking and related facilities, and provide river access for whitewater recreation and for other recreational activities, immediately downstream of the Summersville Dam, to the extent that such facilities are not provided pursuant to section 205 and such facilities are within the boundaries of the recreation area. Such construction shall be subject to the memorandum of understanding referred to in subsection (f).

(3) OTHER LOCATIONS.—In addition, in order to provide reasonable public access and vehicle parking for public use and enjoyment of the recreation area, consistent with the preservation and enhancement of the natural and scenic values of the recreation area, the Secretary may, with the consent of the owner thereof, acquire such lands and interests in lands to construct such parking and related facilities at other appropriate locations outside the boundaries of, but within one mile of the recreation area as may be necessary and appropriate. Any such lands shall be managed in accordance with the management provisions for the recreation area as defined in subsection (a).

(f) PROPERTIES AND FACILITIES OF FEDERAL AGENCIES.—After consultation with any other Federal agency managing lands and waters within or contiguous to the recreation area, the Secretary shall enter into a memorandum of understanding with such other Federal agency to identify those areas within the recreation area which are (1) under the administrative jurisdiction of such other agency; (2) directly related to the operation of the Summersville project; and (3) essential to the operation of such project. The memorandum of understanding shall also include provisions regarding the management of all such lands and waters in a manner consistent with the operation of such project and the management of the recreation area.

SEC. 203. MISCELLANEOUS

(a) LANDS AND WATERS.—The Secretary may acquire lands or interests in lands within the boundaries of the recreation area by donation, purchase with donated or appropriated funds, or exchange. When any tract of land is only partly within such boundaries, the Secretary may acquire all or any portion of the land outside of such boundaries in order to minimize the payment of severance costs.

(b) JURISDICTION.—Lands, waters and interests therein within the recreation area which are administered by any other agency of the United states and which are not identified under section 202 as directly related to the Summersville project and essential to the operation of that project shall be transferred without reimbursement to the administrative jurisdiction of the Secretary.

(c) PROTECTION OF EXISTING PROJECT.—Nothing in this Act shall impair or affect the requirements of section 1102 of Public Law 99-662 or otherwise affect the authorities of any department or agency of the United States to carry out the project purposes of the Summersville project, including recreation. In releasing water from such project, in order to protect public health and safety and to provide for enjoyment of the resources within the recreation area, other departments and agencies of the United States shall cooperate with the Secretary to facilitate and enhance whitewater recreational use and other recreational use of the recreation area.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purpose of this title.

SEC. 205. SPECIAL CONDITIONS.

(a) NEW PROJECT CONSTRUCTION.—If, after the enactment of this Act, any department, agency, instrumentality or person commences construction of any dam, water conduit, reservoir, powerhouse, transmission line or other project at or in conjunction with the Summersville project, the department, agency, instrumentality or other person which constructs or operates such new project shall comply with such terms and conditions as the Secretary deems necessary, in his discretion, to protect the resources of the recreation area, including such terms and conditions as the Secretary deems necessary to ensure that such new project will not adversely affect whitewater recreation and other recreation activities during or after project construction.

(b) ADVERSE EFFECTS ON THE RECREATION AREA.—If any such new project referred to in subsection (a) will create a direct, physical, adverse effect on access to the recreation area immediately downstream of the Summersville Dam during or after project construction, including vehicle parking, related facilities, and river access for whitewater recreation and other recreational use of the recreation area, the department, agency, instrumentality or person constructing such project shall replace and enhance the adversely affected facilities in such manner as may be appropriate to accommodate visitation, as determined by the Secretary.

(c) NEW PROJECT PERMITS.—The terms and conditions referred to in this section shall be included in any license, permit, or exemption issued for any such new project. Any such new project shall be subject to all provisions of this Act, including section 202(d), except that during the four-year period after the enactment of this Act, nothing in this Act shall prohibit the licensing of a project adjacent to Summersville Dam as proposed by the city of Summersville, or by any competing project applicant with a permit or license application on file as of August 8, 1988, if such project complies with this section. If such project is licensed within such four-year period, the Secretary shall modify the boundary map referred to in section 201 to relocate the upstream boundary of the recreation area along a line perpendicular to the river crossing the point five hundred and fifty feet downstream of the existing valve house and one thousand two hundred feet (measured along the river bank) upstream of United States Geological Survey Gauge Numbered 03189600, except in making the modification the Secretary shall maintain within the boundary of the recreation area those lands identified in the boundary map referred to in section 201 which are not necessary to the operation of such project.

SEC. 206. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is hereby established the Gauley River National Recreation Area Advisory Committee (hereinafter in this Act referred to as the "Advisory Committee"). The Advisory Committee shall be composed of fifteen members appointed by the Secretary to serve for terms of two years. Any member of the Advisory Committee may serve after the expiration of his term until a successor is appointed. Any member of the Advisory Committee may be appointed to serve more than one term. The Secretary or his designee shall serve as Chairman.

(b) MANAGEMENT AND DEVELOPMENT ISSUES.—The Secretary, or his designee, shall meet on a regular basis and consult with the Advisory Committee on matters relating to development of a management plan for the recreation area and on implementation of such plan.

(c) EXPENSES.—Members of the Advisory Committee shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairman.

(d) MEMBERSHIP.—The Secretary shall appoint members to the Advisory Committee as follows:

(1) one member to represent other departments or agencies of the United States administering lands affected by the recreation area, to be appointed from among persons nominated by the head of such department or agency;

(2) two members to represent the State Department of Natural Resources, to be appointed from among persons nominated by the Governor of the State of West Virginia;

(3) one member to represent the State Department of Commerce to be appointed from among persons nominated by the Governor of West Virginia;

(4) three members to represent the commercial whitewater rafting industry in West Virginia;

(5) one member to represent noncommercial whitewater boating organizations;

(6) one member to represent conservation organizations in West Virginia;

(7) one member to represent individuals engaged in game fishing in West Virginia;

(8) one member to represent the Nicholas County Chamber of Commerce;

(9) one member to represent the Fayette County Chamber of Commerce;

(10) one member to represent recreational users of Summersville Lake; and

(11) two members to represent local citizens or citizens groups which are concerned with the Gauley River or own lands included within the boundaries of the recreation area.

(e) TERMINATION; CHARTER.—The Advisory Committee shall terminate on the date ten years after the enactment of this Act notwithstanding the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776). The provisions of section 14(b) of such Act (relating to the charter of the Committee) are hereby waived with respect to this Advisory Committee.

TITLE III—BLUESTONE NATIONAL SCENIC RIVER

SEC. 301. DESIGNATION OF LOWER BLUESTONE RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

"( ) BLUESTONE, WEST VIRGINIA.—The segment in Mercer and Summers Counties, West Virginia, from a point approximately two miles upstream of the Summers and Mercer County line down to the maximum summer pool elevation (one thousand four hundred and ten feet above mean sea level) of Bluestone Lake as depicted on the boundary map entitled 'Bluestone Wild and Scenic River', numbered WSR-BLU/20,000, and dated January 1987; to be administered by the Secretary of the Interior as a scenic river. In carrying out the requirements of subsection (b) of this section, the Secretary shall consult with State and local governments and the interested public. The Secretary shall not be required to establish detailed boundaries of the river as provided under subsection (b) of this section. Nothing in this Act shall preclude the improvement of any existing road or right-of-way within the boundaries of the segment designated under this paragraph. Jurisdiction over all lands and improvements on such lands owned by the United States within the boundaries of the segment designated under this paragraph is hereby transferred without reimbursement to the administrative jurisdiction of the Secretary of the Interior, subject to leases in effect on the date of enactment of this paragraph (or renewed thereafter) between the United States and the State of West Virginia with respect to the Bluestone State Park and the Bluestone Public Hunting and Fishing Area. Nothing in this Act shall affect the management by the State of hunting and fishing within the segment designated under this paragraph. Nothing in this Act shall affect or impair the management by the State of West Virginia of other wildlife activities in the Bluestone Public Hunting and Fishing Area to the extent permitted in the lease agreement as in effect on the enactment of this paragraph, and such management may be continued pursuant to renewal of such lease agreement. If requested to do so by the State of West Virginia, the Secretary may terminate such leases and assume administrative authority over the areas concerned. Nothing in the designation of the segment referred to in this paragraph shall affect or impair the management of the Bluestone project or the authority of any department, agency, or instrumentality of the United States to carry out the project purposes of that project as of the date of enactment of this paragraph. Nothing in this Act shall be construed to affect the continuation of studies relating to such project which were commenced before the enactment of this paragraph.".

TITLE IV—GENERAL PROVISIONS

SEC. 401. COORDINATION AMONG RECREATIONAL RESOURCES.

Subject to existing authority, the Secretary of the Interior shall cooperate with, and assist, any regional authority comprised of representatives of West Virginia State authorities and local government authorities in or any combination of the foregoing Nicholas, Fayette, Raleigh, Summers, Greenbrier, and Mercer Counties, West Virginia, for the purposes of providing for coordinated development and promotion of recreation resources of regional or national significance which are located in southern West Virginia and management by State or Federal agencies, including State, local and National Park System units, State and National Forest System units, and historic sites.

SEC. 402. SPECIAL PROVISIONS.

Subject to his responsibilities to protect the natural resources of the National Park System, the Secretary of the Interior shall enter into a cooperative agreement with the State of West Virginia providing for the State's regulation, in accordance with State law, of persons providing commercial recreational watercraft services on units of the National Park System and components of the National Wild and Scenic Rivers System subject to this Act.

SEC. 403. PUBLIC AWARENESS PROGRAM.

The Secretary of the Interior shall establish a public awareness program to be carried out in Mercer, Nicholas, and Greenbrier Counties, West Virginia, in cooperation with State and local agencies, landowners, and other concerned organizations. The program shall be designed to further public understanding of the effects of designation as components of the National Wild and Scenic Rivers System of segments of the Bluestone and Meadow Rivers which were found eligible in the studies completed by the National Park Service in August 1983 but which were not designated by this Act as units of such system. By December 31, 1992, the Secretary shall submit a report to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate describing the program undertaken pursuant to this section. Section 7(b) of the Wild and Scenic Rivers Act shall continue to apply to the segments subject to this section until December 31, 1992.

SEC. 404. CONSOLIDATED MANAGEMENT.

In order to achieve the maximum economy and efficiency of operations in the administration of the National Park System units established or expanded pursuant to this Act, the Secretary shall consolidate offices and personnel administering all such units to the extent practicable and shall utilize the existing facilities of the New River Gorge National River to the extent practicable.

SEC. 405. NEW SPENDING AUTHORITY SUBJECT TO APPROPRIATIONS.

Any new spending authority which is provided under this Act shall be effective for any fiscal year only to the extent or in such amounts as provided in appropriation Acts.

TITLE V—TECHNICAL CHANGE TO WILD AND SCENIC RIVERS ACT

SEC. 501. ACREAGE LIMITATIONS.

Notwithstanding the provisions of section 501(b)(1)(B) of Public Law 99-590, section 3(b) of the Wild and Scenic River Act (16 U.S.C. 1274(b)) is amended to read as follows:

"(b) The agency charged with the administration of each component of the national wild and scenic rivers system designated by subsection (a) of this section shall, within one year from the date of designation of such component under subsection (a) (except where a different date is provided in subsection (a)), establish detailed boundaries therefor (which boundaries shall include an average of not more than 320 acres of land per mile measured from the ordinary high water mark on both sides of the river); and determine which of the classes outlined in section 2, subsection (b), of this Act best fit the river or its various segments.

"Notice of the availability of the boundaries and classification, and of subsequent boundary amendments shall be published in the Federal Register and shall not become effective until ninety days after they have been forwarded to the President of the Senate and the Speaker of the House of Representatives.".

The **SPEAKER** pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second,

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the "West Virginia National Interest River Conservation Act of 1987" was passed by the House May 27, 1987 and was amended by the Senate erlier this month. The Senate made two significant amendments, the deletion of the Greenbrier River wild and scenic designation and a matter relating to trapping within the three river segments addressed by the bill.

The amendments by the Senate are of some concern and while I am reluctantly recommending acceptance of the deletion of the Greenbrier River, the language relating to trapping is unacceptable in a wild and scenic river being managed by the National Park Service. In order to overcome these problems, our colleague and the author of the bill, NICK RAHALL, has been in lengthy negotiations with the Senate and has crafted an agreement which I find acceptable.

First, the National Wild and Scenic Rivers Act designation for a 5.5 mile segment of the "Meadow River" would be eliminated. The river segment would instead be included as part of the Gauley River National Recreation Area, and as such, managed as part of that unit of the National Park System in which trapping would be specifically authorized.

Second, the reference to trapping within the Bluestone Wild and Scenic River in the Senate amendment is deleted.

Third, the language designating the Bluestone River would be modified to ensure that State wildlife management practices would continue if and when the State of West Virginia chooses to renew its existing lease arrangement with the Federal Government at the Bluestone Public Hunting and Fishing Area.

Finally, these amendments authorize the National Park Service to construct a scenic overlook and visitors facility in the Glade Creek area of the New River Gorge National River. Since the majority of the Glade Creek Area was recently acquired by the National Park Service, it is now appropriate to proceed with the necessary authorization to construct the visitor facility.

Mr. Speaker, the West Virginia congressional delegation has worked long and hard on this legislation. I am hopeful that these modifications will clear the way for final action on the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. SLAUGHTER].

Mr. SLAUGHTER of Virginia. Mr. Speaker, I rise in support of H.R. 900, to preserve and protect sections of the New, Gauley, Meadow, Bluestone, and Greenbrier Rivers in southern West Virginia for the benefit and enjoyment of current and future generations.

I am particularly interested in title II of this measure, which creates a national recreation area along the Gauley River. Section 205 of the bill explicitly permits the licensing of a hydroelectric project at the Summersville Dam by the Federal Energy Regulatory Commission [FERC]. There have been and currently are two applicants for this project, one of which is the city of Manassas which is located in my congressional district. These two applications are currently pending before FERC, which by law will license the best adapted project, after taking into account and balancing environment as well as energy interests.

During original House committee consideration of this bill, I worked with the gentleman from Arizona [Mr. UDALL], the gentleman from Minnesota [Mr. VENTO], the gentleman from Alaska [Mr. YOUNG], and the gentleman from Idaho [Mr. CRAIG] to ensure equal treatment by FERC of these two project applicants. Such treatment was assured by the bill passed by the House in May 1987.

Unfortunately, during Senate consideration of this measure, provisions were added limiting the size of this hydroelectric facility, thereby eliminating the city of Manassas' application from consideration by FERC and interfering with the competitive licensing process before FERC.

I am pleased that this detrimental Senate amendment to H.R. 900 has been dropped from the version of the bill now before us, and that equal treatment of the two current applicants for the hydroelectric project at the Summersville Dam is granted by this measure.

I am deeply appreciative of the efforts of the gentleman from West Virginia [Mr. RAHALL] and the gentleman from California [Mr. LAGOMARSINO] in achieving this compromise, and I am pleased to support this legislation.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the amended version of H.R. 900 contained in this resolution to protect the values of segments of the New, Gauley, Meadow and Bluestone Rivers in West Virginia.

This legislation was originally passed by the body in May, 1987. It was amended in the Senate to, among other things, permit trapping activities to continue on the Gauley, Meadow and Bluestone Rivers. I am pleased that a compromise on this issue has been reached between the sponsors of the legislation, the State fish and wildlife agencies and interested user groups.

As embodied in the resolution, the compromise expands the Gauley River National Recreation Area to include the Meadow River, thereby permitting hunting, fishing and trapping to continue on these rivers. It also protects the State's wildlife and fishery management practices on the Bluestone Public Hunting and Fishing Area. In addition, the amendments authorize construction of a visitor information facility for the New River Gorge National River.

I might also add that the amendments to H.R. 900 preserve the competitive licensing process for a hydroelectric project at the Summersville Dam on the Gauley River. This was clearly the intent of the bill when it was passed by this body last year.

Mr. Speaker, I believe these amendments improve the bill. Primarily, they protect the sportsmens' rights and preserve the State's management and jurisdiction of fish and wildlife along the Gauley, Meadow and Bluestone Rivers. Therefore, I urge my colleagues to approve the amended version of H.R. 900 contained in the resolution.

□ 2115

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. I thank the gentleman for yielding time to me.

Mr. Speaker, the distinguished chairman of the Subcommittee on National Parks and Public Lands, my friend and colleague BRUCE VENTO, has fully explained this legislation and I want to express my deep appreciation to him for his yeoman efforts on behalf of H.R. 900.

The West Virginia congressional delegation has worked long and hard on this legislation and it is perhaps unique among measures of this nature in that it enjoys the support of such a wide range of interests—from the local chamber of commerce to regional and national environmental groups, from whitewater rafting interests to the United Mine Workers of America.

In 1978, we established the New River Gorge National River. In, 1988, on two major tributaries of the New River we are establishing the Gauley River National Recreation Area which includes a segment of the Meadow

River, and the Bluestone National Wild and Scenic River.

We expect great things from the Gauley River National Recreation Area, which would be established on the 25-mile segment of the river below Summersville Dam.

In this regard, I think it appropriate to remember what President Lyndon Johnson said when he dedicated the Summersville project on September 3, 1966. He said: "We have come here to consummate an act of faith in the future of West Virginia."

This legislation builds upon that act of faith; for the future of West Virginia and the Nation as a whole. With this bill we are protecting some outstanding natural resources for their natural, scenic, cultural and recreational values. In the process, we are establishing in West Virginia the largest network of federally protected rivers in the eastern United States.

With this House action, we are also adding an authorization and directive to the National Park Service to construct a scenic overlook and visitors facility with access from Interstate 64 at the Glade Creek area of the New River Gorge National River. This is an extremely important project to the development of the park, and the whole region.

Mr. Speaker, I believe we have addressed all of the concerns which may have existed with this bill and I look forward to its speedy enactment.

Mr. VENTO. Mr. Speaker, I thank the gentleman for his comments and for his good work on this matter.

Mr. Speaker, we have more work to do in this area, but it is a major accomplishment.

Mr. RHODES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and agree to the resolution, H. Res. 566.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

AUTHORIZING EXCHANGE OF CERTAIN NATIONAL FOREST SYSTEM LANDS IN TARGHEE NATIONAL FOREST

Mr. VENTO. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4028) to authorize the Secretary of Agriculture to exchange certain National Forest System lands in the Targhee National Forest.

The Clerk read as follows:

Senate amendment: Strike out all after the enacting clause and insert:

EXCHANGE AUTHORITY

SECTION 1. Notwithstanding the requirements contained in section 1 of the Act of March 20, 1922, and that portion of section 206(b) of the Act of October 21, 1976, which provides that when the Secretary of Agriculture exchanges lands, the lands exchanged must be located in the same State, and must be included within the exterior boundaries of a National Forest—

(a) the Secretary of Agriculture (hereinafter referred to as "the Secretary") is authorized to exchange those federally owned lands within the Targhee National Forest depicted on the map entitled "Targhee Exchange, Wyoming—Proposed", dated April 15, 1988, comprising approximately two hundred and seventy acres, for nonfederally owned lands within, adjacent, or in close proximity to the Targhee National Forest, including lands outside the exterior boundary of the forest.

(b) the values of lands exchanged by the Secretary under this Act shall be equal, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances required so long as payment does not exceed 25 per centum of the total values of the lands or interest transferred out of Federal ownership. The Secretary shall try to reduce the amount of payment of money to as small an amount as possible;

(c) the map described in subsection (a) and a legal description of such lands depicted therein, shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture, Washington, District of Columbia. Such map and legal description shall have the same force and effect as if included in this Act: Provided, That actual acreage and boundaries may be adjusted to equalize values and the correction of clerical and typographical errors in such legal description may be made by the Secretary; and

(d) any lands acquired by the Secretary under this Act shall become part of the Targhee National Forest and the exterior boundary of the Targhee National Forest shall be revised to include such lands.

SAVINGS CLAUSE

SEC. 2. Except as specified in section 1, this Act shall not be construed as modifying any other requirements of existing law or regulations.

TIME LIMIT

SEC. 3. As soon as practicable, but not later than nine months after the date of enactment of this Act, the Secretary shall carry out the exchange authorized by section 1.

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4028, introduced by Mr. STALLINGS, passed by the House in May and now passed by the Senate with a few technical amendments, would authorize the Secretary of Agriculture to exchange approximately 270 acres in Wyoming needed by the Grand Targhee Resort for private lands inside or outside the national forest boundary in Idaho. It is anticipated that approximately 700 acres of lands along the South Fork of the Snake River would become national forest. Legislation is necessary for such an exchange because the Federal Land Policy and Management Act prohibits national forest land exchanges across State lines.

We received testimony that the bill would help the local economy grow by enabling the Grand Targhee Resort to expand creating jobs and increasing tourism. It also would protect critical wildlife habitat and valuable outdoor recreation lands along the South Fork. This spectacular river canyon with large old growth cottonwoods provides habitat for over 50 species of mammals and 180 species of birds including nesting sites for bald eagles, great herons, and Canada geese. Large cutthroat and brown trout are part of a renowned fishery. Some of these environmentally sensitive lands are scheduled for development. This bill would protect the wildlife habitat and public access for recreation by allowing some of the private lands immediately adjacent to the national forest boundary to become national forest on a willing seller basis. Grand Targhee Resort would purchase the lands and then exchange them for the national forests lands in and around its operation. The Senate amendments to the House-passed measure are simply reworded and phrase reordering in the amendment process no substantive changes are included and the House should accept these minor changes and send this to the President for his signature.

Mr. Speaker, I urge my colleagues to support this bill that protects the land and environment while at the same time benefiting the people of Idaho economically.

Mr. Speaker, I yield such time as he may consume to the gentleman from Idaho [Mr. STALLINGS].

Mr. STALLINGS. I thank the gentleman for yielding time to me.

Mr. Speaker, it is with great pleasure that I rise to speak in strong support of H.R. 4028, the Targhee National Forest Land Exchange Act, a bill which I introduced last February. I am very pleased that my distinguished colleague from Wyoming, Mr. CHENEY, is a cosponsor of this important legislation.

Earlier this year, I unveiled a plan to help safeguard several critical areas along the South Fork of the Snake River located in Idaho. At the same time, the proposal will help stimulate economic development in the Upper Snake River Valley and Teton Basin.

The plan calls for a major land exchange between the Targhee National Forest and the Grand Targhee Resort. If enacted, the bill will give the resort an opportunity to acquire additional land for expansion and development.

Legislation to implement this proposal is necessary for two reasons. First, current law prohibits the Forest Service from trading lands in different states. The privately owned land is in Idaho and the Forest Service property is located just inside the Wyoming border.

Second, a bill also is required since the exchange would involve private lands outside the existing Targhee National Forest boundary.

The legislation also enjoys strong, bipartisan support. On May 24, the House of Representatives unanimously approved this bill. Now, after four months of deliberation, the Senate took final action on the measure last Thursday. In its approval, the Senate adopted a technical amendment which I can support.

This bill is of extreme importance to many people who live in the Upper Snake River Valley and Teton Basin country. There is a real need to revitalize the region's economy. Recreation and tourism are becoming a vital, growing part of our State economy.

Development of the Grand Targhee Resort and protection of the South Fork could attract thousands of visitors each year to eastern Idaho and help strengthen the economy of many Idaho communities.

This plan and legislative initiative are the result of a dedicated effort from many people. Special recognition and thanks to Mory Bergmeyer, John Sessions, John Burns, Bruce Bugbee, and many others who played an important role in the process.

I also want to take this opportunity to express my personal appreciation to two outstanding subcommittee chairmen, Mr. VENTO and Mr. VOLKMER, for their help and support. It has been a real pleasure working with them and their fine staff on this bill.

The completion of this land exchange will result in a needed economic shot-in-the-arm to the Teton Basin. It also recognizes the importance of protecting one of Idaho's natural treasures, the South Fork of the Snake River.

I believe this proposals truly represents the best of both worlds and is a win-win project. The public interest will be well served.

House approval today will complete the final chapter of the bill's journey through Congress. I urge my colleagues to support passage of this important measure.

Mr. VENTO. Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to voice our side of the aisle's strong support for the Targhee National Forest Land Exchange. The only reason this legislation was amended in the Senate was to add a time certain for the completion of the exchange. We feel that amendment is appropriate. As was stated when this bill was originally passed by the House, this is a win-win situation. The Grand Targhee ski resort can be expanded and in exchange critical wildlife habitat along the Snake River can be obtained.

The Targhee Forest is a special case, because it is in both Idaho and Wyoming. That is why legislation is needed. The Federal Land Policy and Management Act prohibits exchanges that involve lands in more than one State. I also understand the proposed exchange has strong local and general public support in both Wyoming and Idaho.

I urge my colleagues to support this measure because it makes sense. It makes sense from a recreation and environmental standpoint and does so without an appropriation from the treasury.

Finally, the administration has no objections to the passage of this bill and I recommend that all Members support it.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to thank my counterpart on the Agriculture subcommittee, the gentleman from Missouri [Mr. VOLKMER] and the full Committee on Agriculture for their cooperation in processing this bill.

Mr. DE LA GARZA. Mr. Speaker, I rise in support of H.R. 4028, as amended by the Senate, and urge its adoption by the House.

H.R. 4028, would authorize the exchange of certain National Forest System lands in the Targhee National Forest in Idaho and Wyoming. This exhange involves the transfer of 270 acres of land in Wyoming for certain private lands in or adjacent to the Targhee National Forest in Idaho. Current law prohibits the exchange of national forest lands between States and requires that the lands be included within the exterior boundaries of a national forest.

Mr. Speaker, this bill will benefit communities in both Wyoming and Idaho by facilitating the expansion of the Grand Targhee Resort in Wyoming. The developer who seeks to acquire the tract of land in Wyoming will in turn aid in securing several areas along the South Fork of the Snake River in Idaho. These private tracts are highly desired to protect the unique qualities of this portion of the Snake River.

H.R. 4028 passed the House in May 1988. The bill, with certain clarifying amendments, was adopted by the Senate on September 29, 1988.

Mr. Speaker, H.R. 4028, as amended, is a measure that represents the product of an effective partnership between government and private enterprise. This bill will benefit the economy of communities in Idaho and Wyoming while serving to protect important segments of the Snake River. The success of this measure is a tribute to the effective leadership of our colleague from Idaho, Hon. RICHARD STALLINGS.

I encourage the Members of the House to support H.R. 4028, as amended by the Senate.

Mr. MORRISON of Washington. Mr. Speaker, I rise in support of the bill H.R. 4028, sponsored by Mr. STALLINGS and Mr. CHENEY, as amended by the other body. This legislation authorizes the Secretary of Agriculture to exchange 270 acres of land in the Targhee National Forest in Wyoming for private lands in, adjacent to or in close proximity of portions of the Targhee located in Idaho.

The purpose of this bill is to allow for expansion of the facilities at the Grand Teton ski area. Successful ski areas across the country, but particularly in the West, are a combination of private lands and National Forest lands. The most successful ones have ski lifts and runs on public lands and base facilities on private lands. Having the base facilities on private lands facilitates real estate development and other commercial operations, thus providing additional employment.

In the trade, the Forest Service hopes to acquire some property along the South Fork of the Snake River—land the Service considers desirable to help preserve fish and wildlife habitats, scenic qualities and public access to the river.

The Department of Agriculture does not have and has no sought authority to permit exchanges which acquire private lands outside the boundaries of national forests because of management problems this might pose. I would like to state for the record that as far as this Member is concerned, passage of this legislation represents a temporary departure from policies the Subcommittee on Forests, Family Farms, and Energy has tried to establish with respect to land exchanges—this bill is an exception. The legislation received widespread support at hearings in Idaho this spring. This exchange will be good for the area involved. It will boost the local economy and expand recreational opportunities.

I support passage of H.R. 4028, as amended, and urge my colleagues to do the same.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4028.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The **SPEAKER** pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

WINDING STAIR MOUNTAIN NATIONAL RECREATION AND WILDERNESS AREA ACT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4354) "An act to designate certain National Forest System lands in the State of Oklahoma for inclusion in the National Wilderness Preservation System, create the Winding Stair Mountain National Recreation and Wilderness Area, and for other purposes."

The Clerk read as follows:

Senate Amendment: Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Winding Stair Mountain National Recreation and Wilderness Area Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) select areas of undeveloped National Forest System lands in the State of Oklahoma possess outstanding natural characteristics which give them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) the Department of Agriculture's second roadless area review and evaluation (RARE II) and other studies of National Forest System lands in the State of Oklahoma and the related congressional review of such lands have identified areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the National Forest System's share of a quality National Wilderness Preservation System;

(3) the Department of Agriculture's second roadless area review and evaluation, of National Forest System lands in the State of Oklahoma and the related congressional review of such lands have also identified areas which do not possess outstanding wilderness attributes or which possess outstanding energy, mineral, timber, grazing, dispersed recreation and other values, and which should not be designated as components of the National Wilderness Preservation System but should be available for nonwilderness multiple uses under the land management planning process and other applicable laws;

(4) many areas of the Ouachita National Forest possess qualities that can only be expressed and utilized in such a manner that designation of such areas as a national recreation area is appropriate for the maximum potential and enjoyment of the area by the American people;

(5) select areas possess unique plant and tree species and plant communities that are significant in their occurrence, variety and location and warrant designation as botanical areas; and

(6) select areas possess unique scenic and wildlife qualities that designation of such areas as a national scenic area and a national scenic and wildlife area is appropriate for the preservation of the natural beauty and wildlife habitat for the enjoyment of the American people.

(b) PURPOSES.—The purposes of this Act are to—

(1) designate certain National Forest System lands in the State of Oklahoma as components of the National Wilderness Preservation System, in order to promote, perpetuate, and preserve the wilderness character of the lands, protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people, to a greater extent than is possible in the absence of wilderness designation; and to ensure that certain other National Forest System lands in the State of Oklahoma be available for nonwilderness multiple uses; and

(2) designate certain National Forest System lands in the State of Oklahoma as a national recreation area, 2 botanical areas, a national scenic area, and a national scenic and wildlife area in order to enhance and further certain natural resources characteristics.

SEC. 3. ADDITIONS TO NATIONAL WILDERNESS PRESERVATION SYSTEM.

In furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890, 16 U.S.C. 1131 et seq.) the following lands in the State of Oklahoma are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately 4,583 acres, as generally depicted on a map entitled "Black Fork Mountain Wilderness—Proposed", dated March 1988, and which shall be known as the Black Fork Mountain Wilderness.

(2) Certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately 9,371 acres, as generally depicted on a map entitled "Upper Kiamichi River Wilderness—Proposed", dated March 1988, and which shall be known as the Upper Kiamichi River Wilderness.

SEC. 4. MAPS AND DESCRIPTIONS.

As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file the maps referred to in section 3 of this Act and legal descriptions of each wilderness area designated by section 3 of this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and legal description shall have the same force and effect as if included in this Act; except that correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

SEC. 5. ADMINISTRATION.

Subject to valid existing rights, each wilderness area designated by section 3 of this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 governing areas designated by that Act as wilderness areas, except that with respect to any area designated in section 3 of this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

SEC. 6. WILDERNESS REVIEW.

(a) FINDINGS.—The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in Oklahoma and of the environmental impacts associated with alternative allocations of such areas.

(b) CONGRESSIONAL DETERMINATION AND DIRECTION.—On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the questions of the legal and factual sufficiency of the RARE II Final Environmental Impact Statement (dated January 1979) with respect to National Forest System lands in States other than Oklahoma, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Oklahoma;

(2) with respect to the National Forest System lands in the State of Oklahoma which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Oklahoma reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, except that such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Oklahoma are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of the National Forest System lands in the State of Oklahoma for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) Use of Term.—As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) Application of Provisions.—The provisions of this section shall also apply to:

(1) those National Forest System roadless lands in the State of Oklahoma in the Ouachita National Forest which were evaluated in the Rich Mountain and Beech Creek unit plans; and

(2) National Forest System roadless lands in the State of Oklahoma which are less than five thousand acres in size.

SEC. 7. ADJACENT MANAGEMENT.

Congress does not intend that designation of wilderness areas in the State of Oklahoma lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

SEC. 8. WINDING STAIR MOUNTAIN NATIONAL RECREATION AREA.

(a) Establishment.—In order to ensure the conservation and protection of certain natural, scenic, historic, pastoral, and fish and wildlife values and to provide for the enhancement of the recreational values associated therewith, there is hereby established the Winding Stair Mountain National Recreation Area located in the Ouachita National Forest, Oklahoma.

(b) Area Included.—The Winding Stair Mountain National Recreation Area (hereafter in this Act referred to as the "recreation area") shall comprise approximately 26,445 acres as generally depicted on the map entitled "Winding Stair Mountain National Recreation Area—Proposed", dated March 1988, which shall be on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture.

(c) Maps and Description.—The Secretary of Agriculture (hereinafter in this section referred to as the "Secretary") shall, as soon as practicable after the date of enactment of this Act, file a map and a legal description of the recreation area with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate and each such map and legal description shall have the same force and effect as if included in this Act; except that correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(d) Administration.—The Secretary shall administer the recreation area in accordance with the laws, rules and regulations applicable to the national forests in such manner as will best further the purposes of this section, as set forth in subsection (a). Management and utilization of natural resources within the recreation area shall be permitted to the extent such management and utilization is compatible with and does not impair the purposes for which the recreation area is established.

(e) Timber Management.—Any sales of timber from within the recreation area shall be designed so as to not detract from the scenic values of the recreation area. Management practices that would detract from the scenic quality and natural beauty within view from the Talimena Drive or the Holson Valley Road shall not be conducted in the recreation area. Unevenaged timber management shall be the timber management practice in the recreation area, except that the Secretary may use evenaged management practices in order to promote public safety, mitigate the effects of fire, insects, and disease, or allow scenic vistas and recreational development or if such practices result in irregular cuts behind geographic barriers blocking the view from the Talimena Drive and the Holson Valley Road.

SEC. 9. BOTANICAL AREAS.

(a) Designation.—In order to protect and interpret to the public area within the Ouachita National Forest which contain unique plant species and unique plant communities that are significant in their occurrence, variety and location, the following lands are hereby designated as botanical areas:

(1) Certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately eight thousand and twenty-six acres as generally depicted on a map entitled "Robert S. Kerr Memorial Arboretum, Nature Center and Botanical Area—Proposed", dated March 1988, which shall be known as the "Robert S. Kerr Memorial Arboretum, Nature Center and Botanical Area".

(2) Certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately four hundred acres as generally depicted on a map entitled "Beech Creek Botanical Area—Proposed", dated March 1988, which shall be known as the "Beech Creek Botanical Area".

(b) Map and Description.—The Secretary of Agriculture shall, as soon as practicable after the date of enactment of this Act, file a map and a legal description of the botanical areas with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and legal description shall have the same force and effect as if included in this Act; except that correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(c) Administration.—The Secretary shall administer the botanical areas in accordance with the laws, rules and regulations applicable to the national forests in such manner as will best further the purposes of this section, as set forth in subsection (a). Except as provided in section 16 of this Act, vegetative manipulation, including the cutting of trees, shall be permitted in such areas only when necessary for the protection and interpretation of the unique plant species and unique plant communities within the area. The Secretary may permit expansion of roads, improvements, and other facilities in the vicinity of the Robert S. Kerr Nature Center.

SEC. 10. INDIAN NATIONS NATIONAL SCENIC AND WILDLIFE AREA.

(a) Designation.—In order to protect and enhance certain scenery and wildlife within the Ouachita National Forest, Oklahoma, certain lands within such national forest, as generally depicted on a map entitled "Indian Nations National Scenic and Wildlife Area—Proposed", dated March 1988, are hereby designated as the "Indian Nations National Scenic and Wildlife Area" (hereinafter in this Act referred to as the "national scenic and wildlife area").

(b) Map and Description.—The Secretary of Agriculture (hereinafter in this section referred to as the 'Secretary') shall, as soon as practicable after the enactment of this Act, file a map and a legal description of the national scenic and wildlife area with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and legal description shall have the same force and effect as if included in this Act; except that correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(c) Administration.—The Secretary shall administer the national scenic and wildlife area in accordance with the laws, rules and regulations applicable to the national forests in such manner as will best further the purposes of this section, as set forth in subsection (a). Management practices within the national scenic and wildlife area that would detract from the scenic quality and natural beauty of the Talimena Drive and Holson Valley Road viewsheds shall be prohibited. Timber management practices within the national scenic and wildlife area shall promote a mixed hardwood and conifer forest with species and age class diversity approximating natural succession and with significant mast production and den trees for wildlife. Unevenaged timber management shall be the timber management practice in the national scenic and wildlife area, except that the Secretary may use evenaged management practices in order to promote public safety, mitigate the effects of fire, insects, and disease, or if such practices result in irregular cuts behind geographic barriers blocking the view from the Talimena Drive and the Holson Valley Road.

SEC. 11. BEECH CREEK NATIONAL SCENIC AREA.

(a) Designation.—In order to protect and enhance certain scenery and wildlife within the Ouachita National Forest, Oklahoma, certain lands within such national forest, as generally depicted on a map entitled "Beech Creek National Scenic Area—Proposed", dated March 1988, are hereby designated as the "Beech Creek National Scenic Area" (hereinafter in this Act referred to as the "national scenic area").

(b) Map and Description.—The Secretary of Agriculture (hereinafter in this section referred to as the "Secretary") shall, as soon as practicable after the enactment of this Act, file a map and a legal description of the national scenic area with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and legal description shall have the same

force and effect as if included in this Act; except that correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(c) Administration.—The Secretary shall administer the national scenic area in accordance with the laws, rules, and regulations applicable to the national forests in such manner as will best further the purposes of this section, as set forth in subsection (a). Timber management practices within the area shall promote a mixed hardwood and conifer forest with species and age class diversity approximating natural succession and with significant mast production and den trees for wildlife. Unevenaged management shall be the timber management practice in the area, except that the Secretary is authorized to use evenaged management practices in order to promote public safety or to mitigate the effects of fire, insects, and disease.

SEC. 12. NOMENCLATURE.

The wilderness areas, the national recreation area, the national scenic and wildlife area, the national scenic area, and the botanical areas designated in this Act shall be referred to as the "Winding Stair Mountain National Recreation and Wilderness Area".

SEC. 13. TIMBER MANAGEMENT REPORT.

The Secretary of Agriculture shall submit to the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate a report on the timber management program on those lands of the Ouachita National Forest located in Le Flore County, Oklahoma, each year after the enactment of this Act for a period of 20 years. Each such report shall include information on timber management practices, sale preparation, harvest levels, reforestation, forest pest and damage problems, multiple use mitigation practices, including wildlife enhancement, recreation, protection of scenery, vegetation conversion, roads, and vegetative cover along streams, roads and trails. The report shall also include an economic impact statement of the Ouachita National Forest in LeFlore County, Oklahoma, on the timber industry and the tourism and recreation industry.

SEC. 14. ADVISORY COMMITTEE.

Pursuant to the Federal Advisory Committee Act (Public Law 92-463), no later than 90 days after the date of enactment of this Act, the Secretary is directed to establish an advisory committee for Ouachita National Forest lands in LeFlore County, Oklahoma. The Committee's purpose shall be advisory in nature and the Committee shall provide information and recommendations to the Secretary regarding the operation of the Ouachita National Forest in LeFlore County. The Committee shall be composed of representatives from the local area in which the Ouachita National Forest is located equally divided among conservation, timber, fish and wildlife, tourism and recreation, and economic development interests.

SEC. 15. PLANNING.

(a) Forest Management Plan.—The Secretary shall amend the Ouachita National Forest land and resource management plan to include provisions regarding the wilderness areas, the botanical areas, the national recreation area, the national scenic and wildlife area, and the national scenic area designated by this Act. The amendment shall further the purposes for these areas as specified in this Act and shall be developed in accordance with the provisions of the National Forest Management Act, including provisions for public involvement. The Secretary shall consult with the local advisory committee established under section 14 of this Act regarding the development and implementation of the amendment required under this subsection.

(b) Tourism and Recreation.—The plan shall include a section with provisions to promote tourism and recreation in ways consistent with the purposes for which the wilderness areas, the botanical areas, the national recreation area, the national scenic and wildlife area and the national scenic area are designated.

(c) Local Advisory Group.—No later than 90 days after the date of enactment of this Act the Secretary shall designate a special advisory group from the local area in which the Ouachita National Forest is located to assist in the preparation of the tourism and recreation section of the amendment as required under subsection (b). The Secretary shall request the group to submit to the Secretary, within 12 months after its designation as an advisory group, a draft for such section. No later than 90 days after receiving such draft, the Secretary shall make any revisions and provide them to the group for review. The Secretary shall allow at least 60 days for the group to submit to the Secretary its comments on the revisions. The Secretary shall attempt to resolve any differences prior to his approval or disapproval of the amendment to the forest plan.

(d) Authorization.—There are hereby authorized to be appropriated not to exceed $15,000,000 for tourism and recreation improvements related to the Winding Stair Mountain National Recreation and Wilderness Area in Ouachita National Forest in LeFlore County, Oklahoma.

(e) Implementation.—The Secretary is authorized and encouraged to seek local nonprofit entities and the private sector for development of tourism and recreation initiatives in implementing the tourism and recreation section of the plan.

SEC. 16. FIRE, INSECT, AND DISEASE.

Nothing in this Act shall preclude the Secretary of Agriculture from carrying out such measures in the recreation area, the national scenic and wildlife area, the national scenic area, or in the botanical areas established by this Act as the Secretary, in his discretion, deems necessary in the event of fire, or infestation of insects or disease or for public health and safety. As provided in section 4(d)(1) of the Wilderness Act, the Secretary may take such measures as may be necessary to control fire, insects, and diseases within the wilderness areas designated by this Act.

SEC. 17. GRAZING.

Subject to such limitations, conditions, or regulations as he may prescribe, the Secretary of Agriculture shall permit grazing on lands within the Ouachita National Forest, Le Flore County, Oklahoma.

SEC. 18. FISHING AND WILDLIFE.

Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State with respect to wildlife and fish in the areas designated by this Act.

SEC. 19. PERMITS.

The Secretary shall cooperate with other Federal agencies, with State and local public agencies and bodies, and with private individuals and organizations in the issuance of permits for facilities, services, and recreational facilities in the Winding Stair Mountain National Recreation and Wilderness Area. In issuing such permits, the Secretary is authorized and encouraged to consider local nonprofit entities and the private sector.

SEC. 20. LAND ACQUISITION.

(a) Authority.—The Secretary of Agriculture is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, any lands or interests therein, which the Secretary determines are needed to establish and manage the Winding Stair Mountain National Recreation and Wilderness Area.

(b) Offers.—In exercising the authority conferred by this section to acquire lands, the Secretary of Agriculture shall give prompt and careful consideration to any offer made by an individual owning any land, or interest in land, within the Winding Stair Mountain National Recreation and Wilderness Area. In considering any such offer, the Secretary shall take into consideration any hardship to the owner which might result from any undue delay in acquiring the property.

(c) Additional Facilities.—The Secretary of Agriculture may acquire sites at locations outside such boundaries of the Winding Stair Mountain National Recreation and Wilderness Area, as he determines necessary, for visitor orientation and the establishment of a lodge and additional facilities to enhance the quality of the area.

(d) Additional Lands.—Notwithstanding the limitations contained in section 7(a)(1) of the Land and Water Conservation Fund Act of 1965, the Secretary of Agriculture may acquire by purchase, exchange, donation or otherwise any right, title, and interest in lands in Le Flore County, Oklahoma, which are outside the boundaries of the Ouachita National Forest. No such right, title or interest may be acquired without the consent of the owner thereof. All lands and interests therein acquired under this subsection shall be administered by the Secretary of Agriculture in accordance with the Act of March 1, 1911, commonly referred to as the Weeks Act (36 Stat. 961) and in accordance with the laws, rules, and regulations generally applicable to units of the national forest system. The Secretary of Agriculture shall extend the boundaries of the Ouachita National Forest to include such lands.

SEC. 21. ACREAGES.

The acreage specified in this Act is approximate and in the event of discrepancies between cited acreage and the lands depicted on reference maps, the maps shall control.

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes and the gentleman from Arizona [Mr. Rhodes] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4354, would enhance and protect the Ouachita National Forest in Oklahoma. The bill would accomplish this in the following ways:

First. It would establish several special designations which give these lands more protection than if they were to remain general national forest lands. These designations are the Black Fork Mountain and Upper Kiamichi Wilderness Areas, the Winding Stair Mountain National Recreational Area, the Beech Creek and Robert S. Kerr Botanical Areas, the Indian Nations National Scenic and Wildlife Area, and the Beech Creek National Scenic Area.

Second. The bill would require the Forest Service to establish a local advisory group to assist with the planning of these new areas.

Third. It would require uneven-aged timber management inside the national scenic areas and the national recreation area. This would result in a mixed conifer-hardwood forest that will provide wildlife and scenic benefits as well as economic ones.

Fourth. It would authorize the Forest Service to acquire some lands outside the existing national forest boundary on a willing seller basis. This land would allow some of the multiple use activities curtailed by the wilderness designations to continue.

Fifth. The amendment would require the Forest Service to submit an annual report to Congress summarizing the timber program for this portion of the Ouachita National Forest. This should help prevent some of the insensitive timber management practices that have occurred in the area, in the past, from happening again in the future.

Mr. Speaker, this bill introduced by Mr. Watkins, passed the House in August. The Senate, however, has adopted some amendments which are worthy of our support. They include:

First. An economic analysis to be part of the annual report on the timber program.

Second. The establishment of a second local advisory group to provide recommendations on the operations of the national forest lands in Leflore County.

Third. Language that authorizes the Forest Service to control fire, insects and diseases inside the wilderness areas only in ways consistent with the Wilderness Act.

Fourth. Language that clarifies that the bill's $15 million authorization would be spent on improvements for recreation and tourism.

I concur with these amendments and urge my colleagues to support this bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma [Mr. WATKINS]. And I commend my colleague from Okahoma for his good and diligent work. He has done a fine job.

Mr. WATKINS. I thank the gentleman for yielding.

Mr. Speaker, the legislation before us, H.R. 4354, the Winding Stair Mountain National Recreation and Wilderness Area Act, would not be possible today without the assistance of Chairman BRUCE VENTO, Committee on Interior and Insular Affairs, Subcommittee on National Parks and Public Lands; Chairman HAROLD VOLKMER, House Agriculture Committee, Subcommittee on Forests, Family Farms, and Energy; full committee Chairman MO UDALL and Chairman KIKA DE LA GARZA; and all the staff involved including Dale Crane, Jim Bradley, Jim Lyons and Tim DeCoster.

I also want to express my appreciation to Senators BOREN and NICKLES and staff members Dan Webber and Hazen Marshall for all their hard work as well.

Mr. Speaker, a special thank you and tribute goes to my staff members Paul Jackson and Kim Adams for their untiring efforts, dedication and assistance in helping me prepare this bill.

Mr. Speaker, a legislative miracle truly has occurred in recent months, since the legislative process for this bill began upon introduction March 31, 1988. Without all of the aforementioned individuals' assistance, this bill would not have been ready for its final consideration today.

And, most importantly, I want to thank the people of LeFlore County, OK that participated in the democratic process by coming to Washington to testify, participating in local meetings, telephoning, and writing letters. This bill as an example of the democratic process in action. Area residents recognized problems in the way one agency was doing business and brought their message to Washington. The people of LeFlore County have been heard and justice served.

This is a great day for Oklahoma. It is today that the direction of the future of the Ouachita National Forest in LeFlore County, OK is determined and the day that a tourism and recreation opportunity is given for the further economic benefit to the county and this great State. It is up to us, the citizens of the Third District, to have the vision to develop a plan in cooperation with the U.S. Forest Service to make it happen.

The legislation before us today will allow opportunities for an area that has long been ignored for tourism and recreation development from both the Service and the State of Oklahoma. The bill contains provisions that has the potential for bringing new and needed revenue to the low income economic depressed area of Oklahoma. The people of LeFlore County now will have a chance at a viable new economic development industry.

The final passage of H.R. 4354, the Winding Stair Mountain National Recreation and Wilderness Act, by the House is the culmination of hundreds of hours of work over the last years to arrive at legislation that will determine the future of U.S. Forest Service lands in LeFore County, OK.

This bill is one of delicate balance and was crafted as a result of local hearings, hearings in Washington, formal and informal meetings, field visits to the forest and one-on-one conversation with interested parties. It is a sensible balance between the needs to preserve in a pure state some of the undeveloped lands while also accomodating the economic needs of the area, State, and Nation.

The bill provides for the interests of loggers, environmental groups, wildlife groups, soil conservation groups, tourism and recreation interests, economic development interests, local civic organizations, local and State elected officials, and local school system officials.

In looking at legislation we had several items to be considered—the possibility of preserving areas for wilderness as proposed under the RARE II study, unrest among the local citizenry over U.S. Forest Service timbering practices, tourism and recreation development of the area, and preservation of existing revenues from timber to the local economy. The package before us today addresses each of these issues and is supported by the local people.

The legislation should result in little or no loss of revenues from Federal receipt sharing because the wilderness area involved is such a small part of the total 1,591,849 acres in the Ouachita National Forest in Arkansas and Oklahoma. Changes in management should have no impact as long as timber receipts continue at current levels in other parts of the Ouachita.

Tourism and recreation enhancement to the area will bring revenue to the local area to boost local earnings. LeFlore County is becoming a major attraction for business and industry in the northern part of the county while the southern part of the county offers the most unique tourism and recreation opportunities will attract more business and industry who look for these kind of opportunities before locating in a area. Area's that are not crucial to a viable tourism industry are available for commercial timber activities. LeFlore County has the kind of combination that most counties desire in attracting business and industry.

Specific principal provisions of the Winding Stair Mountain National Recreation and Wilderness Area Act are as follows: 48,000 acres are designated as national wilderness, botanical, and recreation areas, including Black Fork Mountain Wilderness, 4,583 acres; Upper Kiamichi River Wilderness, 9,371 acres; Robert S. Kerr Memorial Arboretum, Nature Center and Botanical Area, 8,026 acres; Beech Creek Botanical Area, 400 acres; and Winding Stair Mountain National Recreation Area, 26,445 acres.

The bill designates a 8,026-acre Robert S. Kerr Memorial Arboretum, Nature Center and Botanical Area which would encompass the existing acreage at the arboretum and adds Rich Mountain—considered for wilderness—which contains unique plant species and vegetation similar to that contained at the arboretum. The bill does not change the way the arboretum is now managed. No commercial of Federal timber harvesting will be permitted on this tract, although mechanized cutting for trail building shall be allowed. Improvements and expansion of roads and facilities shall be permitted in the vicinity of the Kerr Nature Center. It is envisioned that roads and facilities expansion would be limited to the current tract designated as the Kerr Arboretum and Nature Center and not into the Rich Mountain addition.

And 48,000 additional acres are designated as national scenic and wildlife areas; the Indian Nations National Scenic and Wildlife Area; 41,051 acres and Beech Creek Scenic Area, 7,500. Unevenaged management will be used in these areas as well as the Winding Stair Mountain National Recreation Area. Exceptions for evenaged management are permitted in all three areas to promote public safety, mitigate the effects of fire, insects, and disease. Evenaged managed irregular cuts for wildlife are allowed in the scenic and wildlife area and in recreation areas that are hidden from view from Talimena Drive and Holson Valley Road by geographical barriers. Evenaged cuts are also allowed for scenic vistas and recreational development within the national recreation area.

Timber management practices in these areas will promote mixed hardwood and conifer forests with species and ages classes mixed as closely as possible to nature, including significant mast production and den trees for wildlife.

Accompanying report language, expressing the intent of Congress, defines unevenaged management and recommends that the Service work closely with the public and the local advisory committee to develop timber management guidelines and other policy for the designated areas and for the general national forest lands in LeFlore County that are not within any of the special designations established by this act.

The Secretary of Agriculture will name a special advisory group from the local area to assist in drafting a developed recreation and tourism action plan amendment to the tourism and recreation section of the forest plan. The report suggests several local groups that could be considered for the group. One State agency is listed as a possible participant of the group with all others being from the local area with particular expertise in economic development.

This group would not deal with any broad goals of management. A second advisory group would provide information and recommendations to the Secretary regarding the operations of the Ouachita in LeFlore County. The committee shall be composed of representatives from the local area divided equally among conservation, timber, fish and wildlife, tourism, and recreation and economic development interests.

A special 20-year report will be given to the Congress concerning activities in the Ouachita in LeFlore County. In addition to conservation concerns the report will include an economic impact of the forest on the timber industry and the tourism and recreation industry. This will allow for the reporting of the positive impact of the forest upon the local economy.

Prior hunting, fishing, and trapping agreements with the State of Oklahoma's fish and game department are left intact.

The bill authorizes $15 million to be appropriated for tourism and recreation improvements related to the bill including the developed recreation plan by the special local advisory group.

The legislation permits the acquiring of sites at locations outside the boundaries of the recreation and wilderness areas for visitor orientation and the possible establishment of a lodge and additional facilities to enhance the quality of the area, as well as on existing forest lands not designated wilderness.

In conclusion, this legislation guarantees an economic return from future timber harvests, while providing for increased tourism and recreational opportunities and the continued preservation of the area's natural beauty for this and future generations.

Without question, this bill has been probably the most difficult piece of legislation on which I have worked during the 12 years I have been in the Congress. However, with passage of this bill it will be one of the most personally satisfying things that I will have accomplished in the Congress.

I have often said that along the way in our enthusiasm to provide opportunities for our people in southeastern Oklahoma, we will error, make mistakes and sometimes fail, but the biggest failure is to do nothing. With the passage of this legislation I can say that we have tried to make an impact and I believe history will reflect that our actions today made a difference in the future economic prosperity of this area.

Mr. Speaker, thank you for this opportunity to speak on behalf of the Winding Stair Mountain National Recreation and Wilderness Area Act. I urge the adoption of the bill and yield back the balance of my time.

□ 2130

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it would be impossible for me to add to the eloquent description the gentleman from Oklahoma [Mr. WATKINS] has just given of the natural beauties of this splendiforous part of Oklahoma. I commend the gentleman for the hard work he has done in putting this bill together, and I commend it to all our colleagues.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to again relay my thanks to the gentleman from Missouri [Mr. VOLKMER] and the gentleman from Texas [Mr. DE LA GARZA], our agricultural counterparts, for their work and their cooperation in this matter.

Mr. DE LA GARZA. Mr. Speaker, I rise in support of H.R. 4354 as amended by the Senate, and urge its adoption by the House.

H.R. 4354 would designate certain National Forest System lands in the State of Oklahoma for inclusion in the National Wilderness Preservation System and establish the Winding Stair Mountain National Recreation Area.

This bill was considered by the House on August 8, 1988. The bill was amended by the Senate to establish an advisory committee to aid in the development of the Ouachita National Forest land and resource management plan and to authorize certain recreation improvements to the Winding Stair Mountain National Recreation and Wilderness Areas.

Mr. Speaker, while the Committee on Agriculture in reviewing H.R. 4354 objected to the establishment of an advisory committee in developing the Ouachita land and resource management plan, I will not oppose the Senate amendment. I would note, however, that the Secretary of Agriculture currently has the authority necessary to establish such advisory groups to aid in the development of national forest management plans.

Mr. Speaker, I commend our distinguished colleague from Oklahoma [Mr. WATKINS] for his leadership in crafting the compromise that has led us to consider H.R. 4354 today. I urge the Members of the House to support its passage.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4354.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

COASTAL HERITAGE TRAIL IN THE STATE OF NEW JERSEY

Mr. VENTO. Mr. Speaker, I move to suspend the rules and concur in Senate amendments to the House amendments to the Senate bill (S. 2057) to provide for the establishment of the Coastal Heritage Trail in the State of New Jersey, and for other purposes.

The Clerk read as follows:

Senate amendments to House amendments:

Page 1, line 2, of the House engrossed amendments, insert "TRAIL" before "ROUTE."

Page 1, line 16, of the House engrossed amendments, insert "Trail" before "Route".

Page 4, line 15, of the House engrossed amendments, insert "Trail" after "Heritage".

Page 4, of the House engrossed amendments, after line 23, insert:

SEC. 7. REVITALIZATION OF OFFICERS ROW, SANDY HOOK, NEW JERSEY.

(a) AGREEMENT WITH STATE.—To further the revitalization, rehabilitation, and utilization of the area known as "Officers Row" located within the Sandy Hook Unit of the Gateway National Recreation Area, the Secretary of the Interior, or his designee, shall enter into an agreement to permit the State of New Jersey to use and occupy the property depicted on the map numbered 646/80,003, entitled "Marine Science Laboratory Land Assignment", dated September 1988, for the express purpose of constructing, developing, and operating, without cost to the National Park Service, a marine sciences laboratory to be known as the "James J. Howard Marine Sciences Laboratory". The design of the new facility, the rehabilitation of Building 74, the design and location of landscaping modifications thereto, shall be reviewed by, and subject to the approval of, the Director of the National Park Service or his designee using the standards for rehabilitation and National Park Service guidelines and policies approved by the Secretary of the Interior.

(b) REVERSION.—If the improvements described in subsection (a) are not used as a marine sciences laboratory by the State of New Jersey, all use of the property and the improvements thereon shall revert, without consideration, to the National Park Service.

Amend the amendment to the title so as to read: "An act to provide for the establishment of the Coastal Heritage Trail Route in the State of New Jersey, and for other purposes."

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the measure presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, S. 2057 as amended would provide for the establishment of a vehicular tour route over public roads in New Jersey linking natural, cultural, and historical sites along the New Jersey coast. The legislation was initially considered and passed by the Senate on June 8, 1988. The House passed S. 2057, with an amendment on September 13, 1988. Subsequently, the Senate considered S. 2057 on September 30, 1988, and has now returned the measure to the House with amendments to the House amendment.

The Senate amendments which are acceptable to me, would, first, provide that the vehicular tour route established by the legislation would be known as the "New Jersey Coastal Heritage Trail Route." This amendment addresses the concern of the Senate that the legislation include the word "trail," as that was the name with which the project was originally developed and has come to be associated with. The House amendment had provided the legislation would be known as a route, so as to avoid confusion with National Trails System components designated under authority of the National Trails System Act of 1968 (16 U.S.C. 1241-1249). The amended bill before us today will describe the project as a "trail route" and thus addresses the concerns of both bodies regarding the legislation's nomenclature. Second, the Senate amendments include the text of the bill, H.R. 5336, which passed the House on September 22, 1988. This language provides for a special use permit between the National Park Service and the State of New Jersey for a Marine Sciences Laboratory at the Sandy Hook Unit of Gateway National Recreation Area. Concurrence by the House today will complete legislation action on S. 2057.

Mr. Speaker, I support passage of S. 2057, as amended, and urge its adoption.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the amended version of S. 2057 before us today. I believe the amendments represent a good compromise on the bill. In addition, the bill recognizes the accomplishments of our distinguished colleague, the late Representative, James Howard, by naming a marine sciences laboratory at the Gateway National Recreation Area, in his memory.

I urge my colleagues to support the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and concur in the Senate amendments to the House amendments to the Senate bill, S. 2057.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

OMNIBUS INSULAR AREAS ACT OF 1988

Mr. DE LUGO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1047) to amend Public Law 94-241, the joint resolution approving the covenant to establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and for other purposes, as amended.

The Clerk read as follows:

S. 1047

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Insular Areas Act of 1988".

SEC. 2. DEFINITION OF FREELY ASSOCIATED STATE.

For the purposes of this Act, the term "freely associated state" means the Federated States of Micronesia, the Marshall Islands, or Palau (when the Compact of Free Association between the Government of the United States and the Government of Palau becomes effective).

SEC. 3. ESSENTIAL SERVICE.

The provisions of Article IX, section 5(a) of the "Federal Programs and Services Agreement Concluded Pursuant to Article II of Title Two and Section 232 of the Compact of Free Association" are extended until October 1, 1998.

SEC. 4. INSULAR JUDICIARY MATTERS.

Judicial Assistance.—(1) The Ninth Judicial Circuit of the United States may provide assistance to the courts of the freely associated states. The Chief Justice of the United States or the chief judge of the Ninth Judicial Circuit may, upon the request of a duly authorized official of a freely associated state, authorize any circuit judge of, or district judge within, the Ninth Circuit to serve temporarily as a judge of any court of a freely associated state.

(2) The Congress consents to the acceptance and retention of reimbursement or allowances for expenses related to service on a freely associated state court authorized by this section. All such reimbursement or allowances shall be reported by the judge concerned to the administrative office of the United States Courts.

(3) The President is authorized to enter into agreements with the freely associated states that are necessary or appropriate to facilitate implementation of this section.

SEC. 5. MARSHALL ISLANDS AGRICULTURAL AND FOOD PROGRAMS.

Section 103(h)(2) of the Compact of Free Association Act of 1985 (99 Stat. 1783, 48 U.S.C. 1681) is amended—

(1) by striking out "(either through" and inserting in lieu thereof "(through";

(2) by striking out "United States or" and inserting in lieu thereof "United States, or";

(3) by striking out "firm)" and inserting in lieu thereof "firm, or by a grant to the Government of the Republic of the Marshall Islands)";

(4) at the end of the subparagraph (B), by striking out the period and inserting in lieu thereof "; and";

(5) by adding after subparagraph (B) the following:

"(C) the food programs of the Rongelap and Utrik people.

Any grant to the Government of the Republic of the Marshall islands for the purposes specified in subparagraph (A), (B), or (C) relating to Bikini, Enewetak, Rongelap, or Utrick shall be made in consultation with the local goverment councils and may be conditioned upon a requirement that, where feasible, the services in question shall be provided by a firm which is primarily owned by United States or Marshallese nationals.".

SEC. 6. CONTROLLED SUBSTANCES IN THE FREELY ASSOCIATED STATES.

(a) Agreements.—The President is authorized to negotiate agreements which provide—

(1) that the United States shall carry out the provisions of part C of the Controlled Substances Act (21 U.S.C. 821 et seq.) as necessary to provide for the lawful distribution of controlled substances in the freely associated states; or

(2) that a freely associated state which institutes and maintains a voluntary system to report annual estimates of narcotics need to the International Control Board, and which imposes controls on imports of narcotic drugs consistent with the Single Convention on Narcotic Drugs, 1961 (signed at New York, March 30, 1961), shall be eligible for exports of narcotic drugs from the United States in the same manner as a country meeting the requirements of subsection (a) of section 1003 of the Controlled Substances Import and Export Act (21 U.S.C. 953).

(b) Effective Date of Agreements.—Agreements concluded pursuant to this section shall become effective pursuant to section 101(f)(5) of Public Law 99-239 or section 101(d)(5) of Public Law 99-658, as may be applicable.

SEC. 7. NORTHERN MARIANAS COLLEGE.

(a) Depository.—The Northern Marianas College is hereby constituted a depository to receive Government publications, and the Superintendent of Documents shall supply to the Northern Marianas College one copy of each such publication in the same form as supplied to other designated depositories.

(b) Endowment.—Section 507(b) of the Education Amendments of 1972 (7 U.S.C. 301 note) is amended—

(1) by striking out ", and Micronesia" each place it appears and inserting in lieu thereof ", Micronesia, and the Northern Mariana Islands"; and

(2) by striking out "and Micronesia." and inserting in lieu thereof "Micronesia and the Northern Mariana Islands."

SEC. 8. INSULAR WASTE CONTROL.

The Commonwealth of the Northern Mariana Islands, America Samoa, Guam, the Virgin Islands, the Commonwealth of Puerto Rico, and the Trust Territory of the Pacific Islands may, with the concurrence of the Administrator of the Environmental Protection Agency, each elect in any fiscal year to treat funds made available to them under title VI of the Act of June 30, 1984 (Chapter 758; 62 Stat. 1155), as amended, as if such funds were made available under section 207 of such Act for fiscal year 1989. Notwithstanding any other provision of law, funds subject to section 207 of such Act by reason of such an election shall not be subject to any of the provisions of title VI of such Act.

SEC. 9. MATCHING FUND REQUIREMENT.

The last sentence of section 501(d) of Public Law 95-134, as amended by Public Law 96-205, as amended, (48 U.S.C. 1469(d)), is amended—

(1) by inserting "any Federal program as it applies in" before "American Samoa"; and

(2) by inserting "or other expenditures" after "funds".

SEC. 10. VIRGIN ISLANDS ORGANIC ACT.

The Revised Organic Act of the Virgin Islands is amended—

(1) in section 24(c) (48 U.S.C. 1614(c)), by striking out "Attorney General" and inserting in lieu thereof "President"; and

(2) by striking out the second sentence of section 25 (48 U.S.C. 1615).

SEC. 11. GUAM PORT DEVELOPMENT.

Section 818(b)(2) of Public Law 96-418 (94 Stat. 1782) (as amended by section 504 of Public Law 98-454 (98 Stat. 1736)) is amended by striking "30 percent" and inserting "50 percent".

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from the Virgin Islands [Mr. de Lugo] will be recognized for 20 minutes and the gentleman from Arizona [Mr. Rhodes] will be recognized for 20 minutes.

The Chair recognizes the gentleman from the Virgin Islands [Mr. de Lugo].

GENERAL LEAVE

Mr. de LUGO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from the Virgin Islands?

There was no objection.

Mr. de LUGO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, most Members know that it is the practice to combine a number of relatively noncontroversial proposals regarding the insular areas of or associated with the United States into an omnibus bill each Congress.

In the past, these acts have provided essential assistance to the insular areas and rationalized the treatment of the insular areas under law. Although they have been relatively noncontroversial, these acts have addressed many insular needs that would otherwise be overlooked.

The very serious issues involved in the Palau compact of Free Association legislation have preoccupied the attention to insular matters of the Committee on Interior and Insular Affairs and our counterpart committee on the other side of the Capitol this Congress. The administration's recent decision to support the fundamental provisions of the Palau resolution that I have sponsored along with 64 other Members has, however, made passage of an omnibus insular areas bill a possibility this year.

S. 1047, as it would be amended, includes provisions approved by the Interior and Insular Affairs Committee late last year as well as other provisions that would address a number of needs that should be acted upon.

The subcommittee in Insular and International Affairs, which I chair, developed this legislation in consultation with the minority, insular representatives, other committees, and both other branches of Government.

The bill would not have a significant budget impact and the administration has cleared its provisions in almost all respects.

At this point, I would like to acknowledge the cooperation I have received from the subcommittee's ranking Republican, our colleague Bob Lagomarsino. I would also like to note the contributions made to this legislation by the distinguished Resident Commissioner of Puerto Rico, Jaime Fuster; the able Delegate of Guam, Ben Blaz; and our former colleague from American Samoa, Fofo Sunia, who did so much for his people while a Member of the House.

Let me now outline what this legislation would accomplish.

Section 1 would be the act's short title: The Omnibus Insular Areas Act of 1988.

Section 2 would define the Federated States of Micronesia; the Marshall Islands; and Palau, when and if the Compact of Free Association with Palau goes into effect, as freely associated states.

Free association is one of three future political statutes for a territory approved by the United Nations. The others are integration into a country, which in the case of our Nation would be statehood, and independence.

Free association itself means that the State involved possesses sovereignty but has freely agreed to let another State exercise some aspects of that sovereignty. In the case of the United States free association with the Federated States and the Marshalls—and possibly Palau in the future—this consists primarily of the islands being self-governing in all matters other than those affecting security, for which the United States retains responsibility.

The freely associated states are currently eligible to participate in the essential air service program. The U.S. agreement with them applying the program expires later this month.

Section 3 would authorize it to be extended 10 years. Air service over the vast expanses of the Pacific is an economic and social lifeline for the peoples of remote islands. It is important in terms of the U.S. defense responsibilities provided for under the compacts.

During the period of U.S. trusteeship administration of the freely associated states, Federal judges would serve temporarily as judges of the courts of the trust territory. This practice provided a full complement of judges not practical to maintain in small island communities.

Officials of the freely associated states believe that this assistance is still needed, even though the states are self-governing. The Judicial Conference agrees and has proposed the basis of section 4.

This section would authorize the temporary assignment of judges of the Ninth Judicial Circuit to freely associate state courts upon the request of the states.

It is assumed that such assignments will be arranged in a manner consistent with constitutional requirements of both the United States and the state involved. In the case of the United States, this does not require that the arrangements be made by the executive branch in light of the foreign policy powers of the President. To suggest that it should would be to propose the executive, a political branch, should encroach upon the independence of the judiciary.

The government-to-government contacts required can be satisfied by contacts between judiciaries.

It may be helpful, however, for there to be executive-to-executive understandings reached concerning this assistance. The language provides for this.

No one is more responsible for the provisions of section 4 than the newest Associate Justice of the Supreme Court, the Honorable Anthony M. Kennedy. He developed these provisions as Chairman of the Pacific Territories Committee of the Judicial Conference.

I am delighted that he has asked to stay on as chairman of this committee. He is especially understanding of the needs of the unique judicial relationships that the United States has with the insular areas. He is dedicated to preserving the rights of the powerless peoples of the insular areas.

Administrative office of the U.S. Courts Counsel Christy E. Massie also helped develop these provisions. I appreciate her contributions to them.

Finally, I would like to note that the Committee on the Judiciary has an obvious interest in this matter. This legislation would not be possible without the cooperation of the very distinguished chairman, whom we shall all miss in the next Congress, our colleague PETER RODINO. The Chairman of the Subcommittee on the Courts, Civil Liberties, and the Administration of Justice, our colleague BOB KASTENMEIER, also contributed to it.

Section 5 would authorize the agricultural and food programs for the peoples of Bikini and Enewetak Atolls that were authorized by the compact of Free Association Act to be provided by a United States or Marshallese contractor through a grant to the government of the Marshall Islands.

It would also authorize the food programs for the peoples of Rongelap and Utrik atolls to continue to be provided on the same terms that apply to the programs for the peoples of Bikini and Enewetak.

I understand that some administration officials object to the continuation of these programs for the peoples of Rongelap and Utrik. However, since the President has just approved the fiscal year 1989 Interior Appropriations bill and this law would also continue these programs, this objection is not persuasive.

This section is included to ensure that the programs are continued for the peoples of Rongelap and Utrik beyond fiscal year 1989.

Section 6 would authorize the President to agree with the freely associated states to continue to have the United States regulate the distribution of drugs to the states or to treat the states as foreign countries for the purposes of such distribution if they agree to international conventions on distribution.

This provision was proposed by the very able President of the Senate of Palau, Joshua Koshiba. He recognized that a freely associated state of Palau might not have the resources or expertise to arrange for proper and safe acquisition of medicines.

Subsection (b) of section 6 provides for submission to Congress of agreements reached under this section.

Section 7 would provide assistance to the Northern Marianas College requested by the representatives in Washington of the commonwealth, the Honorable Froilan Tenorio and the able president of the college, Agnes McPhetres.

Subsection (a) would make the college a Federal depository so that it will be eligible to receive all Federal publications.

Subsection (b) would authorize the college to receive the same endowment authorized for the land grant colleges in the territories, $3 million.

The Omnibus Insular Areas Act of 1986 made the college a land grant institution. Although that law made the college eligible for other benefits of land grant status, it did not provide for this endowment. This provision would correct that omission.

Unlike the States, the waste water systems of the insular areas are far from developed. Insular governments are hardpressed financially to bring these systems up to Federal standards.

The lack of adequate systems poses health hazards and is an impediment to economic development. Special assistance and flexibility in applying requirements is clearly warranted.

The revolving fund concept of financing waste water projects is one that does not make sense in the insular areas because of the greater level of need I have noted and because of the structure of insular governments. Insular governments generally develop waste water systems on an insular-wide rather than a local government basis.

Section 8 would authorize insular governments to continue to treat waste water treatment funds as grants—if the Administrator of the Environmental Protection Agency approves—rather than as capitalization for revolving funds.

Omnibus insular areas acts in 1980, 1983, and 1984 have all intended to waive requirements for insular governments to spend funds in order to have any Federal program or project apply to or take place in the islands. These acts are built upon waiver authority contained in Omnibus Insular Areas Acts of 1977 and 1978.

The current law requires the waiver of contribution requirements by American Samoa, Guam, the Northern Mariana Islands, and the Virgin Islands of the first $200,000 of such a requirement per project or program by every Federal agency in each instance where such a requirement could be applied.

The primary reason for the waiver is to ensure that insular areas are not prevented from participating in programs or that projects are not prevented because of the fiscal inability of the insular government to make a contribution. The burden of having to make such a contribution—whether on a matching or any other basis—is intended to be alleviated.

An additional reason for the waiver is that such a large proportion of insular budgets are made up of direct or indirect Federal support that the purposes of local contribution requirements are often contradicted in insular circumstances.

In spite of this, from time to time agencies misunderstand Congress' intent. Some have tried to interpret the waiver as not applying to their programs or projects for one reason or another.

One reason given has been that the local contribution requirements involved were not really "matching" requirements. Another is that the waiver would shift costs to the Federal Government and that it was not intended to apply to open-ended state plan programs, such as the Child Support Enforcement Program.

Congress has had to act to clarify that the waiver applies to specific programs, as it did in the case of Corps of Engineers projects. It should not, however, continue to have to do this to clarify intent.

Although the budgetary impact of this waiver is nonexistent or slight, the intent is that the waiver be applied across-the-board for all projects and programs regardless of the cost.

The intent of section 9 is that any requirements for insular spending under any Federal program or project be waived to the extent of $200,000 annually. Let us hope that we do not have to revisit this issue again, except for the purpose of adjusting the amount of the waiver.

Section 10 would amend the Revised Organic Act of the Virgin Islands in two respects.

One amendment would provide for the President to appoint the U.S. Marshal for the Virgin Islands.

The President appoints U.S. Marshals in other places in the Nation; there is no apparent reason that the Attorney General appoints the Marshal in the territory that I represent.

I understand that some administration officials object to this amendment and want the Attorney General to continue to appoint U.S. Marshals in the Virgin Islands and appoint all other U.S. Marshals as well.

The U.S. Marshal for the Virgin Islands should be equivalent to that for any other part of the Nation. The objection is too persuasive.

The other amendment would authorize the U.S. District Court for the Virgin Islands to sit anywhere in the territory. The requirement in current law that the court's division for St. Thomas and St. John only sit in Charlotte Amalie and the division for St. Croix only sit in Christiansted is anachronistic and unnecessarily limiting. It could prevent construction of Federal buildings in the most appropriate location.

In 1980, Congress directed the transfer of 927 acres at Guam's main port, Cabras Island, from the Navy to the territory to assist in the port's economic development.

Unfortunately, the property was not developed because of the requirement that the territory pay any proceeds received from the sale or lease of the property to private parties over to the Federal Government.

The Omnibus Insular Areas Act of 1984 amended this requirement to authorize Guam to use up to 30 percent of the proceeds to day for development costs. Unfortunately, development still has not been able to occur.

Section 11 would amend the limitation on the amount of the proceeds Guam may use for development costs—and does not have to pay to the Federal Government—to 50 percent.

Delegate BLAZ has worked out this amendment with the sponsor of the limitation, Chairman JACK BROOKS of the Committee on Government Operations. We hope that it will result in development of the property.

The provisions that I have described do not include the Senate's purpose in passing the legislation. It was to clarify that certain residents of the Northern Mariana Islands are U.S. citizens by virtue of Public Law 94-241. That law approved the covenant to make the islands a commonwealth in union with the United States.

I agree that the people involved are intended to be U.S. citizens. This was made clear at a hearing I conducted in May 1987 on an administration bill to make them citizens.

I also believe that the administration's refusal to recognize many of these people as citizens was unfair and a disservice to the Nation.

In making this criticism, I want to recognize that there were some in the administration who tried to correct this problem.

It has, however, been corrected by the wise decisions of the thoughtful judge of the U.S. District Court for the Northern Mariana Islands, Alfred Laureta. He has ordered that U.S. citizenship be recognized.

S. 1047 was referred to the Judiciary Committee as well as the Interior and Insular Affairs Committee. I agreed with Chairman ROMANO MAZZOLI of the Subcommittee on Immigration, Refugees, and International law that, although it was well-intended, the bill should not be needed.

Thus, the Senate-passed legislation is just being used as a vehicle for the other provisions that I have described. I appreciate the cooperation of Chairman RODINO in this respect and want to recognize that consideration of this legislation is without prejudice to the interests of the Judiciary Committee.

Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation which has been developed with the administration in a bipartisan manner. The various provisions in the legislation are important to the people of the U.S. insular areas and the freely associated states of Micronesia. Most of these provisions do not involve the outlay of any funds, yet they increase the quality of life in the areas of education, health, transportation, and judicial matters,

I urge my colleagues to support this measure.

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of the legislation which is important to the people of the U.S. insular areas and the freely associated states in Micronesia. The provisions of the Omnibus Insular Areas Act of 1988 are for the most part noncontroversial and with minor exceptions, are supported by the administration.

The island areas affected by this legislation are of three types. The first are the territories of the United States which come under the territorial clause of the Constitution, article IV, section 3, clause 2: American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands.

The second type of island group covered by parts of this legislation is Palau, which the United States administers as the last part of the United Nations Trust Territory of the Pacific Islands. The trusteeship agreement provides the United States with the authority and responsibility for the political, economic, and social development of the people of Palau. With the passage of the Palau Compact of free association in 1986 and soon the implementing legislation, the United States will discharge its responsibility as administering authority. And although Palau's new relationship under the compact appears imminent, the United States continues to be fully responsible for Palau.

And, third, there are certain sovereign island states which are in free association with the United States. They are the Republic of the Marshall Islands and the Federated States of Micronesia. While these two are currently the only states in free association with the United States, Palau will become the third free association state when the compact of free association becomes effective, which hopefully will be soon.

Essential air service to the freely associated states is important to the relationship between the United States and the Marshall Islands and the freely associated states of Micronesia. Section 3 of the bill does not require an outlay of any additional funds. It does extend the current essential air service law which will expire this month if this provision does not become law. In addition to the positive impact on our relationship with the island, a continuation of essential air service will be very important to the U.S. civilian and military personnel working at the Kwajalein missile testing facility in the Marshall Islands.

An additional 2,000 people are expected to work on Kwajalein in the coming years. Although the people there do rely on military transport for the movement of personnel and supplies, regularly scheduled commercial service will be very helpful to the base. People, mail, and goods need to flow in and out of Kwajalein. The guarantee of essential air service by commercial airlines may preclude an increase of military cargo and passenger flights and thereby produce a savings to the U.S. Government. This provision will benefit the United States by improving our relations with the islands, meeting a growing need of strategic interests, and saving money on transportation requirements best met by the private sector.

I want to acknowledge the deep interest and involvement of Supreme Court Justice Anthony M. Kennedy in the development of the provisions regarding judicial matters in the Pacific Islands. Justice Kennedy headed a Pacific Islands judicial conference in American Samoa which dealt with specific judicial issues in the islands. I am pleased that we have a Supreme Court Justice that is intimately familiar with the islands and their special judicial needs.

The provision dealing with judicial matters is intended to enable judges of the ninth judicial circuit to serve as judges of the courts of the freely associated states. This type of assistance has been provided to the courts of the merging freely associated state governments by judges from the courts of U.S. jurisdictions in the region over the years, and has proven valuable to these governments during the transition from trusteeship to self-government.

However, the process for making U.S. judges available to the freely associated states in the post-trusteeship period may not be identical to the process for providing such assistance previously. Because of the new status of the freely associated states as sovereign and self-governing, both the United States and freely associated state governments may have to adopt new procedures to ensure that in making arrangements for this type of judicial assistance their respective constitutional processes are observed. This provision creates authority for judicial assistance, but recognizes that appropriate procedures, including treaty arrangements if determined to be necessary, will have to be decided upon as this provision is implemented. Consultations between the judicial and foreign policy elements of our Government should be undertaken to ensure that this provision is implemented with due regard for the political and legal distinctions between a freely associated state and a U.S. territory or commonwealth.

Another provision which poses no cost to the United States is the section regarding controlled substance in the freely associated states.

The general health needs of the people of the freely associated states could be improved by providing qualified medical officers in the islands with the access to U.S. medicinal drugs. Without the provision of law authorizing the export of controlled substances to a freely associated state, the people there are potentially jeopardized due to the lack of the proper drugs or from the use of outdated or poorly tested substances manufactured without stringent U.S requirements.

The Northern Marianas College has continued to develop over the years. Full accreditation by the Western Association of Schools and Colleges was extended to the Northern Marianas College in 1985. Based in part upon that accreditation, the continuing development of the school facility, the increase in enrollment and graduates, and the strong backing of the local government, Federal land grant status was extended to the college in 1986. The school has continued to progress and become a key component of the community by offering an array of practical postsecondary and technical courses along with secondary level adult education classes. The Northern Marianas College is ready for and needs the same endowment that was provided to the other land grant institutions in the Pacific. This legislation would authorize an endowment to the college. There is a tremendous potential for the college to assist the people to develop their skills through technical and postsecondary education in order for them to contribute to the expanding economy of the islands. The college is already providing the opportunities for the people to study in the Northern Marianas, rather than having to study elsewhere.

I want to commend the president of the Northern Marianas College, Agnes M. McPhetres, for the excellent leadership she has shown through the years. It has been through her determined efforts that the dramatic progress has been made. The establishment of an endowment would provide a perennial boost to the college and its continuing progress.

Mr. RHODES. Mr. Speaker, I yield back the balance of my time.

Mr. DE LUGO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from the Virgin Islands [Mr. DE LUGO] that the House suspend the rules and pass the Senate bill, S. 1047, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ADDITIONAL AUTHORIZATIONS FOR WEB RURAL WATER DEVELOPMENT PROJECT IN SOUTH DAKOTA

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4267) to authorize additional appropriations for the WEB Rural Water Development Project, South Dakota, authorize the use of Pick-Sloan Missouri Basin electric power by the Lower Brule Sioux Indian Tribe, and to rename certain facilities of the Central Valley Project, California.

The Clerk read as follows:

Senate Amendment:

Page 2, line 10, strike out "Brule," " "and insert "Brule, including the Clark Ranch irrigation development,".

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4267 was passed by the House on May 10, 1988.

The purposes of the bill, as passed by the House, were threefold.

First, the bill would authorize an additional $18,5 million in appropriations to complete construction of the WEB rural water development project, South Dakota.

Second, the bill would authorize the use of Pick-Sloan Missouri Basin electric power on irrigation developments on the Lower Brule Sioux Indian Reservation, South Dakota.

Finally, the bill would rename three facilities of the Central Valley project, California.

When the Senate passed the bill on August 11, they added a technical amendment. The amendment clarified the Pick-Sloan power provision making it clear that this power could be used throughout the reservation.

Mr. Speaker, we have no objection to the Senate amendment and would urge that the House concur in the Senate amendment.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4267, a bill to correct an indexing error that occurred in computing the cost authorization ceiling for the WEB rural water development project in South Dakota.

The House reported the bill in May. The Senate made a technical correction to the House reported bill to make clear that water service may be provided to an area within the reservation that was inadvertently omitted in the House-passed bill.

It is a good bill and is non-controversial.

I urge my colleagues to concur in the Senate amendment to H.R. 4267.

Mr. Speaker, I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield such time as he may require to the gentleman from South Dakota [Mr. JOHNSON].

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise in support of H.R. 4267 and urge the House to adopt this legislation as amended by the Senate.

The need for this bill arises from miscalculations made by the Bureau of Reclamation in applying inflation adjustments to figure the level of the funding ceiling for the WEB rural water development project.

The WEB project, authorized in section 9 of the Rural Development Policy Act of 1980, brings clean, safe drinking water to north-central and north-eastern South Dakota. WEB has received continued strong support in Congress since authorization, and H.R. 4267 would ensure that continued support.

Earlier in the year, Bureau of Reclamation analysts discovered that they had inflated the authorized level of the WEB project through application of incorrect inflationary indices. Upon this discovery, the Bureau notified the WEB board of the mistake and took administrative action. These residents would not receive clean drinking water because of this unfortunate action by the Bureau.

It is important to keep in mind that this legislation is not a coverup for a cost overrun. WEB is an excellent example of a federally-authorized project that is on time and under budget. The WEB board played no part in this inflated funding ceiling. The Bureau has admitted its culpability in this case and fully supports H.R. 4267. This legislation merely restores the funding ceiling for WEB to the level previously accepted by Congress, the administration and those affected by the project. With this legislation WEB can be completed.

I thank the committee chairman, the gentleman from California [Mr. MILLER] for his assistance and I thank as well the gentleman from Arizona [Mr. RHODES]. Again, I rise in support of this legislation and urge approval by my colleagues, so that this project may proceed toward completion as Congress intended.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to say in conclusion that I thank all the members of the committee for their help in this matter. Also I wish to again thank the gentleman from South Dakota [Mr. JOHNSON] for bringing this matter to our attention. Obviously, without his persistence this legislation would not be before the Congress at this time.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4267.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

DISAGREEMENT AND CONCURRENCE WITH SENATE AMENDMENTS TO H.R. 2772, MNI WICONI PROJECT ACT OF 1988

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 567) setting forth disagreement with Senate amendments numbered 1 through 8 and concurrence in Senate amendment numbered 9 with an amendment to the bill H.R. 2772, to authorize the Lyman-Jones, West River, and Oglala 51 Sioux rural water development projects.

The Clerk read as follows:

H. RES. 567

Resolved, Upon the adoption of this resolution, the House of Representatives shall be considered to have taken from the Speaker's table the bill H.R. 2772, to authorize the Lyman-Jones, West River, and Oglala Sioux Rural Water Development Projects with the Senate amendments thereto, to have disagreed with Senate amendments numbered 1 through 8, and to have concurred in Senate amendments numbered 9 with an amendment as follows:

The House amendment to the Senate amendment numbered 9: In lieu of the matter proposed to be stricken and the matter proposed to be inserted, strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

Sections 1 through 12 of this Act may be cited as the "Mni Wiconi Project Act of 1988".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there are insufficient water supplies available to residents of the Pine Ridge Indian Reservation in South Dakota, and the water supplies that are available do not meet minimum health and safety standards, thereby posing a threat to public health and safety;

(2) Shannon County, South Dakota, one of the counties where the Pine Ridge Indian Reservation is located, is the poorest county in the United States, and the lack of water supplies on the Pine Ridge Indian Reservation restricts efforts to promote economic development on the reservation;

(3) serious problems in water quantity and water quality exist in the rural counties of Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties, South Dakota.

(4) the United States has a trust responsibility to ensure that adequate and safe water supplies are available to meet the economic, environmental, water supply, and public health needs of the Pine Ridge Indian Reservation; and

(5) the best available, reliable, and safe rural and municipal water supply to serve the needs of the Pine Ridge Indian Reservation, and the residents of Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties is the Missouri River.

(b) PURPOSE.—The Congress declares that the purposes of sections 1 through 12 are to—

(1) ensure a safe and adequate municipal, rural, and industrial water supply for the residents of the Pine Ridge Indian Reservation in South Dakota;

(2) assist the citizens of Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties, South Dakota, to develop safe and adequate municipal, rural, and industrial water supplies;

(3) promote the implementation of water conservation programs on the Pine Ridge Indian Reservation and in Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties, South Dakota;

(4) provide certain benefits to fish, wildlife, and the natural environment of South Dakota, including the Pine Ridge Indian Reservation, and

(5) repeal the authorization of appropriations for the Pollock-Herreid Unit of the Pick-Sloan Missouri Basin Program.

SEC. 3. OGLALA SIOUX RURAL WATER SUPPLY SYSTEM.

(a) AUTHORIZATION—The Secretary of the Interior (hereafter in sections 1 through 12 referred to as the "Secretary") is authorized and directed to plan, design, construct, operate, maintain, and replace a municipal, rural, and industrial water system, to be known as the Oglala Sioux Rural Water Supply System, as generally described in the report entitled "1988 Planning Report and Environemental Assessment" and dated February 1988. The Oglala Sioux Rural Water Supply System shall consist of—

(1) pumping and treatment facilities located long the Missouri River near Fort Pierre, South Dakota;

(2) pipelines extending from the Missouri River near Fort Pierre, South Dakota; to the Pine Ridge Indian Reservation;

(3) facilities to allow for interconnections with the West River Rural Water System and Lyman-Jones Rural Water System;

(4) distribution and treatment facilities to serve the needs of the Pine Ridge Indian Reservation, including but not limited to the purchase, improvement and repair of existing water systems, including systems owned by individual tribal members and other residents on the Pine Ridge Indian Reservation.

(5) appurtenant buildings and access roads;

(6) necessary property and property rights;

(7) electrical power transmission and distribution facilities necessary for services to water systems facilities; and

(8) such other pipelines, pumping plants, and facilities as the Secretary deems necessary or appropriate to meet the water supply, economic, public health, and environmental needs of the reservation, including (but not limited to) water storage tanks, water lines, and other facilities for the Oglala Sioux Tribe and reservation villages, towns, and municipalities.

(b) Agreement With Non-Federal Entity to Plan, Construct, Operate and Maintain the Oglala Sioux Rural Water Supply System.—

(1) In carrying out subsection (a), the Secretary, with the concurrence of the Oglala Sioux Tribal Council, shall enter into agreement with the appropriate non-Federal entity or entities for planning, designing, constructing, operating, maintaining, and replacing the Oglala Sioux Rural Water Supply System.

(2) Such cooperative agreements shall set forth, in a manner acceptable to the Secretary—

(A) the responsibilities of the parties for needs assessment, feasibility, and environmental studies; engineering and design; construction; water conservation measures; and administration of any contracts with respect to this subparagraph;

(B) the procedures and requirements for approval and acceptance of such design and construction; and

(C) the rights, responsibilities, and liabilities of each party to the agreement.

(3) Such cooperative agreements may include purchase, improvement, and repair of existing water systems, including systems owned by individual tribal members and other residents located on the Pine Ridge Indian Reservation.

(4) The Secretary may unilaterally terminate any cooperative agreement entered into pursuant to this section if the Secretary determines that the quality of construction does not meet all standards established for similar facilities constructed by the Secretary or that the operation and maintenance of the system does not meet conditions acceptable to the Secretary for fulfilling the obligations of the United States to the Oglala Sioux Tribe.

(5) Upon execution of any cooperative agreement authorized under this section, the Secretary is authorized to transfer to the appropriate non-Federal entity, on a nonreimbursable basis, the funds authorized to be appropriated by section 10 for the Oglala Sioux Rural Water Supply System.

(c) Service Area.—The service area of the Oglala Sioux Rural Water Supply System shall be the boundaries of the Pine Ridge Indian Reservation.

(d) Construction Requirements.—The pumping plants, pipelines, treatment facilities, and other appurtenant facilities for the Oglala Sioux Rural Water Supply System shall be planned and constructed to a size sufficient to meet the municipal, rural, and industrial water supply requirements of the Pine Ridge Indian Reservation, the West River Rural Water System, and the Lyman-Jones Rural Water System, taking into account the effects of the conservation plans described in section 5. All three systems may be interconnected and provided with water service from common facilities. Any joint costs associated with common facilities shall be allocated to the Oglala Sioux Rural Water Supply System.

(e) Title to System.—Title of the Oglala Sioux Rural Water Supply System shall be held in trust for the Oglala Sioux Tribe by the United States and shall not be transferred without a subsequent Act of Congress.

(f) Limitation on Availability of Construction Funds.—The Secretary shall not obligate funds for the construction of the Oglala Sioux Rural Water Supply System until—

(1) the requirements of the National Environmental Policy Act of 1969 have been met; and,

(2) a final engineering report has been prepared and submitted to the Congress for a period of not less than ninety days.

(g) Technical Assistance.—The Secretary is authorized and directed to provide such technical assistance as may be necessary to the Oglala Sioux Tribe to plan, develop, construct, operate, maintain, and replace the Oglala Sioux Rural Water Supply System, including (but not limited to) operation and management training.

(h) Application of Indian Self-Determination Act.—Planning, design, construction and operation of the Oglala Sioux Rural Water Supply System within the Pine Ridge Reservation shall be subject to the provisions of the Indian Self-Determination Act (Public Law 93-638; 25 U.S.C. 450).

SEC. 4. WEST RIVER RURAL WATER SYSTEM AND LYMAN-JONES RURAL WATER SYSTEM.

(a) PLANNING AND CONSTRUCTION.—

(1) The Secretary is authorized and directed to enter into cooperative agreements with appropriate non-Federal entities to provide Federal funds for the planning and construction of the West River Rural Water System and the Lyman-Jones Rural Water System in Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties, South Dakota, as described in the report entitled "1988 Planning Report and Environmental Assessment" and dated February 1988.

(2) The Secretary may not provide more than 65 per centum of the total cost of—

(A) the West River Rural Water System, and

(B) the Lyman-Jones Rural Water System, Such Federal funds may be obligated and expended only through cooperative agreements described in subsection (b).

(3) The non-Federal share of the costs allocated to the West River and Lyman-Jones Rural Water Systems shall be 35 per centum.

(b) Cooperative Agreements.—

(1) The Secretary, with the concurrence of the Lyman-Jones and West River Rural Water Systems, shall execute cooperative agreements with the appropriate non-Federal entities to provide Federal assistance for the planning, design, and construction of the West River Rural Water System and the Lyman-Jones Rural Water System. Such cooperative agreements shall set forth, in a manner acceptable to the Secretary—

(A) the responsibilities of the parties for needs assessment, feasibility and environmental studies; engineering and design; construction; water conservation measures; and administration of any contracts with respect to this subparagraph;

(B) the procedures and requirements for approval and acceptance of such design and construction; and

(C) the rights, responsibilities, and liabilities of each party to the agreement.

(c) Facilities on Which Federal Funds May Be Expended.—The facilities on which Federal funds may be obligated and expended under this section shall include—

(1) water intake, pumping, treatment, storage, interconnection, and pipeline facilities;

(2) appurtenant buildings and access roads;

(3) necessary property and property rights;

(4) electrical power transmission and distribution facilities necessary for service to water system facilities;

(5) planning and design services for all facilities; and

(6) other facilities and services customary to the development of rural water distribution systems in South Dakota.

(d) Service Area.—The service area of the West River Rural Water System and the Lyman-Jones Rural Water System shall be as described in the engineering study entitled "1988 Planning Report and Environmental Assessment" and dated February 1988.

(e) Limitation on Availability of Construction Funds.—The Secretary shall not obligate funds for the construction of the West River Rural Water System and the Lyman-Jones Rural Water System until—

(1) the requirements of the National Environmental Policy Act of 1969 have been met; and

(2) final engineering reports have been prepared and submitted to the Congress for a period of not less than ninety days.

(f) Prohibitions on Use of Federal Funds.—The Secretary may not obligate or expend any Federal funds for the operation, maintenance, or replacement of either the West River or Lyman-Jones Rural Water Systems.

SEC. 5. WATER CONSERVATION.

In order to reduce costs to consumers and to reduce water consumption, the Secretary, prior to obligating any construction funds, shall issue a public notice finding that plans for the rural water systems include prudent and responsible water conservation measures for the operation of such systems where such measures are shown to be economically and financially feasible. The non-Federal parties (including the Oglala Sioux Tribe) participating in the systems shall develop a water conservation plan containing definite goals, appropriate water conservation measures, and a time schedule for meeting the water conservation objectives. The provisions of section 210(c) of Public Law 97-293 (96 Stat. 1268) shall apply with respect to the systems.

SEC. 6. MITIGATION OF FISH AND WILDLIFE LOSSES.

(a) Oglala Sioux Rural Water Supply System and the West River and Lyman-Jones Rural Water Systems.—Mitigation for fish and wildlife losses incurred as a result of the construction and operation of the Oglala Sioux Rural Water Supply System, the West River Rural Water System, and the Lyman-Jones Rural Water System shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction.

(b) Oahe and Big Bend Dams and Reservoirs.—The Secretary, in cooperation with the State of South Dakota and other Federal agencies, shall develop and submit recommendations to the Congress for financing and implementing mitigation plans for fish and wildlife losses incurred as a result of the construction and operation of the Oahe Dam and Reservoir and Big Bend Dam and Reservoir. Such plans shall incorporate the proposal of the United States Army Chief of Engineers as outlined in Design Memorandum M (Gen)-19 of December 1987 for improved management of existing Federal lands, and purchase of single-purpose mitigation lands, such as the Olson and Mudon Ranches, from willing sellers.

SEC. 7. PROHIBITION ON USE OF FUNDS FOR IRRIGATION PURPOSES.

None of the funds made available to the Secretary for planning or construction of the Oglala Sioux Rural Water Supply System, the West River Rural Water System, or the Lyman-Jones Rural Water System may be used to plan or construct facilities used to supply water for the purpose of irrigation.

SEC. 8. RULE OF CONSTRUCTION.

Nothing in sections 1 through 12 is intended, nor shall be construed, to preclude the State of South Dakota or the Oglala Sioux Tribe from seeking congressional authorization to plan, design, operate, or construct additional federally assisted water resource development projects.

SEC. 9. USE OF PICK-SLOAN POWER.

(a) In General.—The Systems authorized by sections 3 and 4 of this Act shall utilize power from Pick-Sloan for their operation. This power shall be deemed to be a project use pumping requirement of Pick-Sloan.

(b) Power To Be Used.—As of the date of enactment of this Act, power identified for future project use pumping at the Pollock-Herreid Unit of the Pick-Sloan shall be reserved for and utilized by the Systems and made available for the purpose authorized by subsection (a).

(c) Rate.—The rate for project use power made available pursuant to subsection (a) shall be the wholesale firm power rate for the Pick-Sloan (Eastern Division) in effect at the time the power is sold.

(d) Additional Power.—If additional power beyond that made available through subsection (b) is required to meet the pumping requirements of the Systems, the Administrator of the Western Area Power Administration is authorized to purchase the additional power needed under such terms and conditions the Administrator deems appropriate. Expenses associated with such power purchases shall be recovered through a separate power charge, sufficient to recover these expenses, applied to the Systems.

(e) Definitions.—For purposes of this section—

(1) the term "Systems" means the Oglala Sioux Rural Water Supply System, the West River Rural Water System; and the Lyman-Jones Rural Water System; and

(2) the term "Pick-Sloan" means the Pick-Sloan Missouri Basin Program authorized by section 9 of the Act of December 22, 1944 (58 Stat. 891; commonly referred to as the Flood Control Act of 1944).

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) Planning, Design, and Construction.—There are authorized to be appropriated $87,500,000 for the planning, design, and construction of the Oglala Sioux Rural Water Supply System, the West River Rural Water System, and the Lyman-Jones Rural Water System under the provisions of sections 3 and 4. Such funds are authorized to be appropriated only through the end of the ninth fiscal year after which construction funds are first made available. The funds authorized to be appropriated by the first sentence of this section, less any amounts previously obligated for the systems, may be increased or decreased by such amounts as may be justified by reason of ordinary fluctuations in development costs incurred after January 1, 1987, as indicated by engineering costs indices applicable for the type of construction involved.

(b) Operation and Maintenance of Oglala Sioux Rural Water Supply System.—There are authorized to be appropriated such sums as may be necessary for the operation and maintenance of the Oglala Sioux Rural Water Supply System.

SEC. 11. WATER RIGHTS.

Nothing in sections 1 through 12 shall be construed to—

(1) impair the validity of or preempt any provision of State water law, or of any interstate compact governing water;

(2) alter the rights of any State to any appropriated share of the waters of any body or surface or ground water, whether determined by past or future interstate compacts, or by past or future legislative or final judicial allocations;

(3) preempt or modify any State or Federal law or interstate compact dealing with water quality or disposal;

(4) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resources; or

(5) affect any water rights or claims thereto of the Oglala Sioux Tribe, whether located within or without the external boundaries of the Pine Ridge Indian Reservation, based on treaty, excutive Order, agreement, act of Congress, aboriginal title, the Winter's doctrine (*Winter's v. United States,* 207 U.S. 564 (1908)), or otherwise. Nothing contained in this section or in section 1 through 12, however, is intended to validate or invalidate any assertion of the existence, non-existence or extinguishment of any water rights, or claims thereto, held by the Oglala Sioux Tribe, or any other Indian tribe or individual Indian under federal or state law.

SEC. 12. REPEAL OF AUTHORIZATION OF APPROPRIATIONS.

(a) Pollock-Herreid Unit.—Section 407 of the Reclamation Authorization Act of 1975 (Public Law 94-228; 90 Stat. 209) relating to the authorization of appropriations for the Pollock-Herreid Unit of the Pick-Sloan Missouri Basin Program is hereby repealed. The Pollock-Herreid Unit shall remain an authorized feature of the Pick-Sloan Missouri Basin Program.

(b) Feasibility Studies.—Delete section 3 of Public Law 97-273 (96 Stat. 1181) and substitute in lieu thereof the following: "Sec. 3. The Secretary is authorized, in cooperation with the State of South Dakota, to conduct a feasibility investigation of the alternate uses of facilities constructed for use in conjunction with the Oahe Unit, initial stage, James Division, Pick-Sloan Missouri Basin Program, South Dakota, and to report to the Congress the findings of such study along with his recommendations.".

SEC. 13. GRAND VALLEY PROJECT, COLORADO.

The Secretary of the Interior is authorized to extend the Grand Valley Project Contract No. 6-07-40-P0080, dated April 10, 1986, among the United States, the Grand Valley Water Users Association, Public Service Company of Colorado, and the Orchard Mesa Irrigation District, for a period not to exceed two years to provide for the continued operation of the Grand Valley Power Project.

SEC. 14. VETERAN, WYOMING TOWNSITE.

(a) Notwithstanding any law or court order to the contrary, the Secretary of the Interior shall amend, subject to valid existing rights, the official subdivision survey and plat for the town site of Veteran, Wyoming, to take into account the actual and command use of streets and alleys on such lands for designation as public reservations in accordance with the Act of April 16, 1906 (34 Stat. 116, as amended).

(b) After completion of the work required to amend the town site survey and plat, the title of the United States in and to the public reservation lands shall be patented to Goshen County, Wyoming. Title of the United States in and to a 90 feet by 75 feet lot of approximately .15 acres which is described in the records of the Goshen County, Wyoming, clerk's office as "a tract in southwest corner of town of Veteran, Block 40 in the original town of Veteran," shall be patented to Goshen County Unified School District Number one.

(c) The Secretary is authorized to dispose of federal lands within the town site area by negotiated sale at fair market value or by public sale.

SEC. 15. CONTRACTS WITH THE REDWOOD VALLEY COUNTY WATER DISTRICT, CALIFORNIA.

(a) Renegotiation of Contacts.—(1) Notwithstanding any other provision of law, the Secretary of the Interior shall renegotiate the schedules of payment for the lones to the Redwood Valley County Water District which are numbered 14-06-200-8423A and 14-06-200-8423A Amendatory.

(2) Such renegotiated schedules of payment may not take effect until October 1, 1989.

(b) The obligation to repay amounts loaned to the Redwood Valley County Water District, California, pursuant to the original negotiated schedule of payment of a loan specified in subsection (a) is suspended until the renegotiated schedule of payment for that loan takes effect. Any obligation to repay amounts under any such loan which is due, but not paid as of the date of enactment of this Act, is suspended. The renegotiated schedules of payment referred to in subsection (a) shall take into account any obligation suspended by this subsection.

(c) No interest may be charged on any payment under either of the loans specified in subsection (a) which is due but not paid before the renegotiated schedule of payment for such loan takes effect.

SEC. 16. WATER PURCHASE BY LAKEVIEW IRRIGATION DISTRICT, WYOMING.

(a) Option to Purchase Water.—The Secretary of the Interior is hereby authorized and directed to offer annually to the Lakeview Irrigation District, Wyoming, an option to purchase up to 15,000 acre-feet of storage in the Buffalo Bill Dam and Reservoir, Shoshone Project, Pick-Sloan Missouri Basin Program, Wyoming, of which 3,200 acre-feet shall be a firm water supply and the remainder shall be available as needed pending completion of the Polecat Bench Reclamation Project.

(b) Exercise of Option.—The Lakeview Irrigation District may exercise its purchase option only in those water years when there is insufficient yield for the District only after the primary flow rights of the Shoshone Project have been satisfied. Any water purchased by the district pursuant to this section shall be provided through exchange by the Bureau of Reclamation in return for the district's right to continue upstream withdrawals of Shoshone Project water.

(c) Waiver of Certain Requirements.—The Secretary of the Interior is authorized and directed to waive land classification and related study requirements in connection with any contract entered into pursuant to this section.

(d) State Law.—Any allocation or reallocation from existing uses of water stored in the Buffalo Bill Dam and Reservoir resulting from this section shall be pursuant to the laws of the State of Wyoming.

SEC. 17. NAVY LAND, CALIFORNIA.

Section 2 of the Act entitled "An Act to provide for deferment of construction charges payable by Westlands Water District attributable to lands of the Naval Air Station: Lemoore, California, included in said district, and for other purposes", approved August 10, 1972 (86 Stat. 380), is amended by inserting: "Proceeds from the leases in excess of these needs from lease parcels not within Westlands Water District may be utilized by the Secretary of the Navy to acquire easements in Kings County, California," after "are fully paid.".

SEC. 18. ENERGY PURCHASE FROM SHOSHONE IRRIGATION DISTRICT, WYOMING.

(a) Extension.—The Secretary of Energy, acting through the Western Area Power Administration, is directed to offer an extension of the energy purchase provisions of Article 9 of the contract numbered 2-07-70-PO287 and dated March 15, 1982, to the Shoshone Irrigation District, an irrigation district and municipal corporation organized under the laws of the State of Wyoming. Such extension, if accepted, shall take effect as of April 15, 1988, shall remain in force and effect for a period of five years thereafter, and shall be subject to all of the original conditions, terms, and rates specified in such contract. At the end of the five-year extension, purchases of electric energy under Article 9 of such contract may be extended by mutual agreement between the Western Area Power Administration and the Shoshone Irrigation District for successive one-year intervals at rates for purchase which may not be less than the rates specified in Article 9.

(b) Limitation.—In no event shall sales of electric energy to the United States pursuant to subsection (a) be made after September 30, 1999.

SEC. 19. COLORADO COASTAL PLAINS PROJECT, TEXAS, SHAWS BEND DAMSITE.

(a) Findings.—The Congress finds that—

(1) there have been 5 studies of the Shaws Bend site of the Colorado Coastal Plains project, authorized as part of the study for the Texas Basins project under the Act entitled "An Act to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource development proposals", approved September 7, 1966 (80 Stat. 707), and

(2) there is no need for the construction of a dam at the Shaws Bend site.

(b) Prohibition on Appropriations.—Notwithstanding the first section of such Act and effective after the date of enactment of this Act, no funds may be appropriated for the analysis and study of the Shaws Bend site of the Colorado Coastal Plains project, authorized as part of the study for the Texas Basins project.

SEC. 20. FRANKLIN COUNTY, WASHINGTON ROADS STUDY.

(a) For the purposes of taking actions necessary to protect the county road system in irrigated portions of Franklin County, Washington, within the Federal Columbia Basin reclamation project and which are underlain or adjacent to lands underlain by the unique geological setting identified as the Ringold Formation, the Secretary of the Interior is directed to investigate road instability problems caused by high water tables and landslides, to design corrective actions, and to make recommendations for action.

(b) Funds not to exceed $500,000 are authorized to be appropriated for the investigations directed in subsection (a) of this section, which shall be nonreimbursable, and the Secretary shall submit a report of his findings and recommendations for corrective action to the President and the Congress within three years after the date of enactment of this Act and availability of funds.

SEC. 21. DISTRIBUTION SYSTEM CONTRACTS.

To expedite completion of construction of the irrigation distribution systems of the Maricopa-Stanfield and Central Arizona Irrigation and Drainage Districts, Central Arizona Project, pursuant to Contract No. 4-07-30-W0047, as supplemented, and Contract No. 4-07-30-W0048, as supplemented, the 60-day Congressional review period provided for in the Act of June 13, 1956 (70 Stat. 274) is hereby waived.

SEC. 22. CLOSED BASIN PROJECT AMENDMENTS.

The Reclamation Project Authorization Act of 1972 (Public Law 92-514, 86 Stat. 964), as amended by the Act of October 3, 1980 (Public Law 96-375, 94 Stat. 1505), and by the Act of October 30, 1984 (Public Law 98-570, 98 Stat. 2941), is further amended as follows:

(1) Section 101(a) is amended by striking the phrase "including channel rectification of the Rio Grande between the uppermost point of discharge into the river of water salvaged by the project, and the Colorado-New Mexico State line, so as to provide for the carriage of water so salvaged without flooding of surrounding lands, to minimize losses of waters through evaporation, transpiration, and seepage, and to provide a conduit for the reception of water salvaged by drainage projects undertaken in the San Luis Valley below Alamosa, Colorado,".

(2) Section 101(c) is amended by striking the phrase "Water Quality Act of 1965 (79 Stat. 903)" and inserting in lieu thereof the phrase "Clean Water Act (Public Law 92-500), as amended.".

(3) Section 102(a) is amended by striking the phrase "except channel rectification,".

(4) Section 102 is amended by adding a new subsection (c) at the end thereof to read as follows:

"(c) The Secretary is authorized to acquire water pursuant to the procedural and substantive laws of the State of Colorado from within the Rio Grande Basin in the State of Colorado by purchase, lease, or exchange from willing sellers for the purposes of this Act, provided that—

"(1) such water is obtained, made available, and delivered for project purposes at less cost for operation and maintenance than the same amounts of water can be made available by operation of project pumping facilities and without necessitating the construction of additional physical facilities by the Secretary;

"(2) such water may be used in lieu of water pumped from the project only if the Secretary has complied with all federal, state, and local laws, rules, and regulations which apply to such water or the facilities other than those of the project which develop such water;

"(3) such water is subject to all of the limitations, conditions, and requirements of this Act to the same extend and in the same manner as water pumped by the project; and,

"(4) this authorization shall not entitle the Secretary to obtain such water or any water rights by condemnation or by exercising the power of eminent domain.".

(5) Section 104(b)(2) is amended by adding a new sentence at the end thereof to read as follows: "The Secretary is authorized to negotiate and enter into an agreement with the Rio Grande Water Conservation District which provides for the temporary delivery of project salvaged water to the refuge and the habitat area in those years in which there is not sufficient water to fully satisfy the purposes of both paragraphs (1) and (2) of this subsection.".

(6) Section 104(b)(4) is amended to read as follows:

"(4) For irrigation or other beneficial uses in Colorado: *Provided*, That no water shall be delivered until contracts between the United States and water users in Colorado, or the Rio Grande Water Conservation District acting for them, have been executed providing for the repayment of such construction costs as in the opinion of the Secretary are appropriate and within the ability of the users to pay and for the payment of all of the costs of operation and maintenance which are allocable to the costs of operation and maintenance which are allocable to the production of this priority 4 water.".

(7) Section 109 is amended to read as follows:

"Sec. 109. There is hereby authorized to be appropriated the sum of $94,000,000 (October 1988 prices) for the construction of the Closed Basin Division of the San Luis Valley project, of which amount not more than $31,000,000 may be adjusted plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein, and such additional sums for the operation and maintenance of the project as may be required; *Provided*, That none of the funds authorized herein for construction in excesses of $75,000,000 may be expended by the Secretary unless and until the State of Colorado or a political subdivision thereof has entered into a binding agreement with the Secretary to contribute during construction one-third of the costs of construction in excess of $75,000,000 or $6,000,000, whichever is less. Such agreement shall include a reasonable limitation on administrative overhead expenses charged by the Secretary.".

SEC. 23. BESSEMER DITCH, COLORADO.

The Act of July 9, 1980 (Public Law 96-309, 94 Stat. 940), is amended by adding a section 4 as follows:

"Sec. 4. The Secretary is hereby authorized to undertake the design and construction of approximately 11,000 feet of gunite lining of the Bessemer Ditch in addition to that lining which was constructed pursuant to section 1 of this Act. There is hereby authorized to be appropriated as the Federal share of costs for the purpose of this section the sum of $1,170,000 (based on August 1988 prices), plus or minus such amounts, if any, as may be justified by reason of changes in construction cost indices applicable to the type of construction involved; *Provided*, That non-Federal interests shall contribute during construction of the additional gunite lining an amount equal to 22 per centum of the total cost of the design and construction of such additional lining. The non-Federal contribution may include cash and in kind contributions and shall not be subject to the conditions of section 2 of this Act. The Secretary is authorized to contract with the Bessemer Irrigation Ditch Company for the construction at cost of the additional gunite lining authorized by this section.".

Amend the title so as to read: "To authorize construction of the Mni Wiconi Rural Water Supply Project, and for other purposes.".

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2772 would authorize the construction of rural water supply systems to provide reliable and safe drinking water for the Pine Ridge Indian Reservation, and surrounding counties in South Dakota.

The House passed H.R. 2772 on June 28, 1988. The bill enjoyed wide support in the House on both sides of the aisle. The bill was also supported by the Oglala Sioux Tribe and the State of South Dakota.

The Senate passed the bill with amendments on September 8.

The resolution at the desk reflects agreement we have reached with the Senate on the bill. The resolution would concur in most of the changes made by the Senate. However, in three areas, the Senate has agreed to compromise language. I would like to explain these changes.

First, the House-passed bill contained strong water conservation language; the Senate changed those provisions. Under the compromise language the Secretary would certify that reasonable water conservation plans are in effect prior to committing construction funds. We have been reassured by State officials and local project sponsors that they both support and intend to carry out water conservation programs. It is our expectation that prudent and reasonable water conservation programs will be implemented.

It is our intent—as it has been all along—that the purpose of the water conservation programs is to ensure that the rural water systems and their customers are using the best practicable technology and management techniques to reduce water use and water system costs. Furthermore, it is our intent that "reasonable" conservation plans shall include, at a minimum, the low consumption performance standards of the American National Standards Institute, beneficial reductions in nondomestic use, leak detection and repair programs, metering for all elements and connections of the systems, conservation pricing schedules, public education programs and coordinated operation between the systems and preexisting water supply facilities.

It is important to remember that this section is one of the major policy innovations in the bill. Real savings of both Federal and non-Federal dollars are possible if conservation plans are developed and implemented prior to construction, with final water system plans drawn to reflect these measures.

Second, the House-passed bill did not provide for indexing of the authorization of appropriations. Our concern—based upon long and painful experience with other water projects—is that project costs can escalate many times over their original projections if automatic indexing is permitted. The compromise will allow indexing only for 9 years after construction funds are first made available.

Third, the Senate made changes in the water rights portion of the bill which we have accepted.

I would also like to comment on changes made in the House-passed bill dealing with mitigation.

The Senate deleted House language allowing mitigation to be undertaken "prior to" actual construction. While we have agreed to this change, I wish to make it clear that the Secretary is not prohibited from undertaking mitigation activities prior to actual construction. He is authorized to mitigate in advance of construction if he so chooses. There are situations where the Secretary has an opportunity, for example, to purchase mitigation lands from a willing seller in advance of project construction. We do not intend to foreclose this sort of opportunity for the Secretary.

I would like to commend my colleague from South Dakota, Congressman TIM JOHNSON, for his tireless efforts in developing this legislation and in providing the leadership to see the bill through the House. Because of his efforts, the residents in these areas can look forward to safe, reliable drinking water—something they have sought and needed for many years.

The resolution at the desk would also add several additional items to the bill. All these items have passed the House earlier in this Congress, and the Senate has agreed to accept them.

The items in this amendment include the following:

First, authorize continued electric power sales at the Grand Valley Project, Colorado for 2 years.

Second, authorize the sale of certain public lands to the town of Veteran, WY.

Third, authorize the extension of repayment by the Redwood Valley Irrigation District, CA

Fourth, authorize the Lakeview Irrigation District, WY, to purchase storage space at a Federal reservoir.

Fifth, allow surplus revenues from Navy lands at the San Luis Unit, Central Valley Project to be used to purchase certain easements.

Sixth, authorize the purchase of electric power from the Shoshone Project, WY.

Seventh, deauthorize a feasibility study of the Shaws Bend Dam, TX.

Eighth, authorize a study to correct erosion problems caused by the Columbia Basin Project, WA.

Ninth, waive a 60-day waiting period for certain drainage and minor construction projects in Arizona.

Tenth, increase the authorization for lining reaches of the Bessemer Ditch, CO.

Eleventh, finally, the bill would authorize an increase in appropriations for the Closed Basin Project, CO.

Mr. Speaker, I would like to take a few moments to explain the language included on the Closed Basin Project, CO.

The Closed Basin Project was authorized by Public Law 92-514, October 20, 1972, as amended by Public Law 96-375. The main purposes of the project are: One, to help the State of Colorado meet its obligations for water deliveries to New Mexico and Texas under the Rio Grande Compact, and to meet treaty obligations for water deliveries to Mexico under the Rio Grande Convention of 1906; and, two, to supply water to wildlife refuges in the project area. Other project purposes include receation, fish and wildlife enhancement, and the sale of water for irrigation and other beneficial uses in Colorado.

Almost all of the project costs were made nonreimbursable by the authorizing legislation.

The Bureau started building the project in 1980. Out in the middle of the valley, 175 shallow wells are being drilled, known as the "sump." Each well will discharge through a short pipeline into the main project "conveyance channel" which runs south to the Rio Grande River. The Bureau hopes the project will yield 100,000 acre-feet of water per year. Construction of the project is now approximately 70 percent complete.

Costs have increased substantially since the project was authorized. Changes in project design, increased land acquisition costs, more wells, and installation of a fully automated remote control operating system are responsible for the increases.

The administration advised Congress of the need to increase the authorized cost ceiling in January 1988.

The current authorized cost ceiling is $75,176,000—October 1987 prices. The estimated cost to complete the project is $100 million. This provision would increase the authorized ceiling to $94 million—October 1988 prices—reflecting a local cost share of $6 million.

Legislation to increase the cost ceiling (H.R. 3952) was introduced by Congressman BEN NIGHTHORSE CAMPBELL on February 17, 1988. The Subcommittee on Water and Power Resources held a hearing on this bill on June 14, 1988. Testimony was received from the State of Colorado, the Rio Grande Water Conservation District, local officials, and representatives of local and national environmental organizations. Issues referenced in testimony at this hearing including the following:

The need to complete the project as currently planned; changes which have been made in project design since the original authorization; the importance of the project to the local economy and wildlife; environmental effects of the project; water quality problems; and, opportunities for local cost sharing and payment of operation and maintenance [O&M] costs, and for repayment of project construction costs.

This provision further amends the authorizing legislation for the Closed Basin Division, San Luis Valley Project—the Reclamation Project Act of 1972 (Public Law 92-514, 86 Stat. 964), as amended by the act of October 3, 1980 (Public Law 96-375, 94 Stat. 1505), and by the act of October 30, 1984 (Public Law 98-570, 98 Stat. 2941).

Subsection (1) deauthorizes channel rectification of the Rio Grande in Colorado below the point of discharge of the Closed Basin project.

Subsection (2) updates the authorization to reference the most current Federal water pollution control legislation. The intent of this subsection is to ensure that water discharges from this project comply with the most current water quality standards and requirements. In particular, discharges of heavy metals and other possibly toxic materials should be closely monitored. If individual wells are found to be contributing excessive contamination into the conveyance channel, consideration should be given to shutting down and capping those wells. Because of the unique nature of this project, the Regional Director of the Bureau of Reclamation should consult with the Regional Administrator of the U.S. Environmental Protection Agency to determine reasonable and safe discharge limitations for project wells.

Subsection (3) removes an additional reference to channel rectification.

Subsection (4) authorizes the Secretary to require water for project purposes from local sources other than the project wells if that water can be acquired at less cost, if it can be acquired and used without constructing additional facilities, and if the Secretary complies with all relevant Federal, state, and local laws, rules, and regulations. The purpose of this subsection is to give the Secretary additional flexibility in operating the project at reduced costs.

Subsection (5) authorizes the Secretary to enter into an agreement with the local project sponsoring agency to deliver water on a temporary basis to wildlife areas in those years in which there is not enough water available to meet authorized needs. This provision would allow the Secretary to deliver additional water for wildlife needs without altering the authorized project priorities for water deliveries.

Subsection (6) amends the existing authorization to require the execution of contracts between the United States and local water users providing for repayment of an appropriate share of construction costs, and for payment of all operation and maintenance costs for any priority 4 water delivered to them.

Subsection (7) increases the authorized cost ceiling to $94 million, and limits the amount which may be indexed to account for increased costs. This subsection further requires execution of a binding cost sharing agreement with the Secretary. The terms of the agreement would require the State of Colorado or a political subdivision of the State to contribute during construction one-third of the costs of construction in excess of $75 million, or $6 million whichever is less.

Mr. Speaker, all these items have been passed by the House on previous occasions and there is no objection to them.

Mr. Speaker, I urge that the House pass the resolution.

□ 2145

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2772, a bill to authorize the development of the Lyman Jones, West River and Oglala Sioux rural water development project and for other purposes.

The objective of H.R. 2772 is to provide a safe and reliable drinking water source for residents of the Pine Ridge Indian Reservation and several adjacent counties in west central South Dakota under a 35/65 percent cost-sharing arrangement. Non-Federal entities would pay 100 percent of their O&M costs.

The current water supply to these areas is very poor and below acceptable standard at times. The poor water quality has resulted in severe health problems, excessive pipe erosion and equipment failures.

The House reported this bill to the Senate in June. The Senate returned it with nine amendments. We made several technical changes to eight of the Senate amendments and agree with Senate amendment numbered 9. With regard to amendment 9, we have added several noncontroversial provisions previously reported by this body.

The administration's position is that such projects should be funded by non-Federal Interests.

In view of the Federal Government's trust responsibilities, it's appropriate for the Federal Government to participate in this project.

I urge my colleagues to support H.R. 2772 as amended.

Mr. Speaker, I consider this bill to be a significant step forward for the people of South Dakota, and I want to commend the gentleman from South Dakota [Mr. JOHNSON] for his work on bringing us this piece of legislation and enabling us to get it passed before the end of the 100th Congress. I urge its adoption.

Mr. Speaker, I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, again I want to thank the minority members of the committee for their effort in reaching an agreement on this legislation, and finally let me single out the gentleman from South Dakota [Mr. JOHNSON], our colleague, and say that many times this legislation became stalled in the process. This matter has been of some controversy for a number of years, and each time he has come forward to rescue this legislation and keep it going in the process, not only to pass it through the House, but also to finally get it passed in the Senate and make sure that it continues to remain on the forefront of our agenda. I want to commend him for that effort because I think it is very clear that without his effort this legislation would not be passing this Congress.

Mr. Speaker, I yield such time as he may consume to the gentleman from South Dakota [Mr. JOHNSON].

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise in support of H.R. 2772 and urge the House to adopt this legislation.

This bill would authorize the Mni Wiconi project, which is a new name for what was formerly known as the Lyman-Jones, West River, and Oglala Sioux rural water development projects. Portions of this project have been worked on for over 20 years, and I believe that it is time for the dreams of the residents of western South Dakota to come to fruition. This project would bring clean, reliable drinking water to an area of the State which is forced to subsist on water conditions reminiscent of the last century.

This bill was forged through the cooperative efforts of many disparate groups. I am pleased that so many people have come together in support of this project, and I think that speaks volumes for this rural water system. I wish to thank Chairman MILLER for his hard work and dedication to this project; we have spent many hours working to bring this legislation to fruition. I also thank his staff, Dan Beard and Charlene Dougherty, for their persistence and imagination in helping to craft this package.

The Mni Wiconi project brings the varied elements from across South Dakota together in a coalition of support, this ranges from our Indian citizens to the white ranchers, as well as our environmental community, our business community, our public power leaders, and Democrats and Republicans alike, both in the state of South Dakota and here in Washington. This bill received unanimous support in the Water and Power Subcommittee, as well as in the full Committee on Interior and Insular Affairs.

This area is in dire need of clean drinking water. Shannon County, which constitutes the Pine Ridge Indian Reservation, would receive water from this project. Shannon County is the poorest county in the Nation. How is this county expected to ever break out of its cycle of poverty and dependence when the basic needs of life are difficult to attain—and what is more basic than clean, reliable drinking water?

Along with an unemployment rate which exceeds 70 percent and the lowest life expectancy of any group in the United States, according to the National Institute of Health, the residents of the reservation, as well as other communities in the project area, have to drink water which violates several Federal standards. The levels of dissolved solids, sodium, calcium, iron, fluoride and radium, as well as several other minerals, violates standards of the Safe Drinking Water Act. In some areas of western South Dakota, the level of sodium is more than 93 times the maximum recommended level. Throughout the area, pipes clog up with mineral crystals, while faucets, water heaters, and other water appliances, are ruined due to the high concentrations of minerals.

My greatest concern is for the health and well being of the people in this area. It is important to remember that this is not an irrigation project—not a drop will go to irrigating fields; instead, this water will help improve the health problem on the reservation, and the water quality problem in communities and households across western South Dakota. I believe it is the responsibility of the Federal Government to address this concern.

At the time, this water will help fuel economic development in the small towns and communities throughout the project area, both on and off the reservation. With a reliable source of water these small communities can attract new businesses and small-scale industry. This development and the presence of clean, drinkable water will help to raise the standard of living for residents throughout the area.

There are only two alternatives for the people of western South Dakota: continue drinking the unhealthy water available to them, on pipe water in from the Missouri River. The highly successful WEB pipeline in eastern South Dakota shows just how good rural water can be, and this project can be replicated in western South Dakota. The Mni Wiconi project will help lead to the long term stabilization of the local economy, while securing a high quality of life and a safe quality of life for the residents in western South Dakota.

I believe that the work and cooperation done on this project can serve as a model for rural water development across the Nation.

Mr. Speaker, I urge my colleagues to support this legislation, and I again want to thank the gentleman from California for yielding.

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise in support of H.R. 2772, the Mni Wiconi Project Act of 1988.

Mni Wiconi means "good water" in the Lakota dialect. The basis of this entire project is to deliver good water to residents of south central South Dakota who are currently forced to live with water of extremely poor, even hazardous, quality. In addition, many residents are forced to haul this substandard water several miles to their homes.

Analyses show that water sources in this area contain unsafe levels of dissolved solids, sodium, sulfates, fluoride, iron, and radium. Depending on the specific source, other organic or inorganic chemicals and minerals are present. Excessive levels such as this obviously contribute to the health problems in the region. While the high levels of sodium lead to high blood pressure and the sulfates and solids can lead to kidney disease, radium is carcinogenic. Other diseases associated with bad water include skin disease, hepatitis, and shigella among others. An answer must be found to this public health problem.

Besides damaging the health of residents in the area, the poor water contributes to pipe corrosion and equipment failure. Appliances such as water heaters often need to be replaced every couple years.

The area of service will include Lyman, Jones, Stanley, Haakon, Jackson, and Shannon Counties, as well as portions of Pennington, Bennett, and Mellette Counties in western South Dakota. This includes the Oglala Sioux Tribe on the Pine Ridge Indian Reservation.

The need for clean, reliable drinking water on the reservation cannot be overstated. Shannon County, one of the counties in which the reservation is located, is the poorest county in the Nation. Per capita personal income in Shannon County in 1986 was $3,855. Unemployment ranges upward of 80 percent. One out of five homes on the reservation does not have running water. Digging a well costs $10,000 to $30,000, and this does not ensure safe water. Water is a basic necessity of life which nearly all of us take for granted—how can these people be expected to break the cycle of ill-health and poverty without decent drinking water? This drinking water will be the first step in helping the residents of the reservation to help themselves.

This project would not have been possible without the hard work and cooperation of disparate groups in the State, as well as here in Washington. The authorization of this project is the culmination of a dream for the area residents, many of whom have worked upward of 20 years with tireless dedication to establish a project such as this. I must commend the work and support of my South Dakota Senate colleagues, TOM DASCHLE and LARRY PRESSLER. In South Dakota, the support of Gov. George Mickelson has been instrumental.

I am pleased that both State and national conservation organizations have supported this project. These groups realized that water needs can be addressed while still protecting the environment. To ensure protection of the environment of South Dakota, stringent mitigation measures are required by the act. Environmental damage will be mitigated on an ecologically equivalent, acre-for-acre basis. Furthermore, the act prohibits the use of water from the Mni Wiconi pipeline for irrigation.

Changes to the original version of Mni Wiconi were made by the Senate. Fortunately, these differences were reconciled in final deliberations with the House. While the original House version was preferable, I accept the changes.

The Senate amended the House water conservation provisions. I support the water conservation measure which was put forth in the original House bill, however, I accept the new language because I feel that it still supports sound conservation practices. I believe that these water conservation measures should be integrated into the rural water systems authorized by this legislation. Because of this integration, the capital costs for water conservation measures in any plan approved by the Secretary should qualify for funding in the same manner as other project features. Wise and prudent conservation measures are essential to the success of the project.

Present requirements on mitigation remain strong under the bill. The intent of the committee is clearly to allow purchase of mitigation lands prior to the beginning of construction if that is necessary or preferable. Cost indexing under the current bill includes a 9-year sunset provision.

Several groups have raised questions about the Mni Wiconi Project Act. I believe it is important to clarify these concerns, and have them reflected in the RECORD. First, the questions of the Oglala Sioux Tribe need to be addressed. These concerns arise from the fact that many residents of the reservation do not trust the intentions of the Federal legislation. I believe that the concerns they have raised are legitimate, and they deserve clarification.

The primary concern centered on the water rights language contained in the bill. This issue was clarified to the satisfaction of all through the input of all the interested parties, including the Oglala Sioux Tribe. The new water rights language which is now in the bill remains neutral to the rights of the Indians, which was the original intent.

Another concern of the tribe regards the worry that it will be taxed on the water system. As previously stated, the Oglala Sioux do not have the resources to pay taxes on such a project. This additional financial burden would be unbearable due to the overwhelming economic problems on the reservation. I want to reasssure the tribe that the project is a Federal project which is held in trust by the United States on behalf of the tribe, and as such it cannot be taxed by either country or State.

The Oglala Sioux Tribe also raised concerns relative to the cost of the water to individuals on the reservation. The purpose of this project is to deliver good drinking water to those who currently do not have this luxury. As I have stated, the people of the reservation cannot afford large water bills due to their economic conditions. The delivery of water to the people of the reservation is a tribal concern; a point which needs to be emphasized. The tribal council fully retains the right and ability to provide its people with water at no cost to the consumer. Therefore, safe water will be provided to the people of the Oglala Sioux Reservation while maintaining as much flexibility as possible so that the concerns of the tribe can be met.

Another concern of the tribe deals with their rights during the construction of the project. The tribe wants to be involved in the construction phase to help improve their economic life. The bill explicitly states that construction of the project within the reservation will be subject to provisions of the Indian Self-Determination Act, Public Law 93-638. Thus, the tribe has every right to give perference to the hiring of qualified Indian labor, as stated in the Buy-Indian Act. Furthermore, the tribe must extend its support to the project construction contract, so it is clear that the tribe has the authority to assure that the contract which is drawn up and implemented protects its interests in hiring preference.

In addition, I want to stress that the mitigation of fish and wildlife habitat losses at the Oahe Dam and Reservoir and the Big Bend Dam and reservoir affects in no way, or in any way impacts any hunting and fishing rights or sovereign rights of any Indian tribe, including the Oglala Sioux Tribes. I also want to clarify that it is not the intent of either sections 8 or 9 of H.R. 2772 to in any way limit the ability of the tribe to seek electric power from Pick-Sloan, and that the tribe can seek additional power in the future that it may need from Pick-Sloan, or any other source, and to plan, design, or construct additional federally-assisted water resource development projects.

The South Dakota Rural Electric Association has expressed its own concern that H.R. 2772 sets a precedent whereby preference power from authorized, though unbuilt, irrigation projects along the Missouri River is reallocated to a new drinking water project, effectively circumventing the traditional role of the REA's in supplying power. The House committee report stresses that no precedent is intended, and I want to underscore this fact. The unique nature of the Mni Wiconi project and the need to supply the Oglala Sioux Indian Reservation with safe water are the reasons why the bill is structured as it is. I wish to reemphasize that no precedent is intended. I have constantly worked to maintain the integrity of preference power, and I will continue to do so. I will do everything possible to see that this portion of the bill is not construed as a precedent.

This legislation is needed immediately to address the critical health and economic problems in this area of South Dakota. We all expect access to clean drinking water. Unfortunately, this expectation is not being met in western South Dakota. The Mni Wiconi water pipeline will solve this problem, and the time to act is now. This action will help the lives of some of our Nation's most neglected people. We must act and send Americans the message that clean and safe water is a basic right of daily life.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. GRAY of Illinois). The question is on the motion offered by the gentlemen from California [Mr. MILLER] that the House suspend the rules and agree to the resolution, H. Res. 567.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

SAN LUIS REY INDIAN WATER RIGHTS SETTLEMENT ACT

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 795) to provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, CA, and for other purposes as amended.

The Clerk read as follows:

S. 795

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SAN LUIS REY INDIAN WATER RIGHTS SETTLEMENT ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "San Luis Rey Indian Water Rights Settlement Act".

SEC. 102. DEFINITIONS.

For purposes of this title:

(1) BANDS.—The term "Bands" means the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians which are recognized by the Secretary of the Interior as the governing bodies of their respective reservations in San Diego County, California.

(2) FUND.—The term "Fund" means the San Luis Rey Tribal Development Fund established by section 105.

(3) INDIAN WATER AUTHORITY.—The term "Indian Water Authority" means the San Luis Rey River Indian Water Authority, an intertribal Indian entity established by the Bands.

(4) LOCAL ENTITIES.—The term "local entities" means the city of Escondido, California; the Escondido Mutual Water Company; and the Vista Irrigation District.

(5) SETTLEMENT AGREEMENT.—The term "settlement agreement" means the agreement to be entered into by the United States, the Bands, and the local entities which will resolve all claims, controversies, and issues involved in all the pending proceedings among the parties.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(7) SUPPLEMENTAL WATER.—The term "supplemental water" means water from a source other than the San Luis Rey River.

SEC. 103. CONGRESSIONAL FINDINGS; LOCAL CONTRIBUTIONS; PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The Reservations established by the United States for the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians on or near the San Luis Rey River in San Diego County, California, need a reliable source of water.

(2) Diversions of water from the San Luis Rey River for the benefit of the local entities commenced in the early 1890's and continue to be an important source of supply to those communities.

(3) The inadequacy of the San Luis Rey River to supply the needs of both the Bands and the local entities has given rise to litigation to determine the rights of various parties to water from the San Luis Rey River.

(4) The pendency of the litigation has—

(A) severely impaired the Bands' efforts to achieve economic development on their respective reservations,

(B) contributed to the continuation of high rates of unemployment among the members of the Bands,

(C) increased the extent to which the Bands are financially dependent on the Federal Government, and

(D) impeded the Bands and the local entities from taking effective action to develop and conserve scarce water resources and to preserve those resources for their highest and best uses.

(5) In the absence of a negotiated settlement—

(A) the litigation, which was initiated almost 20 years ago, is likely to continue for many years,

(B) the economy of the region and the development of the reservations will continue to be adversely affected by the water rights dispute, and

(C) the implementation of a plan for improved water management and conservation will continue to be delayed.

(6) An agreement in principal has been reached under which a comprehensive settlement of the litigation would be achieved, the Bands' claims would be fairly and justly resolved, the Federal Government's trust responsibility to the Bands would be fulfilled, and the local entities and the Bands would make fair and reasonable contributions.

(7) The United States should contribute to the settlement by providing funding and delivery of the water from a supplemental source. Water developed through conjunctive use of groundwater on public lands in southern California or water to be reclaimed from lining the previously unlined portions of the All American Canal can provide an appropriate supplemental water source.

(b) PURPOSE.—It is the purpose of this title to provide for the settlement of the reserved water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, in a fair and just manner which—

(1) provides the Bands with a reliable water supply sufficient to meet their present and future needs;

(2) promotes conservation and the wise use of scarce water resources in the upper San Luis Rey River System;

(3) establishes the basis for a mutually beneficial, lasting, and cooperative partnership among the Bands and the local entities to replace the adversary relationships that have existed for several decades; and

(4) fosters the development of an independent economic base for the bands.

SEC. 104. SETTLEMENT OF WATER RIGHTS DISPUTE.

Sections 106 and 109 of this Act shall take effect only when—

(1) the United States; the city of Escondido, California; the Escondido Mutual Water Company; the Vista Irrigation District; and the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians have entered into a settlement agreement providing for the complete resolution of all claims, controversies, and issues involved in all of the pending proceedings among the parties in the United States District Court for the Southern District of California and the Federal Energy Regulatory Commission; and

(2) stipulated judgments or other appropriate final dispositions have been entered in said proceedings.

SEC. 105. SAN LUIS REY TRIBAL DEVELOPMENT FUND.

(a) ESTABLISHMENT OF FUND.—There is hereby established within the Treasury of the United States the "San Luis Rey Tribal Development Fund".

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) There is authorized to be appropriated to the San Luis Rey Tribal Development Fund $30,000,000, together with interest accruing from the date of enactment of this Act at a rate determined by the Secretary of the Treasury taking into consideration the average market yield on outstanding federal obligations of comparable maturity. Following execution of the settlement agreement, judgments, and other appropriate final dispositions specified in section 104, the Secretary of the Treasury shall allocate and make available such monies from the trust fund as are requested by the Indian Water Authority.

(2) Any monies not allocated to the Indian Water Authority and remaining in the fund authorized by this section shall be invested by the Secretary of the Treasury in interest-bearing deposits and securities in accordance with the Act of June 24, 1938 (25 U.S.C. 162a). Such interest shall be made available to the Indian Water Authority in the same manner as the monies identified in paragraph (1).

SEC. 106. DUTIES OF THE UNITED STATES FOR DEVELOPMENT OF SUPPLEMENTAL WATER.

(a) OBLIGATION TO ARRANGE FOR DEVELOPMENT OF WATER FOR BANDS AND LOCAL ENTITIES.—To provide a supplemental water supply for the benefit of the Bands and the local entities, subject to the provisions of the settlement agreement, the Secretary is authorized and directed to:

(1) arrange for the development of not more than a total of 16,000 acre-feet per year of supplemental water from public lands within the State of California outside the service area of the Central Valley Project; or

(2) arrange to obtain not more than a total of 16,000 acrea-feet per year either through participation in the lining of the previously unlined portions of the All American Canal or through contract with the Metropolitan Water District of Southern California.

To accomplish the requirements of this section, the Secretary is authorized to enter into such agreements or contracts as are necessary for the construction, operation and funding of the works required to develop such supplemental water. Nothing in this section or any other provision of this title shall authorize the construction of any new dams, reservoirs or surface water storage facilities.

(b) AUTHORITY TO UTILIZE EXISTING PROGRAMS AND PUBLIC LANDS.—To carry out the provisions of subsection (a), the Secretary may, subject to the rights and interests of other parties and to the extent consistent with the requirements of the laws of the State of California and such other laws as may be applicable:

(1) utilize existing programs and authorities; and

(2) permit water to be pumped from beneath public lands and, in conjunction therewith, authorize a program to recharge some or all of the groundwater that is so pumped.

(c) TERMS AND CONDITIONS OF WATER DELIVERIES.—Such supplemental water shall be provided for use by the Banks on their reservation and the local entities in their service areas pursuant to the terms of the settlement agreement and shall be delivered at locations, on a schedule and under terms and conditions to be agreed upon by the Secretary, the Indian Water Authority, the local entities and any agencies participating in the delivery of the water. It may be exchanged for water from other sources for use on the Bands' reservations or in the local entities' service areas.

(d) COST OF DEVELOPING AND DELIVERING WATER.—The cost of developing and delivering supplemental water pursuant to subsection (a)(1) of this section shall not be borne by the United States, and no Federal appropriations are authorized for this purpose.

(e) REPORT TO CONGRESS.—Within nine months following enactment of this Act, the Secretary shall report to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate on (1) the Secretary's recommendations for providing a supplemental water source including a description of the works, their costs and impacts, and the method of financing; and (2) the proposed form of contract for delivery of supplemental water to the Bands and the local entities. When 60 calendar days have elapsed following submission of the Secretary's report, the Secretary shall execute the necessary contracts and carry out the recommended program unless otherwise directed by the Congress.

SEC. 107. ESTABLISHMENT, STATUS, AND GENERAL POWERS OF SAN LUIS REY RIVER INDIAN WATER AUTHORITY.

(a) ESTABLISHMENT OF INDIAN WATER AUTHORITY APPROVED AND RECOGNIZED.—

(1) IN GENERAL.—The establishment by the Bands of the San Luis Rey River Indian Water Authority as a permanent intertribal entity pursuant to duly adopted ordinances and the power of the Indian Water Authority to act for the Bands are hereby recognized and approved.

(2) LIMITATION ON POWER TO AMEND OR MODIFY ORDINANCES.—Any proposed modification or repeal of any ordinance referred to in paragraph (1) must be approved by the Secretary, except that no such approval may be granted unless the Secretary finds that the proposed modification or repeal will not interfere with or impair the ability of the Indian Water Authority to carry out its responsibilities and obligations pursuant to this Act and the settlement agreement.

(b) STATUS AND GENERAL POWERS OF INDIAN WATER AUTHORITY.

(1) STATUS AS INDIAN ORGANIZATION.—To the extent provided in the ordinances of the Bands which established the Indian Water Authority, such Authority shall be treated as an Indian entity under Federal law with which the United States has a trust relationship.

(2) POWER TO ENTER INTO AGREEMENTS.—The Indian Water Authority may enter into such agreements as it may deem necessary to implement the provisions of this title and the settlement agreement.

(3) INVESTMENT POWER.—Notwithstanding paragraph (1) or any other provision of law, the Indian Water Authority shall have complete discretion to invest and manage its own funds: *Provided,* That the United States shall not bear any obligation or liability regarding the investment, management or use of such funds.

(4) LIMITATION ON SPENDING AUTHORITY.—All funds of the Indian Water Authority which are not required for administrative or operational expenses of the Authority or to fulfill obligations of the Authority under this title, the settlement agreement, or any other agreement entered into by the Indian Water Authority shall be invested or used for economic development of the Bands, the Bands' reservation lands, and their members. Such funds may not be used for per capita payments to members of any Band.

(c) INDIAN WATER AUTHORITY TREATED AS TRIBAL GOVERNMENT FOR CERTAIN PURPOSES.—The Indian Water Authority shall be considered to be an Indian tribal government for purposes of section 7871(a)(4) of the Internal Revenue Code of 1986.

SEC. 108. DELEGATION OF AUTHORITY.

The Secretary and the Attorney General of the United States, acting on behalf of the United States, and the Bands, acting through their duly authorized governing bodies, are authorized to enter into the settlement agreement. The execution of the settlement agreement shall not be withheld or delayed for any reason associated with providing the supplemental water supply. The Secretary is authorized to enter into such agreements and to take such measures as the Secretary may deem necessary or appropriate to fulfill the provisions of this Act.

SEC. 109. AUTHORITY OF THE FEDERAL ENERGY REGULATORY COMMISSION AND THE SECRETARY OF THE INTERIOR OVER POWER FACILITIES AND GOVERNMENT AND INDIAN LANDS.

(a) Power Facilities.—Any license issued under the Act of June 10, 1920 (16 U.S.C. 791a et seq., commonly referred to as Part I of the Federal Power Act) for any part of the system that diverts the waters of the San Luis Rey River originating above the intake to the Escondido Canal—

(1) shall be subject to all of the terms, conditions, and provisions of the settlement agreement and this title; and

(2) shall not in any way interfere with, impair or affect the ability of the Banks, the local entities and the United States to implement, perform, and comply fully with all of the terms, conditions, and provisions of the settlement agreement.

(b) Indian and Government Lands.—Notwithstanding any provision of Part I of the Federal Power Act to the contrary, the Secretary is exclusively authorized, subject to subsection (c), to lease, grant rights-of-way across, or transfer title to, any Indian tribal or allotted land, or any other land subject to the authority of the Secretary, which is used, or may be useful, in connection with the operation, maintenance, repair, or replacement of the system to divert, convey, and store the waters of the San Luis Rey River originating above the intake to the Escondido Canal or the supplemental water supplied by the Secretary under this Act.

(c) Approval by Indian Bands; Compensation to Indian Owners.—Any disposition of Indian tribal or allotted land by the Secretary under the subsection (b) shall be subject to the approval of the governing Indian Band. Any individual Indian owner or allottee whose land is disposed of by any action of the Secretary under subsection (b) shall be entitled to receive just compensation.

SEC 110. RULES OF CONSTRUCTION.

(a) Eminent Domain.—No provision of this title shall be construed as authorizing the acquisition by the Federal government of any water or power supply or any water conveyance of power transmission facility through the power of eminent domain or any other nonconsensual arrangement.

(b) Status and Authority of Indian Water Authority.—No provision of this title shall be construed as creating any implication with respect to the status or authority which the Indian Water Authority would have under any other law or rule of law in the absence of this title.

SEC. 111. COMPLIANCE WITH BUDGET ACT.

To the extent any provision of this title provides new spending authority described in section 401(c)(2)(A) of the Congressional Budget Act of 1974, such authority shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

TITLE II—ALL AMERICAN CANAL LINING

SEC. 201. CONGRESSIONAL FINDINGS.

Congress hereby finds and declares that:

(1) The Boulder Canyon Project Act ("Project Act") was enacted to conserve the waters of the lower Colorado River for a number of public purposes, including the storage and delivery of water for reclamation of public lands and other uses exclusively within the United States.

(2) The Secretary of the Interior ("Secretary") was authorized by the Project Act to construct what is now Hoover Dam, Lake Mead, and the All American Canal and "to contract for the storage of water in said reservoir and for the delivery thereof at such points on the river and on said canal as may be agreed upon . . .".

(3) The Project Act provides that "no person shall have or be entitled to have the use for a purpose of the water stored as aforesaid except by contract" and the Secretary has entered into water delivery contracts with public agencies in California.

(4) The available supply to Colorado River water in California is over-allocated because—

(A) under the terms of the decision and decree in *Arizona v. California,* 373 U.S. 546, and section 301(b) of the Colorado River Basin Project Act (43 U.S.C. 1521(b)), California is limited to a dependable supply of 4.4 million acre-feet of water per year,

(B) the California contractors' entitlement under their water delivery contracts with the Secretary is in excess of 4.4 million acre-feet per year, and

(C) actual use under these contracts has been considerably in excess of 4.4 million acre-feet per year for all but two years since 1964.

(5) The Secretary's water delivery contracts with the California Contractors provide that the total beneficial consumptive use under the first three priorities established in the contracts shall not exceed 3.85 million acre-feet of water per year.

(6) The rights of all California Contractors are defined by the Project Act, their contracts, and decisions of the United States Supreme Court.

(7) The Secretary has promulgated regulations pursuant to his authority under the Project Act establishing procedures to assure that deliveries of Colorado River water to each user will not exceed those reasonably required for its beneficial use.

(8) The Secretary's water delivery contracts incorporate the Seven Party Agreement of August 18, 1931, under which water that is not applied to beneficial use by a California Contractor is available for use by the California Contractor with the next priority.

(9) The Secretary has constructed the All American Canal and delivers water to the Imperial Irrigation District and Coachella Valley Water District under water delivery contracts by which those districts are entitled to receive deliveries of water in amounts reasonably required for potable and irrigation purposes.

(10) Studies conducted by the Secretary show that significant quantities of water currently delivered into the All American Canal and its Coachella Branch are lost by seepage from the canals and that such losses could be reduced or eliminated by lining these canals.

SEC. 202. DEFINITIONS.

As used in this title, the term—

(1) "All American Canal Service Area" shall mean the Imperial Service Area and the Coachella Service Area as defined in the Imperial Irrigation District and Coachella Valley Water District water delivery contracts with the Secretary dated December 1, 1932, and October 14, 1934, respectively.

(2) "California Contractors" shall mean the Palo Verde Irrigation District; Imperial Irrigation District; Coachella Valley Water District; and, The Metropolitan Water District of Southern California.

(3) "Participating Contractor" shall mean a California Contractor who elects to participate in, and fund, all or a portion of the works described in section 203 of this title.

(4) "Project Act" shall mean the Boulder Canyon Project Act (45 Stat. 1057; 43 U.S.C. 617-617t).

(5) "Secretary" shall mean the Secretary of the Interior.

(6) "Seven Party Agreement" shall mean that agreement dated August 18, 1931, providing the schedule of priorities for use of the waters of the Colorado River within California as published in section 6 of the General Regulations of the Secretary of the Interior dated September 28, 1931, and incorporated in the Secretary's water delivery contracts with the California Contractors.

(7) "Workers" shall mean the facilities and measures specified in section 203(a) of this title.

SEC. 203. AUTHORIZATION OF PROJECT.

(a) Canal Lining Authorized.—The Secretary, in order to reduce the seepage of water, is authorized to—

(1) construct a new lined canal or to line the previously unlined portions of the All American Canal from the vicinity of Pilot Knob to Drop 4 and its Coachella Branch from Siphon 7 to Siphon 32, or construct seepage recovery facilities in the vicinity of Pilot Knob to Drop 4, including measures to protect public safety; and

(2) implement measures to mitigate resulting impacts on fish and wildlife resources. Mitigation for fish and wildlife resource losses in or adjacent to the canals incurred as a result of the construction of the works shall be on an acre-for-acre basis, based on ecological equivalency, and shall be implemented concurrent with or prior to construction of the works. The Secretary shall make available such public lands as he deems appropriate to meet the requirements of this subsection. The Secretary is authorized to develop ground water, with a priority given to nonpotable sources, from public lands to supply water for fish and wildlife mitigation purposes.

(b) Operation and Maintenance Determination.—The Secretary shall determine the impact of the works on the cost of operation and maintenance and the existing regulating and storage capacity of the All American Canal and its Coachella Branch. If the works result in any added operation and maintenance costs which exceed the benefits derived from increasing the regulating and storage capacity of the canals to the Imperial Irrigation District or the Coachella Valley Water District, the Secretary shall include such costs in the funding agreement for the works.

(c) Construction and Funding Agreement.—The Secretary, subject to the provision of section 205 of this title, may enter into an agreement or agreements with one or more of the California Contractors for the construction or funding of all or a portion of the works authorized in subsection (a) of this section. Such agreement or agreements shall set forth, in a manner acceptable to the Secretary—

(1) the responsibilities of the parties to the agreement for funding and assisting with implementing all the duties of the Secretary identified in subsections (a) and (b) of this section;

(2) the obligation of the Participating Contractors to pay the additional costs identified in subsection (b) of this section as a result of the works;

(3) the procedures and requirements for approval and acceptance by the Secretary of such works, including approval of the quality of construction, measures to protect the public health and safety, mitigation of impacts on fish and wildlife resources, and procedures for operation, maintenance, and protection of such works;

(4) the rights, responsibilities, and liabilities of each party to the agreement;

(5) the term of such agreements which shall not exceed 55 years and may be renewed if consented to by Imperial Irrigation District and Coachella Valley Water District according to their respective interests in the conserved water. If the funding agreements are not renewed, the Participating Contractors shall be compensated by the Imperial Irrigation District or the Coachella Valley Water District for their participation in the cost of the works. Such compensation shall be equal to the replacement value of the works less depreciation. Such depreciated value is to be based upon an engineering analysis by the Secretary of the remaining useful life of the works at the expiration of the funding agreements;

(6) the obligation of the Participating Contractors or the United States for repair or other corrective action which would not have occurred in the absence of the works in the case of earthquake or other acts of God;

(7) the obligation of the Participating Contractors or the United States to hold harmless Imperial Irrigation District and Coachella Valley Water District for liability to third parties which occurs after the Secretary accepts the works and would not have occurred in the absence of the works; and,

(8) the requirement that the remaining net obligations due the United States for construction of the All American Canal owed on the date of enactment of this Act be paid by the Participating Contractors.

(d) TITLE TO THE WORKS.—A Participating Contractor shall not receive title to any works constructed pursuant to this section by virtue of its participation in the funding for the works. Title to all such works shall remain with the United States. Upon completion of the works and upon request by an All American Canal contractor (City of San Diego, Imperial Irrigation District, or Coachella Valley Water District) for transfer of title of the All American Canal, its Coachella Branch, and appurtenant structures below Syphon Drop (including the works constructed pursuant to this section), the Secretary shall, within 90 days, take such necessary action as the Secretary deems appropriate to complete transfer of title to the requesting contractor, according to the contractor's respective interest unless the Secretary determines that such transfer would impair any existing rights of other All American Canal contractors, the rights of the United States to the waters of the Colorado River, or would inhibit the Secretary's ability or fulfill his responsibility under the Project Act.

(e) AUTHORIZATION OF APPROPRIATIONS.

(1) No Federal funds are authorized to be appropriated to the Secretary for construction of the works described in subsection (a)(1) of this section.

(2) The Secretary is authorized to receive funds in advance from one or more Participating Contractors pursuant to the Contributed Funds Act of March 4, 1921 (41 Stat. 1401) under terms and conditions acceptable to the Secretary in order to carry out the Secretary's responsibilities under subsections (a), (b), and (c) of this section.

SEC. 204. USE OF CONSERVED WATER.

(a) SECRETARIAL DETERMINATION.—The Secretary shall determine the quantity of water conserved by the works and may revise each determination at reasonable intervals based on such information as the Secretary finds appropriate. Such initial determination and subsequent revision shall be made in consultation with the California Contractors.

(b) BENEFICIAL USE IN CALIFORNIA.

(1) The water identified in subsection (a) of this section shall be made available, subject to the approval requirement established in section 203(c)(3), for consumptive use by California Contractors within their service areas according to their priorities under the Seven Party Agreement.

(2) If the water identified in subsection (a) of this section is used during the term of the funding agreements by (A) a California Contractor other than a Participating Contractor, or (B) by a Participating Contractor in an amount in excess of its proportionate share as measured by the amount of its contributed funds in relation to the total contributed funds, such contractor shall reimburse the Participating Contractors for the annualized amounts of their respective contributions which funded the conservation of water so used, any added costs of operation and maintenance as determined in section 203(b), and related mitigation costs under section 203(a)(2). Such reimbursement shall be based on the costs each Participating Contractor incurs in contributing funds and its total contribution, and the life of the works.

SEC. 205. IMPLEMENTATION.

(a) EFFECTIVE DATE.—The authorities contained in this title shall take effect upon enactment and the Secretary is authorized to proceed with all preconstruction activities. For a period not to exceed 15 months thereafter, or such additional period as the Secretary and the Imperial Irrigation District, the Coachella Valley Water District, and the Metropolitan Water District of Southern California may agree, the Secretary shall provide to the Imperial Irrigation District the opportunity to become the sole Participating Contractor for the works on the All American canal from Pilot Knob to Drop 4, and assume all non-Federal obligations to finance the works. After the expiration of the 15-month period, the Secretary is authorized to enter into agreements with the California Contractors as provided in section 203(c) of this Act.

(b) AGREEMENTS AMONG PARTICIPATING CONTRACTORS.—The Participating Contractors may enter into additional agreements, consistent with existing law, with one or more California Contractors to establish terms and conditions to implement the provisions of this title. The Secretary shall cooperate with the parties to such agreements.

SEC. 206. PROTECTION OF EXISTING WATER USES.

As of the effective date of this Act, any action of the Secretary to use, sell, grant, dispose, lease or provide rights-of-way across Federal public domain lands located within the All American Canal Service Area shall include the following conditions: (1) those lands within the boundary of the Imperial Irrigation District as of July 1, 1988, as shown in Imperial Irrigation District Drawing 7534, excluding Federal lands without a history of irrigation or other water using purposes; (2) those lands within the Imperial Irrigation District Service Area as shown on General Map of Imperial Irrigation District dated January 1988 (Imperial Irrigation District No. 27F 0189) with a history of irrigation or other water using purposes; and (3) those lands within the Coachella Valley Water District's Improvement District No. 1 shall have a priority for irrigation or other water using purposes over the lands benefiting from the action of the Secretary: *Provided,* That rights to use water on lands having such priority may be transferred for use on lands having a lower priority if such transfer does not deprive other lands with the higher priority of Colorado River water that can be put to reasonable and beneficial use.

SEC. 207. WATER CONSERVATION STUDY.

(a) PREPARATION AND TRANSMITTAL.—Any agreement entered into pursuant to section 203 between the Secretary and The Metropolitan Water District of Southern California (hereafter referred to as the "District") shall require, prior to the initiation of construction but in no case later than two years from the date of enactment of this Act, the preparation and transmittal to the Secretary by the District of a water conservation study as described in this section, together with the conclusions and recommendations of the District.

(b) PURPOSE.—The purpose of the study required by this section shall be the evaluation of various pricing options within the District's service area, an estimation of demand elasticity for each of the principal categories of end use of water within the District's service area, and the estimation of the quantity of water saved under the various options evaluated.

(c) PRICING ALTERNATIVES.—Such study shall include a thorough evaluation of all the pricing alternatives, alone and in various combinations, that could be employed by the District, including but not limited to—

(1) recovery of all costs through water rates;

(2) seasonal rate differentials;

(3) dry year surcharges;

(4) increasing block rates; and

(5) marginal cost pricing.

(d) PUBLIC REVIEW AND COMMENT.—Not less than 90 days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including the transcripts of public hearings which shall be held during the course of the study. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(e) LIMITATION ON INITIATION OF CONSTRUCTION.—Prior to the initiation of construction, the Secretary shall make a finding, and publish such finding, that the requirements of this section have been satisfied. Nothing in this section shall be deemed to authorize the Secretary to require the implementation of any policies or recommendations contained in the study.

SEC. 208. SALTON SEA NATIONAL WILDLIFE REFUGE.

Within 90 days from the date of enactment of this title, the Secretary is directed to prepare and submit a report to the Congress which describes the current condition of habitat at the Salton Sea National Wildlife Refuge, California. The report shall also—

(1) assess water quality conditions within the refuge;

(2) identify actions which would be undertaken to improve habitat at the refuge;

(3) describe the status of wildlife, including waterfowl populations, and how wildlife populations have fluctuated or otherwise changed over the past ten years; and

(4) describe current and future water requirements of the refuge, the availability of funds for water purchases, and steps which may be necessary to acquire additional water supplies, if needed.

SEC. 209. RELATION TO RECLAMATION LAW.

No contract or agreement entered into pursuant to this title shall be deemed to be a new or amended contract for the purposes of section 203(a) of the Reclamation Reform Act of 1982 (P.L. 97-293, 96 Stat. 1263).

The SPEAKER pro tempore. Is a second demanded?

Mr. PASHAYAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from California [Mr. PASHAYAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 795, and urge passage of the bill.

Mr. Speaker, we have worked for nearly 4 years to find language to resolve this water rights dispute that is acceptable to House Members. We have now found that language.

The amendment I am offering today provides for the settlement to a longstanding Indian water rights issue in southern California. The bill would authorize establishment of a $30-million trust fund. The fund would be used to finance construction of water development facilities on the affected Indian reservations.

The Indian tribes would also receive up to 16,000 acre-feet of water from public lands in southern California or from the lining the All-American Canal.

In return, the tribes would relinquish all claims to the San Luis Rey River and end nearly 50 years of litigation between the Indians and local cities.

Mr. Speaker, this bill is not perfect. However, I believe this version is acceptable and should be supported by the House.

Title II of the amendment would authorize non-Federal interests to line the previously unlined portions of the All-American Canal in southern California.

This project could result in making available to southern California nearly 100,000 acre-feet of water which is currently being wasted.

This is a unique way to make additional water available. The unlined All-American Canal is wasting water. This bill will line the canal and eliminate the waste. Equally important, the project will be done at no expense to the Federal Government.

Mr. Speaker, the support for this project is substantial. Every major newspaper in the State of California has editorialized in support of this project. Scores of cities and towns have submitted resolutions of support. As they point out, this bill will solve a complex problem, at no cost to the Federal taxpayers, and with a minimum of environmental disruption.

Mr. Speaker, I urge support for the bill, as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. PASHAYAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the amendment in the form of a substitute on S. 795, a bill that settles a longstanding dispute over Indian water rights on the San Luis River in southern California, and authorizes the relining of the All-American Canal in southern California at no costs to the Federal Government.

With regard to settling the Indian claim, the Secretary is authorized to contract with the metropolitan water district to provide up to 16,000 acre-feet of water annually to the tribes at a rate per acre-foot that has been agreed to by the parties. The total costs of relining the All-American Canal will be financed solely by interests other than the Federal Government.

This is a fair and equitable solution to a longstanding dispute.

The administration's major concerns have been addressed and I urge my colleagues to support S. 795, as amended.

I wish to thank my colleagues Mr. LEVINE of California and Mr. PACKARD. The original bill took water out of the San Joaquin Valley—unacceptable to us there because we had nothing to do with creating the problem. This bill now takes not one drop of water from the Central Valley project.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. PASHAYAN. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker. I rise in support of S. 795, particularly with regard to title II of that bill. This title authorizes lining the All-American Canal, which is in my district and provides water for farming, domestic and industrial use to the people of the Imperial Valley.

The Imperial Irrigation District has the responsibility of delivering water from the Colorado River through the canal and has nearly 90 percent interest in paying for, maintaining and operating the canal. It is the only source of water for the valley.

The Imperial Irrigation District has been engaged in negotiations with other users of water from the canal and the Metropolitan Water District of Southern California to facilitate a lining project to conserve water that seeps from the present earthen canal. The irrigation district has participated in this process to draft the necessary legislation to ensure that its rights to Colordao River water are not abridged and to enable the district to obtain title to the All American Canal once the debt for the Canal construction is repaid. Title V of the bill is the result of those negotiations.

For nearly 50 years, the people of the Imperial Valley have been paying off their loan to the Federal Government which financed the canal construction, looking forward to the day that they would own the canal. The people of the valley have consented to the concept of this legislation which will for the first time in history allow an outside insterest to involve itself in the management practices of another water district. In exchange, my valley constituents are now assured that the title to the canal can be transferred, just as all of us expect to receive title to our homes once the mortgage is paid off.

There is nothing in title II of the legislation intended to affect the debate in California and the west over water conservation or water use rights, it only addresses the canal lining project.

Mr. Speaker, I congratulate my colleagues, especially Mr. MILLER, MR. PACKARD, Mr. PASHAYAN, and Mr. LEVINE, for their efforts to balance the diverse interests of the parties concerned with the legislation. Therefore, I will be happy to lend my support to this legislation.

Mr. PASHAYAN. Mr. Speaker, I reserve the balance of my time.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, but I would just like to thank those who have worked so very hard on this legislation, the gentlemen from California, Mr. Levine, Mr. Packard, Mr. Hunter, and Mr. Pashayan. I must say the gentleman from California, Mr. Pashayan, went from being a major obstruction in the roadway to passage of this legislation to one who has participated in constructively fashioning this solution that I think will work for all of the interested parties, and I want to thank them for their time and effort on behalf of a rather diverse group of people to bring together this solution. I would hope that the Congress would support the passage of this legislation.

Mr. PASHAYAN. Mr. Speaker, I thank my colleague, the gentleman from California [Mr. Miller] for his very kind words, and I also thank my colleague personally for his indulgence, and his patience and his understanding because this was a knotty little problem, and without his guidance we could not be here successfully on the floor.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PACKARD. Mr. Speaker, I join in urging passage by the House of S. 795, the San Luis Rey Indian Water Rights Settlement bill.

This legislation presents a unique opportunity for the Congress to correct a Federal mistake which happened nearly 100 years ago. The history of the United States giving away this river to first Indians and then, within only a few years, to non-Indians is indeed sad. The saving grace is that we now have an opportunity to correct those mistakes.

We have before us today a settlement package which has been molded first at home where the dispute is so damaging, and then, through many hours of member and staff energy, refined and reformed into a consensus package which unites the California delegation in its support.

The water supply for this bill has taken a circuitous route from the Central Valley to the All American Canal, and finally to reliance upon ground water from the public domain. Through that journey, many have helped. I cannot name all of the players but the assistance of other Members of the California delegation on both sides of the aisle has been exemplary and is greatly appreciated. Members of the Committee on Interior and Insular Affairs have also been extremely helpful particularly Congressmen Pashayan, Miller, and Levine. I wish to express my thanks to those members for their diligence and forbearance during the difficult times of forging this settlement. The staffs of the committee and of the members also deserve a note of congratulation on the product of their effort.

Of special note I would like to acknowledge the work of the settlement parties, Escondido, Vista, and the Mission Bands. For 4 years, with the Interior Department's assistance, I encouraged these historically warring parties to suspend their fights in the courts and devote their energies to a peaceful resolution of the controversy. The bond of cooperation that has formed has resulted in the consensus package which we have before us today. The package is a tribute to the unity, flexibility, and persistence of these parties who have surmounted numerous roadblocks and detours to reach this day.

A few technical clarifications are in order since the bill before us reflects improvements added since the committee report was filed. We need to point out that the Secretary's trust responsibility to the Bands will need extra diligence as the settlement is implemented. Of particular importance is the need for the Secretary to assure that before the Band's rights are released in the settlement agreement that a perpetual water supply is secured and the authorized appropriations have been deposited in the Indian trust fund. In this regard we would encourage the administration to include the necessary appropriations in the President's budget for fiscal year 1990. Similarly the Secretary needs to assure that the opportunity to develop water supplies on the Federal public domain is not usurped under other authorities without the settlement parties receiving 16,000 acre/feet per year from that source.

To provide for early completion of the necessary actions and appropriate oversight by the Congress, section 6(b) of the bill includes a requirement that the Secretary report to the Congress on plans for implementing the water supply aspects of the bill. To assure that there is no misunderstanding, it should be understood that the water supply and contracting activities are expected to commence with enactment of this measure and the necessary investigations and negotiations should not be delayed until the settlement agreement is completed. We expect to see the report of the Secretary no more than 9 months after enactment of the legislation.

Mr. Speaker, in closing I would like to point out an important aspect of this settlement to most other members. This settlement shows that Indian tribes, their non-Indian neighbors, and the United States can join forces to find an equitable, acceptable, and honorable peace if they will only sit down and work with each other. Without his settlement, the parties would spend another 20 years in the courts. Many other members of this body have similar disputes affecting their constituents. Approval of this measure will send a signal that resolution of such controversies is possible through the art of negotiation and that the United States can be a responsible citizen. Therefore, I ask your approval of this bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Miller] that the House suspend the rules and pass the Senate bill, S. 795, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

REPORT OF COUNCIL ON ENVIRONMENT OF QUALITY MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Merchant Marine and Fisheries.

(For message, see proceedings of the Senate of today, October 3, 1988.)

☐ 2200

VACATING SPECIAL ORDER AND GRANTING SPECIAL ORDER

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that I may be permitted to vacate my 60-minute special order today, and in lieu thereof address the House for 5 minutes.

The SPEAKER pro tempore (Mr. Cardin). Is there objection to the request of the gentleman from Texas?

There was no objection.

WORLD HABITAT DAY

The SPEAKER pro tempore (Mr. Cardin). Under a previous order of the House, the gentleman from Texas [Mr. Gonzalez] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, October 3, 1988, has been designated by the United Nations as World Habitat Day. Every year at this time the United Nations acts to call our attention to the needs of millions of families throughout the world who are homeless or who live in conditions of shelter so substandard as to almost defy description. U.N. Secretary General Javier Perez De Cuellar points out that the problems of homelessness and inadequate shelter are steadily growing worse each year and that the situation has "ominous implications for peace and social stability in all countries."

The housing problems the Secretary General alludes to are not confined to underdeveloped countries. Here in the United States we have evidence of shelter problems on par with those of underdeveloped nations or Third World nations though not as widespread. And, I regret to say that these problems have grown in the United States rather than declined, especially in the last 8 years. The poor and near poor in our cities and rural areas are sorely in need of adequate and affordable shelter. In some areas such as the Southwest along the Mexican border housing, water and sanitary sewer systems are substantially inadequate or entirely lacking.

As my colleagues from Texas, Arizona, New Mexico, and California know first hand, these conditions are found on our side of the border involving upward of 200,000 people. I refer here to the conditions in the Colonias: Subdivisions in unincorporated places located along the United States and Mexican border. Recently, along with some of my colleagues from Texas, we have taken some steps toward bringing much needed assistance to the people that live in these Colonias, but the point here is that they are found in the richest nation in the world. So we can indeed sympathize with the U.N. Secretary General and share in his concerns to have governments at every level act in directing resources, particularly in the provision of adequate infrastructure toward the needs of the poor.

The U.N. Secretary General notes in his Habitat Day statement that the recent and growing level of commitment to expanded shelter and community development on the part of the world governments gives us reason for hope that global shelter problems can be met. I hope he is correct. I know my colleagues in the House share in that hope and welcome the efforts of the United Nations in designating an annual "Habitat Day" to call special attention to the great and pressing need for better housing and more healthful communities throughout the world. Decent housing is a human right and I intend to continue to do all that I can to strengthen our resolve to make decent housing a reality to all of our fellow citizens in the United States, as well as, in the developing world.

Mr. Speaker, I include the statements of the U.N. Secretary General and the Executive Director of UNCHS issued on the occasion of World Habitat Day as a part of my statement here today.

MESSAGE OF THE SECRETARY GENERAL OF THE UNITED NATIONS, MR. JAVIER PEREZ DE CUELLAR, ON THE OCCASION OF WORLD HABITAT DAY, MONDAY, OCTOBER 3, 1988

Every year, on World Habitat Day, we turn our special attention to the plight of millions of our fellow citizens who are homeless or live in totally inadequate shelter conditions.

The problem is steadily growing worse. It manifests itself most visibly in urban centers, particularly in developing countries. Over the next decade, the number of families living in urban poverty will reach approximately 75 million, up from 33 million just over a decade ago. It is apparent that there is an enormous pressure on the capacity of Governments and the private sector to develop housing, water supply and sewerage facilities, as well as health, education and transport services, to cope with the demand.

This is a situation with ominous implications for peace and social stability in all countries. To redress it should be one of our major social priorities.

The United Nations system, through the United Nations Centre for Human Settlements (Habitat), and other agencies, is called upon to collaborate with Governments and extend to them every possible assistance in this critical area of development. Through a diversified programme of technical co-operation, research, training and information exchange, we are working to place in the hands of Governments the technical knowledge and assistance which will permit them to address this seemingly intractable problem. We shall also continue to support their efforts to garner the necessary resources for translating policies and programmes into concrete results for the betterment of the housing and overall living conditions of their people.

We are greatly encouraged to note the commitment of Governments, organizations and individuals, expressed through new initiatives in the shelter sector, and demonstrated during and since the International Year of Shelter for the Homeless, 1987. The international community has moved from the stage of merely promoting awareness of the shelter problem to that of undertaking wide-ranging action to address it. I take this opportunity to record my profound appreciation to all those who have been working towards a solution of the shelter problem. I am confident that a broad international endeavour will enable us ultimately to come to grips with the common enemies of poverty, substandard living conditions, disease and ignorance.

This year's World Habitat Day theme of "Shelter and Community" focuses on shelter activity at the local and community levels and highlights the capacity for innovation and co-operative endeavour that exists in every community. It also recognizes the social and symbolic significance of the home in binding the individual to the family and the family to the community.

With Government, the private sector, non-governmental organizations and the people themselves all joining hands in one concerted effort, and the international community providing the needed support, I feel certain that the global shelter challenge can, and will be, met. The United Nations will continue to play its part. I urge all others to play theirs.

NATIONAL BIBLE WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, I am very honored to be cochairman of the Congressional Committee for National Bible Week this year. Before we adjourn the 100th Congress, I wanted to bring this event to the attention of my colleagues and to encourage your participation in the inspiring activities slated during that week. This year the observance will be from November 20–27.

Back in 1940, 11 men met in New York to form the National Committee for Religious Recovery. Their purpose was to encourage belief and faith in God, daily Bible reading, religious education and to strengthen religious life in America. One of the best ways to do that, they found, was to stimulate the reading and study of the Bible. They changed the name of the group to the Laymen's National Committee and later changed that to the Laymen's National Bible Committee.

Ironically, the first National Bible Week was to be December 8–14, 1941, but the first nationally scheduled radio program in observance of the week was interrupted by the news that Pearl Harbor had been bombed. The horror of war made the members of the committee more committed than ever to promote the Bible and the message it has for all people. The event has grown in statute and importance in the years since then.

This year, thousands of people will participate in some of the related events surrounding National Bible Week. Packets of information will be sent to religious and lay leaders across the country. Service clubs, libraries, Boy Scouts, Girl Scouts, churches, synagogues, and many other groups will join us in observance of this special week.

I hope you will help me promote National Bible Week this year, November 20–27. If you would like more information, contact Reuben Gums, executive director of the Laymen's National Bible Association, 815 Second Avenue, New York, NY. 10017 or call 212–687–0555.

EASTSIDE WEEK IN PITTSBURGH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. COYNE] is recognized for 5 minutes.

Mr. COYNE. Mr. Speaker, every month in my hometown, representatives of 19 organizations gather at St. Francis Hospital to pool their resources and solve problems of housing, employment, and health care in 4 Pittsburgh neighborhoods—Bloomfield, Garfield, Lawrenceville, and Polish Hill.

These 19 organizations cover a wide range of interests and purposes. They include the Bloomfield/Garfield Corp., Bloomfield/Lawrence-ville Lions Club, Bloomfield/Lawrenceville Lioness Club, Friendship Baptist Church, Garfield Jubilee Association, Lawrenceville Business Association, Lawrenceville/Bloomfield/Garfield Ministerial Association, Lawrenceville/Bloomfield Meals on Wheels, Lawrenceville Citizen Council, Lawrenceville Development Corp., Lawrenceville Historical Society, Penn Merchants Triangle, Polish Hill Civic Association, St. Augustine's Church, St. Francis Health System, St. Mark A.M.E. Zion Church, St. Mary's Church, Trinity Baptist Church, and West Penn Hospital.

Their names reflect their great diversity, but these groups all have something in common. Each is dedicated to making life better in their neighborhoods, and these organizations all realize that they can accomplish far more by working together than by working separately.

Two years ago, they set up a framework for cooperation called the Eastside Alliance. St. Francis Hospital helped them launch the effort, and last year, the coalition added two staff members.

If you look through the literature of the Eastside Alliance, you see the beginnings of a very practical agenda. The alliance aims to help homeowners use the city's home repair loan programs to keep their neighborhoods attractive. The alliance maintains information on area contractors for residents who need to add a bedroom or have their roof repaired. The alliance is publishing "Among Friends," a handbook listing area services for older residents, so that they can stay in the neighborhoods. The alliance wants to help working residents obtain job training and job referrals in the area.

From October 17 to 24, the Eastside Alliance will be celebrating Eastside Week in Pittsburgh. The highlight of the celebration will be the first volunteer awards dinner and dance on October 21 at the Bloomfield Moose Lodge. A volunteer from each of the alliance's members organizations will receive an award, and Ann Davis will be honored as the East Sider of the Year.

I want to take this opportunity to extend my congratulations to all of the individuals and organizations who are pitching in to make the Eastside Alliance a success, and to wish them well during Eastside Week. I especially want to congratulate Ann Davis on being chosen as East Sider of the Year. The neighborhoods of Bloomfield, Garfield, Lawrenceville, and Polish Hill—indeed, the entire city of Pittsburgh—are all better places because of the Alliance.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Eckart (at the request of Mr. Foley), for today, on account of personal business.

Mr. Lowry of Washington, for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Hunter) to revise and extend their remarks and include extraneous material:)

Mr. Dreier of California, for 60 minutes, today.

Mr. Swindall, for 60 minutes, today.

Mr. Dreier of California, for 60 minutes, on October 4.

Mr. Dreier of California, for 60 minutes, on October 5.

Mr. Dreier of California, for 60 minutes, on October 6.

Mr. Dreier of California, for 60 minutes, on October 7.

Mr. Bliley, for 60 minutes, on October 6.

(The following Members (at the request of Mr. Gonzalez) to revise and extend their remarks and include extraneous material:)

Mr. Montgomery, for 5 minutes, today.

Mr. Kastenmeier, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Coyne, for 5 minutes, today.

Mr. Alexander, for 60 minutes, on October 5.

Mrs. Boxer, for 60 minutes, on October 4.

Mrs. Boxer, for 60 minutes, on October 5.

Mr. Gray of Illinois, for 60 minutes, on October 4.

Mr. Gray of Illinois, for 60 minutes, on October 5.

Mr. Gray of Illinois, for 60 minutes, on October 6.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Hunter) and to include extraneous matter:)

Mr. Lewis of California in two instances.

Mr. Davis of Illinois.

Mr. Donald E. "Buz" Lukens.

Mr. McCandless.

Mr. Gallo.

Mr. Crane.

Mr. McGrath.

Mr. Shuster.

Mr. Hefley.

Mr. Saxton.

Mr. Bereuter in two instances.

Mr. Clinger.

Mr. Kyl.

Mr. Oxley.

Mr. Blaz.

Mr. Lagomarsino.

(The following Members (at the request of Mr. Gonzalez) and to include extraneous matter:)

Mr. Anderson in 10 instances.

Mr. Gonzalez in 10 instances.

Mrs. Lloyd in five instances.

Mr. Hamilton in 10 instances.

Mr. Brown of California in 10 instances.

Mr. Annunzio in six instances.

Mr. Jones of Tennessee in 10 instances.

Mr. de la Garza in 10 instances.

Mr. Traxler.

Mr. Clement.

Mr. Stark.

Mr. Atkins in two instances.

Mr. Fascell in three instances.

Mr. Rodino.

Mr. Obey.

Mr. Dorgan of North Dakota.

Mr. Kildee.

Mr. Studds.

Mr. Traficant.

Mr. Stallings.

Mr. de Lugo.

Mr. St Germain.

SENATE BILL AND JOINT RESOLUTIONS REFERRED

A bill and joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2204. An act to implement the Inter-American Convention on International Commercial Arbitration; to the Committee on the Judiciary.

S.J. Res. 378. Joint resolution designating the week of October 2 through 8, 1988, as "National Wild and Scenic River Act Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 379. Joint resolution to establish as the policy of the United States the preservation, protection, and promotion of the rights of indigenous Americans to use, practice and develop Native American languages, and for other purposes; to the Committee on Education and Labor.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4587. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1988, and for other purposes;

H.R. 4637. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes;

H.R. 4776. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1989, and for other purposes; and

H.R. 4781. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2846. An act to provide for the awarding of grants for the purchase of drugs used in the treatment of AIDS.

BILLS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following titles:

On September 30, 1988:

H.R. 4419. An act to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974;

H.R. 4784. An act making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes;

H.R. 4457. An act to create a national park at Natchez, Mississippi;

H.R. 2952. An act to increase the amount authorized to be appropriated for acquisition at the Women's Rights National Historical Park;

H.R. 3977. An act to authorize appropriations for the Mining and Mineral Resources Research Institute Act for fiscal years 1990 through 1993; and

H.R. 4998. An act to amend the Food Stamp Act of 1977 to make technical corrections in the Family Independence Demonstration Project.

On October 1, 1988:

H.R. 4781. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes;

H.R. 4776. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1989, and for other purposes;

H.R. 4587. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1989, and for other purposes; and

H.R. 4637 An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 8 minutes p.m.) the House adjourned until tomorrow, Tuesday, October 4, 1988, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communiations were taken from the Speaker's table and referred as follows:

4408. A letter from the Secretary of the Navy, transmitting notifications of the proposed transfer of the obsolete submarine *Croaker* (SS-246) to the city of Buffalo, NY, for use as a naval museum and memorial, pursuant to 10 U.S.C. 7308(c); to the Committee on Armed Services.

4409. A letter from the Chairperson, Interagency Coordinating Council on the Rehabilitation Act of 1973, transmitting a report on the activities of the Interagency Coordinating Council, pursuant to 29 U.S.C. 794c; to the Committee on Education and Labor.

4410. A letter from the Acting Director, Defense Security Assistance Agency; transmitting notification of the Administration's intent to sell Stinger missiles to the Government of Japan, pursuant to Public Law 100-202, section 573(d) (101 Stat. 1329-177); jointly, to the Committees on Foreign Affairs and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. Report on continuing violations of the Truth in Negotiations Act and estimating system deficiencies result in excess contractor profits (Rep. 100-1026). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations Report on the Inspector General Act of 1978: A 10-year review (Rep. 100-1027). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 5372. A bill to amend the Trademark Act of 1946 to make certain revisions relating to the registration of trademarks, and for other purposes (Rept. 100-1028). Referred to the Committee of the Whole House on the State of the Union.

Mr. LaFALCE: Committee of conference. Conference report on H.R. 4174 (Rept. 100-1029). Ordered to be printed.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5069. A bill to establish a 12-mile territorial sea and a 24-mile contiguous zone, to establish the National Oceans Policy Commission, and for other purposes; with an amendment (Rept. 100-1030, Pt. 1). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. House Concurrent Resolution 331. Resolution to acknowledge the contribution of the Iroquois Confederacy of Nations to the development of the United States Constitution and to reaffirm the continuing government-to-government relationship between Indian tribes and the United States established in the Constitution; with an amendment (Rept. 100-1031). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1236. A bill to reauthorize housing relocation under the Navajo-Hopi Relocation Program, and for other purposes; with an amendment (Rept. 100-1032). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5203. A bill to declare that certain lands be held in trust for the Quinault Indian Nation, and for other purposes; with an amendment (Rept. 100-1033, Pt. 1). Ordered to be printed.

Mr. FRANK: Committee on the Judiciary. H.R. 4480. A bill to change the name of the Pacific Tropical Botanical Garden, a federally chartered organization, to the National Tropical Botanical Garden, and for other purposes (Rept. 100-1034). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 563. Resolution to authorize the Speaker to entertain motions to suspend the rules of the House on any day for the remainder of this Congress; (Rept. 100-1035). Referred to the House Calendar.

Mr. BROOKS: Committee of Conference. Conference report on H.R. 3471 (Rept. 100-1036). Ordered to be printed.

Mr. FRANK: Committee on the Judiciary. H.R. 3685. A bill to amend title 31, United States Code, to increase from $25,000 to $40,000 the maximum amount that the United States may pay in settlement of a claim against the United States made by a member of the uniformed services or by an officer or employee of the Government. (Rept. 100-1037). Referred to the Committee of the Whole House on the State of the Union.

Mr. RODINO: Committee on the Judiciary. H.R. 5115. A bill to amend the Immigration and Nationality Act to revise the numerical limitation and preference system for admission of independent immigrants, and for other purposes; with amendments (Rept. 100-1038). Referred to the Committee of the Whole House on the State of the Union.

Mr. FRANK: Committee on the Judiciary. House Joint Resolution 644. Resolution granting the consent of Congress to the compact entered into between the State of North Carolina and the State of South Carolina establishing the Lake Wylie Marine Commission; with amendments (Rept. 100-1039). Referred to the House Calendar.

Mr. RODINO: Committee on the Judiciary. S. 2350. A bill to clarify the investigatory powers of the United States Congress; with amendments (Rept. 100-1040). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4939. A bill to amend the Safe Drinking Water Act to control lead in drinking water; with an amendment (Report 100-1041). Referred to the Committee of the Whole House on the State of the Union.

Mr. ST GERMAIN: Committee on Banking, Finance and Urban Affairs. H.R. 5407. A bill to establish a National Commission on the Thrift Industry; with an amendment (Rept. 100-1042). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on SSA's computer modernization efforts undermined by corruption and inept management (Rept. 100-1043). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on GSA small business and small minority business subcontracting (Rept. 100-1044). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on secrecy breeds suspicion: Farm Credit Administration's selection of the Jackson Federal Land Bank receiver (Rept. 100-1045). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Science, Space, and Technology. H.R. 1510. A bill to amend title 35, United States Code, and the National Aeronautics and Space Act of 1958, with respect to the use of inventions in outer space. (Rept. 100-51, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. THOMAS A. LUKEN (for himself and Mr. Lent):

H.R. 5442. A bill to provide the Environmental Protection Agency and the public with additional information about asbestos products; to the Committee on Energy and Commerce.

By Mr. GREEN:

H.R. 5443. A bill to modify the method by which pay for civilian employees of the Government is adjusted; to the Committee on Post Office and Civil Service.

By Mr. HEFLEY:

H.R. 5444. A bill to reestablish the National Aeronautics and Space Council, and for other purposes; to the Committee on Science, Space and Technology.

By Mr. LENT:

H.R. 5445. A bill to amend the Federal Power Act to guide the Federal Energy Regulatory Commission in the issuance of licenses to operate existing hydroelectric facilities; to the Committee on Energy and Commerce.

By Mr. RIDGE (for himself, Mr. Lagomarsino, Mr. Chapman, Mr. Davis of Illinois, Mr. Ackerman, and Mrs. Saiki):

H.R. 5446. A bill to establish a program of demonstration grants to local educational agencies to encourage reduction of student to teacher ratios in the primary grades; to the Committee on Education and Labor.

By Mr. UPTON:

H.R. 5447. A bill to amend the Internal Revenue Code of 1986 to provide that the one-time exclusion of gain from sale of a principal residence shall not be precluded because the taxpayer's spouse, before becoming married to the taxpayer, elected the exclusion; to the Committee on Ways and Means.

By Mr. VANDER JAGT:

H.R. 5448. A bill to modify the boundary of the Sleeping Bear Dunes National Lakeshore, to remove the authority of the Secretary of the Interior to construct and administer scenic roads as part of such National Lakeshore, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DAVIS of Illinois:

H. Con. Res. 382. Concurrent resolution concerning the policy of the United States regarding the use of chemical weapons; to the Committee on Foreign Affairs.

By Mr. FASCELL (for himself, Mr. Fauntroy, Mr. Crockett, Mr. Yatron, Mr. Gejdenson, Mr. Oberstar, Mr. Gray of Pennsylvania, Mr. Towns, Mr. Owens of New York, Mr. Gilman, and Mr. Kemp):

H. Con. Res. 383. Concurrent resolution expressing the sense of the Congress regarding the restoration of democracy to Haiti and on conditions for the resumption of United States assistance to that country; to the Committee on Foreign Affairs.

By Mr. TRAFICANT:

H. Con. Res. 384. Concurrent resolution expressing the sense of the Congress that the National Aeronautics and Space Administration should develop and maintain a crew rescue capability in support of the space station *Freedom;* to the Committee on Science, Space and Technology.

By Mr. EDWARDS of California:

H. Res. 562. Resolution authorizing the use of depositions in connection with an impeachment inquiry of the Committee on the Judiciary; considered and agreed to.

By Mr. de la GARZA

H. Res. 564. Resolution providing for concurring in the Senate amendment to H.R. 4345, to amend the United States Grain Standards Act to extend through September 30, 1993, the authority contained in section 155 of the Omnibus Reconciliation Act of 1981 and Public Law 98-469 to charge and collect inspection and weighing fees, and for other purposes, with an amendment; considered and proceedings postponed.

By Mr. UDALL:

H. Res. 565. Resolution agreeing to the conference requested by the Senate on the bill H.R. 5261; considered and proceedings postponed.

By Mr. VENTO:

H. Res. 566. Resolution amending the Senate amendment to the bill H.R. 900; considered and proceedings postponed.

By Mr. MILLER of California:

H. Res. 567. Resolution disposing of Senate amendments to the bill H.R. 2772; considered and proceedings postponed.

MEMORIALS

Under clause 4 of rule XXII,

472. The SPEAKER presented a memorial of the General Assembly of the State of California, relative to the resettlement of Indochinese refugees; jointly, to the Committees on Foreign Affairs and the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 458: Mr. DioGuardi, Mrs. Roukema, and Mr. Vento.

H.R. 1635: Mr. Burton of Indiana.

H.R. 1794: Mr. Carr, Mr. Markey, Mr. Crockett, Mr. Lowry of Washington, Mr. Horton, and Mr. Hayes of Illinois.

H.R. 2151: Mr. Borski and Mr. Clarke.

H.R. 2212: Ms. Slaughter of New York.

H.R. 2546: Mr. Spratt, Mr. Callahan, and Mr. Spence.

H.R. 3199: Mr. Boehlert.

H.R. 3374: Mr. Davis of Michigan.

H.R. 3736: Mr. Bereuter.

H.R. 4302: Mr. Pickett, Mr. Watkins, Mr. Tauzin, Mr. Derrick, Mr. Stratton, Mr. Parris, and Mr. Stenholm.

H.R. 4743: Mr. Bereuter.

H.R. 4813: Mr. Bennett.

H.R. 4847: Mr. Slattery.

H.R. 4879: Mr. Lott and Mr. Annunzio.

H.R. 5033: Mr. Beilenson.

H.R. 5051: Mr. Smith of Florida.

H.R. 5115: Mr. Hughes and Mrs. Morella.

H.R. 5154: Mr. Burton of Indiana and Mr. Yates.

H.R. 5172: Mr. Crockett.

H.R. 5198: Mr. Donnelly.

H.R. 5212: Mr. Tauzin.

H.R. 5226: Mr. Martinez, Mr. Lagomarsino, Mr. Lipinski, Mr. Fazio, Mr. Bonior of Michigan, Ms. Kaptur, and Mr. Jontz.

H.R. 5229: Mr. Foglietta and Mr. Gordon.

H.R. 5341: Mr. Lagomarsino, Mr. Olin, Mr. Lewis of California, Mr. Fields and Mr. Porter.

H.R. 5351: Mr. Emerson.

H.R. 5352: Mr. Emerson.

H.R. 5353: Mr. Emerson.

H.R. 5354: Mr. Emerson.

H.R. 5355: Mr. Emerson.

H.R. 5356: Mr. Emerson.

H.R. 5357: Mr. Emerson.

H.R. 5358: Mr. Emerson.

H.R. 5359: Mr. Emerson.

H.R. 5360: Mr. Emerson.

H.R. 5361: Mr. Emerson.

H.R. 5362; Mr. Emerson.

H.R. 5363: Mr. Emerson.

H.R. 5364: Mr. Emerson.

H.R. 5365: Mr. Emerson.

H.R. 5366: Mr. Emerson.

H.R. 5374: Mr. Hyde, Mr. Gingrich, Mr. Weber, Mr. Broomfield, Mr. Davis of Illinois, Mr. DeLay, and Mr. Emerson.

H.R. 5394: Mr. Hayes of Illinois and Mr. Pepper.

H.R. 5410: Mr. Atkins, Mr. Evans, Mr. Donald E. Lukens, Mr. Stokes, and Mr. Leath of Texas.

H.R. 5427: Mr. Hughes.

H.J. Res. 438: Mr. Dwyer of New Jersey.

H.J. Res. 450: Mr. Lehman of Florida and Mr. Hutto.

H.J. Res. 501: Mr. Dwyer of New Jersey, Mr. Fauntroy, Mr. Bosco, Mr. DioGuardi, Mr. Lehman of Florida, Mr. Harris, Mr. Costello, Mr. Donnelly, Mr. Pepper, Mr. Dymally, Mr. Solarz, and Mr. Hyde.

H.J. Res. 565: Mr. Clinger, Mr. Robinson, Mr. Kolter, Mr. Waxman, Mr. Borski, and Mr. Kanjorski.

H.J. Res. 639: Mr. Mollohan, Mr. Akaka, and Mr. Hoyer.

H.J. Res. 653: Mr. Matsui, Mr. Schaefer, Mr. Berman, Mr. Fascell, Mr. Mollohan, Mr. Markey, and Mr. Weiss.

H.J. Res. 662: Mr. Kasich.

H. Con. Res. 115: Mrs. Kennelly, Mr. Skeen, Mr. Shaw, Mr. Bliley, Mr. English, Mr. Hiler, Mr. Boland, Mr. Bereuter, Mr. Livingston, Mr. Madigan, Mr. Weber, Mr. Nielson of Utah, Mr. Stump, Mr. Young of Alaska, Mr. Martinez, and Mr. Thomas of California.

H. Con. Res. 333: Mr. Carper.

H. Con. Res. 358: Mr. Clement and Mr. Ackerman.

H. Con. Res. 362: Mr. Martinez.

H. Res. 471: Mr. Early.

H. Res. 487: Ms. Slaughter of New York.

H. Res. 546: Mr. Gonzalez, Mr. Lewis of California, Mr. Michel, Mr. Jones of Tennessee, Mr. Ortiz, and Mr. Sensenbrenner.

EXTENSIONS OF REMARKS

TRIBUTE TO WILLIAM WELSH

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. OBEY. Mr. Speaker, the retirement of the Deputy Librarian of Congress, William J. Welsh, on October 3 marks the completion of nearly half a century in public service to the Library and to this Nation. Mr. Welsh, whose career in the Library began in 1947, was named to the Library's second-ranking post in 1976. Having served under four Librarians of Congress, he has played a major role in the innumerable events and programs that have expanded and enhanced the Library's continuing mission. Significantly enough, his Library service spans almost a quarter of the Library's history.

During this time, Congress greatly expanded the role of the Congressional Research Service [CRS], a Department of the Library, in assisting Members and committees in our legislative work. This development was greatly enhanced by Mr. Welsh's support of CRS in fulfilling the intention of the 1970 Legislative Reorganization Act.

His leadership in the evolution of the Library during the past four decades is reflected in the remarkable growth of the collection, which numbered some 23 million items in 1947, compared with over 87 million today. His concern has been not only to strengthen the collections but to make them ever more accessible to libraries and to people generally through improved organization and maintenance. Throughout his career, Mr. Welsh has been a vigorous advocate for automation within the Library.

Programs that have benefited from his initiative and support over the years include the optical disk pilot project; the Library's intern progam; and the automation and filming of the Library's catalogs. He has helped focus attention in this country and in the world at large on the crisis in preservation that confronts libraries and archival collections everywhere.

Mr. Welsh's knowledge of German helped him in 1947 to obtain his first position at the Library as a searcher in a postwar project for cooperative acquisitions. He subsequently served as head of the Order Unit and Order Section of the Order Division, head of the East European accessions index project, executive officer of the Processing Department, associate director of the Administrative Department, and associate director of the Processing Department. In 1968 Mr. Welsh was named director of the Processing Department, the largest of the Library's departments. For his achievement in that area he received the American Library Association's Melvil Dewey Award in 1971, citing his imaginative and wide-ranging contributions to libraries.

During his career in the former Processing Department, Mr. Welsh led in development of the national program for acquisitions and cataloging [NPAC], creation of the Technical Processes Research Office, and oversight and completion of publication of the Pre-1956 National Union Catalog. He was active in launching the cataloging-in-publication effort. With Larry Livingston of the Council on Library Resources, he brought the Conser [conversion of serials] program into being. While employed in the former Administrative Department, he played a major part in the 1962 renovation of the present Jefferson Building. Similarly, as Deputy Librarian, he helped Librarian Daniel Boorstin in the project to renovate and restore the Jefferson and Adams buildings.

Over the decades of his public service, Mr. Welsh has received a great number of honors and awards. In 1983 he was presented the Library's Distinguished Service Award, its highest honor, in recognition of his courageous and imaginative leadership. In 1984 his alma mater, the University of Notre Dame, conferred upon him an honorary doctorate of laws. In this year of his retirement the Special Libraries Association presented him with honorary membership, as did the Alumni Society of the University of Michigan's School of Information and Library Studies.

A member of the American Library Association, the Commission on Preservation and Access, and the Foundations Group Library Committee, he has served as the Library's representative to the Association of Research Libraries, on the National Commission on Libraries and Information Science, and on the Board of Regents of the National Library of Medicine. Mr. Welsh has chaired the American Library Association's John Ames Humphry/Forest Press Award jury for the past 2 years, as well as earlier services as an ALA councilor. As a Library representative to the International Federation of Library Associations and Institutions, he has served as chair of the Conference of Directors of National Libraries since 1984. In 1979, he headed the first official delegation of American Librarians to China following the resumption of official diplomatic exchanges.

A native of Weatherly, PA, Mr. Welsh earned his undergraduate degree in philosophy from the University of Notre Dame in 1940. While pursuing studies in that university's law school the following year, Mr. Welsh served as a library assistant in the law school library and thereby began his career in librarianship. From 1941 to 1947 he served with the U.S. Air Force, including a stint as librarian for the Alaskan division headquarters of the Air Transport Command. He was discharged from the Armed Forces in January 1947 with the rank of major.

Mr. Welsh and his wife, Winifred, will continue to make their home in Bethesda, MD. They have two sons, Douglas and James. Douglas and his wife Maureen are the parents of the Welshes' one granddaughter, Christine.

Beyond the strictly professional dimensions of his long career and running through it like a golden thread has been his determination to humanize the face of management. His gift for recalling names and faces, together with a concern for the well-being of other people, has given a unique character to his public service, enabling him to know as individuals the multitude of persons at all levels and departments who constitute the Library's staff. Warm-hearted and compassionate, outspoken in his convictions, dedicated and hard-working, he has exemplified in his life as in his work the virtues and ideals of civility, livened by a ready wit and tempered by a gracious spirit. In his evident concern with results, with finding ways to get a necessary job done, he kept the human element clearly in mind, marshaling every resource to further his goals. In working his way up from the ranks, he preserved that touch of distinction that made him both accessible and respected. He looks back today upon a lifetime of service—to the Library and to the Congress, institutions whose destinies have always been closely associated; to the Nation as a whole; and, above all, to that larger realm of learning and the humanities that knows no boundaries save those that light the path of civilization through the corridors of history. It may be said of him as was said of old, "Such as the workman is, such also is the work."—II Esdras 9:17.

H.R. 5247

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. LEWIS of California. Mr. Speaker, Friday the House considered and passed H.R. 5247, the Water Resources Development Act. A committee amendment was adopted which addressed, in part, the issue of an exchange of property for GSA credits for certain private individuals having economic interests in the reservoir of Prado Basin, CA.

Section 27 of the amendment, as adopted by voice vote, provides that to further enable the Santa Ana River mainstem flood control project to proceed, the holder of the existing producing leasehold mineral interests and the nonpublic owners of override and royalty interests and other nonpublic entities with rights to the minerals, hereinafter referred to as the nonpublic owners, in the reservoir of Prado Basin, Riverside County, CA, shall surrender to the United States of all such interests and rights.

For purposes of the above, the holder is Prado Petroleum Co., a small business. Its leasehold interests in Prado Basin include a lease from the United States and a private

---

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

lease from the Santa Ana River Development Co. The nonpublic owners are those who own the mineral rights and attendant royalties in the reservoir of Prado Basin. The interests of both leaseholder and nonpublic owners shall be surrendered to, and all title shall vest without reservation in, the United States.

In return, this section further provides that, by agreement, the Administrator of the General Services Administration shall issue to the leasehold holder certificates of credit which may be used in payment for Federal excess property.

It is the intent of this language that GSA issue such certificates without discretion, based upon the determined value as outlined below. In addition, as specified, the certificates of credit: May be used in payment for Federal excess property. As is customary, the certificates may be assigned, transferred, sold for cash value, and so forth.

The section further stipulates that the value of the certificates of credit shall be equal to the value of the combined interests of both the holder and nonpublic owners.

The Administrator is to determine the value of such interests. While it is recognized that GSA may consult other Federal agencies with expertise in this area, it is also expected that GSA will be the lead agency in overseeing the overall appraisal process. As such, all existing and applicable GSA rules and regulations shall apply.

Further, the Administrator is authorized to undertake such evaluation and appraisal and submit his final report to Congress no later than 120 days after the enactment of this act. It is expected that the evaluation and appraisal be of the highest quality and that GSA have sufficient time to insure this. However, given the unique circumstances regarding impending creditor action, it is also imperative that GSA complete this process no later, and preferably sooner, than 120 days after enactment. Upon submission of the report, the exchange of property and issuance of certificates shall be effectuated.

If in undertaking the appraisal, GSA contracts out for an appraisal service, the section further provides that the Administrator shall require an independent and objective petroleum appraisal by a person knowledgeable of the petroleum industry, including all applicable standards and practices. GSA has fixed procedures on securing private appraisal services. It is not expected that GSA deviate from these. However, recognizing the nature of the interests at issue and the difficulty in calculating these, it was determined that an independent and objective petroleum industry appraisal using applicable industry standards shall be required.

As this is an exchange of property for credits, no appropriation is or shall be made to implement this provision. Neither shall any exchange costs be required to be borne by the local governmental jurisdiction benefited by the project.

Last, for purposes of this section, Federal excess property shall mean property acquired, purchased or improved, that is, including constructed, pursuant to the Public Buildings Act of 1959. The intent is to limit the use of the credit certificates, if used to purchase excess Federal property, to Federal buildings and grounds either authorized and/or approved by matters legislated by the Committee on Public Works and Transportation. It is not intended to cover excess Federal property held, for example, by the Department of the Interior or by the GSA originating from some other source—that is, defense installations.

DEATH OF A FRIEND

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. CRANE. Mr. Speaker, with the death of President Zia, the United States lost a loyal ally. Pakistan has been one of only a handful of nations on the Asian Continent, between the Persian Gulf and Sea of China, that the United States has been able to call a true friend.

Pakistan has proven to be a model for the rest of the world's free nations on how to stand up to the Soviet shadow. With the Soviet Union to their north and a Soviet occupied Afghanistan to their west, the Pakistanis have stood firm against a monstrous threat. They have openly supported the mujahedin and have opened their doors to Afghan refugees, risking direct conflict with the Soviets. In fact, they have endured Soviet bombing raids inside their territory on the Afghan border. Yet the Soviets have not dared bring themselves into a full scale conflict with Pakistan because they know quite well that the consequences of such a move would be extreme. More importantly, they have already found that they've bitten off more than they can chew with the Afghan freedom fighters.

The possibility that Zia and the U.S. Ambassador, among others, were killed by a Soviet devised scheme can not be ruled out. Zia and Pakistan have been a huge thorn in Moscow's side and it would be foolish to rule out a Soviet connection, and it would also be an insult to the memory and courage of President Zia.

The United States must insist upon a complete Soviet pull out in Afghanistan. With the absence of Muhammed Zia ul-Haq, there is no longer a lone sentry keeping watch over the always hungry and expanding Soviet underbelly.

The following article, "Death of a Friend" by Lally Weymouth, depicts how Zia understood the Soviet threat to this region. I would like to suggest that my colleagues read this article and consider ways in which we might further honor the late President Zia.

DEATH OF A FRIEND

(By Lally Weymouth)

When I interviewed President Mohammad Zia ul-Haq of Pakistan in January, he told me proudly, "From the USSR to Vietnam, only one country stands up to the Soviets: Pakistan. Pakistan will never become a drop in the Red Ocean."

What he should have said is that Pakistan would resist Soviet expansionism—as long as he was alive. Zia understood Soviet aspirations and probably gave his life in the fight he undertook—to drive the Soviets out of Afghanistan and to keep that country, and his own, free from Soviet domination. He was the linchpin both for the covert war against the Soviets in Afghanistan waged by the U.S., China, and Saudi Arabia, and for the successful campaign to isolate the Soviet-backed Afghan regime in the international community. For he understood that Pakistan's choice was to fight the Soviets on the outskirts of Kabul, or on the outskirts of Islamabad

Zia steered a steady course and waited for others to get on board. Back in 1977, President Jimmy Carter and his Secretary of State, Cyrus Vance, cut off U.S. aid to Pakistan on the grounds that Pakistan had not made sufficient progress on the nuclear issue. Then, on December 27, 1979, the Soviets invaded Afghanistan, and Carter offered Pakistan $325 million in aid over three years. Zia rejected this as "peanuts." Carter also signed the funding in 1980 that allowed less than $50 million a year to go to the mujahedin. After Mr. Reagan came to office, all this changed. Aid to the Afghan resistance—and to Pakistan—increased substantially.

Then, in 1981, the Reagan Administration sent the first of forty F-16 jet fighters to the Pakistanis. ("It was the magic weapons coming to save Pakistan," recalls one U.S. official.) But the Soviets kept control of the Afghan skies until the mujahedin received the Stinger missile two years ago. From that moment on, the mujahedin's strategic position steadily improved.

Accordingly, the Soviets declared a policy of national reconciliation. In January they announced that a Soviet withdrawal was no longer linked to the makeup of the Afghan government remaining behind.

Although most U.S. officials are convinced that the Soviets have been defeated in Afghanistan, Zia took a far more skeptical approach. "The Soviet Union, unlike America," he told me, "will not just leave and say, 'Thank you very much. We have had enough.' * * * The game of the Soviet Union is to ensure a friendly Afghanistan * * *"

Pointing to a map, Zia explained, "They've blocked China on the East. They've encircled Iran. They are two hundred miles from the warm waters. They're sitting practically on the mouth of [the Strait of] Hormuz. Why should they give up?"

Zia had wanted to create an interim coalition government—made up 80 per cent of *mujahedin*—in place of the Soviet puppet, Najibullah, to sign the Geneva accords with Pakistan. Indeed, he told me, he was not prepared to sign the Geneva accords with Najibullah: "How can the government of Pakistan sign the accord with the man of the Soviet Union who is responsible for killing so many?" The State Department (which loves agreements) wanted Pakistan to sign, but, on February 29, Congress took Zia's side.

Meanwhile, Pakistani Prime Minister Mohammed Khan Junejo and the cabinet panicked under Soviet pressure and wanted to sign without provisions for frontloading or simultaneous cutoff. Early in March, there was a cabinet meeting. President Zia entered the room and informed the ministers that he personally would lynch every one of them if they signed what he considered to be an unsatisfactory accord.

And, at least in the short run, Zia's firmness paid off. Provisions for symmetry were added to the document—the U.S. would continue to arm the *mujahedin* as long as the Soviets aided the regime in Kabul. However, Zia failed to get an official declaration of a boundary between Afghanistan and Pakistan—a key Pakistani demand, because Afghanistan has long-stated claims on Pakistani territory.

The question of overriding importance for Pakistan now is: Will the Soviets really pull out of Afghanistan? Will the three and a half million refugees be able to return home? One Pakistani politician recently confided her fear that the Soviets will keep the north of Afghanistan and turn the south into Pushtunistan. If this happens, then the Pushtuns in the Northwest Frontier Province of Pakistan will try to defect and join their brothers across the border, and the northern province of Pakistan will become the equivalent of Ireland or Lebanon.

Just before I left him, President Zia spoke of the courage of the Pakistani people in enduring the Soviet-orchestrated bombing campaign that has been under way in that country since the early Eighties. "What they have not won on the battlefield, they want to win through sabotage and bomb blasts. They won't win, but they can make life difficult."

Surely Zia never imagined that he, along with much of his army command and the U.S. ambassador, would be—or so it now appears—victims of the Soviet-directed bombing campaign. (There is a strong suspicion that the bomb was hidden in a crate of mangoes, given as a present to Zia.)

Have the Soviets decided that the U.S., lulled by Gorbachev's *glasnost*, will not respond?

POP THE USIA BALLOON

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. DORGAN of North Dakota. Mr. Speaker, one thing the Congress must do next year is to zero out the U.S. Information Agency experiment to launch "TV Marti."

Despite objections from the entire broadcast community in North America—United States, Canadian, and Mexican, Congress has slapped on a $7 million test kitty to broadcast TV Marti to Cuba. The broadcasters have rightly questioned whether this new venture will interfere with existing broadcasting, courtesy of a Commerce Department program.

Even worse, the USIA admits that there is a likely possibility of jamming by the Castro government as a predictable response. This, from Deputy Director of USIA Robert Barry.

Given these uncertainties, I would urge my fellow Members to take a real hard look at funding the actual implementation of TV Marti. While we all support freedom of information for the people of Cuba, TV Marti is a costly and uncertain way to proceed and, absent convincing evidence to the contrary, we ought to scrub this project on the next round at the launch pad. I think the taxpayers deserve better.

For the benefit of my colleagues, I include for the RECORD a Washington Post article of September 29, 1988, discussing this controversy.

[From the Washington Post, Sept. 29, 1988]

TV MARTI: A HIGH-FLYING PROPAGANDA PLAN

(By Bill McAllister)

Congress this week told the U.S. Information Agency to go fly a kite.

Or, more specifically, a "tethered aerostat."

That device, a cross between a small blimp and a large balloon, is to be the broadcast antenna for a television signal that the USIA will aim at Cuba in a 90-day test of whether video propaganda can have any impact on the communist-led island.

Under a House-Senate conference report approved this week, USIA was directed to spend $7.5 million on the controversial test. American, Canadian and Mexican broadcasters have opposed the project, dubbed TV Marti, fearing that Cuban President Fidel Castro may attempt to jam commercial broadcasting in the region in retaliation.

Robert L. Barry, a deputy director of the Voice of America, which will oversee the project, said yesterday that while "jamming is always a possibility, it shouldn't be an overriding concern at this point."

Barry said his more immediate worry is that President Reagan may veto the bill because it provides $308 million for legal services for the poor, more than the administration requested, and lacks restrictions that conservatives insisted are needed to keep lawyers from using the program for political objectives.

"We certainly have had reservations about that, but we'll have to review the bill in final form," White House spokesman Marlin Fitzwater said yesterday.

Sen. Ernest F. Hollings (D-S.C.) defended the TV project yesterday, saying, "Everyone knows the effectiveness of television.

"TV Marti will bring balanced, objective news and information, as well as entertainment, to the people of Cuba," he said. "We want to accelerate the free flow of information to our friends in Cuba. We want to send the message of democracy to everyone in Cuba."

Despite efforts to reassure them that the experiment poses little danger, broadcasters from the three countries this week reaffirmed their "strong concern" during a meeting in Mexico City, according to a spokeswoman for the National Association of Broadcasters.

"We did get a couple of nuggets," said Susan Kraus, citing the language authorizing the test. She said the NAB is happy that Congress directed VOA to report back on any start-up problems and to secure additional authorization before any broadcasts beyond the 90-day test period. "That means we get another chance to go at it."

"Before you can get around to floating any trial balloons," Barry said, VOA needs more engineering tests to determine how to configure the aerostat-suspended antenna.

Under the authorizing legislation, the aerostat would be located at Cudjoy Key Air Force Base in the Florida Keys, where such balloons are currently used to monitor air traffic.

Plans for the TV operation include Spanish-language news, public affairs and entertainment programming that could be received by Soviet-made sets used in Cuba.

COLUMBUS DAY: REDISCOVERING THE SPIRIT OF AMERICA

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. RODINO. Mr. Speaker, next week, millions of Americans all over the Nation will join together to celebrate Columbus Day. In doing so, we commemorate the 496th anniversary of the discovery of America by Christopher Columbus.

It is appropriate that we honor Columbus, a man of courage and deep conviction in the validity of his cause. What he undertook and accomplished against unimaginable odds was no mere accident. Columbus had an indomitable will and a vision to achieve what so many considered impossible and to reach out beyond the boundaries of geography and ideas. His horizon was the future and by setting his sights on this goal, he changed the course of history.

But Columbus Day is much more than the rememberance of a day in history. We not only honor the man who is rightly called the father of immigration, but all those who came after him to discover America themselves. Although I share with my fellow Americans of Italian heritage that special pride in the achievement of the navigator from Genoa, Columbus Day is a time for Americans of all ethnic backgrounds to rejoice in the diversity of our country and to appreciate the fact that we are truly a nation of immigrants.

Columbus day is also an occasion for the Nation to pay homage to the cause and challenge of discovery, invention, and exploration. It is a time for all of us to rediscover America ourselves. It is an opportunity to reaffirm our faith in the future and our willingness to face the unknown with courage and confidence.

Finally, Columbus Day is a time to rededicate ourselves to the spirit of Columbus—reaching out to new horizons. Just as Columbus first reached out from the Old World to the New, we have continued this unselfish commitment to search for ways to improve the quality of life, to eliminate inequities, and to discover in science the key to a better tomorrow. Beyond our own frontiers, America reaches out to others throughout this world and carries on the prioneering spirit of Columbus as we seek to explore the mysteries and wonders of space.

Columbus Day reminds all of us what can be done, what can be accomplished, if we guide ourselves by the same great ideas and principles that brought Christopher Columbus through that long and lonely voyage into an unknown world. In reaching out to new places, he opened the mind to new vistas, to new hopes, and to new challenges. As we salute the memory of this great man, let us remember that we are inspired, not just on this day, but every day, by the discovery and rediscovery of the spirit of Columbus which is the spirit of America.

Mr. Speaker, when I came to the Congress in 1949, one of my first initiatives was to introduce legislation to authorize national holiday status for Columbus Day. Now, as I near the end of my congressional career, I feel a great sense of pride that we succeeded in making this long-sought dream a reality and that we have provided the foundation, through the creation of the Christopher Columbus Quincentenary Jubilee Commission, for a worldwide celebration of the 500th anniversary of Columbus' voyage in 1992.

Few Americans have worked harder to keep alive the spirit of Columbus Day than my dear friend Ace Alagna who is the publisher of the Italian Tribune News in New Jersey and the sponsor of the Annual Columbus Day Celebration and Parade in Newark. It is Ace's enthusiasm that serves as the guiding force behind the detailed preparations for these outstanding activities. His diligence and commitment guarantee that each year's festivities are even more enjoyable and meaningful than the last.

Once again, I look forward to joining Ace at this year's celebration, the 18th annual, which will take place on Sunday, October 9. The Columbus Day festivities begin with a wreath-laying ceremony at the Christopher Columbus Monument and this will be followed by a very special parade along Bloomfield Avenue. Leading the parade will be Grand Marshal Jerry Vale, the great singer and recording artist. Through his many public performances, television appearances, and records, Jerry Vale has entertained and brought joy to millions of Americans with his unique style and beautiful voice.

As a fitting end to the day's activities, the Italian Tribune will host its annual Columbus Day awards evening to honor the achievements of some very special individuals. This year's honorees are the Honorable John P. Renna, who will be cited as "Man of the Year," and Helen F. Boehm, who will receive the "Columbus Award."

Mr. Speaker, I want to salute Ace Alagna and join in congratulating this year's honorees. These outstanding individuals demonstrate that the true spirit of Christopher Columbus continues to serve as an inspiration to us all as we seek new horizons and new discoveries.

SOME THOUGHTS ON AIRLINE DEREGULATION AND MODERNIZATION BY STEPHEN M. WOLF, UNITED AIRLINES CHAIR- MAN, PRESIDENT, AND CEO

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. ANDERSON. Mr. Speaker, while on my weekly flight back from the west coast yesterday aboard United Airlines, I was fortunate to read an outstanding editorial by its chairman, president, and CEO, Stephen M. Wolf, on the success of airline deregulation and the need to modernize our aviation system.

Mr. Wolf's editorial, which appears in the October issue of VIS à VIS, the magazine of United Airlines, conveys his strong and personal commitment to airline deregulation and its favorable impact on the consumer. Equally as important, however, Mr. Wolf also discusses his deep concern on the need for the 101st Congress and the next administration to modernize our aviation system.

Although my views parallel Mr. Wolf's on both of these important issues, I want to make special note of United Airlines' participation in the Partnership for Improved Air Travel. According to Mr. Wolf, this broad-based coalition "seeks to rally grassroots support for upgrading the air traffic control system." He also calls upon the traveling public to help in this effort by "letting your voice be heard at the ballot box and through contact with elected representatives." I couldn't agree more.

I commend Mr. Wolf on an excellent editorial and include it in the RECORD.

EDITORIAL OPINION BY STEPHEN M. WOLF

Anniversaries can be both pleasant and useful occasions. We look backward and see much that was good. "We look forward and see much promise." So said former Secretary of State John Foster Dulles years ago in observing the October 24 anniversary of the United Nations charter.

This October 24, the words of Dulles, for whom Washington Dulles Airport is named, still ring true as we mark the 10th anniversary of another charter, of sorts: the Airline Deregulation Act of 1978, an "instant evolution" in our industry that has both been criticized as disastrous and praised as the best kind of reform. One thing is certain: Deregulation has changed the way Americans travel.

In fact, more people are flocking to the nation's airports today than ever before. The reason is simple: It is possible for anyone to fly more places, often at less cost.

According to the Federal Trade Commission, air fares have dropped by 25 percent in the decade since deregulation. Prior to 1978, only 15 percent of air travelers paid less than full fare to fly. Today, 9 of every 10 U.S. passengers fly on fares averaging discounts of 60 percent. The bottom line: $100 billion in consumer savings.

While air fares and routes were deregulated, safety was not. In the last 10 years, the rate of fatal commercial air accidents has declined by 50 percent compared to the decade prior to deregulation.

Still, all this success has had a price—namely, that demand for air transportation is rapidly outstripping the size of the aviation system and its ability to provide efficient, predictable service to the public. Consider these facts:

In 1977, there were 6.5 million commercial flights in the U.S. Last year, the industry tallied over 10 million—a 56 percent increase.

In 1977, U.S. commercial airlines carried 243 million passengers. Ten years later, that number had nearly doubled to 468 million passengers—with 745 million projected by 1997.

In 1986, the Federal Aviation Administration labeled 16 commercial U.S. airports as "seriously congested." By the year 2000, that number is expected to hit 58.

Next month, Americans will go to the polls to elect a new president and representatives of the 101st Congress. Clearly, modernizing our aviation system must be a top priority for any new administration, regardless of whether it is Republican or Democratic. We as a nation simply cannot afford to ignore the urgency of this problem.

It is esimtated that the airline industry pumps $237 billion into the U.S. economy each year. It is a powerful force for creating jobs and keeping our economy strong. More important, it plays a crucial role in America's global competitiveness.

Unless we act, the gains after 10 years of airline competition could be jeopardized. We must keep pace with rapid growth and change so that we can continue to compete effectively in a global economy and enjoy the world's most advanced air transportation system.

United Airlines is part of a broad-based coalition called Partnership for Improved Air Travel, which seeks to rally grass-roots support for upgrading the air traffic control system. But each of you can help, too, by letting your voice be heard at the ballot box and through contact with elected representatives.

It has been said that there are two ways to reach the top of a giant oak tree: One is to climb it; the other is to sit on an acorn. In modernizing the aviation system, I suggest we've been sitting too long. It is time to start climbing.

CHARLOTTE TIEMSTRA: SPECIAL CONTRIBUTION TO THE DAIRY INDUSTRY

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. LEWIS of California. Mr. Speaker, I am here today to recognize Charlotte Tiemstra, who on October 6, 1988, will be honored for her special contribution to the dairy industry.

Charlotte came to California in 1947 from Holland and worked for the John Hilarides Family Dairy. She married Joe Tiemstra in 1949 and they later established their own dairy in Corona before moving to Chino in 1969.

I would like to commend Charlotte for her support of the dairy industry throughout the years, for which she contributed a great amount of time and effort. She was a 12-year member of the San River Dairybelles Organization, where she served as president from 1978–80. Not only has she demonstrated her leadership ability but her active participation touches many areas. She was not only publicity chairman for the Dairybelles Organization but food committee chairman for their golf tournament. Furthermore, she was an 8-year member of the dairy committee, assisting with the annual dairy tour and dairy dinner. She spent 8 years working at the dairy industry promotional booth at the Los Angeles County Fair and delivered meals twice a month for 6 years for Meals on Wheels. She is active with the election board, and hosts a large number of foreign visitors at her home each year, which to me personifies true American hospitality.

Mr. Speaker, please join me here today, to pay tribute to Charlotte Tiemstra for her hearty dedication to the dairy industry and her surrounding community.

OLYMPIC HEROES DESERVE RECOGNITION

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. GALLO. Mr. Speaker, now that the games of the 24th Olympiad are history, we should pause to reflect upon the accomplishments of our young men and women whose athletic abilities and dedication to hard work earned all of them places of honor as members of the 1988 U.S. Olympic team.

I am particularly proud of those team members who are my constituents in the 11th Congressional District of New Jersey.

Among the medalists in Seoul is Livingston, NJ, native Chris Jacobs, a member of the gold medal 400 meter relay team and a silver medalist in the 100 meter freestyle.

Chris and his teammates finished the 400 meter race in 3:16.53, breaking the world record of 3:17.08 set by Americans in 1985 world competition. As the silver medalist in the 100 meter, Chris broke an Olympic record in the qualifying round, finishing in 49.20, 0.60 faster than Rowdy Gaines in 1984.

The hallmark of the Olympics is teamwork and Chris deserves special recognition for his team spirit, praising his teammate Matt Biondi, the world record holder in the 100 meter.

The true spirit of the Olympics derives from the fact that all of the talented athletes chosen to go to Seoul are winners from start to finish.

I am equally proud of all of my constituents who are members of the 1988 U.S. Olympic team.

Patrick Jeffrey from Madison, NJ, qualified for the 10-meter platform diving competition by finishing second to 1984 gold medalist Greg Louganis in Indianapolis last August. We can expect to hear much more from Patrick in the years to come.

Joetta Clark from South Orange, NJ, a member of the U.S. women's track team, is the source of a great deal of pride and hope for the future. Her talent will take her far in the years to come and her dedication to excellence will serve as a role model for all young people who strive to be the best.

Bob Cottingham from South Orange, NJ, a member of the U.S. fencing team, has applied his coordination and skill to develop this most difficult skill.

Because I was directly involved in efforts to cut redtape that was making it difficult for the U.S. equestrian team to send two of its dressage horses to Seoul, I take equal pride in the spirit of competition that has earned the United States a reputation for excellence in world equestrian competition.

On behalf of my constituents in New Jersey's 11th Congressional District, I urge my colleagues in the House to share my feelings of New Jersey pride for all of the young men and women who were privileged to be selected to represent the people of the United States of America at the summer games in Seoul.

H.R. 3133, TRAUMA CARE AND EMERGENCY MEDICAL SERVICES PLANNING AND DEVELOPMENT ACT OF 1988

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. WALGREN. Mr. Speaker, I am pleased that the House, on September 29, approved H.R. 3133, the Trauma Care and Emergency Medical Services Planning and Development Act of 1988. This bill would provide assistance to States to develop and implement organized systems of trauma care for seriously injured victims. Why is this bill necessary? Because, unfortunately, automobile accidents and violent crimes do occur. It has been estimated that 350 trauma care facilities are needed nationwide, but only 50 presently exist.

Trauma is the third leading cause of death to individuals in the United States. More specifically, it is the leading cause of death for Americans between the ages of 1 and 44. Each year 140,000 persons die and 80,000 become permanently disabled from injuries. Half of the victims do not live to see an emergency room, and of those who do, 1 in 5 die because they do not receive appropriate treatment. Thirty to forty percent of the deaths from trauma occur within hours after an injury, usually from shock, internal bleeding, or damage to other organs. These deaths are unnecessary and preventable.

The House-passed bill includes three major provisions. It would establish a National Center for the Study of Trauma within the Department of Health and Human Services to conduct and support research, training, evaluation, and demonstration of projects in trauma care and EMS. It also would establish a National Clearinghouse on Trauma Care and EMS to collect, compile, and disseminate information on developments in trauma care and EMS. And it would provide grants to States to develop, implement, and monitor the provision of comprehensive trauma care and EMS. States applying for assistance would be required to submit a State plan.

There are several reasons to support the Trauma Care and Emergency Services Act.

First, a sophisticated regional trauma care system—in conjunction with improvements in EMS communications systems—can help reduce needless loss of lives and economic costs. In the past decade, the costs have averaged $100 billion a year. By implementing more effective immediate care, long-term complications, and inhospital stays can be reduced.

Secondly, it addressed a serious national problem while allowing the States to plan and carry out legislation and build on State accomplishments to date.

I hope the Senate will promptly act on H.R. 3133, Trauma Care and Emergency Medical Services Planning and Development Act of 1988.

J. ALVIN MUSSER: OUTSTANDING DAIRYMAN OF 1988

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. LEWIS of California. Mr. Speaker, I rise today to recognize a truly special man, J. Alvin "Al" Musser, a dedicated businessman and citizen in his community. He will be honored, on October 6, 1988, by the Chino Valley Chamber of Commerce and the dairy committee, as "Outstanding Dairyman of 1988."

Mr. Musser was brought into the dairy business in 1924, when his family moved from Idaho to California and bought what is now the Shady Grove Dairy. Al's leadership within the dairy industry began in 1945, when he was elected to serve on the board of the dairy department of the Farm Bureau, where he faithfully served until 1984. In addition to that commitment, he served 36 years on the county Farm Bureau board, and 6 of 12 years as chairman of the State Dairy Herd Improvement Association.

In San Bernardino County, Al served for 14 years on the flood control board for district 1, and as chairman of the county Farm Bureau board, district 2, for 8 years. During this time, Al was instrumental in getting the agricultural preserve established in San Bernardino County.

Although J. Alvin Musser's professional involvement in the San Bernardino County area merits great recognition, we must not hesitate to commend his humanitarian achievements and contributions within the local community. Al served on the Chino Junior Fair Board and played a significant role in selling the surplus property in order to finance the building of Brinderson Hall as well as other fairground improvements. He served on the board of trustees for both the Upland Brethren in Christ Church and Western Christian Schools. He donated his time, efforts, and livestock to the needy of the Brethren in Christ Navajo Mission in New Mexico.

J. Alvin Musser is a genuinely worthy recipient of the "Outstanding Dairyman award of 1988." I must say, however, and I think Al would agree, that little of his efforts on behalf of the dairy industry and his local community would have been made possible without the support of Hope, his wife of 42 years, and their nine children, Richard, Elizabeth, Marilyn, Marjorie, Gordon, Grace, Michael, Ruth, and Timothy.

Mr. Speaker, I ask that you join me in saluting J. Alvin Musser. He is a fine example of a man who deserves a tremendous amount of commendation for his admirable professional and personal achievements. It is with great respect that I pay tribute to him today.

DEFENSE APPROPRIATIONS AND CONTRA AID

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. DORGAN. Mr. Speaker, when the House considered the Defense appropriations bill on June 21, 1988, I voted in favor of the measure. The Defense appropriations was consistent with the budget summit agreement and I believed that many of the bill's basic provisions were sound, including the arms control provision. Although Congress still needs to ensure that the Pentagon goes ahead with procurement reform and other cost saving measures, the House version of the Defense appropriations bill was a measure that I could support.

As a result of a Senate amendment, a provision for $27 million of so-called non-lethal aid to the Contras was included in the conference report. What I find particularly objectionable about this provision is that the amendment does not provide an equivalent amount of humanitarian assistance for the civilian victims of the war in Nicaragua.

Earlier in the year when the House wisely included equivalent amounts of humanitarian assistance for the civilian victims of the Nicaraguan war as well as for the Contras, I supported the bill. The conference report fails to include the complementary provision that would aid civilian victims of the Nicaraguan war.

Consequently, I am constrained to vote against the conference report because of the provision granting aid to the Contras.

SUSTAINING THE PRESIDENT'S VETO OF PROTECTIONIST TEXTILE LEGISLATION

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. BEREUTER. Mr. Speaker, this week we will vote on whether to sustain or override the President's veto of H.R. 1154, the Textile and Apparel Trade Act.

Before Members vote again on this controversial and protectionist piece of legislation, I would ask them to consider an editorial which appeared in the Washington Post on Saturday, October 1, 1988. The editorial observes that there are three very obvious reasons why the textile bill is bad legislation:

One, "Protectionism is a tax which everybody pay to benefit a few."

Two, the clothing and textile industry is already "one of the most highly protected sectors of the American economy."

Third, to enforce the protectionist quotas in this bill would "require a worldwide cartel."

In its political conclusion, the Post correctly notes the hypocrisy of the Democrats in continuing to politicize this issue. Despite the Democrats "huffing and puffing" about the administration's alleged failures to enforce U.S. antitrust laws, it is the Democrats "who now want to cartelize one of the largest and most competitive industries in the world . . . and who is voting to make the American buyer pay the bill."

[From the Washington Post, Oct. 1, 1988]

VETOED

If ever a bill deserved a veto, it was the textile bill that Mr. Reagan vetoed this week. Its purpose was simple: to protect the American textile and clothing industries by restricting imports and pushing up costs to consumers.

Some of the Democrats are muttering darkly about turning the veto into a campaign issue. It's proof, they say, of Mr. Reagan's callous disregard of working people. Which working people? The bill would preserve, temporily, some people's jobs in the textile industry. But the cost in dollars would be high, and it would fall directly on other working people as they bought clothes, sheets, curtains and all the rest. Protectionism is a tax that everybody pay to benefit a few.

Clothing and textiles is already one of the most highly protected sectors of the American economy. The restraints in its favor began more than 30 years ago with an agreement limiting imports of cotton cloth from Japan. Then cotton began coming in from other countries, and the government, pressed by the textile companies' lobbyists and their senators, diligently negotiated agreements with them all, one by one. As other types of textiles began turning up at American ports, each in turn was similarly restrained by further agreements. Then the system was extended to clothing, item by item. But unlike other American industries, this one still hasn't found a way to compete with low-wage countries abroad. With the constant introduction of new products not covered by the agreements, and legal quarrels over definitions, imports keep rising.

In this bill, Congress voted for a radical solution. It would have trashed all the agreements and instead set an overall rule restricting textile and clothing imports to their present proportion of the American market.

To do that—to regulate the flow of thousands of different items from some 40 countries so that the total value adds up to a certain figure at the end of the year—can't be done by conventional protectionist quotas. It requires a worldwide cartel. That means an annual meeting at which people sit around a table and allocate market shares by country and by company regardless of competitiveness—prices and quality.

The Democrats have been doing a lot of huffing and puffing about the administration's alleged failures to enforce the antitrust laws here in the United States. But who is it who now wants to cartelize one of the largest and most competitive industries worldwide? And who is it who is voting to make the American buyer pay the bill?

TRIBUTE TO MATTHEW CLARKE

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. ATKINS. Mr. Speaker, I rise today to pay tribute to Matthew Clarke, who is retiring after 13 years of dedicated service as executive secretary for the town of Framingham.

Matthew graduated from St. Lawrence University in 1950 with a Bachelor of Science degree in mathematics. In that year he moved to Framingham to begin a 25 year career with the Dennison Manufacturing Co. During that time he served his community by sitting on the finance committee for 20 years.

During his tenure as executive secretary, Matthew presided over Farmingham's transition from a rural community to a populous western suburb of Boston. To accommodate this rapid growth, he skillfully negotiated the construction of Route 30 which has played a vital role in the economic development of Framingham.

Through his extraordinary talents, perseverance, and dedication to his job, Matthew has made an unforgettable impact on the Framingham community. Under his leadership, Framingham was one of the fastest growing communities in America. Therefore, it is with a certain amount of regret that I wish a fond farewell to such a respected and able member of Framingham. He will be sincerely missed.

I joint Matthew's wife Jan, their two daughters, Lisa and Valerie, their five grandchildren and friends in congratulating him on his well earned retirement. It is now that he can devote his undivided attention on the game he loves so dearly, golf.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, October 4, 1988, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 5

9:30 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to review current food prices in the United States.

SR-332

Foreign Relations
Terrorism, narcotics and International Operations Subcommittee
To resume closed hearings to review international drug control programs, focusing on law enforcement and foreign policy issues.
S-116, Capitol

10:00 a.m.
Budget
To hold hearings on the savings and loan industry.
SD-608

Governmental Affairs
To hold hearings on S. 2721, Federal Advisory Committee Act Amendments of 1988.
SD-342

Special on Aging
To hold hearings on cost-of-living adjustments and the consumer price index (CPI).
SD-628

10:15 a.m.
Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
To hold hearings to review the new production reactor acquisition strategy.
SR-222

3:00 p.m.
Judiciary
To hold hearings on provisions of H.R. 3763, Foreign Sovereign Immunities Act Amendments (pending on Senate Calendar).
SD-226

OCTOBER 6

9:00 a.m.
Armed Services
To hold hearings on the restructuring of the Strategic Defense Initiative (SDI) program.
SH-216

10:00 a.m.
Foreign Relations
To hold hearings on test ban issues.
SD-419

Judiciary
Business meeting, to consider pending calendar business.
SD-226

2:00 p.m.
Labor and Human Resources
Labor Subcommittee
Business meeting, to mark up S. 1346, to exempt employers engaged primarily in the performing arts from certain unfair labor practice prohibitions relating to specified types of agreements with labor organizations.
SD-430

OCTOBER 7

9:30 a.m.
Joint Economic
To hold hearings on employment and unemployment statistics for September.
SD-628

10:00 a.m.
Foreign Relations
To hold hearings on S. 2776, to prohibit exports of military equipment to countries supporting international terrorism.
SD-419

OCTOBER 12

9:30 a.m.
Select on Indian Affairs
To hold hearings on S. 1142, to provide Federal recognition of the Mowa Band of Choctaw Indians of Alabama.
SR-485

STANDING COMMITTEES OF THE HOUSE

Committee on Agriculture

Messrs. de la Garza (chairman), Jones of North Carolina, Jones of Tennessee, Brown of California, Rose, English, Panetta, Huckaby, Glickman, Coelho, Stenholm, Volkmer, Hatcher, Tallon, Staggers, Olin, Penny, Stallings, Nagle, Jontz, Johnson of South Dakota, Harris, Campbell, Espy, Lancaster, ——, Madigan, Jeffords, Coleman of Missouri, Marlenee, Hopkins, Stangeland, Roberts, Emerson, Morrison of Washington, Gunderson, Lewis of Florida, Robert F. Smith, Combest, Schuette, Grandy, Herger, and Holloway.

Committee on Appropriations

Messrs. Whitten (chairman), Boland, Natcher, Smith of Iowa, Yates, Obey, Roybal, Stokes, Bevill, Chappell, Alexander, Murtha, Traxler, Early, Wilson, Mrs. Boggs, Messrs. Dicks, McHugh, Lehman of Florida, Sabo, Dixon, Fazio, Hefner, AuCoin, Akaka, Watkins, Gray of Pennsylvania, Dwyer of New Jersey, Hoyer, Carr, Mrazek, Durbin, Coleman of Texas, Mollohan, Thomas of Georgia, Conte, McDade, Myers of Indiana, Miller of Ohio, Coughlin, Young of Florida, Kemp, Regula, Mrs. Smith of Nebraska, Messrs. Pursell, Edwards of Oklahoma, Livingston, Green, Lewis of California, Porter, Rogers, Skeen, Wolf, Lowery of California, Weber, DeLay, and Kolbe.

Committee on Armed Services

Messrs. Aspin (chairman), Bennett, Stratton, Nichols, Montgomery, Dellums, Mmes. Schroeder, Byron, Messrs. Mavroules, Hutto, Skelton, Leath of Texas, McCurdy, Foglietta, Dyson, Hertel, Mrs. Lloyd, Messrs. Sisisky, Ray, Spratt, McCloskey, Ortiz, Darden, Robinson, Bustamante, Mrs. Boxer, Messrs. Hochbrueckner, Brennan, Pickett, Lancaster, ——, Dickinson, Spence, Badham, Stump, Courter, Hopkins, Davis of Michigan, Hunter, Martin of New York, Kasich, Mrs. Martin of Illinois, Messrs. Bateman, Sweeney, Blaz, Ireland, Hansen, Rowland of Connecticut, Weldon, Kyl, Ravenel, and Davis of Illinois.

Committee on Banking, Finance and Urban Affairs

Messrs. St Germain (chairman), Gonzalez, Annunzio, Fauntroy, Neal, Hubbard, LaFalce, Ms. Oakar, Messrs. Vento, Barnard, Garcia, Schumer, Frank, Lehman of California, Morrison of Connecticut, Ms. Kaptur, Messrs. Erdreich, Carper, Torres, Kleczka, Nelson of Florida, Kanjorski, Manton, Mrs. Patterson, Messrs. McMillen of Maryland, Kennedy, Flake, Mfume, Price, Ms. Pelosi, ——, Messrs. Wylie, Leach of Iowa, Shumway, Parris, McCollum, Wortley, Mrs. Roukema, Messrs. Bereuter, Dreier of California, Hiler, Ridge, Bartlett, Roth, McCandless, McMillan of North Carolina, Saxton, Swindall, Mrs. Saiki, Messrs. Bunning, and DioGuardi.

Committee on the Budget

Messrs. Gray of Pennsylvania (chairman), Foley, Lowry of Washington, Derrick, Miller of California, Williams, Wolpe, Frost, Fazio, Russo, Jenkins, Leath of Texas, Schumer, Mrs. Boxer, Messrs. MacKay, Slattery, Atkins, Oberstar, Guarini, Durbin, Espy, Latta, Gradison, Mack, Goodling, Denny Smith, Boulter, Edwards of Oklahoma, Thomas of California, Rogers, Sundquist, Mrs. Johnson of Connecticut, Messrs. Armey, Buechner, and Houghton.

Committee on the District of Columbia

Messrs. Dellums (chairman), Fauntroy, Mazzoli, Stark, Gray of Pennsylvania, Dymally, Wheat, Morrison of Connecticut, Parris, Bliley, Combest, and Mrs. Martin of Illinois.

Committee on Education and Labor

Messrs. Hawkins (chairman), Ford of Michigan, Gaydos, Clay, Biaggi, Murphy, Kildee, Williams, Martinez, Owens of New York, Hayes of Illinois, Perkins, Sawyer, Solarz, Wise, Penny, Richardson, Robinson, Visclosky, Atkins, Jontz, Jeffords, Goodling, Coleman of Missouri, Petri, Mrs. Roukema, Messrs. Gunderson, Bartlett, Tauke, Armey, Fawell, Henry, Grandy, and Ballenger.

Committee on Energy and Commerce

Messrs. Dingell (chairman), Scheuer, Waxman, Sharp, Florio, Markey, Thomas A. Luken, Walgren, Swift, Leland, Mrs. Collins, Messrs. Synar, Tauzin, Wyden, Hall of Texas, Eckart, Dowdy of Mississippi, Richardson, Slattery, Sikorski, Bryant, Bates, Boucher, Cooper, Bruce, Lent, Madigan, Moorhead, Rinaldo, Dannemeyer, Whittaker, Tauke, Ritter, Coats, Bliley, Fields, Oxley, Nielson of Utah, Bilirakis, Schaefer, Barton of Texas, and Callahan.

Committee on Foreign Affairs

Messrs. Fascell (chairman), Hamilton, Yatron, Solarz, Bonker, Studds, Mica, Wolpe, Crockett, Gejdenson, Dymally, Lantos, Kostmayer, Torricelli, Smith of Florida, Berman, Levine of California, Feighan, Weiss, Ackerman, Udall, Atkins, Clarke, Fuster, Bilbray, Owens of Utah, Sunia, Broomfield, Gilman, Lagomarsino, Leach of Iowa, Roth, Ms. Snowe, Messrs. Hyde, Solomon, Bereuter, Dornan of California, Smith of New Jersey, Mack, DeWine, Burton of Indiana, Mrs. Meyers of Kansas, Messrs. Miller of Washington, Donald E. "Buz" Lukens, and Blaz.

Committee on Government Operations

Messrs. Brooks (chairman), Conyers, Mrs. Collins, Messrs. English, Waxman, Weiss, Synar, Neal, Barnard, Frank, Lantos, Wise, Owens of New York, Towns, Spratt, Kolter, Erdreich, Kleczka, Bustamante, Martinez, Sawyer, Ms. Slaughter of New York, Messrs. Grant, Ms. Pelosi, Messrs. Horton, Walker, Clinger, McCandless, Craig, Nielson of Utah, DioGuardi, Lightfoot, Boulter, Donald E. "Buz" Lukens, Houghton, Hastert, Kyl, Inhofe, and Shays.

Committee on House Administration

Messrs. Annunzio (chairman), Gaydos, Jones of Tennessee, Rose, Panetta, Swift, Ms. Oakar, Messrs. Coelho, Bates, Clay, Gejdenson, Kolter, Frenzel, Dickinson, Badham, Gingrich, Thomas of California, Mrs. Vucanovich, and Mr. Roberts.

Committee on Interior and Insular Affairs

Messrs. Udall (chairman), Miller of California, Sharp, Markey, Murphy, Rahall, Vento, Huckaby, Kildee, Coelho, Mrs. Byron, Messrs. de Lugo, Gejdenson, Kostmayer, Lehman of California, Richardson, Sunia, Darden, Visclosky, Fuster, Levine of California, Clarke, Owens of Utah, Lewis of Georgia, Campbell, DeFazio, Young of Alaska, Lujan, Lagomarsino, Marlenee, Cheney, Pashayan, Craig, Denny Smith, Hansen, Emerson, Mrs. Vucanovich, Messrs. Blaz, Rhodes, Gallegly, and Baker.

Committee on the Judiciary

Messrs. Rodino (chairman), Brooks, Kastenmeier, Edwards of California, Conyers, Mazzoli, Hughes, Synar, Mrs. Schroeder, Messrs. Glickman, Frank, Crockett, Schumer, Morrison of Connecticut, Feighan, Smith of Florida, Berman, Boucher, Staggers, Bryant, Cardin, Fish, Moorhead, Hyde, Lungren, Sensenbrenner, McCollum, Shaw, Gekas, DeWine, Dannemeyer, Swindall, Coble, Slaughter of Virginia, and Smith of Texas.

Committee on Merchant Marine and Fisheries

Messrs. Jones of North Carolina (chairman), Biaggi, Anderson, Studds, Hubbard, Bonker, Hughes, Lowry of Washington, Hutto, Tauzin, Foglietta, Hertel of Michigan, Dyson, Lipinski, Borski, Carper, Bosco, Tallon, Ortiz, Bennett, Manton, Pickett, Brennan, Hochbrueckner, Clement, Davis of Michigan, Young of Alaska, Lent, Shumway, Fields, Miss Schneider, Messrs. Bateman, Saxton, Miller of Washington, Mrs. Bentley, Messrs. Coble, Sweeney, Weldon, Mrs. Saiki, Messrs. Herger, Bunning, and Konnyu.

Committee on Post Office and Civil Service

Messrs. Ford of Michigan (chairman), Clay, Mrs. Schroeder, Messrs. Solarz, Garcia, Leland, Yatron, Ms. Oakar, Messrs. Sikorski, McCloskey, Ackerman, Dymally, Udall, de Lugo, Taylor, Gilman, Pashayan, Horton, Myers of Indiana, Young of Alaska, Burton of Indiana, and Mrs. Morella.

Committee on Public Works and Transportation

Messrs. Anderson (chairman), Roe, Mineta, Oberstar, Nowak, Rahall, Applegate, de Lugo, Savage, Sunia, Bosco, Borski, Kolter, Valentine, Towns, Lipinski, Rowland of Georgia, Wise, Gray of Illinois, Visclosky, Traficant, Chapman, Ms. Slaughter of New York, Messrs. Lewis of Georgia, DeFazio, Cardin, Grant, Skaggs, Hayes of Louisiana, Perkins, Clement, ——, Hammerschmidt, Shuster, Stangeland, Gingrich, Clinger, Molinari, Shaw, McEwen, Petri, Sundquist, Mrs. Johnson of Connecticut, Messrs. Packard, Boehlert, Gallo, Mrs. Bentley, Messrs. Lightfoot, Hastert, Inhofe, Ballenger, and Upton.

Committee on Rules

Messrs. Pepper (chairman), Moakley, Derrick, Beilenson, Frost, Bonior, Hall of Ohio, Wheat, Gordon, Quillen, Latta, Lott, and Taylor.

Committee on Science, Space, and Technology

Messrs. Roe (chairman), Brown of California, Scheuer, Mrs. Lloyd, Messrs. Walgren, Glickman, Volkmer, Nelson of Florida, Hall of Texas, McCurdy, Mineta, MacKay, Valentine, Torricelli, Boucher, Bruce, Stallings, Traficant, Chapman, Hamilton, Nowak, Perkins, McMillen of Maryland, Price, Nagle, Hayes of Louisiana, Skaggs, Kanjorski, Hochbrueckner, Lujan, Walker, Sensenbrenner, Miss Schneider, Messrs. Boehlert, Lewis of Florida, Ritter, Morrison of Washington, Packard, Smith of New Hampshire, Henry, Fawell, Slaughter of Virginia, Smith of Texas, Konnyu, Buechner, Hefley, Mrs. Morella, and Mr. Shays.

Committee on Small Business

Messrs. LaFalce (chairman), Smith of Iowa, Gonzalez, Thomas A. Luken, Skelton, Mazzoli, Mavroules, Hatcher, Wyden, Eckart, Savage, Sisisky, Torres, Cooper, Olin, Ray, Hayes of Illinois, Conyers, Bilbray, Mfume, Flake, Lancaster, Campbell, DeFazio, Price, Martinez, ——, McDade, Conte, Broomfield, Ireland, Hiler, Dreier of California, Slaughter of Virginia, Mrs. Meyers of Kansas, Messrs. Gallo, McMillan of North Carolina, Combest, Baker, Rhodes, Hefley, Upton, Gallegly, and Holloway.

Committee on Standards of Official Conduct

Messrs. Dixon (chairman), Fazio, Dwyer of New Jersey, Mollohan, Gaydos, Atkins, Myers of Indiana, Hansen, Pashayan, Petri, Craig, and Brown of Colorado.

Committee on Veterans' Affairs

Messrs. Montgomery (chairman), Edwards of California, Applegate, Mica, Dowdy of Mississippi, Evans, Ms. Kaptur, Messrs. Penny, Staggers, Rowland of Georgia, Bryant, Florio, Gray of Illinois, Kanjorski, Robinson, Stenholm, Harris, Kennedy, Mrs. Patterson, Messrs. Johnson of South Dakota, Jontz, Solomon, Hammerschmidt, Wylie, Stump, McEwen, Smith of New Jersey, Burton of Indiana, Bilirakis, Ridge, Rowland of Connecticut, Dornan of California, Smith of New Hampshire, and Davis of Illinois.

Committee on Ways and Means

Messrs. Rostenkowski (chairman), Gibbons, Pickle, Rangel, Stark, Jacobs, Ford of Tennessee, Jenkins, Gephardt, Downey of New York, Guarini, Russo, Pease, Matsui, Anthony, Flippo, Dorgan of North Dakota, Mrs. Kennelly, Messrs. Donnelly, Coyne, Andrews, Levin of Michigan, Moody, Duncan, Archer, Vander Jagt, Crane, Frenzel, Schulze, Gradison, Thomas of California, McGrath, Daub, Gregg, Brown of Colorado, and Chandler.

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

Washington, DC 20001, Phone 535-3300

Patricia M. Wald, Chief Judge

Circuit Judges

Spottswood W. Robinson III
J. Skelly Wright
Abner J. Mikva
Harry T. Edwards
Ruth Bader Ginsburg
Robert H. Bork
Kenneth W. Starr
Laurence H. Silberman
James L. Buckley
Stephen F. Williams
Douglas Ginsburg
David B. Sentelle

Senior Circuit Judges

David L. Bazelon
Carl McGowan
George E. MacKinnon

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

National Courts Building, 717 Madison Place NW.,
Washington, DC 20439, Phone 633-6550

Howard T. Markey, Chief Judge

Circuit Judges

Daniel M. Friedman
Giles S. Rich
Oscar H. Davis
Edward S. Smith
Helen W. Nies
Pauline Newman
Jean Galloway Bissell
Glenn L. Archer, Jr.
H. Robert Mayer

Senior Circuit Judges

Don L. Laramore
Wilson Cowen
Byron G. Skelton
Philip Nichols, Jr.
Phillip B. Baldwin
Jack R. Miller

UNITED STATES DISTRICT JUDGES

District of Columbia

Washington, DC 20001, Phone 535-3515

Aubrey E. Robinson, Jr., Chief Judge

District Judges

Gerhard A. Gesell
John H. Pratt
Charles R. Richey
Louis F. Oberdorfer
Harold H. Greene
John Garrett Penn
Joyce Hens Green
Norma H. Johnson
Thomas P. Jackson
Thomas F. Hogan
Stanley S. Harris
George H. Revercomb
Stanley Sporkin
Royce C. Lamberth

U.S. COURT OF MILITARY APPEALS

Fifth and E Streets NW.,
Washington, DC 20042, Phone 272-1448

Chief Judge	Robinson O. Everett
Judge	Walter T. Cox III
Judge	Eugene R. Sullivan

SENATE—*Tuesday, October 4, 1988*

(Legislative day of Monday, September 26, 1988)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore, the Honorable JOHN BREAUX, a Senator from the State of Louisiana.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

The Heavens declare the glory of God; and the firmament sheweth his handiwork.—Psalm 19:1.

Gracious God, our loving Heavenly Father, Your Word admonishes, "In everything give thanks * * *" and we have much for which to be thankful. Thank Thee for the successful mission of *Discovery* and for the safe return of the astronauts yesterday.

Lord of Heaven and Earth, Who "* * * hath made of one blood all nations of men for to dwell on all the face of the Earth * * *."—Acts 17:26. Thank Thee for the success of the Olympics in Korea, for its demonstration of the beauty and strength of unity in diversity. Thank Thee that it was not disrupted by any acts of terrorism or violence. Give us the grace to live at peace with one another, in our homes, at work, throughout our days. In the name of the Prince of Peace. Amen.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

Mr. BYRD. I thank the Chair.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, the Senate is operating under cloture now. I ask how many hours have been used from the 30.

The ACTING PRESIDENT pro tempore. The Chair states to the majority leader that 10 hours and 36 minutes have been used.

Mr. BYRD. I thank the Chair.

Mr. President, I will not ask for a period for morning business. Senators who wish to speak out of order may do so simply by asking unanimous consent to do so.

Under cloture, Senators should speak on the subject matter that has been clotured and have their speeches germane and relevant thereto. But if they ask unanimous consent to speak out of order, they may speak on any subject they wish. The time will run against the 30 hours.

I yield the floor, but I ask unanimous consent that Mr. DOLE have his time reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, I ask unanimous consent that I may be allowed to speak out of order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ATMOSPHERIC CONTAMINATION—XVI

Mr. STAFFORD. Mr. President, this is the final, or 16th, of the short talks on atmospheric contamination that the Senator from Vermont has been delivering over the last 2 weeks. There will be one more summary of what I have said, before the week is out.

Mr. President, if we can agree that the solution to the depletion of our atmospheric ozone layer is obvious—the banning of chlorofluorocarbons; we know them as freon—then the solutions to acid rain, ground level ozone and global climate change are just as plain—the elimination of air pollution.

This goal cannot be accomplished in this century, of course, and probably not in the next. But, there is certainly no reason why we should not direct our efforts toward the smokeless use of coal, oil, and gas.

In the meantime, there are objectives that are less ambitious and more achievable in the short term.

About 75 percent of the carbon dioxide emitted in the United States comes from electric powerplants, motor vehicles, and homes. Those same sources also are responsible for most of the other air pollutants—sulfur dioxide, oxides of nitrogen, and carbon monoxide.

Vast amounts of each of these pollutants could be eliminated by simply increasing the efficiency of the polluting sources.

Powerplants in the United States operate at about 28 percent efficiency at present. New units in this country achieve 38 percent efficiency, while the Japanese claim 43 percent efficiency.

Simply replacing old units with new ones would reduce each air pollutant released from a powerplant by between 30 and 50 percent.

Even greater gains can be made in automobiles.

Cars in this country get about 24 miles on a gallon of gasoline. Volvo has a prototype family sedan that gets 60 miles to a gallon. Toyota has a car about the size of its Corolla model that gets 98 miles on a gallon of gasoline. And, these are real-world autos.

Efficiencies of equal magnitude are available in home furnaces, air conditioners, and hot water heaters. Models now commercially available are between 50 and 100 percent more efficient.

As matters stand now, this Nation wastes between 50 and 75 percent of the coal, oil or gas we burn in our furnaces, automobiles, and homes. That waste adds to our air pollution problems, and is unnecessary today. For the future, we can do even better.

Scientists tell us that powerplant efficiencies of 75 percent are not out of reach. They describe technologies that convert coal into elemental carbon and hydrogen, which would allow one to be buried and the other to be burned.

For those who argue the cost of these new efficiences is too great, the answer is that our present inefficiencies are costing us money by raising the prices of our products. And, of course, we are poisoning ourselves, our environment and our future by dumping unburned fuel into the atmosphere.

We are keeping ourselves hostage to energy-rich nations by wasting fuel and we are placing our products at a disadvantage in world trade because they bear the added cost of wasted fuel.

Earlier this year, I introduced S. 2666, the Global Environment bill. It proposes a comprehensive series of solutions to the contamination of our atmosphere. I ask that a summary of that bill be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STAFFORD. Mr. President, I would, of course, be delighted if that bill were enacted into law by some miracle before I left this body. But even that would not solve the air pollution problems we have inflicted upon our planet. Indeed, we need more than all the laws that could be passed by all the legislative bodies of the world.

We need a reappraisal of our responsibility to this planet and to all of its

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

inhabitants, present and future. That reappraisal must be undertaken by all of our institutions—including government, industry, business and science. There is no lack of solutions to the problem—there is only a lack of resolve to do the right thing.

Our world is hotter than ever before.

Our ozone shield is thinner than ever before.

Our atmosphere is increasingly saturated with chemicals that threaten our very existence.

And none of this is necessary.

While the prospect of necessary change may be daunting, surely it also presents us with an opportunity to correct past errors and to free our planet from technologies that have outlived their usefulness.

Surely we can do no less than attempt our own rescue. If we succeed, our legacy to our children—and to their children—will be not just a better life, but life itself.

EXHIBIT 1

GLOBAL ENVIRONMENT BILL OUTLINE

The general approach of the bill will be to have five titles, as follows:

Title I: Regulation of Global Change Pollutants.

Title II: Climate Change Adjustment and Mitigation.

Title III: International Cooperation.

Title IV: Elevation of EPA to a Cabinet Level Agency.

Title V: Development of Non-Polluting Power.

* * * * *

Reductions: Initial rough calculations are that the bill would reduce CO_2 emissions in the United States by about 35 percent in the year 2010 assuming, conservatively, no growth in the size of the vehicle fleet. CFCs would be completely eliminated, except for essential medical uses, by 2000. In the absence of an adequate computer model to measure the effects of such changes, a best guess of the bill's effect on warming trends is that it would eliminate one to two degrees of the projected eight degree F global temperature increase.

TITLE I—REGULATION OF GLOBAL CHANGE POLLUTANTS

1. Coverage:

a. Chlorflurocarbons (CFCs)

b. Carbon dioxide (CO_2)

c. Ozone (O_3) (via oxides of nitrogen (NOx) and hydrocarbons (HC)

d. Methane (CH_4)

Regulatory programs: CFCs

Goal: complete elimination of halogenated CFC use and sale by 1999.

1. Bans on production and sale:

A. Fully halogenated CFCs: six years from the date of enactment, the production of fully halogenated CFCs is prohibited. Uses, except for essential medical uses, are banned five years later.

B. Partially halogenated CFCs: ten years from the date of enactment, the production of partially halogenated CFCs is prohibited. Uses, except for essential medical uses, are banned five years later.

C. Exceptions:

i. essential medical uses are excluded from the bans on production and sale.

2. Regulations on production and disposal:

A. Effective 24 months after the date of enactment, the use of CFCs except in a totally enclosed system is prohibited. Totally enclosed systems must—

i. Preclude the release of any more than 5 percent of the original charge during the life time of the equipment;

ii. Be equipped with servicing apertures to allow removal and storage of CFCs during repair or maintenance of the equipment.

B. Effective 12 months from the date of enactment, the storage, treatment and disposal of CFCs, or appliances or goods containing CFCs, must be regulated under subtitle C of RCRA, which shall require all waste CFCs to be incinerated to 99.999 percent destruction of disposed CFCs (or a chemical treatment equivalent thereof). (Recycling is not disposal under RCRA)

Regulatory programs: CO_2

Goal: The achievement of a 50 percent reduction in emissions of CO_2 by the year 2000.

1. Regulation of new sources

A. Vehicles: effective with model year 1990, vehicles are required to achieve CO_2 emissions reductions below 1985 as follows:

	Percent
1990	10
1995	25
2000	50
2010	75

B. Stationary sources:

i. Powerplants: fossil-fuel fired electricity generating plants are required to achieve CO_2 emission limits reflecting the following efficiencies:

	Percent
1990	35
2000	50
2010	75

ii. Residential units: effective five years from the date of enactment, all new homes are required to be equipped with furnaces and hot water heaters emitting CO_2 in an amount not exceeding the equivalent of the best efficiencies currently available commercially and air conditioners with an energy efficiency rating of not less than 15.0.

Regulatory programs: methane

1. Source identification: require EPA to inventory and report on all sources of CH_4 emissions by January 1, 1991.

2. Interim requirements:

A. Wells and refineries: effective January 1, 1994, prohibit the mass releases or flaring of methane.

B. Landfills:

New: require new landfills opened after January 1, 1993 to be designed, constructed and operated to minimize emissions of methane and other air pollutants;

Existing: require all existing landfills to be retrofitted by January 1, 1993 to minimize emissions of methane and other air pollutants.

TITLE II—GLOBAL CHANGE ADJUSTMENT AND MITIGATION

1. NEPA amendment: amend NEPA to (a) require preparation of environmental impact statements on the effects of proposed action on the global environment; and (b) minimize the impacts of the proposed action on the environment.

2. Federal public works survey: require the Federal government to undertake a comprehensive survey of all Federally-owned lands (national parks, wilderness areas, etc.) and public works (highways, buildings, military bases, etc.) to determine their vulnerability to global changes. Also, require the development of site-specific mitigation plans.

3. Private investment: require a Presidential report recommending actions and policies to preclude public or private investment in susceptible areas.

4. Corps of Engineers: expand the authority of the Corps of Engineers to include climate change mitigation measures, including—

a. Identification and mapping of areas likely to be adversely affected by increases in sea level or other environmental changes; and

b. Provision of water supplies for groundwater recharge.

2. Regulation of existing sources:

A. Powerplants: effective in 1995, establish a mandatory retirement age of 30.

B. Industrial/commercial: effective in 1995, establish a mandatory retirement age of 35.

C. Residential: effective in 1995, require that all furnance and CAC replacements meet the standards described above.

Regulatory programs: ozone

1. Oxides of nitrogen:

A. Vehicular sources: a tailpipe NO_x limit of .4 (down from the current law's requirement of 1.0) grams per mile is established. Nationwide I&M and a 10 year/100,000 mile warranty are required.

B. Stationary sources:

i. New: effective in 1991, require a 90 percent reduction in emissions of oxides of nitrogen from each newly constructed source.

ii. Existing: effective in 1995, require each major utility source to reduce NO_x emissions by 90 percent upon reaching its 30th anniversary and each major industrial/commercial source to reduce NO_x emissions by 90 percent upon reaching its 35th anniversary.

2. Hydrocarbons

A. Vehicular sources: a tailpipe HC limit of .25 (down from the current law's requirement of .41) grams per mile is established. On-board vapor recovery is also required.

B. Stationary sources:

i. New: 50-state BACT by 1993.

ii. Existing:

Require each major source to install BACT on its 30th anniversary of operation or 1995, whichever is later.

Require new regulations for the control of specified categories of existing sources to be promulgated.

TITLE III—INTERNATIONAL COOPERATION

1. Governmental cooperation: require the President to petition the United Nations to establish a temporary new agency, to be headed by the director of the United Nations Environmental Program, to—

a. Coordinate international efforts to minimize and mitigate the effects of unavoidable environmental alterations;

b. Provide financial, technical and other assistance to developing nations to enable improvements in the standard of living while avoiding aggravation of global, continental and subcontinental scale environmental damages.

2. Deforestation: require the President to petition the United Nations to establish a temporary program of forestation to—

a. Halt deforestation and desertification; and,

b. Reforest areas already cleared.

TITLE IV—ELEVATION OF EPA TO CABINET LEVEL

Without increasing the authorities of the Environmental Protection Agency, confer on it cabinet status.

TITLE V—NON-POLLUTING ENERGY SOURCES

Nuclear: establish a temporary National Commission on Inherently Safe Nuclear

Energy to report to the Congress by January 1, 1994 on—

a. The reasons for public fears and apprehensions regarding the safety of nuclear energy and ways to allay such fears by responding to them substantively (e.g. building in safety margins which engineers might consider unnecessary, etc.).

b. The prospects for developing inherently safe nuclear technologies.

c. The reasons for different safety records between domestic companies and between the United States and other nations, and ways to assure that the best records become the industry standard.

General: establish as a national goal of the United States to generate 100 percent of the nation's power from non-polluting energy sources by the year 2050.

* * * * *

PARENTAL AND TEMPORARY MEDICAL LEAVE

The ACTING PRESIDENT pro tempore. The clerk will report the pending business.

The bill clerk read as follows:

A bill (S. 2488) to grant employees parental and temporary medical leave under certain circumstances, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Byrd motion to recommit the bill, with instructions to report back forthwith, with an amendment, as contained in Byrd Amendment No. 3308, in the nature of a substitute.

(2) Byrd Amendment No. 3309, in the nature of a substitute for the instructions.

(3) Byrd Amendment No. 3310 (to Amendment No. 3308), of a perfecting nature.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may speak for 5 minutes, notwithstanding the cloture situation that is in effect now.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WHAT'S WRONG WITH THE NUCLEAR WEAPONS FREEZE?

Mr. PROXMIRE. Mr. President, one of the most unfortunate developments in the Presidential campaign is the decision by Vice President BUSH to deride the nuclear freeze. Why the derision? What's wrong with the freeze? Is it somehow out of the mainstream? Consider the record. Almost exactly 6 years ago on September 14, 1982, the people of Wisconsin voted in the first statewide referendum in the Nation on the nuclear freeze. They voted in what was the biggest primary election turnout in the history of our State. This was an off-year primary. Few elections were vigorously contested in our State that year. But hundreds of thousands came out to vote on that referendum. What was the result? The people of Wisconsin voted for the nuclear freeze proposition by a smashing 631,375 to 202,245. The support was statewide. The referendum received solid support from city, from suburb, from rural Wisconsin. The Republican Governor supported the freeze referendum. As the incumbent U.S. Senator running for reelection, I supported it. It was debated in thorough detail throughout the State. The U.S. State Department sent speakers into the State to oppose the referendum. That referendum was specific and clear. Here is the way Wisconsin voters read it when they cast their votes:

> Shall the Secretary of the State of Wisconsin inform the President and the Congress of the United States that it is the desire of the people of Wisconsin to have the Government of the United States work vigorously to negotiate a mutual nuclear weapons moratorium and reduction with the appropriate verification with the Soviet Union and other nations?

This was the proposition that was so resoundingly supported by the people of our State.

Wisconsin was the first State that submitted this proposition to a referendum. It was not the last. In nine States the people had a chance to vote on a freeze referendum. The freeze carried the day in eight of those nine States. In other States, Americans voted at town meetings on the freeze. The freeze consistently won. In the House of Representatives, a nuclear weapons freeze resolution was carried by a smashing bipartisan 278 to 149 margin. How close to the mainstream can you get?

Now, Mr. President, the first test, not the only test, but the first test, of any policy of government in this democracy is whether the people approve of it. Isn't that what democracy means? Of course the people may be wrong. They may be misinformed. Their decision could be biased. They may have been swayed by a deceptive idealism. The emotion of the moment may have swept the public along. But none of that applies in this case. The discussion and debate of this issue was intense. Opponents of the freeze had ample opportunity to express their view. They spoke with the prestige and support of the Presidency, the State Department and the Defense Department. Radio, television, and newspapers carried the issue to Americans everywhere.

The freeze never had the solid support of some of the most powerful opinion leaders in the country. Not only did the Reagan administration oppose it, so did two of the country's most respected newspapers—the New York Times and the Washington Post. Time magazine carried a strong editorial in opposition to the freeze.

The New York Times called on freeze advocates to support the "build down" proposal instead of the freeze. The build down proposal would permit "modernization" of the nuclear arsenal as long as we reduce by two missiles or two warheads for every one missile or warhead we brought into our arsenal. What's wrong with that? Plenty. Here's what this Senator said on the floor of the Senate about this New York Times proposal in April of 1983:

> How would we administer a build down? Our ancestors would trade two swords for one bullet-firing musket any day, and two bullet-firing muskets for one machinegun, and two machineguns for a single conventional airplane dropped bomb, and two conventional bombs for one fat A-bomb of the kind we dropped at Hiroshima, and two fat A-bombs for a hydrogen bomb. Get the idea? 'Build down' sounds great. We would destroy two of our stationary land-based missiles for one submarine missile, just as accurate but with far greater mobility and far less vulnerability. Does anyone really believe that either the Soviet Union or the United States would trade two for one unless they believed they were enhancing their military security and power? Of course not. Does anyone believe that the "build down" would not simply turn to our scientific labs with an incentive to come on like gangbusters, with even newer and more devistating superweapons?

Mr. President, if anyone really argues that a "build down" would work, let him consider what has happened to the superpowers' nuclear arsenals in the past 20 years. Without any arms control agreements at all both superpowers have been "building down" our nuclear arsenals since 1968. Both sides have 20 percent fewer, that's right, I said fewer missiles than they had 20 years ago. Both sides have far less megatonnage. But both sides have far more devastating, more accurate, more reliable, less vulnerable and more deadly nuclear arsenals. That's what happens with a "build down" seasoned with "modernization." The United States as a matter of record has enormously increased its spending on our nuclear missile arsenal during this period of unconscious but effective modernizing "build down." In the process the U.S.S.R. and the U.S.A. have both made the world a potentially more destructive planet than ever.

So, why the freeze? The advantage of a negotiated, mutual, verifiable freeze is that it would halt so-called modernization. It would freeze modernization by stopping nuclear weapons testing. Testing is quintessential to the technological nuclear arms race. And of course, the technological nuclear arms race is another name of modernization. So the freeze would keep the nuclear standoff exactly where it is: at the point where both sides recognize that a nuclear war would be the supreme folly because both sides would lose. Both sides would suffer such widespread destruction and death that there will remain absolutely no incentive for a nuclear attack. A freeze will give us a fighting chance to keep it that way.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator yields the floor.

The Senator from Nevada, Senator REID.

Mr. REID. Mr. President, I ask unanimous consent that I may speak on a subject not related to the matter before the Senate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator is recognized.

MEDICARE URBAN RURAL REIMBURSEMENT DIFFERENTIAL

Mr. REID. Mr. President, rural hospitals are closing at an alarmingly high rate. Since 1980, 161 rural community hospitals have closed. Almost 25 percent of the remaining rural hospitals are in a real and present danger of closing. If rural hospitals continue to close at the amazingly high rate that they are now closing, people living in small towns, on farms and ranches, or anywhere off the beaten path, will go without the health care they need. Those of us in Government and in the health-care field must focus our attention on the future of rural health care.

There are many reasons why rural hospitals are being forced to close: Fluctuation and in many cases decreases in occupancy rates, out-dated equipment, increases in the number of uninsured poor rural residents who cannot pay for their care, malpractice insurance, competition for patients from urban hospitals, and inadequate Medicare reimbursement rates.

Why keep the rural community hospitals open?

There are a lot of reasons, and in some cases, it simply is not financially feasible to keep full-service, fully staffed facilities open. But in most instances health service centers are not only an important health-care delivery item but they are also a development source. They draw residents to a community and draw job-producing businesses and industries. A recent Oklahoma study indicated that for every physician's practice, not including the physician's own employees, 13 nonmedical jobs are created in the community for every physician. In addition to the health-care delivery needs, there are very real economic advantages to keeping health-care facilities open.

Most important, though, we must insure a high level of quality health services to rural residents. Government studies show those living in rural areas have greater rates of serious chronic illness, accident, and disability than do city dwellers. Rural residents have a demonstrated greater need for quality health care, yet it is their hospitals that are closing. This must be stopped.

My own State of Nevada is no luckier than any other State with expansive rural areas. Rural hospitals are closing.

Mr. President, in the 1850's California ranchers, seeing greener pastures, so to speak, moved over the Sierra Nevada Mountains to a place called Mason Valley. An area of beautiful, green, lush meadows; in fact it was so beautiful and so green, that those that first settled in Mason Valley called it Greenfield. Later the name was changed to Pizen Switch and finally, at the turn of the century, the area once called Greenfield was incorporated as the city of Yerington.

Now in Mason Valley, more than 100 years after those few wise Californian pioneers moved there, there are just almost 10,000 valley residents. Well, these people are in danger of losing the only hospital they have in the area. The South Lyon County Hospital will lose approximately $800,000 this year and perhaps as much as $1 million next year.

The reason I point out briefly the history of this community and this area is that this is really no different than any other spot in rural America that is losing a hospital. The names and places may be different, but the basic history is the same: Pioneers came and developed an area, progress came, a hospital was built, and now in Lyon County and all over America we are in danger of losing these facilities.

As I indicated, in Lyon County they expect to lose $800,000 this year and perhaps as much as $1 million next year. If this were a large, urban hospital, a $1 million dollar loss might not be devastating. But South Lyon is an 18-bed facility! A hospital of this size simply cannot endure such losses.

In some cases closure is the only reasonable alternative. For example, if the services offered at Lyon were duplicated in a nearby facility, residents still would be able to receive comparable care at the neighboring hospital. Closure would harm the economic stability of the area, but at least care would still be available.

There is no neighboring facility in Lyon County. If the Lyon County facility closed, people in need of major in-hospital care would have to travel more than an hour to receive the care they need. This cannot be allowed to happen here or in other parts of rural America. The health of the entire community would suffer. The residents would not have adquate care available, and the area's actual income would decrease as its attractiveness to new residents and businesses would decrease. And Yerington is certainly not the only rural community in Nevada, or in America, facing the possible loss of a health care facility.

Far too many facilities all across America are being forced to close, and rural health and economy will suffer.

What can we do here in Washington? We can do plenty. Of course, one piece of legislation cannot possibly address all the problems facing rural hospitals. However, I do believe that we can begin by changing that which we have most direct control over, and that is the Medicare reimbursement rate.

Rural hospitals are routinely reimbursed at levels below that of urban hospitals. You would think it would be just the opposite, but it is not. Rural hospitals are routinely reimbursed at levels below that of urban hospitals.

This difference between what Medicare pays rural hospitals and what it pays urban hospitals has been a part of the Medicare prospective payment system since its inception in 1983. The lower payments to rurals became the policy in 1983 because rural hospitals were believed to have lower operating costs than their urban counterparts.

However, in 1988 we find this is not the case. We now find rural hospitals reimbursed by Medicare at rates that are inequitably low—significantly lower than those received by their urban counterparts. Most hospitals under the prospective payment system did not incur operating losses. However, of the 8.7 percent that lost money while under the system, four out of five were rural hospitals. I do not suggest that a change in the reimbursement rate will keep all rural hospital doors open, nor do I suggest that Congress move to save rural hospitals by inflating rates of reimbursement to the rurals. But I do suggest a basic policy of fairness.

Congress has indeed recognized the inequity, and taken action. Last year's Omnibus Budget Reconciliation Act included Medicare reimbursement rate updates with a greater percentage increase for rural hospitals than for urban hospitals. This is a start, but we must continue toward the goal of bringing equity to reimbursement.

I am hopeful that last week's release of the long-awaited Hsaio Report on the prospective payment system will renew interest in the urban/rural differential formula. The 2½ year study will undoubtedly inspire much debate and I plan to specifically look into revision of the way payments to rural hospitals are determined.

Our rural hospitals must be given every possible chance to survive.

The health of our Nation depends on it.

I yield the floor.

Mr. FOWLER. Will the Senator yield to me?

Mr. REID. I am happy to yield.

Mr. FOWLER. I commend my colleague from Nevada on the excellence of his remarks and I would like to associate myself with them.

I can think of no greater challenge, often overlooked, than the challenge of quality care in the rural hospitals. There is a compelling case of discrimination, as the Senator has so firmly addressed. I thank him for bringing this to the body's attention and wish to associate myself completely with his remarks.

Mr. REID. I appreciate the Senator from Georgia's comments. I think this is a perfect illustration of how this really has application across this Nation. A State like Georgia and a State like Nevada, a lot of people would not think have anything in common, but they have a great deal in common. They both have metropolitan areas, they have rural areas, and these rural areas are all the same. I gave the example of a small rural county in Nevada called Lyon, but I am sure you have dozens of counties in Georgia where the names are different, places are different, but the problems are the same.

Mr. FOWLER. We have 12 dozen; 159 separate counties, second only to Texas.

Mr. REID. I appreciate so much the kind comments of the Senator from Georgia.

Mr. FOWLER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that it be charged equally to both sides.

The ACTING PRESIDENT pro tempore. Without objection, the time will be charged to both sides.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FOWLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Georgia is recognized.

Mr. FOWLER. Mr. President, I ask unanimous consent to speak out of order and that the time I use be charged under the pending cloture petition.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Georgia is recognized.

OUR NATIONAL PASTIME

Mr. FOWLER. Mr. President, we are on some extraordinarily serious matters right now involving legislative questions, long pending and long worked on, which are important to the families of our country, important to our communities and important to the Nation; those matters being the care of our children, policies dealing with the needs of families who have new children born into them, and families who choose adoption to care for children who do not have parents.

We have a serious matter concerning child pornography, one of the more scurrilous and unattractive menaces to children, and a legislative remedy that attempts to deal with that.

All these matters, I say to my colleagues and to those within the sound of my voice, are under negotiation right now to see how we can bring this matter to a close and bring this matter to a vote and to devise policies which we believe to be in the best interests of our citizens.

Since there are so many negotiations going on off the floor right now, rather than sit through a quorum call I thought I might take the time, awaiting the next speaker, to join in a little celebration that comes around every October and that is the celebration of our true national pastime, which is not politics, but baseball.

This evening the National League playoffs will begin in Los Angeles. Tomorrow the American League playoffs will begin in Boston. And we will, once again, have our attention diverted from the ongoing questions of gray areas of political choice to the precision and the structure and the accountability of our Nation's pastime.

I say that because baseball, in its many dimensions, does reflect pure accountability, something often missing for those of us who have chosen the responsibilities, and sometimes the frustrations, of public service.

In baseball, I say to my friend from Connecticut, a great fan of the Boston Red Sox, the Senator from Connecticut, Mr. DODD, in baseball there are no gray areas. There could not be debate in the dugout about what is fair and what is foul.

In baseball, there are not these shades of gray that we have to deal with in the Senate as to what is precision and what is right. In baseball we have the purity of the diamond, and when a screeching line drive kicks up the chalk along the right-field line we have to abide by the decision of the umpire as to whether or not it was fair or whether or not it was foul and an inch or two, yes, does make a difference. But when it is decided by the umpire, then there are no areas of gray, no muddy waters of political interpretation to determine whether or not the game is played under the rules or whether or not there is this interpretation or another.

Pure accountability. Oh, how we would like to have it under a democratic system. We believe we have it. We try to have it. We try to explain to our constituents why we vote the way we do and to assure them that in our representative capacity we are voting in what we believe to be the best interests of our constituencies and our country. But often that is open to interpretation.

Tonight, as hopefully I get to watch a man, Orel Hershiser, who just broke Don Drysdale's consecutive scoreless innings streak—59 innings—versus the great doctor, some would even say, if he were a politician, spin Doctor Dwight Gooden—we are joined again in a great celebration and reaffirmation of our national pastime. The Senator from Connecticut, if he is not negotiating these legislative matters, and I will at least get together in the cloakroom every once in a while to check on the ball game.

No account of media consultants, no army of pollsters, no squadron of advertising agents can separate the vision of the American people and U.S. Senators from the pure accountability that the ball will either go through the shortstop's legs, or he will catch it. A batter will swing and hit it, or he will miss it. A ball will be caught against the right field wall, or he will drop it in front of all our eyes. There will be no misinterpretation, and no managers will run out at the end of the game and try to put spin control on what happened.

All these doctors, all these consultants, all these people are not necessary because the American people will see what we sometimes do not see in our politics and in our debates, and that is: pure accountability. We will know what happened. The guy either performed with excellence or he failed, and everybody will know it; everybody will know it simultaneously, and we will have a reaffirmation of excellence or we will not, depending on our interpretation of the particular event that decided the game.

A few weeks ago, major league baseball in an unprecedented election unanimously chose A. Bartlett Giamatti—former president of Yale, Italian renaissance scholar, long-time Boston Red Sox fan, student of the game, prolific author of baseball—unanimously the owners elected him as the new commissioner of baseball. He is a man of learning, a man of literature, a man of grace, a man of academic excellence, and a man pledged to uphold the worthy and sturdy traditions of the game as a reflection of the excellence of the sport and the continued hopes that it will be an inspiration through sport of life's metaphors of excellence.

I want to join his many friends in the U.S. Congress in congratulating Commissioner-elect Giamatti, and pledge to him that those of us who care for the game and understand a bit of its grace and a bit of its importance will know that he has much underpinning and backing in the U.S. Senate.

I do not know who is going to win tonight. I do not know who will be in the World Series. The great eternal questions will again reign: Will the Red Sox break our hearts all the way from New England to New Georgia, where I come from?

Will the New York Mets live up to their big braggadocio tradition, with the finest pitching staff, the greatest bench and all the hubris New York brings out in all of us? Who knows?

Will the ghost of Ebbets Field come back, the Dodgers returning to New York on the other side of the river? But, oh, the challenges they bring from the nouveau riche and nouveau cuisine of California back to the franks and sodas in Mets Stadium from Ebbets back to Flushing Meadow.

What will happen? We can only watch the other boys from California and Oakland. Why, why, why, I ask, do their baseball fans insist on wearing those softball uniforms? But with their extraordinary firepower, the first man, Jose Canseco in his 40 steals and 40 home runs, a murderer's lineup worthy of Mantles, Marises, and Gehrigs.

Will they decimate the boys from Bean Town and end up the American League representative in the World Series? We do not know. We do not ask what the future holds, nor do we know who holds the future. But we all can celebrate the fact that even in the midst of a Presidential campaign, the Nation once again can be appropriately diverted, asking some serious questions through the metaphor of sports about what is excellence, what is accountability, and how we can reaffirm those two tenets of democracy on the playing fields of our country, just as we should in the voting booths of our Nation.

Mr. DODD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. Mr. President, I just want to commend our distinguished colleague from Georgia for reminding us what we are all individually aware of that occasionally this body ought to be used as a forum when one can describe, as he has, in beautiful rhetoric, the graceful game of baseball.

My colleague from Georgia is absolutely correct. I am an unabashed, unapologetic supporter of the Red Sox, and my colleague is correct, for 40 years they have broken my heart. But my heart remains ever faithful and confident that this year love will blossom and the Red Sox will prevail, but tomorrow afternoon when the Red Sox take the field in Fenway Park, one of the great stadiums of this country, we shall see whether or not that good fortune will once again, after four decades, prevail.

But let me commend him for his eloquent comments and the association between the accountability of baseball and the too often unaccountability of the political process and thank him for his remarks this morning.

Mr. President, I yield the floor.

Mr. DOMENICI addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, parliamentary inquiry. Is it in order for the Senator from New Mexico to speak on a matter that is not before the Senate?

The ACTING PRESIDENT pro tempore. The Senator is correct if he asks unanimous consent to proceed.

Mr. FOWLER. Will the Senator ask unanimous consent to speak out of order so that we can continue with the time?

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to speak up to 10 minutes.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I was not on the floor when my good friend, the junior Senator from Georgia, spoke about the great game of baseball. I wish I was. I wish I would have had an opportunity to hear him. I will tell him I am going to read what he had to say.

I am not so sure he or my good friend from Connecticut know that I have fond memories of baseball. I was a professional once myself. I pitched professional baseball. I can remember how it happened that I quit. I was pitching to a manager who was also the catcher. He had been in the major leagues during the Second World War when almost anyone could make it, but he did not know that.

On the way down, he became the manager, and he used to tell all the batters that I had nothing but a fast ball and that I was a wild—forgive me, but I am Italian—he used to call me the "Wild WOP Rookie." He used to tell every batter that.

I was in a ball park in Texas, and I was known for either walking the batter or striking him out, at least when I signed professionally. When I played college or semipro, I did not walk so many, but somehow being a professional caused that to happen. He used to tell this huge left-handed batter who has a record for all-time home runs—I think 75 in the minor leagues, maybe 80—he used to tell him on a three-two pitch another fast ball from this wild rookie, and this great big batter would hit a line drive. You can just hear it ricochet off the wooden fence. He did that twice while the manager sat back there telling him another fast ball from the wild rookie. And so he suggested, handing me $5 as we came back through this town on the bus, "Rookie, here is $5; go buy a hammer and nails and fix that fence that he broke on you the night before last." In such an august body as this, I cannot even tell my good friend what I told him. But I must suggest to you that that was my last episode.

Mr. FOWLER. If the Senator will yield, certainly the Senator from Connecticut and myself can now attest before all of our colleagues that the Senator from New Mexico may have only had a fast ball in the days of his misspent youth, but he has demonstrated a legislative change of pace, an extraordinary curve, and occasionally even a spitball.

Mr. DOMENICI. I sure do want the Senator to send word to that manager. He still lives in the city of Roswell. You might pass that on to him. But I did want to close by saying I am going to take a flight of fantasy back into my youth Sunday in Albuquerque. Believe it or not, I am going to pitch in an oldtimer's game. If I can make it to the mound and wind up, I am going to pitch to a batter order that includes Bucky Dent leading off, and I cannot remember the second batter, but the third one will be Frank Robinson and the fourth is going to be Harmon Killebrew. Now, you understand that my goal is to never have to face Killebrew. So, I am going to have to strike out the first three so that I will have to pitch against him, or I will have go get a little protection I think. In any event, that is not what I sought consent for, but it was a great deal of fun to talk about that. As the beginning of our World Series starts, it is an exciting event for all Americans.

(The remarks of Mr. DOMENICI relating to the introduction of legislation are printed later under Statements on Introduced Bills and Joint Resolutions.)

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum is noted. The clerk will please call the roll.

The assistant legislative clerk proceeded to call the roll.

[Disturbance in the gallery.]

The PRESIDING OFFICER (Mr. CONRAD). The Sergeant-at-Arms will restore order in the Chamber.

I ask that the Sergeant-at-Arms escort the people out of the gallery.

The Sergeant-at-Arms will restore order to the Chamber.

The clerk will continue the call of the roll.

The legislative clerk resumed the call of the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO JUDGE HENLEY

Mr. PRYOR. Mr. President, I think at this moment in the Senate it would be very timely to pay tribute to a very, very distinguished public servant, a native Arkansan.

On Halloween in 1958, J. Smith Henley was sworn in as U.S. district judge for the eastern and western districts of Arkansas. He said that ever since that swearing in on Halloween it has been a "spooky" time sitting as a judge. As Judge Henley approaches the 30th anniversary of his investiture, he is still hard at work serving his country as a senior circuit judge on the U.S. Court of Appeals for the Eighth Circuit.

But Judge Henley's career as a public servant did not begin with his investiture as a Federal judge. He was born in St. Joe, AR, in 1917 and received his law degree from the University of Arkansas in 1941. He practiced law in Harrison, AR, for several years, and from 1943 to 1945 he served as a part-time referee in bankruptcy for the western district of Arkansas.

In 1954 he was called to Washington to work for the Eisenhower administration as associate general counsel for the Federal Communications Commission. He has said that he felt secure in moving because he left his law office in Harrison as it was, simply picking up his hat and coat and locking the door. He knew that if he did not like Washington he could return to Harrison, hang up his coat and hat, and pick up where he left off with his practice. Judge Henley later became director of the Office of Administrative Procedure in the Justice Department.

On Washington's Birthday in 1958, as the Little Rock school integration situation was becoming a crisis, President Eisenhower nominated Judge Henley to the district bench. He served as chief judge for the eastern district of Arkansas for his entire tenure as district judge, and he earned a reputation as one of the finest trial judges in Arkansas' history.

As a district judge, Judge Henley was faced with a number of difficult cases, and Arkansas' prison system was the subject of one of his toughest and most well known decisions. In *Holt* v. *Sarver,* 309 F. Supp. 362 (E.D. Ark. 1970), he found conditions in the Arkansas prison system to be unconstitutional, saying "[f]or the ordinary convict a sentence to the Arkansas Penitentiary today amounts to a banishment from civilized society to a dark and evil world completely alien to the free world, a world that is administered by criminals under unwritten rules and customs completely foreign to free world culture."

But not all of his decisions were difficult. Mr. President, one of the cases that Judge Henley relishes telling since he has been on the bench is about one occasion in the mountains of northern Arkansas. One of the best stories on Judge Henley involved a district court case where a defendant was charged with "moonshining." Several different versions of this story have been told, but this one is my favorite. The prosecution introduced as evidence of the crime a Pepsi bottle containing a dirty liquid. The liquid, which was gathered from the floor of the defendant's truck, was all that remained of the defendant's shipment by the time police forced him to stop.

Judge Henley asked the prosecutor if the liquid had been checked to determine if it was whiskey. The prosecutor responded that the liquid smelled like alcohol, but that it had not been tasted. Judge Henley promptly tasted it, assured the jury that it was indeed moonshine, and admitted it as evidence.

In 1975 Judge Henley was appointed by President Ford to the U.S. Court of Appeals for the Eighth Circuit, and since that time he has authored and participated in numerous landmark decisions by that court, especially in the area of criminal law, prison conditions and civil rights.

A great number of cases that make it to the court of appeals level are criminal matters, and many of these cases involve writs of habeas corpus filed by prisoners who claim that they are wrongly confined. Some of these writs are legitimate and warrant serious consideration, and some border on the ridiculous.

One of Judge Henley's favorite writs involved a claim by a prisoner that his confinement violated his right to free exercise of his Christian faith. He argued that the Bible told him to go forth, be fruitful and multiply, and as long as he was in prison he could not accomplish these tasks.

Even though he elected to take senior status in 1982, Judge Henley has continued to work very hard, hearing a substantial number of cases with the eighth circuit, acting as a visiting judge in other circuits, and trying a number of district court cases in an effort to reduce the huge backlog in the judge-poor eastern and western districts of Arkansas.

J. Smith Henley is one of the those rare individuals who has dedicated his life to public service. Throughout his career, his decisions have been marked by an unwavering commitment to the law and a keen sense of justice. As his 30th anniversary as a Federal judge approaches, I want him to know that his hometown of Harrison, his State and his country appreciate him. And so I thank Judge Henley for his years of dedicated public service, and I look forward to the years to come.

Mr. President, I yield back the remainder of my time.

Mr. DODD addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Connecticut is recognized.

PARENTAL AND TEMPORARY MEDICAL LEAVE

The Senate continued with the consideration of the bill.

Mr. DODD. Mr. President, the pending matter before the Senate is of course the parental leave bill, and a cloture motion for 30 hours of debate.

May I ask—parliamentary inquiry—as to how much time remains on the cloture motion?

The **PRESIDING OFFICER.** Eighteen hours and forty-six minutes.

Mr. DODD. Mr. President, I thought I might take some time this morning. We have spent a great deal of time, I inform my colleagues, in the last 24 hours trying to resolve differences between the minority, or at least the majority of the minority, and the majority to see if we could resolve differences in the parental leave legislation, the child care legislation. There really are no differences on the child pornography legislation that is also pending.

I regretfully report, Mr. President, we have not been able to resolve those differences, and that it in fact would appear as though we are coming down to a difference not about the specifics of the legislation, albeit there are some who would like to see fewer weeks of unpaid leave provided to parents under the parental leave proposition. There are some who would like to see fewer Federal standards in the child care legislation. But in all candor, Mr. President, those are really not the differences.

The differences come down to a philosophical difficulty. There are those who believe that the Government ought not to be telling anyone how important child care is, or how important parental leave is, and that in fact those decisions ought to be left up entirely to the individual.

While that certainly has a great deal of merit, while we wait for individuals or individual corporations to make up their mind about whether or not they think this is a good policy, speaking specifically of parental leave, thousands, if not millions, of children and their families go wanting in this area.

We waited, and I recall the debates on occupational safety and health standards, and fair labor standards. I was obviously not a Member of this body when the child labor laws were being discussed. But I can tell the President that in those times during those debates the very same arguments we are hearing today in opposition to parental leave were being made on those matters. We ought not to be interfering with businesses when it comes to occupational safety and health standards. We ought not to be interfering when it comes to fair labor standards. There is an intrusionary action on the part of the Government; is that we have no business being involved in trying to provide some relief for people in crisis situations or tragic situations.

So, Mr. President, I am still hopeful that we will be able to resolve these differences, and get to a vote on these matters. We have now spent over a week of the Senate's time on this matter. And other than dealing with the child pornography statutes, we really have not had any meaningful ideas offered on how we might resolve some of these other questions.

Mr. President, it has been suggested that the parental leave bill and the child care legislation are really only the ideas of organized labor or one committee of Congress; that no one else is really interested in parental leave; that this is a narrow constituency that wants to see the Congress of the United States enact into law parental leave policy, and the President sign it.

Mr. President, I should like to take a few minutes this morning to share with my colleagues the comments of some others who do not fall into a narrow constituency and who are strong supporters of this parental leave bill. There are over 150 organizations which are supporting parental and medical leave. I ask unanimous consent that the list of all 150 organizations be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ORGANIZATIONS ENDORSING THE REVISED PARENTAL AND MEDICAL LEAVE ACT

[As of June 1988]

ACORN,/Association of Community Organizations for Reform Now.
AFL-CIO.
Alabama Coal Mining Women's Support Team.
Amalgamated Clothing and Textile Workers.
Amalgamated Transit Union.
Ambulatory Pediatric Association.
American Academy of Child and Adolescent Psychiatry.
American Academy of Pediatrics.
American Adoption Congress.
American Association for International Aging.
American Association of Retired Persons.
American Association of University Women.
American Association on Mental Deficiency.
American Baptist Churches, USA.
American Bar Association.
American Civil Liberties Union.
American Federation of Government Employees.
American Federation of State, County, and Municipal Employees.
American Federation of Teachers.
American Home Economics Association.
American Jewish Committee.
American Jewish Congress.
American Medical Women's Association.
American Nurses Association.
American Occupational Therapy Association.
American Postal Workers Union.
American Psychiatric Association Committee on Women.
American Psychological Association.
American Society on Aging.
Americans for Democratic Action.
Asociacion Nacional Pro Personas Mayores.
Association for Children and Adults with Learning Disabilities.
Association for Gerontology in Higher Education.
Association for Retarded Citizens.
Association of Flight Attendants.
Association of Junior Leagues.
Association of Women Psychiatrists.
B'nai B'rith.
Catholic Golden Age.
Center for Law and Social Policy.
Child Welfare League.
Children's Defense Fund.
Church of the Bretheren.
Church Women United.
Citizen Action League.
Coal Employment Project.
Coalition of Labor Union Women.
Colorado Coal Mining Women's Support Team.
Colorado Psychiatric Association.
Commission on Human Rights, Archdiocese of St. Louis.
Committee for Children.
Committee of Interns and Residents.
Communication Workers of America.
Department of Occupational Safety, AFL-CIO.
Disability Rights Education and Defense Fund, Inc.
Eastern Kentucky Coal Mining Women's Support Team.
Economic Policy Council, United Nations Associations.
Epilepsy Foundation of America.
Families for Private Adoption.
Fathering Support Services.
Federally Employed Women.
Feminists for Life of America.
Food and Allied Service Trades Department, AFL-CIO.
Gray Panthers.
Hadassah.
Highlander Research and Education Center.
Illinois Coal Mining Women's Support Group.
Indiana Coal Mining Women's Support Team.
Industrial Union Department, AFL-CIO.
Institute for Child Mental Health.
Institute for Women's Policy Research.
International Brotherhood of Teamsters.
International Ladies Garment Workers Union.
International Union of Electrical Workers.
Jewish Labor Committee.
Lady Miners of Utah.
Leadership Conference on Civil Rights.
Leadership Council of Aging Organizations.
Longshoremen's and Warehouseman's Union, International.
March of Dimes.
Maritime Trades Union, AFL-CIO.
Men's Rights, Inc.
Mennonite Central Committee, U.S. Peace Section, Washington, D.C.
Mental Health Law Project.
Mexican American Business and Professional Women's Clubs of San Antonio.
Mothers Matter.
NA'AMAT USA.
NAACOG: Nurses Association of the American College of Obstetricians and Gynecologists.
National Adoption Center.
National Alliance for the Mentally Ill.
National Assembly of Voluntary Organizations.
National Association of Area Agencies on Aging.
National Association of Developmental Disability Councils.
National Association of Foster Grandparents Program Directors.
National Association of Letter Carriers.
National Association of Mature People.
National Association of Meal Programs.
National Association of Older American Volunteer Program Directors.
National Association of Protection and Advocacy Systems.
National Association of RSVP Directors, Inc.
National Association of Senior Companion Project Directors.
National Association of Social Workers, Inc.
National Association of State Units on Aging.
National Association of Protection and Advocacy Systems.
National Caucus and Center on Black Aged, Inc.
National Coalition of 100 Black Women, Capitol Hill Chapter.
National Conference of State Legislators.
National Conference of Women's Bar Associations.
National Congress for Men.
National Consumers League.
National Council for Children's Rights.
National Council for Research on Women.
National Council of Catholic Women.
National Council of Jewish Women.
National Council of Senior Citizens.
National Council of the Churches of Christ in the USA.
National Council on Family Relations.
National Council on the Aging.
National Down's Syndrome Congress.
National Education Association.
National Federation of Business and Professional Women's Clubs.
National Federation of Federal Employees.
National Federation of Housestaff Employees.
National Federation of Housestaff Organization.
National Interfaith Coalition on Aging.
National Jewish Community Relations Advisory Council.
National Mental Health Associations.
National Multiple Sclerosis Society.
National Organization for Women.
National Parent Teacher Association.
National Perinatal Association.
National Society of Children and Adults with Autism.
National Treasury Employees Union.
National Union of Hospital and Health Care Employees.
National Woman's Party.
National Women's Health Network.
National Women's Law Center.
National Women's Political Caucus.
NETWORK: A Catholic Social Justice Lobby.
New Jersey Coalition for Parental and Disability Leave.
Newspaper Guild.
New Ways to Work.
New York Committee for Occupational Safety and Health.
9 to 5 National Association of Working Women.
Northeastern Gerontological Society.
Northern West Virginia Coal Mining Women's Support Team.
Northwest Women's Law Center.
NOW Legal Defense and Education Fund.
Office and Professional Employees International Union.
Older Women's League.
OURS, Inc.
Parents without Partners.

Pennsylvania Coal Mining Women's Support Team.
Pension Rights Center.
Public Employees Department, AFL-CIO.
Retired Members Department-United Auto Workers.
San Francisco Board of Supervisors.
Service Employees International Union.
Southeast Women's Employment Coalition.
Southern West Virginia Women Miner's Support Team.
Southwestern Virginia Coal Mining Women's Support Team.
Texas Coalition of Nontraditional Professions.
Union of American Hebrew Congregations.
Union of Orthodox Jewish Congregations of America.
United Auto Workers.
United Cerebral Palsy Associations, Inc.
United Food & Commercial Workers International Union.
United Methodist Church, General Board of Church and Society.
United Mine Workers of America.
United States Catholic Conference.
United Steelworkers of America.
United Synagogue of America.
United Synagogue-Women's League for Conservative Judaism.
Villers Advocacy Associates.
Washington Council of Lawyers.
Wider Opportunities for Women, Inc.
Women Employed.
Women in Communication.
Women on the Job.
Women's American ORT.
Women's Bar Association of the District of Columbia.
Women's City Club of New York.
Women's Equity Action League.
Women's Equity Action League of Ohio.
Women's Lawyers Association of Michigan.
Women's Legal Defense Fund.
YWCA of the USA, National Board.

Mr. DODD. Mr. President, rather than going through the entire list, let me just mention some of these organizations, which hardly fall into the category of organized labor or one committee of Congress:

American Academy of Child and Adolescent Psychiatry, American Academy of Pediatrics, American Baptist Churches, American Bar Association, American Jewish Committee, American Medical Women's Association, American Nurses Association, Association of Junior Leagues, Child Welfare League, Children's Defense Fund, March of Dimes, National Alliance for the Mentally Ill, National Association of State Units on Aging, National Council of Jewish Women, National Council of Senior Citizens, National Federation of Business and Professional Women's Clubs, National Parent-Teacher Association.

Mr. President, the list goes on and on of organizations that hardly would be called organizations that have some narrow agenda or do not represent a broad spectrum of American society.

Let me also share with my colleagues some editorial comment on this legislation.

On September 21, 1988, a Washington Post editorial entitled "Mr. Bush and Family Leave." I will quote in part from this editorial, and I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 21, 1988]

MR. BUSH ON FAMILY LEAVE

George Bush has deftly revived the mainly Democratic legislation he opposes to require businesses above a certain size to provide unpaid parental leave. Both House and Senate committees had approved such legislation, which then stalled. In the House, even many Democracts—reluctant to offend business by voting for a "labor" bill that wasn't going anywhere—wanted the Senate to act first, which the Senate seemed unlikely to do.

Two weeks ago, Mr. Bush, as part of a shift in positions that also saw him endorse an increase in the minimum wage, said: "We also need to assure that women don't have to worry about getting their jobs back after having a child or caring for a child during a serious illness. . . . We've got to do something about that."

The purring Democrats propose to give him a chance. If not a bill, they'd be happy with a Republican vote against. Moderate Republicans in both houses, having successfully eased the terms of the bills, have joined in sponsoring them. With so many women in the work force, they no more than Mr. Bush's advisers want the party to be the naysayer on this issue.

The bills would require employers to allow parents (not just mothers, women's groups insisted) up to 10 weeks of leave every two years to care for children when born, adopted or seriously ill. The employer would be required to keep up any health insurance payments previously made and to guarantee the employee the same or a comparable job on her or his return. The House bill would also require leave to care for a sick parent, and both would require leave if the employee became ill.

The bills would cover only employees who had worked for a company for a year, and the Senate bill, only companies with more than 20 employees, exempting nearly 90 percent of all businesses and more than half of all workers. The House would exempt even more. Many larger businesses already provide some family leave. Thus the cost of the legislation would be modest; not all women could even afford all the unpaid leave it would provide. The opponents mainly fear what might follow. They see it as part of a broader effort by Congress to require business to provide benefits the government cannot afford. A higher minimum wage would be one such; mandatory health insurance another; paid family leave someday a possible third.

The Republican platform thus called for steps to "encourage employers . . . to voluntarily address their employees' child care needs," and the Bush campaign is exploring tax incentives. But these would again cost money the government doesn't have. The problem of paid benefits can be left for later. Unpaid maternity leave is a modest requirement in a society as dependent as this on women's work. Small business is amply not to say excessively protected. The pending legislation may not be what Mr. Bush had in mind, but Congress should thank him and pass it anyway.

Mr. DODD. Mr. President, without reading the entire editorial, let me quote some of the poignant paragraphs of the editorial:

> Two weeks ago, Mr. Bush, as part of a shift in positions that also saw him endorse an increase in the minimum wage, said: "We also need to assure that women don't have to worry about getting their jobs back after having a child or caring for a child during a serious illness. . . . We've got to do something about that."

Mr. President, we are here this morning trying to do something about that. But what is becoming blatantly clear is that the Vice President and others who are associated with him really do not want to do anything about it. They want to talk about it. They want to be on record as supporting parental leave. But their solution to the problem is basically to maintain the status quo, to let businesses and let organizations out there decide for themselves whether or not they are going to do anything. I would associate myself with that effort if it were doing anything, but it is not.

So we have the Vice President, a candidate for President, saying we also need to assure—and as I understand the meaning of the word "assure," it is to guarantee. The only way you guarantee anything is that you require it, and you require it by mandating it.

So we crafted a bill that says to 95 percent of the business in this country, "You are exempt," because we are not worried about the small businesses. But for 5 percent of the businesses, we want to assure—using the words of the Vice President—"that women don't have to worry about getting their jobs back after having a child or caring for a child during a serious illness."

If the Vice President is serious about doing something about that, and he says he is—and you understand that we have spent months on this bill—then here is a wonderful opportunity for him to call on his colleagues, who share the same political banner, to join with us in the remaining hours of the 100th Congress and do just what the Vice President has said he wanted to do: assure, for a few short weeks, with unpaid leave, that people be able to retain their jobs while they take care of a crisis at home.

If we sit here and go through 18 or 19 hours engaging in a charade and do not do anything about this issue, when it has been pending before Congress for almost 2 weeks, then we will know exactly how serious the Vice President's words were, how much he intended to do something about this problem, or whether in fact it was merely campaign rhetoric, just designed to say, "I am for something," without doing anything about it.

Congress is now prepared to deal with this issue. Had we not done our work over the last 2 years, and had we tried to spring up a bill in the last hour of Congress to create something that did not exist before, and present it to Congress, then the criticisms of the minority in this body would be legitimate: "You are springing a bill on us in the last hours, no hearings, no work, no committee preparation at all." That would be legitimate, and those of us who tried to do it would be guilty of the charge. But that is not what has happened here. There have been national hearings in seven cities on this bill. There has been all sorts of input from professionals all across this land. There was markup of this legislation in the Labor Committee.

This bill has been pending for the last month and a half. We brought it to the floor in a timely fashion. That is the way legislation is supposed to be crafted. It came out of the Labor Committee with an 11-to-6 vote, almost 2 to 1. This was not a one-vote majority that brought this bill to the floor. Almost one-quarter of the membership of the minority in this body are cosponsors of this bill; eight or nine members of the minority are cosponsors of this bill, serious Senators. Yet, we cannot get to a vote on it.

Let me read further from this editorial:

> The bills would cover only employees who had worked for a company for a year, and the Senate bill only companies with more than 20 employees exempting nearly 90 percent of all businesses and more than half of all workers.

There they say 20 employees, and we have raised the threshold to 50 employees.

> The House would exempt even more. Many larger businesses already provide some family leave. Thus the cost of the legislation would be modest; not all women could even afford all the unpaid leave it would provide.

That is true:

> The Republican platform thus called for steps to "encourage employers . . . to voluntarily address their employees' child care needs," and the Bush campaign is exploring tax incentives. But these would again cost money the government doesn't have. The problem of paid benefits can be left for later. Unpaid maternity leave is a modest requirement in a society as dependent as this on women's work. Small business is amply not to say excessively protected. The pending legislation may not be what Mr. Bush had in mind, but Congress should thank him and pass it anyway.

This is from the Atlanta Constitution, Mr. President, and I ask unanimous consent that an editorial of May 7, 1988, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A NATIONAL POLICY FOR MOTHERHOOD

> Tomorrow, the nation pauses to honor its mothers. Enormous sums will be expended by grateful sons and daughters on flowers, gifts, greeting cards and journeys home. There will be breakfasts in bed and blessings by preachers. Nursing homes will buzz with unaccustomed activity, and long-distance phone lines will be busy all day.
>
> And in the centers of government, glowing tributes will be paid to the women who changed the diapers, bandaged the knees and wiped away the tears of America. Few institutions inspire the reverence heaped annually on motherhood.
>
> But the nation has yet to back up these ritual observances with the most fundamental protections for parents: time off from work to have and care for their babies, with protection against firing.
>
> Bills that would require employers to provide unpaid family leave of up to 10 weeks, at no cost to taxpayers, have been stalled in committees of the House and Senate for most of the last three years. And, though one sponsored by Rep. Patricia Schroeder (D-Colo.) has finally emerged and been scheduled for a House vote sometime this spring or summer, it has turned into one of the hottest potatoes ever to be tossed around those chambers.
>
> Southerners, especially, have been reluctant to push publicly for a measure many admit privately would be difficult to vote against. Of Georgia's staunchly pro-family House delegation, only one member, John Lewis, is co-sponsoring Schroeder's relatively modest Family and Medical Leave Act, covering 47 percent of the nation's work force. It would apply initially, as part of a compromise worked out with House Republicans, only to firms employing 50 or more.
>
> The problem, congressional insiders say, is that many lawmakers feel pressured to classify themselves as either pro-family or probusiness, a conflict perpetrated by misrepresentations of the U.S. Chamber of Commerce. The Chamber sowed panic three years ago with its estimate that an earlier version of the bill would have cost a staggering $20 billion. It later whittled that estimate down to $2 billion. But the cost of the compromise would be closer to $188 million, the General Accounting Office said after factoring in actual employment and demographic statistics.
>
> The act is, to put it bluntly, the most overtly "pro-family" measure in decades, closing an unconscionable family gap with our own trading partners. Sweden provides parental leaves of up to a year, at 90 percent of salary for 38 weeks; Germany, fully paid leaves of up to 14 weeks. Even Chile provides paid leaves of up to 18 weeks.
>
> This act would provide no salaried leaves, just job protection for those returning after 10 weeks' parental (or up to 15 weeks' medical) leave. Workers would have to be employed for a year to be covered.
>
> But it would, at last, put into practice a notion to which most of us give only lip service: that families, and especially mothers, are valued. Workers ought to be able to have babies without risk of being fired.

Mr. DODD. Mr. President, let me quote if I can a bit from the editorial. The editorial says:

> The problem, congressional insiders say, is that many lawmakers feel pressured to classify themselves as either pro-family or probusiness, a conflict perpetrated by the misrepresentations of the U.S. Chamber of Commerce. The Chamber sowed panic 3 years ago with its estimate that an earlier version of the bill would have cost a staggering $20 billion. It later whittled that estimate down to $2 billion.

I might add, Mr. President, those were the mailings that went out all across this country telling businesses this is what this bill would cost if it were signed into law. But the costs of the compromise would be closer, and here it says $188 million. In fact, Mr. President, the cost of this legislation estimated by the General Accounting Office is some $167 million. That is the total cost of the parental leave bill. That is approximately $2.67 per covered worker per year. That is less than a penny a day, a penny a day for parental leave.

But do you think the Chamber sent out mailings all across this country to businesses saying, "I am sorry; we were wrong. It is not $20 billion; it is not $2 billion. It is $188 million"?

You never saw such a mailing. In fairness to the Chamber, Mr. President, I would tell you that the Chamber today uses for public discussion the figure of $188 million or $190 million, the cost of the bill as it was presented to Congress 2 months ago. They use the General Accounting Office numbers when people ask them.

But you know as well as I, as my colleagues do here, that they did not send out a mailing correcting the egregious mistake of suggesting the cost of this bill was going to be $20 billion or even $2 billion when they modified it. Oh, no, no, no. They engaged in scare tactics.

This editorial goes on to say:

> This act is, to put it bluntly, the most overtly "pro-family" measure in decades, closing an unconscionable family gap with our own trading partners. Sweden provides parental leave of up to a year, at 90 percent of salary for 38 weeks; Germany, fully paid leaves up to 14 weeks. Even Chile provides paid leave of up to 18 weeks.

In fact, Mr. President, let me share with you the kind of company we keep on this issue. Of all the industrialized nations in the world, every one of them, there are only two that do not have a simple parental leave policy. I am not suggesting we do anything like Sweden or Germany or what Japan does. But of all the industrialized nations in the world only two do not have a parental leave policy: The United States and South Africa. That is the unique company we keep on this issue.

Every single member of NATO has a parental leave policy. Our major competitors and trading partners have a parental leave policy. They think it works to their benefit. We are so caught up in 19th century thinking on these issues that we assume it is going to be a great burden, and yet I would share and I will share with my colleagues the testimony of businesses that have had parental leave in place, in some cases for a number of years. Not many of them, but you ought to hear their testimony about what it has done for their business. Put aside, if you will, whether or not you care about this issue, because it tries to provide some relief for families in a crisis environment: birth, adoption, serious illness of your child. Put aside that, if you will, and just look at this issue from the point of view that despite what business thinks, this actually contributes to the overall success of businesses.

The irony is, Mr. President, and I know my distinguished colleague who is presiding at this particular moment has been through this experience as well, you have a hearing, you have witnesses who actually are living an experience. I had panels of business representatives at every hearing pro and con. The chief executive officer of a business who would get up and say, "Senator, we have had a parental leave policy for the last year, 5 years, 10 years, and here has been our experience: It is good for business; it has been good for us. We have lower absenteeism. We have lower turnover. We have higher productivity. We made the decision and have maintained it because it is a good business decision. We have seen a parental leave policy contribute to the success of our business. We believe we are a stronger and a better company today because of this." That is witness one.

Witness 2 gets up and says: "Senator, I think that if we adopt this policy that it is going to cost us jobs, that it is going to be far too expensive, that it is going to make us noncompetitive either domestically or in international markets. We cannot afford to do that. This is what we think will happen to us if we adopt this policy."

And both witnesses want to be given equal treatment or equal weight.

Obviously, the business that has had the experience, who can talk about the business effects of having a parental leave policy, ought to, in my view, be given more weight than the witness who says "this is what I think will happen if we adopt this program."

And I will share with my colleagues reams of testimony from witnesses who come from businesses or represent industry where they have parental leave. So the notions somehow, the hypothetical notions, that parental leave is going to hobble or strap or make it impossible for business to compete to be successful are just not borne out by the facts. The facts are that businesses who do this are the ones that ought to be listened to when it comes to the effect on business of a parental leave policy.

Again to share, to look at what other nations do, and I am not suggesting we ought to do this because other nations do it, I do not buy that at all, just because Germany or Japan does something does not mean the United States has to do it, but when I see countries that are being more successful than we are economically and when you see the kind of working relationship that exists between labor and management in those countries, and we see a mind set here that still refuses to accept some of the basic concepts that have evolved in this century and face the demographics, I have often wondered what would happen if women in the work force just decided for a month or two—obviously this would not happen—but I would be kind of interested to see if it did—just to say "We can't work any longer," what managers would say. How important that element of our work force is today economically to this country.

And yet we also want people to be out and raising families, staying at home, caring for those children, making sure they do not end up in drugs, drop out of school, all of those problems we face. We are going to pass a drug bill, I presume, before we adjourn here, and it is going to throw the book at every pusher, at every kingpin.

We are going to raise sentences. We are going to make it more difficult for those engaged in the illegal drug business to avoid the grasp of the law. We are going to indict foreign countries that are involved in production. We are going to cut off their foreign aid. We are going to penalize States that do not have tougher local sentences. We are going to be tough on drugs. We are going to be tough.

And yet I do not know anybody that spends any time looking at the drug problem in this country who does not suggest also that there is a fundamental problem in this society when you have preteenagers who are consumers. Why has that happened? What has happened to a generation that all of a sudden they become drug users, subject to the appeal of the pusher?

Well, I am not so naive as to suggest that parental leave is going to solve the problem. But I do know that if you do not strengthen and make it possible for the American family to survive, then you are contributing to the problem. And I do not care how many laws you pass to make it tougher on the pusher or how many laws you pass to go after the kingpins, if you do not do something to restore and to protect the basic unit of our society—the American family—then you are ultimately not going to succeed in solving that problem.

All I am suggesting here with this parental leave approach is to make it possible for families to be together in the earliest stages of their relationship, that bonding period, which psychologists will tell you is so important; that you make it possible for middle-income folks to adopt kids who are abandoned and end up as kids on the streets of our urban centers—the runaways, leaving foster homes, ending up in the gutter, child prostitutes, pushers, runners—you make it possible for decent people who would like to adopt some of these kids and give them a chance.

But if you say to them you are going to lose your job if you try to adopt a child and bring them into your hearts and your home because you want to take a few weeks—which most adoption agencies require you to do, where one or the other parent is home developing that relationship with that new child that has come into that house—then you are not going to get that.

Mr. President, statistically the very rich do not adopt kids and the very poor cannot do it. The ones who do it are middle-income folks, working people, who hold jobs, where both the mother and the father in an intact family have to work. And if you want them to adopt some of these kids and minimize that problem you have to do something that says to them simultaneously: "You can do it for a few weeks. You are not going to get paid, but you are not going to lose your jobs, either." And that does not exist in this country, and it ought to.

So when I hear people talk about the drug problem, and when I hear people talk about families, I do not know of a single candidate this year running for public office that does not have a spot on television or on the radio where they are embracing a child, sitting in a child care center, hugging a child. Do you know why? Because it is politically important to people. So everybody is for kids, everybody is for families. And yet we are involved in a filibuster for a week and a half to try to come up with an unpaid leave policy for this country, a child care policy and, to do something about child pornography. What is going on? The rhetoric and the actions do not come together.

The Los Anglees Times, Mr. President, a third editorial, and the New York Times—I do not want to take the time of this body and go through each one of these editorials, but just to give you some notion, some idea. I ask unanimous consent, Mr. President, that both those editorials be printed in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follow:

[From the Los Angeles Times, May 11, 1988]

THE FAMILY GAP

Presidential candidates and other politicians from both major parties are proclaiming their concern this year with helping the American family. But, as Rep. Patricia Schroeder (D-Colo.) points out, there is nonetheless a huge "family gap." Congress seems to feel no urgency about grappling with two questions that are of daily concern to millions of voters—getting time off to be with a newborn or sick child and finding decent day care.

The Family and Medical Leave Act is ready for consideration by the full House of Representatives. This legislation would allow parents to take as much as 10 unpaid weeks off after the birth or adoption of a child, or to care for a seriously ill child or parent, and return to the same job or an equivalent one. Employees could also take 15 weeks of unpaid leave to recuperate from a serious illness themselves. The measure would cover only employers with more than 50 workers.

The opposition complains that businesses would have to spend too much money on temporary replacements for workers on leave. It strikes us that whatever money they did have to spend would be buying long-term worker satisfaction; when more experienced workers hold onto jobs because they are happy where they work, fewer new people must be trained, and productivity remains high.

Despite the merits of the legislation, it languishes, as does the major child-care bill proposed by Sen. Christopher J. Dodd (D-Conn.) and Rep. Dale E. Kildee (D-Mich.), not to mention a more modest measure by Sen. Orrin G. Hatch (R-Utah) and Rep. Nancy L. Johnson (R-Conn.). The Hatch-Johnson bill would provide tax incentives to encourage employers to establish child-care facilities, and would give states grants to subsidize day care for low-income people. It does not have the vast scope of the Dodd-Kildee bill, but it also doesn't have that bill's $2.5-billion price tag.

Those costs are indeed large, but so is the task that the broader bill sets for itself. This measure would put most of its money into subsidies to help low- and moderate-income people pay for day care. It also would finance training programs for child-care workers and provide grants to help child-care centers and home-care programs meet safety requirements and other regulations. The bill also would require states to review and strengthen licensing laws.

Child care is essential to the working poor. As a House committee found recently, 35 percent more two-parent families would live in poverty if the wives were not employed.

The scope of federal involvement in child care threatens to be the next battleground in the country's continuing ideological battles that swirl around the family. Congress could head off that unfortunate development by acting decisively. Instead of making promises and kissing babies, the politicians should help close the family gap by passing these bills to help American parents.

[From the New York Times, Jan. 18, 1987]

PREGNANCY LEAVE FOR WOMEN, AND MEN

For women serious about both career and family life can quickly become a difficult balancing act. A new Supreme Court decision promises to make the balancing a bit easier. It allows states to guarantee job-protected leave to pregnant workers.

The Court upheld a California law that requires most private employers with five or more workers to give women unpaid pregnancy disability leave of up to four months. They would be entitled to reinstatement to the same job on their return. Is such special treatment inconsistent with Federal laws prohibiting sex discrimination?

By a 6-to-3 vote, the Court said no. Federal law does mandate that pregnant employees be treated no worse than nonpregnant employees, Justice Thurgood Marshall reasoned, but that does not prevent an employer from treating them slightly better. In fact, he said, the California law furthers the Federal goals of equal employment opportunity for women because it "allows women, as well as men, to have families without losing their jobs."

The California law, he noted, does not compel favorable treatment of pregnant workers by employers. It merely establishes minimum standards that an employer could extend to all workers.

Women are more likely to work in smaller companies, which may balk at the implications. Yet by now working mothers are so large a fact of business life that employers would do well to confront the issue. More than 70 percent of all working women are of childbearing age and, according to one estimate, more than 90 percent of them are likely to be come pregnant during their working lives. Some people fear that the decision may actually generate a harmful backlash as employers simply refuse to hire women.

That is a legitimate worry. The best response, however, isn't to deny pregnancy leave to women but to permit more leaves for everyone. That is the thrust of a proposed Parental and Medical Leave Act, cosponsored by Representatives Patricia Schroeder of Colorado and William Clay of Missouri. Their bill would grant new parents up to 18 weeks of unpaid leave to care for newly born, newly adopted or seriously ill children. It would also protect the job of any employee who needs up to 26 weeks to recover from any serious health condition.

Such a national policy, promoting health, job and family stability, would show, again, how the goals of the women's movement turn out to benefit men.

Mr. DODD. Let me share with my colleagues just the closing paragraph of the Los Angeles Times editorial of May 11, 1988.

The scope of federal involvement in child care threatens to be the next battleground in the country's continuing ideological battles that swirl around the family. Congress could head off that unfortunate development by acting decisively. Instead of making promises and kissing babies, the politicians should help close the family gap by passing these bills to help American parents.

The New York Times, January 18, 1987. For those, Mr. President, who suggest that I sprung this piece of legislation last week somehow, here is an editorial that is almost 2 years old on this legislation.

I will quote in part from that editorial.

Women are more likely to work in smaller companies, which may balk at the implications. Yet by now working mothers are so large a fact of business life that employers would do well to confront the issue. More than 70 percent of all working women are of childbearing age and, according to one estimate, more than 90 percent of them are likely to become pregnant during their working lives. Some people fear that the decision may actually generate a harmful backlash as employers simply refuse to hire women.

That is a legitimate worry. The best response, however, isn't to deny pregnancy leave to women but to permit more leaves for everyone. That is the thrust of a proposed Parental and Medical Leave Act. . . .

Such a national policy, promoting health, job and family stability, would show, again, how the goals of the women's movement turn out to benefit men.

As I pointed out earlier, Mr. President, this is called parental leave. And while two out of every three women in the work force are either the sole providers of their families or have husbands that earn less than $15,000 a year, there are over a million men in this country who are the sole providers of their families and those numbers are growing. I do not applaud that trend. I do not like to see it happen. But today only 1 in every 10 families is intact in the United States—1 in 10.

And so this is parental leave. It says that fathers, too, can be with their children. That is an encouraging thing. That is something that more of the newer generation wants to be involved in, wants to do, wants to be part of that bonding and that child rearing and being there for crisis intervention.

So this is a parental leave bill, not just a maternal leave bill. It says that the dad can take time off without being paid to be with that sick child. And that ought to be encouraged.

Parental leave. I am told by some, Mr. President, that the reason they are opposed to the child care bill—the other bill that is a part of this package—is because it takes kids out of the home; it encourages the mother or the father to go into the work force when it is not really necessary. We are going to socialize children in this country. We are going to institutionalize them, as happens in the Eastern bloc or in the Soviet Union or in the People's Republic of China, stripping children away from their parents. That is what chid care is really all about.

Well, I will come to that argument in time, Mr. President, but the reason I cite that argument is because I find it somewhat ironic that the very people who raise those arguments in opposition to the child care bill are also opposed to the parental leave bill. The parental leave bill says that during times of crisis and if you are in the work force you ought to be home with that child. There is an effort to try and bring families together where you have to work I do not quite understand that those who oppose child care for the reasons I cited a moment ago are also opposed to parental leave. That does just what the people who are opposed to child care would like to have done. It makes it possible for parents to be with their children, at least during a crisis situation.

Let me share a letter of September 23, 1988, from the Reverend John W. Gouldrick. He is the director of the National Conference of Catholic Bishops' Committee for Pro-Life Activities.

Before I get into this letter, Mr. President, let me make it clear that I disagree with the church's position on whether or not women ought to have the right to an abortion. I disagree with them. I think that is up to a woman to make up her own mind whether or not she is going to. So we disagree on that.

But I thought it might be instructive to hear what the Catholic Conference has to say about the parental leave legislation because many of the people who oppose the parental leave legislation are also the strongest prolife activists in this body.

DEAR SENATOR: You may soon have an opportunity to vote on S. 2488, the Parental and Medical Leave Act. I am aware that many organizations have expressed views of S. 2488 from a variety of viewpoints. I would like to address this proposal in terms of its potential for protecting innocent human life.

Our achievement-oriented society tends to dismiss far too easily the dignity and worth of certain classes of human beings. This is certainly true of the unborn child, the most vulnerable member of our human family. Unfortunately, women in the work force sometimes face a dilemma when they become pregnant: either have an abortion, or risk the loss of job and livelihood by giving birth and taking maternity leave. A male employee can also be forced to choose between job and family responsibilities if his wife will require special medical care during or after pregnancy.

Similar pressures can operate to the detriment of newborn children. There have been instances when parents were persuaded to withhold ordinary life-saving medical treatment from their handicapped newborn child, on the grounds that the child would require time-consuming care if he or she survived.

By guaranteeing that employees will not lose their jobs if they must take medical leave or must care for a seriously ill child, the Parental and Medical Leave Act helps to ameliorate some of these pressures. The House version, H.R. 925, also provides appropriate help to those who must care for an elderly family member with a serious illness.

We do not, Mr. President, as you know, in our bill.

This letter goes on and concludes:

It has been said that by allowing employees to take unpaid leave in such emergencies these bills would impose new burdens on employers and even on other employees. But protecting and nurturing vulnerable human life always involves burdens, and is seldom as easy in the short run as solutions that neglect or destroy life. Our society can help individuals and families in need by ensuring that some of their burden will be shared among the rest of us. Because it offers a reasonable means for achieving this goal, the Parental and Medical Leave Act merits your support.

Mr. President, I ask unanimous consent that this letter of September 23, 1988 from the National Conference of Catholic Bishops be printed in the RECORD at this point as well.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL CONFERENCE OF CATHOLIC
BISHOPS' COMMITTEE FOR PRO-
LIFE ACTIVITIES,
Washington, DC, September 23, 1988.

DEAR SENATOR: You may soon have an opportunity to vote on S. 2488, the Parental and Medical Leave Act. I am aware that many organizations have expressed views of S. 2488 from a variety of viewpoints. I would like to address this proposal in terms of its potential for protecting innocent human life.

Our achievement-oriented society tends to dismiss far too easily the dignity and worth of certain classes of human beings. This is certainly true of the unborn child, the most vulnerable member of our human family. Unfortunately, women in the work force sometimes face a dilemma when they become pregnant: either have an abortion, or risk the loss of job and livelihood by giving birth and taking maternity leave. A male employee can also be forced to choose between job and family responsibilities if his wife will require special medical care during or after pregnancy.

Similar pressures can operate to the detriment of newborn children. There have been instances when parents were persuaded to withhold ordinary life-saving medical treatment from their handicapped newborn child, on the grounds that the child would require time-consuming care if he or she survived.

By guaranteeing that employees will not lose their jobs if they must take medical leave or must care for a seriously ill child, the Parental and Medical Leave Act helps to ameliorate some of these pressures. The House version, H.R. 925, also provides appropriate help to those who must care for an elderly family member with a serious illness.

It has been said that by allowing employees to take unpaid leave in such emergencies these bills would impose new burdens on employers and even on other employees. But protecting and nurturing vulnerable human life always involves burdens, and is seldom as easy in the short run as solutions that neglect or destroy life. Our society can help individuals and families in need by ensuring that some of their burden will be shared among the rest of us. Because it offers a reasonable means for achieving this goal, the Parental and Medical Leave Act merits your support.

Sincerely,
REV. JOHN W. GOULDRICK, C.M.,
Director.

Mr. DODD. Mr. President, that is not a labor organization and that is not just a committee of the Congress talking. The views of the Catholic conference represent the views of an awful lot of churches and organizations in this country, with similar views on that same point.

Mr. President, let me go on further and share some views of some different organizations on this particular bill that is considered such a terrible intrusion, an egregious intrusion into the lives of the largest corporations of this country.

My good friend from Montana has been trying for the last week to bring up the technical corrections amendments to the tax reform bill that is pending. He has been on the floor a good part of this morning. I know he has talked to the leader. He wants to get that bill up. It is an important bill, Mr. President. It is an important bill because it is going to take care of a lot of the folks back home.

I have some folks in that bill that are going to do very well under that technical corrections bill. Quite candidly, it is "gimmes," little pieces of the Tax Code that would protect and make more profitable some of our businesses. And I have some goodies in that bill, Mr. President. I have some Connecticut corporations that are going to do better under that piece of legislation.

But for the life of me I do not understand why that bill should be considered more important than parental leave or child care. And, yet, that is the argument that we receive.

Let me share, Mr. President, with my colleagues—Mr. President, let me postpone for a moment.

I will be glad to yield to my colleague from Arkansas.

Mr. PRYOR. Mr. President, I ask unanimous consent—Mr. President, I ask that I may have the right to yield 30 minutes of my time allocated under the cloture, postcloture provision, to the Senator from Connecticut.

The PRESIDING OFFICER. Is there objection?

Mr. COCHRAN. Reserving the right to object, Mr. President.

Mr. BYRD. There is no objection in order. The Senator has a right to yield 30 minutes to the manager and, if you are the manager on that side——

Mr. COCHRAN. Mr. President, does the distinguished Senator—did the distinguished Senator from Arkansas ask unanimous consent?

Mr. BYRD. The Senator does not need unanimous consent.

Mr. COCHRAN. This Senator essentially was reserving the right to object to determine what the request was, Mr. President.

The PRESIDING OFFICER. Yes, the Senator is correct. The majority leader is correct. The Senator has a right to yield additional time to the Senator from Connecticut. He does not require unanimous consent to do so.

The Senator from Arkansas has yielded an additional 30 minutes to the Senator from Connecticut.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut retains the floor.

Mr. DODD. Does my colleague wish me to yield?

Mr. DIXON. If my colleague would be so kind, I am delighted to yield him 30 minutes as well, and I wonder in the course of doing that if I may inquire of my distinguished colleague from Connecticut about when I could proceed out of order for approximately 10 minutes to introduce an important resolution.

Mr. DODD. I did not hear. I apologize.

Mr. BYRD. The Senator wants at some point to speak out of order.

Mr. DIXON. Oh, the Senator did not hear me?

Mr. DODD. I apologize.

No problem at all. I will be glad to yield at any point. In fact, if he is prepared to address the matter now, I can withhold.

Mr. DIXON. If my distinguished colleague would do that, I do yield him 30 minutes, and I would like to impose on the Senate out of order for a brief period not in excess of approximately 10 minutes, to make a brief statement, submit a resolution that I consider of some importance.

Mr. DODD. I would be glad to do that for my colleague.

I know the country is waiting with bated breath to hear the remainder of my remarks, but I will be glad to yield.

Mr. DIXON. I cannot speak for the rest of the country, but I can assure my colleague I await the rest of his remarks with bated breath.

The PRESIDING OFFICER. Is there objection to the Senator's proceeding for 10 minutes out of order?

Mr. BYRD. He would also need unanimous consent to introduce a measure as in morning business.

Mr. DIXON. I ask that unanimous consent as well, may I say to the distinguished majority leader.

Mr. BYRD. Oh, yes, and the time will continue to run against the 30 hours.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Illinois?

If not, without objection, it is so ordered.

Mr. BYRD. Mr. President, will the Senator yield to me?

Mr. DIXON. Yes, of course. Always.

Mr. BYRD. Under the cloture rule, to the 1 hour that has been yielded from the time of other Senators to the manager of the matter that was clotured, a total of 1 additional hour may be yielded by Senators without unanimous consent to the manager. And the same may be done with the majority leader and the same may be done for the minority leader and the same may be done for the minority member who is handling the measure.

May I ask, who is that? Who is the Senator?

Mr. DODD. Senator Cochran.

Mr. BYRD. Senator Cochran, as manager on this side or as opponent or whatever his position may be, he, likewise, is entitled to a yielding of similar amounts from Senators on his side, without unanimous consent.

Beyond that, then they have to get unanimous consent.

Mr. DIXON. Mr. President, do I understand I have consent now to proceed out of order as though in morning business to introduce a resolution, make brief remarks, to be charged against the time?

The PRESIDING OFFICER. The Senator also has unanimous consent to introduce the resolution.

The Senator from Illinois may proceed.

(The remarks of Mr. Dixon pertaining to the introduction of legislation are located in today's Record under Concurrent and Senate Resolutions.)

PARENTAL AND TEMPORARY MEDICAL LEAVE

The Senate continued with the consideration of the bill.

Mr. DODD. Mr. President, let me pick up where I left off and just share with my colleagues, again, comments from some of the organizations in this country that hardly wear a political label and how they feel about this.

The National Adoption Center: I made the point at other times, Mr. President, and I will make it again and it comes to the issue of parental leave and how important it is in the context of adoption. I think people understand it in the case of a newborn child, and they understand it in the context of a seriously ill child, but adoption is a serious matter in this country. We have tried in the Congress over the years to support and promote and to financially help promote adoption, particularly of the hardest to place children, retarded children, physically handicapped children, older children, minority children.

Mr. President, to accommodate some other matters that need to be addressed, I will return to this matter at the expiration of other business that must be conducted. At this point, Mr. President, I yield the floor.

THE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished acting Republican leader, Mr. Cochran, as to whether or not the following calendar orders have been agreed to and are ready for action on his side: 914, 994, 1023 and 1027?

Mr. COCHRAN. Mr. President, if the distinguished leader will yield, those matters have been cleared, and we are ready to proceed to take them up.

LICENSING AND USE OF CERTAIN INTELLECTUAL PROPERTY

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 438.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 438) to modify the application of the antitrust laws to encourage the licensing and other use of certain intellectual property.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

TITLE I—INTELLECTUAL PROPERTY

Sec. 101. This title may be cited as the "Intellectual Property Antitrust Protection Act of 1988".

PROHIBITION OF MARKET POWER PRESUMPTION

Sec. 102. In any action in which the conduct of an owner, licensor, licensee, or other holder of an intellectual property right is alleged to be in violation of the antitrust laws in connection with the marketing or distribution of a product or service protected by such a right, such right shall not be presumed to define a market or to establish market power, including economic power and product uniqueness or distinctiveness, or monopoly power.

Sec. 103. For purposes of this title—

(1) the term "antitrust laws" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)); and

(2) the term "intellectual property right" means a right, title, or interest—

(A) in subject matter patented under title 35 of the United States Code, or

(B) in a work, including a mask work, protected under title 17 of the United States Code.

TITLE II—PATENT MISUSE DOCTRINE REFORM

Sec. 201. Section 271 of title 35, United States Code, is amended—

(1) by redesignating subsection (c) as paragraph (1) of subsection (c);

(2) by redesignating subsection (d) as paragraph (2) of such subsection (c); and

(3) by inserting after subsection (c) the following new subsection:

"(d) No patent owner otherwise entitled to relief for infringement or contributory infringement of a patent shall be denied relief or deemed guilty of misuse or illegal extension of the patent right by reason of his or her licensing practices or actions or inactions relating to his or her patent, unless such practices or actions or inactions, in view of the circumstances in which such practices or actions or inactions are employed, violate the antitrust laws.".

Mr. THURMOND. Mr. President, I rise in support of S. 438, the Intellectual Property Antitrust Protection Act of 1988. This legislation, although not as strong as the legislation which was originally proposed, is nevertheless a step in the right direction for reforming the doctrine of patent misuse and clarifying the treatment of intellectual property rights under the antitrust laws.

The bill has two main sections. The first section eliminates the presumption of market power in antitrust cases involving patents, copyrights, and mask works, that is, semiconductor chip designs. The second section provides that a patent owner, otherwise entitled to relief for patent infringement, will not be denied relief or deemed guilty of misuse or illegal extension of the patent right, unless the licensing practices violate the antitrust laws.

In the various hearings concerning both these issues, there has been much testimony about the need for clarification and reform of the treatment of intellectual property rights under the antitrust laws. The denial of certiorari by the Supreme Court in *Digidyne Corp.* v. *Data General Corp.*, 734 F. 2d 1336 (9th Cir. 1984), cert, denied, 473 U.S. 908 (1985), and the Court's earlier decision in *Jefferson Parish Hospital Dist. No. 2* v. *Hyde*, 466 U.S. 2 (1984), suggest the need for such clarification as to the presumption of market power. As was noted by Justice White in his dissent in Data General, by denying certiorari the Court refused to address, and thus left unclear, what effect should be given to the existence of a copyright or other legal monopoly in determining market power. Justice White continued: "At stake is more than the resolution of this single controversy or even the clarification of what may seem at times to be a collection of arcane legal distinctions. In the highly competitive, multibillion dollar a year computer industry, bundling of software and hardware, or of operating systems and central processing units, is somewhat common, and any differentiated product is especially attractive to some buyers. The reach of the decision in this case is potentially enormous. . . ."

Likewise, concerning the misuse doctrine, Robert P. Taylor, in a letter submitted to the Subcommittee on Patents, Copyrights and Trademarks, on behalf of the American Bar Association, section of antitrust law, stated that a change in the misuse doctrine was needed "to promote and encourage the licensing of new technology. In many situations, the misuse doctrine in its present form forces the owner of new technology to choose between either not licensing at all or licensing under circumstances which place at risk the enforceability of this property and contractual rights to that technology."

Mr. President, although I would have preferred a stronger bill in this area, as I said at the outset, I am happy that we are able to bring before the Senate legislation that is a step in the right direction. I am pleased to support S. 438 and urge all my colleagues to do likewise.

Mr. LEAHY. Mr. President, the creative spirit of America's innovators has made our Nation the world's leader in high technology. America's economic future rests on the shoulders of individual inventors and innovators working in small firms and large corporations. We need to encourage continued innovation in high technology and to help American inventors and businesses recoup their tremendous investment in research and development. One way to do that is to facilitate the dissemination of America's new technology and innovative products.

With these goals in mind, several of my colleagues joined me last year in introducing S. 438, a bill to promote the licensing and other uses of intellectual property. As amended, this legislation will eliminate unfair penalties imposed by two outdated judicial doctrines that punish innovators engaged in procompetitive distribution and licensing practices. Those doctrines are: First, the presumption of market power in antitrust suits involving intellectual property rights; and second, the patent misuse doctrine, a defense in patent infringement suits.

S. 438 will provide greater flexibility in the dissemination of intellectual property and innovative products. It does so by first, clarifying the treatment of intellectual property rights under the antitrust laws by prohibiting courts from presuming the market power necessary for liability from the existence of an intellectual property right. Second, the bill would reform the doctrine of patent misuse by requiring that a practice rise to the level of an antitrust violation before it can be condemned as patent misuse.

Mr. President, our intellectual property and antitrust laws should operate together to encourage innovation by rewarding individual inventors and creators, and to promote competition by ensuring that those inventors and creators have access to open and competitive markets. Nonetheless, because of doctrines like the presumption of market power and patent misuse, it is almost common for business people and scholars to say that our antitrust and intellectual property laws are in conflict.

This legislation will help America's businesses meet the challenges they face in domestic and international markets. It does so by harmonizing our intellectual property and antitrust laws.

Our intellectual property laws encourage investment in innovation. By recognizing intellectual innovations as property, these laws provide inventors and other innovators with incentives through exclusive rights to the use of their inventions and original works for a limited time. By encouraging the publication of these inventions our intellectual property laws also encourage the dissemination of new technology, and thus promote technological progress.

Now, let me explain how these basic intellectual property principles can get stymied in certain antitrust suits. Courts often presume the requisite market power for antitrust liability from the mere existence of a patent or copyright. This presumption evolved because courts mistakenly characterized intellectual property rights as economic monopolies and thus treated patents and copyrights unnecessarily harshly in antitrust cases.

As a result, American businesses may be forced to avoid agreements that would permit them, for example, to cut costs by developing efficient distribution schemes for functionally related products. In some cases, the threat of antitrust liability even deters American companies and particularly, small businesses and individual inventors from developing new technology. For example, if an inventor's ability to license his product or the intellectual property rights to that product, is seriously threatened by the fear of treble damages being imposed in an antitrust suit, he likely will decide at the outset not to invest the time and money to research and develop that idea. This is especially true in our high technology industries whose products have short shelf lives.

Last year the Judiciary Committee's Technology and Antitrust Subcommittees held a joint hearing on S. 438. I remember Mr. Sanford Feman from the Hewlett-Packard Co. medical products group used a heart monitoring system to illustrate the real problems American companies face because of the antitrust laws' treatment of copyrighted products. To control quality and prevent malfunctions caused by use of the heart monitor's components with other manufacturers' equipment, Hewlett-Packard sells the copyrighted software and the hardware together as one heart monitoring system.

Because of a 1984 antitrust decision mistakenly applying the presumption of market power, however, American manufacturers may need to separate the components of such sophisticated high technology equipment. They may be forced to treat complex, interrelated computer technology as if it were a mattress and a bed. The fear of antitrust liability may force businesses to sell one component without the other regardless of its effects on consumers. In Mr. Feman's example, those consumers are hospitals and their patients.

By discouraging common sense dissemination of complex high technology equipment, current antitrust law harms consumers as well as manufacturers. No doubt some manufacturers, fearing they will incur product liability because of a malfunction in another manufacturers' component, will stop manufacturing their products altogether.

That troubling 1984 Court decision I referred to is *Digidyne Corp.* v. *Data General Corp.*, 734 F.2d 1336 (9th Cir. 1984), cert. denied, 473 U.S. 908 (1985). There, the Court of Appeals for the Ninth Circuit treated the defendant's refusal to license copyrighted computer software except to purchasers of its computer hardware as a per se unlawful tying arrangement. A tying arrangement is a form of package sale in which a seller conditions the sale or lease of one product upon the sale or lease of a second product. Under certain circumstances, the antitrust laws condemn tying arrangements as per se unlawful. The elements of per se illegal tying arrangements are described in *Jefferson Parish Hospital Dist. No. 2* v. *Hyde*, 466 U.S. 2 (1984). Some of the problems this poses for America's high technology industry are outlined in Justice White's dissent from the denial of certiorary in the Data General case.

Sufficient economic power in the tying product market to restrain competition in the tied product market appreciably is one of the elements of a per se unlawful tying arrangement. Relying on the presumption of market power, the Ninth Circuit in the Data General case found that the software system's copyright established the software's distinctiveness as a matter of law. It held that there was sufficient evidence from which the jury reasonably could have concluded that the software was sufficiently unique and desirable to an appreciable number of buyers to enable the defendant to force those consumers to buy the hardware.

But in evaluating the evidence, the Court specifically rejected the defendant's evidence that functionally equivalent substitutes existed for the copyrighted software. It said that the existence of substitutes for the software was not relevant to whether sufficient economic power existed for an illegal tie-in.

Data General is only one of many cases in which the courts have presumed market power from the existence of a patent or copyright. Courts have been applying the presumption at least as far back as 1962 and continue to do so today. See, for example, *United States* v. *Loew's, Inc.*, 371 U.S. 38 (1962); *Outlet Communications, Inc.* v. *King World Productions, Inc.*, 685 F. Supp. 1570 (M.D. Fla. 1988). And State courts also have relied on the presumption in applying State antitrust laws. See, for example, *Jerry Day and Cory Day* v. *Le-Jo Enterprises, Inc.*, 521 So. 2d 175 (Fla. Dist. Ct. App. 1988).

Legal and economic scholars have sharply criticized the presumption of market power. Hovenkamp says in his Economics and Federal Antitrust Law, "The economic case for 'presuming' sufficient market power to coerce consumer acceptance of an unwanted tied product simply because the tying product is patented [or] copyrighted . . . is very weak." See. 8.3 at 219 (1985). See also Note, The Presumption of Economic Power for Patented and Copyrighted Products in Tying Arrangements, 85 Colum. L. Rev. 1140, 1156 (1985).

S. 438's elimination of the presumption of market power is intended to reduce the likelihood that antitrust claims will be brought against intellectual property owners who should not be subject to antitrust liability. S. 438 clarifies that although patents and copyrights constitute legally enforceable property rights, they do not necessarily constitute economic monopolies. Similarly, the bill clarifies that although the "uniqueness" or "distinctiveness" of a particular product may be essential to the award of a patent or copyright, the patent or copyright does not necessarily result in economic power when evaluated under standard antitrust principles.

As stated in the Judiciary Committee's report on this legislation (Report 100-492), the elimination of the presumption will simply require plaintiffs to assume their proper burden of proof in antitrust cases involving patents, copyrights, or semiconductor chip designs. It will require that courts evaluate practices involving intellectual property rights under the same antitrust principles that are applied to practices involving other forms of property.

I would like to emphasize that S. 438's elimination of the presumption of market power will require courts to make a factual assessment of whether the holder of an intellectual property right has market power within an economically significant market in the same way as they do in other tying cases and in antitrust cases in general. Thus, courts will have to assess whether there are available substitutes for the protected tying product or service, as did the court in *A.I. Root Co.* v. *Computer Dynamics, Inc.*, 806 F.2d 673 (6th Cir. 1986).

Title I of S. 438 is also intended to preclude a plaintiff from establishing that a defendant has the requisite market share for antitrust liability by asserting that an intellectual property right constitutes its own market. Without proof of the absence of substitutes for the patented or copyrighted product, an intellectual property right does not itself constitute a market.

I understand some concern has been raised that by including in section 102, the terms "economic power," "product uniqueness or distinctiveness," and "monopoly power" along with "market power," we will somehow be setting in stone the definition of market power for antitrust cases outside the scope of this bill. Let me underscore right now that that is not our intent. Courts have used different terms when they refer to the presumption generally described as the presumption of "market power." Section 102 includes all of those terms to avoid an unduly narrow reading by some future court. We want to be sure that whatever they call it—"defining a market," "establishing market power," "economic power," "product uniqueness or distinctiveness," or "monopoly power"—courts do not foreclose thorough market analysis because of an intellectual property right.

I should also point out that the bill's elimination of the presumption does not apply to trademarks or trade secrets. The reason is simple. Under current law, courts tend not to view these rights as giving rise to a presumption. Thus, S. 438 is not intended to change current law in this respect. Nor is it intended to invite a finding that a trademark or trade secret creates a presumption of market power.

Mr. President, let me just say that title I of S. 438 rejects the presumption of market power because the presumption inhibits the development and dissemination of new technology. The patent misuse doctrine also inhibits the development and dissemination of new technology. That is why the Judiciary Committee added title II to S. 438 during our markup.

Patent misuse is a defense in patent infringement suits. It penalizes a patent holder who attempts to extend the patent beyond the limited statutory monopoly. The sanction for misuse is harsh: A patent owner loses the right to enforce his patent, at least until the conduct that has constituted misuse has ceased and its effects have been purged.

As outlined in the Judiciary Committee's report, courts have been inconsistent in their application of the misuse doctrine to analogous practices. Misuse has been found even where the conduct has no anticompetitive effect or where it has not injured the infringing party who raises misuse as a defense.

Reform of patent misuse will ensure that the harsh misuse sanction of unenforceability is imposed only against those engaging in truly anticompetitive conduct. Currently, courts impose the misuse doctrine using vague and shifting public policy grounds. As Prof. Donald Chisum has recognized:

> Unfortunately, decisions considering analogous practices are not always consistent. In part, this is attributable to the absence of a clear and general theory for resolving the problem of what practices should be viewed as appropriate exercises of the patent owner's statutory patent rights.

4 D. Chisum, Patents 19-91 (1987).

Title II of S. 438 is intended to reduce the chilling effect on a patent owner's willingness to consider flexible arrangements for the development of the patented technology. It clarifies that where licensing conduct is challenged on grounds related to competition, the challenge should be resolved the way that competitive challenges to other conduct are resolved, by resort to antitrust analysis.

Reforming the patent misuse doctrine by requiring courts to judge misuse by antitrust principles has substantial scholarly support. As the Court said in USM Corp. v. SPS Technologies, Inc., "If misuse claims are not tested by conventional antitrust principles, by what principles shall they be tested? * * * [I]t is rather late in the day to try to develop [alternative concepts of monopolistic abuse] without in the process subjecting the rights of patent holders to debilitating uncertainty." 694 F.2d 505, 512 (7th Cir. 1982), cert. denied, 462 U.S. 1107 (1983); See also Comment, Standard Antitrust Analysis and the Doctrine of Patent Misuse: A Unification under the Rule of Reason, 46 U. Pitt. L. Rev. 209 (1984).

The patent misuse provision of S. 438 is taken verbatim from title II of S. 1200, which was approved unanimously by the Judiciary Committee, passed by the Senate, and incorporated into the Senate trade bill last year. However, the House trade bill, H.R. 3, did not contain a provision addressing patent misuse because the House had not yet held hearings to study patent misuse. That changed on May 11, 1988, when my friend BOB KASTENMEIER, chairman of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the House Judiciary Committee held a hearing on patent misuse legislation. The House hearing focused on the Senate-passed patent misuse reform and H.R. 4086, a patent misuse reform bill Chairman KASTENMEIER introduced.

Mr. President, the Judiciary Committee unanimously passed this version of S. 438. It is cosponsored by Senators HATCH, THURMOND, HUMPHREY, BAUCUS, DECONCINI, KENNEDY, and METZENBAUM. It is supported by high technology companies, the administration, and the American Bar Association. The American Intellectual Property Law Association also has expressed support for the bill's provision reforming the patent misuse doctrine. I urge my colleague to join me in supporting this measure.

In closing I would like to thank the following Judiciary Committee staff members for their fine work in getting this legislation to the point of Senate passage: Randy Rader who was invested in the court of claims last week after working for many years for Senator HATCH, and Abby Kuzma counsel to Senator HATCH; Patricia Vaughan and Terry Wooten with Senator THURMOND; George Smith with Senator HUMPHREY; Diana Huffman with Senator BIDEN; Ed Baxter and Tara McMahon with Senator DECONCINI; Eddie Correia and Priscilla Budeiri with Senator METZENBAUM. Finally, I would like to thank my own staff on this legislation: Milo Cividanes who recently returned to private practice and my chief counsel, Ann Harkins.

Let me also thank Chairman RODINO and Chairman KASTENMEIER and members of their staff, Elaine Mielke, Mike Remington, Jon Yarowsky and David Beier, for their hard work in the House on this important legislation.

And speaking of hard work, special thanks and tribute go to Congressman HAM FISH who first introduced the House companion measure to the bill Senator HATCH and I introduced in the 99th and 100th Congresses. Congressman FISH's chief counsel, Alan Coffey deserves a great deal of credit for his work on this legislation as well.

Mr. HATCH. Mr. President, on February 3, 1987, I joined Senators LEAHY, THURMOND, and HUMPHREY in introducing S. 438, the Intellectual Property Antitrust Protection Act. Today I am pleased to speak again in its support. The purpose of this legislation is to promote competition in the international market of ideas, an endeavor of increasing importance as we approach the 21st century. This act strengthens the ability of American companies to compete in the international high-technology market. It will encourage innovation by permitting small inventors and entrepreneurs to recover their tremendous investment in research and development.

This act was introduced in response to judicial decisions which created uncertainty in the high-technology community by invalidating licensing practices which had no anticompetitive effects. These decisions failed to consider all competitive effects of agreements involving intellectual property rights. Such decisions subject American companies to possible treble damage liability for normal competitive practices which have no adverse effects upon the consumer. Needless to say, that discourages technological innovation at the very time we critically need to encourage it. This act will send a reliable signal to inventors and entrepreneurs that courts will no longer needlessly discourage technological innovation in this manner.

The judicial decisions to which I refer reflected a tension between the antitrust laws and the intellectual property laws. By recognizing intellectual innovations as property, the intellectual property laws provide inventors, authors, artists, and other creators, with exclusive rights to the use of their inventions and creations for a limited time. These rights enable innovators to capture some of the economic rewards of their efforts. The antitrust laws, on the other hand, protect consumers and businesses by ensuring open and competitive markets. They prevent combinations in restraint of trade and accumulation of monopoly power. Their goal is to preserve for the benefit of consumers a truly free market.

The intellectual property laws appropriately concentrate economic power, in very limited spheres, in the hand of one individual to reward him for his efforts. The antitrust laws are intended to keep economic power dispersed.

Many courts have presumed the requisite market power for antitrust liability from the mere existence of a patent or copyright. However, mere possession of a patent or copyright hardly constitutes an automatic grant of monopoly power. In fact, quite the opposite is often the case: the recipient of a new patent may be intending to challenge existing participants in an established market. The mistaken characterization of intellectual property rights as automatically granting power over a particular market has led to unnecessary harsh treatment of patents and copyrights in some antitrust cases.

For example, the decision in *Digidyne Corp.* v. *Data General Corp.*, 734 F.2d 1336 (9th Cir. 1984), cert. denied, 473 U.S. 908 (1985), can be interpreted to mean that the existence of a copyright automatically leads to a presumption of economic power. In that case, the ninth circuit specifically rejected the lower court's market analysis which focused on functionally equivalent substitutes for the copyrighted software. All it takes to illustrate the problem with the ninth circuit's reasoning is a simple example.

Suppose you buy a new personal computer, which you intend to use mainly for word processing. Does that mean you are in the market for the Word Perfect Program? No; it means you are in the market for any one of several word processing programs that meet your needs. The holder of the various intellectual property rights relating to Word Perfect may have monopoly power over the Word Perfect market, but he hardly has monopoly power over the entire word processing market.

This example shows the foolishness of treating intellectual property rights more poorly than other property rights. S. 438 merely levels the playing field so that all property rights are treated equally in litigation.

Another judicial decision causing concern in this regard is *Jefferson Parish Hospital Dist. No. 2* v. *Hyde*, 466 U.S. 2 (1984). In that case, a majority of the Supreme Court asserted in dictum:

> [I]f the Government has granted the seller a patent or similar monopoly over a product, it is fair to presume that the inability to buy the product elsewhere gives the seller market power.

Jefferson Parish Hospital Dist. No. 2 v. *Hyde*, 466 U.S. 2, 16 (1984). This assertion, coupled with the denial of certiorari in the Data General case, has caused intellectual property owners using package distribution schemes to fear that they may be the target of antitrust suits relying on the market power presumption.

Mr. President, we must not let the antitrust laws and intellectual property laws work at cross purposes. This legislation would lessen the tension between them by continuing to ban practices shown to be anticompetitive under an analysis of all competitive conditions, but by preventing courts from invalidating practices which do not have anticompetitive consequences—and which, in fact, are procompetitive because they encourage the development of intellectual property. This clarification of our antitrust laws will help American high-technology companies compete effectively in the highly competitive international marketplace.

Specifically, this act provides that when the holder of an intellectual property right is alleged to violate antitrust laws, the intellectual property right itself shall not be presumed to define a market or establish market power. This act further provides that one who merely licenses a patent cannot automatically thereby be deemed guilty of misuse or illegal extension of the patent.

This legislation is a necessary element of our efforts to provide American companies the environment they need to stay competitive in world markets. It requires that agreements to convey intellectual property rights be evaluated for antitrust purposes upon consideration of all relevant economic factors, including their procompetitive benefits, rather than upon unwarranted presumptions of market power. This is an eminently reasonable step. The threat of antitrust liability acts as a disincentive to the creation and distribution of new technology. Even after new technology has been created and distributed, the threat of antitrust liability diverts resources away from further innovation. The status quo is clearly harmful to innovation without being beneficial to consumers.

I reiterate that this bill does not undercut the legitimate authority of the antitrust laws. In fact, it encourages the dispersion of economic power, which is the goal of the antitrust laws, by allowing the little guy the wherewithal to compete. Often, the holder of a patent may not possess sufficient capital to further develop or market his innovation. In order for him to receive any benefit from his invention—or, for that matter, for the public to receive any benefit—it may be necessary to license the patent. This bill permits that to happen without the threat of antitrust liability. It will enable a licensor to devote his efforts to considering how best to commercialize his product rather than to worrying about possible litigation.

The application of the presumption of market power forecloses a court's consideration of factors that the court would consider relevant in antitrust cases involving a nonpatented or noncopyrighted product. It prevents courts from considering the availability of substitute products for a patented product used in a tying arrangement. Again, the inevitable result is the hindrance of the development and distribution of innovative technology.

The elimination of the presumption will require only that courts evaluate practices involving intellectual property rights under the same antitrust principles that are applied to practices involving other forms of property. This act merely levels the playing field. Given the importance of research and development of new technology to our economic security and progress, this measure ought to pass promptly.

So far I have been discussing title I of the act, which prohibits the market power presumption. Let me now turn to title II, which reforms the doctrine of patent misuse. Much of that which I have already said is equally applicable to this title, but I wish to add a few points.

The doctrine of patent misuse provides that a patent owner may not enforce its patents if it has engaged in conduct deemed "misuse." Misuse thus renders the patent unenforceable, but not void. One branch of the doctrine involves fraud before the Patent Office. Such conduct is unaffected by this act. The other branch of the misuse doctrine developed through judicial interpretations which found misuse present because of alleged anticompetitive extensions of the owner's patent rights.

I have no objection to finding misuse where the antitrust laws have been violated. But under current law, misuse may also be found where the patent owner's conduct has not violated the antitrust laws, where the conduct has no demonstrated anticompetitive effect, and even where the conduct has not injured the infringing party who raises misuse as a defense. This is clearly an abuse.

In a letter to the Subcommittee on Patents, Copyrights, and Trademarks, where I serve as the ranking minority member, Robert P. Taylor, of the American Bar Association's Section of Antitrust Law, stated:

> In many situations, the misuse doctrine in its present form forces the owner of new technology to choose between either not licensing at all or licensing under circumstances which place at risk the enforceability of this property and contractual rights to that technology.

Mr. Taylor further stated:

> That the misuse doctrine in its present form means that creative and innovative licensing schemes are rarely ever used, because any license provision that is even slightly questionable is likely to place the entire patent at risk whenever an enforcement proceeding is brought.

The patent misuse doctrine has come to provide a defense even to a person who knowingly infringes a valid patent and is not affected by the conduct held to be misuse. If there ever existed a reason for this harsh result, it is long gone. At the very least it is outweighed by considerations of fairness to intellectual property owners and by concerns over American competitiveness. This bill remedies the deficiencies in the doctrine, without eviscerating the doctrine altogether. This bill also encourages the development of new technology without compromising our commitment to the antitrust laws.

As you well know, Mr. President, the Judiciary Committee includes Senators of deeply felt and widely divergent political views. Nevertheless, the committee unanimously ordered the bill as amended favorably reported. Joining me in cosponsoring this proposal are several colleagues from both sides of the aisle. This act corrects two deficiencies in current law: the presumption of market power and the patent misuse doctrine. It will encourage innovation and enhance our national competitiveness in the international market. It will be of particular value to individuals and small enterprises who might not, without its protections, be able to develop and market important and useful new technologies.

For all these reasons, I am pleased to be a cosponsor of this bill. I urge its prompt consideration and approval. Thank you.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read a third time, the question is, Shall it pass?

So the bill (S. 438) was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PINE RIDGE INDIAN RESERVATION SETTLEMENT ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1305.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1305) to settle certain claims arising out of activities on the Pine Ridge Indian Reservation.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

S. 1305

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in full settlement of all claims, legal and equitable, against the United States arising out of activities on the Pine Ridge Indian Reservation that were the subject of the findings of fact and recommendations submitted to the Senate by the Chief Commissioner of the United States Court of Claims (Congressional Reference 4-76) in response to a request of the Senate made in Senate Resolution 378 (94th Congress, agreed to on August 9, 1976), the Secretary of the Treasury is authorized and directed to pay, out of funds in the Treasury of the United States not otherwise appropriated, the following amounts:

(1) $731.05 to Joe Leavitt (claimant No. 1),

(2) $118,771.10 to William Leavitt (claimant No. 2),

(3) $10,954.48 to Dwight W. and Francis Afraid of Hawk (claimant No. 3),

(4) $15,073.31 to Stella Bear Shield (claimant No. 4),

(5) $3,582.00 to Samuel Crooked Eyes (claimant No. 5),

(6) $2,955.00 to Seth Eagle Bear (claimant No. 6),

(7) $4,095.00 to Frank and Gonne A. Grooms (claimant No. 7),

(8) $2,537.00 to Vera High Hawk (claimant No. 8),

(9) $21,092.00 to John and Nancy Hussman (claimant No. 9),

(10) $2,245.00 to Jackson and Carolyn Iron Horse (claimant No. 10),

(11) $4,467.00 to Frances Ice Chase (claimant No. 11),

(12) $1,838.60 to Eugene Kills in Water (claimant No. 12),

(13) $3,161.00 to Victoria Little Moon (claimant No. 13),

(14) $4,929.00 to Clement and Verla Locke (claimant No. 14),

(15) $11,672.50 to Charles and Martha Moose (claimant No. 16),

(16) $12,812.00 to Warfield Moose (claimant No. 17),

(17) $8,025.00 to Patrick and Sophia Pumpkin Seed (claimant No. 18),

(18) $6,161.25 to Oliver and Margaret Red Eagle (claimant No. 19),

(19) $24,562.00 to Paul and Eva Red Star (claimant No. 20),

(20) $7,768.00 to Lillian and Steve Sitting Eagle (claimant No. 21),

(21) $1,685.10 to Joseph Spotted Bear (claimant No. 22),

(22) $5,897.25 to Elizabeth Breast (claimant No. 23),

(23) $3,340.33 to Elmer and Nettie Two Two (claimant No. 24),

(24) $7,653.00 to Francis and Marie Randall (claimant No. 25),

(25) $5,603.00 to Fannie Bear Eagle (claimant No. 26),

(26) $3,597.00 to Eugene Black Bear, Jr. (claimant No. 27),

(27) $2,571.00 to Anthony and Linda Black Elk (claimant No. 28),

(28) $15,833.90 to Homer and Irene Black Elk (claimant No. 29),

(29) $8,762.75 to Rachel Eagle Bull (claimant No. 30),

(30) $4,723.00 to Florine (Ice) Hollow Horn (claimant No. 32),

(31) $6,050.40 to Oscar and Rachel Hollow Horn (claimant No. 33),

(32) $4,134.40 to Verlean Ice (claimant No. 34),

(33) $6,880.00 to Claudia Iron Hawk Sully (claimant No. 36),

(34) $7,735.55 to Paul R. Littlebear-Taylor (claimant No. 37),

(35) $3,248.10 to Hobart Keith (claimant No. 38),

(36) $1,350.00 to Mathew H. King (claimant No. 39),

(37) $4,285.00 to Dallas and Roselyn Little Bear (claimant No. 41),

(38) $3,053.60 to Julia Little Bear (claimant No. 42),

(39) $2,083.09 to Mrs. Theresa R. Means (claimant No. 43),

(40) $3,842.00 to Carol E. Red Star (claimant No. 44),

(41) $1,194.00 to John Mark Red Star (claimant No. 45),

(42) $3,793.50 to Neville C. Red Star, Sr. (claimant No. 46),

(43) $3,525.00 to Darlene Rosane (claimant No. 47),

(44) $14,882.00 to Garry Rowland (claimant No. 48),

(45) $2,485.00 to Beverly Running Bear (claimant No. 49),

(46) $4,025.00 to Rose Shott (claimant No. 50),

(47) $24,276.00 to Sub-Community of Wounded Knee (claimant No. 51),

(48) $3,750.00 to Paul Thunder Horse (claimant No. 52),

(49) $3,593.00 to Robert E. & Lorene E. Thunder Horse (claimant No. 53),

(50) $5,949.22 to Timothy H. and Audrey K. Thunder Horse (claimant No. 54),

(51) $1,900.00 to Lester White Butterfly (claimant No. 55),

(52) $1,455.00 to Daniel Dodge (claimant No. 56),

(53) $1,100.00 to Mr. & Mrs. Manfred Fast Horse (claimant No. 57),

(54) $2,207.00 to Helen S. Grant (claimant No. 58),

(55) $4,715.00 to Florine Hollow Horn ex rel. Bernard Ice, Sr. (claimant No. 59),

(56) $1,245.00 to Frank Jealous of Him (claimant No. 60),

(57) $5,756.10 to Matthew and Bessie J. High Pine (claimant No. 61),

(58) $5,305.00 to Cecilia (Little Moon) Fast Horse (claimant No. 62),

(59) $4,901.50 to Mabel I. Whiteface (claimant No. 63),

(60) $3,288.00 to Rachel White Dress (claimant No. 64),

(61) $2,422.30 to Dorothy Fast Wolf (claimant No. 65),

(62) $13,018.40 to Frank H. and Wilma Grooms (claimant No. 66),

(63) $4,334.67 to Jessie and Raymond Red Shirt (claimant No. 68),

(64) $28,467.95 to Carol J. Deckert Sager (claimant No. 69),

(65) $2,484.45 to LeRoy "Sunshine" Janis (claimant No. 70),

(66) $16,754.70 to Rudolph Fire Thunder (claimant No. 71),

(67) $1,535.50 to Messiah Episcopal Church (claimant No. 72),

[(68) $600 to Faye Yellow Bird Steele (claimant No. 73),]

(69) $1,984.26 to Ivy Goings (claimant No. 74),

(70) $2,679.60 to Dorothy Mae Richards (claimant No. 75),

(71) $1,640.00 to Elizabeth Bradshaw (claimant No. 77),

(72) $6,184.00 to Charles Dixon Sasse (claimant No. 78),

(73) $5,740.70 to Orville and Emma Lansberry (claimant No. 79),

(74) $2,129.00 to Oscar Jealous of Him (claimant No. 80),

(75) $1,984.26 to Delores Apple (claimant No. 82),

(76) $2,502.80 to Chris Hatchett (claimant No. 83),

(77) $1,920.00 to Gilbert L. and Mary A. Matthews (claimant No. 85),

(78) $5,623.00 to Irene Jumping Eagle (claimant No. 86),

(79) $69,461.83 to St. Paul Insurance Companies (claimant No. 87),

(80) $1,850.00 to John Siers (claimant No. 88),

(81) $5,505.00 to Ameilia M. Clark (claimant No. 89),

(82) $50,975.94 to George and Violet Coats (claimant No. 90),

(83) $51,290.45 to James A. Czywczynski & Jeanette J. Czywczynski (claimant No. 91),

(84) $18,436.58 to Federal Insurance Co. (claimant No. 92),

(85) $1,650.00 to Stephen E. and JoAnne Ferace (claimant No. 93),

(86) $12,331.14 to Guy and Jean Fritze (claimant No. 94),

(87) $7,000.00 to C and F Trucking (claimant No. 95),

(88) $16,615.00 to Clive A. and Agnes Gildersleeve (claimant No. 96),

(89) $12,763.08 to Gordon G. and Lorraine F. Greenamyre (claimant No. 97),

(90) $21,917.51 to H and R Plumbing and Heating, Inc. (claimant No. 98),

(91) $39,298.25 to Home Insurance Co. (claimant No. 99),

(92) $21,457.92 to Janis Roofing (claimant No. 100),

(93) $6,431.95 to Milbank Mutual Insurance Company (claimant No. 101),

(94) $4,468.00 to Mary F. Pike (claimant No. 102),

(95) $67,511.54 to R and S Construction Company (claimant No. 103),

(96) $12,405.00 to Estate of Wilbur A. Riegert (claimant No. 104),

(97) $19,620.00 to Orville G. Schwarting (claimant No. 105),

(98) $490,934.44 to Sioux, Inc. (claimant No. 106),

(99) $8,275.02 to Stuyvesant Insurance Co. (claimant No. 107),

[(100) $8,028.65 to Oglala Sioux Tribe (claimant No. 108),]

(101) $28,374.00 to Oglala Sioux Housing Authority (claimant No. 109),

(102) $37,679.50 to Aaron DeSersa-Sron (claimant No. 110),

(103) $5,181.45 to Lydia Black Bear (claimant No. 111),

(104) $887.50 to Thomas Casey (claimant No. 112),

(105) $3,984.00 to Roy and Pauline White Butterfly (claimant No. 113),

(106) $3,495.00 to Eleanor Big Owl for George Iron Teeth (claimant No. 114),

(107) $3,168.09 to Standard Oil (Indiana) (claimant No. 115),

(108) $7,335.00 to Shirley Blunt Horn (claimant No. 116),

(109) $1,866.00 to Eugene and Vera Hunts Horse (claimant No. 118),

(110) $2,650.40 to Clayton and Vernice Jealous of Him (claimant No. 119),

(111) $1,021.00 to Keva A. and Reuben R. Mesteth (claimant No. 120),

(112) $4,234.70 to Hobart Spotted Bear (claimant No. 121), and

(113) $1,425.00 to Employers Mutual Companies (claimant No. 122).

(b)(1) No portion of any payment made to any person under subsection (a) in excess of 10 percent of the amount of such payment shall be paid or delivered to, or received by, any agent or attorney on account of services rendered in connection with the claim for which such payment is made, and the same shall be unlawful, notwithstanding any contract to the contrary. Violation of the provisions of this paragraph is a misdemeanor punishable by a fine not to exceed $1,000.

(2) Notwithstanding any other provision of law, no portion of any payment made to a person under this Act shall be included in the income of such person for purposes of any Federal, State, or local income tax. Notwithstanding any other provision of law, payments made to a person under this Act may not be considered as income or resources or otherwise used as the basis for denying or reducing—

(A) any financial assistance or other benefit under the Social Security Act—

(i) to which such person, or the household of such person, is otherwise entitled, or

(ii) for which such person, or the household of such person, is otherwise eligible, or

(B) any other financial assistance or benefit—

(i) to which such person, or the household of such person, is otherwise entitled, or

(ii) for which such person, or the household of such person, is otherwise eligible,

under any program for which part or all of the funding is provided by the Federal Government.

(c) Pursuant to the recommendations of the Chief Commissioner of the United States Court of Claims, the Secretary of the Treasury is authorized and directed to pay, out of funds in the Treasury of the United States not otherwise appropriated, $26,486.44 to the Dakota Plains Legal Services (formerly South Dakota Legal Services Corporation) for services rendered in connection with the proceeding conducted pursuant to section 2509 of title 28, United States Code, which was initiated by reason of Senate Resolution 378 (94th Congress, agreed to on August 9, 1976).

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendments.

The committee amendments were agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read a third time, the question is, Shall it pass?

So the bill (S. 1305) was passed, as follows:

S. 1305

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in full settlement of all claims, legal and equitable, against the United States arising out of activities on the Pine Ridge Indian Reservation that were the subject of the findings of fact and recommendations submitted to the Senate by the Chief Commissioner of the United States Court of Claims (Congressional Reference 4-76) in response to a request of the Senate made in Senate Resolution 378 (94th Congress, agreed to on August 9, 1976), the Secretary of the Treasury is authorized and directed to pay, out of funds in the Treasury of the United States not otherwise appropriated, the following amounts:

(1) $731.05 to Joe Leavitt (claimant No. 1),

(2) $118,771.10 to William Leavitt (claimant No. 2),

(3) $10,954.48 to Dwight W. and Francis Afraid of Hawk (claimant No. 3),

(4) $15,073.31 to Stella Bear Shield (claimant No. 4),

(5) $3,582.00 to Samuel Crooked Eyes (claimant No. 5),

(6) $2,955.00 to Seth Eagle Bear (claimant No. 6),

(7) $4,095.00 to Frank and Gonne A. Grooms (claimant No. 7),

(8) $2,537.00 to Vera High Hawk (claimant No. 8),

(9) $21,092.00 to John and Nancy Hussman (claimant No. 9),

(10) $2,245.00 to Jackson and Carolyn Iron Horse (claimant No. 10),

(11) $4,467.00 to Frances Ice Chase (claimant No. 11),

(12) $1,838.60 to Eugene Kills in Water (claimant No. 12),

(13) $3,161.00 to Victoria Little Moon (claimant No. 13),

(14) $4,929.00 to Clement and Verla Locke (claimant No. 14),

(15) $11,672.50 to Charles and Martha Moose (claimant No. 16),

(16) $12,812.00 to Warfield Moose (claimant No. 17),

(17) $8,025.00 to Patrick and Sophia Pumpkin Seed (claimant No. 18),

(18) $6,161.25 to Oliver and Margaret Red Eagle (claimant No. 19),

(19) $24,562.00 to Paul and Eva Red Star (claimant No. 20),

(20) $7,768.00 to Lillian and Steve Sitting Eagle (claimant No. 21),

(21) $1,685.10 to Joseph Spotted Bear (claimant No. 22),

(22) $5,897.25 to Elizabeth Breast (claimant No. 23),

(23) $3,340.33 to Elmer and Nettie Two Two (claimant No. 24),

(24) $7,653.00 to Francis and Marie Randall (claimant No. 25),

(25) $5,603.00 to Fannie Bear Eagle (claimant No. 26),

(26) $3,597.00 to Eugene Black Bear, Jr. (claimant No. 27),

(27) $2,571.00 to Anthony and Linda Black Elk (claimant No. 28),

(28) $15,833.90 to Homer and Irene Black Elk (claimant No. 29),

(29) $8,762.75 to Rachel Eagle Bull (claimant No. 30),

(30) $4,723.00 to Florine (Ice) Hollow Horn (claimant No. 32),

(31) $6,050.40 to Oscar and Rachel Hollow Horn (claimant No. 33),

(32) $4,134.40 to Verlean Ice (claimant No. 34),

(33) $6,880.00 to Claudia Iron Hawk Sully (claimant No. 36),

(34) $7,735.55 to Paul R. Littlebear-Taylor (claimant No. 37),

(35) $3,248.10 to Hobart Keith (claimant No. 38),

(36) $1,350.00 to Mathew H. King (claimant No. 39),

(37) $4,285.00 to Dallas and Roselyn Little Bear (claimant No. 41),

(38) $3,053.60 to Julia Little Bear (claimant No. 42),

(39) $2,083.09 to Mrs. Theresa R. Means (claimant No. 43),

(40) $3,842.00 to Carol E. Red Star (claimant No. 44),

(41) $1,194.00 to John Mark Red Star (claimant No. 45),

(42) $3,793.50 to Neville C. Red Star, Sr. (claimant No. 46),

(43) $3,525.00 to Darlene Rosane (claimant No. 47),

(44) $14,882.00 to Garry Rowland (claimant No. 48),

(45) $2,485.00 to Beverly Running Bear (claimant No. 49),

(46) $4,025.00 to Rose Shott (claimant No. 50),

(47) $24,276.00 to Sub-Community of Wounded Knee (claimant No. 51),

(48) $3,750.00 to Paul Thunder Horse (claimant No. 52),

(49) $3,593.00 to Robert E. & Lorene E. Thunder Horse (claimant No. 53),

(50) $5,949.22 to Timothy H. and Audrey K. Thunder Horse (claimant No. 54),

(51) $1,900.00 to Lester White Butterfly (claimant No. 55),

(52) $1,455.00 to Daniel Dodge (claimant No. 56),

(53) $1,100.00 to Mr. & Mrs. Manfred Fast Horse (claimant No. 57),

(54) $2,207.00 to Helen S. Grant (claimant No. 58),

(55) $4,715.00 to Florine Hollow Horn ex rel. Bernard Ice, Sr. (claimant No. 59),

(56) $1,245.00 to Frank Jealous of Him (claimant No. 60),

(57) $5,756.10 to Matthew and Bessie J. High Pine (claimant No. 61),

(58) $5,305.00 to Cecilia (Little Moon) Fast Horse (claimant No. 62),

(59) $4,901.50 to Mabel I. Whiteface (claimant No. 63),

(60) $3,288.00 to Rachel White Dress (claimant No. 64),

(61) $2,422.30 to Dorothy Fast Wolf (claimant No. 65),

(62) $13,018.40 to Frank H. and Wilma Grooms (claimant No. 66),

(63) $4,334.67 to Jessie and Raymond Red Shirt (claimant No. 68),

(64) $28,467.95 to Carol J. Deckert Sager (claimant No. 69),

(65) $2,484.45 to LeRoy "Sunshine" Janis (claimant No. 70),

(66) $16,754.70 to Rudolph Fire Thunder (claimant No. 71),

(67) $1,535.50 to Messiah Episcopal Church (claimant No. 72),

(68) $1,984.26 to Ivy Goings (claimant No. 74),

(69) $2,679.60 to Dorothy Mae Richards (claimant No. 75),

(70) $1,640.00 to Elizabeth Bradshaw (claimant No. 77),

(71) $6,184.00 to Charles Dixon Sasse (claimant No. 78),

(72) $5,740.70 to Orville and Emma Lansberry (claimant No. 79),

(73) $2,129.00 to Oscar Jealous of Him (claimant No. 80),

(74) $1,984.26 to Delores Apple (claimant No. 82),

(75) $2,502.80 to Chris Hatchett (claimant No. 83),

(76) $1,920.00 to Gilbert L. and Mary A. Matthews (claimant No. 85),

(77) $5,623.00 to Irene Jumping Eagle (claimant No. 86),

(78) $69,461.83 to St. Paul Insurance Companies (claimant No. 87),

(79) $1,850.00 to John Siers (claimant No. 88),

(80) $5,505.00 to Ameilia M. Clark (claimant No. 89),

(81) $50,975.94 to George and Violet Coats (claimant No. 90),

(82) $51,290.45 to James A. Czywczynski & Jeanette J. Czywczynski (claimant No. 91),

(83) $18,436.58 to Federal Insurance Co. (claimant No. 92),

(84) $1,650.00 to Stephen E. and JoAnne Ferace (claimant No. 93),

(85) $12,331.14 to Guy and Jean Fritze (claimant No. 94),

(86) $7,000.00 to C and F Trucking (claimant No. 95),

(87) $16,615.00 to Clive A. and Agnes Gildersleeve (claimant No. 96),

(88) $12,763.08 to Gordon G. and Lorraine F. Greenamyre (claimant No. 97),

(89) $21,917.51 to H and R Plumbing and Heating, Inc. (claimant No. 98),

(90) $39,298.25 to Home Insurance Co. (claimant No. 99),

(91) $21,457.92 to Janis Roofing (claimant No. 100),

(92) $6,431.95 to Milbank Mutual Insurance Company (claimant No. 101),

(93) $4,468.00 to Mary F. Pike (claimant No. 102),

(94) $67,511.54 to R and S Construction Company (claimant No. 103),

(95) $12,405.00 to Estate of Wilbur A. Riegert (claimant No. 104),

(96) $19,620.00 to Orville G. Schwarting (claimant No. 105),

(97) $490,934.44 to Sioux, Inc. (claimant No. 106),

(98) $8,275.02 to Stuyvesant Insurance Co. (claimant No. 107),

(99) $28,374.00 to Oglala Sioux Housing Authority (claimant No. 109),

(100) $37,679.50 to Aaron DeSersa-Sron (claimant No. 110),

(101) $5,181.45 to Lydia Black Bear (claimant No. 111),

(102) $887.50 to Thomas Casey (claimant No. 112),

(103) $3,984.00 to Roy and Pauline White Butterfly (claimant No. 113),

(104) $3,495.00 to Eleanor Big Owl for George Iron Teeth (claimant No. 114),

(105) $3,168.09 to Standard Oil (Indiana) (claimant No. 115),

(106) $7,335.00 to Shirley Blunt Horn (claimant No. 116),

(107) $1,866.00 to Eugene and Vera Hunts Horse (claimant No. 118),

(108) $2,650.40 to Clayton and Vernice Jealous of Him (claimant No. 119),

(109) $1,021.00 to Keva A. and Reuben R. Mesteth (claimant No. 120),

(110) $4,234.70 to Hobart Spotted Bear (claimant No. 121), and

(111) $1,425.00 to Employers Mutual Companies (claimant No. 122).

(b)(1) No portion of any payment made to any person under subsection (a) in excess of 10 percent of the amount of such payment shall be paid or delivered to, or received by, any agent or attorney on account of services rendered in connection with the claim for which such payment is made, and the same shall be unlawful, notwithstanding any contract to the contrary. Violation of the provisions of this paragraph is a misdemeanor punishable by a fine not to exceed $1,000.

(2) Notwithstanding any other provision of law, no portion of any payment made to a person under this Act shall be included in the income of such person for purposes of any Federal, State, or local income tax. Notwithstanding any other provision of law, payments made to a person under this Act may not be considered as income or resources or otherwise used as the basis for denying or reducing—

(A) any financial assistance or other benefit under the Social Security Act—

(i) to which such person, or the household of such person, is otherwise entitled, or

(ii) for which such person, or the household of such person, is otherwise eligible, or

(B) any other financial assistance or benefit—

(i) to which such person, or the household of such person, is otherwise entitled, or

(ii) for which such person, or the household of such person, is otherwise eligible,

under any program for which part or all of the funding is provided by the Federal Government.

(c) Pursuant to the recommendations of the Chief Commissioner of the United States Court of Claims, the Secretary of the Treasury is authorized and directed to pay, out of funds in the Treasury of the United States not otherwise appropriated, $26,486.44 to the Dakota Plains Legal Services (formerly South Dakota Legal Services Corporation) for services rendered in connection with the proceeding conducted pursuant to section 2509 of title 28, United States Code, which was initiated by reason of Senate Resolution 378 (94th Congress, agreed to on August 9, 1976).

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

USE OF DEGRADABLE PRODUCTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 412.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 412) expressing the sense of the Senate with regard to the use of degradable products.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. PRESSLER. Mr. President, Senate Resolution 412 directs the Environmental Protection Agency and General Services Administration to encourage the use of degradable plastics. On April 14, 1988, I submitted the resolution with 15 cosponsors. Since that time, six additional cosponsors have been added. The Senate Environment and Public Works Committee unanimously reported Senate Resolution 412 on September 23, 1988.

We are all aware of the garbage disposal problems cities are facing. Plastics constitute about 10 percent of packaging waste. Recycling technologies are being developed, but are not readily available. As a result, most of this plastic garbage is being buried in landfills, where it will remain for thousands of years.

Landfills are filling up and alternative sites are becoming less available due to increasing urbanization. For example, New York State will close landfills on Long Island by 1990. The U.S. Conference of Mayors recently estimated that more than 50 percent of the Nation's municipalities have fewer than 10 years of landfill capacity left. State and local governments have taken action to encourage the use of degradable plastics. At least 12 States, several local communities, and foreign countries, such as Italy and Denmark, have enacted or proposed bans on various nondegradable plastic products.

Despite our long "Keep America Beautiful" campaign, persistent litter still mars our highways, parks, and communities. We also have become aware of the deadly threats to fish and wildlife from entanglement, strangulation, and consumption of discarded plastic materials.

Although new technologies are being developed to recycle more plastics, at this time these technologies are not readily available for plastics waste. Most community recycling centers do not accept plastics. Waste-to-energy incineration systems are not widespread yet.

Plastics are made from petrochemicals. Our Nation's increasing demand for petroleum, and our need for sources that cannot be jeopardized by foreign interests, have stimulated a wide range of proposals for energy development and conservation. Some of these proposals are controversial and/or costly.

On the other hand, the Nation's agricultural sector is confronted with serious financial concerns. Farmers are faced with depressed commodity prices, while Federal farm program costs are at near record levels. Expanded markets using agricultural commodities for industrial feedstocks could increase commodity prices, reduce farm-program costs and in some areas create new industrial jobs.

New technologies are being developed to address these problems. One currently marketed new technology uses cornstarch to produce biodegradable plastics. It can be used in storage bags and agricultural mulches. One company now uses 20,000 bushels of corn per day for the production of degradable plastic film and estimates future growth could reach 70,000 bushels per day if appropriate market applications could be developed in North America. Other potential degradable plastic products include time-release medication and pesticide delivery systems, noncorrosive road deicers, biodegradable bottles and other packaging containers, biodegradable disposable diapers, and disposable toys.

Another technology undergoing development is cornstarch-based blown-foam containers which could replace polystyrene foam containers currently popular in the fast-food industry. Polystyrene foam is produced with chlorofluorocarbons [CFC's] which are implicated in global warming and ozone depletion.

Many innovative researchers and developers are making progress in their efforts to make these technologies feasible, economical, and practical. Some observers argue that these efforts will not result in significant improvements in overcoming any of these problems, but I believe that even small improvements are meaningful. They encourage further efforts to cope with pollution. Many useful plastics have been developed, for which other materials are not suitable, and it is true that degradable plastics are not suitable for all uses. However, it is time for the U.S. Senate to recognize, encourage, and applaud these research, development, and implementation efforts.

My resolution urges the Environmental Protection Agency to encourage the development and use of degradable plastics. It also encourages the General Services Administration to use degradable plastic products whenever it is possible to do so. The resolution does not require EPA or GSA to take any action but urges them to take a leadership role through development and use of degradable plastics.

Mr. President, I urge the Senate to agree to this resolution.

The resolution was agreed to.

The amendment to the preamble was agreed to.

The preamble, as amended, was agreed to.

The resolution, and the preamble, as amended, are as follows:

S. RES. 412

Whereas society is increasing its attention to the issue of solid waste, and plastic waste in particular, for environmental and economic reasons;

Whereas at least twelve States, several local communities, and foreign countries, such as Italy and Denmark, have enacted or proposed bans on various non-degradable plastic products;

Whereas a recent estimate by the United States Conference of Mayors indicated that more than 50 per centum of the Nation's municipalities have less than ten years of landfill capacity left;

Whereas despite our long "Keep America Beautiful" campaign, persistent litter still is strewn about our highways, parks, and communities;

Whereas deadly threats to fish and wildlife exist from entanglement, strangulation, and consumption of discarded plastic materials; and

Whereas recycling technologies are not as available to manage the plastics waste stream as are available for metals, glass, and paper; and

Whereas farmers are faced with depressed commodity prices, while the Federal Government pays for price supports and surplus crop storage costs which could be alleviated by expanded markets; and

Whereas new technologies are being developed which address these problems, such as currently marketed applications that use cornstarch to produce biodegradable plastics: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Environmental Protection Agency encourage the use of biodegradable plastic bags and other degradable plastic applications through its pertinent regulatory and informational programs.

SEC. 2. The General Services Administration should implement, when possible, the use of biodegradable bags and other degradable plastic products in its operations.

ACCEPTANCE OF DONATIONS BY THE PRESIDENT'S COMMISSION ON WHITE HOUSE FELLOWS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4529.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4529) extending permission for the President's Commission on White House Fellows to accept certain donations.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on reading and passage of the bill.

The bill (H.R. 4529) was ordered to a third reading, was read the third time and passed.

RICHARD CRONIN NATIONAL SALMON STATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 1055.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4365) to designate the Sunderland National Salmon Station located in Sunderland, MA, as the "Richard Cronin National Salmon Station."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the bill (H.R. 4365) was considered, ordered to be read a third time, read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. COCHRAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JAMES T. FOLEY UNITED STATES COURTHOUSE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 4188 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4188) to designate the U.S. Courthouse located at 445 Broadway in Albany, NY, as the "James T. Foley United States Courthouse."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the bill (H.R. 4188) was considered to be read a third time, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. COCHRAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LIBRARY SERVICES AND CONSTRUCTION ACT AUTHORIZATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 720.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4416) to extend the authorization of appropriations for titles V and VI of the Library Services and Construction Act through fiscal year 1989.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3403

Mr. BYRD. Mr. President, on behalf of Senators PELL, STAFFORD, BRADLEY, and MATSUNAGA, I send a substitute amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], (for himself, Mr. PELL, Mr. STAFFORD, Mr. BRADLEY, and Mr. MATSUNAGA), proposes an amendment numbered 3403.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

TITLE I—LIBRARY SERVICES AND CONSTRUCTION REAUTHORIZATION

SEC. 101. PROGRAM REAUTHORIZED.

Section 4(a) of the Library Services and Construction Act (20 U.S.C. 351b(a)) is amended by striking out "1988" each place it appears in paragraphs (4) and (5) and inserting "1989".

TITLE II—NATIONAL GEOGRAPHY STUDIES

SEC. 201. SHORT TITLE.

This title may be cited as the "National Geography Studies Centers Act".

SEC. 202. PROGRAM AUTHORIZED.

Part F of title IV of the Elementary and Secondary Education Act of 1965 is amended—

(1) by redesignating section 4607 as section 4608;

(2) by striking out "section 4606" in section 4608(a) (as redesignated by paragraph (1)) and inserting in lieu thereof "sections 4606 and 4607"; and

(3) by adding after section 4606 the following new section:

"SEC. 4607. NATIONAL GEOGRAPHY STUDIES CENTERS.

"(a) PROGRAM AUTHORIZED.—(1) The Secretary is authorized to enter into a contract with the Education Foundation of the National Geographic Society in order to pay the Federal share of the cost of the establishment and operation of National Geography Studies Centers. Each Center shall be for the study of geography in elementary and secondary schools.

"(2) For the purpose of this section—

"(A) the term 'contractor' means the Education Foundation of the National Geographic Society; and

"(B) the term 'Centers' mean the National Geography Studies Centers assisted under this section.

"(b) REQUIREMENTS OF CONTRACT.—The contract described in subsection (a)(1) shall provide that—

"(1) funds made available to the contractor pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating the Centers in accordance with this section; and

"(2) the contractor will carry out the provisions of this section.

"(c) ESTABLISHMENT OF CENTERS.—In carrying out the provisions of this section, the contractor may enter into contracts with or make grants to local educational agencies, State educational agencies, State higher educational agencies, institutions of higher education, or consortia thereof, to establish and operate the Centers.

"(d) FUNCTIONS OF THE CENTERS.—(1) Each Center assisted under this section shall—

"(A) support programs for the study of geography for elementary and secondary school students, that may include laboratory schools and summer institutes;

"(B) support programs which provide elementary and secondary school teacher retraining and inservice training in geography and may make provision for teacher stipends for the period of participation in the program; and

"(C) establish procedures, through an advisory panel, for selecting elementary and secondary school students and teachers for the programs supported through the centers.

The selection procedures under subparagraph (C), to the extent practicable, shall take into account geographic distribution and the needs for greater access to, and participation in, geography studies by students and teachers from historically underrepresented groups including females, minorities, and individuals with handicaps.

"(2) Each Center may—

"(A) support the development and dissemination of innovative curriculum in geography;

"(B) develop geography curriculum to be used in other subject areas such as environmental studies, science, international culture and politics, history, and foreign language studies; and

"(C) provide technical and resource assistance in geography to elementary and secondary schools in the region served by the Center.

"(e) FEDERAL SHARE.—The Federal share for each fiscal year shall be 75 percent.".

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

Section 4608 of the Elementary and Secondary Education Act of 1965 (as redesignated by section 202) is amended by adding at the end thereof the following new subsection:

"(d) There are authorized to be appropriated $5,000,000 for the fiscal year 1989, and each succeeding fiscal year ending prior to October 1, 1993, to carry out section 4607.".

TITLE III—UNITED STATES INSTITUTE OF PEACE

SEC. 301. REAUTHORIZATION.

Section 1710(a) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 4609(a)) is amended to read as follows:

"SEC. 1710. (a)(1) For the purpose of carrying out this title (except for paragraph (9) of section 1705(b)), there are authorized to be appropriated $10,000,000 for fiscal year 1989; $10,000,000 for fiscal year 1990; $10,000,000 for fiscal year 1991; $15,000,000 for fiscal year 1992; and $15,000,000 for fiscal year 1993.

"(2) Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.".

(b) Section 1707(f)(2) of the United States Institute of Peace Act (22 U.S.C. 4606(f)(2)) is amended by striking out the first sentence thereof.

Mr. PELL. Mr. President, I rise to voice my support for the amendment to the Library Services and Construction Act currently before us.

First, the amendment reauthorizes two titles of the Library Services and Construction Act through fiscal year 1989 in a straight extension. Title V provides discretionary grants of up to $15,000 for the acquisition of foreign language materials by state and local public libraries. Title VI authorizes discretionary grants up to $25,000 for planning and conducting literacy programs in public libraries.

In addition, we have included a $5 million authorization to support regional geography studies centers in a program spearheaded by the National Geographic Society. These centers would use the considerable expertise of the National Geographic Society to strengthen geography instruction in elementary and secondary schools. This authorization would enable the centers to provide year-round and summer teacher training programs, to develop model curricula, and to assist school districts in offering districtwide programs in geography education.

This amendment is an outgrowth of the concern that my colleague Senator BRADLEY raised about the appalling degree of geography illiteracy in this country. It is a modification of S. 2642, legislation both Senator STAFFORD and I introduced to address the need to improve our awareness of geography. I would like to commend the other half of the firm of PELL and STAFFORD for his strong interest in geography education and his assistance in developing this legislation. Senator STAFFORD, through his distinguished work on environmental matters, has long recognized that progress in solving environmental crises can only be reached when our citizenry has a fundamental understanding of world geography.

Finally, the bill includes a 5-year reauthorization of the Peace Institute. Since the Institute was established in 1984, it has done a great deal to promote scholarship and research in areas essential for understanding and promoting peace.

The Institute is the realization of a dream as old as our Constitution. In the late 1700's, some of our Nation's early leaders sought to establish a Peace Office equal in stature to that of the War Department. As Benjamin Banneker and Dr. Benjamin Rush wrote:

> It is hoped that no objection will be made to the establishment of (an office for promoting and preserving perpetual peace in our country) * * * for as the War-Office of the United States was established in the time of peace, it is equally reasonable that a Peace-Office should be established in the time of war.

Senator MATSUNAGA has taken these words to heart as he has fought tirelessly during his tenure in the Senate to see this idea become a reality. It is through his efforts that we have this reauthorization before us today.

The amendment to the Library Services and Construction Act, then, is a good measure worthy of strong Senate support. I urge my colleagues to vote in favor of passage.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3403) was agreed to.

Mr. MATSUNAGA. Mr. President, I rise in strong support of H.R. 4416 which would extend vital portions of the Library Services and Construction Act.

I also strongly urge the adoption of an amendment to the bill, which would extend the authorization of the U.S. Institute of Peace for 5 years, through fiscal year 1993. This amendment, relating to the Peace Institute, is being offered with 64 cosponsors, a fact which reflects the growing support for the Institute in Congress and throughout the Nation.

Created by Congress in 1984, the Institute is mandated to provide peace research, education and training for individuals and organizations in both the public and private sectors. The Institute may accomplish these goals through its own in-house research and training programs, by providing grants or contracts to develop and strengthen peace research, education and training programs at other institutions, through its public outreach programs, and through the Jennings Randolph Program for International Peace.

The Institute's Board of Directors was nominated by President Reagan and confirmed by the Senate in 1985, and sworn into office in February 1986. Under the able leadership of Board Chairman John Norton Moore, the Institute established its headquarters here in Washington, DC, and hired a modest staff. During its first 2 years of operations, the first Jennings Randolph Program fellows were appointed, and nearly $2 million in grants to other institutions and individuals were awarded. The Institute also launched its first in-house research project, an "intellectual map of the international peace field," and initiated several public outreach projects including a high school essay contest, a newsletter, and a pilot television program on summitry which was broadcast by a number of public television stations last December, on the eve of the Reagan/Gorbachev summit in Washington, DC.

As predicted, Mr. President, the Institute of Peace is providing a unique and much needed boost to peace research, education and training in this country. The Institute is ready, now, to do much more in this area and it deserves the continued support of the Congress to help make the United States a real leader in the search for world peace. I urge the adoption of this amendment.

Mr. STAFFORD. Mr. President, I rise in support of H.R. 4416, a bill to extend the authorization of appropriations for titles V and VI of the Library Services and Construction Act, and for several other purposes. The effect of this legislation will be to put titles V and VI of LSCA on the same reauthorization schedule as the remaining titles of the bill.

Also included in H.R. 4416, are two amendments which are of particular interest and importance to this Senator. First, this bill will authorize a new program titled the "National Geography Study Centers Act." It is a modest initiative—$5 million—which will serve a vital purpose. The establishment of National Geography Study Centers around the Nation will mark the beginning of a much needed, and long overdue, thrust toward geographic literacy. The National Geographic Society is the established leader in training teachers in the disciplines related to geographic literacy, and developing curriculum for elementary and secondary school classrooms. This legislation directs the Secretary of Education to work in cooperation with the National Geographic Society to expand those teacher training opportunities through the establishment of regional centers.

Mr. President, our Nation's leadership in world affairs is dependent on American citizens who are informed about global issues. Over the past year, because of heightened congressional interest and increased public awareness about the importance of geographic literacy, we have seen schoolchildren once again learning about the physical and cultural features of our planet. These are important steps forward which the passage of this legislation will further encourage.

The second amendment attached to H.R. 4416 reauthorizes the U.S. Institute for Peace for 5 years with a modest increase in funding. I urge my colleagues to join Senator PELL and myself in quick adoption of this important legislation.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 4416), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. COCHRAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JOHN DENT POST OFFICE BUILDING

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be discharged from further consideration of H.R. 4433 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4433) to designate the United States Post Office Building in Jeannette, Pennsylvania, as the "John Dent Post Office Building."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. HEINZ. Mr. President, I am pleased to join my House colleague, Representative JOHN MURTHA, in sponsoring legislation to recognize the achievements of our former colleague, the late Representative John Dent of Jeannette, PA.

Congressman Dent's record of service to Pennsylvania and the Nation was long: he served in the U.S. Marine Corps, was a Jeannette City Councilman, and a member of the Pennsylvania State House and the State Senate, where he served as the Democratic floor leader. As a Member of the U.S. House of Representatives and chairman of the House Subcommittee on Labor Standards, John Dent is remembered as a thoughtful legislator and as an expert in the area of labor and pension law. John Dent retired from the House in 1978 due to health reasons after 20 years of service.

In honor of this exemplary Member of Congress, I am pleased to support this legislation to give recognition to this man's achievements through the establishment of the John Dent Post Office Building.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 4433) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. COCHRAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JAMES DOMENGEAUX POST OFFICE BUILDING

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be discharged from further consideration of H.R. 4276, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4276), to designate the Post Office Building located at 1105 Moss Street in Lafayette, LA, as the "James Domengeaux Post Office Building.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BREAUX. Mr. President, I am glad to see the Senate take up consideration today of H.R. 4276, a bill to rename the Post Office in Lafayette, LA after James Domengeaux.

James Domengeaux is remembered as a friend to thousands who were touched by his sense of service and dedication to America. In 1944, when he was serving as the U.S. Congressman from the third District of Louisiana, Mr. Domengeaux resigned to serve in the Armed Forces during World War II. He was only the third Member of Congress since the Civil War to have made this sacrifice.

James Domengeaux was reelected to Congress after the war and continued to serve the Third District until 1948. When he left Congress, he went into private practice as an attorney but did not leave behind his commitment to serving Louisiana. He was an original member of the State's Tidelands Committee and served as the secretary of the Louisiana Science Foundation.

Possibly his greatest contribution, though, came from his work with CODOFIL. This organization, the Council for the Development of French in Louisiana, was and remains dedicated to preserving Louisiana's unique French language and culture. James Domengeaux was a founder of CODOFIL and served as its chairman for many years. He worked to preserve Louisiana's unique culture by bringing together State and local officials, parish school boards and community leaders. He convinced them of the need to promote and encourage the revival of the French heritage and culture that he saw beginning to fade away.

Mr. Domengeaux was instrumental in sending many teenagers from Louisiana to places where they could learn the French language and immerse themselves in French culture. He sent kids to Quebec, Canada and to France and Belgium. His efforts were a catalyst in a renaissance of the French language and a new-found sense of pride in the area's Acadian background.

James Domengeaux died recently, but his dedication and achievements will be remembered for a long time in Acadiana and throughout the State of Louisiana. It is a fitting tribute that we are bestowing today—naming one of our public buildings after one of our favorite sons. I thank my colleagues for their help in passing this dedication and commend the example set by James Domengeaux's service to all who have the privilege to serve in the U.S. Congress.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 4276) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEMORIAL FOR MAHATMA GANDHI

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 3455, a bill establishing a memorial in the District of Columbia for Mahatma Gandhi, be discharged from the Committee on Energy and Natural Resources and be referred to the Committee on Rules and Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL PLACED ON CALENDAR—S. 2856

Mr. BYRD. Mr. President, I ask unanimous consent that S. 2856, an age-discrimination bill, introduced earlier today by Senator METZENBAUM and others, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ABANDONED INFANTS ASSISTANCE ACT

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 945.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 945) entitled "An Act to require the Secretary of Health and Human Services to make grants to local governments for demonstration projects to provide respite homes and other assistance for infants abandoned in hospitals, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Abandoned Infants Assistance Act of 1988".

SEC. 2. FINDINGS.

The Congress finds that—

(1) throughout the Nation, the number of infants and young children who have been exposed to drugs taken by their mothers during pregnancy has increased dramatically;

(2) the inability of parents who abuse drugs to provide adequate care for such infants and young children and a lack of suitable shelter homes for such infants and young children have led to the abandonment of such infants and young children in hospitals for extended periods;

(3) the vast majority of these infants and young children will be medically cleared for discharge, yet remain in hospitals as boarder babies;

(4) hospital-based child care for these infants and young children is extremely costly and deprives them of an adequate nurturing environment;

(5) training is inadequate for foster care personnel working with medically fragile infants and young children and infants and young children exposed to drugs;

(6) a particularly devastating development is the increase in the number of cases of acquired immune deficiency syndrome in infants and young children, and the number of such cases has doubled within the last 13 months;

(7) more than 80 percent of infants and young children with acquired immune deficiency syndrome have at least one parent who is an intravenous drug abuser;

(8) infants and young children with acquired immune deficiency syndrome are particularly difficult to place in foster homes, and are being abandoned in hospitals in increasing numbers by mothers dying of acquired immune deficiency syndrome, or by parents incapable of providing adequate care;

(9) there is a need for comprehensive services for such infants and young children, including foster family care services, case management services, family support services, respite and crisis intervention services, counseling services, and group residential home services; and

(10) there is a need for the development of funding strategies that coordinate and make the optimal use of all private resources, and Federal, State, and local resources, to establish and maintain such services.

TITLE I—FOSTER CARE AND RESIDENTIAL CARE OF INFANTS AND YOUNG CHILDREN ABANDONED IN HOSPITALS

SEC. 101. ESTABLISHMENT OF PROGRAM OF DEMONSTRATION PROJECTS.

(a) IN GENERAL.—The Secretary of Health and Human Services may make grants to public and nonprofit private entities for the purpose of developing, implementing, and operating projects to demonstrate methods—

(1) to prevent the abandonment of infants and young children;

(2) to identify and address the needs of abandoned infants and young children, particularly those with acquired immune deficiency syndrome;

(3) to assist abandoned infants and young children, particularly those with acquired immune deficiency syndrome, to reside with their natural families or in foster care, as appropriate;

(4) to recruit, train, and retain foster families for abandoned infants and young children, particularly those with acquired immune deficiency syndrome;

(5) to carry out residential care programs for abandoned infants and young children, particularly those with acquired immune deficiency syndrome;

(6) to carry out programs of respite care for families and foster families of infants and young children with acquired immune deficiency syndrome; and

(7) to recruit and train health and social services personnel to work with families, foster care families, and residential care programs for abandoned infants and young children, particularly those with acquired immune deficiency syndrome.

(b) CASE PLAN WITH RESPECT TO FOSTER CARE.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, if the applicant ex-

pends the grant to carry out any program of providing care to infants and young children in foster homes or in other nonmedical residential settings away from their parents, the applicant will ensure that—

(1) a case plan of the type described in paragraph (1) of section 475 of the Social Security Act is developed for each such infant and young child (to the extent that such infant and young child is not otherwise covered by such a plan); and

(2) the program includes a case review system of the type described in paragraph (5) of such section (covering each such infant and young child who is not otherwise subject to such a system).

(c) Administration of Grant.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees—

(1) to use the funds provided under this section only for the purposes specified in the application submitted to, and approved by, the Secretary pursuant to subsection (d);

(2) to establish such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement and accounting of Federal funds paid to the applicant under this section;

(3) to report to the Secretary annually on the utilization, cost, and outcome of activities conducted, and services furnished, under this section; and

(4) that if, during the majority of the 180-day period preceding the date of the enactment of this Act, the applicant has carried out any program with respect to the care of abandoned infants and young children, the applicant will expend the grant only for the purpose of significantly expanding, in accordance with subsection (a), activities under such program above the level provided under such program during the majority of such period.

(d) Requirement of Application.—The Secretary may not make a grant under subsection (a) unless—

(1) an application for the grant is submitted to the Secretary;

(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(e) Technical Assistance to Grantees.—The Secretary may, without charge to any grantee under subsection (a), provide technical assistance (including training) with respect to the planning, development, and operation of projects described in such subsection. The Secretary may provide such technical assistance directly, through contracts, or through grants.

(f) Technical Assistance With Respect to Process of Applying for Grant.—The Secretary may provide technical assistance (including training) to public and nonprofit private entities with respect to the process of applying to the Secretary for a grant under subsection (a). The Secretary may provide such technical assistance directly, through contracts, or through grants.

SEC. 102. EVALUATIONS, STUDIES, AND REPORTS BY SECRETARY.

(a) Evaluations of Demonstration Projects.—The Secretary shall, directly or through contracts with public and nonprofit private entities, provide for evaluations of projects carried out under section 101 and for the dissemination of information developed as result of such projects.

(b) Study and Report on Number of Abandoned Infants and Young Children.—

(1) The Secretary shall conduct a study for the purpose of determining—

(A) an estimate of the number of infants and young children abandoned in hospitals in the United States and the number of such infants who have acquired immune deficiency syndrome; and

(B) an estimate of the annual costs incurred by the Federal Government and by State and local governments in providing housing and care for such infants and young children.

(2) The Secretary shall, not later than 12 months after the date of the enactment of this Act, complete the study required in paragraph (1) and submit to the Congress a report describing the findings made as a result of the study.

(c) Study and Report on Effective Care Methods.—

(1) The Secretary shall conduct a study for the purpose of determining the most effective methods for responding to the needs of abandoned infants and young children.

(2) The Secretary shall, not later than April 1, 1991, complete the study required in paragraph (1) and submit to the Congress a report describing the findings made as a result of the study.

SEC. 103. DEFINITION.

For purposes of this title, the term "abandoned infants and young children" means infants and young children who are medically cleared for discharge from acute care hospital setting, but who remain hospitalized because of a lack of appropriate out-of-hospital placement alternatives.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of making grants under section 101, there are authorized to be appropriated $10,000,000 for fiscal year 1989, $12,000,000 for fiscal year 1990, and $15,000,000 for fiscal year 1991.

SEC. 105. TERMINATION OF PROGRAM.

No grant may be made under section 101 after September 30, 1991.

TITLE II—MEDICAL COSTS OF TREATMENT WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

SEC. 201. STUDY AND REPORT ON ASSISTANCE.

(a) Study.—The Secretary shall conduct a study for the purpose of—

(1) determining cost-effective methods for providing assistance to individuals for the medical costs of treatment of conditions arising from infection with the etiologic agent for acquired immune deficiency syndrome, including determining the feasibility of risk-pool health insurance for individuals at risk of such infection;

(2) determining the extent to which Federal payments under title XIX of the Social Security Act are being expended for medical costs described in paragraph (1); and

(3) providing an estimate of the extent to which such Federal payments will be expended for such medical costs during the 5-year period beginning on the date of the enactment of this Act.

(b) Report.—The Secretary shall, not later than 12 months after the date of the enactment of this Act, complete the study required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study.

TITLE III—GENERAL PROVISIONS

SEC. 301. DEFINITIONS.

For purposes of this Act:

(1) The term "acquired immune deficiency syndrome" includes infection with the etiologic agent for such syndrome, any condition indicating that an individual is infected with such etiologic agent, and any condition arising from such etiologic agent.

(2) The term "Secretary" means the Secretary of Health and Human Services.

Amend the title so as to read: "An Act to authorize the Secretary of Health and Human Services to make grants for demonstration projects for foster care and residential care of infants and young children abandoned in hospitals, and for other purposes.".

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

INSPECTOR GENERAL ACT

Mr. BYRD. Mr. President, I submit a report of the committee of conference on S. 908 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 908) to amend the Inspector General Act of 1978 to establish Offices of Inspector General in certain departments, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of September 30, 1988.)

Mr. GLENN. Mr. President, I commend to my colleagues passage of the conference report on S. 908, a bill to amend the Inspector General Act of 1978 to establish Offices of Inspector General in certain departments, and for other purposes. This bill is the result of one of my first initiatives as chairman of the Governmental Affairs Committee—to review the status of audit and investigative coverage throughout government. Specifically, I sought to determine whether a case could be made for expanding the inspector general concept to departments, agencies and other federally-funded entities not currently covered by the 1978 Inspector General Act.

That law, which will be 10 years old on October 12, established permanent Offices of Inspector General in 12 departments and agencies, to join the two already in the Department of Health, Education and Welfare and the Energy Department. These offices, as well as several more created by subsequent legislation, were established to serve as an important check on government waste, fraud and mismanagement and to aid the Congress' oversight committees by providing invaluable information from their audits, investigations and analyses. In short, they were set up to maintain and elevate public confidence in Government.

With the assistance and cooperation of the Ranking Minority Member, Senator ROTH, the committee held three hearings in 1987 on the operations and needs of the inspector general community and conducted numerous interviews with knowledgeable Government officials. The statistics the committee heard from the current IG community were quite impressive:

From March 1981 through fiscal year 1987, the current inspectors general claim that over $100 billion in Federal funds have been saved or put to better use as a result of management actions on their findings and recommendations;

During this same period, the IG's claim responsibility for over 23,000 successful prosecutions against wrongdoers who defrauded Federal programs and over 8,000 administrative sanctions against unscrupulous individuals and firms doing business with the Government.

The accomplishments of the IG community in fulfilling the mandate of the 1978 legislation and the Governmental Affairs Committee's own review made it clear that there was a need to establish better audit and investigation capabilities in a number of departments, agencies, and federally funded entities not covered by the 1978 law.

I introduced S. 908 in April 1987. The bill, which was cosponsored by every member of the Governmental Affairs Committee, passed the Senate in February 1988 by a vote of 85 to 0. H.R. 4054, the House version of the bill, introduced by Congressmen BROOKS and HORTON, was adopted on July 26 by voice vote.

There were several important substantive differences between the two bills which were resolved in conference. S. 908 will extend the statutory inspector general concept to nearly 40 additional departments, agencies, and designated Federal entities. In addition, S. 908 contains some long needed amendments to the Inspector General Act of 1978 by providing uniform definitions, standards, and authorities applicable to all inspectors general. S. 908 includes several changes made to the bill by the House which, in my judgment, have the effect of strengthening and clarifying the IG's role in government. All of these changes are important and timely adjustments of the IG system, so that it will work even more successfully in the years to come.

S. 908 creates Offices of Inspector General—headed by Presidentially appointed, Senate-confirmed IG's—in the Departments of Justice and the Treasury, the Office of Personnel Management, the Federal Emergency Management Agency, and the Nuclear Regulatory Commission. The creation of these new Offices of Inspector General is supported by the General Accounting Office.

All of these agencies were left out of the original law 10 years ago. But they are major agencies, with huge budgetary authority, important missions, and programs that require strict controls against fraud, waste, and abuse. In particular, the committee's investigation of serious deficiencies in the audit and investigation functions at the NRC demonstrated the need for a truly independent inspector general in that independent regulatory agency. Unlike the current situation at the NRC, a statutory inspector general would have the authority and expertise to investigate wrongdoing wherever it occurs, even if it may involve the office of an NRC Commissioner.

Currently, the Justice and Treasury Departments are the only two Cabinet-level Departments without statutory Offices of Inspector General. In April 1981, President Reagan supported legislation creating additional inspectors general "who will have powers tailored to the specific needs of the Departments of * * * Treasury, and Justice."

However, the administration subsequently retreated from this position and over the years the two Departments at issue resisted enactment of such legislation, arguing that no legislative formulation specifically met their particular needs.

The Governmental Affairs Committee's recent, in-depth reviews of the Justice and Treasury Departments indicate that such opposition to inspector general legislation is unjustified. These departments, like the 19 Federal agencies before them, share the basic need for the leadership of an independent statutory inspector general. Such an individual will better assist the department heads and their program managers to make the most efficient, effective and legal use of the resources available for their law enforcement and myriad other missions. Moreover, the semiannual reports summarizing the IGs' audit and investigative activities will aid the Treasury Secretary's, Attorney General's and Congress' oversight of the departments' programs and operations.

At the same time, the committee recognizes the propriety of including "special provisions" for these departments designed to accommodate their specific needs and unique missions. The precedent for this was established in 1982 legislation creating the IG Office at the Defense Department.

With regard to the Treasury Department, the "special provisions" which were included in the initial Senate bill have been retained, with one major revision. Unlike the Senate-passed bill, the conference agreement does not include a separate IG for the IRS. Instead, the conference agreement provides that the single Treasury IG must abide by procedures governing access to and disclosure of taxpayer returns and return information. The Treasury Department and IRS do not object to S. 908, as revised in conference.

The Justice Department was not included in the initial Senate bill to provide the Senate with more time to fully evaluate the GAO's 1986 recommendation for a statutory IG in the Department. In May 1987, the Governmental Affairs Committee held a hearing that focused in part on the status of the audit and internal investigative functions at the Justice Department. Among the many concerns expressed at the hearing was the fact that the audit activities were not consolidated in one Department-level office, and that too many individuals were responsible for this function. The Justice Department indicated that it was proposing a reorganization of its audit activities by creating an "Office of Audit and Review" that would be a single, independent office reporting directly to a high-level official. This proposal would not have transferred the Department's Office of Professional Responsibility or any other internal investigation offices into the Office of Audit and Review.

This reorganization never occurred. Since the Governmental Affairs Committee's hearing, the Legislation and National Security Subcommittee of the House Committee on Government Operations has finished its review of the problems in Justice's 14 separate audit and internal investigations units. In June 1988 the committee published the results of its study for use in considering the House bill to extend the statutory IG concept to the Departments of Justice and the Treasury.

Frankly, the most difficult issue for the conference committee to resolve was the relationship between the Justice Department's Office of Professional Responsibility, known as "O-P-R," and the proposed Office of Inspector General. OPR is a small unit of 6 to 8 attorneys, who supervise and carry out internal investigations of Department and bureau employees. Normally, such a function would be automatically transferred to the new Office of Inspector General.

The conference agreement reflects an effort to accommodate the Attorney General's concern about impinging upon the Attorney General's authority to investigate allegations of misconduct by officers and employees of the Justice Department, especially those who perform attorney, criminal investigations, or other law enforcement functions. In deference to the specific request of the current Attorney General, who assisted in the creation of OPR in 1975, the Senate receded to the House and retained OPR outside the Office of Inspector General.

In addition, the conference agreement requires the IG to refer to the head of OPR, for investigation, any information or allegations relating to alleged misconduct on the part of Justice Department attorneys, criminal investigators, and law enforcement personnel. Under this arrangement, I expect that every effort will be made by the IG and the head of OPR to coordinate efforts, share resources and combine their expertise to provide the Attorney General and the Department's program managers with the best possible audit and investigative coverage.

In the future the Attorney General may determine that the Office of Professional Responsibility and several other audit, internal investigation, and inspection units remaining outside the Office of Inspector General should be consolidated in that Office. Pursuant to the Inspector General Act, the Attorney General is authorized to effect the transfer of resources and functions necessary to achieve this consolidation. Such a transfer would be consistent with the inspector general concept, and I urge that the Attorney General give early and careful consideration to this action.

Mr. President, this administration was initially unwilling to consider extending the statutory inspector general concept to the Justice and Treasury Departments.

However, with diligence and hard work, we were able to bring the administration to the negotiating table to work out a reasonable and workable compromise. In view of the extensive discussions held with representatives of this administration to reach agreement on this legislation, particularly the former Secretary of the Treasury and the current Attorney General, I am confident that this bill specifically meets the particular needs of these two Departments.

I ask unanimous consent to insert into the RECORD a September 26, 1988, letter from Attorney General Thornburgh to me stating that the Department of Justice will not object to the enactment of S. 908, as revised in conference.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, September 26, 1988.

Hon. JOHN GLENN,
Chairman, Committee of Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Several days ago, in light of an apparent consensus among the Members of Congress that an Inspector General for the Department of Justice should be included in the report resulting from the Conference of the House and the Senate on S. 908, I authorized my staff to work with yours to develop language that would meet our basic concerns with the House bill.

As I indicated in my letter of September 13, I believe that any Attorney General must have the authority to investigate allegations of misconduct by officers and employees of this Department, especially, investigative, prosecutorial, and law enforcement personnel. I argued that the Office of Professional Responsibility (OPR), which was created during my previous tenure in the Department, has handled this function efficiently and with unquestioned integrity. The proposed compromise responds, in large part, to that issue by recognizing the existence of OPR, and by requiring the Inspector General to refer to OPR any allegations relating to the conduct of attorney, investigative, or law enforcement personnel.

The proposed compromise also provides authority for the Attorney General to prohibit the IG from carrying out certain audits or investigations, if to do so would involve sensitive matters involving ongoing investigations or proceedings, undercover operations, confidential sources, or intelligence and other national security matters.

I want you to know that I very much appreciate the considerable efforts that you and the Senate Committee staff, on both sides of the aisle, have made to craft language that retains OPR and that attempts to address the other reservations reflected by my letter. While we have made significant progress, thanks in large part to the willingness of you and Senator Roth to work with us, points of disagreement still remain.

Specifically, the bill treats differently the law enforcement agencies within the Executive Branch. The U.S. Marshals Service, the Immigration and Naturalization Service, and the Bureau of Prisons are, unlike comparable agencies such as the Secret Service and the Bureau of Alcohol, Tobacco, and Firearms, required to transfer to the new Inspector General all of their internal affairs or internal investigative resources. In my judgment, no law enforcement agency should be precluded from having the authority to investigate and to react instantly to situations that strike at the very heart of its mission. We appreciate your attempt to address this issue by including in the compromise a provision that requires the IG to transfer back to OPR 20 positions, which will give OPR additional resources to conduct misconduct investigations throughout the Department.

In addition, I remain concerned about the effect that an Inspector General may have on some of the Department's unique investigative and law enforcement functions, particularly those of the Federal Bureau of Investigation and the Drug Enforcement Administration, as well as the effect on the exercise of prosecutorial and litigative discretion.

Mr. Chairman, I continue to believe, personally, that a statutory Inspector General for the Department of Justice is unnecessary and unwarranted as a matter of policy and law. This has been the long-standing position of the Department as well, both in this and in previous Administrations. However, I recognize and am grateful for your good faith and responsible efforts to address our heartfelt concerns, and I accept the fact that the legislative environment precludes us from going any further at this time. On that basis, I intend to recommend to the President that we not oppose adoption of the agreed-upon Conference provisions.

Sincerely,

DICK THORNBURGH,
Attorney General.

Mr. GLENN. Before turning the floor over to the distinguished ranking minority member of the Governmental Affairs Committee, I would like to take this opportunity to revisit an early action of the Reagan administration and sound a note of caution for future administrations concerning the IG community. Under the law, the IG's are required to be appointed by the President "without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financing analysis, law, management analysis, public administration, or investigations." Unlike most Presidential appointees, inspectors general are not permitted to engage in partisan, political activities. An Inspector General may only be removed by the President and if removed, the President must communicate the reasons to both Houses of Congress.

On January 20, 1981, as one of his first official acts, President Reagan ordered the mass removal of all incumbent inspectors general. In his letter to the Speaker of the House and the President of the Senate, President Reagan made clear that the inspectors general were being treated in the same manner as other political appointees. I believe President Reagan's wholesale removal of all incumbent inspectors general without any meaningful examination of their qualifications and performance was a serious mistake that should not be repeated by any future President. Such mass removal gives the appearance of an attempt to politicize these nonpolitical offices, an act which flies in the face of the spirit, if not the letter of the law.

Mr. President, Senator ROTH, the ranking minority member of the Governmental Affairs Committee and an original cosponsor of S. 908, deserves special tribute for his leadership in the area of fighting Government waste, fraud and abuse. During the time we have served together on the Governmental Affairs Committee, he has tirelessly worked for more efficient Government. Over the years he has consistently introduced or cosponsored legislation to improve and fine-tune the Inspector General system. His contribution to crafting this legislation has been considerable and I greatly appreciate his cooperation in moving it forward so we have it under consideration today. I also want to give particular credit to the staff members of the Governmental Affairs Committee who were instrumental in producing this legislation and negotiating it through the Senate and the conference.

Dr. Leonard Weiss, the staff director, planned the project with me and supervised it from the beginning. Lorraine Lewis and Stephen Ryan, counsels to the committee, carried the heavy day-to-day burden of investigations, hearings, and negotiations needed to bring the legislation to its final form and to a successful conclusion. The assistance and cooperation of the minority staff, particularly John Parisi and Martha Morrison, who also put in long hours to work out the necessary details of this legislation, were essential to this success.

I also would like to thank the other members of the conference committee—Senators CHILES, SASSER, PRYOR, STEVENS, and HEINZ—and their staffs, for contributing to the success of this bill and doing such an outstanding job.

With those comments, Mr. President, I yield the floor.

Mr. ROTH. Mr. President, I am pleased to join the distinguished Governmental Affairs Committee chairman, my friend, JOHN GLENN, to urge our colleagues to support the conference report on S. 908, the Inspector General Act Amendments of 1988. This is a most important piece of legislation that has been forged with strong bipartisan support. I believe it is particularly appropriate that we are considering this legislation now—during the 10th anniversary of the Inspector General Act of 1978.

As my colleagues know, the IG Act was designed to improve the auditing and investigative functions in Federal agencies so that American taxpayers could be more confident that their tax dollars are being spent appropriately and wisely. Each Office of Inspector General established was intended to consolidate under one independent official the responsibility of preventing and detecting waste, fraud, and abuse in Federal programs, as well as to promote the efficiency and effectiveness of those programs.

Charging the IG's with the responsibility to carry out all audits and investigations related to management efficiency, Congress intended that the IG's would be our first line of defense in attacking waste, fraud, and abuse. Because of their responsibility to report semiannually to Congress on their findings and activities, and to immediately notify Congress whenever they encounter a particularly flagrant example of fraud or mismanagement, the IG's have a unique role in our Government.

The concept has proven over the past decade to be highly successful in improving the use of Federal resources. The inspectors general more than pay for themselves in terms of misspent funds recovered as well as costs avoided. In fact, in a statement delivered recently before a congressional panel, Joe Wright, Deputy Director of OMB, testified that "for every dollar we spend on the IG's, we have gotten about $45 in return in better use of funds and recoveries."

Moreover, the President's Council on Integrity and Efficiency [PCIE] has reported that in fiscal year 1987 alone, the inspectors general reported $20 billion in recoveries, savings, and avoidance of unnecessary expenditures; 4,365 convictions; and 2,059 administrative sanctions against persons or firms doing business with the Government. I think my colleagues will agree that the IG's have collectively achieved some very notable successes in the fight against poor management and fraudulent activities.

As I have stated in the past, I believe it is very important that we continue to extend the IG concept to those establishments that have not had the benefit of this checkpoint. The conference report we bring to the floor today will do just that by establishing new statutory Offices of Inspector General with Presidentially appointed IG's in the Departments of the Treasury and Justice—the only two remaining Departments in the Federal Government without statutory IG's—as well as the Federal Emergency Management Agency, the Nuclear Regulatory Commission, and the Office of Personnel Management.

As the chairman has indicated, the statutory establishment of these Presidentially appointed IG's has been recommended by the General Accounting Office on several occasions. While the President has in the past supported the establishment of statutory IG's "who will have powers tailored to the specific needs of the Departments of * * * Treasury and Justice," there has been considerable resistance within the Departments themselves to the idea. Consequently, we have made very concerted and sincere efforts to respond to the legitimate concerns of Treasury and Justice Department officials.

This conference agreement represents many long, difficult hours of negotiation with representatives of both Departments. We have attempted to remain sensitive to the important and unique roles of these two Departments by granting the Treasury Secretary and the Attorney General, respectively, the authority to halt the IGs' work to preserve the confidentiality of sensitive information or to protect the national interests of the United States. We have reiterated the facts that the IG Act; First, specifically prohibits the IG from disclosing information that is "prohibited from disclosure by any other provision of law;" and second, specifically prohibits the transfer of any program operating responsibilities to the IG.

Moreover, in direct response to the specific request of the Attorney General, we have agreed to keep the Office of Professional Responsibility intact and outside the Office of Inspector General.

In addition to establishing these Presidentially appointed IG's, I am very pleased that our conference agreement addresses the audit and investigative needs of the smaller agencies and federally funded entities by establishing Offices of Inspector General in 33 "designated Federal entities." The IG for each of these designated entities will be appointed by the head of the entity and will be responsible for reporting activities to the agency head as well as Congress. As I indicated in February during Senate consideration of S. 908, the need to bring the concepts embodied in the Inspector General Act to these entities has been thoroughly documented by the General Accounting Office and the President's Council on Integrity and Efficiency. The administration has expressed support for our efforts to extend the IG concept to smaller entities as well.

The conference agreement includes a number of amendments to the Inspector General Act that have been advocated for several years. Among these changes are modifications to the reporting requirements intended to assure more uniformity and attention to audit follow-up; a uniform salary level for all Inspectors General; separate appropriations accounts for Offices of Inspector General; and conformation of existing OIG's at the Departments of HHS and Energy and Railroad Retirement Board under the IG Act.

Mr. President, the conference agreement we have before us is a reasonable compromise that I believe merits the support of our colleagues. I am very proud of my longstanding involvement in promoting the Inspector General concept and this legislation builds logically and realistically on the original act. For his exemplary leadership, I want to congratulate Senator GLENN and to commend him for his tireless efforts and personal commitment to reach agreement on this legislation. I truly appreciate all that he has done and all that his fine staff, particularly Steve Ryan and Lorraine Lewis, have done to lead us to this juncture. The conference agreement is a true bipartisan effort and I commend it to my colleagues.

Mr. SASSER. Mr. President, I rise today in support of the conference report on the Inspector General Act Amendments of 1988.

I am pleased to have been an original cosponsor of this important piece of legislation. Inspectors general are watchdogs for the American taxpayer—a front line of defense against waste and fraud in the Federal Government.

These amendments establish an office headed by a Presidentially appointed inspector general in the following five agencies: the Department of the Treasury, the Internal Revenue Service, the Office of Personnel Management, the Nuclear Regulatory Commission, and the Federal Emergency Management Agency.

This bill also extends some of the provisions of the Inspector General Act to 33 smaller Federal agencies, such as: the Equal Employment Opportunity Commission, the National Science Foundation, the National Labor Relations Board, the Federal Communications Commission, and the Federal Trade Commission.

For many years I have been a staunch supporter of inspectors general and I have made the fight against waste and fraud in the Federal Government a priority during my service in the Senate. In my work on the Committee on Government Affairs I have seen that the work of inspectors general can result in significant savings to the American taxpayer.

In fact, Joseph J. Wright, Deputy Director of the Office of Management and Budget, reported that since 1978 when the Inspector General Act was enacted, more than $120 billion in Federal funds have been saved by these inspectors general.

The hearing record on this legislation is replete with testimony supporting the value of inspectors general. For example, between 1981 and 1987, there were 23,000 successful prosecutions against wrongdoing as the result of the work of inspectors general. These prosecutions resulted in the imposition of 8,000 administrative sanctions against individuals or firms.

The intent of this bill is to give some real teeth to the audit and investigative capabilities of a Federal agency. As our conference report indicates, all too often audits and investigations are not conducted in an effective manner. Or, they may be conducted—but are not followed up on—by agency heads. In that case, the audit function is underutilized.

But with this legislation, inspectors general, heads of internal audit units, and agency heads have a responsibility to see audits and investigations through to their logical conclusion—promoting more efficient and economical agency operations.

This bill very wisely creates four new statutory inspectors general and requires centralized internal audit units in more than 30 smaller agencies. Another set of very small Federal agencies is required to follow more uniform audit and review procedures.

We conferees have been involved in extensive negotiations with the Departments of Justice and Treasury on this bill. The Justice Department has been particularly resistant to a Presidentially appointed inspector general. The Department prefers its existing Office of Professional Responsibility to a statutory inspector general. The record however does not support the view that the Office of Professional Responsibility is effectively policing the Justice Department.

But after long, hard negotiations, we have reached a compromise wherein the Office of Professional Responsibility will deal with issues of professional ethics and the Office of Inspector General will investigate fiscal matters.

Congress has indicated strong support for the inspector general concept. S. 908 was reported by a unanimous vote from the Senate Governmental Affairs Committee, passed the Senate by a unanimous vote of 85 to 0 on February 2, and the House on July 26 (H.R. 4054). That vote indicates strong bipartisan support for this legislation.

Given the overwhelming support for this measure, I would urge all of my colleagues to vote for this conference report—thereby expressing a resounding vote of confidence for the inspector general concept.

Mr. PRYOR. Mr. President, I rise today in support of the conference report on S. 908, a bill that makes several important changes to the Inspector General Act of 1978. The bill establishes Offices of Inspector General in the Departments of Justice and the Treasury, the Nuclear Regulatory Commission, the Office of Personnel Management and the Federal Emergency Management Agency.

Though there are presently some level of internal audit and program review capacities at these agencies, this bill elevates these offices to Presidentially appointed inspectors general. We have seen, over the 10-year history of the original Inspector General Act, the importance of having these offices as independent as possible. I believe that the improvements required by this bill will greatly increase the ability of the Federal Government to fight waste, fraud, and mismanagement. Furthermore, this strengthening of the inspectors general will greatly assist the Congress in performing its vital oversight function.

Mr. President, while there is much to commend in this bill, I want especially to draw attention to the elevation of the inspector general at the Department of the Treasury from being a creation of the Department to being one that is statutory. As most of you know, the taxpayers bill of rights is one of my top legislative priorities for this Congress. A key aspect of the taxpayers bill of rights is the creation of a statutory inspector general at the Department of the Treasury. As a conferee on this bill, I have been most interested in making sure this important component of the taxpayers bill of rights was included.

For far too long the Department of the Treasury has thrown a protective mantel around the Internal Revenue Service and kept it away from adequate internal review. This is all part of a calculated attempt to keep the IRS both mysterious and frightening to the average citizen. With the creation of a statutory inspector general at Treasury, both the Congress and the public will be assured that the IRS, like almost every other Government entity, is subject to sufficient internal oversight.

Mr. President, I should point out that while we have given the inspector general the authority to audit and review the internal workings of the IRS, we have also maintained the safeguards that govern the access to information contained on the returns of taxpayers.

As chairman of the Senate Finance Subcommittee with oversight over the IRS, I have become increasingly convinced that a strong and independent inspector general is vital to correcting some of that agency's all too frequent abuses. In a series of hearings that I have chaired over the past 2 years, I have heard testimony time and time again from average taxpayers, small business owners, and even from IRS employees, of cases in which the IRS was acting inappropriately. Having a statutory inspector general will give these parties an effective avenue through which they can express their grievances. IRS employees, business people, and taxpayers shouldn't have to wait for a congressional hearing to have someone review the potentially inappropriate activity of a Government agency, especially when it is an agency like the IRS that touches all of our lives.

Mr. President, in closing, I am delighted that a key portion of the taxpayers bill of rights is today one step closer to becoming the law of the land. My colleagues can rest assured that I will continue working to see that the rest of the taxpayers bill of rights is enacted.

The **PRESIDING OFFICER**. The question is on agreeing to the conference report.

The conference report was agreed to.

MOTION TO RECEDE FROM DISAGREEMENT WITH THE HOUSE ON THE TITLE

Mr. **BYRD**. Mr. President, I move that the Senate recede from its disagreement to the amendment of the House to the title of the bill.

The **PRESIDING OFFICER**. The question is on agreeing to the motion.

The motion was agreed to.

UNANIMOUS-CONSENT AGREEMENT

Mr. **BYRD**. Mr. President. I ask unanimous consent that the majority leader, after consultation with the minority leader, may proceed to the consideration of S. 1301, a bill to implement the Berne Convention for the Protection of Literary and Artistic

Works, and that it be considered under the following time agreement:

That 20 minutes on the bill equally divided and controlled between Senators DeConcini and Hatch and 5 minutes under the control of Senator Leahy and 10 minutes under the control of Senator Cochran.

That 20 minutes on one amendment to be offered by Senators Leahy, DeConcini, and Hatch making technical changes to the committee-reported substitute and establishing a 2-tier registration system.

That no other amendments be in order, with the exception of the committee-reported substitute.

That there be 20 minutes equally divided on any debatable motion, appeal, or point of order if submitted by the Chair for debate.

That no motion to recommit, with or without instructions, be in order.

That the agreement be in the usual form and that following the adoption of the committee-reported substitute amendment and third reading of the bill, as amended, the Senate proceed to the immediate consideration of Calendar No. 672, H.R. 4262; that all after the enacting clause be stricken and that the text of S. 1301, as amended, be substituted in lieu thereof; that the bill be immediately brought to third reading and passed, as amended.

I further ask unanimous consent, as if in executive session, that the majority leader, after consultation with the minority leader, may proceed to the consideration of Executive Calendar No. 10, Treaty Document No. 99-27, the Berne Convention for the Protection of Literary and Artistic Works, and that the treaty be considered to have passed through all of its parliamentary stages up to the presentation of the resolution of ratification, that no amendments thereto be in order and that debate thereon be limited to 15 minutes equally divided and controlled by the two leaders or their designees.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That at 10:30 a.m on Wednesday, Oct. 5, 1988, the Senate proceed to the consideration of S. 1301, a bill to implement the Berne Convention for the Protection of Literary and Artistic Works, and that no amendments be in order except the committee reported substitute and an amendment to be offered by Senators Leahy, DeConcini, and Hatch, making technical changes to the committee reported substitute and establishing a 2-tier registration system, on which there shall be 20 minutes.

Ordered further, That debate on any debatable motion, appeal, or point of order if submitted by the Chair for debate shall be limited to 20 minutes, equally divided and controlled.

Ordered further, That no motion to recommit, with or without instructions, be in order.

Ordered further, That debate on the bill be limited to 20 minutes, to be equally divided and controlled by the Senator from Arizona [Mr. DeConcini] and the Senator from Utah [Mr. Hatch], with an additional 5 minutes under the control of the Senator from Vermont [Mr. Leahy], and an additional 30 minutes under the control of the Senator from Mississippi [Mr. Cochran].

Ordered further, That following the adoption of the committee reported substitute amendment and third reading of the bill, as amended, the Senate proceed to the immediate consideration of H.R. 4262 (Cal. Order No. 672), that all after the enacting clause be stricken, that the text of S. 1301, as amended, be substituted in lieu thereof, and that the bill be immediately brought to third reading and passed, as amended.

THE EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, as in executive session, I ask unanimous consent that the Commerce Committee be discharged from further consideration of Coast Guard promotions received on September 28, 1988, and that these nominations be placed directly on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROTECTION AND ADVOCACY FOR MENTALLY ILL INDIVIDUALS AMENDMENTS ACT

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2393.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives.

Resolved, That the bill from the Senate (S. 2393) entitled "An Act to amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to reauthorize such Act, and for other purposes", do pass with the following Amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1988".

SEC. 2. REFERENCES IN ACT.

Except as otherwise specifically provided, whenever in this Act there is an amendment or repeal of a section or provision, the amendment or repeal shall be considered to be made to that section or provision of the Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1986 (42 U.S.C. 10801 et seq.).

SEC. 3. SCOPE OF COVERAGE.

(a) Abuse or Neglect Resulting in Death.—Section 102 (42 U.S.C. 10802) is amended—

(1) in paragraph (1), by striking "injury to a mentally ill individual" and inserting "injury or death to a mentally ill individual"; and

(2) in paragraph (4), by striking "injury" each place it appears and inserting "injury or death".

(b) Individuals Covered by Act.—Paragraph (3)(B) of such section is amended—

(1) by striking "(B) who is an inpatient or resident" and inserting "(B)(i) who is an inpatient or resident";

(2) by striking the period at the end and inserting the following: ", or who is in the process of being transported to such a facility for the purposes of being admitted as an inpatient or resident; or"; and

(3) by adding at the end the following new clause:

"(iii) who is involuntarily confined in a municipal detention facility for reasons other than serving a sentence resulting from conviction for a criminal offense.".

SEC. 4. ESTABLISHMENT OF GOVERNING BOARD FOR SYSTEMS.

(a) Designation of Current Advisory Boards as Advisory Councils.—Section 105(a)(6) (42 U.S.C. 10805(a)(6)) is amended by striking "board" and inserting "advisory council".

(b) Rules for System Governing Boards.—Section 105 (42 U.S.C. 10805) is amended by adding at the end the following new subsection:

"(c)(1) Each system established in a State under section 103 to protect and advocate the rights of mentally ill individuals shall have a governing authority. Such governing authority shall—

"(A) together with the advisory council described in subsection (a)(6), have the responsibility for jointly developing the annual priorities of the system; and

"(B) have the final responsibility for the planning, design, implementation, and functioning of the system.

"(2) If the governing authority of such system is a multi-member governing board, such board shall include members (to be selected not later than October 1, 1990) who broadly represent the clients served by the system. In the case of a system organized as a private non-profit entity whose governing authority is a multi-member governing board, the chairperson of such system's advisory council shall serve as a member of the governing board.".

SEC. 5. REQUIREMENTS FOR SYSTEM ADVISORY COUNCIL.

(a) Advisory Functions of Council.—Section 105(a)(6)(A) (42 U.S.C. 10805(a)(6)(A)) is amended—

(1) by striking "policies and priorities" and inserting "ongoing policies and priorities"; and

(2) by striking "; and" and inserting ", and on annual plans, priorities, and reports of the system; and".

(b) Annual Report.—Section 105(a)(7) (42 U.S.C. 10805(a)(7)) is amended—

(1) by striking "describing the activities" and inserting "which describes the activities"; and

(2) by striking the period at the end and inserting the following: ", and which includes a section prepared by the advisory council describing the activities of the council and its assessment of the operations of the system;".

SEC. 6. RECORDS COVERED UNDER ACCESS PROVISIONS.

(a) Records of Missing Individuals.—Section 105(a)(4)(B)(i) (42 U.S.C. 10805(b)(4)(B)(i)) is amended by striking "such access;" and inserting "such access (including an individual who has died or whose whereabouts are unknown);".

(b) Definition.—Section 106(b) (42 U.S.C. 10806(b)) is amended by adding at the end the following new paragraph:

"(3) As used in this section, the term 'records' includes—

"(A) reports prepared by any staff of a facility rendering care and treatment, or by an agency charged with investigating reports of incidents of abuse, neglect, and injury occurring at such facility, which describe incidents of abuse, neglect, and injury occurring at such facility and the steps taken to investigate such incidents; and

"(B) discharge planning records.".

SEC. 7. MISCELLANEOUS PROVISIONS.

(a) SUBCONTRACTING.—Section 104(a)(2) (42 U.S.C. 10804(a)(2)) is amended by striking "which, on the date of enactment of this Act" and inserting ", including groups run by individuals who have received or are receiving mental health services, or by the family members of such individuals, which".

(b) TECHNICAL ASSISTANCE LIMITATIONS.—

(1) STATE ASSISTANCE.—Section 104(b)(2) (42 U.S.C. 10804(b)(2)) is amended by striking "5 percent" and inserting "10 percent".

(2) ASSISTANCE BY THE SECRETARY.—Section 115 (42 U.S.C. 18025) is amended—

(A) by striking "shall provide technical assistance" and inserting "shall use not more than 2 percent of the amounts appropriated under section 117 to provide technical assistance"; and

(B) by striking the period at the end and inserting the following: ", consistent with requests by such systems for such assistance.".

(c) ADDITIONAL SYSTEM REQUIREMENTS.—Section 105(a) (42 U.S.C. 10805(a)) (as amended by section 5), is further amended—

(1) in paragraph (6)(B) by striking "; and" and inserting a semicolon; and

(2) by adding at the end the following new paragraphs:

"(8) on an ongoing basis, provide the public with a mechanism for commenting on the priorities established by, and the activities of, the system; and

"(9) establish a grievance procedure for clients or prospective clients of the system to assure that mentally ill individuals have full access to the services of the system.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 117 (42 U.S.C. 10827) is amended by striking "$10,000,000 for fiscal year 1986," and all that follows and inserting "$13,000,000 for fiscal year 1989, and such sums as may be necessary for fiscal year 1990 and fiscal year 1991.".

SEC. 8. EFFECTIVE DATE.

The provisions of this Act shall take effect on the date of the enactment of this Act or on October 1, 1988, whichever comes later.

Amend the title so as to read: "An Act to amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to reauthorize appropriations for activities under such Act, and for other purposes.".

Mr. HARKIN. Mr. President, I rise today as chairman of the Subcommittee on the Handicapped and on behalf of the other members of the subcommittee, Mr. WEICKER, Mr. KENNEDY, Mr. HATCH, Mr. SIMON, Mr. STAFFORD, Mr. ADAMS, Mr. COCHRAN, and Mr. METZENBAUM, to urge that the Senate concur in the amendment of the House of Representatives to S. 2393, with a substitute amendment.

On August 2, 1988, the Senate passed S. 2393, the Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1988. On September 20, 1988, the House passed H.R. 5155 and amended the Senate bill with the provisions from H.R. 5155. After extensive discussions between the two bodies, a substitute to the Senate bill, as amended by the House, hereinafter referred to as "the Substitute," has been developed.

The substitute is a bipartisan compromise that has the support of both bodies. It incorporates the major provisions of the Senate bill and the House amendment.

Set out below is a section-by-section analysis of the substitute prepared by both bodies. This analysis is in lieu of a conference report.

Section 1 of the substitute specifies that the bill may be cited as the Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1988.

Section 2 of the substitute specifies that references in the bill to a section of the act are to the Protection and Advocacy for Mentally Ill Individuals Act of 1986.

Section 3 of the substitute amends section 102 of the act to make clarifications of several definitions included in the act. Specifically, the substitute amends the definition of "abuse" and "neglect" to add "death" to the list of manifestations of "abuse" and "neglect." Currently, the act only includes "injuries."

In addition, section 3 of the substitute amends the definition of the term "mentally ill individual" to include an inpatient or resident in a facility even if the whereabouts of such inpatient or resident are unknown and a person who is in the process of being admitted to a facility rendering care of treatment, including persons being transported to such a facility.

The intent of these changes is simply to clarify that the act covers mentally ill individuals in these two situations and not to change the nature of a protection and advocacy system's, hereinafter referred to as "PAMI system" or "system," authority under the act. Thus, for example, it is not our intent to authorize the system to provide assistance at civil commitment hearings. Furthermore, consistent with section 301 of the act, these amendments do not establish any new rights for mentally ill individuals. Thus, for example, if a mentally ill individual being transported to a facility does not otherwise qualify for admission by the facility, such an individual does not gain that right by virtue of this provision.

Furthermore, section 3 of the substitute amends the definition of the term "mentally ill individual" to include a mentally ill individual who is involuntarily confined in a municipal detention facility for reasons other than serving a sentence resulting from conviction for a criminal offense. The intent of this provision is not to authorize representation by the system in criminal proceedings that may lead to incarceration.

Finally, section 3 of the substitute amends the definition of the term "neglect" to clarify that the failure to provide a safe environment may include the failure to maintain adequate numbers of appropriately trained staff. Consisent with section 301 of the act and the statement of intent set out on page 9 of Senate Report No. 99-109, this amendment does not grant any new rights to mentally ill individuals but reaffirms the original intent of the act establishing a system of advocacy to help protect established rights articulated in Federal and State laws or under the Constitution of the United States.

Section 4 of the substitute amends section 105 of the act in order to clarify the relationship between the advisory council and the governing authority of the PAMI system. Specifically, the substitute amends the act to rename the "board"—established to provide advice—to be called the advisory council. Second, each PAMI system is directed to have a governing authority.

In situations in which the governing authority is organized as a multimember governing board, such governing board must be selected according to the policies and procedures of the governing authority. In addition, the membership of the governing board must include members who broadly represent or are knowledgeable about the needs of the clients served by the PAMI system. In the case of a system organized as a private nonprofit entity, the governing board must also include the chairperson of the advisory council of the system.

Finally, section 4 of the substitute specifies that the responsibilities of the governing authority include the planning, design, implementation, and functioning of the PAMI system. The bill also specifies that consistent with these responsibilities the governing authority shall jointly develop with the advisory council the system's annual priorities. We included the latter provision to ensure full and active participation of the advisory council in the discussion and development of the system's annual priorities. We recognize, however, that the final authority for the planning, designing, implementing, and functioning of the system continues to rest with the governing authority. Thus, the final decision regarding priorities remains with the governing authority.

Section 5 of the substitute amends section 105 of the act to include a new requirement for inclusion in the annual report submitted by the system. This new section should be prepared by the advisory council and should describe both the activities of the council and its assessment of the operations of the system.

Section 6 of the substitute amends section 105 to clarify that, consistent with section 3 of the bill a system's authority to access the records of mentally ill individuals includes access to records of mentally ill individuals who have died or whose whereabouts are unknown.

Section 6 of the substitute also amends section 106 to clarify the meaning of the term "records." As amended by the substitute, the term "records" includes discharge planning records as well as records prepared by any staff of a facility or by an agency charged with investigating reports of incidents of abuse, and neglect, and injury occurring at such facility that describe incidents of abuse, neglect, and injury occurring at such facility and the steps taken to investigate such incidents.

The term "agency" in this section refers to any State, county, or municipal agency charged with the responsibility of investigating incidents of abuse and neglect in public residential facilities for the treatment of mentally ill individuals. It is not the intent of this amendment to change in any way the requirements set out in section 106 of the act governing access to records.

Section 7 of the substitute includes a number of miscellaneous provisions. First section 7(a) of the bill amends section 104 of the act to clarify that in their use of allotments, an eligible system should consider entering into contracts with organizations, including in particular groups run by individuals who have received or are receiving mental health services or the family members of such individuals. Contracts entered into with these groups and others must be consistent with the provisions of the act, thereby assuring that contractors will be held to the same standards of compliance with the act as the PAMI system.

Second, section 7(b)(1) of the substitute amends seciton 104(b)(2) of the Act to increase the percentage of funds that may be used by PAMI systems for training and technical assistance from 5 to 10 percent. In addition, section 7(b)(2) of the substitute amends section 115 of the act to direct the Secretary to use not more than 2 percent of the amount appropriated to provide technical assistance to eligible systems, consistent with the stated needs as identified by the systems.

Third, section 7(c) of the substitute amends section 105 of the act to add requirements for one, public input in the setting of priorities by the system, and two, establishment of a grievance procedure for clients or prospective clients of the system.

Fourth, section 7(d) of the substitute amends section 111 of the act to clarify that applications and assurances shall remain in effect for a 3-year period. We do not intend that this provision should restrict the Secretary's current authority to conduct program reviews and take appropriate administrative action against a system, if deemed necessary.

Fifth, section 7(e) of the substitute amends section 112(a) of the act to increase the minimum allotment for States from $125,000 to $140,000, if there is at least a $13 million appropriation. The bill also directs the Secretary to increase the minimum administratively under the same circumstances applicable to protection and advocacy systems under the Development Disabilities Assistance and Bill of Rights Act, regardless of whether or not the $13 million level of appropriations is reached.

Finally, section 7(f) of the substitute provides authorization of appropriations of $14.3 million for fiscal year 1989, and such sums as may be necessary for fiscal year 1990 and fiscal year 1991.

Section 8 of the substitute specifies that the effective date of the amendments made by the substitute, other than the amendment concerning the authorization of appropriations, is the date of enactment. The effective date for the section authorizing appropriations is October 1, 1988.

Mr. BYRD. Mr. President, I move that the Senate concur in the amendment of the House to the bill S. 2393, with a further amendment, No. 3402, now at the desk.

AMENDMENT NO. 3402

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. HARKIN, proposes an amendment numbered 3402.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1988".

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision,

the reference shall be considered to be made to a section or other provision of the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.).

SEC. 3. SCOPE OF COVERAGE.

Section 102 (42 U.S.C. 10802) is amended—

(1) in paragraph (1), by inserting "or death" after "caused, injury";

(2) in paragraph (3)—

(A) by inserting "(i)" after the subparagraph designation in subparagraph (B);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof the following: ", even if the whereabouts of such inpatient or resident are unknown;"; and

(C) by adding at the end thereof the following new clauses:

"(ii) who is in the process of being admitted to a facility rendering care or treatment, including persons being transported to such a facility; or";

"(iii) who is involuntarily confined in a municipal detention facility for reasons other than serving a sentence resulting from conviction for a criminal offense."; and

(3) in paragraph (4)—

(A) by inserting "or death" after "injury" each place such word occurs; and

(B) by inserting before the period at the end thereof the following: ", including the failure to maintain adequate numbers of appropriately trained staff".

SEC. 4. ESTABLISHMENT OF A GOVERNING AUTHORITY.

Section 105 (42 U.S.C. 10805) is amended—

(1) in subsection (a)(6), by striking out "a board" and inserting in lieu thereof "an advisory council"; and

(2) by adding at the end thereof the following new subsection:

"(c)(1)(A) Each system established in a State, through allotments received under section 103, to protect and advocate the rights of mentally ill individuals shall have a governing authority.

"(B) In States in which the governing authority is organized as a private non-profit entity with a multi-member governing board, or a public system with a multi-member governing board, such governing board shall be selected according to the policies and procedures of the system. The governing board shall be composed of—

"(i) members (to be selected no later than October 1, 1990) who broadly represent or are knowledgeable about the needs of the clients served by the system; and

"(ii) in the case of a governing authority organized as a private non-profit entity, members who broadly represent or are knowledgeable about the needs of the clients served by the system including the chairperson of the advisory council of such system.

"(2) The governing authority established under paragraph (1) shall—

"(A) be responsible for the planning, design, implementation, and functioning of the system; and

"(B) consistent with subparagraph (A), jointly develop the annual priorities of the system with the advisory council.".

SEC. 5. ADVISORY COUNCIL REPORT.

Section 105(a)(7) (42 U.S.C. 10805(a)(7)) is amended by striking out the period and inserting in lieu thereof the following: ", including a section prepared by the advisory council that describes the activities of the council and its assessment of the operations of the system;".

SEC. 6. ACCESS TO RECORDS.

(a) SYSTEM REQUIREMENT.—Section 105(a)(4)(B) (42 U.S.C. 10805(a)(4)(B)) is amended by striking out "any individual" and inserting in lieu thereof " any individual (including an individual who has died or whose whereabouts are unknown)".

(b) DEFINITION OF RECORDS.—Section 106(b) (42 U.S.C. 10806(b)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) As used in this section, the term 'records' includes reports prepared by any staff of a facility rendering care and treatment or reports prepared by an agency charged with investigating reports of incidents of abuse, neglect, and injury occurring at such facility that describe incidents of abuse, neglect, and injury occurring at such facility and the steps taken to investigate such incidents, and discharge planning records.

"(B) An eligible system shall have access to the type of records described in subparagraph (A) in accordance with the provisions of subsection (a) and paragraphs (1) and (2) of subsection (b).".

SEC. 7. MISCELLANEOUS PROVISIONS.

(a) SUBCONTRACTING.—Section 104(a)(2) (42 U.S.C. 10804(a)(2)) is amended by striking out "which, on the date of enactment of this Act" and inserting in lieu thereof "including, in particular, groups run by individuals who have received or are receiving mental health services, or the family members of such individuals, which".

(b) TECHNICAL ASSISTANCE LIMITATIONS.—

(1) STATE ASSISTANCE.—Section 104(b)(2) (42 U.S.C. 10804(b)(2)) is amended by striking out "5 percent" and inserting in lieu thereof "10 percent".

(2) ASSISTANCE BY THE SECRETARY.—Section 10 (42 U.S.C. 18025) is amended to read as follows:

"TECHNICAL ASSISTANCE

"SEC. 115. The Secretary shall use not more than 2 percent of the amounts appropriated under section 117 to provide technical assistance to eligible systems with respect to activities carried out under this title, consistent with requests by such systems for such assistance.".

(c) ADDITIONAL SYSTEM REQUIREMENTS.—Section 105(a) (42 U.S.C. 10805(a)) (as amended by section 5), is further amended by adding at the end thereof the following new paragraphs:

"(8) on an annual basis, provide the public with an opportunity to comment on the priorities established by, and the activities of, the system; and

"(9) establish a grievance procedure for clients or prospective clients of the system to assure that mentally ill individuals have full access to the services of the system.".

(d) APPLICATIONS.—Section 111 (42 U.S.C. 10821) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following new subsection:

"(b) Applications submitted under this section shall remain in effect for a 3-year period, and the assurances required under this section shall be for the same 3-year period.".

(e) ALLOTMENT FORMULA.—Section 112(a) (42 U.S.C. 18022(a)) is amended—

(1) in paragraph (2) to read as follows:

"(2) Notwithstanding paragraph (1) and subject to the availability of appropriations under section 117—

"(A) if the total amount appropriated in a fiscal year is at least $13,000,000—

"(i) the amount of the allotment of the eligible system of each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico shall be the greater of—

"(I) $140,000; or

"(II) $125,000 in addition to the amount determined under paragraph (3); and

"(ii) the amount of the allotment of the eligible system of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands shall be the greater of—

"(I) $75,000; or

"(II) $67,000 in addition to the amount determined under paragraph (3); and

"(B) if the total amount appropriated in a fiscal year is less than $13,000,000, the amount of the allotment of the eligible system—

"(i) of each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico shall not be less than $125,000 in addition to the amount determined under paragraph (3); and

"(ii) of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands shall not be less than $67,000 in addition to the amount determined under paragraph (3)."; and

(2) by adding at the end thereof the following new paragraph:

"(3) In any case in which the total amount appropriated under section 117 for a fiscal year exceeds the total amount appropriated under such section, as in effect on the day before the date of enactment of this paragraph, for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary shall increase each of the allotments under clauses (i)(II) and (ii)(II) of subparagraph (A) and clauses (i) and (ii) of subparagraph (B) of paragraph (2) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 117 for the fiscal year for which the increase in minimum allotment is made, minus;

"(B) the total amount appropriated under section 117 for the immediately preceding fiscal year,

bears to the total amount appropriated under section 117 for such preceding fiscal year.".

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 117 (42 U.S.C. 10827) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 117. For allotments under this title, there are authorized to be appropriated $14,300,000 for fiscal year 1989, and such sums as may be necessary for fiscal year 1990 and fiscal year 1991.".

SEC. 8. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this Act, other than the amendment made by section 7(f), shall become effective on the date of the enactment of this Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—The amendment made by section 7(f) shall become effective on October 1, 1988.

The **PRESIDING OFFICER**. The question is on agreeing to the motion. The motion is agreed to.

EXECUTIVE CALENDAR

Mr. **BYRD**. Mr. President, I inquire of the acting Republican leader if the following nominations on the Executive Calendar have been cleared: Calendar Order No. 801 on page 4, Department of Energy; nominations under the Department of Justice; then, going over to page 5, nominations under the Department of Energy; on page 6, nominations under Department of State; and Calendar Order No. 873 on page 6.

Mr. **COCHRAN**. Mr. President, if the majority leader will indulge me for a moment, I will be able to respond to that inquiry.

Do I correctly understand the majority leader to indicate Calendar Order No. 801, under Department of Energy?

Mr. **BYRD**. Yes. No. 801 on page 4, Department of Energy.

Mr. **COCHRAN**. Mr. President, that has not been cleared on this side of the aisle, I have to advise the leader.

Mr. **BYRD**. If that cannot be done, Mr. President, I exclude from the list that I earlier enumerated the five nominations on page 5 under Department of Energy.

So that the remaining nominations that I inquire of the distinguished acting Republican leader concern calendar orders numbered 810, 811, and 812 on page 4; 870, 871, 872, and 873 on page 6 of the Executive Calendar.

Mr. **COCHRAN**. Mr. President, I must advise the majority leader that Calendar Order No. 871 has not been cleared on this side of the aisle.

Mr. **BYRD**. Then, Mr. President, I will exclude all the nominations.

I thank the distinguished acting Republican leader.

Mr. President, I take it that the three nominations on page 4 under Department of Justice have been cleared on the other side.

Mr. **COCHRAN**. I am advised, I say to the majority leader, that 3 out of the 4 have been cleared.

Mr. **BYRD**. There are only 3—810, 811, 812—shown under Department of Justice.

Mr. **COCHRAN**. Those have been cleared on this side of the aisle.

Mr. **BYRD**. I thank my friend.

EXECUTIVE SESSION

Mr. **BYRD**. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar numbered 810, 811, 812; that they be considered en bloc, agreed to en bloc; that a motion to reconsider en bloc be laid on the table; that the President be immediately notified of the confirmation of the nominations.

Mr. President, I state for the RECORD that although the Executive Calendar does not have "stars" by the nominees under Department of Justice, I am informed that all three nominees have committed to respond to requests to appear and testify before any duly constituted committee of the Senate and that their confirmation by the Senate today is subject to such a commitment.

The **PRESIDING OFFICER**. Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF JUSTICE

Francis Anthony Keating II, of Oklahoma, to be Associate Attorney General, vice Stephen S. Trott.

Harold G. Christensen, of Utah, to be Deputy Attorney General, vice Arnold I. Burns, resigned.

Edward S.G. Dennis, Jr., of Pennsylvania, to be an Assistant Attorney General, vice William F. Weld, resigned.

NOMINATION OF HAROLD G. CHRISTENSEN TO BE DEPUTY ATTORNEY GENERAL

Mr. HATCH. Mr. President, I would like to encourage my colleagues to support the nomination of Mr. Harold Christensen to be Deputy Attorney General of the Department of Justice. The President could not have chosen a more qualified individual for this important position.

Mr. Christensen comes before us with a long and distinguished legal background. He graduated from the University of Utah in 1949 and received his juris doctorate from the University of Michigan Law School in 1951. He was admitted to the Utah State Bar in 1952 and joined the prominent Salt Lake City law firm of Snow, Christensen & Martineau in 1953. He remained with the firm, eventually serving as chairman of the board, until his recent appointment as Acting Deputy Attorney General.

During his career, Mr. Christensen has been affiliated with the Salt Lake County Bar Association, where he served as president from 1972 to 1973; the Utah Bar Association, where he served as president from 1975 to 1976; the American Bar Association; the American College of Trial Lawyers, where he served as the Utah State chairman from 1986 to 1987; the American Bar Foundation; the American Inn of Court I, where he was the charter president; and the American Inns of Court Foundation. He has also participated in numerous legal committees ranging from an American Bar Association and Utah Bar Association Joint Committee, which published the "Appellate Advocacy Handbook for the Utah Supreme Court," to the U.S. Judicial Selection Commission.

Mr. Christensen is a recognized legal scholar with several published articles and he regularly participates in legal seminars and conferences as a lecturer.

This distinguished background speaks highly of an individual who is cited as one "whose life has been devoted to the law." A fellow Salt Lake City attorney has stated that at various social events Harold Christensen "inevitably ends up in a corner in a bull session with another lawyer talking shop. He eats, breathes and sleeps law. He has an all-consuming interest in the law."

At the same time, Mr. Christensen is a devoted family man. He has many interests, but as he recently stated, "[his] basic goal is to discharge the responsibilities of [his] office for the balance of the Reagan administration * * *."

I am proud to represent a State that can produce such a well-qualified candidate. He has the tools and experience necessary to handle the administrative responsibilities that will be required of him and he has a commitment to upholding and executing the law. He will be an excellent Deputy Attorney General, and I would hope my colleagues will recommend his confirmation to the full body of the Senate.

Mr. President, one indication of the unquestionable merit of this nominee is the support he has received from all points of the political spectrum in Utah. In the first place, he was warmly and persuasively endorsed by the Governor of Utah, Norm Bangerter. In addition, the former Democratic Gov. Scott Matheson wrote to pledge his support for Mr. Christensen's nomination. Both the current chairman of the Democratic Party in Utah, Randy Horiuchi, and the current chairman of the Republican Party, Craig Moody, joined in a wholehearted endorsement of this nomination. In addition, the immediate past chairmen of both parties, Pat Shay for the Democrats and Larry Lunt for the Republicans, noted their deep respect for this fine professional. Suffice it to say, Mr. President, that when all of these Utahns agree on anything, it is the political equivalent of the arrival of Halley's comet. It happens once a century. Hal has brought forth this universal approval and that speaks volumes.

In fact, the only Utah official that has any questions about him is me. After all, he enticed my extremely talented administrative assistant, Dee Benson, to leave for Justice Department service. In truth, this is just further evidence of his good judgment. Mr. Benson will be a great value to the entire Department.

In conclusion, I remember distinctly that Hal Christensen was always held up in Utah as the model for all practicing attorneys. He was considered the most proficient trial lawyer in the State. I have no doubt that he will improve the entire Department of Justice with his remarkable skills. Therefore, it is without reservation that I commend my friend, Hal Christensen, to this body for approval as Deputy Attorney General.

Mr. BYRD. Mr. President, the only action that has been taken in executive session has been that of confirming the three nominations under Department of Justice—namely, Calendar Orders 810, 811, and 812.

The PRESIDING OFFICER. The majority leader is correct.

Mr. BYRD. I thank the Chair.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Maine, Mr. MITCHELL, for his indulgence and courtesy in allowing the actions to be taken on the aforementioned measures, and I thank him for his patience. I yield the floor.

PARENTAL AND TEMPORARY MEDICAL LEAVE

The Senate continued with consideration of the bill.

Mr. MITCHELL. Mr. President, I ask unanimous consent to be permitted to speak out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine is recognized.

CLEAN AIR ACT

Mr. MITCHELL. Mr. President, the quality of the natural environment and the quality of human life are inseparable.

Indeed, if the most threatening predictions about the greenhouse effect come true, the very survival of human life may be determined by the quality of the environment.

Indiscriminate use of the atmosphere and the oceans as dumps for our wastes has poisoned the atmosphere and fouled the oceans.

We have not been oblivious to the problems. To the contrary, we have invested substantial resources and have made some progress.

The Clean Water Act, the Clean Air Act, the toxic waste cleanup fund, the Endangered Species Act, and all the rest of our environmental laws represent a serious commitment by our society to the goal of keeping the Earth fit for human life.

But our progress is being overtaken by events.

The population of the world continues to increase. In 1965, when the first Clean Water Program was passed, there were 194 million Americans and 3½ billion people in the world. Today, there are 243 million Americans and a total of 5 billion people in the world.

The first doubling of world population took an estimated 1,700 years. The next doubling, to 10 billion people, will take just 40 years.

Most population growth has been in less-developed countries. There it has spurred an intense drive to feed, clothe, house and employ the new millions. Economic development inevitably means an enormous worldwide rise in the burning of fossil fuels to power industry, light cities, and house people.

Burning fossile fuel adds large quantities of carbon dioxide to the atmosphere. At the same time, population pressures reduce the Earth's ability to absorb that carbon dioxide.

Twenty-seven million acres of tropical forest are being cleared each year. Deserts are growing by 14 million acres each year. The belt of vegetation at the tropics is the densest in the world; its millions of plants absorb carbon dioxide as they grow.

Their destructon leaves the gas unabsorbed in the atmosphere, where it stops the heat of the Earth's surface from radiating back into space, just as the glass of a greenhouse traps the Sun's warmth.

The pressures of population and the accompanying demands on the environment are not limited to Third World nations—the United States and the Soviet Union together produce about 45 percent of the world's greenhouse gasses.

Auto emissions are increasing, despite pollution control equipment, simply because there are more cars being driven many more miles. In 1970, when the current Clean Air Act was signed, Americans registered 108 million cars and drove 900 billion miles. In 1987, we registered 177 million cars and drove more than 1.7 trillion miles.

Americans felt the consequences in this manner.

Health alerts told residents of urban areas not to exercise, warned older people and those with asthmatic or pulmonary conditions to stay indoors, and suggested that small children not play outside. They reminded millions of Americans how air pollution directly limits their lives.

A June 22 headline article in the Washington Post described the poor quality of air in Washington. The July 7 Post reported the first ozone health advisory in 5 years.

A June 24 story on the front page of the New York Times, describing the potential disaster of global warming, quoted scientists as warning that we have seen "the signal" that the Earth is getting warmer, faster than ever before.

A week earlier, the New York Observer described the effects of acid rain on New York City's monuments.

A week before that, both the major national newsweeklies, Time and Newsweek, devoted cover stories to global warming and the "Greenhouse Effect."

So-called clean areas were not immune. At Mt. Desert Island in Maine, where millions come to escape from the summer heat of the cities, monitoring stations several times registered ozone readings well above the health-based standards contained in the law.

Dr. Morton Lippman, professor of environmental medicine at the New York University Medical Center, warned in July:

> Until recently we had the impression things were improving, but what we see this summer shows us that we are back where we started from.

And, in fact, that is what happened. When the EPA ozone data for last year were analyzed in May, 13 metropolitan areas which met ozone standards in 1985 and 1986 were found to have slipped back out of compliance in 1987.

Dr. Lippman is right: Despite considerable progress in controlling air pollutants, we must do more.

Paradoxically, there is reason for hope. For we have found that just as neglect of pollution controls means dirtier air, emphasis on controls can mean cleaner air. Americans are suffering from a manmade phenomenon that can be controlled. We have developed the technologies of control. We have the resources to apply those technologies. All we lack is the politial will to do so. We must now develop that will.

We cannot, with one piece of legislation, reach all the factors that contribute to dirty air. Nor can we expect any remedy to be cost-free. We must keep these fundamental facts in mind.

Air pollution is not just a regional problem, not just an industry problem, not just something that affects people in the Los Angeles basin. Air pollution is a national problem. It affects all of America, and all Americans.

Experts from every branch of medical science have told us that breathing dirty air is not simply a matter of discomfort. It impairs the ability of the lungs to deliver oxygen to the bloodstream and may permanently damage the lungs.

No one has direct control over the air he breathes. No one can control the direction in which pollutants move in the atmosphere. No one can isolate himself from the quality of the air. It is not a matter of choice, or a conscious assumption of risk.

It is an involuntarily imposed health threat, affecting everyone. The universality of the threat dictates that solutions must be broadly based. A solution that penalizes one part of the country, or one segment of industry, would be unfair and unrealistic.

We have an integrated national economy. None of our regions can thrive in isolation, or in opposition to others.

A policy that imposes huge job losses in West Virginia or Ohio or Kentucky is no more acceptable than a policy that imposes heavy pollution damage on Maine or Vermont or North Carolina.

We confront this problem together. We must work together to solve it.

I am encouraged that so many of my colleagues acknowledge this fact. And we must acknowledge it as a fact: A solution will impose costs on all of us, just as a failure to act imposes damage on all of us.

The issue is no longer how each of us can best avoid our share of these costs. The issue is how to fairly apportion those costs and reduce that damage.

It has been 11 years since Congress last revised the Clean Air Act. The debate then demonstrated that a successful strategy to clean up the air requires compromise. Unfortunately, there has not been sufficient willingness to compromise this year. As a result, we will do nothing.

But Senators should recognize that doing nothing is not a cost-free option. It does not merely delay a solution. It automatically increases the costs of that solution, both in money eventually spent and in damage sustained.

Injury to human health is one of those costs. The American Lung Association estimates that air pollution adds $40 billion each year to the national health care bill in respiratory damage, higher health care use, and costlier insurance premiums.

The direct costs to industry from damage to cash crops is a cost of doing nothing.

The higher costs of technology installed later, on more sources of pollution, is a cost of doing nothing.

The loss of business in tourist-sensitive regions is a cost of doing nothing.

I repeat: Refusal to act now is a choice that carries high costs. I hope those who recommend inaction will recognize the consequences of that choice.

The battle for clean air is a quarter of a century old. The first Clean Air Act became law in 1963. We knew then what caused air pollution and we knew what to do to cure it. The Senate was told, in 1965, that:

> [S]erious air pollution problems aris[e] from the ever increasing use of motor vehicles, [and] our rising demands for the energy derived from burning of sulfur bearing fuels * * *

The same testimony which warned of the problems gave us the answer. It remains the answer today, and it is important to remember it:

> None of these problems is technologically insurmountable. Our current technical capability of dealing with them admittedly varies from one problem to another, but even where our knowledge and skills are less refined than we wish, there exist at least partial solutions * * *

That statement was true in 1965. It is true today. Air pollution is a manmade phenomenon. We have it within our power to control it.

What we cannot control is the fact that human beings depend on air to survive.

Those two facts are the central elements of the issue. We have a problem we can control. And we have to control it because human lives are at stake.

That is no idle claim. The mounting human health data is clear. Pollutants that damage our ability to breathe damage our health.

Over 117 million people, half our population, live and breathe the air in areas that exceed the ozone and carbon monoxide standards set by law.

Over 35 million Americans live in areas where the air is not only up to the standards, but where it has become dirtier and more dangerous since 1981.

The Clean Air Act of 1970 was passed to prevent this pollution. The 1977 act intended to build on that beginning. The progress made has not been enough, particularly since recent studies show that ozone and other pollutants may cause more severe harm to human health than previously believed.

New evidence suggests that ozone concentrations do not necessarily dissipate within hours, but may remain relatively stable for extended periods of time.

Researchers have demonstrated adverse health effects at levels of ozone exposure once thought safe.

Illnesses of no traumatic origin are now linked to air pollution.

In some areas, non-smokers may have lungs as damaged as the lungs of heavy smokers because of air pollution.

Some air pollutants damage the lungs and heart slowly and progressively. Toxic air pollutants act more swiftly. Both are potential killers.

A person who smokes heavily incurs some health consequences. A person who smokes heavily and also drinks alcohol incurs further health consequences. A person who smokes and drinks and is overweight incurs still additional risk.

If that person is a woman and becomes pregnant, the combination is even more serious.

Americans are routinely exposed to thousands of pollutants. Their effects in combination, like the combined effects of nicotine, alcohol and excess calories, are more severe than the effects of each individual pollutant.

The difference is that those who abuse alcohol or smoke tobacco or overeat are acting voluntarily.

People who live where air pollution combines with possible water pollution, hazardous wastes, pesticide exposure, and the many other byproducts of our civilization, are involuntarily exposed to increased risk. No matter what personal choices they make, the environment is going to affect their health. There is nothing they can do about it. But there is something we could do about it.

Public health requires us to recognize that all exposures to pollutants and contaminants—whether through indoor or outdoor air, or water, or soil—have an effect in combination that far exceeds the dangers of any one of them in isolation.

Last year, Dr. Haluk Ozkaynak of Harvard University told the Environmental Protection Subcommittee:

> In every epidemiologic investigation that we have performed over the past six years, we have repeatedly found a two to five percent air pollution effect on human mortality and morbidity * * * We find it very difficult to reject these consistent findings * * * it would be prudent to develop environmental and public health policies based on the collective evidence * * * current [pollution] levels in the U.S. are likely to cause premature mortality and human morbidity.

In plain words, the doctor is saying that air pollution leads to 3 to 5 percent excess—that is, needless—deaths or diseases nationwide every year. That means between 7 million and 12 million deaths or illnesses each year, not from smoking or drinking or overeating, but from breathing the air.

Nothing else in American life, neither gun deaths nor traffic accidents, nor any other misfortune, comes close to causing this degree of human injury. And although pollution acts by intensifying conditions that already exist, that does not lessen the degree of injury it causes.

Even for the healthiest among us, the effects of pollution are serious. A former Surgeon General put it well:

> The healthy man or women is not merely free of specific disability and safe from specific hazard. Being healthy is not just being unsick. Good health implies * * * the full and enthusiastic use by the individual of his powers of self-fulfillment.

And, as Senator Muskie reminded us 11 years ago:

> * * * it isn't death. It isn't even incapacitating illness which is the only concern. It is the restriction on activity. It is not being able to move freely in a free society. * * * It is not being able to go out and play. It is not being able to go to work or sit on your front porch in the evening. These are the environmental rights which the American people demand.

Air pollution recognizes no political boundary. Aggressive controls in a downwind State can have little effect when the air coming from another State is polluted. State governments alone cannot do the job. The Federal Government must work with the States to achieve improvements in air quality.

Air is a national resource that must be protected. We acknowledged this in 1970. We made then, a conscious, deliberate judgment that national controls were necessary to preserve clean air nationwide.

The health data on air pollutants has dramatically increased since 1970, but the public health threat was clear even then. That is why the Clean Air Act of 1970 required EPA to establish air quality standards for pollutants of concern. This included photochemical oxidants—ozone precursors—and carbon monoxide.

The act took a two-tier approach: Primary standards to protect public health, and secondary standards to protect the public welfare, including environmental resources.

The year 1976 was the first final deadline for health-based standards. Many parts of the country had not achieved them, so Congress extended the deadlines until 1982, and for areas with severe ozone or carbon monoxide problems, until 1987.

The 1977 law had more stringent requirements, to make certain all necessary measures would be taken. At the time, it was thought that only one or two areas would be unable to meet the 1987 deadline.

But neither the States nor EPA accurately projected attainment of the ozone and carbon monoxide standards. Far more than one or two areas failed to meet the 1977 deadline.

Over half the population of our country now lives in areas which have failed to meet these standards—and these are the primary, health-based standards, not criteria designed for aesthetic or environmental protection.

That is why it is necessary to again legislate on clean air.

The Clean Air Act requires EPA to establish national ambient air quality standards at a level that protects the public health, with an adequate margin of safety.

The EPA standard for ozone is 0.12 parts per million for 1 hour. Areas which exceed this 1-hour standard four or more times in a 3-year period are deemed not to have attained the standard. Most of the major urban areas in America are nonattainment for ozone.

The health injuries caused by ozone are well documented. Ozone causes and aggravates respiratory illness.

Healthy, exercising individuals exposed for 2 hours to the levels of ozone in the current air quality standards—0.12 parts per million—experience measurable health effects. Exposure to higher concentrations means more pronounced adverse effects.

The Occupational Safety and Health Administration [OSHA] standard for ozone is 0.10 parts per million over an 8-hour period: Factory workers exposed to higher levels must wear a personal monitor.

OSHA standards are intended for people working for a limited period of time in an enclosed environment, which they can leave if the ozone concentration goes too high.

This standard does not apply to ambient air, and of course, no one can remove himself from ambient air.

The margin of safety, even for the lower OSHA standard, is not risk-free. Dr. Lippman, a former chairman of the Clean Air Scientific Advisory Committee, recently noted that the 0.10 parts per million standard is:

> A level which produced substantial function decrements and lung inflammation in controlled exposure tests of healthy young adults.

Based on these data, American children may be at risk even on days when the law's standards are not exceeded. In fact, by OSHA standards, many American children would have to wear a monitor on many days when they play outside.

People most susceptible to ozone injury are the elderly; those with preexisting and respiratory problems; children, who have a faster respiratory rate than adults; and the 20 percent of the population who have marked adverse reactions to ozone.

The core purpose of the Clean Air Act is public health protection with an adequate margin of safety. It is hard to see where the margin of safety is in the current standard.

The fact is that a margin of safety for manmade pollution must take account of naturally occurring environmental factors. The former chairman of EPA's Clean Air Advisory Committee, Dr. Bernard Goldstein, and his colleague Dr. Paul Lioy, recently pointed this out:

> As compared to other primary air quality pollutants, the ceiling of observed ozone effects and the floor of the natural background leaves little room for the regulator to choose a margin of safety for a one-hour standard. To some extent, an 8-hour standard does provide the opportunity for some flexibility in dealing with the potential for chronic effects which is a major reason for the margin of safety.

So there is not a great deal of latitude within which we can permit ozone to pollute the air without exposing our people to serious health risks.

Human exposure to carbon monoxide, another major pollutant, also produces adverse effects, because carbon monoxide is more readily absorbed into blood than oxygen. This causes pulmonary distress, particularly for the elderly, children, and those with heart problems or other preexisting conditions. Its potential effects during pregnancy are particularly troubling, since the maternal blood supply is directly shared with the developing fetus.

Though our primary focus remains, as it must, on human health, it is important to realize that air pollution has significant environmental effects, in both commercial and natural settings.

In nature, sulfur dioxides and oxides of nitrogen combine to form the acidic precipitation that damages forests and lakes and streams. In commercial settings, crops of all kinds are subject to damage from ozone and acid rain. Crop yields are reduced and growth rates are slowed.

The American Forestry Association recently announced its support for Federal controls on sources of air pollution, including hydrocarbons and nitrogen oxides. It said:

> . . . the American Forestry Association believes that the risks and costs associated with further delaying additional pollution controls now seem to outweigh the risks and cost associated with action . . . the control program should target the nation as a whole, as the terrestrial and aquatic forest resource impacts from air pollution constitute a national threat.

Besides the gains to human health, reduced air pollution would mean increased crop yields, reduced materials damage, improved visibility and reduced aquatic damage—significant benefits to agriculture, fisheries, industry and the quality of life of every American.

Quantifying these benefits is more difficult than adding up the costs of pollution control equipment. And therein lies the crux of the political problem.

Some in our society have opposed every major environmental law ever proposed. Rather than spend $1 to prevent pollution, they have spent millions of dollars to prevent the passage of laws to reduce pollution.

Their principal weapon is the exaggerated claim that if anything is required of them to prevent pollution—anything at all—the cost will be so high that whole industries will have to shut down, whole States will suffer, whole regions will decline.

They have been helped by the fact that while it is often easy to precisely calculate the cost of cleaning up, it is impossible to precisely calculate the value of cleaning up.

We know to the penny the cost of installing a scrubber. But what is the value of a human life? What is the cost of a premature death? How much is it worth to a family to have a child with healthy lungs, rather than scarred and damaged lungs? Is there a single Member of the Senate who can place a dollar value on his child's health, or life?

We cannot answer these questions, because the answers require wisdom beyond that possessed by any human being. Our inability to answer these questions should not exclude these values from our consideration. But that is what has happened. Unfortunately, there has been a one-sided debate, in which costs are specific, benefits general. It is no wonder that so many prefer to ignore the problem, to plead cost, to plead complexity, and finally, to plead the need to adjourn.

I recognize reality. And the reality is that there will be no action on clean air legislation this year. With adjournment now likely this weekend, there is simply not enough time to consider and act upon legislation of this scope and significance.

I deeply regret that. For 7 years, I have worked to enact clean air legislation. For several months, I have tried to work out compromises that would be acceptable to the many conflicting political and regional interests involved. We made considerable progress.

For that I am grateful to the many Senators, and members of their staffs, who participated in good faith in the effort to solve this problem, especially the majority leader, Senator BYRD, and the assistant minority leader, Senator SIMPSON.

But we did not quite make it. As so often happens in the legislative process, it proved easier to prevent action than to act.

A few who say they support the Clean Air Act joined with the many who oppose it. They remained rigid and unyielding, wholly unwilling to compromise, even when faced with the certainty that their rigidity would result in no action this year. In reality, both want to postpone action to the future, when they hope circumstances will be more favorable to their positions. I disagree, profoundly.

For, in the meantime, the health of more American children will suffer, more lakes will die, more forests will wither.

Some will celebrate inaction this year as a victory. In truth, there are no winners. But there are losers. They are the American people.

We did not inherit this Earth from our parents. Rather, we hold it in trust for our children. In our short time of life, we are but stewards, who may use and enjoy these precious natural resources, but who have no right to abuse them. We have a moral obligation to pass on to future generations the very basics of healthy human life: clean air, pure water, unpoisoned land.

We are not meeting that obligation. But I believe we will. That is why, although I am disappointed I am not disheartened. For I am convinced beyond doubt that in due time clean air legislation will be enacted. It may not be next year, or the year after that. But ultimately it will happen. That is because the health of the American people so requires it that eventually the American people will demand it. Then, hopefully, the Senate will recognize and act on its responsibility. I look forward to that day.

(Mr. FOWLER assumed the chair.)

Mr. WIRTH. Mr. President, I want to join with so many of my colleagues in thanking the distinguished Senator from the State of Maine for his extraordinary commitment to clean air and his efforts to forge a compromise in this enormously difficult situation.

I am sorry, as the Senator from Maine is, that we have not been able to reach agreement this year, but I know that he is planning, as so many of us are planning, to move into this area again in 1989 with renewed vigor, with a different administration and perhaps with some greater energy as well coming up from downtown.

From the statements made by both Vice President BUSH and Governor Dukakis, it is clear that they both have a strong commitment to clean air and to focusing on the acid rain problem. So I do hope that we can address this early in 1989.

But in saying so, I share the disappointment of the Senator from Maine and so many of my colleagues that we have been unable to come up with an agreement and a compromise. As the Senator from Maine has pointed out, there is a great deal of veto power out there. There is veto power surrounding all three major sections of the Clean Air Act—the acid rain section, the nonattainment section, and the toxic air pollutant section.

In the acid rain area, I think the Senator from Maine and those working on the legislation did a very good job and came very close to a compromise that would be acceptable to those in the Middle West, acceptable to those of us in the West and acceptable to those on the east coast. That delicate compromise was very close to coming together.

I commend the Senator from the State of Maine. He did an extraordinary job of bringing those parties together and spending a vast amount of time, in his great patient fashion, listening to everybody and forging a compromise. Unfortunately, that kind of a compromise was not forthcoming and did not appear to be on the horizon in the areas of nonattainment standards or mobile sources, which are so important to States such as Colorado.

As the Senator from Maine pointed out in his excellent statement, we have a very significant ozone problem and a very significant carbon monoxide problem in cities all across the United States, from the famous smog of Los Angeles to the brown cloud of Denver, to cities running all the way up even into the State of Maine. One would not imagine that so many areas have these problems, but, as the Senator pointed out, even on Mt. Desert Island in the State of Maine a problem exists.

That problem is first and foremost caused by the automobile; first and foremost caused by significant automobile pollution, by carbon monoxide and by nitrogen oxide.

As the Senator from Maine pointed out, related to controls on acid rains, we know that the technology is available and the technology is affordable to control emissions from mobile sources, from automobiles, light trucks, diesels and so on. We know how to do that. We know how to lower the nitrogen oxide standard and the carbon monoxide standard. We know how to test these automobiles so they are able, for the life of that automobile or 100,000 miles, to meet the standards. We know about cold starts. We have the technology.

The question is: Where are we going to find the political will to assure that automobiles, light trucks, and diesels meet the standards necessary to protect the health of the American public? To date, unhappily, the very industry which is at the heart of so much of our economy has been unwilling to sit down and come to the kind of agreement that is absolutely imperative for us in order to devise realistic, strong, and protective amendments to the Clean Air Act.

It is an unfortunate commentary that this industry, the automobile industry—which has been at the heart of so much of our economy and the competitive advantages that we once held around the world—no longer can meet that judgment and standard of public citizenry and public involvement and commitment.

We also find this kind of noncooperation in the position taken by the automobile industry on the rollback of corporate average fuel economy [CAFE] standards.

Yesterday, the Department of Transportation announced that it had caved in to the automobile industry and that, in 1988, instead of increasing the average fuel economy of automobiles, instead of recognizing the fact that we in the United States and everybody around the world has to be much more efficient in the use of fossil fuels, has to put less carbon dioxide, and other pollutants up in the atmosphere, despite the fact that most of us recognize that we are becoming increasingly dependent upon imported oil in this Nation, despite the fact that we have to become more efficient rather than less efficient, despite the fact that it is clear that the automobile and the transportation sector is one of the areas in this society in our economy in which the greatest efficiency gains can be made, despite the fact that all of these elements put together—the need for us to protect the public health, the need to clean up and protect our environment, the need to strengthen our economy and become less dependent on imported oil—point directly to the automobile and the need to increase fuel efficiency in automobiles rather than decrease it, we are going in precisely the opposite direction. The Secretary of Transportation has waived the corporate average fuel economy standard.

One cannot believe that that is anything but the single most shortsighted step that we could possibly take in the United States. It is shortsighted for the health of the public, for the health of our economy and for the health of our environment, as is very well articulated and understood by so many people in this country.

If we look at the longer term of global warming, it is not only shortsighted, it is appalling. Today in the globe there are approximately 300 million automobiles. Shortly into the 21st century, there are going to be 1 billion automobiles. Those automobiles are adding significantly day in and day out to the pollution of the atmosphere, day in and day out to the atmospheric load of carbon dioxide, day in and day out to the phenomena of global warming.

If we in the United States cannot control our emissions and cannot look ahead, how in the world can we expect the rest of the world to be serious about the issue of global warming and atmospheric change? How in the world can we expect the rest of the world to be serious when our own automobile companies are selling automobiles around the world that have absolutely no pollution controls on them at all?

Mr. President, this is a sad day, we have been forced to drop the clean air bill this year, and that follows yesterday's collapse on fuel economy standards. I suspect that there is rejoicing in some board rooms today, but there is certainly disappointment and a great unhappiness among citizens of the United States all across the country concerned about our health, concerned about our economy, concerned about the future of this globe.

I deeply regret the decision made to drop the clean air bill this year, but I understand it. I deeply regret and chastise the administration for the position that it has taken on dropping fuel economy standards. The shortsighted nature and inability of this particular sector of the economy to see the future of clean air in this country, to see the health implications, to see the economic implications, and the long-term global implications are reflected in these two decisions.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement that I submitted to the National Highway Transportation Safety Administration's hearing on the subject of proposed rollbacks of corporate average fuel economy standards.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR TIMOTHY E. WIRTH ON PROPOSED ROLLBACK OF CORPORATE AVERAGE FUEL ECONOMY (CAFE) STANDARDS

LADIES AND GENTLEMEN: I am appearing today before the National Highway Traffic Safety Administration (NHTSA) to oppose the proposed rollback of the Corporate Average Fuel Economy (CAFE) standards for passenger cars. I do so in two capacities: as U.S. Senator from Colorado, and as Chairman of the Alliance to Save Energy, a national coalition of business, government, labor, and consumer leaders working to keep energy efficiency high on the national agenda.

NHTSA and some car manufacturers argue that the rollback will have only marginal effects on national energy use. The proposed rollback is significant, however, and—more importantly—is a step in the wrong direction. Furthermore, proponents of the rollback do not account for its importance as a "signal" to the American people: a signal that energy efficiency is no longer important. The signal I want the Administration to receive is "stop"—put the brakes on this ill-conceived initiative.

In Title V of the Energy Policy and Conservation Act (ECPA), Congress established a 27.5 MPG standard to be applied to passenger cars for model year 1985 and successive years. While NHTSA was given discretion to amend the standard, by law any amendment must consider, among other factors, "The need of the Nation to conserve energy." Current gasoline prices notwithstanding, our Nation's need to conserve—to become more energy-efficient—in all sectors of the economy is as great now as it has ever been. By maintaining and strengthening national policies—including CAFE—that promote efficient use of fuels, we can trim our growing dependence on oil imports and begin to address the major environmental problems confronting our nation and the globe.

IMPORTS AND THE BALANCE OF TRADE

Following the 1973 oil crisis, the U.S. led the way in reducing oil use. To put this in perspective, if we were today still using oil at the rate we did in 1973, we would need eight to nine million more barrels per day.

But recent import trends are alarming. From 1985 to 1987, average daily oil imports rose 29 percent; over the same period, imports from OPEC rose 64 percent. Obviously, this growing dependence increases our vulnerability to a disruption of supply.

Projections by DOE and the National Petroleum Council point to the heightened likelihood of oil supply disruptions in the 1990s. By 1995, OPEC is expected to be producing at 75 to 85 percent of capacity. Experience tells us that when capacity utilization reaches 80 percent, OPEC can successfully impose embargoes and cartel pricing.

Oil imports are a major factor in the balance-of-trade picture. Last year we paid $44 billion for imported oil, accounting for 26 percent of our trade deficit. The rollback of CAFE will push these numbers further in the wrong direction.

CAFE is not the sole solution to our oil imports and trade problems, but it is an important part. The improvements in average automobile MPG achieved since CAFE went into effect are today saving us about 1.5 million barrels per day. Even at today's low prices, the savings are worth $10 billion per year. Considering recent projections that world oil prices will rise 50 percent in real terms by the year 2000, and 133 percent by 2010, I submit that we need every ounce of achievable savings in automobile efficiency. Maintaining the current CAFE standard is the least we can do.

ENVIRONMENTAL QUALITY

Even small improvements in vehicle fuel efficiency have noticeable benefits for the environment. Our existing stock of light vehicles averages about 18 miles per gallon. Increasing this by less than 1 MPG would yield oil savings comparable to the expected production rates of either the Arctic National Wildlife Refuge or the California coast.

The CAFE standards also have implications for air quality. Many of our cities, including Denver and Washington, have failed to attain EPA standards for ozone, the "smog" pollutant largely created by vehicle exhaust. EPA is on the verge of imposing heavy sanctions on some of these nonattainment areas. Clearly, reducing ozone through better fuel economy is part of the solution to this problem. And it is certainly preferable to federal sanctions that would crimp economic development and cause other hardships. Yet just when our cities need this help the most, NHTSA proposes to weaken one of our most valuable tools.

For several years scientists have warned us of the adverse consequences of the release of carbon dioxide and other gases on the global environment. The drought and heat wave of 1988 have firmly planted the "greenhouse effect" in our national consciousness. But I doubt that many people realize that motor vehicles are responsible for more than one third of the greenhouse gases released into the atmosphere in this country by human activities. While there remain many uncertainties about the greenhouse effect, it is certain that improving automobile efficiency is one of the most powerful levers for reducing greenhouse emissions. Again, the CAFE rollback will provide the wrong signal to the public.

POLICY OPTIONS

Instead of reducing CAFE, what should we be doing? In the coming months Congress will be addressing this question in the context of S. 2667, the National Energy Policy Act of 1988, which I introduced in July. Policies to be considered in this bill and related amendments include:

Requiring car manufacturers to achieve substantial improvements in their fleet efficiency, starting with a target of 15 percent improvement over their 1985 levels by 1992. Using the same percentage target for all manufacturers will ensure that no firm begin from a competitive disadvantage.

Raising the "gas guzzler" tax, and using the revenues to fund rebates for highly-efficient vehicles. Such a program would be revenue-neutral, yet would provide the car-buying public with the right signals.

Increasing federal funding for research on using alternative fuels in transportation, including mass transit vehicles.

In conclusion, NHTSA's proposal is ill-conceived. The present administration should put the brakes on the CAFE rollback.

[From the Washington Post, Oct. 4, 1988]

FUEL STANDARD FOR 1989 CARS SET AT 26.5 MPG

(By Tim Bovee)

The Department of Transportation yesterday set fuel-economy standards for 1989 passenger cars at 26.5 miles per gallon of gasoline, a level the nation's two largest automakers have said they could meet without layoffs and production cuts.

The department's decision kept the fuel economy average required for each new auto from increasing to the 27.5 mpg mandated by Congress in 1975. Since 1986, the automakers have been required to meet a 26 mpg standard.

A higher requirement "would have clearly put our domestic full-line manufacturers at a competitive disadvantage compared to some foreign manufacturers, especially the Asians, who have been building only small cars and can easily meet the fuel-economy requirements," said Transportation Secretary James Burnley.

The order issued by the National Highway Traffic Safety Administration, an agency within DOT, said 26.5 mpg was the level attainable by General Motors Corp. and Ford Motor Co. in their domestic fleets of passenger cars without "harmful production restrictions and without any significant restrictions on consumer choice." The standard "should help preserve the ability of the two domestic companies to recapture sales and jobs from competitors," it said.

GM and Ford, which had warned that higher fuel-economy standards would force cutbacks of big-car production and cost the industry hundreds of thousands of jobs, were quick to praise the order. Consumer groups were critical.

GM said the decision "was in the best interest of American workers and consumer choice." The company said the 1975 law that established the corporate average fuel economy standards, or CAFE, was "outdated."

Ford said the ruling "recognizes that consumer preferences resulting from low fuel prices have placed a particularly heavy burden on our efforts to comply with the 27.5 mpg standard."

Chrylser Corp., whose car line is concentrated in the smaller, more fuel-efficient models, said only that it would exceed 27.5 mpg in 1989 and said "a meaningful gasoline tax would eliminate the need for a CAFE-like regulatory system."

Clarence Ditlow, director of the Center for Auto Safety, said the DOT decision was "another cave-in by the Reagan administration" and vowed to go to court to try to force the agency to let the standard increase to 27.5 mpg.

Other critics, such as Sen. Timothy Wirth (D-Colo.) and the Energy Conservation Coalition, called for implementation of higher standards to reduce the release of gases into the atmosphere, arguing that automotive emissions contribute to a long-term warming of the atmosphere through the greenhouse effect.

CLEAN AIR ACT

Mr. SIMPSON. Mr. President, in the past week there has much discussion, rumor, and ripe hype concerning the possible consideration by Congress of the acid rain issue. Congress has failed to act on acid rain legislation for the past 7 years because we always have experienced legislative gridlock. This gridlock has come about because all of the interest groups involved have been so damn arrogant, selfish, and demanding that the acid rain issue has become extremely polarized. However, this year Senator ROBERT BYRD, Senator GEORGE MITCHELL, Senator BILL PROXMIRE, and I have begun an effort to break this unseemly gridlock.

This gridlock is really about regional economic struggles and not about clean air. Back in 1977 when Congress was considering the Clean Air Act in conference committee some very crafty and wily House Members inserted a provision in the Clean Air Act that was never debated by the Congress that gimmicked the Nation's coal markets so that high sulfur coal would have an advantage over low sulfur in the marketplace. These Congressmen recognized that both Eastern and Western low sulfur coal was much cleaner and could be burned more economically, and so they told their staffs to find a "creative provision" to ensure that dirty, high-sulfur coal would be given an advantage in the marketplace through the use of legislatively mandated environmental regulations. This "creative" provision is known as the "percentage reduction" requirement, and it's a phony.

The percentage reduction requirement is different than most other environmental requirements because it does not set a given standard and then allow industries to meet that standard in the most cost-effective manner. Instead it mandates that is a certain type of coal is used, a certain amount of sulfur must be removed so that even clean low sulfur coal will have to be scrubbed by utilities. The requirement states that if high sulfur coal is used in powerplants, 90 percent of the sulfur must be removed and if low sulfur coal is used, 70 percent of the sulfur must still be removed by scrubbing. This requirement is particularly onerous because there is so much low sulfur coal in this country that could meet clean air standards without any scrubbing at all. In fact, our neighbors to the north in Canada do not have one scrubber on one powerplant because they recognize that the use of low sulfur coal is a cost efficient way of reducing sulfur dioxide emissions. Yet, in this country we make rate payers throughout the Midwest and east pay extremely high utility rates in order to subsidize mining jobs in the Midwest.

We in the West have long memories and we have not forgotten how this qimmickry was added to the Clean Air Act. In fact, I recall that my fine friend, the greatly admired Senator from Maine—Senator Ed Muskie—strongly opposed this provision because he realized it was not an environmental provision at all and that it would only pit different regions of the country against each other. Let me share with you what Senator Muskie said about this provision back in 1977.

> The dominant thrust of this amendment is not its relationship to clean air, but its relationship to the economics of the areas it is designed to protect. For that reason, I regret that it is being offered to a clean air bill * * *.
>
> Second, we can think of our history and say that the Constitutional Convention was the result of the fact that the 13 original colonies were busily erecting trade barriers against each other. I just see this as the first step, benign as its intentions are, as a first step in the kind of regionalization, grouped solely around regional economic interest. It disturbs me a great deal. It is a propensity we all find in all of our regions and all of our states from time to time. For that reason, I will strongly oppose it.

Ed Muskie said it all.

So that is only one of the reasons that we have such polarity and gridlock, because some Members of Congress have gimmicked the system, and now we have the areas that produce low sulfur coal pitted against areas that produce high sulfur coal. And I would remind my colleagues that this is not just the East versus the West. There are many low sulfur producing coal regions in Kentucky, West Virginia, and the traditional high sulfur coal regions. However, some of the more arrogant union members representing mineworkers don't wish their miners to mine low sulfur coal. They prefer to have them continue to produce the dirty and so expensive to clean high sulfur coal.

The percentage reduction requirement is one reason I get very perturbed when I hear people talking about the so-called Mitchell/Byrd compromise as being "coal-neutral." We don't have a neutral situation to begin with. The playing field is already slanted up in favor of high sulfur coal because of this requirement. We hear people talking about proposals being "coal-neutral" when total coal tonnage from the high sulfur coal regions rose from 1977 to 1987. Why did it rise? Partly because of the percentage reduction requirement.

And then if the playing field is not tilted enough, we have the so-called Clean Coal Technology Program. The Clean Coal Technology Program was created by Congress in 1984 as a vestige of the ill-fated Synthetic Fuels Corporation. We all remember the Synthetic Fuels Corporation and how much money it wasted. Well, the Clean Coal Program is but another subsidy for the high sulfur coal industry. Round two of the clean coal solitications are going to be announced soon, and guess what—not one Western or low sulfur coal project will be included when that announcement is made. Even though the legislative provisions authorized in the $650 million Clean Coal Technology Program call for regional and geographical diversity these provisions are being ignored. Lobbyists for the high sulfur coal industry have scored another success at the expense of cost-effective pollution control.

And then we have the so-called Mitchell/Byrd compromise which people are billing as "coal-neutral." To add insult to injury this so-called compromise require mandatory scrubbing in phase 1 of the Acid Rain Control Program which effectively denies the use of clean and efficient low sulfur coal. In addition, as if this is not enough, a subsidy is provided to utilities that install scrubbers. So, Senators are attempting to provide further gimmickry in the coal marketplace and we are going to pay for it by taxing electric utility users across the country. In addition, the subsidy is carried over into phase 2 so that we can have further use of dirty high sulfur coal and we are going to have a new form of percentage reduction requirements that will provide that 90 percent of all sulfur must be removed if a subsidy is used and 70 percent must be removed if clean coal technology is used. That's so bad.

Now we have a playing field that is almost vertical. And for this singular reason, we may not be passing any clean air legislation this year. We simply cannot continue to pass legislation that has nothing to do with a clean environment but has everything to do with regional economic decisions. If that is what we are going to be doing in clean air legislation, I am prepared to debate this issue until it snows and freezes.

I want to be constructive when it comes to acid rain legislation and I have proven that by actions I have taken. Senator BILL PROXMIRE and I have introduced cost effective and reasonable acid rain legislation that would provide for a significant reduction in SO_2 emissions at the least cost to the consumer and to utilities. Senator GEORGE MITCHELL has worked closely with me and has made every effort to be fair and attentive to our concerns. But when the United Mine Workers jumped in the cage the gorilla threw the rest of us bozos off the swings. They play tough. They are insatiable—and they hate low sulfur coal. I know that if we are going to produce an acid rain bill this year that Senator BYRD, Senator MITCHELL, Senator PROXMIRE, and I will have to compromise on a host of issues. However, when I say compromise I don't mean sell out the low sulfur coal producing regions in the East and the West. I am opposed to subsidies because I believe we should adhere to the polluters pay principle, yet I recognize we may have to have some form of small subsidy if we are to reach a true compromise. I am against mandating scrubbers on powerplants, yet I recognize we may have to have some very limited type of mandated technology, but this does not mean the type of radical gimmickry that is floating around in Congress today.

I wanted to make this statement today to give the Senate a historical perspective on where we are with regard to clean air legislation. It is important to realize why we have clean coal but dirty air. I trust that all the parties involved in the clean air negotiations will keep this historical perspective in mind as we try to grapple with the gut hard issues involved in developing a true compromise. If we don't keep this historical perspective in mind, it may be another 7 years before we reauthorize the Clean Air

Act and that would be most unfortunate.

The American people deserve a cost effective and reasonable acid rain bill. They deserve a bill that will reduce SO_2 emissions, but will not result in extreme increases in utility rates. It simply is not fair for electric consumers in the South, the Southwest, and the East to pay for a ridiculous policy based on local and regional economic considerations instead of true environmental considerations.

It is now apparent we are not going to deal with clean air legislation this year, just as we have not dealt with clean air legislation for the past 7 years. GEORGE MITCHELL and others have made a valiant effort to get the job done this year. GEORGE worked long and hard to craft legislation that would protect human health and the environment and he is to be commended for that effort. Senator BYRD also recognized the need to act on clean air legislation and he attempted to be a constructive force in the clean air negotiations. Other Senators also deserve praise especially two Members of the Senate who will be leaving us this year—Senators STAFFORD and PROXMIRE. I would also like to commend the Alliance for Acid Rain Control which is a group of moderate Governors from across the country who are committed to dealing with the acid rain issue. These Governors and the alliance have assisted me greatly in pursuing a reasonable and cost effective acid rain bill.

Now that we recognize that no action will be taken this year, we should ask ourselves "Why?" It simply is the same old story—those aligned with the environmental groups must pass the purity test and those that support miner's unions and other businesses want only to cut the best deal for these groups. Those of us that have clean coal must vigorously protect ourselves from legislative gimmickry and the marketplace.

No true compromises on clean air legislation are ever going to be hammered out until the extremism and the egotistical behavior exhibited by environmental and union leaders is moderated. We simply will not ever deal with the Clean Air Act reauthorization until these interest groups are willing to give equally on the specific issues in question.

We could have passed an ozone nonattainment provision this year, but the environmentalists wanted more. They weren't willing to deal with the most pressing problem—pollution in our large cities—they wanted to expand the agenda beyond what was possible. If blame is to be apportioned for not protecting the health of Americans, then the environmental groups are surely not immune and must indeed share this blame with some of those in the business community.

I read Senator MITCHELL's statement and his remarks about the cost of environmental legislation. Despite his earnest warnings about the health threats posed by air pollution, we simply cannot and should not ignore the cost of various provisions to clean up the air. We cannot talk about the added cost of health care in one breath and ignore the cost of compliance in the next. Costs are relevant factors, even when we are protecting human lives. This is because there are cost-effective strategies to deal with air pollution—strategies that can and will protect the public health without bankrupting America. There are also strategies that will afford the same protection of human health that bear enormous costs. Surely the American people deserve to have their health protected, but they deserve to have that protection in a sane, commonsense, and cost-effective manner. That is why they elect us. They elect us to try to develop common sense solutions to environmental problems not nefarious schemes hatched by jealous staffers to provide a risk-free existence by implementing remedies that would in the long run cost many U.S. citizens their jobs.

We will now begin the long process of reauthorizing the Clean Air Act next year. I would only hope we will have more success than we have had in the past 7 years. Hope does spring eternal. And I trust that the environmental groups and the business community will learn something from our lack of inaction and will come together, not to resist, but to assist in forging true compromises. Only in this manner can we as Senators produce the long-desired result—clean air for all of us.

THE EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished Republican leader as to whether or not the following calendar orders on the Executive Calendar are cleared on his side: 801 on page 4 under Department of Energy; Calendar Orders Nos. 839, 865, 866, 867 and 868 on page 5 under Department of Energy?

Mr. DOLE. I can advise the majority leader each of those nominations have been cleared on this side.

Mr. BYRD. I thank my friend.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the aforementioned nominations under Department of Energy, there being a total of six in number; that they be cleared en bloc; that they be confirmed en bloc; that the motion to reconsider en bloc be laid on the table; that the President be immediately notified of the confirmation of nominees; that the Senate return to legislative session.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF ENERGY

Elizabeth Anne Moler, of Virginia, to be a Member of the Federal Energy Regulatory Commission for a term expiring October 20, 1991.

Martha O. Hesse, of Illinois, to be a Member of the Federal Energy Regulatory Commission for a term expiring October 20, 1991.

Charles G. Stalon, of Illinois, to be a Member of the Federal Energy Regulatory Commission for the remainder of the term expiring October 20, 1989.

Charles A. Trabandt, of Virginia, to be a Member of the Federal Energy Regulatory Commission for a term expiring October 20, 1992.

Jerry Jay Langdon, of Texas, to be a Member of the Federal Energy Regulatory Commission for the remainder of the term expiring October 20, 1988.

Jerry Jay Langdon, of Texas, to be a Member of the Federal Energy Regulatory Commission for a term expiring October 20, 1992.

STATEMENT ON NOMINATIONS TO THE FEDERAL ENERGY REGULATORY COMMISSION

Mr. LAUTENBERG. Mr. President, I have had a particular interest in these FERC nominations. As chairman of the Superfund and Environmental Oversight Subcommittee, I have closely examined the relationship between ratemaking and environmental laws.

That examination began in March of last year with the Texas Eastern case. That company dumped PCB contaminants in landpits at 89 sites in some 14 States. Three of these sites scar my State.

In November of last year, the company and EPA announced an agreement in principle on cleaning up these sites. It called for an estimated $400 million cleanup by the company. At that time, the company stated that it would seek to pass some of the cleanup costs on to ratepayers. I contacted FERC calling for a complete examination of any such request.

A consent agreement is now pending in Federal court. And in March of this year, the company filed for rate increases that included costs associated with the PCB contamination.

This request raises some very troubling questions. A fundamental principle in our environmental laws is that the polluter should pay. But regulated companies, like Texas Eastern, can attempt to get around this by making the consumer pay through federally approved rate increases.

This undermines our environmental laws and is unfair to utility customers.

That is why I decided to place a hold on these nominations. I wanted to get some understanding of how the nominees view this issue.

I sent them all a series of questions. I have reviewed their responses. They all seem to indicate that they would take a very close look at rate requests involving environmental violations.

I am releasing my hold on the nominations, but in doing so I would make several observations. It is my view that costs resulting from environmental violations are imprudently incurred, for purposes of the Natural Gas Act. In applying the act, FERC should not deem such costs to be just and reasonable, and should not allow them to be passed through to consumers.

I also believe that FERC must exercise its broad legal authority under the Gas Act, even absent a finding by a court or other agency, to deny costs that are imprudent by virtue of their inconsistency with environmental laws. While the nominees' statements are not by any means as clear as I would like, excerpts from those statements are worth noting.

Ms. Moler states:

> [I]t is certainly not appropriate to allow recovery of the costs associated with illegal acts * * * It is my understanding that the Commission does * * * use its broad legal authority to evaluate all of the costs included in any entity's rate filings.

Chairman Hesse responded:

> I want to assure you that we share a common goal in seeing that ratemaking principles do not undermine federal environmental laws and that the Commission will take all appropriate and necessary measures to reach this goal * * * The Commission should and does use its broad legal authority to evaluate all of the costs which a pipeline includes in its rate filings, including costs associated with actions which may be inconsistent with the requirements of environmental laws * * * Costs associated with pipeline activities that are inconsistent with the requirements of environmental laws may well be found to be imprudent.

Commissioner Stalon observed:

> Management of regulated firms * * * must have incentives to honor the environmental laws * * * Denial of cost pass through is about the only way to provide such incentives * * *

Mr. Langdon stated:

> [I]f the pollution occurs as a result of a willful violation of existing environmental laws, cleanup costs may well be imprudent and may appropriately be borne solely by the polluting business entity.

Commissioner Traybandt observed:

> If a particular cost is associated with activities resulting from a proven violation of an environmental law, we assume them to be per se imprudent * * * I agree that where the Commission has the discretion under the applicable law, FERC does, in fact, have a responsibility to assure that its regulation does not undermine the application of environmental laws.

Mr. President, although I am releasing my hold, let me say this to the FERC nominees. I will be keeping an eye on the Texas Eastern case and FERC. I will be examining any future rulings by these nominees. I will expect those future actions to be consistent with the recent positions they stated on these issues.

FERC has a duty to safeguard our environmental laws and to protect consumers. And the public expects the Senate to make sure that FERC nominees understand this.

Mr. President, to provide public and permanent access to the nominees' responses, I ask unanimous consent to print my correspondence with them in the RECORD. I also ask unanimous consent to print excerpts from my subcommittee's Texas Eastern report in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ENVIRONMENT
AND PUBLIC WORKS,
Washington, DC, September 22, 1988.

MARTHA O. HESSE,
Chairman, Federal Energy Regulatory Commission, Washington, DC.

DEAR CHAIRMAN HESSE: As you know, your nomination to the Federal Energy Regulatory Commission (FERC) may soon come before the Senate. I have been examining the question of how FERC ratemaking relates to the operation of our federal environmental laws. I believe that FERC has a duty to assure that ratemaking does not in any way undermine the application of environmental laws. The important principle embodied in those laws is that the polluter, not the consumer, should pay for costs resulting from environmental violations. Given my interest in this subject, I would appreciate your views on the following questions:

1. Should rate recovery be allowed where a proposed rate includes any cleanup costs that result from violations of environmental laws or cleanup payments made pursuant to consent decrees or other settlements? If so, under what circumstances? If not, why not?

2. Assume for purposes of this question that neither a prior regulatory or judicial determination of an environmental violation has been made nor a consent decree issued relating to an environmental violation.

(a) Should FERC use its broad legal authority to evaluate whether costs associated with a rate application result from actions that are inconsistent with the intent and requirements of environmental laws? If so, under what circumstances? If not, why not?

(b) If your answer to 2(a) is yes, and assuming a finding that costs result from actions that are inconsistent with the intent and requirements of environmental laws, should rate recovery for such costs be denied?

Please give full explanations for your answers. I will consider your responses carefully in making a determination about your confirmation vote, and intend to move to defer full consideration of your nomination until I have had an opportunity to review your responses.

I appreciate your assistance.

Sincerely,

FRANK R. LAUTENBERG,
Chairman, Subcommittee on Superfund and Environmental Oversight.

FEDERAL ENERGY
REGULATORY COMMISSION,
Washington, DC, September 23, 1988.

Hon. FRANK R. LAUTENBERG,
Chairman, Subcommittee on Superfund and Environmental Oversight, Committee on Environmental and Public Works, Washington, DC.

DEAR CHAIRMAN LAUTENBERG: Thank you for your letter of September 22, 1988, concerning how the Federal Energy Regulatory Commission's ratemaking authority relates to the application of federal environmental laws.

At the outset, I want to assure you that we share a common goal in seeing that ratemaking principles do not undermine the application of federal environmental laws and that the Commission will take all appropriate and necessary measures to reach this goal. In this regard, I am enclosing a copy of an agreement between the Environmental Protection Agency and the Commission's staff which demonstrates the concern that I have about these matters.

I am also pleased to provide the following responses to your specific questions. In brief, you inquired about the recovery of costs in situations where pipelines have violated the environmental laws and where their activities are inconsistent with the requirements of the environmental laws.

Under section 4 of the Natural Gas Act, the standard for whether rate recovery should be allowed for any cost is whether the cost was "prudently incurred." The Commission distinguishes between costs relating to ongoing compliance with environmental regulations, which are normally allowed, and penalties or fines, which are disallowed. The question of prudence also arises when a pipeline seeks to recover the cost of remedying past violations. Where the Commission is aware that a violation of the environmental laws has occurred, it closely scrutinizes all of the costs in the pipeline's next rate case.

Questions of fact may be disputed when a pipeline's costs of compliance or of remedying past noncompliance relate to strict liability standards under environmental laws. In these circumstances, the issue of whether the pipeline should be permitted to recover such costs in its rates is set for hearing, as was done recently when Texas Eastern Transmission Corporation included approximately $40 million in annual costs related to total PCB clean-up costs of $400 million in its application for a rate increase. This case is pending currently before a Commission Administrative Law Judge.

The Commission should and does use its broad legal authority to evaluate all of the costs which a pipeline includes in its rate filings, including costs associated with actions which may be inconsistent with the requirements of environmental laws. The overriding consideration is whether the costs were prudently incurred. Costs associated with pipeline activities that are inconsistent with the requirements of environmental laws may well be found to be imprudent.

Also, as in the case with Texas Eastern's PCB clean-up expense, pipeline activities once lawful may later become unlawful, and the environmental statute may impose strict liability. The conclusion as to the prudence of the costs may be related to the timing of the pipeline's corrective measures. In this situation, the finding that particular costs were imprudently incurred must await the results of a hearing on this and other rate issues.

Outside the rate area, the Commission performs an environmental review prior to acting on each application for certificate authority to construct and operate pipeline facilities. Facilities that are inconsistent with the intent and requirements of environmental laws may be denied certificate authorization because they are not in the "public convenience and necessity." Alternatively, the Commission may condition the certificate to mitigate the environmental effects. Once a facility has been certificated, the Commission monitors the pipeline's compliance with the certificate conditions.

The Commission's regulations include complaint procedures by which others can inform it that particular companies may not be in compliance with the intent and requirements of the environmental laws under the Commission's jurisdiction. The Commission thoroughly investigates all such complaints and may use its enforcement powers to achieve compliance. However, there are no civil penalties under the Natural Gas Act.

If I can be of further assistance in this or any other matter, please let me know.

Sincerely,

Martha O. Hesse.

Federal Regulatory Commission,
Washington, DC, September 14, 1987.

Mr. Francis S. Blake, Esquire,
General Counsel, Environmental Protection Agency, Washington, DC.

Dear Mr. Blake: We are pleased to respond to the Environmental Protection Agency's (EPA's) April 29, 1987 letter to the Commission regarding the environmental issues raised in the pending application by Texas Eastern Transmission Corporation (Texas Eastern) and PennEast Gas Service Company (PennEast) to construct and/or replace certain natural gas pipelines in Ohio, West Virginia, Pennsylvania, New Jersey and New York, (Docket Nos. CP87-92-000 and 001). We appreciate the comments in that letter, as well as EPA's offer to provide further amplification of those comments. This letter documents the meeting between our staffs held in your office June 10, 1987 regarding the scope of the Commission's NEPA review of this project.

EPA's letter noted that Texas Eastern and the EPA are discussing resolution of EPA's pending enforcement action regarding the clean-up and disposal of polychlorinated biphenyls, or "PCBs" along portions of the existing Texas Eastern pipeline. The letter also pointed out that "a substantial array of major environmental concerns regarding potentially toxic contaminants that could be affected by pipeline construction and replacements remains to be resolved" between Texas Eastern and EPA.

The Commission's staff concurs in EPA's assessment that there appears to be overlap between the matters under negotiation in the Texas Eastern enforcement case and the subject matter the Commission is reviewing pursuant to the Natural Gas Act and the National Environmental Policy Act (NEPA). Therefore, we agree that EPA and FERC's staff should coordinate our actions in fulfilling our respective statutory responsibilities. To achieve this objective, we propose that the Commission's staff proceed as follows:

The Commission's staff will defer to EPA's determinations, consent decrees and other actions related to environmental issues arising out of EPA's enforcement action against Texas Eastern or any other PCB-related actions by Texas Eastern under EPA's jurisdiction. For example, the Commission staff will defer to EPA's findings, conclusions, agreements, and orders concerning PCB site clean-up, disposal and construction procedures relating to the project. The Commission staff will not conclude our NEPA review in those areas covered by your enforcement action until such time as the related PCB control issues have been settled between EPA and Texas Eastern in a consent decree. The Commission's staff will however, continue to accumulate and analyze relevant facts for our NEPA review in coordination with your on-going enforcement proceeding.

On all other environmental issues, whether specific or generic, as well as the ultimate decision on the need for an environmental impact statement on the project, the Commission's staff will proceed with the NEPA review process. In those areas, EPA will defer to our jurisdiction, expertise, determinations and orders, subject to EPA's responsibility under section 309 of the Clean Air Act to review published NEPA documents.

In addition to this coordination of the NEPA review of Texas Eastern's proposal, the Commission's staff from time-to-time, may need EPA's assistance in interpreting the statutes and regulations over which EPA has direct jurisdiction. This is particularly important where the definitions and thresholds in the regulations will be applied to factual situations under EPA regulations. For this reason, we would expect to seek your advice and counsel regarding the interpretation of regulations administered by you that would be applicable to the Texas Eastern project. Where we require a pipeline such as Texas Eastern to submit a facility abandonment and removal plan to us for review, you would review that plan and determine whether it is in compliance with your applicable regulations. Likewise, if EPA encounters any questions concerning the Natural Gas Act and FERC's regulations as they apply to the Texas Eastern case, we will be happy to provide EPA with an interpretation of our regulations.

Finally, the Commission's staff request that, to the extent consistent with EPA regulatory practices, correspondence received by EPA pertaining to pipeline removal and disposal that may also affect FERC's responsibilities will be shared with the Commission staff. Commission staff will proceed in a similar manner with correspondence it receives that may affect EPA's responsibilities.

We believe that the approach outlined above, as applied to the proposed Texas Eastern-PennEast project, will help produce the following results:

1. EPA and Texas Eastern can proceed promptly with resolution of the PCB enforcement action, compliance and clean-up issues.

2. FERC's staff can proceed promptly with its NEPA review process in connection with the project. EPA's assistance in interpreting its regulations when requested by FERC on an as-needed basis, will accelerate that NEPA review. In addition, such assistance will eliminate duplicative efforts where Texas Eastern seeks answers to the same questions at each agency.

If this plan for managing the overlapping jurisdiction of EPA and FERC in this case meets with your approval, we can begin coordinating our efforts immediately. Please let us know your response as soon as possible, and identify appropriate contact points for future inquiries. We appreciate your cooperation and assistance and look forward to our continuing, effective relationship.

Sincerely,

Catherine C. Cook,
General Counsel.
Richard P. O'Neill,
Director, Office of Pipeline and Producer Regulation.

U.S. Senate,
Committee on Environment and Public Works,
Washington, DC, September 22, 1988.

Mr. Jerry Langdon,
Federal Energy Regulatory Commission, Washington, DC.

Dear Mr. Langdon: As you know, your nomination to the Federal Energy Regulatory Commission (FERC) may soon come before the Senate. I have been examining the question of how FERC ratemaking relates to the operation of our federal environmental laws. I believe that FERC has a duty to assure that ratemaking does not in any way undermine the application of environmental laws. The important principle embodied in those laws is that the polluter, not the consumer, should pay for costs resulting from environmental violations. Given my interest in this subject, I would appreciate your views on the following questions:

1. Should rate recovery be allowed where a proposed rate includes any cleanup costs that result from violations of environmental laws or cleanup payments made pursuant to consent decrees or other settlements? If so, under what circumstances? If not, why not?

2. Assume for purposes of this question that neither a prior regulatory or judicial determination of an environmental violation has been made nor a consent decree issued relating to an environmental violation.

(a) Should FERC use its broad legal authority to evaluate whether costs associated with a rate application result from actions that are inconsistent with the intent and requirements of environmental laws? If so, under what circumstances? If not, why not?

(b) If your answer to 2(a) is yes, and assuming a finding that costs result from actions that are inconsistent with the intent and requirements of environmental laws, should rate recovery for such costs be denied?

Please give full explanations for your answers. I will consider your responses carefully in making a determination about your confirmation vote, and intend to move to defer full consideration of your nomination until I have had an opportunity to review your responses.

I appreciate your assistance.

Sincerely,

Frank R. Lautenberg,
Chairman, Subcomittee on Superfund and Environmental Oversight.

Questions From Senator Frank R. Lautenberg for Jerry J. Langdon

Question 1. Should rate recovery be allowed where a proposed rate includes any cleanup costs that result from violations of environmental laws or cleanup payments made pursuant to consent decrees or other settlements? If so, under what circumstances? If not, why not?

Answer. I have been advised by FERC's Office of General Counsel that the Commission has had occasion to consider this issue. Moreover, I understand that there is a rate case pending which I, as Commissioner, will have to address if my nomination is confirmed by the Senate.

I believe that the determining factor relating to the ratemaking aspect of this question lies in the answer to whether the pollution occurred as a result of "prudent business operations." I believe that current law and precedence would allow the recovery of certain legitimately incurred cleanup costs in rates. Conversely, if the pollution occurs as a result of a willful violation of existing environmental laws, cleanup costs may well be imprudent and may appropriately be borne solely by the polluting business entity.

Question 2. Assume for purposes of this question that neither a prior regulatory or judicial determination of an environmental violation has been made nor a consent decree issued relating to an environmental violation.

(a) Should FERC use its broad legal authority to evaluate whether costs associated with a rate application result from actions that are inconsistent with the intent and requirements of environmental laws? If so, under what circumstances? If not, why not?

Answer. The Commission, in appropriate cases, should use its broad legal authority to evalaute all of the costs which a pipeline includes in its rate filings, including costs associated with actions which may be inconsistent with the requirements of environmental laws.

(b) If your answer to 2(a) is yes, and assuming a finding that costs result from actions that are inconsistent with the intent and requirements of environmental laws, should rate recovery for such costs be denied?

Answer. As previously stated in answering Question 1. above, I believe the FERC would need to consider the circumstances under which the costs of cleanup were assessed to make a determination as to the prudence exercised by the party involved.

U.S. SENATE,
COMMITTEE ON ENVIRONMENT
AND PUBLIC WORKS,
Washington, DC, September 22, 1988.

MS. ELIZABETH MOLER,
Federal Energy Regulatory Commission, Washington, DC.

DEAR MS. MOLER: As you know, your nomination to the Federal Energy Regulatory Commission (FERC) may soon come before the Senate. I have been examining the question of how FERC ratemaking relates to the operation of our federal environmental laws. I believe that FERC has a duty to assure that ratemaking does not in any way undermine the application of environmental laws. The important principle embodied in those laws is that the polluter, not the consumer, should pay for costs resulting from environmental violations. Given my interest in this subject, I would appreciate your views on the following questions:

1. Should rate recovery be allowed where a proposed rate includes any cleanup costs that result from violations of environmental laws or cleanup payments made pursuant to consent decrees or other settlements? If so, under what circumstances? If not, why not?

2. Assume for purposes of this question that neither a prior regulatory or judicial determination of an environmental violation has been made nor a consent decree issued relating to an environmental violation.

(a) Should FERC use its broad legal authority to evaluate whether costs associated with a rate application result from actions that are inconsistent with the intent and requirements of environmental laws? If so, under what circumstances? If not, why not?

(b) If your answer to 2(a) is yes, and assuming a finding that costs result from actions that are inconsistent with the intent and requirements of environmental laws, should rate recovery for such costs be denied?

Please give full explanations for your answers. I will consider your responses carefully in making a determination about your confirmation vote, and intend to move to defer full consideration of your nomination until I have had an opportunity to review your responses.

I appreciate your assistance.

Sincerely,

FRANK R. LAUTENBERG,
Chairman, Subcommittee on Superfund and Environmental Oversight.

U.S. SENATE, COMMITTEE ON
ENERGY AND NATURAL RESOURCES,
Washington, DC, September 23, 1988.

Hon. FRANK R. LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: Enclosed are my answers to the questions you asked in your letter of September 22.

I am certainly aware of your longstanding interest in the issues addressed by your questions. I have reviewed the report issued by your Subcommittee on Superfund and Environmental Oversight concerning performance of the Environmental Protection Agency with regard to disposal of polychlorinated biphenyls (PCBs) by the Texas Eastern Gas Pipeline Company, and am familiar with its conclusions.

With best wishes,

Sincerely,

ELIZABETH ANNE MOLER,
Senior Counsel.

Answers to Questions From Senator Lautenberg From Elizabeth Anne Moler

Question 1. Should rate recovery be allowed where a proposed rate includes any cleanup costs that result from violations of environmental laws or cleanup payments made pursuant to consent decrees or other settlements? If so, under what circumstances? If not, why not?

Answer 1. I assume that the question of "rate recovery" pertains to entities whose rates are regulated by the Federal Energy Regulatory Commission (FERC). FERC regulates the rates for sales of power in interstate or foreign commerce under the provisions of the Federal Power Act (FPA) and the rates for transportation of natural gas in interstate commerce under the provisions of the Natural Gas Act (NGA). Neither statute deals explicitly with the question you pose.

From a policy point of view, it is my view that it is appropriate to allow recovery in rates charged by regulated entities for the costs of compliance with environmental statutes, and it is certainly not appropriate to allow recovery of the costs associated with illegal acts.

As a legal matter, the question of whether such costs are allowed to be included in rates approved by the Commission requires an inquiry into whether such costs were prudently incurred. The answer to that question requires a thorough inquiry into the facts of each case and frequently involves a trial-type rate proceeding with an opportunity for participation by all interested parties. I cannot give an unequivocal answer to your question of whether any cleanup costs should be allowed to be included in rates without a case-specific review of the legal and factual circumstances involved.

Question 2. Assume for purposes of this question that neither a prior regulatory or judicial determination of an environmental violation has been made nor a consent decree issued relating to an environmental violation.

(a) Should FERC use its broad legal authority to evaluate whether costs associated with a rate application result from actions that are inconsistent with the intent and requirements of environmental laws. If so, under what circumstances? If not, why not?

(b) If your answer to 2(a) is yes, and assuming a finding that costs result from actions that are inconsistent with the intent and requirements of environmental laws, should rate recovery for such costs be denied?

Answer 2. It is my understanding that the Commission does, indeed, use its broad legal authority to evaluate all of the costs included in any entity's rate filings. The standard for rate recovery is whether such costs were prudently incurred. If they were, they are allowed. If they were not, they are denied.

U.S. SENATE,
COMMITTEE ON ENVIRONMENT
AND PUBLIC WORKS,
Washington, DC, September 22, 1988.

CHARLES STALON,
Commissioner, Federal Energy Regulatory Commission, Washington, DC.

DEAR COMMISSIONER STALON: As you know, your nomination to the Federal Energy Regulatory Commission (FERC) may soon come before the Senate. I have been examining the question of how FERC ratemaking relates to the operation of our federal environmental laws. I believe that FERC has a duty to assure that ratemaking does not in any way undermine the application of environmental laws. The important principle embodied in those laws is that the polluter, not the consumer, should pay for costs resulting from environmental violations. Given my interest in this subject, I would appreciate your views on the following questions:

1. Should rate recovery be allowed where a proposed rate includes any cleanup costs that result from violations of environmental laws or cleanup payments made pursuant to consent decrees or other settlements? If so, under what circumstances? If not, why not?

2. Assume for purposes of this question that neither a prior regulatory or judicial determination of an environmental violation has been made nor a consent decree issued relating to an environmental violation.

(a) Should FERC use its broad legal authority to evaluate whether costs associated with a rate application result from actions that are inconsistent with the intent and requirements of environmental laws? If so, under what circumstances? If not, why not?

(b) If your answer to 2(a) is yes, and assuming a finding that costs result from actions that are inconsistent with the intent and requirements of environmental laws, should rate recovery for such costs be denied?

Please give full explanations for your answers. I will consider your responses carefully in making a determination about your confirmation vote, and intend to move to defer full consideration of your nomination until I have had an opportunity to review your responses.

I appreciate your assistance.

Sincerely,

Frank R. Lautenberg,
Chairman, Subcommittee on Superfund and Environmental Oversight.

Federal Energy
Regulatory Commission,
Washington, DC, September 23, 1988.

Hon. Frank R. Lautenberg,
Chairman, Subcommittee on Superfund and Environmental Oversight, U.S. Senate, Washington, DC.

Dear Chairman Lautenberg: Thank you for your letter of September 21, 1988 requesting my opinion of the relationship between FERC ratemaking and the federal environmental laws.

I have enclosed responses to your questions. I hope these responses will adequately address your concerns. If I may provide you with further information in this regard, please contact me at 357-8388.

Sincerely,

Charles G. Stalon,
Commissioner.

Question 1. Should rate recovery be allowed where a proposed rate includes any cleanup costs that result from violations of environmental laws or cleanup payments made pursuant to consent decrees or other settlements? If so, under what circumstances? If not, why not?

Answer. Under section 4 of the Natural Gas Act, the standard for whether recovery should be allowed for any cost is whether the cost was "prudently incurred." The Commission distinguishes between costs relating to ongoing compliance with environmental regulations, which are normally allowed, and penalties or fines, which are disallowed. The question of prudence also arises when a pipeline seeks to recover the cost of remedying past violations. Where the Commission is aware that violation of environmental laws has occurred, it closely scrutinizes all of the costs in the pipeline's next rate case.

The Commission performs an environmental review prior to acting on each application for certificate authority to construct and operate pipeline facilities. Facilities that are inconsistent with the intent and requirements of environmental laws may be denied certificate authorization because they are not in the "public convenience and necessity." Alternatively, the Commission may condition the certificate to mitigate the environmental effects. Once a facility has been certificated, the Commission monitors the pipeline's compliance with the certificate conditions.

Generalization about which cleanup costs might be found prudent and which ones imprudent must be tentative ones since fact contexts are likely to be crucially important in the final decision. Two generalizations seem defensible however: (1) Management of regulated firms, and stockholders who "select" that management, must have incentives to honor the environmental laws (and antitrust laws and other laws). Denial of cost pass through is about the only way to provide such incentives when the agency is limited in its ability to levy fines and penalties, as is the FERC. (2) Management of regulated firms must also have incentives to hold down the cost of serving their customers. These incentives may, in the presence of evolving and uncertain environmental laws, create serious dilemmas for managers. When second guessing managers' decision in circumstances with strong conflicting incentives, the regulator should not be constrained by a requirement that *all* cleanup cost for environmental violations be denied pass through. To be so constrained would likely tilt incentives towards high cost operations and significantly harm customers.

2. Assume for purposes of this question that neither a prior regulatory or judicial determination of an environmental violation has been made nor a consent decree issued relating to an environmental violation.

Question 2(a). Should FERC use its broad legal authority to evaluate whether costs associated with a rate application result from actions that are inconsistent with the intent and requirements of environmental laws? If so, under what circumstances? If not, why not?

Answer. The FERC lacks the manpower and expertise to police all the laws infringing on regulated firms; it should not pretend to do so. In the past the FERC has cooperated with the Federal and state EPAs (and other agencies such as fish and wildlife agencies) when creating certificate requirements for regulated firms. It has, furthermore, enforcement powers for such certificate terms. As a general rule, however, the FERC has no general program, and does not have the authority to create a general program, to impose fines, penalties or income deductions on regulated firms which the FERC determines have acted inconsistently with Federal environmental laws. It could and does call such "violations" to the attention of responsible agencies. On the other hand, when it comes to the FERC's attention that a responsible agency has found a violation, then, as described in the answer to Question One, the FERC will make a prudency decision and allow or deny pass through of fines and/or cleanup costs.

Question 2(b). If your answer to 2(a) is yes, and assuming a finding that costs result from actions that are inconsistent with the intent and requirements of environmental laws, should rate recovery for such costs be denied?

Answer. My answer to question 2(a) was not "yes," but a brief elaboration on the previous answer is useful. First, I do not believe the FERC can make a legally significant "finding" that a firm's action violates or is inconsistent with the environmental laws, except those incorporated in certificates issued by the FERC itself.

U.S. Senate,
Committee on Environment
and Public Works,
Washington, DC, September 22, 1988.

Charles Trabandt,
Commissioner,
Federal Energy Regulatory Commission,
Washington, DC.

Dear Commissioner Trabandt: As you know, your nomination to the Federal Energy Regulatory Commission [FERC] may soon come before the Senate. I have been examining the question of how FERC ratemaking relates to the operation of our federal environmental laws. I believe that FERC has a duty to assure that ratemaking does not in any way undermine the application of environmental laws. The important principle embodied in those laws is that the polluter, not the consumer, should pay for costs resulting from environmental violations. Given my interest in this subject, I would appreciate your views on the following questions:

1. Should rate recovery be allowed where a proposed rate includes any cleanup costs that result from violations of environmental laws or cleanup payments made pursuant to consent decrees or other settlements? If so, under what circumstances? If not, why not?

2. Assume for purposes of this question that neither a prior regulatory or judicial determination of an environmental violation has been made nor a consent decree issued relating to an environmental violation.

(a) Should FERC use its broad legal authority to evaluate whether costs associated with a rate application result from actions that are inconsistent with the intent and requirements of environmental laws? If so, under what circumstances? If not, why not?

(b) If your answer to 2(a) is yes, and assuming a finding that costs result from actions that are inconsistent with the intent and requirements of environmental laws, should rate recovery for such costs be denied?

Please give full explanations for your answers. I will consider your responses carefully in making a determination about your confirmation vote, and intend to move to defer full consideration of your nomination until I have had an opportunity to review your responses.

I appreciate your assistance.

Sincerely,

Frank R. Lautenberg,
Chairman, Subcommittee on Superfund and Environmental Oversight.

Federal Energy
Regulatory Commission,
Washington, DC, September 23, 1988.

Hon. Frank R. Lautenberg,
Chairman, Subcommittee on Superfund and Environmental Oversight, Committee on Environment and Public Works, U.S. Senate, Washington, D.C.

Dear Chairman Lautenberg: Thank you for your letter of September 22, 1988, regarding the question of how FERC ratemaking relates to the operation of our federal environmental laws.

I appreciate the opportunity to address your concern that FERC has a duty to assure that ratemaking does not in any way undermine the application of environmental laws. I also respect your view that the important principle embodied in those laws is that the polluter, not the consumer, should pay for costs resulting from environmental violations.

Consequently, I am pleased to provide the enclosed responses to your questions on this important issue. And, I hope my responses provide a full and complete explanation for your consideration in making a determination about my pending nomination. Please call me at 357-8366 if you have any questions or comments.

Best wishes to you and the Subcommittee.

Sincerely,

Charles A. Trabandt,
Commissioner.

Enclosure.

In the interests of providing some background and a reference frame for addressing your concern and responding to your questions, I would like to preface my answers with several observations. First, I would note that the Commission as an independent regulatory agency has only that express authority delegated by Congress. The Commission's ratemaking authority is contained in the Natural Gas Act, the Federal Power Act and the Natural Gas Policy Act. The Natural Gas Act (NGA) does not contain any authority for penalties and courts have consistently struck down attempts by the Commission to impose any penalty for any reason. It is noteworthy that the courts have rejected prior Commission actions under the NGA deemed by the courts to be de facto penalties for alleged violations of the Act. Recently in *Coastal Oil and Gas Corporation* v. *FPC*, 782 F.2d 1249 (5th Cir. 1986), for example, the court reiterated that an alleged violation of the NGA itself could not justify the de facto penalty in a fact situation involving diversion of natural gas from the interstate market to the intrastate market. The Commission-ordered remedy required Coastal to forfeit all of the profits, and denied Coastal repayment of the cost of the gas.

There the court held that "the Natural Gas Act . . . does not give FERC the authority to impose civil penalties." Coastal at 1253. Further, the court found that the commission's remedy that required Coastal to refund all revenues received from the sale of gas diverted from the interstate market to the intrastate market was a penalty because the remedy exceeded the amount Coastal was unjustly enriched and also exceeded the amount of injury to Florida Gas Transmission Company's interstate customers who paid higher prices to obtain gas elsewhere.

Currently, the Commission has before it on rehearing another case raising the same issue in the context of alleged diversion and sale of natural gas in violation of the NGA. *Stowers Oil and Gas Company, et al.*, Opinion No. 307, 44 FERC ¶ 61,128 (July 22, 1988). A central issue in that case is whether, and to what extent, the Commission, in the face of the *Coastal* court opinion, can apply the concept of unjust enrichment to the alleged violators without levying a de facto penalty. In that particular case, I issued a separate concurring opinion in which I seriously questioned the result there as probably contrary to Coastal. Thus, it is very important to observe that even where there is a direct violation of the NGA itself, the Commission cannot impose any de facto penalty as part of a rate proceeding. The only valid inquiry in such a case under existing law is whether the costs were prudently incurred and the rates are just and reasonable, which was the unanimous holding of the Commission in the Texas Eastern Transmission Company (TETCO) case in Docket No. RP88-67-000 discussed below. In traditional ratemaking under the NGA, companies are allowed to recover prudently incurred costs in their rates under section 4. The Commission may modify currently effective rates determined to be unjust and unreasonable prospectively under section 5 so as to render them just and reasonable in the future.

The Natural Gas Policy Act of 1978 (NGPA) establishes maximum lawful prices for first sales of natural gas (generally wellhead prices) under Title I of the Act and also provides civil penalties for certain violations of administrative requirements in the Act. Title VI of that Act also authorizes the Commission to disallow recovery of certain purchase gas costs where affiliate purchases are involved and where the purchases involve fraud, abuse or similar grounds.

The Federal Power Act also does not contain any authority for penalties, except for amendments to the Act enacted in the Electric Consumer Protection Act of 1986 (ECPA) in the area of hydroelectric licensing for violations of licensing conditions. In that connection, I emphasized in my dissent in Docket No. RM87-24, Procedure for the Assessment of Civil Penalties under Section 31 of the Federal Power Act (issued August 17, 1988) that the Commission must limit itself and assert authority to penalize hydro project operations only in those situations Congress authorized in ECPA. Further, a recent decision in *South Carolina Power Service Authority* v *FERC*, D.C. Cir. No. 87-1146 (July 5, 1988), struck down a decision by the Commission to require, under certain specific circumstances, liability coverage by the licensee for property damage in the event of a dam failure on the theory that the Commission was effectively supplanting state tort law in the program.

The applicable ratemaking standard for utility filings under the Federal Power Act also is just and reasonable pursuant to section 205 with the emphasis on prudently incurred costs and non-abuse of affiliate relationships. The Commission under 206 may determine a currently effective rate to be unjust and unreasonable and order such modifications prospectively as necessary to render the rate just and reasonable in the future.

Second, the Commission's responsibilities under environmental laws involve several different areas of responsibility. Of course, the National Environmental Policy Act (NEPA) applies the Commission in its decisionmaking process. And, the Commission recently adopted regulations specifically designed to implement NEPA in the Commission's activities. The new regulations, consistent with guidelines of the Council on Environmental Quality and judicial precedent, do not apply to traditional ratemaking proceedings not involving directly some form of physical activity. *Monongahela Power Co.*, 39 FERC ¶ 61,350, *order rehearing*, 40 FERC ¶ 61,256 (1987). The Commission's consideration of applications involving physical activity is subject to the NEPA regulations. Such applications also are subject to any applicable Federal or state substantive environmental laws and the satisfaction of those laws is a requirement of Commission actions resultling from consideration of them in the NEPA process. For example, various actions of the Commission on applications in the natural gas, electric power and hydroelectric project area could require consideration of requirements under the Clean Water Act, the Endangered Species Act, the Historic Preservation Act, to name a few. In many cases the primary requirements and decisions are made by other Federal agencies with direct statutory authority over a specific area. For example, in a long line of cases involving replacement of existing natural gas pipeline sections, the Commission has required pipeline applicants to seek and receive approval of the Environmental Protection Agency (EPA) for their removal and replacement plans for the old pipe, because of the potential for PCB contamination in the removal and replacement process. See for example, *Columbia Gas Transmission Corporation*, Docket No. CP88-129-000 (issued September 16, 1988); *Tennessee Gas Pipeline Company*, Docket No. CP87-85-000 (issued September 16, 1988). More specifically, FERC and EPA reached agreement or procedures for joint review of TETCO's PCB cleanup proposal. Attached is a copy of that agreement for your information.

The Commission does not have any direct authority nor expertise to enforce the environmental laws outside the scope of the NEPA process. Traditionally, the Commission has relied on the expertise and judgments of EPA and other jurisdictional Federal agencies with regard to enforcement of environmental laws and review of alleged violations of them. For example, in the area of natural gas pipelines and PCB contamination, the Commission has deferred to EPA to investigate alleged violations and establish requirements for remedial action plans to clean up PCB contamination. The Commission's Enforcement staff focuses its efforts on violations of the NGA, FPA and NGPA, implementing regulations and Commission regulatory orders under those Acts.

Third, the Commission already has been confronted with a specific case involving the fact pattern you have described more generally. In the aforementioned TETCO case, the Company filed revised tariff sheets on March 1, 1988, under section 4 of the Natural Gas Act. The increased rates were based on actual base period data for the twelve month period ending December 31, 1987, adjusted for known and measurable charges through September 30, 1988, resulting in an increase in jurisdictional revenues of $127,052,369. TETCO asserted that the filed rates were necessary to recover increases in various costs and rate of return, including costs associated with the removal and disposition of pipeline liquids containing polychlorinated byphenyls (PCB). More specifically, the filing reflected costs associated with the disposition of pipeline liquids containing PCBs, as well as the costs of equipment modifications to control sources of pipeline liquids which may contain PCBs and assessment and remediation of PCBs at various compressor stations located on TETCO's system (called the Environmental Remediation Program).

The Environmental Remediation Program was a part of a consent decree entered into by TETCO and EPA in a case involving alleged violations of applicable environmental laws as to PCB contamination. TETCO provided the Commission with a schedule which set forth the amounts associated with the PCB cleanup program which have been included in the operation and maintenance accounts. The schedule indicated that $22,563,000 of the rate filing increase was attributable to the Environmental Remediation Program. EPA also provided the Commission with a report on the consent decree and the Environmental Remediation Program for the PCB contamination.

Forty parties, including most New Jersey customers, intervened in the case and of those, 9 parties including New Jersey Natural Gas, Public Service Electric and Gas Company, and the New York Public Service Commission protested some aspect of the filing. Two of the protestants requested that the Commission summarily reject TETCO's PCB-related costs because they alleged that those costs were incurred as a result of TETCO's strict liability under environmental laws to clean up hazardous substances and were not prudently incurred. The Commission denied the request for partial summary rejection of the PCB-related costs on those grounds. As the protestants agreed, the issue before the Commission for ratemaking purposes under NGA section 4 was whether those PCB-related costs were prudently incurred by TETCO, and that determination required an evidentiary hearing.

The Commission concluded that, if the Administrative Law Judge determines after the hearing that some or all of the PCB-related costs included in TETCO's filing would result in unjust and unreasonable rates, the costs would be disallowed. The Commission also required that TETCO, pursuant to a request from the New York PSC, must file detailed work papers explaining the costs related to the clean-up of PCBs which may have been disposed of in violation of Federal environmental laws. The

Commission accepted the filing subject to refund and various conditions, including the outcome of the hearing, and suspended the rates until September 1, 1988 (the maximum 5 month suspension period under the NGA). The status of the hearing is:

Prehearing Conference—July 11, 1988.

Settlement conference are permitted until (one is scheduled for September 26, 1988)—October 28, 1988.

Staff Direct Testimony—November 18, 1988.

Intervenor Direct Testimony—December 16, 1988.

Staff Cross Testimony—January 18, 1989.

TETCO Rebuttal Testimony—February 24, 1989.

Formal Hearing—March 20, 1989.

Unless there is a settlement of the issues in the case, the ALJ will issue an Initial Decision which will then be subject to review by the Commission.

It is noteworthy that none of the protestants sought rehearing of the Commission's decision to set the PCB-related costs prudence issue for evidentiary hearing and to deny the requests for partial summary rejection of those costs. Thus, it is fair to note that the protestants, including New Jersey Natural Gas and Public Service Electric and Gas, did not seek further summary rejection of those costs, rather than an evidentiary hearing on the prudence of their incurrence.

Fourth, I would note that any additional costs for PCB cleanup incurred by TETCO under the Environmental Remediation Program would be subject to a tariff filing and subsequent review by the Commission under section 4 of the NGA. Under the precedent of the March 1 decision, those additional PCB related costs could be subject to an evidentiary hearing on the prudence issue, if also challenged as imprudent by protesting parties, which I would consider probable. Consequently, it is likely that the Commission in the future will have to consider similar arguments with regard to the future filings. Thus, the sitting Commissioners may be required to consider and decide this issue again in the future.

Fifth, I believe that Chairman Hesse, Commissioner Stalon and I, as sitting Commissioners with a specific pending case, must remain cognizant of the Pillsbury doctrine. Our responses to your questions might bring our impartiality into question and so taint the agency's process as to lead to a reversal of our decision in the court. In the leading case of *Pillsbury* v. *FTC*, 354 F.2d (5th Cir. 1966), the court found that when Congressional inquiry focuses directly and substantially on the decisional process of Commissioners in a pending adjudication, the due process rights of the parties may be denied. Also, the Commission has an interest in protecting the integrity of its decisional process even where the Congressional scrutiny may not be sufficiently intense that it would lead to reversal.

As noted above, the Commission undoubtedly will have to consider the question of the proper ratemaking treatment of TETCO's costs associated with the Environmental Remediation Program in the Docket No. RP88-67-000 case in the context of an ALJ Initial Decision or any future settlement of that issue. The same issue probably will recur again in subsequent TETCO filings seeking, among others, the recovery of subsequent costs under the Environmental Remediation Program. Consequently, we must be careful under the Pillsbury Doctrine to avoid any appearance of prejudgment in our responses to Congressional inquiries. I make this observation out of fairness to you, as well as other parties with an interest in those cases.

Let me turn now to your specific questions.

1. Should rate recovery be allowed where a proposed rate includes any cleanup costs that result from violations of environmental laws or cleanup payments made pursuant to consent decrees or other settlements? If so, under what circumstances? If not, why not?

Answer: The Commission's authority to disallow recovery of any costs in rate cases is strictly limited under the Natural Gas Act to those which have been imprudently incurred. In the leading case on the Commission's power to disallow utility costs incurred in the course of socially condemned activity, *NAACP* v. *FPC*, 425 U.S. 660 (1976), the Supreme Court emphasized the limited nature of our authority. Even where a competent authority had made a finding that a utility had engaged in illegal activity (there, race discrimination) the Commission's authority to deny recovery from ratepayers rested on the fact that the court considered those costs unnecessary, duplicative or a sign of inefficient utility operation, in short, imprudent.

The court held we had no general mandate to enforce labor (or environmental) laws.

Stated another way, the regulated party under the NGA has the well established right to recover all prudently incurred costs. Thus, the issue of cost recovery or disallowance must turn on the prudence of the cost incurrence, even when a direct violation of the NGA has been established. If a particular cost is associated with activities resulting from a proven violation of an environmental law, we assume them to be *per se* imprudent. If, however, payments are made pursuant to a consent decree or as voluntary compliance in an enforcement action by the agency with jurisdiction over the specific environmental law, or some other form of settlement pursuant to the applicable environmental law and regulations, the Commission on its own initiative, or in response to protests of intervenors, can investigate the prudence of those costs in making its determination as to the just and reasonable nature of the resulting rates. That was the action of the Commission in the *TETCO* case decided earlier this year. I would reiterate, however, that the Commission itself does not have the independent authority nor the expertise to decide whether particular actions constitute violations of environmental laws. That authority and responsibility resides in the jurisdictional agencies with the statutory mandate to enforce the environmental laws.

In a very general way, the traditional factors that might be considered in evaluating the prudence of a particular cost may include the utility's conduct at the time in question. The Commission in the past has applied the test of a prudent utility management in cases under the FPA and reviewing courts have sustained that approach. In *Violet* v. *FERC*, 800 F.2d 280, 282-283 (1st Cir. 1986), the court recited with approval the Commission's formulation of the prudence standard in connection with a utility's abandonment of a nuclear plant. The Commission held it would look at the fact that:

> [M]anagers . . . have broad discretion in conducting their business affairs
>
> * * *
>
> [T]he appropriate test to be used is whether they are [decisions] which a reasonable utility management . . . would have made, in good faith, *and in the relevant point in time.*

(Emphasis in original).

The court also pointed to other factors including reasonable industry practice, what industry experts believed, and what the least expensive means of proceeding would be. Finally, the court (800 F.2d at 284) reviewed the record for evidence to support the Commission's conclusion on the prudence issue. Therefore, what is important is that the Commission examine the matter from the point of view of utility executives at the time of the event and make proper factual findings specific to the case at hand.

Also, the Commission recently has stated in the Columbia that cases prudence under the NGA and the so-called fraud and abuse standard under section 601 of the NGPA are related in concept in cases involving purchased gas costs subject to section 601. It is difficult to predict exactly how these various potential prudence factors would be argued and decided in a particular formal adjudication involving costs associated with violations of an environmental law or a consent decree resulting from an enforcement action in response to those violations, such as in the now pending TETCO case. In fact, one of the important aspects of that case to be determined by the ALJ, after argumentation by the parties, will be the exact factors to be considered in making the prudence determination as to the PCB related costs. Of course, the Commission subsequently will have to review the ALJ's Initial Decision and so it is important that nothing said here would constitute prejudgment of the issue. Nevertheless, I do not believe that current precedent indicates that the fact per se that the cost was associated with activity determined to be in compliance with a related consent decree, would ipso facto render that cost incurrence imprudent, any more than the fact per se that an activity was in violation of the NGA itself would do so. The inquiry about prudence, as we held in TETCO, must proceed beyond such a threshold fact per se to the consideration of the additional factors.

2. Assume for purposes of this question that neither a prior regulatory or judicial determination of an environmental violation has been made nor a consent decree issued relating to an environmental violation.

(a) Should FERC use its broad legal authority to evaluate whether costs associated with a rate application result from actions that are inconsistent with the intent and requirements of environmental laws? If so, under what circumstances? If not, why not?

(b) If your answer to 2(a) is yes, and assuming a finding that costs result from actions that are inconsistent with the intent and requirements of environmental laws, should rate recovery for such costs be denied?

Answer: (a) I do not believe that FERC has the legal authority and jurisdiction, nor the necessary expertise, to investigate and evaluate whether costs associated with a rate application result from actions that are inconsistent with the intent and requirements of environmental laws. Historically, FERC has deferred to the jurisdiction, authority and expertise of those agencies with direct statutory responsibility for the enforcement of those laws and I believe that it is a wise course of action. Otherwise, FERC would have to become an original trier of fact and finder of law in a body of law not within the scope of its authority and expertise in rate cases. I would note that courts under well settled law have held that the Commission should consider the principles of the antitrust laws in making public interest determinations in merger cases and addressing allegations of undue discrimination and affiliate preference. Even in those cases, however, FERC has no authority to enforce the antitrust laws or apply them directly in those merger and discrimination cases. Only the principles are used to guide the Commission's analysis of potential anti-competitive and unduly discriminatory or preferential effects and results in those cases. Even then, in merger cases, for example, the Commission balances those effects against the benefits of the merger. Thus, I believe that the Commission both legally and practically cannot use its authority under existing law to make such an evaluation of consistency with environmental laws.

(b) My answer to (a) is not yes, but I would reiterate that the only legal authority of FERC to disallow recovery of costs is where they have been imprudently incurred, as we held in the TETCO case.

I would like to make a final observation about your obviously serious concern with regard to the ratemaking treatment of costs associated with environmental violations. I agree that where the Commission has the discretion under applicable law, FERC does, in fact, have a responsibility to assure that its regulation does not undermine the application of environmental laws. As I discussed previously, I believe FERC is effectively using its discretion to support environmental laws. For example, we have held that certificate applicants must satisfy state environmental requirements as a condition precedent to the effectiveness of our approvals in recent cases. The dilemma in the specific factual situation of concern to you is that the Commission has limited discretion to disallow cost recovery for regulated companies under the NGA. The parties protesting in the TETCO case expressly acknowledged that fact in their protests and in their decisions on rehearing petitions. The pending formal hearing and adjudication in the TETCO case will address the more narrow question of prudence in the context of the PCB cleanup costs based on a consent decree. I can assure you that the Commission will carefully consider within the more narrow confines of a prudence determination all relevant factors as to whether those cleanup costs were prudently incurred. In all candor, however, I do not believe the Commission has the legal authority to disallow those costs solely because they result from the consent decree, and nothing more, in an effort to maintain the important principle in the environmental laws that the polluter, not the consumer, should pay for such costs. I respectfully submit that such a result would require amendment of existing law applicable to the Commission's ratemaking authority for regulated companies.

Let me close by thanking you again for this opportunity to address these important issues and your serious concern about them.

EXCERPTS FROM IMPLEMENTATION OF THE TOXIC SUBSTANCES CONTROL ACT, THE PCB RULE, AND FEDERAL HAZARDOUS SUBSTANCE LAWS CONCERNING THE PERFORMANCE OF THE ENVIRONMENTAL PROTECTION AGENCY IN THE MATTER OF THE TEXAS GAS PIPELINE COMPANY

(Report from the Subcommittee on Superfund and Environmental Oversight to the Committee on Environment and Public Works)

VIII. CONCLUSIONS

As was stated in the Introduction, the Subcommittee based its investigation on materials provided to it by Texas Eastern, EPA, and other identified parties. The Subcommittee attempted to obtain those documents and information necessary to understand the facts and issues presented by this situation. Although the Subcommittee does not represent that it possesses all the possible materials and information potentially relevant to this matter, the Subcommittee has made a good faith effort to obtain sufficient materials, and staff have indicated to EPA and Texas Eastern an ongoing interest in and willingness to review any materials either wanted to provide the Subcommittee. Although its oversight jurisdiction may involve evaluation and conclusions related to compliance with environmental laws, the Subcommittee obviously does not view or represent itself as a forum for adjudicating civil or criminal liability. In conducting the investigation, the Subcommittee was exercising its broad environmental oversight jurisdiction as well as its legislative jurisdiction over Superfund. With this objective and these parameters, and based on the information reviewed by the Subcommittee, in the opinion of the Subcommittee the following conclusions can be drawn:

1. Violations occurred of the marking, storage, and disposal requirements of the PCB rule promulgated under the Toxic Substances Control Act (TSCA).

In his testimony before the Subcommittee, a Texas Eastern official admitted that the company continued its practice of disposing of PCB-contaminated pipeline condensates into unpermitted, unlined earthen pits through 1984. The PCB Rule precluded such action subsequent to May 31, 1978. In 1985, Transwestern Pipeline Company, a TEGPL sister company, received a civil penalty of $125,000 for illegal disposal of pipeline fluids into scrubber pits in Arizona. In 1985 Texas Eastern Transmission Corporation received a Notice of Noncompliance from EPA for violations of the storage and labelling requirements of the PCB Rule at its Delmont, Pennsylvania compressor station.

2. Violations of the marking, storage, and disposal requirements of the PCB rule under TSCA may have been knowing violations under TSCA.

The Subcommittee is not in possession of documents, nor did it take testimony showing specifically how or by whom decisions were made to discharge PCB-contaminated liquids into unpermitted, unlined earthen pits. Nor does the Subcommittee have evidence specifically of how and by whom such discharges were actually done. But as a recent line of Federal cases indicates,[207] a knowing violation of TSCA, which under the statute creates criminal liability,[208] consists of intentionally causing disposal of substances known to be or to contain PCBs, where such disposal is unlawful under TSCA and the PCB rule. Specific intent to violate the law is not required. In addition, a corporation can be convicted for the criminal acts of its agents, where such agents are acting within the scope of employment.[209] A recent line of cases [210] suggests that a corporation might also be imputed to have committed a knowing violation through collective knowledge of various employees, who each possess a different element of those required to form a knowing violation. Corporate knowledge, in such cases, has been deemed by some courts to be the totality of what all employees know. Consider, for example, Corporation A, whose employees include Employees X and Y. Employee X knows that a substance contains PCBs. Employee Y does not know what the substance contains, but is directed by X to discharge the materials in a manner which ultimately turns out to be violative of the PCB rule. Y intentionally discharges the substance in this manner. Assuming such employees are acting within the scope of their employment, Corporation A could be deemed to have committed a knowing violation of TSCA by virtue of the totality of knowledge of X and Y.

3. Relevant documents of Texas Eastern Gas Pipeline Company demonstrated an in-depth knowledge of how to comply with the marking, storage, and disposal requirements of the PCB rule promulgated under the Toxic Substances Control Act.

Responding on June 12, 1981 to an EPA information request, and in subsequent correspondence, Texas Eastern Gas Pipeline Company provided the agency with company internal memoranda relating to compliance with the rule. These memoranda demonstrated familiarity with the hazards posed by polychlorinated biphenyls, as well as in-depth knowledge of how, and the existence of practices in place with which to comply with the regulations.

The internal memoranda were quite detailed and specific regarding health and safety matters. These memoranda go so far as to state that if PCBs are spilled on the ground, they and the affected soils, must be scooped up and placed in barrels for disposal. Any rags which may have become contaminated with PCBs would also have to be placed into barrels for disposal. Goggles and other safety gear were required to be worn by workers when handling PCBs. The specifications for disposal barrels and for containment areas are spelled out.

4. Texas Eastern should have been more forthright with the Environmental Protection Agency when it reported having disposed of its PCB-contaminated condensate.

TEGPL reported the disposal of only 6.2 percent of the pipeline fluids which it removed from its system. It omitted details about the remaining 93.8 percent.

5. Violations of Superfund notification duties may have occurred.

Enacted in December 1980, section 103 of the original Superfund provisions (CERCLA) places notification duties on those who release or dispose of hazardous substances. Section 103(a) requires such persons immediately to notify the National Response Center, if a specified threshold amount of hazardous substances are released.[211] If no exemption [212] to the notification requirement of section 103(a) applies, and PCBs or other hazardous substances were released in sufficient amounts, failure to notify the National Response Center would constitute a violation of the law. It is unclear whether sufficient quantities of hazardous substances were discharged, based on the threshold amounts in effect during the time of release.

Another relevant provision is section 103(c) of Superfund. Within 180 days following the December 1980 enactment of Superfund, those who owned or operated facilities where specified hazardous substances were stored, treated, or disposed were required to notify the Administrator of EPA of the existence of such a facility. Such notice was required to specify the amount and type of hazardous substances to be found there, and any known, suspected, or likely releases of such substances from such facility. The notification requirement under section 103(c) applies only to hazardous substances with the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act. During the applicable time, it appears that PCBs were not part of this notification requirement. But if section 3001 hazardous substances were contained in the pipeline fluids, unless some other exemption applied, section 103(c) would have created a legal requirement to notify EPA as early as 1981, of discharges into pits.

It should also be noted that title III of SARA, which became effective in October 1986 created additional notification duties for releases, unless such releases result in exposure to persons solely within the site or sites on which a facility is located. These additional notification requirements apply to the hazardous substances for which notice was already required under section 103(a) of Superfund and to those substances listed as "extremely hazardous" under section 302(a) of title III. The additional requirements mandate that facility owners or operators notify local emergency planning committees and State emergency response commissions in areas and states likely to be affected by the release.

6. Texas Eastern did not satisfactorily substantiate that EPA staff, prior to August 29, 1985, was aware of a practice of disposing of pipeline fluids into pits.

TEGPL officials informed the Subcommittee that they believed that agency staff, prior to August 29, 1985, were aware of the natural gas pipeline industry's traditional practice of disposing of pipeline fluids into scrubber pits at compressor stations. These were serious allegations. The Subcommittee staff sought to determine whether or not EPA and Texas Eastern had discussed the issue of pit disposal of PCB-contaminated condensates, including any written documentation to that effect.

No other witnessses to such a discussion were found. The Subcommittee staff found no documents that adequately substantiate Texas Eastern's assertion. The only reference to scrubber pits in any provided documentation was an obscure reference with regard to the Transwestern Pipeline Company. The notion that this obscure reference should be deemed to be notice to EPA that pits were regularly used by Transwestern, let alone by Texas Eastern to dispose of its contaminated pipeline condensates is not persuasive.

7. EPA failed in its responsibility to understand adequately the industry it was regulating. The Agency should have discovered the Texas Eastern Gas Pipeline dumping long before it did.

The company states that the use of earthen disposal pits was a traditional industry practice. Whether it was or not, the company reported to EPA that it was phasing in diffusers and collection tanks for condensate removal. An obvious question would have been. "How do you collect and store condensate where there are no diffusers and collection tanks?" The answer to that question would have probably led to the discovery of the pits. It apparently was not asked.

8. The Office of Compliance Monitoring (OCM) in the Office of Pesticides and Toxic Substances (OTPS) failed to review satisfactorily the data contained in reports submitted by Texas Eastern under the pipeline PCB-Condensate remediation program.

The Office of Compliance Monitoring regularly received from the company reports required under the remediation program. If those reports were, in fact, reviewed such review was not at all thorough. Regular, consistent, examination of the Texas Eastern reports should have included a mass balance to determine whether the company reported having disposed of as much condensate as it had reported having removed from it system.

Had OCM performed a mass balance upon receiving the earliest of Texas Eastern's reports it would have been alerted at the beginning of the discrepancy between the amount of condensate removed and the amount it disposed of. Presumably, had OCM observed that discrepancy it would have asked the pertinent questions which would have led to the discovery of the pits three years prior to their eventual discovery in August 1985.

Once having learned early on of the existence of the disposal pits, presumably OCM would have taken early action regarding discovery of the nature and extent of the PCB contamination and would have required cleanup at that time.

9. The ability of the Office of Compliance Monitoring to oversee effectively the pipeline remediation program and to investigate the nation and extent of contamination once the existence of the pits was known was severely hampered by significant reductions in its resources during a crucial period related to the pipeline program.

The Office of Compliance Monitoring predecessor office, the Office of Pesticides and Toxic Enforcement, had 30 FTEs and $1,568,600 in extramural (or contract) funds in 1981, the year PCBs in pipelie condensates were discovered. It was also the year of a major pipeline survey which determined that Texas Eastern's piepline exceeded the limits of the PCB Rule. OCM also began to establish, with Texas Eastern, a PCB-remediation program in 1981. By 1982, the remediation program was in place and a consent order and agreement were signed by EPA and TEGPL.

The pipeline program, it should be noted, was only one of many issues for which OCM and its predecessor office was responsible. During the period 1981-1985, revisions to the PCB Rule were made, placing additional strain on OCM's resources.

The pipeline remediation program, being conducted on a national basis out of headquarters EPA, received no backup assistance from EPA's regional offices.

While OCM's resources were reduced in 1982 from the 30 FTEs of 1981 to 19.9 FTEs and from $1,568,600 in 1981 extramural funds down to $927,100 (a reduction of $641,500), the combination of added responsibilities and drastically reduced resources began to take a toll. The effect on EPA's enforcement program through those years has, in general, been well documented. OCM was impaired in its ability to perform its day-to-day responsibilities, having lost approximately one-third of its staff and almost 60 percent of its contract funds between 1981 and 1982. The pipeline program only one of OCM's many responsibilities, was most certainly negatively affected as well.

OCM's response was to rely on a company with whom, in the opinion of ODCM staff, a trust relationship had developed in the course of negotiating the remediation program. The company was relied upon to comply with the PCB Rule and its agreed upon sampling and condensate removal program. As agency officials who testified before the Subcommittee stated, regulatory agencies and the Executive Branch, in general, often rely on the cooperation of the regulated community for the collection of data and for other purposes, OCM staff, in the face of severely dwindling resources, placed even more reliance on Texas Eastern than was prudent.

OCM staff, working on numerous other matters, apparently assumed that Texas Eastern's quarterly reports were accurate and in accordance with the agreed upon remediation program without rigorously reviewing them. These staff lulled themselves in a sense of security based upon the positive experience they had had in working with TEGPL on this issue. Within the diminution of resources, OCM relied on TEGPL not to break the trust. At the same time, OCM staff took the path of least resistance and accepted, without adequate review, Texas Eastern's data as being in compliance with the company's previous commitment and with the PCB Rule.

The resource problem was further compounded in 1983 and 1984. FTEs were reduced to 14.1 in 1983 and allowed to rise only to 14.3 in 1984. The FTE and extramural levels began to rise in 1985, but even for 1987 they remained below the 1981 level.

OCM staff's reliance on Texas Eastern is explained in part by OCM's resource situation and the relationship which had developed between the staff and the company. Undoubtedly, OCM staff were concerned that the law be adhered to and that Texas Eastern meet the commitments to which it agreed. The OCM staff must be faulted, however, for being overly reliant on the company and for its failure to adequately review the company's submissions.

10. Had, EPA utilized technology to overcome its resource constraints, its ability to have performed a mass balance on Texas Eastern's data submissions could have detected, early in the program, the failure of TEGPL to dispose of properly its PCB contaminated condensates.

EPA receives numerous reports from corporations each day. Historically, companies have complained that the reports which they submit often go unread and are "placed on the shelf." Were the agency to possess equipment capable of scanning reports and flagging violations of parameters, its enforcement effort would be markedly improved. Even though its human resources had severely diminished its ability to review TEGPL's data, appropriate equipment may have led to discovery of the disposal pits.

11. The EPA team which negotiated the November 9, 1987 agreement in principle with Texas Eastern was unprepared to understand or to address issues which might have had an impact on a ratemaking case brought before the Federal Energy Regulatory Commission (FERC) by Texas Eastern.

The Environmental Protection agency, in its dealings with a party to an enforcement case, has an obligation to be mindful of ratemaking and other issues unique to a potentially responsible party (PRP). EPA should seek the advice of and coordinate with other agencies having expertise and an interest in a particular industry. If EPA does not take such steps, it could be at a serious disadvantage in its dealings and negotiations with the PRP. The ratepayer is dependent upon EPA to avoid concessions that could prejudice the interest of consumers. EPA's awareness of this critical issue appears to have been lacking.

12. The structure of the Environmental Protection Agency's enforcement program is largely responsible for the Agency's failure to move quickly once the existence of disposal pits came to its attention.

When the Office of Enforcement was reorganized, the technical staff was transferred to their respective programs, both at headquarters EPA and the regional offices. At the time of TEGPL's disclosure of the disposal pits in 1985 the Office of Compliance Monitoring, within the Office of Pesticides and Toxic Substances, was composed of technical staff who had previously served in the former Office of Enforcement; and the attorneys who had served in the previous Office of Enforcement were serving at headquarters in the Office of Enforcement and Compliance Monitoring (OECM) and in the regions in the Office of Regional Counsel.

When, in August 1985, OCM staff first learned of the existence of the disposal pits, they continued to seek information from TEGPL. The OCM personnel became more suspicious in November 1985 when Texas Eastern informed them that it had retained a known environmental consultant to sample a number of pits and to characterize the extent of contamination, if any. Yet, OCM did not seek assistance of OECM attorneys. It also did not apprise OECM of the situation. Rather, OCM continued to wait for TEGPL and its consultant to report on the sample findings.

OCM served under the Assistant Administrator for Pesticides and Toxic Substances. OECM was headed by its own Assistant Administrator. It should be noted that OCM and its counterpart attorneys were physically separated at headquarters, as they reside in separate buildings. The Environmental Protection agency has long been known as a "turf oriented" institution. Because of those factors, it should come as no surprise that the technical enforcement staff and the enforcement attorneys did not work together from the moment it became known that Texas Eastern was disposing of its PCB-contaminated pipeline wastes into unpermitted disposal pits. The Subcommittee staff in its investigation, was informed by present and past enforcement staff that it is their belief that if OCM and its counterpart enforcement attorneys had worked together under the same assistant administrator, the likelihood is that the attorneys would have been brought into the matter sooner and, presumably, the issues would have been pursued much sooner.

As it was, the Assistant Administrator for Pesticides and Toxic Substances first informed the acting Assistant Administrator for Enforcement and Compliance Monitoring of the Texas Eastern issue of June 30, 1986—a full 10 months after TEGPL's disclosure of the pits' existence.

That OECM dragged its feet, waiting for the Texas Eastern consultant to provide additional information, is difficult to understand. However, it is believed that, had the OCM technical staff and the OECM enforcement attorneys remained together within the same institution, their activities would have been mutually supportive and the strong probability is that this issue would have been addressed much sooner.

13. OCM personnel apparently were not aware that Texas Eastern used earthen pits which to dispose of pipeline wastes prior to the company's disclosure of August 29, 1985.

While it is believed that EPA should have discovered Texas Eastern's allegation that EPA was in fact aware of the company's use of earthen pits before August 29, 1985 is not persuasive. As was indicated in conclusion 6, the claim was not satisfactorily substantiated. The Subcommittee received numerous documents to determine whether or not the EPA was aware, and condoned the use of the disposal pits. None of the documents reviewed by the Subcommittee persuasively demonstrate that OCM staff actually knew that TEGPL used disposal pits prior to installing diffusers and collection tanks.

14. EPA failed to provide expeditious notice to States, other governmental entities, and affected citizens of possible contamination. While EPA may have violated legal notificaton duties, regardless of such legal duties, the Agency had an obligation to provide such notice.

During the hearing, citizens, State, and local officials expressed concern that EPA had failed to make them aware of the possible contamination in anything resembling an expeditious manner. While this failure may not have been unlawful under existing notification requirements and regulations, in matters such as these, EPA should provide expeditious notification, regardless of legal or regulatory duties.

To understand EPA's general legal duties, one must examine section 103 of Superfund and the implementing regulations. As discussed above in conclusion 5, section 103(a) requires expeditious notice to the National Response Center of releases of hazardous substances in quantities equal to or greater than threshold amounts. The National Response Center, in turn, is required expeditiously to provide notice to all appropriate government agencies, including the Governor of any affected state.

When EPA was informed of the release of PCB-contaminated condensates in 1985, a question arose whether it had a legal duty under section 103(a) to notify affected States. It should be noted that section 103(a) technically places the notification duty on the National Response Center. But EPA, as a member of the National Response Team, would appear to have a duty by virtue of regulation,[213] if not simply common sense, at least to assure that the National Response Center is notified of such information. It appears that EPA did not assure that the National Response Center was notified, and it is clear that the affected States were not notified expeditiously. Nonetheless, it also appears that section 103(a) was not violated, since the provision applies to information about releases of specified sizes and duration. These quantities and duration (a 24-hour period) are specified by regulation.[214] For PCBs, notification requirements would not be triggered unless 10 pounds had been released in a 24-hour period. Given that EPA became aware of large but unspecified volumes of contaminated condensates discharges periodically over many years, section 103(a) would not seem to apply.

Assuming that section 103(a) did not create a duty on EPA, another provision, section 103(c) still might have applied. As discussed above in conclusion 5, section 103(c) creates obligations with respect to past releases by owners or operators of facilities where certain hazardous wastes have been disposed. These hazardous wastes are defined here as having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act. Such facility owners or operators are required to notify EPA directly. The Administrator of EPA is then required to notify the affected State agency, or any department designated by the Governor to receive such notice, of the existence of such facility.

Given the way section 103(c) defines hazardous wastes, it would appear that during the applicable time, PCBs were not part of this notification requirement. But it might apply to other substances that may be or were contained in the condensates. While the information provided to EPA in 1985 did not specify other types of hazardous substances covered by section 103(c), it did not rule out their possible presence. Recall that the November 1985 letter from TEGPL to EPA stated, "During our August 29, 1985 meeting in your office, we discussed the historic practice of the gas pipeline industry of using earthen pits for disposal of *waste liquids* (emphasis added)." [215] Although the letter does not specify that no Solid Waste Disposal Act section 3001 wastes were contained in the pits, it is unclear why EPA would feel comfortable with a conclusion that no such wastes were present. As is suggested by the Agreement in Principle, EPA staff, and the supporting materials to EPA's November 9, 1987 press release, hazardous substances other than PCBs appear to be present at some of the sites.

Although this analysis of section 103(c) duties leaves some questions unanswered, it appears EPA may have violated a legal duty to notify States of information under section 103(c). EPA should have made a determination whether hazardous substances as defined by section 103(c), were present, regardless of this duty. But given these notification responsibilities, EPA had a legal obligation to determine whether 103(c) specifically applied.

A final point here is that EPA's duties to notify the States and public should not be viewed as contingent upon legal obligations alone. Whether or not EPA failed to comply with Superfund requirements, it failed to comply with a common sense notion of the Agency's mission. An Agency charged with protecting the environment should not sit on information for 18 months about possible contamination.

15. Rigorous cleanup schedules and standards must be applied to the remediation of the contamination along the pipeline. But the Agreement in Principle, although not without some virtues, does not appear to assure this result with respect to standards and does not provide details of schedules.

The American people and the effected States deserve an exemplary cleanup of the contamination along the pipeline. The cleanup should be expeditious and stringent. It should protect health and the environment to the maximum extent possible under applicable State and Federal laws.

The Agreement in Principle, although not without merit, raises some questions by what it says, and others by what it does not state. Certainly, achieving the highest penalty in the history of EPA is not to be disregarded. Reserving the government's right to use Superfund money for emergency actions is a valuable tool, as is the reservation of emergency authorities under TSCA and RCRA. The Agreement in Principle's additional retention of governmental legal rights under RCRA or analogous State laws of closure, postclosure, and interim status requirements also is significant. This reservation of rights under RCRA tends to build RCRA and analogous State law cleanup standards into the remediation. If Texas Eastern knows at the outset that it will be subject to such RCRA requirements through future suits, it has the incentive to clean up sites in a way that will meet those requirements.

The Agreement in Principle is deficient in some respects. First, although it applies the most stringent Federal PCB standard, and does not excuse Texas Eastern from complying with more stringent applicable State law, it does not require this result. Although not required to do so, the agreement could for example, have employed the new approach taken by section 121(d) of Superfund, the cleanup standards provision. Specifically, the agreement could have put the burden on the company to apply or seek waiver from more stringent State cleanup standards, where such standards are legally Applicable or Relevant and Appropriate Requirements (so-called ARARs). Such standards may ultimately be applied if a State reaches an agreement with the company to do so, or successfully compels this result. But this places the burden on the States, not the company

The Agreement in Principle arguably is deficient with respect to assuring cleanup of hazardous substances other than PCBs. This is the case even though other such substances, including volatile organic chemicals have been identified at some sites.[216] It is commendable that the Agreement makes an attempt to apply strict Federal standards to PCB cleanup. The assumption of the Agreement appears to be that in cleaning up PCB, Texas Eastern will also achieve cleanup of other hazardous wastes that have been found at the sites. The Agreement in Principle does not appear to foreclose requiring cleanup of such other substances individually, and it does require testing for such substances. But it does not set out a comprehensive plan for remediation of such substances. If the PCBs are ultimately found not to have migrated as far as other possible hazardous substances, cleaning soil with PCBs may not assure adequate cleanup of these other substances.

The Agreement in Principle also does not address the question of off-site cleanup or groundwater cleanup. To its credit, the agreement does require characterization for PCBs in off-site areas at A-1 sites. It requires, for a representative number of off-site locations at A-1 sites, sampling for specified other substances. And for both A-1 and A-2 sites, it requires groundwater characterization for PCBs and other substances. But the agreement is silent on how, if necessary, actual cleanup should occur. This silence may result from EPA's lack of information about off-site areas and groundwater at this time. But there may be some value in trying to include the previously mentioned Superfund cleanup standards approach in the consent decree. The goal would be to assure that the most stringent State or Federal standard would apply to such areas. In the case of groundwater, section 121(d), if properly interpreted, would assure the application of the most stringent cleanup standard known as the maximum contamination level goal. This standard is most protective of health. Even if such provisions are not included in the Consent Decree, they are the most desirable approaches for ultimate cleanup.

The Agreement is silent on the possible question of ultimately listing any of the affected sites on the Superfund National Priorities List. Although it is generally believed now that NPL listing would not be appropriate for the sites, the Agreement might be more thorough by reserving this right to list sites if merited. It is inferred that silence on this point does not waive this right. But explicit articulation would seem to be a useful safeguard on long-term Superfund remedies, if necessary and appropriate.

The Agreement in Principle does not lay out cleanup schedules. Such schedules, however, would provide a basis for measuring performance and achieving cleanup goals.

16. States have an important interest in the remediation.

An important principle of our environmental laws is their respect for more stringent and additional measures required under State law. This principle should not be compromised as EPA attempts to arrive at a national cleanup agreement with Texas Eastern.

It is significant to note that in negotiating an Agreement in Principle with TEGPL, EPA was aware that the PCB cleanup standards in some States, such as New Jersey, were more stringent than the standards that the agency and the company had agreed upon. As noted above, the section 121(d) approach of Superfund was not taken. And EPA did not attempt to provide that any State standard more stringent than the cleanup level agreed to by EPA and TEGPL would apply.[217]

17. Health questions may be raised by the contamination.

The contamination along the pipeline occurred for a long period of time and included burning in condensate pits. Burning of PCBs can create toxins. Burning can also create emissions into the air. Throughout the years, on-site workers may have been exposed to pit contents and possible emissions. The proximity of the pits and possible air emissions to residential areas varied. The Mayor of West Amwell indicated concern with what he described as an "unusually high rate of residents with cancer in the area surrounding the Texas Eastern plant."[218] This testimony and that of others suggests an important principle: the right of citizens and workers to know whether they are or have been at risk. According to EPA's December 7, 1987 response to the Chairman, EPA retains the authority to seek health assessments where site characterization suggests they are appropriate. The Agreement in Principle is silent on this issue, however.

18. Some or all affected States and the Subcommittee may not have been adequately informed by EPA and Texas Eastern of possible continuing discharges of pollutants.

The Subcommittee did not learn of possible continuing PCB discharges until the November 9, 1987 announcement of the Agreement in Principle. It is unclear whether, when, and how many States knew of such possible discharges prior to the announcement. It is also unclear what the scope of such continuing discharges is. Although the Subcommittee has sought a full accounting of such continued discharges, the failure by EPA and Texas Eastern to inform the Subcommittee and possibly the States of this matter prior to November 9, 1987 is of some concern, particularly where EPA stated in a recent letter that it knew of the possible discharges since April 1987.

A key theme in this investigation was the failure of EPA and the company originally to notify the States about the contamination in a timely fashion or a manner required under Federal and State law. This concern was clearly aired in the Subcommittee's hearing, and in press accounts of this matter. It would seem that news of possible continuing discharges of PCBs would merit expeditious and clear notice to the States and the very Subcommittee that criticized the pattern of nondisclosure previously and that was conducting a continuing investigation of the matter. This is particularly true where testimony by both EPA and the company did not indicate to the Subcommittee that such possible continuing discharges were occurring.

19. Texas Eastern, Interstate Gas Pipeline Companies, and similarly regulated entities should not be allowed to pass through in rates direct or indirect costs, if such costs result from violation of environmental laws.

In an unregulated industry, the costs that result from violations of law are borne by the shareholders or are passed on to consumers, if consumers are willing to pay the violating company a higher price, rather than purchase the product from a competitor. The disincentive to violate environmental laws is clear for such an entity. The unregulated entity either depletes corporate resources or risks losing its market share due to higher prices.

But a different analysis may apply to the regulated entity that violates laws. Such regulated entities receive significant benefits from regulation. Those benefits include guaranteed recovery of their prudently incurred costs and the opportunity to earn a health rate of return on used and useful plant and equipment. Allowing rate recovery of costs incurred as a result of violations of law subverts both the economic regulatory scheme and the law. Rate recovery by a regulated entity, in effect, becomes a subsidy for violation of the law.

Moreover, to the degree that a regulated interstate gas pipeline enjoys monopoly power, market forces cannot respond to rate increases generally, or to increases due to the passthrough of costs of violating laws in particular. A pipeline's customers, such as local distribution companies, large industrial users, and electric utilities, may not be able to change suppliers because the pipeline's rates have been increased. If no other interstate pipeline serves an area, of if there is insufficent excess capacity on other pipelines serving that area to give customers a choice, those customers are captive to their pipeline supplier's charges.[219]

Additionally, even if those customers may be able to seek interconnection with other pipelines, the added costs of construction of new hookups may not be economical. This may be particularly true for a customer of Texas Eastern, which indicates in its Annual Report, that due to its acquisition of low cost supplies, its prices "were among the lowest in its market area."[220] As a result of such low costs, a pipeline may be able to increase rates modestly to pay for cleanups, without losing customers or market share.

If a company has violated the Nation's environmental laws, then it ought not be allowed to prevail in a rate increase filing, which asserts that the cost of cleanup is just and reasonable in the normal course of business. This principle would apply not only to Texas Easteren and gas pipeline companies, but to similarly situated regulated entities.

It seems clear that FERC could use its discretion to deny rate recovery of costs that result from violations of environmental laws. Costs resulting from past violations of environmental laws should not be deemed to be prudently incurred in the normal course of business. Such a conclusion is supportable by general ratemaking principles. But to assure that our environmental laws are consistently safeguarded, statutory direction may be necessary to assure denial of rate recovery for cases presenting costs resulting from violations of environmental laws.

IX. RECOMMENDATIONS

As was previously stated above, the Subcommittee based its investigation on materials provided to it by Texas Eastern, EPA, and other identified parties. The Subcommittee attempted to obtain those documents and information necessary to understand the facts and issues presented by this situation. Although the Subcommittee does not represent that it possesses all the possible materials and information potentially relevant to this matter, the Subcommittee has made a good faith effort to obtain sufficient materials, and staff have indicated to EPA and Texas Eastern an ongoing interest in and willingness to review any materials either wanted to provide the Subcommittee. Although its oversight jurisdiction may involve evaluation, conclusions, and recommendations related to compliance with environmental laws, the Subcommittee does not view or represent itself as a forum for adjudicating civil or criminal liability. In conducting the investigation, the Subcommittee was exercising its broad environmental oversight jurisdiction as well as its legislative jurisdiction over Superfund. With this objective and these parameters, based on the information reviewed by the Subcommittee, and in consideration of the above conclusions, the Subcommittee makes the following recommendations:

1. The enforcement structure of the Environmental Protection Agency should be reorganized along the lines of the Agency's previous office of enforcement.

Technical enforcement staff now serving within program offices at headquarters should be transferred to the offices of their counterpart enforcement attorneys in the Office of Enforcement and Compliance Monitoring (OECM). Regional enforcement attorneys should be transferred out of the Office of Regional Counsel; regional technical enforcement staff should be transferred out of their program offices; and, both these regional attorneys and technical staff should be reconstituted into an office serving as OECM's regional counterpart.

Headquarters OECM should serve as the enforcement policy maker for EPA's enforcement efforts. It should also serve to provide in-depth training to regional enforcement staff who implement the agency's enforcement policies. The objective of such training must be the development of a consistent approach to the implementation of guidance across each of EPA's 10 regions. This does not mean that every similar case across the regions must be decided in exactly the same manner. Rather, the regional enforcement staff must implicitly understand the policy limits of all enforcement guidance, and the leeway it has to make reasoned judgments, given the facts of a particular case. It is recognized that each case may present unique features. Guidance is intended to accommodate such uniqueness. However, a well written policy, consistently applied by a well trained staff will incorporate into enforcement actions the varying specifics of different cases. It is of utmost importance that the procedures utilized to implement guidance and to develop a case be recognized across the agency's regions.

It is also believed that the reunification of technical and legal enforcement staff will end the "turf" battles which have often arisen between the program offices and OECM. Instead, the technical enforcement staff, upon discovering possible violations, will likely communicate more expeditiously with their legal counterparts. It is to be expected that this organizational restructuring will be accompanied by a physical restructuring, as well. Such a restructuring is essential to bring together the technical and legal personnel who are responsible for the same environmental media. This action will reduce or eliminate communication delays.

Had this type of system been in place, the Texas Eastern disposal pits may have been discovered as the remediation program was developed. Further, had this type of system been in place, it most likely would not have taken 10 months after the discovery of the pits to involve the enforcement attorneys. Had the enforcement attorneys been brought in earlier, it is likely that demands on Texas Eastern to expedite its data collection would have been made and/or that the agency would have embarked on data collection long before it actually did.

2. Enforcement resources should be increased.

The Subcommittee recommends that the Office of Compliance Monitoring's (OCM) budget be increased. That office's responsibilities have increased many-fold since 1981, yet its personnel and extramural resources decreased. While they began to increase in 1985, the resources still lag behind the 1981 levels.

It is questionable whether the work-load models which the agency uses to establish its manpower needs and its budget are in any way realistic with regard to OCM or OECM, in general. The Subcommittee further recommends that the agency seriously review its enforcement work-load models to determine whether or not they are useful in the budget making process. The agency may want to consider the use of an independent, outside consultant in the review of its enforcement personnel requirements.

3. The Agency should make increased use of technology to assist its enforcement and compliance efforts.

EPA should seriously consider requiring that reports submitted to it pursuant to statutory authority or by voluntary agreement be in a form which can be readily scanned by equipment. The equipment should be programmed to scan for violations of environmental parameters, reporting requirements, or other measures. The use of technology can reduce the burden on staff, if not reduce work-load requirements, and can lead to more consistent and effective enforcement.

4. The final Consent Decree should contain rigorous cleanup schedules, and assure cleanup to the most stringent levels required by the law.

EPA should negotiate for tough cleanup schedules for completion of the work. Stipulated penalties should apply for failure to meet these schedules. In addition, the Consent Decree should spell out the cleanup standards to be used, and assure that they are the most stringent required by law. It should also provide that where state cleanup standards are more stringent, those standards should apply. It should also assure that possible site listing on the National Priorities List is not foreclosed. It should take a more comprehensive approach to site cleanup that is not only driven by PCB remediation, but by the presence of other hazardous substances at sites. The Consent Decree should also assure the most stringent cleanup approach for off-site areas and groundwater, the latter of which should assure groundwater cleanup to the maximum contamination level goal.

5. The final Consent Decree should not compromise the ability of States to assure more stringent and additional cleanup standards, schedules, and measures.

One of EPA's major blunders in the Texas Eastern case was its failure to keep States informed. It is unclear whether this is being repeated as EPA negotiates a settlement with Texas Eastern. But an important component of our Federal environmental laws is their nonpreemptive effect.

In the first instance, the Consent Decree should provide that where States have demonstrated that their cleanup standards are more stringent than those contained in the decree, then Texas Eastern will clean up to those more stringent levels. This will save both the affected States and the company extraordinary transaction costs and move the cleanup along without unnecessary delay. In any event, it is essential that the Consent Decree not impede States' abilities to obtain either settlements, judgments, or administrative orders that are more stringent in their cleanup standards, schedules, and all other measures. It is also essential that EPA keep the states fully informed about the status and content of the negotiations.

6. The consent decree should require an essessment of the health effects of residents near contaminated sites and on-site workers at contaminated sites.

The disposal of PCB contaminant occurred for many years. In addition, Texas Eastern has testified and indicated in written responses that burning occurred in some of the pits. Such burning can produce dangerous dioxins.

Although EPA indicates that dioxin levels at all sites are below Federal action levels, this does not account for air emissions and workers exposure that may have occurred over a number of years at some sites. Moreover, the question of health effects does not turn solely on the issue of dioxins.

Worker and residents' proximity to the pits over the years, is of concern. Some assessment should be done of residents and workers to determine if statistically significant numbers have incurred illnesses associated with PCBs, dioxins, and the other hazardous substances found at these sites.

Although EPA believes it retains the authority to seek health assessments where shown to be appropriate, the Consent Decree would be improved by explicitly requiring such assessments and indicating the criteria for determining when they will be required.

7. The Consent Decree should assure that any possible continuing discharges of pollutants are fully addressed.

The Consent Decree should assure that any possible continuing discharges of pollutants by Texas Eastern are fully addressed. Before finalizing the consent decree, EPA should be certain that it is aware of any and all possible continuing discharges, and that the consent decree assures that such possible discharges will be stopped under applicable Federal and State laws.

8. If EPA becomes aware of possible new discharges or pollution associated with the pipeline, or new site data, it should inform affected States and congressional committees overseeing or investigating such matters.

EPA's commitment to working with the States, the public, and Congress does not end after a hearing is over. Similarly EPA's commitment should not be circumscribed by waiting to be asked a particular question or being forced by events ultimately to reveal an important fact. This is particularly true where testimony at a hearing by EPA and others gives no clear suggestion of possible continuing discharges. EPA has an ongoing responsibility to States and congressional committees overseeing or investigating an environmental violation to share new information promptly. During his testimony before the Subcommittee, Assistant Administrator Adams provided assurances of sharing new data with "Congress, the States, affected citizens, and the American people." Those were well received assurances, with which the Agency should continue to comply.[221]

9. EPA should assure that the final Consent Decree includes a provision indicating that the Decree in no way is intended to prejudice FERC's rate determinations related to direct and indirect costs associated with the contamination and remediation.

In seeking to achieve a cleanup agreement, EPA should not compromise later action by FERC with respect to rates. Although EPA's December 7, 1987 letter to the Chairman [222] indicates that the Agency has no intent to prejudice rate determination through the settlement, an explicit provision in the consent decree indicating that the decree in no way prejudices FERC's related rate determinations would make this point clear.

10. When negotiating settlements that may involve application of laws in addition to environmental laws, EPA should bring an understanding of such laws to bear in its negotiations.

EPA's apparent failure to analyze the impacts of a settlement with Texas Eastern on future rate actions should not be repeated. Consultation with other Federal agencies and review of other applicable laws is an obvious principle of good government. The left hand should know what the right hand is doing. EPA's mission is to enforce our environmental laws, and not to undermine the Nation's other laws or the mission of other branches of government.

11. To safeguard our environmental laws, FERC should not allow rate recovery of a regulated entity's costs, which result from violations of the environmental laws or which are deemed not to be just and reasonable because they result from actions that are inconsistent with the intent and requirements of such environmental laws.

FERC should not allow rate recovery of any costs, which result from violations of environmental laws.[223] The Subcommittee does not purport to tell FERC how it should rule in a specific case or what kinds of findings it can and should make. If, however, a regulatory agency or court with authority to determine whether violations of environmental laws had occurred by a regulated entity, has made such a determination, FERC should take that into account in evaluating whether costs are just and reasonable. In addition, even absent such a finding by another agency or court, FERC should use its broad authority to evaluate whether costs result from activities that are inconsistent with the intent and requirements of our environmental laws. Such inconsistency would seem to be evidence of actions not prudently incurred in the normal course of business operations. To assure the consistent application of this approach, Congress should consider whether further statutory direction may be necessary.

The principal articulated here is relevant where a violation of law or an action deemed to be inconsistent with the intent or requirements of our laws has occurred. Compliance with environmental law and actions taken to prevent pollution over and above the requirements of law would be normal and prudent expenditures, and would appropriately be passed on to ratepayers. By assuring that such compliance costs can be recovered, absent a violation of law, the regulated entity is given incentive for environmental protection and compliance. Accordingly, it might be appropriate in evaluating a particular rate request for FERC to segregate costs resulting from violations of or acts deemed inconsistent with environmental laws from costs resulting from legal acts of compliance with such laws, or even costs resulting from acts currently unlawful, but lawful at the time they were committed.

12. The tracking of PCB wastes from the time of generation until ultimate disposal should be required.

This incident illustrates the need for a system that better identifies the amounts of PCB wastes being generated, stored, transported, and disposed of. The Resource Conservation and Recovery Act (RCRA) accomplishes this through procedures that identify wastes as they are generated and a uniform manifest system that tracks them as they are transported. EPA is now considering development of regulations under the Toxic Substances Control Act (TSCA) that would create a similar system for PCB wastes. The Agency should expedite this rulemaking process, or TSCA should be amended to require more careful accounting of what firms control particular amounts of PCB wastes.

13. EPA should give prompt notice to States and affected citizens when being informed of possible environmental contamination.

EPA should assure that the Superfund notification requirements under section 103 and section 304 of title III are rigorously enforced. If EPA obtains information, as it did in the Texas Eastern case, raising the possibility of section 103 notification duties, the Agency should determine whether those duties have arisen. If EPA believes section 304 notification is also mandated, it should advise parties providing information about releases of these additional duties under the law. In addition, if current regulations are deemed insufficient, EPA should modify the regulations implementing the notification requirements under Superfund or other environmental laws to assure that notification duties on those releasing contamination would apply in future contamination scenarios similar to the Texas Eastern case. Modification for PCBs for example, might include reduction of the threshold quantity for a 24-hour period,[224] as well as establishing an alternative threshold quantity for a longer durational period. Failure by EPA to use its regulatory authority to assure this coverage might merit amendments to the appropriate Federal notification provisions to assure that situations like this are covered under Federal laws. Finally, EPA should learn an important lesson here about Federal-State as well as community relations. Whether or not EPA or the National Response Center had a legal duty to notify States, local governments, and affected citizens, testimony at the hearing indicated an expectation from all such parties that EPA should provide such notification. An obligation, which goes beyond strict legal requirements, exists on the part of the Agency to provide such notification.

FOOTNOTES

[207] The major Federal cases suggesting this definition of "knowing" violation include the following: *U.S.* v *Pacific Hide and Fur Depot, Inc.*, 768 F.2d 1096 (9th Cir. 1985); *U.S.* v. *Ward* 676 F.2d 94 (4th Cir.), *cert. den'd*, 495 U.S. 835 (1982). See also *U.S.* v. *Hayes International Corp.*, 786 F.2d 1499 (11th Cir. 1986), which makes a similar interpretation of the Solid Waste Disposal Act requirements.

[208] Section 16(b) of TSCA establishes criminal penalties for knowing or willful violations of specified provisions of TSCA, including section 6 of TSCA, and rules promulgated under section 6, which would include the PCB rule.

[209] A recent Federal appellate case articulating this principle is *U.S.* v. *Cincotta*, 689 F.2d 238, 241 (1st Cir. 1982). The previously noted *Hayes International Case*, (supra at note 207) although not explicitly articulating the principle is another example of the point. In that case, a corporation was found to be criminally liable under RCRA for acts of its employee. For a general discussion see also 18B Am Jur. 2d, Corporation sections 2134, 2136. Also potentially relevant in the analysis of corporate liability are the general provisions of the U.S. Code on Crimes. Section 2 of Title 18 of the Code states.

(a) Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principle.

(b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

[210] See, *U.S.* v. *Bank of New England*, No. 86-1334 (1st Cir. June 10, 1987) (Slip Opinion): *U.S.* v. *T.I.M.E.—D.C., Inc.* 381 F. Supp. 730 (W.D.W.Va. 1974).

[211] For PCBs that specified amount since enactment of CERCLA has been 10-pounds in a 24-hour period. See section 102 of CERCLA as well as the relevant regulations under section 311 of the Clean Water Act and sections 102 and 103 of CERCLA: 40 C.F.R. sections 17.3, 302.4, 302.5 (1987).

[212] The Subcommittee notes from EPA's December 7, 1987 letter to the Chairman, Texas Eastern's apparent position about the possible application to pipeline venting of the natural gas liquids exemption of section 101(14) of CERCLA. (See Exhibit K at 2.) This exemption excludes such liquids from the definition of hazardous substances. The Subcommittee notes, however, that Assistant Administrator Adams stated, "The Agency does not agree with the company's position on this issue." Ibid.

[213] See 40 C.F.R. section 300.23(d) (1987). This provision of the National Contingency Plan appears to place a duty on EPA to report releases at least to the National Response Center.

[214] 40 C.F.R. sections 302.4, 302.5 (1987). See also Clean Water Act regulations at 40 C.F.R. section 117 (1987.)

[215] Letter from Cohagan to Seitz, November 19, 1985, at 1. See Appendix at Exhibit Z.

[216] Some limited information on other substances present is included in Table 1 of the materials EPA distributed November 9, 1987 with its press release. See Appendix at Exhibit N. EPA staff have also indicated the possible presence of other hazardous substances, including volatile organic chemicals, although precise quantities are not apparently known for each site.

[217] Telephone conversation with EPA staff, December 14, 1987.

[218] Hearings, at p. 65. See also Appendix at Exhibit II for written testimony of Mayor Fulper and attached map indicating with Xs the homes of cancer victims.

[219] To the extent that some pipelines bear the costs of compliance and others not, the violator enjoys an advantage in the form of its profitability, which could make it more attractive than its industry rivals in securing investors' capital.

[220] Texas Eastern Corporation Annual Report at 8.

[221] See Hearings at 41, paragraph 8.

[222] See Appendix at Exhibit J, page 2.

[223] It is noted that by definition a violation of an environmental law assumes that no statutory or common law exceptions or defenses to liability apply. Section 107(B) of Superfund, for example, states that there is no liability for a release where it can be established that the release was caused solely by an act of God or war, as defined in the statute.

[224] The Subcommittee notes some movement in this direction in a March 16, 1987 proposed EPA regulation on reportable quantities. That proposal would reduce the PCB quantity for a 24-hour period to 1 pound. 52 Fed. Reg. 8140, 8155.

STATEMENT ON NOMINATIONS TO THE FEDERAL ENERGY REGULATORY COMMISSION

Mr. McCLURE. Mr. President, pending before the Senate are five nominations which constitute the full membership of the Federal Energy Regulatory Commission. Three of these nominees, Martha O. Hesse, Charles G. Stalon and Charles A. Trabandt, are being confirmed for their second term. Two of the nominees, Elizabeth Ann Moler and Jerry J. Langdon, are being confirmed for the first time.

As my colleagues are aware, Ms. Hesse is presently serving as Chairman of the Commission, and will again be appointed Chairman for a term expiring October 20, 1991, upon her confirmation. Under her leadership, the past 10 months at the Commission have been a particularly active period, with numerous and controversial natural gas and electricity issues being considered. In addition, Ms. Hesse has undertaken the tasks of reforming procedures at the Commission as well as administrative policies and staffing. However, much remains to be accomplished in these regards.

Dr. Stalon has served on the Commission since 1984, and is nominated to fill the remainder of the term expiring October 20, 1989. He has appeared before this committee on a number of occasions during his past 4 years, and has always demonstrated an understanding of the many complicated issues surrounding the various regulated and changing industries under FERC's jurisdiction.

Charles Trabandt has been nominated to his second term, to expire on October 20, 1992. Chuck is well-known to the Energy and Natural Resources Committee, having served on its professional staff for 8 years. During the past 3 years that he has served as Commissioner, he has demonstrated technical expertise and legal knowledge commensurate with the decisions faced by the Commission. During this period he worked closely with the other members of the Commission toward a reliance on the free market, something I believe will help ensure the energy security and economic wellbeing of this Nation.

Mr. President, another nominee comes to us directly from the staff of the Energy Committee, Elizabeth Moler. Betsy has served on our professional staff since 1976. During this time she has played a key role in the formulation of our country's energy laws relating to natural gas policy. She has gained national recognition for her expertise in energy policy, natural gas policy, and specifically the National Gas Policy Act of 1978 and our attempt in 1983 to amend that act. Betsy's term will expire October 20, 1991.

Our final nominee, Jerry Langdon, will serve a term expiring October 20, 1992. His professional career has been spent in the oil and gas industry, and he is presently a self-employed petroleum consultant.

Turning briefly to an issue discussed during committee hearings, Mr. President, I'm sure my colleagues share my belief that it is imperative that the Commission make timely and informed decisions on the many issues now pending before it. In order to do so, the Commissioners must be fully informed regarding the cases. All Commissioners must be aware of the factual information, analysis and legal information that has been made available to the Commission during the decisionmaking process. They not only must be up to speed on the details of individual cases, but they must understand the broad policy implications of individual decisions. The Commission's overall policies and objectives must provide the framework for decisions on individual cases. Access to the experience and expertise of individual Commission staff is essential in this regard. A more open flow of information within the Commission and its staff will facilitate a total participation in these important decisions.

The Commission was intended to be a collegial body which engaged in constructive dialogue between members so as to proceed in an orderly manner in the formulations of policies and the considerations of individual cases. If this environment is to be sustained, there must be constructive dialogue between Commission members in the scheduling of the agenda, as well as in setting overall policy of the Commission.

Mr. President, I would like to urge my colleagues to join me in supporting the confirmation of these five nominees to the Federal Energy Regulatory Commission.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

DISAGREEING TO TITLE AMENDMENT—S. 2393

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order to disagree to the title amendment to S. 2393, a message from the House acted on earlier today.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, does the distinguished Republican leader have anything further?

Mr. DOLE. I just make one comment, and that is to compliment the distinguished Senator from Maine, Senator MITCHELL, on what I thought was an excellent statement. Although I was not directly involved in the negotiations, I think it is fair to say he did the very best he could working with Members on each side of the aisle, and certainly this issue will be one of the first, I would guess, to come to us next year.

Both Presidential candidates have indicated it is time to act, and that we have had enough studies on this very important problem.

So I want to congratulate and compliment the Senator from Maine, Senator MITCHELL, and also my colleague on this side, Senator SIMPSON, who was acting in some of those discussions.

Mr. BYRD. Mr. President, I was not on the floor to hear Senator MITCHELL's statement. I have been involved in a meeting in my office with a large number of Senators. I will, of course, read it with great interest and will have some comment perhaps on the statement.

RECESS

Mr. BYRD. Mr. President, I ask unanimous consent the Senate stand in recess until the hour of 2 o'clock p.m. today to accommodate the two party conferences, and that the time during the recess be charged against the 30 hours.

There being no objection, at 12:49 p.m., the Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SANFORD).

The PRESIDING OFFICER. As a Senator from North Carolina, I observe that a quorum is not present. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

PARENTAL AND TEMPORARY MEDICAL LEAVE

The Senate continued with the consideration of the bill.

Mr. McCLURE. I ask unanimous consent that I may be permitted to speak out of order without my time being charged under cloture.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Reserving the right to object, I have no objection to my colleague speaking out of order. We have been trying to run the time, so I would prefer, if the Senator does not object, to have the 10 minutes run against the 30 hours under cloture.

Mr. McCLURE. I have no objection, if I might reserve the 10 minutes I otherwise would have under cloture at the end of the 30 hours.

Mr. DODD. The net effect is the same.

Mr. McCLURE. It would count against the 30 hours, but I would reserve 10 minutes for myself at the end of cloture.

Mr. DODD. The Senator has an hour under cloture at any rate.

Mr. McCLURE. Yes.

Mr. DODD. Under the understanding that it counts against the 30 hours under cloture, I have no objection.

The PRESIDING OFFICER. Without objection, but with objection as modified, it is so ordered.

Mr. McCLURE. I would modify my unanimous-consent request to reserve the 10 minutes to myself at the end of cloture that otherwise would have expired but the time to be charged against the 30 hours under cloture.

Mr. DODD. Reserving the right to object, and I do not want to object, we are trying to run the 30 hours. I think my colleague knows that. I am not trying to deprive him of any time to talk under cloture. We have 17 hours remaining, Mr. President. But I would like to maintain the process we have been working under for some 18 hours, or 14 hours at any rate. I reluctantly would have to object unless we count this time against cloture. I have 3 hours and I will be glad to yield my colleague 10 minutes of my time under cloture, reserving 10 minutes of my time for my colleague.

Mr. McCLURE. Mr. President, as I understand the cloture provisions, at the end of the 30 hours, a person who has not spoken on the bill is entitled to speak for 10 minutes. I do not want my speech now on another subject to have used up that 10 minutes I otherwise would have reserved at the end of the 30 hours. I have no objection to the time being charged against the 30 hours under cloture. I do not want it charged against my 10 minutes at the end of cloture.

Mr. DODD. Parliamentary inquiry. Is it correct that every Senator has 10 minutes to speak at the termination of cloture?

Mr. McCLURE. If he has not spoken.

The PRESIDING OFFICER. The Senator may not reserve 10 minutes, but certainly the Senator could have 10 minutes yielded to him.

Mr. McCLURE. Mr. President, as I understand the rule, if a Senator has not spoken during cloture, he is guaranteed at least 10 minutes.

The PRESIDING OFFICER. That is the correct rule.

Mr. McCLURE. That is the correct rule. What I was trying to do is reserve to myself that time.

The PRESIDING OFFICER. But there has been objection to that.

Mr. McCLURE. All right. I thank the Chair.

Mr. DODD. Will my colleague restate his request? As I understand it, if a Senator has not spoken on cloture during the 30 hours, then there is reserved to that Senator who has not spoken as much as 10 minutes.

Mr. McCLURE. That is right.

Mr. DODD. So his time would run against the 30 hours and obviously the Senator's rights in that period immediately on the termination of 30 hours would be protected for 10 minutes. With that understanding——

Mr. McCLURE. Under the unanimous consent, if granted, that would be correct. And that is my request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McCLURE. I thank the Chair. I thank the distinguished manager of the bill.

ALL OUR EGGS IN ONE BASKET?

Mr. McCLURE. Mr. President, last week, two hearings were held in the House of Representatives to look into the events in the P reactor in the Savannah River Plant in August. The second, a joint hearing before the House and Senate Governmental Affairs Committees, chaired by Senator GLENN and Congressman SYNAR, was reported in the October 1, 1988 issue of the New York Time. The article was titled, "Accidents at a U.S. Nuclear Plant Were Kept Secret Up to 31 Years." It notes that prior to an unexplained power surge at the P reactor last August, no one at the Department of Energy, which owns the reactors, was aware of over 30 other incidents that had occurred over the more than 30 years of operations of the SRP reactors. Some of these incidents were quite serious. They ranged from melting of a fuel bundle to large leaks in the vessels. I would like to submit this article for the RECORD.

However, Mr. President, I do not wish to belabor these problems. What I want to do is to highlight what I believe are three major issues regarding the Department of Energy and our nuclear materials production capability.

First of all, I want to emphasize a statement made at the joint hearing by the distinguished senior Senator from South Carolina, Mr. THURMOND, "The Savannah River Reactors are our only source of tritium." We must not forget this compelling and frightening truth, to which I add, they will continue to be our only source of tritium for the next 10 years. The need for these reactors to run and run safely for the next decade is vital to our national security. I can not emphasize this too strongly. We are very—terribly—vulnerable. Let this be a lesson to us. Let us never, ever again become dependent on one source for any part of our national defense.

Second, I would like to call attention to the testimony of several expert witnesses who reiterated that the reactor operators do not have adequate understanding of the reactors. Let me remind you that this lack of understanding exists in spite of 30 some years of operation. When Congressman SYNAR noted, "What we have here is an admission that that plant had been out of control for over 30 years," DOE could not disagree. In the most recent incident in the P reactor, there was a reactivity induced transient during startup and a small power pulse. Although the reactor shut itself down, it was restarted and was kept operating for over a week. DOE safety experts testified that the operating crew and the reactor engineer did not understand the events at the time, did not understand the phenomena involved, and yet they decided to continue running the reactor anyway. Furthermore, when interviewed, they indicated they would do so again under the same conditions.

This seems to me to demonstrate a mindset that I find alarming; not only for the currently operating reactors, but for the future reactor that is planned for the SRP. The DOE Energy Research Advisory Board panel recommended a heavy water reactor technology as a fast track solution to the urgent need to build new nuclear materials production capacity. The Secretary of Energy relied heavily on the ERAB panel's findings in making his recommendation for a two-reactor strategy. The driving force behind both recommendations was the panel's conviction that the HWR technology was the best known.

The panel noted the SRP reactors had operated over 30 years and accumulated over 130 reactor years of operating experience. The panel said there had been improvements in the system design that would increase the safety and efficiency of the reactor operations, and stated, "the reactor achieved high availability in operation with good operational safety, low personnel exposure, and efficient production." Discounting the fact that the power of these plants had to be derated last year for safety reasons, and one permanently shut down for a design-related failure, the panel praised the HWR, "The inherent features of the low-temperature HWR coupled with adoption of modern safety features available from light water reactor technology should insure achievement of reactor safety plus environmental protection equivalent to that of the best commercial reactors."

Obviously, neither the panel nor DOE were aware of information revealed at the September 30 hearing, that over a 17-year period, there were 9 to 12 forced shutdowns per reactor per year—forced shutdown is anything not planned, such as equipment failures or operational problems. There were also 30 incidents of greatest significance ranging from melting fuel bundles to undetected large leaks in the reactor vessels that I spoke of earlier.

Now I want to make it quite clear that I support the Secretary's recommendation for the two reactors at two sites. I also believe with the proper attention and with thorough reviews, the new HWR reactor can meet today's safety criteria. However, what I fear is the mindset that has prevailed at SRP for 30 years; a mindset that insists there are no problems with these reactors; a mindset that maintains these reactors can be easily and simply replicated. This mindset—that all is well—has sailed the ship onto the shoals. We cannot let this kind of thinking carry us into the future.

DOE has recommended a plan that provides our nuclear materials production capacity with quality and diversity. This plan also provides us with protection from those who are reluctant to acknowledge problems, lack technical inquisitiveness, and would pursue construction of only one reactor of a known technology. Only by building two technologies at two sites can we adequately protect this Nation from possible loss of supply due to sabotage or earthquakes, a genuine concern. For as Senator GLENN noted, the 1886 earthquake leveled 90 percent of Charlestown, SC, and the U.S. Geological Survey believes large earthquakes could still occur in the area—an area that includes the SRP.

Finally, I feel compelled to point out for the record, that the Department of Energy is making a sincere, concerted effort to identify and correct the problems in the defense complex. It was DOE that asked the National Academy of Sciences to investigate safety of the production reactors, it was DOE that established the Assistant Secretary of Environment, Health, and Safety, whose personnel testified about the problems at the hearings last week. It was DOE that appointed a safety oversight advisory panel, chaired by John Ahearne. It is true that DOE has been almost criminally slow, but it is finally acting. It was the present Secretary of Energy who grasped the nettle of providing new materials production capacity and made the proposal that will insure we have the necessary redundancy in the system for the future.

Mr. President, only hindsight is perfect. But we will be blind indeed, if we do not act upon the Secretary's recommendation. The problems experienced at Savannah River over the last 30 years ought to be proof enough of the perils of putting all our eggs in one basket.

Mr. President, I ask unanimous consent that the New York Times article of October 1, 1988, the Energy Daily article, "Cavalier Attitude to Safety at Savannah River Plant," October 3, 1988, and the Wall Street Journal article, "Savannah River Nuclear Plant Workers Had Cavalier Safety Ethic, Panel Told," October 2, 1988, be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 1, 1988]

ACCIDENTS AT A U.S. NUCLEAR PLANT WERE KEPT SECRET UP TO 31 YEARS

(By Keith Schneider)

WASHINGTON.—The Savannah River Plant in South Carolina, an enormous Government complex that produces fuel for the nation's nuclear weapons, has experienced numerous reactor accidents that have been kept secret from the public for as long as 31 years, two Congressional committees disclosed today.

The Energy Department responded to the disclosure by saying it had been unaware of the accidents, which occurred at all five of Savannah River's reactors, until inspectors began investigating a still unexplained power surge at one of them last August.

It is unclear whether the department's predecessor agency, the Atomic Energy Commission, knew of the accidents, which included the melting of fuel and one episode that resulted in extensive radioactive contamination.

NO COMMENT BY DU PONT

"It wasn't known by headquarters safety people," said Will Callicott, a spokesman for the department. The operator of the plant, the Delaware-based E.I. du Pont de Nemours & Company, had no comment when asked whether it had notified anyone in the Government of the accidents or the existence of a memorandum, obtained by the Congressional committees, that brought them to light.

Physicists interviewed today called the accidents among the most severe ever documented at an American nuclear plant. The 19-page memorandum, written by a plant supervisor to his superiors at Du Pont, did not say whether there had been any injuries or how many workers might have been exposed to dangerous levels of radiation. But nuclear experts said some of the accidents could have threatened public health or, had they gone uncontrolled, even destroyed the reactors, creating a disaster.

The incident in August and the memo raise anew questions about the willingness of the Energy Department to correct long-standing managerial and structural problems at the aging plant, which, with the shutdown of a production reactor in Hanford, Wash., two years ago, is now the nation's only source of plutonium and tritium, the two key radioactive elements used to manufacture nuclear warheads. Last year a panel of investigators from the National Academy of Sciences criticized the Energy Department for failing to apply or even clearly specify safety requirements at Hanford and Savannah River.

SELF-REGULATING PLANTS

Hanford and Savannah River, near Aiken, S.C., operated for years in secret and were essentially self-regulated. While the Government maintained regional offices at each plant, it left to the operators the responsibility for maintaining safe operations. Last year the Energy Department began an on-site inspection program in an effort to improve operations.

By contrast, the Nuclear Regulatory Commission has long imposed stringent regulations on operations at civilian nuclear reactors.

The memo, and several more recent ones written by Energy Department inspectors, describe a striking complacency at the Savannah River Plant. They were made public today at a joint hearing of the Senate Committee on Governmental Affairs and the House Government Operations Subcommittee on Environment, Energy and Natural Resources. Both committees have been investigating conditions in the Energy Department's nuclear weapons production program.

SYNAR ASSAILS AGENCY

"This hearing is about an institution and attitudes which are driving our nation's nuclear weapons program to the brink of disaster," said Representative Mike Synar, the Oklahoma Democrat who heads the Government Operations subcommittee. "What we have here is an admission that that plant had been out of control for over 30 years."

The Energy Department said it could not disagree. "There's still a lot of upgrading that needs to be done," said Bill Kaspar, the department's manager of operations in Aiken.

The memorandum describing the accidents that came to light today was written on Aug. 14, 1985, by G. C. Ridgely, a technical supervisor and physicist employed by Du Pont. Mr. Ridgely was one of 11 Du Pont scientists and engineers who, apparently in response to one such accident at Savannah River, looked at the history of the plant and ranked 30 "incidents of greatest significance" that occurred at the five reactors from 1957 to 1985. His memorandum summarizes each incident.

Jerry Hulman, a safely specialist with the Energy Department, said in testimony before the Congressional committees today that the department had the Du Pont team's full reports on some of the accidents but that other reports could not be found. He suggested that these "may have been destroyed" at Savannah River. Du Pont again declined comment.

Among the accidents summarized in the memorandum were these:

A melting of fuel rods in the C Reactor in December 1970. The accident occurred during an attempt by technicians to start the chain reaction inside the reactor. The reactor, however, automatically shut down because the flow of cooling water was too low and the reactor was overheating. But instead of investigating the cause of the shutdown, the operators tried three more times, without success, to start the reactor. The heat generated during the attempts melted the fuel assembly.

Nuclear engineers said in interviews today that the melting of fuel was a serious accident that could lead to meltdowns of the reactor core, a scenario that occurred in the 1979 accident at the Three Mile Island generating station in Pennsylvania.

An accident in November 1970 that released huge amounts of radiation in a room, adjacent to the K Reactor, where cooling water is filtered. Nine hundred workers spent three months in a highly contaminated environment cleaning up the radiation, the memo says. This accident was caused by the melting of a vital reactor component known as a source rod. The rod, made of a mixture of antimony and beryllium, is a source of neutrons to start the nuclear chain reaction. The memo does not say why the rod melted but does indicate that the accident was made more severe by technicians' ignoring a radiation alarm for two hours.

During full power operation of the C Reactor on May 10, 1965, a "very significant leak" developed that spilled 2,100 gallons of cooling water on the reactor vessel floor. The level of cooling water within the reactor fell precipitously, but the reactor automatically shut itself down, said the memo. Cooling water is vital to regulating the temperature of reactor components and preventing meltdown. The memo said personnel were not aware of the leak until they saw it spilling onto the floor of a room adjacent to the reactor. Again, said the memo, an alarm was disregarded for 15 minutes, and "operating personnel failed to take proper corrective action until reactor technology personnel reminded them to do so."

The most severe accident occurred on January 12, 1960, when technicians were attempting to restart the L reactor after it had shut itself down automatically. By pulling safety rods and control rods, technicians were able to achieve a chain reaction that very nearly went out of control, said nuclear experts today. The reactor increased its power ten times faster than was considered safe. The memo does not say how technicians gained control over the reaction, but said "numerous procedure violations were made."

The events that led up to the 1960 accident appear similar to those that occurred last August at the plant when technicians tried to start the P Reactor after it had been out of service for four months. Reactions are regulated by control rods that absorb atomic particles known as neutrons. Pulling the rods from the reactor core allows neutrons from atoms of uranium to bombard other uranium atoms knocking free more neutrons. The reaction multiplies until an atomic chain reaction is achieved.

The procedure for pulling control rods from a reactor core is normally performed under rigorously controlled conditions. Calculations are made to estimate how many rods should be manipulated and how far they should be pulled. Failing to perform the activity carefully can result in a runaway reaction and in the worst case a dangerous core meltdown.

[From the Energy Daily, Oct. 3, 1988]

TRANSMISSION REPRICING NO PANACEA, STALON SAYS

(By Aviva Freudmann)

The monopoly power that electric utilities have over the transmission system gives them an incentive to operate it in a way that is inefficient for the nation as a whole, Federal Energy Regulatory Commission member Charles Stalon said in a speech in Washington late last week.

The incentives that produce socially inefficient use of transmission facilities will continue to operate even if regulators find a better way to price transmission services, Stalon told a conference organized by the Electricity Consumers Resource Council. While pricing reform is important, he said, the real answer to the inefficiency problem is for federal regulators to weaken electric utilities' monopoly power over transmission.

"I think it is necessary to deflate certain unrealistic expectations" regarding pricing of transmission services, Stalon emphasized. "Even if we were to price wheeling precisely correctly. . . . we still are a long way from achieving the kind of efficiency we want out of the system."

The economics of the industry are such that utilities make most of their profit on the generating side, he said. Similarly, utilities have more to lose from inefficient use of generating facilities than they stand to lose from inefficient use of transmission facilities: "The potential loss in the firm for inefficient utilization of its generating side is horrendous, while the risk of substantial loss for inefficient utilization of the transmission side is peanuts."

The management of an electric utility will most likely recognize that there is not much in the way of economies of scale left on the generating side, and therefore not much natural monopoly left there, Stalon noted. But it will also recognize that "there is a great deal of monopoly power on the transmission side."

A rational management will use its transmission monopoly to get the most out of its generating assets, where the financial stakes are higher, he continued. "And that means that [the utility] is going to use its transmission assets to protect what monopoly power it's got in the selling of power, and preserve its privileged role in other markets as best it can."

Therefore, Stalon continued, "no matter how brilliant we price transmission, if we did it perfectly, if we get next week's Nobel prize in economics (assuming that they are concerned with our problem, which is most unlikely in the field today)—what we would find is, the rates that we establish are not likely to induce a utility monopolist to engage in much more transmission than under our so-called embedded cost pricing."

Instead of focusing exclusively on pricing, FERC should try a similar approach to the one it used in the natural gas pipeline business, Stalon said. FERC's response to pipelines' monopoly control over gas transmission was to try "to force an untying of the tie between the merchant role and the transportation role."

The commission has not achieved all the policy goals it set out to accomplish in its Order 436 program, but it was still "an adequate approach," Stalon argued. "We tried to do something there that I think we will have to think seriously about and see if we can do on the electricity side."

If FERC succeeds in breaking the connection between the monopoly gas transportation function and the non-monopoly merchant function, then "the pipeline will gain strong incentives to make efficient use of its assets, because the pipeline is no longer responsible for marketing the gas," Stalon explained.

The same general principle applies to the electric industry, although the technical issues are more complex, the FERC commissioner observed. "It seems to be a great deal more difficult on the electricity side to define a commodity called transportation service and to think in terms of creating a market for that transportation service."

There is also the issue of reliability on the electric side, an issue that is difficult to evaluate, he noted: "This term has been used over and over again. The only clear lesson that I can draw out of my reading so far . . . is that people who are using this term against [reform efforts] have learned one of the important lessons in American society from President Warren Harding. President Harding said at one point that he didn't know much about Americanism, but it was a damn good word with which to win an election."

The main problem of the U.S. electricity system is that, "because of its lack of an efficient [inter-regional] trading system, it is designed to optimize components but it lacks an efficient mechanism to optimize the whole," Stalon said.

Each utility has no choice but "to optimize within its own constraints," he added. "In order to do that, it tends to confuse, and confuse badly, cost savings which are real economic cost savings and cost savings that are nothing else than shifting of costs. Our problem is to convert that desire to lower the cost to yourself and your customers into a reduction in real costs to the system as a whole."

This is a problem that can only be addressed at the federal level, he pointed out. Unlike individual utilities, state regulators and state congressional delegations, FERC is in a position to press for inter-regional trading in electricity that "will work to the benefit of all," he argued.

The first efforts that FERC should take in creating an efficient inter-regional trading system should be aimed at breaking down some of utilities' monopoly power over transmission, Stalon said. But regulators will need to propose a package of reforms, including measures to improve pricing practices for transmission services, bulk power sales and requirements service.

Among other measures, FERC may propose incentives to induce utilities to build new transmission capacity, Stalon told the meeting: "We have heard a lot of arguments that there is no excess capacity to speak of on the transmission system. We ought to build more, then. But we have to have incentives to build it."

Although a package of proposals is needed, FERC works best when it does things sequentially, he added: "The FERC, by its very nature, finds it difficult to do more than one thing at a time. The old 'walking and chewing gum' joke (if it had an institutional counterpart) would fit. The procedural relationships tell us that things that logically ought to be done simultaneously, we have to break up and do sequentially.

"And as a consequence, we all too frequently find ourselves in a position that my grandmother described as 'one jump across a two-jump creek.' "

[From the Energy Daily, Oct. 3, 1988]

CAVALIER ATTITUDE TO SAFETY AT SAVANNAH RIVER PLANT

(By Dennis Wamsted)

E.I. du Pont de Nemours and Company's operation of the Savannah River nuclear weapons facility as well as the Department of Energy's safety-related oversight of the weapons producing facility were lambasted by a host of witnesses and congressmen at a hearing on Capitol Hill on Friday.

The attitude toward safety among the reactor operators at Savannah River is "cavalier," Robert Keller, a veteran of the nuclear Navy and now a senior nuclear engineer in DOE's office of safety policy and standards, told a joint hearing of the House Government Operations and the Senate Governmental Affairs committees. The facility's reactor operators "do not have adequate understanding of the basic principles that would allow them to make a good decision" in the event something abnormal occurs at the reactor site, added Robert Smith, the onsite resident for DOE's Environment, Safety and Health division.

More extensive criticism was detailed in a memorandum written by Richard Starostecki, DOE's deputy assistant secretary for safety, health and quality assurance, in mid-September regarding an August incident at the site during an attempted restart of the 'P' reactor. The event did not represent "an immediate safety threat," Starostecki wrote. "Notwithstanding, there was a more serious problem. The operating crew and reactor engineer did not understand the events at the time, did not understand the phenomena involved and [still] . . . elected to continue reactor start-up and operations." Further, interviews at the site indicated that operators would handle the situation in the same manner if it recurred. "[This] demonstrated lack of technical inquisitiveness and caution raises the question of adequacy of management controls to assure conservative, safe decisions toward operation," Starostecki wrote.

However, the problems don't simply exist within the control rooms at Savannah River, the DOE official continued. the real issue isn't this one incident: "The more serious issue deals with an institutional problem and attitudes toward safety," Starostecki wrote: "There are currently some senior managers within the department with an attitude toward production reactor safety, which on the face seems to be similar to that which existed in the space program prior to the Challenger accident."

The attitude of many of these officials, he added, is that DOE's production reactors are presumed safe unless demonstrated otherwise. "The presumption appears to be based upon historical experience and reliance on outdated safety analyses," Starostecki wrote: "Even when problems are identified there is a reluctance to acknowledge them."

This mindset was attacked by Rep. Mike Synar (D-Okla.), chairman of the Government Operations environment, energy and natural resources subcommittee, who chaired the joint hearing. "Today's hearing . . . is about an institution and attitudes which are driving our nation's nuclear weapons program to the brink of disaster," the Oklahoma Democrat noted in his opening statement. DOE's handsoff management style has enabled its contractors to "become insulated and complacent, leading to an erosion of the values of safety and quality."

The operators running the reactor during the attempted August restart were "out of control," Synar continued: "They had no idea whether the condition of the reactor was safe or posed a serious threat to them or the public. What's more, they did not care."

Senator John Glenn was equally critical of DOE's operations at Savannah River. "DOE has fought tooth and nail against my legislation to establish independent, outside oversight of their facilities," he said, adding pointedly that if he were secretary of energy he would push for such outside oversight. "They [the reactor operators] just flat didn't know what was going on in the reactor," Glenn charged.

Adding his voice to the chorus of complaints was Dexter Peach, the General Accounting Office's assistant comptroller general in the resources, community and economic development division. "It appears that the contractors are really in control, rather than DOE," Peach told the joint panel. "We now believe we may have been too optimistic in the past year or so about DOE's progress in addressing environmental, safety and health issues. . . . A complacent attitude [toward safety] still exists within DOE." These problems highlight the need for improved line management accountability for safety-related issues and the need to establish an independent oversight body, Peach continued.

[From the Wall Street Journal, Oct. 2, 1988]

SAVANNAH RIVER NUCLEAR PLANT WORKERS HAD CAVALIER SAFETY ETHIC, PANEL TOLD

(By Paulette Thomas)

WASHINGTON.—The Energy Department gave Du Pont Co. free rein to run a nuclear weapons plant, where workers were cavalier about safety, training and anomalies in a reactor, a congressional hearing was told.

The comments followed an investigation by the General Accounting Office into a reactor shutdown in August at the Savannah River, S.C., nuclear power plant, where fuel for nuclear weapons is made. Du Point has operated the plant for the department since 1950.

The company, which is based in Wilmington, Del., denied that safety has been compromised, and said no employees have ever missed work due to injury. "Our commitment to the safe operation of the Savanannah River Plant, the safety of our employees and the protection of public health and safety at Savannah is unyielding," a spokesman said. Du Point announced two years ago it would cease its operations at the facility when its contract with the Energy Department expires next April. Westinghouse Electric Corp. was awarded the $6.7 billion contract to manage the plant.

GAO officials said they had uncovered a pattern of laxity on safety issues at the plant, saying there were 30 safety-related incidents at the plant between 1957 and 1985. In an incident in August for example, operators continued raising power when they didn't understand what was happening in the reactor. Under regulations that commercial nuclear plants must follow, the reactor would have been closed as a precaution.

The incident proved to be minor, and the public was in no danger, said Dexter Peach, assistant comptroller general at the GAO, the investigative arm of Congress. "But the operators didn't know that for sure," said Mr. Peach. "They forged ahead without understanding what had caused it, and therein lies the safety problem."

Moreover, he added, no one in the Energy Department or Du Pont knew what was going on.

A senior nuclear engineer with the Energy Department, who investigated the incident, told the hearing. "At the time I was there, I would use the term seat-of-the-pants or cavalier" to describe the overall safety ethic at Savannah River. The engineer, Robert W. Keller, said, "It appeared that the reactor was behaving strangely, and the contractor did not seem to be concerned or interested in investigating the problems."

The Savannah River plant, where tritium and plutonium are manufactured, is one of 17 U.S. nuclear plants used for researching and testing weapons. In recent years, the Energy Department has come under increased congressional scrutiny for the way it oversees its contractors. The department has been under pressure to upgrade the safety of its plants since the accident at the Chernobyl plant in the Soviet Union.

Mr. McCLURE. Also, Mr. President, I would like to call attention to a follow up article in the New York Times, October 4, 1988, titled, "Energy Dept. Says It Kept Secret Mishaps at Nuclear Weapons Plant." The article states that DOE has accepted responsibility for keeping secret the accidents I have mentioned here. The 1985 memo by a DuPont scientist that was discussed in the hearing testimony was submitted to the DOE regional office in Aiken, SC. However, it never reached the Secretary of Energy or his deputies. DOE is investigating the matter. Mr. President, I ask unanimous consent that this article also be placed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 4, 1988]

ENERGY DEPT. SAYS IT KEPT SECRET MISHAPS AT NUCLEAR WEAPON PLANT

(By Keith Schneider)

WASHINGTON, Oct. 4.—The Department of Energy said today that it was responsible, along with its predecessor, the Atomic Energy Commission, for keeping secret from the public a number of serious reactor accidents that occurred over a 28-year period at the Savannah River Plant in South Carolina.

The Energy Department exonerated E. I. du Pont Nemours & Company, the operator of the enormous nuclear plant, from responsibility, saying the company had fulfilled its obligation to notify the Government about the incidents. The department spokesman, C. Anson Franklin, said Du Pont had notified the regional office in Aiken, S.C., near where the plant is situated, but the information apparently never made its way to to the Secretary of Energy or his deputies in Washington.

PROBLEMS ARE DEEPLY ROOTED

Moreover, a memorandum written in 1985 by a Du Pont scientist to his superiors summarizing 30 "reactor incidents of greatest significance" at the Federal nuclear weapon plant, which included the melting of fuel and extensive radioactive contamination, was never acted on. The Energy Department said it was seeking to determine why nothing was done about the memorandum.

The Energy Department said the failure to disclose the problems illustrated a deeply rooted institutional practice, dating from the days of the Manhattan Project in 1942, which regarded outside disclosure of any incident at a nuclear weapons production plant as harmful to national security.

Lawmakers and top managers at the Energy Department said today that the agency was torn by conflicting views of what sorts of events at the plant should be made available to the public. The conflict is dividing Secretary of Energy John S. Herrington, an advocate of more stringent safety procedures and public candor, and many of the agency's managers stationed at field offices near the 17 laboratories and production facilities that make up the weapon production complex.

"I have no reason to doubt Du Pont's statements that they provide information on these incidents to the Department of Energy and our predecessor agencies," said Mr. Franklin, Assistant Secretary for Congressional, Intergovernmental, and Public Affairs. "I don't think it's fair or accurate to suggest that they kept these incidents secret from the Energy Department."

Mr. Franklin was responding to disclosures made in a Congressional hearing last Friday that numerous reactor accidents had occurred at the industrial complex in South Carolina from 1957 to 1985 and had not been brought to the attention of the public. The accidents, which included the melting of fuel, extensive radioactive contamination, and significant leaks of reactor core cooling water, were summarized in a memorandum written in August 1985 by a scientist to his superiors at Du Pont.

Du Pont, which built the 192,323-acre plant and has operated it for the Government since 1952, said yesterday that it had described the accidents in technical reports on the plant's operations that it sends each month to the regional field office in Aiken.

"We're the contractor here," said Clif Webb, a spokesman for Du Pont. "We operate the facility because we have been asked to operate it. We do what they ask us to do. It's not appropriate for Du Pont to tell the Energy Department how to manage its internal documents."

GLENN URGES END TO SECRECY

Senator John Glenn, a Democrat of Ohio, said that the Energy Department needs to work harder to the secrecy that has dominated the weapon production plants since the start of the Manhattan Project, the supersecret Government project to develop and build the atomic bomb.

"What happened here is at the heart of the whole problem with this agency and these plants," said Mr. Glenn, who is chairman of the Senate Committee on Governmental Affairs. The committee has been investigating conditions at Energy Department defense plants for nearly four years. "Since its founding days, it's operated mainly in secret. It's evident now that concerns over safety, the environment, and health did not matter at all during those days. All they wanted was production. But people have a right to know what kinds of conditions they are working in and living near."

The accidents occurred at five reactors that form the core of the operation at the Savannah River Plant, which employs 16,700 people and accounts for 21 percent of the $7.75 billion the Energy Department intends to spend next year on weapon programs. Among the accidents that occurred at the reactors were a number of unexplained power surges that threatened to go out of control. In one incident on Jan. 12, 1960, the reactor increased in power more than ten times faster than was considered safe.

In another accident in November 1970, a radioactive rod that was a source of neutrons to start the atomic chain reaction in one reactor melted. A processing room adjacent to reactor where cooling water was filtered was thoroughly contaminated with radiation. It took 900 people three months to clean up the contamination.

And in December 1970, a fuel assembly melted in another reactor. Melted fuel is considered among the worst accidents that can occur in a nuclear reactor; it can lead to the meltdown of the reactor core and releases of large amounts of radiation into the environment.

Mr. Anson said it has not been determined why the memorandum that summarized the accidents was not made available to officials in Washington.

"This report was somewhere in the D.O.E. system," said Mr. Franklin. "It did not pop up to senior management. Why. We don't know. We're trying to find out. This is the type of thing that has been happening that we are trying to address. Things are not getting kicked up far enough in the system."

Mr. Franklin said that Mr. Herrington has sought to eliminate much of the secrecy since becoming Energy Secretary in February, 1982. Mr. Herrington, said Mr. Franklin, appointed an Assistant Secretary for Environmental Health and Safety to address concerns about enormous quantities of toxic and radioactive wastes that have accumulated at such laboratories and weapon production plants as Savannah River.

Mr. Herrington also established a new office to inspect safety and health conditions at the defense nuclear plants. An inspector in the office, Jerry Hulman, directed the investigation last August of another reactor incident at the Savannah River that led to the discovery of the memorandum.

Mr. Franklin said the Energy Department has complete control over whether to disclose information about accidents to the public. He said a written policy instituted when the Energy Department was established in 1978 calls for the agency to fully disclose any accident involving the release of radiation into the environment. He said that Mr. Herrington has urged agency officials in Washington and in the field offices to be more forthcoming about other incidents, particularly those as serious as the accidents that occurred at the Savannah River plant.

"It's accepted around here that this entire program was directed out of the secrecy of the Manhattan Project,." said Mr. Franklin. "The recognition that there is a responsibility for more public accountability is coming belatedly to the Department of Energy.

"We've had a major turnaround up here," Mr. Franklin continued. "Our heart is in the right place. But we're having trouble getting the message out to the field. Translating the policies developed by the Secretary into action all the way down the system is taking longer than we would like it. It continues to be our biggest problem."

Representative Mike Synar, Democrat of Oklahoma who is chairman of the House Government Operations Subcommittee on Environment, Energy and Natural Resources, said the Energy Department is damaging its image on Capitol Hill and in states in which it operates weapon plants by not acting faster to be more forthcoming about safety mishaps.

"Our hearing clearly showed for over 30 years these accidents were due to unsafe conditions and bad attitudes about safety on the part of the Government and Du Pont," Mr. Synar said. "Until this is corrected, none of these reactors should be restarted. It takes a serious investigation like this to get the Energy Department to recognize decades old problems, and we've seen this pattern time and time again over the last eight years. They have a serious attitude problem with respect to the management of these plants and with respect to safety."

Mr. SYMMS addressed the Chairman.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I ask unanimous consent to speak out of order.

The PRESIDING OFFICER. Is there any objection to the request of the Senator to speak out of order with the time to be charged against the 30 hours?

Without objection, it is so ordered.

HERRINGTON'S REACTOR PLAN: A 2-FOR-1 BARGAIN

Mr. SYMMS. Mr. President, last August, the Secretary of Energy, John Herrington, made a bold and courageous proposal to Congress that will have a positive and long-reaching effect on the Nation—far into the next century. Mr. Herrington asked Congress to approve a two reactor strategy for the Nation's nuclear material production capability.

I commended Mr. Herrington at the time he made this recommendation. Several of his predecessors ducked the issue of replacing the aging production reactors that supply the Nation with the vital materials to keep our nuclear deterrent strong. I am pleased to read in the September 19 issue of the Defense News, that Frank Gaffney, Jr., former Assistant Secretary of Defense, also applauds the Secretary's recommendation.

My colleague, the senior Senator from Idaho, Jim McClure, has brought the Gaffney article to the attention of this Senate. However, I would like to second the comments made by both Gaffney and Senator McClure.

It has become quite clear over the past year or so that the Nation's defense complex is extremely fragile, and we are most vulnerable to disruption of our tritium supply. Gaffney makes our vulnerability appallingly clear when he says:

> It is hard to overstate the importance of a reliable supply of tritium to the U.S. deterrent posture. This material decays rapidly. Consequently, in order to maintain their design effectiveness, the tritium in nuclear weapons must be replaced approximately every 12 years. Put differently, unless the United States can reliably replace its constantly degrading tritium supplies, every single nuclear weapon in the U.S. stockpile could be rendered unusable within a finite period.

Mr. President, I find that a very compelling argument to support Secretary Herrington's proposal. Because we have no back up to the two 35-year-old reactors presently producing tritium, our national security is at risk right now. The Secretary wants to make sure we are never again faced with such vulnerability—such risk.

For those who long to see the day when we can acquire more arms reduction proposals with our chief adversary, the Soviet Union, the nation that does provide the biggest threat to peace and freedom in the world, if they think we can do that without having a long lasting available supply of tritium, there would be no reason for the Soviet Union to negotiate with us under those kinds of circumstances.

That is why the Secretary is proposing to build two types of production reactors, of different technologies, at two widely separated locations. The first would be a heavy water reactor, similar to the currently operating reactors, at the Savannah river plant in South Carolina. The second would be a technology known as high temperature gas-cooled reactor [HTGR] at the Idaho National Engineering Laboratory. Gaffney finds this the "more exciting aspect of the plan," and so do I. The HTGR is an exciting concept, it is modular, so that increments can be added according to funds and materials needs.

You do not have to build one giant, massive reactor. You can build modular reactors in the size range of about 140 megawatts. It will, in addition to producing tritium for our Nation's supply of deterrent to prevent the threat of nuclear war and preserve our peace and freedom, generate steam for electricity which can be sold to defray most, if not all, of the costs of construction, and "most importantly" as Gaffney notes, the HTGR utilizes passive safety features. It is said to be immune to cooling accidents or the risk of nuclear meltdown.

Thus, Herrington's plan extends beyond today's crucial, but single issue of vulnerability. I agree with Gaffney's conclusions that "the HTGR has the potential to revolutionize the U.S. civilian nuclear technology to the position of global leadership it once employed."

Mr. President, we often forget but we were the leaders in the world, on the cutting edge of the nuclear industry. It was the old Atoms for Peace Program, started during the Eisenhower years, when America led the way, and if we could restore the initiative with the high-temperature gas cooled reactors we could develop modular nuclear electrical powerplants at a very reasonable cost and with absolute foolproof means of safety against cooling accidents and also against meltdowns. So this gives the United States, as Mr. Gaffney says, "two-fer." We get tritium and we make a serious national commitment to develop and "promote a publicly acceptable nuclear power technology."

Gaffney fears that a coalition could develop between those who oppose our nuclear strength and those who, for budgetary or parochial reasons, resist this two-for-one plan. If that happens, he warns us, "the long-term national interest will be profoundly disserved."

I believe Mr. Gaffney, in this article, has done the Nation and this Congress a real service in calling this possibility to our attention. I hope we have the wisdom to endorse and support Secretary Herrington's plan.

At this point in the RECORD, Mr. President, I ask unanimous consent that an article from Defense News by Frank Gaffney, Jr., be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Defense News, Sept. 19, 1988]

HERRINGTON'S REACTOR PLAN: A 2-FOR-1 BARGAIN

[By Frank Gaffney, Jr.]

On Aug. 3, Secretary of Energy John Herrington made a historic statement. He announced a far-sighted, responsible program for addressing the United States' long-term needs for special nuclear materials (SNM) essential to the future viability of the U.S. nuclear deterrent.

In so doing, Herrington grasped a nettle his predecessors had been successfully dodging for years: How, where and with what technology will new SNM production requirements be met? Specifically, he recommended an approach to preserve the United States' ability to produce the crucial and relatively perishable ingredient in modern nuclear weapons, tritium.

It is hard to overstate the importance of a reliable supply of tritium to the U.S. deterrent posture. This material decays rapidly. Consequently, in order to maintain their design effectiveness, the tritium in nuclear weapons must be replaced approximately every 12 years. Put differently, unless the United States can reliably replace its constantly degrading tritium supplies, every single nuclear weapon in the U.S. stockpile could be rendered essentially unusable within a finite period.

For its tritium supply—as for most of its other components—the U.S. nuclear deterrent is critically dependent upon the infrastructure which designs, produces, maintains and disposes of the weapons that comprise its arsenal. Increasingly, however, that infrastructure has become vulnerable to catastrophic failure. The original redundancy and robustness that characterized the nuclear weapons complex established in the early postwar years has gradually given way to unique, aging facilities, virtually every one of which is essential to the ability of the complex to perform its missions.

Today, only two plants, the "K" and "P" reactors at Savannah River, S.C., currently produce tritium for the U.S. nuclear weapons program. Both are roughly 30 years old—well beyond their design life—and are currently obliged to function at half-power, pending the completion of elaborate safety checks. Incredible as it may seem, given what is at stake, there is no backup for these reactors.

As has often happened with decisions affecting other aspects of the national infrastructure (roads, bridges, etc.) the extremely expensive, politically difficult choices of design and location of a replacement production reactor have been repeatedly deferred. Of late, the mounting demands placed upon the Department of Energy weapons complex's capital investment budget by environmental, safety and health-related expenditures have exacerbated the problem. The Government Accounting Office recently judged that an additional $110 billion would be required to "clean up" the complex. If anything, pressures to postpone new construction and non-environmental, safety and health-associated modernization will grow in the future.

Unfortunately, even in the absence of such pressures, it takes a frightfully long time to bring new reactors on line. It may be 10 years before the capacity of the Savannah River reactors can be replaced. In the face of budgetary and political constraints, that period might become even more extended—with grave implications for the U.S. nuclear inventory.

Herrington, acting upon the recommendations of a technical review panel, has laid out a bold plan for correcting this dangerous situation. He proposes to build two types of production reactors, featuring fundamentally different technologies, at two widely separated locations. The first, to be constructed at the Savannah River site, will be an updated version of the existing heavy-water design approach. It can draw upon a compatible, existing infrastructure at that facility and should be able to meet 100 percent of envisioned tritium requirements.

The more exciting aspect of the Herrington plans is its call for a second reactor to be developed at the Idaho National Engineering Laboratory, near Idaho Falls. This facility, featuring a very different technology, is known as a High Temperature, Gas-Cooled Reactor (HTGR). The principal attributes of this technology are: The HTGR involves a modular design, offering considerable flexibility optimizing the reactor's configuration. It has the ability to generate steam for electricity as well as having the capacity to meet 50 percent of the projected requirement for tritium. Most importantly, perhaps, the HTGR utilizes passive safety features. It is said to be immune to cooling accidents or the risk of nuclear meltdown.

Two reactors, two designs, two locations—it adds up to greater reliability and robustness in a vital defense resource. But the reason this plan testifies to Herrington's vision and leadership goes well beyond the virtues of his common-sense approach to a tough national security problem. The HTGR has the potential to revolutionize the U.S. civilian nuclear power industry and restore U.S. nuclear technology to the position of global leadership it once enjoyed.

While there have been some relatively small-scale efforts made in the past to develop high-temperature, gas-cooled reactors, national commitment have been made to this technical approach. As a result, the know-how and infrastructure needed to make inherently safe nuclear power a commercially viable option has never developed in the United States.

If Congress has the wisdom to endorse the Herrington plan, it will take the long-overdue steps needed to safeguard the United States' ability to maintain a credible nuclear stockpile. It will also be getting a nuclear "two-fer:" For the price of building a robust ability to produce the tritium upon which the arsenal depends, the United States can promote a publicly acceptable nuclear power technology. In the aftermath of the Chernobyl catastrophe in the Soviet Union and the Shoreham fiasco in the United States, the option for inherently safe nuclear power makes good political and economic sense.

There is, however, a considerable danger that a marriage of convenience could be forged between those who oppose U.S. nuclear strength—and see the coming crisis in tritium production as a boon to their disarmament efforts—and those who, for budgetary or parochial reaxons, will resist the Herrington proposal for a second new reactor. If such a coalition should emerge and succeed in killing off the HTGR—or, for that matter, both reactors—the long-term national interest would be profoundly disserved.

IDAHO NATIONAL ENGINEERING LABORATORY

Mr. SYMMS. Mr. President, I would like to call attention to the Senate that in the last days before the Senate recessed, my distinguished colleague from Nevada, Senator Reid, bestowed upon the Department of Energy the "Globe Rotter Environmental Hall of Shame Award" to the Idaho National Engineering Laboratory, and a number of statements made by the junior Senator from Nevada simply cannot be left to stand alone in the Record.

I discussed with the Senator from Nevada where I thought his comments were in error, inaccurate, and presented a very incorrect picture of what has happened and stirs up the emotionalism of people quite incorrectly. I think that some of those areas should be clarified and corrected in the Record so that the statement from our distinguished colleague is not left without rebuttal.

My distinguished colleague painted a picture of horror showing the INEL gleefully, purposefully polluting the State's ground water, callously and carelessly throwing out nuclear trash to be carried away by the wind, and behaving this way in the dark secret of the night.

Nothing could be further from the truth. If DOE had acted in this manner, the Senators from Idaho would have called foul long ago. The true story of waste management at the INEL is much brighter and, of course, more complex.

The INEL has been in Idaho since 1953. Secretary Herrington recently called it the "Jewel in the crown of the DOE complex". It is also the largest such facility, 900 square miles, almost the size of Rhode Island. That land, by the way, is an environmental park where pigmy rabbits, eagles, hawks, and antelope roam free and protected against hunting and the encroachments of land development.

Since the INEL was established, the lab has made significant contributions to the Nation—and the world. The prototype of the *Nautilus*, the first nuclear submarine, was developed there and over the years, almost two-thirds of the nuclear navy has trained at the INEL. The first nuclear reactor in the world to generate electricity was developed and built at the INEL. It is now a museum, visited by thousands each summer. Nearby on the northwest side of the INEL facility is the town of Arco, ID, which is the first city in the United States to be lighted by atomic energy. The bulk of reactor safety research that supports the Nuclear Regulatory Commission's decisions was conducted there.

The INEL was the first lab in the DOE complex to find a satisfactory, safe method in which to handle and store its high level liquid waste, with calcining technology that reduces the liquid to one-eighth the original volume and dries it to a stable, grandular substance. This is stored in stainless steel bins with a life expectancy of 500 years. And that is not called a long-time storage plant. This is an example of the innovative and responsible waste management work the INEL has performed for many years.

As soon as the INEL was established, the National Oceanic and Atmospheric Administration began monitoring the air around the complex; the U.S. Geological Service began monitoring the ground water there. This water is primarily contained in an enormous, very slow moving Snake River aquifer that lies 500 to 600 feet below ground level. The water takes about 200 years to travel from the upper southeast corner of the State to the lower middle part where it comes to the surface in a thousand springs below Twin Falls, ID, along the Snake River where so many of the fine trout that people eat in restaurants are grown in the water that comes out at Thousand Springs that is 55 degrees and ideal for trout production. I have heard people describe this aquifer as larger than Lake Michigan.

Over the years, DOE has established an independent laboratory to monitor all the environmental aspects of the INEL, to make sure that no effects of the lab work are passing the boundary lines of the site. Every quarter, a report on this monitoring is published, and it has always been reassuring. The INEL was the first DOE lab in the system to develop a memorandum of understanding with the Environmental Protection Agency that will provide for interaction with that Agency. The lab also expects to involve the State and the State's universities in a monitoring program of the INEL.

In my opinion, Mr. President, that is not the style of an agency as quoted in the comments of my colleague form Nevada as a "callous disregard for the environment and the quality of life."

In 1954, INEL agreed to accept waste from the Rocky Flats weapons operation. This waste—namely clothes, paper, plastic, and the residue of water treatment—a resin like material—might have been disposed of in shallow land burial, except that it has traces of a transuranic contamination. It requires special storage. Transuranic means those elements that are man made, like plutonium or americum. Since 1960, this waste has been stored in steel drums lined with heavy polyethylene, on an asphalt pad, covered with an air support dome. The INEL stores this waste as a service to the Government and in the interest of our national security. However, DOE has made a commitment to move the waste to a permanent repository.

That commitment is one that we in Idaho believe DOE and the Federal Government and our neighbors to the south in New Mexico where the WIPP facility is should try to live up to because it has been planned, it has been carefully laid out, and it is an issue that is ridden with politics and emotion. But as far as the technology is concerned and the ability to store these transuranic waste, these clothes and other products that have had some contamination, it is certainly within our technological means to store these products in a safe fashion so there is no risk to water supplies or no risk to the public health and safety of our people.

This is the way INEL handles the TRU waste now. Unfortunately, that was not the case for 16 years, from 1954 to 1970. This waste was stored in boxes and drums, but piled into trenches and covered. Now everyone knows this is not a good method. But when the practice began, we did not have that knowledge. Several floods came and some of the boxes broke, and unfortunately, some of the material in the trenches has migrated below the ground's surface. Through a monitoring program initiated by DOE, and conducted in part by USGS, a trace of plutonium has been found in a sediment layer about 100 feet below the ground. INEL has developed an extensive program to determine the extent of the problem, which includes spending up to $50 million by 1990 and asking the National Academy of Sciences to help resolve the problem. DOE is determined to make sure this problem is corrected and is budgeting accordingly.

This is a matter of concern. I want it fixed. We all wish it had not happened. It did, but not with malice aforethought.

The second environmental issue also concerns the Snake River aquifer. In the 1950's, the INEL began a practice, routine in the State, of injecting waste water from its treatment facilities into the aquifer. This was industrial waste water and it met the EPA standards. However, there were traces of tritium in the waste water. Tritium is radioactive. The USGS has monitored the tritium since the lab was built and as I noted, published quarterly reports. None of the tritium has ever left the lab boundaries because of the half life of tritium being 12 years, and it takes 200 years for the acquifer to move through that part of Idaho, some 100 years to get through the site area—I am not sure exactly how many years but approximately many, many times more than the 12-year half life of tritium. It does not move very far.

But early in the 1980's we objected to this. The people in the State objected to it. And they protested the practice of putting the wastewater in the ground although it was minute in quality. As a matter of fact, many of us drank water from those test wells to demonstrate that it was certainly not harmful to people even though it was not going anywhere. It was very minor traces.

So it was very easy to see, to have a public outcry about it. We did have a public outcry and DOE reacted. They built a percolation pond to hold the wastewater, and the injection well has been kept only for emergencies. That is all it is kept for now. But the commitment is that DOE plans to seal that well in 1989.

In addition, they have guaranteed that the wastewater stored in the percolation pond will meet drinking water standards.

Mr. President, I believe the INEL has acted responsibly and carefully. The environmental rules have changed since the INEL was built, and the INEL is changing accordingly. The lab has spent or will spend by 1990 over $80 million on programs to alleviate any environmental problems caused by waste management practices used many years ago when they were state-of-the-art operations. The practices of the past do not pass today's close scrutiny, and some DOE labs have been slow to realize this. However, the INEL has led the charge to change and keep up with the times.

Since I have been active in the issue, DOE officials, contractors, and the thousands of skilled, dedicated people working at the INEL have acted responsibly to ensure that the research and other activities at the site—activities which are vital to our national security interests—are not jeopardized by environmental problems affecting the quality of life in Idaho. I commend them. They should not be condemned for the job they have done in this regard.

I, for one, am proud and pleased with the important national security activities undertaken successfully at the INEL for many years. I hope these remarks have helped to set the record straight.

I thank the distinguished manager of the bill for allowing me this time to speak out of order.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I thought I was going to follow the distinguished Senator from Washington, Mr. Adams. I do not want to go ahead of him. If he is not prepared to go at this time, I would seek the floor, and I would seek the floor on the same basis that Senator McClure did, that I be permitted to speak out of order, but that I retain the 10 minutes, if I may do so.

Mr. BYRD. Mr. President, how much time does the distinguished Senator from Alaska wish?

Mr. STEVENS. About 10 minutes.

Mr. BYRD. Mr. President, I am not going to object to the distinguished Senator from Alaska doing that. I was not in here when objection was not made to Senator McClure proceeding, and I am not going to object to my good friend from Alaska speaking, but after that I will, and here is the reason why:

Under cloture, once 30 hours have run, any Senator who has not spoken may speak for 10 minutes. So the effect of granting the unanimous-consent request here is that although a Senator's—in this case, Mr. Stevens—speech would be charged against the 30 hours, he would still be able to speak 10 minutes after the 30 hours had run. The effect of that is that we extend the 30 hours by that much. If we have 30 Senators who make that request, then we have extended that 30 hours by 30 times 10, which is 300 minutes, or 5 hours. So, instead of 30 hours, it would be 35 hours.

I will not object in this instance. I want the distinguished Senator from Alaska to be able to speak for 10 minutes, under the same conditions that Mr. McClure spoke. I was not on the floor at that time, but I am on the floor now. I am not going to object to Mr. Stevens, but from here on out I will object, only for the reasons I have stated.

Mr. STEVENS. I thank my good friend.

I see that the distinguished Senator from Washington is in the Chamber. I understood that he was going to seek the floor. I apologize to him, and I yield to him at this time, because I understood that he was here to speak.

Mr. ADAMS. I was here to speak on the bill. I was outside the door of the Chamber.

I understand that the majority leader has acceded—or does the Senator from Alaska wish to speak on the bill?

Mr. BYRD. I have no objection to the Senator from Alaska speaking now for 10 minutes, in accordance with his request.

Mr. STEVENS. I ask unanimous consent that the request I made be granted, and I will be happy to yield to the Senator from Washington.

The PRESIDING OFFICER. Without objection, it is so ordered.

PARENTAL AND TEMPORARY MEDICAL LEAVE

The Senate continued with the consideration of S. 2488.

Mr. ADAMS. Mr. President, we are in the process today of debating a cloture motion on a very important subject, not just to the specific technical parts of the two bills that are available, but to the whole social fabric of how our society has changed, as we have had two parents required to work in families, as we have had families being supported by one wage earner, and this is all part of that package.

Mr. President, I express my gratitude to the Members of the U.S. Senate for having previously given waivers which allowed my State, the State of Washington, to put into effect a number of the welfare reforms that involve just these subjects. These are all welfare and family reforms. I hope that by the time I have finished my term in the Senate, we will no longer be referring to welfare families and to working poor families and designations of families who need assistance in order to exist in this very affluent society that we have.

We are required to address bills such as a better child care bill and a Family and Medical Leave Act because we have now a number of families in America, a staggering number of families in America, that do not have the standard protections that most middle-American families have and that all rich American families have. Those are the basic protections of being able to have medical assistance for those in your family who are ill, and particularly for your children.

If you are a working family and do not have someone at home—and that is the case, certainly, in the case of my family, and it is in the case of families throughout the country—we no longer have grandmother in the same town;

we no longer have a ready pool of people, where children can go after school or children can be cared for in the evening. Families have to go where the jobs are.

One of the great travesties of the 1980's is that jobs may have been created, but the jobs that were created were often far distant from the rest of the family roots that might give both medical and child care protection to families; you could not stay with a portion of the family.

That is why Senator DODD and others have worked so hard on this bill and why I am pleased to be a cosponsor of it.

The whole point is that we now have 37 million Americans who really have no form of health insurance. They also do not happen to have grandmother at home. They also are in a position where they are not able to have one parent stay home. There may be only one parent in the family. But if there are two, both are working—working at $5 and $6 an hour jobs.

We often refer to a number of those people as baby boomers. I think maybe that is a misnomer. What we really have is a generation of people who we of the older generations, as we have raised our families, have forgotten. We have forgotten that our social structure has changed for a great many people, working day to day in hourly jobs or in low-paying monthly jobs. We forgot about the fact that they do not necessarily have union protection anymore. People just did not automatically support it when I was a child—that there would be a union contract with a medical provision for protection and a certain minimum wage that saw to it that you had enough money to care for your child, or that there was an arrangement at the plant so that groups could get together in order to take care of the children of those working in the plant.

Mr. President, this bill that has been worked out is a bill that goes to the fabric of American society. It goes to the people who are now living day to day in my district and in my State who are just now moving into having a family experience. They have been able to get by on two working at $5 an hour and maybe take a vacation or own a car or be able to do the entertaining things that they felt were worthwhile. And the generation above them which had bought houses and sold all kinds of appliances for dealers and purchased them out of those sales so that we had family units forming are now faced with a group of people that have no money to meet these basics.

So as this young family—and they are now not so young; they are not having the children at 18 or 19, many of them are having them at 20, 25, 30, 35—they have found they do not have a house, they do not have appliances. What is even more devastating, when one member of that family has a child, then that wage earner is not available. Who takes care of the child? And, as is pointed out so well in the Family and Medical Leave Act, somebody needs to come home and fill that gap.

This is to avoid the cruelties of a society in a time and a place in world history when a society does not have to impose those cruelties. We are simply trying, Mr. President, to do the decent thing for our young people that we in America expect to do for our families.

Yes, we have done it in other ways before, and, yes, we are supporters of the family unit.

But look at my family, for example, which I am sure is very similar to other families. We have a house in one town. I have a son with three children in Florida. I have another son in Hartford, CT. I have a daughter in Boston. I have another daughter in Providence.

Trying to just get somebody to take care of the grandchildren means that that burden is entirely upon my son and his wife in Florida. Grandma goes down when she can, but that is a long and expensive plane trip. Sisters visit. We all try to visit. But this is the extended family and it was not created, Mr. President, by just simply the desires of the members of the family. They have all gone where the jobs are or where they have to try to obtain their schooling. And when I say "try to obtain their schooling," you cannot choose any more exactly where you want to go.

So what we are trying to do, Mr. President, as the Senate of the United States, in the act for better child care, in the Famly and Medical Leave Act, is move to help our working families—help those families be able to pay for child care.

Now, I know a lot of statistics have been mentioned, but if you go through the questionnaires, rather than just using my family example, and ask people, way over 80 percent say that affordable child care is essential to them. And it is.

Let me give you an example of my last trip into the State of Washington. I went down into Vancouver, into Clark County, one of the best counties we have for child care. It is a smaller county, so it does not have all of the problems of the metropolitan area. But it has a metropolitan city in it.

What we found—and I went with representatives of the State legislature, the speaker of the house, and the chairman of the committee with jurisdiction, and we went from center to center—we found that the mothers were telling us how grateful they were to be in the centers.

But they did not even have a coordination—and it is one of the best of our counties—to know all the places that were available. And there was not a manner of checking to see if those available centers were safe centers. And, beyond that, we found that they had started a program to go into the plants and try to say to people, "There are places available," or "Would you like to have a place available?" And we found there was resistance to that.

Why? Because many employers paying $5 and $6 an hour did not want to face the problem at all. They would rather that whatever jury-rigged system was working kept working.

So then we went out to see what was happening with the children that were not in the centers, and the centers have a very limited portion of children. You knock on the door, as Representative Bussy said to me, and the child that is sitting there is a 7-year-old and it is 5 o'clock in the afternoon. And the 7-year-old is in charge.

Now, maybe somebody is going to come home pretty soon. We hope so. That happened to be a single family. But the same would apply to two people in a working family, because you have to work those 8 hours or 8 hours plus.

Mr. President, I could go into even greater examples, in the city of Seattle, of just mechanics of running the child care center. You are supposed to pick everybody up at 6 o'clock at night—these are just mechanical, living things. Deposit the children at 8:30, pick them up at 6. But if you are working at a job as a janitor or you are cleaning a building and you go to get on the bus, because you do not have a car, the bus is always late. It does not arrive up at the center. The people at the center cannot just put the child out on the street. So those centers never close at 6:30. But they are never paid, if it is under Medicaid or if it is under any other kind of State program, for the extra time.

A child care crisis exists—and we have the ABC bill before us—not because somebody has dreamed up a problem. It is because we are behind the social movement in the country. And we are trying to solve it by not just having a big warehouse, Mr. President, and saying, "All right, everybody goes into a warehouse at 5 o'clock." The Soviets tried that some number of years ago where everybody would go and they would all be told the same thing, and then they would all march out again. That is not the American system.

But if we are going to have an alternative American system, we have to have a place that when you have a baby and you want to go to work, you know where to call, you know it is safe, you know that you can afford it, and this is not high-class, but it is affordable and it is clean and the food is good and your child is safe, then you are an employee.

This is an employers' bill, as well as an employees' bill, because at some point, as this generation more and more moves in to dominate the work force, more and more you will find people having to be gone for medical leave. And more and more you will find you have to take care of children.

And as a father and a grandfather—and I know the Presiding Officer is also—it does not improve with age. It takes a long time before the 6- or 8-month old gets to a point where you are not worried all afternoon. And families that have the one that is 13 or 14 and takes over are very lucky. So it is a thing that we need and must address. That is the reason for these bills.

They are going to pass in some form in one of these Congresses, Mr. President. We want to make them the best we can. Every society since the world has begun has been judged on two factors.

We often quote, "how do they treat their mothers and fathers and the aged?" But the second factor is far more dominant in what societies have become and what societies are, and that is," how do we treat our children?"

We take it for granted that it will happen. We are for schools. But the school will not help if the child cannot get there.

We take it for granted that we will treat children in hospitals, but we cannot treat them if they do not get there.

I do not say it is a perfect bill. I think we have worked very hard on it. I think it is as good, I want to say to the Senator from Connecticut, as minds can put together. And all I ask is after we pass this, if somebody has a better way of doing it, to come forward and do it.

I am proud that in our State we are taking first steps within our own State operations. But I can tell you this, they are inadequate. We are fumbling, we do not have enough money, we do not have Federal standards, we do not have a system. We have people moving in and out of our State. We cannot do it alone, we are willing to act as laboratories and to help prove this, but it is a national problem.

Our children are the children of the Nation. They are not the children of the State of Washington or the State of Connecticut or the State of North Carolina. And they will not reside all of their lives in that State.

So I hope we deal with this and I congratulate the Senator for bringing forth these bills. I have talked about them together because they fit together. The welfare of the child cannot be measured by the mechanics of what we do with one part of the problem.

Mr. President, as a cosponsor and a strong supporter of both the Act for Better Child Care and the Family and Medical Leave Act, I strongly urge my colleagues to join me in working toward the immediate passage of this family legislative package. This is part of caring for the working poor families—for moving welfare families to a job. They need protection for child care and medicine for sick children.

In a recent poll, the American people told us what they think needs to be done to support families struggling to make ends meet.

Eighty-six percent said the need for affordable child care is an important issue to them; 74 percent believe it is difficult for parents to find child care that is both affordable and of good quality; 75 percent want the Federal Government to ensure minimal health and safety protections for children in child care and by 2-to-1 margin, they support ABC.

My constituents in Washington are not confused about their priorities. They know our current child care crisis did not happen overnight. They know that only a comprehensive, thoughtful plan to improve the entire child care system will be successful in solving the dilemma faced by so many families.

We have such a bill before us—the ABC bill. Why should the Senate be confused or try to delay action on this desperately needed measure any further?

The people of Washington will not accept any more excuses or delays. They don't think we are doing enough for children. In fact, when many are criticizing ABC for being too expensive, an editorial from the Vancouver Columbian described ABC as only "an elastic bandage that could slow the raging infection.

Mr. President, I ask that the the editorial be printed in the RECORD. It best describes Washington's demand for action that Congress act instead of just talk about helping children.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WHY DON'T WE DO BETTER BY YOUNGER GENERATION?

The immense costs of profound social changes in this era have been charged against the young and yet unborn while older generations skim the benefits.

Nobody planned this mess. It sort of happened while most everyone's vision was clouded by the supposition that Ozzie, Harriet, Ward and June represented reality. Nurturing mom at home with the kids waited for wise and loving pop to come home with abundant bacon.

In defense of our ideology and national security and individual comfort, we've mailed to the future bills that add up to a trillion dollars. We've juggled the economy so that most children, infants to adolescents, are left alone or with strangers while parents are at work.

The mothers of 12 million children younger than 6 work away from home. Fewer than a million fathers are at home to care for the tots while the mothers go to work. Years of federal, state and local efforts have produced fewer than 3 million licensed day-care slots. Perhaps 4 million older brothers and sisters, grandparents, aunts and uncles are filling in for mom and dad.

The figures are approximate but conservative. At least 4 million little kids are daily left by themselves or shoved into cheap, unlicensed day care. Our collective response is lip service. Lots of sloppy, useless lip service.

The conservative response: Leave it to Beaver. There was never a time when most children lived happily ever after in good houses where one parent stayed home and the other earned the living. The right-wing demand that we go back to some non-existent good old day is nonsense.

The liberal response: Send for the feds: shove in enough bucks and pass enough rules and hire enough bureaucrats to establish Utopia. But effective federal intervention is as much a myth as June and Ward Cleaver. Lyndon Johnson declared war on poverty a quarter century ago. The centerpiece was Head Start, which aimed to keep poverty from wrecking children before they got to kindergarten. The Clark County Head Start program, a model of its kind, is rightfully proud of the help it gives now. Its officials admit they reach only one quarter of the children they should be reaching.

All of the lip-flapping reaches gale force in Congress. Four dozen bills about child care have been introduced this session. As long as the members can sign on as sponsors and issue press releases, they can claim they are doing something about the scandalous treatment of the younger generation.

In fact, they are talking about first aid for a festering wound on the body politic. Most child-care advocates, including those who have joined in proclaiming April 10 through 16 National Week of the Young Child, support a bill by Sen. Chris Dodd, D-Conn. Dodd calls for a $2.5 billion expenditure in the coming year to improve child care and make it available to at least all poor people and most in the lower middle class. The Dodd bill is at least an elastic bandage that could slow the raging infection. The leading opposition bill by Sen. Orrin Hatch, R-Utah, would allocate $1.3 billion over four years mostly to encourage businesses to start day-care centers. That's an ouchless plastic strip that would at best hide the worst of the wound.

None of the bills is likely to pass anyway. Congress will allocate billions for prison construction to house the children we wreck. Congress will insure that the Social Security cow remains sacred.

Little kids don't vote. They count on us. Why don't we give them a better break?

Mr. ADAMS. I want to thank the chairman of the committee, Senator KENNEDY, and the chairman of the subcommittee, Senator DODD, for the opportunity to support the bill.

I hope I will have another opportunity during the course of this debate. It is an important time and I hope that we are successful in meeting this desperate problem in America.

I thank you, Mr. President, and I yield the floor.

Mr. DODD. I would like to take just 30 seconds to commend my colleague from Washington. He has done an excellent job in the subcommittee; has been tremendously supportive. He has tremendously constructive suggestions of ways to improve these two bills. Some of those suggestions have been incorporated in the text of this legislation and we believe it is a stronger bill because of that contribution.

So I want to commend him not only for his efforts on the legislation during the last year or more that we have been involved in this bill but also for his comments today. I think they are extremely worthwhile and I also appreciate his giving as much support for this legislation as he has.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I will speak out of order pursuant to the previous agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING THE ALASKA FIRE SERVICE

Mr. STEVENS. Mr. President, during the past few months, we watched with great concern the day-by-day news accounts of the forest fires which threatened to consume one of our greatest national treasures—Yellowstone National Park. However, as Yellowstone went up in flames, little was said about the fires which consumed Alaska this summer.

Alaska was plagued by the worst fire season we have had in more than a decade. More acreage was destroyed by fire in Alaska this year than was burned in all the other 49 States combined. Roughly 2.2 million acres of Alaska's National Parks, National Wildlife Refuges, National Recreation Areas, National Conservation Areas, military reservations, and State and Native land went up in flames this year. That compares to 2 million acres for the entire rest of the country.

One fire alone destroyed roughly 1.5 million acres in the Yukon Flats National Wildlife Refuge which threatened the Trans-Alaska pipeline near Livengood. Approximately 638 fires raged throughout the State during the course of the fire season. As late as last week, there were still 21 active fires burning in Alaska involving more than 1.5 million acres of land.

Although fires have long been looked upon by some in Alaska as a land management tool to create new wildlife habitat, this year the "let-burn" policy came under sharp attack when the Yukon Flats fire threatened trapping cabins and habitat in which a diverse array of fur-bearing animals once flourished. Forests which once supported a strong local wildlife economy have now been largely devastated.

The current let-burn policy applies to 60 percent of Alaska's land—an area one-tenth the size of the entire United States. Last week the Senate Energy and Natural Resources Committee held a joint hearing with the Senate Agriculture Committee to discuss the let-burn policy. I hope during the committees' deliberations in the months ahead, they will consider the unique concerns of Alaska's rural people in the investigation.

Mr. President, although this was the worst fire season in recent memory for both Alaska and the lower 48 States, it would have been much worse without the dedicated efforts of those who manned the fire lines. I would like to express the thanks of the Nation to those who fought so valiantly to save our national parks, wildlife refuges, and other public lands. I am particularly proud of the men and women of the Alaska Fire Service who served with great distinction.

During the height of the fire season, a total of 2,250 people worked to suppress fires in Alaska. The fire season began in earnest for Alaska's firefighters on May 10 when a fire which had started in April on the Fort Wainwright Artillery Range spread rapidly and forced Fairbanks International Airport to close due to smoke. The smokejumpers where hampered by live ordnance still laying on the bombing range, but they were ultimately successful in extinguishing this conflagration.

The most severe period of fire activity began when lightening strikes on June 11 started 10 new fires in the Yukon Flats area. Intense lightening activity continued for nearly a week and resulted in 90 new fires in 6 days. Many of these fires burned well into July and some expanded at a rate of 10,000 acres per day.

By mid-August, fire activity in Alaska began to wind down, but the Alaska Fire Service's work had only just begun. It was mobilized to assist with suppression efforts on large fires in the lower 48 States. As of September 15, the Alaska Fire Service had sent 60 Native crews of 20 firefighters each to the lower 48, along with 375 fire management experts. In addition Alaska has lent a Hercules aircraft loaded with equipment and supplies, six air tankers, one jump ship, and six helicopters to the effort.

Alaska's crack fire management team was responsible for defending Cooke City and Silver Creek, MT. This crew commanded by Dave Liebersbach is made up of Alaska's firefighting elite. By creating firebreaks with small controlled back fires, the team was successful in its effort to protect the towns and extinguish the infamous Storm Creek fire.

Mr. President, last Wednesday the junior Senator from Tennessee, Mr. GORE, introduced Senate Joint Resolution 388 which would designate October 15, 1988 as National Fire Fighters Day. I think the Nation owes our firefighters a debt of gratitude, and I think it is fitting that a day be set aside to honor those who work so hard, not only in the forests, but in the cities and towns around this great Nation, to protect us from fire.

I ask unanimous consent that I be added as a cosponsor of that resolution. I have discussed it with the distinguished Senator from Tennessee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, all of us are indebted to the men and women who put their lives on the line to protect our Nation's public lands from fire. As I said, I want to be sure we express our appreciation to the men and women of the Alaska Fire Service, and their commander, Tom Owens. Mike Penfold, the State director of the bureau of land management in Alaska, and all those who worked with him and Tom Owens we express our gratitude and thanks for a job well done.

The greatest tribute we in the Congress have made to these dedicated men and women was to approve S. 1911, the Forest Wildlife Emergency Pay Act. That measure, which has been cosponsored by many of us, including myself, allows those who fight fires to be paid overtime for their long hours. I am pleased to report that the bill passed the Senate unanimously late last week.

Firefighters often spend up to 3 weeks at a time on the fire line without a break. It is grossly unfair to make them work for free once they have earned the standard level of pay for the day.

I cannot remember a year in which more public attention has been paid to the plight of the firefighters. They have done a tremendous job for all of us.

Mr. President, in light of the superb job these Alaskans did, I am pleased to report that included in the 1989 appropriations at my request was $5.5 million to construct a new smokejumper facility for the Alaska Fire Service.

That new facility is located near the runway at Fort Wainwright and will enable the Alaska Fire Service to respond within 6 minutes of receiving a fire call. It will contain a parachute loft, a paracargo facility, and a sewing room where the firefighters will make their own firesuits in the winter and develop new parachute designs.

I might add, Mr. President, that the Alaska Fire Service has been instrumental in developing a new parachute which is more maneuverable, can be used in high wind conditions, and allows a zero ground speed landing. That was utilized to fight fires in the south 48. The design is now being tested by the Defense Department to see if it can be used in our military service.

Our new smokejumper loft will contain space to support over 1,500 firefighters in the event that there is a repeat of this year's catastrophic fire season. It will play a critical role in maintaining operational readiness to prevent small fires from becoming large ones, both in Alaska and the lower 48.

INEQUITABLE TREATMENT OF FEDERAL EXPRESS

Mr. STEVENS. Mr. President, I would like to add my voice to the concern expressed on the difficulties Federal Express has had in initiating express service to Japan.

The agreement we negotiated with the Japanese allowed a Japanese carrier, *Nippon Cargo,* to initiate cargo service in 1985, but delayed the commencement of express service by an American carrier for 3 years. Unfortunately, the exercise of the delayed express package service rights is being frustrated by the provincial policies of the Japanese Government. I feel we must take strong action as Japan unilaterally interferes with commencement of our negotiated express service which was awarded Federal Express.

A similar situation has arisen with regard to the Japanese failure to honor the commitment they make to the United States regarding "Flying Tiger's 6th Freedom Rights" to carry cargo from Tokyo to Anchorage and then to transport it to various locations in Europe. The Japanese have required recordkeeping requirements so onerous as to threaten the economic viability of such a service. In this situation, I am happy to note, that the United States response was to impose reciprocal reporting requirements on Japanese cargo carriers operating in the United States. I commend the State Department and the Department of Transportation on their firm stand on this issue and encourage them to continue this tough but fair position.

Mr. President, the reason I speak now is to urge our United States negotiators to apply a similarly tough stance to the inequitable treatment of Federal Express by the Japanese. Mr. President, we seem to be apologizing when we should be pressing our claim. Federal Express started the express business, and as far as I know, remains the world leader. The Japanese have nothing comparable. When the United States has the chance to introduce a clearly superior service into the Japanese market, I would think that the American Government would insist on its bilaterally negotiated right to do just that.

Federal Express is not one of my State's businesses. It operates through my State, and we are quite concerned about the denial of their rights.

I thank the Chair and I thank my good friend from West Virginia, the distinguished majority leader, for his courtesy in allowing me to reserve the remainder of that 10 minutes. I yield the floor.

PARENTAL AND TEMPORARY MEDICAL LEAVE

The Senate continued with the consideration of the bill.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Can I inquire as to how much time remains under cloture?

The PRESIDING OFFICER. Fourteen hours and thirty minutes.

Mr. DODD. Can I further inquire, Mr. President, how much time the Senator from Connecticut has consumed?

The PRESIDING OFFICER. Forty-three minutes.

Mr. DODD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be taken off the cloture.

The PRESIDING OFFICER. The time will be charged without consent. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I ask unanimous consent I be permitted to speak on another topic for 10 minutes with the time to be charged against the 30 hours.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

U.S. AGRICULTURE: SETTING THE RECORD STRAIGHT

Mr. BOND. Mr. President, over the past several weeks I have heard an ever increasing number of speeches by my Democratic colleagues in which they seek to either defend Governor Dukakis' liberalism or to tear down Vice President BUSH'S accomplishments. Perhaps this concerted effort to turn this forum into a Democrat Platform Committee hearing is based on the fear that the Governor of Massachusetts is not an attractive candidate and thus needs every little bit of help he can find.

So, let me just say that if this is to be the coin of the realm—then I want to toss in my 2 cents worth.

Mr. President, not long ago I listened as one of my distinguished colleagues presented the new Democratic theme in a statement on the agricultural record of this administration. Although the distinguished majority leader, Senator DOLE, recently did an excellent job of evaluating the success of the Food Security Act of 1985, I would like to share my own thoughts on current U.S. agricultural policy and the direction the Dukakis Democratic Platform would take it. As Paul Harvey would way—this is "the rest of the story."

Early in the Senator's statement he indicated that, quote, "(GEORGE BUSH) misstated what we Democrats stand for in the way of farm policy, rural policy." Although he does not say how the Vice President misspoke, he does refer to the Carter grain embargo—which of course occurred, and the supply management approach of controlling farmers lives, which of course is the Harkin-Gephardt-Dukakis plan. Well, given that the Democratic platform devoted just five sentences to agriculture—five sentences, it is not surprising that some of our colleagues don't know what it stands for. However, the most fascinating part of the Senator's defense of the Dukakis approach to agriculture was his challenge to ask farmers what they think.

Mr. President, it is with great pleasure that I bring to the attention of my colleagues a poll published in the October issue of Farm Journal magazine which lets us know exactly what farmers think. According to their poll of 400 farmers, 53.5 percent indicated that if the election were held today they would vote for GEORGE BUSH. This is compared to 28.3 percent for the Democratic nominee. Asked to compare the farm economy to 4 years ago, 43 percent said it was improved, 18 percent said about the same, and only 36 percent said it had deteriorated. And of the 36 percent who felt the agricultural economy had deteriorated over the last 4 years, BUSH still beat Dukakis by a 42.1 to 36.6 margin. All this in the midst of the worst drought in 50 years. No wonder my colleague said, "I do not need to hear the answer."

In addition, Dukakis' unwillingness to listen to farmers is further evidenced as the poll reinforced what we have known all along—farmers do not like Harkin-Gephardt-Dukakis supply control. In fact, the Dukakis approach to agriculture, as he described in the debate is a "combination of supply management and reasonable price supports" and it won the endorsement of a staggering 6.5 percent of the farmers. That makes the Dukakis-Harkin-Gephardt plan about as popular as legalizing drugs—as recent polls show that 7 percent of Americans believe cocaine should be legalized.

In contrast, the Vice President's approach, again as described in the debate, is "I oppose supply management and production controls. I want to expand our markets," is exactly what American farmers want—59.3 percent said they want free market programs without Government interference; and when asked what they would advise the next President to choose as a priority, 58.3 percent said "get exports moving," while rural business assistance and soil and water conservation receive 11.5 percent and 11.3 percent respectively.

Nowhere were farmers saying give us more Government, more supply control, more mandates.

But let me return to the real issues.

Mr. President, although I was not involved with the development of the Food Security Act of 1985, as a member of the Committee on Agriculture, Nutrition, and Forestry, I have monitored its implementation very closely. Given the complex nature of our agricultural economy, I am somewhat skeptical of overly broad generalizations. However, now that we are halfway through the 1985 farm bill, some preliminary analysis is appropriate. Rather than judge the success of current farm policy by a couple of figures, I will provide a more comprehensive review.

As we are all aware, agriculture is inherently unstable and extremely vulnerable to factors ranging from global economic growth and Third World debt to insect infestation and weather. This instability has served as the impetus for the relatively short period of our farm bills.

Before reviewing current farm policy, it is helpful to understand the economic climate of the late 1970's and early 1980's. There were several events in the 1970's which collectively established unprecedented export opportunities for United States agricultural commodities—the Soviet Union decided to supplement crop production shortfalls with imported grains, China began to open its gates to trade and many developing countries experienced rapid rates of growth. Because the United States had the capacity to enhance production significantly, we did so and many farmers prospered.

During this period, credit was easy to come by and farmers jumped at the opportunity to expand their operations. As the price of land skyrocketed, farmers' net worth, at least on paper, followed. Unfortunately, our last Democratic President's economic policies led to skyrocketing inflation and interest rates. Also, he chose this moment to slap a grain embargo on the Soviets. The European Economic Community increased their production for the export market, and the Canadians and Australians also moved to fill the gap. Land prices began to fall and both farmers and bankers have yet to recover fully from the resulting adjustments.

After reaching a peak of $43.8 billion in the 1980-81 fiscal year, the year of the embargo and 21 percent interest rates, it is not surprising that U.S. exports began to decline. This decrease in exports was a direct result of the grain embargo's labeling the United States as an unreliable supplier; the strong dollar resulting from Carter's economic policies and countries increasing production to achieve either self-sufficiency or to become net exporters. In addition, in the early 1980's demand fell as world economic growth declined from rates experienced in the 1970's.

Mr. President, as Congress began deliberation on the 1985 farm bill, American agriculture was reeling from the effects of declining exports, falling crop prices and increasing levels of carryover stocks. This background is necessary as it tells the "rest of the story" regarding the generalizations made by my colleague.

With even basic knowledge of the events which led to the downturn in our agricultural economy, it is apparent the Food Security Act of 1985 was not the culprit. The credit crunch of the early 1980's caused a major transition in American agriculture—one that no one sought and one that Congress has worked hard to reverse. In fact, only last year Congress and the administration worked together to pass the Farm Credit Assistance Act of 1987. This bill was designed to restore the viability of our Nation's agricultural credit institutions and is a significant step in the right direction.

Mr. President, the Food Security Act of 1985 sought to address many of these very problems. In fact, the legislation had only a handful of major objectives: to enhance U.S. competitiveness; to reduce commodity surpluses; to provide income protection and enhance net farm income; and to reduce government outlays.

It is my belief, and one shared by the majority of those involved in agriculture, that the 1985 farm bill has put our agricultural sector on the road to recovery. Although this summer's devastating drought might slow the process—it has not derailed it. Here are some key indicators:

U.S. SHARE OF WORLD MARKETS INCREASING [1]

Crop	1979–80 to 1981–82 (average)	[In percent]	
		1985–86	1987–88
Wheat	45	29	42
Feed Grains	65	44	62
Cotton	34	10	28
Rice	22	19	25
Soybeans	83	77	73

[1] "1990 Farm Program Study," American Farm Bureau Federation, August 1988, p. 15.

AGRICULTURAL EXPORTS INCREASING

Contrary to the bleak picture of Dukakis-Harkin, fiscal 1988 exports are projected to increase for the fourth consecutive year. Volume is also expected to increase for the fourth year to 145.5 million metric tons and the farm trade surplus will reach $12.5 billion, an increase of $5.2 billion over fiscal year 1987.

However, if Dukakis-Harkin supply management becomes law, expect these numbers to plummet, and our trade deficit to shoot back up.

CARRYOVER STOCKS DECLINING FOR MOST CROPS

Projected 1987-88 ending stocks for wheat, rice, soybeans, and cotton are below 1985-86 levels and are approaching the average of the 1975-85 crops.

ENDING STOCK/USE RATIOS [1]

Crop	1975–76 to 1984–85 (average)	[In percent]	
		1985–86	1987–88
Wheat	51	97	46
Corn	25	62	52
Soybeans	14	29	13
Cotton	37	113	38
Rice	33	62	19

[1] "1990 Farm Program Study," American Farm Bureau Federation, August 1988, p. 17.

CROP PRICES STRENGTHENING

Irrespective of the drought, in May, the prices of all major crops were projected above last year's level.

NET FARM INCOME INCREASING

In 1987, net farm income, deflated in 1982 dollars, was $39.4 billion. In comparison, 1985 net farm income was $29.1 billion. In 1988, net farm income could decline $5 to $8 billion due to the drought.

GOVERNMENT OUTLAYS CONTINUE TO DECLINE

After reaching a high of $25.8 billion in fiscal year 1985, farm program outlays have fallen an estimated $13.1 billion in fiscal year 1988 and $11.1 billion in fiscal year 1989. In May, prior to adjustments due to the drought, outlays were estimated at $17.6 billion—still down by more than 31 percent.

FARM DEBT DECLINING

Total farm debt has fallen approximately 18 percent since 1985, from $175.2 billion to an estimated $140 billion. Total farm equity is expected to increase for the third consecutive year to approximately $585 billion.

CONSERVATION RESERVE PROGRAM IS A SUCCESS

Upon confirmation of land enrolled in seventh sign-up period, approximately 29 million highly erodible acres will have been taken out of production.

Mr. President, these facts indicate that the 1985 farm bill is working. Those people involved in its development deserve the right to brag—not only George Bush, but the 164 Republicans and 216 Democratic Members of Congress who voted for it.

Mr. President, I must also note that in listening to Governor Dukakis talk about agriculture, he keeps bandying about numbers such as $15, $20 or $25 billion. Sometimes he calls for cutting agriculture to below $20 billion, but never says if he means total farm programs payments to farmers—which are now at $11 billion, or the entire CCC, or all of USDA or USDA plus the CRP.

In short, he sounds like a man who knows nothing about agriculture and does not care to learn. In fact, supporting mandatory supply controls seems to make that case even more compelling.

Mr. President, although we will not begin consideration of the 1990 farm bill until next year, I believe the Farm Journal poll sends a clear signal—no supply management. It also indicates continued support for promoting agricultural exports—something not mentioned in the Democratic platforms and certainly inconsistent with mandatory production controls.

Given these facts, it is clear that Vice President BUSH, and Senator QUAYLE are in the mainstream in dealing with the many challenges facing agriculture.

Mr. President, no one likes to farm the mailbox. The Food Security Act of 1985 has begun a transition toward a more market-oriented agriculture. I believe this, as do the majority of farmers. Mandatory production controls would reverse this transition—in other words no steps forward and two steps back. Perhaps Governor Dukakis would like to listen to the farmers and get off his 6.5 percent solution of supply management—unless of course he plans to call for the legalization of cocaine as well.

The fact is that American agriculture is part of a complex global economy whose macro-economic policies are beyond the control of the U.S. Government much less any one particular piece of legislation. Blatantly political generalizations are misleading and only complicate our efforts. I hope this sets the record straight.

Mr. President, I ask unanimous consent to have the Farm Journal poll printed in the RECORD.

There being no objection, the poll was ordered to be printed in the RECORD, as follows:

1988 Presidential Poll

	Percent
If the Presidential election were held today,[1] who would you vote for?	
George Bush	53.5
Michael Dukakis	28.3
Undecided	14.5
Neither	3.8
How would you say the farm economy compares with 4 years ago?	
Greatly improved	4.3
Somewhat improved	38.3
Neither improved nor deteriorated	18.0
Somewhat deteriorated	21.3
Greatly deteriorated	15.0
Don't know	3.3
If you could advise the next President to choose a priority, would it be:	
Get exports moving	53.8
Rural business development	11.5
Soil and water conservation	11.3
Credit relief	5.3
Water quality	5.0
Keep a reserve	2.3
None of the above	5.0
Don't know	6.0
Which of these statements best reflects your views on farm policy?	
Free-market programs without Government interference	59.3
Programs similar to current ones	28.8
Supply-management programs that limit acreage and control prices	6.5
None of the above	1.5
Don't know	4.0

[1] Last 10 days of August. Plus or minus 5 percent error rate.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that I be allowed to speak on two issues, the drug bill and the recently concluded Olympics, and that the time be charged to the pending 30-hour cloture time.

The PRESIDING OFFICER. Is there objection to the Senator from Alaska speaking on another subject, with the time to be counted against the 30 hours? The Chair hears none, and it is so ordered.

THE OLYMPIC SPIRIT IN SEOUL AND ANCHORAGE

Mr. MURKOWSKI. Mr. President, for the past few weeks, nations of the world have watched with great pride as their athletes competed in the Olympic games. The athletes, themselves, whether they won medals or not, shared the pride of knowing they are among the best in the world.

But perhaps the proudest of all are the people of the Republic of Korea—the hosts of the games of the 24th Olympiad. As President Samaranch observed at the closing ceremony, the games were the best ever held. The Koreans provided the organization, the facilities, the security, and the commitment to make that possible. At the same time, the games provided Koreans the opportunity to showcase their rich, and ancient culture. In both the opening ceremonies, at which I was privileged to be present, and in the closing ceremonies they spared nothing to present the world a great gift of music, art, and dance.

Both on television and in person, one is struck by the fantastic development which has taken place in Korea in the last two decades. The economic rebirth of the country has been matched by the physical reconstruction. In all its nearly 600 years, Seoul has never been described as a city of great beauty. The structures never seemed to be able to compete with the setting. That is no longer true. I remarked to friends as we were driving to the Olympic Stadium along the banks of the Han River that the city had taken on the aspects of some of the most beautiful European cities, with their tree-lined boulevards. It has not lost its oriental charm, however. The new Seoul, indeed the new Korea, while racing rapidly toward the 21st century, has at its core 5,000 years of history and culture.

Korean hospitality has long been a well-kept secret outside of Korea. Those of us who have been privileged to visit Korea, until now, have been reluctant to share the overwhelming friendship with which we have been received. Now the whole world knows.

All of us, the visitors to Seoul, the athletes and the officials, and the world television audience are grateful, Mr. President, for the welcome we received in Korea. Korean hospitality is a secret no longer.

I went to Seoul, Mr. President, in the dual capacity both as a member of the Presidential delegation and as part of Anchorage, Alaska's bid to host the winter games in 1994.

Anchorage, AK, was one of four cities in the running to host the winter Olympic games. The others were Ostersund, Sweden; Sophia, Bulgaria; and Lillehammer, Norway. Actually, it was the second time that Alaska had made it to the final selection process, having lost the 1992 games to France.

Nobody likes to lose. So I'm sure you can understand that the Anchorage Organizing Committee was disappointed with the final decision—made just prior to the Seoul games—that it was to be Norway—not Alaska—who would host the 1994 winter games.

Their disappointment was offset, however, by a special pride—the kind that only comes when one knows he or she has given the maximum best effort for a worthwhile cause. That sense of pride deserves to be shared by all the Alaskans who supported and contributed their time, money and effort to the dream of bringing the Olympic games to Alaska.

That dream didn't end in Seoul. It is still very much alive today. In fact, just last week, our organizing committee voted unanimously to start the long process all over again—and shoot for the 1998 games. I'm very pleased with their decision. A number of people, and I'm one of them, believe Alaska should be the odds-on favorite for 1998.

And what could be more appropriate? A century ago, in the "days or '98" it was the quest for gold that brought people to Alaska. And like the gold rush of 1898, the people will come to Alaska from around the world to compete for the gold of the 1998 Olympics. We Alaskans look forward to proving that our famous hospitality is worthy of its reputation.

The well organized AOC effort, led by Alaskans Rick Mystrom, Dave Baumeister, and Rick Nerland, established itself as a class act from the beginning. It was a real pleasure for me to witness first hand the capability, dedication and knowledge demonstrated by our AOC team. Let me add, also, that Alaska's effort was aided tremendously by Under Secretary Ed Derwinski of the State Department. He helped us lobby the IOC members and was with us in Seoul for the final presentation.

I was so proud of the members of the Alaska delegation—they made the effort to know the members of the International Olympic Committee on a first name basis. There was a commitment to seemingly divide up the continents of the world among their group and go out and sell Anchorage.

Keep in mind, we were up against some formidable competition. What in reality amounts to a political contest, pitted the city of Anchorage against nations. Our people stood tall against Sweden led by its King, Bulgaria by its President, Norway by its Prime Minister. Theirs were the presentations of whole governments, subsidized by their national treasury. Ours was a local Alaska community, funded by contributions of private citizens. Ours was the most impressive.

Mr. President, I do not make this contrast as a way of making excuses by any means. No excuses are necessary. Alaskans did a fine job. Later, when I had the opportunity as a member of the Presidential delegation, to meet with the President of Korea, President Roh Tae-Woo, he told me that he was a little surprised that Alaska had not been chosen and that Norway had been selected. He indicated that he had endorsed the Alaska bid at the personal request of our President, President Reagan, and Vice President Bush, as well, and that he was somewhat disappointed with the outcome.

He said the reason we were not chosen was because the Olympic games had just been held in Los Angeles and in Calgary—that was his understanding from those voting from Korea—and the consensus was that it was indeed Europe's turn next. President Roh added, however, that the information he had been given was that Alaska would be a hands-down favorite for the 1988 games.

Some countries have tried seven times before they finally were awarded the games. Alaska has made it to the finals twice now, and from my perspective that means we were two-thirds the way there. We have the team in place, the experience and the adrenaline flowing.

We have a good theme: In the spirit of 1998, Alaska for the Olympic gold.

Mr. President, I pay tribute to the men and women from Anchorage, Alaska who traveled to Seoul at their own expense as part of the Anchorage organizing committee delegation. They did a fine job.

Mr. President, I ask unanimous consent that their names be printed in the Record.

There being no objection, the names were ordered to be printed in the Record, as follows:

Dick Angell, Dave and Peggy Baumeister, Linda Chase, Vicky Chan, Eric Chan, Sharon Gagnon, Bob Hickel, Bill and Nancy MacKay, Rick and Mary Mystrom, Ron Petro, Rick and Leslie Nerland, Tom Nighswander, Paul Schilling, Tony Smith, Chris and Mary Ann Swalling, Flip Todd, Duane Triplett, Jose Vicente, Pyong Sun Yi, Eleanor Andrews, Carolyn Jones, Christina Stevens, Mark Hennick, Bobbie Enloe, Mike Morrison, Dan and Patti Zantek, George and Pat Howard, Bobbye Halcro, Cheryl Tatom, Linda Jackson, Bruce Graham, David Haynes, Dave Bean, Mayor Tom and Patricia Fink, Margaret Richmond, Dru Gilliam, Betsy Jacobsen-Severtson.

OMNIBUS ANTI-SUBSTANCE ABUSE ACT OF 1988

Mr. MURKOWSKI. Mr. President, I rise in support of the Omnibus Anti-substance Abuse Act of 1988. This is a comprehensive, wide ranging attack on America's public enemy No. 1: Drug abuse and drug trafficking and it deserves our support.

I would first like to commend my colleagues Senators Byrd, our leader; D'Amato; Dole; Nunn; Moynihan; Rudman; and many others for their efforts in the drafting of this legislation, and for the bipartisan spirit of cooperation which is essential in an undertaking of this magnitude.

No one can deny the effect that drugs are having on this country. Although drugs have traditionally been a big city problem, it is now so widespread that, unfortunately, Los Angeles drug gangs, such as the Bloods and the Crips, are now evident in communities in my State of Alaska.

This measure will provide urgently needed resources in the important areas of drug law enforcement, interdiction, prevention, treatment, and rehabilitation.

But most of all, Mr. President, this legislation sends a clear message to drug dealers and drug users that they are accountable for their actions.

It includes language to establish the death penalty for drug dealers who commit murder in the course of a drug-related crime. While the death penalty might be opposed by some, it is strongly supported by the American public, and rightfully so. Those who poison America with illegal drugs and commit murder should be ready to pay the price of death.

In addition, this legislation scores a direct hit on drug users and traffickers in the United States with mandatory sentences for possession of hard drugs, forfeiture of many Federal benefits and sanctions for those who violate drugfree workplace laws. Mr. President, this year I participated in a series of meetings with some of my colleagues on the drug question. We met once a week for several weeks to attempt to lay down the ground rules for reducing America's demand for drugs. During those meetings a consensus developed that an essential element to an effective drug bill would be greater user accountability to reduce demand. I am pleased to see that many of those user accountability provisions are found in this bill.

Mr. President, my support for user accountability provisions is partly because of Alaska's unique situation. A 1975 Alaska supreme court ruling allows possession of a limited amount of marijuana in the home for personal use. Although I have held hearings on this issue in Alaska and have consistently encouraged the Alaska State legislature to pass legislation which would make possession of marijuana a crime, no action has been taken to recriminalize marijuana in my State. Unfortunately, according to our State office of alcohol and drug abuse, Alaska's use of cocaine and marijuana is two to three times the national average for youths age 12-17. Mr. President, I believe there is a connection between Alaska's liberal marijuana laws and its high incidence of drug use. Similarly, I am very worried about what we are doing to our young children by having a law that tells them its okay to use drugs in a limited sense. It is for this reason that I strongly support the user accountability provisions that are included in this important legislation.

Mr. President, on another meaningful note, it is extremely important that we followup next year with actual funding for all these programs that we are authorizing in this bill. This will not be easy, given the current budget outlook, but if the war on drugs is to be something more than election year hype we must make the hard choices to meet this crisis, and we must do it now.

Mr. President, this legislation truly marks a turning point in our efforts to end the destructive influences of drugs on the American people. I urge immediate action on the Omnibus Anti-substance Abuse Act of 1988.

Mr. President, I thank the Chair.

I yield the floor at this time.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arkansas.

Mr. PRYOR. Mr. President, I also ask unanimous consent that I may speak, not to exceed 6 minutes, as if in morning business, and also for the purpose of introducing a bill.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. That is to run against the 30 hours?

The PRESIDING OFFICER. I am advised by the Parliamentarian that any time does run against the 30 hours and without objection this time will run against the 30 hours.

The Senator from Arkansas.

(The remarks of Mr. Pryor pertaining to the introduction of legislation are located in today's Record under

"Statements on Introduced Bills and Joint Resolutions.")

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

PARENTAL AND TEMPORARY MEDICAL LEAVE

The Senate continued with the consideration of the bill.

Ms. MIKULSKI. Mr. President, as a cosponsor of the Act for Better Child Care, I am deeply disturbed that we have failed to act, thus far, on this vital piece of legislation for children and families.

As we continue to debate whether or not to vote on ABC during the remaining days of the 100th Congress, I hope I can shed some light on one of the issues addressed by ABC that is of great importance to America's working families. That issue is whether the Federal Government should help ensure that child care programs meet minimum, but essential, guidelines for health and safety.

Unfortunately, I think the protections offered by the ABC bill have been given a "bum rap" by those who simply don't want to see the Government do anything about our Nation's child care crisis.

The sad truth is, that while many States and communities adequately protect the health and safety of children in child care, too many do not. As a result, the well-being of too many children is being jeopardized. Too many children are being harmed.

For years, the Federal Government has acted to remove contaminated foods from store shelves, inspected planes, buildings and workplaces for safety and made sure that nursing homes are fit for our elderly to live in. Why is it then we cannot mandate child care standards? Why is it that we can mandate the safety of toys used in day care centers, but it is unthinkable to regulate the health and safety of the children themselves?

ABC would require simple, straightforward legislation and regulation. Mr. President, I want to be very clear. We are not creating a kiddy-care OSHA here. We are creating a set of standards that are reasonable, feasible, achievable, and desirable.

ABC would require the Federal Government to set minimum and sensible standards for health, quality and safety of publicly funded child care. These standards would be based on the current practices found in the States, and they would be limited to the following areas only: basic health and safety requirements; qualifications and background of personnel; group size and adult supervision appropriate to the age of the children, and; guarantees for parental involvement.

ABC outlines reasonable compliance procedures. States and providers are given 5 years to comply. If some child care programs don't already meet the standards, ABC encourages the States to help provide the resources needed to bring those programs into compliance.

In short, ABC takes a rational, common sense approach to ensuring the children in child care are safe and well cared for no matter where they live.

In a recent poll, 75 percent of American voters and 83 percent of working mothers said that any national child care policy must assure good child care by setting standards. We have to make sure that child care is both safe and competent. Numerous child development experts similarly support ABC's approach to health and safety protections.

I do believe the expert on child care is a mom and a dad, and moms and dads want to make sure their kids are safe and that the people who are caring for them are competent.

Let us talk about the standards for qualifications and background of personnel. We want to make sure that the people can read and that they are fluent in English. We are not creating a jobs bill for those with masters degrees in play dough, we just want to make sure they can care for their kids safely.

In addition, child care providers themselves want to make sure that ABC protects kids. The National Association for Family Day Care Providers is just one of the groups that wants this bill to be passed.

Mr. President, I would like to bring to the attention of my colleagues a letter to the editor that appeared in the Washington Post this summer. It was written in response to another letter that also appeared in the Post from a mother who had placed her child with an unlicensed provider. When someone turned the child's caregiver in, the caregiver decided to go out of business rather than subject herself to the State's licensing requirements. This letter has been used by some—including Vice-President BUSH—as an argument against the Government establishing protections for children.

Mr. President, I ask unanimous consent that this response be printed in the RECORD.

There being no objection, the response was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 31, 1988]

GLADYS SHOULD GET A LICENSE—IT'S BETTER FOR DAY CARE PROVIDERS AND THE KIDS

(By Carolyn Pierce)

Judy Kaplan Warner bemoans the fact that "someone" reported Gladys, her daughter's unlicensed day care provider, and rather than get a license, Gladys decided to close down [Close to Home, July 17].

I am a licensed day care provider in Prince George's County, and I say hurrah for that someone! Warner's sad diatribe of her "plight" infuriated me. I hope her article will not discourage the community from continuing to report unlicensed day care homes.

Yes, Maryland has mandatory licensing for day care homes. This law works to the benefit of everyone—the parents, the providers and most of all the children. Warner's anger is misdirected. Instead of lashing out at the state of Maryland for requiring day care licensing, she should be angry at Gladys for not caring enough to get a license.

Warner says she and the other parents "don't care one bit" that Gladys isn't licensed. While Gladys sounds like a good provider—and I don't doubt Warner's claim that she gives the children loving care—I have a few concerns:

Is Gladys' home safe? Not just the parts you can see, but the parts you can't too? A representative of the state looks inside cabinets and closests for poison and fire hazards. Does Gladys' home have smoke detectors and a fire extinguisher in good working order? Does she have an emergency plan to get all of the children out in case of fire?

Does Gladys have an immunization certificate on file for each child in her care? Are they all up-to-date on their shots? And what about a notarized emergency medical consent, signed by the parents of each child, which would authorize Gladys to consent to emergency medical treatment if the parents were unreachable? Without one, a child would only be treated in a life-or-death situation. In a lesser emergency—for example, a broken arm—a child could spend considerable time in pain in the emergency room while the parent was being tracked down.

How many children is Gladys caring for, and what are their ages? Maryland law allows a maximum of six children in home day care at any time, with no more than two under the age of 2. This number is enough to challenge the most energetic day care provider, believe me.

As for Gladys' refusal to apply for a license because of the "paper work" and "people coming into your home," I don't buy it. The application consists of four simple forms to be filled out and mailed in. A social worker will then visit the home to interview the provider and to inspect the home for safety and healthy and adequate play, eating and napping space for the children. If any deficiencies are found, the provider is given some time in which to correct them. When everything is satisfactory, the license is issued. Unless a complaint is reported, the provider is not likely to see the social worker again until renewal time two years later, when the process is repeated. The licensing process is free.

Seven thousand home day care providers are licensed in the state of Maryland. If they can do it, why can't Gladys?

I hope Gladys will reconsider. The advantages to her in becoming licensed—and the benefits to the children in her care—would far outweigh the minor effort to apply. Li-

> censed providers receive free referrals from the county when parents call looking for day care. Licensed providers can participate in the federal Child Care Food Program and be reimbursed for each meal and snack served to the children under the program's nutritional guidelines. Since Gladys is already providing meals and snacks, this would in effect increase her income without any additional cost to the parents, and she could probably serve more nutritious food in the process.
>
> Licensed providers can receive free counseling from their licensing worker about any problem that comes up in their day care business. (Yes, day care is a small business.) And licensed providers get more respect, from parents and the community, for the very important service they perform.
>
> A license is not a guarantee of quality day care, but it assures the state and the parents that the basics are in place. If Gladys isn't willing to take the simple steps to get licensed Warner should make a careful research of licensed homes in her area. I am sure that she will find the quality day care she desires for her daughter—given by a provider who abides by the law.

Ms. MIKULSKI. This letter comes from Carolyn Pierce, a licensed family day-care provider from Prince Georges County in my home State of Maryland. Speaking from her own experiences, Ms. Pierce describes the numerous advantages to ensuring some protections for our children. I urge my colleagues to read the words carefully of someone who is on the front lines of child care.

Mr. President, let me conclude by saying almost a year ago, all of America's eyes were glued on a small town in Texas where a little girl had fallen down a well and was trapped. All of America prayed for her, pleaded that she would be able to be rescued. Firefighters—gallant, brave, courageous—were willing to go down and use any kinds of means possible to be able to rescue that little girl. We all held our breath that her oxygen would hold out long enough for her to get out of there. We were all near tears when we knew her little arm had been broken. And she was rescued.

But why did the little girl fall down the well? She was in a day-care situation that did not have adequate licensing. She fell down that well because the well was not closed and, Mr. President, I present to you and to the Senate this lack of regulation is a black hole that many of our children pass through every day in which their lives are in danger.

What happened to one little girl in Texas is happening all over America. And just as we held our breath and pulled for that little girl, we should be able to pull the ABC bill and at the same time, we want to make sure that child care providers are licensed and are screened. We do not want child abusing people taking care of our kids. We want to make sure we have people adequately trained and sensitive and caring. If we have to go out into the marketplace to meet our family's needs, we want to make sure that where our children are is the safest place they could be other than in our own arms.

Mr. President, I yield the floor, and I hope I have made some type of sensible case for reasonable regulation.

(Ms. MIKULSKI assumed the chair.)

Mr. GRASSLEY. Madam President, there are several critical and useful things that this Congress could and should be addressing. The calendar has on it important legislation such as the drug bill and tax technical corrections. Yet in the few days just before adjournment, the majority party is pushing a bill to license grandmothers.

Though the ABC bill does not actually specify licensing of grandmothers, that is the effect it would have if enacted.

Before I describe just how the bill would do this, I would like to emphasize the point that the Federal Government has no business enacting policies and programs which would erode the traditional family structure. That family structure has been the backbone on which this country has been built.

If the Federal Government has a child-care policy, it should enhance family structures, rather than denigrate them.

The language in the bill which concerns me would require all "publicly assisted" child care programs to meet federally established standards. The public assistance is the voucher system the bill would provide to low-income people to offset child-care costs. The Federal standards would apply to institutional care and to family care.

The ABC bill broadly defines family care as—

> One individual who provides child care services for fewer than 24 hours per day, as the sole care-giver, and in the private residence of such individual.

This includes the next door neighbor, the grandmother, the aunt, the close trusted family friend. All children entrusted to family members, while their parents work, would not be eligible for the benefits provided in the ABC bill.

This bill would discourage parents from making arrangements with neighbors or family members to care for their children during those hours when they must work. In effect, it would discriminate against them.

This would send a message to parents that the Federal Government knows what's best for their children. This would tell parents that even if they have a neighbor or grandmother to care for their children—that the Federal Government has to "check them out."

Parents would have very few choices in this bill. They could send their children to a federally approved institution; or they could make sure that their neighbors or relatives are federally licensed for child care; or they could relinquish any opportunity for Federal assistance in caring for their children; or they could quit working to support their families, sacrificing their financial independence, and go on welfare so that they could stay home with their children.

Madam President, these are not acceptable choices.

The managers of the bill apparently realized the problems that might result from the bill. Thus, the following sentence was added to the bill, in section 20:

> Nothing in this Act should be construed or applied in any manner to infringe upon or usurp the moral and legal rights and responsibilities of parents or legal guardians.

Well now, isn't that generous.

I would like to point out the number of children we are talking about, who would be deprived of Government assistance if their families' friends or relatives are not licensed to care for them.

Madam President, 4.7 million children are cared for in their homes while their mothers are at work. About half of these children are cared for by their fathers. The other half are cared for by grandparents and other relatives.

Another 3.8 million children are cared for in someone else's home, sometimes a relative and sometimes a paid caregiver. Only 2.4 million children are sent to organized day care centers.

Ironically, the license requirement would hit low-income families the hardest. According to an article in the March 9, 1988 Wall Street Journal, only 15 percent of women without a high school diploma, and thus more likely to be paid lower wages, use day care centers for their children.

Of this group of women, 55 percent rely on relatives for child care. These women will not benefit from the ABC bill unless their relatives become federally licensed. Many of the poor families targeted by the proponents of the ABC bill will actually be left out.

According to Ann McLaughlin, U.S. Secretary of Labor, 67 percent of children in unlicensed child care are cared for by relatives and family members.

For obvious reasons, many parents prefer this type of arrangement. These are the types of child care arrangements the Federal Government should encourage and enhance, rather than discourage. There can be no greater support system for children and their parents than the extended family structure.

When relatives do not care for children, the next most common alternative is for children to be cared for in their own home or in someone else's home.

To quote Virginia Thomas of the U.S. Chamber of Commerce, from a brochure discussing the pro's and con's of the ABC bill:

> The Democratic Act for Better Child Care Services forces a costly, monolithic, Federal solution on a social concern that has as many faces as an octopus has arms.

The ABC bill, if enacted, would be a prime example of when the chief cause of problems is solutions. Certainly licensing grandmas to take care of their grandchildren, is at least one of the very significant problems that the ABC solution would cause.

Many home based child-care providers purposefully avoid licensure, which is presently State administered, because of the onerous requirements and limited benefits.

Licensing does not in itself ensure safe child care. In fact, licenses may become a disservice if parents are tempted to believe that child care is safe, just because it bears the Federal seal of approval. Because problems are just as prevalent in licensed care as in unlicensed care, parents should be educated on how to identify safe child care alternatives.

My State of Iowa, for example, is one of eight States which do not require family day care providers to be licensed, if they care for six or fewer children. The State does, however, encourage home providers to seek licensure, and about one-sixth of them do.

Should Congress tell the State legislature in Iowa that they know more about child care? Will a Federal panel know more about the child care needs of Iowa than the local law makers who live within 50 miles of their constituents? I raise this question not only for the citizens of Iowa, which I represent, but for any State.

I appreciate the intent of the ABC bill to encourage day care providers to be licensed. Licensure may be a partial answer to some of the quality questions surrounding day care.

Madam President, as Members of Congress, we should support the role of the family in selecting the most appropriate type of child care for children. Most Americans prefer to keep child care in the family.

Therefore, I hope my Senate colleagues will oppose the motion to recommit the parental leave bill to the Labor Committee. The intent of the motion is to add the ABC bill to it, so that the Senate would consider these items as a package.

Though most of us agree that there may be an appropriate role of the Federal Government in child care, the ABC bill is not the answer. There are other problems with the bill which have been adeptly discussed by other Senators. But the provision which I have discussed, licensing grandmothers and other relatives to care for children, is not the route to go.

Madam President, I suggest the absence of a quorum.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. Will the Senator withhold?

Mr. DODD. Madam President, if I may just take just 1 minute or so, if my colleague from Illinois——

The PRESIDING OFFICER. Has the Senator from Iowa yielded the floor?

Mr. GRASSLEY. I yield the floor.

The PRESIDING OFFICER. And withdraw the request for a quorum call?

Mr. GRASSLEY. Yes.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, just before my colleague from Iowa leaves the floor, just so some of these points can end up becoming believed to be accurate, let me just make it clear: There are no licensing requirements at all under this legislation unless the State requires it. The Federal Government does not grant a license. The bill very clearly says the States are the only ones that can license.

Now, if grandma wants Federal dollars to take care of her grandchild, in a situation like that, well, obviously, when we apply Federal dollars we require standards in anything.

The Head Start Program, which all of us support—I do not know of a single Senator who votes against Head Start—Head Start has Federal standards. We have had that program in place for 25 years. And they are called minimum health and safety standards.

So if you have rats, or you do not have running water in your facility, yes, we say if you are going to get Federal dollars you have to have minimum health and safety standards.

What would be totally different would be if we were to say "Here is the money, and you do anything you want with it in terms of child care."

That would be a change.

But I cannot think of a single program where we say to the taxpayers of America "We are going to take your money, we are going to give it to somebody and we are not going to require some minimum standards that have to be met."

I think you would have a minirevolution if we suggested we can use taxpayer money to go to someone who held themselves out as a child care provider and then did not require minimum health and safety standards for the children that were in that center. That would be outrageous. And I think you would have a riot on your hands.

But the notion somehow that the Federal Government is going to run around to all these child care centers to be inspecting, no, they do not. There are no Federal inspectors. It is all done at the State level in Iowa, in Connecticut. Iowans and Connecticut people are doing this, not someone out of some Federal bureaucracy in Washington.

The only sites that have to be licensed are the ones that the States require to be licensed, what Iowa requires, what Connecticut requires. That is basic. That is common sense.

But, frankly, those who are opposed to this legislation are running around suggesting that grandma or the next-door neighbor is not going to be able to babysit for somebody. That is absolutely categorically untrue. That is an absolute total myth that that is what this legislation requires.

Yes, it requires licensing if the States require it. Yes, it requires minimum health and safety standards, if you are going to get Federal vouchers. That is true.

But I would suspect that people would be concerned if we did not.

We require Federal standards for those toys. Should we say to a child care provider anything different than we say to a toy manufacturer? You are caring for children. You can do what you want, but you cannot make a set of blocks for them unless we require some standards. That is commonsensical.

So I say to my good friend—and he is a dear friend of mine; I care for him dearly and we vote together on a lot of issues, I support a lot of things he does—frankly those points are just not accurate when it comes to what this bill tries to do.

There are people who do not want to be subjected to some standards. I understand that. That is fairly rudimentary. People do not like standards. They do not like anyone to apply them to them.

But if you are going to get Federal money and you are going to have a business wherein some of the people who paid for that business or support that business is going to come from the taxpayers of America and they are going to call themselves child care providers then we are just saying when you do that you have to meet minimum health and safety standards.

If people find that to be revolutionary, then I would be surprised, quite frankly, because that is all it does and, by the way, none of these standards can apply for 5 years.

During that period of time there is a commission set up to review and they include clergy people and educators and the private sector as well as professionals in the child care area, to try and help develop those standards so that they are fair and equitable and make sense. But the notion that grandma or the next-door neighbor or some dear family friend is going to have a Federal inspector crawling around their living room as they are babysitting for the next-door neighbor, is an absolute myth, and there is nothing in this legislation that requires that.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Madam President, let me just take a few minutes to add a comment or two.

We are talking really about two different bills, and I would like to—just to confuse things further—discuss a third bill or a third general area just a little bit.

First, on the parental leave, I would just make two points. First, we are talking about unpaid parental leave. Some people are getting confused about that. Second, I would point out that the committee report says this: "The subcommittee received testimony from a wide range of employers that provide parental leave and report that it works well."

We are not talking about anything that is that drastic.

Then in the area of day care, I do not disagree with my friend from Connecticut when he says that the bill provides minimum health and safety standards, but it also does and should do one other thing, and that is to encourage enrichment for these young people who are in day care centers.

And that gets, really, to the third thing, because I think the day care center program ultimately has to mesh with a great, huge national need, and that is for intensive preschool education, particularly in disadvantaged areas in this country. We know from tests in Ypsilanti, MI, New York University, and elsewhere that where you have an intensified preschool education program, whether it is the city of Baltimore or the city of Chicago, wherever it is, you have a dramatic change in the dropout rate, teenage pregnancy rate, and the crime rate. We know it. It is not theory. But we are not applying it.

Some 6 or 8 weeks ago, the Superintendent of Schools of Philadelphia testified before the Education Subcommittee here in the Senate and said that where they have this intensified preschool education program, the results have been dramatic. I asked her: "What percentage of the students are you reaching who need help?" She said, "Twenty percent." That is higher than most cities. But what a tragedy for Philadelphia that 80 percent of those young people are falling through the cracks.

The parental leave bill is a step in the right direction. The day care bill is a step in the right direction. But we also have to, one of these days, take a third step, and that is to provide intensified preschool education programs in disadvantaged areas if we are to serve this Nation well.

And let me speak candidly here, also. Many of these areas are minority areas. We are going to have to do better. Eighteen percent of the work force today, Madam President, is made up of minorities. Twelve years from now, it will be 29 percent.

When you are looking at the kind of educational opportunities that we are offering to too many of these young people, we are hurting our own future. America is one family. When anyone in that family hurts, all of us hurt.

I cannot tell you how, when a boy or girl in Baltimore or Chicago does not have a chance for quality education, that hurts people in southern Illinois where I come from, but I know instinctively that it does, and you know instinctively that it does.

The parental leave legislation is one part of a three-step program we have to enact. The second part is day care. The third part is an intensified preschool education program.

Madam President, I yield the floor.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Madam President, I realize that time is being charged, but I ask unanimous consent that the remarks I am about to give appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

GEN. JAMES A. ABRAHAMSON

Mr. WALLOP. Mr. President, I rise today to commend and salute Lt. Gen. James A. Abrahamson, the current Director of the Strategic Defense Initiative, who will be retiring on February 1, 1989, after 33 years of highly distinguished service to his country. The Air Force is losing a great officer, but the Nation is gaining a talented and capable scientist.

As a strong supporter, and sometime constructive critic, of the President's SDI Program, I have had an opportunity to work closely with General Abe. We have not always agreed on the direction the SDI should go and we have not always agreed on the prioritization of the various programs within it. We have even had serious disagreements on the substance of administration policy. But let me state for the record that in all my dealings with him, General Abe has always maintained the highest level of integrity and professional responsibility, and has given 100 percent of himself for the President's program, even at risk to his own career.

In the context of SDI, he has had to endure not only the extreme partisan opposition to the SDI Program but even personal, venomous attacks on his character and integrity. He endured much closer scrutiny as an Air Force officer than virtually any of his contemporaries, and he has done so with redoubled dedication to his convictions. He has even had his last star withheld, not because he did not earn it, but because it was caught up in politics—a shameful statement not on the General, but on the Senate.

This sort of dedication is rare in this world; it is rarer still among our uniformed military.

Madam President, most of us heard the name Jim Abrahamson for the first time when he was appointed Director of SDI in April 1984. But we owe him a debt from bringing many great technical achievements to fruition, achievements that have enhanced the Nation's security and fostered the exploitation of space for the good of all mankind.

Born in Williston, ND, on May 19, 1933, General Abrahamson received his bachelor of science in aeronautical engineering from MIT and a master of science in the same field from the Air Force Institute of Technology Program at the University of Oklahoma.

He was commissioned a second lieutenant through the Reserve Office Training Corps in November 1955 and completed pilot training in 1957.

In August 1961, he was assigned as Spacecraft Project Officer on the VELA Nuclear Detection Satellite Program. It was here that General Abe began one of the most distinguished careers in space in Air Force history.

In 1964, General Abrahamson was assigned to the 428th tactical flight squadron and during this period served two tours of duty in Southeast Asia where he flew some 48 combat missions.

In 1968, he attended the Aerospace Research Pilot School and upon graduation was selected as an astronaut with the Air Force's Manned Orbiting Laboratory Program from 1967 to 1969. It is unfortunate that that program was canceled, denying him the opportunity to achieve a personal dream: space flight. It is ironic that through his efforts, so many others after him were to have that opportunity.

Madam President, General Abrahamson's career is a laundry list of programmatic successes. Most notable among them prior to directing SDI are Program Manager of the Maverick Missile Program and Director of the F-16 Combat Fighter Program, one of the most successful programs in Air Force history.

In November 1981, the General was assigned as Associate Administrator of NASA for the space shuttle. In that capacity, he guided the shuttle program safely and successfully through 10 developmental and early operational launches. During his tenure, NASA performed many firsts, including the first satellite retrieval and repair mission which vividly demonstrated the operational capabilities of the space shuttle.

General Abrahamson has too many awards and medals to list, including the Air Force Distinguished Service Medal. But I think he would agree that the greatest achievements of his career have been his capacity for putting complex spacecraft, in orbit, on time, and return them to Earth.

Whether it is the spectacular success of the Shuttle Program, or the less known but equally important Delta 180 and Delta 181 SDI experiments, Abe has always given America, his country, his service, and his job everything he has, and thereby won the right to demand and receive the same from the men and women who work under him. And, boy, did they do that for him.

Madam President, the Air Force will sorely miss the integrity, the skill, and personage of Jim Abrahamson. But I can assure my fellow citizens that his talents will not be lost on the country: He will continue to dedicate himself to the President's vision of a defense against ballistic missiles.

All of us, Madam President, will benefit from that by being safer in our future.

Madam President, I yield the floor.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Madam President, I share in the comments that the Senator from Wyoming has made and I compliment him for bringing this to the attention of all Senators. I have had the privilege of working with General Abrahamson these past 2 years as a member of the Armed Services Committee. I share everything that Senator WALLOP said.

I am reminded of a dinner that I had with Edward Teller in Idaho Falls, ID, a winter ago.

He made the point to this Senator that, if the Senate could just see its way clear to approve the fourth star for General Abrahamson, that it would give SDI as much of a boost as if you added another billion dollars to the program because it would add prestige to it inside of the Pentagon bureaucracy.

I think it is most unfortunate that this excellent, fine military officer and successful gentleman did not have the opportunity to have that fourth star because he was successful in his efforts in the SDI as it is. But I believe, had he had the fourth star and had that additional clout, could have commanded a little more respect from certain areas of the highest levels of the Pentagon, he would have been able to do more and accomplish more than has been done with the same amount of money that we have.

I share the comments of the Senator from Wyoming. We will sorely miss Jim Abrahamson and I wish him well in whatever endeavors that he takes up. I am confident that success will be his, as it has been his up to this point in his life.

I wish him well. We will miss him in the service of this country; but hope that he will be engaged in an industry or activity that will be able to complement the work that he has done here to continue to help America lead the world in technology and hopefully lead the world in preserving peace and freedom.

I yield the floor.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Republican leader.

PARENTAL AND TEMPORARY MEDICAL LEAVE

The Senate continued with the consideration of the bill.

Mr. DOLE. Madam President, I take this opportunity just to indicate that there is a possibility that we could dispose of this in the next hour, if people are inclined to do that; vote immediately, in the next few minutes, voice vote or rollcall vote on the motion to recommit. That would bring a substitute, and I assume cloture would be filed on the substitute.

Then maybe immediately by unanimous consent have that cloture vote today; maybe have two cloture votes today.

I have indicated this to the majority leader. No tricks, no games. Just get this behind us and move on to important legislation, the Technical Corrections Act, which is very important to millions of Americans, including every farmer I know; and the drug bill.

These are the important issues. There is not anybody in this Chamber who believes this package is ever going to become law if we stay here to the 15th, the 22d, the 29th, or after the election this year.

Mr. DODD. There is one.

Mr. DOLE. One, one thinks it may become law. He is undecided.

But I am proposing that we vote immediately on the motion to recommit. Or just adopt it by unanimous consent. And then, having two back-to-back cloture votes on the substitute. If they cannot get cloture in two votes, we move on to something else. Do that all today. I have talked to Senator PACKWOOD, the ranking Republican on the Finance Committee. He is prepared to start on the technical corrections bill.

I have talked to Senator RUDMAN. We believe on the drug bill we can have a bipartisan agreement where each side would have six amendments and the leader on each side would have one amendment, and maybe get time agreements on most of those amendments and do a drug bill in 2 days; plus a lot of other things, of course, that would be done by consent.

It is possible that we could complete action on major legislation by this weekend.

I just indicate what we are prepared to do. It seems to me that it is an offer that cannot be refused unless we just want to stay here.

When this 30 hours is finished, then there will be cloture on the substitute. If cloture is invoked on that, then there is another 30 hours. Then there will be cloture on the bill and another 30 hours. And even if we stay all night around the clock, 15 hours, that would be 75 hours plus you have to wait for cloture to ripen. That takes a day or two. It will be the middle of next week before all that time expired and we still would not be anywhere.

There are a lot of reasons this legislation should not pass and I do not know anybody who is pushing it. I have quite a few friends interested in parental leave and child care. They would like to have it this year but it is not a burning issue. They know both Governor Dukakis and Vice President BUSH are sort of making these issues, at least in the child-care case, a centerpiece of their campaigns. And I think we need more national debate on that.

I do not quarrel with the distinguished Senator from Connecticut or anyone else who has spent a lot of time on this issue.

But the important thing in my view is to get on the major issues. It is time we served notice, as I said yesterday, on the drug dealers and the pushers that they had better get their "out of business" signs painted. We are serious.

We have sent them a message. Now we want to send them a warrant.

If we stay on this bill to the middle of next week and have not touched the drug bill, have not touched technical corrections, I think many farmers in my State plus a lot of other business people and individuals are going to wonder where we are on the diesel tax and heifer tax and all these other issues; why did we not address these issues?

I stood here once before. I said, "Let's roll the dice." We are ready to roll. Roll the dice right now. Let us get this behind us.

Of course, if cloture is invoked, we will probably have a new leader on this side. But otherwise, we will be all right.

Little things like that, you can deal with. But in any event, we are ready. I do not want anybody writing out there that somehow Republicans are keeping us here. We want to help the

American taxpayers and every day we get out here, it is just that much more help. We are not going to spend any of their money if we are not here.

If we are here 1 more week, somebody is going to think of some way to spend more money. I have not had a single taxpayer insist that we stay here until October 15. I had a lot of them wish we had not come in at all this year.

So we are prepared to move forward. I do not see any reason to stay here all night or to 5 o'clock in the morning or 10 o'clock at night, or whatever. If cloture is invoked, then of course we are on the substitute. That would be 30 hours. But we are willing, at least I am, I think willing on behalf of this side of the aisle, to suggest we at least ought to give it our best shot. If the other side prevails, that is one thing. If they do not, then I believe we could move on to other legislation.

I know Senator BAUCUS is deeply interested in moving to the technical corrections bill. I know Senator NUNN feels strongly about the drug bill. And we do, too.

As important as these issues may be, parental leave, child pornography, child care, I would guess in anyone's priority list and based on what we all expected, child care was never on a "must" list, that I recall.

So we are prepared to take our chances on this side, do it yet today, get this behind us, and I would hope that that offer would be accepted.

I suggest the absence of a quorum.

Mr. DODD. Madam President, would my colleague withhold?

Mr. DOLE. Oh, sure.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, first of all, I want to thank the majority leader. He has been cooperative and helpful and, as he pointed out earlier, he has his own child-care bill which can be offered as an alternative. I want to at least, from my point, make it clear the reason we are in this situation.

We have been on this bill now for over a week. It was a week ago yesterday that we began to consider the parental leave bill, a bill that enjoys cosponsorship of eight or nine members of the Republican Party. In fact, I see my good friend and colleague and a cosponsor, Senator PACKWOOD, among others.

To suggest somehow we have taken up the time of the Senate, this bill last week could have been dealt with in a day. The only reason there was a suggestion we needed an additional 30 hours is because we were faced with a filibuster. If we did not have a filibuster we could have dealt with the legislation and could have had legitimate, germane, relative alternatives posed. If Members have tax credit ideas on child care and they want to substitute that or offer it as a substitute, we can debate it; offer it up, let us vote on it.

On parental leave, they want to eliminate the mandated program. Let us offer a pilot program, a voluntary program, a study group, whatever. Let us have the amendments come up, debate them, vote on them and move along. Except for the one amendment that raises the exemption level from 20 to 50 and the child pornography bill of the Senator from South Carolina, Senator THURMOND, we have not had a substantive amendment offered on parental leave in a week.

We ought to be held accountable for holding up the Senate's business because we have not been able to deal—those of us who support parental leave—with that legislation.

I know there are people opposed philosophically to parental leave. I respect that. There is a wonderful way to reflect that opposition, and that is to vote against the bill. But when you get filibustered by silence, filibustered by every other tactic available, and I cannot get to the substance of the legislation—frankly, I think working on the problems of children and families in this country is an important issue. I think the tax bill is an important bill. I think the drug bill is an important bill, but I think parental leave and child care are important, too. I think they ought to be dealt with and, frankly, we could have over this past week.

I am disappointed that has not been the case. I am hopeful that we would not need to invoke cloture; that we could vote to recommit, take the rest of this evening, have the alternatives be offered and vote up and down on the legislation. We do not need to vote on pornography legislation. That has been done.

On the child care provisions, there are a number of tax proposals. We can offer them as substitutes and vote on them. With child care, I think the fundamental question is whether or not it is mandated. Let us have a vote on it. I am prepared to vote on it and see how we come out. I think we will prevail, frankly, on that issue, and I think had those opposed to this legislation felt comfortable with the votes, it would have come to that.

I am pretty confident that 50 or 51 Members of this body would vote for a parental leave bill. I cannot get there. I have to produce 60 votes now to break a filibuster. So I have to get a supermajority to deal with children and families and a simple majority to deal with the tax bill.

I am disappointed at that. I hope my colleagues will be able to vote at cloture, and I hope at that point we can have time to deal with germane and relative amendments. That is what I hope will happen.

Nonetheless, I appreciate the Republican leader's remarks.

I see my colleague from Iowa has been waiting for time to speak on another matter.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I ask unanimous consent to speak on another subject matter.

The PRESIDING OFFICER. Is there objection to the Senator's request?

Without objection, it is so ordered.

VICE PRESIDENT BUSH AND THE AMERICAN FARMERS

Mr. HARKIN. Madam President, of all of the claims made by Vice President BUSH as he engages in the closing hours of his campaign for the Presidency, I do not think any are more phony or fraudulent or more wanting of the truth than his claim to somehow have the interests of our American farmers at heart and his claims that the Reagan-Bush administration has really been years of boom and years of good incomes for the farmers of America and that somehow the Reagan years have just been great years for our American farmers.

When you hear BUSH talk about that, that is what you kind of hear. As I said, I do not think anything can be more wanting of the truth than those claims.

So I think it is time, Madam President, to take a little time before the next couple of weeks run out to set the record straight and to look at some of the facts. As President Reagan said, facts are stubborn things. They are indeed, and when you look at the facts of this administration and what has happened in agriculture, you can only come to one conclusion: That if the farmers of America were to go down there to the polls on election day and to vote for another 4 or 8 years of what we have just been through, all I can say is we better be prepared to start turning out the lights, locking up our doors in rural America and our small towns and communities all over the country because what has happened in the last 8 years has been more devastating on rural America and small towns, farm families than any period since the Great Depression.

If I understand GEORGE BUSH correctly, what he says is more of the same. That is what he is saying. He said something like "If it isn't broke, don't fix it." He wants to keep on with the present farm program. Let us take a look at the present farm program in just the areas that Vice President BUSH says his administration has performed in such a stellar manner.

Let us take exports. We hear all this talk about our exports, how our exports are going and this and that. I will tell my colleagues that nothing again could be more phony than the claim that somehow we are really booming ahead in agricultural exports. This chart depicts the value of our exports for wheat and flour in constant 1982 dollars in the billions. So we get a look at what is happening over the last 7 years.

In 1981, which was basically the last year of the old farm program, the Reagan farm program started into effect after 1981, the value of our wheat and flour exports was about $8.5 billion. That is in constant 1982 dollars.

Look where it is now in 1987. It is down to about $2.5 billion. It has been steadily coming down every year since 1981. They claim this is a success? We are getting about one-fourth, maybe just a little slightly more than one-fourth today of our exports of wheat and flour than we did in 1981.

Let us look at the value of our exports in feed grains, important in my State of Iowa, corn being the largest segment of that feed grains export. Again, the value of those are in 1982 constant dollars. Here we go, 1981, we are up here about $11 billion roughly in the value of our feed grains exports. Look what has happened ever since 1981. We are down here now at about slightly less than $3 billion in the value of our feed grains exports.

Again, this is what Vice President BUSH says is a success. I will tell my colleagues, a little bit more of that success and we will be off the bottom of that chart. We will have to pay them to take our feed grains. We will have to pay them to take our wheat if we keep going on the way we are going.

Let us look at what has happened productionwise around the world. They say we want to compete with our foreign competitors and get our exports up so that they do not go out and plow up and plant everything while we are putting our set asides in. I will have more to say about that in a second.

Let us look at the wheat production index. If we take the 1980-81 crop year as our base year and assign that a value of 100 as the base year for wheat production, look what has happened to our neighbor to the north on the orange line. This is Canada. The blue line is Canada, Argentina, and Australia all put together, our three major wheat competitors. The red line is the United States. Look at that graph. Since 1980, wheat production in Canada, Argentina, and Australia has gone up by 30 percent. Wheat production in the United States is down about 12 percent. So much for Vice President BUSH's claim that somehow we are back on the production path. We have gone down—12 percent less than what we were in 1980-81 and our competitors are producing 30 percent more than what they were in 1980-81. That is in wheat.

(Mr. BRADLEY assumed the chair.)

Mr. HARKIN. Look at the wheat export index. This is an index that gives you an idea of how well we are doing against our competitors in the amount of wheat that we do, indeed, export. Who is getting the share of those export markets out there that Vice President BUSH would have us believe we have captured so much of?

Again let us look at 1980-81 as a base year. Assign as our base year 100. Again, the blue line is Canada, Argentina, and Australia. The red line is the United States. This is the amount of total wheat exports. Again, our competitors are 30 percent higher in their wheat exports this year than they were in 1980. Where is the United States? Well, after a long decline, we are right back where we started. This year we are exporting on an index basis just what we did in 1980-81. Our competitors are 30 percent higher. In that intervening 8 years we have done nothing. They have taken over 30 percent of the world market. Yet to hear Vice President BUSH tell it, you would think we are capturing those world markets again. Nothing could be further from the truth.

I tell you, Mr. President, they have taken our export markets and the value of our exports and driven them right down into the basement. A farmer said to me one day, "You know, they talk about all these exports they are getting back. I don't know about that but if we export all of our corn for 50 cents a bushel, what good does that do me? I cannot produce it at that." As you see by the value of our exports, wheat and flour and feedgrains are constantly going down. Just a couple more years with BUSH in office and, as I said, we will be paying them to take the grain and the wheat off our hands. That is what it looks like from that chart.

So they are producing 30 percent more. We are producing 12 percent less. They are up 30 percent in exports. We are basically back where we started.

Again, we hear the phony claim by the other party, by Vice President BUSH, that in 1987 farmers had record net income, net farm income was a record last year, but again facts are pretty stubborn things, Mr. President. The fact is that in 1987 cash receipts in real dollars to corn, wheat, rice, and oil seeds producers were at a 25-year low. And that is even if you throw in their CCC loans on top of it.

So how did they come out with their phony claim that net farm income was at a record high? First of all, they did not adjust it for inflation, and, second, they threw in all of the target price payments that the taxpayers made to the farmers. But in cash receipts, what the farmer gets from the local elevator for his grains, last year was a 25-year low for the farmers of our country. And so you see from that clearly their farm program, more and more Government payments, borrow on the future, pay it to the farmers, drive the prices down and out the bottom, has resulted in farmers last year getting 50 cents out of every dollar of farm income from a Government paycheck drawn on a deficit account. Now, if that is success, we cannot stand much more of it, Mr. President.

Well, what we have then is a farm program that has cost us billions of dollars. It cost us over $70 billion-plus in the last 4 years just for target price payments. We have lost about 250,000 farms. We have idled more land than at any time in our history. Farm asset values have gone down. In 1980, the value of our farms was $996 billion; in 1987, $714 billion, a quarter of a trillion dollars in asset values lost over 7 years. In 1980, land prices averaged $737 an acre. In 1987, they averaged $546 an acre—about a 25 percent loss in our land values in the last several years.

That is really curious. That really brings home what this administration is all about, and the phoniness of their claims. First of all, they claim they are helping the farmers, farmers are doing all these great things. I just pointed out how they say exports are great but the facts show that is not true. They say, "Well, we get the Government off their backs."

I spent a workday last week in an ASCS office out in Iowa and I could not believe the amount of paperwork farmers have to go through these days. I had not done this for several years. The last time I did it was back in the seventies. I cannot believe the paperwork burden they have put on farmers. Then I got to thinking about ASCS. That is the agency farmers come into contact with almost on a weekly basis. Agricultural Stabilization and Conservation Services [ASCS], an office in every county.

I was thinking about how many people work for ASCS, so I looked up some figures. Now, keep in mind this is the administration that wants to make things more streamlined, right? That is what they say. Get this. In 1982, there were 18,938 personnel working for ASCS throughout the United States, 18,938; in July 1988, 27,534 personnel in ASCS throughout the country, a 45-percent increase in 6 years. So what did they do? This is the Republican Farm Program. They kicked out 250,000 farmers and increased the bureaucrats by 45 percent.

Now, that tells you something, Mr. President. Not only that, but in Iowa the ASCS offices close their doors at noon. They are open from 8 to 12 and then they close their doors and lock them. Guess why. So they can get the paper work done. Farmers cannot go down there in the afternoon. If the farmer is busy in the morning and let us say it rains in the afternoon so he can go in and get some paper work done, he goes in and the doors are locked because they have to take the afternoon off to catch up on the paper work.

I understand that Iowa is not the only State where that is being done. It is being done in other States, too. So you kick off 250,000 farmers and you increase the number of bureaucrats by 45 percent. Boy, I tell you, if that does not set well with you, I have some other things.

Now, they talk about supply management. GEORGE BUSH is opposed to supply management, as if that is some kind of big scare word—boo, it is supposed to scare somebody. Supply management, boo, it is supposed to scare somebody. Come on. We have had supply management in agriculture for 50 years or more in one form or another. The biggest supply management program in history was the 1983 PIC Program under the Reagan administration. It idled more land than at any other time in our history. We have supply management now. We have things like setasides, conservation reserve programs that idle land, take land out of production.

But it is the way they operate. The PIC Program in 1983, the biggest set-aside in our history, under the Reagan-Bush administration cost $16 billion; 1983 PIC Program, $16 billion, but 56 percent of that money went to the largest 5 percent of our farmers. That is their idea of a fair farm bill.

Just in case you missed that, I will repeat it. In 1983, the largest land set-aside in our history under the Reagan-Bush administration cost $16 billion, and 56 percent of that money went to the largest 5 percent of the farmers in our country.

That is their idea of a fair farm program. I tell you they have messed up this farm program worse than even I could imagine they would have done. As my friend Jim Hightower once said, "These people down at the USDA couldn't run roadside watermelon stands if you gave them the watermelons and hired the highway patrol to flag down the cars." I believe it. They have made a mess of agriculture.

Let us be honest about it. Both Republicans and Democrats are in favor of matching supply and demand keeping it within some parameters. But what is the goal of trying to do that? That is really where the difference comes down to.

The goal of the Democrats, our bill, the goal that I have heard Mike Dukakis talk about and our esteemed colleague, Senator BENTSEN, talk about, the first primary goal, the priority goal must be to get a fair price for the farmer in the marketplace, a fair price for that farmer's investment in land, equipment, for the labor that he puts in, and not a Government paycheck drawn on a deficit account. Our first priority is a good, decent price for our farmers. That is what we have always stood for. We will always stand for that.

We will make sure that the programs work to do that; not to enrich the top 5 percent of the farmers, not to make sure that the big processing companies are able to make record profits as they have in the last few years, not to let our competitors abroad increase their share of the foreign market but to make sure that our farmers have a decent share of that income and that price.

It is clear to me what GEORGE BUSH is talking about. He says he does not want any supply management. Well, I have to ask. What Mr. BUSH really wants is he wants to do away with all set-asides; he wants to do away with the conservation reserve program. We do not want to do away with the conservation program. It has been a highly successful program. We mean to implement it, and keep it going to get some of this fragile land out of production. But Mr. BUSH, if I take him at his word, wants no conservation reserve program. That is supply management. He does not want to have it. So I can only assume that under a Bush administration the conservation reserve program would go by the wayside.

Well, the BUSH, Butz, and Block legacy is told in the figures of 250,000 farmers off their land, 45 percent increase in the number of bureaucrats out in those county offices, lost export markets, huge deficits, $70-plus billion in payments of the Government to the farmers. A farmer in Iowa told me. He said the only land he is farming profitably right now is that little strip of land from the back door to his mail box to get his Government check every month. Well, it is not healthy for our farmers. It is not healthy for our country. Our goal is to make sure that price is up for the farmer, and to get our demand up. Yes, we are going to get demand up. We are going to do it through new products, through research, and to make sure that we make biodegradable things that do not hurt our environment. We will increase our research in those areas. Mike Dukakis has talked about that many times.

Lastly, I want to make one other point here. We always get the bloody shirt of the 1980 grain embargo by President Carter which all of us, at least all of us who represent farmers, were opposed to, but nonetheless they had it and we had to live with it.

But do you know who the chief architect of the grain embargo was, Mr. President? He is a man by the name of Zbigniew Brzezinski. He was the architect of the grain embargo. He was their most vocal, ardent supporter of the grain embargo. Guess where Mr. Brzezinski is today; advising Mike Dukakis? No. He is George Bush's top adviser, the architect of the 1980 grain embargo, one who has never indicated in any way that it was a mistake, which it was.

So I think farmers ought to be aware that Bush in the White House means Brzezinski in the wings. What that means is trouble for farmers in terms of our markets overseas.

Mr. President, I think it is clear from the facts of what has happened; that those of us who live in rural America in the small towns and communities, the farmers who grow our food and fiber, must think very carefully and must really look back over the last several years—even those farmers who have weathered the storm, and there are those. There are farmers who have done well. I will admit that. There are farmers today who bought more land, increased the size of their holdings and are doing quite well for a variety of reasons. Some could be hog farmers. Hog prices have been very good. They have made good incomes in my State with the Government programs and payments; for a variety of different reasons.

But to those farmers who are not, I would ask them to consider what their communities are like this year, compared to what they were like several years ago. Can a farmer who is doing well stand the loss of any more of his neighbors down the road? Already we are hearing echos from this administration about cutting out REA, about increasing the price of electricity to our rural customers, about doing away with farm market roads, and rural telephones. A farmer who is doing well out there I think should ponder this. What happens when those neighbors are gone? How far will he have to take his produce, his products, corn, beans, whatever to market? Where will his kids go to school if they are being bused 5 miles today or in some cases 10 miles or more in Iowa? If they shut down those rural schools out there because there are no people, how far does he have to send his kids to school, 20, 30, or 40 miles a day? Where will that farmer get spare parts for the tractor, in the next county or two counties over? What will be the cost of electricity when that farmer and his family are the only ones on that line out there for miles? What will be the cost of electricity and the cost of their phone service? Think of it. The farmer is out to do well; to ponder that and to think about that. I am talking about those farmers who are doing well.

Yes, individually they may be doing well, but look at their family. When I say their family, I mean their family of farmers around there, the communities, the schools, their churches. Look around and see what has happened to those friends the farmer had in the last few years. Where are they? I guess the question that has to be asked before they go into those polls this November is can we really afford more of the same? No. I give GEORGE BUSH credit for saying it. He said he is going to give them more of the same. But can we really stand more of that? Can we stand more and more bureaucrats, less and less income, more and more Government payments, more loss of our foreign markets and the value of our exports?

We can. Yes, we can stand it. If we want to get rid of farmers. If we want to shut down rural America, yes, we can stand it. That is really the difference—whether or not we want a strong, healthy agriculture in rural America or not.

So, Mr. President, this is not the last time; it is not the first time, and certainly not the last time that I will point out these inconsistencies of the Reagan and Bush administration and the devastating, absolutely devastating effect that it has had on rural America.

Mr. President, I yield the floor.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

UNITED NATIONS REFORM CERTIFICATION

Mr. HEINZ. Mr. President, last week President Reagan addressed the U.N. General Assembly and praised the changes he sees in the organization. I share some of the President's sentiments, especially his satisfaction that several conflicts around the globe look to be close to resolution under the auspices of United Nations mediation. But when it comes to internal reform of the U.N. organization, I must differ with the President.

Two years ago I first offered an amendment to put an end to the Soviet bloc abuses of the U.N. personnel system. Three weeks ago the administration certified that there has been enough reform in New York to send the full appropriated American contribution to the U.N. budget.

I believe this decision is wrong. The changes are totally insufficient to justify the certification. This is particularly true of the rationale on secondment of personnel to the U.N. Secretariat.

The administration's certification of United Nations reform in the personnel system is deeply flawed. It says more about the willingness of the administration to be expedient than it does about real change at the United Nations. I do not believe the administration's decision was faithful to the clear intent of the law. For that reason, in the next Congress I plan to introduce legislation that provides more specific benchmarks by which to unequivocally assess how far the United Nations has come in reforming its personnel system.

The administration's certification is, in part, premature, in part, indefensible. And in general, it undercuts the reform effort and effectively squanders whatever progress we might have hoped for after years of pressure and hard work.

The problem is that the Soviets and their allies maintain virtually all of their nationals who work for the United Nations on temporary contracts. This tramples on the U.N. Charter, by undermining the independence of these civil servants. More important, it damages American interests by increasing the capacity of these Soviet citizens to abuse their positions by engaging in anti-United States activity—including espionage.

Recently, the Soviet asked that 5 of their 180 employees at the United Nations go on permanent contracts. The law that was adopted by the House and the Senate and signed by the President requires progress toward a cap of 50 percent on temporary contract personnel from any country. When the five become permanent employees, the Soviets will have over 97 percent of their nationals still on temporary basis in the United Nations.

If this is real change in terms of cleaning up the U.N. personnel system and reducing the threat to American intelligence interests, it is so small my microscope cannot see it.

What I can see, Mr. President, is that the United States has thrown in the towel on United Nations reform before real, meaningful reform is assured. There has been the beginning of change at the United Nations. I welcome that. But it is just a beginning, and by certifying now the administration has sent a clear signal: The United States is not serious, go back to business as usual.

But I and the other Senators who have helped start the very slow progress toward reform will not go back to business as usual. I will continue to work to improve the U.N. system. If real progress is not documented in the U.N. personnel situation in the months ahead, I will move to strengthen the laws that govern our contributions to the United Nations so that real, lasting changes will be achieved.

If much more progress is not made in the next several months in U.N. personnel practices, I will introduce legislation that will set more concrete guidelines for judging the progress that is made in cleaning up the U.N.'s personnel system. It will set out specific levels of secondment that should be achieved in specified periods of time in order for United States assessed contributions to be released. I think making United States assessed contributions to the United Nations dependent on specific, reasonable, reforms in the U.N. personnel system will leave no doubt about what the Congress wants, and no doubt about what has been achieved at any point in time.

Mr. President, there is great hope for settlement of various conflicts around the globe, from Southeast Asia to Africa. The United Nations has played a role in mediating these disputes, and may have a role as observer when agreements are implemented. I share the enthusiasm of my colleagues for these developments.

But I also understand that these functions of the United Nations can be separated from the contributions the United States has until now held back as an incentive for real reform at the United Nations. No one can doubt that the Congress stands ready to finance legitimate peacekeeping operations the United Nations may perform to help end long, bloody conflicts. But that does not mean we have to go on subsidizing espionage against the United States and gross abuse of the U.N. system by countries that ignore the U.N. charter.

As President Reagan said, the United Nations is enjoying new status as a broker of peace. Much of this is the result of decisions by member states to let the United Nations play a role. It is time the internal weaknesses of the U.N. system were eliminated so that the organization can make its full potential contribution to achieving the lofty goals on which it was founded.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PARENTAL AND TEMPORARY MEDICAL LEAVE

The Senate continued with the consideration of the bill.

Mr. BYRD. Mr. President, I was not on the floor when the distinguished Republican leader made a proposal. He had discussed the proposal with me, however, prior to his taking the floor and I did see and listen to some of it. But I had other things going on.

Would the distinguished Republican leader repeat that offer?

The PRESIDING OFFICER. (Mr. HOLLINGS). The Republican leader.

Mr. DOLE. Mr. President, if the majority leader will yield, what I suggested in the interest of expediting, hopefully, adjournment, but also disposition of this bill and other bills the majority leader knows are important to him and others—the tax bill, the drug bill—that we would vote immediately, voice vote or whatever, on the second-degree amendment, first-degree amendment, motion to recommit. And, as I understand it, if those were all approved, then the business before the Senate would be the substitute. And then the business before the Senate would be the substitute. And then the question whether or not the majority leader would file cloture on the substitute.

I suggested if that were his desire, that we would be willing to immediately vote on cloture today, and vote on cloture twice today, with unanimous consent not to wait until the cloture petition ripens, but just do it by consent, have a couple of votes on cloture.

And if the majority leader prevails on the first vote, obviously, we are on the substitute then, again, under 30 hours. If he does not prevail the first time, does not prevail the second time, then it would be my hope that we could move on to other business.

That is the substance of it. In other words, dispose of the pending matter by voice vote or whatever, rollcall vote or unanimous consent or whatever, and then if cloture was filed, if the majority leader would indicate he would file cloture, then immediate vote on cloture. If there is desire to have a second cloture vote, immediate vote on that. And then if those who oppose cloture should prevail, hopefully, we can lay this business aside and move on to something else.

Mr. BYRD. Mr. President, I wonder if I might make this suggestion, that we proceed to vote on the motion to recommit with instructions tomorrow at 2 p.m. rather than just now. We would begin the vote on the amendments tomorrow, if we could agree, say at 2 p.m., vote on the second-degree amendment and vote on the first-degree amendment, then vote on the motion to recommit just as would be the order once the 30 hours plus whatever time additionally would be required by Senators who would not have had their additional 10 minutes; if they had not used any time, they could get 10 minutes under the rule. And there may be 30 or 40 of them.

So if we agreed to vote tomorrow on those amendments and then the motion at 2 o'clock, begin the vote, that would be about as soon, in all likelihood—would not miss it much—as we could begin voting if we ran out the 30 hours plus the additional 5 to 6 or 7 which might be involved by virtue of Senators claiming the additional 10 minutes allowed under the rule. If they met the requirements therefor.

I must say to the distinguished Republican leader, I do not think we would gain anything by having two cloture votes or three cloture votes on the same day. You would have the same number of people here, same number of people absent. And although it would not make any difference how many would be absent that were going to vote against cloture anyhow, it might make some difference in respect to those voting for. I presume they would all vote the same day on the second and third cloture motions.

So, first of all, I see nothing to be gained by having two or three cloture votes on the same day, today.

Second, I would not want to commit myself at this point to immediately offering a cloture motion on the committee substitute, in the event the motion to recommit and report back carries. I want to make that judgment at that time.

If we stay here and we run out the clock, at 5:30 in the morning, if we stay, at 5:30 in the morning, 30 hours would have expired. The Chair would be prepared then to state that the 30 hours have expired, the question is on the second-degree amendment. And I doubt that many Senators would want to be around here at that hour.

However, if they want to claim their 10 minutes, they would have to be here at that hour.

So, why do we not agree to vote tomorrow, beginning at 2 o'clock, on the amendments in their proper sequence and then the vote on the motion and go home this evening?

And in the morning, we could come in, if it would be agreeable with the distinguished Republican leader, and take up some other matter. Agreeing to take up another matter would have no impact on the matter before the Senate because we would all really agree that the votes on the two amendments and the motion to recommit would occur at a given time tomorrow.

So in the morning, we could proceed on some other measures and work until the hour for the vote, and then we go to the vote. We do not stay here the night.

Whatever outcome there would be tonight on those amendments, and it would not be voice votes, it would be rollcall votes, whatever the outcome tonight would not change much between now and tomorrow. If the motion to recommit loses, then upon the rendering of that judgment, we are in a position to make a decision as to what we do at that point. If it carries, we are in a position to make a decision as to what we do at that point.

I would not want today to lock in cloture votes, bang, bang, bang immediately following the sequence of votes on the amendments and the motion.

Would that proposal be acceptable to the leader?

Mr. DOLE. First of all, as I understand it, if we have no further speakers, the question on the amendment is put immediately.

Mr. BYRD. I do not believe so, not until the 30 hours are up or Senators indicate that they do not want to take their 30 hours.

Mr. DOLE. Can I pose that as a parliamentary inquiry?

The PRESIDING OFFICER. Will the distinguished Senator restate his inquiry?

Mr. DOLE. If we have no additional speakers on this side and we want to expedite business of the Senate in getting out of this place, if we had no additional speakers and there were no additional speakers on the other side, would the question then be put on the second-degree amendment?

The PRESIDING OFFICER. The question would be put on the second-degree amendment.

Mr. BYRD. If there were no additional speakers on either side.

Mr. DOLE. We are the ones who are supposed to be holding up the process. If we are not going to speak, then we are not holding up the process.

My view is this bill, sooner or later, is not going to pass and the sooner we make a judgment on that, my point of view is, get on to the tax bill or the drug bill, the quicker we make it out of here. If we run the clock on this stalemate, the majority leader said 5-something in the morning, then we have to vote at 5 in the morning, and then if we started on the substitute, cloture was not filed immediately, and if cloture was filed and cloture is obtained, there is 30 more hours; you get on the bill and there is another cloture, let that ripen, and 30 more hours. That is the end of next week, even if we stayed all night around the clock. At least get through to Monday or Tuesday.

My view and the view of my colleagues on this side, and there are some on the other side I think who share this view, is that we ought to have some disposition of this issue. It is an offer that cannot be refused. We are willing to vote right now, have one cloture vote right now, have another cloture vote tomorrow, if the leader does not want to have two today. In the meantime, we can go off on something else so at least we are making some progress on the tax technical corrections amendments bill which has a number of good features, including the taxpayer's bill of rights, diesel tax, heifer tax—all these things that are important.

I would have to check some of my colleagues before I could agree. We do not get much out of that. All we do is expedite disposition.

If the majority leader has no intention of filing cloture, we could waste another day or two before cloture is filed. The veto on textiles was sustained 272 to 152. So that will not be coming over here.

I would be happy to discuss this with some of my colleagues for a couple of minutes.

As I understand it, we are ready to vote on these three things. I know there is a conflict this evening. We would not want to do that, but maybe we could do it in the morning. If I could have 5 minutes, I will come back.

Mr. BYRD. Surely. May I say to the distinguished Republican leader, as I view his offer and the way he has indicated mine, I do not see that we gain anything out of his offer. We vote now on the motion to recommit with the votes on the amendments occurring first and then vote bang, bang, bang on the cloture motion. There is nothing to be gained by having two cloture votes in the same day, nothing to be gained by having three cloture votes in the same day, and there is the option to be lost that I may want, or that another Senator may want.

We can take a new look at the playing field once we have that vote, or those votes. There will be at least three. If the motion to recommit and the amendments are voted up, I may feel that we should proceed from our side in this manner. If it fails, I may feel that we on this side want to proceed in this manner. So I do not want to agree that there would be an immediate cloture vote following the votes on the amendments and the motion.

So what I am saying is, we go out tonight, we vote tomorrow beginning at 2 o'clock on those amendments and the motion to recommit. In the meantime, in the morning, we could take up some other matter. Once we have those votes tomorrow, then we see where we go from there. If we all go home tonight, the majority leader does not lose anything by having the votes tomorrow beginning at 2 o'clock on the amendments and on the motion. We all get a good night's sleep and nobody locks themselves into an immediate cloture vote. We may lose on the motion to recommit. We might lose today; we might lose tomorrow. We may lose on the motion to invoke cloture. But we can do some other business tomorrow morning so we do not lose anything. We just get the agreement now, we go home now, and we have those votes tomorrow at 2 o'clock. In the morning, we do not need to waste that time. As far as I am concerned, we could take up the bill and begin to work our way on it with the inclusion in the unanimous-consent order that that not interfere with the action on this measure beyond 2 o'clock tomorrow.

That seems to me to be an offer nobody could turn down. I believe the distinguished Republican leader will find that a very attractive offer.

Mr. DOLE. Not as attractive as mine. It is a start. I just say the reason I suggest we do back-to-back cloture votes, maybe do one a day for a while. We do not have that much time, as I see it, whether we are here until this weekend or the next weekend. If we start on the tax bill and the motion to recommit is adopted, then we are back on this bill, and if we do not dispose of it somehow, we could be on the bill for the rest of the week.

I do not know where that will put us, but I will be happy, I say to the majority leader, to explore that if I can have just a few minutes.

Mr. BYRD. Surely. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PROXMIRE). Without objection, it is so ordered.

Mr. BYRD. Mr. President, we on our side have a little function over on the other side of town. The distinguished Republican leader has indicated that there would be no action during the 3 hours between 7 o'clock and 10 o'clock.

I would like to make the following proposal and then I think some of us are going to have to go to that function and come back. I propose that we vote on the second-degree amendment, the first-degree amendment, and the motion to recommit, voice vote one right after the other, with no motion, no amendment, no debate between the votes. That way, we would get to the point where we will get to tomorrow by staying here all night. We will get to that point probably about 5:30 in the morning as far as the 30 hours are concerned. I do not know how many hours will be claimed by Senators who would like to speak for 10 minutes beyond that time.

So, it seems to me, that this would allow us all to go home. We could take up the tax bill in the morning, if that is agreeable with the distinguished Republican leader, and then go back to the profamily package tomorrow at 2 o'clock. Voice votes tonight, no rollcalls, and then go home and come back tomorrow and take up the tax bill and at 2 o'clock tomorrow we are back on this bill. The 30 hours would have been avoided and we will be, within 10 minutes, if we do that, we would be right where we would be by running up the string of hours sometime tomorrow.

Mr. DOLE. If the majority leader will yield, it seems to me—I have checked—that we do not have any request for any more time on this side. As I understand it, if there are no requests, no speakers, then the Chair puts the question. The first question would be on the second-degree amendment, which we are willing to proceed to on a voice vote. But if we agree that amendments be in order, then we lose our right, under cloture, after the majority leader would offer two additional amendments, for us to offer any amendments. And that has been the problem from the start. We have never offered any amendments.

We are trying to figure out some way to accommodate the majority leader's request and still protect our rights—anybody's rights, I guess, it would be—with the leader offering an amendment.

I suggest that maybe we could have the majority leader offer two amendments and the Republican leader offer two amendments. We would have a 1-hour time agreement. I am not certain, I do not have any idea what amendment you have and you do not have any idea what amendment I have, except they are all in the file and it would be one of those.

The alternative is on our side. We are ready to just follow the normal procedure right now: Voice vote, record vote on the second-degree amendment; whether it fails or passes, then is open to amendment. If there are no amendments from that side, if I were recognized, I could offer an amendment. If that were defeated, I could offer another amendment.

I guess, otherwise, we would be in a position just waiting here for the majority leader all night for the time to run. We would like to figure out some way to avoid that. I assume, at the same time, we know you have a very important engagement. You protected our rights last evening. Maybe we could take 3 hours off the time between now and 10 o'clock.

Mr. BYRD. Mr. President, the Republican leader wants to vote on the second-degree amendment. That is all. He does not want to vote beyond that tonight.

I am saying, let us vote on all three. We will not make any further speeches, either. Vote on the second-degree amendment without further debate, motion, or amendment; go to the first-degree amendment without further debate, motion, or amendment; and go to the motion to recommit with instructions. Do it all by voice vote. Wipe it all out within 10 minutes and we will all go home.

Now, if we stay and run out the time, then at some point tomorrow we will vote in that order and we will take the second-degree amendment by vote. There will not be any opportunity to offer an amendment to the first-degree amendment because the time would have run. And under the rule, only those amendments that are pending, then pending, only those amendments then pending can be voted upon.

So the distinguished Republican leader would not have any opportunity to offer any amendment to the first-degree amendment and we would take the same sequence. There could be no amendments in between and no debate in between and no motions in between, except maybe a motion to table or a motion to postpone indefinitely. And we vote one, two, three tomorrow.

We can do it right now, do it by voice, and be right within 15 minutes where we would be tomorrow after running the 30 hours, and go home for the night in the meantime.

Mr. DOLE. I understand that. But it seems like we are reversing roles here. We want to proceed and you want us to slow down. Before, we were slowing down and the majority leader wanted to proceed. Now we are ready right now at 7:07 in the evening rather than 5:45 in the morning.

Mr. BYRD. To vote on one amendment. We are ready to vote on both amendments and the motion to recommit.

Mr. DOLE. But that would cut off our rights, which I do not think the majority leader would do purposely, but could do under the rules anyway.

Mr. BYRD. Yes. The Senator would not have any more rights, if we ran for 30 hours, he would not have any more rights than he would have under that scenario, because under the rules, under rule XXII, if we run the 30 hours, the distinguished Republican leader has no right to offer an amendment until that motion has been agreed to.

Mr. DOLE. Could we agree that I would have the right to offer one amendment? Go ahead and do what the majority leader would like to do right now and I would be entitled to offer one amendment?

Mr. BYRD. Mr. President, I want to go home as well as everybody else does. We all know that the rules in this body at times will disadvantage one side or the other. The Senate voted for cloture yesterday on the motion to recommit. Under the rules, there are 30 hours. At the close of the 30 hours, then we vote. We vote on the second-degree amendment. We then immediately vote on the first-degree amendment. Nobody can offer an amendment to that first-degree amendment. And we immediately vote on the motion to recommit.

Now, that is where we are tomorrow if we run out the 30 hours. I am saying let us vote by voice on the second-degree and the first-degree amendments and the motion to recommit and go home and 15 minutes from now we are right where we are tomorrow when the 30 hours have run.

Mr. DOLE. Would it be the majority leader's intention to file or not to file cloture this evening?

Mr. BYRD. No, we would not.

Mr. DOLE. Not file cloture?

Mr. BYRD. Not tonight.

Mr. DOLE. What we might do is to not do it tonight but come back at 2 o'clock, on this tomorrow at 2 o'clock—maybe 1:30?

Mr. BYRD. I will be in precisely the same position tomorrow as I will be tonight under that scenario, as to the filing of cloture.

Tomorrow, once we finish the vote on the motion to recommit I could file cloture or I could opt not to file cloture at that point. If we do it as I have suggested it will not change that landscape any. I will have the same options tomorrow that I will have tonight, either way we go.

Mr. DOLE. I do not disagree with the majority leader. I do not want to continue this. I know it is already infringing on his time.

I would rather be awake tomorrow. It is not a requirement but it is helpful. But, if we came in at 2 o'clock and did precisely what you want to do this evening, vote one, two, three, would it be your intention to file cloture, then, tomorrow?

Mr. BYRD. Well, as I thought I indicated earlier to the leader, I want to reserve that option until tomorrow.

Mr. DOLE. What we are trying to do is figure out a way when we get to offer an amendment.

Mr. BYRD. The Senator will remember when we were in the minority that he followed the rules and I never questioned them. When he filled the tree, the tree which contained seven amendments, on page 70 of the book on Senate procedure, I never complained. I did not like it, but I said at that time the leader did what he could do under the rules.

I was shut out and sometimes we are in situations, and I may be in the situation again at some point, where I will be disadvantaged by the rules. But the point I am trying to make is that no matter whether we do it now by voice and go home or whether we run out the string of the hours, the situation tomorrow will be the same.

I can either offer cloture or not. I would like to make that decision at the time, perhaps after talking with some of my colleagues. So the Republican leader loses nothing that he does not lose under the rules. He does not gain anything.

Mr. DOLE. I lose sleep.

Mr. BYRD. We all lose sleep. We all lose sleep.

And what the Republican leader would gain would be the sleep, plus taking up the tax bill tomorrow; come in any time the leader would like and spend 3, 4, 5 hours on the tax bill.

Mr. DOLE. Let me just say, let us come in at 2 o'clock and then we could, I guess, decide at that time whether it is to be voice or rollcall. That would still give our Members who have problems tomorrow, I think, time. If it were rollcalls, there would be three rollcalls.

Mr. BYRD. All right. Would the Senator agree then, that would be the proposal I first offered on the floor? That we go out; that beginning at 2 o'clock tomorrow we vote on the amendment in the second degree and without further debate, motion, or amendment we vote on the amendment in the first degree; and without further debate, motion, or amendment we vote on the motion to recommit with instructions? Cloture would have been in effect—would have run its course. We will either have voice votes or rollcall votes, as the distinguished leader has suggested. And meanwhile tomorrow morning we would work on the tax bill. And go home tonight.

Mr. DOLE. If there were an objection to the tax bill—I am advised there could be an objection to the tax bill. I would hope not. I am not asking for any time agreement, I am just saying we ought to bring it up and start it tomorrow, 4 hours. There are 100-and-some amendments. It is going to take some time. We presently have someone who indicates they might object to taking that up.

Mr. BYRD. Well, I will tell you what we might do, then. Let us spend tomorrow morning on the retail price—S. 430. Spend the morning on that or on some other matter. There is a veterans' bill, I believe.

Mr. DOLE. I do not think we could agree on the vertical. Oh, that is right, you have consent to go to vertical price fixing, I guess.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business not to extend beyond 2 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

BICENTENNIAL MINUTE

JUNE 1852: FIRST INCUMBENT SENATOR NOMINATED FOR VICE PRESIDENT

Mr. DOLE. Mr. President, 136 years ago, for the first time, an incumbent U.S. Senator was chosen to run for the Vice Presidency. That man was Senator William R. King of Alabama. A former President pro tempore of the Senate, King ran as Vice President in the election of 1852 on the Democratic ticket headed by Franklin Pierce.

On one hand, we might be surprised to find that national elections had been held for over 60 years without a Senator running for Vice President, but we should note that five former Senators had previously run for Vice President—a sixth, former Senator William A. Graham of North Carolina, was King's opponent in 1852. And several other Senators had declined the honor.

Since King's nomination, 2 sitting U.S. Senators have run for Vice President on major and minor party tickets—11 of these, including King, won their elections.

In recent times, it has become almost standard procedure to nominate a Senator for Vice President. For the past 44 years, from 1944 to the present, in every election except one, at least one Vice Presidential candidate was an incumbent or a recently serving former Senator. The sole exception occurred in 1984.

On several occasions, both major party Vice Presidential candidates were Senators. This first happened in 1860, when Senator Hannibal Hamlin ran with Abraham Lincoln on the Republican ticket, while Senator Joseph Lane ran with John C. Breckinridge for the Southern Democratic Party. In 1928 the Republican majority leader of the Senate, Charles Curtis, ran for Vice President against the Democratic minority leader of the Senate, Joe Robinson.

In 1952, Senators Richard Nixon and John Sparkman paired off against each other. In 1976, some of us recall when the Vice Presidential candidates were Senator Walter Mondale and Bob Dole. And once again, in 1988, two senatorial contenders vie for the Vice Presidency.

FRANZ JOSEF STRAUSS (1915-88)

Mr. HELMS. Mr. President, West Germany and the world lost a great leader yesterday, a great fighter for freedom, and a great man. Dr. Franz Josef Strauss, who served his country as Defense Minister, Finance Minister, and, most recently, as Minister President of the Federal State of Bavaria, died Monday of a heart attack suffered while on a hunting trip over the weekend. The free world will miss this uncommon warrior, Mr. President, the last European leader of the generation of Adenauer, Churchill, and De Gaulle to grace the stage of world politics.

Mr. President, Franz Josef Strauss believed in freedom, and constantly put his reputation and career on the line as he fought the international left and its attempts to weaken Western Europe after World War II.

In October 1956, Konrad Adenauer named Dr. Strauss Minister of Defense, and Dr. Strauss proceeded to build up German defenses to the point where Germany could bear its share of the defense of NATO. After Kurt-Georg Kiesinger became Federal Chancellor of Germany in 1966, he named Franz Josef Strauss to be Finance Minister. Immediately Strauss brought order to the realm of German finance internally while advocating a major role for Germany's economy internationally.

Dr. Strauss was a mainstay of Germany's Christian Social Union, known by its initials CSU—the conservative party of Bavaria which he helped found in 1945. He served as Minister President of Bavaria until his death, but he always remained a leader of conservatives throughout the world. It was a world he knew well, Mr. President; he was especially knowledgeable about the situation in southern Africa, and scandalized Europe's left by making cogent, consistent arguments against sanctions on South Africa. He argued eloquently that those sanctions would hurt the very people they were supposed to help—the majority of South African workers.

Mr. President, I always admired Franz Josef Strauss. He was absolutely fearless in his defense of freedom, whatever the issue. The left attacked him relentlessly throughout the postwar years, and no doubt it was the leftist press in Germany which made it impossible for Franz Josef Strauss to become Chancellor of the Federal Republic. Nonetheless, he was a man of principle, who stood virtually alone against the tide of détente which so weakened the West in the 1960's and 1970's.

Mr. President, I would cite just one passage which reflects Mr. Strauss' commitment to realism in the struggle against communism, Mr. President. It comes from an article he wrote for Strategic Review in 1982, entitled "Manifesto of a German Atlanticist":

> Détente may still be a convenient catchword that appeals to sincerely wishful people in the West, and as such the term is assiduously exploited by those whose motives are less sincere. But as it is applied to the reality of the last decade, the term denotes at best a set of Western policies of unilateral deference to Moscow at the expense of the interests of the Free World. And to that extent, the West must bear its share of the blame for the accelerating Soviet global offensive. The conflict-managers in the Kremlin are traditionally cautious men, not disposed to opt for high-risk policies. To the degree that Western policies, disunity or inaction have lowered those risks, they have aided and abetted Moscow's expansionism, while at the same time progressively endangering the security of the Alliance.

Mr. President, the world owes a great debt of gratitude to Franz Josef Strauss. I am sure all my colleagues join me in extending the most heartfelt sympathy to his family, and to his friends everywhere.

COMPREHENSIVE DRUG BILL—2852

Mr. KENNEDY. Mr. President, the introduction of the National Narcotics Leadership Act of 1988 signals the start of a new, bipartisan national commitment to the waging of a real war on the scourge of drug abuse. Congress can't solve the drug problem alone, but this bill can make a real contribution to sparing millions of American families from the blight of drug addiction.

An effective fight against drug abuse must take three approaches: law enforcement, prevention, and treatment. Each of these three approaches is vital; no program can be successful unless it involves them all.

As one of the chairs of the task force subgroup on prevention and treatment, I am especially proud of the provisions that will improve our national effort to educate young people on the dangers of drug abuse and provide treatment for Americans who have become addicted but wish to break their habit.

Every reputable authority who has examined the problem of drug addiction knows that there is no army large enough to keep all drugs from crossing our borders and no nation powerful enough to imprison all pushers and suppliers. We must use all the constitutional enforcement tools at our command to make the criminals who would profit from the degradation of our fellow citizens pay the price of their crimes. But only if young people refuse to start taking drugs and only if those who are already addicted receive treatment will this war be won.

The current Federal effort to fight drugs unfortunately ignores this fundamental reality. Only 25 percent of current Federal antidrug funds are spent on prevention, research and treatment; the vast majority of our resources now go for law enforcement and interdiction. This bill establishes a more appropriate balance. The members of the task force made an explicit decision to put 60 percent of the new money that this will provide into prevention, research, and treatment programs—a total of $1.5 billion. Forty percent of the new funds will go for enhancing law enforcement activities.

PREVENTION

The legislation provides for a dramatically expanded Federal education and prevention effort. It increases the current drug-free schools program by 80 percent, to $405 million. An additional $16 million will be added to this program and specifically targetted toward training teachers to run effective programs and recognize and refer for treatment students exhibiting symptoms of drug abuse. The high-risk youth demonstration program is more than doubled, to $52 million, and funds are provided to VISTA, the DEA, and Border Patrol to carry out drug education and prevention programs. Finally, a new prevention demonstration block grant is established to encourage States to undertake highly targeted, comprehensive prevention programs in areas with the most severe drug problems.

Prevention is our most cost-effective and humane way of attacking the problem of drug abuse. It is much better to prevent citizens from trying drugs than to try to cure them after they have become addicted. The evidence is clear that prevention programs work. Studies by the University of Michigan show that the key difference between high school seniors using cocaine and that those not using it is whether or not they think the drug is harmful. As the number of students recognizing that the drug is harmful has grown, its use has declined. In Massachusetts, under Governor Dukakis' leadership, we have established an exemplary, targeted drug education program. As a result, cocaine use among high school seniors has dropped twice as fast as the national average. This bill will help all States develop comparable programs, and will help us consolidate and extend the progress we have made nationally.

TREATMENT

Treatment, too, is cost-effective. It is an obligation of our society to make treatment available to those who want to rid themselves of the tragedy of drug addiction. Long-term studies by the National Institute on Drug Abuse show that drug use and criminal involvement drop dramatically by the end of year of treatment. Employment is up significantly. Most important, these gains are maintained for at least 12 years after treatment. Another study, by the Justice Department, shows that treatment saves as much as $4 in crime costs alone for every dollar spent.

Despite the obvious benefits of treatment, there are too few treatment opportunities available for those who want to be cured of their addiction. States across the country report long waiting lists at public treatment clinics. Current resources permit treatment of only 8 to 10 percent annually of the estimated 6.5 million drug abusers who could benefit from treatment.

This legislation is a major step in the direction of providing treatment for all who need it. It establishes an objective of treatment for every addict requesting help. It provides an additional $960 million to States for treatment programs, enough to double the amount of treatment now available.

In addition to funds provided under the new substance abuse block grant, the bill will provide $95 million for treatment and education programs for drug abusers with AIDS or at high risk of AIDS. Drug abuse is a primary means of transmission of this deadly virus in the heterosexual population, and this program will address one of the highest priority health needs of our society.

Finally, the bill establishes a series of comprehensive treatment demonstrations to test the effectiveness of a major increase in treatment resources in areas with a high incidence of drug abuse.

RESEARCH

The knowledge on which current antidrug abuse efforts are based is far too limited. This legislation makes an essential investment in the research that can help us improve our ability to cope with the epidemic. No matter how much money we spend, the problem is going to be with us for a long time. We need to begin the process now of developing the knowledge that will be most useful in this struggle. This bill will assure that our future efforts are as effective as possible.

The legislation establishes comprehensive data collection programs; it significantly increases funding for the National Institute on Drug Abuse and requires the agency to investigate the effectiveness of alternative treatment methods; and it provides enhanced funding for training of drug abuse researchers.

Taken as a whole, the programs of prevention, treatment, and research contained in this bill make a major new contribution to our struggle against drug addiction. This bill alone cannot win the war, but it will allow us to make important progress on a problem of vital concern to millions of our fellow citizens.

LAW ENFORCEMENT

As a cochair of the task force subgroup on law enforcement, we have also developed a bipartisan package to attack the drug menace through law enforcement efforts that will make a genuine difference.

The law enforcement provisions in this bill represent a successful bipartisan effort to toughen existing criminal penalties and add new ones for drug-related crime. There are new and enhanced penalties for career criminals and repeat offenders who committed violent offenses as juveniles, narcotics-related corruption, critical crew members who smuggle narcotics, any drug offenses involving a minor, and drug offenses in prisons.

The law enforcement title of this bill will strengthen immigration laws to facilitate deportation of dangerous aliens. Authority will be enhanced to provide for additional recordkeeping to track money laundering and chemical diversion offenders. For those convicted of drug offenses, the law enforcement provisions will impose enhanced forfeiture sanctions and streamlined court procedures for drug offenders.

The law enforcement title also funds Federal drug enforcement programs with responsibilities ranging from enforcement and investigation to interdiction. The drug czar will possess emergency authority to ensure that high-intensity drug areas will receive appropriate law enforcement funding and resources.

Most importantly, the law enforcement title includes substantial funding for State and local drug enforcement agencies—where the real war is fought every day in our Nation's streets and neighborhoods, where illegal drugs are too easily available and where drug sellers have little fear of apprehension. Here is where the battle must be waged, with adequate Federal assistance to State and local officials. Despite the fact that State and local law enforcement officers battle on the frontlines of the drug war, their funding is a budget item which the Reagan administration has consistently and unsuccessfully sought to cut or eliminate.

We know that merely talking tough is not enough. The war on crime has been declared again and again—and it has been lost over and over. It is clear that we will never succeed in defeating crime if we try to do it on the cheap. We can support our State and local police without turning any locality into a police state, and without destroying the fundamental civil liberties and constitutional guarantees that make this Nation truly free.

If we are serious about the drug crisis in America, we must add a full-scale assault on retail distribution to the weapons in our Federal arsenal. This legislation recognizes that this goal will require a major commitment of Federal resources to State and local officials who will make law enforcement programs that crack down on retail drug distributors their highest priority. A strong Federal-State partnership offers our best hope of success in the war against illegal drugs.

To be sure, to combat the drug menace we need local law enforcement programs that work. It is becoming increasingly clear that heightened domestic law enforcement efforts at the local police level can be successful when coupled with enhanced drug treatment and education opportunities. One of the most important tools in the war against drugs is Federal assistance to increase the number of these successful local law enforcement programs.

Intense local crackdown programs have proven to be successful in many regions around the country ranging from Lynn, MA, to Los Angeles, Houston, and Manhattan's lower East Side. Recreational drug users lose interest as crackdowns make drugs harder to obtain. In addition, heavy users and addicts seek drug treatment to eliminate their dependency. Add to this the successful drug education programs in schools around this country, and it is apparent that we have made a good start.

But make no mistake, we are in danger of losing the war on drugs. Recent studies indicate that we are getting no return on the dollars we are pouring into interdiction efforts. Despite the glitzy headlines about blitzkrieg attacks on ships at sea and massive drug seizures at home, for the most part the flow of dangerous drugs continues unabated. We have reached the point in the process where increased interdiction funding will yield only scant improvements in the drug war.

We must be wary of putting too much emphasis on flashy approaches that grab big headlines but do nothing to change the small print that follows those headlines. We need instead to start worrying about the bottom line. The bottom line is this: There are over 6 million drug abusers in the United States and we have to do something about that.

We can devote more money to hardware at the borders, but not to the point where we sacrifice our ability to deal with the staggering quantities of drugs and accompanying violence that will evade our interdiction efforts. The estimated 7 tons of heroin and 90 tons of cocaine ingested annually in the United States is not likely to change without enhanced local law enforcement, education, and treatment.

The law enforcement provisions in this bill are the result of concentrated, bipartisan efforts. These provisions will send a strong message about the importance of our drug enforcement policy and that message will be reinforced with the necessary funding so that law enforcement officials at the Federal, State, and local level can carry on the fight against drug abuse.

While I am pleased that the bill includes many excellent provisions to reduce both the supply and the demand for illegal drugs, I cannot cosponsor the bill because it would enact a Federal death penalty. In my view, the death penalty is wrong both in principle and in practice, and it is the wrong response to the epidemic of illegal drug use that has afflicted our Nation.

The death penalty is wrong in principle because the Government should not have the awesome and terrible power to end a man's life, no matter how wretched, and no matter how evil the crime he committed. That ultimate power to judge the worthiness of a life belongs, not to men or women, but to God alone. And in seeking to exercise that power, we lay claim to perfect knowledge and wisdom, which no human being can possess.

I also believe that the death penalty is wrong as a matter of constitutional principle, because it violates the eighth amendment's prohibition against cruel and unusual punishment.

The framers of the Constitution had a deep and abiding faith in the ultimate goodness and wisdom of all men and women. The Constitution they drafted embodies unchanging values to guide a changing, growing Nation.

It is true that the Supreme Court has not yet concluded that capital punishment is unconstitutional in all cases. But I am sure that someday the Court will recognize that the death penalty is cruel and unusual, because the methods of execution are themselves grotesque, because the United States stands alone among Western democracies in authorizing the death penalty for peacetime crimes, and, most importantly, because the death penalty denies the very humanity of the executed person.

The death penalty is also wrong as a matter of practice, because of the absolute certainty that innocent men and women will be executed; the absence of any convincing evidence that the death penalty deters crime; and the overwhelming evidence that the death penalty is imposed in an arbitrary, and racially discriminatory fashion.

Human beings are imperfect, and no system of justice designed by men and women, however wise or resourceful they may be, can eliminate the risk that an innocent person will be convicted of a crime. That is a risk we must accept when the punishment is imprisonment, because a jailed man or woman can always be freed. But that is a risk we cannot tolerate when the punishment is death, because no one can bring a dead man or woman back to life.

I say to my colleagues here today: Let there be no mistake about it. If we enact drug legislation with this death penalty provision, sooner or later an innocent man or woman will be executed as a result of our actions. That is not just a risk; it is a certainty. And I submit to you that all of the headlines—and the votes—that Members of this body may gain as a result of their action on this bill are not worth that terrible price.

The harm caused by the likelihood that innocent men and women will be executed is compounded by the utter absence of any convincing evidence that the death penalty actually deters homicides. I am sure that death penalty supporters will cite the few statistical studies purporting to show some marginal deterrent effect from capital punishment. But for every study claiming deterrence, there are more convincing studies establishing that the death penalty has no deterrent effect whatsoever.

In my view, some of the most convincing evidence that the death sentence does not deter murders is found in the experience of other Western democracies. Not one of those countries has capital punishment for peacetime crimes, and yet every one of those countries has a lower murder rate far less than half that of the United States.

The death penalty is also fundamentally flawed in practice because our long experience with capital punishment demonstrates that it is applied in an arbitrary and discriminatory manner. The Constitution requires that courts and juries be given discretion, within limits, in deciding whether or not a death sentence is appropriate for a particular crime. The exercise of that discretion carries with it the inevitable result that defendants who commit similar crimes are treated differently. As Justice Douglas stated in 1972, quote:

> [T]he discretion of judges and juries in imposing the death penalty enables the penalty to be selectively applied, feeding prejudices against the accused if he is poor and despised, and lacking political clout, or if he is a member of a suspect or unpopular minority, and saving those who by social position may be in a more protected position. End quote [*Furman* v. *Georgia*, 408 U.S. 238, 255 (1972)].

While many death penalty statutes have been adopted since the Furman decision, none of them have been able to eliminate the arbitrariness that is inherent whenever courts and juries have discretion to decide whether or not to impose capital punishment. All too often that discretion has been exercised in a racially discriminatory fashion. As Prof. Charles Black observed in 1978, quote:

> [A]fter all this travail, all this fiddling with 'standard', the same old people are right back on death row out in the states: the black, the poor, * * * That is what the death penalty is about in the United States. End quote. [Letter to Senator James Abourezk, reprinted in Hearings on S. 1382, Senate Judiciary Committee, 95th Cong. 2d Sess (1978).]

I will have more to say later about the issue of race discrimination in capital sentencing. For now, I will say that study after study has demonstrated in States all over this country that race does make a difference in capital sentencing. Those who kill whites are far more likely to receive death sentences than are those who kill blacks; and black defendants receive death sentences far more frequently than do white defendants. But under the Supreme Court's decision last year in McClesky versus Kemp, this kind of compelling statistical evidence is insufficient to set aside a death sentence.

That result is intolerable in a country dedicated to equal justice under law. It is a blight on the good name of this great land, and it is a wrong that cries out to be remedied by the Congress. That pervasive evidence of race discrimination should cause every Member of this body to oppose the death penalty.

Every Member of this body has taken a solemn oath to uphold the Constitution of the United States. And we should not sweep aside the obligations of that oath in a headlong rush to tell our constituents that we are doing something about the drug problem. I urge my colleagues to oppose the death penalty provisions included in this bill.

NATIONAL SCIENCE FOUNDATION

Mr. HATCH. Mr. President, today we have an opportunity to support the continuation of the outstanding programs of the National Science Foundation. Such programs play an essential role in promoting science and engineering research, an endeavor of critical importance to our Nation's growth, defense, and quality of life. This 5-year authorization will enhance the National Science Foundation's ability to allocate resources among conventional, independent research projects and other new research initiatives.

There are several provisions of this authorization that I believe will be particularly beneficial to the goal of maintaining the position of the United States at the forefront of technological advancement. The research facilities provision, for example, which addresses the problem of obsolete facilities in our colleges and universities, will upgrade the quality of basic research, which is the foundation of scientific progress.

I am especially pleased to support this bill because it will promote science and engineering education. We are all aware of the importance of providing young Americans with the skills to continue the scientific and technological advancement that we have enjoyed for so many years. Perhaps even more important is the enthusiasm and encouragement that we can offer our future scientists, mathematicians, and engineers, and the support we can offer our teachers. The National Science Foundation has, for example, provided funding for Utah State University to develop and sponsor workshops in science and mathematics for public school faculty. Such programs have been proven to be very beneficial.

Everyone knows what an important part scientific and technological discoveries play in our lives and in our future. If not for the knowledge and ingenuity of scientists and engineers, the growth of this great Nation would be compromised. The progress that has been made in industrial technology, health care technology, and aerospace technology—to name just a few key areas—is awe inspiring. The National Science Foundation is helping us to continue this progress. Again, this is an opportunity for all of us in Congress to support scientific and engineering research, and I urge my colleagues to support this bill.

RESTORATION OF DEMOCRACY IN PAKISTAN

Mr. KENNEDY. Mr. President, there is good news for those working for the restoration of democracy and a return to civilian government in Pakistan.

Two days ago, October 2, the Supreme Court of Pakistan ruled that individuals running for office in next month's general election—scheduled to occur on November 16—may run as candidates affiliated with political parties. The high court's decision declared unconstitutional a decree issued by the late President, Mohammad Zia ul-Haq, which had required candidates to run as individuals unaffiliated with political parties. Under the court's decision, it will now be possible for individuals to run as designated candidates of the various competing political parties.

This decision opens the door to the possibility of the first genuinely free and fair general elections in Pakistan since the 1977 military coup that ousted Prime Minister Zulfikar Ali Bhutto. These elections were called last May when President Zia dismissed the 3-year-old civilian government of Prime Minister Mohammad Khan Junejo and dissolved Parliament.

The Government of the United States should take every opportunity to express its support for a genuinely free and fair electoral process in Pakistan. More specifically, the American Government should make clear to the people of Pakistan that the American people are with them in their effort to return Pakistan to democracy, and that United States-Pakistani relations would suffer if there were any interruption of the process now underway inside Pakistan. Our Government should send a clear message to the military leadership in Pakistan that the electoral process should be allowed to run its course, that there should be no intervention or interruption by the military, and that the results of the election should be respected by all elements of Pakistani society, including the military.

Such a strong statement of support from the United States would be consistent with the position that our Government has taken in support of the restoration of democracy in many other countries around the globe—in the Philippines, in South Korea, in Guatemala, in El Salvador and, most recently, in Chile. While the United States should take care not to choose sides in the November 16 election—we should not tilt for nor should we in any way favor any candidate or any party—we should take steps to make it clear that the American people are united in our support for democracy and for strengthening the democratic institutions of Pakistan.

Pakistan and the Pakistani people are longstanding and close friends of the American people. That friendship can only be sustained if the American Government is seen by the Pakistani people as being strong and unwavering in its support for Pakistani democracy. For that reason, I would hope that this administration would use whatever influence it has at its disposal—particularly with the members of the Pakistani military—to promote the cause of democracy inside Pakistan. We should not allow the United States to be perceived as promoting our own national interests at the expense of Pakistani democracy. Such an outcome would severely damage our relationship with Pakistan for many years to come.

The November 16 elections present a historical opportunity for the people of Pakistan, and the success or failure of those elections—whether they really are free and fair and open, whether the process is allowed to run its course, and whether the process is allowed to run its course, and whether the outcome is respected throughout the land—will shape Pakistan's future for many years to come.

Because of our longstanding friendship with Pakistan and because of our own belief in the values and ideals of democracy, it would be appropriate to make plans to do what we have done so frequently in other countries and with other friends where the future of freedom depends upon the success of an electoral process—such as occurred in the Philippines, South Korea and Chile. We should notify the political parties of Pakistan that we are prepared to send election observers to monitor the November 16 elections in Pakistan—as we have monitored other elections in the past—not to influence the outcome but to do what can be done by observing and reporting to make certain that the process itself is genuinely fair.

1987 FOUNDERS AWARD TO MILTON L. DREWER, JR.

Mr. WARNER. Mr. President, I rise to pay tribute to a most exemplary northern Virginia organization and the fine gentleman to whom it will soon be presenting its highest award.

The group of whom I speak is the Northern Virginia Community Foundation. Its most prestigious award, the "Founders Award," is presented each year in recognition of outstanding community service and dedication to the improvement of northern Virginia. The recipient of this year's award is Milton L. Drewer Jr., of McLean.

Started in 1978 by a group of northern Virginia residents wanting to improve the quality of life in their area, the Northern Virginia Community Foundation encourages those who exhibit and promote awareness of the importance of each individual's contribution to the community.

The foundation is supported by individual, corporate and foundation gifts. It helps fund northern Virginia community programs in the areas of the arts, education, youth, health and civic improvement.

This year's Founders Award recipient has dedicated his career to helping make northern Virginia what it is today—a stimulating place to live and work with a strong and vibrant economy.

Mr. Drewer is chairman and chief executive officer of the First American Metro Corp., and chairman and chief executive officer of First American Bank of Virginia. Additionally, he is a past president of both the Virginia Bankers Association and the Virginia State Chamber of Commerce.

In addition to his banking-related responsibilities, he serves on the board of trustees of Randolph-Macon College and the Virginia Foundation of Independent Colleges and is a former member of the board of visitors of the College of William and Mary.

Mr. Drewer is a member of the board of directors of the Metropolitan Washington Airports Task Force and former board member of Virginia Power and Dominion Resources. He also served as a member of the Arlington Hospital board and chairman of the Finance Committee during a period of extensive renovation and expansion.

Milt Drewer is proof that one person can make a difference. Please join me and the Northern Virginia Community Foundation in saluting this very deserving recipient of the 1987 Founders Award.

TRICENTENNIAL OF WILLIAM PENN CHARTER SCHOOL

Mr. SPECTER. Mr. President, the William Penn Charter School was the first school founded in the city of Philadelphia and in the Commonwealth of Pennsylvania. It is also the oldest continuous Quaker school in the world. It traces its beginnings back to 1689 when William Penn, founder of the city and the State, created his frame of Government for the new colony and urged that a school be opened in Philadelphia. On July 26, 1689, the minutes of the meeting of the Philadelphia Monthly Meeting documented an agreement with George Keith to take charge of the school.

In 1701, William Penn chartered Philadelphia as a city and granted a new charter for the school. A second charter was granted by Penn in 1708, and in 1711 he issued a third charter under which the school currently operates.

Now, almost 300 years later, the Commonwealth of Pennsylvania and the city of Philadelphia have declared October 24, 1988, as William Penn Charter School Day in the State and city in honor of the tricentennial of the school, which also was the first corporation to be chartered in Pennsylvania.

This first school served as the school system for the infant city of Philadelphia, establishing free education for the rich and poor together. It was William Penn, his Quaker community leaders and their successors who promoted the concept of education as a community enterprise in Philadelphia and who endeavored to assure that the ability to pay was not a prerequisite to basic education.

It is, therefore, fitting that the U.S. Senate take note of the contributions of the William Penn Charter School to the education of youth for the past 300 years, to congratulate it for this extraordinary effort and to wish it well as it begins its fourth century.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States announced that he has approved and signed the following bills and joint resolutions:

On September 9, 1988:

S. 2641. An act to authorize the Secretary of Agriculture and other agency heads to enter into agreements with foreign fire organizations for assistance in wildfire protection.

S.J. Res. 374. Joint resolution to provide for a settlement of the labor-management dispute between the Chicago and North Western Transportation Company and the United Transportation Union.

On September 15, 1988:

S.J. Res. 295. Joint resolution to provide for the designation of September 15, 1988, as "National D.A.R.E. Day".

On September 16, 1988:

S.J. Res. 328. Joint resolution to designate the day of September 14, 1988, as "National Medical Research Day".

On September 19, 1988:

S. 2560. An act to amend the Temporary Emergency Food Assistance Act of 1983 to require the Secretary of Agriculture to make available additional types of commodities, to improve child nutrition and food stamp programs, to provide other hunger relief, and for other purposes.

On September 22, 1988:

S. 52. An act to direct the cooperation of certain Federal entities in the implementation of the Continental Scientific Drilling Program.

S. 1360. An act to amend the Indian Financing Act of 1974, and for other purposes.

S. 1889. An act to amend the Geothermal Steam Act of 1970 with respect to requirements relating to leases, and for other purposes.

On September 26, 1988:

S.J. Res. 290. Joint resolution to designate the period commencing September 25, 1988, and ending on October 1, 1988, as "National Historically Black Colleges Week".

On September 28, 1988:

S.J. Res. 322. Joint resolution to designate the week of September 23-30, 1988, as "National American Indian Heritage Week".

S.J. Res. 336. Joint resolution designating October 16, 1988, as "World Food Day".

On September 29, 1988:

S.J. Res. 329. Joint resolution to designate October 24 through October 30, 1988, as "Drug Free America Week".

On October 3, 1988:

S. 425. An act for the relief of Sukhjit Kuldip Singh Saund.

S. 2789. An act to require the Secretary of the Treasury to mint and issue one-dollar coins in commeration of the 100th anniversary of the birth of Dwight David Eisenhower.

S.J. Res. 169. Joint resolution designating October 2, 1988, as a national day of recognition for Mohandas K. Gandhi.

S.J. Res. 333. Joint resolution to designate the week of October 9, 1988, through October 15, 1988, as "National Job Skills Week".

MESSAGES FROM THE HOUSE

At 2:34 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the amendment of the House to the bill (S. 496) to amend title 5 of the United States Code, to ensure privacy, integrity, and verification of data disclosed for computer matching, to establish Data Integrity Boards within Federal agencies, and for other purposes.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3235) to amend the Public Health Service Act to revise the program of public assistance for health maintenance organizations; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. DINGELL, Mr. WAXMAN, Mr. WYDEN, Mr. LENT, and Mr. MADIGAN as managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 515) to provide for more detailed and uniform disclosure by credit and charge card issuers with respect to information relating to interest rates and other fees which may be incurred by consumers through the use of any credit or charge card; it asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. ST GERMAIN, Mr. ANNUNZIO, Mr. GONZALEZ, Ms. PELOSI, Mr. BARNARD, Mr. SCHUMER, Mr. WYLER, Mr. SHUMWAY, Mr. HILER, and Mr. RIDGE as managers of the conference on the part of the House.

The message also announced that the House agrees to the amendment of the Senate to the concurrent resolution (H. Con. Res. 351) to correct errors in the enrollment of the bill S. 328.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 4857) to amend the Job Training Partnership Act to make a technical change.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 387. An act to promote equitable pay practices and to eliminate discrimination within the Federal civil service;

H.R. 2642. An act to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado, and for other purposes; and

H.R. 3133. An act to amend the Public Health Service Act to improve emergency medical services and trauma care, and for other purposes.

At 6:58 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 391. An act for the relief of Hyong Cha Kim Kay.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4352) to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes; it asks for a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the Senate:

From the Committee on Banking, Housing and Urban Affairs, for consideration of titles I-IV, X, and section 1 of the House bill, and titles I (except section 107) and II (except section 262) and sections 1 and 2 of the Senate amendment, and modifications committed to conference: Mr. St Germain, Mr. Gonzalez, Mr. Fauntroy, Ms. Oakar, Mr. Vento, Mr. Garcia, Mr. Frank, Mr. Wylie, Mrs. Roukema, Mr. Ridge, and Mr. Bartlett.

From the Committee on Education and Labor, for consideration of title VII of the House bill, and subtitles B-F of title III of the Senate amendment, and modifications committed to conference: Mr. Hawkins, Mr. Williams, Mr. Martinez, Mr. Jeffords, and Mr. Gunderson.

From the Committee on Energy and Commerce, for consideration of title VI of the House bill, and subtitle A of title III of the Senate amendment, and modifications committed to conference: Mr. Dingell, Mr. Waxman, Mr. Leland, Mr. Lent, and Mr. Madigan.

From the Committee on Government Operations, for consideration of title V of the House bill, and section 107 to the Senate amendment, and modifications committed to conference: Mr. Brooks, Mrs. Collins, and Mr. Horton.

From the Committee on Veterans' Affairs, for consideration of title VIII of the House bill, and title IV of the Senate amendment, and modifications committed to conference: Mr. Montgomery, Mr. Penny, and Mr. Hammerschmidt.

From the Committee on Ways and Means, for consideration of title IX of the House bill, and sections 262 and 308 of the Senate amendment, and modifications committed to conference: Mr. Rostenkowski, Mr. Downey of New York, and Mr. Gradison.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 610. An act for the relief of Calvin L. Graham;

H.R. 3914. An act to establish a commission to investigate racially motivated violence;

H.R. 4755. An act for the relief of H.H. Barter, doing business as Barter Enterprises;

H.R. 4758. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to increase the level of benefits payable with respect to the death of public safety officers and to provide that nondependent parents may be beneficiaries;

H.R. 5173. An act for the relief of Ray F. Seuga; and

H.R. 5347. An act to amend title 11 of the United States Code with respect to claims payable from special revenues by municipalities that are debtors, and for other purposes.

At 7:36 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 1626. An act to keep secure the rights of intellectual property licensors and licensees which come under the protection of title 11 of the United States Code, the bankruptcy code;

S. 2800. An act to amend the Nuclear Waste Policy Act of 1982 with respect to the Office of the Nuclear Waste Negotiator and the Monitored Retrievable Storage Commission; and

S. 2723. An act to partition certain reservation lands between the Hoopa Valley Tribe and the Yurok Indians, to clarify the use of tribal timber proceeds, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, without amendment:

S. Con. Res. 137. A concurrent resolution to provide for the use of the Rotunda of the Capitol in honor of John F. Kennedy; and

S. Con. Res. 143. A concurrent resolution correcting the enrollment of H.J. Res. 602.

The message further announced that the House agrees to the amendment of the Senate to each of the following bills:

H.R. 2596. An act to improve Federal management on lands on Admiralty Island, Alaska;

H.R. 4028. An act to authorize the Secretary of Agriculture to exchange certain national forest system lands in the Targhee National Forest;

H.R. 4102. An act to provide for the settlement of the water rights claims of the Salt River Pima-Maricopa Indian Community in Maricopa County, Arizona, and for other purposes;

H.R. 4267. An act to authorize additional appropriations for the WEB Rural Water Development Project, South Dakota, authorize the use of Pick-Sloan Missouri Basin electric power by the Lower Brule Sioux Indian Tribe, and the rename certain facilities of the Central Valley Project, California; and

H.R. 4354. An act to designate certain National Forest System lands in the State of Oklahoma for inclusion in the National Wilderness Preservation System, create the Winding Stair Mountain National Recreation and Wilderness Area, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the amendments of the House to the bill (S. 2057) to provide for the establishment of the Coastal Heritage Trail in the State of New Jersey, and for other purposes.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4919) to approve the governing international fishery agreement between the United States and the Union of Soviet Socialist Republics, and for other purposes.

The message also announced that the House having proceeded to reconsider the bill (H.R. 1154) entitled "An Act to remedy injury to the United States textile and apparel industries caused by increased imports", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill do not pass, two-thirds of the House of Representatives not agreeing to pass the same.

The message further announced that the House has passed the bill (S. 508) to amend title 5, United States Code, to strengthen the protections available to Federal employees against prohibited personnel practices, and for other purposes, with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (S. 795) to provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, CA, and for other purposes, with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the bill (S. 1047) to amend Public Law 94-241, the joint resolution approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and for other purposes, with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (S. 1236) to reauthorize housing relocation under the Navajo-Hopi Relocation Program, and for other purposes, with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the bill (S. 2344) to provide for the reauthorization of appropriations for the Office of Government Ethics, and for other purposes, with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 900) to protect and enhance the natural, scenic, cultural, and recreational values of certain segments of the New, Gauley, Meadow, and Bluestone Rivers in West Virginia for the benefit of present and future generations, and for other purposes, with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the amendment of the Senate numbered 9 to the bill (H.R. 2772) to authorize the Lyman-Jones, West River, and Oglala Sioux Rural Water Development Projects, with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 4345) to amend the United States Grain Standards Act to extend through September 30, 1993, the authority contained in section 155 of the Omnibus Reconciliation Act of 1981 and Public Law 98-469 to charge and collect inspection and weighing fees, and for other purposes, with an amendment, in which it requests the concurrence of the Senate.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3914. An act to establish a commission to investigate racially motivated violence; to the Committee on the Judiciary.

H.R. 5173. An act for the relief of Ray F. Seuga; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 387. An act to promote equitable pay practices and to eliminate discrimination within the Federal civil service.

H.R. 2642. An act to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado, and for other purposes.

H.R. 3133. An act to amend the Public Health Service Act to improve emergency medical services and trauma care, and for other purposes.

H.R. 5347. An act to amend title 11 of the United States Code with respect to claims payable from special revenues by municipalities that are debtors, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3942. A communication from the Deputy Commander for Contracts, Naval Facilities Engineering Command, Department of the Navy, transmitting, pursuant to law, notice of contract award dates; to the Committee on Armed Services.

EC-3943. A communication from the Assistant Secretary of the Army (Installations and Logistics), transmitting, pursuant to law, notice of a decision to convert to contract performance of a commercial activity or industrial-type function being performed by the Department of Defense employees; to the Committee on Armed Services.

EC-3944. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to authorize the transfer by grant of two naval vessels to the Republic of the Philippines; to the Committee on Armed Services.

EC-3945. A communication from the Secretary of the Navy, transmitting, pursuant to law, a proposal to transfer the obsolete submarine *Croaker* to the city of Buffalo, New York; to the Committee on Armed Services.

EC-3946. A communication from the Lieutenant General of the Defense Security Assistance Agency, transmitting, pursuant to law, a proposed letter of offer to Korea for defense articles estimated to cost $50 million or more; to the Committee on Armed Services.

EC-3947. A communication from the Chairman of the Securities and Exchange Commission, transmitting, a draft of proposed legislation entitled "Securities Law Enforcement Remedies Act of 1988"; to the Committee on Banking, Housing, and Urban Affairs.

EC-3948. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3949. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3950. A communication from the Secretary of Commerce, transmitting, pursuant to law, a copy of the 1988 Directory of Japanese Technical Resources in the United States; to the Committee on Commerce, Science and Transportation.

EC-3951. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3952. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3953. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3954. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the fourth annual report on the Department of Energy's Nuclear Waste Program; to the Committee on Energy and Natural Resources.

EC-3955. A communication from the Assistant Comptroller General, transmitting, pursuant to law, a report on water resources competition for Corps of Engineers Civil Construction Contracts; to the Committee on Environment and Public Works.

EC-3956. A communication from the Inspector General, Department of Defense, transmitting, pursuant to law, a report of the audit of the uses of the Superfund for the fiscal year 1987; to the Committee on Environment and Public Works.

EC-3957. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled the "Certified Registered Nurse Anesthetists"; to the Committee on Finance.

EC-3958. A communication from the Special Counsel of the United States Merit Systems Protection Board, transmitting, pursuant to law, a copy of a report of the Acting Administrator of the General Services Administration; to the Committee on Governmental Affairs.

EC-3959. A communication from the Executive Director of the District of Columbia Retirement Board, transmitting, pursuant to law, personal financial disclosure statements for the previous calendar year; to the Committee on Governmental Affairs.

EC-3960. A communication from the Administrator of the Department of Health and Human Services, transmitting, pursuant to law, a report on a new system of records under the Privacy Act; to the Committee on Governmental Affairs.

EC-3961. A communication from the Director of Administration and Management, Department of Defense, transmitting, pursuant to law, a report on a new system of records under the Privacy Act; to the Committee on Governmental Affairs.

EC-3962. A communication from the Attorney General of the United States, transmitting, pursuant to law, certifying the Federal Judicial Districts for the States of Tennessee and Kentucky; to the Committee on the Judiciary.

EC-3963. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the major activities and accomplishments of the Indian Health Service during the fiscal year 1986; to the Select Committee on Indian Affairs.

EC-3964. A communication from the Acting Assistant Attorney General (Legislative and Intergovernmental Affairs), Department of Justice, transmitting, pursuant to law, a draft of proposed legislation to amend the Federal Food, Drug, and Cosmetic Act to revise the provisions added thereto by the Prescription Drug Marketing Act of 1987; to the Committee on Labor and Human Resources.

EC-3965. A communication from the Director of the National Science Foundation, transmitting, pursuant to law, a report entitled "Scientific and Engineering Research Facilities at Universities and Colleges: 1988"; to the Committee on Labor and Human Resources.

EC-3966. A communication from the Executive Secretary of Defense, transmitting, pursuant to law, the report on the Department of Defense Procurement from Small and Other Business Firms for October 1987 through July 1988; to the Committee on Small Business.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-623. a joint resolution adopted by the legislature of the State of California; to the Committee on Banking, Housing and Urban Affairs.

"ASSEMBLY JOINT RESOLUTION NO. 71

"Whereas, The Federal Emergency Management Agency (FEMA) has proposed regulations that would mandate compliance with flood-plain site elevation requirements in existing mobilehome parks; and

"Whereas, These regulations would require that when manufactured homes are moved and resited, are substantially improved or repaired or are replaced by another manufactured home on the same site, that the floor level be established above the base flood elevation by use of pilings or other methods and that the utility pedestal, utility connections and equipment, porches and stairways, water and waste disposal facilities, and other accessories on the space likewise be elevated for the attachment and access to the home; and

"Whereas, The proposed regulations, which remove an existing "grandfather clause," would be mandatory upon local governments; and

"Whereas, Under the proposed regulations local governments would be required to do flood plain studies and mapping, to adopt conforming local ordinances, construction standards, fee schedules, and numerous criteria for installation of manufactured homes; and

"Whereas, The State of California has 58 counties and 447 charter and general law cities that have established and currently maintain various zoning, planning, health and safety, and similar local government requirements for mobilehome parks and for the siting of manufactured homes over the span of at least the past 25 years; and

"Whereas, The State of California currently has sites for 435,000 individually owned manufactured homes, valued at approximately fourteen billion dollars ($14,000,000,000), located in over 5,800 housing sites that provide for over 750,000 citizens of the state; and

"Whereas, The proposed FEMA regulations could affect 25 to 35 percent of all mobilehome parks in the state located in over 300 jurisdictions; and

"Whereas, The Proposed regulations would result in a long-term devastating effect on property values for each affected property category, the reduction of manufactured housing opportunities, the increase of rental charges because of the loss of revenues, the further implementation of rent control measures, additional legislative activity, the likely increase of litigation, and ultimately the permanent closure and elimination of numerous mobilehome parks in the state, without any offsetting and constructive benefit; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California jointly,* That the Legislature of the State of California respectfully memorialize the Federal Emergency Management Agency to continue the exemption from site elevation requirements for existing mobilehome parks unless and until the Federal Emergency Management Agency has determined by actual study and published documentation that termination of the exemption is necessary to protect property values or protect against loss of life or injury; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Federal Emergency Management Agency."

POM-624. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

"ASSEMBLY JOINT RESOLUTION NO. 89

"Whereas, In the 10 years since the federal government deregulated commercial aviation, the number of passengers traveling on commercial flights has doubled; and

"Whereas, Commercial aviation has played and will continue to play a major role in the economic growth of the nation and the State of California; and

"Whereas, General aviation serves as an important transportation mode for business and agriculture in the State of California; and

"Whereas, The aviation industry provides thousands of employment opportunities and other economic benefits to the people of California; and

"Whereas, California serves as America's gateway to the Pacific Rim, and aviation is California's major link to international markets; and

"Whereas, Expansion and modernization of our nation's airports and air traffic control system is crucial to the continued economic vitality of California and the entire country; and

"Whereas, The California Legislature has demonstrated its commitment to ensuring a quality air travel system for California through the formation of the California Commission on Aviation and Airports, which has dedicated time, resources, and energies toward furthering public awareness and support of aviation related issues; and

"Whereas, The Legislature, in concert with the California Commission on Aviation and Airports, believes that public information on national aviation issues is both essential and complementary to our own efforts; now, therefore, be it

"*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature of the State of California recognizes and applauds the formation of the Partnership for Improved Air Travel, the purpose of which is to focus public attention on the need to establish a long range planning process to ensure efficient air travel, to create a national airport plan, and to make better use of current technology to expand the air transportation system; and be it further

"*Resolved,* That the Legislature of the State of California respectfully memorializes the President, the Congress of the United States, and the Federal Aviation Administration to move as quickly as possible to develop and implement such legislative and administrative actions as are needed to significantly expand and improve the capacity and efficiency of the nation's air transportation system; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President, to each Senator and Representative from California in the Congress of the United States, the Department of Transportation, the chief executive officers of each House of the State Legislature of the 50 states, the National Governors Association, the National Conference of State Legislatures, the National Association of Counties, the National League of Cities, the United States Conference of Mayors, the United States Chamber of Commerce, the United States Department of Transportation, and the Federal Aviation Administration."

POM-625. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works:

"ASSEMBLY JOINT RESOLUTION NO. 34

"Whereas, The federal transportation trust fund, which consists primarily of users fees from fuel and excise taxes, is dedicated to the support and construction of the nation's transportation system; and

"Whereas, Not all funds paid into the transportation trust fund have been allocated; and

"Whereas, The accumulated balance in the transportation trust fund is approximately $9.5 billion; and

"Whereas, The federal interstate construction program will be completed in 1992; and

"Whereas, Maintaining a large balance in the transportation trust fund is a critical element of the federal budget deficit reduction compromise through the 1988-89 fiscal year; and

"Whereas, Failure to allocate all available transportation trust funds has caused California to defer important transportation projects; and

"Whereas, California must have flexible and adequate funding resources to maintain, rehabilitate, improve, and expand the state's transportation system; and

"Whereas, It is imperative that California have a modern and efficient transportation system to support continued economic growth; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the Congress and President of the United States to return to the states, in addition to the usual allocation of federal transportation funds, the accumulated balance in the federal transportation trust fund over the three-year fiscal year period of 1989-90 through 1991-92 in proportion to each state's contribution to the federal transportation trust fund; and be it further

Resolved, That these funds be available for use on the highest priority transportation projects, as determined by each state; and be it further

"*Resolved*, That in order that this process to distribute these dedicated funds for their specified purpose not adversely affect efforts to reduce the federal budget deficit after the 1988-89 fiscal year, the federal transportation trust fund be removed from the unified budget after October 1, 1989; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-626. A joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources:

"ASSEMBLY JOINT RESOLUTION No. 73

"Whereas, Numerous medical and public health studies have verified the efficacy of a regionalized trauma care system; and

"Whereas, Each year California's trauma centers provide prompt, definitive treatment to thousands of persons who have sustained critical injuries as a result of vehicular accidents, gunshot or knife wounds, falls, and natural disasters; and

"Whereas, The likelihood of a critically injured victim's survival and recovery is increased by 30 percent if the patient is treated at a trauma center, as opposed to a hospital emergency room; and

"Whereas, Approximately one-third of all trauma patient deaths that do occur could only be avoided by preventing the patient's initial injury; and

"Whereas, Injuries have a significant impact on the California economy both in terms of loss of employee productivity due to injury-related absences and medical and rehabilitative costs to both the private and public sector; and

"Whereas, Nationwide, health costs due to injuries are up to one hundred billion dollars ($100,000,000,000) annually; and

"Whereas, Injury prevention and control programs have repeatedly been effective in reducing the incidence of injuries and their associated costs; and

"Whereas, A national focus for these efforts has been established at the Division of Injury Epidemiology and Control of the United States Centers for Disease Control; and

"Whereas, Effective injury prevention and control strategies cannot be developed or implemented without a coordinated statewide mechanism of reporting, analyzing and sharing data and information; and

"Whereas, Seven hospitals in Los Angeles Country have already been forced to withdraw from California's statewide regionalized trauma care system because of financial losses incurred in serving trauma patients, and an eighth hospital, in San Diego County, has announced tentative plans to close its trauma unit effective July 1, 1988; and

"Whereas, The demise of California's regionalized trauma care system will endanger the lives of California citizens as well as increase the health care and rehabilitation costs to both the private and public sectors; and

"Whereas, Some areas of the state are currently facing a rash of requests from hospitals to downgrade their emergency rooms to "standby" status; and

"Whereas, There has been introduced in Congress a measure, S. 10, by Senator Alan Cranston of California, which would enact the Emergency Medical Services and Trauma Care Improvement Act of 1987; and

"Whereas, There has been introduced in Congress a measure, H.R. 3133, by Congressman Jim Bates and Congressman Henry Waxman which would enact the Trauma Care and Emergency Medical Services Planning and Development Act of 1988; and

"Whereas, Both acts would establish a national clearinghouse on emergency medical services and provide federal block grants to states with a comprehensive emergency medical services and trauma care plan, including the collection, compilation, and dissemination of information to state and local agencies and private entities providing emergency medical services and trauma care; and

"Whereas, Members of the Congress and Senate have urged that the injury control activities of the Centers for Disease Control be supported by a 20 million dollar allocation from within the appropriation for the United States Department of Health and Human Services, and a 20 million dollar allocation from the United States Department of Transportation appropriation, in the fiscal year 1989-90 federal budget; and

"Whereas, This appropriation for injury prevention programs would equal .03 percent of the estimated annual costs for the treatment of injuries: Now, therefore, be it

"*Resolved, by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the Congress of the United States to expeditiously enact legislation to establish a national clearinghouse on emergency medical services and provide federal block grants to states with a comprehensive emergency medical services and trauma care plan; and be it further

"*Resolved*, That the Legislature of the State of California respectfully memorializes the Congress of the United States to expeditiously enact legislation to provide funds for continued and expanded injury prevention activities of the Division of Injury, Epidemiology and Control Centers for Disease Control; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 2614. A bill to amend the National Science and Technology Policy, Organization, and Priorities Act of 1976 in order to provide for improved coordination of national scientific research efforts and to provide for a national plan to improve scientific understanding of the Earth system and the effect of changes in that system on climate and human well-being (Rept. No. 100-587).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Treaty Doc. 99-15. Treaty Between the United States and the Republic of Senegal Concerning the Reciprocal Encouragement and Protection of Investment (Exec. Rept. No. 100-32)

Treaty Doc. 99-17. Treaty Between the United States and the Republic of Zaire Concerning the Reciprocal Encouragement and Protection of Investment (Exec. Rept. No. 100-32).

Treaty Doc. 99-18. Treaty Between the United States and the Kingdom of Morocco Concerning the Encouragement and Reciprocal Protection of Investments (Exec. Rept. No. 100-32).

Treaty Doc. 99-19. Treaty Between the United States and the Republic of Turkey Concerning the Reciprocal Encouragement and Protection of Investments (Exec. Rept. No. 100-22).

Treaty Doc. 99-22. Treaty Between the United States and the Republic of Cameroon Concerning the Reciprocal Encouragement and Protection of Investment (Exec. Rept. No. 100-32).

Treaty Doc. 99-23. Treaty Between the United States and the People's Republic of Bangladesh Concerning the Reciprocal Encouragement and Protection of Investment (Exec. Rept. No. 100-32).

Treaty Doc. 99-24. Treaty Between the United States and the Arab Republic of Egypt Concerning the Reciprocal Encouragement and Protection of Investment (Exec. Rept. No. 100-32).

Treaty Doc. 99-25. Treaty Between the United States and Grenada Concerning the Reciprocal Encouragement and Protection of Investment (Exec. Rept. No. 100-32).

TEXTS OF RESOLUTIONS OF ADVICE AND CONSENT TO RATIFICATION AS REPORTED BY THE COMMITTEE ON FOREIGN RELATIONS

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Treaty between the United States of America and the Republic of Senegal Concerning the Reciprocal Encouragement and Protection of Investment, with Protocol, signed at Washington, December 6, 1983 (Treaty Doc. 99-15), provided that the Senate's advice and consent to ratification of the Investment Treaty with Senegal is subject to the following understanding:

Under Article X of the Treaty, either Party may take all measures necessary to deal with any unusual and extraordinary threat to its national security.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Treaty between the United States of America and the Republic of Zaire Concerning the Reciprocal Encouragement and Protection of Investment, with Protocol, signed at Washington, August 3, 1984 (Treaty Doc. 99-17), provided that the Senate's advice and consent to ratification of the Investment Treaty with Zaire is subject to the following understanding:

Under Article X of the Treaty, either Party may take all measures necessary to deal with any unusual and extraordinary threat to its national security.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Treaty between the United States of America and the Kingdom of Morocco Concerning the Reciprocal Encouragement and Protection of Investment, with Protocol, signed at Washington, July 22, 1985 (Treaty

Doc. 99-18), provided that the Senate's advice and consent to ratification of the Investment Treaty with Morocco is subject to the following understanding:

Under Article IX of the Treaty, either Party may take all measures necessary to deal with any unusual and extraordinary threat to its national security.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Treaty between the United States of America and Republic of Turkey concerning the Reciprocal Encouragement and Protection of Investment, with Protocol, signed at Washington, December 3, 1985 (Treaty Doc. 99-19), provided that the Senate's advice and consent to ratification of the Investment Treaty with Turkey is subject to the following understanding:

Under Article X of the Treaty, either Party may take all measures necessary to deal with any unusual and extraordinary threat to its national security.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Treaty between the United States of America and the Republic of Cameroon Concerning the Reciprocal Encouragement and Protection of Investment, with Protocol, signed at Washington on February 26, 1985 (Treaty Doc. 99-22), provided that the Senate's advice and consent to ratification of the Investment Treaty with Cameroon is subject to the following understanding:

Under Article X of the Treaty, either Party may take all measures necessary to deal with any unusual and extraordinary threat to its national security.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Treaty between the United States of America and the People's Republic of Bangladesh Concerning the Reciprocal Encouragement and Protection of Investment, with Protocol, signed at Washington on March 12, 1986 (Treaty Doc. 99-23), provided that the Senate's advice and consent to ratification of the Investment Treaty with Bangladesh is subject to the following understanding:

Under Article X of the Treaty, either Party may take all measures necessary to deal with any unusual and extraordinary threat to its national security.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Treaty between the United States of America and the Arab Republic of Egypt Concerning the Reciprocal Encouragement and Protection of Investments, signed at Washington September 29, 1982; with a Realted Exchange of Letters signed March 11, 1985; and a Supplementary Protocol signed March 11, 1986 (Treaty Doc. 99-24), provided that the Senate's advice and consent to ratification of the Investment Treaty with Egypt is subject to the following understanding:

Under Article X of the Treaty, either Party may take all measures necessary to deal with any unusual and extraordinary threat to its national security.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Treaty between the United States of America and Grenada Concerning the Reciprocal Encouragement and Protection of Investment, with Protocol, signed at Washington on May 2, 1986 (Treaty Doc. 99-25), provided that the Senate's advice and consent to ratification of the Investment Treaty with Grenada is subject to the following understanding:

Under Article X of the Treaty, either Party may take all measures necessary to deal with any unusual and extraordinary threat to its national security.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. METZENBAUM (for himself, Mr. HEINZ, Mr. MELCHER, and Mr. DECONCINI):

S. 2856. A bill to amend the Age Discrimination in Employment Act of 1967 to provide a rule with respect to the waiver of rights under that act without supervision, and for other purposes; placed on the calendar.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 2857. A bill to award a congressional gold medal to the family of Arnold Raphel in honor of the late Arnold Raphel, the former United States Ambassador to Pakistan; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. FOWLER:

S. 2858. A bill entitled the "Rural Development Amendments of 1988"; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DOMENICI (for himself and Mr. BREAUX):

S. 2859. A bill to clarify the rules concerning the unconventional fuels credit with respect to gas produced from a tight formation; to the Committee on Finance.

By Mr. HELMS (for himself, Mr. PELL, Mr. BOSCHWITZ, and Mr. KENNEDY):

S. 2860. A bill concerning disaster assistance for Bangladesh; to the Committee on Foreign Relations.

By Mr. PRYOR:

S. 2861. To prohibit the Federal Asset Disposition Association from making certain payments; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MOYNIHAN:

S. 2862. A bill to extend the temporary duty suspension on certain television picture tubes for an additional year; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DIXON (for himself, Mr. DOLE, and Mr. FOWLER):

S. Con. Res. 151. Concurrent resolution concerning the policy of the United States regarding the use of chemical weapons; to the Committee on Foreign Relations.

By Mr. LUGAR (for himself, Mr. PELL, Mr. CRANSTON, and Mr. MURKOWSKI):

S. Con. Res. 152. Concurrent resolution commending the Republic of Korea in hosting the Games of the XXIV Olympiad, and for other purposes; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. METZENBAUM (for himself, Mr. HEINZ, Mr. MELCHER, and Mr. DECONCINI):

S. 2856. A bill to amend the Age Discrimination in Employment Act of 1967 to provide a rule with respect to the waiver of rights under that act without supervision, and for other purposes; placed on the calendar.

AGE DISCRIMINATION IN EMPLOYMENT WAIVER PROTECTION ACT

Mr. METZENBAUM. Mr. President, I am pleased to offer S. 2856, the Age Discrimination in Employment Waiver Protection Act of 1988, along with Senators HEINZ, MELCHER, and DECONCINI. This bill addresses the technical but very important issue of the extent to which individual employees may waive their rights under the Age Discrimination in Employment Act [ADEA] without the supervision of a court or of the Equal Employment Opportunity Commission [EEOC]. In doing so, the Waiver Protection Act will provide a safeguard for millions of older Americans who otherwise might unwittingly abandon their right to equal employment opportunity under the law.

Some historical background is in order here. When Congress passed the ADEA in 1967, it specifically incorporated the enforcement procedures from the Fair Labor Standards Act [FLSA]. Although Congress in its 1967 statute protecting older workers borrowed many substantive provisions from title VII of the 1964 Civil Rights Act, it expressly declined to adopt the enforcement procedures used in title VII. In 1978, the Supreme Court recognized the importance of Congress' decision in the case of Lorillard versus Pons, when it held that the enforcement procedures of the ADEA follow the FLSA and not title VII. As the Supreme Court recognized, "th[e] selectivity that Congress exhibited in incorporating provisions and in modifying certain practices strongly suggests that but for these changes Congress expressly made, it intended to incorporate fully the remedies and procedures of the FLSA." This, of course, includes section 16(c) of the FLSA, which requires Federal supervision of the waiver of any rights.

There is ample policy justification for the differential approach to waivers adopted by Congress. Under title VII, which prohibits employment-related discrimination on the basis of race, sex, religion, and national origin, the prospect of a waiver almost never arises until after there is an actual controversy between an employer and a protected group member. Typically,

one or more individuals who have experienced an adverse employment action file a charge or advise the employer that they believe they are the victims of discrimination. At that point, a lump sum settlement in exchange for waiver of rights is likely to involve informed participation by both sides. By contrast, ADEA claims often arise from a group termination, layoff, or early retirement where the employer offers unilaterally to make a lump sum payment. The affected employees have not filed a charge and are not involved in any dispute with their employer. Indeed, at the time the offer is made, the employees—who are unaware of who else is being terminated and who is going to replace the terminees—may be totally unaware of any potential ADEA claim. Because these employees have no reason to be on guard to protect their rights, an unsupervised waiver threatens to undermine their basic statutory protections.

At a hearing earlier this year on the waiver issue before the Senate Subcommittee on Labor, former and current Solicitors of Labor attested to the continuing validity of the ADEA/FLSA approach. Carin Ann Clauss was directly involved in the administration and enforcement of the ADEA as an Associate Solicitor at the Department of Labor from 1968–76, and as Solicitor of Labor from 1977–81. Ms. Clauss testified that throughout her tenure at the Department of Labor, the Department did not permit individuals to waive their rights under the ADEA—or for that matter the FLSA—unless the waiver was supervised by the Department pursuant to section 16(c) or by a Federal court pursuant to section 16(b). And George Salem, the Solicitor of Labor since 1987, made clear in a letter to the subcommittee that the Department of Labor does not recognize as valid any waiver of FLSA rights that is not supervised either by the Department itself or—in the case of a private action filed under section 16(b)—by a Federal court. I ask unanimous consent that the exchange of letters between myself and Mr. Salem be placed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON LABOR AND
HUMAN RESOURCES,
Washington, DC, May 10, 1988.

FRED W. ALVAREZ,
Assistant Secretary, Employment Standards Administration.
GEORGE R. SALEM,
Solicitor of Labor, Department of Labor, Washington, DC.

DEAR MR. ALVAREZ AND MR. SALEM: Congress recently has expressed interest in the issue of private waivers of rights under the Age Discrimination in Employment Act (ADEA). As you know, the ADEA in its enforcement provisions incorporates the remedies and procedures set forth in section 16 of the Fair Labor Standards Act (FLSA). In that regard, the Senate Subcommittee on Labor is interested in learning as much as possible about the manner in which the Department of Labor has addressed the issue of waivers under the FLSA since the effective date of the Act.

In particular, I would appreciate your providing answers, and supporting explanations, to the following questions, all with regard to the FLSA:

1. Under what circumstances does the Secretary supervise waivers pursuant to section 16(c) of the FLSA? Does the Secretary ever take steps to supervise waivers in the absence of a pending dispute or claim?

2. What steps and procedures does the Secretary follow in supervising waivers under section 16(c)? (Please include relevant forms or other documents.)

3. In *Lynn's Food Stores, Inc.* v. *United States,* 679 F.2d 1350 (11th Cir. 1982), a federal court of appeals held that FLSA claims may be compromised in only two ways: through Department of Labor supervision under section 16(c), or through a stipulated judgment approved by a district court in private actions brought pursuant to section 16(b). Does the Department of Labor accept *Lynn's Foods* as an accurate and complete statement of the law with respect to the negotiation or compromise of claims under the FLSA?

4. Assume that an employee who signed a general release or waiver (not supervised by the Secretary) in connection with receiving back wages or other damages then files an FLSA complaint. If the employer asserts that the general waiver bars this claim, what position would the Department take with respect to the validity of the waiver?

5. Under what circumstances would the Secretary find that waivers are invalid? What steps would the Secretary take in such situations?

In addition, I would appreciate your providing any other information that you believe would be helpful.

Due to our time constraints in this matter, I am requesting a response by May 19, 1988.

Thank you so much for your consideration and cooperation.

Very sincerely yours,
HOWARD M. METZENBAUM,
Chairman, Subcommittee on Labor.

U.S. DEPARTMENT OF LABOR, ASSISTANT SECRETARY FOR EMPLOYMENT STANDARDS,
Washington, DC, May 20, 1988.

HON. HOWARD M. METZENBAUM,
Chairman, Subcommittee on Labor, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of May 10, addressed to the undersigned, concerning employee waiver of rights under the Age Discrimination in Employment Act (ADEA) and the Fair Labor Standards Act (FLSA).

Your questions and our response to each are set forth below in the order presented in your letter:

1. Under what circumstances does the Secretary supervise waivers pursuant to section 16(c) of the FLSA? Does the Secretary ever take steps to supervise waivers in the absence of pending dispute or claim?

Section 16(b) of the FLSA provides that individuals may file private suits in Federal or State courts to recover any back wages due and an equal amount as liquidated damages, plus attorney's fees and court costs. However, the Act also provides that such individuals waive their rights to bring private actions by accepting back wage payments under the supervision of the Department, and that these rights are terminated when the Department files a lawsuit under section 16(c) on behalf of the individuals or files a complaint seeking restraint of withholding of back wages due employees.

In compliance actions closed administratively, individuals who accept back wages under the Department's supervision are asked to sign a receipt form, WH-58 (copy enclosed), which includes a waiver of the private right of action. As a matter of policy, the Department does not approve any substitute receipt forms which employers may prefer to use.

Except for the circumstances described above, we are aware of no other situation in which the Department has supervised any such waiver under the FLSA.

2. What steps and procedures does the Secretary follow in supervising waivers under section 16(c)? (Please include relevant forms or other documents.)

We understand your question to relate to the Secretary's authority under section 16(c) to supervise the waiver of an employee's rights under section 16(b).

In most cases closed administratively, the employer prepares the WH-58 discussed above and presents it directly to the employee with a check for the net amount of the back wage payment. Both the employer and the employee retain copies of the signed form and a third copy is forwarded to the Wage and Hour Division (the Division) for inclusion in the investigation file.

Where there is doubt about whether the employer will make a bona fide offer of the back wages to the employees or whether a full and prompt payment will be made, the employer is asked to submit the employees' checks to the Division. The Division's Area Office then prepares the receipts and distributes the back wages to the employees.

3. In *Lynn's Food Stores, Inc.* v. *United States,* 679 F. 2d 1350 (11th Cir. 1982), a federal court of appeals held that FLSA claims may be compromised in only two ways: through Department of Labor supervision under section 16(c), or through a stipulated judgment approved by district court in private actions brought pursuant to section 16(b). Does the Department of Labor accept *Lynn's Food* as and accurate and complete statement of the law with respect to the negotiation or compromise of claims under the FLSA?

The court in *Lynn's Food Stores, Inc.* adopted the Department's view of the law with respect to waivers under the FLSA, as set forth in its brief filed with the Court (copy enclosed).

4. Assume that an employee who signed a general release or waiver (not supervised by the Secretary) in connection with receiving back wages or other damages then files an FLSA complaint. If the employer asserts that the general waiver bars this claim, what position would the Department take with respect to the validity of the waiver?

As indicated above in response to question 1., the Department does not recognize waivers other than the WH-58 or, in the case of a private action under FLSA section 16(b), waivers which may be prepared under the supervision of a court.

5. Under what circumstances would the Secretary find that waivers are invalid? What steps would the Secretary take in such situations?

As discussed above, the Department does not recognize such waivers. Where employers assert that their employees have waived their rights, the Department's policy is to advise them of this position and continue with formal investigation procedures, including the request for any back wage payments due.

We hope that the foregoing information satisfactorily responds to your inquiry. If we can be of further assistance, please do not hesitate to contact us.

Sincerely,

Fred W. Alvarez,
George R. Salem,
Solicitor of Labor.

Mr. METZENBAUM. Mr. President, but Congress must revisit this issue because of recent regulatory action taken by the EEOC. The Commission has been responsible for administering and enforcing the ADEA since 1978, when Congress transferred authority from the Department of Labor. In July 1987, the EEOC issued a rule permitting employees to waive their rights under the ADEA in the absence of agency supervision. The EEOC cited procedures used under title VII, and announced that unsupervised waivers would be valid provided that they were knowing and voluntary, and met certain general guidelines. During the EEOC rulemaking process, which lasted from 1985 to 1987, several lower courts held that unsupervised waivers of ADEA rights were valid under limited circumstances. These lower courts referred to the EEOC rule as a source of guidance.

Following issuance of EEOC's final rule, Congress immediately expressed grave concern that the rule was without legal foundation and contrary to public policy. In October 1987, the Senate unanimously adopted an amendment to the fiscal year 1988 EEOC appropriations bill, suspending the rule for a year. The amendment was offered by Senator Melcher and myself, and supported on the Senate floor by Senators Hollings and Rudman. The House agreed to accept the amendment, and implementation of the rule was precluded.

Following House and Senate hearings on the waiver issue early in 1988, the Senate Appropriations Committee acted in June of this year to extend the suspension of the rule for another year as part of the EEOC's fiscal year 1989 appropriations bill. This time, the action was initiated by Senators Hollings and Rudman, the chairman and ranking minority member of the Appropriations Subcommittee responsible for the EEOC. The continued suspension then received strong bipartisan support, with letters signed by Senators Quayle, Grassley, Wicker, Melcher, Metzenbaum, DeConcini, Sasser, Leahy, Mikulski, Reid, Chiles, and Lautenberg. I ask unanimous consent that the letters I am referring to be placed in the Record at this point. The Senate passed the continued suspension without dissent, and the House has agreed to it in conference.

There being no objection, the letters were ordered to be printed in the Record, as follows:

U.S. Senate,
Committee on Appropriations,
Washington, DC, June 7, 1988.

Hon. Ernest F. Hollings
Chairman, Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, DC.

Dear Mr. Chairman: We are writing to ask you to support an amendment to the FY 1989 Commerce, Justice, State, the Judiciary and Related Agencies appropriations bill for the Equal Employment Opportunity Commission (EEOC). This amendment would continue for another year Congress' suspension of the EEOC's rule permitting older workers to waive their rights under the Age Discrimination in Employment Act (ADEA) without appropriate supervision.

The FY 88 suspension followed the EEOC's promulgation of a final rule on August 27, 1987, permitting unsupervised waivers and releases of claims by older workers where such waivers are "knowing and voluntary." This rule was opposed by senior citizens' organizations and numerous Members of Congress, who argued that the provisions of the Fair Labor Standard Act expressly incorporated into the ADEA by Congress invalidate such waivers except when supervised by the federal agency charged with enforcing the law—in this case, the EEOC—or a court.

We have followed with great interest the recent hearings in both the Senate and the House on this issue. These hearings have highlighted both the substantial opposition to the rule and the doubtful validity of the EEOC interpretation of Congress's intent when it incorporated the FLSA enforcement procedures into the ADEA. We also believe serious questions have been raised about the degree to which the EEOC rule adversely affects the important rights of older workers to be free from age-based employment discrimination. Indeed, the rule will primarily benefit employers by making it easier for them to offer voluntary and involuntary enhanced severance programs in an illegal and discriminatory manner by shielding them from liability under the ADEA. We strongly believe that the EEOC should instead be encouraging employers to offer such programs in a non-discriminatory fashion.

We are concerned that, notwithstanding congressional dissatisfaction with the waiver rule expressed in the FY 1988 suspension, the EEOC has made no effort to modify, clarify or withdraw the rule, or to otherwise work towards a solution to this problem. Therefore, in light of the fact that the FY 1988 suspension was not enacted by Congress until December 21, 1988, continuation of this suspension through FY 1989 is vital to provide the Congress with sufficient opportunity to work out a solution with the EEOC or to devise appropriate legislation.

Sincerely,

Jim Sasser, Patrick Leahy, Chuck Grassley, Barbara A. Mikulski, Dennis DeConcini, Lowell P. Weicker, Jr., Harry Reid, Lawton Chiles, Frank R. Lautenberg.

U.S. Senate,
Committee on Labor and Human Resources,
Washington, DC, June 13, 1988.

Hon. John Stennis, Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

Dear Mr. Chairman: We are writing to express support for an amendment to the FY 1989 appropriation for the Equal Employment Opportunity Commission (EEOC) that was adopted last week at a markup by the Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies. The amendment will continue for another year Congress' suspension of the EEOC rule permitting older workers to waive their rights under the Age Discrimination in Employment Act (ADEA) without appropriate supervision.

The amendment that suspended the rule was originally enacted as part of the EEOC's FY 1988 appropriation. Serious questions have been raised regarding both the legal and policy implications of the rule. In particular, there is tension between recent lower court decisions permitting unsupervised waivers under the ADEA and established Supreme Court precedent incorporating into the ADEA the enforcement procedures of the Fair Labor Standards Act. The FLSA precludes unsupervised waivers, and the Department of Labor consistently has refused to recognize as valid waivers that are not supervised by the Secretary or a court. In addition, senior citizen's groups and others have expressed concern that the EEOC rule would permit unsupervised waivers for employees who have not failed a charge, who are not involved in any dispute with their employer, and who have no reason to be on guard to protect their rights.

As you know, the FY 1988 suspension was not enacted until December 21, 1987. Last month, the Labor Subcommittee conducted a hearing on the issue of waivers under the ADEA. We currently are exploring options for a bipartisan legislative approach that would specify the conditions under which unsupervised waivers would, and would not, be permitted. We believe it is vital to continue the suspension of the rule while we attempt to develop a permanent legislative solution.

Sincerely,

Howard M. Metzenbaum.
Dan Quayle.
John Melcher.

Mr. METZENBAUM. Mr. President, although Congress has acted to prohibit the EEOC rule from taking effect until at least October 1, 1989, there is general agreement that a long-term legislative solution is necessary. Accordingly, we have drawn up a legislative approach that consists of three basic elements or principles:

First, the bill provides that unsupervised waivers are valid under the ADEA only when obtained in certain precisely defined circumstances. Where an individual raises a bona fide claim—either by filing an ADEA charge with the EEOC or by submitting a written allegation of age discrimination to the employer—then and only then may settlement of that claim include a valid waiver of ADEA rights notwithstanding the absence of supervision by a court or Federal agency. This change in current ADEA law is intended to recognize the analogous circumstance of an individual dispute under title VII. Once the two sides are truly in an adversarial posture, we assume that the individuals alleging discriminatory conduct are capable of making informed judgments about their rights.

At the same time, given Congress' continuing concern to protect older workers, we have specified certain minimum conditions that must be met in order for an unsupervised waiver of ADEA rights to be valid. These conditions include that: First, any waiver of rights must be in writing and must specifically refer to rights or claims arising under the ADEA; second, the waiver agreement may not waive rights or claims that might arise after the date the agreement is entered into; third, the rights or claims waived must be in exchange for consideration other than benefits to which the individual already was entitled; fourth, the individual must be given a reasonable period of time in which to consider the agreement; and fifth, the individual must be advised in writing to consult with an attorney prior to entering into a waiver agreement. Finally, of course, we have specified that the waiver must be knowing and voluntary.

Second. The bill also provides that as a general rule, unsupervised waivers are not valid when an employer has offered an early retirement incentive or other employment termination program that features an offer of enhanced benefits to a group or class of employees. This is precisely the kind of circumstance that sharply distinguishes ADEA claims from those arising under title VII. Employees who are offered such enhanced benefits typically have not filed a charge, are not involved in any dispute with their employer, and have no reason to be on guard to protect their rights. These employees deserve the full protection of the ADEA, and we are reaffirming here the judgment made by an earlier Congress that a waiver of their rights is inappropriate without the supervision of the Federal agency charged with protecting those rights, namely, the EEOC. We have provided a limited exception to this rule where the offeree is represented by counsel and is receiving consideration that is additional to the enhanced benefit.

What we intend to do here is separate the issue of waivers from the issue of whether a particular enhanced benefit program violates the ADEA. At the Labor Subcommittee hearing last May, we were advised that many companies regularly offer their employees exit incentive programs that are not conditioned upon execution of a waiver. Indeed one top corporate official stated to subcommittee staff that waivers could undermine the atmosphere of good will that is essential to such a voluntary program, explaining that a waiver request could discourage participation by arousing needless suspicions among employees. But apart from arguments of sound business practice, we believe it is inappropriate as a matter of law to use waivers of rights to avoid the underlying issue of whether a given early retirement or other exit incentive program discriminates on the basis of age. Because this underlying issue is important, and employers are entitled to guidance, we have ordered the EEOC to address the problem.

Third. The bill directs the EEOC to issue a rule or interpretative regulation by January 1, 1990, discussing the validity of early retirement incentive and other enhanced benefit programs under the ADEA. The Commission issued an advance notice of proposed rulemaking on just this issue in July 1988. Our 16-month schedule grants sufficient time to ensure thoughtful, deliberate action by the Commission. Because waiver policy is the wrong way to approach this problem, the bill also declares that the Commission's waiver rule issued in 1987 is without force and effect.

Mr. President, the Waiver Protection Act is a sensible approach to a difficult technical issue. It maintains existing protection for waiver of ADEA rights. It creates a limited exception in recognition of circumstances where ADEA claimants are truly anologous to claimants under other employment discrimination laws. And it orders the Commission to act promptly on the issue of enhanced benefit programs.

I urge my colleagues to support this bill.

Mr. HEINZ. Mr. President, as the dramatic demographic changes of the coming decades begin to have their impact on the American work force, it is important that we maintain our commitment to one of this Nation's most-valued resources—the older worker. We've recently made great strides in this area by both eliminating mandatory retirement and ensuring older workers the right to accrue pension benefits after age 65. These new laws provide important reaffirmations of the policy objectives launched with enactment of the Age Discrimination in Employment Act [ADEA] some 20 years ago.

I have become concerned, however, that America's commitment to older workers has been undermined by the increasing instances in which older workers are asked to waive the protections provided to them by the ADEA. When Congress enacted the ADEA some 20 years ago, we patterned its enforcement provisions directly on those contained in the Fair Labor Standards Act [FLSA]. Under those FLSA provisions, employees may not waive their rights without the supervision of the Department of Labor. Regulations finalized by the Equal Employment Opportunity Commission in July 1987 would have allowed unsupervised waivers that were "knowing and voluntary." The concerns I have about these regulations are exemplified in the case of one of my constituents, Mr. Ronald Hallas, who testified before the Aging Committee last year. When Mr. Hallas' employer was cutting back its work force with an early retirement program, he was faced with a "Hobson's choice": he could either sign a waiver and receive retirement benefits, or face permanent layoff without pension or health benefits. Strictly speaking, this waiver was "knowing and voluntary"—it was written in plain English, and Mr. Hallas was given time to make his decision—however it was not without an element of coercion.

A Federal district court used reasoning very similar to that of EEOC's to find that the waiver was "knowing and voluntary," and therefore a valid bar to enforcement of Mr. Hallas' rights under ADEA. Only after several additional years of litigation did a U.S. Court of Appeals overturn that decision. When Congress acted in October 1987—and again last month in the fiscal year 1989 Commerce/Justice appropriations bill—to suspend implementation of EEOC's regulations, we clearly chose to address this issue by developing clarifying legislation.

Unfortunately, while this moratorium is in effect, employers and their older employees have been left in limbo. Their uncertainties arise not only from not knowing how to interpret what force and effect waviers should be given, but also from a more important underlying confusion as to what types of early retirement programs are in compliance with the ADEA. The current situation forces both older workers and their employers to look to the courts for guidance on both these issues—a time-consuming and expensive proposition.

Therefore I am pleased to join with Senator METZENBAUM, and some of our other colleagues in introducing legislation designed to clear up confusion in both these areas. The "Age Discrimination in Employment Waiver Protection Act of 1988" will clarify the validity of ADEA waivers in a number of situations. In instances where older workers have a bona-fide claim pending with their employer, the individual may waive his or her ADEA rights as long as certain statutory safeguards are followed. For cases arising out of early retirement incentive programs, any waivers signed by individuals who are not represented by any attorney would have to be supervised by the EEOC or the courts.

Additionally, EEOC will be required to give the proper regulatory guidance to employers so that they can design early retirement incentive programs that are not discriminatory against older workers. In my judgment, this new legislation will adequately protect the rights of older workers while at the same time provide their employers with both the guidance they need to design equitable early retirement incentive programs as well as the flexibility to negotiate with employees without undue Government interference.

I urge my colleagues to support us in this effort by giving this legislation full consideration as expeditiously as possible.

Mr. MELCHER. Mr. President, the legislation we are introducing today would prohibit any unsupervised waivers of the rights provided to older workers under the age Discrimination in Employment Act [ADEA] except in limited situations where certain safeguards are met. In addition, the bill would require the Equal Employment Opportunity Commission [EEOC] to clarify standards relating to early retirement incentive programs and other employment termination programs.

Under the ADEA, age, alone, is not an acceptable basis for terminating an older worker. Nevertheless, during this period of rapid economic change, where corporate restructurings are commonplace, the ones who have given the most—the older worker—are too often at the greatest risk of getting the least. Against this background, unsupervised waivers of older workers' rights under the ADEA, except under a very narrow set of carefully considered circumstances, represent a potential and dangerous blow to the very protections older workers most need at this time.

Although I and many others believe that the ADEA clearly invalidates any waiver of an older worker's rights unless supervised by the EEOC or a court, a number of recent court decisions have clouded this issue. In the absence of constructive efforts by the EEOC to clarify this situation, we have brought forward this measure to reaffirm congressional intent with respect to unsupervised waivers and to recognize a limited exception for waivers in the context of the settlement of an age-discrimination claim.

BACKGROUND

In my view, a careful reading of the ADEA reveals that the Congress intended that certain enforcement provisions of the Fair Labor Standards Act be applied with respect to unsupervised waivers. Specifically, those provisions, incorporated into the ADEA, require that any waiver of a worker's rights be supervised by the enforcing agency—in this case, the EEOC—to be considered valid. The obvious purpose of this requirement is to protect the rights of older workers.

EEOC UNSUPERVISED WAIVER RULE

In July 1987, drawing on certain court cases addressing the unsupervised waiver provisions of the ADEA, the EEOC issued in final form a rule allowing for unsupervised waivers. Unfortunately, that rule was seriously flawed and would have undermined the very rights the EEOC is charged with protecting.

At a hearing of the Special Committee on Aging I held soon after the new rule was published, the American Asociation of Retired Persons, the National Senior Citizens Law Center, and others spoke out against the EEOC rule. A most vivid and personal testimony on this issue came from a former steel worker. At the age of 18, he had begun as a laborer in his former company and gradually worked his way up to a management position. In 1982, he and many of the company's older workers were laid off—even while younger workers were being trained to replace them. Before leaving, he was handed a piece of paper that waived his protections against age-discrimination under the ADEA. His choice: signing and leaving with most of his pension or taking a 2-year layoff and losing all health care benefits. Of course, this was really no choice at all, and he signed. He had worked 35 years for that company.

We don't know how many other older Americans could tell a similar story. It's clear, however, that mergers, takeovers, and other corporate restructurings are undermining job security. At the same time, early retirement incentive programs are becoming a common strategy for down-sizing a work force. During this period of rapid economic change, we must be especially watchful that the rights of older workers under the ADEA are not passed over.

Under the EEOC rule, only those waivers that were signed by older workers on a "knowing and voluntary" basis would be valid. At first glance, this standard could appear to represent a sufficient safeguard against the sort of Hobson's choice that this former steel worker faced. However, since older workers are typically in a profoundly unequal bargaining position with respect to their employer and many are not fully aware of their rights under the ADEA, these standards are meaningless. Worse, under that rule, the burden of proof—namely, showing that the waiver was not signed willingly and voluntarily—would have fallen to the older worker.

SUSPENSION OF THE EEOC RULE

To prevent the EEOC rule from going into effect, on October 15, 1987, I offered an amendment, with the cosponsorship of Senator METZENBAUM, to an appropriations bill to nullify the rule during the 1988 fiscal year. I was very pleased that the Senate unanimously adopted this amendment, which was incorporated into the fiscal year 1988 continuing resolution and enacted in Public Law 100-202 on December 22, 1987. I am also grateful to Senator HOLLINGS, the chairman of the Commerce, Justice, State Subcommittee, and the ranking minority member of that committee, Senator RUDMAN, for their cooperation in Senate passage of this amendment.

Continuing the effort to address concerns over the EEOC rule, Senator METZENBAUM held a hearing on this issue on May 24, 1988. I was pleased to have had the opportunity to express my opposition before the Labor Subcommittee and to hear the views of others on this matter. Unfortunately, it was clear from the testimony of Mr. Richard Komer, EEOC's legal counsel, that the EEOC continued to defend the rule.

Under current law, the suspension on the EEOC unsupervised waiver rule expires on September 30. To provide sufficient time to develop a bipartisan policy in this area, early last summer we sought an extension of the suspension on the EEOC rule beyond fiscal year 1988. Thanks to the help of Senator DECONCINI, who mobilized bipartisan support of a number of other members of the Appropriations Committee, and the continued cooperation of Senator HOLLINGS and Senator RUDMAN in this effort, legislation to extend the suspension was included in H.R. 4782, the fiscal year 1989 Commerce, Justice, State appropriation bill, which the Senate passed on July 27, 1988. I am pleased that the House conferees on this measure accepted the extension, and I am hopeful that this legislation will soon be signed into law.

THE BILL

This legislation represents a bipartisan solution to the concerns arising from unsupervised waivers of older worker's rights under ADEA. With a limited exception, this bill would reaffirm long-standing congressional intent that unsupervised waivers are invalid.

First, to ensure that older worker's are not coerced into signing away their rights, with the exception described below, this bill would prohibit waivers of ADEA rights unless supervised by the EEOC or a court. This provision would prevent efforts to secure a waiver from an older worker in exchange for benefits wrongly withheld or as part of an discriminatory early-retirement package.

Second, in recognition that supervision by the EEOC or a court is not always needed, this legislation would establish an exception to the above prohibition against unsupervised waivers provided specified standards were met. The exception would apply to circumstances involving the settlement of a bona fide age-discrimination claim where the claimant would likely have assistance from the EEOC or be advised to seek an attorney.

Under this provision, the settlement of an age discrimination claim must be in writing, may not waive rights prospectively and cannot waive rights in exchange for benefits to which the claimant was already entitled. In addition, the older worker must be given a reasonable period of time to consider the terms of the settlement and be advised in writing to consult with an attorney.

Finally, this bill would require the EEOC to issue regulations governing early-retirement incentives or other similar termination programs. Employers are increasingly looking to such programs as a way to downscale their work force. Standards are needed to guide employers in the development of these programs and to ensure compliance with the ADEA.

CONCLUSION

Mr. President, this measure is needed to settle the uncertainty that has arisen regarding the legal basis of unsupervised waivers. Our bill would reaffirm the long-standing congressional prohibition against such waivers except in certain limited situations where supervision is not needed. This measure is supported by the American Association of Retired Persons and the National Senior Citizens Law Center. I urge my colleagues to support this legislation.

Mr. KENNEDY. Mr. President, the Age Discrimination in Employment Waiver Protection Act of 1988 is an essential piece of legislation for preserving the rights of America's older workers.

Often employers have reason to reduce their work forces through voluntary incentive plans. In most cases, an agreement can be reached that benefits both the employer and the older worker who can take advantage of an attractive early retirement package. In a few unfortunate cases, however, employers have forced unsuspecting employees to sign away their civil rights in exchange for early retirement benefits. The trusting employee may have no reason to think that he has been a victim of age discrimination, and yet, the implementation of the reduction in force may well have violated Federal discrimination law.

This spring, the Senate Labor and Human Resources Subcommittee on Labor heard the tragic story of Nelson Marans, who, after almost 30 years of outstanding service to W.R. Grace & Co., was fired for refusing to sign away his rights in exchange for an enhanced early retirement package. Donald J. Graham, at age 55, accepted Pet, Inc.'s offer of enhanced benefits when his job was eliminated; he signed away his rights after his attorney reminded him of the harsh reality that a lawsuit could take years and might cost more than the benefits he would receive. William Terrell did not consult an attorney when Xerox terminated him and other older workers during an involuntary reduction in force; he did not know his rights when he signed a paper waiving all his claims against the company. Mr. Terrell, at age 56, spent 8 months looking for a job at a lower wage in a different field. He later suffered a heart attack that may have resulted from stress relating to his employment situation.

It is in precisely these kinds of cases that the Equal Employment Opportunity Commission should step in to safeguard the rights of the employee. When the Age Discrimination in Employment Act was signed into law, Congress incorporated certain enforcement provisions of the Fair Labor Standards Act, including the requirement that a waiver of an employee's rights be supervised. Yet the EEOC has taken the opposite position—under a rule issued last summer, the EEOC gave notice that it will turn its back on the rights of older employees by recognizing as valid waivers that are not supervised by the Federal Government or a court. In so doing, it issued an open invitation to employers to use manipulative tactics to persuade employees to waive their rights without advise of attorney.

Congress has stepped in twice to void the EEOC's rule and to protect the rights of older employees. This has been a bipartisan effort, as is this legislation, which will clearly define the limited instances in which employee waivers will be permitted in ADEA cases.

I urge the Senate to adopt this legislation.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 2857. A bill to award a Congressional Gold Medal to the family of Arnold Raphel in honor of the late Arnold Raphel, the former United States Ambassador to Pakistan; to the Committee on Banking, Housing, and Urban Affairs.

CONGRESSIONAL GOLD MEDAL IN HONOR OF ARNOLD RAPHEL

● Mr. D'AMATO. Mr. President, I rise to offer legislation with my distinguished colleague, Senator MOYNIHAN, to posthumously award Ambassador Arnold L. Raphel the Congressional Gold Medal for his selfless and admirable service in our diplomatic corps. Ambassador Raphel was killed in the tragic and mysterious airplane explosion on August 17, 1988, which also claimed the life of Brig. Gen. Herbert Wassom, President Zia ul-Haq of Pakistan, and many others.

Ambassador Raphel enjoyed a distinguished career in his 22 years of diplomatic service. He received accolades for his work as a diplomatic troubleshooter. Ambassador Raphel was special assistant to Secretaries of State Cyrus R. Vance and Edmund S. Muskie during the Carter administration. In 1979, he was a member of a special State Department delegation designed to obtain the release of 52 American hostages held at the U.S. Embassy in Tehran from 1979 to early 1981. He continued his illustrious career as cochairman of a 25-member interagency group designed to grapple with the problem of hijacked TWA airliner 847 in June of 1985.

One of his most important responsibilities, however, was his last. Arnold Raphel was appointed Ambassador to Pakistan in 1987. Before this appointment, Raphel was Deputy Assistant Secretary of State and Deputy Head of the Bureau of Near Eastern and South Asian Affairs. Ambassador Raphel worked diligently to cultivate friendly relationships with Pakistan, an important and strategic ally in the volatile Middle East. His understanding of Pakistan was developed through his experiences as a political officer in the United States Embassy in Pakistan from 1975–78. During his tenure as Ambassador, the United States, Pakistan, and the Soviet Union negotiated a withdrawal of Soviet troops from Afghanistan, and United States-Pakistan relations were at an all-time high.

Although Arnold Raphel and I had philosophical policy disagreements regarding Afghanistan, I take special pride that Ambassador Raphel was a native of New York. He was born in Troy, NY, on March 16, 1943, and is survived by his daughter Stephanie and his wife Nancy Ely Raphel. He began his life-long goal of foreign service at the age of 10 when another great upstate New Yorker, John Foster Dulles, answered a letter from Raphel. Dulles told Raphel that to get into the Foreign Service, he needed to study hard and go to a college that emphasized foreign studies. He did just that by first attending Hamilton College, then the Maxwell School at my alma mater, Syracuse University. After graduating in 1966, he immediately joined the Foreign Service.

I know that those who grew up with Ambassador Raphel, worked with him, or just knew of him would agree with me that Ambassador Raphel unselfishly dedicated his life to the service of his country; and he served his country with unparalleled distinction.

Mr. President, similar legislation has also been introduced in the House by Congressman MCCOLLUM. I ask my colleagues to join with me on this legislation to properly honor Ambassador Raphel's Foreign Service career. I believe that by posthumously awarding the Congressional Gold Medal to Ambassador Raphel we will appropriately commemorate an accomplished life cut short only by a tragic and untimely death.●

By Mr. FOWLER:

S. 2858. A bill entitled the Rural Development Amendments of 1988; to the Committee on Agriculture, Nutrition, and Forestry.

THE AGRICULTURAL DIVERSIFICATION AND RURAL DEVELOPMENT ACT

● Mr. FOWLER. Mr. President. I am pleased today to introduce the Agricultural Diversification and Rural Development Act of 1988.

Mr. President, there is a great opportunity to build on proven successes to strengthen rural America in a way which also benefits urban residents. New and innovative approaches are needed which draw from and build on the strengths of farmers and other rural residents. The solutions must go beyond merely sustaining rural America to improve the quality of life and create new opportunities to build the economic dynamism of rural communities.

Family farms can and must play a vital role in the future of rural America. Diversification of our agricultural production into new, profitable commodities, development of new markets, and expansion of regionally-based food and fiber processing capacity constitute the greatest promise for strengthening small- and medium-sized farms and the rural communities of which they are the backbone.

These policy proposals will cultivate both farm and nonfarm opportunities and improve our resource base and living environment. Above all, they will build on the strengths and values of the communities they are designed to assist. By applying these efficient, innovative strategies we will be able to regenerate rural America and create a thriving future for all rural and urban Americans.

Drawing on the leadership of the chairman of the Committee on Agriculture, Nutrition, and Forestry, the distinguished Senator from Vermont, Mr. LEAHY, I am proposing legislation that would compliment S. 1729, the Rural Economy Act, of which I am a cosponsor.

The Agricultural Diversification and Rural Development Act of 1988 is a series of complementary amendments to S. 1729 that would define agricultural diversification, specify it as an eligible activity for business development loans and grants and local development capacity building, direct $50 million of State incentive grants to agricultural diversification, and create a new title establishing a fund for loans and grants to intermediary financial institutions. Beyond this first step, I hope to work in the development of a broader omnibus bill to promote agricultural diversification through the redirection of a range of Federal programs, including research, extension, and crop insurance.

Mr. President, rural areas across the country are undergoing a painful transition. In particular, the continuing devastation of our productive agricultural base and the loss of our efficient family farmers and ranchers undermines the economic health of our rural communities and regional economies. In response, State Departments of Agriculture, farm groups, community organizations, business associations, and others are joining a growing movement at the State and local level to implement innovative, grass-roots solutions to promote real economic development through agricultural diversification. As a part of this movement, Mr. President, we believe that agriculture can and must be a part of any solution to the problems facing rural America.

Pioneering producers and entrepreneurs are returning agriculture to profitability and revitalizing their communities through a series of new initiatives in agricultural diversification. Quite simply, this diversification includes development of new direct sales markets for agricultural products, expansion of food and fiber processing capabilities on a local level, and production of new commodities and livestock for which there is a demonstrated demand.

This approach builds upon the skills and initiatives of people at a local level and relies upon creation of homegrown enterprises. Such an approach is vital for meeting goals that we all share:

First, support of family farmers, small businesses, and rural entrepreneurs.

Second, creation of jobs that suit the needs and skills of people in rural communities.

Third, economic growth that promotes the wise use of natural resources and strengthens the sustainability of the agricultural base.

Fourth, development of a consumer and market-oriented agriculture.

Agricultural diversification is a comprehensive strategy to promote economic growth in rural areas by building upon the agricultural and natural resource base of local communities.

There are three main components:

First. Direct marketing—farmers' markets, roadside stands, pick-your-own farms. After World War II direct marketing fell by the wayside as the Nation developed a fully integrated food distribution and supermarket system.

Today, direct marketing is making a comeback: Consumers want more fresh fruit and vegetables. Equally important, direct marketing provides an opportunity for farmers to capture a large share of market margins. Direct marketing is more than just farmers markets, cooperative wholesaleing and testing new international markets.

Texas, California, Nebraska, and Massachusetts have all given us examples of successful direct marketing. It works, the farmers and consumers like it.

Second. Producer/rural entrepreneurs food and fiber processing facilities. There is tremendous potential for the creation of new businesses and expansion of existing businesses which process and market agricultural products. For example, in Illinois, State funding has resulted in the operation of a facility to produce a total mixed ration of livestock feed which uses Illinois grown alfalfa, corn, distillers grain, and gluten which is a byproduct from ethanol production also taking place in the State.

PRODUCTION OF ALTERNATIVE CROPS AND COMMODITIES

There exists consumer demand for a larger number of agricultural products which have not commonly been produced in great quantities. These commodities have the potential to create new employment opportunities in production as well as in marketing and processing. Examples include:

Kentucky Agriculture officials researching hay marketing programs. Kentucky horsebreeders rely on hay from other States.

In Nebraska, State assistance helped pave the way for the creation of a vegetable crop which produces tomatoes, cucumbers, broccoli, asparagus, and watermelons.

In Indiana, the legislature has approved legislation allowing State loans to farmers for diversification.

My legislation will promote agricultural diversification and rural development by:

Authorizing the core of capacity building grants for agricultural diversification.

Authorizing the use of State Incentive funds for agricultural diversification.

Amending the rural development loan fund for diversification.

Establishing an Agricultural Diversification Loan Fund which will be administered by States and State departments of agriculture. They will be authorized to make low cost loans to finance new marketing ventures, food and fiber producing plants and other activities which will assist family size farmers and rural entrepreneurs to diversify the local economy.

Guaranteed Loans for Alternative Crops. The Secretary of Agriculture will be authorized to set-aside $100 million from underutilized farmer ownership guaranteed loans to produce alternative crops.●

By Mr. DOMENICI (for himself and Mr. BREAUX):

S. 2859. A bill to clarify the rules concerning the unconventional fuels credit with respect to gas produced from a tight formation; referred to the Committee on Finance.

TIGHT SANDS TAX CREDIT RESTORATION ACT

Mr. DOMENICI. Mr. President, I rise today to introduce a bill that would reinstate the Tight Sands Tax Credit. This is a credit that encourages natural gas producers to drill for hard-to-get natural gas found in geological formations that are known as tight sands.

We need to reinstate the credit because, very simply, what the bold print giveth, the fine print taketh away.

Every Member of this body knows that the Tax Code is a very complex law. While one code provision may establish a tax incentive, another code provision may inadvertently take that incentive away.

In the area of natural gas, it becomes more complicated because qualifying for the Tight Sands Credit requires a taxpayer not only meet provisions of the Tax Code, but also to comply with certain Natural Gas Policy Act requirements as well as to comply with FERC orders and court interpretations on those orders.

Until recently, qualifying for the Tight Sands Credit was, if you will pardon me, a tight-rope act. But it worked. It was a sound incentive.

For the Tight Sands Credit to be available, the Tax Code and the Natural Gas Policy Act had to be consistently interpreted. Unfortunately, recent events have effectively eliminated the credit. Congress did not change the law. Rather, an order by FERC and subsequent Supreme Court decision produced a conflict.

The bill I am introducing today would straighten out the unintended consequences.

Section 29 of the Internal Revenue Code allows a tax credit for unconventional fuels, such as "Tight Sands, Coal Seam Gas, Devonian Shale," provided the price of crude oil drops below a certain level and provided the gas price was regulated. That price level was reached in 1984, and a tax credit of 52 cents per million cubic feet of gas was provided.

The Federal Energy Regulatory Commission, in its dual-category regulation rule, provided that Tight Sands, or section 107, gas is automatically deregulated when it has dual classification with another NGPA classification. Prior to this ruling the producers were entitled to choose the category they wished to qualify a particular gas.

If a producer chose a regulated category, it was entitled to the Tight Sands Credit. If it chose deregulated, the Tax Code did not provide a credit.

In the case of Martin Exploration Management Co. versus FERC, the U.S. Court of Appeals for the 10th Circuit decided that FERC had misinterpreted the statute, that producers were clearly presented with this choice of categories, and FERC could not deny this choice. At this point in the proceedings the Tight Sands Credit was still intact.

However, the Supreme Court disagreed and reversed this order last May on a basis other than Tight Sands Credit. The opinion dealt with the appropriate interpretation of the Natural Gas Policy Act.

The Court in essence said: "If the gas could be regulated or deregulated, treat it as deregulated." The opinion's policy was that we should maximize deregulation. The Court did not deal with the Tax Code. The credit was not an issue before the Supreme Court. It was not even a factor. But, as a result of this ruling, the credit has been unavailable since January 1, 1985.

Mr. President, the FERC's purported deregulation has been particularly harmful to the gas producers in New Mexico, and to those in other gas producing states that depend upon this credit.

As you will recall, the original purpose of the unconventional fuels credit was to serve as an incentive to drill and as a partial compensation to producers that drilled expensive Tight Sands wells, in the event of a price drop. The worst case scenario has happened: The price drop has occurred and the tax credit was abolished by the FERC order.

Mr. President, I played an active role in passing the Natural Gas Policy Act, and I am very familiar with the legislative history of section 107.

The intent of Congress in this case was clear. The unconventional fuels credit provides that any wells drilled up to January 1, 1990, would be eligible for the credit during low crude oil price periods and that it would be allowed until January 1, 2001, or until the prices rose to the former levels.

The oil and gas industry have been facing tremendous difficulties for the past 4 years.

We thought the oil industry had hit bottom in 1986, but it continued to decline in 1987. The number of wells drilled in the State of New Mexico dropped 24 percent from 1986 to 1987. During that same time, oil production declined 4.5 percent and natural gas prices fell 12 percent.

I have heard from many producers in my State who have explained to me the difficulties they are facing as a result of the low natural gas prices. The reinstatement of the Tight Sands Credit would help avoid premature abandonment of many New Mexico natural gas wells.

There are 4,850 wells throughout New Mexico that produce 200 million cubic feet per month. These operators have had tremendous difficulty because of a commitment made in the legislation for special pricing on 107 gas, and they have had to adjust to the substantially lower prices they have been realizing in recent years. I am told the most influential factor in deciding to continue production at that field has been the Tight Sands Credit.

Several producers in my State say they will be unable to produce without this incentive, one they had relied upon. Certainly, they will not be able to drill the remaining wells.

This is not just a problem in New Mexico. This affects Tight Sands producers in Texas, West Virginia, Oklahoma, and Kansas, as well. I urge my colleagues to act quickly to correct this grave error.

The bill I am introducing is very simple, it merely reinstates the Tight Sands Credit, notwithstanding the FERC order and the Supreme Court case.

I have said on many occasions on the Senate floor that the United States needs to reevaluate its energy policy to take into account low price scenarios that can be expected for the next 5 to 10 years. Congress needs to enact additional incentives for exploration and development. Congress needs to intervene when the Supreme Court inadvertently abolishes an incentive.

Canada has already put into place a package of tax incentives to combat low price scenarios. Reinstating the Tight Sands Credit doesn't go far enough. It doesn't look to the future, but it does set the present record straight.

The industry desperately needs the credit. Well completions went from 1,243 in 1986 to 938 in 1987, the lowest number in 16 years. Oil production fell from 75.7 million to 72.3 million barrels per year, and the average field price of natural gas dropped from $1.92 to $1.69 per thousand cubic feet.

Depressed oil prices are harming much of the Southwest. New Mexico ranks fourth among the States in natural gas production and seventh in crude oil.

Mr. President, about $1 out of every $3 going into New Mexico's general fund comes from oil and gas related taxes, royalties, and permanent fund earnings. It is fair to say the petroleum industry is the State's No. 1 taxpayer.

Every county in my State benefits from assessments on the oil and gas industry. Four of the 33 counties in New Mexico account for 95 percent of all oil and gas produced in the State.

The State revenues derived directly or indirectly from oil and gas sources totaled $750.7 million in 1987. That was only a 1-percent improvement over the 1986 figure of $743.5 million, but provided an extra $7.2 million for the general fund. These revenues include production taxes, State and Federal royalties, lease sales, rentals, and earnings from two State permanent funds financed primarily by assessments on oil and gas production.

In the 1986-87 school year, education's share of the oil and gas revenues in New Mexico amounted to about $404 million. These revenues are crucial to the public schools, colleges and other educational institutions and agencies.

I have included these statistics to highlight the important contribution the oil and gas industry makes. In reinstating the Tight Sands Credit, we are acting in the national interest because it would contribute to America's energy independence. We are also acting in the various States' interest, because the oil and gas industry supports many vital State programs.

I hope my colleagues will support reinstating the Tight Sands Credit.

Mr. President, I introduce this bill because we may yet have a tax bill this year. The Senator from New Mexico is not certain that he would introduce this bill on the floor as an amendment to the Technical Corrections Act, but I do want those who are managing the only significant tax bill this year to know about this problem, in the event the so-called clean up bill comes up this week.

Initially I thought about offering this as an amendment, but if every Senator offers his amendments, we will not have a technical correction tax bill this year. Instead, I decided to introduce this bill.

I assume I will be joined by many Senators when they find out about this inadvertent repeal of the Tight Sands Tax Credit. Before we start talking about new incentives for the oil and gas industry in this country we ought to make sure that the ones we intended, as I said in my opening remarks, which were given in the bold print, were not taken away by the fine print. If they were we must put them back. I think the Tight Sands Tax Credit is one we ought to put back. I send the bill to the desk and ask that the bill be appropriately referred.

By Mr. PRYOR:

S. 2861. A bill to prohibit the Federal Asset Disposition Association from making certain payments; to the Committee on Banking, Housing, and Urban Affairs.

PROHIBITING CERTAIN PAYMENTS BY THE FEDERAL ASSET DISPOSITION ASSOCIATION

Mr. PRYOR. Mr. President, on September 24 I read an article in the Washington Post that made by blood boil. Because of recent congressional efforts to abolish the agency, the Federal Asset Disposition Association has apparently adopted a "golden parachute" plan for its employees that would give each person 4 months pay and other benefits as a severance payment. FADA's press release, dated June 22, 1988, does not put a dollar figure on the severance plan, but the Washington Post article estimated the cost at $8 million in Federal Home Loan Bank Board funds.

At a time when total savings and loan red ink has been estimated at over $70 billion and the FHLBB does not have sufficient funds to to its job, the people at FADA have sent a clear message to Congress and the American people about their dedication to saving the failing thrift industry. They have elected to place their own financial security above the financial security of millions of savings and loan depositors across this country.

The General Accounting Office recently reported to me that FADA was improperly established by the FHLBB, that it is an agency of the Federal Government, and that its employees are subject to Federal pay limitations and other restrictions. FADA has not accepted this conclusion and still regards itself as an independent federally chartered entity.

If FADA would admit that its employees are Federal employees, they would be entitled to severance pay based on their time of service. Instead, FADA has chosen to continue to show its arrogance and incompetence to Congress and the American people by adopting a severance plan that will be paid by the drastically underfunded FHLBB. Given the possibility of a taxpayer bailout of the FHLBB next year, the American taxpayer may ultimately pay for FADA's golden parachute plan.

Today I am introducing a bill that very simply orders the FHLBB to issue a regulation prohibiting FADA from making payments under its severance plan. If FADA will admit that its employees are Federal employees, they will receive normal Government severance pay at the time of their departure. But I cannot stand by and allow FADA to rob a fund that is intended to be for the protection of our Nation's savings and loan depositors, and not to be handing out golden parachutes at the time of retirement or severance of the employees.

Mr. President, I send a bill to the desk. It is only eight lines and I hope that the Senate will favorably consider it.

Mr. President, finally I ask unanimous consent that a Washington Post article by Kathleen Day, dated September 24, 1988 be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FADA OFFERS WORKERS AN $8 MILLION GOLDEN PARACHUTE

(By Kathleen Day)

A subsidiary of the Federal Home Loan Bank Board is the target of a hostile takeover by Congress, so it has adopted a technique private companies use when under attack: the golden parachute.

The 300-plus employees of the Federal Asset Disposition Association, or FADA, a subsidiary of the bank board, will get more than $8 million in severance pay if Congress makes good on threats to dissolve the agency. The money would have to be paid from the Federal Savings and Loan Insurance Corp., or FSLIC, the bank board fund that insures deposits at S&Ls up to $100,000.

Unfortunately, the fund is itself insolvent because of massive savings and loan failures. It likely will have to turn to taxpayers for a multibillion dollar bailout.

The bank board gave FADA authority to pay top officials more than the federal pay cap, saying such salaries were needed to attract high-ranking experts.

But the General Accounting Office has just completed a study for Rep. James Florio (D-N.J.) and Sen. William Proxmire (D-Wis.) that said the way that FADA was established is a violation of federal law.

The bank board is the federal agency that regulates the savings and loan industry.

FADA officials defended the severance arrangement, which they said will give each employee four months pay if the organization is disbanded.

The officials said the offer was the only way it could retain good workers amid threats that Congress will take their jobs away.

In a letter to Bank Board Chairman M. Danny Wall, Florio asked for a full explanation of the severance arrangement.

"If in fact the directors of FADA have contrived to put together this 'golden parachute,' . . . I would be outraged at the audacity of this embattled agency in providing one final perk to its employees in the midst of concerns raised about multibillion losses by the savings and loan industry," Florio said in the letter.

ADDITIONAL COSPONSORS

S. 1851

At the request of Mr. METZENBAUM, the name of the Senator from Washington [Mr. EVANS] was added as a cosponsor of S. 1851, a bill to implement the International Convention on the Prevention and Punishment of Genocide.

S. 2584

At the request of Mr. LAUTENBERG, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 2584, a bill to eliminate drug-related crime in public housing projects.

S. 2698

At the request of Mr. DODD, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Mississippi [Mr. COCHRAN], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 2698, a bill to provide Federal assistance to the National Board of Professional Teaching Standards.

S. 2750

At the request of Mr. DOMENICI, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 2750, a bill to authorize a study on wetlands to commemorate the nationally significant contributions of Georgia O'Keefe.

S. 2767

At the request of Mr. Bingaman, the name of the Senator from New Mexico [Mr. Domenici] was added as a cosponsor of S. 2767, a bill to authorize a study of the history and culture of Warm Springs, NM, in order to preserve its historic and cultural legacy for future generations.

S. 2796

At the request of Mr. Nunn, the name of the Senator from Iowa [Mr. Harkin] was added as a cosponsor of S. 2796, a bill to authorize funding for the Martin Luther King, Jr., Federal Holiday Commission.

S. 2830

At the request of Mr. Melcher, the names of the Senator from Minnesota [Mr. Boschwitz], and the Senator from Alabama [Mr. Heflin] were added as cosponsors of S. 2830, a bill to establish a commission to review and make recommendations for the improvement of the Federal Crop Insurance Program.

S. 2852

At the request of Mr. Dole, the names of the Senator from Missouri [Mr. Bond], and the Senator from Utah [Mr. Garn] were added as cosponsors of S. 2852, a bill to provide for an omnibus Federal, State, and local effort against substance abuse, to provide for a Cabinet-level position to centralize and streamline Federal activities with respect to both drug supply (interdiction and law enforcement) and drug demand (prevention, education, and treatment), to expand Federal support to ensure a long-term commitment of resources and personnel for substance abuse education, treatment, and rehabilitation efforts, to strengthen and improve the enforcement of Federal drug laws and enhance the interdiction of illicit drug shipments, and for other purposes.

At the request of Mr. Byrd, the names of the Senator from Wyoming [Mr. Wallop], and the Senator from Kentucky [Mr. Ford] were added as cosponsors of S. 2852, supra.

SENATE JOINT RESOLUTION 301

At the request of Mr. Wirth, the name of the Senator from New Hampshire [Mr. Rudman] was added as a cosponsor of Senate Joint Resolution 301, a joint resolution designating January 20, 1989, as "National Skiing Day."

SENATE JOINT RESOLUTION 340

At the request of Mr. Packwood, the names of the Senator from New York [Mr. Moynihan], the Senator from Missouri [Mr. Danforth], the Senator from California [Mr. Wilson], and the Senator from Illinois [Mr. Dixon] were added as cosponsors of Senate Joint Resolution 340, designating November 27 through December 3, 1988, as "National Sir Winston Churchill Recognition Week."

SENATE JOINT RESOLUTION 345

At the request of Mr. Nickles, his name was added as a cosponsor of Senate Joint Resolution 345, a joint resolution to designate October 8, 1988, as "National Day of Outreach to the Rural Disabled."

SENATE JOINT RESOLUTION 354

At the request of Mr. Helms, the names of the Senator from Illinois [Mr. Dixon], the Senator from Minnesota [Mr. Durenberger], the Senator from Tennessee [Mr. Gore], the Senator from Indiana [Mr. Lugar], the Senator from Florida [Mr. Chiles], the Senator from Mississippi [Mr. Cochran], the Senator from Alaska [Mr. Stevens], the Senator from Kansas [Mr. Dole], the Senator from Nebraska [Mr. Karnes], the Senator from Idaho [Mr. McClure], the Senator from Louisiana [Mr. Breaux], the Senator from Idaho [Mr. Symms], the Senator from New Mexico [Mr. Domenici], the Senator from Nebraska [Mr. Exon], the Senator from North Carolina [Mr. Sanford], and the Senator from Delaware [Mr. Roth] were added as cosponsors of Senate Joint Resolution 354, a joint resolution to designate November 6 through 12, 1988, as "National Farm Broadcasters Week."

SENATE JOINT RESOLUTION 360

At the request of Mr. Bond, the names of the Senator from Arkansas [Mr. Bumpers], the Senator from North Dakota [Mr. Burdick], the Senator from Louisiana [Mr. Breaux], the Senator from Mississippi [Mr. Cochran], the Senator from North Dakota [Mr. Conrad], the Senator from Arizona [Mr. DeConcini], the Senator from Ohio [Mr. Glenn], the Senator from Alabama [Mr. Heflin], the Senator from Louisiana [Mr. Johnston], the Senator from Kansas [Mrs. Kassebaum], the Senator from Massachusetts [Mr. Kerry], the Senator from Idaho [Mr. McClure], the Senator from Alaska [Mr. Murkowski], the Senator from Idaho [Mr. Symms], the Senator from Mississippi [Mr. Stennis], and the Senator from Alaska [Mr. Stevens] were added as cosponsors of Senate Joint Resolution 360, a joint resolution to designate February 12, 1989, as "World Marriage Day."

SENATE JOINT RESOLUTION 363

At the request of Mr. Sarbanes, the name of the Senator from Montana [Mr. Baucus] was added as a cosponsor of Senate Joint Resolution 363, a joint resolution designating November 28 through December 2, 1988, as "Vocational-Technical Education Week."

SENATE JOINT RESOLUTION 372

At the request of Mr. Hatch, the name of the Senator from Illinois [Mr. Simon] was added as a cosponsor of Senate Joint Resolution 372, a joint resolution to designate the week beginning November 21, 1988, through November 27, 1988, as "National Adoption Week."

SENATE JOINT RESOLUTION 373

At the request of Mr. Byrd, the names of the Senator from Maine [Mr. Mitchell], the Senator from Colorado [Mr. Wirth], the Senator from California [Mr. Cranston], the Senator from Arkansas [Mr. Bumpers], the Senator from Idaho [Mr. Symms], the Senator from New Mexico [Mr. Bingaman], and the Senator from Oklahoma [Mr. Nickles] were added as cosponsors of Senate Joint Resolution 373, a joint resolution to designate the week beginning November 13, 1988, as "National Craniofacial Deformity Awareness Week."

SENATE JOINT RESOLUTION 381

At the request of Mr. Bond, the names of the Senator from New Mexico [Mr. Domenici], the Senator from Wisconsin [Mr. Kasten], the Senator from New Jersey [Mr. Bradley], and the Senator from Idaho [Mr. Symms] were added as cosponsors of Senate Joint Resolution 381, a joint resolution to designate October 30, 1988 as "Fire Safety at Home Day—Change Your Clock, Change Your Battery."

SENATE JOINT RESOLUTION 386

At the request of Mr. Conrad, the names of the Senator from Mississippi [Mr. Cochran], and the Senator from California [Mr. Wilson] were added as cosponsors of Senate Joint Resolution 386, a joint resolution to designate the week of June 18 through June 24, 1989 as "National Grasslands Week."

SENATE JOINT RESOLUTION 388

At the request of Mr. Stevens, his name was added as a cosponsor of Senate Joint Resolution 388, a joint resolution designating October 15, 1988, as "National Fire Fighters Day."

SENATE CONCURRENT RESOLUTION 151—CONCERNING THE POLICY OF THE UNITED STATES REGARDING THE USE OF CHEMICAL WEAPONS

Mr. DIXON (for himself, Mr. Dole, and Mr. Fowler) submitted the following concurrent resolution; which was referred to Foreign Relations:

S. Con. Res. 151

Whereas the use of chemical weapons in war was banned by the signatory countries of the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, commonly known as the "Geneva Protocol of 1925";

Whereas because of the Geneva Protocol of 1925, and Common Article 3 of the Geneva Conventions of 1949, the use of chemical weapons in war has been recognized as a violation of international law and as having a destabilizing impact on international relations;

Whereas the use of chemical weapons can cause the indiscriminate killing of civilians and other non-combatants, is in the nature of a terrorist act, and should thus be considered as a violation of human rights;

Whereas recent events have emphasized the necessity of reaffirming international legal prohibitions on the use of chemical weapons; and

Whereas to discourage future use of chemical weapons, the United States, and other countries, have an obligation to take appropriate steps to strengthen international law and enforce international legal prohibitions on the use of chemical weapons: Now, therefore, be it

Resolved by the Senator (the House of Representatives concurring),

SECTION 1. POLICY CONCERNING THE USE OF CHEMICAL WEAPONS.

The Congress declares that the use of chemical weapons by a country is a violation of international law and is therefore an offense against the law of nations.

SEC. 2. DIPLOMATIC INITIATIVES AGAINST CHEMICAL WEAPONS USE.

The Congress—

(1) supports the President in his efforts—

(A) to establish an international conference of the countries which are parties to the Geneva Protocol of 1925, and other interested countries, to develop methods to end the use of chemical weapons; and

(B) to engage the Soviet Union in a bilateral initiative to eliminate the possibility of any future use of chemical weapons; and

(2) encourages the President to continue to utilize both multilateral and unilateral methods to enforce a ban on the use of chemical weapons.

SEC. 3. UNITED STATES RESPONSE IN THE UNITED NATIONS TO CHEMICAL WEAPONS USE.

The Congress urges the President to direct the United States Ambassador to the United Nations to present a resolution to the Security Council of the United Nations which—

(1) condemns the use of chemical weapons;

(2) acknowledges the particularly damaging effect of chemical weapons on non-combatants; and

(3) affirms that use of chemical weapons is a violation of human rights.

SEC. 4. CHEMICAL WEAPONS USE AS AS ACT OF TERRORISM.

It is the sense of the Congress that the use of chemical weapons in violation of international law should be considered a terrorist act, and that for the purpose of United States law, the Secretary of State should consider such use by any country as a factor for determining classification of such country as a terrorist country pursuant to such laws and subject to the sanctions such laws allow or require.

SEC. 5. DEFINITION.

As used in this resolution, "chemical weapons" does not include within its meaning non-lethal control agents such as tear gas.

HALTING THE USE OF CHEMICAL WEAPONS

Mr. DIXON. Mr. President, I rise on behalf of myself and the distinguished minority leader to introduce a resolution concerning the policy of the United States regarding the use of chemical weapons.

In recent weeks, the world community has been shocked by the revelation of the use of illegal poison gas by the Government of Iraq against their Kurdish population. The horrifying photographs and first-hand stories have reminded all of us of the terror of the chemical weapons.

The Senate responded to this atrocity by swiftly passing a strong, but measured, set of sanctions against Iraq. I applaud Senator PELL and all of my colleagues who led this effort. Any use of chemical weapons erodes the moral and legal strictures that have held these weapons in check since World War I. Therefore every use by any country, must be sharply condemned.

However, I believe that the United States must do more than simply react to each individual abuse, after it occurs. If we are serious about restraining countries from using chemical weapons, we must assert an active policy of deterrence.

In order to establish a tough, consistent U.S. policy for deterring the use of illegal poison gas, I am introducing this resolution. To begin, it points out that the use of chemical weapons has been recognized as a violation of international law, and a violation of human rights. Moreover, the indiscriminate killing of civilians and other noncombatants caused by these weapons is, without question, a terrorist act.

Therefore, my resolution urges the Secretary of State to consider the use of chemical weapons as a factor for determining classification of such country as a terrorist country, and subject to the sanctions required and allowed by law.

I believe that the use of chemical weapons is a terrorist act and should be treated with no less severity. The punitive steps that could be taken against an offending country would include: a ban on U.S. arms exports and sales, a prohibition on U.S. assistance, an embargo on the importation of goods and services to the United States, and U.S. opposition of all assistance in the International Monetary Fund.

In addition, the resolution also directs the President to pursue multilateral sanctions through the United Nations.

Mr. President, the time to act is now. The atrocities committed by Iraq have focused international attention on this problem. The worldwide outrage in the wake of this tragedy provides an opportunity to send a clear message to every country in the world that the use of chemical weapons will not be tolerated. Any country contemplating their use should be put on notice that there will be a very high price to be paid. In order to be effective, this message needs to be received before the weapons are used, not after. We should not sit back and simply wait for the next atrocity.

Mr. President, I am deeply concerned by the proliferation of chemcial weapons. These weapons are a cheap and readily obtainable alternative for weak nations to redress the military imbalance against stronger foes. They are fast becoming the poor man's answer to nuclear weapons. In 1969, four countries were known to have chemical weapons, the United States, the Soviet Union, France and Iraq. Today, 15 additional countries are reported to have acquired them including: Libya, Syria, Iran, Cuba, North Korea, Vietnam, China, and Burma. This list continues to grow.

As these weapons of indiscriminate terror reach more and more hands, the chance of the world witnessing another horrifying episode, as we have seen in Iraq, becomes a near certainty.

Mr. President, if we are to prevent another tragedy, it is time to act. We should not miss this opportunity. The threat is too great to simply put off action. Yesterday, my colleague from Illinois, Mr. DAVIS, introduced an identical resolution in the house of representatives. I hope that all of my colleagues will work with me to see that this resolution is passed before we adjourn.

I yield the floor if my colleague from Georgia cares to proceed.

Mr. FOWLER. I would like to commend the Senator from Illinois on his leadership on this extraordinarily important issue, and I request his permission to join him in original cosponsorship.

Mr. DIXON. I would be very much honored to have original cosponsorship with the distinguished Senator from Georgia and ask unanimous consent that he be shown as a cosponsor of this resolution.

The PRESIDING OFFICER. Without objection, the resolution will also be received and appropriately referred.

Mr. DIXON. I yield the floor to my colleague from Connecticut.

Mr. DODD. Mr. President, let me also commend my distinguished friend and colleague and fellow classmate for this resolution. It is an excellent piece of legislation.

SENATE CONCURRENT RESOLUTION 152—COMMENDING THE REPUBLIC OF KOREA IN HOSTING THE GAMES OF THE XXIV OLYMPIAD

Mr. LUGAR (for himself, Mr. PELL, Mr. CRANSTON, and Mr. MURKOWSKI) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 152

Whereas the Republic of Korea has successfully hosted the XXIV Olympiad from September 17 to October 2, 1988;

Whereas nearly 10,000 athletes from 160 countries have participated in thirty-seven competitive events in these Olympic Games;

Whereas national and international political divisions were kept to a minimum with the participation of all but seven countries invited to participate in these Olympic Games;

Whereas the planning, organization, and implementation of the XXIV Olympiad took place under conditions of uncertainty, threats of terrorism, and fear of violent disruption; and

Whereas athletes from fifty-one countries, more than ever before, won medals, and athletes from thirty-one nations, more than ever before, won gold medals in these Olympic Games: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby—

(1) salutes the Republic of Korea for successfully hosting the XXIV Olympiad, for advancing the Olympic movement, for furthering the cause of athletic competition among individuals, and for promoting harmony among nations;

(2) congratulates the Republic of Korea and its people for their efficient and effective management of these Olympic Games;

(3) commends the Republic of Korea for this most recent national achievement, an achievement which complements its dynamic economy and continued progress in democracy to bring it worldwide attention and acclaim;

(4) states with pride, on the occasion of these Olympic Games, the admiration of the American people for the Republic of Korea and the people of Korea for their fulfillment of the Olympic mandate; and

(5) expresses the deep appreciation of the American people for the warmth, generosity, and hospitality extended by the people of Korea in welcoming United States athletes, coaches, United States Olympic Committee officials and other Americans to South Korea to participate in the XXIV Olympiad.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrrent resolution to the President with the request that he further transmit such copy to the Government of the Republic of Korea.

AMENDMENTS SUBMITTED

HEALTH PROFESSIONS REAUTHORIZATION ACT

SIMON AMENDMENT NO. 3401

(Ordered to lie on the table.)

Mr. SIMON submitted an amendment intended to be proposed by him to the bill (S. 2229) to amend the Public Health Service Act to reauthorize programs concerning health research and teaching facilities, and training of professional health personnel under title VII of such act, and for other purposes; as follows:

At the end of the bill, add the following:

SEC. . STUDY BY GENERAL ACCOUNTING OFFICE OF STATE PRACTICES IN ENDORSEMENT LICENSING OF FOREIGN PHYSICIANS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study for the purpose of determining the practices and policies of the States in licensing by endorsement physicians who are graduates of schools of medicine located in countries other than the United States. In carrying out the study, the Comptroller General shall—

(1) With respect to such licensing of such physicians—

(A) make a comparison with the practices and policies of the States in licensing by endorsement physicians who are graduates of American schools of medicine; and

(B) determine the merits of any additional requirements imposed on physicians who are graduates of medical schools of other countries, including a determination of the relative proficiency of such physicians and a determination of the relevancy of any requirement of producing additional information or records;

(2) determine whether the graduates of schools of medicine located in other countries are being discriminated against with respect to licensing by endorsement in the United States; and

(3) if such discrimination is occurring, determine the geographic areas in which the discrimination is occurring and the circumstances under which the discrimination is occurring.

(b) CONSULTATION WITH APPROPRIATELY QUALIFIED INDIVIDUALS.—In carrying out the study required in subsection (a), the Comptroller General of the United States shall consult with individuals with appropriate expertise.

(c) TIME FOR COMPLETION.—Not later than 9 months after the date of the enactment of this Act, the Comptroller General of the United States shall complete the study required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study.

PROTECTION AND ADVOCACY FOR MENTALLY ILL INDIVIDUALS ACT AMENDMENTS

HARKIN AMENDMENT NO. 3402

Mr. BYRD (for Mr. HARKIN) proposed an amendment to the amendment of the House to the bill (S. 2393) to amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to reauthorize such act, and for other purposes; as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1988".

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision,
the reference shall be considered to be made to a section or other provision of the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.).

SEC. 3. SCOPE OF COVERAGE.

Section 102 (42 U.S.C. 10802) is amended—

(1) in paragraph (1), by inserting "or death" after "caused, injury";

(2) in paragraph (3)—

(A) by inserting "(i)" after the subparagraph designation in subparagraph (B);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof the following: ", even if the whereabouts of such inpatient or resident are unknown;"; and

(C) by adding at the end thereof the following new clauses:

"(ii) who is in the process of being admitted to a facility rendering care or treatment, including persons being transported to such a facility; or";

"(iii) who is involuntarily confined in a municipal detention facility for reasons other than serving a sentence resulting from conviction for a criminal offense."; and

(3) in paragraph (4)—

(A) by inserting "or death" after "injury" each place such word occurs; and

(B) by inserting before the period at the end thereof the following: ", including the failure to maintain adequate numbers of appropriately trained staff".

SEC. 4. ESTABLISHMENT OF A GOVERNING AUTHORITY.

Section 105 (42 U.S.C. 10805) is amended—

(1) in subsection (a)(6), by striking out "a board" and inserting in lieu thereof "an advisory council"; and

(2) by adding at the end thereof the following new subsection:

"(c)(1)(A) Each system established in a State, through allotments received under section 103, to protect and advocate the rights of mentally ill individuals shall have a governing authority.

"(B) In States in which the governing authority is organized as a private non-profit entity with a multi-member governing board, or a public system with a multi-member governing board, such governing board shall be selected according to the policies and procedures of the system. The governing board shall be composed of—

"(i) members (to be selected no later than October 1, 1990) who broadly represent or are knowledgeable about the needs of the clients served by the system; and

"(ii) in the case of a governing authority organized as a private non-profit entity, members who broadly represent or are knowledgeable about the needs of the clients served by the system including the chairperson of the advisory council of such system.

"(2) The governing authority established under paragraph (1) shall—

"(A) be responsible for the planning, design, implementation, and functioning of the system; and

"(B) consistent with subparagraph (A), jointly develop the annual priorities of the system with the advisory council.".

SEC. 5. ADVISORY COUNCIL REPORT.

Section 105(a)(7) (42 U.S.C. 10805(a)(7)) is amended by striking out the period and inserting in lieu thereof the following: ", including a section prepared by the advisory council that describes the activities of the council and its assessment of the operations of the system;".

SEC. 6. ACCESS TO RECORDS.

(a) SYSTEM REQUIREMENT.—Section 105(a)(4)(B) (42 U.S.C. 10805(a)(4)(B)) is amended by striking out "any individual" and inserting in lieu thereof "any individual (including an individual who has died or whose whereabouts are unknown)".

(b) DEFINITION OF RECORDS.—Section 106(b) (42 U.S.C. 10806(b)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) As used in this section, the term 'records' includes reports prepared by any staff of a facility rendering care and treatment or reports prepared by an agency charged with investigating reports of incidents of abuse, neglect, and injury occurring at such facility that describe incidents of abuse, neglect, and injury occurring at such facility and the steps taken to investigate such incidents, and discharge planning records.

"(B) An eligible system shall have access to the type of records described in subparagraph (A) in accordance with the provisions of subsection (a) and paragraphs (1) and (2) of subsection (b).".

SEC. 7. MISCELLANEOUS PROVISIONS.

(a) Subcontracting.—Section 104(a)(2) (42 U.S.C. 10804(a)(2)) is amended by striking out "which, on the date of enactment of this Act" and inserting in lieu thereof "including, in particular, groups run by individuals who have received or are receiving mental health services, or the family members of such individuals, which".

(b) Technical Assistance Limitations.—

(1) State assistance.—Section 104(b)(2) (42 U.S.C. 10804(b)(2)) is amended by striking out "5 percent" and inserting in lieu thereof "10 percent".

(2) Assistance by the Secretary.—Section 10 (42 U.S.C. 18025) is amended to read as follows:

"TECHNICAL ASSISTANCE

"Sec. 115. The Secretary shall use not more than 2 percent of the amounts appropriated under section 117 to provide technical assistance to eligible systems with respect to activities carried out under this title, consistent with requests by such systems for such assistance.".

(c) Additional System Requirements.—Section 105(a) (42 U.S.C. 10805(a)) (as amended by section 5), is further amended by adding at the end thereof the following new paragraphs:

"(8) on an annual basis, provide the public with an opportunity to comment on the priorities established by, and the activities of, the system; and

"(9) establish a grievance procedure for clients or prospective clients of the system to assure that mentally ill individuals have full access to the services of the system.".

(d) Applications.—Section 111 (42 U.S.C. 10821) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following new subsection:

"(b) Applications submitted under this section shall remain in effect for a 3-year period, and the assurances required under this section shall be for the same 3-year period.".

(e) Allotment Formula.—Section 112(a) (42 U.S.C. 18022(a)) is amended—

(1) in paragraph (2) to read as follows:

"(2) Notwithstanding paragraph (1) and subject to the availability of appropriations under section 117—

"(A) if the total amount appropriated in a fiscal year is at least $13,000,000—

"(i) the amount of the allotment of the eligible system of each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico shall be the greater of—

"(I) $140,000; or

"(II) $125,000 in addition to the amount determined under paragraph (3); and

"(ii) the amount of the allotment of the eligible system of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands shall be the greater of—

"(I) $75,000; or

"(II) $67,000 in addition to the amount determined under paragraph (3); and

"(B) if the total amount appropriated in a fiscal year is less than $13,000,000, the amount of the allotment of the eligible system—

"(i) of each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico shall not be less than $125,000 in addition to the amount determined under paragraph (3); and

"(ii) of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands shall not be less than $67,000 in addition to the amount determined under paragraph (3)."; and

(2) by adding at the end thereof the following new paragraph:

"(3) In any case in which the total amount appropriated under section 117 for a fiscal year exceeds the total amount appropriated under such section, as in effect on the day before the date of enactment of this paragraph, for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary shall increase each of the allotments under clauses (i)(II) and (ii)(II) of subparagraph (A) and clauses (i) and (ii) of subparagraph (B) of paragraph (2) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 117 for the fiscal year for which the increase in minimum allotment is made, minus;

"(B) the total amount appropriated under section 117 for the immediately preceding fiscal year,

bears to the total amount appropriated under section 117 for such preceding fiscal year.".

(f) Authorization of Appropriations.—Section 117 (42 U.S.C. 10827) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 117. For allotments under this title, there are authorized to be appropriated $14,300,000 for fiscal year 1989, and such sums as may be necessary for fiscal year 1990 and fiscal year 1991.".

SEC. 8. EFFECTIVE DATE.

(a) In general.—The amendments made by this Act, other than the amendment made by section 7(f), shall become effective on the date of the enactment of this Act.

(b) Authorization of Appropriations.—The amendment made by section 7(f) shall become effective on October 1, 1988.

LIBRARY SERVICES AND CONSTRUCTION ACT AUTHORIZATION ACT

PELL (AND OTHERS) AMENDMENT NO. 3403

Mr. BYRD (for Mr. Pell, for himself, Mr. Stafford, Mr. Bradley, and Mr. Matsunaga) proposed an amendment to the bill (H.R. 4416) to extend the authorization of appropriations for titles V and VI of the Library Services and Construction Act through fiscal year 1989; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

TITLE I—LIBRARY SERVICES AND CONSTRUCTION REAUTHORIZATION

SEC. 101. PROGRAM REAUTHORIZED.

Section 4(a) of the Library Services and Construction Act (20 U.S.C. 351b(a)) is amended by striking out "1988" each place it appears in paragraphs (4) and (5) and inserting "1989".

TITLE II—NATIONAL GEOGRAPHY STUDIES

SEC. 201. SHORT TITLE.

This title may be cited as the "National Geography Studies Centers Act".

SEC. 202. PROGRAM AUTHORIZED.

Part F of title IV of the Elementary and Secondary Education Act of 1965 is amended—

(1) by redesignating section 4607 as section 4608;

(2) by striking out "section 4606" in section 4608(a) (as redesignated by paragraph (1)) and inserting in lieu thereof "sections 4606 and 4607"; and

(3) by adding after section 4606 the following new section:

"SEC. 4607. NATIONAL GEOGRAPHY STUDIES CENTERS.

"(a) Program Authorized.—(1) The Secretary is authorized to enter into a contract with the Education Foundation of the National Geographic Society in order to pay the Federal share of the cost of the establishment and operation of National Geography Studies Centers. Each Center shall be for the study of geography in elementary and secondary schools.

"(2) For the purpose of this section—

"(A) the term 'contractor' means the Education Foundation of the National Geographic Society; and

"(B) the term 'Centers' mean the National Geography Studies Centers assisted under this section.

"(b) Requirements of Contract.—The contract described in subsection (a)(1) shall provide that—

"(1) funds made available to the contractor pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating the Centers in accordance with this section; and

"(2) the contractor will carry out the provisions of this section.

"(c) Establishment of Centers.—In carrying out the provisions of this section, the contractor may enter into contracts with or make grants to local educational agencies, State educational agencies, State higher educational agencies, institutions of higher education, or consortia thereof, to establish and operate the Centers.

"(d) Functions of the Centers.—(1) Each Center assisted under this section shall—

"(A) support programs for the study of geography for elementary and secondary school students, that may include laboratory schools and summer institutes;

"(B) support programs which provide elementary and secondary school teacher retraining and inservice training in geography and may make provision for teacher stipends for the period of participation in the program; and

"(C) establish procedures, through an advisory panel, for selecting elementary and secondary school students and teachers for the programs supported through the centers.

The selection procedures under subparagraph (C), to the extent practicable, shall take into account geographic distribution and the needs for greater access to, and participation in, geography studies by students and teachers from historically underrepresented groups including females, minorities, and individuals with handicaps.

"(2) Each Center may—

"(A) support the development and dissemination of innovative curriculum in geography;

"(B) develop geography curriculum to be used in other subject areas such as environmental studies, science, international culture and politics, history, and foreign language studies; and

"(C) provide technical and resource assistance in geography to elementary and secondary schools in the region served by the Center.

"(c) FEDERAL SHARE.—The Federal share for each fiscal year shall be 75 percent.".

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

Section 4608 of the Elementary and Secondary Education Act of 1965 (as redesignated by section 202) is amended by adding at the end thereof the following new subsection:

"(d) There are authorized to be appropriated $5,000,000 for the fiscal year 1989, and each succeeding fiscal year ending prior to October 1, 1993, to carry out section 4607.".

TITLE III—UNITED STATES INSTITUTE OF PEACE

SEC. 301. REAUTHORIZATION.

Section 1710(a) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 4609(a)) is amended to read as follows:

"SEC. 1710. (a)(1) For the purpose of carrying out this title (except for paragraph (9) of section 1705(b)), there are authorized to be appropriated $10,000,000 for fiscal year 1989; $10,000,000 for fiscal year 1990; $10,000,000 for fiscal year 1991; $15,000,000 for fiscal year 1992; and $15,000,000 for fiscal year 1993.

"(2) Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(b) Section 1707(f)(2) of the United States Institute of Peace Act (22 U.S.C. 4606(f)(2)) is amended by striking out the first sentence thereof.

OMNIBUS ANTI-SUBSTANCE ABUSE ACT

DECONCINI AMENDMENT NO. 3405

(Ordered to lie on the table.)

Mr. DECONCINI submitted an amendment intended to be proposed by him to the bill (S. 2852) to provide for an omnibus Federal, State, and local effort against substance abuse, to provide for a cabinet-level position to centralize and streamline Federal activities with respect to both drug supply-interdiction and law enforcement—and drug demand—prevention, education, and treatment—to expand Federal support to ensure a long-term commitment of resources and personnel for substance abuse education, treatment, and rehabilitation efforts, to strengthen improve the enforcement of Federal drug laws and enhance the interdiction of illicit drug shipments, and for other purposes; as follows:

SEC. 1056. SELECT COMMITTEE.

(a)(1) There is established in the Senate of the United States a select committee to be known as the "Senate Select Committee on Narcotics Abuse and Control" (hereinafter in this subtitle referred to as the "Senate select committee"). The Senate select committee shall be composed of 13 Members of the Senate.

(2) Members of the Senate select committee shall be appointed by the majority and minority leaders of the Senate. One member of the Senate select committee shall be designated by the majority leader to serve as chairman of the Senate select committee.

(3) At least one member of the Senate select committee shall be chosen from each of the following committees of the Senate: The Committee on Armed Services, the Committee on Government Affairs, the Committee on Foreign Relations, the Committee on Commerce, Science, and Transportation, the Committee on the Judiciary, the Committee on Appropriations, the Committee on Finance, and the Committee on Labor and Human Resources.

(4) Any vacancy occurring in the membership of the Senate select committee shall be filled in the same manner as the original appointment.

(b) The chairman of the Senate select committee may establish such subcommittees of the select committee as he considers appropriate. Any such subcommittee shall be composed of not less than four members of the select committee.

SEC. 1057. LEGISLATIVE JURISDICTION.

The Senate select committee shall not have legislative jurisdiction. The select committee shall have authority—

(1) to conduct a continuing comprehensive study and review of the problems of narcotics abuse and control, including, but not limited to, international trafficking, enforcement, prevention, narcotics-related violations of the Internal Revenue Code of 1986, international treaties, organized crime, use of the military in drug interdiction, drug abuse in the Armed Forces of the United States, treatment and rehabilitation, civilian drug interdiction programs, and the approach of the criminal justice system with respect to narcotics law violations and crimes related to drug abuse; and

(2) to review any recommendations made by the President or by any department or agency of the executive branch of the Federal Government, relating to programs or policies affecting narcotics abuse or control.

SEC. 1058. AUTHORITY OF SELECT COMMITTEE.

(a) For purposes of this subtitle, the Senate select committee, or any subcommittee thereof authorized by the select committee, may sit and act at such times and places as it considers appropriate whether the Senate is sitting, has recessed, or has adjourned.

(b) For purposes of this subtitle, the Senate select committee, or any subcommittee thereof authorized by the select committee to hold hearings, may hold such hearings, and may require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, documents, and other exhibits and materials, as it considers necessary. Subpenas may be issued under the signature of the chairman of the Senate select committee or any member of the select committee designated by him, and may be served by any person designated by such chairman or member.

(c) A majority of the members of the Senate select committee shall constitute a quorum for the transaction of business, except that the select committee may designate a lesser number as a quorum for the purpose of taking testimony. The chairman of the Senate select committee, or any member of the select committee designated by him, may administer oaths or affirmations to any witness.

(d) The Senate select committee and any subcommittee thereof and its staff may conduct field investigations or inspections. Members and staff of the select committee may engage in such travel as may be necessary to conduct investigations relating to the purpose of this subtitle.

SEC. 1059. STAFF.

The Senate select committee may employ and fix the compensation of such clerks, experts, consultants, technicians, attorneys, investigators, and clerical and stenographic assistants as it considers necessary to carry out the purposes of this subtitle. The select committee may reimburse the members of its staff for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the select committee, other than expenses in connection with meetings of the select committee or any subcommittee thereof held in the District of Columbia.

SEC. 1060. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $400,000 in fiscal year 1989, $500,000 in fiscal year 1990, and $600,000 in fiscal year 1991 for salaries and expenses of the Senate select committee established by this subtitle.

SEC. 1061. REPORT.

(a) The Senate select committee shall report to the Senate with respect to the results of any investigation conducted by the select committee, or any subcommittee thereof, under section 1058(d).

(b) The Senate select committee shall submit an annual report to the Senate which shall include a summary of the activities of the select committee during the calendar year to which such report applies.

(c) Any report of the Senate select committee under this section which is submitted during a period in which the Senate is not in session shall be filed with the Secretary of the Senate.

ISSUANCE OF PATENTS AND LIMITED REVERTER PROVISIONS ON SOLID WASTE DISPOSAL SITES

FORD AMENDMENT NO. 3404

(Ordered to lie on the table.)

Mr. FORD submitted an amendment intended to be proposed by him to the bill (H.R. 4362) to amend section 3 of the act of June 14, 1926, as amended (43 U.S.C. 869-2), to authorize the issuance of patents with a limited reverter provision of lands devoted to solid waste disposal, and for other purposes; as follows:

By inserting at the end of the bill the following new section:

"SEC. . The Secretary shall not make any conveyance of land or renunciation of reversionary interests under this Act until he has published in the Federal Register regulations implementing this Act and until sixty days (not counting days on which the House of Representatives or the Senate has adjourned for more than three days) after these regulations have been submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives."

OMNIBUS ANTI-SUBSTANCE ABUSE ACT

GORE AMENDMENT NO. 3406

(Ordered to lie on the table.)

Mr. GORE submitted an amendment intended to be proposed by him to the bill S. 2852, supra; as follows:

At the end of the bill, add the following:

TITLE VIII—COMMUNICATIONS

Sec. 801. Short Title.—This title may be cited as the "Satellite Television Fair Marketing Act".

Sec. 802. Fair Marketing of Certain Satellite Communications.—

(a) Section 705 of the Communications Act of 1934 (47 U.S.C. 605) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) No person shall encrypt or continue to encrypt satellite delivered programs included in the National Program Service of the Public Broadcasting Service and intended for public viewing by retransmission by television broadcast stations; except that as long as at least one unencrypted satellite transmission of any program subject to this subsection is provided, this subsection shall not prohibit additional encrypted satellite transmissions of the same program.

"(2) No person shall encrypt or continue to encrypt satellite-delivered Armed Forces Radio and Television Service Programming, unless such encryption is required under multinational trade agreements.

"(3) Any person who encrypts any satellite delivered programming for private viewing shall—

"(A) make such programming available for private viewing by home satellite antenna users;

"(B) when making such programming available through any other person, establish reasonable financial and character criteria under which distributors may qualify to distribute such programming to home satellite antenna users and not discriminate in price, terms, or conditions among different distributors offering similar distribution services to the consumer; and

"(C) conduct such encryption in accordance with uniform standards for encryption of such programming approved by the Commission.

"(4) Standards approved by the Commission pursuant to paragraph (3)(C) of this subsection shall be designed as far as possible to provide the public interest benefits of a universal encryption system which permits decryption at the television receiver of a cable television subscriber and a home satellite antenna user.

"(5) The provisions of paragraph (3)(C) of this subsection shall not take effect until the Commission has completed a rulemaking on the standards required under this subsection.

"(6) Any person aggrieved by any violation of this subsection may bring a civil action in a United States district court or in any other court of competent jurisdiction. Such court may—

"(A) grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain such violations; and

"(B) direct the recovery of full costs to a prevailing plaintiff, including awarding reasonable attorney fees, actual damages, any additional profits of the violator, or statutory damages for all violations in a sum of not more than $500,000 as the court considers just.

"(7) As used in this subsection, the term—

"(A) 'satellite delivered programming' means video programming transmitted by a domestic communications satellite intended for reception by cable television system subscribers; and

"(B) 'reasonable financial and character criteria' means commonly prudent business standards designed to facilitate payment to the programmer and maintenance of the business reputation of the programmer, and which are calculated to facilitate the existence of multiple noncable distributors.".

Sec. 803. Federal Trade Commission Investigation Into Program Marketing Practices.—

(a) The Federal Trade Commission shall conduct and complete an investigation within 120 days following the effective date of this section into the pricing and distribution terms and practices of persons selling satellite television programming to home satellite antenna owners to determine whether the market for such programming is developing competitively.

(b) Should the Federal Trade Commission determine, after such investigation, that this market is not developing competitively, it is empowered to establish any remedies which it deems necessary to produce adequate competition for such programming.

Sec. 804. Availability of Network Programming to Rural Areas.—The Federal Communications Commission shall initiate a rulemaking to facilitate, to the maximum possible extent, the provision of network broadcasting signals to persons living outside the available broadcast area of local licensees. In undertaking such rulemaking, the Commission shall take into consideration the following:

(1) the extent to which individuals in rural areas are unable to receive broadcast television transmissions;

(2) the extent to which existing Federal rules have prevented the ability of local broadcast entities from providing signals to such persons living outside areas designated as Grade B countours by the Commission;

(3) the potential for serving these persons, and others who cannot receive such transmissions, using home antennas to receive satellite delivered network programming which might be otherwise encrypted to prevent private reception; and

(4) methods by which network programmers may protect certain portions of satellite-transmitted signals not intended for public viewing, while providing unencrypted signals to those persons living outside Grade B countours as defined by the Commission.

Sec. 805. Effective Date.—The foregoing provisions of this title shall take effect upon the expiration of the 30-day period following the date of its enactment.

PARENTAL AND TEMPORARY MEDICAL LEAVE ACT

EVANS (AND OTHERS) AMENDMENT NO. 3407

(Ordered to lie on the table.)

Mr. EVANS (for himself, Mr. Cranston, and Mr. Durenberger) submitted an amendment intended to be proposed by them to the bill (S. 2488) to grant employees parental and temporary medical leave under certain circumstances, and for other purposes; as follows:

At the appropriate place, insert the following new section:

"Sec. . (a) Short Title.—This section may be cited as the 'Federal Employee Compensation Equity Study Commission Act of 1988'.

"(b) Definitions.—For purposes of this section—

"(1) the term 'position' means employee positions that are subject to classification under chapter 51 of title 5, United States Code, or the job-grading system under subchapter IV of chapter 53 of such title;

"(2) the term 'Commission' means the Commisison on Compensation established by subsection (c);

"(3) the term 'Director' means the Director of the Office of Personnel Management;

"(4) the term 'employee' means an individual to whom chapter 51 or subchapter IV of chapter 534 of such title applies;

"(5) the term 'labor organization' shall have the meaning given such term by section 7103(a)(4) of such title;

"(6) the term 'economic analysis' means a method of analyzing differentials in pay between and among positions within occupations in order to determine if, and the extent to which, those differentials are attributable to factors such as seniority, merit, productivity, education, work experience, geographic factors, supply and demand factors, or any other factor exclusive of sex, race, or ethnicity, and

"(7) the term 'objective job evaluation analysis' means a quantitative method of rating positions within occupations based upon factors such as the skill, effort, responsibilities, qualification requirements, and working conditions involved so that comparisons may be made with respect to the positions and occupations involved.

"(c) Establishment.—There is established a commission to be known as the Commission on Compensation Equity.

"(d) Study.—(1) To determine whether distinction between rates of basic pay for Federal jobs in executive agencies of the United States Government reflect substantial differences in the duties, difficulty, responsibility, and qualification requirements of the work performed, in accordance with sections 5101 and 5341 of title 5, United States Code, and are not based on considerations of sex, race, or national origin, the Commisison shall provide, by contract with the consultant selected pursuant to subsection (i), for—

"(A) the conduct of a study of classification, grading, and pay-setting processes within and between the position-classification system under chapter 51 of such title and the job-grading system under subchapter IV of chapter 53 of such title, using standard objective job-evaluation and economic analysis techniques, to determine whether the development or implementation of these processes results in the payment of rates of basic pay for positions in which either sex is numerically predominant or any race or ethnic group is disproportionately represented that are not in proportion to the duties, difficulty, responsibility, and qualification requirements of the work performed, and

"(B) the preparation and submission of a report containing the findings of such study, including a list of any such positions and the extent of the differences in the rates of pay in such cases.

"(2) For the purposes of this subsection, the term 'executive agency' shall have the meaning given such term by section 105 of title 5, United States Code.

"(e) REPORT.—(1) Not later than eighteen months after the effective date of this section, the Commission shall transmit to the Senate Committee on Governmental Affairs and the House Committee on Post Office and Civil Service the report required by subsection (d) and shall provide a copy of this report of the Director.

"(2) The report shall include—

"(A) the Commission's findings resulting from the study; and

"(B) the Commission's recommendations, consistent with the proviso of section 6(d)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(1)) (as added by section 3 of the Equal Pay Act of 1963), for such administrative or legislative actions, or both, as it considers appropriate (including any recommendations for modification of the provisions of subsection (h)).

"(3) Not later than ninety days after the Commission submits its report to the appropriate Committees of the Congress pursuant to paragraph (1), the Director shall submit to such Committees and the Commission a report which shall include a detailed response to each of the findings and recommendations of the Commission.

"(4) Not later than sixty days after the Director submits the report to the appropriate committees of the Congress pursuant to paragraph (3), the Commission shall submit to such Committees any additional comments that the Commission deems appropriate in response to the Director's report.

"(5) The consultant's study and any findings, conclusions, recommendations, or comments by the consultant or the Commission under this section with respect to such study shall be considered to be of an advisory nature only.

"(f) APPOINTMENT OF COMMISSION.—(1)(A) The Commission shall be composed of nine members as follows:

"(i) Two appointed by the President of the United States.

"(ii) One appointed by the majority leader of the Senate.

"(iii) One appointed by the minority leader of the Senate.

"(iv) One appointed by the Speaker of the House of Representatives.

"(v) One appointed by the minority leader of the House of Representatives.

"(vi) Three appointed by the Director to represent Federal employee labor organizations, one designated (and certified to the Director) by each of the three respective labor organizations representing, as exclusive representatives, the largest number of individuals occupying positions that are subject to chapter 51 or subchapter IV of chapter 53, of title 5, United States Code.

"(B) Members of the Commission may not be Members of Congress and shall, to the maximum extent practicable, be chosen from among persons who have extensive knowledge and technical expertise in the major areas of the Commission's consideration and study.

"(2) All appointments under paragraph (1) shall be made not later than sixty days after the effective date of this section.

"(g) ADMINISTRATIVE PROVISIONS.—(1)(A) The President shall designate a Chairman of the Commission from among the Commission members. The Commission shall elect a Vice Chairman from among its members. The Vice Chairman shall act as Chairman in the event of the absence or incapacity of the Chairman.

"(B) The Commission shall adopt such rules and regulations as it considers necessary to establish its procedures and to govern the manner of its operations, its organization, and its personnel.

"(C) Five members of the Commission shall constitute a quorum.

"(D) Any vacancy in the Commission shall not affect its powers except to satisfy the quorum requirements in subparagraph (C). Such vacancy shall be filled in the manner in which the original appointment was made.

"(2) Each member of the Commission who is not an officer or employee of the United States Government shall be paid compensation at a rate equal to the daily equivalent of the rate of basic pay in effect for level IV of the Executive Schedule for each day the member is engaged in the performance of the duties of the Commission.

"(3)(A) The Commission may appoint, terminate, and subject to subparagraph (B), fix the compensation of such personnel as it considers advisable to employ to assist in the performance of its duties, without regard to the civil service laws, the provisions of title 5, United States Code, or any other law relating to the number, classification, or compensation of employees. The Commission also may procure temporary and intermittent services in carrying out its responsibilities. The Chairman shall appoint an executive director of the Commission with the approval of a majority of the Commission members.

"(B) An employee of the Commission may not receive compensation at a rate exceeding the rate of pay payable for grade GS-18 under section 5332 of title 5, United States Code.

"(C) Service of an individual as a member of the Commission or as an employee of the Commission shall not be considered service in an appointive or elective position in the United States Government for the purposes of section 8344 and 8468 of title 5, United States Code.

"(4) All members and employees of the Commission and all individuals performing temporary or intermittent services for the Commission shall, while performing the duties of the Commission, be paid per diem, travel and transportation expenses in the same manner as provided for under subchapter I of chapter 57 of title 5, United States Code.

"(5)(A) The Commission or any member authorized by the Commission may, for the purposes of carrying out this section, hold such hearings and sit and act at such times and places, take such testimony, have such printing and binding done, enter into such contracts and other arrangements, with or without consideration or bond, and take such other actions as the Commission considers advisable, to the extent that amounts provided pursuant to subsection (k) are available. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or before such member.

"(B) The Commission is authorized to obtain directly from any officer, department, agency, establishment, or instrumentality of the United States Government such information, suggestions, estimates, and statistics as the Commission considers necessary to carry out this section. Each such officer, department, agency, establishment or instrumentality shall furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Commission, upon request made on behalf of the Commission.

"(C) The Commission may use the United States mails and receive administrative support from the Administrator of General Services in the same manner and under the same conditions as departments and agencies of the United States Government.

"(D) No officer or agency of the United States Government shall require the Commission to submit any report, recommendation, or other matter to any such officer or agency for approval, comment, or review before submitting such report, recommendation, or other matter to Congress or Committees of Congress.

"(6) Upon request of the Commission, the head of any federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties.

"(7) The Commission shall meet from time to time, as its members consider appropriate.

"(h) TERMINATION.—Ninety days after the date the Commission submits its comment pursuant to subsection (e)(4), the Commission shall cease to exist.

"(i) CONSULTANT.—The Commission shall—

"(A) develop the specifications for the study required under subsection (d) in the form of a request for proposals; and

"(B) solicit from the Comptroller General of the United States, the Congressional Office of Technological Assessment, and the National Academy of Sciences a list of consultants who on the basis of the specifications developed under subparagraph (A) and the objectivity, extensive knowledge and technical expertise of such consultants in the matters to be studied pursuant to this section, are appropriate to conduct the study.

"(2) The Comptroller General of the United States and the Congressional Office of Technological Assessment shall provide the lists to the Commission within sixty days after the date of such solicitation pursuant to paragraph (1).

"(3) From among the consultants on the lists provided pursuant to paragraph (1), the Commission shall select one consultant to conduct such study.

"(j) CONSTRUCTION.—Nothing in this Act may be construed to limit or expand any of the rights or remedies provided under the Civil Rights Act of 1964, section 6(d) of the Fair Labor Standards Act of 1938, or any other provision of law relating to discrimination on the basis of race, color, religion, sex, national origin, handicap or age.

"(k) FUNDING.—(1) Of the sums appropriated to the Office of Personnel Management for general operating expenses for fiscal year 1989 and 1990, an amount not to exceed $3,000,000 shall be made available to pay the expenses of the Commission and shall remain available for such purpose until September 30, 1991.

"(2) The Commission, by majority vote, shall determine the necessary expenses of the Commission and notify the Director of the Office of Personnel Management.

"(1) Effective Date.—This section shall take effect on October 1, 1988.".

OMNIBUS ANTI-SUBSTANCE ABUSE ACT

EVANS (AND OTHERS) AMENDMENT NO. 3408

(Ordered to lie on the table.)

Mr. EVANS (for himself, Mr. Cranston, and Mr. Durenberger) submitted an amendment intended to be proposed by them to the bill, S. 2852, supra; as follows:

At the appropriate place, insert the following new section:

"Sec. . (a) Short Title.—This section may be cited as the 'Federal Employee Compensation Equity Study Commission Act of 1988'.

"(b) Definitions.—For purposes of this section—

"(1) the term 'position' means employee positions that are subject to classification under chapter 51 of title 5, United States Code, or the job-grading system under subchapter IV of chapter 53 of such title;

"(2) the term 'Commission' means the Commisison on Compensation established by subsection (c);

"(3) the term 'Director' means the Director of the Office of Personnel Management;

"(4) the term 'employee' means an individual to whom chapter 51 or subchapter IV of chapter 534 of such title applies;

"(5) the term 'labor organization' shall have the meaning given such term by section 7103(a)(4) of such title;

"(6) the term 'economic analysis' means a method of analyzing differentials in pay between and among positions within occupations in order to determine if, and the extent to which, those differentials are attributable to factors such as seniority, merit, productivity, education, work experience, geographic factors, supply and demand factors, or any other factor exclusive of sex, race, or ethnicity, and

"(7) the term 'objective job evaluation analysis' means a quantitative method of rating positions within occupations based upon factors such as the skill, effort, responsibilities, qualification requirements, and working conditions involved so that comparisons may be made with respect to the positions and occupations involved.

"(c) Establishment.—There is established a commission to be known as the Commission on Compensation Equity.

"(d) Study.—(1) To determine whether distinction between rates of basic pay for Federal jobs in executive agencies of the United States Government reflect substantial differences in the duties, difficulty, responsibility, and qualification requirements of the work performed, in accordance with sections 5101 and 5341 of title 5, United States Code, and are not based on considerations of sex, race, or national origin, the Commisison shall provide, by contract with the consultant selected pursuant to subsection (i), for—

"(A) the conduct of a study of classification, grading, and pay-setting processes within and between the position-classification system under chapter 51 of such title and the job-grading system under subchapter IV of chapter 53 of such title, using standard objective job-evaluation and economic analysis techniques, to determine whether the development or implementation of these processes results in the payment of rates of basic pay for positions in which either sex is numerically predominant or any race or ethnic group is disproportionately represented that are not in proportion to the duties, difficulty, responsibility, and qualification requirements of the work performed, and

"(B) the preparation and submission of a report containing the findings of such study, including a list of any such positions and the extent of the differences in the rates of pay in such cases.

"(2) For the purposes of this subsection, the term "executive agency" shall have the meaning given such term by section 105 of title 5, United States Code.

"(e) Report.—(1) Not later than eighteen months after the effective date of this section, the Commission shall transmit to the Senate Committee on Governmental Affairs and the House Committee on Post Office and Civil Services the report required by subsection (d) and shall provide a copy of this report of the Director.

"(2) The report shall include—

"(A) the Commission's findings resulting from the study; and

"(B) the Commission's recommendations, consistent with the proviso of section 6(d)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(1)) (as added by section 3 of the Equal Pay Act of 1963), for such administrative or legislative actions, or both, as it considers appropriate (including any recommendations for modification of the provisions of subsection (h)).

"(3) Not later than ninety days after the Commission submits its report to the appropriate Committees of the Congress pursuant to paragraph (1), the Director shall submit to such Committees and the Commission a report which shall include a detailed response to each of the findings and recommendations of the Commission.

"(4) Not later than sixty days after the Director submits the report to the appropriate committees of the Congress pursuant to paragraph (3), the Commission shall submit to such Committees any additional comments that the Commission deems appropriate in response to the Director's report.

"(5) The consultant's study and any findings, conclusions, recommendations, or comments by the consultant or the Commission under this section with respect to such study shall be considered to be of an advisory nature only.

"(f) Appointment of Commission.—(1)(A) The Commission shall be composed of nine members as follows:

"(i) Two appointed by the President of the United States.

"(ii) One appointed by the majority leader of the Senate.

"(iii) One appointed by the minority leader of the Senate.

"(iv) One appointed by the Speaker of the House of Representatives.

"(v) One appointed by the minority leader of the House of Representatives.

"(vi) Three appointed by the Director to represent Federal employee labor organizations, one designated (and certified to the Director) by each of the three respective labor organizations representing, as exclusive representatives, the largest number of individuals occupying positions that are subject to chapter 51 or subchapter IV of chapter 53, of title 5, United States Code.

"(B) Members of the Commission may not be members of Congress and shall, to the maximum extent practicable, be chosen from among persons who have extensive knowledge and technical expertise in the major areas of the Commission's consideration and study.

"(2) All appointments under paragraph (1) shall be made not later than sixty days after the effective date of this section.

"(g) Administrative Provisions.—(1)(A) The President shall designate a Chairman of the Commission from among the Commission members. The Commission shall elect a Vice Chairman from among its members. The Vice Chairman shall act as Chairman in the event of the absence or incapacity of the Chairman.

"(B) The Commission shall adopt such rules and regulations as it considers necessary to establish its procedures and to govern the manner of its operations, its organization, and its personnel.

"(C) Five members of the Commission shall constitute a quorum.

"(D) Any vacancy in the Commission shall not affect its powers except to satisfy the quorum requirements in subparagraph (C). Such vacancy shall be filled in the manner in which the original appointment was made.

"(2) Each member of the Commission who is not an officer or employee of the United States Government shall be paid compensation at a rate equal to the daily equivalent of the rate of basic pay in effect for level IV of the Executive Schedule for each day the member is engaged in the performance of the duties of the Commission.

"(3)(A) The Commission may appoint, terminate, and subject to subparagraph (B), fix the compensation of such personnel as it considers advisable to employ to assist in the performance of its duties, without regard to the civil service laws, the provisions of title 5, United States Code, or any other law relating to the number, classification, or compensation of employees. The Commission also may procure temporary and intermittent services in carrying out its responsibilities. The Chairman shall appoint an executive director of the Commission with the approval of a majority of the Commission members.

"(B) An employee of the Commission may not receive compensation at a rate exceeding the rate of pay payable for grade GS-18 under section 5332 of title 5, United States Code.

"(C) Service of an individual as a member of the Commission or as an employee of the Commission shall not be considered service in an appointive or elective position in the United States Government for the purposes of section 8344 and 8468 of title 5, United States Code.

"(4) All members and employees of the Commission and all individuals performing temporary or intermittent services for the Commission shall, while performing the duties of the Commission, be paid per diem, travel and transportation expenses in the same manner as provided for under subchapter I of chapter 57 of title 5, United States Code.

"(5)(A) The Commission or any member authorized by the Commission may, for the purposes of carrying out this section, hold such hearings and sit and act at such times and places, take such testimony, have such printing and binding done, enter into such contracts and other arrangements, with or without consideration or bond, and take such other actions as the Commission considers advisable, to the extent that amounts provided pursuant to subsection (k) are available. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or before such member.

"(B) The Commission is authorized to obtain directly from any officer, department, agency, establishment, or instrumentality of the United States Government such information, suggestions, estimates, and statistics as the Commission considers necessary to carry out this section. Each such officer, department, agency, establishment or instrumentality shall furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Commission, upon request made on behalf of the Commission.

"(C) The Commission may use the United States mails and receive administrative support from the Administrator of General Services in the same manner and under the same conditions as departments and agencies of the United States Government.

"(D) No officer or agency of the United States Government shall require the Commission to submit any report, recommendation, or other matter to any such officer or agency for approval, comment, or review before submitting such report, recommendation, or other matter to Congress or Committees of Congress.

"(6) Upon request of the Commission, the head of any federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties.

"(7) The Commission shall meet from time to time, as its members consider appropriate.

"(h) TERMINATION.—Ninety days after the date the Commission submits its comment pursuant to subsection (e)(4), the Commission shall cease to exist.

"(i) CONSULTANT.—The Commission shall—

"(A) develop the specifications for the study required under subsection (d) in the form of a request for proposals; and

"(B) solicit from the Comptroller General of the United States, the Congressional Office of Technological Assessment, and the National Academy of Sciences a list of consultants who on the basis of the specifications developed under subparagraph (A) and the objectivity, extensive knowledge and technical expertise of such consultants in the matters to be studied pursuant to this section, are appropriate to conduct the study.

"(2) The Comptroller General of the United States and the Congressional Office of Technological Assessment shall provide the lists to the Commission within sixty days after the date of such solicitation pursuant to paragraph (1).

"(3) From among the consultants on the lists provided pursuant to paragraph (1), the Commission shall select one consultant to conduct such study.

"(j) CONSTRUCTION.—Nothing in this Act may be construed to limit or expand any of the rights or remedies provided under the Civil Rights Act of 1964, section 6(d) of the Fair Labor Standards Act of 1938, or any other provision of law relating to discrimination on the basis of race, color, religion, sex, national origin, handicap or age.

"(k) FUNDING.—(1) Of the sums appropriated to the Office of Personnel Management for general operating expenses for fiscal year 1989 and 1990, an amount not to exceed $3,000,000 shall be made available to pay the expenses of the Commission and shall remain available for such purpose until September 30, 1991.

"(2) The Commission, by majority vote, shall determine the necessary expenses of the Commission and notify the Director of the Office of Personnel Management.

"(l) EFFECTIVE DATE.—This section shall take effect on October 1, 1988.".

CRANSTON AMENDMENT NO. 3409

(Ordered to lie on the table.)

Mr. CRANSTON submitted an amendment intended to be proposed by him to the bill S. 2852, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . DISTRICT OF COLUMBIA APPROPRIATIONS.

Section 117 of the Act entitled "An Act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1989, and for other purposes" (Public Law 100-462) is amended to read as follows:

"SEC. 117. The provisions of section 117 of the District of Columbia Appropriations Act, 1988 (Public Law 100-202; 101 Stat. 1329-99) shall apply with regard to Federal funds provided in this Act.".

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENERGY REGULATION AND CONSERVATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Energy Regulation and Conservation of the Senate Energy and Natural Resources Committee be authorized to meet during the session of the Senate on October 4, 1988, to receive testimony on S. 2179, a bill to amend the Petroleum Marketing Practices Act.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence of the Committee on Armed Services be authorized to meet on Tuesday, October 4, 1988, in closed and open session to receive further testimony regarding the B-1B defensive avionics system.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON NUTRITION AND INVESTIGATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Nutrition and Investigations of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Tuesday, October 4, 1988, to hold a hearing on the Soil Conservation Service's implementation of the soil conservation provisions of the Food Security Act of 1985.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, October 4, 1988, in open session to consider the nomination of Clyde O. Glaister to be Comptroller of the Department of Defense.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, October 4, 1988, for the purpose of holding a hearing on ABM Treaty review.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on October 4, 1988, to hold a hearing on judicial nominations.

Senators JOHN HEINZ, ARLEN SPECTER, JAMES R. SASSER, and ALBERT GORE, JR.

Nominee. Hon. Richard L. Nygaard, North East, PA, to be U.S. circuit judge for the third circuit.

Witnesses. Nan Aron, Alliance for Justice.

Hon. Buzz Andrezeski, Pennsylvania State Senator, Erie, PA.

Nominees. Hon. D. Brooks Smith, Altoona, PA, to be U.S. district judge for the western district of Pennsylvania.

Jay C. Waldman, Philadelphia, PA, to be U.S. district judge for the eastern district of Pennsylvania.

Hon. Robert L. Jordan, Woodlawn, TN, to be U.S. district judge for the eastern district of Tennessee.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE PATRICIA NEAL REHABILITATION CENTER

● Mr. GORE. Mr. President, for 10 years the Patricia Neal Rehabilitation Center has been helping individuals obtain the desire and commitment to overcome disabling conditions including strokes, crippling arthritis, and head and spinal cord injuries. The patients of the center come primarily from southern Appalachia to take their vital first step toward recovery. I am proud that this outstanding institution operates as a subsidiary of the Fort Sanders Regional Medical Center in Knoxville, TN.

The center is staffed and equipped to meet unique individual needs. Rehabilitation is a team effort between the patients, their families, and a team of professionals, such as physicians, rehabilitation nurses, speech and language pathologists, rehabilitation social workers, physical therapists, psychologists, occupational therapists, and recreation therapists.

Typically, the patient begins an individualized therapy program with daily support from his or her multidisciplinary team. Achievable goals are emphasized, and unchangeable disabilities are accepted. The patient's achievements begin to peak as the program progresses until the patient is ultimately ready for graduation, after which the center continues its help for may of its patients.

On September 13, the Patricia Neal Rehabilitation Center celebrated its 10th year with a birthday celebraton and annual awards banquet in Knoxville. This was a very special, festive event; and Patricia Neal, herself an almost legendary example of recovery, was on hand to make some remarks and present the awards. Miss Neal, a native of Knoxville and an Oscar-winning actress, suffered three major strokes in 1965. She underwent rigorous rehabilitation and ultimately returned to acting. Today, she is a champion of the handicapped and a vocal supporter of rehabilitation.

The recipients of these awards exemplify the value of the center and its work. The members of the staff nominate patients whom they feel did an excellent job working with whatever disability befell them. One award is given in each of these categories: community service, head injury, stroke, spinal injury, and "other." Of course, these five are representative of many, many patients of the center who have dealt with great difficulties.

Mr. President, I know my colleagues join me in offering congratulations and thanks to all of those who are associated with the Patricia Neal Rehabilitation Center, including administrative director Dr. Gregory Thomsen; medical director Dr. Jeffrey S. Hecht; and Alan C. Guy and V. Otis Wilson, president and vice president respectively of the Fort Sanders Regional Medical Center. They and every member of the staff are doing a remarkable job.

At this time, Mr. President, I ask that a description of the "Patricia Neal Awards for Rehabilitation Excellence and Accomplishment" and a brief biography of this year's recipients be included in the RECORD at this point.

The material follows:

PATRICIA NEAL AWARDS FOR REHABILITATION EXCELLENCE AND ACCOMPLISHMENT

Each year the Patricia Neal Rehabilitation Center recognizes four individuals who have completed rehabilitation programs at the center and achieved significant accomplishments after their return to daily life. A fifth award is presented to an individual or group in the community who has helped promote public awareness of the needs and ability of people with disabilities.

1988 AWARD RECIPIENTS

Clarine H. Clevenger, a stroke patient, completed three months of treatment at the center in February 1988. She is independent with self-care and walks 2 miles a day in a mall. Clarine and her husband enjoy attending UT football games and are looking forward to the 1988 season. She loves people, and other favorite activities include picnics, church activities, crossword puzzles, theatre productions, and dining out. Strength and support from her husband were motivations in Clarine's recovery. The Clevengers live in Chattanooga.

Timothy A. Craven, recipient of the Community Service Award, received rehabilitation following a spinal cord injury in June 1973. Between working on a Master's degree in electrical engineering at UT and operating a computer systems company, Tim gives time and effort to help individuals realize that a disability can be a challenge, not a handicap. He is community liaison to the Fort Sanders Accessibility Committee and volunteers as peer counsel for patients at the Pat Neal Center. An active supporter of wheelchair sports and active in several civic organizations, Tim was a spokesman for spinal cord injury awareness during this year's "Feet First, First Time" program for area schools.

In 1983, fifteen-year-old Paul Douglas Goddard III sustained a spinal injury following a diving accident. He celebrated his 16th birthday while a patient at the center, where he worked to improve his functional skills and struggled with acceptance. After discharge, Doug initially requested homebound teachers, but with encouragement from his family returned to Jefferson County High School. Active in school organizations, he was president of the Student Council and vice president of his Senior Class. He is a junior at Vanderbilt University, where he is a history major and plans to enter law school. He is a member of Sigma Nu fraternity, Young Life, and a Vuceptor, helping with freshmen orientation. He works at Vanderbilt Bookstore.

Kim McCormick was admitted to the center in February 1984 with the diagnosis of a closed head injury as the result of a motor vehicle accident in October 1983. She was involved in a vigorous two-months inpatient rehabilitation program and since her discharge has overcome many obstacles in her life in dealing with adjustment problems. She continues to strive for the optimal level of independence. She lives in Oak Ridge and is currently working at Martin-Marietta. She lives independently in an adapted apartment and has her driver's license. She drives herself to work and to physical therapy as an outpatient with the Fort Sanders STAR program.

Eleven-year-old Amy Gray Piper was admitted to the center in November 1987 with Guillian Barré symptoms. She required moderate assistance in bed mobility and maximum assistance in transfers and a tilt table to stand. Discharged after 7 weeks, Amy has diligently attended physical therapy three times a week as an outpatient and is now independent in simple transfers, ambulates with a straight cane and is learning to ride her bicycle again. Throughout her rehabilitation, Amy was quick to smile and has faced challenges with the determination to triumph. She returned to school this fall prepared with her own solutions and alternatives to possible problems.●

NATIONAL ANGEL PLANE WEEK

● Mr. D'AMATO. Mr. President, every year scores of lives are saved by "Angels of Mercy." These "Angels," actually members of the Angel Planes, are a group of pilots who donate their time and equipment to carry patients needing emergency medical attention or essential medical supplies. I rise to pay tribute to these special people and to lend my support for the joint resolution designating September 25 through October 2, 1988 as "National Angel Plane Week."

These volunteers provide a very much-needed and appreciated service. Angel Planes have flown almost 900 missions throughout the United States. Over 50,000 units of blood, all parts of the body, surgical equipment and teams, even serum for snakebite have been flown to patients needing them. These planes and pilots play a major role especially in rural areas where hospitals are fewer and farther apart.

The Angel Planes were incorporated on April 30, 1985, in Las Vegas, NV, and boast over 20 squadrons throughout the United States, including one in my home State of New York. Angel Plane founder and national director Ann Mishoulam dreams of squadrons all over the country so that "no one can go without medical treatment due to inability to pay for plane fare."

Mr. President, I salute these special volunteers for their efforts. I urge my colleagues to join the Senator from Nevada and myself in supporting the resolution to dedicate the week of September 25 to October 2, 1988, to "National Angel Plane Week."●

NATIONAL OUTDOOR POWER EQUIPMENT SAFETY MONTH

● Mr. D'AMATO. Mr. President, I rise to lend my support to the Senate Joint Resolution 296, which proclaims April 1989 as "National Outdoor Power Equipment Month." I commend my colleague, the distinguished Senator from Alabama, in taking the initiative in addressing this problem.

Every spring, millions of Americans begin their yardwork. Unfortunately, many accidents occur especially with power equipment such as lawnmowers, tractors, and blowers. When power equipment is used, special care must be taken to avoid dangerous accidents. Public awareness must be increased to remind people of the danger and responsibility that comes with operating these tools. Senate Joint Resolution 296 would designate next April as a special time to focus and direct attention to safety matters. I support this resolution and urge my colleagues to do the same.●

THE SIKHS

● Ms. MIKULSKI. Mr. President, over the past 4 years the world has watched tragic developments in the relations between the Sikhs of India and the Indian Government.

The 1984 occupation of the Amritsar Temple led to an overreaction by Indian troops in which holy objects were destroyed and hundreds of innocent people were killed.

The government has been holding 326 Sikhs in jail since June 1984 under special security laws which deny the basic right of people to demonstrate peacefully.

Torture of Sikh prisoners has been widely reported.

After the assassination of Indira Gandhi by her Sikh bodyguard, thousands of Sikhs were massacred, with the collusion of the ruling party.

Last spring the central government took control of the Punjab, increased paramilitary forces there and restricted citizens' rights.

It is now planning to divert water from the Punjab to other parts of the country.

Blame for this state of affairs is by no means solely the government's. Militant Sikhs have been the cause of much of the trouble.

The attack on the Amritsar Temple was the result of its occupation by the militants.

Moderate Sikhs who advocate reconciliation with the government are murdered by the militants, as are Sikhs from unpopular sects.

There have been encouraging signs, however, that the central government and moderate Sikhs are working toward an end to the violence and persecution. The government has released some of the detainees held since 1984, army troops showed restraint at a second Amritsar incident, the government has admitted to some of its abuses, and efforts have been made to reach an accord with Sikh moderates.

Still, the campaign against the Sikhs continues. According to an Amnesty International report of August 10, 1988, Sikhs have been killed after faked encounters with government troops, police torture continues, and here are still approximately 200 Sikhs detained from 1984.

India has long-established institutions to protect human rights, and I encourage the government to invoke those safeguards on behalf of the Sikhs. I also believe the government should redouble its efforts to return home rule, full religious freedom and human rights to the Punjab. Sikh leaders also have a responsibility to restrain violent acts on their side.

Government officials and Sikhs leaders should work together to end the violence which has destroyed innnocent Sikh families and threatened the lives of all Sikhs. As we have seen in the past, sectarian disputes can lead to a long and bloody struggle.●

THE CELEBRATION OF THE WEBER STATE COLLEGE CENTENNIAL

● Mr. HATCH. Mr. President, this year marks the 100th anniversary of Weber State College in Ogden, UT. This fine learning institution celebrates a century of quality education and vocational training.

Weber State has weathered changes in its name, location, and curriculum over the years, but the school's original intent to provide quality education to Utah students has persevered.

Weber State College was founded on January 7, 1889, under the auspices of the Church of Jesus Christ of Latter-day Saints. Known as Weber Stake Academy at the time, the first class of 98 students met in the old Second LDS Ward meeting house on the corner of Grant and 26th Streets in Ogden, UT.

The early years of the school were years fraught with challenge and adversity—both of which the early founders met with unusual dedication and sacrifice.

For years, "Weberites" have recounted incidents when many of the school's founders went so far as to mortgage their own homes to ensure that classes could be held and students taught.

It was in 1908 that the name of the school was changed to Weber Academy. Four years later preparatory classes were dropped and only high school classes offered. Then in 1916 the academy broke into the college ranks when the board of education added 2 years of college work to the regular 4-year high school curriculum.

Over the years the college survived two more name changes; in 1918 to Weber Normal College and again in 1923 to Weber College, a name which was to be held for 40 years.

A significant chapter in Weber State history came in 1933 when the LDS Church transferred the college, by gift, to the state of Utah to become a State-supported institution.

By then the college had moved to a campus site on Jefferson Avenue between 24th and 25th Streets. But this proved to be inadequate for the postwar boom in students, and in 1947 the State legislature appropriated money to purchase a new campus site, on the condition that the community would raise an equal amount.

The community rallied, and 175 acres of land were purchased on the foothills east of Harrison Boulevard. Then in 1954, the move was made to the new campus site, with some classes continuing at the old downtown location.

In 1959, following a long struggle for 4-year status, the legislature overwhelming passed a bill allowing Weber to offer baccalaurate degrees. The first senior class was graduated in 1964—the 75th anniversary of the school's founding. It was just the year before—1963—that the name was officially changed to Weber State College.

Located at the base of the majestic Wasatch Mountains and near the shores of the Great Salt Lake, Weber State College serves approximately 10,000 students each year and graduates more than 1,500 each spring. A far cry from 98 students gathered in a church meeting house, Weber State's campus today spans 372 acres and has 66 buildings.

Today, WSC meets the needs of students from every field of study—the arts and humanities, social and natural sciences, business, education, and technology. The college offers baccalaureate degrees in 52 major fields of study and a masters of education and accounting.

Mr. President, Weber State College will celebrate its centennial this year with some very exciting and enriching activities for their students, faculty, staff, and community. Some of the highlights will include performances of the Boston Pops Orchestra, the Moscow Classical Ballet, and the Mormon Tabernacle Choir. In addition, noted composer Crawford Gates has been commissioned to compose a centennial symphony in honor of the college.

Congratulations to Weber State College for its 100 years of fine education.●

ATLANTIC STRIPED BASS CONSERVATION ACT

● Mr. WARNER. Mr. President, I rise today to address the provision in S. 2384 concerning the North Carolina striped bass study.

As I have indicated to my colleagues on the Environment and Public Works Committee, I support a straight-forward biological study to determine the decline of the striped bass stocks in the Albemarle Sound—Roanoke River Basin.

However, it is my strong opinion, joined by Governor Baliles, that the requirements of the study in the House bill would adversely impact ongoing litigation between the U.S. Army Corps of Engineers and the State of North Carolina concerning the proposed Lake Gaston pipeline project.

This project will provide a vitally needed water supply source for Virginia Beach and the Tidewater Virginia area.

It is simply a matter of equity that Congress must not apply retroactively any changes on Federal agencies issuing permits for federally approved projects. I believe the House provision could have had the effect of impacting upon a project that has received the necessary section 404 permit.

The Corps of Engineers issued a section 404 permit in accordance with existing law and Federal regulations in 1985. This permit is presently being challenged in the Federal district court in Raleigh, NC. The conditions of the study in the House bill would amend these regulations and establish a new set of conditions for water use in the Roanoke River Basin.

I have worked closely over the past week to modify the language in the House bill which would satisfy the concerns that the Governor Baliles and I share. I am pleased to report that the Senate provision addressing the contents of the study will examine the causes of the decline of the striped bass stocks in North Carolina without impacting upon ongoing litigation between the Norfolk District of the Corps of Engineers and the State of North Carolina.

The study requires the U.S. Fish and Wildlife Service, in conjunction with the National Oceanic and Atmospheric Administration, and affected North Carolina and Virginia agencies to study the significance of fishing, water flows and other factors in the decline of the striped bass stocks in the Albemarle Sound-Roanoke River Basin. This study requires that all possible causes for the problems of the striped bass stocks will be studies including future withdrawals and discharges of the Roanoke River.

I believe this is a fair approach to this study that will not interfere with ongoing litigation in Federal district court over a project that has already received the necessary section 404 permit.

Mr. President, I strongly support Federal and State efforts to replenish the striped bass stocks along the East Coast. I believe this study will contribute to these efforts.

I ask that the letter from the Governor of Virginia concerning S. 2384 be printed in the RECORD at this point.

The letter follows:

COMMONWEALTH OF VIRGINIA,
Richmond, September 20, 1988.

Hon. JOHN W. WARNER,
U.S. Senate, Russell Senate Office Building, Richmond, VA.

DEAR SENATOR WARNER: I have recently been advised that Congressman Walter B. Jones of North Carolina had an amendment attached to H.R. 4124 which has the potential of delaying the Lake Gaston pipeline project.

As I am sure you know, the Lake Gaston project was proposed by Virginia Beach and several other southeastern Virginia localities as the best alternative to meeting their water supply needs for the future. This was done after years of considerable study of every possible option available to the local governments.

After Gaston was selected, the City of Virginia Beach followed all relevant environmental requirements in order to ensure that the pipeline would not have the potential to cause significant environmental degradation. The City's work in this regard resulted in endorsements from the U. S. Army Corps of Engineers and the Virginia State Water Control Board, as well as support from my Administration and that of my predecessor.

Litigation, now pending in the federal district court in Raleigh appears to be nearing conclusion. The only environmental issue which the court appears to be considering at this time is the effect of the Gaston proposal on the striped bass fishery in North Carolina. It is my understanding that it will have no effect. The Jones amendment embodied in H.R. 4124 would prohibit proposals such as this if it could be demonstrated that it "may contribute" to the decline of striped bass populations. A requirement such as this would seemingly prohibit virtually any future water supply projects, since the burden would be on the project proponent to prove that no ill effects would occur.

I understand that you are now considering incorporating language into the Senate counterpart of the Jones bill (S. 2384) in this regard. Since all studies have clearly shown that no detrimental effects can be expected from the Gaston pipeline, I support your efforts. It is important to the future well-being of Tidewater that the Gaston pipeline be built without further delay.

If there is anything that I, or any member of my staff, can do to assist you on this matter, please let me know.

With kindest regards, I am
Sincerely,

GERALD L. BALILES.
Governor.●

ADMIRAL INMAN ON TECHNOLOGY AND ECONOMIC COMPETITIVENESS

● Mr. BINGAMAN. Mr. President, retired Adm. Bobby R. Inman is one of the leading voices today championing continued U.S. technological leadership. As Admiral Inman has pointed out on numerous occasions, only with technological leadership can we compete in the global economy and maintain our national security. A member of the executive committee of the Council on Competitiveness, Admiral Inman served as project adviser to the recent council study on technology commercialization, "Picking Up the Pace: The Commercial Challenge to American Innovation." And, recently, he outlined his views on the technological challenge facing America in the Washington Post. I ask unanimous consent that his article, "Why We're Slipping—And What's To Be Done," be printed in the RECORD. It is an important article, outlining recommendations for future congressional action. I hope all of my colleagues will read it.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 3, 1988]

WHY WE'RE SLIPPING—AND WHAT'S TO BE DONE

(By B.R. Inman)

The obsession with large government budget deficits has diverted public attention from a landmark development in the world economy: the erosion of U.S. technological leadership. Since World War II, most Americans have taken U.S. leadership in technology for granted. There are ominous signs that we can no longer afford to do so.

The questions the next administration must answer are: How did we lose our lead, and what policy measures are required to get the nation back on course?

Much of the debate over our declining competitiveness centers on the succession of trade deficits that began in 1971. Manufactured products, which account for three-fourths of U.S. trade, have been particularly hard hit by foreign competition.

At first, we derived some consolation from the notion that the United States could tolerate trade deficits in U.S. "smokestack" industries because the economic future lay with "sunrise" high-technology industries. That illusion was shattered in 1986, when the nation posted its first deficit in high-tech trade. Last year, despite a decline in the value of the dollar, we registered only a modest surplus in this vital sector.

A number of other warning signals point to the fact that America's leadership in high technology—an area we always regarded as our economic trump card—is jeopardized.

Foreign investors accounted for almost half of U.S. patents in 1987, compared with one-third in 1975.

In international science and math achievement tests, U.S. primary and secondary school students score well below the average of their peers in other industrialized countries.

To make matters worse, a chronic shortage of competent math and science teachers and engineering faculty is hampering our ability to prepare a new generation of Americans to replace the Sputnik-era scientists and engineers who will be retiring in waves in the 1990s.

The United States can still draw on significant strengths in science and technology. These include a superb foundation of scientific expertise, a university system that is the envy of the world, great entrepreneurial drive, a flexible form of government and the extraordinary mobility of capital, ideas and people.

The problem lies chiefly in our inability to convert these assets nto commercial successes. In one industry after another, foreign companies have captured market share—or in some cases, entire industries—because they have done a superior job of developing and commercializing new technologies, many of them American in origin. For example, U.S. companies' share of the world market for dynamic random access memory products—a key component in computers—plunged from 96 percent in 1975 to 18 percent in 1987.

How have foreign competitors succeeded where American companies have failed? While there is no simple answer to that question, it's clear that the way foreign firms approach innovation has been a major contributor to their success. In most cases, they have not created major scientific breakthroughs. Instead, they acquired existing technology, adapted it to market needs and worked as a team to make the continuing, incremental improvements that add up to superior performance. Their success in accelerating the conversion of technology into high-quality products was made possible by the availability of capital at attractive international rates and concentration on the manufacturing process.

The United States has to develop new federal technology policies to facilitate private-sector efforts to move ideas from the laboratory to the marketplace. If we are to succeed, changes in our existing machinery for making and implementing technology policy are urgently required.

First, the position of national science adviser should be elevated to that of assistant to the president for science and technology, with status comparable to that of the assistant to the president for national security affairs. Under the current arrangement, the national science adviser does not have access to the president or a voice in the formulation of macroeconomic policies that have a direct impact on our competitiveness.

The assistant for science and technology's first order of business should be to develop a four-year strategy for science and technology in consultation with Congress, relevant executive branch departments and agencies, and the private sector. This would enable the president to set priorities and specify how individual science and technology programs fit into the administration's overall strategy.

Second, we need to explore better ways of working with Congress to set R&D funding priorities. Funding of science and technology programs today is widely dispersed and frequently sporadic. Though the federal government spends over $60 million on research and development annually, there is no overall science and technology budget. That makes it difficult to ensure that spending on science and technology contributes to U.S. competitiveness.

Third, research and development should be funded under a two-year budget resolution, with the resulting allocations to other congressional committees also binding for two years. Congress' approach to technology-related issues tends to be fragmented and short-term because of the current one-year federal R&D budget cycle and the competing demands facing appropriations committees. Two-year funding would give researchers greater continuity and the ability to plan further ahead—important considerations in developing technology.

These steps will help to eliminate the inconsistent approaches that have plagued federal technology policy in the past and pave the way for expanding the focus of national research and development efforts.

The United States no longer has a monopoly on technololgy. We can no longer assume that our leadership in science automatically will trickle down to industry in the form of commercial triumphs. A major challenge facing the candidate who emerges victorious from the November elections will be creating the right climate and establishing the proper policies for meeting the commercial challenge to American innovation.●

NEW ENGLAND HOBBY SUPPLY, INC.

● **Mr. DODD.** Mr. President, 100 years ago, a building was constructed in the town of Manchester, CT, to house an electric equipment plant. A few years later, J.T. Robertson began producing his Bon Ami products in the building, and for many years thereafter, the world-famous Bon Ami Soap produced in that factory was shipped around the country and around the world.

About 30 years ago, however, the Bon Ami Co. was purchased, and operations were moved out of the building. For more than two decades the Victorian brick building with its twin clock towers stood vacant, decaying. It became an eyesore in Manchester's north end.

But in 1980, a private citizen, Bob Bell, purchased the Bon Ami factory and refurbished it, and the next year began using the building as headquarters for New England Hobby Supply, Inc. One hundred years after it first opened, the Bon Ami Building is now the home for production and sale of dollhouse paint, model train lamps, and other hobby equipment. Again, there are working citizens employed in the building. Again the Bon Ami factory is contributing to the vitality of the Manchester economy.

It is fitting that on the 100th anniversary of the construction of the Bon Ami Soap factory, we recognize the achievements of Bob and Adele Bell in renovating the building. The factory serves as a symbol of the recovery of the entire Northeast. Residents of Manchester, of Connecticut, and of the Nation should be proud of the restoration of the factory which once produced the soap which "hasn't scratched yet."●

IN PRAISE OF ARKANSAS OLYMPIANS

● **Mr. PRYOR.** Mr. President, among the many fine athletes who represented our country at the Olympic games in Seoul are two from my State whom I wish to bring to the attention of my colleagues.

Sharon Jewell of Little Rock, AR, recently captured a bronze medal in the demonstration sport of taekwondo. This graduate of Little Rock Central High School attended Howard University in Washington, DC, on a full academic and athletic scholarship. Sharon is a most gifted scholar-athlete who plans to pursue a career in international and sports law.

In addition to her prowess in taekwondo, Sharon is an accomplished ballet dancer. In fact, her start in taekwondo began with a bet with friends that if they would try ballet, she would take a course in taekwondo. Obviously Sharon came out on the better end of that bet.

Sharon has achieved many honors throughout high school and college. A member of the Arkansas High School Track Hall of Fame, Sharon attended Girls' State and was a member of the Little Rock NAACP Youth Council. She was also on the Student-Faculty Assembly of the Little Rock School Board. A 3-year letterman in track and gymnastics at Howard University, Sharon has also participated in the summer track program of the Amateur Athletic Union.

Not one to shrink from a challenge, Sharon Jewell was the first female on the boys' cross country track team in junior high school.

I want to applaud this young woman's dedication and spirit. She is a role model for Arkansas youth who proves that academics and athletics can go hand in hand.

Arkansas' other Olympic athlete is now a veteran of the Olympic games. We've learned to expect to see him there. Poll vaulter Earl Bell's first Olympics was in 1976 and he was a bronze medalist in 1984. A resident of Jonesboro, AR, and a graduate of Arkansas State University, Earl was the first American ever to clear 19 feet outdoors. His athletic career is long and distinguished as for over 13 years he has consistently ranked among the best in the world.

After placing second in our Olympic trials in 1976, Earl came in sixth in the games. During 1975 and 1976, he received first place in the NCAAP Outdoor Championships. After ranking third in the 1984 Olympic trials, he earned a bronze medal for us at the games. This year he again proved he is one of the best in the world by finishing fourth.

Sharon and Earl allowed Arkansans to feel they had their own special place in the Olympics. We could cheer for them as they excelled and share their excitement in coming together with athletes form all over the world for the Seoul games. We are proud of our Olympians, the way in which they represented us, and the example which they set. We wish them well in the future.●

FAMILY RESOURCE COALITION FORMS PARENT ACTION

● **Mr. DURENBERGER.** Mr. President, on October 6-9, the Family Resource Coalition [FRC], a national organization developed to promote the interests of American families, will be sponsoring its second national conference. The conference, to be held in Chicago, provides a timely forum for the discussion of crucial family issues facing our society.

Economic and social changes in modern America have created new needs and concerns for American families. Today's families face tough issues relating to public education, drugs, child care, and health care. The FRC helps families fully understand and effectively address these complex issues.

To this end, the Family Resource Coalition will announce at its conference the creation of parent action, a national membership organization designed to voice the interests and concerns of families across the Nation. Parent action seeks to inform and mobilize parents through education and outreach programs, as well as through public policy initiatives. Through such programs, parent action teaches parents to enhance their parenting skills and to better use their personal strengths to improve the quality of life for their children and themselves.

I encourage my colleagues to support the work of this important organization. In a time when cynics are predicting the demise of the American family, I applaud the FRC in its efforts to further the concerns of families across our Nation. Through its national conference, its continuing public outreach efforts, and its creation of parent action, the FRC is strengthening one of our Nation's oldest and most vital institutions—the family.●

MIKHAIL GORBACHEV

● Mr. SYMMS. Mr. President, I rise to bring attention to the reasons that, in my opinion, Mikhail Gorbachev recently overhauled the Soviet Government. The problems for the Soviet leader started recently when he took a tour of the Soviet countryside to get a feeling for the current reforms underway in the Soviet Union.

Gorbachev's country tour came at a time when the Soviet Union had every right to feel it was the undaunted world leader. The Olympics were just underway and created an outstanding platform to show off the state supported Soviet athletic machine in gold, silver and bronze. Furthermore, the Soviet news media has been reporting for months on how the United States had been brought to the nuclear arms bargaining table by Gorbachev's charm and glasnost.

All of the recent political victories were to continue with the Soviet athletic machine dominating the 1988 Summer Olympics in Seoul, Korea. Mr. Gorbachev must have thought this a perfect time to go out in the Russian countryside and reflect on his recent political victories.

Mr. Gorbachev thought his 5-day tour in the country would result in a nice warm visit with the Russian people. What Mikhail Gorbachev found was a late summer chill that would make a Siberian winter seem like a sauna.

The Soviet leader was met with resentment unmatched in his previous 3 years in power. Rather than cheering supporters, Gorbachev got jeering mobs. The Russian people had suffered enough from housing and food shortages.

Mr. Gorbachev found that it becomes very difficult to celebrate the victories of Soviet weightlifters fed with filet mignon, when your family is struggling for day-to-day existence.

It seems the Soviet leader was finding out that politics is not all smoke and mirrors. The Russian people wanted to know "what have you done for us lately. No more talk, we want results." Like George Steinbrenner in a late season skid with the Yankees, the Russian people wanted results, or they wanted heads to roll.

Gorbachev reacted immediately, calling an emergency meeting that brought Foreign Minister Shevardnadze back to Moscow from his meetings with top officials of the Reagan administration—this move also served to get the attention of the American press. Gorbachev was seeking to cut the diseases from his ailing government.

Gorbachev cut with the skill of a surgeon. Andrei Gromyko was retired from the presidency, and KGB Chief Viktor Chebrikov was replaced as head of the Soviet secret police.

Now, the waiting period begins. The clones of the Brezhnev school of government are gone. The Soviet system better get moving because Mikhail Gorbachev has no one else to blame. His head may be next if the food lines don't go away.

Unless Mikhail Gorbachev can figure out how to give away hamburgers for Olympic medals like a recent McDonald's promotion gimmick, he may be flipping burgers in Siberia.

Mr. President, I ask that the September 26, 1988 article from U.S. News and World Report be printed in the RECORD.

The article follows:

GORBACHEV REVS UP PEOPLE POWER

It was the moment that every politican dreads: Working a crowd, TV cameras rolling, when suddenly the heckling begins. But this time the streets were in Siberia, the hecklers were usually placid Soviet citizens and the politican was Mikhail Gorbachev, who has discovered how to use prime-time television to reap political gain from public wrath.

At every stop during a five-day tour, Gorbachev faced an outpouring of resentment. "Go into our stores, Mikhail Sergeevich, You'll see there's nothing in them." shouted one man. "The housing situation is terrible," complained a woman nearby, who urged other bystanders to "go on, tell him what it's like."

Plenty of people did, especially in Krasnoyarsk. The industrial city is a shabby graving panorama of the inadequate housing, constant shortages, inefficient factories, stifling pollution and bureaucratic ineptitude that Gorbachev's reforms are intended to cure. Its citizens grumbled openly that the only changes they see after two years of perestroika are longer lines and higher prices.

But instead of the beatings or arrests that would have followed such outburst during the regimes of Gorbachev's predecessors, complaints of hecklers in Krasnoyarsk and elsewhere were featured on national television for three consecutive days last week. The purpose, said analysts in Moscow, is to use the media to send messages vital both to the Soviet chief's success in promoting perestroika and to his ability to face down challenges from Kremlin conservatives. Gorbachev seeks to build up his image as a populist leader struggling to resolve people's problems despite foot dragging by bureaucrats who are more interested in self-aggrandizement than in improving local living conditions. He also seeks to emphasize that change will take time—and will have to come from the people themselves.

On the streets, Gorbachev was the consummate politician, freely agreeing with some complainers, patiently debating others and repeatedly urging listeners not to look to Moscow for all the answers. But for unreconstructed bureaucrats who tried to claim that things are going well, Gorbachev had a tougher reponse that also should be a crowd pleaser. "Tell that to the people in the streets," he admonished one official. "They'll laugh at you."●

LT. COL. WILLIAM R. HIGGINS

● Mr. McCONNELL. Mr. President, we all were pleased last week to learn that the 1988 Nobel Peace Prize will be awarded to the U.N.'s peacekeeping forces. I commend and congratulate this deserving group of 10,000 young men and women from around the world who have made great sacrifices for the cause of peace.

However, the Norweign Nobel Committee's announcement was bittersweet news to me. While the U.N.'s peacekeeping forces were celebrating the news, one their leaders was spending his 226th day as a hostage.

As you know, Mr. President, Lt. Col. William Higgins was abducted in February as the head of the U.N. Truce Supervisory Organization in southern Lebanon. I have met with his wife, Marine Maj. Robin Higgins, and have the greatest respect and admiration for her strength and courage as she hopes for an end to her husband's ordeal. I am hopeful that the selection of the peacekeeping forces an Nobel laureates will focus international attention on Colonel Higgins and increase pressure to secure his release. This award surely must convince his abductors that he was on a mission of peace.

Mr. President, I would like to insert into the RECORD two articles that appeared in Friday's Washington Post. The first article details the mission and selection of the forces as recipients of the coveted prize. The second reminds that not all of the prize winners are able to share in the glory. I am sure that all of my colleagues in this body join me in praying for the safe return of Colonel Higgins.

The articles follow:

UNITED NATIONS FORCES WIN NOBEL PEACE PRIZE—AWARD SIGNIFIES RESTORATION OF ORGANIZATION'S PRESTIGE AROUND WORLD

(By Karen DeYoung)

Oslo, September 29.—The United Nations Peace-keeping Forces have been awarded the 1988 Nobel Peace Prize for their contribution to reducing international tensions and in recognition of the "central part in world affairs" the United Nations has come to play, the Norwegian Nobel Committee announced here today.

Chairman Egil Aarvik said the committee hoped that the award, which comes with a gold medal and $388,000, would "give more prestige to these forces, and through them to the United Nations."

In New York, U.N. Secretary General Javier Perez de Cuellar called the decision "one of the most brillant" the committee had made in the 87-year history of the award. He said he would travel to Oslo to receive the prize when it is presented on Dec. 10.

"The award is a tribute to the idealism of all who have served this organization and in particular to the valor and sacrifice of those who have contributed and continue to contribute to our peace-keeping operations," Perez de Cuellar said as soldiers celebrated at U.N. peace-keeping outposts in the Middle East and elsewhere.

Widespread speculation that the award would go to President Reagan and Soviet leader Mikhail Gorbachev, for the signing last December of the Intermediate-range Nuclear Forces (INF) Treaty, was dampened over the weekend, when the usually well-informed Norwegian media said the committee feared such a decision could influence the upcoming U.S. presidential election.

Aarvik told reporters today that Reagan and Gorbachev had been considered "very seriously." Asked if the U.S. political situation had been taken into account, he said, "We take everything into consideration. Also that."

In Washington, Reagan called the award to the estimated 10,000 U.N. peace-keepers "an admirable decision," saying, "I didn't deserve it as much" as they did.

A total of 19 organizations and 68 individuals, including Pope John Paul II, Indian Prime Minister Rajiv Gandhi, South African black nationalist leader Nelson Mandela and Sri Lankan President Junius Jayewardene, were nominated. Nominations can be submitted by members of any of the world's parliaments, university scholars and former peace prize winners. The U.N. forces were nominated by Nobel Committee member Odval Nordli.

Aarvik said that the prize constituted "sort of a congratulation" to Perez de Cuellar for his key role in negotiating the cease-fire in the Persian Gulf war, and to his undersecretary, Diego Cordovez, who spent seven years in negotiations leading to the beginning of the Soviet Union's troop withdrawal from Afghanistan this year.

The peace prize decision tops a run of U.N. successes this year, and the restoration of significant prestige after a decade of what some of the world's powers, including the United States, considered political irrelevance.

In his speech Monday to the General Assembly, Reagan, long a U.N. critic, warmly praised the organization and Perez de Cuellar. Several weeks ago, the president announced that $188 million in dues arrears owed the United Nations by the United States would be paid, and ordered the State Department to come up with a plan to settle more than $500 million in back debts.

The Soviet Union, too, long in arrears on its U.N. commitments, has begun, under Gorbachev, to pay its debt in apparent recognition of the usefulness of the United Nations in helping to resolve conflicts.

Much of the newfound standing of the organization comes from this year's successful negotiations over the Persian Gulf, where 350 U.N. troops were sent as cease-fire monitors last month, and Afghanistan, where 50 U.N. personnel were positioned to observe and verify Soviet troop withdrawals.

In recent months, Perez de Cuellar also has presented a plan for ending the Western Sahara war between Morocco and the Polisario Front with 2,000 peace-keeping troops. The organization is gearing up for a 7,000-troop presence in Namibia to enforce a truce and supervise elections following a proposed South African withdrawal, and has said it is ready to participate in the withdrawal of Vietnamese troops from Cambodia, now in the preliminary stages of discussion.

All of these functions, Perez de Cuellar has said, could increase the cost of U.N. peace-keeping functions from a current $250 million a year to as much as $2 billion annually.

The fact that most of the negotiating successes for which the organization is being congratulated came about after the Feb. 1 peace prize nominating deadline is not unprecedented. In awarding last year's prize to Costa Rican President Oscar Arias, the committee made clear it hoped to add impetus to his still-inconclusive Central American peace plan.

The Persian Gulf and Afghanistan missions marked the first U.N. deployments since the United Nations Interim Force in Lebanon (UNIFIL) was set up following the 1978 Israeli invasion there. The currently 5,800-member force has remained there ever since.

Troops drawn from 58 countries have participated in 14 separate U.N. missions over the past four decades, either as peace-keepers between combatants, or as cease-fire or armistice observers. Generally allowed only sidearms to be used in self-defense, U.N. forces have suffered thousands of casualties over the years, including a total of 733 dead.

There are seven current U.N. peace-keeping missions, including UNIFIL, which is the largest; the Persian Gulf; Afghanistan; the Golan Heights; Cyprus, and vestigal deployments of the two oldest U.N. forces—the 1948 Arab-Israeli buffer force in Jerusalem, and a small force positioned on the India-Pakistan border in 1949.

The peace prize is one of five awards set up under the 1895 will of Sweden's Alfred Nobel, the inventor of dynamite. Today's peace award was the fifth to a U.N.-associated body since the first award was made in 1901.

The other Nobel prizes, which will be announced over the next few weeks in Stockholm, were physics, chemistry, medicine and literature. An award for achievement in economic science was established later.

Nobel, in his will, said the peace prize was to go to the person who did "the best work for fraternity between nations, for the abolition or reductions of standing armies, and for the holding and promotion of peace congresses."

One Peace-Keeper Not Free to Celebrate

(By Richard Homan)

While most of the 10,000 U.N. peace-keeping troops were celebrating their Nobel Peace Prize yesterday, one of the forces' highest-ranking American members, Marine Lt. Col. William R. Higgins, was in his 226th day of captivity in the Middle East.

Higgins, of Woodbridge, Va., was kidnaped last Feb. 17 near Tyre, in southern Lebanon, where he was serving as head of a 76-member unit of the U.N. Truce Supervision Organization.

U.N. officials and Higgins' family used the occasion of the prize announcement yesterday to renew demands that his captors free him.

Higgins' sister, Mary Fisher, told United Press International in Louisville, Ky., "I hope this proves to them that they are holding a man who was on a peace mission. We have been praying hard since my brother was abducted. We hope this Nobel prize will bring an answer to our prayers."

Higgins' captors—the Organization of the Oppressed on Earth—accused him of using his U.N. post as a cover for U.S. espionage, a charge that U.S. and U.N. officials have strongly denied.

Higgins, 43, was seized by gunmen who ambushed his U.N. vehicle after he left a meeting with a senior official of the Shiite Moslem Amal group, Amal officials said.

The U.N. group in which Higgins served since June 1987 was formed in 1948 to supervise armistice agreements between Israel and Arab countries. Earlier, Higgins served here and lived in Woodbridge with his wife, Marine Maj. Robin Higgins, who is assigned to the Pentagon.●

NEONATAL INTENSIVE CARE UNIT

● **Mr. CHILES.** Mr. President, recently, I had the privilege of participating in the dedication ceremonies for the new neonatal intensive care unit at Children's Hospital National Medical Center in Washington, DC. This expanded nursery unit is the culmination of many years of planning and tremendous hard work on the part of the National Medical Center's administration and staff, and is one more indicator that Children's Hospital National Medical Center remains the Nation's foremost champion of children and a leading innovator in child health care.

Since Children's Hospital National Medical Center opened its doors in 1870—in a rented house in northwest Washington, DC, with only 12 beds—it has always made the health of infants and young children its singular priority. Although Children's Hospital National Medical Center was initially established to treat children of the Metropolitan Washington, DC, area, it is now significantly national and international in scope, treating very sick children referred from hospitals around the Nation and from many foreign countries.

As Chairman of the National Commission to Prevent Infant Mortality, I heartily commend Children's Hospital for its leadership in providing excellent early comprehensive maternity and pediatric care to this Nation's dearest hopes—to this Nation's future leaders. The very lack of this type of health care has resulted in 40,000 infant deaths each year, and we now know that by the close of this century 520,000 infants will die before their first birthday if the infant mortality rate continues unchecked.

We, as a developed nation, have not yet answered the riddle of why so many of our infants die. That is why the National Commission to Prevent Infant Mortality rallies behind the type of innovative neonatal care and state-of-the-art medical technology which Children's Hospital National Medical Center is developing. Children's Hospital has broken new ground in its Extra Corporeal Membrane Oxygenation [ECMO] Treatment Program. Since the program's inception in 1984, this unique therapy has saved the lives of 150 infants suffering from acute respiratory distress.

Mr. President, Children's Hospital National Medical Center has been working desperately hard to reverse a situation which is a growing national tragedy. Through its far-reaching efforts to promote advanced research and treatment programs, it has become a model in the care of low-birthweight infants, those with congenital abnormalities, and other critical problems. On this occasion, I ask my colleagues to join me in congratulating the administrators and staff of the hospital for demonstrating that healthy children are our Nation's No. 1 priority. Let us extend to Children's Hospital National Medical Center our strong encouragement and support.●

TRIBUTE TO THE ADAMS FAMILY

● Mr. CHILES. Mr. President, I would like to pay tribute today to the Adams family of Cortez, FL. The reason I am calling attention to this one native Florida family is because all six of the brothers—William H., Leon H., Willis H., Cleveland T., Henry C., and Clyde D.—served overseas in the U.S. Armed Forces at the same time during World War II.

William Hugh Adams, the eldest son of the family and who is now deceased, enlisted in the Navy in January of 1942 and served for almost 4 years as a boatswain's mate in the Atlantic, Europe, and Africa areas.

Leon Harrison Adams, the second son, also now deceased, enlisted in the Navy in June of 1942 and served as a motor machinist's mate in the Atlantic, Africa, and Europe areas.

Willis Howard Adams, whom I know as "Snooks," was the third son. He, too, chose the U.S. Navy. He enlisted in December 1941, before his two older brothers, and served aboard ships in the Atlantic and Pacific Oceans. A total of seven battle stars were awarded to the various ships on which Snooks served. After the war, Snooks returned to Cortez to work in his family's fishing business. In 1954 Snooks started working for the Manatee County Sheriff's Office. Several years later he was appointed Chief of Police of Holmes Beach, FL. Snooks remained as the Holmes Beach Chief of Police until he retired in 1978. When it came to carrying out his law enforcement duties, I am sure Snooks had occasion to call upon some of that military training he received while serving in the Navy.

The fourth son, Cleveland Thomas Adams, was the first of the Adams brothers to join the Navy. He enlisted in August 1940. Cleveland was at Pearl Harbor during the Japanese bombing of the Islands. Cleveland remained in the Navy for over 20 years and retired in 1960 as a gunner's mate first class. During the time he spent in the Navy, Cleveland was awarded the United Nations Service Medal, Korean Service Medal with two Stars, the Purple Heart for wounds he received in action while serving aboard the U.S.S. *Mobile* on December 4, 1943, the Good Conduct Medal, Asiatic Pacific Area Medal, American Areas Medal, and the National Defense Service Medal.

Henry Clayton Adams chose a different path from his four older brothers and enlisted in the U.S. Army in July 1942. Henry was sent to France, Algeria, Morocco, and Sicily.

The sixth brother, Clyde Dillard Adams, joined the Army Air Force in 1942 and flew 15 combat missions over France as an air crew member. I understand on his 15th mission his plane was shot down. He was captured and served for 9 months in a prisoner of war camp in Germany. In 1950, during the Korean conflict, Clyde re-enlisted in the Air Force and was sent to Korea wher he put 15 more combat missions under his belt.

I am told six brothers serving in the U.S. Armed Forces during World War II is not quite a family record. But, it seems to me the willingness of all six brothers of this one Florida family to voluntarily answer the call to arms when their country needed them to fight to defend our basic freedoms certainly exemplifies the true patriotic spirit on which our Nation was founded.●

SOUTH DAKOTA OLYMPIANS

● Mr. PRESSLER. Mr. President, I would like to take this opportunity to recognize the accomplishments of five South Dakotans who represented the United States in the 1988 Seoul Olympics.

Cindy Suggs Greiner, originally of Wilmot, finished eighth in the heptathlon. That is a performance to be proud of in a competition testing the all-around athletic skill of the participants in seven different events.

South Dakota's four other Olympians are all wrestlers. Not only does the State produce good wrestlers, it does so by the pair. Dennis and Duane Koslowski, twin brothers from Doland, represented the United States in Greco-Roman wrestling. Dennis won a bronze medal in the 220-pound weight class, and Duane finished eighth in his class.

Jim and Bill Scherr, twins from Mobridge, competed in freestyle wrestling. Bill also won a bronze medal for the United States, in the freestyle 220-pound weight class. Jim finished fifth at 196 pounds.

These five outstanding young people exemplify the true competitive spirit of the Olympics. We are understandably proud of their achievements and those of their fellow athletes, which set an example for future Olympians to follow.

Mr. President, I ask that an article from Sports Illustrated be printed in the Record as a tribute to the achievements of Jim and Bill Scherr.

The article follows:

Scherr and Scherr Alike

(By Craig Neff)

As the annual rodeo parade in Mobridge, S.Dak., turns right onto Main Steet this baking hot Fourth of July morning, hometown heroes Bill and Jim Scherr are sitting with some former high school teammates and coaches on a float bearing the banner 32 YEARS OF MOBRIDGE WRESTLING. The float, a sparsely decorated flatbed trailer, is being pulled by a 15-ton semi that belongs to Frank Scherr, the twins' father. "They wanted to stick me and Jim in a car by ourselves, but we said 'Nope.' " says Bill.

Most of Mobridge (pop. 4,174) has come out to greet the town's humble, hard-working, first-ever Olympians. The 27-year-old Scherrs will go to Seoul as one-fifth of the U.S. freestyle wrestling team, Bill in the 220-pound class and Jim at 198. Both are brainy, cautious wrestlers with excellent chances of winning medals, though Bill, who has lost two close matches to top-rated Leri Khabelov of the Soviet Union, has a slightly better shot at a gold. Jim finished second at last year's world championships in Clermont-Ferrand, France, and Bill, a former 198-pound world champ who moved up in weight two years ago to open a spot on the national team for his brother, placed third.

Along Main Street, the Scherrs are already champions. They won state titles at Mobridge High, handled virtually all the field events for the track team, got good grades, starred in football and proved their mettle as team ropers and bull riders in rodeo. "I quit bull riding after I started having nightmares of bulls chasing after me," recalls Bill.

Watching the parade, their father, Frank, says, "You know how they got their wrestling strength? Stacking and hauling bales of hay every summer from the time they were 10 years old." During summers, Bill and Jim would work from dawn to dusk, six days a week, loading as many as 1,500 bales a day onto their dad's three Scherr Trucking Co. rigs. How much were they paid? "They got a car [a 1970 Pontiac Catalina] to share when they were 16," says Frank quietly but firmly. "And they got to go to wrestling camp every year."

The Scherr boys never stopped working. While in high school, Jim toiled nights loading beer trucks, while Bill punched in as a low-key country-music deejay on the local radio station. "My girlfriends used to listen to Bill before they went to bed," says Teresa, his high school sweetheart-turned-wife. "They said he helped put them to sleep." Even after they left Mobridge for the University of Nebraska, where both won NCAA titles as seniors in 1984, Bill and Jim came home often to visit their parents and six siblings and to work with the town's young wrestlers, four of whom eventually followed them to Nebraska on wrestling scholarships.

The parade moves past the Municipal Auditorium, which may be renamed the Scherr Arena after the Olympics. The whole region has mobilized behind the twins, even though they no longer live in Mobridge. Jim is an MBA candidate and graduate assistant coach at Northwestern in Chicago, while Bill, Teresa and their 2½-year-old daughter, Alexandra, live in Bloomington, Ind., where Bill is working toward an MBA at Indiana and is assistant to Hoosier coach Jim Humphrey, who's also the Olympic freestyle coach.

After the parade there will be a fundraiser at which caps, shirts, buttons and raffle tickets will be sold to help defray the twins' living expenses. South Dakota governor George Mickelson will stop by, pose for photos with the twins and proclaim this July 4 Jim and Bill Scherr Day in the state. To further help the twins, friends in Mobridge have placed donation boxes at stores and restaurants as far away as Bismarck, N.Dak., 100 miles to the north.

All the support is especially meaningful to the Scherrs now, because in recent months the family has been under a great deal of stress. In March the twins' 25-year-old sister, Liz, suffered a recurrence of melanoma, a form of skin cancer. She had battled the disease a year earlier and seemed to have beaten it. This time she could not. She died on June 7, one week before the U.S. Olympic Wrestling Trials in Pensacola Fla., leaving behind a husband and a 15-month-old daughter.

"It was physically and emotionally exhausting for us," says Bill. "Liz was always very encouraging about our wrestling. She wanted to make the Olympics." Adds Jim, "It was hard to concentrate on training those last few months."

Liz had given her brothers a virtual order not to let her illness affect their preparations for Seoul. When they headed to Pensacola, they could not help but think of her. "Deep down," says Bill, "I wanted to succeed at the trials because I didn't want to leave a black mark on her memory—the idea that somehow her illness had kept us off the team."

As Jim wrestled the deciding bout in a best-of-three final series against Melvin Douglas of Oklahoma, Bill, who had earned a spot on the team less than an hour earlier with an easy victory over Kirk Trost of Michigan, was kneeling near his brother's corner screaming instructions and demonstrating moves. "I couldn't imagine going to the Olympics without Jim," he would say afterward. Jim hung tough on defense to earn a 2–1 victory.

Bill, though 15 minutes younger, has always tended to push his more laid-back brother in the sport. However, the Scherrs do share a common style: good single-leg and high-crotch takedowns, intelligent body position, solid defense. Both study opponents and take notes on them. Bill has had to eat four meals a day and lift weights constantly to maintain enough heft to compete in the 220-pound class. Jim may also need a little more muscle in Seoul; his main rival, Soviet world champion Makharbek Khadartsev, has never lost at a major international competition. Jim would have faced him in the finals of last year's worlds but suffered a badly sprained right knee in the semis. He dropped a narrow 2–0 decision to Khadartsev at a U.S.–U.S.S.R. dual meet in New York City in March.

Just for the record, Bill can be identified by the scar near his knee—the right one—the result of a football injury. He is also more likely to have a fishing pole in his hand, although Jim, too, likes to put a line in the water when back in Mobridge. In fact, if Bill looks a bit weary as they ride the float past the Sears catalog store on the Fourth, it may be from having been out on the lake fishing until 3:30 a.m. the night before.

"You've made us a proud little town, boys," says the parade announcer over the P.A. "Good luck in Seoul, Korea." The twins wave as the spectators smile and applaud. Jim and Bill will be back for next year's Mobridge parade, probably bearing medals.

SUMMIT ON THE MAT

The Scherrs aren't the only reason the American wrestling community is excited about Seoul. "This could be the greatest team we've ever had," says U.S. Olympic freestyle coach Jim Humphrey, who saw his squad win nine medals at last fall's world championship in France.

In eight of the 10 weight classes the competition could well boil down to U.S.–U.S.S.R. matchups. The Soviets may have the three best wrestlers in the world in Sergei Beloglazov (125.5-pound class), Arsen Fadzaev (149.5 pounds) and Makharbek Khadartsev (198 pounds). Beloglazov, 32, won the gold and has triumphed at all six world championships since then. Fadzaev, 26, and Khadartsev, 22, have been nearly unbeatable in major international competition.

The Americans have two reigning world champions: 27-year-old Mark Schultz from Palo Alto, Calif., the 180.5-pound winner at the '84 Olympics, and 21-year-old John Smith of Oklahoma State, at 136.5 pounds. Two other formidable Americans are Kenny Monday (163 pounds), 26, of Oklahoma State, and Nate Carr, 27, who could give Fadzaev a tough challenge at 149.5 pounds.

The '88 team's hopes for the unofficial team title could hinge on the super-heavyweight matchup between 1984 Olympic champ Bruce Baumgartner and Soviet Aslan Khadartsev, Makharbek's older brother, who won the world title last year. Baumgartner has superior ability but must avoid launching sloppy takedown attempts. If he succeeds, the team race may be too close to call.●

JACKIE JOYNER-KERSEE

● Mr. SIMON. Mr. President, the Olympics in Seoul are over. Juan Antonio Samaranch, president of the International Olympic Committee, called the 1988 Games "the best and most universal Olympic Games in history." In my State we have a special reason to celebrate. Jackie Joyner-Kersee, a native of East St. Louis, IL, won gold medals in the long jump and heptathlon. I ask unanimous consent to reprint in the RECORD a column I have written honoring Jackie and her magnificant performance.

The column follows:

A GOLD MEDAL FOR CITIZENSHIP

(By U.S. Senator PAUL SIMON)

Jackie Joyner-Kersee, winner of two gold medals at the Olympics in Seoul, is being called the world's greatest female athlete by newspapers everywhere, but I think she is doing something even more important than winning gold medals in Seoul.

Jackie Joyner-Kersee deserves a gold medal for citizenship. Let me tell you why.

When she entered the stadium in Seoul for the closing ceremonies on the shoulders of her husband, Bob Kersee, she carried a sign: "I love East St. Louis, Illinois."

Today, East St. Louis is a city of devastation, of crime, of unpaid city employees, of intense poverty—but also a city with marvelous people. It is a city that many, black and white, have fled and forgotten.

Jackie Joyner-Kersee wants to return to reopen the Mary E. Brown Community Center where she ran her first track meet at age 9 and where she long-jumped 16 feet 9 inches at age 12. (Her gold medal winning jump in Seoul was 24 feet 3½ inches.) She has signed a sponsorship contract with Seven-Up to help fund a foundation to reopen the center for young athletes in East St. Louis.

Jackie, now 26, grew up in poverty. Press accounts say she sometimes ate bread and mayonnaise for dinner and the family used to collect plastic tubs of water in the Kitchen because their pipes froze frequently.

She remembers her mother telling her "don't get pregnant at a young age, and make sure you finish school." Jackie graduated from UCLA with scholastic honors and in the top 10 percent of her class. Her mother died of meningitis in 1981 at age 38 Jackie says she feels her mother is with her in spirit.

Says Jackie, "I have this burning desire to get out there and do my best. It's as if I'm keeping it all in a little bottle, and it's all going to come out when I do the best I'm capable of doing."

East St. Louis has so much potential, and the people there have so much potential.

The former U.S. ambassador to the United Nations, Donald McHenry, grew up in East St. Louis and still is interested in that city.

Katherine Dunham, the ballet and dance pioneer who received the Albert Schweitzer Music Award grew up in East St. Louis and still maintains a home there. She has also done much to stimulate young people to take an interest in culture and in their African-American heritage.

Jackie Joyner-Kersee is a great athlete. But she is an ever greater person for remembering her roots and for striving to see that more of the talented young people in that depressed city have a chance.

America is one family. When anyone in that family hurts, ultimately all of us hurt.

People in East St. Louis are hurting and Jackie Joyner-Kersee wants to help heal the wounds.

She needs to be joined by public policy that does the same.●

ILLINOIS PRAIRIE PATH

● Mr. SIMON. Mr. President, Illinois is called the "Prairie State," a reminder of the days when the natural prairie grasses and flowers blew in the breezes. Most of that prairie is gone, replaced by the acres of corn, soybeans, wheat, oats, and other crops grown on our productive farmland.

But some natural prairie is preserved. One place is in DuPage and Kane Counties, where a 55-mile-long pitchfork-shaped path stretches from Maywood to Wheaton, then splits into four spurs which reach the Fox River in the towns of Elgin, Geneva, Batavia, and Aurora.

Thousands of volunteers have invested hundreds of thousands of hours and dollars to make this abandoned railroad right-of-way a foot and bicycle path. At least 300,000 bicyclists, walkers, runners and equestrians use the path each year.

The Illinois Department of Conservation has featured the Illinois Prairie Path volunteers in its August 1, 1988, issue of Outdoor Highlights. In July, F. Paul and Jean C. Mooring of Glen Ellyn represented those volunteers at the White House and received the "Take Pride in America Award" from President Reagan. That award will be on display at the Illinois Prairie Path annual meeting on Sunday, November 6 at the DuPage County Historical Museum in Wheaton.

Let me take this opportunity to congratulate the Moorings and all the volunteers for the award and their collective efforts in preserving the prairie and making this wonderful foot and bike path a reality.●

A CALL TO THE SOVIET UNION TO GRANT SOVIET JEWS THEIR RIGHT TO EMIGRATE

● Mr. DIXON. Mr. President, today, October 4, 1988 marks the end of Sukkoth. the Jewish harvest holiday which follows the high holidays. Throughout the world Jews will celebrate, but, in the Soviet Union, this day will have a special significance as Soviet Jews join together in Moscow and Leningrad to celebrate their religious traditions in a country which does not recognize their right to religious freedom.

In light of this holiday, it is an opportune time to speak out on behalf of the thousands of Soviet refusniks who—in contravention of the principles spelled out in the Helsinki accords—have been denied their right to emigrate from the Soviet Union. Each refusnik case represents an odyssey of patience, endurance and an underlying knowledge that religious freedom is not an unreasonable request.

On this occasion, I would like to tell you about a particular refusnik family, Ilya and Olga Shostankovsky. The Shostankovsky's have been working with my friend and colleague, Congressman HENRY HYDE, to expedite their emmigration from the Soviet Union.

Among the thousands of refusnik cases, Ilya and Olga are somewhat less known, but their situation is equally tragic. Like hundreds of other Soviet Jews, they have been denied exit visas for over 15 years. Soviet officials maintain that Ilya is a "security risk." Ilya, however, has never had access to state secrets or classified information.

In 1973, prior to his marriage, Ilya applied with his parents and his brother Grigory to emigrate to Israel. His parents were granted immediate permission to emigrate. Ilya was to have followed within the year; but Soviet officials refused his visa, marking the beginning of Ilya's nightmare of applications, false hopes, refusals, and the individual persecution which haunts each refusnik.

An engineer by profession, Ilya was never allowed to enter the program of his interest—nuclear physics. The young junior engineer watched his career end before it had even begun.

In 1967 Ilya was dismissed from his job as a night watchman having been told that he was in danger of being delcared a parasite.

In 1978 Ilya's brother Grigory was finally allowed to join his parents in Israel. Ilya, now married, was again denied.

By 1981, Ilya's goal of sharing a life with his parents in Israel was destroyed by the news that his parents had both passed away. Ilya had not seen his parents since 1973. The Soviet system had once again destroyed any hope of family reunification.

In 1982, the Shostakovsky's phone was summarily disconnected. It was reconnected in 1983—with a warning that it would be cut off again if it were used for international calls.

Mr. President, for over 15 years Ilya and his wife Olga have suffered persistent abuse. Their professional careers have been destroyed, and the constant psychological, as well as physical abuse, by the KGB has taken its toll.

Ilya and Olga Shostakovsky have, in good faith, done everything possible to ensure their emigration. Yet, in February of 1988, as the world anxiously awaited the rewards of perestroika, the Shostakovsky's received their most recent denial. Mr. President, there has been no perestroika for Ilya and Olga Shostakovsky. Moreover, this story is painfully familiar. During my 8 years as a United States Senator, I have spoken about many families torn and divided for no understandable reason by Soviet officials. Ilya and Olga have suffered needlessly. For what purpose; the motive is beyond this Senator's comprehension.

During the 100th Congress, we have witnessed great strides in United States-Soviet relations. But, this progress will never be complete until the Soviet Union is prepared to live up to its international human rights commitment. Now is time for the Soviet Union to finally honor the Helsinki accords and to grant Ilya and Olga Shostakovsky their right to emigrate.●

THE REVIVAL OF UNION STATION

● Mr. DOMENICI. Mr. President, I know that all of my colleagues share my sense of delight over the reopening of Union Station, located just a few blocks from here.

The resurrection of Union Station has been a long struggle, one in which a lot of money went down a very big hole until, with great foresight, efforts were begun to revive that spectacular building as a train station and as a focus for the Capitol Hill area.

I shall not dwell on the mistakes of the past. We all know of the failures that led to the closing of that great building a few years ago after it has been turned into something called the National Visitors Center.

The revival of Union Station cost a lot of money, of course, but I am delighted that this development has been paid for, to a large extent, with private funds. As a result of that public-private partnership, we now have a great building open again, attracting throngs of visitors and travelers.

I wish to pay tribute to the individuals who made it possible. My colleagues may not remember, but the credit for the revival of Union Station really belongs to two of our colleagues. The effort was led by Senator STAFFORD, when he was chairman of the Committee on Environment and Public Works. Senator STAFFORD worked long and hard for passage of the law that made the revival of Union Station possible. He was joined in that effort by our friend from New York [Mr. MOYNIHAN].

Once the law was passed, the administration's effort was directed by then-Secretary of Transportation Dole. Secretary Dole worked closely with Senators STAFFORD and MOYNIHAN to make certain that the renovation of Union Station was accomplished with the highest architectural goals at the lowest possible cost of the taxpayer.

She fought for the money. She kept Union Station on the front burner, against the judgment of a lot of individuals who didn't care.

The result is a triumph, and all Americans should be proud of what Secretary Dole and our colleagues accomplished.

Before closing, there is one other person who deserves special recognition. He is Keith Kelly, head of the Government's Union Station Redevelopment Corporation. Mr. Kelly has overseen this project for half a decade, and I believe everyone who visits that great building owes him a word of congratulations for this magnificent achievement.

Those of us who value America's architectural heritage, those of us who want Federal dollars spent wisely, and those of us who will be lucky enough to use this wonderful building have only one thing to say: "Thank you."●

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, is morning business closed?

The PRESIDING OFFICER. If there is no further morning business, morning business is closed.

Mr. BYRD. Mr. President, I thank the Chair.

ORDERS FOR WEDNESDAY

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 o'clock tomorrow morning; that following the two leaders, or their designees, under the standing order, there be a period for morning business not to extend beyond the hour of 10:30 a.m. with Senators being permitted to speak for not to exceed 5 minutes each during morning business; that at 10:30 a.m., the Senate proceed to the consideration of Calendar Order No. 681, S. 1301, a bill to implement the Berne Convention for the protection of literary and artistic works; that at the hour of 2 o'clock p.m. tomorrow, the Senate proceed to vote on the second-degree amendment and then the motion to recommit, which have been entered and on which cloture has been invoked; that between the votes on the second-degree amendment and the first-degree amendment, and again the vote on the first-degree amendment and the motion to recommit there be no debate, no amendment in order and that no motion of any kind be in order other than a motion to table; that upon the disposition of the motion to recommit that the cloture, the 30 hours under rule XXII would have run its course, and that the committee substitute, if the motion to recommit and the amendments thereto have been agreed to, then be before the Senate for further action.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, I have no objection except to indicate there may be a period of time after disposal of the Berne Convention if we cannot finally reach an agreement on the veterans COLA. There might be an hour for debate prior to those votes. I do not want to lock that in now. It would be helpful to have at least 30 minutes on this side.

Mr. BYRD. There would be some time. That time could be utilized in going to another matter or it could be used for debate on the motion to recommit with instructions and report back with two amendments.

I would be very happy to have that time divided equally between the two leaders or between Mr. Dodd and Mr. Cochran.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the leader and I thank all Senators.

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. DOLE. I wonder if we have an opportunity tomorrow could we have our people working on both sides. They might be able to get an agreement on the drug bill tomorrow if we can have some free time. That is another matter of priority. I again ask Senator Rudman on this side, and I know he has been with Senator Nunn today, to see if they can work out some arrangement limiting the number of amendments on each side.

I am not certain we can get that done. Hopefully, that might be something we can consider tomorrow morning.

Mr. BYRD. I think it is a good suggestion, and we will put our people to work on it on this side, and we will see where we are on the matter tomorrow.

Mr. President, let me make sure we all understand what the program is for tomorrow.

The Senate at the hour of 2 o'clock tomorrow would begin voting on the matters involved in the measure that has been clotured, that measure being the motion to recommit with instructions to report back forthwith two amendments. The vote would occur on the second-degree amendment beginning at 2 o'clock, or if someone wishes to put in a quorum call that would be allowed. The vote would occur on the amendment in the second degree. Upon the disposition of that amendment, whatever the disposition, without further debate, motion, except a tabling motion, which is allowed under this request as I framed it, or amendment, the vote would then immediately occur upon the first-degree amendment.

Upon the disposition of that amendment, without further debate, motion, or amendment, other than a motion to table, which I have allowed under the request, the Senate would vote immediately then upon the motion to recommit with instructions to report back. If that motion carries and what we have is a substitute, the committee substitute, of course, will then be before the Senate for action and that substitute would contain the fourth committee amendment which has not yet been disposed of as reported originally from the committee, and it would also contain the instructions with the amendments contained in the motion to recommit. Those amendments are in two degress. That would all be a part of the text. That would be open to debate and further amendment.

If the motion to recommit is tabled or voted down, then what the Senate would have before it would be the bill with the pending fourth committee amendment as was the status quo at the time the motion to recommit with instructions was entered.

Now, Mr. President, I would like to ask the Chair if what I have stated as the program for tomorow is correct. If there are any omissions or corrections that need to be made, we should have those done tonight.

The PRESIDING OFFICER. The statement of the majority leader is correct.

Mr. BYRD. I thank the Chair. I thank the distinguished Republican leader and all Senators.

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. DOLE. I would just like to again let the Record reflect that this side is prepared to dispose of this matter tonight, have a cloture vote, have two cloture votes, have three cloture votes in order to expedite what we considered to be at our policy luncheon very important business, the drug bill and technical corrections. Each of those is going to take some time. It seems to me we are obviously going to be here until next week and maybe the following week, with 100-some amendments on technical corrections.

As I understand it, the majority leader kept open the option of filing cloture tomorrow, so if cloture is filed that would ripen on Friday. And in the meantime we will be on the substitute.

Mr. BYRD. We could be or we could go to the tax bill and be working on it if that were agreeable on all sides.

Mr. DOLE. I think we have problems on each side right now with the tax bill, but I hope by tomorrow we might resolve those, but that will take some time. I am certain a Senator on this side who has a present objection will be willing to cooperate.

PROGRAM

Mr. BYRD. Mr. President, on tomorrow, the Senate will come in at 10 o'clock following a recess. After the two leaders or their designees have been recognized under the standing order, there will be a period for morning business which will not extend beyond 10:30, and according to the agreement will in reality go to 10:30 with Senators permitted to speak during that period for not to exceed 5 minutes each.

At 10:30 a.m. tomorrow, the Senate will proceed to the consideration of S. 1301, a bill to implement the Berne Convention for the Protection of Literary and Artistic Works. There is a time agreement on that bill, and it would appear from the time agreement that if all the time is taken, the time would require something like 1 hour and 15 minutes. There could be one or more rollcall votes. But in any event, upon the disposition of that bill—the bill has to go back to the other body before the Senate can proceed to vote on the convention, so at that point, on the disposition of the bill, the time between that point and 2 o'clock p.m. tomorrow would be equally divided between the two leaders or their designees, Mr. DODD and Mr. COCHRAN. We can use that time for debate on the upcoming votes beginning at 2 o'clock or some other matter could very well be, by unanimous consent agreed upon by both sides, brought up and debated and hopefully disposed of.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BYRD. If the distinguished Republican leader has nothing further, seeing no other Senator who seeks recognition, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 o'clock tomorrow morning.

The motion was agreed to, and the Senate, at 7:37 p.m., recessed until Wednesday, October 5, 1988, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate October 4, 1988:

UNITED NATIONS

HERBERT STUART OKUN, OF NEW YORK, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 43RD SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

DEPARTMENT OF LABOR

FRANCIS J. DUGGAN, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE WILLIAM JOHN MARONI.

U.S. INSTITUTE OF PEACE

W. SCOTT THOMPSON, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 1993 (REAPPOINTMENT).

NATIONAL LABOR RELATIONS BOARD

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERMS INDICATED, TO WHICH POSITIONS THEY WERE APPOINTED DURING THE LAST RECESS OF THE SENATE:

FOR THE TERM OF 5 YEARS EXPIRING DECEMBER 16, 1992:

JOHN E. HIGGINS, JR., OF MARYLAND, VICE DONALD L. DOTSON, TERM EXPIRED.

FOR THE TERM OF 5 YEARS EXPIRING AUGUST 27, 1993:

WILFORD W. JOHANSEN, OF CALIFORNIA (REAPPOINTMENT).

CONFIRMATIONS

Executive nominations confirmed by the Senate October 4, 1988:

DEPARTMENT OF ENERGY

MARTHA O. HESSE, OF ILLINOIS, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR A TERM EXPIRING OCTOBER 20, 1991.

ELIZABETH ANNE MOLER, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR A TERM EXPIRING OCTOBER 20, 1991.

CHARLES G. STALON, OF ILLINOIS, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING OCTOBER 20, 1989.

CHARLES A. TRABANDT, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR A TERM EXPIRING OCTOBER 20, 1992.

JERRY JAY LANGDON, OF TEXAS, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING OCTOBER 20, 1988.

JERRY JAY LANGDON, OF TEXAS, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR A TERM EXPIRING OCTOBER 20, 1992.

DEPARTMENT OF JUSTICE

FRANCIS ANTHONY KEATING II, OF OKLAHOMA, TO BE ASSOCIATE ATTORNEY GENERAL.

HAROLD G. CHRISTENSEN, OF UTAH, TO BE DEPUTY ATTORNEY GENERAL.

EDWARD S. G. DENNIS, JR., OF PENNSYLVANIA, TO BE AN ASSISTANT ATTORNEY GENERAL.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Tuesday, October 4, 1988*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us, O God, to use our heads, our hearts, and our minds to do the good things You would have us do. Make it known to us that the simple act of prayer becomes meaningful when we combine that devotion with the abilities and talents that You have given to us to use for the benefit and glory of all Your people. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. ROGERS. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROGERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 273, nays 115, not voting 43, as follows:

[Roll No. 387]

YEAS—273

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Atkins
AuCoin
Barnard
Bartlett
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clement
Coats
Coelho
Coleman (TX)
Collins
Combest
Conte
Cooper
Costello
Coyne
Crockett
Darden
Davis (MI)
DeFazio
Dellums
Dicks
Dingell
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Frank
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Hopkins
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lujan
Luken, Thomas
Manton
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McEwen
McHugh
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Natcher
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Panetta
Parris
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Rinaldo
Ritter
Robinson
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schulze
Schumer
Sharp
Shaw
Shumway
Shuster
Sisisky
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Solarz
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Whitten
Williams
Wilson
Wise
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—115

Armey
Badham
Baker
Ballenger
Barton
Bereuter
Bilirakis
Bliley
Boehlert
Brown (CO)
Buechner
Bunning
Burton
Chandler
Cheney
Clay
Clinger
Coleman (MO)
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Emerson
Fawell
Frenzel
Gallegly
Gekas
Gingrich
Goodling
Gregg
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hunter
Hyde
Inhofe
Ireland
Jacobs
Kolbe
Kyl
Lagomarsino
Latta
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lukens, Donald
Lungren
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McDade
McGrath
McMillan (NC)
Michel
Miller (OH)
Molinari
Moorhead
Morella
Murphy
Oxley
Packard
Pashayan
Rhodes
Ridge
Rogers
Roth
Roukema
Rowland (CT)
Schroeder
Schuette
Sensenbrenner
Shays
Sikorski
Skeen
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stump
Sundquist
Swindall
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Wheat
Wolf
Young (AK)
Young (FL)

NOT VOTING—43

Aspin
Bateman
Bentley
Boulter
Coble
Conyers
de la Garza
Derrick
Dixon
Donnelly
Edwards (OK)
Espy
Evans
Fields
Ford (MI)
Ford (TN)
Grandy
Horton
Kaptur
Kemp
Kleczka
Konnyu
Lloyd
Lott
Lowry (WA)
Mack
MacKay
Matsui
McCollum
Nagle
Neal
Nichols
Owens (NY)
Pickle
Porter
Roberts
Rodino
Savage
Skaggs
Spratt
Sweeney
Swift
Whittaker

□ 1225

Mr. SCHAEFER and Mr. GRAY of Pennsylvania changed their vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Nevada [Mrs. VUCANOVICH] come forward and lead the House in the Pledge of Allegiance.

Mrs. VUCANOVICH. Will the Members and those in the gallery please rise.

Mrs. VUCANOVICH led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

CHUN WEI WONG, ET AL.

The Clerk called the bill (H.R. 2108) for the relief of Chun Wei Wong, Bic

Ya Ma Wong, Wing Sing Wong, Wing Yum Wong, and Man Yee Wong.

The **SPEAKER.** Is there objection to the present consideration of the bill?

Mr. **SENSENBRENNER.** Mr. Speaker, I object.

Mr. **GEKAS.** Mr. Speaker, I object.

The **SPEAKER.** Objection is heard.

The bill is recommitted to the Committee on the Judiciary.

CATHLEEN S. O'REGAN

The Clerk called the bill (H.R. 2684) for the relief of Cathleen S. O'Regan.

The **SPEAKER.** Is there objection to the present consideration of the bill?

Mr. **SENSENBRENNER.** Mr. Speaker, I object.

Mr. **GEKAS.** Mr. Speaker, I object.

The **SPEAKER.** Objection is heard.

The bill is recommitted to the Committee on the Judiciary.

HILARIO R. ARMIJO, ET AL.

The Clerk called the bill (H.R. 2682) for the relief of Hilario R. Armijo, Timothy W. Armijo, Allen M. Baca, Vincent A. Chavez, David G. Chinana, Victor Chinana, Ivan T. Gachupin, Michael J. Gachupin, Frank Madalena, Jr., Dennis P. Madalena, Anthony M. Pecos, Lawrence A. Seonia, José R. Toledo, Roberta P. Toledo, Nathaniel G. Tosa, Allen L. Toya, Jr., Andrew V. Waquie, and Benjamin P. Waquie.

Mr. **SENSENBRENNER.** Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The **SPEAKER.** Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PINE RIDGE INDIAN RESERVATION

The Clerk called the bill (H.R. 2711) to settle certain claims arising out of activities on the Pine Ridge Indian Reservation.

The **SPEAKER.** Is there objection to the present consideration of the bill?

Mr. **SENSENBRENNER.** Mr. Speaker, I object.

Mr. **GEKAS.** Mr. Speaker, I object.

The **SPEAKER.** Objection is heard.

The bill is recommitted to the Committee on the Judiciary.

IVAN LENDL

The Clerk called the bill (H.R. 4363) for the relief of Ivan Lendl.

The **SPEAKER.** Is there objection to the present consideration of the bill?

Mr. **SENSENBRENNER.** Mr. Speaker, I object.

Mr. **GEKAS.** Mr. Speaker, I object.

The **SPEAKER.** Objection is heard.

The bill is recommitted to the Committee on the Judiciary.

JENS-PETER BERNDT

The Clerk called the bill (H.R. 446) for the relief of Jens-Peter Berndt.

The **SPEAKER.** Is there objection to the present consideration of the bill?

Mr. **SENSENBRENNER.** Mr. Speaker, I object.

Mr. **GEKAS.** Mr. Speaker, I object.

The **SPEAKER.** Objection is heard.

The bill is recommitted to the Committee on the Judiciary.

LYNETTE J. PARKER

The Clerk called the bill (H.R. 3247) for the relief of Lynette J. Parker.

Mr. **SENSENBRENNER.** Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The **SPEAKER.** Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

HYONG CHA KIM KAY

The Clerk called the Senate bill (S. 391) for the relief of Hyong Cha Kim Kay.

There being no objection, the Clerk read the Senate bill, as follows:

S. 391

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 212(a)(23) of the Immigration and Nationality Act, Hyong Cha Kim Kay may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act.

SEC. 2. This exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the date of the enactment of this Act.

With the following committee amendment in the nature of a substitute:

Strike all after the enacting clause and insert in lieu thereof:

SECTION 1. TEMPORARY RESIDENT STATUS FOR BENEFICIARY AND ADJUSTMENT OF STATUS.

(a) TEMPORARY RESIDENCE.—Notwithstanding section 12(a)(23) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(23)), Hyong Cha Kim Kay may be admitted to the United States for temporary residence if she—

(1) is found to be otherwise admissible under the provisions of that Act; and

(2) applies for admission to the United States within two years after the date of the enactment of this Act.

(b) PREVIOUSLY KNOWN GROUND FOR EXCLUSION.—The exemption under section (a) shall apply only to grounds for exclusion of which the Department of State or the Department of Justice had knowledge before the date of the enactment of this Act.

(c) ADJUSTMENT TO PERMANENT RESIDENCE.—The Attorney General shall, at the end of the 2-year period after the date on which the beneficiary was granted temporary status under paragraph (1), adjust the status of the beneficiary provided lawful temporary resident status under subsection (a) to that of an alien lawfully admitted for permanent residence if—

(1) the Attorney General finds, that the beneficiary has exhibited conduct during such period which demonstrates good moral character (including drug rehabilitation and community ties);

(2) the beneficiary establishes that she has resided continuously in the United States since the date she was granted such temporary status; and

(3) the beneficiary establishes that she—

(A) is admissible to the United States as an immigrant; and

(B) she has not been convicted of any felony or three or more misdemeanors committed in the United States.

(d) TREATMENT OF BRIEF, CASUAL, AND INNOCENT ABSENCES.—During the period the beneficiary is in temporary status under subsection (a), the beneficiary shall not be considered to have failed to maintain continuous physical presence in the United States for purposes of such subsection by virtue of brief, casual, and innocent absences from the United States.

(e) AFFIDAVITS.—The Attorney General may require the beneficiary to submit affidavits for purposes of determinations made under subsection (c).

Mr. **SENSENBRENNER** (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

The **SPEAKER.** Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

AMENDMENT OFFERED BY MR. BONIOR TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. **BONIOR.** Mr. Speaker, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. BONIOR to the committee amendment in the nature of a substitute: In the Committee amendment, amend subsection (a) to read as follows:

(a) TEMPORARY RESIDENCE.—Notwithstanding section 212(a)(23) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(23)) or any other provision of that Act, Hyong Cha Kim Kay may be issued a visa and admitted to the United States for temporary residence if she—

(1) is found to be otherwise admissible under the provisions of that Act; and

(2) a petition for immediate relative status is filed on her behalf with the Attorney General by a United States citizen spouse of the alien within two years after the date of the enactment of this Act.

The **SPEAKER.** The question is on the amendment offered by the gentleman from Michigan [Mr. BONIOR] to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was agreed to.

The SPEAKER. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ROSWITHA STARINS

The Clerk called the Senate bill (S. 1329) for the relief of Roswitha Starins.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the Senate bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

OSCAR H. McCORMACK

The Clerk called the bill (H.R. 1474) for the relief of Oscar H. McCormack.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. SENSENBRENNER. Mr. Speaker, I object.

Mr. GEKAS. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The bill is recommitted to the Committee on the Judiciary.

□ 1230

REFERRING BILL FOR RELIEF OF FREDERICK PAUL TO CHIEF JUDGE OF U.S. CLAIMS COURT

The Clerk called the resolution (H. Res. 200) referring the bill (H.R. 2098) for the relief of Frederick Paul of Seattle, WA, to the chief judge of the U.S. Claims Court.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. SENSENBRENNER. Mr. Speaker, I object.

Mr. GEKAS. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The bill is recommitted to the Committee on the Judiciary.

CALVIN GRAHAM

The Clerk called the bill (H.R. 610) for the relief of Calvin Graham.

There being no objection, the Clerk read the bill as follows:

H.R. 610

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) for purposes of all laws administered by the Veterans' Administration, Calvin L. Graham of Fort Worth, Texas (social security number [redacted]), shall be considered—

(1) to have served on active duty in the United States Navy during the period beginning on September 17, 1942, and ending on April 5, 1943;

(2) to have served on such active duty pursuant to a lawful enlistment; and

(3) to have been discharged from such service under honorable conditions.

(b) For purposes of chapter 11 of title 38, United States Code, relating to compensation for service-connected disability or death, the dental injuries Calvin L. Graham incurred in the Battle of Guadalcanal during the period referred to in subsection (a)(1) shall be considered to be a permanent service-connected disability incurred in the line of duty. Any increase in the amount of compensation payable to Calvin L. Graham under such chapter because of the preceding sentence shall apply only with respect to compensation which accrues in or is payable beginning with the first month beginning after the date of the enactment of this Act.

(c)(1) The Administrator of Veterans' Affairs shall reimburse Calvin L. Graham for the costs Calvin L. Graham incurred in the treatment of the dental injuries referred to in subsection (b) during the period beginning on April 5, 1943, and ending on the date of the enactment of this Act.

(2) Any amount paid under this subsection shall be in full satisfaction of any claim against the United States that Calvin L. Graham may have for dental benefits to which he may have been entitled before the date of the enactment of this Act.

(3) No amount in excess of 10 per centum of the reimbursement made under this subsection shall be paid to or received by any agent or attorney in consideration for services rendered in connection with the claim described in this subsection. Any violation of this paragraph is a misdemeanor and any person convicted thereof shall be fined not more than $1,000.

SEC. 2. (a) The Secretary of the Treasury shall pay, out of any funds in the Treasury not otherwise appropriated, to Calvin L. Graham interest calculated at an annual rate of 6 per centum to be compounded annually for the period beginning on April 5, 1943, and ending on the date of payment of the sum of—

(A) the amount certified by the Secretary of the Navy which represents the amount of basic pay which Calvin L. Graham received as compensation for service as a seaman first class in the Navy during the period beginning on February 1, 1943, and ending on April 5, 1943, and

(B) the amount certified by the Secretary of the Navy which represents the amount under the Mustering-Out Payment Act of 1944 which Calvin L. Graham would have been paid upon separation from service in the Navy on April 5, 1943, if such separation had been under honorable conditions.

(b) Any amount paid under subsection (a) shall be in full satisfaction of any claim against the United States that Calvin L. Graham may have for (1) basic pay for the period referred to in subsection (a)(1)(A), and any mustering-out payment under the Mustering-Out Payment Act of 1944 with respect to his separation from service on April 5, 1943.

(c) No amount in excess of 10 per centum of the payment made under subsection (a) shall be paid to or received by any agent or attorney in consideration for services rendered in connection with a claim described in such subsection. Any violation of this subsection is a misdemeanor and any person convicted thereof shall be fined not more than $1,000.

With the following committee amendment in the nature of a substitute strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. COMPENSATION FOR DENTAL INJURIES.

(a) Future Compensation Under Chapter 11 of Title 38, United States Code.—For purposes of chapter 11 of Title 38, United States Code, relating to compensation for service-connected disability or death, the dental injuries that Calvin L. Graham of Fort Worth, Texas (social security number [redacted]) incurred in the Battle of Guadalcanal during the period beginning on September 17, 1942, and ending on April 5, 1943, shall be considered to be a permanent service-connected disability incurred in the line of duty. Any entitlement of Calvin L. Graham under the preceding sentence shall apply only with respect to any compensation which, under the provisions of chapter 11 of title 38, United States Code, accrues in or is payable for any period beginning with the first month that begins after the date of the enactment of this Act.

(b) Reimbursement for Prior Expenses.—

(1) Payment.—(A) Subject to subparagraph (B), the Administrator of Veterans' Affairs shall reimburse Calvin L. Graham, in an amount not to exceed $18,000, for the costs Calvin L. Graham incurred in the treatment of the dental injuries referred to in subsection (a) during the period beginning on April 5, 1943, and ending on the date of the enactment of this Act.

(b) The Administrator of Veterans' Affairs may reimburse Calvin L. Graham under subparagraph (A) only for those expenditures which the Administrator determines Calvin L. Graham has proven he has made.

(2) Payment in satisfaction of claims.—Any amount paid under this subsection shall be in full satisfaction of any claim against the United States that Calvin L. Graham may have for those benefits for the dental injuries described in subsection (a) to which he may have been entitled before the date of the enactment of this Act.

(3) Limitation on attorneys fees.—No amount in excess of 10 percent of the reimbursement made under this subsection shall be paid to or received by any agent or attorney in consideration for services rendered in connection with the reimbursement. Any person who violates this paragraph shall be fined not more than $1,000.

SEC. 2. PAYMENT FOR BASIC PAY AND MUSTERING-OUT PAY.

(a) Payment.—The Secretary of the Treasury shall pay, out of any funds in the Treasury not otherwise appropriated, to Calvin L. Graham the sum of $4,916.99, which represents—

(1) the amount of basic pay which Calvin L. Graham would have received as compensation for service as a seaman first class in the Navy during the period beginning on February 1, 1943, and ending on April 5, 1943, and

(2) the amount under the Mustering-Out Payment Act of 1944 which Calvin L. Graham would have been paid upon separation from service in the Navy on April 5, 1943, if such separation had been under honorable conditions,

plus interest, calculated at an annual rate of 6 percent, compounded annually, for the period beginning on April 5, 1943, and ending on December 31, 1988.

(b) Payment in Satisfaction of Claims.—The amount paid under subsection (a) shall be in full satisfaction of any claim against the United States that Calvin L. Graham may have for—

(1) basic pay for the period referred to in subsection (a)(1), and

(2) any mustering-out payment under the Mustering-Out Payment Act of 1944 with respect to his separation from service on April 5, 1943.

(c) Limitation on Attorneys' Fees.—No amount in excess of 10 percent of the payment made under subsection (a) shall be paid to or received by any agent or attorney in consideration for services rendered in connection with the payment made under subsection (a). Any person who violates this subsection shall be fined not more than $1,000.

Mr. SENSENBRENNER (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

H.H. BARTER, DOING BUSINESS AS BARTER ENTERPRISES

The Clerk called the bill (H.R. 4755) for the relief of H.H. Barter, doing business as Barter Enterprises.

There being no objection, the Clerk read the bill as follows:

H.R. 4755

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SATISFACTION OF CLAIM AGAISNT UNITED STATES.

The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, the sum of $30,000 to H.H. Barter, doing business as Barter Enterprises, of Harrisburg, Illinois. Such payment shall be in full satisfaction of any claim of H.H. Barter, and of Barter Enterprises, against the United States arising out of damage of a bulldozer, owned by Barter Enterprises, caused by enrollees of the Jobs Corps on or about September 23, 1987.

SEC. 2. LIMITATION OF ATTORNEYS' AND AGENTS' FEES.

It shall be unlawful for an amount of more than 10 percent of the sum appropriated in section 1 to be paid to or received by any attorney or agent for any service rendered in connection with the claim described in that section. Any person who is found guilty of a violation of this section shall be fined not more than $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RAY F. SEUGA

The Clerk called the bill (H.R. 5173) for the relief of Ray F. Seuga.

There being no objection, the Clerk read the bill as follows:

H.R. 5173

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF LIMITATION OF CLAIM AGAINST THE UNITED STATES.

The claim of Ray F. Seuga of Irvine, California, as described in section 2, shall be considerd to have been timely filed for the purposes of section 2733 of title 10, United States Code, if it is filed within six months after the date of enactment of this Act, notwithstanding the time limitation of subsection (b)(1) of section 2733.

SEC. 2. DESCRIPTION OF CLAIM.

The claim referred to in section 1 is the claim of Ray F. Seuga against the United States for personal injuries he sustained as a result of allegedly negligent failure of United States Navy medical personnel to diagnose his meningitis at the Pediatric Naval Clinic in Yokosuka, Japan, from May 31, 1973, to June 4, 1973.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Private Calendar.

APPOINTMENT OF CONFEREES ON H.R. 4352, OMNIBUS McKINNEY HOMELESS ASSISTANCE ACT OF 1988

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4352) to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Rhode Island? The Chair hears none, and appoints the following conferees:

From the Committee on Banking, Finance and Urban Affairs, for consideration of titles I through IV, X and section 1 of the House bill, and titles I (except section 107) and II (except section 262) and sections 1 and 2 of the Senate amendment, and modifications committed to conference: Messrs. St Germain, Gonzalez, and Fauntroy, Ms. Oakar, Messrs. Vento, Garcia, Frank, and Wylie, Mrs. Roukema, Mr. Ridge, and Mr. Bartlett.

From the Committee on Education and Labor, for consideration of title VII of the House bill, and subtitles B through F of title III of the Senate amendment, and modifications committed to conference: Messrs. Hawkins, Williams, Martinez, Jeffords, and Gunderson.

From the Committee on Energy and Commerce, for consideration of title VI of the House bill, and subtitle A of title III of the Senate amendment, and modifications committed to conference: Messrs. Dingell, Waxman, Leland, Lent, and Madigan.

From the Committee on Government Operations, for consideration of title V of the House bill, and section 107 of the Senate amendment, and modifications committed to conference: Mr. Brooks, Mrs. Collins, and Mr. Horton.

From the Committee on Veterans' Affairs, for consideration of title VIII of the House bill, and title IV of the Senate amendment, and modifications committed to conference: Messrs. Montgomery, Penny, and Hammerschmidt.

From the Committee on Ways and Means, for consideration of title IX of the House bill, and sections 262 and 308 of the Senate amendment, and modifications committed to conference: Messrs. Rostenkowski, Downey of New York, and Gradison.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like to announce that due to the great number of bills to be considered under suspension of the rules and the number of recorded votes ordered for today, the Chair will take five 1-minute speech requests per each side and defer others until later in the day.

VOTE TO OVERRIDE THE PRESIDENT'S VETO OF THE TEXTILE BILL TODAY

(Mr. BRENNAN asked and was given permission to address the House for 1 minute.)

Mr. BRENNAN. Mr. Speaker, if we care about the men and women who make clothes and shoes in America.

If we care about America continuing to produce and to make real things like clothes and shoes we have a chance to do something about it today.

There are thousands of men and women in the State of Maine and across this Nation whose jobs may not be fancy but whose jobs give them dignity and provide a living for them and their families.

Men and women who go to work every day and make clothes and shoes for the rest of us.

I care, and we should all care, about saving their jobs. And frankly, we should not be willing to surrender the jobs of these men and women to other countries who make it difficult for America to sell our products in their countries. Trade is a two-way street.

I hope this House today will stand up for fair trade, stand up for thousands of American workers, and vote to override the President's veto of the textile bill.

REQUEST FOR PERMISSION TO AUTHORIZE THE SPEAKER TO SET 2 MINUTES AS LIMIT ON CERTAIN VOTES

Mr. MURTHA. Mr. Speaker, I have a unanimous-consent request.

The SPEAKER. The gentleman will state his request.

Mr. MURTHA. Mr. Speaker, in order to expedite the proceedings of the House, I ask unanimous consent that after 3 p.m. today and after the first 15-minute vote, the Speaker will have the discretion to set 2 minutes instead of 5 minutes for the remaining votes listed for today and the rest of the session.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. WALKER. Reserving the right to object, Mr. Speaker, let me make certain we know this. The first vote on suspension would be a 15-minute vote?

Mr. MURTHA. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. I thank the gentleman for yielding.

Mr. Speaker, the gentleman is correct.

Mr. WALKER. Everything after that would be 2-minute votes?

Mr. MURTHA. That is right.

Mr. WALKER. And we would not begin voting before 3 today?

Mr. MURTHA. That is right.

The SPEAKER. The Chair would understand the request of the gentleman from Pennsylvania to apply only after 3 today. The Chair did not understand the request to state that there would be no votes taken until after 3 today, but that the action of the Chair to declare a 2-minute vote, assuming that a 15-minute vote already had occurred, would not be active until after 3 today.

Mr. WALKER. Mr. Speaker, reserving the right to object, just so I understand: the suspension votes carried over would be included as a part of that request? In other words, we would not do those with 5-minute votes earlier in the day, is that right?

The SPEAKER. There might be 5-minute votes earlier in the day depending upon the schedule of the House. But the Chair would not be privileged under the unanimous-consent request of the gentleman from Pennsylvania [Mr. MURTHA] to shorten any vote to 2 minutes until after 3 today. That is the way the Chair understood the request.

Mr. WALKER. Reserving the right to object further, Mr. Speaker, I thought what our objective here was to expedite the business of the House and as a part of that expediting of the business it was felt that we could give the 2 minutes after 3 today but the anticipation is that we would not begin the process, though, of rolling through the votes before 3, then, under this process, given a number of different schedules around here that we are trying to accommodate.

Now if that is the agreement I have no problem with doing that for today only. But if in fact what we are going to do is go to another process, then I would have some concerns about it.

Mr. MICHEL. Mr. Speaker, reserving the right to object, am I understanding that the gentleman made his unanimous-consent request to apply only for today?

Mr. MURTHA. If the gentleman would yield, and the rest of the session, at the discretion of the Speaker.

No? Well, all right. Just for today then.

Mr. MICHEL. Just for today.

Mr. MURTHA. Fine.

The SPEAKER. The Chair would ask the gentleman from Pennsylvania to withdraw his request.

Mr. MURTHA. Mr. Speaker, I withdraw my request.

The SPEAKER. Does the gentleman have another request?

Mr. MURTHA. No, Mr. Speaker, I do not.

WE MUST PUT AN END TO DUMPING POLLUTANTS IN OUR OCEANS

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks)

Mr. SCHULZE. Mr. Speaker, today I am introducing legislation requiring any entity dumping sludge or industrial waste into the ocean to pay a progressive excise tax on every ton of material dumped, and mandating punitive tax penalties on material dumped illegally.

With the current emphasis on prohibition of ocean dumping, many have overlooked another problem which adds to the pollution of our country's shores. My measure would reach beyond any legislation currently under consideration by imposing a progressive per-ton excise tax on those entities discharging substances into the territorial seas, eventually prohibiting both sludge discharges and discharges of those materials not in compliance with guidelines promulgated under section 403(c) of the Federal Water Pollution Control Act.

Many municipalities and industries have found environmentally sound alternatives to water waste disposal. But some, including the city of New York, have been reluctant to implement these new technologies. The time has come for Congress to act. We must put an end to the tremendous amount of pollutants which are damaging our oceans and washing up on our shores.

THE INTERNATIONAL FUND FOR IRELAND IS MAKING A DIFFERENCE

(Mr. McHUGH asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. McHUGH. Mr. Speaker, last week the House approved the conference report on H.R. 4637, the foreign aid appropriations bill for fiscal year 1989.

While Americans often respond generously when asked to help others in need, they are tough-minded about foreign aid as well. They want to know whether our aid programs really do help the intended beneficiaries, whether foreign aid is really achieving the goals we have set.

In the case of our contributions to the International Fund for Ireland, we have solid evidence that our aid is being put to good use. A recent article in the New York Times is a case in point.

In 1985, as the result of an historic agreement between the Governments of Great Britain and Ireland, the international fund was established to help address one of the major causes of discontent and conflict in Northern Ireland, the lack of employment opportunities. As the Times article makes clear, there are decent, moderate people in that troubled land who are working to turn that situation around, and their efforts at job creation are being supported by the international fund. As one resident put it: "The international fund has been a lifesaver for these initiatives in West Belfast. They never would have got off the ground without it."

The United States has been a major contributor to the international fund and H.R. 4637 includes an additional contribution of $10 million. The Statement of Managers also encourages the administration to provide at least another $10 million in discretionary funds.

For the benefit of those who may not have seen the Times article, I am inserting a copy into the RECORD at this point. I encourage my colleagues to read it and to take satisfaction in the fact that in this case our aid is making a real difference.

[From the New York Times, Sept. 27, 1988]

A PRIEST BRINGS JOBS (AND HOPE) INTO A LIVING HELL

(By Steve Lohr)

BELFAST, NORTHERN IRELAND.—The problems of Northern Ireland are inordinately clustered in West Belfast, a Roman Catholic ghetto of poverty, broken homes and crime, where the Irish Republican Army finds plenty of sympathy for its credo of violent revolution and where a priest named Mathew Wallace is trying to change all that.

Father Wallace is a kind of economic evangelist, committed to the belief that jobs are the essential ingredient if the future of

West Belfast is to be any different from its bleak present.

He is leading an unusual effort to try to breathe some economic life into West Belfast in a campaign that seems courageous and perhaps quixotic, given the area's handicaps, history and politics. The drive combines large doses of voluntarism, self-help, government funds and international support into a handful of ventures under the wing of the West Belfast Enterprise Board, which was set up a few months ago.

INITIAL AIM IS 1,000 JOBS

The board's ambitious aim initially is to create 1,000 jobs over the next year, mainly by nurturing small businesses, many of which will be housed in a sprawling, abandoned factory once occupied by an American medical equipment company that left Northern Ireland a few years ago.

"We reckon that it will take 5 or 10 years to really change things in West Belfast," Father Wallace said. "But we hope to have a major impact in terms of a start to job creation within a year."

The chain-smoking, 45-year-old Irish priest blends a sense of urgency with dogged optimism. Walking along Falls Road past the burned-out hulk of a bus that was recently hijacked by local youths and then set on fire, Father Wallace said young men with jobs would not be burning vehicles. "If they had something to lose, we wouldn't have all the antisocial behavior in West Belfast," he said.

THE SEEDS OF CONFIDENCE

Father Wallace is encouraged by the handful of businesses that have already signed up to move into the former American factory, including a carpet maker, a sock manufacturer and a food-processing operation. Negotiations are under way with nearly a dozen other aspiring entrepreneurs, both local people and outside investors. In Townsend Enterprise Park, another board-supervised project that opened last June, a bakery, a furniture maker, an upholsterer and a computer-service concern are in operation, providing 60 jobs so far.

Father Wallace hopes these fledgling enterprises are only the beginning. "We're trying to get a network of entrepreneurial projects going across West Belfast to show everyone that businesses can thrive here and to give the local people the opportunity to succeed that they so badly need," he said. "We have to start sowing the seeds of confidence soon. Time is not exactly on our side."

The West Belfast Enterprise Board is supported by the church and successful Catholic businessmen have been persuaded to contribute their time and skills. In addition, considerable financial support has come from the British Government and the International Fund for Ireland, which is backed mainly by the United States Government.

The board's origins go back to last fall when Father Wallace, after talking to his superior, Bishop Cahal Daly, and Catholic business leaders, wrote to Tom King, the British Secretary for Nothern Ireland, stating that West Belfast was in desperate need of a major economic program. The initiative, he stressed, would come from the local community, but it would need Government financing.

FUND CALLED A LIFESAVER

"The Government recognized that they can satisfy the situation in West Belfast no longer and they had run out of ideas," said James Kennedy, a management consultant working with the board. "But the Government did respond positively to make resources available to a group close to the community."

The British Government has contributed $2.7 million to two of the largest projects handled by the board, the refurbishment of the former American factory and the Townsend Industrial Park. The International Fund, whose goal is to promote social and economic development, has given more than $1.5 million to three of the board's ventures.

The fund, founded after the British-Irish agreement of November 1985, has been criticized for being slow to dole out money. But the West Belfast board is not among its critics.

"The International Fund has been a lifesaver for these initiatives in West Belfast," said Frank Murphy, the board's chairman, who runs a local computer software company. "They never would have got off the ground without it."

Supporters of the West Belfast Enterprise Board believe it may succeed where other efforts have failed for two reasons. First, the drive is coming from people close to the Catholic nationalist community, whereas most programs in the past have been seen as intervention by the British Government. Second, the board has been put in charge of coordinating jobs training in the area. So in addition to the package of tax breaks and financing offered to all investors in Northern Ireland, the board can tailor training programs to the needs of the businesses it is fostering.

Father Wallace and other board directors view the creation of jobs as an engine of change, giving people a stake in their community and instilling a now-absent sense of hope for the future. The results, they insist, could be side-ranging: less crime, fewer broken homes, fewer school dropouts and reduced suport for the I.R.A.

"Imagine a situation where most of the people of West Belfast had jobs," Father Wallace said. "Then you wouldn't have the sympathy for the I.R.A. that you do here now."

To imagine a time when job-holding might be the norm among West Belfast's 90,000 residents seems an act of fantasy today. In some districts, the unemployment rate is estimated at 60 percent to 80 percent.

A JOB IS A RARITY

Father Wallace's parish, St. Peter's, is in the center of one of the most deprived districts of West Belfast, a public-housing development called Divis Flats. A recent survey of all the adults in his parish found an unemployment rate of 86 percent. "A job is a rarity here," Father Wallace said.

He estimates that half of all marriages in Divis Flats break up within the first five years, even though couples, as Catholics, are not divorced. School dropout rates are high. And those who remain in school, Father Wallace added, are unmotivated because they see their older siblings and parents without jobs and little chance that they will ever find employment either.

"It's a vicious cycle and it has to be broken," he said. "That's what we're trying to do here."

NEW ENGLAND AND NEW HAMPSHIRE SHOULD LOOK AT A VARIETY OF SOURCES OF ENERGY

(Mr. GREGG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREGG. Mr. Speaker, one of the core issues that faces New Hampshire and New England is not only the cost of energy but the availability of a supply of energy.

Recent disclosures from Hydro-Quebec in a communication with the NEPOOL representatives reflect the fact that Hydro-Quebec is not going to be able to supply all the energy needs of New England. There are, however, those within New England and New Hampshire who have suggested that Hydro-Quebec should be our primary source of energy. It is very clear that by putting all of the eggs in one basket that the basket has a hole in it and that we cannot be confident in that basket at all.

Rather, New Hampshire and New England need to look at a variety of sources of energy which includes a balanced approach, including alternative sources such as cogeneration and biomass.

LEAD CONTAMINATION CONTROL ACT OF 1988

(Mr. SIKORSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIKORSKI. Mr. Speaker, the prospect of injury to the mind has always been more frightening to us than injury to the body. And most of us would wish harm on ourselves before visited on our children.

That's why lead poisoning is so terrible.

It harms the body, but it's particularly damaging to the mind. It affects adults, but it hurts little children far more.

We have acted aggressively to control lead in the air and in paint. But we've missed a major source: The water we drink.

Almost 42 million Americans drink leaded water; 4 million children under the age of six—little kids—drink water with levels of lead that the EPA considers dangerous. It hits IQ in these little minds and the CDC says 1.5 million have acute lead poisoning.

It rivals the proliferation of mind numbing drugs in our schools, but there's no pusher to blame: Just water fountains and plumbing. Our kids can't "Just Say No" to this problem: Only we can. We can begin that today under suspension by passing H.R. 4939, the Lead Contamination Control Act.

H.R. 4939 mandates important steps to reduce exposure to lead in drinking water, especially for children. It included:

A recall of water fountains with lead or lead-lined tanks and a ban on new coolers that are not lead free;

Assistance to schools across the country to evaluate and lower lead contamination levels;

A lead screening program for children to be coordinated by the Centers for Disease Control.

Every moment that we delay risks the health of millions of young minds and bodies. For their sake, I urge my colleagues to pass the Lead Contamination Control Act.

SUPPORT A CONSISTENT ANTIDRUG POLICY

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, time is running out if we are to correct a mistake in our original verison of this year's drug bill.

In order to right this wrong if there is a conference with the Senate, we must act quickly to express our opposition to the provision in the House drug bill that would severely damage the State and local fight against narcotics.

Last month, this House voted for a little-noticed provision that would undermine and cripple the coordination of State antidrug efforts.

The House bill would end the ability State Governors have used to create 500 task forces across the Nation that have brought local law-enforcement agencies together in a united front against drug trafficking.

Instead, the House drug bill would replace human decisionmaking with a formula based entirely on city and county criminal justice budgets—and not at all on past successes or future needs.

It is both ironic and unfortunate that our hard work on this drug bill could produce such a mixed signal—with improved Federal coordination and destroyed State coordination.

I urge my colleagues to cosponsor House Resolution 546 so we might correct this error before time runs out.

□ 1245

CERTIFICATE-OF-NEED PROGRAMS HARMFUL IMPACT ON HEALTH CARE INDUSTRY

(Mr. ROWLAND of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROWLAND of Georgia. Mr. Speaker, certificate-of-need laws date back to 1974, when Congress enacted the National Health Planning and Resources Development Act.

The purpose of this new Federal regulatory program was to prevent the construction of surplus hospital space and the unnecessary purchase of expensive hospital facilities and equipment, and in that way to bring down the country's rapidly escalating health care costs. The act imposed a system of Government approval and disapproval on the acquisition of capital assets by hospitals throughout the country.

At first glance, the idea may have looked pretty good. In practice, however, the effect of certificate-of-need on health care costs has been dubious, at best. And the program has certainly been insensitive in many instances to the true needs of our communities.

An example of this insensitivity is unfolding right now in my own Eighth District of Georgia.

The citizens of Putnam County are proud of their 20-year-old community hospital. They built it with local funding, without using any Federal Hill-Burton funds, and they still support it locally. They are proud enough to have recently approved a 1-cent sales tax to renovate the facility. They are not seeking an expansion. The hospital has always had 50 beds, and that's what they propose to maintain.

However, when Putnam County authorities went to the State health planning agency for the required approval under the certificate-of-need program this year, they ran into unexpected trouble. The agency looked over the request for the locally funded hospital improvements and decided to deny it—unless the hospital eliminated 10 beds.

Putnam County protested. Although the hospital is not currently utilizing all of its beds, growth projections in the area indicate that the 50 beds will eventually be needed. In any event, there is no significant savings to be realized by eliminating the 10 beds. It's true Medicare helps pay for interest and depreciation on hospital construction, but a 10-bed cutback would have virtually no impact on health costs. It would, however, reduce the number of nursing students who could be enrolled in the hospitals' LPN program at a time when the country has a critical shortage of nurses. And it would be much more costly when the county has to add back those 10 beds at some point in the future.

Eliminating the beds would, however, enable the State health planning agency to get the number more in line with what it believes the quota should be for that region. In my view, it's a classic case of a bureacracy paying more attention to numbers on a piece of paper than to reality. And the reality is the harmful impact this would have on the community without doing anything significant to cut costs.

Although I believe the people at the State health planning agency are sincere, I also recognize they are tied to a system that is often high-handed and arrogant.

Federal funding for certificate-of-need programs was ended in 1987, and 12 States have now abandoned the program altogether. It's now time to abolish it throughout the Nation. If anyone wants to know why, just ask the people of Putnam County.

NATIONAL FOOTBALL LEAGUE OWNERS WINK AT STEROIDS

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, Ben Johnson had barely been dismissed from Seoul, Korea, as someone who had used steroids when his agent was called by the Dallas Cowboys to find out whether he would be available to play in the National Football League. Is there not something wrong when someone can be dismissed in shame from the International Olympic Games and yet be called by the NFL to find out whether he would be able to perform for them?

Steroids is a problem in our society that we have only begun to address in the current drug bill. Steroids is a problem for our young people all the way up to adults. Steroids is a challenge for us, and yet the National Football League winks at it.

In today's edition of USA Today there is an article by a former player from the NFL who indicates that he was encouraged to use steroids to keep his weight up. Some have suggested that the average weight of linemen in the NFL might be reduced by 30 pounds per man if steroids were truly banned in the NFL.

How can we tell our kids that using steroids is cheating in competition, that steroids can kill you over long periods of time, that steroids are unhealthy, and that steroids can cause phychological changes called "Roid Rages" and yet have our professional football league, the National Football League in America, tell us that steroids is something to be winked at?

There is a contradiction here that ought to be addressed. We are beginning to address it in Congress. God knows when the NFL will begin to confront it. But I know as a parent of young children of the impact and the influence that professional athletics has on our young people. It is time for them to stand up and be honest and deal with the problem in their profession.

THE PEOPLE OF CHILE MUST BE PERMITTED TO VOTE ON THEIR FUTURE

(Mr. WEISS asked and was given permission to address the House for 1 minute.)

Mr. WEISS. Mr. Speaker, this morning I returned from Chile, where I had spent 3 days with our colleague, BRUCE MORRISON, observing the situation as

Chile prepares for tomorrow's historic plebiscite.

It was a most moving experience. The dedication and determination of the Chilean people to participate in this act of deciding their future is very impressive. Starting from scratch over 90 percent of those qualified to vote have registered. Public campaign activity is eager and exuberant.

Recent polls predict a significant victory for the ant-Pinochet forces. But I am very distressed to inform you that reports are sweeping Santiago that the government will react to the predicted outcome by not permitting the plebiscite to proceed to its conclusion.

The State Department and our Embassy take these reports very seriously, and have made clear to the Chilean authorities both in Washington and in Santiago the United States view that the Pinochet government must respect the results of a free and fair vote.

Mr. Speaker, General Pinochet must understand that the Congress, on a bipartisan basis, will join the Reagan administration in rejecting any interference with tomorrow's plebiscite. The Chilean people have a right to vote to determine their future. There cannot be normal relations between our countries if that right is snatched away from them.

ANOTHER "WAR ON DRUGS" RAGES IN THE CONGRESS

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, the war on drugs which we declared here in this Chamber may be running into an unwanted ceasefire in the other body. It appears that there are many opponents in the Senate to the two law enforcement provisions which this House mandated, the death penalty for drug dealers and the exclusionary rule reform which is so absolutely necessary to the law enforcement community.

We ought to be taking a position here in the House that we will oppose an adjournment motion if indeed the Senate has not presented to us in time for a vote during the current session the comprehensive war on drugs bill which is now pending in that Chamber.

Mr. Speaker, this Chamber has worked too long and too hard for a tough war on drugs bill to allow the simple advent of adjournment to handicap us in this extraordinary important piece of legislation.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The 5 Members on each side have been heard on the 1-minute rule. If there are other Members desiring to be recognized on the 1-minute rule, they will be recognized at a later point today.

The Chair recognizes the gentleman from Massachusetts [Mr. MOAKLEY].

AUTHORIZING THE SPEAKER TO ENTERTAIN MOTIONS TO SUSPEND THE RULES ON ANY DAY FOR THE REMAINDER OF THIS CONGRESS

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 563 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 563

Resolved, That it shall be in order at any time during the remainder of the second session of the One Hundredth Congress, for the Speaker to entertain motions to suspend the rules, subject to the requirement of an announcement on the floor of the House by the Speaker or his designee at least one hour before the consideration of any such motion to suspend the rules.

The SPEAKER. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], and pending that, I yield myself such time as I may use.

Mr. Speaker, House Resolution 563 provides that in the last remaining days of this session, the Speaker be permitted to entertain motions to suspend the rules for the consideration of remaining business.

The rule further provides that a motion to suspend the rules must be announced on the House floor at least 1 hour before consideration of the motion by the Speaker or his designee.

Mr. Speaker, this resolution simply gives the Speaker the option to bring to the House legislation that might otherwise not be considered as we near our adjournment target.

I urge my colleagues to support the resolution.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, this resolution gives the House an opportunity to expedite the proceedings so that we can get out sooner than expected. I would have liked to have seen the resolution drawn to read that there would be at least a day's notice, but a notice of 1 hour was given, and this was passed out by voice vote by the Rules Committee.

Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, let me see if I understand the resolution which is before us. This is the resolution which allows the Speaker to suspend the rules for the rest of the session; is that correct?

Mr. MOAKLEY. Mr. Speaker, if the gentleman will yield, the gentleman is correct, but we have to give 1 hour's notice.

Mr. WALKER. Yes; we would give 1 hour's notice to the Members about the bills that are coming up, but essentially what we are going to have is a process whereby on any day for any reason we can suspend the rules and, with 1 hour's notice to the Members, bring up any piece of legislation that a small cabal around here decides should be brought to the floor; is that right?

Mr. MOAKLEY. Mr. Speaker, I would say to the gentleman that actually if we had passed the adjournment resolution, this would be the type of action that would go into effect.

Mr. WALKER. Yes, but, of course, we are not going to work on the adjournment resolution because we are afraid the adjournment resolution might go down because we have not done some important things like clean air, the drug bill, a balanced budget amendment to the Constitution, and technical corrections to the tax bill. There is a whole series of things around here that we have not done, so, of course, politically we do not want to bring the adjournment resolution up here because that might run into a real firestorm. So instead, what we are going to do is simply waive the rules and allow a bunch of this stuff to come to the floor.

I have got to say that one of the problems we have found in Congress after Congress that the press has written about afterwards has been the fact that Congress in its final hours tends to pass a lot of things that cost a lot of money, and no one knows what is in them until 2 weeks after Congress has left town. This is the process by which we tend to do all of those kinds of things. The Members do not have enough time to learn what is in the bills because we only have an hour's notice and we do it under suspension of the rules, so there is very little opportunity for the Members to act intelligently and reflectively on the bills.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I understand the gentleman's point, but I think the problem in those past years was that many of those things were struck in a continuing resolution that was veto-proof and the President was unable to deal with them. There is, after all, the safeguard, if we are talking about bills passed under suspension, that they will come to the President's desk as free-standing bills.

This is not a perfect situation, but I think we ought to note that the President will have, if these are free-standing bills passed under suspension, an unhindered right to veto, with no chance of an override.

Mr. WALKER. Mr. Speaker, I thank the gentleman, except that I would say that what we are doing now is loading up the Suspension Calendar, as the gentleman well knows, because I spent a little bit of time here yesterday and we are now going to have about 36 votes and we have got about 40 more scheduled. So this means the President will have dumped on his desk thousands of pages of bills that were passed up here on the Suspension Calendar, and I would say to the gentleman that that is not a much better situation. On a number of the bills we had up here yesterday, the administration has yet to be able to come up with a position on them because they were brought out so hastily that OMB has not even had a chance to look at them.

Mr. FRANK. Mr. Speaker, will the gentleman yield further?

Mr. WALKER. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, I would not worry about them being dumped on the President's desk. He gets the one-page summaries of seven or eight bills at a time. No one thinks the President reads all these bills, and these are bills that have been in the hopper. He has got a lot of time, and he can err on the side of a veto. We must remember that we are talking about bills that, if they come to him, will come to him when we are out of session, so that he will be able to pocket-veto them or he will be able to veto them. He can resolve doubts against them.

Now that the CR is no longer a factor, there will be nothing coercive about the bills that will come to the President, and he will be free to veto them or not.

Mr. WALKER. Mr. Speaker, the gentleman is, of course, correct in his analysis, except that we hope that somebody is going to read something other than a one-page summary of the bill.

The fact is that the Members of the House are not even reading one-page summaries of these bills; we are acting on them and voting on them without even that much information, and under the rule that has been proposed by the committee, we will have 1 hour's notice on a lot of these bills.

I am simply suggesting that if we want a logical way of legislating, that is not an appropriate way to assure that we have the reflective kind of legislation that does the legislative process proud.

Mr. Speaker, I am quite concerned about this rule. I do not think it is the right way to proceed, and I think that as a result we will end up with bad legislation. Therefore, I urge a no vote on the rule.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to my colleague, the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, the gentleman from Pennsylvania [Mr. WALKER] alerts us to a sense of danger. Maybe for once I have more confidence in the President's powers of concentration than he does, not personally but through his staff.

Obviously more than a one-page summary should be read by most people. I would point out this: If we were dealing with new and controversial legislation, there would be a problem. I agree with the gentleman on that. As chairman of the subcommittee, let me say that every bill I brought out about which I was told there was controversy has been brought out under an open rule. As we get to the end, there are always some problems, and there will always be more problems. There will always be an end, too, and there will always be more things in the pot than we would be able to have brought out.

☐ 1300

We are dealing here—yesterday's votes were overwhelming in every case, and in some there were no "no" votes. I believe the leadership has been true to that, and very little controversial legislation will come out.

Now I want to say, having said that, that I am grateful for this resolution because it is going to give me a chance to bring out a bill that is somewhat controversial, and I wish it was not coming out under suspension. It is the bill dealing with the revolving door applying to Members of Congress the restrictions of lobbying after they have left their jobs, lobbying their ex-colleagues. The bill should have been passed earlier. We got bogged down. We had some problems last week because we could not get a quorum, and I would say that members of neither party were knocking themselves over to make a quorum on that bill.

Mr. Speaker, this was not a partisan thing. Then one of the Members, quite under the rules, said he wanted to take 3 more days to study it. The earliest it will come is Thursday. It should have been out a couple weeks ago; I am sorry for that. But I do not want to see the public interest punished.

I am hoping we can pass it on suspension. We will deal with the Senate on it. That is an example of where I think there is a legitimate reason.

I mention it now because it would not be up until Thursday, and this will give people notice so they can look at it.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Pennsylvania [Mr. WALKER], my friend.

Mr. WALKER. Mr. Speaker, I would say to the gentleman from Massachusetts [Mr. FRANK] that I think it would be far better for his bill, and I happen to be in support of his bill. But his and a number go to the Committee on Rules, and of course what we know is that last week they were even having trouble getting a quorum of the Committee on Rules together to decide some of these kinds of things.

So, as the gentleman knows, they want to get by that process by going to suspension rules. I simply suggest to the gentleman that, as he knows, giving people an hour's notice on his bill is probably not an appropriate way to proceed.

Mr. FRANK. Mr. Speaker, I appreciate it, and that is why I am taking the floor right now, 48 hours before it will come up, to tell people that I hope it is going to be coming up on Thursday.

Mr. WALKER. Mr. Speaker, if the gentleman will yield though, we have a whole sheet of things here that Members were given some notice on. I suspect that there are a number for it and a number for hanging around, maybe as many as 40 more hanging around——

Mr. FRANK. Mr. Speaker, I appreciate that, but, as I said, if the leadership are going to be using this to put controversial bills out, I would be agreeing with the gentleman from Pennsylvania [Mr. WALKER].

It is my sense from having looked at the bills yesterday that they were all noncontroversial. They were the kind of things that in almost every case would have passed without a rollcall if they had come up earlier in the year. They have all gone through the committee process. They have all been sent out of the committee process with, in most cases, unanimous vote of both parties.

Mr. Speaker, I think the gentleman from Pennsylvania [Mr. WALKER] has alerted us to a danger, but I think it is a danger that can be averted if the leadership will keep to its commitment, which I believe they have been doing, to do controversial legislation only in extremis, and that is why the bill I got in my subcommittee might have been considered somewhat controversial. I did want to alert the Members now that will be coming up in 2 days. I thank the gentleman from Massachusetts.

I just want to say in closing, Mr. Speaker, that, as someone who has got a bill that I think is important, this seems to be to me the only way we can get it out. We will have a Presidential veto as a safeguard.

We have, I believe, the leadership bringing out only noncontroversial bills, and I think the rule deserves support.

Mr. **MOAKLEY.** Mr. Speaker, I think one thing has to be reenforced, that all these matters that will come out will all require two-thirds vote, so there is nothing going to be jammed through here without anybody having the right to vote on it.

Mr. **QUILLEN.** Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. **MOAKLEY.** Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The **SPEAKER** pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. **WALKER.** Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER** pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 249, nays 160, not voting 22, as follows:

[Roll No. 388]

YEAS—249

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Buechner
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Clement
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Costello
Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Herger
Hertel
Hochbrueckner
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillan (NC)
McMillen (MD)
Mfume
Mica
Miller (CA)
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murtha
Nagle
Natcher
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Price
Pursell
Quillen
Rahall
Rangel
Ray
Richardson
Rinaldo
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Sikorski
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Weldon
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)

NAYS—160

Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bateman
Bereuter
Bilirakis
Bliley
Boehlert
Broomfield
Brown (CO)
Bunning
Burton
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Goodling
Gradison
Green
Gregg
Gunderson
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Hiler
Holloway
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
Jeffords
Johnson (CT)
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison (WA)
Murphy
Myers
Nielson
Oxley
Packard
Parris
Pashayan
Petri
Porter
Ravenel
Regula
Rhodes
Ridge
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stump
Sundquist
Swindall
Tauke
Taylor
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Wolf
Wortley
Wylie
Young (FL)

NOT VOTING—22

Badham
Bentley
Grandy
Kaptur
Kemp
Kolter
Leath (TX)
Lowry (WA)
Boulter
Donnelly
Mack
MacKay
Mineta
Neal
Pickle
Savage
Ford (MI)
Gephardt
Sisisky
Sweeney
Whittaker
Williams

☐ 1321

The Clerk announced the following pair:

On this vote:

Mr. Mineta for, with Mr. Boulter against.

Messrs. **DONALD E. "BUZ" LUKENS, WORTLEY, CLINGER, SHAYS,** and **GOODLING** changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5410, REGISTRATION OF FOREIGN INTERESTS IN U.S. PROPERTY

Mr. **MOAKLEY,** from the Committee on Rules, submitted a privileged report (Rept. No. 100-1048) on the resolution (H. Res. 568) providing for the consideration of the bill (H.R. 5410) to provide for the registration of foreign interests in U.S. property, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3343, CONSUMER PRODUCT SAFETY IMPROVEMENT ACT OF 1988

Mr. **MOAKLEY** from the Committee on Rules, submitted a privileged report (Rept. No. 100-1049) on the resolution (H. Res. 569) providing for the consideration of the bill (H.R. 3343) to amend the Consumer Product Safety Act and related laws to improve the performance of the Consumer Product Safety Commission, to authorize appropriations for that act, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed yesterday in the order in which that motion was entertained. The Chair may further postpone until tomorrow some of those votes.

PUBLIC SAFETY OFFICERS' DEATH BENEFITS AMENDMENTS OF 1988

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4758, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and pass the bill, H.R. 4758, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 413, nays 2, not voting 16, as follows:

[Roll No. 389]

YEAS—413

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—2

Barton
Crane

NOT VOTING—16

Bentley
Boulter
Donnelly
Ford (MI)
Gephardt
Grandy
Kaptur
Kemp
Lowry (WA)
Luken, Thomas
Mack
MacKay
Pickle
Sweeney
Udall
Whittaker

□ 1342

Mr. STUMP and Mr. KYL changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MURTHA). The Chair will announce that on these votes we are going to adhere to the time limit.

The next vote will be a 5-minute vote.

Pursuant to the provisions of clause 5, rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time in which a vote by electronic device will be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

COMMISSION ON RACIALLY MOTIVATED VIOLENCE ACT OF 1988

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3914, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and pass the bill, H.R. 3914, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 408, nays 6, not voting 17, as follows:

[Roll No. 390]

YEAS—408

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crockett
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez

Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez

Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo

Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Upton
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—6

Crane
Dannemeyer

DeLay
Hansen

Shumway
Stump

NOT VOTING—17

Bentley
Boulter
Donnelly
Ford (MI)
Grandy
Hunter

Kaptur
Kemp
Lewis (CA)
Lowry (WA)
Mack
MacKay

Pickle
Sweeney
Udall
Valentine
Whittaker

□ 1351

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MARIEL CUBAN DETENTION REVIEW ACT OF 1988

The SPEAKER pro tempore (Mr. MURTHA). The unfinished business is the question of suspending the rules and passing the bill, H.R. 5164.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. MAZZOLI] that the House suspend the rules and pass the bill, H.R. 5164, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 144, nays 271, answered "present" 1 not voting 15, as follows:

[Roll No. 391]

YEAS—144

Ackerman
Akaka
Alexander
Anderson
Annunzio
Aspin
Atkins
Bates
Beilenson
Berman
Bilbray
Boggs
Boland
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brown (CA)
Bruce
Bryant
Cardin
Carper
Clay
Clement
Coelho
Coleman (TX)
Collins
Conyers
Costello
Crockett
de la Garza
Dellums
Dixon
Downey
Dymally
Early
Edwards (CA)
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Foley

Ford (TN)
Frank
Garcia
Gejdenson
Gephardt
Gilman
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Hall (OH)
Hamilton
Hawkins
Hayes (IL)
Hoyer
Hughes
Jeffords
Jones (NC)
Jones (TN)
Jontz
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
LaFalce
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lungren
Manton
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McHugh
Mfume
Mica
Miller (CA)
Mineta
Moakley

Moody
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Natcher
Nelson
Nowak
Oberstar
Obey
Owens (NY)
Owens (UT)
Panetta
Pease
Pelosi
Pepper
Perkins
Rangel
Richardson
Rodino
Rostenkowski
Sabo
Saiki
Sawyer
Schroeder
Schumer
Sikorski
Smith (FL)
Solarz
St Germain
Staggers
Stark
Stokes
Studds
Swindall
Synar
Torres
Towns
Traficant
Vento
Visclosky
Waxman
Weiss
Wheat
Williams
Wise
Wolpe
Yates

NAYS—271

Andrews
Anthony
Applegate
Archer
Armey
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bereuter
Bevill
Bilirakis
Bliley
Boehlert
Bonker
Brooks
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
DeFazio
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dorgan (ND)
Dornan (CA)
Dowdy
Dreier
Durbin
Dwyer
Dyson
Eckart
Edwards (OK)
Emerson
English
Erdreich
Fawell
Fields
Flippo
Florio
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gekas
Gibbons
Gingrich
Glickman
Goodling
Gordon
Gradison
Gregg
Gunderson
Hall (TX)

Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Kanjorski
Kasich
Kolbe
Kolter
Konnyu
Kyl
Lagomarsino
Lancaster
Latta
Leach (IA)
Leath (TX)
Lent
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Madigan
Marlenee
Martin (IL)
Martin (NY)
Martinez
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murphy
Myers
Nagle
Neal
Nichols
Nielson
Oakar
Olin
Ortiz
Oxley
Packard
Parris
Pashayan
Patterson
Payne
Penny
Petri
Pickett
Porter

Price
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rose
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Savage
Saxton
Schaefer
Scheuer
Schneider
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
Stallings
Stangeland
Stenholm
Stratton
Stump
Sundquist
Swift
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torricelli
Traxler
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Weldon
Whitten
Wilson
Wolf
Wortley
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—15

Bentley
Boulter
Donnelly
Ford (MI)
Grandy
Kaptur
Kemp
Lewis (CA)
Lowry (WA)
Mack
MacKay
Pickle
Sweeney
Udall
Whittaker

☐ 1359

Mrs. JOHNSON of Connecticut and Messrs. SPRATT, HERTEL, NEAL, McCANDLESS, JOHNSON of South Dakota, SCHEUER, WILSON, MILLER of Washington, SAVAGE, ROE, BONKER, and SPENCE changed their vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof), the motion was rejected.

The result of the vote was announced as above recorded.

MUNICIPAL BANKRUPTCY LAW AMENDMENTS OF 1988

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5347, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. EDWARDS] that the House suspend the rules and pass the bill, H.R. 5347, as amended, on which the yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 413, nays 1, answered "present" 1, not voting 16, as follows:

[Roll No. 392]

YEAS—413

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gilman
Gingrich
Glickman
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—1

Gibbons

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—16

Bentley
Boulter
Coelho
Donnelly
Ford (MI)
Grandy
Jacobs
Kaptur
Kemp
Lewis (CA)
Lowry (WA)
Mack
MacKay
Mrazek
Pickle
Sweeney

☐ 1405

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REDUCING TIME FOR VOTES ON SUSPENSIONS TO 2 MINUTES

Mr. MICHEL. Mr. Speaker, I ask unanimous consent that after the vote on the next suspension, the Speaker be authorized to reduce the time for the balance of the votes for today to 2 minutes.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The Chair will state that the next vote will be 5 minutes, and all votes following that will be 2 minutes. There will be two bells, and the vote will take 2 minutes.

AMENDING THE BANKRUPTCY LAWS WITH RESPECT TO THE REJECTION OF INTELLECTUAL PROPERTY LICENSES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5348.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. EDWARDS] that the House suspend the rules and pass the bill, H.R. 5348, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 415, nays 1, not voting 15, as follows:

[Roll No. 393]

YEAS—415

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert

Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—1

Gibbons

NOT VOTING—15

Bentley
Boulter
Donnelly
Ford (MI)
Grandy
Kaptur
Kemp
Lent
Lewis (CA)
Lowry (WA)
Mack
MacKay
Pickle
Rowland (CT)
Sweeney

□ 1412

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will announce that the next vote will be a 2-minute vote.

BICENTENNIAL OF THE UNITED STATES CONGRESS COMMEMORATIVE COIN ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5280, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ANNUNZIO] that the House suspend the rules and pass the bill, H.R. 5280, as amended, on which the yeas and nays are ordered.

This will be a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 411, nays 8, not voting 12, as follows

[Roll No. 394]

YEAS—411

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Ireland
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray

Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—8

Boehlert
Dickinson
Gibbons
Hunter
Jacobs
Olin
Payne
Volkmer

NOT VOTING—12

Boulter
Donnelly
Grandy
Kaptur
Kemp
Lewis (CA)
Lowry (WA)
Mack
MacKay
Pickle
Sweeney
Taylor

☐ 1417

Mr. HENRY, Mrs. MEYERS of Kansas, and Messrs. ROBERTS, BROWN of Colorado, BURTON of Indiana, LIGHTFOOT, COMBEST, and STENHOLM changed their votes from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING USE OF ROTUNDA OF CAPITOL IN HONOR OF JOHN F. KENNEDY

The SPEAKER pro tempore (Mr. MURTHA). The unfinished business is the question of suspending the rules and concurring in the Senate concurrent resolution (S. Con. Res. 137).

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Ohio [Ms. OAKAR] that the House suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 137) on which the yeas and nays are ordered.

This will be a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 420, nays 0, not voting 11, as follows:

[Roll No. 395]

YEAS—420

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—11

Boulter
Donnelly
Grandy
Kaptur
Kemp
Lewis (CA)
Lowry (WA)
Mack
MacKay
Pickle
Sweeney

☐ 1420

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FAIR EMPLOYMENT PRACTICES RESOLUTION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution (H. Res. 558).

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. PANETTA] that the House suspend the rules and agree to the resolution (H. Res. 558) on which the yeas and nays are ordered.

The Chair reminds Members this will be a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 408, nays 12, not voting 11, as follows:

[Roll No. 396]

YEAS—408

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dicks
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—12

Badham
DeLay
Dickinson
Dingell
Gaydos
Hammerschmidt
Hopkins
Kanjorski
Marlenee
Mollohan
Pashayan
Stump

NOT VOTING—11

Boulter
Donnelly
Grandy
Kaptur
Kemp
Lewis (CA)
Lowry (WA)
Mack
MacKay
Pickle
Sweeney

□ 1426

Messrs. BADHAM, HAMMERSCHMIDT, and MARLENEE changed their votes from "yea" to "nay."

Mr. MICA and Mr. HUTTO changed their votes from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

WHISTLEBLOWER PROTECTION ACT OF 1988

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, S. 508, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Colorado [Mrs. SCHROEDER] that the House suspend the rules and pass the Senate bill, S. 508, as amended, on which the yeas and nays are ordered.

This will be a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 418, nays 0, not voting 13, as follows:

[Roll No. 397]

YEAS—418

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez

Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—13

Bonker
Boulter
Donnelly
Fish
Grandy
Kaptur
Kemp
Lewis (CA)
Lowry (WA)
Mack
MacKay
Pickle
Sweeney

□ 1429

Mr. STRATTON changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AGRICULTURAL QUARANTINE ENFORCEMENT ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5199, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. McCLOSKEY] that the House suspend the rules and pass the bill, H.R. 5199, as amended, on which the yeas and nays are ordered.

This will be a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 415, nays 2, answered "present" 1, not voting 13, as follows:

[Roll No. 398]

YEAS—415

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gilman
Glickman
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jaccbs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—2

Gibbons
Konnyu

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—13

Boulter
Donnelly
Gingrich
Grandy
Kaptur
Kemp
Lewis (CA)
Lowry (WA)
Mack
MacKay
Nowak
Pickle
Sweeney

□ 1433

Mr. BUSTAMANTE and Mr. DICKS changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONGRESSIONAL DELEGATION IN CEREMONIES FOR THE 200TH ANNIVERSARY OF THE U.S. CONSTITUTION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution (H. Con. Res. 115).

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. McCloskey] that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 115) on which the yeas and nays are ordered.

This will be a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 421, nays 0, not voting 10, as follows:

[Roll No. 399]

YEAS—421

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—10

Boulter
Donnelly
Grandy
Kaptur
Lewis (CA)
Lowry (WA)
Mack
MacKay
Pickle
Sweeney

□ 1436

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

OFFICE OF GOVERNMENT ETHICS REAUTHORIZATION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4712, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. Sikorski] that the House suspend the rules and pass the bill, H.R. 4712, as amended, on which the yeas and nays are ordered.

This will be a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 417, nays 3, not voting 11, as follows:

[Roll No. 400]

YEAS—417

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter

Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—3

Gonzalez
Hammerschmidt
McDade

NOT VOTING—11

Boulter
DeLay
Donnelly
Grandy
Kaptur
Lewis (CA)
Lowry (WA)
Mack
MacKay
Pickle
Sweeney

□ 1442

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ESTABLISHING SPECIAL FEES FOR OCEAN DUMPING OF SEWAGE SLUDGE AND INDUSTRIAL WASTE

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5430.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 5430, on which the yeas and nays are ordered.

This will be a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 417, nays 0, not voting 14, as follows:

[Roll No. 401]

YEAS—417

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—14

Boulter
Donnelly
Gingrich
Grandy
Kaptur
Lewis (CA)
Lowry (WA)
Luken, Thomas
Mack
MacKay
Marlenee
McCandless
Pickle
Sweeney

□ 1444

So (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972, AUTHORIZATION FOR FISCAL YEARS 1989 AND 1990

The SPEAKER pro tempore (Mr. MURTHA). The unfinished business is the question of suspending the rules and passing the bill, H.R. 4210, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 4210, as amended, on which the yeas and nays are ordered.

This is a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 415, nays 2, not voting 14, as follows:

[Roll No. 402]

YEAS—415

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—2

Shumway
Stump

NOT VOTING—14

Boulter
Donnelly
Ford (TN)
Grandy
Kaptur
Lewis (CA)
Lowery (CA)
Lowry (WA)
Mack
MacKay
Pickle
St Germain
Sweeney
Waxman

□ 1448

Mr. PORTER changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof), the rules were suspended and the bill as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to authorize appropriations to carry out titles II and III of the Marine Protection, Research, and Sanctuaries Act of 1972, to establish the National Oceans Policy Commission, and for other purposes."

A motion to reconsider was laid on the table.

NATIONAL OCEAN POLLUTION PLANNING ACT OF 1978 AUTHORIZATION, FISCAL YEARS 1989 AND 1990

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4211, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 4211, as amended, on which the yeas and nays are ordered.

This is a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 398, nays 21, not voting 12, as follows:

[Roll No. 403]

YEAS—398

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Buechner
Bunning
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crockett
Dannemeyer
Darden
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields

Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Luken, Thomas
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—21

Archer
Armey
Bliley
Brown (CO)
Burton
Cheney
Crane
Daub
DeLay
Gekas
Hammerschmidt
Holloway
Lujan
Lukens, Donald
Lungren
Miller (OH)
Nielson
Shumway
Skeen
Stump
Vucanovich

NOT VOTING—12

Boulter
Donnelly
Grandy
Kaptur
Lewis (CA)
Lowry (WA)
Mack
MacKay
Marlenee
McCurdy
Pickle
Sweeney

□ 1452

Messrs. LUJAN, DONALD E. "BUZ" LUKENS, and DELAY changed their vote from "yea" to "nay."

Mr. ROWLAND of Connecticut changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FISHERY AGREEMENT BETWEEN THE UNITED STATES AND THE SOVIET UNION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and disagreeing to the Senate amendment to the bill, H.R. 4919.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and disagree to the Senate amendment to the bill, H.R. 4919, on which the yeas and nays are ordered.

This is a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 412, nays 5, not voting 14, as follows:

[Roll No. 404]

YEAS—412

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant

Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—5

Bentley
Miller (OH)
Smith, Robert (NH)
Stump
Walker

NOT VOTING—14

Barton
Boulter
Donnelly
Grandy
Kaptur
Kasich
Lewis (CA)
Lowry (WA)
Luken, Thomas
Mack
MacKay
Pickle
Ritter
Sweeney

□ 1455

Mr. **QUILLEN** changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended, and the House disagreed to the Senate amendment to the bill, H.R. 4919.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONGRESSIONAL AWARD ACT AMENDMENTS OF 1988

The **SPEAKER** pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5315, as amended.

The Clerk read the title of the bill.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from New York [Mr. OWENS] that the House suspend the rules and pass the bill H.R. 5315, as amended, on which the yeas and nays are ordered.

This is a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 417, nays 1, not voting 13, as follows:

[Roll No. 405]

YEAS—417

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—1

Williams

NOT VOTING—13

Barton
Boulter
Donnelly
Grandy
Kaptur
Lewis (CA)
Lowry (WA)
Mack
MacKay
Pickle
Stallings
Sweeney
Waxman

□ 1459

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1500

EGG RESEARCH AND CONSUMER INFORMATION ACT AMENDMENTS OF 1988

The **SPEAKER** pro tempore (Mr. MURTHA). The unfinished business is the question of suspending the rules and passing the bill, H.R. 5318, as amended.

The Clerk read the title of the bill.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 5318, as amended, on which the yeas and nays are ordered.

The Chairman will remind Members this is a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 416, nays 2, not voting 13, as follows:

[Roll No. 406]

YEAS—416

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin

Courter
Coyne
Craig
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins

Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha

Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon

Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin

Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman

Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—2

Crane
Upton

NOT VOTING—13

Barton
Boulter
Donnelly
Grandy
Kaptur

Lewis (CA)
Lowry (WA)
Mack
MacKay
McEwen

Miller (CA)
Pickle
Sweeney

□ 1503

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MISSISSIPPI REVERSIONARY INTEREST RELEASE BILL

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4724, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 4724, as amended, on which the yeas and nays are ordered.

The Chair will remind Members this is a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 418, nays 1, not voting 12, as follows:

[Roll No. 407]

YEAS—418

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman

Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron

Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin

Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway

Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy

Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz

Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—1

Konnyu

NOT VOTING—12

Barton
Boulter
Donnelly
Grandy
Kaptur
Lewis (CA)
Lowry (WA)
Mack
MacKay
McEwen
Pickle
Sweeney

□ 1507

Mr. ROSTENKOWSKI changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONCURRING IN SENATE AMENDMENT TO H.R. 4345, GRAINS STANDARDS ACT AMENDMENTS OF 1988, WITH AN AMENDMENT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution (H. Res. 564).

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and agree to the resolution (H. Res. 564) on which the yeas and nays are ordered.

The Chair will remind Members this is a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 417, nays 0, as follows:

[Roll No. 408]

YEAS—417

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—0

NOT VOTING—14

Barton
Boulter
Donnelly
Goodling
Grandy
Kaptur
Lewis (CA)
Lowry (WA)
Mack
MacKay
McEwen
Pickle
Sweeney
Waxman

□ 1510

Mr. LEWIS of Georgia changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ADMIRALTY ISLAND NATIONAL MONUMENT LAND MANAGEMENT ACT OF 1987

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and concurring in the Senate amendment to the bill, H.R. 2596.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 2596, on which the yeas and nays are ordered.

The Chair will remind Members this is a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 414, nays 0, not voting 17, as follows:

[Roll No. 409]

YEAS—414

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan

Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—0

NOT VOTING—17

Barton
Boulter
Donnelly
Grandy
Jacobs
Kaptur
Lewis (CA)
Lowry (WA)
Mack
MacKay
McEwen
Miller (CA)
Pickle
Scheuer
Slattery
Sweeney
Swindall

☐ 1513

Mr. YOUNG of Alaska changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HOOPA-YUROK SETTLEMENT ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 2723.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and pass the Senate bill, S. 2723, on which the yeas and nays are ordered.

The Chair will remind Members this is a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 360, nays 57, answered "present" 2, not voting 12, as follows:

[Roll No. 410]

YEAS—360

Ackerman
Akaka
Alexander
Anderson
Annunzio
Anthony
Applegate
Armey
Aspin
Atkins
AuCoin
Baker
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Buechner
Burton
Bustamante
Byron
Callahan
Cardin
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Costello
Coughlin
Courter
Coyne
Craig
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hamilton
Hansen
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Konnyu
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Luken, Thomas
Lukens, Donald
Lungren
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDade
McGrath
McHugh
McMillen (MD)
Mfume
Mica
Michel
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Roberts
Robinson
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schuette
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Snowe

Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stokes
Stratton
Studds
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)

NAYS—57

Andrews
Archer
Badham
Ballenger
Bilirakis
Broomfield
Brown (CO)
Bunning
Carper
Coble
Combest
Cooper
Crane
DeLay
Emerson
English
Fields
Glickman
Hall (TX)
Hammerschmidt
Hastert
Hefley
Henry
Herger
Hunter
Ireland
Jeffords
Kasich
Kolbe
Kyl
Lujan
Madigan
Marlenee
McCurdy
McMillan (NC)
Meyers
Miller (OH)
Nielson
Pashayan
Petri
Ritter
Schaefer
Schroeder
Schulze
Shumway
Skaggs
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stenholm
Stump
Taylor
Thomas (CA)
Upton
Walker
Young (FL)

ANSWERED "PRESENT"—2

Campbell
Rodino

NOT VOTING—12

Barton
Boulter
Donnelly
Grandy
Kaptur
Lewis (CA)
Lowry (WA)
Mack
MacKay
McEwen
Pickle
Sweeney

□ 1518

Messrs. **JEFFORDS**, **SCHAEFER**, **HALL** of Texas, **ARCHER**, **COBLE**, and **STENHOLM** changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

NUCLEAR WASTE POLICY ACT AMENDMENTS

The **SPEAKER** pro tempore (Mr. Murtha). The unfinished business is the question of suspending the rules and passing the Senate bill, S. 2800.

The Clerk read the title of the Senate bill.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. Udall] that the House suspend the rules and pass the Senate bill, S. 2800, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 419, nays 0, not voting 12, as follows:

[Roll No. 411]

YEAS—419

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—0

NOT VOTING—12

Barton
Boulter
Donnelly
Grandy
Kaptur
Lewis (CA)
Lowry (WA)
Mack
MacKay
McEwen
Pickle
Sweeney

□ 1521

Mr. **CRANE** changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

NAVAJO AND HOPI INDIAN RELOCATION AMENDMENTS OF 1988

The **SPEAKER** pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 1236, as amended.

The Clerk read the title of the Senate bill.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. Udall] that the House suspend the rules and pass the Senate bill, S. 1236, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 298, nays

120, answered "present" 1, not voting 12, as follows:

[Roll No. 412]

YEAS—298

Ackerman
Akaka
Alexander
Anderson
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Bateman
Bates
Beilenson
Bereuter
Berman
Bevill
Bilbray
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Buechner
Bustamante
Cardin
Carper
Carr
Chandler
Clarke
Clay
Clement
Clinger
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Costello
Courter
Coyne
Crockett
Dannemeyer
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Grant
Gray (IL)
Gray (PA)
Green
Gunderson
Hall (OH)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Hertel
Hochbrueckner
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Manton
Markey
Martin (IL)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCurdy
McDade
McHugh
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Owens (UT)
Packard
Panetta
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Rhodes
Richardson
Rinaldo
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Sharp
Shaw
Sikorski
Skaggs
Skeen
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stokes
Stratton
Studds
Swift
Synar
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Walgren
Watkins
Waxman
Weber
Weiss
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)

NAYS—120

Andrews
Archer
Armey
Badham
Baker
Ballenger
Bartlett
Bennett
Bentley
Bilirakis
Bliley
Broomfield
Brown (CO)
Bunning
Burton
Byron
Callahan
Chapman
Chappell
Cheney
Coats
Coble
Coleman (MO)
Combest
Coughlin
Craig
Crane
Daub
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Dreier
Emerson
Fawell
Fields
Frenzel
Gekas
Gingrich
Gradison
Gregg
Guarini
Hall (TX)
Hammerschmidt
Hansen
Hastert
Henry
Herger
Hiler
Holloway
Hopkins
Inhofe
Ireland
Kasich
Konnyu
Leath (TX)
Lent
Lewis (FL)
Lightfoot
Lloyd
Lott
Lungren
Madigan
Marlenee
Martin (NY)
McCollum
McCrery
McGrath
McMillan (NC)
Michel
Miller (OH)
Molinari
Moorhead
Nagle
Nielson
Olin
Oxley
Parris
Payne
Petri
Ray
Regula
Ridge
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Schuette
Sensenbrenner
Shays
Shumway
Shuster
Sisisky
Skelton
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stenholm
Stump
Sundquist
Swindall
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Volkmer
Vucanovich
Walker
Weldon
Wortley
Young (FL)

ANSWERED "PRESENT"—1

Campbell

NOT VOTING—12

Barton
Boulter
Donnelly
Grandy
Kaptur
Lewis (CA)
Lowry (WA)
Mack
MacKay
McEwen
Pickle
Sweeney

□ 1526

Messrs. SHAYS, OXLEY, OLIN, KASICH, and DAVIS of Illinois changed their vote from "yea" to "nay."

Mr. DELLUMS changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RELATING TO RECOGNITION OF THE CONTRIBUTIONS OF THE IROQUOIS CONFEDERACY OF NATIONS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution (H. Con. Res. 331), as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 331), as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 408, nays 8, not voting 15, as follows:

[Roll No. 413]

YEAS—408

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)

Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Studds
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—8

DeLay
Goodling
Guarini
Leath (TX)
Shumway
Stratton
Stump
Vucanovich

NOT VOTING—15

Barton
Boulter
Davis (MI)
Donnelly
Foley
Grandy
Kaptur
Lewis (CA)
Lowry (WA)
Mack
MacKay
McEwen
Neal
Pickle
Sweeney

☐ 1529

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DECLARING THAT CERTAIN LANDS BE HELD IN TRUST FOR THE QUINAULT INDIAN NATION

The SPEAKER pro tempore (Mr. MURTHA). The unfinished business is the question of suspending the rules and passing the bill, H.R. 5203, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and pass the bill, H.R. 5203, as amended, on which the yeas and nays are ordered.

The Members are reminded that this is a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 223, nays 195, not voting 13, as follows:

[Roll No. 414]

YEAS—223

Ackerman
Akaka
Alexander
Anderson
Annunzio
Applegate
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Campbell
Cardin
Carr
Chandler
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Costello
Courter
Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Dorgan (ND)
Downey
Durbin
Early
Eckart
Edwards (CA)
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grant
Gray (PA)
Hall (OH)
Hall (TX)
Hamilton
Hawkins
Hayes (IL)
Hertel
Hochbrueckner
Hoyer
Huckaby
Hunter
Hutto
Jacobs
Jeffords
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Luken, Thomas
Lukens, Donald
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Nagle
Natcher
Nelson
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Richardson
Robinson
Rodino
Rose
Rostenkowski
Roth
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Schneider
Schroeder
Schumer
Sharp
Sikorski
Skaggs
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Vento
Visclosky
Walgren
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Young (AK)

NAYS—195

Andrews
Anthony
Archer
Armey
Badham
Baker
Ballenger
Bartlett
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Carper
Chapman
Chappell
Cheney
Clement
Clinger
Coats
Coble
Coleman (MO)
Combest
Coughlin
Craig
Crane
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dowdy
Dreier
Dwyer
Dymally
Dyson
Edwards (OK)
Emerson
English
Fawell
Fields
Fish
Florio
Frenzel
Gallegly
Gallo
Gaydos
Gekas
Gingrich
Goodling
Gradison
Green
Gregg
Guarini
Gunderson
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hubbard
Hughes
Hyde
Inhofe
Ireland
Jenkins
Johnson (CT)
Kasich
Kemp
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Leath (TX)
Lent
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Lungren
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCollum
McCrery
McCurdy
McDade
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Montgomery
Moorhead
Murphy
Myers
Neal
Nichols
Nielson
Olin
Oxley
Packard
Parris
Pashayan
Payne
Petri
Ravenel
Ray
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Roe
Rogers
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Scheuer
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Sisisky
Skeen
Skelton
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stenholm
Stratton
Stump
Sundquist
Swindall
Tallon
Tauke
Taylor
Thomas (CA)
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Yatron
Young (FL)

NOT VOTING—13

Barton
Boulter
Donnelly
Grandy
Gray (IL)
Kaptur
Lewis (CA)
Lowry (WA)
Mack
MacKay
McEwen
Pickle
Sweeney

☐ 1534

Messrs. SCHEUER, SHAYS, SAXTON, PACKARD, SKELTON, OLIN, DYMALLY, DORNAN of California, and MARLENEE changed their votes from "yea" to "nay."

Mr. DE LA GARZA changed his vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY WATER RIGHTS SETTLEMENT ACT OF 1988

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and concurring in the Senate amendment to the bill, H.R. 4102.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4102, on which the yeas and nays are ordered.

The Members are reminded that this is a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 411, nays 8, not voting 12, as follows:

[Roll No. 415]

YEAS—411

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—8

Archer
Davis (IL)
Gekas
Hammerschmidt
Henry
Madigan
Stratton
Whitten

NOT VOTING—12

Barton
Boulter
Donnelly
Grandy
Kaptur
Lewis (CA)
Lowry (WA)
Mack
MacKay
McEwen
Pickle
Sweeney

□ 1538

Mr. ROWLAND of Connecticut changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DISAGREEING WITH SENATE AMENDMENT AND AGREEING TO CONFERENCE ON H.R. 5621, INDIAN HEALTH CARE AMENDMENTS OF 1988

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution (H. Res. 565).

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and agree to the resolution (H. Res. 565) on which the yeas and nays are ordered.

The Members are reminded that this is a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 397, nays 20, not voting 14, as follows:

[Roll No. 416]

YEAS—397

Ackerman
Akaka
Alexander
Anderson
Andrews
Anthony
Applegate
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Buechner
Bunning
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Darden
Daub
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)

Green
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Herger
Hertel
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—20

Archer
Brown (CO)
Burton
Coats
Dannemeyer
Davis (IL)
Dornan (CA)
Gekas
Gregg
Guarini
Hefley
Hiler
Jeffords
Konnyu
Nielson
Shumway
Skelton
Smith, Denny (OR)
Smith, Robert (NH)
Walker

NOT VOTING—14

Annunzio
Barton
Berman
Boulter
Donnelly
Grandy
Kaptur
Lewis (CA)
Lowry (WA)
Mack
MacKay
McEwen
Pickle
Sweeney

□ 1541

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AGREEING TO SENATE AMENDMENT TO H.R. 900, WEST VIRGINIA NATIONAL INTEREST RIVER CONSERVATION ACT OF 1987, WITH AN AMENDMENT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution (H. Res. 566).

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and agree to the resolution (H. Res. 566) on which the yeas and nays were ordered.

The Members are reminded that this is a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 411, nays 7, not voting 13, as follows:

[Roll No. 417]

YEAS—411

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Studds
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (FL)

NAYS—7

Dannemeyer
Gekas
Herger
Shumway
Smith, Denny (OR)
Stump
Young (AK)

NOT VOTING—13

Barton
Boulter
Donnelly
Grandy
Kaptur
Lewis (CA)
Lowry (WA)
Mack
MacKay
Pashayan
Pickle
Stratton
Sweeney

□ 1545

Mr. APPLEGATE changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING EXCHANGE OF CERTAIN NATIONAL FOREST SYSTEM LANDS IN TARGHEE NATIONAL FOREST

The SPEAKER pro tempore (Mr. Murtha). The unfinished business is the question of suspending the rules and concurring in the Senate amendment to the bill, H.R. 4028.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4028, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 417, nays 0, not voting 14, as follows:

[Roll No. 418]

YEAS—417

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—0

NOT VOTING—14

Barton
Boulter
Coelho
Coyne
Donnelly
Grandy
Kaptur
Lewis (CA)
Lowry (WA)
Mack
MacKay
Pickle
Sweeney
Udall

□ 1549

Mr. RUSSO changed his vote from "nay" to "yea."

Mr. AuCOIN changed his vote from "present" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

WINDING STAIR MOUNTAIN NATIONAL RECREATION AND WILDERNESS AREA ACT

THE SPEAKER pro tempore. The unfinished business is on the question of suspending the rules and concurring in the Senate amendment to the bill H.R. 4354.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the House suspend the rules and concur in the Senate amendment to the bill H.R. 4354, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 409, nays 9, not voting 13, as follows:

[Roll No. 419]

YEAS—409

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey

Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—9

Dannemeyer
Hammerschmidt
Madigan
Marlenee
Nielson
Shumway
Smith, Denny (OR)
Stump
Taylor

NOT VOTING—13

Barton
Boulter
Donnelly
Foglietta
Grandy
Kaptur
Lewis (CA)
Lowry (WA)
Mack
MacKay
Pickle
Sweeney
Udall

□ 1553

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment to H.R. 4354 was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COASTAL HERITAGE TRAIL IN THE STATE OF NEW JERSEY

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and concurring in the Senate amendment to the House amendment to the Senate bill, S. 2057.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the House suspend the rules and concur in the Senate amendment to the House amendment to the Senate bill, S. 2057, on which the yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 417, nays 0, not voting 14, as follows:

[Roll No. 420]

YEAS—417

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift

Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—0

NOT VOTING—14

Barton
Boulter
Donnelly
Gingrich
Grandy
Kaptur
Kleczka
Lewis (CA)
Lowry (WA)
Mack
MacKay
Pickle
Sweeney
Udall

□ 1558

Mr. WATKINS changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment to the House amendment to the Senate bill was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

OMNIBUS INSULAR AREAS ACT OF 1988

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 1047, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from the Virgin Islands [Mr. de Lugo] that the House suspend the rules and pass the Senate bill, S. 1047, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were— yeas 416, nays 2, not voting 13, as follows:

[Roll No. 421]

YEAS—416

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—2

Bunning
Konnyu

NOT VOTING—13

Badham
Barton
Boulter
Coelho
Donnelly
Grandy
Kaptur
Lewis (CA)
Lowry (WA)
Mack
MacKay
Pickle
Sweeney

□ 1601

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the Senate bill was amended so as to read: "A bill to provide for certain programs and services of the United States in the insular areas, and for other purposes."

A motion to reconsider was laid on the table.

ADDITIONAL AUTHORIZATIONS FOR WEB RURAL WATER DEVELOPMENT PROJECT IN SOUTH DAKOTA

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and concurring in the Senate amendment to the bill, H.R. 4267.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Miller] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4267, on which the yeas and nays are ordered.

This will be a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 393, nays 25, not voting 13, as follows:

[Roll No. 422]

YEAS—393

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Buechner
Bunning
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr

Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Gregg
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)

NAYS—25

Archer
Brown (CO)
Burton
Coble
Dannemeyer
Fawell
Green
Guarini
Hammerschmidt
Hastert
Henry
Jacobs
Konnyu
Lungren
McMillan (NC)
Olin
Petri
Sensenbrenner
Shumway
Smith, Robert (NH)
Solomon
Sundquist
Swindall
Walker
Young (FL)

NOT VOTING—13

Barton
Bonker
Boulter
Donnelly
Grandy
Hawkins
Kaptur
Lewis (CA)
Lowry (WA)
Mack
MacKay
Pickle
Sweeney

□ 1606

Mr. GREEN changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DISAGREEMENT AND CONCURRENCE WITH SENATE AMENDMENTS TO H.R. 2772, MNI WICONI PROJECT ACT OF 1988

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution (H. Res. 567).

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and agree to the resolution (H. Res. 567) on which the yeas and nays are ordered.

This will be a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 394, nays 24, not voting 13, as follows:

[Roll No. 423]

YEAS—394

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Barnard
Bartlett
Bateman
Bates
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette

Schulze
Schumer
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yatron
Young (AK)

NAYS—24

Ballenger
Beilenson
Bunning
Burton
Crane
Dornan (CA)
Fawell
Guarini
Hammerschmidt
Henry
Konnyu
Martin (IL)
Miller (OH)
Obey
Petri
Ray
Ridge
Sensenbrenner
Shumway
Smith, Robert (NH)
Solomon
Stump
Yates
Young (FL)

NOT VOTING—13

Barton
Boulter
Donnelly
Grandy
Hawkins
Kaptur
Lewis (CA)
Lowry (WA)
Mack
MacKay
Pickle
Sweeney
Whitten

□ 1609

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SAN LUIS REY INDIAN WATER RIGHTS SETTLEMENT ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 795, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the Senate bill, S. 795, as amended, on which the yeas and nays are ordered.

This is the final vote. Let us give a great round of applause to the Clerks and the Parliamentarian who did an outstanding job during this whole series.

This will be a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 405, nays 12, not voting 14, as follows:

[Roll No. 424]

YEAS—405

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crockett
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—12

Bilirakis
Crane
Dannemeyer
DeLay
Guarini
Henry
Leath (TX)
Ray
Shumway
Smith, Robert (NH)
Solomon
Stump

NOT VOTING—14

Barton
Boulter
Donnelly
Grandy
Hawkins
Kaptur
Lewis (CA)
Lowry (WA)
Lujan
Mack
MacKay
Molinari
Pickle
Sweeney

□ 1614

Mr. BURTON of Indiana changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the Senate bill was amended so as to read: "A bill to provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, CA, to authorize the lining of the All American Canal, and for other purposes."

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 4188. An act to designate the United States courthouse located at 445 Broadway in Albany, NY, as the "James T. Foley United States Courthouse";

H.R. 4276. An act to designate the U.S. Post Office Building located at 1105 Moss Street in Lafayette, LA, as the "James Domengeaux Post Office Building";

H.R. 4365. An act to designate the Sunderland National Salmon Station located in Sunderland, MS, as the "Richard Cronin National Salmon Station";

H.R. 4433. An act to designate the U.S. Post Office Building in Jeannette, PA, as the "John Dent Post Office Building"; and

H.R. 4529. An act extending permission for the President's Commission on White House Fellows to accept certain donations.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3621. An act to declare that certain lands located in California and held by the Secretary of the Interior are lands held in trust for the benefit of certain bands of Indians and to declare such lands to be part of the reservation with which they are contiguous; and

H.R. 4416. An act to extend the authorization of appropriations for titles V and VI of the Library Services and Construction Act through fiscal year 1989.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 908) "An act to amend the Inspector General Act of 1978."

The message also announced that the Senate recedes from its disagreement to the amendment of the House to the title of the bill.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 945) "An act to require the Secretary of Health and Human Services to make grants to local governments for demonstration projects to provide respite homes and other assistance for infants abandoned in hospitals, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 2393) "An act to amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to reauthorize such act, and for other purposes," with an amendment.

The message also announced that the Senate agreed to the following resolution:

S. Res. 480

Resolved, That proceedings in the impeachment of Judge Alcee L. Hastings, a Judge of the United States District Court for the Southern District of Florida, shall be continued into the 101st Congress and resumed at a date in that Congress that shall be designated by the Senate.

Sec. 2. The Committee on Rules and Administration shall conduct, during the week of January 23, 1989, a hearing on—

(1) the appropriate use of Rule XI of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials in the impeachment of Judge Alcee L. Hastings; and

(2) any other matter which may assist the Senate in a fair trial of the pending impeachment,

and shall report its recommendation to the Senate on or about February 1, 1989.

Sec. 3. Counsel to the parties to the impeachment shall be prepared by March 1, 1989, or as soon thereafter as the Senate determines testimony should be heard, to present their evidence in the forum to be designated by the Senate after receiving the recommendation of the Committee on Rules and Administration.

Sec. 4. Counsel to the parties to the impeachment are requested to work together to stipulate to evidentiary matters that are not in dispute, including stipulations as to documents, and shall jointly report, by February 20, 1989, on the stipulations to which such counsel have agreed, and on any other matter which such counsel agree may facilitate the resolution of this impeachment.

Sec. 5. The Senate Legal Counsel shall work with counsel to the parties to the impeachment to assist the counsel in resolving amicably issues that relate to stipulations about evidence and other matters concerning preparation for the trial of this impeachment.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 438. An act to modify the application of the antitrust laws to encourage the licensing and other use of certain intellectual property; and

S. 1305. An act to settle certain claims arising out of activities on the Pine Ridge Indian Reservation.

☐ 1615

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask for this time for the purpose of inquiring of the distinguished majority leader the program for the balance of the day and hopefully any other intelligence on the next couple of days.

The SPEAKER pro tempore (Mr. Murtha). Let the Chair say how much we appreciate the gentleman's motion today, Mr. Republican Leader, because it saved us about 2½ or 3 hours, so we appreciate that.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, I would certainly like to join in that commendation, and I also think, Mr. Speaker, to commend the Speaker pro tempore for his patience and expeditious action.

If the Republican leader, the gentleman from Illinois, will yield further, the plan now is to move to consideration of the veto override on the textile bill, and following that we will take up for debate only 18 bills under suspension of the rules, the first 18 on the list.

Tomorrow the House will be considering the rule and general debate on the Bryant bill and completing that bill, and following that we will return to voting on suspension votes that have been debated today, and following that, I think, because of the Vice Presidential debates tomorrow and the desire of some Members on both sides of the aisle to be present for that, that we will not take any votes or not schedule any votes after 3 in the afternoon, but we will continue then with debating suspension votes tomorrow afternoon and tomorrow evening.

Mr. MICHEL. Mr. Speaker, might I inquire of the distinguished majority leader if he could give us any insight as to how he might see the balance of the week unfolding?

Mr FOLEY. I had hoped that we might finish those this week. Those hopes are lessening hour by hour. I think the problem of taking some action with respect to the drug bill puts us on a schedule which will be determined by the Senate action on that legislation, and I think it is not certain, but it is unlikely that the bill would come to us in sufficient time this week for us to conclude action on drug legislation.

In addition to that, the other body is considering legislation dealing with child care and child pornography and parental family leave which are joined in one bill and which will probably require some action by the House.

We will, of course, not meet on Monday, which is Columbus Day, and I think we will probably not schedule votes for Tuesday. I doubt very much that we will meet this Sunday, but Members probably at this juncture will have to assume the possibility of a Saturday session this week and a full week, Wednesday, Thursday, Friday, possibly Saturday next week. I will say myself that if I thought it could conclude action without going into another week, I would be in favor of working on Sunday, but, again, our schedule is going to be largely determined by the actions taken in the other body at this juncture.

Mr. MICHEL. Mr. Speaker, I thank the gentleman. I think, quite frankly, that if we find that we do have to go into next week there will be any number of Members who would like to have sufficient notice maybe Thursday on what the prospects might be, because most of us have campaigns of our own on the weekend and would like to get out of here surely in some good time Friday to make the most of the weekend, and if we have to come back, I guess we have to come back, not that this gentleman would prefer that.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. Mr. Speaker, I am happy to yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, is there any possibility that should this demand for rollcalls on suspensions continue, is there any possibility that we could come in earlier than noon, since the committees are not meeting? I should think that if it is at all possible as opposed to coming in at noon tomorrow that if we could come in at 9 or 10 o'clock and if there are going to be 18 rollcalls that we should do that.

Mr. MICHEL. We are scheduled at 10, are we not?

Mr. FOLEY. I will tell the gentleman that under our present schedule we come in at 10 a.m. on Wednesday, Thursday, and Friday, so any change in the schedule would have to put in earlier than 10 o'clock. We will certainly give consideration to that if it seems to expedite business, and I will say to the gentleman from Illinois, the Republican leader, that I am trying to give some idea of what I see as the prospect for the coming days, but no one can give any Member absolute assurance as to what is going to happen in the other body and, again, I would suggest that we are more determined in our schedule by what happens on the legislation concerning the other body than any other single factor.

We will try to give Members the earliest possible notice. We are conscious of the fact that Members need to know. This is the last 2 weeks of the session, and those are always difficult, problematic days in terms of the schedule. We are not trying to do anything but accommodate the Members' interests.

I would say, again, that I doubt very much that we will meet on Sunday and that there will be no session on Monday, Columbus Day, and we do not expect votes on Tuesday, for what benefit that is to the Members in their planning.

It seems to me almost inevitable at this point, unless something changes dramatically, that we will be in next week Wednesday, Thursday, Friday, probably Saturday.

Mr. WEBER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. Mr. Speaker, I am happy to yield to the gentleman from Minnesota.

Mr. WEBER. Mr. Speaker, I just wondered if the distinguished majority leader could clarify something for me. I understand and I agree with his sentiment that if we are going to be able to finish up our work by Sunday it is worth working on Sunday. If we make a determination we are going to have to be in session next week, in any event, is it still the majority leader's determination to call a Saturday session as well?

Mr. FOLEY. If it is necessary to complete action on suspensions or other business that seems to advance the adjournment, we will meet on Saturday. If we seem to be able to finish all of our business on Friday, then that would be a consideration, and perhaps by Thursday we will be able to give Members a better idea.

I am reluctant to make any predictions at this time in an absolute way. Many Members rely on those when they are only estimates. I would say the better part of discretion is to assume that there will be a session every day this week, including Saturday.

Mr. MICHEL. Mr. Speaker, I yield back the balance of my time.

INTELLECTUAL PROPERTY BANKRUPTCY PROTECTION ACT OF 1987

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 1626) to keep secure the rights of intellectual property licensors and licensees which come under the protection of title 11 of the United States Code, the Bankruptcy Code, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. FISH. Mr. Speaker, reserving the right to object, I do so for the purpose of asking the gentleman from California to explain whether there are any substantive differences between S. 1626 and H.R. 5348, a bill that we passed earlier this afternoon.

Mr. EDWARDS of California. Mr. Speaker, will the gentleman yield?

Mr. FISH. Mr. Speaker, I am happy to yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Speaker, S. 1626 is—except for some minor technical numbering differences—identical to H.R. 5348, legislation passed by the House earlier today. The legislation relates to the treatment of intellectual property licenses by the bankruptcy laws. The Judiciary Committee report on H.R. 5348 is equally and totally applicable to S. 1626. I would urge my colleagues to pass S. 1626.

Mr. FISH. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1626

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO TITLE 11 OF THE UNITED STATES CODE.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended—

(1) in paragraph (50) by striking "and" at the end, and

(2) in paragraph (51) by striking the period at the end and inserting in lieu thereof a semicolon, and

(3) by adding at the end the following:

"(52) 'intellectual property' means—

"(A) trade secret;

"(B) invention, process, design, or plant protected under title 35;

"(C) patent application;

"(D) plant variety;

"(E) work of authorship protected under title 17; or

"(F) mask work protected under chapter 9 of title 17;

to the extent protected by applicable nonbankruptcy law; and

"(53) 'mask work' has the meaning given it in section 901(a)(2) of title 17.".

(b) EXECUTORY CONTRACTS LICENSING RIGHTS TO INTELLECTUAL PROPERTY.—Section 365 of title 11, United States Code, is amended by adding at the end the following:

"(n)(1) If the trustee rejects an executory contract under which the debtor is a licensor of a right to intellectual property, the licensee under such contract may elect—

"(A) to treat such contract as terminated by such rejection if such rejection by the trustee amounts to such a breach as would entitle the licensee to treat such contract as terminated by virtue of its own terms, applicable nonbankruptcy law, or an agreement made by the licensee with another entity; or

"(B) to retain its rights (including a right to enforce any exclusivity provision of such contract, but excluding any other right under applicable nonbankruptcy law to specific performance of such contract) under such contract and under any agreement supplementary to such contract, to such intellectual property (including any embodiment of such intellectual property to the extent protected by applicable nonbankruptcy law), as such rights existed immediately before the case commenced, for—

"(i) the duration of such contract; and

"(ii) any period for which such contract may be extended by the licensee as of right under applicable nonbankruptcy law.

"(2) If the licensee elects to retain its rights, as described in paragraph (1)(B) of this subsection, under such contract—

"(A) the trustee shall allow the licensee to exercise such rights;

"(B) the licensee shall make all royalty payments due under such contract for the duration of such contract and for any period described in paragraph (1)(B) of this subsection for which the licensee extends such contract; and

"(C) the licensee shall be deemed to waive—

"(i) any right of setoff it may have with respect to such contract under this title or applicable nonbankruptcy law; and

"(ii) any claim allowable under section 503(b) of this title arising from the performance of such contract.

"(3) If the licensee elects to retain its rights, as described in paragraph (1)(B) of this subsection, then on the written request of the licensee the trustee shall—

"(A) to the extent provided in such contract, or any agreement supplementary to such contract, provide to the licensee any intellectual property (including such embodiment) held by the trustee; and

"(B) not interfere with the rights of the licensee as provided in such contract, or any agreement supplementary to such contract, to such intellecual property (including such embodiment) including any right to obtain such intellectual property (or such embodiment from another entity.

"(4) Unless and until the trustee rejects such contract, on the written request of the licensee the trustee shall—

"(A) to the extent provided in such contract or any agreement supplementary to such contract—

"(i) perform such contact; or

"(ii) provide to the licensee such intellectual property (including any embodiment of such intellectual property to the extent protected by applicable nonbankruptcy law) held by the trustee; and

"(B) not interfere with the rights of the licensee as provided in such contract, or any agreement supplementary to such contract, to such intellectual property (including such embodiment), including any right to obtain such intellectual property (or such embodiment) from another entity.".

SEC. 2. EFFECTIVE DATES; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to any case commenced under title 11 of the United States Code before the date of the enactment of this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider as laid on the table.

OFFICE OF GOVERNMENT ETHICS REAUTHORIZATION ACT OF 1988

Mr. SIKORSKI. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service and the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 2344) to provide for the reauthorization of appropriations for the Office of Government Ethics, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2344

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Office of Government Ethics Reauthorization Act of 1988".

OFFICE OF GOVERNMENT ETHICS AS INDEPENDENT AGENCY

SEC. 2. The Ethics in Government Act of 1978 (5 U.S.C. App. 5) (hereafter in this Act referred to as "the Act") is amended—

(1) in section 401(a) by striking out "in the Office of Personnel Management an office" and inserting in lieu thereof "in the executive branch of the United States an executive agency";

(2) by adding at the end of section 401 the following new subsection:

"(c) The Director may—

"(1) appoint officers and employees, including attorneys, for the agency in accordance with chapter 51 and subchapter 3 of chapter 53 of title 5, United States Code; and

"(2) contract for financial and administrative services (including those related to budget and accounting, financial reporting, personnel, and procurement) with the General Services Administration, or such other Federal agency as the Director determines appropriate, for which payment shall be made in advance, or by reimbursement from funds of the Office of Government Ethics, in such amounts as may be agreed upon by the Director and the head of the agency providing such services."; and

(3) in section 402(a) by striking out ", in consultation with the Office of Personnel Management,".

TERM OF OFFICE FOR THE DIRECTOR OF THE OFFICE OF GOVERNMENT ETHICS

SEC. 3. Section 401(b) of the Act is amended by striking out "Effective with respect to any individual appointed or reappointed by the President as Director on or after October 1, 1983, the term of service of the Director shall be five years." and inserting in lieu thereof "The Director shall serve for a term of five years and may be removed from office by the President at the discretion of the President.".

AUTHORITY AND FUNCTIONS

SEC. 4. Section 402(b) of the Act is amended to read as follows:

"(b) The responsibilities of the Director shall include—

"(1) developing, in consultation with the Attorney General, rules and regulations to be promulgated by the President or the Director pertaining to conflicts of interest and ethics in the executive branch, including rules and regulations for—

"(A) the filing, review, and public availability of financial statements filed pursuant to title II of this Act;

"(B) the identification and resolution of conflicts of interest, and appearances of conflicts of interest, including procedures for ordering or recommending specific action pursuant to section 403 of this title; and

"(C) the selection by the head of each executive agency of an individual as the designated agency ethics official who shall have the same rights of appeal in such position as an employee as defined under section 7511(a)(1)(A) of title 5, United States Code, except that such official need not be in the competitive service;

"(2) interpreting rules and regulations issued by the President or the Director governing conflict of interest and ethical problems and the filing of financial statements;

"(3) assisting the Attorney General in evaluating the effectiveness of the conflict of interest laws and in recommending appropriate amendments; and

"(4) evaluating, with the assistance of the Attorney General, the need for changes in rules and regulations issued by the Director, the President, and the agencies regarding conflicts of interest and standards of conduct;

"(5) providing information on and promoting understanding of ethical standards in executive agencies;

"(6) training incoming political appointees on ethics laws, rules, regulations, and standards of conduct;

"(7) assisting agencies in training officers and employees on ethics laws, rules, regulations, and standards of conduct;

"(8)(A) establishing a formal advisory opinion service to give advisory opinions on matters of general applicability or on important matters of first impression;

"(B) providing interested parties with an opportunity to transmit written comments with respect to an advisory opinion under clause (i), before (to the extent practicable) giving such opinion; and

"(C) compiling, publishing, and making such advisory opinions available to agency ethics officials, counselors, and the public;

"(9) consulting with agency ethics officials, counselors, and other responsible officials regarding the resolution of conflict of interest problems in individual cases;

"(10) providing support to agency ethics officials and counselors, including helping to guarantee the integrity of the decisions of such officials and counselors;

"(11) monitoring and investigating compliance with the public financial disclosure requirements of title II of this Act by current and incoming officers and employees of the executive branch and executive agency officials responsible for receiving, reviewing, and making available financial statements filed pursuant to such title;

"(12) monitoring and investigating individual and agency compliance with any additional financial reporting and internal review requirements established by law for the executive branch;

"(13) conducting a review of financial statements to determine whether such statements reveal possible violations of applicable conflict of interest laws, rules, or regulations or employee standards of conduct and ordering or recommending specific action pursuant to section 403 of this title;

"(14) requiring such reports from executive agencies as the Director determines necessary;

"(15) in accordance with section 403, investigating and making findings on alleged violations of applicable conflict of interest rules and regulations and employee standards of conduct by any executive branch officer or employee, as the Director determines appropriate, and ordering action, recommending action, or both;

"(16) ordering the head of any agency to conform the ethics program of such agency with the Office of Government Ethics requirements, as the Director determines appropriate; and

"(17) cooperating with the Attorney General in developing an effective system for—

"(A) reporting allegations of violations of the conflict of interest laws to the Attorney General, as required under section 535 of title 28, United States Code; and

"(B) ensuring that the Director has notice of any such allegation when such allegation is referred to the Attorney General.".

ORDERING AND RECOMMENDING ACTION

SEC. 5. The Act is amended by redesignating sections 403 through 407 as sections 404 through 408, respectively, and by inserting after section 402 the following new section:

"ORDERING AND RECOMMENDING ACTION

"SEC. 403. (a)(1) Pursuant to the provisions of section 402(b)(15), the Director may conduct an investigation and make findings concerning any allegation of violations. Prior to the issuance of any such finding, the Director shall provide the officer or employee who is the subject of the allegation with an opportunity to comment, either orally or in writing, and, if requested by such officer or employee, an opportunity for a hearing.

"(2) The Director shall send any such finding to the officer or employee involved in the allegation and the head of the agency of such officer or employee. If such officer or employee is the head of an agency, the Director shall send such finding to the President.

"(b)(1) If the Director finds that a violation of the conflict of interest rules or regulations or of the standards of conduct is occurring, the Director shall order the officer or employee to take specific action to end the violation, including but not limited to, divestiture, recusal, or the establishment of a blind trust.

"(2) The Director shall send a written copy of such order to the head of the agency of such officer or employee. If such officer or employee is the head of an agency, the Director shall send a written copy of such order to the President.

"(c) If the Director finds that a violation of the conflict of interest rules or regulations or of the standards of conduct is occurring or has occurred, the Director may recommend to the head of the agency of such officer or employee that such agency head take a specific administrative action against the officer or employee, including but not limited to reprimand, suspension, demotion, or dismissal. If such officer or employee is the head of an agency, the Director may recommend that the President take such action.

"(d)(1) If the Director determines that an officer or employee has not taken appropriate action within a reasonable period of time after the Director orders such action under subsection (b), the Director shall notify in writing the head of the agency of such officer or employee of such determination. If such officer or employee is the head of an agency, the Director shall notify the President.

"(2) If the Director determines that the head of an agency has not taken appropriate administrative action within a reasonable period of time after the Director recommends action under subsection (c), the Director shall notify in writing the President of such determination.".

"(e) Notwithstanding any other provision of law, no record developed pursuant to the authority of this section shall be made available pursuant to section 552(a)(3) of title 5, United States Code, unless the request for such information is specific, both as to the identity of the individual to whom such records relate and the subject matter of any alleged violation to which such records relate, except that nothing in this subsection shall affect the application of the provisions of section 552(b) of title 5, United States Code, to any record so identified.".

ADMINISTRATIVE PROVISIONS

SEC. 6. Section 404 of the Act (as redesignated by section 5 of this Act) is amended by striking out "pursuant to subsection (b)(3) and (b)(4) of section 402." and inserting in lieu thereof "pursuant to the Office of Government Ethics responsibilities under this Act. The head of any agency may detail such personnel and furnish such services, with or without reimbursement, as the Director may request to carry out the provisions of this Act.".

RULES AND REGULATIONS

SEC. 7. Section 405 of the Act (as redesignated by section 5 of this Act) is amended by inserting a heading to read as follows:

"RULES AND REGULATIONS"

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. Section 406 of the Act (as redesignated by section 5 of this Act) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof:

"(1) not to exceed $2,500,000 for the fiscal year ending September 30, 1989; and

"(2) not to exceed $3,500,000 for each of the five fiscal years thereafter.".

ANNUAL PAY OF DIRECTOR

SEC. 9. Section 407 of the Act is amended to read as follows:

"ANNUAL PAY OF DIRECTOR

"SEC. 407. Chapter 53 of title 5, United States Code, is amended—

"(1) in section 5316 by striking out: 'Director of the Office of Government Ethics.'; and

"(2) in section 5314 by adding at the end thereof:

'Director of the Office of Government Ethics.' ".

EFFECTIVE DATES

SEC. 10. The provisions of this Act shall be effective on October 1, 1988, except the amendments made by section 2 of this Act shall be effective on October 1, 1989.

MOTION OFFERED BY MR. SIKORSKI

Mr. SIKORSKI. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SIKORSKI moves to strike out all after the enacting clause of S. 2344 and insert in lieu thereof the provisions of H.R. 4712 as passed by the House.

(For the text of H.R. 4712, see proceedings of the House of Monday, October 3, 1988, at page H9326.)

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended to read: "An act to reauthorize the Office of Government Ethics, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 4712) was laid on the table.

TEXTILE APPAREL AND FOOTWEAR TRADE ACT OF 1988—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 100-235)

The SPEAKER pro tempore. The unfinished business is the further consideration of the veto message of the President on the bill (H.R. 1154) to remedy injury to the United States textile and apparel industries caused by increased imports.

The question is, will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 1 hour.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 30 minutes to the gentleman from Texas [Mr. ARCHER], and I ask unanimous consent that the gentleman from Texas be allowed to yield time to other Members.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 15 minutes to the gentleman from South Carolina [Mr. DERRICK], and I ask unanimous consent that the gentleman from South Carolina be allowed to yield time to other Members.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the veto message now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, Members should vote no on this veto override. This legislation is not needed. This industry, by and large, is doing well. It is doing as well as other American industry. It is extremely highly protected already under our tariff laws, and under 42 bilateral treaties or arrangements. This legislation is not needed.

If we were to bring from the Committee on Ways and Means a tax bill that would impose a tax of about $20 billon on the poorest of Americans, we would say that we had lost our minds, but that is what this bill does. It imposes a tax upon American consumers of about $20 billion a year. This is equivalent to a tax. This is a tax, any way you look at it, a tax upon those who are least able to pay a reward of remarkable size to perhaps save a few jobs in this industry, a reward so great the people could be put upon retirement at substantial pay for the jobs that will be saved by this tax. We should not be taxing poor Americans, particularly small Americans, to pay for the benefits for a few, and that is all this bill does. It rewards those who do not need rewarding. It taxes those who do not deserve to be taxed, and it is a bad piece of legislation.

The proper vote for all Members of Congress would be "no."

□ 1630

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Today, once again, we face what has become the perennial challenge to America's free-trade policy—special protection for the textile and apparel industry. This protection is always at the risk of jeopardizing the competitiveness of other sectors of our economy.

Today we have an excellent opportunity to demonstrate that we will not abandon our responsibility to the overall economic health of our Nation.

This bill for expanded protection for the textile and apparel industry has been debated extensively—and the facts are now before the American people. Those facts show a healthy and improving industry, with rising employment and above average profits. I agree with the President that there is no reasonable economic justification for this bill, nor is there anything in the bill that would encourage this industry to become more competitive.

More attention has been paid to trade issues in this Congress than in any other. The results of our efforts were more than any of us could have hoped. The Omnibus Trade and Competitiveness Act of 1988 was signed into law in August, providing the most extensive improvements in U.S. trade laws in a decade. Last week the President signed legislation implementing the United States-Canada Free-Trade Agreement. These two accomplishments alone will make the 100th a landmark Congress. We must not undermine these notable accomplishments with enactment of this protectionist legislation.

As the President said in his veto message. "America's export opportunities have never been brighter and our prospects for continued economic growth have never been better. Increased trade means more jobs and a better standard of living. It would be a tragic mistake to change course now. * * *" I think we all know that in this matter the President is right.

Mr. Speaker, America must continue to lead the world in open, free, and fair trade. We cannot abandon our international obligations nor our obligations at home to preserve growth and opportunity for all sectors of our economy.

I challenge my colleagues to stand firm and support the President's veto of H.R. 1154.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of the President's veto and I commend the gentleman for his statement and agree with everything he said. It would be detrimental to consumers as well as small businesses.

Mr. Speaker, I rise in support of the President's veto of the Textile, Apparel and Footwear Trade Act of 1987 (H.R. 1154). This bill is opposed by the Wall Street Journal, the Washington Post, and the LA Herald Examiner, six members of the President's Cabinet, the Chairman of the Federal Reserve Board, and the American Farm Bureau among others.

This legislation would violate GATT and the fundamental principles of the Multifiber Arrangement [MFA] and would put the Uruguay round of congressionally supported multilateral trade negotiations in jeopardy. In addition, it will invite certain retaliation by many of our free world allies all over the globe. This would threaten many jobs in Santa Barbara and Ventura Counties including those in agriculture, aerospace, and semiconductor parts.

Mr. Speaker, this bill will raise the price of clothing and shoes by up to $37 billion at the retail level over the next 5 years. Consumers in California, especially low-income families would be the ones most hurt by the unavailability of low-priced imports. Many businesses, especially small ones, and their employees would be hurt, also.

Supporters of this legislation say that this is a way to save American jobs and prevent irreversible damage to the textile industry. However, industry statistics tend to point in a different direction. Productivity in the industry has increased by 3.4 percent per year since 1980. Factory utilization in textiles is at 92 percent in 1987. It is also interesting to note that stock prices of seven of the largest textile companies were up 70 percent in one year.

Mr. Speaker, I would remind those who think that retaliation is not likely, to just ask our wheat farmers about the retaliation they suffered the last time we restricted Chinese textile exports or the computer products industry when we placed a stiff tariff on imported Canadian cedar shingles. I strongly recommend that my colleagues vote to uphold the President's veto of H.R. 1154.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Arkansas [Mr. ANTHONY].

Mr. ANTHONY. Mr. Speaker, I rise in opposition to the President's veto and ask my colleagues to vote to override that veto. I do not consider this piece of legislation to be protectionist, and the President of the United States in his own actions of past years has said to the motorcycle industry it was not important enough that we put on some quotas and take care of them. He is taking care of pizza, taking care of cheese, taking care of steel and automobiles and I for the life of me cannot understand why the President would not be for a reasonable piece of legislation that would control the inflow of imports into this country.

I do not have a lot of textile plants in my district. I used to have a lot of shoe plants. At the moment, nonrubber-import shoes represent 82 percent of the market. I think 82 percent of the market is enough. I would like to see my workers in Hot Springs, AR, who are working hard to try to maintain a decent wage, not be put out of a job because of the imports going up to 90 percent.

On textiles, we have lost over 400,000 jobs. It is estimated that if we do not do something we could lose another 2 million jobs by the year 1990. We do not close our border. All we say is that we are going to monitor the increase into this market, and I think that is proper.

I come from an agricultural area. Years ago my agriculture producers said please do not vote for legislation that would seem to be protectionist. I said OK, I would try it their way. I tried it their way for 4 years and I woke up one day and said, gentlemen, you have lost the trade war, your markets have disappeared and it is because of unfair competition that we are fighting. I said I would try it my way now. I do not see that we are going to be pushed upon in terms of lessening of markets in agriculture, and specifically there is a provision in the bill that protects agriculture.

I ask my colleagues to support the override of the veto.

Mr. Speaker, I yield 1 minute to the gentlewoman from Hawaii [Mrs. SAIKI].

Mrs. SAIKI. Mr. Speaker, I rise in support of President Reagan's veto of the textile bill.

Passage of this bill will severely hurt, not help, our garment industry. It will result in the loss of jobs, will cost consumers billions of dollars in increased clothing prices, and it could lead to a serious trade war with our Pacific allies.

Hawaii continues to play an important role in trade relations with our Pacific Rim neighbors. We are on the frontline between East and West, and a trade war resulting from passage of this bill could severely hurt our economy.

Hawaii is also unique in that its textile manufacturers require higher quality pigments and dyes than our domestic suppliers can provide. Imposing textile quotas, as this bill does, could keep vital products away from our clothing manufacturers whose livelihood depends on meeting the demand of American consumers for their product.

What I find especially disturbing about this bill is the message it sends to the world with regard to trade. Does the United States want to lower its trade barriers or raise them? I can understand our neighbors' confusion when searching for an answer to this question.

Earlier this year, we passed two landmark pieces of legislation designed to break down foreign trade barriers. I strongly supported both the comprehensive trade bill and the free trade agreement with Canada.

With this textile bill, we would be undermining both of those efforts by violating existing agreements with our trading partners and protecting an industry that is becoming more competitive and profitable.

We have a choice in this country. We can either compete with our neighbors or we can hide behind the barriers that would be built by this protectionist textile bill. I choose to compete.

I urge my colleagues to support President Reagan's veto of this bill.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Speaker, many textile and apparel workers came down to Washington today from my district, took off work to come up here to symbolically make their presence known.

I met with them and as I met with them I thought about an ad that appeared yesterday in the Washington Post, sponsored by the American Security Council. Former trade official with the Reagan administration, Ambassador William Brock, former U.S. Trade Representative and Secretary of Labor, said every U.S. industry insists that it is essential for national security; textiles is the only one we accept, he concluded, and that goes back 20 years.

Not a truck could roll, not a plane could fly, not a soldier could march, without the U.S. textile apparel and footwear producers, and then the ad depicted two males, one fully attired in battle gear and another in the nude and it said by 1995, these are the countries that could be making GI Joe's uniform; helmet, made in Korea; jacket, made in Taiwan; trousers, made in Hong Kong; rifle, made in Italy; boots, made in Brazil. Then alongside it is the American, in the nude, only dressed in his pride, and that seems pretty deflated.

It seems to me that those who insist upon saying no to American workers in the textile apparel and fiber and footwear industries on trade, perhaps will have a second thought and say "yes" on defense.

My colleagues in the House, we are talking today about American workers. Today we are talking about American jobs. Many of you, I think, are more concerned about the workers abroad. Vote for American workers today.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. BONKER].

Mr. BONKER. Mr. Speaker, I rise in opposition to H.R. 1154, the Textile and Apparel Trade Act.

I wish to take this moment to outline several reasons, many of which are obvious, to my opposition to this sector specific legislation.

The textile and apparel industries, as we know, already enjoy the highest protected sectors of our economy, and the industries are thriving, employment is steady, productivity has increased and plant activity is running at virtually full capacity.

While I applaud this success, I do not believe it should be awarded with further protectionism when profits are on the rise. That is an obvious and well-documented position of the textile industry today.

Second, if we override the President, we risk setting a dangerous precedent. We open the door to other segments of American industry that are in far worse condition, like steel and automobiles, with timber and wood products industry, to name a few.

If we argue that our textile industry requires protection, then could not an even better case be stated for the timber industry which is still suffering from economic recession in my congressional district. Where does it all end?

In 1929, what began as a limited trade bill and tariff bill in this House became a legislative monster which resulted in tariffs on over 20,000 different imported products, and that set up the collapse of the world trading system.

Third, the enactment of this bill would exaggerate an already aggressive situation. Even now the poorest 20 percent of our households transfer nearly 4 percent of their income to protect these industries.

Let me remind my colleagues that consumers are already burdened with 20 to 40 billion dollars' worth of annual costs for textile and apparel items.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Speaker, here we go again, a bill to give further protection to the most protected industry in the United States, the textile industry, to increase the profits of the most profitable industry in the United States, and to what end? Do we gain more jobs? No way, we are going to lose jobs in our export industries, in aerospace, in agriculture. Do we gain more production? No way, our textile industries are already operating close to capacity. Do we get lower consumer prices? No way, with this tax the American consumer will pay for every piece of clothing he buys.

Mr. Speaker, we should not begrudge the textile industry one dime of their profits, but do not tell our low-income constituents they must pay more to protect their children from winter's chill simply to insulate the textile industry form unfair competition.

Let us sustain the President's veto and let us send this bill that has been cut from whole cloth back to the public policy dust bin where it belongs.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, while Members today shop protectionism our competitors overseas are laughing in our face.

We have driven down the dollar, we have negotiated, we have compromised, we have offered incentives. The truth is, it has not worked.

I say it is time for Congress today to take back the carrot and start to use the stick, the big stick. The only thing they understand is when it hits their pocketbooks. Otherwise, I predict there will come a day in America when in order for our kids to own a piece of the rock they will have to import a boulder from Mount Fuji. It is getting that bad, and Congress still yet is arguing protectionism.

Mr. Speaker, we are protecting America now. Our great freedoms and the greatest threat is not a missle, it is this trade business in our economy.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Speaker, I thank the gentleman for yielding time to me, and I rise in strong support of the Textile and Apparel Trade Act.

U.S. Trade Representative Clayton Yeutter asks us to reject this legislation, arguing that the textile industry is one of the most highly protected industries in the United States. Folks, protection is a reality in the global textile market. Almost all exporting nations have implemented various forms of barriers, subsidies, and export promotion schemes—not to mention low-wage rates. This reality is what led to the negotiation of such agreements as the Multifiber Arrangement.

The MFA is designed to regulate international textile trade and prevent the "disruption" of domestic markets. However, imports into this country have surged; they far exceed the 6-percent growth target envisioned under the MFA. Lack of enforcement on the part of the administration is to blame. In the face of widespread charges that developing nations have dumped their textile and apparel products on our market, as well as transshipped their product to avoid quotas, the administration continues to dismiss cases filed by the domestic textile industry that cite MFA violations by other nations.

Meanwhile, other industrialized nations, such as Japan and those making up the European Economic Community, have tightened their restrictions on the growth of imports from developing nations, within the boundaries of the MFA. Their vigilance, in concert with our lax enforcement, has resulted in the developing nations' success in rerouting a majority of their textile exports to the most open market—that of the United States.

My lack of confidence in our Trade Representatives is no secret. These same U.S. officials met with diplomats from 15 of our major trading partners to coach them on how to lobby against legislation to strengthen our laws against unfair trade practices. Tell me, whom do these people really represent?

There is nothing inherently wrong with liberalizing markets. As a conservative Member of Congress, I can understand and appreciate the tenets of free trade. But trade must be fair and free across the board. Liberalization cannot be a unilateral action taken by the United States. Given the fact that in this arena most governments still act to preserve their domestic interests, I urge my colleagues to join in supporting the Textile and Apparel Trade Act.

☐ 1645

Mr. ROSTENKOWSKI. Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Speaker, I do urge my colleagues to join with me in overriding the President's veto. This is a national security issue. It is important to our economy.

But I would like to touch on another issue. This is also a woman's issue. The woman that work in the textile, apparel, and shoe industry are in so many instances women who have only one skill. They are women who cannot move to another part of the country to find another job. They are women, in many instances, who are heads of one-parent families who provide the livelihood for their family, their shoes, their clothing, the medical care, and the essentials for their family.

I ask you to think with your heart for the women in the textile, apparel, and shoe industry. Let us give them a vote today. I ask you: Let us override the President's veto, give the women in these industries a chance.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. I thank the gentleman for yielding time to me.

Mr. Speaker, today is do or die for the Textile, Apparel and Footwear Trade Act of 1988. And, for that matter, it is do or die for much of the textile, apparel, and footwear industries in America. We need to trade fair. We need to trade smart. We can not lose these valuable industries entirely to imports. We need a viable domestic textile and apparel industry and to simply let it go, under from a flood of imports, is just not acceptable.

Since 1980, textile and apparel imports have risen 169 percent; 1,000 textile and apparel and 400 domestic footwear plants have closed. More than 420,000 jobs have been lost.

My own State of Pennsylvania has been hard hit. Factories in the "slate belt," in Bethlehem, in Easton, in Allentown, in my district have shut down. If this trend continues, I would not be surprised to see very little left of the textile, apparel, and footwear industries in the United States by the year 2000. But this does not have to be. By overriding this veto, Congress can do something to save these industries and these important jobs.

This bill would limit textile and apparel imports to a reasonable level so as not to completely wipe out our domestic industry. The bill allows for 1 percent growth a year. Observing the industry both in my home district, the Lehigh Valley of Pennsylvania, and across the Nation, I can say that the industry has not brought this problem on itself. Many have made every effort to compete with foreign imports.

Now, our factories have shown they can come back. The industry is beginning to show some signs of life. Now is the time to give a small helping hand to these many thousands of workers.

The industry currently invests over $1 billion per year in new plant and equipment. In the Lehigh Valley, the Ben Franklin Partnership Program and Lehigh University are assisting the American apparel industry to improve productivity via the application of advanced technology. They are currently working with the computer industry to develop specialized software packages to use with mainframe computers. One software project under development is called computer aided manufacturing and commercial sewing/stitching. This project will develop a system to computer control all the sewing machines by programming each operation of each machine so that the number of stitches is controlled by the program, thus improving efficiency and simultaneously monitoring the work flow. This will increase productivity, making our workers more competitive.

But if there is no apparel industry left—if they are wiped out—there will be no market for this new high technology. Clearly these are the types of advances which could make us more competitive in our own domestic market and in the world market. With this in mind, I urge my colleagues to vote to override the President's veto. Textile and apparel workers have exhibited the potential to compete in global markets with the aid of a fair trade environment and a smart trade environment.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the distinguished gentleman from North Carolina [Mr. PRICE].

Mr. PRICE. Mr. Speaker, I rise in support of overriding the President's veto.

Mr. Speaker, many of us watched in dismay this weekend as an American boxer, Roy Jones, clearly deserved to win a gold medal, but had his dream stolen away by incompetent judges. Unfortunately, the sense of frustration and injustice Roy must feel is known only too well by American textile workers.

Like Roy, they have worked hard to serve their country and achieve their own version of the American dream, while their reward, like his, is unjust, inadequate, and the result of officials who are derelict in their duties.

For 8 years, the trade and monetary policies of the current administration have proved to be as bad as that boxing decision. The President's veto of the Textile and Apparel Trade Act clearly demonstrates the same bad judgment, as he clings to policies which have proven to be the most colossal failure in the history of U.S. trade policy.

Mr. Speaker, I ask my colleagues to stop the plant closings, to stop exporting American jobs, and to vote for America's working people by voting "yes" on the textile bill.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of this motion to override the veto of the Textile and Apparel Trade Act.

For over 3 years now, Mr. Speaker, Congress has worked to enact this sensible trade relief legislation. The textile, apparel, and footwear industries have won the overwhelming support of the House, the Senate, and the American people, precisely because their cause is clear and just.

Yet the administration, defying logic and the public, persists in blindly vetoing this measure. They remain entrenched in the deep ideological rut of an obsolete free trade mentality, ignoring the changed economic order in the world.

But is this legislation so horrifyingly protectionist as the administration claims? A quick examination of the footwear provisions is instructive.

Under this bill, the United States will continue to import over 900 million pairs of shoes each year—900 million pairs. Foreign producers will lock in their control of 81 percent of the domestic market. I would suggest that it is hardly an exclusive trade policy that relegates American producers to 19 percent of our own marketplace.

Despite being left to twist in the wind by the administrations which chose not to implement the unanimous decision of the International Trade Commission to limit shoe imports, the footwear industry, along with textiles and apparel, have made diligent efforts to modernize and reorganize. But without this measure, that work is like a drowning sailor trying to rebuild a sinking ship. They need shelter from the storm.

Today, we have a clear question to answer. Do we choose to provide fair trade assistance to these damaged industries, or do we continue a doomed allegiance to rules of trade that no longer apply? I urge my colleagues to answer with a "yes" vote on this override motion.

Mr. DERRICK. Mr. Speaker, may I ask what time remains.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The gentleman from Texas [Mr. ARCHER] has 16 minutes remaining, the gentleman from Illinois [Mr. ROSTENKOWSKI] has 11 minutes remaining, and the gentleman from South Carolina [Mr. DERRICK] has 10 minutes remaining.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Speaker, I rise in strong support of the override of the President's veto. I would like to talk to you just a bit about common sense.

Eleven hundred senior citizens came to an event in North Carolina this week in Concord, NC.

The headlines in the paper on Friday was "75 people from Fieldcrest lose their jobs." People from Tuscarora Mills in Mount Pleasant are losing their jobs. Eleven hundred citizens, many of whom worked in the textile plants in Cabarrus County, Rowan County, some for 40 and 45 years. One of the real questions that they asked me: "What is going to happen to our sons and our daughters and our children and our nephews and our nieces and how are they going to support their families when there is a threat to lose their jobs?" They want to work where their parents work. Good county, hard working folk.

The myth to say that this is going to cost the consumer, that it is going to be a new tax on the working poor is absolutely absurd. You go to any discount store, K-marts, Walmarts, what have you, and price the garments. See where they are made, in Taiwan, Hong Kong, Singapore, Yugoslavia, wherever. Price the ones that are made in the foreign markets and price the ones that are made in the United States; the prices are identical. It is not a new tax on the working poor. This is a just bill. This is for the working people of not only the South but the East and the West. and the polls that show, the Peter poll, the Hart poll, the combination poll that show that the overwhelming majority of the American people support this textile legislation. And the overwhelming majority of the people of this House of Representatives and the other body support this piece of legislation.

So I am talking to the Members who could vote with us on this override. I challenge you to vote with us to override the President's veto for the workers of the United States of America, for fairness and equity. It is our duty to do this for the citizens of this great country of ours. We urge you to make the right vote today.

We respect the President's right to veto this bill, but on this one he is wrong, wrong, wrong.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the motion to override the President's veto of the Textile and Apparel Trade Act of 1987. I speak for the American worker, and for rural America. It's time we stopped allowing foreign imports to "walk all over" the U.S. footwear industry.

Despite some of the assertions made against this legislation, I don't think that guarding American footwear and textile workers from unfair foreign competition is protectionist. It is our responsibility.

U.S. textile and footwear workers are among the most efficient in the world, but they're being asked to compete against subsidized foreign competition that regularly violates our own custom laws.

It's important to remember that our foreign trading partners will not lose market share under this legislation; they're guaranteed 55 percent of our apparel market and 84 percent of our shoe market with growth in the future. In addition, we're providing them with incentives by giving quota preference to countries that buy U.S. farm products.

Mr. Speaker, if we don't override this bill and enact it, we can count on thousands more of lost American jobs, plant closings, a larger trade deficit. It's no longer a question of should we take action, it's when will we take action. The answer is clear; it's time we stood up now for the American worker and for "Made in America."

I urge my colleagues to vote to override the veto of the President.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. HORTON].

Mr. HORTON. Mr. Speaker, I rise in support of overriding the President's veto of H.R. 1154, the Textile and Apparel Trade Act. As vice chairman of the textile caucus, I have worked for several years with the chairman, BUTLER DERRICK, and a coalition of the textile and apparel industries and their employees to pass this legislation. The bill is essential to preserve the textile, apparel, and footwear industries in this country.

The Congressional Office of Technology Assessment has projected that if imports continue to increase at their current pace, there will be no U.S. apparel industry by the year 2000. The result is that 2 million people will lose their jobs in the next 12 years. This will put an enormous strain on our economy and the Federal budget. Projections show that if the H.R. 1154 is not enacted, by 1993, 339,000 additional jobs will be lost in textile and apparel industries and 226,000 will be lost in industries dependent on them.

What many people do not realize is that the loss of our domestic textile industry will lead to a serious deterioration of our national security. The Pentagon ranks textiles second to steel in the list of items most vital to our national defense. While serving as Secretary of Defense, Caspar Weinberger expressed his concern that our domestic textile and apparel industries remain strong. He stressed the need for them to be able to increase production if it were ever necessary to mobilize the Armed Forces.

There are approximately 10,000 products in the Defense Department's textile and apparel inventory. In addition to uniforms and tents, these industries provide parachutes, helmets, and rope. They also provide fibers and fabric for airplane wings and fuselages.

Mr. Speaker, there are those who think that textile and apparel production is located exclusively in the South. The fact is nearly every State manufactures textiles. Related employment in the Northeast and Midwest has been devastated over the past 15 years. During that time, the region has lost 51 percent of its textile jobs and 41 percent of its apparel jobs.

In my home State of New York, textile manufacturing employment has dropped 50 percent and apparel manufacturing employment is down by 43 percent. The region still accounts for 35 percent of apparel employment in this country. So, in spite of these dramatic issues, there are still significant numbers of textile and apparel workers in the region.

I urge my colleagues to vote to override the Presidents' veto, but I ask my colleagues particularly in the Northeast and Midwest to consider the damage that imports are causing to employment in their district and State.

□ 1700

Mr. DERRICK. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Pennsylvania [Mr. GRAY], the chairman of the Committee on the Budget.

Mr. GRAY of Pennsylvania. Mr. Speaker and colleagues, I rise in support of the attempt to override the President's veto.

We have heard a lot about the need for free trade, and I believe that we ought to have free trade. Yet at the same time we ought to have fair trade, and the fact is that we have not seen policies that produce both free and fair trade. So, thus this Congress must act to implement a trade policy where there is not a trade policy.

In 1980 to 1988 over 370,000 jobs in this industry have been lost. In my own State of Pennsylvania over 50,000 jobs have been lost. Since 1980, 1,000 plants closed, and of course we know the administration did not even believe in a plant notification bill. And once again they say we do not need a trade bill.

My colleagues, last year we had a trade deficit of $170 billion. Today, at the rate we are going, that trade deficit will probably be a little bit lower, but $25 billion of that trade deficit will be because of textiles.

Mr. Speaker, what this bill simply does is put a hold on where we are. It even allows some growth in imports to this country.

I would urge my colleagues to vote to override the President's veto so that we can begin to move toward fair trade as well as free trade.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. CRANE], our respected colleague on the Committee on Ways and Means and the ranking Republican on the Subcommittee on Trade.

Mr. CRANE. Mr. Speaker, to be frank, I am growing weary of the textile industry and its annual request for ever larger doses of government protection. Each season its cries of foul foreign competition get more shrill, and its demands on us get more presumptious. H.R. 1154 represents a new subsidy of about $100 which would be subtracted from every household budget in the country. This, I emphasize, is in addition to the $200 per year required of each family to bankroll the current system of import controls. The request is an unreasonable one, I believe, and I urge my colleagues to vote "no" on the motion to override the President's veto.

The President's message, and our lengthy review of the issues over the past year, indicates that by all standard measures, the industry is a healthy one. Textile company profits rose by 54 percent from 1985 to 1987 and are still on the rise. Employment is also rising. Twenty-one thousand new people were hired last year.

The import picture, too, is a favorable one for the industry. The value of textile imports fell by almost 10 percent during the first 7 months of this year. The elaborate system of high tariffs and extensive quotas currently in place has continued to close the door to foreign imports, much more than I believe is healthy for U.S. exports.

Under the Multifiber Arrangement [MFA] negotiated in 1986, newer and tougher bilateral agreements were pushed on our major textile and apparel suppliers. In many cases the administration forced countries back to the negotiating table several years before the expiration dates on their existing bilateral agreements.

The resulting regime of nearly 1,500 individual quotas, plus tariffs averaging three times more than average tariffs on other products, is a difficult one for developing countries to penetrate. Imports from our biggest suppliers have decreased this year by magnitudes that are astounding: China by 21.6 percent, Taiwan by 17.3 percent, Korea by 19.6 percent and Hong Kong by 19.1 percent.

What's at stake for the U.S. economy is more than increased clothing prices (which rose twice as fast as general inflation last year). The countries mentioned above are among the fastest growing markets for U.S. exports. In 1987 alone, for instance, U.S. exports to Taiwan shot up more than 38 percent while those to South Korea and Hong Kong jumped 30 percent, roughly twice the rate of our export increases overall.

These nations in the Pacific are the ones which will be key in turning our trade deficit around, and are not countries we can afford to hit with draconian cuts in their major exports to us. The European Community, which for the first time will be brought under quota by this bill, has already issued a point blank statement that they intend to retaliate if H.R. 1154 is enacted. Canada, Switzerland and other major qouta-free nations can be expected to follow suit.

In addition to repudiating the 42 bilateral textile agreements negotiated by the Reagan administration under the MFA, H.R. 1154 would torpedo broader trade agreements and policy goals sought by the President. The Israeli Government is astounded that the Congress is so quick to abrogate their free trade agreement. Likewise, H.R. 1154, would violate the United States-Canada Agreement, and would further jeopardize ratification in Ottawa of this important achievement.

The chairman of the Ways and Means Committee was clear in his position that a vote for this bill is a vote to repudiate the "principles of fair and free trade" underlying the recently signed omnibus trade bill. A leadership role for the United States in the new Uruguay round of multilateral trade negotiations, which both parties agree is extremely important, would be in serious doubt.

Trade policy concerns aside, I am disturbed by the procedures which were used in order to force this bill on the President in a form which would not have survived the scrutiny of a House/Senate conference. The most seriously flawed Senate amendments, one to force quota auctioning and one to tie textile imports to agriculture sales, never should have survived the legislative process.

Quota auctioning represents a cute budget trick but it is not good faith effort to manage textile trade fairly. Small importers and retailers would be the first to lose access to merchandise as larger importers, retailers, and even domestic producers clamor for the import rights. The majority of small and medium-sized importers would be completely shut out of this portion of the market. Ultimately, it will be the law income consumer who is hit hardest by this new import tax.

By injecting a flawed concept of reciprocity into U.S. trading relationships, the agriculture amendment could be easily turned against our exports. Holding our exports hostage to U.S. purchases in some particular sector would be totally unacceptable.

All in all Mr. Speaker, H.R. 1154 represents a highly unwarranted invasion into the pocketbooks of American consumers. Consequences for our exporters and the President's trade policy program would be highly dangerous and costly. Because the Textile Trade and Apparel Act completely flaunts our international obligations, I urge my colleagues to join me in sustaining the President's veto.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I rise in support of President Reagan's veto of the textile trade bill.

The textile bill veto will save consumers money and jobs. In my district it will allow Volume Shoe Corp. to continue to add new jobs to America's growing economy.

Volume Shoe is a major importer of low-cost footwear, and its Payless shoe outlets have been adding at least five new jobs to the economy every working day, and 40 percent of these new jobs being created are being filled by young minority workers who have the highest unemployment rate in the country.

When the national interest is at stake, Congress should act quickly and decisively to protect our markets, but the facts do not support the shoe import quota restrictions called for in this legislation.

The American public should be spared unnecessary increases in clothing and shoe prices which would occur if this legislation passes.

The textile bill would not protect jobs. It would take them away in the shoe import industry and invite retaliation against American agricultural exports.

This legislation clearly flies directly in the face of the comprehensive trade bill this body passed earlier this year.

For those reasons, Mr. Speaker, I would urge my colleagues to vote to sustain the President's veto.

Mr. DERRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Speaker, I rise in support of the vote to override the President.

Mr. Speaker, I rise in strong support of the override of the Presidential veto of H.R. 1154, the Textile and Apparel Trade Enforcement Act of 1987. I also ask my colleagues of both sides of the aisle to join with us in overriding the veto.

In my opinion, passage of the override is crucial not only to the economic survival of the textile industry, but it also represents a key element in our overall trade policy.

The bill before us will strengthen the U.S. economy and the textile industry. This legislation:

Does not roll back imports;

Establishes global quotas on each category of fiber, textile, apparel, and footwear imports based on imports in each category for 1987;

Allows each quota to grow 1 percent each year, consistent with the long-term growth trends in the U.S. market for these products;

Does not single out specific countries;

Provides the President maximum flexibility in allocating quotas;

Provides the President with authority to reduce U.S. textile tariffs if the act adversely affects major foreign textile or apparel suppliers, consistent with provisions of the General Agreement on Tariffs and Trade;

Has no negative impact on the Federal budget because the bill is revenue-neutral; and

Provides preferential quota treatment for countries which increase their purchase of American agricultural products.

The textile and apparel industries are national leaders in the employment of women and minorities. During July 1987 to July 1988, 29,000 textile and apparel jobs were lost and profits were down by 12 percent in the first quarter of 1988 compared to the first quarter of 1987. Additionally, the textile trade deficit increased by $4 billion in 1987, up 12 percent over 1986.

More than 330,000 North Carolinians work in the fiber, textile, and apparel and related industries. The earnings of these dedicated employees support families, provide tax revenues to State and local governments, support charities, help build schools, roads and churches, and educate children. Because of foreign imports, more than 40,000 jobs have been lost in North Carolina. In many North Carolina communities, textile and apparel companies are the major employers. When our industry loses jobs to unfair imports, other community businesses lose income and employees, too.

Mr. Speaker, if we want American workers to compete effectively, then the rules must be fair. Free trade must be free and fair for all nations, or it is free and fair for none. This bill starts the essential process of restoring fair competition in the international textile marketplace. I urge colleagues in the House to lend their support to overriding the veto of H.R. 1154.

Mr. DERRICK. Mr. Speaker, for the purpose of debate only, I yield 1 minute to the distinguished gentleman from Alabama [Mr. NICHOLS].

Mr. NICHOLS. Mr. Speaker, I rise today in support of the override of the Presidential veto of H.R. 1154, the Textile and Apparel Trade Act of 1988.

President Reagan has, in my judgment—and in the judgment of the majority of both the House and the Senate—vetoed the Textile and Apparel Trade Act under the misguided perception that this act is contrary to the notion of free trade, and I strongly disagree with this view. Let's look at the facts: This act in no way stops imports from coming into the United States. In 1987 alone, 55 percent of the garments sold in the U.S. apparel market were imported. The act would merely allow our domestic industry to survive and will permit foreign imports to grow at 1 percent per year, which is in line with the historical growth rate of the market in general.

The textile industry is one of the most well-managed and efficient industries in the Nation, and our domestic prices are reasonable and competitive. We in the United States are victims of trade barriers in other countries, particularly Japan and other Asian markets, that do not allow American products to be sold easily in these countries. Yet these same trading partners want to flood our domestic markets, putting thousands and thousands of textile workers out of jobs. All of this is in the name of free trade. Well, I don't like it and I am particularly concerned when the Department of the Defense ranks the textile industry second only to steel production in its importance to our country's national security. Put simply, the survival and prosperity of the textile industry is vital to our industrial base, and if we sit idly by and allow the continuing surge of foreign textile and apparel imports to continue unabated we will see this industry die on the vine just as we have allowed other U.S. consumer industries to die, such as electronics, machine tools, and the semiconductor industry.

I urge each and every one of my colleagues to override the President's veto and protect this vital industry and the many hundreds of thousands of American jobs which it represents.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY of New York. Mr. Speaker, my colleagues, I support the President's veto of this legislation.

This legislation manages to be all-encompassing. It is bad politics, it is bad economics, and it is bad trade policy.

It is bad politics because it makes the President look good and the Congress look petty. It is bad economics because in the long run inevitably the closing of markets, additional barriers, will cost us jobs, not create them. The world will be poorer because of the barriers, not richer. And it will increase the price of clothing to the people who can least afford those price increases, people of lower economic means. And it is bad trade policy because the one thing the Reagan administration had done that I strongly support is attempt to reduce the barriers to trade throughout the world.

Mr. Speaker, we have a Canadian free trade zone that we just passed. We have an Israeli free trade zone we passed several years ago. We have a multifiber agreement. We have a variety of international negotiations that are ongoing with our trading partners in an attempt to prevent this sort of activity.

The textile industry, as my colleagues have heard ad nauseam on the floor of this debate, is the most heavily protected industry in this country, yet they want more protection.

As I walk around and see my colleagues, they tell me, "Oh, it's just a throwaway vote; they'll beat us in the Senate." They know that if we were to do this vote by secret ballot, there would be no doubt about the outcome. The people in this Congress know that to override the President's veto is irresponsible. It makes no sense.

So, if what my colleagues have been saying privately is true, if my colleagues really believe, as I do, as this President does and as history shows us, that open markets are the way for both parties to be richer, to understand one another, please sustain this President's veto, and let us not have the 100th Congress end on a sour and inappropriate note.

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from South Carolina [Mrs. PATTERSON] for the purposes of debate only.

Mrs. PATTERSON. Mr. Speaker, I rise to urge my colleagues to override the President's veto of the textile bill.

The President claims that this is a protectionist measure. That is simply not so. The recent Olympics are an excellent example of international games by which the competitors play by a set of rules that apply equally to all competitors. Foreign governments, however, are pumping up their textile industry with government subsidies and domestic protection. They are taking full advantage of the administration's weak enforcement of international agreements.

Mr. Speaker, this is not a game. We are talking about real jobs and real people. In Spartanburg County, SC, the unemployment rate jumped from 3.2 percent in July to 4.7 percent in

August due in great part to a downturn in the textile industry. The facts show that this downturn is not restricted to South Carolina. The trade gap in textiles rose to $4 billion in 1987, up 12 percent since 1986. Textile capacity utilization has fallen to 83.4 percent in July compared to 94 percent in July 1987, and textile profits have dropped off 12 percent in the first quarter of 1988, compared to the same period in 1987. Clearly, we have a need for new rules in this arena.

The textile workers and manufacturers of this country deserve a chance to prove that they are the world's best. I urge my colleagues to give them that chance and to override the President's veto.

Mr. ARCHER. Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the Republican leader of the House, the gentleman from Illinois [Mr. Michel].

Mr. MICHEL. Mr. Speaker, obviously I rise in support of the President's position and would ask Members to sustain the President's position, and if I might direct my remarks primarily maybe to my side of the aisle, because this is one that is on the margin. Before, we had a very close vote. This will obviously be another one.

We know the kind of pressure that is being applied on the majority side of the aisle, although that is not obviously going to be a straight partisan vote, because quite frankly, there are divisions of thought on the majority side. Thank heaven for those discerning Democrats who think as I do.

So I would make an appeal on our side of the aisle to those of you who would consider, for example, a trade bill that we have enacted earlier this year, another trade bill with our neighbor to the north, Canada, and all with the prospect of opening up and breaking down trade barriers for more free discourse between our countries and those trading partners abroad.

I would simply make this last minute appeal to those on our side of the aisle.

And frankly, another argument might very well be that this measure should have gone to conference and there might very well have been some modifications in that conference, but here we were confronted with a proposition, take it or leave it, when it came back to us here in the House. I think, frankly, that was a disservice to our side of the aisle and to the House, for that matter.

I would implore those of you on my side of the aisle, particularly on the margin, but bearing in mind that the President's position is a good and sound one, it seems to me at this late juncture in the administration you have got every reason to support the President of the United States in sustaining the veto.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. LaFalce].

Mr. LaFALCE. Mr. Speaker, last Wednesday I was at the White House for the signing of the Canadian-American Free-Trade Agreement. That same day the President vetoed the textile bill.

Most every Member in this body voted for the Canadian-American Free-Trade Agreement. I think without realizing it, though, they should know that the textile bill would unilaterally abrogate the terms of that trade agreement, as it would unilaterally abrogate the terms of about 40 other agreements. That is one of the fundamental things that is wrong with it.

Second, my friends in the labor movement are very concerned about this bill, but I think most of them are a bit naive. I think the people in the steel industry are naive. The people in the auto industry are naive. I think the people in virtually every single industry represented by labor are naive, because they stand to be hurt by this bill, by the retaliation that will take place against them if the United States should pass this into law.

The third thing. A great many good friends of labor, such as Bill Bradley, Alan Cranston, Tom Foley, et cetera, also oppose it, and in my judgment Michael Dukakis probably does, too, although we have not heard from him explicitly on that, which I take as a sign of opposition.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1½ minutes to the distinguished gentleman from Georgia [Mr. Jenkins].

Mr. JENKINS. Mr. Speaker, if we attempted to answer all the wrong information that has been presented in the debate, it would take 2 or 3 days, but let me try in 1½ minutes to attack part of it.

First of all, that this would abrogate the Canadian treaty; absolutely wrong. It has nothing to do with the Canadian treaty.

We are reducing our tariffs, as Canada reduces theirs. That is the way it ought to be.

Do you know that Canada ahs quotas on textile products and apparel? Of course, they do. They protect themselves, which they ought to do.

The European Community, you try to ship things in; of course, they have tariffs and, of course, they have quotas.

The Pacific Rim countries, they all have quotas.

We are not attempting to do anything new. We are not even attempting to roll back any exports into this country.

We are saying that whatever you exported last year into our marketplace, 82 percent of the shoes, over 40 percent of the textiles, you can continue to do so. You can even grow at the rate of 1 percent a year. Is that being unreasonable? Is that unheard of?

I understand from the argument of one of our colleagues that people sell all these imported shoes. Does it take any longer to sell a pair of imported shoes than it does a pair of domestically made shoes?

I am assuming that the employment is there for domestic as well as for imports. It does not add any new jobs to sell something that was made in some other country.

But our argument is simply this. How much penetration is enough? How much export penetration by us is enough? Are we going to rely upon agriculture? Well, that is good.

We have global quotas in dairy products. We have global quotas today in cheese. We have global quotas in sugar. This is nothing that is unique to textile, nothing whatsoever.

I say to you that all the arguments that are made by the opponents to this override simply do not look at the facts as we ought to.

Are we going to rely upon aerospace? That was one of the arguments.

Well, let me tell you, we manufactured 17,000 private aircraft 5 years ago for sale, domestically and for export. Last year we manufactured 1,000 down from 17,000 to 1,000.

Are we going to rely upon the financial interests, the banks? Well, we used to have 8 of the top 10 banks. We have now 1 in the top 25.

Are we going to rely upon the insurance companies, the giant insurance companies that are going to save us? We used to have practically all of those. We do not have any today.

Mr. Speaker, I ask you to join in overriding this veto.

Mr. ROWLAND of Georgia. Mr. Speaker, once again we are conformed with the veto of a bill attemping to address the situation facing our textile and apparel workers. A situtation created by the influx of cheaply made foreign goods. Congress passes the legislation and the President vetoes it. I urge my colleagues to change this cycle we have been going through. Vote for the override of the President's veto.

America's textile and apparel industries have taken a severe beating. The effect of cheaply made foreign imports on this industry has been devastating.

In my home State of Georgia, the textiles and apparel industry is the largest manufacturing employer in the State. It is literally the manufacturing backbone of our State. However, Georgia has lost thousands of jobs in this sector of our economy.

Opponents of this legislation point to statistics showing that the textile industry has increased its profits. At first glance, this may sound like a convincing. However, upon closer inspection we find that this does not hold water.

When labor costs are decreased through layoffs and capacity is increased by plant closing, the situation can be made to look a lot better than is actually the case. The remaining plants may by profitable. But this downsizing is not economically healthy. The fact remains that the industry cannot compete under current conditions.

Let's take this opportunity to make a dent in the trade deficit, bring stability to the industry and job security to the many hardworking Americans who rely on it. Vote to override the President's veto.

Mr. GOODLING. Mr. Speaker, I urge my colleagues to vote to override the veto of H.R. 1154. It is ludicrous to call an effort to retain 18 percent of the domestic footwear industry "protectionism." I call it common sense.

The United Kingdom imposed barriers after import penetration reached 12.7 percent. France decided to restrict shoe imports because two countries now supply 10 percent of their market. In this country, imports account for 82.5 percent of the market.

This country has the only open market for footwear imports in the world. That's why we're in the state we are. It has nothing to do with arguments that we can't compete. The United States is literally flooded with footwear imports as a result of our own policies.

The International Trade Commission has said so twice in one decade. In the period between ITC decisions, import penetration went from 47 percent of the domestic market to nearly 80 percent. The bipartisan ITC Commissioners recommended 4 to 1 in favor of global quotas. They, the experts, recognize the real problem.

Any attempts to characterize retention of basic industrial capacity which has been forced upon us as a result of our own policies as protectionism is pure folly. I'll ask again what I asked this body when it last voted on this issue—do we politely request our foes in any potential conflict to wait 2 years so we can field Armed Forces with boots?

Mr. TALLON. Mr. Speaker, I rise in strong support of the motion to override the President's veto of the Textile and Apparel Trade Act. I cannot reconcile this decision with the fact that the trade gap in textiles rose $4 billion in 1987, up 12 percent from 1986, or that 29,000 jobs were lost in the textile and apparel industry during the 12-month period ending July 1988.

I do not see how we can afford to ignore the opportunity that the textile bill presents to strengthen America, not by lowering the dollar, but rather by raising our capacity to meet ever-increasing foreign competition. It has occurred to me that part of the problem is in the way we have shaped the debate.

We all talk about competiveness and protectionism versus free trade as if we discovered these issues. Well, we didn't and I think it's useful to put this debate in the proper perspective.

This means taking a look back in our Nation's history, two centuries to be exact, to correspondence between the British economist David Ricardo and Colonial leader Alexander Hamilton.

Ricardo's argument was the same as that of the so-called free traders of today. The Colonies, which were 96 percent agricultural, should depend on their natural resources and hope that the comparative advantage would shift their way while the British mopped up.

Fortunately, Hamilton, the "protectionist," believed that our industrial base needed developing. And, the very first measure passed by America's young Congress was a trade bill that placed a 50 percent tariff on over 70 different items.

On this foundation was built the strongest, most competitive economy the world has ever seen. An economy that went from agricultural to industrial base strong enough to defend the free world.

America today, like the America of 200 years ago, must compete in an international economy under the burden of growing international indebtedness. Yet, for the first time, it seems we are unwilling to control our own economic fate. This country's textile workers are the most productive in the world. But, our Government is paralyzed from responding to foreign nations that dump textile and apparel products here and yet simply refuse to let our products through the gate.

So, we face a domestic apparel market that will be over 72 percent imported by 1993. And, we shrink from responding because we're afraid other governments will label us as protectionist. Where would we be now if this had been Alexander Hamilton's response?

What after all do we really mean by free trade? By protectionism? Is it protectionist when we provide urban development action grants that help industries compete more effectively in the world market?

Does free trade suffer when we provide funds to improve our infrastructure through funds for water and sewer facilities, and transportation improvements?

Are we subsidizing when we provide for worker training programs or low interest loans for a particular company? No. We are doing these kinds of things all the time. So are our competitors: at the State level, at the national level, internationally.

Our competitors aren't afraid of labels. As a result, the mountain of global productivity has grown but we are sliding farther and farther away from the pinnacle. Lacking a strategic response, we have watched our great manufacturing enterprises falter. Seventy percent of American manufactured products are subject to foreign competition in the United States.

Prior efforts to open foreign markets to American textile and apparel goods have failed. We can no longer sit idly by and watch Japan steadily overtake American manufacturers at home and abroad.

The threat from Japan of a retaliatory trade war is an empty one, not because they won't start one but because they already have. For a decade or more the Japanese have dumped their products in the United States market on a consistent and widespread basis. The goal is simple: the elimination of U.S. competition.

The American textile and apparel industry is fighting for its life. With the domestic market growing at a rate of just under 1 percent during the last decade, it is easy to understand how since 1980, the industry has lost more than 1,500 factories and 40,000 jobs and 750,000 job opportunities to foreign nations.

In South Carolina, we are seeing entire towns shut down in the face of the textile deficit leaving families jobless and hopeless. My State's manufacturing base has been gutted through the loss of 30,000 textile jobs as 135 plants closed down. What does this say about our country's commitment to opportunity, to hope, to a future for America's workers?

Finally, we have the opportunity to begin to change all this. I believe the textile bill will position America to take full advantage of changes in the world economy and meet the trade challenges of tomorrow. It will help us to get this $170 billion trade deficit under control. It will allow us to get on with our future.

Mr. GAYDOS. Mr. Speaker, I rise in strong support of the motion to override the President's veto of H.R. 1154, the Textile and Apparel Trade Act.

In the last 14 months, 29,000 U.S. textile and apparel workers have lost their jobs. Since 1980, more than 350,000 textile and apparel workers and 70,000 footwear workers have lost their jobs, and there is no end in sight.

Without some kind of defense against imports, more American workers will undoubtedly lose their jobs. In fact, the Office of Technology Assessment predicts that if imports are not controlled, then there will not be an American apparel industry by the year 2000.

When President Reagan vetoed the textile bill, he said it "would have disastrous effects on the U.S. economy * * * threaten jobs * * * and costs consumers."

Mr. Speaker, I believe that 420,000 workers losing their jobs over the past 8 years to foreign textile, apparel, and footwear imports is already a disaster.

How many more lost jobs will it take before the White House wakes up and realizes that we have suffered enough and it is time to fight back?

I am proud to be an original consponsor of H.R. 1154, and I believe that it does an excellent job of bringing more order and control to our textile, apparel, and footwear industries.

If we are serious about reducing our trade deficit, we must also consider that last year, textile and apparel imports contributed $25 billion to our $171.2 billion trade deficit.

In addition, 82 percent of the footwear bought in the United States right now is made overseas. Apparel imports capture 60 percent of our market, which is double the 1980 level.

While imports have climbed, American manufacturers have not stood still. The textile and apparel industries alone have spent almost $19 billion modernizing their facilities. But low-priced imported textiles and apparel continue to flood across U.S. borders.

Many of the countries which export these goods to our Nation keep their prices low by violating the most basic worker rights. Worker health and safety protections, minimum wage and hour laws, and child labor laws are either not present or not enforced in many of these countries.

In Thailand, thousands of young peasant girls are recruited from farms and work 7 days a week in Bangkok sweatshops. One of these shops caught fire last year and killed 19 people, including a 14-year-old and a 15-year-old.

In the Philippines, clothing sweatshops hire children under 15 years of age and pay them as little as 13 cents an hour. A recent study by the University of the Philippines found thousands of children doing piecework sewing in their homes for between 15 and 30 hours a week at 1 to 5 cents an hour.

There are countless other examples of labor abuses in developing countries, but these two examples are typical.

Mr. Speaker, Congress has a responsibility to its textile, apparel, and footwear workers. We cannot let foreign goods produced in sweatshops by children put American men and women out of work.

By defending American textile, apparel, and footwear jobs, H.R. 1154 will reduce the cost of Federal outlays by hundreds of millions of dollars. Taxpayers will save on unemployment compensation, job retraining, Medicaid, and welfare payments.

Mr. Speaker, I believe that H.R. 1154 is the best defense America has against unfairly priced and unfairly traded apparel, textile, and footwear imports. I will vote to override the veto and urge all of my colleagues to join me.

Mr. ASPIN. Mr. Speaker, I urge my colleagues to vote to override the President's veto of H.R. 1154, the Textile and Apparel Trade Act. This legislation is necessary to save our Nation's struggling textile, fiber, apparel and footwear industries from the flood of foreign imports. Incredibly, the President claims that these industries are thriving and overprotected. This is blatantly untrue.

According to the U.S. Bureau of Labor Statistics, 350,000 textile and apparel jobs, and 70,000 footwear jobs have been lost since President Reagan came into office in 1980. Although the textile and apparel industry spent $18.9 billion for plant modernization, in an effort to increase its competitive position, 1,000 plants have been forced to shut their doors. Similarly, 400 domestic footwear plants have closed down. The major cause of these plant shutdowns is unfair foreign competition. How can our American firms successfully compete against foreign firms that are subsidized by their governments, pay workers as little as 16 cents per hour, and regularly violate U.S. customs law?

Our Office of Technology Assessment [OTA] has reported that if imports continue at their current rate of growth there will be no U.S apparel industry by the year 2000, and imports will account for two-thirds of the U.S. textile market. Foreign imports already account for 82 percent of the U.S. footwear market. Think about what the disappearance of these key industries will mean to workers in our country. These industries employ many immigrants and minorities who have few other options for employment. In addition, the textile and apparel industry is the largest manufacturing employer of women in our country. The only alternative for many of these workers, faced with joblessness, will be public assistance.

Our 1986 failure to override the President's veto of the earlier textile bill meant that another 29,000 jobs were lost in 1987. These statistics are not faceless numbers, but real people. Just last month, a shoe factory in my district announced its intention to shut down permanently. The Nunn-Bush shoe factory is one of the largest industries in Edgerton, WI. After 54 years of successful business, Nunn-Bush has been forced to close this plant because of foreign imports. The closing of this plant is a tragedy for both the economy and the community. When Nunn-Bush first opened its doors in April 1934, more than 4,000 people, including Gov. Albert G. Schmedeman, celebrated the occasion at a dance held on the factory floor. Now, the closing of the plant will mean more than the loss of 100 jobs at the plant. It will mean the decline of other businesses in Edgerton, restaurants and stores, because of reduced demand. It will mean families who have lived in Edgerton for years may have to move, in order to find new jobs. Unfortunately, our textile bill comes too late to save the Nunn-Bush plant.

President Reagan has repeatedly overlooked the harm being done to these industries. He has failed to grant import relief, even in the face of an unanimous 1985 ruling by the International Trade Commission that the footwear industry had been injured by foreign competition and a 4-to-1 vote by the ITC to recommend import relief. In addition, he has failed to enforce the Multifiber Agreements' [MFA] ceiling of 6 percent annual import growth. Instead, textile and apparel imports to the United States have grown by 17 percent in 1986, following increases of 30 and 32 percent in 1983 and 1984. Our Textile and Apparel Trade Act is needed to address the problems that everyone else has ignored.

Mr. Speaker, I urge my colleagues to override the President's veto. It's not too late for us to save our textile, apparel, and shoe industries.

Mr. MANTON. Mr. Speaker, I rise in support of the motion to override President Reagan's veto of the Textile and Apparel Trade Act.

Mr. Speaker, over the past 8 years the American textile industry has been decimated by a flood of cheap, subsidized foreign imports. Since 1980, more than 370,000 jobs have been lost in the textile, apparel and shoe industry.

Despite the import limits imposed by the multifiber arrangement, our foreign competitors have captured over 50 percent of the U.S. textile market. While our competitors were blatantly violating international trade agreements, the Reagan administration did nothing. Congress has attempted to respond to this crisis by twice passing modest legislation to limit the growth of textile imports. Both times, President Reagan vetoed this legislation.

Mr. Speaker, it is time to insist that our trading partners play by the rules. American textile workers are not seeking protection from foreign competition. They are simply asking for an opportunity to compete with our foreign competitors on a level playing field. H.R. 1154 will give them that opportunity.

Mr. Speaker, I urge my colleagues to join me in voting to override the President's veto of the Textile and Apparel Trade Act.

Mr. DARDEN. Mr. Speaker, last month by a margin of 248 to 150 the House of Representatives voted in favor of the Textile and Apparel Trade Act. President Reagan has vetoed this bill, and I will be voting in favor of the override. In my role as cochairman of the bipartisan national security caucus, which is the largest congressional alliance on Capitol Hill, I circulated a letter to all Members of Congress last week. This letter was cosigned by 20 of my caucus colleagues, and it reflected the considerable national security implications involved in the survival of our fabric, fiber, aparel, and footwear industries.

These industries have a vital impact on our employment outlook and our economy, and without unfair trading practices, they would absolutely be competitive in the world market. Unfortunately, they have to contend with illegal dumping practices, nontariff barriers, and foreign wages of just 25 cents an hour. A wide variety of studies have shown that U.S. consumers are not receiving less expensive prices, and the quality of U.S. products can not be surpassed. I am a firm believer in fair trade, and the major issue confronting us in the override is one of smart trade. Foreign penetration of our footwear industry has now reached 83 percent, and in textiles and apparel it is now 54 percent.

What is even more disturbing are the trend curves. Imports have been entering the U.S. market at the staggering rate of 15 percent per year, and if this growth rate continues, we will not have a domestic textile industry in just 5 years. This critical manufacturing industry declined by 12 percent last year, and I have already distributed to my colleagues a chart that indicates 100-percent penetration of the U.S. textile industry by 1992.

If we do not take legislative action against unfair trade practices, our footwear industry will also be extinct by then, and they will follow the path of the late U.S. consumer electronics industry. The fiber, fabric, and apparel industry is ranked second only to steel in its importance to our national security, and we today have only four manufacturers of the essential protective clothing needed by the Pentagon. The Industrial College of the Armed Forces has also released a report indicating that mobilization for a national emergency would be very difficult because of our over reliance on imports.

Since 1981 there has been a 600-percent increase in Japanese investment in the United States. Foreign investors now own 20 percent of all of our basic assets, and foreign investors also own 33 percent of the prime commercial real estate in Washington, DC, 39 percent in Houston, and 46 percent in Los Angeles. These figures are actually deceptive, because Susan and Martin Tolchin in their new book "Buying Into America" state that half of all foreign investments goes unreported.

Our economy is of course international, but I am frankly concerned that all the present data indicates that the great majority of the new highly skilled jobs are springing up in Japan, and Americans are not becoming the top executives in these foreign-owned firms. The textile issue should not be a concern just to lawmakers from the South, but the underlying problems of textiles have true national consequences. The Trade and Technology Task Force of the bipartisan National Security Caucus has already demonstrated that the foreign import problems confronting the textile industry are definitely related to penetration concerns in our domestic oil, consumer electronics, machine tool, ball bearing and semiconductor industries. Our economy, our employment outlook, our national security, and our industrial base would all benefit by the Textile and Apparel Trade Act. I urge my colleagues to override the President's veto.

Mr. BEVILL. Mr. Speaker, the Reagan-Bush administration turned its back on the Alabama textile industry last week when the President vetoed the textile bill.

Before the ink was dry on the veto, a major textile plant in my district announced layoffs of hundreds of people.

The Health-Tex plant in Guin, AL, is closing its doors, laying off more than 600 workers. I am very upset about the loss of these jobs in my district, especially in a small town like Guin.

This plant has been a major employer in this town for many years. Most of these workers are women who are helping to support their families. They need two incomes to survive and it will be very difficult for them to find new jobs.

Congress passed the Textile and Apparel Trade Act to help save American jobs. These jobs are being exported to foreign countries because the Reagan-Bush administration has not enforced our trade laws.

During this administration, more than 400,000 U.S. textile jobs have been lost nationwide. Now, another 600 Alabama jobs have been added to that total.

I certainly hope my colleagues will join me today in overriding the President's veto. There are a lot of textile workers in my district who are counting on us to save our Nation's textile industry.

We cannot afford to lose the American textile industry to foreign competition. We cannot afford to keep exporting American jobs overseas.

Mr. RAY. Mr. Speaker, I rise today in strong support of the textile bill.

There are many reasons why my colleagues should join me in supporting the textile bill:

The U.S. fiber, textile, and apparel industries employ 2.2 million people. The industry is the leading manufacturing employer of women and minorities.

The Pentagon ranks textiles as the item most vital to national defense, next to steel. Dependency on foreign suppliers jeopardizes readiness and undermines the U.S. defense posture.

The American textile industry is the largest and most reliable customer for U.S. cotton and the only customer for U.S. wool. Domestic cotton and wool production provides jobs for nearly 300,000 people.

Eighty-three percent of the shoes sold in this country are imported. The Textile and Apparel Trade Act would make it possible for the American shoe industry to survive and grow.

Mr. Speaker, textile and apparel imports for the first 7 months of 1988 entered the United States at near record levels, according to the Department of Commerce. The textile and apparel trade deficit of $13.9 billion was 17.6 percent of the total U.S. trade deficit.

Much has been said about the financial improvement in the textile industry. This is true, but it primarily is because a large percentage of manufacturers have failed, and the remainder of the industry has modernized to take up the slack.

I urge my colleagues to support the textile bill, veto override we cannot continue to allow foreign countries to flood our markets and undercut our own producers. The time for action is now.

Mr. AKAKA. Mr. Speaker, today I will vote to sustain the President's veto of H.R. 1154, the Textile and Apparel Trade Act.

In Hawaii, more than 3,350 people are employed in 145 textile and apparel manufacturing companies. The textile and apparel industry is my State's second largest manufacturing concern behind agriculture, experiencing steady annual growth.

In the past I have spoken to the potential devastation to the local industry presented by the proposal of separate global quotas for each Department of Commerce textile category, permitting 1-percent annual growth rate in each textile and apparel classification. Now, under the terms of this legislation, the threat to our local industry has been compounded by the provision providing for a textile import license auction system for 20 percent of our import quota.

It is an unfortunate fact, but I must again emphasize that most of the fabrics utilized in the Hawaiian textile and apparel industry are simply impossible to procure from American mills. Dependent upon foreign textile companies for small orders and intricate, detailed, multicolored prints, quota auctioning would decimate the Hawaii industry. This legislation offers no assurance that small importers will receive equitable treatment under an auction system. If this bureaucratic nightmare was ever implemented, small American textile and apparel industries, including Hawaii businesses, would fall victim in a restrictive market to our own unfair trade barriers and practices, not to unfair foreign competition.

I share my colleagues concern over the serious trade difficulties experienced by American manufacturers. I believe Congress addressed these concerns in a manner that strengthens the U.S. economy, increases American industrial competitiveness, and benefits the American worker and consumer when we passed the omnibus trade bill in August. Unfortunately H.R. 1154 contradicts the firm stand taken by this body against artificial trade barriers overseas. I urge my colleagues to sustain the veto.

Mr. SHUMWAY. Mr. Speaker, I rise in strong opposition to this effort to override the Presidential veto of the textile bill which would hurt consumers, provide retaliation against U.S. exports, violate our international obligations, derail the current round of GATT negotiations, and provide unnecessary protection for the textile and apparel industries.

During the first 6 months of this year, consumer apparel prices rose at an annual rate of over 7 percent. This bill would increase the already substantial cost to consumers for existing protection of the textile and apparel industries. The consumer cost of this bill over the first 5 years is estimated at $25 to $37 billion. The additional costs resulting from the new protectionist measures contained in this bill would impose a substantial burden on low-income families already struggling with higher clothing costs.

This bill would provoke retaliation from our trading partners at a time when we are seeing a dramatic increase in U.S. exports due to the lower dollar and increased American competitiveness. To quote Secretary of Agriculture Richard Lyng, "the textile bill is raw protectionism that will likely hurt America's farmers." This bill would invite retaliation from countries selling textiles to the United States which provided the markets for 55 percent of our total agricultural exports last year. Linking access to the U.S. textile market to the purchase of U.S. agricultural products would only strengthen the likelihood of retaliation against this sector of our economy.

The textile bill would unilaterally impose global quotas, including imposing permanent quotas on more than 150 product categories based on general declarations of "serious injury" to the U.S. industry. These quotas would place the United States in violation of the General Agreement on Tariffs and Trade, the Multi-Fiber Arrangement, 42 bilateral agreements, and the Israeli and Canadian Free Trade Arrangements. No nation has ever disregarded so many international agreements in time of peace.

The GATT member nations adopted a sweeping and ambitious agenda for the current round of multilateral trade negotiations. How can we ask other countries to open their markets to U.S. products and services while we build a higher protectionist wall for our textile and apparel industries?

Finally, this bill would provide additional protectionist measures for the textile and apparel industries which are already the most protected industries in America. These industries currently enjoy extensive protection resulting from almost 1,500 quotas and tariffs averaging nearly 18 percent. Exports, profits, employment, production, and capacity utilization all increased in 1987. At the same time, imports decreased almost 10 percent during the first 7 months of 1988.

Clearly, we do not need to provide protection to a prosperous industry which is already heavily protected. I urge my colleagues to support the Presidential veto of the textile bill which carries such a high price tag for American consumers and other sectors of our economy.

Mr. BUECHNER. Mr. Speaker, I rise in support of the effort to override the President's veto of the Textile and Apparel Trade Act, H.R. 1154. Missouri is the largest footwear-producing State in the Nation as well as being a major producer of textiles and apparel. But Missouri's grip on these vital industries is slipping quickly. In fact, during the past 8 years, Missouri has lost almost 8,000 jobs in the textile, apparel, and footwear industries alone. The time is now to save these industries faced with extinction as a result of subsidized competition.

Seventy years ago my grandfather and my great uncles made the first Buster Brown shoes for the Brown Shoe Co. That was when St. Louis was "First in shoes, first in booze, and last in the American League. Now, the Browns are in Baltimore, but the shoes are in the Orient and South America." In the spirit of my grandfather, Bill Buechner, the Bob Taft Republican who believed in free trade but fair trade, I support the industries of my State who are threatened with extinction.

Earlier this year, I opposed this legislation due to the fact that the House could only accept or reject the Senate amendments, thus bypassing the usual House-Senate conference committee to reconcile the differences between the two bills. Hence, I was not opposed to the goals of the legislation, only to the procedural manner in which it was presented to the House.

Today, I continue my call to my colleagues to pass H.R. 1154 so that our injured industires will have a fighting chance to compete in the world apparel, textile, and footwear markets.

Mrs. COLLINS. Mr. Speaker, I rise in support of the motion to override the President's veto of H.R. 1154, the Textile and Apparel Trade Act of 1987.

An ever-increasing flow of imports into this country has flooded the American market with fabrics, clothes, and footwear from abroad. This influx has had two very negative impacts on the American economy: First, it has played a significant role in the buildup of the U.S. foreign trade deficit, and, second, it has decimated the American apparel, textile, and footwear industries. The facts on the impact of these imports are:

Since 1980, over 370,000 jobs have been lost in the American textile, apparel, and footwear industries;

In the past 14 months alone, 29,000 textile and apparel jobs have been lost;

One thousand manufacturing plants have been closed; and

The United State's textile and apparel trade deficit is estimated at $25 billion.

It is obvious that the President has not heard from as many displaced garment workers as I have. Their plight has convinced me that textile import control programs are vitally necessary to curb the number of plant closings, layoffs, and reduced work hours in their industry.

Contrary to how some choose to portray this legislation, it is not protectionist. It is, however, an attempt to level the playing field so that the American textile, apparel, and footwear industries can compete on equal footing with imports from other nations. The package that Congress has approved is a balanced approach: It allows continued growth of imports but at a rate that is orderly and controlled. We are not singling out any one country but rather balancing the total amount of imports coming into the United States. There is even a provision whereby the administration can ease import restrictions for certain nations when they increase their importation of American farm products.

I urge my colleagues to join me in taking a stand on behalf of American workers and American industry and support the motion to override the President's veto of the textile bill.

CALL OF THE HOUSE

Mr. ROSTENKOWSKI. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their name:

[Roll No. 425]

ANSWERED "PRESENT"—399

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frenzel
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Panetta
Parris
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stokes
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

☐ 1740

The SPEAKER pro tempore (Mr. MURTHA). On this rollcall, 399 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call were dispensed with.

☐ 1745

TEXTILE APPAREL AND FOOTWEAR TRADE ACT OF 1988—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 100-235)

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. FRENZEL] who is well qualified in trade issues, perhaps the most qualified member of the Committee on Ways and Means

Mr. FRENZEL. Mr. Speaker, the question before the House today is should American families be obliged to pay from $20 to $40 billion in extra consumption costs when they are already spending $240 a family to pay for the textile protection that is already in effect? Should they have to spend more in order to protect the industry further?

Another way to phrase the question is, should the consumers be obliged to subsidize certain industries, jobs, and cost other industries jobs as a direct tradeoff?

Shall Americans have to abandon its traditional capitalistic free market or shall it continue to allow a modicum of choice for the consumers? Shall one country that supports capitalism refuse to compete?

Mr. Speaker, the President faced up to this problem, he courageously vetoed the bill and said he will stand with the American people, he will not put himself in a position of demanding every American family pay an extra $240 to protect the most highly protected industry in the United States of America.

It is now up to this House to ratify that decision of the President of the United States of America.

We have in the textile industry one of the healthiest industries in the United States. By any standard, take corporate profits, take stable employment, take industry utilization, take increasing consumption, take reduced imports. My colleagues heard Members stand in the well of this House and tell Members that the American soldiers were going naked and that imports were increasing. For the first 8 months of this year they are down and if one projects those, we will have zero penetration and zero imports. This industry is protected by 42 bilaterals of Multifiber Arrangement, 1,500 quotas, and the highest tariffs in the world on textiles and apparel, and yet that is not enough.

We have here a perfect example of a greedy industry which cannot wait to get more. The more we help it, the more it wishes to beggar every other industry and every other job in the United States. It is not just the transportation and retailing jobs that will be lost if this veto is overridden. It is the extra jobs that will be retaliated. Textile and apparel runs at about 60 or 70 percent of the average wage in manufacturing. The highly competitive industries which will be retaliated against are those that pay above the average wage in manufacturing. Do not vote to make a tradeoff in jobs in one industry to another. Do vote for free choice for the consumers. Stand up for America. Support the President's veto.

Mr. DERRICK. Mr. Speaker, I yield myself the remainder of my time.

The SPEAKER. The gentleman from South Carolina [Mr. DERRICK] is recognized for 3 minutes.

Mr. DERRICK. Mr. Speaker, I stand before this body today and I cry out for our country. I cry out for our country. I want Members to remember that 100 years ago from today the British Empire was the most powerful nation the world had ever known on which the Sun never set. They did rule the world for 100 years and this was supposed to be the American century.

What has happened to us? We are giving away our birthright. We are giving away our economic base. We are giving away the very things that have allowed us to be the defenders of the free world, the greatest military power in the world, the greatest economic power in the world, the greatest standard of living in the world. We are giving it away just like the British Empire gave it away. They gave away their economic base, trying to work with their foreign policy. We cannot do it.

One of the prior speakers said that most of the world banks, the largest banks, are no longer in this country. The larger insurance companies are no longer in this country. What are we to do, and I say to Members, brothers and sisters on the west coast that are so concerned about ports, what are we going to do when no one has any money to buy what comes into the ports? What are we going to do then? What are we going to do when we get into some sort of conflict and we do not have the ability to clothe our military? What are we going to do when we do not have a steel industry? What are we going to do when we do not have an automobile industry, and the list goes on and on and on.

We talk about some business of protectionism. Of course we are here to look out for the jobs of the people that we represent, but we are here to look out for this country and make sure we keep our economic base that we are giving away every day.

I said, as I stood up here to begin with, I cry out for this country today, and I tell Members that this is one of the most important votes that a Member will ever cast. I think that if Members vote, if Members do not vote to override the President's veto, I fear that Members and their grandchildren will look back one of these days and say they made a terrible mistake.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself my remaining 4 minutes.

Mr. Speaker, this is the sixth time in 3 years this House has debated the merits of a textile quota bill. I am beginning to understand the man who said "it's deja vu all over again." Let me just say this. I think that by now all Members probably know how they are going to vote on this override.

With that in mind, and realizing that I am not going to convince any supporters of the bill to change their votes, let me say a few things to those of you who have opposed the bill but now find yourself considering to change your vote.

Two years ago the House considered and sustained the President's veto of a similar textile and footwear quota bill. At that time, proponents of the bill claimed that, unless legislation were enacted, imports would continue to flood our markets and overwhelm our domestic industry.

In the 2 years since then, the domestic textile industry has seen production increase, exports increase, employment increase, profits increase. About the only thing that has decreased seems to be imports.

Proponents of this bill claim that it is an issue of jobs. Well, all of us in this Chamber care about jobs. But will this bill really save jobs for Americans? Or does it merely save a few people's jobs at the expense of a lot of other people?

I care about all of my constituents' jobs—from the garment worker, to the dock worker, to the store clerk, to the construction worker. I don't think it's fair for me to support legislation which so unequivocally favors one group of workers at the expense of others.

The Congress should pass laws which ensure the economic well-being of all Americans. We did that just a few months ago when we enacted the Omnibus Trade and Competitiveness Act of 1988. The Omnibus Trade bill tells the world we want free and fair trade, open markets, and expanded opportunities for U.S. exports. This textile bill tells the world just the opposite. It says that the United States wants to tear up internationally agreed trade rules, pass special protection for its politically powerful industries, and make other Americans pay the price. This flies in the face of all the work we have done here in the Congress to make America the leader in the fight for fair world trade. Now, more than ever, this bill should be defeated.

I think many proponents of this bill sincerely believe it will help improve our economy. Many believe we've been too soft on foreign competition. I can't fault them for their honest beliefs. But those of you who know better—who know that this industry has received more than its fair share of protection and that this bill is bad economic policy for the United States—should stick to your beliefs, too. Don't be dissuaded by those who tell you that this is a great political issue. Bad economics doesn't make for good politics. I know this is a difficult vote, because it means you have to differ with some of your best friends and supporters. But sometimes the right vote is the hardest one to cast. In time, you will be proven to be right.

I strongly urge you to vote "no" on this veto override.

The SPEAKER pro tempore (Mr. MOAKLEY). The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 272, nays 152, not voting 7, as follows:

[Roll No. 426]

YEAS—272

Ackerman
Alexander
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
Baker
Ballenger
Barnard
Bateman

Bates
Bentley
Bevill
Bilbray
Bliley
Boehlert
Boggs
Boland
Bonior
Borski
Boucher
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Buechner
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coyne
Crockett
Darden
Davis (IL)
Davis (MI)
de la Garza
Dellums
Derrick
Dickinson
Dingell
DioGuardi
Dixon
Dowdy
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Gilman
Gingrich
Gonzalez
Goodling
Gordon
Grant
Gray (IL)
Gray (PA)

Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Jacobs
Jeffords
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kolter
Kostmayer
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Lewis (GA)
Lipinski
Lloyd
Lott
Luken, Thomas
Manton
Markey
Martin (NY)
Martinez
Mavroules
McCloskey
McCrery
McDade
McGrath
McMillan (NC)
McMillen (MD)
Mfume
Miller (OH)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Parris
Pashayan

Patterson
Payne
Pepper
Perkins
Pickett
Price
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rose
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Savage
Schneider
Schroeder
Schuette
Schulze
Sharp
Shays
Shuster
Sikorski
Sisisky
Skeen
Skelton
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Snowe
Solomon
Spence
Spratt
St Germain
Staggers
Stenholm
Stokes
Stratton
Studds
Sweeney
Swindall
Tallon
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Yates
Yatron
Young (AK)

NAYS—152

Akaka
Anderson
Archer
Armey
AuCoin

Badham
Bartlett
Barton
Beilenson
Bennett

Bereuter
Berman
Bilirakis
Bonker
Bosco

Boxer
Broomfield
Brown (CO)
Bunning
Burton
Chandler
Cheney
Coats
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
DeFazio
DeLay
DeWine
Dicks
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Edwards (OK)
English
Fawell
Fields
Foley
Frenzel
Gallegly
Gallo
Gekas
Gibbons
Glickman
Gradison
Grandy
Green
Hansen
Hastert
Hefley
Herger
Hiler
Hyde
Inhofe
Ireland
Johnson (CT)
Kasich

Kemp
Kleczka
Kolbe
Konnyu
Kyl
LaFalce
Lagomarsino
Latta
Leach (IA)
Lent
Levine (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Madigan
Marlenee
Martin (IL)
Matsui
Mazzoli
McCandless
McCollum
McCurdy
McEwen
McHugh
Meyers
Mica
Michel
Miller (CA)
Miller (WA)
Molinari
Moorhead
Morella
Morrison (WA)
Myers
Nelson
Nielson
Owens (UT)
Oxley
Packard
Panetta
Pease
Pelosi

Penny
Petri
Porter
Pursell
Rhodes
Roberts
Rostenkowski
Roth
Rowland (CT)
Saiki
Sawyer
Saxton
Schaefer
Scheuer
Schumer
Sensenbrenner
Shaw
Shumway
Skaggs
Slattery
Smith (IA)
Smith (NE)
Smith, Robert (OR)
Solarz
Stallings
Stangeland
Stark
Stump
Sundquist
Swift
Synar
Tauke
Udall
Upton
Vander Jagt
Vucanovich
Walker
Waxman
Weber
Whittaker
Wolf
Wortley
Wyden
Wylie
Young (FL)

NOT VOTING—7

Boulter
Donnelly
Lewis (CA)

Lowry (WA)
Mack
MacKay

Pickle

□ 1814

Mr. PANETTA changed his vote from "yea" to "nay."

So, two-thirds not having voted in favor thereof, the veto of the President was sustained and the bill was rejected.

The results of the vote was announced as above recorded.

The SPEAKER. The message and the bill are referred to the Committee on Ways and Means.

The Clerk will notify the Senate of the action of the House.

OCEAN DUMPING REFORM ACT OF 1988

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2030) to amend the Marine Protection, Research, and Sanctuaries Act, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2030

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Ocean Dumping Reform Act of 1988".

SEC. 2. FINDINGS.—The Congress finds that—

(A) ocean dumping of sewage sludge contributed to the severe environmental degradation in the New York Bight Apex;

(B) sewage sludge dumped at the 106 mile dumpsite contains pollutants similar to those which adversely affected the New York Bight Apex;

(C) ocean dumping of sewage sludge poses real but undetermined risks to the marine environment;

(D) the 106 mile dump site is the only area in the United States where ocean dumping of sewage sludge occurs;

(E) over 100 municipalities which had ocean dumped their sewage sludge have developed and implemented alternatives to ocean dumping of sewage sludge; and

(F) practical alternatives exist to ocean dumping of sewage sludge.

SEC. 3. POLICY.—It is the policy of the United States to end the ocean dumping of sewage sludge as soon as possible but not later than December 31, 1991.

SEC. 4. (a) DEFINITIONS.—Section 3 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1402) is amended by inserting at the end the following:

"(m) 'Sewage sludge' means any solid, semisolid, or liquid waste generated by a wastewater treatment plant.

"(n) 'Interim dump site' means the site known as the '106-Mile Ocean Waste Dump Site' (as described in 49 F.R. 18005)."

(b) Paragraph (1) of section 4(d) of Public Law 95-153 (33 U.S.C. 1412a(d)) is amended to read as follows:

"(1) the term 'sewage sludge' means any solid, semisolid, or liquid waste generated by a wastewater treatment plant; and".

SEC. 5. PROHIBITION ON OCEAN DUMPING OF SEWAGE SLUDGE.—The Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.) is amended by inserting after section 104A the following:

"§ 104B. Prohibition on ocean dumping of sewage sludge and medical waste

"(a) PROHIBITION ON NEW ENTRANTS.—The Administrator may not issue any permit under this subchapter which authorizes any person other than an eligible authority as defined in section 104A of this Act (hereinafter referred to as eligible authority), to dump, or to transport for the purposes of dumping, sewage sludge into ocean waters.

"(b) PROHIBITION.—Except as provided in subsection (c), the dumping, or the transportation for the purpose of dumping, into ocean waters of sewage sludge is prohibited six months after the date of the enactment of this Act.

"(c) COMPLIANCE AGREEMENT.—The Administrator may issue permits which authorize eligible authorities to dump, or to transport for the purposes of dumping, sewage sludge at the interim site, provided that the eligible authority has entered into a compliance agreement with the Administrator and the State in which the eligible authority is located within six months of the enactment of this Act that includes the following:

"(1) A plan that the Administrator finds, if adhered to by the eligible authority in good faith, will result in the cessation of the ocean dumping of sewage sludge by such eligible authority, through the design, construction, and placing into full operation of a system (hereinafter in this section referred to as the 'alternative system') for the management of sewage sludge of the eligible authority other than by dumping into ocean waters. The plan shall provide for the phasing out of ocean dumping if the Administrator determines such phasing out is feasible, and may include adoption of an interim system for the management of sewage sludge other than by dumping into ocean waters until an alternative system is placed into full operation. Nothing in this paragraph shall affect the prohibition contained in subsection (e)(1).

"(2) A schedule that contains reasonable dates, as determined by the Administrator, by which the eligible authority shall complete the various activities that are necessary for the timely implementation of the alternative system under the plan. Such plan shall include, in addition to such other activities that the Administrator considers necessary or appropriate—

"(A) the determination of the kind of alternative system that will be implemented;

"(B) the preparation of engineering designs and related specifications;

"(C) compliance with appropriate Federal, State, and local regulatory requirements;

"(D) site and equipment acquisitions;

"(E) construction and testing; and

"(F) complete operation of the alternative system;

"(d) Schedule Implementation Evaluation.—(1) The Administrator and the Governor of the State in which the eligible authority is located shall have a continuing responsibility to evaluate the compliance of the eligible authorities with the schedule included in the compliance agreement under subsection (c).

"(2) Each eligible authority shall have a continuing responsibility to advise the Administrator and the Governor of the State in which the eligible authority is located of any problems the eligible authority has with achieving the schedule included in the compliance agreement under subsection (c).

"(e) Prohibition on Ocean Dumping of Sewage Sludge.—(1) Notwithstanding any other provision of law, it shall be unlawful for any person to dump, or transport for the purpose of dumping, sewage sludge from the United States into ocean waters after December 31, 1991.

"(2) It shall be unlawful for any eligible authority to dump, or to transport for the purposes of dumping, sewage sludge at the interim site if the Administrator determines that the eligible authority is not fully in compliance with the schedule included in the compliance agreement under subsection (c).

"(f) State Reports.—(1) The Governor of each State in which an eligible authority is located shall submit to the Administrator on June 30, 1989, and every year thereafter until the cessation of all ocean dumping of sewage sludge a report which describes—

"(A) the efforts of the eligible authority to comply with the schedule included under the compliance agreement under subsection (c), and

"(B) the State's activity regarding any permit for the construction and operation of the eligible authority's alternative system.

"(2) In the event that any State required to submit a report under this section fails to submit a report which the Administrator determines to be consistent with the requirements of this section, the Administrator shall withhold funds reserved for such State under section 205(g) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1285(g)). Funds withheld pursuant to this section may, at the discretion of the Administrator, be restored to a State upon compliance with this section.

"(g) Reports to Congress.—The Administrator shall, within three months of receipt of the reports submitted pursuant to subsection (f), submit to the Congress a report reviewing progress made toward implementing alternatives to dumping of sewage sludge, and potential obstacles to meeting the deadline established in this section.

"(h) Technical Assistance.—Not later than three months after the date of the enactment of this Act, the Administrator shall advise the eligible authorities on available alternative sludge management technologies to the ocean dumping of sewage sludge.

"(i) Nothwithsatnding any other provision of law, it shall be unlawful for any person to dump, or transport for the purpose of dumping, medical waste from the United States into ocean waters.

"(j) Civil Penalties.—

"(1) In lieu of the maximum $50,000 civil penalty provided for under section 105(a), any person who dumps sewage sludge, or transports sewage sludge for the purpose of dumping, in violation of this section (including the schedule in the compliance agreement as required by subsection (c)) shall be liable for a civil penalty, to be assessed by the Administrator in accordance with section 105, of not less than $20, and not more than $40, for each wet ton of sewage sludge that is dumped, or transported for purposes of being dumped, into ocean waters.

"(2) The Administrator may treat the substantial compliance of an eligible authority with the requirements of this section (including the schedule in the compliance agreement as required by subsection (c)) as full compliance, if the eligible authority can show that circumstances beyond its control resulted in it achieving less than full compliance, and the eligible authority acted in good faith. This paragraph shall not apply to violations of subsection (e)(1).

"(k) Permit Fees.—

"(1) The Administrator shall prescribe by regulation and collect a fee for ocean dumping of sewage sludge authorized under this section to recover—

"(A) the costs incurred or expected to be incurred in the undertaking of measures by Federal agencies to determine compliance with the agreement entered into pursuant to subsection (c) and any other terms under which the dumping is authorized; and

"(B) the undertaking of monitoring and any associated research necessary to make a reasonable assessment of the effects on the marine environment caused by ocean dumping of sewage sludge.

"(2) Fees recovered under this subsection shall be deposited in the Clean Oceans Fund established pursuant to subsection (k).

"(l) Clean Oceans Fund.—

"(1) There is established in the Treasury of the United States the Clean Oceans Fund.

"(2) The civil penalties collected by the Administrator for violations of this section and permit fees shall be deposited in the Clean Oceans Fund.

"(3) The moneys in the Fund shall be available, to the extent provided for in advance in appropriation Acts, for expenditure by—

"(A) the Administrator for carrying out monitoring and enforcement functions under this title;

"(B) the Secretary of the Department in which the Coast Guard is operating for carrying out surveillance and enforcement activities using state-of-the-art technology under this title; and

(c) the Administrator to issue grants to implement technologies and management practices necessary for controlling pollutant inputs adversely affecting the New York Bight as identified in the New York Bight Restoration plan required to be prepared pursuant to Public Law 100-220.

The moneys received under this subsection shall be treated as being supplemental to, and not in lieu of, any other funding that is authorized or appropriated for the purposes referred to in subparagraphs (A), (B) and (C).

"(m) Environmental Monitoring.—(1) The Administrator, in cooperation with the Administrator of the National Oceanic and Atmospheric Administration, shall design and conduct a program of monitoring environmental conditions at the Apex site, as defined in section 104(a) of this Act, and the interim site and within the potential area of influence of the sewage sludge dumped at these sites. This program shall include sampling of an appropriate number of fish and shellfish species and other benthic organisms to assess the effects of environmental conditions on living marine organisms in these areas. The Administrator shall make use of the satellite and other advanced technologies in conducting this program.

"(2) The Administrator, in cooperation with the Administrator of the National Oceanic and Atmospheric Administration, shall submit to the Congress within one year of the enactment of this Act a report describing its plan for conducting the monitoring program and the results of the program.

"(n) Enforcement Monitoring.—The Administrator, in consultation with the Secretary of Transportation, shall submit a report to Congress within six months after the date of enactment of this Act, outlining progress in using electronic monitoring equipment, and/or other means, to monitor and prevent the dumping of sewage sludge by vessels in transit to the interim site in areas outside the interim site.

"(o) Public Participation.—The Administrator shall provide reasonable opportunity for public participation in the review of the establishment and implementation of compliance agreements established under this section.".

Sec. 6. Conforming Amendments.—(a) Issuance of Permits for Ocean Dumping of Sewage Sludge.—Subsection (a) of section 4 of Public Law 95-153 (33 U.S.C. 1412a) is amended by inserting "dumping of sewage sludge after December 31, 1991 or other" after the words "authorizes any".

(b) Alternatives Assessment.—Section 2303 of Public Law 100-220 is amended by striking in paragraph (b)(8) the words "dumping of municipal sludge and".

(c) Preliminary Report on Alternatives.—Section 2303 of Public Law 100-220 is amended by—

(1) striking subsection (b), and

(2) relettering subsections (c), (d), and (e) as (b), (c), and (d), respectively.

Sec. 7. Section 320(a)(2)(B) of the Water Quality Act of 1987 (33 U.S.C. 1330(a)(2)(B)) is amended by inserting "Barataria-Terrebonne Bay estuary complex, Louisiana;" after "Albemarle Sound, North Carolina;".

Sec. 8. Section 3 of the Marine Protection, Research, and Sanctuaries Act (33 U.S.C.

1402) is amended by adding at the end thereof the following:

"(m) The term 'medical waste' shall include syringes, hypodermic needles, vials or bags containing blood specimens, surgical gloves, and such additional items as the administrator shall prescribe by regulation.".

SEC. 9. Section 301(f) of the Federal Water Pollution Control Act (33 U.S.C. 1311(f)) is amended by inserting "or medical waste" immediately after "radioactive waste".

SEC. 10. Section 502 of the Federal Water Pollution Control Act is amended by inserting the following at the end thereof:

"(20) The term 'medical waste' shall include syringes, hypodermic needles, vials or bags containing blood specimens, surgical gloves and such additional items as the Administrator shall prescribe by regulation.".

SEC. 11. Section 105(b) of the Marine Protection, Research, and Sancturaires Act (33.U.S.C. 1415(b)) is amended by inserting "(1)" immediately before "In addition" and, at the end thereof, adding the following new paragraph:

"(2) Any person who knowingly violates section 104(B)(i) of this Act shall upon conviction be fined not more than $250,000, or imprisoned for not more than five years, or both.".

SEC. 12. Section 118 of the Federal Water Pollution Control Act is amended by adding "as amended in 1987" after "the Great Lakes Water Quality Agreement of 1978" wherever it occurs.

TITLE I—SHORE PROTECTION ACT OF 1988

SHORT TITLE

SEC. 101. This title may be cited as the "Shore Protection Act of 1988".

DEFINITIONS

SEC. 102. As used in this title, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "municipal or commercial waste" includes all solid waste, as defined in section 1004(27) of the Solid Waste Disposal Act, subject to the requirements of section 4003(a)(2) and other provisions of subtitle D of such Act. Such term shall include municipal garbage and refuse, commercial refuse, medical wastes, wood debris, and other solid waste. Such term shall exclude debris solely from construction activities, sewage sludge as regulated under the Ocean Dumping Act, and dredged or fill material as regulated under the Ocean Dumping Act, the Clean Water Act, and the Rivers and Harbors Act of 1899;

(3) "person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body;

(4) "receiving facility" means the facility or operation where the waste material is unloaded from a vessel;

(5) "Secretary" means the Secretary of the department in which the Coast Guard is operating;

(6) "type of waste" means a characterization of the waste as municipal waste, commercial waste, medical waste, or waste of another character;

(7) "United States" includes the several States, the Commonwealth of Puerto Rico, the District of Columbia, the Virgin Islands of the United States, American Samoa, Guam, and Northern Mariana Islands;

(8) "vessel" means any watercraft (other than a federally owned or private recreational watercraft) used for the purpose of transporting municipal or commercial waste;

(9) "vessel operator" means the person primarily responsible for the operation of the vessel;

(10) "vessel owner" means any person owning such vessel;

(11) "waste source" means the facility or vessel from which the municipal or commercial waste is loaded onto a vessel, including any rolling stock or motor vehicles from which such waste material is directly loaded; and

(12) "coastal waters under the jurisdiction of the United States" means—

(A) the territorial sea, and the marine and estuarine waters of the United States up to the head of tidal influence, and

(B) the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of the territorial sea, and the outer boundary is a line drawn in such a manner that each point on it is two hundred nautical miles from the baseline from which the territorial sea is measured.

VESSEL IDENTIFICATION NUMBERS

SEC. 103. (a) No vessel may be used by any person to carry any municipal or commercial waste for any purpose within the coastal waters under the jurisdiction of the United States without first obtaining a vessel identification number for that vessel from the Secretary and displaying such number on the vessel in a clearly visible manner and location.

(b) Application for the vessel identification number required by subsection (a) shall be made by the vessel owner and shall contain the following information—

(1) the name, address, and phone number of the vessel owner or owners;

(2) the vessel's name and registration number;

(3) the vessel's home port;

(4) the vessel's transport capacity;

(5) a history of the types of cargo carried by that vessel during the previous year, including the type of waste carried; and

(6) signed certification by the vessel owner that all of the provided information is accurate.

(c) The Secretary shall make the vessel number application forms publicly available within 60 days after enactment of this Act.

(d) The vessel identification number must be renewed at least every 5 years and at any time that the vessel changes ownership. No new owner may operate the vessel or may allow the vessel to be operated using the vessel identification number obtained by the previous owner.

(e) The Secretary is authorized to collect up to $1,000 from the vessel owner to compensate for the cost of the issuance and maintenance of vessel identification numbers and maintaining records.

(f) Beginning 240 days after enactment of this Act, no vessel may carry municipal or commercial wastes unless a vessel identification number has been obtained for that vessel at least 30 days before the transport of such wastes takes place.

(g) The Secretary is authorized to, or at the request of the Administrator, shall deny a vessel identification number to any vessel for which the owner or operator has a record of a pattern of serious violations of this title, the Solid Waste Disposal Act, the Marine Protection, Research, and Sanctuaries Act, the Rivers and Harbors Act of 1899, or the Clean Water Act.

(h) The Secretary, after consultation with the Administrator shall issue or deny a vessel identification number in accordance with this section within 30 days after receiving a complete application.

(i) If the Secretary, after consultation with the Administrator, proposes to revoke or deny the vessel identification number, there shall be a public hearing on such proposed revocation or denial if the vessel owner requests such a hearing.

(j) The Secretary is authorized to combine applications for vessel identification numbers required under this title with applications for any other required registration number provided—

(1) the Coast Guard maintains a separate list of vessels subject to the requirements of this title; and

(2) the information requirements are consistent with those required under this title.

WASTE HANDLING PRACTICES

SEC. 104. (a) Beginning 60 days after the enactment of this Act—

(1) The owner or operator of the waste source shall take all reasonable precautions to assure that all municipal and commercial waste is loaded onto the vessel and that such waste deposited in the water is minimized.

(2) The vessel owner or operator shall assure that all municipal and commercial waste loaded onto the vessel is properly secured by netting or other means which will assure that the waste will not be deposited into the water during transport.

(3) The disposal facility owner or operator shall assure that all municipal and commercial waste is offloaded in a manner which assures that such waste deposited into the water is minimized during the unloading operations or during interment into the landfill.

(4) The owner or operator of any waste source or receiving facilities shall provide adequate control measures to collect any municipal or commercial waste that is accidentally deposited into the water.

(b) The Administrator shall promulgate regulations further defining and implementing the requirements of subsection (a). Such regulation shall require that waste sources and receiving facilities provide the means and facilities to assure that the waste will not be deposited into the water. Such regulations may require the submission and adoption by each affected party of an Operation and Maintenance Manual identifying procedures to be used to prevent, report, contain, and clean up any spill of municipal or commercial waste including recordkeeping and reporting requirements. Nothing in this section shall be construed to affect or supersede the Marine Protection Research, and Sanctuaries Act or the Solid Waste Disposal Act.

ENFORCEMENT

SEC. 105. (a)(1) Whenever on the basis of any information the Secretary (in the case of a violation under section 103) or the Administrator determines that any person has violated or is in violation of any requirement of this title the Secretary or the Administrator, as the case may be, may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified time period, or both, or the Secretary or the Administrator, as the case may be, may commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction.

(2) The Secretary may, and at the request of the Administrator, shall include a suspension or revocation of any vessel identification number issued by the Secretary under this title in any order issued pursuant to this section. Any order issued pursuant to this section shall state with reasonable specificity the nature of the violation. Any penalty assessed in the order shall not exceed $10,000 per day of noncompliance for each violation of section 103 or $25,000 per day of noncompliance for each violation of section 104. In assessing such a penalty, the Secretary or the Administrator, as the case may be shall take into account the seriousness of the violation, past violations, and any good faith efforts to comply with applicable requirements.

(3) Any order issued under this subsection shall become final unless, no later than 30 days after the order the person or persons named therein request a public hearing. Upon such request the Secretary or the Administrator, as the case may be, shall promptly conduct a public hearing. In connection with any proceeding under this section the Secretary or the Administrator, as the case may be, may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may promulgate rules for discovery procedures.

(4) If a violator fails to take corrective action within the time specified in a compliance order, the Secretary or the Administrator, as the case may be, may assess a civil penalty of not more than $25,000 for each day of continued noncompliance with the order and the Secretary may, or at the request of the Administrator shall, suspend or revoke any vessel identification number issued to the violator.

(5) In the discretion of the Secretary or the Administrator, as the case may be, up to one-half of such penalties may be paid to the person or persons giving information leading to the assessment of the penalty.

(b) Any person who violates any requirement of this title shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation. Each day of such violation shall, for the purposes of this subsection, constitute a separate violation.

(c) Any person who shall knowingly violate, or that shall knowingly aid, abet, authorize, or instigate a violation of this Act, shall be fined not more than $50,000 or imprisoned for not more than 3 years, or both. If the conviction is for a violation committed after a first conviction of such person under this subsection, the maximum punishment shall be doubled with respect to both fine and imprisonment. In the discretion of the court, up to one-half of such fine may be paid to the person or persons giving information leading to conviction.

(d)(1) Anyone authorized by the Secretary to enforce the provisions of this title may, (A) board and inspect any vessel on the coastal waters under the jurisdiction of the United States, (B) with or without a warrant arrest any person who violates the provisions of this title or any regulation issued thereunder in his presence or view, and (C) execute any warrant or other process issued by an officer or court of competent jurisdiction.

(2) The Secretary of the Treasury may refuse the clearance required by section 4197 of the revised Statutes of the United States, as amended (4 U.S.C. 91), to any vessel subject to this title which does not have a vessel identification number in compliance with section 103.

(3) The Secretary may (A) deny entry to any port or place in the United States or the navigable waters of the United States, to, and (B) detain at the port or place in the United States from which it is about to depart for any other port or place in the United States, any vessel subject to this title which upon request, does not produce evidence that the provisions of this title have been complied with.

(e) The Secretary may, or at the request of the Administrator shall revoke the vessel identification number in any instance where egregious or multiple violations have taken place. Before such action becomes final, the vessel owner must be given 30 days notice and opportunity for a hearing in accordance with subsection (a)(3). In the case of persistent violators with five or more separate violations within a 6-month period, the Administrator is directed to conduct an investigation of the vessels facility or operator. This shall not be construed to limit the Administrator's authority to investigate or the Secretary's authority to revoke vessel identification numbers in instances where egregious violations have taken place.

(f) This section shall be carried out with respect to foreign vessels consistent with the obligations of the United States under international law.

TRACKING STUDY

SEC. 106. (a) The Administrator, in consultation with the Secretary, shall undertake a study to determine the need for, and effectiveness of additional tracking systems for vessels to assure that municipal and commercial waste is not disposed in coastal waters under the jurisdiction of the United States. In conducting this study, the Administrator shall use the data collected from its permitting and enforcement activities and from the data compiled under section 103. In determining the effectiveness of tracking systems, the Administrator shall rely on the information provided by the Secretary under subsection (b). The report shall include a recommendation on whether additional tracking mechanisms are needed. This study shall be submitted to the Congress within 24 months after enactment.

(b) The Secretary shall provide recommendations to the Administrator concerning the various tracking systems that might be applicable to vessels carrying municipal or commercial waste which he currently is studying. The Secretary shall consider the relative effectiveness of various systems and the relative costs of the systems both to the Federal Government and to the vessel owner.

COAST GUARD RESPONSIBILITIES

SEC. 107. (a) The Secretary shall assure that periodic checks are made of vessels operating under this title transporting municipal or commercial waste to determine that each of these vessels carries the appropriate vessel identification number required by section 103.

(b) If the Administrator determines under section 7(a) that tracking devices are required to assure adequate enforcement of laws preventing coastal or ocean dumping, the Secretary shall issue regulations to require installation of the appropriate devices within 18 months after the Administrator completes the report the Administrator required under section 7.

RELATION TO OTHER LAWS

SEC. 108. (a) Nothing contained in this Act shall be construed, interpreted or applied to diminish obligations under any other Federal or State law, whether statutory or common.

AUTHORIZATION

SEC. 109. There are authorized to be appropriated $1,500,000 for each of the fiscal years 1989 and 1990, to support the provisions of this title.

MOTION OFFERED BY MR. JONES OF NORTH CAROLINA

Mr. JONES of North Carolina. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. JONES of North Carolina moves to strike all after the enacting clause of the Senate bill, S. 2030, and insert in lieu thereof the text of the bill, H.R. 5430, as passed by the House.

(For text of H.R. 5430, see proceedings of the House of Monday, October 3, 1988, at page H9329.)

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An act to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to establish special fees for the ocean dumping of sewage sludge and industrial waste, and for other purposes".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 5430) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2030

Mr. JONES of North Carolina. Mr. Speaker, I move that the House insist on its amendment to S. 2030 and request a conference with the Senate thereon.

The SPEAKER. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES].

The motion was agreed to.

The SPEAKER. The Chair appoints the following conferees:

From the Committee on Merchant Marine and Fisheries: Messrs. JONES of North Carolina, STUDDS, LOWRY of Washington, HUGHES, CARPER, MANTON, DAVIS of Michigan, LENT, Miss SCHNEIDER, and Mr. SAXTON.

From the Committee on Public Works and Transportation: Messrs. ANDERSON, ROE, MINETA, OBERSTAR, NOWAK, TOWNS, HAMMERSCHMIDT, STANGELAND, MOLINARI, and GALLO.

APPOINTMENT OF CONFEREES ON H.R. 5261, INDIAN HEALTH CARE AMENDMENTS OF 1988

The SPEAKER. The Chair appoints the following conferees on the bill, H.R. 5261:

From the Committee on Energy and Commerce, for consideration of the House bill and Senate amendment, and modifications committed to conference: Messrs. DINGELL, WAXMAN, WYDEN, MADIGAN, and NIELSON of Utah.

From the Committee on Interior and Insular Affairs, for consideration of the House bill and Senate amendment, and modifications committed to conference: Messrs. UDALL, CAMPBELL, RICHARDSON, YOUNG of Alaska, and RHODES.

PERSONAL EXPLANATION

Mr. BARTON of Texas. Mr. Speaker, I am entering into the RECORD the reason why I missed rollcall votes 404 through 424. I had to accompany yourself, Governor Clements, and Senator GRAMM to the Department of Energy where we made the presentation of the Texas SSC proposal.

Had I been here I would have voted "yes" on all of the rollcall votes except for S. 2723, S. 1236, and H.R. 5203. On those three I would have voted "no". On the other 18 I would have voted "yes".

□ 1815

VACATION OF SPECIAL ORDER AND REQUEST FOR SPECIAL ORDER

Mr. WYLIE. Mr. Speaker, because of the lateness of the hour when we are likely to finish this evening and the interest demonstrated in a special order which I have asked for our colleague, the gentleman from Ohio [Mr. LATTA], I have suggested to him that I would like to put it over until tomorrow night, and he has agreed to that.

I ask unanimous consent that my special order scheduled for tonight be moved to tomorrow.

The SPEAKER pro tempore (Mr. PANETTA). Is there objection to the request of the gentleman from Ohio?

There was no objection.

INCONCEIVABLE THINKING ON THE PART OF THE DEPARTMENT OF EDUCATION

(Mr. YATES asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. YATES. Mr. Speaker, this morning's Washington Post carried the story of an outrageous situation in the Department of Education which, if true, calls for immediate repudiation, redress, and a shakeup within the Department. I think that it also deserves a congressional investigation to ascertain the kind of thinking that pervades the Department of Education at this time.

Mr. Speaker, there was an application that had been filed named "Facing History and Ourselves," which was dedicated to a study of the murder of 6 million Jews during the Holocaust by the Nazis. A so-called expert panel appointed by a Department official panelist named Dr. Christina Price recommended rejection of the study with this incredible language:

"The program gives no evidence of balance or objectivity. The Nazi point of view, however unpopular, is still a point of view and is not presented, nor is that of the Ku Klux Klan."

What kind of thinking is it, Mr. Speaker, that requires objective balance to the Nazi viewpoint and to the viewpoint of the Ku Klux Klan?

As a member of the U.S. Holocaust Memorial Council, I protest the presence of such a vicious, distorted point of view in the U.S. Department of Education. It is inconceivable that an agency of this Government which reviews this Nation's education programs should call for equal treatment for the Nazis' and for the Ku Klux Klan's points of view.

I call upon the repudiation of this kind of statement by the Department and for a redress of the situation.

[From the Washington Post, Oct. 4, 1988]

HOLOCAUST PROJECT FUNDS: "ELIMINATED" BY IDEOLOGY?

(By Ed Vulliamy)

A school history program that focuses on the mass murder of Jews and others under the Third Reich has been denied federal funding by the Education Department for a third consecutive year, provoking allegations that the department's stance is the work of "right-wing" officials and advisers.

The program, "Facing History and Ourselves," was first refused federal funds in 1986 after a review panel member complained that the views of the Nazi Party and the Ku Klux Klan were not represented. Reviews the following year called the program "leftist," "anti-war, anti-hunting" and "offensive to fundamentalists."

"We obviously haven't passed some right-wing litmus test," said Margot Stern Strom of Brookline, Mass., program executive director. "Initially, I thought the reviews were ludicrous. Now I'm outraged. I really believed that the process was going to be fairer this time."

Max McClonkey, executive director of the National Dissemination Study Group, which has tried to secure funds for the project, said: "It's absolutely clear that the department was responding to pressure from a narrow, far-right set of political advisers. We are talking about three years of political manipulation by the department to deny a Holocaust education program."

The rejections, said a senior department official who asked not to be identified, were the work of "those on the extreme right wing of the Republican Party. They seem to be very well-organized. It's unjust, and I'm appalled by what has happened."

Repeated attempts to interview Shirley Curry, the Education Department official who oversees the funding of such projects as "Facing History," were unsuccessful.

The failure of "Facing History" to secure a federal grant of about $70,000 for one year came with the passing of the funding deadline at the end of fiscal 1988 Friday.

Unlike in the previous two years, this time the program was not singled out for a refusal. Instead, the department "eliminated" the category in which "Facing History" had applied—history, geography and civics. The program was the top rated project in the category, created by then-Education Secretary William J. Bennett.

The story of "Facing History" and the department began in 1980, when the program was examined by a review panel and cited as "exemplary." The program is described as an investigation of morality and society that looks at tyranny and at the citizen's role in preventing it. The final stages of the multimedia program deal with the genocide of Jews and Armenians during this century, and suggest that citizens should intervene in society to prevent the abuse of power.

The program was distributed to about 30,000 teachers through an Education Department division, the National Diffusion Network (NDN), using local and corporate funds.

The NDN is designed to help school systems nationwide become aware of educational programs that have been effective elsewhere. Some projects focus on traditional subjects while others are aimed at talented students, vocational schools or health training.

In 1986, "Facing History" applied for a federal grant. Curry had been named director of the department's Recognition Division, and critics charged that she was responsive to conservative activist Phyllis Schlafly, president of the Eagle Forum. Curry, a former director of the Eagle Forum, "said once that her team had been elected, and she had come to Washington to play for that team," according to a department official. "She was instrumental in selecting the reviewers for all program proposals, and particularly this one."

Curry sought to add a layer to the review process for NDN programs: A Joint Dissemination Review Panel assessed the effectiveness of a project, but she wished to subject programs to scrutiny by a Significance Panel, which would analyze the content more carefully.

That year, an embryonic Significance Panel sat in pilot sessions; among the projects selected for consideration was "Facing History." The panel included Dr. Christina Price, then a political scientist at Troy State University in Alabama.

Concluding her remarks on "Facing History," Price wrote: "The program gives no evidence of balance or objectivity. The Nazi point of view, however unpopular, is still a point of view and is not presented, nor is that of the Ku Klux Klan."

She continued, "The selection of only two problem areas, Germany and Armenia, leaves out many of which are more recent. I'm thinking of the U.S.S.R., Afghanistan, Cambodia and Ethiopia, among others. . . . . My impression is that the program, based as it is on the resource book 'The Holocaust and Human Behavior,' may be appropriate but not for wider distribution."

Earlier in her remarks, Price noted: "It is a paradoxical and strange aspect of this program and [sic] the methods used to change the thinking of students is the same that Hitler and Goebbels used to propagandize the German people."

Price's remarks helped to give the Significance Panel a rough ride when it came before Congress for consideration as a permanent part of the education review process. Price, now a lecturer at Kennesaw College in Marietta, Ga., declined to talk about the review panel process. "I have been gagged and I am not really free to talk about it. Apparently I signed something saying that I would not divulge anything I said, so I am playing by the rules."

She added: "I have not got an anti-Semitic bone in my body."

Congress went on to disapprove the idea of the Significance Panel.

As the reviews emerged, a number of departmental officials told Strom, the "Facing History" executive director, that they were embarrassed and disturbed, she said. "They told me it would not happen again, and that I should apply again next year," she said. "But the next year, the same thing happened again."

In the spring of 1987, a new panel convened to consider the project. During its deliberations, Schlafly wrote to the department's chief of staff, William Kristol, summarizing the Eagle Forum's opposition to the program. Schlafly charged "Facing History" with "psychological manipulation, induced behavioral change and privacy-invading treatment" and urged the department to reject its proposals.

When the panel reported, one member found the program to rely on "selective use of leftist authorities," cited as British historial A.J.P. Taylor, writer Kurt Vonnegut and New York Times columnist Flora Lewis. The program was also found to be "profoundly offensive to fundamentalists and evangelicals." Another review called it "anti-war, anti-hunting," and another judged it likely to "induce a guilt trip."

It was not possible to match the list of 1987 panel members with the individual reviews.

Again, Strom said, officials from the department apologized and urged her to reapply. This year, the "Facing History" proposal was showered with glowing references, with one reviewer calling it "a model program for the nation."

But Thursday, the day before the funding deadline, Strom had heard nothing from Curry's Recognition Division. "I have written to Curry," she said. "I have written to them and I have called them to ask what is happening, but all I got was a reply from Shirley Curry saying when the time is right, I'll get a reply."

Thursday night, a policy analyst at the department, Shelley Reid, said the history, geography and civics category had been "eliminated." It was the only academic subject category to be dropped. Four other categories dropped were in such areas as adult literacy and comprehension analysis.

Reid said the categories were dropped "either because there were a number of programs already in that area or because the programs in that category where we could make a decision were deficient."

McClonkey, however, said, "There was nothing deficient about this program, and there are no other programs of its kind in this area."

REMEMBER ALVARO BALDAZON

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, one of the most compelling witnesses we had available to Members in this Chamber in 1985 and 1986 on the situation in Nicaragua, the oppression of the people by the nine Communist juntas and the comandantes, was a gentleman named Alvaro Baldazon. He was a high-ranking officer who worked for the head of the ministry of the interior, the oldest Communist on the junta, Tomas Borge.

Some of my colleagues will remember him, Alvaro Baldazon. His brother was arrested after he defected across the Honduran border and gave us evidence on the insanity going on in the Communist government in Managua. His wife and child were left behind. They were virtually under house arrest.

Well, Mr. Baldazon is dead. He died of food poisoning in a Los Angeles Nicaraguan restaurant.

Until proven otherwise I believe, this Member believes, he was assassinated by the Communists in Managua, and that is why you, Mr. Speaker, must rethink everything you say and do about communism turning Nicaragua into yet another Soviet colony.

Remember Alvaro Baldazon. He spoke the truth.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on tomorrow or Thursday.

BANGLADESH DISASTER ASSISTANCE ACT OF 1988

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5389) concerning disaster assistance for Bangladesh, as amended.

The Clerk read as follows:

H.R. 5389

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bangladesh Disaster Assistance Act of 1988".

SEC. 2. FINDINGS.

The Congress finds that—

(1) as a result of the 1988 floods, two-thirds of Bangladesh has been inundated with flood waters;

(2) over 30 million people in Bangladesh are homeless, over 2000 dead, tens of thousands ill, and potentially millions at risk of waterborne disease and epidemic because of lack of safe water and overcrowding;

(3) transportation, communications, and normal commerce in Bangladesh have been seriously interrupted, with a potential cost of replacing destroyed or damaged infrastructure of $500,000,000;

(4) agricultural lands have been flooded, with a potential crop loss of nearly $1,000,000,000;

(5) the people of the United States have respected and generously supported the efforts of the people of Bangladesh to maintain their independence, promote equitable economic growth, and strive for political pluralism and greater democracy; and

(6) the Government of Bangladesh has taken quick action to cope with this disaster, one of the most serious in the history of Bangladesh, but must rely on a generous response from the international community for emergency assistance and, even more importantly, for the expertise and resources needed to prevent the continual recurrence of such disastrous floods.

SEC. 3. COMMENDATION OF AND SUPPORT FOR THE PEOPLE OF BANGLADESH.

The Congress—

(1) commends the courage and resourcefulness demonstrated by the people of Bangladesh in response to the 1988 floods;

(2) commends the President for the generous provision by the United States of emergency assistance for Bangladesh;

(3) commends United States private and voluntary organizations, international organizations, foreign governments, and others for their compassionate response to this natural disaster;

(4) expresses its support for the people of Bangladesh at this most critical time;

(5) declares its willingness to work with the President to provide generous levels of emergency humanitarian assistance to the people of Bangladesh;

(6) declares its willingness to work with the Government of Bangladesh and with private and voluntary organizations to ensure that emergency assistance quickly reaches those most in need; and

(7) declares its willingness to work with the international community to seek the means to prevent a recurrence of such natural disasters, and urges the President to promote a regional solution designed to prevent a recurrence of such natural disasters.

SEC. 4. EMERGENCY ASSISTANCE FOR BANGLADESH.

(a) USE OF FOOD FOR DEVELOPMENT LOCAL CURRENCIES FOR DISASTER ASSISTANCE.—(1) Section 301 of the Agricultural Trade Development and Assistance Act of 1954 is amended by adding at the end the following:

"(c) In the event of a serious natural disaster in a country participating in a Food for Development Program, funds accruing from the sale of commodities made available under this title may be used, with the approval of the United States Government, for disaster relief, rehabilitation, and reconstruction assistance in any rural or urban area of that country adversely affected by the disaster. Such assistance may include (but is not limited to) food, medicine and medical supplies, shelter, and in-country transportation.".

(2) Food for Development agreements entered into under title III of that Act before the date of enactment of this Act may be amended in order to implement the amendment made by paragraph (1).

(3) Pending amendment pursuant to paragraph (2) of Food for Development agreements with the Government of Bangladesh, the use of funds accruing under those agreements, with the approval of the United States Government, for flood-related disaster assistance authorized by the amendment made by paragraph (1) shall be deemed to be consistent with the applicable agreement.

(b) ADDITIONAL FUNDS FOR DISASTER ASSISTANCE FOR BANGLADESH.—It is the sense of the Congress that, in order to provide additional resources for disaster assistance for the victims of the 1988 floods in Bangladesh, not less than $100,000,000 of the local currencies generated under Food for Development agreements with the Government of Bangladesh should be used for the disaster relief, rehabilitation, and reconstruction assistance purposes authorized by the amendment made by subsection (a)(1).

(c) Regular Assistance Programs To Be Maintained.—Disaster assistance provided for Bangladesh by the United States because of the 1988 floods should be in addition to the regularly programmed assistance for that country for fiscal year 1989 under chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance) and titles I, II, and III of the Agriculture Trade Development and Assistance Act of 1954 (relating to food assistance); and the level of such regularly programmed assistance.

(d) Extension of Period for Use of Food for Development Local Currencies.—It is the sense of the Congress that the period, during which funds accruing under Food for Development agreements with the Government of Bangladesh must be used, should be extended from September 30, 1989, to at least September 30, 1990.

SEC. 5. REPORT TO CONGRESS.

(a) In General.—Not later than 6 months after the date of enactment of this Act, the President shall submit to the Congress a report on efforts by the international community and the governments of the region to develop regional programs for the Ganges basin and the Brahmaputra basin that are designed—

(1) to ensure an equitable and predictable supply of water in the dry season; and

(2) to promote better flood control mechanisms to mitigate in the mid-term, and prevent in the long-term, floods as severe as the 1988 floods in Bangladesh.

(b) Specific Requirements.—The report required by subsection (a)—

(1) shall describe what efforts have been made by international organizations and other international institutions, by bilateral and multilateral assistance donors, and by countries in the region, to achieve the objectives set forth in subsection (a);

(2) shall describe the feasibility studies, planning studies, or actual projects that are in preparation or have been completed to achieve those objectives;

(3) shall analyze the potential costs, the technology obstacles (such as those presented by the earthquakes to which the region is prone), and the political problems, that stand in the way of effective flood control in the Ganges basin and the Brahmaputra basin;

(4) shall describe the environmental causes of the flood, particularly deforestation and soil erosion; and

(5) shall describe the efforts made, and the efforts proposed to be made, by the President to promote a regional approach to achieving the objectives set forth in subsection (a).

SEC. 6. OFFICE OF TECHNOLOGY ASSESSMENT.

It is the sense of the Congress that the Office of Technology Assessment—

(1) should cooperate in the effort described in section 5; and

(2) in particular, should provide to the Department of State and the Congress—

(A) a synopsis of all current studies and reports—

(i) on flood control in the Ganges basin and the Brahmaputra basin, or

(ii) on state-of-the-art technology available for the construction and maintenance of flood control projects, and

(B) any cost benefit analysis of efforts to improve water availability in the dry season and to mitigate or prevent severe flooding.

The SPEAKER pro tempore. Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida [Mr. Fascell] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. Broomfield] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. Fascell].

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5389, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 5389, as amended, a bill to facilitate the provision of disaster assistance for Bangladesh. I would like to commend the gentleman from New York [Mr. Solarz], chairman of the Subcommittee on Asian and Pacific Affairs, and the other cosponsors of this measure for their prompt action in response to the disaster in Bangladesh.

There is little more that can be said about the tragedy which has struck one of the poorest countries in the world. It is difficult to imagine the impact of a flood so immense that two-thirds of the country is under water and a third of the population is homeless. A disaster of comparable magnitude in this country would mean the inundation of all the land west of the Mississippi River and 82 million people forced to leave their homes. We can look at these numbers and make these comparisons, but we can not fully comprehend the extent of devastation.

This resolution commends the people of Bangladesh for their resilience in the face of such calamity and commends the prompt and generous United States response from the Agency for International Development and United States private organizations, as well as noting the compassionate response of international organizations and other governments in assisting the people of Bangladesh.

I would like to take this opportunity to pay particular tribute to the Office of Foreign Disaster Assistance at AID, ably headed by Ms. Julia V. Taft. This small staff has been responsible for coordinating emergency relief for not only the flood in Bangladesh, but also for United States assistance in response to Hurricane Gilbert in Jamaica, the major floods which recently occurred in the Sudan, and record numbers of other smaller disasters around the world. Ms. Taft and her staff have worked long and hard to maximize the impact of U.S. dollars in bringing relief to the millions of people stricken in all of these disasters.

H.R. 5389, as amended, does not contain any authorization of new funds. It does clarify existing legislation regarding local currencies generated under title III of Public Law 480, specifying that such funds can be used for disaster relief, rehabilitation, and reconstruction in rural and urban areas. This clarification will be helpful in assuring that local currencies generated by the sale of U.S. food can be used where most needed in times of disaster.

H.R. 5389, as amended, also recognizes the need for coordinated action among the nations of the region to deal with some of the causes of the increased flooding in the Ganges and Brahmaputra River Basins. It calls for reports from the President and the Office of Technology Assessment on possible courses of action to bring about more effective flood control in the region. The technical, political, and economic hurdles to be faced are substantial, but action must be taken by the international community in order to reduce this flooding in the future.

H.R. 5389, as amended, is a modest and helpful proposal. I urge my colleagues to support it.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. Solarz], the chairman of the Subcommittee on Asian and Pacific Affairs.

Mr. SOLARZ. Mr. Speaker, I thank the gentleman from Florida [Mr. Fascell], the chairman, very much for yielding me the time.

A few weeks ago Bangladesh experienced one of the worst disasters in its history. There was a massive flood in the country which covered literally two-thirds of the surface of the entire nation. Up to 2,000 people have already died. Thirty million are homeless. The estimates are that Bangladesh has already lost half a billion dollars in crops and $1 billion in terms of damage to its infrastructure. It will take literally years to repair the bridges, the roads, the factories, and the public buildings that were destroyed as a result of these floods.

This legislation, Mr. Speaker, not only expresses the sympathy of the United States and of the American people for the tragedy which has befallen the people of Bangladesh, but it also authorizes the provision of timely disaster relief assistance to them by permitting the use of Public Law 480 title III funds for disaster relief, not only in rural but in urban areas as well, and calling for up to $100 million which is already in this fund to be used for such purposes.

It further expresses a sense of the Congress that these resources should be used in addition to the aid that we would otherwise make available to Bangladesh, so it does provide some concrete additional assistance to them.

This bill is very much consistent with our traditional and historic willingness to help other countries that are afflicted by great natural disasters, and I strongly urge the adoption of this timely and most meritorious legislation which enjoys strong support from our very good friends on the other side of the aisle as well as from the administration.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a very timely bill which would permit the United States to provide further needed assistance to the people of Bangladesh as they try to recover from the recent flood.

The extent of the devastation in Bangladesh is staggering. Over 30 million people are homeless, with over 2,000 people dead. The great problem now is combating waterborne disease and epidemics due to the lack of safe drinking water and overcrowding, and the distribution of food and medical supplies because of the damage to Bangladesh's transportation infrastructure. Beyond this, the people of Bangladesh are faced with the problems inherent in reconstructing their lives after such a catastrophe.

The United States has generously responded to this tragedy as a nation and as a people. The administration and the private and voluntary organizations deserve to be congratulated for their efforts to date.

This bill would allow local currencies resulting from the Public Law 480 Program to be used for disaster relief in both urban and rural areas. It also expresses the sense of Congress that not less than $100 million of local currencies should be used for disaster assistance and reconstruction in Bangladesh, and that the assistance will be in addition to that already programmed for fiscal year 1989.

Mr. Speaker, this is a needed bill which is supported by the administration. I urge my colleagues to support its passage.

□ 1830

Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH of Iowa. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of H.R. 5389 which recognizes the generous assistance which the administration has made available on behalf of the United States to the victims of the recent floods in Bangladesh and which seeks to facilitate that assistance.

Some 75 percent of the country of Bangladesh was inundated with flooding. Not only were more than 1,500 killed, but over 28 million were left without homes. The threat of diseases and other health problems associated with contaminated water, exposure, and malnutrition continue. Agricultural losses are high and roads and bridges have been damaged. It is hard to comprehend the enormity of the devastation that has been visited upon the people of Bangladesh who even in the best of times struggle with poverty.

In the wake of this extraordinary natural disaster, Jay Morris, Deputy Administrator for AID, escorted a United States Disaster Assessment Team to Bangladesh at the behest of President Reagan, taking along all kinds of disaster relief supplies. In addition, Public Law 480 food stocks were released and the United States is undertaking to provide for water purification tablets, oral rehydration salts, and other medical assistance. Some $84 million in local currencies, generated by the sale of U.S. food commodities, is also being made available for reconstruction.

It is impressive to note that without increasing the Federal budget, the administration has creatively used emergency resources to make available to Bangladesh assistance valued at over $150 million. It should be congratulated for its professional leadership and humanitarian concerns.

As my colleagues will note, H.R. 5389 does not authorize new Federal spending. Instead, it follows the lead of the administration in encouraging the use of resources that have already been authorized. It also highlights the need to identify long-term solutions to the problem of flooding in the region.

I would urge support for this legislation as a signal of the strong support from the House for what the administration has done to date and to express our willingness to join with the executive branch in addressing those ongoing humanitarian needs.

Mr. FASCELL. Mr. Speaker, I yield such time as he may consume to that peripatetic perigrinator, the distinguished gentleman from Ohio [Mr. HALL], who seriously has once again demonstrated his interest and leadership in this entire problem by having gone to that country, having had firsthand experience there.

Mr. HALL of Ohio. Mr. Speaker, I thank the gentleman for yielding me this time and for those kind remarks.

Mr. Speaker, I strongly support H.R. 5389. I would like to congratulate the gentleman from New York [Mr. SOLARZ], the chairman of the Subcommittee on Asian and Pacific Affairs, for his fine work in preparing this bill. I would also like to thank the gentleman from Massachusetts [Mr. ATKINS], for offering two amendments to the bill which I suggested to the Committee on Foreign Affairs. Both amendments are now part of H.R. 5389.

It was my honor to travel to Bangladesh on a 3-day mission on behalf of the House on September 20-23, 1988. My goal was to observe conditions affecting the people of Bangladesh as they work to recover from a disaster caused by massive flooding. I also assessed the adequacy of the present and proposed United States Government response to the emergency needs of the Bangladeshi people.

I return with two strong impressions, which might sound contradictory: First, the flood caused immense damage. I saw roads, railroad tracks, and bridges washed away. I saw acre after acre of destroyed crops. And because of the flood, almost 30 million people are now homeless. Let me emphasize this number, because it is so unbelievable: 30 million people in Bangladesh have to go back to where their homes once stood and start again from scratch. Second, however, I was astonished by the resilience of the people of Bangladesh. As a matter of fact, the response in the face of such an enormous catastrophe—from the President of Bangladesh—President Ershad, to homeless people in need of assistance—reinforces my faith in the human spirit. The purposeful, no-nonsense response of the people of Bangladesh, the Government of Bangladesh, the United States Government, private voluntary organizations like World Vision and CARE, international agencies, and others impressed me greatly.

One thing is clear: Bangladesh will continue to suffer from catastrophic floods unless effective plans to control the flow of the massive rivers which enter Bangladesh are adopted and implemented. I believe that the United States should take the lead in promoting international efforts to solve this problem of watershed management. A solution will involve the World Bank, Bangladesh, India, Nepal, other countries of the region, and, certainly, the United States, Japan, and other Western countries. We all need to work together to develop a long-term solution to this enormous problem. The bill requires the President to submit a report detailing efforts made to develop regional programs of watershed management, and, specifically, to state the actions taken by the United States—past, present, and proposed—to promote these efforts.

I have traveled to many countries which face enormous problems, and I have never seen such a well-organized, effective response to a disaster. We can be proud of the efforts of the U.S. Government and U.S. private organizations. Our assistance is reaching the people who need it most. I saw that with my own eyes.

I will be making a report to the Congress with additional observations and conclusions in the next few days.

Mr. FASCELL. Mr. Speaker, I thank the gentleman for his comments.

Mr. DE LA GARZA. Mr. Speaker, I am pleased to join Subcommittee Chairman STEPHEN SOLARZ of the Subcommittee on Asian and Pacific Affairs in strong support of H.R. 5389 of which I am a cosponsor.

In recent weeks, the American people through televised reports and newspaper articles have become acutely aware of the widespread devastation and suffering that has occurred because of torrential rainfall and flooding in Bangladesh last month.

It's hard for any of us here in the United States to imagine, but there are almost 30 million people who have been left homeless on account of the flooding in that small nation.

Mr. Speaker, Bangladesh agriculture, so extremely vital to such a densely populated country, is in a shambles. Crop losses are expected to exceed the 3.4 million ton loss that occurred following last year's flooding, the worst in 47 years at the time. Losses of cattle and poultry may be as high as half a million head.

Landless farm workers who comprise 62 percent of all the rural inhabitants of Bangladesh are without jobs. Rural roads, bridges, and culverts, many of which were built with U.S. assistance under the Food for Peace Program, have been severely damaged.

The U.S. Government has responded to this disaster primarily through accelerated and redirected funds under Public Law 480, the Food for Peace Program, and with some emergency disaster assistance grants. While we all support this action, it is becoming increasingly apparent that more help will be needed.

I think it's extremely important that the people of the United States assure the people of Bangladesh of our continued interest and concern about their welfare.

We are a most fortunate nation, Mr. Speaker. Even after the worst drought in 50 years, America is blessed with enough grain production and enough food reserves to carry us over to the next harvest. We are a prosperous nation. And more importantly we are a caring nation.

We are able to help those less fortunate than ourselves. We show that concern today through the legislation now before us.

H.R. 5389 provides flexibility in the title III Food for Development Program. Basically, it allows local currencies generated from sales of U.S. agricultural commodities to be used for disaster relief, rehabilitation, and reconstruction assistance in not only rural but also urban areas of a country affected by a natural disaster.

This legislation also spells out congressional intent that any assistance provided under regular development and food aid programs for fiscal year 1989 for the disaster in Bangladesh this year not be reduced because of such disaster assistance.

Mr. Speaker, this legislation will not be the complete answer to the problems and needs of the people of Bangladesh. However, it will help ensure that moneys are available to address the immediate problems of food, medicine, and distribution of these items and other needed supplies to those suffering in this unfortunate calamity.

I urge my colleagues to support this legislation.

Mr. DORGAN of North Dakota. Mr. Speaker, as a cosponsor of H.R. 5389, Bangladesh Disaster Assistance, I voice my strong support for the bill and commend the leaders of the Foreign Affairs Committee for bringing this legislation to the floor.

The bill contains no new money, but does carry several provisions to aid the people of Bangladesh survive and recover from one of the worst torrential storms and floods of this century. The flooding left an estimated 30 million homeless.

It will amend Public Law 480, Food for Peace language to permit the use of title III funds for general disaster relief, rehabilitation, and reconstruction aid. It earmarks not less than $100 million for this purpose. The bill further underscores that such aid should come in addition to regular programmed aid to Bangladesh.

Besides addressing the current emergency, the bill directs that the President and the Office of Technology Assessment report to Congress on the kind of watershed management which might help to prevent future devastation of the kind which recently wiped out the homes and livelihood of millions of people in Bangladesh.

This legislation represents the right kind of response at the right time. It's the kind of foreign aid of which we can all be proud and to which we can give our enthusiastic support.

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

Mr. FASCELL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PANETTA). The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and pass the bill, H.R. 3989, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

NATIONAL PARALYSIS AWARENESS WEEK

Mr. DYMALLY. Mr. Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 364) to designate the week of October 2 through October 8, 1988, as "National Paralysis Awareness Week."

The Clerk read as follows:

S.J. RES. 364

Whereas between 250,000 and 500,000 men, women, and children are currently victims of paralysis;

Whereas 10,000 to 12,000 Americans experience traumatic injuries to the spinal cord each year;

Whereas scientists and physicians worldwide are joining in the fight to find a cure for paralysis;

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 2 through October 8, 1988, is designated as "National Paralysis Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. DYMALLY] will be recognized for 20 minutes and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution designates the week beginning October 2, 1988, as "National Paralysis Week." The chief sponsor of the companion House resolution is the distinguished gentleman from Florida [Mr. FASCELL]. I yield such time as he may consume to the gentleman from Florida for an explanation of this bill.

Mr. FASCELL. Mr. Speaker, I thank the gentleman for yielding time to me.

I appreciate both the chairman of the subcommittee and the ranking member considering this matter. This is strictly what the chairman says it is. It is an awareness of "National Paralysis Week," and because a lot of individuals and organizations are interested in this, I appreciate the expeditious manner in which the matter has been considered. We have brought the Senate bill over, and that is what this action is today.

Mr. Speaker, 3 years ago this month, Marc Buoniconti made a tackle for the Citadel during a football game against East Tennessee State, and then didn't get up. As a young college athlete, Marc could dream of following in the footsteps of his father, Nick Buoniconti, and one day playing in the NFL. But at that moment, all dreams were shattered and Marc was left paralyzed with a complete lesion of the spinal cord.

While Marc is only 1 of 500,000 Americans faced with the tragedy of paralysis, the story of his determination and the perseverance since the accident warrant attention. Marc, with the help of his father and other family members, has launched the Miami project to cure paralysis based at the University of Miami Medical Center. This program has, in a few short years, become the most concentrated scientific effort to find a cure for paralysis in this country and has made great strides in coordinating international advances in the study of paralysis as well. Last June, the project's first international branch was announced—"The Miami Project/Stockholm"—based at the prestigious Karolinska Institute in Sweden.

Today we are considering legislation to designate "National Paralysis Awareness Week." This resolution calls attention to the plight of the current victims of paralysis as well as the 10,000 to 12,000 people in the United States who experience traumatic injuries to the spinal cord each year. I hope our colleagues will join me in taking a moment to consider the impact of these injuries and to pay tribute to those working so diligently to find a treatment and cure for paralysis.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in strong support of Senate Joint Resolution 364, National Paralysis Awareness Week and commend the gentleman from Florida [Mr. FASCELL] for bringing this message to the floor at this time.

Each year there are more than 14,000 spinal cord injuries. Currently in the United States there are between 250,000 to 500,000 men, women, and children who are victims of the tragedy of paralysis.

In 1985, Nick Buoniconti brought the issue of paralysis to national attention when his son, Marc, was injured while playing football, leaving Marc a quadriplegic. Through Mr. Buoniconti's efforts, the Miami project to cure paralysis at the University of Miami Medical Center has become the largest, most comprehensive, and advanced center in the world committed to finding a cure for paralysis. The project's two scientific components, basic research and applied research comprise a significant part of this exceptional operation.

Mr. Speaker, it is my hope that by designating the week of October 2 through October 8, 1988, as "National Paralysis Awareness Week" we will bring to the attention of the American people an increased awareness of the seriousness of spinal cord injuries. I also feel it will help focus attention on the dramatic advancements made by the Miami project in its efforts to find a cure for paralysis.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I am pleased to yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, I thank the gentleman very much for his help and his effort and the comments he has made.

This is the most concentrated scientific effort anywhere in this country that we know of. This resolution will encourage a lot of individuals, those who are paralyzed and those who are working on trying to find a cure for paralysis. While we might think this is just an ordinary kind of resolution, I can assure the gentleman that this has very important connotations.

Mr. GILMAN. Mr. Speaker, we thank the gentleman for his supporting remarks and for bringing the measure to the floor and for his efforts in this direction.

Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

Mr. DYMALLY. Mr. Speaker, I yield back the balance of my time.

The Speaker pro tempore. The question is on the motion offered by the gentleman from California [Mr. DYMALLY] that the House suspend the rules and pass the Senate joint resolution (S.J. Res. 364).

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The Speaker pro tempore. Pursuant to clause 5 of rule, I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on Senate Joint Resolution 364, the Senate joint resolution just considered.

The Speaker pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONGRATULATING UNITED NATIONS PEACEKEEPING FORCES FOR BEING AWARDED 1988 NOBEL PEACE PRIZE

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 570) to congratulate the U.N. Peacekeeping Forces for being awarded the 1988 Nobel Peace Prize, and to seek their assistance in the matter of the "Peacekeeper" hostage and all other hostages.

The Clerk read as follows:

H. RES. 570

Whereas for 40 years the United Nations, through its peacekeeping forces, has contributed to the reduction of armed conflict between nations and to the initiation of negotiations between nations;

Whereas nearly 60 nations have participated in 14 separate United Nations missions to enforce peace accords, ceasefires, and armistices;

Whereas the performance of vital peacekeeping duties by the United Nations have involved great heroism and, at times, loss of human life;

Whereas United Nations peacekeeping forces, under the effective leadership of Secretary General Javier Perez de Cuellar, have become a vital element of international diplomatic efforts to resolve conflicts in the Middle East, the Persian Gulf, and in Afghanistan;

Whereas on September 29, 1988, the Norwegian Nobel Committee announced that the United Nations peacekeeping forces would be awarded the Nobel Peace Prize for the year 1988, because in the judgment of the Committee "they represent the manifest will of the community of nations to achieve peace through negotiations and the forces have, by their presence, made a decisive contribution toward the initiation of actual peace negotiations"; and

Whereas the United Nations can play an important role in mediation efforts to bring about the release of the United States citizens and other individuals being held hostage in the Middle East: Now, therefore, be it

Resolved, That the House of Representatives—

(1) commends the selection of the United Nations peacekeeping forces as the recipients of the Nobel Peace Prize of the year 1988;

(2) recognizes the courage of United Nations peacekeeping forces and the sacrifice which hundreds of solidiers from many countries have made in the cause of peace;

(3) expresses its hope that the United Nations and its peacekeeping forces will continue and intensify their efforts to strengthen international peace and security; and

(4) urges the United Nations to redouble its efforts to bring about the release of the United States citizens, including a member of the U.N. peacekeeping force, and other hostages being held in the Middle East.

The SPEAKER pro tempore. Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER Pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 570, the resolution now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the resolution. At the outset, I want to commend the gentleman from Pennsylvania [Mr. McDADE] for his leadership in bringing this matter before the House.

Mr. Speaker, the resoluton before us makes appropriate commendation of the work of U.N. peacekeeping forces throughout the world. These forces for nearly 40 years have contributed to the reduction of armed conflict and the initiation and enforcement of ceasefires, armistices, and peace accords between nations. In recent years, nearly 60 nations have participated in 14 separate U.N. peacekeeping missions, and under the skillful leadership of Secretary-General Javier Perez de Cuellar, U.N. peacekeeping forces have become a vital element of international diplomatic efforts to resolve conflicts in the Middle East, the Persian Gulf, and in Afghanistan.

The thankless and often overlooked work of U.S. Peacekeeping Forces has in recent days finally received the attention and appreciation it deserves with awarding of the Nobel Peace Prize on September 29, 1988. The resolution before us makes recognition of this award, as well as the courage and sacrifice of U.N. peacekeeping forces who have in many instances given their lives in the cause of peace.

Finally, the resolution expresses the hope that the United Nations can play an important role in mediation efforts to bring about the release of U.S. and other hostages who have been held in the Middle East for far too long. One of those hostages, Lt. Col. William Higgins, was himself part of one of the ongoing U.N. peacekeeping organizations when he was kidnaped.

I would like to commend to my colleagues an editorial which appeared in the Miami Herald on October 1 regarding the vital role of the U.N. peacekeeping forces around the world and I ask unanimous consent that this editorial appear in the RECORD immediately following my statement.

Mr. Speaker, recognition of the work of U.N. peacekeeing forces is long overdue and has been rightly extended by the Nobel Peace Committee. This resolution constitutes the Congress' appreciation of their work as well and I urge the House to approve the resolution.

Mr. Speaker, I include the following article from the Miami Herald of October 1, 1988:

PEACEKEEPERS PRIZED

The Nobel Peace Prize does not go necessarily to persons and organizations that have achieved peace. If it did, there would be few recipients. Rather, the Peace Prize rewards and encourages constructive efforts to remove the causes of war and institutional violence. By that criterion, there could be no worthier recipient than this year's winner, the troops of the United Nations peacekeeping forces.

The men in the blue berets are heroes of the world's numerous hot spots. When the diplomats reached fragile agreements to cool the violence in Lebanon, some 5,800 U.N. troops moved in to police the boundaries between warring factions. In Afghanistan today they cover the negotiated withdrawal of Soviet occupation forces. Some 7,000 are preparing to move into Namibia, where a settlement is being negotiated.

Altogether there have been some 14 such missions in the U.N.'s 40 years. The forces include troops from the familiar big-power nations, such as the United States, the Soviet Union, Great Britain, and France. More impressive, however, is the participation of troops from such diverse nations as Fiji, Ghana, Hungary, Ireland, Kenya, Yugoslavia, Finland, Chile, and Nepal. No U.N. member is too small or too remote to contribute its men and its goodwill to what the Nobel committee called "the manifest will of the community of nations to achieve peace through negotiations."

When troops from the South Pacific help stop the killing on the shores of the Mediterranean, and when troops from South America guard the lines between Hindus and Moslems in Asia, something is happening that is too important to be ignored. For all the bad press and official castigation that the U.N. has suffered in Washington in recent years, the fact is that some of the complex organization's agencies are making unique and irreplaceable contributions to the well-being of the Earth's people.

The peacekeeping forces certainly are on that list. The blue-and-white U.N. flag identifies troops of different peoples, religions, languages, and nations joining in force to protect others from the mindless violence of civil war or international aggression. That effort is one of the world's most inspiring. Indeed, it gives fresh meaning to the word "humanity."

The Nobel committee chose well. To the U.N. peacekeepers then, a hearty salute.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to join with the chairman, the gentleman from Florida [Mr. FASCELL] in support of this resolution. It was originated by my good friend and colleague, the gentleman from Pennsylvania [Mr. McDADE], who is the ranking member on the Subcommittee on Defense of the Committee on Appropriations.

This is a very important resolution, commending the peacekeeping forces of the United Nations on their receipt of the Nobel Peace Prize.

The U.N. peacekeeping forces have served bravely, as we all know, in Cyprus, the Middle East, and South Asia. In addition, the availability of such forces has played a major role in helping to resolve the conflict between Iran and Iraq and the withdrawal of Soviet forces from Afghanistan.

The administration has indicated that it is quite likely that there will be new demands on U.N. peacekeeping forces. New operations may be required to resolve the conflicts in Angola, Namibia, Morocco, and Cambodia.

The Reagan administration has been successful in achieving diplomatic progress on these issues, in part through the United Nations. The administration is trying, within the limits of the budget resolution, to secure full funding for the United Nation. The administration has also requested—and the Foreign Affairs Committee has authorized—the reprogramming of $150 million of Defense Department funds for new U.N. peacekeeping operations.

Mr. Speaker, I am happy that the Nobel Committee has given this timely award to the personnel of the U.N. peacekeeping forces.

Mr. BROOMFIELD. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. McDADE], the originator of this legislation.

Mr. McDADE. Mr. Speaker, I rise in strong support of this legislation.

Mr. Speaker, I want to offer my deep appreciation to the distinguished chairman of the Foreign Affairs Committee and to my colleague, the gentleman from Michigan, for the expeditious manner in which they brought it to the floor.

Last Friday I was privileged to manage the Department of Defense appropriation bill for fiscal year 1989. I noted that the previous day the Nobel Committee had awarded its Nobel Peace Prize to the U.N. peacekeeping forces for their sacrifices in the cause of peace around the world, and I applauded them for doing so.

At the same time I noted with sadness that one of those wearing the blue of the U.N. was a United States citizen held captive as a hostage in Lebanon. I refer to Lt. Col. William R. Higgins, and suggested that the House bring his case to the attention, renewed attention of the U.N.

Mr. Speaker, the resolution before us does that, and more. In it, we reiterate the praise, well-deserved praise, for those who serve on the front lines for peace—the U.N. peacekeepers.

The brave men and women who serve in the United Nations peacekeeping forces are most deserving of the Nobel Peace Prize. There are nearly 10,000 peacekeepers from more than 30 countries who serve on the U.N. forces. Over the past 40 years, troops from 58 different countries have participated in the forces. There are 1,185 U.S. military personnel currently assigned to the U.N. peacekeeping forces.

The presence of the forces in the world's trouble spots has become a vital element of international diplomatic efforts to resolve conflicts in Afghanistan, the Persian Gulf, the Middle East, and other parts of the globe. Over 700 U.N. peacekeepers have given their lives while in the line of duty, Mr. Speaker, and the courage the troops have displayed and the personal sacrifice they have made in the cause of peace merits our deepest appreciation.

The resolution goes on, however, and notes that this unique moment in time, when the entire world marks the achievements of the U.N. peacekeeping forces, offers an excellent opportunity for the United Nations, the Nobel Committee, and all peace-loving people to strengthen our unified resolve to secure the release of Colonel Higgins and all the hostages.

My good friend, the chairman of the committee and my colleague, the gentleman from Michigan, convened the Foreign Affairs Committee and they reported out this resolution urging the United Nations to redouble their efforts on behalf of Colonel Higgins, and indeed all hostages being held everywhere.

I know that they will and I hope and pray that this resolution will help not only Colonel Higgins as a hostage, but all hostages.

Mr. Speaker, I express my thanks to my colleagues for bringing it to the floor.

Mr. Speaker, I yield back the balance of my time.

□ 1845

Mr. FASCELL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PANETTA). The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and agree to the resolution (H. Res. 570).

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule 1 and the Chair's prior announcement, further proceedings on this motion will be postponed.

CONCERNING UNITED STATES RESPONSE TO ATROCITIES REPORTEDLY CARRIED OUT IN BURUNDI

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 371) concerning the United States response to the atrocitices reportedly carried out in Burundi in August, as amended.

The Clerk read as follows:

H. CON. RES. 371

Whereas in Burundi a unique system of ethnic domination has subordinated the 85 percent of Burundi's population of Hutu ethnicity to the will of a Tutsi minority comprising less than 15 percent of the total population;

Whereas since coming to power one year ago, Major Pierre Buyoya has begun efforts to alleviate this domination, combat corruption, release political prisoners, normalize church-state relations, increase Hutu representation at the cabinet level, introduce macroeconomic reforms, and make known his intention to introduce other reforms benefitting the Hutu majority;

Whereas these steps toward national reconciliation have been taken in order to prevent a repetition of the tragic violence in 1972, which resulted in a tremendous loss of life;

Whereas in mid-August an outbreak of ethnic conflict in northern Burundi at Ntega reportedly resulted in the deaths of at least several hundred people, and possibly many more, including a significant number of innocent Tutsi;

Whereas the Government of Burundi reportedly responded to the killings at Ntega by dispatching 2 army battalions, comprised almost exclusively of Tutsi soldiers and equipped with machine guns, helicopters, and armored personnel carriers, to restore order in the tense northern localities of Ntega and Marangara, where they reportedly engaged in the killing of between 5,000 and 20,000 Hutu, many of them innocent civilians;

Whereas these alleged actions by the Burundi army also resulted in the internal displacement of thousands of Hutu and the flight to neighboring Rwanda of 55,000 to 60,000 Hutu, according to the United Nations High Commissioner for Refugees;

Whereas the Government of Burundi has rejected a request by the European Community to allow an international inquiry team to investigate this tragic series of events and the many unexplained circumstances surrounding it;

Whereas in 1972 a Hutu revolt, in which many innocent Tutsi were killed, was followed by massive, systematic counterviolence by the Burundi Government and army which left an estimated 100,000 Hutu dead and which quickly became a genocidal-type operation aimed at the physical liquidation of education and semi-educated Hutu;

Whereas the 1972 revolt generated a massive involuntary migration of 150,000 Hutu to neighboring states and resulted in a system in which the Tutsi successfully excluded the Hutu from all positions of power, influence, and wealth in the army, the civil service, the university, and secondary schools;

Whereas during the period 1972 through 1973 no effective protest to the events in Burundi was launched by the Organization of African Unity, the United Nations, or Western diplomacy and, with the exception of Belguim, the dominant impression one gained of Western diplomacy during the crisis was one of almost total indifference in the face of unrelieved tragedy;

Whereas Burundi has recently become the largest per capita recipient in the world of World Bank low interest loans, to the extent that in 1988 Burundi will receive $80,000,000 in grants and concessional loans while also benefitting from a 3-year World Bank structural adjustment facility amounting to $90,000,000; and

Whereas in early August, just prior to the outbreak of violence in northern Burundi, the United States announced the obligation of a $4,850,000 population program which raised United States economic aid to $7,500,000 for fiscal year 1988: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) urges the Government of Burundi to maintain and greatly increase its recent efforts toward national reconciliation in the hope of preventing further tragic loss of life and additional human suffering;

(2) condemns the recent violence in Burundi reportedly carried out by the armed forces of Burundi, other authorities, and private individuals against innocent Burundi citizens;

(3) urges the President and Secretary of State to press for a negotiated nonviolent reform of Burundi's historical inequities that results in genuine national reconciliation, reduction of the now heightened risk of continued cross-border violence, and continued advance in Burundi's economic reform program, through direct representations to the Government of Burundi and representatives of ethnic communities and private nongovernmental bodies in Burundi and through sustained multilateral initiatives involving other Western donors (especially the European Community, France, and Belgium), the United Nations, the Organization of African Unity, and Burundi's regional neighbors;

(4) urges the President and the Secretary of State to conduct a comprehensive reassessment of the United States bilateral relationship with the Government of Burundi with a view toward the suspension of United States assistance (other than humanitarian aid) unless within 6 months after the date of the enactment of this resolution—

(A) an impartial inquiry, with the involvement of credible international organizations and with full access to the affected regions, has been initiated to determine the causes of the outbreaks of violence in August and recommend future action to achieve an effective national reconciliation in Burundi.

(B) the Government of Burundi has taken steps to investigate and prosecute those military and administrative officials and private individuals responsible for the recent atrocities committed against innocent Burundi citizens;

(C) the Government of Burundi has made substantial progress in promoting the safe return to their homes of Burundi's internally displaced and refugee populations; and

(D) the Government of Burundi continues to assure foreign journalists and international humanitarian relief organizations free access to the areas affected by the recent violence; and

(5) urges the President and the Secretary of State to undertake a suspension of United States assistance to Burundi and to oppose future World Bank loans to Burundi (as authorized under section 701 of the International Financial Institutions Act) unless within one year after the date of the enactment of this resolution—

(A) there has been substantial progress by the Government of Burundi in advancing the internal reform of Burundi's military and civil administration and ensuring discipline and control in military and administrative interactions with Burundi citizens, especially those of Hutu ethnicity, in order to prevent a recurrence of the violence in August; and

(B) there has been substantial progress by the Government of Burundi in further reversing patterns of ethnic discrimination against the majority Hutu, thereby promoting stable long-term development and political participation of all Burundi citizens, through improvements in the equality of access to economic opportunities and public services and through increased respect of the internationally-recognized human rights of all Burundi citizens.

The SPEAKER pro tempore. Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes and the gentleman from Michigan [Mr.

BROOMFIELD] will be recognized for 20 minutes.

The Chairman recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unaminous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 371, the concurrent resolution now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Speaker, I rise in support of House Concurrent Resolution 371, as amended, and urge its immediate adoption. This measure, introduced by our distinguished colleague from New York and a member of the Foreign Affairs Committee, Mr. WEISS, expresses Congress' concern about the deplorable atrocities that were carried out in Burundi last month, when ethnic tensions between the minority Tutsis, who control the Government and the military, and the majority Hutus erupted, resulting in the violent deaths of thousands of people.

House Concurrent Resolution 371 was considered by the Subcommittee on Africa, which held a hearing on this topic, and by the full Committee on Foreign Affairs, which ordered it reported favorably. The resolution enjoys broad bipartisan support, as evidenced by the cosponsorship of both the distinguished chairman and the ranking minority member of the Africa Subcommittee, Representatives WOLPE and BURTON. I commend these gentlemen, the original sponsor, Mr. WEISS, and the chairman of the Human Rights Subcommittee, Mr. YATRON, and his ranking member, Mr. SOLOMON, who waived consideration of the measure in order to expedite its consideration by the House, for their leadership on this important issue.

Mr. Speaker, the situation in Burundi is tragic. Although the Hutus make up 85 percent of the population, the minority Tutsis practice a kind of tribal apartheid that excludes the Hutus from almost all important positions in the Government and the military, and denies them access to business opportunities, higher education and political power. The tensions between Tutsis and Hutus are heightened by memories of 1972, when an estimated 100,000 Hutus were killed by a previous Tutsi government in the worst tribal massacre in modern African history.

The year-old government of President Pierre Buyoya offered hope to the Hutu majority by moving to alleviate this blatant discrimination. Those hopes may have been dashed in the aftermath of the August atrocities which left anywhere from 5,000 to 20,000 dead, forced another 55,000 to 60,000 to flee to neighboring Rwanda, and displaced an estimated 100,000 inside Burundi.

The purpose of this resolution is to urge the Government of Burundi to take immediate steps toward an effective national reconciliation by: First, allowing an impartial and independent inquiry to determine the causes of the August violence and recommend future action; second, investigating and prosecuting those responsible for the massacre of innocent Burundi citizens; third, promoting the safe return of Burundi's internally displaced and refugee populations; and fourth, continuing to assure foreign journalists and international humanitarian relief organizations free access to the areas of recent violence.

In addition, the resolution encourages the Burundi Government to make substantial progress in ending repression and reversing ethnic discrimination through the reform of the military and civil administration, improvements in the access to economic opportunities and public services, and increased respect for internationally recognized human rights.

The resolution calls upon the President and the Secretary of State to undertake a comprehensive reassessment of our bilateral relationship with Burundi and to consider the suspension of United States assistance to Burundi and United States opposition to World Bank aid unless Burundi moves in this direction.

Mr. Speaker, this resolution is a reasonable response to a reprehensible situation. I urge immediate adoption of House Concurrent Resolution 371, as amended.

Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. WOLPE], the chairman of the subcommittee.

Mr. WOLPE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of House Concurrent Resolution 371 which addresses the question of how the United States should best respond to the atrocities reportedly carried out in Burundi in August.

On September 22, the Foreign Affairs Subcommittees on Africa and Human Rights and International Organizations reported out this sense of Congress which was introduced by my distinguished colleague, Congressman TED WEISS. I wish to commend Mr. WEISS for his leadership in initiating this resolution and his success in attracting strong bipartisan support for it. I also wish to commend Congressman DAN BURTON, ranking minority member of the Foreign Affairs Subcommittee on Africa, and Congressman GUS YATRON, chairman of the Foreign Affairs Subcommittee on Human Rights and International Organizations, for their support in advancing this resolution. On September 27, House Concurrent Resolution 371 was reported out unanimously by the full Foreign Affairs Committee.

Mr. Speaker, the resolution before us is an expression of the outrage and horror which I and, I am certain, every other Member of this Chamber felt upon learning that an estimated 5,000-20,000 Burundi citizens were suddenly slaughtered beginning in late August. The vast majority of victims were reportedly innocent members of the Hutu ethnic group killed by the military, whose forces, overwhelmingly comprised of the Tutsi ethnic group, had become enraged by an uprising in the north in which Hutu peasants had reportedly killed many innocent Tutsi peasants. The military's actions also sent 60,000 Hutu fleeing to neighboring Rwanda and displaced several thousand other Hutu within northern Burundi.

Whatever the precise circumstances of these tragic events, there is little doubt that they stem from the continued ethnic domination that exists in Burundi, whereby the Tutsi minority comprising less than 15 percent of Burundi's population rigidly subordinates the 85 percent of Burundi's population of Hutu ethnicity.

Moreover, there is a still a high risk that the situation in Burundi will deteriorate even further. In 1972, we need to recall, a Hutu revolt was followed by massive counterviolence by the Burundi Government and military which left an estimated 100,000 Hutu dead and drove 150,000 Hutu into Rwanda. Since then, the Hutu majority has seen only token improvements in their lowly, repressed status in Burundi. If the Burundi Government today fails to take the steps urgently needed to defuse tensions, discipline its armed forces, reverse its history of rigid ethnic discrimination and achieve national reconciliation, I fear we will only witness additional violent tragedies, especially if tense Hutu rural communities, in panic, revolt again.

Mr. Speaker, the United States and the international community have a responsibility to press for an end to systematic ethnic discrimination and the achievement of genuine reconciliation in Burundi.

The Buyoya government has made some progress in the last year in effecting economic reform and releasing political prisoners. It is essential that the administration, Congress and the international community strengthen these reformist tendencies against the pressures of Tutsi extremists, while driving home the point that long-term, stable development will never be achieved, so long as Burundi's political system remains so deeply unjust and hence prone to sudden, violent turmoil. Something must be done to mitigate ethnic tensions in Burundi, encourage national reconciliation, and avert runaway violence in the future.

The resolution in question, House Concurrent Resolution 371, answers this need by condemning the recent violence in Burundi and urging the administration to follow three logical paths:

First, it urges the administration to pursue various multilateral and bilateral initiatives to press for nonviolent national reconciliation in Burundi, reduction of the risk of cross-border violence, and continued advance in Burundi's economic reform program;

Second, it urges the administration to reassess its bilateral relationship with Burundi, with a view toward suspending the United States aid program, unless after 6 months the following four conditions have been met: There has been an impartial inquiry with involvement by credible international organizations into the recent violence; the Government of Burundi has begun to investigate and prosecute those responsible for the recent atrocities; the Government has made progress in promoting the safe return home of refugees and the internally displaced; and finally, the Government continues to assure foreign journalists and international humanitarian relief organizations access to the areas affected by the violence.

Third, it urges the administration to suspend United States aid and oppose future World Bank aid to Burundi, if after 1 year there has not been substantial progress in two vital areas of structural reform: The internal reform of Burundi's military and civil administration, to ensure discipline and control and avoid a recurrence of the violence seen in August; the reversal of patterns of ethnic discrimination, through greater equality of access to economic opportunities and public services and through increased respect of the human rights of all Burundi citizens.

In closing, Mr. Speaker, the resolution before us is a responsible, timely and forward looking approach to the crisis in Burundi. It is a strong statement of congressional sentiment that does not tie the administration's hands. It spells out the precise reforms and steps toward national reconciliation which will be used by Congress in the future to evaluate the Government of Burundi and United States policy toward that country. Finally, it establishes a reasonable timeframe within which Congress will revisit these issues.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are all saddened by the recent outbreak of violence in Burundi. Unfortunately, the phenomenon of ethnic violence is not new in Burundi, widespread killings having taken place there in 1972.

There has been reason for hope in the past year as a new government has made significant strides at reform of both the government and the economy. The basic nature of the society, however, in which a small minority tribal group unjustly dominates a much larger one, has not changed.

The resolution before us condemns the recent violence in Burundi and urges the Government of Burundi to continue its efforts toward national reconciliation.

I urge my colleagues to support this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. FASCELL. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. WEISS], the original sponsor of this concurrent resolution.

Mr. WEISS. Mr. Speaker, at the outset, let me express my appreciation to the distinguished gentleman from Florida [Mr. FASCELL], chairman of the Committee on Foreign Affairs, for his expeditious manner in bringing this matter before us and to the gentleman from Michigan [Mr. BROOMFIELD] and the chairman and ranking members of the Subcommittee on African Affairs and Human Rights for their cooperation in getting quick action on this legislation.

Mr. Speaker, I would like to express my support for the important resolution before us today. The world was appalled by the brutal events that took place in Burundi in mid-August. Although exact figures have not yet been provided, it is clear that at least 5,000 and perhaps as many as 20,000 people are dead, thousands are internally displaced, and approximately 60,000 have fled into neighboring Rwanda.

The fighting reportedly began when the Hutu, fearing a massacre was being planned against them, attacked Tutsi citizens in the northern localities of Marangara and Ntega. However, the majority of the casualties were caused by the predominately Tutsi government troops, who used lethal force, often against unarmed women and children, in attempting to quell the disturbances. Refugees in Rwanda have reported that the military used machineguns and helicopters to slaughter whole villages full of Hutu, many of whom were women and children.

We still do not know what triggered the outbreak of violence, or the specifics as to how the military responded to the situation. What we do know is that a tragedy of catastrophic proportions occurred in Burundi last month in which thousands died, and many more were left homeless. It is important for the world to find out what happened in Burundi in August, and to work to ensure that it will not be repeated in the future.

What makes the situation even more disturbing is that this is not the first time that an incident like this has occurred in Burundi. Sixteen years ago, the government, in a response to a coup attempt by Hutu, sanctioned mass reprisals by the army against the Hutu. According to Rene Lemarchand in his study, "Selective Genocide in Burundi," the army "transformed itself into a genocidal-type operation aiming at the physical liquidation of nearly every educated or semieducated Hutu," which left an estimated 10,000 Hutu dead and an additional 150,000 Hutu as refugees in neighboring states. Subsequently, the government put in place a system in which, as Lemarchand describes, only "Tutsi were qualified to gain access to power, influence and wealth and what was left of Hutu society was systematically excluded from the army, the civil service, the university and secondary schools."

Unfortunately, the international response to that horrifying massacre was absolute silence. There were no protests launched by the Organization of African Unity, or the United Nations. Tragically, the world seemed to react with indifference to the slaughter.

Mr. Speaker, given what we now know about what happened in 1972 and 1973, I feel we have a grave responsibility to respond to, and not remain silent about the recent events in Burundi. The Government of Burundi must understand that the Congress of the United States will not respond to massive human rights violations with indifference.

That is why I urge my colleagues to support the resolution before us today. It is resolution that has been prepared by my office and that of Chairman WOLPE, in consultation with both the minority and majority. We have relied on documentation and interviews with officials from the Government of Burundi, press reports, and discussions with international organizations including the U.N. High Commissioner of Refugees, the International Committee on Red Cross, the European Community, UNICEF, and other European governments.

It is a moderate resolution, in which we reserve judgment on recent events on Burundi and promise to revisit the issue in 6 months. The resolution outlines the actions which the Government of Burundi should take to investigate what happened in August, and the steps necessary to prevent the recurrence of any similar incident in the future. It is intended to encourage the tentative reforms undertaken by President Buyoya in the last year to reverse the decades of systematic ethnic discrimination against the majority Hutu.

Mr. Speaker, it is imperative that we not wait any longer to speak out. We must not let the suffering of the Burundi people be forgotten. As we have seen too often, history, once forgotten, tends to repeat itself. There is an urgent need to pressure the Government of Burundi to take the necessary steps of allowing an independent and impartial inquiry into the situation, prosecuting those responsible, and working toward long-term ethnic reconciliation. I believe that this resolution is an appropriate way to do just that. I would urge my colleagues to join in support of this important resolution.

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

Mr. FASCELL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 371), as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

AUTHORIZING LEASE OF A SPECIFIED NAVAL REPAIR SHIP TO THE GOVERNMENT OF PAKISTAN

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5420) to authorize the lease of a specified naval repair ship to the Government of Pakistan, as amended.

The Clerk read as follows:

H.R. 5420

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO LEASE NAVAL REPAIR SHIP TO PAKISTAN.

(a) AUTHORITY.—The Secretary of the Navy is hereby authorized to lease the naval repair ship HECTOR (AR-7) to the Government of Pakistan.

(b) APPLICABLE LAW.—A lease under subsection (a) shall be entered into in accordance with chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 and following), except that section 62 of that Act (22 U.S.C. 2796a) shall not apply to that lease (except as provided in subsection (f) of this section).

(c) EXPENSES.—Any expense of the United States in connection with a lease under subsection (a) shall be charged to the Government of Pakistan.

(d) CONSIDERATION FOR LEASE.—Notwithstanding section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), the lease of a vessel described in subsection (a) may provide, as part or all of the consideration for the lease, for the maintenance, protection, repair, or restoration of the vessel by the Government of Pakistan.

(e) EXPIRATION OF AUTHORITY.—The authority of the Secretary of the Navy to enter into a lease under subsection (a) shall expire at the end of the two-year period beginning on the date of the enactment of this Act.

(f) LEASE RENEWAL.—A lease entered into under subsection (a) before the end of that two-year period may be renewed in accordance with this section, subject to the reporting requirement of section 62 of the Arms Export Control Act.

SEC. 2. AUTHORITY TO TRANSFER DRYDOCK AND TUG TO THE PHILIPPINES.

(a) AUTHORITY TO TRANSFER WITHOUT CHARGE.—The Secretary of the Navy is hereby authorized to transfer without charge a floating drydock, the ex-AFDL-40, and a medium yard tug, the ex-YTM-776, to the Republic of the Philippines.

(b) APPLICABLE LAW.—Any transfer of a vessel under subsection (a) shall be in accordance chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 and following), except that section 632(d) of that Act (22 U.S.C. 2392(d)) shall not apply with respect to that transfer.

(c) TERMS OF TRANSFER.—Any transfer of a vessel under subsection (a) shall be subject to such terms and conditions as the President may require.

(d) EXPENSES.—Any costs incurred in the transfer of a vessel under subsection (a) shall be at the expenses of the Republic of the Philippines.

(e) EXPIRATION OF AUTHORITY.—The authority granted by this section shall expire at the end of the 2-year period beginning on the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 days in which to revise and extend their remarks on H.R. 5420, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Speaker, I rise in support of H.R. 5420, as amended.

The purpose of H.R. 5420 is to authorize the lease of a specified naval repair ship to the Government of Pakistan and the transfer to two naval vessels, a medium yard tug, and a floating drydock to the Government of the Philippines.

The lease of the naval repair ship, the *Hector,* will enable the Government of Pakistan to provide critically needed repair capabilities for upkeep of the Pakistani fleet. The *Hector* is a naval tender which will service eight Pakistani frigates which the United States will offer to Pakistan from lease in the near term, as well as other ships currently in the Pakistani inventory. It will not, however, create any readiness problems for U.S. Naval Forces because the ship has been decommissioned. Any costs of refurbishing the ship and transferring it to the Government of Pakistan will be borne by the Government of Pakistan.

The two ships proposed to be transferred to the Government of the Philippines are a concrete floating drydock and a medium yard tug, both of which will be used as nonlethal equipment in support of ship repair and overhaul for the Philippine Navy. The transfers are to be provided on a grant basis under the Grant Military Assistance Program authorities of the Foreign Assistance Act of 1961, with reimbursement to the Navy waived. As in the case of the Pakistani transfer, any initial costs of refurbishing the two vessels, is to be borne by the Government of the Philippines. These two vessels have been declared excess defense articles by the Department of the Navy.

Mr. Speaker, H.R. 5420, as amended, received unanimous support in committee and the legislation is supported by the administration. I urge adoption of the legislation.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York [Mr. SOLARZ], who is chairman of the subcommittee.

Mr. SOLARZ. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, Pakistan can use this ship. The Navy no longer needs it. It is not a threat to any other country in the region, but in order to make this transaction possible, authorizing legislation is required. Consequently, I do strongly support it.

Pakistan has been a good friend to the United States. We will have unresolved problems in Afghanistan which require close cooperation between our two countries at a time when Pakistan is making the transition to full-fledged democracy, and we need to maintain the manifest determination to be responsive to their concerns.

I urge the adoption of this legislation.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I believe this is a noncontroversial bill which the House should approve.

The Government of Pakistan will begin receiving eight frigates from the United States in November. The ship transfer we are authorizing in this bill would permit the United States to lease Pakistan a mothballed naval repair ship to support these frigates.

The Government of Pakistan will bear all the costs of refurbishing this repair vessel. In fact, this lease will probably save the U.S. Government money. Right now it costs the U.S. Government about $75,000 a year to keep this ship in mothballs.

In addition, this legislation also authorizes the transfer by grant of a concrete dry dock and a medium year tug to the Philippines. These vessels are excess U.S. military stock and their transfer will not cost the United States anything. The minority supports this request as well.

Mr. Speaker, I support this legislation and urge its passage.

Mr. Speaker, I yield back the balance of my time.

Mr. FASCELL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and pass the bill, H.R. 5420, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

CORRECTING THE ENROLLMENT OF HOUSE JOINT RESOLUTION 602

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 143) correcting the enrollment of House Joint Resolution 602.

The Clerk read as follows:

S. CON. RES. 143

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the joint resolution (H.J. Res. 602) in support of the restoration of a free and independent Cambodia and the protection of the Cambodian people from a return to power by the genocidal Khmer Rouge, the Clerk of the House of Represenatives shall make the following corrections:

(a) In subsection (2)—

(1) strike out "in the context of a negotiated settlement"; and

(2) strike out "in the context of a negotiated settlement.".

(b) In subsection (10)—

(1) strike out "immediately"; and

(2) strike out "support and sanctuary" and insert: "assistance".

Amend the title so as to read: "Joint resolution in support of the restoration of a free and independent Cambodia, the withdrawal of Vietnamese forces, and the protection of the Cambodian people from a return to power by the genocidal Khmer Rouge.".

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of Senate Concurrent Resolution 143, making technical corrections in the enrollment of House Joint Resolution 602.

Mr. Speaker, this is a purely procedural matter. House Joint Resolution 602, expressing the sense of the Congress with respect to Cambodia, passed the House on August 8, 1988. During consideration of this resolution by the other body it became necessary to make certain technical corrections in the enrollment of that bill. The resolution before the House today simply makes those corrections.

I urge the unanimous adoption of this resolution.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLARZ], chairman of the subcommittee.

Mr. SOLARZ. Mr. Speaker, as always, the distinguished gentleman from Florida is absolutely accurate in his assessment of the parliamentary situation. All these changes do is really to make it clear that we are calling not just for arrangements designed to prevent the Khmer Rouge from returning to power in Cambodia but also that we are calling for the withdrawal of the Vietnamese army of occupation from Cambodia as well.

I think this should enjoy the support of virtually every Member of the House on both sides of the aisle. The administration is comfortable with it. The original author of the resolution, the gentleman from Massachusetts [Mr. ATKINS], is for it, and I strongly urge its adoption.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on August 8, the House passed House Concurrent Resolution 602, supporting the restoration of a free and independent Cambodia, and the protection of the Cambodian people from a return to power by the genocidal Khmer Rouge.

I supported the passage of House Concurrent Resolution 602, and I support the passage of this Senate resolution before us today. The Senate resolution makes minor corrections in House Concurrent Resolution 602. However, it carries the same message as the House's original resolution—that the United States supports a free and independent Cambodia; that we urge the continued withdrawal from Cambodia of the Vietnamese troops; and that for the protection of the Cambodian people, the United States opposes the return to power of the genocidal Khmer Rouge who were responsible for the "Killing Fields."

Mr. Speaker, this resolution carries an important and timely message as the nations of Southeast Asia continue to seek a settlement to the problems in Cambodia. I therefore urge my colleagues to support the passage of Senate Concurrent Resolution 143.

Mr. Speaker, I yield back the balance of my time.

Mr. FASCELL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 143).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

SENSE OF CONGRESS WITH RESPECT TO RESTORATION OF DEMOCRACY IN HAITI AND CONDITIONS FOR RESUMPTION OF ASSISTANCE TO THAT COUNTRY

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 149) expressing the sense of Congress with respect to a restoration of democracy in Haiti and conditions for resumption of assistance to that country.

The Clerk read as follows:

S. CON. RES. 149

Whereas 29 years of repressive Duvalier rule came to end on February 7, 1986, when the Haitian people sent President-For-Life Jean-Claude Duvalier into exile;

Whereas a National Governing Council, a military-dominated provisional junta appointed by Duvalier prior to his departure and headed by General Henri Namphy, was named to govern the country and announced a plan to form a Constitutent Assembly to draft a new constitution;

Whereas on March 29, 1987, an overwhelming majority of Haitian voters (98.99 percent) approved the new constitution calling for the creation of a Provisional Electoral Council to draft an Electoral Law and oversee presidential and municipal elections;

Whereas on November 29, 1987, the first Haitian presidential election in thirty years was violently disrupted and ultimately postponed when Duvalierists and elements of the army massacred at least 34 voters and wounded 75 as Haitians peacefully assembled at polling booths to cast their ballots;

Whereas the ruling National Governing Council took no action to protect voters and stop the violence and, further, dissolved the Provisional electoral Council and abrogated the Electoral Law;

Whereas the United States responded by suspending all military and economic aid except for humanitarian assistance;

Whereas the Congress, with the exception of those programs such as assistance for refugees and disaster relief assistance that serve the interests of the United States, prohibited any further aid to Haiti not passing through private, non-governmental organizations until the Haitian government holds elections in accordance with the 1987 Haitian Constitution;

Whereas the National Governing Council held an election on January 17, 1988, widely recognized as fraudulent, and the army-backed candidate, Leslie Manigat, was selected as president in balloting in which no more than 4 to 6 percent of the three million eligible Haitian voters participated and where many who did note were paid to do so;

Whereas Leslie Manigat was overthrown on June 19, 1988, and General Henri Namphy assumed power and, with the support of remnants of Duvalier's private army, the Tonton Macoutes, began terrorizing the Haitian people.

Whereas as this campaign of terror against the Haitian people culminated on September 11, 1988, in the murder of 13 Haitians when elements of the Tonton Macoutes viciously attacked worshippers attending a Sunday morning mass at St. Jean Bosco Roman Catholic Church in Port-au-Prince and subsequently attacks were carried out against political party headquarters and radio stations and two other churches were burned;

Whereas noncommissioned officers in the Haitian military, upset by increasing human rights abuses perpetrated by a military government including Duvalierists and Tonton Macoutes, overthrew the Namphy regime and installed Lt. Gen. Prosper Avril as Haiti's new president on September 17;

Whereas Lt. Gen. Avril has said that the final objective of his military government will be to implement democracy;

Whereas, upon taking power General Avril proclaimed "We dream of a Haiti where liberty will flourish, where human rights will be guaranteed and dialogue will be honored for the sake of national reconciliation, and where the economic stagnation in which the country is floundering will disappear for the greatest good of the greatest number"; and

Whereas the continuing popular unrest in Haiti since the exile of President-For-Life Jean-Claude Duvalier is a clear indication that the people of Haiti will continue to risk their lives for the opportunity to select their own leaders through free, fair and open elections: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the resumption of economic or any other assistance by the United States to the Government of Haiti should be clearly linked to tangible actions by the Government of Haiti to—

(1) embark upon a credible transition to democracy that will include restoring the 1987 Constitution, appointing a genuinely independent electoral commission to oversee elections, and most important, announcing a date certain for elections that will lead to a democratic government led by civilians;

(2) strictly observe human and civil rights and in so doing take immediate steps to disarm and restrain the remnants of Duvalier's private army, the Tonton Macoutes, and to institute a judicial process whereby human rights violations will be vigorously investigated and violators will be brought to justice;

(3) reform a corrupt bureaucracy;

(4) promote economic development that will benefit the Haitian people by providing the security and freedom of association necessary for bottom-up, grass-roots development;

(5) improve cooperation between the United States and Haiti in dealing with the growing problem of narcotics trafficking through Haiti and to take meaningful steps to halt the involvement of the Haitian military in the transshipment of illicit drugs; and

(6) demonstrate the willingness of the Haitian armed forces to submit to legally constituted civilian authority and to fully respect and abide by the Constitution of Haiti.

Sec. 2. It is further the sense of the Congress that—

(1) there will be no resumption of regularized and sustained government-to-government assistance, as part of a normalization of relations with the Government of Haiti, until the election of a civilian government pursuant to free, fair and open elections held in accordance with the provisions set forth in section 1; and

(2) the appropriate Executive branch officials should consult fully and completely with the Congress before assistance of any kind is made available by the United States to the Government of Haiti.

Sec. 3. The Congress further declares its support for the people of Haiti and their desire for democratic government and economic development by directing that the appropriate committees of the Congress conduct hearings to determine what legislative actions may be appropriate and necessary to promote free, fair and open elections leading to civilian government in Haiti, including increased economic aid should the government take the steps outlined in section 1, or, in the event of its failure to do so, the feasibility of additional sanctions as outlined in legislation now pending before the Congress.

Sec. 4. The appropriate Executive branch officials should examine ways that the United States can work with its friends and allies and appropriate international organizations and institutions to develop a multilateral policy toward Haiti that is consistent and sustainable.

The SPEAKER pro tempore. Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on Senate Concurrent Resolution 149, the Senate concurrent resolution now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Speaker, Senate Concurrent Resolution 149 is substantially identical to House Concurrent Resolution 383 which was ordered reported favorably by the Committee on Foreign Affairs earlier today.

Haiti today, once again, stands at a crossroads. After 2½ tumultuous years the Haitian people have again gotten back to the point where they may be able to break with the past, a past marked by repression, cruelty, and corruption. After the downfall of Duvalier the people of the United States proved their willingness to help the Haitian people in their struggle for economic development and social justice. Today we stand ready to help again once we know that the hand of tyranny has again been truly thrown off and we are certain that the will of the Haitian people will not again be thwarted.

Make no mistake about it: This Congress likes what it hears General Avril saying with the support of the noncommissioned officers and the Haitian Army. General Avril and those supporting him have stated their desire to return Haiti to the path toward democracy. He has reached out beyond the army to involve the opposition leadership and other key groups in a national dialog and that is an important step toward national reconciliation. We like what has been done with the removal from office of some of the most notorious defenders of the old order determined to halt a transition to democracy. The last few weeks have seemingly brought about an almost unbelievable transformation. Where there was despair there now is hope.

But we in the United States have learned through harsh experience that the performance of Haiti's leaders seldom has reflected their democratic rhetoric. While we hope and pray that the apparent alignment of the Haitian Army with the desires of the Haitian people will bring a new day, United States policy must be based on reality and not expectations. If we are to again provide large amounts of assistance to Haiti, it must be on the basis of Haitian Government performance toward achieving the goals of liberty, justice, and prosperity laid down by the Haitian people in the Constitution they approved overwhelmingly in 1987. General Avril has spoken well of democracy but without free, open, and fair elections there is no democracy. It is to be hoped that the new Government of Haiti will promptly set a date for elections, in the not too distant future, and that it will establish an electoral process that will have the respect and support of the Haitian people.

The concurrent resolution before us today is offered neither in a spirit of concession nor confrontation. The resolution sets forth clearly and simply the sense of Congress with respect to those goals to which we deem the Haitian Government must be committed if, on behalf of the American people, the Congress is ever to approve providing assistance to the Haitian Government. Today no such assistance is provided. It is forbidden by the appropriations law just enacted. While assistance to the Haitian people continues through private voluntary organizations, this resolution would make explicit the intent of Congress that aid to the Haitian Government not be resumed until and unless the Government of Haiti has taken clear and decisive actions to achieve certain specified goals. These are not Washington's goals but goals repeatedly called for by the Haitian people themselves. What are the steps we expect the Haitian Government to take?

To embark on a credible transition to democracy based on the 1987 Constitution and announcement of an election date;

To respect human and civil rights;

To reform the corrupt bureaucracy;

To promote economic development and to assure the personal security and right to assembly essential to grass-roots development;

To step up cooperation with us on narcotics trafficking; and

To demonstrate the military's willingness to accept civilian rule and to abide by Haiti's Constitution.

Section 2 of the resolution provides that it is further the sense of Congress that we not have a regular and sustained assistance relationship with the government until a civilian government has been elected through free and open elections and further provides that no assistance should be given until after there have been full consultations with the Congress by the executive branch.

Section 3 of the resolution declares Congress' support for the aspirations of the Haitian people for an elected civilian government and for economic government and urges appropriate committees of Congress to take whatever actions they deem appropriate to promote free elections either through positive steps such as assistance or through the enactment of economic sanctions such as those now pending in H.R. 4152 if progress is not made toward free elections.

Section 4 of the resolution calls on the executive branch to work with our friends and allies to shape a multilateral policy toward Haiti.

This resolution enacts no sanctions; it lifts none. It is offered at a time of hope and expectation as an expression of our willingness to work with Haiti to achieve a democratic and effective government based on values shared by the Haitian and American peoples. I am confident that if progress in Haiti is reflected by concrete actions the Congress will give high priority next year to reviewing existing aid restrictions and especially to assure appropriate financial support for elections and a transition to democracy.

As chairman of the Committee on Foreign Affairs I certainly intend to give Haitian developments priority attention.

□ 1900

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my colleague, the gentleman from Florida, is to be commended for introducing this resolution on Haiti. I am pleased that the House has this opportunity to act on this timely resolution.

The hope that swept Haiti with the departure of Jean-Claude Duvalier in 1986 has turned to despair. Successive military and civilian governments have failed to halt the cycle of violence against the citizens of Haiti by elements of the military and paramilitary forces.

After the election massacre of November 1987, U.S. assistance to Haiti was suspended—with the exception of vital humanitarian and other programs.

This resolution recites the sorry events of the last several years. It also expresses the sense of Congress regarding the conditions for improved United States-Haitian relations, particularly the resumption of United States assistance.

Most importantly, the resolution makes clear the will of Congress that any resumption of assistance be contingent on tangible actions by the Government of Haiti to ensure a credible transition to democracy.

In addition, the resolution expresses the sense of Congress that there should be no resumption of "regular and sustained" assistance to the Government of Haiti until there have been free, fair and open elections to establish a civilian government.

Mr. Speaker, in recent days there have been some hopeful signs in Haiti. The new president, General Avril, has stated his commitment to "irreversible democracy." Opposition leaders have expressed their support for his efforts. Finally, Colonel Paul, who is wanted in the United States for drug trafficking, has resigned his military position.

I believe that this resolution will assist the process of democracy in Haiti by clearly stating the views of Congress. On the other hand, the resolution will not prevent cooperation between the United States and the Haitian Government if the situation there continues to improve.

I urge my colleagues to support this resolution.

Mr. Speaker, I yield as much time as he may consume to the gentleman from Nebraska, [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I want to express my strong support for this legislation and to commend the original cosponsors of this legislation from both sides of the aisle, members of our committee, the Committee on Foreign Affairs and other committees, and it is his failure to contact my office that I am not an original cosponsor of this legislation as well.

Having visited last year I saw at that time the high hopes the Haitian people had for assistance from the United States on their effort to move toward democracy. We have had many tragic setbacks, but I think this legislation makes it quite clear that the United States and the American people are very eager to help Haiti in its move toward democracy.

If we have that sense, if we had that evidence that Haiti is moving towards democracy, the United States will be there to assist in every fashion that is reasonably available to us.

I commend the gentleman for his efforts and the chairman for his efforts. I thank the gentleman for yielding me this time.

Mr. BROOMFIELD. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

I am pleased to support this measure and commend the distinguished chairman of our committee, the gentleman from Florida, [Mr. FASCELL], and the ranking minority member, the gentleman from Michigan [Mr. BROOMFIELD], for bringing this measure to the floor before we wind up our session. I think many of us have had a great deal of revulsion of what has happened in Haiti over the last year and a great deal of optimism in the past few weeks, cautious optimism, that things will improve. I think this measure sends an appropriate signal to Haiti expressing our hopes, and at the same time conditioning those hopes and conditioning our assistance on further improvement and further progress in Haiti, and I think it is an appropriate measure for the House to adopt.

I urge my colleagues to fully support the measure.

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me thank the gentleman from New York [Mr. GILMAN] who just spoke, for his efforts on this matter and say that I appreciate the work of my colleague who is a ranking member of this, and to say that this represents, this resolution represents the best effort to reach a bipartisan foreign policy that we think reflects the real interests of this country and would make and does make a significant contribution to our relationships not only with Haiti but in the Caribbean.

As my colleagues may or may not know we have had a bipartisan group in the Congress which has monitored and followed very closely activities in Haiti and in the Caribbean generally, and I take this opportunity to commend my colleague who is chairman of the Subcommittee on Western Hemisphere Affairs, Mr. CROCKETT, and those others like the Delegate from the District of Columbia, Mr. FAUNTROY, and the gentleman from Minnesota, Mr. OBERSTAR, and the gentleman from Nebraska, Mr. BEREUTER, and many others, including my own colleague on the other side, Senator GRAMM and other Senators who have cooperated in this very broad based effort in arriving at a sensible bipartisan foreign policy that is extremely important.

The SPEAKER pro tempore (Mr. STUDDS). The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 149.)

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PERMISSION FOR COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO SIT ON TOMORROW DURING THE 5-MINUTE RULE

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be permitted to sit during proceedings of the House under the 5-minute rule on Wednesday, October 5, 1988, to markup H.R. 5432, Federal Savings and Loan Insurance Corporation Recapitalization Amendments of 1988. The ranking minority member concurs in this request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

ESTABLISHING NATIONAL COMMISSION ON THE THRIFT INDUSTRY

Mr. ST GERMAIN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2653) to establish a National Commission on the Thrift Industry, as amended.

The Clerk read as follows:

S. 2653

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF COMMISSION.

There is hereby established a commission to be known as the National Commission on the Thrift Industry (hereafter in this Act referred to as the "Commission").

SEC. 2. MEMBERSHIP OF COMMISSION.

(a) NUMBER AND APPOINTMENT.—The Commission shall initially be composed of 16 members, appointed not later than October 15, 1988. After the declaration of an individual as the President-elect in connection with the Presidential election on November 8, 1988, the Commission shall be expanded to 18 members. The members shall be appointed as follows:

(1) 2 citizens of the United States, appointed by the President.

(2) 2 Senators and 2 citizens of the United States, appointed by the President pro tempore of the Senate upon the recommendation of the majority leader of the Senate.

(3) 2 Senators and 1 citizen of the United States, appointed by the President pro tempore of the Senate upon the recommendation of the minority leader of the Senate.

(4) 2 Members of the House of Representatives and 2 citizens of the United States, appointed by the Speaker of the House of Representatives upon the recommendation of the majority leader of the House of Representatives.

(5) 2 Members of the House of Representatives and 1 citizen of the United States, appointed by the Speaker of the House of Representatives upon the recommendation of the minority leader of the House of Representatives.

(6) 2 citizens of the United States, 1 of whom is a Democrat and 1 of whom is a Republican, appointed by the President-elect of the United States.

(b) ADDITIONAL QUALIFICATIONS.—

(1) IN GENERAL.—Members of the Commission who are appointed under any paragraph of subsection (a) other than paragraph (1) and are not Members of the Congress shall be appointed from among individuals who are specially qualified to serve on the Commission by virtue of their education, training, or experience.

(2) LIMITATION.—Of the total number of the members of the Commission who are described in paragraph (1) of this subsection, not more than 2 of such members may be, at the time of any such member's appointment and during any such member's service on the Commission, may be—

(A) a director, officer, or employee of any Federal or State agency or instrumentality with supervisory or regulatory authority over any thrift institution; or

(B) a director, officer, employee, or agent of any trade association which represents any thrift institution.

(c) TERMS.—Members shall be appointed for the life of the Commission.

(d) CHAIRPERSON.—The Commission shall elect a Chairperson from among the members of the Commission.

(e) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(f) VOTING.—Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

(g) VACANCIES.—No vacancy on the Commission shall affect the powers of the Commission and any such vacancy shall be filled in the manner in which the original appointment was made.

(h) COMPENSATION AND EXPENSES.—

(1) NO BASIC PAY.—Except as provided in paragraph (2), members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(2) PER DIEM AND TRAVEL EXPENSES.—Members of the Commission who are appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of subsistence, as authorized by law for persons serving intermittently in the government service to the extent funds are available for such expenses.

(i) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the members.

SEC. 3. FUNCTIONS OF COMMISSION.

(a) CONTENTS AND SPECIFIC RECOMMENDATIONS.—The Commission shall conduct an investigation and evaluation of, and shall report and make recommendations on, the following issues:

(1) The adequacy of the regulation of thrift institutions at the Federal and State level.

(2) The financial condition of the Federal Savings and Loan Insurance Corporation.

(3) The sources of income for the Federal Savings and Loan Insurance Corporation.

(4) The extent of the liability relating to the Federal Savings and Loan Insurance Corporation's inventory of troubled thrift institutions.

(5) The potential sources of income for the Federal Savings and Loan Insurance Corporation should the Commission determine that the financial resources of such Corporation will be insufficient to eliminate the inventory of troubled depository institutions.

(6) Methods for increasing capital levels in the thrift industry.

(7) Problems in the structure of the deposit insurance system for thrift institutions and appropriate options for reforming and restructuring such system.

(8) The impact on the thrift industry of the various assistance programs carried out by the Federal Savings and Loan Insurance Corporation.

(9) The role of the thrift industry in providing mortgage credit, including such industry's projected share of the mortgage market in the year 2000.

(10) The role of the mortgage banking industry, the commercial banking industry, and the secondary mortgage market in relation to the role of the thrift industry in providing mortgage credit.

(11) The need for specialized depository institutions to serve the mortgage market, including the extent to which the existence of such institutions affects the availability of low- and moderate-income housing.

(b) FINAL REPORT.—

(1) REPORT REQUIRED.—On or before February 1, 1989, the Commission shall submit to the President and to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a final report which shall contain a detailed statement of the findings and conclusions of the Commission, including such recommendations for administrative and legislative action as the Commission determines to be appropriate.

(2) MAJORITY VOTE.—Any recommendation may be made by the Commission to the

President and to the Congress only if adopted by a majority vote of the members of the Commission.

(3) Additional, dissenting, and supplemental views.—The report required under paragraph (1) shall contain any additional, dissenting, or supplemental views of any member of the Commission.

SEC. 4. POWERS OF COMMISSION.

(a) Hearings.—The Commission may hold such hearings and sit and act at such times and places as the Commission may find available.

(b) Rules and Regulations.—The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organizations, and personnel.

(c) Assistance From Federal Agencies.—

(1) Information.—The Commission may request from the head of any Federal agency or instrumentality such information as the Commission may require for the purpose of this Act. Each such agency or instrumentality shall furnish such information to the Commission, upon request made by the Chairman of the Commission.

(2) Administrative support services and personnel.—Upon request of the Chairperson of the Commission, the head of any Federal agency or instrumentality shall, to the extent possible and subject to the discretion of such head—

(A) make any of the facilities and services of such agency or instrumentality available to the Commission; and

(B) detail any of the personnel of such agency or instrumentality to the Commission, on a non-reimbursable basis, to assist the Commission in carrying out its duties under this Act, except that any expenses of the Commission incurred under this subparagraph shall be subject to the limitation on total expenses set forth in section 5(b).

(d) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(e) Contracting.—The Commission may, to such extent and in such amounts as are provided in advance in appropriation Acts, enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under the Act, subject to the limitation on total expenses set forth in section 5(b).

(f) Staff.—Subject to such rules and regulations as may be adopted by the Commission, the Chairperson of the Commission (subject to the limitation on total expenses set forth in section 5(b)) shall have the power to appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director, and of such additional staff as the Chairperson deems advisable to assist the Commission, at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of such title.

(g) Advisory Committee.—The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act.

SEC. 5. EXPENSES OF COMMISSION.

(a) In General.—Any expenses of the Commission shall be paid from such funds as may be available to the Secretary of the Treasury.

(b) Limitation.—The total expenses of the Commission shall not exceed $500,000.

(c) GAO Audit.—Prior to the termination of the Commission, pursuant to section 6, the Comptroller General of the United States shall conduct an audit of the financial books and records of the Commission to determine that the limitation on expenses has been met, and shall include its determination in an opinion to be included in the report of the Commission.

SEC. 6. TERMINATION OF COMMISSION.

The Commission shall cease to exist on the date that is 30 days after the date on which the Commission submits the report required under section 3(b) of this Act.

The **SPEAKER** pro tempore. Is a second demanded?

Mr. WYLIE. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Rhode Island [Mr. St Germain] will be recognized for 20 minutes and the gentleman from Ohio [Mr. Wylie] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Rhode Island [Mr. St Germain].

Mr. ST GERMAIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, almost daily, we are confronted with new problems in the savings and loan industry and growing projections of the cost of bailing out this industry.

It is critical, Mr. Speaker, that the Congress and the American public have all the facts and the very best ideas that will lead to a long-range solution to stabilize the savings and loan industry.

H.R. 5407—which establishes a National Commission on the Thrift Industry—is an important step in that direction. This bipartisan 18-member Commission, chosen jointly by the executive and legislative branches, will provide us expert data and opinion as we move toward lasting answers in the next Congress.

We are asking that the Commission submit its report by February 1 of next year. This is a short deadline, but if the problem is immediate and if the data is to be useful, we must have the information early in the next session.

The Commission is all the more important because of the conflicting numbers that continue to pour out of the Federal Home Loan Bank Board. The Bank Board's credibility has suffered greatly under the weight of constantly changing numbers—new projections of the cost and miraculous recalculations of income streams to match the new cost figures.

The Commission, we hope, will develop some credible projections to replace the numbers chaos at the Home Loan Bank Board.

We have structured the bill so that the membership of the Commission will be as independent and the findings as objective as possible. To help accomplish this independence, the legislative would limit to two the number of appointees that could be drawn from thrift trade associations or Federal or State thrift regulatory agencies. Not only do we want independence, but fresh ideas.

In addition to giving us improved calculations on the size of the problem, we want the Commission to take a hard look at the efficacy of the current regulations of the savings and loan industry, the impact of the assistance programs, and the future role of the industry in the Nation's mortgage markets.

The Commission should not be looked upon as the final answer or some magical cure-all. It will be valuable, but it must be regarded as a supplement to the efforts that this Congress must undertake.

Throughout this session, the Banking Commission has intensified its oversight effort of the Federal Home Loan Bank Board and the individual Home Loan Banks around the Nation. We have sent our investigators into the field in the Southwest and in California to obtain first-hand data on the most severe problems. This effort will continue in the coming months. It is my intention that this committee be fully prepared to start to work on the FSLIC problems at the beginning of the next Congress.

I hope we will have a strong bipartisan vote for the Commission today. It is an important step in the process to stabilize the industry and restore the public's confidence in the regulatory machinery.

Mr. Speaker, I reserve the balance of my time.

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this bill and the motion to substitute the House bill for the Senate bill. This legislation would establish a National Commission on the Thrift Industry. The Commission would investigate, review, and report on the savings and loan industry and the Federal Savings and Loan Insurance Corporation—FSLIC. We think the National Commission can provide recommendations to the 101st Congress and the next administration for resolving the predicament in which we currently find FSLIC.

I am pleased to be an original sponsor of this legislation, and I would commend the chairman of the Banking Committee, Mr. St Germain as well as the gentleman from Virginia, Mr. PARRIS, for their work on this important legislation.

It is most unfortunate that nearly one-third of the thrift industry is either insolvent or severely undercapitalized. To complicate matters further, FSLIC does not have the resources to deal with these institutions properly so that insolvent thrifts are permitted to remain open and losses continue to accumulate at an estimated $1 billion a month.

While I realize that this legislation is not a cure-all for resolving the FSLIC crisis, I believe it is an important step in addressing this very difficult issue.

This legislation will be instrumental in maintaining a clear focus on the FSLIC crisis after the 100th Congress adjourns this month. I feel strongly that we need to take this action to ensure that action to resolve the crisis facing the FSLIC is taken in a timely fashion. I trust this legislation will ensure that the next Congress is able to act expeditiously.

Mr. Speaker, I support this bill.

□ 1915

Mr. Speaker, I urge its passage.

GENERAL LEAVE

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore (Mr. STUDDS). Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

Mr. PARRIS. Mr. Speaker, I rise to join my colleagues in expressing support for the motion to bring before the House S. 2653 as amended by H.R. 5407.

H.R. 5407 would establish a National Commission on the Thrift Industry. I support H.R. 5407 over the Senate passed commission bill because unlike the Senate bill H.R. 5407 only focuses on the thrift industry. I feel this is very important because while it may be necessary in the future for this body to consider the overall Federal Deposit Insurance System, I firmly believe that it is important for the Congress at this time to focus exclusively on the FSLIC crisis.

As the original author of legislation to establish a Commission on the thrift industry and the FSLIC, I am particularly pleased that the Banking Committee reported H.R. 5407 by a vote of 45-2 and that this bill is now before the House for consideration.

Since 1985 I have been an active voice on the FSLIC crisis and the need to address what has turned into an enormous problem.

If there is any issue which I have been most vocal about as a member of the Banking Committee it is the crisis confronting the thrift industry and the FSLIC.

When I first addressed the House on the FSLIC crisis during October 1985, it was estimated by the General Accounting Office that the cost of resolving FSLIC's liability of troubled thrifts was $15 billion. At that time, I stated that in my view the GAO's estimates were "probably conservative," and I urged the Congress to act on what I recognized as a growing problem.

Well, here we are just 3 years later and the estimates for resolving the FSLIC crisis range from $60 to $80 billion. As my colleague from Ohio has already stated, the FSLIC is at least $14 billion in the red and does not have the resources to resolve its liability of troubled thrifts. Moreover, while insolvent thrifts continue to remain open because the FSLIC does not have the resources to close them down, the losses continue to accumulate at an estimated $25 million a week. We simply cannot afford to allow the FSLIC crisis to continue hemorrhaging—the threat to the American taxpayer is too great.

While I agree that H.R. 5407 is not a cure all for the FSLIC crisis, I feel strongly that it would be negligent for this Congress to adjourn without ensuring that this issue is being attended to by a competent and distinguished panel of experts from the public and private sectors.

I commend the chairman and ranking minority member of the Banking Committee for their work in moving this important bill, and I urge the passage of S. 2653 as amended by H.R. 5407.

Mr. ROTH. Mr. Speaker, as a cosponsor of H.R. 5407, I rise in support of this bill and urge my colleagues to vote for it. This measure will establish a special commission to study the growing crisis in our savings and loan industry and provide us with expert recommendations for legislative remedies. The timetable is to have the Commission's report by next February, in time for consideration by the House and Senate Banking Committees at the beginning of the next session

If ever there was a need for a study commission, the time is now. Week by week, the thrift industry sinks deeper into crisis, threatening to open up a budgetary "black hole" into which the entire Federal Government could be drawn. The 101st Congress and our next President, will have to act to turn this situation around and stem the hemorrhaging of the Federal Deposit Insurance System. Deciding the right course of action will be one of the major questions confronting the Nation and our Government next year.

The dimensions of the crisis are now clear. While most of the 3,150 federally insured savings institutions are in good shape, there are some 500 which are on the brink of insolvency. Moreover, the profits of the sound institutions, which in 1987 amounted to $6.6 billion, were far overshadowed by the $13.3 billion loss experienced by the troubled associations. These losses have continued into 1988. During the first 6 months, the solvent S&L's earned a total of $1.1 billion, but the insolvent institutions have lost $7.5 billion.

The Bank Board's actions are having a profound effect on the Government's fiscal situation. As part of the rescue deals, FSLIC has issued nearly $13 billion in promissary notes to bolster and balance sheets of failed S&L's and has given buyers open-ended guarantees against losses, which total a minimum of $8 billion. The Bank Board and the Treasury Department argue that these obligations are backed by the full faith and credit of the Federal Government. If his contention is valid, then we face a rapid and uncontrolled increase in Federal debt, very possibly eclipsing the progress we have made in reducing the deficit. This question of the impact of S&L rescues on the Federal budget is a central issue that must be resolved.

That is why we need the best advice we can get, and apply it to legislative solutions early in the next session. This bill today is a first step toward addressing this very serious situation. I am concerned not only for the millions of Americans who depend on savings institutions to protect their assets, but also for the American taxpayer, who is in danger of being stuck with the bill under some proposals for bailing out the system.

What we need now is constructive advice, from all parties. What we do not need is the kind of political mischief—making coming from Michael Dukakis' camp. To suggest that the S&L crisis is the responsibility of GEORGE BUSH is sheer political hot air. There are many contributing causes of this crisis, and they cannot be traced back to the Vice President.

If Michael Dukakis wants to inject this issue into the Presidential campaign then we must share with the American people what his solution is. We can only imagine what that would be: a $50-billion tax increase to be paid by the American pople? A return to the suffocating kind of regulation that has been sinking the American financial system in the world markets? A plan to mortgage the future of the savings industry for decades into the future? If on the off chance Michael Dukakis has anything useful to contribute, then he can deliver it to this Commission. Otherwise he can play a constructive role by spending what remains of his supply of blue smoke and mirrors on the remainder of his tattered political agenda.

For those of us who will play a role in solving this crisis, we can take heart that this bill is a step forward. I urge my colleagues to support this Thrift Commission proposal.

Mr. ST GERMAIN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Rhode Island [Mr. ST GERMAIN] that the House suspend the rules and pass the Senate bill, S. 2653, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

FEDERAL AVIATION ADMINISTRATION DRUG ENFORCEMENT ASSISTANCE ACT OF 1988

Mr. ANDERSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4844) to direct the Federal Aviation Administration to provide assistance to law enforcement agencies in their efforts with respect to drug trafficking interdiction, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4844

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Subtitle A—Federal Aviation Administration Drug Enforcement Assistance

SECTION 1. SHORT TITLE.

This Subtitle may be cited as the "Federal Aviation Administration Drug Enforcement Assistance Act of 1988".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) Illegal drug consumption and the trafficking in illegal drugs is a major problem in the United States.

(2) The smuggling of drugs into the United States through the use of general aviation aircraft is a major contributing factor in the illegal drug crisis facing our Nation.

(3) The Federal Government has a significant role in combatting such drug crisis.

(4) The Federal Aviation Administration has played an important role in assisting law enforcement agencies in certain aspects of drug interdiction and enforcement activities.

(5) The current systems of registering aircraft, certificating pilots, and processing major aircraft repair and alteration forms and enforcement of the requirements associated with such systems need to be improved in order to more effectively contribute to drug interdiction and enforcement efforts.

(6) Improving such systems and enforcement of such requirements will require providing the Federal Aviation Administration with additional funding and other resources.

(7) Improved systems of registering aircraft, certificating pilots, and processing major aircraft repair and alteration forms and increased enforcement of requirements associated with such systems will benefit all users of such systems (including law enforcement officials) and the general public.

(b) POLICY.—Section 103 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1303) is amended by redesignating paragraphs (a), (b), (c), (d), and (e) (and any references thereto) as paragraphs (1), (2), (3), (4), and (5), respectively, by striking out the semicolons at the end of each of paragraphs (1), (2), (3), and (4) (as so redesignated) and inserting in lieu thereof a period, and by adding at the end thereof the following new paragraph:

"(6) The provision of assistance to law enforcement agencies in the enforcement of laws relating to the regulation of controlled substances, to the extent consistent with aviation safety.".

SEC. 3. AIRCRAFT REGISTRATION SYSTEM.

(a) MODIFICATION AUTHORITY.—Section 501 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401) is amended by adding at the end thereof the following new subsection:

"(h) MODIFICATION OF SYSTEM.—The Administrator is authorized and directed to make such modifications in the system established under this title for registration and recordation of aircraft as may be necessary to make such system more effective in serving the needs of buyers and sellers of aircraft, officials responsible for enforcement of laws relating to the regulation of controlled substances (as defined in section 102 of the Controlled Substances Act), and other users of such system. Such modifications may include a system of titling aircraft or of registering all aircraft whether or not operated, shall assure positive, verifiable, and timely identification of the true owner, and shall address, at a minimum, each of the following deficiencies in and abuses of the existing system:

"(1) The registration of aircraft to fictitious persons.

"(2) The use of false or nonexistent addresses by persons registering aircraft.

"(3) The use by a person registering an aircraft of a post office box or 'mail drop' as a return address for the purpose of evading identification of such person's address.

"(4) The registration of aircraft to corporations and other entities established to facilitate unlawful activities.

"(5) The submission of names of individuals on applications for registration of aircraft which are not identifiable.

"(6) The ability to make frequent legal changes in the registration markings which are assigned to aircraft.

"(7) The use of false registration markings on aircraft.

"(8) The illegal use of 'reserved' registration markings on aircraft.

"(9) The large number of aircraft which are classified as being in 'self-reported status'.

"(10) The lack of a system to assure timely and adequate notice of the transfer of ownership of aircraft.

"(11) The practice of allowing temporary operation and navigation of aircraft without issuance of a certificate of registration under this section.".

(b) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—That portion of the table of contents contained in section 1 of such Act relating to section 501 of such Act is amended by adding at the end thereof the following:

"(h) Modification of system.".

SEC. 4. MODIFICATION OF SYSTEM FOR ISSUING AIRMAN'S CERTIFICATES TO PILOTS.

(a) MODIFICATION AUTHORITY.—Section 602 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1422) is amended by adding at the end thereof the following new subsection:

"(d) MODIFICATION OF SYSTEM.—The Administrator is authorized and directed to make such modifications in the system established under this title for issuance of airman's certificates to pilots as may be necessary to make such system more effective in serving the needs of pilots and officials responsible for enforcement of laws relating to the regulation of controlled substances (as defined in section 102 of the Controlled Substances Act). Such modifications shall assure positive and verifiable identification of each person applying for or holding such a certificate and shall address, at a minimum, each of the following deficiencies in and abuses of the existing system:

"(1) The use of fictitious names and addresses by applicants for such certificates.

"(2) The use of stolen or fraudulent identification in applying for such certificates.

"(3) The use by a person applying for such a certificate of a post office box or 'mail drop' as a return address for the purpose of evading identification of such person's address.

"(4) The use of counterfeit and stolen airman's certificates by pilots.

"(5) The absence of information concerning physical characteristics of holders of such certificates.".

(b) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—That portion of the table of contents contained in section 1 of such Act relating to section 602 of such Act is amended by adding at the end thereof the following:

"(d) Modification of system.".

SEC. 5. MODIFICATION OF SYSTEM FOR PROCESSING FORMS FOR ALTERATIONS OF FUEL SYSTEMS.

(a) MODIFICATION AUTHORITY.—Section 605 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1425) is amended by adding at the end thereof the following new subsection:

"(c) MODIFICATION OF SYSTEM.—The Administrator is authorized and directed to make such modifications in the system established under this title for processing forms for major repairs or alterations of fuel tanks and fuel systems of aircraft as may be necessary to make such system more effective in serving the needs of users of such system, including officials responsible for enforcement of laws relating to the regulation of controlled substances (as defined in section 102 of the Controlled Substances Act). Such modifications shall address, at a minimum, each of the following deficiencies in and abuses of the existing system:

"(1) The lack of a special identification feature to permit such forms to be easily distinguished from other major repair and alteration forms.

"(2) The excessive amount of time required for receiving such forms at the Airmen and Aircraft Registry of the Federal Aviation Administration.

"(3) The backlog of such forms which are awaiting processing at the Airmen and Aircraft Registry.

"(4) The lack of ready access by law enforcement officials to information contained on such forms.".

(b) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—That portion of the table of contents contained in section 1 of such Act relating to section 605 of such Act is amended by adding at the end thereof the following:

"(c) Modification of system.".

SEC. 6. REGISTRATION, CERTIFICATION, AND FUEL SYSTEM ALTERATION REGULATIONS.

(a) RULEMAKING.—Not later than 10 months after the date of the enactment of this Act, the Administrator shall issue final regulations for carrying out the objectives of sections 501(h), 602(d), and 605(c) of the Federal Aviation Act of 1958 and provide a written explanation of how such regulations address each of the deficiencies and abuses required to be addressed by such sections. Such regulations shall include, but not be limited to, a requirement that each individual listed in an application for registration of an aircraft provide, together with such application, his or her driver's license number and each person (other than an individual) listed in such an application provide, together with such application, its Federal tax identification number.

(b) CONSULTATION REQUIREMENT.—In issuing regulations in accordance with this section, the Administrator shall consult the Drug Enforcement Administration of the Department of Justice, the United States Customs Service, other Federal law enforcement officials, representatives of State and local law enforcement officials, representatives of the general aviation aircraft industry, representatives of users of general aviation aircraft, and other interested persons.

(c) FEES.—

(1) General rules.—Section 313 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1354) is amended by adding at the end thereof the following new subsection:

"(f) Processing Fees.—

"(1) Establishment and collection.—The Administrator may establish and collect such fees as may be necessary to cover the costs associated with issuance of certificates of registration of aircraft, issuance of airman certificates to pilots, and processing of forms for major repairs and alterations of fuel tanks and fuel systems of aircraft.

"(2) Maximum fee schedule.—The amount of any fee which may be collected under this subsection—

"(A) with respect to issuance of an airman's certificate to a pilot may not exceed $12;

"(B) with respect to registration of an aircraft after transfer of ownership may not exceed $25;

"(C) with respect to renewal of an aircraft registration may not exceed $15; and

"(D) with respect to processing of a form for a major repair or alteration of a fuel tank or fuel system of an aircraft may not exceed $7.50.

The amounts established by this paragraph shall be adjusted by the Administrator for changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

"(3) Limitation.—No fee may be collected under this subsection before the date on which the final regulations referred to in section 6(a) of the Federal Aviation Administration Drug Enforcement Assistance Act of 1988 take effect.

"(4) Credit to account; availability.—The amount of fees collected under this subsection shall be credited to the account in the United States Treasury from which expenses were incurred by the Administrator for carrying out titles V and VI of this Act and shall be available to the Administrator for paying expenses for which such fees are collected.".

(2) Conforming amendment to table of contents.—That portion of the table of contents contained in section 1 of such Act relating to section 313 is amended by adding at the end thereof the following:

"(f) Processing fees.".

(3) Conforming amendment to section 334 of title 49.—The first sentence of section 334 of title 49, United States Code, is amended by striking out "only when" and all that follows through the period and inserting in lieu thereof the following:

"only when—

"(1) the charge—

"(A) was in effect on January 1, 1973, and

"(B) is not more than the charge that was in effect on such date, adjusted in proportion to changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor between January 1, 1973, and the date the charge is imposed; or

"(2) the charge is a fee established and collected in accordance with section 313(f) of the Federal Aviation Act of 1958.".

(4) GAO audit.—During the 5-year period beginning after the date on which fees are first collected under section 313(f) of the Federal Aviation Act of 1958, the Comptroller General shall conduct an annual audit of the collection and use of such fees for the purpose of ensuring that such fees do not exceed the costs for which they are collected and submit to Congress a report on the results of such audit.

(e) Report.—Not later than 180 days after the date of the enactment of this Act and annually thereafter during the 5-year period beginning on such 180th day, the Administrator shall prepare and transmit to Congress a report on the following:

(1) The status of the rulemaking process, issuance of regulations, and implementation of regulations in accordance with this section.

(2) The progress being made in reducing the number of aircraft classified by the Federal Aviation Administration as being in "sale-reported status".

(3) The progress being made in expediting the filing and processing of forms for major repairs and alterations of fuel tanks and fuel systems of aircraft.

(4) The status of establishing and collecting fees under section 313(f) of the Federal Aviation Act.

(f) Definitions.—For purposes of this Subtitle—

(1) Administrator.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(2) Aircraft.—The term "aircraft" has the meaning such term has under section 101 of the Federal Aviation Act of 1958.

SEC. 7. CIVIL PENALTIES.

(a) Relating to Ownership and Registration.—Section 901(a)(1) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1471(a)(1)) is amended by inserting before the period at the end of the first sentence the following: "and for each such violation which relates to registration or recordation of an aircraft under title V".

(b) Administrative Assessment.—Section 901(a) of such Act (49 U.S.C. App. 1471(a)) is amended by adding at the end thereof the following new paragraph:

"(3) Administrative assessment of certain registration and recordation violations.—

"(A) General authority.—The Administrator, or his delegate, may assess a civil penalty for a violation of title V, or a rule, regulation, or order issued thereunder, which relates to registration or recordation of an aircraft upon written notice and finding of violation by the Administrator.

"(B) No reexamination of liability or amount.—In the case of a civil penalty assessed by the Administrator under this paragraph, the issue of liability or amount of civil penalty shall not be reexamined in any subsequent suit for collection of such civil penalty.

"(C) Continuing jurisdiction of district courts.—Notwithstanding subparagraph (A), the United States district courts shall have exclusive jurisdiction of any civil penalty action initiated by the Administrator—

"(i) which involves an amount in controversy in excess of $50,000;

"(ii) which is an in rem action or in which an in rem action based on the same violation has been brought;

"(iii) regarding which an aircraft subject to lien has been seized by the United States; and

"(iv) in which a suit for injunctive relief based on the violation giving rise to the civil penalty has also been brought.

"(D) Limitations.—

"(i) Hearing.—A civil penalty may be assessed by the Administrator under this paragraph only after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

"(ii) Violations.—This paragraph only applies to civil penalties initiated by the Administrator after the date of the enactment of this paragraph.

"(iii) Maximum amount.—The maximum amount of a civil penalty which may be assessed by the Administrator under this paragraph in any case may not exceed $50,000.".

SEC. 8. CRIMINAL PENALTIES.

(a) In General.—Subsection (b) of section 902 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472) is amended by redesignating paragraph (3) as paragraph (5) and by striking out the subsection heading and paragraphs (1) and (2) and inserting in lieu thereof the following:

"(b) Forgery of Certificates, False Marking of Aircraft, and Other Aircraft Registration Violations.—

"(1) Description of violations.—It shall be unlawful for any person—

"(A) to knowingly and willfully forge, counterfeit, alter, or falsely make any certificate authorized to be issued under this Act, or to knowingly sell, use, attempt to use, or possess with the intent to use any such fraudulent certificate;

"(B) to obtain any certificate authorized to be issued under this Act by knowingly and willfully falsifying, concealing, or covering up a material fact, or making a false, fictitious, or fraudulent statement or representation, or making or using any false writing or document knowing the writing or document to contain any false, fictitious, or fraudulent statement or entry;

"(C) who is the owner of an aircraft eligible for registration under section 501, to knowingly and willfully operate, attempt to operate, or permit any other person to operate such aircraft if such aircraft is not registered under section 501 or the certificate of registration of such aircraft is suspended or revoked, or if such owner knows or has reason to know that such person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

"(D) to knowingly and willfully operate or attempt to operate an aircraft eligible for registration under section 501 knowing that such aircraft is not registered under section 501, that the certificate of registration of such aircraft is suspended or revoked, or that such person does not have proper authorization to operate or navigate such aircraft without registration for a period of time after transfer of ownership;

"(E) to knowingly and willfully serve, or attempt to serve, in any capacity as an airman without a valid airman certificate authorizing such person to serve in such capacity;

"(F) to knowingly and willfully employ for service or utilize any airman who does not possess a valid airman certificate authorizing such person to serve in such capacity;

"(G) to operate an aircraft with a fuel tank or fuel system which has been installed or modified on the aircraft knowing that such tank or system or the installation or modification of such tank or system is not in accordance with all applicable rules, regulations, and requirements of the Administrator; or

"(H) to knowingly and willfully display or cause to be displayed on any aircraft any marks which are false or misleading as to the nationality or registration of the aircraft.

"(2) Penalties.—Any person who commits a violation of paragraph (1) shall be, upon conviction, subject to—

"(A) a fine of not more than $15,000 or imprisonment for a term of not more than 3 years, or both; or

"(B) a fine of not more than $25,000 or imprisonment for a term of not more than 5 years, or both, if such violation was in connection with the act of transportation by aircraft of a controlled substance or of the aiding or facilitating of a controlled substance offense where such act is punishable by death or imprisonment for a term exceeding 1 year under a State or Federal law or is provided in connection with any act which is punishable by death or imprisonment for a term exceeding 1 year under a State or Federal law relating to a controlled substance (other than a law relating to simple possession of a controlled substance).

Any term of imprisonment imposed under subparagraph (B) shall be in addition to, and shall not be served concurrently with, any other term of imprisonment imposed on such person.

"(3) SEIZURE OF AIRCRAFT.—

"(A) BY DEA OR CUSTOMS.—An aircraft used in connection with, or in aiding or facilitating, a violation of paragraph (1) whether or not a person is charged in connection with such violation, may be seized and forfeited by the Drug Enforcement Administration of the Department of Justice or the United States Customs Service in accordance with the customs laws.

"(B) PRESUMPTIONS.—For purposes of subparagraph (A), an aircraft shall be presumed to have been used in connection with, or to aid or facilitate a violation of—

"(i) paragraph (1)(B) if the aircraft is registered to a fictitious or false person;

"(ii) paragraph (1)(B) if the application form used to obtain the aircraft registration certificate contains a material false statement;

"(iii) paragraph (1)(A) if the registration for the aircraft has been forged, counterfeited, altered, or falsely made;

"(iv) paragraph (1)(C) if the aircraft has been operated while it is not registered under section 501;

"(v) paragraph (1)(H) if there is an external display of false or misleading registration numbers or false or misleading country of registration;

"(vi) paragraph (1)(G) if there is on the aircraft a fuel tank or fuel system which has not been installed or modified in accordance with all applicable rules, regulations, and requirements of the Administrator; and

"(vii) paragraph (1)(G) if, in the case of an aircraft on which a fuel tank or fuel system has been installed or modified, a certificate required to be issued by the Administrator for such installation or modification is not carried aboard the aircraft.

"(C) MEMORANDUM OF UNDERSTANDING.—The Federal Aviation Administration, the Drug Enforcement Administration, and the United States Customs Service shall enter into a memorandum of understanding for the purpose of establishing procedures for carrying out the objectives of this paragraph.

"(4) CONTROLLED SUBSTANCE DEFINED.—For purposes of this section, the term 'controlled substance' has the meaning that such term has under section 102 of the Controlled Substances Act (21 U.S.C. 802).".

(b) CONFORMING AMENDMENTS.—

(1) SECTION 902(b)(5).—Paragraph (5) of section 902(b) of such Act, as redesignated by subsection (a) of this section, is amended by inserting "EFFECT ON STATE LAW.—" before "Nothing" and by aligning such paragraph with paragraph (2) of such subsection, as inserted by subsection (a) of this section.

(2) TABLE OF CONTENTS.—That portion of the table of contents contained in section 1 of such Act relating to section 902 is amended by striking out

"(b) Forgery of certificates and false marking of aircraft."

and by inserting in lieu thereof

"(b) Forgery of certificates, false marking of aircraft, and other aircraft registration violations.".

(c) LIGHTING VIOLATIONS.—

(1) IN GENERAL.—Subsection (q) of section 902 of such Act (49 U.S.C. App. 1472) is amended—

(A) by striking out the section heading and paragraph (1) and inserting in lieu thereof the following:

"(q) LIGHTING VIOLATIONS IN CONNECTION WITH TRANSPORTATION OF CONTROLLED SUBSTANCES.—

"(1) DESCRIPTION OF VIOLATION.—It shall be unlawful, in connection with an act described in paragraph (2) and with knowledge of such act, for any person to knowingly and willfully operate an aircraft in violation of any rule, regulation, or requirement issued by the Administrator with respect to the display of navigation or anticollision lights."; and

(B) by striking out paragraphs (4), (5), and (6).

(2) CONFORMING AMENDMENTS.—

(A) SECTION 902(q).—Section 902(q) of such Act is amended—

(i) in paragraph (2) by inserting "RELATIONSHIP TO CONTROLLED SUBSTANCE OFFENSES.—" before "The act";

(ii) in paragraph (3) by inserting "PENALTY.—" before "A person"; and

(iii) by aligning such paragraphs with paragraph (1) of such section, as amended by paragraph (1) of this subsection.

(B) TABLE OF CONTENTS.—That portion of the table of contents contained in section 1 of such Act relating to section 902 is amended by striking out

"(q) Violations in connection with transportation of controlled substances."

and by inserting in lieu thereof

"(q) Lighting violations in connection with transportation of controlled substances.".

SEC. 9. INFORMATION COORDINATION.

Not later than 180 days after the date of the enactment of this Act and annually thereafter during the 3-year period beginning on such 180th day, the Administrator shall prepare and transmit to Congress a report on the following:

(1) The progress made in establishing a process for provision of informational assistance by such Administration to officials of Federal, State, and local law enforcement agencies.

(2) The progress made in establishing a process for effectively pursuing suspensions and revocations of certificates of registration and airman certificates in accordance with the amendments made to the Federal Aviation Act of 1958 by the Aviation Drug-Trafficking Control Act, section 3401 of the Anti-Drug Abuse Act of 1986, and this Subtitle.

(3) The efforts of such Administration in assessing and defining the appropriate relationship of such Administration's informational assistance resources (including the El Paso Intelligence Center and the Law Enforcement Assistance Unit of the Aeronautical Center of such Administration).

(4) The progress made in issuing guidelines on (A) the reporting of aviation sensitive drug-related information, and (B) the development, in coordination with the Drug Enforcement Administration of the Department of Justice and the United States Customs Service, of training and educational policies to assist employees of such Administration to better understand (i) the trafficking of controlled substances (as defined in section 102 of the Controlled Substances Act), and (ii) the role of such Administration with respect to such trafficking.

(5) The progress made in improving and expanding such Administration's role in the El Paso Intelligence Center.

SEC. 10. FUNDING AND OTHER RESOURCES.

(a) 5-YEAR COST REPORT.—No later than 30 days after the date on which the final regulations referred to in section 6(a) of this Act are issued, the Administrator shall prepare and transmit to Congress a report on the resources (including funding and positions) which will be necessary on an annual basis during the 5-year period beginning after such 30th day to implement the objectives of this Subtitle (including the amendments made by this Subtitle).

(b) TRANSMITTAL OF BUDGET ESTIMATES.—Whenever—

(1) the Airmen and Aircraft Registry of the Federal Aviation Administration submits or transmits any budget estimate, budget request, supplemental budget estimate, or other budget information, legislative recommendation, or comment on legislation to the Administrator or the Secretary of Transportation; and

(2) the Administrator submits or transmits any budget estimate, budget request, supplemental budget estimate, or other budget information, legislative recommendation, or comment on legislation to the Secretary of Transportation, the President of the United States, or the Office of Management and Budget;

pertaining to funding to carry out the objectives of this Subtitle (including the amendments made by this Subtitle), it shall concurrently transmit a copy thereof to the Speaker of the House of Representatives, the Committees on Public Works and Transportation and Appropriations of the House of Representatives, the President of the Senate, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate.

(c) EXEMPTION FROM PAPERWORK REDUCTION ACT.—No information collection requests necessary to carry out the objectives of this Subtitle (including the amendments made by this Subtitle) shall be subject to review or approval of the Director of the Office of Management and Budget under chapter 35 of title 44, United States Code.

(d) REVIEW OF CERTAIN GRADE-LEVEL CLASSIFICATIONS.—

(1) APPLICABILITY.—This subsection applies with respect to—

(A) positions within the Airmen and Aircraft Registry of the Federal Aviation Administration; and

(B) positions within the Law Enforcement Assistance Unit of the Aeronautical Center of the Federal Aviation Administration.

(2) REVIEW; REMEDY; REPORT.—Not later than 120 days after the date of the enactment of this Act, the Office of Personnel Management shall—

(A) in accordance with section 5110(a) of title 5, United States Code, review a sufficient number of positions under paragraphs (1)(A) and (1)(B), respectively, to determine

whether positions under those respective paragraphs are being placed in appropriate classes and grades;

(B) if the Office finds that positions have not been placed in appropriate classes and grades, and after consulting with appropriate officials of the Federal Aviation Administration, exercise any authority under section 5110(b) of title 5, United States Code, which may be necessary to ensure that those positions are placed in their appropriate classes and grades; and

(C) transmit to Congress a report on the results of such review and any actions taken in accordance with subparagraph (B).

SEC. 11. USE OF TRANSPONDERS ON AIRCRAFT ENTERING THE UNITED STATES.

(a) STUDY.—The Secretary of Transportation shall study the feasibility, costs, and benefits with respect to drug interdiction of requiring each aircraft entering the continental United States—

(1) to have installed an operating transponder;

(2) to have a flight plan filed with the Federal Aviation Administration before such entry;

(3) to have the signal from such transponder identify, in the most efficient manner, such aircraft; and

(4) to have the signal from such transponder which identifies such aircraft provide information which ensures that such aircraft is following its filed flight plan.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on the results of the study conducted under this section.

SEC. 12. ESTABLISHMENT OF FLIGHT CORRIDORS.

(a) STUDY.—The Secretary of Transportation, in consultation with the Attorney General and the Secretary of the Treasury, shall study—

(1) the feasibility of establishing flight corridors across the borders of the continental United States and intercepting any aircraft which deviate from such corridors; and

(2) the impact of the establishment of such corridors on the safe and efficient movement of aircraft and on drug interdiction.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on the results of the study conducted under this section.

SEC. 13. REVOCATION OF AIRMAN CERTIFICATES.

(a) LIMITATION ON REISSUANCE OF REVOKED CERTIFICATES.—Section 602(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1422(b)) is amended by striking out subparagraphs (A) and (B) of paragraph (2) and inserting in lieu thereof the following:

"(2) LIMITATION ON REISSUANCE OF REVOKED CERTIFICATES.—

"(A) GENERAL RULE.—Except as provided in subparagraphs (B) and (C), the Administrator shall not issue an airman certificate to any person whose airman certificate has been revoked under section 609(c).

"(B) SPECIAL RULE FOR LAW ENFORCEMENT PURPOSES.—The Administrator may issue an airman certificate to any person whose airman certificate has been revoked under section 609(c) if the Administrator determines that issuance of such certificate will facilitate law enforcement efforts.".

(b) WAIVER OF REVOCATION REQUIREMENT.—Section 609(c) of such Act (49 U.S.C. 1429(c)) is amended by adding at the end thereof the following new paragraph:

"(5) WAIVER OF REVOCATION REQUIREMENT.—Upon request of a Federal or State law enforcement official, the Administrator may waive the requirements of paragraphs (1) and (2) that an airman certificate of any person be revoked if the Administrator determines that such waiver will facilitate law enforcement efforts.".

Subtitle B-Drug Recognition Expert Regional Training Program

SEC. 20. DRUG RECOGNITION EXPERT REGIONAL TRAINING PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Transportation, acting through the National Highway Traffic Safety Administration, shall establish a regional program for training law enforcement officers to recognize and identify individuals who are operating a motor vehicle while under the influence of alcohol, controlled substance, or other drugs.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 per fiscal year for each of fiscal years 1989, 1990, 1991, 1992, and 1993. Such sums shall remain available until expended."

Subtitle C—Alcohol and Drug Traffic Safety

SEC. 30. SHORT TITLE.

This subtitle may be cited as the "Alcohol and Drug Traffic Safety Act of 1988".

SEC. 31. ENFORCEMENT PROGRAMS.

(a) GENERAL RULES.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"§410. Drunk driving enforcement programs

"(a) GENERAL AUTHORITY.—Subject to the provisions of this section, the Secretary shall make basic and supplemental grants to those States which adopt and implement drunk driving enforcement programs which include measures described in this section to improve the effectiveness of the enforcement of laws the purpose of which are to discourage individuals from operating motor vehicles while under the influence of alcohol. Such grants may only be used by recipient States to implement such programs.

"(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for drunk driving enforcement programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this section.

"(c) FEDERAL SHARE.—No State may receive grants under this section in more than 3 fiscal years. the Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section 75 percent of the cost of implementing and enforcing in such fiscal year the drunk driving enforcement program adopted by the State pursuant to subsection (a) of this section;

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third fiscal year the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) MAXIMUM AMOUNT OF GRANTS.—

"(1) BASIC GRANTS.—Subject to subsection (c) of this section, the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e)(1) of this section shall not exceed 30 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title.

"(2) SUPPLEMENTAL GRANTS.—Subject to subsection (c) of this section, the amount of a supplemental grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (f) of this section shall not exceed 20 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title. Such supplemental grant shall be in addition to any basic grant received by such State.

"(e) ELIGIBILITY FOR BASIC GRANTS.—For purposes of this section, a State is eligible for a basic grant if such State provides—

"(1) for an expedited driver's license suspension or revocation system for individuals who operate motor vehicles while under the influence of alcohol which requires that—

"(A) when a law enforcement officer has probable cause under State law to believe an individual has committed an alcohol-related traffic offense and such individual is determined, on the basis of one or more chemical tests, to have been under the influence of alcohol while operating the motor vehicle or refuses to submit to such a test as proposed by the officer, the officer, the officer serve such individual with a written notice of suspension or revocation of the driver's license of such individual and take possession of such driver's license:

"(B) The notice of suspension or revocation referred to in subparagraph (A) provide information on the administrative procedures under which the State may suspend or revoke in accordance with the objectives of this section a driver's license of an individual for operating a motor vehicle while under the influence of alcohol and specify any rights of the operator under such procedures;

"(C) the State establish the administrative procedures referred to in subparagraph (B) so as to ensure due process of law;

"(D) after serving notice and taking possession of a driver's license in accordance with subparagraph (A), the law enforcement officer immediately report to the state entity responsible for administering drivers' licenses all information relevant to the action taken in accordance with this paragraph;

"(E) in the case of an individual who, in a 5-year period beginning after the date of the enactment of this section, is determined on the basis of one or more chemical tests to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as proposed by the law enforcement officer, the State entity responsible for administering driver's licenses, upon receipt of the report of the report of the law enforcement officer—

"(i) suspend the driver's license of such individual for a period of not less than 90 days if such individual is a first offender in such 5-year period; and

"(ii) suspend the driver's license of such individual for a period of not less than 1 year, or revoke such license, if such individual is a repeat offender in such 5-year period; and

"(F) the suspension and revocation referred to under subparagraph (D) take effect not later than 15 days after the day on which the individual first received notice of the suspension or revocation in accordance with subpargraph (B).

"(2) for a self-sustaining drunk driving enforcement program udner which the fines or surcharges collected from individuals convicted of operating a motor vehicle while under the influence of alcohol are returned, or an equivalent amount of non-Federal *funds are provided, to those communities which have comprehensive programs for the prevention of such operations of motor vehicles or such other programs for the prevention of such operations of motor vehicles as the Secretary approves; and*

"(3) that any person with a blood alcohol concentration of 0.10 percent or greater when operating a motor vehicle shall be deemed to be driving while under the influence of alcohol.

"(f) Eligibility for Supplemental Grants.—For purposes of this section, a State is eligible for a supplemental grant if such State is eligible for a basic grant and in addition such State—

"(1) provides for mandatory blood alcohol content testing whenever a law enforcement officer has probable cause under State law to believe that a driver of a motor vehicle involved in an accident resulting in the loss of human life or, as determined by the Secretary, serious bodily injury, has committed an alcohol-related traffic offense;

"(2) provides for an effective system for preventing operators of motor vehicles under age 21 from obtaining alcoholic beverages, which may include the issuance of drivers' licenses to individuals under age 21 that are easily distinguishable in appearance from drivers licenses issued to individuals 21 years of age and older; and

"(3) makes unlawful the possession of any open alcoholic beverage container, or the consumption of any alcohol beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway except as allowed in the passenger area, by persons (other than the driver), of any motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers.

"(g) Definitions.—As used in this section—

"(1) Alcoholic beverage.—The term 'alcoholic beverage' has the meaning such term has under section 158(c) of this title.

"(2) Motor vehicle.—The term 'motor vehicle' has the meaning such term has under section 154(b) of this title.

"(3) Open alcoholic beverage container.—The term 'open alcoholic beverage container' means any bottle, can, or other receptacle—

"(A) which contains any amount of an alcoholic beverage; and

"(B)(i) which is open or has a broken seal, or

"(ii) the contents of which are partially removed.

"(h) Authorizations of Appropriations.—There is authorized to be appropriated to carry out this section $25,000,000 for fiscal year 1989 and $50,000,000 per fiscal year for each of fiscal years 1990 and 1991. Such sums shall remain available until expended.".

(b) Conforming Amendment.—The analysis of chapter 4 of title 23, United States Code, is amended by adding at the end the following:

"409. Drunk driving enforcement programs.".

(c) Regulations.—The Secretary of Transportation shall issue and publish in the Federal Register proposed regulations to implement section 410 of title 23, United States Code, not later than 6 months after the date of the enactment of this section. The final regulations for such implementation shall be issued, published in the Federal Register, and transmitted to Congress not later than 1 year after each date of enactment.

SEC. 32. ALCOHOL AND DRUG IMPAIRMENT STANDARDS.

(a) Study.—Not later than 30 days after the date of enactment of this Act, the Secretary of Transportation shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct—

(1) a study to determine whether or not the blood alcohol concentration level at or above which an individual when operating a motor vehicle is deemed to be driving while under the influence of alcohol should be reduced below 0.10 percent and if so to what level; and

(2) a study to establish standards for determining whether or not an individual when operating a motor vehicle is impaired by a controlled substance or any other drug.

(b) Report.—In entering into any arrangement with the National Academy of Sciences for conducting the study under this section, the Secretary shall request the National Academy of Sciences to submit, not later than 1 year after the date of enactment of ths Act, to the Secretary a report on the results of such study. Upon its receipts, the Secretary shall immediately transmit the report to Congress.

(c) Authorization of Appropriation.—There is authorized to be appropriated to carry out this section $100,000 for fiscal year 1989.

SEC. 14. LIMITATION ON APPLICABILITY.

This subtitle (including any amendments made by this Act) shall only apply to aircraft which are not used to provide air transportation (as defined in section 101 of the Federal Aviation Act of 1958).

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **GINGRICH**. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from California [Mr. Anderson] will be recognized for 20 minutes and the gentleman from Georgia [Mr. Gingrich] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Anderson].

Mr. **ANDERSON**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4844, the Federal Aviation Administration Drug Enforcement Assistance Act of 1988, with the amendment as the desk, is the same language which was in the omnibus drug bill passed by the House.

Because of the uncertainty of that bill and because we on the Committee on Public Works and Transportation feel that these are important issues, we have asked for its separate consideration by the House today.

Briefly, H.R. 4844, as amended, addresses three major issues of the current drug epidemic. The first, in subtitle A, deals with the smuggling of narcotics through the use of general aviation aircraft.

The amount of cocaine and marijuana seized from general aviation aircraft as a percent of the total volume of illegal drugs seized was 69 percent in 1984, 60 percent in 1985, 53 percent in 1986 and 64 percent in 1987. Let me reemphasize this point—nearly two-thirds of drugs seized last year came into this country by way of general aviation.

In addition, general aviation drug smuggling is appearing increasingly at all our border areas, not just the gulf and southern borders.

At the same time, we've learned that there are huge gaps in the FAA's ability to help fight the drug trade—nearly 17,000 aircraft are not registered, 5,000 of which go back to 1977 or earlier; over 300,000 major repair forms are not filed; and over 80 percent of aircraft sellers fail to provide any notification when an aircraft is sold.

I believe H.R. 4844 goes a long way in giving FAA the tools to assist law enforcement agencies in drug enforcement and interdiction.

Subtitle A directs FAA to assist in drug-trafficking efforts, consistent with aviation safety, and to issue rules within 10 months to correct failures in aircraft registration, pilot certification and repair and alteration of airplanes. These changes would aid the identification, tracing and prosecution of aircraft and pilots engaged in drug smuggling.

It also increases the civil penalties for violation of registration requirements and grants FAA the authority to impose them administratively; sets new criminal penalties of up to $15,000 in fines and 3 years in prison for violation of registration and related requirements, and gives law enforcement agencies the authority to seize aircraft when there are violations of the new criminal provisions whether controlled substances are involved or not.

Subtitle A also includes the language of the Daub amendment which provides for the permanent revocation of a pilot license if individuals are involved in drug trafficking.

Subtitle B establishes a Drug Recognition Expert Regional Program for training law enforcement officers to recognize and identify individuals who are operating a motor vehicle while under the influence of alcohol, controlled substances or other drugs. This program is based on techniques developed by the Los Angeles Police Department that enable officers to prove impairment and to identify the symptomatic class of drugs that cause the impairment through patterns of behavior and physiological symptoms associated with the major drug categories. This provision authorizes funds for five years to enable the National Highway Traffic Safety Administration to establish the program in regional centers throughout the Nation.

Subtitle C provides basic incentive grants to States that establish administrative license revocation laws; self-sustaining drunk driving enforcement programs in which drunk driving fines and surcharges are returned to communities with comprehensive drunk driving programs; and .10 blood alcohol content per se laws. In addition, States would be eligible for a supplemental grant if they require first, blood alcohol content testing of a driver involved in a fatal accident; second, that drivers under age 21 carry distinguishable driver's licenses or other identification; and third, if they make unlawful the possession of open alcoholic beverage containers by drivers. Funds are authorized over a 3-year period. The provision also provides for two studies, one to determine whether a driver's BAC level should be below 0.10 percent and the other to establish standards for drugged driving impairment.

Mr. Speaker, I believe H.R. 4844, as amended, is quality legislation. It reflects a thorough effect; it addresses areas of vital concern to our Nation's law enforcement community; and it will make a difference in the war on drugs.

I urge its support.

Mr. GINGRICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4844, the Federal Aviation Administration Drug Enforcement Assistance Act of 1988.

It is all too clear that illegal drugs are a growing threat to our society and that we need to strengthen our efforts to stem the tide of those drugs flowing across our borders.

Certainly our awareness of the problem has been heightened by the tough initiatives undertaken by the drug task force headed by Vice President GEORGE BUSH, along with the ongoing hard work and commitment of our law enforcement officers who must deal on a daily basis with the problem.

With this legislation, we expect to build on those efforts that have already been made. The Vice President, in all of his public and private statements, continues to view the drug battle as one of his highest priorities.

We have learned from our experiences in dealing with the relentless and ruthless drug lords that there are loopholes in the system and that these people are more than savvy enough to take full advantage of the situation.

This legislation, drafted by the Public Works and Transportation Committee, specifically addresses the growing problem of using aviation in illicit drug transportation. It reflects conclusions reached following many months of intensive investigation by our committee into this issue.

From start to finish, it was conducted on a strong bipartisan basis and in a very thorough manner.

At the conclusion of the investigation, our committee held a most enlightening hearing on our findings, during which we learned just how effective drug smugglers have been in transporting their illegal cargo by air.

Essentially, the bill will tighten the Federal Aviation Administration's aircraft registration, pilot certification, and major repair and alteration procedures.

It is imperative that we do this if we are to put an end to a variety of abuses, including the registration of aircraft to fictitious persons, the use of phony addresses, and the use of illegal tail numbers on aircraft.

The bill also adds criminal penalties, increases civil penalties, and authorizes the Secretary of Transportation to impose very reasonable user charges to finance the cost of the proposed changes in the system.

What we are not doing in this measure is succumbing to the temptation to micromanage the program. Perhaps the greatest strength of this legislation is the important balance it strikes between solving this very serious aviation drug trafficking problem while giving the executive branch enough discretion to come up with specific solutions to the problems we have targeted.

Finally, I think it is important to note that what is being proposed in no way minimizes the primary safety role of the FAA.

We should also recognize that the approach we are taking to improve the aircraft registration system will not only help law enforcement but also all users of the system.

I, therefore, urge my colleagues to support this legislation.

Mr. MINETA. Mr. Speaker, I rise in support of H.R. 4844, the Federal Aviation Administration Drug Enforcement Assistance Act of 1988 which was developed by the Committee on Public Works and Transportation.

H.R. 4844 addresses problems associated with the interdiction of drugs smuggled by air. H.R. 4844 is identical to the aviation provisions of title VIII of the Omnibus Drug legisation which was passed by the House on September 7. These aviation-related provisions have strong support on both sides of the aisle and are noncontroversial.

Over the past year, the Committee on Public Works and Transportation has conducted an in-depth investigation into what the Federal Aviation Administration could do to better assist the drug interdiction and enforcement efforts of local. State, and Federal Authorities.

What this investigation revealed was that the FAA's system of registering aircraft and certificating pilots should be changed in order to make the false registration of aircraft more difficult. It is also clear that there is need to improve the FAA's information of pilots and aircraft ownership to facilitate investigations of and legal actions against drug smugglers.

When drug enforcement authorities learn that a particular aircraft is being used in drug smuggling activities, it is sometimes difficult or impossible to discover the identity of the true owners. The difficulty is cause by the ease with which the FAA's aircraft registration and pilot certification requirements can be circumvented by smugglers, In addition, there are some significant holes in the FAA's system of registering aircraft and pilots even when a pilot or owner is acting in good faith.

The FAA's registration system is adequate to its purposes of recording liens on aircraft; however, it is not well suited to assisting in drug interdiction and enforcement. H.R. 4844 directs the FAA to initiate a rulemaking to reform the registration of aircraft and pilots so that the records on pilots and aircraft ownership will be as accurate and reliable as possible and will serve as a valuable law enforcement tool.

The bill also provides new criminal penalties for the forging of airman certificates, false marking of aircraft and other registration and aircraft alternation violations.

Testimony before the committee by law enforcement officials indicated strong support for changes in the FAA's system of registration. The law enforcement community believes that the FAA and its records can become a vital tool in the Nation's efforts to interdict drugs and punish smugglers. This bill, when enacted, will enable this to happen.

I urge our colleagues to pass this important legislation.

Mr. GINGRICH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANDERSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ANDERSON] that the House suspend the rules and pass the bill, H.R. 4844, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PROVIDING FOR LEASING OF REAL PROPERTY TO DISTRICT OF COLUMBIA CHAPTER, AMERICAN NATIONAL RED CROSS

Mr. BOSCO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2496) to provide for the leasing of certain real property to the American National Red Cross, District of Columbia Chapter, for the construction and maintenance of certain buildings and improvements, as amended.

The Clerk read as follows:

S. 2496

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution entitled "Joint Resolution to grant authority for the erection of a permanent building for the American National Red Cross, District of Columbia Chapter, Washington, District of Columbia", approved July 1, 1947 is amended by adding at the end thereof the following new section:

"SEC. 11. (a) Notwithstanding any other provision of law, the Administrator of the General Services Administration shall enter into a lease of the real property described in the first section of this Act with the American National Red Cross, District of Columbia Chapter. Such lease shall provide that such property shall be used as an officer, medical and scientific facility by such Red Cross Chapter and the tenants of such Chapter on such terms and conditions as shall be customary and necessary, including that—

"(1) the lease shall be triple net to the United States and such Red Cross Chapter shall pay all taxes, insurance, and operating costs, and a rent of $1.00 for the term of the lease;

"(2) the lease term shall be for 99 years, and all improvements on such property shall revert to the ownership of the United States at the conclusion of the term;

"(3) such Red Cross Chapter may (at the expense of such Chapter) demolish the improvements on such property or any improvements constructed on such property after the date of enactment of this section, build, own, operate, and maintain new improvements, enter into leases, finance improvements (and mortgage any improvements and the leasehold estate), and in all manner deal with the property subject only to the condition that the ownership interest of the United States in the land shall not be adversely affected;

"(4) any space not needed for the operations of such Red Cross Chapter or the American National Red Cross in any building or improvement constructed on such property shall be first made available for use by Federal agencies at rental rates and other related expenses that are less than fair market value and reflect the value of the property provided to such Red Cross Chapter under the provisions of this Act;

"(5) the United States shall cooperate with such Red Cross Chapter with respect to any zoning or other matters relating to the development or improvement of such property; and

"(6) the plans of any proposed building or improvement for construction after the date of the enactment of this section shall first be approved by the American National Red Cross, the Commission of Fine Arts, and the National Capital Planning Commission.

"(b) The enactment of this section may not be construed as establishing a policy of the United States Government to furnish building sites for Red Cross chapters or any eleemosynary institution at any other place.".

SEC. 2. The General Services Administration is authorized to lease, on a long-term basis as determined by the Administrator of General Services, approximately 200,000 square feet of office space located in the area north of 96th Street in the county of New York, New York, at a lease rate not to exceed comparable rates for equivalent space in such area or comparable rates within the building to be occupied.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOLINARI. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. Bosco] will be recognized for 20 minutes and the gentleman from New York [Mr. MOLINARI] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Bosco].

Mr. BOSCO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2496 passed the Senate on August 2 of this year. In 1947, Congress enacted Public Law 80-156, authorizing the District of Columbia Chapter of the American National Red Cross to construct a permanent building for its own use on Government-owned land. This building is located at 2025 E Street NW., and was dedicated in 1954.

The demand for Red Cross services has tripled in the last 30 years. The District of Columbia Chapter facility serves 1.5 million people in 37 counties in Maryland, Virginia, West Virginia, and the District of Columbia. This legislation is necessary to allow the Red Cross to demolish its existing building and construct a new and more efficient building on the same site.

All costs relating to this new building, including construction, taxes, insurance, and operation and maintenance costs, will be borne by the Red Cross. Absolutely no Federal funds will be involved in this project.

Passage of S. 2496 will make certain that the Red Cross can continue to provide modern health and social services to residents of the District and nearby States well into the next century. I ask my colleagues to join me in passing S. 2496.

In addition, this bill has a provision to authorize the Administrator of General Services to lease about 200,000 square feet of office space located in the area north of 96th Street in New York City.

Mr. Speaker, I reserve the balance of my time.

Mr. MOLINARI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate bill 2496 would authorize the District of Columbia Chapter of the American National Red Cross to construct a new headquarters facilities in Washington. The present location at 2025 E Street NW. was authorized to be constructed on Federal land by the Red Cross by an act of Congress in 1947.

Over the past 40 years staff and responsibilities of the Red Cross have increased to the point that the present facility is no longer adequate to the needs of the District of Columbia Chapter which serves 37 counties in Virginia, West Virginia, Maryland, and the District.

This bill would provide for a 99-year ground lease to allow the Red Cross to demolish the current building and to construct and operate a new headquarters building. All expenses would be borne by the Red Cross. No Federal funds are authorized or would be used.

The bill also requires that space in the building not immediately needed by the Red Cross, if any, be made available to the Federal Government at less than fair market rates to reflect the value of the Federal land. The building design and plans must be approved by the American National Red Cross, the Commission of Fine Arts and the National Capital Planning Commission.

Regarding the committee amendment which authorizes GSA to lease space north of 96th Street in New York City, I must emphasize that the committee has made an exception in how we go about authorizing leases because of the extraordinary circumstances stated by Congressman RANGEL in regard to an international trade center to be built on 125th Street in New York City.

Normally our preference would be to have a GSA prospectus brought before the Subcommittee on Public Buildings and Grounds and have GSA officials testify as to the need and details surrounding the proposed leasing action. A rental range and maximum annual cost are included so that we would have some idea as to what the cost would be.

□ 1930

Often this results in prolonged discussions, and, in fact, there are occasions when we lay the matter over for an additional hearing as a result of those discussions. The subcommittee, and I believe I can speak for the committee members as well, as a matter of policy does not want to establish a precedent. This is an unusual action and should not be considered as an invitation to other members to follow the same course because it is contrary to our subcommittee policy, however in my conversation today with William Diamond, regional administrator GSA, he has stated that they have no objections to this proposal. Mr. Diamond has confirmed that the central office of GSA has approved this proposal. There is a great need for space by other Federal agencies in 26 Plaza in downtown Manhattan. Some space at 26 Federal Plaza will become available as a result of this amended action.

Mr. Speaker, the rationale behind this proposal is that a building to be constructed at 125th Street is a project subsidized by a subsidiary of the Urban Development Corp., and because of the subsidies we could expect that there will be favorable lease terms.

First, market rates would be lower in this area than other locations in Manhattan. Second, because it is subsidized, we can expect even more favorable rates than in the usual privately constructed facility.

As the project is expected to move ahead in the near future, there are certain concerns. Again, however, this particular project is the exception and not the rule.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MOLINARI. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I must tell the gentleman from New York [Mr. MOLINARI] that I am a little concerned about the amendment that has been put on here. I mean, first of all, we are dealing with an amendment in New York City on a bill that dealt with the District of Columbia. The Members, as far as I know, have not been informed that this particular amendment was going to be put in the bill. The information which has been circulated about the suspension that was coming up did not deal with the amendment at all. It simply deals with the Red Cross chapter, and so, therefore, we are operating under a procedure here where it is going to be very difficult for Members to understand what is here.

The gentleman from New York [Mr. MOLINARI] knows I appreciate his explanation of why the committee did what it did, but let me see if I got the facts straight here. Do I understand that we are committing to a lease of a building that is not even built yet?

Mr. MOLINARI. The gentleman from Pennsylvania [Mr. WALKER] is correct.

Mr. WALKER. And we are going to be leasing from a private developer who is going to build a building that has not been built, and we are already committing the Federal Government to leasing this building; is that right?

Mr. MOLINARI. No, not really. That language has been considered. The committee changed the language so that we are not site-specific.

The only thing we are saying here is that it has to be constructed north of 96th Street, so we do limit the region.

Mr. WALKER. So, somebody is going to get a lease in there.

Mr. MOLINARI. Yes, somebody will get a lease, yes.

Mr. WALKER. Now this never went through the committee process.

Mr. MOLINARI. No, it did not.

Mr. WALKER. The gentleman talked to GSA, that GSA has taken no position on this as an agency; is that correct?

Mr. MOLINARI. Well, the regional director I spoke to yesterday when I first became aware of this; I spoke to Bill Diamond, William Diamond, who is a regional administrator, and he was aware of it. He has no objection, said he signed off on it.

Mr. WALKER. But there is no agency position on it.

Mr. MOLINARI. He said that he talked to central headquarters and that they have no objection to it.

Mr. WALKER. Let me just pursue because I am trying to figure out here just what we are doing.

Mr. MOLINARI. Sure.

Mr. WALKER. Is there any cost comparison included in the program?

Mr. MOLINARI. No, there is no cost comparison.

Mr. WALKER. No cost comparison.

Mr. MOLINARI. But generally when we do have a prospectus, we do not have cost comparisons either. We authorize GSA to go out and lease a building. We would have some square-foot amount specified in there.

Mr. WALKER. Are there any limits to the costs in the bill? Have we put any kind of cap on how much we are going to limit?

Mr. MOLINARI. If the gentleman from Pennsylvania [Mr. WALKER] will look at the language, it does say it has to be comparable to other space in the area and also comparable to space in the building itself.

So, we do have those parameters in there.

Mr. WALKER. But we do not know what those costs may be. That may be limitless because the building is not built, and we do not know where the building is going to be, and we do not know who the developer is at this point.

Mr. MOLINARI. I think I would like to yield to the gentleman from New York [Mr. RANGEL] who is trying to get attention, and he can probably answer those questions better than I can.

Mr. RANGEL. Mr. Speaker, I thank the gentleman from New York for yielding to me.

What was the question of the gentleman from Pennsylvania [Mr. WALKER]?

Mr. WALKER. Mr. Speaker, I am just trying to figure out, in this particular case I was asking whether or not there is any limit on the costs.

Mr. RANGEL. Mr. Speaker, I spoke with the regional GSA, and there is no question that they need this space, and for two reasons they believe that the space will be a lot lower.

First of all, the language is that it will be a comparative rate as to what the rates will be in the region. The region is in a low-income district, and so, therefore, there is no question that the square yardage would be much lower.

Second, I would like to point out a question that the gentleman from Pennsylvania [Mr. WALKER] asked the gentleman of New York [Mr. MOLINARI] is that this merely authorizes the GSA to go into contracts.

Mr. Speaker, this project has been approved by the administration as relates to giving some assistance to developing countries. It deals with the poorest of the poor countries, and Clayton Yeutter and the rest of the administration is sort of anxious to foster international trade have indicated that there has to be a Federal presence in the building as opposed to 26 Federal Plaza which is overcrowded.

In addition to this we do have a large immigration problem from the Caribbean and other parts of the world. A large number are in my district, and they hope that they would be able to relocate the office that will service them.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MOLINARI. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I appreciate what the gentleman is saying. If all of this is so great, why could it not have gone to the committee, been approved under the regular processes, come out here to the floor under a bill and not tied to the Red Cross, some Red Cross building built that is in Washington, DC?

Mr. Speaker, I mean this is an underhanded way to do it if it in fact merits the attention of the House. It ought to be done during the regular process, and it ought not to be snuck into a bill that is put in here because——

Mr. RANGEL. Mr. Speaker, will the gentleman from Pennsylvania allow me to explain that?

Mr. MOLINARI. I yield to the gentleman from New York.

Mr. RANGEL. Mr. Speaker, I thank the gentleman for yielding.

There is no question this matter comes back for the specifics to the committee in order for anything to be authorized. The main reason for this is that when the State division that was supposed to be building the building put out the bids, we had agreements that there would be the Government rendering certain space. When we go out of session, we will not have any indication of the Federal interest.

I have had discussions with the GSA, both central, as well as local, and there is no question in my mind that this is merely an authorization to show the administration's concern with being in that building once it is built and that this matter will return to committee and the subcommittee for any specifics before any lease is actually going to come into being.

Mr. MOLINARI. Mr. Speaker, if I may reclaim my time, I would respectfully disagree with the gentleman from New York [Mr. RANGEL].

Mr. WALKER. That is not what your amendment says.

Mr. MOLINARI. A prospectus normally does not come to the floor. It would come to the subcommittee, and we would give authorization to GSA to go out and lease with the parameters spelled forth in that prospectus, and then it would be approved by the full committee.

In this case we came to the House floor because of the unusual circumstances outlined by the gentleman from New York [Mr. RANGEL] and the need. We would have preferred, frankly to put it over to next year, but there were circumstances here that he outlined in the last couple of days dictating why it had to be done instead of laying it over until next year.

Mr. WALKER. Mr. Speaker, will the gentleman yield to me?

If I look at the language here, specifically being authorized is the GSA to lease on a long-term basis this particular thing.

Mr. MOLINARI. The gentleman from Pennsylvania is correct.

Mr. WALKER. We do not have to come back for anything at this point. I mean they have been given the authorization to do it right here and now. It is not a case that we are going to have a chance later on to reflect on it. We are telling them right here that they have the authorization to do it.

The problem is it is being authorized in a way where the cost is limitless, and where we are leasing a huge amount of space, and we are guaranteeing a profit along the way, and it just does not seem to me that this is an appropriate way to proceed at the end of a Congress.

Mr. Speaker, I thank the gentleman from New York [Mr. MOLINARI] for yielding.

Mr. MOLINARI. The gentleman from Pennsylvania is welcome.

Mr. BOSCO. Mr. Speaker, will the gentleman yield?

Mr. MOLINARI. I yield to the gentleman from California.

Mr. BOSCO. Mr. Speaker, I think we may be making a mountain out of a molehill here. We want to expedite the business of Government to rent this space, which everyone agrees is needed, and the Committee on Public Works and Transportation does not plan another meeting, not does our subcommittee. This is an innocuous provision that I think would receive the committee's unanimous approval.

If I may continue a minute, any of these prospectuses, what will happen is GSA will prepare a prospectus, and it will come back to our committee, at which time the gentleman from New York [Mr. MOLINARI], or myself or other committee members may object to it.

I do not think anyone is trying to perpetrate some kind of an underhanded scheme here. We are just trying to move along what is really very routine business.

Mr. WALKER. Mr. Speaker, if the gentleman will yield; this innocuous little provision, how much is it going to cost the taxpayers?

Mr. BOSCO. We do not know what it is going to cost the taxpayers. The GSA tells us certain space is needed. We tell them, "Prepare a prospectus; go out and see what it will cost."

Mr. WALKER. This is authorizing them to lease in a building that is described in this amendment. It is not telling them to go out and prepare a prospectus. It is telling them to lease space in a building here. If it was telling them to go out and do a prospectus, the gentleman would not need to come to the floor with this amendment.

So this is an entirely different action from what the gentleman is describing. The gentleman is spending the taxpayers' money here because this is authorizing the expenditures of funds for a particular building at a particular time, and my colleagues know it sounds to me as though we do not even know how much money we are authorizing in this.

Mr. BOSCO. If the gentleman will yield further, interestingly the rates in this particular area of New York are considerably less than they are anywhere else. We never have situations where we lease office space that no one occupies. We lease it because real people, real Federal workers, have to move into that space.

So, no one here is trying to find ultra-expensive space to put people in. Actually quite the contrary is true. I can assure the gentleman from Pennsylvania [Mr. WALKER] that I will request GSA to bring its plans back to the committee if it chooses to take this space. This particular piece of legislation does not require the GSA to do anything. They will act independently, and they will do what they consider is in the best interest of the American people.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MOLINARI. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Would the gentleman consider then by unanimous consent, amending his bill to read, "subject to the approval of the committee"?

Mr. BOSCO. Mr. Speaker, I think the chairman of our committee is here, and that is certainly fine. We do not have objection to that. Let us do that.

Mr. WALKER. So that the authorization would be subject to the approval of the Committee on Public Works and Transportation?

Mr. BOSCO. If that will settle this issue, I think it will be fine with all of us.

Mr. ANDERSON. Mr. Speaker, will the gentleman yield?

Mr. MOLINARI. I yield to the gentleman from California.

Mr. ANDERSON. Mr. Speaker, would the gentleman object if it might even be less because we are saying here at a lease rate not to exceed comparable rates for equivalent space in such area or comparable rates within the building to be occupied, and this is a very low rate area. So, if it is going to be comparable, if anything, it will even be less.

Mr. Speaker, I cannot see what the gentleman from Pennsylvania [Mr. WALKER] would be objecting to this for.

Mr. WALKER. Because we do not know anything, but I am suggesting an amendment that can be done by unanimous consent here and added to the bill subject to the approval of the Committee on Public Works and Transportation so that the authorization is not a given thing. That is what I am trying to achieve.

Mr. BOSCO. Mr. Speaker, if I can be yielded the time, I will make that motion.

Mr. Speaker, I move that by unanimous consent this measure be amended to read that the GSA shall report for the Committee on Public Works and Transportation's approval.

The SPEAKER pro tempore. The gentleman from California [Mr. BOSCO] will have to submit the amendment in writing.

Mr. BOSCO. All right, Mr. Speaker, we will submit it in writing.

Mr. MOLINARI. Mr. Speaker, reclaiming my time, I would just like to clear up one point, if I may. We have agreed apparently, and I do not think there is any dispute about that, that no further action or final action will be taken unless it comes back to the committee. Absent that, however, I would disagree with some of the prior speakers to point out that, when we do approve a prospectus, which is in effect what we are doing here now, it does not come back to the committee for final approval. That is the authority to go out and lease, and there is nothing, no further action, necessary on our part.

In this case we are agreeing apparently to amend so that there will be a final approval required before we could proceed further, which I think should satisfy everybody else's demands.

Mr. Speaker, I reserve the balance of my time.

Mr. BOSCO. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. DINGELL].

(By unanimous consent, Mr. DINGELL was allowed to speak out of order for 5 minutes.)

CLEAN AIR BILL

Mr. DINGELL. Mr. Speaker, I take this time to enter into a brief colloquy with the gentleman from Pennsylvania [Mr. WALKER] relative to certain questions concerning to clean air.

As my colleagues know, I understand today the distinguished and able Senators, the Senator from Wyoming, Senator SIMPSON, Senator BYRD, and Senator MITCHELL and others who have been working very hard to achieve a resolution of the problem of acid rain nonattainment, hazardous, and other issues have announced that it is impossible for the Senate to complete satisfactorily in the time remaining a compromise on these many different issues. This, of course, represents a failure of the Senate to achieve resolutions not on the basis of lack of effort or desire, but simply on the basis of the complexity and the difficulty of the questions with which they are confronted. Each of these capable gentlemen tried vigorously to achieve a broad compromise for Senate resolution. However, it eluded them unfortunately.

□ 1945

It is, I think, something that we can all regret, because these and many other Senators on both sides of the aisle in that body have worked long and hard to resolve these questions and to achieve a reasonable compromise with regard to Clean Air Act amendments that confront this Congress at this particular time.

I am disappointed, as I am sure my colleagues are also. This announcement will make it much more difficult for the House to achieve compromise with regard to this matter in the waning days of this session.

I would observe that a number of Members of this body and I have been consulting, discussing and negotiating, since the beginning of this Congress to try to achieve a resolution of these many issues this year. The Members included Members of the minority, our good friend, the gentleman from California [Mr. WAXMAN] and the chairman of the subcommittee and a number of Members on the Democratic side of the aisle who have worked very hard on these matter. It is with profound regret that I note this. I do note, however, that we will continue negotiating. We will continue working to try to resolve the questions so that we can present this House with a piece of legislation which will make sense, in the area of acid rain, in the areas of nonattainment, and in the areas of toxic and hazardous emissions.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I am happy to yield to my friend, the gentleman from Pennsylvania.

Mr. WALKER, Mr. Speaker, I thank the gentleman, and I appreciate the gentleman's explanation.

As the chairman knows, I have been particularly concerned over the last few days about the fact that the House, despite the fact that we were on about 6 months notification of the need to act on acid rain and some of the other clean air issues, has not been able to act.

My concern was that we were acting on a whole series of other measures that seemed to me to be of far less importance than the Clean Air Act.

If I understand what the gentleman from Michigan has told me, it does not appear likely that we will be able to achieve a consensus yet in this Congress, and so therefore the process of simply moving on and delaying the process of the House is not likely to bring about any kind of a settlement of the clean air issue this year.

Mr. DINGELL. Mr. Speaker, I would observe in view of the that the Senate has not been able to resolve the issues over there, the possibility of the House achieving success in crafting a compromise bill which could pass the House and the Senate and be presented to the President for signature has shrunken very significantly.

Mr. WALKER. Mr. Speaker, if the gentleman will yield further. I appreciate the gentleman's explanation. That is a deep concern, obviously, to me and I think it is going to be a deep concern to other Members of the House if we cannot move toward resolution of this issue.

I know the gentleman has worked sincerely on the issue and it is not his fault. The fault lies in many, many different quarters, including all the Members of the House here that maybe simply did not give it the kind of attention that it deserved a little bit earlier; but it is indeed a problem. This is a major piece of legislation that somehow the 100th Congress will have failed to act on.

I must express some disappointment, but I think from this point on that what we will do is proceed as we usually do at the end of the session. Rather than doing a lot of votes on suspension bills, we will be a little more selective about what the votes are on those bills and only deal with those that have controversy connected with them, rather than a lot of other bills.

I thank the gentleman for helping to clear the air on the situation. No pun intended.

The SPEAKER pro tempore, (Mr. MURTHA). The Chair thanks the gentleman from Michigan [Mr. DINGELL] for his patience and appreciates the cooperation of the gentleman from Pennsylvania [Mr. WALKER].

The Chair recognizes the gentleman from California [Mr. BOSCO].

Mr. BOSCO. Mr. Speaker, if I might digress a little bit, if this simple bill on the American Red Cross can serve as a catalyst to solve this major problem, I think we all have seen an act of mercy here that the Red Cross could be very proud of.

MODIFICATION TO MOTION TO SUSPEND THE RULES ON S. 2496

Mr. BOSCO. Mr. Speaker, I offer a modification to the motion to suspend the rules.

The SPEAKER pro tempore. The Clerk will report the modification to the motion to suspend the rules.

The Clerk read as follows:

> Modification to motion to suspend the rules on S. 2496 offered by Mr. Bosco: Strike out the period after "occupied" and add "Subject to the approval of the Committee on Public Works and Transportation."

Mr. SPEAKER pro tempore (Mr. MURTHA). Without objection, the modification is agreed to.

There was no objection.

Mr. MOLINARI. Mr. Speaker, I yield back the balance of my time.

Mr. BOSCO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Bosco] that the House suspend the rules and pass the Senate bill, S. 2496, as modified.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as modified, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOSCO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2496, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

S.SG. CHARLES F. PREVEDEL BUILDING

Mr. BOSCO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1476) to designate the Federal Record Center at 9700 Page Boulevard, Overland, MO, as the "SSG Charles F. Prevedel Building," as amended.

The Clerk read as follows:

S. 1476

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assmbled,*
>
> **SECTION 1. DESIGNATION.**
>
> The building under construction in Overland, Missouri, known as the "Federal Records Center Extension Building 109", shall be known and designated as the "Charles F. Prevedel Federal Building".
>
> **SEC. 2. LEGAL REFERENCES.**
>
> Any reference in a law, map, regulation, document, record, or other paper of the United States to the building referred to in section 1 shall be deemed to be a reference to the "Charles F. Prevedel Federal Building".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. Bosco] will be recognized for 20 minutes and the gentleman from New York [Mr. MOLINARI] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Bosco].

Mr. BOSCO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1476 names a Federal Records Center Extension Building in Overland, MO after U.S. Army S/Sgt. Charles F. Prevedel. This building, currently under construction, will house 2,000 St. Louis-area Army Reserve employees.

Charles Prevedel was a brave American soldier who has been missing in action in Vietnam for nearly 20 years. He was assigned to Vietnam in 1965 with the Fifth Special Forces Group. S. 1476 is a symbolic gesture agreed to and sponsored by members of the Missouri delegation to honor and remember this courageous American and the 51 other Missourians whose fates in Southeast Asia are also unknown.

In 1969, Staff Sergeant Prevedel disappeared while on a reconnaissance patrol in South Vietnam, and he was later identified in a Christmas, 1969 photograph of prisoners of war.

To this date we are uncertain of Sergeant Prevedel's ultimate fate. The records center currently under construction in Overland, MO, would be the first Federal building named after a Vietnam-era MIA or POW, and I am certain that my colleagues will want to join me in paying tribute to Sergeant Prevedel and the many other brave Americans who served their country in Southeast Asia and whose fates remain a mystery to their loved ones and their countrymen.

I urge my colleagues to support this tribute to S/Sgt Charles F. Prevedel.

Mr. MOLINARI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1476, which would name a Federal building in Overland, MO, in honor of Sgt. Charles F. Prevedel.

Sergeant Prevedel disappeared in the forests of Southeast Vietnam in April 1969. He was listed as a POW and, several months later, was identified in a photo of POW's. Sadly, this was the last information received regarding Sergeant Prevedel.

Naming this building will honor not only Sergeant Prevedel but all MIA's. It will serve as a symbol of remembrance and appreciation for their sacrifice and service to this country.

Mr. MOLINARI. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I thank my colleague for yielding me this time.

Mr. Speaker, I want to just rise quickly to compliment the author of this bill. There is no more agonizing situation than to have a loved one identified, particularly in a photograph, as a known POW, to feel the end of the war approaching, to have a peace treaty signed in Paris, where the principals are awarded the Nobel Prize, and then to see thousands of prisoners coming across the Freedom Bridge in Korea or across the DMZ in Vietnam or to see what was called the freedom airplanes, the freedom birds, picking up our POW's on the ramp at Hanoi, and not to have your loved one returned.

Whoever has come together to make this honorable American hero's name live as long as this building exists is so fitting a tribute to this agony of the missing-in-action that I hope other Members will do likewise in their districts with other Federal buildings or some other way to memoralize these people.

The news is again filled this morning with stories about our teams going out into Vietnam to look for remains, but the agonizing story is always, did we leave men behind alive in 1973, and for Bud McFarland and Dr. Roger Shields, to all the people who worked this issue most closely in the spring of 1973, the answer is an agonizing "Yes." The major question that makes is are there any other people alive today, and that question is a terrible "we don't know" for an answer; so I hope we pass this unanimously.

Mr. BOSCO. Mr. Speaker, I thank the gentleman for his very eloquent and moving statement.

Mr. BUECHNER. Mr. Speaker, I rise in support of S. 1476, which names the Federal Record Center Extension, Building 109, after Sgt. Charles Francis Prevedel.

I would first like to congratulate Senator DANFORTH for his efforts on this bill, for it is because of him that this legislation has come this far. I would also like to give my sincere thanks to Chairman ANDERSON and Vice Chairman HAMMERSCHMIDT for taking action on this important measure. Due to their efforts, the Public Works and Transportation Committee moved swiftly to make the necessary changes on this legislation and worked hard to bring this bill to the floor before the end of the session.

S/Sgt. Charles Prevedel is one of the approximately 2,400 MIA's in Southeast Asia. A Green Beret in South Vietnam, Sergeant Prevedel's special forces team was sent on patrol in Quang Nam Province on April 14, 1969. He was accompanied by two other Americans and three South Vietnamese soldiers. On April 17, Sergeant Prevedel's unit reported that they were under heavy attack, and were located in a stream bed in Thua Thien Province, approximately 9 miles from the border of Laos. They requested assistance and an air strike.

The next day, a bomb-damage assessment team was sent to search for Sergeant Prevedel's unit. On their mission, they encountered Viet Cong personnel wearing tiger striped fatigues, and carrying rifles and grenades of the type used by Sergeant Prevedel's unit. Numerous air and ground searches were made of the area, but Sergeant Prevedel's unit was never found.

The last confirmed sighting of Sergeant Prevedel was in 1969, when the CIA corroborated photos containing members of Sergeant Prevedel's unit, including Sergeant Prevedel, in a Christmas 1969 film of POW's. Since then, there has been no further information about Sergeant Prevedel. The Vietnamese Government denies any knowledge of Sergeant Prevedel or the men in his unit.

Sergeant Prevedel's unit has not been seen since 1969. Yet there is a way Congress can honor his bravery, duty, and service, while reminding all Americans that the Vietnam war is still not over for families whose loved ones are missing in Southeast Asia. We can do so by naming the Federal building on Page Boulevard in Overland, MO, after Sergeant Prevedel.

This building is the first Federal building in the United States that has been named after a person declared missing-in-action in the Vietnam war. This building is part of the Federal Records Center, which processes documents from around the world for the Armed Forces. Sergeant Prevedel's father passed away at the beginning of this year, without knowing what became of his son. I, along with Senator DANFORTH and veterans throughout the St. Louis area, believe that it would be a fitting and appropriate tribute to Sergeant Prevedel and his family to name this building after him. By naming this building after Sergeant Prevedel, there will be a daily reminder to all of us that the Vietnam war will never end until all of our Nation's MIA's are home.

Mr. MOLINARI. Mr. Speaker, I yield back the balance of my time.

Mr. BOSCO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Bosco] that the House suspend the rules and pass the Senate bill, S. 1476, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the Senate bill was amended so as to read: "A bill to designate the Federal Records Center Extension Building 109 under construction in Overland, Missouri, as the "Charles F. Prevedel Federal Building'."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOSCO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1476, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ED JONES FEDERAL BUILDING

Mr. BOSCO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5186) to designate the Federal Building and U.S. Courthouse at 109 South Highland, Jackson, TN, as the "Ed Jones Federal Building," as amended.

The Clerk read as follows:

H.R. 5186

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal Building and United States Courthouse located at 109 South Highland, Jackson, Tennessee, shall be known and designated as the "Ed Jones Federal Building and United States Courthouse".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 shall be deemed to be a reference to the "Ed Jones Federal Building and United States Courthouse".

The SPEAKER pro tempore. Is a second demand?

Mr. MOLINARI. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. Bosco] will be recognized for 20 minutes and the gentleman from New York [Mr. Molinari] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Bosco].

Mr. BOSCO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, briefly, H.R. 5186 merely proposes to name a Federal building and U.S. Courthouse in Jackson, TN, after the Honorable Ed Jones, a gentleman and a fine colleague, who has announced his intentions not to seek reelection when the 100th Congress adjourns.

Ed Jones has been serving the State of Tennessee with distinction in the House of Representatives for almost 20 years. He has been a moving force on the Agriculture Committee and has a long and outstanding record of community and service awards.

In view of Congressman Ed Jones exemplary career and dedication to public service, it is most fitting and appropriate to honor him by naming a Federal building and U.S. Courthouse located at 109 South Highland, Jackson, TN, as the "Ed Jones Federal Building and United States Courthouse."

Mr. MOLINARI. Mr. Speaker, I yield myself such time as I may consume.

Mr Speaker, in recognition of Ed Jones' nearly 20 years of faithful service in the House, H.R. 5186 designates a Federal Building in Jackson, TN, as the "Ed Jones Federal Building and United States Courthouse."

Since his first election in 1969, Ed has diligently worked on agriculture issues, which are very important to the Eighth district of Tennessee. Ed is an authority on dairy issues in particular, but he also has had an active role in many other issues as well, including disaster relief, soil conservation, and operations of the farmers' home administration.

I know all members join me in wishing Ed the best upon his retirement from the House. Naming the Federal Building and Courthouse in his district is an appropriate tribute to Ed's many contributions to Tennessee and the country.

Mr. Speaker, I should just like to add for the record that the gentleman from Tennessee [Mr. Sundquist], the author of this bill, wanted to be here and called repeatedly trying to get an idea of the time. He had other engagements tonight and could not be here, but he worked very hard to get this passed, and I think we should mention that for the record.

Mr. CLEMENT. Mr. Speaker, I am pleased to express my strong support for H.R. 5186, which would designate the Federal building and U.S. courthouse at 109 South Highland in Jackson, TN, as the "Ed Jones Federal Building."

As an original cosponsor of this bill, I would like to thank the bill's sponsor, Don Sundquist, for his leadership in fashioning this tribute to our distinguished colleague and friend.

Mr. Jones, a champion of agriculture policy, has served in the U.S. House of Representatives for nearly 20 years, dedicating his life to congressional and public service. He began his distinguished career in public service in 1948 when the newly elected Governor Gordon Browning appointed Mr. Jones as Tennessee's commissioner of agriculture. Mr. Jones was the youngest commissioner appointed up to that time and many of the innovations adopted during his terms as commissioner are still in existence.

The high esteem in which he was held in the agriculture community was reflected in his appointment in 1961, by President John F. Kennedy, to chair the Agriculture Stabilization and Conservation Committee. He was reappointed to head this important Federal agency in Tennessee by President Lyndon B. Johnson and served in that capacity until 1969. He was elected to Congress in 1969 and has served ever since.

As chairman of the Agriculture Subcommittee on Conservation, Credit and Rural Development, Mr. Jones has been responsible for the enactment of many major pieces of legislation, including the Farm Credit Act of 1980, the Futures Trading Act of 1982, and the Farm Credit Act Amendments of 1985.

Throughout his career, Ed Jones has been respected for his integrity, character and wisdom. In tribute to Congressman Ed Jones' many contributions to the Nation and to the State of Tennessee, it is most fitting and appropriate to name the U.S. courthouse in Jackson, TN, as the "Ed Jones Federal Building."

We will all miss Mr. Jones' leadership in the Tennessee delegation and in the House as a whole. But we wish both he and his family our best as they enjoy his retirement years.

Mrs. LLOYD. Mr. Speaker, I rise in strong support of H.R. 5186, to name the U.S. Courthouse and Federal Building in Jackson, TN, as the "Ed Jones Federal Building."

I can think of no finer tribute to our esteemed friend and colleague than to honor him today with the passage of this resolution. I have had the privilege of knowing Ed and working with him for many years in the Congress and can say with all honesty that I have never known a Member with his expertise, skills and knowledge in the intricacies of our farm programs. He has worked tirelessly and effectively to improve the standards of our rural communities and his achievements will continue to benefit our country for many years to come.

Ed is a leader in the true sense of the word. In leaving this body, he leaves his imprint on the lives of the people of rural America and on all of the citizens of this great country of ours. I hope that my colleagues, in tribute to Ed, will give this legislation an overwhelming vote of approval.

Mr. MOLINARI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BOSCO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Bosco] that the House suspend the rules and pass the bill, H.R. 5186, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the Federal building and U.S. courthouse located at 109 South Highland, Jackson, TN, as the "Ed Jones Federal Building and United States Courthouse."

A motion to reconsider was laid on the table.

□ 2000

GENERAL LEAVE

Mr. BOSCO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5186, the bill just passed.

The SPEAKER pro tempore. (Mr. Murtha). Is there objection to the request of the gentleman from California?

There was no objection.

REQUIRING THAT PLASTIC RING CARRIER DEVICES BE DEGRADABLE

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5117) to require that plastic ring carrier devices be degradable, as amended.

H.R. 5117

Be it enacted by the Senate and House of Representatives of the United States of America in Congres assembled,

TITLE I—DEGRADABLE PLASTIC RING CARRIERS

SEC. 101. FINDINGS.

The Congress finds that—

(1) plastic ring carrier devices have been found in large quantities in the marine environment;

(2) fish and wildlife have been known to have become entangled in plastic ring carriers;

(3) nondegradable plastic ring carrier devices can remain intact in the marine environment for decades, posing a threat to fish and wildlife; and

(4) 16 States have enacted laws requiring that plastic ring carrier devices be made from degradable material in order to reduce litter and to protect fish and wildlife.

SEC. 102. DEFINITIONS.

As used in this title—

(1) the term "regulated item" means any plastic ring carrier device that contains at least one hole greater than 1¾ inches in diameter which is made, used, or designed for the purpose of packaging, transporting, or carrying multipacked cans or bottles, and which is of a size, shape, design, or type capable, when discarded, of becoming entangled with fish or wildlife; and

(2) the term "naturally degradable material" means a material which, when discarded, will be reduced to environmentally benign subunits under the action of normal environmental forces, such as, among others, biological decomposition, photo-degradation, or hydrolysis.

SEC. 103. REGULATION.

Not later than 24 months after the date of the enactment of this title (unless the Administrator of the Environmental Protection Agency determines that it is feasible or that the byproducts of degradable regulated items present a greater threat to the environment than nondegradable regulated items), the Administrator of the Environmental Protection Agency shall require, by regulation, that any regulated item intended for use in the United States shall be made of naturally degradable material which, when discarded, decomposes within a period established by such regulation. The period within which decomposition must occur after being discarded shall be the shortest period of time consistent with the intended use of the item and the physical integrity required for such use. Such regulation shall allow a reasonable time for affected parties to come into compliance, including the use of existing inventories.

TITLE II—SAN FRANCISCO BAY NATIONAL WILDLIFE REFUGE

SEC. 201. ENLARGEMENT OF REFUGE.

Section 2 of the Act entitled "An Act to provide for the establishment of the San Francisco Bay National Wildlife Refuge", approved June 30, 1972 (16 U.S.C. 668dd note), is amended to read as follows:

"SEC. 2. There shall be included within the boundaries of the refuge the following:

"(1) Those lands, marshes, tidal flats, salt ponds, submerged lands, and open waters in the south San Francisco Bay area generally depicted on the map entitled "Boundary Map, Proposed San Francisco Bay National Wildlife Refuge", dated July 1971, and which comprise approximately twenty-one thousand six hundred and sixty-two acres within four distinct units to be known as Fremont (five thousand five hundred and twenty acres), Mowry Slough (seven thousand one hundred and seventy-five acres), Alviso (three thousand and eighty acres), and Greco Island (five thousand eight hundred and eighty seven acres). Said boundary map shall be on file and available for public inspection in the offices of the United States Fish and Wildlife Service, Department of the Interior.

"(2) UP to 20,000 acres in the vicinity of the areas described in paragraph (1), and similar to the areas described in paragraph (1), which the Secretary determines are necessary to protect fish and wildlife resources.".

SEC. 202. TOTAL AREA OF REFUGE.

Subsection (a) of section 3 of such Act is amended in the second sentence by striking "twenty-three thousand acres" and inserting "43,000 acres".

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

Section 5 of such Act is amended—

(1) by inserting "(a)" before "There"; and

(2) by adding at the end the following new subsection:

"(b) There are authorized to be appropriated to the Secretary to acquire areas described in section 2(2) such sums as may be necessary, which shall remain available until expended.".

The SPEAKER pro tempore. Is a second demanded?

Mr. SAXTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was not objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes and the gentleman from New Jersey [Mr. SAXTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 5117, legislation requiring that plastic six-pack rings and other plastic ring carriers degradable.

Plastic six-pack rings are known to entangle and strangle wildlife. There is, however, currently a six-pack ring on the market that will degrade upon exposure to sunlight, suggesting that commercially available alternatives will not enable us to avoid these lethal and needless risks. Sixteen States have themselves already enacted legislation requiring that plastic ring carriers sold in their States be degradable: H.R. 5117 would simply extend that requirement nationally. It directs the Environmental Protection Agency to require that six-pack rings be degradable unless it finds that the byproducts of degradable plastic rings create a greater threat to the environment than do nondegradable six-pack rings.

This legislation addresses a visible problem with a straightforward and fairly painless solution by requiring the use of a commercially available degradable plastic six-pack ring that is not appreciably more expensive than its nondegradable counterpart. It is a constructive solution to an identified and avoidable problem—and is, to my knowledge, without opposition.

Mr. Speaker, in bringing this measure before the House today I want to extend my thanks to Congressmen LUKEN and DINGELL for their cooperation—and that of the Energy and Commerce Committee—on this legislation and for their support for and cooperation on other plastic pollution legislation of which this proposal had been a part.

H.R. 5117, as amended, also contains a modified version of H.R. 4272, legislation to expand the San Francisco Bay National Wildlife Refuge. The legislation was introduced by Congressman EDWARDS, cosponsored by the entire delegation of the Bay area, and passed by the House. It would nearly double the size of the refuge which is a remarkable haven for wildlife in the midst of a busy metropolitan area.

The text of the bill before us today contains language decreasing the acreage to be acquired for the refuge, and describing that acreage in a more general manner than it had been described previously. The purpose of this amendment is to provide the Fish and Wildlife Service with the flexibility and authority to implement the legislation in an orderly and reasonable manner and to avoid prejudging the inclusion of specific parcels and the order in which those parcels should be acquired. This change will ensure that the Service is authorized to acquire all lands and water necessary of the existing refuge.

In closing, Mr. Speaker, I believe these are both worthwhile proposals and I urge Members to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5117, legislation requiring that plastic six-pack rings be degradable for the protection of wildlife.

Earlier this year the Merchant Marine and Fisheries Committee reported a bill which was later signed into law by the President which implemented the provisions of the International Convention for the Prevention of Pollution From Ships, commonly known as Marpol Annex V. This law basically makes it illegal for ships operating in U.S. waters to discard plastic overboard and requires that the

Environmental Protection Agency take a serious look at ways to reduce plastic pollution in the environment. One aspect of the plastic debris problem involves the entrapment of fish and wildlife in what is commonly referred to as six-pack holders. The bill before us today addresses this aspect by requiring the Administrator of EPA to develop regulations within a 24-month period that would require six-pack holders to be made from naturally degradable materials.

Mr. Speaker, H.R. 5117 is another example of the fine work that has resulted from the combined efforts of the Merchant Marine and Fisheries Committee and the Energy and Commerce Committee. As a cosponsor of this bill, I especially commend its author, Mr. Studds. Under his leadership, the Subcommittee on Fish and Wildlife has strongly upheld its mandate to protect our living coastal resources.

This legislation will not solve the problems of plastic debris; for six-pack holders constitute only a small portion of the total amount of plastic in the environment. However, passage of this bill will send a message that degradability is a viable option and is one part of the solution to the plastic waste problem.

Mr. Speaker, title II of this bill also contains language to expand the San Francisco Bay National Wildlife Refuge. This language would allow up to 20,000 acres to be added to the refuge.

Mr. Speaker, this title has recently adopted by the House and I ask that H.R. 5117 be adopted by this body today.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. Thomas A. Luken].

Mr. THOMAS A. LUKEN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of H.R. 5117, legislation introduced by my colleague, Mr. Studds, to address the threat to marine wildlife posed by plastic ring carrier devices that often end up in the Nation's coastal waters. I congratulate my colleague for bringing this legislation to the House floor.

H.R. 5117 was considered by my Subcommittee on Transportation, Tourism, and Hazardous Materials of the Committee on Energy and Commerce. The subcommittee held a joint hearing with the Merchant Marine and Fisheries Subcommittee on Fisheries and Wildlife Conservation and the Environment to consider similar Senate legislation.

At this hearing we learned that the use of plastic six-pack rings is widespread in this country and that, when improperly discarded, they can wind up in the marine environment where they can persist for some time. Unfortunatley, we also learned that when these same ring carriers remain in coastal waters they can kill or seriously maim fish and other wildlife which become hopelessly entangled in them. Ring carriers have been found around the necks of dead seals, sea lions, birds, and other animals. Some of the species that have been killed by the rings, such as the Northern Fur Seal, belong to depleted populations.

Sixteen States have already passed laws that require that ring carriers be made of degradable material.

Based on testimony at the hearing, these laws appear to be neither disruptive nor costly. In fact, it costs only 1/10th of a cent to make a six-pack ring photodegradable. H.R. 5117 would put the Federal Government on record supporting this move.

In endorsing this measure, let me note that the Committee on Energy and Commerce is committed next year in its reauthorization of the Resource Conservation and Recovery Act to examining the larger question with respect to the adverse effects of plastics in the solid waste stream. Plastics represent a small but growing portion of the 160 million tons of municipal solid waste that we dispose of annually.

In this respect, the committee does not view the present legislation as addressing its larger waste management concerns as much as addressing specific wildlife protection concerns. But, the committee recognizes the importance of this measure to wildlife conservation interests and supports it for that reason.

Again, I congratulate my colleague, Mr. Studds, for sponsoring the bill before us today and recommend that the House pass the measure.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. Studds] that the House suspend the rules and pass the bill, H.R. 5117, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to require that plastic ring carrier devices be degradable, and for other purposes."

A motion to reconsider was laid on the table.

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries and the Committee on Energy and Commerce be discharged from further consideration of the Senate bill (S. 1986) to study, control, and reduce the pollution of aquatic environments from plastic materials, and for other purposes, and ask for its immediate consideration.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1986

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS

Section 1. The Congress finds that—

(1) plastic ring carrier devices have been found in large quantities in the marine environment;

(2) fish and wildlife have been known to have become entangled in plastic ring carriers;

(3) non-degradable plastic ring carrier devices can remain intact in the marine environment for decades, posing a threat to fish and wildlife; and

(4) eleven States have enacted laws requiring that plastic ring carrier devices be made from degradable material in order to reduce litter and to protect fish and wildlife.

DEFINITIONS

Sec. 2. As used in this Act, the term—

(1) "regulated item" means any plastic ring carrier device which is made, used, or designed for the purpose of packaging, transporting, or carrying multipackaged cans or bottles, and which is of a size, shape, design, or type capable, when discharded, of becoming entangled with fish or wildlife; and

(2) "naturally degradable material" means a material which, when discarded, will be reduced to environmentally benign subunits under the action of normal environmental forces, such as, among others, biological decomposition, photo-degradation, or hydrolysis.

REGULATION

Sec. 3. Not later than 24 months after the enactment of this Act (unless the Administrator of the Environmental Protection Agency determines that it is not feasible), the Administrator of the Environmental Protection Agency shall require, by regulation, that any regulated item shall be made of naturally degradable material which, when discarded, decomposes within a period established by such regulation. The period within which decomposition must occur after being discarded shall be the shortest period of time consistent with the intended use of the item and the physical integrity required for such use. Such regulation shall allow a reasonable time for affected parties to come into compliance, including use of existing inventories.

MOTION OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Studds moves to strike out all after the enacting clause of the Senate bill, S. 1986, and insert the text of the House bill, H.R. 5117, as passed by the House.

The motion was agreed to.

The Senate bill was ordered read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read "A bill to require that plastic ring carrier devices be degradable."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 5117) was laid on the table.

MEDICAL WASTE TRACKING ACT OF 1988

Mr. THOMAS A. LUKEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3515) to amend the Solid Waste Disposal Act to require the Administrator of the Environmental Protection Agency to promulgate regulations on the management of infectious waste, as amended.

The Clerk read as follows:

H.R. 3515

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medical Waste Tracking Act of 1988".

SEC. 2. TRACKING OF MEDICAL WASTE.

(a) Amendment of Solid Waste Disposal Act.—The Solid Waste Disposal Act is amended by adding the following new subtitle at the end:

"Subtitle J—Demonstration Medical Waste Tracking Program

"SEC. 11001. SCOPE OF DEMONSTRATION PROGRAM FOR MEDICAL WASTE.

"(a) Covered States.—The States within the demonstration program established under this subtitle for tracking medical wastes shall be New York, New Jersey, Connecticut, the States contiguous to the Great Lakes and any State included in the program through the petition procedure described in subsection (c), except for any of such States in which the Governor notifies the Administrator under subsection (b) that such State shall not be covered by the program.

"(b) Opt Out.—If the Governor of any State in the demonstration program under this subtitle notifies the Administrator that the State elects not to participate in the program, the Administrator shall remove the State from the program. Such notification shall be provided no later than 30 days after the promulgation of regulations establishing the demonstration program under this subtitle.

"(c) Petition In.—The Governor of any State may petition the Administrator to be included in the demonstration program and the Administrator may, in his discretion, include any such State. Such petition may not be made later than 30 days after promulgation of regulations establishing the demonstration program under this substitle, and the Administrator shall detemine whether to include the State within 30 days after receipt of the State's petition.

"(d) Expiration of Demonstation Program.—The demonstration program shall expire on the date 24 months after the effective date of the regulations under this subtitle.

"SEC. 11002. LISTING OF MEDICAL WASTES.

"(a) List.—Not later than 6 months after the enactment of this subtitle, the Administrator shall promulgate regulations listing the types of medical waste to be tracked under the demonstration program. Except as provided in subsection (b), such list shall include, but need not be limited to, each of the following types of solid waste:

"(1) Cultures and stocks of infectious agents associated biologicals, including cultures from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biologicals, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, and mix cultures.

"(2) Pathological wastes, including tissues, organs, and body parts that are removed during surgery or autopsy.

"(3) Waste human blood and products of blood, including serum, plasma, and other blood components.

"(4) Sharps that have been used in patient care or in medical, research, or industrial laboratories, including hypodermic needles, syringes, pasteur pipettes, broken glass, and scalpel blades.

"(5) Contaminated carcasses, body parts, and bedding of animals that were exposed to infectious agents during research, production of biologicals, or testing of pharmaceuticals.

"(6) Wastes from surgery or autopsy that were in contact with infectious agents, including soiled dressings sponges, drapes, lavage tubes, drainage sets, underpads, and surgical gloves.

"(7) Laboratory wastes from medical, pathological, pharmaceutical, or other research, commerical, or industrial laboratories that were in contact with infectious agents, including slides and cover slips, disposable gloves, laboratory coats, and aprons.

"(8) Dialysis wastes that were in contact with the blood of patients undergoing hemodialysis, including contaminated disposable equipment and supplies such as tubing, filters, disposable sheets, towels, gloves, aprons, and laboratory coats.

"(9) Discarded medical equipment and parts that were in contact with infectious agents.

"(10) Solid wastes that were in contact with infectious agents inside of the rooms of human beings, or the enclosures of animals, who are isolated to protect others from any communicable disease.

"(b) Exclusions From List.—The Administrator may exclude from the list under this section any categories or items described in paragraphs (6) through (10) of subsection (a) which he determines do not pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

"SEC. 11003 TRACKING OF MEDICAL WASTE.

"(a) Demonstration Program.—Not later than 6 months after the enactment of this subtitle, the Administrator shall promulgate regulations establishing a program for the tracking of the medical waste listed in section 11002 which is generated in a State subject to the demonstration program. The program shall (1) provide for tracking of the transportation of the waste from the generator to the disposal facility, except that waste that is incinerated need not be tracked after incineration, (2) include a system for providing the generator of the waste with assurance that the waste is received by the disposal facility, (3) use a uniform form for tracking in each of the demonstration States, and (4) include the following requirements:

"(A) A requirement for segregation of the waste at the point of generation where practicable.

"(B) A requirement for placement of the waste in containers that will protect waste handlers and the public from exposure.

"(C) A requirement for appropriate labeling of containers of the waste.

"(b) Small Quantities.—In the program under subsection (a), the Administrator may establish an exemption for generators of small quantities of medical waste listed under section 11002, except that the administrator may not exempt from the program any person who, or facility that, generates 50 pounds or more of such waste in any calendar month.

"(c) On-Site Incinerators.—Concurrently with the promulgation of regulations under subsection (a), the Administrator shall promulgate a recordkeeping and reporting requirement for any generator in a demonstration State of medical waste listed in section 11002 that (1) incinerates medical waste listed in section 11002 on site and (2) does not track such waste under the regulations promulgated under subsection (a). Such requirement shall require the generator to report to the Administrator on the volume and types of medical waste listed in section 11002 that the generator incinerated on site during the 6 months following the effective date of the requirements of this subsection.

"(d) Type of Medical Waste and Types of Generators.—For each of the requirements of this section, the regulations may vary for different types of medical waste and for different types of medical waste generators.

"SEC. 11004. INSPECTIONS.

"(a) Requirements for Access.—For purposes of developing or assisting in the development of any regulation or report under this subtitle or enforcing any provision of this subtitle, any person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled medical waste shall, upon request of any officer, employee, or representative of the environmental Protection Agency duly designated by the Administrator, furnish information relating to such waste, including any tracking forms required to be maintained under section 1103, conduct monitoring or testing, and permit such person at all reasonable times to have access to, and to copy, all records relating to such waste. For such purposes, such officers, employees, or representatives are authorized to—

"(1) enter at reasonable times any establishment or other place where medical wastes are or have been generated, stored, treated, diposed of, or transported from;

"(2) conduct monitoring or testing; and

"(3) inspect and obtain samples from any person of any such wastes and samples of any containers or labeling for such wastes.

"(b) Procedures.—Each inspection under this section shall be commenced and completed with reasonable promptness. If the officer, employee, or representative obtains any samples, prior to leaving the premises he shall give to the owner, operator, or agent in charge a receipt describing the sample obtained and, if requested, a portion of each such sample equal in volume or weight to the portion retained if giving such an equal portion is feasible. If any anaylsis is made of such samples, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge of the premises concerned.

"(c) Availability to Public.—The provisions of section 3007(b) of this Act shall apply to records, reports, and information obtained under this section in the same manner and to the same extent as such provisions apply to records, reports, and information obtained under section 3007.

SEC. 11005. ENFORCEMENT.

"(a) COMPLIANCE ORDERS.—

"(1) VIOLATIONS.—Whenever on the basis of any information the Administrator determines that any person has violated, or is in violation of, any requirement or prohibition in effect under this subtitle (including any requirement or prohibition in effect under regulations under this subtitle) (A) the Administrator may issue an order (i) assessing a civil penalty for any past or current violation, (ii) requiring compliance immediately or within a specified time period, or (iii) both, or (B) the Administrator may commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction. Any order issued pursuant to this subsection shall state with reasonable specificity the nature of the violation.

"(2) ORDERS ASSESSING PENALTIES.—Any penalty assessed in an order under this subsection shall not exceed $25,000 per day of noncompliance for each violation of a requirement or prohibition in effect under this subtitle. In assessing such a penalty, the Administrator shall take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

"(3) PUBLIC HEARING.—Any order issued under this subsection shall become final unless, not later than 30 days after issuance of the order, the persons named therein, request a public hearing. Upon such request, the Administrator shall promptly conduct a public hearing. In connection with any proceeding under this section, the Administrator may issue for the production of relevant papers, books, and documents, and may promulgate rules for discovery procedures.

"(4) VIOLATION OF COMPLIANCE ORDERS.—In the case of an order under this subsection requiring compliance with any requirement of or regulation under this subtitle, if a violator fails to take corrective action within the time specified in an order, the Administrator may assess a civil penalty of not more than $25,000 for each day of continued noncompliance with the order.

"(b) CRIMINAL PENALTIES.—Any person who—

"(1) knowingly violates the requirements of or regulations under this subtitle;

"(2) knowingly omits material information or makes any false material statement or representation in any label, record, report, or other document filed, maintained, or used for purposes of compliance with this subtitle or regulations thereunder; or

"(3) knowingly generates, stores, treats, transports, disposes of, or otherwise handles any medical waste (whether such activity took place before or takes place after the date of the enactment of this paragraph) and who knowingly destroys, alters, conceals, or fails to file any record, report, or other document required to be maintained or filed for purposes of compliance with this subtitle or regulations thereunder

shall upon conviction, be subject to a fine of not more than $50,000 for each day of violation, or imprisonment not to exceed 2 years (5 years in the case of a violation of paragraph (1)). If the conviction is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment under the respective paragraph shall be doubled with respect to both fine and imprisonment.

"(c) KNOWING ENDANGERMENT.—Any person who knowingly violates any provision of subsection (b) who knows at that time that he hereby places another person in imminent danger of death or serious bodily injury, shall upon conviction be subject to a fine of not more than $250,000 or imprisonment for not more than 15 years, or both. A defendant that is an organization shall, upon conviction under this subsection, be subject to a fine of not more than $1,000,000. The terms of this paragraph shall be interpreted in accordance with the rules provided under section 3008(f) of this Act.

"(d) CIVIL PENALTIES.—Any person who violates any requirement of or regulation under this subtitle shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation. Each day of such violation shall, for purposes of this section, constitute a separate violation.

"(e) CIVIL PENALTY POLICY.—Civil penalties assessed by the United States or by the States under this subtitle shall be assessed in accordance with the Administrator's 'RCRA Civil Penalty Policy', as such policy may be amended from time to time.

"SEC. 11006. FEDERAL FACILITIES.

"(a) IN GENERAL.—Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government in a demonstration State (1) having jurisdiction over any solid waste management facility or disposal site at which medical waste is disposed of or otherwise handled, or (2) engaged in any activity resulting, or which may result, in the disposal, management, or handling of medical waste shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for permits or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting control and abatement of medical waste disposal and management in the same manner, and to the same extent, as any person is subject to such requirements, including the payment of reasonable service charges. The Federal, State, interstate, and local substantive and procedural requirements referred to in this subsection include, but are not limited to, all administrative orders, civil, criminal, and administrative penalties, and other sanctions, including injunctive relief, fines, and imprisonment. Neither the United States, nor any agent, employee, or officer thereof, shall be immune or exempt from any process or sanction of any State or Federal court with respect to the enforcement of any such order, penalty, or other sanction. For purposes of enforcing any such substantive or procedural requirement (including, but not limited to, an injunctive relief, administrative order, or civil, criminal, administrative penalty, or other sanction), against any such department, agency, or instrumentality, the United States hereby expressly waives any immunity otherwise applicable to the United States. The President may exempt any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption.

"(b) DEFINITION OF PERSON.—For purposes of this Act, the term 'person' shall be treated as including each department, agency, and instrumentality of the United States.

"SEC. 11007. RELATIONSHIP TO STATE LAW.

"(a) STATE INSPECTIONS AND ENFORCEMENT.—A State may conduct inspections under 11004 and take enforcement actions under section 11005 against any person, including any person who has imported medical waste into a State in violation of the requirements of, or regulations under, this subtitle, to the same extent as the Administrator. At the time a State initiates an enforcement action under section 11005 against any person, the State shall notify the Administrator in writing.

"(b) RETENTION OF STATE AUTHORITY.—Nothing in this subtitle shall—

"(1) preempt any State or local law; or

"(2) except as provided in subsection (c), otherwise affect any State or local law or the authority of any State or local government to adopt or enforce any State or local law.

"(c) STATE FORMS.—Any State or local law which requires submission of a tracking form from any person subject to this subtitle shall require that the form be identical in content and format to the form required under section 11003, except that a State may require the submission of other tracking information which is supplemental to the information required on the form required under section 11003 through additional sheets or such other means as the State deems appropriate.

"SEC. 11008. REPORT TO CONGRESS.

"(a) FINAL REPORT.—Not later than 3 months after the expiration of the demonstration program, the Administrator shall report to Congress on the following topics:

"(1) The types, number, and size of generators of medical waste (including small quantity generators) in the United States, the types and amounts of medical waste generated, and the on-site and off-site methods currently used to handle, store, transport, treat, and dispose of the medical waste, including the extent to which such waste is disposed of in sewer systems.

"(2) The present or potential threat to human health and the environment posed by medical waste or the incineration thereof.

"(3) The present and potential costs (A) to local economies and the environment from the improper handling, storage, transportation, treatment or disposal of medical waste and (B) to generators, transporters, and treatment, storage, and disposal facilities from regulations establishing requirements for tracking, handling, storage, transportation, treatment, and disposal of medical waste.

"(4)(A) The success of the demonstration program established under this subtitle in tracking medical waste,

"(B) changes in incineration and storage practices attributable to the demonstration program, and

"(C) other available and potentially available methods for tracking medical waste and their advantages and disadvantages, including the advantages and disadvantages of extending tracking requirements to (i) rural areas and (ii) small quantity generators.

"(5) Available and potentially available methods for handling, storing, transporting, and disposing of medical waste and their advantages and disadvantages.

"(6) Available and potentially available methods for treating medical waste, including the methods of incineration, sterilization, chemical treatment, and grinding, and their advantages, including their ability to render medical waste noninfectious or less infectious, and unrecognizable and otherwise protect human health and the environment, and disadvantages.

"(7) Factors affecting the effectiveness of the treatment methods identified in subsection (a)(5), including quality control and quality assurance procedures, maintenance procedures, and operator training.

"(8) Existing State and local controls on the handling, storage, transportation, treatment, and disposal of medical waste, including the enforcement and regulatory supervision thereof.

"(9) The appropriateness of using any existing State requirements or the requirements contained in subtitle C as nationwide requirements to monitor and control medical waste.

"(10) The appropriateness of the penalties provided in section 11006 for insuring compliance with the requirements of this subtitle, including a review of the level of penalties imposed under this subtitle.

"(11)(A) The effect of excluding households and small quantity generators from any regulations governing the handling, storage, transportation, treatment, and disposal of medical waste, and

"(B) potential guidelines for the handling, storage, treatment, and disposal of medical waste by households and small quantity generators.

"(12) Available and potentially available methods for the reuse or reduction of the volume of medical waste generated.

"(b) INTERIM REPORTS.—The Administrator shall submit two interim reports to Congress on the topics listed in subsection (a). The interim reports shall contain the information on the topics available to the Administrator at the time of submission. One interim report shall be due 9 months after enactment of this subtitle and one shall be due 12 months after the effective date of regulations under this subtitle.

"(c) CONSULTATION.—In preparing the reports under this section, the Administrator shall consult with appropriate State and local agencies.

"SEC. 11009. HEALTH IMPACTS REPORT.

"Within 9 months after the enactment of this section, the Administrator of the Agency for Toxic Substances and Disease Registry shall prepare for Congress a report on the health effects of medical waste, including each of the following—

"(1) A description of the potential for infection or injury from the segregation, handling, storage, treatment, or disposal of medical wastes.

"(2) an estimate of the number of people injured or infected annually by sharps, and the nature and seriousness of those injuries or infections.

"(3) an estimate of the number of people infected annually by other means related to waste segregation, handling, storage, treatment, or disposal, and the nature and seriousness of those infections.

"(4) For diseases possibly spread by medical waste, including Acquired Immune Deficiency Syndrome and hepatitis B, an estimate of what percentage of the total number of cases nationally may be traceable to medical wastes.

"SEC. 11010. GENERAL PROVISIONS.

"(a) CONSULTATION.—(1) In promulgating regulations under this subtitle, the Administrator shall consult with the affected States and may consult with other interested parties.

"(2) The Administrator shall also consult with the International Joint Commission to determine how to monitor the disposal of medical waste emanating from Canada.

"(b) PUBLIC COMMENT.—In the case of the regulations required by this subtitle to be promulgated within 9 months after the enactment of this subtitle, the Administrator may promulgate such regulations in interim final form without prior opportunity for public comment, but the Administrator shall provide an opportunity for public comment on the interim final rule. The promulgation of such regulations shall not be subject to the Paperwork Reduction Act of 1980.

"(c) RELATIONSHIP TO SUBTITLE C.—Nothing in this subtitle shall affect the authority of the Administrator to regulate medical waste, including medical waste listed under section 11002, under subtitle C of this Act.

"SEC. 11011. EFFECTIVE DATE.

"The regulations promulgated under this subtitle shall take effect within 90 days after promulgation, except that, at the time of promulgation, the Administrator may provide for a shorter period prior to the effective date if he finds the regulated community does not need 90 days to come into compliance.

"SEC. 11012. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Administrator such sums as may be necessary for each of the fiscal years 1989 through 1991 for purposes of carrying out activities under this subtitle.".

(b) TABLE OF CONTENTS.—The table of contents for the Solid Waste Disposal Act is amended by inserting the following after the items relating to subtitle I:

"Subtitle J—Demonstration Medical Waste Tracking Program

"Sec. 11001 Scope of demonstration program for medical waste.
"Sec. 11002. Listing of medical wastes.
"Sec. 11003. Tracking of medical waste.
"Sec. 11004. Inspections.
"Sec. 11005. Enforcement.
"Sec. 11006. Federal facilities.
"Sec. 11007. Relationship to State law.
"Sec. 11008. Report to Congress.
"Sec. 11009. Health impact report.
"Sec. 11010. General provisions.
"Sec. 11011. Effective date.
"Sec. 11012. Authorization of appropriations."

SEC. 3. DEFINITION.

Section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903) is amended by adding the following at the end thereof:

"(40) Except as otherwise provided in this paragraph, the term 'medical waste' means any solid waste which is generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals. Such term does not include any hazardous waste identified or listed under subtitle C or any household waste as defined in regualtions under subtitle C.".

SEC. 4. EPA LAW ENFORCEMENT POWERS.

(a) CONFERRAL OF LAW ENFORCEMENT POWERS.—Chapter 203 of title 18, United States Code, is amended by adding at the end the following:

"§ 3063. Powers of Environmental Protection Agency

"(a) Upon designation by the Administrator of the Environmental Protection Agency, any law enforcement officer of the Environmental Protection Agency with responsibility for the investigation of criminal violations of a law administered by the Environmental Protection Agency, may—

"(1) carry firearms;

"(2) execute and serve any warrant or other processes issued under the authority of the United States; and

"(3) make arrests without warrant for—

"(A) any offense against the United States committed in such officer's presence; or

"(B) any felony offense against the United States if such officer has probable cause to believe that the person to be arrested has committed or is committing that felony offense.

"(b) The powers granted under subsection (a) of this section shall be exercised in accordance with guidelines approved by the Attorney General.".

(b) CLERICAL AMENDMENT—The table of sections at the beginning of chapter 203 of title 18, United States Code, is amended by adding at the end the following:

"3063. Powers of Environmental Protection Agency.".

The SPEAKER pro tempore. Is a second demanded?

Mr. WHITTAKER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. THOMAS A. LUKEN] will be recognized for 20 minutes and the gentleman from Kansas [Mr. WHITTAKER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. THOMAS A. LUKEN].

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3515, as amended, the Medical Waste Tracking Act of 1988.

The bill deserves passage by this body because it is a vital step toward stopping the illegal midnight dumping of lethal medical wastes.

The illegal disposal of medical waste is spreading like an epidemic across the country.

Like a mysterious disease traveling across America, medical waste problems are erupting in dozens of disparate communities without warning or explanation.

The manifestation of the emerging crisis—the symptons of the disease—are the hypodermic needles and vials of infectious blood and other noxious medical wastes washing ashore on beaches from Massachusetts to Florida and New York to Ohio.

This summer these washups broke out like a rash of unsightly sores along the East Coast and Great Lakes.

The sickened and frightened the public, blighted the complexion of our coastlines, and crippled local tourist economies.

But the problems created by the illegal disposal of medical waste are not limited to coastal States. They can affect every community in the country.

All told, millions of tons of medical waste are generated each year. Much of this waste is infectious—contaminated with deadly viruses like AIDS or hepatitis B. This waste is not just repulsive; it can literally kill people.

According to recent Federal studies, as many as 18,000 people each year may contract hepatitis B from accidental contact with medical wastes. Hundreds of those infected will ultimately die from the infection.

And worst of all, our children's lives can be threatened.

Last year, careless doctors in Youngstown, OH, and Indianapolis, IN, put contaminated needles and vials of infected blood into dumpsters. Kids found the needles and blood vials and played "doctor" with them—splattering blood on each other and giving each other injections that could have proved fatal.

Although none of the childen contracted a disease, similar incidents could occur practically anywhere in the country. And next time the victims may not be so lucky.

What have we done to stop this growing national crisis? Up to now, nothing. Some 10 years ago, EPA actually proposed to regulate medical waste, but the proposal was quietly dropped. Since then, the agency has been strangely silent in the face of repeated incidents.

Today we are voting on a bill to change this—legislation that takes a critically important first step toward controlling the spread of medical waste.

The bill establishes a demonstration program for tracking medical wastes in 10 of the most affected States—New York, New Jersey, Connecticut, and the States bordering the Great Lakes. And it provides that other States may petition the Federal Environmental Protection Agency for inclusion in the tracking program.

This tracking system will require the hospital or medical office that generates medical waste to ensure that a paper trail follows the waste from the generator's premises to the garbage truck to the incinerator or landfill where it is finally disposed.

In effect, the tracking system will work like a burglar alarm. It will force the generator to alert EPA headquarters whenever medical waste doesn't make it to the designated incinerator or landfill—thus sounding the alarm that puts law enforcement officials on the trail of the midnight dumper.

The bill also directs EPA to issue standards requiring medical waste to be segregated from the ordinary solid waste stream and properly packaged and labeled. These standards are as important as the tracking system itself. They will protect healthcare workers, waste haulers, and the general public from exposure to medical waste.

In layman's terms, these standards will make it a Federal crime to dump lethal medical wastes, like contaminated hypodermic needles or vials of infected blood, into a dumpster where kids can find them—thus preventing a recurrence of what happened in Ohio and Indiana.

There has been great confusion about what is and what is not "medical waste." The bill resolves this issue, I believe. It precisely defines 10 categories of wastes that must be tracked and handled under EPA's regulations. These categories include all the worst and most frightening types of infectious wastes—amputated limbs, contaminated hypodermics, blood vials.

The bill also authorizes EPA to use the full inspection and enforcement powers established for hazardous wastes to track down and prosecute anyone who violates the new Federal requirements for medical waste. And the top penalties are steep: $25,000 per day for civil violations and $50,000 per day and 2 years in jail for criminal ones.

The States, too, are beneficiaries under the bill. The bill offers a State like Ohio substantial protection from the flood of untreated infectious waste it receives from eastern neighbors. It specifically provides that a State can take enforcement action against anyone who imports into a State any medical waste that does not meet the Federal tracking and handling standards set in the bill.

In another important provision, the bill requires EPA to provide Congress with a series of reports on the generation and treatment of medical waste. These reports—and the experience we gain under the demonstration program—will prove vital when Congress revisits the medical waste issue in upcoming years.

Overall, then, I believe the Medical Waste Tracking Act is a very fine first step toward stopping medical waste pollution.

The last section of H.R. 3515, as amended, incorporates the provisions of H.R. 4756, a bill ordered reported from the Judiciary Committee. This section of H.R. 3515 authorizes EPA officials to carry firearms and make arrests. It was proposed by the administration, has bipartisan support, and codifies current practice.

I urge my colleagues to approve this excellent bill.

In conclusion, I want to recognize the many Members of Congress who have worked long and hard to bring this legislation to fruition. They include the gentleman from Michigan [Mr. DINGELL], the gentleman from New Jersey [Mr. FLORIO], the gentleman from Ohio [Mr. ECKART], the gentleman from Kansas [Mr. SLATTERY], the gentleman from Oregon [Mr. WYDEN], and many other members of the Committee on Energy and Commerce. From the other side of the aisle, two members in particular, the gentleman from Kansas [Mr. WHITTAKER] and the gentleman from New York [Mr. LENT], spent many long hours working out a consensus bill with me and deserve special commendation for their efforts.

Without the unstinting efforts of these House members, this legislation could not have traveled this far, this fast.

In the Senate, the sponsors of a companion Senate bill, Senator BRADLEY and Senator LAUTENBERG, also worked tirelessly and with great dedication.

Mr. Speaker, I reserve the balance of my time.

Mr. WHITTAKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased that here in the waning days of the 100th Congress, we are trying to tackle the problems posed by medical waste. There is no question that we have a solid waste disposal problem in this country with medical waste being one part of that problem.

While the hazards presented by medical waste may be more occupational than environmental, there is a possibility that mishandled infectious waste could pose a threat in the community. Further, the mishandling of medical waste can cause severe economic hardships. One only has to look at what occurred in the ocean communities in New York and New Jersey this summer to understand the magnitude of this problem. The loss of tourism was a tragedy, and I certainly sympathize with those who suffered economic losses.

The legislation we are considering today directs EPA to set up State demonstration programs for tracking medical wastes and to prepare a series of reports for Congress. The hope is that these tracking programs will help reduce improper dumping, and provide some assurance that medical waste reaches the intended disposal site.

These State demonstration programs are also intended to provide EPA with more information on the magnitude and the unique characteristics of medical waste. And such information is needed to determine if national regulations might prove useful in controlling that waste. In preparing its reports, I hope EPA provides information on several important issues, such as:

The type or category of medical waste that needs to be tracked, or whether we should just require the tracking of infectious wastes;

Whether it is appropriate to apply the tracking of medical waste in all parts of the country, in rural areas, or to small quantity generators; and finally,

Whether it would be sufficient to only require interstate tracking of medical waste, leaving intrastate authority up to States.

Meanwhile, we cannot look at this demonstration program as a panacea. We may very well need to revisit this issue next year, and deal specifically with infectious waste at that time. in addition, we should not let ourselves fall into a false sense of security that this legislation will solve our national solid waste problem.

The Washington Post put it best in a August 30, 1988 editorial noting that "if it were a matter of setting the FBI on the track of a few criminals dumping trash by moonlight, the cleanup would be easily accomplished. But it's not just a few violators. It's a country of 246 million people who have never been very tidy throwing out their trash * * * no real progress is going to be possible without persuading people—not just hospitals, but everybody—to generate less trash."

Clearly, addressing the medical waste problems is only one component of the overall solid waste problem.

Mr. Speaker, I ask my colleagues to join me in support of this bill. I also want to commend the many committee members and their staffs who worked so hard to develop this legislation. In particular, I want to acknowledge the efforts of our full committee chairman, Mr. DINGELL, and also the ranking Republican, Mr. LENT, and the subcommittee chairman, Mr. LUKEN and my colleague from Kansas. Mr. SLATTERY. [Special thanks, too, to Larry Sabboth and Dick Frandsen of the majority staff and Chuck Knauss and Jan Edelstein of the Minority staff.]

In closing, Mr. Speaker, I have additional comments on specific sections of the bill and I insert them in the RECORD at this point.

SECTION-BY-SECTION COMMENTS

SEC. 11002—LISTING OF MEDICAL WASTES

The lesiglation directs EPA to promulgate regulations listing the types of medical waste to be tracked. The bill requires that a specific listing of 10 waste categories must be tracked. This list is derived from the Environmental Protection Agencies May 1986 Guide for Infectious Waste Management, and includes both infectious and non-infectious wastes.

The bill gives EPA the authority to exclude from the list several of the waste categories if it is determined that the waste would not pose a hazard to human health or the environment. It is critical that EPA review this list and make specific findings on these categories. In making their determination. EPA should utilize the standards they propose in their guide for disease transmission. These standards identify five factors that "contribute to the risk of introduction of disease," and represent a reasonable and responsible standard.

The bill also gives EPA the authority to list other medical wastes for inclusion under this tracking system. Again, EPA should exercise caution in making their determinations. This wide authority should not be construed as meaning that all medical waste is harmful. As the information provided by EPA and health authorities has shown, a very small fraction of the waste emanating from medical facilities is truly infectious, with the bulk of the waste stream consisting of products we find in most of our homes. An editorial in The Washington Post noted that "public health authorities have pointed out that household trash and garbage are as dangerous as the kind of medical waste that has been found on the beaches this summer."

This type of scientific information must, of course, be kept in perspective. EPA should use this, as well as other information in making its determinations. EPA should also utilize the services of the National Institutes of Health, the Centers for Disease Control, the American Hospital and Medical Associations, as well as other scientific and environmental organizations, in their review.

SEC. 11003—TRACKING OF MEDICAL WASTE

The legislation calls for the development of an effective tracking system. The success of the demonstration program hinges on the ability of everyone involved to understand its requirements and procedures. It is essential that a simple, well-organized, cost-effective, and relatively non-intrusive program be developed for the handling of waste under this program.

SEC. 11005—ENFORCEMENT

Several members of the Energy and Commerce Committee were concerned over the level of the cap established for civil and criminal penalties. This is a demonstration program—therefore, many Members believe that penalties should be of sufficient size as to encourage enforcement, but should also be commensurate with the risk posed by the violation.

EPA should utilize the RCRA Civil Penalty Policy as a guideline in assessing any penalties under this program. This would ensure that in determining the size of a penalty, EPA must take into account the seriousness of the violation, good faith efforts to comply with the law, and many other factors.

In addition, in the reports that are due back to Congress, EPA is to report on the appropriateness of the penalties established in this bill. In light of the findings in these reports, a future national regulatory program may adopt lower penalty caps.

Because this is a demonstration, and a program which will be very new to many who generate, store, treat, transport and dispose of medical waste, EPA should exercise as much flexibility as possible. For example, the bill gives the Administrator the power to impose an intermediate sanction, such as a monitored plan of correction, in lieu of civil money penalties in instances where the violation was not serious. These options should be pursued in appropriate cases.

SEC. 11007—RELATIONSHIP TO STATE LAW

The bill indicates that a state has the same inspection and enforcement authority under the EPA. To be clear, this provision is not intended to permit EPA and a state to engage in duplicative inspections and enforcement actions, but only to allow states to act in lieu of EPA where appropriate.

SEC. 11009—HEALTH IMPACTS REPORT

The bill requires EPA to report to Congress on the health effects of medical waste. In the report, we are interested in receiving information on not only the occupational risk of handling and segregating medical waste and the incident of injury, but also the risk to the community and the incidence rate in that setting. There is a distinction between occupational and community risk, and the Congress will need clear information on both because each would require different responses should future legislative action be necessary.

□ 2015

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. HUGHES], the distinguished chairman of the Subcommittee on Crime of the Committee on the Judiciary.

Mr. HUGHES. Mr. Speaker, I thank the gentleman for yielding time to me, and I congratulate him on a very good piece of legislation. I do not think there is any question but that one of the most serious problems that we have experience on the eastern seaboard is the dumping of medical waste of all kinds in our streams and estuaries. They certainly have played havoc, the dumpers, with a major tourist economy in the past year, and I believe this is a step in the direction of trying to deal with that.

We can pass, as we did a few weeks ago, a bill that makes it a felony and Federal crime to dump medical wastes in the ocean or on land, but until we provide the law enforcement community with the tools that they need to identify and to prosecute those that are dumping, we really have not done very much.

It is very difficult to identify them, and this bill will provide a manifest system, a demonstration project to enable us to track from cradle to the grave wastes being generated so we can, in fact, keep track, provide a paper trail to enable our investigators and prosecutors to do a much better job of identifying and prosecuting these polluters.

Mr. Speaker, I rise in support of H.R. 3515 which now encompasses H.R. 4756, the Law Enforcement Powers Act of 1988, as section 4 of the bill. The purpose of section 4 is to grant permanent law enforcement authority to criminal investigators of the Environmental Protection Agency [EPA]. The EPA investigators must enforce statutes containing criminal penalties for violations of environmental laws, ranging from the illegal discharge of pollutants into waterways to the midnight dumping of hazardous waste. Since 1984, the investigators have exercised law enforcement powers, on a temporary basis, pursuant to deputation by the Attorney General as Special Deputy U.S. marshals. The demonstrated success of this program, now a fully developed and essential component of criminal environmental enforcement, makes it important that it be given legislative approval.

Effective criminal enforcement under Federal environmental statutes requires EPA criminal investigators to execute and serve warrants, to make arrests, and to exercise other traditional law enforcement powers. In the past 4 years, the EPA criminal program has obtained 299 indictments of individuals or corporations which, to date, have resulted in 222 pleas or convictions. Over $6 million in fines have been imposed in these cases.

Subsection (a)(1) of this proposed bill gives special agents of EPA's Office of Criminal Investigations the authority to carry firearms. This longstanding cornerstone of criminal investigation at all levels of Federal and local enforcement is no less essential to officers who pursue those contaminating our Nation's land, air, and water. The risks associated with environmental criminal investigations are similar to those encountered in more traditional investigatory work.

Subsection (a)(2) confers power to execute and serve Federal arrest or search warrants. This provision goes to the heart of environmental criminal enforcement which is the identification of a substance suspected of treatment in a prohibited way. This often requires either EPA entry onto a targeted site or facility or examination of records, both usually possible only by executing a search warrant.

Subsection (a)(3) gives criminal investigators the power to make warrantless arrests in those uncommon but always tense circumstances when the agent lacks time to obtain a warrant. It thus promotes twin enforcement goals, preserving otherwise vulnerable evidence from destruction and protecting the physical safety of EPA investigators. Actual EPA deputation experience has demonstrated that authority to make an unanticipated, warrantless arrest has permitted a warrant search of a facility to proceed when agents were wrongly denied entry, and allowed agents to defend themselves against an armed property owner with a long history of violent behavior. The consequences of withholding such authority are no less alarming. In one instance prior to deputation, an EPA investigator was forced to watch a truck leak PCB liquids for 50 miles because he lacked authority to stop the truck.

Subsection (b) calls for guidelines approved by the Attorney General which will specify in greater detail how the powers granted by subsection (a) shall be exercised.

Section 4 has the support of the administration and the National Association of Attorneys General, and I believe that it is noncontroversial. The Committee on the Judiciary has agreed to merge H.R. 4756 with H.R. 3515 in the interest of comity and to save this body some time. We will, however, insist on our exclusive jurisdiction over this title 18 portion of H.R. 3515 in all future discussions of this authority, and I understand that this has been agreed upon by the Committee on Energy and Commerce.

Mr. WHITTAKER. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I thank the gentleman from Kansas for yielding time to me.

Let me say at the outset I want to say what an important problem this has been for New Jersey and hopefully what an important solution this will be to that problem, and for that purpose I would like to commend and thank both the gentleman from Michigan [Mr. DINGELL], the chairman, and the gentleman from Ohio [Mr. THOMAS A. LUKEN], and the gentleman from Kansas [Mr. WHITTAKER], and the gentleman from New York [Mr. LENT] for their hard work and determination that they have shown in bringing this bill to the floor. I would also like to point out and commend my colleagues from New Jersey [Mr. FLORIO] for the work that he has done in seeing to it that our interests on that committee were well represented.

I am also pleased to say there was a parallel track going on simultaneously with what was happening on the Committee on Energy and Commerce, and that of course was in the Committee on Merchant Marine and Fisheries, and I am pleased to see this legislation before us today, particularly pleased to be able to thank the gentleman from Washington [Mr. LOWRY], the chairman of the Subcommittee on Oceanography for the work he did, and for the gentleman from Massachusetts [Mr. STUDDS] for his cooperation as chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment.

In particular, however, I would like to point out that a year ago, in September, the Subcommittee on Oceanography, under the directorship and chairmanship of the gentleman from New Jersey [Mr. HUGHES] held a field hearing in Ocean City, NJ. At that hearing we heard testimony from medical experts, from people who were interested in fish and wildlife and people who owned homes at the shore and people who owned businesses at the shore who during the summer of 1987 had suffered losses in revenue because of the medical waste washups, and following that hearing, the gentleman from New Jersey [Mr. HUGHES], and I introduced a bill which was referred to the Committee on Merchant Marine and Fisheries which did much the same thing, except on a little broader scale than this bill will do today.

We hoped that the summer of 1988 would not result in the type of situation that it did. It was damaging for the shoreline businesses in my district which suffered because of the perception this year that our beaches were awash in medical wastes.

However, it was the summer of 1987 that prompted the real beginning to action in this House on this subject.

The series of hearings by a number of congressional committees, and I am gratified to see much that was contained in my bill, H.R. 3478, has been included in the bill that we are here to discuss tonight. I am especially pleased that the root cause of the problem has been addressed by requiring the EPA to work with health care facilities in finding ways to reduce the amount of medical wastes that we have to deal with, to reduce the amount that is generated.

The bill is strong in that regard and I am particularly pleased to see this. This is the direction in which we must move. This is an important subject, an important one to people's health and an important subject to people's vacations, and an important subject to people's homes and their very livelihoods, not to mention the importance to the environment concerned with our oceans.

Mr. Speaker, this bill is a big step along the right path to recovery of our shores, and I urge its passage without further ado here this evening.

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey [Mr. FLORIO]

Mr. FLORIO. Mr. Speaker I rise to express strong support for the Medical Waste Tracking Act of 1988. This bill is important to the people in New Jersey and to other coastal and Great Lake States. The past two summers have been disastrous for them in lost dollars, lost opportunities for pleasant recreation and the possible loss of one of our most treasured resources—the water.

A day at the beach need not turn into a nightmare. But the washup of medical waste on to our shores threaten to make it so. We must act forcefully now to stop the dumping of these dangerous wastes.

By setting up a regional demonstration program, this legislation targets party of the United States that have been hardest hit by the improper disposal of medical wastes. The program will also supply vital information for use as early as next spring in developing a nationwide medical waste program.

This bill goes a long way toward controlling medical waste dumping by requiring that waste be tracked from the moment it is created until it is disposed of. Together with strict rules for managing the waste, a sensible tracking system can make sure that wastes are safely routed to disposal sites, not discarded in storm sewers, by the side of the road, or in the ocean.

Strong civil and criminal penalties will be put in place. Everyone involved with any step of the medical waste process will have to sign a form showing that they have handled it responsibly. And they will know that if they don't tell the truth they can go to jail.

Another excellent feature of this bill is the broad, inclusive list of medical wastes that will be tracked. It will ensure that all of the dangerous and sickening types of medical trash that we've seen wash ashore are covered.

This legislation also sends a strong message to Federal medical centers that they must be a model for proper management of medical waste. With so many VA hospitals, military bases, and research centers creating medical waste nationwide, the Federal Government must lead by example.

Finally, with an eye toward future national legislation, this bill directs EPA to give Congress a complete assessment of the medical waste problem by next spring. This information will enable Congress to act in a responsible and timely way, before the beaches open next summer.

Mr. Speaker, the beaches are quiet now because the season has ended. But we must not let a change in the weather allow us to forget about medical waste. It is a problem that knows no seasons. We must act today to make sure that next summer these sorry episodes are not repeated. Needles and vials of blood must not replace beach chairs and blankets as common sights along our shores.

This is an important first step, and I urge my colleagues to support it.

This legislation contains a number of key provisions. Two of the most important are provisions that define the scope of medical waste to be tracked—section 11002—and provisions that specify the study elements for the reports to Congress on medical waste generation and management—section 11008.

H.R. 3515 contains a broad and detailed list of medical wastes—section 11002—to be tracked under the regional demonstration program. Although EPA may remove some items or categories from this list, the provision severely restricts EPA's discretion in modifying this list, which encompasses ten individual categories of medical waste items. Categories (1) through (5) on the list cannot, under any circumstances, be excluded from the list. Categories (6) through (10), or items within these categories, can only be excluded from the list if EPA conclusively determines that the categories or items "do not pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed." Prior to excluding a waste, the Administrator must not only study the potential infectiousnes of the waste, but also any other waste attributes which may potentially affect human health or the environment.

In evaluating human health effects, the Administrator must consider all "present and potential hazards" associated with the management of the waste. This inquiry must assess health hazards which exist from the moment the medical waste is generated, and not only those hazards which remain after the waste has languished in a hospital dumpster for several days, or has been landfilled or set adrift at sea for weeks or months. Before contemplating a waste exclusion, EPA should examine the range of possible hazards to persons—for example, hospital employees—handling these wastes. In an era when physicians, nurses and other medical care personnel are wisely taking precautions to minimize the potential for accidental infection, this restrictive standard is intended to ensure that all persons handling medical waste are afforded the same measure of protection as those who provide our medical care.

The exclusion provision also requires EPA to rule out possible hazards to the environment from improper management of these medical wastes. Under this part of the exclusion standard, the Administrator should consider other problematic aspects of medical wastes. Because of their frightening and offensive attributes, certain medical wastes are more likely to alarm persons handling these wastes, potentially leading to disruption of normal waste management operations or even mismanagement of the wastes. These same wastes, when discarded indiscriminately, can cause great harm to the environment. In evaluating the potential hazards to the environment posed by these wastes, public fears and concerns should be given weighty consideration, particularly as those fears or concerns affect medical waste management.

Any determination by EPA to exclude a category or item from the tracking list should be well supported by sound technical information. If EPA cannot collect and analyze such information, the waste category or item under consideration may not be excluded from the list of wastes to be tracked.

Nothing in this bill limits EPA's broad discretion to track medical wastes beyond those categories enumerated in the bill, limited only by the definition of medical waste contained in section 3 of the bill.

The broad scope of the definitional provision reflects the intent of Congress that the demonstration program should not be limited to the worst known infectious wastes, but rather should be extended to a wide range of other medical items which are potentially infectious. In adopting this provision, Congress intends to ensure that the success of the tracking program will not be undermined by limitations in the scope of wastes covered. Moreover, given the probable need for national medical waste legislation in the future, it is important to track and gather technical information on all medical waste types potentially affected by a national program.

Section 11008 of the bill directs EPA to provide Congress with a complete assessment of medical waste generation and management in the United States. This technical information will be vital to Congress in evaluating the extent of current problems, and possible need for additional measures, including enactment of national medical waste legislation. The provision requires a series of three reports, the first of which will be due no later than than 9 months after the date of enactment. This initial report should contain all currently available data and any other information which can reasonably be collected within the timeframe provided for completion of this study.

Given the dramatic pace of developments in medical waste management, timely completion, and submittal of this initial report is imperative. Due 1 and 2 years, respectively, following the commencement of the demonstration program, the two subsequent reports should provide additional technical information necessary to fill gaps in the initial report, and to evaluate the effectiveness of the regional demonstration program.

Basic information on types, number and sizes of generators, types and amounts of medical waste, and onsite and offsite management methods should be assembled rapidly by the Administrator to produce a technical overview of medical waste generation and management in the United States. In conducting this assessment, the Administrator should utilize the same broad and inclusive definition of medical waste contained in section 11002. At the same time, technical data on waste generation and management should be disaggregated based upon the 10 categories specified in section 11002 and any other appropriate waste classifications. For example, plastic and rubber disposable items warrant special consideration since these medical items are persistent and mobile—that is, as floatables—in the marine environment, and pose unique treatability concerns.

In developing a profile of waste generators, the Administrator should give particular attention to small quantity generators such as physicians' offices and outpatient care clinics. Current evidence suggests that the waste management practices of these smaller generators may contribute substantially to existing difficulties in managing these wastes.

The report should also provide estimates for the proportions of medical waste volumes managed by each of the major methods, including incineration, sterilization, landfilling, and disposal in sewer systems. The analysis should also distinguish between different sequences in management methods currently employed. For example, in the case of medical wastes which are ultimately landfilled, the Administrator should provide estimates of waste volumes which undergo treatment—for example, sterilization, incineration—prior to landfilling. Also, any present or potential restrictions on management capacity, especially landfilling alternatives, should be examined.

One of the most important topics to be addressed by these reports will be the evaluation of available and potentially available methods for treating medical waste. For the purpose of the study provisions, treatment should be defined broadly to include not only management methods which can render medical waste noninfectious—for example, autoclaving, chemical disinfection, and so forth—but also methods which can be employed to eliminate or mitigate other dangerous or offensive waste attributes. For example, various techniques which can be used to blunt needles and other sharps should be evaluated. Moreover, grinding, shredding, compacting, and other methods potentially employed to render medical waste unrecognizable should be analyzed in the report. Where available, technical data on the actual performance of treatment technologies, and information on factors and parameters which influence treatment efficiency should be presented in the study to support a fuller assessment of the feasibility and efficiency of various treatment methods.

The Administrator should also consider any other potential harmful effects of specific treatment technologies. In particular, potential health effects associated with heavy metals, dioxin and other constituent loadings in incinerator emissions and ash should be fully investigated.

Mr. WHITTAKER. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia [Mr. RAY].

Mr. RAY. Mr. Speaker, I join my colleagues in supporting the intent of this legislation and although I applaud the efforts of Congressman LUKEN and members of his subcommittee in addressing this serious problem facing our Nation, I do have a serious problem with the amendment attached to it.

I agree that the mishandling of medical waste should be firmly and effectively dealt with.

However, during committee consideration, an amendment dealing with Federal facilities was adopted that troubles me and the Armed Services Committee.

The effect of the amendment would strip away virtually all sovereign immunity for purposes of enforcement of any State and local requirement involving the handling and disposal of medical waste. Furthermore, this waiver of sovereign immunity would not only apply to the U.S. Government, but to its civilian employees and military personnel as well.

What we are talking about here includes criminal prosecution, assessment of civil penalties and other sanctions, including fines and imprisonment.

My concern, and the concern of the Armed Services Committee, is threefold:

First, that the exposure of DOD civilian and military personnel to virtually any and all sanctions related to the handling of medical waste could result in widespread institutional paralysis that could not only undermine national security interests, but the effective implementation of this legislation. I fear if we put exclusive reliance upon negative sanctions that we shall not be able to recruit and retain the technically qualified and dedicated Government employees we shall need to carry out this act and other environmental laws.

Second, by exposing the Department of Defense appropriations to an unconstrained State and local government quest for civil penalties and other fees, we could jeopardize the execution of other defense programs by diverting funds from their intended use.

Third, despite the clear fact that this section would have a significant impact on Department of Defense operations, the Armed Services Committee has not been given the opportunity to review and consider these issues. In fact, the committee has previously requested sequential referral of similar legislation, H.R. 3785, which deals with the handling, treatment and disposal of hazardous waste. And we intend to give that legislation very serious consideration next year, if it's reintroduced.

For these reasons, Mr. Speaker, I will have to oppose H.R. 3515, as amended, when we vote on it tomorrow.

H.R. 3515—INFECTIOUS WASTE REGULATION ACT OF 1987

SECTION 11006—FEDERAL FACILITIES

Waives the sovereign immunity of the United States for purposes of enforcement of any federal, state, interstate and local requirement over the handling or disposal of medical waste against any Federal department, agency, or instrumentality—this includes all administrative orders, civil, criminal penalties and fines.

The waiver of sovereign immunity applies to any agent, employee or officer of the United States.

Defines "person" to include each department, agency, and instrumentality of the United States.

CONCERNS

Would subject all military facilities, including military and civilian personnel of the Department of Defense, to state and local enforcement of applicable requirements (including criminal prosecution and assessment of civil penalties) involving the handling and disposal of medical waste.

Would expose Department of Defense appropriations to an unconstrained state and local quest for civil penalties and other fees that could jeopardize the execution of other defense programs by diverting funds from their intended use.

Despite the fact that this section would have a significant impact on Department of Defense operations, the Armed Services Committee has not been given the opportunity to review and consider these issues. In fact, the committee has previously requested sequential referral of similar legislation dealing with the handling, treatment and disposal of hazardous waste.

□ 2030

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield 4 minutes to the gentleman from Oregon [Mr. WYDEN] who has helped to further this legislation tremendously by the hearings which he held in the Committee on Small Business.

Mr. WYDEN. I thank the gentleman for yielding.

Mr. Speaker, first of all I want to commend the chairman of the subcommittee, the gentleman from Ohio [Mr. THOMAS A. LUKEN], for doing a tremendous job in moving this legislation so expeditiously. It took a great deal of work to get this to the floor so quickly.

I commend him for it and thank him for his help.

Mr. Speaker and colleagues, there is this perception that the medical waste problem is an east coast problem and that it is a matter of a few bloody syringes and vile specimens washing up on the shores of the east coast. I would just tell my colleagues that this is a national problem.

The fact of the matter is that the medical waste system in this country is broken, it is overloaded and in effect it is starting to regurgitate what it cannot keep down.

It is high time, I think, that we dealt with this issue. It is an important health care question.

According to the Federal Centers for Disease Control 200 to 300 health care workers, some of them waste handlers, die of hepatitis B each year. Many of those can be traced to exposure to infectious materials.

Under this legislation I think we are going to make an important start toward properly labeling these wastes, packaging them and handling them and for the first time tracking them to their ultimate destination.

This is particularly important, because in the hearings that I held this summer, the Office of Technology Assessment told us that as the metropolitan areas begin to have more difficulty dealing with these wastes, more wastes are being shipped out across State lines, and there is a greater threat of illegal dumping or midnight dumping. We are starting to see that process already in the smaller States, in the rural States.

I think the fact that this legislation permits us to track these wastes is reason alone to move this initiative.

Also important in this bill are the studies. These will lay the foundation for good regulation. The health effects study will help us understand the public health implications of this problem, and, in particular, the implications for workers who handle this waste. It is my hope that the agency preparing the study can illustrate its findings with case histories of injured or infected subjects. In fact, as part of the study the agency may want to put together a collection of case histories.

The Environmental Protection Agency's study of the waste problem will provide key information on treatment methods: how effective are they, and what makes the difference between treatments that works and practices that threaten public health and the environment.

I will note, Mr. Speaker, that one reason we are here is that the Environmental Protection Agency has dragged its feet on this matter. They have not even done the basic research that is necessary to tell us what wastes involved here are dangerous and what wastes are not. This legislation would let us track these wastes, give us national information as a result of these studies so that communities can know what they need to do to protect themselves, how to package, label, segregate, treat, and dispose of these wastes. I think it is high time that we moved an important federal initiative.

One last point, Mr. Speaker: At our hearings this summer the EPA told us that as of this summer they had budgeted exactly one staff position to deal with the medical waste issue. That is why we need this legislation.

Mr. SAXTON. Mr. Speaker, will the gentleman yield?

Mr. WYDEN. I yield to the gentleman from New Jersey.

Mr. SAXTON. I thank the gentleman for yielding.

Mr. Speaker, I would just like to say to the gentleman that I agree totally with him, particularly with the first part of his statement wherein he indicated that he believed this is a nationwide problem and indeed it is. Indeed, in H.R. 3478 which was introduced by Congressman HUGHES and me a year ago this month, we provided the idea and the vehicle through which a nationwide system might be built and adopted. And in fact I think many of us including my colleague from New Jersey [Mr. FLORIO], and I both believe that the EPA probably currently has the authority to develop such a system without any legislation.

Mr. WYDEN. If the gentleman will let me reclaim my time, I agree with him. Again, we see the problem that stems from EPA's dilatory tactics.

For example, at this summer's hearing EPA told my subcommittee the programs were working well at the State level. We inquired further. It turned out that EPA had not even evaluated what the States were doing in this area and would not have that job done until March 1989. So the gentleman's point that we need a national program is right on target. I am glad at least in the House that we have got bipartisan support for this bill, with his support, that of our chairman from Ohio, and, of course, the fine work done by our colleague, the gentleman from New Jersey [Mr. FLORIO].

Mr. WHITTAKER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield four minutes to the gentleman from Ohio [Mr. ECKART] who has been very active in this legislation and has offered a very important amendment which the subcommittee supports and which I support.

Mr. ECKART. I thank my colleague for yielding his generous time and I thank my other Members who have expressed additional interest in this, Mr. WHITTAKER, Mr. FLORIO, the Judiciary Subcommittee which have been helpful in raising, as the gentleman has suggested, the penalties that are so significant here to effectively send the proper message that those who want to abuse our environment are going to pay a price for it.

My district in northeastern Ohio is one of those that was unfortunately visited by the product of this unfortunate dumping incident.

In the Greak Lakes States which will have an option to participate in this program, we know all too well that the fresh water contained in that watershed is a very important environmental resource for us. But for many communities that border the Great Lakes States, it is also an important economic opportunity as well.

So for the families on the east coast or on the as we like to call it, America's north coast, hope to take advantage of this economic opportunity discover headlines screaming at them across the pages of the newspapers and leading stories on our television and radio broadcasts that "where you may go play is very unsafe, and indeed may prove to be a threat to your life beyond which you normally would have expected in those circumstances," you quickly realize we have jeopardized both our environmental and economic health.

Passage of H.R. 3515 sends a very significant message to the communities that will be affected by the disposal of infectious wastes and to those in the regulatory regime who are responsible for regulating it.

The bill today brings us one step closer to directing the EPA to track medical wastes from generation to disposal in selected States.

There are many who would like to see permanent treatment at the generating site of the infectious waste. Clearly that is something that will have to be addressed in future legislation. Clearly there are those who would like to see a national program to deal with the product of a waste stream that is threatening to find its way into more and more landfills all across this Nation.

But the approach the House bill today has before us suggests a responsible and balanced first step towards addressing the medical waste pollution.

A constituent wrote at the height of the bad publicity in my district, "I have been swimming in Lake Erie since I was a baby. And this has never happened to me before. I found these syringes. I am disgusted and angry. Maybe the sign 'Lake Erie, please don't die' needs to be repainted again."

Without this bill she may be right. But with this bill we will hold out hope and opportunity for those who utilize our most precious economic and environmental resources that we care and are concerned and are willing to work and fight to preserve and protect our fresh water.

Mr. Speaker, I rise to express my strong support for H.R. 3515, the Medical Waste Tracking Act of 1988, which was reported by voice vote by the Committee on Energy and Commerce. I would also like to commend Mr. LUKEN, chairman of the Subcommittee on Transportation, Tourism and Hazardous Materials, and the chairman of the full committee, Mr. DINGELL, for their leadership in bringing this initiative to the House floor in such an expeditious manner.

Mr. Speaker, this summer, citizens across the country watched horrified as medical waste of every sort imaginable washed up along beaches from the Great Lakes to the east coast. In my home State of Ohio, hundreds of syringes, some with intact hypodermic needles, washed ashore along Lake Erie.

As testimony before the Energy and Commerce Committee's Subcommitte on Hazardous Materials clearly indicates, a Federal solution is necessary because of the serious lack of uniformity solution is necessary because of the serious lack of uniformity among existing State regulations.

Unfortunately, the Federal Government's response to date has been inadequate, at best. The Environmental Protection Agency has failed to gather adequate information on the quantity and types of medical waste generated in this country, on the various methods for treatment and disposal of medical waste, or even on the adequacy of State laws governing the tracking or handling of medical waste.

While EPA recently announced a task force to study infectious waste issues, following prompting by the committee, the agency has let the problem sit since the late 1970's when regulations were originally deferred to further study. Mr. Speaker, we simply cannot afford to wait another decade while the EPA decides what to do.

The bill before us today brings us one step closer to a solution by directing the EPA to track medical waste from generation to disposal in selected States. The legislation also includes a statutory definition of medical waste, establishes civil and criminal penalties for violations of the bill's requirements, and requires a report to Congress on hospital incineration practices. In addition, H.R. 3515 mandates that EPA examine and report to Congress in a timely manner on issues associated with treatment, handling, transportation and disposal of medical waste.

Finally, the bill includes important provisions patterned after legislation I introduced and the Energy and Commerce Committee accepted to ensure that Federal facilities—in this case veterans hospitals, and medical laboratories—follow the same regulations and face the same sanctions as other private sector facilities.

The approach the House will vote on today is a responsible and balanced first step to addressing medical waste pollution. Throughout this process, I urge my colleagues to keep in mind the human consequences of infectious waste pollution. I recently received one of the most disturbing letters I have ever had from a constituent detailing her experience swimming at a beach along Lake Erie where syringes have washed ashore. The constituent wrote:

> I have been swimming in Lake Erie since I was a baby and this has never happened to me before. * * * I am disgusted and angry. * * * Maybe the sign "Lake Erie please don't die" needs to be repainted.

Without this bill she may be right. Let us hope not.

I urge my colleagues to support this legislation.

Mr. SMITH of Florida. Mr. Speaker, medical waste pollution on our Nation's shores is a national disgrace which has made its way to the State of Florida. During the weekend of September 16, 1988, a syringe and a medical bag filled with blood were found on a portion of the popular Fort Lauderdale beach. These findings were no surprise to local police who claim that hospital gloves, plastic bags filled with fluid, and syringes have become a common phenomenon along the beach, like seashells.

I am pleased that the House again is taking action to address this pressing problem. The House recently passed H.R. 5225, the Health Waste Antidumping Act, which I cosponsored. This legislation makes it a felony for anyone knowingly and without lawful authority to dump health care facility waste either at sea or on the land and also provides forfeiture sanctions for property used or derived from the illegal acts. H.R. 3515, the Medical Waste Tracking Act, which we are considering today, will nicely complement H.R. 5225.

H.R. 3515, like H.R. 5225, imposes civil and criminal penalties for those who are responsible for willfully disposing of medical waste. In addition, it creates a tracking system for medical waste in an effort to answer many questions: Where is this waste generated? How does it end up on our beaches? How can we stop it?

H.R. 3515 requires the Environmental Protection Agency [EPA] to establish a 2-year demonstration program to track medical waste in New York, New Jersey, Connecticut, and the Great Lakes. As we all recall this past summer, many of the beaches in these areas were closed in response to the presence of medical waste which seemed to suddenly appear out of nowhere. The enactment of H.R. 3515 would enable medical waste, such as hypodermic needles and scalpels, surgical and laboratory wastes, blood, and medical instruments to be tracked from the point of generation to the point of disposal.

It is unfortunate that EPA waited for Congress to take the initiative on the medical waste pollution front. Although EPA has supported good management and housekeeping practices and education programs for those who handle medical waste, EPA has procrastinated since 1980 in developing strict final rules to deal with this problem. Now, EPA has expressed its support for medical waste legislation. I look forward to both Congress' and EPA's working together to stop this pollution.

As a supporter of H.R. 3515 and a cosponsor of H.R. 5225, I urge my colleagues to get directly involved in the medical waste issue by supporting legislation to control and stop this ugly and potentially dangerous pollution.

Mr. McGRATH. Mr. Speaker, I am pleased to rise today in strong support of H.R. 3515, the Medical Waste Tracking Act. I would like to thank Chairman LUKEN, and the entire Energy and Commerce Committee for reporting out a bill instrumental in helping to clean up our Nations' shores.

While at times it is understandable for minimal amounts of natural pollution to wash ashore, the recent rash of sewage containing syringes, blood vials, and infectious hospital waste, is intolerable. Long Island's most precious natural resource is its miles of rich, clean, sandy ocean shoreline. The island's beaches serve as both a recreation area and leading econmic base for the entire metropolitan New York area. To have these beaches closed due to human error or oversight is a hardship the people of this region should not have to bear.

Briefly, H.R. 3515 requires the Environmental Protection Agency to establish a 2-year demonstration program to track medical wastes. The program will operate in New York, New Jersey, Connecticut, and the Great Lakes area. The bill identifies 10 types of medical wastes that must be tracked, including blood, medical instruments such as hypodermic needles and scalpels, and surgical and laboratory wastes that have been in contact with infectious agents. Most important, violators of the act would be subject to civil and criminal penalties for noncompliance and willful violations.

The time has come for Federal action to prevent further dumping of medical wastes in our oceans. H.R. 3515 is a sensible approach to the medical waste enigma and I ask my colleagues to join me in support of this legislation.

Mr. SLATTERY. Mr. Speaker, recent events have focused the public's attention on the improper disposal of medical waste. From the floating garbage barge to east coast beach closings, the American public has recoiled in horror at the perceived threat to human health from improper medical waste disposal.

Medical waste disposal, however, is just a portion of the overall waste disposal problem which plagues many of our States and cities. In many areas of this country, landfill capacity is limited and where available, exorbitantly expensive; recycling initiatives have not been fully pursued; and incineration carries a separate set of concerns.

Still, in other portions of our country, the disposal of waste, including medical waste, has not proven to be a problem. Many States, like Kansas, have acted with foresight in establishing disposal programs which are effective.

The legislation before us today reflects a blend of these facts by establishing a medical waste disposal demonstration program to track wastes from the point of generation to ultimate disposal in the States which we know to be suffering the effects of improper medical waste disposal.

At the same time, the legislation requires EPA to report to Congress, based on the experience gained through the demonstration program, on a number of outstanding issues. Is the disposal of medical waste a national problem? What are the types or categories of medical waste that need to be tracked? Is it appropriate to apply the tracking of medical waste in all parts of the country, in rural areas, or to small quantity generators? What penalties are appropriate to deter violation of a tracking and/or disposal program?

The answers to these questions will help guide Congress should it be determined that a nationwide medical waste disposal program is desirable or necessary.

Because this legislation deals with a whole new category of generators—hospitals, physicians, dentists, laboratories—previously unregulated under RCRA and for whom little information exists, I have had a keen interest in the enforcement provisions of this legislation.

After a great deal of discussion, the bill establishes a civil penalty of up to $25,000 per day of violation, and a criminal penalty of up to $50,000 per day of violation. While I believe these figures are substantial, EPA has been given the authority to tailor, where appropriate, the degree of a civil penalty through the RCRA civil penalty policy. By incorporating this policy, we can be assured that EPA will take into account the seriousness of a violation and any good faith efforts by a entity to comply with the law. Additionally, the bill requires EPA to report on the appropriateness of the penalties established in this demonstration program—information which can be used as a reference should future national legislation be debated.

Again, Mr. Speaker, I rise in support of this legislation, and look forward to reviewing the valuable information it will produce for use in upcoming discussions of this Nation's waste disposal problems. Also, Mr. Speaker, I would like to thank my colleagues on the committee who worked with me to find a mutually agreeable solution with respect to the enforcement provisions of this legislation.

Mr. DAVIS of Michigan. Mr. Speaker, I rise in support of H.R. 3515, a bill which creates a medical waste tracking system.

Medical waste is not just a problem plaguing our eastern shores—we have witnessed used syringes, blood bags, bandages, and other medical paraphernalia washing ashore in Lake Erie, and most recently Lake Michigan. The Lake Erie episode gave me the impetus to introduce legislation to prohibit the dumping, disposal, or other discharge of medical waste into the Great Lakes or along their shores: H.R. 5249. This bill also directs the Environmental Protection Agency to develop a tracking system for medical waste, to develop guidelines for reducing the amount and infectious nature of medical waste produced in the Great Lakes States, and authorizes the National Oceanic and Atmospheric Administration to conduct a monitoring and research program to help track the sources of medical waste in the Great Lakes.

Unfortunately, the press of business will not allow this bill to be passed by the House this Congress, but I am pleased to see that Mr. LUKEN's bill does include a medical waste tracking proposal which is applicable to the Great Lakes. There are those of us who believe that a national program is necessary, but the demonstration program authorized by H.R. 3515 is a good start.

The committee on which I serve as ranking Republican, the Merchant Marine and Fisheries Committee, is currently negotiating with the Senate over final provisions of a bill regulating the ocean disposal of sewage sludge. As part of these deliberations, I hope that we will be able to consider some additional aspects of medical waste regulations, such as liability for cleanup costs and economic loss caused by medical waste on our beaches and increased civil and criminal fines for those who threaten our health, our environment, and our economies with medical debris.

I urge my colleagues to support this important piece of the medical waste puzzle.

Mr. COOPER. Mr. Speaker, I rise in support of H.R. 3515, the Medical Waste Demonstration Act. This bill will help us begin to get a handle on the problem of medical waste.

H.R. 3515 will set up a 2-year demonstration project to track medical waste in several States. It's important to emphasize that this is just a demonstration project. There's a growing awareness that medical waste is a problem. But is it just a more distasteful aspect of the larger solid waste problem, or does it pose special hazards in itself?

Before we consider more comprehensive, nationwide legislation, we need to answer two questions: What is the scope of the problem, and what's the best way to solve it?

This bill will help us answer both. In the demonstration States it will track the medical waste from point of generation to disposal, and it will tell us if a tracking system is a good way of making sure medical waste goes where it's intended to go. It will tell us whether this problem merits the stiff fines levied on hazardous waste, and what health problems medical waste—especially infectious waste—poses.

Some States have already acted on their own. I'm proud that this year Tennessee put into place rigorous regulations on infectious waste. When Congress considers what we need at the Federal level, it would be instructive not only to consider the results of the demonstration projects in H.R. 3515 but also the experience of States like Tennessee.

I urge my colleagues to support this important legislation.

Mr. LENT. Mr. Speaker, I am very pleased that we are considering legislation to address problems posed by medical waste. In my district on Long Island, medical waste is a very real and and significant problem. I'm sure everyone remembers the garbage and medical waste washups and the closings imposed on many beaches during the last two summers, particularly in New Jersey, and Long Island.

These closings placed severe economic hardships on the beach communities, and ruined many summer vacations. To help us cope with the medical waste crisis, I have cosponsored several pieces of legislation that address different aspects of the problem. H.R. 3515 is potentially the most useful, because it directs the EPA to develop a way to track medical waste from its point of generation to point of incineration or disposal. In addition, this bill directs EPA to submit reports to Congress describing what the agency knows about the generation, handling, treatment, storage, and disposal of medical waste. I am sure this information will prove to be invaluable to us when we try to fashion an appropriate national regulatory response.

Last month, during hearings at Jones Beach, Long Island, I got the impression that small clinics and small hospitals and other medical people were stashing their waste in glad bags, rather than so-called red bags, because of the high expense involved in properly disposing red bag or hospital waste. With this legislation, it will be less likely that this improper and haphazard method of waste disposal will continue. In addition to developing useful information, this bill should also provide immediate relief to those States that decide to join in the tracking demonstration program by helping EPA and the States identify and hold accountable, those businesses and people involved with the improper disposal of medical waste.

Mr. Speaker, there is no question that this country has a serious solid waste disposal problem. Major media stories such as the wandering garbage barge and beach closings constantly remind us that the problem is getting worse—not better.

We've got a long way to go in handling the garbage crisis. The tracking program set up in H.R. 3515 will help us develop information to understand the magnitude and characteristics of our medical waste stream. That information will give us direction to go forward and improve the Nation's management of medical waste. These steps and many more are required to ensure that we won't experience more garbage minidrama's on the evening news. I urge my House colleagues to support this legislation.

In closing, I want to thank the chairman of the Energy and Commerce Committee, Mr. DINGELL for his fine efforts in getting this bill before the House this year. I also want to commend the efforts of other members of the committee, particularly Mr. WHITTAKER, Mr. LUKEN, Mr. FLORIO, and Mr. SLATTERY.

Mr. SIKORSKI. Mr. Speaker, I rise in support of this legislation. The Medical Waste Tracking Act of 1988 is a fifth step in crafting a comprehensive national regulatory program for both infectious and noninfectious medical waste. The bill calls for tracking not only infectious wastes, but also requires EPA to track noninfectious wastes unless those wastes are not hazardous to health or the environment. Although EPA has been provided some discretion to remove noninfectious wastes from the regulatory program if a waste truly poses no hazard to health or the environment, one of the goals of this legislation is for EPA to work with demonstration States to gather as much information as possible from both the tracking program and treatment study, so that we can draft national legislation based upon a reliable data base. For this reason, EPA must use its discretion sparingly so that this goal is achieved.

Although improperly disposed infectious waste which washes onto our shores poses an immediate hazard to our health and the environment, a noninfectious needle may pose no less a threat to a youngster who accidentally steps on it. The sight of medical waste littered upon our shores has damaged not only our local economies which rely on the sea for their livelihood, but has offended our senses and awakened us to the value and frailty of our natural landscape.

We need strong national legislation which regulates the generation, handling and disposal of medical waste not only for the sake of our beaches but also to provide protection to those who must handle these wastes throughout the disposal process. I urge my colleagues to support the regional demonstration program called for in this legislation is a first step toward solving our medical waste disposal problem. We have seen that the EPA is unwilling to regulate any aspect of the generation, handling or disposal of these wastes. The EPA has had the authority to regulate infectious wastes for the past 10 years, yet has refused to act. Now, let us act. In the face of this unwillingness and in the absence of critical data, this bill will provide us with the tools to craft an effective national program in the coming months.

Mr. DOWNEY of New York. Mr. Speaker, today the House will consider H.R. 3515, the

Medical Waste Tracking Act of 1988. I urge my colleagues to support this vital legislation.

Few of us will be able to forget the summer of 1988. Used syringes, AIDS and hepatitis contaminated blood vitals, and other medical waste—the nightmares of today's society not safely labeled and disposed of but washing up on the beaches that our families vacation on each year. In my district on Long Island the medical tide left behind a wake of economic damages that we are only beginning to add up. Thankfully, personal injuries were avoided.

The events of this summer offer the strongest argument in favor of H.R. 3515. We can not allow even the slightest chance for these wastes to be improperly disposed of. In September, I sponsored a hearing on the issue of medical wastes and its proper disposal. The expert witnesses at this hearing endorsed provisions like those incorporated in H.R. 3515 as a means of stopping the illegal disposal of medical wastes.

I commend Mr. LUKEN for his efforts on this legislation. It creates a manifest system of tracking potentially dangerous and infectious wastes from the moment of use until disposal. This is good legislation and I encourage my colleagues to join me in support of it.

Mr. **THOMAS A. LUKEN.** Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The **SPEAKER** pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Ohio [Mr. THOMAS A. LUKEN] that the House suspend the rules and pass the bill, H.R. 3515, as amended.

The question was taken.

Mr. RAY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The **SPEAKER** pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. **THOMAS A. LUKEN.** Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter therein, on H.R. 3515, the bill just considered.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

WASTE REDUCTION ACT OF 1988

Mr. **THOMAS A. LUKEN.** Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2800) to improve Environmental Protection Agency data collection and dissemination regarding reduction of toxic chemical emissions across all media, to assist States in providing information and technical assistance about waste reduction, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2800

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the "Waste Reduction Act of 1988".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Findings and policy.
Sec. 3. Definitions.
Sec. 4. EPA activities.
Sec. 5. Grants to States for State technical assistance programs.
Sec. 6. Source reduction clearinghouse.
Sec. 7. Source reduction and recycling data collection.
Sec. 8. EPA report.
Sec. 9. Savings provisions.
Sec. 10. Authorization of appropriations.
Sec. 11. Implementation.

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds that:

(1) The United States of America annually produces millions of tons of toxic chemical waste and spends tens of billions of dollars per year controlling this pollution.

(2) There are significant opportunities for industry to reduce the generation of waste at the source through cost-effective changes in production, operation, and raw materials use. Such changes offer industry substantial savings in reduced raw material, waste management, and liability costs as well as help protect the environment and reduce risks to worker health and safety.

(3) The opportunities for source reduction are often not realized because existing regulations, and the industrial resources they require for compliance, focus upon treatment and disposal, rather than source reduction; existing regulations do not emphasize multi-media management of waste; and businesses need information and technical assistance to overcome institutional barriers to the adoption of source reduction practices.

(b) POLICY.—The Congress hereby declares it to be the national policy of the United States that, the generation of waste should be reduced or eliminated at the source, whenever feasible; waste that is generated should be recycled, whenever feasible; waste that cannot be reduced or recycled should be treated in an environmentally safe manner; and disposal should be employed only as a last resort and should be conducted in an environmentally safe manner.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "agency" means the Environmental Protection Agency.

(3) The term "toxic chemical" means any toxic chemical on the list described in section 313(c) of the Superfund Amendments and Reauthorization Act of 1986.

(4) The term "release" has the same meaning as provided by section 329(8) of the Superfund Amendments and Reauthorization Act of 1986.

(5)(A) The term "source reduction" means any practice which—

(i) reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream (or otherwise released into the environment) prior to recycling, treatment, or disposal; and

(ii) reduces the hazards to public health and the environment associated with the release of such substances, pollutants, or contaminants.

The term includes equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control.

(B) The term "source reduction" does not include any practice which alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity separate from the production of a product or the providing of a service.

(6) The term "multi-media" means air, water, and land.

(7) The term "recycling" means the reuse or reclamation, through a process or activity separate from the production of the primary product or the provision of the primary service, of a hazardous substance, pollutant, or contaminant in a waste stream.

SEC. 4. EPA ACTIVITIES.

(a) AUTHORITIES.—The Administrator shall establish in the Environmental Protection Agency an office to carry out the functions of the Administrator under this Act. The office shall be independent of the Agency's single-medium program offices but shall have the authority to review and advise such offices on their activities to promote a multi-media approach to source reduction. The office shall be under the direction of such officer of the Environmental Protection Agency as the Administrator shall designate.

(b) FUNCTIONS.—The Administrator shall develop and implement a strategy to promote source reduction. As part of the strategy, the Administrator shall take each of the following actions—

(1) The Administrator shall ensure that the Environmental Protection Agency considers the effect of its existing and proposed programs on source reduction efforts and shall review proposed regulations of the Environmental Protection Agency to determine their effect on source reduction.

(2) The Administrator shall coordinate source reduction activities in each Environmental Protection Agency Office.

(3) The Administrator shall investigate methods of coordinating and streamlining data collection requirements under existing environmental statutes. The Administrator shall develop an inventory of existing data, consider developing common nomenclature, consistent reporting formats, and compatible data storage and retrieval systems.

(4) The Administrator shall determine what capabilities the Environmental Protection Agency should have to measure waste generation and management practices in the United States. The Administrator shall determine what, if any, changes are needed in existing agency practices with respect to the collection and handling of data regarding the generation and management of waste.

(5) The Administrator shall facilitate the adoption of source reduction techniques by businesses. This strategy shall include the use of the Source Reduction Clearinghouse and State matching grants provided in this Act to foster the exchange of information regarding source reduction techniques, the dissemination of such information to businesses, and the provision of technical assistance to businesses. The strategy shall also consider the capabilities of various businesses to make use of source reduction techniques.

(6) The strategies shall include measurable goals where appropriate which reflect the overall goal of the strategies, the tasks necessary to achieve the goals, dates at which the principal tasks are to be accomplished, required resources, organizational responsibilities, and the means by which progress in meeting the goals will be measured.

(7) The Administrator shall establish a senior level liaison group with industry, public interest groups, and State source reduction program officials to provide guidance to the Administrator, to provide outreach to the industrial community, and to provide a liaison group for the educational community to promote the introduction of source reduction principles into engineering and management curricula.

(8) The Administrator shall establish an advisory panel of technical experts comprised of representatives from industry, the States, and public interest groups, to advise the Administrator on ways to improve collection and dissemination of data.

SEC. 5. GRANTS TO STATES FOR STATE TECHNICAL ASSISTANCE PROGRAMS.

(a) General Authority.—The Administrator shall make matching grants to States for programs to promote the use of source reduction techniques by businesses.

(b) Criteria.—When evaluating the requests for grants under this section, the Administrator shall consider, among other things, whether the proposed State program would accomplish the following:

(1) Make specific technical assistance available to businesses seeking information about source reduction opportunities, including funding for experts to provide onsite technical advice to businesses seeking assistance.

(2) Target assistance to businesses for whom lack of information is an impediment to source reduction.

(3) Provide training in source reduction techniques. Such training may be provided through local engineering schools or any other appropriate means.

(c) Matching Funds.—Federal funds used in any State program under this section shall provide no more than 50 percent of the funds made available to a State in each year of that State's participation in the program.

(d) Effectiveness.—The Administrator shall establish appropriate means for measuring the effectiveness of the State grants made under this section in promoting the use of source reduction techniques by businesses.

(e) Information.—States receiving grants under this section shall make information generated under the grants available to the Administrator.

SEC. 6. SOURCE REDUCTION CLEARINGHOUSE.

(a) Authority.—The Administrator shall establish a Source Reduction Clearinghouse to compile information generated by States receiving grants on management, technical, and operational approaches to source reduction. The Administrator shall use the clearinghouse to—

(1) serve as a center for source reduction technology transfer,

(2) mount active outreach and education programs by the States to further the adoption of source reduction technologies; and

(3) collect and compile information reported by States receiving grants under section 5 on the operation and success of State source reduction programs.

(b) Public Availability.—The Administrator shall make available to the public such information on source reduction as is gathered pursuant to this Act and such other pertinent information and analysis regarding source reduction as the Administrator deems appropriate, on a cost reimbursable basis. It shall be within the Administrator's discretion to determine the most feasible method for making such information available, including the use of computers.

SEC. 7. SOURCE REDUCTION AND RECYCLING DATA COLLECTION.

(a) Reporting Requirements.—Each owner or operator of a facility required to file an annual toxic chemical release form under section 313 of the Superfund Amendments and Reauthorization Act of 1986 ("SARA") for any toxic chemical shall include with each such annual filing a toxic chemical source reduction and recycling report for the preceding calendar year. The toxic chemical source reduction and recycling report shall cover each toxic chemical required to be reported in the annual toxic chemical release form filed by the owner or operator under section 313(c) of that Act. This section shall take effect with the annual report filed under section 313 for the first full calendar year beginning after the enactment of this Act.

(b) Items Included in Report.—The source reduction and recycling report required under subsection (a) shall set forth each of the following on a facility-by-facility basis for each toxic chemical:

(1) The quantity of the chemical entering any waste stream (or otherwise released into the environment) prior to recycling, treatment, or disposal during the calendar year for which the report is filed and the percentage change from the previous year. The report filed for any facility which produces only a single product and for which reporting the quantity of chemical entering the waste stream would cause public disclosure of a proprietary process may, at the option of the owner or operator, report only the percentage change from the previous year. When actual measurements of the quantity of a toxic chemical entering the waste streams are not readily available, reasonable estimates should be made based on best engineering judgment.

(2) The amount of the chemical from the facility which is recycled (at the facility or elsewhere) during such calendar year and the percentage change from the previous year.

(3) The source reduction practices used with respect to that chemical during such year at the facility. Such practices shall be reported in accordance with the following categories unless the Administrator finds other categories to be more appropriate:

(A) Equipment, technology, process, or procedure modifications.

(B) Reformulation or redesign of products.

(C) Substitution of raw materials.

(D) Improvement in management, training, inventory control, materials handling, or other general operational phases of industrial facilities.

(4) The amount expected to be reported under paragraphs (1) and (2) for the 2 calendar years immediately following the calendar year for which the report is filed. Such amount shall be expressed as a percentage change from the amount reported in paragraphs (1) and (2).

(5) A ratio of production in the reporting year to production in the previous year. The ratio should be calculated to most closely reflect all activities involving the toxic chemical. It shall not be necessary to indicate the units on which the ratio is based. In specific industrial classifications subject to this section, where a feedstock or some variable other than production is the primary influence on waste characteristics or volumes, the report may provide an index based on that primary variable for each toxic chemical.

(6) The techniques which were used to identify source reduction opportunities. Techniques listed should include, but are not limited to, employee recommendations, external and internal audits, participative team management, and material balance audits. Each type of source reduction listed under paragraph (3) should be associated with the techniques or multiples of techniques used to identify the source reduction technique.

For the first year of reporting under this subsection, comparison with the previous year is required only to the extent such information is available.

(c) SARA Provisions.—The provisions of sections 322, 325(c), and 326 of the Superfund Amendments and Reauthorization Act of 1986 shall apply to the reporting requirements of this section in the same manner as to the reports required under section 313 of that Act. The Administrator may modify the form required for purposes of reporting information under section 313 of that Act to the extent he deems necessary to include the additional information required under this section.

(d) Additional Optional Information.—Any person filing a report under this section for any year may include with the report additional information regarding source reduction, recycling, and other waste management techniques in earlier years.

(e) Availability of Data.—Subject to section 322 of the Superfund Amendments and Reauthorization Act of 1986, the Administrator shall make data collected under this section publicly available, on a cost reimbursable basis.

SEC. 8. EPA REPORT.

(a) Biennial Reports.—The Administrator shall provide Congress with a report by September 30, 1989, and biennially thereafter, containing a detailed description of the actions taken to implement the strategy to promote source reduction developed under section 4(b) and of the results of such actions. The report shall include an assessment of the effectiveness of the clearinghouse and grant program established under this Act in promoting the goals of the strategy.

(b) Subsequent Reports.—Each biennial report submitted under subsection (a) after the first report submitted on September 30, 1989, shall contain each of the following:

(1) An analysis of the data collected under section 7 on an industry-by-industry basis for not less than 5 SIC codes or other categories as the Administrator deems appropriate. The analysis shall begin with those SIC codes or other categories of facilities which generate the highest volumes of toxic chemical waste.

(2) An analysis of the usefulness and validity of the data collected under section 7 for measuring trends in source reduction and the adoption of source reduction by business.

(3) Identification of regulations that may inhibit source reduction, and of opportunities within existing regulatory programs to promote and assist source reduction.

(4) Identification of priority industries and pollutants that require assistance in multi-media source reduction.

(5) Recommendations as to incentives needed to encourage investment and research and development in source reduction.

(6) An identification of any industries for which source reduction is not feasible, due either to the nature of the manufacturing process or cost.

SEC. 9. SAVINGS PROVISIONS.

Nothing in this Act shall be construed to modify or interfere with the implementation of title III of the Superfund Amendments and Reauthorization Act of 1986.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Administrator $4,000,000 for each of the 3 fiscal years beginning after the enactment of this Act for functions carried out under this Act (other than State grants) and $8,000,000 for each of the three fiscal years after enactment of this Act for the State grant program.

SEC. 11. IMPLEMENTATION.

The Administrator is authorized to issue such rules, regulations, and orders as may be necessary to carry out the provisions of this Act.

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **WHITTAKER.** Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Ohio [Mr. THOMAS A. LUKEN] will be recognized for 20 minutes and the gentleman from Kansas [Mr. WHITTAKER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. THOMAS A. LUKEN].

Mr. **THOMAS A. LUKEN.** Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, since 1970 Congress has enacted extensive environmental legislation directed toward the treatment and disposal of toxic wastes. There has also been substantial legislation designed to handle the clean-up of waste dumps and spills.

While these are very important pieces of legislation, it is becoming clear to many in Government and industry, as well as to private individuals, that end-of-the-pipe pollution controls are not enough. Enormous amounts of toxic waste continue to be released into the air, water, and land, despite stricter pollution controls and skyrocketing waste management costs.

The Waste Reduction Act of 1988, the bill now before the House, heralds a new approach to preventing environmental pollution. While other legislation has focused on the treatment or disposal of waste that has already been created, this bill is aimed at reducing toxic waste at the source—before it is generated.

Mr. Speaker, there is increasing evidence of the economic and environmental benefits to be realized in reducing toxic industrial waste at the source rather than managing such waste after it is produced. In reports to Congress in 1986 and 1987, the Office of Technology Assessment projected that source reduction techniques using existing technology could reduce waste currently generated by as much as 50 percent over the next 5 years. Furthermore, OTA concluded that a modest Federal investment in waste reduction information collection and a grant program to the States for technical assistance to aid industry would more than pay for itself in a few years.

Testimony received by our subcommittee showed that some companies have made substantial reductions in their toxic waste by implementing manufacturing process changes, raw material substitutions, and other available techniques.

At the same time, factors inhibiting the increased use of these kinds of source reduction techniques by other companies have little to do with technological constraints, economic costs, or governmental prohibitions. In fact, lack of awareness or lack of information was cited as the most common reason more companies do not practice source reduction. Many company managers simply are not aware of techniques that could be applied to their business operations. Industries and regulators are frequently so oriented toward meeting the requirements and deadlines of current pollution control regulations and statutes that they do not seek out innovative alternatives.

To help remedy this problem, the Waste Reduction Act of 1988 requires the Environmental Protection Agency to develop and implement a strategy to promote waste reduction at the source. The bill also directs EPA to establish a source reduction clearinghouse to compile information on approaches to source reduction and to facilitate the transfer of source reduction technology; to disseminate information on source reduction techniques; and to promote public education on the benefits of source reduction. In addition, the bill authorizes a program of matching grants to the states for waste reduction programs that promote the use of source reduction techniques by industry.

Finally the bill requires industrial generators of toxic chemicals to file annual reports on their source reduction and recycling activities.

Mr. Speaker, this bill has more than 230 cosponsors in the House. It opens the door to making significant reductions in the amount of toxic waste generated in this country every year. The time has come for the House to pass this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. **WHITTAKER.** Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to take this opportunity to commend the gentleman from Ohio, TOM LUKEN, chairman of the Transportation, Tourism and Hazardous Materials Subcommittee and our distinguished full committee chairman, JOHN DINGELL, for their outstanding efforts in getting this legislation to the House floor. The intelligence, experience, and cooperation of those two gentlemen in crafting a substitute that could garner true bipartisan support in the Energy and Commerce Committee was truly exceptional. Also to be commended are Congressman WOLPE, Congresswoman SCHNEIDER, and all of the members of the Northeast-Midwest Coalition for their efforts in bringing to our attention the importance of also addressing pollution at its source—rather than only after the fact.

For too long, our environmental statute and regulations have focused only on so-called end-of-the-pipe pollution controls. It is time we balance this focus by also considering ways to promote the voluntary adoption of methods to reduce the amount of waste generated in the first place. We must also identify which of our environmental laws inhibit waste minimization. H.R. 2800 will accomplish this.

But frankly, whether or not H.R. 2800 becomes law in the few days remaining in this Congress is not essential to this change in focus. I am pleased to see that Lee Thomas, Administrator of the EPA, has recognized the need for an additional approach. He recently created an Office of Pollution Prevention in the Office of Policy, Planning and Evaluation. This Office should bring a multimedia approach—throughout the Agency—to the reduction of waste containing toxic constituents that is generated in this country. In addition, our Appropriations Committee has provided funds for a Federal clearinghouse on source reduction information. Money has also been appropriated for grants to States to provide this information and technical assistance to businesses that want help in identifying and implementing source reduction practices.

All in all, I believe that all of the cosponsors of this legislation, and the members of the Energy and Commerce Committee, can take pride in making EPA and the States aware of the need to consider, as an important tool in our environmental protection efforts, ways to encourage business to reduce the amount of waste that is generated. And I do believe that the proper Federal role is to encourage and facilitate the voluntary adoption of these techniques by business—and this bill reflects that role.

□ 2045

Mr. Speaker, I reserve the balance of my time.

Mr. **THOMAS A. LUKEN.** Mr. Speaker, I yield 6 minutes to the gentleman from Michigan [Mr. WOLPE], the author of the legislation.

Mr. **WOLPE.** Mr. Speaker, I am very pleased to stand here this evening to speak on behalf of the Waste Reduction Act, which I introduced 1½ years ago with my good friend and colleague, Congressman SCHNEIDER. Together we have worked very hard for this moment and I believe we have created a constructive and intelligent proposal for reducing toxic waste at the source. We have by no means done this alone, however. A bipartisan initiative of the Northeast-Midwest Coalition, our bill has been cosponsored by 234 Representatives, many of whom have worked actively on our behalf: DENNIS ECKART, SHERRY BOELHERT, BILL GREEN, BOB LAGOMARSINO, NANCY JOHNSON, are just a few of those who have been strong supporters from the start. In addition, a number of State Governors, including Governor Martin of North Carolina, Governor Thompson of Illinois, Governor Kean of New Jersey, Governor Celeste of Ohio, and Governor Blanchard of Michigan, have been very supportive.

Of course, we would be nowhere today if it were not for the tremendous help and attention we received from the House Energy and Commerce Committee. I am deeply indebted to my colleagues, Chairman LUKEN, Mr. WHITTAKER, and Chairman DINGELL all of whom made possible the bipartisan compromise this bill embodies. In addition, I would like to thank their staffs, in particular Jack Clough, Dick Frandsen, John Arlington, and Jan Edlestein, who put in the long hours to get us to this point. I am deeply appreciative of the work of my own legislative assistant, Lauren Kenworthy, who has spearheaded this initiative from its inception.

Finally, I am deeply indebted to Inform, Inc., a nonprofit environmental research group, and the Dow Chemical Co. for endless hours of technical advice and assistance. Because of their willingness to approach serious environmental questions directly and pragmatically Inform and Dow have contributed tremendously to the quality of this legislation.

The Waste Reduction Act is designed to encourage industry to reduce the amount of toxic pollution it creates during manufacturing. Its enactment into law cannot come too soon. We now produce over 2 tons of hazardous waste for every man, woman, and child in the Nation each year. As a Representative from Michigan, where ground water contamination is now rampant, I can tell you that environmental and public health costs of that pollution are devastating. There are costs as well to the industrial pocketbook: some $70 billion is spent annually to manage waste, and two-thirds of that price tag is paid by American industry.

Furthermore, we must now confront toxics in all media of the environment. Take the Great Lakes for example: The National Academy of Sciences has found that they are being poisoned not only by toxic air pollution, but also by water pollution and by contaminated land dumps. The buzzword here is multimedia, and it means that the days of believing we could create a safer environment by playing a toxic shell game, moving hazardous wastes from one medium to another, are over.

Seminal studies by Inform, Inc. and the Office of Technology Assessment have led us to a new approach: pollution prevention at the source. Their reports create exciting new evidence that cost-effective changes can be made in the process of American industry that will significantly reduce the volumes of waste generated. The best analogy is to our Nation's efforts to conserve energy by using it more efficiently.

The potential savings—in both waste and dollars—are enormous. According to an Office of Technology Assessment study, industry can reduce the generation of hazardous waste by 50 percent over a 5-year period.

Inform, OTA and others have clearly documented that waste reduction pays, it saves industry money in raw material, waste management and liability costs, while providing comprehensive protection for the environment. But, waste reduction has yet to be widely adopted by industry. Why? In some cases environmentally damaging waste management practices remain cheap and unregulated, thereby reducing the economic incentive to look at prevention was reduced more. In others, there are technical obstacles to waste reduction. Largely, however, there seems to be a corporate failure to recognize the tremendous potential of the waste reduction alternative.

The Waste Reduction Act is a nonregulatory proposal based on a public and private consensus about what will overcome these obstacles. It is designed to encourage industry to recognize waste reduction opportunities through shared information and to create a national data base so that all of us will better understand the problems and solutions to toxic pollution in the future.

It will deliver the message that waste reduction is better for the environment. It's cheaper. It's easier. And it is more profitable for industry. It should bring environmentalists and industry together to demonstrate that sound toxics policy serves the interests of both business and the environment.

I hope that not only this House, but the other body as well will recognize the tremendous opportunity we have to promote pollution prevention this year and that, as we approach the waning hours of the 100th Congress, we will be prepared to return home and tell our constituents: "We are tired of taking pollution for granted we have found a better way. * * *"

I wonder if I may, Mr. Speaker, engage the gentleman from Ohio [Mr. THOMAS A. LUKEN], the chairman, in a brief colloquy.

Mr. WOLPE. I would like to take this opportunity to recognize the critical role that recycling companies can play in helping small business to cope with waste management problems. It is my understanding that the waste management hierarchy reflected in the legislation recognizes the importance of recycling to safer waste management.

THOMAS A. LUKEN. That is correct. In fact, recycling can often be an important adjunct to source reduction for many businesses.

Mr. WOLPE. I would like to draw particular attention to Safety-Kleen as an example of one company that has been in the vanguard of the development of source reduction and recycling methods for many businesses that may lack the resources to investigate those methods on their own. Safety-Kleen is the largest commercial recycler in the United States, providing services to over 300,000 businesses, including auto and auto body repair facilities, fleet operators, dry cleaners, and manufacturing plants. While the company recycles over 38 million gallons of solvents every year, it has also helped to promote source reduction among small businesses. For example, the company has developed equipment that cuts the use of solvents to clean spray paint guns from an average of 30 gallons to 5 gallons per month. They then recycle the remaining 5 gallons of contaminated solvent, and arrange for proper disposal of the small residue.

THOMAS A. LUKEN. That is an excellent example of the waste management hierarchy in action, which this bill is intended to promote. We hope this legislation will encourage the company to continue to break new ground in the development of source reduction methods and recycling services.

Mr. WOLPE. Mr. Speaker, let me again express my appreciation to the gentleman from Ohio [Mr. THOMAS A. LUKEN] and to the gentleman from Kansas [Mr. WHITTAKER] for all their help in facilitating the movement on this legislation.

Mr. FLORIO. Mr. Speaker, will the gentleman yield?

Mr. WOLPE. Mr. Speaker, if I have time, I would be pleased to yield to my good friend, the gentleman from New Jersey [Mr. FLORIO] who has been very helpful in the process.

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield 2 minutes to the gentlemen for whatever colloquy may ensue.

Mr. FLORIO. Mr. Speaker, I thank the gentlemen, and I would like to join likewise with the other Members in commending them. I think it is important to emphasize a point which the gentleman has made. This is a partial response to the need to try to reduce waste and to minimize waste. I think, first and foremost, we acknowledge, as the gentleman acknowledged, that there is a need for strong law enforcement, that law enforcement of the existing environmental laws will drive the technology just as well as the initiatives that are provided in this bill, that we know that as long as cheap, inappropriate disposal forms and mechanisms are out there, industry will not devote the capital to try to change the process, the production process, to minimize the waste and to reduce waste at the source so that we know that this is an important supplement to the overall response that we should be striving for to try to minimize waste.

Mr. Speaker, this is very important, and I commend the gentlemen for what they have done.

Mr. WOLPE. Mr. Speaker, I thank the gentleman from New Jersey [Mr. FLORIO] for his observations. I concur. We have to continue to enforce the environmental laws out there and to clean up the problems that have already been created.

One of the tragedies, however, is that we also seem to respond to crises rather than trying to be ahead of the curve, ahead of the crises, and the whole purpose of this legislation is to increase the savings for the industry with the tremendous potential for waste reduction at the source so that it does not become necessary after the fact to invest huge sums of money in treatment and cleanup. Some of the studies that have been done indicate that a serious source reduction effort on a national basis could reduce the amount of hazardous waste products we are producing by as much as 40 or 50 percent from what they are currently being produced at. That would be a tremendous savings for industry and a tremendous gain for——

The SPEAKER pro tempore. The time of the gentleman from Michigan [Mr. WOLPE] has expired.

Mr. THOMAS A. LUKEN. Mr. Speaker, I am about to yield back the balance of my time, but not without again recognizing the diligence of the gentleman from Michigan [Mr. WOLPE] in addition to his enterprise in introducing this legislation which, after all source reduction of waste, is the optimum, the goal, that we are ultimately striving for in this waste management field. I also particularly wanted to extend my congratulations and thanks to the gentleman from Kansas [Mr. WHITTAKER] and to others on the other side of the aisle because this is a bill which has many complexities and is one where there are certain reservations about it at the inception and that there were many legislative compromises worked out along the road in the long hours, and days and nights of effort. I thank those in the minority, especially the gentleman from Kansas [Mr. WHITTAKER] for his efforts and good will in that regard.

Mr. ROTH. Mr. Speaker, I rise in support of H.R. 2800, the Hazardous Waste Reduction Act, which is designed to reduce the generation of hazardous waste. Over the past 10 years, the Office of Technology Assessment estimates that hazardous waste generation has climbed from approximately 40 million tons per year to over 500 million tons annually. It is projected that upward of $70 billion is spent each year to manage toxic waste.

Toxic wastes pose a significant threat to our environment, public health and economy. At present, businesses and the Federal Government devote the majority of their resources toward cleaning up hazardous wastes rather than addressing the problem of waste generation. Reports by OTA and the Environmental Protection Agency confirm that the actual elimination or reduction of wastes created during the manufacturing process is the best way to limit the environmental and economic ravages of toxic wastes.

Innovative waste reduction techniques can save companies money in raw materials, waste management and liability costs. Several companies including 3M and Dow Chemical have achieved impressive results in reducing toxic waste. In the 12 years since the 3M Co. has implemented its Pollution Prevention Pays Program, the company has saved over $300 million in hazardous waste reduction.

H.R. 2800 seeks to aid companies in implementing new waste reduction techniques by providing access to "how-to" information. Within the EPA, a new source-reduction clearinghouse will be created to serve as an information center to supplement existing State assistance programs. In addition, a matching grants program will be established to directly aid the State program and to help encourage the development of new State programs.

The thrust of the legislation is to educate businesses in implementing proven strategies to initiate toxic waste minimization. H.R. 2800 will aid many small- and medium-sized businesses with equipment modifications, raw material substitutions and other important plant modifications that lead to waste reduction and improved plant efficiency.

Mr. Speaker, I urge my colleagues to support this responsible legislation. It represents a positive first step toward implementing reductions in the generation of hazardous wastes.

Mr. GREEN. Mr. Speaker, I rise today in support of H.R. 2800, the Hazardous Waste Reduction Act. I want all the Members to recognize that the gentleman from Michigan [Mr. WOLPE] has been a congressional leader in the area of waste reduction and it is gratifying to see that the measure has gained such a broad base of support in the 100th Congress. I am pleased to be a cosponsor of this legislation and to witness further congressional action in this pressing matter; testimony before my Appropriations Subcommittee and scientific data that has been available suggests that at reasonable cost, industry could achieve waste reduction of 30 to 50 percent "in the near- to midterm." H.R. 2800 will strengthen the U.S. commitment to waste prevention and reduction, a strategy I consider to be a most effective means of addressing the burgeoning toxic waste crisis.

H.R. 2800 will facilitate the voluntary reduction of hazardous waste at its source through the creation of a new office within the Environmental Protection Agency, a source reduction information clearinghouse, and other information-sharing and information-generating measures.

My Appropriations Subcommittee, HUD-Independent Agencies, has funded EPA waste reduction programs in anticipation of the passage of such legislation as H.R. 2800. In fiscal year 1988, the subcommittee provided $500,000 for salaries and expenses in the waste minimization area, $750,000 for hazardous waste research, and $4,000,000 for State grants. In fiscal year 1989, the subcommittee earmarked $1.7 million within the salaries and expenses account, and added $2 million for hazardous waste research and development and $4 million for State incentive grants for training and technical assistance. These amounts were appropriated in spite of the fact that the EPA requested almost no funding for either waste minimization research and development or policy development. Together with the gentleman from Michigan and his authorizing committee, we believe that it is imperative that the EPA, States, and industry join together in developing economically sound methods of waste reduction.

The prevention and reduction of waste must become a central tenet of our environmental policy if we are to manage our limited natural resources responsibly. As we move beyond waste regulation to source reduction, I believe that H.R. 2800 will significantly contribute to our knowledge and implementation of cost-effective waste minimization techniques.

Miss SCHNEIDER. Mr. Speaker, the best hazardous waste policy is one that is preventive and multimedia. This requires a policy that stops the shifting of hazardous wastes from air to land to water, and instead stops the generation of hazardous wastes at the source. Such is the approach of H.R. 2800, the Hazardous Waste Reduction Act, of which I am the lead Republican cosponsor and a strong supporter.

The Hazardous Waste Reduction Act would:

Create an Office of Waste Reduction at EPA;

Establish a national clearinghouse to assist in the dissemination of waste reduction techniques;

Improve the collection of data under RCRA to obtain better information about industry waste reduction activities;

Provide State grants to encourage innovative waste reduction programs and to help small businesses in reducing their waste output.

Mr. Speaker, a tremendous amount of hazardous waste is generated in our country every day. The EPA estimates that although there are approximately 650,000 generators of hazardous waste in the United States, only 2 percent of these produce most of the waste. The amount of hazardous waste generated in the United States has grown from 9 million tons in 1973 to 247 million tons in 1986. This amounts to more than a ton of hazardous waste for every person in America every year.

There is a shortage of disposal capacity and despite the closing of over 2,000 treatment facilities, very few new facilities are being built. At the same time, the number of Superfund sites is growing. Between 1980 when Superfund was first established and the most current data, the number of Superfund sites has nearly tripled, from 400 in 1980 to 1,177 in 1988. Nine of these sites are in my own State of Rhode Island.

To date, cleanup action has been completed at only 24 of these sites. We are adding sites far more quickly than we are capable of cleaning them up. The Bureau of Census estimates that the gross annual cost of solid and hazardous waste disposal has risen from $827 million in 1976 to $2.4 billion in 1984. The only solution is to combine more rapid cleanup with an immediate reduction in the generation of hazardous waste.

The Hazardous Waste Reduction Act would lower costs to industry and the Government by finding and promoting ways in which industry could economically prevent the generation of hazardous wastes as part of the production process.

Mr. Speaker, I am pleased to have been associated with Mr. WOLPE in working on this important legislation and I strongly urge my colleagues to support its passage and implementation into law.

Mrs. ROUKEMA. Mr. Speaker, I rise in strong support of H.R. 2800 to help States and businesses cope with the Nation's growing garbage crisis. As one of the cosponsors of this legislation, I am encouraged that we are taking positive action in this body to address this serious environmental and public health problem.

The garbage crisis in my home State of New Jersey is especially severe. Dwindling landfill space has forced municipalities in my district to ship their refuse out of State, and skyrocketing disposal fees have resulted. The State has passed a mandatory recycling law, and my constituents are doing a remarkable job of complying with the law's new requirements. However, more must be done at all levels of government, including the Federal Government!

This legislation affords us an opportunity to change gears in our war against mounting garbage. Consider the facts: Over 247 million tons of hazardous wastes are generated in the United States each year, and we spend $70 billion annually to manage the waste and find safe places for disposal. Wouldn't it make more economic sense to help States and industry control and reduce the generation of waste at the source, rather than expending billions to dispose of it? The Environmental Protection Agency and the U.S. Office of Technology Assessment think so, and so do I.

H.R. 2800 sets as national policy the priority of reducing or eliminating hazardous wastes at the source. The bill will aid States and businesses with grants and technical assistance to promote technology which will dramatically reduce the production of wastes. With less waste to manage, we will be able to control our presently out-of-control disposal costs. This legislation adopts a commonsense approach and reinforces a lesson Superfund has taught us: Simply, it costs more for government, business, and industry to clean up rather than to prevent.

Mr. Speaker, we should now persuade the Senate to pass this legislation—this year. For the health and safety of our constituents, we can no longer ignore the garbage crisis.

Mr. THOMAS A. LUKEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHITTAKER. Mr. Speaker, I have no further requests for time, but I would like to restate, if I could, my comments that I made in my statement complimenting the chairman of our subcommittee for his cooperative effort in making this a bipartisan bill, and particularly I applaud the diligence of the gentleman from Michigan [Mr. WOLPE] who carried this cause along by himself for a long time until the rest of us picked up on it.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. THOMAS A. LUKEN] that the House suspend the rules and pass the bill, H.R. 2800, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2800, WASTE REDUCTION ACT OF 1988

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 2800, the clerk be authorized to correct section numbers, punctuation, and cross references, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in passing the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

GENERAL LEAVE

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2800, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ASBESTOS INFORMATION ACT OF 1988

Mr. THOMAS A. LUKEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5442) to provide the Environmental Protection Agency and the public with additional information about asbestos products.

The Clerk read as follows:

H.R. 5442

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Asbestos Information Act of 1988".

SEC. 2. SUBMISSION OF INFORMATION BY MANUFACTURERS.

Within 90 days after the date of the enactment of this Act, any person who manufactured or processed, before the date of the enactment of this Act, asbestos or asbestos-containing material that was prepared for sale for use as surfacing material, thermal system insulation, or miscellaneous material in buildings (or whose corporate predecessor manufactured or processed such asbestos or material) shall submit to the Administrator of the Environmental Protection Agency the years of manufacture, the types or classes of products, and, to the extent available, other identifying characteristics reasonably necessary to identify or distinguish the asbestos or asbestos-containing material. Such person also may submit to the Administrator protocols for samples of asbestos and asbestos-containing material.

SEC. 3. PUBLICATION OF INFORMATION.

Within 30 days after the date of the enactment of this Act, the Administrator shall publish a notice in the Federal Register that explains how, when, and where the information specified in section 2 is to be submitted. The Administrator shall receive and organize the information submitted under section 2 and, within 180 days after the date of the enactment of this Act, shall publish the information. In carrying out this section, the Administrator may not—

(1) review the information submitted under section 2 for accuracy, or

(2) analyze such information to determine whether it is reasonably necessary to identify or distinguish the particular asbestos or asbestos-containing material.

SEC. 4. DEFINITIONS.

In this Act:

(1) The term "asbestos" means—

(A) chrysotile, amosite, or crocidolite, or

(B) in fibrous form, termolite, anthophyllite, or antinolite.

(2) The term "asbestos-containing material" means any material containing more than one percent asbestos by weight.

(3) The term "identifying characteristics" means a description of asbestos or asbestos-containing material, including—

(A) the mineral or chemical constituents (or both) of the asbestos or material by weight or volume (or both),

(B) the types or classes of the product in which the asbestos or material is contained,

(C) the designs, patterns, or textures of the product in which asbestos or material is contained, and

(D) the means by which the product in which the asbestos or material is contained may be distinguishable from other products containing asbestos or asbestos-containing material.

(4) The term "miscellaneous material" means building material on structural components, structural members, or fixtures, such as floor and ceiling tiles. The term does not include surfacing material or thermal system insulation.

(5) The term "protocol" means any procedure for taking, handling, and preserving samples of asbestos and asbestos-containing material and for testing and analyzing such samples for the purpose of determining the person who manufactured or processed for sale such samples and the identifying characteristics of such samples.

(6) The term "surfacing material" means material in a building that is sprayed on surfaces, troweled on surfaces, or otherwise applied to surfaces for acoustical, fireproofing, or other purposes, such as acoustical plaster on ceilings and fireproofing material on structural members.

(7) The term "thermal system insulation" means material in a building applied to pipes, fittings, boilers, breeching, tanks, ducks, or other structural components to prevent heat loss or gain or water condensation, or for other purposes.

The SPEAKER pro tempore. Is a second demanded?

Mr. WHITTAKER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. Thomas A. Luken] will be recognized for 20 minutes and the gentleman from Kansas [Mr. Whittaker] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. Thomas A. Luken].

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge the House to pass H.R. 5442, the Asbestos Information Act of 1988, legislation designed to reduce the tremendous costs associated with litigation filed to recover the costs of abating asbestos hazards in buildings.

This legislation, which I introduced with my colleague Mr. Lent is intended to streamline the discovery portion of the litigation process, making it possible to reduce costs not only for the litigants in these cases but also for taxpayers who foot the bill for the adjudication of these cases as well.

Asbestos abatement litigation can be extremely costly to all parties concerned. Many cases are brought listing 50 or more defendants when the number of parties who may be responsible for the asbestos product in question is closer to 5 or 6. This only results in unnecessary delays and untold costs to the litigants and the taxpayers.

A study done by the Rand Corp. estimates that as much as 60 percent of the total expenditures in asbestos abatement cases went to lawyers rather than claimants. If this is true then something must be done to correct these abuses in litigation. Plaintiffs who have to identify asbestos product manufacturers should be assisted in doing so. Defendants who can be readily eliminated from these cases should be. The result would not only benefit plaintiffs in speeding recovery, lessen paperwork for all parties to the litigation, and reduce the burdens on our already overcrowded court system, but it would be good public policy as well.

H.R. 5442 places minimal information reporting requirements on former asbestos product manufacturers, requirements that could substantially reduce these excessive litigation costs. Manufacturers would be required to provide information to the Environmental Protection Agency on the years their product was produced, the types or classes of products manufactured, and certain identifying characteristics of the product, such as mineral or chemical constituents, designs, patterns, or textures of the products. This information would be reviewed, organized and published by EPA so that it would be available to the public for use in determining the appropriate parties to name in asbestos abatement litigation.

The aim of this legislation is to make this asbestos product information available from EPA so that building owners would be assisted at the outset in identifying the proper asbestos product manufacturer when filing an asbestos abatement claim. It would also afford the court an opportunity to eliminate any of the manufacturers that should not be involved in the suit in the first place.

Mr. Speaker, I will insert in the Record following my remarks a statement explaining the purpose and containing a section-by-section analysis of the bill. This explanatory statement reflects my understanding of the bill and is concurred in by Chairman Dingell, as well as my colleagues Mr. Lent and Mr. Whittaker.

I am pleased with the bipartisan support for this legislation and want to thank my colleagues for helping us move expeditiously on this matter. I strongly urge the House to pass this measure today.

H.R. 5442—Asbestos Information Act of 1988 Purpose and Section-by-Section Analysis

This legislation is intended to facilitate the early identification of the manufacturer or processor of a particular type of asbestos or asbestos-containing material. Earlier identification should help reduce the time and costs associated with naming parties as defendants in asbestos litigation in which the products manufactured or processed by such person were not used in the building which is the subject of the litigation. To accomplish this purpose, H.R. 5442 requires asbestos product manufacturers to submit to the U.S. environmental Protection agency (EPA), information on the types or classes of products, the years of manufacture, and other identifying characteristics of their asbestos-containing products. EPA must then publish this information.

EPA estimates that asbestos-containing material was used in the construction of some 750,000 public and commercial buildings in the United States. Asbestos is a known human carcinogen which can cause lung cancer, mesothelioma, and asbestosis when airborne fibers of the substance are inhaled. Because of this, many building owners have undertaken abatement projects to reduce asbestos exposure in their buildings. More abatement projects can be expected in the future.

Many owners have sued or will sue asbestos manufacturers for the cost of the abatement action. Plaintiffs in such asbestos cases often sue almost all asbestos manufacturing companies in the hope of recovering damages even though many of the companies may not have produced the type of asbestos product in question. It is not uncommon to see as many as 50 manufacturers listed as defendants in an asbestos property damage case because of the lack of information about the identity of such materials, especially in preparation for the proceedings.

In these cases, defendants are reluctant to settle a case in which their product may not be present and plaintiffs are reluctant to overlook a possible supplier of asbestos materials as a defendant. Judges are reluctant to press either side to make concessions, thereby prolonging the case. The reluctance of all parties to push the case forward or to end it is often due to the unavailability of critical information to both claimants and defendants.

It is our hope that by making this information available at the initiation of a suit, the number of suppliers of asbestos-containing materials typically joined as defendants in asbestos property damage lawsuits might be substantially reduced. While the information may no help a plaintiff or court to identify with certainty the appropriate manufacturer(s) to name as defendant(s), it should help to eliminate from potential litigation those manufacturers that could not reasonably have been involved in producing the asbestos in question.

By making this information available at the start of judicial proceedings, procedural delays caused by the search for it or by litigation over its disclosure once a lawsuit is undertaken can be reduced. This information will also help to relieve the case load of a court system that is already heavily burdened. Manufacturers whose products are not present in the buildings can be spared being involved in lengthy proceedings. Cases may then be resolved in a more rapid fashion instead of the current situation where both building owners and manufacturers are ill-served by a system that prolongs the resolution of a case while costs for both sides inexorably mount.

SECTION-BY-SECTION ANALYSIS

Section 1: Short Title.

The short title of the legislation is the "Asbestos Information Act of 1988."

Section 2: Submission of Information by Manufacturers.

This section requires any person who manufactured or processed asbestos or asbestos containing material that was prepared for sale or for use as surfacing material, thermal system insulation, or miscellaneous material in buildings to submit to the Administrator of EPA, within 90 days after the date of enactment: the years of manufacture; the types or classes of product; and to the extent available, other identifying characteristics reasonably necessary to identify or distinguish the asbestos or asbestos containing material. The purpose of this requirement is to facilitate the early identification of the manufacturer or processor of a particular type of asbestos or asbestos-containing material. It is our expectation that this early identification will help reduce the time and costs associated with naming parties as defendants in asbestos litigation in which the products manufactured or processed by such person were not used in the building which is the subject of the litigation.

In setting up this requirement, we are aware that not every product subject to the requirements of section 2 can best be identified by a description of the chemical or mineral constituents of the asbestos or material by weight or volume. By using the phrase "to the extent available", we do *not* intend that manufacturers must submit all information that exists regarding their products. Rather, this phrase must be read in conjunction with the phrase "reasonably necessary". In other words, of the information that manufacturers currently posses, they need only submit the information reasonably necessary to identify or distinguish the asbestos or asbestos containing material they manufactured.

For example, in most cases of asbestos-containing floor tile products, it is our understanding that, without regard to the availability of the mineral or chemical constituents (or both) of the asbestos or material by weight or volume (or both), which does not exist for every type of floor tile made, in almost all situations the most accurate and least expensive way to identify the manufacturer of a floor tile is through examination of designs, patterns or textures of the floor tile. In addition, this assessment technique does not require the disturbance of the in-place material. Under the circumstances, it is our intent that any person who manufactured asbestos-containing floor tiles would, by the submission to EPA of the designs, patterns or textures of the products covered by section 2, be in compliance with the requirements of that section.

Section 3: Publication of Information.

This section requires the EPA Administrator to publish within 180 days after enactment the information submitted by the manufacturers. The EPA role under this bill is a narrow one: to inform asbestos manufacturers how, when, and where to submit the required information and then to receive, organize, and publish that information. In carrying out his responsibilities under this section, the Administrator may *not* review the submitted information for accuracy, or to analyze it to determine whether such information serves to identify or distinguish the particular asbestos or asbestos-containing material.

Section 4: Definitions.

This section defines the following key terms in the bill: asbestos, asbestos-containing material, identifying characteristics, miscellaneous material, protocol, surfacing material, and thermal system insulation.

□ 2100

Mr. WHITTAKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join my distinguished colleague from Ohio in supporting this legislation to help streamline some of the asbestos litigation going on around the country. I also want to express my agreement with the description of the bill's purpose and the section-by-section analysis, which he inserted into the RECORD.

H.R. 5442 will produce information that potential plaintiffs in asbestos abatement cases—the building owners—and the courts reviewing such cases, can use to help identify manufacturers that could not reasonably have been involved in producing the asbestos in question. The plaintiffs can then exclude such manufacturers from the initial complaint, or a court can remove such a manufacturer from ongoing litigation.

This should result in more efficient and less costly litigation.

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. FLORIO].

Mr. Speaker, I want to thank the gentleman for his efforts on this matter. This bill is a very complex bill involving litigation transactions and there were matters that had to be worked out. The gentleman offered some suggestions which were taken by all parties.

Mr. FLORIO. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I thank the chairman, as well as the gentleman from Kansas [Mr. WHITTAKER], for their cooperation in trying to work through some of the concerns that people had about this legislation at the beginning of a long legislative process that we now have been involved with to deal with this matter.

Mr. Speaker, the whole subject of indoor pollution is one that we will be focusing on more and more, not only through the remaining days of this Congress, but also into the next Congress.

Tomorrow, I understand we will be dealing with a bill on radon. Tonight we deal with asbestos.

This legislation is designed to facilitate more efficient resolution of problems in which we have litigation, assigning costs to the cleanup. The propsal is designed to reduce the transactional costs associated with litigation involving verdicts for the cleanup of asbestos.

Over the last number of years the Congress has focused on this subject of asbestos. For the most part we focused in the area of school cleanups in large measure because the EPA has said there are 15 million schoolchildren who are in schools that asbestos is residing in and that those children are at risk.

The next step in our efforts to have an asbestos-free environment is to deal with the question of public buildings, all governmental public buildings. I have introduced legislation to move us to that next step in our incremental effort to have all our public and commercial buildings free from asbestos.

There is a need for all of us to set standards for the cleanup of asbestos out of all our buildings, to define how clean is clean when we deal with the question of asbestos, to provide for testing procedures to be used universally across the board in all our communities, in all our States, to spell out certification standards for contractors and laboratories, and also to provide for disposal standards as to how the asbestos is to be disposed of when we clean up our facilities.

Mr. Speaker, this is an important piece of our effort to move into the area of cleaning up asbestos everywhere that it exists, in places where it will result in health hazards to human beings. This piece of legislation is important. I commend all the participants who have played a role in this legislation, and I urge support of the body for this legislation.

Mr. FLORIO. Mr. Speaker, I rise in support of this legislation, which seeks to improve the information available regarding asbestos products which are found in our Nation's buildings by instructing the Environmental Protection Agency to collect such information from asbestos manufacturers.

Asbestos is one of the most dangerous substances known to science. Medical researchers have linked inhalation of microscopic asbestos fibers to cancer and to a deadly chronic respiratory disability called asbestosis. An estimated 10,000 people will die each year for the rest of this century from asbestos-related diseases due to exposures which have already occurred. Studies indicate that even very slight exposures to asbestos can be life-threatening.

Unfortuntately, before these dangers to human health were fully understood, asbestos was used extensively in insulating schools and other buildings, where tens of millions of Americans are now subject to exposure to it on a daily basis. The Environmental Protection Agency estimates that friable asbestos is present in 30 percent of our Nation's 110,000 schools and in 20 percent of our Nation's 3.6 million Government and commercial buildings.

As we have learned of the dangers of asbestos, it has become increasingly clear that we must deal with the asbestos that is in building across the country. And that requires better information.

The lack of good information has led school districts and other building owners to take hasty and improper actions affecting the asbestos in their buildings. Incompetent asbestos removal and abatement work by people who lack proper training has led to increased asbestos hazards. A 1985 EPA survey estimated that as much as 75 percent of all school cleanup work was being done improperly, dangerously releasing asbestos into the air.

I was particularly alarmed by a photograph showing teenage boys in cut off jeans ripping asbestos off walls and pipes in a New Jersey school, releasing clouds of asbestos dust with nothing to protect them from breathing it or keep it from contaminating the entire building.

There have been similar reports regarding asbestos cleanup in Government and commercial buildings—reports of untrained workers ripping out asbestos from buildings with primitive tools and improper ventilation, and of bags of removed asbestos being hauled away in the workers' automobiles to who-knows-where. The homeless have apparently been hired off the street to perform some of this work. Bags containing asbestos waste have been discovered abandoned in warehouses. The urgent need for governmental guidance is clear.

Congress enacted the Asbestos Hazard Emergency Response Act of 1986, or AHERA, to regulate asbestos cleanup in the schools. I have introduced legislation to strengthen AHERA and extend its protections of Government and commercial buildings. An important component of both AHERA and my bill is better information. Both require that people performing asbestos inspection and abatement work be State-accredited after EPA-approved training for this sensitive and high-stakes work. My bill takes additional steps to ensure that all those accredited have a high level of competence.

My bill would also establish a commission of scientific experts to analyze the current scientific and medical studies and examine the work underway in implementing the Schools Cleanup Program, in order to assess the various available abatement methods. One of the frustrations I have heard most often voiced by school officials and building owners is the complete absence of guidance regarding which abatement methods are most appropriate in what circumstances. Even the Environmental Protection Agency has noted that this information is not available. We must make sure that building owners and abatement workers are fully informed as to the options for dealing with asbestos. I propose to bring our country's best scientific minds to this task.

Cleaning up the asbestos in our Nation's buildings will be a major undertaking, and an expensive one. But inaction, incompetent cleanup, or confusion over product identification will only increase the dangers, as well as the costs. The legislation before us today will provide important information to help facilitate a prompt and proper cleanup.

Mr. LENT. Mr. Speaker, I join my distinguished colleague from Ohio in sponsoring this legislation to help streamline some of the asbestos litigation going on around the country. I also want to express my agreement with the description of the bill's purpose and the section-by-section analysis, which he inserted into the Record.

The purpose of this bill is to help fix the legal nightmare generated by most asbestos litigation. Right now, when a building owner sues for damages in an asbestos case, usually every manufacturer who ever produced an asbestos product is included in the complaint. Asbestos cases with more than 50 defendants have become the norm, even though cases typically turn out to involve asbestos products from only a few manufacturers. As a result, the time and resources of both the court and the litigants are wasted while the number of defendants is reduced.

H.R. 5442 will produce information that potential plaintiffs in asbestos abatement cases—the building owners—and the courts reviewing such cases, can use to help identify manufacturers that could not reasonably have been involved in producing the asbestos in question. The plaintiffs can then exclude such manufacturers from the initial complaint, or a court can remove such a manufacturer from ongoing litigation.

By having identifying information on all asbestos products in one place, procedural delays caused by the search for it or by litigation over its disclosure once a lawsuit is undertaken, might be reduced. In addition, manufacturers whose products are not present in the buildings can be spared being involved in lengthy proceedings. In short, the asbestos cases would be resolved more quickly, and less expensively for both building owners and asbestos manufacturers.

Mr. Speaker, I urge my colleagues here to join me in supporting H.R. 5442.

Mr. WHITTAKER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Montgomery). The Chair understands that the gentleman from Ohio [Mr. Thomas A. Luken] did not include an amendment in his first motion.

Mr. THOMAS A. LUKEN. No amendment, Mr. Speaker.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. Thomas A. Luken] that the House suspend the rules and pass the bill, H.R. 5442.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5442, ASBESTOS INFORMATION ACT OF 1988

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill (H.R. 5442) to provide the Environmental Protection Agency and the public with additional information about asbestos products, the Clerk be authorized to make corrections in section numbers, punctuation, and cross-references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in passing this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

GENERAL LEAVE

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on H.R. 5442, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

REPORT ON RESOLUTON AMENDING RULES OF HOUSE WITH RESPECT TO PRESERVATION OF, AND ACCESS TO, NONCURRENT RECORDS OF THE HOUSE

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 100-1054) on the resolution (H. Res. 419) amending the Rules of the House of Representatives with respect to preservation of, and access to, noncurrent records of the House which was referred to the House Calendar and ordered to be printed.

GENERAL LEAVE

Mr. DREIER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of the special order today by the gentleman from Illinois [Mr. Hyde].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING TEMPORARY PROTECTION TO SALVADORAN AND NICARAGUAN REFUGEES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. Moakley] is recognized for 5 minutes.

Mr. MOAKLEY. Mr. Speaker, I would like to take a few minutes to speak on an issue of great personal importance.

As my colleagues know, I am the sponsor of a bill to provide temporary protection to Salvadoran and Nicaraguan refugees who are currently in the United States. I have fought for this measure since 1983—and, as my colleagues know, the House has passed my bill twice; most recently on July 28, 1987.

Regrettably, the Senate has not seen fit to act on this legislation which has been waiting on the Senate calendar for nearly 1 year.

The purpose of my bill is decidedly humanitarian. It would simply provide for limited relief from deportation of persons who would otherwise be forcibly returned to conditions of civil war.

In the case of El Salvador, the war has claimed over 60,000 lives since

1979. In the case of Nicaragua, 25,000 people have died in the war since 1981.

My bill, which congressionally mandates a suspension of deportation, is only necessary because the administration refuses to grant Salvadorans and Nicaraguans extended voluntary departure [EVD]. Time and again, we have requested the administration to pick up a pen, and with a single stroke, provide relief. But, they refused to act.

This lack of response continued even after the Congress passed and the President signed into law (Public Law 98-164), a bill containing a sense of the Congress that the deportation of Salvadorans be suspended.

Some in the administration and in Congress have suggested that my bill is unnecessary because refugees from El Salvador and Nicaragua who meet the criteria of the Refugee Act of 1980 can be considered for asylum. However, notwithstanding the availability of political asylum under the Refugee Act, the asylum process has not adequately protected all those who legitimately fear returning to El Salvador or Nicaragua. In fact, the Refugee Act has not proven to be a particularly effective remedy for Central Americans.

Requests for the passage of this legislation have come from a wide variety of people and organizations. And, most recently, the ailing President of El Salvador, Jose Napolean Duarte, sent a letter to the U.S. Senate in which he stated, "that temporary safe haven is the single most important initiative the United States can now take to help my nation * * *"

President Duarte's plea, and the appeals of others, have apparently gone unheeded.

I find it particularly disheartening that President Duarte's unusual and compelling appeal for help was virtually ignored. Perhaps if the Salvadoran President included in his letter a request for UH 1-M attack helicopters and M-16's, the administration and Congress might have been more eager to accommodate him. But, President Duarte did not ask for more military aid. Instead, he asked for humanitarian assistance—he asked for the protection of his people. And we said no.

Mr. Speaker, it is my firm belief that this administration has deliberately engaged in a cynical and duplicitious game with the lives of Central American refugees. The administration seems to value human life only if it fits into its geopolitical plans.

For example, we read in Saturday's New York Times that the administration wants to call the Contra forces "refugees." President Reagan has indicated that the United States "accepts responsibility" for thousands of Nicaraguan refugees living in Honduras and is considering admitting some of them to the United States.

Mr. Speaker, if the President is willing to accept responsibility for the Contras—why isn't he willing to accept responsibility for thousands of Salvadorans and Nicaraguans who have fled wars that have, in large part, been funded by the United States?

The issue here is one of equal treatment.

Mr. Speaker, the administration has not and will not be fair in the use of its discretionary powers. While Salvadorans and Nicaraguans clearly qualify for a suspension of deportation, according to the criteria used in previous grants of EVD, the administration, for political reasons, will not afford Central Americans the same benefits given to Poles or Afghans.

Mr. Speaker, I am left appalled at the lack of fairness and compassion shown by the administration and the lack of will on the part of the Senate to pass my bill.

Mr. Speaker, I have fought long and hard on this issue. And quite frankly, during these last hours of Congress, I tried to work on a compromise that might be acceptable to my critics.

I thought perhaps to continue this uphill battle into the next Congress might prove fruitless.

However, as I thought of the many refugees who I have met with over the years; as I recalled the horror stories they told me; and as I thought of the hopes they have put into this bill—I could not, in good conscience, give up this fight.

The Salvadorans and Nicaraguans who have fled the wars in their homelands deserve and are entitled to protection. And I will be back next Congress to fight for them.

JULY 26, 1988.

Hon. ROBERT C. BYRD,
U.S. Senate,
Washington, DC.

DEAR SENATOR BYRD: I wish to address a subject that is very close to my heart: my people. In this case those who are far away from their homes, not by choice, but for the pain of a divided country, a country at war. I wish to ask for your assistance to obtain the greatest privilege the people of your nation can bestow on the people of El Salvador: a temporary safe haven for so many who have fled from the insurrection, and who now reside in the United States.

My fundamental objective has been to introduce democracy and restore peace to my country. As I begin my last year in office, all my energy is directed to this goal. I am convinced that temporary safe haven is the single most important initiative the United States can now take to help my nation achieve this aspiration, which the people of El Salvador and the United States have shared for so long.

Since 1979 the conflict in my country has resulted in much death and suffering. Over 500,000 of our citizens have been displaced from their homes. Another 200,000 have fled the conflict seeking temporary safe haven in neighboring countries, especially Honduras, Costa Rica, and Mexico. And since 1979, perhaps as many as 500,000 have fled to the U.S.

The enemies of democracy seek now to exploit the hardships and uncertainty of thousands uprooted in spirit and place by nine long years of insurrection. Just one month ago the commander of the marxist FMLN, Joaquin Villalobos, stated that his forces would find recruits for the guerrillas among Salvadorans who may soon be forced to return to their country. He added that the returnees will be an important factor to deepen the socio-political crisis which prevails today.

I reject this analysis but not its implications. The marxist forces which prey upon the hopeless, look now to renew the conflict and stir discontent among the thousands they soon expect to return. I am determined to defeat this cynical, anti-democratic concept.

It is my fervent hope that someday soon we will achieve peace, with democracy, so that all of my people can return safely to their homeland. We are committed to this purpose, as evidenced by the welcome and assistance we provided some 4,500 displaced who returned this spring from the camps of Mesa Grande in Honduras.

We are grateful that, for now, our neighbors in the region continue to welcome those citizens of my country who have sought their hospitality. We recognize that our Central American neighbors have received our people at a time of difficulty throughout the region. As we seek peace together, so too we continue together to provide relief to those who need it. In this endeavor we in Central America take our example from the people and history of the United States, and the teachings of our shared Judeo-Christian tradition.

It is in this spirit that I ask that the United States Senate join with the House of Representatives to enact legislation to provide temporary safe haven to nationals of El Salvador now in the United States. I understand that S. 332, sponsored by a friend of El Salvador, Senator Dennis DeConcini of Arizona, would achieve this important objective for my countrymen, as well as those who are displaced by the war in Nicaragua. I hope that this measure may soon come before the Senate.

I ask for your support to Senator DeConcini's proposal. I do so mindful of the right and duty of any sovereign nation to determine who may lawfully enter and remain within its territory. I am mindful, too, of the important and generous immigration reforms the United States recently implemented, and respect the legitimate objectives of these laws.

We pray and work for peace in El Salvador and hope for a day soon when our people may return to peace. I am convinced that an extension of temporary safe haven to those already in the United States will speed the day when this dream becomes a reality.

Finally, I wish to note two tragic, but important realities. War can destroy hope and values, as well as lives and property. To achieve peace with democracy, our people must find new hope. The continued humanitarian concern of the people of the United States can restore the hope of my people, and build upon the goodwill that exists and grows between us.

Yours sincerely,
JOSE NAPOLEON DUARTE.

[From the Washington Post, Aug. 28, 1988]

SALVADORAN DEATH SQUADS THREATEN RESURGENCE

(By Douglas Farah)

SAN SALVADOR—When Vice President Bush called on El Salvador's provisional president on Dec. 11, 1983, it was, by all accounts, a tense meeting. Right-wing death squads were turning the country into a slaughterhouse, Alvaro Magana was told. The killing had to stop, or El Salvador risked losing American aid.

Lt. Col. Oliver North, who was accompanying Bush, handed Magana a piece of paper with no letterhead or watermark to make it traceable. According to a high-level participant at the meeting, the paper listed nine men identified by U.S. intelligence as death squad leaders—all but one of them officers in the Salvadoran armed forces. Bush told Magana they had to go.

None was ever brought to trial, but all were subsequently dismissed from their official posts or sent into gilded exile. Or they otherwise dropped out of sight. The killings, which averaged 800 a month at their peak, began to decline.

Now, however, that diplomatic success—cited by Bush in his current presidential campaign—seems in jeopardy. Wide-ranging evidence gives every indication that the death squads—largely dormant in recent years but never entirely disbanded—are staging a comeback.

According to former death squad members, intelligence analysts and top Salvadoran military and government officials interviewed during a four-month investigation, some leaders of El Salvador's far right are starting to rebuild the murderous networks they set up in the late 1970s to wage a ruthless underground war against the Salvadoran left. This development, representing a potentially major setback for American foreign policy, has alarmed the U.S. Embassy here, which has sought in recent weeks to head off the rightwing moves.

Buoyed by victories in legislative and municipal elections in March and taking advantage of a crisis in the ruling Christian Democratic Party of inoperably ill President Jose Napolean Duarte, some powerful members of the right-wing Nationalist Republic Alliance (Arena) are seeking to use the legislature, which they now control, and the 5,000-member Municipal Police as bases from which to reorganize and rearm the death squads, two former death squad members said.

Among the leaders of this effort, they said, are Arena party founder Roberto d'Aubuisson and a dentist named Hector Antonio Regalado. The two sources named d'Aubuisson as the overall head of a nationwide death squad network formed in the late 1970s and said Regalado was his right-hand man.

Salvadoran government sources who are aware of the reorganizing effort said moderate leaders of Arena, such a presidential candidate Alfredo Christiani, are not involved in the moves, which to some extent reflect a power struggle within the party.

D'Aubuisson, 45, a cashiered Army major and former top military intelligence officer, lost the 1984 presidential election to Duarte and currently serves as an Arena legislator in the National Assembly.

In an interview Thursday, d'Aubuisson denied that he is now or has ever been involved in death squads or their organization. He said such charges were the products of "twisted mentalities" aimed at damaging him and Arena.

"You start to worry about ghosts, and if you publish this it will become reality," he said. "Right now nothing exists. You can go to the Assembly and see Regalado is not there, the Municipal Police do not have equipment, there is not more security. But you are creating ghosts, and the ghosts will appear and what does not exist, because of the news, will become reality."

Regalado, a close associate of d'Aubuisson-cited as the lone civilian on Bush's 1983 list, dropped out of sight after the vice president's meeting with Magana. In 1984 the State Department implicated him in a rightist plot to assassinate U.S. ambassador Thomas Pickering. Since then, Regalado has spent much of his time in Guatemala. But he recently resurfaced in El Salvador as a key figure in the effort to rebuild the death squads, according to the former death squad members and government, military and diplomatic sources.

Concerned by reports of the return of Regalado and developments in the Assembly and Municipal Police, U.S. ambassador Edwin Corr, before leaving the country in early August, met with leaders of Arena and strongly warned them of the consequences of reviving the death squads. Regalado subsequently moved back to Guatemala but reportedly remains in close contact with d'Aubuisson.

According to the two former death squad members, whose accounts were corroborated by other sources, Regalado recruited, trained and ran death squads for d'Aubuisson in the early 1980s while serving as security chief for El Salvador's Constituent Assembly. This body, then headed by d'Aubuisson, became the National Assembly at the end of 1983.

It was the Assembly building itself that d'Aubuisson and Regalado set up their death squad headquarters, the two former members of the operation said.

One of them, Jose Hernan Torres Cortez, 33, said he worked at the Assembly for six years as a bodyguard for d'Aubuisson and an Arena security agent. he quit his job in July when he felt he had come under suspicion.

The second source wished to be identified only as Jorge, an alias he has used in the past, because of fears for the safety of relatives here. He said he worked for two years at the Assembly with Torres, then at the clandestine headquarters of one of the most feared death squads, the Secret Anticommunist Army. He quit in 1984 in the belief he was about to be purged. He has been interviewed by foreign intelligence agents, who said they considered his information reliable.

After telling his stories to two reporters, the two were approached by the government and voluntarily related their information to Salvadoran authorities in videotaped sessions. Both informants then left the country.

The beleaguered Christian Democrats are expected to try to use the information to discredit Arena.

In extensive interviews over a three month period, the two former death squad members separately detailed the curent rebuilding efforts and provided new insights into the ruthless, highly secretive rightwing groups that, in their heyday, made El Salvador synonymous with mass murder.

They described how the death squads, at first essentially paramilitary counterinsurgency units modeled after similar organizations in Guatemala, gradually spun out of control, committing nightly killings almost as an end in itself, turning to kidnaping for ransom and often liquidating their own members.

By 1985, the Catholic Church estimated more than 40,000 Salvadorans had been murdered by death squads. Many of the victims were tortured for information before being killed. Their multilated bodies turned up daily, dumped in ravines or left by roadsides as public warnings.

According to the Catholic Church, 24 death squad killings were recorded in all of 1987. This year the squads have steadily increased their activities, church and human rights officials said. In the first six months of the year, the church's legal aid office attributed 32 killings to the groups.

A primary aim of rebuilding the death squads, the sources said, is to enable the far right to resist—possibly even by staging a coup d'etat—any government attempt to deny an Arena victory in March 1989 presidential elections. The right also wants to be ready, if necessary, to step up a secret war against a resurgent Marxist guerrilla movement and its leftist sympathizers, the sources said.

Torres said he attended meetings in the last few months in which the rearming and rebuilding were planned, and he heard other information from top organizers who trusted him because of his years of service.

He also said he attended several special meetings in the Assembly building where the secret rearming was outlined.

Torres presented two credentials—one signed by d'Aubuisson and the other on d'Aubuisson's behalf—accrediting him as a member of Arena and of the party's security force. Members of the Assembly vouched for Torres' credibility.

Jorge also presented a credential signed by d'Aubuisson and was known to Assembly members.

Both sources said they worked closely with Regalado for years when he was d'Aubuisson's right-hand man.

A diminutive, soft-spoken man known to colleagues as "El Doc," Regalado is described by those who worked with him as a cold-blooded killer whose driving anticommunism led him to form death squads—first in the eastern part of the country under the banner of Regalado's Armed Forces and then in the Assembly.

Efforts by the group to rebuild the squads appear to reflect the frailty of El Salvador's U.S.-backed democratic process. The moves also highlight the division within Arena between those who want to create a true democratic institution and small but powerful groups that believe the country's eight-year war against Marxist-led guerrillas justified extraordinary violence, Salvadoran and diplomatic sources said.

The sources said moderate elements in Arena, including Cristiani and San Salvador Mayor Armando Calderon Sol, either do not know about the efforts to rebuild the death squads or are powerless to stop them because d'Aubuisson still controls the party despite having resigned as its secretary general in 1985. Calderon Sol denied that the squads were resurgent, and Cristiani was not available for an interview.

"I believe there is a problem of a struggle within Arena between the d'Aubuisson faction and the Cristiani faction," ambassador Corr said. "I have enough confidence in mankind that [the Cristiani] faction or tendency will predominate."

Political, diplomatic and military sources said d'Aubuisson, while taking a less public role than in the past, refuses to relinquish control and has surrounded himself with a powerful group of retired military officers who are behind the attempts to rebuild the squads.

"They call it special Assembly security, so they can have special, trusted people," Torres said. He said Arena has hired 16 new agents at the Assembly to reinforce the party security apparatus, which operates independently of government forces.

"They will select the people who will make it work as before, with killings, the arsenal, all of that," he said. "In 1982, the Assembly was the armed general headquarters of those groups, and that is what they are doing again because they have the power."

Most of Torres' information on the Assembly was corroborated by chief government spokesmen Roberto Viera and Hugo Carrillo, a deputy of the National Conciliation Party, which formed an alliance with Arena in 1985.

Viera said Arena "is once again trying to hire security people for the Assembly [who are] connected in some form with death squads in the country." He said Regalado had recently met with Arena leaders to discuss hiring at the Assembly.

Carrillo said Arena was reorganizing its Assembly security unit to return "to the structure of 1982, under the direction of Regalado."

In 1982, d'Aubuisson and his Arena comrades set up an arsenal—complete with a munitions loader, dynamite, automatic weapons and machine guns—on the second floor of the Assembly building, according to Torres, Jorge and intelligence sources. Because government security forces were not allowed to search the building, it became the headquarters for the death squads, which operated from it with impunity, the sources said.

Jorge and Torres said they were part of a special group of 40 people based there. They said their primary responsibilities included cleaning guns, reloading cartridges and guarding the "safe" areas of the building that were off-limits to outsiders.

D'Aubuisson said that in 1982 he had hired a special Assembly security unit led by Regalado to protect the lives of Arena members. He said he supplied the manual cartridge reloader—a machine for making ammunition—in an effort to lower costs while training the guards in marksmanship.

But he said the group was strictly an internal security unit and denied it was linked to death squads.

Torres and Jorge, who lived in the Assembly building, said the death squads would arrive, usually at night, and confer with Regalado. They would then select weapons and ammunition, go out, "operate," and return, the two men said.

Torres said that before going to work at the Assembly, he participated in two death squad attacks from 1978 to 1980 in which six persons were killed. Jorge said he never took part directly in any murders.

Some of the killings carried out by the Assembly death squads were prompted by relatively trivial matters, the two informants said. At one point, a squad captured a car thief outside the Assembly and took target practice on him to see the effects of a new kind of ammunition, Jorge said. On another occasion, he said, Regalado ordered the assassination of an Assembly deputy for allegedly taking a death squad member's gun.

In 1983, a group of prominent businessmen complained to d'Aubuisson about Regalado, according to a wealthy member of Arena.

"He was overdoing his job," the man said. "We understood the need for security, but the guy was becoming very arrogant, a power unto himself. We thought he might be killing too many people."

When the Constituent Assembly was reconstituted as the national legislature 10 days after Bush's visit, d'Aubuisson lost his post as president of the body, and the death squads there were disbanded and moved to safehouses around the capital, Torres and Jorge said.

Torres said that as part of the current restructuring, he was offered a job in the Municipal Police, traditionally a lightly armed force independent of the state security forces. When he turned it down, he said, he was threatened with death and fled.

Torres said military officers had promised to supply the Municipal Police with automatic weapons, turning the unit into a well-armed force in municipalities controlled by Arena. In the March elections, Arena won 176 of 242 mayoral races nationwide.

The goal, Torres said, was to form special investigative units within the force as cover for the new death squads.

According to Torres and two separate intelligence sources, this task was assigned to Salvador Marroquin, a former Air Force lieutenant and d'Aubuisson associate. They said it reflects a rightist desire to rebuild an organization similar to ORDEN, an acronym for a rural paramilitary network that functioned as a forerunner of the death squads in the 1970s. "Orden" means order in Spanish.

D'Aubuisson and San Salvador Mayor Calderon Sol acknowledged that Marroquin had been hired, but they strongly denied that Arena was restructuring the Municipal Police as a death squad base.

They bitterly blamed the allegation in part on the U.S. Embassy here.

The embassy's efforts to track death squad suspects have sometimes suffered lapses. Regalado, who dropped from sight after the 1984 presidential race, resurfaced briefly last year—on the U.S. Embassy payroll.

According to informed sources, in January 1987 the U.S. Drug Enforcement Administration hired Regalado, an expert marksman, as a shooting instructor for a special antidrug unit it was training for the National Police. Regalado had been recommended for the job by some of his military friends.

When the embassy discovered its mistake a month later, it pressed the Salvadorans to arrest Regalado, but he was freed after a night in jail because, as one top Salvadoran investigator said with a weary shrug, there was "insufficient evidence" to hold him.

"He has many powerful friends," the official said.

[From the Washington Post, Aug. 29, 1988]

DEATH SQUAD BEGAN AS SCOUT TROOP

(By Douglas Farah)

SANTIAGO DE MARIA, EL SALVADOR.—It has been nearly eight years since Luis Oscar Guzman died with nine of his teen-aged friends on a coffee farm near here, but the memory of that day still terrifies this town.

The secret is told in whispers even today.

Guzman, 19 at the time, was one of 10 members of a Boy Scout troop formed in the late 1970s by Hector Antonio Regalado, then a prominent dentist in this hilltop town 60 miles east of the Salvadoran capital. But these were not the same kind of Boy Scouts that Jose Napoleon Duarte, now president, had in mind when he founded the Boy Scouts of El Salvador in the 1950s.

Regalado, a small, soft-spoken man known for his extraordinary powers of persuasion, preached a rabid brand of anticommunism to his youthful followers. By the account of townspeople and two men who worked under Regalado, he trained the teen-agers in weapons and tactics then sent them to kill Marxist-led guerrillas. The Boy Scouts of Santiago de Maria became one of the country's first death squads.

Then, on Dec. 27, 1980, according to the same sources—who however, acknowledge they were not present—Regalado, fearing that the teen-agers knew too much and might talk, had them killed.

"We had the position and the power to denounce all this," Guzman's father said as he held his son's tattered death certificate, taken from an album of faded family pictures. Forcing back tears, he added, "Everyone knew what was going on, but we kept our mouths shut because we assumed the authorities were involved."

The story of Santiago de Maria's Boy Scouts is macabre even by the standards of El Salvador's notorious right-wing death squads, which claimed an estimated 40,000 lives during the early 1980s.

The account told by two former death squad members who worked under Regalada, and corroborated by townspeople, came to light in a four-month investigation of the death squads. It involved dozens of interviews with the pair, as well as with Salvadoran and foreign intelligence, security and military officials.

The inquiry shed new light on the clandestine groups' operations and their extensive links with the military. It also produced new information on the 1980 assassination of archbishop Oscar Arnulfo Romero, the country's leading human-rights advocate, and revealed how death squad leaders obtained the nation's most sensitive intelligence enabling them to avoid capture and prosecution by reformist elements of the Duarte government.

The two former death squad members, Jose Hernan Torres Cortez, 33, and a man who spoke on condition that he be identified only by his old nom de guerre, Jorge, charged that former Army major and rightist political leader Roberto d'Aubuisson headed the nationwide death squad network, and that Regalado was his right-hand man.

D'Aubuisson, 45, the founder in 1981 of the rightist Nationalist Republican Alliance (Arena) political party and currently a member of the 60-seat National Assembly, denies any links to death squads. Regalado, who spends much of his time in Guatemala, could not be reached for comment.

In extensive interviews with two reporters, Jorge and Torres separately said they began working for Regalado in Santiago de Maria in the late 1970s and later for d'Aubuisson in San Salvador in the early 1980s. The two described the workings of the Secret Anti-communist Army, as their group was known, and the roles of participants they knew.

Because death squad operations were so compartmentalized, however, Torres and Jorge were able to describe only a small part of the entire picture. They had few details, for example, of the various other death squads they said operated under d'Aubuisson's overall command, such as the Maximiliano Hernandez Brigade, the White Hand and the Escuadron de la Muerte (Death Squad). They also showed little knowledge of the top echelon of the structure, said to be wealthy Salvadorans who financed death squad operations.

In congressional testimony in February 1984, Robert E. White, former ambassador to El Salvador, named six wealthy Salvadoran landowners, then living in exile in Miami, as the top death squad financiers. These "Miami millionaires," who lost great estates in a 1979 land reform program, "organize, fund and direct death squads through their agent, Major Roberto d'Aubuisson," White said.

The involvement of Torres and Jorge began here in the late 1970s, when they worked together for Regalado in a group called Regalado's Armed Forces (FAR from the Spanish).

"The FAR was a super-strong organization that was armed and virtually went around getting people from things like student movements and people they said were part of the subversion," Torres said. "We worked in the whole eastern region. What we did was take them from their houses, take them outside and kill them because they were subversives and were hurting the country."

A top military officer, who sat in on meetings where the formation of the groups was discussed, said members of the nation's oligarchy offered to fund and support the paramilitary squads if d'Aubuisson would lead them. These landholders felt the military was not responding strongly enough to the threat by leftist rebels, the source said.

In the late 1970's, El Salvador was sliding toward chaos. Rebellion was spreading through the rich coffee and cotton area around Santiago de Maria, and many residents were grateful to Regalado, whose armed followers protected the crops from rebel attacks and peasants seeking de facto land reform.

For many townspeople, the FAR might have passed into history as a necessary evil—except for the Boy Scouts.

In March 1980, Jorge said, Regalado met with the leaders of his group for a barbecue, promising them they would soon "all be in heaven" with d'Aubuisson as president. Regalado then went to a farmhouse near the capital to meet with d'Aubuisson and other right-wing leaders to plan a coup against the reformist civilian-military junta then ruling, Jorge said.

But the coup plot was discovered in May 1980 and leaders of it briefly detained. Regalado fled to Guatemala. Eventually, decided to cover his tracks, he ordered the deaths of 10 of his Boy Scouts because he feared they knew too much, Jorge and townspeople said.

Guzman's father recalled how a trusted aide to Regalado ordered the Scouts to go to a nearby coffee farm to await instructions. The aide then called in the Army, saying "subversives" had gathered on the farm, and the 10 were gunned down, said the sources.

Torres said he escaped because he was serving in the capital at the time as a messenger between Regalado and the National Guard. Jorge said he left town several months earlier and heard of the killings when he returned later.

Torres said Army officers regularly lent helicopters to the FAR and National Guard to transport death squad members or evacuate their wounded. The civilian death squad leaders had regular access to regional and national headquarters of the National Guard and military, he said.

He said he participated in two death squad killings, well-known in Santiago de Maria, under the direct orders of Regalado and the then National Guard sergeant, Juan Francisco Alvarado, who he said were commanded by d'Aubuission.

Senior foreign and Salvadoran military officials confirmed that the Army at that time often operated in conjunction with paramilitary forces.

According to Torres and top military officials, officers or wealthy civilians known as padrinos or godfathers, financed and otherwise sponsored the paramilitary death squads.

"They gave us money, arms, clothes, shoes and socks," Torres said. "They were called godfathers, but they were the highest level of the organization."

DENTIST AS SECURITY CHIEF

After the failed coup attempt, Regalado resurfaced publicly in 1982 as head of security at the Constituent Assembly. Arena had won the elections for the Assembly, and d'Aubuisson was voted president of the body.

Torres and Jorge then went to work at the Assembly, where they said Regalado took over the second floor, turning it into an arsenal and center of death squad activity. They said Regalado moved out in December 1983, when d'Aubuisson left his post to run in presidential elections.

As recounted by Torres and Jorge, the names of those who met with Regalado at the Assembly read like a who's who of death squad suspects named at various times by the U.S. Embassy and Salvadoran government. They included National Police detective Edgar Perez Linares, National Guard Lt. Isidro Lopez Sibrian, three civilian d'Aubuisson associates—Antonio Cornejo, Fernando Sagrera and Francisco Guirola.

Lopez Sibrian, cashiered and suspected of participating in the killing of two U.S. land reform advisers in 1981, is currently jailed awaiting trial in a kidnapping case. Cornejo, d'Aubuisson's former private secretary, lives in Miami, where he is fighting extradition in the kidnapping case. Sagrera reportedly manages a shrimp business in El Salvador.

Guirola, who financed some of d'Aubuisson's activities, was arrested at a remote Texas airfield in 1985 on a charge of trying to smuggle out nearly $6 million in small bills. He was put on probation and fined $250,000 after a plea bargain, and after U.S. authorities charged the money was drug-related. He now reportedly is in business in El Salvador.

Perez Linares ran one of the most feared death squads, the Secret Anticommunist Army, Torres, Jorge and a top Salvadoran investigator said, and was a protege of d'Aubuisson when the former major was head of the feared national intelligence agency, disbanded in 1980. Later he was hired by the National Police, then under the command of Col. Reynaldo Lopez Nuila, whom U.S. officials hoped would clean up the security forces.

According to top military and police sources, Peter Linares captured three leftist guerrilla commanders and turned them, putting them to work for him. Perez Linares had sole contact with the three, called the Angelitos, or Little Angels. The three were instrumental in breaking the back of the guerrillas' urban movement in the early 1980s, helping to round up hundreds of their former colleagues, the sources said.

But there was another side to the operation.

The U.S. and Salvadoran governments were anxious to make the National Police a "clean" security force because d'Aubuisson and the far right had extensive contacts within the National Guard and Treasury Police. But with Perez Linares in their employ, the National Police also were effectively infiltrated, officials now admit.

Perez Linares, while working for Col. Lopez Nuila, also was being paid by d'Aubuisson and Regalado, by this account. He kept extreme right-wing leaders informed of any actions planned against them and used the Angelitos as an elite death squad, according to four sources with first-hand knowledge of the operations.

"I always wondered how d'Aubuisson knew exactly what we were doing," said one top official who worked closely with Perez Linares. The official acknowledged that the National Police paid the Perez Linares group's expenses throughout that time, but he insisted that he did not know then that Perez Linares was working for d'Aubuisson.

Perez Linares was dismissed from the National Police after Vice President Bush visited San Salvador in December 1983. Bush reportedly warned El Salvador's provisional president that the rightist killings were jeopardizing U.S. aid and produced a list of death squad leaders—including Perez Linares—whom the United States wanted removed. Bush's visit coincided with, but was not directly related to the death squads' loss of the Assembly as a safe haven.

Jorge said he then moved with Perez Linares and the Angelitos to a safehouse owned by Guirola. D'Aubuisson and Regalado also maintained offices there, he said.

Jorge said he cooked, kept house and cleaned weapons for the Secret Anticommunist Army but left when they tried to force him to kill. He described in detail how he helped pace off the distance for a 1983 rocket-propelled grenade attack against the headquarters of the Christian Democratic Party and said the group openly discussed several other high-profile killings claimed at that time by the group.

The group would often celebrate a successful action by hiring expensive prostitutes, smoking marijuana and listening to pounding rock music for days at a time, Jorge said.

DEATH OF THE ARCHBISHOP

Jorge also said that on three occasions he overheard the group brag about killing Archbishop Romero in 1980, congratulating Perez Linares for being a sure-handed triggerman.

While saying mass in a San Salvador chapel, Romero was shot in the chest by a sniper who fired a single bullet through the chapel's open doors from a car on the street outside. The government last year made public a confession by the getaway car's driver, who said he never learned his passenger's identity. The driver charged that d'Aubuisson ordered the murder, but no legal action has been taken against the rightist leader, and the case remains unsolved.

"You should have seen how much blood came out of him—that's because I got him right in the heart." Jorge quoted Perez Linares as boasting.

When Perez Linares and his comrades realized Jorge was listening to their conversation, he said, they put a gun to each side of his head and swore to kill him if he ever spoke.

While this version of the assassin's identity could not be confirmed, two Salvadoran officials who have investigated the murder called it credible. They said a police drawing of the triggerman, based on a description by the driver of the getaway car, closely resembled Perez Linares, and no other suspect.

The Secret Anticommunist Army's communiques were signed by "Aquiles Baires," who Jorge said was Perez Linares.

Jorge and Torres were members of d'Aubuission's security group in the 1984 presidential elections. Jorge quit shortly after the elections, while Torres resumed work as an Arena security agent at the National Assembly.

With money growing short and their power waning, Perez Linares and the Angelitos turned to kidnaping wealthy businessmen to maintain their lifestyles, making it appear to be the work of leftist rebels, according to Salvadoran and foreign officials familiar with the case.

When the kidnaping ring was broken in April 1986, with the help of U.S. and Venezuelan intelligence experts, the group was charged with five abductions that had raised almost $4 million.

As police closed in on the kidnapers, one of the three Angelitos, Salvador Rodriguez, was killed May 1, 1986, in a shootout. The other two disappeared, and their whereabouts remain unknown.

Three rightists accused of taking part in the kidnaping ring are now in jail, and three other prime suspects who left the country are fugitives.

Perez Linares fled to Guatemala to avoid arrest in the case and was captured there secretly by Salvadoran National Police. While being brought back to San Salvador, he was shot to death, allegedly while trying to escape.

"He had to die," one top investigator said, tacitly admitting that Perez Linares was executed. "There is no way that [National Police] group could have let someone as knowledgeable as Perez Linares live to talk."

[From the Washington Times, Sept. 14, 1988]

MORE THAN 100 KILLED, WOUNDED IN EL SALVADOR

EL PARAISO, EL SALVADOR (AP)—More than 100 Salvadorans were killed or wounded in fighting between rebels and troops and in clashes between students and riot police Monday and yesterday, reports from officials and witnesses said.

About 150 leftist rebels attacked the garrison at El Paraiso; headquarters of the 4th Army Brigade, shortly after 1 a.m. yesterday with mortars and small arms fire

A two-hour battle left nine soldiers and seven guerrillas dead, according to Col. Ciro Lopez Roque, garrison commander. He said 12 soldiers and an undetermined number of rebels were wounded.

Col. Galileo Torres, head of the armed forces press office, said in a telephone interview that government forces inflicted 50 casualties on guerrillas in northern Morazan province between late Monday and shortly before dawn yesterday. No breakdown of dead and wounded was given.

Morazan and Chalatenango are provinces where guerrillas maintain a constant presence, move freely and administer some towns and villages.

In the capital, about 300 riot troops clashed with approximately 3,000 university students marching to the Finance Ministry to demand increased government spending on education.

The helmeted troopers, some carrying assault rifles and others toting plastic shields and nightsticks, fell in behind the marchers and continuously prodded, shoved and insulted the demonstrators.

When one student turned to confront them, he was beaten by several troopers. A melee ensued, with sporadic pistol and rifle fire resounding through the streets for nearly 30 minutes. The troopers fired tear gas to disperse the demonstrators.

Officers on the scene said urban commandos of the leftist Farabundo Marti National Liberation Front fired pistols from within the crowd of demonstrators.

Reporters saw more than 200 demonstrators arrested and shoved into buses. Several were bleeding from beatings.

A riot trooper said a policeman was killed by fire from the demonstrators.

The riot troops shoved and insulted journalists, fired bursts low over their heads and forced them to lie face-down on the pavement. "Don't move!," one shouted at the prostrate reporters. "This is what you get for only telling lies!"

The National Police, contacted by the AP, declined immediate comment on the clash in San Salvador.

In the western provincial capital of Santa Ana troops of the 2nd infantry Brigade tangled with local university students marching to demand a bigger education budget. The independent local radio station KL reported that gunfire wounded two students and two soldiers, that 20 demonstrators were beaten and an undermined number were arrested.

[From the Miami Herald, Aug. 26, 1988]

LAND REFORM LEADER'S BODYGUARDS SHOT DEAD

(By Sam Dillon)

SAN SALVADOR.—Two gunmen Thursday shot and killed two National Police detectives assigned to protect Col. Adolfo Majano, the reformist army colonel who carried out a 1980 land reform, in an attack on Majano's jeep in a crowded San Salvador intersection.

Majano, 50, who returned to El Salvador from a 7-year exile, was not in the vehicle at the time. He said in an interview he had no clue to the identity of the assailants, but said he believed the ambush had been aimed at him and bore all the characteristics of a death-squad hit.

"I demand that the [armed forces] high command carry out an exhautive investigation, and I personally am going to dedicate all my efforts to clarifying this attack," Majamo said in an interview.

A police colonel who arrived at the scene of the killing said he believed the attackers were probably urban guerrillas, though he gave no evidence. It was not clear at the time he spoke that the victims were Majano's bodyguards.

Human rights monitors report that the rate of death squad killings has more than doubled this year after a long decline. Thursday's killing capped a string of about 15 violent deaths in El Salvador in the last three days, according to local news reporters.

Majano said the two National Police detectives, who had been assigned as his permanent bodyguards, had been with him 15 minutes before their deaths. They had been traveling to pick up a videotape in a San Salvador shopping center, Majano said.

The two assailants pulled alongside Majano's vehicle in a gray jeep at 11:15 a.m. Thursday, jumped out and killed the detectives with a burst of fire from M-16 rifles, Majano said.

Some members of the country's landed oligarchy bear a grudge against Col. Majano as the dominant member of the military-civilian junta that carried out a sweeping land reform in March 1980, seizing the country's largest farms. Rival army officers shoved Majano out of the junta government in May 1980, and amid a torrent of rightist violence, he fled into exile the following year. He lived seven years in exile, mainly in Montreal.

Majano visited El Salvador as part of the Central American peace process last November, returning to live in April.

Majano has been pursuing a political career since his return, appearing frequently on TV talk shows and public forums. He said that despite Thursday's attack, he would stay politically active.

In another violent incident this week, leftist guerrillas kidnapped and executed the Christian Democratic mayor of a village in rural Morazon province, condemning him as a "war criminal" because of the ruling Christian Democrats' cooperation with the U.S.-backed counterinsurgency war.

[From the Los Angeles Times, Sept. 2, 1988]

NATIONAL GUARD POST 30 MILES FROM CAPITAL HIT—REBELS KILL 13 TROOPS IN SALVADOR ATTACK

(By Kenneth Freed)

SAN SALVADOR.—In one of the most successful attacks by Salvadoran rebels in months, guerrillas Thursday killed 13 government troops and wounded at least a dozen more, according to military officials.

Using automatic weapons and mortars, the rebels, members of the leftist Farabundo Marti National Liberation Front, struck a National Guard post in the small city of Tejutepeque about 2 a.m., the officials said. Tejutepeque is in Cabanas province about 30 miles northeast of San Salvador.

After the four-hour battle ended, the National Guard post has been virtually destroyed, with 13 soldiers and four guerrillas dead, an army spokesman said. He added that at least 12 soldiers were wounded by gunfire and that at least five homes of civilians were damaged.

The attack was the biggest by the guerrilla forces since they tried to destroy a major dam last May and represents one of the worst defeats by government forces in the past year. It occurred in an area that the Salvadoran military had claimed was largely free of serious guerrilla incursions.

The day also was marked by a guerrilla attack on a civilian bus near the northern town of Tejutla, about 30 miles from the capital. At first, the army said that two passengers were killed and that several were wounded when the bus struck a mine and was hit by machine-gun fire. But other officials said later that only two civilians were hurt in the attack, which they said was evidently the result of rebels mistakenly believing the bus was carrying soldiers.

The army spokesman, who spoke on the condition he not be named, said a fight Thursday between army forces and the rebels near an area called Cerro Gigante, in the northeast province of Morazan had resulted in the deaths of six guerrillas.

4 GUERRILLAS KILLED

Another four guerrillas were killed in other skirmishes in the area, he added. Morazan is a rebel stronghold where the army has claimed there have been few serious contacts between the warring forces in recent weeks.

According to diplomats and Salvadoran military sources, the attack, at Tejutepeque represents several serious developments beyond the severity of the fighting itself.

"It means that the guerrillas have established very capable forces in an area where the government has been claiming success in cleaning them out," one European diplomat observed. "And it runs in the face of military claims that the government troops have learned to protect themselves against such night attacks."

Another military expert said the National Guard, which is responsible for protecting government installations and small towns in rural areas, is considered a soft spot in the government security apparatus.

Col. Mauricio Ernesto Vargas, head of army operations, said in an interview one day before the Tejutepeque attack that the guerrilla forces, which are normally estimated at about 6,000, had lost the ability to mount a serious operation.

"There has been no significant action during the last five months," he said. "Nearly all clashes [during that time] were initiated by the army." He referred to a claim that not only had the rebels lost the ability to attack but also that the army had adopted new, mobile tactics that prevented the guerrillas from moving against government facilities.

But the fighting Thursday supported assessments by diplomats who have said in recent days that the area north and northeast of San Salvador had been the scene of battles in which security forces had suffered serious casualties.

[From the Arkansas Gazette, June 6, 1988]

Coming to the Aid of Endangered Refugees

Both El Salvador and Nicaragua have known brutal civil wars and human rights violations. Not surprisingly, both have also seen thousands of their citizens flee. Many came to the United States, entering illegally.

Congress now is considering legislation that would at least temporarily protect Salvadoran and Nicaraguan refugees from deportation to the strife of their homelands. Supporters, including many human rights, religious and labor organizations, believe that the refugees face serious danger if they are forcibly deported to conditions of civil war and the threat of persecution.

The legislation would provide a temporary suspension of detention and deportation for most Salvadoran and Nicaraguan nationals in the U.S., pending a General Accounting Office study to determine a safe time for the refugees to be returned to their countries of origin.

The legislation also contains certain safeguards for the American taxpayer. It would generally exclude from public assistance programs those persons whose deportation is stayed. And it would apply only to Salvadorans and Nicaraguans in the U.S. prior to the legislation's enactment, so as not to invite a subsequent wave of new refugees. In other words, it recognizes that a line must be drawn.

The Senate version of the legislation, sponsored by Senator Dennis DeConcini of Arizona, will come to a vote in a few days. Passage of the legislation, though creating an exception in the U.S. immigration laws, will be consistent with this country's noble traditions of succoring the oppressed.

[From the Atlanta Journal, June 4, 1988]

A Respite for Central American Refugees

That a seriously ill President Jose Napoleon Duarte can consider an indefinite stay in the United States for cancer treatment is hardly a measure of his confidence in his regime's stability while he is away.

A better gauge of Duarte's own gloomy assessment of El Salvador's turmoil is his support of a bill before the U.S. Senate to protect Salvadoran refugees in this country from hasty deportations back to an uncertain and maybe menacing future in his land.

Violence from the left and from the right, sad to say, is much on the increase. Catholic church sources say nearly as many Salvadoran civilians were murdered by death squads during the first three months of this year, 21, as in all of 1987.

With Duarte's government coming unstuck, it is mystifying how its Washington ally can hope to nurture El Salvador's political center, especially with his party's rival factions engaged in mindless fratricidal strife. But at least the United States can take one major step to relieve the suffering of innocents by extending asylum indefinitely to the nearly half-million Salvadorans who have sought refuge in this country from harassment, torture and murder.

A bill sponsored by Sen. Dennis DeConcini (D-Ariz.) recognizes as genuine the threat to Salvadorans here and to the more than 100,000 Nicaraguan refugees, as well. Persons covered by the legislation could stay until the Government Accounting Office devise a timetable for safe returns. Refugees would not be entitled to public assistance, but they could seek employment. Like a companion measure already passed in the House, it offers limited and temporary relief. That's all the refugees ask.

The bill's supporters are certain it has the votes for passage if and when it reaches the Senate floor later this month, but they worry about the possibility of a filibuster. The votes of Georgia' senators, Sam Nunn and Wyche Fowler, both uncommitted, are needeed for resounding approval. The two of them should see the measure as humane remedy fully in keeping with the government's policies on immigration and asylum.

[From The Charleston Gazette, June 7, 1988]

Salvadoran Tragedy

The tiny Central American nation of El Salvador is a tragic contradiction: Its name means "the savior," but it is the murder capital of the world.

Since civil war erupted a decade ago, around 50,000 civilians have been killed—most of them tortured and murdered by right-wing death squads or massacred in army raids on villages in rebel territory. Some have been assassinated by leftist terrorists.

One-fourth of El Salvador's people have been displaced. Many villagers moved into squalid refugee camps. Thousands of Salvadorans fled through Mexico into the United States. Many of them ran after death squads had come to their homes seeking them.

The Reagan administration is playing a cruel political game with the latter refugees. Because El Salvador is a "democratic" U.S. ally, the White House pooh-poohs claims by these refugees that they're afraid to return home. Their applications for political asylum are overwhelmingly rejected; only 2.7 percent have been approved in the past four years.

In contrast, the administration approved 84 percent of such applications by Nicaraguan refuees last year. It suits the president's political purposes to make it seem that Nicaraguans are fleeing persecution in the little Marxist nation that Reagan has branded a nearby "evil empire."

What a cynical and cold-blooded policy—to try to send 97.3 percent of Salvadoran refugees back to the land of death squads, while granting asylum to Nicaraguans because it makes good propaganda.

To halt this injustice, at least for a while, Congress is working on a "temporary safe haven" bill that would delay deportations of both Salvadorans and Nicaraguans. Most major religious faiths back this legislation, the Moakley-DeConcini bill. It passed the House and was approved by the Senate Judiciary Committee.

The American Civil Liberties Union, another supporter of the safe haven plan, says Senate Majority Leader Robert C. Byrd, D-W.Va., holds the bill's fate in his hands.

Therefore we implore Byrd to let the whole Senate vote on the Moakley-DeConcini bill—and perhaps save thousands of lives.

During the past few years with middle-of-the-road President Napoleon Duarte nominally in command, El Salvador's bloodshed decreased. But now Duarte is stricken with cancer, his moderate party lost the congressional election in March, hard-right leaders are regaining control—and the murder pace is rising again.

Under these circumstances, the safe haven bill takes on greater urgency. I should be rushed through the Senate to halt hundreds of deportations now in progress.

□ 2115

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. Parris] is recognized for 5 minutes.

[Mr. PARRIS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. Kleczka] is recognized for 5 minutes.

Mr. KLECZKA. Mr. Speaker, conflicting obligations caused me to be unavoidably absent from rollcall votes 375–386. Had I been present, I would have voted in the following manner:

On the amendment to H.R. 4637, the Foreign Operations Appropriations Act, I would have voted "no"; roll 375.

H.R. 2642 on Colorado Ute Indian water rights, I would have voted "aye"; roll 376.

House Resolution 562 to authorize use of depositions in impeachment inquiries, I would have voted "aye"; roll 377.

H.R. 5288 the Veterans Judicial Review Act, I would have voted "aye"; roll 378.

H.R. 5408 to make correction in Education and Training for a Competitive America Act, I would have voted "aye; roll 379.

H.R. 4857 to concur in Senate amendments to technical amendments in Job Training Partnership Act, I would have voted "aye"; roll 380.

House Concurrent Resolution 351 to concur in Senate amendments to Prompt Payment Act, I would have voted "aye"; roll 381.

S. 496 to concur in Senate amendments to Computer Matching and Privacy Protection Act, I would have voted "aye"; roll 382.

H.R. 5052 to transfer control of GAO federal building to GAO, I would have voted "aye"; roll 383.

H.R. 5291 to authorize the Secretary of the Air Force to convey certain land, I would have voted "aye"; roll 384.

H.R. 5050 the Women's Business Ownership Act, I would have voted "aye"; roll 385.

H.R. 3718 to permit prepayment of loans to developers under Small Business Investment Act, I would have voted "aye"; roll 386.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. LEWIS] is recognized for 5 minutes.

Mr. LEWIS of California. Mr. Speaker, I would like to inform the Members of the House that I missed a series of votes today in the House on a number of votes due to a sudden illness. I had every intention of voting today, but was incapacitated.

A PLEA FOR THE RELEASE OF THE SHOSTAKOVSKY FAMILY

The SPEAKER pro tempore. Under a previous order of House, the gentleman from Illinois [Mr. HYDE] is recognized for 5 minutes.

Mr. HYDE. Mr. Speaker, today, across the world, people of the Jewish faith celebrate the holiday of Simchas Torah. This holiday marks the completion of the annual reading of the Torah. It is a holiday with a special significance for Soviet Jews.

Each year large numbers of them gather in Moscow and Leningrad to celebrate their religious traditions and to pray that they will soon rejoice in freedom. For they know that "The cause of Freedom is the cause of God."

I hope that my colleagues will use this occasion to press the Soviet Government to allow full freedom of emigration and worship.

In particular, I am calling attention to the plight of Leningrad refuseniks Ilya and Olga Shostakovsky, who—in spite of the principles spelled out in the Helsinki accords—have been unable to leave the Soviet Union for the past 15 years. Like hundreds of other Soviet Jews, they have been denied an exit visa because Ilya is considered a "security risk," even though he has never had access to state secrets or classified information.

Ilya's parents, allowed to emigrate upon their first application, have since died. Ilya has been fired from his original position as a computer engineer. He has not had steady employment since. In addition, the KGB has continually harassed and intimidated the family.

In his message to Congress on January 6, 1941, President Franklin Roosevelt stated that:

> We look forward to a world founded upon four essential human freedoms. The first is freedom of speech and expression—everywhere in the world. The second is freedom of every person to worship God in his own way—everywhere in the world. The third is freedom from want—everywhere in the world. The fourth is freedom from fear—anywhere in the world.

I urge my colleagues to remember the Shostakovskys and their daily struggle to maintain their dignity. I thank the Chicago Conference on Soviet Jewry for all its work on behalf of Soviet Jews, so that they might someday enjoy the four freedoms articulated by President Roosevelt. Their work is absolutely essential, for by them families like the Shostakovskys are made known to us in Washington.

And, finally, I call upon the Soviet authorities, particularly Secretary General Gorbachev, to allow the Shostakovskys and the other refusenik families to emigrate. It would be a small gesture that would profoundly affect a few families. For the United States and the Soviet Union it would be another harbinger of improved relations.

Mr. YATES. Mr. Speaker, I am happy to have this opportunity to join with my colleagues in remembering the plight of Ilya and Olga Shostakovsky. Like thousands of other Jews in the U.S.S.R., this valiant couple has attempted to live a religious life in their home city of Leningrad. They have also applied for permission to leave the Soviet Union.

As a result of their efforts to practice these two basic human rights, Ilya and Olga have felt the heavy hand of the Soviet authorities for more than 15 years. Our effort today, which falls on the Jewish holiday of Simchas Torah, is to tell the Soviets that violations of basic human rights are offensive to decent people everywhere and we join today in our support for Ilya and Olga Shostakovsky. We ask the Soviets to honor the provisions of the Helsinki accords, which they signed, and let this couple leave.

Mr. BRUCE, Mr. Speaker, although the Soviet Union has recently made attempts to improve human rights by releasing several prominent refusniks, these are cases such as the Shostakovsky family of Leningrad which show that the country still has strides to make.

The Shostakovskys' are somewhat lesser known refusniks but their situation is all the more tragic and moving. fifteen years ago, Ilya and his parents began their dream for emigration by applying for a visa. Several months later, his parents were granted permission to leave the Soviet Union but Ilya was told that he would have to wait a year and a half to join them. The reason given—which is typical for many refusniks—was that Ilya is a "security risk", although he has never had access to classified information.

The dream slowly became a nightmare for young Ilya. After emigrating, his parents passed away and the family was never reunited. He was fired from his position as a computer engineer after applying for the visa and was given a low-paying job as a night watchman. As a result of KGB prodding, Ilya was subjected to harsh and intolerable working conditions. Eventually he was forced to quit his job, leaving him without any means to support his family.

Since that time, the Shostakovskys' have continuously been harassed and intimidated by the KGB and Ilya has still not found steady employment. Ilya, his wife and their daughter, a tennis prodigy, anxiously wait for the day they will be able to leave the Soviet Union.

While it is true that we have seen some commendable improvements in the human rights climate of the Soviet Union during this era of glasnost and perestroika, we are obligated to draw attention to those who continue to suffer as a result of neglect for human rights. I urge the Soviet Union to immediately facilitate the emigration of the Shostakovsky family and all other individuals who do not remain in the Soviet Union by their own choice.

GOODBYE TO THREE OUTSTANDING MEMBERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, we had an unusual day today. I had asked for this special order last week to discuss the word "hypocrisy" and how it relates to one of the Presidential campaigns, but I will set that aside for another day. I am still trying to find time for a 1-hour special order on my visit to seven of the German concentration camps in Poland, six of them the major extermination death camps designed only to slaughter millions of human beings. I hope, if we come back next week, and I do not want to come back next week, but if we do, I will find time for that.

This week we had, those of us from the California delegation, an hour carved out to try and give a fitting goodbye to three outstanding Members of Congress who are departing.

This has been an unusual day, as the Members well know, Mr. Speaker. We went for the gold today. We tried to establish a Guinness Book record on more recorded votes than any legislature in the history of civilization. We fell short by four votes. We had 40 votes today. There was a day before it was electronic up on the walls when we had 44 votes. I just researched that.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield on that particular point?

Mr. DORNAN of California. Mr. Speaker, I am happy to yield to the gentleman.

Mr. DREIER of California. Mr. Speaker, I do not know where that information came from, but my good friend from Kentucky [Mr. NATCHER] told me that in 1962, 29 teller votes were held in one day, and that in fact was the record.

Mr. DORNAN of California. Is the gentleman indicating that we may have taken the gold today, not the silver medal for voting?

Mr. DREIER of California. I think we may have taken the gold today, and with 40 recorded votes set a record here in Congress.

Mr. DORNAN of California. As is my wont at the beginning of a special order, I set the guidelines for the people that somehow are embarrassed when they think they are looking at an empty Chamber and they do not realize that 400,000 people may be hearing our words addressing, as protocol demands, and we love protocol, through the Chair, and I say to the

Speaker, I do not have to advise him that there are people who follow the proceedings of this Chamber through the written Record, which goes out to all the public libraries across America, including our two beautiful unattached States of Alaska and Hawaii, the Virgin Islands, Guam, Puerto Rico, and there are also some people who follow the proceedings of this Chamber through national technical means, i.e., electronic television, and those people will sometimes wonder why this House is empty.

Our great preceding Speaker, Tip O'Neill, decided it would be nice to have the cameras pan the House to show nobody is here, but we know that sometimes through national technical means 400,000 people watch these proceedings, and just in case, Mr. Speaker, 400,000 people are watching tonight, I want them to know that we may in fact be witnessing a historical day on October 4, 1988, that 40 votes, 39 recorded votes and one quorum call, may be the all-time record.

The Roman Senate never voted that much.

Mr. DREIER of California. I was just informed by the very distinguished Reading Clerk that in 1968, during a very lengthy legislative day which spanned much longer than this one has or possibly could, there were 35 quorum calls, and he did not know whether or not there were actually other recorded votes taken during that period of time, so I think that we are going to have to do some research before we claim the gold medal, I would say.

Mr. DORNAN of California. Even if it falls to a bronze, it was a brutal day. I know the people who were fortunate enough to be in the gallery, and they are all gone, so I am not referring to them, but the people in the gallery were very impressed with the 100th Congress in its concluding days, but I went up and sat in the gallery, and I would like to give my friend, the gentleman from California [Mr. Dreier], a sampling. Is the Speaker listening?

Here are the remarks from the gallery today: "Look how hard they work. How can they possibly keep track of so many issues? They only have 2 minutes between votes. They are geniuses down there. When do they get time for office hours? How can they make any calls? Look at how fun-loving they are. See how these Christians love one another." It was almost like the early days of the Roman Empire, but we managed to get 40 votes out of the way. The reason I am bringing this up is because the schedule was a little bit erratic.

There are 18 Members of the Republican delegation out of the 45 from California. They all wanted to be on the floor when we took the special order to say goodbye to three of our stalwart colleagues.

As one of our great speakers today said, the gentleman from Illinois [Mr. Rostenkowski], "I feel like the man who said, 'It is just like deja vu all over again.'"

Mr. DREIER of California. Yogi Berra.

Mr. DORNAN of California. Yes, redundant. This does feel like deja vu to me. I sat on the floor once and was one of those departing Members, and one of the Members called us the Magnificent Seven. Several of us were gerrymandered out of the seats. Clair Burgener left after 10 wonderful years, who was one of our leaders and the Secretary of the Conference. Shall we tick off those seven?

Mr. DREIER of California. Don Clausen.

Mr. DORNAN of California. Knocked out by reapportionment.

Mr. DREIER of California. Wayne Grisham.

Mr. DORNAN of California. Knocked out by reapportionment by a gentleman who is on the floor who shall remain nameless, in a tough-fought primary where he wiped up the ground with him, but it was not Wayne's fault.

Mr. DREIER of California. John Rousselot.

Mr. DORNAN of California. Knocked out by reapportionment.

Mr. DREIER of California. That is three.

Mr. DORNAN of California. Bob Dornan, forced out by reapportionment. But he went out swinging in a Senate race, and beat the President's daughter, and then a State senator. It was tough. It was like the Indianapolis, 1, 2, and 3, and the real battle was for 3, 4, and 5 in that race.

Mr. DREIER of California. Our distinguished colleague.

Mr. DORNAN of California. I mentioned Clair Burgener.

Mr. DREIER of California. Pete McCloskey.

Mr. DORNAN of California. He went out in that same Senate primary. He got into it of his own free will. I was forced into that.

Mr. DREIER of California. Barry Goldwater, Jr.

Mr. DORNAN of California. He went out of his own free will in the Senate race, and I was forced, and the gentleman will notice how many times I say I was forced, forced into it, and entered a year late and $1 million short because of reapportionment, an unethical, vicious, dirty, low-life, foul reapportionment that took our delegation, 21-21, and an open seat, for a judgeship, 22-21, right, it ended up 22-21 by 300 or 400 votes, and that equal delegation of 43 of us and picked up 2 people after that 1982 census rollout, and we were reduced to 17 to 28.

Mr. DREIER of California. And like my friend from Garden Grove, I was very sorry to see the Supreme Court do that.

Mr. DORNAN of California. Garden Grove.

Mr. DREIER of California. Pardon me. Garden Grove. That is why I said it correctly. I was very sorry to see the Supreme Court decided not to address the issue of California reapportionment.

Mr. DORNAN of California. Quite seriously, is not one of the reasons they said that is we are so close to the 1990 Census which rolls out into the 1992 election with new seats that we could battle it then, and we expect to pick up another five or six seats in California? I think we have six made already. Then we will go up to 51. I hope there are no New Yorkers on the floor. They always cry. New York is going to lose three. The gentleman is an expert on this.

Mr. DREIER of California. I am not sure exactly how many. I do not want to upset any of my colleagues to tell them how many seats they are going to be losing.

Mr. DORNAN of California. Let us say that it is 3 out of New York, they are going to go from 34 to 31, which means that California——

Mr. DREIER of California. We will represent 12.8 percent of the U.S. House of Representatives, meaning that 1 in 8 Congressmen here on the floor will be from California.

Mr. DORNAN of California. We will have 51, and the next largest State in the Union, the Empire State, where I was born, New York, will have 31. We will have a lead of 20, and if we are not ready for the court fight of the century, maybe of the whole period of America's existence as a republic to fight for a fair reapportionment, where in 1 year we actually received more votes in the raw vote count, and we never got less than 40, and yet we ended up with 17 seats out of 45, 17 to 28, and then 1 Congressman, and I will leave it up to the gentleman to tell them who it was, packed a carpetbag and moved to beautiful Orange County and made a minor adjustment 4 years ago, bringing us to 18 to 27. Who was that Congressman?

Mr. DREIER of California. That was the distinguished gentleman in the well.

Mr. DORNAN of California. I thank the gentleman.

Mr. DREIER of California. He has probably taken the Orange County delegation, which had one Democrat, and made it solidly Republican. I think that was a wonderful preface.

Mr. DORNAN of California. They gave me a 12-year assemblyman, No. 3 in the leadership in Sacramento, the last Democrat in Orange County, and I dispatched him 2 years ago, and now Orange County is leading the State in Republican registration, and Mr. Dukakis is down to 18 percent. We may have such a majority in the beautiful county of Orange that it carries the State for GEORGE BUSH, and as goes the massive gorgeous Golden State, so goes the country.

□ 2130

Mr. DREIER of California. We take pride of course in being from California. We are both former members of the Los Angeles delegation.

Mr. DORNAN of California. I still have a toehold.

Mr. DREIER of California. You are still a Member and can take pride in our wonderful Dodger Blue, who was narrowly ahead at my last check, although I have not checked the score recently.

Mr. DORNAN of California. That is why we may not have 400,000 people following these proceedings, but all that arithmetic is to let you know, Mr. Speaker, that 18 of us wanted to be on the floor, 3 of them setting in humble mute silence while 15 of us regulated the Nation with their proud deeds over many years of service, but deja vu comes back and I not only sat as the so-called Magnificent Seven, but after my comeback in the 1984 election, at the end of 1986 I participated with the Speaker at the leadership desk where we asked to temporarily suspend the rules of the House and sing, not too badly, I might add, sing goodbye to the Honorable Gene Chappie and the Honorable Bobbi Fielder, Gene Chappie of the great north and Bobbi Fielder of the great valleys, where the valley girls come from, and the Honorable Ed Zschau of the bay area further south, and he, like DORNAN, McCloskey, and Goldwater was wiped out narrowly with a U.S. Senate race trying to dislodge CRANSTON.

Mr. DREIER of California. We should focus on our distinguished colleagues who are retiring this year.

Mr. DORNAN of California. Let us talk about that with our final 3 minutes.

Mr. DREIER of California. I have a formal statement put together that I would like to elaborate on.

Mr. DORNAN of California. Mr. Speaker, before the gentleman from California reads his excellent remarks he slaved over, let us go down the line, by seniority, of who is leaving from our great delegation at this time.

Mr. DREIER of California. By seniority we begin with your distinguished fellow from Orange County.

Mr. DORNAN of California. My classmate from the Bicentennial.

Mr. DREIER of California. Both gentlemen were elected in 1976; our friend from Newport Beach, CA, the Honorable ROBERT BADHAM.

Mr. DORNAN of California. BOB has an enviable record that he can say for almost 30 years he has never lost an election. He has served here for 12 years, all of them admirably and productively on one of our five major committees, the Committee on Armed Services, became an expert in many fields on that committee and he served in the California Assembly from 1962 until 1976, 14 years, winning a very tight primary.

I happen to have the data memorized because it was an unusual figure. He won the primary against a State Senator, John Schmidt, by 1,111 votes, unofficial one on election night, and he came here in 1976 with me, and that means 12 years here, since this Assembly, and 28 years of elective service, including a year running out of office to get the first office, so that is 29 years of running or elected service without ever losing a primary.

Mr. DREIER of California. If the gentleman would yield on that point, neither my friend in the well nor I, actually, or any of the people we are honoring can make that claim other than the gentleman from California [Mr. BADHAM].

Mr. DORNAN of California. Abraham Lincoln lost 17 elections, what does he know?

BOB won all of them.

We will hit the other two gentlemen, the next one by seniority.

Mr. DREIER of California. The distinguished colleague from also the Orange County and Los Angeles delegation, DAN LUNGREN.

Mr. DORNAN of California. Let me tell you an insider story on the gentleman from California [Mr. LUNGREN], who ran in 1976, hoped to join BOB BADHAM and myself in the 95th Congress and lost an election, and like so many Members of this body on both sides, or like our friend, the gentleman from Georgia [Mr. GINGRICH], who ran 3 times, DAN set the pattern for you, ran in 1976, lost a tough race, came back and won it, and one of the biggest classes we have had, like the prelude to Reagan's victory in 1980, DAN has served 10 full years and leaves with sort of an unfair challenge in the California Senate. By one vote DAN missed becoming a statewide officer, the Treasurer of the State of California, appointed to such office by his friend and our excellent Governor, George Deukmejian. He passed in a very liberal assembly and then in a very biased, unfair, vicious fight that was so cruel his beautiful wife, Bobbi, sat up with righteous anger to defend her husband in front of this kangaroo court where he missed by one vote in the U.S. Senate. I know we predict DAN LUNGREN will be in State office some day, and leave after 10 years.

The gentleman from California [Mr. KONNYU] who is such a delight, we have enjoyed his company throughout this 100th Congress, he got knocked off in a primary, as we mentioned the Honorable Wayne Grisham did. We watched people fall to fellow Democrats on the other side of the aisle over a long period of years, and finally the odds caught up and we lost an excellent Member his freshman year. ERNIE served in the California Assembly for 6 years and is Hungarian born, a great anti-Communist, hard-working legislator, and he is going to be missed, too.

Mr. DREIER of California. Am I correct in assuming the gentleman in the well at one time met his mother?

Mr. DORNAN of California. Mr. Speaker, at one time I was at a special dinner in St. Louis about 3 months ago and this beautiful lady came up to me and asked me to sign her program and then whispered to me that she was born in Hungary, and I told her that I had served with several Members born in Hungary, including the Honorable TOM LANTOS and the Honorable ERNIE KONNYU, and she said that ERNIE was her son. I know where he got his political inclinations and skills. That courageous lady and his father took him out of Communist Hungary across the border during periods of tension. ERNIE later became a major in the U.S. Air Force and is a terrific man and will be missed, as all the Members will be.

Mr. Speaker, I yield to the gentleman from California to hear about their backgrounds in depth.

Mr. DREIER of California. Mr. Speaker, I thank my friend for yielding and I will recapitulate a few things.

I would like to say first of Mr. BADHAM, that as pointed out, the citizens of California first elected him in 1962 to the State assembly which was the date, as we mentioned earlier, that the previous record had been held on recorded votes here in the Congress, and now we are doing this special order as he was here, to not miss a single vote on the historic day.

He worked diligently in the assembly for 14 years and was elected to Congress, as my friend said, in 1976. Here in the House he established a solid reputation for his work on the Committee on Armed Services and also the Committee on House Administration where he has done a great deal of work, as my friend said, BOB served in the U.S. Navy during the Korean conflict and used that personal experience, which he had, to lay the groundwork for his tremendous record which he has developed here as a Member of the Committee on Armed Services.

He will be very sorely missed, and as he and his wife, Anne, return to California, every Member of the delegation on both sides of the aisle, people who have developed a great respect for BOB BADHAM, will miss him, and we will miss him as well as he looks toward the future, and rumor has it he will continue in his role in ensuring that very important line in the Preamble of our Constitution, "providing for the common defense," and he will continue his work, and we congratulate him for a fine tenure of service.

As my friend from California mentioned, our colleague, also from the Orange County-Los Angeles area, as Mr. Dorman has said, was elected first in the 1970's.

Mr. DORNAN of California. Before you go into that, shall we pay a little more tribute to these three fine gentlemen as we go down the line?

Let us finish a little bit about Bob, and again, the rest of us, there are 18 of us, with these 3 gentleman leaving, leaves 15 of us, and the other 13 are not here, being a senior Member of our delegation elected in 1972, the gentleman from California, Mr. Carlos Moorhead, was planning and organizing and herding us and shepherding us around to make sure we were here, but because of this unusual schedule of 40 votes, we lost track of one another and they probably think this tribute will be tomorrow night or the next night, so Mr. Moorhead will add his words. He has known Mr. Badham as well as any of us because he served with him in the assembly. Bob got elected in 1962, and Carlos served, I believe, 10 years in the assembly.

Mr. DREIER of California. A classmate of Bob's in the assembly.

Mr. DORNAN of California. We would have missed the last 4 years and they overlapped about 6 years and are very close.

Mr. DREIER of California. Carlos was elected in 1972, so they would have been elected together.

Mr. DORNAN of California. They served 10 years together, and Bob served 4 more and they know each other very well, and Carlos will be crestfallen, or something like that, that he was not here tonight to add to this, but he will submit remarks and perhaps take a special order later.

Bob Badham is young, vigorous, certainly not retiring from politics. His wife is a delight to know and is active in human rights groups, caucuses to help people in the Soviet Union, active in Republican Wives. She is beloved in their Newport Beach district, which is their principal home. They live there and that is the main harbor area there and there is not a more beautiful place in the country. It is considered a Republican bastion, so Bob has never had any serious election problems, but he is just a legislator giving a huge chunk out of his life, 28 years, and he promised that he will not only participate in functions in that area but throughout the State. He was one of the first Members here to endorse George Bush. He came in a few hours after the two of us, but we will not quibble about days as we did not lean on him. He was a man of vision. He jumped on board.

I mentioned the hour thing because when he reads these remarks in the Record he can get in on this. He knew Bush would take the primary and he worked for him on the campaign trail a lot for the Vice President. I do not think that Newport, Orange County, southern California or the Golden State has heard the last of Bob Badham. He will not run again for service but he and Annie will make their presence felt.

Mr. DREIER of California. Mr. Speaker, if the gentleman will yield, there is an issue in the Congress which is controversial politically, but my friend, the gentleman from Orange County, CA, Mr. Dornan, bragged last night or the night before, during one of these special orders in the well of the House, he bragged about being the best traveled Member of either body, and as I recall he pointed to our distinguished colleague, the gentleman from New York [Mr. Solarz], and claimed to be better traveled than our friend Mr. Solarz, and as the gentleman knows full well that kind of travel creates a great opportunity for education for Members, and we know that while Bob often took a great deal of criticism for the fact that he traveled at length, it of course enhanced his ability to deal with national and international issues and crises because of this travel.

Mr. DORNAN of California. You know how I kid about, does your travel look like the letterhead of a famous jewelry store?

In other words, Beverly Hills, London, Paris, Rome, Monaco, and Geneva.

When issues were discussed here on Antarctica, Mr. Badham was able to say, IWT, or I was there. There were many points around the world where Members had not been, where Bob, with what is called a safe seat with his responsibility on the Committee on Armed Services was able through firsthand knowledge and investigation, able to go on the scene, and find facts and report back effectively in committee and sometimes on the floor.

Mr. DREIER of California. Not to say he never had an opportunity to visit any of the sites of the jewelry stores.

Mr. DORNAN of California. A footnote on the gentleman from New York, Mr. Solarz. The kid tries hard. There are a few places around the world, like Mongolia, where he will find a sign when he arrives that says, "Hi, Steve, sorry, I have been there."

The catchy thing here is Mr. Badham has the most safe seat a Republican can have. Mr. Solarz has such a safe seat when he has a townhall meeting they say to him to go on, get out of it, we mean it, go travel and learn, study, my boy.

I am not so lucky. I was attacked by the L.A. Times by my opponent in the last election saying I was really having fun as I had been to Ethiopia, Managua, Nicaragua, and Hanoi, and I sailed to all the garden spots. It is lots of fun to see people starving to death or suffering under communism. So I do not hit the jewelry spots or the letterhead spots, but someone has to cover London, Rome, and Geneva, and the gentleman from New York [Mr. Solarz], is good at that.

Mr. DREIER of California. Is the gentleman saying he has never visited Paris, London, or Monaco?

Mr. DORNAN of California. I have gone through the airports and then quickly through the shadow of the Eiffel Tower.

□ 2145

Mr. DREIER of California. I seem to recall an overnight tour of Paris.

Mr. DORNAN of California. Ah, putting me on the spot. We arrived late in the afternoon, got into a taxicab, Duncan Hunter, that great Congressman from California, myself, who had never been there before, we got into a taxicab, went by Notre Dame Cathedral and I did my impersonation of Quasimodo, Charles Laughton. Then we followed Hitler's trail from June 1940, went up to the Trocadero, and put Duncan Hunter, because he is on the Armed Services Committee right where Hitler stood looking out at the Eiffel Tower and I said, "Remember this, when our defense budget is up, Duncan. We must always keep a strong America."

We hit all the night spots between midnight and 3 a.m., back to the airport and off to Timbuktu or some other suffering spot. That is the way to see Paris, at night when you are on your way to some suffering spot in the world.

Thank you for bringing that up.

Back to our colleagues. Read this, "Bob," and "Ernie," you will love it. Now let us go to the next man.

Mr. DREIER of California. I think it is important for us to realize that our colleague, Dan Lungren whom we referred to earlier did in fact, as the gentleman said, really lay the groundwork for me. I in fact modeled my campaign after that of Dan Lungren.

Mr. DORNAN of California. His 1976 campaign?

Mr. DREIER of California. Dan chose to run in 1976 and he lost by a very narrow margin. I was just reminded a few minutes ago by a very dear friend of mine, Mr. Don Rosson, who is visiting us here—and I know we are not to refer to people in the gallery, but I think he by some means is able to enjoy this special order—that on December 5, 1978, just a few weeks after Dan Lungren was elected to the Congress on a very rainy night, Dan, as he was beginning to plan for his operation here in Washington, drove from Long Beach to the base of Mount

Baldy in Claremont in a horrible storm. He got lost and came to a $5 per person hotdog barbecue as I began at that point modeling my campaign after I had just lost my election when he won it, in the garage and backyard under a tent because it was raining so, as we know it rarely does in southern California. DAN gave a very strong statement and provided encouragement not only to me, but to the many people who were working on my campaign. And I say to DAN, "Thank you very much" because during the 2-year period between 1978 and 1980, because he had done it, I was convinced that we were able to take on that very difficult challenge, the power of incumbency.

Mr. DORNAN of California. He was in his freshman year there?

Mr. DREIER of California. Yes, he was in his freshman year having been elected in 1978 after he lost in 1976. I ran in 1978 and lost by just about the same margin that DAN had lost by in 1976. Then went on to take on and defeat a gentleman, Jim Lloyd, who was elected in 1974 with Mark Hannaford, another member of that Watergate baby class. So it was a tremendous model that DAN had laid for me.

Mr. DORNAN of California. Say, I never thought of that, the three of us dispatched Watergate babies.

Mr. DREIER of California. That is right.

Mr. DORNAN of California. Jerry Patterson, myself, you, Jim Lloyd, great men all that we dispatched.

Mr. DREIER of California. And the late Mark Hannaford.

DAN, since he has been here, has certainly brought about a spectacular performance in the area of legislation.

Throughout his service he has been a consistent conservative and a very loyal Republican. I think it is important for us to underscore that. He was neither in the official party leadership here nor ranking member of a committee, but he has been a very effective legislator and certainly a team player.

Most recently DAN was very instrumental in moving the Judiciary Committee to a bipartisan compromise on the fair housing amendments. He also played a key role in congressional passage of the landmark immigration reform bill back in 1986. And in 1984, he, I remember, planned it right back here, was able to move that anticrime bill which was so important and it was only through his legislation expertise that we were able to do that. And also continuing his tough law enforcement positions, he worked to adopt new user penalties as a part of the House-passed antidrug bill which we went through just this last month.

In addition, he played a key role in drafting the special prosecutor law and sought the implementation of tough sentencing guidelines for those found guilty of Federal crimes.

I should say a group of us—and I was sorry the gentleman could not be there—were attending a party for our distinguished colleague form Oxnard, Mr. LAGOMARSINO. And the dean of our delegation, CARLOS MOORHEAD, introduced our colleague from Long Beach, DAN LUNGREN, accurately by saying that he has probably authored and gotten passed more major legislation in the 10 years that he has served in the Congress, certainly as a minority member, than any other Member in the House of Representatives. That certainly is a great accomplishment.

Also I have been very pleased to work with him on a number of issues of interest and concern to California as has the gentleman. There is no doubt about the fact that he has a very bright future and I know that he will continue as a team player, as he was at New Orleans at the Republican National Convention elected our national committee man to represent for the next 4 years at the Republican National Committee from the State.

So he is going to be a very active player in California politics and national politics. He has, as we know, moved his family from Washington and Long Beach to Sacramento. So he will certainly be very heavily involved with our great Governor, George Deukmejian.

Mr. DORNAN of California. I first met DAN, although I knew his family because his father was President Nixon's doctor. He took Nixon through those harrowing days of phlebitis attack when some people thought Nixon was going to not only suffer the horror of losing the Presidency, but would probably die within months thereafter. As a matter of fact, Dr. LUNGREN himself felt that it was touch and go for awhile with President Nixon.

I knew of the family. They are prominent in the Long Beach area.

DAN went to St. Anthony's High School and we at Loyola many times bested them in sports and many times they dashed our hopes as national champions.

I met DAN during the 1976 campaign. We were both aspiring and trying to overcome tough odds. DAN so impressed me that a lot of Christians will know what I mean by this, that after I had won and he had barely missed, when the 1978 campaign rolled around, I made what is called a novena. I went to church 9 days in a row pulling for DAN LUNGREN to join us back here because I saw that here was the type of quality man that we wanted in the Congress. I had gotten to know his wife, Bobbie by then, his three kids who were all tiny. Now his son is 6 feet 6 inches or something, I don't know. He is going to be a basketball star.

But DAN is a Notre Dame graduate after St. Anthony's in Long Beach. You can tell how Notre Dame has done in sports, football or basketball the prior weekend by just looking at LUNGREN's face as he walks around the House floor when we come in on Monday or Tuesday.

The last 3 days, because we came back on Monday, the smile stretches to both earlobes because Notre Dame stomped Stanford 52 to something, I do not know, 52 to 14, I forget. DAN drives with Bobbie sometimes, flies with Bobbie sometimes to the Notre Dame games. Of course, it is closer from here to Indiana than it is when he is back home.

I am sure he will be there at the USC game when probably the No. 2 team in the Nation meets the No. 4 team in the Nation. I predict Notre Dame will move up a notch.

He not only went to Notre Dame. After he graduated there he came to law school here in Washington, DC, to one of the top schools in the country, to Georgetown University. He interned for George Murphy over in the U.S. Senate. I am doing all of this from memory, and I hope I do not get it mixed up here, DAN.

He worked for George Murphy. Then in his last few years at law school worked over at the Republican National Committee during some rough days. Then under GEORGE BUSH when BUSH was the national chairman for our party.

Obviously DAN had a love for politics going then that was very strong. After he graduated from Georgetown, went home to practice law in that beloved hometown of LUNGREN's, Long Beach, which they left with a heavy heart to move up to Sacramento to be near their good and close friend, George Deukmejian, our great Governor.

DAN came here well prepared, as young as he was, not quite as young as my colleague on the floor coming here at—what was the gentleman, 24? He had to wait for his birthday to get sworn in? Twenty-seven. That is pretty good. DAN was 31 when he got here. At 31 he, like the gentleman, hit the ground running and in his judiciary field he sure made that Georgetown University and Notre Dame University education pay off. In all the things he has stated, let me underscore the gentleman's reference to the immigration bill. I thought it was near legislative miracle because we were finished around here, we were through. The bill was not going to come back on the floor. And through persistence and diligence I believe DAN LUNGREN in the lead, that bill came back out on this floor with a few days left in the session and with tremendous energy on the floor he and BILL MCCOLLUM and a few others from the Judiciary Committee, our own CARLOS MOORHEAD who has been on that committee for 16 years.

Mr. DREIER of California. Since 1972, during the impeachment hearings is when he started.

Mr. DORNAN of California. And that is why I know he is going to take a special order contributing to this because he has watched DAN LUNGREN under his wing just flower so effectively as a legislator.

That bill went through and the administration thought it was a miracle, the coauthor, Senator ALAN SIMPSON of Wyoming thought it was a miracle. The other man who shares the bill's name, because he is in the majority, RON MAZZOLI of Kentucky, he thought it was a near miracle. But with MAZZOLI at those leadership microphones and DAN over here, it just went back and forth so effectively with some good amendments on it. We now have at least something for the next decade to work with that is substantial, on immigration.

On narcotics, as those weak bills came through the Narcotics Committee, what DAN told his good friend and chairman PETER RODINO that the Judiciary Committee had become a graveyard of effective anticrime legislation, it was sordid; if I may get partisan, a Dukakis/ACLU dream, a dumping ground for every protection of victims, and the proper response that America wanted to crime waves across this country. DAN ended this Sargasso Sea of the Judiciary Committee with the help of the other Republicans on the committee and got substantial legislation out on this floor.

What was the other bill that the gentleman mentioned after capital punishment and the drug bill and the immigration bill? What was the other one just more recently?

Mr. DREIER of California. The Fair Housing amendment?

Mr. DORNAN of California. The Fair Housing amendments.

We forgot one important thing. Two years ago, because there just are not enough positions in leadership for all of the excellent leaders that we have, both natural and trained leaders on our side, DAN was put on the Permanent Select Committee on Intelligence by our fine leader, BOB MICHEL and for 2 years has effectively worked that critical slot of which there are only a few openings, and they are so precious you are only allowed to serve 4 years and then you have to step aside for someone else to receive an appointment from the leadership. DAN has effectively, as usual, rolled up his sleeves and worked that committee extremely hard.

I announced on the floor here a few weeks ago when someone was thanking DAN for his excellent work on the narcotics bill, he was saying goodbye to him and it was his birthday. He and another great Member of our delegation, BILL DANNEMEYER are both born on September 22, the day that Nathan Hale said, "I regret that I have but one life to give for my country." Then as the British denied him a Bible and hung him. Nice birthday to have for a legislator.

As I said to him that day, I look forward to some day calling him Governor DAN LUNGREN after, of course, Governor DREIER, Governor DORNAN have already held that seat.

But I really seriously think that DAN is of such quality that he will one day be taking Bobbie and all of his 6'6" children to the Governor's mansion which I guess just sits there unoccupied in downtown Sacramento.

I cannot think of something that we have missed. If we have I am sure our 13 other colleagues will fill in anything in his productive 10 years that we have missed. Which brings us to ERNEST KONNYU, the fighting Hungarian-American.

Mr. DREIER of California. And there is no doubt about the fact that as the gentleman said, ERNIE KONNYU, having been born in Hungary, has devoted a great deal of his time and much of his life speaking out against the Soviet domination of Eastern Europe and in defense of human rights in his native homeland. Those have been a couple of priorities that he has focussed on.

□ 2200

Those of us who continually raise concerns over the Soviet Government here over the past several years found a natural ally in the gentleman from California [Mr. KONNYU] when he joined in the historic 100th Congress. At home, in beautiful Santa Clara County, ERNIE had a distinguished career in the California Assembly before being elected to represent the 12th District. Upon arriving in Washington he represented his new constituents earnestly and with a great deal of courage. There is a domestic issue which he takes great pride in and of course played a role in legislation which we just recently passed.

Mr. Speaker, I will never forget when he showed us in the distinguished minority whip's office the videotape of the Cable News Network's profile in the 100th Congress on ERNIE KONNYU in which he talked about his work in developing a workfare program whereby those who are benefitting from the welfare structure in this country have some work, and we now know that something that ERNIE talked about for years, and years, and years in the California Assembly and here in the Congress has finally passed this House, and we have convinced a great many people on the other side of the aisle to support legislation which would require people to work as they benefitted from that. ERNIE has been a leader in that, talking about it for a long period of time.

It is not secret that, as he faced his first reelection, all 18 GOP Members of the California congressional delegation stood behind our colleague and supported him, and that is an interesting commentary on the clout of the GOP delegation as ERNIE did not quite make it through that nomination and will, we hope, be succeeded by a man whom we hope will be our colleague, Tom Campbell, who is our party nominee in that district. I am certain he will do a fine job.

But ERNIE has laid the groundwork and provided for us really what many people have said, philosophic solidarity amongst the 18 members of the California congressional delegation which has been a real benefit.

Mr. DORNAN of California. Well, the gentleman from California [Mr. KONNYU] had the bad luck of having a district that was never identified as a Reagan district, a Ronald Reagan district in California, although Pete McCloskey was there for 15 years. That may have been part of ERNIE's problems. Pete is a friend, and I have never seen a more attractive candidate or Member of Congress as far as ability to speak or his appearance, but, when there would be 191 of us voting one way, sometimes Pete McCloskey would vote the other way. He followed the beat of a different drummer, and in the 15 years that Pete McCloskey had that seat, he kind of nurtured the Republicans there to not just a moderate style, but a liberal style. And, when he departed, Ed Zschau was only there 4 years, an entrepreneurial businessman with a lot of skills who felt he was ready to take on a Senate race in his third year, and he went up against a longevity senior Senator, the majority whip, who was then the minority whip, ALAN CRANSTON. And he certainly surprised all of us by spending tons of money to win the nomination against a split conservative field, but he was gone within 4 years, and the district had not really gotten to know him, and then ERNIE comes along as a freshman with a totally different voting pattern, a pattern like all the 17 of the rest of us: solid, conservative, Reagan Republican. And I think that the district, being somewhat mercurial and used to a McCloskey voting pattern, just decided that maybe they wanted to go a different direction.

Mr. Speaker, I would say that what has to happen there is they have to understand why the 17 of us vote the way we do, and I think Tom Campbell is a very learned and attractive young candidate. We are all fighting hard for him to win in November. He is a highly respected scholar and professor at Stanford Law School, but I think what Campbell ought to take a look at is why the gentleman from California [Mr. KONNYU] voted the way he did on defense, on foreign affairs, on social issues, on domestic issues, particularly economic issues, and, if Tom Campbell came here with his Stanford connections and completely mirrored ERNIE KONNYU's voting record, he could probably stay here as long as he wanted.

But we are going to miss ERNIE. We are going to miss that solid vote of his that made us an 18-Member, 100 percent, profree market, anticommunists, profreedom, solid Reagan bloc, and I hope that that will happen with Campbell, too, because, when one of us voted the other way like my pal Pete McCloskey, guess who gets the press? When the press looks at 18 Republicans, or then there were 21 of us, here is 20 voting this way. "Well, let's go talk to McCloskey," and then he would give an interview that shored up all the Democratic positions.

Pete McCloskey, we love you. Get off Pat Robertson's back. Wherever you are, help Tom Campbell get elected, and then tell him to vote differently than you did, Pete.

Mr. DREIER of California. Mr. Speaker, I thank the gentleman from California [Mr. DORNAN] for taking this special order and, as we begin to wrap it up, my only regret is that, unlike 2 years ago, we do not have a beautifully written selection as has been done by our colleague from Chico, CA, Gene Chappie, to which the gentleman and I could do our Richard Burton impression of "My Favorite Things"——

Mr. DORNAN of California. "I wonder what the people are doing tonight."

I know. I mean I thought we would make that a biyearly tradition and sing.

Mr. DREIER of California. I thought we would, but since our colleague from cool——

Mr. DORNAN of California. Does the gentleman from California [Mr. DREIER] notice who is in the chair tonight? A gentleman that represents an area of the country where they pay their performers $200,000 a week. He has probably got a trained ear that at the first note he would bring down the gavel.

Mr. DREIER of California. The gentleman from California [Mr. DORNAN] is correct.

Mr. DORNAN of California. He is not used to hearing the quality of talent we brought to the floor 2 years ago.

Mr. DREIER of California. He probably was not here at the time to hear it. I would say——

Mr. DORNAN of California. This is a guy who hangs out with Frank Sinatra who is not going to listen to us.

Mr. DREIER of California. Mr. Speaker, we will miss our three colleagues who are not going to be Members of the 101st Congress. We wish them all well, and I remind my colleagues that all Members do have 5 legislative days in which to revise and extend their remarks and provide material about the gentleman from California [Mr. KONNYU].

Mr. DORNAN of California. One footnote about ERNIE: we do have the 90 census coming up, and we are going to pick up six seats, and I know that I speak for all of us in the delegation. If ERNIE, after spending a few years out there in the private sector creating employment and contributing to the strength of the Republican Party, if he decides to make a comeback, ERNIE, I have got an old carpetbag. I told the press I had burned it when I went to Orange County, but my Sally hid it in the garage. He can have the carpetbag, we will pick out a seat, and we will see you back with us in the 102d Congress.

Mr. DREIER of California. No, no, no. It will be the 103d Congress by then.

Mr. DORNAN of California. One hundred third Congress. So, the gentleman from California [Mr. KONNYU] may return. The gentleman from California [Mr. BADHAM] will be out there in the hustings getting other young people elected, teaching Christopher Cox, who we know is going to win that beautiful 40th Congressonal District. He can teach Chris Cox the ropes, and, as we said, Danna Rohrbacher coming in the seat of the gentleman from California [Mr. LUNGREN]. DAN cannot only teach him the ropes, but DAN will be out there probably running for State——

Mr. DREIER of California. Mr. Speaker, I think it is also important for us as we come to the end of this special order and this historic day in which we had 40 recorded votes to thank and congratulate this extraordinarily hard-working staff who has put up with not only our antics, but all of the things that have gone on on this very historic day here.

Mr. DORNAN of California. Well, at the end of my 2-year session, no matter how late we go, we can always say to them, "This, too, will end, and the 100th Congress will become history, and BADHAM, and LUNGREN and KONNYU will go on to greater things."

Mr. Speaker, I thank the distinguished and articulate gentleman from California for honoring our colleagues, and I look forward to reading the remarks of the other 13.

Mr. MOORHEAD. Mr. Speaker, the California Republican delegation is losing three of its highly competent and capable Members this year. We certainly will miss them here in the Congress, but we wish them well.

DAN LUNGREN was elected to the Congress from Long Beach in 1978 when he won over an entrenched incumbent by a substantial margin. He is one of the most effective and capable Members of this body and, in 1985, was selected by U.S. News & World Report as one of those people "most likely to be a future leader." It is a fitting description. Although a junior Congressman for many of his years, he has aggressively and effectively worked for major revisions in the Criminal Code of the United States and, for the first time in several decades, was able through persistent efforts to get a major criminal reform measure through both Houses of the Congress. "Politics in America," a prestigious political journal, commented that DAN has "* * * gradually emerged as a legislator of considerable substance." I heartily agree with that observation.

On the immigration reform legislation, it was DAN LUNGREN who breathed life into this legislation when others thought it hopeless and who was able by his strong negotiating efforts with Democrats and Republicans together to get it enacted into law. The highly respected Almanac of American Politics, when reporting that the success of this bipartisan agreement was due in large part to DAN's hard work, suggested that "to those who say that divided government and ideology-minded politicians cannot respond affirmatively to society's challenges, his performance on this issue is a refutation."

He also strongly promoted the National Commission on Wartime Relocation and Internment of Civilians, a Commission to study the Japanese relocation problem and its effect on a large segment of our American citizens. He was chosen to serve on that Commission and was instrumental in its coming up with a comprehensive report that was hailed by many.

DAN's work here in the Congress has given him broad experience in many fields. He has published studies on a wide range of subjects from poverty and income to entrepreneurship and innovation.

Dan is a very capable and effective public servant. He is a family man of highest moral standards who was, unfortunately, denied the office of State treasurer of California through petty politics but who, I am certain, will go forward in the years ahead to achieve great distinction in public service.

I am proud of having DAN LUNGREN for my friend, and I wish for him, Bobbie, and the family the very best that life has to offer.

Mr. MOORHEAD. Mr. Speaker, ROBERT BADHAM will be leaving public life, at least temporarily. He will be completing a quarter century career as an elected public servant, having served for 10 years in the California State Legislature where he was chairman of several important committees and where he was one of the outstanding leaders of that body. Then, in 1974, he was elected to fill an open seat in the 40th Congressional District which includes some of the most affluent people of California, and many of the leaders of our State.

BOB had a strong interest in our Nation's defense and was immediately placed on the Armed Services Committee where he has had a distinguished career as one of the hardest working members on that committee. Wanting to be sure of his information and his facts, BOB has sacrificed his time and energies to investigate our military installations across America and around the world, and has become an expert in making our military the greatest on Earth, capable of defending our interests at home and abroad. He has worked closely with the North Atlantic Assembly, the legislative arm of NATO, and with the key players in the INF Treaty process and the Persian Gulf policy. In addition, he introduced an amendment to the defense bill in 1984 to fund research that has developed a new method to kill viruses, including AIDS, with a laser being used in SDI research. Bob has also served on the Accounts Subcommittee of the House Administration Committee, and on the Joint Committee on Printing.

It is interesting to me to note that, when this 100th Congress will have ended, Bob Badham will have served in the respective legislatures during President Reagan's entire tenure as Governor of California and as President of the United States. Bob has served his country, his State, and his district with distinction.

For a number of years, Bob represented our California delegation as a member of the Republican Campaign Committee where he did an outstanding job and earned friends throughout the Congress.

Bob Badham is a person who has strong convictions important to keeping the United States the finest place in the world to live. He has consistently worked to keep America free, to protect the free enterprise system, and to protect the rights of individuals in our great Nation. We will certainly miss the friendship and outgoing nature of Bob Badham in our midst and his absence will be felt by most of the Members of our Body.

We wish Bob and his lovely wife, Anne, many many years of effective service as they return to Newport Beach, CA.

Mr. MOORHEAD. Mr. Speaker, Ernie Konnyu, representing California's 12th Congressional District, came to us 2 short years ago as a duly elected Member having previously served in the California State Assembly. He was an experienced legislator who immediately moved into action and who has been an outstanding Member of his class. Ernie was elected to represent our caucus on the superconducting super collider project and met frequently with leaders throughout the State of California in an effort to secure the Super Collider for our State.

Ernie was chosen by our caucus to be vice chairman. He has been an effective member of the House Committee on Science, Space, and Technology, and on the Committee on Merchant Marine and Fisheries. He has also served on the House Republican Task Force on Welfare Reform, and the Task Force on Trade and Competitiveness. In addition, he is a member of the executive committee of the Congressional House Human Rights Caucus, and the Republican Policy Committee.

Always in the forefront of efforts to balance the budget through spending cuts, Ernie could be counted on as a team player in fighting tax increases and championing the causes of business and employment. He has supported President Reagan's initiatives on the improvement of our overall defense, and was in full accord with the President's actions in the Persian Gulf and his efforts in Nicaragua.

Ernie Konnyu and his wife, Lillian, will be greatly missed by the Members of Congress and particularly by the Members of our delegation. I wish for them much happiness in the years ahead.

Mr. DICKINSON. Mr. Speaker, Bob Badham has been in public service representing Orange County for more than 25 years, the last 12 of which were here in the House. And, his time in the House has certainly been a very intense and productive period. On the Armed Services Committee where Bob has served so well, those years stretched from the depths of the post-Vietnam malaise through rebuilding our national security apparatus to the deficit conscious Gramm-Rudman-Hollings and Gorbachev era of today.

Others have, and will continue to pay tribute to the many contributions Bob has made over the years to California and to the people of Orange County. But I want to make special note of his service on and to the Armed Services Committee because that is where we have served together over the years.

Bob's involvement in defense matters long predates his elevation to ranking Republican on the Procurement and Military Nuclear Systems Subcommittee or his election to the Congress. A graduate of the Navy Officers Candidate School, he served in the rank of lieutenant (jg.) as an operations officer aboard a destroyer escort in the Korean war zone.

It was this experience that convinced him that our post-Vietnam forces may not be equal to the tasks that would lie ahead. So, he made a commitment to be a spokesman for defense issues and to champion rebuilding an unpopular, poorly trained and poorly equipped post-Vietnam military into the first rate force in readiness that it is today.

But, he has not been a rubberstamp supporter of Pentagon positions. In recent years we have had to take more than $50 billion out of DOD procurement requests in order to meet budget resolution targets. I'm sure that no other subcommittee has ever cut back a Presidential budget request by anything close to this amount. It was an unpleasant challenge, I'm certain. And, as ranking Republican, it meant that Bob Badham had to say "no" to many worthwhile programs so that budget targets could be made without jeopardizing or weakening a rebuilding military. But he did meet the challenge again and again.

During his service to the committee he also distinguished himself as a member of the North Atlantic Assembly Military Committee. As corapporteur of the Subcommittee on Defense Cooperation, Bob pushed for harmonization of requirements and cooperative research and development and acquisition projects across the alliance as well as increased roles for developing members, particularly the southern flank nations. Instead of engaging in bashing the allies over burden sharing, Bob has sought to act in a positive manner by promoting greater alliance cooperation. These efforts have served to complement our own actions to rebuild national defense capabilities. There is no question that our national security interests, as well as those of our allies, are better off for his efforts.

Unlike some, Bob has not worked the issues by press release, rather, his approach has been to seek out the responsible official or officials and hold them accountable. His efforts regarding aviation safety, and the Ch-53E Super Stallion helicopter in particular, serve as good examples of his problem-solving style.

At the same time, Bob Badham has been an extraordinarily articulate and effective spokesman for our national security interests. He will not be replaced on the committee because people like Bob Badham cannot be replaced. I thank the American people for the opportunity to have served with him, and thank Bob for his friendship, wise counsel, tutelage of junior Members, and willing assistance on the committee.

We will miss you, Bob, thanks again.

Mr. THOMAS of California. Mr. Speaker, a profound change will take place within the structure of the Republican delegation from the State of California following the November election: We shall say goodbye to three of our colleagues, Bob Badham, Dan Lungren, and Ernie Konnyu. These men have been active and effective Members of the House of Representatives and the 18-member Republican group from the Golden State and their presence from this body will be missed.

I'd like to take a moment to say a word about my work with each of these men, all of whom I consider political allies and personal friends.

Bob Badham has been an active participant in the emergence of an area of California that has been synonymous with growth and opportunity—Orange County. I've known Bob Badham for a long time, having spent 2 years with him in the California Assembly before he left for the House in 1976. Bob has been a strong and effective advocate for the residents of the 40th District and as a member of the Armed Services Committee, has been a key figure in overseeing the rearmament of our military. Bob says he is returning to private life but I know he'll never completely exit the political arena in which he has proven himself so adept.

Dan Lungren and I entered the U.S. House of Representatives in January 1979 and we have been good friends since that time. Dan's presence has always been felt on this floor by his penchant for taking an unpopular or little-known idea and, through force of reason and debate, persuading a majority of his colleagues to ultimately support that idea. An ideal example of this skill occurred in the legislative sparring over this years omnibus drug bill, which contained an amendment, offered by Dan, that would help law enforcement officers secure evidence in drug-related crimes. Dan is now going back home to California where he is sure to add his considerable talents to public life in the Golden State.

I'd like to salute the next member by prefacing my remarks with a short anecdote. Before entering the House, I was a political science professor, which naturally and necessarily involves instilling in young minds a respect for and understanding of the intangible ideas of freedom, opportunity, and democracy. Ernie Konnyu knows first-hand how tangible these ideas are: He was born in Communist Hungary, behind the Iron Curtain, where the precious freedoms we take for granted in this country are nonexistent. This experience has made Ernie Konnyu vital in helping to focus debate in this House on the universal questions of how America must enlarge the scope and reach of democracy in this world. I'll miss my good friend from the 12th District, but as in the case of DAN, I have no doubt I'll see Ernie in California politics in the future.

These three men will remain my friends, both politically and personally and I know they will continue their activism in politics. But for now, the House is diminished by their departure.

Mr. MAZZOLI. Mr. Speaker, the House of Representatives will be without one of its ablest young Members, DAN LUNGREN, from California's 42d Congressional District, when the 101st Congress begins its work.

From my own perspective, I will feel DAN'S departure very personally since we have served together on the House Judiciary Committee and worked closely on important immigration and crime legislation under the committee's jurisdiction.

We also share the common bond of having been educated at the University of Notre Dame. Though of different eras, this rewarding experience has been the source of a strong and enduring friendship between us and our families.

In my capacity as chairman of the Immigration Subcommittee, with DAN as ranking minority member, I have had a front row seat in observing the development of DAN'S legislative skills, his ability to build bipartisan consensus on complex and contentious issues.

On one issue so important to this Nation and his home State of California—immigration reform—DAN'S work was vital to the eventual passage and enactment of the landmark immigration reform law in 1986. This landmark legislative initiative could not have been passed without DAN'S contributions.

It has been an honor for me to work with DAN LUNGREN, a man whose leadership abilities, intellect, and drive are of the highest order. And, I know that we will see his considerable talents again in the arena of public service. For now, and for the years ahead, I wish DAN much health and happiness.

GENERAL LEAVE

Mr. DREIER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this special order.

The SPEAKER pro tempore (Mr. BILBRAY). Is there objection to the request of the gentleman from California?

There was no objection.

AN OLD ISSUE: LIMITED NUMBER OF TERMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. McCOLLUM] is recognized for 60 minutes.

Mr. McCOLLUM. Mr. Speaker, tonight we are here to talk, myself and a couple of my colleagues, about an issue which is as old as this country is old. For over 200 years we have had discussions and debate on whether or not the Members of the U.S. House and the U.S. Senate should be limited in the number of terms that they might serve. Obviously they are not limited at the present time. But many of us feel that it would serve this country's best interest now more than ever if those terms were limited.

In 1980, when I was first elected to Congress, I believed that, and I believe it even more today. In 1980 I introduced a resolution in Congress calling on this body and on the public to have a constitutional amendment to limit Congress to six 2-year terms in the House and two 6-year terms in the Senate.

I also introduced a resolution that was a companion to that as an alternative that called for three 4-year House terms and two 6-year Senate terms as a constitutionally mandated limit.

Mr. Speaker, we limit the term of our President.

Why do we not limit the terms of our House and our Senate?

Well, there are a lot of reasons, I suppose politically, why that is not very pallatable for this body to do to itself or to do to the voters, but it is something this year in particular because we have just gone through a celebration of the Constitution's anniversary.

It is noteworthy that in the Republican Convention in our platform one of my former colleagues from South Carolina, Tommy Hartnet, offered in the resolution forum of the platform a particular provision that to the best of my knowledge and our research has never been offered before in any convention of any political party in the history of our country, and it was adopted in that portion of the platform dealing with term limitation. It reads as follows:

> We favor a constitutional amendment which will place some restrictions on the number of consecutive terms a man or woman may serve in the U.S. House of Representatives or the U.S. Senate.

So, this evening I thought it was appropriate to talk about that for a little bit to see what we might join together to do about this process and perhaps to gain some new adherents to the purposes and objectives of this term limitation concept.

The earliest proposed constitutional amendment to limit was introduced in the First Congress in 1789. The resolution in that Congress stipulated that no person could serve more than 6 years in an 8-year period.

Actually, Mr. Speaker, the concept predated the Constitution. The Continental Congress adopted a proposal by John Dixon of Delaware in 1777 limiting delegates under the Articles of Confederation to serving 3 years in any 6-year period. However, after the First Congress the issue of limiting terms laid dormant until the mid-1940's. The primary reason for this dormancy was in the early years of our country to serve only 2 years in the U.S. House and then retire. Nobody served longer than that. They just did not.

As late as the 1840's, 40 to 50 percent of the Congress left office after each election; 40 to 50 percent as late as the 1840's. From 1860 to 1920 the average length of service doubled from 4 to 8 years. By 1901, when the 57th Congress convened for the first time, less than 30 percent of its Members were freshmen. In 1981, when the 97th Congress convened, only 17 percent of the U.S. House of Representatives were freshmen, a remarkably low number.

Mr. Speaker, I think most of us are aware that with increasing frequency we reelect incumbents. I think last time we had an election in this country a couple of years ago we reelected 98 percent of our colleagues back to the House. There are some who think we will reelect approximately that percentage again this time.

Mr. Speaker, I do not think that is healthy for our Nation. We need new ideas, vigorous concerns here, not just a question of some of the issues we are going to talk about tonight that might otherwise be a good idea why we should limit the terms of Congressmen, but just for the sake of getting bright, new faces in this body with greater frequency than simply based upon a retirement prospect.

Perhaps the most significant growth issue in this whole idea has been the public support for the concept. In 1946 a Gallup poll showed 40 percent of the American public favored lengthening the terms of House Members to 4 years. By 1961, 51 percent of the public supported 4-year terms, and this was about the same in 1977. However, in the most recent Gallup poll published in the Washington Post on May 17, 1981, a clear 59 percent of the American people supported the lengthening of terms of House Members to 4 years. That same poll showed that by a margin of better than 2 to 1, the American people want to limit U.S. Senators and Representatives to a maximum of 12 years in office.

Mr. Speaker, I think that is the most important issue of this. It does not seem to me that the two should be separated, but there are some who strongly do not believe in the lengthening of House terms, but, whatever the case may be, those of us who support the concept of lengthening terms also support the concept of limiting them, and those who join us only on that issue, I must say to them that I think that this is the single most issue, important issue, and that is the one that we are here to talk about tonight.

The simple fact is that the concern of most Congressmen for getting reelected causes them to spend a good deal of time and energy on matters related to that, and that is unfortunately what all of us do. That influences the decisionmaking away from what otherwise would be the course of better judgment in many cases, not all cases, but in many cases. A limitation on terms would assure that a substantial portion of Congress at any time would be ineligible for reelection and virtually unfettered by the constraints of reelection.

☐ 2215

In addition to limiting terms, if there were a lengthening of terms, I think the effect would be even greater.

The bottom line is simply that there is not enough time for us to do all the duties that are expected of us. Today, as opposed to back in 1840 or 1900 or 1940, for that matter, we have career Congressmen. Back in the early days of this country we found people who served were really here for only a couple months a year. In fact, well into the 1940's and 1950's it was the practice to stay no more than 3 months a year. At one time not very long ago it was 6 months. Now it is a year-round proposition, and it is very difficult to find anyone who could conceive of Congressmen going back home after a couple months here and working in other jobs. They do not do that, and that is really the most serious problem when coupled with the pressures that come with today's society. That is really the bottom line problem.

We are career oriented here. Once you get elected to Congress at a certain stage of your life and you are here, it is like any other job. There is a security blanket factor. There is a great desire to be reelected, instead of going back out into public life. While for some people and for the public in some instances, that is a great service, a great sacrifice, as a matter of fact, for many others and for the public as a whole I think that it is not. It is just the opposite of that.

But the fact of life is that you are not going to change. We are not going to change the business of Congress. There are so many issues, so many subject matters to be brought up, the Government of the United States has grown so large that a year-round functioning body is really a necessity, and I think it will always be with us.

But coming with that, comes again this pressure for remaining here, this desire, this lack of going back and being reinvigorated by going back to a job and being a businessman in a business somewhere back home or being a doctor or a lawyer or whatever the profession is, and then staying here year after year and getting somewhat isolated from it.

It is a difficult thing, but that is what has happened, and unless we limit the terms of Congressmen, we are going to continue to see this trend, and it will not be an easy one to break.

Coming along with that come the pressures to fundraise, the pressures that come on us in the voting process when it comes to making a decision on what is the best thing to do.

I remember when I was here in the first term of Congress. There was a vote on the question of funding for libraries in this country. Nobody is against libraries. There was a $10 million program that had come out of Lyndon Johnson's Great Society, $10 million a year, not billion, but million. Now, that is a lot of money to me and to you and to everybody else, but by the way we do things around here, $10 million a year is not comparatively a lot of money.

There was a proposal to eliminate that program and that proposal was supported by a number of the original adherents of it, saying, "Really, the purpose of the Federal Government is not to support libraries. That is a community thing back home. The reason we had the $10 million was to get the rural libraries going, to stimulate libraries to be started, and we have done most all we need to do in that regard, and if we are going to get this budget of ours in balance, it is time that we proceed and do something about that and go ahead and eliminate this program."

Well, it came to a vote on the floor here. I remember some of my good conservative colleagues, as well as others here in this body, scratching their heads a minute, and I heard a murmuring around the room here as that vote was in progress, "You know, we ought to get rid of this thing. It isn't serving any purpose. It has already done what it's supposed to do. We have seeded some rural libraries. But you know, I wonder what the friends of the library back home would think of me if I were to go on record and appear to have voted against libraries?"

So our friends, my colleagues, voted overwhelmingly, despite the recommendations of even the authors of that proposal and the original adherents to it, voted overwhelmingly to continue the funding of that $10 million a year program.

That is one small example of what goes on here. That is indeed a real big problem for us. So that is one of many reasons why I became convinced more so than ever after I got here that we ought to limit the terms of Congressmen in this body and get back to more of a citizen legislator and have an opportunity for there to be a relief of that pressure, so that there is not so much a concern about what is somebody back home over every little issue going to think of how I did it, and more concern of what is right and what should be done in restricting the budget and getting some common sense back into the Government. That is just one of a number of reasons.

I have had a number of my good friends who have supported this concept since we all came together here in 1980 who are with us tonight. One of them is the gentleman from Oregon [Mr. DENNY SMITH]. The gentleman looks like he is wanting me to yield to him, and I am delighted to yield to the gentleman from Oregon.

Mr. DENNY SMITH. Mr. Speaker, I thank the gentleman for yielding to me.

I thank the gentleman for his leadership in this area and for the steadfastness with which he has moved forward on this issue.

Three years ago I believe it was that the gentleman from Florida formed the organization which I am proud to be a part of and am proud to talk about, that is the Committee on Limitation of Terms, which is called COL. It is in being and we need to have help from around the country.

What we are trying to do with this concept is to get away from the career professional politician and get back to the citizen legislator that the gentleman talked about.

I think it is interesting, you know, if you look at the statistics at this time, the majority of Members, or the Democrat Members of this body, have now served an average of 10.2 years, and the Republicans, or minority in the House, have served 7.7 years.

So we are in a professional politician mode. Of course, our pension is fully funded or is vested at 6 years in service in three Congresses.

We have a situation that lends itself to people staying around here for a long time.

First, the seniority system does not allow you to get into a position where you can be in charge of a subcommittee until you have been here three or four terms.

As the gentleman well knows, one important thing here is to break the back of people who are staying here, and this is the best job they have ever had.

I think what we need to do is to get people who are willing to come here, as the gentleman talked about earlier, in the 1950's and before, where we had maybe 3 to 6 months' service a year in the Congress and then they went home to live with the real world problems where the rubber meets the road and really trying to solve problems as a citizen.

Unfortunately, we have become so enamored of staying around this town, working only 3 days a week, Tuesday, Wednesday and Thursday, and not really solving the legislative problems.

This last week or so is a good example. We are going to be here for days, and yet we are not doing anything in the best interests of the Republic or the people that elect us to this people's House.

So I think that the Committee on Limitation of Terms, for which we have a constant bill, is a very good way of trying to not limit ability or opportunity, but limit the number of years you can stay here and serve yourself, rather than the Founding Fathers' concept of serving people and being elected and standing for election every 2 years, not with a great political and financial warchest, but with an opportunity to serve in principle, rather than because of the fact that you are serving special interests. I think it is one of the real hazards we have.

Mr. McCOLLUM. Reclaiming my time for 1 minute, Mr. Speaker, talking about COL, or the Committee on Limiting Terms, as the gentleman knows, he is secretary of the organization and I am very proud to be president of it, the objective of that was to form something where we could go out over the next few years and reach the public and try to stimulate support for this concept; because frankly, this body is not going to limit itself. We are not going to pass the amendments, the resolutions, this year's House joint resolution and House Joint Resolution 94 would provide that six 2-year limitation of terms that we all desire on the House and two 6-year terms in the Senate; but that will never get a hearing in the committee, let alone get out in this body, unfortunately, although we have a number of our colleagues supportive of it, but we are nowhere near a majority, let alone two-thirds, but if we can get out to the community and get the State legislatures willing to call for a convention limited solely to the purposes of a constitutional amendment to limit the terms of Congress, then I think we have a chance, because the public supports this so much.

I know that there are those who are concerned, as I know the gentleman from Oregon understands, about having a call for any convention for any purpose, but I am a firm believer, I have studied this a long time, listened to a lot of authorities on it, having been on the Judiciary Committee for these 8 years, and I am convinced that if the call for the convention is limited to the single issue and says on its face that no other issue will be considered, or the call is null and void, and every State passes it the same way through their legislatures, we can limit that, but that is the only way it is going to come about.

The gentleman from Utah, to whom I am about to yield, who is the vice president of COL, the Committee on Limitation of Terms, was a forerunner that really led the charge in the State of Utah and has given us the exemplary resolution which the legislature in the gentleman's State passed to begin with here a few years ago calling for this term limitation.

Mr. Speaker, I am delighted to yield to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Speaker, I thank the gentleman for yielding to me.

I appreciate what both gentlemen have said regarding this issue.

As the gentleman pointed out in the State legislative body, many of us come from that area. Prior to coming to Congress, I was a member of the State legislative body. In fact, I was speaker of the house.

You know, it is interesting in those places, we go in there in January, we get out in April, we may serve 30 days, we may serve 60 days, we may serve 90 days, but we get a lot of work done.

I was counting up the number of pieces of legislation that we passed in the State of Utah when I was speaker. We actually passed more in 60 days than we do here in 1 year.

It is a lot of hard work. We even worked over the weekends. We started early in the morning and went late at night.

Most of us had other jobs. We ran because we wanted to serve, and we were out of there.

Very candidly, and I know this will shock a lot of people, but I feel we could almost do the same thing here. When we first came here, we were all in the same class together. I remember very specifically people saying to both the Democrats and the Republicans, "The reason you are here is to get reelected."

I say, "Baloney. We didn't come here to get reelected. We came here to serve the people of America in the new direction, as we saw it with Ronald Reagan."

Now as we go into this historic 21st century that is starting to come around, the people in America are demanding that we balance the budget, that we get the deficit under control, so we look at all the dramatic ways, we pass Gramm-Rudman and we pass all this other stuff, and then the first rule that comes out, we just overlook that kind of thing and say, "Well, we really didn't mean it."

So as one man said, "You have to bind them down with the chains of the Constitution."

I candidly say, that is what this COL is all about. We talk about ways to do it, some of the tools. In 1982, we voted on something from the Senate called the balanced budget amendment. As I recall the first time the Senate ever has done it, Senator ORRIN HATCH was able to get that through.

We got over here and we went down the tube on a party line vote, if I may so respectfully say.

1We talked about a line-item veto. I remember distinctly as speaker of the house, the Governor of the State calling me up and saying, "How did this certain thing get in on a certain line?"

And we looked it up and would go back and find out who was able to sneak something in that the State should not be involved in. It should be a country or a ctiy, but we were involved in it. The Governor would take it out and no one even knew about it.

Do you remember those great State of the Union speeches from Ronald Reagan? Every time that he stood up there, what did he say? He said, "Give me a line-item veto."

He looked at us and tantamount to saying, said, "You haven't got guts and courage enough to do it, but I will do it. Give it to me."

I had him out in Utah in 1982. We were in this big limousine and we were going down the street. He was waving at everybody and at the same time he was saying, "Gosh, if you folks would give me the line-item veto, I could bring this thing into line."

And when he left the State of California, he left them with a surplus.

Is it not interesting that in the States that have a balanced budget amendment, that have the line-item veto, they also have an aggregate of millions of dollars in a surplus situation. We do not have either one of those tools.

Our organization of COL is asking for a third tool, and the other tool that we are asking for is the one that we feel will put some determination, some rigidity in the backbone of Congressmen and say, "Now let's limit your terms. Let's go there to vote meritoriously for what is good for America. Let's not run for a job."

Those of us who sit here, if we are basically honest, and I think all of us are, if we get in a situation and we stand back there and there is an appropriation vote, you just see wringing of the hands saying, "Golly, how is this going to play in Waco, TX or Peoria, IL or Ogden, UT, or something? Is it going to sell there?"

That should not be the word. We should not be prostituting ourselves, if I may be so blunt as to say that, worried about things such as that. We should be voting on what is right for America.

So as I look at it, yes, if you want a balanced budget amendment, if you want a line-item amendment and if you want Congress to be responsible, you should get down to the point that you limit their terms so that we do not run for that reason.

As a college student, I would have argued the other way, it is a crazy idea. The people want to put them back; but after the Second World War, we looked and we thought, gee, FDR was a great President, but he served too long, and so Democrats and Republicans alike passed the 22d amendment to the Constitution. It went like that through the States and we determined that was the correct way to go.

Now, what is wrong with saying the same thing about Members of Congress?

□ 2230

What we are proposing, what we are saying and what we put in every year is that we would be six 2-year terms in the House and two 6-year terms in the Senate which we could change to three 4-year terms if it came down to it, but basically I think the people of America should realize always, as they write us hundreds of letters, if they really want their job done, they have to get down to the idea of limiting the terms of the people who serve.

Mr. McCOLLUM. If I could reclaim my time to make one point, the gentleman has listed, as the gentleman from Oregon did, and certainly there are different alternatives, and I think all of us who have talked about it who are active Members of Congress realize that there is no magic in a particular number of years or in a particular set of pattern. Our concern is about what was in that restriction, the proposals that Tommy Harkin made, our former colleague. We just want to see those terms restricted to some reasonable number, and the call for the convention that the gentleman from Utah proposed several years ago, and passed his legislature, and that called for a convention to convene and deliberate and come up with an amendment which limits the terms, that lets that convention decide the length, but it does not let that convention do anything else or consider any other issue or decide anything else, and that is very important.

We are not really here promoting a particular number of years, although 12 years historically has been the number that most over the years have supported.

Mr. HANSEN. If I may respond, the balanced-budget amendment that went through a number of States, and what are we now, 33 States, and one more or so and this thing goes to a convention, and it takes a long time to get it along, but the people insisted upon it.

I think as people start seeing the rationale behind this, we will get the same thing going.

I am proud that the State of Utah, who gave women the first vote and lots of things, could see the wisdom and the value of being the first one to do this. I personally feel we will see State legislative bodies seeing the importance of doing this and, like that other issue of a resolution to balance the budget, the line-item veto and also the limitation of terms will catch on and should catch on in other States.

Mr. BROWN of Colorado. Mr. Speaker, will the gentleman yield?

Mr. McCOLLUM. I am happy to yield to one of our good friends and colleagues, the gentleman from Colorado [Mr. BROWN], who came with that 1980 class that we all represent who feels as strongly as we do about this issue of limits, and, in fact, he was president of our class and still is in many ways.

Mr. BROWN of Colorado. I would like to thank the gentleman from Florida, the gentleman from Oregon, and the gentleman from Utah, who have provided great leadership on this issue.

Let me just suggest to the American citizens who are thinking about this issue what needs to be changed, one of the startling facts with the change in the Supreme Soviet is that the reelection rate now to the House of Representatives is significantly higher than the reelection rate to the Supreme Soviet. The reality is this body has become very staid. We need a change in the length of terms for a variety of reasons, but they relate to the harms that this body has fallen into: First, we have gone on with a reelection rate because of congressional perks and because of the powers of the office that, in effect, deny a free choice to the American people with regard to policy. We simply have incumbents too well entrenched; second, we have developed a staffing level for Congress that absolutely defies the imagination.

The committee that I served on, and I know the gentleman from Utah still serves on, and that is Interior, and his predecessor served on Interior as well and was the chairman of that committee, and when Wayne Aspinall first went on Interior, they had four full-time staffers. His comment, Wayne's comment, to me was that four were too many, that they really just needed two. Since then the workload of Interior has dropped in half, less than in half, in any way that one would want to measure it, and the staffing has grown to 78.

We have so many staffers on Interior now that they cannot all get into the room at one time. With doing less work, half the work that four full-time staffers did, we have a staff that is 10 times as big for Congress as any deliberative body in the world.

The simple fact is Congress has rigged the game with regard to reelection, has wasted resources with regard to staffing, and it has developed a ruling-class mentality where some of the folks who serve in this body begin to think of themselves as a permanent ruling class over the American people instead of servants of those people, and part of it is a factor of staying here too long, not all of it.

We worry about, I think, the power of special interests. One good thing that limitation on terms can do is provide that fresh flow of new blood and new ideas and new vigor that can come to a body that can strengthen it and give it the independence and, I suspect, most importantly of all, what suffers by the long, long service that developed in this body is a feeling that we do not have to live under the laws that we pass, and that is evident in almost every aspect of Congress.

This Congress has exempted itself from the Civil Rights Act, from the Environmental Protection Act, from the Conflict of Interest Act, almost every major statute that deals with human behavior that we have condemned in society as a whole we allow in this body, and the simple fact is we have developed a mentality that is isolated from the people we attempt to serve.

Limitation on terms would help people know that they have to go back and live under the laws they pass, and I believe it would make an enormous difference. We would have a Congress that is more likely to understand the problem they are regulating or the problems they are causing, and they are more likely to understand what it is like to pay taxes, and I think we would end up with a far more responsive House of Representatives.

Just one fact, I think, that is interesting. Prior to 1930 our Nation only had 2 years when the gross national product spent by government, all levels of government combined, exceeded 10 percent. We are a private economy. Since 1930, we have not had a year when it was under 10 percent. The 2 years of exception were 1 year in World War I and 1 year in the Civil War. We are now at a point where almost 40 percent of the gross national product of this country is spent by Federal and State and local levels of government. We have taken much of the decisionmaking and the power and the creativity away from the people of this Nation who do the work and put it into the hands and decision of those who attempt to rule it through this body and State governments and so on. The problem with that is we have lost sight of what motivates America.

I think the gentleman's constitutional amendment will make an enormous difference in returing the control of this country back into the hands of the working men and women of this Nation.

Mr. DENNY SMITH. Mr. Speaker, I think the gentleman from Colorado makes a good point, and I know that both the gentleman from Colorado and the gentleman from Utah have spent time on the House Ethics Committee, and while we do not have anybody who is necessarily criminal or is involved in illegality, it is a fact that after spending some time here, I think the gentleman's comment about the ruling class, above the rules, is really kind of the way some of the senior Members have come to operate around this body, and it is not in the best interests of this body, of the country, or of the future of the Republic, and I think that the limitation of terms is going to do more than campaign finance laws do, more than disclosure of ethics filings that we have now on the amount of money that we have or the amount of assets that we have made in our lifetime.

I think that, more importantly, just the limitation so that people know that they are going to have to go back and live in the real world again is probably the single most important factor here, and this is the end of our eighth year in the Congress of the United States, and we are just now, because of the way the seniority system is, looking at maybe having a little more ability to move legislation, and that should not be right.

The gentleman made a point, the gentleman from Colorado [Mr. BROWN] about the fact of the new blood and the bringing in of people who work in the real economy, and I think that that is really key there. Like the gentleman from Florida said, it does not really make any difference exactly what kind of limitation we put on. We do not want to argue among ourselves about that. The main thing is to get some kind of limitation put on so that we can get back to a citizen legislature.

Mr. McCOLLUM. If I could reclaim my time to comment on that, I think the gentleman has hit on a very important point here, too, when he talks about the seniority question. One of our great problems here is not just the seniority system that has been "reformed," but it is the fact that in many cases the chairmen and the ranking members of the committees and subcommittees, particularly the full committees around the body, and I am sure the other body, too, have been there in those positions for years, and while they may retire, and I can think of one this year who is about to, that they are there for 20, 30 years in that position of power, and their ideas cause legislation to be bottled up in this place.

In the Committee on the Judiciary, I like the chairman, the gentleman from New Jersey [Mr. RODINO], personally, a great deal, and he is retiring this year. He has done a lot of wonderful, good things for this country, and I differ from him on a number. When he did not want to see something out here on the floor, he is just one example, and there are many other committee chairmen here who are the same way, so I am not picking on him, if it were something he really did not want, of course, as chairman of that committee, he could keep it from coming out here. As a result of that, over the years there are many good pieces of legislation, and one example I can think of would be the limitation on the ability for those who has been convicted of crimes, with the death sentence, to be able to continuously appeal in Federal district court year after year. There is legislation that could restrict that in the Committee on the Judiciary which has been there for years, sponsored by a member of the Democratic Party, that I cosponsored, and that have never been allowed to come out.

The point is we are dealing not with just one committee but with all of these committees where somebody has the length of time in power and they can take advantage of that and maybe do not even intentionally abuse it, but it is a natural phenomenon. We need to change that. If we do change that, I think it is going to be a lot healthier for the whole country.

If we do limit those terms of Congressmen, that is inevitably going to occur, and then we are going to get more people willing to participate in the election process. I think as a result of that if one could get elected, one could run for office and could then ascend to some degree of influence in the body, chairman of a committee or ranking member, in a fairly short order, and he would be more inclined as a business person or as a bright, upcoming young professional, to decide to go out and run for election, and I think we would find we would have a lot more good people competing for those offices out there, not just a question of reforming our body internally here, but we would actually have more talent offering themselves, because to a middle-income, middle-aged person, man or woman, who is an up-and-comer in their community, it is a tremendous sacrifice to come here, to give up perhaps a high income, perhaps a lot of other family sacrifices, but if they knew that they could actually get something done in a fairly short period of time, I believe that would occur if they came here and could do that.

I think the gentleman has made a good point for the question of seniority.

Mr. HANSEN. The gentleman was talking about the seniority system. We have got to keep in mind that we are one of the few bodies left that really concentrates on the seniority system. The gentleman talked about many of our chairmen. They are great people, and we all respect them and admire them. Under the system we work in, they sit there a long time, eventually they end up at the top, and for years and years they have all kinds of control.

I have to harken back to a State legislative body; in a State legislative area, that goes not happen as much. It goes more to merit.

I used to sit on the panel of the National Conference of State Legislatures. In those areas we found a lot of speakers, majority leaders, presidents of a senate, who had not been there that long. They did not have to wait. If, in fact, I had to wait now to become Speaker in the House, I should have stayed there, and I would still have to get rid of four or five additional people before I could have the opportunity to run for it. Therefore, if we look at it, it is more on merit in those areas. They seem to get more done.

Another point I think we could bring into this argument is that our States are different out in the West. We do not keep Members of Congress and Members of the Senate quite as long as they do in the East.

The South, for years, ever since FDR, has been solid in one party. It is starting to break up now, which I think is a good thing, but be that as it may, in that one party, you see a lot of our chairman come out of the South, and also out of the Northeast.

In my home State, the longest any person has ever served in the U.S. House of Representatives is 14 years, so we see areas that have different feelings, and they say, "We want them out of there." A new broom sweeps clean. Yet, we see other areas where they serve, and look at our past Speaker, Mr. O'Neill, and look at the fine gentleman from Florida, Mr. CLAUDE PEPPER, and look at our chairman of the Committee on Appropriations, fine gentlemen, and they have been there a long, long time.

This way, we would have new people, we would have a turnover, new people would have an opportunity, and new ideas would be spawned, things would happen around here.

I have been in many places that we would in kind of a tongue-in-cheek way call it the fudge factory, which meant we could not get anything through. Many times here, with 435 people, to move things through, especially those people as they, those people, as they used to colloquially say, the old bulls in the pasture, it is hard to get them out. In this instance, if we have a lot of people who have been here a long time, new ideas are short in coming.

The old ideas seem to hit, and that is to get along, go along, and so we go along with the old people. We learn that idea, and before long we become kind of stale in our thoughts, no new ideas, coming blowing through this House like they should.

Therefore, I think the idea of the limiting of terms is something that would not only help us in regard to chairmanships, but it would help us in ideas, moving legislation, and it would be more equitable across the 50 States.

Mr. DENNY SMITH. I think that is important to understand a little bit about the bill that we all have cosponsored and which I think we have about 15 cosponsors of, but basically we grandfather everybody who is presently here in the House, so it would not really affect any of the three of us if we were to get it approved, nor would it affect the chairman. We are talking about that we are trying to figure out how long we can get enough votes.

Mr. McCOLLUM. It would affect us to this extent, the term, the 12-year limit which we advocate, would begin to run for everybody including sitting Members at the moment that it is adopted formally and approved. Of course, that adoption needs ratifying by the States.

Mr. DENNY SMITH. Approval. Although it would not be limiting on those in office.

Mr. McCOLLUM. The gentleman is correct. A Member's accumulated years in service would not count toward those 12 years, and probably the only way to proceed in something like this.

Mr. DENNY SMITH. It would allow a transition from where we are today so that we would not immediately, if we had somebody with 30 years' seniority, he would not be just dropped off instantaneously. That is my point, I guess. I think that we have to have a way of practically getting from where we are today to where the limitation would be in effect.

☐ 2245

It is extremely important that as we get more support around the country, and I know the gentleman in his opening comments talked about the people around the country. I have talked about this as we all have done in our speeches around the country, but I sit on airplanes or in public meetings and talk to people, and it is amazing how many people say they will agree with that, if they could do that, that it would allow citizen legislatures, and they are frustrated. This is something that would not damage the Republic.

Mr. McCOLLUM. Another thing that we have not mentioned tonight that we ought to be sure to talk about with regard to why we ought to limit the terms, and we have hit upon it a couple of times, and I have, but not quite said it, something I was reminded of because we are at the end of a session now, and what I see happening is, as Members are here longer and longer, we lose a sense of urgency to get the thing done. When we are coming into a session it is easy to say the next Congress can take care of that. We do not have to deal with that now, or if we are not quite ripe on some things, do not worry. If it takes 5 years, that is fine, or if we pass something 10 years ago, we ought to give it time to work, although it may be something that is outmoded, and the public wants to see it changed, and somebody fresh would support that change. We need a sense of urgency.

Another thing, the criticisms that we have of the body politic here of the House and Senate, all of us share that criticism, but we also understand and know that there are exceptions to some of these rules. There are Members here, committee chairmen and senior ranking Republicans who have the sense of urgency who do not act in a way that is adverse, and in certain cases I can think of Members who have been here a long time. It would be a great loss to the Nation if we limit the terms, and they are pointed out as to why we should not do this.

The issues we deal with are so great, the loss that would occur by the loss of one or two of the fine people to our country's service, all of us believe would be a unnecessary and unfortunate result in order for us to get where we have to get as a Nation, to get things going again the way it was intended by the Founding Fathers, but to acknowledge there are Members here who do bear an exception to these things we talk about.

Mr. HANSEN. Mr. Speaker, I would like to make a brief point, and the gentleman from Oregon mentioned that probably would not apply to those of us who are here, and that is correct, but it would start running for everyone who was here, and I do not think it would be the idea we are trying to duck it, but the idea we have constitutional questions and we could not clean Congress out.

You get ex post facto argument and all types and many people would take the pledge. The minute it passed it would run on every seated Member and the new Members that come in, it would run.

I would hope people would not get the idea we would be excluding ourselves as the gentleman from Colorado made a point as we do exclude ourselves from many requirements from regulations that are put on the rest of the public.

Mr. McCOLLUM. If I could comment on that, too, there are some times, a sense out there of pressure put on all of us who support this concept, that gee whiz, we should not do that because we will end up limiting ourselves when we pass the amendment and somehow there will be a time limit because we support our own service. Maybe individually that will be the case for some of us, but the fact remains that as the public gets the impression, and the folks who oppose the concept of limiting terms are able to take advantage of it, that every Member who supports this concept will walk out of here in *X* number of years regardless of whether there is a limit on the whole body. We will lose as a natural course those few Members here who are willing to stand up and voice their concerns and lead the charge to try to accomplish this constitutional amendment.

I think that is a very important point to keep in mind in this process. I do not think any who join with us in this should feel the fear or concern, and they should be willing to stand up and say, look, we want this, believe in it, and think we should be covered by it as everybody in here, but to try to set a limit for ourselves arbitrarily, just for us individually without applying it to a collective body as a whole, and the amendment coming into effect defeats the effort and the initiative to get it accomplished in a body which is steeped in tradition and longevity and seniority.

Mr. Speaker, I would be glad to yield.

Mr. DENNY SMITH. Mr. Speaker, I think it is an interesting situation, the average individual I talk to, and I am sure that is watching this special order, is thinking, well, gee, they ought to be able to get that done. I am always amazed at how few people we really have as cosponsors and how few are willing to see this done that are seated here in the Congress.

I think it is kind of a sad commentary and maybe it is just the time we are in this particular situation, but at one time in pubic service Members had to honor their spurs, so to speak, and come into the body after they had been in county government, State government and on into the Congress and very much were successful in another career.

Too often now we get people, and young people are fine as we have a lot of good Members, too, but we have a lot of people who have not had much experience in business or in military or anything. They are successful at working in the public arena and have gotten elected to the Congress for one reason or another, so quite often these young people are able to stay here maybe for 30 or 40 years with longevity that we have in our society.

I think it will become even more important to try and put on some kind of a limitation and be happy to go back and spend time in their own home town and go back and live under the laws they helped make. It would return it to the control of the people.

Mr. McCOLLUM. Mr. Speaker, I would like to bring us to a conclusion on this, and maybe we ought to summarize it, the three of us left tonight, to make sure we have hit the points and we have a good record for our colleagues of the reasoning behind this and what we are talking about is limiting the terms of Members in this House, Members in Congress, preferably under our scheme to a number of 12 years, no magic in that number. The idea is as old as the Founding Fathers, but something supported by better than 2 to 1 in every poll that is currently taken in the American public, and we believe in that.

As I see it and have heard a number of things, first and foremost, I think we believe that we now have a career Congress. It is unfortunate that it has developed into that, but it is a year-round business and Members are too preoccupied with getting reelected, and too concerned with every time they turn around to make a vote, with fund raising, going back to their districts and so forth. With those pressures we do not believe we can do the service to the country we should, whether on the budget or any other issue which is why we have bad legislation and why we are concerned about the facts. We have the seniority here and the vested time and inability to see the legislation come out of the floor because some Members hold that power for too long, much too long, and as a result of all of this we do not get enough young people, middle-aged people, new people, period, running for Congress and we do not see the competition that otherwise would be here, out there, coming in to try to seek the offices without that turnover.

We also have a loss of a sense of urgency here in getting the job done which all together is simply unhealthy. I have probably overlooked a couple of other points. The gentleman who is not here with us from Colorado was making the point about the problems we have in this system of ours in terms of the various procedures we have in this House that we would not have otherwise, and the ethical problems that the gentleman from Oregon raised that we would not have perhaps with a term limitation.

Maybe one of you gentlemen would like to comment further and make sure I have not overlooked anything.

Mr. HANSEN. Mr. Speaker, I personally feel the gentleman from Florida has made all the points necessary. We have scratched the surface tonight. We hope the people in America watching this will take it upon themselves to write to Members of Congress and let them know their feelings. We could go into detail on the specifics of our bill. That was not the intent tonight.

I appreciate the gentleman from Florida and Oregon and hope people see the value and necessity in this particular type of act that could make a dramatic change in the way laws are passed in America, the way Congressmen serve. Collectively people do not like Congress. Every time we see a poll, Congress is way down on the list, but individually they love their Congressmen.

I saw a bumper sticker the other day that said, "You throw out your Congressman and I will throw mine out."

We feel we are doing a good job but if we knew we had a limitation. We could serve 12 years, I dare say, and I feel in my own heart, everyone tries to be principled but overall we would serve many of the ailments and problems of America because people would be serving, doing what they felt was right for America and not to get themselves reelected.

Mr. Speaker, I think we have covered the topic tonight and I appreciate the gentlemen taking the lead and our organization is well on the way. If people take an active part in this it could sweep America. I hope people take an interest in what we have been talking about.

Mr. DENNY SMITH. Mr. Speaker, I thank the gentleman and really feel like all the points have been covered. It is very important that the time on limitation in terms of being continued and be strengthened, and I will work as well as I can toward that end, and I congratulate the gentleman on having taken a leadership position in this special order.

Mr. McCOLLUM. Mr. Speaker, I thank all the gentlemen for participating and I would like to close by saying four Presidents since Harry Truman endorsed this, and then the book, "Waging Peace," Dwight D. Eisenhower wrote that each person serving under term limitation "would tend to think of its congressional career as an important and exciting interlude in his life, a period dedicated to the entire public rather than as a way of making a living or making a career of exercising continuous political power * * * more rapid turnover of the membership in both Houses with its constant infusion of new blood would largely eliminate the "career" politician in Congress, but I can see little damage that would result from such a change except possibly to the personal ambitions of particular individuals." He went on to say that "Experience may produce greater skill in political maneuvering in the legislative process, but does not necessarily produce better statesmen."

All of us would like to see better statesmen and a better America, and all of us supporting this concept of limiting terms believe it is a single most important thing we can do to enhance freedom and democracy into the 21st Century and to continue to great traditions.

We thank everyone for joining us tonight.

THE 20TH ANNIVERSARY OF USDA'S EXPANDED FOOD AND NUTRITION EDUCATION PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DE LA GARZA] is recognized for 10 minutes.

Mr. DE LA GARZA. Mr. Speaker, what does Washington Redskins' star quarterback Doug Williams have in common with 21 million other Americans?

While growing up in Zachary, LA, Doug's family participated in the Expanded Food and Nutrition Education Program [EFNEP], a highly successful, grassroots-based nutrition program operated by the U.S. Department of Agriculture [USDA].

Yesterday the Williams family was among past and present EFNEP participants taking part in the program's 20th anniversary recognition program here in Washington.

Mr. Speaker, one of the most important ways to ensure good health is a proper diet. For 20 years EFNEP has helped improve the dietary knowledge of low-income families living in the most poverty-stricken counties in the United States.

Who are the people helped by this program? EFNEP, which is administered by USDA's Extension Service, helps low-income families, particularly those with young children. Sixty-two percent of the program's participants are minorities. Ninety percent have an annual income under $7,900. Sixty-four percent are in the Food Stamp Program.

County Extension home economists train and supervise paraprofessionals, who are mostly from low-income families themselves. These paraprofessionals then recruit low-income homemakers interested in learning more about nutrition. They enroll interested participants through references from other agencies, door-to-door canvassing, and neighborhood contacts.

Today at 813 program sites across the Nation, like the one in Hidalgo County in south Texas, low-income homemakers with young children and 4-H youth learn the importance of good nutrition. Nationally, there are 4,375 paid paraprofessionals and 41,423 volunteers who are helping a million adult and youth participants each year learn food and nutrition basics.

Families enrolled in EFNEP learn to plan nutritionally balanced meals. They learn how to effectively use food stamps to buy foods that meet nutritional needs within the available budget. They learn about proper food storage, safety, and sanitation practices.

The program works. Former EFNEP participants have significantly improved food recall scores, nutrition knowledge, and food practice scores compared to their scores recorded upon entering the program.

But this program's success is more than just higher recall scores. The Expanded Food and Nutrition Education Program is a program that instills confidence and self-esteem in families. It's unique in that it trains paraprofessionals and concerned volunteers in the local area to teach nutrition basics to others who live in their community.

Every time I have an opportunity to visit the program in my home county of Hidalgo, TX, I come away inspired. It is run by a wonderful lady, Adelita Muñoz, under the guidance of Ida Patrick, the county's extension home economist.

Every Member of Congress should see and hear the stories from those who participate in the program, what it has done for their families, how it has helped their children, how it has brought them confidence and self esteem, and how it has even helped their marriages. Their testimonials never end.

The volunteers from among the poor themselves are the greatest. I have seen the program's positive result for so many, and it's gratifying. I am proud, very proud, not only of the program in my own area, but of all the others throughout the country.

The last time I visited the Hidalgo County EFNEP site it was graduation time. I gave each woman her certificate and several of them gave short statements on how it had changed their lives in a positive way. Then we enjoyed a pot luck lunch made from recipes that they had prepared, ranging from lentil soup to nopalitos—a regional dish made from tender cactus leaves.

Each woman explained what she had prepared and its nutritional value. Al the recipes were made from donated USDA commodities. It was great and they were so proud and appreciative. The whole experience made me proud and appreciative that we have this program and that I have had the opportunity to take part in it.

Mr. Speaker, I urge my colleagues to join me in saluting the extension service personnel and the paid and volunteer participants who have made the Expanded Food and Nutrition Education Program such a success over these past 20 years.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. GRANDY (at the request of Mr. MICHEL), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DREIER of California) to revise and extend their remarks and include extraneous material:)

Mr. BLILEY, for 60 minutes, on October 6.

Mr. SWINDALL, for 60 minutes, on October 5, 6 and 7.

Mr. PARRIS, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, today.

Mr. MOORHEAD, for 60 minutes, on October 5 and October 6.

Mr. HUNTER, for 60 minutes, on October 5 and 6.

Mr. McEWEN, for 5 minutes, today.

Mr. CRANE, for 5 minutes, today.

Mr. BEREUTER, for 60 minutes, on October 11 and 12.

Mr. LEWIS of California, for 5 minutes, today.

Mr. DORNAN of California, for 60 minutes, on October 11, 12, and 13.

Mr. WYLIE, for 60 minutes, on October 12 and 13, and 5 minutes on October 5.

Mr. CONTE, for 60 minutes, on October 12.

Mr. HORTON, for 60 minutes, on October 6.

Mr. WEBER, for 60 minutes, on October 6.

Mr. SKEEN, for 60 minutes, on October 6 and 12.

Mr. MILLER of Ohio, for 60 minutes, on October 5, 12, and 13.

Mr. HYDE, for 5 minutes, today.

(The following Members (at the request of Mr. MOAKLEY) to revise and extend their remarks and include extraneous material:)

Mr. MOAKLEY, for 5 minutes, today.

Mr. KLECZKA, for 5 minutes, today.

Mr. COYNE, for 5 minutes, today.

Mr. DE LA GARZA, for 10 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. SKELTON, for 60 minutes, on October 7 and October 11.

Mr. TORRICELLI, for 60 minutes, today.

Mr. WEISS, for 60 minutes, on October 5.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DREIER of California) and to include extraneous matter:

Mr. CRANE.
Mr. HOPKINS.
Mr. PURSELL.
Mr. LAGOMARSINO.
Mr. MICHEL.
Mr. PARRIS.
Mr. PORTER in two instances.
Mr. SOLOMON.
Mr. GALLEGLY.
Mr. SHUMWAY.
Mr. GALLO.
Mr. SCHAEFER.
Mr. McGRATH.
Mr. RINALDO.

(The following Members (at the request of Mr. MOAKLEY) and to include extraneous matter:)

Mr. TRAFICANT in three instances.
Mr. DELLUMS.
Mr. MINETA.
Mr. SKELTON.
Mr. ENGLISH.
Mr. ROE.
Mr. BILBRAY.
Mr. FASCELL.
Mr. KOLTER.
Mr. FLORIO in two instances.
Mr. SMITH of Florida.
Mr. SWIFT.
Mr. HAWKINS.
Mr. YATRON.
Mr. DE LUGO.
Mr. CARDIN.
Mr. DOWNEY of New York.
Mr. LEHMAN of California in two instances.
Mr. BEILENSON.
Mr. JONTZ.
Mr. ROSTENKOWSKI.
Mr. CLEMENT.
Mr. CONYERS.
Mr. EDWARDS of California.
Mrs. SCHROEDER.
Mr. TORRES.
Mr. MATSUI.
Mr. RANGEL.
Mr. LELAND.
Mr. TALLON.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 438. An act to modify the application of the antitrust laws to encourage the licensing and other use of certain intellectual property; to the Committee on the Judiciary.

ADJOURNMENT

Mr. HANSEN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 59 minutes p.m.) the House adjourned until tomorrow, Wednesday, October 5, 1988, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4411. A letter from the Deputy Commander for Contracts, Department of the Navy, transmitting notification of the determination for the design and construction of 216 family housing units at Subic Bay, Philippines shall be restricted to joint ventures which include a minimum of one company each from the United States and the Republic of the Philippines and no other countries, pursuant to 10 U.S.C. 2304(c)(7); to the Committee on Armed Services.

4412. A letter from the Secretary of the Navy, transmitting notification of the proposed transfer of the obsolete submarine *Blenny* (SS-324) to the town of Ocean City, MD for use as an artificial fishing reef, pursuant to 10 U.S.C. 7308(c); to the Committee on Armed Services.

4413. A letter from the Director of Administration and Management, Department of Defense, transmitting notification of the Defense Logistics Agency's decision to exercise the provision for exclusion of the clause concerning examination of records by the Comptroller General from a proposed contract with the Government of Morroco for aviation jet fuel in support of U.S. Forces operating in the North African geographical area, pursuant to 10 U.S.C. 2313(c); to the Committee on Armed Services.

4414. A letter from the Acting Secretary of Education, transmitting a copy of final regulations of assistance for school expenditures and construction in cases of certain disasters and assistance for local educational agencies in areas affected by Federal activities and arrangements for education of children where local educational agencies cannot provide suitable free public education, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

4415. A letter from the Acting General Counsel, Department of Energy, transmitting notice of meeting of the industry supply advisory group to be held in Paris, France on October 11, 1988, pursuant to 42 U.S.C 6272; to the Committee on Energy and Commerce.

4416. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification of a proposed manufacturing license agreement with the Government of the Republic of Korea involving the production of night vision equipment (Transmittal No. MC-43-88), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

4417. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification of a proposed manufacturing license agreement involving the production by Toshiba of Japan of a mobile light armored vehicle air defense system for use by the Japanese Defense Agency (Transmittal No. MC-47-88), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

4418. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of a proposed manufacturing license for export of defense articles sold to the United Kingdom under a contract in the amount of $50,000,000 or more (Transmittal No. MC-33-88), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

4419. A communication from the President of the United States, transmitting a bimonthly report on progress toward a negotiated settlement of the Cyprus question, pursuant to 22 U.S.C. 2373(c); to the Committee on Foreign Affairs.

4420. A letter from the Acting Secretary of Agriculture, transmitting notification of a proposed new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4421. A letter from the General Counsel, Immigration and Naturalization Service, transmitting a report of the grants of suspension of deportation of certain aliens, pursuant to 8 U.S.C. 1254(c); to the Committee on the Judiciary.

4422. A letter from the Secretary of Labor, transmitting the fourth report on trade and employment effects of the Caribbean Basin Economic Recovery Act, pursuant to 19 U.S.C. 2705; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5117. A bill to require that plastic ring carrier devices be degradable. (Rept. 100-946, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2837. A bill to amend the Toxic Substances Control Act to assist States in responding to the threat to human health posed by exposure to radon; with an amendment (Rept. 100-1047). Referred to the Committee of the Whole House on the State of the Union.

Mr. FROST: Committee on Rules. House Resolution 568. Resolution providing for the consideration of H.R. 5410, a bill to provide for the registration of foreign interests in United States property, and for other purposes. (Rept. 100-1048). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 569. Resolution providing for the consideration of H.R. 3343, a bill to amend the Consumer Product Safety Act and related laws to improve the performance of the Consumer Product Safety Commission, to authorize appropriations for that Act, and for other purposes (Rept. 100-1049). Referred to the House Calendar.

Mr. BROOKS: Committee on Government Operations. A report on allegations of race and sex discrimination at Chicago O'Hare air traffic control facility (Rept. 100-1050). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on getting away with murder in the workplace: OSHA's nonuse of criminal penalties for safety violations (Rept. 100-1051). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on HUD goes to the Moscow trade show: misguided, mismanaged, and misspent (Rept. 100-1052). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 419. Resolution amending the Rules of the House of Representatives with respect to preservation of, and access to, noncurrent records of the House, with an amendment (Rept. 100-1054). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MAZZOLI: Committee on the Judiciary. S. 1842. A bill for the relief of Mr. Wilhelm Jahn Schlechter, Mrs. Monica Pino Schlechter, Ingrid Daniela Schlechter, and Arturo David Schlechter; with an amendment (Rept. 100-1046. Referred to the Committee of the Whole House.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

[Omitted from the Record of October 3, 1988]

Mr. HAWKINS: Committee on Education and Labor. H.R. 4845. A bill to make technical corrections in pension-related provisions in the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974; with an amendment; referred to the Committee on Ways and Means, for a period ending not later than October 20, 1988, for consideration of such provisions of the amendment recommended by the Committee on Education and Labor as fall within the jurisdiction of the Committee on Ways and Means pursuant to clause 1(v), rule X (Rept. 100-801, Pt. 2). Ordered to be printed.

[Submitted October 4, 1988]

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4164. A bill to amend the Wild and Scenic Rivers Act, and for other purposes; with an amendment; referred to the Committee on Agriculture for a period ending not later than October 6, 1988 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(a), rule X (Rept. 100-1053, Pt. 1). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

The Committee on Banking, Finance and Urban Affairs discharged from further consideration of H.R. 3675; H.R. 3675 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALEXANDER:

H.R. 5449. A bill to amend the Flood Control Act of 1954 to authorize the Secretary of the Army to carry out bank erosion measures along the White, Black, and Little Red Rivers, AR; to the Committee on Public Works and Transportation.

By Mr. SCHULZE:

H.R. 5450. A bill to prohibit the ocean dumping of sewage sludge, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries, Public Works and Transportation and Ways and Means.

By Mr. JEFFORDS:

H.R. 5451. A bill to designate the U.S. Post Office and Courthouse located at 151 West Street in Rutland, VT, as the "Robert T. Stafford United States Courthouse and Post Office"; to the Committee on Public Works and Transportation.

By Mr. JONES of North Carolina (for himself, Mr. BENNETT, and Mrs. BENTLEY):

H.R. 5452. A bill to extend the Commission on Merchant Marine and Defense; jointly, to the Committees on Armed Services and Merchant Marine and Fisheries.

By Mr. PARRIS:

H.R. 5453. A bill to transfer the administration of the District of Columbia Department of Corrections from the District Government to a Special Federal Administrator in the Justice Department of the United States; jointly, to the Committees on the Judiciary and the District of Columbia.

By Mr. SOLOMON:

H.R. 5454. A bill to establish the Thomas Cole National Historic Site in the State of New York and the Thomas Cole Advisory Commission; to the Committee on Interior and Insular Affairs.

By Mr. STAGGERS:

H.R. 5455. A bill to modify the boundary of the Cranberry Wilderness, located in the Monongahela National Forest, WV; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

By Mr. SWEENEY:

H.R. 5456. A bill to establish a joint congressional committee to be known as the Joint Committee on the Procurement of Services and Property by the Department of Defense; to the Committee on Rules.

By Mr. RINALDO (for himself, Mr. ROYBAL, Mr. ROBINSON, Mrs. LLOYD, Mr. MANTON, and Ms. OAKAR):

H.R. 5457. A bill to require that the Consumer Price Index for all urban consumers be utilized by a Federal office or agency in determining certain cost-of-living adjustments in benefits and allowances; to the Committee on Government Operations.

By Mr. RINALDO (for himself, Mr. Roybal, Mr. Robinson, Mrs. Lloyd, Mr. Manton, Ms. Oakar, and Mr. Saxton):

H.R. 5458. A bill to provide for a study by the Bureau of Labor Statistics of the Department of Labor relating to the appropriate consumer price index for Social Security beneficiaries; jointly, to the Committees on Education and Labor and Ways and Means.

By Mr. WOLPE (for himself, Mr. Hochbrueckner, Mr. Levine of California, Mr. Bonker, Mr. Miller of Washington, Mr. Smith of New Jersey, Mr. Skelton, Mr. McCloskey, Mr. Lancaster, and Mr. Jones of North Carolina):

H.R. 5459. A bill to extend the period for congressional review of the proposed subsequent arrangement, under the Agreement for Cooperation between the United States and Japan, involving United States approval for sea transport of plutonium from either France or the United Kingdom to Japan; to the Committee on Foreign Affairs.

By Mr. HOPKINS:

H.J. Res. 671. Joint resolution to amend the War Powers Resolution to provide expedited procedures for legislation requiring the disengagement of U.S. Armed Forces involved in hostilities or providing specific authorization for their continued engagement in such hostilities, and for other purposes; jointly, to the Committees on Foreign Affairs and Rules.

By Mr. WAXMAN (for himself and Mr. Madigan):

H.J. Res. 672. Joint resolution to designate January 4, 1989, as "National Commissioned Corps of the Public Health Service Centennial Day", to the Committee on Post Office and Civil Service.

By Mr. McMILLEN of Maryland (for himself and Mr. Campbell):

H. Con. Res. 385. Concurrent resolution expressing the sense of the Congress that the Amateur Basketball Association United States of America and the U.S. Olympic Committee should promote the adoption of rules that would make all basketball players eligible to compete in the Olympic games and that the U.S. Olympic Committee should promote the adoption of rules that would make all athletes eligible to compete in the Olympic games; to the Committee on the Judiciary.

By Mr. McDADE (for himself, Mr. Fascell, Mr. Hamilton, Mr. Yatron, Mr. Bonker, Mr. Mica, Mr. Wolpe, Mr. Crockett, Mr. Gejdenson, Mr. Lantos, Mr. Kostmayer, Mr. Torricelli, Mr. Smith of Florida, Mr. Berman, Mr. Levine of California, Mr. Feighan, Mr. Weiss, Mr. Ackerman, Mr. Udall, Mr. Atkins, Mr. Clarke, Mr. Fuster, Mr. Broomfield, Mr. Gilman, Mr. Leach of Iowa, Mr. Dornan of California, Mr. Mack, Mrs. Meyers of Kansas, Mr. Miller of Washington, Mr. Donald E. Lukens, and Mr. Blaz):

H. Res. 570. Resolution to congratulate the United Nations peacekeeping forces for being awarded the 1988 Nobel Peace Prize, and to seek their assistance in the matter of the Peacekeeper hostage and all other hostages; to the Committee of Foreign Affairs.

By Mr. BURTON of Indiana (for himself, Mr. Weldon, and Mr. Hunter):

H. Res. 571. Resolution in support of the President's policy regarding Soviet ABM Treaty violations; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

473. By the SPEAKER: Memorial of the Legislature of the State of California; relative to the Medal of Honor; to the Committee on Armed Services.

474. Also, memorial of the Legislature of the State of California, relative to flood control; to the Committee on Public Works and Transportation.

475. Also, memorial of the Legislature of the State of California, relative to Federal fuel tax increase; to the Committee on Ways and Means.

476. Also, memorial of the Legislature of the State of California, relative to Alzheimer's disease; jointly, to the Committees on Ways and Means and Energy.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 469: Mr. Parris.

H.R. 709: Mr. Mrazek.

H.R. 1028: Mr. Hubbard, Mr. Borski, Mr. Manton, Mr. LaFalce, Mr. Bosco, Mr. Lipinski, Mr. Beilenson, Mrs. Schroeder, Mr. Walgren, Mr. Murtha, Mrs. Vucanovich, Mr. Jones of Tennessee, Mr. Jontz, Mr. Mfume, Ms. Kaptur, Mr. McMillen of Maryland, Mr. McGrath, Mr. Packard, Mr. Coleman of Texas, Mr. Yatron, Mr. Hall of Ohio, Mr. Ridge, Mr. Kolter, Mr. Sharp, Mr. Bates, Mr. Synar, Mr. Brown of California, Mr. Murphy, Mr. Erdreich, Mr. Mollohan, Mr. Bliley, Mr. Stratton, Mr. Kostmayer, Mr. Bryant, Mr. Pickett, Mr. Gregg, Mr. Coble, Mrs. Meyers of Kansas, Mr. Wheat, Mr. Boland, Mr. Hutto, Mr. Tauke, Mr. Roth, Mr. Sikorski, Mr. Buechner, Mr. Wolf, Mr. Edwards of Oklahoma, Mr. Boehlert, Mr. Robert F. Smith, Mr. Lowery of California, Mr. Hansen, Mr. Skeen, Mr. Inhofe, Mr. Lujan, Mr. Dixon, Mr. Thomas of California, Mr. Walker, Mr. Pashayan, Mr. Gilman, Mr. Hunter, Mr. Ritter, Mrs. Saiki, Mr. Hatcher, and Mr. McCollum.

H.R. 1638: Mr. Pease and Mr. Gephardt.

H.R. 1770: Mr. McGrath.

H.R. 2532: Mr. Gingrich.

H.R. 2589: Mr. Tauzin.

H.R. 2666: Mr. Stratton.

H.R. 2854: Mr. Torres.

H.R. 3560: Mr. Evans.

H.R. 3646: Mr. Kennedy.

H.R. 3760: Mr. Donald E. Lukens.

H.R. 4111: Mr. Durbin, Mr. Akaka, and Mr. Smith of Florida.

H.R. 4297: Mr. Frank.

H.R. 4396: Mr. Barnard.

H.R. 4450: Mr. Stump and Mr. Kolter.

H.R. 4498: Mr. Frenzel, Mr. Wise, Mr. Jacobs, Mr. Stangeland, and Mr. Moakley.

H.R. 4551: Mr. Hiler, Mr. Saxton, Mr. Kleczka, Mr. Florio, and Mr. Kanjorski.

H.R. 4666: Mr. Young of Florida.

H.R. 4708: Mr. Wise and Mr. Bereuter.

H.R. 4735: Mrs. Boxer.

H.R. 4767: Mr. Evans, Mr. Young of Alaska, Mr. Levin of Michigan, and Mr. Buechner.

H.R. 4793: Mr. Sharp.

H.R. 4817: Mr. Rose, Mr. Bateman, Mrs. Patterson, Mr. Hayes of Illinois, and Mr. Wise.

H.R. 4846: Mr. Neal and Mr. Gunderson.

H.R. 4882: Mrs. Boxer.

H.R. 4969: Mrs. Johnson of Connecticut, Mr. Weiss, and Mr. Fazio.

H.R. 4992: Mr. Vento and Mr. Lehman of California.

H.R. 5000: Mr. Gregg.

H.R. 5024: Mr. Eckart, Mr. Tauzin, and Mr. Swindall.

H.R. 5046: Mr. Stark, Mr. Frank, Mr. Ravenel, Mr. Kennedy, Mr. Rahall, Mr. Ackerman, Ms. Pelosi, Mr. Crockett, Mr. Atkins, Mr. Leland, Mr. Flake, Mr. Owens of New York, Mr. Rodino, and Mr. Lehman of Florida.

H.R. 5086: Mr. Hansen.

H.R. 5119: Mr. Mrazek and Mr. Weiss.

H.R. 5227: Mr. Brown of Colorado.

H.R. 5259: Mr. Hammerschmidt and Mr. Hatcher.

H.R. 5265: Mr Nagle, Mr. Jones of Tennessee, Mr. Panetta, Mr. Huckaby, Mr. Stenholm, Mr. Tallon, Mr. Staggers, Mr. Penny, Mr. Jontz, Mr. Johnson of South Dakota, Mr. Harris, Mr. Hopkins, Mr. Roberts, Mr. Emerson, Mr. Combest, Mr. Lancaster, Mr. Coleman of Missouri, Mr. Brown of California, Mr. Rose, Mr. Coelho, Mr. Volkmer, Mr. Hatcher, Mr. Stallings, Mr. Espy, Mr. Jeffords, Mr. Marlenee, Mr. Stangeland, Mr. Morrison of Washington, Mr. Gunderson, Mr. Lewis of Florida, Mr. Robert F. Smith, Mr. Grandy, Mr. Herger, and Mr. Holloway.

H.R. 5276: Mr. Lewis of California, Mr. Hansen, Mr. Badham, and Mr. Wortley.

H.R. 5293: Mrs. Saiki and Mrs. Bentley.

H.R. 5298: Mr. Hammerschmidt.

H.R. 5319: Mr. Hochbrueckner, Mr. Kildee, Mr. Manton, Ms. Pelosi, and Mr. Fazio.

H.R. 5324: Mr. Ritter.

H.R. 5351: Mr. Ravenel, Mr. Tauke, Mr. Moorhead, Mr. Gregg, and Mr. Hiler.

H.R. 5352: Mr. Ravenel, Mr. Tauke, Mr. Moorhead, Mr. Gregg, and Mr. Hiler.

H.R. 5353: Mr. Ravenel, Mr. Tauke, Mr. Moorhead, Mr. Gregg, and Mr. Hiler.

H.R. 5354: Mr. Ravenel, Mr. Tauke, Mr. Moorhead, Mr. Gregg, and Mr. Hiler.

H.R. 5355: Mr. Ravenel, Mr. Tauke, Mr. Moorhead, Mr. Gregg, and Mr. Hiler.

H.R. 5356: Mr. Ravenel, Mr. Tauke, Mr. Moorhead, Mr. Gregg, and Mr. Hiler.

H.R. 5357: Mr. Ravenel, Mr. Tauke, Mr. Moorhead, Mr. Gregg, and Mr. Hiler.

H.R. 5358: Mr. Ravenel, Mr. Tauke, Mr. Moorhead, Mr. Gregg, and Mr. Hiler.

H.R. 5359: Mr. Ravenel, Mr. Tauke, Mr. Moorhead, Mr. Gregg, and Mr. Hiler.

H.R. 5360: Mr. Ravenel, Mr. Tauke, Mr. Moorhead, Mr. Gregg, and Mr. Hiler.

H.R. 5361: Mr. Ravenel, Mr. Tauke, Mr. Moorhead, Mr. Gregg, and Mr. Hiler.

H.R. 5362: Mr. Ravenel, Mr. Tauke, Mr. Moorhead, Mr. Gregg, and Mr. Hiler.

H.R. 5363: Mr. Ravenel, Mr. Tauke, Mr. Moorhead, Mr. Gregg, and Mr. Hiler.

H.R. 5364: Mr. Ravenel, Mr. Tauke, Mr. Moorhead, Mr. Gregg, and Mr. Hiler.

H.R. 5365: Mr. Ravenel, Mr. Tauke, Mr. Moorhead, Mr. Gregg, and Mr. Hiler.

H.R. 5366: Mr. Ravenel, Mr. Tauke, Mr. Moorhead, Mr. Gregg, and Mr. Hiler.

H.R. 5371: Mr. Kennedy, Mr. Atkins, Mrs. Lloyd, Mr. Jontz, and Mr. Frost.

H.R. 5374: Mr. Ravenel, Mr. Tauke, Mr. Moorhead, Mr. Gregg, and Mr. Hiler.

H.R. 5396: Mr. Gilman, Mr. Lagomarsino, Mr. Miller, of Washington, Mr. Dreier of California, Mr. Horton, Ms. Snowe, Mr.

Yates, Mr. Solomon, Mr. Lantos, Mr. Levine, of California, Mr. Feighan, Mr. Hall of Texas, Mr. Ireland, Mr. Schumer, Mr. Smith of New Jersey, Mr. Burton of Indiana, Mr. Broomfield, Mr. Leach of Iowa, Mr. Bilbray, Mr. Wortley, Mr. Scheuer, Mr. Montgomery, Mr. Green, Mr. Molinari, Mr. Houghton, Mr. Dornan of California, Mr. Parris, Mr. Hastert, Mr. Dannemeyer, Mr. Gallegly, Mr. Chandler, Mrs. Morella, Mr. Ritter, Mr. Gingrich, Mr. Taylor, Mr. Latta, Mr. Wolpe, Mr. Smith of New Hampshire, Mr. Solarz, Mr. Atkins, and Mr. Weiss.

H.R. 5410: Mr. Lantos, Mr. Traficant, Mr. Johnson of South Dakota, and Mr. Kleczka.

H.J. Res. 249: Mr. Frenzel.

H.J. Res. 522: Mr. Rose, Mr. Hall of Ohio, Mr. Early, Mr. Sharp, Mr. Bateman, Mr. Hiler, Mr. Martinez, Mr. Levin of Michigan, and Mr. Evans.

H.J. Res. 526: Mr. Porter, Mr. Volkmer, and Mr. Kasich.

H.J. Res. 528: Mr. Shaw and Mr. Hutto.

H.J. Res. 537: Mr. Porter.

H.J. Res. 554: Mr. Quillen, Mr. Fish, Mr. Lowery of California, Mr. Darden, and Mr. Torricelli.

H.J. Res. 571: Mr. Davis of Illinois, Mrs. Kennelly, Mr. Cardin, and Mr. St Germain.

H.J. Res. 604: Mr. Smith of Texas, Mr. Hastert, Mr. Lewis of California, Mr. McCrery, Mr. Konnyu, Mr. Rhodes, Mr. Skeen, Mr. Buechner, Mr. Gallegly, Mr. Davis of Michigan, Mr. Coughlin, Mr. Clinger, Mr. Baker, Mr. Stump, Mr. Boehlert, Mr. Smith of New Jersey, Mr. Ritter, Mr. Hochbrueckner, Mr. Lightfoot, Mrs. Morella, Mr. Coble, Mr. Hefley, Mr. Edwards of Oklahoma, Mr. Hunter, Mr. Shays, Mr. Bilirakis, Mr. Coyne, Mr. Kanjorski, Mr. Gaydos, and Mr. Goodling.

H.J. Res. 607: Mr. Annunzio, Mr. Bilirakis, Mr. Brennan, Mr. Leland, Mr. Obey, Mr. Sikorski, and Mr. Spence.

H.J. Res. 612: Mr. Hayes of Louisiana, Mr. Wylie, Mr. Spratt, Mr. Bartlett, Mr. Kasich, Mr. Akaka, Mrs. Morella, and Mr. Gingrich.

H.J. Res. 613: Mrs. Martin of Illinois, and Mr. Vento.

H.J. Res. 647: Mr. Inhofe, Mr. Rose, Mr. Grant, Mr. Boehlert, Mr. Erdreich, Mr. Richardson, Mr. Holloway, Mr. Rhodes, Ms. Snowe, Mr. Schaefer, Mr. Yatron, Mr. Callahan, Mr. Gekas, Mr. Lancaster, Mr. MacKay, Mr. Donnelly, Mr. Wolf, Mr. Rowland of Connecticut, Mr. Boulter, Mr. Price of North Carolina, Mr. Hatcher, Mr. Coble, Mr. Kemp, Mr. Clarke, Mr. Olin, Mrs. Boxer, Mr. Nichols, Mr. McCollum, Mr. Levin of Michigan, Mr. Swindall, Mr. Wheat, Mr. Chapman, Mr. Akaka, Mr. Wilson, Mr. Owens of New York, Mr. Hansen, Mr. Stallings, Mr. Shaw, and Mr. Dorgan of North Dakota.

H.J. Res. 649: Mr. Brennan, Mr. Martinez, Mr. Hefner, Mr. Bustamante, Mr. Applegate, Mr. Hastert, Mr. Ravenel, Mr. Bunning, Mr. Kasich, Mr. Nielson of Utah, Mr. McMillen of Maryland, Mr. Borski, Mr. McCloskey, Mr. Vander Jagt, Mr. Mollohan, Mr. Yatron, Mr. Fawell, Mr. Wortley, Mrs. Martin of Illinois, Mr. Rinaldo, Mr. Guarini, Mr. Wolf, Mr. Gallo, Mr. Smith of Texas, Mr. McCrery, Mr. Holloway, Mr. Konnyu, Mr. Rhodes, Mr. Skeen, Mr. Hyde, Mr. Gallegly, Mr. Davis of Michigan, Mr. Coughlin, Mr. Clinger, Mr. Baker, Mr. Stump, Mr. Hopkins, Mr. Smith of New Jersey, Mr. Ritter, Mr. Hochbrueckner, Mr. Carper, Mr. Sawyer, Mr. Foglietta, Mr. Robinson, Mr. Lightfoot, Mr. Hoyer, Mrs. Morella, Mr. Coble, Mr. Hefley, Mr. Edwards of Oklahoma, Mr. Hughes, Mr. Hunter, Mr. Shays, Mr. Bilirakis, Mr. Jontz, Mr. Coyne, Mr. Kanjorski, Mr. Gaydos, Mr. Kolter, and Mr. Goodling.

H.J. Res. 651: Mr. Fuster, Mr. Guarini, Mr. Gray of Illinois, Mr. Gunderson, Mr. Hayes of Louisiana, Mr. Hughes, Mr. Hubbard, Mr. Hunter, Mr. Hyde, Mr. Ireland, Mr. Jeffords, Mr. Jones of North Carolina, Mr. Bennett, Mr. Erdreich, Mr. Bonior of Michigan, Mr. Badham, Mr. Clinger, and Mr. de la Garza.

H.J. Res. 656: Mr. Bunning and Mr. McCandless.

H.J. Res. 661: Mr. Anderson, Mr. Applegate, Mr. Bonker, Mr. Campbell, Mr. Coats, Mr. Conyers, Mr. Crockett, Mr. Dannemeyer, Mr. Davis of Illinois, Mr. Durbin, Mr. Early, Mr. Espy, Mr. Flake, Mr. Grant, Mr. Guarini, Mr. Hughes, Mr. Jones of Tennessee, Mr. Jontz, Mr. Kanjorski, Mr. Kildee, Mr. Lagomarsino, Mr. Leach of Iowa, Mr. Donald E. Lukens, Mrs. Meyers of Kansas, Mrs. Patterson, Mr. Robinson, Mr. Sabo, Mr. Scheuer, Mr. Schuette, Mr. Spence, Mr. Tauzin, Mr. Torricelli, Mr. Valentine, Mr. Vander Jagt, Mr. Vento, and Mr. Waxman.

H. Con. Res. 129: Mr. Marlenee.

H. Con. Res. 305: Mrs. Boxer, Mr. Hochbrueckner, Mr. Jeffords, Mr. Lagomarsino, and Mr. Manton.

H. Con. Res. 334: Mr. Tauzin.

H. Con. Res. 366: Mr. Flippo, Mr. Bilirakis, and Mr. Atkins.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3343

By Mr. CRAIG:

—Page 28, strike out line 20 and all that follows through line 9 on page 32 and insert in lieu thereof the following:

(a) Report.—For each calendar quarter commencing with the fourth quarter of 1988, the Consumer Product Safety Commission shall report to the Congress on the following:

(1) An assessment of the progress of the training program undertaken pursuant to paragraph (K) of the Final Consent Decree filed with the United States District Court for the District of Columbia by the United States on March 14, 1988. Such assessment shall include, at a minimum, inforcement on—

(A) the number of new all-terrain vehicles (referred to in this subsection as an "ATV") sold,

(B) the number of new ATVs sold to first-time purchasers without riding experience and the percentage of those purchasers (or members of their immediate families) who take the training course outlined in the consent decree,

(C) the number of instructors certified to teach the training course,

(D) the number of instructors who are actively training ATV riders,

(E) the number of training classes held and the number of persons trained,

(F) the number and dollar value of incentives provided to ATV purchasers, and

(G) an identification of those States enacting laws establishing classroom or hands-on training courses.

(2) A description of the status of the Commission's efforts to develop a mandatory standard addressing ATV design and performance. The Commission shall also provide an assessment of the progress of industry efforts to develop a voluntary standard addressing ATV design and performance.

(3) A summary of the Commission's activities in monitoring the ATV distributors' compliance with the consent decree. Such summary shall include a general description of the Commission's efforts to monitor the distributors' compliance with the consent decree requirements with respect to point-of-purchase safety and promotional materials.

(4) An update of the number of ATV-associated fatalities and estimated injuries. To the extent feasible, such report shall include a projection of the number of such fatalities and estimated injuries for the calendar year in which the reporting quarter falls.

The report under this subsection shall be submitted to the Congress within 45 days following the end of the quarter for which reporting is required.

(b) Annual Report.—In addition to the quarterly reports required by subsection (a), the Commission shall provide to the Congress for calendar year 1989 and each succeeding calendar year until expiration of the consent decree an annual report. Such report shall be a compilation and summary of the information provided in subsection (a). Such report shall be submitted within 60 days of the end of the calendar year for which the report is required.

By Mr. DANNEMEYER:

—Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE AND REFERENCES IN ACT.

(a) Short Title.—This Act may be cited as the "Consumer Product Safety Act Amendments of 1988".

(b) References in Act.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision in the Consumer Product Safety Act (15 U.S.C. 2051 et seq.).

SEC. 2. ABOLITION OF THE CONSUMER PRODUCT SAFETY COMMISSION AND ESTABLISHMENT OF THE OFFICE OF ADMINISTRATOR FOR CONSUMER PRODUCT SAFETY.

Section 4 (15 U.S.C. 2053) is amended to read as follows:

"OFFICE OF ADMINISTRATOR FOR CONSUMER PRODUCT SAFETY

(a) There shall be in the Department of Health and Human Services an Administrator for Consumer Product Safety who shall be appointed by the President by and with the advice and consent of the Senate. The Administrator shall perform the functions transferred to the Secretary under section 30 which the Secretary shall delegate to the Administrator in accordance with subsection (c).

"(b) No individual—

"(1) in the employ of, or holding any official relation to, any person engaged in selling or manufacturing consumer products,

"(2) owning stock or bonds of substantial value in a person so engaged, or

"(3) who is in any other manner pecuniarily interested in such a person or is a substantial supplier of such a person, may hold the office of Administrator.

"(c) The Secretary shall delegate to the Administrator the functions of the Secretary under this Act and the functions transferred to the Secretary under section 30."

SEC. 3. TRANSFER OF FUNCTIONS OF THE CONSUMER PRODUCT SAFETY COMMISSION TO THE SECRETARY OF HEALTH AND HUMAN SERVICES.

Section 30 (15 U.S.C. 2077) is amended to read as follows:

"TRANSFER OF FUNCTIONS; ADMINISTRATIVE PROVISIONS

"SEC. 30. (a) The functions of the Consumer Product Safety Commission under—

"(1) the Federal Hazardous Substances Act,

"(2) the Poison Prevention Packaging Act of 1970,

"(3) the Flammable Fabrics Act,

"(4) the Act of August 2, 1956 (15 U.S.C. 1211-1214) (relating to refrigerators), and

"(5) the Federal Food, Drug, and Cosmetic Act (relating to the administration and enforcement of the Poison Prevention Packaging Act of 1970),

are transferred to the Secretary.

"(b) A risk of injury which is associated with a consumer product and which could be eliminated or reduced to a sufficient extent by action under the Federal Hazardous Substances Act, the Poison Prevention Packaging Act of 1970, or the Flammable Fabrics Act may be regulated under this Act only if the Secretary by rule finds that it is in the public interest to regulate such risk of injury under this Act. Such a rule shall identify the risk of injury proposed to be regulated under this Act and shall be promulgated in accordance with section 553 of title 5, United States Code, except that the period to be provided by the Secretary pursuant to subsection (c) of such section for the submission of data, reviews, and arguments respecting the rule shall not exceed 30 days from the date of publication pursuant to subsection (b) of such section of a notice respecting the rule.

"(c)(1) All personnel, property, records, unexpended appropriations, obligations, and commitments of the Consumer Product Safety Commission shall be transferred to the Secretary. The transfer of personnel pursuant to this subsection shall be without separation or reduction in grade or rate of pay, except for cause, for a period of one year after such transfer, except that the Secretary shall have full authority to assign personnel during such one-year period and thereafter in order to efficiently carry out functions transferred to the Secretary under subsection (a).

"(2) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

"(A) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this section by the Consumer Product Safety Commission, and

"(B) which are in effect at the time this section takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary, by any court of competent jurisdiction, or by operation of law.

"(3) This section shall not affect any proceeding pending at the time this section takes effect before the Consumer Product Safety Commission, except that such proceeding, to the extent that it relates to functions so transferred, shall be continued before the Secretary. Orders shall be issued in such proceeding, appeals shall be taken therefrom, payments shall be made pursuant to such orders, as if this section had not been enacted. Orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or repealed by the Secretary, by court of competent jurisdiction, or by operation of law.

"(4) This section shall not affect suits commenced before the date this section takes effect, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this section has not been enacted, except that if before the date on which this section takes effect, the Consumer Product Safety Commission (or officer thereof in his official capacity) is a party to a suit involving functions transferred to the Secretary, then such suit shall be continued by the Secretary. No cause of action, suit, action, or other proceeding, by or against the Consumer Prodcut Safety Commission (or officer thereof in his official capacity) shall abate by reason of the enactment of this section. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or the Secretary as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this paragraph.

"(d) For purposes of this section (1) the term 'function' includes power and duty, and (2) the transfer of a function, under any provision of law, of the Consumer Product Safety Commission shall also be a transfer of all functions under such law which are exercised by such Commission."

SEC. 4. INFORMATION.

(a) Section 6(a)(7) (15 U.S.C. 2055(a)(7) is amended by adding at the end the following: "Requests for information from the Commission from a committee or subcommittee of Congress may be made by the chairman or ranking minority member of the committee or subcommittee.".

(b) Section 6(b)(6) is amended by striking "initiates the" and inserting in lieu thereof "makes any" and by striking "establish procedures" and inserting in lieu thereof "promulgate regulations".

(c) Section 6(b)(7) is amended by striking "it" the first time it appears and inserting in lieu thereof "an employee or independent contractor of the department" and by inserting after the period at the end of paragraph (7) the following: "the provisions of this paragraph shall be enforceable in the Federal District Courts."

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

Section 32(a) (15 U.S.C. 2081(a)) is amended to read as follows:

(a) There are authorized to be appropriated for the purpose of carrying out this Act (other than section 27(h) which authorizes the planning and construction of research, development, and testing facilities) and for the purpose of carrying out the functions, powers, and duties transferred to the Secretary pursuant to section 30, $34,636,000 for fiscal year 1989, and $35,800,000 for fiscal year 1990, and $36,870,000 for fiscal year 1991.".

SEC. 6. REPEALS.

Section 27(k) (15 U.S.C. 2076(k)), section 35, and section 36 (15 U.S.C. 2083) are each repealed.

SEC. 7. CONFORMING AMENDMENTS.

(a) ADMENDMENTS TO ACT—

(1) Section 3(a)(9) (15 U.S.C. 2052(a)(9)) is amended to read as follows:

"(9) The term 'Secretary' means the Secretary of Health and Human Services.".

(2) Section 6(d)(2) (15 U.S.C. 2055(d)(2)) is amended by striking out ", any member of the Commission, or any employee, agent, or representative of the Commission in an official capacity".

(3) Paragraphs (5) and (6) of section 9(a) (15 U.S.C. 2058(a)) are each amended by striking out "(other than the Commission)".

(4) Subsections (c)(3) and (h) of section 9 (15 U.S.C. 2058(c)(3) and (h)), section 11(c) (15 U.S.C. 2060(c)), and section 17(g) (15 U.S.C. 2066(g)) are each amended by striking out "Commissions" and inserting in lieu thereof "Secretary's".

(5) Section 11(a) (15 U.S.C. 2060(a)) is amended by striking out "or other officer designated by it for that purpose".

(6) Subsections (a)(7) and (b)(1) of section 6 (15 U.S.C. 2055), section 11(a) (15 U.S.C. 2060), section 26(c) (15 U.S.C. 2075), and subsections (a), (b)(7), and (b)(9) of section 27 (15 U.S.C. 2076) are each amended by striking out "its" each place it appears and inserting in lieu thereof "the Secretary's".

(7) Section 12(e) (15 U.S.C. 2061(e)) is amended by striking out "it" and inserting in lieu thereof "the Secretary".

(8) Section 17(d) (15 U.S.C. 2066(d)), section 25(c) (15 U.S.C. 2074(c)), subsections (b)(9) and (j)(10)(E) of section 27 (15 U.S.C. 2076), and subsections (a)(2) and (e) of section 29 (15 U.S.C. 2078) are each amended by striking out "Commission" (but only the first place it appears in the case of section 17(d), and only the second place it appears in the case of section 29(e)) and inserting in lieu thereof "Department of Health and Human Services".

(9) Section 17(d) (15 U.S.C. 2066(d)) is amended by inserting "of the Treasury" after "Secretary".

(10) Section 27(a) (15 U.S.C. 2076) is amended by striking out ", by one or more of its members or by such agents or agency as it may designate," in the first sentence and by striking out the second sentence.

(11) Section 27(j) (15 U.S.C. 2076(j)) is amended in the matter preceding paragraph (1) by striking out "the President and".

(12) Section 27(j)(8) is amended by striking out "Commission officials" both places it appears and inserting in lieu thereof "the Secretary".

(13) Section 27(j)(10)(D) is amended by striking out "staff members of the Commission participate" and inserting in lieu thereof "the Secretary participates".

(14) Sections 3, 5, 6, 7, 8, 9, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25, 26, 27, 28, 29, 31, and 32(b) are each amended by striking out "Commission" each place it appears and inserting in lieu thereof "Secretary".

(b) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—

(1) Section 5314 of title 5, United States Code, is amended by striking out "Chairman, Consumer Product Safety Commission.".

(2) Section 5315 of title 5, United States Code, is amended by striking out "Members, Consumer Product Safety Commission (4).".

(3) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"Administrator for Consumer Product Safety, Department of Health and Human Services.".

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act shall take effect October 1, 1988.

By Mr. NIELSON of Utah;

Strike out all after the enacting clause and insert in lieu thereof the following:

That section 32(a) of the Consumer Product Safety Act (15 U.S.C. 2081(a)) is amended by striking out paragraphs (1) through (9) and inserting in lieu thereof the following:

"(1) $34,500,000 for fiscal year 1989,
"(2) $35,900,000 for fiscal year 1990, and
"(3) $37,300,000 for fiscal year 1991.".

EXTENSIONS OF REMARKS

"DISCOVERY" RETURNS AMERICA TO SPACE

HON. RICHARD H. STALLINGS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. STALLINGS. Mr. Speaker, today, America can enjoy a triumphant return to space. The space shuttle *Discovery* has returned to Earth after a successful 4-day mission, and it marks an important milestone in our manned space exploration program.

It has taken a strong commitment and a great amount of hard work to return this Nation to space. The National Aeronautics and Space Administration deserves special recognition for its tireless efforts. Many others also have played an important role.

For example, Morton Thiokol has been a national leader in our space program and should be applauded for its accomplishments. It has a solid record of achievement. Today, all of its hard work has paid off.

The *Challenger* disaster reminded us that there is much risk in space exploration. While there always will be danger in our space travels, it has been a team effort from the space community in overhauling the shuttle program and redesigning hardware to make the *Discovery* journey a safe one.

While the space program is back on track, it still faces a long and difficult struggle to help America reestablish its competitive position in science and technology and regain its leadership role.

Our space program is at a vital crossroads. The country must prepare for a new era of challenge and leadership. Next year, Congress and the administration will be making critical choices that will determine the course of the Nation's future space program. At stake are many important projects, including a permanently manned space station and the shuttle program.

Out of the tragedy of the *Challenger* disaster was born a new sense of urgency that we must renew our commitment to our civilian space program and set our sights on long-term goals. Once again, the space program must become a national priority.

I believe our Nation's space program has widespread public interest and support. As a member of the House Science, Space, and Technology Committee, I have tried to play an active role in congressional efforts to give long-range direction and support to the space program.

It is time for America to regain lost ground and to make the space program a source of pride to the Nation. The *Discovery's* successful mission is an important first step toward achieving this important goal.

AWARDING THE SUPERCOLLIDER TO A WESTERN STATE

HON. JON L. KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. KYL. Mr. Speaker, on September 29, 1988, 14 Western Governors submitted a letter to President Reagan urging that the Super Conducting Supercollider be located in a Western State. The Governors called the President's attention to superior proposals which have been submitted by my own State of Arizona and by Colorado. They outlined the many benefits which would accompany a Western site, including environmental advantages, cost savings, and the opportunity to interact with strong existing Federal research programs in high energy physics and superconductivity.

Mr. Speaker, I ask unanimous consent to print in the RECORD a copy of the letter submitted by the Western Governors.

This letter updates and supplements a previous resolution of the Western Governors Association supporting the Supercollider as a national priority and recommending a Western site. It also follows on a resolution by the Western Interstate Commission on Higher Education, which strongly endorsed the SSC and a western site.

These actions demonstrate the vibrant regional support shown in the West for the Supercollider project. If the Supercollider is awarded to Arizona or Colorado, it will become a regional asset, and the political constituency for this project will extend far beyond the borders of any single State and embrace the entire region.

Mr. Speaker, awarding the Supercollider to a Western State will materially advance the prospects that the project will go forward according to plan and on schedule.

WESTERN GOVERNORS' ASSOCIATION,
Denver, CO, September 29, 1988.

Hon. RONALD REAGAN,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: In January 1987 you committed the United States to a leadership role in scientific research with the announcement of your support for building the Superconducting Super Collider (SSC). The SSC and associated technological advances signals the rest of the world that this Nation intends to remain at the forefront of high energy physics research.

The Department of Energy in January of this year, after reviewing the National Academies of Science and Engineering recommendations, selected seven sites from thirty nationally for further study. Two of these sites are in western states, Arizona and Colorado. The governors of both Colorado and Arizona have worked extremely hard at bringing the SSC to the West and have supported continued funding of the program by Congress.

The Western Governors believe the West offers two superior sites for the SSC and want you to know their position. In 1987 the Western Governors passed a policy resolution supporting the location of the SSC in the West. That position and commitment is reaffirmed by this letter.

As a fellow westerner, you are aware that locating the SSC in the West offers several unique advantages to the Department of Energy and the nation. The western sites would allow the federal government to build on the existing commitments to advanced scientific research in high energy physics and superconductivity at the federal laboratories at Los Alamos, Sandia, Lawrence Livermore, and the Nation Center for Atmospheric Research—Boulder.

The Western universities and associated centers of excellence have joined to establish the Western States SSC Coalition. The Coalition is dedicated to establishing regional cooperative research centers for scientific research and to provide additional resources for supporting the SSC through their institutions. The Western Interstate Commission for Higher Education in a rare action endorsed the location of the SSC in the West and committed to work with the Western States SSC Coalition in establishing cooperative research and educational programs.

The western states due to their environmental settings offer both the quality of life and the amenities needed to attract and retain superior scientists. The western sites also were judged in the environmental impact statement as being the least disruptive of the seven in terms of environmental impact. Additionally, both sites were found to offer extensive monetary savings in terms of construction and operating costs over the life of the facility.

As Western Governors we urge you in preparing your recommendation to the Congress for funding to select one of the two western sites under consideration.

Sincerely,

George Deukmejian, Governor of California and Chairman, WGA; George Sinner, Governor of North Dakota and Vice-Chairman, WGA; Steve Cowper, Governor of Alaska; Rose Mofford, Governor of Arizona; Roy Romer, Governor of Colorado; John Waihee, Governor of Hawaii; Cecil Andrus, Governor of Idaho; Ted Schwinden, Governor of Montana; Richard Bryan, Governor of Nevada; Neil Goldschmidt, Governor of Oregon; George Mickelson, Governor of South Dakota; Norman Bangerter, Governor of Utah; Booth Gardner, Governor of Washington; and Michael Sullivan, Governor of Wyoming.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

PERSONAL EXPLANATION

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. CLINGER. Mr. Speaker, I was absent from the Chamber on Thursday, September 29, when three rollcall votes were taken. Had I been present I would have voted "no" on rollcall No. 369, "no" on rollcall No. 370, and "aye" on rollcall No. 371.

UNITED STATES TO PAY ITS OVERDUE U.N. OBLIGATIONS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. BEREUTER. Mr. Speaker, I commend to my colleagues an editorial of September 17, 1988, in the Omaha World Herald welcoming the U.S. decision to pay its long overdue obligations to the United Nations. For the past several years, the United States has withheld a portion of its annual U.N. assessment in protest against extravagant U.N. personnel levels, compensation, and other personnel practices, fiscal mismanagement, and a concern about a perceived anti-American bias in this international body.

Recently, however, the U.N. has undertaken serious internal reforms and has begun exercising the neutral international peacemaking role it was designed to undertake. Among these are its success in negotiating an end to hostilities in Angola, the Middle East, and Afghanistan. It has begun reducing its bloated staffing levels and changed many of the offensive fiscal and personnel practices.

Now that some of the demanded budgetary and personnel reforms have completed with others underway, it is indeed appropriate that the U.S. Government pay its arrearages. By doing so, assist the United Nations in its effort to regain its reputation as a fair and effective international instrument of peace.

U.S.-U.N. THAW IS WELCOME

It is good to read that the U.S. government is regaining confidence in the United Nations. The White House has released $44 million to pay overdue U.S. obligations to the international organization and indicated that it will pay other past-due sums that were withheld as part of a protest against fiscal mismanagement and anti-Western bias.

In recent months, the United Nations has been functioning as its founders had hoped it would, using the inner circle of great powers to exert influence through the Security Council to broker solutions in the world's trouble spots. The United Nations has played a role in settlements in the Persian Gulf, Afghanistan and southwestern Africa, to name a few.

Congress has appropriated another $144 million in funding for the next fiscal year, beginning Oct. 1. President Reagan has indicated that these funds will be applied to U.S. dues and that a larger sum will be forthcoming later.

The end of tensions between the United States and the U.N. leadership would be welcome in view of the fact that the U.S. government was instrumental in the founding of the United Nations in 1945 and has been generous in its funding of the organization until recent years. It was always the Soviet Union that was behind in its payments. It made some Americans uncomfortable this year when the Soviets began to pay up and the Americans remained in arrears.

The United Nations is permanently based in America's largest city. Franklin Roosevelt, building on an ideal originally sponsored by Woodrow Wilson, had a vision of what the United Nations might someday become. Today, with greatpower cooperation and much of the Third World realizing that democracy and free enterprise are the keys to economic success, the vision is being realized. It is well to provide the organization with the resources necessary to be a force for peace and progress.

MIDDLESEX NEWS—A REPUTABLE AND DISTINGUISHED DAILY NEWSPAPER

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. ATKINS. Mr. Speaker, when the House last met on Friday, the gentlemen from California, Mr. DORNAN, inadvertantly cast an aspersion on the nature of a newspaper in my district. I have learned long ago that the mighty press in this country can take care of itself, but I did want to note that far from being "a sexual paper for senior citizens," as my friend from California described it, the Middlesex News is a reputable and distinguished daily newspaper serving the southern part of Middlesex County, which is my home. I would hope the gentlemen remembered from his American history lessons the great events that occurred in Middlesex County, starting with the Shot Heard Round the World and the opening of the War of American Independence. The county served by the Middlesex News is the largest in the Commonwealth of Massachusetts and is, I am sure the gentlemen remembers, the inspiration for the famous line from Longfellow about the midnight ride of Paul Revere:

One if by land, two if by sea,
And I on the opposite shore will be,
Ready to ride and spread the alarm
Through every Middlesex Village and farm.

I am certain the gentlemen meant no disrespect to the Middlesex News or to the county by the same name. I just wanted to clarify the record.

COASTWEEKS 1988

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. STUDDS. Mr. Speaker, I would like to take this opportunity to commend all of the Massachusetts residents whose participation in "Coastweeks 1988" has made it such a success.

Coastweeks is designed to draw attention to the critical need for coastal cleanup nationwide, and has inspired creative local efforts in over 35 coastal States.

Commemorations in Massachusetts have included an aquaculture workshop, a marsh clean up canoe trip, a shorebird carvers' workshop, a marine research display, whale watching and natural history cruises, beach and dune hikes, and educational programs on coastal geology.

In addition, dozens of cities and towns in the Commonwealth are sponsoring communitywide efforts to clean local beaches of debris. To increase awareness of the worsening problem of coastal pollution, trash collected from Massachusetts beaches is being assembled by State Coastal Zone Management officials into a sculpture. I would especially like to recognize the efforts of those who donated their time and energy to building this sculpture.

It is just such local commitment that has helped us to enact strict new laws to protect our precious marine areas, and I applaud the efforts of all participants in "Coastweeks 1988."

IN COMMEMORATION OF THE 60TH ANNIVERSARY OF THE FIRST CHURCH OF THE BRETHREN

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. KILDEE. Mr. Speaker, I would like to bring to the attention of my colleagues an event commemorating the 60th anniversary of the First Church of the Brethren in Flint, MI. This event will pay deserved tribute to the First Church of the Brethren, which throughout its existence has addressed the needs not only of its congregation, but also of the surrounding community. The humble generosity with which the church has served the community merits great acclamation. Thus, to recognize the church on its anniversary, a gathering will take place on October 9, 1988.

Forty-one original charter members initiated the activities of the church at 3210 Corunna Road, Flint, MI on October 8, 1928. Brother and Sister Prowant, two founding members, dedicated their time to visiting people in outlying areas, and helping to build the church and arrange Sunday services. The path of social responsibility and community obligation they forged has not been abandoned by subsequent congregations.

In conjunction with their 60th anniversary, the church, under the leadership of Rev. Terry Butters, will begin a community-oriented program called Friendship Fridays. Under this program, the church will show Walt Disney movies the first Friday of the month. The following Friday, free child care will be available for parents who wish to spend an evening out. The third Friday, congregation members will join senior citizens of the community in an activity of the latter's choosing, and on the final Friday of the month, a support group designed to aid the parents, adult children, and guardians of the handicapped will gather. All these activities will be open to the entire community. The scope of the services offered by the church through this program demonstrate the church's intention to serve the needs of all facets of the community, as well as its own congregation.

Mr. Speaker, I hope that you and my peers will join me in paying tribute to the First Church of the Brethren on its 60th anniversary. This institution has provided unselfish and dedicated support to the Flint community in the past, and I am sure that we can expect more of the same community service in the next 60 years.

THE GOLDEN ANNIVERSARY OF THE JEWISH BASKETBALL LEAGUE ALUMNI OF PHILADELPHIA

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. FOGLIETTA. Mr. Speaker, today I rise to commend the membership of the Jewish Basketball League Alumni on its golden anniversary of the organization.

Few organizations in this Nation can boast a membership that has contributed to every sector of our society. From sports to philanthropy, the alumni of amateur basketball have always been supportive and influential participants.

As the alumni gathers on December 12, 1988, to celebrate their golden anniversary, we look forward in the next 50 years to the further advancement and contributions of their organization.

Again, Mr. Speaker, I offer my congratulations and would like to declare Monday December 12, 1988, as Jewish Basketball League Alumni Day.

THE FAWELL AMEMDMENT TO THE COMPARABLE WORTH BILL

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. FAWELL. Mr. Speaker, last week the House approved H.R. 387, the Federal Equitable Pay Practices Act of 1988. During consideration of the bill, I offered an amendment accepted by voice vote. I want to take this opportunity to clarify the purpose and effect of the amendment.

The purpose of my amendment is simply to make clear that our adoption of the procedures spelled out in this act should not be interpreted to supersede or modify existing Federal laws with respect to what constitutes unlawful pay discrimination. Title VII of the Civil Rights Act of 1964 and section 6(d) of the Fair Labor Standards Act—popularly known as the Federal Equal Pay Act—govern the circumstances in which pay differentials may constitute or be evidence of unlawful discrimination in the private sector. The congressional intent underlying those statutes has been addressed in numerous court decisions. The amendment would assure that this act is not interpreted to overrule those decisions, or to be interpreted in any way to express an intention by Congress to endorse the controversial theory of comparable worth, which I oppose.

Among the leading cases on this point are the U.S. Supreme Court's 1981 decision in County of Washington versus Gunther; the ninth circuit's 1985 decision in AFSCME versus State of Washington, in which Judge—now Supreme Court Justice—Kennedy wrote the opinion of the court; and the seventh circuit's 1986 decision in American Nurses Association versus State of Illinois.

The Supreme Court held in the Gunther case that, in order to establish wage discrimination based on sex where the jobs being compared are not substantially identical, a person must be able to show that her or his wages were intentionally depressed by the employer because of her or his sex. The Court expressly noted that it was not basing its decision on what it called "the controversial concept of 'comparable worth.'"

In the AFSCME case, the ninth circuit held that a comparable worth study conducted by the State did not establish intentional discrimination. Judge Kennedy pointed out in his opinion that "comparable worth studies will vary depending on the number and types of factors measured. A study which indicates a particular wage structure might be more equitable should not categorically bind the employer who commissioned it. The employer should also be able to take into account market conditions, bargaining demands, and the possibility that another study will yield different results."

The seventh circuit's decision in the Illinois Nurses case also dealt with a study showing pay differentials between predominantly male and predominantly female jobs that were rated comparable in value based on job-content analyses. The court rejected the argument that the mere existence of such pay differentials indicated unlawful discrimination. As the court stated, "Knowledge of a disparity is not the same thing as an intent to cause or maintain it; if for example the State's intention was to pay market wages, its knowledge that the consequence would be that men got higher wages on average than women and that a difference might exceed any premium attributable to a difference in relative worth would not make it guilty of intentionally discriminating against women."

Other Federal court rulings are in accord with these decisions.

The amendment will eliminate concern that our adoption of a set of procedures under this act which include a study based on job-content analysis and economic analysis may somehow be interpreted as undercutting this body of law under title VII and the Equal Pay Act by giving such studies greater significance or weight than they would otherwise have under existing law. In short, it will make clear that commissioning a study that relies on these procedures, we are not departing from prior congressional intent or endorsing the "controversial concept of 'comparable worth.'"

TRIBUTE TO DOLLAR GENERAL CORP. OF NASHVILLE

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. CLEMENT. Mr. Speaker, last Thursday morning I had the distinct honor of going to the White House to watch President Reagan present Dollar General Corp. of Nashville, TN, with the President's award under the Private Sector Initiative Program.

Dollar General was one of 30 corporations and organizations that received recognition for their charitable and philanthropic activities and their unselfish initiatives to assist our fellow citizens.

Dollar General sponsors a literacy program, whereby it promotes in each of its 1,300 stores information about resources available to adults that will help them learn to read. Over several years, more than 5,000 individuals have been directed to local GED and literacy programs.

I am pleased to extend my heartfelt congratulations to Cal Turner, Jr., president and chief executive officer of Dollar General Corp., and to Carol Harris, vice president of marketing, on receipt of this award from President Reagan.

THE PROLIFERATION OF CHEMICAL WEAPONS

HON. JACK DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. DAVIS of Illinois. Mr. Speaker, today I and my esteemed colleague in the Senate, Senator ALAN DIXON, introduce legislation which offers an innovative and constructive framework for American policy regarding one of the most deadly and terrifying dangers which looms ahead in the realm of international relations: The proliferation of the use of chemical weapons.

Recent actions have made the world community reel in waves of shock. The use of chemical weapons against its own Kurdish population by the nation of Iraq is a blatant violation of international law. More frightening, is the prospect of escalation of the use of these deadly poisons. The world faces a growing chemical warfare threat. In 1969, only five countries possessed these weapons. Now at least 15 do, and probably more. These hellish poisons are spreading like wildfire. In particular, evidence shows a tendency toward their proliferation in countries characterized by their volatility, such as Iraq, Syria, Libya, and Iran.

While recent events have emphasized the necessity of reaffirming international legal prohibitions on the use of chemical weapons, the conventions and protocols which we use to legally justify the illegal nature of the use of chemical warfare lack an enforcement clause. As was the case with Iraq's violation, we are left without a definitive policy in terms of responding to the violent breach of law, and certainly the attack on human rights, which characterizes the use of chemical weapons.

Chemical weapons are silent and deadly, and they cause the indiscriminate death of civilians and noncombatants. It is the nature of the use of chemical weapons to be like that of a terrorist action. Thus, it is the suggestion of Senator DIXON and myself, in our resolution, that the use of chemical weapons be considered a terrorist act, and that the Secretary of State take the use of chemical warfare into consideration as one of his criterion in determining a country as a terrorist nation. When a nation is determined by the Secretary of State to be a proponent of terrorist acts, a variety of sanctions immediately take effect.

Thus, our resolution offers, in part, a suggested enforcement clause for the application of existing international law as it regards chemical warfare.

The strongest policy in the realm of foreign relations is not a unilateral policy, but a combination of multilateral and unilateral efforts which act in tandem to reinforce one another. The President spoke on September 26, 1988, in his final speech before the United Nations, of his intention to hold a conference amongst the 112 signatory countries of the Geneva protocol and other interested countries in order to put forth a multilateral effort toward the universal ban on the use of chemical weapons. On Thursday, September 29, French President Mitterand offered to host the conference.

The resolution which Senator DIXON and I offer before you commends the multilateral actions of the President and the other nations involved in establishing a policy to ban the use of chemical weapons. The resolution further promotes these multilateral efforts and extends them by offering a unilateral enforcement clause regarding American policy on the issue. Our resolution acknowledges that we, as Americans, should represent our role as a world leader by becoming the first nation to take action regarding the use of these hellish poisons.

A combination of multilateral and unilateral efforts toward the establishment of a ban on chemical weapons becomes readily more important as one recognizes the changing dynamics of world relations. Our resolution does come forward in promotion of the bilateral efforts of the United States and the Soviet Union in negotiating a mechanism to combat the use of chemical weapons. However, it must be acknowledged that, with the attainment by more nations—even of third world nations—of nuclear capability, with the economic growth of many previously economically weak nations, with the coming of glasnost and perestroka which moderate the sharp ideological distinctions of the past, the world is rapidly becoming a more multipolar place, rather than a bipolar one.

The proliferating of chemical weapons, which may outline the intention for their use, marks the downside of the changes toward a more multipolar world. The development by third world countries of chemical weapons in combination with their attainment of the ballistic missiles which can send these weapons across continents and across seas, reduces every nation to a feeling of uneasiness in the face of the threat of their indiscriminate use. The use of chemical weapons reduces us all to the condition of battling a terrorist action, caused by an enemy which we cannot see, nor define, and which hits us by surprise.

I stand before you today to introduce a concurrent resolution which attempts a preliminary policy response by the United States to the threat of the use of chemical weapons. Let us defend our role as a world leader. Recent actions have shown us a glimpse of the contents of Pandora's box. Let us not let the actions of any country open the box any further.

TRIBUTE TO REV. OSBORNE BUDD

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. SAXTON. Mr. Speaker, I rise today to salute a constituent of mine who, at the age of 80, has led a most distinguished life. This fall the Reverend Osborne Budd of Barnegat, NJ, will celebrate the 50th anniversary of his ordination to the Episcopal priesthood. Today, I would like to take a minute to share with my colleagues the fine accomplishments of Father Budd.

In 1946, Father Budd began his 27 consecutive years as the rector of St. John's Episcopal Church, Tuckahoe, NY. During this tenure at St. John's, he was not only an inspiration to the members of the congregation, he was a friend. At the time of his retirement in 1973, it was noted that, due to his many years of service, he was the only priest that half of the congregation had ever known. Father Budd knew the name of every one of his parishioners and even called them up at home if he didn't see them in church on Sunday morning.

After retirement from St. John's in 1973, he and Mrs. Budd moved to Barnegat, NJ, where they continue to reside today. Hearing the call of the church once again, he became involved with St. Stephen's Episcopal Church in Waretown, NJ, as a nonstipendary assistant. In his 15 years at St. Stephen's Father Budd has continued to be an important part of the lives of his congregation. His accomplishments include regular participation in church services, establishment of a unique ministry involved with the sacrament of Baptism, and conducting summer services by himself as a supply priest.

Mr. Speaker, each of us can point to a special person that has made a difference in our lives. For many of the people of St. John's parish in Tuckahoe, NY, and St. Stephen's parish in Waretown, Obsorne Budd is that man. As his friends gather this November to celebrate his years of service to the church, I know my colleagues in the House will join with me in saluting Father Budd.

A COMMITMENT TO COMMUNITY

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. BADHAM. Mr. Speaker, it is my privilege today to help the California Confederation of the Arts honor one of art's best friends in California and in the Nation, Mr. Henry T. Segerstrom. Because of the work and contributions of Henry Segerstrom, Orange County, CA, has one of the strongest, most progressive arts communities in the world.

Many of my colleagues have already been to the Orange County Performing Arts Center and I am sure many more will have the opportunity to visit this outstanding facility. When you do, you will know that you are at one of the world's premier arts centers. And you will thank Henry Segerstrom, who made this facility possible.

Henry is a native of Orange County and is responsible for much of our commercial and economic progress as well. And when it comes to our cultural progress, as chairman of the board of the Orange County Performing Arts Center, he has no rival.

He directed the county's largest private fundraising effort in history. He raised $73.5 million for construction and $65 million for an endowment. The Segerstrom family was the largest single contributor to the center, giving more than $12 million in cash plus the best land available for the center anywhere in the country.

Southern Californians are rightfully proud of the Orange County Performing Arts Center and I urge all Americans to visit it when they get the chance to visit our great State. The architecture alone is worth seeing. The way that art and architecture are combined defy description.

The Performing Arts Center is just one aspect of Henry's interest in the arts. He also serves on the board for the Museum of Contemporary Art in Los Angeles and his support for Costa Mesa's public art collection has been critical. I ask my colleagues to join me in honoring Henry T. Segerstrom as he is presented the Leonardo Da Vinci Award from the California Confederation of the Arts for his outstanding contributions to the arts.

H.R. 1720

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. JEFFORDS. Mr. Speaker, last Friday, this House passed the conference report for H.R. 1720, the Family Welfare Reform Act of 1987. I served as a conferee for this legislation and supported its passage even though it contained some issues that were of concern to me. My support was based in the belief that unless we seized this window of opportunity to make even modest changes in our welfare system, we would not have the opportunity again for several years to come.

I had been skeptical that we were not going to be able to reach agreement with the other body because of the significant differences between the two bills. Welfare reform had become an issue that was to be lost in the closing days of the 100th Congress. Fortunately, a compromise was reached.

As we all know, compromises do not satisfy everyone. Clearly, this compromise does not as well. When the Education and Labor Committee considered its portion of the welfare reform package over a year ago, there were particular issues that were of critical importance. Although every concern we had was not addressed in this conference document, substantial parts of what we sought were.

However, two concerns remain outstanding. The first is the 16-hour work requirement for one parent in a AFDC-UP family. My concern is not that we should encourage work on the part of individuals in such families in order to be eligible for benefits. Instead, it is that the individuals we will focus on to meet this requirement generally do not need "work experience." Usually the period of unemployment they are experiencing is cyclical in nature and will be resolved as the economy improves. In a small State such as Vermont, the administrative costs and time that will be expended to create the necessary job slots to meet this requirement will be disproportionately large compared to the benefits accrued either to the individuals, the community, or the program itself.

Second, I am concerned that the wage rates allowed under this legislation in the community work experience program [CWEP] permit two different standards of pay, one for regular employees and another for those employed under the welfare program. This difference leads to the potential of worker displacement and is not an incentive for individuals to participate in CWEP. Further, this decision was made without the advice of the committee of jurisdiction, the Education and Labor Committee, and I am concerned that this action may establish a precedent which I do not support.

On a more positive note though, the intent of the JOBS Program contained in this conference report is to provide welfare recipients the opportunity to gain education and employment training in order to become self-sufficient and productive in our society. We know from the demographics alone that if we do not provide the means by which these outcomes can be achieved, this Nation will become less competitive in the world market and our overall standard of living will suffer.

We need a collective effort by all sectors of society to educate and train the numbers of skilled people we are going to need to match the jobs that are being created. Unfortunately, those who we need to fill the jobs that will become available are those individuals who are traditionally overlooked by our education and training institutions. We are hopeful that the education, employment, and training provisions contained in this conference report will contribute toward meeting this critical need.

The Committee on Education and Labor wanted to assure several things in this legislation. Although our provisions were not completely incorporated in the final product, our success rate was quite high. Among these issues were the following: coordination with other employment and training programs, specifically the Job Training Partnership Act; education requirements for participants without high school diplomas; performance outcomes which emphasize quality rather than quantity; a required assessment of skill levels and family needs of the participant with an employability plan developed on the basis of the assessment; a focus on the individual in the context of the family unit; provision of transition benefits which allow the individual to move into unsubsidized employment without penalty; and a reassessment of CWEP participation in light of the career objectives and work skills contained in the employability plan.

Of particular import to me was the education requirement, especially for those who do not have a high school diploma. Even under the work requirement placed on the AFDC-UP family, if the parent is under the age of 25, participation in an education program would satisfy the work requirement. Statistics bear out that completion of high school is crucial to the future labor force participation of youth, and that their earning power is enhanced significantly by completing high school. In light of this information, it was critical that the emphasis on education that is contained in this compromise was retained.

It is obvious that without adequate participant assessment the services provided may not be useful or effective. Further, it is evident that without knowing what the support needs of the family are, there may be barriers to full participation by the recipient. I am pleased that this compromise contains the requirement that all participants be assessed for their skill levels and family needs, and that an employability plan be developed on that basis.

The employability plan contains a mutual agreement describing the goals and expected outcomes from program participation, the types of services that are needed for participation, and the types of interventions that can be provided with the resources available. Both the participant and the Government agency must be responsible in developing this plan. Additionally, because participation in CWEP for longer than 6 months must be evaluated within the context of the employability plan, this program is less likely of being accused of placing people in make-work, dead-end jobs with no future.

Although the final compromise contains provisions to continue Medicaid coverage and child care support for 1 year after an individual leaves the program, these provisions have a limited authorization of 5 years. I am hopeful that the evaluation and study of these transitional benefits called for in this legislation will substantiate the importance of these services in enabling individuals to move off of welfare and into productive attachments in the labor force.

What we have agreed to is not perfect. It truly represents major compromise on the part of all the committees involved. The opportunity to make even these small changes may not have been present for years to come. I am glad that in making these changes several important concerns that I had regarding the education, employment, and training issues were retained, making this a stronger compromise in the end.

WOONSOCKET, RI, HERO HONORED

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. ST GERMAIN. Mr. Speaker, on October 15, 1988, in the Woonsocket City Hall Mayor's office, the city will be honoring the heroic efforts of Mr. Jeffrey Harris; Lt. Michael H. Crepeau, rescueman; Joel D. Jillson, EMT-firefighter; and Rescueman Daniel F. Girard.

On January 4, 1988, Jeffrey Harris was leaving the home of a friend when he was notified, by youngsters that were nearby, that three children had fallen into the freezing waters of the Blackstone River. Before he ran to the riverbank, Mr. Harris phoned for help. Upon his arrival, he only saw two children, Patricia and Kenneth Ledger, struggling to get out of the frigid water; the third child, Shane Bradwell, could not be seen above the surface of the murky water. Mr. Harris jumped into action and began pulling both children to safety when the ice gave way under all of them. At this time, rescue workers began arriving to pull the two youths from the water and search for the third child. Finally, all three children and Jeffrey Harris were brought safely back to the shore.

To all the rescue workers and heroes like Jeffrey Harris, I, along with the citizens of Woonsocket, RI, would like to offer our most sincere gratitude.

WORLD HABITAT DAY

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. FASCELL. Mr. Speaker, I would like to take this opportunity to call attention to the international observation of World Habitat Day on October 3, a day set aside by the United Nations system to call attention to the plight of millions worldwide who are homeless or live in totally inadequate shelter conditions. World Habitat Day is organized by the U.N. Center for Human Settlements [Habitat], headquartered in Nairobi, Kenya, a small U.N. organization which supports the efforts of governments and the private sector to provide housing and related infrastructure for their citizens.

It is appropriate today to recognize World Habitat Day as an opportunity to focus on the rapid growth of cities around the world and on the problems and opportunities presented by the unprecedented movement of people into urban areas.

For many years, our foreign aid programs and those of most other donors have emphasized efforts to alleviate poverty in the rural areas of developing countries, because poverty was viewed as essentially a rural phenomenon. That reality is changing. The urban populations of developing countries have been growing twice as fast as have cities in the industrialized countries. At the same time, the incidence of urban poverty has been increasing. The World Bank estimates that by the year 2000 in developing countries, the majority of poor people will be living in cities and towns, rather than in rural areas.

Our Foreign Aid Program is also based on the premise that the promotion of healthy economies in developing countries is essential in our effort to increase the market for U.S. exports. Assisting in this growth increasingly means paying attention to the development of these nations' urban-based economies.

In addition, we recognize that cities are centers of culture, innovation, and communication. The social and economic conditions of cities are vital to the development and support of stable democratic governments.

As we on the Committee on Foreign Affairs continue our efforts to review U.S. foreign assistance programs in light of the dramatic changes in the world since the initial drafting of the Foreign Assistance Act in 1961, and as we join today in the observation of World Habitat Day, we raise the question of how the United States can respond to the challenges of urban growth around the world. It is my hope that through our deliberations and through the work of organizations such as Habitat, we can find new ways to convert what sometimes seem to be overwhelming problems of urbanization into opportunities for growth and development.

REESTABLISHING THE NATIONAL AERONAUTICS AND SPACE COUNCIL

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. HEFLEY. Mr. Speaker, with the successful completion of the space shuttle *Discovery's* mission, I believe there is no better time to introduce a bill to reestablish the National Aeronautics and Space Council as an advisory group to the President.

The idea of such an advisory council is not new. The charter for a National Aeronautics and Space Council was contained in the 1957 National Aeronautics and Space Act, which is the guiding document of the U.S. space program. Indeed, the statutes for this council remain on the books, even though the group has been inactive since the 1970's.

But, in the past 2 years, the National Council on Space recommended that the President reestablish a small National Aeronautics and Space Council in the White House based on the NASA Act. The bill I am introducing today would do just that.

Last October in Huntsville, AL, Vice President Bush said he would reinstate the Space Advisory Council as President. And, in recent weeks, both Democratic candidates have said they would do the same. To me, all of this seems a clear indication of consensus.

The past 2 years have shown more than a growing consensus, however. They have demonstrated the folly of abolishing the Space Council in the first place. Ever since the *Challenger* accident in February 1986, NASA—and the President—have been accused of failing to provide a long-range set of goals.

Besides this perceived lack of direction, the absence of a strong, standing space advisory group has resulted in in-fighting between the various agencies with a stake in space, and these turf battles, fought without a referee, have contributed further to our space program's lack of coherence.

President Reagan has attempted to replace the National Aeronautics and Space Council with the Special Interagency Group on Space and, while I cannot argue with the President's right to choose his own advisers, I can argue with SIG-Space's propensity to make its decisions in private, often in a vacuum, without accountability to Congress and often in the face of common sense and to the detriment of the civilian space effort.

I believe that my bill, reestablishing the National Aeronautics and Space Council will solve most of these problems by providing the President with an objective pool of aerospace expertise capable of coordinating our space projects with our domestic and international goals and with each other. Second, this group would provide a forceful advocate for the space program, a program which has become too important to our way of life to be left to fits-and-starts, to breakthroughs and change.

My version of the advisory council blends the makeup of the old National Aeronautics and Space Council with that of SIG-Space. Occupying eight of its nine chairs would be the Secretaries of State, Defense, Commerce and Transportation; the Administrator of the National Aeronautics and Space Administration; the Director of the Central Intelligence Agency; the Director of the National Science Foundation; and the Chairman of the Nuclear Regulatory Commission.

My proposal differs from the National Aeronautics and Space Act, however, in requiring that the President appoint, with the advice and consent of the Senate, a council chairman to direct and coordinate the meetings and activities of the council. This appointee would serve a 6-year term and be paid at a Cabinet-level salary.

I believe this arrangement would give the Chairman a certain authority and independence from the political process, while providing continuity to our space efforts.

In the past, the Vice President served as Chairman of the Advisory Council and that practice worked well while it lasted. Most Vice Presidents proved to be effective advocates for the space program. But what if a Vice President is elected who is hostile to the space program; a 6-year appointee, screened by the Senate, would at least be interested.

I believe the events of the past 2 years have made us aware of the important role space research plays in our lives. Many of this year's budget battles have been fought over an extension of our defensive capabilities in space and, while we may disagree over that extension, I'm sure we all agree with the essential contribution of space-based assets to our national security.

Also in recent months, we've heard a lot about global warming, ozone depletion, the greenhouse effect. Everybody's worried about it and says something must be done. But other experts say we shouldn't rush to conclusions, that we need more information before addressing this problem. And much of that information can only be gained from space.

Mr. Speaker, it's clear that space research can work for the betterment of everyone. It's equally clear that little can be accomplished without an informed, objective weighing of various alternatives and their application to our national goals. For that reason, I propose reestablishing the National Aeronautics and Space Council to provide this leadership and ask my colleagues to join me in support of this bill.

EXCESSIVE DEPENDENCE BREEDS RESENTMENT

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. HALL of Texas. Mr. Speaker, yesterday on the ABC news program "This Week With David Brinkley", Mr. Brinkley closed with a very timely and perceptive observation on what I would characterize as the seeming ingratitude of the South Koreans toward the United States.

At the olympics, the South Koreans booed our athletes and burned our flag, while 40,000 United States troops remain stationed in their country near the 38th Parallel to protect them from the Communist threat to the north.

The South Koreans seem to be ungrateful—even hostile—to the continuing commitment the United States has made to provide substantial support for their national defense at no cost to them. That support continues more than 30 years after 35,000 Americans lost their lives to defend Korean shores from the Communist North Koreans and Chinese.

It is probably true with nations, as it is with people, that excessive dependence breeds resentment. Maybe it is time for us to force the South Koreans to redirect some of that rampant growth in its gross national product into the maintenance of its own defense, rather than into the export of consumer goods that land on our shores and cost Americans jobs.

I agree with the question Brinkley posed as he closed his commentary, "Why should we pay for the privilege of defending them?" I urge the 101st Congress to put that question squarely in the spotlight and examine it thoroughly when it convenes next year.

NASA MUST DEVELOP CREW RESCUE CAPABILITY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. TRAFICANT. Mr. Speaker, today I am introducing a concurrent resolution expressing the sense of the Congress that the National Aeronautics and Space Administration [NASA] should develop and maintain a crew rescue capability for the Space Station Freedom.

The purpose of this resolution is to ensure that as we proceed with the development and deployment of the space station, that a crew escape capability remain an integral part of the entire program. In addition, the resolution states that the basing of astronauts on the space station should not take place until a crew rescue capability is in place. Finally, the resolution requests that the NASA Administrator, in conjunction with the President's budget request, annually submit a report to the Congress on the progress of developing this crew rescue capability.

Following the *Challenger* disaster, I introduced legislation requiring that NASA develop and install a crew escape mechanism before the resumption of future shuttle flights. As the shuttle *Discovery* successfully lifted off last week, a crew escape system was in place for use in certain emergency situations.

In the same way, I believe it is important that we take every available step to ensure our astronauts have an escape capability aboard the space station. While we all know that the exploration of space is a highly dangerous and unknown endeavor, the safety of the crew must remain the highest priority.

I want to commend NASA for the improvements that have been made in the area of safety with regard to the shuttle and am confident similar efforts will be made during the development and deployment of the space station.

Although only a few days remain in this session, I plan to reintroduce this resolution during the initial days of the 101st Congress and will be seeking your support.

WELCOMING REMARKS BY PRESIDENT RONALD REAGAN

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. OXLEY. Mr. Speaker, the Benevolent and Protective Order of the Elks is a wonderful example of the Nation's can-do spirit. When President Reagan called for initiatives from the private sector and increased voluntarims earlier this decade, the Nation's Elks responded magnificently and increased their contributions of time and money for young people, for veterans, and for the ill and handicapped.

While they were redoubling their efforts with their ongoing programs, the Elks also took on a major new task of helping make children and their parents more aware of the awful consequences of drug abuse. In all 50 States, the Elks have become catalysts in local communities, organizing more than 3,000 separate drug education programs and contributing thousands of dollars and untold hours of volunteer time in this effort.

President Reagan recently saluted this fine organization—the Nation's largest and oldest fraternal order—in remarks videotaped for the Elks' national convention.

He listed some of their many contributions and challenged the group to keep proving each day that "the spirit of the Elks is the spirit of America."

I commend to the attention of my colleagues the fine remarks which President Reagan delivered to the Elks national convention:

Welcoming Remarks by President Ronald Reagan, Videotaped for the Grand Lodge Convention, Benevolent and Protective Order of Elks, Las Vegas, NV, July 17, 1988

I regret very much that Nancy and I cannot be with you as you gather for your Grand Lodge Convention. But I take a special pleasure in bringing greetings to all the Elks and their families.

During my seven and a half years in Washington, I have had a wonderful relationship with your organization as your members have reached out to our young people and our older soldiers, providing a helping hand to the less fortunate in so many different ways. I thank you for your prayers and your continued support.

Back in 1981, as we first started coming to grips with the awesome federal budget, I have a speech suggesting that people in the private sector might be able to help out with some of the government programs that were being cut back.

One of the first people I heard from after that speech was Raymond Arnold, a lawyer in Jackson, Michigan, who just happened to be the new Grand Exalted Ruler of the Elks. Ray sent me a telegram pledging that your organization would redouble its involvement in volunteer programs. He said the Elks had been helping their neighbors since the Johnstown Flood, and there was no reason they couldn't do more.

And you fufilled that pledge.

You put more money into Elks scholarships that help so many deserving youngsters.

You built more hospitals and rehabilitation centers.

You stepped up your visits to VA medical centers.

You sponsored more bands and athletic teams.

You added to the number of scout troops and boys and girls clubs.

You got more kids involved in your wonderful "Hoop Shoot" basketball competition.

Right now—in Alaska, in Maine, in Minnesota, in New Jersey and in other places all over the country—there are more young people attending camps operated by the Elks.

You also took on a big new task—helping make our young people and their parents aware of the awfull consequences of drug abuse.

You have been a catalyst in your local communities, organizing more than 3,000 separate drug education programs. You have worked with law enforcement agencies and other civic groups, contributing manpower, materials and money to get the job done.

The list goes on and on: You have reached over three and a half million kids, and at least a million parents.

We wish you a successful convention as you renew old friendships and make new ones. We know that you are going back home filled with new enthusiam and commitment.

Keep on holding out a hand to those who need a lift—the disabled veteran; the handicapped young adult who needs rehabilitation; the bright kid with hidden talents; the youngster who has never loved.

Keep on proving every day that the spirit of the Elks is the spirit of America.

Nancy joins me in extending to you all a heart-felt "Thank You."

God bless you all.

PERSONAL EXPLANATION

HON. ALFRED A. (AL) McCANDLESS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. McCANDLESS. Mr. Speaker, on September 26, 1988, I was granted a leave of absence from the House of Representatives on account of official business for the week of September 26. At the request of the Secretary of Treasury, I was serving as congressional adviser to the U.S. delegation at the annual meetings of the World Bank and International Monetary Fund in West Berlin, Germany.

In my position on the Subcommittee on International Development Institutions and Finance of the Banking Committee, I have been active in addressing the issues of the developing world. The United States has a vested interest in the workings of the World Bank, having contributed a substantial amount of money—$1.5 billion—to the institution since 1946. However, the return has also been substantial. Last year alone, U.S. businesses did 1.6 billion dollars worth of export business to World Bank projects, including $65.7 million from the State of California. Consequently, congressional oversight of the Bank and its meetings is important and worthwhile.

The United States was the leading founder of the World Bank in 1946. Its initial purpose was to provide a means by which war-torn nations could begin the process of rebuilding and once again become self-sufficient. Since that time, the World Bank has shifted its focus and its efforts to assisting and developing Third World countries. The Bank has become the major financial link between the developed and the developing world. Throughout the Third World, the World Bank makes loans to finance a variety of development projects. The objective is to enable hard-pressed nations to sustain their own development and to adequately provide for their people. Development and stability in the Third World is of obvious importance to the United States in terms of national security and expanding our trade markets.

The World Bank is not without controversy. Issues such as poverty, the environment, population, education, hunger, and development are ones which must be weighed carefully. Full participation by the United States in the efforts of the Bank is essential if progress is to be made in these areas.

The annual meetings present an opportunity to engage in constructive dialog with delegations from the other 150-nations of the World Bank. Despite the large number of people involved, there is often an opportunity for an individual to make a significant contribution. The exchange of ideas in formal meetings and in casual conversations enable a participant to feel the pulse of not only the Bank's activity, but of the world as a whole.

Unfortunately, this year's meetings came at an inopportune time. The 100th Congress is coming to a close, and a large number of bills were rushed to the House floor. In addition, for procedural and political reasons, an unusually high number of recorded votes were taken. However, most of these votes were procedural or on issues which had been previously voted, and on which a bipartisan compromise had been reached. The official activities of a Member of Congress are varied. In this instance, I was proud to be a respresentative of the House of Representatives and of the United States at an important international gathering.

TRIBUTE TO ZUDY BRIER: A SPECIAL VOLUNTEER

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. STARK. Mr. Speaker, I would like to join with her many friends in congratulating Zudy Brier for being selected by the Sertoma Club of Hayward to receive its 1988 Service to Mankind Award.

For the past 20 years, Zudy has volunteered approximately 4 hours a day to a variety of organizations. She is especially dearly loved by the employees, administration, and patients of Fairmont Hospital, a long-term care and rehabilitation hospital in San Leandro.

Zudy has been involved with Fairmont Hospital for many years. Zudy's first volunteer tasks included hostessing at the monthly Rehabiliation Family Education Program and serving at the Senior Nutrition Program and at special hospital events. In 1980 Fairmont Hospital started a service league in which Zudy became one of the first chartered members. She now is a respected leader and motivator of the group and has served as a chairperson on many committees.

Her present responsibilities include getting and scheduling volunteers to work daily at Fairmont Hospital. She ensures that there are volunteers to help at the evening Senior Nutrition Program. She also schedules volunteers to help special hospital events and is responsible for getting live entertainment for the Senior Nutrition Program.

Besides being a beloved benefactor to Fairmont Hospital, Zudy finds time for other organizations. She is currently secretary of the California Licensed Vocational Nurses, Inc., San Leandro Division 28, which meets once a month for continuing education. For the past 19 years, Zudy has been president of the Alumni Association of the Fairmont-Hayward-New Haven School of Vocational Nursing. For the past 16 years she has been involved in the San Lorenzo High School PTA Board. In the past, she was health chairperson and helped the school nurse with the vision and hearing program. She is presently the telephone chairperson and the chairperson of the Annual Scholarship Salad Bowl fund raiser, which raises money to help motivated students go to college.

In addition, for the past 2 years Zudy has been a member of Ombudsman, Inc., an organization which assists patients in convalescent hospitals with their rights and grievances. She is also a member of the United Scleroderma Foundation which is dedicated to helping people with this disease.

Zudy is a special person, loved and appreciated by all those whose lives she touches.

A TRIBUTE TO DAVID GUERRERO BLAS, COMMISSIONER OF YIGO, GUAM

HON. BEN BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1988

Mr. BLAZ. Mr. Speaker, I rise today to mark the passing of a proud Chamorro leader from my district, David Guerrero Blas, who was one of the finest, young community leaders of Guam and a devoted public servant to his constituents of Yigo.

David was many things to many people—a good father and loving husband to his wife, Nicki, and their daughters Jennifer, Melissa, Deborah, and Nicole. He was a dedicated, hard-working public servant for the people of Yigo, and a kind and considerate friend to those who had the privilege to know him and work with him. David spent a lot of time making sure his constitutents were taken care of, and he never let a day slip without doing something to help someone.

But most of all, David Blas was a patriot in the truest sense of the word. He was a gentleman, a man of honor and integrity, and one who sincerely believed in working for the betterment of his people of Yigo and Guam.

On September 16, 1988, the Guam Legislature honored this proud Chamorro leader with a State funeral. The eulogy for David was delivered by the Honorable Carl T.C. Gutierrez, former speaker of the Guam Legislature. I insert the eulogy into the RECORD as a tribute to and in memory of David Guerrero Blas and for the benefit of my colleagues.

EULOGY FOR DAVID GUERRERO BLAS

Tun Kin, Nicki, Jenni, Melissa, Debbie, Nicole, other members of the family, and friends:

I offer this tribute to a tall, proud Chamorro brother, rare breed, proud of his roots, the epitome of a family man.

David Guerrero Blas. Forty year old robust Chamorro male. Catholic. Public official. Graduate of John F. Kennedy High School. Long-term employee of the Department of Agriculture. Two-term Commissioner of Yigo. Former President of the Commissioner's Council of Guam. Former Member of the Board of Directors of the Guam Visitors Bureau. Chairman of the Yigo Municipal Planning Council. Active member of Parent-Teacher Organizations. Manager of two Softball Teams. Member of the AAFB Base Community Council. Active Parishioner of Our Lady of Lourdes Church. These are all accurate descriptors of the man we have come to honor and mourn. But, they are not enough. To those of us fortunate enough to have known and worked with Parin David, his life was more, much more than a litany of accolades.

To Tun Kin and Tan Maria Blas, David was a loyal son. To John, Teresita, Cecilia, Dolores, and Danny—he was a stubborn and feisty brother they count on, especially when the going got rough. David never ran out of jokes or smiles.

To the Tugong and Robat families, David was a dependable relative. He was always ready to lend support when family members were in need.

To Nicolasa Reyes Quichocho—Nicki, he was a friend, lover, and husband. David and Nicki were a real team. Their partnership went far beyond the responsibilities and obligations of family life. Nicki was involved in David's community activities and public duties. Where David was, so was Nicki, working hand in hand, together accomplishing the many projects that David undertook. Nicki, without question, was David's most loyal "fan", his companion. Having witnessed, and having admired the relationship between David and Nicki through the years that I have know them, I can't help but recall the way Nicki would look at David after he had spoken or done something special—with eyes filled with admiration and pride. Nor can I forget David's open love and concern for Nicki in the way he teased her, the way he fondly called her, "asaguahu'. In their quiet and unassuming way, their marriage epitomized the fullness of two people caring and sharing life together.

To his daughters Jennifer, Melissa, Deborah, and Nicole he was Santa Claus, the Candy Man, and a warm and loving daddy all rolled into one. Usually we speak of one person being the apple of one's eye. David had five—Nicki and their girls. He always spoke proudly of them. His girls were also very close to their father, helping him with projects, accompanying him to meetings, rallies, canvassing, and other campaign activities.

Having two daughters of my own with whom I am extremely close, I know how David's heart must burst with pride each time they did something that pleased him. How he felt as they used their winning smiles and persuasion tactics to cajole him into taking them somewhere, or agreeing to something. If he could, he would have given them the world. He was never too busy to come when they called; to give a soothing word when they fell down or when they were sad. His daughters knew how special, how very important they were to him. It must have been so comforting to David, that during his last moments on earth, he was surrounded by the loving presence of his wife and daughters. They recall how he came home the Tuesday he died, tired from spending all day outdoors in the sun, he asked his girls to give him a massage on his left arm and shoulder. A short while later he passed away. It must be a great source of consolation to Nicki, Jeni, Melissa, Debbie, and Nicole that even unto the end, David was first and foremost a family man. This is the kind of man that Parin David was. He never made any bones about it, his family came first.

It was a great honor for Geri and I when David asked up to be Jeni's godparents. He had great plans for Jeni's graduation this coming June. Jeni recalls that her dad promised her the best graduation party ever. Those of us who remain, will attempt to fulfill some of the promises and dreams that David has for his family, his community of Yigo, and his island. But deep down we know that David's flair, his manner of doing things, can never be replicated.

To many of us, David was a friend. I can stand here all day recounting the memories I have shared with my Pare. My personal admiration and love for him far exceeds the time we have for his remembrance and tribute. David was totally committed to the things he believed in. Totally committed. He pursued every commitment he made with the determination of a stubborn mule, the strength of an ox, and the powerful roar of a lion. He was afraid of nobody. He could not be intimidated. If he felt he was right, nothing could daunt him. Nothing could stop him from realizing what he set out to do. But at the same time, he was compassionate. He could comfort a friend with the gentleness of a lamb. He had the God-given talent to turn even the bleakest, the most hurtful moments, into joyful mirth. I remember often being angry or argumentative in David's presence, only to find myself seconds later doubling over with laughter over a joke he cracked. His sense of humor was so much a part of his way of coping with the most difficult challenges and problems. He was always able to see the positive, the good side of things, even when no one else could. David never gave up hoping, he never gave up trying.

He was truly an inspiration to me. Once he gave his word, I knew I could count on him. One weekend we were camping at Ritidian. I invited him to join my family. He promised he would. As the evening turned to night, my wife, Geri, our good friend Sonny Shelton, and I felt that something must have come up preventing David and Nicki from coming. Much to our amusement and surprise, they came honking into our campsite at 1:00 a.m. in their Suzuki jeep which was slightly smaller than David himself. He never made a promise that he felt he couldn't deliver.

Even now, of the many things I remember about my Pare, what keeps jumping out of me is his smile. His smile was one of a kind. A smile that brought laughter and joy to those around him. A smile that comforted everyone with good humor.

One thing about David, his stature commanded attention. He was almost always the center of attention in a gathering. I remember when we went to Palau together with most of the commissioners. He started singing in the plane. David put everyone in a joyful mood. One of the greeters at plane side was Governor Remoket of Ngerelong State. Both David and Governor Remoket took one look at each other and laughed. They had each met their match in size and weight. The two of them got on so famously, that if they had their way they would have established a sister-city relationship between Ngergelong and Yigo on the spot.

David had his serious side. He was unafraid to speak out. He could never be pressured into doing something that he didn't agree with. He was genuinely committed to the people he served. But he had the ability to get even the most controversial or critical point across and still come out laughing.

I will never forget how he used to insist that I run for governor. And I did. He pledged to lead my campaign, which he did. I teasingly asked him once, what he expected to get out of me. He cursed me, grabbed my arm, and said, "let's go". We got in his jeep and drove off to Vigo. When we got to the village, he pointed out an empty lot and said, "you see this lot, this site has been designated for a recreation/community center. I want you to help me get it done, Carl." He told me. He looked at me and bellowed, "I don't want a job, I already have one. I want you to help my village." That's the way he was always exploring ways of responding to the needs of the people of Yigo.

Anybody whose been around the government knows how directors' dread confrontation with village commissioners. David, as was Commissioner Ben Bernardo of Yona were, unsparing when they felt their communicate was shortchanged. Nevertheless, he knew how to charm directors into providing necessary services. David had the unique ability to communicate with directors. He built bridges rather than road blocks. This is evident in the sentiments recently expressed by Tony Blaz, Chief Officer of PUAG. In his letter to the editor, he spoke of his respect for David's diligence, his determination in seeing a request through.

As Commissioner, David was relentless in his efforts. When commissioners were pushing for raises, he said forget the raises, put the money into village projects. His was a total commitment to the job. The people of Vigo will recall how after unsuccessful attempts to get Public Works to put up street signs, he tackled the situation with his characteristic zeal and innovativeness. He made his own signs and put them up on tangantangan poles. Now, people don't want them replaced.

Tony Babauta, Commissioner of Agat, says of David: He was a fighter and a hustler. He recalls how David maneuvered the Governor's Office to release baseball field lighting and poles to Yigo that were originally designated for the Municipality of Agat, and had them installed at the Yigo baseball field at no cost to the government so that the Yigo Softball League could get started.

Commissioner Acfalle of Asan says he respected the constructive way David gave criticism. Commissioner Frank Lizama of Sinajana noted how David was a personable man who understood difference and the difficulties in bringing people together. He was able to look past the differences and see across all things. Commissioner Pat Quinata of Dededo was especially touched by David's sensitivity and thoughtfulness. David's friendship reached across party lines to console his friend with a phone call the night she lost the primary.

Whether as a member of the Commissioner's Council, Director of the Guam Visitors Bureau Board, PTA member, or Yigo Commissioner, David gained the respect of his colleagues. He was fair to all of his constituents whatever their ethnic background, whatever their political affiliation. He garnered strong support from the residents of Yigo who showed their appreciation this past primary.

To all those whose lives have been touched by David in some way, his untimely death is incomprehensible. When I first got the news of this death, I felt a deep stabbing pain in my chest. It was like losing an immediate member of my family. I can well imagine how Nicki, the girls, and other family members must be feeling now. I cannot offer you any words that will ease the pain. I can only offer you my love and prayers.

I am deeply honored to have been asked by the family to give this eulogy. David is a man of many accomplishments. The official record will attest to David's commitment to Guam and the people of Yigo for generations to come. His philosophy of life can best be summed up by the refrain of a song that he wrote for me and John Aguon several years ago. Imagine David's smile, imagine his smile as he sang "smilers never lose, and frowners never win."

David was a proud Chamorro. He never let anyone forget it. The family has chosen to honor his deep respect for our cultural traditions through a traditional house wake and funeral. It is up to us to honor his love and devotion to our language, our culture, and our Chamorro people.

Pare, while you will not be with us again in this life, your spirit lives on—in your family, your friends, your colleagues, in all of us who have come to know and respect you. I'm sure you know that Nicki and your daughters have the support and care of many family members and friends. But, I want you to know Pare that Geri and I will always be here for them. Adios, Pare, till we meet again.

WORLD BANK PRESIDENT COMMITS BANK TO STRONG ACTION ON FAMILY PLANNING, ENVIRONMENT AND THE PRIVATE SECTOR

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. PORTER. Mr. Speaker, I could not have been more pleased with the address of our former colleague, Barber Conable, before the annual meeting of the World Bank in Berlin.

As president of the Bank, Barber has focused attention on what I believe are three of the most important challenges facing Third World nations: Reducing the role of the state in the economy, limiting population pressures and stopping the destruction of the environment.

Through the work of the Bank's private sector affiliate, the International Finance Corporation [IFC], Conable outlined their vital role in setting up stock exchanges and other organizations that more effectively mobilize and use local resources for development.

He was particularly forceful in highlighting the importance of voluntary family planning. In his speech he stated "it is imperative that developing countries renew and expand efforts to limit population growth." He correctly stated that "where population is growing so fast * * * perhaps most * * * of these new lives will be miserable, malnourished and brief." No one has stated the need more forcefully.

Last, he outlined the new emphasis the Bank has placed on the environment. While a lot more needs to be done, there has been real progress made at the Bank to protect the environment and I applaud him for that.

Mr. Speaker, my support for the general capital increase for the Bank was predicated on just these kinds of actions. I am heartened by the direction President Conable has given to the Bank and ask that the full text of Mr. Conable's speech be reprinted here in the RECORD.

ADDRESS BY BARBER B. CONABLE TO THE BOARD OF GOVERNORS OF THE WORLD BANK GROUP

INTRODUCTION

Mr. Chairman, Governors, Ladies and Gentlemen—

May I, too, welcome you to these Annual Meetings. I am pleased to be addressing you here in the heart of Europe. I wish to thank Chancellor Kohl, the Government of the Federal Republic of Germany, Mayor Diepgen and the authorities and the people of West Berlin for their hospitality.

This great continent stands at the threshold of new economic prosperity as the largest integrated market in the world. Europe's postwar transformation shows how hope, combined with enlightened international cooperative action, can yield great progress. We must apply the same spirit in our effort to provide rising prosperity and renewed hope for the poor people of the world.

Such hope, reinforced by international cooperation and assistance, can yield miracles. I have seen the difference that a village well or a rural health clinic can make. I have seen the grateful eyes of women having access to fresh, clean water for the first time since becoming mothers. From small investments—a metal plow, a sack of seed, a biology textbook, a line of credit for a trucking firm, a bulldozer to make a dirt road passable in bad weather—new worlds of opportunity can emerge.

As Francis Bacon so aptly stated, ". . . in this theatre of man's life it is reserved only for God and angels to be lookers on." We at the World Bank are determined not to be onlookers. We will continue to put all our energies into fighting poverty through sustainable, equitable growth.

Mr. Chairman, this is what I want to talk about today—sustainable growth with equity—and what we must do to turn our commitment to development into reality.

RESOURCES FOR ACTION

Before doing this, however, I want to outline some of the highlights of the past year. At our last Annual Meetings, I called on you for increased support for our urgent development efforts. In response to that appeal:

Shareholders approved the General Capital Increase, which will allow us to increase Bank lending by 10 percent per year through the early 1990s.

The international community demonstrated its strong commitment to the poorest countries by agreeing to IDA's eighth and largest replenishment.

Donors boosted their co-financing support for IDA's adjustment operations in Sub-Saharan Africa, and made some progress in reducing Africa's official debt.

The Multilateral Investment Guarantee Agency (MIGA) became an operational reality.

I am most grateful for your support. This added strength, combined with the continued confidence of the financial markets, will allow us to act resolutely and effectively. I am counting also on continued close cooperation with our sister organization, the International Monetary Fund.

The Bank will put these additional resources to work to foster growth and an equitable distribution of the fruits of that growth. We will encourage the process of economic policy reform, while helping to protect the poor from added hardships. The Bank will focus fresh effort in the fields of hunger, population, education and environmental protection. In the crucial area of finance, we will mobilize greater resources to ease debt burdens and ensure that growth expands and poverty recedes.

A CENTRAL GOAL: REDUCING POVERTY

Let me focus now on the central goal of the Bank: the reduction of poverty. Poverty on today's scale prevents a billion people from having even minimally acceptable standards of living. To allow every fifth human being on our planet to suffer such an existence is a moral outrage. It is more: it is bad economics, a terrible waste of precious development resources. Poverty destroys lives, human dignity and economic potential. It must be fought with resolution, and overcome with sustainable growth.

The World Bank is dedicated to attacking poverty and beating it back. Our experience makes us confident. It also teaches us that simplistic solutions will not work.

Instead, we need determined and sustained action on five major fronts: securing economic growth; combatting hunger; curbing excessive population growth; investing in education; and protecting the interests of the poor during the process of economic adjustment.

First and foremost, we must have growth. Growth provides the poor with access to better markets and opportunities. It provides the resources for public and private programs vital to the poor. It helps sustain the broad-based political support the anti-poverty effort needs.

Sensible macroeconomic policies are essential for that growth and for a successful attack on poverty. The Bank supports such policies through lending for adjustment, which now accounts for a quarter of our new commitments.

Second, the impact of economic growth must be strengthened by direct action to combat hunger. Hunger takes many forms and has many specific causes. We all are aware of the natural disasters in Bangladesh, the social deprivation in Brazilian favelas, the economic backwardness in Northeast Thailand, to mention a few. Remedial measures must address these differences realistically.

In Sub-Saharan Africa, over one hundred million people—one person in four—do not get enough to eat. Dramatic emergencies are an all-too-frequent reminder of the tragedy of poverty.

To fight hunger, African countries need economic growth, especially in agriculture. I attach the highest importance to the Bank's efforts to expand agricultural research. We will continue to support national programs which bring the needed technology and services to small farmers. By the end of this year, such programs will be under way with Bank support in 31 African countries.

The Bank will work persistently with African governments, official and non-government donors, and other international institutions to make food security a reality. This will require more external resources, improved capacity to deal with droughts and other food emergencies, better policies to stablilize food prices and stronger institutions. Within five years, I am confident that our collective action can put it place food security programs across the continent.

The numbers of absolute poor are even larger in other parts of the world. Similar approaches of collaborative problem-solving and action are essential.

Third, it is imperative that developing countries renew and expand efforts to limit population growth. Some countries have made great progress in this area. Even so, many nations will double their already large populations early in the next century.

Mr. Chairman, allow me to speak plainly. I realize that population policy touches upon sensitive cultural and religious values. But the societies in which population is growing so fast must accept that many—perhaps most—of these new lives will be miserable, malnourished and brief. With today's population growth rates, badly-needed improvements in living standards cannot be achieved, public resources for necessary services are over-stretched, and the environment is severely damaged.

By contrast, effective family planning programs in countries as different as Mexico and Indonesia show large savings over time in public health and education expenditures—to say nothing of the benefits to the families.

Given the magnitude and severity of the problem, it is alarming that many governments are failing to implement sensible population policies. It is also distressing that international assistance for population activities has declined. These trends must be reversed.

A vital part of the Bank's work involves development activities that have a strong impact on population. Many projects improve economic opportunity and education for poor people, particularly women and girls. We are financing health and safe motherhood programs, and we will expand our direct support for family-related activities. Population issues will be prominent in our dialogue with governments.

Fourth among the Bank's anti-poverty priorities is the need to focus on a vital resource for growth, the limitless capacity of the human mind. The productivity of an educated workforce is the most reliable engine of economic growth.

Knowing this, the Bank and its members cannot ignore the disturbing evidence that investment in education has declined as the need for it has risen. The gap in per-pupil spending between low-income and industrial countries is now almost four times what it was a generation ago.

Enrollment is lagging, as well. At the primary level alone, 100 million youngsters who should have been attending schools in 1985 were not. Can we afford to cut off so many young people from active, productive futures?

Modest investments in education, wisely and steadily made, pay great dividends in fostering growth and reducing poverty. "There is no force," Jose Marti wrote a century ago, "that will not eventually succumb to trained human intelligence."

I will give education heightened priority. Countries which undertake to reform and upgrade their education systems will find the Bank a supportive partner.

Fifth, governments and donors need to do more to protect the poor during the adjustment process. Policy reform is in the best long-term interests of the poor. Distortions and misconceived economic policies harm them more than others. Poor people can get hurt, however, in the transitional process of correcting past mistakes. We have a special duty to encourage and finance measures which keep their short-term interests in mind.

While growth is essential, growth alone cannot overcome these hardships. Deliberate measures must be taken to deal with the social consequences of adjustment. The adverse impact on poor people's income and consumption must be reduced. This is the focus of the Social Dimensions of Adjustment Program, a Bank-managed multi-agency effort now underway in a score of African countries.

Social programs for the poor must be protected. Initiatives such as Bolivia's Emergency Social Program and Ghana's Program of Action to Mitigate the Social Costs of Adjustments are Bank-financed examples of how this can be done.

These five priorities—securing economic growth, combatting hunger, curbing excessive population growth, investing in education and protecting the poor during adjustment—will guide the World Bank's renewed effort to reduce poverty.

But let me stress—effective implementation, not noble intention, is the crucial test. Effective implementation demands that poverty measures focus directly on those in need, and that available resources be used more efficiently. Hence, Bank lending in the social sectors will support better design, targetting and delivery of services for the poor.

Poverty is not an economic abstract, nor is it homogeneous. In different ways it afflicts males and females, the young and the old, families and people alone, rural and urban dwellers. It must be dealt with through realistic programs which acknowledge the diversity of human conditions.

Government policies and public programs play a critical role in poverty alleviation. But governments cannot do everything. Non-government organizations in many developing countries have enormous potential for flexible and effective action. I have encouraged Bank staff to initiate a broadened dialogue with NGOs. Some 150 Bank projects have been identified where NGOs can play a cooperative role. I hope, and fully expect, that this collaboration will continue and flourish.

The objectives which I have outlined today are ambitious. They depend on the commitment of governments to initiate and sustain change in difficult times. The Bank is prepared to assist member countries that are willing to make a commitment to growth with equity. We have the ideas, the resources and a dedicated staff of men and women who are committed to development.

ACTION FOR THE ENVIRONMENT

Let me turn, now, to another matter which is inextricably linked to poverty alleviation—safeguarding the physical environment. The poor are the least able to escape the consequences of environmental damage caused by others. They are likely to be prime victims when loggers clear tropical forests recklessly, or when toxic waste is shipped unregulated to poor countries and dumped without regard to risk. This is a growing practice which the international community must not tolerate.

We have a collective responsibility to break this vicious cycle of poverty and environmental degradation. We must do so in ways which provide growth, higher productivity and secure incomes for poor people. I am determined that the Bank take a leading role in this common effort.

The Bank's expanded environment staff is active in programs to preserve biological diversity, in air and water pollution control projects, in water and sanitation improvement and urban upgrading, and in helping countries develop the capacity to manage industrial hazards.

Some $200 million of Bank and IDA resources are being invested in projects in about 30 countries to combat desertification and conserve the potential of arid lands. We also are strengthening our own internal review and awareness of the environmental consequences of all projects we finance.

Last year I told you the Bank would expand support for forest management. Our forestry landing last fiscal year reached $193 million and included an innovative forest rehabilitation project in China. In Brazil, Indonesia, Madagascar and the Philippines, we are collaborating with governments on national environmental programs with major forest conservation components.

AN AGENDA FOR GROWTH

We have come a long way in a short time. Both we and our member governments need to do far more. There is an equally urgent need for the world community to contain the global environmental threats to our common future.

Mr. Chairman, I have repeatedly stressed the importance of growth. Developing countries can only make significant progress in reducing poverty and in safeguarding the environment if they are undergoing healthy expansion. The Bank is, above all, an international partnership for growth. To facilitate growth, however, progress is needed in four major areas: first, better international economic policies and more open trade; second, deeper and more persevering structural reforms by developing countries; third, stronger, more sustained international financing to support economic reform and development efforts; and fourth, the creation of an economic environment for vigorous private sector growth in developing countries.

Let me address these four central issues, each one vital to long-term progress.

AN IMPROVED WORLD ENVIRONMENT

For healthy growth to occur, there must be an expanding global economy. The world economy has, in fact, fared better than many had thought possible following last year's fall in the stock market. The outlook remains clouded, however, by inflationary trends, continued uncertainties over financial imbalances and exchange rates, and increasing protectionism in the industrialized world.

Coordinated, growth-oriented and outward-looking policies in the developed world are essential. The comperative gains of recent summit agreements must continue. Negotiators and principals must act with courage in the Uruguay Round discussions, in preparations for the Lome IV agreements, and in the run-up to 1992 in Europe. The success of the Uruguay Round, especially the reform of agricultural trade, is critical for developing countries. In short, industrial countries must not shirk their special responsibilities for the health and stability of a growing international economy.

NEED FOR DEEPER ADJUSTMENT

To take advantage of the opportunities for growth, developing countries must undertake, and persist with, deeper adjustment than most have so far managed. Our research shows that countries which have undertaken deeper structural reforms have had better growth and stronger balance of payments performance than those whose reforms were patchy or short-lived.

Successful adjustment takes long and sustained effort. For this reason, we will increasingly base our lending on the implementation of multi-year adjustment programs; our borrowers will need to pay more attention to the fiscal dimension of adjustment, the management and financing of the public sector; and we will place stronger emphasis on institutional reform.

EXTERNAL FINANCE FOR GROWTH

Growth cannot be sustained unless it is adequately financed, and external finance is critical to continuity. Current flows of resources are inadequate to meet developing countries' minimum needs.

The Bank is committed to carrying its share of the burden. In Fiscal Year 1988, new Bank Group commitments to our borrowers topped $20 billion for the first time. Our gross disbursement also reached an all-time record of more than $15 billion, and the Bank Group's net disbursements to its current borrowers totaled $7.6 billion.

The progress made to reduce the burden of debt service in low-income countries has been encouraging. The Bank's Special Program of Assistance for Sub-Saharan Africa and the Enhanced Structural Adjustment Facility of the Fund are in place. The Toronto Summit offered a broad menu of debt relief options to low-income debtors. The Paris Club is now working out the technicalities. Speedy action is important.

I am pleased to report that our Board has approved the immediate use of IDA reflows to increase IDA's commitment authority by an additional 525 million SDR annually starting this fiscal year. A portion of the IDA reflows and IDA's net income will be used to supplement adjustment operations in IDA-only countries, taking into account their debt service obligations to the IBRD.

But we cannot overlook the fact that heavily indebted middle-income countries continue to experience persistent stagnation and low growth. The Bank's approach has been to support investments and new money flows. If this is not sufficient to restore and sustain growth, we must explore further collaborative solutions. I believe a pragmatic, evolutionary approach to the debt crises in the heavily indebted middle-income countries should: preserve the case-by-case approach; strengthen investment and stimulate growth in the indebted countries; provide financial support by catalyzing new money and facilitating voluntary debt reductions; and be linked to good performance under an adjustment program.

CRITICAL ROLE FOR THE PRIVATE SECTOR

Mr. Chairman, open trade, economic reform and adequate finance can provide essential opportunities for growth. But we also must make use of the full potential of the private sector. We must create conditions in which entrepreneurs, farmers and workers can save, invest and produce efficiently. This is a pragmatic imperative, not an ideological abstraction.

For years, the Bank has provided substantial support to the private sector. The Bank has lent billions for agriculture, industry and infrastructure. This support will continue. But we will do more:

Our adjustment lending and other operations must encourage greater private initiative and help dismantle monopolies and special privileges for any group—private or public.

We will stress the urgently needed reforms of domestic financial systems, markets and instruments to mobilize domestic savings and venture capital.

We will provide advice, technical services and finance to assist in the reform or privatization of state enterprises.

Through IFC, we will extend stronger support for capital market development.

MIGA will offer advice and guarantees to promote private ventures and development.

I am committed to use our institutional strength to leverage our own resources with commitments from the international and domestic private sector. I am making available to you the financial and intellectual power of the Bank, the corporate agility of IFC, and soon the risk coverage of our new affiliate, MIGA.

Private sector involvement is not a panacea. But private entrepreneurs command much-needed resources, and have access to new technologies, management skills and markets. No economy should waste such a potential.

CONCLUSION

In closing, I want to reiterate that we must work together. The stubborn fact of the Eighties is that growth has been inadequate, poverty is still on the rise and the environment is poorly protected. Unchanged, these realities would deny our children a peaceful, decent and livable world.

We cannot afford to give up. We must build, instead, on what has been achieved and what has been learned over four decades of development experience. We will not succeed immediately, and we will not succeed everywhere. But we are entering a period of greater opportunities for partnership and cooperation.

Let us seize these opportunities pragmatically and urgently. Let us, together, rededicate our energies, our will, our strength to the challenge of growth, the promise of equity, the work of development. With your continued support, we are determined to carry our mission forward with vision, competence, compassion and courage.

Thank you.

MR. FLORIO HONORS DORIS WRIGHT BRACY

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. FLORIO. Mr. Speaker, I'd like to bring to your attention an outstanding individual, Doris Wright Bracy.

Doris Wright Bracy has served as the executive director and president of the Southern New Jersey Visiting Nurse System for the past 14 years. In that capacity, and as the founder of the Home Health Agency Assembly of New Jersey, Doris has been instrumental in working to expand and improve the provision of home health care services to people of all ages. While home health care is finally being recognized as a more cost-effective method of providing health care, as well as a more comfortable alternative for the patient, it is instructive to note that Doris has been in the forefront of those seeking due recognition for the benefits of this mode of health care.

In all, Mrs. Bracy has been a nurse, and an active, effective advocate for nursing, for 43 years. There are few people who have ever served the health care profession as well as Doris Wright Bracy. On Friday, September 30, 1988, Doris Wright Bracy will retire as president of the Southern New Jersey Visiting Nurse System. For her outstanding achievement in the field, Mrs. Bracy will be honored by her many friends, family, and colleagues at the Woodbury Country Club.

Mr. Speaker, I am pleased to be joining with those who will be honoring Doris on September 30. It will be a particularly special occasion for me, as Doris has been very generous over the years in providing me with invaluable information and counsel on this extremely important and effective component of the health care field. I offer my personal thanks and congratulate Doris on her many years of outstanding service to the Southern New Jersey Visiting Nurse System and to nursing, and wish her a very enjoyable retirement.

EDUCATION BILL OF RIGHTS

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. DELLUMS. Mr. Speaker, I rise today to recognize a special group of students in my home State of California. On May 14, 1988, the Third World student networks, MEChA, A/BSSA, and A/PSU, in conjunction with CAPSA, UCSA, CSSA, and CalSACC, held a historic conference at Stanford University entitled "Education: Taking Action For Our Future." Over 10,000 people attended the afternoon rally for educational rights, which featured an inspiring speech by the Reverend Jesse Jackson.

Mr. Speaker, these students are not only taking action for their future, but for the future of all young men and women across this country. Their education bill of rights, which I encourage all of my colleagues to study, is the result of much work and struggle. I commend them for their efforts and urge my colleagues to do the same. Keep hope alive!

WE CLAIM OUR RIGHTS!

Either the United States will destroy ignorance or ignorance will destroy the United States. When we call for education, we mean real education. We believe in work. We ourselves are workers, but work is not necessarily education. Education is the development of power and ideal. We want our children trained as intelligent human beings should be, and we will fight for all time against any proposals to educate Black boys and girls simply as servants and underlings, or simply for the use of other people. They have the right to know, to think, to aspire.—W.E.B. DuBois, 1906.

Education is the foundation of a humane and enlightened society. A democracy works best when the people are informed, aware and active participants in governing. Enduring peace and tranquility between diverse citizens can only be assured through an understanding and respect for all the cultures and histories of all the peoples that comprise that society. Through its education system, a society can provide for the fullest possible development of the talents, skills, and potential of every human being. In this way, the whole society will become enriched and will prosper.

It is this perspective that leads us to emphatically state that education is a basic and fundamental right of every human being and not a privilege for the wealthy and the elite. We are determined to make our vision of education a reality in America.

Education in America must meet the needs of all of the people. The majesty of America is built upon the land, sweat, and sacrifice of Native Americans, African-Americans, Chicano/Latinos, and Asian-Americans. Today, people of color comprise the majority of students in many public school systems in the South, Southwest, and urban centers across America. The policy of benign neglect toward these schools must end, and the composition and content of our Nation's institutions of higher education must more accurately reflect the society in which we live. Ultimately, the destiny of our democracy depends on our capacity to provide a quality education to all Americans of all nationalities.

America's priorities today are wrong, and our Nation is headed in a dangerous, shortsighted and destructive direction. When our leaders place military spending at the top of the national agenda and education at the bottom, the whole country suffers. When the Federal Government cuts funds for scholarships, the brightness of the future is dimmed.

Public education in America is in a state of crisis. We can no longer accept high school dropout rates of 33 percent. We cannot prosper when 20 million people are functionally illiterate. We cannot move forward as "one nation under God" when the gap between the educational have's and have-not's continues to widen. We must take action for our future.

As students and youth, we represent the future of this Nation, and we take that responsibility seriously. We still do our part by working hard to learn, to achieve, to better ourselves, our families, our communities, our Nation. We will do our part by struggling with our peers to curtail the demand for drugs, one of the most serious threats to our education in our schools today. But we cannot do our part unless our Government takes responsibility to end the supply of drugs; unless our Nation's leaders make a commitment to decent schools for all of us; unless this Nation provides opportunities for all young people to lead purposeful lives that can make meaningful contributions to society.

We are ready for the challenge to make America better for our generation and future generations to come. We are guided by the vision of Dr. Martin Luther King, Jr., who said, "I am bold enough to dream of a world where everyone has three meals a day for the body, culture and education for the mind and freedom, dignity and equality for the spirit." It is in this spirit of bringing that New World into being that we present our Education Bill of Rights.

EDUCATION BILL OF RIGHTS

I. We must make our public schools a higher national priority. As a nation we must decide what is most important to us. Education must become a higher priority than a continued peacetime military build up beyond our needs. We have enough weapons. We do not have enough schools, scholarships and libraries. We must cut the military budget and ensure that corporations and the wealthy pay their fair share of taxes—so that we provide everyone with a truly equal opportunity to a higher education, increase teacher pay, reduce overcrowding and improve our deteriorating public schools.

II. We must insure equal opportunity in the schools. We need to equalize funding between school districts so that all children have access to quality education no matter where they live. We need to increase counseling in inner city schools and to encourage our youth to achieve to their greatest potential. Our nation must make a renewed commitment to open the schoolhouse door by enforcing laws against segregation and discrimination and by providing adequate assistance to programs for the educationally disadvantaged.

III. We must provide an environment that encourages our children to learn. A quality education does not just begin and end in the classroom. We need to invest in children from the start, to provide them with the health care, nutrition, pre-school education and family security they need to succeed in school. Family counseling, teen parenting services, drug and alcohol abuse services, sexual responsibility, drop-out prevention and after school programs must be in place to nurture growth and learning.

IV. We must invest in teachers. Teachers must have decent working conditions and pay if they are to teach well, this includes fair practices in promotion and tenure of faculty. They must have more say if the education of our children is to be most fruitful. Teacher recruitment programs must be developed and funded, and special attention must be given to affirmative action and the recruitment of minority teachers.

V. We must maintain our commitment to bilingual/bicultural education. Our educational system must be based upon the recognition that we live in a multicultural society. We must respect and protect the language and culture of all nationalities who live in the U.S. Bilingual education is a proven method to insure the development of English skills while retaining one's own language—and funding for it must be significantly increased. We support the concept of "English Plus" which would strengthen policies and programs for acquiring English language proficiency plus mastery of another language. In an interdependent world, multiple language skills are a definite asset to our nation, not a threat to our national security.

VI. We must insure fair and equal access to higher education. A mind is a terrible thing to waste. Our colleges and universities must have admissions policies that insure that youth from all nationalities have an equal opportunity to gain access. Only in this way can we be sure to tap the vast reservoir of human potential among our youth, and insure opportunity for those that have been historically locked out. If admissions requirements are to go up, so must the quality of K-12 education. We must dramatically expand the numbers receiving financial aid in order to insure that our youth are not economically locked out of a chance to achieve. Ultimately, campus populations must at minimum more accurately reflect the state/national population percentages of minority nationalities. At the same time we must guard against ceilings on admissions of minorities.

VII. We must place greater emphasis on student services. We need institutions of higher education that meet the needs of all students—red, black, brown, yellow and white. We cannot tolerate any "differential treatment" based on color or gender and must guard against it. There is an urgent need for student services such as Educational Opportunity Programs, tutoring and counseling to compensate for past and current inequities. African American, Chicano/Latino, Asian/Pacific Islander, and Native American student organizations must be adequately supported as they play a vital role in creating a positive environment in which students from all backgrounds can achieve. For the disabled student we must insure services are provided and fully funded.

VIII. We must transform the curriculum. The pursuit of truth and knowledge can only be upheld when the history and culture of all people is an integral part of our curriculum. Our curriculum should reflect and respect the diverse races and cultures of America, their historical experiences (both triumphs and oppression) as well as the enormous contributions each has made to American life. Ethnic and women's studies should be available at all levels of education so that all students get a basic understanding of our collective history and culture of African Americans, Asian/Pacific Islanders, Chicano/Latinos and Native Americans which have been most distorted and neglected. As part of general mandated social studies and history curriculum at institutions of higher education and at the K-12 level, courses about the history and culture of minority peoples should be required.

IX. We must insure representation and accountability in decision making positions in education. From the public school boards to university boards of trustees, we must insure adequate representation from all communities. From Latino parents in New York to Black communities in the South, there is a growing demand for input into the decision making process. School and university administrators as well as faculty must remain accountable to parents and students.

X. Higher education must better serve "non-traditional" students. "Non-traditional" students, those students who are relatively older, are married and/or have children are fast becoming the majority of students in higher education. Student services must be geared towards a more diverse student body, including increased childcare services, adequate family student housing, longer and more flexible hours for the library, and adequate counseling services.

PULASKI DAY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. TRAFICANT. Mr. Speaker, I rise today to bring attention to Pulaski Day, a day honoring the great Polish war hero of the American Revolution, Count Casimir Pulaski. October 11 marks not only the celebration of Pulaski's contributions to the struggle of freedom for the American people, but also the inspiration he has provided to the millions of United States citizens of Polish heritage.

It can be said that Casimir Pulaski was destined to be a freedom fighter. Born in Warka, Poland about 1748, Pulaski became involved in rebel activities at the age of 19 when he joined the fight to preserve Polish freedom from the invading armies of Prussia, Russia, and Austria. He fought bravely for several years, but in 1772 his native Poland succumbed to the greater firepower of its adversaries and was partitioned by the three countries. Pulaski fled to Turkey, where for 3 years he attempted, though unsuccessfully, to persuade the Turks to invade Russia.

Pulaski went to Paris in 1775, where he met Benjamin Franklin and Silas Deane—ambassadors for the young American colonies fighting British rule. The Americans were so impressed by the Pole's military background and experience that they asked him to help the American's cause in fighting the British in America. With a letter of introduction from Franklin to George Washington, then Commander in Chief of the Continental Army, the Polish count set sail from France for America in June 1777. In September 1777, Pulaski was appointed to the rank of brigadier general in the Continental Army and given command of some newly formed calvary units. Pulaski fought bravely in several battles, but, because of his inability to speak English and subordinate his superiors, he became unhappy with his role. Following his resignation from the army in March 1778, Pulaski got permission from the Continental Congress to form an independent calvary corps. Although his units suffered several defeats at the hands of the British, Pulaski continued to fight for the patriotic cause.

On October 9, 1779, Pulaski led a valiant frontal calvary assault on a British defense around Savannah, GA. He was mortally wounded in this heroic attack and died 2 days later on October 11, 1779. Pulaski Day now serves to honor this great war hero on the anniversary of his tragic death.

Observation of Pulaski Day was begun in 1915 by the Military Order of Pulaski. Groups such as the Polish National Alliance and the Polish Army Veterans Association lend much support to these celebrations. On October 9 of this year, I will address a Pulaski Day celebration in Youngstown as part of a month of activities honoring Polish-American heritage.

As always, I am pleased to have the opportunity to participate in this patriotic celebration. Polish Americans have made significant contributions to the rich heritage of our Nation. The heroic exploits of Count Casimir Pulaski are but a few of the many examples of how this country has benefited from the contributions of the Polish community. I have also cosponsored H.R. 4551, legislation which would direct the Secretary of the Interior to conduct a study of existing Revolutionary War fortifications and to prepare a study of the life and career of Thaddeus Kosciuszko. All across this great Nation of ours, Americans will be observing Pulaski Day in honor of a great American who gave his life for the cause of freedom.

CALIFORNIA STATE OFFICIAL OBJECTS TO UNNECESSARY HYDRO PROJECTS ON FEDERAL LAND

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. LEHMAN of California. Mr. Speaker, for a number of years I have expressed my dismay at the proliferation of small hydroelectric projects on Federal land—in my district, in California and in the Nation. What has concerned me most is the sacrifice of natural resources while electric consumers pay top dollar prices for old technologies whose energy is not needed. I would like to insert into the RECORD the attached article written by a biologist with the California Department of Fish and Game which describes this unnecessary hydro proliferation in the Eastern Sierra Nevada. This State official, with 38 years of stewardship in the area, unencumbered by bureaucratic niceties, tells the truth about the sacrifice of our forests and our fisheries for unneeded hydro projects on Federal land. I urge my colleagues to pay close attention to the on-the-ground results of well-intentioned Federal policies.

[From the Inyo Register, Sept. 11, 1988]

Environment Should Be Protected From Needless Energy Development

(By Phil Pister)

I recently learned that I have gained the reputation in certain circles for being "inflexible and uncompromising" in my position relative to proposed energy development projects in the Inyo-Mono area. This reputation does not surprise me, in fact it pleases me, for I would be disappointed if I were viewed in any other way.

However, I do not believe in blind opposition to anything, so I feel I owe it to my critics to let them know why I feel as I do. No doubt much of my current feeling stems from the unique historical position from which I view the Eastern Sierra, an association which began more than 40 years ago shortly after the end of World War II. It was during my college years that I gained an appreciation for this area that led me to do my graduate work here, and to spend all but two years of my 38 year career in Bishop as a steward of the area's diverse aquatic resources and their associated life forms. This stewardship involves more than a thousand waters spread over nearly 10 million acres of southeastern California in an area that is destined to become the most valuable recreational resource in the nation, if it has not already reached this point.

In 1946 California's population was approximately 7 million. Since that time, in the relatively short period of 42 years, it has exploded to a point where it now approaches 30 million, by far the most populous state in the nation, with no sign of stopping or even slowing down significantly. Inasmuch as most of this growth has occurred in the Southland, the impact on local recreational resources has likewise exploded. The Inyo National Forest alone (but a small percentage of the Eastern Sierra's area) now supports more recreation than Yellowstone, Grand Canyon and Glacier national parks combined, about 7 million visitor days annually. Why? Because it is the major playground for the constantly increasing millions of Southland residents, most of whom live no more than a 5-6 hour drive away.

But the important point here is that during this same 42 year period, the area's aquatic resources—the bias of the recreation industry—have continued to dwindle. Over 85 percent of the Eastern Sierra's stream mileage downstream from Forest Service Wilderness boundaries has been impacted by water diversions, and more than 25 percent of the historical stream resource no longer exists in this area which somehow still survives as one of the world's most magnificent scenic recreational resources.

How did these losses occur? They occurred because naive but well-meaning officials through the years were willing to be "flexible and compromising," putting short term political and administrative expedience above the long-term public interest. By so doing, they compromised away major portions of a recreational resource which increases daily in its value to the people of this state and nation.

I remember the frustration and helplessness I felt in 1953, when I was assigned to rescue trout from the Owens River Gorge as the entire Owens was diverted into Gorge hydroelectric penstocks and the river gradually dried up before my very eyes, as it remains today, 35 years later. The Owens Gorge was dried up to supply hydroelectric power to burgeoning populations in southern California. Ironically, these same populations now flock to the Inyo-Mono area only to find ever fewer recreational opportunities. Many ask, as they stop by our office: "What happened to the Gorge?"

Unfortunately, fewer and fewer individuals have this historical perspective, and newcomers arrive in the Inyo-Mono area with the erroneous impression that our resources remain at the 100 percent level and can continue to be exploited without long-term damage to the recreational economy. It is admittedly difficult for them to understand that this area has already been badly crippled by exploitation of its resources that began in the last century and continues today. It seems ironic that such an area as ours, which supports recreational use far greater than three of our most popular national parks, cannot be afforded the same protection for its natural resources. Aesop's fable of the Goose that Laid the Golden Egg seems to have been written for this situation.

We should now discuss the difference between legality and morality. Just because something is legal does not guarantee that it is mortal and sensible, as I shall attempt to clarify for the situation at hand.

During the 1970s Congress passed two energy bills in an effort to provide for the nation's energy needs and decrease our dependence upon foreign oil—both admirable goals. These bills were the Geothermal Steam Act of 1970 and the Public Utility Regulatory Policy Act passed several years later. Both bills provided strong financial incentives for entrepreneurial development of energy resources.

Environmental protection clauses however, did not fare so well, and were essentially left to the National Environmental Policy Act, which is no better or more effective than the way it is administered. In some cases it is almost ignored and the public interest along with it, as evidenced by the unfeeling way in which the Federal Energy Regulatory Commission is ignoring the legitimate concerns of the citizens of West Bishop in the proposed Rancho Riata hydro project. What they are doing may be strictly legal, but it is surely immoral. These energy bills, unfortunately, made no provision for additional help for regulatory agencies such as ours, and we were forced to add the defense of our waters to an already overloaded work schedule.

At one time, in the early 1980s, our local Fish and Game office was faced with more than 90 applications for hydroelectric projects on 45 streams that provide the heart of our recreational resource from the West Walker River to south of Lone Pine. Although many of them have failed to materialize, several are still in the administrative process, and we are making every effort to assure, if they are ever built, that they cause absolutely no damage to our streams, a very difficult task at best.

In the case of proposed geothermal development near Hot Creek Hatchery, we are fearful that such development will cause irreversible damage to the thermal structure that is basic to the successful operation of the hatchery. Although BLM and Forest Service are confident that no damage will occur, the Department of Fish and Game believes that there is yet insufficient evidence to support this confidence. As a result, a more detailed environmental document is being prepared for certain proposed developments. In the matter of the proposal very near the hatchery, the Department joined with various environmental groups in bringing a lawsuit against the developers in Mono County. This matter is yet to be decided in the courts.

I do not wish to imply that the Department of Fish and Game wears white hats and other agencies wear black hats in this matter. What I have described above is a reflection of agency policies and legal mandates. Fish and Game's primary responsibility is to protect fish and wildlife and their habitats. BLM and Forest Service are multiple use agencies, and energy production is one of these uses. Many employees of these agencies share the same concerns I have expressed and are doing their best to have these concerns addressed in federal environmental review processes.

California has sufficient supplies of electrical energy to take us well into the next century. However, if the developers can put their projects "on line" within the next year or so, they will receive greatly inflated prices for the energy they produce, prices that are passed on to the consumer. The energy laws described earlier require utility companies such as Southern California Edison to purchase this power at inflated prices whether there is a need for it or not, and this is the primary reason developers are pushing their projects so hard. Federal agencies are obligated by law to provide administrative clearances for them. The above scenario makes one question the morality of the universal application of such laws, and no doubt Sir Winston Churchill had some similar circumstance in mind when he cynically (though probably realistically) stated: "People who believe implicitly in laws and sausages should never watch them being made."

Perhaps the above will help to explain my position (supported in large measure by my Department). It just seems terribly wrong to jeopardize something as valuable and irreplaceable as Inyo-Mono's prime recreational resources without a strongly demonstrated need to do so. They only sure winners in such a development are stockholders in the energy companies and in the short term, the bureaucracies that administer the programs. Somewhere way down the list is the public interest.

Future technological breakthroughs are virtually certain to provide new sources of electricity, but it seems most unlikely that anyone will invent a method of producing new trout streams or fish hatchery water supplies.

Inyo-Mono should receive vigorous protection from such serious threats to its environmental integrity until such time as it can be conclusively demonstrated that our national security is threatened and that all other potentially less damaging energy sources have been developed in a program that includes strong energy conservation measures. So far this has not been done.

Abraham Lincoln said: "To sin by silence when one should protest makes cowards of men." For this reason, among others, I feel a strong obligation to bring these observations to the attention of local readers.

GOOD MORNING CUBA

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. SMITH of Florida. Mr. Speaker, today I would like to recognize an American who has contributed a great deal to his adopted country as well as to his homeland. Jorge Mas Canosa, successful businessman and political leader, led the campaign to bring objective news and information to the people of Cuba, through Radio Marti and now TV Marti.

The following article in the October 1988, Readers' Digest highlights Jorge's tenacious battle to establish Radio Marti, which has become the primary source of news and, by far, the most popular radio station in Cuba.

"Good Morning, Cuba" illustrates how hard work and a belief in the American dream can bear fruit. It is often said that the image of the successful immigrant is a tiresome cliche, yet this vision continues to be a reality for many new arrivals, including Jorge Mas.

Shortly after Fidel Castro's takeover, Jorge fled Cuba, arriving in Miami penniless. After years of work, Jorge bought a construction company and turned it into a thriving business. His success is an inspiration to other Cuban Americans who also fled Castro's oppressive regime and have found a new home in south Florida. Our community has been made better.

"GOOD MORNING, CUBA"

(By David Reed)

Jorge Mas arrived in America in 1960, one of more than a million Cubans who fled their homeland after its takeover by Fidel Castro. Mas worked as a stevedore in Miami, sharing a one-bedroom flat with a dozen other refugees.

The next year he joined the army of exiles that invaded Cuba at the Bay of Pigs. The rebels were cut to pieces on the beach, and Mas was lucky to get back to Miami alive. He worked as a shoe saleman, then as a milkman. In 1970 he got a job at a construction company. A year later, with the help of a bank loan, he bought out the firm.

Soon, with 400 employees, Mas was doing $20 million a year in business. He and his wife, Irma, settled down to the easy life and became U.S. citizens.

Meeting people who had just arrived from Cuba, Mas was astounded to discover that they knew virtually nothing of the outside world. They hadn't been told of the American landings on the moon. Nor did Castro disclose stories such as that of Stalin's daughter Svetlana Alliluveva, who had sought asylum in the United States. Castro fed his people only those tidbits of news that suited his purposes.

The answer, Mas concluded, was a U.S.-based radio station to provide Cubans the real news of the world and of Cuba itself. Mas drummed up support in the emigre community. "If we can't invade Cuba with tanks," he said, "let's bomb Cuba with the truth. The one thing that a totalitarian government can't stand is the truth."

Mas and his friends agreed on a name for the station—Radio Marti, in honor of Jose Marti, a Cuban patriot killed in Cuba's war of independence from Spain.

Mas wrote to 100 Senators and Representative for appointments, received a dozen replies and flew to Washington. There he pointed out that while Radio Liberty and Radio Free Europe provided news to the Soviet Union and Eastern Europe, there was no station aimed at the communist bastion 90 miles from U.S. shores. The Voice of America (VOA) broadcast in Spanish a few hours a day, but news of special interest to Cubans comprised only a tiny portion of the programming.

One of Mas's toughest battles was fought with fellow émigrés. Strongly conservative, they demanded that he work only with conservative Congressmen. "We'll never win it that way," Mas told them. "We've got to work with moderates and liberals as well." Eventually he convinced the exiles that he was right.

Early on, Mas won the support of Representatives Dante Fascell and Claude Pepper, both Democrats from Miami. Other Florida legislators climbed aboard the Radio Marti bandwagon, aware that the state's Cuban-Americans were a potent political force.

Mas became a familiar figure on Capitol Hill. More than a few lawmakers were touched as they listened to the young refugee explain why the station was needed. "This is one battle where we can *always* defeat the Communists," he implored.

Castro reacted to the idea of Radio Marti with fury. For years, Cuba's stations had been sending propaganda to Latin America, but he had never reckoned with programs coming into Cuba. His response was to build two giant radio transmitters. Each had half a million watts of power, ten times the size of the most potent stations elsewhere in the hemisphere. Castro threatened electronic warfare if Radio Marti went on the air.

The plan had been for Radio Marti to use a frequency of 1040 kHz. This was also the frequency of WHO, a Des Moines, Iowa, station. Broadcasting from the Florida Keys, Radio Marti would not interfere with WHO. Castro, however, had the giant transmitters turned on to 1040 kHz at least once to show that he could blot our Radio Marti—and wreak havoc with WHO's programming. And because of this threat of Cuban jamming, the powerful National Association of Broadcasters tried to block Radio Marti's access to 1040.

After Ronald Reagan came to office in 1981, he named a commission to study Radio Marti, with Mas as one of its members. In December 1982, 11 years after Mas began his struggle, legislation authorizing the establishment of Radio Marti, came up for a Senate vote. But Sen. Edward Zorinsky (D., Neb.) and Sen. Charles E. Grassley (R., Iowa), both concerned about retaliation against WHO, launched a filibuster. For two anguished days and nights Mas sat in the visitors' gallery as the two Senators held the floor. In the end, they won; the bill was never put to a vote. Mas gritted his teeth. "We'll start again," he told supporters.

Mas and his Congressional friend stitched together a bill that would make everyone happy. To placate WHO and other broadcasters, Radio Marti would broadcast on 1180 kHz, a frequency that VOA had been using. But Sen. Lowell P. Weicker, Jr. (R., Conn), had expressed concern that Radio Marti might wind up in the hands of embittered exiles who would turn it into a propaganda outlet. So the new bill placed the station under the control of VOA, where the news would, by law, be presented objectively.

In 1983, 32 Senators co-sponsored legislation to create Radio Marti. This time the measure passed the Senate and the House handily. President Reagan signed it into law on October 4, 1982.

But more than a year went by, and nothing happened. Mas learned that three members of the Administration were holding up the project. Secretary of State George P. Shultz, Robert C. McFarlane, head of the National Security Council, and his deputy, Adm. John M. Poindexter, feared Castro would retaliate with electronic warfare. The United States would have to back down or perhaps respond militarily. It would be easier to put off Radio Marti indefinitely.

Radio Marti seemed to have been dealt a mortal blow. But Charles Z. Wick, director of the U.S. Information Agency, which regulates VOA, took charge. He announced that Radio Marti would start broadcasting on Cuba's independence day—May 20, 1985.

Shultz and the others took their case to the President. A meeting was convened at the White House just days before Radio Marti was to go on the air. Wick told Reagan, "Mr. President, Congress passed this law. We're going on the air unless you tell us not to."

Shultz interjected, "We are not prepared to engage Castro in electronic warfare. He has built powerful transmitters to interfere with our radio stations."

Replied Reagan: "George, I know you'll say that I'm stubborn, but the man who decides whether Radio Marti goes on the air sits in this room—not in Cuba."

Three days later at 5:30 a.m. an announcer stepped up to a Washington, D.C., microphone and said, *"Buenos dias, Cuba."* In Radio Marti's studio, Irma Mas squeezed her husband's hand. Almost 14 years had passed since Mas's first trip to Washington. He had talked with hundreds of Senators and Representatives, and spent thousands of dollars of his own money. Now the dream had come true.

Radio Marti has become an outstanding success. Transmitting on both medium- and shortwave, it broadcasts 17½ hours, seven days a week and can be heard even on car radios and pocket-size transistors. It is the most listened-to station on the island, with just about every home and car tuned to it. Cubans keep doors and windows open, and you can walk down a street and follow a news program, a comedy or a sizzling soap opera without ever having to break stride.

The station's scrupulous regard for presenting the news impartially is a major reason for its phenomenal success. Castro can shrug off propaganda. What hurts is the truth.

Pilots working for Cubana, the national airline, are among Radio Marti's keenest fans. They regard its weather forecasts as far more trustworthy than those of Marxist weather seers. People planning to escape to Florida in small boats or rafts follow Radio Marti's weather reports closely until they feel that the time is ripe to make the break to freedom.

Castro reportedly hates Radio Marti but has never turned on his jammers. Cuban defectors say that Castro has refrained from doing so because *el viejo*, the old man (meaning Reagan), sent word that if he did, the United States would take them out by an air strike.

Radio Marti has been so successful that support is growing in Washington for creation of T.V. Marti. Broadcasting from the Florida Keys, it would bring color-TV news reports and cultural entertainment programs to half of Cuba's population.

Says Mas, who now serves as chairman of the Presidential advisory board that oversees Radio Marti's operations: "People who live in freedom underestimate the importance of truth to those who live under tyranny. Radio Marti gives the Cuban people a ray of hope. They used to think that they were abandoned. Now they know that America has not forgotten them."

People accustomed to freedom can also underestimate what one individual can accomplish in a democracy—and that is the testament of Jorge Mas.

U.S. MERCHANT MARINE ACADEMY—45 YEARS OF DISTINGUISHED SERVICE

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. JONES of North Carolina. Mr. Speaker, 45 years ago, on September 30, 1943, the newly built U.S. Merchant Marine Academy at Kings Point, NY, was formally dedicated. At that time, President Franklin D. Roosevelt noted the importance of the Academy to the maintenance of our wartime lifelines and our future peacetime economy. Then as is the case today, the Federal Academy serves our Nation's maritime interests in peace and war.

On March 15, 1938, the U.S. Merchant Marine Cadet Corps was established with the actual training of cadets beginning the following year. What is not commonly known is that training of cadets first took place aboard merchant vessels and at temporary shore establishments, pending the acquisition of permanent facilities. In 1942, the Walter P. Chrysler estate at Kings Point, NY, was purchased as a site for the Federal Merchant Marine Academy. By the time these facilities were ready the need for licensed merchant marine officers to assist in the World War II effort was very great. The Academy had 2,700 cadets in residence at one time enrolled in 18 month training programs. This program produced 6,634 licensed deck or engineering officers during the war years.

The termination of the war made it possible to establish a new, expanded curriculum with a 4-year course of study. While the Academy's basic mission has not changed, it has evolved to keep in step with the revolution in maritime services. Today, the graduate must, in addition to being a competent seafarer, be familier with transportation managment and logistics.

Today, there are a number of programs of study designed to graduate qualified licensed merchant marine officers who can become leaders in the maritime industry afloat, ashore, and in other closely related industries. A major in marine engineering will produce a qualified engineering officer, while a major in marine transportation results in a qualified deck officer. Some combine these majors and receive dual licenses. Every graduate, in addition to his selected degree, receives a Coast Guard license as a third mate or third assistant engineer, and is commissioned as ensign in the U.S. Naval Reserve.

The Academy has come a long way since legislation authorizing the purchase of the 12-acre Chrysler estate for $100,000 was enacted by Congress in 1941 and approved by the President on March 4, 1942. Today, the Academy is funded at an annual level of about $22 million and is in the forefront in the maritime training of individuals who successfully compete in and contribute to the complex maritime field.

I am proud of this fine national institution that has seen more than 18,000 graduates serve our Nation's maritime interests in peace and war. I am confident that the Academy and its graduates will continue to make exceptional contributions to our Nation's maritime commerce and our international trade. All Americans can be proud of the fine accomplishments of the U.S. Merchant Marine Academy at Kings Point, NY.

MY APPOINTMENT TO THE SELECT COMMITTEE ON AGING

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. COSTELLO. Mr. Speaker, it is with great pleasure that I rise today. Late yesterday, I was appointed to the House Select Committee on Aging, and it is with pride and anticipation that I accept this committee assignment.

There are 70,000 seniors in my district, and as I have traveled around the district holding town meetings and visiting senior centers and hospitals, I have heard the problems and concerns that many older Americans are facing.

They are worried about the rising costs of long-term care, the protection of Federal Medicare and Social Security programs, and the challenge of remaining self-sufficient and maintaining a high level of community activity in their later years.

I am pleased that the House Select Committee on Aging will be actively involved in these issues. The committee plays an important role in shaping policy by studying health care, income maintenance, housing, employment, recreation, and other concerns facing seniors.

The committee will also be involved in developing recommendations for programs coordinating both governmental and private efforts aimed at dealing with problems of aging. It will also review any recommendations made by the President or by the White House Conference on Aging relating to policies affecting older Americans.

As our elderly population continues to grow, Congress will be working toward improving health care and increasing opportunities for seniors, and the Select Committee on Aging will be closely involved in this debate. I look forward to serving on this fine committee, and I want to thank you, Mr. Speaker, and Chairman ROYBAL for this opportunity.

DAVID BRINKLEY'S ASTUTE ANALYSIS OF ATTITUDES TOWARD AMERICA

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. ROSTENKOWSKI. Mr. Speaker, cynics are fond of saying that no good deed ever goes unpunished. That thought came to mind in the past few days as I watched how Koreans were responding to American athletes present for the Olympics. As one who did part of my military service in Korea many years ago, I am very aware of the very substantial investment Americans have made—financially and with manpower and even lives—to help make South Korea that impressive nation it is today.

Commentator David Brinkley made a more articulate assessment of the situation over the weekend. I want to share his views with my colleagues.

Brinkley: Finally, with the end of the Olympics in South Korea, it is interesting to see the price this country pays for being a world power. In the 1950s the United States lost 35,000 lives in a war to defend South Korea against North Korea and China, and today 40,000 American troops are still stationed there as a protection. In the Olympics, South Korean audiences booed the American flag, and occasionally burned it, and while they booed American athletes, they cheered those from Japan, which once occupied their country, they booed American athletes while applauding those from the Soviet Union, which shot down a South Korean passenger plan. It goes on. In the Philippines, where American air and naval bases protect the country and pour $500 million a year into the local economy, the Philippine government now demands higher payment for rent for the bases, over a billion a year. Beyond Asia, in NATO countries in Europe, where American taxpayers pay for their defense, the demand is for more money, particularly in Greece, Turkey, Portugal, others. In Washington now the question is heard, and this may become a political issue, why should we pay for the privilege of defending them?

ACCOLADES FOR THE GLENBROOK ACADEMY OF INTERNATIONAL STUDIES

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. PORTER. Mr. Speaker, I would like to include in the RECORD the following news article which recently ran in a local paper in my district. The article describes an exciting educational program called the Glenbrook Academy of International Studies. This program, initiated as part of the 1975 Helsinki accords, encourages young people to delve into the study of foreign languages and cultures. The program, which includes travel abroad and intensive study here at home, helps to eliminate the ignorance of many of our young people regarding foreign cultures. This type of understanding by our Nation's young can only help lead to a more peaceful and understanding world. I commend the local educational and community leaders who have ensured the success of this wonderfully rewarding program.

The article follows:

ACADEMY'S PROGRAM OPENS STUDENTS EYES TO ANOTHER WORLD

(By John Lucadamo)

The 21 seniors in Emmerick Killer's German class in the Glenbrook Academy of International Studies usually speak only German. Since freshman year, they've been studying German as well as social studies and English in a special program to open their minds to the world.

The idea for that program and their academy was born with the Helsinki Accords in 1975, which committed the United States and other nations "to encourage the study of foreign language and culture."

Glenbrook High School District 225, which found that students "were naive and ignorant about international affairs," met that goal "with a program for gifted kids, and it's been a happy marriage," said Koller, who has been teaching in the academy since it opened eight years ago.

In this German class, for the benefit of a visitor, the students from Glenbrook North and South High Schools spoke in English, describing a four-week trip that 15 of them took last summer to West Germany to study and tour.

Ezra Becker, 17, of Glenbrook South, said that after seeing the East German border and visiting East Berlin "misconceptions were changed" about life there. "The sun was shining on the other side as well. It made people think."

Becker's trip was paid by the West German government because he received the highest score in Illinois on a nationwide test sponosored by German teachers. The rest of the students paid their own way.

Because he is Jewish, Becker told the class, the trip evoked strong responses. "People won't talk to me because I went to Germany," he said. While working in a delicatessen, customers asked him about his summer. "On learning I went to Germany, some people asked for someone else to wait on them."

"I wouldn't say anything," Becker said. "Those people lived through the war."

Koller, whose family fled Hungary after the quashed 1956 revolution, praised Becker's response.

The academy's course work combines study of a foreign language and integrated teaching of literature and social studies so the students learn about the history and culture of the country that produced the writing, according to Howard Romanek, a social studies teacher in the academy since it began.

In Koller's classroom, two other students told of a visit to Dachau, the Nazi death camp where, they said, both the visitors and their German hosts were moved to tears.

Class members then began speaking in German, in an exercise designed to test their mastery of superlatives. Their fluency was apparent. There were few pauses and few uses of an interrupter such as the ubiquitous "uh."

Without the sound of a bell, the class changed to English, with teacher Karen Kuehner commenting on essays they wrote in connection with college admissions. "You're victims of your own fluency," she said. "I'll make comments on how to cut them."

"They're not eggheads," said Koller, speaking of the students. "They're involved in all of the school."

One students, Bela Gandhi, 17, sings and is the founder of Glenbrook South's German Club. She is the treasurer of the International Club.

"If you have that little voice inside of you that tells you to be the best, this is for you," Gandhi said of the academy.

Albert Lin, 17, of Glenbrook South, said the academy provided the "challenge of thinking and defending your thoughts. You can't get it anywhere else in high school."

That's Romanek's goal: "We want them to be able to think on their feet and be open to new ideas." As freshmen, when they study non-Western cultures, "You try to get them in the skins of other people to see how the world looks from different views," he said.

As sophomores they study American history and literature. In the third year, Western civilization is emphasized with readings from Shakespeare, Goethe and Cervantes. In their senior year, the emphasis is on the 20th Century.

"The edge we get shows," said Lin, who like Becker is a National Merit Scholarship semifinalist.

Each incoming freshman class is assigned one of four foreign languages—German, Russian, French or Spanish—and studies it through high school. These seniors will be the second class specializing in German to graduate.

The 21 seniors were among 28 selected four years ago for the program from a pool of about 70 applicants from 8th grade class in elementary school districts they send children to the two Glenbrook high schools, Koller said. Seven students left the class because they moved or they did not want to continue.

Academy students—freshmen through seniors—meet together each day for 2 hours and 15 minutes for language, English and social studies. For one semester of class meets at Glenbrook South in Glenview, and the next semester it meets at Glenbrook North in Northbrook.

For the rest of the school day they are with the rest of the students and take other classes many of which are advanced placement or honors, including science, mathematics, more history or more languages.

But after the academy, other classes, even the advanced placement ones, don't measure up, Gandhi said. There's "much more of a relationship with the teachers in the academy," she said.

Sometimes academy graduates come back to give the class a pep talk. "The students say 'The guy's at Harvard or Georgetown or Stanford,'" Koller said "That's a terrific motivation."

PAUL P. GUARINO NAMED 1988 MAN OF THE YEAR

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. FLORIO. Mr. Speaker, it is with great pleasure that I bring to the attention of my colleagues an outstanding community activist, Paul P. Guarino, who will be named 1988 Man of the Year by the Rockland County, NY, chapter of the Boys Town of Italy.

Although Mr. Guarino owns several food catering operations, he still finds time to dedicate himself to community affairs. Paul is a director on the board of directors of Nyack Hospital Foundation, the Italian-American Scholarship Association, the Rockland County unit of the American Heart Association, Rockland Children's Psychiatric Hospital, and the Rockland County Boy Scouts of America. He is also a governor on the board of governors at Good Samaritan Hospital, a member of the President's Council at St. Thomas Aquinas College, as well as a member of several other community and professional organizations.

Paul has been recognized for his efforts as the recipient of quite a few community service and dedication awards. He was honored by the American Heart Association at their "Circle of Hearts Ball," and the Rockland County Boy Scouts have awarded him the Kakiat District Service Award this year. Mr. Guarino has also received awards from the American Cancer Society, Blauvelt Lions, Dominican College, Vacation Camp for the Blind, Vietnamese Veterans for America and the Rockland Italian-American scholarship.

Just as I applaud all his hard work and dedication, I also applaud the support that his family, including his wife, Glenda, has given him.

Paul is proud of his service to the community, as is the organization that is honoring him next week. We all owe him a tremendous debt of gratitude for his commitment and dedication to assisting his neighbors.

COMMENDING MS. DOROTHY M. EHRLICH

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. DELLUMS. Mr. Speaker, I rise today to pay tribute to Ms. Dorothy M. Ehrlich, the marvelous and dedicated young woman who serves as executive director of the American Civil Liberties of Northern California [ACLU-NC]. On October 12, Ms. Ehrlich will celebrate her 10th anniversary as the chief executive of this significantly important organization.

Born in Brooklyn, NY, in 1950, Ms. Ehrlich's family moved to Napa, CA, when she was almost 3. She grew up in this small community, impressed by her parent's sense of fair play and justice, and their willingness to commit themselves to the defense of those unfairly attacked for their opinions or beliefs. Upon her graduation from Napa High School, at which she was a school leader, she went to the University of San Francisco, taking her bachelor of arts degree in 1972.

It was after this that she commenced her ACLU career. She became the assistant coordinator of the Coalition Against the Death Penalty in February 1972 and then membership secretary for the ACLU-NC in November 1972. In 1973 she moved to southern California to become the assistant chapter director of the ACLU of southern California [ACLU-SC]. Her superb organizational skills and tremendous energy led to her advancement through this organization, first to associate chapter director and then to development director.

In 1978, Ms. Ehrlich returned to the north and to the ACLU-NC as its executive director. Although only 28 years old at the time, she had so impressed everybody she had met during her tenures at both the northern and southern California affiliates that she was enthusiastically brought back to the ACLU-NC.

As executive director she has distinguished herself thoroughly. She has guided the organization through a stupendous period of growth, in both membership and organizational resources. On behalf of the ACLU-NC, and indeed on behalf of all of us, she effectively articulates a vision of America that is rooted in our Constitution: An America committed to due process of law, individual dignity and ideological tolerance.

For myself, and on behalf of my northern California colleagues, I salute the tremendous contribution that Ms. Ehrlich has made to our communities, the State and the Nation. As we approach the 200th anniversary of the Bill of Rights, we owe her—her colleagues and those for whom she speaks—a tremendous debt of gratitude for keeping alive the hopes articulated by the Founders over two centuries ago.

TRIBUTE TO THE JAMES CENTOFANTI FAMILY AND THE RICHARD CARR FAMILY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise to pay tribute to two very special families from Mahoning County in my 17th Congressional District of Ohio.

During the 1988 Canfield Fair in Canfield, OH, awards were given for "Outstanding Urban Family of the Year" and "Outstanding Farm Family of the Year". The honors were awarded to these two fine families in recognition of their community service, involvement in civic organizations and their success in business.

James Centofanti and his wife Coralie, along with his son David, stepdaughter Debra, and grandchildren Brent and Nicole were named "Urban Family of the Year."

The Centofantis have been a part of Canfield Fair for many years. Mr. Centofanti has not missed a fair since his days as a marine in World War II. The family is best known for their donation of 15 tractors for use at the fair. The tractors were furnished by Canfield Ford Equipment, a company run by Mr. Centofanti for 33 years until 1986 when he turned the business over to his son.

Mr. Centofanti is a member of the Canfield Rotary Club and a director of the Farmer's National Bank of Canfield. He received special recognition from the Canfield Local Board of Education, and is remembered for spearheading a drive to collect $50,000 for new scoreboard lights and bleachers at the football field of Western Reserve High School. He and his wife have been saluted as "Paul Harris Fellows" a recognition of their "furtherance of better understanding and friendly relations between peoples of the world".

Richard Carr and his wife Marilyn and their children Rocky, Randy, and Marla survived the drought of 1988 to be honored as the "Outstanding Farm Family of the Year".

Mr. Carr is highly active in the community. He is a member of the Salem Fruit Growers Association, a member of the Beaver Township Volunteer Fire Department, a member of the church softball team, and an official at junior high school basketball games. His wife Marilyn is studying elementary education at Youngstown State University, and teaches driver education for Wellsville City schools.

The family may be best known for their extraordinarily ability to grow big squash. Mr. Carr won the 1984 heaviest squash competition in the Canfield Fair. Rocky, a freshman in high school, grew a 210-pound squash that earned him among other things, first place in the squash competition in the junior division of the Ohio State Fair in 1986, $2,000 dollars, and an appearance on the "David Letterman Show". Randy followed in his brother's footsteps with a 229-pound squash that won the junior division of the 1987 State fair, and sister Marla stands to one day inherit the legacy.

Mr. Speaker, it is with great pride, honor, and pleasure that I salute the Centofantis and the Carrs. It is a true honor to represent these two wonderful families. Please join me in extending to them our gracious thanks for all of their contributions to our community, and our best wishes for their continued success in the future.

IN HONOR OF MR. JOHN GRICE

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. LEHMAN of California. Mr. Speaker, I rise to pay a tribute to a special young man and the organization that he serves. The young man I speak of is John Grice of Fresno, CA and the organization is the Future Farmers of America.

The Future Farmers of America has long been recognized as a driving force in developing leadership in America's rural young people. Although the FFA promotes excellence in agricultural development, it also teaches the value of community involvement. The FFA's "Building Our American Communities" program recognizes this community involvement and has selected Mr. John Grice as its California State winner.

As chairman and coordinator of his chapter's community development activities, John has had many opportunities to demonstrate his dedication and optimistic attitude toward promoting a positive community image among his peers. He has often taken the initiative to bridge the gap between civic leaders and young people. John's ability to match the needs and resources of the community with the capabilities of his FFA chapter's members are best illustrated in the chapter's "Building Our American Communities" program. With environmental improvement as an overall theme, John's chapter participated in projects ranging from recreation facility improvement to constructing trails in the Sierra National Forest.

John's hard work and dedication have benefitted him in another way this week. He is participating in the week-long Sixth Annual Congressional Study Program. This program recognizes the leadership demonstrated by these State winners by organizing tours and meetings with the leaders of our Nation, and I look forward to serving as his host here in Washington.

Mr. Speaker, John Grice is an outstanding member of the Future Farmers of America and his community, and I applaud his efforts and welcome him to Washington.

A TRIBUTE TO THE SPIRIT OF UKRAINIANS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to the Ukrainian community in the United States and throughout the world, in this the millennium of Christianity in the Ukraine. The Ukraine has a long and tragic history, and it is a tribute to the spirit of Ukrainians that they have always sought to overcome the oppression they have faced, and have established themselves as a vital force in our society.

Christianity was brought to the Ukraine in 988, when Volodymyr the Great adopted Christianity as the official religion of the Kievan-Rus state, a vast and powerful empire uniting all of the Ukrainian-Slavic tribes with the Ukrainian city of Kiev as its capital. However, in 1054 the Christian Church in the Ukraine became irrevocably divided, into eastern and western branches which became the Orthodox and Catholic Churches, the former recognizing the authority of the Patriarch, the latter recognizing the authority of the Pope in Rome. The Orthodox Church moved with the government to Moscow, leaving the Catholic Church as the Ukraine's only autonomous church.

There followed a period of several hundred years during which the Ukraine was in transition, under the control of various groups, notably the Mongols, for almost 250 years from 1240. However, three important developments helped to preserve and strengthen the Ukrainian heritage and sense of identity during this period. First, there was the rise of Orthodox brotherhoods dedicated to the continuing existence of Ukrainian traditions. Second, there was the union of the Ukrainian Church with the Catholic Church in 1596. This allowed the Ukrainian clergy to preserve their traditional rights and customs, while being accepted into the Catholic Church by the Pope. Finally, there was the development of Cossack organizations in the 16th century in the virtually deserted area of the eastern Ukraine.

By 1667 though, the freedom of the Ukraine was ended by Polish and Russian partition of the area. This signaled the end of autonomy for the Ukrainian people right up to the present day. A brief period of independence followed the Russian revolution of 1917, but this was crushed by 1919, leaving the Ukrainian people to face one of the most terrible periods of their history. The rule of Stalin led to the death of approximately 4 million through famine, after the policy of collectivization was rejected by the Ukrainian people. Added to this, all Ukrainian nationalist aspirations were rapidly put down by the Soviet Government, the most potent symbol of this being the persecution of Ukrainian Catholics by the state. This was combined with an increasing utilization of the Orthodox faith as an instrument of control over the Ukraine, Orthodoxy traditionally being a means of Russification.

It is little wonder—bearing in mind the history of this troubled region—that so many Ukrainians have settled in other areas of the world. There are Ukrainian communities in many parts of the world, including the United Kingdom, West Germany, Venezuela, and of course the United States. There are records of Ukrainians in the earliest days of the Union—on the army rolls of the Revolutionary War, and in the U.S. census of 1790. However, the first large scale immigration was not until the period 1880 to 1914. During this time, approximately 250,000 people came to this country, including such figures as Nicholas Sudzilovsky-Russel, who was elected the first president of the Hawaiian Senate. A second wave of immigrants came between 1920 and 1939, numbering 20,000, and the third and final wave of 85,000 lasted from 1947 until 1955. There are now 487,600 Ukrainian immigrants and their descendants in this country, according to church records.

Ukrainian settlement was mainly in the industrial towns of the Northeast, and Ukrainians were an important component in the expanded labor force which helped the United States become one of the world's leading industrial powers. Their national culture became an important part of life to many Ukrainian Americans, providing them with a sense of identity in the melting pot that is America. Church organizations became very important, the church becoming as much a social center as a place of worship. Also, fraternal associations were set up, most notably the Ukrainian National Association, with their own newspapers, such as the Ukrainian National Association's Daily, Sovboda. These organizations have been very successful in preserving the Ukrainian culture, the number of Ukrainian speakers increasing from 83,600 in 1940 to 252,974 in 1960. However, let no one think that Ukrainians have not been active in giving their all for their adopted country. They have fought in both World Wars—indeed there are Ukrainian veterans associations. They have made their mark in all walks of life—in the world of music, in business, in the legal profession, and in many others besides, but always maintained their Ukrainian identity.

Thus it is a tragedy in this, the millennium of Ukrainian Christianity, that the Ukraine is still not free. Though I salute General Secretary Gorbachev's attempts to address the nationalities issue in the Soviet Union, I feel that some sort of autonomy is long overdue for this valiant group of people. After over 300 years of oppression, it is only to be expected that Ukrainians desire the recognition of their national identity. Though to expect immediate action would be unrealistic, I nonetheless call upon the General Secretary to answer the grievances of all the Soviet nationalities.

As a long-time supporter of the rights and achievements of ethnic groups in the United States, I call on all of my colleagues to join with me today in congratulating the Ukrainian people upon the millennium of Christianity in the Ukraine, which will be celebrated in Washington, DC, this weekend, and to pray for the day when the Ukraine will be free.

COMMODITY EXCHANGE OPTION REFORM AMENDMENTS OF 1988

HON. GLENN ENGLISH

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. ENGLISH. Mr. Speaker, like most Americans, I was extremely concerned over the events in the securities markets last October. I am pleased that the Federal and self-regulators have taken and are taking steps to address the issues identified as a result of those events. I have studied the various reports on the price break in the securities market and have closely questioned witnesses who testified before the Agriculture Committee this past summer.

Mr. Speaker, several central points emerged from the reports and hearings designed to examine the market break. One point not to be overlooked is that the CFTC and the futures markets performed well during the market break. No futures brokerage firms failed, thus no customers lost money because of firm failures. There were only a handful of customer complaints and virtually none concerning regulatory issues. In contrast, many problems appeared in the securities markets, ranging from inability to deal with order imbalances, capital concerns among firms, choked order flow systems and many hundreds of customer complaints, particularly from those who were investing in options on securities or who were trading stock index options subject to regulation by the Securities and Exchange Commission.

Strangely, however, some proposals for market reform would ignore this evidence and would transfer CFTC futures jurisdiction over derivative instruments to the SEC, which has not shown that it can or should do the job. I think this is the wrong approach, and it is clear that Congress is not prepared to do anything so shortsightedly. What is less clear is what, if anything, should we do. Next year the situation will again surface, especially during consideration of the reauthorization of the CFTC.

This debate will occur under the authority of a new administration and a new Congress. No one at this time is prepared to say what changes in existing law will be necessary. However, certain issues have not yet been resolved in light of reports issued after the market break as well as legislative proposals aimed at "market reform." How well our markets serve producers and consumers remains fundamental to the public. The ability of U.S. exchanges and the risk shifting industry to compete in a global market is also important. Other issues will arise as well. And because of ever changing market conditions, Congress will have to ask if the recommendations made in the aftermath of October 1987 are relevant in 1989.

As part of this ongoing debate, I introduced H.R. 5265, the Commodity Exchange Option Reform Amendments of 1988, on September 8, 1988. Today, I am now pleased to include 34 additional cosponsors from the agriculture committee. The intent of this bill is to encourage a rethinking of the division of labor between the SEC and the trading of securities and the CFTC and its trading of risk shifting instruments.

The CFTC already regulates futures on stock indexes and options on those futures. This legislation would complete the circle and allow the CFTC to regulate options on those indexes. The CFTC and its predecessors have been successfully regulating risk shifting instruments since 1922. The crisis in the securities markets and the response from the regulators and self regulators will continue to call for a rethinking of jurisdictional responsibilities. H.R. 5265 will provide the necessary forum for debate in the 101st Congress, when this legislative body will be required to focus its attention on whether Federal regulatory authorities in the securities and commodities industries have the necessary tools to recognize, identify and avert the near collapse of our financial markets which took place in October 1987. I am now pleased to add the following agriculture committee members as cosponsors of H.R. 5265:

COSPONSORS OF H.R. 5265

Mr. Nagle of Iowa; Mr. Jones of Tennessee; Mr. Panetta of California; Mr. Huckaby of Louisiana; Mr. Stenholm of Texas; Mr. Tallon of South Carolina; Mr. Staggers of West Virginia; Mr. Penny of Minnesota; Mr. Jontz of Indiana; Mr. Johnson of South Dakota; Mr. Harris of Alabama, Mr. Hopkins of Kentucky; Mr. Roberts of Kansas; Mr. Emerson of Missouri; Mr. Combest of Texas; Mr. Lancaster of North Carolina; and Mr. Coleman of Missouri.

Mr. Brown of California; Mr. Rose of North Carolina; Mr. Coelho of California; Mr. Volkmer of Missouri; Mr. Hatcher of Georgia; Mr. Stallings of Idaho; Mr. Espy of Mississippi; Mr. Jeffords of Vermont; Mr. Marlenee of Montana; Mr. Stangeland of Minnesota; Mr. Morrison of Washington; Mr. Gunderson of Wisconsin; Mr. Lewis of Florida; Mr. Smith of Oregon; Mr. Grandy of Iowa; Mr. Herger of California; and Mr. Holloway of Louisiana.

HARRY SERIO TO BE INDUCTED INTO THE NJ BOXING HALL OF FAME

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. FLORIO. Mr. Speaker, it is with great pleasure that I bring to the attention of my colleagues one of New Jersey's distinguished labor leaders and former boxer, Harry Serio, who will be inducted into the New Jersey Boxing Hall of Fame next month.

A native of the Ironbound section of Newark, Harry took up boxing as a teenager, and in 1940 he became the Perth Amboy Golden Glove Champion. Later that same year Harry became a professional boxer and fought both as a welter weight and middle weight. During his 3-year career as a professional boxer, his record was 38-5, during which time Harry fought against some of the leading middle weight contenders.

After his retirement from boxing, Harry started his own amusement company and opened a couple of restaurants and taverns in Newark, NJ, which were operated for 38 years until their sale in 1985. At the same time Harry joined the Teamsters Union Local 478 as a truck driver. He was elected a trustee of that organization in 1947, business agent in 1957, and presently serves as secretary and treasurer.

Harry has developed a reputation through the years as a strong leader and a good organizer, as well as an individual committed to his word and the good of the Teamsters Union Local 478. Despite heart surgery in 1980, Harry remains an active labor leader and devotes a great amount of time to a number of political and charitable organizations.

Harry has contributed immensely to his community, his labor union, and the boxing profession and deserves heartfelt congratulations for all of his efforts. As a former boxer myself, I can genuinely appreciate all the time, energy and talent that is needed to achieve the status of "Boxing's Finest."

My best wishes are with Harry as he continues through his career with Local 478.

TRIBUTE TO BUD TAMARKIN

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to an exceptional citizen from my 17th Congressional District of Ohio, Mr. Bert "Bud" Tamarkin.

Mr. Tamarkin is a lifelong resident of Youngstown, located in my congressional district, where he has selflessly served the community in several capacities. He served as the 1987 campaign chairman of the Youngstown Area United Way and presently serves on the organization's executive committee. He is also the organization's development chairman for 1988.

Bert Tamarkin received a master's degree in education from Youngstown State University, specializing in gerontology. During the time he worked on this degree, Mr. Tamarkin also worked as an intern at the District XI Area Agency on Aging. He is currently a member of the advisory committee to the board on the Mahoning County Council on Aging. He also serves as an adviser to the Health and Rehabilitation Services Department of the State of Florida and assisted in instituting the Palm Beach County Food Bank. He now serves on the food bank's executive committee after having served as its past president.

As past president of the Youngstown Area Jewish Federation, Bert Tamarkin is chairman of the federation's long-range planning committee. He also serves on the long-range planning committee of the Jewish Family and Children's Service of Palm Beach, FL.

Mr. Tamarkin is also a graduate of Leadership Youngstown, a member of the Youngstown Chamber of Commerce Solicitations Committee. He is also a member of the mayor's committee on the homeless and is a board member of the Butler Institute of Art. This devoted gentleman also serves on the Youngstown State University advisory boards for the human service development center and the Monus chair on entrepreneurship.

Mr. Speaker, it is clear to see that Bert Tamarkin has gone above and beyond the call of duty to serve his fellow man and community. I consider it a privilege to represent such a fine citizen.

DUKAKIS IS ANTISPORTSMEN

HON. GERALD B. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. SOLOMON. Mr. Speaker, hardly a week passes without news that Governor Dukakis opposes the interests of another group of Americans. Today, there probably aren't enough pro-Dukakis hunters and sportsmen in America to fill a telephone booth. By November 8, we could be talking landslide. If so, it will be the result of Vice President BUSH's success in playing Mike Dukakis' own statements back at him.

For example, 2 years ago, Dukakis told State officials:

> I don't believe in people owning guns, only police and the military. I'm going to do everything I can to disarm this State.

This comes to us courtesy of August 1988 issue of the Trapper and Predator Caller, which, if not the most widely circulated publication in the land, has nevertheless given us one more revealing piece in the emerging mosaic of Mike Dukakis.

It is therefore my privilege to place on the RECORD further proof that a Dukakis administration would be a restoration of big brother government, intruding itself in every aspect of our lives on a scale undreamt of during the Johnson or Carter years.

VOTE WISELY

As I pen this letter, it appears Massachusetts Governor Michael Dukakis stands a good chance of becoming the Democratic nominee in the bid for the White House. Readers of The Trapper and Predator Caller should become fully aware of the fact that Dukakis favors banning all privately owned firearms, not just restricting them further.

Dukakis stated on June 18, 1986 at the State House Annual Gun Hearings: "I don't believe in people owning guns, only police and military. I'm going to do everything I can to disarm this state."

In 1976, Dukakis supported the ill-fated Massachusetts Proposition 5 that called for a statewide handgun ban. Massachusetts voted down this measure by a margin of more than three to one. Even after such a voters' mandate against gun confiscation, Dukakis has remained fanatical in his gun-grabbing efforts.

Five thousand law-abiding Massachusetts gun owners rallied on the steps of the State House in protest to Dukakis' disdain for sportsmen and those who own firearms for lawful purposes. Dukakis refused to speak to any of them and remained in his office.

For Dukakis, banning all privately owned firearms remains priority one.

Come this November, sportsmen vote wisely.—Lester Gray, Attleboro, MA.

COST-OF-LIVING ADJUSTMENT STUDY FOR RETIREES

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. RINALDO. Mr. Speaker, I am introducing legislation today that will be an important first step in ensuring that recipients of Social Security, civil service retirement, railroad retirement, military retirement, and veterans pensions benefits have a cost-of-living adjustment [COLA] computed by the most accurate and fair index available.

At the present time, COLA's for these programs are determined by the CPI-W index, a measure of inflation which surveys only about 40 percent of the population. This standard does not include the retired or disabled who are unemployed, and provides a less accurate reflection of inflation than the more modern CPI-U. The CPI-U is a more complete, fairer index. It is used for several other Federal programs, such as food stamps, and reflects the spending habits of over 80 percent of the population. Clearly this is a better standard and should be used.

Mr. Speaker, as we all know, most of the elderly population lives on a fixed income and relies on the cost-of-living adjustment as a valuable hedge against inflation. The use of an outdated index to compute COLA's denies those who can least afford it protection against inflation. It fails to maintain the purchasing power of benefits.

Still, there would be no reason to change from one standard to the other if there were a small, or marginal difference between the two. There is a substantial difference, however. As a result, seniors are not being protected against large increases in items upon which they rely such as medical care.

The determination of what constitutes a fair COLA for seniors is not a new issue. I have been strongly concerned about the inflation rate experienced by the elderly, and I worked actively to get a study of a senior CPI produced by the Bureau of Labor Standards [BLS].

The index produced by BLS was close to the CPI-U standard we should be using for COLA's. However, there was a difference of 3 percent over the last 5 years compared to the standard now in use. Three percent is a sizable difference for those living on fixed incomes.

I am therefore requesting a complete study of the inflation rate faced by seniors by the Bureau of Labor Standards. This comprehensive study will take 3 years to complete, specifically examining the buying trends of seniors, and completely analyzing their spending patterns across the United States.

When this report is finalized, Congress will then be able to make a determination as to whether a specific senior COLA is required. For the time being, however, there can be no question that a switch to the CPI-U is necessary. It is a change supported by the General Accounting Office [GAO] and several major aging organizations. This switch will provide a clearer, more accurate picture of inflation and guarantee seniors a completely fair, accurate COLA based on the most modern, up-to-date information available.

GOOD AND BAD CIVIL RICO REFORM

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. CONYERS. Mr. Speaker, there is some confusion over whether I am supporting civil RICO reform legislation now held up in the Senate. I do not.

During the past month, in an effort to promote a principled civil RICO reform bill, I have been trying to come to some accommodation with representatives of the civil RICO reform effort.

While in my judgment we made progress by adding additional predicate offenses for civil rights violations and in other areas where needed, we have not come to agreement on the two most critical issues of principle: the fact that changes in the law apply retroactively and that it creates special favors for securities and commodities violations with exemptions from the provisions of the law.

My support for the civil RICO reform effort is therefore withheld at the current moment.

TRANSFER OF THE ADMINISTRATION OF THE D.C. DEPARTMENT OF CORRECTIONS TO A SPECIAL FEDERAL ADMINISTRATOR

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. PARRIS. Mr. Speaker, I have just learned that the District of Columbia, at approximately 1 p.m. today, will cease to accept additional prisoners at all of its facilities. They have taken this unprecendented action in response to the several court orders that have been issued to the city in an effort by the judiciary to correct continued overcrowding and continued inability of the city to manage the correctional facilities.

This unprecedented action by the city is most disturbing. It is a matter which we must quickly consider and act upon if the maintenance of public safety and the orders of sentencing judges regarding convicted prisoner are to be upheld.

Members should understand that the effect of the city's decision means that prisoners who are arrested and most who are sentenced to a jail term cannot be put in jail. The orders of the sentencing judge will be, under terms of the city's action, disregarded. While I do not believe that any charged or sentenced prisoner will go free today, I do not offer assurance to the Members of this House that those who are sentenced tomorrow, the following day, or next week will serve their sentences. I certainly do not give the Members of this House any assurance that those who have already been sentenced will complete their terms.

Members are fully aware that a few months ago we debated the efficacy of the District of Columbia's decision to alleviate some of its severe overcrowding by ordering an early release for some number of prisoners. At that time, I pointed out the fact that of a random sample of 112 of the 900 criminals that were released under that temporary legislation, 80 percent should have been classified as dangerous. These prisoners should have never been released. Since the initiation of that program, nearly 4,000 dangerous criminals have been released into the community. I fear the city will embark upon this process once again. It cannot be allowed to happen.

The city has demonstrated time and time again that it cannot properly manage its correctional facilities. It's unfortunate; but, it is a fact. Prisoners have escaped both from the facilities at Lorton and from the jail which is located less than 20 blocks from this Chamber. The response by the city is to blame the fog and the overcrowding. It should be clear that there is a need to enhance patrol when the fog is heavy. It should also be clear that overcrowding needs to be managed for the short-run and planned for in the longer run.

One of the ways to manage overcrowding in the short-run would be to seek the use of other facilities. I have identified upward of 3,000 spaces that are available in private incarceration facilities. While some of these might be unsuitable, the fact is that I was able to identify some of them and in the process received inquiries about whether the city might ultimately be interested in developing various public-private partnerships. I am not an expert or a professional manager of prisons. If, however, I can begin to identify these resources, I have to conclude that the present managers of the city's correctional resources are grossly incompetent. I think we need to recognize that fact and act upon it.

Accordingly, I have drafted and propose that we enact with all due haste legislation which would transfer the administration of the District of Columbia's Department of Corrections to a Special Federal Administrator who would be appointed by the Attorney General and would be responsible to the Attorney General.

I do not take this step with any great joy; quite the opposite is true. But we have a responsibility to the citizens who live, work, and visit this, our Nation's Capital. As long as this is the Federal City—the Nation's Capital—we must take our responsibility seriously. I have tried to do that in respecting the principles of home rule and the principles which underlie the establishment of this seat of government, but for any government unit to fail to provide public services and simply refuse to administer a penal system, is simply unacceptable.

The legislation, which I propose we enact, provides that the Attorney General of the United States would, within 30 days, appoint a Special Federal Administrator who would be an employee of the Department of Justice reporting to the Attorney General. All the powers and responsibilities of the Mayor and the Director of the Department of Corrections would be transferred to and exercised by this Administrator. The Administrator would also have control over all appropriations, personnel, and resources of the Department.

In addition, the Administrator would have authority to establish a new and effective prisoner classification system; establish and administer alternative incarceration programs including electronic detention programs; administer all the pre- and post-incarceration programs; and contract with other public and private provides for the incarceration of prisoners. My legislation would also give the Administrator a voice and a vote on the District of Columbia Parole Board.

The standard for governing the District of Columbia system under this proposal would be the same standards as are currently applied in the Federal System. The correctional facilities in the District of Columbia should be required to do no less than that which is done at all Federal facilities; neither, however, should it be required to do more.

This legislation is crucial to the maintenance of law and the public safety of our Nation's Capital. I have had this proposal available to me for some weeks now. I had hoped that we would not need it—a hope which has not been fulfilled. If the city and its officials, however, cannot fulfill the constitutional responsibilities imposed on them as trustees for the Nation's Capital, we must. As the ranking member of the District of Columbia Committee, I will seek to assure that we do.

TRIBUTE TO JAMES PEROTTA

HON. JAMES A. TRAFICANT JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise to pay tribute to James Perotta, a truly outstanding young man from my 17th Congressional District of Ohio.

Two years ago, Jim was in an automobile accident that left him blind. Doctors, fearing he had suffered some brain damage, said that he may never learn again.

Today Jim is 15 years old, and an honor student attending Woodrow Wilson High

School in Youngstown, OH. He is a music writer, an author, and a recipient of numerous awards and honors.

Most recently Jim was one of 16 students in the State of Ohio to win the R.A. Horn Outstanding Achievement Award, designated for Ohio elementary and secondary students with physical or mental handicaps who experience successes and serve as an inspiration to others in Ohio schools.

Jim is also the recent recipient of the "Yes I Can" award sponsored by the Northeast Ohio Special Education Regional Resource Center. The award is given to someone who overcomes the odds, or as Jim puts it, "for being me."

Mr. Speaker, it is with great pride that I salute James Perotta. His courage, strength, and optimism provide inspiration for all of us. It is an honor to represent such a fine young man. May he carry with him all of our wishes for continued success in the future.

SALUTE TO CHAIRMAN LOUIS STOKES

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. RANGEL. Mr. Speaker, last Saturday evening, many of us had the pleasure of being in Cleveland, OH, to join that city and the Nation in honoring Congressman LOUIS STOKES for 20 years of service in the U.S. Congress.

Throughout the 20 years that he has been a Member of this body, LOU has distinguished himself as an able and accomplished legislator. When he came to the U.S. Congress in January 1969, he arrived with a purpose. That purpose was and remains doing all that is humanly possible to improve the plight of the less fortunate in the 21st Congressional District of Ohio, and across this country. I know that I speak for all of us, on both sides of the aisles, in addition to the citizens of Cleveland, when I say that LOUIS STOKES has never once wavered in this solemn commitment made to the citizens of Cleveland when he first ran for Congress. First and foremost, LOU is a man who stands by his word.

Those of us who have had the honor of serving with LOU in the U.S. Congress have watched with pride as he has taken on a host of difficult assignments and performed superbly. He chaired the select committee to conduct an investigation and study the circumstances surrounding the deaths of President John F. Kennedy and Dr. Martin Luther King, Jr. He also chaired the House Committee on Standards of Official Conduct when that committee was charged with investigating the Abscam scandal. Many Members would have flinched at the thought of having to chair, or for that matter, serve on a committee charged with investigating abuses by fellow Democrats. But, not LOU STOKES. He accepted his challenge head on and surprised all Members with his sense of objectivity and fairness to all involved, including, perhaps most importantly, the institution of the U.S. Congress.

As I reflect on our long personal and professional relationship, I think that LOU gave me the most pride last summer during the Iran-Contra hearings, when he questioned Lt. Col. Oliver North about his unethical and illegal activities while a National Security Council staffer.

Whereas, much to my dismay and alarm, a large number of Americans chose to view the colonel's conduct as heroic and patriotic, when it was his turn to question the colonel, LOU immediately reminded Colonel North of his obligation as a member of the U.S. military to first uphold, and not circumvent, U.S. foreign policy and international law and order. He let Colonel North know in no uncertain terms that what he had done was not, in his own words, "good," but was rather "bad and ugly." LOU, during his interrogation of Colonel North, gave me and all Americans a lecture in American history by reminding all of us about the ideals on which this Nation was founded. If Colonel North ever seemed humble during the hearings, he certainly was when LOU concluded his questioning.

Mr. Speaker, in conclusion, let me say that I salute the distinguished chairman of the House Select Committee on Intelligence on 20 years of service to this great body—a body that in my opinion, has been strengthened because LOU STOKES is a Member. I look forward to you, my good buddy and friend, achieving even greater heights and accomplishments during your next 20 years of service.

SETTING THINGS STRAIGHT ON THE ENVIRONMENT

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. ROE. Mr. Speaker, one expects a certain amount of puffery and exaggeration in a political campaign, but those of us who live in New Jersey and are sensitive to issues concerning the environment have been surprised by the degree to which the Vice President is engaging in this sort of practice in describing his record.

In point of fact, the record of this administration on protecting and cleaning up our air, water, and land is dismal. Those of us who fought hard for an effective Super Fund Program for cleaning up toxic wastes will not soon forget the resistance we had to overcome from the White House. The same was true with the Clean Water Act, whose reauthorization was crucial to programs that undo the ravages of pollution. Again, our success in passing this legislation came over the objections, indeed the veto, of the President.

I wish to call your attention to a newspaper article in the Star-Ledger of Newark, which, on September 21, helped to put this issue in perspective. It dealt with statements made by my colleague, Congressman FLORIO, and New Jersey Assemblyman Robert Smith. As Congressman FLORIO put it, "This has truly been a lost decade" for the environment.

Mr. Speaker, I want to make this article available for all to read, so that events of this campaign can be seen for what they really are. The article follows:

[From the Newark Star-Ledger, Sept. 21, 1988]

FLORIO CHIDES BUSH ON HIS ENVIRONMENT RECORD

(By Dan Weissman)

Representative James Florio (D-1st Dist.) yesterday attacked the environmental record of Vice President George Bush, asserting that while Bush now calls himself an "environmentalist," he was a central player in an administration with an environmental record "crossing between incompetence and criminality."

In a strident assault, Florio said, "The Bush campaign, in an Orwellian way, is trying to rewrite history. It's mind-boggling to me to see George Bush pass himself off as an environmentalist."

And taking aim at the Reagan administration, Florio said, "They are the cause of our dirty beaches in New Jersey." He said Bush was in charge of the Reagan administration's regulatory reform program, which cut back on environmental controls.

Bush, he added, has been in the forefront of the Reagan administration's efforts "to emasculate EPA."

At a Trenton press conference, Florio, who authored the superfund law, said Massachusetts Gov. Michael Dukakis' endorsement of elevating the Environmental Protection Agency to cabinet status "shows the sharp contrast between his commitment to the environment and George Bush's dismal record."

The Camden Democrat, however, conceded Dukakis has not sold his side of the environmental story and as a result has been put on the defensive by Bush on the critical issue.

Florio said Bush has grabbed the initiative with the declaration he favors a clean ocean and with the assault on Boston Harbor as the nation's most polluted waterway.

But Florio, who also appeared on Dukakis' behalf at a press conference on Buffalo's Love Canal, said Dukakis is "belatedly" launching a counter campaign to challenge the Bush environmental record, which could be a deciding factor in New Jersey.

The call for giving EPA cabinet status is a major element of that drive, said Florio.

"We have seen how ineffective EPA has been as a governmental stepchild," Florio said in a prepared statement. "In the next administration, Democratic or Republican, EPA should have the status and clout that reflects the importance of environmental issues facing our nation. And the President must get an unfiltered view of environmental concerns."

He offered one explanation for Dukakis' slow response:

"I think the Dukakis people, the same as I, were overwhelmed George Bush would have the gall to call himself an environmentalist."

A major element of the campaign is a listing of "Bush's 100 Environmental Hits," which charges the Reagan administration with resisting controls of acid rain, giving preference to economic concerns over environmental needs, and, until this election year, opposing efforts to stop ocean dumping.

Entitled "Where was George? Here Was George," high on the list is the charge that the federal government, under the Reagan administration, has pulled the money out of the Clean Water Act. "I saw George Bush out there saying (Dukakis) has not cleaned up Boston Harbor as quick as he could. Yet, this administration took away the tools and the funding" by eliminating the money Massachusetts needed to clean Boston Harbor.

Florio, the sponsor of the legislation to elevate EPA to cabinet status, charged the Reagan administration emasculated the environmental agency from the first days it was in office. He said the Reagan administration over the past eight years has been resisting efforts to clean up superfund sites.

"Along came the 'Bush League' team of James Watt, Rita Lavelle and Mrs. (Anne) Gorsuch (Burford), crossing the line between incompetence and criminality," said Florio. He was referring to Reagan's first Secretary of the Interior James Watt, who was forced to resign after making racial slurs, Burford, who was forced to resign as EPA administrator in the midst of a scandal over the administration of the superfund and Lavelle, who was convicted and sentenced to six months in prison for lying to Congress about superfund decisions.

Florio added, "The George Bush record speaks for itself. This has truly been a lost decade for environmental concerns."

TRIBUTE TO HENRY McCALL

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. CLEMENT. Mr. Speaker, I would like to bring to the attention of my colleagues the following article about Mr. Henry McCall printed September 30, 1988, in the Nashville Banner.

Henry received the first "Commodore" award of the the 1988–89 school year presented by the Nashville Banner and Vanderbilt University.

The award is given annually to individuals who support athletic programs at Vanderbilt University in Nashville.

Heny McCall is the No. 1 contributor to the "Vandy" athletic program this year. His generosity stems from a genuine love for the university where he graduated in 1947.

A dear friend, Henry McCall is a very successful businessman who never forgot his roots. Through the unselfish contributions of people like Henry McCall, the Vanderbilt University athletic program has grown and prospered throughout the years.

An example of his humble and unselfish attitude toward his gift to the athletic program at Vanderbilt is pointed out in the Nashville Banner article.

Henry McCall was one of the first Vanderbilt alumni athletic boosters to become an admiral in the Vanderbilt Commodore Club fundraising group. He was a prime force in raising money to build the McGuign Center where Commodore basketball games are played. But when he was offered a front-row seat for the games, he humbly refused.

A community servant, Henry McCall is also a dedicated father and husband who always volunteers his time and energy to serve the town he loves.

He is not only involved in fundraising efforts to benefit the athletic programs at Vanderbilt, but is well known for utilizing his ability to generate funds for many charitable activities in the Nashville area.

His friends offer a simple but accurate description of this man when they say, "He's a nice guy."

As chairman emeritus of a large financial corporation, Henry's time is very valuable, but he always manages to find a way to offer his help and support to worthy causes.

As many of my colleagues know, Tennessee is the "Volunteer State." I cannot think of another person who better displays the ideals and characteristics of a true "Volunteer" than Mr. Henry McCall.

I would like to take this opportunity to congratulate him on receiving this award and for all of the service he has offered his city and his State.

And I suggest that my colleagues read the following Banner articles.

Is Natural

(By Jim Laise)

While being a Vanderbilt football fan can make you humble, Commodore booster Henry C. "Hank" McCall remains modest for another reason.

"He's a nice guy," said Vanderbilt National Commodore Club assistant Margaret Rolfe.

And to prove that "nice guys" do too finish first. McCall will receive the first Commodore Award of the 1988–89 school year.

The awards, presented annually by the Nashville Banner and the Vandy athletic department to individuals who support the program, are given at halftimes of football and basketball games.

McCall will receive his Saturday night at intermission of the Duke-Vandy game.

Husband to Joanne McCall, and father of three grown children, Hank was one of the first to become an Admiral in the Commodore Club fund-raising group. He helped out in a big way on the McGugin Center building fund. But when it came to sitting on the first row at Vandy basketball games. McCall said he'd rather not.

"He had been siting in the third balcony in the end zone (at Memorial Gym)," recalled Rolfe. "And after his donation, we said. "We've got to do something about that. But after sitting down on the floor, last season, he came back and told us he'd rather not. He liked it where he was."

This from a man who buys enough football tickets to include an entire team at Vandy home games.

McCall like most of the Commodore Award winners, comes by his love for the school naturally.

A longtime Nashville resident, McCall grew up in the shadow of then Dudley Field and attended Hillsboro High School.

After playing football there with Karl Haury, among other future Vandy alumni, McCall decided to carry on his academics at the school on West End.

But World War II interrupted McCall's pre-law studies, and he joined the U.S. Navy. He served as an officer aboard a destroyer.

He returned to Nashville after the war and graduated from Vanderbilt in 1947. He finished law school three years later.

Today, he serves as chairman emeritus of FISI Madison Financial Corp., and, at 63, keeps on the go.

The award aside, McCall said his true reason for showing up was watching the Commodores win.

What else would you expect from a nice guy?

WAITING, FOREVER FOR MR. ARAFAT

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. LEVINE of California. Mr. Speaker, recent weeks have witnessed a flurry of speculation about Yasser Arafat's intentions toward Israel and the Middle East process. Even since King Hussein of Jordan relinquished his claim to the West Bank and Gaza, interested observers have wondered whether Mr. Arafat would finally act responsibly by recognizing Israel and renouncing terrorism.

Sadly, but not surprisingly, the PLO chieftan's recent speech in Strasbourg merely repeated what the New York Times, in a September 19 editorial, called the "Old Tired Formulations." "As with Bodot in Beckett's Play," the Times writes, "The 'New' Arafat seems perpetually around the corner."

The Strasbourg speech simply underscored Mr. Arafat's rather remarkable ability for evasion and obfuscation on the important issue of peace. His suggestion, for example, that we should base a peace plan on U.N. Resolution 181—the original UN partition plan which the Palestinians rejected in 1947—is as unrealistic as it is absurd.

As the Times notes, "No Israeli Government could take the bold step of moving to talks with a Palestinian Organization unless the PLO transforms itself and its rejectionist charter." Yet Mr. Arafat has shown no inclination that he is prepared to take this essential step.

Should he actually speak to the United Nations sometime in the next several weeks or months, Mr. Arafat must, as the Times so correctly points out, "Put aside his 'freedom fighter's pistol forever and say—unambiguously—that the PLO finally accepts the permanence and legitimacy of the Jewish state * * * that is the sine qua non for creating the political conditions for Israel to deal with the Palestinians."

Mr. Speaker, I ask unanimous consent to include the full New York Times editorial in the Record, and strongly commend it to the attention on my colleagues.

Waiting, Forever, for Mr. Arafat

Is it possible that Yasir Arafat will finally acknowledge Israel's right to exist, and that his Palestine Liberation Organization will renounce terrorism? For months, rumors have swirled and hopes expanded. But at Strasbourg last week, Mr. Arafat only repeated the old, tired formulations. As with Godot in Beckett's play, the "new" Arafat seems perpetually around the corner.

If the P.L.O. truly wants to redefine itself and make the Palestinian issue a part of the elections in Israel and the U.S., now is the time. The uprising in the occupied territories has stirred sympathy for the Palestinian cause. King Hussein has disavowed Jordan's claims to the West Bank and asks his former subjects to look to the P.L.O.

At Strasbourg, Mr. Arafat failed to echo his aide, Bassam Abu Sharif, in calling for a live-and-let-live settlement between Israel and a Palestinian state on the West Bank. The P.L.O.'s four largest factions are said to lean to this solution, which means abandoning claims to lands within Israel's internationally recognized pre-1967 borders. All concessions are furiously rejected by radical P.L.O. factions backed by Syria, Iraq and Libya. Those far from strife on the West Bank are the loudest in demanding unceasing sacrifice from others.

Obviously rejecting fantasy and choosing realism will splilt the P.L.O. That fear has been Mr. Arafat's justification for fudging. But if he persists, why tell visitors that a 40-year conflict is in its "last quarter-hour"? No Israeli government could take the bold step of moving to talks with a Palestinian organization unless the P.L.O. transforms itself and its rejectionist charter.

This demand deeply disturbs Palestinians like the poet Mahmoud Darwish: "Why are we always told that we cannot solve our problem without solving the existential anxiety of the Israelis and their supporters who have ignored our very existence for decades in our own homeland?" What Mr. Darwish ignores is the yearning of many Israelis for a decent settlement based on recognition of Palestinian political rights. But so long as the P.L.O. is formally committed to Israel's destruction, it plays squarely to those who resist negotiations.

"Existential anxiety" haunts both sides. It is not enough for Mr. Arafat to say "Happy New Year" in Hebrew. When he speaks to the U.N. sometime this fall, he will have to put aside his "freedom fighter's" pistol forever and say—unambiguously—that the P.L.O. finally accepts the permanence and legitimacy of the Jewish state of Israel. That is the sine qua non for creating the political conditions for Israel to deal with the Palestinians.

TRIBUTE TO ASIAN AMERICANS FOR COMMUNITY INVOLVEMENT

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. EDWARDS of California. Mr. Speaker, on Saturday, November 19, the citizens of San Jose, CA, will be gathering to celebrate the 15th anniversary, and the Third Annual Award Dinner, of Asian Americans for Community Involvement.

Fifteen years ago a small group of concerned Asian-American citizens worked together to establish Asian Americans for Community Involvement. Since that beginning, AACI has grown in purpose and commitment. It has worked to open employment for Asian-Americans, to eliminate racial stereotypes, to promote the history, culture and concerns of Asian-Americans, to define the specific social needs of Asians and to train Asian-American social workers and professionals to meet these needs.

AACI has been eminently successful in meeting the goals that were established 15 years ago. It has established and operates a successful Indochinese Refugee Assistance Program and has encouraged and educated Asian-American citizens to become involved in local boards, committees and groups. AACI has established senior citizen groups and English language and citizenship classes. The staff works with spousal and child abuse problems and with young people with school or family problems.

We are most fortunate to have this exceptional service-oriented agency in the Santa Clara Valley. It has done an admirable job and deserves the recognition and thanks of the Congress of the United States.

PERSONAL EXPLANATION

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. TORRES. Mr. Speaker, I was unavoidably absent on official business during rollcall vote No. 365 on Thursday, September 29, 1988. Had I been present on the House floor, I would have voted "Yea" on the conference report on H.R. 4587, the legislative branch appropriations.

LEARNING FROM THE EVACUATION AND INTERNMENT OF AMERICANS OF JAPANESE ANCESTRY

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. MINETA. Mr. Speaker, as you know, the President has signed into law H.R. 442, the Civil Liberties Act of 1988. This landmark legislation apologizes and offers redress to tens of thousands of loyal Americans of Japanese ancestry who were summarily denied their most basic civil rights by their own Government during the Second World War.

At long last, survivors of the evacuation and internment and of the so-called voluntary relocation from the west coast have been freed of the unjust stigma of shame by the enactment of this national apology. This is a time of great pride and celebration not only in the Japanese-American community but in the hearts and minds of everyone who values our most precious freedoms.

Though the enactment of this legislation is a healing and proud moment for Americans of Japanese ancestry, the purpose of this legislation and the fuel of our motivation during these long years has been to ensure that such a tragic abrogation of civil rights never occurs again.

During this legislative effort, I have come to know thousands of supporters for this act of redress. I did not meet people motivated by greed, or by hate, or even by bitterness, as deserved as such sentiments would have been.

What I did see were people fueled by an unshakable belief in the greatest freedoms any government ever guaranteed its citizens.

What I did see was fear—fear that such a tragedy as the evacuation and internment might again be visited on innocent citizens. What I did see was hope—hope that our system of government could work to acknowledge its wrongs, so that this tragedy could never recur.

Mr. Speaker, this unshakable faith in our system of government, in the rights and freedoms which must be a part of all governmental actions, has been reaffirmed through the actions of this Congress and the President.

The key to preventing another such abrogation of civil rights is to remember the errors of the past, so that we learn from our mistakes—and remain vigilant. That is why H.R. 442 specifically included funds for educational efforts to keep the experience of the evacuation and internment in the minds of all Americans.

I know these educational funds will benefit all Americans, because I have been moved and cheered by the response I have already received during the debate on this legislation. As we wrap up this historic 100th Congress, I want the record to reflect the progress I have seen.

I am saddened to report that, yes, I have received some "hate" mail. But in far greater number I have heard from people all across our great Nation—even overseas—who have been touched while learning of our story, and who have come to support the need for redress.

A high school student in Arkansas won an award in a history competition telling the tale of the Arkansas camps at Jerome and Rohwer. Grade school students in a religious class in Houston and college students in Georgia and high school students in West Germany were all moved by learning of the evacuation and internment.

As painful as it has been for many Americans of Japanese ancestry to share their stories, I am heartened by the evidence that revisiting this past tragedy has been worthwhile. It is exhilarating to know that people can and do learn from long-ago mistakes.

Mr. Speaker, I wish to share with my colleagues one of the many wonderful letters I have received. It is an example of the lessons I hope we all learn from the sad tragedy of the evacuation and internment.

The letter follows:

DEAR NORM: I just watched the interveiw about reparations on channel 11, with Doug Moore. Hurrah, hurrah! it has taken so long, but it's finally here! It's not much, but it's an apology, and that's something.

I remember when as a little girl, my father and mother would drive by the bean field near the coast of San Diego County. Pearl Harbor had occurred, and the Japanese people were being interned as "enemies." Dad would point to the fertile soil and thriving truck farms and exclaim, "That's why they are being interned! They want their land! It's just an excuse."

He maintained it was greed and racism; the German people weren't interned (which would have been wrong, too, of course).

My mother told us to read our history to find reasons for things. People just don't bomb places like Pearl Harbor without some perceived reason. We were told to "look beyond the hysteria and think for yourselves!"

I am pleased with this apology, this rare act of maturity on the part of the United States. Both my parents are dead but they would be so pleased, also!

You are so right—to keep a nation free and just we must be informed and ever vigilant.

Thank you for all the years of dedicated service you have given this land. God bless!

Most sincerely, Eve Clapham.

Mr. Speaker, I ask my colleagues to join me in thanking Eve and every other American who has been moved and ennobled by the actions of this body. Thank you, Eve. May our Nation always be wise enough to question, and to "look beyond hysteria."

PERSONAL EARNINGS AND BENEFIT STATEMENTS STUDY AUTHORIZATION ACT OF 1988

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. CRANE. Mr. Chairman, Mr. DAUB, Mr. FRENZEL, and I recently introduced, H.R. 5335, the Personal Earnings and Benefit Statements Study Authorization Act of 1988. This act would facilitate a pilot study that Commissioner Dorcus Hardy of the Social Security Administration [SSA] wishes to initiate. The bill would permit SSA to obtain a worker's current address from the Internal Revenue Service [IRS] for the sole purpose of sending an unsolicited personal earnings and benefit statement to that worker.

I believe that this pilot program is a logical outgrowth of the recent hearing of the Oversight and Social Security Subcommittees of the Ways and Means Committee on the subject of unposted earnings. Workers must be encouraged to help Social Security maintain accurate earnings records. No matter how well SSA and IRS work together to maintain these records, some slippage in reporting seems inevitable. Workers should be encouraged to take more initiative to ensure that those earnings are posted. Periodic wage statements would, I am convinced, invite that scrutiny.

On the face of it, the idea of providing periodic statements of earnings, along with data on insured status and potential benefits, is highly attractive. However, I think it would be wise for Congress to assess the feasibility of the project before such an undertaking is done nationwide. That will give us a chance to see how the program is received by those affected and will give us time to assess the potential cost of providing such data.

H.R. 5335 would require a report to the Congress with recommendations for implementation of a permanent program to provide such statements.

I realize that time is running out in this legislative session, so, if necessary, I will reintroduce my bill in the 101st Congress and urge my colleagues, especially those on the Ways and Means Committee to join me in enacting its provisions.

HONG KONG RESPONDS TO U.S. ELEPHANT PROTECTION BILL

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. BEILENSON. Mr. Speaker, last week Congress gave final approval to the African Elephant Conservation Act, legislation which will help stem the decline of the imperiled African elephant by restricting imports of ivory into the United States. As you know, one goal of the act is to spur similar action in other ivory-consuming countries by prohibiting ivory imports from those that do not take such action. We are well aware that without the cooperation of these countries, especially Japan and Hong Kong, which import the vast majority of ivory exported from Africa, the elephant will continue to be threatened.

I am quite pleased, therefore, to enter into the RECORD a press release from the Hong Kong Economic and Trade office, which shows that our actions in the United States have already given rise to a new policy in that country which will close a loophole that was allowing shipments of illegal ivory to enter the country. We are encouraged by this first step, and will be watching with great interest to see if the new regulation effectively stops the importation of illegal ivory into Hong Kong.

HONG KONG PLUGS ILLEGAL IVORY LOOPHOLE

Hong Kong, one of the world's major centers of ivory carving, has brought in new legislation to plug a loophole that was allowing the import of illegal ivory into the territory.

The move, welcomed by the World Wildlife Funds, is an effort to prevent the extinction of the African elephant. It is also aimed at preventing a wholesale United States ban on ivory imports from Kong Kong.

The territory has also banned all trade in rhinoceros horn and rhinoceros products and has added several new endangered animals to the list of prohibited imports.

The new laws, to take effect on August 5, will for the first time introduce controls on the import of worked ivory into the territory. Announcing the move, Assistant Director of the Agriculture and Fisheries, Frank Lau, said that while existing laws controlled the import and export of raw ivory they allowed the import of worked ivory.

He added: "There have been indications since 1987 that unscrupulous ivory traders in the Middle East are exploiting this loophole by importing into Hong Kong worked or semi-worked ivory items of dubious origin and disguising them as locally-carved ivory for re-export."

Lau continued: "This laundering has caused concern both locally and internationally. The United States government declared that it would ban the import of all ivory in whatever form from countries importing such items.

"The new control will meet Hong Kong's international obligations and save the local ivory trade from a total ban on exports to the United States, Hong Kong's largest export market, which would lead to considerable job losses."

He pointed out that there had been increases in worked ivory imports into Hong Kong over the past two years. In 1986 imports had been worth US$7 million while last year they had totalled $7.8 million.

On the basis of current import levels the tougher controls will mean that government inspectors will have to examine about 1,200 worked ivory shipments each year.

Possession of illegal ivory could mean jail sentences of up to six months under the new legislation.

Welcoming the government move, the World Wildlife Fund's conservation officer in Hong Kong, David Melville, said: "This is a very important step toward the conservation status of the African elephant. Hong Kong is one of the world's major centers of ivory carving and has been responsible for driving the demand which had led to the extensive poaching of elephants in Africa.

"Strict enforcement action by the Hong Kong government should now ensure that only legally obtained ivory enters Hong Kong."

The government has also banned the internal sale of rhinoceros horn and hides from July 31.

Lau said the import of rhino products was banned in 1979 and traders were warned to dispose of their existing stocks as soon as possible.

The ban on trade in rhino products will be further strengthened later this year by prohibiting the import or sale of all medicinal products claiming to contain rhino ingredients.

In Chinese medicine rhino horn is believed to reduce fever.

SALUTE TO THE LODI ELECTRIC UTILITY

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. SHUMWAY. Mr. Speaker, the city of Lodi in my congressional district is urging the recognition of Public Power Week, October 9–15 of this year. In Lodi, the local, publicly owned electric utility is 1 of 22 public power systems in the State of California, and is part of a nationwide family of 2,200 communities across the country which operate utilities as part of local government.

Public power in Lodi is the people's choice, and has been since 1910. The success of the project is indicative of the benefit of having local control over an essential public service. In public power communities, the owners of the utility and the consumers of the electricity are the same people. That's consumer protection at its best!

I ask that my colleagues join with me in saluting the Lodi Electric Utility, and in recognizing Public Power Week. As the project's director puts it, "public power is real people power!"

KOMO TV 4 RECEIVES WHITE HOUSE AWARD "FOR KIDS' SAKE"

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. SWIFT. Mr. Speaker, as a member of the Telecommunications Subcommittee and as a former broadcaster, I am proud to announce that KOMO Television in my home State has been honored as a 1988 Presidential Award recipient for its "For Kids' Sake" campaign. This award is given in recognition of outstanding voluntary community service.

Fisher Broadcasting, Inc., Chief Executive Officer John Behnke and Barbara Groce, project director of the "For Kids' Sake" campaign, recently accepted the award from President Reagan.

The President's Citation Program for Private Sector Initiatives was established in 1984 to recognize and encourage outstanding community outreach efforts sponsored by businesses, trade associations, and professional societies.

This special award singles out KOMO's ongoing commitment to address the issues and joys of childhood throughout all station activities. The "For Kids' Sake" campaign has been the impetus for KOMO's locally produced documentaries such as "Dying To Look Good" on teen pressure, and "Please Stop" on drug abuse. These programs have focused on critical decisions facing the Northwest's young people and their families. In just one year, KOMO aired eight "For Kids' Sake" prime time specials. With each, they have offered resource literature, telephone hot lines and/or videotapes.

KOMO has continued to broadcast a number of reports on children and the family, from street gangs to teen prostitution, to childcare and home safety issues.

In addition to the programs and reports, KOMO's "For Kids' Sake" campaign has also included numerous community outreach projects such as KOMO KIDSFAIR, the annual children's hosptial telethon, and the award-winning "Drop Everything and Read" program. KOMO televises high school football and basketball championship games. KOMO on-air personalities show their full support with over 150 appearances each year at schools, libraries and community events just "For Kids' Sake."

The Presidential awards committee received 1,100 applications for this year's competition. In addition to the top 30 awards, 70 additional citations were given to companies and organizations nationwide. These top 100 finalists received C-Flag award recognition earlier in the summer.

This is the second White House honor that KOMO TV has received in the past year. Last fall, the station was honored with the President's Child Safety Partnership Award for another KOMO youth-oriented project, "Valuable Person On Board."

Mr. Speaker, I am pleased to salute KOMO for a job well done.

PERSONAL EXPLANATION

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mrs. SCHROEDER. Mr. Speaker, I was absent for two votes Friday, September 30, 1988. Had I been present, I would have voted as follows:

Rollcall No. 374: "Yea."

Rollcall No. 375: "Nay."

HONORING THE OUTSTANDING WORK OF JOHN PASQUANTINO TO NEVADA AND THE NATION

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. BILBRAY. Mr. Speaker, I rise today before my colleagues to pay tribute to the outstanding work of John Pasquantino, a gifted and exceptional man dedicated to public service, on behalf of Nevada and the Nation. John has recently left my Washington, DC, staff, where he served as assistant legislative director, to pursue a career with the U.S. Forest Service. The loss of his counsel and of his insight to the legislative process will be keenly felt here on Capitol Hill.

John moved to Nevada in 1974 with his parents, John and Mary, and his sister Annette, upon his father's retirement from the U.S. Air Force and attended high school at my alma mater, Las Vegas High School. From all accounts, he was a gifted student, a trait which is still characteristic and is now benefiting the Nation.

I first met John while he was an undergraduate student at the University of Nevada, Las Vegas, where he served as student senate president pro tempore and later as president of the Sigma Chi Fraternity. I was impressed at that time with John's leadership skills and commitment to public service and to his community. Evidently, my favorable view was shared by the senior Senator from Nevada, who hired John to his Washington, DC, staff upon John's graduation.

When I decided to seek election to the Congress, I recognized the staff around me would be critical. Knowing firsthand of his impressive skills, I asked John to serve as treasurer of the campaign committee, a difficult job to which he performed admirably under the most arduous of circumstances. In addition John served as the director of policy, a challenging position requiring great skill in both research and working with people of divergent interests, which, as with his other endeavors, he handled with deftness and aplomb. His work was a cornerstone to our success.

John's efforts to better Nevada and the Nation took root and flourished during his service here on Capitol Hill. My colleagues all know the critically important work staff attends to within the legislative process, and few if any staff members could equal John's skill and level of achievement.

Whether it was tracking issues as divergent as natural resources and intelligence, veteran's affairs, and the judiciary, or the budget process and atomic weapons testing, I could rely upon John to provide accurate, concise information and to represent the interest of Nevada in any one of the many forums associated with Federal legislation. His ability to work with the public, the media and other staff members served to greatly benefit those who call Nevada home. His public service, too, has benefited all America and those fortunate enough to call her home.

For all his skills and abilities, however, it is perhaps John's work on America's public lands that best indicate his measure and commitment to public service. He has a deep and abiding respect for our environment, a set of beliefs which stood him in good stead when dealing with the complex legislation involving the stewardship of the public lands in Nevada and elsewhere in our country. He served as principal staff member on the Nevada Wilderness Act and the Nevada Forest Service Enhancement Act, using his lucid and cogent reasoning in tough negotiating sessions to help forge legislation which, as passed by this Chamber, provides for the addition of upward of 1 million acres of land to the professional management of the U.S. Forest Service in Nevada on the Toiyabe National Forest. That addition, the first of its kind in over 25 years, is an indication of the type of skill he will bring to the land management professionals in the Forest Service.

Mr. Speaker, though I will no longer have the benefit of John's service upon my staff, I do know the Nation will gain greatly from his work. I would, however, somewhat selfishly suggest to the Forest Service professionals that John serve as soon as practicable in Nevada so that I may be close to his counsel, for his knowledge of Nevada and her public lands is indeed wealthly.

Mr. Speaker, I have heard it said the best measure of a man is not found in the footsteps of his path, but by the trail he forges. By that standard, Mr. Speaker, John Pasquantino has made our country better by his efforts.

FRED M. THOMAS

HON. ELTON GALLEGLY

OF OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. GALLEGLY. Mr. Speaker, I want to take this opportunity to honor one of my constituents, who is being recognized for his civic achievements in the San Fernando Valley during the past 23 years.

On November 4, Fred M. Thomas will receive the 30th annual Fernando Award, awarded each year for contributions to the valley.

Fred richly deserves the honor. A former president of the Chatsworth Chamber of Commerce, he is deeply involved in the business and civic affairs of the valley. Among the groups he has given selflessly to are the Cub Scouts, boy Scouts, Girl Scouts, Little League, the United Way, the March of Dimes, the Los Angeles Police Department, the Valley Industry and Commerce Association, and the Fernando Award itself.

A valley resident since 1957, Fred is the marketing manager for Anechoic—EMI Systems Group, a section of the Rantec Division of Emerson Electric Co.

When notified that he had won the award, Fred told the Los Angeles Daily News that he was "absolutely thrilled." He went on to say:

> It means everything in the world because I've been so close to Fernando for so many years * * * always looked up to past recipients as being the absolute cream of the crop in the San Fernando Valley. I respect them very much.

Mr. Speaker, those who know Fred M. Thomas respect him and have long believed that he is the absolute cream of the crop. This just confirms it. I'm sure my colleagues join me in saluting this outstanding individual.

NATIONAL HISPANIC MONTH

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. LAGOMARSINO. Mr. Speaker, as you probably know, September 15 through October 15 is National Hispanic Month, which provides an opportunity for all Americans to recognize the tremendous contributions that Hispanic Americans, past and present, have made to the greatness of our country.

One of those present day contributors must be Ruth Rodriguez-Schaffer, this year's honoree at the Santa Barbara Hispanic Achievement Council banquet on October 14. At that banquet, Mrs. Rodriguez-Schaffer will be saluted for her commitment to community and exemplary citizenship.

Mrs. Rodriguiz-Schaffer was born, raised, and educated in La Paz, Bolivia, graduating with a masters degree in accounting from the University of La Paz. She applied to and was accepted by Northwestern University for postgraduate work, where she studied fundamentals of English. Her parents moved from Bolivia to San Francisco, becoming American citizens, and it was there that Ruth met her husband, Howard Schaffer. Howard was soon transferred to Germany as commander of a military band, where the young family spent the next 8 years. While in Germany, Ruth became increasingly active in youth activities—including the Boy Scouts and Girl Scouts—and served as the first Hispanic Red Cross chairperson. The Schaffers were transferred to Massachusetts, where Ruth was honored as "Military Wife of the Year," and then transferred back to Germany after 3 years stateside. Howard eventually retired from the military and the Schaffers settled in Santa Barbara, where Ruth increasingly involved herself in community-related activities while simultaneously establishing a business.

Ruth served as associate director, controller, and job developer for the Community Free Employment Service, helping the handicapped, disadvantaged, and displaced in the Latino community to find jobs in the private sector. She was selected chairperson of the Commission for Women and has been associated with a large number of business, professional, family, and women's support organizations.

Mr. Speaker, Ruth believes that citizens should invest at least 10 percent of their time and resources in their community, although she has given at least 10 times that amount to hers. I know that I speak for the entire Santa Barbara community when I join the Hispanic Achievement Council in honoring Ruth Rodriguez-Schaffer as an asset to the community, an exemplary role model, and as a loving wife and mother.

TRIBUTE TO PAUL L. ROWLAND, JR.

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. KOLTER. Mr. Speaker, I rise today to pay tribute to Paul L. Rowland, Jr., of New Castle, PA, on his 14 years of commendable service as superintendent of Union Area School District and his contribution to the district as an outstanding citizen.

Mr. Rowland's career began with 3 years of service to his country in the Navy aboard the U.S.S. *Rixey* during World War II. After his service, he attended the Pennsylvania State University for 2 years and later transferred to Waynesburg College where he was graduated with a degree in natural science. Following his education, he was a manager/trainee of the former J.C. Penney Co. store in New Castle and later the East Liverpool, Ohio store.

Mr. Rowland began substitute teaching at New Castle Area High School and was hired at George Washington Junior High School as a science and mathematics teacher. After 2 years, he became a member of the original staff at Neshannock Township High School by accepting a position teaching mathematics and biology. Finally, Mr. Rowland's administrative jobs began with a principalship at Dayton Joint School District for the junior and senior high school in 1963. In 1966, he contributed his service as assistant principal at Fox Chapel High School in Pittsburgh. Finally after 6 months, he accepted a position as principal at Union Area School District where he eventually became superintendent.

During Mr. Rowland's journey, he has enjoyed a close relationship with his family. He and his wife Joan, have four grown married children, Sandra Genkinger, Paula Nolan, and Susan Grieve of Williamsport and Paul III of Pittsburgh, and 13 grandchildren.

Mr. Rowland, through his various job experiences has proudly shared his idea that people should be fair and honest and treat coworkers with equality. Along with this idea, he shows pride toward his country and encourages that we should strive for a peaceful world.

For all you have done for us in the fourth district, Mr. Rowland, we give our warmest gratitude and best wishes for a happy retirement.

SANTA FE NEIGHBORHOOD COUNCIL OBSERVES 40TH ANNIVERSARY

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. WHEAT. Mr. Speaker, I rise today to call to the attention of my colleagues the upcoming 40th anniversary celebration of the Santa Fe Neighborhood Council in Kansas City, MO.

On May 30, 1986, the "Santa Fe Place Historic District" was enrolled as a historic district in the National Register of Historic Places, and that honor was well deserved. The Santa Fe community is an area rich in tradition, and its history is central to the history of the development of modern day Kansas City. One of the first planned communities in Kansas City, Santa Fe is renowned for its architecture, which can be seen in the 699 historic properties that comprise the district.

But Santa Fe's historical significance is more deeply rooted in its evolution from a segregated to an integrated community. Housing in the Sante Fe area was effectively closed to blacks until 1948 due to a restrictive covenant entered into by several hundred homeowners in the community. When restrictive covenants were struck down as unconstitutional by the Supreme Court in 1948, large numbers of black families purchased homes in the community. Over the next 5 years, Santa Fe grew four times faster than any other area of the city due to the influx of notable black professionals, public officials, and business-owners into the community.

These people all took an active interest in the preservation of neighborhood homes and buildings. Block clubs were formed and dedicated to preserving and expanding on Santa Fe's reputation for peaceful neighborhoods, tree-lined boulevards, and manicured lawns that are so pleasing to visitors even today. The Santa Fe Council was an outgrowth of these block clubs, and after 40 years, the community remains committed to its tradition of gracious family living that earned it a place on the National Register of Historic Places.

Mr. Speaker, I know of what I speak, for I am a proud homeowner in the Santa Fe community. I commend the Santa Fe Council on the occasion of its 40th anniversary, and offer my best wishes for its continued growth and success in the future.

TAIWAN'S 77TH ANNIVERSARY NATIONAL DAY, OCTOBER 10, 1988

HON. H. MARTIN LANCASTER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. LANCASTER. Mr. Speaker, having recently returned from visiting the Republic of China on Taiwan with several of my colleagues, I wish to extend my congratulations to President Lee-Teng-hui and the people of this nation on their celebration of National Day.

Though the world spotlight focused on Seoul and the summer Olympics, Taiwan, dwarfed in size by all Asian nations, may end up the real winner in the competition for media attention by virtue of its manufacturing and financial prowess and the dramatic democratic reforms taking place there. Indeed, Taiwan, in the years to come may outdo and outlast all of the Pacific Rim countries as its economy reaps the benefits of positive trade balances, as the standard of living for her people continues to improve, and as a more pluralistic society takes shape. Taiwan in the 1990's appears fully prepared to replace Hong Kong as the financial center for Asia.

How did Taiwan, given its size and origins, assume such enormous importance in a world dominated by physical and population giants? The strength of her leaders, past and present, and the resourcefulness and energy of her people are good reasons for this progress.

The Republic of China's newly appointed Representative to the United States, Hon. Ding Mou-shih, has been Foreign Minister; Ambassador to Rwanda, Zaire, and South Korea; and Representative to the United Nations General Assembly. He has spent his entire career in the Foreign Service of his country. He is a long time friend of the United States and I wish him well in his new post.

The list of leaders could go on: Lien Chan, current Foreign Minister, Dr. Frederick Chien, a personal friend who was recently appointed Chairman of the Economic Council in Taiwan, and President Lee-Teng-hui, who has gained the support and affection of his people in an amazingly short time.

Today, the Republic of China on Taiwan is the 11th largest world trader, and is expected to become No. 10 by 1992; its per capita GNP is approximately $6,000 United States; its annual growth rate has been running at over 9 percent for decades; it was host to nearly 1 million tourists in 1987; it has foreign exchange reserves totaling $75 United States billion, second only to West Germany: and it has the world's second largest population density—Bangladesh is first—but has a labor shortage.

Domestically, Taiwan has changed drastically, especially in the last 4 years. Government power is being decentralized: Restrictions on rival political parties, on demonstrations, and on the press have been eliminated; there are no more foreign exchange controls; mainland China visits are permitted; civic associations are forming; educational opportunity is being expanded; and top professors and researchers are being lured back from overseas.

The prospects for trade with Taiwan are superb. Taiwan is a significant market for United States goods and United States investment, and their trade associations are actively seeking trade opportunities and investments from American business.

The long time friendship between the Republic of China on Taiwan and the United States continues to be strengthened by a greatly liberalized political, economic, and social system under the stewardship of President Lee.

I hope my colleagues in the Congress will join me in saluting the Republic of China on Taiwan on their National Day.

CONGRATULATIONS GENE R. OVERHOLT: 1988-89 PRESIDENT OF KIWANIS INTERNATIONAL

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. PURSELL. Mr. Speaker, I rise today to honor an outstanding citizen, friend, and neighbor, Mr. Gene R. Overholt of Plymouth, MI.

On October 1, Gene Overholt assumed the duties of president of Kiwanis International, as duly elected by the delegates to the 73d annual convention in Seattle on July 6, 1988.

Gene is a retired executive of Michigan Bell Telephone Co. Dedicated public service has always been one of Gene's outstanding qualities having served 10 years as a township official, 17 years on the executive board of the Salvation Army—2 years as its chairman. Gene also chaired the Plymouth Advisory Board for Education of Preschool Handicapped Children, and the Plymouth Community Recreational Committee.

Gene is a past distinguished governor of the Kiwanis Michigan District, and was first elected to the international board in 1981 as a trustee. He has since served as treasurer, vice president, and president-elect.

Mr. Speaker, the contributions and endeavors of Gene Overholt have been invaluable to the Plymouth community, State of Michigan, and our Nation. He has worked unselfishly to improve the quality of life for so many. I ask my colleagues in the House of Representatives to thank Gene Overholt for his great service, and send our very best wishes and congratulations as he serves the Kiwanis International as president for 1988-89.

TRIBUTE TO GRETCHEN ELIZABETH CARLSON

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. SIKORSKI. Mr. Speaker, it is a great honor to pay tribute to our new Miss America Gretchen Elizabeth Carlson, a resident of Anoka in Minnesota's Sixth Congressional District. She showed the Nation that true beauty goes beyond appearance and embodies character, talent, intelligence, and hard work.

Gretchen amazed a national television audience at the pageant with her violin genius and mastery of Pablo Sarasate's Zigeunerweisen.

Her musical talent was recognized early and cultivated through hours upon hours of sacrifice and hard work. Each summer she would travel to Colorado to participate in the Aspen Music Festival where she studied classical violin under Dorothy DeLay of the prestigious Julliard School of Music in New York.

But musical talent is not the only thing that defines Gretchen. She graduated from Anoka Senior High School at the top of her class, and despite being offered scholarships by the Julliard School of Music and other music conservatories, she chose to study business at Stanford University with the goal becoming a Harvard-trained lawyer.

Observers of the pageant witnessed a well-developed sense of poise and self-confidence that will serve Gretchen well during her upcoming hectic year as Miss America.

Minnesota has a wealth of bright and talented young people and Gretchen exemplifies this generation that is Minnesota's pride and our Nation's hope for the future.

TRIBUTE TO THE HONORABLE SHIRLEY CHISHOLM

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. HAWKINS. Mr. Speaker, 20 years ago Shirley Chisholm ascended the steps of the Capitol and created history as the first black women ever elected to Congress. I was fortunate enough to serve along side Ms. Chisholm in the House Education and Labor Committee. During Ms. Chisholm's tenure in Congress, she consistently fought for jobs, housing, education, child care, and Medicare for the underprivileged in our society. The fight did not cease when Ms. Chisholm left office.

As chairwoman of the National Political Congress of Black Women, her altruism extends across the Nation. Ms. Chisholm's stellar presence is missed in the Halls of Congress. Her voice from Bedford-Stuyvesant was pragmatic and compassionate. As most of us know, Ms. Chisholm challenged the establishment in Congress to modify the seniority system and continues to challenge society to help the less fortunate.

She confounded the House leadership by refusing to accept a committee post on the Agriculture Committee. Ms. Chisholm did not want the public to think her district's biggest concern was agriculture. In her now famous statement, she said, "Apparently all they know here in Washington about Brooklyn is that a tree grew there * * *" The leadership relented and assigned her to the Veterans' Affairs Committee. Eventually, she was given a post on the Education and Labor Committee, where her unique talents could be fully utilized. When Ms. Chisholm left this committee, she served on the powerful Rules Committee.

Since the passage of 20 years, our Nation has witnessed many of the reforms Ms. Chisholm advocated. However, the high school dropout rate for minorities increases; the percentage of black youth living in poverty has increased; future funding for minorities in higher education is threatened; and our Nation still does not have an adequate child care system. This is evidence that continued progress is needed. Ms. Chisholm has always been in the forefront advocating change.

In light of the forthcoming Presidential election, it is noteworthy that Ms. Chisholm accomplished many firsts. This determined, hard working former nursery-school teacher was the first black woman to actively run for President. She enlightened the country to the plight of women and minorities, as she eloquently defended their rights.

It is with great pleasure that I salute Ms. Chisholm on the 20th anniversary of her momentous election to Congress.

A NEW DAY FOR THE UNITED NATIONS

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. DOWNEY of New York. Mr. Speaker, on December 10, 1988, United Nations Secretary General Javier Perez de Cuellar will accept the Nobel Peace Prize on behalf of the United Nations Peacekeeping Forces.

Often it seems that the Nobel Peace Prize is awarded to individuals or organizations with complex plans for achieving world peace. This year, however, we are honoring an idea that is uniquely simple, the idea of international cooperation. The United Nations has proven that when we work together as a community of nations we make the most significant progress toward reducing international tension and achieving world peace. There is truth in the adage that tells us there is strength in numbers. We accomplish far more when working together than when acting alone.

As I have in the past, I will continue to support the use of the U.N. Peacekeeping Forces. The U.N. has proven to be a valuable tool in the quest for world peace. The success of this service has been unmatched by any nation acting individually to bring international chaos under control. The road we, as a world community, have traveled toward peace has been long. There is an even longer road ahead. But we are moving in the right direction as evidenced by the administration's decision to meet its financial obligation to the United Nations. Maybe we are seeing a new day for the United Nations.

The members of the U.N. Peacekeeping Forces are to be commended and congratulated for implementing the high ideas of peace through the simplicity of cooperation. They richly deserve this prize.

RETHA SLAY JEFFREYS

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. GALLO. Mr. Speaker, as the adjournment target for the 100th Congress approaches, I would like to take this opportunity to acknowledge an individual who has added a great deal of charm and southern hospitality to my Washington office during the 99th and 100th Congresses.

I am referring to a native Mississippian who is held in high regard by Members of Congress on both sides of the aisle, and who is well known to Hill staffers and constituents alike for her quick smile and for her ability to make visitors to my office feel welcome.

I first met Retha Jeffreys in December 1984, at a time when I was preparing to open my new congressional office. Within a few short weeks, Retha had made the difficult transition required of a Mississippian who must answer the obvious question, "Where are you from?" several dozen times a day.

In spite of her best efforts to adjust by making appointments at 10 and by never fixin' to do anything, however, Retha has never lost her southern charm or her strong ties to her roots and her heritage.

Retha's extensive experience as a Capitol Hill staffer in the offices of former Representatives David Bowen and Webb Franklin has been very important to me.

During the first critical months when I was establishing an office run by professionals for the benefit of the people of the 11th District of New Jersey, Retha added a touch of class and a sense of organization that has set the tone for my office operations to this day.

Her good working relationship with the Republican Whip's office has been invaluable to me and her knowledge of the Hill and its inner workings has enhanced my ability to serve the people of my district.

Now that Retha has decided to seek new challenges and has chosen Texas as her home, I want to take this opportunity to share with my colleagues my personal best wishes to Retha for a healthy and prosperous future.

I am certain that we will be hearing great things from the Lone Star State during 1989.

And, there is no doubt that our Nation's Capitol will be a less charming place to be during the 101st Congress.

THE 75TH ANNIVERSARY OF LOCAL 1856

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. BORSKI. Mr. Speaker, I rise today to offer my congratulations to the members of Local 1856 of the Carpenters and Joiners Union on the 75th Anniversary of the local's founding.

Local 1856 was granted a charter on October 28, 1913, in the Kramp Shipyard in Philadelphia. Many of the original members lived in Port Richmond and worked in shipbuilding.

However, with the decline of the shipbuilding industry following World War II, the membership of Local 1856 moved into commercial and industial construction, where they continue to work today.

Local 1856 is one of the strongest and most close-knit union locals. Most of its members grew up with each other in Northeast Philadelphia, the territory represented by Local 1856.

Local 1856 has had many officers in its long history. The current president is Frank McGovern and the business representative is Frannie Laffie.

As part of the 107-year-old United Brotherhood of Carpenters and the Metropolitan District Council of Carpenters, Local 1856 is currently enjoying a strong era of employment. It is my hope that Local 1856 enjoys another 75 productive years.

A TRIBUTE TO MARLIN CARROLL

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. SKELTON. Mr. Speaker, it is with great pleasure that I rise today to honor Highway Patrol Sgt. Marlin Carroll, a devoted public servant and a great American, who has just retired from the patrol. I am sure that my fellow colleagues in the House of Representatives will recognize and appreciate the 30 years of dedicated duty that Sergeant Carroll has served with the Missouri Highway Patrol and wish him well as he hangs up his belt to enter his retirement years.

He began his law enforcement career in Lafayette County, MO, while I was then serving as prosecuting attorney, and I have followed his career since. His integrity, hard work and positive attitude have served him well throughout his years of service and will be surely missed by his fellow officers and the people of Missouri.

In closing, I wish to extend my warmest, personal congratulations to Sgt. Marlin Carroll and send a fond thank you for his years of service with the Missouri Highway Patrol and to our State. May he enjoy his time of retirement in good health among the company of family and friends. All the best to Marlin and his charming wife, Bertha.

THE UNCERTAIN FUTURE OF AMERICAN FARMERS

HON. JIM JONTZ

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. JONTZ. Mr. Speaker, all of us are aware of the very severe drought which we have experienced this year. Across rural America farmers and businessmen and women are facing a very uncertain future, in the harvest season and beyond.

Thankfully there are a number of programs available through the Agriculture Department and the Small Business Administration to assist these individuals. In many cases the assistance available through USDA and SBA will be the critical difference between economic survival and failure.

The ability of businesses to borrow at low interest rates is of major importance. Unfortunately, unless the Congress acts quickly before adjournment, over 2 million people belonging to more than 5,300 local farmer cooperatives are going to be put at a significant economic disadvantage.

Under the Small Business Act, qualified businesses, homeowners, and other parties are allowed to borrow under the Economic Injury Disaster Loan Program. Interest rates for businesses and homeowners are specifically set at either 4.0 or 8.0 percent to borrow under this program, depending on the availability of credit. However, because interest rates are not similarly set for agricultural cooperatives they pay a significantly higher rate—currently 9.0 to 9.25 percent.

A cooperative that could borrow money under this program at 4.0 percent, as opposed to 9.0 to 9.25 percent, stands a significantly greater chance of being able to survive. I have introduced legislation, H.R. 5414, that would amend the Small Business Act to charge agricultural cooperatives interest rates identical to those rates charged other types of business.

Congress must take quick action to correct this problem. I urge my colleagues to join me today in cosponsoring this legislation.

CONGRATULATIONS TO TERESA EDWARDS

HON. CHARLES HATCHER

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. HATCHER. Mr. Speaker, I rise today to give my sincere congratulations to Teresa Edwards, a native of Cairo, GA, the heart of my congressional district, for her outstanding performance in leading the U.S. Women's Basketball Team through undefeated competition in the 1988 summer Olympic games to capture a gold medal.

Ms. Edwards, who was named the Atlanta Journal-Constitution Player of the Year her senior year at Cairo High School, enrolled in the University of Georgia in 1982. She was named college all-American for two seasons, leading the Lady Bulldogs twice to the NCAA national championship semifinals.

Holding the Southeastern Conference record for number of assists, Teresa tops the University of Georgia records in number of steals and assists. She averaged 19.7 points per game her last year at the University of Georgia with a tally of 1,989 points for her college career.

Teresa Edwards and Anne Donovan are the only two players on the 1988 women's Olympic team to have competed on the gold medalist team of the 1984 Olympics.

I highly commend Ms. Edwards not only for her tremendous athletic ability, but also for her demonstrated charisma and perseverance which all aspiring athletes would do well to emulate.

IN SUPPORT OF H.R. 5288, THE VETERANS' JUDICIAL REVIEW ACT

HON. LAMAR S. SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. SMITH of Texas. Mr. Speaker, I am delighted that we in the House have just approved the Veterans' Judicial Review Act, because after 10 years of debate it is time we gave our Nation's veterans their day in court.

In the last few days before Congress adjourns for the year, I will work to encourage Senate and House leaders to reconcile their differences so President Reagan can sign a veteran judicial review bill into law this fall.

I believe the bill I have just voted for represents the best of both worlds for our Armed Forces veterans, of which more than 137,000 live in Bexar County.

It preserves the best aspects of the present VA claims and appeals process, but at the same time strengthens the system by adding new measures endorsed by the major veterans' groups.

Under this bill, the VA's Board of Veterans' Appeals would at last be replaced by a special Federal court entirely independent of the VA—which would enable a long-overdue separation of powers.

This new court would have power to decide all factual, legal, and constitutional questions on claims for benefits. And many questions could be appealed to the higher Federal courts.

Feelings about VA judicial review are controversial and emotional. Many say leave the system alone. Many say turn the whole thing over to the Federal courts. I believe the compromise bill passed by the House strikes the proper balance.

REPUBLIC OF CHINA NATIONAL DAY

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. YATRON. Mr. Speaker, I rise to commemorate a very important occasion. Monday, October 10, will be the 77th anniversary of the Republic of China's National Day.

The Republic of China is indeed a dynamic nation. It is undergoing major changes in its economic, social, and political life. Taiwan is increasingly becoming a major economic power, currently the world's 11th largest trader. Taiwan's economic success is a tribute to the industriousness of the people. Taiwan's economy, based on free market principles, provides them the opportunity to realize their many talents, and benefit from their hard work. The Republic of China's economic achievements are extraordinary. Education is also a high priority and has contributed significantly to Taiwan's advancements.

In the political realm, greater liberalization has taken place and appears to be continuing. The country has undergone a change in leadership, as a result of the unfortunate and untimely death of President Chiang Ching-kuo. It has been a peaceful and stable transition with a great nation looking forward.

As a member of the House Foreign Affairs Committee, I know how important good United States-Republic of China relations are to both our peoples. I hope we can continue to expand upon the good feeling between our nations toward a greater and deeper relationship. Americans have much to gain and benefit from the people of the Republic of China, and I believe a better view of our country by Taiwan's people will only enhance the appreciation for democracy, free enterprise, and basic human rights.

Let me extend my greetings and very best wishes to President Lee Teng-hui and Ambassador Ding Mou-Shih, and to all the people of the Republic of China on this very special, momentous occasion.

SIMCHAS TORAH AND REFUSENIKS

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. MICHEL. Mr. Speaker, I want to join with all of our colleagues in commemorating the Jewish holiday, Simchas Torah. This is the holiday celebrating completion of the annual reading of the Torah.

While this day has profound meaning for all Jews, it has particular significance for Soviet Jews. As they gather in Leningrad and in Moscow, their celebration is marked with the special knowledge that full freedom of emigration and worship has not yet been achieved by all Jews in the Soviet Union.

The case of Leningrad refuseniks, Ilya and Olga Shostakovsky, is representative of the hardship undergone by so many Soviet Jews. They have been denied an exit visa because Soviet authorities say that Ilya is a security risk. Since he has never had access to state secrets or classified information it is difficult to imagine on what realities of Soviet life such a charge is made.

In any event, I want to join with our colleagues and with all others to state that the case of Ilya and Olga Shostakovsky reminds us of the larger problem within the Soviet Union, one which will need much more attention than it has been getting—I refer to the problem of emigration and of religious freedom in general.

THE WAR POWERS ACT

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. HOPKINS. Mr. Speaker, the most difficult decision a nation can make is to place its armed forces in harm's way.

That decision should not be further complicated by needless ambiguity of our laws, partisanship, or bickering between the executive and legislative branches of our Government.

Unfortunately, an act conceived during the Vietnam war era to avoid those shortcomings—the War Powers Resolution of 1973—has had the opposite effect.

Presidents have ignored or avoided it; Congresses have failed to demand compliance.

We are left with two choices: Remove the law from the books or amend it into workable form. I strongly favor the latter.

Today I am introducing legislation that will make the War Powers Resolution a more effective instrument of national policy and provide a framework for consultation and cooperation between the White House and Congress.

This issue usually is put off until times of crisis; it must be considered now, while we are at peace.

THE 77TH BIRTHDAY OF THE REPUBLIC OF CHINA

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. CARDIN. Mr. Speaker, last summer I was delighted to have accepted an invitation to visit Taiwan, the Republic of China, with two of my colleagues. The Republic of China has much to be proud of. Its foreign reserve stands at a staggering $75 billion, its economic growth will once again exceed 10 percent this year, and its per capita GNP is nearly $6,000. Taiwan became a major economic power through the productivity of its people as well as the unfailing devotion of its leaders.

The desire to make Taiwan politically progressive was stressed by Taiwan's President, Dr. Lee Teng-hui, who explained to my colleagues and me how Taiwan has been reevaluating possible areas of political reform including its mainland China policy, parliament, and protection and guarantee of human rights. He stressed the desire to make Taiwan economically strong as well as a beacon of freedom and democracy.

On October 10, Taiwan will celebrate its 77th birthday. I would like to congratulate Taiwan and its leaders on the occasion of National Day and wish them well. In addition, I have confidence that United States-Taiwan relations will flourish under the aegis of Taiwan's new representative in Washington, Minister Ding Mou-shih.

PLUTONIUM SEA SHIPMENTS

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. WOLPE. Mr. Speaker, I rise to discuss a little-known nuclear deal that the United States has negotiated with Japan, which could have grave environmental and security consequences for this country and for the rest of the world.

The deal, known as a "subsequent arrangement," grants Japan 30-year advance approval to ship United States-origin plutonium halfway around the world on the high seas, from Europe to Japan, several times per year. By statute, this international agreement does not need congressional approval to go into effect. Rather, in the absence of congressional action, it will enter into effect automatically, 15 days following its September 20 submission to Congress, on October 5.

Mr. Speaker, my colleagues need no reminder that plutonium is the stuff of atom bombs. Just 13 pounds of it was sufficient to level Nagasaki at the end of World War II. Under this new pact, each Japanese sea shipment would contain about a ton of plutonium—enough for more than 100 nuclear weapons if stolen.

Furthermore, plutonium is among the must toxic substances man has created. If inhaled, mere specks are sufficient to cause cancer. An accident at sea, whether caused by nature or by terrorist attack, could result in unprecedented environmental contamination.

Mr. Speaker, the proposed deal raises several specific concerns that have not yet been addressed adequately:

Neither an environmental assessment nor an environmental impact statement has been prepared to evaluate the environmental effect of the proposed arrangement. Such an evaluation would seem to be required under the National Environmental Policy Act.

Earlier this year, the Defense Department concluded that military escort vessels were necessary to protect the proposed plutonium shipments from terrorist attack and/or seizure. The proposed deal with Japan, however, allows plutonium shipments without military escort.

Heretofore, Congress has retained the right to review the environmental and security arrangements for each individual shipment of U.S.-controlled plutonium. Under the proposed pact, however, Congress would surrender this oversight role for the next 30 years.

Mr. Speaker, it seems clear that Congress requires more than 15 days to consider the far-reaching environmental and security implications of the proposed plan, especially during this harried period when we are struggling to conclude urgent business before the recess.

Accordingly, I am introducing today, with Representative HOCHBRUECKNER, a very simple resolution to extend Congress' statutory review period for this subsequent arrangement from 15 to 90 days of continuous session. This resolution is printed in full at the close of my remarks.

In addition, I have included the following documents for printing in the RECORD, following the resolution: A Los Angeles Times editorial of September 16, 1988, urging Congress to maintain its existing case-by-case oversight role; a September 15, 1988 letter to the chairman of the Foreign Affairs Committee from 10 public-interest groups, urging that hearings be called immediately on the proposed pact—none have yet been scheduled; an August 4, 1988 letter from me and 18 House and Senate colleagues to President Reagan, warning of the dangers of plutonium sea shipments, and urging him not to conclude the 30-year deal with Japan; and a September 9, 1988 reply to that letter from an assistant to President Reagan.

Mr. Speaker, the dangers of nuclear terrorism, nuclear proliferation, and radioactive environmental contamination are too great to be given only cursory consideration as a result of Congress' immediate pressing business. I urge my colleagues to support this resolution, so that the very serious matters raised by the proposed deal with Japan can be given the full attention they deserve during the next session of Congress.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL REVIEW PERIOD.

(a) EXTENSION OF PERIOD.—In order to allow adequate time to review environmental and national security issues raised by the subsequent arrangement described in subsection (b), the period for Congressional review specified in section 131 b.(1) of the Atomic Energy Act of 1954 (42 U.S.C. 2160(b)(1)) shall be deemed, in the case of that subsequent arrangement, to be 90 days of continuous session (as defined in section 130 g. of that Act), rather than 15 days of continuous session.

(b) SUBSEQUENT ARRANGEMENT DESCRIBED.—Subsection (a) applies with respect to the subsequent arrangement under the Agreement for Cooperation between the United States and Japan involving United States approval for the sea transport of plutonium from either France or the United Kingdom to Japan, which was reported to the Congress pursuant to section 131 b.(1) of the Atomic Energy Act of 1954 on September 20, 1988 (House Document 100-231).

[From the Los Angeles Times, Sept. 16, 1988]

RISKING NUCLEAR PROLIFERATION

Under a new U.S.-Japan nuclear-energy agreement, Japan has a 30-year blanket authorization to move around the world more than 100 tons of plutonium—the key ingredient in nuclear weapons. Japan intends to use the plutonium, derived from U.S. uranium, as fuel in nuclear reactors. However, many in Congress believe that the new agreement seriously undercuts the 1978 Nuclear Non-Proliferation Act, which requires that each shipment of nuclear fuel be approved separately.

Only 15 pounds of plutonium in the wrong hands are sufficient to make the nightmare of nuclear terrorism a reality. Under the original agreement, Japan is authorized to ship the dangerous material only by air. Now the Reagan Administration is about to ask Congress to expand the agreement and allow Japan unlimited ocean shipment of the nuclear material.

Almost all of the world's current nuclear plants run on low-enriched uranium, which, unlike plutonium, is not usable for bombs. Plutonium is a byproduct of burning uranium in a nuclear reactor. When the spent uranium fuel is reprocessed, plutonium is part of the residue. The Japanese are currently reprocessing their spent fuel in plants in France and Britain. After reprocessing, the plutonium is to be sent back to Japan to be used to start up so-called breeder reactors, which in theory will produce or "breed" plutonium even as they burn it to produce power. It also would be used in contemporary reactors modified to run on a mixture of uranium and plutonium.

Under the November, 1987, agreement, which went into effect on July 17, the Japanese have permission to fly the plutonium in crash-proof casks over the North Pole, avoiding U.S. airspace. But the casks have failed the required crash tests. Air shipment raises environmental concerns; a single speck of plutonium is enough to cause lung cancer in a person. Sea shipment raises terrorist fears; an internal Pentagon report contends that ships carrying plutonium would be "accessible and vulnerable to attack," especially when passing through narrow straits like the Panama Canal.

The Reagan Administration argues that Japan should be exempt from the case-by-case rule of the 1978 non-proliferation law because it is a special ally with a stellar record on proliferation; congressional critics fear that the blanket agreement will make it easier to lose track of a small amount of plutonium—with disastrous consequences. It took only 13 pounds of plutonium to destroy Nagasaki.

So, while the United States and the Soviet Union are discussing radical reductions of nuclear arsenals, the Administration is preparing to give the green light for a huge increase in civilian stockpiles of plutonium—greatly increasing the probability that some terrorist group, the Party of God or the Red Army Faction, will one day get the chance to play nuclear blackmail.

Congress must reject the request to expand the plutonium treaty to include unlimited ocean shipment. The United States must return to the prudent case-by-case reviewing method followed by Presidents Gerald R. Ford and Jimmy Carter.

SEPTEMBER 15, 1988.

Hon. DANTE B. FASCELL,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN FASCELL: We are writing in regard to recent indications that the Administration has agreed to grant Japan a 30-year advance programmatic approval to ship plutonium by sea from Europe to Japan.

As you know, this one-time "subsequent arrangement" will go into effect automatically, 15 days of continuous session after it is submitted to Congress for review, unless Congress acts to reject it within that timeframe. In light of the radical change in policy represented by this proposed subsequent arrangement, we feel it is essential that Congress' committees of jurisdiction convene hearings promptly after its submission, to allow for adequate scrutiny of vital national-security and environmental issues during the little time allowed for review.

As you also know, the new U.S.-Japan nuclear cooperation agreement—which entered into force this past July—granted advance approval only for air shipment of plutonium, on the grounds that sea shipments were vulnerable to attack and seizure. This restriction was one of the reasons that Congress chose not to disapprove the agreement as a whole. Now, less than two months later, the Administration is attempting to revise this major element of the agreement—the provisions for safe and secure return of weapons-usable plutonium to a non-nuclear weapons state.

In a number of ways, the proposed arrangement with Japan represents a major departure from long-standing U.S. nuclear non-proliferation policy:

Never before has a one-time subsequent arrangement, with only a 15-day Congressional review period, been used to grant advance approval for longer than three years, let alone three decades.

As stated in a 1987 Department of Energy document, due to "substantial concern [in 1984] within the Executive Branch and the Congress that the transit time for [sea] shipment was too long to become a desirable precedent for the future—if one considers the risk of theft or attack by hostile forces . . . the U.S. expressed the view that future shipments of this kind should be by air . . ." [1]

Just this year, a Department of Defense report stated: "The Office of the Secretary of Defense, Joint Staff, and Services have concluded that air shipment via the polar route is preferable to sea shipment in accomplishing this mission. . . . [Using sea shipment] even if the most careful precautions are observed, no one could guarantee the safety of the cargo from a security incident, such as an attack on the vessel by small, fast craft especially if armed with modern anti-ship missiles." [2]

In addition, we are concerned that the environmental impact of the proposed arrangement has not been evaluated adequately under the terms of the National Environmental Policy Act (NEPA). Current indications are that only a cursory Environmental Assessment has been prepared by the Administration, not a full-blown Environmental Impact Statement (EIS). In light of the protracted term of the proposed arrangement, the six-week length of each ocean voyage, and the numerous potential accident and sabotage scenarios, it would appear that a thorough EIS review is required by NEPA.

Given that Congress has only 15 days of continuous session to review this unprecedented pact that will remain in force for at least 30 years, we trust you will agree that hearings should be held by the Foreign Affairs Committee immediately upon receipt of the subsequent arrangement. Testimony from both the administration and independent experts should help shed light on the considerable risks involved in approving sea shipments of plutonium prospectively.

Sincerely,

Paul Leventhal, President Nuclear Control Institute; Jerome Grossman, President Council for a Livable World; Maureen T. Thornton, Executive Director, Physicians for Social Responsibility; David Albright, Senior Staff Scientist, Federation of American Scientists; Robert Alvarez, Director of Nuclear Project, Environmental Policy Institute; David Cohen, President, Professionals' Coalition for Nuclear Arms Control; Bob Edgar, Director, Committee for National Security; Duane Shank, Executive Director, SANE/FREEZE; Damon Moglen, Director of Nuclear Campaigns, Greenpeace U.S.CA.; Peter Clausen, Director of Research, Union of Concerned Scientists.

CONGRESS OF THE UNITED STATES,
Washington, DC, August 4, 1988.

Hon. RONALD W. REAGAN,
President, The White House, Washington, DC.

DEAR MR. PRESIDENT: We the undersigned are writing to express our concern over recent reports that the Administration has agreed in principle to give Japan long-term approval to transport by sea U.S.-controlled, nuclear weapons-usable plutonium from Europe to Japan.

Many of us made clear to you our opposition to sea transport of plutonium four years ago in a letter of August 3, 1984, signed by 15 Members of Congress. We warned that "[sea s]hipments of nuclear explosive materials would provide tempting targets for attack by terrorists or even certain countries seeking to quickly acquire significant quantities of nuclear weapons materials." With regard to Japan's first and only sea shipment of plutonium from Europe, pending at that time, we stated: "[T]he United States should avoid sea transportation of this plutonium and of all nuclear explosives material generally, in favor of air transportation."

It is true that, more recently, Congress also has expressed serious concerns over the planned air transportation of plutonium, on environmental and public safety grounds. A crash-proof plutonium shipping cask suitable for large-scale commercial air transport of plutonium still has not been developed and, according to some experts, may never be. Congress has insisted on use of a crash-proof cask due to the fact that a single 300-pound Japanese cargo of plutonium oxide powder represents tens of thousands of potential cancer doses if dispersed over a populated area as the result of a transport accident.

However, continuing Congressional concern over the safety of air shipping plutonium should not overshadow our grave concerns over transporting this material by sea. We remind you that the Department of Defense, charged with ensuring U.S. national security, also has serious concerns about sea shipment of plutonium. A March 1988 DoD study, entitled "Transportation Alternatives for Secure Transfer of Plutonium from Europe to Japan, " stated that "[t]he Office of the Secretary of Defense, Joint Staff, and Services have concluded that air shipment via the polar route is preferable to sea shipment . . . [which would have] a higher cost to military readiness."

The study also warned that, during sea shipment, "the vessel is accessible and vulnerable throughout the voyage, particularly when the vessel is passing through channels, straits, and other restricted waterways ('choke points'), or when it is near the coast . . . [In addition] a vessel would make a more attractive target than an aircraft flying a polar route to a terrorist group. . . . Finally, even if the most careful precautions are observed no one could guarantee the safety of the cargo from a security incident, such as an attack on the vessel by small, fast craft, especially if armed with modern anti-ship missiles."

Terrorist groups already have demonstrated a capability to attack and even seize ships on the high seas, and that capability likely will increase in the future. For this reason, we firmly believe that any ship used to transport plutonium to Japan must, as occurred in 1984, be escorted by an armed naval vessel.

Clearly, at this time, neither air nor sea transport of plutonium appears attractive. However, if a crash-proof shipping cask can be developed, air transport still is the preferred mode, as we stated in 1984. Until it is determined that such a cask cannot be developed, it is highly premature to discuss approving individual sea shipments of plutonium, let alone a long-term advance approval to Japan for sea shipment of this bomb-usable material. As the March 1988 DoD study concluded: "While sea shipment provides a possible modality, in the opinion of the Department of Defense, any sea alternatives should be pursued only if air alternatives are not available."

In closing, we wish to emphasize four points:

First, due to the quickly-changing nature of the terrorist threat to sea targets, we believe a multi-year advance approval for Japanese plutonium sea shipments would violate provisions of section 131 of the Atomic Energy Act of 1954, as amended, which require certification by the Executive Branch that a subsequent arrangement will not endanger U.S. national security or increase the risk of proliferation. The Act also requires that the U.S. review and approve the physical security arrangements for all proposed shipments and have the ability to prevent the shipments if the proposed arrangements are deemed inadequate.

---

[1] "Environmental Assessment of the Proposed New Agreement for Peaceful Nuclear Cooperation Between the United States and Japan and an Associated Subsequent Arrangement for the Return of Recovered Plutonium From Euratom to Japan," Department of Energy, 1987, section four, p. 8.

[2] "Transportation Alternatives for the Secure Transfer of Plutonium from Europe to Japan—Executive Summary," Department of Defense, March, 1988, p.1 and pp. 8–9.

Second, if sea shipment of plutonium is seriously considered in the future, there first must be an in-depth analysis of the national security risks involved and possible counter-measures. As the DoD report stated, "The operational impact of any of these [sea transport] alternatives is such that the Department of Defense would have to study in detail if any sea shipment alternatives were contemplated seriously."

Third, although it is the United States that must determine—and be certain—that the physical security arrangements for all sea shipments are adequate, it is the responsibility of Japan and other nations involved in the shipments (i.e. France and the U.K.) to provide all such necessary measures, including naval vessel escort. We would regard the use of either U.S. Navy or U.S. Coast Guard vessels in this role as highly inappropriate, in view of their demanding primary missions to protect national security and to interdict drugs, respectively.

Fourth, as we expressed in 1984, if the U.S. does become involved in any aspect of these Japanese plutonium shipments, all associated expenses must be borne by Japan and not the United States. According to the DoD study, "total costs for such a naval escort operation could be in excess of $2.8 million or more per mission." And, "if there were any attempt to seize or sabotage the vessel or its cargo, the adverse impact [on military readiness] and expense would go up dramatically . . ." As one of us underscored in a letter to your budget director in 1984, "we do not think it is fair to have the American taxpayer subsidize the Japanese nuclear power industry with free security services."

Sincerely,

Don Bonker, Member of Congress; William Proxmire, U.S. Senate; Howard Wolpe, Member of Congress; Rudy Boschwitz, U.S. Senate; Ted Weiss, Member of Congress; Gary L. Ackerman, Member of Congress; Chester G Atkins, Member of Congress; Peter H. Kostmayer, Member of Congress; Jaime B. Fuster, Member of Congress; George J. Hochbrueckener, Member of Congress.

James H. Bilbray, Member of Congress; Geo. W. Crockett Jr., Member of Congress; Gus Yatron, Member of Congress; Howard L. Berman, Member of Congress; Edward F. Feighan, Member of Congress; Edward J. Markey, Member of Congress; Mel Levine, Member of Congress; Paul Simon, U.S. Senate; John F. Kerry, U.S. Senate.

U.S. Department of State,
Washington, DC, September 9, 1988.

Hon. Howard Wolpe,
House of Representatives.

Dear Mr. Wolpe: The President has asked that I reply to your letter of August 4 concerning the shipment of plutonium from Europe to Japan by sea transport under the new U.S.-Japan Agreement for Peaceful Nuclear Cooperation and the Implementing Agreement.

The Executive Branch has given careful consideration to the concerns expressed in your letter with regard to physical security and other issues raised by the possibility of sea transport. As you know, Section 5062(f) of the Omnibus Budget Reconciliation Act of 1987 (the "Murkowski Amendment") states that ". . . the President is authorized to make every effort to pursue and conclude arrangements for alternative routes and means of transportation, including sea shipment". We have therefore studied the issue of physical protection for sea transport of plutonium in considerable depth.

Based on this analysis, the Administration has concluded that with appropriate security measures adequate physical protection can in principle be provided for sea shipment. This conclusion is stated in the Department of Defense analysis, "Transportation Alternatives for the Secure Transfer of Plutonium from Europe to Japan", to which you refer in your letter. (This analysis also indicates that air shipment offers several significant advantages in providing adequate physical security, and air shipment remains the preferred transportation mode of this Administration.)

I can assure you that any arrangement that may be reached with Japan on guidelines for the international transportation of recovered plutonium by sea under the U.S.-Japan Implementing Agreement will require stringent physical security standards designed to ensure adequate physical protection.

Any requests for U.S. assistance in providing security will be considered as they are presented. We have emphasized to the Japanese that U.S. national security requirements will take precedence over such requests, and in view of that fact, that U.S. military resources may not be available when a particular request is presented.

With regard to reimbursement of any expenses incurred by the United States, I can assure you that it is our position, conveyed to the Government of Japan, that U.S. cooperation and assistance would entail reimbursement in full by or through the Government of Japan.

Finally, any arrangement with Japan for the shipment of plutonium by sea pursuant to the U.S.-Japan Implementing Agreement would be treated by the Administration as a subsequent arrangement in accordance with Section 131 of the Atomic Energy Act.

With best wishes,

Sincerely,

J. Edward Fox,
Assistant Secretary Legislative Affairs.

JAMES W. POIROT—AN ENGINEERING LEADER!

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. SCHAEFER. Mr. Speaker, one of my constituents, James W. Poirot, of Aurora, CO, recently returned from a month-long trip to the People's Republic of China. As head of the American Society of Civil Engineers' [ASCE] delegation, he toured several Provinces in China, and, through numerous lectures, seminars, and meetings, offered insights in American engineering, American technology, and the nature of American business. Jim's latest effort is just one of many significant leadership activities this quiet, thoughtful, and effective man has been involved in over the past several years.

Poirot is the chairman of the board of directors of the International Consulting Engineering firm of CH2M HILL, which is headquartered in my district. CH2M HILL is the Nation's fifth largest consulting engineering company, and the U.S. largest environmental firm. Among this extraordinary company's unique characteristics are its being totally owned by the employees and its open participatory style of management CH2M HILL has approximately 3,800 employees in over 50 office locations worldwide.

Long an advocate of professional and business involvement in public affairs, Poirot has been a leader in such efforts throughout his career. Jim is very active in the American Consulting Engineers Council [ACEC], the largest organization representing private sector consulting engineering firms. After having served as an officer in several different state organizations of this federation, Jim became president-elect of the national organization at the recent annual meeting in New York City. He will become ACEC President in May 1989. He is a member of ASCE's board of directors and its vice president for international activities.

Jim is also very involved in many other professional and business organizations. Those of us from the West recognize the important contributions Jim has made, and continues to make, as a member and recently as chairman of the prestigious Western Regional Council. In addition, he founded and served 2 years as chairman of the Design Professionals Coalition, an extremely active and very effective organization representing the interests of the Nation's leading design firms. Within ACEC and ASCE he has been a strong advocate of "peer review" of engineering firms to improve quality service for meeting the needs of clients. In a related development, Jim has assisted several Federal agencies and the New York-New Jersey Port Authority with their own peer reviews.

Jim Poirot's extraordinary leadership and unselfish efforts have not gone unrecognized. Engineering News-Record named James W. Poirot as "Construction's Man of the Year" for 1988 for his role in chairing the ASCE Committee whose monumental several-year effort developed a landmark manual on how to design and build quality into construction—"The Manual of Professional Practice for Quality in the Constructed Project." Under his direction, 40 separate authors produced its 24 chapters. More than 4,000 persons have worked on or reviewed parts of or the entire manual. In addition, over 50 professional societies and organizations made contributions.

As author of chapter one, Poirot opens with a statement: "Quality is achieved when each design and construction team member faithfully executes his assigned task and when the team members understand their assigned roles, responsibilities, and limits of authority." He stresses that "team building and team work are essential themes" of the manual.

I hope that all who are responsible for authorizing and funding various construction projects at all levels of government and in the private sector will take the time to read the accompanying ENR feature on James W. Poirot and the leading role he played in developing this benchmark manual on building quality into construction. I further encourage them to read and apply the manual.

Mr. Speaker, I urge you and my colleagues to join with me in saluting Jim Poirot and his lovely wife Raeda.

Man of the Year James W. Poirot—Leading Development of a Landmark Manual on Building Quality Into Construction

(By Arthur Fox)

James Wesley Poirot has led a three-year effort to produce a manual that will change the way projects are designed and built. Just as surely as it had its impetus in the Kansas City Hyatt disaster, it can prevent such tragedies.

The "Manual of Professional Practice for Quality in the Constructed Project" will appear in book form in early May as a "Preliminary Edition for Trial Use and Comment."

Forty authors produced its 24 chapters. More than 4,000 persons have reviewed it or have worked on part or all of it. Over 50 professional societies and industry organizations have participated to varying degrees. And, as its sponsor, the American Society of Civil Engineers (ASCE) has spent about $200,000 to date, as well as incalculable amounts of volunteer effort.

Poirot (pronounced PIE-roe), the chairman of the ASCE steering committee that has pulled it all together, is named by the editors of ENR as Construction's Man of the Year.

NO POTBOILER, THIS

ASCE President Albert A. Grant calls the manual "one of the most challenging and exciting" things the 136-year-old society has undertaken. Much of the challenge has been met in bringing the project this far; the excitement is largely to come in reactions to the book.

The challenge for Poirot and his four hardworking steering committee members was in outlining the text, titling chapters, lining up authors, prodding them for text and managing comments from more than 90 assigned reviewers. First and second drafts, distributed widely in 1986 and 1987, brought volumes of comment, much of it harsh and all of it considered as authors and editors made revisions.

Excitement has surrounded the development of some chapters, especially the controversial Chapter 21, on Shop Drawings. The waves of reaction to come began last month as the American Institute of Architects and the National Society of Professional Engineers expressed unhappiness with the manual in its present form.

UP TO THE CHALLENGE

Soft-spoken Jim Poirot is the right man for challenge and excitement. He thrives on challenge. He refuses to get excited.

At 56, he has already met and matched his life's greatest challenge, a mild 1970 heart attack followed by triple-bypass surgery that wasn't going to work without his help. In 1982 he checked into a California fitness center for four weeks. Today, he rises at five for stretching exercises followed most days by a one-hour run. He orders steamed vegetables where others enjoy steak. Reinstatement of his pilot's license in 1985 meant he'd won his health back. His wife, Raeda, copilot in their twin-engine Cessna, could quit doing all the flying.

The apparently unexcitable Poirot, chairman of Denver-based CH2M Hill Cos. Ltd., is "Mr. Cool himself," says Harlan E. Moyer, president and CEO of the 3,350-person firm (No. 3 in ENR's latest design firm ranking). "He may get tense, but you have to know him well to sense it." He's cool but not distant, a leader, planner and "deep thinker," very dedicated and wanting to excell, says Moyer. "The manual—Lord knows it's needed—exemplifies his desire to accomplish positive results."

Moyer, active manager of the firm's matrix of 51 offices and dozens of specialties, plays Mr. Inside to Poirot's Mr. Outside. "Jim has dedicated himself to advancement of the profession," says Moyer. Retaining responsibility for the firm's long-range planning, for its key employee program (570 employees now share ownership) and for new ventures and acquisitions, Poirot logs about 150,000 miles a year, working largely on professional, regional and even international interests.

He has just finished chairing the 50-CEO Western Regional Council, mostly industrialists who work closely with governors and congressional representatives on regional issues. And in May he will become the president-elect of the American Counsulting Engineers Council (ACEC). He has chaired the five-year-old Design Professionals Coalition, which was formed by 57 of the largest U.S. design firms to finance lobbying activity for fast action on issues of concern to ACEC.

In ASCE, Poirot has led committees in professional activities and in engineering management. He served the committee under now-President Grant in formulating the society's first strategic plan. Currently he serves on the board of direction as international director, representing (and visiting) constituents abroad. With that service as a director he will qualify to compete for the presidency when its rotation among zones takes it west in 1991.

A NATURAL

His heavy duty with ASCE and the heavy stress on quality at CH2M Hill made Poirot a natural to head the steering committee on the quality manual. President Richard W. Karn sold him on the role, in which he has served presidents Robert D. Bay and Daniel B. Barge Jr., and now Grant.

Poirot recalls that in organizing the first steering committee meeting he "startled the committee with an agenda." He also recalls his own "biggest surprise: How big a people management task it was."

For the first six months the committee was talking about a standard, he says. But they wanted something usable sooner, so they went to the idea of a guide. They planned it as a generic manual to serve all in construction. A second volume, now in production under the guidance of steering committeeman Robert L. Morris, will cover civil engineering's several specialities. The hope is that other volumes will cover other engineering branches and architecture.

From a list of key words gleaned from related texts and documents, they produced subject headings that were reduced and organized into chapter headings and subheadings.

Then came the tough job of selecting chapter authors, whom ASCE brought together in an Atlanta meeting for orientation and instruction.

Poirot volunteered to write the Introduction, Chapter 1, which was initially titled "Background, History and Goals." To the task he brought personal background and history that has included as a goal a quest for quality.

PRODUCT OF THE WEST

Though he has enjoyed recent tracking of his ancestry in eastern France, Poirot is part of the American West. Born in Wyoming, he moved where western construction took his father, a carpenter.

Before graduating in civil engineering from Oregon State in Corvallis, he married classmate Raeda, whom he'd known since junior high school. Married after his junior year in college, they worked a summer in Alaska—he in construction with Morrison-Knudsen Co. Inc. And after graduation they went back to Alaska with his Corps of Engineers commission as a reserve officer to work on construction at Eielson Air Force Base, near Fairbanks.

Poirot had worked with half a dozen construction companies in Alaska and Oregon before joining his firm in 1953 in Corvallis, where it had its beginnings.

Holly A. Cornell, the C in CH2M Hill and a retired chairman on about half-time assignment, recalls that "in 1960 Jim and I and a draftsman opened the office in Seattle." Poirot became vice president and regional manager in 1967 for the northwest district. And for the last two of his six years with that responsibility he also managed the firm's southwest district.

Going from Seattle to Atlanta, he spent three years with a growing operation and "laid the foundation for the East Coast," says Moyer. The eastern division has become the company's busiest, working from Florida to Massachusetts.

In 1982, Earl C. Reynolds, who followed Cornell for a brief stint as a transition chairman, retired. And "Jim was way out ahead" in consideration for the chairman's job, recalls Moyer. He took over in 1983, in a headquarters that had been moved from Corvallis to Denver.

A visitor to Denver, or other CH2M Hill offices, may be shown the library's "5-ft shelf" of company manuals, procedures and policies—dozens of volumes that tell employees how to achieve quality in their constructed projects. Other firms have such documents. The attention they get at CH2M Hill—the firm's attention to quality—is part of the reason Poirot got the ASCE manual responsibility.

As author of Chapter 1, Poirot opens with the statement: "Quality is achieved when each design and construction team member faithfully executes his assigned task and when the team members understand their assigned roles, responsibilities and limits of authority." He stresses that "team building and teamwork are the essential themes" of the manual.

"The professionals of the design and construction industry should develop and be judged by their own standards of performance," he writes.

CHAMPIONING PEER REVIEW

Poirot has been actively involved in peer review as developed by the American Consulting Engineers Council. He says the organization and administration of some 220 firms have been peer-reviewed to date, with another 50 or so waiting to be scheduled among about 500 firms that have expressed interest. AIA is beginning to apply ACEC's methods. And within ASCE, Poirot has promoted the peer review just beginning among public agencies, such the Corps of Engineers and Bureau of Reclamation. Poirot himself has participated in 10 ACEC peer reviews of firms and in all three of ASCE's reviews of public agencies to date. The manual's Chapter 13 goes heavily into peer review.

First objection to the manual from those who've read it in draft (as well as many who haven't) is that it will be used as a standard of care and "lawyers will beat us over the head with it."

Poirot has had to answer that objection so often that he's been asked to put his answer on tape. He says trial attorneys will look at specific policies and procedures of firms on trial rather than at this book. However, "There's already been a request from somebody who wants to use material in the manual for a court defense," says R. Lawrence Whipple, Jr., the ASCE managing director who led staff work on the manual.

IT'S FOR THE BIG FIRMS

The second most frequently heard objection is one that influenced NSPE's Professional Engineers in Private Practice in refusing to endorse the manual in its present form. Poirot says the precaution is expressed throughout the manual that not all of it applies to large firms only. Still that objection is heard.

Steering committeeman Jerome S.B. Iffland has expressed his fears about its impact on his medium-sized (60-person) firm, Iffland Kavanaugh Waterbury PC. "We've got to sell it to the client. He's got to pay more . . that's the key."

The peer review that individual manual chapters underwent was at times excruciating. Steering committeeman John D. Stevenson—a veteran of standards writing—helped the group weather criticism.

Review of first draft materials in 1986 by a committee in ASCE's San Francisco section called the text "too voluminous and not at this time ready for review." Looking at the second draft in 1987, the same reviewers still found duplication among chapters and asked for more conciseness.

ASCE's Alabama section took reviewing as seriously. Its committee, under W. David Rice, chief structural engineer for Rust International, found "not just redundancy but conflict . . . Too many words, too much possibility for lawyers to turn it against you." Today Rice says a lot of the words have been worked out. He sees the manual as a "dynamic document" that he and the Alabama committee will continue to work over.

Rice says that in his state "people in the highway area have recoiled" from the manual, seeing it as written for building projects, rather than roads. Meanwhile, an AIA staffer in Washington, D.C., tells ENR that the manual, as written, relates to civil engineering projects, not buildings.

AIA'S POSITION

AIA's basic criticism to date is that the manual does not serve the best interests of architects; they don't want to be among its "design professionals." But the manual specifically includes architects in all its discussions of the design team, the construction team and other areas.

Poirot recalls the early effort to gain AIA participation in preparing and reviewing the manual. It failed.

AIA's apparent support for the manual peaked in 1986 at a Kansas City roundtable of industry leaders that included President John A. Busby and Past President R. Bruce Patty. But their board soon opposed the Kansas City call for a consensus on "roles and responsibilities of all parties to the construction process."

Busby explained in an article in AIA's Memo of November 1986 that the AIA board concluded it "impossible or undesirable" to detail the roles and responsibilities of all in the design and construction process. He explained that AIA would produce a new document, titled "Toward a Standard of Reasonable Care," jointly with NSPE for publication in the spring of 1987. To date, what Busby called a "response to those who would proscriptively assign roles and responsibilities to us" has been drafted by AIA staffer James R. Franklin but has not yet been published.

As the draft of the quality manual that is being published hit AIA last month, President Ted P. Pappas sent his excise-the-term-design-professional letter off to ASCE President Grant. Grant replied that the wording is appropriate; it remains.

On the positive, Pappas is forming an AIA task force to review the manual in detail. Grant has asked for ASCE opportunity to get with that group as soon as possible.

Several who know the manual's content claim its not new, that it's lifed from other sources. And indeed much of what is included refers to documents published by the American Institute of Architects and the Engineers Joint Contract Documents Committee (EJCDC). But the 24 chapters do include new material (as on shop drawings) packaged in a comprehensive way and written in so elementary a form as to make it—among other things—a potential text for college students.

Some see the text strong on design and weak in the construction-related chapters. (All six members of the Poirot steering committee, including then-President Karn, an ex officio member, are consulting engineers.) Chris S. Stinebert, executive vice president of the American Subcontractors Association, came into the review loop late. His group registered subcontractor questions about the term "constructor" and what it means throughout the manual.

Stinebert calls the manual a "temporary book" and expects ASA to have at it again once it is out. Richard S. Gabriels, a Perini Corp. vice president, headed the review effort for the Associated General Contractors, where he chairs the AGC Joint Engineering Societies Committee. He says they "had a heavy hand" in Chapter 19, on contract administration, and in Chapter 16, on competitive bidding procedures. They "feel good about the ASCE effort" and the manual as it is being generated.

TRIAL USE

ASCE has assured trial use and comment by forming an implementation committee with a budget of $25,000-plus. Stephen C. Mitchell, executive vice president of Lester B. Knight & Associates, Chicago, chairs the group as a vice president of ASCE. He sees the job as marketing, of a product as well as its use. The key word is "use."

From a print order of 10,000, ASCE will give away 2,000 copies to targeted recipients, potentially important users. The other 8,000 copies will go on sale at under $25. Some 500 copies will go to owners. "It will come as a surprise to owners," says Poirot, "to realize that so many responsibilities are theirs." About 700 will go to educators. Many of the rest will be given to those who have reviewed drafts of the book.

The plan is to bind in tear-out sheets for comments. Each book is also to carry an evaluation questionnaire to be filled out and sent to ASCE.

Not least of the efforts to assure trial use was a Jan. 26 meeting with Corps Chief Vald Heiberg and his top staff. The Corps hopes to use the manual as a guide for its new local cost-sharing partners on water projects.

ACEC President Lester H. Smith voices his group's "very positive" support of the manual. With mixed emotions on its procurement chapter (it describes a two-envelope system and even covered competitive bidding in an early draft), ACEC's review committee "will be down on some things, but supportive," he says. ACEC leaders believe in this manual," he says. In sum, says Smith: "Five years from now we'll all be patting ourselves on the back for supporting this thing."

Poirot hopes the use of the manual will get construction back to "the value of teamwork and fun of working as a team. The fun of the past has become animosity," he says.

THE 31ST MEETING OF MEMBERS OF THE EUROPEAN PARLIAMENT AND OF THE U.S. HOUSE OF REPRESENTATIVES

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1988

Mr. FASCELL. Mr. Speaker, the 31st meeting between Members of the House and a delegation from the European Parliament was held in Minneapolis, MN, from June 25, to 27, 1988. The U.S. delegation was chaired by the gentleman from California [Mr. Lantos] and co-chaired by the gentleman from Florida [Mr. Gibbons] and the gentleman from New York [Mr. Gilman]. The European delegation was chaired by Mr. Klaus Hansch of the Federal Republic of Germany and was co-chaired by Mr. Sergio Segre of Italy.

Relations between the United States and Western Europe continue to be good. Nevertheless, this close political relationship is constantly confronted with challenges which, if not addressed, could weaken the close bonds between us. The seminannual meetings of the U.S. and European delegations serve as an important forum for discussion of the many areas of common concern between us. Whether the question involves reaching agreement on trade policies arms control or efforts to combat international narcotics trafficking, there is a strong conviction on both sides that solutions must be found jointly.

Mr. Speaker, the report of the 31st U.S.-European Parliament meeting is printed below. The report provides a comprehensive overview of issues affecting U.S.-West European relations and I commend it to my colleagues.

House of Representatives,
Committee on Foreign Affairs,
Washington, DC, September 27, 1988.

Hon. Dante B. Fascell,
Committee on Foreign Affairs, Washington, DC.

Dear Mr. Chairman: We respectfully submit the following report on the 31st meeting between a delegation from the United States Congress and a delegation from the European Parliament held in Minneapolis, Minnesota from June 24-27, 1988. Representative Tom Lantos chaired the U.S. delegation; Representatives Sam Gibbons and Benjamin A. Gilman served as co-chairmen. Other members of the U.S. delegation included Representatives Donald J. Pease, Bill Frenzel, Esteban E. Torres, William F.

Clinger, Jr., Thomas C. Sawyer, William M. Thomas, and Guy Vander Jagt. The European delegation was chaired by Mr. Klaus Hansch of the Federal Republic of Germany and co-chaired by Mr. Sergio Segre of Italy.

U.S.-EC TRADE RELATIONS

The Single European Market.—The meetings began with a discussion of European efforts to establish a unified European market by the end of 1992. Members of the European delegation noted that the 1992 plan was a natural outgrowth of the 1957 Treaty of Rome which marked the beginning of the European Economic Community. They pointed out that the establishment of a single, unified market in Europe will improve the economies of individual EC member countries and increase EC and world economic activity. Members of the European delegation sought to reassure U.S. participants that the establishment of such a market would benefit American firms as well, and that a more economically confident EC would make a less protectionist, more reliable, trading partner for the United States. The increased simplicity of European trading standards and practices as a result of 1992 should facilitate U.S. exports to Europe by eliminating the confusion of multiple national practices.

The European delegation also stressed that the establishment of the single market was not only a matter of economic integration, but would require corresponding EC changes in the social and political arenas. Increased social programs will be needed to assist poorer EC nations and disadvantaged areas during the period of transition to a unified market. They stressed the importance of greater political cooperation and more democratic European political institutions to the success of economic integration in the trade, taxation, and monetary areas.

On behalf of the U.S. delegation, Mr. Frenzel expressed U.S. support for the objectives of a unified European internal market and noted that the freedom of movement of capital, goods and people throughout the European Community was a desirable and ambitious objective. He pointed out the similar experience of the U.S. in its recent discussions with Canada on the establishment of a U.S.-Canadian Free Trade Area. Despite this support, members of the U.S. delegation raised several fears regarding the implications of 1992 for the United States and noted that a lack of information was partially responsible for these fears. In conclusion, U.S. members stated that they would follow closely the development in this area and react to any actions deemed threatening to U.S. interests.

The U.S. Trade Bill.—The U.S. delegation began the discussion by reviewing the results of the House-Senate conference committee deliberations on the trade bill and the prospects for some form of trade legislation following the President's veto of H.R. 3. On behalf of the American delegation, Mr. Pease noted that the trade bill sought to address four specific areas: the improvement in U.S. industrial competition, promotion of U.S. exports, strengthening of the GATT, and strengthening of U.S. national remedies against unfair trading practices of foreign entities. Most of the European concerns with the bill expressed at the last meeting in Dusseldorf were in the fourth area and were largely addressed by the conference committee. Mr. Pease reviewed these changes in the bill and noted that the Europeans should be pleased by the outcome of the conference committee process.

The European delegation expressed their satisfaction with many of the changes made by the conference committee on the trade bill, but continued to express concern about some of the remaining language, particularly provisions dealing with Section 301 violations, voluntary restraint agreements, and those in the area of agriculture, aviation, and future technology. The European delegation noted that, even in their weakened forms, many of these provisions could present trade problems for the EC and that a spirit of U.S.-EC cooperation must be maintained to prevent their future application and implementation.

Multilateral trade negotiations.—The American delegation opened the discussion on the multilateral trade round initiated in Punte del Este, Uruguay in September, 1986. U.S. members noted that progress in these talks had been slow. This was partially due to the failure of the U.S. to reach agreement on its objectives in the negotiations. U.S. members expressed their skepticism that considerable progress would be made before the talks' midterm review in Ottawa in December 1988.

Mr. Gibbons noted that agriculture was an area of special concern in the trade round. The U.S. had proposed the total elimination of all agricultural subsidies over ten years. The EC continues to oppose this proposal, as "unrealistic". U.S. members underscored the importance of a breakthrough in this area to the future of the talks. Members also pointed to the special nature of food as a global economic problem and the need to address agriculture as more than just a surplus production problem. Efforts must also be made to discuss plans for agricultural cooperation between countries in times of shortages. Only such an approach would be able to overcome the concerns of individual countries and be successful.

The European delegation maintained that the U.S. approach to the Uruguay Round was too narrow, and reiterated their opposition the U.S. GATT proposal on agriculture. EC members stated that a more global approach to the trade talks was needed, one that took all sectors into consideration and did not focus exclusively in one that took all sectors into consideration and did not focus exclusively on one or two areas. They reiterated that Europe had done much to address the issue of agricultural surpluses, and reaffirmed their view that the U.S. had done considerably less in this area in the last few years. Both delegations agreed that as the 1990 deadline for the conclusion of the Uruguay Round approaches, progress in the talks was likely to be more rapid.

U.S.-EUROPEAN SECURITY ISSUES

Soviet Union/Eastern Europe.—The discussion of recent developments in the Soviet Union and Eastern Europe and their implications for the Western alliance began with an overview by Mr. Sawyer of three main areas of General Secretary Gorbachev's reforms: internal politics, arms control, and human rights. He expressed support for Gorbachev's new policy of openness. Opinions differed on the significance of recently concluded arms control agreements, and, to a lesser extent, Soviet progress in the human rights area. Both delegations viewed Gorbachev's political and economic reforms as an important development and one that could hold out many new opportunities, as well as challenges, for the Western alliance.

The European delegation stated that Gorbachev's new policies would undoubtedly lead to closer political and economic relations between the Soviet Union and the European Community, especially in light of the establishment of the internal market. Nevertheless, both delegations noted the difficulties inherent in the task of economic reform of the Soviet Union and the possibility of political fallout resulting from these reforms. Both delegations agreed that tangible evidence of progress toward reform was necessary before any long-term cooperative economic endeavors were undertaken between the West and the Soviet Union.

In addition, both delegations expressed concern that the lessening of tensions between the U.S. and the Soviet Union, and between the EC and the Soviet Union, could lead to a false sense of alliance security. Both delegations agreed that any discussions of conventional arms cuts must involve comprehensive, tangible, and verifiable reductions that address the specific problems of Warsaw Pact conventional superiority, particularly in areas which pose the potential of surprise attack. The European delegation also noted that close U.S.-European cooperation and strong alliance defense capabilities represented a necessary condition to pursue confidently improvements in East-West relations.

The Middle East.—The European delegation reviewed recent developments in the Arab-Israeli conflict, noting the split in the Israeli government on the questions of an international peace conference, political support for the PLO at the Algiers Arab Summit, and their perception that the Shultz peace initiative had been placed on the back-burner. The European delegation also pointed to the dangers of Islamic fundamentalism and redicalism, noting that this destabilizing trend was helped by the Soviet Union, which has been playing on and exacerbating the fears of the moderate Gulf states.

Mr. Gilman, on behalf of the American delegation also addressed the Arab-Israeli conflict, calling for acceptance of the Shultz plan by Jordan's King Hussein and for a decision by the Soviet Union to act constructively in the region. He also predicted continuing efforts by Secretary Shultz and noted that the concepts he was putting forward were likely to be pursued further by the next U.S. administration. Turning to the Iran-Iraq conflict, he condemned excesses by both sides in this conflict, including the use of missiles and chemical weapons, and stressed the need for more vigorous diplomatic initiatives and support of the framework for ending the conflict established by United Nations Security Council Resolution 598. On the issue of Lebanon, he pointed to American efforts to find a political solution that would pave the way for Lebanese elections and prevent the partition of that country.

The European delegation noted what they characterize as a loss of American influence in the region and expressed concern that the Soviet Union might fill the vacuum left by this development. European members also stated that the Palestinian problem must be solved and expressed their desire that the United Nations be fully involved in finding a solution to the Arab-Israeli conflict. The EC delegation also stated their view that Israel was not prepared to take the steps necessary for progress in the Middle East peace process, namely: to make certain concessions to the Palestinians and on the issue of an international conference. They urged that the U.S. play a more active role in prompting Israel to take these steps.

Burdensharing.—Mr. Lantos, on behalf of the American delegation, began the discussion of the issue of burdensharing by stating that, due to the severe budget constraints facing the United States, the issue of contributions to the common defense of the Western alliance was becoming increasingly important to the American public. The sense that the U.S. was bearing a disproportionate share of the Western defense burden had increased and it is only a matter of time before steps in the area of more equitable burdensharing must be taken. Nevertheless, U.S. members stressed that, given the new realities of East-West relations, unilateral reductions of U.S. troop strength in Europe must not be considered. Reductions must take place only in the context of comprehensive negotiations, not as a reaction to budget problems.

While European members generally agreed on the need for a more equitable distribution of the defense burden, they stated that part of the problem with determining such shares was the lack of a common view of interests and objectives in the area of defense. European members maintained, over U.S. objections, that during the last 10-15 years the American defense strategy has been shifting from a strategy of nuclear deterrence to one of nuclear war. They stressed that efforts must be made to take advantage of the current climate of improved East-West relations to achieve agreements on conventional defense and short-range nuclear missiles.

The American delegation concluded by expressing the need for increased U.S. consultation with its European allies on issues of the common defense. U.S. members also reiterated the need for greater European recognition of American political realities in the area of burdensharing. Consultations and a spirit of cooperation were necessary for the alliance to succeed in meeting the challenges that lay before it and in redefining its role in the coming decades.

MISCELLANEOUS ISSUES

Narcotics:—The American delegation initiated the discussion with an overview of worldwide narcotics problems. Mr. Gilman highlighted recent U.S. efforts to combat the increasing threat of narcotics trafficking and abuse, most notably the Omnibus Anti-Drug legislation which is scheduled for consideration in the House during the next month. Both the European and the U.S. delegations were united in stressing the importance of finding effective means of addressing this global problem, including increases in educational programs, reductions in consumption, increased eradication and interdiction efforts, and greater overall international cooperation. The European delegation emphasized the importance of a concerted effort to decrease consumption. Only such a decrease would allow the world to effectively address this problem. There was additional discussion by both sides of the merits of legalization and/or decriminalization of drugs as a means for removing the profit from drug trafficking. While some European members believed that limited legalization might help alleviate some narcotics-related problems, the general consensus was that any type of legalization should not be considered at this time. Both delegations also stressed the need for both increased European Community-wide cooperation in combatting narcotics trafficking and a comprehensive international effort. Members of both delegations expressed satisfaction that prior extensive discussions of this issue over the years had prepared members to deal with the issue as it became more salient to the general population.

Visa Reciprocity.—The issue of visa reciprocity has been one of great interest and concern to the European delegation for many years. The European delegation expressed its approval of the initiation of a pilot visa waiver program between the U.S. and Great Britain to operation on July 1. While it was agreed that the establishment of the program with the U.K. was a step in the right direction, the European delegation urged the U.S. delegation to continue efforts to broaden this type of program to cover other EC and non-EC countries. European members also stressed the need to implement a permanent program for visa waivers by 1991, and to enact legislation ensuring that the program continues after the life of the current legislation. The U.S. delegation agreed to continue to monitor the implementation of this program toward that end. Special appreciation was extended to Lord Bethel, from the European delegation, for his efforts on behalf of this issue and his persistence in keeping it on the agenda for the past few years.

Southern Africa.—Mr. Gibbons, on behalf of the American delegation, began the discussion of Southern African issues by describing the South African sanctions legislation currently pending in the Congress. This legislation would impose a total export ban on South Africa and would encourage trading partners of the United States to voluntarily engage in such a ban themselves. The American delegation warned the Europeans that the legislation currently pending before the House of Representatives included a provision for trade sanctions against any third country that "benefited" from U.S. sanctions against South Africa. European members present expressed their approval of such a provision and the need to gain broader European cooperation on this issue.

The European delegation stressed, however, that the issue of South Africa could not be considered alone, but together with the situation in Angola and Southwest Africa. Mr. Garcia presented an overview of the historical situation in Angola, and the current negotiations for reductions in Cuban military forces in that country. European members underscored the need to lessen the international nature of this conflict, and stated that unless foreign powers withdraw from participation in the conflict, the outcome would most likely be either a federation of two distinct states or a partition of the country. Finally, the European delegation urged the United States to designate the African National Congress a terrorist organization.

The discussions between the U.S. and European delegations pointed out more areas of agreement than disagreement. This continuing dialogue between members of the European Parliament and members of Congress has created an open forum to explore potential areas of cooperation on problems affecting U.S.-European relations, as well as on broader international issues. A constructive spirit of mutual interest prevailed during the negotiations and participants agreed that the discussions had been both useful and instructive. The U.S. delegation looks forward to meeting with its European colleagues again in January, 1989 to continue discussions on various topics of mutual interest.

With best wishes, we are

Sincerely yours,

TOM LANTOS,
Chairman, U.S. Delegation.
SAM GIBBONS,
Co-Chairman, U.S. Delegation.
BENJAMIN A. GILMAN,
Co-Chairman, U.S. Delegation.